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Monday
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agriculture Stabilization and Conservation Service

7 CFR Part 702

Colorado River Basin Salinity Control (CRSC) Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The final rule adopts, with changes, an interim rule published at 52 FR 16738 for the Colorado River Basin Salinity Control (CRSC) Program authorized by Section 201(c) of the Colorado River Basin Salinity Control Act (the Act), as amended. The Secretary of Agriculture is authorized by this section to identify salt source areas in the Colorado River Basin and develop project plans for implementing salinity control measures in those areas.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. James R. McMullen, Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service (ASCS), or Mr. Peter Tidd, Director, Land Treatment Program Division, Soil Conservation Service (SCS), United States Department of Agriculture (USDA), Washington, DC 20013–2415, telephone numbers 202–720–6221, and 202–720–1870, respectively (8 a.m.–4 p.m.).

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and provisions of Departmental Regulations 1512–1, and has been classified as "non-major." It has been determined that these provisions will not result in: (1) An annual effect on the national economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; (3) significant adverse effects on competition, employment, investment, productivity, innovation; or (4) a substantial effect on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the agencies involved are not required by 5 U.S.C. 553, or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

In accordance with the Act, SCS, USDA and the Bureau of Reclamation of the United States Department of Interior (USDI) investigate and identify salt source areas in the Colorado River Basin on a continuing project-by-project basis. Before implementing salinity reduction measures to reduce the amount of salt delivered to the Colorado River, these agencies evaluate, assess, and prepare statements on the environmental impacts of salinity reduction measures, if it is determined by either or both agencies to be desirable to implement their respective program activities in an area.

Environmental impact statements have been prepared for the Grand Valley Project, Colorado; Uinta Basin Project, Utah; the Lower Gunnison Project, Colorado; and the Big Sandy Project, Wyoming.

Copies of the completed documents are available for inspection at room 6036, South Agriculture Building, 14th and Independence Avenue, Washington, DC.

The information collection requirements contained in these regulations have been approved through September 30, 1995, by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C., chapter 35, and has been assigned OMB #0560–0128 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3505). The changes to the interim rule set forth in this final rule do not revise or impose any new information collection or record keeping requirements from those previously approved by OMB.

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Colorado River Basin Salinity Control Program—10.070.

This program/activity is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Discussion of Program

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this rule are not retroactive and preempt State laws to the extent such laws are inconsistent with this rule. Before any judicial action may be brought regarding this rule, administrative appeal remedies at 7 CFR must be exhausted.

Section 201(c) of the Act authorizes the Secretary of Agriculture to establish a voluntary cooperative salinity control program with landowners to improve on-farm water management and reduce watershed erosion on non-Federal lands and on lands under the control of the Department of Agriculture. The Secretary is authorized to: (1) Identify salt-source areas and determine the salt load resulting from irrigation and watershed management practices in the Colorado River Basin; (2) develop plans for implementing measures that will reduce the salt load in the Colorado River by improving on-farm irrigation water management and by improving watershed erosion management practices including the voluntary replacement of incidental fish and wildlife values foregone; (3) provide financial assistance for voluntary implementation of such conservation measures and practices; (4) provide technical assistance; (5) monitor and evaluate changes in salt contributions to the Colorado River; and (6) perform related research, demonstration, and education activities.

Sixteen comments were received concerning the interim rule implementing the program published on May 5, 1987 (52 FR 16738). The rule is codified in 7 CFR Part 702.

Comments were received from the Arizona Department of Water Resources, the Colorado River Basin Salinity Control Forum, the Colorado River Board of California, the State of Utah, the USDI, and the United States Environmental Protection Agency.

Discussion of Comments

Section 702.1 General

Section 702.1(e) in the interim rule identified the authority granted to the Secretary of Agriculture by the Act to monitor and evaluate changes in salt contributions to the Colorado River. One respondent commented that monitoring and evaluation requirements should be set forth in sufficient detail to: (1) Establish a baseline data set of salinity conditions before installing Salinity Reduction Practices (SRP's); (2) determine the cost-effectiveness of SRP's; (3) determine whether changes, improvements, or replacement of SRP's are needed; (4) gather data for use in future projects; (5) measure program success; and (6) monitor program compliance.

It was determined that no modification of this section was needed. The regulations contain provisions for ASCS and SCS to monitor and evaluate projects. ASCS and SCS will perform random spot-checks or SRP's and complete annual status reviews to ensure participant compliance of program contract terms and conditions, including any Operation an Maintenance (O&M) agreement.

Section 702.2 Definitions

Five respondents were concerned that the definition of "conservation treatment" in § 702.2(a)(6) of the interim rule could be interpreted as meaning that the replacement of lost incidental fish and wildlife values by program participants is mandatory rather than voluntary, as specified in section 202(c) of the Act. The respondents recommended that the word "may" be inserted in the last sentence of the definition to read "Such treatment may include replacement of incidental fish and wildlife values foregone as a result of salinity control treatment applied by the participant under the CRSC Program."

The suggestion to insert the word "may" was adopted, as the Act requires no mandatory mitigation of fish and wildlife values foregone.

One respondent was concerned that using the word "foregone" in defining the term "fish and wildlife values foregone" in § 702.2(a)(12) is ambiguous and should be replaced with a less obscure term, such as, "adversely impacted." The same respondent was also concerned that in this same definition the word "incidental" in reference to fish and wildlife habitats is misleading, and appears to imply that the impacted habitats are minor or inconsequential.

The definition in the interim rule has been determined to be sufficiently descriptive and to be consistent with the Act. Accordingly, no changes have been made.

The definition of "Deputy Administrator" which means the Deputy Administrator, State and County Operations of ASCS, is being added to the final rule, since it was not in the interim rule. The remaining definitions of the interim rule will be renumbered to accommodate this addition.

Section 702.3 Administration

One respondent recommended that in § 702.3(b)(3), the role of cooperation and coordination among other USDA agencies, the USDI, and the Environmental Protection Agency be described in greater detail.

The interim rule was determined to be sufficiently descriptive in this respect. These administrative matters are covered in greater detail in interagency agreements, and need not be covered within the rule itself.

Section 702.5 Eligible land

The provisions of § 702.5 concerning land eligibility have been amended to specify that land, to be considered eligible, must have been irrigated in at least two years between 1982 and 1986, inclusive, to avoid subsidizing irrigation of new land which may contribute to additional salt loading. There are discretionary exceptions for other land to become eligible. These other land exceptions are dependent upon the approval of the Deputy Administrator, State and County Operations, ASCS, before they are deemed eligible.

Section 702.9 CRSC Contract and Obligations of the Participant

One respondent questioned whether the provision in § 702.9(f), that requires entities with a present possessory interest or noncontingent future possessory interest in the land to sign such CRSC contract, was meant to cover financial institutions with a security interest in the land. If so, it was recommended the section be amended to limit its coverage to land purchasers. The wording "present possessory or noncontingent future possessory interest" will not, by its terms, normally cover lending institutions and is sufficiently descriptive. The provisions of this section require signatures of owners, including, but not limited to, minors, who own or have possessory rights of land which are held outright or in trust.

One respondent recommended amending § 702.9(h), as promulgated in the interim rule, to require that all participants grant a recordable security interest to ensure that cost-share payments are recovered in the event of a default.

Not all entities that are eligible to enter into a CRSC contract own the land on which SRP's will be installed. For example, irrigation districts or canal companies would not, usually, own the land, but may nonetheless participate in a CRSC project. Such entities either hold long term leases, rights of way, easements, or other land permits. These contracts may involve narrow land strips with little independent real property value. It was determined that the interim rule should be changed to state that all participants and/or landowners may be required to grant a security agreement; however, the interim regulations specifically provide for the filing of either a security interest in realty or in the equipment and personal property used for the SRP.

One respondent suggested that the contract priorities established under § 702.9(j), as promulgated in the interim rule, could conflict with those identified in § 702.2(a)(20).

Section 702.2(a)(20) applies to setting priorities for treating areas of land within the project area. Section 702.9(j), however, deals with establishing priorities for development of salinity control plans for applicants within the priority areas as identified in § 702.2(a)(20).

The authority for the County Agricultural Stabilization and Conservation Committees (COC) and for Conservation Districts (CD), as set out in § 702.9(j) of the interim rule, does not supersede any authorities stated in § 702.2(a)(20) priorities.

Since there does not appear to be any conflict between these provisions, no change was made.

Section 702.10 Operation and Maintenance Agreements

One respondent suggested that § 702.10(c)(3) of the interim rule should be clarified regarding how often a compliance inspection will be performed.

No change was deemed needed. Detailed operating procedures and requirements are documented in ASCS and SCS field operating procedures. ASCS and SCS will conduct annual status reviews of all active CRSC contracts and randomly inspect SRP's under continuing operation and maintenance agreements after the installation period of the contract has expired. All participants will be required to operate, maintain, and inspect the SRP's according to a schedule established in the operation

and maintenance plan developed by the SCS for the SRP.

Section 702.13 Levels and Rates of Cost-share Payments

One respondent commented that § 702.13(c)(3) should be corrected grammatically to read "The need for and cost of implementing voluntary SRP's to replace incidental fish and wildlife values foregone."

This change is consistent with the Act and was adopted.

Section 702.15 Payments Not Subject to Claims

Section 702.15, as promulgated in the interim rule, provided that cost-share payments would be made to the participant or entity regardless of questions of title under State law and without regard to any claim or lien against the practice in favor of the owner or other creditor except claims or liens of agencies of the United States Government. One respondent inquired whether a cost-share payment may be made to the entity or participant that installed the practice regardless of claim or lien against the practice in favor of the owner.

This respondent also questioned what property a program participant, other than the landowner, could provide as a security interest and whether the landowner must sign the contract if the program participant is someone other than the landowner.

Security agreements have been discussed in connection with § 702.9. Further, § 702.9(f) requires that the CRSC contract be signed by all entities that have a present possessory or a noncontingent future possessory interest in the land which includes all landowners. With regard to payments in the case of any claim or lien against the practice by entities other than agencies of the United States government, such claims or liens are not recognized since the purpose of these payments is to ensure compliance with program objectives. Honoring such claims or liens would likely defeat the purpose of the program. However, to the extent agreed to by the creditor and the participant, an assignment of payments made are done in accordance with 7 CFR part 1404.

Section 702.18 Violations

One respondent commented that it appears that § 702.18(b)(1) would allow the ASCS and SCS to approve variations from the contract.

The same respondent stated that § 702.18(d), as promulgated in the interim rule, should be consistent with § 702.18(a)(1), to require the COC to obtain CD and SCS recommendations before the COC determines that a participant's failure to perform the terms and conditions of the contract does not warrant termination of the contract.

This recommendation was adopted since it will allow a consistent policy of program administration.

Section 702.25- Miscellaneous

One respondent suggested that cost-share payments should only be made to a participant's successor in the case of death, incompetence, or disappearance of the participant, and only if such successor becomes a participant to the CRSC contract and agrees to fulfill the terms and conditions of the contract.

After review of this comment, it was decided that a change in this provision was not needed. The regulations in 7 CFR 707 set forth the procedures and order of precedence to follow when making payments in case of death, incompetence, or disappearance of a participant where the payment is already earned.

List of Subjects in 7 CFR Part 702

Administrative practices and procedures, Agriculture, Natural resources, Rural areas, Salinity control, Technical assistance, Water resources, Wildlife.

Final Rule

Accordingly, the interim rule published at 52 FR 16738 on May 5, 1987, is adopted as a final rule with the following changes:

PART 702—COLORADO RIVER BASIN SALINITY (CRSC) CONTROL PROGRAM

1. The authority citation for 7 CFR part 702 is revised to read as follows:

Authority: Sec. 201, Pub. L. 93–320, 88 Stat. 271; Sec. 2, Pub. L. 98–569, 98 Stat. 2933 (43 U.S.C. 1592(c)).

2. Section 702.2 is amended by revising the second sentence of the definition of "conservation treatment" in paragraph (a)(6), redesignating paragraphs (a)(11) through (a)(28) as (a)(12) through (a)(29), and adding a new paragraph (a)(11) to read as follows:

§ 702.2 Definitions.

(a) * * *

(6) * * * Such treatment may include replacement of incidental fish and wildlife values foregone as a result of salinity control treatment applied by the participant under the CRSC program.

* * * * *

(11) Deputy Administrator means the ASCS Deputy Administrator for State and County Operations, or designee.

* * * * *

3. Section 702.5 is amended by revising paragraphs (a) and (b) and adding new paragraphs (c) and (d) to read as follows:

§ 702.5 Eligible land.

* * * * *

(a) Has been identified by SCS as a salt source area;

(b) Is the subject of a published USDA Salinity Control Report and an approved project implementation plan;

(c) Has been irrigated at least two years during the period between 1982 and 1986, inclusive; and

(d) Notwithstanding the criteria articulated in paragraphs (a) through (c) of this section, the Deputy Administrator has final authority to approve land for CRSC program eligibility if one of the following conditions is satisfied:

(1) If it is determined impossible to reorganize the existing irrigation system to increase irrigation efficiencies to obtain salt load reduction, irrigated land may be exchanged for nonirrigated land.

(2) Nonirrigated wildlife areas devoted to replacing incidental fish and wildlife values foregone because of the CRSC program.

(3) Incidental land, which in the course of improving or reorganizing the existing irrigation system, becomes irrigable.

4. Section 702.9, paragraphs (e) through (i) are redesignated as paragraphs (f) through (j), respectively New paragraphs (f) and (h) are revised to read as follows:

§ 702.9 CRSC contract and obligations of the participant.

* * * * *

(f) All entities who have a present possessory interest in the land, to be eligible for CRSC cost share, must sign a CRSC contract.

* * * * *

(h) The CRSC contract may require that all participants and/or landowners, as a condition of eligibility for cost-share assistance, grant to the Secretary a recordable security interest in the property or equipment of the SRP's that are installed, with the value of the granted interest to be determined by ASCS.

* * * * *

5. Section 702.13 is amended by revising paragraphs (a) and (c)(3) to read as follows, and redesignating the last paragraph as paragraph (d).

§ 702.13 Levels and rates of cost-share payments.

(a) The level of Federal cost-share assistance for the required SRP's for the project shall be determined by formulas as established in the USDA Salinity Control Report.

* * * * *

(c) * * *

(3) The need for and the cost of implementing voluntary SRP's to replace incidental fish and wildlife values foregone;

* * * * *

6. Section 702.18 is amended by revising paragraph (d) to read as follows:

§ 702.18 Violations.

* * * * *

(d) If the participant fails to perform the terms and conditions of the CRSC contract and the Deputy Administrator determines, after considering the recommendations of the CD and SCS, that such failure does not warrant termination of the CRSC contract, the Deputy Administrator may require such participant to refund all or part of the payments received under the CRSC contract, or to accept such adjustments in the payment as are determined to be appropriate by the Deputy Administrator.

Signed this 22nd day of February, 1993 in Washington, DC.

Bruce R. Weber,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 93–4499 Filed 2–26–93; 8:45 am]

BILLING CODE 3410–05–M

Commodity Credit Corporation

7 CFR Part 1493

Commodity Credit Corporation Emerging Democracies Facilities Guarantees

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comment.

SUMMARY: This interim rule amends regulations which govern the Commodity Credit Corporation's (CCC) Export Credit Guarantee Program (GSM–102) and the Intermediate Export Credit Guarantee Program (GSM–103) by adding new provisions which permit the use of CCC export credit guarantees ("payment guarantees") to facilitate the financing of "eligible projects" which would improve or establish facilities, provide services, or United States goods, in relation to an agriculture-related project in an emerging democracy.

This action is authorized by section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (1990 Act), and section 202 of the Agriculture Trade Act of 1978, as amended (1978 Act). This program will be administered by the Office of the General Sales Manager (GSM), U.S. Department of Agriculture on behalf of the Commodity Credit Corporation.

CCC payment guarantees for the above-stated purpose have not previously been made available under the GSM–102/103 programs. In addition, it is recognized that political and economic conditions in those countries most likely to be determined by the President to qualify as "emerging democracies" are in a state of transition. Accordingly, this interim rule represents an attempt by CCC to formulate a pilot structure under which a limited number of payment guarantees for eligible projects will be issued in the near term. CCC anticipates that significant revision and refinement to the rule may be required as CCC gains experience in making guarantees available in connection with eligible projects. After CCC has had the benefit of public comment on this interim rule, and some initial experience in issuing payment guarantees for eligible projects, it will develop and publish a final rule.

DATES: Interim rule effective March 1, 1993; comments must be submitted on or before June 1, 1993.

ADDRESSES: Comments must be submitted in writing to L.T. McElvain, Director, CCC Operations, GSM, USDA, room 4523–S, 1400 Independence Avenue, SW., Washington, DC 20250–1000, telephone (202) 720–6211. All comments received will be available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: L.T. McElvain at the above address and telephone number.

SUPPLEMENTARY INFORMATION:

Regulatory Requirements

This interim rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "nonmajor." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state or local governments or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This interim rule has been reviewed under USDA procedures established in accordance with Executive Order 12778 and it has been determined that the interim rule meets the applicable standards of that order.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of rulemaking with respect to the subject matter of this rule.

The paperwork requirements which are imposed by the current regulations found at 7 CFR part 1493 were approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. The Office of Management and Budget assigned numbers for those requirements in OMB No. 0551–0004. The public reporting burden for collections made under this new subpart C is estimated to average 5.32 hours per response, including time for reviewing instructions, searching existing sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRA, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0551–XXXX), Washington, DC 20503.

These programs are not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Background

A. Statutory Authority

Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (1990 Act) requires in subsection (a) that the Commodity Credit Corporation (CCC) make available, during fiscal years 1991 through 1995, not less than $1 billion in export credit guarantees under section 202 of the Agriculture Trade Act of 1987, as amended (1978 Act) in connection with exports to emerging democracies, in addition to such amounts that are generally required by

the 1978 Act to be made available under CCC's Export Credit Guarantee (GSM–102) and Intermediate Export Credit Guarantee (GSM–103) programs. Subsection 1542(f) of 1990 Act defines the term emerging democracy to mean any country that the President determines is taking steps towards political pluralism, economic reform, respect for internationally recognized human rights and friendly relations with the United States.

Subsection 1542(b) requires that a portion of such CCC export credit guarantees be made available for the improvement or establishment of facilities or the provision of services or United States produced goods (hereinafter referred to as "eligible projects") in those emerging democracies. Subsection 1542(b) also requires that, to be eligible for CCC payment guarantees, a "U.S. person" must carry out eligible projects that result in improved handling, marketing, processing, storage, or distribution of imported agricultural commodities or products thereof.

The Secretary of Agriculture must determine that such guarantees will primarily promote the export of U.S. agricultural commodities and will not primarily benefit other countries within close geographical proximity to the emerging democracy. CCC is required to give priority consideration to: (1) Those projects identified by teams of agricultural consultants and government officials selected pursuant to subsection 1542(d); (2) to projects that encourage the privatization of the agricultural sector or that benefit private farms or cooperatives in emerging democracies; or (3) to projects for which non-governmental persons agree to assume a relatively larger share of the costs.

B. Types of Payment Guarantees

GSM–102/103 export credit guarantees have been made available under section 202 of the 1978 Act in connection with export sales of U.S. agricultural commodities. The use of export credit guarantees in connection with the "improvement or establishment of facilities" or "the provision of services or U.S. goods" will involve adaptation of existing program structure to address areas with which CCC has had no experience. The phrase "improvement or establishment of facilities" is undefined in the statute but appears broad enough to allow for varied types of projects ranging from the sales of U.S. goods to the provision of specialized services and may involve larger facility projects requiring equipment, other U.S. goods needed to alleviate specific barriers to increasing export sales of U.S. agricultural commodities; such as feed additives, animal growth stimulants, veterinary medicines, and services; such as equipment installation, testing, and operational management.

The term "United States goods" or "U.S. goods" is undefined by the statute. Because CCC has had no experience administering a program to guarantee the credit made available for the export of U.S. goods and services, CCC has adopted the long-standing guidelines and procedures used by the Export Import Bank of the United States (Eximbank). In particular, where the statute is unclear, the time-tested measures of the Eximbank regarding U.S. content and eligibility for guarantee coverage will be used in CCC's issuance of facility payment guarantees.

In the pilot phase of making export credit guarantees available in connection with eligible projects, it is anticipated that the payment guarantees will be issued predominantly in connection with projects involving the sale of U.S. goods, services, or both. Issuance of such guarantees can be accomplished following the procedures analogous to operations of the GSM–102/103 programs. In the longer term, however, the issuance of payment guarantees in connection with sales of specialized services or with large "greenfield" or "turn-key" projects may require the development of more complex program structures.

C. CCC's Payment Guarantee Mechanism

Subsection 1542(a) of the 1990 Act provides that CCC shall provide facility payment guarantees in accordance with section 202 of the 1978 Act. Section 202, which authorizes CCC to make credit guarantees available to encourage private sector financing of foreign purchases of U.S. agricultural commodities, is the statutory basis for the GSM–102/103 programs. Thus, Congress intends that CCC utilize the basic GSM–102/103 mechanism to encourage private sector financing for agriculture-related eligible projects in emerging democracies.

The GSM–102/103 regulations issued pursuant to section 202 are codified at subparts A and B of 7 CFR part 1493. These regulations establish the general terms and conditions of a CCC payment guarantee, which is an agreement under which CCC promises to pay an exporter or its assignee, in the event of default, specified amounts of principal and interest due from a foreign bank which has issued an irrevocable letter of credit in favor of the exporter in connection with the purchase of U.S. agricultural commodities. Under new subpart C, payment guarantees will now also be issued in favor of the exporter in connection with the purchase of U.S. goods or services in emerging democracies.

CCC's facility payment guarantee will be issued to a U.S. person in consideration of a fee paid and in reliance on information provided and certifications made by the exporter in its application. CCC expects, consistent with its experience in guaranteeing sales of agricultural commodities, that guarantees will normally be assigned, along with the proceeds payable under the sale, to a U.S. bank or other financial institution. CCC will permit such initial assignment to a U.S. financial institution, but will not permit further assignments without CCC's advance approval. Thus, the facility payment guarantee will serve, essentially, to encourage the extension of U.S. private sector credit to finance eligible projects in the emerging democracies. In the case of default by the foreign borrowing bank on payments due under the credit provided, CCC will pay claims submitted in good order by the holder of the guarantee (i.e., the exporter or the assignee financial institution).

The use of GSM–102/103 payment guarantees in connection with eligible projects will require some modification to the traditional program structure designed to assist the export of agricultural commodities. For example, GSM–102 payment guarantees have covered repayment terms up to three years, and GSM–103 guarantees up to seven years. Facility payment guarantees, however, will involve export financing of capital goods and services, an area in which the United States has certain international obligations as a member of the Organization for Economic Cooperation and Development (OECD). The program will conform to the rules of the OECD Arrangement on Guidelines for Officially Supported Export Credits.

The OECD Arrangement sets out the most favorable terms allowable for government credits and guarantees. It requires that the importer pay at least 15 percent of the value of the transaction in cash. Principal must be paid in semiannual installments and maximum repayment terms are set depending upon the recipient country. For category I countries (currently defined as developed countries including Czechoslovakia and the Republics of the Former Soviet Union), the maximum repayment term is 5 years. Credits to 8.5 years may be made on an exceptional basis with prior notification of the OECD members. For category II

countries, the maximum repayment term is 8.5 years. For category III countries, the maximum repayment term is 10 years. Copies of the OECD Arrangement and classification of country categories are available from the Department of Treasury, Mr. William L. McCamey, Director, Office of Trade Finance, Room 4448, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

It is CCC's intention to initially offer facility payment guarantee coverage for: (a) 95 percent of the eligible principal (exclusive of the 15 percent minimum cash payment requirement of the OECD); and (b) interest on covered principal at an annual rate of 80 percent of the coupon equivalent yield of the most recent 52-week Treasury bill auction as of a date prior to the date the eligible interest is established or adjusted (the same floating interest coverage applied in the GSM–103 credit guarantees for semi-annual payments of interest and principal). Eligible principal will be defined consistent with the guidelines of the Eximbank under which only the value of the U.S. content of goods and the value-added portion of eligible foreign components may be guaranteed. CCC may change the principal and interest coverage for facility payment guarantees based upon comments received pursuant to this interim rule, the types of offers that are submitted by exporters, and the experience gained in operation of the program. The terms of CCC's coverage will be set forth in each facility payment guarantee, pursuant to the provisions of the applicable Invitation for Applications.

CCC anticipates that there may be need for modifications in other areas but realizes that some experience in making available payment guarantees in connection with facilities will be necessary to determine precisely what modifications are required and appropriate. Accordingly, this interim rule is designed to establish general terms and conditions but will allow sufficient flexibility, through the issuance of Invitations for Applications, to make adjustments as experience is gained.

D. Program Implementation

CCC will periodically issue Program Announcements informing the public of allocations of GSM–102/103 payment guarantees in connection with projects to improve or establish facilities in an emerging democracy. The Program Announcement will identify the country(ies) and the amount of credit guarantees to be made available for this purpose.

Subsequently, CCC will issue an Invitation for Applications (Invitation), specifically requesting the submission of applications by eligible U.S. persons for facility payment guarantees. An Invitation will refer to a specific Program Announcement but may contain additional requirements to provide information that are necessary for CCC's evaluation of applications. It may also establish special and additional terms and conditions that will govern the facility payment guarantee to be issued. U.S. persons will make application by reference to a specific Invitation and, if the application is ultimately approved, the resulting facility payment guarantee agreement will be subject to both the general terms and conditions of this subpart, as well as to the specific terms and conditions set forth in the applicable Invitation.

CCC intends to conduct an initial review of all applications for which required application fees have been paid to CCC and to identify those which are sufficiently promising to merit a more comprehensive final review. CCC will inform all applicants whether the initial application has been rejected or whether it is under continued consideration. Where an application remains under consideration, CCC will inform the applicant of any additional information it requires in order for CCC to conduct a final review of the application. CCC anticipates that, as it gains experience in dealing with applications for the various types of facility or improvement projects, it will be able to develop and publish more specific procedural guidelines to aid potential program participants in formulating their applications.

When CCC has, after final review, determined that it is willing to issue a guarantee, it will so inform the applicant. In making decisions in final review of applications for U.S. goods, services, or greenfield projects, CCC will attempt to address infrastructure barriers to increasing export sales of U.S. agricultural commodities.

When CCC contacts the applicant regarding an approved final application, it will establish an appropriate guarantee fee. Such guarantee fees will be calculated to result in fees comparable to the total of the commitment fees and exposure fees that would be charged to applicants by the Eximbank for similar guarantees and projects.

CCC will issue its facility payment guarantee only where a firm contract has been reached between the parties for an eligible project in an emerging democracy, where the contract calls for the issuance of an irrevocable letter of credit from an eligible foreign bank as a means of payment, where the buyer has demonstrated it is capable of making the required 15 percent down payment, and where the applicant has tendered the appropriate guarantee fee.

CCC anticipates that claims under a facility payment guarantee will be handled in the same manner as other GSM–102/103 claims. However, CCC realizes that, in the case of certain contracts, such as those involving the provision of services, there may have to be adjustments to program requirements to insure proper documentation of claims. The interim regulations are designed to allow CCC to make those adjustments, by establishing, in Invitations for Applications, special terms, or conditions which would supplement the general terms and conditions set forth in this regulation.

It is necessary that this regulation be placed in effect as soon as possible. The purpose of the regulation is to promote the export of U.S. agricultural commodities to emerging democracies. Other countries are taking steps to expand their markets in these countries and the U.S. should act as promptly as possible in order to be competitive.

List of Subjects in 7 CFR Part 1493

Administrative practice and procedures, Agriculture, Agricultural commodities, Credit, Exports, Reporting and recordkeeping requirements, Technical assistance, United States investments abroad.

PART 1493—[AMENDED]

Accordingly, part 1493 of title 7 of the Code of Federal Regulations is amended as follows:

1. The table of contents for part 1493 is amended by adding the following:

Subpart C—Facility Payment Guarantees

Sec.
1493.200 General statement.
1493.210 Definition of terms.
1493.220 Procedures.
1493.230 Contents of applications.
1493.240 Certification requirements.
1493.250 Additional information and application guidelines.
1493.260 CCC evaluation of applications.
1493.270 Facility payment guarantee.
1493.280 Guarantee rates and fees.
1493.290 Evidence of export.
1493.300 Proof of entry.
1493.310 Notice of default and claims for loss.
1493.320 Payment for loss.
1493.330 Recovery of losses.
1493.340 Miscellaneous provisions.

2. The authority provision of part 1493 is revised to read as follows:

15 U.S.C. 714b(d), 714c(f), 7 U.S.C. 5602, 5622, 5622 note, 5661, 5662, 5663, 5664, 5676.

3. Subpart C is added to part 1493 to read as follows:

Subpart C—Facility Payment Guarantees.

§ 1493.200 General statement.

This subpart sets forth the general terms and conditions governing export credit guarantees issued in connection with the financing of projects to improve or establish facilities or the provision of services or United States produced goods in emerging democracies (hereinafter referred to as "eligible projects"). The eligible projects must enhance the effectiveness of food and rural business systems in emerging democracies in order to develop, maintain, or expand United States agricultural exports. CCC may, from time to time, announce the availability of facility payment guarantees and will accept and evaluate applications for such guarantees from United States persons. CCC will give priority consideration to those eligible projects:

(a) That are identified by teams of agricultural consultants and government officials pursuant to subsection 1542(d) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended;

(b) That encourage the privatization of the agricultural sector or that benefit private farms or cooperatives in emerging democracies; and

(c) For which non-governmental persons agree to assume a relatively larger share of the costs. Facility credit guarantees will not be issued in connection with projects where it is determined that the primary benefits of the project will accrue to a country, other than the United States, which is in close geographic proximity to the emerging democracy.

§ 1493.210 Definition of terms.

The terms set forth at subpart B, § 1493.20 (except for § 1493.200 (f), (h), (v), and (z)) will apply to this subpart as well as the following definitions:

(a) *Acceptable substitute*—Foreign origin components or materials that are the same specification, quality, function or commercial availability as a U.S. component or material and have a price equal to or less than a U.S. component or material.

(b) *A country in close geographic proximity*—Any country within 1,000 miles of the border of the particular emerging democracy for which a facility guarantee is sought.

(c) *Eligible foreign content*—Foreign produced components of U.S. goods that are value-added in the United States.

(d) *Eligible project*—A project to either improve or establish facilities, provide services, or United States-produced goods, or a combination of the above, in relation to an agriculture-related project in an emerging democracy.

(e) *Emerging democracy*—Any country that the President determines is taking steps toward political pluralism, economic reform, respect for internationally recognized human rights, and friendly relations with the United States.

(f) *Facility payment guarantee*—An agreement under which CCC, in consideration of a fee paid, in reliance upon information provided and certifications made by the applicant, and subject to the terms and conditions set forth in this subpart, in the applicable Invitation and on the face of the written guarantee, agrees to pay the guaranteed party or its assignee in the event of default by a foreign bank on its payment obligation under the foreign bank letter of credit, or under the foreign bank's related obligation, issued in connection with an eligible project.

(g) *Greenfield project*—A project to establish a new facility that stores, processes, distributes, and/or markets, agricultural commodities, and products.

(h) *Ineligible foreign content*—Goods included in the total contract price that are produced outside the U.S., which are not value-added within the United States.

(i) *Invitation*—An Invitation for applications issued to the public by CCC inviting U.S. persons to make applications for a facility payment guarantee in connection with eligible projects in specified emerging democracies, and containing special or additional terms or conditions that will apply to facility payment guarantee agreements issued in connection with such applications.

(j) *U.S. good*—Equipment or materials produced, manufactured, value-added, or originating from the United States. Agricultural commodities, raw materials, or military goods are not considered to be U.S. goods for the purpose of this subpart.

(k) *U.S. person*—One of the following:

(1) An individual who is a citizen or a resident of the United States: or

(2) An entity constituted or organized in the United States, including any corporation, trust, partnership, sole proprietorship, joint venture, or other association with business activities in the United States.

(l) *Value-added*—Manufacturing, processing or assembling in the United States components of foreign origin with components of U.S. manufacture or origin so that such components are fully integrated or incorporated together in the finished product.

§ 1493.200 Procedure.

(a) From time to time, CCC may announce the availability of GSM–102 or GSM–103 credit guarantees in connection with the financing of eligible projects in one or more emerging democracy. Such announcement will be made by press release and will identify the specific emerging democracy and the maximum amount of facility payment guarantees to be made available.

(b) Subsequent to the program announcement, CCC will issue an Invitation, requesting U.S. persons to apply for facility payment guarantees in connection with specific types of eligible projects in an emerging democracy, and specifying any special terms or conditions that will apply to, or information that will be required in connection with, applications for such facility payment guarantees.

(c) Interested U.S. persons may submit applications, in writing and certified as true and correct, to CCC at the address specified in the Contacts P/R as defined by § 1493.20(c). Such applications will:

1. Contain the information required in § 1493.230 as well as any additional information specified in the applicable Invitation; and

(2) Be accompanied by a non-refundable filing fee of $200.

(d) CCC will, after initial review of each application, inform the applicant in writing:

(1) Of any additional information that is necessary for CCC to make a final assessment of the application; or

(2) That, after initial review, the application has been rejected.

(e) In situations where CCC requests additional information pursuant to paragraph (d)(1) of this section, it will afford the interested U.S. person a reasonable period to submit the additional information. After receipt, CCC will conduct a final review and assessment of all information submitted in support of the application and will inform the interested U.S. person whether the application has been accepted or rejected.

§ 1493.230 Content of application.

An application for a facility credit guarantee must include the following information:

(a) The applicant's name and address.

(b) The applicant's legal form of doing business (e.g., sole proprietorship, corporation, partnership, etc.)

(c) A narrative description of the applicant's experience, during the

preceding three calendar years, in selling the U.S. goods or providing services similar to those which the applicant intends to sell or provide in connection with the proposed eligible project.

(d) A narrative description of the applicant's participation, during the preceding three years, in United States government programs, contracts or agreements;

(e) The name and address of the party in the emerging democracy that will purchase the U.S. goods or services from the applicant.

(f) A narrative description of the facility to be established or the nature of improvements to be made to an existing facility and the U.S. goods to be provided or services to be rendered, by the applicant in connection with such project;

(g) Identification of any U.S. agricultural commodity or commodities affected by the proposed project, including a narrative describing how the distribution, marketing, processing, storage, or handling of such commodities will be enhanced, and how the export of such U.S. agricultural commodities will be developed, maintained, or expanded.

(h) The contract value of the U.S. goods to be provided by the applicant and a calculation of the percentage of that value which represents United States content and the contract value of any services to be rendered by the applicant.

(i) The delivery schedule for the U.S. goods to be provided, or the service to be rendered, by the applicant.

(j) The name and address of the foreign bank or financial institution that will issue a letter of credit in connection with the purchase of U.S. goods or services, and a copy of any documentation evidencing that bank's commitment to issue the letter of credit.

(k) The number and date of the specific Invitation to which the application is responding.

(l) All other information that is required by the applicable Invitation.

(m) The applicant's statement that: "ALL SECTION 1493.240 CERTIFICATIONS ARE BEING MADE IN THIS APPLICATION," which, when included in the application will constitute a certification that the application conforms to the requirements of § 1493.240.

§ 1493.240 Certification requirements.

By providing the statement in § 1493.230(m), the applicant certifies as follows:

(a) That the information provided in support of the application is, to the best of the applicant's knowledge and belief, true and correct:

(b) That the applicant has reviewed the terms and conditions of a CCC facility payment guarantee, as set forth in this subpart C, and any additional terms and conditions that have been set forth in the applicable Invitation, and understands that all such terms and conditions will govern the facility payment guarantee agreement for which application is being made.

(c) That there have not been and will not be any corrupt payments, extra sales services, or other items extraneous to the transaction to be provided, financed, or guaranteed in connection with the transaction, and that the transaction complies with applicable United States law;

(d) That no person or selling agency has been employed or retained to solicit or secure the facility payment guarantee, and that there is no agreement or understanding for a commission, percentage, brokerage, or contingent fee, except in the case of bona fide employees or bona fide established commercial or selling agencies maintained by the applicant for the purpose of securing business;

(e) That, to the best of the applicant's knowledge and belief, neither the applicant nor any of its principals has been debarred, suspended, proposed for debarment, or otherwise determined ineligible from contracting with or participating in programs administered by a United States Government agency; and

(f) That the applicant is a U.S. person within the meaning of § 1493.210(k).

(g) That if the U.S. goods to be exported contain a component that is not produced or manufactured in the United States that:

(1) Such foreign component is an acceptable substitute (as defined by § 1493.210(a)) for a component commercially produced in the United States; or

(2) Such foreign component in a de minimus component of the product.

§ 1493.250 Additional information and application guidelines.

(a) After CCC has made an initial assessment of an application, it may extend a preliminary commitment which requires that the applicant submit additional information necessary for a final assessment of the project before making a final commitment to enter into a facility payment guarantee agreement. Such request for additional information will be made directly to the applicant in writing, and the applicant will be afforded a reasonable period to provide such information.

(b) CCC may, where it determines appropriate, issue Application Guidelines which will provide potential applicants with additional guidance regarding the type and quality of information considered necessary by CCC to make a final assessment of different types of eligible projects and provide other information and requirements.

§ 1493.260 CCC evaluation of applications.

(a) An application for a CCC facility payment guarantee, including the information contained in the initial application and any supplemental information supplied by the applicant, will be reviewed and evaluated against the following criteria:

(1) The applicant qualifies as a U.S. person;

(2) The information submitted provides reasonable assurance that the proposed eligible project will improve the handling, marketing, processing, storage, or distribution of imported agricultural commodities or products thereof in the merging democracy;

(3) The information submitted provides a reasonable assurance that a primary benefit of the proposed eligible project will be to promote significant exports of the United States agricultural commodities or products thereof;

(4) The information submitted provides a reasonable assurance that the proposed eligible project will not primarily benefit the agricultural export trade of a country in close geographic proximity to the emerging democracy;

(5) The information submitted provides reasonable assurance that the obligation incurred as a result of the proposed project will be repaid without default.

(b) CCC will give priority consideration to applications for eligible projects:

(1) That have been recommended by teams of agricultural consultants and government officials pursuant to subsection 1542(d) of the 1990 Act;

(2) That encourage the privatization of the agricultural sector or that benefit private farms or cooperatives in emerging democracies; or

(3) For which non-governmental persons agree to assume a relatively larger share of the costs.

§ 1493.270 Facility payment guarantee.

(a) *Eligible transactions.* CCC will issue a facility payment guarantee only in connection with transactions involving a firm contract for sale of U.S. goods in connection with the improvement or establishment of facilities or the provision of U.S. goods or the rendering of services for an

agriculture-related facility in an emerging democracy, and only where the applicant has submitted the required guarantee fee, as specified in § 1493.280.

(b) *CCC's obligation.* The facility payment guarantee will provide that CCC agrees to pay the U.S. person or its assignee an amount not to exceed the guaranteed value of the contracted U.S. goods or services, plus eligible interest, in the event that the foreign bank issuing the letter of credit or related obligation in connection with the covered sale fails to pay. Payment by CCC will be in U.S. dollars.

(c) *U.S. content guidelines.* CCC's facility payment guarantee may cover up to 100% of the U.S. content of the goods. However, CCC's facility payment guarantee will not exceed 85% of the total contract price. The following guidelines apply to the guarantee coverage that CCC will extend to goods, services and freight.

(1) *Goods.*

(i) U.S. content is the value of goods entirely produced in the U.S. A CCC facility payment guarantee will not be provided unless U.S. content is at least 50% of the total contract price of all components to be supplied by the exporter. U.S. content is calculated by deducting the acquisition cost of all eligible foreign content from the contract price.

(ii) Ineligible foreign content must be deducted from the total contract price to determine the basis for determining the guarantee value.

(2) *Services.*

Services must be performed by U.S.-based personnel or U.S.-based personnel temporarily assigned in the eligible emerging democracy and be performed in connection with the eligible project. Such services must be payable in U.S. dollars and invoiced from the U.S. office of the applicant.

(3) *Freight.*

(i) U.S. flag shipping costs are considered U.S. content if they are included in the total contract price for the goods and their delivery to the emerging democracy.

(ii) Foreign flag shipping costs are considered to be a foreign component if they are included in the total contract price for the goods and their delivery to the emerging democracy.

(d) *Period of guarantee coverage.* In establishing the applicable period of coverage and effective date of the facility payment guarantee, CCC may specify and establish on the face of the guarantee either a specific date or an event or occurrence that will serve to establish the specific date. In most instances, the period of coverage and the effective date will be as follows:

(1) *U.S. Goods.* The facility payment guarantee will apply to the period beginning on one of the following dates as specified in the payment guarantee:

(i) The date(s) of export(s);

(ii) The date(s) of final installation; or

(iii) The date when interest begins to accrue.

The period of coverage will continue during the credit term specified in the payment guarantee or amendments thereto. However, the payment guarantee only becomes effective on the date(s) of export of the U.S. goods specified in the application for facility payment guarantee.

(2) *Services.* The facility payment guarantee will apply to the period beginning on one of the following dates as specified in the payment guarantee:

(i) The date(s) of disbursement of payment by the U.S. bank for services rendered by the applicant; or

(ii) The date when interest begins to accrue.

The period of coverage will continue during the credit term specified in the payment guarantee or amendments thereto. However, the payment guarantee only becomes effective on the date(s) of disbursement of payment for services rendered by the applicant for services specified in the application for facility payment guarantee.

(e) *Terms and conditions of the facility payment guarantee agreement.* The terms and conditions governing the facility payment guarantee will include the general terms and conditions set forth in this subpart, any additional terms or conditions specified in the applicable Invitation, and any terms and conditions specified on the face of the facility payment guarantee issued by CCC.

(f) *Guaranteed amount.*

(1) *Principal.* Unless otherwise specified in the applicable Invitation, the CCC facility payment guarantee will cover up to 100 percent of the U.S. content of U.S. goods or related services, or up to a maximum of 85 percent of the total contract price for the U.S. goods and/or related services, whichever is less, as set forth in the payment guarantee.

(2) *Interest.* Unless otherwise specified in the applicable Invitation, the terms and conditions of a CCC facility payment guarantee with regard to the eligible interest will be governed by the provisions of § 1493.20(g) and the interest rate coverage will be as stated on the payment guarantee issued by CCC.

§ 1493.280 Guarantee rates and fees.

Unless otherwise specified in the applicable Invitation, the terms and conditions of a CCC facility payment guarantee with regard to guarantee rates and fees will be governed by the provisions of § 1493.70, except that a different fee schedule will apply and that the payment of the guarantee fees will not be required to be remitted until after the exporter receives final approval of its application.

§ 1493.290 Evidence of export.

Exporters will be required to submit to CCC evidence of export of U.S. goods, or the performance of services, which are covered by the payment guarantee or are otherwise related to the export sales contracts as specified in the applicable Invitation or Application Guideline.

§ 1493.300 Proof of entry.

Unless otherwise specified in the applicable Invitation, the terms and conditions of a CCC facility payment guarantee with regard to proof of entry will be governed by the provisions of § 1493.100.

§ 1493.310 Notice of default and claims for loss.

Unless otherwise specified in the applicable Invitation, the terms and conditions of a CCC facility payment guarantee with regard to notice of default and claim for loss will be governed by the provisions of § 1493.110.

§ 1493.320 Payment for loss.

Unless otherwise specified in the applicable Invitation, the terms and conditions of a CCC facility payment guarantee with regard to payment for loss will be governed by the provisions of § 1493.120.

§ 1493.330 Recovery of losses.

Unless otherwise specified in the applicable Invitation, the terms and conditions of a CCC facility payment guarantee with regard to recovery of losses will be governed by the provisions of § 1493.130.

§ 1493.340 Miscellaneous provisions.

Unless otherwise specified in the applicable Invitation, the miscellaneous provisions of § 1493.140 are applicable to CCC facility payment guarantees.

Signed this 23rd day of February 1993 at Washington DC.

Christopher E. Goldthwait,

Acting General Sales Manager, FAS and Acting Vice President, Commodity Credit Corporation.

[FR Doc. 93–4501 Filed 2–26–93; 8:45 am]

BILLING CODE 3410–10–M

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052–AB34

Loan Policies and Operations; Collateral Evaluation Requirements, Actions on Applications, and Review of Credit Decisions; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final regulation under part 614 on November 20, 1992 (57 FR 54683). The final regulation amends 12 CFR part 614 to set forth minimum standards for performing a collateral evaluation, establish evaluation requirements for various types of transactions, distinguish those transactions requiring the services of an evaluator from those requiring the services of either a State certified or a State licensed appraiser, require the board of directors of each Farm Credit System (System) institution engaged in lending or leasing to adopt policies and standards for the evaluation of all real, personal, and intangible property and to prescribe qualifications for evaluators that are consistent with the regulations, and to require the board of directors of each System institution to adopt collateral evaluation policies and standards for appraisals of real property and to prescribe qualifications of real estate appraisers that are consistent with the requirements of the regulation and the Uniform Standards of Professional Appraisal Practices as adopted by the Appraisal Foundation. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is March 1, 1993.

EFFECTIVE DATE: The effective date of the final regulation published on November 20, 1993 (57 FR 54683) is March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Dennis K. Carpenter, Senior Policy Analyst, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4498, TDD (703) 883–4444.

(12 U.S.C. 2252(a)(9) and (10))

Dated: February 24, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–4654 Filed 2–26–93; 8:45 am]

BILLING CODE 6705–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34–31911]

Delegation of Authority to Director of Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission is amending its regulation concerning Organization and Program Management to delegate authority to the Director of the Division of Market Regulation to authorize the issuance of orders designating securities as "standardized options," pursuant to Rule 9b–1(a)(4) under the Securities Exchange Act of 1934 ("Exchange Act"). This amendment should facilitate review and consideration of such designations.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Michael A. Walinskas, Esq., (202) 504–2545, Branch of Options Regulation, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Mail Stop 5–1, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced an amendment to Rule 30–3 of its regulation concerning Organization and Program Management [1] governing delegation of authority to the Director of the Division of Market Regulation ("Director").

The amendment adds to the rule new paragraph (a)(51), to allow the Director to authorize the issuance of orders designating securities as "standardized options" pursuant to Rule 9b–1(a)(4) under the Exchange Act. Rule 9b–1(a)(4) provides as follows:

> "Standardized options" are options contracts trading on a national securities exchange, an automated quotations system of a registered securities association, or a foreign securities exchange which relate to options classes the terms of which are limited to specific expiration dates and exercise prices, *or such other securities as the Commission may, by order, designate.* (Emphasis Added) [2]

Under Rule 9b–1(a)(4) the Commission currently has authority, "by order," to designate whether a particular security is a "standardized option." By delegating this authority to the Director, the amendment will facilitate prompt and careful review in instances where it is necessary to designate whether a security is a "standardized option." In addition, the amendment will help conserve the resources of the Commission and the Division, since the staff will not be required to present proposals to designate a security as a "standardized option" to the Commission, but can act upon such proposals pursuant to delegated authority.[3]

The Commission finds, in accordance with section 553(b)(A) of the Administrative Procedure Act,[4] that this amendment relates solely to agency organization, procedure, or practice, and does not relate to a substantive rule. Accordingly, notice and opportunity for public comment are unnecessary, and publication of the amendment prior to its effective date is also unnecessary.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies).

Text of Amendment

The Commission hereby amends title 17, chapter II of the Code of Federal Regulations as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart A—Organization and Program Management

1. The authority citation for part 200, subpart A, continues to read as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 79t, 77sss, 80a–37, 70b–11, unless otherwise amended.

2. Section 200.30–3 is amended by adding paragraph (a)(51) to read as follows:

§ 200.30–3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(51) Pursuant to paragraph (a)(4) of § 240.9b–1 of this chapter, to authorize the issuance of orders designating securities as "standardized options."

* * * * *

By the Commission.

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[1] 17 CFR 200.30–3.

[2] 17 CFR 240.9b–1(a)(4).

[3] In any particular proposal where the Director believes it appropriate, the Director still may submit a proposal to designate a security as a "standardized option" to the Commission. 17 CFR 200.30–3(e).

[4] 5 U.S.C. 553(b)(A).

Dated: February 23, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4626 Filed 2–26–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 400

Refugee Resettlement Program: Refugee Cash Assistance and Refugee Medical Assistance

AGENCY: Administration for Children and Families (ACF), HHS, Office of Refugee Resettlement.

ACTION: Final rule.

SUMMARY: This rule would reduce the duration of the special programs of refugee cash assistance (RCA) and refugee medical assistance (RMA) from a refugee's first 5 months in the United States for the remainder of FY 1993, effective April 1, 1993.

The reduction is necessitated by the limited funds appropriated for transitional and medical services (TAMS) for Federal FY 1993. Refugee assistance under section 412 of the Immigration and Nationality Act is expressly limited by the extent of available appropriations.

EFFECTIVE DATE: April 1, 1993.

ADDRESSES: Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Toyo A. Biddle, (202) 401–9253.

SUPPLEMENTARY INFORMATION:

Background

Current regulations at 45 CFR 400.203(b) and 400.204(b) provide for Federal refugee funding, subject to the availability of funds (45 CFR 400.202), to be provided to States for the special programs of refugee cash assistance (RCA) and refugee medical assistance (RMA) "during the 12-month period beginning with the first month the refugee entered the United States (except during Federal FY 1993, 8-month period)." The 8-month eligibility period was first established by regulation on January 10, 1992.

Description of the Final Regulation

This final rule would reduce the duration of the special programs of refugee cash assistance (RCA) and refugee medical assistance (RMA) from a refugee's first 8 months in the United States to a refugee's first 5 months in the United States for the remainder of FY 1993, effective April 1, 1993.

The reduction is necessitated by the limited funds appropriated for transitional and medical services (TAMS) for Federal FY 1993. Refugee assistance under section 412 of the Immigration and Nationality Act is expressly limited by the extent of available appropriations. 8 U.S.C. 1522(a)(1)(A); 45 CFR 400.202.

The decision to reduce the period of time-eligibility is based on the Department's analysis of FY 1992 costs and cost trends in the RCA and RMA programs and on the number of refugees who entered the United States during the latter part of FY 1992 and those who will be admitted during FY 1993 under the refugee admissions ceiling of 122,000 publicly funded refugees established by the President after consultation with Congress. (Memorandum from the President to the United States Coordinator for Refugee Affairs, Determination of FY 1993 Refugee Admissions Numbers and Authorization of In-Country Refugee Status Pursuant to Sections 207 and 101(a)(42), Respectively, of the Immigration and Nationality Act, Presidential Determination No. 93–1, October 2, 1992.)

While the refugee admissions ceiling of 122,000 for FY 1993 is approximately 7% lower than the 131,624 publicly funded admissions in FY 1992, the fixed appropriation of $245,810,656 available for TAMS to cover the costs of refugee cash and medical assistance, unaccompanied minors, State administration, and the voluntary agency matching grant program represents a reduction of 10% from the amount available for these programs in FY 1992.

In part as a result of a reduction in appropriated funds for FY 1993, ORR had issued a Notice of Proposed Rulemaking (NPRM) on November 2, 1992, to terminate the RCA and RMA programs effective January 31, 1993. ORR planned to replace them, through the grant and contract process, with a new private resettlement program and a private medical program. However, this action was challenged in a suit filed on December 7, 1992, in the United States District Court, Western District of Washington at Seattle in the case of *Nguyen* v. *Sullivan* (No. C92–1867WD), and the Department has been preliminarily enjoined from terminating the State-administered refugee cash and medical assistance program. In order to enable the State-administered RCA/RMA program to operate for the remainder of FY 1993 within the fixed appropriation available, it is necessary to reduce the period of time-eligibility for RCA and RMA to a refugee's first 5 months in the U.S.

Analysis shows that the fixed appropriation of $245,810,656 for TAMS for FY 1993 will be insufficient to provide funding for a period longer than a refugee's first 5 months in the U.S. during the remainder of FY 1993, effective April 1, 1993. If the current State-administered RCA and RMA programs were to be continued with an 8-month eligibility period, it is estimated that all available funds would be exhausted by July 31, 1993, and no RCA or RMA would be available to needy refugees during the last 2 months of the fiscal year.

In determining the number of months of benefits to provide under the RCA and RMA programs, it was assumed that the funds appropriated for TAMS, less the amounts necessary for the matching grant program and the unaccompanied minors program, were available for the RCA and RMA programs, including State administrative costs. This totals approximately $176 million of the $245,810,656 appropriated for TAMS for FY 1993.

The estimate is derived from refugee arrival, eligibility, and participation data. Arrival data are derived by forecasting refugee arrival patterns based on previous years and the annual refugee admissions ceiling set by the President. Eligibility data are computed by determining the number of refugees who have been in the country only for the number of months that will be paid through RCA/RMA funds. The participation data are derived by estimating what fraction of the time-eligible refugees will actually be RCA/RMA eligible (because they are not eligible for AFDC or SSI), as well as relying on dependency rates based on historical rates.

Using quarterly estimates of RCA and RMA participation, costs are determined by multiplying the number of participants by the per capita amount of cash and medical assistance expected to be paid to the refugees in FY 1993. These per capita costs are based on full-year State-reported expenditures for FY 1992, plus inflation estimates. In determining administrative costs, FY 1992 administrative costs are adjusted for inflation for FY 1993. Varying the number of months of RCA/RMA benefits changes the size of the time-eligible population. It was determined that funds were sufficient to cover 8 months of benefits from October 1, 1992.

through March 31, 1993, and 5 months of RCA/RMA benefits from April 1, 1993, through September 30, 1993. The reasons for such a substantial reduction in the RCA/RMA eligibility period are threefold: Higher medical costs, an increase in participation rates, and the fact that the RCA/RMA eligibility period was continued at an 8-month level during the first half of the year, resulting in the expenditure of a sizeable portion of TAMS funds during that period and thus leaving a smaller balance of available TAMS funds for the remainder of the fiscal year.

The Department considers it of the utmost importance to provide refugee support in a manner that ensures the availability of refugee support throughout the year. Failure to decrease the months of eligibility would mean that funds available would be insufficient to carry the program through the end of the year, with the result that, during the latter months of FY 1993, an estimated 25,000 needy refugees would be without Federally-funded refugee assistance.

This rule is applicable to both current and newly-arriving refugees effective April 1, 1993.

Consistent with the preceding actions, 45 CFR 400.2, 400.60(b), 400.100(b), 400.203(b), 400.204(b), and 400.209(b) are being amended to reduce the duration of RCA and RMA in FY 1993 from a refugee's first 8 months in the U.S. to a refugee's first 5 months in the U.S.

Justification for Dispensing With Notice of Proposed Rulemaking

A period for public comment is not being provided because it would be impracticable, unnecessary, and not in the public interest for the following reasons:

Under the current statute and regulations, the duration of benefits is a function of the level of appropriations. The resulting computation is a matter which public comment would not significantly aid because Congressional funding limitations effectively establish the eligibility period, rendering notice of proposed rulemaking and comment procedures unnecessary. In addition, although consideration of alternatives may be assisted by public input, there is insufficient time to consider other options without adversely impacting the public interest. The public interest is clearly served by avoiding the premature exhaustion of funds and in having a finite account equitably distributed throughout the fiscal year.

Because there is a continuing flow of refugees into the United States and because continuing costs for RCA and RMA are being incurred by the States, any delays in applying a reduced period of time-eligibility would result in the need for ever-greater reductions in the RCA and RMA programs in order to avoid their abrupt and complete termination and the absence of such assistance to both current and newly arriving refugees.

Accordingly, the agency finds good cause for issuance of a final rule effective April 1, 1993.

Regulatory Procedures

Regulatory Impact Analysis

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules, which are defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. The Department has determined that these rules are not major rules within the Executive Order because they will not have an annual effect on the economy of $100 million or more; nor will they result in a major increase in costs or prices for consumers, any industries, any governmental agencies, or any geographic region; and, they will not have an adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

This final rule reduces the eligibility period for refugee cash assistance (RCA) and refugee medical assistance (RMA) from a refugee's first 8 months in the U.S. to a refugee's first 5 months, in order to contain refugee cash and medical assistance costs within the FY 1993 appropriation level.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. No. 96–354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small businesses. The primary impact of these rules is on State governments and individuals. Therefore, we certify that these rules will not have a significant impact on a substantial number of small entities because they affect benefits to individuals and payments to States. Thus, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

This rule does not contain collection-of-information requirements.

Statutory Authority

Section 412(a)(9) of the Immigration and Nationality Act, 8 U.S.C. 1522(a)(9), authorizes the Secretary of HHS to issue regulations needed to carry out the program.

(Catalogue of Federal Domestic Programs: 93.566, Refugee and Entrant Assistance—State-Administered Programs)

List of Subjects in 45 CFR Part 400

Grant programs—Social programs, Health care, Public assistance programs, Refugees, Reporting and recordkeeping requirements.

Dated: February 5, 1993.

Laurence J. Love,

Acting Assistant Secretary for Children and Families.

Approved: February 18, 1993.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, 45 CFR part 400 is amended as follows:

PART 400—REFUGEE RESETTLEMENT PROGRAM

1. The authority citation for part 400 continues to read as follows:

Authority: Section 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)).

§ 400.2 [Amended]

2. Section 400.2 is amended by amending the definitions of "Refugee cash assistance" and "Refugee medical assistance" by removing the words "(except during Federal FY 1993, less than an 8-month period)" and by adding in their places "(except during Federal FY 1993, less than a 5-month period)".

§§ 400.60 and 400.100 [Amended]

3. Sections 400.60(b) and 400.100(b) are amended by removing the words "(except during Federal FY 1993, 8-month period)" and adding in their place "(except during Federal FY 1993, 5-month period)".

§§ 400.203 and 400.204 [Amended]

4. Sections 400.203(b) and 400.204(b) are amended by removing the words "(except during Federal FY 1993, 8-month period)" and adding: "(except during Federal FY 1993, 5-month period)".

§ 400.209 [Amended]

5. Section 400.209(b) is amended by removing the words "(except during Federal FY 1993, 8-months)" and adding in their place "(except during Federal FY 1993, 5 months)".

[FR Doc. 93–4724 Filed 2–26–93; 8:45 am]
BILLING CODE 4150–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 21 and 74

[PR Docket No. 92–80, FCC 93–31]

Use of the Frequencies in the 2.1 and 2.5 GHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a Report and Order amending its rules in a manner designed to streamline the regulatory scheme of the Multipoint Distribution Service (MDS) and to curtail the filing of speculative MDS applications. The rule changes adopted in the Report and Order will serve the public interest by improving the conditions for competition in the multichannel video distribution marketplace in accordance with the Commission's goal and the Congressional directives recently set forth in the Cable Television Consumer Protection and Competition Act of 1992.

FOR FURTHER INFORMATION CONTACT: Robert James, Common Carrier Bureau, (202) 634–1706.

EFFECTIVE DATE: June 1, 1993, except for the ban on settlements which is effective April 1, 1993.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in PR Docket No. 92–80, adopted January 14, 1993 and released February 12, 1993. The Report and Order is available for inspection and copying during normal business hours in the FCC Dockets Branch, room 230, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS, Inc.), suite 140, 2100 M Street NW., DC 20037, telephone (202) 857–3800.

Paperwork Reduction Statement

The Commission will submit the following information collection requirements to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended (44 U.S.C. 3501, *et seq.*).

Title: Amendment of Parts 1, 2 and 21 of the Commission's Rules Governing Use of the Frequencies in the 2.1 and 2.5 GHz Bands.

Action: New and modified collections.

Respondents: Businesses (including small businesses); individuals or households.

Frequency of Response: On occasion.

Public reporting burden for the collections of information is estimated as follows:

Sections	Est. Avg. hours per response	Est. annual responses
Section 21.15(a) certifications.	10 minutes (.166).	1,000
Section 21.902(c)(2) (i)–(ii).	30 minutes (.50).	1,000
Section 21.913(g) certifications.	15 minutes (.25).	100
Section 74.985(g) certifications.	15 minutes (.25).	20
Section 21.915 (June 1993 amendments).	10 minutes (.166).	[1]20
Section 21.33(d) (June 1993 amendments).	10 minutes (.166).	[1]20

[1] Once.

Total Annual Burden: 702.64 hours.

These estimates include the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, room 416, Paperwork Reduction Project, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Summary of Report and Order

1. The competitive potential of MDS/MMDS licensees has not yet been fully realized due in part to the fact that approximately 20,000 MDS applications, some dating back as far as 1983, remain pending before the Commission. Due in part to this backlog, wireless cable operators have had difficulty amassing the number of channels necessary to meet subscriber demand and match competitors' offerings.[1] Meanwhile, delays in the processing of MDS applications and other obstacles to the expansion of wireless cable systems, such as, unfair or discriminatory practices in the sale of video programming, have allowed traditional cable television systems to further strengthen their position in the multichannel video distribution marketplace, making it more difficult for rival providers to come forth as meaningful competitors.

2. The instant proceeding was initiated with the principal objective of promoting the expansion of wireless cable by expediting the processing of MDS applications. Since the adoption of the *Notice*,[2] the Commission has made significant headway toward reducing the backlog of pending MDS applications. The Commission credits the imposition of the freeze on the filing of applications for new MDS stations and the hiring of additional staff with this progress.[3] The Commission now believes that the advances made in eliminating the backlog render superfluous the proposals to relocate the processing and/or regulation of the MDS to another bureau and to replace the existing interference protection criteria. Accordingly, the Commission has decided not to proceed with these proposals.

3. The Commission has, however, adopted several other rule changes. Specifically, the Commission is amending 47 CFR 21.15(a) to provide for the use of certifications by MDS applicants instead of the detailed showing of site availability currently required under this rule. In this connection, it should be noted that the Commission stated its intention to respond to the submission of a false certification under section 21.15(a) by employing all available remedies, including the dismissal with prejudice of all applications filed by the offending applicant or the revocation of authorizations. In addition, if evidence of intent exists, we will refer such cases to the Department of Justice for criminal prosecution under 18 U.S.C. 1001. Furthermore, we will treat the submission of an intentionally falsified certification as a reflection on an applicant's basic qualifications to become or to remain a licensee.

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[1] "Wireless cable" is a multichannel video distribution medium that resembles cable television service, but that uses microwave channels to transmit programming to subscribers. Report and Order, CC Docket No. 86–179, 2 FCC Rcd 4251, 4252 (1987). The term "wireless cable" as used in this context does not imply that the service constitutes cable television for any statutory or regulatory purpose. See Report and Order, MM Docket No. 89–35, 5 FCC Rcd 7638, 7639–41 (1990) (the definition of a cable system does not include transmissions such as MDS), vacated on other grounds sub nom. Beach Communications, Inc. v. FCC, 965 F.2d 1103 DC Cir. 1992).

[2] This proceeding was initiated by a Notice of Proposed Rule Making, 57 FR 24006 (June 5, 1992).

[3] The freeze on the filing of applications for new MDS stations was effective immediately upon adoption of the Notice of Proposed Rule Making, PR Docket No. 92–80, 7 FCC Rcd 3266, 3270 (1992). See also Public Notice, PR Docket No. 92–80 (Private Radio Bureau April 15, 1992) (delineating the terms of the freeze). The freeze does not apply to MDS/MMDS modification, assignment, transfer of control, extension, or signal booster applications. The specific frequencies affected by the freeze include those identified in 47 CFR 21.901 and the ITFS frequencies available to MDS entities pursuant to 47 CFR 74.990. The Commission is continuing the freeze on the filing of new MDS applications and amendments imposed in the Notice until the backlog is further decreased.

4. The Commission also adopted several proposals set forth in the Notice that seek to deter the filing of speculative MDS applications. First, the Commission adopted its proposal to disallow partial and full settlement agreements among MDS applicants, and to apply this prohibition to both pending and future applications. The Commission amended 47 CFR 21.33 and 21.901(f)(1) to delete those portions thereof that previously permitted the formation of settlement agreements among MDS applicants. In addition, the Commission adopted its proposal to prohibit MDS applicants from holding any interest, including a corporate interest of less than one percent, in more than one application for the same channel or channels at sites in the same geographic area, and to apply this new rule, 47 CFR 21.915, to pending applications.* See 47 CFR 21.901(d)(2). Finally with respect to rule changes aimed at curtailing speculation, the Commission amended 47 CFR 21.23, 21.28, 21.29, 21.31 and 21.39 to provide that the sale, transfer, assignment or other alienation of any interest in an MDS application or conditional license will be prohibited prior to the completion of construction except: (1) In cases involving involuntary ownership changes, assignments, or transfers (bankruptcy, death or legal disability); and (2) in cases involving *pro forma* ownership changes, assignments or transfers that do not involve a substantial change in ownership or control of the application or authorized MDS facilities.

5. The Commission adopted various rule changes designed to expedite the processing of future MDS filings. First, the Commission modified 47 CFR 21.913(g) and 74.985(g) to provide that MDS and ITFS licensees need not submit an application to install a low power signal booster. Licensees seeking to install a low power signal booster must, however, submit certification demonstrating compliance with the components of §§ 21.913(g) and 74.985(g). This certification must be submitted within 48 hours of installation of the booster station.

6. In addition, the Commission amended 47 CFR 21.902 to add the requirement that MDS applications filed after the lifting of the freeze on applications for new stations must include the following two maps: (1) A map showing the boundaries of the protected service areas of each authorized or previously-proposed cochannel station with a transmitter site within 100 miles of the applicant's proposed transmitter site, and the 45 dB desired signal to undesired signal contour line of the applicant's proposed MDS station for cochannel stations; and (2) a map showing the boundaries of the protected service areas of each authorized or previously-proposed adjacent-channel station with a transmitter site within 100 miles of the applicant's proposed transmitter site, and the 0 dB desired signal to undesired signal contour line of the applicant's proposed MDS station for adjacent-channel stations.

*This rule becomes effective June 1, 1993. Any applicants with MDS/MMDS applications pending on that date that violate the provisions of this new rule may amend their applications to divest themselves of any interests held in other applications during the fourteen day period beginning on June 2, 1993 and ending on June 15, 1993.

Final Regulatory Flexibility Analysis

Need and Purpose of This Action

The adoption of this Report and Order will promote the public interest by furthering the Commission's goal of facilitating the development of a video distribution marketplace characterized by competition and a variety of consumer choices.

Summary of the Issues Raised

The Chief Counsel for Advocacy of the United States Small Business Administration (SBA) filed comments in response to the Initial Regulatory Flexibility Analysis. In these comments, the SBA stated that certain rule changes proposed in the Notice, particularly the proposal for pre-set interference separation standards, could disadvantage small businesses by making it more difficult to secure financing.

Significant Alternatives Considered

Several alternatives were discussed in the Notice and the Report and Order. In addition, a number of alternatives were raised in the comments. All significant alternatives have been addressed. Those proposals deemed problematic by the SBA are not being adopted. The Secretary shall send a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981)).

Ordering Clauses

7. Accordingly, pursuant to the authority of sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 CFR 154(i) and 303(r), it is ordered that 47 CFR parts 2, 21 and 74 of the Commission's Rules are amended as shown below, effective June 1, 1993, except for the ban on settlements which is effective April 1, 1993. It is further ordered that applicants for stations in the MDS whose applications are currently pending before this Commission and who wish to amend their applications to bring them into conformance with the rule changes adopted in this proceeding may do so during the fourteen-day period beginning June 2, 1993 and ending June 15, 1993. It is further ordered that PR Docket No. 92–80 is terminated.

List of Subjects

47 CFR Part 2

Radio, Television.

47 CFR Part 21

Multipoint distribution service, Communications common carriers, Domestic public fixed radio services.

47 CFR Part 74

Television broadcasting, experimental, auxiliary, and special broadcast and other program distributional services.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amendatory Text

47 CFR parts 2, 21 and 74 are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 4, 302, 303, 307, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 302, 303, 307, unless otherwise noted.

2. 47 CFR 2.106 is amended by removing note NG47 from column 5 in frequency band 2500–2655 MHz, and by adding "AUXILIARY BROADCASTING (74)" and "DOMESTIC PUBLIC FIXED RADIO (21)" under column 6 in frequency band 2500–2655 MHz, and by revising note NG47 to read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

NG47 In Alaska, frequencies between the band 2655–2690 MHz are not available for assignment to terrestrial stations.

* * * * *

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

3. The authority citation for part 21 continues to read as follows:

Authority: Secs. 1, 2, 4, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602, 48 Stat. as amended, 1064, 1066, 1070–1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102; 47 U.S.C. Secs. 151, 154, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602; 47 U.S.C. 552.

4. 47 CFR 21.15 is amended by revising paragraph (a) to read as follows:

§ 21.15 Technical content of applications.

* * * * *

(a) (1) Except in the case of applicants for Multipoint Distribution Service stations, applicants proposing a new station location (including receive-only stations and passive repeaters) must indicate whether the station site is owned. If it is not owned, its availability for the proposed radio station site must be demonstrated. Under ordinary circumstances, this requirement will be considered satisfied if the site is under lease or under written option to buy or lease.

(2) Where any lease or agreement to use land limits or conditions in any way the applicant's access or use of the site to provide public service, a copy of the lease or agreement (which clearly indicates the limitations or conditions) must be filed with the application, except in the case of applicants for stations in the Multipoint Distribution Service. Multipoint Distribution Service applicants must instead certify compliance with the limitations and conditions contained in the lease or option agreement.

(3) Multipoint Distribution Service applicants proposing a new station location must certify the proposed station site will be available to the applicant for timely construction of the facilities during the initial construction period.

(4) An applicant's failure to include a certification required under this Section will result in dismissal of the application. The submission of a false certification will subject the applicant to all remedies available to the Commission, including the dismissal with prejudice of all applications filed by the offending applicant and the revocation of authorizations of the offending applicant. Also, if evidence of intent exists, the case will be referred to the Department of Justice for criminal prosecution under 18 U.S.C. 1001. In addition, the submission of an intentionally falsified certification will be treated as a reflection on an applicant's basic qualifications to become or to remain a licensee.

* * * * *

5. 47 CFR 21.20 is amended by revising paragraph (b)(5) to read as follows:

§ 21.20 Defective applications.

* * * * *

(b) * * *

(5) The Multipoint Distribution Service application does not certify the availability of the proposed station site, or the Point-to-Point Microwave Radio Service, Local Television Transmission Service, or Digital Electronic Message Service application does not demonstrate the availability of the proposed site of a new facility;

* * * * *

6. 47 CFR 21.23 is amended by revising paragraphs (a) and (b) to read as follows:

§ 21.23 Amendment of Applications.

(a) (1) Any pending application may be amended as a matter of right if the application has not been designated for hearing, or for comparative evaluation pursuant to § 21.35, or for the random selection process, provided, however, that the amendments must comply with the provisions of § 21.29 as appropriate and the Commission has not otherwise forbidden the amendment of pending applications.

(2) A Multipoint Distribution Service application tentatively selected for qualification review by the random selection process may be amended as a matter of right up to 14 days after the date of the public notice announcing the tentative selection, provided, however, that the amendments must comply with the provisions of § 21.29 as appropriate and the Commission has not otherwise forbidden the amendment of pending applications.

(3) Provided, however, applications may not be amended if the amendments seek more than a *pro forma* change of ownership or control (bankruptcy, death or legal disability) of a pending Multipoint Distribution Service application and any amendment or application will be dismissed if the amendment or application seeks more than a *pro forma* change of ownership or control.

(b) Requests to amend an application designated for hearing or for comparative evaluation or for tentative selection for qualification review by the random selection process may be granted only if a written petition demonstrating good cause is submitted and properly served on the parties of record, except that Multipoint Distribution Service applications tentatively selected in a random selection process may be amended as a matter of right as provided in paragraph (a) of this section. Provided, however, requests to amend applications will not be granted that seek more than a *pro forma* change of ownership or control (bankruptcy, death or legal disability) of a pending Multipoint Distribution Service application and any application seeking more than a *pro forma* change of ownership or control will be dismissed.

* * * * *

7. 47 CFR 21.28 is amended by adding paragraph (f) to read as follows:

§ 21.28 Dismissal and return of applications.

* * * * *

(f) A Multipoint Distribution Service application will be dismissed if the applicant seeks to change ownership or control, except in the case of a *pro forma* change of ownership or control (bankruptcy, death, or legal disability).

8. 47 CFR 21.29 is amended by adding paragraph (f) to read as follows:

§ 21.29 Ownership changes and agreements to amend or to dismiss applications or pleadings.

* * * * *

(f) Notwithstanding § 21.29(e), amendments will not be granted that seek more than a *pro forma* change of ownership or control (bankruptcy, death, or legal disability) of a pending Multipoint Distribution Service application, and any Multipoint Distribution Service application will be dismissed that seeks more than a *pro forma* change of ownership or control.

9. 47 CFR 21.31 is amended by revising paragraphs (e) (3) and (4) to read as follows:

§ 21.31 Mutually exclusive applications.

* * * * *

(e) * * *

(3) The amendment reflects only a change in ownership or control found by the Commission to be in the public interest, and for which a requested exemption from the "cut-off" requirements of this section is granted, unless the amendment is for more than a *pro forma* change of ownership or control (bankruptcy, death or legal disability) of a pending Multipoint Distribution Service application in which event the application will be dismissed;

(4) The amendment reflects only a change in ownership or control which results from an agreement under § 21.29 whereby two or more applicants entitled to comparative consideration of their applications join in one (or more) of the existing applications and request dismissal of their other application (or applications) to avoid the delay and cost of comparative consideration, unless the amendment is for one (or more) pending Multipoint Distribution Service application (or applications) in which

event the application (or applications) will be dismissed;

* * * * *

10. 47 CFR 21.33 is revised to read as follows:

§ 21.33 Grants by random selection.

(a) If an application for an authorization in the Digital Electronic Message Service (DEMS) is mutually exclusive with another such application and satisfies the requirements of § 21.31, the applicant may be included in the random selection process set forth in §§ 1.821, 1.822 and 1.825 of this chapter.

(b) If an application for an authorization for a Multichannel Multipoint Distribution Service (MMDS) station or for a Multipoint Distribution Service (MDS) H-chahnel station is mutually exclusive with another such application, and satisfies the requirements of §§ 21.31 and 21.914, the applicant may be included in the random selection process set forth in §§ 1.821, 1.822 and 1.824 of this chapter.

(c) Renewal applications shall not be included in a random selection process.

(d) If Multipoint Distribution Service applicants enter into settlements, the applicants in the settlement must be represented by one application only and will not receive the cumulative number of chances in the random selection process that the individual applicants would have had if no settlement had been reached.

11. 47 CFR 21.39 is amended by redesignating paragraphs (a) and (b) and (c) as paragraphs (b) and (c) and (d) respectively, and by adding a new paragraph (a) to read as follows:

§ 21.39 Considerations involving transfer or assignment applications.

(a) A Multipoint Distribution Service conditional license may not be assigned or transferred prior to the completion of construction of the facility and the timely filing of the certification of completion of construction. However, consent to the assignment or transfer of control of a Multipoint Distribution Service conditional license may be given prior to the completion of construction and the timely filing of the certification of completion of construction where:

(1) The assignment or transfer does not involve a substantial change in ownership or control of the authorized Multipoint Distribution Service facilities; or

(2) The assignment or transfer of control is involuntary due to the licensee's bankruptcy, death, or legal disability.

* * * * *

12. 47 CFR 21.901 is amended by removing and reserving paragraph (d)(2), and revising paragraph (f) to read as follows:

§ 21.901 Frequencies.

* * * * *

(f) MDS H-channel applications. Frequencies in the bands 2650–2656 MHz, 2662–2668 MHz, or 2674–2680 MHz must be assigned only in accordance with the following conditions: All applications for MDS H-channel stations must specify either the H1, H2, or H3 channel for which an application is filed; however, the Commission may on its own initiative assign different channels in these frequency bands if it is determined that such action would serve the public interest.

13. 47 CFR 21.902 is amended by revising paragraphs (c) introductory text, (c)(1) and (c)(2) to read as follows:

§ 21.902 Frequency interference.

* * * * *

(c) The following interference studies, as appropriate, must be filed initially with each application proposing a new transmitter site:

(1) An analysis of the potential for harmful interference with any authorized or previously-proposed, cochannel and adjacent-channel, station(s):

(i) If the coordinates of the applicant's proposed transmitter are within 100 miles (160.94 km) of the coordinates of any authorized or previously-proposed, cochannel or adjacent-channel, station(s); or

(ii) If the great circle path between the applicant's proposed transmitter and the protected service area of any authorized or previously-proposed, cochannel or adjacent-channel, station(s) is within 150 miles (241.41 km) or less and 90 percent or more of the path is over water or within 10 miles (16.1 km) of the coast or shoreline of the Atlantic Ocean, the Pacific Ocean, the Gulf of Mexico, any of the Great Lakes, or any bay associated with any of the above (see §§ 21.701(a) 21.901(a) and 74.902 of this chapter);

(2) (i) One map, folded to an 8½ by 11 inch size, identifying the boundaries of the protected service areas of each authorized or previously-proposed, co-channel station with transmitter site coordinates within 100 miles (160.94 km) of the coordinates of the applicant's proposed transmitter site, an the 45 dB desired signal to undesired signal contour line of the applicant's proposed MDS station for cochannel stations; and

(ii) A second map, folded to an 8½ by 11 inch size, identifying the boundaries of the protected service areas of each authorized or previously-proposed, adjacent-channel station with transmitter site coordinates within 100 miles (160.94km) of the coordinates of the applicant's proposed transmitter site, and the 0 dB desired signal to undesired signal contour line of the applicant's proposed MDS station for adjacent-channel stations (see 47 CFR 21.902(d));

* * * * *

14. 47 CFR 21.913 is amended by revising paragraph (g) to read as follows:

§ 21.913 Signal Booster Stations.

* * * * *

(g) An MDS or ITFS licensee may install and commence operation of a signal booster station that has a maximum power level of −9 dBW EIRP and that does not extend service beyond the boundaries of an MDS station's protected service area or beyond an ITFS licensee's registered receive site, subject to the condition that for sixty (60) days after installation, no objection or petition to deny is filed by an authorized co-channel or adjacent channel ITFS or MDS station with a transmitter within 5 miles (8.05 km) of the coordinates of the primary transmitter of the signal booster. An MDS or ITFS licensee seeking to install a signal booster under this Section must, within 48 hours after installation, submit a certification that:

(1) The maximum power level of the signal booster transmitter does not exceed −9 dBW EIRP;

(2) A description of the signal booster technical specifications (including antenna gain and azimuth), the coordinates of the booster and receivers, and the street address of the signal booster;

(3) No registered receiver of an ITFS E or F channel station, constructed prior to May 26, 1983, is located within a 1 mile (1.61 km) radius of the coordinates of the booster, or in the alternative, that a consent statement has been obtained from the affected ITFS licensee;

(4) No environmental assessment location as defined at § 1.1307 of this chapter is affected by installation and/or operation of the signal booster;

(5) Each MDS and/or ITFS station licensee with protected service areas or registered receivers within a 5-mile (8.05 km) radius of the coordinates of the booster has been given notice of its installation;

(6) Consent has been obtained from each MDS or ITFS station licensee whose signal is repeated by the signal booster;

(7) The signal booster site is within the protected service area of the MDS station, if the signal of an MDS station is repeated;

(8) The power flux density at the edge of the MDS station's protected service area does not exceed −75.6 dBW/m², if the signal of an MDS station is repeated;

(9) The antenna structure will extend less than 6.10 meters (20 feet) above the ground or natural formation or less than 6.10 meters (20 feet) above an existing manmade structure (other than an antenna structure); and

(10) The MDS or ITFS licensee understands and agrees that in the event harmful interference is claimed by the filing of an objection or petition to deny, the licensee must terminate operation within two (2) hours of written notification by the Commission, and must not recommence operation until receipt of written authorization to do so by the Commission.

15. 47 CFR 21.915 is added to read as follows:

§ 21.915 One-to-a-market requirement.

Each applicant may file only a single Multipoint Distribution Service application for the same channel or channel group in each area. The stockholders, partners, owners, trustees, beneficiaries, officers, directors, or any other person or entity holding, directly or indirectly, any interest in one applicant or application for an area and channel or channel group, must not have any interest, directly or indirectly, in another applicant or application for that same area and channel or channel group.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

16. The authority citation for part 74 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

17. 47 CFR 74.985 is amended by revising paragraph (g) to read as follows:

§ 74.985 Signal Booster Stations.

* * * * *

(g) An MDS or ITFS licensee may install and commence operation of a signal booster station that has a maximum power level of −9 dBW EIRP and that does not extend service beyond the boundaries of an MDS station's protected service area or beyond an ITFS licensee's registered receive site, subject to the condition that for sixty (60) days after installation, no objection or petition to deny is filed by an authorized co-channel or adjacent channel ITFS or MDS station with a transmitter within 5 miles (8.05 km) of the coordinates of the primary transmitter of the signal booster. An MDS or ITFS licensee seeking to install a signal booster under this rule must, within 48 hours after installation, submit a certification that:

(1) The maximum power level of the signal booster transmitter does not exceed −9 dBW EIRP;

(2) A description of the signal booster technical specifications (including antenna gain and azimuth), the coordinates of the booster and receivers, and the street address of the signal booster;

(3) No registered receiver of an ITFS E or F channel station, constructed prior to May 26, 1983, is located within a 1 mile (1.61 km) radius of the coordinates of the booster, or in the alternative, that a consent statement has been obtained from the affected ITFS licensee;

(4) No environmental assessment location as defined at § 1.1307 of this chapter is affected by installation and/or operation of the signal booster;

(5) Each MDS and/or ITFS station licensee with protected service areas or registered receivers within a 5 mile (8.05 km) radius of the coordinates of the booster has been given notice of its installation;

(6) Consent has been obtained from each MDS or ITFS station licensee whose signal is repeated by the signal booster;

(7) The signal booster site is within the protected service area of the MDS station, if the signal of an MDS station is repeated;

(8) The power flux density at the edge of the MDS station's protected service area does not exceed −75.6 dBW/m2, if the signal of an MDS station is repeated;

(9) The antenna structure will extend less than 6.10 meters (20 feet) above the ground or natural formation or less than 6.10 meters (20 feet) above an existing manmade structure (other than an antenna structure); and

(10) The MDS or ITFS licensee understands and agrees that in the event harmful interference is claimed by the filing of an objection or petition to deny, the licensee must terminate operation within two (2) hours of written notification by the Commission, and must not recommence operation until receipt of written authorization to do so by the Commission.

[FR Doc. 93–4553 Filed 2–26–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 22

[CC Docket No. 90–6; FCC 93–99]

Cellular Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission has amended regulations on Public Mobile Service to improve licensing procedures for cellular radio. The rule changes are necessary to allow unserved area applicants to propose a reasonable range of effective radiated power for small cell design without seeking waivers of the Commission's Rules or filing alternative propagation studies. The changes are also needed to codify the Commission's interpretation that cellular licensees are entitled to protection from "capture" of subscriber traffic by adjacent systems. The Commission's intent in revising these rules is to encourage further development of the cellular service while promoting efficiency in the licensing of cellular service.

DATES: Rules effective March 31, 1993, except for revision of paragraph (a)(3) and addition of paragraph (a)(5) of § 22.903 of the Rules, which are effective March 4, 1993.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman (legal) and B.C. "Jay" Jackson, Jr. (technical), Mobile Services Division, Common Carrier Bureau, (202) 632–6450 and 653–5560, respectively.

SUPPLEMENTARY INFORMATION: The following is a summary of the Commission's Memorandum Opinion and Order on Reconsideration, adopted February 17, 1993, and released February 19, 1993. The full texts of all Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 202–857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order on Reconsideration

1. The Second Report and Order, 57 FR 13646 (April 17, 1992) (Second Report) adopted rules to determine Cellular Geographic Service Areas (CGSAs) by the use of a mathematical formula and modified the authorizations of existing cellular systems to redefine the boundaries of their CGSAs in accordance with the new formula. This

Order disposes of petitions for reconsideration of the Second Report. It rejects arguments that the Commission exceeded its authority by modifying the authorizations of existing cellular systems pursuant to a rulemaking proceeding, that the Commission erred in allowing carriers to submit alternative CGSA determinations based upon propagation studies or field measurements, and that the Commission should establish formal procedures to assure that carriers on the same frequency block in adjoining markets achieve matching field strengths at their market boundaries.

2. This Order also amends part 22 of the Commission's Rules concerning cellular radio. One rule change allows an unserved area applicant proposing a cell with a maximum effective radiated power (ERP) of 10 watts or less the option to use the CGSA formula with an antenna height above average terrain less than the usual 100 feet, but not less than 10 feet. This rule revision will allow a reasonable range of ERP for small cell design. Another change codifies the Commission's interpretation that cellular licensees are entitled to protection within their CGSAs from unwanted "capture" of subscriber traffic by adjacent cellular systems. The new rule sets forth the application of and limitation on this protection.

Ordering Clauses

Accordingly, it is ordered that the rule changes made herein will become effective thirty (30) days after publication in the **Federal Register**, except for the revision of paragraph (a)(3) and the addition of paragraph (a)(5) in § 22.903 of the Rules, which shall become effective immediately upon publication in the **Federal Register**.

List of Subjects in 47 CFR Part 22

Communications common carriers, Domestic public cellular radio telecommunications service.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

Part 22 of title 47 of the Code of Federal Regulations is amended as follows:

PART 22—PUBLIC MOBILE SERVICE

1. The authority citation for part 22 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1083, as amended; 47 U.S.C. 154, 303.

2. Section 22.903 is amended by revising paragraphs (a)(3), (d)(2) and (e) and adding new paragraphs (a)(5) and (f) as follows:

§ 22.903 Cellular geographic service area.

* * * * *

(a) * * *

(3) The value used for h in the formula in paragraph (a)(2) of this section must not be less than 25 feet HASL (or HAMSL, as appropriate for the support structure). The value used for *h* in the formula in paragraph (a)(1) of this section must not be less than 100 feet HAAT, except that for unserved area applications proposing a cell with an ERP not exceeding 10 Watts, the value for h used in the formula to determine the service area boundary for that cell may be less than 100 feet HAAT, but not less than 10 feet HAAT.

* * * * *

(5) Whenever use of the formula in paragraph (a)(1) of this section pursuant to the exception contained in paragraph (a)(3) of this section results in a calculated distance that is less than 3.4 miles, the radial distance to the service area boundary is deemed to be 3.4 miles.

* * * * *

(d) * * *

(2) *Contract extensions.* Licensees of the first authorized cellular systems on the same frequency block in adjacent MSAs or RSAs may enter into contracts to allow service area boundary extensions into their CGSA and/or unserved area in their MSA or RSA during the five year fill-in period of the MSA or RSA into which the service area is to extend. Licensees of cellular systems on the same frequency block in adjacent MSAs or RSAs may enter into contracts to allow service area boundary extensions into their CGSA only (not into unserved area) in their MSA or RSA at any time.

* * * * *

(e) *Multiple-licensed cells.* A single cell may be used to serve multiple markets. Nevertheless, a cell located in one market may not be used in determining the CGSA for a different MSA, RSA, or unserved area market unless the cell is licensed for both markets.

(f) *Protection afforded.* Within the CGSA determined in accordance with this section, cellular systems are entitled to protection from co-channel and first-adjacent channel interference and from capture of subscriber traffic by adjacent systems on the same frequency block.

(1) Licensees must cooperate in resolving co-channel and first-adjacent channel interference by changing frequencies used at specific cells or by other technical means.

(2) Protection from capture of subscriber traffic is applied and limited in accordance with the following:

(i) It is presumed that subscriber traffic is captured if a service area boundary of one cellular system extends into the CGSA of another operating cellular system. Therefore, cellular licensees must not begin to operate any facility that would produce a service area boundary extension into the existing CGSA of another operating cellular system on the same frequency block without first obtaining the written consent of the licensee of that system. However, cellular licensees may continue to operate existing facilities that produce a service area boundary extension into a subsequently-authorized portion of the CGSA of another cellular system on the same frequency block until the licensee of that system requests that the service area boundary extension be removed from its CGSA. Such request may be made directly to the licensee of the extending system or to the Commission. In the event such request is made, the licensee of the extending system must reduce the transmitting power or antenna height (or both) at the pertinent cell site as necessary to remove the service area boundary extension from the CGSA of the other system, unless a written consent from the licensee of the other system allowing the service area boundary extension is obtained.

(ii) Cellular licensees are at most entitled to have a CGSA free of service area boundary extensions from other cellular systems on the same frequency block.

[FR Doc. 93–4479 Filed 2–26–93; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 58, No. 38
Monday, March 1, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 707 and 740

Truth in Savings

AGENCY: National Credit Union Administration.

ACTION: Extension of comment period.

SUMMARY: On November 12, 1992, the NCUA issued proposed revisions to its regulations implementing the Truth in Savings Act (§ 701.35, Part 707, § 740.2). The proposed rule was published in the Federal Register on November 30, 1992 (See 57 FR 56686). The NCUA Board requested that comments on the proposed revisions be received on or before March 1, 1993. Due to requests made, the Board has decided to extend the comment period for thirty-one days, from March 1 to April 1, 1993.

DATES: The comment period is being extended from March 1, 1993 to April 1, 1993.

ADDRESSES: Comments should be mailed to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Meg Suuberg, Staff Attorney, or Martin Conrey, Staff Attorney, at the above address, or telephone (202) 682–9630. For information about the Board's action concerning the Regulatory Flexibility Act only, contact Lindsay Neunlist, Program Analyst, Office of Examination and Insurance, at the above address or telephone (202) 682–9640. For information about Appendix A to proposed Part 707, contact William Ryan, Compliance Officer, Office of Examination and Insurance, at the above address or telephone (202) 682–9640.

Authority: The authority for this action is the general rulemaking authority of the NCUA Board. 12 U.S.C. 1766(a).

By the National Credit Union Administration Board on February 22, 1993.

Becky Baker,

Secretary of the Board.

[FR Doc. 93–4632 Filed 2–26–93; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 92–ASW–40]

Proposed Revision of Control Zone: Roswell, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would revise the control zone located at Roswell, New Mexico. The very high frequency omnidirectional range (VOR) standard instrument approach procedure (SIAP) for the VOR–A approach, utilizing the Roswell very high frequency omnidirectional range/tactical air navigation (VORTAC), was amended in 1984. This proposal is necessary because a recent review of the procedure indicated that an adjustment to the control zone was needed to completely contain operations within controlled airspace. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the VOR–A SIAP.

DATES: Comments must be received on or before April 23, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 91–ASW–40, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530.

The official docket may be examined in the office of the Assistant Chief Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX, between 9 :00 a.m. and 3:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the System Management Branch, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Alvin E. DeVane, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: (817) 624–5535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 92–ASW–40." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of

Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the control zone located at Roswell, New Mexico. The VOR–A SIAP, utilizing the Roswell VORTAC, was amended in 1984. A recent review of the procedure indicated that an adjustment to the control zone was needed to completely contain operations within controlled airspace. The coordinates for this docket are based on North American Datum 83. Control Zones are published in section 71.171 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The control zone listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Incorporation by reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.171 Designation of Control Zones

* * * * *

ASW TX CZ Roswell, NM [Revised]

Roswell Industrial Air Center, NM
(lat. 33°18'08" N., long, 104°31'50" W.)
Roswell VORTAC
(lat. 33°20'15" N., long. 104°37'17" W.)

That airspace extending upward from the surface to and including 6200 feet MSL within a 5-mile radius of Roswell Industrial Air Center and within 3.7 miles each side of the Roswell VORTAC 290° radial extending from the 5.0-mile radius to 14.8 miles northwest of the airport.

* * * * *

Issued in Fort Worth, TX, on February 16, 1993.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 93–4605 Filed 2–26–93; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 93–AGL–3]

Proposed Transition Area Establishment, Necedah, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish a transition area near Necedah, WI to accomodate a new nondirectional beacon (NDB) runway 36 Standard Instrument Approach Procedure (SIAP) to Necedah Airport, Necedah, WI. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before April 9, 1993.

ADDRESSES: Send comments on the proposal in triplicate to Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 93–AGL–3, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–AGL–3." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Person interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No.

11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a transition area near Necedah, WI, to accommodate a new NDB runway 36 SIAP to Necedah Airport, Necedah, WI.

The development of a new SIAP requires that the FAA establish the designated airspace to ensure that the procedure would be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts would reflect the defined area which would enable pilots to circumnavigate the area in order to comply with applicable visual flight rule requirements. The coordinates for this airspace docket are based on North American Datum 83. Transition areas are published in Section 71.181 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation of Transition Areas

* * * * *

AGL WI TA Necedah, WI [New]

Necedah Airport, WI
(lat. 44°02'01" N., long. 90°05'07" W.)
Necedah NDB
(lat. 44°02'02" N., long. 90°04'58" W.)

That airspace extending upward from 700 feet above the surface within a 6.3 miles radius of the Necedah Airport, and within 2.5 miles each side of the 181° bearing from the Necedah NDB extending from the 6.3 mile radius area to 7 miles south of the airport, excluding that portion which overlies the Camp Douglas, WI, Transition Area and Control Zone, during the specific dates and times the control zone is effective.

* * * * *

Issued in Des Plaines, Illinois, on February 9, 1993.

John P. Cuprisin,

Manager, Air Traffic Division.

[FR Doc. 93–4604 Filed 2–26–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 92–ASW–41]

Proposed Revision of Transition Area: Roswell, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would revise the transition area located at Roswell, New Mexico. The very high frequency omnidirectional range (VOR) standard instrument approach procedure (SIAP) for the VOR–A approach, utilizing the Roswell very high frequency omnidirectional range/tactical air navigation (VORTAC), was amended in 1984. This proposal is necessary because a recent review of the procedure indicated that an adjustment to the transition area was necessary to completely contain operations within controlled airspace. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the VOR–A SIAP.

DATES: Comments must be received on or before April 23, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 91–ASW–41, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530.

The official docket may be examined in the office of the Assistant Chief Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX, between 9:00 a.m. and 3 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the System Management Branch, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Alvin E. DeVane, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: (817) 624–5535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 92–ASW–41." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the office of the Assistant Chief Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA

personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, System Management Branch, Department of Transportation, Federal Aviation Administration, Forth Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the transition area located at Roswell, New Mexico. The VOR–A SIAP, utilizing the Roswell VORTAC was amended in 1984. This proposal is necessary because a recent review of the procedure indicated that an adjustment to the transition area was necessary to completely contain operations within controlled airspace.

The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the VOR–A SIAP. The coordinates for this docket are based on North American Datum 83. Transition Areas are published in section 71.181 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that needs frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation of Transition Areas

* * * * *

ASW TX TA Roswell, NM [Revised]

Roswell Industrial Air Center, NM
(lat. 33°18'05" N., long. 104°31'30" W.)
Roswell VORTAC
(lat. 33°20'15" N., long. 104°37'17" W.)

That airspace extending upward from 700 feet above the surface within a 12.7-mile radius of Roswell Industrial Air Center and within 4 miles each side of the Roswell VORTAC 290° radial extending from the 12.7-mile radius to 23.2 miles northwest of the airport.

* * * * *

Issued in Fort Worth, TX, on February 16, 1993.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 93–4606 Filed 2–26–93; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200 and 240

[Release No. 34–31897; File No. S7–4–93]

RIN 3235–AF73

Reporting Requirements for Brokers or Dealers Under the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendments.

SUMMARY: The Securities and Exchange Commission ("Commission") is proposing for comment amendments to Rule 17a–5 under the Securities Exchange Act of 1934 ("Exchange Act") that would shift to designated examining authorities ("DEAs") the responsibility for extensions of time for the filing of FOCUS reports and audited annual financial reports or for approval of changes of the date as of which the audited annual financial report must be dated.

DATES: The requested written data, views, arguments and/or comments must be received on or before March 31, 1993.

ADDRESSES: Persons wishing to submit written data, views, arguments and/or comments should file three copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Stop 6–9, Washington, DC 20549. All written data, views, arguments and/or comments should refer to File No. S7–4–93. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Julius R. Leiman-Carbia, Senior Counsel, Office of Capital Markets, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., DC 20549; tel.: (202) 272–2824.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 17(a)(1) of the Exchange Act provides that the Commission shall prescribe, by rule, the records to be kept and the reports to be made and disseminated by brokers and dealers.[1] Under that section of the Exchange Act, the Commission has adopted Rule 17a–5, the basic reporting rule for broker-dealers.[2]

Under the present rule, a broker-dealer, registered with the Commission pursuant to section 15 of the Exchange Act,[3] is required to file monthly and quarterly reports concerning its financial and operational status.[4] These

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[1] 15 U.S.C. 78q(a)(1).

[2] The Commission originally promulgated Rule 17a–5 in 1942. Securities Exchange Act Release No. 3338 (November 28, 1942), 7 FR 9917 (December 1, 1942). Subsequent to its adoption, Rule 17a–5 was amended several times technically and substantively.

[3] 15 U.S.C. 78o.

[4] Sub-paragraph (a)(2) of Rule 17a–5 requires registered broker-dealers to file reports concerning their financial and operational status by submitting completed parts of Form X–17A–5, 17 CFR 249.617, as follows:

(1) Broker-dealers who clear transactions or carry customer accounts must file:

(a) Part I of Form X–17A–5 ("FOCUS I") within ten business days after the end of each month, and

(b) Part II of Form X–17a–5 ("FOCUS") within 17 business days after the end of the calendar quarter

reports must be filed with the Commission's principal office in Washington, DC and with the regional office of the Commission for the region in which the broker-dealer has its principal place of business.[5]

A broker-dealer is not required to file these reports with the Commission or its regional office if the Commission has approved a plan filed with the Commission by the broker-dealer's DEA, pursuant to paragraph (a)(4) of Rule 17a–5 ("17a–5(a)(4) Plan"). According to the Rule, a 17a–5(a)(4) Plan must set forth procedures enabling the DEA: (a) To maintain records containing information required by the FOCUS reports regarding each broker-dealer; and (b) to transmit to the Commission a copy of the applicable parts of the FOCUS reports. Currently, all self-regulatory organizations that are DEAs have filed and received Commission approval for such Plans. Accordingly, broker-dealers are required to file FOCUS reports with their DEAs; and DEAs are required to provide periodically copies of applicable parts of the reports to the Commission.

Pursuant to the terms of some of the 17a–5(a)(4) Plans, a broker-dealer's DEA is authorized to grant extensions of time for the filing of FOCUS reports. Other Plans have no such provisions. Consequently, the authority to grant or deny FOCUS report extension requests currently lies with either the Commission's regional office of the Division of Market Regulation, by delegated authority,[6] or, in some instances, the requesting broker-dealer's DEA.

Section 17(e)(1)(A) of the Exchange Act[7] requires every registered broker-dealer to file an audited annual financial report. Paragraph (d) of Rule 17a–5 requires every registered broker-dealer to file annually an audited report consisting of annual financial statements audited by an independent public accountant to be filed not later than 60 days after the date of the annual financial statement ("audited annual financial report").[8] Under Rule 17a–5(d)(6), these reports must be filed with the Commission's regional office for the region in which the broker-dealer has its principal office, the Commission's principal office in Washington, DC and the broker-dealer's DEA.[9]

The audited annual financial report must be dated "as of the same fixed or determinable date each year unless a change is approved by the Commission" (" 'as of' date").[10] Pursuant to paragraph (1) of Rule 17a–5, the Division of Market Regulation, by delegated authority, is authorized to grant extensions of time in which to file the audited annual financial report.[11] The authority to grant or deny extension requests of 30 days or less beyond the 60 day filing period provided by Rule 17a–5(d) is delegated to the Commission's regional office.[12] The authority to grant or deny extensions of greater than 30 days rests with the Division of Market Regulation (by delegated authority).[13]

II. Description of the Proposed Amendments and Discussion

A. Changes in the Filing of Periodical Reports

Under the proposed amendments:

(i) The authority to grant or deny extensions of time for the filing of FOCUS reports would be given primarily to a broker-dealer's DEA.

(ii) DEAs would have the authority to approve changes of the "as of" dates, and

(iii) DEAs would have the primary responsibility, on a routine basis, to grant or deny broker-dealers' requests for extensions of time to file audited annual financial reports.

The proposed amendments will shift to DEAs the responsibility for extensions of time for the filing of FOCUS reports and audited annual financial reports or for approval of changes of the "as of" date. The DEAs are most familiar with the current financial and operational condition of the member firms designated to them, and are better prepared to respond to these requests. The proposed amendments, however, do not alter the Division of Market Regulation's delegated authority to grant requests for extensions of time or exemptions from any provision of Rule 17a–5, whenever it deems appropriate.[14]

B. Delegation of Authority

Section 200.30–6(d)(1) gives regional administrators the authority to grant extensions of time to file reports required under Rule 17a–5 and to grant or deny broker-dealers' requests to change the "as of" date. Paragraph (d)(1) of Rule 30–6 should be deleted because the proposed amendments give DEAs the primary responsibility over broker-dealers' requests concerning these matters.

III. Request for Comments

The Commission invites interested persons to submit written data, views, arguments and/or comments on the proposed amendments, and, in particular, the manner in which their implementation would affect broker-dealers' ability to comply with the Commission's regulatory reporting requirements.

IV. Summary of Initial Regulatory Flexibility Analysis

In accordance with 5 U.S.C. 630, the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") concerning the proposed amendments. The analysis notes that the objective of the proposed rule amendments is to shift some of the responsibilities of the Commission to a broker-dealer's DEA.

The proposed amendments do not alter the substantive reporting requirements of broker-dealers. Instead, routine requests for exemptions from the requirement to file monthly, quarterly and annual financial and operational reports will be directed at the broker-dealer's DEA rather than the Commission. Accordingly, the proposed amendments will not change the impact of current regulatory reporting requirements on "small business[es]" or "small organization[s]," as those terms are defined in 17 CFR 240.0–10(c), subject to Rule 17a–5.

A copy of the IRFA may be obtained by contacting Julius R. Leiman-Carbia, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, tel: (202) 272–2824.

V. Statutory Analysis

The amendments are proposed pursuant to the authority conferred on the Commission by section 17(a)(1) of the Exchange Act.

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and within 17 business days after the date selected for the annual audit of financial statements where said date is other than the end of a calendar quarter;

(2) Broker-dealers who do not clear transactions nor carry customer accounts must file Part IIA of Form X–17A–5 ("FOCUS IIA") within 17 business days after the end of the calendar quarter and within 17 business days after the date selected for the annual audit of financial statements where said date is other than the end of a calendar quarter;

[5] 17 CFR 240.17a–5(a)(3).

[6] 17 CFR 200.30–6(d)(1)(i) (giving regional administrators the authority to grant extensions of time to file reports required under Rule 17a–5); 17 CFR 200.30–3(a)(5) (granting delegated authority to the Director of the Division of Market Regulation to grant exemptions from, and extension of time within which to file reports required by Rule 17a–5).

[7] 15 U.S.C. 78q(e)(1)(A).

[8] 17 CFR 240.17a–5(d).

[9] 17 CFR 240.17a–5(d)(6).

[10] 17 CFR 240.17a–5(d)(1)(i). Pursuant to 17 CFR 200.30–6(d)(1)(ii) regional administrators have delegated authority to grant or deny broker-dealers' requests to change the "as of" date of the audited annual financial report.

[11] See 17 CFR 240.17a–5(l).

[12] 17 CFR 240.17a–5(l)(1)(i) and 200.30–6(d)(1)(i).

[13] 17 CFR 240.17a–5(l)(3) and 200.30–3(a)(5).

[14] See 17 CFR 240.17a–5(1)(3).

List of Subjects in 17 CFR Parts 200 and 240

Authority delegations (Government agencies); Brokers; Reporting and recordkeeping requirements; Securities.

For the reasons set forth in the preamble, title 17 chapter II of the Code of Federal Regulation is proposed to be amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for part 200 continues to read as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 79t, 77sss, 80a–37, 80b–11, unless otherwise noted.

§ 200.30–6 [Amended]

2. In § 200.30–6, paragraph (d)(1) is removed and paragraphs (d)(2) and (d)(3) are redesignated as paragraphs (d)(1) and (d)(2).

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for part 240 continues to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78l, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 78ll(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

4. Section 240.17a–5 is amended by adding paragraph (a)(5) to read as follows:

§ 240.17a–5 Reports to be made by certain brokers and dealers.

(a) * * *

(5) Upon written application by a broker or dealer to its designated examining authority, the designated examining authority may extend the time for filing the information required by this paragraph (a). The designated examining authority of the broker or dealer shall maintain, in the manner prescribed in § 240.17a–1, a record of each extension granted.

* * * * *

5. Section 240.17a–5 is amended by revising paragraph (d)(1)(i) to read as follows:

§ 240.17a–5 Reports to be made by certain brokers and dealers.

* * * * *

(d) *Annual Filing of Audited Financial Statements.* (1)(i) Every broker or dealer registered pursuant to section 15 of the Act shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant. Reports pursuant to this paragraph (d) shall be as of the same fixed or determinable date each year, unless a change is approved in writing by the designated examining authority of the broker or dealer. A copy of such written approval should be sent to the regional office of the Commission for the region in which the broker or dealer has its principal place of business.

* * * * *

6. Section 240.17a–5 is amended by revising paragraph (l)(1) to read as follows:

§ 240.17a–5 Reports to be made by certain brokers and dealers.

* * * * *

(*l*) *Extensions and exemptions.* (1) A broker's or dealer's designated examining authority may extend the period under paragraph (d) of this section for filing annual audit reports. The designated examining authority of the broker or dealer shall maintain, in the manner prescribed in § 240.17a–1, a record of each extension granted.

* * * * *

7. Section 240.17a–5 is amended by revising paragraph (m) to read as follows:

§ 240.17a–5 Reports to be made by certain brokers and dealers.

* * * * *

(m) *Notification of change of fiscal year.* (1) In the event any broker or dealer finds it necessary to change its fiscal year, it must file, with the Commission's principal office in Washington, DC, the regional office of the Commission for the region in which the broker or dealer has its principal place of business and the principal office of the designated examining authority for such broker or dealer a notice of such change.

(2) Such notice shall contain a detailed explanation of the reasons for the change. Any change in the filing period for the audit report must be approved by the designated examining authority pursuant to paragraph (l) of this section.

* * * * *

By the Commission.

Dated: February 22, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4576 Filed 2–26–93; 8:45 am]

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17 CFR Part 240

[Release Nos. 33–6976; 34–31904; IC–19282; File No. S7–5–93]

RIN 3235–AF85

Securities Transactions Settlement

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Securities and Exchange Commission is publishing notice of its intention to adopt a new rule under the Securities Exchange Act of 1934 that would establish three business days, instead of five business days, as the standard settlement timeframe for broker-dealer transactions. The proposed rule is designed to reduce the risk to clearing corporations, their members, and public investors inherent in settling securities transactions by reducing the total number of unsettled trades at any given time. The rule also will facilitate additional risk reduction procedures by achieving closer conformity between the government securities and derivatives markets and the markets for other securities. The Commission is proposing an effective date of January 1, 1996, in order to allow market participants time to implement the necessary changes to allow three-business-day settlement in an efficient manner. The Commission requests comments on the proposed rule and, in particular, the costs associated with such a rule and whether the proposed implementation timetable should be adopted or modified.

DATES: Comments should be received on or before June 30, 1993.

ADDRESSES: Interested parties should submit three copies of comment letters to Jonathan G. Katz, Secretary, Securities and Exchange Commission ("Commission"), 450 fifth Street, NW., Mail Stop 6–1, Washington, DC 20549. Comments should refer to File No. S7–5–93. The Commission will make all comments available for public inspection and copying at its Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Sonia G. Burnett, Attorney, Office of Securities Processing Regulation, Branch of Transfer Agent Regulation, at 202/272–2855, or Richard C. Strasser, Attorney, Office of Securities Processing Regulation, Branch of Clearing Agency Regulation, at 202/272–2415, Division of Market Regulation, Commission, 450 Fifth Street, NW., Mail Stop 5–1, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The market crash of October 1987 highlighted both the strengths and weaknesses in the U.S. clearance and settlement system ("system"). On the one hand, the system survived great stress without a material failure. On the other hand, the stress within the system showed the need for improvements. Since that time, the Commission, other federal regulators and industry organizations have spent considerable time studying clearance and settlement reform.[1] Numerous studies, culminating in the Bachmann Task Force Report, have recommended, among other things, shortening the settlement cycle in order to increase the safety and soundness of the system.[2]

Today the Commission proposes for comment Rule 15c6–1[3] under the Securities Exchange Act of 1934 ("Exchange Act")[4] that, if adopted, would establish three business days ("T+3"), instead of five business days ("T+5"), as the standard settlement timeframe for broker-dealer trades.

The Commission believes that significant risk reduction benefits can be gained from shortening the settlement cycle. The Commission, nevertheless, recognizes that broker-dealers may need to make operational and procedural changes to settle transactions in a shorter timeframe. The Commission therefore proposes a deferred effective date and invites comment on the cost of implementing such a rule and whether the proposed timetable for implementation should be adopted or modified.

I. Background

Although the U.S. clearance and settlement system[5] is one of the safest in the world, recent events have demonstrated that the system can be improved. The Market Breaks of October 1987 and October 1989 and the events surrounding the demise of Drexel Burnham Lambert Group, the holding company parent of Drexel Burnham Lambert, Inc. ("Drexel"), demonstrated that vulnerabilities exist in the clearance and settlement system.

Record volume and volatility during October 1987 proved detrimental to broker-dealers who were unable to resolve processing errors before settlement with their customers on T+5. Moreover, the steep decline in stock prices during that period, as well as the decline on October 16, 1989, left some broker-dealers vulnerable to loss from the positions of customers who were unable or unwilling to meet either margin calls or transaction settlement requirements. This in turn called into question the ability of those broker-dealers to meet their obligations to the clearing corporations. Indeed, turbulent market conditions in 1987 contributed to the demise of three clearing member firms, Metropolitan Securities, H.B. Shaine & Co., and American Investors Group. Clearing firms stand between the clearing corporation, on the one side, and market professionals, introducing firms, and public investors on the other.

Financial difficulties were not limited to clearing firms, however. During and after the week of October 19, 1987, more than 50 introducing firms failed, many as a result of the inability of their customers to meet margin calls and pay settlement obligations.[6] Further, because the markets are interwoven through common members, default at one clearing corporation could have triggered additional failures, resulting in risk to the entire system.

After the October 1987 Market Break, several groups sought to identify causes of the market decline and changes that could be made to shield market participants from the impact of sudden steep declines in the market.[7] All these studies identified clearance and settlement as an area which needed further attention.[8] As noted by Alan Greenspan, Chairman of the Federal Reserve Board, "The importance of strong clearing and settlement systems cannot be overemphasized. This area was identified by the Brady Commission[9] and others after the market break last year as a potential point of vulnerability in the U.S. financial system. The overloading of the * * * clearing systems last October induced breakdowns that dramatically increased uncertainty among investors and likely contributed to additional downward pressures on prices."[10]

At the same time, in March 1988, the Group of Thirty[11] organized a symposium in London to discuss the state of clearance and settlement in the world's principal securities markets. The symposium participants concluded that there was a need for international agreement on a uniform set of practices and standards for the clearance and settlement of securities transactions in order to improve the process. In light of this conclusion, the Group of Thirty organized a Steering Committee to work with a professional and broad-based Working Committee in order to produce a set of operational proposals for practices and standards in the area of clearance and settlement. The Working Committee was composed of clearance

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[1] See *e.g.*, Division of Market Regulation, The October 1987 Market Break (February 1988) ("Market Break Report"); Working Group on Financial Markets, Interim Report to the President of the United States (May 1988) (Appendix D) (the Working Group is chaired by the Secretary of the Treasury and its members include the Chairmen of the SEC, the Commodity Futures Trading Commission, and the Board of Governors of the Federal Reserve System); Presidential Task Force on Market Mechanisms, Report to the President of the United States (January 1988) (the So-called "Brady Report"); and General Accounting Office, Preliminary Observations on the October 1987 Crash (January 1988).

[2] Group of Thirty, Clearance and Settlement Systems in the World's Securities Markets (March 1989) ("Group of Thirty Report"); U.S. Working Committee, Group of Thirty Clearance and Settlement Project, Implementing the Group of Thirty Recommendations in the United States (November 1990); and the Bachmann Task Force on Clearance and Settlement Reform in U.S. Securities Markets, Report Submitted to the Chairman of the U.S. Securities and Exchange Commission (May 1992) ("Bachmann Task Force Report").

[3] 17 CFR 240.15c6–1.

[4] 15 U.S.C. 78s(b)(1).

[5] The term "clearance" includes the comparison of data regarding the terms of settlement of securities transactions and the allocation of securities settlement responsibilities. After trade comparison, most trades clear through a continuous net settlement system ("CNS") operated by a clearing corporation registered with the Commission under Section 17A of the Exchange Act. Under CNS, the clearing corporation nets each clearing member's purchases and sales to arrive at a daily net receive or deliver obligation for each security and a daily net settlement payment obligation. The term "settlement" includes the delivery of securities in exchange for funds, pursuant to the terms of the original transaction, and the custody of securities. See section 3(a)(23)(A) of the Exchange Act, 15 U.S.C. 78c(a)(23)(A).

[6] See Market Break Report, Chapter 10 at 20–21. Many customers, institutional and otherwise, open their accounts with an introducing broker. Introducing brokers use executing brokers (which are usually members of a clearing agency) to execute and clear customer trades. If the customer fails to meet margin calls made by the executing firm or fails to pay on T+5 the settlement amount for securities it has purchased, the introducing or executing broker must pay that debt. If the amount exceeds the introducing broker's ability to pay and it fails, the clearing member executing firm will be responsible for the customer's debt.

[7] See note 1 supra.

[8] Since 1987, considerable progress has been made toward increasing clearing corporations' capabilities to handle large volumes of trades and manage financial risk. Examples include increases in the number of cross-margining facilities sponsored by The Options Clearing Corporation and commodity clearing organizations, expansion of the depository system to include new financial products such as commercial paper, and development of extensive lines of communication between banking, securities, and commodities organizations.

[9] See Brady Report, note 1 supra.

[10] See Remarks by Alan Greenspan before the Annual Convention of the Securities Industry Association (November 30, 1988).

[11] The Group of Thirty, established in 1978, is an independent, non-partisan, non-profit organization composed of international financial leaders whose focus is on international economic and financial issues.

and settlement professionals from different countries.

In March 1989, the Group of Thirty issued a report by the Steering Committee setting forth nine recommendations ("Group of Thirty recommendations"),[12] including implementation of T+3 settlement, to modernize and improve clearance and settlement systems at a local level and to make them compatible with each other. These recommendations were:

- By 1990, trade comparison between direct market participants should occur by the day following the date of trade execution;
- By 1992, indirect market participants should be members of a trade comparison system which achieves positive affirmation of trade details;
- By 1992, each country should have an effective and fully developed central securities depository;
- By 1992, if appropriate, each country should implement a netting system;
- By 1992, a delivery versus payment system should be employed as the method for settling all securities transactions;
- Countries should adopt a same-day funds payment method for settlement of securities transactions;
- A rolling settlement system should be adopted by all markets as follows: (a) By 1990, final settlement should occur on the fifth day after the date of trade execution, (b) by 1992, final settlement should occur on the third day after the date of execution;
- Securities lending and borrowing should be encouraged as a method of expediting the settlement of securities transactions; and
- By 1992, each country should adopt the standards for securities numbering and messages developed by the International Standards Organization.

Following the release of the Group of Thirty Report, several countries initiated separate efforts to study how their clearance and settlement systems compared with the Group of Thirty recommendations. In the U.S., a Working Group was created for this purpose. The U.S. Working Group concluded that, while the U.S. was in compliance with seven of the Group of Thirty recommendations, continued consideration should be given to the implementation of the two remaining recommendations, T+3 settlement and settlement in same-day funds.[13]

[12] See Group of Thirty Report, note 2 *supra*.

[13] "Same-day funds" refers to payment in funds that are available on payment date and generally are transfered by electronic means.

Two subcommittees, the U.S. Steering Committee and a U.S. Working Committee of the Group of Thirty ("the U.S. committees") were formed to evaluate the benefits of shortening the settlement cycle and converting to the use of same-day funds. The U.S. committees urged adoption of the two recommendations and, in order to support a move to T+3 settlement, also recommended that: (1) Book-entry settlement be mandatory for transactions between financial intermediaries and between financial intermediaries and their institutional customers; and (2) all new securities issues should be made eligible for depository services.

In November 1990, the Commission held a Roundtable to discuss the recommendations of the U.S. committees. Roundtable participants generally agreed that the two recommendations should be adopted, but urged that the timetables for implementation be sufficiently flexible so that obstacles to implementation could be fully explored and practical solutions found and implemented. Roundtable participants expressed concern that broker-dealers conducting a predominantly retail business might have difficulty operating in a three-business-day settlement timeframe in the national clearance and settlement system because of the need, among other things, to obtain payment from retail clients for purchase transactions.

Subsequently, Chairman Breeden asked the U.S. Steering Committee to form a task force to evaluate independently whether and what changes to the clearance and settlement system should be pursued, and to determine a timetable for implementation of the changes.[14] An industry task force, headed by John W. Bachmann ("Bachmann Task Force" or "Task Force") took up that challenge.[15]

In May 1992, the Bachmann Task Force presented its findings and recommendations to the Commission. Among other things, the Task Force concluded that "time equals risk" [16] and that the settlement cycle for corporate and municipal securities should be compressed to T+3. The Task Force recommended that this be accomplished by July 1994.[17] On June 22, 1992, the Commission published the Task Force Report in the **Federal Register** for public comment.[18]

The Task Force recommendations generated substantial comment. The Commission received 1,000 comment letters from banks, broker-dealers, investment advisors, trade associations, clearing agencies, exchanges, transfer agents, and individual investors. Although many of these commentators expressed concern about the potential loss of access to physical certificates,[19] in large part they were supportive. Some of the commentators raised concerns about the specifics of implementation and about progress on industry initiatives that would facilitate a move to T+3 settlement. Indeed, the Commission considered these comments in formulating this proposal. Many of the issues noted by the commentators were identified by the Task Force and, as discussed in more detail below, efforts to address them are nearing completion.[20]

II. T+3 Settlement: Need for the Proposed Rule

In the U.S., the settlement cycle varies among markets. Settlement in the futures, options, and government securities markets occurs on the day after trade date ("T+1") using same-day

[14] Letter from Richard C. Breeden, Chairman, Commission, to Lewis W. Bernard, Chairman, U.S. Steering Committee, Group of Thirty, dated July 11, 1991.

[15] John W. Bachmann is the Managing Principal of Edward D. Jones & Co. of St. Louis, Missouri. In addition to Mr. Bachmann, the members of the Bachmann Task Force included: David M. Kelly, President and Chief Executive Officer, National Securities Clearing Corporation ("NSCC"); Richard G. Ketchum, Executive Vice President and Chief Operating Officer, National Association of Securities Dealers ("NASD"); John F. Lee, President, New York Clearing House; Gerard P. Lynch, Managing Director, Morgan Stanley and Company Inc.; James J. Mitchell, Senior Executive Vice President, Northern Trust Company; Richard J. Stream, Managing Director, Piper Jaffray and Hopwood and Company; and Arthur L. Thomas, Senior Vice President, Merrill Lynch and Co., Inc.

[16] See Bachmann Task Force Report for a discussion of the Task Force risk analysis.

[17] The Task Force made eight other recommendations that would facilitate settling securities transactions on T+3: revising the Automated Clearing House System; requiring an interactive institutional delivery process; settling all transactions among financial intermediaries and their institutional customers in book-entry form only and in same-day funds; depository eligibility for new issues; monitoring flipping (*i.e.*, the sale of stock back to the underwriting syndicate during the new issue stabilization period); expanding cross margining; streamlining the handling of physical certificates; and monitoring all market activity.

[18] See Securities Exchange Act Release No. 30802 (June 15, 1992), 57 FR 27812.

[19] Over 800 of the comment letters were from individual investors responding to the recommendation to streamline the handling of physical certificates. The letters indicate a belief that the Task Force recommendation to streamline the handling of physical certificates would result in the elimination of physical certificates and force investors to hold securities in street name. The Task Force did not propose eliminating physical certificates for those retail investors who choose to maintain their record of ownership in that form.

[20] The Commission will consider comments filed in response to publication of the Bachmann Task Force Report, note 2 *supra*, in connection with this proposal.

funds. Settlement of most trades in corporate and municipal securities, on the other hand, takes place on the fifth business day after the trade date ("T+5") with money payments among financial intermediaries made in the next-day funds[21] through the exchange of certified checks between clearing corporations and their participants (thus, financial intermediaries have good funds on "T+6").

Settlement securities transactions on T+5 is largely a function of market custom and industry practice.[22] There is no federal rule that mandates a specific settlement cycle for securities.[23] Self-regulatory organization ("SRO") rules, however, define "regular way" settlement as settlement on T+5.[24]

In today's market environment, the value of securities positions can change suddenly and drastically causing a market participant to default on unsettled positions. Clearing corporations function as, among other things, post-trade processing facilities and guarantors of post-trade settlements.[25] To protect against the credit risk[26] and market risk[27] presented by unsettled positions, clearing corporations obtain contributions from their members to a pool of funds designed to provide ready source of liquidity in case of a member default.[28] Any sizable loss in liquidating the open commitments of a defaulting member, however, would be assessed *pro rata* against all clearing members.[29]

The Bachman Task Force Report argues persuasively that a shorter settlement period will reduce market risk to a clearing corporation, and thus to all members of the clearing corporation and to the market as a whole. The Task Force collected data indicating that moving settlement from T+5 to T+3 reduced the risk to National Securities Clearing Corporation ("NSCC")[30] by 58% in the event of the failure of an average large member during normal market conditions. Based on this quantitative risk assessment, the Task Force concluded that reducing the time between trade execution and settlement would reduce risk in the system and that the U.S. securities markets can be made safer by shortening the settlement cycle to T+3.

In view of this analysis and for the reasons set out below, the Commission believes that T+3 settlement represents an important and feasible near-term goal. First, at any given point in time, fewer unsettled trades will be subject to credit and market risk, and there will be less time between trade execution and settlement for the value of those trades to deteriorate.[31] Second, the proposed rule will reduce the liquidity risk among the derivative and cash markets and reduce financing costs by allowing investors that participate in both markets to obtain the proceeds of securities transactions sooner. Finally, a shorter settlement timeframe could encourage greater efficiency in clearing agency and broker-dealer operations.

III. Description of Proposed Rule 15c6–1

Proposed Rule 15c6–1 would provide that, unless otherwise expressly agreed by the parties at the time of the transaction, a broker or dealer is prohibited from entering into a contract for the purchase or sale of a security (other than an exempted security, government security,[32] municipal security, commercial paper, bankers' acceptances, or commercial bills)[33] that

[21] The term "next-day funds" refers to payment by means of certified checks passing between the clearing corporation and its members.

[22] Indeed, prior to 1968, equity transactions in the U.S. were settled on the fourth day after the trade date ("T+4"), without causing undue harm to retail customers. Remarks of Commissioner Mary L. Schapiro before the Securities Industry Association Regional Conference (March 20, 1991).

[23] Regulation T imposes, among other things, initial margin requirements and payment rules on securities transactions. Specifically, Regulation T requires a margin call to be satisfied within seven business days after the margin deficiency was created or increased, and requires a broker or dealer to obtain full cash payment for customer purchases within seven business days of the date of the transaction. Regulation T is issued by the Board of Governors of the Federal Reserve System pursuant to the Exchange Act and its principal purpose is to regulate extensions of credit by and to brokers and dealers. See 15 U.S.C. 78a *et seq.*, Part 220. In addition, Section 22(e) of the Investment Company Act of 1940 provides that no registered investment company shall suspend the right of redemption, or postpone the date of payment or satisfaction upon redemption of any redeemable security for more than seven days after tender of the security to the company, except under specified circumstances.

[24] See e.g., National Association of Securities Dealers, Inc. Uniform Practice Code ¶ 3512, § 12 and New York Stock Exchange Rule 64. If Rule 15c6–1 is adopted, SROs will conform their rules to the timeframe established in Rule 15c6–1.

[25] Upon reporting matched trade information to its members, the clearing corporation becomes the counterparty to every trade and guarantees payment and delivery. See Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 45167 ("Full Registration Order").

[26] "Credit risk" is the risk that the credit quality of one party to a transaction will deteriorate to the extent that it is unable to fulfill its obligations on settlement date. See Securities Exchange Act Release No. 30266 (July 31, 1992), 57 FR 35856.

[27] "Market risk" is the risk that the value of securities bought or sold will change between trade execution and settlement so that the purchase or sale will result in a financial loss.

[28] See Securities Exchange Act Release Nos. 16900 (June 17, 1980), 45 FR 4192 (announcing the Division of Market Regulation's standards for the registration of clearing agencies); 20221 (September 23, 1983), 48 FR 45167 ("Full Registration Order"); and 30879 (July 1, 1992), 57 FR 30279 (order approving modifications to the CNS portions of the National Securities Clearing Corporation ("NSCC"), Midwest Clearing Corporation, and Securities Clearing Corporation of Philadelphia clearing fund formulas).

[29] See, e.g., NSCC Rule 4. See also, Market Break Report, Chapter 10.

[30] NSCC is one of the largest U.S. clearing corporations and is registered as a clearing agency under Section 17A of the Act. NSCC has 350 netting members. As of April 30, 1992, total required deposits to NSCC's clearing fund were $388 million. Because members do not always withdraw excess funds, NSCC had on deposit $502 million.

[31] As noted by Commissioner Mary L. Schapiro, "A shorter settlement time period will reduce the number of outstanding trades, thereby reducing the counterparty risk and market exposure associated with unsettled securities transactions." See Remarks of Mary L. Schapiro to The Group of Thirty U.S. Steering Committee (March 1, 1990); See also Remarks of Mary L. Schapiro before the Securities Industry Association's Annual Operations Conference (May 17, 1990).

[32] The Commission notes that issuers (or guarantors) of mortgage-backed securities include government agencies or government sponsored enterprises ("GSEs") such as the Government National Mortgage Association, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, as well as private entities. Mortgage-backed securities include pass-through certificates, representing an undivided interest in a pool of mortgages, and collateralized mortgage obligations ("CMOs"), representing an interest in part of the cash flow generated by a pool of mortgages or collection of pass-through certificates.

Mortgage-backed securities issued or guaranteed by U.S. government agencies or GSEs generally fall within the definition of government security in Section 3(a)(42) of the Exchange Act and would be treated as such under proposed Rule 15c6–1. Transactions in mortgage-backed securities issued by others (e.g., CMOs) would fall within the scope of proposed Rule 15c6–1. Accordingly, the Commission invites comment on whether inclusion in a T+3 settlement timeframe would create difficulties for issuers or investors in the mortgage-backed securities market. The Commission also invites commentators to address whether additional safeguards related to clearance and settlement of mortgage-backed securities, particularly mortgage-backed securities that qualify as government securities, would be appropriate or desirable to address concerns identified during the 1989 demise of Drexel. See Testimony of Richard C. Breeden, Chairman, U.S. Securities and Exchange Commission, before the Committee on Banking, Housing, and Urban Affairs, United States Senate, Concerning the Bankruptcy of Drexel Burnham Lambert Group, Inc. (March 2, 1990). (Delivery and payment practices for mortgage-backed securities transactions led to gridlock during the demise of a holding company of a registered broker-dealer.)

[33] As noted above, because exchange-traded options routinely settlement on T+1, transactions in such securities should be essentially unchanged. Transactions in corporate debt and equity, as well as limited partnership interests and securities issued by investment companies, would be covered by the rule. The Commission invites comment on whether the scope of the rule is appropriate and whether any particular characteristics of different types of securities (e.g., mutual fund shares and limited partnership interests) will create difficulties for broker-dealers and investors if included in or excluded from the rule. For example, the Commission notes that mutual funds often permit investors to purchase shares by telephone. In that context, it may be necessary for mutual funds and broker-dealers to implement operational changes to confirm the sale to the investor, to receive the proceeds and settle the transaction, all within T+3.

provides for payment of funds and delivery of securities later than the third business day after the date of the contract. The proposed rule would allow a broker or dealer to agree that settlement will take place in more or less than three business days. The agreement, however, must be express and reached at the time of the transaction.[34]

Most broker-dealers do not specify all of the terms of a trade before execution, but rely on industry custom and SRO rules for those terms. The Commission does not intend to change industry custom to require broker-dealers to specify contract terms. Accordingly, if adopted, Rule 15c6–1 is designed to establish T+3 as a new "default" contract term.[35]

Failure to meet contractual obligations to deliver by T+3 would result in a failure to settle at the clearing corporation. Open trades that fail to settle on settlement date typically are marked-to-the-market on a daily basis and carried forward to net against other open positions. Failure to settle a payment obligation to the clearing corporation generally could result in the suspension of the clearing member and the liquidation of all the clearing member's open positions.

The Commission notes that the proposed rule should not affect the ability of individual investors to obtain a physical certificate. Individual investors who desire to maintain record ownership in certificated form still will be able to do so.

Rule 15c6–1 would not apply to municipal securities. Differences between the corporate and municipal securities markets may justify a different timetable for including municipal securities within a T+3 settlement cycle.[36] Nevertheless, the Commission remains interested in how to achieve the safety and efficiency benefits of T+3 settlement for municipal securities. Accordingly, the Commission seeks public comment on the most appropriate way and a reasonable timeframe for bringing municipal securities within the scope of the rule.

IV. The Proposed Timetable for Commission Action

The Commission recognizes that certain building blocks must be in place prior to compressing the settlement cycle.[37] Many of those building blocks, as discussed in more detail below, currently are being addressed by the SROs. In addition, the Commission recognizes that some brokers and dealers may need to make operational and procedural changes to comply with a three-day settlement period. In view of the need for more work at the SRO level and the Commission's desire to minimize the potential cost of complying with the proposed rule, the Commission is proposing an extended transition period to allow affected parties to implement necessary changes gradually.

Since 1987, the SROs have made significant progress on recommendations critical to achieving T+3 settlement. Specifically, the Depository Trust Company ("DTC") [38] is designing a system to convert from batch to interactive processing for the Institutional Delivery System.[39] In the current batch processing environment, participants receive the reports on T+1 with the goal of receiving affirmation on T+2. To move to T+3 settlement, the affirmation process must be completed on T+1. This can be accomplished through an interactive system whereby information is processed on receipt with reports distributed on request. DTC expects to implement the system on a voluntary basis during the third quarter of 1993.

Additionally, under the auspices of the Legal and Regulatory Subgroup ("Subgroup") of the U.S. Working Committee of the Group of Thirty, the SROs have drafted a uniform rule that would require book-entry settlement among financial intermediaries. The SROs are in the process of adopting the rule and expect to submit rule changes to the Commission for consideration in the first quarter of 1993.

The Subgroup also has considered the need for a uniform SRO rule requiring depository eligibility for all new issues and, in connection with this, requested the Division of Corporation Finance to consider recommending that the Commission promulgate a new disclosure requirement under the 1933 Act for initial public offerings ("IPOs").[40] In brief, the Subgroup has urged that the Commission require disclosure of whether the securities being offered in an IPO are depository-

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[34] Thus, the proposed rule would permit broker-dealers to enter into trades, such as seller's option trades, that typically settle as many as sixty days after execution as specified by the parties to the trade at execution. It is not intended to permit broker-dealers to specify before execution of specific trades that a group of trades will be settled in a timeframe different from Rule 15c6–1.

[35] See note 24 supra and accompanying text.

[36] The Commission recognizes that to date moving municipal securities to a T+3 settlement timeframe has not gained the same consensus as shortening the settlement cycle for publicly-traded corporate securities. The Municipal Securities Rulemaking Board ("MSRB") has noted a number of differences between the corporate and municipal securities markets that may make a move to T+3 settlement problematic. For example, while corporate issues number in the thousands, there are over a million municipal securities "maturities," each of which is a separate security for purposes of trading and clearance and settlement. Another difference involves issuers. Approximately 80,000 entities issue municipal securities. Municipal securities are not subject to provisions of the Securities Act of 1933 ("1933 Act") and are exempted from many provisions of the Exchange Act. The municipal securities industry also has not yet reached parity with the corporate securities industry with regard to the use of automated clearance systems. Automated clearance systems for municipal securities transactions depend on a nine-digit CUSIP number. "CUSIP" is an acronym for the Committee on Uniform Securities Identification Procedures. Although most outstanding municipal securities maturities have assigned CUSIP numbers, there probably are several thousand outstanding maturities that do not. Finally, trade data for municipal securities transactions is not captured on a central electronic trade execution or trade reporting system, making acceleration of the comparison cycle for municipal securities particularly difficult. The initial comparison rate for municipal securities inter-dealer trades, which require submission to NSCC on T+1, is 76% for regular-way trades and only about 45% for non-syndicate, when-issued trades. Letter from Hal Johnson, Deputy General Counsel, MSRB, to Dennis M. Earle, Executive Director, U.S. Working Committee, Group of Thirty Clearance and Settlement Project (March 18, 1991).

[37] In recognition of the importance of broker-dealer settlement practices to the clearance and settlement process, the Securities Acts Amendments of 1975 ("1975 Amendments") provided for federal regulation of the time and method by which broker-dealers settle securities transactions. In adopting the 1975 Amendments, Congress directed the Commission to act in the national interest to achieve safety and efficiency in clearance and settlement. Section 17A of the Exchange Act directs the Commission to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities (other than exempt securities). See 15 U.S.C. 78o, 78q–1, and 78w. That directive was revised by the Market Reform Act of 1990 to reflect the interdependence of options, futures, and equity markets that trade products involving securities or stock indexes. As noted above, recent events underscore that safety and efficiency necessitate changes in industry practice and the Commission has an obligation to lead and direct those changes. Nevertheless, the Commission recognizes that changes in industry practice and custom such as earlier settlement timeframes must involve marketplaces, marketplace regulators, and participants in those markets acting cooperatively.

[38] DTC is the largest U.S. securities depository and is registered with the Commission as a clearing agency under Section 17A of the Act. DTC is a New York State limited purpose trust company and member of the Federal Reserve System. DTC has over 500 participants including broker-dealers and banks. In 1992, DTC held on deposit corporate equity and debt securities, municipal securities, and commercial paper valued at over $5.5 trillion.

[39] In the Institutional Delivery System, brokers notify the depository of trades made by an investment manager on behalf of an institutional client. The investment manager and the client's custodian banks are notified of the trade and asked to affirm that the information is correct. Trades affirmed by T+3 settle automatically by book-entry at the depository on T+5.

[40] Letter from Richard B. Smith and Robert J. Woldow, Co-chairmen, Legal and Regulatory Subgroup, U.S. Working Committee for the Group of Thirty, to Mary E.T. Beach, Senior Associate Director, Division of Corporation Finance, dated December 17, 1992.

eligible and if not, why not. The Subgroup also has suggested that the registration statement include, as an exhibit, a letter from a securities depository registered with the Commission as a clearing agency confirming that the securities to be offered are, or will be (by the time of the public sale or following completion of an underwritten distribution), eligible for deposit with that clearing agency.

Finally, NSCC and DTC, in consultation with Commission staff, have designed a same-day funds system which has been presented to their participants for comment. DTC has assembled a task force under the auspices of the U.S. Working Committee to examine issues that were identified in the comment process, such as how and when dividends and interest will be paid in a same-day funds system (*e.g.*, paid in same-day funds on the date of receipt or in next-day funds on payable date). The Commission recognizes the importance of these initiatives in achieving a shorter settlement cycle and expects to work diligently with the SROs to complete these objectives over the next three years.

The Commission realizes that the proposed rule could entail costs for investors, broker-dealers, banks and other market participants. Assuming the goal of earlier settlement is appropriate, however, the proposed schedule for implementation will allow broker-dealers a three-year period to make the necessary transitional changes. The Commission believes the substantial lead time will allow market participants to make the necessary changes in the most efficient way.

The Commission believes the benefits to be gained from implementing the proposed rule are important to the broker-dealer community and for the protection of investors. The Commission believes, therefore, that the cost impact for broker-dealers resulting from the shorter settlement timeframe will be significantly offset by the benefits to the national clearance and settlement system.

V. Solicitation of Comments

The Commission believes that adoption of this rule would reduce substantially many of the risks that exist within the current clearance and settlement system. Risk to the clearance and settlement system will be reduced because there will be fewer unsettled trades in the system at any given point in time.

The Commission invites commentators to address the merits of the proposed rule. Specifically, the Commission invites comment on the specific costs and benefits of the proposed rule. Interested persons may comment on broker-dealer costs to develop and employ procedures to comply with the proposed rule. Interested persons may also comment on any risk reduction benefits and costs savings that may result from the proposed rule.

Interested persons are invited to comment on the desirability of applying the shorter settlement cycle to limited partnership interests, mutual funds, or municipal securities. The Commission invites comment on whether the scope of the rule is appropriate and whether any particular characteristics of securities affected by the rule will create difficulties for broker-dealers and investors if included in or excluded from the rule. In addition, interested persons are invited to comment on whether the proposed implementation date of January 1, 1996 is sufficient for broker-dealers to make the necessary operational and procedural changes in an effective manner, or whether an implementation date of January 1, 1995 or July 5, 1995 would be equally sufficient.

The Commission also solicits comment on the desirability of adopting a disclosure requirement under the 1933 Act concerning depository eligibility of IPOs. Specifically, commentators should address whether such information would be material to investors in initial public offerings.

In addition to the specific requests for comment set forth above, the Commission requests comment on whether the proposed rule, if adopted, would have an adverse effect on competition or would impose a burden on competition that is neither necessary nor appropriate in furthering the purposes of the Exchange Act. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under section 23(a)(2) of the Exchange Act.

VI. Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") in accordance with 5 U.S.C. 603 regarding proposed Rule 15c6–1. The IRFA notes the potential costs of operational and procedural changes that may be necessary to comply with the proposed rule. In addition, the IRFA notes the importance of the risk reduction that will result from a shorter settlement cycle. The Commission believes that the benefits of proposed Rule 15c6–1 would outweigh the costs incurred by broker-dealers in complying with the rule.

A copy of the IRFA may be obtained by contacting Richard C. Strasser, Attorney, Branch of Clearing Agency Regulation, Office of Securities Processing Regulation, Division of Market Regulation, Commission, 450 Fifth Street, NW., Mail Stop 5–1, Washington, DC 20549.

List of Subjects in 17 CFR Part 240

Registration and regulation of brokers and dealers.

Text of the Proposed Amendment

In accordance with the foregoing, part 240 of chapter II of title 17 of the Code of Federal Regulations is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78l, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 7811(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, and 80b–11, unless otherwise noted.

2. By adding § 240.15c6–1 to read as follows:

§ 240.15c6–1 Settlement cycle.

A broker or dealer shall not effect or enter into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances, or commercial bills) that provides for payment of funds and delivery of securities later than the third business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction.

By the Commission.

Dated: February 23, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4577 Filed 2–26–93; 8:45 am]

BILLING CODE 8010-01-M

RAILROAD RETIREMENT BOARD

20 CFR Parts 209, 211 and 345

RIN 3220–AA91

Railroad Employers Reports and Responsibilities; Creditable Railroad Compensation; Employers' Contributions and Contribution Reports

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) proposes to amend its

regulations to modify the method of reporting compensation under the Railroad Retirement Act (RRA) in order to conform such reporting to the reporting required for employment tax treatment of such compensation. These amendments are proposed in order to ease the reporting requirements for employers covered under the RRA.

DATES: Comments should be submitted on or before March 31, 1993.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. (312) 751–4920, (FTS 386–4920).

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. (312) 751–4513, (FTS 386–4513), TDD (312) 751–4701, TDD (FTS 386–4701).

SUPPLEMENTARY INFORMATION: Section 209.6 of the Board's regulations (20 CFR 209.6) requires employers to file annual reports of compensation paid to their employees. In preparing these reports the Board has required employers to report required compensation with respect to the year in which it was earned even through paid in a later year, the so-called "earned basis." Thus, for example, compensation attributable to services performed in December but paid in the following January is required to be reported in the report covering the calendar year in which the services were performed, not the year in which the compensation was paid. The only exception made to this rule is found at 20 CFR 211.11 which permits retroactive wage increases to be reported in the year paid subject to an election by the employee to have them reported, by way of an adjustment, in the year in which they were earned.

Prior to 1985 this earned basis of reporting was in accord with the employment tax treatment of compensation. Thus, for purposes of the Railroad Retirement Tax Act (RRTA), compensation earned in December but paid in January was deemed paid in December. 26 CFR 31.3231(e)–1(d)(3). However, for calendar years after 1984 the RRTA requires that compensation be reported on the return covering the year in which it was paid regardless of when it was earned, the so-called "paid basis." See generally §§ 221, 222, 223, 225 and 227 of Public Law 98–76 (97 Stat. 411 (1983)).

This difference in reporting requirements between the RRA and RRTA has caused considerable confusion among employers and employees covered under those statutes. Furthermore, over an employee's career whether compensation is credited on an earned or paid basis has virtually no effect on the amount of an annuity which may become payable under the RRA.

Consequently, the Board proposes to add a new § 209.15 to its regulations which would permit employers to file their reports required under § 209.6 to reflect compensation on a paid basis, subject to the proviso that an employee, within 4 years after the report, may elect to have the compensation reported by way of adjustment under § 209.7 in the year in which it was earned. Thus, the Board is proposing to extend the treatment accorded retroactive wage increases to all payments of compensation except pay for time lost, which is accorded special treatment as set forth in § 209.7(c) of the Board's regulations. In this regard it should be noted that reporting on a paid basis is not mandatory. Thus, where an employer files a report on an earned basis, an employee may *not* require that employer to make an adjustment to a paid basis. In addition, it should be noted that the proposed § 209.15 does not change the definition of a reportable month of service as defined in § 210.3 of Title 20. (Proposed § 209.15 also contains cross references to sections dealing with separation payments, vacation and miscellaneous pay, which contains special reporting requirements relating to these types of payments.)

In addition, the Board proposes to make certain amendments to part 211 of its regulations to conform to the change in reporting in proposed § 209.15. For example, § 211.4 (vacation pay) is proposed to be revised since vacation pay will be reported in accordance with proposed § 209.15. Similar revisions are proposed to be made to § 211.8 (displacement allowance), § 211.9 (dismissal allowance), and § 211.10 (separation allowance).

Section 211.11 (retroactive wage increase) is proposed to be removed since it will no longer be necessary when proposed § 209.15 becomes effective. This section is proposed to be replaced with a new section which explains the operation of section 1(h)(8) of the RRA (45 U.S.C. 231.I8(h)(8)). This section provides that any payment made to an employee by an employer which is subject to railroad retirement taxes shall be considered compensation for purposes of tier I component of the RRA annuity (the component based on the Social Security Act benefit formula), notwithstanding the fact that such payment may be excluded from compensation by another provision of the RRA. This section is important particularly with respect to sick pay, which is excluded from compensation by section 1(h)(6)(v) of the RRA, but is subject to employment taxes under the Railroad Retirement Tax Act (RRTA), and to certain post-employment payments, such as severance pay. Because such payments are subject to employment taxes, section 1(h)(8) requires their inclusion in the definition of compensation for purposes of the computation of the tier I Component. Such payments will be reported in accordance with revised § 209.13.

Sections 211.13 and 211.14 are proposed to be redesignated as §§ 211.14 and 211.15 and a new § 211.13 is proposed to be added which provides that payments made in the year after an employee's death to the employee's survivors or estate are not compensation. These payments have not been subject to employment taxes and therefore should not be considered compensation.

Conforming amendments are proposed for § 211.2 (Definition of compensation). Redesignated section 211.14 (Maximum creditable compensation) is proposed to be amended to provide for the annual publication of the maximum creditable compensation under the RRA. Finally, § 345.4 is proposed to be amended to make it clear that the reporting requirements required under the RRA are also applicable to the Railroad Unemployment Insurance Act (RUIA).

The Board has determined that this is not a major rule under Executive Order 12291. Therefore, no regulatory analysis is required. There are no new information collections imposed by these amendments.

For the reasons set out in the preamble, 20 CFR parts 209, 211 and 345 of the Board's regulations are proposed to be amended as follows:

List of Subjects in Parts 209, 211 and 345

Railroad employees, Railroad retirement, Railroad Unemployment Insurance, Railroads.

PART 209—RAILROAD EMPLOYERS REPORTS AND RESPONSIBILITIES

1. The authority citation for part 209 continues to read as follows

Authority: 45 U.S.C. 231f.

2. Section 209.13 is revised to read as follows:

§ 209.13 Miscellaneous pay reports.

(a) Employers, insurance carriers or other parties paying miscellaneous pay, as defined in § 211.11 of this chapter, shall furnish the Board an annual report of such pay before the last day of February of the calendar year following

the year in which the payment was made.

(b) Miscellaneous pay reports are to be filed in accordance with instructions issued by the Director of Research and Employment Accounts and are to be mailed directly to the Director. The reports may be made on magnetic tape or the form described in § 200.2 of this chapter.

3. Section 209.15 is added to read as follows:

§ 209.15 Compensation reportable when paid.

(a) *General.* In preparing a report required under this part, an employer may report compensation in the report required for the year in which the compensation was paid even though such compensation was earned by the employee in a previous year. If compensation is reported with respect to the year in which it was paid, it shall be credited by the Board to the employee in such year unless within the four year period provided in § 211.15 of this chapter the employee requests that such compensation be credited to the year in which it was earned. If the employee makes such a request, and the Director of Research and Employment Accounts determines that the compensation should be credited to the year in which it was earned, the reporting employer must file an adjustment report as required by § 209.7 of this part which reports such compensation in the year in which it was earned. The employee may revoke his or her request anytime prior to the filing of the adjustment report. Upon the Board's receipt of the adjustment report, the request becomes irrevocable.

(b) *Pay for time lost.* Compensation which is pay for time lost, as provided in § 211.3 of this chapter, shall be reported with respect to the period in which the time and compensation were lost. For example, if an employee is off work because of an on-the-job injury for a period of months in a given year and in a later year receives a payment from his or her employer to compensate for wages lost during the period of absence, the employer must, by way of adjustment provided for in § 209.7 of this part, report the compensation with respect to the year in which the time and compensation were lost.

(c) *Separation allowance or severance pay.* A separation allowance or severance payment shall be reported in accordance with § 209.14 of this part.

(d) *Miscellaneous pay.* Miscellaneous pay shall be reported in the year in which it was paid in accordance with instructions provided for in § 209.13 of this part.

(e) *Vacation pay.* Vacation pay may be reported in accordance with this section except that any payments made in the year following the year in which the employee resigns or is discharged shall be reported by way of adjustment under § 209.7 of this part as paid in the year of resignation or discharge.

PART 211—CREDITABLE RAILROAD COMPENSATION

4. The authority for part 211 continues to read as follows:

Authority: 45 U.S.C. 231f.

5. Section 211.2 is amended by revising (b)(9) and adding (b)(13) to read as follows:

§ 211.2 Definition of compensation.

* * * * *

(b) * * *

(9) Miscellaneous pay as provided for § 211.11 of this part:

* * * * *

(13) Payments made by an employer with respect to a deceased employee except as provided for in § 211.13 of this part.

* * * * *

6. Section 211.4 is revised to read as follows:

§ 211.4 Vacation pay.

Payments made to an employee with respect to vacation or holidays shall be considered creditable compensation whether or not the employee takes the vacation or holiday.

7. Section 211.8 is revised to read as follows:

§ 211.8 Displacement allowance.

An allowance paid to an employee because he has been displaced to a lower paying position is creditable compensation.

§ 211.9 [Amended]

8. Section 211.9 is amended by removing the last sentence.

9. Section 211.10 is revised to read as follows:

§ 211.10 Separation allowance or severance pay.

Separation or severance payments are creditable compensation except that no part of such payment shall be considered creditable compensation to any period after the employee has severed his or her employer-employee relationship except as provided for in § 211.11 of this part.

10. Section 211.11 is revised to read as follows:

§ 211.11 Miscellaneous pay.

Any payment made to an employee by an employer which is excluded from compensation under the Railroad Retirement Act, but which is subject to taxes under the Railroad Retirement Tax Act, shall be considered compensation for purposes of this part but only for the limited purpose of computing the portion of the annuity computed under sections 3(a), 4(a), or 4(f) of the Railroad Retirement Act (commonly called the tier I component).

11. Sections 211.13 and 211.14 are redesignated §§ 211.14 and 211.15 and a new 211.13 is added as follows:

§ 211.13 Payments made after death.

Payments made by an employer with respect to a deceased employee but paid in the year after the employee's death to the employee's survivors or estate are not creditable compensation.

12. Newly redesignated § 211.14, is revised to read as follows:

§ 211.14 Maximum creditable compensation.

Maximum creditable compensation for calendar years after 1984 is the maximum annual taxable wage base defined in section 3231(e)(2)(b) of the Internal Revenue Code of 1986. In November of each calendar year the Director of Research and Employment Accounts shall notify each employer of the amount of maximum creditable compensation applicable to the following calendar year.

PART 345—EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

13. The authority citation for part 345 is revised to read as follows:

Authority: 45 U.S.C. 362(1).

14. Section 345.4 is revised to read as follows:

§ 345.4 Employers' reports of compensation of employees.

The provisions of part 209 of this chapter shall be applicable to the reporting of compensation under the Railroad Unemployment Insurance Act to the same extent and in the same manner as they are applicable to the reporting of compensation under the Railroad Retirement Act.

Dated: February 19, 1993.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 93–4383 Filed 2–26–93; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

[FHWA Docket No. 93-6]

RIN 2125-AD08

Erosion and Sediment Control on Highway Construction Projects

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: Section 1057 of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 requires the Secretary to develop erosion control guidelines for States to follow when carrying out Federal-aid construction projects. Pursuant to this authority, the existing regulation, issued in 1974, would be updated and modified by the FHWA to reflect current state-of-the-art practices and management techniques. To fulfill the requirements of section 1057, the FHWA proposes to adopt, as guidelines, the American Association of State Highway and Transportation Officials (AASHTO) publication "Erosion and Sediment Control in Highway Construction," Volume III, 1992. The updated regulation would include a statement recommending that each State highway agency (SHA) apply these guidelines, or their own more stringent guidelines, to develop specific standards and practices for the control of erosion.

DATES: Comments must be received on or before June 28, 1993.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 93-6, room 4232, HCC-10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. A copy of the AASHTO publication and all comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Robin L. Schroeder, Construction and Maintenance Division, Materials Branch, HNG-23, 202-366-1577; or Mr. Lee Burstyn, Office of the Chief Counsel, HCC-31, 202-366-1366; Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION:

Congressional Mandate

Section 1057 of the ISTEA (Pub. L. 102-240, 105 Stat. 1914, 2002) provides that the Secretary develop erosion control guidelines for States to follow when carrying out highway construction projects. Section 1057 specifically provides that these guidelines may not preempt any other State requirements for erosion control if State requirements are more stringent. In addition, the guidelines must be developed to conform with section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1339) and coastal nonpoint source pollution control guidelines under section 6217(g) of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508, 104 Stat. 1388-314). These guidelines are to be followed for any project funded, in whole or in part, under Title 23, United States Code, Highways.

Current Federal-Aid Guidance

Currently 23 CFR part 650, subpart B, Erosion and Sediment Control on Highway Construction Projects (23 U.S.C. 109 (a), (g) and (h)), contains material on this subject. This subpart, which was last updated in 1974, states that it is the policy of the FHWA to minimize erosion and sediment damage to highways and adjacent properties and to abate pollution of surface and ground water resources resulting from Federal-aid highway projects.

Existing Guidance

There is a wide variety of publications, pamphlets, and specifications available on the subject of erosion control. The AASHTO has addressed this issue in a number of documents including its "Model Drainage Manual," 1991, "Construction Manual," 1984, and its "Highway Drainage Guidelines," 1992. These documents are available for purchase from the American Association of State Highway and Transportation Officials, suite 225, 444 North Capital St., NW., Washington, DC 20001. They may be inspected at the FHWA headquarters and field offices as prescribed by 49 CFR part 7, appendix D.

Section 1057 of the ISTEA requires that the FHWA develop erosion control guidelines. After conducting a review of the available literature on the subject, it was determined that a practical, efficient, and cost effective approach would be to adopt existing, state-of-the-art guidelines, if such guidelines would satisfy the requirements of this section.

The FHWA then determined that the AASHTO publication "Erosion and Sediment Control in Highway Construction," Volume III, 1992, would adequately fulfill the requirements of section 1057. This publication is part of the AASHTO's "Highway Drainage Guidelines," and was recently revised and approved by the AASHTO. The original Volume III was last revised in 1973, and is cited in 23 CFR 625.5(b)(6). The updated version contains a comprehensive view of the development, implementation, and maintenance of erosion and sediment control plans and appurtenances. It also identifies temporary and permanent erosion and sediment control practices and details specific design parameters. Examples of the design and use of some typical erosion control devices are also included.

As mentioned earlier, section 1057 requires that any guidelines that are developed must conform with section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1339) and the coastal nonpoint source pollution control guidelines under section 6217(g) of the Omnibus Budget Reconciliation Act of 1990. The updated AASHTO guidelines include design and implementation details that will contribute to the development and implementation of best management practices (BMPs) in highway construction. These BMPs will aid in the control of nonpoint source pollution, which is the intent of the above two laws.

Additional Guidance

Since highway construction traverses a wide range of locations, each having its own particular problems and corresponding solutions in the area of erosion and sediment control, the FHWA is recommending that each SHA develop detailed guidelines to address its own erosion and sediment control problems. This will allow each SHA to put greater emphasis on problems and solutions that have been historically identified within individual States. This will also allow SHAs the latitude to develop and apply guidelines which are more stringent than the AASHTO guide.

Request for Comments

The FHWA requests comments and suggestions concerning the proposed changes to 23 CFR part 650, subpart B. Comments on the applicability of the 1992 AASHTO guidelines to be used on Federal-aid construction projects and the recommendation that SHAs develop their own specific guidelines are of particular interest. Comments to the docket should be submitted by the deadline indicated above.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulations) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not major within the meaning of Executive Order 12291 or significant within the meaning of Department of Transportation regulatory policies and procedures. The FHWA, at 23 CFR part 650, Subpart B, as well as other Federal agencies, currently have regulations regarding erosion and sediment control. Adopting the ASSHTO guidelines would merely update and reinforce existing policy. Therefore, it is anticipated that the economic impact of this rulemaking would be minimal and a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) the FHWA has evaluated the effects of this proposal on small entities. The FHWA concluded that it and other Federal agencies currently have regulations dealing with erosion and sediment control, and adopting the 1992 AASHTO guidelines would merely reinforce existing policy. Therefore, the FHWA hereby certifies that this rulemaking would not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action would not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

This rulemaking would provide guidance to SHAs when implementing or developing erosion and sediment control guidelines. This would aid in the control and prevention of nonpoint source pollutants. It would not constitute a major action having a significant effect on the environment, and therefore does not require the preparation of an environmental impact statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*)

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 650

Grant programs-transportation, Highways and roads, Soil conservation.

In consideration of the foregoing, the FHWA proposes to amend title 23, Code of Federal Regulations, part 650, subpart B as set forth below.

Issued on: February 22, 1993.

E. Dean Carlson,

Executive Director.

PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS

1. The authority for part 650 is revised to read as follows:

Authority: 23 U.S.C. 109 (a) and (h), 144, 151, 315, and 319; 23 CFR 1.32; 49 CFR 1.48(b), E.O. 11988—Floodplain Management, May 24, 1977 (42 FR 26951); Department of Transportation Order 5650.2 dated April 23, 1979 (44 FR 24678); § 161 of Pub. L. 97–424, 96 Stat. 2097, 3135; § 4(b) of Pub. L. 97–134, 95 Stat. 1699; 33 U.S.C. 401, 491 *et seq.*, 511 *et seq.*; and § 1057 of Pub. L. 102–240, 105 Stat. 2002.

Subpart B—Erosion and Sediment Control on Highway Construction Projects

2. Part 650 is amended by revising §§ 650.201, 650.203, 650.205 and 650.209 and by adding § 650.211 to read as follows:

§ 650.201 Purpose.

The purpose of this subpart is to prescribe policies and procedures for the control of erosion, abatement of water pollution, and prevention of damage by sediment deposition from all projects funded under title 23, United States Code.

§ 650.203 Policy.

It is the policy of the Federal Highway Administration (FHWA) that all highways funded in whole or in part under title 23, United States Code, shall be located, designed, constructed and operated according to standards that will minimize erosion and sediment damage to the highway and adjacent properties and abate pollution of surface and ground water resources. Guidance for the development of standards used to minimize erosion and sediment damage is referenced in § 650.211 of this part.

§ 650.205 Definitions.

Erosion control measures and practices are actions that are taken to inhibit the dislodging and transporting of soil particles by water or wind, including actions that limit the area of exposed soil and minimize the time the soil is exposed.

Permanent erosion and sediment control measures and practices are installations and design features of a construction project which remain in place and in service after completion of the project.

Pollutants are substances, including sediment, which cause deterioration of water quality when added to surface or ground waters in sufficient quantity.

Sediment control measures and practices are actions taken to control the deposition of sediments resulting from surface runoff.

Temporary erosion and sediment control measures and practices are actions taken on an interim bases during construction to minimize the disturbance, transportation, and unwanted deposition of sediment.

* * * * *

§ 650.209 Construction.

(a) Permanent erosion and sediment control measures and practices shall be established and implemented at the earliest practicable time consistent with good construction and management practices.

(b) Implementation of temporary erosion and sediment control measures and practices shall be coordinated with permanent measures to assure economical, effective, and continuous control throughout construction.

(c) Erosion and sediment control measures and practices shall be monitored and revision made when needed to insure that they are fulfilling their intended function during the construction of the project.

(d) Federal-aid funds shall not participate in erosion and sediment control actions made necessary because of contractor oversight, carelessness, or

failure to implement sufficient control measures.

(e) Pollutants used during highway construction or operation and material from sediment traps shall not be stockpiled or disposed of in a manner which makes them susceptible to being washed into any watercourse by runoff or high water. No pollutants shall be deposited or disposed of in watercourses.

§650.211 Guidelines.

(a) The FHWA adopts the AASHTO Highway Drainage Guidelines, Volume III, "Erosion and Sediment Control in Highway Construction," 1992,[1] as guidelines to be followed on all construction projects funded under title 23, United States Code. These guidelines are not intended to preempt any requirements made by or under State law if such requirements are more stringent.

(b) Each SHA should apply the guidelines referenced in paragraph (a) of this section or apply its own guidelines, if these guidelines are more stringent, to develop standards and practices for the control of erosion and sediment on Federal-aid construction projects. These specific standards and practices may reference available resources, such as the procedures presented in the AASHTO "Model Drainage Manual," 1991.[2]

[FR Doc. 93–4526 Filed 2–26–93; 8:45 am]
BILLING CODE 4910–22–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS–FRL–4591–4]

Control of Air Pollution From New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines; Technical Amendments to the Test Procedures for Methanol-Fueled Motor Vehicles and Motor Vehicle Engines and Petroleum-Fueled Motor Vehicles; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal includes revisions to test procedures previously promulgated for methanol-fueled vehicles. These revisions make minor corrections to the procedures, provide additional options, and clarify the Agency's regulatory intent. This proposal is the result of a cooperative interaction between Agency staff and the affected automobile and engine manufacturers. Overall, the changes are expected to allow manufacturers more flexibility in complying with the applicable regulations, without sacrificing accuracy of test results. Among the most significant changes are revisions to the testing requirements for flexible fuel vehicles (FFVs), the allowance of electronic mass flow controllers for methanol and formaldehyde sample systems, the allowance of lower temperatures for some heated components, establishment of wider tolerances for SHED and CVS verifications, and specification of the fuel to be used with all flame ionization detectors. It should be noted that the revision related to flame ionization detectors affects all light-duty vehicles, including gasoline-fueled vehicles.

DATES: Written comments on this action will be accepted until April 30, 1993. Further information on the submission of comments can be found under "Public Participation". If requested, the Agency will hold a public hearing on March 31, 1993.

ADDRESSES: Comments should be sent to: EPA Air Docket LE–131, Attention Docket No. A–92–02, located at the Air Docket Section, U.S. Environmental Protection Agency, room M–1500, 401 M Street SW., Washington, DC, 20460. The public hearing, if held, will be at the National Vehicle and Fuels Emission Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105. Material relevant to this rulemaking is contained in the EPA Air Docket, and may be inspected between 8 am and 3 pm. Monday through Friday. Information may also be obtained from the U.S. Environmental Protection Agency, Office of Mobile Sources, Regulation Development and Support Division, Engine and Vehicle Regulation Branch, 2565 Plymouth Road, Ann Arbor, MI, 48105.

FOR FURTHER INFORMATION CONTACT: Charles Moulis, Regulation Development and Support Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 741–7826.

SUPPLEMENTARY INFORMATION: This proposal covers many areas related to the testing of methanol-fueled vehicles. The most significant aspects of the proposal are described below. The reader is advised, however, to read the draft regulatory language, which is available docket number A–92–02, for complete details.

A. Proposed Revisions

1. Test Fuels

Manufacturers of methanol-fueled flexible fuel vehicles (FFVs) are required to comply with the methanol-fueled vehicle standards when using any fuel mixture within the vehicle's design range. (FFVs are vehicles that are designed to operate using a methanol fuel, gasoline and all mixtures of the two).

In order to ensure that such vehicles meet the standards over the full range of fuel mixtures, the existing regulations (40 CFR 86.113) require that manufacturers submit test data for worst case fuel mixtures. However, since the time of final promulgation of this requirement, it has become apparent that implementation of such an approach can be problematic. Identification of the worst case exhaust fuel mixture is difficult since there is more than one exhaust pollutant. The mixture that would produce the highest organic emissions would probably be different from the mixture that would produce the highest NO_x or CO emissions. The worst case evaporative fuel would probably also be different. Therefore, while the Agency will still require that FFVs comply with the standards when operating on any fuel mixture within the design range, the means by which this compliance is demonstrated is being changed. Rather than attempting to identify a single worst case fuel, it is proposed that manufacturers demonstrate compliance by submitting test data for three fuel mixtures during certification. These three mixtures are: The methanol fuel expected to be found in use, gasoline, and the highest volatility mixture. The use of straight methanol fuel (e.g., M85) and straight gasoline would demonstrate compliance at the two extremes of operation. The high volatility mixture would ensure proper evaporative emissions controls. This mixture will be approximately M10 (the mixture will contain between nine and thirteen percent methanol). While the Agency is proposing to accept testing on the above fuels as an adequate demonstration for certification, it should be emphasized that the Agency will retain the right to perform its confirmatory testing using any mixtures within the design range

[1] This document is available for inspection from the FHWA headquarters and field offices as prescribed by 49 CFR part 7, appendix D. It may be purchased from the American Association of State Highway and Transportation Officials offices at suite 225, 444 North Capitol Street, NW., Washington, DC 20001.

[2] This document is available for inspection from the FHWA headquarters and field offices as prescribed by 49 CFR part 7, appendix D. It may be purchased from the American Association of State Highway and Transportation Officials offices at suite 225, 444 North Capitol Street, NW., Washington, DC 20001.

and will require compliance with the standards over the full range as well.

For mileage accumulation of FFVs, the existing regulations also require the use of the worst case fuel mixtures. For reasons similar to those discussed above, the Agency no longer believes that this is appropriate. Therefore, EPA is proposing to allow manufacturers to alternate between the methanol fuel (e.g., M85) and gasoline, at mileage intervals not to exceed 5000 miles. There would also be an additional requirement that the total volume of the methanol fuel used for mileage accumulation be at least 25 percent, but not more than 75 percent of the total fuel volume used. The Agency believes that these requirements will be sufficient to demonstrate the durability of FFVs in use, where the vehicles may be operated on only methanol, only gasoline, or alternately on both fuels. EPA is not proposing which test fuel mixtures should be used for the emissions tests performed to determine deteriorations factors, but the Agency is currently recommending that deterioration factors be determined for both the alcohol fuel and the gasoline fuel.

The regulations currently require that the methanol test fuels be representative of in-use fuels. However, the methanol fuel market is not yet large enough to allow determination of a representative fuel. Until such time as a representative fuel can be determined, EPA will use, and require manufacturers to use a combination of chemical grade methanol and certification gasoline in proportions that reflect the composition of the intended in-use fuel (as recommended by the manufacturer and approved by EPA). For most current vehicles this will be 85 percent (by volume) methanol and 15 percent gasoline.

2. Methanol and Formaldehyde Sampling and Analysis

The test procedures for methanol-fueled vehicles require separate sampling systems for methanol and formaldehyde. The samples are collected by bubbling the sample gas through two impingers, or, in the case of formaldehyde, through a cartridge impregnated with dinitrophenylhydrazine (DNPH). Then the impinger fluid or cartridge is analyzed for methanol or formaldehyde using chromatographic methods. Today's action proposes revisions in several areas related to methanol and formaldehyde sampling and analysis. The most significant of these relates to the required sampling flow rates. The regulations currently include minimum requirements for flow rates through impingers and cartridges. They were included to ensure that sufficient amounts of methanol and formaldehyde are collected to allow for accurate detection by the chromatographic instruments. Because there can be significant variations from system to system, however, it is difficult to establish a single minimum flow rate that is appropriate for all systems. To correct this, the Agency is proposing to eliminate these minimum flow rates, and to instead establish minimum concentrations for the primary impingers and cartridges. More specifically, systems (and procedures) will be required to be designed such that testing of a vehicle or engine that emitted the maximum allowable level of methanol, or emitted formaldehyde at a level that was ten percent of the maximum emission level of methanol would result in analyte concentrations that were 25 times higher than the levels of detection for the instruments used. Systems that do not meet this requirement due to high limits of detection would be allowed, provided that the resultant methanol concentration is greater than 25 mg/l, and the resultant formaldehyde concentration is greater than 2.5 mg/l. For any vehicles or engines that have an applicable formaldehyde standard, the analyte concentrations used for design would be those that would result from the maximum emission level allowed by that standard.

The Agency is also proposing to add an additional design requirement that the amount of methanol collected in the secondary impinger not be more than ten percent of the total amount collected. This requirement would effectively prohibit flow rates that are too large and result in significant carryover into the secondary impinger. More important, this should also prevent flow rates that would result in the loss of methanol in the effluent of the second collector. It is expected that by setting the limit at ten percent, there will not be significant amounts of methanol in the sample gas after the secondary impinger.

Another set of revisions deals with the method of flow measurement. In several parts of the current regulations, dry gas meters are specifically required for sampling and calibration systems. This is because dry gas meters were considered to be the most appropriate type of flow meter for these applications at the time the test procedures for methanol-fueled vehicles were originally developed. More recently, it has become apparent that these specifications are no longer necessary. Therefore, the Agency is proposing to allow other types of flow meters to be used, provided that they meet an accuracy specification of ±2 percent.

For the design requirements, EPA requests comments both on the numerical limits proposed, and on whether these limits are more appropriate than direct limits on the flow itself. EPA also request comments on the proposed accuracy specification for flow meters.

3. Proportional Sampling

Currently there are two methods allowed by the regulations for obtaining proportional samples when testing light-duty vehicles: The Positive Displacement Pump-Constant Volume Sampler (PDP–CVS) method and the Critical Flow Venturi-Constant Volume Sampler (CFV–CVS) method. However, today, a third option is being proposed for methanol-fueled vehicles. This method will be based on the current CFV–CVS system, but will allow proportional sampling of methanol and formaldehyde to be maintained by electronically monitoring the CVS flow rate and electronically controlling the sample flows. Similar approaches have been used for some years in heavy-duty diesel testing and in light-duty research testing. When using this approach, the ratio of sample flow to CVS flow would be required to remain within ±5 percent of the set-point ratio. The Agency is recommending that these systems also include separate flow meters to measure total sample volumes. It should be emphasized that even though this option is only being specified for methanol and formaldehyde sampling systems, the Agency would consider allowing similar approaches for other samples as equivalent procedures. In addition to comments related to appropriateness of this approach for methanol-fueled vehicles, EPA specifically requests comments related to extending this option to all vehicles. Moreover, EPA request comments on whether the other methods, especially the CFV–CVS method, can be used for methanol-fueled vehicles when impingers are involved.

4. Prevention of Condensation

Exhaust from methanol-fueled vehicles generally has much higher water vapor content than conventional vehicles, which can lead to water condensation under certain testing conditions, when the gas comes into contact with surfaces at temperatures below its dew point. Such condensation can be a very serious problem since both methanol and formaldehyde are soluble in water. Thus, condensation can create

very significant problems with respect to testing accuracy. However, if the gas comes into contact with very hot surfaces, the methanol can undergo decomposition reactions. For these reasons, in the previous rulemaking, EPA required that sample lines and transfer systems be heated to 235±15 °F (as measured at the surface in contact with the raw and diluted exhaust gases). Some manufacturers, however, have indicated a concern that this temperature requirement may be too high for their systems. The Agency is therefore proposing to change its regulatory focus from specifying the temperature requirement, to allowing manufacturers to determine the most appropriate temperatures for their own individual systems. There will still be requirements to heat many of the components to a temperature between the maximum dew point of the diluted exhaust mixture and the previously established maximum upper temperature of 250 °F; however, this allows for a very wide range of temperatures. This revision is not intended to imply that the Agency no longer believes that the appropriate temperature range for most systems is 220–250 °F, but rather it is intended only to allow the manufacturers more flexibility. Comments are requested on whether it will be necessary to measure dew point continuously for each test. There is concern that such a requirement would place a significant burden upon the manufacturer, since dew point analyzers can be somewhat difficult to maintain. However, it is apparent that some information will need to be provided by the manufacturer to demonstrate that its system will prevent condensation from occurring. It may be that dew point data will be needed from testing under some worst case conditions (e.g., with a large engine during a period of high ambient humidity). The Agency's goal is to establish a method that will ensure that condensation does not occur, while not creating an unreasonable testing burden.

It has also been suggested that heavy-duty engine manufacturers should be allowed to use ducts up to 32 feet in length to transfer the exhaust from the engine to the dilution tunnel. Testing by Southwest Research Institute (SwRI) showed no significant difference between the emission results from test systems using ducts 13 and 32 feet in length. Therefore, the Agency proposes to allow transfer ducts up to 32 feet in length (as is currently allowed for petroleum-fueled engines). However, since the SwRI testing did not provide data for systems in which the duct temperature exceeded 315 °C, this allowance will require that the maximum duct temperature not exceed 315 °C. EPA requests comments on whether higher temperatures should be allowed, and whether average duct temperatures should be considered instead of maximum duct temperatures.

Additional flexibility is also being provided with respect to dilution air; it is being proposed that heating and dehumidifying the dilution air be allowed with some restrictions. Allowing such pretreatment of the dilution air may help to eliminate some of the condensation problems associated with methanol fueled vehicles, and may allow the use of lower system temperatures as discussed above. The proposed restrictions limit the maximum temperature and effect how the dilution air flow rate is calculated.

5. CVS and SHED Recovery Tests

The regulations promulgated in 1989 required that, in addition to tests previously required for propane, tests must also be done to ensure that there are no losses of methanol in the CVS or SHED. The tests are performed by injecting a known quantity of methanol or propane into the CVS or SHED, collecting a sample and comparing the amount calculated from the measured value to the amount injected. The regulations require, for methanol, that the measured value be within two percent of injected value. However, actual testing experience by both EPA and industry has shown that consistently obtaining two percent accuracy can be problematic given the current state of development of methanol test procedures. Therefore, EPA is proposing to establish wider limits for methanol recoveries during the calendar years 1992–1995 (±6 percent). For SHED testing, these wider limits would apply to both agreement between the amount injected and the initial measured amounts (recovery tests) and between the initial and final (after four hours) measured amounts (retention tests). EPA requests comments regarding whether it is sufficient to widen the tolerances through 1995, or if a longer period is appropriate.

There are two reasons why the measured results could deviate from the calculated amounts. First, errors in the measurement procedures can combine to create different values, even though all of the methanol was recovered. This type of error would result in measured values that in some cases were too low, while in others that were too high. The second reason for deviations could be that the amount of methanol in the system is actually changing. The Agency has some limited data that suggests that small, but significant, losses of methanol can occur during the SHED retention test. If, in fact, losses are occurring, then the data will be biased to give lower measured emissions values. Thus if these wider tolerances are used for retention tests, due to losses of methanol, it would be appropriate to apply a correction factor to the evaporative emissions testing data. The Agency is proposing to require the use of a correction factor that would be derived from the four-hour retention test. This would be a means of accounting for such losses without increasing the testing burden. For example, if testing results in a four-hour methanol retention of only 94 percent (a 6 percent loss), the estimated loss during one hour would be 1.5 percent. All methanol measurements would then be multiplied by 1/0.985 (1.015) to correct for the loss that may have occurred. The Agency requests comments on these limits, the correction factors, and on whether a permanent relaxation of the specifications may be needed.

6. Fuels for Flame Ionization Detectors

Flame ionization detectors measure hydrocarbons and other organics by ionizing the carbon atoms with a supplemental fuel source. At one time, the primary fuel was a mixture of hydrogen in nitrogen (H_2/N_2), but now the more commonly used fuel is a mixture of hydrogen in helium (H_2/He), which is thought to give a more accurate response. In the current regulations, it is somewhat unclear what type of fuel is to be used with the heated flame ionization detectors (heated FID or HFID) required for methanol-fueled vehicle testing. Current evaporative emissions testing and heavy-duty exhaust testing requires the use of H_2/He, while the fuel for light-duty exhaust testing is unspecified. Since the light-duty fuel is unspecified, many testing facilities use a mixture of hydrogen in nitrogen. To eliminate this confusion, the Agency is proposing to clearly require that H_2/He fuel be used for all FIDs when testing methanol-fueled vehicles. Moreover, to provide consistent testing of both alternatively-fueled and conventionally-fueled vehicles, the Agency is proposing to require the use of H_2/He fuel for all heated and unheated FIDs. EPA requests comments on the effect of FID fuel on calibration and measurement, whether H_2/He is the best fuel for use in methanol testing, and on whether it is appropriate to establish it as the only fuel for petroleum-fueled vehicle testing

as well. The Agency also requests comments on whether revisions are needed to the FID calibration procedure as outlined in the CFR.

7. Background Measurements

The test procedures call for measurement of background concentrations of various gases, including methanol and formaldehyde, to be subtracted from the concentrations measured in the diluted exhaust. Currently, only a single sample is required for formaldehyde, while separate phase-by-phase samples are required for methanol. With today's revisions, however, EPA proposes to also require only a single sample be collected to determine the methanol concentration in the dilution air. It should also be noted that, given that methanol levels in the dilution air will generally be very low, a single impinger is sufficient to measure the methanol concentration in the sample. Comments are requested on whether it is appropriate to extend this allowance, and require only that a single background methanol sample be collected.

8. Determination of Fuel Composition

The regulations currently do not specify a procedure to determine the carbon:hydrogen:oxygen ratio for methanol fuels and fuel mixtures, other than to state that the ratio is to be measured. However, if the methanol fuel and/or fuel mixtures are made from fuels for which the ratio is known (such as chemical grade methanol and Indolene), then the ratio for the resultant mixture can be calculated and no measurement is necessary. EPA, therefore, is proposing to revise the CFR to allow for calculation of the ratio for methanol fuels and fuel mixtures. Comments are requested on whether it is appropriate to calculate the ratio, what test methods should be used when the ratio is measured, and whether a single measurement procedure should be specified in the regulations.

9. NO_X Humidity Correction Factor

The humidity of the air in a test area is known to have an effect on emissions of NO_X, and EPA has established a correction factor for NOx test results. It has become apparent that the correction factor established for heavy-duty methanol-fueled engines is erroneous. EPA is, therefore proposing to correct this by applying the correction factor currently specified for gasoline-fueled engines to Otto-cycle methanol-fueled engines, and the one currently specified for petroleum-fueled diesel engines to methanol-fueled diesel engines, as was originally intended. EPA specifically requests comments and test data on this effect for methanol-fueled vehicles and engines.

10. Heated Flame Ionization Detectors

The regulations require that heated FIDs (HFIDs) be used when testing methanol-fueled vehicles. The reason for this requirement was that HFIDs provide a stable response for methanol more quickly than unheated FIDs. Some manufacturers have suggested, however, that in many cases the HFID is not necessary and that an unheated FID is adequate. Some data are available, which indicate that the difference between the heated and unheated FIDs is not significant (see Docket A–92–02). Therefore, EPA proposes to allow unheated FIDs to be used in place of heated FIDs for methanol-fueled vehicle testing. The Agency requests comments and data related to the limitations and relative accuracies of the two approaches.

11. Gaseous Standards for Methanol and Formaldehyde

Gaseous standards of many gases are specified in the regulations and are routinely used in calibration procedures; however, such standards were not allowed for methanol and formaldehyde. This is because the stability of methanol and formaldehyde in air had not yet been fully demonstrated. Recent testing, however, has shown that methanol can be reasonably stable over several months (see Docket A–92–02). The Agency specifically requests comments related to the stability of gaseous standards of methanol, and whether standards in air are necessary or if standards in some other carrier gas would be adequate. EPA proposes to allow the use of gaseous methanol standards for response factor calculation and SHED and CVS recovery tests, with the requirement that the concentration of methanol in the standard gas shall not vary by more than two percent over its useful lifetime (i.e., from the time it is prepared until it is no longer used for testing).

12. Direct Measurement of Non-Oxygenated Hydrocarbons

Currently, evaporative non-oxygenated hydrocarbon emissions from methanol-fueled vehicles are measured by separately measuring total organic emissions and methanol emissions: the non-oxygenated hydrocarbon emissions are the difference between these two measurements. It has been suggested, however, that non-oxygenated hydrocarbons can be measured directly by installing water-filled impingers upstream of an FID calibrated on propane. The impingers would be expected to remove the methanol from the gas as it is bubbled through the water, but not the non-oxygenated hydrocarbons. Theoretically, this approach would be appropriate since non-oxygenated hydrocarbons generally have very low solubilities in water, while methanol is extremely soluble in water. EPA requests comments and data on the extent to which such a simplified approach is acceptable. The Agency proposes to revise the regulations to allow this option, with design requirements which limit the amount of non-oxygenated hydrocarbons collected in the impinger to less than two percent of the total amount of non-oxygenated hydrocarbons in the sample, and the amount of methanol which is not collected by the impinger to less than two percent of the total amount of methanol in the sample. This design requirement would be consistent with the recovery and retention checks currently required by the CFR for both the SHED and CVS.

13. FID Measurement of Methanol Emissions From M100 Vehicles

Methanol emissions from M100 vehicles are currently measured with an impinger system. The combined emissions of methanol and non-oxygenated HC is measured by a FID and the non-oxygenated HC emissions are determined by subtracting the methanol (after correcting for FID response) from the total. However, given that the non-oxygenated HC emissions will generally be small, there is a significant potential for errors. Because the amount of non-oxygenated HC emissions from M100 vehicles and engines is generally small, it is appropriate to measure the total emissions with an FID calibrated on methanol, and not use an impinger system. Such an approach has been allowed as an optional approach for all 1990–1994 methanol-fueled vehicle and engines, and has many potential benefits. Given that there would not be a potential for very large errors using this approach for only M100 vehicles, and that any errors which would result from the approach would lead to an over-measurement of emissions, the Agency proposes to allow this approach for M100 vehicles. EPA specifically requests comments on the speciation of organic emissions from M100 vehicles, and the possible errors involved in this approach.

14. Collection of Methanol Samples

As noted above, methanol samples are currently collected using impingers. EPA is proposing, however, two alternatives which would provide greater flexibility. The first is the allowance to measure methanol concentrations from SHED testing by direct GC analysis of the bag samples. Under this approach, a small amount of the gaseous bag sample would be injected into a GC to determine the methanol concentration. Due to the potential for loss of methanol in the bag, it will be necessary to perform the GC analysis within one hour. The second alternative is the allowance of the use of cartridges, which are designed to collect methanol, for both exhaust and evaporative testing. This approach would be similar to the current allowance to use cartridges to collect formaldehyde samples from exhaust testing. EPA requests comments on these alternatives in general, and specifically, comments related to whether the bag sample allowance should be extended to exhaust samples.

B. Submission of Data

Given the extent to which the revisions being proposed deal with engineering issues, EPA specifically requests test data related to these issues be included in comments to the extent possible. This is especially true for items 10–14 above, which are being proposed based upon relatively limited data. It should be emphasized that the Agency would be more comfortable finalizing these five revisions if more extensive data were available. EPA would also welcome data related to other methanol testing issues not addressed here, especially the issues described below.

1. FTIR Instrumentation

Fourier Transform Infra-Red (FTIR) analysis is widely used in many analytic chemistry applications, and has the potential to be used for measuring exhaust emissions, including methanol and formaldehyde. However, at this time, the technology has not been fully demonstrated for exhaust measurements. The Agency supports the eventual use of FTIR instrumentation to measure methanol and formaldehyde emissions, and requests comments and related data on the development and applicability of this technology.

2. Methanol Interference With NO_x Analyzers

Testing of methanol-fueled vehicles has indicated that methanol emissions can create interference with the measurement of oxides of nitrogen (NO_x) emissions. EPA has done some investigation of its own (see "Investigation of Analyzer Problems in the Measurement of NO_x from Methanol Vehicles," EPA/60/S3–88/040), but requests comments from others involved in the testing of methanol-fueled vehicles. Specifically, the Agency is interested in the effect that instrument model and type has on interference and methods used to prevent or minimize these problems.

Public Participation

EPA welcomes comments on any aspect of this proposed rulemaking. Commenters are especially encouraged to provide suggestions for modification of any aspects of the proposal that they find objectionable, and to submit comments in response to concerns that EPA highlighted above. All comments should be directed to the Air Docket LE–131, Attention Docket No. A–92–02, located at the Air Docket Section, U.S. Environmental Protection Agency, room M–1500, 401 M Street SW., Washington, DC 20460.

Commenters desiring to submit proprietary information for consideration should clearly distinguish such information from other comments to the greatest possible extent and label it as "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the contact person listed above, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to base the final rule in part on a submission labeled as confidential business information, then a nonconfidential version of the document which summarizes the key data or information should be provided to EPA to be placed in the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the commenter.

Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because the amendments make only minor and technical changes. Also, this regulation will not result in increased costs for consumers, industries, or others, nor should it have adverse effects on competition, employment, investment, or productivity.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Reporting and Recordkeeping Requirements

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request document has been prepared by EPA (ICR No. 783.21) and a copy may be obtained from Sandy Farmer, Information Policy Branch; EPA; 401 M Street, SW., (PM–223Y); Washington, DC, 20460 or by calling (202) 260–2740.

Public reporting burden for this collection of information is estimated to have a negligible effect on the existing clearance which averages 15,900 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the collection of the information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch; EPA; 401 M Street, SW., (PM–223Y); Washington, DC, 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC, 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act. 5 U.S.C. 601 *et seq.*, the Administrator of EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities and, if so, to perform a regulatory flexibility analysis. The technical amendments contained in this rulemaking will not increase the burden or cost of compliance for any segment of the automotive industry. Therefore, pursuant to 5 U.S.C. 605(b), the Assistant Administrator for Air and Radiation hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Air pollution control, Gasoline, Labeling, Motor vehicles, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: January 20, 1993.

William K. Reilly,

Administrator.

[FR Doc. 93–4629 Filed 2–26–93; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB56

Endangered and Threatened Wildlife and Plants; Notice of Reopening of Comment Period on Proposed Designation of Critical Habitat for Six Endangered Forest Species from Guam

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period on proposed designation of critical habitat.

SUMMARY: The U.S. Fish and Wildlife Service (Service) reopens the comment period for the proposed designation of critical habitat for six endangered forest species from Guam. The proposed rule was published on June 14, 1991 (56 FR 27485). The Service believes the comment period should be reopened at this time based on the availability of a revised Environmental Assessment pertaining to the establishment of an overlay refuge on U.S. Navy and U.S. Air Force lands on Guam. Additionally, in October 1992, the Inspector General of the Department of the Interior received a statement from a citizen of Guam who claims to have compelling, new information relating to the economic analysis done for the proposed rule, as well as other aspects of the proposed rule.

DATES: Comments on the proposed designation of critical habitat for six endangered forest species from Guam must be submitted by March 31, 1993.

ADDRESSES: Information, comments, or questions on the designation of critical habitat on Guam should be submitted to the Field Supervisor, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307. P.O. Box 50167, Honolulu, Hawaii 96850. Materials pertaining to the proposed designation of critical habitat will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Robert P. Smith, Field Supervisor, at the above Honolulu address (telephone 808/541–2749).

SUPPLEMENTARY INFORMATION:

Background

On June 14, 1991 (56 FR 27485), the Service proposed to designate critical habitat for six endangered forest species from Guam: The little Mariana fruit bat (*Pteropus tokudae*), Mariana fruit bat (*Pteropus mariannus*), Guam broadbill (*Myiagra freycineti*), Mariana crow (*Corvus kubaryi*), Guam Micronesian kingfisher (*Halcyon cinnamomina cinnamomina*), and Guam bridled white-eye (*Zosterops conspicillatus conspicillatus*). The six species for which critical habitat has been proposed are found in the Mariana Islands in the western Pacific in the Territory of Guam. Two species, the Mariana fruit bat and the Mariana crow, are also found on the island of Rota in the Commonwealth of the Northern Mariana Islands. All were listed as endangered on August 27, 1984, due to one or more of the following activities: Poaching, predation by the introduced brown tree snake, and habitat loss. The proposed rule to designate critical habitat includes a total of 16,883 acres in northern Guam and 7,889 acres in southern Guam. The land is primarily under Federal ownership, with a smaller percentage owned by the Government of Guam and private landowners.

On July 12, 1991 (56 FR 31902), the Service announced the scheduling of a public hearing on the subject proposal. The public hearing was held in Agana, Guam, on July 31, 1991. The public was asked to submit written comments and materials by August 13, 1991. Subsequent to that date, the Guam Uranao Resort corporation requested the opportunity to submit additional information on the economic impacts of the proposed designation of critical habitat for consideration by the Service. The comment period was, therefore, reopened for two weeks on October 15, 1991, to accommodate this request (56 FR 51668). Since that date, the Service has prepared two versions of an Environmental Assessment for the establishment of an overlay refuge on Guam. On May 19, 1992, the National Wildlife Federation requested that the comment period be reopened, so that additional information on the proposed designation of critical habitat could be submitted for consideration. On June 12, 1992, the comment period was reopened through July 15, 1992, both to accommodate the National Wildlife Federation request and to coordinate with the first open public comment period for the proposed Guam National Wildlife Refuge. A second draft of the Environmental Assessment for the proposed Guam National Wildlife Refuge is now available for public review. The revised Environmental Assessment for designation of the overlay refuge on U.S. Navy and U.S. Air Force lands may contain additional information that should be reviewed and considered in the process of arriving at a final decision for critical habitat on Guam. In addition, Mr. Antonio Artero Sablan of Guam, in a letter dated December 17, 1992, to Mr. James Richards of the Department of the Interior, claims to have "solid evidence" to show that parts of the proposed rule are flawed. The Service would like this information as a part of the documentation considered in a final decision on the proposed rule for critical habitat on Guam.

Additional information and comments may be submitted to the Service office in the **ADDRESSES** section until march 31, 1993.

Author

This notice was prepared by Mr. Robert Smith, U.S. Fish and Wildlife Service, Pacific Islands Office, P.O. Box 50167, Honolulu, Hawaii 96850 (telephone 808/541–2749).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. 99–625, 100 Stat. 3500, unless otherwise noted.)

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated February 16, 1993.

Richard N. Smith,

Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–4674 Filed 2–26–93; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 17

RIN 1018–AB88

Endangered and Threatened Wildlife and Plants; Proposed Rule to List the Rio Grande Silvery Minnow as Endangered, With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to list the Rio Grande silvery minnow (*Hybognathus amarus*) as an endangered species with critical habitat under authority of the Endangered Species Act of 1973, as amended (Act). This species of fish occurs only in the Rio Grande from Cochiti Dam downstream to the headwaters of Elephant Butte Reservoir, New Mexico. Threats to the species include loss of stream habitat due to dewatering, channelization and regulation of river flow to provide water for irrigation; diminished water quality caused by municipal, industrial, and agricultural discharge; and competition or predation by nonnative introduced fish species. Currently, the species occupies approximately five percent of its known historic range.

DATES: Comments from all interested parties must be received by April 30, 1993. Public hearing request must be received by April 15, 1993.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 3530 Pan American Highway NE., Suite D, Albuquerque, New Mexico 87107. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Gerald L. Burton (see **ADDRESSES**) at (505) 883–7877.

SUPPLEMENTARY INFORMATION:

Background

The Rio Grande silvery minnow is one of seven species in the genus *Hybognathus* found in the United States (Pflieger 1980). The species was first described by Girard (1856) from specimens taken from the Rio Grande near Fort Brown, Cameron County, Texas. Physically, it is a stout silvery minnow with moderately small eyes and a small slightly oblique mouth (Pflieger 1975). Adults may reach 90 mm (3½ in) in total length (Sublette *et al.* 1990). The dorsal fin is distinctly pointed with the front of it located slightly closer to the tip of the snout than to the base of the tail (Pflieger 1975). Life color is silver with emerald reflections. The belly is silvery white, fins are plain, and barbels are absent (Sublette *et al.* 1990; Pflieger 1975).

This species was historically one of the most abundant and widespread fishes in the Rio Grande basin, occurring from Espanola, New Mexico, to the Gulf of Mexico (Bestgen and Platania 1991). It was also found in the Pecos River, a major tributary of the Rio Grande, from Santa Rosa, New Mexico, downstream to its confluence with the Rio Grande (Pflieger 1980). Collection data indicate the species presently occupies about five percent of its historic range. It has been completely extirpated from the Pecos River and from the Rio Grande downstream of Elephant Butte Reservoir. Currently, it is found only in a 274 km (170 mi) reach of the Middle Rio Grande River, New Mexico, from Cochiti Dam, Sandoval County, to the headwaters of Elephant Butte Reservoir, Socorro County (Bestgen and Platania 1991). Throughout much of its historic range, decline of *H. amarus* may be attributed to modification of stream discharge patterns and channel desiccation by impoundments, water diversion for agriculture, and stream channelization (Cook *et al.* 1992; Bestgen and Platania 1991).

The Rio Grande silvery minnow no longer exists in the Pecos River where it was replaced by its congener, the introduced plains minnow (*H. placitus*) (Hatch *et al.* 1985; Bestgen *et al.* 1989; Cook *et al.* 1992). It is believed the plains minnow was introduced into the Pecos drainage during 1968, probably the result of the release of "bait minnows" which were collected from the Arkansas River drainage. The displacement that ensued was complete in less than one decade (Cowley 1979). The plains minnow may be more tolerant of modified habitats and therefore able to replace *H. amarus* in the modified reaches of the Pecos River where they were introduced. It is also believed the two species hybridized. Habitat alteration and resulting flow modification could have also contributed to extirpation of the species in the Pecos River.

Decline of the species in the Middle Rio Grande probably began in 1916 with the completion of Elephant Butte Dam. Construction of the dam signaled the beginning of an era of modification of the main stream Rio Grande and the construction of five major main stream dams within the minnow's habitat (Shupe and Williams 1988). These dams allowed the flow of the river to be manipulated and diverted for the benefit of agriculture. Often this manipulation resulted in the desiccation of reaches of river and elimination of all fish. Concurrent with construction of the main stream dams was an increase in the abundance of nonnative and exotic fish species as these species were stocked into the reservoirs created by the dams (Sublette *et al.* 1990). Once established, these species often completely replaced the native fish fauna (Propst *et al.* 1987). Development of agriculture and the growth of cities within the historic range of *H. amarus* resulted in a decrease in the quality of water in the river which may have also adversely affected the range and distribution of the species.

Most land bordering the river where the species currently exists is owned by the Middle Rio Grande Conservancy District (District) which is a quasi-public agency of the State of New Mexico. Other landowners include six Pueblos, the U.S. Bureau of Reclamation, the Service, the U.S. Bureau of Land Management, New Mexico State Parks, New Mexico Department of Game and Fish, New Mexico State Lands Department, and the U.S. Army Corps of Engineers (Corps).

Water flow in the Middle Rio Grande is controlled by the Rio Grande Compact Commission (Commission). Established in 1929 for the purpose of permanently and equitably apportioning the flows of the Rio Grande, the Commission is composed of a Federal chairperson, appointed by the United States President, and three voting members—a representative designated by the Texas governor and the state engineers of New Mexico and Colorado. The Commission meets annually to review compliance with the compact over the preceding year, to hear reports from Federal water management agencies, and to consider water management decisions that have interstate implications. Other water managers and decision-makers who also determine timing and amount of flow in the river include the International Boundary and Water Commission, which ensures delivery of water to Mexico under international treaties; the Bureau of Reclamation, which has played an important role in water development in the Middle Rio Grande and has been actively involved in the major water supply networks of the basin; and the Corps, which is responsible for controlling any dredging or filling activities within navigable waterways and associated wetlands under the "404 permit" program. The Corps also has constructed and operates Abiquiu, Cochiti, Galisteo, and Jemez dams to control flood waters and sediment in the Rio Grande.

On February 19, 1991, approximately 80 pre-proposal notification letters were mailed to various governmental agencies, knowledgeable individuals, and the New Mexico Congressional delegation. The purpose of the letter was to inform recipients of the Service's intent to add *H. amarus* to the Federal list of Endangered and Threatened Wildlife and Plants and solicit their comments. The Service was particularly

interested in obtaining additional status information or information concerning threats to the continued survival of *H. amarus*. On May 22, 1991, a second informational letter was sent to the New Mexico Congressional delegation. Comments were received from New Mexico Department of Game and Fish; City of Albuquerque; Texas Parks and Wildlife Department; and the New Mexico Interstate Stream Commission. None who commented offered additional information concerning the status of the species or information concerning additional threats. Most commented that the range of the species had been severely reduced and that Federal listing should be considered. The response from the New Mexico Interstate Stream Commission included a historical review of water development in the Middle Rio Grande Valley.

On March 20, 1992, the Service held a meeting in Albuquerque, New Mexico, to explore with various interested governmental and private entities existing or potential flexibility in water delivery schedules that might avoid de-watering of the Rio Grande and the habitat of *H. amarus*. The Service also requested information which would add to the knowledge of the current distribution of the species. No new information concerning distribution, abundance, or threats to the species was provided.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal list of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the Rio Grande silvery minnow (*Hybognathus amarus*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Since completion of Elephant Butte Dam in 1916, four additional main stream dams have been constructed on the mainstem Rio Grande, and two dams have been constructed on one of its major tributaries, the Rio Chama (Shupe and Williams 1988). Construction and operation of these dams have modified the natural flow of the river. During low-flow years, these dams have the capacity to completely divert all the flow from the natural river channel into irrigation ditches. These reservoirs also store spring runoff and summer inflows, which would normally cause flooding, and release this water back into the river channel over a prolonged period of time. This release is often made during the winter months when low flows would normally occur. The natural flow of the river has been replaced by flows which depart significantly from natural conditions. Although the mechanisms of how the decline of the species occurred are not well documented or understood, water flow manipulation may be one of the primary reasons *H. amarus* has been extirpated from 95 percent of its historic range.

From Elephant Butte Dam downstream approximately 322 km (200 mi) to its confluence with the Rio Conchos, the Rio Grande is fully controlled by reservoir releases and irrigation return flows. Meanders, oxbows, and other components of historic riverine habitat have been eliminated. Manipulated releases now pass water as efficiently as possible for agricultural irrigation and downstream deliveries.

Growth of agriculture and cities in the Rio Grande Valley during the last century may have adversely affected the quality of the river's water. During low-flow periods, a large percentage of the river's flow consists of municipal and agricultural discharge. As a result, less water is available to dilute pollutants. This degradation of water quality may affect *H. amarus* survival. Poor water quality in the Rio Grande near Albuquerque, especially during low flows, may be a problem as low numbers of *H. amarus* and an overall reduced fish community is found there (Bestgen and Platania 1991).

Two native main stream Rio Grande fish species, the phantom shiner (*Notropis orca*) and the bluntnose shiner (*Notropis simus*) have already become extinct. The Rio Grande silvery minnow may also be threatened with extinction through the last remnant of its occupied range due to significant and continuing habitat modification and destruction.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

None known at this time. Due to the present reduced population of *H. amarus* in New Mexico, it is anticipated that New Mexico Department of Game and Fish will issue fewer and more restrictive permits to collect the species for scientific purposes.

C. Disease or Predation

When fish are forced into confined habitats due to low flow they are more susceptible to both disease and predation. Predation takes place when nonnative species including northern pike (*Esox lucius*), walleye (*Stizostedion vitreum*), white crappie (*Pomoxis annularis*), white bass (*Morone chrysops*), black and brown bullheads (*Ameiurus melas, A. nebulosus*), smallmouth bass (*Micropterus dolomieu*) and largemouth bass (*Micropterus salmoides*) are forced, during low flow or no flow, into limited habitat with *H. amarus* and other native species. Native predatory fish species including the Rio Grande club (*Gila pandora*) and bluegill (*Lepomis macrochirus*), may also prey upon subadult *H. amarus* under these circumstances. Avian and mammalian predation probably increases when *H. amarus* becomes confined in small clear water pools.

Confining fish to pools causes stress which can often result in outbreaks of parasitic disease. Most notable is the protozoan *Ichthyophthirius multifilis* (ich) which can be stress-induced. External copepod parasites such as lernaea are more common among fish in confined conditions. No studies have been conducted on the impact of disease and parasites upon *H. amarus;* therefore, the significance of these threats upon existing populations of the species is not known.

Another threat to the continued existence of *H. amarus* is the introduction and spread of exotic and nonnative game fish species into its habitat. These species have been introduced primarily by State and Federal fish and wildlife management agencies in efforts to develop sport fisheries in reservoirs created by the main stream dams. They have not remained confined to the reservoirs and have become established in the river both upstream from the impoundments and downstream of the dams. Once established, these species complete with *H. amarus* for space and food, or may prey upon them. This situation is exacerbated during periods of low flow when fish in the river are crowded into limited available habitat. Under these circumstances, the more predatory nonnative and exotic species prey upon native fishes including *H. amarus*.

D. The Inadequacy of Existing Regulatory Mechanisms

The State of New Mexico lists *H. amarus* as an endangered species, Group 2 (New Mexico State Game Comm., 1985), which are those species

"* * * whose prospects of survival or recruitment within the State are likely to be in jeopardy within the foreseeable future." This listing provides the protection of the New Mexico Wildlife Conservation Act (Section 17–2–37 through 17–2–46 NMSA 1978) and prohibits taking of such species except under the issuance of a scientific collecting permit. The protection afforded to the species by the State does not provide protection to the habitat upon which the species depends.

New Mexico water law does not include provisions for acquisition of instream water rights for protection of fish and wildlife and their habitats. This has been a major factor affecting the survival of species dependent upon the presence of instream flow.

State Game and Fish regulations in New Mexico allow the use of live minnows, including those brought into the State from other drainages, for sport fishing. This practice has encouraged the spread of bait fish species, one of which, the plains minnow, is known to have completely replaced *H. amarus* in the Pecos River.

E. Other Natural or Man-made Factors Affecting its Continued Existence

The only existing population of *H. amarus* continues to be threatened by annual dewatering of a large percentage of its habitat. This dewatering is primarily the result of diversion of river flow for agriculture within the Middle Rio Grande Valley. During a year when an average, or above average, amount of water is available, the impacts of the diversions are not severe. During a below average water-year, the river channel may be dry from Isleta Diversion Dam downstream approximately 179 km (111 mi) to the headwaters of Elephant Butte Reservoir for two months or more. When two below average flow years occur consecutively, a short lived species such as *H. amarus* can be severely affected, if not completely eliminated from the dry reaches of river.

During the 94 years for which flow records have been maintained for the Middle Rio Grande, it is not unusual for the 246 km (153 mi) reach of the Rio Grande from the Angostura Diversion Dam downstream to the reservoir to experience periods of zero flow. Even before construction of main stream dams the Middle Rio Grande frequently experienced periods of zero flow. During such periods, it is suspected *H. amarus* survived in areas where irrigation return flows re-entered the river, in the pools formed by water leaking through the gates of the diversion dams, and in the irrigation ditches and drains. Some *H. amarus* probably survived in the reaches of stream above the diversions where their offspring could repopulate downstream reaches when conditions permitted.

Construction of main stream dams and impoundments stocked with nonnative fish, improved water delivery systems extending reaches of no flow in the river bed, and greater load of contaminants have exacerbated conditions. These conditions have decreased *H. amarus* populations to critically low levels.

In 1979, Cowley discovered the introduction of plains minnow (*H. placitus*) into the Pecos River drainage, New Mexico, from collections made as early as 1968, and also recognized the disappearance of native *H. amarus*. The last known collections of *H. amarus* from the Pecos River took place in 1968 near Roswell, New Mexico. These same collections verified the first specimens of *H. placitus* from the river. It is suspected, because of the widespread use of *H. placitus* as a commercial bait species, that its introduction into the Pecos River was the result of release of bait fish by anglers.

In 1958, in an effort to meet Rio Grande Compact water delivery requirements, the Bureau of Reclamation constructed a 96 km (60 mi) long conveyance channel from San Acacia to Elephant Butte Reservoir. The purpose of the conveyance channel is to divert all flow less than 57 m^3/s (2,000 ft^3/s) in order to prevent loss of the Rio Grand flow to seepage and evaporation from the aggraded riverbed. The conveyance channel has seldom been operated to its full capacity. If however, the channel were to be operated at full capacity, the natural stream bed downstream of San Acacia would have been dry more frequently and for longer periods of time. Both the Corps of Engineers and the Bureau of Reclamation are drafting plans to rehabilitate and protect the channel in order to bring it into full operation. Such actions will increase the likelihood of more frequent and longer periods of no flow in the river stretches essential to *H. amarus* survival.

In determining to propose this rule, the Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species. The Service conducted a review of the status of the species and took into account efforts by the state and other agencies to protect the species. Based on this evaluation, the preferred action is to list the Rio Grande silvery minnow (*Hybognathus amarus*) as endangered. A decision to take no action would constitute failure to properly classify this species pursuant to the Endangered Species Act and would exclude it from protection of the Act. This action is appropriate because of the significantly reduced range and declining abundance of the species, and because of the remaining threats to this fish and its habitat. Without Federal protection, *H. amarus* can be expected to become extinct in the foreseeable future.

Critical Habitat

Critical habitat, as defined by section 3 of the Act means:

(i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and;

(ii) Specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat is being proposed for Rio Grande silvery minnow to include the main stream of the Rio Grande from the bridge crossing of State Highway 22 immediately south of Cochiti Dam, Sandoval County, New Mexico, downstream to the Atchison Topeka and Santa Fe Railroad crossing of the river near San Marcial, Socorro County, New Mexico. A more precise description of the proposed critical habitat is included in the "Proposed Regulations Promulgation" section.

The area proposed as critical habitat for *H. amarus* is the only area where reproduction is known to occur and all life stages of the species have been collected in the recent past. As such, the proposed area is the only known area remaining within the species historic range that contains physical characteristics required for the species to spawn successfully, rear young and recruit adults to the wild population. Constituent elements of critical habitat required to sustain *H. amarus* in the wild include:

—Stream morphology that supplies sufficient flowing water to provide food and cover needed to sustain all life stages of this fish,

—Water quality to prevent water stagnation (elevated temperatures,

decreased oxygen, carbon dioxide build-up, etc.), and

—Water quantity to prevent formation of isolated pools that restrict fish movement, foster increased predation by birds and aquatic predators, and congregate disease causing pathogens.

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public and private) that may adversely modify such habitat or may be affected by such designation. Activities which may adversely affect the proposed critical habitat include any activity that would lessen the amount of the minimum flow or would significantly alter the natural flow regime. Such activities include but are not limited to, excessive groundwater pumping, impoundment, water diversions, and the operation of irrigation and return flow ditches. Irrigation uses greatly affect the volume of the river. Releases and diversions vary greatly and frequently result in little or no flow downstream from major diversion facilities.

Any activity that would extensively alter the channel morphology of the Rio Grande could adversely impact the proposed critical habitat. Such activities include but are not limited to, channelization, impoundment, deprivation of substrate source, and riparian destruction.

Any activity that would significantly alter the water chemistry in the Rio Grande could adversely impact the proposed critical habitat. Such activities include, but are not limited to, release of chemical or biological pollutants into the waters at a point source or by dispersed release.

The introduction, advertent or otherwise, of nonnative or exotic predatory and competitive fish species, could adversely affect *H. amarus* populations and could reduce or eliminate them within the critical habitat.

Activities that may be affected by the designation include construction, maintenance, and operation of diversion structures, use of the conveyance channel and other canals, and levee and dike construction and maintenance.

Section 4(a)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service will consider the critical habitat designation in light of all relevant information obtained before making a decision on whether to issue a final rule.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with States, and authorizes recovery plans for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being proposed or designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal actions which are expected to occur that may affect the survival of *H. amarus* include the operation and maintenance of dams and other structures which regulate the flow of water in the Rio Grande.

The Act and implementing regulations found at 50 CFR 17.21, set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale any listed species in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been illegally taken. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issue to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. This species is not in trade, and such permit requests are not expected.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species;

(4) Current or planned activities in the subject area and their possible impacts on this species; and

(5) Any foreseeable economic and other impacts resulting from the proposed designation of critical habitat.

Final promulgation of the regulations on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Albuquerque Field Office (See **ADDRESSES** above).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the New Mexico Ecological Services Field Office (see **ADDRESSES** above).

Author

The primary author of this proposed rule is Gerald L. Burton (see **ADDRESSES** above).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order, under "Fishes" to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific						
*	*	*	*	*	*	*	
Fishes.							
*	*	*	*	*	*	*	
Minnow, Rio Grande silvery	*Hybognathus amarus*	U.S.A. (NM, TX), Mexico.	Entire	E		17.95(e)	NA
*	*	*	*	*	*	*	

3. It is further proposed to amend § 17.95(e) by adding critical habitat of the Rio Grande silvery minnow, in the same alphabetical order as the species occurs in 17.11(h).

§ 17.95 Critical habitat—fish and wildlife.

(e) * * *

* * * * *

Rio Grande Silvery Minnow
(Hybognathus amarus)

New Mexico: Socorro, Valencia, Bernalillo, and Sandoval Counties. Rio Grande from the downstream side of State Highway 22 bridge crossing of the Rio Grande, immediately downstream of Cochiti Dam, extending south downstream approximately 262 km (163 mi) to where the Atchison Topeka and Santa Fe Railroad crosses the river near San Marcial, Socorro County.

BILLING CODE 4310-55-M

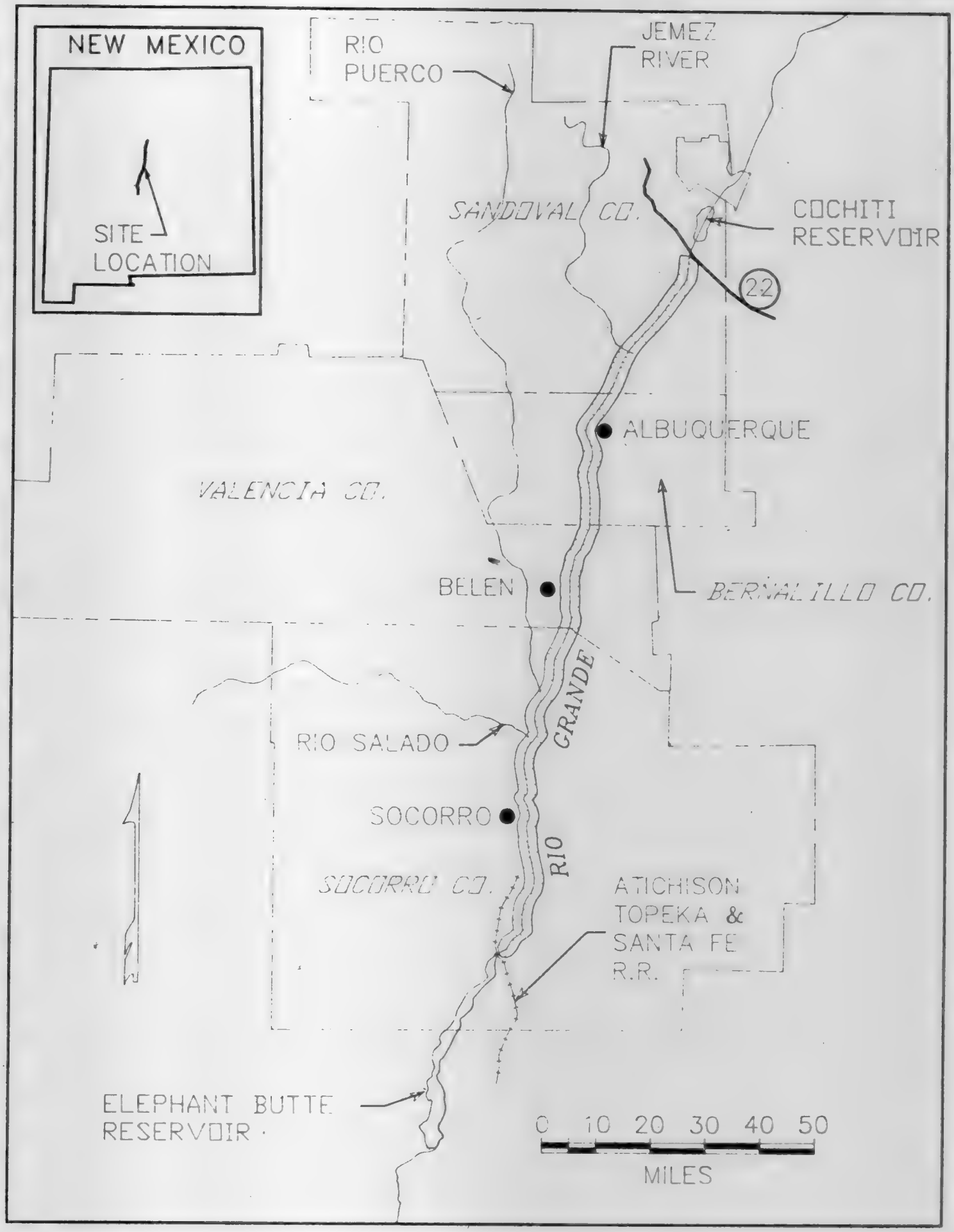

BILLING CODE 4310-55-C

Dated: December 23, 1992.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–4673 Filed 2–26–93; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 58, No. 38
Monday, March 1, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Regulation and Committee on Judicial Review; Public Meetings

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of meetings of the Committee on Regulation and the Committee on Judicial Review of the Administrative Conference of the United States.

Committee on Regulation

Date: Wednesday, March 10, 1993.

Time: 12 Noon—3 p.m.

Location: Crowell & Moring, 1001 Pennsylvania Avenue, NW., 10th Floor Conference Room, Washington, DC.

Agenda: The committee will meet to discuss a new project by Professor Douglas C. Michael, University of Kentucky, College of Law, concerning federal agency use of audited self-regulation as a regulatory technique. The committee may also discuss the status of other pending projects.

Contact: David M. Pritzker, 202–254–7020.

Committee on Judicial Review

Date: Friday, March 12, 1993.

Time: 10 a.m.–12 p.m.

Location: Wilmer, Cutler & Pickering, 2445 M Street, NW., room 8E2, Washington, DC.

Agenda: The committee will meet for further discussion a study by Professor Lawrence Baxter of Duke University School of Law, on judicial review of prompt corrective action decisions of federal banking regulators. The Committee may also discuss a pending recommendation being considered by the Committee on Rulemaking pertaining to judicial review of agency rules.

Contact: Mary Candace Fowler, 202–254–7020.

Public Participation

Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least one day in advance of the meeting. The committee chairman may permit members of the public to present oral statements at meetings. Any member of the public may file a written statement with a committee before, during, or after a meeting. Minutes of the meeting will be available on request to the contact person. The contact persons' mailing address is: Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037.

Dated: February 24, 1993.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 93–4708 Filed 2–26–93; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 93–008–1]

Availability of List of U.S. Veterinary Biological Product and Establishment Licenses and U.S. Veterinary Biological Product Permits, Issued, Suspended, Revoked, or Terminated

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to veterinary biological product and established licenses and veterinary biological product permits that were issued, suspended, revoked, or terminated by the Animal and Plant Health Inspection Service, during the month of December 1992. These actions have been taken in accordance with the regulations issued pursuant to the Virus-Serum-Toxin Act. The purpose of this notice is to inform interested persons of the availability of a list of these actions and advise interested persons that they may request to be placed on a mailing list to receive the list.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine Kitto, Program Assistant, Veterinary Biologics, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8245. For copies of the list or to be placed on the mailing list, write to Ms. Kitto at the above address.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 102, "Licenses For Biological Products," require that every person who prepares certain biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

The regulations in 9 CFR part 102 also require that each person who prepares biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold a U.S. Veterinary Biologics Establishment License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

The regulations in 9 CFR part 104, "Permits for Biological Products," require that each person importing biological products shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product Permit. The regulations set forth the procedures for applying for a permit, the criteria for determining whether a permit shall be issued, and the form of the permit.

The regulations in 9 CFR parts 102 and 105 also contain provisions concerning the suspension, revocation, and termination of U.S. Veterinary Biological Product Licenses, U.S. Veterinary Biologics Establishment Licenses, and U.S. Veterinary Biological Product permits.

Each month the Veterinary Biologics section of Biotechnology, Biologics and Environmental Protection prepares a list of licenses and permits that have been issued, suspended, revoked, or terminated. This notice announces the availability of the list for the month of December 1992. The monthly list is also mailed on a regular basis to interested persons. To be placed on the mailing list you may call or write the person designated under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 23rd day of February 1993

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93–4652 Filed 2–26–93; 8:45 am]

BILLING CODE 3410–34–M

Food and Nutrition Service

Welfare Simplification and Coordination Advisory Committee Meeting

AGENCY: Food and Nutrition Service, USDA.

ACTION: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Advisory Committee on Welfare Simplification and Coordination.

DATES AND TIMES: March 11, 12, 13, 1993 at 8:30 a.m.

ADDRESSES: Holiday Inn, 700 King Street, Wilmington, Delaware, 19801.

PURPOSE OF MEETING: Section 1778 of the Mickey Leland Memorial Domestic Hunger Relief Act (title XVII of Pub. L. No. 101–624) requires the Secretary of Agriculture to appoint, after consultation with federal, state, and local officials as well as recipient representatives, an Advisory Committee on Welfare Simplification and Coordination (Committee). The purpose of the Committee is to examine the different policies implemented in the Food Stamp Program, cash and medical assistance programs under the Social Security Act, and housing assistance programs. The Committee must consider the major reasons for differing program policies, the degree to which such differences hinder receipt of multiple program benefits, and recommend common or simplified policies to reduce difficulty in gaining access to more than one type of assistance. It must also identify policies that restrict the ability of program administrators to provide efficient, timely, and appropriate benefits to those eligible for more than one type of assistance.

The Committee is to prepare and submit a final report to specified congressional committees no later than July 1, 1993. This is the last of four meetings of the Committee. The first three were held in Arlington, Virginia, Seattle, Washington, and Charlotte, North Carolina.

The primary purpose of this Committee meeting is the review and discussion of welfare conformity issues and to observe Delaware's one-stop services.

Meetings of the Committee are open to the public. Members of the public may participate, as time permits. Members of the public may file written statements with the Committee before or after the meeting.

Persons wishing to file written statements or to obtain additional information about this meeting should contact Ellen Henigan, Supervisor, Work Program Section, Food Stamp Program, Food and Nutrition Service, USDA, 3101 Park Center Drive, room 718, Alexandria, Virginia 22302, (703) 305–2762.

Dated: February 17, 1993.

Andrew P. Hornsby, Jr.,

Acting Administrator.

[FR Doc. 93–4669 Filed 2–26–93; 8:45 am]

BILLING CODE 3410–30–M

Forest Service

Tie Hack Dam and Reservoir Project, Bighorn National Forest, Johnson County, WY; Intent to Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service gives notice that it will prepare an environmental impact statement, as required under the National Environmental Policy Act (NEPA), to consider the issuance of a Special Use Permit to the City of Buffalo, Wyoming. The City proposes to construct a roller-compacted concrete dam and reservoir on the South Fork of Clear Creek, below the confluence of Sourdough Creek, approximately 15 miles west of Buffalo, Wyoming, on National Forest System Lands administered by the Bighorn National Forest. Associated with the construction of the proposed dam and reservoir will be a 250 kilowatt hydropower plant which will be located off the National Forest, on lands owned by the City of Buffalo. The proposed dam and reservoir would inundate 63 surface acres of National Forest System Lands, and store 2,435 acre-feet of water. The decision to be made is whether or not the Bighorn National Forest will issue the requested Special Use Permit, and, if so, the conditions under which it would be issued. A permit issued by the Army Corps of Engineers under section 404 of the Clean Water Act would also be required for impacts to waters of the United States under the jurisdiction of the Army Corps of Engineers. The Forest Service invites written comments on the scope of the analysis from Federal, State, and local agencies, as well as individuals and organizations who may be interested in, or affected by, the proposed action. Agencies and the public may also participate in the environmental impact statement process through a series of public scoping meetings scheduled by the Forest Service and the City of Buffalo.

DATES: Written comments concerning the scope and implementation of this proposal should be received within 45 days of the date of publication of this notice in the **Federal Register**. Public scoping meetings are scheduled for 7:30 p.m., March 2, 1993, at the Buffalo City Hall, 46 North Main, Buffalo, Wyoming, and for 7 p.m., March 3, 1993, at the Gillette City Hall, 201 East 5th Street, Gillette, Wyoming. An agency scoping meeting is scheduled for 1:30 p.m., March 2, 1993, at the Buffalo City Hall, Buffalo, Wyoming.

ADDRESSES: Written comments should be sent to: Mr. Paul Beels, Project Coordinator, USDA Forest Service, Buffalo Ranger District, Bighorn National Forest, 300 Spruce Street, Buffalo, Wyoming 82834.

FOR FURTHER INFORMATION: Specific questions about the proposed action, and the environmental impact statement should be directed to: Mr. Paul Beels, Project Coordinator, Buffalo Ranger District, Bighorn National Forest, Phone (307) 684–7981.

SUPPLEMENTARY INFORMATION: An environmental impact statement has been deemed the appropriate level of NEPA analysis for the proposed Tie Hack Dam and Reservoir project due to the determination that this proposal has the potential to significantly affect the quality of the human environment. The EIS will be prepared by an independent consultant, BIO/WEST, Inc., through a third party relationship with the Bighorn National Forest and the City of Buffalo. Although not being prepared by the Forest Service, the EIS will be a Forest Service document, with the Forest Service acting as the lead agency. As such, the EIS will be subject to all appropriate Forest Service regulations and guidelines. The EIS will tier to the Final EIS for the Bighorn National Forest Land and Resource Management Plan (September 1985). Current management emphasis within the project area is wood fiber production and utilization (Management Area 7E), and habitat needs for wildlife (Management Area 4B).

The purpose of the proposed action is to provide municipal water to meet existing and future needs of the City of Buffalo. The need for the proposed action is demonstrated by the existing

repeated late season reduced streamflows in Clear Creek resulting in municipal water shortages. Clear Creek is the primary water supply for the City of Buffalo.

Preliminary issues identified as a result of internal review of the proposed Tie Hack Dam and Reservoir project include:

- The relocation of the existing Forest Service Tie Hack Campground.
- The relocation of the Johnson County Youth Camp.
- Inundation of wetlands at the proposed reservoir site.
- Instream flows and channel maintenance in Clear Creek.
- The effect of increased public use of the immediate and surrounding area.
- Compliance with existing visual quality objectives within the project area, as established in the Forest Plan.
- Loss of riparian habitat and the subsequent effect on fish and wildlife.
- The potential for sedimentation in the reservoir.
- The potential effect of the project on the water temperature of Clear Creek.
- The potential effect on cultural resources.

The preparation of the EIS will include an analysis of significant issues identified through internal review, agency consultation, and public scoping. The environmental analysis will consider a range of alternatives developed from the key issues. One of these alternatives will be the "No Action" alternative, required under NEPA, under which no Special Use Permit would be issued by the Forest Service for the construction of the Tie Hack Dam and Reservoir project. Other alternatives tentatively identified to be included in the EIS are the purchase of additional water rights, pumping from Lake DeSmet, development of groundwater resources, alternative reservoir sites, and water conservation methods.

The process followed in the preparation of the Draft EIS will include:

- Identification of potential issues.
- Identification of issues to be analyzed in depth.
- Elimination of insignificant issues, or those which have been covered by a relevant previous environmental analysis.
- Identification of reasonable alternatives to the proposed action.
- Identification of the potential direct, indirect, and cumulative environmental effects of each of the alternatives under consideration.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. This is scheduled for the spring of 1994.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F.Supp. 1334, 1338(E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The final environmental impact statement is expected to be released in the spring of 1995. The Forest Supervisor for the Bighorn National Forest is the responsible official for the EIS. The Forest Supervisor will make a decision regarding this proposal for a Special Use Permit, through consideration of the comments, responses, and environmental consequences discussed in the Final EIS, in addition to applicable laws, regulations, and policies. The reasons for the decision will be documented in a Record of Decision.

Dated: February 23, 1993.

Larry D. Keown,

Forest Supervisor.

[FR Doc. 93–4607 Filed 2–26–93; 8:45 am]

BILLING CODE 3410–11–M

Fox Ecosystem Restoration Project; Day and Dunning Salvage Timber Sales and Other Projects, Malheur National Forest, Grant County, OR

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an environmental impact statement.

SUMMARY: On March 29, 1991 the Forest Service, USDA, gave notice in the **Federal Register** that it was preparing an environmental impact statement (EIS) for a Forest Service proposal to implement the Day and Dunning Salvage Timber Sales and other resource management projects (56 FR 13104).

This proposal has been revised. The specific projects now include: (1) Salvage of timber; (2) development of associated road systems; (3) projects related to riparian and fisheries enhancement as mitigation measures to reduce the effects of salvage removal and road construction to anadromous fisheries habitat; (4) prescribed fire for thinning, fuel reduction, and forage enhancement; (5) plans to monitor the effects of implementing the proposed action.

DATES: Written input concerning this revised proposal must be filed by March 17, 1993.

ADDRESSES: Submit written input to District Ranger, Long Creek Ranger District, 528 E. Main Street, John Day, Oregon 97845.

FOR FURTHER INFORMATION: Direct questions about the proposed action and EIS to John Shoberg, District Ranger or Ed Casey, Interdisciplinary Team Leader, Long Creek Ranger District, 528 E. Main Street, John Day, Oregon 97845, Phone (503) 575–2110.

SUPPLEMENTARY INFORMATION: This revised project will analyze a range of ecosystem restoration projects not just two salvage timber sales. A revised EIS titled: "Fox Ecosystem Restoration Project: Day & Dunning Salvage Timber Sales and Other Projects" more accurately reflects this revised analysis process.

The proposed Day Salvage Timber Sale would harvest approximately 8,469 thousand board feet (MBF) from approximately 1322 acres. Approximately seven miles of new road construction would be required to access the timber. Proposed harvest

methods and estimated harvest volumes include: (1) Salvage harvest, 921 acres, 7,116 MBF; (2) Sanitation harvest, 64 acres, 178 MBF; (3) Clear Cut With Reserve harvest, 58 acres, 502 MBF; (4) Salvage Patch Cut harvest, 84 acres, 301 MBF; (5) Commercial Thinning harvest, 117 acres, 372 MBF; (6) Precommercial Thinning, 17 Acres; (7) Improvement Thinning with Reforestation, 12 acres. Fuels reduction, site preparation, and reforestation plans are included in harvest unit plans. Skyline and tractor yarding systems would be used to harvest the timber. The Day Salvage Timber Sale is scheduled for sell in Fiscal Year 1994. Stands proposed for harvest are located within Sections 11, 12–16, 21–23; Township 11 South; Range 30 East; and within Sections 7, 8, 17–20; Township 11 South; Range 31 East (Willamette Meridian).

The proposed Dunning Salvage Timber Sale would harvest approximately 5,185 MBF from approximately 869 acres. To access the timber, seven miles of new road construction would be required. Proposed harvest methods and estimated harvest volumes include: (1) Salvage harvest, 577 acres, 4,174 MBF; (2) Commercial Thinning harvest, 33 acres, 85 MBF; (3) Sanitation harvest, 150 acres, 894 MBF; (4) Salvage Patch harvest, 109 acres 489 MBF. Fuel reduction, site preparation, and reforestation plans are included in harvest unit plans. Skyline and tractor yarding systems would be used to harvest the timber. The Dunning Salvage Timber Sale is scheduled for sale in Fiscal Year 1994. Stands proposed for harvest are located within Sections 35, 36; Township 10 South; Range 30 East; and Sections 1, 2, 11, 12; Township 11 South; Range 30 East: and Section 6; Township 11 South; Range 31 East; (Willamette Meridian).

The mitigation measures associated with the revised proposed salvage timber sales include the following:

—Stream bank and riparian area restoration, 21 miles; fisheries habitat, 9 miles; and 12 acres of upland watershed improvement projects. These projects will be implemented in the Fox and Dunning Creek drainages.
—Establish old growth replacement habitat, preparation and implementation of an access management plan.
—Prescribed fire will be used on 932 acres for fuels reduction and thinning and on 545 acres for range and wildlife forage enhancement.
—Monitoring plans will be prepared to measure effects to riparian areas, fisheries habitat, wildlife habitat, vegetation after prescribed fire, response to salvage harvest, and visual quality.

The revised timeline now shows the draft EIS to be available for public review and comment in June 1993. The final EIS is scheduled to be completed by September 1993.

Dated: February 18, 1993.

Ralph H. Perkins,

Timber Staff Officer.

[FR Doc. 93–4598 Filed 2–26–93; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis (BEA).

Title: Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of the Operating Assets, of a U.S. Business Enterprise, including Real Estate (BE–13); and Report by a U.S. Person Who Assists or Intervenes in the Acquisition of a U.S. Business Enterprise by, or Who Enters into a Joint Venture with a Foreign Person (BE–14).

Agency Form Numbers: BE–13 and BE–14.

OMB Approval Number: 0608–0035.

Type of Request: Revision of a currently approved collection.

Burden: 1,913 hours.

Number of Respondents: 1,275.

Avg Hours Per Response: 1.5 hours.

Needs and Uses: The survey is required in order to obtain comprehensive initial data concerning new foreign direct investment in the United States. The data are needed to measure the amount of new foreign direct investment in the United States, monitor changes in such investment, assess its impact on the U.S. economy, and, based upon this assessment, make informed policy decisions regarding foreign direct investment in the United States.

Affected Public: Businesses or other for-profit institutions.

Frequency: One-time report when a transaction occurs.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Paul Bugg, (202) 395–3093, room 3228, New Executive Office Building, Washington, DC 20503.

Agency: National Institute of Standards and Technology (NIST).

Title Energy-Related Invention Evaluation Request.

Agency Form Number: NIST–1019.

OMB Approval Number: 0693–0002.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 200 hours.

Number of Respondents: 2,000.

Av Hours Per Response: 6 minutes.

Needs and Uses: NIST needs the information to evaluate inventions and communicate with the inventor. The information is used solely for evaluating the inventions submitted and in communicating with the inventor or their representative. Respondents are independent inventors and small companies with technological innovation.

Affected Public: Individuals, businesses or other for-profit institutions, small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation. Voluntary.

OMB Desk Officer: Maya A. Bernstein, (202) 395–3785, room 3235, New Executive Office Building, Washington, DC 20503.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Application to Shuck Surf Clams-Ocean Quahogs at Sea.

Agency Form Number: None.

OMB Approval Number: 0648–0240.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 2 hours.

Number of Respondents: 2 (12 responses per year).

Avg Hours Per Response: 5 minutes.

Needs and Uses: The fishery management plan for surf clams and ocean quahogs requires vessel owners to obtain approval for shucking at sea operations. Information is used to facilitate observer placement. Observers certify the amount of unshucked shellfish harvested which is used for quota management.

Affected Public: Businesses or other for-profit institutions, small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Ron Minsk, (202) 395–3084, room 3019, New Executive Office Building, Washington, DC 20530.

Agency: Patent and Trademark Office (PTO).

Title: Rules for Patent Maintenance Fees.

Agency Form Number: PTO–1536.

OMB Approval Number: 0651–0016.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 8,714 hours.
Number of Respondents: 104,569.
Avg Hours Per Response: .08 hours.
Needs and Uses: The patent number and serial number of the patent on which maintenance fees are paid are required in order to ensure proper crediting of such payments. Such payments are required to maintain a patent in effect.
Affected Public: Individuals, businesses or other for-profit institutions, federal agencies or employees.
Frequency: Every four years.
Respondent's Obligation: Required to obtain or retain a benefit.
OMB Desk Officer: Maya A. Bernstein, (202) 395–3785, room 3235, New Executive Office Building, Washington, DC 20503.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 482–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be directed to the respective OMB Desk Officer listed above.

Dated: February 23, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–4596 Filed 2–26–93; 8:45 am]

BILLING CODE 3510–CW–M

Changes in Organization and Functions During Calendar Year 1992

AGENCY: Office of the Secretary, Department of Commerce

SUMMARY: Following is a summary of Department of Commerce officials and units affected by major changes in authority, title, function, or structure during the past calendar year. Specific information on each action can be obtained by requesting a copy of the applicable Department Organization Order (DOO), also listed below.

Department Officials

Mission and Organization of the Department of Commerce:
DOO 1–1, Amendment 28, 10–14–92

Under Secretary for International Trade:
DOO 10–3, Amendment 1, 6–12–92

Assistant Secretary for Administration:
DOO 10–5, Amendment 6, 4–6–92

Office of the General Counsel:
DOO 10–6, Amendment 5, 2–25–92

Assistant Secretary For Communications and Information:
DOO 10–10, Revision, 9–28–92

Under Secretary for Technology:
DOO 10–17, Revision, 7–14–92

Assistant Secretary for Technology Policy:
DOO 10–18, Amendment 1, 7–14–92

Executive Secretariat:
DOO 15–1, Amendment 2, 10–14–92

Office of Public Affairs:
DOO 15–3, Amendment 3, 10–14–92

Office of Business Liaison:
DOO 15–13, Amendment 4, 10–14–92

Office of White House Liaison:
DOO 15–18, New, 10–14–92

Counsellor and Chief of Staff:
DOO 15–20, Revision, 10–14–92

Office of Policy Planning and Coordination:
DOO 15–22, Amendment 1, 1–14–92

Office of Budget:
DOO 20–3, Revision, 6–26–92

Director For Human Resources Management:
DOO 20–8, Revision, 4–2–92

Office of Administrative Operations:
DOO 20–9, Amendment 1, 5–26–92
DOO 20–9, Amendment 2, 8–14–92
DOO 20–9, Amendment 3, 9–18–92

Office of Inspector General:
DOO 23–1, Amendment 3, 9–21–92

Minority Business Development Agency:
DOO 25–4B, Amendment 2, 5–4–92

National Oceanic and Atmospheric Administration:
DOO 25–5, Amendment 6, 5–29–92

National Telecommunications and Information Administration:
DOO 25–7, Revision, 9–28–92:

National Institute of Standards and Technology:
DOO 30–2A, Amendment 2, 7–14–92
DOO 30–2B, Amendment 1, 7–14–92

Patent and Trademark Office:
DOO 30–3, Revision, 5–12–92

National Technical Information Service:
DOO 30–7B, Revision, 9–18–92

Bureau of the Census:
DOO 35–2B, Revision, 3–2–92
DOO 35–2B, Amendment 1, 12–23–92

International Trade Administration:
DOO 40–1, Amendment 5, 6–12–92

FOR FURTHER INFORMATION CONTACT: Sherry M. Cage, Office of Management and Organization, Department of Commerce, Room 5317, Washington, DC 20230, Telephone (202) 482–5481.

Stephen C. Browning,

Director, Office of Management and Organization

[FR Doc. 93–4563 Filed 2–26–93; 8:45 am]

BILLING CODE 3510–DR–F

Foreign-Trade Zones Board

[Order No. 630]

Resolution and Order Approving the Application of the Pinellas County Industry Council for a Foreign-Trade Zone in Pinellas County, FL

Resolution and Order

Pursuant to the authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Pinellas County Industry Council, a Florida public corporation, filed with the Foreign-Trade Zones (FTZ) Board (the Board) on March 30, 1992, requesting a grant of authority for a general-purpose foreign-trade zone in Pinellas County, Florida, within the St. Petersburg Customs port of entry, the Board, finding that the requirements of the Act and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

Approval is subject to the FTZ Act and the FTZ Board's regulations (as revised, 56 FR 50790–50808, 10/8/91), including § 400.28. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority Establishment of a Foreign-Trade Zone Pinellas County, Florida (St. Petersburg Customs Port of Entry)

Whereas, By an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, The Pinellas County Industry Council (the Grantee), a Florida public corporation, has made application (filed 3/30/92, FTZ Docket 7–92, 57 FR 11934, 4/8/92) to the Board, requesting the establishment of a foreign-trade zone at sites in Pinellas County, Florida, within the St. Petersburg Customs port of entry;

Whereas, Notice of said application has been given in the **Federal Register** and public comment has been invited; and,

Whereas, The Board has found that the requirements of the Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 193, at the sites described in the application, subject to the Act and the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), including § 400.28.

Signed at Washington, DC, this 17th day of February 1993.

Foreign-Trade Zones Board.

Ronald H. Brown

Secretary of Commerce, Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 93–4555 Filed 2–26–93; 8:45 am]

BILLING CODE 3510–DS–P

Foreign-Trade Zones Board Docket 6–93

Foreign-Trade Zone 119—Minneapolis-St. Paul, MN; Application for Subzone, Wisconsin Dairies Cooperative, Infant Formula/Dairy Products Manufacturing Plant, Preston, MN

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Metropolitan Foreign Trade Zone Commission, grantee of FTZ 119, requesting special-purpose subzone status for export activity at the infant formula/dairy products manufacturing plant of Wisconsin Dairies Cooperative (WDC), located in Preston, Minnesota. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on February 17, 1993.

The WDC plant (181,176 sq. ft./4 acres/9 employees) is located at 220 St. Paul Street, Preston (Fillmore County), Minnesota, approximately 120 miles southeast of the Minneapolis-St. Paul Customs port of entry. The facility is used to produce milk-based infant formula and other dairy food products for export and the domestic market. Activity under zone procedures would involve blending foreign, ex-quota non-fat milk powder with domestically-sourced demineralized whey and whey protein. All products would be exported. Zone procedures would exempt the company from quota requirements and Customs duty payments on the foreign milk products (HTSUS 0402.10) used in the export activity. The application indicates that subzone status would help improve WDC's international competitiveness.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been appointed examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 30, 1993. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period May 17, 1993.

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 108 Federal Building, 110 S. Fourth Street, Minneapolis, MN 55401

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Constitution Avenue, NW, Washington, DC 20230

Dated: February 19, 1993.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 93–4557 Filed 2–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[Order No. 629]

Resolution and Order Approving the Application of the City of Meridian, ID, for a Foreign-Trade Zone in Meridian, ID, (Boise Customs Port of Entry)

Proceedings of the Foreign-Trade Zones Board, Washington, DC; Resolution and Order

Pursuant to the authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of Meridian, Idaho, filed with the Foreign-Trade Zones (FTZ) Board (the Board) on March 12, 1992, requesting a grant of authority for a general-purpose foreign-trade zone in Meridian, Idaho, within the Boise Customs port of entry, the Board, finding that the requirements of the Act and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

Approval is subject to the FTZ Act and the FTZ Board's regulations (as revised, 56 FR 50790–50808, 10/8/91), including § 400.28. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority; Establishment of a Foreign-Trade Zone Meridian, ID; (Boise Customs Port of Entry)

Whereas, by an Act of Congress approved June 18, 1934, and Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the City of Meridian, Idaho (the Grantee), has made application (filed 3/12/92, FTZ Docket 6–92, 57 FR 10334, 3/25/92) to the Board, requesting the establishment of a foreign-trade zone in Meridian, Idaho, within the Boise Customs port of entry;

Whereas, notice of said application has been given in the **Federal Register** and public comment has been invited; and,

Whereas, the Board has found that the requirements of the Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 192, at the site described in the application, subject to the Act and the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), including Section 400.28.

Signed at Washington, DC, this 17th day of February 1993.

Foreign-Trade Zones Board.

Ronald H. Brown,

Secretary of Commerce, Chairman and Executive Officer.

[FR Doc. 93–4556 Filed 2–26–93; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A-201-808]

Affirmative Preliminary Determination of Critical Circumstances; Corrosion-Resistant Carbon Steel Products From Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: N. Gerard Zapiain or Robin Gray, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-3793.

Preliminary Determination

On January 26, 1993, petitioners alleged that critical circumstances exist with respect to imports of corrosion-resistant carbon steel products from Mexico. The Department of Commerce (the Department) published its preliminary determinations of sales at less than fair value in this investigation on January 26, 1993.

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind or merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Regarding requisite (A)(i) above, we normally consider whether there has been an antidumping order in the United States or elsewhere on the subject merchandise in determining whether there is a history of dumping. Regarding requisite (A)(ii) above, we normally consider margins of 25 percent or more in the case of purchase price and 15 percent or more in the case of exporter sales price, comparisons sufficient to impute knowledge of dumping. Since the preliminary dumping margins for all exporters of corrosion-resistant carbon steel products from Mexico are in excess of 25 percent, we can impute knowledge under section 733(e)(1)(A)(ii) of the Act.

With regard to requisite (B), we generally consider, pursuant to 19 CFR 353.16(f), the following factors in determining whether imports have been massive over a short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports. Because we did not receive adequate questionnaire responses, we are assuming as BIA that imports were massive over a relatively short period of time. Accordingly, we preliminarily find that critical circumstances do exist in this investigation.

We will announce the final determinations of critical circumstances along with the final antidumping determinations in this investigation on June 21, 1993.

Suspension of Liquidation

In accordance with section 733(e)(2) of the Act, we are instructing the Customs Service to suspend liquidation of all entries of corrosion-resistant carbon steel products from Mexico that are entered, or withdrawn from warehouse, on or after October 26, 1992, which is 90 days prior to January 26, 1993, the date of publication of the preliminary determination.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination.

Public Comment

Comments regarding this preliminary critical circumstances determination, if any, should be included in the case briefs, which are currently due on April 23, 1993. This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.16(b).

Dated: February 19, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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[A-533-805]

Notice of Final Determination of Sales at Less Than Fair Value: Sulfur Dyes, Including Sulfur Vat Dyes, From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Kimberly Hardin, Office of Antidumping Investigations, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0371.

Final Determination

The Department of Commerce ("the Department") determines that sulfur dyes, including sulfur vat dyes, from India are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1673d). The Department also determines that critical circumstances do not exist. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since our affirmative preliminary determination on October 19, 1992 (57 FR 48502, October 26, 1992), the following events have occurred.

On October 29, 1992, petitioner, Sandoz Chemical Corporation, submitted comments regarding the cost of production ("COP") response submitted by Atul Products Limited, respondent in this investigation. On October 30, 1992, we issued a COP deficiency letter to Atul.

On October 30, 1992, respondent requested that we postpone the final determination until February 1, 1993. On November 20, 1992, we postponed the final determination until February 1, 1993. The postponement notice was published in the **Federal Register** on December 7, 1992 (57 FR 57730).

On November 9, 1992, respondent submitted its COP deficiency response. On November 9, 1992, respondent also resubmitted its U.S. sales listing because upon review of the preliminary determination margin calculations Atul discovered that it had omitted a shipment to the United States. On December 2, 1992, respondent resubmitted clearer copies of its computer printouts. On December 10, 1992, respondent submitted diskettes containing the November 9, 1992, U.S. sales listing.

From November 16 through November 20, 1992, the Department conducted verification in Valsad, India of the questionnaire responses submitted by respondent. On December 21 and 22, 1992, the Department conducted verification in Switzerland of the questionnaire response submitted by Hain, Limited ("Hain"), a European reseller of dyes.

On December 3, 1992, we received a letter from Hickson and Dadajee,

Limited objecting to the rate assigned to it in the preliminary determination.

On December 23, 1992, respondent again requested that the Department postpone the final determination until February 19, 1993. On January 19, 1993, we postponed the final determination until February 19, 1993. The postponement notice was published in the **Federal Register** on January 27, 1993 (58 FR 6212).

On January 25, 1993, petitioner and respondent submitted case briefs. On January 27, 1993, petitioner and respondent submitted rebuttal briefs. A public hearing was held on January 28, 1993. On February 1, 1993, at the request of the Department, respondent submitted a supplemental case brief regarding the reseller's response. On February 4, 1993, petitioner submitted its rebuttal brief to respondent's supplemental case brief.

Period of Investigation

The period of investigation ("POI") is November 1, 1991, through April 31, 1992.

Scope of Investigation

The merchandise subject to this investigation is sulfur dyes, including sulfur vat dyes. Sulfur dyes are synthetic, organic, coloring matter containing sulfur. Sulfur dyes are obtained by high temperature sulfurization of organic material containing hydroxy, nitro or amino groups, or by reaction of sulfur and/or alkaline sulfide with aromatic hydrocarbons. For purposes of this investigation, sulfur dyes include, but are not limited to, sulfur vat dyes with the following color index numbers: Vat Blue 42, 43, 44, 45, 46, 47, 49, and 50 and Reduced Vat Blue 42 and 43. Sulfur vat dyes also have the properties described above. All forms of sulfur dyes are covered, including the reduced (leuco) or oxidized state, presscake, paste, powder, concentrate, or so-called "pre-reduced, liquid ready-to-dye" forms. The sulfur dyes subject to this investigation are classifiable under subheadings 3204.15.10, 3204.15.20, 3204.15.30, 3204.15.35, 3204.15.40, 3204.15.50, 3204.19.30, 3204.19.40 and 3204.19.50 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this investigation is dispositive.

Such or Similar Comparisons

We have determined for purposes of the final determination that the products covered by this investigation comprise a single category of "such or similar" merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar merchandise comparisons on the basis of: (1) Category (*i.e.*, conventional or vat); (2) color; (3) color index number; (4) type; (5) form; and (6) strength. We made adjustments for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

Transshipment

At the time of the preliminary determination, we had not received sufficient data to analyze possible transshipments of subject merchandise from Atul, through Europe, to the United States. Since the preliminary determination, we have received further information and have conducted vertification of the European reseller, Hain. Based on information submitted to the Department and information obtained at verification, we determine that some of the subject merchandise produced by Atul is being transshipped through Europe to the United States. *See* February 19, 1993 Acting Deputy Assistant Secretary memorandum decision. We have calculated a separate rate for these shipments. *See* "Foreign Market Value" and "United States Price" sections of this notice. *See* also *Comment 2.*

Fair Value Comparisons

To determine whether sales of sulfur dyes, including sulfur vat dyes, from India to the United States were made at less than fair value, we compared the United States price ("USP") to the foreign market value ("FMV"), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

Atul's Sales

For sales by Atul directly from India to the United States, we based USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation and because exporter's sales price methodology was not otherwise indicated.

We calculated purchase price based on packed c.i.f. prices to unrelated customers. We made deductions, where appropriate, for foreign inland freight, foreign brokerage and handling, ocean freight, and marine insurance.

In accordance with section 772(d)(1)(C) of the Act, we added to the USP the amount of the Central Excise Tax and Sales tax that would have been collected if the merchandise had not been exported.

Finally, in accordance with section 772(d)(1)(B) of the Act, we made an addition to USP for an import duty which was rebated or not collected by reason of exportation.

Transshipped Sales

For Hain, a European reseller of Atul's merchandise, we also based USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold by the reseller to unrelated purchasers in the United States prior to importation and because exporter's sales price methodology was otherwise indicated.

We calculated purchase price based on Hain's packed c.i.f. prices to unrelated customers and made the same type of adjustments as we did for Atul. We made deductions, where appropriate, for foreign brokerage and handling, ocean freight, and marine insurance.

Foreign Market Value

Atul's Sales

In order to determine whether there were sufficient sales of sulfur dyes, including sulfur vat dyes, in the home market to serve as a viable basis for calculating FMV for Atul, we compared the volume of home market sales of sulfur dyes, including sulfur vat dyes, to the volume of third country sales of the same products, in accordance with section 773(a)(1)(B) of the Act. Based on this comparison, we determine that Atul had a viable home market with respect to sales of sulfur dyes, including sulfur vat dyes, during the POI.

Petitioner alleged that Atul was selling in the home market at prices below the COP. Based on petitioner's allegation, we initiated a COP investigation, and requested data on the production costs of Atul. Atul's cost data were not submitted in time to be considered for the preliminary determination. However, Atul's submitted cost data were examined at verification and have been analyzed for purposes of our final determination.

To calculate COP, except as noted below, we relied on information reported by respondent. We calculated COP based on the sum of respondent's cost of materials, fabrication, general expenses, and packing. We recalculated respondent's reported labor costs based on information noted at verification. *See Comment 5.*

We compared Atul's prices for home market sales of comparison merchandise to the COPs of those sales. We found that 100 percent of these sales were at

prices above the COP. Accordingly, we used those sales for FMV. *See Comment 4.*

In accordance with 19 CFR 353.58, we compared U.S. sales to home market sales made at the same level of trade.

We calculated FMV based on packed ex-factory prices charged to unrelated customers in the home market. We deducted discounts where appropriate. We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(1) of the Act.

Pursuant to 19 CFR 353.56, we made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses. We recalculated home market and U.S. credit expenses using as the credit period the time between the date of shipment and date of payment and the interest rate in effect during the POI, as reported in Atul's response. We calculated home market credit expense on gross price less discounts. We recalculated home market credit expense, using the average credit period, on those sales for which payment had not been received as of the filing of the August 18 deficiency response. We did not deduct the cash discount from these sales because the calculated average credit days for these sales exceeded the credit terms allowing a cash discount. We deducted the advertising expense from the home market sales price.

We did not deduct the claimed warehousing expense from Atul's home market gross unit price as a direct selling expense. We normally treat pre-sale warehousing expense for merchandise which has been placed in general inventory for sale to any party as an indirect selling expense. Atul has not adequately shown that this warehousing expense is directly related to the sales subject to investigation.

We made an upward adjustment to the tax-exclusive home market prices for the taxes we computed for the USP. Further, we made an adjustment for physical differences in the merchandise, where appropriate, in accordance with 19 CFR 353.57.

Finally, in accordance with 19 CFR 353.56(b)(1), we deducted commissions from the home market prices and added U.S. indirect selling expenses to home market prices capped by the amount of home market commissions.

Transshipped Sales

For sales of merchandise from India through Europe to the United States, Hain had no sales in India, and no sales to third countries to use as the basis for FMV under section 773(a)(1) of the Act. Therefore, in accordance with section 773(a)(2) of the Act, we used constructed value (CV) as the basis for EMV.

Because Atul, not Hain, produced the subject merchandise, we relied on the cost information reported by Atul. *See Comment 2.*

We calculated CV based on the sum of Atul's cost of materials, fabrication, general expenses, profit, and packing. We recalculated respondent's reported labor costs based on information noted at verification. *See Comment 5.* Atul's actual general expenses and profits were less than the statutory minima of 10 percent and eight percent, respectively. Therefore, in accordance with section 773(e)(1)(B) of the Act, we have used the statutory minima.

Best Information Available

As noted in the preliminary determination, Hickson and Dadajee informed the U.S. consulate in Bombay that they did not desire to participate in this investigation. Therefore, in accordance with section 776(c) of the Act, we used the best information available (BIA) when calculating the rate for Hickson and Dadajee.

In determining what rate to use as BIA, the Department follows a two-tiered methodology, whereby the Department may assign lower rates for those respondents who cooperated in an investigation, but higher rates based on more adverse assumptions for those respondents who did not cooperate. *See, e.g., Final Determination of Sales at Less Than Fair Value: Aspheric Ophthalmoscopy Lenses from Japan,* 57 FR 6703, 6704 (February 27, 1992). According to the Department's two-tiered BIA methodology outlined in the *Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, Italy, Japan, Romania, Sweden, Thailand, and the United Kingdom,* 54 FR 18992, 19033 (May 3, 1989), when a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's investigation, it is appropriate for the Department to assign to that company the higher of 1) the margin alleged in the petition, or 2) the highest calculated rate of any respondent in the investigation. The dumping margin calculated for Atul was lower than the Department's recalculated petition rate of 17.55 percent which was used for purposes of initiation. Therefore, as BIA, the dumping margin assigned to Hickson and Dadajee is 17.55 percent.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

Pursuant to section 776(b) of the Act, we verified information used in reaching our final determination. We used standard verification procedures, including examination of relevant accounting records and original source documents provided by respondents.

Critical Circumstances

Petitioner alleged that "critical circumstances" existed with respect to imports of sulfur dyes, including sulfur vat dyes, from India. Section 735(a)(3) of the Act provides that critical circumstances exist when we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind or merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Regarding criteria (A)(i), above, we normally look for the existence of outstanding dumping orders on sulfur dyes, including sulfur vat dyes, from India, to establish a history of dumping. However, none have been found in this case.

Regarding criterion (A)(ii) above, we normally consider margins of 25 percent or more in the case of purchase price comparisons, and 15 percent or more in the case of exporter sales price comparisons, sufficient to impute knowledge of dumping under this section. Because the dumping margins for Atul, Hain, and Hickson and Dadajee are each less than 25 percent, we cannot impute knowledge under section 735(a)(3)(A)(ii) of the Act for these companies. Because we cannot impute knowledge of dumping, we need not examine whether there have been massive imports over a relatively short period. Therefore, in accordance with section 735(a)(3) of the Act, we determine that, for Atul, Hain, and Hickson and Dadajee, there is no reasonable basis to believe or suspect that critical circumstances exist with respect to imports of the subject merchandise from India.

With respect to firms covered by the "All Other" rate, because the dumping margin is insufficient to impute knowledge of dumping, we do not need to determine whether imports of sulfur dyes, including sulfur vat dyes, have been massive over a relatively short period. Accordingly, we determine that there is no reasonable basis to believe or suspect that critical circumstances exist for those firms.

Interested Party Comments

Comment 1

Petitioner asserts that, in accordance with the Court of International Trade's ("CIT") decision in *Daewoo Electronics Co. v. United States*, 712 F. Supp. 931 (CIT 1989) ("*Daewoo*"), the Department must determine the amount of indirect taxes that were actually passed on by Atul in its home market sales (measure tax incidence).

Petitioner also argues that the Department's adjustment to FMV to account for central excise duties and sales taxes was incorrect. The Department improperly added the amount that it calculated would have been collected on U.S. sales, rather than the taxes actually paid in the home market. This amounted to an improper circumstance-of-sale ("COS") adjustment. Petitioner maintains that there is no basis for such a COS adjustment, as the home market invoice price includes taxes. Thus, the gross price should include only the taxes actually paid on home market sales. This FMV is appropriately compared with a USP, properly increased by the indirect taxes foregone upon exportation. Alternatively, petitioner suggests that the Department not make any adjustment to USP or FMV for indirect taxes.

Petitioner notes that Atul claimed that certain excise taxes were increased and an adjustment to USP should be made based upon the increased tax rate. Petitioner contends that any increase in the tax rate by the Indian Government not collected from home market customers cannot be considered for the determination of the USP adjustment.

Respondent agrees with the Department's treatment of indirect taxes in this case. Even though the taxes may be an addition to the home market price, they are included in the price charged by Atul and, thus, the customers bear the taxes. Respondent argues that the statute requires an adjustment to USP and states that all tax rates incurred by Atul are those which it reported to the Department in its questionnaire responses.

DOC Position

We do not agree that the statutory language, limiting the amount of adjustment to the amount of tax "added to or included in the price" of subject merchandise sold in the Indian home market, requires the Department to measure the home market tax incidence. The CIT's decision in Daewoo currently is being appealed to the Court of Appeals for the Federal Circuit. Based on the records reviewed, we are satisfied that the tax was added to the price on the home market sales.

We also disagree with petitioners that there is no basis for a COS adjustment to FMV for differences in indirect taxes. We do a COS adjustment in order to neutralize the effect of the *ad valorem* tax rate, relying on the Department's broad statutory authority to make adjustments for such differences in the COS. As stated in *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, et al.*, 57 FR 28,360, 28,419 (1992), "because all home market sales were reported net of VAT, we added the same [indirect tax] amount to FMV as calculated for U.S. price. This methodology leads to the same result as if we had calculated the actual home market tax and then performed a COS adjustment to FMV to eliminate the difference between the tax in each market."

Regarding the increase in the tax rate, the actual rates applicable to POI sales were examined at verification and are reflected in the calculations.

Comment 2

The statute sets up a dichotomy between transshipped sales and intermediate country sales to the United States. In the latter case, the intermediate country is treated as the country of export for FMV purposes. Petitioner maintains that Atul's sales to European customers, which ultimately sell the merchandise to the United States, are merely transshipments. According to petitioner, these third country sales cannot be considered "intermediate country sales" pursuant to section 773(f) of the Act and, therefore, FMV must be based on Atul's home market sales prices and USP on Atul's export sales prices to the reseller in the third country. Petitioner argues that only under specifically defined conditions may such third country sales be considered intermediate country sales and the sales do not meet those conditions.

Petitioner argues that section 773(f)(2) of the Act requires that the manufacturer or producer be unaware of the country to which the reseller intends to export the merchandise from the home market. The term "country" is defined in section 771(3) of the Act as a "foreign country"—not the United States. Petitioner claims that Atul is aware of the exportation to the intermediate country, and the alleged reseller, Hain, does not export the merchandise to a foreign country. Thus, the second criterion of the statute is not met.

Furthermore, petitioner argues that the resold merchandise does not meet the fourth criterion, *i.e.*, of section 773(f)(4) of the Act, that the merchandise "enter the commerce of [the intermediate] country." Petitioner contends that the term "enters the commerce" requires that the merchandise under consideration be sold or offered for sale for consumption in the intermediate country. Petitioner claims that no evidence has been presented which would support a finding that the merchandise has entered the commerce of an intermediate country, in fact, the merchandise exported from India arrives in a free trade zone and is "transshipped" to the United States.

Petitioner also alleges that Atul's sales to the European transshipper were below the COP. Furthermore, petitioner submits that a transshipper's price to the United States cannot form the basis of USP where the transshipper does not meet the criteria of an intermediate country "reseller" under section 773(f) of the Act.

Petitioner suggests that even if the Department determines that Hain is a reseller, USP must be based on Atul's price for export since Atul was aware of the ultimate destination of the merchandise. Petitioner argues that because (1) Atul has knowingly attempted to conceal the country of origin of its exports through the use of neutral packing, (2) the importer was aware of the identity of the producer, and (3) the merchandise is exported to a duty-free bonded warehouse for shipment out of the third country to the United States, the Department should impute knowledge of the ultimate destination of merchandise to Atul. In addition, petitioner suggests that in view of Atul's failure to disclose the third of these facts, the Department should resort to BIA regarding the third country transshipments.

Respondent states that it did not know at the time of sale the ultimate destination of merchandise sold to the European resellers. Its third country sales are not "more transshipments," but *bona fide* third country sales, and should not be considered in the fair value determination. Respondent states

that while it sold sulfur black concentrate through a reseller to Hain, it has repeatedly certified that it did not know, or have any reason to know, the ultimate disposition of the merchandise. Respondent asserts that nothing at the India or Hain verification contradicted this.

Respondent claims that it had never even heard of the U.S. importer, C.H. Patrick, until this investigation and, similarly, C.H. Patrick stated it only learned of the Indian source of its merchandise because it had to respond to inquiries from the International Trade Commission (ITC). Respondent states that (1) petitioner has acknowledged a worldwide market for unreduced sulfur dye concentrate, (2) Atul's concentrate could be used globally without being reduced by solubilizers, and (3) the third party reseller in the intermediate country distributes dyestuffs worldwide. Accordingly, there is no reason why Atul would have known the ultimate destination of its third country sales of concentrate, and the requirement of section 773(f)(2) of the Act is met.

Respondent argues that, if its third country sales of concentrate are included in the Department's analysis, the FMV must be based on sales in the intermediate country. Pursuant to section 773(f)(1) of the Act, respondent submits that the verification report recognizes that the consignee, Hain, is, for all intents and purposes, buying from the producer, not an intermediary reseller who essentially functions, and is characterized in the verification report, as a selling agent.

Respondent states that the criterion of section 773(f)(4) is also satisfied. Its European sales enter the commerce of the third country and, even though such sales enter a free trade zone, there remains a "contingency of diversion" out of the zone into that country.

Respondent concludes that it is Hain, not the respondent, which is responsible for the sale of the sulfur black concentrate to the United States and which sets the price to the U.S. customer. Thus, respondent states that it would be entirely appropriate for Hain to be considered a reseller for purposes of section 773(f) of the Act.

Respondent submits that even if Atul's sales form the basis of FMV, Hain's sales should form the basis for USP as Atul did not know the ultimate destination of the goods sold to the transshipper.

DOC Position

We agree with petitioner that these sales do not qualify for consideration under section 773(f) of the Act. As discussed above, the European reseller, Hain, who purchases from a reseller in a country other than India, does not purchase the merchandise from the manufacturer and hence, fails to meet the requirement of section 773(f)(1) of the Act.

Also, the merchandise does not enter the commerce of the intermediate country and hence fails to meet the requirements of section 773(f)(4) of the Act.

Verification showed that all of Atul's exports of the subject merchandise to Hain, the European reseller, were transshipped through Belgium to the United States. We did not find that any of the merchandise sold to Hain entered the commerce of Belgium. The fact that Hain imports the merchandise into a duty-free zone in Belgium, from which there remains a "contingency of diversion" into Belgium, is not sufficient evidence that this merchandise entered the commerce of Belgium. In a recent case, *Preliminary Determination of Sales at Less Than Fair Value: Ferrosilicon from Kazakhstan* 58 FR 79 (January 4, 1993), we relied partially on the fact that merchandise entered a bonded warehouse as evidence that the merchandise did not enter the commerce of a third country. We agree with petitioner that storage in a duty-free bonded warehouse in Belgium is *prima facie* evidence that the merchandise did not enter the commerce of an intermediate country.

Although these sales do not qualify as sales from an intermediate country pursuant to section 773(f) of the Act, they nevertheless are subject to this investigation because they involve the subject merchandise produced in India and, ultimately, imported into the United States. We must determine whether these sales were made at less than fair value (LTFV). To do so, we have treated the European reseller the same way we would treat a reseller in the home market. The fact that the reseller is located in another country does not fundamentally change the nature of the transactions for purposes of LTFV comparisons.

We used the European reseller's prices to the United States as USP, as we would for a reseller located in India, in accordance with section 772(b) of the Act. The European reseller had no sales in India, nor sales to third countries as defined in section 773(a)(1)(B) of the Act, to use as the basis for FMV under section 773(a)(1) of the Act. Accordingly, we used CV as the basis for FMV in accordance with section 773(a)(2) of the Act.

As CV, we used the cost of manufacture reported by Atul because Atul, not Hain, produced the subject merchandise. We also added the general expenses and profit of Atul as directed by section 773(e)(1)(B) of the Act. However, because these were both less than the statutory minima of 10 and eight percent, respectively, we used the statutory minima.

Comment 3

If the Department determines that the USP for the transshipped merchandise should be based upon Hain's price to its U.S. customer, petitioner asserts that the sales information submitted by Hain cannot be used as a basis for USP because Hain failed to serve the responses upon petitioner as required by the regulations. Petitioner states that this has resulted in it being effectively prevented from participating in the intermediate country investigation. Petitioner states that the transshipper should be treated like any other respondent, *i.e.*, if the transshipper fails to provide information in accordance with the regulations and fails to serve the information on petitioner in accordance with the regulations, the sales information must be treated as a non-response for the purposes of determining USP and FMV. Petitioner claims that the information can only be used to determine Atul's relationship with the transshipper.

Petitioner also argues that the Department should resort to BIA for the sales from Atul through Hain because the company failed verification. Petitioner asserts that the Hain verification report cites various discrepancies and Hain's inability to reconcile submitted data with the company's finance statements. Petitioner notes a discrepancy in the verfication report with respect to movement charges on which petitioner cannot comment as it was not served with the Department's deficiency letter. Finally, with respect to indirect selling expenses, petitioner states that Hain was unable to provide source documents that could be tied to the audited 1991 financial statement.

Respondent submits that any alleged verification or service deficiencies on the part of the European reseller should have no impact on the margin analysis for respondent because the European reseller is an unrelated customer of respondent. Therefore, Atul's sales to the transshipper should have no impact on the calculation of Atul's margin.

DOC Position

We disagree with petitioner. The submissions by Hain have been served

on petitioner and petitioner was provided an opportunity to submit case and rebuttal comments on the submissions. The discrepancies noted in the Hain verification report are minor and we have followed our normal practice of correcting these. Morever, we agree with respondents that any deficiencies found in the European reseller verification should not affect Atul's margin because we have determined that there is no relationship between the firms.

Comment 4

Petitioner submits that its COP allegation was made within the 45 days prior to the preliminary determination and, therefore, there is no basis for the Department rejecting the allegation.

Respondent claims, however, that the COP investigation should not have been initiated because petitioners allegation was untimely. Respondent states that its responses prior to August 3, 1992, the deadline for filing a COP allegation based on the original date for the preliminary determination, contained all the data necessary for petitioner to formulate the same COP allegation made on August 20, 1992. Respondent alleges that as part of an attempt to salvage its tardy allegations, petitioner filed a request for a 30 day postponement of the preliminary determination simultaneously with its COP allegation. In fact, the COP allegations were used by petitioner as a partial justification for postponement, even though the time for the COP allegations would have lapsed but for the postponement. Respondent submits that such circular reasoning cannot be applied in this case when petitioner possessed all of the COP information it would later use and elected not to file an earlier request for the extension for COP allegations specifically provided in the regulations.

Finally, respondent states that the verification mandates a finding that the subject merchandise was sold in the home market at prices above COP. Respondent submits that when the price realized by Atul, inclusive of the returnable packing charge and the finance charge billed by Atul (which is a separate, additional invoice line item over and above the price), is compared with the COP as calculated pursuant to the Department's methodology under 19 CFR 353.51(c), the only conclusion which may be drawn is that there are no sales below cost. Respondent also states that the record is devoid of any evidence in support of finding that sales below cost (1) have been made over any extended period and in substantial quantities; and (2) are not at prices which permit recovery of all costs within a reasonable period in the normal course of trade.

Respondent also requests that the Department allow it to file comments on the results of any COP investigation. Not doing so would mean that Atul's first and only recourse to make its position known on the COP results would be in a judicial forum.

DOC Position

Regarding the timeliness of petitioner's COP allegation, we disagree with respondent. In the *Notice of Postponement of Preliminary Antidumping Duty Determination: Sulfur Dyes, Including Sulfur Vat Dyes, from India* (57 FR 41125, September 9, 1992), we indicated that petitioner made a timely request for a thirty day postponement of the Department's preliminary determination and we postponed the preliminary determination accordingly. Because the preliminary determination was postponed, petitioner's allegation was timely in accordance with 19 CFR 353.31(c)(1)(i).

The respondent's comment with respect to whether the record contains sufficient evidence to support a finding of below cost sales is moot. We found all home market sales above the COP.

Regarding returnable packing, we disagree with respondent. During verification there was a discussion concerning this issue and Atul claimed that the drums used in packing these products were said to be returnable. However, review of the inventory records and Atul's customer-specific receivable accounts revealed no evidence to indicate that any packing drums were returned during fiscal year 1991. Moreover, there is no evidence on the record that any revenue from returnable packing exists, or affects the prices of the merchandise sold in India.

Finally, regarding pre-final determination disclosure, it is our normal practice to disclose the results of the COP investigation simultaneously with the final determination. Petitioner in this case, as in many cases, needed to wait until respondents questionnaire responses were filed before making a COP allegation. Thus, we were unable to complete our COP investigation prior to the preliminary determination in this case. The sequence of events almost always allows insufficient time for parties to comment prior to the final determination, something that cannot be avoided given the statutory deadlines and requirements. Therefore, we were unable to solicit comments from respondent on the COP results prior to the final determination.

Comment 5

Petitioner claims that Atul has understated the direct labor portion of its COP. Also, petitioner states that total fiscal 1991 salary and welfare expenses were understated due to Atul's failure to properly include the costs actually incurred as the result of a labor settlement agreement. Petitioner submits that these costs, although paid in Atul's 1992 fiscal year, constitute part of its actual 1991 labor costs. Petitioner also states that in addition to increasing Atul's 1991 salary and welfare expense, the Department must also increase Atul's salary and welfare expenses of all internally supplied inputs used to produce the covered products.

Respondent disagrees with any retroactive application to 1991 production of payroll expense incurred pursuant to a labor settlement reached after fiscal year 1992. Respondent claims that although the labor settlement was retroactive to 1991, the additional salary and welfare benefits were actually paid and recorded in the 1992 fiscal year.

DOC Position

We agree with petitioner. The COP verification revealed that total payroll expense was greater in one exhibit than the salary and welfare expenses reported in another exhibit. Discussions revealed that the difference was due to an anticipated labor settlement in fiscal year 1991. Atul officials had thought that the settlement would increase their actual salary and welfare costs in fiscal 1991, however, since the settlement was not reached until after fiscal year 1991, Atul included only the salary and welfare costs actually incurred in fiscal year 1991 in their 1991 audited financial statements and questionnaire response. We found that the agreement was retroactive to January 1, 1991, and, subsequently, Atul disclosed all payments made under the agreement that were relevant to its 1991 fiscal year. Thus, Atul did actually incur additional salary and welfare benefits relevant to 1991 fiscal year production although they were paid in fiscal year 1992. Accordingly, we have increased the salary and welfare expenses reported for the subject merchandise and the salary and welfare expense of all internally supplied inputs used to produce the subject merchandise.

Comment 6

Petitioner states that Atul's cost for the single most expensive purchased input is substantially below Indian market price and may reflect related-party transactions between Atul and two

of its suppliers. Petitioner suggests that if the Department finds that Atul is sourcing this primary raw material input from a related party at prices below market, then pursuant to section 773(e)(2) of the Act, the Department should disregard such prices and value this input using BIA.

Respondent argues that petitioner's claims that Atul's costs for the input are below Indian market price, or reflect related party transactions are unfounded speculation.

DOC Position

We agree with respondent. There is no information on the record, nor was any uncovered at verificaton, showing that Atul was sourcing the raw material from a related party at below-market prices. Accordingly, we have not disregarded the price for this input.

Comment 7

Petitioner submits that the revised COP for the home market comparison product is significantly higher than Atul's reported home market sales price. Petitioner suggests that Atul's profit is indicative of sales below COP. Petitioner alleges that FMV must be based upon constructed value, calculated in accordance with petitioner's suggested adjustments.

DOC Position

We disagree with petitioner. *See* the *Foreign Market Value* section.

Comment 8

Petitioner states that Atul has no basis for requesting the Department to disregard the "air shipment" sale. Petitioner states that, as Atul itself admits, the sale to the United States was in the ordinary course of trade and transportation arrangements were changed because of a delay in an earlier shipment by Atul to its U.S. customer. Petitioner alleges that the delay in the previous shipment to its U.S. customer was occasioned by and within the complete control of Atul. Thus, petitioner argues that should Atul's U.S. customer be dissatisfied with the product for any particular reason, Atul could rebate or refund part of the purchase price. Petitioner asserts that, in such a situation, the Department would not ignore the rebate in calculating USP.

Respondent states that the Department should exclude the "air shipment" sale because that sale is not representative of Atul's selling practices in the U.S. market and would result in an unfair comparison. Moreover, the air shipment was the only U.S. sale for which a dumping margin was found. Respondent states that due to the exigencies surrounding this shipment, it was obliged to take the extraordinary step of breaking up a pre-existing order for a full container load and to immediately ship the designated quantity to its U.S. customer by air. Atul claims that all of its other U.S. sales during the POI were by ocean carrier, which is the usual method of shipment for this class of merchandise. Respondent notes that air freight costs for this shipment were ten times that of the average, or even the highest, ocean freight charge reported. The foreign brokerage charge was 90 times the average, and 80 times the highest, foreign brokerage charge incurred on Atul's other U.S. sales.

Respondent claims that the Department has the discretion to exclude U.S. sales from the comparison with FMV where such sales are unrepresentative of the seller's U.S. sales behavior and would result in an unfair comparison. Respondent notes that 19 CFR 353.42(b)(1) gives the Department discretion not to examine every sales transaction of a respondent during the POI.

Respondent states that if the Department does not exclude the air shipment, it should substitute the average ocean freight and foreign brokerage charges incurred on Atul's other U.S. sales for the air freight and foreign brokerage charges incurred on the air shipment. Alternatively, respondent suggests that the highest ocean freight and brokerage charges be applied to the air shipment.

DOC Position

We agree with petitioner and have included the air shipment in the fair value comparison. We disagree with the respondent that we should substitute average charges from other transactions in preference to the actual expense incurred for this sale.

Comment 9

Respondent argues that the Department improperly treated Atul's U.S. sales that were made above fair value as merely being at fair value and that the negative margins for Atul's sales should be included in the Department's calculation of the weighted-average dumping margin. Respondent asserts that all U.S. sales involved were the same merchandise and were sold at the same price. Respondent claims that the margin on the loan less than fair value sale can be directly traced to a non-price factor, the aberrationally high freight charges.

DOC Position

We disagree with respondent. For purposes of making LTFV determinations under the Act, we do not consider negative margins in our calculations. Thus, in accordance with 19 CFR 353.2(f)(2), we have calculated the weighted-average dumping margin by "* * * dividing the aggregated dumping margins by the aggregated United States prices."

Comment 10

Respondent states that the Department erred by offsetting the deduction for home market commissions with U.S. indirect selling expenses. Respondent claims that the offset is improper as it completely eliminates a direct selling expense in the form of home market commissions through an adjustment to FMV for indirect U.S. selling expenses. Respondent states that such as offset to FMV for indirect selling expenses may properly be applied only in situations where U.S. price is based on exporter's sales price. Respondent claims that it is well-settled that COS adjustments are limited to direct selling expenses, *e.g.*, commissions. Respondent submits that the Department's "special rule" goes on to provide for adjustments for other selling expenses (*i.e.*, indirect selling expenses) where an adjustment is made for commissions in one market only, up to the amount of the commissions or "other" selling expenses, whichever is less. 19 CFR 353.56(b)(1). However, respondent claims that application of the special rule is improper in this investigation involving purchase price comparisons. First, respondent states that the Department's action completely eliminates the deduction of a direct selling expense which is required pursuant to section 773(a)(4)(B) of the Act. Second, respondent alleges that the Department's offset is accomplished by means which run afoul of the statute; neither the antidumping statute nor judicial decisions authorize adjustment to FMV for indirect selling expenses in a purchase price-to-FMV margin comparison. Rather, respondent assets, the antidumping statute expressly limits those cases where an adjustment may be made for indirect selling expenses to ESP situations.

DOC Position

We disagree with respondent and have deducted commissions from the home market prices and added U.S. indirect selling expenses to the home market price capped by the amount of home market commissions in accordance with section 19 CFR

353.56(b)(1). We disagree with respondent that the statute and regulations limit the application of the "special rule" to exporter's sales price comparisons. On the contrary, section 773(a)(4) of the Act in general, and 19 CFR 353.56(b)(1) specifically, give the Department authority to make these adjustments.

Comment 11

Respondent states that because the reported international freight charges were overstated (*i.e.*, calcuated on the basis of net, rather than gross, weight), the Department should recalculate USP to take into account the correct charges.

Respondent submits that, with the exception of the air shipment, the Department should apply the verified foreign brokerage amount for all of Atul's U.S. sales as the amounts reported exceeded the actual charges.

DOC Position

We agree with respondent and have used the actual freight and foreign brokerage charges noted in the verification report.

Comment 12

Respondent claims that the Department verified two separate ways to arrive at per unit U.S. inventory carrying costs, both of which confirmed that the amount reported was significantly overstated. Respondent submits that the method reviewed as part of the COP verification is more accurate as it is the actual year-end figure taken directly from Atul's year-end audited financial statements. Respondent states that the Department should adopt the method reviewed in the context of the COP verification.

DOC Position

We disagree with respondent. While the exhibit from the cost verification report noted by respondent does contain a figure for inventory carrying cost, this figure was not specifically examined during the cost verification. As such, we have used the figure verified during the course of the sales verification.

Comment 13

Although respondent reported a uniform cash discount taken against total invoice value for all home market sales, the Department verified that the rate varied according to the date of payment by Atul's customer. Respondent claims that the Department should apply the verified rates in the final determination.

DOC Position

We agree with respondent and have used the discount applicable to each sale in accordance with payment terms.

Comment 14

Respondent asserts that the Department's preliminary determination computer program failed to note that the state sales tax varied from 4.0 to 4.8 percent. Accordingly, respondent suggests that in the final determination, the Department should modify the computer program so that the 4.8 percent sales tax rate is applied in connection with all home market sales within Gujarat state.

DOC Position

We have adjusted the program to account for the actual tax rate applicable to sales according to the customer's location.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of sulfur dyes, including sulfur vat dyes, from India, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the amount by which the foreign market value of the subject merchandise exceeds the United States price as shown below. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin (percent)	Critical circumstances
Atul Products Limited	2.75	No.
Hickson and Dadajee, Limited.	17.55	No.
Hain from Atul Products Limited.	5.49	No.
All Others	8.59	No.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)) and 19 CFR 353.20.

Dated: February 19, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–4561 Filed 2–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–427–603]

Brass Sheet and Strip From France; Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on brass sheet and strip from France. Interested parties who object to this revocation must submit their comments in writing not later than March 31, 1993.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Anna T. Milone, Beth Chalecki, or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–1009 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 6, 1987, the Department of Commerce ("the Department") published a countervailing duty order on brass sheet and strip from France (52 FR 6996). The Department has not received a request to conduct an administrative review of this countervailing duty order for four consecutive annual anniversary months.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than March 31, 1993, interested parties, as defined in § 355.2 (i)(3, (i)(4), (i)(5), and (i)(6) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties neither request an administrative review (pursuant to the Department's notice of opportunity to request administrative review), nor object to the Department's intent to revoke by March 31, 1993, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: February 23, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–4685 Filed 2–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–351–029]

Certain Castor Oil Products From Brazil; Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on certain castor oil products from Brazil. Interested parties who object to this revocation must submit their comments in writing not later than March 31, 1993.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Anna T. Milone, Beth Chalecki, or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 16, 1976, the Department of Commerce ("the Department") published a countervailing duty order on certain castor oil products from Brazil (41 FR 8634). The Department has not received a request to conduct an administrative review of this countervailing duty order for four consecutive annual anniversary months.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than March 31, 1993, interested parties, as defined in § 355.2 (i)(3), (i)(4), (i)(5), and (i)(6) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties neither request an administrative review (pursuant to the Department's notice of opportunity to request administrative review), nor object to the Department's intent to revoke by March 31, 1993, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: February 23, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–4683 Filed 2–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–508–601]

Oil Country Tubular Goods From Israel; Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on oil country tubular goods from Israel. Interested parties who object to this revocation must submit their comments in writing not later than March 31, 1993.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Anna T. Milone, Lorenza Olivas, or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–1775 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 6, 1987, the Department of Commerce ("the Department") published a countervailing duty order on oil country tubular goods from Israel (52 FR 6999). The Department has not received a request to conduct an administrative review of this countervailing duty order for four consecutive annual anniversary months.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than March 31, 1993, interested parties, as defined in § 355.2 (i)(3), (i)(4), (i)(5), and (i)(6) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties neither request an administrative review (pursuant to the Department's notice of opportunity to request administrative review), nor object to the Department's intent to revoke by March 31, 1993, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: February 23, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–4686 Filed 2–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–507–501]

In-Shell Pistachios From Iran Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on in-shell pistachios from Iran. Interested parties who object to this revocation must submit their comments in writing not later than March 31, 1993.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–0983 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 11, 1986, the Department of Commerce ("the Department") published a countervailing duty order on in-shell pistachios from Iran (51 FR 8344). The Department has not received a request to conduct an administrative review of this countervailing duty order for more than four consecutive annual anniversary months.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than March 31, 1993, interested parties, as defined in § 355.2(i) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties neither request an administrative review (pursuant to the Department's notice of opportunity to request administrative review), nor object to the Department's intent to revoke by March 31, 1993, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: February 22, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–4558 Filed 2–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–122–603]

Standard Carnations From Canada; Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on standard carnations from Canada. Interested parties who object to this revocation must submit their comments in writing not later than March 31, 1993.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–0983 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 12, 1987, the Department of Commerce ("the Department") published a countervailing duty order on standard carnations from Canada (52 FR 7645). The Department has not received a request to conduct an administrative review of this countervailing duty order for more than four consecutive annual anniversary months.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than March 31, 1993, interested parties, as defined in § 355.2(i) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties neither request an administrative review (pursuant to the Department's notice of opportunity to request administrative review), nor object to the Department's intent to revoke by March 31, 1993, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: February 22, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–4559 Filed 2–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–337–601]

Standard Carnations From Chile; Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on standard carnations from Chile. Interested parties who object to this revocation must submit their comments in writing not later than March 31, 1993.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup, Cameron Cardozo, or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–0983 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 19, 1987, the Department of Commerce ("the Department") published a countervailing duty order on standard carnations from Chile (52 FR 3313). The Department has not received a request to conduct an administrative review of this countervailing duty order for four consecutive annual anniversary months.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of

Commerce will conclude that an order is not longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than March 31, 1993, interested parties, as defined in § 355.2 (i)(3), (i)(4), (i)(5) and (i)(6) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties neither request an administrative review (pursuant to the Department's notice of opportunity to request administrative review), nor object to the Department's intent to revoke by March 31, 1993, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: February 23, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–4684 Filed 2–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–489–502]

Certain Welded Carbon Steel Pipe and Tube Products From Turkey; Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on certain welded carbon steel pipe and tube products from Turkey. Interested parties who object to this revocation must submit their comments in writing not later than March 31, 1993.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Anna T. Milone, Lorenza Olivas, or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–1775 or 482–2687.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 1986, the Department of Commerce ("the Department") published a countervailing duty order on certain welded carbon steel pipe and tube products from Turkey (51 FR 7984). The Department has not received a request to conduct an administrative review of this countervailing duty order for more than four consecutive annual anniversary months.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than March 31, 1993, interested parties, as defined in § 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties neither request an administrative review (pursuant to the Department's notice of opportunity to request administrative review), nor object to the Department's intent to revoke by March 31, 1993, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance w th 19 CFR 355.25(d)(4)(i).

Dated: February 23, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–4687 Filed 2–26–93; 8:45 a m]

BILLING CODE 3510–DS–M

Minority Business Development Agency

Business Development Center Applications: El Paso MBDC Project I.D. No. 06–10–93006–01

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as $184,260 in Federal funds. An audit fee of $4,607 has been added to the Federal amount. The total funding breakdown is as follows: $188,867 Federal and $33,329 non-Federal for a total of $222,196. The period of performance will be from July 1, 1993 to June 30, 1994. The MBDC will operate in the El Paso, Texas MSA geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application

must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget period. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance, with OMB Circular A–129, "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR Part 26. The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law. All applicants are subject to a name check review.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreement" and CD–511, the "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" is required in accordance with section 319 of Public Law 101–121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered by Transactions and Lobbying".

Closing Date: The closing date for applications is April 2, 1993. Applications must be postmarked on or before April 2, 1993.

Note: Please mail completed application to the following address: Dallas Regional Office, 1100 Commerce St., Room 7B23, Dallas, Texas 75242.

FOR ADDITIONAL INFORMATION REGARDING THIS APPLICATION: Dallas Regional Office, 1100 Commerce Street, Room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara, (214) 767–8001.

Requests for application kit must be in writing.

A pre-bid conference will be held on March 12, 1993 in the Earl Cabell Federal Building, room 7B23, on 1100 Commerce Street, Dallas, Texas at 10 a.m.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(Catalog of Federal Domestic Assistance 11.800 Minority Business Development)

Dated: February 23, 1993.

Melda Cabrera,

Regional Director, Dallas Regional Office.

[FR Doc. 93–4656 Filed 2–26–93; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Atlantic Sea Scallop Fishery; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings and request for comments.

SUMMARY: The New England Fishery Management Council (Council) will hold public hearings to receive comments on Amendment 4 to the Atlantic Sea Scallop Fishery Management Plan (FMP). The amendment proposes to change the primary management strategy from a meat-count management system to an effort control program.

DATES: Written comments should be submitted on or before April 26, 1993, to the address below. See **SUPPLEMENTARY INFORMATION** for dates, times and locations of the hearings.

ADDRESSES: Written comments should be sent to Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906. Clearly mark the outside of the envelope "Request for Sea Scallop Amendment 4 public hearing document."

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, (617)–231–0422.

SUPPLEMENTARY INFORMATION: Amendment 4 has been under development for over 4 years in order to address a number of problems with meat-count controls and to develop a better means of reaching the FMP's yield per recruit and other biological objectives. Although recruitment to both the Georges Bank and Mid-Atlantic stocks has been moderate to excellent in recent years, fishing mortality has been high and the recruiting age classes have been fished down soon after entry into the fishery. Fishing at the current rate is expected to eventually drive the stocks to low levels, since it is unlikely that exceptional recruitment will continue. The Council is considering several alternative proposals for inclusion in Amendment 4.

Proposed Management Measures and Preferred Alternative

A. Moratorium

A permit moratorium would cap the number of vessels that fish for scallops. Access would be restricted to those vessels with Federal scallop permits and scallop landings in excess of 400 pounds (181.4 kg) of scallop meats on any trip recorded in either the 1988 or 1989 NMFS weighout database or in the state weighout databases. Other criteria would apply to new vessels, rerigged vessels and boats that are replaced or upgraded. There would be restrictions on permit transfer and ownership, a requirement to report intent to participate in the fishery on either a full or part-time basis and a process to appeal denial of a permit.

B. Fishing Effort Reductions

Total days at sea fished by vessels in the Atlantic sea scallop fishery would be reduced equally each year for 5 years with a 1-year pause in years 3 and 6. If fishermen significantly improve their fishing power as days-at-sea reductions are imposed, the reduction schedule may be adjusted and replaced by a more restrictive schedule. Alternately, there may be smaller reductions in days at sea in a given year if other restrictions such as limits on crew size and gear modifications further reduce fishing power. The amendment would establish a procedure for the review and subsequent adjustment of the fishing effort reduction schedule.

C. Vessel Categories and Specific Allocation

Qualifying scallop vessels (using any gear) would be separated into two groups consisting of full and part-time vessels. The part-time fleet would be further divided. Part-time scallopers who fish less than 38 days per year would be characterized as occasional participants and would be assigned an average of 18 days at sea annually in year 1. The remaining group, the part-time scallopers who fish between 38 and 150 days, would receive an average of 92 days at sea in year 1. There would be a cap of 205 days at sea for full-time fleet during the first year, followed by a reduction in those days (11–14 percent) for years 2, 4, 5 and 7. Similar reductions would be imposed on the occasional and part-time fleets. The assignment of vessels to each group would be based on historical performance of the vessel during the period 1985 through 1990.

D. Other Measures

To address the absence of age-at-entry controls in the new amendment, a 3¼-inch (83-mm) ring size requirement in the scallop dredge is proposed for the first 2 years of the program with an increase to 3½-inches (89 mm) in year 3. Other gear restrictions would apply to both dredges and trawls. Additional measures under consideration include a maximum crew size of nine, including the captain; a prohibition on the use of shucking and sorting machines for shuckers; continuation of the 12-hour offloading windows and the 3½-inch (89 mm) shell height standard; and annual permit and mandatory reporting requirements for vessels, operators, and first purchasers.

Alternatives Under Consideration

The public hearing document and draft supplemental environmental impact statement (SEIS) will also include alternatives to the number of days allocated to different vessel categories: (1) A limit on the days at sea based on historical days at sea for 22 groups of vessels instead of three groups, thereby allowing the days-at-sea limits to reflect more accurately actual fishing patterns; (2) an adjustable trip limit with a fixed number of layover days; and (3) a fixed trip limit with an adjustable number of layover days.

The hearings are scheduled as follows:

1. March 4, 1993, 7 p.m.—Grand Hotel, Oceanfront & Philadelphia Ave., Cape May, NJ;

2. March 5, 1993, 7 p.m.—Holiday Inn, 1813 W. Mercury Blvd., Hampton, VA;

3. March 6, 1993, 1 p.m.—District Superior Court Room, W. 2nd St., Washington, NC;

4. March 8, 1993, 7 p.m.—Tara Hyannis, West End Circle, Hyannis, MA;

5. March 10, 1993, 7 p.m.—Holiday Inn, U.S. Rt. 1 & Bar Harbor Rd., Ellsworth, ME;

6. March 12, 1993, 1 p.m.—Seaport Inn, 110 Middle St., Fairhaven, MA.

Dated: February 24, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–4622 Filed 2–24–93; 11:53 am]

BILLING CODE 3510-22-M

Marine Mammals; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Modification of scientific research permit no. 679 (P77#34).

Notice is hereby given that pursuant to the provisions of §§ 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 679 (P77#34) issued to NMFS, Southwest Fisheries Science Center, P.O. Box 271, LaJolla, CA 92038, on August 4, 1989 is modified to extend the effective date through December 31, 1994.

This modification became effective upon signature.

Documents pertaining to this Modification and Permit are available for review in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910, (301–713–2289); and

Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802 (310–980–4016).

Dated: February 19, 1993.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–4595 Filed 2–26–93; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Issuance of public display permit No. 814.

SUMMARY: On Tuesday, October 27, 1992, notice was published in the **Federal Register** (57 FR 208) that an application (P526) had been filed by the Cornish Seal Sanctuary, Gweek, Cornwall TR12 6UG, England, United Kingdom. A public display permit was requested to obtain one California sea lion (*Zalophus californianus*). On Friday, November 6, 1992, a correction to that notice was published in the **Federal Register** (57 FR 216) to provide notification that the permit was being requested to obtain two California sea lions (*Zalophus californianus*).

Notice is hereby given that on February 19, 1993, as authorized by the provisions of the Marine Mammal Protection Act, the National Marine Fisheries Service issued a permit for the above activities subject to the special conditions set forth therein.

The permit is available for review by appointment by interested persons in the following offices:

Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, room 7330, SSMC1, Silver Spring, Maryland 20910, (301) 713–2289; and Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, MA 01930 Tel: (508) 281–9200.

Dated: February 19, 1993.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–4597 Filed 2–26–93; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board of the C–141 Service Lifetime Extension Program will meet on 17–19 Mar 1993 from 8:00 AM to 5 PM at ANSER Corporation, Arlington, VA.

The purpose of this meeting is to receive briefings, hold discussions and begin report writing on projects related to C–141. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–4619 Filed 2–26–93; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Hydrogen Technical Advisory Panel; Notice of Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, as amended), notice is hereby given of the following advisory committee meeting:

NOTICE: Hydrogen Technical Advisory Panel (HTAP).

DATES AND TIMES: Tuesday, March 23, 1993, 12:30 p.m.–5:30 p.m. Wednesday, March 24, 1993, 9 a.m.–3:30 p.m.

PLACE: Sheraton Washington Hotel, 2660 Woodley Road at Connecticut Avenue, NW, Washington, DC 20008, Telephone: (202) 328–2000.

CONTACT: Russell Eaton, Designated Federal Official, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 586–1506.

PURPOSE: The Hydrogen Technical Advisory Panel will advise the Secretary of Energy who has the overall management responsibility for carrying out the programs under the Matsunaga Hydrogen Research, Development, and Demonstration Program Act of 1990, Pub. L. 101–566. The Panel will review and make any necessary recommendations to the Secretary on the following items: (1) The implementation and conduct of programs required by the Act, (2) the economic, technological, and environmental consequences of the deployment of hydrogen production and use systems, and (3) the contents of the comprehensive 5-year program required by the Act.

Tentative Agenda

Tuesday, March 23, 1993

12:30 p.m. Introductions, All
1:15 p.m. Opening Remarks/Agenda, Chm. J. Birk, EPRI
1:30 p.m. DOE Report, R. Eaton
2:15 p.m. Old Business, H_2, CO_2, biomass, liquid fuels, etc. other, F. Lynch
2:45 p.m. Break
3:13 p.m. Hydrogen Vision Statement, Chm. J. Birk
3:35 p.m. Refine and Endorse Hydrogen Vision, All
4:15 p.m. Public Comments
5:30 p.m. Adjourn

Wednesday, March 24, 1993

9:00 a.m. DOE Fuel Cells for Transportation Program
9:30 a.m. Discussion of Fuel Cell Program
10:15 a.m. Break
10:45 a.m. Combustion of Fossil Fuels with Hydrogen
11:15 a.m. Discussion of Above
12:00 p.m. Lunch, All
1:00 p.m. Hydrogen R&D Program, W. Hoagland
1:30 p.m. Hydrogen R&D Plans, W. Hoagland
2:00 p.m. Hydrogen R&D Needs Roundtable
3:15 p.m. Action Items; Next Meeting
3:30 p.m. Adjourn

PUBLIC PARTICIPATION: The meeting is open to the public. The Chairman of the HTAP is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business.

Any member of the public who wishes to make an oral statement (10 minutes or less) pertaining to agenda items should contact the Designated Federal Officer at the address or telephone number listed above. Requests must be received before 3 pm (E.D.T.) Tuesday, March 16, 1993, and reasonable provision will be made to include the presentation during the public comment period. It is requested that oral presenters provide 15 copies of their statements at the time of their presentations.

Written testimony pertaining to agenda items may be submitted prior to the meeting. Written testimony must be received by the Designated Federal Officer at the address shown above before 5 pm (E.D.T.) Tuesday, March 16, 1993, to assure it is considered by Task Force members during the meeting.

MINUTES: A transcript of the open, public meeting will be available for public review and copying approximately 30 days following the meeting at the Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9 am and 4 pm, Monday through Friday except Federal holidays.

Issued: Washington, DC, on: February 24, 1993.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 93–4659 Filed 2–26–93; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[FE Docket No. 93–04–NG]

Crestar Energy Marketing Corp.; Ordering Granting Blanket Authorization To Import and Export Natural Gas From and To Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Crestar Energy Marketing Corp. blanket authorization to import and export up to a total of 50 Bcf of natural gas from and to Canada over a two-year term beginning on the date of the first delivery.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

Issued in Washington, DC, February 16, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–4658 Filed 2–26–93; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Health and Environmental Research Advisory Committee; Notice of Open Meeting

Under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

NAME: Health and Environmental Research Advisory Committee (HERAC)

DATE AND TIME: March 18, 1993—9 a.m.–5 p.m.

PLACE: Conference Room A–410, U.S. Department of Energy, Germantown, Maryland 20585.

CONTACT: Murray Schulman, Office of Health and Environmental Research (ER–70), Office of Energy Research, U.S. Department of Energy, Washington, DC 20585, Telephone: 301/903–3338.

PURPOSE OF THE COMMITTEE: To provide advice on a continuing basis to the Director of Energy Research of the Department of Energy (DOE), on the many complex scientific and technical issues that arise in the development and implementation of the Health and Environmental Research (HER) program.

TENTATIVE AGENDA: Briefings and discussions of:

- New Business
- HER Current Program Activities
- Proposed New Charges for HERAC
- Public Comment (10 minute rule)

PUBLIC PARTICIPATION: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Murray Schulman at the address or telephone number listed above. Requests to make oral statements must be received 5 days prior to the meeting; reasonable provision will be made to include the statement in the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

TRANSCRIPTS: The transcript of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on February 24, 1993.

Marcia M. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 93–4660 Filed 2–26–93; 8:45 am]

BILLING CODE 6450–01–M

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

NAME: High Energy Physics Advisory Panel (HEPAP).

DATE AND TIME: Wednesday, April 7, 1993, 12:30 p.m.–6 p.m.; Thursday, April 8, 1993, 9 a.m.–4 p.m.

PLACE: U.S. Department of Energy, 1000 Independence Avenue, SW., room 1E–245, Washington, DC.

NOTE: Entry to the building will be permitted with picture I.D. (For example, Driver's License, Passport, or Company I.D.). Cameras and recording devices are not permitted in the building. Department of Energy (DOE) property passes are required for computers.

CONTACT: Dr. Enloe T. Ritter, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER–221, GTN, Washington, DC 20585, Telephone: (301) 903–4829.

PURPOSE OF PANEL: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

TENTATIVE AGENDA:

Wednesday, April 7, 1993 and Thursday, April 8, 1993

—Discussion of National Science Foundation (NSF) Elementary Particle Physics Programs and Budgets
—Discussion of Department of Energy (DOE) High Energy Physics Programs and Budgets
—Discussion of Department of Energy Superconducting Super Collider (SSC) Project Activities and Budgets
—Discussion of Planning for Operations of High Energy Physics Accelerator Laboratories in FY 1994
—Reports on and Discussions of Topics of General Interest in High Energy Physics
—Public Comment

PUBLIC PARTICIPATION: The meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

MINUTES: Available for public review and copying at the Public Reading Room, room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on February 24, 1993.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 93–4657 Filed 2–26–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER92–777–001, et al.]

Carolina Power & Light Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

February 22, 1993

Take notice that the following filings have been made with the Commission:

1. Carolina Power & Light Co.

[Docket No. ER92–777–001]

Take notice that on November 23, 1992, Carolina Power & Light Company tendered for filing its refund report in the above-referenced docket.

Comment date: March 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Public Service Electric and Gas Co.

[Docket No. ER93–32–000]

Take notice that on October 20, 1992, Public Service Electric and Gas Company (PSE&G) tendered for filing an Initial Rate Schedule to provide transmission service to American REF–Fuel Company of Essex County (REF–FUEL) for delivery of the power output of REF–FUEL's independent power facility located in Newark, New Jersey to the Jersey Central Power & Light Company, as well to provide for operation and maintenance of the interconnection facility. In response to discussions with Commission Staff, PSE&G on December 21, 1992 submitted the First Supplemental Agreement and additional descriptive and explanatory information concerning the

interconnection facilities which will be used to provide service to REF–FUEL.

In response to further Commission Staff inquiry, PSE&G on February 17, 1993 submitted a schedule depicting the breakdown of the cost of the interconnection facility which will be used in connection with the services set forth in the First Supplemental Agreement.

PSE&G proposes an effective date of the Initial Rate Schedule as of March 15, 1993, and therefore, requests waiver of the Commission's notice requirements.

Copies of the filing, as amended, have been served on REF–FUEL, the New Jersey Board of Regulatory Commissioners and the New Jersey Public Advocate.

Comment date: March 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

Wisconsin Electric Power Co.

[Docket No. ER93–283–001]

Take notice that on February 8, 1993, Wisconsin Electric Power Company tendered for filing its refund report in the above-referenced docket.

Comment date: March 8, 1993, in accordance with Standard paragraph E at the end of this notice.

4. Louisville Gas and Electric Co.

[Docket No. ER92–533–000]

Take notice that on February 12, 1992, Louisville Gas and Electric Company (LG&E) tendered for filing the following revised rate schedules: (1) Generation Sales Service (Rate Schedule GSS), (2) Firm Transmission Service (Rate Schedule T), and (3) Coordination Transmission Service (Rate Schedule CT).

In the filing, the above-mentioned rate schedules were amended to comply with the Commission's Order dated January 14, 1993, in Docket No. ER92–533–000.

A copy of the filing was served upon the Kentucky Public Service Commission and the Indiana Utility Regulatory Commission.

Comment date: March 8, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Power and Light Co.

[Docket No. ER93–138–000]

Take notice that on February 16, 1993, Wisconsin Power and Light Company tendered for filing additional information in response to questions from Commission Staff in the above-referenced docket.

Comment date: March 8, 1993, in accordance with Standard Paragraph E end of this notice.

6. New England Power Co.

[Docket No. ER93–379–000]

Take notice that on February 17, 1993, New England Power Company (NEP) tendered for filing three service agreements for additional service to UNITIL Power Corporation under NEP's FERC Electric Tariff, Original Volume No. 3. According to NEP, the agreements contemplate the transmission of power which UNITIL plans to purchase from NEP.

Comment date: March 8, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Northeast Utilities Service Co.

[Docket No. ER93–297–000]

Take notice that on February 16, 1993, Northeast Utilities Service Company (NUSCO), submitted supplemental information in regard to a Capacity, Transmission and Energy Service Agreement between CL&P and Green Mountain Power Corporation (GMP) and a Bulk Power Service Agreement between CL&P and Bozrah Light and Power Company, filed with the Commission on December 23, 1992.

NUSCO renews its request that the Commission waive its standard notice periods and filing regulations to the extent necessary to permit the rate schedule change to become effective no later than February 1, 1993.

NUSCO states that copies of this rate schedule have been mailed or delivered to each of the parties.

NUSCO further states that the filing is in accordance with Section 35 of the Commission's regulations.

Comment date: March 8, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. San Diego Gas & Electric Co. v. Tucson Electric Power Co. and Century Power Corp.

[Docket No. EL93–19–000]

Take notice that on February 11, 1993, San Diego Gas & Electric Company (SDG&E) tendered for filing a complaint against Tucson Electric Power Company (Tucson) and Century Power Corporation (Century) and moves for an order on summary disposition directing Tucson and Century to refund certain amounts that they improperly billed SDG&E in violation of the Ten Year Power Sale and Interconnection Agreement entered into by SDG&E and Tucson on November 29, 1978, and assigned by Tucson to Century effective November 1, 1984.

Comment date: March 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Northeast Utilities Service Co.

[Docket No. ER93–219–000]

Take notice that on February 16, 1993, Northeast Utilities Service Company (NUSCO), tendered for filing supplemental information regarding construction of modifications to the Western Massachusetts Electric Company's distribution system on behalf of Chicopee Municipal Lighting Plant.

NUSCO requests that the Commission waive its standard notice periods and filing regulations to the extent necessary to permit the rate schedule change to become effective on January 16, 1993.

NUSCO states that copies of this rate schedule have been mailed or delivered to each of the parties.

NUSCO further states that the filing is in accordance with Section 35 of the Commission's regulations.

Comment date: March 8, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4573 Filed 2–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 710–000 Wisconsin]

Wisconsin Power and Light Co.; Availability of Environmental Assessment

February 23, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the

existing Shawano Hydroelectric Project, located on the Wolf River in Shawano and Menominee Counties, near the City of Shawano, Wisconsin, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff analyzed the environmental effects of the existing project and has concluded that approval of the application for subsequent license, with appropriate enhancement measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4639 Filed 2–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 1553–001, et al.]

Hydroelectric Applications; Paramount Communications Inc., et al.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1. *a. Type of Application:* Surrender of License.

b. Project No: 1553–001.

c. Date Filed: December 11, 1992.

d. Applicant: Paramount Communications Inc.

e. Name of Project: Fall Creek.

f. Location: On Fall Creek, a tributary of Eagle River, in Eagle County, Colorado, within White River National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Thomas P. Humphrey, Esquire, Davis, Graham & Stubbs, 1200 Nineteenth Street, NW., suite 500, Washington, DC 20036–2402, (202) 822–8660.

i. FERC Contact: Donald Wilt, (202) 219–2676.

j. Comment Date: April 8, 1993.

k. Description of Project: The facilities of the constructed project include: (1) A gated concrete diversion wall; (2) a short diversion ditch; (3) a concrete intake box; (4) a 2,885-foot-long pipeline; (5) a powerhouse with an installed capacity of 360 kW; and (6) appurtenant facilities.

Licensee states that power generated from the project was used in mining operations at the Eagle Mine and was not sold commercially. Because the mining operation has been closed, the project is no longer economically feasible to operate. The licensee has been cooperating with various federal and state agencies to restore the site to its original state. The license was issued on January 13, 1977, and would have expired June 27, 2000.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

2. *a. Type of Application:* Subsequent License.

b. Project No.: 2552–007.

c. Date Filed: November 26, 1991.

d. Applicant: Central Maine Power Company.

e. Name of Project: Fort Halifax Project.

f. Location: On the Sebasticook River, Kennebec County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Gerald C. Poulin, Central Maine Power Company, Edison Drive, Augusta, ME 04336, (207) 623–3521.

i. FERC Contact: Robert Bell (RB) (202) 219–2806.

j. Comment Date: Initial Comments March 29, 1993; Reply Comments May 13, 1993.

k. Status of Environmental Analysis: This application is ready for environmental analysis at this time—see attached standard paragraph D9.

l. Description of Project: The existing project consists of: (1) A concrete Ambursen dam about 552.75 feet long and 29 feet high, having from south to north, (a) a non-overflow abutment section about 80.5 feet long with one 4-foot by 3-foot slide gate; (b) a spillway section about 351.75 feet long controlled by 4-foot-high pin supported flashboards; and (c) an intake/powerhouse section about 120.5 feet long with waterwheel flume; (2) a concrete retaining wall about 30 feet long located adjacent to the powerhouse section; (3) a brick powerhouse containing two turbine-generator units with a total installed capacity of 1500-kW; (4) a tailrace; (5) a transmission line; and (6) appurtenant facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant owns all the existing project facilities.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: A4 and D9.

o. Available Location of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC, 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Central Maine Power Company, 34 Anthony Avenue, Augusta, ME 04330, (207) 623–3521.

3. *a. Type of Application:* New License.

b. Project No.: 2616–004.

c. Date Filed: December 18, 1991.

d. Applicant: Niagara Mohawk Power Corporation.

e. Name of Project: Hoosic River Project.

f. Location: On the Hoosic River in Rensselaer and Washington Counties, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Jerry L. Sabattis, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202, (315) 428–6215.

i. FERC Contact: Robert Bell (202) 219–2806.

j. Comment Date: April 8, 1993.

k. Status of Environmental Analysis: This application is accepted for filling but, is not ready for environmental analysis at this time—see attached standard paragraph E1.

j. Description of Project: The proposed project consists of the following two developments:

Johnsonville Development

The existing Johnsonville Development's principal features consist of a dam structure, intake and forebay structures, a powerhouse, sluice gate structure, and appurtenant facilities and equipment. The existing development has a generator capacity of 4.8 megawatts (MW), a hydraulic capacity range of 380 to 1,288 cubic feet per second (cfs), and an average annual generation of about 14,600 megawatt-hours (MWh).

The applicant has proposed to change the existing operation of storage and release peaking to storage and release pulsing.

In detail, the project is described as follows:

1. A concrete gravity dam, 529 feet in length, varying in height from 13 feet high at the south abutment to 39 feet high at the north abutment. The entire length of the dam is topped with 2.5 foot-high trippable wooden flashboards;

2. A sluice gate structure measuring 44 feet wide by 39 feet long by 47 feet high incorporating four cast iron sluice gates measuring 9 feet high by 6 feet wide;

3. A 54-foot-wide by 48-foot-long concrete intake structure consisting of

(a) two bays each measuring 20.5 feet by 33 feet high and housing a duplex turbine unit; and (b) a concrete forebay structure measuring 80 feet by 54 feet;

4. A powerhouse 84 feet wide by 38 feet long by 48 feet high, equipped with two turbine-generating units. The turbines are horizontal double runner Francis turbines. The turbines were originally rated at 3400 HP at 38 feet of head but downrated to 2100 HP at 34 feet of head, because of head losses associated with an old design draft tube/chest utilized at the plant. Two synchronous type GE generators are rated at 2,400-kW. The two units have a combined hydraulic capacity range of 380 to 1,288 cubic feet per second (cfs) and an average annual generation of 14,600 megawatt-hours (MWh). The powerhouse has a gross head of 38 feet.

5. An impoundment having (a) a surface area of 450 acres; (b) an existing useable storage capacity of 1,150 acre-feet and a proposed increased capacity of 540 acre-feet; and (c) a normal headwater elevation of 346.0 feet msl and a tailwater elevation of 307 feet msl;

6. Appurtenant facilities.

7. There are no transmission lines included in the project.

Schaghticoke Development

The existing Schaghticoke Development's principal features consist of a dam structure, waste gates, canal intake structure, an intake canal, a pipeline intake and ice sluice, a pipeline, a surge tank, penstocks, a powerhouse, and appurtenant facilities. The existing development has an existing generator capacity of 15.1 megawatts (MW), and with an upgraded existing generator with proposed waterwheel conversion total a capacity would be 16.4 MW. In addition, the development has an existing hydraulic capacity range of 360 to 1,640 cubic feet per second (cfs), a proposed hydraulic capacity range of 360 to 1,670 cfs (Niagara Mohawk will limit hydraulic capacity to 1,470 cfs due to generator restrictions), and an average annual generation of about 68,300 megawatt-hours (MWh).

The applicant has proposed to change the existing operation of storage and release peaking to storage and release pulsing. The applicant would maintain within the bypass reach a year-round minimum flow of 10 cfs and a baseflow below the powerhouse of 40 cfs. The consulting agencies requested a year-round minimum flow between 130 to 160 cfs.

In detail, the project is described as follows:

1. A concrete gravity dam, 700 feet in length, varying in height from 12 feet to 28 feet. The entire length of the dam is topped with 2.5 foot-high trippable wooden flashboards;

2. A waste gate structure measuring 30 feet long by 25 feet wide by 34 feet high and incorporates two timber gates measuring 9 feet high by 6 feet wide;

3. A concrete canal intake structure measuring 20.5 feet long by 82.5 feet wide by 19.5 feet high consisting of eight openings each measuring nine feet high by six feet wide, each serviced by a cast iron gate;

4. An intake canal cut into rock (trapezoidal in section) measuring 2,300 feet in length and 15.6 feet deep under normal operating conditions; the canal is generally 19 feet wide at the bottom, and ranges from 28 feet to 48 feet wide at the top;

5. A pipeline intake structure located at the end of the intake canal that measures 53 feet long by 33 feet high by 73 feet wide and consists of: (a) four 14-foot-high by 5.8-foot-wide openings which converge into a 12.5-foot-diameter, 870-foot-long steel pipeline; (b) a concrete ice sluice structure measuring 40.5 feet long by 20 feet wide by 27 feet high and incorporates a ten foot wide opening to pass ice and trash;

6. A steel surge tank measuring 40 feet in diameter by 50 feet high, is the terminus of the 12.5 foot diameter steel pipeline;

7. Steel penstocks, located at the exit of the steel surge tank described as follows: (a) four penstocks measuring 6.5 feet in diameter by 320 feet long each service a hydroturbine; and (b) a fifth penstock measuring two feet in diameter by 350 feet long, formerly used for waterwheel exciters in the powerhouse;

8. A powerhouse, 55 feet wide by 156 feet long by 77.5 feet high, equipped with four turbine-generating units. The turbines are vertical Francis turbines manufactured by Pelton, and are rated at 6,300 HP but, due to head loss, only have a capability of 5500 HP at 146 feet head. The four GE generators vary in size. Unit 1 is rated 3,280 kW, while Units 3 and 4 are rated 4,264 kW. Unit 2 will be rewound and have an upgraded power capacity of 4,264 kW from its current 3,280 kW capacity. The four units have a combined hydraulic capacity range of 460 to 1640 cfs. In addition, the two existing water wheel exciters will be refurbished to provide the proposed base flow. The water wheel exciters include two Pelton-type turbines rated at 300 HP at 146 feet head. Proposed generators for the water wheel exciters include two induction type generators rated at 150 kW. The water wheel exciters have a combined hydraulic capacity of 30 cfs. The powerhouse has a gross head of 153 feet and an average annual generation of 68,300 megawatt-hours (MWh).

9. An impoundment having (a) a surface area of 198 acres with flashboards in place; (b) a useable storage capacity of 480 acre-feet; and (c) a normal headwater elevation of 267.35 feet msl;

10. Appurtenant facilities.

11. There are no transmission lines included in the project.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act. Based on the expiration of December 31, 1993, the Applicant's estimated net investment in the project would amount to $6,409,461.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. Available Location of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3140, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202 or by calling (315) 428–6215.

4. *a. Type of Application:* Approval of Plan for Construction of Recreation Facilities.

b. Project No: 2645–040.

c. Date Filed: January 8, 1993.

d. Applicant: Niagara Mohawk Power Corporation.

e. Name of Project: Beaver Falls Project.

f. Location: Beaver River, Lewis County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Gregg Carrington, Niagara Mohawk Power Corporation, 300 Erie Boulevard, Syracuse, NY 13202, (315) 428–5583.

i. FERC Contact: Heather Campbell, (202) 219–3097.

j. Comment Date: April 5, 1993.

k. Description of Project: The Niagara Mohawk Power Corporation, licensee for the Beaver River Project, requests Commission approval of a plan to construct recreation facilities at the Soft Maple/Effley and High Falls developments. The proposed plan consists of constructing parking facilities and access points at the Soft

Maple/Effley pond and at High Falls Pond.

l. This notice also consists of the following standards paragraphs: B, C, and D2.

5. *a. Type of Application:* Major License.

b. Project No: 5772–002.

c. Date Filed: July 8, 1983.

d. Applicant: City of Augusta, Georgia.

e. Name of Project: Augusta Canal Water Power Project.

f. Location: On the Savannah River, Richmond County, Georgia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Charles T. Dillard, 701 Municipal Building, Augusta, GA 30911, (404) 821–1706.

i. FERC Contact: Michael Dees, (202) 219–2807

j. Deadline Date: Initial Comments March 29, 1993; Reply Comments May 11, 1993.

k. Status of Environmental Analysis: This application is ready for environmental analysis at this time—see attached standard paragraph D9.

l. Description of Project: The proposed project would consist of: (1) An existing stone masonry dam 1,666 feet long and 11.5 feet high; (2) an existing reservoir; (3) an existing section of the Augusta Canal; (4) four proposed concrete penstocks, 14 feet by 14 feet square and 550 feet long; (5) a proposed powerhouse containing two 7.5 MW hydropower units; (6) a proposed tailrace structure approximately 250 feet long; (7) a proposed 115-kV transmission line 2,000 feet long; and (8) appurtenant facilities. The estimated annual energy production is 90.5 GWh. Project energy would be sold to Oglethorpe Power Corporation.

m. This notice also consists of the following standard paragraphs: A4, and D9.

n. Available Location of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371.

6. *a. Type of Application:* Amendment of Exemption.

b. Project No: 6274–002.

c. Date Filed: 12/23/92.

Applicant: Herbert H. Beckwith.

e. Name of Project: Paradise Irrigation District Project 'C'.

f. Location: On the Paradise Irrigation District's water supply pipeline in Butte County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Herbert Beckwith, 776 Bush Street, Apt. 203, San Francisco, CA 94108, (415) 397–3134.

i. FERC Contact: Michelle Laabs, (202) 219–3274.

j. Comment Date: March 29, 1993.

k. Description of Amendment: Mr. Herbert Beckwith requests to amend the exemption for the Paradise Irrigation District Project 'C'. The amendment will add two existing units located at site 'D' to the project. They are located approximately ⅓ mile downstream from site 'C'. Additionally, the amendment will also add on existing unit located the site 'C'. The exemption as amended will consist of two units at site 'D' rate at 40 hp each (60 kW total equivalency) and two units at site 'C' rated at 20 hp and 40 hp (45 kW total equivalency), for a total project capacity of 105 kW.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

7. *a. Type of Application:* Major License.

b. Project No.: 10981–000.

c. Date filed: July 31, 1990.

d. Applicant: Bangor Hydro-electric Company.

e. Name of Project: Basin Mills Project.

f. Location: On the Penobscot and Stillwater Rivers, Penobscot County, Maine.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Douglas Morrell, Bangor Hydro-electric Company, 33 State Street, P.O. Box 932, Bangor, Maine 04401, (207) 945–5621.

i. FERC Contact: Mary Golato (202) 219–2804.

j. Deadline Date: Initial Comments March 29, 1993 Reply Comments May 13, 1993.

k. Status of Environmental Analysis: This application is ready for environmental analysis at this time—see attached paragraph D10.

l. Description of Project: The proposed project would consist of three developments: (1) Veazie Development; (2) Basin Mills Development; and (3) Orono Development. The existing dams are owned by the applicant.

(i) *Veazie Development*

The Veazie Development would consist of: (1) An existing 25-foot-high, 902-foot-long concrete gravity dam; (2) a reservoir with a surface area of 390 acres, a storage capacity of 4,800 acre-feet, and a normal water surface elevation of 34.8 feet NGVD with; (3) 6.5-foot-high hinged flashboards; (4) an existing concrete forebay; (5) two existing brick and concrete powerhouses; (a) powerhouse A is located along the west bank and contains 15 turbine-generator units for a total installed capacity of 5.4 MW; and (b) powerhouse B is located at the downstream end of the forebay and contains two turbine-generator units with a total installed capacity of 3 MW; (6) a new concrete powerhouse containing one generating unit with an installed capacity of 8 MW; (7) an existing tailrace; (8) a transmission line, 200 feet long; and (9) appurtenant facilities. The average annual generation would be 87 million kWh.

(ii) *Basin Mills Development*

The Basin Mills Development would consist of: (1) A new 18-foot-high, 1,650-foot-long concrete gravity dam; (2) a reservoir with a surface area of 325 acres, a storage capacity of 5,000 acre-feet, and a normal water surface elevation of 64.0 feet NGVD; (3) a new intake gate; (4) a new concrete powerhouse containing three pit-type turbine units with a total installed capacity of 38 MW: (5) a transmission line, 200 feet long; and (6) appurtenant facilities. The average annual generation would be 183 million kWh.

(iii) *Orono Development*

The applicant proposes to decommission the existing facilities at the Orono Development by removing the existing penstocks and powerhouse. The applicant proposes to retain the existing 18-foot-high, 1,174-foot-long concrete dam and flashboards and the 175-acre, 1,300-acre-feet reservoir which is at elevation 72.4 feet NGVD.

m. Purpose of Project: All project energy generated would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: A4 and D10.

o. Available Locations of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Mr. Douglas Morrell, Bangor Hydro-electric Company, 33 State Street, P.O. Box 932, Bangor, ME, (207) 945–5621.

8. *a. Type of Application:* Minor License.

b. Project No.: 11058–001.

c. Date filed: November 2, 1992.

d. Applicant: A.L.L. Natural Resources, Inc.

e. Name of Project: Fitchburg Paper Mill Dam #4.

f. Location: On the North Nashua River, in Worcester County, Massachusetts.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: James Lane A.L.L. Natural Resources, Inc., 29 Westminster St., Fitchburg, MA 01420, (508) 342–4029.

i. FERC Contact: Mary C. Golato (202) 219–2804.

j. Comment Date: March 29, 1993.

k. Description of Project: The proposed project consists of: (1) an existing granite block and concrete dam 200 feet long; (2) an existing reservoir with a surface area of 1 acre and a total storage volume of 3 acre-feet at the proposed normal maximum surface elevation of 525.6 feet NGVD; (3) a proposed powerhouse containing (a) two proposed 8-foot-diameter by 6-foot-wide overshot waterwheels, constructed of ship-grade steel, each with a maximum hydraulic capacity of 37.5 cfs (providing a combined maximum hydraulic capacity of 75 cfs) and rated at 25 kW (providing a total capacity of 50 kW), and (b) two proposed 25 kW generators (providing a total plant rating of 50 kW); and (4) existing and proposed appurtenant facilities.

l. With this notice, we are initiating consultation with the Massachusetts State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR, at § 800.4.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the issuance of the notice and serve a copy of the request on the applicant.

Standard Paragraphs

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules and Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (March 29, 1993 for Project Nos. 2552–007 and 5772–002). All reply comments must be filed with the Commission within 105 days from the date of this notice. (May 11, 1993 for Project No. 5772–002 and May 13, 1993 for Project No. 2552–007).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time,

and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (March 29, 1993 for Project No. 10981–000). All reply comments must be filed with the Commission within 105 days from the date of this notice. (May 13, 1993 for Project No. 10981–000).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

E. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will notify all persons on the service list and affected resource agencies and Indian tribes. If any person wishes to be placed on the service list, a motion to intervene must be filed by the specified deadline date herein for such motions. All resource agencies and Indian tribes that have official responsibilities that may be affected by the issues addressed in this proceeding, and persons on the service list will be able to file comments, terms and conditions, and prescriptions within 60 days of the date the Commission issues a notification letter that the application is ready for an environmental analysis. All reply comments must be filed with the Commission within 105 days from the date of that letter.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: February 24, 1993

Lois D. Cashell,

Secretary.

[FR Doc. 93–4636 Filed 2–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP93–219–000, et al.]

Williams Natural Gas Co., et al., Natural Gas Certificate Filings

February 22, 1993.

Take notice that the following filings have been made with the Commission:

1. Williams Natural Gas Co.

[Docket No. CP93–219–000]

Take notice that on February 17, 1993, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed an application with the Commission in Docket No. CP93–219–000 pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon a transportation service provided to Union Gas Systems, Inc. (Union) under WNG's FERC Rate Schedule X–14, all as more fully set forth in the application which is open to public inspection.

WNG requests permission and approval to abandon its transportation under Rate Schedule X–14 of approximately 1,000 dekatherms of natural gas per day for Union.[1] The transportation agreement provided for WNG to receive gas from Union in Osage County, Oklahoma, and to deliver the gas to Union at three Osage County delivery points and through existing pipeline facilities in Montgomery County, Kansas. In 1986 LaAnn Gas

[1] The Commission authorized WNG's transportation service for Union by the order issued September 19, 1977, in Docket No. CP77–376 (59 FPC 2,054).

Company (LeAnn) acquired Union. LeAnn and WNG mutually agreed via letters dated June 5, 1991, and June 14, 1991, to terminate the original transportation agreement and to combine the three Osage County delivery points into a single billing location on an existing transportation agreement between WNG and LeAnn.

No facilities would be abandoned in this proposal.

Comment date: March 15, 1993 in accordance with Standard Paragraph F at the end of the notice.

2. Texas Gas Transmission Corp.

[Docket No. CP93–217–000]

Take notice that on February 16, 1993, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP93–217–000, a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon by removal a sales tap in Washington County, Mississippi, under its blanket certificate issued in Docket No. CP82–407–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas states that a letter dated December 17, 1992, from Mississippi Valley Gas Company (Mississippi Valley), Texas Gas proposes to abandon the B.L. Rivers sales tap. In its letter, Mississippi Valley states that it has removed its facilities for receiving gas from the B.L. Rivers. Mississippi Valley further states that it does not anticipate receiving gas at this point in the future and that Texas Gas may now abandon and remove this facility.

Comment date: April 8, 1993, in accordance with Standard Paragraph G at the end of this notice.

3. K N Energy, Inc.

[Docket No. CP93–216–000]

Take notice that on February 16, 1993, K N Energy, Inc. (K N), P.O. Box 281304, Lakewood, Colorado 80228, filed in Docket No. CP93–216–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate 12 new sales taps for end users in Kansas and Nebraska, under K N's blanket certificate issued in Docket No. CP82–140–000 *et al.*, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

K N proposes to construct and operate the taps for delivery to end users located on its system for the sale of gas from K N's system supply for end users, as detailed in the appendix. It is stated that K N will use the proposed taps for the delivery of up to 922 Mcf of natural gas on a peak day to the end users and 10,833 Mcf on an annual basis. It is estimated that the cost of installing the facilities is $20,833. K N states that the deliveries would have no significant impact on its peak day or annual deliveries and that the additional taps are not prohibited by any of K N's existing tariffs.

Comment date: April 8, 1993, in accordance with Standard Paragraph G at the end of this notice.

APPENDIX

Name	Location	Volume (Mcf)		End use	Cost
		Peak	Annual day		
R. Nelson	Kearney Co., NE	24	790	Irrigation	$850
E. Choquette	Franklin Co., NE	30	990	Irrigation	1,150
A.L. Quiring	York Co., NE	48	1,580	Irrigation	1,700
D. Graves	York Co., NE	43	395	Grain Dryer	1,150
L. Lundell	York Co., NE	43	395	Grain Dryer	1,150
Kumm Farms	Knox Co., NE	100	917	Grain Dryer	2,500
D.P. Friesen	York Co., NE	86	788	Grain Dryer	2,500
J.D. Goertzen	York Co., NE	144	1,310	Grain Dryer	2,500
A. George	Hamilton Co., NE	29	262	Grain Dryer	1,150
Mingo Co-op Grain Co.	Thomas Co., KS	216	1,966	Grain Dryer	2,500
E.E. George	Hamilton Co., NE	94	852	Grain Dryer	2,500
K. Drizner	York Co., NE	65	590	Grain Dryer	1,150

4. Northwest Pipeline Corp.

[Docket Nos. CP93–197–000, CP91–780–005 and CP91–780–006]

Take notice that on February 3, 1993, Northwest Pipeline Corporation (Applicant), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket Nos. CP93–197–000, CP91–780–005 and CP91–780–006:

(1) An application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity, with pre-granted abandonment, requesting authorization to temporarily construct and operate a mobil compressor unit at the Stanfield Compressor Station when necessary to facilitate physical transportation deliveries to Pacific Gas Transmission Company (PGT);

(2) A petition to amend the system expansion certificate authorization granted in Docket No. CP91–780–000 *et al.*, to conform with Applicant's construction of the Stanfield Compressor Station exclusive of the originally authorized permanent compressor unit; and

(3) A notice of withdrawal of the petition to vacate certificate, in part, which was filed by Applicant on January 11, 1993 to reflect Applicant's intent to forego installation of the previously authorized permanent compressor unit at the Stanfield Compressor Station, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that, by order issued June 5, 1992 in Docket Nos. CP91–780–000 *et al.*, Applicant was granted certificate of public convenience and necessity authorizing the construction and operation of approximately $373.4 million of additional pipeline and compression facilities necessary to accommodate a 433,415 Dth per day expansion of firm transportation service on Applicant's system. Applicant further states that part of the authorized system expansion facilities included the new Stanfield Compressor Station located near Applicant's existing interconnection with PGT pipeline system near Stanfield, Umatilla County, Oregon.

Applicant indicates that the authorized Stanfield Compressor Station

was to consist of a Solar Saturn turbine compressor rated at 1,343 sea level ISO horsepower; a five-valve manifold and pipeline necessary to provide suction connections with Applicant's existing 22-inch mainline and proposed new 24-inch mainline loop; and appropriate auxiliary facilities. Applicant further indicates that the Stanfield Compressor Station was designed to provide physical deliveries of up to approximately 62 MMcf per day, at a suction pressure of 661 psig and a discharge maximum allowable operating pressure of 911 psig. Applicant estimates the cost of the Stanfield Compressor Station to be $2,973,600.

Applicant states that deliveries of gas from Applicant to PGT at Stanfield normally could occur by displacement of Applicant's on-going physical receipts of gas from PGT at Stanfield. Applicant contemplated that the new Stanfield Compressor Station would be operated to provide physical deliveries of gas to PGT only when adequate displacement capacity was unavailable. Applicant further states that is currently has only one contract with CanWest Gas Supply U.S.A., Inc. (CanWest) for up to 51,500 Dth per day which would require it to make firm deliveries to the Stanfield interconnect with PGT.

Applicant submits that, at the time of its original application in Docket No. CP91–780, PGT was declining to accept gas from Applicant at Stanfield by displacement. Applicants further submits that, as a result of the Commission's May 1, 1992 order in Docket No. CP92–3231–000, PGT became willing to accept receipt of transportation gas by displacement at Stanfield. Applicant states that it has the obligation to have sufficient facilities available to ensure the satisfaction of its firm delivery obligations to CanWest at Stanfield even when displacement capacity may not be available. Applicant indicates that it has devised an alternative to the authorized permanent compressor unit in order to accomplish the objective more economically.

Applicant states that, instead of installing the authorized permanent compressor unit at Stanfield, it can maintain service reliability by relying upon its ability to move to Stanfield, and temporarily install, one of its equivalent-sized mobile compressor units whenever physical deliveries to PGT are necessary. Applicant indicates that it presently owns two mobile compressor units, each consisting of a Solar Saturn turbine compressor unit rated at 1,343 sea-level ISO horsepower mounted on a trailer. Applicant indicates that one unit will be moved to Stanfield when compression is needed at that station. Applicant estimates that each temporary installation and subsequent removal of the mobile compressor unit will cost approximately $5,000, which will be treated as an operating and maintenance expense.

Applicant requests the Commission to amend its order granted June 5, 1992, to conform with Applicant's construction of the certificated Stanfield Compressor Station exclusive of the originally authorized permanent Solar Saturn compressor unit. Applicant states that the following will remain covered by the system expansion certificate, as amended, in order to support the contemplated use of a trailer-mounted, mobile compressor when needed at the site: The 4.9 acre station site; the five-valve manifold; and the appropriate auxiliary facilities, including a horizontal gas filter/separator, an auxiliary building, a 150-gallon condensate storage tank, miscellaneous piping and valves, telecommunication and automation equipment and a security fence. Applicant estimates the total cost of the station installation to be approximately $1.6 million.

Applicant requests the Commission to issue a blanket certificate of public convenience and necessity, with pre-granted abandonment, authorizing temporary installations and operation, and subsequent removals, of an existing trailer-mounted mobile compressor unit at the Stanfield Compressor Station during the occasional, short-term periods when Applicant may need to supplement its displacement delivery capability to PGT with physical delivery capacity in order to fulfill its transportation delivery commitments to PGT at that point.

Applicant requests to withdraw its petition to vacate certificate, in part, which was filed by Applicant on January 11, 1993 in Docket No. CP91–780. Applicant states that it is replacing both the petition to vacate in part and the contemplated, separate certificate application for the mobile compressor by the instant pleading, which incorporates both a request for mobile compressor certificate authority and the related petition to amend the system expansion certificate.

Comment date: March 15, 1993, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4572 Filed 2–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–215–000]

K N Energy, Inc.; Notice of Application

February 23, 1993.

Take notice that on February 16, 1993, K N Energy, Inc. (K N), P.O. Box 281304, Lakewood, Colorado 80228, filed in Docket No. CP93–215–000 an application pursuant to section 7(b) of the Natural Gas Act wherein it requests issuance of an order permitting and approving abandonment of an exchange and sales service with Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

K N (formerly Kansas-Nebraska Natural Gas Company, Inc.) states that by Commission order issued June 19, 1970, in Docket Nos. CP70–243 and CP70–249 (43 FERC 925), as amended, the Commission authorized an exchange and sales service between K N and Panhandle in accordance with an agreement between the parties dated March 27, 1970, as amended. Such agreement is on file with the Commission as Rate Schedule X–10 of K N's FERC Gas Tariff, Second Revised Volume No. 2 and as Rate Schedule TSTE–1 of Panhandle's FERC Gas Tariff.

K N states that in accordance with the March 27, 1970 agreement, as amended, it is obligated to receive up to 100,000 Mcf per day of gas into its Wyoming System from Panhandle in Converse County, Wyoming. Concurrently, K N delivers thermally equivalent volumes of gas to Panhandle at points of interconnect between their facilities in Oklahoma and Kansas. K N has the option to purchase a portion of the gas received from Panhandle. By letter dated December 23, 1992, Panhandle requested the termination of the above-mentioned agreement. K N states that it has agreed to the termination of the agreement effective March 27, 1993.

No facilities are proposed to be abandoned herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 16, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for K N Energy, Inc. to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4637 Filed 2–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG93–20–000]

Southern Electric Wholesale Generators, Inc.; Application for Commission Determination of Exempt Wholesale Generator Status

February 23, 1993.

On February 8, 1993, Southern Electric Wholesale Generators, Inc. (SEWG) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32 (a)(1) of the Public Utility Holding Company Act of 1935 as amended.

SEWG stated that (1) it is a wholly-owned subsidiary of The Southern Company; (2) it was organized to exclusively be engaged in the ownership of exempt wholesale generators; (3) it currently owns all of the outstanding stock of certain entities which indirectly own one existing facility, and one projected facility. The former facility is a 290 MW oil fired combined cycle cogeneration facility located at Barbers Point, Oahu, Hawaii. The latter facility is a 200 MW coal-fired electric station which is projected to be built in King George County, Virginia

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application., All such motions and comments should be filed on or before March 5, 1993 and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4571 Filed 2–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–17–000]

Tennessee Natural Gas Co.; Settlement Conference

February 23, 1993.

Take notice that on Friday, March 12, 1993, a conference will be convened to further discuss settlement of the issues raised by Tennessee Gas Pipeline Company's filing in the above-captioned docket. All parties should come prepared to discuss settlement, and the parties should be represented by principals who have the authority to commit to a settlement.

The conference will be held at 10 a.m. in room 2402–A of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

All interested persons and Staff are invited to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4640 Filed 2–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TX93–1–000]

Tex-La Electric Cooperative of Texas; Clarifying Intervention Date

February 23, 1993.

Motions to intervene and protests to both Tex-La's January 19, 1993 application and the February 9, 1993 amended filing may be filed on or before March 15, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4641 Filed 2–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 10497–002 Oklahoma]

Tulsa Metropolitan Utility Authority, City of Tulsa; Surrender of Exemption

February 23, 1993.

Take notice that the Tulsa Metropolitan Utility Authority, City of Tulsa, exemptee for the Lake Eucha Dam Hydropower Project No. 10497 located on Spavinaw Creek in Delaware County, Oklahoma, has requested that its exemption from licensing be terminated. The exemption was issued on February 21, 1992. The exemptee states that no construction has been done on this project and that the project is no longer economically feasible.

The exemptee filed the request on October 16, 1992, and the exemption for Project No. 10497 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described 18 CFR 385.007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4638 Filed 2–26–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4562–7]

Review of National Ambient Air Quality Standards for Nitrogen Dioxide; Proposed Consent Decree

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; opportunity for public comment.

SUMMARY: EPA hereby gives notice of a proposed consent decree in litigation concerning review of the national primary and secondary ambient air quality standards for nitrogen dioxide established under section 109 of the Clean Air Act. EPA is providing an opportunity for public comment on the proposed consent decree pursuant to section 113(g) of the Act.

DATES: Written comments on the proposed consent decree must be received by March 31, 1993.

ADDRESSES: Written comments should be sent, preferably in triplicate, to Timothy D. Backstrom, Air and Radiation Division (LE–132A), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Copies of the proposed consent decree may be obtained from Betty S. Mobley at the same address (telephone 202–260–7606).

FOR FURTHER INFORMATION CONTACT:

John H. Haines (Program Officer), telephone 919–541–5533 or Timothy D. Backstrom (Senior Attorney), telephone 202–260–7517.

SUPPLEMENTARY INFORMATION: In *Oregon Natural Resources Council, Inc.* v. *Reilly*, Civil No. 91–6529–HO (D. Or.), the plaintiffs sued EPA seeking an order compelling EPA to complete the second periodic review of the air quality criteria and National Ambient Air Quality Standards (NAAQS) for the pollutant nitrogen dioxide, and to make appropriate revisions of such criteria and standards, as required by Clean Air Act section 109(d)(1). EPA and the plaintiffs have lodged with the U.S. District Court for the District of Oregon a proposed consent decree intended to resolve this litigation. The proposed decree would require the EPA Administrator to sign a notice for publication in the **Federal Register** announcing the Administrator's decision whether or not to propose any modification of the NAAQS for nitrogen dioxide on or before February 15, 1995. The proposed decree would also require the Administrator to sign a notice for publication in the **Federal Register** announcing the Administrator's final decision whether or not to modify the NAAQS for nitrogen dioxide on or before March 31, 1996.

Final approval and entry of the proposed decree are subject to section 113(g) of the Act, which requires notice and opportunity for comment on certain consent orders and settlement agreements to which the United States is a party. Accordingly, for a period of thirty (30) days following the date of publication of this notice, EPA will receive any written comments on the proposed decree. Under section 113(g), EPA or the Department of Justice may withhold or withdraw consent to the decree if the comments disclose facts or circumstances indicating that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

Dated: December 17, 1992.

Raymond B. Ludwiszewski,

Acting General Counsel.

[FR Doc. 93–4631 Filed 2–26–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Los Angeles, et al.; Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.602 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200744.

Title: City of Los Angeles/Matson Terminals, Inc. Preferential Marine Terminal Agreement.

Parties: The City of Los Angeles, Matson Terminals, Inc.

Filing Party: Ms. Catharine H. Vale, Assistant City Attorney, City of Los Angeles, City Hall, P.O. Box 151, San Pedro, California 90733–0151.

Synposis: The Agreement supersedes Agreement No. 224–011088, between the City of Los Angeles and Matson, and covers terminal operations for Berths 206–209. The term of the Agreement is for five years.

Dated: February 24, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–4645 Filed 2–26–93; 8:45 am]

BILLING CODE 6730–01–M

Port of Miami Operating Co., L.C. (POMTOC) Operating Agreement, et al.; Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the

Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200616–001.
Title: Port of Miami Terminal Operating Co., L.C. ("POMTOC") Operating Agreement.
Parties:
Continental Stevedoring and Terminals, Inc.,
Oceanic Stevedoring, Inc.,
Florida Stevedoring, Inc.,
Sol Maduro (Florida), Inc.

Synopsis: To permit the parties to form a limited liability company, under Florida State Law, to engage in the business of a marine terminal operating company at the Port of Miami or other locations in Dade County, Florida.

Agreement No.: 224–200742.
Title: Manchester Terminal Crop./Gulf Stream Marine Terminal Agreement.
Parties:
Manchester Terminal Corporation ("MTC"),
Gulf Stream Marine, Inc. ("Gulf Stream").

Synopsis: The Agreement permits Gulf Stream to move cargo and containers through MTC's facilities in the Port of Houston.

By Order of the Federal Maritime Commission.

Dated: February 24, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–4644 Filed 2–26–93; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance); Maritz Inc.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Maritz Inc. and Maritz Travel Company
1375 North Highway Drive
Fenton, St. Louis County, MO 63099
Vessel: CROWN MONARCH

Dated: February 22, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–4566 Filed 2–26–93; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 93–05]

Tropical Shipping & Construction Co., Ltd. v. Valley Wide Produce, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Tropical Shipping & Construction, Ltd. ("Complainant") against Valley Wide Produce, Inc. ("Respondent") was served February 23, 1993. Complainant alleges that Respondent engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. app. 1709(a)(1), by inducing complainant to provide transportation on a collect basis by entering into a credit agreement, failing and refusing to pay ocean freight charges lawfully assessed pursuant to Complainant's applicable tariffs on four shipments of coconut yautia from Puerto Plata, Dominican Republic to Vallejo, California, between September 20, 1991 and October 11, 1991 and entering into an Acknowledgement of Debt and Settlement Agreement, but failing to make the payments under said agreement.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by February 21, 1994, and the final decision of the Commission shall be issued by June 21, 1994.

Joseph C. Polking,

Secretary.

[FR Doc. 93–4565 Filed 2–26–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

[File No. 912 3194]

Collins Buick, Inc., et al.; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Kentucky auto dealership and its principal operating officer from misrepresenting—in advertising any extension of consumer credit or any consumer lease—the financing or other terms of the advertised transaction, and from violating certain provisions of the Truth in Lending Act or the Consumer Leasing Act.

DATES: Comments must be received on or before April 30, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Carole Reynolds, FTC/S–4429, Washington, DC 20580. (202) 326–3230.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the matter of Collins Buick, Inc., a corporation, and William Kevin Collins, individually and as an officer of the corporation.

Agreement Containing Consent Order to Cease and Desist

The agreement herein, by and between Collins Buick, Inc., a corporation, by its duly authorized officer, and William Kevin Collins, individually and as an officer of the corporation (hereinafter sometimes referred to as "proposed respondents" or "respondents"), and counsel for the

Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Collins Buick, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Kentucky, with its principal office and place of business located at 4120 Bardstown Road, Louisville, Kentucky 40218. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

2. William Kevin Collins is an individual and an officer and director of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business address is 4120 Bardstown Road, Louisville, Kentucky 40218. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusion of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. All claims under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of the complaint here attached or that the facts alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to the proposed respondents, (a) issue its complaint corresponding in form and substance with the draft of the complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. Proposed respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I. *It is ordered* that respondent Collins Buick, Inc., a corporation, its successors and assigns and its officers, and William Kevin Collins, individually and as an officer of the corporate respondent, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with any advertisement to promote directly or indirectly any extension of consumer credit, as "advertisement," and "consumer credit" are defined in the TILA and Regulation Z, do forthwith cease and desist from:

A. Misrepresenting in any manner, directly or by implication, the terms of financing the purchase of a vehicle, including but not limited to whether there may be a balloon payment or second series of installment payments, and the amount of any balloon payment or the number and amount of any second series of installment payments.

B. Stating any number or amount of payment(s) required to repay the debt, without stating accurately, clearly and conspicuously, all of the terms required by Regulation Z, as follows:

(1) The amount or percentage of the downpayment;

(2) The terms of repayment, including the amount of any balloon payment, or the number and amount of any second series of installment payments, and

(3) the annual percentage rate, using that term or the abbreviation "APR." If the annual percentage rate may be increased after consummation of the credit transaction, that fact must also be disclosed.

(Section 144 of the TILA, 15 U.S.C. 1664, and § 226.24(c) of Regulation Z, 12 CFR 226.24(c), as more fully set out in § 226.24(c) of the Federal Reserve Board's Official Staff Commentary to Regulation Z, 12 CFR 226.24(c)).

C. Stating the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, without stating, clearly and conspicuously, all of the terms required by Regulation Z, as follows:

(1) The amount or percentage of the downpayment;

(2) The terms of repayment, and

(3) The annual percentage rate, using that term or the abbreviation "APR." If the annual percentage rate may be increased after consummation of the credit transaction, that fact must also be disclosed.

(Section 144 of the TILA, 15 U.S.C. 1664, and § 226.24(c) of Regulation Z, 12 CFR 226.24(c)).

D. Stating a rate of finance charge without stating the rate as an "annual percentage rate" using that term or the abbreviation "APR," as required by Regulation Z. If the annual percentage rate may be increased after consummation, the advertisement shall state that fact. The advertisement shall not state any other rate, except that a simple annual rate or periodic rate that is applied to an unpaid balance may be stated in conjunction with, but not more conspicuously than, the annual percentage rate.

(Section 144 of the TILA, 15 U.S.C. 1664, and § 226.24(b) of Regulation Z, 12 CFR 226.24(b)).

E. Failing to state only those terms that actually are or will be arranged or offered by the creditor, in any advertisement for credit that states

specific credit terms, as required by Regulation Z.

(Section 144 of the TILA, 15 U.S.C. 1664, and § 226.24(a) of Regulation Z, 12 CFR 226.24(a)).

II. *It is ordered* that respondent Collins Buick, Inc., a corporation, its successors and assigns and its officers, and William Kevin Collins, individually and as an officer of the corporate respondent, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with any advertisement to aid, promote or assist directly or indirectly any consumer lease, as "advertisement," and "consumer lease" are defined in the CLA and Regulation M, do forthwith cease and desist from:

A. Stating the amount of any payment, the number of required payments, or that any or no downpayment or other payment is required at consummation of the lease, unless all of the following items are disclosed, clearly and conspicuously, as applicable, as required by Regulation M:

(1) That the transaction advertised is a lease;

(2) The total amount of any payment such as a security deposit or capitalized cost reduction required at the consummation of the lease, or that no such payments are required;

(3) The number, amounts, due dates or periods of scheduled payments, and the total of such payments under the lease;

(4) A statement of whether or not the lessee has the option to purchase the leased property and at what price and time (the method of determining the price may be substituted for disclosure of the price), and

(5) A statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the end of the term and a statement that the lessee shall be liable for the difference, if any, between the estimated value of the leased property and its realized value at the end of the lease term, if the lessee has such liability.

(Section 184 of the CLA, 15 U.S.C. 1667c, and § 213.5(c) of Regulation M, 12 CFR 213.5(c)).

B. Stating that a specific lease of any property at specific amounts or terms is available unless the lessor usually and customarily leases or will lease such property at those amounts or terms, as required by Regulation M.

(Section 184 of the CLA, 15 U.S.C. 1667c, and § 213.5(a, of Regulation M, 12 CFR 213.5(a)).

III

It is further ordered that respondents, their successors and assigns shall distribute a copy of this order to any present or future officers, agents, representatives, and employees having responsibility with respect to the subject matter of this order and that respondents, their successors and assigns shall secure from each such person a signed statement acknowledging receipt of said order

IV

It is further ordered that respondents, their successors and assigns shall promptly notify the Commission at least thirty (30) days prior to any proposed change in the corporate entity such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

V

It is further ordered that for five years after the date of service of this order respondents, their successors and assigns shall maintain and upon request make available all records that will demonstrate compliance with the requirements of this order.

VI

It is further ordered that respondents, their successors and assigns shall, within sixty (60) days of the date of service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from respondents Collins Buick, Inc. and William Kevin Collins, individually and as an officer of the corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that respondents have disseminated or caused to be disseminated advertisements that state an initial low monthly payment and an initial number of payments, but fail to state that the financing requires the consumer to make a substantial balloon payment or a second series of installment payments at the conclusion of the initial payments, and have therefore engaged in a deceptive act or practice, in violation of Section 5(a) of the Federal Trade Commission Act. The complaint also alleges that these advertisements state an initial number and amount of payments required to repay the indebtedness, but fail to state the terms of repayment, by failing to disclose the amount of the final balloon payment or the number and amount of the second series of installment payments required at the end of the initial payments, based on the financing signed at purchase of the vehicle, in violation of § 226.24(c) of Regulation Z.

The complaint also alleges that respondents have disseminated or caused to be disseminated advertisements that state the amount or percentage of any downpayment, the number of payments or period of repayment or the amount of any payment, but fail to state all of the terms required by Regulation Z, as follows: the amount or percentage of the downpayment, the terms of repayment, and the annual percentage rate, using that term or the abbreviation "APR," in violation of § 226.24(c) of Regulation Z.

The complaint also alleges that respondents have disseminated or caused to be disseminated advertisements that state the amount of any payment, the number of required payments, or that any or no downpayment or other payment is required at consummation of the lease, but fail to state all of the terms required by Regulation M, as applicable and as follows: That the transaction advertised is a lease; the total amount of any payment such as a security deposit or capitalized cost reduction required at the consumption of the lease or that no such payments are required; the number, amount, due dates or periods of scheduled payments, and the total of such payments under the lease and a statement of whether or not the lessee has the option to purchase the leased property and at what price and time (the method of determining the price may be substituted for disclosure of the price), in violation of § 213.5(c) of Regulation M.

The proposed order prohibits respondents, in any advertisement to promote any extension of consumer credit, from misrepresenting in any manner the terms of financing the purchase of a vehicle, including but not limited to whether there may be a

balloon payment or second series of installment payments and the amount of any balloon payment or the number and amount of any second series of installment payments.

The proposed order also requires respondents in any advertisement to promote any extension of consumer credit, whenever the number or amount of payments required to repay the debt are stated, to accurately state, clearly and conspicuously, all of the terms required by Regulation Z, as follows: the amount or percentage of the downpayment; the terms of repayment, including the amount of any balloon payment, or the number and amount of any second series of installment payments, and the annual percentage rate.

The proposed order also requires respondents in any advertisement to promote any extension of consumer credit, whenever the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge is stated, to state, clearly and conspicuously, all of the terms required by Regulation Z, as follows: the amount or percentage of the downpayment; the terms of repayment, and the annual percentage rate. The proposed order also requires respondents, to state any rate of finance charge as an annual percentage rate in any credit advertisement. The proposed order also requires respondents to state only those terms that actually are or will be arranged or offered by the creditor in any credit advertisement.

The proposed order also requires respondents in any advertisement to aid, promote or assist any consumer lease, whenever the amount of any payment, the number of required payments, or that any or no downpayment or other payment is required at consummation of the lease is stated, to state, clearly and conspicuously, all of the terms required by Regulation M, as applicable, as follows; That the transaction advertised is a lease; the total amount of any payment such as a security deposit or capitalized cost reduction required at the consummation of the lease, or that no such payments are required; the number, amounts, due dates or periods of scheduled payments, and the total of such payments under the lease; a statement of whether or not the lessee has the option to purchase the leased property and at what price and time (the method of determining the price may be substituted for disclosure of the price), and a statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the end of the term and a statement that the lessee shall be liable for the difference, if any, between the estimated value of the leased property and its realized value at the end of the lease term if the lessee has such liability. The proposed order also requires respondents in any lease advertisement to state that a specific lease of any property at specific amounts or terms is available, only if the lessor usually and customarily leases or will lease such property at those amounts or terms.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 93–4650 Filed 2–26–93; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health, Secretary's Council on Health Promotion and Disease Prevention; Postponement of Meeting

The meeting of the Secretary's Council on Health Promotion and Disease Prevention which was scheduled to take place on March 4, 1993, from 9 a.m. to 4 p.m. has been postponed. The new date will be announced later.

Dated: February 23, 1993.

J. Michael McGinnis,

Deputy Assistant Secretary for Health, Director, Office of Disease Prevention and Health Promotion.

[FR Doc. 93–4620 Filed 2–26–93; 8:45 am]

BILLING CODE 4160–17–M

National Institute of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S.in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to Mr. John Fahner-Vihtelic, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, Maryland 20892 (telephone 301/496–7735; fax 301/402–0220). A signed Confidentiality Agreement will be required to receive copies of the patent applications. Copies of issued patents may be obtained from the Office of Technology Transfer or from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

05/544,933 Method and Apparatus for Plating and Counting Aerobic Bacteria (U.S. Patent No. 3,962,040)

05/737,590 Direct Contact Microwave Diathermy Applicator (U.S. Patent No. 4,108,147)

06/266,379 Ultrasonic Therapy Applicator That Measures Dosage (U.S. Patent No. 4,390,026)

06/440,728 Process and Device for X-ray System Quality Assurance (U.S. Patent No. 4,550,422)

06/461,954 Helical Coil for Diathermy Apparatus (U.S. Patent No. 4,527,550)

06/468,776 Drill Guide for Bone Plate Fixation U.S. Patent No. 4,502,475)

07/016,427 Adaptive Ultrasonic Phased Array Imaging System and Method Therefor

07/037,203 Diathermy Coil (U.S. Patent No. 5,052,997)

07/076,228 Method and Apparatus for Sensing and Analyzing Electrical Activity of the Human Heart (U.S. Patent No. 4,850,370)

07/234,737 Device for Rotary-Seal Free Flow-Through Coil Planet Centrifuge Equipped with Multiple Column Holders Connected (see also 07/363,371)

07/261,303 Pressure Sensor Element and Method to Measure Contact Stress (U.S. Patent No. 4,967,764) (see also 07/769,418)

07/305,331 Pyroelectric Calorimeter (see also 507,544) (U.S. Patent No. 4,940,896)

07/363,371 Device for Rotary-Seal Free Flow-Through Coil Planet Centrifuge Equipped with Multiple Holders (see also 07/234,737)

07/448,090 Dynamically Stable Association Learning Neural Network System (see also 07/864,337) (U.S. Patent No. 5,119,469)

07/496,573 Apparatus and Methods for Determining In Vivo Response to Thermal Stimulation in an Unrestrained Subject

07/507,544 Pyroelectric Calorimeter (see also 07/305,331) (U.S. Patent No 5,030,012)

07/513,269 Phantom for Evaluation of Prosthetic Valves and Cardiac Ultrasound Procedures (U.S. Patent No. 5,052,934)

07/516,056 Corrective Calibration Mixture for Flow Cytometry

07/536,861 Supercritical Fluid Extraction Enhancer (U.S. Patent No. 5,151,188)

07/552,284 Method and Apparatus for Testing a Protective Barrier Material for Pinholes and Tear Strength
07/557,038 NMR Glomerular Filtration Test and Kit (see also 07/832,292) (U.S. Patent No. 5,100,646)
07/659,490 Breath Sampler (U.S. Patent No. 5,081,871)
07/688,220 Adaptation of Microtiter Plate Technology to Measurement of Platelet Aggregation
07/722,823 Method and Apparatus for Imaging a Physical Parameter in Turbid Media Using Diffuse Waves
07/742,500 Cross-Axis Synchronous Flow Through Coil Planet Centrifuge for Large Scale Preparative Countercurrent Chromatography (U.S. Patent No. 5,104,531)
07/758,824 Apparatus for and Method of Making Ultra Thin Walled Wire Reinforced Endotracheal Tubing and Product Thereof (see also 07/878,784)
07/769,418 Pressure Sensor Element and Method to Measure Contact Stress (see also 07/261,303) (U.S. Patent No. 5,125,408)
07/789,517 Multidimensional Imaging Using a Single Point Detector for a Phase Encoded Modulated Optical Carrier
07/793,215 All Tantallum Stopped Flow Microcalorimeter
07/798,328 Apparatus for Countercurrent Chromatography Separations and Stable Methods for Monitoring the Effluent Thereof (U.S. Patent No. 5,169,521)
07/802,305 Semiconductor Structure Using Protein As Its Active Element
07/822,018 Optical Method for Monitoring Arterial Blood Hematocrit
07/831,603 High Resolution Digital Thermometer
07/832,292 NMR Glomerular Filtration Test and Kit (see also 07/557,038)
07/841,994 Method to Enhance the Sensitivity of MRI for Magnetic Susceptibility Effects
07/842,957 Splash Containment Testing Device for Emergency Wash Units
07/846,824 Spectroscopic Imaging Device Employing Imaging Quality Spectral Filters
07/859,778 Fabrication of Micron-Range Holes in Protective Barriers and Encapsulating Materials
07/862,625 Handheld Spirometry with Improved Accuracy
07/864,337 Dynamically Stable Associative Learning Neural System (see also 07/448,090)
07/878,784 Sealing Means for Endotracheal Tubes (see Also 07/758,824)
07/883,013 Device for Measuring Incident Light in a Body Cavity
07/885,069 Separation of Rare Earth Elements with High-Speed Countercurrent Chromatography
07/886,006 In Vivo DMRI Method for Determining Cerebral Blood Flow and Volume Variation
07/890,194 Probe for Thermospray Mass Spectrometry
07/918,661 Nitric Oxide Specific Electrode
07/919,063 Detection of Nitric Oxide Using Electron Spin Resonance
07/921,182 Computer Aided Video-Epifluorescence-Microscopy for Studying the Effects of Therapeutic Agents on Individual DNA Molecules
07/924,982 Miniature Mechanical Vacuum Pump
07/926,010 A Single Shot Magnetic Resonance Method to Measure Diffusion, Flow and/or Motion
07/939,142 Method of Stimulating Angiogenesis

Dated: February 17, 1993.

Reid G. Adler,

Director, Office of Technology Transfer.

[FR Doc. 93–4590 Filed 2–26–93; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Method for Evaluating and Establishing Reimbursement Rates for Health Care Services Authorized Under the Indian Health Service Contract Health Service Regulations; Portland Area

AGENCY: Indian Health Service, HHS.

ACTION: Extension of project date.

SUMMARY: The termination date for the Portland Pilot Project now being conducted in the Portland Area to determine an alternative method of evaluating and establishing reimbursement rates for contract health services has been changed from March 31, 1993 to March 31, 1995.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Dr. J. T. Garrett, Acting Director, Division of Health Care Administration/Contract Health Services, room 6A–41, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–8373 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Indian Health Service (IHS) issued a General Notice in 56 FR 10566 on March 13, 1991 to inform the public that the IHS was conducting a pilot project in the IHS Portland Area. This project is designed to determine whether an alternative method of evaluating and establishing reimbursement rates for contract health services will result in greater participation by health care providers and lower costs to IHS. The project was originally scheduled to end on March 31, 1992. the project invited providers, within the Portland Area, to submit their most favorable rate quotations. The response was far greater than the expectation of the IHS. As a result of the response and the need to develop complex rate quotation analyses methodologies for facilities, outpatient and professional providers, and the need to develop preferred provider lists from these analyses, the pilot project termination date was extended to March 31, 1993 (57 FR 10671 on March 27, 1992). Also, the IHS published notification on June 18, 1992 (57 FR 27262) that additional sites were added to the pilot project to provide more information from a wide geographic area.

A formal evaluation process was scheduled to be conducted during the last two months of the project. However, due to the unexpected complexities of the Rate Quotation Process including increased time required to compile provider mailing lists, mailing of Rate Quotation Solicitation packages, providing answers to provider questions, contacting providers who did not respond, and the rate quotation analyses, additional time will be needed to complete the pilot project. The extension of the termination date of the project to March 31, 1995 will allow time for completion of the evaluation, and will provide necessary time for the IHS to assess the results. Based upon the results of the evaluation, IHS will formulate, publish and implement a new payment and procurement policy for contract health services. We are, therefore, extending the termination date of this pilot project from March 31, 1993 to March 31, 1995.

The pilot project does not change the current IHS payment policy requirement that health care services be procured at rates which do not exceed prevailing Medicare rates.

Dated: February 22, 1993.

Everett R. Rhoades,

Assistant Surgeon General, Director.

[FR Doc. 93–4602 Filed 2–26–93; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs (Operating Criteria)

AGENCY: Bureau of Reclamation, Department of the Interior.

ACTION: Notice of final decision.

SUMMARY: The purpose of this action is to provide public notice that the Secretary of the Interior (Secretary) has decided not to change the existing Operating Criteria as a result of the recently completed review process. The review has been conducted by the Bureau of Reclamation (Reclamation) as a public process, including the formal consultation with representatives of the Governors of the seven Colorado River Basin States (Basin States). The results of Reclamation's review indicate that modification of the Operating Criteria is not justified at the present time.

EFFECTIVE DATE: February 22, 1993.

FOR FURTHER INFORMATION CONTACT: Messrs. Bruce Moore, Bureau of Reclamation, Upper Colorado Region, P.O. Box 11568, Salt Lake City, Utah 84147, (801) 524–5415 or Walt Muir, Bureau of Reclamation, Lower Colorado Region, P.O. Box 61470, Boulder City, Nevada 89006–1470, (702) 293–8461.

SUPPLEMENTARY INFORMATION: The public review process began with a **Federal Register** notice (56 FR 534, January 7, 1991) announcing the review of the Operating Criteria and inviting comments during the 60 days following the notice. On January 15, 1991, over 250 letters enclosing a copy of the **Federal Register** notice and the Operating Criteria were sent to all known and anticipated interested parties, inviting their review and comment. In response to requests, an additional 30-day comment period was announced in the **Federal Register** (56 FR 14273, April 8, 1991).

Comments from the two **Federal Register** notices were received from 32 respondents. The comments were reviewed by Reclamation for identification and analysis of the issues. A public meeting was held on November 19, 1991, to discuss the identified issues and analyses. All those on the original mailing list were invited to this public meeting, along with any others who had expressed interest. All of the 32 respondents and all who attended the meeting were provided with a document containing copies of all comments which had been received plus the identified issues and analyses. The analyses of the issues were revised to reflect information resulting from the public meeting.

As required by Public Law (Pub. L.) 90–537, a formal consultation meeting with the designated Governors' representatives of the Basin States was held on March 24, 1992, to discuss the results of the review. This consultation meeting was open to the public for observation, and everyone on the original mailing list plus subsequent additions were notified of the meeting and invited. Immediately after the formal consultation, the meeting was extended for questions and comments from the general public.

Following these meetings, a third **Federal Register** notice was issued (57 FR 41519, September 10, 1992) which listed the comments received and the analysis prepared in response to the comments. Several comments were received as a result of this third notice, and the response section of the notice was modified to more accurately portray the language of existing legislation, compacts, and decrees.

The decision to not change the existing Operating Criteria was reviewed under the National Environmental Policy Act (NEPA) and determined to qualify for a categorical exclusion.

Background

The Operating Criteria, promulgated pursuant to the Colorado Basin Storage Act Section 602 of Public Law 90–537 (43 U.S.C. 1552), were published in the **Federal Register** on June 10, 1970. The Operating Criteria provide for the coordinated long-range operation of the reservoirs constructed and operated under the authority of the Colorado River Storage Project Act, the Boulder Canyon Project Act, and the Boulder Canyon Project Adjustment Act for the purposes of complying with and carrying out the provisions of the Colorado River Compact (Compact), the Upper Colorado River Basin Compact, and the Mexican Water Treaty.

Long-range operations generally refers to the planning of reservoir operations over the next 5 to 20 years, as opposed to the Annual Operating Plan (AOP), which details reservoir operations for the next operating year. Furthermore, specific monthly, daily, and hourly operations at individual facilities are not governed by the Operating Criteria, but rather by criteria applicable only to each facility. Thus, Glen Canyon Dam's short term operations are separately addressed by the interim operating criteria announced by the Secretary on November 1, 1991, and will, in the future, be subject to the requirements of the Grand Canyon Protection Act of 1992 (Title XVIII of Pub. L. 102–575), which was signed into law on October 30, 1992.

The Operating Criteria provide that the Secretary will sponsor a formal review of the Operating Criteria at least every 5 years, with participation by such Basin State representatives as each Governor may designate and such other parties and agencies as the Secretary may deem appropriate. Public Law 90–537 allows the Secretary, as a result of actual operating experiences or unforeseen circumstances, to modify the Operating Criteria to better achieve their specified statutory purposes, after consulting with the representatives of the Basin States.

In both 1975 and 1980, after consulting with the Basin States and others, the Secretary determined that there was not a need for a formal review. Review of the Operating Criteria in 1985 resulted in no changes. That review was conducted following a meeting among representatives of the Basin States (designated by the respective Governors) and Reclamation. The Secretary concluded that outstanding issues concerning the operation of the reservoir system and the Operating Criteria could be resolved without the necessity of a formal review of the Operating Criteria. The representatives of the Basin States were invited to participate in a technical work group with Reclamation to identify the extent of operational flexibility consistent with the Operating Criteria and to seek a consensus in the procedures used to formulate the AOP for the following several years, until the Basin States demands were more fully developed.

Because the long-range operation of the Colorado River reservoirs is important to many agencies and individuals, this current review has involved the general public as well as a wider range of agencies and organizations. The scope of this review has been consistent with the statutory purposes of the Operating Criteria, which are "to comply with and carry out the provisions of the Colorado River Compact, Upper Colorado River Basin Compact, and the Mexican Water Treaty."

Synopsis of Review Results

Many of the issues raised during the review are more properly dealt with during the development of the AOP. These include navigation, recognition of project purposes, minimizing spills, river conditions from Hoover Dam to Mexico, operations at Glen Canyon Dam, factors for determining 602(a) storage, and storage equalization between Lakes Powell and Mead. The Operating Criteria were purposely designed to be flexible so that, during the development of the AOP, variations in water supply conditions and changing demands for water use can be accommodated. The process for developing the AOP is open to the public and interested parties. Special studies that address some of the issues raised during the review of the Operating Criteria will be conducted during development of future AOPs.

Some issues, such as short-term navigation concerns or specific issues relating to river conditions can often be handled on a case-by-case basis. Those with such concerns are invited to contact Reclamation so a cooperative solution can be worked out.

The minimum release objective from Lake Powell was carefully considered. Impacts of changing this parameter may be considerable and range from impacts on the levels in Lakes Powell and Mead

to impacts on flows in the Grand Canyon. Insufficient data exist concerning these impacts and any change in the minimum release objective without a thorough analysis of the impacts would be premature. Thus, studies will be conducted to examine the combined effects of various minimum release objectives, 602(a) storage determinations, and storage equalization between Lakes Powell and Mead.

The decision not to change the Operating Criteria is subject to NEPA and appropriate compliance has been accomplished. It was not deemed appropriate to combine this process with the Glen Canyon Dam Environmental Impact Statement (GCDEIS), or to delay this review and decision on the Operating Criteria until the GCDEIS is completed.

With respect to the issues raised by the Indian Tribes, they are assured of their right to participate in reviews of the Operating Criteria and in the AOP development process.

Based on the results of the review and the analysis of public comments, it has been decided not to modify the Operating Criteria at this time.

Analysis of Issues

Issue 1: Whether the Operating Criteria should include keeping the river navigable from Lake Mead up to the Grand Canyon and below Hoover Dam, whether navigation should take precedence over power in determining dam releases, and whether river management should conform to the priorities in the 1964 decree of the United States Supreme Court in *Arizona* v. *California*, 376 U.S. 340 (Decree).

Analysis: Water releases by Reclamation from Hoover Dam on a monthly basis are normally controlled by water needs downstream (including reservoir regulation), or by flood control regulations if conditions require. Within the constraints imposed by water demands, daily and hourly releases are controlled by power demands and scheduling.

Article II of the Decree lists river regulation, improvement of navigation, and flood control as the first priority uses of Hoover Dam and Lake Mead. However, the Compact states in Article IV that navigation shall be subservient to water supply and power. The Decree (Article VIII) also states that it (the Decree) shall not affect any issue of interpretation of the Compact.

It is the Department of the Interior's (Interior) position (which is supported by the findings in *Laughlin River Tours* v. *United States*, CV–S–87–823–HDM) that the dams and reservoirs have already greatly improved navigation over the natural conditions, and that operating in accordance with the Decree does not require maximizing the first priority elements to the detriment of the other priorities. The Operating Criteria comport with the statute, the Compact, and the Decree, and the operation of Hoover Dam and the other dams on the lower Colorado River is in conformance therewith.

Navigability of the river upstream of Lake Mead is dependent on releases from Lake Powell. Because the Decree deals with storage and release of water only with respect to Lower Basin reservoirs, it affords no priority to navigation on the river upstream of Lake Mead.

The Operating Criteria do not specifically address priorities of purposes. Specific concerns of balancing priorities should be addressed during development of the AOP. The Operating Criteria need no changes with respect to priorities of purposes.

Issue 2: Whether the minimum release objective stated in the Operating Criteria should be changed.

Analysis: Article II (2) of the Operating Criteria states that "* * * the objective shall be to maintain a minimum release of water from Lake Powell of 8.23 million acre-feet * * *." The Operating Criteria make no explicit provisions for annual releases of less than 8.23 million acre feet (MAF), but they do address conditions which both prohibit and mandate annual releases greater than 8.23 MAF.

Releases greater than 8.23 MAF are prohibited when the forecast for September 30 shows that either:

1. Upper Basin storage will be less than 602(a) storage, or
2. Lake Powell active storage will be less than the active storage of Lake Mead.

Releases from Lake Powell greater than 8.23 MAF are mandated if, in the plan of operation, the forecast of September 30 shows that Upper Basin active storage will be greater than the quantity of 602(a) storage, in order to accomplish any or all of the following objectives:

1. If such releases can reasonably be applied in the Lower Division States to the uses specified in Article III(e) of the Compact, and provided that active storage in Lake Powell is not less than active storage in Lake Mead,
2. To equalize active storage between Lakes Powell and Mead, or
3. To avoid anticipated spills from Lake Powell.

The Compact apportions the beneficial consumptive use of 7.5 MAF for the Upper Basin and 8.5 MAF for the Lower Basin from the Colorado River System within the United States (Article III (a) and (b)), requires that any Mexican Water Treaty deficiency be equally borne by the Upper and Lower Basins (Article III (c)), requires that the Upper Basin not deplete the flow at Lee Ferry below an aggregate of 75 MAE for any 10-year period (Article III (d)), and prohibits the Upper Basin from withholding and the Lower Basin from requiring the delivery of water which cannot reasonably be applied to domestic and agricultural uses (Article III (e)). The principal purpose of the Operating Criteria is to make provision for the storage of water in Storage Units of the Colorado River Storage Project and in Lake Mead and for the release of water in accordance with Section 602 of the Colorado River Basin Project Act (Pub. L. 90–537) in order to comply with the carry out the compact.

The application of the minimum release objective has several implications, including:

(1) A lower Lake Powell storage volume during drought periods and a more stable Lake Mead storage volume,

(2) A more consistent release regime through the Grand Canyon, and

(3) A more consistent base for marketing the energy and capacity from the Glen Canyon Dam powerplant. The resulting releases have less variability than either the pre-dam flows or the flows that would result from applying the delivery requirements contained in Articles III (c) and (d) of the Compact.

There are complicated and extensive impacts both negative and positive that could result from a change in the current minimum release objective of 8.23 MAF from Glen Canyon Dam, including conditions such as storage levels in Lakes Powell and Mead, maximum and minimum streamflow levels, and the frequency of spills. The exact nature of these effects and their relationship to other parts of the Operating Criteria are currently unknown. Therefore, the minimum release provisions of the Operating Criteria should not be changed at this time. A comprehensive investigation will be undertaken by Reclamation to determine the combined effects of possible changes to the Operating Criteria. This investigation will consider changes to minimum annual releases, the determination of 602(a) storage, and storage equalization between Lakes Powell and Mead.

Issue 3: Whether operations should give consideration to all listed project purposes and whether appropriate priorities between purposes should be reflected.

Analysis: Principal documents where project purposes are authorized are the Colorado River Basin Project Act, Colorado River Storage Project Act, and Boulder Canyon Project Act. The Operating Criteria address project purposes as follows: "The plan of operation * * * shall reflect appropriate consideration of the uses of the reservoirs for all purposes, including flood control, river regulation, beneficial consumptive uses, power production, water quality control, recreation, enhancement of fish and wildlife, and other environmental factors."

In the development of each AOP, consideration must be given to all project purposes as delineated in each specific facility's authorizing legislation. Modification of the long-term Operating Criteria is not necessary to provide such consideration. There is sufficient flexibility within the current Operating Criteria to give appropriate consideration to all project purposes.

Issue 4: Whether the Operating Criteria or AOP should include minimizing spills (including minimizing high flows and flood control releases); whether full pool level should be identified in the Operating Criteria; and whether the probability of spills at Glen Canyon Dam should be reduced by altering or removing the 602(a) storage requirement.

Analysis: This issue relates to the monthly and annual operations of Glen Canyon Dam that are scheduled to avoid spills. Spills are referenced in Public Law 90–537, Section 602(a)(3), and are defined in the Operating Criteria, Article IV (1)(a) as "* * * water released from Lake Powell which cannot be utilized for project purposes * * *." Examples of spills include powerplant bypasses and water released in excess of consumptive use requirements downstream of Lake Powell.

The operation of all of the Colorado River reservoirs is forecast-based and includes mandatory flood control restrictions in the operation of Hoover Dam consistent with flood control as one of the purposes of that project. At each point during the year-round forecast period (typically the first of each month from January through July), evaluations of the current inflow forecast are made and the scheduled releases are adjusted in order to avoid spills from Glen Canyon Dam (while attempting to maximize storage available for future use). "Anticipated spills" have been interpreted as being those that are expected as a result of forecasted inflow.

To reduce the probability of spills from Lake Powell, operations have been implemented which include a combination of scheduling higher winter releases and "targeting" reservoir filling at about 500,000 acre-feet less than full capacity (as a buffer) until the peak runoff has clearly passed. Because the reservoir can still be filled after any danger of spills has passed, conservation storage is not affected.

The Operating Criteria are general enough to allow such adjustments to be part of the AOP development process. The AOP is developed annually and the current reservoir conditions, all project requirements, the probability of inflows, and alternative release strategies are all considered in a public forum.

The 602(a) storage requirement must be retained in the Operating Criteria because it is statutorily mandated. Furthermore, the quantification of the 602(a) storage level currently has no effect on spills from Glen Canyon Dam, although it may at some future time when Upper Basin uses are more fully developed.

The Operating Criteria are, and should remain, flexible enough to accommodate wide variations in hydrologic conditions. Expected reservoir levels and risk of spills will be addressed during preparation of each AOP. Sufficient flexibility exists in the current Operating Criteria to allow development of AOPs with desired risks of spill.

Issue 5: What should be included in the GCDEIS, and whether NEPA compliance for the current review of the Operating Criteria will be combined with the GCDEIS.

Analysis: The GCDEIS is a NEPA effort currently underway to assess alternative operations at Glen Canyon Dam. Those issues which are pertinent to Glen Canyon Dam operations are being addressed in the GCDEIS. Issues which are pertinent to other specific reaches of the river or specific facilities or pertinent to daily or short-term operations would be properly addressed in NEPA analyses of the specific projects or facilities involved. The NEPA compliance to be accomplished on results of the review of the Operating Criteria should not be combined with the GCDEIS.

Issue 6: Whether the Operating Criteria should take into account riverine conditions below Hoover Dam along the river between reservoirs as well as within the reservoirs, particularly with respect to fish and wildlife, recreation, and other environmental and ecological factors.

Analysis: The only Lower Basin reservoirs to which the Operating Criteria apply are those constructed and operated under the authority of the Boulder Canyon Project Act and the Boulder Canyon Project Adjustment Act. The Operating Criteria are primarily concerned with longer-term water operations in the Upper and Lower Basins.

Flows in the river system from Hoover Dam to Mexico are governed overall by the Compact, the Decree, the Mexican Water Treaty, flood control regulations, and contracts with water users. Within the limits imposed by these factors and the reservoir space available for regulation, flows are also affected by power operations. Fish and wildlife, recreation, and environmental considerations are taken into account, and flows can be modified (and have been in the past) to enhance these project purposes within the limits defined by the governing factors mentioned above. The existing Operating Criteria are flexible enough to allow this and need not be modified. Considerations of all purposes are addressed during development of the AOP. State, Federal, and local agencies concerned primarily with fish and wildlife, recreation, and environmental purposes are part of the AOP process.

Issue 7: Whether the Operating Criteria should be flexible enough to accommodate interim flows and operational changes at Glen Canyon Dam.

Analysis: The Operating Criteria were developed to accomplish the objectives of section 602(a) of the 1968 Colorado River Basin Project Act (Pub. L. 90–537). Specific monthly, daily, and hourly operations at Glen Canyon Dam were not detailed in Public Law 90–537, and, correspondingly, they are not detailed in the Operating Criteria. Such specific operational parameters are addressed by the interim operating criteria for Glen Canyon Dam and the requirements of the Grand Canyon Protection Act of 1992.

Issue 8: Whether scheduled special releases, ecosystems, needs, historical stream flow criteria, and a critical period should be factors considered in determining 602(a) storage.

Analysis: Section 602(a) of Public Law 90–537 provides for sufficient storage of water in the Upper Basin to assure required deliveries to the Lower Basin without impairing the annual Upper Basin consumptive uses pursuant to the Compact. Article II(1) of the Operating Criteria requires the Secretary to determine for each AOP, after consideration of all applicable laws and relevant factors, the quantity of 602(a) storage which is required. The article lists several relevant factors, but specifically states that the Secretary is not limited to those listed. The Secretary is therefore allowed, and

indeed required, to consider all other factors which are relevant to the determination of the 602(a) storage quantity during the preparation of each AOP. Since the Operating Criteria already provide for considering additional factors when determining 602(a) storage, and since the process for preparing AOPs has recently been expanded to include additional agencies, organizations, and representatives from the public who can provide input for the identification of the relevant factors, the Operating Criteria need not be modified for this purpose.

Issue 9: Whether the review of the Operating Criteria should be subject to NEPA, and whether the Environmental Impact Statement process could be used to assess operational aspects at Colorado River dams.

Analysis: Reclamation is currently applying the NEPA process to several projects associated with the Colorado River where proposed actions are being considered. Two of these are GCDEIS and Hoover Dam modification.

NEPA compliance has been accomplished on the results of the review of the Operating Criteria. Reclamation has determined that a categorical exclusion is appropriate and the same has been prepared.

Issue 10: Whether the Colorado River System reservoirs are being operated in accordance with: The Operating Criteria as promulgated; provisions of the "Law of the River" as it currently exists; best management practices for the use, management and supply of water under current conditions and standards; whether the Operating Criteria, risk analysis, future use estimates, critical storage requirements, and maximizing beneficial use in operation of Colorado River reservoirs are subjected to loose definitions and piecemeal application; and whether the Operating Criteria need to be more rigorously applied during the AOP process.

Analysis: The State of California and its water users believe that attention to the above matters will allow greater beneficial uses of water in the Lower Basin without unduly increasing the risk of shortage to other United States users. Specifically, they want assurances that the system of reservoirs is being operated:

1. In accordance with the Operating Criteria as promulgated;
2. In accordance with provisions of the "Law of the River" as it currently exists; and
3. In accordance with best management practices for the use, management, and supply of water under current conditions and standards.

Based on their review of the Operating Criteria and their experience with the AOP development process, they believe that:

1. The Operating Criteria are being implemented in a piecemeal fashion rather than being considered in their entirety.
2. Consideration of all applicable laws and relevant factors including water supply risk assessment are not being considered adequately in the development of the AOP.
3. Accurate and reasonable estimates of current and future consumptive use within the Colorado River Basin are not factored into the analyses of the reservoir operations and assessments of risk.
4. Critical reservoir storage requirements for meeting the need for water in the Upper Basin and the Lower Basin have not been developed.
5. The degree of confidence in the risk assessment related to water conservation is not commensurate with the degree of certainty being required for other parameters used to guide the operation of the system reservoirs.
6. Risk assessments and reservoir operations have not been modified in consideration of best management practices appropriate for the use, management, and supply of water under current conditions and standards.
7. Several provisions contained in the Operating Criteria lack precise definition or are being interpreted based on convenience, rather than in accordance with the intent of the statutes.
8. Maximizing the beneficial use of the available water resources within the Colorado River Basin and each State's Colorado River apportionment are not primary considerations when the AOP is developed.

It is acknowledged that these areas need to be considered and studied so that the Colorado River is operated in the best manner possible. Reclamation and the Basin States have committed to continued support and participation in an ongoing analysis (through the Colorado River Management Work Group) on the above issues and other related matters. Necessary studies will be completed and specific procedures will be recommended for guiding preparation of future AOPs for the Colorado River System reservoirs.

Issue 11: Whether the Operating Criteria should recognize the Federal Indian trust responsibility and provide for participation in reviews by Indian Tribes to the same extent as participation by Basin States.

Analysis: Section 602(b) of Public Law 90–537 specifically requires the Secretary to consult with State representatives (as designated by the Governors) if modification of the Operating Criteria is considered. In addition, however, the Operating Criteria provide that "The Secretary will sponsor a formal review of the Operating Criteria at least every 5 years, with participation by State representatives as each Governor may designate and such other parties and agencies as the Secretary may deem appropriate."

The Indian Tribes and many other parties and agencies were notified and invited to participate in this review, and will be invited to participate in future reviews as well. No change should be made in the Operating Criteria, but the Indian Tribes should be assured of their right to participate in reviews of the Operating Criteria, as well as in the AOP development process.

Issue 12: Whether a long range operation plan for Colorado River reservoirs should be developed before the decision is made on Glen Canyon Dam.

Analysis: It is presumed that the commentor is referring to the decision on whether to modify the existing Operating Criteria when mentioning a "long-range operational plan." Some operational parameters at Glen Canyon Dam may be altered as a result of the GCDEIS, but these need not be specified in the Operating Criteria since they will be addressed in final Glen Canyon Dam operating criteria. Furthermore, the type of parameters that could change would be more appropriately addressed in the AOP development process. Therefore, it is not necessary to wait for results of the GCDEIS prior to making a decision on the operating Criteria.

Issue 13: Whether the Operating Criteria should be more flexible in the time allowed for equalization of storage between Lakes Powell and Mead to allow a more gradual reduction in annual flows when going from a wet period to a dry period.

Analysis: The storage equalization provision originates in Public Law 90–537, Section 602(a)(3)(ii) and is repeated in Article II(3)(b) of the Operating Criteria. The equalization provision requires releases from Lake Powell of water not required for storage in order to maintain, as nearly as practicable, active storage in Lake Mead equal to the active storage in Lake Powell. Storage equalization releases shall be made from Lake Powell only if the active storage in Lake Powell is greater than the active storage in Lake Mead. Also, these releases can only be made if the storage in Lake Powell is greater than that required for 602(a) purposes.

This provision is one of the three considerations under which water excess to 602(a) storage requirements is to be transferred to Lake Mead and the Lower Basin. It also helps to equalize power generation benefits and to keep the recreation pools of the two lakes relatively equal.

The decision on when and over what time period to equalize is made through the current AOP process. The flexibility inherent in the process allows storage equalization to be made over a period of several months in a way that benefits project purposes. The proposal to delay equalization for several years does not meet the requirements of section 602(a)(3). The Operating Criteria should not be changed with respect to storage equalization.

Final Decision

Based upon a careful review of the existing Operating Criteria, the involved parties' responses to Reclamation's initial analysis, consultation with the Governor's representatives of the Basin States, and Reclamation's revision of its analysis in response to comments received, it has been determined that the Operating Criteria do not need to be revised at this time in order to better achieve the purposes specified in Section 602(a) of Public Law 90–537.

Dated: February 22, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93–4653 Filed 2–26–93; 8:45 am]

BILLING CODE 4310–09–M

River Maintenance Program for the Rio Grande—Velarde to Caballo Dam, Rio Grande and Middle Rio Grande Projects, New Mexico

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of correction of public hearing location on the draft supplement to the final environmental impact statement (DSFEIS) DES–93–02.

SUMMARY: The Bureau of Reclamation (Reclamation) is changing the location of the Albuquerque, New Mexico, public hearing to the Ramada Hotel, 6815 Menaul Boulevard NE., Albuquerque, New Mexico, with the hearing to start at 2 p.m. on March 10, 1993. The pubic hearings will remain at the same locations for Espanola, New Mexico, and Socorro, New Mexico.

DATES: The public hearing locations are:

- March 9—Espanola, New Mexico—Park Inn, 920 North Riverside Drive, North Highway 68, Espanola, New Mexico, at 7 p.m.
- March 10—Albuquerque, New Mexico—Ramada Hotel, 6815 Menaul Boulevard NE, Albuquerque, New Mexico, at 2 p.m.
- March 11—Socorro, New Mexico—Macy Center, New Mexico Tech University, Socorro, New Mexico, at 6 p.m.

ADDRESSES: For comments, requests to testify, and further information contact: Projects Manager, Bureau of Reclamation, Albuquerque Projects Office, 505 Marquette NW., suite 1313, Albuquerque NM 87102–2162; telephone: (505) 766–3381.

FOR FURTHER INFORMATION CONTACT: Mr. William E. Burleigh (Activity Manager, Albuquerque Projects Office); telephone: (505) 766–2518.

SUPPLEMENTARY INFORMATION: Organizations and individuals wishing to present statements at the hearing should contact the Bureau of Reclamation, Albuquerque Projects Office, at the above address to announce their intention to participate. Requests for scheduled presentations will be accepted through 4 p.m. on March 5, 1993.

Oral comments at the hearing will be limited to 10 minutes. The hearing officer may allow any speaker to provide additional oral comments after all persons wishing to comment have been heard. Whenever possible, speakers will be scheduled according to the time preference mentioned in their letter or telephone requests. Speakers not present when called will lose their privilege in the scheduled order and will be recalled to the end of the scheduled speakers.

Written comments from those unable to attend or those wishing to supplement their oral presentations at the hearing should be received by Reclamation's Albuquerque Projects Office, at the above address, by March 15, 1993, for inclusion in the hearing record.

Dated: February 23, 1993.

Kathy E. Gordon,

Deputy Assistant Commissioner—Administration.

[FR Doc. 93–4594 Filed 2–26–93; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

Civil War Sites Advisory Commission Meeting

AGENCY: National Park Service. U.S. Department of the Interior.

ACTION: Notice of Meeting of the Civil War Sites Advisory Commission.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1988), that a meeting of the Civil War Sites Advisory Commission will be held on Saturday, March 27, 1993, at the Old Capitol Building on State Street at Capitol Street, House Chamber, Jackson, MS, 39201. The meeting will begin at 9 a.m. and conclude before 1 p.m.

This meeting constitutes the fourteenth meeting of the Commission. The primary focus of the meeting will be on the Commission's report. The Commission will welcome input from the public on the subject of Civil War site evaluation and preservation, especially as it relates to Civil War sites in Mississippi and surrounding states.

Space and facilities to accommodate members of the public may be limited and persons will be accommodated on a first-come, first-served basis. Anyone may file a written statement with the Commission concerning matters to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements may contact Ms. Jan Townsend, Interagency Resources Division, P.O. Box 37127, Washington, DC 20013–7127 (telephone 202–343–3936). Draft summary minutes of the meeting will be available for public inspection about 8 weeks after the meeting, in suite 250, 800 N. Capitol St., NW., Washington, DC 20002.

Dated: February 22, 1993.

Lawrence E. Aten,

Acting Executive Director and Chief, Interagency Resources Division.

[FR Doc. 93–4670 Filed 2–26–93; 8:45 am]

BILLING CODE 4310–70–M

Gauley River National Recreation Area

AGENCY: National Park Service; Department of the Interior, Gauley River National Recreation Area Advisory Committee.

ACTION: Cancellation.

SUMMARY: This notice advises of the cancellation of the Gauley River National Recreation Area Advisory Committee meeting which was published February 10, 1993 in Volume 58, #26, Page 7896.

DATES: March 18, 1993—7 p.m.

ADDRESSES: Nicholas County Veterans Memorial Park—dining hall. (North of Summerville on U.S. Rt. 19, adjacent to/just South of Nicholas County High School property).

FOR FURTHER INFORMATION CONTACT: Joe L. Kennedy, Superintendent, New River Gorge National River, P.O. Box 246, Glen Jean, WV 25846; (304) 465–0508.

John MacKenna,

Regional Director, Mid-Atlantic Region.

[FR Doc. 93–4671 Filed 2–26–93; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act; United States v. USX Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on February 19, 1993, a proposed Second Consent Decree resolving *United States* v. *USX Corp.*, C.A. No. 91–329, DJ No. 90–5–2–3–1034C, and alleged violations of the Amended Consent Decree in *United States* v. *USX Corp.*, C.A. No. 79–709 (W.D. Pa.), DJ No. 90–5–2–3–1034B, was lodged with the United States District Court for the Western District of Pennsylvania.

The United States' Complaint in C.A. No. 91–329 was filed in April, 1991 under section 113 of the Clean Air Act, to enjoin allegedly violative emissions of air pollution at USX's Clairton Coke Works, and to require USX to pay civil penalties for the alleged violations. The Complaint addressed alleged violations, which occurred primarily during the period 1987–1990, of standards prohibiting the release of raw coke oven gas into the atmosphere and the use of contaminated water to quench hot coke.

The United States' Complaint in C.A. No. 79–709 was filed in 1979 to enjoin allegedly violative emissions of air pollution at the Clairton Works and various other "Mon Valley" steel plants. A Consent Decree was entered in that case in 1979 and modified on five occasions, most recently in 1985. On September 27, 1988, an Amended Consent Decree was entered in that case. The United States has alleged that USX violated standards set forth in the Amended Consent Decree regulating coke oven charging, pushing, and desulfurization operations, and emissions from coke oven doors, stacks, lids, and off-takes.

Pursuant to the agreement set forth in the proposed Second Consent Decree, USX has agreed to an injunction requiring it to comply in the future with the Pennsylvania State Implementation Plan ("SIP") provisions regulating emissions of pollutants in Allegheny County. USX has agreed to pay a civil penalty of $1.8 million for past violations of the SIP and the Amended Consent Decree (in C.A. 79–709). The proposed Second Consent Decree contains a comprehensive schedule of stipulated penalties for any violations of emissions standards set forth within the Second Consent Decree which may have occurred during the period July 1, 1992 through January 1, 1993. Moreover, the Decree requires USX to comply with standards regulating door emissions and the efficiency of the Clairton Works desulfurization system which are 20% stricter that the standards contained within the SIP.

The Department of Justice will receive for a period of thirty days from the date of this publication comments relating to the proposed Second Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *USX Corporation*, DOJ Ref. Nos. 90–5–2–3–1034B and 1034C.

The proposed Second Consent Decree may be examined at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Second Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $2.50 (25 cents per page reproduction costs) payable to Consent Decree Library.

Myles E. Flint,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–4586 Filed 2–26–93; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 21, 1993, Sanofi Winthrop L. P., DBA Sterling Organics, 33 Riverside Avenue, Rensselaer, New York 12144, made application to the Drug Enforcement Administration to be registered as an importer of Meperidine (9230) a basic class of controlled substance in Schedule II. The firm plans to import small quantities for research purposes only.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than March 31, 1993.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: February 19, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–4627 Filed 2–26–93; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 93–019]

NASA Advisory Council, Space Science and Applications Advisory Committee, Microgravity Science and Applications Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public

Law 92–463, the National Aeronautics and Space Administration Announces a meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Microgravity Science and Applications Subcommittee (MSAS).

DATES March 9, 1993, 9 a.m. to 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, 300 E Street, SW, Conference Room MIC–7–H46A, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Roger Crouch, Code SN, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0818.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Status of the Microgravity Division Programs
—Progress Reports and Review of Charters of the MSAS and Discipline Working Groups
—Programmatic Decision Rules and Criteria for Prioritization

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: February 19, 1993.

Philip D. Waller,

Deputy Director, Management Operations Division.

[FR Doc. 93–4574 Filed 2–26–93; 8:45 am]

BILLING CODE 7510–01–M

[Notice: 93–020]

Intent To Grant a Patent License

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: NASA intends to grant the University of Maryland at College Park, College Park, Maryland, an exclusive, royalty-bearing, revocable license to practice U S. Patent Application Serial No. 07/915,567 entitled "A Six-Degree-of-Freedom Parallel Minimanipulator with Three Inextensible Limbs." The invention is a manipulator with six-degrees-of-freedom. The patent license will be for a limited number of years and will contain appropriate terms and conditions in accordance with the NASA Patent Licensing Regulations, 14 CFR 1245.200 *et seq.* NASA will grant the patent license in accordance with its licensing regulations unless the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation, within 60 days of the date of this notice. The Director of Patent Licensing will review all written objections to the grant and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the license.

DATES: Written objections to this proposed license grant must be received by April 30, 1993.

ADDRESSES: Written objections should be sent to: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff at (202) 358–2041.

Dated: February 19, 1993.

Edward A. Frankle,

General Counsel.

[FR Doc. 93–4575 Filed 2–26–93; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composers Fellowships Prescreening #1 Section) to the National Council on the Arts will meet on March 15–16, 1993 from 9 a.m.–5:30 p.m. in room M–07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of application evaluation, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, this session will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: February 24, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–4599 Filed 2–26–93; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composers Fellowships Prescreening #2 Section) to the National Council on the Arts will meet on March 26, 1993 from 9 a.m.–5:30 p.m. and March 27 from 8 a.m.–5:30 p.m. in room M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of application evaluation, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, this session will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: February 24, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–4600 Filed 2–26–93; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–286]

Exemption

In the Matter of: Power Authority of the State of New York (Indian Point Nuclear Generating Unit No. 3).

I.

The Power Authority of the State of New York (the licensee) is the holder of Facility Operating License No. DPR–64, which authorizes operation of the Indian Point Nuclear Generating Unit No. 3 (IP3). The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility consists of a pressurized water reactor at the licensee's site located in Westchester County, New York.

II.

By letter dated July 17, 1992, as supplemented December 23, 1992, the licensee requested an amendment to the Technical Specifications (TS) that would allow containment isolation valve local leak rate tests (LLRTs) to be performed at intervals up to 30 months. In addition, the licensee's letter requested an exemption from the requirements of the Code of Federal Regulations (CFR) since 10 CFR part 50, appendix J, Paragraph III.D.3, requires that licensees perform Type C tests during each reactor shutdown for refueling but in no case at intervals greater than 2 years. Type C tests are LLRTs of containment isolation valves.

The licensee did not require an exemption from 10 CFR part 50, appendix J, Paragraph III.D.2.(a) for Type B tests (LLRTs of containment penetrations) since the license has a continuous leakage monitoring system installed. Specifically, the weld channel and containment penetration pressurization system provides a continuous monitoring function. The CFR at 10 CFR part 50, appendix J, Paragraph III.D.2.(a) allows Type B tests, except for air lock tests, to be performed every other reactor shutdown for refueling but in no case at intervals greater than 3 years if a continuous leakage monitoring system is installed. The licensee's TS currently allows this 3-year test interval, therefore, an exemption for Type B tests was not required to accommodate operation on a 24-month fuel cycle.

The licensee commenced operating on 24-month fuel cycles, instead of the previous 18-month fuel cycles, with fuel cycle 9. Fuel cycle 9 start in August 1992. In order to conform with the requirements of 10 CFR part 50, appendix J, Paragraph III.D.3, the licensee would have to shutdown IP3 and enter a forced outage prior to the next scheduled refueling outage. The next refueling outage is scheduled to commence in the September 1994 time frame.

III.

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not prevent an undue risk to public health and safety, and are consistent with the common defense and security and (2) when special circumstances are present. According to 10 CFR 50.12(a)(2)(iii), special circumstances are present when "Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated; * * *

The CFR at 10 CFR part 50, appendix J, Paragraphs III.D.3 states: "Type C tests shall be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years * * *" This requirement to perform Type C LLRTs at intervals no greater than 2 years presumed the 2-year time interval was adequate to accommodate the 12-month fuel cycles which were common when appendix J to 10 CFR part 50 was published in 1973. However, IP3, along with several other facilities, is utilizing a core design which allows operation on a 24-month cycle.

The NRC staff recognized that the current 2-year intervals for Type C LLRTs would likely require a facility to shutdown to perform these LLRTs before completion of the facility's 24-month fuel cycle. Consequently the NRC staff issued Generic Letter 91–04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-month Fuel Cycle." This generic letter provides guidance to licensees on how to prepare requests for TS amendments and CFR exemptions which are needed to accommodate a 24-month fuel cycle. Enclosure 3 to Generic Letter (GL) 91–04 indicated, in part, that two issues should be addressed to justify extending the 2-year Type C LLRT interval: (1) A possible reduction in the combined leakage limit for Type B and C LLRTs and (2) the basis for concluding that the containment leakage rate would be maintained within the acceptable limits with an LLRT interval increase of up to 30 months. The licensee's letter of July 17, 1992, as supplemented December 23, 1992, addressed both of these issues.

The first issue is a reduction in the combined containment penetration and isolation valve leakage rate limit for Type B and C LLRTs which increases the margin to the maximum allowable leakage rate. The maximum allowable leakage rate, which is referred to as L_a, is specified in the facility's TS. The acceptance criteria for Type B and C LLRTs is that the combined leakage rate shall be less than 0.60 L_a. This constitutes a margin of 0.40 L_a (40 percent of L_a). Enclosure 3 to GL 91–04 states in part, that in order to justify an exemption to the Appendix J requirements and extend Type C LLRT intervals up to 30 months, licensees should either: (1) Use LLRT data to demonstrate that the margin of 0.40 L_a will not be reduced as a result of the test interval increase or (2) propose an acceptance criterion limit of less than 0.60 L_a as a TS change. The licensee has proposed an acceptance criterion limit of 0.50 L_a for IP3. This constitutes a 25 percent increase in margin (40 percent to 50 percent). The staff has reviewed the proposed reduction in the combined leakage rate limit to 0.50 L_a and finds it is consistent with the recommendations of Enclosure 3 to GL 91–04 and is, therefore, acceptable.

The second issue is the basis for concluding that containment leakage would be maintained within acceptable limits with an LLRT interval increase of up to 30 months. Ten LLRTs have been performed at IP3 since the facility began commercial operation. The as-found results of the first two tests (1978 and 1979) did not meet the acceptable leakage limit due to excessive leakage from one valve in 1978 and four valves in 1979. The as-found results of the next six tests were below the acceptable leakage limit. Finally, the as-found results of the two most recent tests (1989 and 1990) did not meet the acceptable leakage limit due to excessive leakage from three valves in 1989 and one valve in 1990. For each of the tests that did not meet the leakage limits, repairs to the noted valves were conducted and the as-left values were well below the limits. For example, the as-left leakage values from the 1989 and 1990 tests were 0.031 L_a and 0.041 L_a respectively. The licensee reviewed the test results from these ten LLRTs and concluded that the leakage failures, except for one valve which was replaced in 1990, were random and nonrecurring. Therefore, the licensee concluded that these failures were not indicative of a poor performance trend and that there was no evidence that the containment leakage was a function of time. The NRC staff has reviewed the LLRT data provided by the licensee as well as the methodology used by the licensee to extrapolate LLRT data to a 30-month test interval and the staff concludes that there is reasonable assurance that the containment leakage rate would be maintained within acceptable limits with an LLRT interval increase to 30 months.

Strick compliance with the testing periodicity required by the current regulations would require mid-cycle outages which would result in undue hardship or other costs that would be significantly in excess of those contemplated when the regulations were adopted. Thus, there are special circumstances present which satisfy the requirements of 10 CFR 50.12(a)(2)(iii).

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12,

that (1) the exemptions as described in Section III are authorized by law, will not endanger life or property, and are otherwise in the public interest and (2) special circumstances exist pursuant to 10 CFR 50.12(a)(2)(iii). Therefore, the Commission hereby grants the following exemption: The Power Authority of the State of New York is exempt from the requirement of 10 CFR part 50, appendix J, Paragraph III.D.3, in that the interval for Type C tests may be extended greater than 2 years but in no case greater than 30 months for the Indian Point Nuclear Generating Unit No. 3.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of these exemptions will have no significant impact on the quality of the human environment (58 FR 5424).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 19th day of February 1993.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–4614 Filed 2–26–93; 8:45 am]

BILLING CODE 7590–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Geography and Regional Science; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: March 19, 1993, 8 am to 5:30 pm.

Place: Room 1242, 1800 G Street, NW., Washington, DC.

Type of Meeting: Closed.

Contract Person: Dr. Brian P. Holly, Program Director, Division of Social, Behavioral, and Economic Research, room 336, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–7326.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate doctoral dissertation improvement proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals assocaited with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 24, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–4676 Filed 2–26–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Networking and Communications Research and Infrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Networking and Communications Research and Infrastructure.

Date and Time: March 9, 1993; 8:30 a.m. to 5 p.m.

Place: Room 417, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Darleen Fisher, Networking and Communications Research Program, National Science Foundation, room 416, Washington, DC 20550 (202 357–9717).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Networking and Communications Research Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals.

These matters are exempt under 5 U.S.C. 552 b. (c) (4) and (6) of the Government in the Sunshine Act.

Reason for Late Notice: Difficulty in arranging meeting date.

Dated: February 24, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–4621 Filed 2–26–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–280]

Virginia Electric and Power Company Surry Power Station, Unit 1; Environmental Assessment

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to the Virginia Electric and Power Company (the licensee) from the requirements of 10 CFR 50.55a(g)(4)(ii) for the Surry Power Station, Unit No. 1, located in Surry County, Virginia.

Environmental Assessment

Identification of Proposed Action

The proposed exemption would extend the Surry, Unit 1 second 10-year inservice test interval for pumps and valves from December 22, 1992 to March 10, 1994.

The Need for the Proposed Action

Due to extended maintenance outages, both Surry Units 1 and 2 have extended their intervals in accordance with provisions of Section XI of the ASME Code for pumps and valves. However, the interval start dates for Surry Units 1 and 2 are different. The proposed exemption would result in the Inservice Testing Programs for both units being on and remaining on the same interval and require compliance with the same edition of the code and addenda. A common start date will also reduce the program administrative burden by permitting only a single submittal to be made for both units.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed exemption and determined that the continued implementation of the existing second 10-year test program until May 10, 1994, meets the underlying purpose of the regulation. Thus radiological releases will not differ from those determined previously and the proposed exemption does not otherwise affect facility radiological effluent or occupational exposures. With regard to potential nonradiological impacts, the proposed exemption does not affect plant nonradiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Surry Power Station, Units 1 and 2.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendments.

Based upon the foregoing environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for the exemption dated November 10, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Rockville, Maryland this 18th day of February, 1993.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Project Director, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–4610 Filed 2–26–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Company, Surry Power Station, Units 1 and 2; Environmental Assessment

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–32 and DPR–37, issued to Virginia Electric and Power Company (the licensee), for the Surry Power Station, Unit Nos. 1 and 2, located in Surry County, Virginia.

Environmental Assessment

Identification of Proposed Action

The proposed amendments would modify Technical Specification (TS) Table 3.7–2, Item 5, "NON-ESSENTIAL SERVICE WATER," to include operability requirements for the actuation logic. Specifically, Item 5.b, "Automatic actuation logic," is being added to indicate total number of channels, minimum operable channels, channels to trip, and Operator Action 14. The action statement will require the unit to be placed in hot shutdown within 12 hours when the minimum channels operable requirements are not met and allow one channel of the actuation logic to be bypassed for up to 8 hours for surveillance testing.

The proposed action is in accordance with the licensee's application for amendment dated September 4, 1992.

The Need for the Proposed Action

The proposed changes to the TS permit an allowable outage time for surveillance testing of the non-essential service water actuation logic and include operability requirements and an action statement for the actuation logic.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the TS. The proposed revisions would allow an 8-hour permissible bypass condition for the performance of the non-essential service water isolation actuation logic surveillance testing and include operability requirements for the actuation logic. The proposed changes do not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed changes to the TS do not affect non-radiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on October 20, 1992 (57 FR 47884). No request for hearing or petition for leave to intervene was filed following this notice.

Alternatives to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendments. This would not reduce the environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Surry Power Station, Units 1 and 2.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendments.

Based upon the foregoing environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendments dated September 4, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Rockville, Maryland, this 18th day of February 1993.

For the Nuclear Regulatory Commission.

Bart C. Buckley,

Senior Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–4611 Filed 2–26–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Joint Meeting of the Subcommittees on Severe Accidents and Probabilistic Risk Assessment

The ACRS Subcommittees on Severe Accidents and Probabilistic Risk Assessment will hold a joint meeting on March 18, 1993, in room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Thursday, March 18, 1993—8:30 a.m. until the conclusion of business.*

The Subcommittees will begin the discussion of severe accident and PRA issues in regard to the Advanced Boiling Water Reactor (ABWR) Certification Review (Chapter 19 of the ABWR Standard Safety Analysis Report submittal). The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairmen; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittees, their

consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, GE Nuclear Energy, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Dean Houston (telephone 301/492–9521) between 7:30 a.m. and 4:15 p.m. (e.s.t.). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: February 22, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–4613 Filed 2–26–93; 8:45 am]

BILLING CODE 7590–01–M

Eastern U.S. Seismic Hazard Program; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission staff will meet with the public, including industry representatives, to discuss the current Lawrence Livermore National Laboratory probabilistic seismic hazard estimates.

DATES: March 9, 1993, 9 a.m.–3 p.m.

ADDRESSES: Holiday Inn Crowne Plaza, Room: Ballroom, Plaza 1, 1750 Rockville Pike, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Goutam Bagchi, Chief, Civil Engineering and Geosciences Branch, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 504–3305.

SUPPLEMENTARY INFORMATION: NUREG/CR–5250 describes probabilistic seismic hazard estimates for nuclear power plants in the Eastern U.S. Because of the advances in the state-of-the-art since the publication of the NUREG report in 1989, a need for a revision to the hazard methodology has been established. The seismicity and ground motion experts have revised their inputs and Lawrence Livermore National Laboratory has calculated revised seismic hazard estimates. The purpose of this meeting is to meet with the public, including industry representatives, to discuss the revised seismic hazard estimates.

Dated at Rockville, Maryland, this 19th day of February, 1993, for the Nuclear Regulatory Commission.

James E. Richardson,

Director, Division of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 93–4612 Filed 2–26–93; 8:45 am]

BILLING CODE 7590–01–M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; Forest Lakes Village, El Paso County, CO

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as the Forest Lakes Village parcel, located north of Colorado Springs, El Paso County, Colorado, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 1, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. William Messer, Resolution Trust Corporation, Kansas City Office, 7400 West 110th Street, suite 500, Kansas City, MO 66210–2346, (913) 344–8100, Fax (913) 344–8134.

SUPPLEMENTARY INFORMATION: The Forest Lakes Village parcel is located approximately fifteen (15) miles north of Colorado Springs, El Paso County, Colorado, one half (½) mile west of I–25 and one (1) mile south of Baptist Assembly Road. There is no direct access to the site. The property has recreational value and in contiguous with the United States Air Force Academy. Federally listed endangered species may also occur on the site. The portion of the Air Force Academy lands that are contiguous with the Forest Lakes Village parcel are managed for open space and wildlife habitat. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a–3).

Characteristics of the property include: The Forest Lakes Village parcel consists of approximately 181 acres of vacant, undeveloped land that is partially forested. The site has been subdivided and zoned for residential use, however, no improvements have been made to the property.

Property size: Approximately 181 [illegible].

Written notice of serious interest in the purchase or other transfer of the property must be received on or before June 1, 1993 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 1, 1993 to Mr. William Messer at the above ADDRESSES and in the following form:

Notice of Serious Interest

Re: Forest Lakes Village Parcel
Federal Register Publication Date: March 1, 1993.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: February 23, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–4581 Filed 2–26–93; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability; Mountain Creek, Dallas County, TX

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Mountain Creek, located in Dallas, Dallas County, Texas, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 1, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. E. Ted Hine, Resolution Trust Corporation, California Office, 4000 MacArthur Boulevard; 2nd Floor, East Tower, Newport Beach, CA 92660–2516, (714) 263–4648, Fax (714) 852–7623.

SUPPLEMENTARY INFORMATION: The Mountain Creek property is located within the city limits of Dallas, Texas, at Spur 408 and IH–20. The property has recreational value, contains habitat for the federally endangered Black-capped vireo, and is adjacent to Cedar Hill State Park. The property is covered property within the meaning of Section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a–3).

Characteristics of the property include: Mountain Creek consists of fifty-four (54) legal parcels that form five (5) non-contiguous parcels comprising a total of approximately 3,323.84 acres. The topography of Mountain Creek varies from relatively flat land situated in a floodplain abutting Mountain Creek Lake on the west to more rugged terrain adjacent to Spur 408 on the east. There is a rise in elevation of 295 feet from west to east. The hillside area in the eastern part of Mountain Creek contains the White Rock Escarpment which is an ecologically sensitive area protected by the City of Dallas for purposes of public access to the escarpment zone. The property shares common boundaries with Cedar Hill State Park to the south.

Property size: Approximately 3,323.84 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before June 1, 1993 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices are interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 1, 1993 to Mr. E. Ted Hine at the above ADDRESSES and in the following form:

Notice of Serious Interest

Re: Mountain Creek **Federal Register** Publication Date: March 1, 1993.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: February 23, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–4582 Filed 2–26–93; 8:45 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: John J. Lane, (202) 272–5407.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Filings, Information and Consumer Services, 450 Fifth Street, NW., Washington, DC 20549.

Extension

Rule 26a–3; File No. 270–293

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*), the Securities and Exchange Commission ("SEC") has submitted for extension of OMB approval proposed Rule 26A–3 under the Investment Company Act of 1940 ("1940 Act").

Rule 26a–3 would codify standards for granting exemptive relief from provisions of the 1940 Act to permit insurance company separate accounts to impose "risk charges" in connection with variable annuity contracts. Twenty-five respondents would each spend about eight hours, annually, complying with the requirements of the rule.

The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to John J. Lane, Associate Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (Paperwork Reduction Projects 3235–0333) [Rule 26a–3], room 3208, New Executive Office Building, Washington, DC 20503.

Dated: February 17, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4579 Filed 2–26–93; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: John J. Lane, (202) 272–5407

Upon written request copy available from: Securities and Exchange Commission, Office of Filings, Information and Consumer Affairs, Washington, DC 20549.

Proposed Revisions

Form SB–2	File No. 270–366
Form 10–SB	File No. 270–367
Form 10–KSB	File No. 270–368
Form 10–QSB	File No. 270–369
Regulation S–B	File No. 270–370
Form S–1	File No. 270–58
Form S–2	File No. 270–60
Form S–3	File No. 270–61
Form S–4	File No. 270–287
Form S–8	File No. 270–66
Form S–11	File No. 270–64
Form F–1	File No. 270–249
Form F–2	File No. 270–250
Form F–3	File No. 270–251
Form F–4	File No. 270–288
Form F–6	File No. 270–270
Form F–7	File No. 270–331
Form F–8	File No. 270–332
Form F–9	File No. 270–333
Form F–10	File No. 270–334
Form F–80	File No. 270–335
Form 20–F	File No. 270–156
Form 40–F	File No. 270–335
Form 10–Q	File No. 270–49

Form 10–K	File No. 270–48
Form 11–K	File No. 270–101
Form 18–K	File No. 270–108
Form 6–K	File No. 270–107
Form 8–A	File No. 270–54
Form 8–B	File No. 270–55
Form 8–K	File No. 270–50
Form 10	File No. 270–51
Form 10C, Rules 13a–17 and 15d–17.	File No. 270–206
Form 15	File No. 270–170
Form 18	File No. 270–105
Form F–X	File No. 270–336
Regulation S–K	File No. 270–2
Regulation S–X	File No. 270–3
Regulation S–T	File No. 270–375
Industry Guides under the Securities Act of 1993 and the Securities Exchange Act of 1934.	File No. 270–69
Form SE	File No. 270–289
Form ID	File No. 270–291
Form ET	File No. 270–290
Regulation 12B	File No. 270–70
Rule 12b–25	File No. 270–71
Regulations 13D and 13G.	File No. 270–137
Rule 13e–1	File No. 270–255
Rule 13e–3	File No. 270–1
Rule 13e–4	File No. 270–190
Regulation 14A	File No. 270–56
Regulation 14C	File No. 270–57
Regulations 14D and 14E.	File No. 270–114
Rule 14f–1	File No. 270–108
Form T–1	File No. 270–121
Form T–2	File No. 270–122
Form T–3	File No. 270–123
Form T–6	File No. 270–344
Requirements as to Form and Content of Applications and reports under the Trust Indenture Act of 1939.	File No. 270–115
Rules 8b–1 through 8b–32.	File No. 270–135
Rules 20a–1 through 20a–4.	File No. 270–132
Rule 24f–1	File No. 270–130
Rule 24f–2	File No. 270–131
Rule 30b2–1	File No. 270–213
Rule 30d–1	File No. 270–21
Form N–1A	File No. 270–21
Form N–2	File No. 270–21
Form N–3	File No. 270–281
Form N–4	File No. 270–282
Form N–5	File No. 270–172
Form S–6	File No. 270–181
Form N–14	File No. 270–297
Form N–8A	File No. 270–135
Form N–8B–2	File No. 270–186
Form N–8B–3	File No. 270–179
Form N–8B–4	File No. 270–180
Form N–18F–1	File No. 270–187
Form N–23C–1	File No. 270–230
Form N–6F	File No. 270–185
Form N–54A	File No. 270–182
Form N–54C	File No. 270–184
Form N–SAR	File No. 270–292
Form 2–E	File No. 270–222
Form 13F	File No. 270–22
Rule 20	File No. 270–128
Rule 24	File No. 270–129
Rule 45	File No. 270–164
Form U5A	File No. 270–168
Form U5B	File No. 270–168
Form U5S	File No. 270–168
Form U–1	File No. 270–128
Form U–13–1	File No. 270–80
Form U–6B–2	File No. 270–81
Form U–12–IA	File No. 270–161
Form U–12–IB	File No. 270–161
Form U–13E–1	File No. 270–74
Form U–R–1	File No. 270–166
Form U–13–60	File No. 270–79
Form U–3A–2	File No. 270–83
Form U–3A3–1	File No. 270–77
Form U–7D	File No. 270–75

Notice is hereby given pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), that the Securities and Exchange Commission has submitted for OMB approval proposed revisions to a number of rules, regulations and forms relating to the implementation of the Electronic Data Gathering, Analysis and Retrieval ("EDGAR") system. The proposed revisions will affect the burden hours associated with the rules, regulations and forms listed below in the following manner:

(1) Form S–2—This form is used as a registration statement under the Securities Act of 1933 ("Securities Act"). Form S–2 affects approximately 84 filers and results in 499 burden hours.

(2) Form S–3—This form is used as a registration statement under the Securities Act. Form S–3 affects approximately 2280 filers and results in 418 burden hours.

(3) Form S–4—This form is used for registration of securities under the Securities Act in connection with business combinations. Form S–4 affects approximately 505 filers and results in 1244 burden hours.

(4) Form S–8—This form is used by qualifying issuers for registration under the Securities Act of securities relating to employee benefit plans. Form S–8 affects approximately 2854 filers and results in 46 burden hours.

(5) Form F–2—This form is available to foreign private issuers for registration of securities under the Securities Act. Form F–2 affects approximately six (6) filers and results in 859 burden hours.

(6) Form F–3—This form is available to foreign private issuers for registration of securities under the Securities Act. Form F–3 affects approximately four (4) filers and results in 309 burden hours.

(7) Form F–4—This form is available to foreign private issuers for registration under the Securities Act of securities in connection with business combinations. Form F–4 affects approximately two (2) filers and results in 1404 burden hours.

(8) Rule 13e–3—This rule governs going private transactions. Rule 13e–3 affects approximately 221 filers and results in 139.25 burden hours.

(9) Rule 13e–4—This rule governs tender offers by issuers. Rule 13e–4 effects approximately 121 filers and results in 232 burden hours.

(10) Regulation 14A—This regulation contains federal disclosure and other requirements relating to proxy solicitations. Regulation 14A affects approximately 8000 filers and results in 89 burden hours.

(11) Regulation 14C—This regulation contains federal disclosure and other requirements relating to information statements distributed in connection with shareholder meetings. Regulation 14C affects approximately 63 filers and results in 90 burden hours.

(12) Regulations 14D and 14E—These regulations contain federal disclosure and other requirements relating to tender offers. Regulations 14D and 14E affect approximately 366 filers and result in 353.25 burden hours.

(13) Form T–3—This form is an application for qualification of trust indentures under the Trust Indenture Act of 1939. Form T–3 affects approximately 55 filers and results in 43 burden hours.

(14) Form ID—This form is used to obtain identification numbers and passwords to gain access to the EDGAR system. Form ID affects approximately 7000 filers and results in .15 burden hours.

(15) Form ET—This form is used as a cover sheet to make filings with the Commission on computer diskettes and magnetic tape. Form ET affects approximately 300 filers and results in approximately .25 burden hours.

(16) Form SE—This revised form will be used for exhibits relating to electronic filings that are submitted in paper pursuant to a hardship exemption. Form SE will affect approximately 1000 filers and results in .10 burden hours.

(17) Rule 30d–1—This form prescribes the minimum content of reports to shareholders that management investment companies must send at least semi-annually. Rule 30d–1 affects approximately 2,866 filers and results in 299 burden hours.

(18) Form N–14—This form is used for registration under the 1933 Act of securities issued in business combination transactions by registered investment companies and business development companies. Form N–14 affects approximately 60 filers and results in 2,499 burden hours.

While EDGAR will have an impact on compliance with the other rules, regulations and forms listed below, it is anticipated that the rules implementing EDGAR will have no effect on existing burden hours. Those rules, regulations

and forms are: Form SB–2; Form 10–SB; Form 10–KSB; Form 10–QSB; Regulation S–B; Form S–1; Form S–11; Form F–1; Form F–6; Form F–7; Form F–8; Form F–9; Form F–10; Form F–80; Form 20–F; Form 40–F; Form 10–Q; Form 10–K; Form 11–K; Form 18–K; Form 6–K; Form 8–A; Form 8–B; Form 8–K; Form 10; Form 10C and Rules 13a–17 and 15d–17; Form 15; Form 18; Form F–X; Regulation S–K; Regulation S–X; Regulation S–T; the Industry Guides under the Securities Act of 1933 and the Securities Exchange Act of 1934; Regulation 12B; Rule 12b–25; Regulations 13D and 13G; Rule 13e–1; Rule 14f–1; Form T–1; Form T–2; Form T–6; Requirements as to Form and Content of Applications and reports under the Trust Indenture Act of 1939; Rules 8b–1 through 8b–32; Rules 20a–1 through 20a–4; Rule 24f–1; Rule 24f–2; Rule 30b2–1; Form N–1A; Form N–2; Form N–3; Form N–4; Form N–5; Form S–6; Form N–8A; Form N–8B–2; Form N–8B–3; Form N–8B–4; Form N–18F–1; Form N–23C–1; Form N–6F; Form N–54A; Form N–54C; Form N–SAR; Form 2–E; Form 13F; Rule 20; Rule 24; Rule 45; Form U5A; Form U5B; Form U5S; Form U–1; Form U–13–1; Form U–6B–2; Form U–12–IA; Form U–12–IB; Form U–13E–1; Form U–R–1; Form U–13–60; Form U–3A–2; Form U–3A3–1; Form U–7D.

The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules or forms. General comments regarding the estimated burden hours should be directed to Gary Waxman at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to John J. Lane, Associate Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Gary Waxman, (PRA Project Nos. 3235–0072, 3235–0073, 3235–0324, 3235–0066, 3235–0257, 3235–0256, 3235–0325, 3235–0105, 3235–0057, 3235–0059, 3235–0007, 3235–0203, 3235–0102, 3235–0328, 3235–0329, 3235–0327, 3235–0330, 3235–0184, 3235–0247, 3235–0166, 3235–0186, 3235–0169, 3235–0318, 3235–0316, 3235–0026, 3235–0307, 3235–0220, 3235–0158, 3235–0176, 3235–0006, 3235–0238 3235–0236, 3235–0237, 3235–0230, 3235–0211, 3235–0175, 3235–0233, 3235–0336, 3235–0025, 3235–0159, 3235–0155, 3235–0125, 3235–0126, 3235–0154, 3235–0170, 3235–0170, 3235–0125, 3235–0182 3235–0163, 3235–0173, 3235–0162, 3235–0152, 3235–0153, 3235–0161, 3235–0160, and 3235–0165), Clearance Officer, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: January 28, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4578 Filed 2–26–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31898; File No. SR–OCC–92–27]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Relating to Quarterly-Index Expiration Options

February 22, 1993.

On September 22, 1992, The Options Clearing Corporation ("OCC") submitted a proposed rule change (File No. SR–OCC–92–27) to the Securities and Exchange Commission ("Commission") pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal appeared in the **Federal Register** on November 18, 1992, to solicit comment from interested persons.[2] On February 17, 1993, OCC filed with the Commission a non-conversial, technical amendment. No comments were received by the Commission. This order approves the proposal.

I. Description of the Proposal

The proposed rule change would amend OCC By-Laws and Rules to authorize OCC to issue, clear, and settle the Quarterly Index Expiration Options ("QIX") that have been proposed for trading by the Chicago Board Options Exchange, Incorporated ("CBOE")[3] and the American Stock Exchange, Inc. ("Amex").[4] QIX are stock index options that have an expiration date different than the expiration date for currently traded stock index options. Currently, stock index options expire on the Saturday following the third Friday of the expiration month. In contrast, QIX would expire on the first business day of the month following the end of a calendar quarter. While the processing of QIX would necessitate some modifications to OCC's systems, OCC would process QIX exactly like other index options and would margin QIX consistent with other index options taking into account the longer expiration date. The only significant modification to OCC's system is with respect to the fact that QIX, by its definition, will expire on a business day.

OCC proposes to handle the business day expiration similar to the way it currently handles Saturday exercise-by-exception ("ex-by-ex") processing with a minor modification.[5] In the present Saturday expiration, OCC has the luxury of running a Preliminary and a Final Report to assist Clearing Members in determining whether to follow the ex-by-ex processing.[6]

Because QIX expire on a business day, only one report will be given to the Clearing Member at the beginning of the day.[7] By a threshold established by OCC,[8] the report will reflect all QIX positions as in-the-money, at-the-money, or out-of-the-money.[9] The Clearing Member would be required: (1) To review the report to ensure that all positions reflected in the report are correct; (2) to make a determination that it has instructions from its customers to instruct OCC to exercise all in-the-money QIX positions in the customers' account; (3) to make a determination (a) not to submit any changes to the report to indicate that it concurs with the ex-by-ex processing of QIX positions identified as in-the-money; (b) to submit changes to the report to instruct OCC to exercise more or less contracts than reflected as in-the-money positions in

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[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release No. 31418 (November 6, 1992), 57 FR 54435.

[3] Securities Exchange Act Release No. 31800 (February 1, 1993) [File No. SR–CBOE–92–13] (order approving proposed rule change).

[4] Securities Exchange Act Release No. 31844 (February 9, 1993), 58 FR 8796 [File No. SR–Amex–92–29] (notice of filing and order approving proposed rule change).

[5] Ex-by-ex processing presumes that Clearing Members desire to exercise all options that are in-the-money by a certain threshold. Accordingly, OCC identifies all options as either in-the-money, at-the-money, or out-of-the-money in a Preliminary and a Final Report provided to each Clearing Member. The Reports given to the Clearing Members reflect that the Clearing Members are instructing OCC to exercise all in-the-money options. Clearing Members are then given the option to change any or all of the in-the-money instructions or to instruct OCC to exercise any options that are not reflected as in-the-money in the Report.

[6] OCC Rule 805, Expiration Date Exercise Procedures, sets forth procedures for the issuance of the Preliminary and Final Reports.

[7] OCC Rule 806, Exercise Date Exercise Procedures for Business Day Expirations, as amended by this filing, sets forth procedures for the issuance of this report.

[8] There are two thresholds established by OCC for QIX, one for customer positions and one for all other positions. This is consistent with OCC's current procedures for index options.

[9] Whether a QIX position is in-the-money, at-the-money, or out-of-the-money will be determined by taking the closing or opening value of the underlying index and subtracting that value from the exercise settlement value of the index option.

the report, or (c) to submit changes to instruct OCC to exercise any QIX that are not reflected as in-the-money in the report; and (4) to make a determination that all exercise instructions as submitted by the Clearing Member are accurately reflected in the report. Clearing Members would be required to submit such exercise instructions to OCC by the 7 p.m. cut-off time. Specific changes are identified below.

A. Proposed Amendments to OCC's By-Laws

Several modifications have been made to Article XVII, section 1 of OCC's By-Laws. First, to accommodate the processing of QIX, OCC has amended the definition of "expiration date" so that the expiration date of an index option contract with an expiration date other than the Saturday following the third Friday of the expiration month will be the date as set forth by the exchange. As proposed, the term expiration date will allow flexibility as the exchanges develop new products with varying expiration dates. Secondly, OCC has added a definition for QIX which identifies the specific expiration date respecting that product. Lastly, OCC has alphabetized this section and has modified certain cross-references in the By-Laws to conform to the alphabetizing scheme.

B. Proposed Amendments to OCC's Rules

1. Chapter VIII

Because QIX was designed to be cleared and settled within OCC's current system, OCC's Rules need only minor modifications. OCC Rule 806, which currently references European style options that expire on a business day, has been amended to remove the language limiting such options to European style options.[10]

Other than the change to generalize the styles of options, chapter VIII is unchanged.

2. Chapter XVIII

A new subsection (b) to OCC Rule 1804, Expiration Date Exercise Procedures for Index Options, has been proposed to accommodate the expiration day processing of QIX. As proposed, holders of QIX may exercise their QIX positions by tendering an exercise notice to OCC in accordance with OCC Rule 1804(b)(1), which refers to exercise procedures for business day expirations under Rule 806, or be "deemed" to have exercised in accordance with a modified ex-by-ex procedure set forth in Rule 1804(b)(2). The ex-by-ex procedures would allow OCC to exercise all index option contracts carried in a customers' account that are in-the-money by $25.00 or more per contract and all index option contracts carried in any other account that are in-the-money by $1.00 or more per contract. As with other ex-by-ex procedures contained elsewhere in OCC's Rules, a Clearing Member may choose not to avail itself of these ex-by-ex procedures by instructing OCC not to exercise all or certain contracts identified as in-the-money in the report provided by OCC at the beginning of the expiration day. OCC is adding Interpretations and Policies ("I&P") .01 to Rule 1804 to remind Clearing Members that the exercise thresholds are administrative procedures established by OCC to expedite its processing of exercises of expiring options and are not intended to dictate to Clearing Members which positions in the customers' accounts should or must be exercised.[11]

II. Discussion

The Commission believes that the proposal is consistent with the Act and particularly with section 17A of the Act.[12] Section 17A(b)(3)(F) of the Act [13] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of funds in the custody or control of the clearing agency or for which it is responsible.

The changes that OCC has proposed in its By-Laws and Rules in order to clear and settle QIX are technical in nature. Except for the differences noted above, OCC's procedures for clearing and settling QIX will be the same as OCC's existing procedures for processing index options. The fact that QIX will expire on a business day rather than on a Saturday and the fact that Clearing Members will receive one report for ex-by-ex processing instead of two should not impede OCC's ability to carry out its statutory obligations of promoting prompt and accurate clearance and settlement of securities transactions and assuring the safeguarding of securities and funds in its custody or control.

III. Conclusion

For the reasons discussed above, the Commission believes that the proposal is consistent with the requirements of the Act, particularly section 17A of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[14] that the above-mentioned proposed rule change (File No. SR–OCC–92–27) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4580 Filed 2–26–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31912; File No. SR–OCC–92–33]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Relating to Flexible Exchange Options

February 23, 1993.

On September 17, 1992, The Options Clearing Corporation ("OCC") submitted a proposed rule change (File No. SR–OCC–92–33) to the Securities and Exchange Commission ("Commission") pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] concerning Flexible Exchange ("FLEX") options such as those currently proposed for trading by the Chicago Board Options Exchange ("CBOE").[2] Notice of the proposal appeared in the **Federal Register** on November 18, 1992, to solicit comments from interested persons.[3] On February 22, 1993, OCC filed a nonsubstantive, technical amendment. No comments were received by the Commission. This order approves the proposal.

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[10] In 1985, the Commission approved rules proposed by OCC that allow OCC to clear and settle European-style currency options that expire on a business day. Securities Exchange Act Release No. 22369 (August 28, 1985), 50 FR 36176. In 1986, the Commission approved similar rules that allow OCC to clear and settle European-style Treasury options that expire on a business day. Securities Exchange Release Act No. 23004 (March 12, 1986), 51 FR 9563. The latter rule change was the genesis of OCC Rule 806 (adopted March 12, 1986), and the references to "business day expirations" that are in current OCC Rules. Currently, there is no trading of options that expire on a business day.

[11] I&P .01 is substantially the same as existing I&P .02 to Rule 805.

[12] 15 U.S.C. 78q–1 (1988).

[13] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[14] 15 U.S.C. 78s(b) (1988).

[15] 17 U.S.C. 200.30–3(a)(12) (1991).

[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release No. 31361 (October 27, 1992), 57 FR 52655 [File No. SR–CBOE–92–17] (notice of filing of CBOE proposal to trade FLEX options).

Recently, the American Stock Exchange filed a proposed rule change (File No. SR–AMEX–93–05) to list for trading FLEX options on its Major Market, Institutional, Japan, and S&P MidCap indexes.

[3] Securities Exchange Act Release No. 31419 (November 6, 1992), 57 FR 54436.

I. Description of the Proposal

The purpose of the proposed rule change is to establish the necessary framework for OCC to clear and settle FLEX options. As explained in the CBOE's filing, certain terms of FLEX options will be customized, within Exchange-specified limits, by the parties to each FLEX option transaction. Specifically, parties will be able to establish for each FLEX option trade the expiration date, the exercise style, the exercise price, the cap interval (in the case of capped-style options),[4] and the method to be used for establishing the current index value for purposes of settling expiration date exercises.[5]

In addition to customization, FLEX option transactions will differ from regular Exchange-traded index options in terms of size.[6] An initial transaction in any unopened FLEX series must have an underlying value of at least $10 million,[7] and secondary transactions in opened series generally must have an underlying value of $1 million or more.[8]

FLEX options will be traded initially in only two index option classes, the Standard and Poor's ("S&P") 100 and the S&P 500, which are classes of index options that OCC already clears.[9] Each FLEX option transaction will consist of a stated number of index options in one class or the other. Further, at the time a FLEX option transaction is reported by CBOE to OCC, all the terms of that option will have been established in CBOE's report, and virtually all the FLEX option's terms will correspond to terms of existing index options. OCC expects FLEX option positions to exhibit virtually the same characteristics as regular index options. As a result, on receipt of a matched trade report from the CBOE or another exchange, OCC will establish long and short FLEX option positions in Clearing Member accounts in precisely the same way it currently does for regular index options. As a general matter, OCC will incorporate FLEX options in its premium settlement, margin collection, exercise notice, exercise assignment, and exercise/expiration statement processes without significant changes to those processes.[10]

OCC states that only a limited number of OCC's By-Laws and Rules require adjustment to accommodate FLEX options. The principal changes involve: (1) Definitional and technical changes to OCC By-Laws, Article VI and XVII, (2) modifications to exercise date exercise procedures in OCC Rules 801 and 1804, and (3) modifications to clearing margin procedures in OCC Rule 602.

1. Definitions and Technical Amendments

a. Definitions

OCC proposes to add new definitions and to revise existing definitions in section 1 ("Definitions") of article XVII ("Index Options") of OCC's By-Laws. In particular, the proposal will add definitions of "FLEX Option,"[11] "FLEX Clearing Member,"[12] and "Index Value Determinant" ("IVD"),[13] and the term "Class of Options"[14] will be redefined to enable OCC to treat each FLEX option having a different IVD as a separate class. Because FLEX options having different IVDs are not fungible, OCC states that these definitional amendments are necessary to avoid intermingling nonfungible FLEX options during exercise and assignment processing.

b. Technical Amendments

The proposed technical amendments to paragraph (b), section 10 ("Terms of Cleared Securities"), article VI ("Clearance of Exchange Transactions") of OCC's By-Laws are designed: (1) To remove any implication that only the expiration date and exercise price are to be determined by the exchange when a new series of FLEX options is opened for trading and (2) to clarify that notice to OCC of the terms of any newly-opened series of FLEX options needs to be made by the exchange not later than 4:30 p.m. Central Time on the day on which the FLEX option series is opened for trading. OCC states that these changes will eliminate any disparities that exist between section 10(b) of article VI as currently written and the changes that are proposed to other OCC rules in this filing.

A proposed amendment to section 5 ("Time for Determination of Current Index Value"), article XVII ("Index Options") of OCC's By-Laws will confirm that an exchange will supply OCC with the appropriate current index value in connection with settlement of an exercised FLEX option contract. OCC states that absent such a rule change, it would be unclear whether OCC could use a current index value other than the closing value in setting the exercise settlement amount for an expiring FLEX option.

A second amendment to section 5 of article XVII will clarify that the IVD is applicable only for expiration date exercises. For exercises of FLEX options on days other than the expiration date, the exercise settlement amount will be determined by reference to the closing value of the applicable index.

2. Expiration Date Exercise Procedures

The proposal will amend section (c) of Rule 801 ("Exercise of Options") to confirm that expiring FLEX options meeting the parameters set forth in section (c) of Rule 1804 ("Expiration Date Exercise Procedure for Index Options") will be exercised automatically on the expiration date in accordance with Rule 1804(c).[15] In turn, Rule 1804(c), as proposed, provides that the procedures set forth in Rule 806 ("Expiration Date Procedure for Business Day Expiration") will apply to expiration date exercise processing except that all FLEX options that are in-the-money on expiration date will be automatically exercised.

OCC has selected Rule 806 as the cross-reference rule, rather than Rule 805 ("Expiration Date Exercise Procedure"), because Rule 806 uses a single-report approach, as opposed to

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[4] A capped-style index option is one for which the exchange or in the case of FLEX options the parties establish a cap interval. A capped-style option is automatically exercised when the current index value is equal to or exceeds the exercise price plus the cap interval (in the case of a call option) or is equal to or is less than the exercise price minus the cap interval (in the case of a call option).

[5] Proposed CBOE Rule 24A.4. (c)(vi) allows the index value reported at the close or at the open of trading on the Exchange or as an average over a specified period of time to be used in setting the exercise settlement amount.

[6] By definition, FLEX options are index options. *Infra* note 8.

[7] Proposed CBOE Rule 24A.4. (e) (ii).

[8] Proposed CBOE Rule 24A.4. (e) (iii).

[9] *Supra* note 2.

In the event that an Exchange proposes to offer a FLEX option with anything other than an established index as the underlying asset, OCC will file a proposed rule change under Section 19(b)(2) of the Act. Furthermore, OCC has represented that before it begins to clear and settle any new FLEX option with an established index as the underlying asset, it will notify the Commission by letter.

[10] For a detailed description of OCC's processing of index options, refer to Securities Exchange Act Release No. 19486 (February 10, 1983) 48 FR 6219 [File No. SR–OCC–82–19].

[11] The term FLEX option is defined as an index option having an expiration date, exercise price, exercise style, an index value determinant, and, in the case of a capped option, a cap interval, that are reported to OCC by an Exchange pursuant to OCC By-Laws and Rules.

[12] The term FLEX Clearing Member is defined as a Clearing Member approved to clear transactions in FLEX options.

[13] An IVD is defined as the method for determining the current index value for purposes of settling a FLEX option exercised on its expiration date.

[14] The term class of options when used with respect to index options is defined as all options of the same type and style covering the same index group; the term will include FLEX options having the same IVD.

[15] OCC Rule 1804(e) provides for exercise-by-exception ("ex-by-ex") processing. Pursuant to ex-by-ex processing, all Clearing Members' options that are in-the-money by certain thresholds established by OCC are automatically exercised. Clearing Members are allowed to instruct OCC to not exercise any such options.

Rule 805's two report approach, to exercise processing which OCC finds more workable for FLEX options. OCC believes that such an approach, together with the automatic exercise feature, will reduce paper-handling risks and increase the ease and efficiency of expiration date exercise processing.

3. Clearing Margin

The proposal will amend the definition of "premium margin" in section (b) ("Definitions") of Rule 602 ("Margins on Positions in Non-Equity Options, Market Baskets and Commodity Options and Futures") to increase the factors and data that OCC may use in deriving a "premium quotation" for each unexercised long or unassigned short position in FLEX options. OCC states that this change will reflect the possibility that on any given day trading activity in currently opened series of FLEX options may not occur.

The possibility of limited or no trading activity in a FLEX option series requires OCC to be prepared to derive a premium quotation for each FLEX option for which Clearing Members have unexercised long or unassigned short positions. OCC will derive premium quotations by extrapolating and interpolating from information about trading activity and quotations in other series of index options. Accordingly, when no premium quotation is available in a given FLEX series on a particular day, OCC will, among other things, identify comparable index options series covering the same index group, and using OCC's existing TIMS analytic logic [16] will determine implied volatilities and other relevant pricing-related information, and will calculate a derived value for the FLEX option. OCC believes that such an approach will provide OCC with a secure method to derive appropriate marking prices and to set premium margin levels for FLEX options.

OCC states that the other aspects of OCC's existing margin scheme for index options appear to be workable for FLEX options without amendment. These include:

(1) Provisions in Rule 602(b) specifying the method for calculating premium margin,

(2) The definition of "marking price," and

(3) The margin calculation formulae in Rules 602 (c) and (d). OCC further states that it plans to monitor and test the adequacy of its margin program in light of the trading activity of FLEX options and that it is prepared to make further adjustments as experience dictates.

II. Discussion

The Commission believes that the proposal is consistent with the Act and in particular section 17A of the Act.[17] Sections 17A(b)(3) (A) and (F) of the Act [18] require that the rules of a clearing agency be designed: (1) To promote the prompt and accurate clearance and settlement of securities transactions; and (2) to assure the safeguarding of funds in the custody or control of the clearing agency or for which it is responsible. Moreover, Section 17(a)(2) of the Act [19] directs the Commission to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions.

As discussed above, by permitting the parties to FLEX options to customize the terms of their transactions within certain limits established by an exchange, OCC will bring into the clearance and settlement system options transactions that otherwise would be cleared and settled outside the system. Thus, investors will have the ability to tailor options transactions to meet their specific needs and at the same time, will have the benefit of having those transactions cleared and settled through OCC with its proven risk analysis and risk reduction procedures.

OCC has represented that it expects it can process FLEX options in the same manner as it processes other options. Certain features of the FLEX options, however, will be unique. For example, FLEX options are not expected to have a continuous auction market or any other form of daily public pricing mechanism. Consequently, OCC will have to "derive" FLEX prices from other sources to mark-to-the-market for clearing margin purposes. In addition, although FLEX positions will be margined like any other position,[20] the possibility exists that Clearing Members could hold positions in FLEX options series that are concentrated, illiquid, and far in excess of the average daily trading volumes or open interest in existing index options series. This could result in a proportionately higher degree of economic risk inherent in these positions when compared to the risk posed by the option series that OCC currently issues and clears. For example, OCC has advised the Commission that TIMS cannot calculate certain components of FLEX risk, specifically a long-term option's increased sensitivity to interest rate changes (an option's "rho" risk) and to volatility shifts (an option's "vega" risk).[21] Finally, because FLEX options will be issued in extremely large dollar amounts and may be infrequently traded, questions could arise about the liquidity of FLEX positions in the event a Clearing Member that holds FLEX options becomes insolvent and its FLEX options must be liquidated.

OCC believes that its existing safeguards will be adequate to meet the challenge of identifying and addressing the potential financial exposure. For example, FLEX positions, particularly concentrated naked short positions, will be subject to substantial additional margin requirements to protect against liquidation at prices within OCC's margin interval. OCC also will scrutinize the effect of liquidation at prices well beyond the margin interval in light of the Clearing Member's current net capital. If necessary, OCC will collect additional margin to protect against the liquidation risk.

The Commission believes that OCC will exercise appropriate caution in measuring the risks of FLEX options. Nevertheless, the Commission recognizes that FLEX options are a new product with no track record, and the measures that OCC intends to employ may prove difficult in practice: Derived prices for FLEX options may not work in the marketplace, the lack of liquidity in FLEX options may prove more troublesome than anticipated by the proposal, and concentrated positions may pose unacceptable levels of risk. To

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[16] TIMS refers to OCC's Theoretical Intermarket Margin System, a software system that OCC uses to calculate clearing margin for option products. TIMS is based on an option pricing model (the Cox-Rubinstein Model) that applies mathematical techniques to option strategies by a formula that expresses the value of an option as a function of: its underlying assets, length of time until maturity, exercise price, prevailing interest rates, risk data, and similar factors. For further information, see Securities Exchange Act Release No. 28928 (March 1, 1991), 56 FR 9995 [File No. SR–OCC–89–12].

[17] 15 U.S.C. 78q-1 (1988).

[18] 15 U.S.C. 78q-1(b)(3) (A) and (F) (1988).

[19] 15 U.S.C. 78q-1(a)(2) (1988).

[20] As an illustration of OCC's risk protection measures, the current margin and clearing fund requirements for a 200,000 contract index option position selling for $50.50/contract would be as follows:

(1) *at-the-money;* margin: $180M +/− daily mark-to-market—clearing fund: $12.5M + 7% of the daily mark-to-market

(2) *in-the-money;* margin: $360M +/− daily mark-to-market—clearing fund: $25M + 7% of the daily mark-to-market

(3) *out-of-the-money;* margin: $90M +/− daily mark-to-market—clearing fund: $6.3M + 7% of the daily mark-to-market

[21] OCC has developed and is testing a PC-based margining system ("MDIS") that calculates margin requirements using real time prices. OCC has represented that it has built into MDIS the ability to take rho and vega risks into account when performing margin calculations. OCC will use MDIS in making margin calculations and in assessing risks presented by FLEX trading.

address this concern, OCC has agreed to establish additional review and financial monitoring parameters to identify those circumstances where a Clearing Member's FLEX position poses financial risk due to the size of that position in comparison to other factors such as the total of all positions in that series, class, or product. OCC has also agreed to continue to monitor and fine tune the modifications to its margining and other risk management systems that it is implementing for FLEX activity. Not later than April 30, 1994, OCC has agreed to report to the Commission on FLEX activity.[22] The Commission expects the report to be only an interim step in a continuing monitoring process that will precede and follow the report.

III. Conclusion

For the reasons discussed above, the Commission believes that the proposal is consistent with the requirements of the Act, particularly section 17A of the Act, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[23] that the above-mentioned proposed rule change (File No. SR–OCC–92–33) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4625 Filed 2–26–93; 8:45 am]

BILLING CODE 8010–01–M

[22] OCC has agreed, as an integral part of this Approval Order, to provide the Commission with an in-depth study of FLEX operations by April 30, 1994. Telephone conversation between Paul G. Stevens, Jr., President, OCC, George S. Hender, Senior Executive Vice President, OCC, John C. Hiatt, Executive Vice President, OCC, Timothy Hinkes, Assistant Vice President, OCC, and James C. Yong, Deputy General Counsel, OCC, and Jonathan Kallman, Associate Director, Division of Market Regulation ("Division"), Commission, Jerry W. Carpenter, Branch Chief, Division, Commission, and Thomas C. Etter, Jr., Attorney, Division, Commission (February 3, 1993).

[23] 15 U.S.C. 78s(b) (1988).

[Investment Company Act Release No. 19290; 811–5874]

LMS Money Fund; Notice of Application

February 23, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: LMS Money Fund.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 25, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 22, 1993, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 800 Scudders Mill Road, Plainsboro, New Jersey 08536–0911.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 272–3018, or Barry D. Miller, Senior Special Counsel, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, diversified management investment company organized as a trust under the laws of Massachusetts and is registered under the Act. On September 1, 1989, Applicant filed a notification of registration on Form N–8A and a registration statement on Form N–1A. Such registration statement, including Pre-Effective Amendments thereto filed on October 13, 1989, September 28, 1990, and December 20, 1991, was never declared effective.

2. Applicant has never offered or sold and does not intend to offer or sell its shares.

3. Applicant has no assets. All of Applicant's expenses have been and will be borne by its investment adviser, Fund Asset Management, Inc. Applicant has no debts or liabilities and is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4624 Filed 2–26–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted within 30 days of this publication in the **Federal Register**. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205–6629.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Statement of Personal History (For Use by Small Business Lending Companies and Other Non-Bank Lenders, Including Certified Development Companies).

SBA Form No.: SBA Form 1081.

Frequency: On Occasion.

Description of Respondents: Non-Bank Lending Institutions.

Annual Responses: 300.

Annual Burden: 150.

Cleo Verbillis,

Chief, Administrative Information Branch.

[FR Doc. 93–4601 Filed 2–26–93; 8:45 am]

BILLING CODE 8025–01–M

Administration; Delegation of Loan Approval Authority

AGENCY: Small Business Administration.

ACTION: Notice Delegating Loan Approval Authority to Specific Agency Field Personnel.

SUMMARY: This notice sets the delegated authority of certain specific Small Business Administration (SBA) field personnel to approve SBA guaranteed loans. This authority is based upon the education, training, and experience of such personnel and is meant to expedite Agency action in processing loan applications.

EFFECTIVE DATE: This notice is effective March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416, Tel. (202) 205–6490.

SUPPLEMENTARY INFORMATION: On December 19, 1991, SBA published in the **Federal Register**, a final rule amending § 101.3–2 of part 101, Title 13, Code of Federal Regulations, which set forth a clarified standard delegation of authority to conduct program activities in SBA field offices (56 FR 65823). Previously, § 101.3–2 had set forth the standard delegation of authority to SBA field personnel as well as all deviations from the standard based upon education, experience, and/or training. The December 19, 1991 publication eliminated all deviations in favor of a standard delegation of authority. In addition, the rule provided authority by which SBA might, as it deemed appropriate, increase, decrease, or set the level of authority for any individual SBA field official in a regional, district, or branch office, based upon education, training, or experience, by publication of a notice in the **Federal Register**.

The Agency believes that, when appropriate, delegating increased levels of authority to field personnel yields increased benefits for program participants and SBA. SBA is authorized to guarantee up to 90% of a loan depending upon total loan amount. Further, SBA has certain authority to make direct loans. As such, it is essential that the Agency have qualified loan officers to process expeditiously and accurately the applications submitted. Agency officials in the field who are delegated greater levels of authority in light of their additional education, training, or experience allow for loan applications of greater amounts being processed where both the lender and the borrower are located. In this fashion, the loan applicant and the lender are both served with quicker and more accurate processing, while the Agency is served by quality lending and, in the case of guaranteed loans, better relations with its participating lenders.

This notice sets the delegated authority of specific SBA officials to approve guaranteed and direct loan applications, as well as to undertake other loan related activities, based upon those official's education, training, and experience. The SBA Assistant Branch Manager for Finance and Investment and the Supervisory Loan Officer, Finance Division in Sacramento, CA. have successfully completed commercial credit analysis training courses offered by the Agency. Such training qualifies these officials to better analyze and process loan applications. This training, along with their experience, justifies increasing their level of delegated authority.

This notice sets the delegated direct loan approval authority for the Assistant Branch Manager for Finance and Investment and the Supervisory Loan Officer, Finance Division in Sacramento, CA. to $350,000 and the guaranteed loan approval authority for such positions at $750,000. In addition, both officials are delegated authority to approve or decline loans to a local development company not exceeding $750,000 (overall project cost not exceeding $2,500,000) and to approve or decline guaranties of section 503 or section 504 debentures issued by certified development companies not exceeding $750,000 (overall project cost not exceeding $1,500,000). Further, this delegation provides authority to such officials to: Enter into loan participation agreements; cancel, reinstate, modify and amend loan authorizations; extend loan disbursement periods; and approve service charges. This delegation of authority is specific to the individuals presently incumbent and continues only so long as these individuals remain in such positions.

Charles R. Hertzberg,

Assistant Administrator for Financial Assistance.

[FR Doc. 93–4416 Filed 2–26–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 1770]

Extension of the Restriction on the Use of United States Passports for Travel To, In, or Through Iraq

On February 1, 1991, pursuant to the authority of 22 U.S.C. 211a and Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.73(a)(2) and (3), all United States passports, with certain exceptions, were declared invalid for travel to, in, or through Iraq unless specifically validated for such travel. The restriction was originally imposed because armed hostilities then were taking place in Iraq and Kuwait, and because there was an imminent danger to the safety of United States travellers to Iraq. American citizens then residing in Iraq and American professional reporters and journalists on assignment there were exempted from the restrictions on the ground that such exemption was in the national interest.

On February 18, 1992, the restriction on use of the United States passport for travel to, in or through Iraq was extended for another year. Although armed hostilities had ended, the Government of Iraq had continued to direct hostile acts against United States citizens and nationals. In light of those circumstances, it was determined that Iraq continued to be a country "* * * where there is imminent danger to the public health or physical safety of United States travelers". Conditions in Iraq remain unsettled and hazardous for American citizens. Iraq continues to direct hostile acts against United States citizens. Over the past year there were two incidents of Iraqi officials kidnapping American citizens from the Kuwaiti side of the border with Iraq and taking them to Baghdad. Also, Iraq has shown a willingness to take western hostages to deter the use of armed force to enforce the sanctions regime against it.

In addition, the deteriorating infrastructure in Iraq has contributed to an increase in public health and economic risks and a significant rise in crime in major cities which the authorities have been unable to control.

Further, the United States does not have consular officers in Iraq who can assist American citizens. The United States has limited ability to protect Americans in Iraq. The ability of the U.S. Interest Section of the Polish Embassy in Baghdad to obtain consular access to detained Americans and to perform other emergency services continues to be constrained by Iraqi

unwillingness to cooperate. In light of these circumstances, I have determined that Iraq continues to be a country "* * * where there is imminent danger to the public health or physical safety of United States travelers."

Accordingly, United States passports shall be invalid for use in travel to, in, or through Iraq unless specifically validated for such travel under the authority of the Secretary of State. The restriction shall not apply to American citizens who were residing in Iraq on February 1, 1991 who continue to reside there nor to American professional reporters or journalists on assignment there.

The Public Notice shall be effective upon publication in the Federal Register and shall expire at the end of one year unless sooner or extended or revoked by Public Notice.

Dated: February 23, 1993.

Clifton R. Wharton, Jr.,

Acting Secretary of State.

[FR Doc. 93–4593 Filed 2–26–93; 8:45 am]

BILLING CODE 4710–36–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings: Agreements Filed During the Week Ended February 19, 1993

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48660
Date filed: February 17, 1993
Parties: Members of the International Air Transport Association
Subject: Comp Telex–024f—Local Currency Fare Changes—Finland, Comp Telex–033f—Local Currency Rate Changes—Finland
Proposed Effective Date: Effective March 1/April 1, 1993

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–4567 Filed 2–26–93; 8:45 am]

BILLING CODE 4910–62–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended February 19, 1993

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*) The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the applicant by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48658
Date filed: February 17, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 17, 1993
Description: Application of Southern Air Transport, Inc., pursuant to section 401(d)(l) of the Act and subpart Q of the Regulations requests a certificate of public convenience and necessity authorizing it to provide foreign scheduled air transportation of property and mail on the scheduled routes: A. The points Anchorage, AK; Chicago, IL; Guam; Honolulu, HI; Los Angeles, CA; New York, NY; San Francisco, CA; and Seattle, WA, on the one hand, and the terminal point Hong Kong, on the other hand. B.1.A point or points in the United States, on the one hand, via the intermediate points Honolulu, HI, Canton Island, American Samoa, French Polynesia, Fiji, New Caledonia and New Zealand, to Sydney, Australia, on the other hand, and to the beyond points; (a) Darwin, Australia and points in Southeast Asia, including the Republic of the Philippines and beyond; (b) Melbourne, Australia and Perth, Australia, Cocos (Keeling) Island, and beyond to points in South Asia and Africa and Beyond, and (c) Melbourne, Australia and New Zealand and beyond to Antarctica and beyond. 2. A point or points in the United States including Alaska, on the one hand, via intermediate points in Canada, Alaska, the Kurile Island, Japan and Southeast Asia, including the Republic of the Philippines, and the terminal points Sydney, Australia and Melbourne, Australia. C. A point or points in the United States, on the one hand, via intermediate points, to points in the Republic of Korea and beyond, on the other hand. D. A point or points in the United States, on the one hand, via intermediate points, and the points Taipei, Taiwan and Kaoshung, Taiwan and beyond via intermediate points to the United States, on the other hand; and to grant such other, further and different relief as may be appropriate under the circumstances. E. A point or points in the United States, on the one hand, and Shannon, Ireland, on the other hand, and countries beyond, via intermediate points, in both directions.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–4568 Filed 2–26–93; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

[Summary Notice No. PE–93–11]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before March 22, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132

FOR FURTHER INFORMATION CONTACT: Mrs. Jeanne Trapani, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7624.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on February 23, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations

Petitions for Exemption

Docket No.: 27121.
Petitioner: Tower Air, Inc.
Sections of the FAR Affected: 14 CFR 121.434(e).
Description of Relief Sought: To allow Tower Air, Inc., to utilize flight attendants who have operating experience on the same aircraft type with a foreign carrier, without those attendants receiving the 5 hours of supervised initial operating experience on the petitioner's aircraft.

[FR Doc. 93–4603 Filed 2–26–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Intelligent Vehicle-Highway Society of America; Public Meetings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meetings.

SUMMARY: The Intelligent Vehicle-Highway Society of America (IVHS AMERICA) will hold meetings of its Coordinating Council on April 14, 1993, and of its Board of Directors on April 16, 1993. IVHS AMERICA provides a forum for national discussion and recommendations on IVHS activities including programs, research needs, strategic planning, standards, international liaison, and priorities. The charter for the utilization of IVHS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on IVHS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Coordinating Council of IVHS AMERICA will meet on April 14, from 8 a.m. to 12 noon, e.t. The session is expected to focus on: (1) Action on the recommendations of the Coordinating Council Committees Review (Sunset/Sunrise) Task Group, (2) Status of DOT program planning effort, (3) Technical committees actions to the Council, (4) New members/report from the Nominating Committee, and (5) Other technical activities of IVHS AMERICA.

The Board of Directors will meet on April 16, 1993, from 8:30 a.m. to 12 noon, e.t. The session is expected to focus on: (1) Election of new officers of the Board of Directors, (2) Review of election results, installation of new Board members, (3) Review and action pertaining to the recommendations of the Coordinating Council on Committees Review (Sunset/Sunrise), (4) Report of the International Liaison Committee and planning for an IVHS World Congress, (5) Appointment of Coordinating Council members, (6) IVHS AMERICA planning process and schedule, and (7) Establishment of regional and student chapters.

ADDRESSES: Sheraton Washington Hotel, 2660 Woodley Ave., NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Mr. Lyle Saxton, FHWA, HSR–1, 6300 Georgetown Pike, McLean, VA, 22101, (703) 285–2021, office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except for legal holidays; or Mr. Daniel Toohey, IVHS AMERICA, 1776 Massachusetts Avenue, NW., Washington, DC 20036, (202) 857–1202.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: February 22, 1993.

E. Dean Carlson,

Executive Director.

[FR Doc. 93–4589 Filed 2–26–93; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1992 Rev., Supp. No. 14]

Surety Companies Acceptable on Federal Bonds; Titan Indemnity Company

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1992 Revision, on page 29393 to reflect this addition:

Titan Indemnity Company Business Address: P.O. Box 60007, San Antonio, TX, 78209. Underwriting Limitation [b]: $2,169,000. Surety Licenses [c]: AL, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, SC, SD, TN, TX, UT, VT, VA, WI, WY. Incorporated in: Texas.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 874–6507.

Dated: February 19, 1993.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 93–4569 Filed 2–26–93; 8:45 am]

BILLING CODE 4810–35–M

Corrections

Federal Register
Vol. 58, No. 38
Monday, March 1, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 365 and 381

[Docket No. RM93–1–000; Order No. 550]

Filing Requirements and Ministerial Procedures for Persons Seeking Exempt Wholesale Generator Status

Correction

In rule document 93–3629 beginning on page 8897 in the issue of Thursday, February 18, 1993, make the following corrections:

1. On page 8903, in the third column, after the last line, insert the following text:

"the applicant may always refile with additional information or explanation.

J. Judicial Review

1. Comments

Enron states that EWG determinations may not be subject to judicial review".

2. On page 8905, in the first column, remove the first eight lines of text.

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Mandatory Guidelines for Federal Workplace Drug Testing Programs

Correction

In notice document 93–1575 beginning on page 6062 in the issue of Monday, January 25, 1993, make the following corrections:

1. On page 6066, in the first column, under **Subpart B**, in paragraph 1., in the second line, insert "(" after "used".

2. On the same page, in the second column, in paragraph 6., in the last line, before "C" insert "−38°".

3. On page 6067, in the third column, in paragraph (5), in the first line, "20" should read "10".

BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150–AD62

Clarification of Statutory Authority for Purposes of Criminal Enforcement

Correction

In the correction to rule document 92–28228 appearing on page 62605 in the issue of Thursday, December 31, 1992, make the following correction:

§ 110.67 [Corrected]

On page 62605, in the first column, under the heading **§ 110.67 [Corrected]**, in the fourth line, "fourth" should read "sixth".

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 90–AWA–11]

Establishment of the Bangor International Airport Airport Radar Service Area; ME

Correction

In rule document 93–2927 beginning on page 7738 in the issue of Tuesday, February 9, 1993, make the following corrections:

1. On page 7742, in the second column, in the first full paragraph, in the seventh line from the bottom, "not" should read "most".

2. On page 7743, in the first column, in the first full paragraph, in the ninth line from the bottom, "the" should read "other".

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[T.D. ATF–335; Ref. Notice Nos. 739, 744]

RIN 1512–AB09

Labeling of Bulk Process Sparkling Wine (90F167P)

Correction

In rule document 93–1386 beginning on page 5608 in the issue of Friday, January 22, 1993, make the following correction:

§ 4.21 [Corrected]

On page 5615, in the second column, in § 4.21, in the heading, "identify" should read "identity".

BILLING CODE 1505–01–D

Federal Register

Monday
March 1, 1993

Part II

Environmental Protection Agency

40 CFR Part 88

Clean Fuel Fleet Credit Programs, Transportation Control Measure Exemptions, and Related Provisions; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 88

[AMS–FRL–4592–3]

RIN 2060–AD32

Clean Fuel Fleet Credit Programs, Transportation Control Measure Exemptions, and Related Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Provisions of the Clean Air Act Amendments enacted in 1990 require the establishment of a Clean Fuel Fleet Program. These provisions require that the affected states modify their state implementation plans to require that some of the new vehicles purchased by certain fleet owners meet clean-fuel fleet vehicle (CFFV) exhaust emission standards. The program applies in 22 covered areas (certain ozone and carbon monoxide nonattainment areas). This rule enacts regulations governing the states' implementation of the purchase credit program and the transportation control measures (TCMs) exemptions prescribed in the Act as part of the fleet program. The credit program allows fleet owners to earn purchase credits from early or extra purchases of CFFVs or by acquiring vehicles which are certified to stricter emission standards than required. This action also requires that states provide to all CFFVs exemptions from temporally-based TCMs established wholly or partially for a subgroup of CFFVs, known as inherently low-emission vehicles (ILEVs).

ILEVs, which will be labeled as "Clean Air Vehicles", are CFFVs with essentially no fuel vapor emissions. Initially, ILEVs will receive exemptions from high-occupancy vehicle (HOV) lane restrictions; other exemptions/incentives are now under consideration. EPA had also proposed provisions implementing the federal facility provisions of section 246(g) of the Act; EPA has decided to finalize this action as guidance not regulation, and this is included in this final rule document.

EFFECTIVE DATE: March 3, 1993. The information collection requirements contained in 40 CFR 88.312–93 have not been approved by the Office of Management and Budget (OMB) and are not effective until OMB has approved them. A technical amendment announcing the effective date of the information collection requirements for 40 CFR 88.312–93 will be published in the **Federal Register**.

ADDRESSES: Materials relevant to this final rule are contained in Public Docket No. A–91–25 located at the U.S. Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. The docket may be inspected between the hours of 8:30 a.m. until 12 noon and from 1:30 p.m. until 3:30 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. James G. Bryson, U.S. EPA, Regulation Development and Support Division, 2565 Plymouth Rd., Ann Arbor, MI 48105–2425, Telephone: (313) 741–7828.

SUPPLEMENTARY INFORMATION: The content's of today's preamble are listed in the following outline:

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I. Background

This final rule establishes regulations governing the clean-fuel fleet credit program and the exemption of clean-fuel fleet vehicles from certain transportation control measures (TCMs). Also included is guidance related to participation by affected federal facilities.

The purpose of this background section is to describe the statutory requirements and the rulemaking history of the clean-fuel fleet program in order to provide a context from which to view the regulations finalized today. This section also includes a review of future EPA regulatory actions with regard to the fleet program.

A. The Clean Air Act

The statutory provisions underlying the fleet program are contained in Part C, Clean Fuel Vehicles, of Title II of the Clean Air Act, as amended (CAA or the Act). The program is designed to introduce lower-emitting vehicles into centrally fueled fleets of vehicles in areas with ozone and carbon monoxide air quality problems, and will be implemented by the affected states.

By choosing to introduce clean-fuel vehicles (CFVs) in centrally fueled fleets, Congress focused on vehicle operators that often have more control over their source of fuel than does the general public. Additionally, the central control which operators maintain over their fleets simplifies the issues related to vehicle maintenance and refueling. Finally, because fleet vehicles typically travel more miles on an annual basis and are replaced more frequently than non-fleet vehicles, they offer a greater opportunity to improve air quality, on a per-vehicle basis and in a more timely manner, than potentially could be achieved by concentrating on a similar number of non-fleet vehicles. A brief description of the fleet industry can be found in the Notice of Proposed Rulemaking (NPRM) for this rule (56 FR 50196) and the supporting analysis located in the public docket for this rule, document number IV-B–01. Entries of this nature throughout this document indicate where such material can be found in public docket A–91–25.

Section 241(5) of the CAA defines a "covered fleet" as a fleet of ten or more motor vehicles that are owned or operated by a single person. Section 241(6) of the Act further restricts the fleet program to those vehicles which are in a class for which CFFV emission standards apply, and which are in covered fleets which are centrally fueled (or capable of being centrally fueled). Also according to section 241(6), vehicles which under normal operations are garaged at a personal residence at night are not considered capable of being centrally fueled.

Section 241(5) of the Act also provides exemptions from the program for motor vehicles held for lease or rental to the general public, motor vehicles held for sale by motor vehicle dealers (including demonstration vehicles), motor vehicles used for motor vehicle manufacturer product evaluations or tests, law enforcement and other emergency vehicles, nonroad vehicles (including farm and

construction vehicles), and vehicles which the Secretary of Defense deems should be exempt from the program for national security reasons. Heavy-duty vehicles above 26,000 lbs. GVWR are also not subject to the purchase requirements of the program.

Although they are not explicitly exempted by the Act or by this rule, EPA believes that it is unlikely that "fleets" of collector cars such as antique vehicles are covered by the fleet purchase requirements because they are rarely centrally fueled. In any event, these vehicles are frequently not registered as motor vehicles, and typically have very little mileage accumulation.

The CAA directs states which contain areas covered by this program to require that at least a specified percentage of all new covered fleet vehicles in model year 1998 and thereafter purchased by each covered fleet operator in each covered area shall be clean-fuel vehicles and shall use clean alternative fuels when operating in the covered area (section 246(b)). The states which contain covered areas (discussed below) are required to revise their State Implementation Plans (SIPs) to include programs which ensure that covered fleet owners meet this purchase requirement when they acquire vehicles for their fleets. Regulated fleet owners will retain discretion regarding other choices about vehicle purchases, such as the fuel technology of the vehicles.

A clean-fuel fleet vehicle (CFFV) is one which meets any one of three sets of CFFV exhaust emission standards. These standards will be proposed in the near future in a forthcoming EPA notice. The emission standards and the vehicles which meet them are referred to as low-emission vehicles (LEVs), ultra low-emission vehicles (ULEVs) and zero-emission vehicles (ZEVs). Transitional Low-Emission Vehicles (TLEVs) from the California LEV program and the California Pilot Program are not a part of the fleet program and are not CFFVs. (A description of these programs can be found in the FRM regarding the California Pilot Credit Program (57 FR 60038).) Only LEVs are required to be purchased under the statute; covered fleet operators purchasing ULEVs and ZEVs in lieu of LEVs will receive purchase credits against the CFFV purchase requirements pursuant to the credit program finalized today. Three vehicle classes are covered by the program: light-duty vehicles and trucks (LDVs and LDTs) under 6000 lbs. Gross Vehicle Weight Rating (GVWR), LDTs between 6000 lbs. and 8500 lbs. GVWR and heavy-duty vehicles (HDVs) over 8500 lbs. GVWR but under 26,000 lbs. GVWR.

The CAA prescribes purchase requirements in terms of a percentage of the total number of new covered fleet vehicles of each class purchased each year by a covered fleet operator. The purchase requirements begin with model year 1998 vehicles. For light-duty vehicles and light-duty trucks this date may be extended by up to three years if the appropriate vehicles are not available for sale in California. EPA believes that the vehicles will actually be available before 1998 due to the early implementation of the California Pilot Program and the California LEV program. In accordance with section 246(c) of the CAA, EPA will propose to delay the fleet rule in the future should this turn out that such vehicles will not be available until after model year 1998.

The program's purchase requirements are phased in over three years. Two phase-in schedules are specified: one for LDVs and LDTs and one for HDVs, as shown in Table 1.

TABLE 1.—VEHICLE PURCHASE REQUIREMENT PHASE-IN RATE

[Percent]

Vehicle class	Model year: 1998	Model year: 1999	Model year: 2000+
LDVs/LDTs	30	50	70
HDVs	50	50	50

The table of CFFV phase-in requirements for fleets contained in CAA section 246(b) refers expressly to "light-duty trucks up to 6,000 lbs. GVWR and light-duty vehicles" and to "heavy-duty trucks above 8,500 lbs. GVWR." However, this table does not specify phase-in requirements for light-duty trucks (LDTs) of 6,000 lbs. or more. For the reasons set forth in the NPRM, EPA believes that the omission of heavier-LDTs from this table was an oversight and that Congress intended that they be covered under the same phase-in schedule as the other LDTs and light-duty vehicles (LDVs). Moreover, even though the table fails to mention the heavier-LDTs, the language of CAA section 246(b) requires SIP revisions to include minimum purchase requirements for LDTs over 6,000 lbs. and specifies emission standards for such vehicles.

In the preamble to the proposal, EPA stated its view that these trucks were included in the purchase requirement in its proposal as though LDTs between 6,000 and 8,500 lbs. were covered vehicles in the same way as LDTs below 6,000 lbs. That is, 30 percent of a fleet owner's LDT acquisitions must be clean-fuel fleet vehicles beginning in 1998 and credits will only be earned if purchases exceed this amount. Only one comment was received on this issue. Federal Express interpreted the Act to not include LDTs between 6,000 lbs. and 8,500 lbs. EPA, however, continues to believe that the interpretation of the Act it provided in the NPRM is correct as it believes that the language of section 246(b) setting forth the purchase requirement applies to LDTs over 6,000 lbs. and that their omission from the table was an oversight. A fuller explanation of the reasons behind EPA's interpretation is provided in the NPRM.

The purchase requirements of this program can be met by purchasing new vehicles which meet the clean-fuel fleet vehicle LEV, ULEV, or ZEV standards, as stated above, by converting conventional vehicles to clean-fuel fleet vehicles which meet the applicable standards, or redeeming credits. These credits can be used by the fleet operator which generates them or obtained from other entities as discussed below.

The purpose of the credit program is to provide flexibility for the regulated fleet operators. It recognizes that some fleet operators may, at times, find it attractive to buy more clean-fuel fleet vehicles or to buy lower-emitting vehicles than required, if in doing so they can get credit against future purchase requirements, or can sell the credits to someone else who prefers not to make the required clean-fuel fleet vehicle purchases. If properly implemented, such a credit trading program will result in no net loss in air quality benefits when compared with the result of a program based strictly on the purchase requirements without the flexibility afforded by credits. This concept has been successfully implemented in other programs, such as that dealing with the trading and banking of heavy-duty engine (HDE) oxides of nitrogen (NO_X) and particulate matter emissions (55 FR 30584, July 26, 1990).

Clean Air Act section 246(a) designates the "covered areas" regulated by the program to be those areas with 1980 populations of 250,000 or greater that are serious, severe, or extreme ozone nonattainment areas (based on 1987–1989 data) or carbon monoxide (CO) nonattainment areas with a design value above 16.0 parts per million (based on 1988–1989 data). Areas reclassified in the future as serious, severe, or extreme ozone nonattainment areas will also be subject to the program. There are currently 22 covered areas in 19 states (see Table 2). This number has increased from the 21 areas referenced in the NPRM due to the redefinition of

some of the affected nonattainment areas (56 FR 56694, November 6, 1991). Currently, the only affected CO nonattainment area which is not also classified as an ozone nonattainment area, based on 1987–1989 data, is the Denver-Boulder, Colorado area.

TABLE 2.—STATES AND AREAS AFFECTED BY THE CLEAN-FUEL FLEET PROGRAM

Affected area	State(s)
1. Atlanta	Georgia.
2. Baltimore	Maryland.
3. Baton Rouge	Louisiana.
4. Beaumont-Port Arthur	Texas.
5. Boston-Lawrence-Worcester (Eastern Massachusetts).	Massachusetts, New Hampshire.
6. Chicago-Gary-Lake County.	Illinois, Indiana.
7. Denver-Boulder	Colorado.
8. El Paso	Texas.
9. Greater Connecticut	Connecticut.
10. Houston-Galveston-Brazoria.	Texas.
11. Los Angeles-South Coast Air Basin.	California.
12. Milwaukee-Racine	Wisconsin.
13. New York-Northern New Jersey-Long Island.	Connecticut, New Jersey, New York.
14. Philadelphia-Wilmington-Trenton.	Delaware, Maryland, New Jersey, Pennsylvania.
15. Providence (All Rhode Island).	Rhode Island.
16. Sacramento Metro	California.
17. San Diego	California.
18. San Joaquin Valley	California.
19. Southeast Desert Modified AQMA.	California.
20. Springfield (Western Massachusetts).	Massachusetts.
21. Ventura County	California.
22. Washington (District of Columbia).	Maryland, Virginia, District of Columbia.

Several of these 22 areas include parts of more than one state. EPA expects that the states which must design a program for a multi-state nonattainment area will work together to create one program which covers the entire area, and that this will be reflected in their state implementation plans. Further discussion of these interstate relationships will appear in the upcoming NPRM on remaining clean fuel fleet issues, as described below.

B. Future Actions

In the near future, EPA will issue a notice proposing regulatory action on several remaining issues related to clean fuel fleet vehicles. In part, this new NPRM will propose emission standards for all CFFVs. (These anticipated standards are used in the establishing of credit values in this final rule.) Also included in the new NPRM will be proposed regulations governing conversions of conventional vehicles to CFFVs, which, as required by section 247 of the Act, will be eligible for the credits program and TCM exemptions. The final major part of the new NPRM will be proposed definitions for a number of terms used in the Act in connection with the fleet program for which EPA has decided to propose uniform national definitions in regulations. The terms for which EPA will propose definitions are key for establishing when fleets and fleet vehicles are covered by the program.

EPA has decided that several additional terms in the CAA do not require mandated national uniformity; instead, the Agency expects to issue guidance on how states will be encouraged to address issues related to these terms their 1994 CFFV SIPs. EPA expects to release this guidance in 1993.

The fleet program will require the combined effort of many parties in order to be a success. As discussed above, the CAA requires EPA to develop certain parts of the program, and the states to develop other parts of the program and implement it. EPA intends to provide assistance to the states in designing and implementing their programs.

Covered states that intended to request not to participate in the fleet program (i.e., to "opt out" of the program) were required to submit a committal SIP [1] to EPA before November 15, 1992. In this submittal, states were required to include alternate plans for equal or greater long-term ozone and air toxics reductions in accordance with the provisions of section 182(c)(4)(B) of the Act. Several states have submitted committal SIPs to reserve the option of opting out of the fleet program. EPA has also taken the position that CO areas may opt-out of the fleet program by adopting substitute measures that achieve equivalent or greater long-term CO and air toxics reductions. EPA has six months from the submittal date in which to approve or reject such SIP revisions. The Inherently Low-Emission Vehicle (ILEV) program, described below, is a federally administered program and would not be affected by a state action to opt out of the Clean-Fuel Fleet Program.

Each affected state which does not opt out of the program must submit a SIP revision incorporating the fleet program within 42 months of the date of the CAA Amendments of 1990 (that is, by May 15, 1994) according to section 182(c)(4) of the Act. In addition, CAA section 246(a)(3) expressly provides that all states containing all or part of an area with a 1980 population of 250,000 or more that is reclassified at any time in the future as a serious, severe or extreme ozone nonattainment area, or exceeds a CO design value of 16.0 parts per million, are to prepare revised SIPs within one year of such reclassification.

Additionally, as discussed further below, EPA will consider additional TCM exemptions/incentives for ILEVs, such as credit for employee trip reduction programs and relief from tolls/fees designed to reduce air pollution from motor vehicles by limiting their use in designated areas, in a proposal to be published later this year.

C. Public Participation

EPA published its proposed rules for the clean-fuel fleet credit and TCM exemption programs on October 3, 1991 (56 FR 50196). A public hearing was held on October 31, 1991, and written comments were subsequently accepted. A transcript of the hearing and copies of each of the written comments during the comment period have been placed in section IV–B of the public docket. See **ADDRESSES** above for further information on how to inspect these documents.

The comments received on the NPRM are discussed in the document entitled "Summary and Analysis of Comments" which is contained in section V–C of the docket. The comments on the proposal are divided into three broad topics: the credit program, TCM exemptions and the ILEV program, and federal fleet and facility provisions. The following sections describing the program represent the Agency's conclusions from assessing the comments.

In addition to comments related to the proposed rules, EPA also received many comments regarding the definitions of certain terms and other key provisions which were discussed but not proposed in the NPRM. In the NPRM, EPA had stated that it would issue guidance to the states in order to foster consistency among state programs regarding the interpretation of the key terms and provisions used in the statute. However, comments strongly supported the view that EPA should propose definitions for key terms and provide interpretations in other provisions by rule. In response to requests from representatives of the states and the affected industry, the forthcoming NPRM on CFFV standards and other provisions will include proposed definitions for these key terms in order to provide greater assurance that fleet programs would be implemented consistently in different areas and facilitate planning by affected parties. The proposal will also address issues of concern to distributed fleets and will propose coordination

[1] See the Title 1 General Preamble published April 16, 1992 (57 FR 13498) for information on SIP submittals.

requirements for multi-state nonattainment areas.

II. The Credit Program

This section describes the timing of the credit program, how credits will be calculated and earned, and how they can be used to comply with the fleet program purchase requirements.

A. Credit Program Timing

The CFFV purchase requirements of the program do not go into effect until 1998 model year vehicles are available. However, states are required to grant purchase credits and TCM exemptions to CFFV purchases in the period after SIP approval but before the 1998 model year implementation date. In addition, after SIP approval, states are permitted the discretion to grant retroactive credits to CFFVs purchased prior to SIP approval.

The CAA requirements for the use of clean fuels in CFFVs when operating within the covered area will apply to early CFFVs acquired before the 1998 implementation date as well as required CFFV purchases. Otherwise, little or no air quality benefit may be produced by the early purchases. Consequently, fleet owners desiring to make early CFFV purchases in this time period should first ensure that they can obtain the appropriate clean fuel. Violation of the clean fuel use requirement would be expected to result in the same penalties under the states' programs during this pre-implementation time period as would be incurred in the post-implementation period. One penalty particularly appropriate in this context would be the forfeiture of credits earned. If these credits have already been traded to another fleet, another possible penalty might be a requirement that the fleet owner obtain additional credits to take the place of the original credits redeemed.

B. Generation and Use of Credits

EPA will leave the form of administration of the credit program (such as record keeping) to the states, rather than mandating such requirements by rule. The credit program is merely one aspect of the overall fleet program, and federally-mandated procedures would unnecessarily reduce state flexibility in program implementation. However, in multi-state nonattainment areas that include parts of more than one state, it is important that the affected states not adopt systems that hamper the free trading of credits across state lines. To this end, EPA encourages such states to coordinate the development and implementation of their programs. As described above, the forthcoming NPRM for fleet vehicle standards and conversions will propose specific requirements for this type of coordination.

1. Generation of Credits

Under today's rule, covered fleets are required to comply with the CFFV purchase requirements and in return, will earn certain TCM exemptions. They can also earn (and use) CFFV purchase credits if they choose to exceed the minimum compliance requirements. Non-covered fleets are not subject to the purchase requirements, but are not necessarily excluded from credit generation and TCM exemptions.

Covered fleets may earn credits by purchasing more CFFVs than required in any year, by purchasing vehicles which meet stricter emission standards than those required, or by purchasing CFFVs before the purchase requirements go into effect. As discussed below, states may also allow non-covered fleets to generate credits.

Certain covered fleets may contain non-covered vehicles and certain fleets may consist entirely of non-covered vehicles. Partially-covered fleets are those which contain ten or more covered vehicles, but also contain non-covered vehicles. Some types of vehicles are specifically exempt from the fleet program requirements: law enforcement and other emergency vehicles (CAA section 241(5)), vehicles which are not "centrally fueled (or capable of being centrally fueled)," and vehicles which under normal operations are "garaged at a personal residence at night" (section 241(6)). EPA proposed allowing only covered fleet owners to receive credits and TCM exemptions for the purchase of CFFVs, but asked for comments on broadening the eligibility of fleets to be allowed to earn credits. Additionally, EPA proposed that states be required to grant credits and TCM exemptions for purchases of CFFVs in non-covered categories purchased by covered fleets which contain non-covered as well as covered vehicles.

In this final rule, EPA is requiring states to extend credits and TCM exemptions to non-covered vehicles in partially covered fleets because such fleets would already have an administrative framework in place. However, EPA is not requiring states to extend the eligibility for credit generation and TCM exemptions to non-covered fleets because EPA's authority extends only to covered fleets. Nonetheless, EPA encourages states to include such provisions to extend these incentives to purchase CFFVs in non-covered fleets in their SIPs. Assuming effective enforcement, the replacement of conventional fleet vehicles with CFFVs will enhance air quality. As proposed, EPA is requiring states to allow purchases of CFFVs in non-covered categories which are part of a covered fleet to generate credits and receive TCM exemptions.

2. Use of Credits

Credits may be used by covered fleets as substitutes for vehicle purchases to meet the purchase requirement. In accordance with CAA section 246(f)(2), credits may be held or banked for use at a later time with no depreciation. Credits earned may be held and used to show compliance with the purchase requirements by redemption to the state at a later date. They may also be traded or sold to another covered fleet in the same covered nonattainment area so that another fleet may demonstrate compliance in the current or any later year. Credit trading is market driven, with no monetary value of credits set by EPA. Credit trading is prohibited between the light-duty and heavy-duty vehicle weight classes. As proposed, the program promulgated today meets the requirements of the CAA by precluding the trading of credits between fleet operators who are not located or do not operate within the same nonattainment area. The program also prohibits a fleet owner who owns a fleet distributed among more than one nonattainment area from using credits generated in one area to show compliance in another. Without this requirement, it would be possible for credits to be generated and used in a way that would undermine the environmental benefits of the fleet program in nonattainment areas to which credits were traded.

a. *Subclass Credit Trading.* As contemplated by the CAA, the regulations finalized today require the states to allow trading of normalized credits between all subclasses of LDVs and LDTs. Allowing some trading makes the credit program more flexible and useful to fleet operators and also simplifies record keeping. However, also in accordance with the Act, these regulations prohibit trading between heavy- and light-duty vehicle classes. In order to prevent this, credits generated by the purchase of LDVs and LDTs will need to be designated as such in order to ensure that they are not used to demonstrate compliance with HDV fleet program requirements; such cross-class trading is prohibited by section 246(f)(2)(B) of the CAA.

However, because trading between LDV and LDT subclasses is allowed, light-duty subclass credit designations are not required. All credits are

normalized so that the credits will reflect the amount of emission reduction actually achieved and can be easily traded between the LDV/LDT subclasses. A detailed discussion of the process to normalize the credit values over the subclasses was presented in the NPRM; EPA is implementing that approach in today's action.

Like LDTs, HDVs are divided into several subclasses based on vehicle weight ratings. These subclasses reflect rather different vehicles, which typically have substantially different usage patterns, useful life, fleet life, rebuild practices, fuel consumption, annual mileage, and duty cycles, among other factors. All of these factors have an impact on the per-vehicle emission rate and total vehicle/engine lifetime emissions. Allowing cross-subclass trading without a prorating factor accounting for these differences would lead to an emissions increase in those cases where the credit-using vehicle had a longer life, more rebuilds, worse fuel consumption, etc., than the credit-generating vehicle. EPA proposed a conservative credit trading scheme that allowed only downward trading with no proration for different subclasses. EPA also asked for comment on whether and how credits could be traded between the heavy-duty subclasses, in light of the different usage patterns. Many commenters desired cross-subclass trading within the HDV class in order to make the program more flexible, and some information was received from them, but it was not sufficient to develop cross-subclass weighting factors.

Until such time as these values are available, subclass trading is allowed in the downward direction without proration. That is, credits generated by the purchase of clean-fuel fleet heavy HDVs or medium HDVs can be used to demonstrate compliance with clean-fuel fleet medium HDV or light HDV purchase requirements on a one-for-one basis. Otherwise, trading of HDV credits may only occur within the light HDV and medium HDV subclasses. Trading in an upward direction, i.e., using credit generated by the purchase of light HDVs to satisfy medium HDV purchase requirements, is not permitted. Given the uncertainties involved, this approach will generally prevent the loss of overall emission reductions due to credit trading. With this approach, it is also necessary to designate credits generated by each HDV subclass as either heavy, medium or light HDV credits in order to ensure that upward credit trading does not occur.

EPA requests information to develop the prorating factors. Information is needed for fleet vehicles in the various subclasses regarding years and miles in fleet use, fuel consumption, rebuild practices, load factors, and duty cycles (speed distribution, frequency of accelerations and decelerations, etc.). These data must be for urban-use only vehicles (not long-haul vehicles), and will need to be developed for both gasoline and diesel engines as well as clean-fuel engines. From these data, factors to convert grams per brake horsepower hour to grams per mile can be developed.

b. *Credit Trading to Stationary Sources.* EPA suggested in the NPRM the possibility of establishing credit trading programs allowing emission credits generated in the CFFV vehicle program to be traded against emissions from stationary sources. The Agency received many comments on this idea, which are discussed in detail in the Summary and Analysis of Comments.

EPA is currently reviewing a variety of mobile source to stationary source trading issues and is planning to issue a guidance document that will address the subject. Thus, EPA is not including any provisions in these regulations regarding trading to stationary sources.

3. Calculation of Credits

The exact emission levels which will make vehicles eligible for credits will be based on the clean-fuel fleet vehicle emission standards, which are not yet promulgated. However, reasonable assumptions can be made about the standards, because the Clean Air Act directs EPA either to use the very specific standards set forth in the statute or to use California's standards. If EPA's assumptions about the appropriate standards prove to be incorrect in a way which affects the relative values of the credits finalized today, these credit values will be amended. EPA will propose emission standards for clean-fuel fleet vehicles as a part of the forthcoming NPRM on fleet vehicle standards and conversions. Notwithstanding any changed standards, the credit calculation method will not change.

Section 246(f)(2)(C) of the Act requires that credits be appropriately weighted to reflect the level of emission reductions achieved by the vehicle. The Act also specifies fleet purchase requirements in terms of a percentage of new vehicle purchases rather than in terms of a number of vehicles. Thus, each fleet owner will have a different CFFV purchase requirement depending upon the total number of vehicles that the fleet owner purchases.

In the NPRM, EPA anticipated that states would adopt a round-off procedure to determine the required vehicle purchases when the calculated percentage of a fleet operator's purchases is not a whole number, i.e., when a fraction of a vehicle is involved. EPA proposed that credit tracking should only be required to the hundredth's place. EPA also proposed that the round-off procedures treat credits as equivalent to actual vehicle purchases in demonstrating compliance with the purchase requirements. That is, just as purchasing one extra vehicle gains one credit that could be used to comply with the purchase requirements, purchasing a vehicle which is 1.25 times as clean as the base LEV should count as a purchase of 25 percent of an additional vehicle, whether used immediately or as a credit. No substantive arguments were received against either of these proposals and EPA is finalizing them today.

a. *Pollutant Applicability.* On the basis of the CAA provisions and the California standards, EPA will use the emission standards listed in Table 3 for the purpose of credit calculations, with the understanding that any changes in the standards subsequent to issuance of this final rule will be accounted for via an amendment to this rulemaking. Table 3 does not contain all of the emission standards that CFFVs will need to meet, but only those on which credit calculations depend. The full CFFV standards will be proposed in the upcoming NPRM on standards, conversions and general provisions. To simplify the credit calculations, only the 50,000 mile (new vehicle) standards are used, not the 100,000/120,000 mile standards or some combination of the two. This approach was the one proposed, and no comments were received objecting to this method.

TABLE 3.—EMISSION STANDARDS FOR DETERMINING CREDIT WEIGHTINGS—TABLE 3.1.—LIGHT-DUTY VEHICLE AND TRUCK EMISSION LEVELS FOR CREDIT CALCULATION (G/MI.)

	LDV, LDT ≤6000 GVWR, ≤3750 LVW	LDT ≤6000 GVWR, >3750 LVW ≤5750 LVW	LDT >6000 GVWR, ≤3750 TW	LDT >6000 GVWR, >3750 TW ≤5750 TW	LDT >6000 GVWR, >5750 TW
Tier I Gasoline Vehicle:					
NMHC[1]	0.25	0.32	0.25	0.32	0.39
CO	3.4	4.4	3.4	4.4	5.0
NO_X	0.4	0.7	0.4	0.7	1.1
LEV:					
NMOG	0.075	0.1	0.125	0.16	0.195
CO	3.4	4.4	3.4	4.4	5.0
NO_X	0.2	0.4	0.4	0.7	1.1
ULEV:					
NMOG	0.04	0.05	0.075	0.1	0.117
CO	1.7	2.2	1.7	2.2	2.5
NO_X	0.2	0.4	0.2	0.4	0.6
ZEV:					
NMOG	0.0	0.0	0.0	0.0	0.0
CO	0.0	0.0	0.0	0.0	0.0
NO_X	0.0	0.0	0.0	0.0	0.0

[1] For the purposes of credit calculation, NMHC is assumed to be equal to NMOG.

TABLE 3.2.—HEAVY-DUTY ENGINE EMISSION LEVELS FOR CREDIT CALCULATION (G/BHP-HR)

	HDV 8501–26,00 GVWR
Conventional Vehicle:	
$HC+NO_X$[1,2]	5.3
CO	15.5
LEV:	
$NMHC+NO_X$	[3]3.5
CO	15.5
ULEV:	
$NMHC+NO_X$	2.5
CO	7.2
ZEV:	
$NMHC+NO_X$	0.0
CO	0.0

[1] For the purposes of credit calculation, HC is assumed to be equal to NMHC.
[2] The conventional HDE standard is not a combined standard.
[3] EPA expects to propose a 3.5 g/BHP-hr standard in the upcoming standards rule instead of the statutory 3.15 g/BHP-hr that was included in the NPRM for this rule.

As the fleet program is primarily an ozone reduction program, the pollutants of special concern in most affected nonattainment areas are the primary ozone precursors: the non-methane organic gases (NMOG) and oxides of nitrogen (NO_X). However, the relative importance of these two pollutants in contributing to the air quality nonattainment varies from area to area.

Therefore, EPA is promulgating the two credit weighting bases for LDV and LDT purchases that it proposed. The first is based only on the NMOG emission reductions in the CFFV standards, and the second is based on the simple sum of the NMOG and NO_X emission reductions. Table C94–1 in the regulations is based on NMOG-only emission reductions and Table C94–2 is based on NMOG + NO_X emission reductions. As proposed, credit calculations are to be based on the NMOG reductions in the standards, but states have the option, subject to EPA approval, of selecting the NMOG + NO_X basis through the SIP process. EPA recommends that each state make its selection based on the relative importance of hydrocarbons and NO_X in controlling ozone for each individual nonattainment area. States must indicate in their SIP revision if the NMOG + NO_X basis is selected for a covered nonattainment area. EPA expects that states in a multi-state nonattainment area will coordinate with one another to use the same basis for credit weighting. Both sets of credit weightings are finalized in today's regulations.

The CAA also requires that certain carbon monoxide (CO) nonattainment areas be included in the fleet program. At this time, only one area qualifies for inclusion in the program solely because of CO nonattainment: the Denver-Boulder, Colorado area. The LEV CO standards are no more stringent than the conventional vehicle CO standards, therefore, LEVs would have little impact on reducing ambient CO levels, unless there is a change to a fuel or technology which is inherently low in CO emissions. Only the ULEV and ZEV CO standards will be more stringent than conventional vehicle CO standards. To encourage the purchase of CO-reducing ULEVs and ZEVs, EPA has developed another credit weighting basis for light-duty vehicles and truck for covered areas which are in the program only for CO air quality problems.

b. *Calculation of Credits for Light-Duty Clean-Fuel Fleet Vehicles.* The weighting and normalization procedure of the NPRM proposed to attribute one full credit to the purchase of one LDV LEV in place of one conventional LDV. This procedure reflects the fact that if a fleet owner purchases one more LEV than required, then that LEV would replace the purchase of a conventional vehicle and would provide emission benefits accordingly. Similarly, to reflect the relative emission reduction of vehicles which meet more stringent standards than required, such as a ULEV or ZEV, EPA proposed to compare the emission reduction to that achieved by purchasing a LEV.

Today's rule finalizes the proposed approach that all LDV and LDT credit values be normalized to the emission reduction required for LDVs. The normalization is done to facilitate credit exchanges between and among LDVs and the five LDT subclasses and to simplify credit weighting. The term "vehicle-equivalent" refers to the emission reduction calculated for a LDV certified to the LEV standards. For example, one credit is equal to one vehicle-equivalent and will satisfy the purchase requirement for one LDV or LDT less than 6000 lbs. GVWR.

Standards affect the credit weightings in two ways. First, the LEV, ULEV and ZEV standards vary relative to each other within a vehicle weight subclass, and these variations must be reflected in the credit weightings. Each of these standards may also vary across vehicle weight subclasses, and this variation must also be reflected in the credit normalization since cross-subclass trading is allowed.

The actual determination of credits requires two different approaches: one for early or extra vehicle purchases exceeding the purchase requirements

and one for vehicles which meet the purchase requirement but also meet more stringent emission standards than required. In the first case, the equation used to calculate normalized credits for early/extra purchases of LEVs, ULEVs, or ZEVs is:

Equation (1)—LDV and LDT, early/extra purchases:

$$ncredit = \frac{S_{CV}^{y} - S_{x}^{y}}{S_{CV}^{LDV} - S_{LEV}^{LDV}}$$

where:

ncredit=normalized credit.

S_x^y=value of vehicle emission standard. (Subscript refers to the emission standard the vehicle meets, and superscript refers to vehicle weight subclass designation.)

As described above, this calculation yields one full credit for the purchase of an early/extra light-duty LEV and a larger value if the vehicle purchased is a ULEV or ZEV. Likewise, if the vehicle purchased is in a subclass that has a greater or lesser reduction in emissions than the light-duty vehicle subclass, its credit value will be accounted for accordingly.

In the second case, when a ULEV or ZEV is purchased instead of a LEV to demonstrate compliance with the LEV purchase requirements, the equation is:

Equation (2)—LDV and LDT, purchase of ULEVs or ZEVs:

$$ncredit = \frac{S_{LEV}^{y} - S_{x}^{y}}{S_{CV}^{LDV} - S_{LEV}^{LDV}}$$

In equation (1) or (2), the numerator (top) of the equation represents the additional emission reduction the purchased vehicle is certified to, and the denominator (bottom) represents the required emission reduction for LDVs. The quotient of the two is the normalized credit. Because the fleet program measures compliance based either on vehicles purchased or credits redeemed, the emission reductions must be expressed in terms of vehicles or vehicle equivalents. Since trading of LDV or LDT credits is only permitted among LDVs and LDTs, state regulations need to require that credits be designated as LDV/LDT to distinguish them from heavy-duty vehicle credits (see discussion of heavy-duty credits below).

The numerical credit values for LDVs and LDTs that result from equations (1) and (2) are presented in Tables C94–1 and C94–2 in the regulations following this preamble. By incorporating these values into their credit programs, states will be able to clearly specify how many credits will be generated for each early/extra LEV purchase and each ULEV/ZEV purchase, as well as how many credits must be redeemed in order to supplant a LEV purchase.

As described above for areas which have an attainment problem for CO but not for ozone, EPA has developed an alternate set of credit values intended to encourage the purchase of CFFVs which achieve CO emission reductions. Different equations were necessary to determine the credit values under the CO basis because the statutorily required reduction is nothing. The normalized CO credit computation is performed according to Equations (3) and (4).

Equation (3)—LDV and LDT, early/extra purchases:

$$ncredit_{CO} = \frac{S_{CV}^{y} - S_{x}^{y}}{S_{CV}^{LDV} - S_{ULEV}^{LDV}} + 1$$

Equation (4)—LDV and LDT, purchase of ULEVs or ZEVs:

$$ncredit_{CO} = \frac{S_{ULEV}^{y} - S_{x}^{y}}{S_{CV}^{LDV} - S_{ULEV}^{LDV}} + 1$$

Based on Equation (3), the purchase of a light-duty ULEV is considered equivalent to the purchase of two light-duty LEVs and the purchase of a light-duty ZEV equivalent to the purchase of three light-duty LEVs. This weighting system gives credit to ULEVs and ZEVs beyond the result which would be obtained by applying equation (1) or (2), reflecting the fact that these vehicles, unlike LEVs, achieve a CO reduction over conventional vehicles.

c. *Credit Program for Heavy-Duty Clean-Fuel Fleet Vehicles.*

(1) Eligibility. Heavy-duty vehicles (HDVs) up to 26,000 lbs GVWR are included in the statutory CFFV purchase requirement and, as with LDVs and LDTs, they may generate credits for early/extra purchases or ULEV/ZEV purchases. In addition, this rule provides states the potential to achieve further emission reductions by allowing some heavier CFFVs to also generate credits. EPA proposed in the NPRM that states be required to make CFFVs which are single-unit heavy heavy-duty vehicles (HHDVs) eligible for generating credits, but to exclude combination HHDVs (tractor-trailers) from eligibility. This proposal was based on the premise that single-unit HHDVs are predominantly operated in the area where registered. Commenters claimed that some combination HHDVs are centrally fueled and primarily used within a single metropolitan area.

EPA has decided to address this issue by requiring that states also allow combination-type HHDVs to be eligible to generate credits, provided that they have been issued a fuel tax sticker for only the state (or states) which contain the covered area for which credits are to be granted. This approach should eliminate vehicles used for long-haul interstate operations, although it would be possible for vehicles which travel often outside the covered area but within the state to technically qualify for credit generation. Because of this fact, and because some states may prefer not to become involved with distinguishing combination HHDVs which may generate credits from those which may not, states may propose in their SIPs not to permit any combination HHDVs to generate credits.

As proposed in the NPRM, urban buses, including single-unit and articulated designs, will be treated as all other single-unit HHDVs and thus may generate credits. However, the situation may arise where fleets which would also be required to purchase low polluting fuel buses under section 219(c) of the Act may also receive windfall NMOG credits for the same buses under the fleet program. This does not appear likely at this time, but in the event that future developments suggest that this may occur, EPA would re-evaluate this part of the fleet credit program.

(2) Calculation of credits. Unlike the standards on which LDV and LDT CFFV credit values are based, in which each pollutant has a separate standard, the expected heavy-duty LEV, ULEV and ZEV standards involve a combined non-methane hydrocarbon (NMHC) and NO_x standard. (NMHC is similar to NMOG, but it does not include components such as alcohols, which must be adjusted for reactivity.) Thus, it is not appropriate to establish credit values based on NMHC alone; EPA has developed heavy-duty credit values based on the NMHC+NO_x standard.

Another fact distinguishing the process of developing credit values for heavy-duty CFFVs from that of LDV/LDT CFFVs is that heavy duty credits are not normalized. The Act specifies only one set of heavy-duty standards for the three heavy-duty weight subclasses (light, medium, and heavy heavy-duty vehicles, or LHDVs, MHDVs and HHDVs). Thus, unlike the case for LDVs and LDTs, differences in anticipated emission performance among the subclasses are not incorporated into the standards. As a result, there is a single set of heavy-duty credit values for all HDV subclasses.

As with the development of light-duty credits, the determination of credits for heavy-duty CFFVs requires two different approaches: one for early or extra vehicle purchases and one for the purchase of ULEVs and ZEVs to meet the purchase requirement. Equations (5) and (6) represent these two approaches, based on the amount of emission reduction offered by a heavy-duty LEV compared to a conventional HDV and the anticipated heavy-duty NMHC+NO_X standards in Table 3 above. Equation (5) is used to calculate credits for early/extra purchases of heavy-duty LEVs, ULEVs, or ZEVs:

Equation (5)—HDV, early/extra purchases:

$$\text{credit} = \frac{S_{CV} - S_X}{S_{CV} - S_{LEV}}$$

credit=non-normalized credit.
S_X=value of vehicle emission standard. (Subscript refers to the emission standard the vehicle meets.)

This calculation yields one credit for the purchase of an early or extra heavy-duty LEV and a larger value for the purchase of an early or extra ULEV or ZEV. Similarly, when a ULEV or ZEV is purchased instead of a LEV to demonstrate compliance with the LEV purchase requirements, the equation is:

Equation (6)—HDV, purchase of ULEVs or ZEVs:

$$\text{credit} = \frac{S_{LEV} - S_X}{S_{CV} - S_{LEV}}$$

The credit values resulting from equations (5) and (6) are presented in Table C94–4 of the regulations finalized today.

In equations (5) and (6), the numerator of the equation represents the additional emission reduction to be expected from the purchased vehicle, and the denominator represents the required emission reduction based on the difference between the heavy-duty conventional and CFFV standards.

As mentioned above, the heavy-duty vehicle LEV standards are no more stringent than the conventional vehicle CO standards, and thus, a special CO credit system is necessary if an incentive to buy heavy-duty vehicles with lower CO emission levels is to exist. Therefore, as for LDVs and LDTs, areas which are covered by the fleet program as a result of CO nonattainment may choose to use credit values based on CO reductions. The equations used are similar to those used for LDVs except that the HDV credits are again not normalized for the three HDV weight subclasses. Equations (7) and (8) are used to calculate the CO credits for HDVs.

Equation (7)—HDV, early/extra purchases:

$$\text{credit}_{CO} = \frac{S_{CV} - S_X}{S_{CV} - S_{ULEV}} + 1$$

Equation (8)—HDV, purchase of ULEVs or ZEVs:

$$\text{credit}_{CO} = \frac{S_{ULEV} - S_X}{S_{CV} - S_{ULEV}} + 1$$

The resulting credit values are presented in Table C94–5 of the regulations following this preamble.

d. *Credits for Vehicles Which Can Operate On More Than One Fuel.* Three types of vehicles are able to use more than one fuel: Dual-fuel vehicles which can operate on either of two fuels, flexible-fuel vehicles which can operate on a mixture of two fuels, and hybrid electric vehicles which operate on electricity for motion but which also have a combustion engine to extend driving range, or to power auxiliary components. If a vehicle which can operate on more than one fuel certifies to the CFFV emission standards on only one of its fuels, then there is a statutory requirement that the vehicle operate on only that fuel in the covered area (CAA section 246(b). For this reason, EPA will calculate credits based on the standard met when operating on the clean fuel.

Some vehicles may meet different clean fuel standards on each of their fuel alternatives (or mixtures). For example, a vehicle could meet both the LEV and ULEV standards, depending on which fuel the vehicle was using. In these cases, states may grant credits commensurate with the emission reductions of the cleaner fuel, but the SIP must require the fleet owner/operator to use only that fuel in the vehicle while it is within the covered area. The vehicle must operate on the fuel on which it was certified to the standard to meet the purchase requirement or to generate credits. Since there are no hybrid electric vehicles currently available and no EPA certification procedure yet exists, EPA is not finalizing credits for them at this time, but plans to do so when appropriate. Finally, if a vehicle does not use clean fuel in the covered area as required, a suitable penalty would be forfeiture of any credits earned by that vehicle.

III. Exemptions From Transportation Control Measures

As is described in more detail below, EPA is finalizing two different sets of Transportation Control Measure (TCM) exemptions today. The first exempts eligible clean-fuel fleet vehicles from temporal-based (e.g., time-of-day or day-of-week) restrictions. The second provides expanded TCM exemptions to clean-fuel fleet vehicles which have inherently low emissions in ozone precursors. EPA believes this approach is consistent with the spirit and intent of the clean-fuel fleet provisions of the Act.

As described in the Summary and Analysis of Comments Document, many fleet owners requested expanded TCM exemptions for all vehicles, while affected states wanted to be allowed to determine which exemptions would be granted in their localities. EPA acknowledges the fleet owners' desire to receive business incentives from TCM exemptions; however, EPA also understands that states may need to be able to use TCMs to control emissions. As a compromise, therefore, EPA proposed a program which grants exemptions from temporal-based TCMs for all CFFVs and allows fleet owners to be eligible for expanded TCM exemptions so long as they purchase significantly lower emitting vehicles (inherently low-emission vehicles, or ILEVs). This program is finalized today and discussed further below.

A. TCM Exemptions for CFFVs

As required by CAA section 246(h), these regulations exempt clean-fuel fleet vehicles from time-of-day, day-of-week and other similar temporal-based transportation control measures established wholly or partially for air quality reasons. Therefore, eligible clean-fuel fleet vehicles would be exempt from measures which forbid vehicle transit only during certain hours of the day, days of the week, days of the month, or during any other defined period of time, except as noted in the next paragraph. While transportation control measures are often put into place for reasons other than or in addition to air quality, it is TCMs which have an air quality element, as accounted for in the state implementation plan, that CFFVs would be exempt from. All eligible clean-fuel fleet vehicles (LEVs, ULEVs and ZEVs) would be equally exempt from the temporal-based TCMs.

The rule finalized today does not exempt fleet CFFVs from TCMs where the temporal element is secondary to some other control element. For

example, TCMs which create high-occupancy vehicle (HOV) traffic lanes during certain times of day do not qualify as temporal-based TCMs. However, EPA does not intend that this stipulation be interpreted as a loophole to deny CFFVs the temporal-based TCM exemptions they are otherwise entitled to under the Act. For example, even though time-based TCMs which restrict access of certain types of vehicles to certain areas or locations would have beneficial effects with respect to quality of life, these would be considered temporal-based TCMs, and are therefore subject to the fleet CFFV exemption. In addition, fleet CFFVs are not exempt from temporal-based TCMs for which such exemptions would create a clear and direct safety hazard. An example of this would be streets or highways which are designated as one way during certain periods of the day to ease commuter traffic flow.

TCM exemptions may not be traded or transferred to another vehicle and are not effective outside of the covered nonattainment areas to which the SIP revision applies. However, states may extend TCM exemptions to other areas to offer incentives to fleets to purchase CFFVs. TCM exemptions for which a vehicle qualifies may only be exercised with that vehicle and may not be transferred to another vehicle within the same fleet or as part of a credit transaction. Unlike credits, TCM exemptions are not marketable. TCM exemptions which apply to a qualifying vehicle will be effective only as long as the vehicle remains in compliance with the emission performance standards and other program requirements. Non-covered fleet vehicles which states have made eligible and which are generating credits for covered fleet vehicles must be granted the appropriate exemptions as well. Once a vehicle leaves a covered fleet it is no longer eligible for the temporal TCM exemptions unless the state provides for these exemptions to be extended to non-fleet vehicle owners.

Although the purchase requirements of the program do not go into effect until 1998 model year vehicles are available, states are required to grant temporal TCM exemptions to qualifying CFFV purchases in the period after SIP approval, but before the 1998 model year implementation date. As discussed above, if a state grants retroactive credits for purchases of CFFVs made before SIP approval, it does not need to exempt such purchases from temporal-based TCMs.

B. Expanded TCM Exemptions for ILEVs

1. The ILEV Concept

The major purpose of the CAA fleet program is to provide additional reductions in ozone precursor emissions (notably NMOG) for the worst ozone nonattainment areas. Emissions from CFFVs will be significantly lower than those of their conventional-fuel counterparts, and fleet owners purchasing CFFVs (or conversions meeting CFFV requirements) will receive exemptions from air-quality based temporal TCMs as an incentive for their participation in the program.

As a broader matter, EPA believes that use of incentive programs as a means to achieve air quality goals is a highly desirable regulatory approach. Society benefits by receiving emission reductions which are earlier and perhaps greater than would otherwise occur; the industry involved participates voluntarily because the incentive available is viewed as a meaningful return (for business or other reasons) on the cost of achieving the emission reduction. It is in the spirit of this approach and the desire to move away from a regulatory strategy based solely on mandated programs that EPA is today establishing an innovative new program for covered fleets.

This program provides expanded TCM exemptions for covered fleet vehicles which have even lower ozone precursor emissions than other CFFVs. These vehicles are termed inherently low-emission vehicles (ILEVs) as will be explained below, and the program with accompanying expanded TCM exemptions is referred to as the ILEV program.

This special group of CFFVs is being established to recognize that there are certain technologies and clean fuels which have inherently lower emissions of ozone precursors than others, and to encourage their use in return for expanded TCM exemptions. EPA is granting certain additional TCM exemptions to vehicles in covered fleets which meet the ILEV qualification criteria. This federal program will go into effect 30 days after this rule is finalized, although the additional TCM exemptions will not be available until ILEV vehicles are made available.

Section 246(h) requires that the Administrator ensure certain transportation control measures including time-of-day or day-of-week restrictions, and other similar measures that restrict vehicle usage, do not apply to any clean-fuel vehicle. This section authorizes the Agency to tailor which CFFVs are entitled to exemption from which TCMs (so long as each sub-set of CFFV is exempt from some vehicle usage restrictions and every CFFV is exempt from time-of-day and day-of-week restrictions).

In keeping with the focus of the fleet program on ozone reduction, EPA's approach for expanded TCM exemptions aims at substantial reductions in the primary ozone precursors: hydrocarbons and oxides of nitrogen. The focus for additional hydrocarbon reductions from ILEVs is on evaporative emissions. As can be seen in Table 3 earlier in this section, the LEV exhaust emission standards for hydrocarbons (NMOG) are lower than those for conventional vehicles in all vehicle classes, and it is not clear how much more meaningful, from an in-use perspective, it would be to further reduce the tailpipe NMOG emission standard. However, evaporative emissions are not specifically covered by the clean-fuel vehicle emission standards despite the fact that they constitute a significant portion of the hydrocarbon emission inventory on high ambient temperature days when ozone levels are highest. Current-technology gasoline-powered vehicles require a degree of fuel volatility to facilitate cold starting. The volatile fuel necessitates equipment to capture and then burn fuel vapors. Nevertheless, evaporative emissions constitute a large majority of emissions from current vehicles both because of conditions which overload the evaporative canister and because of in-use failures of various components of the evaporative control system (e.g., leaking vapor hoses, and malfunctioning purge valves). An ILEV is a vehicle which, because of the inherent properties of the fuel or the fuel system design, will not have significant evaporative emissions, even if its evaporative emission control system has failed. Thus, to the degree that ILEVs replace conventional-fuel vehicles, in-use evaporative hydrocarbon emissions will decrease.

Reductions in NO_X emissions are an important consideration in the control of ozone precursor emissions, however, the LEV requirements do not include a more stringent NO_X emission standard for all vehicle classes. In order to achieve additional NO_X reductions for ozone control and to encourage low NO_X technology development, the NO_X standards for ILEVs involve reductions from conventional vehicle NO_X standards for all of the vehicle classes and subclasses. The ILEV NO_X standard is the same as the ULEV NO_X standard.

2. ILEV Qualification Criteria

The ILEV program includes light-duty vehicles, light-duty trucks, and heavy-

duty vehicles/engines which a manufacturer is certifying to meet the clean-fuel fleet vehicle emission standards. Vehicle categories exempted from mandatory participation in the fleet program under section 241(5) of the 1990 CAA may be included in the ILEV program. Heavy-duty vehicles/engines over 26,000 lbs. GVWR and DOD exempt vehicles are not included.

Vehicle models which manufacturers wish to certify as ILEVs must meet two primary criteria. First, the vehicle's engine/fuel systems must be certified to meet the ILEV NMOG evaporative emissions standard, and second, the vehicle must meet the ILEV exhaust emission standards.

The ILEV evaporative emission standard of five grams per test must be met without the use of any auxiliary emission control devices to reduce or control evaporative emissions (e.g., carbon canister, purge system, etc.). In order to prevent a slow fuel leak from continuing over time, a manufacturer must certify in its application for certification that the vehicle meets the requirements for closed fuel systems. For closed fuel systems, which are often pressurized, the design must be such that a leak (to the atmosphere) anywhere within the fuel system would render the vehicle inoperative through a relatively quick loss of fuel supply. This requirement recognizes the contribution of leaks to emissions, but also recognizes that substantial fuel loss makes repair necessary for continued operation, thus reducing the likelihood that emissions from leaks would go unrepaired for a substantial amount of time. These test criteria for ILEVs ensure that even if the vehicle develops an evaporative control system malfunction in use, production of evaporative hydrocarbon emissions in total (hot soak, diurnal, and running loss) by ILEVs will be at a level substantially below the average of its non-ILEV counterparts.

The ILEV qualification test has four potential components: hot soak, diurnal, running loss and resting loss. At this time, there are certification standards and test procedures for hot soak and diurnal evaporative emissions only. However, EPA has proposed a series of changes in the test procedures that are used for evaporative emissions certification (55 FR 49914, December 3, 1990), one of which would add a test sequence designed to measure running loss emissions. EPA is also considering whether to propose to include resting loss emissions control.

The ILEV qualification test would be performed in accordance with the evaporative emissions certification test procedures in use at the time ILEV qualification is sought, with two exceptions. One, if the evaporative emissions certification test procedures involve more than one high-temperature diurnal, only one such diurnal would be utilized for purposes of ILEV qualification. Two, the evaporative emission control system, if any, would be completely deactivated for the entire ILEV qualification test.

Of course, ILEVs must also earn general vehicle certification before they may be certified as ILEVs. In order to be certified as an ILEV, the vehicle must pass both the section 202 evaporative emission standards of 2.0 grams per test over the full test procedure and the ILEV evaporative emission standard of 5.0 grams per test over the abbreviated procedure. If the test vehicle meets the 2.0 grams per test over the full evaporative test procedure without a control system, it would meet both the section 202 requirements and the ILEV evaporative requirements. Otherwise, in order to meet the ILEV evaporative requirement, the vehicle would have to be tested separately to demonstrate compliance with the section 202 evaporative standard (using a control system if necessary) and the 5.0 grams per test ILEV evaporative standard without a control system. Any test vehicle which failed the 5.0 gram per test evaporative standard over the abbreviated ILEV test could not qualify as an ILEV regardless of its evaporative emission rates with a control system over the full evaporative test.

As was mentioned above, the sum of measured evaporative emissions during the hot soak, diurnal, running loss and resting loss tests may not exceed the ILEV evaporative standard of five total grams per test. In the NPRM, EPA proposed an ILEV qualification standard between two and five grams. EPA has chosen the level of five grams because it will achieve the goals of the program while offering the most flexibility to vehicle manufacturers. Testing by EPA indicates that the uncontrolled evaporative hot soak, diurnal, running loss and resting loss emissions from conventional gasoline vehicles are on the order of 100 to 200 grams. Thus, an ILEV standard of five grams would yield reductions of a minimum of 95 percent relative to an uncontrolled conventional-fuel vehicle. On the other hand, based on limited data, EPA projects that the five gram level will permit vehicles which operate on very low-volatility fuels (such as pure ethanol and pure methanol) as well as pressurized gaseous fuels (natural gas (CNG), liquefied petroleum gases (LPG), and hydrogen) to potentially qualify as ILEVs. In addition, it is expected that dedicated electric vehicles would meet the ILEV evaporative emissions standard. Vehicles operating on some formulations of petroleum fuels may also meet the ILEV standard and would therefore qualify as ILEVs.

The second ILEV qualification criterion is that ILEVs in all vehicle classes must also meet lower exhaust emission standards for NO_X as compared to conventional vehicles. As can be seen from Table 3 above, in order to achieve a NO_X reduction in all vehicle classes relative to the conventional standards, the ILEV NO_X standard must be set at the ULEV NO_X levels. In the case of heavy-duty engines, a lower NMHC+NO_X standard applies, because the clean-fuel HDV standards do not include a separate NO_X standard. For other pollutants, the exhaust emission standards for ILEV certification will match the LEV CFFV standards.

The ILEV exhaust emission standards are shown in Table C93–6 of the regulations. It should be noted that the heavy-duty engine emission standards shown are based on the State of California LEV program standards. As discussed above, these, as well as the light-duty ILEV standards, are subject to change if the final federal CFFV standards are different from these values. These vehicles or engines must also comply with all requirements of Title II of the Clean Air Act, as amended, which are applicable in the case of conventional gasoline, methanol-fueled, or diesel vehicles or engines of the same vehicle class and model year, unless otherwise determined.

The ILEV program is limited to dedicated-fuel vehicles and dual-fuel vehicles which are certified as ILEVs on both fuels. Due to the critical role of the fuel in the emissions of the vehicle, and the difficulty of enforcement, flexible-fuel and dual-fuel vehicles which do not qualify as an ILEV on all possible fuels and fuel combinations cannot be considered ILEVs.

Given the fuels and technologies expected, it is possible that some vehicle models will meet the ULEV or ZEV emission standards and also qualify as ILEVs. In that circumstance, as well as in the case of "extra" ILEV purchases, the vehicles involved will be eligible to receive expanded TCM exemptions and the fleet owner will earn purchase credits. Because the ILEV qualification standard does not include a reduction in exhaust NMOG, vehicles that are acquired to meet the purchase requirement, which only meet the ILEV requirements, will receive no purchase

credits if the area they are a part of uses the NMOG-only credit weighting basis.

3. Program Roles and Benefits

Given the nature of the fleet program, EPA, the auto industry, the affected fleet operators and the various states all will have a role in its implementation. The latter three entities listed will all derive benefits from the program to varying degrees.

First, the ILEV concept is a Federal program to be administered either directly by EPA or through EPA oversight of other entities. EPA will develop the program requirements and administer the ILEV certification program and other regulatory provisions related to the program. EPA is also responsible for identifying and implementing the incentives which will encourage the purchase of these vehicles by the fleets.

As an incentive for fleet owners and operators, section 246(h) provides that certain TCMs shall not apply to cleanfuel vehicles that meet the requirements of section 246. Unlike most other portions of section 246, which directs the States to implement various aspects of the fleet program through the applicable SIP revisions, section 246(h) directs EPA to implement the TCM exemption through a federal rule to be issued one year after enactment. Section 246(h) provides that the TCM exemption applies notwithstanding Title I of the Act.

Title I addresses nonattainment areas, and section 182(c) of that title sets forth requirements for SIPs in serious ozone nonattainment areas. These SIPs must include, inter alia, a clean-fuel vehicle support program that contains measures necessary to ensure the effectiveness of the clean-fuel vehicle program established under Title II. Section 182(c)(4)(B), however, allows a State to opt out of "all or a portion" of the clean-fuel vehicle program if, within 24 months of enactment, it submits a substitute SIP revision that will achieve long-term reductions in ozone-producing and toxic emissions equal to those achieved by the clean-fuel vehicle program (or the portion of the program for which the revision is a substitute). A certain tension exists between the opt-out authority under section 182(c)(4)(B) of Title I and the requirement in section 246(h) that clean-fuel fleet vehicles be exempt from TCMs notwithstanding Title I.

Section 246 directs an affected State to implement almost every aspect of the fleet program through a SIP revision. In contrast, the TCM exemption is to be implemented by federal rule. Moreover, section 246(h) requires EPA to issue the TCM exemption rule within one year of enactment, whereas a SIP revision opting out of the fleet program is not due for 24 months (section 182(c)(4)(B)), and a SIP revision implementing the fleet program is not due for 42 months (section 246(a)(1)). Both the plain language of section 246(h) and its legislative history suggest that the TCM exemption rule is to become effective prior to the effective date of the SIP revisions.[2] Taken together, these structural features suggest that the TCM exemption operates independently from any State SIP and from any State decision to opt out of the fleet program.

There is a further requirement that must be met in order for a vehicle to qualify for the transportation control measure exemption under section 246(h): it must be not only a "clean-fuel vehicle," but it must also be a clean-fuel vehicle "meeting the requirements of this section." The section generally requires SIP revisions in certain nonattainment areas. Obviously, if a state opts out of the program, there will be no SIP revision. However, EPA believes that it may give effect to the evident purpose of section 246 and Part C of Title II generally to limit the benefits of the exemption to covered fleet vehicles by reading the phrase "meeting the requirements of this section" as requiring the vehicles to be "covered fleet vehicles" as defined in section 241(6). Section 246 is entitled "Centrally Fueled Fleets," and contains numerous references that show it was intended to apply only to "covered fleet operators" and "covered fleet vehicles." E.g., section 246 (b), (d), (e). Failure to adopt such a limitation would mean that private owners of non-fleet vehicles would qualify for the exemption, a result Congress could not have intended.

EPA believes that an interpretation giving pre-emptive effect to section 246(h) even in opt-out states, to be reasonable because it provides a strong incentive to fleets to use ILEVs even in areas in which they are not required to do so, thereby producing environmental benefits consistent with the overall purpose of the Clean Air Act. The relevant provisions reflect two competing congressional concerns, namely that qualifying fleet vehicles not be subject to TCMs designed to regulate more polluting vehicles, and that States be allowed some flexibility in deciding whether to implement the clean-fuel vehicle program as part of its attainment strategy. Because the Clean Air Act embodies competing congressional goals, EPA may fashion "a reasonable accommodation of [the] differing policy objectives." *Natural Resources Defense Council* v. *EPA*, 882 F.2d 104, 117 (D.C. Cir. 1987). The proposed reading is a reasonable accommodation of these conflicting policies, for it allows States to avoid the purchase requirements imposed upon fleets under section 246, but it retains the TCM exemption incentive for fleets in opt-out States where those fleets voluntarily choose to use ILEVs.

Second, with regard to the auto industry, the program is largely voluntary. Manufacturers will seek ILEV qualification only if demand for such vehicles is sufficient. If so, they will need to comply with EPA certification program requirements, including ILEV identification on the engine label. As is discussed further below, auto industry fleet representatives and dealers involved in marketing vehicles to fleets will have a small role in the proper dissemination of ILEV labels for vehicle identification to the public.

The third key participant in the program is the fleet industry. The ILEV program is entirely voluntary for the fleet owners and operators. As will be discussed further below, ILEVs will receive the temporal-based TCM exemptions available to all CFFVs and will also be eligible for expanded TCM exemptions such as the HOV lane requirement exemption contained in the proposal. Fleets have operational requirements which make it difficult for them to increase the occupancy of vehicles. HOV lanes have been established to encourage car-pooling and thus decrease emissions by reducing the number of vehicles being operated. Through the ILEV program, certain fleets will be able to qualify for HOV lane access by purchasing and operating ILEVs and thus contributing much more to air quality improvement than would a fleet vehicle mired in congested traffic. Fleet owners will decide whether the expanded TCM exemptions available with ILEVs provide a business advantage over purchasing a basic CFFV which could be somewhat lower in purchase price and/or operating cost. After a fleet purchases an ILEV either directly from a manufacturer or through a conversion, it will need to comply with the regulations implementing the program related to labeling.

Finally, the states involved in the CAA fleet program would be involved in the ILEV program. Future state SIP actions will need to incorporate the ILEV program, expanded TCM exemptions, etc., and states will receive SIP credits commensurate with the

[2] See 136 Cong. Rec. E3695 (daily ed. Nov. 2, 1990) (speech of Representative Lent).

emission reductions anticipated from the use of ILEVs relative to other CFFVs.

4. TCM Exemptions Available to ILEVs

Since ILEVs would be CFFVs within the definition of the fleet program, they would qualify for the general (temporal) TCM exemptions discussed above. However, ILEVs would also be eligible for expanded TCM exemptions. At the outset, ILEVs are exempt from restrictions on high-occupancy vehicle lanes ("HOV restrictions"), although the exemption does not include bus-only HOV lanes. At the present time only about one-half of the 22 covered areas in the fleet program either have or plan HOV lanes. Thus a broader set of TCM exemptions will be needed to provide greater incentive to purchase ILEVs and thus maximize the air quality benefits. In the future, EPA intends to exempt ILEVs, to the extent practicable, from all other existing and future TCMs that are not safety related in order to provide further incentive for their purchase and use. However, because the specific TCMs to be adopted in the covered areas are yet to be determined, the only expanded exemption granted to ILEVs in today's rule is the exemption from HOV lane restrictions. As proposed in the NPRM, EPA expects to grant further TCM exemptions for ILEVs through future regulatory actions with full opportunity for all interested parties to participate. As a first step in that process, additional TCM exemptions/incentives for ILEVs, such as credit for employee trip reduction programs and relief from tolls/fees designed to reduce air pollution from motor vehicles by limiting their use in designated areas, will be considered in a proposal to be published later this year.

The purpose of HOV lanes is to maintain mobility in congested highway corridors by attracting riders to buses, carpools and vanpools. This is accomplished by offering travel time savings and assured free flow. Lower emissions and fuel conservation are additional benefits. Based on data analysis for several cities, EPA does not believe that this incentive for the purchase of ILEVs will increase HOV lane congestion significantly. In fact, by removing vehicles from general purpose lanes, ILEVs could reduce overall congestion.

However, EPA does not intend for ILEVs to be the cause of congested conditions in HOV lanes, which would reduce the attractiveness for their use, and which could have a detrimental impact on air quality. Therefore, under certain circumstances, a waiver from the HOV lane exemption requirement may be granted for a specific HOV lane or lane segment. The state's governor could petition EPA for such a waiver, which would need to document two conclusions. First, the petition would need to clearly document, based on sound highway design criteria, that the presence of ILEVs in an HOV lane or lane segment is or is projected to be the cause of significant congestion. Second, the petition must demonstrate that the congestion cannot feasibly be alleviated by adding an additional HOV/CAV lane, further increasing vehicle occupancy requirements, reducing use of the lane by non-eligible vehicles, or through other measures.

C. Labeling of Clean-Fuel Fleet Vehicles

In order to successfully implement the TCM exemptions, clean-fuel fleet vehicles making use of the exemptions must be clearly identified as such, and ILEVs must be specially identified. Because most CFFVs are expected to look very much like conventional vehicles, it is important to avoid public misunderstanding about why these vehicles are being operated in places and at times in which apparently identical vehicles are prohibited. Furthermore, law enforcement officials should have a clear indication that these vehicles are not violating TCM ordinances.

For the labeling of CFFVs which are not ILEVs but which qualify for the general temporal-based TCM exemptions, the states will design and administer their own labeling programs. These programs should be defined in the appropriate SIP submittals. Special license plates, license plate tabs, windshield or side panel decals, or other distinctive markings may be used. Either text or a logo would be appropriate. As discussed further below, EPA believes that because the implementation of time-of-day or day-of-week TCMs are likely to be highly publicized state projects, individual states can best make the decision of how large or small a label is needed and what information should be on it. Of course, states that are part of a multi-state covered nonattainment area should work together to develop a unified labeling system for that area. Additionally, because EPA does not believe there will be very many such TCM ordinance programs, there should not be serious problems arising from inconsistent requirements around the country. EPA may establish a consistent federal CFFV labeling requirement, if deemed necessary, in the future.

Because the ILEV concept is a federal program, EPA will administer the labeling process for ILEVs. Manufacturers certifying their vehicles as ILEVs must identify the vehicle as such in the Vehicle Emission Control Identification (VECI) sticker (placed under the engine hood in light-duty vehicles). (See 40 CFR 86.0XX–35 for labeling requirements—where "XX" refers to the standard for a given model year.) Additionally, manufacturers, or their agents, must install nontransferable "Clean Air Vehicle" labels or decals (described below) on ILEVs at the time of sale to qualifying fleet owners. Fleet owners must show proof of ownership of ten or more covered fleet vehicles, and the manufacturer, or its agent, must confirm this through vehicle registration forms or some other means and maintain such proof for possible review by EPA.

Three labels are required for each ILEV. Labels are to be placed on each side of the vehicle and on the rear of the vehicle in such a way that they are clearly visible. ILEV owners are required to remove and dispose of the labels when selling or transferring the ILEV or offering it for lease or long-term loan, unless the person who is receiving the vehicle is qualified to take advantage of the expanded TCM exemptions. No unauthorized person is permitted to install an ILEV label or any facsimile of an ILEV label on any vehicle. A state may expand ILEV eligibility and allow ILEV labels to remain on vehicles sold to non-fleet persons. States may wish to do this for reasons such as promotional purposes or to allow non-fleet operators to gain access to the expanded TCM exemptions available to ILEVs.

As is prescribed in more detail in the attached regulations, the ILEV labels must be at least twelve inches high by eighteen inches wide with "CLEAN AIR VEHICLE" written in large block capital letters. In addition, the words "INHERENTLY LOW-EMISSION VEHICLE" must be on the label in smaller lettering. The label's lettering must be in a contrasting color to the background, and while background graphics or a manufacturer logo may be included, nothing may be added to the label which impairs readability. Labels must include a serialized identification number. Label designs to be used must be approved by EPA as part of the certification for that manufacturer's ILEV family(ies). If vehicle design prohibits placement of a twelve by eighteen-inch rear label, a four inch high by 24 inch wide label meeting the same color contrast and message requirements, but with smaller letter size as laid out in the regulations, would be acceptable. However, vehicles which have space on the rear for the larger label must use it.

EPA also encourages states to develop programs using unique license plate numbering, colors or tabs to further distinguish ILEV vehicles. This would aid in enforcement of the labeling program by connecting the ILEV designation to the vehicle registration program. As a result, counterfeiting would be more difficult and overall enforcement of HOV lane restrictions and future further exemptions would be facilitated. To the degree that states may want to track the number of ILEVs that are being used in an area, they may require the manufacturer or the manufacturer's agent to report the number of vehicles that have been labeled as ILEVs to the appropriate state agency. To aid enforcement, a state may wish to also require reporting of VIN numbers of ILEVs sold and the serial number of the label that was affixed to the vehicle.

IV. Provisions for Federal Fleets and Facilities

Subpart C of the CAA contains several provisions which apply to certain fleets and facilities owned or operated by an agency, department, or instrumentality of the United States. The federal fleet provisions are described in section 248 and a federal obligation to make clean fuel available to the public is contained in section 246(g). Section 248(a) provides that covered federal fleets are subject to the general provisions of the fleet program, in addition to the special requirements for federal fleets. Thus, each federal fleet must comply with the requirements of the fleet program as it exists in the nonattainment area where such a fleet operates. Whether a federal fleet is a covered fleet will be determined for each area independently.

Section 246(g) provides that federal facilities where covered fleets are refueled shall make clean alternative fuel available to the public during reasonable business times, subject to national security concerns, if such fuel is not commercially available for retail sale to the public in the vicinity of the facility. EPA proposed regulations interpreting these provisions of the Act. However, after considering comments received on the NPRM from affected federal agencies, EPA has decided to issue guidance rather than promulgate regulations regarding section 246(g). EPA notes that section 246(g) is self-effectuating and does not require implementing regulations.

EPA believes that federal facilities will make fuel available if other facilities providing the same fuel are not available, not only because of the requirements of section 246(g) of the CAA, but because the Alternative Motor Fuels Act (AMFA) also requires federal facilities to make clean fuels available to the public after 1994. However, as part of this rulemaking, EPA has considered the requirements of section 246(g) and the public comments, and several guidelines which EPA would encourage such federal fleets to follow are described below. As discussed above, all state fleet program provisions will apply to federal fleets, including credits and TCM exemptions.

Vicinity. As a general rule, federal facilities should consider the density of other refueling facilities in the covered nonattainment area as a guide for determining when fuel should be provided to the public. One way to view the definition of vicinity is from the concept of fuel availability. If a clean fuel is already "reasonable available" in the covered area, then there would be no need for the federal facility to offer the fuel. To assess this concept, EPA performed an analysis of the number of gasoline refueling facilities in several metropolitan statistical areas. This analysis showed that, on average, there were approximately 0.8 refueling facilities per square mile. (This also can be expressed as an average distance of 0.6 miles from one refueling facility to the nearest other facility.) For a vicinity definition of a five mile radius (which contains 78 square miles), this analysis would project that there would be 63 refueling facilities. Similar calculations for ten and 15 mile radii yield 252 and 568 facilities, respectively.

EPA believes that gasoline can generally be considered to be conveniently available in metropolitan areas. To match this level of availability, the applicable radius to another refueling facility can be back-calculated using the same methods discussed in the previous paragraph. Thus, the necessary radius to provide the same level of availability as gasoline would be 0.6 miles from the main gate of a federal facility. Convenient availability is presently too stringent a requirement for clean fuels. (However, this does not apply to reformulated gasoline in areas mandated to use that fuel.) Several studies have indicated that diesel fuel is available at approximately one in four to one in five commercial facilities. Therefore, it has 20 to 25 percent of the availability of gasoline. This could be considered reasonable availability. To provide availability at this level would require a radius of approximately 1.3 to 1.4 miles from the main gate of a federal facility. Even this is a fairly stringent requirement for clean fuels.

As part of its LEV program, Southern California is initially requiring 90 (and increasing in three years to 300) clean fuel facilities out of the approximately 9,000 service stations in the area for their LEV program. This one to three percent availability compared to gasoline can be considered as the lower limit for reasonable availability. A 3.6 to 6.3 mile radius from the main gate of a federal facility would provide approximately this range of availability.

Based on this analysis, EPA recommends that federal facilities which utilize clean-fuel vehicles make clean fuel available to the public if there is not a commercial facility offering the same type of clean fuel within a five mile radius.

Reasonable business times. With regard to the times when clean fuel would be made available to the public, EPA proposed that federal facilities which have clean-fueled fleets should make those facilities available to the public eight hours per business day. After additional consideration and consultation with other federal agencies and departments, EPA believes it is not necessary for eight hours of public access to be provided in all cases. In many cases, federal fuel facilities are only open for several hours per day, or are not staffed. In order for federal facilities to aid in the introduction of clean-fuel vehicles to the general public, this fuel should be reasonably available in terms of the times when it can be purchased. EPA recommends that a federal clean-fuel facility be open to the public for refueling during the hours that it is normally staffed, and otherwise by prior arrangement with that facility.

V. Consultation With DOE and DOT

As per section 250(d) of the Clean Air Act, this rulemaking has coordinated with the Department of Energy and the Department of Transportation. Interagency review documents are contained in sections II–H and IV–H of this rulemaking's docket.

VI. Judicial Review

Under section 307(b)(1) of the Clean Air Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under section 307(b)(2) of the Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

VII. Statutory Authority

The statutory authority for this proposal is provided by sections 110, 118, 241, 246, 248, and 301(a) of the CAA (42 U.S.C. 7410, 7418, 7581, 7586, 7588, and 7601(a)).

VIII. Administrative Designation and Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. Major regulations have an effect on the economy of $100 million or more, have a significant adverse impact on competition, investment, employment or innovation, or result in a major price increase for the affected product.

This rule, covering fleet credit programs and TCM exemptions, is significant in that it promulgates important provisions of the overall fleet program prescribed in sections 246 and 248 of the 1990 CAA Amendments. However, it is not "major" according to the established criteria. The CAA requires that the general fleet program be implemented through revisions to State Implementation Plans (SIPs) at a later date. The credit program finalized today will actually help to reduce the costs of compliance with the base fleet program. In addition, the TCM exemptions provide, at least directionally, an opportunity for reduction in the operating costs of the affected fleets. The ILEV program is voluntary. The regulations will have either neutral or salutary effects on competition, investment, employment, and innovation. Therefore, this rule does not constitute a major regulation. EPA will perform a detailed economic assessment of the Clean Fuel Fleet Program as a whole when the remaining provisions of the program are promulgated later this year.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB and any EPA response to OMB comments are in section IV–H of the public docket for this rulemaking.

IX. Compliance With Regulatory Flexibility Act

Under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Administrator is required to certify that this regulation will not have a significant economic impact on a substantial number of small business entities. As already mentioned, none of the provisions of this regulation levy additional requirements on small entities, and, in fact, the credit programs and the TCM exemptions would be expected to have salutary effects on fleet owners. Thus I certify that this rule will not have a significant adverse impact on a substantial number of small entities. A Regulatory Flexibility Analysis for the Clean Fuel Fleet Program as a whole will be performed in conjunction with the aforementioned rulemaking on clean-fuel fleet emission standards, conversions and general provisions.

X. Information Collection Requirements

Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* These requirements are not effective until OMB approves them and a technical amendment to that effect is published in the **Federal Register**.

Public reporting burden for this collection of information is estimated to be 4,100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch; EPA; 401 M Street, SW., (PM–223Y); Washington, DC, 20460, marked, "Attention: Desk Officer for EPA".

List of Subjects in 40 CFR Part 88

Administrative practice and procedures, Air pollution control, Gasoline, Labeling, Motor vehicles, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: January 19, 1993.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, 40 CFR part 88 is amended as follows:

PART 88—CLEAN-FUEL VEHICLES

1. The authority citation for part 88 is revised to read as follows:

Authority: 42 U.S.C. 7410, 7418, 7581, 7582, 7583, 7584, 7586, 7588, 7589, 7601(a).

2. Subpart C is added to part 88 to read as follows:

Subpart C—Clean-Fuel Fleet Program

Sec.
88.301–93 General applicability.
88.302–93 Definitions.
88.303–93 Abbreviations.
88.304–94 Clean-fuel fleet vehicle credit program.
88.305 [Reserved].
88.306 [Reserved].
88.307–94 Exemption from temporal transporation control measures for CFFVs.
88.308 [Reserved].
88.309 [Reserved].
88.310–94 Applicability to covered federal fleets.
88.311–93 Emissions standards for Inherently Low-Emission Vehicles.
88.312–93 Inherently Low-Emission Vehicle labeling.
88.313–93 Incentives for the purchase of Inherently Low-Emission Vehicles.
Tables to Subpart C of Part 88

Subpart C—Clean-Fuel Fleet Program

§ 88.301–93 General applicability.

(a) The requirements of this subpart apply to the following:

(1) State Implementation Plan revisions at 40 CFR part 52 made pursuant to sections 110 and 246 of the CAA (42 U.S.C. 7410 and 7586) hereafter referred to as the "SIP revision".

(2) All agencies, departments and instrumentalities of the United States that are subject to the fleet programs established by a state's SIP revision.

(b) The requirements of §§ 88.302–93, 88.303–93, 88.311–93, 88.312–93, and 88.313–93 of this part apply to fleets which voluntarily purchase and operate Inherently Low-Emission Vehicles (ILEVs).

§ 88.302–93 Definitions.

The definitions in 40 CFR part 86 of this chapter also apply to this subpart. The definitions in this section apply to this subpart.

Combination heavy-duty vehicle means a vehicle with a GVWR greater than 8,500 pounds (3,900 kilograms) which is comprised of a truck-tractor and one or more pieces of trailered equipment. The truck-tractor is a self-propelled motor vehicle built on one chassis which encompasses the engine, passenger compartment, and a means of coupling to a cargo carrying trailer(s). The truck-tractor itself is not designed to carry cargo.

Inherently Low-Emission Vehicle means any LDV or LDT conforming to the applicable Inherently Low-Emission Vehicle standard, or any HDV with an engine conforming to the applicable Inherently Low-Emission Vehicle standard. No dual-fuel or flexible-fuel vehicles shall be considered Inherently Low-Emission Vehicles unless they are certified to the applicable standard(s) on all fuel types for which they are designed to operate.

Partially-Covered Fleet pertains to a vehicle fleet in a covered area which contains both covered fleet vehicles and non-covered fleet vehicles, i.e., exempt from covered fleet purchase requirements.

Single-unit heavy-duty vehicle means a self-propelled motor vehicle with a GVWR greater than 8,500 pounds (3,900 kilograms) built on one chassis which encompasses the engine, passenger compartment, and cargo carrying function, and not coupled to trailered equipment. All buses, whether or not they are articulated, are considered single-unit vehicles.

§ 88.303–93 Abbreviations.

The abbreviations in subpart A of this part and in 40 CFR part 86 apply to this subpart. The abbreviations in this section apply to this subpart.

ILEV—Inherently Low-Emission Vehicle.

§ 88.304–94 Clean-fuel fleet vehicle credit program.

(a) *General.* (1) The SIP revision shall provide for a CFFV credit program to enable covered fleet owners/operators to meet the fleet vehicle purchase requirements of the CAA both by purchasing clean-fuel vehicles (CFVs) directly and by trading and banking CFFV credits for vehicle purchases.

(2) All credit-generating vehicles must meet the applicable emission standards and other requirements contained in 40 CFR part 88, subpart A.

(b) *Program administration.* (1)(i) Each state in which there is all or part of a covered area, as defined in CAA section 246(a)(2), shall promulgate regulations as necessary for implementing this requirement.

(ii) The state shall submit a SIP revision before May 15, 1994 to the Administrator stipulating the specific mechanism by which the CFFV program is to be administered and enforced. The credit program shall commence upon EPA approval of the SIP in accordance with CAA section 246(f)(5).

(2) A fleet owner who purchases/leases a CFFV only to generate CFFV credit shall be subject to the same requirements of the state's CFFV program as a covered fleet owner who purchases/leases a CFFV to demonstrate compliance with covered fleet purchase requirements.

(3) While in the covered area, a dual-fuel/flexible-fuel vehicle which a fleet owner purchases to comply with covered fleet purchase requirements must be operated at all times on the fuel(s) on which it was certified as a CFFV. If the fleet owner receives credit for a dual-fuel/flexible-fuel vehicle purchase, the vehicle must be operated at the same emission level for which the vehicle generated CFFV credit.

(c) *Credit generation.* (1) States shall grant CFFV credits to a covered fleet owner for any of the following qualifying CFFV purchases:

(i) Purchase of a CFFV during any period subsequent to the approval of the SIP revision but prior to the effective date for commencement of a state's CFFV purchase requirement if the purchase meets all other CFFV requirements applicable to such purchases, including the statutory requirement to use only the fuel on which the vehicle was certified as a CFFV;

(ii) Purchase of a greater number of CFFVs than is required under the SIP revision;

(iii) Purchase of a CFFV which meets more stringent emission standards than required under the SIP revision; or

(iv) Purchase of a CFFV in an exempt or non-covered vehicle category by the owner/operator of a covered or partially-covered fleet.

(2) A state may retroactively grant CFFV credit(s) to a fleet owner for the purchase of a CFFV prior to the approval of the state's SIP revision if the purchase met all CFFV credit program requirements applicable to such purchases, including:

(i) The vehicle purchased would have to have been certified to CFFV emission standards;

(ii) The vehicle purchased would have to have been a dedicated-fuel vehicle;

(iii) If the vehicle purchased was not a dedicated-fuel vehicle, then the fleet owner would have to show that the vehicle had been operated only on the clean alternative fuel on which the vehicle had been certified as a CFFV.

(3) For LDVs and LDTs, credit values shall be determined in accordance with Table C94–1. The state shall use Table C94–1 exclusively in determining LDV and LDT CFFV credit values. Table C94–1.1 applies to paragraphs (c)(1) (i), (ii) and (iv) of this section; Table C94–1.2 applies to paragraph (c)(1)(iii) of this section.

(4) In lieu of determining credit values in accordance with Table C94–1, a state may specify in its SIP revision that Table C94–2 will be used to determine LDV and LDT CFFV credit values in one or more affected nonattainment areas. Any state choosing to do so must provide adequate justification, based on air quality benefits, at the time the SIP revision is submitted. If the use of Table C94–2 is approved by EPA, the State shall use Table C94–2 exclusively in determining LDV and LDT CFFV credit values for vehicles in the subject area or areas. Table C94–2.1 applies to paragraphs (b)(1) (i), (ii) and (iv) of this section; Table C94–2.2 applies to paragraph (b)(1)(iii) of this section.

(5) In lieu of determining credit values in accordance with Table C94–1, a state containing a carbon monoxide nonattainment area(s) having a design value above 16.0 parts per million may specify in its SIP revision that Table C94–3 will be used to determine LDV and LDT CFFV credit values in one or more affected nonattainment areas. Any state choosing to do so must provide adequate justification, based on air quality benefits, at the time the SIP revision is submitted. If the use of Table C94–3 is approved by EPA, the state shall use Table C94–3 exclusively in determining LDV and LDT CFFV credit values for vehicles in the subject area or areas. Table C94–3.1 applies to paragraphs (b)(1) (i), (ii) and (iv) of this section; Table C94–3.2 applies to paragraph (b)(1)(iii) of this section.

(6) For HDVs, credit values shall be determined in accordance with Table C94–4. The state shall use Table C94–4 exclusively in determining heavy-duty vehicle CFFV credit values. Table C94–4.1 applies to paragraphs (c)(1) (i), (ii) and (iv) of this section, and Table C94–4.2 applies to paragraph (c)(1)(iii) of this section.

(7) In lieu of determining credit values in accordance with Table C94–4, a state containing a carbon monoxide nonattainment area(s) having a design value above 16 parts per million may specify in its SIP revision that Table C94–5 will be used to determine heavy-duty vehicle CFFV credit values in one or more affected nonattainment areas. Any state choosing to do so must provide adequate justification, based on air quality benefits, at the time the SIP revision is submitted. If the use of Table C94–5 is approved by EPA, the State shall use Table C94–5 exclusively in determining heavy-duty vehicle CFFV credit values for vehicles in the subject area or areas. Table C94–5.1 applies to paragraphs (b)(1) (i), (ii) and (iv) of this section; Table C94–5.2 applies to paragraph (b)(1)(iii) of this section.

(8) Credit values shall be rounded to two decimal places.

(9) *Heavy heavy-duty vehicles.* (i) States must allow purchase of any clean-fuel single-unit or combination HDV with a GVWR greater than 26,000 pounds (11,800 kilograms) to generate CFFV credit for the fleet vehicle purchaser.

(ii) States must exclude from generating CFFV credit the purchase of any combination HDV with a GVWR greater than 26,000 pounds (11,800

kilograms) which pays all or a portion of its fuel taxes, as evidenced by fuel tax stickers on the combination HDV, to a state(s) which is not part of that covered nonattainment area.

(10) *Light-duty CFFV credits.* Credits generated by the purchase of a qualifying clean-fuel fleet LDV or a LDT shall be designated at the time of issuance as light-duty CFFV credits.

(11) *Heavy-duty CFFV credits.* Credits generated by the purchase of a qualifying clean-fuel fleet HDV shall be designated at the time of issuance as heavy-duty CFFV credits. Further, credits generated by the purchase of a light heavy-duty or a medium heavy-duty qualifying CFFV shall be designated at the time of issuance as light heavy-duty and medium heavy-duty CFFV credits, respectively.

(d) *Credit use.* (1) All credits generated in accordance with these provisions may be freely traded or banked for later use, subject to the provisions contained in this subpart, without discount or depreciation of such credits.

(2) A covered fleet owner or operator desiring to demonstrate full or partial compliance with covered fleet purchase requirements by the redemption of credits shall surrender sufficient credits as established in this paragraph. In lieu of purchasing a CFFV, a fleet owner or operator shall surrender credits equal to the credit value for the corresponding vehicle class and credit calculation method used in that area from either Table C94–1.3, C94–2.3, C94–3.3, C94–4.3, or C94–5.3 of this subpart.

(3) Credits earned within the boundaries of a covered nonattainment area may be traded within those boundaries whether or not that area encompasses parts of more than one state.

(4) Credits issued as a result of CFFV purchase requirements in one nonattainment area may not be used to demonstrate compliance in another nonattainment area, even if a state contains more than one covered nonattainment area.

(5) Credit allocation. (i) Credits generated by the purchase of LDVs and LDTs of 8,500 pounds (3,900 kilograms) GVWR or less may be used to demonstrate compliance with covered fleet purchase requirements applicable to LDVs or LDTs of 8,500 pounds (3,900 kilograms) GVWR or less.

(ii) Credits generated by the purchase of vehicles of more than 8,500 pounds (3,900 kilograms) GVWR may not be used to demonstrate compliance with the covered fleet purchase requirements for vehicles weighing 8,500 pounds (3,900 kilograms) GVWR or less.

(iii) Credits generated by the purchase of vehicles of 8,500 pounds (3,900 kilograms) GVWR or less may not be used to demonstrate compliance with requirements for vehicles of more than 8,500 pounds (3,900 kilograms) GVWR.

(iv) Credits generated by the purchase of a HDV of a particular weight subclass may be used to demonstrate compliance with required heavy-duty vehicle purchases for the same or lighter weight subclasses. These credits may not be used to demonstrate compliance with required HDV purchases for vehicles of heavier weight subclasses than the weight subclass of the vehicle which generated the credits.

§ 88.305 [Reserved].

§ 88.306 [Reserved].

§ 88.307–94 Exemption from temporal transportation control measures for CFFVs.

(a) States with covered areas shall exempt any CFFV required by law to participate in the clean-fuel fleet program or any vehicle generating credits under § 88.304–94(c) from transportation control measures (TCMs) existing wholly or partially for air quality reasons included in an approved state implementation plan which restrict vehicle usage based primarily on temporal considerations, such as time-of-day and day-of-week exemptions. However, CFFVs shall not qualify for TCMs where the temporal element is secondary to some other control element and, in no case, shall such exemptions apply if they create a clear and direct safety hazard. This exemption does not include access to high occupancy vehicle (HOV) lanes, except as provided in § 88.313–93.

(b) States shall also grant temporal TCM exemptions to qualifying CFFVs being operated after SIP approval, but prior to the effective date for commencement of a state's CFFV credit program.

(c) Temporal TCM exemptions provided for in paragraph (a) of this section are not effective outside of the areas for which states can be required to establish CFFV credit programs.

(1) Such exemptions shall remain effective only while the subject vehicle remains in compliance with applicable CFFV emissions standards and other CFFV credit program requirements.

(2) CFFV TCM exemptions shall not be transferred between vehicles within the same fleet nor shall they be sold or traded.

§ 88.308 [Reserved].

§ 88.309 [Reserved].

§ 88.310–94 Applicability to covered federal fleets.

(a) *Compliance by Federal vehicles.* As per section 258(a) of the Act, fleets owned or operated by any agency, department, or instrumentality of the United States shall comply with the applicable state regulations concerning CFFVs established in the SIP revision. Such fleets shall be treated in the same manner as private or other government fleets under the applicable state regulations.

(1) Federal agencies shall obtain CFFVs from original equipment manufacturers, to the extent possible, as required under section 248 of the CAA.

(2) The Secretary of Defense may exempt any vehicle(s) from the provisions of any CFFV credit program established in the SIP revision by certifying to the Administrator in writing that inclusion of the specified vehicle(s) in such a program could have an adverse impact on the national security. The Secretary of Defense shall also provide a copy of this statement of exemption to the state agency administering the CFFV credit program in the covered area in which the specified vehicle(s) is registered/operated.

(b) [Reserved].

§ 88.311–93 Emissions standards for Inherently Low-Emission Vehicles.

(a) *Certification.* (1) Emissions Testing Procedures. A vehicle shall be certified as an ILEV if that vehicle satisfies the following conditions:

(i) The vehicle shall be certified under the appropriate exhaust emissions standards from paragraph (c) or (d) of this section depending on the vehicle's weight classification.

(ii) The vehicle shall be certified as having fuel vapor emissions which are five or less total grams per test as measured by the current Federal Test Procedure (FTP), modified for ILEV certification, from 40 CFR part 86, subpart B for LDVs and LDTs and from 40 CFR part 86, subpart M for HDVs.

(A) After disabling any and all auxiliary emission control devices (canister, purge system, etc.) related to control of evaporative emissions, the fuel vapor emissions shall be measured using the FTP regulations in effect at the time the vehicle is to be certified as an ILEV. For purposes of this section, the vehicle's fuel vapor emissions shall consist of the total grams of diurnal, hot soak, running loss, and resting loss emissions, as appropriate, for the particular fuel/vehicle/engine

combination to be tested. In determining ILEV evaporative emissions, the diurnal emissions measurement procedure shall consist of a single diurnal heat build using an ambient or fuel temperature range of 72°–96 °F (22°–36 °C), as appropriate for the applicable FTP regulations (40 CFR part 86).

(B) Conventional Federal Test Procedure. A vehicle with no evaporative emissions control system components may have its evaporative emissions certified for its particular GVWR weight class/subclass if it passes the conventional evaporative emissions FTP from 40 CFR part 86, subpart B for LDVs and LDTs or from 40 CFR part 86, subpart M for HDVs, as applicable.

(iii) The vehicle must meet other special requirements applicable to conventional or clean-fuel vehicles and their fuels as described in any other parts of this chapter, including 40 CFR parts 86 and 88 (e.g., fuel venting provisions for gaseous fuel vehicles during refueling).

(2) Vehicles which have a closed or sealed fuel system may be certified at the administrator's option by engineering evaluation in lieu of testing. These vehicles will be certified as ILEVs only if a leak in the fuel system would result in the vehicle becoming inoperative due to loss of fuel supply, or if half the fuel escapes within 24 hours.

(b) *Identification.* In the application for a vehicle's certification as an ILEV, the manufacturer or the manufacturer's agent shall provide for positive identification of the vehicle's status as an ILEV in the vehicle's Vehicle Emission Control Information (VECI) label in accordance with 40 CFR 86.094–35 and 86.095–35. The label shall contain a highlighted statement (e.g., underscored or boldface letters) that the vehicle is certified to applicable emission standards for ILEV exhaust and evaporative emission standards.

(c) *Light-duty vehicles and light-duty trucks.* ILEVs in LDV and LDT classes shall have exhaust emissions which do not exceed the exhaust emission standards in grams per mile listed in Table C93–6.1, as measured under the applicable Federal Test Procedures in 40 CFR part 86, subpart B. An ILEV must be able to operate on only one fuel, or must be certified as an ILEV on all fuels it can operate on. These vehicles shall also comply with all requirements of 40 CFR part 86 which are applicable to conventional gasoline-fueled, methanol-fueled or diesel-fueled LDVs/LDTs of the same vehicle class and model year.

(d) *Heavy-duty vehicles.* ILEVs in the HDV class shall have exhaust emissions with combined non-methane hydrocarbon and oxides of nitrogen exhaust emissions which do not exceed the exhaust emission standards in grams per brake horsepower-hour listed in Table C93–6.2, as measured under the applicable Federal Test Procedures in 40 CFR part 86, subpart M. An ILEV must be able to operate on only one fuel, or must be certified as an ILEV on all fuels it can operate on. These vehicles shall also comply with all requirements of 40 CFR part 86 which are applicable in the case of conventional gasoline-fueled, methanol-fueled or diesel-fueled HDVs of the same weight class and model year.

(e) *Applicability.* State actions to opt out of the clean-fuel fleet program under section 182(c) of the Act do not affect the applicability of the ILEV program in the affected states.

§ 88.312–93 Inherently Low-Emission Vehicle labeling.

(a) *Label design.* (1) Label design shall consist of a white rectangular background, approximately 12 inches (30 centimeters) high by 18 inches (45 centimeters) wide, with "CLEAN AIR VEHICLE" printed in contrasting block capital letters at least 4.3 inches (10.6 centimeters) tall and 1.8 inches (4.4 centimeters) wide with a stroke width not less than 0.5 inches (1.3 centimeters). In addition, the words "INHERENTLY LOW–EMISSION VEHICLE" must be present in lettering no smaller than 1 inch (2.5 centimeters) high. Nothing shall be added to the label which impairs readability. Labels shall include a serialized identification number.

(2) The ILEV label shall be fabricated or affixed to a vehicle in such a manner that its removal from the vehicle cannot be accomplished without defacing or destroying the label in whole or in part.

(3) Along with the manufacturer's application to certify a particular ILEV engine class, the manufacturer or the manufacturer's agent shall submit to EPA ILEV labels or reasonable facsimiles of the types which may be mounted on a certified ILEV vehicle of that class.

(b) *Eligibility.* Vehicle manufacturers or their agents must install ILEV labels on a certified ILEV vehicle at the time of its sale to an eligible fleet owner if the vehicle is to be eligible for expanded TCM exemptions. An eligible fleet owner is one who is in a covered area and owns a total of at least ten motor vehicles (including the ILEV(s) being purchased) which operate in the owner's fleet. All of the following shall be provided to demonstrate eligibility: Photocopies of no less than nine motor vehicle registrations indicating registration in the ILEV purchaser's name, a signed statement by the ILEV purchaser that these vehicles are operational in the purchaser's fleet and that the ILEV being purchased will also be operated in this fleet, and a signed statement by the ILEV purchaser that the ILEV labels will be removed and disposed of when the vehicle is sold, given, leased (except as part of a daily rental fleet), or offered for long-term loan to someone who has not demonstrated eligibility for expanded TCMs available to ILEVs according to these criteria.

(c) *ILEV Label installation.* (1) Except as provided for in this paragraph (c), no person shall attach an ILEV label or any facsimile of an ILEV label to any vehicle.

(2)(i) The manufacturer or the manufacturer's agent shall attach three labels on the vehicle in plain sight: One on the rear of the vehicle and one on each of two sides of the vehicle. Each label shall conform to the specifications of paragraph (a) of this section.

(ii) In the case that an ILEV label of the proportions specified in paragraph (a) of this section cannot be attached to the rear of the ILEV, the manufacturer or the manufacturer's agent shall attach to the rear of the vehicle an ILEV label of the following proportions. The label shall consist of a white rectangular background, approximately four inches (10 centimeters) high by 24 inches (60 centimeters) wide, with "CLEAN AIR VEHICLE" printed in contrasting block capital letters at least 2.8 inches (7 centimeters) tall and 1.3 inches (3.3 centimeters) wide with a stroke width not less than 0.3 inches (0.8 centimeters). In addition, the words "INHERENTLY LOW-EMISSION VEHICLE" must be present in lettering no smaller than 0.6 inch (1.5 centimeters) high. Nothing shall be added to the label which impairs readability. Labels shall include a serialized identification number.

(d) *Label removal.* Fleet ILEV owners shall remove and dispose of the ILEV labels on a vehicle before selling or transferring ownership of an ILEV or offering it for lease (unless the ILEV is part of a daily rental fleet) or long-term loan. This provision shall not apply if the person who is receiving the vehicle demonstrates eligibility for expanded TCM exemptions under the federal ILEV program as described in paragraph (b) of this section, or is otherwise qualified under state regulations which expressly expand ILEV label eligibility.

(e) *Label replacement.* (1) The manufacturer shall make replacement ILEV labels available to the fleet owner

of a qualifying ILEV to replace any ILEV label which has been lost or removed due to vehicle damage, repair, sale, or lease. The fleet owner's request shall include proof of ownership of the ILEV in question and proof of the fleet owner's eligibility for ILEV TCM exemptions, as outlined in paragraph (c) of this section. Each label shall be imprinted with the same serial number as initially assigned to the damaged/missing ILEV label(s) for that vehicle. Any portion of a damaged label remaining on the ILEV shall be removed from the vehicle and submitted with the request as proof of loss.

(2) Upon receipt of the replacement ILEV label(s), the fleet owner shall attach the new ILEV label(s) only to the vehicle for which replacement ILEV label(s) were requested.

§ 88.313–93 Incentives for the purchase of inherently low-emission vehicles.

(a) *Administration.* (1) The incentives granted to ILEVs provided in this section are not effective outside of nonattainment areas for which states are required to establish CFFV programs under section 246 of the CAA, unless specifically added by states for qualifying vehicles.

(2) Incentives for purchasing ILEVs shall not be transferred between vehicles within the same fleet nor shall they be sold or traded.

(3) No vehicle over 26,000 pounds (11,800 kilograms) GVWR shall be eligible for the following ILEV incentives.

(b) *Exemption from temporal TCMs.* A fleet vehicle which has been certified and labeled as an ILEV according to the provisions of this section and which continues to be in compliance with applicable emissions standards and other ILEV program requirements shall be exempted from TCMs existing for air quality reasons included in approved state implementation plans which restrict vehicle usage based primarily on temporal considerations, such as time-of-day and day-of-week exemptions.

(c) *Exemption from high-occupancy vehicle lane restrictions.* (1) A fleet vehicle which has been certified and labeled as an ILEV according to the provisions of §§ 88.311 and 88.312 and which continues to be in compliance with applicable emissions standards and other ILEV program requirements shall be exempt from TCMs which restrict a vehicle's access to certain roadway lanes based on the number of occupants in that vehicle, usually known as high-occupancy vehicle (HOV) lanes. These exemptions shall not apply if they would create a clear and direct safety hazard.

(2) In a state containing a covered area, or areas, the governor may petition the Administrator for a waiver from the exemption from HOV lane restrictions for ILEVs for any section of HOV lane in the covered area(s) that can be shown to be congested primarily due to the operation or projected operation of ILEVs. The waiver application shall demonstrate the infeasibility of other means of alleviating HOV/CAV lane congestion, such as adding an additional HOV/CAV lane, further increasing vehicle occupancy requirements and reducing the use of the lane by noneligible vehicles.

Tables to Subpart C of Part 88

TABLE C94–1.—FLEET CREDIT TABLE BASED ON REDUCTION IN NMOG. VEHICLE EQUIVALENTS FOR LIGHT-DUTY VEHICLES AND LIGHT-DUTY TRUCKS—TABLE C94–1.1.—CREDIT GENERATION: PURCHASING MORE CLEAN-FUEL VEHICLES THAN REQUIRED BY THE MANDATE

NMOG	LDV, LDT ≤6000 GVWR, ≤3750 LVW	LDT ≤6000 GVWR, >3750 LVW ≤5750 LVW	LDT >6000 GVWR, ≤3750 TW	LDT >6000 GVWR, >3750 TW ≤5750 TW	LDT >6000 GVWR, >5750 TW
LEV	1.00	1.26	0.71	0.91	1.11
ULEV	1.20	1.54	1.00	1.29	1.47
ZEV	1.43	1.83	1.43	1.83	[illegible]

TABLE C94–1.2.—CREDIT GENERATION: PURCHASING A ULEV OR ZEV TO MEET THE MANDATE

NMOG	LDV, LDT ≤6000 GVWR, ≤3750 LVW	LDT ≤6000 GVWR, >3750 LVW ≤5750 LVW	LDT >6000 GVWR, ≤3750 TW	LDT >6000 GVWR, >3750 TW ≤5750 TW	LDT >6000 GVWR, >5750 TW
LEV	0.00	0.00	0.00	0.00	0.00
ULEV	0.20	0.29	0.29	0.34	0.45
ZEV	0.43	0.57	0.71	0.91	1.11

TABLE C94–1.3.—CREDIT NEEDED IN LIEU OF PURCHASING A LEV TO MEET THE MANDATE

NMOG	LDV, LDT ≤6000 GVWR, ≤3750 LVW	LDT ≤6000 GVWR, >3750 LVW ≤5750 LVW	LDT >6000 GVWR, ≤3750 TW	LDT >6000 GVWR, >3750 TW ≤5750 TW	LDT >6000 GVWR, >5750 TW
LEV	1.00	1.26	0.71	[illegible]	1.11

TABLE C94–2.—FLEET CREDIT TABLE BASED ON REDUCTION IN NMOG+NO_X. VEHICLE EQUIVALENTS FOR LIGHT-DUTY VEHICLES AND LIGHT-DUTY TRUCKS—TABLE C94–2.1.—CREDIT GENERATION: PURCHASING MORE CLEAN-FUEL VEHICLES THAN REQUIRED BY THE MANDATE

NMOG+NO_x	LDV, LDT ≤6000 GVWR, ≤3750 LVW	LDT ≤6000 GVWR, >3750 LVW ≤5750 LVW	LDT >6000 GVWR, ≤3750 TW	LDT >6000 GVWR, >3750 TW ≤5750 TW	LDT >6000 GVWR, >5750 TW
LEV	1.00	1.39	[illegible]	0.43	0.52

TABLE C94–2.—FLEET CREDIT TABLE BASED ON REDUCTION IN $NMOG+NO_X$. VEHICLE EQUIVALENTS FOR LIGHT-DUTY VEHICLES AND LIGHT-DUTY TRUCKS—TABLE C94–2.1.—CREDIT GENERATION: PURCHASING MORE CLEAN-FUEL VEHICLES THAN REQUIRED BY THE MANDATE—Continued

$NMOG+NO_x$	LDV, LDT ≤6000 GVWR, ≤3750 LVW	LDT ≤6000 GVWR, >3750 LVW ≤5750 LVW	LDT >6000 GVWR, ≤3750 TW	LDT >6000 GVWR, >3750 TW ≤5750 TW	LDT >6000 GVWR, >5750 TW
ULEV	1.09	1.52	1.00	1.39	2.06
ZEV	1.73	2.72	1.73	2.72	3.97

TABLE C94–2.2.—CREDIT GENERATION: PURCHASING A ULEV OR ZEV TO MEET THE MANDATE

$NMOG+NO_x$	LDV, LDT ≤6000 GVWR, ≤3750 LVW	LDT ≤6000 GVWR, >3750 LVW ≤5750 LVW	LDT >6000 GVWR, ≤3750 TW	LDT >6000 GVWR, >3750 TW ≤5750 TW	LDT >6000 GVWR, >5750 TW
LEV	0.00	0.00	0.00	0.00	0.00
ULEV	0.09	0.13	0.67	0.96	1.54
ZEV	0.73	1.34	1.40	2.29	3.45

TABLE C94–2.3.—CREDIT NEEDED IN LIEU OF PURCHASING A LEV TO MEET THE MANDATE

$NMOG+NO_x$	LDV, LDT ≤6000 GVWR, ≤3750 LVW	LDT ≤6000 GVWR, >3750 LVW ≤5750 LVW	LDT >6000 GVWR, ≤3750 TW	LDT >6000 GVWR, >3750 TW ≤5750 TW	LDT >6000 GVWR, >5750 TW
LEV	1.00	1.39	0.33	0.45	0.52

TABLE C94–3.—FLEET CREDIT TABLE BASED ON REDUCTION IN CARBON MONOXIDE. VEHICLE EQUIVALENTS FOR LIGHT-DUTY VEHICLES AND LIGHT-DUTY TRUCKS—TABLE C94–3.1.—CREDIT GENERATION: PURCHASING MORE CLEAN-FUEL VEHICLES THAN REQUIRED BY THE MANDATE

CO	LDV, LDT ≤6000 GVWR, ≤3750 LVW	LDT ≤6000 GVWR, >3750 LVW ≤5750 LVW	LDT >6000 GVWR, ≤3750 TW	LDT >6000 GVWR, >3750 TW ≤5750 TW	LDT >6000 GVWR, >5750 TW
LEV	1.00	1.00	1.00	1.00	1.00
ULEV	2.00	2.29	2.00	2.29	2.47
ZEV	3.00	3.59	3.00	3.59	3.94

TABLE C94–3.2.—CREDIT GENERATION: PURCHASING A ULEV OR ZEV TO MEET THE MANDATE

CO	LDV, LDT ≤6000 GVWR, ≤3750 LVW	LDT ≤6000 GVWR, >3750 LVW ≤5750 LVW	LDT >6000 GVWR, ≤3750 TW	LDT >6000 GVWR, >3750 TW ≤5750 TW	LDT >6000 GVWR, >5750 TW
LEV	0.00	0.00	0.00	0.00	0.00
ULEV	1.00	1.00	1.00	1.00	1.00
ZEV	2.00	2.29	2.00	2.29	2.47

TABLE C94–3.3.—CREDIT NEEDED IN LIEU OF PURCHASING A LEV TO MEET THE MANDATE

CO	LDV, LDT ≤6000 GVWR, ≤3750 LVW	LDT ≤6000 GVWR, >3750 LVW ≤5750 LVW	LDT >6000 GVWR, ≤3750 TW	LDT >6000 GVWR, >3750 TW ≤5750 TW	LDT >6000 GVWR, >5750 TW
LEV	1.00	1.00	1.00	1.00	1.00

TABLE C94–4.—FLEET CREDIT TABLE BASED ON REDUCTION IN NMHC+NO_X. VEHICLE EQUIVALENTS FOR HEAVY-DUTY VEHICLES—TABLE C94–4.1.—CREDIT GENERATION: PURCHASING MORE CLEAN-FUEL VEHICLES THAN REQUIRED BY THE MANDATE

NMHC+NO_X	Light HDV	Medium HDV	Heavy HDV
LEV	1.00	1.00	1.00
ULEV	1.87	1.87	1.87
ZEV	3.53	3.53	3.53

TABLE C94–4.2.—CREDIT GENERATION: PURCHASING A ULEV OR ZEV TO MEET THE MANDATE

NMHC+NO_X	Light HDV	Medium HDV
LEV	0.00	0.00
ULEV	0.87	0.87
ZEV	2.53	2.53

TABLE C94–4.3.—CREDIT NEEDED IN LIEU OF PURCHASING A LEV TO MEET THE MANDATE

NMHC+NO_X	Light HDV	Medium HDV
LEV	1.00	1.00

TABLE C94–5.—FLEET CREDIT TABLE BASED ON REDUCTION IN CO. VEHICLE EQUIVALENTS FOR HEAVY-DUTY VEHICLES—TABLE C94–5.1.—CREDIT GENERATION: PURCHASING MORE CLEAN-FUEL VEHICLES THAN REQUIRED BY THE MANDATE

CO	Light HDV	Medium HDV	Heavy HDV
LEV	1.00	1.00	1.00
ULEV	2.00	2.00	2.00
ZEV	3.00	3.00	3.00

TABLE C94–5.2.—CREDIT GENERATION: PURCHASING A ULEV OR ZEV TO MEET THE MANDATE

CO	Light HDV	Medium HDV
LEV	0.00	0.00
ULEV	1.00	1.00
ZEV	2.00	2.00

TABLE C94–5.3.—CREDIT NEEDED IN LIEU OF PURCHASING A LEV TO MEET THE MANDATE

CO	Light HDV	Medium HDV
LEV	1.00	1.00

TABLE C93–6.—ILEV EXHAUST EMISSION STANDARDS—TABLE C93–6.1.—LIGHT-DUTY ILEV EXHAUST EMISSION STANDARDS

Vehicle/engine class/subclass[1,2]	Miles[3]	NMOG (g/mi)	CO (g/mi)	NO_X (g/mi)	PM[4] (g/mi)	HCHO (g/mi)
Light-duty vehicles	50,000	0.075	3.4	0.2		0.015
	100,000	0.090	4.2	0.3	0.08	0.018
LDTs, 0–6000 lbs. GVWR, 0–3750 lbs. LVW	50,000	0.075	3.4	0.2		0.015
	100,000	0.090	4.2	0.3	0.08	0.018
LDTs, 0–6000 lbs. GVWR, 3751–5750 lbs. LVW	50,000	0.100	4.4	0.4		0.018
	100,000	0.130	5.5	0.5	0.08	0.023
LDTs, over 6000 lbs. GVWR, 0–3750 lbs. TW	50,000	0.125	3.4	0.2		0.015
	120,000	0.180	5.0	0.3	0.08	0.022
LDTs, over 6000 lbs. GVWR, 3751–5750 lbs. TW	50,000	0.160	4.4	0.4		0.018
	120,000	0.230	6.4	0.5	0.10	0.027
LDTs, over 6000 lbs. GVWR, 5751–8500 lbs. TW	50,000	0.195	5.0	0.6		0.022
	120,000	0.280	7.3	0.8	0.12	0.032

TABLE C93–6.2.—HEAVY-DUTY ILEV EXHAUST EMISSION STANDARDS

Vehicle/engine class/subclass	Miles	NMHC+NO_X (g/BHP-hr)	CO (g/BHP-hr)	PM[4] (g/BHP-hr)	HCHO (g/BHP-hr)
Heavy-duty engines[1]	See 40 CFR 86.090–2	2.5	14.4	0.10	0.05

[1] Exhaust emission standards, as measured under the applicable Federal Test Procedures in 40 CFR part 86. These vehicles/engines shall also comply with all requirements of 40 CFR part 86 which are applicable to conventional gasoline-fueled, methanol-fueled or diesel-fueled vehicles/engines of the same vehicle/engine class and model year, unless otherwise determined.
[2] LDT-light duty truck, LVW-loaded vehicle weight, TW-test weight, GVWR-gross vehicle weight rating.
[3] Standards are applicable up to the indicated number of miles/years.
[4] Standards for particulate matter (PM) apply only to diesel-fueled vehicles.

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Monday
March 1. 1993

Part III

Department of Agriculture

Cooperative State Research Service
Agricultural Research Service

7 CFR Part 3515

Biotechnology Risk Assessment Research Grants Program; Administrative Provisions; Notice of Proposed Rulemaking

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Agricultural Research Service

7 CFR Part 3515

Biotechnology Risk Assessment Research Grants Program; Administrative Provisions

AGENCIES: Cooperative State Research Service and Agricultural Research Service, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rulemaking would establish a new chapter XXXV and part 3515 of title 7, subtitle B, of the Code of Federal Regulations, for the purpose of administering within the Cooperative State Research Service (CSRS) and the Agricultural Research Service (ARS) a Biotechnology Risk Assessment Research Grants Program (program) to be conducted under the authority of section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921). This proposed rule will establish the procedures to be followed annually in the solicitation of grant preproposals and proposals, the evaluation of such proposals, and the award of research grants under this program. However, it should be noted that the Department is currently developing a single rule that will establish the general procedures involved in the solicitation of proposals, the evaluation of such proposals, and the award of grants under this and other grant programs administered by the Cooperative State Research Service.

DATES: Comments are invited from interested individuals and organizations and must be received on or before March 31, 1993.

ADDRESSES: Comments should be sent to Terry J. Pacovsky, Director, Awards Management Division, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, room 322, Aerospace Center, Washington, DC 20250–2200.

FOR FURTHER INFORMATION CONTACT: Terry J. Pacovsky at (202) 401–5024.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction

The Office of Management and Budget has approved the information collection requirements contained in these regulations at 7 CFR part 3515 under the provisions of 44 U.S.C. chapter 35 and OMB Document No. 0524–0022 has been assigned. The information collection requirements of the proposed rule at 7 CFR part 3515 will be submitted to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1980. The public reporting burden for the information collections contained in these regulations is estimated to vary from ½ hour to 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB Document No. 0524–0022), Washington, DC 20503.

Classification

This rule has been reviewed under Executive Order No. 12291, and it has been determined that it is not a major rule because it does not involve a substantial or major impact on the Nation's economy or on large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographical regions. It will not have a significant economic impact on competitive employment, investment productivity, innovation, or on the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, it will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. No. 96–534 (5 U.S.C. 601 *et seq.*).

Regulatory Analysis

Not required for this rulemaking.

Environmental Impact Statement

This proposed regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Catalog of Federal Domestic Assistance

The Biotechnology Risk Assessment Research Grants Program will be listed in the Catalog of Federal Domestic Assistance under No. 10.219. For reasons set forth in the Final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials.

Background and Purpose

Under the authority of section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921), the Secretary of Agriculture is authorized to make grants for environmental assessment research concerning the introduction of genetically engineered organisms into the environment to any public or private research or educational institution or organization. 7 CFR 2.106(a)(38) and 7 CFR 2.107(a)(37), as amended (57 FR 9649, March 20, 1992), delegate this authority to the Administrators of CSRS and ARS. The Secretary shall withhold from outlays of the Department for research on biotechnology, as defined and determined by the Secretary, at least one percent of such amount for the purpose of making grants under this section for research on biotechnology risk assessment.

The administrative regulations governing the grant program authorized by section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990 are proposed to be established as follows:

List of Subjects in 7 CFR Part 3515

Grant programs—agriculture, Grants administration.

It is proposed to establish a new chapter XXXV in 7 CFR subtitle B, consisting at this time of part 3515, to read as follows:

CHAPTER XXXV—COOPERATIVE STATE RESEARCH SERVICE AND AGRICULTURAL RESEARCH SERVICE, DEPARTMENT OF AGRICULTURE

PART 3515—BIOTECHNOLOGY RISK ASSESSMENT RESEARCH GRANTS PROGRAM

Subpart A—General

Sec.

3515.1 Applicability of regulations.
3515.2 Definitions.
3515.3 Eligibility requirements.
3515.4 How to apply for a grant.
3515.5 Evaluation and disposition of applications.
3515.6 Grant awards.
3515.7 Use of funds; changes.
3515.8 Other Federal statutes and regulations that apply.
3515.9 Other conditions.

Subpart B—Scientific Peer Review of Grant Applications

3515.10 Establishment and operation of peer review groups.
3515.11 Composition of peer review groups.
3515.12 Conflicts of interest.

3515.13 Availability of information.
3515.14 Proposal review.
3515.15 Evaluation factors.

Authority: 7 U.S.C. 5921.

Subpart A—General

§ 3515.1 Applicability of regulations.

(a) The regulations of this part apply to research grants awarded under the authority of section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990, (7 U.S.C. 5921). Grants awarded under this section will support biotechnology risk assessment research to help address concerns about the effects of introducing certain biotechnology products into the environment and to help regulators develop policies concerning the introduction of such products. Taking into consideration any determinations made through consultations with such entities as the Animal and Plant Health Inspection Service, the Forest Service, the Environmental Protection Agency, the Office of Agricultural Biotechnology, and the Agricultural Biotechnology Research Advisory Committee, the Administrators of CSRS and ARS shall determine and announce, through publication of a Notice in such publications as the **Federal Register**, professional trade journals, agency or program handbooks, the Catalog of Federal Domestic Assistance, or any other appropriate means, specific areas of research for which preproposals or proposals will be solicited and the extent that funds are available therefor.

(b) The regulations of this part do not apply to grants awarded by the Department of Agriculture under any other authority.

§ 3515.2 Definitions.

As used in this part:

(a) *Ad hoc reviewers* means experts or consultants qualified by training and experience in particular scientific or technical fields to render special expert advice, through written evaluations of grant applications, in accordance with the provisions of this part, on the scientific or technical merit of grant applications in those fields.

(b) *Administrator* means the Administrator of the Cooperative State Research Service (CSRS) and/or the Administrator of the Agricultural Research Service (ARS) and any other officer or employee of the Department of Agriculture to whom the authority involved may be delegated.

(c) *Awarding official* means the Administrator and any other officer or employee of the Department to whom the authority to issue or modify grant instruments has been delegated.

(d) *Biotechnology* means any technique that uses living organisms (or parts of organisms) to make or modify products, to improve plants or animals, or to develop microorganisms for specific use. The development of materials that mimic molecular structures or functions of living systems is included.

(e) *Budget period* means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(f) *Department* means the Department of Agriculture.

(g) *Grant* means the award by the Administrator of funds to a grantee to assist in meeting the costs of conducting, for the benefit of the public, an identified project which is intended and designed to establish, discover, elucidate, or confirm information or the underlying mechanisms relating to a research program area identified in the program solicitation.

(h) *Grantee* means the entity designated in the grant award document as the responsible legal entity to whom a grant is awarded under this part.

(i) *Peer review group* means an assembled group of experts or consultants qualified by training and experience in particular scientific or technical fields to give expert advice, in accordance with the provisions of this part, on the scientific and technical merit of grant applications in those fields.

(j) *Principal investigator* means a single individual who is responsible for the scientific and technical direction of the project, as designated by the grantee in the grant application and approved by the Administrator.

(k) *Project* means the particular activity within the scope of one or more of the research program areas identified in the program solicitation that is supported by a grant under this part.

(l) *Project period* means the total time approved by the Administrator for conducting the proposed project as outlined in an approved grant application.

(m) *Research* means any systematic study directed toward new or fuller knowledge and understanding of the subject studied.

(n) *Methodology* means the project approach to be followed to carry out the project.

§ 3515.3 Eligibility requirements.

(a) Except where otherwise prohibited by law, any public or private research or educational institution or organization shall be eligible to apply for and to receive a grant award under this part, provided that the applicant qualifies as a responsible grantee under the criteria set forth in paragraph (b) of this section.

(b) To qualify as responsible, an applicant must meet the following standards as they relate to a particular project:

(1) Adequate financial resources for performance, the necessary experience, organizational and technical qualifications, and facilities, or a firm commitment, arrangement, or ability to obtain same (including by proposed subagreements);

(2) Ability to comply with the proposed or required completion schedule for the project;

(3) Satisfactory record of integrity, judgment, and performance, including, in particular, any prior performance under grants or contracts from the Federal government;

(4) Adequate financial management system and audit procedures that provide efficient and effective accountability and control of all funds, property, and other assets; and

(5) Otherwise be qualified and eligible to receive a grant under the applicable laws and regulations.

(c) Any applicant who is determined to be not responsible will be notified in writing of such finding and the basis therefor.

§ 3515.4 How to apply for a grant.

(a) A program solicitation will be prepared and announced through publications such as the **Federal Register**, professional trade journals, agency or program handbooks, the Catalog of Federal Domestic Assistance, or any other appropriate means, as early as practicable each fiscal year. The Department may elect to solicit preproposals each fiscal year in order to eliminate from consideration proposed research that does not address narrowly focused program objectives. A preproposal will be limited in length (in comparison to a full proposal) to alleviate waste of time and effort by applicants in the preparation of proposals and USDA staff in the review of proposals. If the Department solicits preproposals through publication of the annual program solicitation, the Department does not anticipate publishing a subsequent solicitation for full proposals. The program solicitation will contain information sufficient to enable applicants to prepare preproposals or full proposals under this program and will be as complete as possible with respect to:

(1) Descriptions of the specific research areas that the Department proposes to support during the fiscal year involved, including anticipated funds to be awarded;

(2) Eligibility requirements;
(3) Obtaining application kits;
(4) Deadline dates for submission of preproposal or proposal packages;
(5) Name and mailing address to send preproposals or proposals;
(6) Number of copies to submit; and
(7) Special requirements.

(b) *Application Kit.* An Application Kit will be made available to any potential grant applicant who requests a copy. This kit contains required forms, certifications, and instructions applicable to the submission of grant preproposals or proposals.

(c) *Format for preproposals.* As stated above, the Department may elect to solicit preproposals under this program. Unless otherwise indicated by the Department in the annual program solicitation, the following general format applies for the preparation of preproposals:

(1) *Application Cover Page.* All preproposals submitted by eligible applicants should contain an Application Cover Page, which must be signed by the proposing principal investigator(s) and endorsed by the cognizant authorized organizational representative who possesses the necessary authority to commit the applicant's time and other relevant resources. The title of the proposal must be brief (80-character maximum), yet represent the major thrust of the project. Because this title will be used to provide information to those who may not be familiar with the proposed project, highly technical words or phraseology should be avoided where possible. In addition, phrases such as "investigation of" and "research on" should not be used.

(2) *Project Summary.* Each preproposal must contain a project summary, the text of which may not exceed three (3) single- or double-spaced pages. The Department reserves the option of not forwarding for further consideration a preproposal in which the project summary page limit is exceeded. The project summary is not intended for the general reader; consequently, it may contain technical language comprehensible primarily by persons in disciplines relating to the food and agricultural sciences. The project summary should be a self-contained specific description of the activity to be undertaken and should focus on:

(i) Overall project goal(s) and supporting objectives;

(ii) Plans to accomplish project goal(s); and

(iii) Relevance or significance of the project to United States agriculture.

(3) *Budget.* A budget detailing requested support for the proposed project period must be included in each preproposal. A copy of the form which must be used for this purpose, along with instructions for completion, is included in the Application Kit identified under § 3515.4(b) of this part and may be reproduced as needed by applicants. Funds may be requested under any of the categories listed on the budget form, provided that the item or service for which support is requested may be identified as necessary for successful conduct of the proposed project, is allowable under applicable Federal cost principles, and is not prohibited under any applicable Federal statute.

(4) *Special Requirements.*

(i) The annual program solicitation will describe any special preproposal submission requirements, such as paper size or type pitch to be used in the preparation of preproposals. The solicitation will also describe special program requirements, such as conference attendance or electronic project reporting, for which applicants may allocate funds when preparing proposed budgets.

(ii) By signing the Application Cover Page identified under § 3515.4(c)(1) in its submission of a preproposal, the applicant is certifying compliance with the restrictions on the use of appropriated funds for lobbying set out in 7 CFR part 3018.

(5) *Evaluation of preproposals.* Preproposals shall be evaluated to determine whether the substance of the proposed project is appropriate to the objectives of this program as set out in the annual program solicitation. Subsequently, the Administrator shall request full proposals from those applicants proposing projects deemed appropriate to the objectives of this program as set out in the annual program solicitation. Such proposals shall conform to the format for full proposals set out below and shall be evaluated in accordance with § 3515.5 through § 3515.15 of this part.

(d) *Format for full proposals.* Unless otherwise indicated by the Department in the annual program solicitation, the following general format applies for the preparation of full proposals under this program:

(1) *Application Cover Page.* All full proposals submitted by eligible applicants should contain an Application Cover Page, which must be signed by the proposing principal investigator(s) and endorsed by the cognizant authorized organizational representative who possesses the necessary authority to commit the applicant's time and other relevant resources. Investigators who do not sign the full proposal cover sheet will not be listed on the grant document in the event an award is made. The title of the proposal must be brief (80-character maximum), yet represent the major thrust of the project. Because this title will be used to provide information to those who may not be familiar with the proposed project, highly technical words or phraseology should be avoided where possible. In addition, phrases such as "investigation of" or "research on" should not be used.

(2) *Project Summary.* Each full proposal must contain a project summary, the length of which may not exceed three (3) single- or double-spaced pages. This summary is not intended for the general reader; consequently, it may contain technical language comprehensible primarily by persons in disciplines relating to the food and agricultural sciences. The project summary should be a self-contained, specific description of the activity to be undertaken and should focus on:

(i) Overall project goal(s) and supporting objectives;

(ii) Plans to accomplish project goal(s); and

(iii) Relevance or significance of the project to United States agriculture.

(3) *Project Description.* The specific aims of the project must be included in all proposals. The text of the project description may not exceed 15 single- or double-spaced pages. The Department reserves the option of not forwarding for further consideration proposals in which the project description exceeds this page limit. The project description must contain the following components:

(i) Introduction. A clear statement of the long-term goal(s) and supporting objectives of the proposed project should preface the project description. The most significant published work in the field under consideration, including the work of key project personnel on the current application, should be reviewed. The current status of research in the particular scientific field also should be described. All work cited, including that of key personnel, should be referenced.

(ii) Progress Report. If the proposal is a renewal of an existing project supported under this program, include a clearly marked performance report describing results to date from the previous award. This section should contain the following information:

(A) a comparison of actual accomplishments with the goals established for the previous award;

(B) the reasons established goals were not met, if applicable; and

(C) a listing of any publications resulting from the award. Copies of reprints or preprints may be appended to the proposal if desired.

(4) *Rationale and Significance.* Present concisely the rationale behind the proposed project. The objectives' specific relationship and relevance to the area in which an application is submitted and the objectives' specific relationship and relevance to potential regulatory issues of United States biotechnology research should be shown clearly. Any novel ideas or contributions that the proposed project offers also should be discussed in this section.

(5) *Experimental Plan.* The hypotheses or questions being asked and the methodology to be applied to the proposed project should be stated explicitly. Specifically, this section must include:

(i) A description of the investigations and/or experiments proposed and the sequence in which the investigations or experiments are to be performed;

(ii) Techniques to be used in carrying out the proposed project, including the feasibility of the techniques;

(iii) Results expected;

(iv) Means by which experimental data will be analyzed or interpreted;

(v) Pitfalls that may be encountered;

(vi) Limitations to proposed procedures; and

(vii) Tentative schedule for conducting major steps involved in these investigations and/or experiments.

In describing the experimental plan, the applicant must explain fully any materials, procedures, situations, or activities that may be hazardous to personnel (whether or not they are directly related to a particular phase of the proposed project), along with an outline of precautions to be exercised to avoid or mitigate the effects of such hazards.

(6) *Facilities and equipment.* All facilities and major items of equipment that are available for use or assignment to the proposed research project during the requested period of support should be described. In addition, items of nonexpendable equipment necessary to conduct and successfully conclude the proposed project should be listed.

(7) *Collaborative arrangements.* If the nature of the proposed project requires collaboration or subcontractual arrangements with other research scientists, corporations, organizations, agencies, or entities, the applicant must identify the collaborator(s) and provide a full explanation of the nature of the collaboration. Evidence (i.e., letters of intent) should be provided to assure peer reviewers that the collaborators involved have agreed to render this service. In addition, the proposal must indicate whether or not such a collaborative arrangement(s) has the potential for conflict(s) of interest.

(8) *Personnel support.* To assist peer reviewers in assessing the competence and experience of the proposed project staff, key personnel who will be involved in the proposed project must be identified clearly. For each principal investigator involved, and for all senior associates and other professional personnel who expect to work on the project, whether or not funds are sought for their support, the following should be included:

(i) An estimate of the time commitments necessary;

(ii) Curriculum vitae. The curriculum vitae should be limited to a presentation of academic and research credentials, e.g., educational, employment and professional history, and honors and awards. Unless pertinent to the project, to personal status, or to the status of the organization, meetings attended, seminars given, or personal data such as birth date, marital status, or community activities should not be included. The vitae shall be no more than two pages each in length, excluding the publication lists. The Department reserves the option of not forwarding for further consideration a proposal in which the vitae exceed the two-page limit; and

(iii) Publication List(s). A chronological list of all publications in refereed journals during the past five years, including those in press, must be provided for each professional project member for whom a curriculum vitae is provided. Authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these items usually appear in journals.

(9) *Budget.* A detailed budget is required for each year of requested support. In addition, a summary budget is required detailing requested support for the overall project period. A copy of the form which must be used for this purpose, along with instructions for completion, is included in the Application Kit identified under § 3515.4(b) of this part and may be reproduced as needed by applicants. Funds may be requested under any of the categories listed, provided that the item or service for which support is requested may be identified as necessary for successful conduct of the proposed project, is allowable under applicable Federal cost principles, and is not prohibited under any applicable Federal statute.

(10) *Research involving special considerations.* A number of situations encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If any such situation is anticipated, the proposal must so indicate. It is expected that a significant number of proposals will involve the following:

(i) *Recombinant DNA and RNA molecules.* All key personnel identified in a proposal and all endorsing officials of a proposed performing entity are required to comply with the guidelines established by the National Institutes of Health entitled, "Guidelines for Research Involving Recombinant DNA Molecules," as revised. The Application Kit, identified above in § 3515.4(b), contains a form which is suitable for such certification of compliance.

(ii) *Human subjects at risk.* Responsibility for safeguarding the rights and welfare of human subjects used in any proposed project supported with grant funds provided by the Department rests with the performing entity. Regulations have been issued by the Department under 7 CFR part 1c, Protection of Human Subjects. In the event that a project involving human subjects at risk is recommended for award, the applicant will be required to submit a statement certifying that the project plan has been reviewed and approved by the Institutional Review Board at the proposing organization or institution. The Application Kit, identified above in § 3515.4(b), contains a form which is suitable for such certification.

(iii) *Experimental vertebrate animal care.* The responsibility for the humane care and treatment of any experimental vertebrate animal, which has the same meaning as "animal" in section 2(g) of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2132(g)), used in any project supported with grant funds rests with the performing organization. In this regard, all key personnel associated with any supported project and all endorsing officials of the proposed performing entity are required to comply with the applicable provisions of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 *et seq.)* and the regulations promulgated thereunder by the Secretary of Agriculture in 9 CFR parts 1, 2, 3, and 4. The applicant must submit a statement certifying that the proposed project is in compliance with the aforementioned regulations, and that the proposed project is either under review by or has been reviewed and approved by an Institutional Animal Care and Use Committee. The Application Kit, identified above in

§ 3515.4(b), contains a form which is suitable for such certification.

(11) *Current and pending support.* All proposals must list any other current public or private research support (including in-house support) to which key personnel identified in the proposal have committed portions of their time, whether or not salary support for the person(s) involved is included in the budget. Analogous information must be provided for any pending proposals that are being considered by, or that will be submitted in the near future to, other possible sponsors, including other USDA programs or agencies. Concurrent submission of identical or similar proposals to other possible sponsors will not prejudice proposal review or evaluation by the Administrator or experts or consultants engaged by the Administrator for this purpose. However, a proposal that duplicates or overlaps substantially with a proposal already reviewed and funded (or that will be funded) by another organization or agency will not be funded under this program. The Application Kit, identified above in § 3515.4(b), contains a form which is suitable for listing current and pending support.

(12) *Additions to project description.* Each project description is expected by the Administrator, the members of peer review groups, and the relevant program staff to be complete while meeting the page limit established in § 3515.4(d)(3). However, if the inclusion of additional information is necessary to ensure the equitable evaluation of the proposal (e.g., photographs that do not reproduce well, reprints, and other pertinent materials that are deemed to be unsuitable for inclusion in the text of the proposal), the number of copies submitted should match the number of copies of the application requested in the program solicitation. Each set of such materials must be identified with the name of the submitting organization, and the name(s) of the principal investigator(s). Information may not be appended to a proposal to circumvent page limitations prescribed for the project description. Extraneous materials will not be used during the peer review process.

(13) *Organizational management information.* Specific management information relating to an applicant shall be submitted on the *one-time basis prior to the award of a grant* identified under this part if such information has not been provided previously under this or another program for which the sponsoring agency is responsible. The Department will contact an applicant to request organizational management information once a proposal has been recommended for funding.

§ 3515.5 Evaluation and disposition of applications.

(a) *Evaluation.* All proposals received from eligible applicants and postmarked in accordance with deadlines established in the annual program solicitation shall be evaluated by the Administrator through such officers, employees, and others as the Administrator determines are uniquely qualified in the areas of research represented by particular projects. To assist in equitably and objectively evaluating proposals and to obtain the best possible balance of viewpoints, the Administrator shall solicit the advice of peer scientists, *ad hoc* reviewers, or others who are recognized specialists in the areas covered by the applications received and whose general roles are defined in § 3515.2. Specific evaluations will be based upon the criteria established in subpart B, § 3515.15, unless CSRS and/or ARS determine that different criteria are necessary for the proper evaluation of proposals in one or more specific program areas, or for specific types of projects to be supported, and announces such criteria and their relative importance in the annual program solicitation. The overriding purpose of these evaluations is to provide information upon which the Administrator may make an informed judgment in selecting proposals for ultimate support. Incomplete, unclear, or poorly organized applications will work to the detriment of applicants during the peer evaluation process. To ensure a comprehensive evaluation, all applications should be written with the care and thoroughness accorded papers for publication.

(b) *Disposition.* On the basis of the Administrator's evaluation of an application in accordance with paragraph (a) of this section, the Administrator will approve support using currently available funds, defer support due to lack of funds or a need for further evaluations, or disapprove support for the proposed project in whole or in part. With respect to approved projects, the Administrator will determine the project period (subject to extension as provided in § 3515.7(c)) during which the project may be supported. Any deferral or disapproval of an application will not preclude its reconsideration or a reapplication during subsequent fiscal years.

§ 3515.6 Grant awards.

(a) *General.* Within the limit of funds available for such purpose, the awarding official of CSRS or ARS shall make grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in this part. The date specified by the Administrator as the effective date of the grant shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the grant effective date, but as soon thereafter as practicable so that project goals may be attained within the funded project period. All funds granted by CSRS or ARS under this part shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (part 3015 and part 3016 of this title).

(b) *Grant award document and notice of grant award.*

(1) *Grant award document.* The grant award document shall include at a minimum the following:

(i) Legal name and address of performing organization or institution to whom the Administrator has awarded a grant under the terms of this part;

(ii) Title of project;

(iii) Name(s) and address(es) of principal investigator(s) chosen to direct and control approved activities;

(iv) Identifying grant number assigned by the Department;

(v) Project period, specifying the amount of time the Department intends to support the project without requiring recompetition for funds;

(vi) Total amount of Departmental financial assistance approved by the Administrator during the project period;

(vii) Legal authority(ies) under which the grant is awarded;

(viii) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(ix) Other information or provisions deemed necessary by CSRS or ARS to carry out their respective granting activities or to accomplish the purpose of a particular grant.

(2) *Notice of grant award.* The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to

the grantee that is not included in the grant award document.

(c) *Types of grant instruments.* The major types of grant instruments shall be as follows:

(1) *New grant.* This is a grant instrument by which CSRS or ARS agrees to support a specified level of effort for a project that generally has not been supported previously under this program. This type of grant is approved on the basis of peer review recommendation.

(2) *Renewal grant.* This is a grant instrument by which CSRS or ARS agrees to provide additional funding for a project period beyond that approved in an original or amended award. When a renewal application is submitted, it should include a summary of progress to date from the previous granting period. A renewal grant shall be based upon new application, *de novo* peer review and staff evaluation, new recommendation and approval, and a new award instrument.

(3) *Supplemental grant.* This is an instrument by which CSRS or ARS agrees to provide small amounts of additional funding under a new or renewal grant as specified in paragraphs (c)(1) and (c)(2) of this section and may involve a short-term (usually six months or less) extension of the project period beyond that approved in an original or amended award. A supplement is awarded only if required to assure adequate completion of the original scope of work and if there is sufficient justification to warrant such action. A request of this nature normally will not require additional peer review.

(d) *Funding mechanisms.* The two mechanisms by which CSRS or ARS may elect to award new, renewal, and supplemental grants are as follows:

(1) *Standard grant.* This is a funding mechanism whereby CSRS or ARS agrees to support a specified level of effort for a predetermined time period without the announced intention of providing additional support at a future date.

(2) *Continuation grant.* This is a funding mechanism whereby CSRS or ARS agrees to support a specified level of effort for a predetermined period of time with a statement of intention to provide additional support at a future date, provided that performance has been satisfactory, appropriations are available for this purpose, and continued support would be in the best interests of the Federal government and the public. This kind of mechanism normally will be awarded for an initial one-year period, and any subsequent continuation project grants also will be awarded in one-year increments. The award of a continuation project grant to fund an initial or succeeding budget period does not constitute an obligation to fund any subsequent budget period. Unless prescribed otherwise by CSRS or ARS, a grantee must submit a separate application for continued support for each subsequent fiscal year. Requests for such continued support must be submitted in duplicate at least three months prior to the expiration date of the budget period currently being funded. Decisions regarding continued support and the actual funding levels of such support in future years usually will be made administratively after consideration of such factors as the grantee's progress and management practices and the availability of funds. Since initial peer reviews are based upon the full term and scope of the original grant application, additional evaluations of this type generally are not required prior to successive years' support. However, in unusual cases (e.g., when the nature of the project or key personnel change or when the amount of future support requested substantially exceeds the grant application originally reviewed and approved), additional reviews may be required prior to approving continued funding.

(e) *Obligation of the Federal Government.* Neither the approval of any application nor the award of any project grant commits or obligates the United States in any way to make any renewal, supplemental, continuation, or other award with respect to any approved application or portion thereof.

§ 3515.7 Use of funds; changes.

(a) *Delegation of fiscal responsibility.* The grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(b) *Change in project plans.*

(1) The permissible changes by the grantee, principal investigator(s), or other key project personnel in the approved grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee or the principal investigator(s) is uncertain whether a particular change complies with this provision, the question must be referred to the awarding official of CSRS or ARS, as appropriate, for a final determination.

(2) Changes in approved goals, or objectives, shall be requested by the grantee and approved in writing by the awarding official of CSRS or ARS, as appropriate, *prior to effecting such changes.* Normally, no requests for such changes that are outside the scope of the original approved project will be approved.

(3) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the awarding official of CSRS or ARS, as appropriate, *prior to effecting such changes.*

(4) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the awarding official of CSRS or ARS, as appropriate, *prior to effecting such changes,* unless prescribed otherwise in the terms and conditions of a grant.

(c) *Changes in project period.* The project period determined pursuant to § 3515.5(b) may be extended by the awarding official of CSRS or ARS, as appropriate, without additional financial support, for such additional period(s) as the appropriate awarding official determined may be necessary to complete, or fulfill the purposes of, an approved project. Any extension of time shall be conditioned upon prior request by the grantee and approval in writing by the appropriate awarding official, unless prescribed otherwise in the terms and conditions of a grant.

(d) *Changes in approved budget.* The terms and conditions of a grant will prescribe the circumstances under which written approval must be requested and obtained from the awarding official of CSRS or ARS, as appropriate, prior to instituting changes in an approved budget.

§ 3515.8 Other Federal statutes and regulations that apply.

Several other Federal statutes and regulations apply to grant preproposals or proposals considered for review or to grants awarded under this part. These include but are not limited to:

7 CFR 1.1—USDA implementation of the Freedom of Information Act;

7 CFR Part 1c—USDA implementation of the Federal Policy for the Protection of Human Subjects;

7 CFR Part 3—USDA implementation of OMB Circular A-129 regarding debt collection;

7 CFR Part 15, Subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964;

7 CFR Part 520—ARS implementation of the National Environmental Policy Act;

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e., Circular Nos. A-110, A-21, and A-122) and incorporating provisions of

31 U.S.C. 6301–6308 (formerly, the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. No. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance;

7 CFR Part 3016—USDA Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

7 CFR Part 3017, as amended—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), as amended;

7 CFR Part 3018—USDA implementation of New Restrictions on Lobbying. Imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans;

7 CFR Part 3407—CSRS implementation of the National Environmental Policy Act;

29 U.S.C. 794, section 504–Rehabilitation Act of 1973, and 7 CFR Part 15B (USDA implementation of the statute), prohibiting discrimination based upon physical or mental handicap in Federally assisted programs;

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

§ 3515.9 Other conditions.

(a) The Administrator may elect to use a portion of available funding each fiscal year to support an Annual Conference, the purpose of which will be to bring together scientists and regulatory officials relevant to this program. At the Annual Conference, the participants may offer individual opinions regarding research needs, update information and discuss progress, or may offer individual opinions on areas of risk assessment research appropriate to agricultural biotechnology. The annual program solicitation will indicate whether funds are available to support an Annual Conference and, if so, will include instructions on the preparation and submission of proposals requesting funds from the Department for support of an Annual Conference. The Department may also elect to require principal investigators whose research is funded under this program to attend an Annual Conference and to present data on the results of their research efforts. Should attendance at an Annual Conference be required, the annual program solicitation will so indicate, and principal investigators may include attendance costs in their proposed budgets.

(b) The Administrator may, with respect to any grant or to any class of awards, impose additional conditions prior to or at the time of any award when, in the Administrator's judgment, such conditions are necessary to ensure or protect advancement of the approved project, the interest of the public, or the conservation of grant funds.

Subpart B—Scientific Peer Review of Research Grant Applications

§ 3515.10 Establishment and operation of peer review groups.

Subject to § 3515.5, the Administrator shall adopt procedures for the conduct of peer reviews and the formulation of recommendations under § 3515.14.

§ 3515.11 Composition of peer review groups.

(a) Peer review group members and *ad hoc* reviewers will be selected based upon their training and experience in relevant scientific or technical fields, taking into account the following factors:

(1) The level of formal scientific or technical education by the individual and the extent to which an individual is engaged in relevant research activities;

(2) The need to include as peer reviewers experts from various areas of specialization within relevant scientific or technical fields;

(3) The need to include as peer reviewers experts from a variety of organizational types (e.g., universities, Federal laboratories, industry, private consultant(s)) and geographic locations; and

(4) The need to maintain a balanced composition of peer review groups related to minority and female representation and an equitable age distribution.

§ 3515.12 Conflicts of interest.

Members of peer review groups covered by this part are subject to relevant provisions contained in title 18 of the United States Code relating to criminal activity, Departmental regulations governing employee responsibilities and conduct (part 0 of this title), and Executive Order No. 11222, as amended.

§ 3515.13 Availability of information.

Information regarding the peer review process will be made available to the extent permitted under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and implementing Departmental regulations (part 1 of this title).

§ 3515.14 Proposal review.

(a) All grant applications will be acknowledged. Prior to technical examination, a preliminary review will be made for responsiveness to the program solicitation (e.g., relationship of application to announced program area). Proposals that do not fall within the guidelines as stated in the program solicitation will be eliminated from competition and will be returned to the applicant.

(b) All applications will be carefully reviewed by the Administrator, qualified officers or employees of the Department, the respective peer review group, and *ad hoc* reviewers, as required. Written comments will be solicited from *ad hoc* reviewers when required, and individual written comments and in-depth discussions will be provided by peer review group members prior to recommending applications for funding. Applications will be ranked and support levels recommended within the limitation of total available funding for each research program area as announced in the program solicitation.

(c) No awarding official will make a grant based upon an application covered by this part unless the application has been reviewed in accordance with the provisions of this part and unless said reviewers have made recommendations concerning the scientific merit and relevance to the program of such application.

(d) Except to the extent otherwise provided by law, such recommendations are advisory only and are not binding on program officers or on the awarding officials of CSRS and ARS.

§ 3515.15 Evaluation factors.

In carrying out its review under § 3515.14, the peer review group will take into account the following factors unless, pursuant to § 3515.5(a), different evaluation criteria are specified in the program solicitation:

(a) Scientific merit of the proposal.

(1) Conceptual adequacy of hypothesis;

(2) Clarity and delineation of objectives;

(3) Adequacy of the description of the undertaking and suitability and feasibility of methodology;

(4) Demonstration of feasibility through preliminary data;

(5) Probability of success of project;

(6) Novelty, uniqueness and originality; and

(7) Appropriateness to regulation of biotechnology and risk assessment.

(b) Qualifications of proposed project personnel and adequacy of facilities.

(1) Training and demonstrated awareness of previous and alternative approaches to the problem identified in

the proposal, and performance record and/or potential for future accomplishments;

(2) Time allocated for systematic attainment of objectives;

(3) Institutional experience and competence in subject area; and

(4) Adequacy of available or obtainable support personnel, facilities, and instrumentation

(c) Relevance of project to solving biotechnology regulatory uncertainty for United States agriculture.

(1) Scientific contribution of research in leading to important discoveries or significant breakthroughs in announced program areas; and

(2) Relevance of the risk assessment research to agricultural and environmental regulations.

Done at Washington, DC, this 18th day of February, 1993.

Bruce Stillings,

Acting Assistant Secretary, Science and Education.

[FR Doc. 93–4254 Filed 2–26–93; 8:45 am

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Monday
March 1, 1993

Part IV

Department of Education

34 CFR Part 200
Chapter 1 Program in Local Educational Agencies; Rule

DEPARTMENT OF EDUCATION

34 CFR Part 200

RIN 1810–AA69

Chapter 1 Program in Local Educational Agencies

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended (chapter 1). These regulations implement a statutory amendment to chapter 1 that provides flexibility to local educational agencies (LEAs) in meeting one of the fiscal requirements governing schoolwide projects. Specifically, the amendment allows an LEA that has reduced its average per pupil expenditure districtwide to reduce the average per pupil expenditure in schoolwide project schools in proportion to the reduction in average per pupil expenditure for all schools in the LEA.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. However, the regulations will not become effective until after the information collection requirements contained in the regulations have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Paul S. (Sandy) Brown, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (room 2043), Washington, DC 20202–6132. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Chapter 1 provides Federal financial assistance to LEAs to improve the educational opportunities of educationally deprived children by helping those children succeed in the regular program, attain grade-level proficiency, and improve achievement in basic and more advanced skills. One of the ways this purpose is accomplished is through schoolwide projects, in which chapter 1 funds may be used to upgrade the entire educational program in very high poverty schools.

To ensure that chapter 1 funds are not used in schoolwide projects merely to replace State and local funds, section 1015(b)(6)(B) of chapter 1 requires an LEA to continue to spend in each schoolwide project school at least the same amount of State and local funds per child as it spent in the preceding year in each school. In States and districts that have had to implement budget cuts, however, this requirement threatened the continued operation of schoolwide projects and the implementation of new ones. As a result, in Public Law 102–359, Congress amended section 1015(b)(6)(B) to afford some leeway to an LEA whose districtwide per pupil expenditure declines. Effective July 1, 1992, section 1015(b)(6)(B)(ii) permits an LEA to reduce its average per pupil expenditure in schoolwide project schools in proportion to the reduction in the average per pupil expenditure for all schools in the LEA. These final chapter 1 regulations add § 200.36(c)(2)(ii) to implement this change.

The chapter 1 program supports the six National Education Goals. The flexibility in these regulations supports these goals by making it easier for LEAs to implement school-based reform through chapter 1 schoolwide projects.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. Because these regulations merely incorporate a statutory change, however, public comment could have no effect. Therefore, the Secretary has determined that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by these regulations are small LEAs receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small LEAs affected because the regulations merely incorporate a statutory change and do not impose excessive burdens or require unnecessary Federal supervision.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Paperwork Reduction Act of 1980

Section 200.36 contains an information collection requirement. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of this section to the Office of Management and Budget (OMB) for its review (44 U.S.C. 3504(h)).

Section 1015(b)(6)(B) of chapter 1 requires LEAs operating schoolwide projects to maintain local and State fiscal effort in schoolwide project schools. The change being made to this section that implements a recent amendment to section 1015(b)(6)(B) of chapter 1 merely provides LEAs with some flexibility for determining whether they have maintained local and State fiscal effort in schoolwide project schools. The change does not, in any way, increase the total annual reporting and recordkeeping burden that was already approved by OMB. The annual public reporting and recordkeeping burden for collection of information for § 200.36, which included the burden associated with determining compliance with this fiscal requirement, is estimated to average 2 hours per response for 6,000 LEAs and 3 hours per response for 3,000 LEAs.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

List of Subjects in 34 CFR Part 200

Administrative practice and procedure, Education of disadvantaged, Elementary and secondary education, Grant programs—education, Juvenile delinquency, Neglected, Private schools, Reporting and recordkeeping requirements, State-administered programs.

(Catalog of Federal Domestic Assistance Number: 84.010 Chapter 1 Program in Local Educational Agencies)

Dated: February 22, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary amends part 200 of title 34 of the Code of Federal Regulations as follows:

PART 200—CHAPTER 1 PROGRAM IN LOCAL EDUCATIONAL AGENCIES

1. The authority citation for part 200 continues to read as follows:

Authority: 20 U.S.C. 2701–2731, 2821–2838, 2851–2854, 2891–2901, unless otherwise noted.

2. Section 200.36 is amended by redesignating paragraph (c)(2)(ii) as paragraph (c)(2)(iii), paragraph (c)(2)(i) is amended by adding the phrase "and (iii)" after "(c)(2)(ii)", and by adding a new paragraph (c)(2)(ii) to read as follows:

§ 200.36 What are the requirements for schoolwide projects?

* * * * *

(c) * * *

(2) * * *

(ii) If the average per pupil expenditure of the LEA is less than its average per pupil expenditure in the previous fiscal year, the LEA may reduce the average per pupil expenditure in schoolwide project schools in the exact proportion to the average reduction in the expenditures for all schools in the LEA.

* * * * *

[FR Doc. 93–4504 Filed 2–26–93; 8:45 am]

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Monday
March 1, 1993

Part V

Department of Education

34 CFR Part 50

Exchange Visitor Program; Request for Waiver of Residence Requirement; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 50

RIN 1801–AA07

U.S. Exchange Visitor Program; Request for Waiver of the Two-Year Foreign Residence Requirement

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend part 50 of title 34 of the Code of Federal Regulations (CFR) relating to requests for waivers of the two-year foreign residence requirement under the U.S. Exchange Visitor Program. The amended regulations would simplify the language and format of provisions establishing procedures, criteria, and other policies used by the Department of Education in requesting waivers for exchange visitors with respect to areas in which the Department serves as an interested agency. These areas are education and rehabilitative services.

DATES: Comments must be received on or before April 15, 1993.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Chairman, Exchange Visitor Waiver Review Board, U.S. Department of Education, 400 Maryland Avenue, SW., room 3047, FOB–6, Washington, DC 20202–3721.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget (OMB) at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Jean Pedersen, U.S. Department of Education, 400 Maryland Avenue, SW., room 3047, FOB–6, Washington, DC 20202–3721. Telephone: (202) 401–0430. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Section 212(e) of the Immigration and Nationality Act, as amended, provides that an exchange visitor who enters the United States under the Mutual Educational and Cultural Exchange Program must subsequently meet a two-year foreign residence requirement as a condition of eligibility for an immigrant visa, permanent residence, or a nonimmigrant visa under the Act. Under this section the Attorney General is authorized to waive the two-year foreign residence requirement "upon the favorable recommendation of the Director of the United States Information Agency (USIA) pursuant to the request of an interested United States Government Agency" (8 U.S.C. section 1182(e) (1988)). The Department of Education serves as an interested agency in education and rehabilitative services.

There has been established within the Department an Exchange Visitor Waiver Review Board (Board) to evaluate applications submitted to the Department for a waiver of the two-year foreign residence requirement and, as appropriate, to make requests through USIA regarding these applications. The regulations in 34 CFR part 50 establish the procedures, criteria, and other policies that the Board uses in carrying out these functions. An applicant has the responsibility of showing that an application satisfies these criteria and policies. This document proposes to amend part 50 in order to simplify and reorganize the regulatory language and to reflect the experience of the Board in administering these functions since the establishment of the Department.

The regulations would provide for the circumstances under which the Board requests a waiver for members of an exchange visitor's family. However, the proposed regulations would not retain a provision in the current part 50 to the effect that a waiver may be requested if the non-exchange visitor spouse of an exchange visitor meets certain criteria. In other respects, the proposed regulations would not differ substantively from the current regulations.

Applicants should be aware that the Board does not consider a request for a waiver based on personal hardship or on possible persecution in an exchange visitor's country of nationality or last residence or a request for extension of a visa. These requests are within the jurisdiction of the Immigration and Naturalization Service (INS) of the United States Department of Justice or of USIA. Moreover, the Board does not consider a request for a waiver based on notification that an exchange visitor's country has no objection to a waiver. This type of request is within the jurisdiction of USIA.

If an application for waiver meets the requirements of part 50 and if the Board is prepared to make a request to the USIA with respect to the application, the Board will submit the request before the exchange visitor is required to file with the INS documentation that may affect the visitor's status.

In considering the national or international interest under these regulations, the Board focuses upon the extent to which the applicant's program serves these interests in the field of education.

In considering the impact of a waiver on the country to which the exchange visitor could return, the proposed regulations call for the Board to consider the Exchange Visitor Skills List. This is a list of fields designated in April 1972 by the Secretary of State, and amended in June 1984 and September 1986 by the Director, U.S. Information Agency, which lists fields of specialized knowledge or skills, and those countries that clearly require the services of persons engaged in one or more of those fields.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

Among the entities affected are small institutions of higher education and other small organizations that apply for waivers under these regulations. The regulations amend provisions for requesting waivers of the two-year foreign residence requirement for exchange visitors. They would not have a significant economic impact on the institutions of higher education or other organizations affected.

Paperwork Reduction Act of 1980

Sections 50.4 and 50.5 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h)).

Institutions of higher education, other educational organizations, and organizations providing rehabilitative services are eligible to apply for waivers under these regulations. The Department needs and uses the information to consider applications for waivers. Annual public reporting burden for this collection of information is estimated to average 8 hours per response for 25 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the

information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 3047, FOB–6, 400 Maryland Avenue, SW., Washington, DC, between the hours of 9 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 50

Cultural exchange programs, Education Department, Foreign residence requirements, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number does not apply.)

Dated: February 22, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary proposes to amend title 34 of the Code of Federal Regulations by revising part 50 to read as follows:

PART 50—U.S. EXCHANGE VISITOR PROGRAM—REQUEST FOR WAIVER OF THE TWO-YEAR FOREIGN RESIDENCE REQUIREMENT

Sec.

50.1 What is the purpose of these regulations?
50.2 What definitions apply?
50.3 What is the Exchange Visitor Waiver Review Board?
50.4 What are the procedures for submitting an application?
50.5 What criteria does the Board apply?
50.6 How does the Board render a decision?
50.7 Under what circumstances does the Board request a waiver for members of an exchange visitor's family?

Authority: 8 U.S.C. 1182(e); 20 U.S.C. 3474; 22 U.S.C. 2451 *et seq.*, unless otherwise noted.

§ 50.1 What is the purpose of these regulations?

(a) The regulations in this part provide the Department's procedures and criteria for carrying out its responsibilities as an "interested United States Government agency" under section 212(e) of the Immigration and Nationality Act, as amended (the Act).

(b) Under the Act the Department is authorized to submit requests to the United States Information Agency (USIA) for recommendation to the Attorney General with respect to the waiver of the two-year foreign residence requirement for exchange visitors who enter the United States under the Mutual Educational and Cultural Exchange Program.

(c) The Department serves as an interested agency in education and rehabilitative services.

(Authority: 8 U.S.C. 1182(e); 20 U.S.C. 3474; 22 U.S.C. 2451 *et seq.*)

§ 50.2 What definitions apply?

The following definitions apply to this part:

Applicant means an institution or organization that employs an exchange visitor and applies for a waiver under this part.

Board means the Exchange Visitor Waiver Review Board of the United States Department of Education.

Department means the United States Department of Education.

Secretary means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

(Authority: 8 U.S.C. 1182(e); 20 U.S.C. 3474; 22 U.S.C. 2451 *et seq.*)

§ 50.3 What is the Exchange Visitor Waiver Review Board?

(a) *Establishment.* The Secretary establishes within the Department an Exchange Visitor Waiver Review Board.

(b) *Membership.* (1) The Board consists of not more than five or less than three members, one of whom shall be the chairman.

(2) The Secretary appoints the chairman and the other members.

(c) *Functions.* The Board—

(1) Evaluates applications submitted to the Department for a waiver of the two-year foreign residence requirement described in § 50.1(b); and

(2) As appropriate, makes requests for waivers to USIA regarding the applications.

(Authority: 8 U.S.C. 1182(e); 20 U.S.C. 3474; 22 U.S.C. 2451 *et seq.*)

§ 50.4 What are the procedures for submitting an application?

(a) An application for a waiver is normally submitted by an appropriate institution or organization that employs the exchange visitor for whom that institution or organization is seeking the waiver.

(b) The applicant may obtain an application form and information from the Executive Secretary of the Board.

(c) The applicant shall submit a completed and signed application, supporting documentation, and any other material the Board requests or the applicant considers germane to the Chairman, Exchange Visitor Waiver Review Board, International and Territorial Affairs Staff, Office of Intergovernmental and Interagency Affairs, United States Department of Education, Washington, DC 20202.

(d) The application must be signed by—

(1) The head of the department in which the exchange visitor is employed and

(2) Another senior official of the applicant institution, senior to the head of the department, who is authorized to sign the application.

(Authority: 8 U.S.C. 1182(e); 20 U.S.C. 3473; 22 U.S.C. 2451 *et seq.*)

§ 50.5 What criteria does the Board apply?

The Board evaluates each application for a waiver on the basis of the documentation presented by the applicant and each of the following criteria:

(a) *Significance of program or activity.* The Board reviews each application to determine the extent to which the program or activity of the applicant is—

(1) Of high priority and significance in an area of interest to the Department; and

(2) Of high priority to the public interest in its national or international aspects as it applies to the field of education.

(b) *Need for the exchange visitor.*

(1) The Board reviews each application to determine the need for the exchange visitor as an integral and continuing part of—

(i) The program or activity of the applicant; or

(ii) An essential component of that program or activity.

(2) The Board examines—

(i) The strength of relationship of the exchange visitor to the program or

activity, including the exchange visitor's particular contributions and responsibilities;

(ii) The sufficiency of the documentation, if any, that the loss of the visitor's services would seriously restrain the initiation, continuation, completion, or success of the program or activity; and

(iii) Documentation, if any, that the applicant has long-range plans and commitments respecting the exchange visitor.

(3) In applying this criterion the Board does not consider solely factors related to—

(i) Administrative or programmatic inconvenience to the applicant; or

(ii) A short-term recruitment problem or a local community or institutional personnel shortage.

(c) *Qualifications.* The Board reviews each application to determine the extent to which the exchange visitor—

(1) Has outstanding qualifications for the program or activity; and

(2) Demonstrates, based upon documentation of demonstrated accomplishment, a significant capability to make essential contributions to the program or activity and to American education or rehabilitative services over a long period.

(3) In applying this criterion the Board does not rely solely on information that the exchange visitor has specialized training or experience or is occupying a senior faculty or staff position.

(d) *Equity and quality in selection.*

(1) The Board reviews each application to determine the adequacy of the recruitment process with relation to equity and quality.

(2) The Board examines—

(i) The recruitment process for the position the exchange visitor holds, including the extent to which the applicant followed applicable equal opportunity procedures and standards in filling the position;

(ii) The qualifications of the exchange visitor as compared with those of other candidates for the position;

(iii) The reasons presented by the applicant as to why the exchange visitor was hired; and

(iv) Any reasons presented by the applicant as to why a U.S. citizen was not selected.

(e) *Impact on other country.* The Board assesses the impact of a waiver on the country to which the exchange visitor would return if the waiver were not granted, taking into consideration the Exchange Visitor Skills List.

(Authority: 8 U.S.C. 1182(e); 20 U.S.C. 3474)

§ 50.6 How does the Board render a decision?

(a) No fewer than three members of the Board consider an application for a waiver.

(b) The Board may obtain expert advisory opinions from other sources.

(c) The Board requests a waiver only if the applicant strongly shows that a waiver is justified under the criteria and policies in this part.

(d) The Board transmits its decision, together with an explanation, to USIA.

(Authority: 8 U.S.C. 1182(e); 20 U.S.C. 3474; 22 U.S.C. 2451 *et seq.*)

§ 50.7 Under what circumstances does the Board request a waiver for members of an exchange visitor's family?

If the Board decides to request a waiver for an exchange visitor who has a spouse or children subject to the foreign residence requirement, the Board also requests a waiver for the affected spouse or children.

(Authority: 8 U.S.C. 1182(e); 20 U.S.C. 3474; 22 U.S.C. 2451 *et seq.*)

[FR Doc. 93–4564 Filed 02–26–93; 8:45 am]

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Monday
March 1, 1993

Part VI

Department of Education

34 CFR Part 649
Patricia Roberts Harris Fellowship Program; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 649

RIN 1840–AB67

Patricia Roberts Harris Fellowship Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the Patricia Roberts Harris Fellowship Program. These amendments are needed to implement recently enacted changes made by the Higher Education Amendments of 1992. The proposed regulations would establish eligibility, selection criteria, and other terms and conditions for awarding grants to institutions of higher education to assist in making available the benefits of master's level, professional, and doctoral education programs to women and individuals from minority groups who are underrepresented in these programs.

DATES: Comments must be received on or before March 31, 1993.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Jane Wrenn, U.S. Department of Education, 400 Maryland Avenue, SW., room 3022, ROB–3, Washington, DC 20202–5251.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Jane Wrenn. Telephone: (202) 708–9403. Individuals who are hearing impaired may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The Patricia Roberts Harris Fellowship Program supports National Education Goal 5 calling for adult Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. This program furthers Goal 5 objectives by enabling institutions of higher education to make available the benefits of master's level, professional, and doctoral education to women and individuals from minority groups underrepresented in these programs.

These proposed regulations would implement certain provisions of the Higher Education Amendments of 1992 (Pub. L. 102–325), enacted July 23, 1992.

The Secretary is proposing to revise existing regulations to conform to the applicable statutory changes and to make other changes to improve the administration and management of the program.

Institutional payment. These proposed regulations would provide for the statutory increase in the amount of the institutional payment to an institution of higher education in which a fellow is enrolled. The proposed regulations would clarify that the institutional payment, which is not considered part of the award to the individual fellow, is to cover full payment of the fellow's tuition and fees. This administrative change reflects the statutory reference to the National Science Foundation graduate fellowships, and the Secretary's determination that the proposed regulations governing the institutional payment should follow the National Science Foundation's policy regarding its graduate fellowship cost of education allowance.

Stipends. The proposed regulations would incorporate the statutory increase in the stipend paid to a fellow who is initially awarded a fellowship for the academic year 1993–1994 or any succeeding academic year. The stipend amount is to be paid at a level of support equal to that provided by the National Science Foundation graduate fellowships or the fellow's demonstrated level of financial need, whichever is less. The proposed regulations would provide that the stipend paid to a fellow who initially was awarded a fellowship prior to the academic year 1993–1994 remains at the level of funding authorized at the time of the initial fellowship award. (Note that the fellowship award plus the institutional payment equals the total "award", as defined in 34 CFR 77.1.) The statute does not provide for an increase for these fellows. The proposed regulations would clarify that the fellow's financial need is to be calculated under Part F of Title IV of the Higher Education Act (HEA) of 1965, as amended, in accordance with the statutory provision requiring that the fellow's demonstrated level of need be according to measurements of need approved by the Secretary.

Selection criteria. The proposed regulations contain new selection criteria that respond to the statutory changes requiring the Secretary to consider, in awarding grants, graduate preparation of underrepresented groups (the needs of underrepresented groups for specific training) and access to employment in the career fields in which they are underrepresented. Also, the new selection criteria would reflect the statutory changes creating two separate grant award competitions—one for master's level and professional study grant awards and a second for doctoral study grant awards.

Priorities. The proposed regulations contain new priorities as required by the statute. Preference would be given to applications from institutions of higher education that propose to give priority in awarding fellowships to (1) women and individuals from minority groups who are pursuing master's level or professional study and are underrepresented in the academic field for which the grant award is made; (2) women and individuals from minority groups who are pursuing master's level study leading to careers that serve the public interest; and (3) women and individuals from traditionally underrepresented groups undertaking doctoral study. The Secretary also would establish and give an absolute preference to academic career fields of high national priority, selected from among the disciplines and subdisciplines listed in the appendix of the program regulations, or the resulting interdisciplines.

Fellowship conditions and components. The proposed regulations would provide for the tenure of fellowships for master's level and professional study to be the normal period for completing the degree, up to three years, with an additional 12-month period of support under special conditions, as required by the statutory changes. Also, the proposed regulations would incorporate the new statutory provisions governing a doctoral study fellowship. The statute provides for three years of fellowship support: two years for pre-dissertation study or research, to be followed by two years of institutional support, including one year of supervised teaching, and one year of fellowship support at the dissertation stage. During the two years of institutional support, the fellow may work on his/her dissertation. If the fellow completes the dissertation work during the period of institutional support, the fellow will not receive the third year of fellowship support. The proposed regulations would require that the two years of institutional financial support be in the amount of the fellow's financial need or in an amount equal to the stipend awarded in the last academic year of fellowship support, whichever is less.

Academic Year. The proposed regulations would provide that the grants are awarded for an academic year

and would define an academic year as the 12-month period commencing with the institution's fall instructional term. These changes reflect the current institutional practices that anticipate full-year, fulltime participation in graduate program activity by fellowship recipients.

Project. The proposed regulations would define "project" to include the activities necessary to support the fellows' successful completion of their designated educational programs. This proposed change reflects the expectation that the fellowships authorized in the institution's grant require recruitment, advisement, instruction, task assignment, program supervision and development, and other activities that constitute the project, all of which require support from grant and institutional resources toward achieving project objectives.

Careers that serve the public interest. The proposed regulations contain a new priority for institutions that propose to give priority in awarding fellowships to women and individuals from minority groups pursuing master's level study leading to careers that serve the public interest, as required by the statute. The proposed regulations would define careers that serve the public interest to include careers in government or in nonprofit community service organizations at the local, State, national, or international level. The proposed definition incorporates the concept of public service in government within a broader multilevel community-service base for careers that serve the public interest.

Minority. The proposed regulations would contain specific priorities for institutions that propose to give priority in awarding fellowships for master's level and professional study to women and individuals from minority groups, as required by the statute. The proposed regulations would define the term "minority" to include specific ethnic groups currently used for standard statistical purposes and allow the inclusion of any other ethnic group underrepresented in master's level, professional, or doctoral study, as documented on a case-by-case basis.

Traditionally underrepresented groups. The proposed regulations contain specific priorities for institutions that propose to give priority in awarding fellowships for doctoral study to women and individuals from traditionally underrepresented groups in doctoral study, as required by the statute. The proposed regulations would define "traditionally underrepresented groups" to include minorities and other groups that historically have been underrepresented in doctoral study.

Prohibition against discrimination. The proposed regulations would incorporate the standard Department policy prohibiting discrimination on the basis of race, color, national origin, religion, gender, age, or disabling condition from among the eligible project participants.

Individuals eligible for fellowships. The proposed regulations would clarify the eligibility requirements for individuals to whom the institution may award fellowships. The proposed regulations would incorporate the statutory requirement that only United States citizens are eligible to receive fellowships for doctoral study leading to an academic career.

Miscellaneous. The proposed regulations would modify some definitions, add new definitions, and clarify the procedures governing the institution's disbursement and return of grant funds to reflect statutory changes and to improve the administration and management of the program.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by these regulations are small institutions of higher education. The regulations will impose only the minimal requirements necessary to ensure the proper expenditure of program funds. The regulations will not impose excessive regulatory burden and will not have a significant economic impact on the small entities affected.

Paperwork Reduction Act of 1980

Sections 649.10, 649.21, 649.31, 649.50, 649.51, and 649.64 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

Institutions of higher education are eligible to apply for grant awards under these regulations. The Department needs and uses this information to make grant awards. Public reporting burden for this collection of information is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 3022, ROB–3, 7th and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there might be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 649

Colleges and universities, Education, Energy, Grant programs—education,

Reporting and recordkeeping requirements, Scholarships and fellowships.

Dated: February 16, 1993.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.094—Patricia Roberts Harris Fellowship Program.)

The Secretary proposes to amend title 34 of the Code of Federal Regulations by revising part 649 to read as follows:

PART 649—PATRICIA ROBERTS HARRIS FELLOWSHIP PROGRAM

Subpart A—General

Sec.

649.1 What is the Patricia Roberts Harris Fellowship Program?
649.2 Who is eligible for a grant?
649.3 What activities may the Secretary fund?
649.4 What funding reservations does the Secretary make for grants?
649.5 What regulations apply?
649.6 What definitions apply?

Subpart B—How Does an Institution of Higher Education Apply for a Grant?

649.10 How does an institution of higher education apply for a grant?

Subpart C—How Does the Secretary Make a Grant for Master's Level and Professional Study Fellowships?

649.20 How does the Secretary evaluate an application?
649.21 What selection criteria does the Secretary use?
649.22 How does the Secretary establish priorities?

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649.30 How does the Secretary evaluate an application?
649.31 What selection criteria does the Secretary use?
649.32 How does the Secretary establish priorities?

Subpart E—How Are Fellows Selected?

649.40 How does an institution of higher education select fellows?
649.41 How does an individual apply for a fellowship?

Subpart F—What Are the Conditions and Components of a Fellowship?

649.50 What are the conditions and components of a fellowship for master's level or professional degree study?
649.51 What are the conditions and components of a fellowship for doctoral study?
649.52 What fellowship conditions apply?

Subpart G—What Are the Administrative Responsibilities of the Institution?

649.60 What is the amount of a stipend?
649.61 How does the Secretary make an institutional payment?
649.62 What are the Secretary's payment procedures?
649.63 How does the institution disburse and return funds?
649.64 What records and reports are required from the institution?

Appendix to Part 649—Academic Areas Priorities

Authority: 20 U.S.C. 1134, 1134d–1134g, unless otherwise noted.

Subpart A—General

§ 649.1 What is the Patricia Roberts Harris Fellowship Program?

(a) The Patricia Roberts Harris Fellowship Program provides, through institutions of higher education, grants to assist in making available the benefits of master's level, professional, and doctoral education programs to women and individuals from minority groups who are underrepresented in these programs.

(b) Each individual recipient of a fellowship under this program is to be known as a Patricia Roberts Harris Graduate Fellow.

(Authority: 20 U.S.C. 1134d)

§ 649.2 Who is eligible for a grant?

Institutions of higher education, other than schools or departments of divinity, are eligible to receive grants under this program.

(Authority: 20 U.S.C. 1134, 1134e)

§ 649.3 What activities may the Secretary fund?

(a) The Secretary makes grants to institutions of higher education to enable the institutions to provide fellowships in master's level, professional, and doctoral education programs.

(b) In awarding fellowships, the institution must give priority to—

(1) Women and individuals from minority groups who are pursuing master's level or professional study in academic fields in which they are underrepresented;

(2) Women and individuals from minority groups who are pursuing master's level study leading to careers that serve the public interest; and

(3) Women and individuals from traditionally underrepresented groups undertaking doctoral study.

(Authority: 20 U.S.C. 1134e)

§ 649.4 What funding reservations does the Secretary make for grants?

The Secretary reserves—

(a) Fifty percent of the funds appropriated for this program to make grants for master's level and professional study; and

(b) Fifty percent of the funds appropriated for this program to make grants for doctoral study.

(Authority: 20 U.S.C. 1134e)

§ 649.5 What regulations apply?

The following regulations apply to the Patricia Roberts Harris Fellowship program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 649.

(Authority 20 U.S.C. 1134, 1134d-g)

§ 649.6 What definitions apply?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1: Applicant, Application, Award, EDGAR, Grant, Nonprofit, Secretary.

(b) *Other definitions.* The following definitions also apply to this part:

Academic field means an area of study in a professional school, academic department, or similar organizational unit within an institution of higher education other than a school or department of divinity.

Academic year means the 12-month period beginning with the fall instructional term of the institution.

Careers that serve the public interest means careers in government or in nonprofit community service organizations at the local, State, national, or international level.

Department means any department, program, unit or any other administrative subdivision of an institution of higher education that—

(1) Directly administers or supervises post-baccalaureate instruction in a specific discipline; and

(2) Has the authority to award academic course credit acceptable to meet degree requirements at an institution of higher education.

Doctoral study means a postbaccalaureate program of study leading to a degree in any academic field of graduate study that requires a dissertation and no less than one year of supervised teaching experience at the pre-dissertation stage of study.

Fellow means a recipient of a fellowship under this part.

Fellowship means an award made by an institution of higher education to an individual for master's level, professional, or doctoral study under this part.

Financial need means the fellow's financial need as determined under Part F of Title IV of the HEA, for the period of the fellow's enrollment.

HEA means the Higher Education Act of 1965, as amended.

Institution means an institution of higher education.

Institution of higher education means an institution of higher education, other than a school or department of divinity, as defined in section 1201(a) of the HEA.

Institutional payment means the amount paid to the institution of higher education in which the fellow is enrolled to be applied against the tuition and fees required of the fellow by the institution in support of the fellow's instructional program.

Inter-discipline means a course of study that involves academic fields in two or more disciplines.

Master's level study means a postbaccalaureate program of study leading to a master's degree in any academic field of graduate study.

Minority means Alaskan Native, American Indian, Asian-American, Black (African-American), Hispanic American, Native Hawaiian, or Pacific Islander.

Professional study means—

(1) A postbaccalaureate program of study leading to a degree required for admission to practice a profession; or

(2) Any post-master's or doctoral degree that does not require a dissertation and supervised teaching.

Project means the activities necessary to assist, whether from grant funds or institutional resources, the fellows in the successful completion of their designated educational programs.

Satisfactory progress means that the fellow meets or exceeds the institution's criteria and standards established for all graduate students' continued status as applicants for the graduate degree and in the academic field for which the fellowship was awarded.

School or department of divinity means an institution, or a department of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter into some other religious vocation, or to prepare them to teach theological subjects.

Stipend means the amount paid to an individual awarded a fellowship, including an allowance for subsistence and other expenses for the individual and his or her dependents.

Traditionally underrepresented groups means minorities and other groups that historically have been underrepresented in doctoral study.

Underrepresented means proportionate representation as measured by degree recipients, that is less than the proportionate representation in the general population, as indicated by—

(1) The most current edition of the Department's *Digest of Educational Statistics;*

(2) The National Research Council's *Doctorate Recipients from United States Universities;*

(3) Other standard statistical references, as announced annually in the **Federal Register** notice inviting applications for new awards under this program; or

(4) As documented by national survey data submitted to and accepted by the Secretary on a case-by-case basis.

(Authority: 20 U.S.C. 1134, 1134d–g)

Subpart B—How Does an Institution of Higher Education Apply for a Grant?

§ 649.10 How does an institution of higher education apply for a grant?

(a) To apply for a grant under this part, an institution of higher education must submit an application that responds to the appropriate selection criteria in §§ 649.21 and 649.31.

(b) The institution of higher education's application must describe how the institution will select eligible individuals to receive fellowships. This description must include procedures that ensure that—

(1) The selected individuals will have the capability to achieve the academic goals of the fellowship; and

(2) The institution will give priority to members of groups to which priority must be given under § 649.40.

(c) An institution of higher education may apply for a grant under this part for one or more of the following types of fellowships:

(1) Master's Level and Professional Study Fellowships, in the award of which priority must be given to—

(i)(A) Women underrepresented in the academic fields of study for which the institution is applying for a grant; or

(B) Individuals from minority groups underrepresented in the academic fields of study for which the institution is applying for a grant; or

(ii) Women and individuals from minority groups pursuing master's level study leading to careers that serve the public interest.

(2) Doctoral Study Fellowships, in the award of which priority must be given to women or individuals from traditionally underrepresented groups in doctoral study.

(d) An institution of higher education may submit no more than one application for new awards for Master's Level and Professional Study Fellowships and no more than one application for new awards for Doctoral Study Fellowships in a given application period.

(Authority: 20 U.S.C. 1134e)

Subpart C—How Does the Secretary Make a Grant for Master's Level and Professional Study Fellowships?

§ 649.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application for master's level and professional study fellowships on the basis of the criteria in § 649.21.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: 20 U.S.C. 1134e)

§ 649.21 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application:

(a) *Institution-wide criteria.*

(1) *Institutional commitment.* (20 points) The Secretary reviews each application to determine the overall strength of the applicant's commitment to meet the needs of the female students and students from minority groups it proposes to serve, including consideration of—

(i) Evidence that the institution's social and academic environment is supportive of the academic success of female students and students from minority groups;

(ii) The availability of other sources of financial aid and support for these students; and

(iii) The employment of women and minority individuals among the administrators and faculty in the institution.

(2) *Recruitment plan.* (10 points)

(i) The Secretary reviews each application for information that describes the applicant's recruitment plan.

(ii) The Secretary looks for information that shows—

(A) The applicant's active and aggressive efforts, previous and current, to identify and attract—

(*1*) Qualified women and individuals from minority groups traditionally underrepresented in the academic field for which the grant is sought; or

(*2*) Qualified women and individuals from minority groups pursuing master's level study leading to careers that serve the public interest;

(B) The applicant's previous and current efforts in successfully preparing female students and students from minority groups for careers in which women and these minority groups are underrepresented; and

(C) The applicant's success in providing students with access to careers in which women and minority groups are underrepresented.

(3) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the general institutional resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(4) *Grant management.* (5 points) The Secretary reviews each application to determine the applicant's ability to provide overall administration of the grant award, including providing assistance to and oversight of the project director.

(b) *Academic field criteria.*

(1) *Meeting the purpose of the authorizing statute.* (8 points) The Secretary reviews each application to determine how well the project will meet the purpose of the authorizing statute, including the extent to which—

(i) The applicant describes the general and specific objectives of the project that are realistic and measurable; and

(ii) The objectives of the project further the purposes of the authorizing statute by assisting in making available the benefits of master's level and professional education programs to women and individuals from minority groups who are underrepresented in these programs.

(2) *Extent of need for the project.* (10 points) The Secretary reviews each application to determine the extent to which the project will meet the specific graduate preparation and career-access needs of underrepresented groups recognized in the authorizing statute, including consideration of—

(i) The needs of the applicant addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (10 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) How well the project activities are described and the potential of those activities to achieve project objectives in a cost-effective manner;

(v) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(vi) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, religion, gender, age, or disabling condition.

(4) *Quality of the academic program.* (7 points) The Secretary reviews each application to determine the quality of the current academic program for which a grant award is sought, including—

(i) The course offerings and academic requirements for the academic program; and

(ii) The focus on, and capability for, research or teaching.

(5) *Quality of key personnel.* (10 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director;

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs

(5)(i) (A) and (B) of this section will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected without regard to race, color, national origin, religion, gender, age, or disabling condition, except pursuant to a lawful affirmative action plan.

(ii) To determine personnel qualifications under paragraphs

(b)(5)(i) (A) and (B) of this section, the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(6) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources the applicant plans to devote to the project in the academic field for which the grant is sought, including facilities, equipment, and supplies.

(7) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's evaluation methods—

(i) Relate to the specific goals and measurable objectives of the project;

(ii) List both process and product evaluation questions for each project activity and outcome, including those of the management plan;

(iii) Describe both the process and product evaluation measures for each project activity and outcome;

(iv) Describe the data collection procedures, instruments, and schedules for effective data collection;

(v) Describe how the applicant will analyze and report the data so that it can make adjustments and improvements on a regular basis; and

(vi) Include a time-line chart that relates key evaluation processes and benchmarks to other project component processes and benchmarks.

(Authority: 20 U.S.C. 1134e)

§ 649.22 How does the Secretary establish priorities?

(a) The Secretary gives an absolute preference to applicants proposing to provide fellowships in the award of which priority is given to women and individuals from minority groups who are pursuing master's level or professional study and are underrepresented in the academic field for which the grant award is made.

(b)(1) The Secretary gives a competitive preference of between three and five points, as announced annually in the **Federal Register** notice inviting applications for new awards under this program, to applicants proposing to provide fellowships in the award of which priority is given to women and individuals from minority groups who are pursuing master's level study leading to careers that serve the public interest.

(2) These points are in addition to any points the application earns under the selection criteria for the program.

(c)(1) The Secretary gives an absolute preference to applicants proposing to provide fellowships in academic career fields of high national priority as established by the Secretary from among one or more of the general disciplines and subdisciplines listed as priorities in the appendix to this part or the resulting inter-disciplines.

(2) The Secretary announces the absolute preference annually in the **Federal Register** notice inviting applications for new awards under this program.

(Authority: 20 U.S.C. 1134d, 1134e)

Subpart D—How Does the Secretary Make a Grant for Doctoral Study Fellowships?

§ 649.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application for doctoral study fellowships on the basis of the criteria in § 649.31.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: 20 U.S.C. 1134e)

§ 649.31 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application:

(a) *Institution-wide criteria.*

(1) *Institutional commitment.* (20 points) The Secretary reviews each application to determine the overall strength of the applicant's commitment to meet the needs of the female students and students from minority groups it proposes to serve, including consideration of—

(i) Evidence that the institution's social and academic environment is supportive of the academic success of female students and students from minority groups;

(ii) The availability of other sources of financial aid and support for these students; and

(iii) The employment of women and minority individuals among the administrators and faculty in the institution.

(2) *Recruitment plan.* (10 points)

(i) The Secretary reviews each application for information that describes the applicant's recruitment plan.

(ii) The Secretary looks for information that shows—

(A) The applicant's active and aggressive efforts, previous and current, to identify and attract qualified women and individuals from minority groups traditionally underrepresented in doctoral study;

(B) The applicant's previous and current efforts in successfully preparing female students and students from minority groups for careers in which women and minority groups are underrepresented; and

(C) The applicant's success in providing students with access to careers in which women and minority groups are underrepresented.

(3) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the general institutional resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(4) *Grant management.* (5 points) The Secretary reviews each application to determine the applicant's ability to provide overall administration of the grant, including providing assistance to and oversight of the project director.

(b) *Academic field criteria.*

(1) *Meeting the purpose of the authorizing statute.* (8 points) The Secretary reviews each application to determine how well the project will meet the purpose of the authorizing statute, including the extent to which—

(i) The applicant describes the general and specific objectives of the project that are realistic and measurable; and

(ii) The objectives of the project further the purposes of the authorizing statute by assisting in making available the benefits of doctoral education programs to—

(A) Women who are underrepresented in these programs; and

(B) Individuals from groups traditionally underrepresented in these programs.

(2) *Extent of need for the project.* (5 points) The Secretary reviews each application to determine the extent to which the project will meet the specific graduate preparation and career-access needs of underrepresented groups recognized in the authorizing statute, including consideration of—

(i) The needs of the applicant addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (5 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) How well the project activities are described and the potential of those activities to achieve project objectives in a cost-effective manner;

(v) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(vi) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, religion, gender, age, or disabling condition.

(4) *Quality of the academic program.* (7 points) The Secretary reviews each application to determine the quality of the current academic program for which a grant is sought, including—

(i) The course offerings and academic requirements for the academic program; and

(ii) The focus on, and capacity for, research or teaching.

(5) *Quality of key personnel.* (10 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director;

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(5)(i) (A) and (B) of this section will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected without regard to race, color, national origin, religion, gender, age, or disabling condition, except pursuant to a lawful affirmative action plan.

(ii) To determine personnel qualifications under paragraphs (b)(5)(i) (A) and (B) of this section, the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(6) *Institutional support.* (10 points)

(i) The Secretary reviews each application to determine the adequacy of the applicant's plans to provide two academic years of support for each fellow, immediately following the second academic year of fellowship support, including at least one academic year of supervised teaching.

(ii) In reviewing the applicant's plan of support for the fellows, the Secretary considers—

(A) The applicant's financial support for each fellow; and

(B) The applicant's plan for the supervision of each fellow's teaching assignment.

(7) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to

devote to the project in the academic field for which the grant is sought, including facilities, equipment, and supplies.

(8) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the project's evaluation plan, including the extent to which the applicant's evaluation methods—

(i) Relate to the specific goals and measurable objectives of the project;

(ii) List both process and product evaluation questions for each project activity and outcome, including those of the management plan;

(iii) Describe both the process and product evaluation measures for each project activity and outcome;

(iv) Describe the data collection procedures, instruments, and schedules for effective data collection;

(v) Describe how the applicant will analyze and report the data so that it can make adjustments and improvements on a regular basis; and

(vi) Include a time-line chart that relates key evaluation processes and benchmarks to other project component processes and benchmarks.

(Authority: 20 U.S.C. 1134e, 1134f)

§ 649.32 How does the Secretary establish priorities?

(a) The Secretary gives an absolute preference to applicants proposing to provide fellowships in the award of which priority is given to women and individuals from traditionally underrepresented groups undertaking doctoral study.

(b)(1) The Secretary gives an absolute preference to applicants proposing to provide fellowships in academic career fields of high national priority as established by the Secretary from among one or more of the general disciplines and subdisciplines listed as priorities in the appendix to this part or the resulting inter-disciplines.

(2) The Secretary announces the absolute preference annually in the **Federal Register** notice inviting applications for new awards under this program.

(Authority: 20 U.S.C. 1134d, 1134e)

Subpart E—How Are Fellows Selected?

§ 649.40 How does an institution of higher education select fellows?

(a) In selecting individuals to receive fellowships, the institution of higher education shall give priority to individuals who are—

(1)(i) Women underrepresented in the academic fields of study for which the institution is applying for a grant; or

(ii) Individuals from minority groups underrepresented in the academic fields of study for which the institution is applying for a grant;

(2) Women and individuals from minority groups pursuing master's level study leading to careers that serve the public interest; or

(3) Women or individuals from traditionally underrepresented groups undertaking doctoral study.

(b) An institution of higher education shall provide master's level or professional study fellowships only to individuals who—

(1) Have been accepted for or are enrolled in a program of study leading to a master's level or professional degree in the academic field for which the institution received a grant;

(2) Plan to pursue an academic or professional career in the academic field of study for which the institution received the grant;

(3)(i) Are nationals of the United States;

(ii) Are in the United States for other than a temporary purpose and intend to become permanent residents; or

(iii) Are permanent residents of the Trust Territory of the Pacific Islands; and

(4) Are not ineligible to receive assistance under 34 CFR 75.60, as added on July 8, 1992 (57 FR 30328, 30337).

(c) An institution of higher education shall provide fellowships for doctoral study, other than for doctoral study leading to an academic career, only to individuals who—

(1) Have been accepted for or are enrolled in a program of study leading to a doctoral degree in the academic field for which the institution received a grant;

(2) Plan to pursue a professional career in the academic field of study for which the institution received the grant;

(3)(i) Are nationals of the United States;

(ii) Are in the United States for other than a temporary purpose and intend to become permanent residents; or

(iii) Are permanent residents of the Trust Territory of the Pacific Islands; and

(4) Are not ineligible to receive assistance under 34 CFR 75.60, as added on July 8, 1992 (57 FR 30328, 30337).

(d) An institution of higher education shall provide fellowships for doctoral study leading to an academic career only to individuals who—

(1) Have been accepted for or are enrolled in a program of study leading to a doctoral degree in the academic field for which the institution received a grant;

(2) Plan to pursue an academic career in the academic field of study for which the institution received the grant;

(3) Are citizens of the United States; and

(4) Are not ineligible to receive assistance under 34 CFR 75.60, as added on July 8, 1992 (57 FR 30328, 30337).

(Authority: 20 U.S.C. 1134, 1134e, 1134f)

§ 649.41 How does an individual apply for a fellowship?

An individual must apply directly to an institution of higher education that has received a grant.

(Authority: 20 U.S.C. 1134e)

Subpart F—What Are the Conditions and Components of a Fellowship?

§ 649.50 What are the conditions and components of a fellowship for master's level or professional degree study?

(a)(1) An award for a fellowship for a master's level or professional degree program of study is for the normal period of time for completing the program or a total of three academic years, whichever is less.

(2) A fellow may apply to the Secretary for an additional period of fellowship support of up to 12 months. The fellow's application must include—

(i) The specific facts detailing the reasons why the additional period of support is necessary;

(ii) A certification by the institution that it is aware of the fellow's application and that the fellow has attained satisfactory progress in the fellow's academic studies; and

(iii) A recommendation from the institution that the additional period of fellowship support of up to 12 months is necessary.

(3) The institution shall request approval for the additional support in its third-year noncompeting continuation application, as required under 34 CFR 75.253 for multiyear project periods.

(Authority: 20 U.S.C. 1134f)

§ 649.51 What are the conditions and components of a fellowship for doctoral study?

(a) An award for a fellowship for a doctoral degree program of study is a total of three academic years, consisting of not more than two academic years of fellowship support for study or research, and not more than one academic year of support for dissertation work, provided that the fellow has attained satisfactory progress prior to the dissertation stage.

(b) Following the two academic years of fellowship support for study or research, the institution of higher

education shall provide two academic years of support, including—

(1) Financial support in the amount of the fellow's financial need, as defined in § 649.6(b), or in an amount equal to the stipend awarded in the last academic year of fellowship support, whichever is less;

(2) A waiver of tuition and fees or an allowance on behalf of the fellow as full payment of tuition and fees required of the fellow by the institution as part of the fellow's instructional program; and

(3)(1) Supervising for one academic year of teaching by the fellow; and

(ii) Teaching requirements for the fellow that equal those required of a half-time teaching assistant.

(c) Following two academic years of institutional support, the institution must include in its application for the third academic year of fellowship support for the fellow's dissertation work a certification that—

(1) The institution has provided two academic years of institutional support;

(2) The fellow satisfactorily completed one academic year of supervised teaching; and

(3) The fellow satisfactorily completed all predissertation requirements.

(Authority: 20 U.S.C. 1134f)

§ 649.52 What fellowship conditions apply?

To continue to receive payments under a fellowship, a fellow must—

(a) Maintain satisfactory progress;

(b) Devote essentially full time to study or research (including acting as a teaching or research assistant, as required as a condition for award of the degree) in the academic field for which the fellowship was awarded; and

(c) Not engage in gainful employment during the period of the fellowship, except on a part-time basis in teaching, research, or similar types of activities approved by the Secretary.

(Authority: 20 U.S.C. 1134f)

Subpart G—What Are the Administrative Responsibilities of the Institution?

§ 649.60 What is the amount of a stipend?

(a) The institution annually shall calculate the amount of a fellow's financial need in the same manner that the institution calculates its students' financial need under part F of title IV of the HEA.

(b) For a fellowship initially awarded for an academic year prior to the academic year 1993–1994, the institution shall pay the fellow a stipend in the amount of the fellow's financial need or $10,000, whichever is less.

(c) For a fellowship initially awarded for the academic year 1993–1994 or any succeeding academic year, the institution shall pay the fellow a stipend at a level of support equal to that provided by the National Science Foundation graduate fellowships, except that this amount must be adjusted as necessary so as not to exceed the fellow's demonstrated level of financial need.

(Authority: 20 U.S.C. 1134f)

§ 649.61 How does the Secretary make an institutional payment?

(a) With respect to awards made for the academic year 1993–1994, the Secretary makes a payment of $9,000 to the institution of higher education for each individual awarded a fellowship for pursuing a course at the institution. The Secretary adjusts the institutional payment annually thereafter in accordance with inflation as determined by the U.S. Department of Labor's Consumer Price Index for the previous calendar year.

(b) If the fellow is enrolled for less than a full academic year, the Secretary pays the institution of higher education a pro rata share of the institutional payment, based on the period of the fellow's enrollment.

(c) An institution shall treat the institutional payment made by the Secretary on behalf of a fellow as full payment of tuition and fees required of the fellow by the institution as part of the fellow's instructional program.

(Authority: 20 U.S.C. 1134e)

§ 649.62 What are the Secretary's payment procedures?

(a) The Secretary pays to the institution of higher education the fellowship stipend and institutional payment for each individual awarded a fellowship under this program enrolled in the institution.

(b) If an institution of higher education is unable to use all of the amounts available under this program, the Secretary—on such dates each fiscal year as the Secretary determines—reallots the amounts not used to other institutions of higher education that can use the grants authorized under this program in the academic year following the reallotment.

(c) The Secretary does not award a fellowship under this part for study at a school or department of divinity.

(Authority: 20 U.S.C. 1134, 1134e)

§ 649.63 How does the institution disburse and return funds?

(a) If a fellow withdraws from an institution before completion of an academic term, the institution shall refund to the Secretary a prorated portion of the institutional payment that it received for that fellow. The institution shall return the funds to the Secretary at a time and in a manner as the Secretary requires.

(b) An institution shall disburse a stipend to a fellow in accordance with its regular payment schedule for graduate assistants, but shall not make less than one payment per academic term. If the fellowship is vacated or discontinued, the institution shall return unexpended funds to the Secretary at a time and in a manner as the Secretary requires.

(c) A fellow who withdraws from an institution before completion of an academic term for which he or she received a stipend installment shall return a prorated portion of the stipend installment to the institution at a time and in a manner as the Secretary requires.

(Authority: 20 U.S.C. 1134e, 1134f)

§ 649.64 What records and reports are required from the institution?

(a) An institution of higher education that receives a grant shall provide to the Secretary, prior to receipt of funds for disbursement to a fellow, a certification that the fellow is enrolled in, is making satisfactory progress in, and is devoting essentially full time to study in the academic field for which the grant was made.

(b) An institution of higher education that receives a grant shall keep records as are necessary to establish the time and amount of all stipend disbursements.

(Authority: 20 U.S.C. 1134e, 1134f)

Appendix to Part 649—Academic Area Priorities

The Secretary may give an absolute preference to applicants proposing to provide fellowships in academic career fields listed as disciplines or subdisciplines below, or the resulting interdisciplines.

The list was derived from the *Classification of Instructional Programs* (CIP) developed by the Office of Educational Research and Improvement of the U.S. Department of Education. The code number to the left of each discipline and subdiscipline is the Department's identification code for that particular type of instructional program.

01. Agricultural Business and Production
01.01 Agricultural Business and Management
01.02 Agricultural Mechanization
01.03 Agricultural Production Workers and Managers
01.04 Agricultural and Food Products Processing

01.05 Agricultural Supplies and Related Services
01.06 Horticultural Services Operations and Management
01.07 International Agriculture
02. Agricultural Sciences
02.01 Agriculture/Agricultural Sciences
02.02 Animal Sciences
02.03 Food Sciences and Technology
02.04 Plant Sciences
02.05 Soil Sciences
03. Conservation and Renewable Natural Resources
03.01 Natural Resources Conservation
03.02 Natural Resources Management and Protective Services
03.03 Fishing and Fisheries Sciences and Management
03.04 Forest Production and Processing
03.05 Forestry and Related Sciences
03.06 Wildlife and Wildlands Management
04. Architecture and Related Programs
04.02 Architecture
04.03 City/Urban, Community, and Regional Planning
04.04 Architectural Environmental Design
04.05 Interior Architecture
04.06 Landscape Architecture
04.07 Architectural Urban Design and Planning
05. Area, Ethnic, and Cultural Studies
05.01 Area Studies
05.02 Ethnic and Cultural Studies
08. Marketing Operations/Marketing and Distribution
08.01 Apparel and Accessories Marketing Operations
08.02 Business and Personal Services Marketing Operations
08.03 Entrepreneurship
08.04 Financial Services Marketing Operation
08.05 Floristry Marketing Operations
08.06 Food Products Retailing and Wholesaling Operations
08.07 General Retailing and Wholesaling Operations and Skills
08.08 Home and Office Products Marketing Operations
08.09 Hospitality and Recreation Marketing Operations
08.10 Insurance Marketing Operations
08.11 Tourism and Travel Services Marketing Operations
08.12 Vehicle and Petroleum Products Marketing Operations
08.13 Health Products and Services Marketing Operations
09. Communications
09.01 Communications, General
09.04 Journalism and Mass Communications
09.05 Public Relations and Organizational Communications
09.07 Radio and Television Broadcasting
11. Computer and Information Sciences
11.01 Computer and Information Sciences, General
11.02 Computer Programming
11.04 Information Sciences and Systems
11.05 Computer Systems Analysis
11.07 Computer Science
13. Education
13.01 Education, General
13.02 Bilingual/Bicultural Education
13.03 Curriculum and Instruction
13.04 Education Administration and Supervision
13.05 Educational/Instructional Media Design
13.06 Educational Evaluation, Research, and Statistics
13.07 International and Comparative Education
13.08 Educational Psychology
13.09 Social and Philosophical Foundations of Education
13.10 Special Education
13.11 Student Counseling and Personnel Services
13.12 General Teacher Education
13.13 Teacher Education, Specific Academic, and Vocational Programs
13.14 Teaching English as a Second Language/Foreign Language
13.15 Teacher Assistant/Aide
14. Engineering
14.01 Engineering, General
14.02 Aerospace, Aeronautical, and Astronautical Engineering
14.03 Agricultural Engineering
14.04 Architectural Engineering
14.05 Bioengineering and Biomedical Engineering
14.06 Ceramic Sciences and Engineering
14.07 Chemical Engineering
14.08 Civil Engineering
14.09 Computer Engineering
14.10 Electrical, Electronic, and Communications Engineering
14.11 Engineering Mechanics
14.12 Engineering Physics
14.13 Engineering Science
14.14 Environmental/Environmental Health Engineering
14.15 Geological Engineering
14.16 Geophysical Engineering
14.17 Industrial/Manufacturing Engineering
14.18 Materials Engineering
14.19 Mechanical Engineering
14.20 Metallurgical Engineering
14.21 Mining and Mineral Engineering
14.22 Naval Architecture and Marine Engineering
14.23 Nuclear Engineering
14.24 Ocean Engineering
14.25 Petroleum Engineering
14.27 Systems Engineering
14.28 Textile Sciences and Engineering
14.29 Engineering Design
14.30 Engineering/Industrial Management
14.31 Materials Science
14.32 Polymer/Plastics Engineering
16. Foreign Languages
16.01 Foreign Languages and Literatures
16.03 East and Southeast Asian Languages and Literatures
16.04 East European Languages and Literatures
16.05 Germanic Languages and Literatures
16.06 Greek Languages and Literatures
16.07 South Asian Languages and Literatures
16.09 Romance Languages and Literatures
16.11 Middle Eastern Languages and Literatures
16.12 Classical and Ancient Near Eastern Languages and Literatures
19. Home Economics
19.01 Home Economics, General
19.02 Home Economics Business Services
19.03 Family and Community Studies
19.04 Family/Consumer Resource Management
19.05 Foods and Nutrition Studies
19.06 Housing Studies
19.07 Individual and Family Development Studies
19.09 Clothing/Apparel and Textile Studies
20. Vocational Home Economics
20.02 Child Care and Guidance Workers and Managers
20.03 Clothing, Apparel, and Textile Workers and Managers
20.04 Institutional Food Workers and Administrators
20.05 Home Furnishings and Equipment Installers and Consultants
20.06 Custodial, Housekeeping and Home Services Workers and Managers
22. Law and Legal Studies
22.01 Law and Legal Studies
23. English Language and Literature/Letters
23.01 English Language and Literature, General
23.03 Comparative Literature
23.04 English Composition
23.05 English Creative Writing
23.07 American Literature (United States)
23.08 English Literature (British and Commonwealth)
23.10 Speech and Rhetorical Studies
23.11 English Technical and Business Writing
24. Liberal Arts and Sciences, General Studies and Humanities
24.01 Liberal Arts and Sciences, General Studies and Humanities
25. Library Science
25.01 Library Science/Librarianship
25.03 Library Assistant
26. Biological Sciences/Life Sciences
26.01 Biology, General
26.02 Biochemistry and Biophysics
26.03 Botany
26.04 Cell and Molecular Biology
26.05 Microbiology/Bacteriology
26.06 Miscellaneous Biological Specializations
26.07 Zoology
27. Mathematics
27.01 Mathematics
27.03 Applied Mathematics
27.05 Mathematic Statistics
31. Parks, Recreation, Leisure and Fitness Studies
31.01 Parks, Recreation and Leisure Studies
31.03 Parks, Recreation and Leisure Facilities Management
31.05 Health and Physical Education/Fitness
38. Philosophy and Religion
38.01 Philosophy
38.02 Religion/Religious Studies
39. Theological Studies
39.01 Biblical and Other Theological Languages and Literatures
39.02 Bible/Biblical Studies
39.03 Missions/Missionary Studies and Misology
39.04 Religious Education
39.05 Religious/Sacred Music
40. Physical Sciences
40.01 Physical Sciences, General
40.02 Astronomy
40.03 Astrophysics
40.04 Atmospheric Sciences and Meteorology

40.05 Chemistry
40.06 Geological and Related Sciences
40.07 Miscellaneous Physical Sciences
40.08 Physics
42. Psychology
42.01 Psychology
42.02 Clinical Psychology
42.03 Cognitive Psychology and Psycholinguistics
42.04 Community Psychology
42.06 Counseling Psychology
42.07 Developmental and Child Psychology
42.08 Experimental Psychology
42.09 Industrial and Organizational Psychology
42.11 Physiological Psychology/ Psychobiology
42.16 Social Psychology
42.17 School Psychology
43. Protective Services
43.01 Criminal Justice and Correctio ns
43.02 Fire Protection
44. Public Administration and Services
44.02 Community Organizations, Resources and Services
44.04 Public Administration
44.05 Public Policy Analysis
44.07 Social Work
45. Social Sciences and History
45.01 Social Sciences, General
45.02 Anthropology
45.03 Archeology
45.04 Criminology
45.05 Demography/Population Studies
45.06 Economics
45.07 Geography
45.08 History
45.09 International Relations and Affairs
45.10 Political Science and Government
45.11 Sociology
45.12 Urban Affairs/Studies
50. Visual and Performing Arts
50.01 Visual and Performing Arts
50.02 Crafts, Folk Art and Artisanry
50.03 Dance
50.04 Design and Applied Arts
50.05 Dramatic/Theater Arts and Stagecraft
50.06 Film/Video and Photographic Arts
50.07 Fine Arts and Art Studies
50.09 Music
51. Health Professions and Related Sciences
51.01 Chiropractic (D.C., D.C.M.)
51.02 Communication Disorders Sciences and Services
51.03 Community Health Services
51.04 Dentistry (D.D.S., D.M.D.)
51.05 Dental Clinical Sciences/Graduate Dentistry (M.S., Ph.D.)
51.06 Dental Services
51.07 Health and Medical Administrative Services
51.08 Health and Medical Assistants
51.09 Health and Medical Diagnostic and Treatment Services
51.10 Health and Medical Laboratory Technologies/Technicians
51.11 Health and Medical Preparatory Programs
51.12 Medicine (M.D.)
51.13 Medical Basic Science
51.14 Medical Clinical Services (M.S., Ph.D.)
51.15 Mental Health Services
51.16 Nursing
51.17 Optometry (O.D.)
51.18 Ophthalmic/Optometric Services
51.19 Osteopathic Medicine (D.O.)
51.20 Pharmacy
51.21 Podiatry (D.P.M., D.P., Pod.D.)
51.22 Public Health
51.23 Rehabilitation/Therapeutic Services
51.24 Veterinary Medicine (D.V.M.)
51.25 Veterinary Clinical Services
51.26 Miscellaneous Health Aides
51.27 Miscellaneous Health Professions
52. Business Management and Administrative Services
52.01 Business
52.02 Business Administration and Management
52.03 Accounting
52.04 Administrative and Secretarial Services
52.05 Business Communications
52.06 Business/Managerial Economics
52.07 Enterprise Management and Operations
52.08 Financial Management and Services
52.09 Hospitality Services Management
52.10 Human Resources Management
52.11 International Business
52.12 Business Information and Data Processing Services
52.13 Business Quantitative Methods and Management Science
52.14 Marketing Management and Research
52.15 Real Estate
52.16 Taxation

[FR Doc. 93–4623 Filed 2–26–93; 8:45 am]
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federal register

Monday
March 1, 1993

Part VII

Department of Education

National Institute on Disability and Rehabilitation Research; Notices

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research

AGENCY: Department of Education.

ACTION: Notice of Final Funding Priority for Fiscal Years 1993 and 1994 for Rehabilitation Research and Training Center on Rehabilitation and Pediatric Trauma.

SUMMARY: The Secretary announces a funding priority for a Rehabilitation Research and Training Center (RRTC) on Rehabilitation and Pediatric Trauma under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1993–1994. The Secretary takes this ection to focus research attention on an area of national need. This priority is intended to improve rehabilitation services and outcomes for individuals with disabilities.

EFFECTIVE DATE: This priority takes effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of this priority, please call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: David Esquith, U.S. Department of Education, 400 Maryland Avenue, SW., room 3424, Switzer Building, Washington, DC 20202–2601. Telephone: (202) 205–8801. Deaf and hearing-impaired individuals may call (202) 205–5516 for TDD services.

SUPPLEMENTARY INFORMATION: NIDRR has published final priorities for other RRTCs and other programs for fiscal years 1993–1994. Authority for the RRTC program of NIDRR is contained in section 204(b) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762).

Under this program, the Secretary makes awards to public agencies and to nonprofit and for-profit private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations. The statute provides that RRTCs must be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services.

The Secretary may make awards for up to 60 months through grants or cooperative agreements. The purpose of the awards is for planning and conducting research, training, demonstrations, and related activities leading to the development of methods, procedures, and devices that will benefit individuals with disabilities, especially those with the most severe disabilities.

This final priority supports the National Education Goals. In particular, this final priority supports National Education Goal 1, which calls for all children in America to be ready to learn when they start school. The RRTC will provide rehabilitation, special education, and related service system personnel with important information regarding the delivery of services to children who experience trauma and their families.

Under the regulations for this program (see 34 CFR 352.32) the Secretary may establish research priorities by reserving funds to support particular research activities.

The Department received 260 letters objecting to NIDRR's decision not to propose a priority on pediatric trauma. The letters presented effective arguments for such a priority and provided information on research needs. As a result of the comments received, the Secretary was persuaded to add an RRTC on pediatric trauma in fiscal year 1993. The timing of this decision requires the Secretary to issue a final priority without having issued a proposed priority in order to ensure that an award will be made before the end of the fiscal year.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed priorities. This specific priority was not published for public comment in the **Federal Register**, but the Department proposed other priorities and received numerous, detailed public comments concerning the need for a Center in pediatric trauma. The comments received regarding establishing such a priority provided sufficient information to enable the Department to develop a final priority. Moreover, as noted above, there is not adequate time to take further public comment and complete the grant-making process in the fiscal year. Therefore, the Secretary has determined, under 5 U.S.C. 553(b)(B), that proposed rulemaking is unnecessary, impracticable, and contrary to the public interest.

Note: This notice of final priority does not solicit applications. A notice inviting applications under this competition is published in this issue of the **Federal Register**.

Description of the Rehabilitation Research and Training Center Program

RRTCs are operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services. They serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

RRTCs conduct coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities. RRTCs provide training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services. RRTCs also provide training (including graduate, pre-service and in-service training) for rehabilitation research personnel and other rehabilitation personnel. RRTCs serve as informational and technical assistance resources to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals through conferences, workshops, public education programs, in-service training programs and similar activities.

RRTCs conduct research on designated rehabilitation problem areas and provide training to researchers, service providers, and consumers. They conduct an interdisciplinary program of training in rehabilitation research, including training in research methodology and applied research experience, that will contribute to the number of qualified researchers working in the area of rehabilitation research. Each Center disseminates and encourages the use of new rehabilitation knowledge and publishes all materials for dissemination or training in alternate formats to make them accessible to individuals with a range of disabling conditions.

Each Center must involve individuals with disabilities and, if appropriate, their family members, as well as rehabilitation service providers—including vocational rehabilitation service providers—in planning and implementing the research and training programs, in interpreting and disseminating the research findings, and in evaluating the Center.

NIDRR encourages all Centers to involve individuals with disabilities and minorities as recipients of clinical and research training. In addition, NIDRR encourages all Centers to make their research relevant to all minority populations with disabilities to the maximum extent appropriate.

To achieve the goals specified in the priority, the Secretary expects each RRTC to conduct a multifaceted program of research to develop solutions to problems confronted by individuals with disabilities. Applicants have considerable latitude in proposing the specific research and related projects they will undertake to achieve the designated outcomes. However, the regulatory selection criteria for the program (34 CFR 352.31) require that applicants justify their choice of research projects in terms of the relevance to the priority and to the needs of individuals with disabilities. The regulations also require applicants to present a scientific methodology that includes reasonable hypotheses, methods of data collection and analysis, and a means to evaluate the extent to which project objectives have been achieved.

The Department of Education is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

NIDRR is in the process of developing a revised long-range plan focused on achieving six goals for individuals with disabilities: (1) Full integration into the community; (2) full employment; (3) independence and empowerment; (4) maximum human functioning and health; (5) improved vocational rehabilitation services; and (6) the translation of new knowledge and technology into practice. The priority established in this notice is intended to achieve one or more of these six outcomes.

The publication of this final priority does not obligate the Department of Education to fund projects in this area. Funding of particular projects depends on the availability of funds and the quality of the applications received. The publication of this priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Priority

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary will fund under this competition only applications that meet this absolute priority:

Priority—Rehabilitation and Childhood Trauma

Background

Trauma is the leading cause of both death and long-term disability among children. Annually approximately 50,000 children who are hospitalized have permanent impairments (National Pediatric Trauma Registry, October 1992). Impairments resulting from childhood trauma are associated with multiple fractures, brain and spinal cord injuries, traumatic amputations, severe burns, and injuries to multiple body systems.

The rehabilitation of injured children is fundamentally different than the rehabilitation of adults. Children experience significant residual impairments from trauma that affect their development and subsequent performance. A multidimensional approach that meets the needs of children is necessary to enhance habilitation, rehabilitation and health maintenance. Little is known about the effects of childhood trauma on developmental processes, and there is difficulty in measuring rehabilitation outcomes following treatment interventions since children are constantly changing and growing.

Priority

An RRTC on rehabilitation and pediatric trauma shall—

- Establish and analyze a comprehensive rehabilitation-oriented data base, including (1) the demographics of pediatric trauma; (2) the natural history of pediatric trauma recovery; (3) an evaluative assessment of clinical rehabilitation needs; and (4) long-term outcomes associated with the receipt of specific rehabilitation services;
- Develop and evaluate models of coordinated systems of care among medical, educational and vocational agencies;
- Develop pediatric rehabilitation interventions, including some that utilize assistive devices and other technologies and evaluate them, taking cost-effectiveness into consideration;
- Develop and evaluate early interventions designed to decrease secondary complications of pediatric trauma;
- Develop and evaluate models for case management or service coordination, including models involving parents;
- Identify factors influencing successful family adjustment and community reintegration; and
- Develop and evaluate effective strategies for transition from acute care to rehabilitation, education, vocational training and community living for children post-trauma.

Applicable Program Regulations: 34 CFR parts 350 and 352.

Program Authority: 29 U.S.C. 760–762.

Dated: February 23, 1993.

(Catalog of Federal Domestic Assistance Number 84.133B, Rehabilitation Research and Training Centers)

Richard W. Riley,

Secretary of Education.

[FR Doc. 93–4642 Filed 2–26–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.133B]

Office of Special Education and Rehabilitative Services: National Institute on Disability and Rehabilitation Research Applications for a New Award for a Rehabilitation Research and Training Center in Pediatric Trauma Rehabilitation for Fiscal Year (FY) 1993

Purpose of Program: Rehabilitation Research and Training Centers conduct coordinated and advanced programs of rehabilitation research, provide training—which may include preservice, inservice, and graduate training—to researchers and rehabilitation service providers, and serve as informational and technical assistance resources to providers and to individuals with disabilities and their family members or other representatives. The final priority for this award is published in this issue of the **Federal Register.** Potential applicants should consult the statement of the final priority published in this issue to ascertain the substantive requirements for their applications. Also, applicants must demonstrate how they will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.

The estimates of funding levels in this notice do not bind the Department of Education to make awards in any of these categories, or to any specific

number of awards or funding levels, unless otherwise specified in statute.

This final priority supports the National Education Goals. In particular, this final priority supports National Education Goal 1, which calls for all children in America to be ready to learn when they start school.

Eligible Applicants: Those eligible for assistance under this program include States and public or private agencies and organizations, including institutions of higher education, and Indian tribes and tribal organizations. The recipient of assistance must be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal laws and also must demonstrate an ability to carry out the Center's training activities either directly or through another entity that can provide such training. The RRTC must be operated by or in collaboration with an institution of higher education or a provider of rehabilitation services or other appropriate services.

Deadline for Transmittal of Applications: April 27, 1993.

Applications Available: March 5, 1993.

Available Funds: $500,000.

Estimated Number of Awards: 1.

Note: The estimates of funding levels and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants, unless the amount is otherwise specified by statute or regulation.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 86; (b) the regulations for this program in 34 CFR parts 350 and 352; and (d) the Notice of final priority published elsewhere in this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Yvonne Fleming, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3418, Switzer Building, Washington, DC 20202. Telephone: (202) 205–8532. Deaf or hearing impaired individuals may call (202) 205–9136 for TDD services.

For Applications Contact: William Whalen, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 205–9141. Deaf or hearing impaired individuals may call (202) 205–9136 for TDD services.

Program Authority: 29 U.S.C. 760–762.

Dated: February 23, 1993.

Andrew Pepin

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 93–4643 Filed 2–26–93; 8:45 am]

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Federal Register

Monday
March 1, 1993

Part VIII

Department of Justice

Office of Justice Programs
Office of Juvenile Justice and Delinquency Prevention

Missing Children's Assistance Act; Final Program Priorities for Fiscal Year 1993; Notices

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

Missing Children's Assistance Act, Final Program Priorities for Fiscal Year 1993

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of final program priorities for FY 1993 research, demonstration projects, and service programs and merit selection criteria under the Missing Children's Assistance Act.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing its Fiscal Year 1993 final program priorities for making grants and contracts under Section 405 of title IV (the Missing Children's Assistance Act) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5775, hereafter referred to as the JJDP Act.

ADDRESSES: All inquiries must be mailed or sent to: Director, Missing and Exploited Children Program, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Darlene Brown at the above address. Telephone: (202) 514–4622.

SUPPLEMENTARY INFORMATION: Responsibility for establishing priorities for annual research, demonstration projects, and service programs and criteria for making grants and contracts pursuant to section 405 of the Missing Children's Assistance Act rests with the Administrator of the Office of Juvenile Justice and Delinquency Prevention. For FY 1993 four new programs and potentially 13 continuation programs will constitute all proposed section 405 priority funding areas. The Administrator is announcing these priorities, specifying merit and performance criteria to be applied in their review.

During FY 1993 other new programs, or continuations of currently funded programs, may also be funded under sections 404 and 408 of the Missing Children's Assistance Act. Solicitations to fund all new Title IV assistance awards in amounts exceeding $50,000 will be announced in the **Federal Register** and competitively awarded. Described below are discretionary programs being planned for funding under sections 404(b)(3), 405, and 408 of the Missing Children's Assistance Act followed by a listing of continuation programs currently funded under section 405, which are proposed as eligible to receive continuation funding during their currently existing project periods. Thereafter, OJJDP will publish in the **Federal Register** and make available a document including full program announcements of those programs labeled as "new programs" and the application kit.

Introduction

Through the Missing and Exploited Children Program, OJJDP funds and coordinates many diverse activities on behalf of missing and exploited children. The National Center for Missing and Exploited Children (NCMEC) serves as the national clearinghouse and resource center and utilizes the latest in advanced computer technology to assist in the timely collection and dissemination of leads and information on missing children's cases. NCMEC currently produces updated photos of missing children through computer age progression technology and will assist OJJDP in establishing five age progression laboratories in State missing children clearinghouses during FY 1993. OJJDP will continue ongoing training and technical assistance to a network of 42 state clearinghouses, numerous nonprofit organizations, prosecutors, law enforcement personnel, judges, and attorneys. Current research projects include a study of the risk factors in parental abduction cases, a study of the sexual exploitation of children and youth, and an examination of current and effective screening practices for child- and youth-serving agencies. The Missing and Exploited Children Comprehensive Action Program (M/CAP) assists communities in developing a multi-disciplinary approach to handling child victim cases through ongoing training and technical assistance. In FY 1993, OJJDP proposes to award a non-competitive grant to the University of Michigan to establish a missing and exploited children data archive. The University of Michigan houses the Inter-University Consortium for Political and Social Research. This center facilitates the wide dissemination of major data sets, including other data funded by OJJDP.

In recent years, OJJDP has funded a number of major research projects which have provided needed information on issues relating to missing and exploited children. The focus of both continuing and new programs is to continue to expand this knowledge base and to develop and provide practical training and technical assistance to the field.

New Programs

Second National Incidence Studies of Missing, Abducted, Runaway and Thrownaway Children (NISMART II)

$1,500,000

The purpose of this project is to develop reliable national statistics on missing and exploited youth in America in order to understand better the extent, nature, and trends in the numbers of missing, abducted, runaway, and thrownaway youth in America, the characteristics of the events and the risk factors associated with these problems and other victimizations of children.

Section 404(b)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5773(b)(3), requires OJJDP to conduct periodic national studies of the incidence of missing and abducted children. "Missing Abducted, Runaway and Thrownaway Children in America, First Report: Numbers and Characteristics" (NISMART I) was developed in 1990 in response to this statutory mandate. It addressed five distinct populations of concern to the study, encompassing those situations in which a child was missing or displaced in some way that might put the child at risk of harm. The five populations were:

1. Family Abductions (children abducted by parents or other family members),
2. Non-Family Abductions (children abducted by strangers and other nonfamily members),
3. Runaways,
4. Thrownaways, and
5. Lost or Otherwise Missing.

Subsequent analysis of the NISMART data revealed a substantial number of incidents of other forms of child victimization not captured by any other national data source. These incidents included children who had been physically or sexually assaulted by nonfamily members. These types of victimizations will also be studied under NISMART II. To assist in preparing for NISMART II, OJJDP awarded a planning grant to the Research Triangle Institute (RTI) to review NISMART I and make recommendations for NISMART II and subsequent periodic studies.

Based on the plan developed by RTI, NISMART II may:

- Develop valid and reliable national estimates of the numbers of children who were missing, abducted, runaway or thrownaway and the number reported to the police and/or known to be missing in the course of a given year as

well as the number of these children who are recovered;

- Establish profiles of missing children and characteristics of the episodes;
- Determine the extent and nature of changes in these estimates since 1988; and
- Develop reliable national estimates of the incidence of physical and sexual assault and exploitation of children and youth by nonfamily members.

While the detailed program strategy has not been developed, OJJDP anticipates that the program will require the following tasks, based on the specifications of the planning work and recommendations of RTI:

- Establish and convene advisory board meetings
- Inaugurate the study scope and definitions
- Develop appropriate research designs, methodologies, and data analysis plans
- Construct the sampling designs and procedures
- Develop and refine data collection instruments and protocols
- Establish quality control methods for the data
- Recruit, hire, and train data collectors
- Collect data and assure its quality
- Perform data "cleaning" and processing
- Construct an analysis file and provide appropriate documentation for it
- Analyze the data and compare findings to NISMART I, as appropriate
- Develop preliminary and final reports as specified in the solicitation
- Develop a dissemination plan for study results, and the data set.

Under the NISMART II planning project, RTI will provide a thorough review of NISMART I for OJJDP, identifying its substantive and technical strengths and weaknesses. RTI will also identify additional information needs for OJJDP in the policy making and program development areas, particularly for prevention and intervention. During the planning, RTI will identify additional sources of data, new or previously untapped, and determine how they may prove useful in producing or validating national estimates or in designing future studies. These additional data sources that may be utilized in NISMART II include:

- State Clearinghouses for Missing Children and Persons;
- The Federal Bureau of Investigation (FBI) National Crime Information Center (NCIC) Missing Persons Files and Warrants files;
- FBI's National Incident Based Reporting System (NIBRS);
- The Bureau of Justice Statistics' National Crime Victimization Survey;
- National Center on Child Abuse and Neglect (NCCAN) National Study of the Incidence of Child Abuse and Neglect; and
- Office of Youth Development, Administration for Children and Family, Youth Information Forms from Federally-funded runaway shelters.

As necessary, RTI will test alternative methodologies or approaches to studying different populations. A detailed summary of the proceedings from a planning symposium, including any papers, discussion of findings, and recommendations will be developed and made available to all applicants interested in NISMART II. RTI will prepare a NISMART II Plan providing sufficient recommendations for OJJDP to develop a detailed solicitation for applications to conduct the core components of the NISMART II program, which is likely to include a household survey and a study of police records.

Investigative Case Management for Missing Children Homicides

$150,000

The purpose of this project is to improve the understanding and investigative procedures of abducted or runaway children in homicide cases in order to manage, conduct, and solve individual and serial child murder investigations more effectively.

The investigative procedures for missing child homicides involve some unusual factors. Children are particularly vulnerable victims and may be targeted for abduction and assault by repeat rapists or killers. A missing child may produce an intense community pressure on law enforcement for a quick, sure solution—especially if there is evidence that the child was the victim of a non-family abduction or the child's body is found. Such urgency can lead to hasty, unproductive utilization of investigative efforts that may hamper a successful investigation. Cases involving family members as suspects may increase confusion as well as the pressure for swift, quality investigations. More effective investigative and case management methods may improve the solution rate of difficult cases. Runaway and thrownaway youth are particularly vulnerable to exploitation, assault, abduction, and murder. Identification of murdered runaways and thrownaways can pose special difficulties for the law enforcement agencies investigating these cases.

Over the past twelve months, the National Center for Missing and Exploited Children (NCMEC), through its Case Management and Information Analysis Units, has received case profile information from local law enforcement agencies on over 150 cases of missing children who have been murdered over a ten year period. In most of these cases, NCMEC had been involved in assisting local authorities and parents to locate the missing child. Some cases, however, were brought to NCMEC after recovery of a child's body by local investigators seeking analysis services or other technical assistance.

There is a recognized need for an instructive investigative guide to missing children and child homicide cases. This program will develop such a guide for local law enforcement designed to provide an experience-based process to direct the investigative attention to priority data. This guide will be based upon an examination and analysis of previous abducted and/or murdered child cases and will include those elements which were the most definitive in leading to swift and successful solutions. The program will develop and provide investigative guidance in taking those vital first investigative steps. Issues to be addressed will include types of evidence to be sought and analyzed, the best information sources to employ, and effective utilization and deployment of investigative resources. Finally, the project will assist NCMEC and the Missing and Exploited Children Comprehensive Action Program (M/CAP) to implement a missing child homicide investigation training and technical assistance program for State and local law enforcement.

A Study of the Effectiveness of Private Investigators in Locating and Recovering Parentally Abducted Children

$100,000

The purpose of this project is to determine the use and effectiveness of private investigators by searching parents in parental abduction cases. The project will pay special attention to identifying the characteristics and procedures used by highly effective private investigators.

A recent study sponsored by OJJDP on the obstacles to the recovery and return of parentally abducted children indicated that private investigators are generally employed by parents with very limited financial resources. Parents who turned to private investigators for assistance were motivated by dissatisfaction with the level of investigative activity by the law

unforcement agencies responsible for their case. Private investigators were employed by one-fourth of the searching parents in this particular study. While satisfaction and results were generally very limited, in a small group of cases satisfaction was very high.

The issues of how these parents search for a private investigator, what criteria they use in deciding to retain the private investigator, and how investigators spend funds for actual child recovery are unknown at present. Families of abducted children and law enforcement agencies both would benefit from a clearer understanding of the extent and effectiveness of services provided by these private investigators.

Issues in Resolving International Child Abduction Cases

$200,000

Our society has become more mobile and the number of international and cross-cultural marriages has increased in recent years. The problems and obstacles encountered by searching parents in international child abduction cases are compounded by the frustration and difficulties of dealing with the multiple legal systems and cultural issues inherent in many cases. As of this date, 26 countries have adopted the Hague Convention on the Civil Aspects of International Child Abduction, a treaty designed to deter these abductions. While not every case has a successful resolution, State Department data reveals increasing effectiveness in recovering children abducted to countries in which the Hague Convention is operative.

The purpose of this project is to examine the issues and processes, institutional and cultural, encountered by searching parents in international abduction cases. Through surveys and interviews with families who have had a child abducted to another country, the project will explore the nature of these cases, the processes by which parents attempt to locate and recover their child, and the difficulties associated with accessing and dealing with the various systems in both the United States and the country to which the child has been taken. Although legal issues may also be examined, the focus of this project will not be on legal issues alone. The study sample will involve a variety of cases, including cases resolved under the Hague Convention and cases involving non-Hague Convention countries.

Criminal Justice Response to Parental Child Abduction Cases

$450,000

The purpose of this project is to examine the ways in which various criminal justice agencies and systems respond to parental abduction cases. NISMART estimated that there were 354,000 family abduction cases in the year 1988, 163,000 of which involved transporting a child across state line and/or making an effort to conceal the whereabouts of the child. In recent years, OJJDP sponsored several studies which examined various aspects of parental abduction cases, such as legal obstacles to recovery and return, psychological consequences of abduction of children and families, and reunification issues. The results of these studies indicate that although parental abduction is a felony crime in most states, response by the civil and criminal justice system is inconsistent with substantial variation in enforcement and prosecution policies and practices from state to state and even within states. For example, California is the only state which legislatively mandates and funds investigation and prosecution of parental child abductions within the district attorneys' offices. While the majority of parental abduction cases involve taking the child across state lines, Unlawful Flight to Avoid Prosecution Warrants (UFAPS) are obtained in fewer than 10% of these cases, thus precluding assistance from the FBI in locating and apprehending the abductor. For parents without the financial resources to hire private attorneys or private investigators, their children may simply be lost to them.

This project will examine organizational and structural issues in the response to parental child abduction by criminal justice agencies. These agencies will include local law enforcement, State law enforcement (including missing children's clearinghouses), prosecutors' offices, and Federal law enforcement. This study will explore the policies and procedures of these agencies, both formal and informal, as well as case management, record-keeping, legislation, locus of investigative responsibilities, functions, and penalties.

Little is known about the dispositional outcomes in parental child abduction cases in the criminal justice system in the United States. Some studies indicate that few abductors receive sentences of any kind, while other studies indicate a possible increase in prosecution and penalties in some jurisdictions. This project will also examine the variations in dispositions of parental abduction cases through assessing the attrition of cases from arrest to filings to disposition and sentencing.

Field-Initiated Programs

$300,000

In recent years, OJJDP has undertaken a number of major research programs addressing key issues related to missing and exploited children. These studies have formed a basis for program development, training and technical assistance and have also raised a number of specific and related issues which suggest further examination. The Field-Initiated Program invites innovative approaches from researchers and practitioners to the discretionary activities authorized by section 405(a) of the Act. Within the Field-Initiated Programs, OJJDP encourages eligible parties to develop ideas for study relevant to the mission of OJJDP's Missing and Exploited Children's Program and to specific priority areas on the subject of family abductions. These priority areas include but are not limited to:

- The impact of domestic violence on custody decisions and parental abductions;
- Post-recovery detention of abducted children by social services agencies, including case outcomes;
- Allegations of child abuse in parental abduction cases;
- Family members and friends who provide assistance to abductors;
- Parents who abduct their children and hold them hostage or murder them;
- The development of public service announcements for media aimed at public education and awareness of the psychological and legal consequences of parental abduction; and
- Additional/secondary analyses of existing data bases.

Multi-jurisdictional, Interagency Model for Investigating and Prosecuting Cases of Child Sexual Exploitation

$125,000 ($125,000 from OVC)

The Office for Victims of Crime (OVC) and OJJDP have established and set-aside for this program, however, it is under development and may or may not be funded in 1993. This is a joint project involving the Office of Justice Programs, the Federal Bureau of Investigation, and the participating U.S. Attorney. The goal of this program is to develop and implement a prototype multi-jurisdictional task force approach involving Federal, State, and local authorities that can effectively

investigate and prosecute cases involving sexual exploitation of children and juveniles and assist child and juvenile victims in crisis.

Estimates of the number of adolescents involved in prostitution range from 200,000 to 300,000 nationally. Many of these children are runaway or thrownaway children without secure homes who are extremely vulnerable to sexual exploitation. Juvenile prostitution is often paired with child pornography. The Attorney General's Commission on Pornography found widespread harm associated with child pornography. Production of the material often includes physical harm to the children. Research has shown a "modeling effect" can occur so that those who view materials portraying violence and degradation of children desire to recreate the acts furthering the victimization of children. Although the gravity of the problem has been acknowledged, pursuing these cases is time consuming and resource intensive.

This project will develop a prototype multi-jurisdictional task force to target child pornography and juvenile prostitution and implement centrally coordinated and managed investigations involving Federal, State, and local investigative agencies to identify and locate procurers who recruit juveniles, thus making information accessible to law enforcement agencies in a large geographic area to include the U.S. Postal Service, U.S. Customs, and the FBI; develop a model that involves child protective, social, and medical services in initiating the investigation and providing assistance and support to the child victim in crisis through adjudication to readjustment; provide training for law enforcement officials and others; and initiate a public awareness effort of the harms associated with child pornography and child prostitution. As this project will require the commitment of the U.S. Attorney, the FBI, and local law enforcement, only sites where Federal and local law enforcement officials agree to commit the resources to form a multi-jurisdictional effort will be considered. The funds for this project cannot be used for law enforcement efforts, but must be targeted to assisting child and youth victims in crisis and training and public awareness efforts.

Continuation Programs

National Resource Center and Clearinghouse (National Center for Missing and Exploited Children)

$3,600,000

The purpose of this program is to continue the management and maintenance of services by the national resource center and clearinghouse mandated by the Missing Children's Assistance Act. This statute requires the operation of a national resource center and clearinghouse designed to provide the following services:

(1) A central collection and dissemination point of information and technical assistance to State and local governments, individuals, parents and other agencies in locating and recovering missing children;

(2) The operation of a 24-hour national toll-free hotline for reporting information about missing children;

(3) Coordination of programs in the field that focus on reuniting missing children with their lawful custodians;

(4) Development, publication, and dissemination of information about programs, techniques and services responsive to missing children issues; and

(5) Technical assistance as well as training to law enforcement agencies, State and local government agencies, and others regarding prevention, investigation, reunification and treatment in missing and exploited children cases. New program responsibilities requested by OJJDP will focus on the following areas:

(1) Development of specialized personnel, technical assistance and materials related to reunification of missing children;

(2) Further development of informational networking capabilities between the national clearinghouse, State missing children clearinghouses, and law enforcement agencies;

(3) Further development of Project ALERT, a program to train and deploy retired law enforcement investigators to assist in missing child cases;

(4) Strategic assistance to missing children state clearinghouses through technology development, assistance in development of regional coalitions, ongoing training and technical assistance, and a program to develop and support the hosting of statewide law enforcement training courses by state clearinghouses;

(5) Expansion of publications development and dissemination; and

(6) Development and expansion of technical assistance services to law enforcement.

This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1993.

Prevention of Parent or Family Abduction Through Early Identification of Risk Factors

$300,000

The purpose of this three-phased program is to learn more about the circumstances likely to precipitate the abduction of a child by a parent or family member, with specific attention given to the impact of domestic violence, and to identify and document effective prevention and intervention strategies. The objectives of this program are to investigate and document the circumstances most likely to result in the abduction of a child by a parent or family member; and to identify, demonstrate, and evaluate current public and private programs that appear to be appropriate and effective interventions in preventing parental abductions. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1993.

Missing Children: Program To Increase Understanding of Child Sexual Exploitation

$400,000

The purpose of this project is to provide needed information about the nature of the crimes of sexual exploitation of children, the characteristics of the children and youth who become victims, and the response to these cases by social service and justice agencies. This project attempts to clarify definitions of child sexual exploitation and will examine the psychological and environmental factors which may render children vulnerable to exploitation. The objectives of this project are to conduct a thorough review of research literature on the subject of child sexual exploitation and missing children involved in prostitution and pornography, to describe the process by which children become involved, and to identify problems and obstacles faced by the criminal justice system in handling both offenders and victims of sexual exploitation. The project will also describe Federal and State statutes and pertinent case law used in the prosecution and punishment of offenders. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1993.

Effective Screening of Child Care and Youth Service Workers

$200,000

Adults (volunteers and paid personnel) who work in agencies and organizations that provide services to and for children and youths are responsible for the guidance, supervision, and general well-being of those under their care. While most such workers are conscientious individuals of high moral values, there have been instances in which employees have victimized children or young persons through sexual exploitation. The purpose of this program is to provide a comprehensive picture of what screening practices, including criminal records checks, are utilized by both the public and private sector and the effectiveness of these practices. Existing State laws and policies about criminal record screening will also be studied and annotated. This program will identify existing model programs used by child care and youth serving agencies and organizations and recommend steps for the development of a national screening model(s) for States to adopt, including, but not limited to, criminal record checks. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1993.

Training and Technical Assistance for Nonprofit Missing Children's Programs

$250,000

This program will provide technical assistance and training to improve the capacity of nonprofit community based missing children's organizations to engage in activities which will successfully prevent the abduction and sexual exploitation of children, assist in the recovery of children, and provide services to child victims and their families. The goal of this project will be to achieve a high level of skill, sophistication and expertise among the private nonprofit agencies and other appropriate organizations serving missing and exploited children through regional training workshops and the dissemination of relevant materials. Training and technical assistance will focus on internal structure and credibility, case protocol and documentation, victim assistance, coordination with law enforcement, reunification preparation, assistance and follow-up, issue and prevention education, community outreach, referrals, networking, information exchange, improving service delivery, and advocacy. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1993.

Grants and Cooperative Agreements To Support Public or Private Nonprofit Missing Children's Agencies Service Activities

This program provides grants for up to three years in amounts ranging from $25,000–$75,000 to support implementation of new or enhanced services to be provided by non-profit agencies, public agencies, or combinations thereof, in the following areas:

(1) Educating parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children;

(2) Providing information to assist in the locating and return of missing children;

(3) Aiding communities in the collection of materials which would be useful to parents in assisting others in the identification of missing children;

(4) Assisting missing children and their families following the recovery of such children;

(5) Conducting activities to reduce the likelihood that individuals under 18 years of age will be removed from the control of their legal custodians without the custodian's consent; and

(6) Providing services that minimize the negative impact of judicial and law enforcement procedures on children who are victims of abuse or sexual exploitation. The following nine programs constitute current funding support efforts for nonprofits.

Expansion of Mediation Project: Child Find of America, Inc.

Up to $75,000

This program is designed to expand mediation program services to prevent parental abductions by increasing the level of awareness of the problem through public service announcements and programs targeting human resources, social service, and health care professionals and the clergy. Additional training will be provided for core mediators and Child Find staff in dispute resolution processes.

Missing and Exploited Children Prevention and Services: Counseling Services of Addison County

Up to $75,000

The purpose of this project is to continue to expand and develop service to assist missing and exploited youth and their families in Addison County, Vermont. Project activities include community education programs on child safety issues, counseling, outreach and safe shelter services for runaway and thrownaway youth, training for law enforcement officers, and crisis counseling for families of missing children.

ECHO Program Expansion: Exploited Children's Help Organization

Up to $19,538

The purpose of this project is to enable the Exploited Children's Help Organization (ECHO) to expand existing services to missing and exploited children and their families. These services include community education and prevention, a quarterly newsletter providing information about missing and exploited children and the services available through ECHO, a parents support program, and the "Kids in Court" program. In cooperation with local police, ECHO will compile information about repeat runaways in order to develop a community runaway prevention program.

Project Nino Seguro: South Bay Community Services

Up to $45,258

This project serves both the English-speaking and Spanish-speaking communities by providing education, information, and services to parents, children, and the community designed to reduce the occurrence of missing, abducted and exploited children. Project Nino Seguro provides direct counseling to individuals, families, and peer units.

Reunification Services Project: Find the Children

Up to $30,000

The purpose of this project is to support Find the Children's activities and responsibilities as coordinators of a local multi-agency task force designed to be activated upon the recovery of a child. Find the Children coordinates interagency communication to evaluate a child's or family's needs at the time of recovery, assists them in obtaining access to available services, collects data, manages relevant treatment-intervention plans, and reports in conjunction with the Inter-Agency Council of Child Abuse and Neglect.

Prevention and Early Intervention and Mediation Project: Our Town Family Center

Up to $75,000

The purpose of this project is to enhance the range of services to missing, exploited, and abused children and their families. These services include a school-based prevention

program and home-based crisis intervention services. In addition, a new family mediation dispute resolution program seeks to reduce the negative impact of high conflict divorce and separation on children. The project will also provide training workshops for local juvenile justice and school personnel.

Community Action for Prevention of Missing and Exploited Children: Center for Child Protection and Family Support, Inc.

Up to $75,000

This project enables the Center for Child Protection and Family Support in Washington, DC, to expand its direct service activities to high-risk inner city youth, specifically teenage parents, through the development of a specialized education component designed to educate families on child safety, enhance their understanding of potential abduction and exploitation, and improve the systemic response to dealing with the issues of missing and exploited children. Project activities include direct family support, structured community-based education and agency collaboration with other youth serving organizations which are involved with missing and exploited children. This project will also develop a specialized prevention curriculum targeting urban and ethnic minority children and parents.

Prevention and Intervention Program: Paul & Lisa, Inc.

Up to $75,000

This project expands Paul & Lisa's school-based exploitation prevention program in Connecticut, New York, and New Jersey. Project activities include helping children develop ways to handle and discourage sexual advances, abduction, and exploitation by adults as well as providing school personnel and service providers with strategies for preventing and dealing with missing and exploited children. Training and technical assistance to organizations and coalitions in selected cities will also be provided.

Vanished Children's Alliance

Up to $70,500

This project enhances the capacity of Vanished Children's Alliance to provide effective and timely direct services to individuals, families, and communities impacted by missing and exploited children issues. Project activities focus on strengthening case management capacities, computerizing information system, providing specialized training for staff persons, and expanding counseling services and technical assistance to families following recovery of a missing child.

Discussion of Comments

In response to the **Federal Register** Notice of November 18, 1992, 57 FR 54471, OJJDP received three responses. Generally, the responses were favorable towards the overall program while making suggestions for improvements. OJJDP is very appreciative of these thoughtful comments and takes into account all suggestions and recommendations.

The following is a summary of the substantive comments and the responses by OJJDP. Unless otherwise indicated, each comment was made by a single respondent.

1. *Comment:* A respondent expressed concern that the Proposed Priorities should also focus attention on the relationship among law enforcement and the social service agencies (primarily private) that serve runaway, thrownaway, and homeless youth.

Response: The issues raised refer more generally to juvenile justice systems' operations as they affect a broad range of problem children, not just missing children. These issues are addressed in POLICY training and in OJJDP's technical assistance efforts. However, the issues are important and the Office will take them under consideration in developing its FY 1994 comprehensive plan.

2. *Comment:* One respondent indicated that the proposed program, "Study of the Effectiveness of Private Investigators in Locating and Recovering Parentally Abducted Children," would not be a priority for her State. From experience, private investigators were not successful in locating and recovering parentally abducted children in that State.

Response: This response points out the possible outcome which this research is designed to determine.

During Fiscal Year 1993, OJJDP will provide funding for 17 different program options in support of our Missing Children Legislation. Many of these programs directly provide training and technical assistance for law enforcement and social services personnel (public and private) who have to intervene on behalf of runaways, thrownaways, homeless, missing and exploited children and their families. Some of these projects will be producing training manuals on a variety of subject matters designed to educate, train and support all who come in contact with these individuals.

These manuals will be made available and disseminated to interested parties upon request.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 93–4677 Filed 2–26–93; 8:45 am]

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Federal Register

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FEDERAL REGISTER PAGES AND DATES, MARCH

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CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1991. The CFR volume issued January 1, 1987, should be retained.

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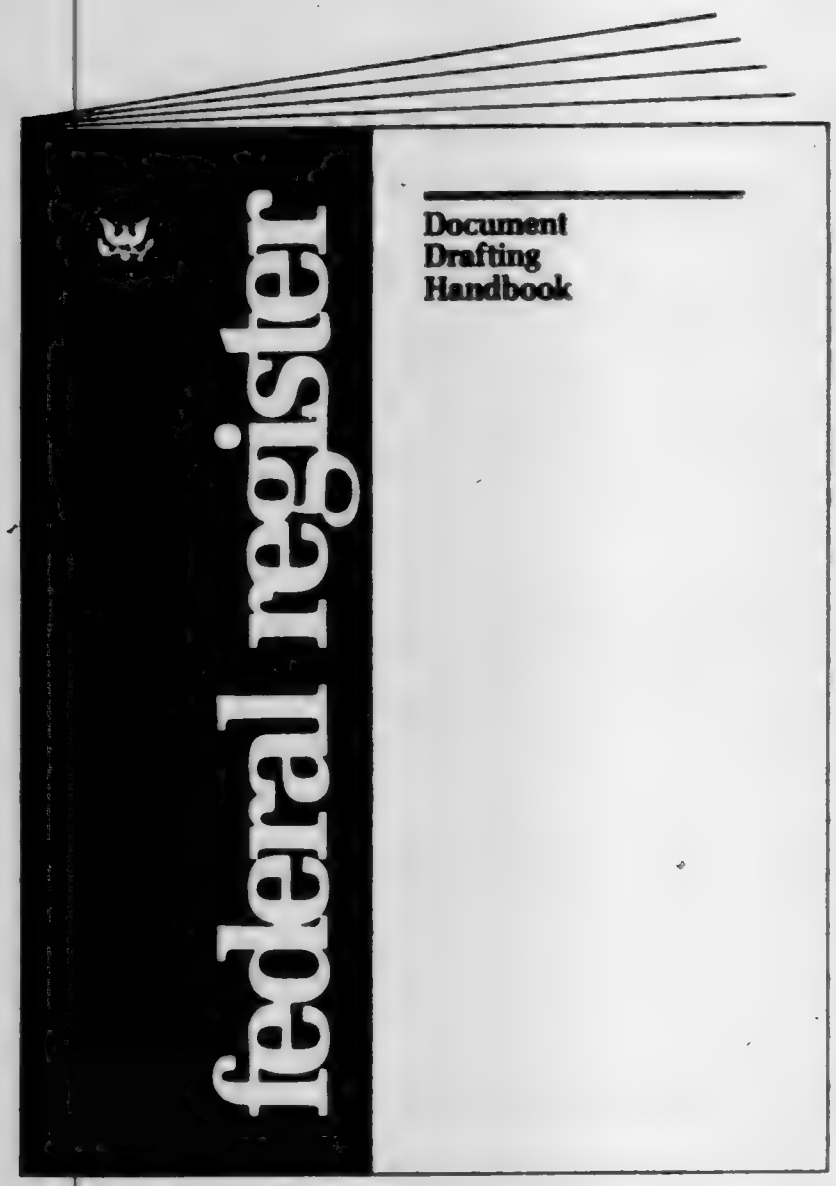

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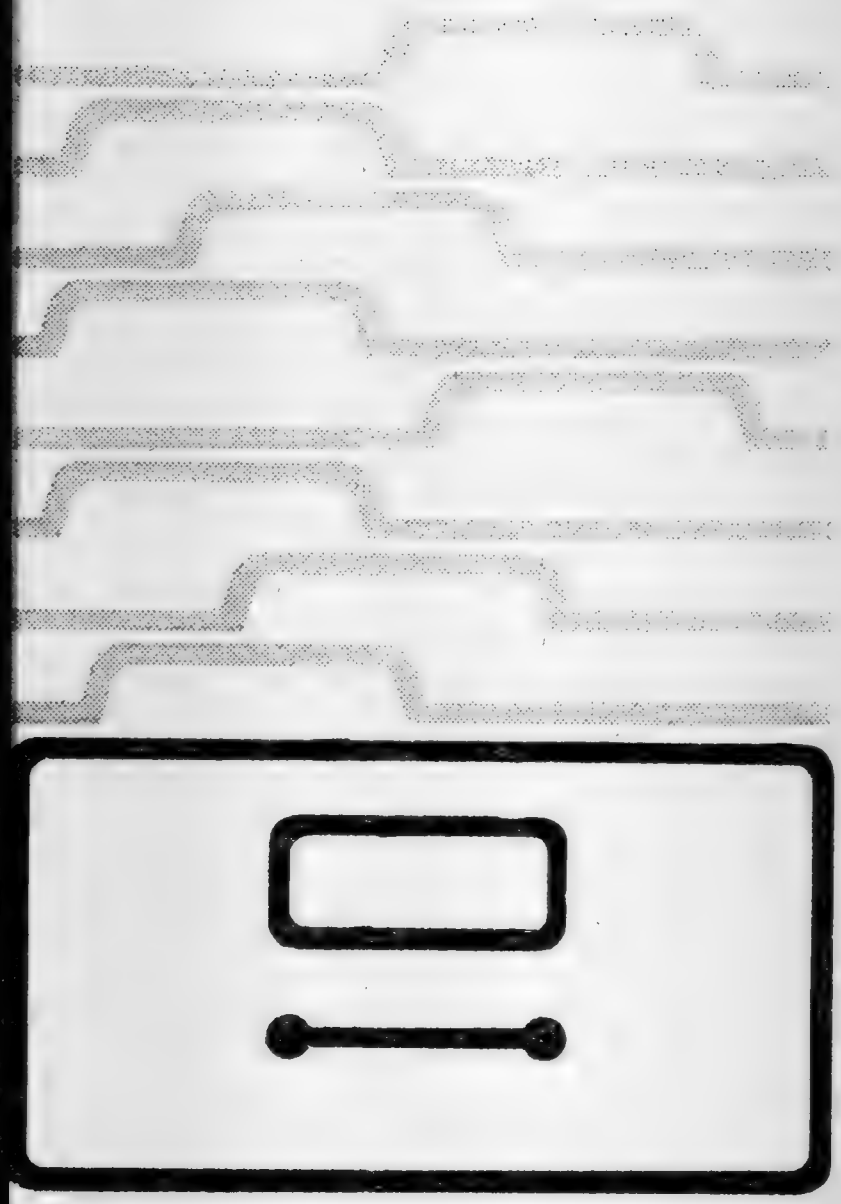

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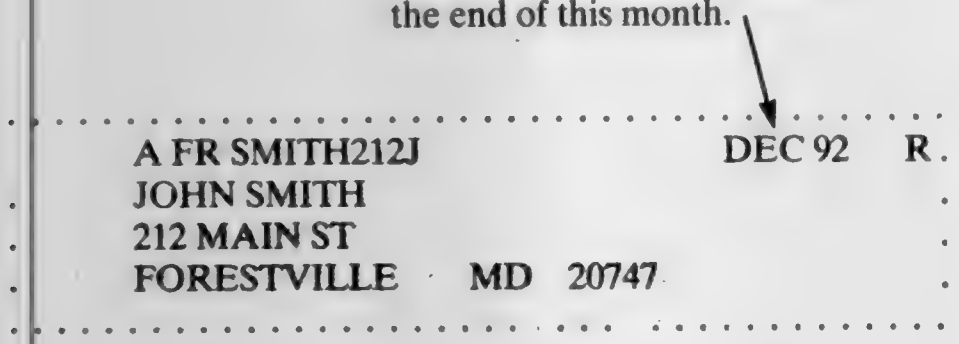

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Title 3—

The President

Proclamation 6531 of February 25, 1993

National FFA Organization Awareness Week, 1993

By the President of the United States of America

A Proclamation

America's roots run deep in agriculture. We have long prospered through the twin blessings of our natural resources and the productivity of the American farmer. Agriculture has contributed heavily to the economic and social progress of the United States, making our Nation the world's largest exporter of food products and a generous provider of food aid around the world.

For more than two centuries, our food, agricultural, and natural resource system has been nurtured and sustained by dedicated people committed to providing safe and abundant food and fiber products. About 20 percent of the Nation's work force is engaged in jobs related to agriculture, and annual employment openings in this industry are expected to outpace the supply of trained workers.

The education and training of agricultural workers have, therefore, long been a national priority, leading to the development of a comprehensive system of agricultural education in our public schools. The National Future Farmers of America was founded in 1928 to serve the needs of secondary students preparing for leadership roles in the science, business, and technology of agriculture. Chartered by Congress in 1950, the FFA is an integral part of public instruction in agriculture and today provides premier leadership, personal growth, and career development to its 401,574 members. Local, State, and national activities as well as award programs provide opportunities for students to apply knowledge and skills acquired through agricultural education. FFA members strive to develop agricultural leadership, cooperation, and citizenship.

The National FFA Foundation, which raises funds in support of FFA programs, represents an exemplary partnership between business and education. The National FFA Alumni Association provides support to these young men and women on local, State, and national levels.

The strategic importance of our food, agricultural, and natural resource system will grow during the coming decade. This will require even stronger leaders, more creative scientists, greater international business understanding, and increased sensitivity for consumers and the environment. These skilled professionals will chart the course of U.S. food, agricultural, and natural resources in the 1990s and beyond. The National FFA Organization, by attracting young people to agriculture and preparing them for future careers, contributes greatly to an important sector of the national economy. It is proper that we should honor the accomplishments and achievements of this fine organization.

The Congress, by House Joint Resolution 101, has designated the week of February 21 through February 27, 1993, as "National FFA Organization Awareness Week" and has authorized and requested the President to issue a proclamation calling upon the people of the United States to observe this week with appropriate ceremonies and activities.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the week of February 21 through February 27, 1993, as National FFA Organization Awareness Week. I encourage all Americans in rural, urban, and suburban communities to join in recognizing the achievements and contributions of the young men and women of the National FFA Organization and to observe National FFA Organization Awareness Week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of February, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93-4907
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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870, 871, 872, and 873

RIN 3206–AE65

Federal Employees' Group Life Insurance Program: Premium Rate Reduction and Open Enrollment Period

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for comments.

SUMMARY: The Office of Personnel Management (OPM) has reevaluated the premium rates for Basic life insurance and the three forms of optional coverage on the basis of growth in reserves, improved mortality experience, and changed demographic and economic assumptions. This reevaluation has resulted in a reduction in the premium rates for Basic coverage and for some age categories for Standard, Additional and Family Optional insurance. The reductions will be effective with the first pay period beginning on or after January 1, 1993. (For retirees, any reductions in premium levels will be reflected in their February 1, 1993, annuity payments.) OPM is also amending its regulations to permit an open enrollment period from March 29 through April 30, 1993, during which time employees otherwise eligible to participate in the Federal Employees' Group Life Insurance (FEGLI) Program will have an opportunity to add to their existing coverage or to enroll in the Program if they have previously waived coverage.

DATES: Interim regulations are effective April 1, 1993. Comments must be received on or before April 1, 1993.

ADDRESSES: Written comments may be sent to Andrea S. Minnieer, Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, room 4351, 1900 E Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Abby L. Block, (202) 606–0191.

SUPPLEMENTARY INFORMATION: The last reduction in premium levels was on August 1, 1986, and the last open enrollment period was from June 1 through July 1, 1985. Based on our review of the rates and premium experience since 1986, we have found that the premiums for Basic coverage and some age categories of Optional coverages can be further reduced. Since no open enrollment period has been conducted since 1985 and our most recent review indicates that claims experience has more than sustained the new rates introduced in 1986, we believe employees should be given an opportunity to review their insurance needs and, if needed, either add to their coverage or enroll in FEGLI if they have previously waived some or all coverage.

We will not require a positive reenrollment of all FEGLI enrollees. As in 1985, only those employees who wish to change their participation status or their levels of coverage will have to complete an election form. However, we want to emphasize that this election will not be considered a first opportunity to enroll for purposes of meeting the requirements to carry life insurance into retirement. In order to carry these elected coverages (including a higher multiple of Option B) into retirement, they must be in effect for the 5 years of service immediately receding the date of retirement, or for the entire period(s) of service during which they were available (if this period of coverage is less than 5 years). Previous waivers (of Basic) or declinations (of options) will not be cancelled unless the employee submit a new election. Elections filed during the open enrollment period will become effective at the beginning of the first pay period which begins on or after May 30, 1993, and which immediately follows a pay period during which the employee was in a pay and duty status for at least 32 hours. Part-time employees will need to have been in a pay and duty status for one-half of the regularly-scheduled tour of duty indicated on their current SF 50's for newly-elected coverage to become effective. This 1-month minimum waiting period between the date of the election and the effective date of coverage, coupled with the length of time an employee must be in a pay and duty status before coverage can attach, are designed to protect the Program from adverse selection.

Detailed guidance will be provided agencies and employing offices in Federal Personnel Manual letters and bulletins concerning the reduction in premium rates, the open enrollment material which must be provided all eligible employees, and the shipping and distribution schedules.

OPM has determined that, in view of the need to commence action on the open enrollment period as soon as possible, a 30-day comment period is appropriate. This will accord an adequate period of time for interested parties to comment on the interim regulations.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. This notice is being waived in order to reduce the FEGLI premiums and provide an open enrollment period at the earliest date administratively possible.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect Federal employees and annuitants only.

List of Subjects

5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Life insurance, Retirement.

5 CFR Parts 871, 872, and 873

Administrative practice and procedure, Government employees, Life insurance, Retirement.

U.S. Office of Personnel Management.

Patricia W. Lattimore,

Acting Director.

Accordingly, OPM is amending 5 CFR parts 870, 871, 872 and 873 as follows:

PART 870—BASIC LIFE INSURANCE

1. The authority citation for part 870 continues to read as follows:

Authority: 5 U.S.C. 8716; § 870.202(c) also issued under 5 U.S.C. 7701(b)(2); subpart J is also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064, as amended.

§ 870.203 [Amended]

2. In § 870.203(d), the dates "June 1 through July 1, 1985", "August 1, 1985" and "June 30, 1985" are removed and the dates "March 29 through April 30, 1993", "May 30, 1993" and "March 31, 1993", respectively, are added in their place.

§ 870.204 [Amended]

3. In § 870.204(g)(1), the dates "June 1 through July 1, 1985" are removed and the dates "March 29 through April 30, 1993" are added in their place.

4. In § 870.204(g)(2), the dates "June 1 through July 1, 1985", "1985" and "August 1, 1985" are removed and the dates "March 29 through April 30, 1993", "1993" and "May 30, 1993", respectively, are added in their place.

§ 870.401 [Amended]

5. In § 870.401 (a) and (b), the amount of "$0.185" is removed and "$0.165" is added in its place.

6. In § 870.401(f)(1), the amounts "$0.4008" and "$0.0925" are removed and "$0.3575" and "$0.0825", respectively, are added in their place.

PART 871—STANDARD OPTIONAL LIFE INSURANCE

7. The authority citation for part 871 continues to read as follows:

Authority: 5 U.S.C. 8716.

§ 871.203 [Amended]

8. In § 871.203(c), the dates "June 1 through July 1, 1985", "August 1, 1985" and "June 30, 1985" are removed and the dates "March 29 through April 30, 1993", "May 30, 1993" and "March 31, 1993", respectively, are added in their place.

§ 871.205 [Amended]

9. In § 871.205(g)(1), the dates "June 1 through July 1, 1985" are removed and the dates "March 29 through April 30, 1993" are added in their place.

10. In § 871.205(g)(2), the dates "June 1 through July 1, 1985", "1985" and "August 1, 1985" are removed and the dates "March 29 through April 30, 1993", "1993" and "May 30, 1993", respectively, are added in their place.

11. In § 871.401, the first sentence of paragraph (c) is revised to read as follows:

§ 871.401 Withholding.

* * * * *

(c) The biweekly full cost per $10,000 of standard optional insurance until determined by OPM on the basis of experience to be otherwise, is—

For persons under age 35	$0.40
For persons ages 35 through 39	0.50
For persons ages 40 through 44	0.70
For persons ages 45 through 49	1.10
For persons ages 50 through 54	1.80
For persons ages 55 through 59	3.00
For persons age 60 or over	7.00

* * * * *

PART 872—ADDITIONAL OPTIONAL LIFE INSURANCE

12. The authority citation for part 872 continues to read as follows:

Authority: 5 U.S.C. 8716.

§ 872.203 [Amended]

13. In § 872.203(c), the dates "June 1 through July 1, 1985", "August 1, 1985" and "June 30, 1985" are removed and the dates "March 29 through April 30, 1993", "May 30, 1993" and "March 30, 1993", respectively, are added in their place.

§ 872.205 [Amended]

14. In § 872.205(d)(1), the dates "June 1 through July 1, 1985" are removed and the dates "March 29 through April 30, 1993" are added in their place.

15. In § 872.205(d)(2), the dates "June 1 through July 1, 1985", "1985" and "August 1, 1985" are removed and the dates "March 19 through April 30, 1993", "1993" and "May 30, 1993", respectively, are added in their place.

16. In § 872.401, the first sentence of paragraph (c) is revised to read as follows:

§ 872.401 Withholdings.

* * * * *

(c) The biweekly full cost per $1,000 of additional optional insurance in force, until determined by OPM on the basis of experience to be otherwise, is—

* * * * *

For persons under age 35	$0.04
For persons ages 35 through 39	0.05
For persons ages 40 through 44	0.07
For persons ages 45 through 49	0.11
For persons ages 50 through 54	0.18
For persons ages 55 through 59	0.30
For persons age 60 or over	0.70

* * * * *

PART 873—FAMILY OPTIONAL LIFE INSURANCE

17. The authority citation for part 873 continues to read as follows:

Authority: 5 U.S.C. 8716.

§ 873.203 [Amended]

18. In § 873.203(c), the dates "June 1 through July 1, 1985", "August 1, 1985" and "June 30, 1985" are removed and the dates "March 29 through April 30, 1993", "May 30, 1993" and "March 30, 1993", respectively, are added in their place.

§ 873.205 [Amended]

19. In § 873.205(e)(1), the dates "June 1 through July 1, 1985" are removed and the dates "March 29 through April 30, 1993" are added in their place.

20. In § 873.205(e)(2), the dates "June 1 through July 1, 1985", "1985" and "August 1, 1985" are removed and the dates "March 29 through April 30, 1993", "1993" and "May 30, 1993", respectively, are added in their place.

21. In § 873.401, the first sentence of paragraph (c) is revised to read as follows:

§ 873.401 Withholdings.

* * * * *

(c) The biweekly cost of family optional insurance applicable to employees, annuitants, and compensationers (not family members), until determined by OPM on the basis of experience to be otherwise, is—

For persons under age 35	$0.30
For persons ages 35 through 39	0.31
For persons ages 40 through 44	0.52
For persons ages 45 through 49	0.70
For persons ages 50 through 54	1.00
For persons ages 55 through 59	1.50
For persons age 60 or over	2.60

* * * * *

[FR Doc. 93–4615 Filed 3–1–93; 8:45 am]

BILLING CODE 5325–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and General Officers of the Department to reflect a delegation of authority with respect to USDA implementation of section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a) as it pertains to grants, loans, and licenses.

EFFECTIVE DATE: March 2, 1993.

FOR FURTHER INFORMATION CONTACT: Juliette Bethea, Chief, Federal Assistance and Fiscal Policy Division, Office of Finance and Management,

United States Department of Agriculture, Washington, DC 20250, (202) 720–1204.

SUPPLEMENTARY INFORMATION: The delegations of authority of the Department of Agriculture are amended to reflect the delegation of responsibility to the Assistant Secretary for Administration and the Director, Office of Finance and Management for implementation of, oversight over, and monitoring of USDA implementation of section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a) with regard to grants, loans, and licenses. Responsibility for implementation of procurement activities rests with the Director, Office of Operations pursuant to 7 CFR 2.76.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order No. 12291. Finally, this action is not a rule as defined by Public Law No. 96–354, the Regulatory Flexibility Act, and, thus, is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

Accordingly, part 2, title 7, Code of Federal Regulations is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.25 is amended by adding new paragraphs (b)(2)(iv) and (b)(5)(x) as follows:

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

* * * * *

(b) * * *

(2) * * *

(iv) Section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a) as it relates to grants, loans, and licenses.

* * * * *

(5) * * *

(x) Monitoring USDA implementation of section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a) as it relates to grants, loans, and licenses.

* * * * *

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

3. Section 2.75 is amended by adding new paragraphs (a)(2)(v) and (a)(6)(xiv) as follows:

§ 2.75 Director, Office of Finance and Management.

(a) * * *

(2) * * *

(v) Section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a) as it relates to grants, loans, and licenses.

* * * * *

(6) * * *

(xiv) Monitoring USDA implementation of section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a) as it relates to grants, loans, and licenses.

* * * * *

For subpart C:

Dated: January 15, 1993.

Edward Madigan,

Secretary of Agriculture.

For subpart J:

Dated: December 3, 1992.

Charles R. Hilty,

Assistant Secretary for Administration.

[FR Doc. 93–4500 Filed 3–1–93; 8:45 am]

BILLING CODE 3410–90–M

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7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture to the Assistant Secretary for Administration to include new duties as Chief Financial Officer, to add delegations of authority to the Deputy Chief Financial Officer, and to revise delegations of authority to the Deputy Assistant Secretary for Administration and the Director of the Office of Finance and Management.

EFFECTIVE DATE: March 2, 1993.

FOR FURTHER INFORMATION CONTACT: Rita M. Morgan, Attorney, Office of the General Counsel, United States Department of Agriculture, Washington, DC 20250–1400, (202) 720–3564.

SUPPLEMENTARY INFORMATION: The Chief Financial Officers Act of 1990, Public Law No. 101–576, created the position of Chief Financial Officer for Federal agencies enumerated in the Act. One of the agencies enumerated is the Department of Agriculture. This document designates the Assistant Secretary for Administration as the Chief Financial Officer for the Department of Agriculture and states the duties of that position; it also revises the delegation of authority to the Deputy Assistant Secretary for Administration by excepting from the delegation to the Deputy Assistant Secretary for Administration the authority delegated to the Deputy Chief Financial Officer. In addition, this document delegates authority to the Deputy Chief Financial Officer to perform the duties of the Chief Financial Officer in the absence or unavailability of the Chief Financial Officer. This document also revises the delegations to the Director of the Office of Finance and Management that conflict with or overlap the delegations to the Deputy Chief Financial Officer.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rule making and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order Nos. 12291 and 12778. Finally, this action is not a rule as defined by Public Law No. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

Accordingly, part 2, title 7, Code of Federal Regulations is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.25 is amended by adding a new paragraph (b)(24) to read as follows:

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

* * * * *

(b) *Related to finance and management.*

* * * * *

(24) Serve as Chief Financial Officer for the Department of Agriculture under the supervision of the Secretary by executing the duties enumerated for agency Chief Financial Officers in the Chief Financial Officers Act of 1990, Public Law No. 101–576, 31 U.S.C. 902, including:

(i) Reporting directly to the Secretary of Agriculture regarding financial management matters.

(ii) Overseeing all financial management activities relating to the programs and operations of the Department.

(iii) Developing and maintaining an integrated accounting and financial system for the Department, including financial reporting and internal controls, which—

(A) Complies with applicable accounting principles, standards, and requirements, and internal control standards.

(B) Complies with such policies and requirements as may be prescribed by the Director of the Office of Management and Budget.

(C) Complies with any other requirements applicable to such systems.

(D) Provides for complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of Department management and for the development and reporting of cost information, the integration of accounting and budgeting information, and the systematic measurement of performance.

(iv) Making recommendations to the Secretary regarding the selection of the Deputy Chief Financial Officer of the agency.

(v) Directing, managing, and providing policy guidance and oversight of Department financial management personnel, activities, and operations, including:

(A) Preparing and annually revising a Departmental plan to:

(*1*) Implement the 5-year financial management plan prepared by the Director of the Office of Management and Budget under section 3512(a)(3) of title 31 of the United States Code; and

(*2*) Comply with the requirements established for agency financial statements under section 3515 of title 31 of the United States Code and with the requirements for audits of Department financial statements established in subsections (e) and (f) of section 3521 of title 31 of the United States Code.

(B) Developing Departmental financial management budgets.

(C) Recruiting, selecting, and training of personnel to carry out Departmental financial management functions.

(D) Approving and managing Departmental financial management systems design or enhancement projects.

(E) Implementing Departmental asset management systems, including systems for cash management, credit management, debt collection, and property and inventory management and control.

(vi) Preparing and transmitting, by not later than 60 days after the submission of the audit report required by section 3521(f) of title 31 of the United States Code, an annual report to the Secretary and the Director of the Office of Management and Budget, which shall include:

(A) A description and analysis of the status of financial management of the Department.

(B) The annual financial statements prepared under section 3521 of title 31 of the United States Code.

(C) The audit report transmitted to the Secretary under section 3521 of title 31 of the United States Code.

(D) A summary of the reports on internal accounting and administrative control systems submitted to the President and the Congress under the amendments made by the Federal Managers' Financial Integrity Act of 1982, Public Law No. 97–255.

(E) Other information the Secretary considers appropriate to inform fully the President and the Congress concerning the financial management of the Department.

(vii) Monitoring the financial execution of the budget of the Department in relation to actual expenditures, and preparing and submitting to the Secretary timely performance reports.

(viii) Reviewing, on a biennial basis, the fees, royalties, rent, and other charges imposed by the Department for services and things of value it produces, and making recommendations on revising those charges to reflect costs incurred by the Department in providing those services and things of value.

(ix) Accessing all records, reports, audits, reviews, documents, papers, recommendations, or other material that are the property of the Department or that are available to the Department, and that relate to programs and operations with respect to which the Chief Financial Officer has responsibilities, except that this grant allows no access greater than that permitted under any other law to records, reports, audits, reviews, documents, papers, recommendation, or other material of the Office of Inspector General.

(x) Requesting such information or assistance as may be necessary for carrying out the duties and responsibilities granted the Chief Financial Officer by the Chief Financial Officers Act of 1990 from any Federal, State, or local governmental entity.

(xi) To the extent and in such amounts as may be provided in advance by appropriations acts, entering into contracts and other arrangements with public agencies and with private persons for the preparation of financial statements, studies, analyses, and other services, and making such payments as may be necessary to carry out the duties and prerogatives of the Chief Financial Officer.

* * * * *

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

3. Section 2.74 is amended by revising paragraph (a)(1) to read as follows:

§ 2.74 Deputy Assistant Secretary for Administration.

(a) *Delegations.* * * *

(1) Perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Assistant Secretary for Administration except for the duties and powers delegated to the Assistant Secretary for Administration in § 2.25(b)(24).

4. Section 2.74a is added to read as follows:

§ 2.74a Deputy Chief Financial Officer.

(a) *Delegations.* Pursuant to § 2.25(b), the following delegation of authority is made by the Assistant Secretary for Administration to the Deputy chief Financial Officer, to be exercised only during the absence or unavailability of the Assistant Secretary:

(1) Perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Assistant Secretary for Administration as Chief Financial Officer.

§ 2.75 [Amended]

5. Section 2.75 is amended by removing paragraph (a)(2)(i) and redesignating paragraphs (a)(2)(ii) through (a)(2)(iv) as (a)(2)(i) through (a)(2)(iii) respectively; by removing paragraphs (a)(6)(i), (a)(6)(ii), (a)(6)(vi), (a)(6)(ix), and (a)(6)(x) and redesignating paragraphs (a)(6)(iii) through (a)(6)(v), (a)(6)(vii) and (a)(6)(viii), and (a)(6)(xi) through (a)(6)(xiii) as paragraphs (a)(6)(i) through (a)(6)(iii), (a)(6)(iv) and (a)(6)(v), and (a)(6)(vi) through (a)(6)(viii), respectively.

For Subpart C:

Dated: January 21, 1993

Charles R. Hilty,

Acting Secretary of Agriculture.

For Subpart J:

Dated: January 21, 1993

Charles R. Hilty,

Assistant Secretary for Administration.

[FR Doc. 93–4649 Filed 3–1–93; 8:45 am]

BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

7 CFR Part 321

[Docket No. 93–021–1]

Importation of Potatoes From Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations concerning the importation of potato plants and tubers from Canada that were established to prevent the introduction of the necrotic strain of potato virus Y (PVY^n) into the United States. This interim rule relaxes certain restrictions on importing potatoes from Canada. This rule will require certification of certain potatoes imported into the United States from Canada based on surveys performed by Agriculture Canada. Implementation of this rule will provide protection to U.S. agriculture against the introduction of PVY^n while relieving unnecessary restrictions.

DATES: Interim rule effective February 24, 1993. Consideration will be given only to comments received on or before May 3, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93–021–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT:

Mr. James Petit de Mange, Operations Officer, Port Operations Staff, PPQ, APHIS, USDA, room 632, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8645.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 321 concerning the importation of potatoes from Canada require that seed potatoes imported from New Brunswick, Nova Scotia, Ontario, Prince Edward Island, and Quebec, as well as all potatoes grown within 200 meters from them, be tested and found free from the necrotic strain of potato virus Y (PVY^n). The imported potatoes also cannot be sibling or cousin potatoes to any PVY^n infected potatoes. The imported potatoes also have to be harvested at least 5 kilometers or more from any PVY^n-infected potatoes and at least 200 meters from any potatoes that are siblings or cousins of PVY^n-infected potatoes. Finally, only foundation and certified classes of potatoes can be imported.

Additionally, seed potatoes produced in other parts of Canada, but which are progeny of New Brunswick, Nova Scotia, Ontario, Prince Edward Island, and Quebec potatoes, require certification as if harvested from one of those five provinces in order to be imported into the United States.

The regulations allow the importation of table stock and processing potatoes from New Brunswick, Nova Scotia, Ontario, Prince Edward Island, and Quebec if the potatoes meet the certification requirements for seed potatoes. If they do meet these standards, the potatoes may enter if certified as treated with a sprout inhibitor.

The Animal and Plant Health Inspection Service (APHIS) feels very positively about the steps Canada is taking in the eradication and control of the spread of PVY^n, and we have confidence in their phytosanitary certification program. We have been working closely with Agriculture Canada and the provinces in their development of eradication plans as well as survey and testing procedures.

Based upon continued evaluation of data concerning the relative risks of the presence of PVY^n in Canada and the United States, as well as information about Canada's PVY^n eradication program and the operation of its certified seed potato program, we have determined that Canada possesses sufficient data to safely identify areas within Canada that are free from PVY^n. The combined effects of the survey information that is available, the prohibition against the movement of Prince Edward Island seed potatoes to other Canadian provinces since 1990, the regulatory actions taken by the Canadian government in the provinces where PVY^n was found, and testing and certification requirements required by the United States and Canada, will result in an insignificant risk of the introduction of PVY^n. Therefore, we are removing unnecessary and unduly burdensome restrictions from the existing regulations. APHIS believes these changes are warranted and may be done while continuing to provide protection to U.S. agriculture against the introduction of PVY^n into the United States.

Specifically, we will no longer require the declaration stating that the potatoes have been found free of PVY^n based on leaf and tuber sprout testing at the 1000 leaf or tuber level, or higher, per seed lot, nor the testing requirement for all potatoes grown within 200 meters. We will no longer prohibit the importation of cousin potatoes of any lot of potatoes known to be infected with PVY^n. We are also removing the requirement that the potatoes be foundation or certified seed potatoes. Further, we are removing the restriction placed on the progeny of New Brunswick, Nova Scotia, Ontario, Prince Edward Island, and Quebec potatoes when they are grown in other provinces.

APHIS also is removing restrictions as they apply to Nova Scotia and Quebec. We believe the detections of PVY^n in those provinces were isolated incidents. The potatoes that produced the infected potatoes in those provinces were traced back to Prince Edward Island. Further surveys in those provinces have not revealed an established infestation of PVY^n. Therefore, we recognize Nova Scotia and Quebec as areas free of PVY^n.

Domestic regulations of Canada restrict the movement and eliminate from use as seed potatoes in Canada any lot of potatoes found infested with PVY^n, any sibling lot(s) of known infested lots (including sibling lots that tested negative for the virus) and all potatoes grown within 1 kilometer of an infested field. Five kilometer zones are created around PVY^n infested fields and

all potatoes within that controlled area are tested for PVY^n. Potatoes from that area may be used only for table stock and processing within Canada if they have been treated with a sprout inhibitor. Further, potatoes grown within 200 meters of a sibling lot may not be used for seed in Canada. Based on these actions, we are changing the regulations to allow seed potatoes to be imported from Canada if they are accompanied by a phytosanitary certificate stating that the potatoes: (1) Are not known to be infected with PVY^n; (2) originated from fields that are 5 kilometers or more from any field testing positive for PVY^n; (3) are not sibling potatoes of a lot of potatoes known to be infected with PVY^n; and (4) originated from fields that are 200 meters or more from any field planted with sibling potatoes of a lot of potatoes known to be infected with PVY^n.

The domestic regulations and the eradication measures underway in Canada prevent movement of PVY^n-infected potatoes or their siblings to other provinces. Therefore, we are removing the restrictions placed on potatoes grown in uninfested provinces but which are the progeny of potatoes from New Brunswick, Nova Scotia, Ontario, Prince Edward Island, and Quebec.

APHIS has also determined that it is prudent to regulate table stock and processing potatoes from New Brunswick, Ontario, and Prince Edward Island, due to their proximity to potentially infested fields. Phytosanitary certificates will be required for these potatoes in order to differentiate between table stock and processing potatoes grown within 5 kilometers of an infested field or within 200 meters of sibling potatoes for which we will require sprout inhibitor treatment, and those grown beyond those areas.

Table stock and processing potatoes from provinces where PVY^n appears to have been established (New Brunswick, Ontario, and Prince Edward Island) may be imported if accompanied by a phytosanitary certificate stating that the potatoes: (1) are not known to be infected with PVY^n, originated from fields that are 5 kilometers or more from any field testing positive for PVY^n, are not sibling potatoes of a lot of potatoes known to be infected with PVY^n, and originated from fields that are 200 meters or more from any field planted with sibling potatoes of a lot of potatoes known to be infected with PVY^n; or (2) are not known to be infected with PVY^n and have been treated with the sprout inhibitors chlorpropham and/or maleic hydrazide, or both, in accordance with the rates and manner specified on the product label. Table stock and processing potatoes from provinces where PVY^n has not been established may be imported without restriction.

Additionally, we are removing the definitions for certain terms no longer used in the regulations.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to relieve restrictions which are unnecessarily burdensome and do not significantly reduce pest risk to U.S. agriculture.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. This rule may have a significant economic impact on a substantial number of small entities. If we determine this is so, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Analysis.

Executive Order 12778

This rule will allow potatoes to be imported into the United States from Canada. State and local laws and regulations regarding potatoes imported under this rule will be preempted while the vegetable is in foreign commerce. If the potatoes are imported for immediate distribution and sale to the consuming public, they would remain in foreign commerce until sold to the ultimate consumer. The question of where foreign commerce ceases in other cases must be addressed on a case-by-case basis. This rule has no retroactive effect and does not require administrative proceedings before parties may file suit in court.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control number is 0579–0049.

List of Subjects in 7 CFR Part 321

Imports, Plant diseases and pests, Potatoes, Quarantine, Reporting and recordkeeping requirements.

Accordingly, 7 CFR 321 is amended as follows:

PART 321—RESTRICTED ENTRY ORDERS

1. The authority citation for part 321 continues to read as follows:

Authority: 7 U.S.C. 154, 159, and 162; 44 U.S.C. 35; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 321.2 is amended by removing the definitions for *Canadian seed potato farm; Certified seed potatoes; Cousin potatoes; Foundation seed potatoes; Leaf testing;* and *Tuber sprout testing.*

3. In § 321.9, paragraphs (b) through (d) are revised to read as follows:

§ 321.9 Importation of potatoes from Canada.

* * * * *

(b) Seed potatoes that are not prohibited importation under paragraph (a) of this section may be imported into the United States from Canada if they are accompanied by a phytosanitary certificate issued by Agriculture Canada stating the province of origin and stating that the potatoes:

(1) Are not known to be infected with PVY^n;

(2) Originated from fields that are 5 kilometers or more from any field testing positive for PVY[n];

(3) Are not sibling potatoes of a lot of potatoes known to be infected with PVY[n], and;

(4) Originated from fields that are 200 meters or more from any field planted with sibling potatoes of a lot of potatoes known to be infected with PVY[n].

(c) Table stock and processing potatoes that are not prohibited importation under paragraph (a) of this section and that are grown in New Brunswick, Ontario, or Prince Edward Island, may be imported from Canada into the United States if they are accompanied by a phytosanitary certificate issued by Agriculture Canada stating the province of origin and stating that the potatoes:

(1) Are not known to be infected with PVY[n];

(2) Originated from fields that are 5 kilometers or more from any field testing positive for PVY[n];

(3) Are not sibling potatoes of a lot of potatoes known to be infected with PVY[n]; and

(4) Originated from fields that are 200 meters or more from any field planted with sibling potatoes of a lot of potatoes known to be infected with PVY[n].

(d) Table stock and processing potatoes that cannot be certified under paragraph (c) of this section and that are grown in New Brunswick, Ontario, or Prince Edward Island, may be imported from Canada into the United States if they are accompanied by a phytosanitary certificate issued by Agriculture Canada stating the province of origin and stating that the potatoes:

(1) Are not known to be infected with PVY[n]; and

(2) Are treated with the sprout inhibitors chlorpropham and/or maleic hydrazide, or both, in accordance with the rates and manner specified on the product label.

* * * * *

Done in Washington, DC, this 24th day of February 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–4754 Filed 3–1–93; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Stabilization and Conservation Service

7 CFR Part 723

RIN 0560–AD11

Tobacco; Acre-for-Acre Transfer of Fire-Cured, Dark Air-Cured, and Virginia Sun-Cured Tobacco Allotments

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations to implement provisions of Public Law 102–566, enacted on October 28, 1992, which amended the Agricultural Adjustment Act of 1938 to require that the sale or lease of acreage allotments between farms by producers of fire-cured, dark air-cured, and Virginia sun-cured tobaccos be approved by the county committee on an acre-for-acre basis. Currently, a downward adjustment in the allotment transferred is required when the normal yield on the farm from which the allotment is transferred exceeds by more than 10 percent the normal yield on the farm to which the allotment is being transferred.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Rebecca Fial, Agricultural Program Specialist, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013, telephone 202–690–0012.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Departmental Regulation No. 1512–1

This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Department Regulation No. 1512–1 and has been classified as "not major". It has been determined that this rule will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local governments or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.51.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environment impact statement is needed.

Executive Order 12372

This program/activity is not subject to the provision of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12778

This rule has been reviewed in accordance with Executive Order 12778. It is not retroactive and does not preempt State law. The administrative appeal provisions of 7 CFR part 780 must be exhausted before any judicial action may be brought regarding the provisions of this rule.

Paperwork Reduction Act

The amendment to 7 CFR part 723 set forth in this final rule does not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35.

Background

Regulations at 7 CFR 723.216 require that a downward adjustment be made in a fire-cured, dark air-cured, and Virginia sun-cured tobacco allotment when the normal yield on the farm to which the allotment is being transferred exceeds, by more than 10 percent, the normal yield on the farm from which the allotment is being transferred. The purpose of that provision was to prevent the transfer of allotments between farms with substantially different production yields from altering the national marketing quota. Public Law 102–566 provides that the sale or lease of

allotments for these types of tobaccos be approved by the county committee on an acre-for-acre basis. Accordingly, this final rule amends 7 CFR 723.216 to reflect this statutory change. Since this amendment solely incorporates the mandatory statutory provision, no further rulemaking is required.

List of Subjects in 7 CFR Part 723

Acreage allotments, Marketing quotas, Penalties, Reporting and recordkeeping requirements, Tobacco.

Accordingly, 7 CFR part 723 is amended as follows:

PART 723—TOBACCO

1. The authority for 7 CFR part 723 is revised to read as follows:

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314b, 1314b–1, 1314c, 1314d, 1314f, 1314h, 1315, 1316, 1363, 1372–75, 1377–1379, 1421, 1445, 1445–1, and 1445–2.

2. Section 723.216 is amended by revising paragraph (i)(4) to read as follows:

§ 723.216 Transfer of tobacco acreage allotment or marketing quota by sale, lease, or owner.

* * * * *

(i) * * *

(4) *Basis for transfer.* The transfer shall be approved acre for acre.

* * * * *

Signed at Washington, DC on February 24, 1993.

Bruce R. Weber,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 93–4752 Filed 3–1–93; 8:45 am]

BILLING CODE 3410–05–M

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7 CFR Part 723

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AC79

1993 Marketing Quota and Price Support for Flue-Cured Tobacco

AGENCIES: Agricultural Stabilization and Conservation Service and Commodity Credit Corporation, (USDA).

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to codify determinations made by the Secretary of Agriculture (Secretary) with respect to the 1993 crop of flue-cured tobacco. In accordance with the Agricultural Adjustment Act of 1938 (1938 Act), as amended, the Secretary determined the 1993 marketing quota for flue-cured tobacco to be 891.8 million pounds. In accordance with the Agricultural Act of 1949 (1949 Act), as amended, the Secretary determined the 1993 price support level to be 157.7 cents per pound.

EFFECTIVE DATE: December 15, 1992.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Tobacco and Peanuts Analysis Division, Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA), room 3736, South Building, P.O. Box 2415, Washington, DC 20013–2415, 202–720–8839.

The Final Regulatory Impact Analysis describing the options considered in developing this final rule and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Departmental Regulation 1512–1

This final rule has been reviewed under USDA procedures established to implement Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major." The matters under consideration will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) Major increases in costs for consumers, individual industries, Federal, State or local government agencies or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, the environment, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12778

The final rule has been reviewed in accordance with Executive Order 12778, Civil Justice Reform. The provisions of this rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since neither ASCS nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Executive Order 12372

This activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act Requirements

The amendments to 7 CFR parts 723 and 1464 set forth in this final rule do not contain any new or revised information collection requirements that require clearance through the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35. The information collection requirements contained in the current regulations at 7 CFR parts 723 and 1464 have been approved through August 31, 1995, by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35, and assigned OMB No. 0560–0058. Public reporting burden for these collections is estimated to average 7 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the information collection requirements, including suggestions for reducing the burden, to the Department of Agriculture, Clearance Officer, OIRM, room 404 W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0560–0058), Washington, DC 20503.

Statutory Background

This rule is issued pursuant to the provisions of the 1938 Act, as amended, and the 1949 Act, as amended. On December 15, 1992, the Secretary announced the national marketing quota and price support level for the 1993 crop of flue-cured tobacco.

Marketing Quota

Section 317(a)(1)(B) of the 1938 Act provides, in part, that the national marketing quota for a marketing year for flue-cured tobacco is the quantity of such tobacco that is not more than 103 percent nor less than 97 percent of the total of: (1) The amount of flue-cured tobacco that domestic manufacturers of cigarettes estimate they intend to purchase on U.S. auction markets or

from producers, (2) the average quantity exported annually from the U.S. during the three marketing years immediately preceding the marketing year for which the determination is being made, and (3) the quantity, if any, that the Secretary, in the Secretary's discretion, determines necessary to adjust loan stocks to the reserve stock level.

Section 317(a)(1)(C) further provides that, with respect to the 1990 through 1993 marketing years, any reduction in the national marketing quota being determined shall not exceed 10 percent of the previous year's national marketing quota. The reserve stock level is defined in section 301(b)(14)(C) of the 1938 Act as the greater of 100 million pounds or 15 percent of the national marketing quota for flue-cured tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

Section 320A of the 1938 Act provides that all domestic manufacturers of cigarettes with more than 1 percent of U.S. cigarette production and sales shall submit to the Secretary a statement of purchase intentions for the 1993 crop of flue-cured tobacco by December 1, 1992. Six such manufacturers were required to submit such a statement for the 1993 crop and the total of their intended purchases for the 1993 crop is 473.0 million pounds. The three-year average of exports of 405.6 million pounds.

The national marketing quota for the 1992 crop year was 891.8 million pounds (57 FR 43176). Thus, in accordance with section (b)(14)(C), the reserve stock level for use in determining the 1993 marketing quota for flue-cured tobacco is 133.8 million pounds.

As of December 8, the Flue-Cured Tobacco Stabilization Corporation had in its inventory 124.2 million pounds of flue-cured tobacco (excluding pre-1985 stocks committed to be purchased by manufacturers and covered by deferred sales). Accordingly, the adjustment to maintain loan stocks at the reserve supply level is an increase of 9.6 million pounds.

The total of the three marketing quota components for the 1993–94 marketing year is 888.2 million pounds. Section 317(a)(1)(B) of the 1938 Act further provides that the Secretary may increase or decrease the total by 3 percent. The Secretary used the discretionary authority to increase the three-component total by 3.6 million pounds (0.4 percent), based upon projected supply and demand levels. Accordingly, the national marketing quota for the marketing year beginning July 1, 1993, for flue-cured tobacco is 891.8 million pounds.

Section 317(a)(2) of the 1938 Act provides that the national average yield goal be set at a level, that the Secretary determines will improve or ensure the usability of the tobacco and increase the net return per pound to the growers. Yields in crop year 1992 did not change significantly from the previous year. Accordingly, the national average yield goal for the 1993–94 marketing year will be 2,068 pounds per acre, the same as last year's level.

In accordance with section 317(a)(3) of the 1938 Act, the national acreage allotment for the 1993 crop of flue-cured tobacco is determined to be 427,107.28 acres, derived from dividing the national marketing quota by the national average yield goal.

In accordance with section 317(e) of the 1938 Act, the Secretary is authorized to establish a national reserve from the national acreage allotment in an amount equivalent to not more than 3 percent of the national acreage allotment for the purpose of making corrections in farm acreage allotments, adjusting for inequities, and for establishing allotments for new farms. The Secretary has determined that a national reserve for the 1993 crop of flue-cured tobacco of 981 acres is adequate for these purposes.

In accordance with section 317(a)(4) of the 1938 Act, the national acreage factor for the 1993 crop of flue-cured tobacco for uniformly adjusting the acreage allotment of each farm is determined to be 1.0, which is the result of dividing the 1993 national allotment (427,107.28 acres) minus the national reserve (981 acres) by the total of allotments established for flue-cured tobacco farms in 1992 (426,123.92 acres).

In accordance with section 317(a)(7) of the 1938 Act, the national yield factor for the 1993 crop of flue-cured tobacco is determined to be 0.9264, which is the result of dividing the national average yield goal (2,088 pounds) by a weighted national average yield (2,254 pounds).

Price Support

Price support is required to be made available for each crop of a kind of tobacco for which quotas are in effect, or for which marketing quotas have not been disapproved by producers, at a level determined in accordance with a formula prescribed in section 106 of the 1949 Act.

With respect to the 1993 crop of flue-cured tobacco, the level of support is determined in accordance with sections 106 (d) and (f) of the 1949 Act. Section 106(f)(7)(A) of the 1949 Act provides that the level of support for the 1993 crop of flue-cured tobacco shall be:

(1) The level, in cents per pound, at which the 1992 crop of flue-cured tobacco was supported, plus or minus, respectively,

(2) An adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of:

(A) 66.7 percent of the amount by which:

(I) The average price received by producers for flue-cured tobacco on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than:

(II) The average price received by producers for flue-cured tobacco on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

(b) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year in which the determination is made.

The difference between the two 5-year averages (i.e., the difference between (A) (I) and (II)) is 3.7 cents per pound. The difference in the cost index from January 1 to December 31, 1992, is 0.5 cents per pound. Applying these components to the price support formula (3.7 cents per pound, two-thirds weight; 0.5 cents per pound, one-third weight) results in a weighted total of 2.6 cents per pound. As indicated, section 106 provides that the Secretary may, on the basis of supply and demand conditions, limit the change in the price support level to no less than 65 percent of that amount. In order to remain competitive in foreign and domestic markets, the Secretary used his discretion to limit the increase to 65 percent of the maximum allowable increase. Accordingly, the 1993 crop of flue-cured tobacco will be supported at 157.7 cents per pound, 1.7 cents higher than in 1992.

List of Subjects

7 CFR Part 723

Acreage allotments, Marketing quotas, Penalties, Reporting and recordkeeping requirements, Tobacco.

7 CFR Part 1464

Loan programs-agriculture, Price support programs, Tobacco, Warehouses.

Accordingly, 7 CFR parts 723 and 1464 are amended as follows:

PART 723—TOBACCO

1. The authority citation for 7 CFR part 723 continues to read as follows:

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314c, 1314d, 1314f, 1314h, 1315, 1316, 1363, 1372–75, 1377–1379, 1421, 1445–1, and 1445–2.

2. Sections 723.107 through 723.110 and 723.112 through 723.121 are added and reserved and § 723.111 is added to read as follows:

§§ 723.107–110 [Reserved]

§ 723.111 Flue-cured (types 11–14) tobacco.

The 1993-crop national marketing quota is 891.8 million pounds.

§§ 723.112–121 [Reserved]

PART 1464—TOBACCO

3. The authority citation for 7 CFR part 1464 is revised to read as follows:

Authority: 7 U.S.C. 1441, 1445, 1445–1, 1421 and, 1423 is U.S.C. 7146 and 714c.

§ 1464.12 [Redesignated as § 1464.24]

§§ 1464.13–1464.23 [Reserved]

4. Section 1464.12 is redesignated as § 1464.24, §§ 1464.13 through 1464.23 are added and reserved, and a new § 1464.12 is added to read as follows:

§ 1464.12 Flue-Cured (types 11–14) tobacco.

The 1993-crop national price support level is 157.7 cents per pound.

Signed at Washington, DC on February 24, 1993.

Bruce R. Weber,

Acting Administrator, Agricultural Stabilization and Conservation Service and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93–4753 Filed 3–1–93; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Stabilization and Conservation Service

RIN 0560–AC60

7 CFR Part 729

1993-Crop Peanuts National Poundage Quota

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: On December 15, 1992, the Secretary of Agriculture (Secretary) announced by press release that the national poundage quota for quota peanuts was established at 1,496,000 short tons (st), 44,000 st less than last year's quota. This final rule codifies the announced quota. This rule was made pursuant to the statutory requirements of the Agricultural Adjustment Act of 1938, as amended by the Food, Agriculture, Conservation, and Trade Act of 1990.

EFFECTIVE DATE: December 15, 1992.

FOR FURTHER INFORMATION CONTACT: Ronald W. Holling, Tobacco and Peanuts Analysis Division, Agricultural Stabilization and Conservation Service (ASCS), room 3741, South Building, USDA, P.O. Box 2415, Washington, DC 20013–2415, telephone 202–720–7477. A final regulatory impact analysis on the quota level and its impacts is available from the above-named person.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Departmental Regulation 1512–1

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major" as the matter under consideration will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individuals, industries, Federal, State or local governments or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778, Civil Justice Reform. The provisions of this rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Federal Assistance Program

The title and number of the Federal assistance program, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies are Commodity Loans and Purchases—10.051.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order No. 12372 relating to intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because ASCS is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject of this determination.

Paperwork Reduction Act Requirements

The amendments to 7 CFR part 729 set forth in this final rule do not contain information collection requirements that require clearance through the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35.

Announcement of the Quota

Section 358–1(a)(1) of the Agricultural Adjustment Act of 1938 (the 1938 Act), as amended, requires that the national poundage quota for peanuts for each of the 1991 through 1995 marketing years (MY's) be established by the Secretary at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each such MY to domestic edible, seed, and related uses. Section 358–1(a)(1) further provides that the national poundage quota for a MY shall not be less than 1,350,000 st. The MY for 1993-crop peanuts is from August 1, 1993, through July 31, 1994. Poundage quotas for the 1991–95 crops of peanuts were approved by 98.2 percent of peanut growers voting in a referendum conducted December 10 through 13, 1990.

A proposed rule on the quota determination, with a public comment period, was published in the **Federal Register** (57 FR 55151) on November 24, 1992. The proposed rule set out, for purposes of the proposed quota calculation, individual estimates for: (1) Domestic food use; (2) farm sales and local sales of peanuts; (3) seed use; (4) crushing residual; (5) shrinkage and other losses; and (6) Segregation 2 and

3 loan transfers. For the reasons set out below, it was determined that the proposed quota of 1,496,000 st would be accepted without change as the national poundage quota for 1993-crop peanuts.

ESTIMATED DOMESTIC EDIBLE, SEED, AND RELATED USES

Item	Quota: In short tons
Domestic Edible:	
Domestic food	1,146,000
On farm and local sales	21,500
Subtotal	1,167,500
Seed	109,500
Related Uses:	
Crushing residual	153,000
Shrinkage and other losses	46,000
Segregation 2 and 3 loan transfers to quota loan	20,000
Subtotal	219,000
Total	1,496,000

Discussion of the Comments on Proposed Quota

A total of 12 comments were received during the public comment period that ended on December 11, 1992. Comments were submitted by 2 manufacturer/processor associations; 2 manufacturers; 2 sheller associations; 1 state farm bureau; 4 grower associations; and 1 farmer.

The comments made regarding the 1993-crop national quota are discussed below by subject matter.

a. *Overall quota level.* A number of comments were directed to the overall quota level rather than to individual elements of the calculation.

The manufacturer/processor associations and all manufacturers supported a larger quota. Each sheller association supported the proposed 1993 quota of 1,496,000 st. All other comments on the level of the proposed quota supported a quota not more than 1,450,000 st. The commenting farmer questioned the need for quota determinations and marketing restrictions imposed by statute, but provided no comments regarding the proposed rule.

b. *Domestic edible use.* The proposed estimate of 1993 domestic food use was developed in two steps. First, total domestic edible utilization of 1,160,000 st was estimated by the USDA Interagency Commodity Estimates Committee (ICEC). Second, to account for peanut butter exports, the estimate of domestic edible disappearance was reduced by 14,000 st. Estimates of domestic edible utilization include product exports. Such exports in most instances are either made from, or may otherwise be credited under section 359(e)(1) of the 1938 Act as being made from, additional peanuts.

Manufacturer/processor associations and manufacturers requested a higher domestic edible food use to enable growth in excess of projected levels. Sheller associations supported the proposed domestic edible use estimate. Grower associations stated that the proposed estimate failed to account for peanut product import and export trends and suggested a 31,300 st reduction. Based on the best data available, it was determined that the proposed quota made the most realistic estimates of growth and imports possible. Accordingly, the proposed estimate of domestic edible use was accepted without change.

c. *Farm use and local sales.* No comments were received. The proposed estimate of 21,500 st was accepted without change.

d. *Seed use.* The proposed seed estimate of 109,500 st was based on the farmer stock tonnage equivalent of the amount of seed required to plant the expected 1994 crop. Grower associations believed that reduced use of quota peanuts during MY 1993 would result in fewer acres planted under the 1994 crop. It was determined that the ICEC estimate for the amount of seed required to plant the 1994 crop was the most realistic estimate available and the ICEC seed estimate of 109,500 st was accepted in the final rule.

e. *Crushing residual.* The crushing residual represents the farmer stock equivalent weight of crushing grade kernels shelled from quota peanuts. In any given load of quota farmer stock peanuts, a portion of such peanuts is only suitable for the crushing market. The portion of such peanuts only suitable for the crushing market was proposed to be 12 percent, unchanged from the level used for setting the 1992 quota. One sheller association asserted that the crushing residual should be between 10 and 12 percent. One manufacturer association proposed that quality problems in the 1993 crop could be hedged against by increasing the quota (i.e., using a higher crushing residual). It was determined that the proposed crushing residual factor of 12 percent was the most accurate estimate available. That level is within the range the sheller association proposed. The proposed factor of 12 percent was retained.

f. *Shrinkage and other losses.* No comments were provided and the estimate was accepted as proposed.

g. *Segregation 2 and 3 transfers.* No comments were provided and the estimate was accepted as proposed. This estimate represents peanuts that would otherwise be eligible for use as quota peanuts but which will not qualify for such use due to quality problems. Such transfers to quota peanut price support loan pools occur when quota peanut producers, due to no fault of their own, would otherwise have insufficient Segregation 1 peanuts to fulfill their quota. In such instances, Segregation 2 and 3 peanuts placed under an additional peanut price support loan may be transferred to the quota price support loan. The Commodity Credit Corporation (CCC) will then ensure that such peanuts are crushed for oil.

Proposed Quota Adjustment for Undermarketings and Carryover

The foregoing components of the national poundage quota have not been adjusted for either the application of prior undermarketings to the 1993 quota or abnormal carryover stocks at the beginning of MY 1993. As peanut usage has grown, carryover stocks have also grown. But, since 1980, carryover stocks have varied more from year to year than earlier. Also, current law allows a farm's quota to be increased by the amount by which marketings for prior years back to 1989 were less than the farm's quota. The total of all such increases nationally may not exceed 10 percent of the national poundage quota. In setting the national poundage quota for the 1991 crop, the application of undermarketings from 1990 increased the effective quota by the maximum 10 percent. This increase substantially contributed to a CCC loss on the 1991 crop of $95 million. Unapplied undermarketings from 1992 suggest that the 1993 quota will also be increased by the 10-percent maximum.

In response to these stated concerns some comments favored a 15,000 st quota reduction to adjust for the application of undermarketings to the 1993-crop quota. One comment stated that quota peanuts did not comprise a significant portion of MY 1992 ending stocks and, as such, did not warrant a MY 1993 quota adjustment.

Without prejudice to possible adjustments to the 1994-crop and subsequent quota determinations, it was determined that the 1993-crop quota would not be adjusted to reflect the impact of undermarketings and end of year carryover of 1992-crop peanuts into MY 1993 because demand growth indicated that a 1,496,000 st quota would be needed to meet full demand for peanuts in the coming year.

After consideration of the comments received, the proposed change to 7 CFR 729.214 is adopted as presented in the proposed rule.

List of Subjects in 7 CFR Part 729

Poundage quotas, Peanuts, Reporting and recordkeeping requirements.

Accordingly, 7 CFR Part 729 is amended as follows:

PART 729—PEANUTS

1. The authority citation for 7 CFR part 729 continues to read as follows:

Authority: 7 U.S.C. 1301, 1357 et seq., 1372, 1373, 1375; 7 U.S.C. 1445c–3.

2. Section 729.214 is amended by adding paragraph (c) to read as follows:

§ 729.214 National poundage quota.

* * * * *

(c) The national poundage quota for peanuts for marketing year 1993 is 1,496,000 tons.

Signed at Washington, DC on February 24, 1993.

Bruce R. Weber,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 93–4751 Filed 3–1–93; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Penicillin G Procaine Aqueous Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Anthony Products Co. The NADA provides for the intramuscular use of penicillin G procaine aqueous suspension (Microcillin-Ag®) in cattle and sheep for the treatment of bacterial pneumonia caused by *Pasteurella multocida*, in swine for the treatment of erysipelas caused by *Erysipelothrix rhusiopathiae (insidiosa)*, and in horses for the treatment of strangles caused by *Streptococcus equi*.

EFFECTIVE DATE: March 2, 1993.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8623.

SUPPLEMENTARY INFORMATION: Anthony Products Co., 5600 Peck Rd., Arcadia, CA 91006, is the sponsor of NADA 65–505, which provides for the intramuscular use of penicillin G procaine aqueous suspension (Microcillin-Ag®) in cattle and sheep for the treatment of bacterial pneumonia caused by *Pasteurella multocida*, in swine for the treatment of erysipelas caused by *Erysipelothrix rhusiopathiae (insidiosa)*, and in horses for the treatment of strangles caused by *Streptococcus equi*. The NADA provides data and information to establish bioequivalency between this drug and E. R. Squibb & Sons' Crysticillin® (NADA 65–174). The NADA was approved on January 29, 1993. The regulations are amended in 21 CFR 522.1696b to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval does not qualify for marketing exclusivity because no new clinical or field investigations (other than bioequivalence or residue studies) and no new human food safety studies (other than bioequivalence or residue studies) were essential to the approval and conducted or sponsored by the applicant.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.1696b [Amended]

2. Section 522.1696b is amended by revising the introductory text of paragraph (d) to read as follows:

§ 522.1696b Penicillin G procaine aqueous suspension.

* * * * *

(d) *Sponsor.* See No. 053501 in § 510.600(c) of this chapter for use as in paragraph (d) of this section, see No. 000864 for use as in paragraph (d)(3) of this section.

* * * * *

Dated: February 22, 1993.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 93–4735 Filed 3–1–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–336; Re: Notice No. 757]

RIN 1512–AA07

Texas High Plains Viticultural Area (92F–016P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area located in northwest Texas known as Texas High Plains. The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising allows wineries to designate the specific areas where the grapes used to make the wine were grown and enables consumers to better identify the wines they purchase.

EFFECTIVE DATE: April 1, 1993.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-927-8230).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of definite American

viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas. Section 4.25a(e)(1), title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in subpart C of part 9. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Petition

ATF received a petition from Clinton M. McPherson proposing to establish a viticultural area in the Texas panhandle to be known as "Texas High Plains." The viticultural area contains approximately 8 million acres of flat, intensively cultivated land with cotton, sorghum and wheat the predominant crops, irrigated from the Ogallala aquifer. The elevation is from 3,000 to 4,000 feet above sea level. Vineyards presently occupy approximately 2,000 acres, but there is growing interest in viticulture in the area. There are presently four wineries active within the viticultural area. Nearly half of all commercial wine grapes grown in Texas are grown in the Texas High Plains. In response to Mr. McPherson's petition, ATF published a notice of proposed rulemaking, Notice No. 757 in the **Federal Register** on September 30, 1992 (57 FR 45009).

Comments

ATF received four comments during the 45-day comment period which ended on November 16, 1992. Three commenters, Congressman Larry Combest, Lubbock County Judge Don McBeath, and Morris E. Wilkes of The Wilkes Company, wrote to express their support for the establishment of the Texas High Plains viticultural area. The fourth commenter, Thomas P. Kerester, Chief Counsel for Advocacy of the Small Business Administration (SBA), did not comment on the substance of the proposal, but objected to ATF's wording of the Regulatory Flexibility Act certification. In that regard, Mr. Kerester requested that ATF adequately outline the reason for its certification that this regulation will not have a significant economic impact on a substantial number of small entities. In response, ATF believes that the designation of a viticultural area itself has no significant economic impact on businesses within or without the area because any commercial advantage can only come from consumer acceptance of wines made from grapes grown in the area. ATF received two comments after the comment period closed, one from Congressman Bill Sarpalius, expressing his support for the proposed area, and one from Rick Perry, Commissioner of the Texas Department of Agriculture, addressing our concerns on the appropriateness of the name and the boundaries of the proposed area. Mr. Perry confirmed the petitioner's statement that the political boundary used as a viticultural area boundary coincides with changes in growing conditions, and that the proposed viticultural area "includes the total area suitable for viticulture within the larger geographical area known as 'Texas High Plains'." In view of these comments, ATF is adopting the Texas High Plains viticultural area as proposed.

Evidence of Name

The petitioner submitted evidence that the name "Texas High Plains" is locally or nationally known to refer to the area specified in the petition. The evidence includes:

The Wine Spectator, February 29, 1992, edition contains an article entitled "Dawn of New Texas Wine" which refers to the "High Plains around Lubbock, where many of the best wine grapes grow."

The Los Angeles Times, June 1, 1987, edition carried an article titled "Texas Wine: Taste It and Believe It" which described two wineries on the "Texas high plains"—Pheasant Ridge and Llano Estacado, both within the viticultural area.

Spirit magazine, September 1986, edition carried an article titled "The Wine Industry—Coming of Age in Texas?" which referred to the High Plains as an area in which the soil would be compatible with European vines.

Evidence of Boundaries

Evidence that the boundaries of the area are as specified in the petition includes the following:

The Fall, 1991, Market Report, a publication of the Texas Wine Marketing Research Institute, Texas Tech University, contains a map of the grape growing regions in Texas as broken down by counties. The western boundary agrees with the viticultural area boundary, but the area shown on the map extends further to the north and slightly further to the east and south.

The 1986–87 Texas Almanac and State Industrial Guide published a map of the "vegetational areas" of Texas, showing the High Plains as a somewhat larger area than the viticultural area, interrupted by a strip of "rolling plains" along the northern boundary.

The boundaries chosen by the petitioner omit portions of the larger area known as the "Texas High Plains" because they have been found to be unsuitable for commercial viticulture. The petitioner reports that, over the last 20 years, observers have found that risk of freeze damage became intolerable along the New Mexico border (the western boundary of the viticultural area) and to the north of the viticultural area's boundary. This change in the minimum temperature during winter coincides roughly with the 4,000 foot elevation of these areas, higher than most of the viticultural area.

In many of the narrative descriptions and maps submitted with the petition, an escarpment called the "Caprock" is used as the eastern boundary of the Texas High Plains. Since this escarpment is not represented on the U.S.G.S. maps as a single line, the petitioner has selected the 3,000 foot contour line as the eastern boundary for the area. This contour line runs to the west of the escarpment; in some places it appears to be at the edge of the escarpment and in others it appears to be as much as 15 miles to the west.

The southern boundary was chosen by the petitioner because, he states, it corresponds to changes in temperature, soil type and wind which alter the growing conditions significantly. His evidence will be discussed further in the sections on soil and climate.

Viticultural History

Records of the Texas Agricultural Experiment Station in Lubbock show studies were done between 1909 and 1937 on the adaptability of many grape cultivars, including *vitis vinifera*, at the station. In the 1950s and '60s, French-American hybrids, American and vinifera cultivars were planted in research plots at Texas Tech University, also in Lubbock. As a result of this work, commercial viticulture began in the area in 1945, and was expanded in the 1960s and again in 1973. Llano Estacado, the first winery in the area, had its first crush in 1976. Three more wineries have been developed in the Texas High Plains since then: Pheasant Ridge, Teysha (now Cap Rock Winery) and La Escarbada XIT.

In a report on the 1985 Lone Star State Wine Competition, Greater Lubbock, in its November 1985 issue, noted that wineries within the viticultural area

won the only gold medal awarded, 50 percent of the silver medals, and nearly 40 percent of the bronze medals in the statewide competition. The Los Angeles Times, Monday, June 1, 1987, article, "Texas Wine: Taste It and Believe It" mentioned awards won by Llano Estacado and Pheasant Ridge at the 1986 San Francisco Fair and Wine Competition, competing against nearly 2,000 other wines, "including a bunch from California."

Geographical Features

The petitioner provided the following evidence relating to features which distinguish the viticultural area from the surrounding areas:

Topography

The viticultural area is distinguished from the surrounding area in part by its elevation. The most pronounced change in terrain occurs at the eastern boundary of the area where an escarpment "provides an east facing wall 200–1000 feet high along the entire east boundary of the appellation, separating the Texas High Plains from the Rolling Plains to the east." The viticultural area is described in the Texas Almanac as the "largest level plain of its kind in the United States." The high plains rise gradually from 3,000 feet in the east to more than 4,000 feet in spots along the New Mexico border.

Underlying the Texas High Plains is the Ogallala Aquifer. The Texas Almanac notes that this is an important source of irrigation water for crops grown in the area. The area has no major rivers, but there are numerous "playas" (small intermittent lakes) scattered through the area which catch water after rains and allow it to percolate back to the aquifer.

Soil

The authors of Our Texas, Ralph W. Steen and Frances Donecker, state that the High Plains were considered a "great American desert," suitable only for grazing, until late in the nineteenth century, when the land was found to be fertile. According to a report on Conservation Tillage issued by the Texas Agricultural Experiment Station (TAES) in July 1987, soils in the viticultural area vary from predominantly brown clay loams with clay textured subsoils in the north to fine sandy loams in the central and southern regions. The Ogallala aquifer, which supports irrigation within the viticultural area, ends near the southern boundary. The lack of available groundwater results in soils which are sandy, shallow and highly eroded to the south and east of the viticultural area. The petitioner told of one vineyard south of that boundary which was abandoned due to drifting sand.

Climate

According to the petitioner, the viticultural area is characterized by low annual rainfall, moderate temperature, and variable, but gentle, wind.

According to a report on Irrigation Water Management by the Texas Water Resources Institute in August 1987, average annual rainfall within the viticultural area varies from 14 inches near the western boundary to 20 inches in the east. The report notes that the greatest monthly rainfall in the area occurs between May and September, a fact the petitioner attributes to warm moist air carried into the area from the Gulf of Mexico. This tropical air sometimes brings moderate to heavy thunderstorms with hail and intense winds. According to a chart from TAES, annual precipitation gradually increases to the east of the viticultural area, and decreases to the west.

Other charts from TAES compare the annual temperatures in various parts of Texas. Mean annual temperature varies from 58° on the north to 61° on the south of the viticultural area, a range which the petitioner claims is important to the quality potential of wine grapes. The viticultural area's coldest temperatures range just above and below 0°, with colder temperatures to the north, and warmer temperatures to the south. According to the petitioner, growers to the north of the viticultural area's northern boundary have abandoned plantings due to frequent freeze loss.

The petitioner also notes that, due to the low relative humidity on the High Plains, there is a very low incidence of such disease and pest problems as downy mildew, Pierces disease, phylloxera, and black rot, which are found in other parts of Texas.

Boundary

The boundary of the Texas High Plains viticultural area may be found on six United States Geological Survey (U.S.G.S.) maps with a scale of 1:250,000. The boundary is described in § 9.144.

Miscellaneous

ATF does not wish to give the impression by approving the Texas High Plains viticultural area that it is approving or endorsing the quality of wine from this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. By approving this area, ATF will allow wine producers to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Texas High Plains wines.

Executive Order 12291

It has been determined that this document is not a major regulation as defined in Executive Order 12291 and a regulatory impact analysis is not required because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

As stated in the comments section of the preamble, it is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. The establishment of a viticultural area is neither an endorsement nor approval by ATF of the quality of wine produced in the area, but rather an identification of an area that is distinct from surrounding areas. ATF believes that the establishment of viticultural areas merely allows wineries to more accurately describe the origin of their wines to the consumers, and helps consumers identify the wines they purchase. As stated, ATF therefore certifies that the designation of a viticultural area itself has no significant economic impact on a substantial number of small businesses within or without the area because any commercial advantage can come only from consumer acceptance of wines made from grapes grown within the area. In addition, no new recordkeeping or reporting requirements are imposed. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96-511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Marjorie D. Ruhf, Wine and Beer

Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of sections in Subpart C is amended by adding § 9.144 to read as follows:

Sec.

* * * * *

9.144 Texas High Plains.

Par. 3. Subpart C is amended by adding § 9.144 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.144 Texas High Plains.

(a) *Name.* The name of the viticultural area described in this section is "Texas High Plains."

(b) *Approved maps.* The appropriate maps for determining the boundary of the Texas High Plains viticultural area are six U.S.G.S. topographical maps of the 1:250,000 scale. They are titled:

(1) "Clovis, New Mexico; Texas" 1954, revised 1973.

(2) "Brownfield, Texas; New Mexico" 1954, revised 1973.

(3) "Hobbs, New Mexico; Texas" 1954, revised 1973.

(4) "Plainview, Texas" 1954, revised 1974.

(5) "Lubbock, Texas" 1954, revised 1975.

(6) "Big Spring, Texas" 1954, revised 1975.

(c) *Boundary.* The Texas High Plains viticultural area is located in Armstrong, Bailey, Borden, Briscoe, Castro, Cochran, Crosby, Dawson, Deaf Smith, Dickens, Floyd, Gaines, Garza, Hale, Hockley, Lamb, Lubbock, Lynn, Motley, Parmer, Randall, Swisher, Terry and Yoakum Counties, Texas. The boundary is as follows:

(1) Beginning on the Hobbs, New Mexico; Texas, map at the intersection of the Texas-New Mexico border and U.S. Route 180 east of Hobbs, New Mexico;

(2) The boundary follows U.S. Route 180 east through Seminole, Texas and onto the Big Spring, Texas, U.S.G.S. map where it intersects with the 3,000 foot contour line in the town of Lamesa, Texas;

(3) The boundary then follows the 3,000 foot contour line in a generally northeasterly direction across the U.S.G.S. maps of Big Spring and Lubbock, Texas;

(4) The boundary continues along the 3,000 foot contour line onto the map of Plainview, Texas, where it follows a generally northwesterly direction until it intersects with State Highway 217 approximately 12 miles east of Canyon, Texas;

(5) The boundary then follows State Highway 217 west to Canyon, Texas, leaves State Highway 217 and proceeds in a straight line in a northwesterly direction until it intersects with U.S. Route 60, still within Canyon, Texas;

(6) The boundary then follows U.S. Route 60 in a southwesterly direction onto the U.S.G.S. map of Clovis, New Mexico; Texas, where it intersects the Texas-New Mexico border;

(7) The boundary then follows the Texas-New Mexico border south, across the U.S.G.S. map of Brownfield, Texas; New Mexico, to the beginning point on the Hobbs, New Mexico; Texas, U.S.G.S. map.

Signed: January 8, 1993.

Daniel R. Black,

Acting Director.

Approved: January 22, 1993.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 93–4707 Filed 3–1–93; 8:45 am]

BILLING CODE 4810–31–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–4561–9]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of State Implementation Plan (SIP) inadequacy and call for SIP revision.

SUMMARY: USEPA hereby gives notice that it has formally: Notified the Governor of the State of Ohio by letter dated October 28, 1992 (SIP Call letter), that the Ohio State Implementation Plan is substantially inadequate under the Clean Air Act (CAA) to attain and maintain the National Ambient Air Quality Standards (NAAQS) for lead in an area in Cuyahoga County, Ohio; and called upon the State to submit to USEPA a SIP revision to correct the deficiency.

DATES: USEPA has requested that the State of Ohio submit, by January 2, 1993, (60 days from receipt of SIP Call letter), an action plan with a schedule setting forth dates and increments of progress for correcting the Cuyahoga County area SIP deficiencies. The State must correct the plan deficiency elements and submit its fully approved Cuyahoga area lead plan to the USEPA by May 3, 1994 (18 months from receipt of SIP Call letter).

ADDRESSES: Copies of the documents associated with this information notice are available for inspection at the following address: (It is recommended that you telephone Randy Robinson, at (312) 353–6713, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of today's information notice is available for inspection at: U.S. Environmental Protection Agency, Jerry Kurtzweg, ANR–443, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Randy Robinson, Air Enforcement Branch, Regulation Development Section (AE–17J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–6713.

SUPPLEMENTARY INFORMATION: Section 110 of the CAA, 42 U.S.C. 7410, requires each State to adopt plans which provide for the attainment and maintenance of the NAAQS. In response to these requirements, Ohio submitted a SIP for lead. This SIP was approved by the USEPA on March 22, 1982 (47 FR 12164). Section 110 also requires that the State revise the plan under certain conditions. A key feature of Section 110 of the CAA requires the State to revise the plan whenever USEPA finds that the plan is "substantially inadequate to attain or maintain" the revelant NAAQS. (CAA section 110(k)(5)). More specifically, section 110(k)(5) provides that whenever USEPA finds that a SIP for an area is substantially inadequate to attain or maintain the relevant NAAQS, USEPA shall require the State to revise the plan as necessary to correct such inadequacies.

USEPA has information which indicates that the NAAQS for lead was violated in an area of the City of Cleveland, in Cuyahoga County. A lead monitor, required by USEPA, located near a facility operated by Master

Metals, Inc., in Cuyahoga County, has collected samples which, when professionally analyzed, calculate to an arithmetic quarterly average of 28 micrograms per cubic meter ($\mu g/m^3$) for the second quarter (April, May, and June) of 1992. This is well in excess of the NAAQS value for lead of 1.5 $\mu g/m^3$. 40 CFR 50.12. Samples collected during the first quarter (January, February, and March) of 1992 also indicate lead readings in substantial excess of the lead NAAQS.

A letter dated October 28, 1992, was sent to George V. Voinovich, Governor of Ohio, from Valdas V. Adamkus, USEPA Regional Administrator, notifying the State that USEPA finds the Ohio SIP substantially inadequate to attain and maintain the NAAQS for lead in an area of Cuyahoga County currently designated as unclassifiable. This is an area bounded on the north by the Conrail railroad tracks, on the west by I–71, on the east by I–77, and on the south by a line running from the intersection of I–71, and Clark Avenue to the intersection of I–77 and Pershing Avenue. 56 FR 56694, 56812–13 (Nov. 6, 1991). USEPA made this finding pursuant to sections 110(a)(2)(H)(ii) and 110(k)(5) of the CAA, based on exceedences of the lead NAAQS in the above described portion of the County (an area currently designated unclassifiable), and in doing so calls for the State of Ohio to revise the SIP for this area as necessary to assure attainment and maintenance of the NAAQS for lead.

USEPA has requested that, within 60 days following receipt of the October 28, 1992 Governor's letter, Ohio submit an action plan to USEPA with a schedule for identifying and adopting control strategies as part of the Ohio SIP to enforceably reduce lead emissions in the specified portion of Cuyahoga County to attain and maintain the lead NAAQS. The control strategies that will be adopted and implemented as part of the Ohio SIP must be submitted to EPA within 18 months from receipt of the Governor's letter, and must provide for attainment and maintenance of the lead NAAQS within 5 years of receipt of the Governor's letter. See *e.g.*, 110(n)(2) of the CAA. The finding of inadequacy and call for SIP revision set out in the letter represent a preliminary step in an ongoing administrative process. Any final USEPA judgment regarding the appropriateness of the State's response to USEPA's action will be reached when USEPA makes a binding determination regarding the State's response. See *e.g.*, CAA section 110(k) and section 307(b)(1); See also CAA section 110(m) and section 179.

The USEPA is prepared to work with the Ohio Environmental Protection Agency as it develops the required SIP provisions. The USEPA is committed to providing the necessary technical and administrative assistance to define the scope of actions which must be taken to resolve the SIP inadequacies.

This information notice has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Lead.

Authority: 42 U.S.C. 7401–7671(q).

Dated: February 16, 1993.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 93–4734 Filed 3–1–93; 8:45 am]

BILLING CODE 6560-60-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6958

[MT–930–4210–06; MTM 79374]

Withdrawal of National Forest System Land for Crystal Park Recreational Mineral Collection Area; MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 220 acres of National Forest System land in the Beaverhead National Forest from mining for a period of 30 years to protect the Crystal Park Recreational Mineral Collection Area. The land has been and will remain open to such forms of disposition as may by law be made of National Forest System land and to mineral leasing.

EFFECTIVE DATE: March 2, 1993.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2949.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C., Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect a Forest Service recreation area:

Principal Meridian

Beaverhead National Forest

T. 4 S., R. 12 W.,
Sec. 16, W½SW¼NW¼, SE¼SW¼NW¼, NW¼SW¼, and N½SW¼SW¼;
Sec. 17, SE¼SW¼NE¼, SE¼NE¼, NE¼SE¼, E½NW¼SE¼, and N½SE¼SE¼.
The area described contains 220 acres in Beaverhead County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of National Forest System land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 30 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93–4765 Filed 3–1–93; 8:45 am]

BILLING CODE 4310-DN

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7563]

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the revised floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior

to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATE: As shown in fifth column of the tables below.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: James Ross MacKay, Acting Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646–2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures.

On August 25, 1986, FEMA published a final rule in the Federal Register that revised the NFIP floodplain management requirements. The rule became effective on October 1, 1986. As a condition for continued eligibility in the NFIP, 44 CFR 60.7 gives communities six months to revise their floodplain management regulations to comply with any revised NFIP regulation or be subject to suspension from participation in the NFIP.

The communities listed in this document no longer meet the statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the fifth column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the Federal Register. In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981, 3 CFR, 1991 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The Authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329, E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State	Community name	County	Community number	Effective date
Region 3:				
Pennsylvania	Charleston, Township of	Tioga	421172	March 15, 1993.
	Elk, Township of	Tioga	421154	Do.
West Virginia	Matoaka, Town of	Mercer	540126	Do.
Region 5:				
Illinois	Maywood, Village of	Cook	170124	Do.
	Markham, City of	Cook	175169	Do.
	Robbins, Village of	Cook	170154	Do.
Ohio	Chilo, Village of	Clermont	390067	Do.
	Rome, Village of	Adams	390003	Do.
Minnesota	Center City, City of	Chisago	270585	Do.
	Duluth, City of	St. Louis	270421	Do.
	Hermantown, City of	St. Louis	270708	Do.
	Isanti County	Isanti	270197	Do.

State	Community name	County	Community number	Effective date
	Rosemount, City of	Dakota	270113	Do.
	Warroad, City of	Lake of the Woods	270415	Do.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: February 23, 1993.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93–4740 Filed 3–1–93; 8:45 am]

BILLING CODE 6718–21–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 92–260; FCC 93–73]

Cable Home Wiring

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This order prescribes rules as required by section 16(d) of the Cable Act of 1992. The new rules adopted in this proceeding allow subscribers the opportunity to acquire cable home wiring upon voluntary termination of service in order to use it for alternative providers and to avoid the disruption of having the wiring removed.

EFFECTIVE DATE: April 1, 1993.

FOR FURTHER INFORMATION CONTACT: Mary Beth Richards, Telephone: (202) 632–7090. Paperwork Reduction Act: This Report and Order will not require OMB approval and is not subject to the Paperwork Reduction Act.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 1992, in response to section 16(d) of the Cable Television Consumer Protection and Competition Act of 1992, Public Law 102–385, section 16(d), 106 Stat. 1460 (1992) ("Cable Act of 1992"), to be codified at 47 U.S.C. 544(i), this Commission released a Notice of Proposed Rule Making, MM Docket No. 92–260, FCC 92–500, 7 FCC rcd 7349 (1992), 57 FR 54209 (November 17, 1992). In that notice the FCC sought comment regarding rules concerning "the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber." After consideration of the record, we prescribe rules which prohibit cable operators from removing cable home wiring upon termination of service before giving the subscriber the opportunity to acquire the wiring. These rules most directly and appropriately affect the statutory language and the apparent goals of the legislation, which are to avoid the disruption of having the wiring removed and to allow subscribers to utilize the wiring with an alternative multichannel video delivery system. We also decline to adopt rules that go beyond the statutory provisions as some parties had urged. Further we address the issues of compensation and signal leakage. The full text of this Commission action is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this action may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Report and Order

This is a synopsis of the Commission's Report and Order, adopted February 1, 1993, released February 3, 1993:

1. The rules adopted here follow the plain language of the statute, and require cable operators to provide subscribers the opportunity to acquire cable home wiring before removing it from subscribers' premises upon termination of service. Specifically, cable home wiring is defined as that wiring located within the premises or dwelling unit of the subscriber that has been installed by the cable operator or its contractor. The rules provide further that, in those cases where the cable home wiring does not already belong to the subscriber, upon voluntary termination by the subscriber, the cable system operator must provide the subscriber the opportunity to acquire the wiring before the operator removes it. Cable operators may, however, remove the cable home wire of a subscriber where they have terminated service for lack of payment or for theft of service under their existing termination guidelines. An exception to this rule is where ownership of the cable home wiring has been previously transferred to the subscriber by the operator.

2. The legislative history indicates that Congress intended the rule provisions adopted in this rule making to apply to cable home wiring located within the premises of the subscriber, *i.e.*, the internal wiring contained within the home or individual dwelling unit and not the wiring outside the home or the common wiring in apartment buildings and such. We adopt a rule consistent with the legislative history and comments and set the demarcation point for single unit installations at (or about) twelve inches outside of where the cable wire enters the outside wall of the subscriber's premises. This should give alternative providers adequate access to the cable home wiring so that they may connect the wiring to their systems without disrupting the subscriber's premises. For the same reasons, we set the demarcation point for multi-dwelling units at (or about) twelve inches outside of where the cable wire enters the outside wall of the subscriber's individual dwelling unit. We exclude so called "loop through" wiring, even though it is in the individual dwelling units, because to include such wiring would give the initial subscriber in the loop control over the cable service of all remaining subscribers on the wire.

3. With regard to compensation to the cable operator when a subscriber opts to purchase his or her cable home wiring, the record reveals that, in many circumstances, the cable home wiring already belongs to the subscriber, having been transferred by the operator and/or paid for by the subscriber pursuant to specific agreement. In these situations, the subscriber already has the right to use the cable with an alternative provider and further compensation is not warranted.

4. In those remaining situations, we conclude that, before removing the cable home wiring upon voluntary termination of service, the cable operator must first give the subscriber the opportunity to acquire it. Thus, when a subscriber who does not already own his or her cable home wiring voluntarily terminates service, the cable operator has two choices: it may leave the wiring in place or seek to remove it. Where cable is left in place after service is discontinued, it is reasonable, and consistent with the objectives of the statute, to conclude and to provide in our rules that the wiring is available for alternative uses by the former subscriber or new resident.

5. The operator may instead seek to remove the cable home wiring. As noted above, where there has been non-payment or theft of service the operator is not required to give the subscriber the opportunity to acquire it. In all other situations, however, the rules will require that the cable operator give the subscriber the option of purchasing the wiring rather than having it removed.

6. Where the subscriber is given the option of purchasing the wiring, the question arises as to what the price should be. We believe, and the rules will provide, that only the value of the wire itself on a per foot replacement cost basis should be allowed. The rules will provide that the cable operator must offer the cable home wiring to the subscriber for the replacement cost of the wiring itself. This charge may be based on a reasonable approximation of what the length of cabling is in the subscriber's premises. When the subscriber calls to terminate service, however, the cable operator is required, if it proposes to remove the wiring, to inform the subscriber that he or she may purchase the wire and what the cost per foot charge is.

7. If the cable operator chooses to remove the wire, offers the subscriber the opportunity to acquire it at the replacement cost of the cable home wiring, and the subscriber refuses the offer, then the cable operator may remove the wiring within 30 days of the refusal. If, however, the operator does not remove the wiring within 30 days, it may make no subsequent attempt to remove it or to restrict its use. If the operator does remove the cable home wiring, it must do so at no charge to the subscriber and must pay for any damage caused by the operator's removal of existing wiring, as currently required by 47 U.S.C. Section 541(a)(2).

8. Many of the comments echoed the concern expressed in the Notice about cable signal leakage that causes interference to licensed over-the-air services, including aeronautical and safety-of-life services. There was almost unanimous consent that the cable operator who installed the cable home wiring should not be held responsible for signal leakage if the cable operator is no longer providing cable service. We agree. A cable operator will not be held responsible for facilities over which it does not provide service. Because these rules apply only after service termination, the responsibilities of cable operators to prevent signal leakage while providing service remain unaltered.

9. Final Regulatory Analysis.

Need and purpose of this action

This Order prescribes rules as required by Section 16(d) of the Cable Act of 1992. The new rules adopted in this proceeding allow subscribers to acquire cable home wiring upon voluntary termination of service in order to use it for alternative video providers and to avoid the disruption of having the wiring removed.

Issues raised in response to the Initial Regulatory Flexibility Analysis

There were no comments submitted in response to the Initial Regulatory Flexibility Analysis.

Significant alternatives considered

The rules adopted follow the statutory language. Certain commenters urged us to adopt broader rules. Upon consideration, we determined that because of the time constraints under which we must promulgate rules, we would limit the rules to the language of the statute.

10. Authority for the rules adopted herein is contained in section 16(d) of the Cable Act of 1992, to be codified at 47 U.S.C. Section 541(i), and sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, 47 U.S.C. Sections 154(i), 154(j), and 303(r).

List of Subjects in 47 CFR Part 76

Cable television.

Rule Changes

Part 76 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for part 76 continues to read as follows:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

2. Section 76.5 is amended by adding new paragraphs (ll) and (mm) to read as follows:

§ 76.5 Definitions.

* * * * *

(ll) *Cable home wiring.* The internal wiring contained within the premises of a subscriber which begins at the demarcation point. Cable home wiring does not include any active elements such as amplifiers, converter or decoder boxes, or remote control units.

(mm) *Demarcation point.* (1) For new and existing single unit installations, the demarcation point shall be a point at (or about) twelve inches outside of where the cable wire enters the subscriber's premises.

(2) For new and existing multiple unit installations, the demarcation point shall be a point at (or about) twelve inches outside of where the cable wire enters the subscriber's dwelling unit, but shall not include loop through or other similar series cable wire.

3. Part 76 is amended by adding a new subpart M and new §§ 76.801 and 76.802 to read as follows:

Subpart M—Cable Home Wiring

Sec.
76.801 Scope.
76.802 Disposition of cable home wiring

Subpart M—Cable Home Wiring

§ 76.801 Scope.

The provisions of this subpart set forth rules and regulations for the disposition, after a subscriber voluntarily terminates cable service, of that cable home wiring installed by the cable system operator or its contractor within the premises of the subscriber. The provisions do not apply where the cable home wiring belongs to the subscriber, such as where the operator has transferred ownership to the subscriber, the operator has been treating the wiring as belonging to the subscriber for tax purposes, or the wiring is considered to be a fixture by state or local law in the subscriber's jurisdiction. Nothing in this subpart shall affect the cable system operator's rights and responsibilities under § 76.617 to prevent excessive signal leakage while providing cable service, or the cable operator's right to access the subscriber's property or premises.

§ 76.802 Disposition of cable home wiring.

Upon voluntary termination of cable service by a subscriber, a cable system operator shall not remove the cable home wiring unless it gives the subscriber the opportunity to acquire the wiring at the replacement cost, and the subscriber declines. The cost is to be determined based on the replacement cost per foot of cabling multiplied by the length in feet of the cable home wiring. If the subscriber declines to acquire the cable home wiring, the cable system operator must then remove it within 30 days or make no subsequent attempt to remove it or to restrict its use.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–4688 Filed 3–1–93; 8:45 am]

BILLING CODE

47 CFR Part 76

[MM Docket No. 82-434; FCC 93-80]

Network-Cable Cross-Ownership

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: The Commission, by this Memorandum Opinion and Order, addresses issues raised in petitions for reconsideration of the Report and Order, 57 FR 35468 (Aug. 10, 1992), in this proceeding. The Report and Order amended § 76.501(a)(1) of the Commission's rules, which prohibited common ownership of cable television systems and national television networks. The Report and Order revised the rule to permit networks to own cable systems, provided that such combinations did not exceed 10 percent of homes passed by cable nationwide, and 50 percent of homes passed by cable within a local market. The Commission also in the Report and Order established a process to resolve complaints from local broadcast stations that allege competitive harm by network-owned cable systems to carriage or channel positioning.

FOR FURTHER INFORMATION CONTACT: Jim Coltharp, Policy and Rules Division, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order in MM Docket No. 82-434 adopted February 5, 1993, and released February 23, 1993. The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Synopsis of Memorandum Opinion and Order

1. This Memorandum Opinion and Order addresses issues raised in petitions for reconsideration of the Report and Order that amended § 76.501(a)(1) of our rules, which prohibited common ownership of cable television systems and national television networks (the "network-cable cross-ownership" rule). Specifically, the Report and Order revised the rule to permit networks to own cable systems, provided that such combinations do not exceed ten percent of homes passed by cable nationwide, and fifty percent of homes passed by cable within a local market. We also established a process to resolve complaints from local broadcast stations that allege competitive harm by network-owned cable systems with respect to carriage or channel positioning. Petitions for reconsideration were filed by the National Broadcasting Company, Inc. (NBC) and the Association of Independent Television Stations (INTV). In this Memorandum Opinion and Order, we deny the petitions for reconsideration, thereby affirming our decision to permit broadcast networks to own cable systems subject to certain restrictions, including our limit on homes passed by a network-owned cable system within a local market. We also make no change in the remedies for specific cases of anticompetitive conduct, but rather will resolve the remaining concerns regarding carriage of local broadcast stations by network-owned cable systems in the proceeding that implements the must-carry provisions in Sections 4 and 5 of the Cable Television Consumer Protection and Competition Act of 1992.[1]

2. In the Report and Order, we stated that the cable industry has become a robust, independent enterprise, with over 10,000 systems and 80 networks offering an increasing diversity of programming that competes directly with over-the-air broadcast services. At the same time, in the midst of increasing competition from multichannel video services, the broadcast television networks face a growing need to generate additional revenues to respond to declining audience shares and advertising sources. Based upon these changes and our analysis of this proceeding's record, we found that the original rationale for the network-cable cross-ownership rule—to prevent network dominance or undue concentration in the video marketplace, and to promote growth in the infant cable industry—has been attenuated. Moreover, we stated that the rule may hamper competition by precluding three experienced market participants from owning cable systems, and by unnecessarily limiting the television networks' ability to diversify and generate other revenue streams. Indeed, most commenters agreed that the rule's original rationale is no longer sufficient to sustain a *per se* prohibition against network-cable cross-ownership. The Report and Order also pointed out that a number of independent parties and government agencies concluded that the rule is outdated, restrains competition and diversity in providing cable service, and lacks countervailing benefits. Therefore, we revised the cross-ownership rule to permit significant entry into the cable industry by the broadcast networks, subject to certain constraints to address the concerns raised in this proceeding regarding possible anticompetitive or discriminatory practices by network-cable operators.

3. The Report and Order emphasized that the changing structure of the video marketplace is well-documented, with over 10,000 cable systems now operating in the United States, compared to 2,490 systems in 1970 when the rule was adopted. Today's cable systems reach over 90% of the nation's households, and serve over 60% of homes passed. We continue to believe, as discussed in the Report and Order, that allowing networks to own cable systems, subject to our revised rules, could affirmatively promote competition in the video marketplace and provide other public interest benefits. Furthermore, the Report and Order stated that the opportunities for significant network entry into cable ownership are also important in view of the many technological and service innovations that appear to be imminent in the cable industry, while also observing that cable service has previously benefited from vertical integration between system operators and programmers.[2]

4. Throughout this proceeding, we have recognized arguments raised by parties seeking to retain the rule that large cable multiple system owners (MSOs) and the broadcast networks control many of the outlets for distributing programming in the video marketplace. We are not persuaded, however, that an absolute prohibition against network-cable cross-ownership is necessary in order to protect competition and diversity.

[1] In November 1992, the Commission issued a Notice of Proposed Rulemaking regarding the must-carry aspect of the 1992 Cable Act. See Notice of Proposed Rule Making in MM Docket No. 92-259, 57 FR 56296 (Nov. 27, 1992) (Must-Carry Notice). The Must-Carry Notice requested comment on the effect of the 1992 Cable Act on the process for remedying specific cases of anticompetitive conduct by network-cable operators, and the extent that the more specific statutory carriage obligations supersede the requirements adopted in the network-cable cross-ownership proceeding.

[2] The 1992 Cable Act directs the Commission to consider and adopt rules governing circumstances where vertical integration and horizontal concentration of ownership may harm competition and diversity in the video marketplace. See Cable Television Consumer Protection and Competition Act of 1992 at Sections 11 and 13; see also Notice of Proposed Rulemaking and Notice of Inquiry, MM Docket No. 92-264, 8 FCC Rcd 210 (1992) 58 FR 3523, January 11, 1993.

5. Although the Report and Order concluded that the absolute prohibition against network-cable cross-ownership was no longer in the public interest, we recognized certain commenters' concerns that network-cable operators could conceivably use their enhanced leverage in the video marketplace to harm local broadcast stations through certain discriminatory practices against nonaffiliated stations or through "bypassing" affiliated stations and distributing network programming directly through the cable system. Therefore, we adopted limited structural measures designed to protect competition and diversity in the video marketplace. The revised rule permits networks to own cable systems, provided that such combinations do not exceed (i) 10% of homes passed by cable nationwide, and (ii) 50% of homes passed by cable within an ADI. We also stated that the local limit will not apply to instances where the network-owned cable system faces a "competing" system, because direct competition between a cable system and another multichannel provider will further reduce the possibility of anticompetitive conduct by network-cable owners. The Report and Order stated that the national ownership limit would permit reasonable opportunities for network entry into cable, while also allowing for growth to increase the potential benefits to the public from diversified network investments. Similarly, we concluded that the 50-percent local limit would address commenters' concerns pertaining to dominance by network-cable combinations and anticompetitive conduct, emphasizing that the limit prevents network-cable owners from completely controlling the cable systems in any ADI and reduces any incentives for discriminatory conduct.

6. We affirm the structural limits on network ownership of cable systems as adopted in the Report and Order, and we reject the petitions that were filed seeking reconsideration of the 50-percent local limit. Given the concerns raised in this proceeding regarding the potential for anticompetitive actions by network-cable owners, we continue to believe that the limits are a necessary constraint on network entry at this time in order to mitigate the incentives for practices that could harm the public interest or local broadcast stations. In particular, the local limit should mitigate the major concerns that were raised in this proceeding regarding bypassing of local broadcast stations with programming, as well as other potential problems concerning carriage or channel positioning, because a network could not purchase enough cable systems in a market to reach an area equivalent to the reach of the local broadcast station. In this regard, we reiterate that network-cable operators that encompass only a portion of an ADI market, or an area smaller than the affiliate's coverage, would arguably have incentives to treat affiliates and other local broadcast stations no less favorably than non-network owned cable systems. We maintain that local caps are necessary at the outset of this rule change and are preferable to the behavioral restrictions that were proposed or suggested by commenters. Moreover, as we stated in the Report and Order, the local ownership limit will provide an opportunity for us to evaluate whether network-owned cable systems operate any differently than cable systems owned by other entities. Furthermore, we believe that the local limit will balance the public benefits that are attainable through network entry into the cable industry with our decision to prevent complete control by a particular network-cable entity within a given local market, which is arguably the locus of a cable system's power.

7. With respect to the 50-percent threshold, we reject the claim that the local limit is too high and allows excessive network entry. We emphasize that we intended that the local limit, along with the national limit, as adopted in the Report and Order, impose an effective constraint on network ownership of cable systems by allowing a certain degree of entry while alleviating any threat of anticompetitive conduct by the networks. Moreover, we are not persuaded that any of the potential cross-ownership opportunities as represented in the record—either certain combinations between a broadcast network and particular MSOs, or scenarios for entry in specific local markets—would necessarily limit competition and diversity in the video marketplace. We also agree with the observation that the broadcast-cable cross-ownership rule currently serves as a significant accompanying restriction on network entry into the cable industry, such that acquisitions in certain major local markets are precluded where a network already owns and operates a local broadcast station. Furthermore, we continue to believe that, the 50% measure will not create an undue obstacle to network entry and growth in most ADIs, yet it will provide essentially the same check on conduct by network-owned cable systems as the more stringent standard.

8. Next, concerning the argument that the 50-percent threshold is too restrictive, we recognize that certain potential network-cable combinations are precluded by our standard. We observe, however, that many acquisitions remain possible, including mergers of a network and a large MSO. For instance, regarding the many potential opportunities under the 50-percent cap demonstrate that the structural limits should permit at least some degree of meaningful entry, even allowing for an adjustment for the broadcast-cable provision, into the cable industry by broadcast networks. Again, we underscore that the local limit established in the Report and Order was intended to balance opportunities for entry with a reasonable ownership limit to address concerns for possible anticompetitive behavior, and that the limit takes full account of the conflicting statistical information placed in the record of this proceeding. We also reiterate that the primary concerns raised in the record focused on network-cable dominance and potential anticompetitive conduct and, in this regard, we emphasize that the 50% local limit will prevent network-cable owners from completely controlling the cable systems in any ADI while simultaneously reducing the likelihood of discriminatory conduct.

9. We also believe that the "homes passed" standard adopted in the Report and Order offers a stable and logical constraint on a network's ownership of cable within an ADI. In the Report and Order, we recognized that a base of "cable subscribers" may be more readily measurable than the "homes passed" base. However, we continue to find that a subscriber-based test—especially in the context of applying both national and local ownership standards—is fundamentally less stable as compared to a measure defined by "homes passed," given the relatively frequent changes in cable subscribership. We believe that a comparatively stable base is necessary as a point of reference for comparing acquisitions by a particular network, as well as those transactions involving different broadcast networks, over a period of time. As a result, to the extent that information for both measures is available, we find that the difference in actual opportunities for acquisition or entry are not sufficient to warrant use of a subscriber-oriented standard.

10. In order to deal further with the potential for any anticompetitive conduct, the Report and Order adopted a remedial scheme to address specific instances of discriminatory actions by network-owned cable systems. Specifically, we required that network-owned cable operators who drop or reposition a station for anticompetitive

reasons must restore the station to its prior carriage status. The Report and Order established procedures to govern the complaint process, including a requirement that a cable operator give a broadcaster 30 days' notice before repositioning or deleting its station. We provided that whenever a local broadcast station believes that it has suffered or will suffer competitive harm as a result of being dropped or repositioned by a network-owned cable system, the station may seek special relief from the Commission pursuant to § 76.7 of the Commission's Rules. The Report and Order also listed several factors the Commission will consider in evaluating a petition for special relief, including whether the cable system dropped a station in favor of another station in which it has a financial interest, whether the network-owned cable operator bypassed the local network affiliate and provided network programming on its own, whether the programming decision was supported by subscriber surveys, and the current ratings of the station as compared with its ratings before being dropped from the cable system.

11. We continue to be satisfied with the efficacy of the remedial provisions we adopted in the Report and Order. At this time, however, we will neither affirm nor repeal the provision in light of the 1992 Cable Act, which directs the Commission to adopt must-carry rules for commercial and non-commercial broadcast stations. We emphasize that, when adopted, the new must-carry rules could arguably supersede the provisions adopted in this proceeding. Until those rules are adopted, however, we will retain the current procedures for remedy.

12. In this Memorandum Opinion and Order, we deny the petitions for reconsideration, thereby affirming our decision to permit broadcast networks to own cable systems subject to certain restrictions. In particular, we affirm our prior decision to allow broadcast networks to acquire cable systems provided that such combinations do not exceed (i) 10% of home passed by cable nationwide, and (ii) 50% of homes passed by cable within an ADI. We also make no change in the remedies we adopted to resolve specific cases of anticompetitive conduct, and defer the question of whether such remedies are superseded by the must-carry provisions of the 1992 Cable Act for our pending proceeding that will implement those statutory rules.

Final Regulatory Flexibility Analysis Statement

13. Pursuant to the Regulatory Flexibility Act of 1980, the Commission included a final analysis in the Report and Order detailing (i) the need for and purpose of the rules, (ii) the summary of issues raised by public comment in response to the initial regulatory flexibility analysis, Commission assessment, and changes made as a result, and (iii) significant alternatives considered and rejected. No substantive changes have occurred pertaining to the final analysis as a result of the petitions for reconsideration.

14. The Secretary shall send a copy of this Memorandum Opinion and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. section 601 et seq. (1981)).

Ordering Clauses

15. Accordingly, *It is ordered* that the Petitions for Reconsideration filed by the Association of Independent Television Stations and the National Broadcasting Company, Inc. *Are denied.*

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–4727 Filed 3–1–93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 80–9; Notice 6A]

RIN 2127–AA12

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; change of effective date for adding previously adopted amendments to the Code of Federal Regulations (CFR).

SUMMARY: This document changes the date when the amendments to Standard No. 108 published on December 10, 1992 will be added to the text of that standard as it appears in the Code of Federal Regulations. Originally, the date was to be December 1, 1993. Now it will be March 2, 1993. There is no substantive effect of this change since paragraph S5.7, containing substantive requirements for conspicuity treatments, retains the originally stated date of December 1, 1993 for mandatory compliance with the requirements. The change also has the effect of making immediately effective the redesignation of certain paragraphs of the standard. Finally, the notice amends S5.8.2 to change a reference to "S5.7.1" to "S5.8.1".

DATES: The effective date for adding the text of the amendment published in FR Doc 92–29800 on December 19, 1992 (57 FR 58406), to 49 CFR part 571 is changed from December 1, 1993, to March 2, 1993. The effective date for the amendment effected by this notice to S5.8.2 is March 2, 1993.

FOR FURTHER INFORMATION CONTACT: Patrick Boyd, Office of Rulemaking (202–366–6346).

SUPPLEMENTARY INFORMATION: On December 10, 1992, NHTSA published a final rule addressed to making large trailers more visible on the road (57 FR 58406). The effective date of the rule was stated as December 1, 1993. The rule adopted a new paragraph S5.7 which requires trailers of 80 or more inches overall width and with a GVWR of over 10,000 pounds, manufactured on and after December 1, 1993, to be equipped with the conspicuity treatment required by the paragraph. The rule also redesignated existing paragraphs S5.7, S5.7.1, and S5.7.2, as S5.8, S5.8.1, and S5.8.2, and amended the applicability section of the standard S3, to include retroreflective sheeting and reflex reflectors manufactured to conform to S5.7.

In redesignating paragraphs S5.7, S5.7.1 and S5.7.2, the agency did not make a necessary conforming change to paragraph S5.7.2's internal reference to S5.7.1. It is therefore necessary now to change the internal reference to the newly redesignated S5.8.1.

The agency also wishes to accelerate the date when the amendments adopted on December 10, 1992 will appear in the text of the Code of Federal Regulations. Accelerating the effective date of that addition to the CFR results in no substantive burden. No compliance date or text is changed. The mandatory conspicuity marking provision of S5.7, by its own terms, will not come into effect until December 1, 1993. There is no substantive reasons why the redesignations of former S5.7 cannot be made effective immediately. NHTSA also notes that such an amendment with an effective date earlier than October 1, 1993, for adding the amendments to the

text of the standard in the CFR, will allow publication of the most current version of Standard No. 108 in the next volume of 49 CFR parts 400–999 revised as of October 1, 1993. The clarity that this will afford is in the public interest.

Accordingly, for the reasons stated above, NHTSA finds that prior notice and an opportunity for comment are not required, and that an effective date of March 2, 1993 for adding the amendments to 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, published on December 10, 1992, to the CFR, and the amendment to S5.8.2, is in the public interest. The effective date for adding the amendments of December 10, 1992, to the CFR, and for amending S5.8.2, is changed from December 1, 1993, to March 2, 1993.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C., 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.108 [Amended]

2. Paragraph S5.8.2 of § 571.108 is amended by revising the phrase "section S5.7.1" to read "paragraph S5.8.1."

Issued on: February 24, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93–4635 Filed 3–1–93; 8:45 am]

BILLING CODE 4910–59–M

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49 CFR Part 571

[Docket No. 74–14; Notice 80]

RIN 2127–AE44

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document amends Standard No. 208, Occupant Crash Protection, to provide all manufacturers of certain trucks and multipurpose passenger vehicles designed to be driven by persons with disabilities with an alternative to complying with the existing occupant restraint requirement. These manufacturers will be permitted to install manual safety belts that have not been dynamically tested at the front outboard seating positions instead of complying with the existing requirement for installing dynamically tested manual safety belts. This final rule will also give them the option of installing manual safety belts that have not been dynamically tested instead of complying with requirements that have been issued, but are not yet effective, for the installation of dynamically tested automatic restraints in those positions.

This action is being taken because the special modifications made to these vehicles affect the vehicles' certifiability under the dynamic test requirements for manual belts and automatic restraints. Final stage manufacturers and alterers who produce these vehicles have been unable to certify compliance with these requirements by passing through the certification of the manufacturer of the incomplete or previously certified vehicle. In addition, because final stage manufacturers and alterers are small businesses, they are not individually able to take the alternative course of independently certifying compliance with the dynamic test requirements for these vehicles.

This amendment will allow persons with disabilities to continue to purchase vehicles for their own operation.

DATES: The amendments made in this rule are effective April 1, 1993.

Any petitions for reconsideration must be received by NHTSA no later than April 1, 1993.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket Room hours are 9:30 a.m.–4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Cohen, NRM–12, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–2264.

SUPPLEMENTARY INFORMATION: The occupant restraint requirements for trucks and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less (referred to below as "light trucks") have been upgraded twice in recent years. On November 23, 1987, NHTSA published a final rule amending Standard No. 208, Occupant Crash Protection, to require the dynamic crash testing of the lap/shoulder safety belts installed in the front outboard seating positions of light trucks (52 FR 44898). This amendment became effective on September 1, 1991. On March 28, 1991, NHTSA published a final rule amending Standard No. 208 to extend the requirements for automatic crash protection to light trucks (56 FR 12472). The requirements will be phased-in over a period of years, beginning on September 1, 1994.

On November 4, 1991, the Recreation Vehicle Industry Association (RVIA) petitioned the agency "to amend Standard No. 208 to eliminate requirements that inadvertently discriminate against individuals with disabilities including individuals who use wheelchairs." RVIA is a national trade association representing over 500 manufacturers of recreation vehicles and their related suppliers. These recreation vehicles are classified as light trucks by NHTSA. RVIA's membership also includes more than 114 van converters who manufacture approximately 80 percent of the van conversions produced in the United States. The RVIA petition alleged that its

> member manufacturers and van converters are small business entities that do not have the necessary technical or other resources to "crash test" vehicles. As a result of (the new dynamic testing) requirement, they are no longer able to provide employers and others with "customized" vans, van conversions and light trucks that are specially designed or equipped to be driven by or used to transport persons with disabilities.

While the agency was reviewing this petition, NHTSA also received a letter from the Braun Corporation, a mobility products manufacturer (Braun). This letter stated that manufacturing a van to be driven by a person with a disability necessitates raising the roof over the front seating positions (or, in more technical terms, the roof forward of the B pillar, i.e., the post between the rear side door and the front passenger door) to provide sufficient headroom for a person in a wheelchair. The letter explained that the information provided by the manufacturer of the van stated that the roof area forward of the B pillar cannot be cut if the final stage manufacturer wishes to pass through the incomplete vehicle manufacturer's certification of compliance with Standard No. 208. Since many of the final stage manufacturers and alterers are small businesses, they cannot individually afford to take the alternative course of independently certifying compliance with the new dynamic testing requirements of Standard No. 208. In addition, because vehicles manufactured for persons with disabilities are often unique, it would be difficult for the manufacturer to utilize

other analytical techniques to evaluate the compliance of different vehicles.

The agency granted RVIA's petition on January 9, 1992, and on August 5, 1992, published a Notice of Proposed Rulemaking (NPRM) in response to the petition and Braun's letter (57 FR 34539). The NPRM emphasized the agency's belief that the goal of providing all individuals with an equivalent level of occupant crash protection must be balanced with the goal of providing mobility for all Americans. Since it appeared that manufacturers who modify and alter light trucks for persons with disabilities could not readily develop and install appropriate mobility arrangements, adaptive devices, and other hardware consistent with the dynamic testing requirements of Standard No. 208 and associated certification responsibilities, the agency proposed to add light trucks manufactured to be driven by wheelchair occupants to the list of vehicles which may be equipped with nondynamically tested manual belts instead of dynamically tested manual belts or automatic restraints. More specifically, these vehicles would be required to have, at a minimum, a Type 2 seat belt assembly installed at each outboard seating position and a Type 1 seat belt assembly installed at all other seating positions.

Since the agency did not have any information that modifications to seating positions rearward of the B pillar affect compliance with the dynamic testing requirements, and since the agency believed that the exclusion from the dynamic testing requirements should be no broader than necessary to accommodate the mobility needs of persons with disabilities, the agency proposed to limit the exclusion to vehicles manufactured to be driven by a wheelchair occupant. The agency proposed to refer to these vehicles by the term "vehicles manufactured for operation by persons with disabilities" and to define that term as including vehicles that have a level change device, an adaptive driver control and vertical clearance sufficient to allow a wheelchair occupant to move between the level change device and driver's seat.

The agency received eight comments in response to the NPRM. In general, commenters supported the need for an exclusion from the dynamic testing requirement. However, commenters did disagree with some aspects of the proposal. All of the comments were considered while formulating this final rule. The most significant comments are addressed below.

Safety

One commenter, ARCCA Incorporated (ARCCA), disagreed with the proposal because it would pose an unreasonable risk for persons with disabilities. In its comment, ARCCA referred to the proposal as a "bypassing" of Standard No. 208. This characterization of the exclusion is incorrect. As stated in the NPRM, this exclusion is only for the dynamic testing requirements. Standard No. 208 will still require vehicles which are manufactured under this exclusion to have belts which comply with Standard No. 209, Seat Belt Assemblies, and Standard No. 210, Seat Belt Assembly Anchorages. Therefore, occupants of these vehicles will still have effective occupant protection systems available to them.

Extension to Other Seating Positions

All commenters except ARCCA requested that the exclusion not be limited to vehicles modified for drivers with disabilities. They urged that the exclusion be broadened to include vehicles that, although not modified for drivers with disabilities, had been modified for passengers with disabilities. More specifically, Braun, the National Truck Equipment Association (NTEA), and RVIA requested extension of the exclusion to light trucks manufactured to transport passengers with disabilities in the front and/or rear seating positions. Care Concepts, Inc. (Care Concepts), Chrysler Corporation (Chrysler), Ford Motor Company (Ford), and Independent Mobility Systems, Inc. (IMS) limited the request for an extension to include vehicles whose right front passenger position had been modified for use by persons with disabilities.

In the NPRM, the agency stated the only seating areas whose modification appear to present a problem for compliance with the dynamic testing requirements are the seating areas forward of the B pillar. The commenters who requested extension to vehicles modified to carry individuals in wheelchairs as passengers, did not provide any information explaining why the exclusion from the dynamic testing requirement (which applies only to front outboard seating positions) was necessary if modifications are made to seating positions rearward of the B pillar.

While reviewing the comments, the agency received a copy of a petition to the U.S. Architectural and Transportation Barriers Compliance Board. A copy of this petition has been placed in the docket for the NPRM. The petition states that any change to original chassis construction of Chrysler's Dodge trucks may affect compliance with Standard No. 208. However, Chrysler did not present any information that modifications rearward of the B pillar affect compliance of the front seating positions in its comment. Therefore, the agency has not extended the exclusion to include vehicles whose rear seating positions have been modified.

The commenters who requested extension of the exclusion to vehicles modified to carry an individual in a wheelchair at the right front passenger position (but not at the driver's position) based the request on assertions that passengers prefer to sit in the front seat. NHTSA believes that, in the interest of safety, a distinction must be made between drivers and passengers. As the agency stated in the NPRM, while drivers must sit in a front seat, passengers need not do so. Accordingly, the justification for excluding vehicles whose driver's seat has been modified is much stronger than that for excluding vehicles whose right front passenger's seat has been modified. Commenters did not provide any information to refute that position. Therefore, the final rule continues to limit the exclusion to vehicles modified to be driven by persons with disabilities.

Definition

The NPRM proposed to define the term "vehicles manufactured for operation by persons with disabilities" as follows:

> vehicles that incorporate a level change device (e.g., a wheelchair lift or a ramp) for onloading or offloading an occupant in a wheelchair, at least one adaptive control to enable persons who have limited use of their arms or legs to operate a vehicle, and an interior element of design intended to provide the vertical clearance necessary to permit a person in a wheelchair to move between the level change device and the driver's position or to occupy that position.

Chrysler, Ford and IMS commented that this definition was too restrictive in specifying an adaptive control as one of the definitional criteria. All three commenters asserted that not all wheelchair occupants need an adaptive control to drive a vehicle. Chrysler and IMS asserted further that adaptive controls are usually not installed by the company that installs the lift and raises the roof or lowers the floor, but by a different company. Those two commenters said that the combination of these two facts would make it difficult for the lift installer/vertical clearance changer to determine whether a vehicle would ultimately qualify for the exclusion from the dynamic testing

requirement, and thus difficult to determine its compliance certification obligations. Accordingly, Ford requested that the exclusion be extended to vehicles that are modified to accommodate "wheelchair users who operate the vehicle from a driver's seat that has been modified to allow transfer from a wheelchair to the driver's seating position."

The agency included reference to adaptive controls in the definition to provide an objective way of distinguishing between vehicles modified to be driven by a person in a wheelchair and vehicles modified to permit transportation of passengers in wheelchairs. The latter vehicles, like the former vehicles, have a level change device and a raised roof or lowered floor.

Based on the comments, NHTSA agrees that the inclusion of adaptive controls was too restrictive in that it inadvertently excluded some vehicles modified to be driven by wheelchair occupants. To broaden the exclusion while ensuring that it continues to be limited to vehicles modified to be driven by a person in a wheelchair, the agency is replacing the phrase "at least one adaptive control to enable persons who have limited use of their arms or legs to operate a vehicle" with the broader phrase

> either an adaptive control or special driver seating accommodation to enable persons who have limited use of their arms or legs to operate a vehicle. For purposes of this definition, special driver seating accommodation includes a driver's seat easily removable with means installed for that purpose or with simple tools, or a driver's seat with extended adjustment capability to allow a person to easily transfer from a wheelchair to the driver's seat.

Type 2 Belt

In the NPRM, the agency stated that vehicles which qualified for exclusion from the dynamic testing requirement "would be required to have, at a minimum, a Type 2 seat belt assembly installed at each outboard seating position and a Type 1 seat belt assembly installed at all other seating positions." IMS, Chrysler, and Ford commented that some wheelchairs may not be compatible with a Type 2 seat belt assembly. If a wheelchair has closed arms, the seat belt cannot be positioned correctly unless the lap belt is disconnected from the shoulder belt to allow it to be placed through the arms. Ford commented that other requirements of Standard No. 208 may also not be compatible with wheelchairs, for example, single buckle release and emergency locking retractors. Ford also commented that Standard No. 208 does not require a Type 2 seat belt assembly at the front outboard seating position unless that position is within the impact zone.

In the NPRM, NHTSA stated "(w)hile the agency believes that all individuals are entitled to an equivalent level of occupant crash protection, the agency believes that that goal must be balanced with the goal of providing mobility for all Americans." The agency then emphasized "that the manual safety belts in these light trucks would offer significant occupant crash protection." Type 2A belts are currently not allowed by the standard because these belts do not offer equivalent safety benefits to Type 2 belts. The commenters who requested that the agency allow a Type 2A belt offered no information to suggest that equivalent or greater safety benefits would be achieved. Thus, the agency has decided not to allow Type 2A belts. Ford's comments about possible concerns regarding other requirements of Standard No. 208 are beyond the scope of this rulemaking.

Labeling

The NPRM stated:

> [t]he agency specifically seeks public comments on whether prospective purchasers should be provided with information that the vehicles subject to this rulemaking are not required to be dynamically tested. If commenters believe such notification is necessary, they are requested to provide reasons thereof and what form the notification should take.

Only one commenter, Chrysler, stated that it would support a requirement that prospective purchasers be provided information that the vehicle is not required to be dynamically tested. However, Chrysler did not provide any reason as to why such notification was necessary, or what form the notification should take. Therefore, in the absence of any information that it would provide any benefit, a notification requirement is not included in the final rule.

Other Comments

Ford requested extension of the exclusion of the dynamic testing requirement to passenger cars. Ford stated that it "earlier offered cars equipped to accommodate disabled drivers." NHTSA is not aware of any passenger cars currently being modified for drivers in wheelchairs, or that such vehicles would need an exclusion from the dynamic testing requirements. In addition, such an extension would be beyond the scope of the NPRM.

Ford also argued that compliance with 19 other motor vehicle safety standards may be affected by modifications to accommodate persons with disabilities. Changes relating to these standards are beyond the scope of this rulemaking. In addition, Ford did not provide any information that manufacturers are unable to comply with these standards.

Braun requested information about the location of the anchorages. The anchorage location requirements are in Standard No. 210. These requirements specify permissible location zones, referenced to the seating reference point (SgRP). Section S4.1 of Standard No. 207, Seating Systems, requires each vehicle to have an occupant seat for the driver. Therefore, even if the seat is readily removable to permit driving from a wheelchair, the manufacturer will be able to determine permissible anchorage locations in the vehicle.

Duration of the Exclusion of Automatic Restraint Requirements

In a recent notice of proposed rulemaking, NHTSA interpreted the air bag mandate in section 2508 of the Intermodal Surface Transportation Efficiency Act as including all those vehicles that NHTSA had determined in previous rulemaking proceedings should be subject to the automatic crash protection requirements (57 FR 59043; December 14, 1992). With respect to light trucks, the agency determined in the March 1991 final rule that all light trucks, except walk-in van-type trucks and vehicles designed to be sold exclusively to the United States Postal Service, would be subject to the requirements. If the interpretation in the NPRM is reaffirmed in the final rule on the air bag mandate, the exclusion of light trucks designed to be driven by persons with disabilities would have to be modified so that it terminates on September 1, 1998 when installation of air bags in light trucks becomes statutorily required.

This final rule does not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (Safety Act; 15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. Section 105 of the Safety Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for

reconsideration of other administrative proceedings before parties may file suit in court.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has examined the impact of this rulemaking action and determined that it is neither "major" within the meaning of E.O. 12291, nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures.

The agency estimates that there will be 1,000 to 2,000 vehicles produced annually that will qualify for the exclusion. Higher estimates provided by one commenter were not broken down by GVWR or by type of adaptation. In the absence of additional information supporting the higher estimates, the agency continues to believe that 1,000 to 2,000 represents a best estimate of the number of vehicles manufactured to be operated by persons with disabilities. If each of these 1,000 to 2,000 vehicles is unique, the manufacturer might, in the absence of an exclusion, have to separately test each model. This could necessitate the manufacture of two vehicles, one to be tested and one to be sold. The costs of a Standard No. 208 test are $13,500. The agency estimates that the total cost of the second vehicle would be $25,000. Based on these figures, the agency estimates that the final rule could potentially avoid $38.5 to $77 million in costs annually.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Manufacturers of vehicles affected by this final rule are primarily small businesses. However, as stated above, the agency does not expect a significant cost impact as a result of this final rule. Since there will not be a significant cost impact, the price of new vehicles will not be affected sufficiently to affect the purchase of new vehicles by small organizations and governmental jurisdictions. In addition, this amendment will permit small businesses to produce vehicles that they will not otherwise be able to produce.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

Finally, NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for part 571 of title 49 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407, delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended by revising S4.2, the first sentence in paragraphs S4.2.2, S4.2.5.1.1, S4.2.5.2.1, S4.2.5.3.1, and S4.2.6 and, in S4.2.5.4, paragraph (a) and the first sentence of (b) to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S4.2 *Trucks and multipurpose passenger vehicles with a GVWR of 10,000 pounds or less.* As used in this section, *vehicles manufactured for operation by persons with disabilities* means vehicles that incorporate a level change device (e.g., a wheelchair lift or a ramp) for onloading or offloading an occupant in a wheelchair, an interior element of design intended to provide the vertical clearance necessary to permit a person in a wheelchair to move between the lift or ramp and the driver's position or to occupy that position, and either an adaptive control or special driver seating accommodation to enable persons who have limited use of their arms or legs to operate a vehicle. For purposes of this definition, special driver seating accommodations include a driver's seat easily removable with means installed for that purpose or with simple tools, or a driver's seat with extended adjustment capability to allow a person to easily transfer from a wheelchair to the driver's seat.

* * * * *

S4.2.2 *Trucks and multipurpose passenger vehicles with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, manufactured on or after September 1, 1991 and before September 1, 1997.* Except as provided in S4.2.4, each truck and multipurpose passenger vehicle, with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, manufactured on or after September 1, 1991 and before September 1, 1997, shall meet the requirements of S4.1.2.1, or at the option of the manufacturer, S4.1.2.2 or S4.1.2.3 (as specified for passenger cars), except that convertibles, open-body type vehicles, walk-in van-type trucks, motor homes, vehicles designed to be exclusively sold to the U.S. Postal Service, vehicles carrying chassis-mount campers, and vehicles manufactured for operation by persons with disabilities may instead meet the requirements of S4.2.1.1 or S4.2.1.2. * * *

* * * * *

S4.2.5.1.1 Subject to S4.2.5.1.2 and S4.2.5.5 and except as provided in S4.2.4, each truck, bus and multipurpose passenger vehicle, other than walk-in van-type trucks, vehicles designed to be exclusively sold to the U.S. Postal Service, and vehicles manufactured for operation by persons with disabilities, with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less that is manufactured on or after September 1, 1994 and before September 1, 1995, shall comply with the requirements of S4.1.2.1, S4.1.2.2, or S4.1.2.3 (as specified for passenger cars). * * *

* * * * *

S4.2.5.2.1 Subject to S4.2.5.2.2 and S4.2.5.5 and except as provided in S4.2.4, each truck, bus, and multipurpose passenger vehicle, other than walk-in van-type trucks, vehicles designed to be exclusively sold to the U.S. Postal Service, and vehicles manufactured for operation by persons with disabilities, with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less that is manufactured on or after September 1, 1995 and before September 1, 1996, shall comply with the requirements of S4.1.2.1, S4.1.2.2, or S4.1.2.3 (as specified for passenger cars). * * *

* * * * *

S4.2.5.3.1 Subject to S4.2.5.3.2 and S4.2.5.5 and except as provided in S4.2.4, each truck, bus, and multipurpose passenger vehicle, other than walk-in van-type trucks, vehicles designed to be exclusively sold to the U.S. Postal Service, and vehicles manufactured for operation by persons with disabilities, with a GVWR of 8,500 pounds or less and an unloaded vehicle

weight of 5,500 pounds or less that is manufactured on or after September 1, 1996 and before September 1, 1997, shall comply with the requirements of S4.1.2.1, S4.1.2.2, or S4.1.2.3 (as specified for passenger cars). * * * * * * * * * *

S4.2.5.4 *Alternative phase-in schedule.* * * *

(a) Except as provided in S4.2.4, each truck, bus, and multipurpose passenger vehicle, other than walk-in van-type trucks, vehicles designed to be exclusively sold to the U.S. Postal Service, and vehicles manufactured for operation by persons with disabilities, with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less that is manufactured on or after September 1, 1994 and before September 1, 1995 shall comply with the requirements of S4.1.2.1, S4.1.2.2, or S4.1.2.3 (as specified for passenger cars).

(b) Except as provided in S4.2.4, each truck, bus, and multipurpose passenger vehicle, other than walk-in van-type trucks, vehicles designed to be exclusively sold to the U.S. Postal Service, and vehicles manufactured for operation by persons with disabilities, with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less that is manufactured on or after September 1, 1995 shall comply with the requirements of S4.1.2.1 (as specified for passenger cars) of this standard. * * * * * * * * * *

S4.2.6 *Trucks, buses, and multipurpose passenger vehicles with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less manufactured on or after September 1, 1997.* Except as provided in S4.2.4, each truck, bus, and multipurpose passenger vehicle with a GVWR of 8,500 pounds or less and a unloaded vehicle weight of 5,500 pounds or less manufactured on or after September 1, 1997 shall comply with the requirements of S4.1.2.1 (as specified for passenger cars) of this standard, except that walk-in van-type trucks, vehicles designed to be exclusively sold to the U.S. Postal Service, and vehicles manufactured for operation by persons with disabilities may instead meet the requirements of S4.2.1.1 or S4.2.1.2. * * * * * * * * * *

Issued on February 22, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93–4781 Filed 3–1–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 930225–3025]

RIN 0648–AE91

Snapper-Grouper Fishery of the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Interim final rule and request for comments.

SUMMARY: NMFS issues this interim final rule to (1) define a sea bass pot; (2) remove the existing definition of sea bass trap; and (3) allow retention of fish caught incidentally in a sea bass pot. In addition, NMFS clarifies what constitutes having a longline on board a vessel for purposes of the prohibition on use of a longline (1) to fish for fish in the snapper-grouper fishery in the exclusive economic zone (EEZ) where the charted depth is less than 50 fathoms (91.5 m); and (2) to fish for wreckfish. Finally, NMFS removes unnecessary language regarding the multi-day possession limits applicable to charter vessels and headboats. The intended effects of this rule are to alleviate unanticipated economic impacts on black sea bass fishermen and related support industries, to enhance enforceability of the prohibition on the use of fish traps, to conform the regulations to the intent of the fishery management plan without undue burden on fishermen, and to clarify the regulations.

DATES: Effective March 1, 1993. Written comments must be received on or before April 1, 1993.

ADDRESSES: Comments on this interim final rule should be sent to the Southeast Regional Office, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Copies of documents supporting this action may be obtained from the South Atlantic Fishery Management Council, Southpark Building, suite 306, One Southpark Circle, Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813–893–3161.

SUPPLEMENTARY INFORMATION: Snapper-grouper species off the southern Atlantic states, including sea bass, are managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP), prepared by the South Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR part 646, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Sea Bass Pots

Amendment 4 to the FMP prohibits the use of fish traps in the snapper-grouper fishery but allows the use of sea bass traps north of Cape Canaveral, Florida. To ensure that a sea bass trap would not be used in a directed fishery for snapper-grouper species other than sea bass, the regulations that implement Amendment 4 limit a fisherman who use or possesses a sea bass trap in the EEZ north of Cape Canaveral on any trip to the bag limits for those snapper-grouper species that have bag limits, and to zero for all other species except sea bass. These possession limits caused an unanticipated economic hardship to fishermen in North Carolina and South Carolina who had traditionally fished with sea bass traps and other gear on a single trip.

To address this economic emergency, the Council requested, and NMFS published, an emergency interim rule, effective August 31, 1992, through November 30, 1992, that established a definition of "sea bass pot," based principally on size, and removed the possession limits for snapper-grouper applicable to fishermen using sea bass pots aboard commercially permitted vessels in the EEZ off North and South Carolina (55 FR 39365, August 31, 1992). The nature and scope of the economic emergency and the rationale for and details of the revised management measures are contained in the emergency interim rule and are not repeated here.

Upon the request of the Council and with the concurrence of NMFS, effectiveness of the emergency interim rule was extended through February 28, 1993 (57 FR 56522, November 30, 1992).

A contributing factor to the problem of appropriate retention limits applicable to fishermen using sea bass traps was the Council's and NMFS' inability in Amendment 4 to define a sea bass trap in terms other than its catch. That is, differentiation between a fish trap, which is prohibited, and a sea bass trap could only be ascertained after fish were caught in it. Such after-the-fact differentiation created difficulties for fishermen and for enforcement officers. Although the proposed rule to implement Amendment 4 requested recommendations for an alternative definition, no substantive recommendations were received. The unforeseen economic emergency focused attention on this weakness in the regulations, and a suitable definition

of a sea bass pot, based principally on size, was implemented by the emergency interim rule.

Experience under the emergency interim rule, as expressed by industry representatives at Council meetings and by written comments to the Council, indicates that the definition of a sea bass pot based on size relieves the economic emergency while precluding the use of a sea bass pot in a directed fishery for snapper-grouper species other than sea bass. Accordingly, the Council initiated action under the FMP's framework procedure for establishing or modifying management measures, including gear restrictions, to establish a definition of sea bass pot, remove the definition of fish trap, and remove the incidental catch restrictions for fishermen using sea bass pots. The Council believes that the benefits of the revised measures regarding use of sea bass pots should apply throughout the range of allowed use of sea bass pots. Therefore, this action would apply these measures from Cape Canaveral through North Carolina.

Under this interim final rule, a trap in the EEZ, other than a crustacean trap or a sea bass pot, would be a fish trap. Enforcement of the FMP's prohibition on use of fish traps in the EEZ would be significantly enhanced.

It is the Council's intent that sea bass pots not be fished in multiple configurations (i.e., attaching individual pots together resulting in a trap that exceeds the dimensions specified for a sea bass pot). This would not preclude connecting individual pots to a line, such as a "trawl" or trot line.

The Council has determined that these changes are in the best interest of the black sea bass fishery. Further, the significant negative impacts, which were the basis for the emergency interim rule, argue strongly for action to implement these changes early in the 1993 fishing year, prior to expiration of the emergency interim rule. NMFS concurs.

Longlines

The regulations specify that a longline may not be used to fish for fish in the snapper-grouper fishery in the EEZ where the charted depth is less than 50 fathoms (91.5 m) (50 CFR 646.22(g)(1)). A person aboard a vessel that has a longline aboard and has fished on a trip in the EEZ where the charted depth is less than 50 fathoms (91.5 m) is precluded from possessing commercial quantities of fish in the snapper-grouper fishery on that trip, as specified in 50 CFR 646.22(g)(1)(ii). One of the criteria for determining whether a longline is aboard is possession of "a cable of diameter and length suitable for use in the longline fishery."

Similarly, a bottom longline may not be used to fish for wreckfish (50 CFR 646.22(g)(2)). A person aboard a vessel that has a longline aboard may not possess a wreckfish in or from the EEZ. One of the criteria for determining whether a longline is aboard is possession of "a cable of diameter suitable for use in the longline fishery longer than 1.5 miles (2.4 km) on any reel." Some fishermen aboard vessels that are permitted in the wreckfish fishery and other fisheries conduct trips during which they use non-longline gear for wreckfish and monofilament pelagic longlines for fish other than snapper-grouper species. Reports have been received that such multi-gear trips may be necessary to operate economically in the face of uncertain catch rates for wreckfish. The question has arisen as to whether monofilament longlines are considered "cable."

The Snapper-Grouper Advisory Panel of the Council has advised the Council and NMFS that monofilament that is normally used in pelagic longlines cannot be satisfactorily employed as a bottom longline for wreckfish. Currently available monofilament longlines would be cut by the sharp, rocky relief on the wreckfish grounds. On the other hand, the Advisory Panel advised that a monofilament longline could be satisfactorily deployed in parts of the EEZ where the charted depth is less than 50 fathoms (91.5 m). Accordingly, differentiation is necessary as to what constitutes "cable" in the two instances, so as not to interfere unnecessarily with the legitimate operations of fishermen.

In the 50-fathom (91.5 m) restriction, NMFS is clarifying the criterion for determining possession of a longline aboard by changing it to read, "a cable or monofilament of diameter and length suitable for use in the longline fishery." In the wreckfish restriction, the criterion remains unchanged and, thus, precludes any presumption that monofilament is cable.

Charter Vessels and Headboats

In the charter vessel and headboat exception to the general rule prohibiting possession of more than one daily bag limit of snapper-grouper species (50 CFR 646.23(c)(2)), there is a condition that the charter vessel or headboat must have two licensed operators aboard "as required by the Coast Guard for trips of over 12 hours." The requirement for two licensed operators aboard is explicitly stated in Coast Guard regulations that are applicable to some, but not all, of the vessels included in the terms "charter vessel" and "headboat" in these regulations. The Council, however, has concluded that having two licensed operators aboard on trips of over 24 hours is an appropriate condition for the exception. Accordingly, as a technical change, the phrase "as required by the Coast Guard for trips of over 12 hours" is removed.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this interim final rule is necessary for the conservation and management of the snapper-grouper fishery and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator determined that this interim final rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This rule is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Assistant Administrator, pursuant to section 553(b)(B) of the Administrative Procedure Act (APA), finds for good cause that, in order to maximize the benefits for participants in the fishery, the revisions in this rule relating to sea bass traps must be effective immediately upon expiration of the emergency interim rule currently in effect. It is impracticable to provide notice and opportunity to comment on this aspect of the rule. Similarly, to implement measures to relieve the economic hardship in a timely manner, the Assistant Administrator finds it is contrary to the public interest to delay for 30 days the effective date of this interim final rule, under the provisions of sections 553(d)(1) of the APA. The Assistant Administrator, pursuant to section 553(b)(A) of the APA, finds that it is contrary to the public interest to require prior notice and opportunity to comment on clarifications regarding longlines and charter vessel and headboat language because they relieve restrictions. Likewise, the Assistant Administrator, pursuant to section 553(d)(1) of the APA, finds that, for the same reasons, good cause exists for making this rule effective on March 1, 1993.

The Council prepared a regulatory impact review (RIR) for the framework

portions of this interim final rule, which concludes that they would have overall net economic benefits, summarized as follows. The new definition of sea bass pots would be beneficial (1) to sea bass pot fishermen who make multi-gear trips, although some fishermen will incur initial minor costs to reduce the size of currently oversized pots; (2) to the processing and distribution sectors that handle black sea bass; and (3) to consumers who purchase black sea bass. The non-framework portions of this interim final rule are minor and technical and would not change the regulatory impacts that were previously reviewed and analyzed.

The Council determined that this interim final rule will not have a significant economic impact on a substantial number of small entities for the following reasons. For the measures relating to sea bass pots, this rule will continue in effect measures that have been in effect since August 31, 1992, for the vast majority of fishermen who use sea bass pots. Geographical extension of the measures relating to sea bass pots to include Georgia and Florida, north of Cape Canaveral, will have little impact because landings of sea bass from the extended area average less that 1,100 pounds (499 kg) annually. Few commercial fishermen will be affected by the other measures in this interim final rule. No regulatory flexibility analysis was prepared because the Regulatory Flexibility Act does not apply to this rule since it is not required to be promulgated as a proposed rule by section 553 of the APA or by any other law.

The Council prepared an environmental assessment (EA) that discusses the impact on the environment as a result of the sea bass pot measures in this rule. A copy of the EA is available (see **ADDRESSES**) and comments on it are requested. Other measures in this interim final rule do not change any of the factors considered in the environmental impact statement prepared for the FMP or in the EAs prepared for its amendments; accordingly, these measures are categorically excluded from the requirement to prepare an EA, as specified in NOAA Administrative Order 216–6.

The Council has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Florida, North Carolina, and South Carolina. Georgia does not participate in the coastal zone management program. These determinations have been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

This interim final rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act and does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 25, 1993.

William W. Fox, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 646 is amended as follows:

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

1. The authority citation for part 646 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 646.2, the definition for "*Sea bass trap*" is removed, the definition for "*Fish trap*" is revised, and a new definition for "*Sea bass pot*" is added in alphabetical order to read as follows:

§ 646.2 Definitions.

* * * * *

Fish trap means a trap used for or capable of taking fish, except a sea bass pot or a crustacean trap.

* * * * *

Sea bass pot means a trap that—

(1) Has six rectangular sides;

(2) Does not exceed 25 inches (63.5 cm) in height, width, or depth; and

(3) Has mesh sizes as follows (based on centerline measurements between opposite, parallel, parallel wires or netting strands) (see Figure 3):

(i) Hexagonal mesh (chicken wire)—at least 1.5 inches (3.8 cm) between the wrapped sides;

(ii) Square mesh—at least 1.5 inches (3.8 cm) between sides; or

(iii) Rectangular mesh—at least 1 inch (2.5 cm) between the longer sides and 2 inches (5.1 cm) between the shorter sides.

* * * * *

3. In § 646.7, in paragraphs (a) and (z), the phrase "sea bass trap" is revised to read "sea bass pot"; and paragraphs (aa), (bb), and (cc) are revised to read as follows:

§ 646.7 Prohibitions.

* * * * *

(aa) Use or possess in the EEZ north of Cape Canaveral, Florida, a sea bass pot that does not conform to the requirements for openings and degradable fasteners specified in § 646.22(c)(2)(i).

(bb) Use or possess in the EEZ north of Cape Canaveral, Florida, sea bass pots in a multiple configuration, as specified in § 646.22(c)(2)(ii).

(cc) Pull or tend another person's sea bass pot except as specified in § 646.22(c)(2)(iii).

* * * * *

4. In § 646.22, paragraphs (c) and (g)(1)(iii) are revised to read as follows:

§ 646.22 Gear restrictions.

* * * * *

(c) *Sea bass pots*—(1) *South of Cape Canaveral.* A sea bass pot may not be used in the EEZ south of Cape Canaveral, Florida (28° 35.1' N. latitude—due east of the NASA Vehicle Assembly Building). A sea bass pot deployed in the EEZ south of Cape Canaveral, Florida, may be disposed of in any appropriate manner by the Secretary.

(2) *North of Cape Canaveral*—(i) *Openings and degradable fasteners.* A sea bass pot that is used or possessed in the EEZ north of Cape Canaveral, Florida, is required to have on at least one side, excluding top and bottom, a panel or door with an opening equal to or larger than the interior end of the trap's throat (funnel). The hinges and fasteners of each panel or door must be made of one of the following degradable materials:

(A) Untreated hemp, jute, or cotton string of 3/16-inch (4.8-millimeter) diameter or smaller;

(B) Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners; or

(C) Ungalvanized or uncoated iron wire of 0.062-inch (1.6-millimeter) diameter or smaller.

(ii) *Use of sea bass pots.* Sea bass pots may not be used or possessed in the EEZ north of Cape Canaveral in multiple configurations; that is, two or more pots may not be attached one to another so that their overall dimensions exceed those allowed for an individual sea bass pot. This does not preclude connecting individual pots to a line, such as a "trawl" or trot line.

(iii) *Tending pots.* A sea bass pot may be pulled or tended only by a person (other than an authorized officer) aboard the vessel permitted to fish such pot, or aboard another vessel if such vessel has on board written consent of the vessel permit holder.

* * * * *

(g) * * *

(1) * * *

(iii) For the purpose of paragraph (g)(1) of this section, a vessel is considered to have a longline on board when a power-operated longline hauler, a cable or monofilament of diameter and length suitable for use in the longline fishery, and gangions are on board. Removal of any one of these three elements constitutes removal of a longline.

* * * * *

5. In § 646.23, in paragraph (c)(2) introductory text, the phrase, "as required by the Coast Guard for trips of over 12 hours," is removed; and paragraph (a)(2) is revised to read as follows:

§ 646.23 Bag and possession limits.

(a) * * *

(2) Special limitations on possession of fish in the snapper-grouper fishery apply to a person fishing with or possessing a crustacean trap in the EEZ. See § 646.22(d).

* * * * *

§ 646.26 [Amended]

6. In § 646.26, in paragraph (b), the phrase "fish traps" is revised to read "sea bass pots".

7. Figure 3 to part 646 is revised to read as follows: [Insert Figure 3.]

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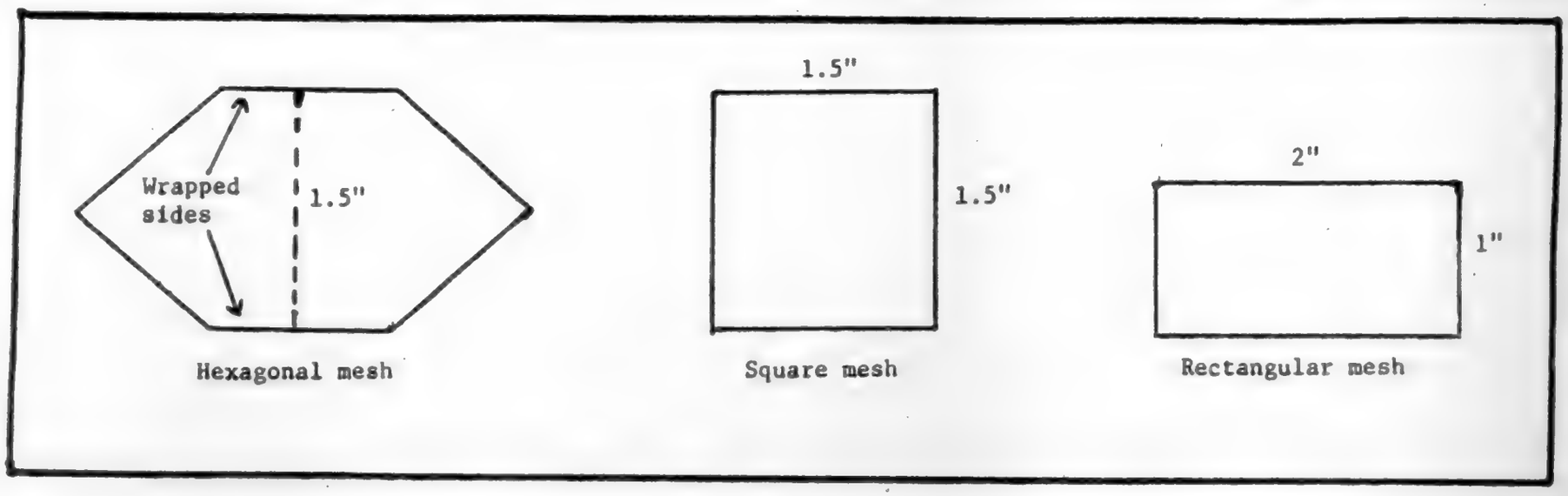

Figure 3. Examples of sea bass pot mesh that meet the minimum mesh sizes (not to scale).

BILLING CODE 3510-22-C

§§ 646.4 and 646.6 [Amended]

8. In addition to the amendments set forth above, in 50 CFR part 646, the words "trap" and "traps", are revised to read "pot" and "pots", respectively, wherever they appear in the following places:

a. Section 646.4(a)(1)(i) (1 time), (a)(1)(iv) (2 times), (b)(2)(vi) introductory text (1 time), (b)(2)(vi)(A) (1 time), (b)(2)(vi)(C) (1 time), and (e) (1 time);

b. Section 646.6(b) introductory text (1 time), (d) (2 times), (e) (2 times), (f) (2 times), and (g) (4 times).

[FR Doc. 93–4812 Filed 2–26–93; 8:45 am]
BILLING CODE 3510–22–M

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50 CFR Part 663

[Docket No. 921190–3018]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule and notice of trip limit.

SUMMARY: NOAA issues this rule to designate as "routine" the setting of trip landing and frequency limits for Pacific whiting. The trip landing and frequency limits would apply prior to the regular season opening date and when the large-scale whiting fishery reaches or is projected to reach the annual whiting harvest guideline. This action also announces an initial trip limit of 10,000 pounds for Pacific whiting prior to the 1993 "regular season". These actions are authorized under Amendment 4 to the Pacific Coast Groundfish Fishery Management Plan (FMP) and are intended to allow small quantities of whiting to be retained and landed during periods when the fishery would otherwise be closed.

EFFECTIVE DATES: February 25, 1993.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) are available from the Pacific Fishery Management Council, 2000 SW. First Avenue, suite 420, Portland, Oregon 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, Rodney R. McInnis at 310–980–4030, or the Pacific Fishery Management Council at 503–326–6352.

SUPPLEMENTARY INFORMATION:

Background

Amendment 4 to the FMP was approved on November 15, 1990, and the implementing regulations became effective on January 1, 1991. This action is being taken according to the rulemaking procedures under Amendment 4 to the FMP that authorize the designation of certain management measures as "routine." Routine management measures generally are specific for certain species and gear types. Implementation and further adjustment of those routine measures may occur after consideration at a single meeting of the Pacific Fishery Management Council (Council) and after publication in the **Federal Register**. Adjustments to routine measures are limited to those measures that are for the same purpose, and that are within the scope of the analysis performed when the measure originally was designated as routine. Descriptions of management measures designated as "routine" are published in the **Federal Register** and codified in the implementing regulations at 50 CFR 663.23, thus informing the public of the species and gear types to which they apply.

At its September 1992 meeting, the Council recommended that trip landing or frequency limits for Pacific whiting before and after the regular whiting season be designated as routine. The regular whiting season currently begins April 15 and normally ends when the harvest guideline or quota is reached. The purposes of designating pre- and post-season trip limits as routine are to provide the administrative mechanism to end the large-scale whiting fishery when the annual harvest guideline is reached, to allow small landings of whiting for fresh fish markets and for bait at times of the year when the large-scale whiting fisheries are prohibited, and to allow landings of small quantities of whiting taken while fishing for other groundfish species. These purposes are the same as contemplated under 50 CFR 663.23(c)(1)(ii): To keep landings close to the specified harvest levels; to extend the season: to minimize disruption of traditional fishing and marketing patterns; to reduce discards; to discourage target fishing while allowing small incidental catches to be landed; and to allow small fisheries to operate outside the normal season.

Small landings of whiting occur infrequently along the Pacific coast of Washington, Oregon, and California, and have very little impact on the total landings of whiting. For groundfish fisheries directed at other groundfish species that unavoidably take small amounts of whiting, this rule will prevent the waste and extra cost to the vessel operator caused by requiring the sorting of the catch onboard the vessel and the discard of all whiting taken before and after the main whiting season.

Further, the rule provides an administrative mechanism to end the large-scale whiting season when the harvest guideline is reached, or is about to be reached, while allowing small quantities of whiting to be retained and landed after the large-scale fishery. Depending on the specific circumstances, NMFS may impose a trip limit at the end of the regular whiting season either when the harvest guideline is projected to be reached, thus allowing small quantities of whiting in excess of the harvest guideline to be landed, or prior to achievement of the harvest guideline so that the total of all whiting landings for the fishing year does not exceed the harvest guideline.

The rule also modifies the regulations opening the whiting season at 50 CFR 663.23(b)(3) to provide the authority to implement trip or frequency limits prior to the opening of the regular season each year. At its November 1992 meeting, the Council recommended that a small portion of the whiting fishery start earlier than April 15 (March 1 for shore-based whiting operations in California between 42°00′–40°30′ N. latitude). If approved, this would not change the scope or impact of these routine trip landing or frequency limits.

The proposed rule was published in the **Federal Register** on December 1, 1992 (57 FR 56897), and comments were requested through December 10, 1992. None were received. For the reasons stated above, the Secretary of Commerce concurs with the Council's recommendations and herein announces the final rule. The rule has been simplified and the purposes of trip landing and frequency limits are removed since they already appear at 50 CFR 663.23(c)(1)(ii). Otherwise, the final rule is substantively the same as proposed.

Initial Trip Limit

This final rule also announces that the initial trip limit for Pacific whiting in 1993, as recommended by the Council, is 10,000 pounds per trip. This limit is a compromise between the disparate needs of the fresh fish and bait fisheries, and is expected also to accommodate bycatch of whiting in non-whiting fisheries. The fresh fish fishery generally consists of small but frequent landings, less than 500 pounds, often on a daily basis. In contrast, the bait fishery results in larger, infrequent landings. Washington State records only one landing for bait, close to 22,000 pounds, between 1987–1992, but it is possible that some landings have not been

reported. Between 1987–1992, the State of Oregon reported only seven landings before April 15, six of these were less than 10,000 pounds and one was over 50,000 pounds. Consequently, the Council and its Groundfish Management Team recommended 10,000 pounds as a reasonable level for this trip limit in 1993. The Secretary concurs with the Council's recommendation and herein announces the following trip limit which will become effective concurrent with this final rule and may be modified under 50 CFR 663.23(c):

No more than 10,000 pounds of Pacific whiting may be taken and retained, possessed, or landed, per vessel per fishing trip until the regular season for whiting begins, as specified at 50 CFR 663.23(b)(3).

Classification

This rule is published under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act), 16 U.S.C. 1801 *et seq.*, and was prepared at the request of the Council. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary for the conservation and management of the Pacific coast groundfish fishery and that it is consistent with the Magnuson Act and other applicable law.

Based upon an environmental assessment and regulatory impact review (EA/RIR) for this rule, the Assistant Administrator concluded that there will be no significant impact on the human environment. You may obtain a copy of the EA/RIR including the Finding of No Significant Impact from the Council (see **ADDRESSES**).

NMFS issued a Biological Opinion under the Endangered Species Act on August 10, 1990, pertaining to Amendment 4 of the FMP; a second Biological Opinion specific to the whiting fishery impacts was issued on November 26, 1991; a third Biological Opinion analyzing the impact of the entire groundfish fishery on newly listed species of salmon was issued on August 28, 1992. They concluded, respectively, that implementation of the FMP (including Amendment 4) and the conduct of the whiting fishery are unlikely to jeopardize the continued existence of any of the listed species considered. Implementation of this rule will not result in impacts that differ from those discussed in these Biological Opinions, and NMFS has concluded that further consultations are not necessary.

The Assistant Administrator has determined that this is not a major rule requiring a regulatory impact analysis under Executive Order 12291.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (RFA).

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

The Assistant Administrator has determined that this rule is consistent to the maximum extent practicable with the approved coastal zone management programs of the States of Washington, Oregon, and California. This determination was submitted for review to the responsible State agencies under section 307 of the Coastal Zone Management Act and the States concurred with the determination.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

Section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), states that regulations will not become effective until 30 days after publication in the Federal Register unless the rule relieves a restriction or the Secretary of Commerce finds good cause for an earlier effective date. This rule relieves a restriction because the trip limit will enable small fisheries to be conducted that would otherwise be prohibited and will prevent wastage of fish caught as bycatch. The rule causes no burden to the large-scale target fisheries, nor would it impede achievement of any allocation. Therefore, a delay in implementation is found to be contrary to the public interest.

This action is based upon the best available scientific information. The public participated in the July, September, and November 1992 Council meetings at which this issue was considered.

List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 24, 1993.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 663 is amended as follows:

PART 663—PACIFIC COAST GROUNDFISH FISHERY

1. The authority citation for part 663 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 663.23, paragraphs (b)(3) and (c)(1)(i)(H) are revised, and a new paragraph (c)(1)(i)(I) is added to read as follows:

§ 663.23 Catch restrictions.

* * * * *

(b) * * *

(3) *Pacific whiting—Season.* The regular season for Pacific whiting will begin on April 15. Before and after the regular season, trip landing or frequency limits may be imposed under paragraph (c) of this section.

(c) * * *

(1) * * *

(i) * * *

(H) Boccaccio—all gear—trip landing and frequency limits; and

(I) Pacific whiting—all gear—trip landing and frequency limits.

* * * * *

[FR Doc. 93–4769 Filed 2–25–93; 1:49 pm]

BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 921107–2307]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock in statistical area 62 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the interim specification of pollock total allowable catch (TAC) in this area. The intent of this action is to promote optimum use of groundfish while conserving pollock stocks.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), February 25, 1993, through 12 noon, A.l.t., March 29, 1993.

FOR FURTHER INFORMATION CONTACT: Andew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, (907) 586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1(ii)(A), the interim specification of pollock TAC in statistical area 62 was established by the proposed specifications (57 FR 57982, December 8, 1992) as 6,494 metric tons (mt).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the 1993 interim specification of pollock TAC for statistical area 62 will soon be reached. Therefore, the Regional Director established a directed fishing allowance of 5,845 mt, and has set aside the remaining 649 mt as bycatch to support other anticipated groundfish fisheries. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in statistical area 62, effective from 12 noon A.l.t., February 25, 1993, through 12 noon, A.l.t., March 29, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20, and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 24, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–4770 Filed 2–25–93; 1:47 pm]

BILLING CODE 3510–22–M

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50 CFR Part 672

[Docket No. 921107–2307]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock in statistical area 63 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the interim specification of pollock total allowable catch (TAC) in this area. The intent of this action is to promote optimum use of groundfish while conserving pollock stocks.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), February 25, 1993, through 12 noon, A.l.t., March 29, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, (907) 586–7228.

SUPPLEMENTARY INFORMATION: The groundfish in the GOA exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii)(A), the interim specification of pollock TAC in statistical area 63 was established by proposed specifications (57 FR 57982, December 8, 1992) as 15,234 metric tons (mt).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2), that the 1993 interim specification of pollock TAC for statistical area 63 soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 13,711 mt, with consideration that 1,523 mt will be taken as incidental catch in directed fishing for other species in statistical area 63. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in statistical area 63, effective from 12 noon A.l.t., February 25, 1993, through 12 noon, A.l.t., March 29, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20, and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 672.

Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 24, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–4771 Filed 2–25–93; 1:46 pm]

BILLING CODE 3510–22–M

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50 CFR Part 675

[Docket No. 921185–3021]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for aggregate species in the rock sole/"other flatfish" fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal apportionment of the Pacific halibut prohibited species secondary bycatch allowance for the trawl rock sole/"other flatfish" fishery category in the BSAI.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), February 25, 1993, through 12 noon, A.l.t., April 4, 1993.

FOR FURTHER INFORMATION CONTACT: Martin Loefflad, Resource Management Specialist, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The first seasonal apportionment of the Pacific halibut prohibited species secondary bycatch allowance for the trawl rock sole/"other flatfish" fishery category, which is defined at § 675.21(b)(4)(ii)(B), was established at 531 metric tons by the 1993 final specifications (58 FR 8703, February 17, 1993).

The Director of the Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iv), that the first seasonal apportionment of the Pacific halibut prohibited species secondary bycatch allowance for the trawl rock sole/"other flatfish" fishery category in the BSAI has been reached. Therefore, NMFS is prohibiting directed fishing for aggregate species in the rock sole/"other flatfish" fishery category by vessels using trawl gear in the BSAI from 12 noon, A.l.t., February 25, 1993, through 12 noon, A.l.t., April 4, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under 50 CFR 675.21 and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 25, 1993

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–4768 Filed 2–25–93; 1:48 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 58, No. 39
Tuesday, March 2, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 317 and 412

RIN 3206–AC12

Executive, Management, and Supervisory Development

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Office of Personnel Management (OPM) is proposing to amend its regulations governing executive and management development to include supervisory development; to cover needs as it applies to executive, managerial, and supervisory positions; and to provide criteria for programs for the training and development of incumbents of executive, managerial, and supervisory positions and candidates for those positions. OPM also is proposing to amend its regulations governing Qualifications Review Board certification to eliminate the 3-year limitation on the validity of qualifications certification for appointment to the Senior Executive Service (SES) for graduates of formal candidate development programs. These changes are proposed to improve the selection and performance of government managers and thus the overall effectiveness and efficiency of the Government. The regulations are intended to allow agencies the maximum flexibility in determining how to conduct their training and development programs.

DATES: Written comments will be considered if received no later than May 3, 1993.

ADDRESSES: Send or deliver written comments to the Director, Human Resources Development Group, Office of Personnel Management, room 5554, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Neal Harwood, 202–606–1610 (Qualification Review Board certification); or Constance Guitian, 202–606–1959 (executive, managerial, and supervisory development).

SUPPLEMENTARY INFORMATION: The Office of Personnel Management's (OPM) long-standing interest in strengthening human resources development in the Federal Government was reinforced by recommendations in a 1990 report of the Task Force on Executive and Management Development, which was composed of representatives from both the public and private sector. These recommendations were combined with other ideas into the larger framework of the Human Resources Development Policy Initiatives, which were issued by the OPM Director in a January 10, 1992, memorandum to heads of agencies. The Policy Initiatives outlined a systematic approach to Federal training and development that begins with an individual's initial appointment and continues through any promotions to supervisory, management, and executive positions.

The proposed revision of part 412 recognizes that the competency of supervisors, managers, and executives is critical to the efficient and effective operations of each agency. In keeping with the Policy Initiatives, supervisory functions are considered the beginning of the management continuum; and the executive development process starts with the first appointment to a supervisory position and continues through subsequent appointments to other supervisory, managerial, and executive positions.

Needs Assessment

Proposed revisions to part 410 of this chapter on training were published in the **Federal Register** on January 11, 1993 (58 FR 3508). (References in the proposed part 412 regulations to part 410 are to those proposed revisions.) The proposed part 410 regulations place increased emphasis on organizational, occupational, and individual needs assessment. The proposed part 412 regulations will help agencies develop assessment systems which focus on contributions to organizational effectiveness when designing occupational and individual needs assessment systems affecting executives, managers, and supervisors.

A principal feature of a needs assessment system is that it is used to describe the competencies needed in an occupation or a position so that desired performance can be compared to actual performance in determining what development and/or training should be provided. Proposed § 412.103 recognizes "management" as a separate occupation or profession and therefore requires managerial needs assessments as part of occupational needs assessment. The management occupation includes supervisory, managerial, and executive positions, with unique competency requirements (knowledges, skills, abilities, etc.) at each level.

OPM has developed a research-based competency model of managerial performance called the Management Excellence Framework (MEF). The MEF was updated in 1992 on the basis of responses from more than 10,000 supervisors, managers, and executives (GS–11 to SES) Governmentwide. Agencies are encouraged to use this model, or similar models, in conducting their occupational and individual needs assessments.

In proposed § 412.104 on individual needs assessment systems, the regulations permit both formal and informal assessments. The distinction between the two is that a formal system uses a validated assessment instrument such as OPM's Management Excellence Inventory (which is currently being updated and simplified). An informal system typically uses a checklist based on a set of competencies and a conversation between the individual and his or her supervisor.

The proposed regulations provide that the results of the training needs assessment are to be documented in a career enhancement plan (CEP) for the individual. The CEP focuses on the competencies the supervisor, manager, or executive needs to improve in order to increase his or her contribution to organizational effectiveness. The CEP must be approved by higher level management, or an agency Executive Resources Board, to help assure that the plan takes into account both individual and organizational needs and that there is agency commitment to the proposed training and development activities.

Systematic Training and Development

Under proposed § 412.105, agencies are required to issue procedures

covering the systematic training and development of individuals in executive, managerial, and supervisory positions and candidates for those positions. These procedures may provide for a range of training and development activities suitable to agency and employee needs.

A central concept behind the training and development provisions is to provide a process that enables individuals to reach the mastery level for each competency at each level of management. The findings of the MEF research show that individuals at higher levels of management build on the skills they perfected at the lower levels. Under a systemwide process, as managers are promoted from level to level, they will have a solid base on which to learn the additional competencies required for higher level management.

Achieving mastery of supervisory, management, and executive positions is an evolving process that can take a number of years. As an example, a typical development plan for a supervisor would start with a needs determination within 3 months appointment. Then formal training would introduce the supervisor to all the required competencies for the position. Considering the large number of competencies, 40 to 80 hours of training during the first year would be reasonable. After initial formal training, the emphasis would shift to a variety of developmental and formal training experiences covering each competency in greater depth. Training and development for managers and executives would follow the same pattern of initial formal training followed by developmental experiences and appropriate amounts of very specialized formal training in management or executive competencies.

Besides incumbency training and development, § 412.105 also requires agencies to provide for the systematic development of candidates for supervisory, managerial, and executive positions. To meet this requirement, agencies may have formal candidate development programs, which are described below. However, such programs are not required. Agencies may provide for other training and development activities to assure that there are a sufficient number of trained employees who would be qualified candidates for these positions.

Formal Candidate Development Programs for Supervisory and Managerial Positions

Formal candidate development programs at the supervisory and managerial level are a good way to prepare subject matter specialists for the management profession as well as a method for identifying high potential candidates. These programs, which can be an effective component of managerial succession planning, also can serve as a means to improve the representation of women, minorities, and persons with disabilities in management positions.

The proposed regulations provide that if individuals are selected for a candidate development program under competitive merit promotion procedures, successful graduates of the program may be promoted noncompetitively to a supervisory or managerial position. Agencies may choose to have candidate development programs which do not require initial competition under merit promotion procedures, but in these cases graduates must compete for individual promotional opportunities as they arise. No matter what the type of the candidate development program, under the criteria in the proposed regulations the program must have a competency-based needs determination, formal training, developmental assignments, a mentoring process, and a means to evaluate the candidate's performance in the program.

Formal Candidate Development Programs for the SES

The training requirements in part 412 for OPM-approved formal SES candidate development programs are being revised. First, the requirement for attendance at OPM-approved formal training has been changed to allow agencies to choose a training program or programs which provide at least 80 hours of training in executive competencies in an interagency setting. Examples of acceptable sources of training are: Universities, non-profit organizations, non-Government training organizations, or a Federal interagency training source such as OPM.

Second, there must be a development plan that covers the period of the program and is prepared from a competency-based needs determination. Third, more emphasis is being placed on the developmental experiences requirement. These assignments generally should last a total of at least 4 months. Each candidate would be required to have a mentor, and OPM recommends that mentors receive training for that role. With these changes OPM is placing increased emphasis on competency-based needs determinations so that the length and contents of the program suit the needs of both the agency and the candidate.

OPM also is proposing to remove the exception that allowed agencies with 150 or fewer SES positions to recruit for their SES candidate development programs on a less than Governmentwide basis and then to appoint graduates noncompetitively to SES positions. This is in accordance with the provisions of 5 U.S.C. 3393(a) regarding Governmentwide recruitment prior to career appointment in the SES.

The proposed regulations would continue to permit agencies with 150 or fewer SES positions to have candidate development programs with less than Governmentwide recruitment if they wanted. Graduates could still have their executive qualifications certified by a Qualifications Review Board (QRB) administered by OPM, but they could no longer be appointed noncompetitively to the SES. They would have to compete in response to a vacancy announcement for a position.

Noncompetitive placement eligibility in the SES after completing the candidate development program would be permitted only where an agency required at least Governmentwide competition for entry to the program. Eligibility would continue as long as the individual's QRB certification remained active.

Current regulations in § 317.502 place a 3-year limit on QRB certification of graduates of SES candidate development programs. The proposed regulations would remove that limit and enable graduates to keep their QRB certification active indefinitely under prescribed procedures. The graduate's career enhancement plan would have to be updated and approved by the agency Executive Resources Board (ERB) at a minimum of every 3 years, and the graduate's summary performance ratings would have to be fully successful or higher.

Agencies would be required to have a written policy for withdrawing certification from graduates. Certification could be withdrawn, for example, because the candidate does not complete activities outlined in the career enhancement plan.

The proposed regulations also provide that graduates whose QRB certification has expired because of the current 3-year limitation and who are still employed must be notified by their current agency that they may request reactivation of the certification. Graduates will have a one-time opportunity to reactivate their certification by submitting a statement of training and development activities since QRB certification and their previous 3 years of performance appraisals to the appropriate agency ERB for a determination. If an individual had eligibility for

noncompetitive entry to the SES under the original certification, the same eligibility would continue under a reactivated certification.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined in E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have significant economic impact on a substantial number of small entities because they affect only Federal employees and agencies.

List of Subjects in 5 CFR Parts 317 and 412

Government employees.

Office of Personnel Management.

Patricia W. Lattimore,

Acting Director.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR parts 317 and 412 as follows:

PART 317—EMPLOYMENT IN THE SENIOR EXECUTIVE SERVICE

1. The authority citation for part 317 continues to read as follows:

Authority: 5 U.S.C. 3392, 3393, 3393a, 3395, 3397, 3593, and 3595.

2. In § 317.502, paragraph (c) is revised to read as follows:

§ 317.502 Qualifications Review Board certifications.

* * * * *

(c) Qualifications Review Board certification must be based on demonstrated executive experience; successful completion of an OPM-approved candidate development program; or possession of special or unique qualities that indicate a likelihood of executive success. There is no limitation on the length of certification, subject to the provisions of 5 CFR 412.107(c). Candidate development program graduates whose certification expired when there was a 3-year limitation may have the certification reactivated in accordance with 5 CFR 412.108.

* * * * *

3. The authority for part 412 is revised to read as follows:

Authority: 5 U.S.C. 3397, 4101, *et seq.*

4. The heading for part 412 is revised to read as follows:

PART 412—EXECUTIVE, MANAGEMENT, AND SUPERVISORY DEVELOPMENT

5. Subpart A, consisting of §§ 412.101 to 412.109, is revised to read as follows:

Subpart A—General Provisions

Sec.
412.101 Coverage.
412.102 Purpose.
412.103 Needs assessment for the management profession.
412.104 Needs assessment for individuals.
412.105 Criteria for the systematic training and development of executives, managers, supervisors, and candidates.
412.106 Formal candidate development programs for supervisory and managerial positions.
412.107 Formal candidate development programs for Senior Executive Service positions.
412.108 Reactivation of expired certifications for graduates of formal SES candidate development programs.
412.109 Review of agency programs.

Subpart A—General Provisions

§ 412.101 Coverage.

(a) This subpart applies to all supervisory, managerial, and executive employees in the General Schedule (GS and GM), the Senior Executive Service (SES), or equivalent pay systems who are also covered by part 410 of this chapter. Agencies are strongly encouraged to develop similar training and development programs for employees in other pay systems not covered by this part.

(1) Supervisors and managers are employees who occupy supervisory or managerial positions as defined in the OPM Supervisory Grade Evaluation Guide.

(**Note:** A revised Guide was issued in draft in November 1991 as the Grade Evaluation Guide for White Collar Supervisors and is currently applicable to certain Department of Defense positions as specified in the draft. An advance copy of the final General Schedule Supervisory Guide was issued in January 1993 and will replace the Supervisory Grade Evaluation Guide and the 1991 draft.)

(2) Executives are employees who occupy positions in the Senior Executive Service or similar executive personnel systems.

(b) As used in this part, "management profession" includes supervisory, managerial, and executive positions.

§ 412.102 Purpose.

(a) This subpart implements for supervisors, managers, and executives the provisions of chapter 41 of title 5 of the United States Code related to training and section 3396 of title 5 related to the systematic development of candidates for the SES and the continuing development of SES members.

(b) This subpart recognizes that the competency of supervisors, managers, and executives in their positions is critical to the efficient and effective operations of each agency. It also identifies a continuum of preparation starting with supervisory positions and proceeding through management and executive positions. For these reasons, this subpart establishes a comprehensive system that is intended to:

(1) Provide training and development needed by supervisors, managers, and executives to perform their current functions at the mastery level, i.e., at the maximum possible level of proficiency; and

(2) Provide training and development to prepare individuals for advancement, thus supplying the agency with an adequate number of well qualified candidates to fill supervisory, managerial, and executive positions.

(c) This subpart takes into account the provisions of § 410.201 of this chapter, which provides that agencies shall establish an assessment process with addresses organizational, occupational, and individual needs. This subpart describes how these assessments apply to the management profession.

§ 412.103 Needs assessment for the management profession.

(a) Under § 410.201(c)(2) of this chapter, occupational assessment identify short- and long-term job requirements that are essential to achieve operational goals and objectives for each major occupation with the agency, including executive, managerial, and supervisory positions.

(b) Needs assessment for the management professional shall be based on:

(1) Agency mission and priorities;

(2) The requirements for executives, managers, and supervisors in terms of staffing levels and competencies.

(3) A research-based competency model that identifies required or desired performance levels for the management profession—such as, OPM's Management Excellence Framework or a similar model.

(c) The information from the assessment can be used to:

(1) Analyze organizational performance issues;

(2) Implement succession planning systems for executive, managerial, and supervisory positions;

(3) Design a training and development system for executives, managers, and supervisors to improve individual and organizational performance;

(4) Evaluate the effectiveness and cost of the training and development system; and

(5) Report the results of the organizational improvement efforts to the head of the agency or the designee.

§ 412.104 Needs assessment for individuals.

(a) Section 410.201(c)(3) of this chapter requires needs assessments for individuals to identify particular knowledges, skills, and abilities required of employees to perform their jobs.

(b) Individual needs assessment for supervisors, managers, and executives may be formal or informal, but must meet the following criteria:

(1) The initial needs assessment normally occurs within the first 3 months of transition to a new position; that is, from non-supervisor to supervisor, supervisor to manager, and manager to executive. Subsequent assessments are done at least every 3 years.

(2) The assessment considers:

(i) Organizational mission and priorities;

(ii) The organization's projections of executive, managerial, and supervisory human resource needs; and

(iii) The stage in the executive's, manager's, or supervisor's career, i.e., whether newly appointed to the position.

(3) The assessment uses a research-based competency model such as OPM's Management Excellence Framework or other similar model to compare what competencies the individual already has with the competencies that are needed.

(c) The outcome of the needs assessment shall be documented in a career enhancement plan (CEP) prepared by the individual and his or her superior and concurred in by the next higher level of management or by the appropriate Executive Resources Board. The CEP focuses on the competencies needed by the individual to contribute to improved organizational effectiveness and efficiency. The CEP commits the agency to provide, and the individual to participate in, formal training and/or developmental work assignments designed to:

(1) Help the individual achieve mastery of appropriate executive, managerial, and supervisory competencies;

(2) Prepare executives, managers, and supervisors to be able to assume other positions in the agency;

(3) Maintain currency of individuals in their profession; and

(4) Promote personal and intellectual growth.

(d) The data from the individual assessments may be used to satisfy the requirements of § 412.103 to determine overall needs for the management profession.

§ 412.105 Criteria for the systematic training and development of executives, managers, supervisors, and candidates.

Each agency must provide for the initial and continuing training and development of individuals in executive, managerial, and supervisory positions, and candidates for those positions. The agency must issue written procedures to assure that their training and development programs:

(a) Are designed to increase organizational effectiveness and to improve accountability, productivity, and performance at each managerial level.

(b) Use a research-based competency model such as OPM's Management Excellence Framework or similar model.

(c) Provide for:

(1) Initial training as an individual makes critical career transitions to become a new supervisor, a new manager, or a new executive;

(2) Continuing training and development activities, both short- and long-term, throughout an individual's career in order for the individual to achieve mastery of all the competencies for his or her current management level; and

(3) Systematic development of candidates for advancement to a higher management level. Formal candidate development programs leading to noncompetitive placement eligibility represent one, but not the only, type of systematic development. Criteria for formal candidate development programs are in § 412.106 for supervisory and managerial positions and in § 412.107 for SES positions.

(d) Are periodically evaluated in terms of improved organizational and individual performance and costs.

(e) Are integrated with the agency's other personnel management programs such as recruitment, selection, compensation, performance management, affirmative employment, position management, and forecasting managerial resources needs.

§ 412.106 Formal candidate development programs for supervisory and managerial positions.

(a) If an agency wants to conduct formal candidate development programs that can result in the noncompetitive appointment to a supervisory or managerial position following successful completion of the programs, the agency must first issue written procedures describing how the programs will operate. The programs must meet the following criteria:

(1) Recruitment is consistent with the merit system principles in 5 U.S.C. 2301(b) (1) and (2), taking into consideration the need to maintain a diversified workforce in which women, minorities, and persons with disabilities are appropriately represented in the management profession in the agency.

(2) Selection to the programs follows the agency's merit promotion procedures.

(3) A supervisory or managerial development plan covering the period of the program is prepared for each candidate from a competency-based needs determination.

(4) Formal training and developmental assignments are provided covering the appropriate competencies.

(5) There is a mentor for each candidate.

(6) Periodic evaluation is conducted of the candidate's performance in the program.

(b) An agency may conduct formal supervisory and managerial candidate development programs where selections for the programs are not made under merit promotion procedures. (For example, the agency may want to train a large number, rather than a select group, of candidates and then use merit promotion procedures later when it is filling specific supervisory and managerial positions.) The candidate development programs must still comply with the other criteria in paragraph (a) of this section to assure that the programs provide appropriate training and development. Graduates of the programs, however, may not be noncompetitively promoted.

§ 412.107 Formal candidate development programs for Senior Executive Service positions.

(a) If an agency wants to conduct an SES candidate development program that can result in the certification of the executive qualifications of graduates by a Qualifications Review Board under the criterion of 5 U.S.C. 3393(c)(2)(B), OPM must approve the program before it is conducted for the first time and whenever there are substantive changes to the program.

(b) SES candidate development programs must meet the following criteria.

(1) Recruitment for the programs is from all groups of qualified individuals within the civil service, or all groups of qualified individuals whether or not within the civil service. (There is an exception for agencies with 150 or fewer allocated SES positions, but recruitment must be at least agencywide.)

(2) In recruiting, the agency, consistent with the merit system principles in 5 U.S.C. 2301(b) (1) and (2), takes into consideration the need to

maintain a diversified workforce in which women, minorities, and persons with disabilities are appropriately represented in the SES.

(3) All candidates are selected through merit staffing procedures. The number selected should be consistent with the number of expected vacancies.

(4) Each candidate has an SES development plan covering the period of the program. The plan is prepared from a competency-based needs determination which provides for formal training and developmental assignments and is approved by the Executive Resources Board.

(i) At a minimum, there must be 80 hours of formal training that covers the executive competencies as identified in a research-based competency model such as OPM's Management Excellence Framework or similar model. This training must be at a facility that has a record of having participants from a wide mix of Government agencies. Another 80 hours of formal training in the executive competencies is recommended.

(ii) Developmental assignments should generally total at least 4 months. They should be chosen to broaden the candidate's experience and/or increase knowledge of the overall functioning of the agency so that the candidate is prepared for a range of agency positions. For example, under the developmental assignment a staff person would go to a line position or the reverse, a field person would go to headquarters or the reverse, or a person in one program area would take an assignment in another program area.

(5) Each candidate has a more senior agency manager as a mentor.

(6) Each candidate's performance in the program is evaluated periodically, and there are written procedures for discontinuing a candidate's participation in the program. A candidate can be discontinued or may withdraw from the program without prejudice to his or her ability to apply directly for SES positions.

(7) Each candidate has a documented starting and finishing date in the program.

(c) An agency must request certification of a candidate's qualifications by an OPM administered Qualifications Review Board within 9 months of successful completion of the program.

(1) Certification is valid until appointment to the SES or until separation from the Government under the following conditions:

(i) The career enhancement plan for the graduate is updated at a minimum every 3 years, and the activities are approved by the appropriate Executive Resources Board; and

(ii) The graduate's summary performance rating is fully successful or higher.

(2) The agency must have written procedures for not continuing a graduate's certification including providing the graduate with the reasons for the proposed decision in writing and allowing the graduate to respond before the decision is made final. Discontinuation of a certification is without prejudice to the graduate's ability to apply directly for SES positions in a competitive action, but the individual must receive a new QRB certification before being appointed to the SES.

(d) If recruitment for the candidate development program was at least from all groups of qualified individuals within the civil service, graduates of the program who have been certified by a QRB are eligible for noncompetitive entry to the SES as long as they maintain their certification. If recruitment was from less than all groups of qualified individuals within the civil service, graduates of the program who have been certified by a QRB are not eligible for noncompetitive entry to the SES, but do not have to obtain a new QRB certification before appointment.

§ 412.108 Reactivation of expired certifications for graduates of formal SES candidate development programs.

(a) Section 317.502(c) of this chapter removes the 3-year limitation on the validity of certification of the executive qualifications of graduates of formal SES candidate development programs effective _____1993.

(b) Within [60 DAYS OF THE EFFECTIVE DATE OF THE FINAL RULE], agencies must notify all graduates who are currently employees of the agency and whose certification has expired that they can seek to reactivate their certification.

(c) Within 60 days of the date of notification, the graduates must inform the agency of their intent to seek reactivation of their certification and present the appropriate agency Executive Resources Board with:

(1) Information about training and development activities since the Qualifications Review Board certification; and

(2) The previous 3 years of performance appraisals.

(d) To be eligible for reactivation of the certification, a graduate must have had summary performance ratings of fully successful or higher for the previous 3 years.

(e) For eligible graduates, the Executive Resources Board shall decide whether:

(1) The certification is immediately reactivated; or

(2) Before the certification can be reactivated, the graduate must complete the activities described in a career enhancement plan (CEP) which is prepared from a competency-based needs assessment and is approved by the Board. The Board must determine that the graduate has successfully completed the plan before the certification is reactivated.

(f) The agency must have written procedures for not reactivating a graduate's certification, including providing the graduate with the reasons for the proposed decision in writing and allowing the graduate to respond before the decision is made final. A decision not to reactivate a certification is without prejudice to the graduate's ability to apply directly for SES positions in a competitive action.

(g) If a graduate's certification is reactivated, the graduate must comply with the provisions of § 412.107(c)(1) of this subpart to maintain currency of the certification.

§ 412.109 Review of agency programs.

(a) Agencies shall ensure that executive, management, and supervisory development programs are efficiently and effectively implemented as indicated by periodic evaluations of the programs and by the incorporation of evaluation results into planing for future program operations.

(b) OPM shall review periodically agency executive, management, and supervisory development programs. OPM shall direct any necessary corrective actions and assist the agency, as appropriate, in making any needed improvements in its program.

[FR Doc. 93–4616 Filed 3–1–93; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 346

RIN 3064–AA78

Foreign Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC or Corporation).

ACTION: Proposed rule.

SUMMARY: The FDIC is proposing to amend its regulations concerning the permissible activities of state-licensed insured branches of foreign banks. Section 202 of the Federal Deposit

Insurance Corporation Improvement Act of 1991 (Improvement Act) provides that after December 19, 1992, a state-licensed insured branch of a foreign bank may not engage in any activity which is not permissible for a federal branch of a foreign bank unless the Board of Governors of the Federal Reserve System (Board) has determined that the activity is consistent with sound banking practice, and the FDIC has determined that the activity would pose no significant risk to the deposit insurance fund. The proposed amendments cover application procedures and divestiture or cessation plans. Foreign banks are required to seek both the FDIC's and the Board's approval for an insured state branch to engage in or continue to engage in an activity which is not permissible for a federal branch of a foreign bank. In the event such an application is denied or the foreign bank elects not to continue the activity, a plan of divestiture or cessation must be submitted and such divestiture or cessation must be completed within one year, or sooner if the FDIC so directs.

DATES: Comments must be received by May 3, 1993.

ADDRESSES: Send comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to room 400, 1776 F Street, NW., Washington, DC 20429, on business days between 8:30 a.m. and 5 p.m. (FAX number: (202) 898–3838.)

FOR FURTHER INFORMATION CONTACT: Charles V. Collier, Assistant Director, Division of Supervision, (202) 898–6850; Jeffrey M. Kopchik, Counsel, Legal Division, (202) 898–3872; Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this proposed rule has been reviewed and approved by the Office of Management and Budget under control no. 3064–0114 pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Comments on the accuracy of the burden estimate, and suggestions for reducing the burden, should be directed to the Office of Management and Budget, Paperwork Reduction Project (3064–0114), Washington, DC, 20503, with copies of such comments to Steven F. Hanft, Office of the Executive Secretary, room F–453, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. The collections of information in this regulation are found in §§ 346.101(b) and (d) and take the form of a requirement that foreign banks (1) file an application with the FDIC requesting permission for an insured state branch to engage in or to continue engaging in any activity which is not permissible for a federal branch of a foreign bank and (2) submit a plan of divestiture or cessation in the event that the application is not approved, the foreign bank elects not to apply to the FDIC for permission to continue the activity, or a permissible activity becomes impermissible due to a subsequent change in statute, regulation or formal order or interpretation. The information contained in the application will allow the FDIC to properly discharge its responsibilities under section 7 of the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*) (IBA), as amended by section 202 of the Improvement Act. The information in the application will be used by the FDIC as part of the process of determining whether conduct of the activity in question by the applicant will pose a significant risk to the deposit insurance fund. The information in the divestiture or cessation plan will be used by the FDIC to make judgments concerning the reasonableness of the institution's actions to discontinue activities deemed to pose significant risk to the insurance fund.

The estimated annual reporting burden for the collection of information from foreign banks in this proposed amendment is summarized as follows:

Number of respondents:	
Application	27
Plan to Discontinue or Cease	5
Total	32

Number of responses per respondent—1
Total annual responses—32
Hours per response—8
Total annual burden hours—256

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is certified that the proposed rule would not have a significant impact on a substantial number of small entities.

Discussion

Section 202 of the Improvement Act (Pub. L. 102–242, 12 U.S.C. 3105) amended section 7 of the IBA by adding new subsection 7(h) of the IBA which provides that after the end of the 1-year period beginning on the date of enactment of the Improvement Act a State branch or State agency may not engage in any type of activity that is not permissible for a Federal branch unless the Federal Reserve Board has determined that such activity is consistent with sound banking practice and in the case of an insured branch, the Federal Deposit Insurance Corporation has determined that the activity would pose no significant risk to the deposit insurance fund. 12 U.S.C. 3105(h)(1).

To implement this new statutory provision with respect to insured state branches, the FDIC is proposing to amend part 346 of its regulations (12 CFR part 346) concerning foreign banks. The proposal would amend subpart A, § 346.1, to include a definition of "significant risk to the deposit insurance fund" and to add a new subpart D, "Applications Seeking Approval for Insured State Branches to Conduct Activities Not Permissible for Federal Branches."[1]

The proposed new subpart provides that a foreign bank operating an insured state branch which desires to engage in or continue an activity that is not permissible for a federal branch, pursuant to statute, regulation, official bulletin or circular, or any order or interpretation issued in writing by the Office of the Comptroller of the Currency (OCC), shall file with the FDIC a prior written application for permission to conduct or continue such activity. (Proposed § 346.101(a)). The application shall be filed with the FDIC Regional Director of the Division of Supervision for the region in which the insured state branch is located. (Proposed § 346.101(c)).

Section 202(h) of the Improvement Act became effective December 19, 1992. The FDIC proposes to allow existing insured state branches of foreign banks to continue activities (at existing levels) which may not be permissible for a federal branch until the FDIC acts on their application. The FDIC expects all foreign banks now engaged in an impermissible activity to file the required application no later than 60 days after the effective date of the final rule.

Section 346.101(b) of the proposed regulation provides that the application shall be in letter form and shall contain certain information, including a description of the activity in which the branch desires to engage or in which it is already engaged, the foreign bank's financial condition, the branch's assets and liabilities, the projected effect of the proposed activity on the financial

[1] Because § 346.101 of the FDIC's regulations is obsolete, the FDIC is proposing to remove the existing § 346.101 and to add a new § 346.101 which will comprise a new subpart D.

condition of the foreign bank and the branch, and a statement of why the proposed activity will pose no significant risk to the deposit insurance fund.

Joint Application Procedure

The FDIC is sensitive to the administrative burden on applicants of gathering the requested information and preparing an application. Since section 202 of the Improvement Act requires all state branches and state agencies that desire to engage in, or to continue to engage in, any activity which is not permissible for a federal branch to secure the approval of the Board, the FDIC is proposing to permit insured state branches to submit a copy of their application to the Board to the FDIC instead of preparing a completely separate submission. It is contemplated that the FDIC and the Board will review such applications simultaneously.

The Corporation and the Board have discussed the type of information which each agency will need in order to make an informed judgement and have agreed on a common list of information so that applicants will need to prepare only one application. Moreover, the Corporation and the Board have attempted to balance their need for information on which to base their decisions with the cost to the applicant of gathering, organizing and submitting an application. Thus, the FDIC is very interested in receiving comments concerning the amount and type of information requested pursuant to § 346.101(b) of the proposed regulation.

Permissible Activities

Section 346.101(a) of the proposed regulation refers to "any type of activity that is not permissible for a federal branch, pursuant to the National Bank Act (12 U.S.C. 21 *et seq.*) or any other federal statute, regulation, official bulletin or circular, or any order or interpretation issued in writing by the Office of the Comptroller of the Currency. * * *" Written staff opinions will be considered to evidence the position of the Comptroller so long as the opinion is still considered valid, i.e., it has not been overruled by the OCC or found invalid by a court of competent jurisdiction. This section of the proposed regulation is substantially similar to the corresponding section of the Corporation's recently adopted 12 CFR part 362, "Activities and Investments of Insured State Banks." (57 FR 53213, November 9, 1992.) The FDIC is of the opinion that § 346.101(a) of the proposed regulation should parallel § 362.2(h) of the activities regulation with regard to the determination of permissible activities.

The FDIC is also interested in whether there may be certain activities which, even though they are not permissible for federal branches, clearly pose no significant risk to the deposit insurance fund when conducted by an insured state branch such that a prior written application should not be required. If this is the case, commentators are requested to describe the activity in detail and explain precisely why its conduct by an insured state branch poses no significant risk to the deposit insurance fund. Also, in such cases, the FDIC would like to know whether commentators recommend that the prior written application described in § 346.101(b) of the proposed regulation be replaced by a more limited written notice to the FDIC. If so, precisely what information should the notice contain and when should it be filed?

Substantive Limitations on Permissible Activities

Insured branches should note that the FDIC will generally expect any conditions or restrictions set out in the OCC's regulations, bulletins, circulars, orders and interpretations to be met if the activity is to be considered permissible when conducted by an insured branch.

Engaging in an Activity as Agent

Section 202(h) of the Improvement Act, which added a new subsection 7(h) to the IBA, does not distinguish between activities which a foreign branch conducts as principal versus those conducted as agent, nor does it distinguish between activities which a foreign branch conducts directly versus those it conducts indirectly. The FDIC is of the opinion that the absence of such distinctions in section 202 is significant especially in light of the inclusion of such distinctions in other sections of the Improvement Act. For example, section 303 of the Improvement Act, which added a new section 24 to the FDI Act, provides that an insured State bank may not engage "as principal" in any type of activity that is not permissible for a national bank. 12 U.S.C. 1831a(a). Similarly, section 24(c) of the FDI Act, which was also added by section 303 of the Improvement Act, provides that an insured State bank may not, "directly or indirectly", acquire or retain any equity investment of a type that is not permissible for a national bank. 12 U.S.C. 1831a(c). The recently adopted part 362 of the Corporation's regulations reflects the clear statutory intent of FDI Act section 24(c). 12 CFR 362.3(a). The prohibition on foreign branches contained in new section 7(h) of the IBA is broader than the similar prohibitions contained in sections 24(a) and (c) of the FDI Act. Thus, the FDIC interprets new section 7(h) to apply to any activity in which an insured state branch desires to engage which is not permissible for a federal branch regardless of the capacity or manner in which the branch seeks to conduct the activity.

Significant Risk to the Fund

In approving an application to conduct or to continue to conduct an activity which is not permissible for a federal branch, the FDIC must determine that the activity in question "would pose no significant risk to the deposit insurance fund." The phrase "significant risk to the deposit insurance fund" is defined in new § 346.1(r) of the proposed regulation. Significant risk to the deposit insurance fund shall be understood to be present whenever there is a high probability that the Bank Insurance Fund (BIF) may suffer a loss. It is not necessary that engaging in the activity in question will result in the insolvency or threatened insolvency of the insured state branch before a significant risk of loss to the BIF is considered to be present. The proposed definition is substantially similar to the definition that is used in the recently adopted 12 CFR 362.2(m) and the FDIC is of the opinion that the proposed definition should parallel that definition.

Divestiture or Cessation

In the event that an insured state branch is required to cease conducting an activity pursuant to the proposed regulation, § 346.101(d) of the proposed regulation sets forth the guidelines that must be followed to divest or cease the impermissible activity. Generally, this section provides that the insured state branch shall submit a written plan of divestiture or cessation within 60 days of (1) being notified by the FDIC or the Board that an application to continue to conduct the activity has been denied, (2) the effective date of the regulation in the event that the foreign bank elects not to apply for permission to continue to conduct the activity, and (3) any change in statute, regulation, official bulletin or circular, order or interpretation issued in writing by the Office of the Comptroller of the Currency, or decision of a court of competent jurisdiction that renders the activity impermissible. Divestiture or cessation shall be completed within one year, or sooner if the FDIC so directs. (Proposed § 346.101(d)(1)) The FDIC requests comment on whether or not this period of time should be longer or shorter.

Section 346.101(e) of the proposed regulation delegates authority to review and approve divestiture and cessation plans to the Executive Director, Supervision and Resolutions and the Director of the Division of Supervision, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director.

Generally, most final regulations become effective 30 days after publication in the **Federal Register**. In this case, however, the FDIC is proposing that, after adoption, the final regulation shall become effective upon publication in the **Federal Register**. The Corporation is of the opinion that a delayed effective date is not advisable because section 202(h) of the Improvement Act became effective on December 19, 1992 and foreign banks operating insured state branches which are conducting impermissible activities will be required to file either an application or a divestiture or cessation plan with the FDIC. Unlike other regulations where regulated entities can comply by adjusting their business activity so that contact with the appropriate regulator is unnecessary, foreign banks operating insured state branches which are conducting impermissible activities will be required to file with the Board and the FDIC.

List of Subjects in 12 CFR Part 346

Bank deposit insurance; Federal branch; Foreign banking; Permissible activities; Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 12 CFR part 346 is proposed to be amended as follows:

PART 346—FOREIGN BANKS

1. The authority citation for part 346 is revised to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 3103, 3104, 3105, 3108.

2. Section 346.1 of subpart A is amended by adding a new paragraph (r) to read as follows:

§ 346.1 Definitions.

* * * * *

(r) *Significant risk to the deposit insurance fund* shall be understood to be present whenever there is a high probability that the Bank Insurance Fund administered by the FDIC may suffer a loss.

3. Section 346.101 of subpart C is removed.

4. Part 346 is amended by adding a new subpart D to read as follows:

Subpart D—Applications Seeking Approval For Insured State Branches To Conduct Activities Not Permissible For Federal Branches

§ 346.101 Applications.

(a) *Scope.* A foreign bank operating an insured state branch which desires to engage in or continue to engage in any type of activity that is not permissible for a federal branch, pursuant to the National Bank Act (12 U.S.C. 21 *et seq.*) or any other federal statute, regulation, official bulletin or circular, or order or interpretation issued in writing by the Office of the Comptroller of the Currency, or which is rendered impermissible due to a subsequent change in statute, regulation, official bulletin or circular, written order or interpretation, or decision of a court of competent jurisdiction (each, an impermissible activity), shall file a prior written application for permission to conduct such activity with the FDIC pursuant to this section. An applicant may submit to the FDIC a copy of its application to the Board of Governors of the Federal Reserve System (Board of Governors), provided that such application contains the information described in § 346.101(b).

(b) *Content of application.* An application submitted pursuant to § 346.101(a) shall be in letter form and shall contain the following information:

(1) A brief description of the activity, including the manner in which it will be conducted and an estimate of the expected dollar volume associated with the activity;

(2) A discussion by management of its analysis regarding the impact of the proposed activity on the applicant's earnings, capital adequacy, and general condition, as well as the effect the proposed activity will have on the branch's balance sheet, earnings and condition (if available, include a copy of any feasibility study, management plan, financial projections, business plan, or similar document concerning the conduct of the activity);

(3) A current statement of the applicant's assets, liabilities, and capital;

(4) A current statement of the branch's assets and liabilities;

(5) A copy of the applicant's most recent audited financial statements;

(6) A resolution by the applicant's board of directors or, if a resolution is not required pursuant to the applicant's organizational documents, evidence of approval by senior management, authorizing the conduct of such activity and the filing of this application;

(7) A statement by the applicant of whether or not it is in compliance with §§ 346.19 and 346.20, Pledge of Assets and Asset Maintenance, respectively, of this part;

(8) A statement by the applicant that it has complied with all requirements of the Board of Governors concerning applications to conduct the activity in question and the status of such application, including a copy of the Board of Governors' disposition of such application, if applicable;

(9) A statement of why the activity will pose no significant risk to the deposit insurance fund; and

(10) Any other information which the regional director deems appropriate.

(c) *Application procedures.* Applications pursuant to this section shall be filed with the Regional Director of the Division of Supervision for the region in which the insured branch is located. An application shall not be deemed complete until it contains all the information requested by the Regional Director and has been accepted. Approval of such an application may be conditioned on the applicant's agreement to conduct the activity subject to specific limitations, such as but not limited to the pledging of assets in excess of the requirements of § 346.19 and/or the maintenance of eligible assets in excess of the requirements of § 346.20.

(d) *Divestiture or cessation.* (1) If an application for permission to continue to conduct an activity is not approved by the FDIC or the Board of Governors, the applicant shall submit a detailed written plan of divestiture or cessation of the activity to the Regional Director of the Division of Supervision for the region where the insured branch is located within 60 days of the disapproval. The divestiture or cessation plan shall describe in detail the manner in which the applicant will divest itself of or cease the activity in question and shall include a projected timetable describing how long the divestiture or cessation is expected to take. Divestitures or cessations shall be completed within one year from the date of the disapproval, or within such shorter period of time as the Corporation shall direct.

(2) A foreign bank operating an insured branch which elects not to apply to the FDIC for permission to continue to conduct an impermissible activity shall submit a written plan of divestiture or cessation, in conformance with § 346.101(d)(1), within 60 days of the effective date of this part or of any change in statute, regulation, official bulletin or circular, written order or interpretation, or decision of a court of competent jurisdiction rendering such activity impermissible.

(e) *Delegation of authority.* Authority is hereby delegated to the Executive Director, Supervision and Resolutions, and the Director of the Division of Supervision, and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to approve plans of divestiture and cessation submitted pursuant to § 346.101(d).

By order of the Board of Directors.

Dated at Washington, DC this 23rd day of February, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–4710 Filed 3–1–93; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–CE–01–AD]

Airworthiness Directives; Beech Aircraft Company 33, 34, 35, 36, 45, 55, 56TC, 58, 58P, 58TC, 60, and 95 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Beech Aircraft Company (Beech) 33, 34, 35, 36, 45, 55, 56TC, 58, 58P, 58TC, 60, and 95 series airplanes. The proposed action would require inspecting the flap motor drive shaft for proper connection of the flap flex cable shaft, and correcting if necessary. An improper connection was found on one of the affected airplanes, which, if not detected and corrected, could cause the drive shaft and cable shaft to disengage and result in one flap extending or retracting while the other does not move. The actions specified by the proposed AD are intended to prevent the inability to extend or retract both flaps because of improper flap flex cable shaft connection.

DATES: Comments must be received on or before May 25, 1993.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–CE–01–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4122; Facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 93–CE–01–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–CE–01–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA is aware of a possible unsafe condition on certain Beech 33, 34, 35, 36, 45, 55, 56TC, 58, 58P, 58TC, 60, and 95 series airplanes. The flap flex cable shaft was improperly connected to the flap motor drive shaft on one of the affected airplanes. If not detected and corrected, the drive shaft and cable shaft could disengage and result in one flap extending or retracting while the other flap does not move.

Beech has issued Service Bulletin (SB) No. 2460, dated December 1992, which specifies procedures for inspecting the flap motor drive shaft for proper connection of the flap flex cable shaft, and correcting if improperly connected.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent the inability to extend or retract both flaps because of improper flap flex cable shaft connection.

Since an unsafe condition has been identified that is likely to exist or develop in other Beech 33, 34, 35, 36, 45, 55, 56TC, 58, 58P, 58TC, 60, and 95 series airplanes of the same type design, the proposed AD would require inspecting the flap motor drive shaft for proper connection of the flap flex cable shaft, and correcting if necessary. The proposed actions would be accomplished in accordance with the instructions in Beech SB No. 2460, dated December 1992.

The FAA estimates that 25,603 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,408,165.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft

regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Beech Aircraft Company: Docket No. 93–CE–01–AD.

Applicability: The following Model and serial number airplanes, certificated in any category:

Models	Serial Numbers
35–33, A33, B33, C33, E33, F33, and G33.	CD–1 through CD–1304.
35–C33A, E33A, and F33A.	CE–1 through CE–1632.
E33C and F33C	CJ–1 through CJ–179.
34C	GP–1 through GP–50.
T–34C–1	GM–1 through GM–71 and GM–78 through GM–98.
35, 35R, A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, V35A–TC, V35B, and V35B–TC.	D–1 through D–10403, D–15001, and D–15002.
36 and A36	E–1 through E–2679.
A36TC and B36TC	EA–1 through EA–525.
95–A55, 95–A55A, 95–B55, and 95–B55A.	TC–1 through TC–2456.
95–C55, C55A, D55, D55A, E55, and E55A.	TE–1 through TE–1201.
56TC and A56TC	TG–2 through TG–94.
58 and 58A	TH–1 through TH–1646.
58P and 58PA	TJ–3 through TJ–497.
58TC and 58TCA	TK–1 through TK–151.
60, A60, and B60	P–4 through P–596.
95, B95, B95A, D95, and E95.	TD–2 through TD–721.
T–34C	GL–1 through GL–353.
45, A45, B45, and D45	All serial numbers.
B55B (T–42A)	TF–1 through TF–70.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent the inability to extend or retract both flaps because of improper flap flex cable shaft connection, accomplish the following:

(a) Inspect the flap motor drive shaft for proper connection of the flap flex cable shaft in accordance with the ACCOMPLISHMENT INSTRUCTIONS: INSPECTION section of Beech Service Bulletin (SB) No. 2460, dated December 1992.

(b) If improperly connected, prior to further flight, reconnect in accordance with the ACCOMPLISHMENT INSTRUCTIONS: FLAP DRIVE CABLE CONNECTION section of Beech SB No. 2460, dated December 1992.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(e) Service information that applies to this AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

Issued in Kansas City, Missouri, on February 24, 1993.

John E. Tigue,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–4718 Filed 3–1–93; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 92–NM–65–AD]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Boeing Model 767–200 and 767–300 series airplanes, that would have required inspections to detect disbonding of the trailing edge wedges on the leading edge slats, and repair, if necessary. That proposal was prompted by numerous reports of wedge damage or disbonding; in two cases, the damage resulted in loss of a portion of the slat wedges. This action revises the proposed rule by reducing the compliance time for certain airplanes, and adding an optional terminating action, an optional time-limited repair for disbonding, and an optional ultrasonic inspection method. This action also revises the proposed rule by reducing the number of airplanes affected by this proposal. The actions specified by this proposed AD are intended to prevent separation of the slat wedges, which could adversely affect the controllability of the airplane.

DATES: Comments must be received by April 12, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–65–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Backman, Aerospace Engineer, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2776; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report

summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–65–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–65–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to add an airworthiness directive (AD), applicable to certain Boeing Model 767–200 and 767–300 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on May 1, 1992 (57 FR 18841). That NPRM would have required inspections to detect disbonding of the trailing edge wedges on the leading edge slats, and repair, if necessary. That NPRM was prompted by numerous reports of wedge damage or disbonding. In two cases, the damage resulted in loss of a portion of the slat wedges. Loss of slat wedges, if not corrected, could result in reduced maneuver margins, reduced speed margins to stall, and unexpected roll before stall warning, all of which would adversely affect the controllability of the airplane.

One commenter to the NPRM requests that the compliance times for conducting the initial inspections of the trailing edge wedge of the leading edge slat on airplanes with less than 12,000 flight hours be changed to 5,000 flight hours after the effective date of the final rule in order to be consistent with the compliance time recommended in Boeing Alert Service Bulletin 767–57A0039, dated April 9, 1992.

The FAA concurs with the commenter's request. The original notice would have required that airplanes having accumulated less than 8,000 total flight hours be inspected initially prior to the accumulation of 10,000 total flight hours (or within 4,000 flight hours after the effective date of the final rule, whichever occurred later). It also would have required that airplanes having accumulated 8,000 or more total flight hours be inspected initially prior to the accumulation of 12,000 total flight hours (or within 1,000 flight hours after the effective date of the final rule, whichever occurred later). However, after reviewing the service history for airplanes having accumulated less than 12,000 flight hours, and the time-related factors relative to disbonding and core corrosion that result from moisture ingression, the FAA has determined that a reduction in the initial compliance time for those airplanes is warranted.

Therefore, this supplemental notice now proposes to require that airplanes having accumulated less than 12,000 total flight hours be inspected initially at the earlier of the following times: (1) Prior to the accumulation of 13,000 total flight hours; or (2) within 5,000 flight hours or 15 months after the effective date of the final rule, whichever occurs first. This supplemental notice also proposes to require that airplanes having accumulated 12,000 or more total flight hours be inspected initially within 1,000 flight hours after the effective date of the final rule. With these changes, this supplemental notice would reduce the compliance time for operators of airplanes having a low number of accumulated flight hours; those operators would be required to conduct the initial inspections at an earlier time than proposed in the original notice.

Several commenters request that the FAA consider permitting operators to perform a time-limited repair that is described in a recent revision of Boeing Alert Service Bulletin 767–57A0039. This service bulletin also contains revised repair limits for disbonding. The commenters feel that the disbonding limits specified in the Structural Repair Manual (SRM) and referenced by Boeing Alert Service Bulletin 767–57A0039, dated April 9, 1992, are too restrictive. The notice would require that disbonding in excess of the limits specified in the SRM be repaired prior to further flight using the permanent SRM repair. The commenters feel that these overly restrictive limits will lead to grounding of airplanes.

The FAA concurs with the commenters' requests. Since the issuance of the notice, the FAA has reviewed and approved Boeing Service Bulletin 767–57A0039, Revision 1, dated October 15, 1992. This revised service bulletin describes procedures for a time-limited repair for disbonding, which may be accomplished as an alternative to the immediate permanent repair described in the SRM. The time-limited repair allows operators to repair disbonding up to certain limits specified in the service bulletin. This repair is considered to be temporary only, and would be required to be replaced with the permanent repair (in accordance with the SRM) within 5,000 flight hours. Accomplishment of the time-limited repair will provide operators with additional time so that the permanent SRM repair can be accomplished during regularly scheduled maintenance.

Revision 1 of Boeing Service Bulletin 767–57A0039 also reduces the number of airplanes in its effectivity listing. The effectivity in the original issue of the service bulletin included all Model 767 series airplanes. However, Revision 1 of the service bulletin limits the affected airplanes to those having line numbers 1 through 488, inclusive. Airplanes having line numbers 489 and subsequent have been equipped in production with the new more corrosion-resistant slat wedges that are not subject to the unsafe condition addressed by this AD. Accordingly, the applicability statement of this supplemental notice has been changed to reflect that the rule would be applicable only to airplanes having line numbers 1 through 488.

The revised service bulletin also describes procedures for an ultrasonic inspection of the trailing edge wedges of the leading edge slats as an alternative to the "Coin-Tap" inspection that was described in the original issue of the service bulletin. Paragraph (a) of the supplemental notice includes an ultrasonic inspection as an alternative to the "Coin-Tap" inspection.

The revised service bulletin also describes procedures for replacing slat wedges with new more corrosion-resistant slat wedges, which, if accomplished, would eliminate the need for inspections of the AD. The supplemental notice has been revised to include new paragraph (e), which describes this replacement as terminating action for the inspection requirements of the AD.

The revised service bulletin recommends that repetitive inspection of a trailing edge wedge of the leading edge slat be discontinued, provided that no damage is detected on that slat wedge after the completion of 2 consecutive inspections. Based on the service history of these airplanes with respect to the subject corrosion and disbonding, the FAA concurs with this recommendation. The FAA has determined that after 2 such consecutive inspections, the slat wedge is sufficiently sealed to protect against moisture ingression, which is a cause of core corrosion. Paragraphs (b) and (d) of this supplemental notice reflect this provision.

Since certain of the changes discussed above expand the scope of the originally proposed rule, and since certain other

changes address a number of issues that were not specifically addressed in the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

There are approximately 487 Boeing Model 767–200 and –300 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 180 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $79,200 or $440 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 92–NM–65–AD.

Applicability: Model 767 series airplanes, line numbers 1 through 488, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the trailing edge wedges of the leading edge slats from the airplane, accomplish the following:

(a) Perform either a visual and a "Coin-Tap" inspection, or a visual and an ultrasonic inspection, of the trailing edge wedges of the leading edge slats in accordance with Boeing Service Bulletin 767–57A0039, Revision 1, dated October 15, 1992, and in accordance with the schedule specified in paragraph (a)(1) or (a)(2) of this AD, as applicable:

(1) For airplanes that have accumulated less than 12,000 total flight hours as of the effective date of this AD, accomplish the initial inspections at the earlier of the times specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Prior to the accumulation of 13,000 flight hours; or

(ii) Within 5,000 flight hours or 15 months after the effective date of this AD, whichever occurs first.

(2) For airplanes that have accumulated 12,000 or more total flight hours as of the effective date of this AD, accomplish the initial inspections within 1,000 flight hours after the effective date of this AD.

(b) If no disbonding is detected during the inspections required by paragraph (a) of this AD, repeat the inspections at intervals not to exceed 4,000 flight hours. After 2 consecutive repetitive inspections of the slat wedge are accomplished in which no damage is found, the inspections required by this paragraph may be discontinued for that slat wedge.

(c) If disbonding is detected during any inspection required by paragraph (a) or (b) of this AD, prior to further flight, repair the disbonded area in accordance with paragraph (c)(1) or (c)(2) of this AD, as applicable:

(1) Repair the disbonded area using the "permanent" repair method in accordance with paragraph (c)(1)(i) or (c)(1)(ii) of this AD, as applicable.

(i) Repair using the "permanent" repair method specified in 767 Structural Repair Manual (SRM), Section 57–43–02.

(ii) If damage goes into the dense core area, or if there is no applicable SRM repair, repair the disbonded area in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(2) If the disbonded area is within the limits specified in paragraph J., Section III, "Accomplishment Instructions," of Boeing Alert Service Bulletin 767–57A0039, Revision 1, dated October 15, 1992, operators may repair the disbonded area using the time-limited repair method in accordance with that paragraph of the Service Bulletin.

(i) Within 500 flight hours after accomplishing the time-limited repair, and thereafter at intervals not to exceed 500 flight hours until the permanent repair specified in paragraph (c)(1) of this AD is accomplished, inspect the repaired area in accordance with Boeing Service Bulletin 767–57A0039, Revision 1, dated October 15, 1992.

(ii) The permanent repair must be installed within 5,000 flight hours after installation of the time-limited repair, or prior to further flight if the disbond grows beyond the doubler edges of the slat wedge, whichever occurs first.

(d) After accomplishment of any permanent repair in accordance with paragraph (c) of this AD, continue the inspections required by paragraph (a) of this AD at intervals not to exceed 4,000 flight hours. After 2 consecutive repetitive inspections of the slat wedge are accomplished in which no damage is found, the inspections required by this paragraph may be discontinued for that slat wedge.

(e) Replacement of the slat wedge with a new more corrosion-resistant slat wedge, in accordance with Boeing Service Bulletin 767–57A0039, Revision 1, dated October 15, 1992, constitutes terminating action for the inspection requirements of this AD for that slat wedge.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 24, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–4719 Filed 3–1–93; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 92–NM–138–AD]

Airworthiness Directives; British Aerospace Model BAC 1–11–200 and –400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Model BAC 1–11–200 and –400 series airplanes, that currently requires repetitive inspections of spanwise wing flap secondary drive shafts to detect failure or damage, until all spanwise wing flap secondary drive shafts have been replaced, repaired, overhauled, or modified. This action would add new inspections, expand certain inspection areas, and continue to require repetitive inspections even though a shaft has been replaced, repaired, or overhauled. This proposal is prompted by recent service reports that indicate what was considered previously to be "improved" wing flap secondary drive shafts can fail from fatigue. Therefore, repetitive inspections are necessary to assure continued safe operation of the wing flap system. The actions specified by the proposed AD are intended to prevent unannunciated failure of the wing flap secondary drive shafts.

DATES: Comments must be received by April 26, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–138–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–138–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–138–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On August 17, 1983, the FAA issued AD 77–17–10 R2, Amendment 39–4713 (48 FR 40210, September 6, 1983), applicable to all Model BAC 1–11–200 and –400 series airplanes, to require repetitive inspections of the wing flap spanwise secondary drive shafts to detect failure or damage, until the complete wing flap secondary drive shaft system has been replaced, repaired, overhauled, or modified. That action was prompted by reports of failures of wing flap secondary drive shafts, which could result in the inability to lower wing flaps on the affected wing if a single failure occurs in a primary shaft. That condition, if not corrected, could result in possible failure of the wing flap secondary drive shafting.

The existing AD permits discontinuing repetitive inspections of the spanwise secondary drive shafting when Modification 5341 has been installed. That modification involves the installation of an "improved" wing flap secondary drive shaft. However, since the issuance of that AD, there have been several reports of failure of these improved wing flap secondary drive shafts. These failures have been due to fatigue, although generally, the tubes have fractured in line with the end of the end fitting or insert, instead of through a rivet hole. Failure of these "improved" wing flap secondary drive shafts could result in the inability of the pilot to lower the wing flaps if a single failure in the primary drive shaft were to occur.

Additionally, the manufacturer and the United Kingdom Civil Aviation Authority (which is the airworthiness authority for the United Kingdom) have indicated that there have been reports of failures of non-spanwise secondary drive shafts. The failure of these drive shafts presents the same potential unsafe condition described previously.

The manufacturer has presented data that substantiate the need for:

1. Repetitive inspections of all wing flap secondary drive shafts (whether of the modified design or not);

2. The inspection of those secondary drive shafts that are visible when the spoilers are open; and

3. The overhaul/modification of the wing flap secondary drive shafts at 30,000 hours time-in-service.

Such actions will ensure the continued integrity of the wing flap secondary drive shafts.

British Aerospace has issued BAC One-Eleven Alert Service Bulletin 27–A–PM5341, Issue 4, dated May 6, 1991, that describes procedures for a new one-time inspection, visually and by feel, of wing flap secondary drive shafts that are visible when the spoilers are open. Also, the described procedures include new repetitive visual inspections to detect failure or damage of all wing flap secondary drive shafts. If distorted or chafed shafts are found during the visual inspection, an additional inspection of the shaft in question must be performed, both visually and by feel.

Further, the service bulletin describes procedures to include an expanded area for repetitive inspections, and overhaul, of the spanwise shafts. This area includes wing station 0 to wing rib 1, in addition to the previously specified wing ribs 1 to 14, left- and right-hand. Wing station 0 was inadvertently omitted from the earlier revised service bulletin.

The service bulletin also contains procedures for repetitively inspecting shafts that have been improved by installation of Modification 5341.

Additionally, the service bulletin describes procedures for a one-time overhaul/modification of the wing flap secondary drive shafts upon the accumulation of 30,000 total hours time-in-service.

The United Kingdom CAA classified this revised service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 77–17–10 R2 to add a new one-time inspection, visually and by feel, of wing flap secondary drive shafts that are visible when the spoilers are open. The FAA considers that a compliance time for this inspection of 300 hours time-in-service after the effective date of the final rule is warranted in order to provide a timely inspection in the area where most shaft failures have been reported and continue to occur.

This AD also would add new repetitive visual inspections of all wing flap secondary drive shafts to detect failure or damage. If distorted or chafed shafts are found during the visual inspection, an additional inspection of the shaft must be performed, both visually and by feel.

Additionally, this AD would expand the area for spanwise shafts that is required to be repetitively inspected, and overhauled/modified, to include wing station 0 to wing rib 1, in addition to the currently required ribs 1 to 14, left- and right-hand. Shafts that have been improved by installation of Modification 5341 must be repetitively inspected.

Since recent reports continue to show failure of unimproved shafts, this AD would delete low-time interval inspections that previously permitted extension of the spanwise wing flap secondary drive shaft overhaul to 48,000 total hours time-in-service. Instead, this AD would require a one-time overhaul/modification of the shafts upon the accumulation of 30,000 total hours time-in-service. At overhaul, the shaft tubing must be replaced with improved tubing.

The actions specified above would be required to be accomplished in accordance with the service bulletin described previously.

In addition, the proposed AD would require replacement of out-of-tolerance shaft support bearings, prior to further flight, in order to ensure that excessive radial play introduced by worn support bearings does not result in premature fatigue failure of wing flap secondary drive shafts. This procedure would be required to be accomplished in accordance with the BAC 1–11 Maintenance Manual.

The FAA estimates that 31 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $21,164 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $664,609, or $21,439 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this proposed AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–4713 (48 FR 40210, September 6, 1983), and by adding a new airworthiness directive (AD), to read as follows:

British Aerospace: Docket 92–NM–138–AD. Supersedes AD 77–17–10 R2, Amendment 39–4713.

Applicability: All Model BAC 1–11–200 and –400 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

Note: Paragraphs (c), (e) and (f) of this AD restate the requirements of AD 77–17–10 R2, paragraphs (a), (b), (g), (h), and (i).

To prevent unannunciated failure of the wing flap secondary drive shafts, accomplish the following:

(a) Within 300 hours time-in-service after the effective date of this AD, unless previously accomplished within the last 900 hours time-in-service prior to the effective date of this AD: Open the left and right spoilers and perform an inspection, visually and by feel, of the visible wing flap secondary drive shafts to detect failure or damage, in accordance with paragraph 2.4 of British Aerospace BAC One-Eleven Alert Service Bulletin 27–A–PM5341, Issue 4, dated May 6, 1991. Prior to further flight, repair or replace any defective shafts in accordance with paragraphs (c)(2) and (e) of this AD.

(b) Within 1,200 hours time-in-service after the effective date of this AD: Perform a visual inspection of all wing flap secondary drive shafts to detect failure or damage, in accordance with paragraph 2.1 of British Aerospace BAC One-Eleven Alert Service Bulletin 27–A–PM5341, Issue 3, dated September 28, 1981, or paragraph 2.1.2 of Issue 4, dated May 6, 1991.

(1) Repeat the visual inspections thereafter at intervals not to exceed 1,200 hours time-in-service.

(2) If any shaft is found that is distorted or chafed, prior to further flight, perform an inspection of that shaft, visually and by feel, in accordance with paragraph 2.4 of British Aerospace BAC One-Eleven Alert Service Bulletin 27–A–PM5341, Issue 3, dated September 28, 1981, or Issue 4, dated May 6, 1991. Shafts that fail to meet the inspection specifications listed in paragraph 2.4 of the service bulletin must be replaced, prior to further flight, in accordance with paragraph 2.4.1 of the service bulletin.

(c) For spanwise wing flap secondary drive shafts between wing station 0 and wing rib 14: Prior to the accumulation of 3,600 total

hours time-in-service or within the next 1,200 hours time-in-service after the effective date of this AD, whichever occurs later, perform an inspection, visually and by feel, to detect failure or damage, in accordance with paragraph 2.4 of British Aerospace BAC One-Eleven Alert Service Bulletin 27–A–PM5341, Issue 3, dated September 28, 1981, or Issue 4, dated May 6, 1991.

(1) Repeat the inspection thereafter at the times specified in paragraphs (c)(1)(i) and (c)(1)(ii) of this AD:

(i) For spanwise wing flap secondary drive shafts that have accumulated less than 24,000 total hours time-in-service: At intervals not to exceed 3,600 hours time-in-service or 24 months, whichever occurs earlier.

(ii) For spanwise wing flap secondary drive shafts that have accumulated 24,000 or more hours time-in-service: At intervals not to exceed 2,400 hours time-in-service or 24 months, whichever occurs earlier.

(2) Shafts that fail to meet the specifications listed in paragraph 2.4 of British Aerospace BAC One-Eleven Alert Service Bulletin 27–A–PM5341, Issue 3, dated September 28, 1981, or Issue 4, dated May 6, 1991, must be replaced, prior to further flight, in accordance with paragraph 2.4.1 of the service bulletin.

(d) For wing flap secondary drive shafts located between wing station 0 and wing rib 14, listed in appendix 1 of British Aerospace BAC One-Eleven Alert Service Bulletin 27–A–PM5341, Issue 4, dated May 6, 1991, on which Modification PM5341/HCA929 is applicable, but has not been accomplished: Prior to the accumulation of 30,000 total hours time-in-service, or within 1,000 hours time-in-service after the effective date of this AD, whichever occurs later; overhaul and modify by installation of British Aerospace Modification PM5341, the wing flap secondary drive shafts, in accordance with paragraph 2.3 of British Aerospace BAC One-Eleven Alert Service Bulletin 27–A–PM5341, Issue 3, dated September 28, 1981, or Issue 4, dated May 6, 1991. At overhaul, the shaft tubing must be replaced with Modification PM5341 improved tubing, but serviceable end fittings may be reused.

(e) Whenever replacing or repairing a flap secondary drive shaft in accordance with paragraph (a), (b) or (c) of this AD, or whenever overhauling a wing flap secondary drive shaft in accordance with paragraph (d) of this AD, inspect the adjacent shaft support bearings for excessive radial play, in accordance with Section 27–52–00 of the BAC 1–11 Maintenance Manual. Prior to further flight, replace any shaft support bearings having radial play in excess of 0.020 inch total indicated reading with a serviceable bearing.

(f) Operators who have not kept records of hours time-in-service on individual wing flap secondary drive shafts shall substitute airplane hours time-in-service in lieu thereof.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(h) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 24, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–4721 Filed 3–1–93; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 92–NM–245–AD]

Airworthiness Directives; Corporate Jets Limited (formerly British Aerospace) Model DH/BH/HS/BAe 125 Series Airplanes (Excluding Model BAe 125–1000A Series Airplanes), Equipped with Garrett Model TFE 731 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Corporate Jets Limited Model DH/BH/HS/BAe 125 series airplanes. This proposal would require modification of the mounting arrangements of the battery contactors and emergency contactors in the rear equipment bay. This proposal is prompted by a report of an in-service electrical overheating incident caused by a battery short-to-ground through a battery contactor in the rear equipment bay. The actions specified by the proposed AD are intended to prevent overheating of the battery contactors and emergency contactors, and a potential fire in the rear equipment bay.

DATES: Comments must be received by April 26, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–245–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Corporate Jets, Inc., 22070 Broderick Drive, Sterling, Virginia 20166. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–245–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–245–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for United Kingdom, recently notified the FAA that an unsafe condition may exist on certain Corporate Jets Limited Model

DH/BH/HS/BAe 125 series airplanes that are equipped with Garrett Model TFE 731 series engines. The CAA advises that a case has been reported of an in-service electrical overheating incident caused by a battery short-to-ground through a battery contactor in the rear equipment bay. This condition, if not corrected, could result in overheating of the battery contactors and emergency contactors and a potential fire in the rear equipment bay.

Corporate Jets Limited has issued Service Bulletin SB.24–293–3501 A, B,C, & D, dated October 1, 1992, that describes procedures for modification (Modification Numbers 253501A,B,C, and D) of the mounting arrangements of the number 1 and 2 battery contactors, and the number 1 and 2 emergency contactors at panel "ZL" in the rear equipment bay.

Modification Number 253501A and B involve mounting the battery contactors and emergency contactors on a non-conducting panel (0.35 inch thick) in order to provide insulation from the light alloy panel. Special flanged bushes (nylon) are used to ensure the insulation integrity at the attachment points.

Modification Number 253501C entails a modification of the battery contactors and emergency (Hartman) contactors that allows fitting of the flanged bushes under the heads of the attachment bolts. The contactors are mounted on non-conducting pads (0.062 inch thick) in order to insulate the units from the light alloy panel.

Modification Number 253501D consists of modification to the number 1 and 2 battery contactors to the Modification Number 253501C standard, in order to achieve the required insulation. The number 1 and 2 emergency contactors are mounted on a non-conducting panel (0.35 inches thick) in order to provide insulation from the light alloy panel. Special flanged bushes (nylon) are used to ensure the insulation integrity at the attachment points.

These modifications, as described in the service bulletin, will preclude the possibility for a battery short-to-ground through a battery contactor in the rear equipment bay. The CAA classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the mounting arrangements of the battery contactors and emergency contactors in the rear equipment bay. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The identified unsafe condition does not exist with respect to Model BAe 125–1000A series airplanes. Therefore, these models are not included in the applicability of this proposed rule.

The FAA estimates that 350 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $600 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $325,500, or $930 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Corporate Jets Limited (Formerly British Aerospace): Docket 92–NM–245–AD.

Applicability: Model DH/BH/HS/BAe 125 series airplanes, excluding Model BAe 125–1000A series airplanes; equipped with Garrett Model TFE 731 series engines; as listed in Corporate Jets Limited Service Bulletin SB.24–293–3501 A,B,C, & D, dated October 1, 1992; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent overheating of the battery contactors and emergency contactors and a potential fire in the rear equipment bay, accomplish the following:

(a) Within 4 months after the effective date of this AD, modify the mounting arrangements of the battery contactors and emergency contactors in the rear equipment bay, Modification Number 253501 A, B, C, & D; and prior to further flight, perform a functional test; in accordance with Corporate Jets Limited Service Bulletin SB.24–293–3501 A, B, C, & D, dated October 1, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 24, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–4720 Filed 3–1–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 92–NM–222–AD]

Airworthiness Directives; Gulfstream Aerospace Corp. Model G1159 (G–II), G1159A (G–III), G1159B (G–IIB), and G–IV Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Gulfstream Model G1159 (G–II), G1159A (G–III), G1159B (G–IIB), and G–IV series airplanes, that currently requires inspections of the electrical power leads to the engine fire extinguishers to determine proper installation, and correction of the installation, if necessary. This action would require modification of the electrical leads and plumbing connections to the fire extinguishers, which would terminate the requirement for inspections following maintenance on the fire extinguishing system. This proposal is prompted by the development of a modification that eliminates incorrect installation of the electrical power lead to the engine fire extinguishing system. The actions specified by the proposed AD are intended to prevent fire bottles being discharged into the wrong nacelle.

DATES: Comments must be received by April 26, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–222–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Gulfstream Aerospace Corporation, Technical Operations Department, P.O. Box 2206, Savannah, Georgia 31402–9980. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, suite 210C, 1669 Phoenix Parkway, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Steve Flanagan, Aerospace Engineer, Airframe Branch, ACE–120A, FAA, Atlanta Aircraft Certification Office, suite 210C, 1669 Phoenix Parkway, Atlanta, Georgia 30349; telephone (404) 991–2910; fax (404) 991–3606.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–222–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–222–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On April 11, 1989, the FAA issued AD 89–05–05, Amendment 39–6198 (54 FR 15744, April 19, 1989), to require inspections of the electrical power leads to the engine fire extinguishers to determine proper installation, and correction of the installation, if necessary. That action was prompted by reports of incorrect installation of the electrical power leads to the engine fire extinguishing system. The requirements of that AD are intended to prevent fire bottles being discharged into the wrong nacelle.

Since the issuance of that AD, the manufacturer has developed a modification that would eliminate incorrect installation of the electrical power leads to the engine fire extinguishing system. This modification entails installing color-coded identification labels that would facilitate differentiation of engine fire bottle electrical leads and plumbing connections.

The FAA has reviewed and approved the following Gulfstream Aircraft Service Changes (ASC), that describe procedures for installation of color-coded identification labels on the engine fire bottle electrical leads and plumbing connections:

ASC No.	Date of ASC	Applicable model(s)
401	Dec. 6, 1991.	Gulfstream G1159/ G1159B (G–II/G–IIB).
195	Dec. 6, 1991.	Gulfstream G1159A (G–III).
146	Sept. 5, 1991.	Gulfstream G–IV.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 89–05–05 to require modification of the electrical leads and plumbing connections to the engine fire extinguishing system. This action would terminate the current requirement for inspections following maintenance on the fire extinguishing system. The actions would be required to be accomplished in accordance with the applicable aircraft service change described previously.

There are approximately 540 Model G1159 (G–II), G1159A (G–III), G1159B (G–IIB), and G–IV series airplanes of the affected design in the worldwide fleet. The FAA estimates that 363 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $334 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $280,962, or $774 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship

between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6198 (54 FR 15744, April 19, 1989), and by adding a new airworthiness directive (AD), to read as follows:

Gulfstream Aerospace Corporation: Docket 92–NM–222–AD. Supersedes AD 89–05–05, Amendment 39–6198.

Applicability: All Model G1159 (G–II), G1159A (G–III), G1159B (G–IIB), and G–IV series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fire bottles being discharged into the wrong nacelle, accomplish the following:

(a) Within 3 days or 10 hours time-in-service after May 8, 1989 (the effective date of AD 89–05–05, Amendment 39–6198), whichever occurs later, perform an inspection to determine proper configuration of electrical power leads to the engine fire extinguishing system, in accordance with the following Gulfstream Alert Customer Bulletins, dated February 2, 1989: G–II Bulletin No. 20 (for Model G1159/G1159B series airplanes); G–III Bulletin No. 4 (for Model G1159A series airplanes); or G–IV Bulletin No. 5 (for Model G–IV series airplanes); as applicable. If the configuration is not correct, prior to further flight, correct the installation in accordance with the applicable Gulfstream Alert Customer Bulletin.

(b) Immediately following any maintenance performed on the engine fire extinguishing system, perform the inspection procedures required by paragraph (a) of this AD in accordance with the applicable alert customer bulletin to ensure that the system is functioning properly.

(c) Within 2 years after the effective date of this AD, modify the electrical leads and plumbing connections to the fire extinguishers in accordance with the following Gulfstream Aircraft Service Changes: Gulfstream II/IIB Change No. 401, dated December 6, 1991 (for Model G1159/G1159B series airplanes); Gulfstream III Change No. 195, dated December 6, 1991 (for Model G1159A series airplanes); or Gulfstream Change No. 146, dated September 5, 1991 (for Model G–IV series airplanes); as applicable. Accomplishment of this modification constitutes terminating action for the inspection procedures required by paragraph (b) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 24, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–4722 Filed 3–1–93; 8:45 am]

BILLING CODE 4910–13–P

RAILROAD RETIREMENT BOARD

20 CFR Part 325

RIN 3220 AA97

Registration for Railroad Unemployment Benefits

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) hereby proposes to amend its regulations under the Railroad Unemployment Insurance Act (RUIA) to allow a claimant 30 days (instead of 9) to request a claim form in order to begin receiving unemployment benefits with respect to a subsequent period of unemployment within a benefit year, and to clarify the time limit that applies to the filing of a claim for unemployment benefits.

DATES: Comments should be submitted on or before April 1, 1993.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4513, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Section 5(a) of the RUIA provides that claims for benefits under the RUIA shall be made in accordance with such regulations as the Board shall prescribe. Section 5(b) of the RUIA authorizes the Board to establish by regulation or otherwise any procedure that it deems necessary or proper for the determination of a right to benefits.

Board regulations presently require a claimant to file an application for unemployment benefits within 30 calendar days of the first day, within a benefit year, that he or she intends to claim as a day of unemployment. See 20 CFR 325.3(c). If the claimant returns to work but becomes unemployed later in the same benefit year, the regulations do not require him or her to file a new application with respect to the subsequent period of unemployment. Instead, under 20 CFR 325.4(d), the claimant may initiate a new claim for unemployment benefits by requesting a claim form for the first 14-day period in such subsequent period of unemployment, provided that such request is made within 9 calendar days after the first day in such subsequent period of unemployment for which the claimant wishes to receive unemployment benefits.

Experience has shown that the foregoing procedure is not readily understood by unemployed railroad employees and can produce inequitable results in some cases. For instance, an unemployed employee will probably not understand that while he or she has 30 days to apply for unemployment benefits for an initial period of unemployment in a benefit year, he or she has only 9 days to request a claim form for a subsequent period of unemployment in the same benefit year.

The employee could reasonably believe that upon becoming unemployed a second time, he or she has 30 days to apply for unemployment benefits. This misunderstanding has resulted in benefits being denied employees who have waited longer than 9 days to request a claim form.

To avoid this result, the Board proposes to amend its regulations. Under the proposed regulation, an employee would be allowed 30 days to request an initial claim form for a subsequent period of unemployment in a benefit year, that is, the same number of days required for an initial application for unemployment benefits under 20 CFR 325.3(c).

The Board also proposes to amend § 325.4(c) of its regulations to clarify the time limit for filing a claim for unemployment benefits. Presently, that regulation provides that a claim must be filed no later than 15 calendar days after the last day claimed as a day of unemployment during the period covered by the claim form, or 15 calendar days after the date on which the claim form was mailed to the claimant, whichever date is later. This requirement has proved to be confusing and difficult to administer when the last day claimed as a day of unemployment is not the last day in the claim period covered by the requested claim form. Accordingly, the Board proposes to amend the regulation so that the 15-day time limit will be measured from the last day of the period to be covered by the claim form, or the date on which the claim form was mailed to the claimant, whichever date is later. The regulation, as amended, will be easier to administer and will expedite processing of claims for unemployment benefits.

Unlike the experience rating provisions of the 1988 amendments to the RUIA (title VII of Pub. L. 100–647), claims for unemployment benefits are subject to prepayment verification with the applicable base year employer. Prepayment verification serves to assure the validity of claims for unemployment benefits filed by employees under these regulations.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no regulatory analysis is required. This rule does not impose any information collections within the meaning of the Paperwork Reduction Act (44 U.S.C. ch. 35).

List of Subjects in 20 CFR Part 325

Railroad employees, Railroad unemployment benefits.

For the reasons set out in the preamble, title 20, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 325—REGISTRATION FOR RAILROAD UNEMPLOYMENT BENEFITS

1. The authority citation for part 325 continues to read as follows:

Authority: 45 U.S.C. 362(i) and 362(1).

2. Section 325.4(c) is revised to read as follows:

§ 325.4 Claim for unemployment benefits.

* * * * *

(c) *Time for filing.* A claim for unemployment benefits shall be filed at any Board office no later than 15 calendar days after the last day of the claim period, as defined in paragraph (b) of this section, or 15 calendar days after the date on which the claim form was mailed to the employee, whichever is later. In determining whether the time for filing the claim may be extended, the standards set forth in § 325.3(d) shall be applied. None of the days included in a claim that is not timely filed shall be considered a day of unemployment.

§ 325.4 [Amended]

3. Section 325.4(d) is amended by removing "9" and inserting therefor "30" in the second sentence of that paragraph, and by removing "9th" and inserting therefor "30th" in the last sentence of that paragraph.

Dated: February 22, 1993.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 93–4766 Filed 3–1–93; 8:45 am]

BILLING CODE 7905–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL13–1–5362; FRL–4562–5]

Approval and Promulgation of Particulate Matter Implementation Plan; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes approval of the State Implementation Plan (SIP) submitted by the State of Illinois for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). The implementation plan was submitted by the State to satisfy certain Federal requirements for an approvable nonattainment area PM–10 SIP for LaSalle County, Illinois. This area was designated nonattainment for PM–10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act (Act), upon enactment of the Act Amendments of 1990. The Act requires that States make certain submittals by November 15, 1991 for those areas designated nonattainment and classified as moderate for PM–10 upon enactment (the "initial moderate nonattainment areas"). In this action, USEPA is proposing approval of the PM–10 SIP for LaSalle County. The rationale for the approval is set out both in this notice and in supporting technical information which is available at the address indicated below.

DATES: Comments on this revision and on USEPA's proposed action must be received by April 1, 1993.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (5AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the SIP revision request and USEPA's analysis are available for inspection at the following address: (It is recommended that you telephone Gustavo Felix at (312) 353–6009, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of today's revision to the Illinois SIP is available for inspection at: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Gustavo Felix, Regulation Development Branch, Regulation Development Section (5AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–6009.

SUPPLEMENTARY INFORMATION:

I. Background

The air quality planning requirements for moderate PM–10 nonattainment areas are set out in title I of the Act.[1]

[1] The 1990 Amendments to the Act made significant changes to the air quality planning requirements for areas that do not meet (or that significantly contribute to ambient air quality in a nearby area that does not meet) the PM–10 national ambient air quality standards (see Pub. L. 101–549, 104 Stat. 2399).References herein are to the Clean Air Act, as amended, 42 U.S.C. sections 7401 *et seq.*

USEPA has issued a "General Preamble" describing USEPA's preliminary views on how USEPA intends to review SIP's and SIP revisions submitted under Title I of the Act, including those State submittals containing moderate PM–10 nonattainment area SIP requirements [see generally 57 FR 13498 (April 16, 1992)]. The reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in today's proposal and the supporting rationale. In today's rulemaking action on the Illinois moderate PM–10 SIP for LaSalle County nonattainment area, USEPA is proposing to apply its interpretation taking into consideration the special factual issues presented.

Part D of Title I contains the provisions applicable to nonattainment areas. Moderate PM–10 nonattainment areas must meet the applicable requirements set out in subparts 1 and 4 of part D. Subpart 1 contains provisions generally applicable to all nonattainment areas and subpart 4 contains provisions specifically applicable to PM–10 nonattainment areas. At times, Subparts 1 and 4 overlap or conflict. USEPA has attempted to clarify the relationship among these various provisions in the General Preamble and, as appropriate, in today's notice.

Those States containing initial moderate PM–10 nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technoloy—RACT) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Control requirements applicable to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Some provisions are due at a later date. States with initial moderate PM–10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified stationary sources of PM–10 by June 30, 1992 (see section 189(a)). Such States also must submit contingency measures by November 15, 1993 which become effective without further action by the State or USEPA, upon a determination by USEPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline (see section 172(c)(9) and 57 FR 13543–13544).

II. Today's Action

Section 110(k) of the Act sets out provisions governing USEPA's review of SIP submittals (See 57 FR 13565–13566). In today's action, USEPA is proposing to approve the plan revision submitted to USEPA on October 16, 1991 and November 13, 1991, for LaSalle County, Illinois because it meets all of the applicable requirements of the Act. The USEPA will consider any timely submitted comments before taking final action on today's proposal.

A. Analysis of State Submission

1. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans for submission to USEPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[2] Section 110(d) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

USEPA also must determine whether a submittal is complete and therefore warrants further USEPA review and action [see section 110(k)(1) and 57 FR 13565]. USEPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). USEPA attempts to make completeness determinations within 60 days of receiving a submittal. However, a submittal is deemed complete by operation of law if a completeness determination is not made by USEPA 6 months after receipt of the submission.

[2] Also Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

The State of Illinois held a public hearing on April 17, 1991, in Chicago, and on April 19, 1991, in Oglesby, Illinois to entertain public comment on the implementation plan for LaSalle County. Following the public hearing the plan was adopted by the Illinois Pollution Control Board on September 26, 1991. The plan was submitted to USEPA on October 16, 1991 and November 13, 1991 as a revision to SIP, with a request that USEPA approve the revision.

The SIP revision was reviewed by USEPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete and a letter dated November 29, 1992 was forwarded to the Manager, Division of Air Pollution Control, Illinois Environmental Protection Agency (IEPA) indicating the completeness of the submittal and the next steps to be taken in the review process. As noted in today's action USEPA proposes to approve the Illinois PM–10 SIP submittal for LaSalle County.

2. Accurate Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Further, section 110(a)(2)(K) generally authorizes USEPA to request to request any data necessary to perform air quality modeling for the purpose of predicting, among other things, impacts on the PM–10 NAAQS. This would include, for example, a comprehensive, accurate, and current inventory of allowable emissions in the area. Because the submission of such inventories are a necessary adjunct to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventories must be received with this submission (see 57 FR 13539).

PM–10 and Total Suspended Particulate (TSP) monitors operated by the Illinois Environmental Protection Agency (IEPA) in Oglesby are sited at a location that is ideally suited to measure maximum impacts caused by emissions from a single company—the Lone Star Cement Company. It is IEPA's contention that the exceedances recorded in Oglesby were due entirely to emissions from that plant. The PM–10 monitor has recorded four exceedances in 1989, 2 exceedances in 1990, and 3 exceedances in 1991. Historically, the Oglesby TSP monitor

has consistently recorded some of the highest TSP concentrations in the State and these concentrations have been attributed to emissions from Lone Star Cement.

The LaSalle County emissions inventory consists of 32 point sources and 14 area sources. The allowable and actual emission inventory are the same. The four main sources of PM–10 at Lone Star Cement are the kiln, clinker cooler, finish mill high efficiency air separator, and a raw mill roller mill. The allowable emission limits for these sources are listed in § 212.423(b) of 35. Ill. Adm. Code 212 and match the emissions that was used in the modeling analysis needed to demonstrate attainment of the PM–10 NAAQS. All of the point sources, except the kiln, are controlled by baghouses. The kiln is controlled by an electrostatic precipitator.

The emissions for all the point sources, not including the four mentioned above, are controlled by a no visible emission limit in Section 423(c) of 35 Ill. Adm. Code 212. The emission calculations for these sources were based on the grain loading and the maximum flow rates. The no visible emission limit ensures that the baghouses will meet or control beyond 0.01 grains per standard cubic feet. The maximum flow rate was based on 100 percent capacity of the point sources with control equipment operating.

The fugitive emissions inventory was modeled as 14 area sources. The emissions were calculated from 27 different fugitive producing processes such as blasting, drilling, and conveying. It is possible for an area source to consist of one or more processes, depending on how the 27 fugitive producing processes were distributed to the 14 area sources.

Calculations for the fugitive emissions were done mainly from data and equations given in publication AP–42, Compilation of Air Pollutant Emission Factors (Fourth Edition, 1985) and EPA publication Control of Open Fugitive Dust Sources (EPA–450/3–88–008). Control efficiencies were based on several factors, including application intensity of § 212.424 of the Illinois State Rules and Regulations (e.g. 1.58 liters of water/square meter). When the modeling analysis was done for the 24 hour PM–10 standard, control efficiencies were zero to simulate worst case scenario.

USEPA is proposing to approve the emissions inventory because it generally appears to be accurate and comprehensive, and provides a sufficient basis for determining the adequacy of attainment demonstration for this area consistent with the requirements of sections 172(c)(3) and 110(a)(2)(K) of the Act.[3] For further details see the Technical Support Documents (TSDs).

3. RACM (Including RACT)

As noted, the initial moderate PM–10 nonattainment areas must submit provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993 [see sections 172(c)(1) and 189(a)(1)(C)]. The General Preamble contains a detailed discussion of USEPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–13545 and 13560–13561). the USEPA's interpretation of this requirement is set out here only in broad terms.

The State should first identify available control measures evaluating them for their reasonableness in light of the feasibility of the controls and the attainment needs of the area. A State may reject an available control measure if the measure is technologically infeasible or the cost of the control is unreasonable. The SIP must demonstrate attainment of the NAAQS as expeditiously as practicable but no later than December 31, 1994 (unless the State demonstrates that attainment by that date is impracticable). Therefore, if a State adopts less than all available measures but demonstrates, adequately and appropriately, that RFP and attainment of the PM–10 NAAQS is assumed, and application of all such available measures would not result in attainment any faster, than a plan which requires implementation of less than all available measures may be approved as meeting the RACM requirement. As a suggested starting point, USEPA has identified reasonably available control measures for sources of fugitive dust, residential wood combustion, and prescribed burning (see 57 FR 18072–18074 (April 28, 1992)). The State should add to the list of available measures in an area any measures that public commenters demonstrate may well be reasonably available in a particular circumstance.

The RACT for a particular source is similarly determined. USEPA's longstanding definition of RACT is the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (see 57 FR 13541). Thus, USEPA recommends that available control technology be applied to those existing sources in the area that are reasonable to control in light of the attainment needs of the area and the feasibility of controls.[4]

A State should submit a reasoned justification for partial or full rejection of any available control measure (including any available control technology) that explains, with appropriate documentation, why each rejected control measure is infeasible or otherwise unreasonable and, therefore, does not constitute RACM (or RACT) for the area. In those PM–10 nonattainment areas where mobile sources significantly contribute to the PM–10 air quality problem, States also must address the section 108(f) transportation control measures (see 57 FR 13561).

As stated above under the section headed "Accurate Emissions Inventory", a total of 32 point sources and 14 area sources were identified as contributing to the PM–10 nonattainment problem in LaSalle County. All of the emission sources are located at Lone Star Cement. Four of the point sources will be controlled by specific mass emission limits. The four point sources are a kiln, a clinker cooler, finish mill high efficiency air separator, and a raw mill roller mill. See table below.

[3] The USEPA issued guidance on PM–10 emissions inventories prior to the enactment of the 1990 Act Amendments in the form of the 1987 PM–10 SIP Development Guideline. We believe that this document provides a general basis for meeting the requirements of the new Act.

[4] USEPA has issued technological and economic parameters that should be considered in determining RACT for a particular source (see 57 FR 18073–18074).

	Rate kg/hr	(lb/hr)	Concentration	
			mg/scm	(gr/scf)
PM–10 Emission Limits				
A. Clinker Cooler	4.67	(10.3)	28.147	(0.012)
B. Finish Mill High Efficiency Air Separator	2.68	(5.9)	26.087	(0.011)
PM–10 Emission Limits—Including Condensible PM–10				
A. Raw Mill Roller Mill (RMRM)	6.08	(13.4)	27.5	(0.012)
B. Kiln without RMRM Operating	19.19	(42.3)	91.5	(0.040)
C. Kiln with RMRM	11.43	(25.2)	89.2	(0.039)

Note that the kiln has two emission limits, one limit applies when the RMRM is operating and the other applies when the RMRM is not operating. The reason for this is that some of the kiln exhaust is fed to the RMRM to help reduce the kiln emissions. However, the RMRM only operates a portion of the time the kiln is in operation.

All other point sources at the cement plant will be controlled by a no visible emission limit. The no visible emission limit will assure that the baghouses controlling emissions from the point sources such as the conveyor transfer points will be operating properly and meeting or doing better than 0.01 gr/scf. A list of point sources may be found in the TSDs accompanying this proposed rulemaking. Complete descriptions of the individual point sources may be found in the State submittal.

The area sources will be controlled by fugitive dust suppression methods. The fugitive dust sources that require control are as follows; (1) certain unpaved roadways and open areas traversed by motor vehicles, and (2) crushing, screening, and conveying operations at the quarry that provide raw materials for the Portland cement manufacturing process.

One control measure, from § 212.424(c)(1) of 35 Ill. Adm. Code 212, requires calcium chloride and intermittent water applications to the unpaved access roadway to the Illinois Central Silos loadout at the plant. The Calcium Chloride is applied once every 16 weeks at a rate of at least 1.58 liters per square meter. This is followed by a weekly application of water at a rate of 1.58 liters per square meter. This requirement becomes moot if the roadway is paved.

Section 212.424(d)(1) from 35 Ill. Adm. Code 212 requires a foam suppressant to be applied to the primary crusher the primary screen, and to two conveyor belt points in the quarry. The foam suppressant is to be applied at a rate of at least 1.25 liters per megagram of rock processed.

Section 212.424(d)(2) requires watering of the roadways that lead to the primary crusher at a rate of 0.50 liters per square meter applied once every eight hours except under certain weather conditions that may make watering a hazard.

A more detailed discussion of the individual source contributions, their associated control measures (including reasonably available control technology) and an explanation as to why certain available control measures were not implemented, can be found in the TSDs accompanying this proposed rule which are available from the Region 5 office listed above.

USEPA has reviewed the State's explanation and associated documentation and concluded that it adequately justifies the control measures to be implemented. The implementation of Illinois's Part D particulate matter nonattainment plan control strategy will result in the attainment of the PM–10 NAAQS by December 31, 1994. By this notice, USEPA is proposing to approve the control strategy in its entirety.

4. Attainment Demonstration

As noted, the initial moderate PM–10 nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (See section 189(a)(1)(B) of the Act). Alternatively, the State must show that attainment by December 31, 1994 is impracticable. In the General Preamble, USEPA indicated that the attainment demonstrations for the initial moderate areas must follow existing modeling guidelines for PM–10 or, if appropriate, may be developed consistent with the supplemental attainment demonstration policy issued for initial areas (see 57 FR 13539).

Illinois conducted an attainment demonstration using dispersion modeling for LaSalle County. This demonstration indicates that the NAAQS for PM–10 will be attained by 1994 in LaSalle County and maintained in future years. The 24-hour PM–10 NAAQS is 150 micrograms/cubic meter ($\mu g/m^3$), and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$ is equal to or less than one. *See* 40 CFR 50.6. The annual PM–10 NAAQX is 50 $\mu g/m^3$, and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50 $\mu g/m^3$. The dispersion modeling in the demonstration predicted 148 $\mu g/m^3$ as the 24-hour design concentration, thus demonstrating attainment of the 24-hour PM–10 NAAQS. The dispersion modeling in the demonstration predicted 47 $\mu g/m^3$ as the annual design concentration, thus demonstrating attainment of the annual PM–10 NAAQS. The control strategy used to achieve these design concentrations is summarized in the section titled "RACM (including RACT)". To account for growth effects in future years, a growth factor has been applied to all background concentrations used in the modeling analyses. For a more detailed description of the attainment demonstration and the control strategy used, see the TSDs prepared in support of this proposed rule.

5. PM–10 Precursors

The control requirements which are applicable to major stationary sources of PM–10, also apply to major stationary sources of PM–10 precursors unless USEPA determines such sources do not contribute significantly to PM–10 levels in excess of the NAAQS in that area (see section 189(e) of the Act). The control requirements that apply to major stationary sources in PM–10 nonattainment areas generally include the following: reasonably available control technology, which applies in moderate PM–10 nonattainment areas; best available control technology, which

applies in serious PM–10 nonattainment area; and control requirements under the applicable new source review provisions, such as the lowest achievable emission rate. The General Preamble contains a lengthy discussion on control requirements for PM–10 precursors in moderate nonattainment areas and on the type of technical information USEPA will rely on in making any determinations under section 189(e) (see 57 FR 13539–13540 and 13541–13542).

Weather stagnation is not characteristic of the LaSalle County nonattainment area. Reduction of precursor concentration (e.g. VOC, SO_2, and NO_x) would require reduction of indeterminately located sources well upwind of the nonattainment area. Control of precursors in the nonattainment area would have little if any impact on particulate matter concentrations in the nonattainment area. For this reason, it is appropriate to conclude that precursors do not contribute significantly to particulate matter concentrations on the LaSalle County nonattainment area.

6. Quantitative Milestones and Reasonable Further Progress (RFP)

The PM–10 nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate RFP, as defined in section 171(1), toward attainment by December 31, 1994 (see section 189(c) of the Act). Reasonable further progress is defined in section 171(1) as such annual incremental reductions in emissions of the relevant air pollutant as are required by Part D or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

For the initial moderate PM–10 nonattainment areas, the emissions reductions progress made between the SIP submittal due date of November 15, 1991 and the attainment date of December 31, 1994 (only 46 days beyond the November 15, 1994 milestone date) will satisfy the first milestone requirement. The de minimis timing differential makes it administratively impracticable to require separate milestone and attainment demonstrations. In implementing RFP for this initial moderate area, USEPA will review the attainment demonstration and control strategy for the area and determine whether annual incremental reductions different from those provided in the SIP may reasonably be required in order to ensure attainment of the PM–10 NAAQS by December 31, 1994 (see section 171(1)). The control strategy, assuring attainment by December 31, 1994, for LaSalle County went into effect on April 30, 1992. This implies that RFP as already been accomplished.

7. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and USEPA. See sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556. USEPA criteria addressing the enforceability of SIP's and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from the Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). The criteria include, for example, applicability to sources, compliance date(s), compliance periods, test methods, record keeping requirements, and any exemptions or variances. In addition to enforceable requirements, nonattainment area plan provisions must contain a program that provides for enforcement of the control measures and other elements in the SIP [see section 110(a)(2)(C)].

The particular control measures contained in the SIP are addressed above under the section headed "RACM (including RACT)." These control measures apply to the types of activities identified in that discussion, including, for example, mass emission limits for 4 point sources, a no-visible emission limit for the remainder of the point sources, and fugitive dust suppression methods for area sources. The SIP provides that the affected activities apply to portland cement manufacturing plant and associated quarry operations located south of the Illinois River in LaSalle County, IL.

The TSDs prepared in support of this proposed rule indicate that the SIP revision contains appropriate emission limitations; a complete emission inventory; a list of source types, methods and schedules as appropriate; malfunction provision; compliance test methods; correctly cited references of incorporated methods/rules; and reporting and recordkeeping requirements.

The State of Illinois has two approaches to regulate PM–10 emissions, "testing" and "observation". Testing is the common approach to control particular matter from large process emission sources. This approach is commonly used by the USEPA for many of its New Source Performance Standards. In this approach the emission limit is set as allowable concentration, e.g. grain/scf, or an allowable emission factor, e.g. lbs/ton throughput. Compliance with the emission limit is evaluated by initial emissions testing using an appropriate method. For PM–10, the appropriate test methods are Method 201, Method, 201A, or Method 5 of Title 40 of the Code of Federal Regulations (40 CFR part 60), appendix A. Method 202 of 40 CFR part 60, appendix A is used if condensibles is also to be tested. Then there is follow up testing if needed. Between emissions tests, compliance is determined by a combination of techniques, including reviewing operating records, observation of stack opacity, and monitoring of stack opacity. These techniques are used to assure that the equipment is being operated in a manner that is consistent with that during testing. If the manner of operation deviates significantly from that during testing, the equipment must be restored to the manner of operation during testing or the equipment must be tested again. There are recordkeeping and reporting requirements that will help to verify proper operation and maintenance of control equipment.

The second approach to control of particulate matter emissions, relies solely on visual observation of the exhaust. This second approach is the "observation" approach. This approach is particularly relevant where existing or small sources are being considered, as are present at Lone Star. This approach determines whether or not equipment has no visible emissions. The no visible emission limit is a stringent standard, barring release of any exhaust gas which visibly contains particulate matter. The no visible emission limit applies to all manufacturing process emission sources other than the four addressed by specific numerical limits. Compliance with the no visible emission limit will be determined by Method 22 of 40 CFR part 60, appendix A.

8. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIPs that demonstrate attainment must include contingency measures. See generally 57 FR 13543–13544. These measures must be submitted by November 15, 1993 for the initial moderate nonattainment areas. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures must be submitted by November 15, 1993 for initial moderate nonattainment areas. These measures must take effect without further action by the State or USEPA, upon a determination by USEPA that the area has failed to make RFP or attain the PM–10 NAAQS by the applicable statutory deadline. Illinois will have

until November 15, 1993 to submit a contingency plan for LaSalle County.

9. Outstanding Proposal To Reclassify LaSalle County to Serious

On November 21, 1991, USEPA proposed to reclassify 14 moderate nonattainment areas with design concentrations 58% or more above the standard and with 6 or more expected exceedances of the 24-hour standard per year (56 FR 58658). The LaSalle County nonattainment area met these criteria and was included in the proposed reclassification notice. At the same time, USEPA included a discussion in the notice that it did not anticipate the need to reclassify LaSalle County in the final notice of rulemaking. This conclusion was based upon the State's dispersion modeling and RACT analyses which tentatively demonstrated attainment by December 31, 1994, the moderate area attainment date. USEPA has confirmed in today's notice that the State adopted regulations, which become effective on October 4, 1991, demonstrating attainment by December 31, 1994. LaSalle County will, therefore, not be reclassified to serious for PM–10.

III. USEPA's Proposed Rulemaking Action

USEPA is proposing to approve the plan revision submitted to USEPA on October 16, 1991 and November 13, 1991, for the LaSalle County nonattainment area. Among other things, the State of Illinois has demonstrated that the LaSalle County moderate PM–10 nonattainment area will attain the PM–10 NAAQS by December 31, 1994.

As noted, additional submittals for the initial moderate PM–10 nonattainment areas are due at later dates. The USEPA will determine the adequacy of any such submittal as appropriate.

IV. Request for Public Comments

USEPA is requesting comments on all aspects of today's proposal. As indicated at the outset of this notice, USEPA will consider any comments received by April 1, 1993.

V. Executive Order (EO) 12291

The OMB has exempted this rule from the requirements of Section 3 of EO 12291.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small no-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Act do not create any new requirements, by simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976; 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 8, 1993.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 93–4630 Filed 3–1–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MM Docket No. 93–24, FCC 93–90]

Experimental, Auxiliary, and Special Broadcast and Other Program Distributional Services; Instructional Television Fixed Service Filing Procedures

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking seeks comment on the adoption of a window period for the filing of applications for new ITFS stations, for major changes in existing stations, or for major amendments to pending applications. The notice discusses the significant changes that have occurred in ITFS over the past few years that have resulted in a substantial increase in the number of applications received. The notice seeks comment on whether the Commission should institute a filing window procedure and, if so, how it could implement such a window. The Commission issued the notice on its own motion.

DATES: Comments are due by April 19, 1993 and reply comments are due by May 19, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Paul R. Gordon, Mass Media Bureau, Video Services Division, (202) 632–6357.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rulemaking in MM Docket No. 93–24, adopted February 11, 1993, and released February 25, 1993.

The complete text of this notice of proposed rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center, room 239, at the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Synopsis of Notice of Proposed Rulemaking

1. This notice of proposed rulemaking seeks comment on changing the method by which Instructional Television Fixed Service (ITFS) applications are filed and processed. Currently, applicants for new ITFS stations or major changes in existing station are subject to the traditional A/B cut-off approach. The notice discusses the history of ITFS since its inception in 1964, noting that the service was not heavily utilized during its first two decades. However, in 1983, the Commission authorized ITFS licensees to lease their excess channel capacity to wireless cable operators. The Commission found that this would alleviate the burdensome cost of constructing and operating an ITFS system, and it also determined that the income derived from the leasing of excess channel capacity could enable ITFS operators to broadcast during a greater portion of the day, could increase programming availability, and could result in the activation of currently vacant channels.

2. The authorization of excess capacity leasing led to an increase in the number of applications filed, and the rules did not allow for an orderly, efficient, and equitable processing of those applications. Accordingly, the Commission in 1985 inaugurated a cut off procedure. Analyzing the options

before it, the Commission rejected a proposed window approach and determined that the traditional A/B cut-off procedure would best serve the public interest. The Commission then believed that use of a filing window was inappropriate, because educational institutions generally lacked expertise in filing for Commission licenses and frequently required time to obtain government funding and to negotiate an excess capacity lease.

3. The cut-off procedure involves placing the first application(s) accepted for filing and determined to be substantially complete on a public notice called an "A cut-off list." This list notifies the public that the application has been accepted and gives interested parties 60 days to file competing applications or petitions to deny. An applicant placed on the "A" cut-off list is required to make any major changes to its proposal before the end of the cut-off period. After the "A" period expires, the staff places all substantially complete applications which were filed during that period and found to be mutually exclusive with any listed "A" application on a "B" list. This list notifies the public that the specified applications have been accepted for filing, and it provides 30 days for the filing of petitions to deny or minor amendments.

4. Since the Commission first considered these issues several years ago, however, we have significantly amended our regulations to avoid inhibiting the growth of ITFS and wireless cable services. In the last three years we have modified the minimum programming requirements for new ITFS operators; authorized 15-mile interference protection for ITFS licensees which lease excess capacity for wireless cable operations; authorized the use in some situations of channel mapping technology by ITFS licensees and wireless cable lessees; and modified our "ready recapture" requirement with regard to excess channel capacity leasing by eliminating unduly restrictive time-of-day and day-of-week regulations.

5. With these changes, there has been a tremendous increase in the number of applications proposing the construction of new ITFS stations or major changes in the authorized facilities of such stations. In fiscal year 1991 alone, 454 new or major change ITFS applications were filed, a total that nearly equalled the aggregate number of such applications that had been filed in the four previous fiscal years. In fiscal year 1992, the rate of application receipts increased steadily. As a result, we received in that time 878 applications, nearly twice the number of new or major change ITFS applications than had been filed in FY 1991. In addition, a growing number of the applications filed are found to be mutually exclusive with ITFS applications listed on "A" cut-off notices.

6. The cut-off procedure has become inefficient, requiring an initial processing of a substantial number of applications simply to place them on an "A" cut-off list, with little benefit. Because each application must be processed a second time for legal and technical analysis, we are confronted with inefficient and time-consuming double processing. Further, more than 90% of these recently filed applications contained excess capacity lease agreements with wireless cable operators that were to provide substantial funding for the construction and operation of the ITFS facilities. This dramatic increase in the number and mutually exclusive nature of ITFS applications has significantly burdened our capacity to expeditiously and effectively authorize service.

7. We therefore seek comment on modifying the rules to replace the above system with one utilizing filing windows. This approach would specify a limited period of time for filing applications for new facilities, for major changes in existing facilities, or for major amendments to pending applications. The Commission would give Public Notice no fewer than 60 days or some longer period before opening a filing window, so as to provide adequate time for potential applicants to prepare. The window would remain open for a specified number of days, and no application would be accepted before or after the stated window of opportunity for filing. Applications not mutually exclusive with any other application and found to be acceptable would be placed on a proposed grant list; mutually exclusive applications would be placed on Public Notice. In each case, we would provide a 30-day period for the submission of petitions to deny. Single uncontested applications could then be granted, and winners could be selected from among the mutually exclusive applications pursuant to the selection process currently in use. Under our proposal, applications which have already been tendered but not yet placed on an "A" cut-off list as of the adoption date of this notice would not be placed on a cut-off list. Rather, they will be considered cut off as of the close of the first filing window. Applications already cut off or filed in response to an outstanding "A" cut-off list will be processed under existing standards.

8. We believe that use of a filing window will allow the staff to control the flow of applications better. In addition, many of the factors that made the Commission wary of a window procedure at the time it adopted the A/B cut-off approach are now considerably less relevant. The increase in excess channel capacity lease agreements between ITFS and wireless cable operators greatly diminishes our initial concern that educational institutions would require a substantial amount of time to obtain funding before applying for an ITFS license; it appears that the wireless cable entities almost always pay for the construction of the ITFS facilities. In addition, as wireless cable entities have gained experience with excess capacity leases, their agreements have become more uniform; therefore, less time is needed to negotiate them. Finally, unlike educational organizations, the wireless cable operators have expertise in filing for Commission licenses, and they frequently have in-house legal and engineering staff who can expeditiously prepare ITFS applications. As a result of all of these changes, it seems that the Public Notice announcing the opening of a filing window would provide educational institutions with sufficient time to prepare their applications. It also appears that potential ITFS licensees and wireless cable operators could make an excess capacity agreement and prepare an application in advance of a window Public Notice, in preparation for the next window.

9. We seek comment, therefore, on whether circumstances have sufficiently changed since 1985 to warrant a departure from the current method of filing applications. Commenters are also invited to address how far in advance a window should be announced and on how much time is sufficient to keep the window open. We emphasize that our proposed rulemaking involves only the narrow area of the filing window for applications for new ITFS facilities, major changes to existing stations, and major amendments to pending applications, and interested parties should accordingly restrict their comments to that particular issue.

10. In order to prevent potential ITFS applicants from inundating the Commission with applications during the pendency of this proceeding, we will, for a short period of time, not accept applications for new ITFS facilities or for major changes to existing facilities. However, we will continue to process applications that are already on file and already cut off. We will also continue to accept (but not process) applications in which the applicant

relies on NTIA for construction funds. We will consider these applications cut off as of the close of the first filing window. In addition, we will continue to accept and process applications filed in response to the two outstanding "A" cut-off lists dated December 17, 1992, and February 10, 1993. Moreover, we will also continue to accept major change proposals where they are filed in the same market to accommodate settlement agreements among applicants that have previously achieved cut-off status and where the settlement resolves mutually exclusive applications. We intend expeditiously to resume accepting applications for new ITFS facilities and for major changes in existing ITFS stations upon final disposition of the matters raised in this proceeding. The short delay engendered by our actions in this notice will very soon result in more efficient and rapid authorization of service to the public.

Administrative Matters

Initial Regulatory Flexibility Analysis Statement

Pursuant to the Regulatory Flexbility Act of 1980, the Commission finds:

11. *Reason for the action:* The purpose of this notice is to review and update the procedures which govern the filing of applications for new ITFS channels.

12. *Objective of this action:* The action proposed in this notice is intended to improve ITFS and wireless cable service by making the regulations that govern applying for a new ITFS channel consistent with the continuing evalution of the telecommunications industry.

13. *Legal basis:* Authority for the action proposed in this notice may be found in Sections 1, 3, 4 (i) and (j), 303, 308, 309, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154 (i) and (j), 303, 308, 309, and 403.

14. *Description, Potential Impact, and Number of Small Entities Involved:* Approximately 1,200 existing and potential wireless cable and ITFS operators would be affected by the proposal contained in this notice.

15. *Reporting, Recordkeeping, and Other Compliance Requirements Inherent in the Proposed Rule:* The proposal suggested in this notice would authorize ITFS applicants to file for a license only during specific windows. The Commission has found such a procedure to be an efficient means of controlling the flow of applications in rapidly expanding services.

16. *Federal Rules which Overlap, Duplicate, or Conflict with the Proposed Rule:* None.

17. *Any Significant Alternative Minimizing Impact on Small Entities and Consistent with the Stated Objective of the Action:* The proposal contained in this notice is meant to make the regulations that govern applying for a new ITFS channel consistent with the continuing evolution of the telecommunications industry.

18. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposal suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. section 601 *et seq.*, (1981)).

Ex Parte

19. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules. See generally 47 CFR sections 1.1202, 1.1203, and 1.1206(a).

Comments

20. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before April 19, 1993 and rely comments on or before May 19, 1993.

To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, room 239, at the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

Ordering Clauses

21. Accordingly, *It is ordered*, That pursuant to sections 1, 3, 4 (i) and (j), 303, 308, 309, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154 (i) and (j), 303, 308, 309, and 403, this *notice of proposed rulemaking* is adopted.

22. *It is further ordered*, Upon adoption of this notice of proposed rulemaking, that no applications for new ITFS facilities or for major changes to existing ITFS facilities will be accepted for filing by the Federal Communications Commission until further notice by the Commission. However, such applications in which the applicant relies on the National Telecommunications and Information Administration for construction funds will be accepted, but not processed. In addition, applications filed in response to the outstanding "A" cut-off lists of December 17, 1992, and February 10, 1993, will be accepted and processed.

List of Subjects in 47 CFR Part 74

Television broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–4726 Filed 3–1–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB66

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Hungerford's Crawling Water Beetle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to determine endangered status for the Hungerford's crawling water beetle (*Brychius hungerfordi* Spangler) and thereby provide the species protection under the Endangered Species Act of 1973, as amended (Act). The species is a small, rare beetle that lives in the cool riffles of clean, slightly alkaline streams. The species is known to occur in only three isolated locations: The East Branch of the Maple River, Emmet County, Michigan; the East Branch of the Black River, Montmorency County, Michigan; and the North Saugeen River at Scone, Bruce County, Ontario. The two

Michigan sites are in the Cheboygan River watershed. The primary threat to the species is alteration of its stream habitat. This includes changes caused by logging, beaver control, stream pollution, and general stream degradation. Fish management (particularly the introduction of brown trout) is also a threat. Critical habitat is not proposed at this time. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by May 3, 1993. Public hearing requests must be received by April 16, 1993.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, One Federal Drive, Fort Snelling, Minnesota 55111–4056. Comments and materials received will be available for public inspection, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Craig Johnson, Chief, Division of Endangered Species (see **ADDRESSES** above) at 612/725–3276 or FTS 725–3276.

SUPPLEMENTARY INFORMATION:

Background

Hungerford's crawling water beetle, *Brychius hungerfordi*, was first identified by Spangler in 1954 (Spangler 1954). The beetle is a member of an uncommon genus in the Family Haliplidae and Order Coleoptera. It can be distinguished from all other beetles as follows (from Wilsmann and Strand 1990):

Brychius hungerfordi is a small (4.20 mm), distinctive, yellowish brown beetle with irregular dark markings and longitudinal stripes on the elytra, each of which is comprised of a series of fine, closely spaced and darkly pigmented punctures. Males tend to be smaller than females. In Spangler's (1954) original series, specimens ranged from 3.70 mm in length and 1.90 mm in width (a male) to 4.35 mm in length and 2.25 mm in width (a female). Males are characterized by thickened tarsal segments of the front legs with small tufts of hair on the first three segments. *B. hungerfordi* can be differentiated from all other Haliplidae in Michigan by the shape of its pronotum, the sides of which are nearly parallel for the basal 2/3 (Hilsenhoff and Brigham, 1978) and are widened mid-laterally.

This small, rare beetle lives in the cool riffles of clean, slightly alkaline streams. The species is known to occur in only three isolated locations: The East Branch of the Maple River, Emmet County, Michigan; the East Branch of the Black River, Montmorency County, Michigan; and the North Saugeen River at Scone, Bruce County, Ontario. The two Michigan sites are in the Cheboygan River watershed. The disjunct distribution of this species suggests that it is a relict from glacial periods when cool, fast moving streams were more prevalent and the beetle was more widespread. Human activities such as fish management (particularly the introduction of brown trout), logging, beaver control, stream pollution, and general stream degradation have reduced its habitat in recent times. On May 22, 1984, the Service published in the **Federal Register** its first listing of invertebrate animal species being considered for listing under the Act, which included the Hungerford's crawling water beetle. Hungerford's crawling water beetle appeared again in the January 6, 1989 Animal Notice of Review (54 FR 554–579) as a Category 2 species. Category 2 comprises taxa for which there is some evidence of vulnerability, but for which the information necessary to list is lacking. It was again listed as Category 2 in the November 21, 1991 Animal Notice of Review (56 FR 58804–58836) but, given the research by Wilsmann and Strand (1990), it should have been listed as a Category 1 at that time. The listing priority is 2. The research results of Wilsmann and Strand indicate that the species occurs in only three vulnerable, isolated locations and should receive protection of the Act. The Service analyzed the status survey, as well as other information, and determined that the beetle is facing serious threats and should be protected as an endangered species.

All of the sites where the beetles have been found are characterized by moderate to fast stream flow, good stream aeration, inorganic substrate, and alkaline water conditions. Streams like those in which *B. hungerfordi* occur are common in the Great Lakes states. This area has been extensively surveyed for invertebrates in the last 30 years. Roughley (1989a) surveyed 30 to 40 potential locations in Ontario and 5 sites in Michigan and found the only known *B. hungerfordi* population in Canada. White surveyed portions of lower and upper Michigan (White 1989b), Hilsenhoff and Brigham (1978) surveyed Wisconsin, and Wallace (Brigham 1982) surveyed Minnesota and southern Canada without finding any new populations of *B. hungerfordi*. Strand (1989) surveyed streams in Emmet, Cheboygan, Presque Isle, Montmorency, and Otsego counties and found *B. hungerfordi* in 15 of 128 sampling stations. Of these, 14 occurred near the type location in the East Branch of the Maple River and so were effectively from the same population. The remaining site, in the East Branch of the Black River, was the only new population that has been found in the Untied States since the species was discovered.

The largest population presently occurs in the East Branch of the Maple River in a pristine portion of stream on the boundary of the University of Michigan Biological Station. This population is estimated to include 200 to 500 individuals while the other two populations are thought to be much smaller (White 1986b, Wilsmann and Strand 1990). The East Branch of the Maple River is a small stream surrounded by forest with a partially open canopy so sunlight reaches the water. The stream is cool (15–20° C) with a relatively fast flowing current (greater than 50 cm per second) and a substrate of limestone gravel and rock (White 1986b). The forest is intact, the beaver population is healthy, and their dams function to stabilize water levels so the riffles below the dams remain predictable from year to year (Wilsmann and Strand 1990). At the Black River site, the beetles occur in a moderately fast current in fairly shallow water. The site in Ontario has been degraded by road construction and the beetles occur in the riffles below an old millrace. The swift currents in these locations maintain a mineral substrate.

Perhaps the best explanation for the large population in the East Branch of the Maple River is that, unlike the other two sites, this portion of stream is inaccessible to introduced brown trout (Strand 1989). Because adult beetles must swim to the surface for air they are vulnerable to predation by foraging trout.

The life history of *B. hungerfordi* is not known. the beetles are thought to live longer than one year and to overwinter as larvae in the dense aquatic vegetation at the stream's edge (Wilsmann and Strand 1990). As with other Haliplidae, larvae probably go through three instar phases and pupate in the moist soil above the water line (Hickman 1929; White, Brigham, and Doyen 1984). Adults and larvae are seldom captured together and they appear to inhabit different microhabitats in the stream. Adults are more apt to be found in stronger currents, foraging for algae on gravel and stones. Both adults and larvae are herbivorous but very little is known about their specific dietary requirements or feeding adaptations (White 1986a, 1986b). Wilsmann and Strand (1990) reported, "The small size of *B. hungerfordi* adults

prevented direct observation of food ingestion. However, it is likely that they scrape food material from rocks by grasping with their tarsal claws and scraping with their distally flattened and single notched mandibles which are slightly medially cupped. This speculation is based on observations of the beetles crawling from rock to rock, stopping occasionally to grip a rock for varying lengths of time."

Compared to other Haliplidae, the adults are strong swimmers and they obtain oxygen by swimming to the surface or crawling to the water line at the edge of the stream. Larvae obtain oxygen directly from the water and are found in association with dense mats of vegetation (*Chara, Nitella,* or *Cladophora*) which offer protection and foraging. The growth form of this vegetative cover may be more important than the plant composition (Brigham 1990, pers comm. in Wilsmann and Strand 1990).

There is no evidence that *B. hungerfordi* has a dispersal flight. No adults have been found at black light stations, and the adults seem unusually reluctant to fly. One individual was removed from the water for 30 minutes and did not attempt to fly, an unexpected result given that most other aquatic insects would have attempted to fly after this period of desiccation. It is possible, therefore, that if this species disperses by flying, it is during a very brief period of time in the spring. The primary mode of dispersal appears to be movement within the stream system.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to Hungerford's crawling water beetle (*Brychius hungerfordi* Spangler) are as follows:

A. The Present or Threatened Destruction Modification, or Curtailment of its Habitat or Range

In recent times, stream modification has been the primary threat to *Brychius hungerfordi*. This includes dredging, logging, channelization, beaver control, bank stabilization, and impoundment. In Michigan, one site already has been impounded downstream by a dam, and the Ontario site has been impounded upstream (Roughley 1989b). Fish management also posses a threat to *B. hungerfordi*. This includes introduction (see Factor C below), removals, and chemical treatments.

Removal of existing beaver dams upstream from *B. hungerfordi* populations poses a significant threat to the beetle. The highest density locations of *B. hungerfordi* are below beaver dams or immediately below structures that provide similar conditions to those found downstream from beaver impoundments. At the same time, flooding caused by a new beaver dam could eliminate an upstream population of the beetle unless the population was able to move farther upstream (Wilsmann and Strand 1990).

The Michigan Department of Natural Resources is reviewing a proposal to build an experimental stream facility on the East Branch of the Maple River. The portion of the river identified in the proposal supports the largest of the three known populations of *B. hungerfordi* and this species and its habitat will be impacted by the project as proposed. Operation of the experimental facility will involve pumping water from the East Branch of the Maple River to experimental streams were nutrients may be added. Water from the experimental streams will be discharged downstream from the intake site. *B. hungerfordi* would be taken up by pumps and passed to the experimental streams. Construction and operation of the facility will alter the flow rate of the water near the intake and discharge sites. Water temperature will also be altered. Under special circumstances, use of non-nature species in the experimental stream will be permitted. The Michigan Department of Natural Resources has requested more information from the applicant before a permit is granted or denied.

Given the rapid rate of recreational development and the demands for fish, wildlife, and forest management in northern Michigan, unknown populations of *B. hungerfordi* could easily be extirpated before they are discovered, increasing the need to protect existing populations. Because only three small populations of this species are known to exist, loss of even a few individuals could extirpate the species from some locations (Wilsmann and Strand 1990).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The species will continue to draw scientific interest and collection should be regulated. Recent research efforts have involved mostly capture and release rather than collecting, and the few collections that have been made are housed in appropriate museum collections. However, because of the species' rarity, there is the possibility that amateur scientific collections could occur.

C. Disease or Predation

Another threat to this species is the presence of brown trout that were introduced into river systems in the early part of this century. *B. hungerfordi* inhabits water deep enough for trout to occupy and the adults must swim to the surface for oxygen where they are vulnerable to foraging trout. The best possible explanation for the large population of *B. hungerfordi* in the East Branch of the Maple River is that, unlike the other two sites, this portion of stream is inaccessible to brown trout (Strand 1989).

D. The Inadequacy of Existing Regulatory Mechanisms

B. hungerfordi is currently listed as endangered under Michigan's Endangered Species Act (P.A. 203 of 1974, as amended). Any taking of this species, including harassment, is unlawful without a permit. The Michigan Department of Natural Resources also implements section 404 of the Clean Water Act. This section allows Michigan to regulate placement of fill material in waters of the United States. Combined with Michigan's Endangered Species Act, this should have provided significant regulatory oversight on a wide variety of activities that would have prevented taking of this species and habitat loss and alteration. The Montmorency County site, including a mile of upstream and downstream buffer, is in a state forest but is not protected from fish management activities. The Emmet County site is in mixed ownership and is not protected. The Canadian population is not protected and the land surrounding it is in mixed ownership. The Federal Endangered Species Act will increase the protection for the two Michigan sites, encourage habitat protection for the species on private lands, and influence impoundment development which very likely would involve Federal funds.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Both Michigan sites are in the Cheboygan watershed and could potentially be affected by any changes upstream in the watershed such as in Van Creek, the upper portion of the East Branch of the Maple River, Town Line Creek, Foch Lakes Flooding Creek,

Rattlesnake Creek, and the upper portion of the East Branch of the Black River. Changes could include agricultural pesticide pollution, siltation, stream development, or fish management. Because two of the three known populations occur immediately downstream from a roadway, accidental events, such as chemical spills, pose a threat (Wilsmann and Strand 1990). The cumulative effects of road salt runoff also pose a threat to this species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Only three relatively small populations of this species are known to exist and these populations occur on sites threatened with habitat loss or destruction. In addition, all of these populations are in need of long-term management. Therefore, the preferred action is to list the Hungerford's crawling water beetle, *Brychius hungerfordi*, as an endangered species. An endangered species, as defined under section 3(6) of the Act, is a species that is in danger of extinction throughout all or a significant portion of its range.

Critical habitat is not being proposed at this time for the reasons discussed below.

Critical Habitat

Critical habitat, as defined by section 3 of the Act, means:

(i) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and,

(ii) The specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat for Hungerford's crawling water beetle is not presently determinable. The Service's regulations (50 CFR 424.12(a)(2)) state that critical habitat is not determinable when one or both of the following situations exist: (1) Information sufficient to perform require analyses of the impacts of the designation in lacking; or (ii) the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. In the case of the Hungerford's crawling water beetle, information on the biology of this species is lacking to permit specific identification of its critical habitat.

The Service will initiate a concerted effort to obtain the information needed to determine critical habitat for Hungerford's crawling water beetle. Designation of critical habitat must be completed within two years of the date of this proposed rule, unless the designation is not prudent. A proposed rule for critical habitat designation must be published in the **Federal Register**, and the notification process and public comment provisions parallel those for a species listing. In addition, the Service will evaluate the economic and other relevant impacts of the critical habitat designation, as required under section 4(b)(2) of the Act.

It should be emphasized that critical habitat designation does not necessarily affect all Federal activities. If appropriate, impacts will be addressed during consultation with the Service as required by section 7(a)(2) of the Endangered Species Act, as amended.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, state, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the states and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce, any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and state conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule, are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species;

(4) Current or planned activities in the subject area and their possible impact on this species.

Final promulgation of the regulation(s) on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to (see ADDRESSES section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is Kate Winsor (see **ADDRESSES** section), 612/725–3276 or FTS 725–3276.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of Chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under *Insects*, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Insects:							
• •	•	•	•	•	•	•	
Beetle, Hungerford's Crawling water	*Brychius hungerfordi*	U.S.A (MI) Canada	NA	E		NA	NA
• •	•	•	•	•	•	•	

Dated: February 8, 1993.

Richard N. Smith,

Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–4742 Filed 3–1–93; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic Atmospheric Administration

50 CFR Part 625

Summer Flounder Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of a resubmitted portion of a fishery management plan amendment and request for comments.

SUMMARY: NMFS issues this notice that the Mid-Atlantic Fishery Management Council (Council) has revised a management measure contained in Amendment 2 to the Fishery Management Plan for the Summer

Flounder Fishery. The measure was originally disapproved by the Secretary of Commerce (Secretary). The Council has resubmitted the revised measure for Secretarial review, and is requesting comments from the public. Copies of the revised portion of Amendment 2, or the amendment, itself, may be obtained from the address below.

DATES: Comments on the revised portion of Amendment 2 should be submitted by March 30, 1993.

ADDRESSES: All comments may be sent to Richard B. Roe, Director, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930–3799. Copies of the revised management measure pertaining to vessel logbooks for Amendment 2 and the original environmental impact statement/regulatory impact review for Amendment 2, unchanged by this resubmission, may be obtained from John C. Bryson, Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 S. New Street, Dover, DE 19001–6790.

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, 508–281–9324.

SUPPLEMENTARY INFORMATION: Amendment 2 was prepared by the Council and submitted to the Secretary for review under section 304(b) of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The Magnuson Act requires the Secretary to approve, disapprove or partially disapprove FMPs or amendments based upon a determination of consistency with national standards and other applicable law. The Secretary announced disapproval of implementation of mandatory vessel logbooks for the 1993 fishing season in the final rule to Amendment 2 (57 FR 57358, December 4, 1992).

To replace the disapproved measure for mandatory vessel logbooks, the Council adopted and submitted a revision to Amendment 2 for Secretarial review. The revised measure would require the use of mandatory vessel logbooks in the summer flounder fishery, beginning January 1, 1994.

Regulations proposed by the Council to implement this amendment are scheduled to be published within 15 days.

List of Subjects in 50 CFR Part 625

Fisheries, Reporting and recordkeeping requirements.

Dated: February 25, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–4767 Filed 2–25–93; 1:48 pm]

BILLING CODE 3510–22–M

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50 CFR Part 641

Reef Fish Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and minority reports, and request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 6 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) for review by the Secretary of Commerce (Secretary). Written comments are requested from the public.

DATES: Written comments must be received on or before April 20, 1993.

ADDRESSES: Comments should be sent to the Southeast Regional Office, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702. Copies of Amendment 6, which includes an environmental assessment and a regulatory impact review, and the minority reports, may be obtained from the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813–893–3161.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that a council-prepared fishery management plan or amendment be submitted to the Secretary for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, upon receiving the document, immediately publish a notice that the document is available for public review and comment. The Secretary will consider public comment in determining approvability of the amendment.

On December 30, 1992 (57 FR 62237), NMFS published an emergency interim rule that established commercial vessel trip limits for red snapper of 2,000 pounds (907 kg) for a vessel that has a red snapper endorsement on its reef fish permit and 200 pounds (91 kg) for a permitted vessel without such endorsement. Amendment 6 proposes to continue the vessel trip limits through 1993 and 1994, unless replaced earlier by a more comprehensive effort limitation program.

Under Amendment 6, no new applications for red snapper endorsements would be allowed. Endorsements currently issued would remain in effect. Transfer of an endorsement would be allowed only by an owner from one permitted vessel owned by him or her to another vessel so owned. The specific trip limits applicable to red snapper may be changed for 1994 under the FMP's framework procedure for adjusting management measures.

Minority reports submitted by three members of the Council objected to several provisions in Amendment 6, including continuation of the trip limits.

Proposed regulations to implement Amendment 6 are scheduled for publication within 15 days.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 25, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–4772 Filed 2–25–93; 1:46 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 39
Tuesday, March 2, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Drug Alliance: Notice of Availability of Funds

ACTION, the Federal Domestic Volunteer Agency, announces the availability of funds during fiscal year 1993 for Drug Alliance grants under the Special Volunteer Programs authorized by the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113, title I, part C). These grants will address the particular need for illicit drug use prevention programs that focus on at-risk youth from low-income communities or public housing neighborhoods.

ACTION, historically a principal source of volunteer leadership in America, confronts the crisis of illegal drug use by youth by supporting innovative prevention programs that use volunteer resources at the local level. Volunteers of all ages and from every segment of the community can make vital contributions to illegal drug use prevention and education programs. Therefore, ACTION intends to support programs which encourage and sustain the spirit of voluntarism as a weapon in America's fight against illegal drugs.

The best strategy to combat illegal drug use by youth is to prevent it from starting. Effective prevention requires the involvement of every segment of the community—especially youth and parents—in delivering and reinforcing clear and consistent "no use" messages. Because no single approach will work in every locale, ACTION has supported and promoted a wide range of models using volunteers of all ages to stop the use of illegal drugs by youth. The search continues for new approaches or models, as well as for strategies to adapt existing models to individual communities. There is continuing need for effective approaches that use volunteers to provide specific illicit drug use prevention information and refusal skills as well as to provide a wide range of positive activities for at-risk youth that can reinforce prevention efforts.

Community-based youth serving organizations are uniquely positioned to provide meaningful structured volunteer programs which focus on preventing illegal drug use among youth. Such local organizations have demonstrated in the past that they are best able to address community problems such as illicit drug use among youth because they are closest to the problem and have the greatest stake in solving it. Also, they are most able to include both parents and youth in the planning and implementation of programs to combat illegal drug use—a strategy increasingly accepted as critical to the ultimate effectiveness of such community-based projects.

In particular, youth volunteers have demonstrated that they are able to positively affect the lives and actions of other youth. There is a critical need for communities to develop programs which will provide opportunities for drug-free youth to become leaders and role models to help counter peer pressure to use illegal drugs. As well as being of value to the community, youth volunteers themselves can receive a meaningful sense of involvement and accomplishment from providing service to others.

In addition, there is growing recognition of the importance of involving youth in illicit drug use prevention activities after school, on weekends and during the summer months when schools are not in session and school-related prevention information and support is unavailable. There is particular need for such illicit drug prevention programming in low-income and public housing neighborhoods. The needs in such communities that may be met through voluntary service are great, and the youth who live in these areas are generally considered at extremely high risk of becoming involved with illegal drugs. This announcement solicits innovative and creative proposals which respond to this need.

A. Eligible Strategy

Public and private non-profit agencies, including community-based organizations, which provide services to youths residing in low-income communities or public housing neighborhoods, are encouraged to submit proposals to implement the following strategy by: (a) Expanding an existing project, (b) or developing a new project.

The proposed project must use non-stipended volunteers to provide illegal drug use prevention education and related activities for youth program participants. Such activity outside normal school hours, including after-school, weekends, and during the summer months, is crucial to the ultimate success of community-based drug prevention efforts, and is strongly encouraged. The proposed project must involve both youth and parents in planning and conducting activities, make extensive use of non-stipended youth and/or adult volunteers, and target youth who reside in low-income communities, especially inner city neighborhoods, public housing developments, and rural areas. There should be special emphasis on the recruitment of volunteers who live in the community being served by the project.

The prevention education component must include information on the harmful consequences of illegal drugs and peer pressure resistance and refusal skills. The involvement of other drug prevention educational resources from the community has been found to ensure broader initial success as well as sustained activity following the expiration of ACTION funding, and is also strongly encouraged.

Additional positive activities to benefit or to involve youth which are designed to reinforce the prevention education process should be built into the program as well. Such activities may include (but are not limited to) mentoring, tutoring, community service, employment training, and recreational/cultural/educational opportunities.

Finally, all applications for $10,000 or more must include plans for detailed evaluation to measure the project's impact on the drug use problem in the community and document "lessons learned." This information will facilitate replication and adaptation of effective strategies in other communities and add to the body of knowledge about drug prevention.

B. Eligible Applicants

Only applications from private non-profit incorporated organizations and public agencies that provide services to youth in low-income communities or

public housing neighborhoods will be eligible. Such organizations may include, but are not limited to, local coalitions or councils dedicated to the prevention of illegal drug use, youth-serving organizations and agencies, community-based volunteer groups, local government agencies, service clubs, fraternities and sororities.

Any applicant that does not adhere to a strict policy of the non-use of illegal drugs will not be eligible for consideration. Furthermore, an application must state that the applicant does not advocate a philosophy, proposed activities, training or educational materials that promote the tolerance of initial use or responsible use of any illegal drug, and/or the illegal use of any legal drug.

C. Available Funds and Scope of Grant

The amount of each grant will not exceed $25,000. Grant funding will be provided on a one-time, non-renewable basis for a budget period not to exceed 12 months.

All grants awarded under this announcement require at least 50% non-federal match for the total cost of project director's salary and fringe benefits. The project director must serve on at least a half-time basis. Additional non-federal match is strongly encouraged, and will be considered in the grant review and selection process.

Applicants should specify the sources and nature of inkind and other non-federal contributions. These contributions must be deemed allowable costs in accordance with ACTION requirements and be supported by a narrative which explains and justifies the amount of each budget line item and identifies the source of the non-federal contribution.

ACTION anticipates awarding up to 20 grants under this announcement. However, publication of this announcement does not obligate ACTION to award any specific number of grants, or to obligate the entire amount of funds available, or any part thereof.

D. General Criteria for Grant Review and Selection

Grant applications will be reviewed and evaluated with the criteria below, as well as on conformance to the instructions included in this notice and in the application itself.

1. Statement of need that includes both an analysis of the type and extent of the problem to be addressed by the project and an overview of the applicant's qualifications to meet that need.

2. Ability and plans to recruit, train, and retain non-stipended older youth or adult volunteers to assist youth in low-income communities. Applicant must explicitly state the number of volunteers and the number of volunteer hours that will be generated by the project.

3. Ability and plans for volunteers to provide appropriate illicit drug use prevention education (including information about harmful consequences to health from use and resistance training) for youth participants.

4. Ability and plans for volunteers to provide additional positive activities for youth participants (e.g., mentoring, tutoring, employment support, or recreational/cultural/educational opportunities.)

5. Specific plans to involve youth and parents developing and implementing the program.

6. Specific and feasible plans to continue project activities beyond the completion of the ACTION grant.

7. Specific and feasible plans to work with other local agencies and organizations and existing illicit drug prevention coalitions to implement the proposed project. Three letters of support attesting to the applicant's ability to meet the criteria and evidencing intent to cooperate with applicant in developing and implementing the ACTION funded project must be submitted.

8. Carefully formulated Work Plan which includes time-phased and quantifiable objectives, including objectives for continuation of the project, and the feasibility of proposed methods for meeting those objectives.

9. Potential for replication in other communities and plans to share project documentation or materials with other organizations.

10. Evidence of public and private sector support (financial and in-kind). Amount and type of non-federal support will be considered.

11. Detailed description of methods to be used in evaluating the impact of the program on the illegal drug abuse problem in the community. Failure to address this criteria will result in rejection of the application.

E. Application Review Process

Applications submitted under this announcement will be reviewed and evaluated by respective ACTION State and Regional Offices and ACTION's Program Demonstration and Development Division. ACTION's Associate Director for Domestic and Anti-Poverty Operations will make the final selection.

ACTION reserves the right to ask for evidence of any claims of past performance or future capability.

The Associate Director of Domestic and Anti-Poverty Operations may use additional factors in choosing among applicants which meet the minimum criteria specified above, such as: 1. Geographic distribution; 2. Applicant's access to alternate resources; and 3. Allocation of Drug Alliance resources in relation to other ACTION funds.

Pursuant to Public Law 101–204, priority will be given to projects that serve communities, including rural communities, which have not previously received assistance from ACTION Drug Alliance grants.

F. Application Submission and Deadline

One signed original and two copies of each completed application must be submitted to the appropriate ACTION State Office no later than 5 p.m. local standard time on Monday, May 3, 1993. Only those applications that are received at the appropriate ACTION State Office by 5 p.m. local standard time on this date will be eligible.

All grant applications must consist of:

a. Application for Federal Assistance (ACTION Form 424–PDD) with narrative budget justification, a narrative of project goals and objectives, a detailed Work Plan (submitted on the form included in the application), and required Assurances.

b. Signed and dated Certification Regarding Drug Free Workplace Requirements.

c. Signed and dated Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Primary Covered Transactions.)

d. Current resume of the candidate for the position of project director, if available, or the current resume of the director of the applicant agency or project.

e. Organizational chart of the applicant showing how the project is related to the organization.

f. List of the current board of directors showing their names, addresses and organizational and professional affiliations.

g. Three letters of support attesting to the applicant's ability to meet the above criteria and evidencing intent to cooperate with applicant in developing and implementing the ACTION funded project.

h. Statement that identifies previous ACTION funding (type, year, and amount) or a statement that applicant has not previously received funding from ACTION.

i. CPA certification of accounting capability, or recent audit (not more than two years old).

j. Articles of Incorporation, including the page that contains the State Seal.

k. Documentary proof of non-profit status or copy of application for non-profit status.

Items i, j and k above are not required for public agencies and educational institutions. Private educational institutions are not required to comply with items j. and k. above.

The Catalog of Federal Domestic Assistance Number for the Drug Alliance Program is 72–014.

Applications submitted under this announcement are not subject to the state intergovernmental review process (Executive Order 12372).

Hearing-impaired individuals may contact ACTION's TDD number, (202) 606–5256. This announcement, application materials and guidance may be requested in alternative formats for the visually-impaired by calling (202) 606–4857.

To receive an application kit, please contact the appropriate ACTION State Program Office. Following is a list of ACTION Regional Offices, along with the addresses and telephone numbers of the ACTION State Program Offices under their jurisdiction.

Signed at Washington, DC, this 23rd day of February, 1993.

John Seal,

Acting Director.

Region I

ACTION Regional Director, 10 Causeway Street, Room 473, Boston, MA 02222–1039, 617/565–7000

ACTION State Program Director, 1 Commercial Plaza, 21st Floor, Hartford, CT 06103–3510, 203/240–3237

ACTION State Program Director, 10 Causeway Street, Room 473, Boston, MA 02222–1039, 617/565–7018

ACTION State Program Director, U.S. Courthouse, 76 Pearl Street, Room 305, Portland, ME 04101–4188, 207–780–3414

ACTION State Program Director, The Whitebridge, 91–93 North State Street, Concord, NH 03301–3939, 603/225–1450

ACTION State Program Director, John O. Pastore Federal Bldg., Two Exchange Terr., Room 232, Providence, RI 02903–1758, 401/528–5424

Region II

ACTION Regional Director, 6 World Trade Center, Room 758, New York, NY 10048–0206, 212/466–3481

ACTION State Program Director, 44 South Clinton Avenue, suite 702, Trenton, NJ 08609–1507, 609/989–2243

ACTION State Program Director, 6 World Trade Center, Room 758, New York, NY 10048–0206, 212/466–4471

ACTION State Program Director, U.S. Federal Building, 150 Carlos Chardon Avenue, Suite G49, Hato Rey, PR 00918–1737, 809/766–5314

ACTION State Program Office (Upstate) Leo O'Brien Federal Bldg., Clinton Ave. & No. Pearl St., Room 818, Albany, NY 12207, 518/472–3864

Region III

ACTION Regional Director, U.S. Customs House, 801 Arch Street, Suite 103, Philadelphia, PA 19107–2416, 215/597–9972

ACTION State Program Director, Federal Building, 600 M. L. King, Jr. Place, room 372–D, Louisville, KY 40202–2230, 502/582–6384

ACTION State Program Director, Federal Building, 31 Hopkins Plaza, room 1125, Baltimore, MD 21201–2814, 410/962–4443

ACTION State Program Director, Leveque Tower, 50 W. Broad Street, room 304A, Columbia, OH 43215–3301, 614/469–7441

ACTION State Program Director, Gateway Building, 3535 Market Street, room 2460, Philadelphia, PA 19104–2996, 215/596–4077

ACTION State Program Director, 400 North 8th Street, P.O. Box 10066, room 1119, Richmond, VA 23240–1832, 804/771–2197

ACTION State Program Director, 603 Morris Street, 2nd Floor, Charleston, WV 25301–1409, 304/347–5246

Region IV

ACTION Regional Director, 101 Marietta Street, NW., suite 1003, Atlanta, GA 30323–2301 404/331–2860

ACTION State Program Director, Beacon Ridge Tower, 600 Beacon Parkway West, suite 770, Birmingham, AL 35209–3120, 205/290–7184

ACTION State Program Director, 3165 McCrory Street, suite 115, Orlando, FL 32803–3750, 407/648–6117

ACTION State Program Director, 75 Piedmont Avenue, NE., suite 462, Atlanta, GA 30303–2587, 404/331–4646

ACTION State Program Director, Federal Building, 100 West Capitol Street, Room 1005–A, Jackson, MS 39269–1092, 601/965–5664

ACTION State Program Director, Federal Building/P.O. Century Station, 300 Fayetteville St. Mall, Room 131, Raleigh, NC 27601–1739, 919/856–4731

ACTION State Program Director, Federal Building, 1835 Assembly Street, room 872, Columbia, SC 29201–2430, 803/765–5771

ACTION State Program Director, 265 Cumberland Bend Drive, Nashville, TN 37228–3389, 615/736–5561

Region V

ACTION Regional Director, 77 West Jackson Boulevard, suite 442, Chicago, IL 60604–3511, 312/353–3622

ACTION State Program Director, Federal Building, 210 Walnut, Room 722, Des Moines, IA 50309–2195, 515/284–4816

ACTION State Program Director, 77 West Jackson Boulevard, suite 442, Chicago, IL 60604–3511, 312/353–3622

ACTION State Program Director, 46 East Ohio Street, Room 457, Indianapolis, IN 46204–1922, 317/226–6724

ACTION State Program Director, Federal Building, 231 West Lafayette Boulevard, Room 658, Detroit, MI 48226–2799, 313/226–7848

ACTION State Program Director, 431 South 7th Street, Room 2480, Minneapolis, MN 55415–1854, 612/334–4083

ACTION State Program Director, Henry Reuss Federal Plaza, 310 West Wisconsin Avenue, room 1240, Milwaukee, WI 53203–2211, 414/297–1118

Region VI

ACTION Regional Director, 1100 Commerce Street, room 6B11, Dallas, TX 75242–0696, 214/767–9494

ACTION State Program Director, Federal Building, 700 West Capitol Street, room 2506, Little Rock, AR 72201, 501/324–5234

ACTION State Program Director, Federal Building, 444 SE. Quincy, room 147, Topeka, KS 66683–3572, 913/295–2540

ACTION State Program Director, 640 Main Street, suite 102, Baton Rouge, LA 70801–1910, 504/389–0471

ACTION State Program Director, Federal Office Building, 911 Walnut, room 1701, Kansas City, MO 64106–2009, 816/426–5355

ACTION State Program Director, First Interstate Plaza, 125 Lincoln Avenue, suite 214–B, Sante Fe, NM 87501–2026, 505/988–6577

ACTION State Program Director, 420 West Main, suite 530, Oklahoma City, OK 73102–6093, 405/231–5201

ACTION State Program Director, 611 East Sixth Street, suite 404, Austin, TX 78701–3747, 512/482–5671

Region VIII

ACTION Regional Director, Executive Tower Building, 1405 Curtis Street, suite 2930, Denver, CO 80202–2349, 303/844–2671

ACTION State Program Director, One Sherman Place, 140 East 19th Avenue, suite 120, Denver, CO 80203–1167, 303/866–1070

ACTION State Program Director, Federal Office Bldg., Drawer 10051, 301 South Park, room 192, Helena, MT 59626–0101, 406/499–5404

ACTION State Program Director, Federal Building, 100 Centennial Mall North, room 156, Lincoln, NE 66509–3896, 402/437–5493

ACTION State Program Director, Federal Building, 225 S. Pierre Street, suite 225, Pierre, SD 57501–2452, 605/224–5996

ACTION State Program Director, Frank E. Moss U.S. Courthouse, 350 South Main Street, room 505, Salt Lake City, UT 84101–2198, 801/524–5411

ACTION State Program Director, Federal Building, 2120 Capitol Avenue, suite 8009, Cheyenne, WY 82001–3649, 307/772–2385

Region IX

ACTION Regional Director, 211 Main Street, room 530, San Francisco, CA 94105–1914, 415/744–3013

ACTION State Program Director, 522 North Central, room 205–A, Phoenix, AZ 85004–2190, 602/379–4825

ACTION State Program Director, Federal Building, 11000 Wilshire Boulevard, room 11221, Los Angeles, CA 90024–3671, 310/575–7421

ACTION State Program Director, Federal Building/P.O. Box 50024, 300 Ala Moana Boulevard, room 6326, Honolulu, HI 96850–0001, 808/541–2832
ACTION State Program Director, 4600 Kietzke Lane, suite E–141, Reno, NV 89502–5033, 702/784–5314
ACTION State Program Office, 211 Main Street, room 534, San Francisco, CA 94105–1914, 415/744–3015

Region X

ACTION Regional Director, 915 Second Avenue, Jackson Federal Office Bldg., suite 3190, Seattle, WA 98174–1103, 206/553–1558
ACTION State Program Director, 304 North 8th Street, room 344, Boise, ID 83702–5835, 208/334–1707
ACTION State Program Director, Federal Building, 511 N.W. Broadway, room 647, Portland, OR 97209–3416, 503/326–2261
ACTION State Program Director, Jackson Federal Office Building, 915 Second Avenue, suite 3190, Seattle, WA 98174–1103, 206/553–4975
ACTION State Program Director/Alaska, 915 Second Avenue, Jackson Federal Office Bldg., suite 3190, Seattle, WA 98174–1103 206/553–1558

[FR Doc. 93–4714 Filed 3–1–93; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Request for Applications from Persons Interested in Designation to Provide Official Services in the Geographic Areas Presently Assigned to the Central Iowa (IA) Agency, and the States of Maine and Montana

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations shall end not later than triennially and may be renewed. The designations of Central Iowa Grain Inspection Service, Inc. (Central Iowa), the Maine Department of Agriculture, Food and Rural Resources (Maine), and the Montana Department of Agriculture (Montana) will end August 31, 1993, according to the Act, and FGIS is asking persons interested in providing official services in the specified geographic areas to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before April 31, 1993.

ADDRESSES: Applications must be submitted to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. Telecopier (FAX) users may send their application to the automatic telecopier machine at 202–720–1015, attention: Homer E. Dunn. If an application is submitted by telecopier, FGIS reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes FGIS' Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

FGIS designated Central Iowa, main office located in Des Moines, Iowa; Maine, main office located in Augusta, Maine; and Montana, main office located in Helena, Montana, to provide official grain inspection services under the Act on September 1, 1990.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in section 7(f) of the Act. The designations of Central Iowa, Maine, and Montana end on August 31, 1993. The geographic area presently assigned to Central Iowa, in the State of Iowa, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Bounded on the North by U.S. Route 30 east to N44; N44 south to E53; E53 east to U.S. Route 30; U.S. Route 30 east to the Boone County line; the western Boone County line north to E18; E18 east to U.S. Route 169; U.S. Route 169 north to the Boone County line; the northern Boone County line; the western Hamilton County line north to U.S. Route 20; U.S. Route 20 east to R38; R38 north to the Hamilton County line; the northern Hamilton County line east to Interstate 35; Interstate 35 northeast to C55; C55 east to S41; S41 north to State Route 3; State Route 3 east to U.S. Route 65; U.S. Route 65 north to C25; C25 east to S56; S56 north to C23; C23 east to T47; T47 south to C33; C33 east to T64; T64 north to B60; B60 east to U.S. Route 218; U.S. Route 218 north to Chickasaw County; the western Chickasaw County line; and the western and northern Howard County lines;

Bounded on the East by the eastern Howard and Chickasaw County lines; the eastern and southern Bremer County lines; V49 south to State Route 297; State Route 297 south to D38; D38 west to State Route 21; State Route 21 south to State Route 8; State Route 8 west to U.S. Route 63; U.S. Route 63 south to Interstate 80; Interstate 80 east to the Poweshiek County line; the eastern Poweshiek, Mahaska, Monroe, and Appanoose County lines;

Bounded on the South by the southern Appanoose, Wayne, Decatur, Ringgold, and Taylor County lines; and

Bounded on the West by the western Taylor County line; the southern Montgomery County line west to State Route 48; State Route 48 north to M47; M47 north to the Montgomery County line; the northern Montgomery County line; the western Cass and Audubon County lines; the northern Audubon County line east to U.S. Route 71; U.S. Route 71 north to U.S. Route 30.

The following locations, outside of the above contiguous geographic area, are part of this geographic area assignment: Farmers Co-op Elevator Company, Chapin, Franklin County; Hampton Farmers Co-op Company, Hampton, Franklin County; and Farmers Community Co-op, Inc., Rockwell, Cerro Gordo County (located inside D. R. Schaal Agency's area).

Exceptions to Central Iowa's assigned geographic area are the following locations inside Central Iowa's area which have been and will continue to be serviced by the following official agencies:

1. A. V. Tischer and Son, Inc.: Farmers Co-op Elevator, Boxholm, Boone County; and
2. Omaha Grain Inspection Service, Inc.: Murren Grain, Elliot, Montgomery County; and Hemphill Feed & Grain, and Hansen Feed & Grain, both in Griswold, Cass County.

The geographic area presently assigned to Maine, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation, is the entire State of Maine. The geographic area presently assigned to Montana, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation, is the entire State of Montana.

Interested persons, including Central Iowa, Maine, and Montana, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above

under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic areas is for the period beginning September 1, 1993, and ending August 31, 1996. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: February 22, 1993.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 93–4648 Filed 3–1–93; 8:45 am]

BILLING CODE 3410–EN–F

Request for Comments on the Applicants for Designation in the Geographic Areas Currently Assigned to the Barton (KY) and North Dakota (ND) Agencies

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS requests interested persons to submit comments on the applicants for designation to provide official services in the geographic areas currently assigned to J. W. Barton Grain Inspection Service, Inc. (Barton), and North Dakota Grain Inspection Service, Inc. (North Dakota).

DATES: Comments must be postmarked, or sent by telecopier (FAX) or electronic mail by March 31, 1993.

ADDRESSES: Comments must be submitted in writing to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. SprintMail users may respond to [A:ATTMAIL,O USDA,ID:A36HDUNN]. ATTMAIL and FTS2000MAIL users may respond to !A36HDUNN. Telecopier (FAX) users may send responses to the automatic telecopier machine at 202–720–1015, attention: Homer E. Dunn. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the December 30, 1992, **Federal Register** (57 FR 62294), FGIS asked persons interested in providing official services in the geographic areas assigned to Barton and North Dakota to submit an application for designation. Applications were due by February 1, 1993. Barton and North Dakota, the only applicants, each applied for designation in the entire area currently assigned to them. Barton also applied for the portions of Guiles, Maury, and Williamson Counties, Tennessee, not currently assigned to it or any other designated agency.

FGIS is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants for designation in the Barton and North Dakota areas. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these agencies. All comments must be submitted to the Compliance Division at the above address.

Comments and other available information will be considered in making a final decision. FGIS will publish notice of the final decision in the **Federal Register**, and FGIS will send the applicants written notification of the decision.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: February 22, 1993.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 93–4646 Filed 3–1–93; 8:45 am]

BILLING CODE 3410–EN–F

Designation of the Alton (MO) Agency

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS announces the designation of Thomas P. Russell dba Alton Grain Inspection Department (Alton) to provide official inspection services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: April 1, 1993.

ADDRESSES: Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the September 30, 1992, **Federal Register** (57 FR 45032), FGIS announced that the designation of Alton ends on March 31, 1993, and asked persons interested in providing official services within the specified geographic area to submit an application for designation. Applications were due by October 30, 1992.

Alton, the only applicant, applied for designation in the entire area currently assigned to it. FGIS named and requested comments on the applicant in the December 1, 1992, **Federal Register** (57 FR 56899). Comments were due by December 31, 1992. FGIS received four comments supporting designation of the Alton Agency. FGIS evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and according to section 7(f)(1)(B), determined that Alton is able to provide official services in the geographic area for which it applied.

Effective April 1, 1993, and ending March 31, 1996, Alton is designated to provide official inspection services in the geographic area specified in the September 30, 1992, **Federal Register**. Interested persons may obtain official services by contacting Alton at 618–463–6845.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: February 22, 1993.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 93–4647 Filed 3–1–93; 8:45 am]

BILLING CODE 3410–EN–F

Forest Service

Southern Advisory Council Meeting for the Allegheny Wild and Scenic River; Allegheny National Forest, PA

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Southern Advisory Council for the Allegheny Wild and Scenic River will meet at 7 pm, Tuesday, March 16, 1993, at the Emlenton Civic Club, Emlenton, PA.

The Northern Advisory Council will meet at 7 pm, Wednesday, March 17, 1993, at the Holiday Inn, Warren, PA.

The primary topic of the meetings is to continue discussion on interim management guidelines and begin discussion of outstandingly remarkable values and final boundary establishment.

Meetings are open to the public. A sign language interpreter will be provided if requested by March 8, 1993.

FOR FURTHER INFORMATION CONTACT: Lionel Lemery, Wild and Scenic River Coordinator, Allegheny National Forest, 222 Liberty Street, Warren, PA 16365, 814/723–5150 (voice).

Dated: February 12, 1993.

John E. Palmer,

Forest Supervisor.

[FR Doc. 93–4694 Filed 3–1–93; 8:45 am]

BILLING CODE 3410–11–M

ARCTIC RESEARCH COMMISSION

Meeting

February 23, 1993.

Notice is hereby given that the Arctic Research Commission will hold its 30th Meeting in Boulder, CO, March 24–25, 1993. On Wednesday, March 24, a Business Session open to the public will begin at 8:30 a.m. in the INSTAAR Conference Room, Rose Lippma Lab (Bldg. RL–1), University of Colorado. Agenda items include:

(1) Chairman's Report;

(2) Comments from agencies and organizations;

(3) Other topics;

(4) Status of Arctic Stratospheric Ozone Research;

(5) Arctic Research at Institute of Arctic and Alpine Research, University of Colorado;

(6) Data of the Arctic Management, Snow and Ice Data Center, University of Colorado;

(7) Arctic Climate Change Modeling at NCAR; and

(8) Reports on ARCUS 5th Annual Meeting.

On Thursday, March 25, an Executive Session will be held at 8:30 a.m. for discussion of budget and legal matters.

The Business Session will reconvene at 9 a.m. in the above location during which there will be a discussion of the U.S. Arctic Research Draft Plan, 3rd Biennial Revision, and a review and discussion of ARC Tasks relative to the Bering Sea, Alaska Oil and Gas Assessment, Submarine Science Deployment, Revision of ARC Logistics Report, and Linkage and Tracking Tasks.

Any person planning to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs.

Contact Person for More Information: Philip L. Johnson, Executive Director, U.S. Arctic Research Commission, 202–371–9631 or TDD 202–357–9867.

Philip L. Johnson,

Executive Director, U.S. Arctic Research Commission.

[FR Doc. 93–4759 Filed 3–1–93; 8:45 am]

BILLING CODE 7555–01–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA).

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

Firm name	Address	Date petition accepted	Product
CTS Corporation	905 West Boulevard North, Elkhart, IN 46514	01/04/93	Electronic Components.
Lyton, Inc	3970 Image Drive, Dayton, OH 45414	12/16/92	Printed Circuit Board Assemblies, Radar Detectors and Auto Interior Lights.
Norwood Shoe Corporation	One Penalio Drive, De Soto, MO 63020	01/21/93	Footwear.
Bell Bagg, Inc	1906 Northeast 150th Street, Seattle, WA 98125	01/29/93	Nylon Briefcases, Handbags, Travel Bags, Medical Instrument Cases and Leather Pocket Articles.
United Brass Works	714 S. Main Street, Randleman, NC 27317	01/29/93	Brass, Iron Sprinkler Valves and Industrial Valves and Brass Parts of Steam Pressing Machines.
Gear Works (The)—Seattle, Inc.	500 South Portland Street, Seattle, WA 98108	02/03/93	Metal Products—Gears
Crawford Home Fashions, Inc	3rd & Decatur Streets, Box 26173, Richmond, VA 23261	02/03/93	Decorative Pillows, Patio Furniture Raincovers, Footstools & Hassocks and Beanbag Chairs.
Gregorian, Inc	East Highway 12, P.O. Box 209, Lemmon, SD 57638	02/03/93	Metal Products—Copper Cooking and Kitchen Ware.
Unimar Equipment, Inc	1820 S. Myrtle Ave., Box 5033, Monrovia, CA 91017–9653.	02/04/93	Mach. & Equip.—Precision Welding Systems.
Fred F. McKenzie dba Sara Lingswood's Kitchens.	1118 34th Street, Anacortes, WA 98221	02/04/93	Food & Bevg.—Gingerbread Cookies.
West Point Foundry & Machine Company.	301 West 10th Street, West Point, GA 31833	02/04/93	Textile Machines Used to Prepare Textile Fibers for Weaving Process.
Anza, Inc	1260 Piper Drive, Milpitas, CA 95035	02/05/93	Electronics—Electronic Circuit Boards.
Smith & Wesson Corporation	2100 Roosevelt Avenue, Springfield, MA 01102	02/05/93	Revolvers: Semi-Automatic Pistols.
Tompkins Brothers Company, Inc.	623 Oneida Street, Syracuse, NY 13202	02/05/93	Rib Circular Knitting Machines and Parts and Single Knit Circular Knitting Machines and Parts.
Tramco, Inc	1020 East 19th Street, Wichita, KS 67214	02/05/93	Mach. & Equip.—Chain Conveyors for Goods and Materials.
Navigation Technology Corp	20081 Highway 36, Covington, LA 70433	02/05/93	Mach. & Equip.—Sonar Positioning Systems.
Alpha Industries, Inc	20 Sylvan Road, Woburn, MA 01801	02/08/93	Commercial Diodes.
Maynard Steel Casting Company.	2856 South 27th Street, Milwaukee, WI 53234	02/08/93	Gears and Gear Blanks, Parts of Overhead Cranes and Mining Machines of Cast Steel.
Sterling Engineering Corporation	Route 44, P.O. Box 559, Winsted, CT 06098	02/08/93	Compressor Shrouds and Cases: Machined Parts Made From Metal Used in Jet Engines.
Ceramic Coating Company, Inc.	Box 370, 123 Bankdick Road, Newport, KY 41072	02/08/93	Steel Tanks, Tank Heads and Piping, Glass Enamels and Machine Tools for Metal Forming.
Wells Electronics, Inc	1701 South Main Street, South Bend, IN 46613	02/10/93	Production Sockets and Connectors, Burn and Test Sockets and Carriers and Handling/Shipping Trays.
Lady-John, Inc	231 Front Street, Brooklyn, NY 11201	02/10/93	Apparel—Women's Playsuits and Jumpsuits.
Durbin-Durco, Inc	200 S. Bemiston, Suite 307, Clayton, MO 63105	02/10/93	Metal Products—Binders Made of Steel.
ABC Fashions Co	33–49 Mulberry Street, Middletown, NY 10940	02/10/93	Apparel—Children's and Women's Jogging Suits.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: February 22, 1993.

David L. McIlwain,

Acting Deputy Assistant Secretary for Program Operations.

[FR Doc. 93–4723 Filed 3–1–93; 8:45 am]

BILLING CODE 3510–24–M

International Trade Administration

[A–485–803]

Postponement of Final Antidumping Duty Determination: Certain Cut-to-Length Carbon Steel Plate From Romania

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice.

EFFECTIVE DATE: March 2, 1993.

FOR FURTHER INFORMATION CONTACT: Erik Warga, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0922.

Postponement of Final Determination

Metalexportimport (MEI), respondent in this proceeding, represents a significant proportion of exports of certain cut-to-length carbon steel plate (steel plate) from Romania to the United States. On February 12, 1993, MEI requested that the Department postpone the final determination until not later than 135 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2) of the Tariff Act of 1930, as amended (the Act).

Pursuant to 19 CFR 353.20(b), if exporters who account for a significant proportion of exports of the merchandise under investigation request an extension subsequent to an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Such is the case with MEI in this proceeding. Accordingly, we are postponing our final determination as to whether sales of steel plate from Romania have been made at less than fair value until not later than June 21, 1993.

This notice is published pursuant to section 735(d) of the Act and 19 CFR 353.20(b)(2).

Dated: February 22, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–4678 Filed 3–1–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–559–806]

Notice of Postponement of Final Antidumping Duty Determination: Certain Portable Electric Typewriters From Singapore

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 2, 1993.

FOR FURTHER INFORMATION CONTACT: Ross L. Cotjanle or Lawrence P. Sullivan, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone numbers: (202) 482–3534 or 482–0114, respectively.

Notice of Postponement

The Department of Commerce (the Department) is postponing the date of its final determination in this investigation until June 23, 1993.

Postponement of Final Determinations

Since the Department issued its preliminary determination in this investigation (Preliminary Determination of Sales at Less Than Fair Value: Certain Portable Electric Typewriters from Singapore, 58 FR 7534, (February 8, 1993)), Smith Corona (Pte) Ltd. (Smith Corona), the respondent company in this investigation, requested that the Department postpone the final determination 60 days, as provided for in Section 735(a)(2) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)).

Since an affirmative preliminary determination was issued in this investigation and Smith Corona accounts for a significant proportion of exports of the subject merchandise, the respondent is, therefore, able to request that the final determination be postponed under Section 735(a)(2) of the Act.

Public comment: In accordance with 19 CFR 353.38(b), we will hold public hearings to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing is tentatively scheduled for May 14, 1993, in room 3708 at 1 p.m. The hearing will be held at the U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date and place of the hearings 48 hours prior to the scheduled time.

In accordance with 19 CFR 353.38(a), case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than May 4, 1993. Additionally, rebuttal briefs must be submitted no later than May 11, 1993.

This notice is published pursuant to 19 CFR 353.20(b)(2).

Dated: February 22, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–4681 Filed 3–1–93; 8:45 am]

BILLING CODE 3510–DS–P

[A–533–806]

Notice of Antidumping Duty Order: Sulfanilic Acid From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 2, 1993.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230: (202) 482–1756.

Scope of Order

The products covered by this investigation are all grades of sulfanilic

acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid (sodium sulfanilate).

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline with sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes, and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry free flowing powders.

Technical sulfanilic acid, classifiable under the subheading 2921.42.2800 of the Harmonized Tariff Schedule of the United States ("HTSUS"), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also classifiable under the HTSUS subheading 2921.42.2800, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials. Sodium salt of sulfanilic acid (sodium sulfanilate), classifiable under the HTSUS subheading 2921.42.7500 is a granular or crystalline material containing 75 percent minimum sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act of 1930, as amended, (the Act), on January 8, 1993, the Department of Commerce (the Department) made its final determination that sulfanilic acid from India is being sold in the United States at less than fair value (58 FR 3251 January 8, 1993). On February 18, 1993, in accordance with section 735(d) of the Act, the U.S. International Trade Commission notified the Department that an industry in the United States is threatened with material injury by reason of such imports. The ITC did not determine, pursuant to section 735(b)(4(B) of the Act, that, but for the suspension of liquidation of entries of sulfanilic acid from India, the domestic industry would have been materially injured.

When the ITC finds threat of material injury, and makes a negative "but for" finding, the "Special Rule" provision of section 736(b)(2) applies. Therefore, all entries of sulfanilic acid from India, entered or withdrawn from warehouse, for consumption made *on or after* the date on which the ITC publishes its final affirmative determination of threat of material injury in the **Federal Register**, (which is currently scheduled for February 24, 1993), will be liable for the assessment of antidumping duties.

The Department will direct U.S. Customs officers to terminate the suspension of liquidation for entries of sulfanilic acid from India, entered, or withdrawn from warehouse, for consumption *before the date* on which the ITC publishes its final affirmative determination of threat of material injury in the **Federal Register** (which is currently scheduled for February 24, 1993), and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated antidumping duties with respect to those entries.

The Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all relevant entries of sulfanilic acid from India. U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margin as noted below:

Manufacturer/producer/exporter	Margin percentage
All manufacturers/producers/exporters	114.8%

Section 772(d)(1)(D) of the Act prohibits assessing dumping duties on the portion of the margin attributable to an export subsidy. In this case, the product under investigation is subject to a countervailing duty investigation (see, Final Affirmative Countervailing Duty Determination: Sulfanilic Acid from India (58 FR 3259, January 8, 1993)). Therefore, for all entries of sulfanilic acid from India, entered or withdrawn from warehouse for consumption made on or after the date on which the ITC publishes its final affirmative determination of threat of material injury in the **Federal Register**, (which is currently scheduled for February 24, 1993), we will request for duty deposit purposes, that U.S. Customs deduct the portion of the margin attributable to the export subsidy from the countervailing duty investigation. Because the export subsidy rate is *43.71 percent*, the cash deposit rate for antidumping purposes will be *71.09 percent*.

This notice constitutes the antidumping duty order with respect to sulfanilic acid from India, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: February 23, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–4682 Filed 3–1–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–533–807]

Countervailing Duty Order: Sulfanilic Acid From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 2, 1993.

FOR FURTHER INFORMATION CONTACT: Paulo Mendes or Magd Zalok, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5050 or 482–4162, respectively.

Scope of Order

The products covered by this investigation are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid (sodium sulfanilate).

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline with sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes, and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry free flowing powders.

Technical sulfanilic acid, classifiable under the subheading 2921.42.2800 of the Harmonized Tariff Schedule of the United States ("HTSUS"), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also classifiable under the HTSUS subheading 2921.42.2800, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline, and 0.25

percent maximum alkali insoluble materials. Sodium salt of sulfanilic acid (sodium sulfanilate), classifiable under the HTSUS subheading 2921.42.7500 is a granular or crystalline material containing 75 percent minimum sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Countervailing Duty Order

In accordance with section 705(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671d(a)), on January 8, 1993, the Department of Commerce (the Department) made its final determination that producers or exporters of sulfanilic acid in India receive benefits which constitute subsidies within the meaning of the countervailing duty law (58 FR 3259). On February 18, 1993, in accordance with section 705(d) of the Act, the U.S. International Trade Commission (ITC) notified the Department that an industry in the United States is threatened with material injury by reason of such imports. The ITC did not determine, pursuant to section 705(b)(4)(B) of the Act (19 U.S.C. 1671(b)(4)(B)), that, but for the suspension of liquidation of entries of sulfanilic acid from India, the domestic industry would have been materially injured.

When the ITC finds threat of material injury, and makes a negative "but for" finding, the "Special Rule" provision of section 706(b)(2) (19 U.S.C. 1671e(b)(2)) applies. Therefore, all entries of sulfanilic acid from India, entered or withdrawn from warehouse, for consumption made *on or after* the date on which the ITC publishes its final affirmative determination of threat of material injury in the **Federal Register** (which is currently scheduled for February 24, 1993), will be liable for the assessment of countervailing duties.

The Department will direct the U.S. Customs to terminate the suspension of liquidation for entries of sulfanilic acid from India, entered or withdrawn from warehouse, for consumption *before the date* on which the ITC publishes its final affirmative determination of threat of material injury in the **Federal Register** (which is currently scheduled for February 24, 1993) and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated countervailing duties with respect to those entries. For entries on or after that date, the U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit of 43.71 percent *ad valorem*.

The Department will further direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to sections 706(a)(1) and 751 of the Act (19 U.S.C. 1671e(a)(1) and 1675), countervailing duties equal to the amount of the estimated net subsidy on all entries of sulfanilic acid from India. In accordance with section 706(b)(2), these countervailing duties will be assessed on all entries of sulfanilic acid from India which were entered, or withdrawn from warehouse, for consumption, on or after the date on which the ITC publishes its final affirmative determination of threat of material injury in the **Federal Register**.

This notice constitutes a countervailing duty order with respect to sulfanilic acid from India pursuant to 705(d) and 706(a) of the Act (19 U.S.C. 1671(d) and 1671e(a)). Interested parties may contact the Central Records Unit, room B–099 of the main Commerce Building, for copies of an updated list of countervailing duty orders currently in effect.

This notice is published in accordance with section 705(d) and 706(a) of the Act (19 U.S.C. 1671(d) and 1671e(a)).

Dated: February 23, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–4680 Filed 3–1–93; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by Chevron U.S.A. Inc. (Destin Dome) From an Objection by the State of Florida

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of decision.

On January 8, 1993, the Secretary of Commerce (Secretary) issued a decision in the consistency appeal of Chevron U.S.A. Inc. Chevron (Appellant) is the operator of Destin Dome Block 97, located about 29 miles from Perdido Key, Florida, in the Gulf of Mexico. In a proposed Plan of Exploration (POE) submitted for approval to the Minerals Management Service (MMS) of the Department of the Interior, the Appellant proposed to drill an exploratory well to evaluate the hydrocarbon potential of Block 97.

After the State of Florida (State) objected to the Appellant's consistency certification for the proposed POE, the Appellant filed an appeal with the Secretary under section 307(c)(3)(B) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(B), and implementing regulations at 15 CFR part 930, subpart H. The State's objection found that the proposed project was inconsistent with the State's policies of protecting its marine and coastal resources. Under section 307(c)(3)(B) of the CZMA and 15 CFR 930.131, the State's consistency objection precludes the MMS from issuing a permit for the activity unless the Secretary finds that the activity is either consistent with the objectives or purposes of the CZMA (Ground I) or necessary in the interest of national security (Ground II).

The Appellant based its appeal on both grounds. The Secretary's findings on Ground I are: The Appellant's proposed project furthers exploration, development and production of offshore oil and gas resources, thus furthering one of the objectives or purposes of the CZMA. The preponderance of evidence in the record supports a finding that the proposed project will not cause adverse effects on the natural resources of the State's coastal zone, when performed separately or in conjunction with other activities, substantial enough to outweigh its contribution to the national interest. The proposed project will not violate the Clean Air Act or the Clean Water Act, nor is there a reasonable alternative available to the Appellant that would allow its proposed POE to be carried out in a manner consistent with the State's coastal management program. Therefore, the Appellant's proposed project has met the requirements of Ground I. On Ground II, the Secretary found that there will be no significant impairment to a national defense or other national security interest if the Appellant's project is not allowed to go forward as proposed. Therefore, Appellant's project did not meet the requirements of Ground II. Because the Appellant's proposed project has met the requirements of Ground I, the proposed project may be permitted by Federal agencies.

Copies of the decision may be obtained from the contact person listed below.

FOR ADDITIONAL INFORMATION CONTACT: Mary O'Donnell, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S.

Department of Commerce, 1825 Connecticut Avenue, NW., suite 603, Washington, DC 20235, (202) 606–4392.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: February 24, 1993.

James W. Brennan,

Acting General Counsel.

[FR Doc. 93–4756 Filed 3–1–93; 8:45 am]

BILLING CODE 3510–08–M

Coastal Zone Management; Federal Consistency Appeal by Mobil Exploration & Producing U.S. Inc. From an Objection by the State of Florida

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of decision.

On January 7, 1993, the Secretary of Commerce (Secretary) issued a decision in the consistency appeal of Mobil Exploration & Producing U.S. Inc. (Appellant). The Appellant is the operator of Block 799, located approximately 120 miles west-northwest of Key West, Florida, in the Eastern Gulf of Mexico. In a Plan of Exploration (POE) submitted for approval to the Minerals Management Service (MMS) of the Department of the Interior, the Appellant proposed to drill four exploratory wells to evaluate the hydrocarbon potential of Block 799.

The State of Florida (State) objected to the Appellant's consistency certification for the proposed POE on the grounds that the Appellant had failed to provide sufficient information and analyses to demonstrate that all of its proposed activities, associated facilities and effects are consistent with provisions of the State's Coastal Management Program. The Appellant filed an appeal from the State's objection with the Secretary under section 307(c)(3)(B) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(B) and implementing regulations at 15 CFR part 930, subpart H.

Under section 307(c)(3)(B) of the CZMA and 15 CFR 930.131, the State's consistency objection precludes the MMS from issuing a permit for the activity unless the Secretary finds that the activity is either consistent with the objectives or purposes of the CZMA (Ground I) or necessary in the interest of national security (Ground II). The Appellant based its appeal on both grounds.

The Secretary makes a number of findings. On Ground I, the Secretary finds that the Appellant's proposal does not satisfy 15 CFR 930.121(b) because the preponderance of the evidence in the record does not support a finding that the Appellant's POE will not cause adverse effects on the natural resources of the State's coastal zone, when performed separately or in conjunction with other activities, substantial enough to outweigh its contribution to the national interest. On ground II, the Secretary finds that there will be no significant impairment to a national defense or other national security interest if the Appellant's project is not allowed to go forward as proposed. Because the Appellant's proposed POE does not meet the requirements of either of the two grounds set forth in the CZMA, the Secretary declines in this instance to override the State's objection to the proposed POE and Federal agencies may not issue permits for the project as proposed. Copies of the decision may be obtained from the contact person listed below.

FOR ADDITIONAL INFORMATION CONTACT: Margo E. Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., suite 603, Washington, DC 20235, (202) 606–4200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: February 24, 1993.

James W. Brennan,

Acting General Counsel.

[FR Doc. 93–4757 Filed 3–1–93; 8:45 am]

BILLING CODE 3510–08–M

Coastal Zone Management; Federal Consistency Appeal by Union Exploration Partners, Ltd, With Texaco Inc.; From an Objection by the State of Florida

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of decision.

On January 7, 1993, the Secretary of Commerce (Secretary) issued a decision in the consistency appeal of Union Exploration Partners, Ltd., with Texaco, Inc. (Appellant). The Appellant is the operator of Blocks 629 and 630, located approximately 135 miles southwest of Fort Myers, Florida, in the Eastern Gulf of Mexico. In a Plan of Exploration (POE) submitted for approval to the Minerals Management Service (MMS) of the Department of the Interior, the Appellant proposed to drill up to three exploratory wells to evaluate the hydrocarbon potential of Blocks 629 and 630.

The State of Florida (State) objected to the Appellant's consistency certification for the proposed POE on the grounds that the subject area is part of a unique ecosystem and frontier area which supports a varied economy in south Florida and that the data submitted by the Appellant in support of its POE did not adequately evaluate the environmental and socioeconomic effects of the POE and demonstrate that the POE is consistent with various provisions of the State's Coastal Management Program which mandate the preservation and protection of the natural resources of the area. The Appellant filed an appeal from the State's objection with the Secretary under section 307(c)(3)(B) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(B) and implementing regulations at 15 CFR part 930, subpart H.

Under section 307(c)(3)(B) of the CZMA and 15 CFR 930.131, the State's consistency objection precludes the MMS from issuing a permit for the activity unless the Secretary finds that the activity is either consistent with the objectives or purposes of the CZMA (Ground I) or necessary in the interest of national security (Ground II). The Appellant based its appeal on both grounds.

The Secretary makes a number of findings. On Ground I, the Secretary finds that the Appellant's proposal does not satisfy 15 CFR 930.121(b) because the preponderance of the evidence in the record does not support a finding that the Appellant's POE will not cause adverse effects on the natural resources of the State's coastal zone, when performed separately or in conjunction with other activities, substantial enough to outweigh its contribution to the national interest. On Ground II, the Secretary finds that there will be no significant impairment to a national defense or other national security interest if the Appellant's project is not allowed to go forward as proposed. Because the Appellant's proposed POE does not meet the requirements of either of the two grounds set forth in the CZMA, the Secretary declines in this instance to override the State's objection to the proposed POE and Federal agencies may not issue permits for the project as proposed. Copies of the decision may be obtained from the contact person listed below.

FOR ADDITIONAL INFORMATION CONTACT: Margo E. Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of

Commerce, 1825 Connecticut Avenue, NW., suite 603, Washington, DC 20235, (202) 606–4200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: February 24, 1993.

James W. Brennan,

Acting General Counsel.

[FR Doc. 93–4758 Filed 3–1–93; 8:45 am]

BILLING CODE 3510–08–M

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council and its advisory entities will meet on March 9–12, 1993, at the Holiday Inn Crown Plaza, 600 Airport Boulevard, Burlingame, CA. Except as noted below, the meetings are open to the public.

The Council will begin its meeting on March 9 at 8 a.m. in a closed session (not open to the public) to discuss international negotiations, personnel matters and litigation. The open session will begin at 8:30 a.m. to consider salmon management. Agenda items include: (1) Review of 1992 fisheries and summary of 1993 stock abundance estimates; (2) identification of stocks requiring review under the overfishing definition; (3) Endangered Species Act considerations for 1993; and (4) preliminary definition of 1993 management options.

On March 10 the Council will reconvene at 8 a.m. to review the draft fishery management plan for coastal pelagic species and to address the following issues:

Groundfish Management

(1) Status of Federal regulations implementing Council actions; (2) implementation of license limitation program including proposed system for combining permits; (3) operating procedure for and composition of limited entry review board; and (4) data collection program for shore-based whiting fishery and experimental fishing permits allowing landing of salmon, and groundfish trip limit overages. Also, at the end of the March 10 session, the Council will adopt 1993 management options for Salmon Technical Team analysis.

On March 11 at 8 a.m. the Council will reconvene to receive a preliminary analysis of individual quota alternatives for sablefish and Pacific halibut and will provide further directions for analysis. The Council will clarify its intent to review a proposal for establishing an allocation of Pacific halibut to trollers in Area 2A as well as possible modifications to recreational subarea allocations of halibut in Washington.

The following administrative matters will also be addressed on March 11: (1) Budget Committee report; (2) report of the Ad Hoc Committee on Council performance; (3) reauthorization of the Magnuson Fishery Conservation and Management Act; (4) appointment to the Halibut Advisory Subpanel; and (5) establish work load priorities and adopt the April agenda. If necessary, the Council will clarify and refine its management options for the ocean salmon fishery so that the analysis can be completed.

The public may address the Council on fisheries issues unrelated to the agenda at 4 p.m. Public comments that pertain to action items on the agenda will be heard prior to Council action on each issue.

On March 12 the Council will address habitat issues impacting fish stocks managed by the Council and will receive a report from the Bureau of Reclamation on its plans to enhance salmon survival in 1993. Following the habitat discussion, the Council will address the following salmon issues: (1) Estimation of hooking mortality in the sport fishery; (2) Idaho proposal to mark all Snake river hatchery spring and summer chinook; (3) schedule of hearings on 1993 management options and appointment of hearing officers; (4) announcement of "North of Cape Falcon" meetings; and (5) adopt 1993 management options for public review.

Other Management Issues

The Salmon Advisory Subpanel will meet on March 8 at 9:00 a.m. to develop recommendations to the Council on the salmon issues on the Council agenda and will reconvene on March 9, 10, 11, and 12 at 8 a.m.

The Council's other entities will conduct meetings as follows:

The Salmon Technical Team will meet as necessary throughout the March 8–12 period to analyze impacts of management options for the ocean salmon fisheries and to address other salmon issues on the Council agenda.

The Scientific and Statistical Committee will meet on March 8 at 1:00 p.m. to address scientific issues on the Council agenda and will reconvene on March 9 at 8 a.m.

The Habitat Committee will meet on March 8 at 1 p.m. to consider habitat issues affecting stocks of fish managed by the Council.

The Budget Committee will meet on March 8 at 3 p.m. to consider budget and personnel issues.

The Enforcement Consultants will meet March 8 at 7 p.m. to consider enforcement issues related to items on the Council agenda.

Detailed agendas for the above meetings will be available to the public after February 25, 1993.

For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 326–6352.

Dated: February 24, 1993.

Alfred J. Bilik,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–4713 Filed 3–1–93; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Overshipment Charges for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Oman

February 24, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs charging overshipments.

EFFECTIVE DATE: March 3, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The limit for Categories 340/640 for the restraint period beginning on September 21, 1992 and extending through September 20, 1993 is currently filled. In the letter published below, the Chairman of CITA directs the Commissioner of Customs to charge overshipments to this limit in the amounts of 43,932 dozen (Category 340) and 26,606 dozen (Category 640). These charges reflect shipments already entered for consumption for which data was not available to CITA prior to the embargo.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff

Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 56329, published on November 27, 1992.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 24, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: To facilitate implementation of the textile and apparel import restraint program, I request that, effective on March 3, 1993, you charge the following amounts to the limit established in the directive dated November 20, 1992 for cotton and man-made fiber textile products in Categories 340/640, produced or manufactured in Oman and exported during the period beginning on September 21, 1992 and extending through September 20, 1993. These charges are for goods imported during the period November 1, 1992 through November 26, 1992.

Category	Amount to be charged
340	43,932 dozen.
640	26,606 dozen.

This letter will be published in the **Federal Register**.

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–4679 Filed 3–1–93; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB)

Date of Meeting: 17–18 March 1993

Time of Meeting: 0800–1700, each day

Place: Alexandria, VA

Agenda: The Army Science Board's Ad Hoc Panel on "Space Systems and Future Army Operations" will meet in executive session for discussions focused on current projected operational concepts, the Army Long Range Plan for Space, and associated technologies. This meeting will be closed to the public in accordance with section 552b (c) of title 5, U.S.C., specifically subparagraph (1) thereof and title 5, U.S.C. Appendix 2, subsection 10(d). The classified and unclassified information to be discussed will be so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 93–4762 Filed 3–1–93; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Intent To Repay to the New York State Education Department Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Notice of intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA), 20 U.S.C. 1234e (1982), the U.S. Secretary of Education (Secretary) intends to repay to the New York State Education Department, the State educational agency (SEA), an amount equal to 75 percent of the funds recovered by the U.S. Department of Education (Department) as a result of a final audit determination. This notice describes the SEA's plan, submitted on behalf of the New York City Board of Education, the local educational agency (LEA), for the use of the repaid funds and the terms and conditions under which the Secretary intends to make those funds available. The notice invites comments on the proposed grantback.

DATE: All comments must be received on or before April 1, 1993.

ADDRESS: Comments concerning the grantback should be addressed to Dr. Bruce Gaarder, Director, Division of Program Development and Support, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 2043), Washington, DC 20202–6132.

FOR FURTHER INFORMATION CONTACT: Dr. Bruce Gaarder, Telephone: (202) 401–1682. Deaf and hearing impaired individuals may call the Federal Dual Party Relay service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION

A. Background

The Department has recovered $20,643,510, plus accrued interest, from the New York SEA in satisfaction of claims arising from an audit of the New York City Board of Education covering fiscal year (FY) 1983.

The claims involved the SEA's administration of chapter 1 of the Education Consolidation and Improvement Act of 1981 (Chapter 1, ECIA), a program that provided financial assistance to State and local agencies to address the special educational needs of educationally deprived children in areas with high concentrations of children from low-income families. Specifically, on July 13, 1987, the then Acting Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) issued a final determination letter that concluded that the LEA's use of chapter 1 funds to help meet the costs of Promotional Gates program activities in FY 1983 was improper because chapter 1 funds were used to supplant non-Federal funds that, in the absence of the Chapter 1 funds, would have been used for the Promotional Gates program. All of the 32 community school districts were required to participate in the local compensatory education program mandated by the Chancellor. The use of chapter 1 funds for salaries and fringe benefits for 480 Promotional Gates teachers violated the supplanting prohibition in 20 U.S.C. 3807(b) (1982). The Assistant Secretary therefore directed the SEA to refund this amount to the Department.

The SEA appealed the Assistant Secretary's determinations to the Education Appeal Board (EAB). The EAB's initial decision of February 13, 1989, concluded that the LEA supplanted non-Federal funds with chapter 1 funds and had to pay $20,643,510 to the Department. On April 14, 1989, the Secretary issued a decision affirming the EAB's refund demand on the basis that the LEA violated the Chapter 1 supplanting determination. The SEA appealed the Secretary's decision to the U.S. Court of Appeals for the Second Circuit, which issued a decision on May 22, 1990, affirming the decision of the Secretary. On August 27, 1990, the SEA submitted $20,643,510, plus interest, to the Department in full settlement of all claims.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA, 20 U.S.C. 1234e(a) (1982), provides that whenever the Secretary has recovered program funds following a final audit determination, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the SEA or LEA affected by that determination an

amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this grantback arrangement if the Secretary determines that the—

(1) Practices and procedures of the SEA or LEA that resulted in the audit determination have been corrected, and the SEA or LEA is, in all other respects, in compliance with the requirements of the applicable program;

(2) SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) Use of funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purposes of the program under which the funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

Pursuant to section 456(a)(2) of GEPA, the SEA has applied for a grantback of $15,482,632—75 percent of the principal amount recovered by the U.S. Department of Education—and has submitted a plan on behalf of the LEA for use of the grantback funds to meet the special educational needs of educationally deprived children in programs administered under Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965, as amended (Chapter 1, ESEA) (20 U.S.C. 2701 *et. seq.* (1988)).

According to the plan, the LEA would use the grantback funds to provide supplementary services to 52,354 public school Chapter 1 students at 262 elementary and middle schools by using the grantback funds to purchase Comprehensive Integrated Learning Systems (CILS), including hardware and software, installation of the system, staff development, and parent involvement activities; to purchase other computer-based instructional systems; to train staff to implement individualized supplementary instruction for Chapter 1 first graders at risk of failure in reading; and to pay for training new Reading Recovery staff. (Reading Recovery, an early intervention program for first grade children in the lowest 20th percentile in reading, provides intensive one-to-one lessons for 30 minutes each day. After the grantback period is completed, participating districts would continue to provide funds and other resources to support the continuation of the Reading Recovery program in participating schools.) In addition, 17,000 Chapter 1 students who attend 232 nonpublic schools would receive services as the result of grantback funds being used to complement existing computer-assisted instruction programs and non-CILS computer configurations. Current hardware would be upgraded and take-home computers and new software would be purchased to enhance instruction for eligible nonpublic school students enrolled in Chapter 1 remedial reading and mathematics classes. In addition, grantback funds would be used to implement new staff development efforts for Chapter 1 teachers, paraprofessionals, and administrators working with Chapter 1 students and for instructional materials and books to enrich existing Chapter 1 activities.

Of the $15,482,632 in grantback funds, $3,530,709 of the funds would be used for salaries and employee benefits, $1,537,237 for purchased services such as Reading Recovery staff training, $4,609,993 for software and other instructional materials, $5,147,219 for hardware and hardware configurations, $26,674 for local travel and travel related to Reading Recovery conferences, and $630,800 for indirect costs.

D. The Secretary's Determinations

The Secretary has carefully reviewed the plan submitted by the SEA. Based upon that review, the Secretary has determined that the conditions under section 456 of GEPA have been met. These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary may take appropriate administrative action. In finding that the conditions of section 456 of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendations or final audit determinations.

E. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the New York SEA under a grantback arrangement. The grantback award would be in the amount of $15,482,632.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Would Be Made

The SEA and LEA agree to comply with the following terms and conditions under which payments under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that the SEA submitted and any amendments to that plan that are approved in advance by the Secretary; and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved in advance by the Secretary.

(2) All funds received under the grantback arrangement must be obligated by September 30, 1993, in accordance with section 456(c) of GEPA and the SEA's plan.

(3) The SEA, on behalf of the LEA, will, not later than January 1, 1994, submit a report to the Secretary that—

(a) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budget; and

(b) Describes the results and effectiveness of the project for which the funds were spent.

(4) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

(5) Before funds will be paid pursuant to this notice, the SEA must repay to the Department any debts that become overdue or enter into a repayment agreement for those debts.

(Catalog of Federal Domestic Assistance Number 84.010, Educationally Deprived Children—Local Educational Agencies)

Dated: February 24, 1993.

Richard W. Riley,

Secretary of Education.

[FR Doc. 93-4712 Filed 3-1-93; 8:45 am]

BILLING CODE 4000-01-U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP93-81-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 24, 1993.

Take notice that CNG Transmission Corporation ("CNG"), on February 19, 1993, submitted the following tariff

sheets for filing in CNG's FERC Gas Tariff:

First Revised Volume No. 1
Nineteenth Revised Sheet No. 32
Original Volume No. 2A
First Revised Sheet No. 399
First Revised Sheet No. 407
First Revised Sheet No. 426
First Revised Sheet No. 444
First Revised Sheet No. 493

CNG states that these tariff sheets are proposed to become effective on April 1, 1993. CNG requests waiver of the Commission's Regulations as may be required to permit these tariff sheets to become effective as proposed.

CNG states that the purpose of this filing is to adopt straight fixed-variable ("SFV") rate design for various individually-certificated services currently provided by CNG. Because CNG proposes to maintain the underlying costs of service approved by the Commission in the orders certificating these services, CNG files these sheets as a limited Section 4 filing under § 154.63 of the regulations. CNG states that no other rates and charges applicable to services by CNG will be affected by this filing.

CNG states that copies of this filing were served upon CNG's customers, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR §§ 385.214 and 385.211. All motions or protests should be filed on or before March 3, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4698 Filed 3–1–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–80–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 24, 1993.

Take notice that CNG Transmission Corporation ("CNG"), on February 19, 1993, submitted the following tariff sheets for filing in CNG's FERC Gas Tariff, Original Volume No. 2A:

First Revised Sheet No. 452
First Revised Sheet No. 453
Second Revised Sheet No. 462
First Revised Sheet No. 463
First Revised Sheet No. 470
First Revised Sheet No. 471

CNG states that these tariff sheets are proposed to become effective on April 1, 1993. CNG requests waiver of the Commission's Regulations as may be required to permit these tariff sheets to become effective as proposed.

CNG states that the purpose of this filing is to adopt straight fixed-variable ("SFV") rate design for certain individually-certificated services currently provided by CNG. Because CNG proposes to maintain the underlying cost-of-service approved by the Commission in the orders certificating these services, CNG files these sheets as a limited section 4 filing under section 154.63 of the regulations. CNG states that no other rates and charges applicable to services by CNG will be affected by this filing.

CNG states that copies of this filing were served upon CNG's customers, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR § § 385.214 and 385.211. All motions or protests should be filed on or before March 3, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4699 Filed 3–1–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–3–32–000]

Colorado Interstate Gas Co.; Notice of Quarterly Purchased Gas Adjustment Filing

February 24, 1993.

Take notice that on February 22, 1993 Colorado Interstate Gas Company ("CIG") submitted for filing an original and five copies of Ninth Revised Sheet Nos. 7.1 through 8.2, reflecting a 24.05 cents/Mcf decrease in the commodity rate for the G–1, P–1, SG–1, and PS–1 Rate Schedules. CIG requests that these proposed tariff sheets be made effective on April 1, 1993.

CIG states that copies of this filing are being served on all jurisdictional customers and interested state commissions, and are otherwise available for public inspection at CIG's offices in Colorado Springs, Colorado.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NW., Washington DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 3, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4701 Filed 3–1–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER91–435–006]

DC Tie, Inc.; Notice of Filing

February 24, 1993.

Take notice that on January 29, 1993, DC Tie, Inc. filed certain information as required by the Commission's July 11, 1991 letter Order in Docket No. ER91–435–000. Copies of DC Tie, Inc.'s informational filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4700 Filed 3–1–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER93–299–000, and EL93–18–000]

Florida Power Corp.; Initiation of Proceeding and Refund Effective Date

February 24, 1993.

Take notice that on February 17, 1993, the Commission issued an order in the above-indicated dockets initiating an investigation in Docket No. EL93–18–000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL93–18–000 will be 60 days after

publication of this notice in the **Federal Register**.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4747 Filed 3–1–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–82–000]

Northern Natural Gas Co.; Temporary Waiver of Tariff Provision

February 24, 1993.

Take notice that on February 22, 1993, Northern Natural Gas Company (Northern) tendered for filing a motion requesting a temporary waiver of section 6(a) "Scheduling Penalties—Receipt Point" of subpart A of the General Terms and Conditions of its FERC Gas Tariff, Fourth Revised Volume No. 1, located on First Revised Sheet No. 244.

Northern states that on March 29, 1991, Northern filed a Stipulation and Agreement of Settlement resolving all outstanding issues in Docket Nos. RP88–059–046, CP88–1227–000, RP90–124–000 and RP90–161–000 (New Services Settlement). Northern states that the New Services Settlement was approved by Commission order dated June 26, 1992, and was effective November 1, 1992. The New Services Settlement contained provisions for receipt point scheduling penalties to be charged for variances between scheduled volume and actual volume at each receipt point. Northern assert that the receipt point scheduling penalty provisions were included in the New Services Settlement to assure operational and system integrity and to help shippers keep synchronization between scheduled and actual receipts.

Northern states that the Settlement provided that the first two full months following implementation would be "test months." Northern notes that during the test months, Northern and the shippers were to operate their systems as if the penalties were in effect and Northern would bill the penalties, but the shippers would not be required to pay the penalties. Northern also notes that the purpose of the test months was to give all parties an opportunity to understand the penalties and to gain experience operating under the penalties.

Northern states that it has received extended customer feedback regarding the penalties. As a result of the analysis and the feedback, Northern has determined that it would be appropriate to reevaluate the provisions to ensure that the structure of the receipt point penalties is attaining the desired result. Therefore, Northern is requesting a temporary waiver of receipt point scheduling penalties until the production month of April in order to provide Northern the opportunity to reevaluate the provision and determine if, perhaps, there is a different structure that would better achieve the results intended.

Northern states that copies of the filing have been served upon all holders of Northern FERC Gas Tariff, Fourth Revised Volume No. 1.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 3, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4746 Filed 3–1–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4600–1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 1, 1993.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THIS ICR CONTACT: Ms. Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standards (NSPS) for Metallic Mineral Processing Plants–Recordkeeping and Reporting Requirements (EPA ICR No. 0982.04; OMB No. 2060–0016). This is a request for renewal of a currently approved information collection.

Abstract: Owners or operators of metallic mineral processing plants must provide EPA, or the delegated State regulatory authority, with one-time notifications and reports, and must keep records, as required of all facilities subject to the general NSPS requirements. Recordkeeping and reporting requirements specific to metallic mineral processing plants provide information on the operation of the emission control device. Owners or operators of affected facilities are required to install, calibrate, maintain, and operate a continuous monitoring system to measure the change in pressure of the gas stream through the scrubber, and the scrubbing liquid flow rate. They must notify EPA or the State regulatory authority of the date upon which demonstration of the CMS performance commences. During the initial performance test of a wet scrubber, and at least weekly thereafter a record of the described measurements must be maintained. The owner or operator must submit semiannual reports of occurrences when the scrubber pressure drop and liquid flow rate differ by more than thirty percent from the measurement recorded during the most recent performance test. The notifications and reports enable EPA or the delegated State regulatory authority to determine that best demonstrated technology is installed and properly operated and maintained and to schedule inspections.

Burden Statement: The public reporting burden for this collection of information is estimated to average 25 hours per response for reporting, and 63 hours per recordkeeper annually. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Owners or operators of metallic mineral processing plants.

Estimated Number of Respondents: 17.

Estimated Number of Responses Per Respondent: 2.

Estimated Total Annual Burden on Respondents: 1,911 hours.

Frequency of Collection: One-time notifications and reports for new facilities; semiannual reporting for existing facilities.

Send comments regarding the burden estimate, or any other aspect of the

information collection, including suggestions for reducing the burden, to:

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW.,Washington, DC 20460.

and

Mr. Chris Wolz, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW.,Washington, DC 20503.

Dated: February 24, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–4776 Filed 3–1–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4563–1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 1, 1993.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THIS ICR CONTACT: Ms. Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Air Radiation

Title: New Source Performance Standards (NSPS) for Surface Coating of Metal Furniture (Subpart EE)–Reporting and Recordkeeping Requirements (EPA ICR No. 649.05; OMB No. 2060–0106). This is a request for reinstatement of a previously approved information collection for which approval has expired.

Abstract: Owners or operators of metal furniture surface coating facilities must provide EPA or the delegated State regulatory authority with one-time notifications and reports, and must keep records, as required of all facilities subject to the general NSPS requirements. Monitoring and recordkeeping requirements specific to metal furniture surface coating operations consist mainly of temperature measurements when a capture system and an incinerator are used, and the calculated daily volume of volatile organic compounds (VOC) solvent recovered and actual amount of VOC solvent recovered when a capture system is used in combination with a solvent recovery system.

Since the last renewal of this ICR, the surface coating standards have been amended to require quarterly reporting if an exceedance of the standard has occurred as determined by the monthly compliance tests and monitoring of control device parameters. Reporting is required semiannually if no exceedances or monitoring deficiencies have occurred. The notifications and reports enable EPA or the delegated State regulatory authority to determine that best demonstrated technology is installed and properly operated and maintained and to schedule inspections. All facilities subject to these standards must maintain records related to compliance for two years.

Burden Statement: The public reporting burden for this collection of information is estimated to average 10 hours per response for reporting, and 163 hours for recordkeeping annually. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Owners or operators of metal furniture surface coating facilities which commenced construction, reconstruction, or modification after November 28, 1980.

Estimated Number of Respondents: 705.

Estimated Number of Responses Per Respondent: 2.

Estimated Total Annual Burden on Respondents 128,243 hours.

Frequency of Collection: Quarterly or semiannually and on occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Mr. Chris Wolz, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: February 24, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–4775 Filed 3–1–93; 8:45 am]

BILLING CODE 6560–60–F

[FRL–4562–3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before April 1, 1993.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THIS ICR CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Prevention, Pesticides and Toxic Substances

Title: Partial Updating of TSCA Inventory Data Base; Production and Site Reports. (EPA ICR No. 1011.03; OMB No. 2070–0070). This is a request for reinstatement of a previously approved collection.

Abstract: Section 8 of the Toxic Substances Control Act (TSCA) requires manufacturers of chemical substances to report current production volume, plant site data, and their chemicals' manufacture/import status to EPA. Respondents submit reports every four years on either an EPA designated reporting form, a computer tape(s) or floppy diskette(s). EPA uses these data to compile and keep current the listing of chemical substances manufactured, imported and processed for commercial use in the United States.

Burden Statement: The estimated public reporting burden for this collection of information is estimated to average 11 and a half hours for respondents who will report to update the inventory, and 1 hour for respondents who will only report inventory corrections. These estimates include the time needed to review instructions, search existing data sources, gather the data needed, prepare data for transfer, and review the collection of information.

Respondents: Chemical Manufacturers.

Estimated Number of Respondents: 2,488 who will update the inventory and 350 who will make corrections.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 28,962 hours.

Frequency of Collection: Every four years.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM 223Y), 401 M Street, SW., Washington, DC 20460.

and

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: February 24, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–4774 Filed 3–1–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4600–4]

Phosphoric Acid Production Waste Dialogue Committee; Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Federal Advisory Committee Meeting.

SUMMARY: As required by the Federal Advisory Committee Act, we are giving notice of the January meeting of the Phosphoric Acid Production Waste Dialogue Committee. The meeting is open to the public without advance registration.

The purpose of the meeting is to continue to review information on the issue of pollution prevention in the production of phosphoric acid.

DATES: The Committee meeting will be held on March 18 and March 19, 1993 from 8:30 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Doubletree Hotel, 300 Army Navy Drive, Crystal City, Arlington, Virginia 22202, (703) 892–4100.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on the technical or scientific matters related to phosphoric acid wastes should contact Dr. Daniel R. Bushman, Office of Pollution Prevention and Toxics, Economics, Exposure and Technology Division, TS–779, Environmental Protection Agency, Washington, DC, 20460; phone (202) 260–6700. Persons needing further information on the committee's procedural and logistical matters should call Deborah Dalton, Consensus and Dispute Resolution Program, (202) 260–5495, or the Committee's facilitator, Greg Bourne, Southeast Negotiation Network, Georgia Institute of Technology, Atlanta, GA (404) 853–9846.

Dated: February 25, 1993.

Deborah S. Dalton,

Designated Federal Official, Office of Regulatory Management and Evaluation, Office of Policy, Planning and Evaluation.

[FR Doc. 93–4778 Filed 3–1–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4600–2]

Revision of New York State's National Pollutant Discharge Elimination System Program To Issue General Permits

AGENCY: Environmental Protection Agency.

ACTION: Notice of Approval of the National Pollutant Discharge Elimination System General Permits Program of New York State.

SUMMARY: On October 15, 1992, the Regional Administrator of the Environmental Protection Agency Region II approved New York State's National Pollutant Discharge Elimination System (NPDES) General Permits Program. This action authorizes New York State to issue general permits in lieu of individual NPDES permits.

FOR FURTHER INFORMATION CONTACT: Anne K. Reynolds, Water Permits and Compliance Branch, U.S. EPA Region II, 26 Federal Plaza, New York, New York 10278, phone 212–264–2911.

SUPPLEMENTARY INFORMATION:

I. Background

EPA regulations at 40 CFR 122.28 provide for the issuance of general permits to regulate discharges of wastewater that result from substantially similar operations, are of the same type wastes, require the same effluent limitations or operating conditions, require similar monitoring, and are more appropriately controlled under a general permit than an individual permit. EPA authorized New York State to administer the NPDES program on October 28, 1975. Their program, as previously approved, did not include provisions for the issuance of general permits. There are several categories of discharges that could be appropriately and efficiently regulated by general permits, so the New York State Department of Environmental Conservation (NYSDEC) requested revision of their NPDES program to include general permitting.

New York State law at ECL §§ 70–0117(6) and 70–0117(7) authorizes NYSDEC to issue general permits under the State Pollutant Discharge Elimination System (SPDES) Program for the discharge of ballast from vessels and any other category of point sources that: (1) Are within a stated geographical area; (2) include the same or substantially similar type of operations; (3) discharge the same types of pollutants; (4) require the same effluent limitations or operation conditions; (5) require the same or similar monitoring; and (6) will result in minimal adverse cumulative impacts. Pursuant to ECL §§ 70–0117(6)(b) and (7)(b), general permits can be issued for the following categories of discharges only after the NYSDEC makes a specific determination that such discharges are more appropriately controlled under a general permit than under an individual permit: (1) Ballast discharges; (2) separate storm sewer or storm water conveyance systems; (3) less than ten thousand gallons per day of sewage effluent without the admixture of industrial waste or other wastes; and (4) thermal discharges of less than one million gallons per day.

Each general permit will be subject to EPA review and approval as provided by 40 CFR 123.44. Public notice and the opportunity to request a hearing is also provided for each general permit.

II. Discussion

On September 17, 1992 the State of New York submitted a program description for New York's SPDES General Permits Program and an Amendment to the New York State Department of Environmental Protection ("DEC")—United States Environmental Protection Agency ("EPA") NPDES Memorandum of Agreement ("MOA") relating to general permits. The Amendment was signed October 15, 1992. In addition, New York submitted an Attorney General's Statement dated September 15, 1992 certifying, with appropriate citation of the statutes and regulations, that the State has adequate legal authority to administer the general permits program as required by 40 CFR 123.23(c). Based on New York's description and upon its experience in administering an approved NPDES program, EPA has concluded that the State will have the necessary procedures and resources to administer the general permits program.

Under 40 CFR 123.62, NPDES program revisions are either substantial (requiring publication of proposed program approval in the **Federal Register** for public comment) or non-substantial (where approval may be granted by letter from EPA to the state). EPA has determined that New York's assumption of general permit authority

is a non-substantial revision of its NPDES program. EPA has generally viewed approval of such authority as non-substantial because it does not alter the substantive obligations of any discharger under the State program, but merely simplifies the procedures by which permits are issued to a number of point sources.

Moreover, under the approved State program, the State retains authority to issue individual permits where appropriate, and any person may request the State to issue an individual permit for a discharge eligible for general permit coverage.

III. Federal Register Notice of Approval of State NPDES Program or Modifications

Today's **Federal Register** notice announces the approval of New York's authority to issue general permits. The following table provides the public with an up-to-date list of the status of NPDES permitting authority throughout the country.

IV. Review under Executive Order 12291 and the Regulatory Flexibility Act

The Office of Management and Budget has exempted this rule from the review requirements of Executive Order 12291 pursuant to Section 8(b) of that Order.

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. Pursuant to section 605(d) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), I certify that this State General Permits Program will not have a significant impact on a substantial number of small entities.

Approval of New York's NPDES General Permits Program established no new substantive requirements nor does it alter the regulatory control over any industrial category. Approval of the New York State General Permits Program merely provides a simplified administrative process.

Dated: February 3, 1993.

William J. Muszynski,

Acting Regional Administrator.

STATE NPDES PROGRAM STATUS

[10/27/92]

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program	Approved general permits program
Alabama	10/15/79	10/19/79	10/19/79	06/26/91
Arkansas	11/01/86	11/01/86	11/01/86	11/01/86
California	05/14/73	05/05/78	09/22/89	09/22/89
Colorado	03/27/75	.....	.....	03/04/83
Connecticut	09/26/73	01/09/89	06/03/81	03/10/92
Delaware	04/01/74	.....	.....	10/23/92
Georgia	06/28/74	12/08/80	03/12/81	01/28/91
Hawaii	11/28/74	09/01/79	08/12/83	09/30/91
Illinois	10/23/77	09/20/79	.....	01/04/84
Indiana	01/01/75	12/09/78	.....	04/02/91
Iowa	08/10/78	08/10/78	06/03/81	08/12/92
Kansas	06/28/74	08/28/85	.....	.....
Kentucky	09/30/83	09/30/83	09/30/83	09/30/83
Maryland	09/05/74	11/10/87	09/30/85	09/30/91
Michigan	10/17/73	12/09/78	06/07/83	.....
Minnesota	06/30/74	12/09/78	07/16/79	12/15/87
Mississippi	05/01/74	01/28/83	05/13/82	09/27/91
Missouri	10/30/74	06/26/79	06/03/81	12/12/85
Montana	06/10/74	06/23/81	.....	04/29/83
Nebraska	09/12/74	11/02/79	09/07/84	07/20/89
Nevada	09/19/75	08/31/78	.....	07/27/92
New Jersey	04/13/82	04/13/82	04/13/82	04/13/82
New York	10/28/75	06/13/80	.....	10/15/92
North Carolina	10/19/75	09/28/84	06/14/82	09/06/91
North Dakota	06/13/75	01/22/90	.....	01/22/90
Ohio	03/11/74	01/28/83	07/27/83	08/17/92
Oregon	09/26/73	03/02/79	03/12/81	02/23/82
Pennsylvania	06/30/78	06/30/78	.....	08/02/91
Rhode Island	09/17/84	09/17/84	09/17/84	09/17/84
South Carolina	06/10/75	09/26/80	04/09/82	09/03/92
Tennessee	12/28/77	09/30/86	08/10/83	04/18/91
Utah	07/07/87	07/07/87	07/07/87	07/07/87
Vermont	03/11/74	.....	03/16/82	.....
Virgin Islands	06/30/76	.....	.....	.....
Virginia	03/31/75	02/09/82	04/14/89	05/20/91
Washington	11/14/73	.....	09/30/86	09/26/89
West Virginia	05/10/82	05/10/82	05/10/82	05/10/82
Wisconsin	02/04/74	11/26/79	12/24/80	12/19/90
Wyoming	01/30/75	06/18/81	.....	09/24/91
Totals	39	34	27	35

Number of Fully Authorized Programs (Federal Facilities, Pretreatment, General Permits)=24

[FR Doc. 93–4777 Filed 3–1–93; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Spectrum Broadcasting Co., Bowdon, GA.	BPH–911031MC	93–26
B. Steven L. Gradick, Bowdon, GA.	BPH–911031MD	.....
C. Jeffrey P. Davis, Bowdon, GA.	BPH–911031ME	.....
D. Terry C. Jenks, Bowdon, GA.	BPH–911031MF	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicants
1. Environmental Impact	A, B
2. Comparative	A, B, C, D
3. Ultimate	A, B, C, D

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., suite 140, Washington, DC 20037 (telephone 202–857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 93–4725 Filed 3–1–93; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–979–DR]

California; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California, (FEMA–979–DR), dated February 3, and related determinations.

EFFECTIVE DATE: February 22, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of California dated February 3, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 3, 1993:

The counties of Alpine and Los Angeles for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–4741 Filed 3–1–93; 8:45 am]
BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Port of Galveston et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–010889–002.

Title: Port of Galveston/Container Terminal of Galveston, Inc. Operating Agreement.

Parties: Board of Trustees of the Galveston Wharves; Container Terminal of Galveston, Inc.

Synopsis: This modification clarifies the insurance requirements of section 7.2(e) of the Operating Agreement which pertains to container cranes and spreaders.

Agreement No.: 224–200743.

Title: Kodiak/Sea-Land Terminal Agreement.

Parties: City of Kodiak ("City"); Sea-Land Service, Inc. ("Sea-Land").

Synopsis: The Agreement gives Sea-Land preferential berthing rights at the City's Terminal III which also includes use of 4.46 acres of land, a crane and dock space.

Agreement No.: 203–011402.

Title: Western Mediterranean VSA/Maersk Space Charter Agreement.

Parties:

A. P. Moller-Maersk Line ("Maersk")
Sea-Land Service, Inc., The VAS Party
P&O Containers Limited, The VSA Party
Nedlloyd Lijnen B.V., The VSA Party

Synopsis: The proposed Agreement permits Maersk to charter space from the VSA Party in the trade between ports in the United States in the Portland, Maine/Savannah, Georgia range and ports on the West Coast of Italy and Mediterranean ports in France and Spain. The parties may also discuss and agree upon any rate or service items. Adherence to any agreement reached is strictly voluntary.

Agreement No.: 203–011403.

Title: U.S./Arabian Gulf Agreement.

Parties: A. P. Moller-Maersk Line ("Maersk"); P&O Containers Limited; Sea-Land Service, Inc.

Synopsis: The proposed Agreement permits the parties to charter vessels and space to each other, and to rationalize sailings, schedules and itineraries in the trade between ports on the United States Atlantic and Gulf Coasts and U.S. points via such ports and ports on the Red Sea Coast of Saudi Arabia, the Arabian Gulf, and the Goa/Karachi range of the Indian Sub-Continent West Coast and inland points via such ports. It also permits the withdrawal of vessels or vessel capacity in the trade. The parties may discuss and agree upon any rate or service items. Adherence to any agreement reached is strictly voluntary.

By Order of the Federal Maritime Commission.

Dated: February 24, 1993.
Joseph C. Polking,
Secretary.
[FR Doc. 93-4709 Filed 3-1-93; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Banco Santander, S.A., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 26, 1993.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Banco Santander, S.A., Santander, Spain; to acquire 100 percent of the voting shares of Northeast Bancorp, Inc., New Haven, Connecticut, and thereby indirectly acquire Union Trust Company, Stamford, Connecticut.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Hometown Bancshares, Inc., Middlebourne, West Virginia; to acquire 100 percent of the voting shares of The First National Bank of Powhatan Point, Powhatan Point, Ohio.

C. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Nashville Holding Company, Nashville, Georgia; to acquire at least 51.42 percent of the voting shares of Citizens Bank & Trust, Evans, Georgia.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Rockhold BanCorp., Platte City, Missouri; to become a bank holding company by acquiring at least 82 percent of the voting shares of Bank of Kirksville, Kirksville, Missouri.

E. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. The Donley County State Bank Holding Company, Clarendon, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The Donley County State Bank, Clarendon, Texas.

Board of Governors of the Federal Reserve System, February 24, 1993.
William W. Wiles,
Secretary of the Board.
[FR Doc. 93-4728 Filed 3-1-93; 8:45 am]
BILLING CODE 6210-01-F

George W. Krumme, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 22, 1993.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. George W. Krumme, Tulsa, Oklahoma; to acquire 44 percent, and Robert B. Krumme, Tulsa, Oklahoma, to acquire 41 percent of the voting shares of Sooner Southwest Bancshares, Inc., Bristow, Oklahoma, and thereby indirectly acquire Community Bank, Bristow, Oklahoma, and Security First National Bank, Hugo, Oklahoma.

2. Roy Harlan Krumme, Tulsa, Oklahoma; to acquire 97 percent of the voting shares of Anadarko Bancshares, Inc., Bristow, Oklahoma, and thereby indirectly acquire Anadarko Bank and Trust Company, Anadarko, Oklahoma.

Board of Governors of the Federal Reserve System, February 24, 1993.
William W. Wiles,
Secretary of the Board.
[FR Doc. 93-4729 Filed 3-1-93; 8:45 am]
BILLING CODE 6210-01-F

Alice Barbara Penn, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 22, 1993.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Alice Barbara Penn, Ashland, Wisconsin, and Theodore John Penn, Green Bay, Wisconsin; to acquire an additional 2.58 percent (totalling 27.21 percent together) of the voting shares of Drummond Bancshares, Inc., Drummond, Wisconsin, and thereby indirectly acquire State Bank of Drummond, Drummond, Wisconsin.

Board of Governors of the Federal Reserve System, February 23, 1993.
William W. Wiles,
Secretary of the Board.
[FR Doc. 93-4732 Filed 3-1-93; 8:45 am]
BILLING CODE 6210-01-F

Republic Bancorp, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f)

of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than March 25, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Republic Bancorp, Inc., Owosso, Michigan; to acquire Horizon Savings Bank, Beachwood, Ohio, and thereby engage in operating a thrift, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Midland Capital Co., Oklahoma City, Oklahoma; to acquire Near Northwest Community Development Corp. d/b/a Near Northwest CDC, Oklahoma City, Oklahoma, and thereby engage in community development activities, pursuant to § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 23, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-4731 Filed 3-1-93; 8:45 am]

BILLING CODE 6210-01-F

T R Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 25, 1993.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. T R Financial Corp., Garden City, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Roosevelt Savings Bank, Garden City, New York.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. DeWitt Bancorp, Inc., DeWitt, Iowa; to acquire 50 percent of the voting shares of River Valley Bancorp, Inc., Davenport, Iowa, and thereby indirectly acquire Valley State Bank, Eldridge, Iowa, a *de novo* bank. In connection with this application, River Valley Bancorp, Inc. has applied to become a bank holding company by acquiring 100 percent of the voting shares of Valley State Bank.

2. First Financial Corporation, Terre Haute, Indiana; to merge with Parke Bancorp, Rockville, Indiana, and thereby indirectly acquire The Parke State Bank, Rockville, Indiana.

3. First Neighborhood Bancshares, Inc., Toledo, Illinois; to acquire 100 percent of the voting shares of Newman Bancshares, Inc., Newman, Illinois, and thereby indirectly acquire First State Bank of Newman, Newman, Illinois.

4. Lenawee Bancorp, Inc., Adrian, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Lenawee, Adrian, Michigan.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Davis Bancorporation, Inc., Davis, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of First Davis Bancorporation, Inc., Davis, Oklahoma, and thereby indirectly acquire The First National Bank of Davis, Davis, Oklahoma.

Board of Governors of the Federal Reserve System, February 23, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-4733 Filed 3-1-93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Office of the Secretary, HHS Office of Inspector General.

ACTION: Notice.

SUMMARY: This notice amends Part A (Office of the Secretary) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services to change the name "Human, Family, and Departmental Services Audits" to "Administrations of Children, Family, and Aging Audits" and to add organizational changes to Accounting and Financial Management Audits.

EFFECTIVE DATE: This notice is effective on March 2, 1993.

FOR FURTHER INFORMATION CONTACT: Marlene Watkins (202)619–3172.

SUPPLEMENTARY INFORMATION: Chapter AF is amended as follows:

1. Under the headings *Sections AFH.10 E Office of Audit Services Organization, and AFH.20 E, Office of Audit Services Functions*—Human, Family, and Departmental Services Audits, the name of the office should be changed from "Human, Family, and Departmental Services Audits" to "Administrations of Children, Family, and Aging Audits."

2. Under the heading *Section AFH.20 G. Office of Audit Services—Functions*—Accounting and Financial Management Audits, add the following:

Responsible for carrying out the plan to improve organizationwide and grant audits performed by Certified Public Accountants, State Auditors and other non-Federal auditors so that Federal officials can rely upon the audits to provide an independent assessment of the adequacy of the entity's internal controls and compliance with laws and regulations.

Dated: February 19, 1993.

Bryan B. Mitchell,

Principal Deputy Inspector General, Department of Health and Human Services.

[FR Doc. 93–4691 Filed 3–1–93; 8:45 am]

BILLING CODE 4150–04–M

Administration on Aging

Statement of Organization, Functions and Delegations of Authority

This Notice amends part B of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services, Administration on Aging ("AoA") as follows: Chapter B, Administration on Aging, as last amended at 57 FR 61433 on December 24, 1992. The Secretary is changing the position title "Commissioner on Aging" to "Assistant Secretary for Aging." The Assistant Secretary for Aging will report directly to the Secretary. This organizational change will delete all references to the "Commissioner on Aging" and replace them with "Assistant Secretary for Aging." This change is made under the authority of the Secretary pursuant to 5 U.S.C. 301 and section 6 of Reorganization Plan No. 1 of 1953, 18 FR 2053, Apr. 11, 1953, 67 Stat. 631. The specific changes are as follows:

1. Chapter B.10 Organization. Delete "B.10 Organization. The Administration on Aging is headed by the Commissioner on Aging and consists of: Office of the Commissioner."

Replace the deleted material with: B.10 Organization. The Administration on Aging is headed by the Assistant Secretary for Aging and consists of: Office of the Assistant Secretary for Aging.

2. Chapter B.20 Functions. A. Office of the Commissioner. Delete in its entirety and replace with: B.20 Functions.

A. Office of the Assistant Secretary (BA)

The Office of the Assistant Secretary serves as the focal point for Older Americans Act (OAA) programs through the development, coordination and administration of those programs nationwide. Serves as the effective and visible advocate within the Federal government to assure the rights and entitlements of the elderly. Conducts active public education of officials, citizens, and the aged to assure broad understanding of the needs and capabilities of the aged.

Sets national policies, establishes national priorities, assures policy consistency, and directs plans and programs conducted by the Administration on Aging (AoA). Advises the Secretary, DHHS agencies, and other Federal departments and agencies on the characteristics, circumstances, and needs of older people and on policies, plans and programs designed to promote their welfare. The Deputy Assistant Secretary is the Assistant Secretary's primary associate in carrying out the mission of the agency.

Serves as an advocate for older people with voluntary and private organizations. Collaborates with other Federal agencies to assist older persons by the development of interagency agreements which are then implemented by the appropriate technical divisions. Coordinates joint interests and initiation of projects with other Federal agencies and other levels of government. Provides close liaison with the Federal Council on Aging, and other Federal committees focused on the aging. Works with national aging organizations, professional societies, universities, and academic organizations to identify mutual interests and plan voluntary and funded approaches. Ensures affirmative action throughout the Aging Network.

Stimulates and coordinates AoA international activities in research, training, and technical assistance; and coordinates AoA international activities with Departmental units concerned with international affairs. Cooperates with multilateral international agencies, such as the United Nations, in planning and participating in international conferences and meetings. Arranges for visits of personnel interested in aging from other nations and assists U.S. personnel in arranging visits to other countries.

Dated: February 23, 1993.

Donna E. Shalala,

Secretary.

[FR Doc. 93–4690 Filed 3–1–93; 8:45 am]

BILLING CODE 4150–04–M

Agency for Toxic Substances and Disease Registry

Chemical Sensitivity and Low Level Chemical Exposure; Meeting

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the following meeting.

Name: Chemical Sensitivity and Low Level Chemical Exposure.

Time and Dates: 8:30 a.m.–5 p.m., March 16, 1993. 8:30 a.m.–12 noon, March 17, 1993.

Place: Historic Inns of Annapolis, 16 Church Circle, Annapolis, Maryland 21401 (1–800–847–8882).

Status: Open to the public, limited only by space available.

Purpose: To obtain individual guidance and suggestions from a panel of experts and the public on subjects suitable for focused workshops to advance knowledge of chemical sensitivity and low level chemical exposure.

Contact Person for Additional Information: James K. Carpenter, ATSDR, 1600 Clifton Road, NE., Mailstop E33, Atlanta, Georgia 30333, telephone 404/639–6204.

Dated: February 23, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination.

[FR Doc. 93–4716 Filed 3–1–93; 8:45 am]

BILLING CODE 4160–70–M

Centers for Disease Control and Prevention

Study of Violent Crime in Virginia Convenience Stores; Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: A study of Violent Crime in Virginia Convenience Stores.

Time and Date: 1:30 p.m.–4 p.m., March 29, 1993.

Place: Prete Building, Large Conference Room, NIOSH, CDC, 3040 University Avenue, Morgantown, West Virginia 26505.

Status: Open to the public, limited only by the space available.

Purpose: The purpose of this meeting is to receive comments on the NIOSH

project entitled, "Protocol for a case-control study of the effects of environmental designs to deter violent crime in Virginia convenience stores." Individual comments will be solicited from invited participants and attendees. Viewpoints and suggestions from industry, labor, academia, other government agencies, and the public are invited.

Contact Person for Additional Information: Harlan Amandus, Ph.D., NIOSH, CDC, 3040 University Avenue, Mailstop P1133, Morgantown, West Virginia 26505, telephone 304/284–5719.

Dated: February 24, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–4717 Filed 3–1–93; 8:45 am]

BILLING CODE 4160–19–M

Food and Drug Administration

[Docket No. 93N–0078]

Lyphomed, Division of Fujisawa USA, Inc.; Withdrawal of Approval of Three Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of three abbreviated new drug applications (ANDA's) held by Lyphomed, Division of Fujisawa USA, Inc., 2045 North Cornell Ave., Melrose Park, IL 60160–1002 (Lyphomed). FDA is withdrawing approval of these applications because of questions raised about the reliability of the data and information submitted to FDA in support of the applications. Lyphomed has waived its opportunity for hearing.

EFFECTIVE DATE: March 2, 1993.

FOR FURTHER INFORMATION CONTACT: Jean M. Olson, Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8041.

SUPPLEMENTARY INFORMATION: Recently, FDA became aware of discrepancies concerning the data used to support approval of the following ANDA's held by Lyphomed:

ANDA 71–519, Diazoxide Injection, 15 milligrams per milliliter (mg)/(mL), 20 mL vial;

ANDA 87–250, Aminophylline Injection, 25 mg/mL, 10 and 20 mL vials; and

ANDA 88–909, Bacteriostatic Sodium Chloride Injection, 0.9%, 10 and 30 mL vials.

Lyphomed has identified discrepancies in data submitted to obtain approval of the applications listed above which have raised questions about the reliability of the data. Subsequently, in letters dated October 22, 1992, Lyphomed requested withdrawal of these ANDA's.

Therefore, under under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the ANDA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective March 2, 1993. Distribution of drug products in interstate commerce without an approved application is unlawful.

Dated: February 18, 1993.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 93–4739 Filed 3–1–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 84N–0102]

Cumulative List of Orphan-Drug and Biological Designations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a cumulative list of designated orphan drugs and biologics as of December 31, 1992. FDA has announced the availability of previous lists, which are brought up-to-date monthly, identifying the drugs and biologicals granted orphan-drug designation pursuant to section 526 of the Federal Food, Drug, and Cosmetic Act (the act).

ADDRESSES: Copies of the list of current orphan-drug designations and of any future lists are or will be available from the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and the Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4718.

FOR FURTHER INFORMATION CONTACT: Peter Vaccari, Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4718.

SUPPLEMENTARY INFORMATION: FDA's Office of Orphan Products Development reviews and takes final action on applications submitted by sponsors seeking orphan-drug designation under section 526 of the act (21 U.S.C. 360bb). In accordance with this section of the act, which requires public notification of designations, FDA maintains a list of designated orphan drugs and biologicals. This list is made current on a monthly basis and is available upon request from the Office of Orphan Products Development (contact identified above). At the end of each calendar year, the agency publishes an up-to-date cumulative list of designated orphan drugs and biologicals, including the names of designated compounds, the specific disease or condition for which the compounds are designated, and the sponsors' names and addresses. The cumulative list of compounds receiving orphan-drug designation through 1988 was published in the **Federal Register** of April 21, 1989 (54 FR 16294). This list is available upon request from the Dockets Management Branch (address above). Those requesting a copy should specify the docket number found in brackets in the heading of this document.

The list that is the subject of this notice consists of designated orphan drugs and biologicals through December 31, 1992, and, therefore, brings the February 10, 1992 (57 FR 4883) publication up-to-date.

The orphan-drug designation of a drug or biological applies only to the sponsor who requested the designation. Each sponsor interested in developing an orphan drug or biological must apply for orphan-drug designation in order to obtain exclusive marketing rights. Any request for designation must be received by FDA before the submission of a marketing application for the proposed indication for which designation is requested. (See 53 FR 47577, November 23, 1988.) Copies of the regulations (see 57 FR 62076, December 29, 1992) for use in preparing an application for orphan-drug designation may be obtained from Orphan Products Development (address above).

The names used in the cumulative list for the drug and biological products that have not been approved or licensed for marketing may not be the established or proper names approved by FDA for these products if they are eventually approved or licensed for marketing. Because these products are investigational, some may not have been reviewed for purposes of assigning the most appropriate established proper name.

Dated: February 23, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–4737 Filed 3–1–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93N–0074]

Parke-Davis, A Division of Warner-Lambert Co.; Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of new drug application (NDA) 02–245 for Proloid Tablets and NDA 16–680 for Euthroid Tablets held by Parke-Davis, a division of Warner-Lambert Co., 2800 Plymouth Rd., P.O. Box 1047, Ann Arbor, MI 48106–1047 (Warner-Lambert). After discovery of discrepancies between records kept by Warner-Lambert and records submitted to FDA concerning these drug products, Warner-Lambert requested that FDA withdraw approval of the applications.

EFFECTIVE DATE: March 2, 1993.Q02

FOR FURTHER INFORMATION CONTACT: Jean M. Olson, Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8041.

SUPPLEMENTARY INFORMATION: Recently, FDA discovered discrepancies between records retained by Warner-Lambert and records submitted to FDA concerning NDA 02–245 for Proloid Tablets and NDA 16–680 for Euthroid Tablets. Subsequently, Warner-Lambert requested that FDA withdraw approval of the applications and waived its opportunity for a hearing.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of NDA 02–245 for Proloid Tablets and NDA 16–680 for Euthroid Tablets, and all supplements and amendments thereto, is withdrawn, effective March 2, 1993.

Dated: February 16, 1993.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 93–4738 Filed 3–1–93; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[HSQ–198–N]

RIN: 0938–AG09

Medicare Program; Peer Review Organizations: New PRO Contracts for All States and Territories and the District of Columbia

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice gives a general description of Utilization and Quality Control Peer Review Organization (PRO) contract requirements and significant changes in the PRO program. It outlines new requirements for the review activities of PROs for contracts entered into beginning April, 1993.

This notice fulfills the requirements of section 1153(h)(1) of the Social Security Act. That section requires publication of any new policy or procedure adopted by the Secretary that affects substantially the performance of PRO contract obligations at least 30 days before the date the policy or procedure is to be used.

DATES: *Effective dates:* For contracts entered into for the District of Columbia and the States and Territories listed, the effective dates of this notice are as follows:

Apr. 1, 1993 Arkansas, Colorado, Delaware, Illinois, Kansas, Mississippi, New Hampshire, Nevada, New York, Ohio, Oregon, Pennsylvania, Tennessee, Utah, and West Virginia.

July 1, 1993 Alaska, Arizona, California, District of Columbia, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, New Jersey, New Mexico, Rhode Island, South Dakota, Vermont, and Washington.

Oct. 1, 1993 Alabama, Connecticut, Guam/American Samoa/Hawaii, Iowa, Massachusetts, Missouri, Montana, Nebraska, North Carolina, North Dakota, Oklahoma, Puerto Rico, South Carolina, Texas, Virginia, Virgin Islands, Wisconsin, and Wyoming.

Comment date: Comments on information collection requirements found in section VI. will be considered if we receive them at the appropriate addresses, as provided below, no later than 5 p.m. on May 3, 1993.

ADDRESSES: Mail an original and three copies of comments on information collection requirements to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HSQ–198–N, P.O. Box 26676, Baltimore, MD 21207.

A copy should also be sent to: Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Allison Herron Eydt, Desk Officer, Room 3001, New Executive office Building, Washington, DC 20503.

If you prefer, you may deliver your written comments to HCFA to one of the following addresses: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, MD 21207.

Due to staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HSQ–198–N. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

Because of the large number of items of correspondence we normally receive on notices, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "Dates" section of this preamble, and, if we revise the general requirements of the contracts discussed in this notice and publish those revisions in the **Federal Register** in a subsequent notice, we will respond to the comments in the preamble to that notice.

FOR FURTHER INFORMATION CONTACT: Sandra Kappert, (410) 966–6890.

SUPPLEMENTARY INFORMATION:

I. Background

The Peer Review Improvement Act of 1982 (Title I, Subtitle C of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248) established the Utilization and Quality Control Peer Review Organization (PRO) program. Section 1153 of the Social Security Act (the Act) requires that the Secretary enter into contracts, which may be renewable on a triennial basis, with private peer review organizations for the review of services for which payment may be made in whole or in part by the Medicare program. The PROs are physician-sponsored or physician-access organizations under contract to the Health Care Financing Administration. The purpose of the PRO program is to ensure that Medicare beneficiaries receive care that is medically necessary, reasonable, and provided in the appropriate setting and

that meets professionally accepted standards of quality; in addition, PROs ensure that Medicare enrollees in Medicare-contracting coordinated care plans receive care that meets accepted standards of quality by addressing appropriateness of setting, underutilization of services, accessibility to services, and potential for premature discharge. There are 53 PROs under contract to HCFA.

There are two basic types of providers for which PROs have contracts to perform review: (1) Those that we pay on some form of a fee-for-service basis and (2) those that we pay on a capitation basis, such as health maintenance organizations and competitive medical plans (HMOs and CMPs). Beneficiaries who receive services through HMOs and CMPs are referred to as Medicare enrollees.

The PROs' review obligations are specified in a document known as the Scope of Work, which defines duties and Medicare review functions performed by the PRO. Such duties and functions include the implementation and operation of a review system to ensure the quality of services for which payment may be made, in whole or in part, under title XVIII of the Act and to eliminate unreasonable, unnecessary and inappropriate care provided to Medicare beneficiaries. In reviewing the quality of care in HMOs/CMPs, PROs are to address the underutilization of services and problems with access to care for Medicare enrollees. All PROs are currently operating under the Third Scope of Work as modified on September 4, 1991 (56 FR 43790), or June 16, 1992 (57 FR 26871).

The Scope of Work as set forth in this notice will be implemented during 1993 by all PROs when new contracts are awarded or existing contracts are modified. Specific dates when new contracts will be awarded or existing contracts will be modified appear in the **DATES** section of this notice.

PROs must meet eligibility requirements as specified in section 1153 of the Act and Federal regulations. A PRO must be a physician-sponsored organization composed of a substantial number (at least ten percent) of the licensed doctors of medicine and osteopathy practicing medicine or surgery in the review area and who are representative of the physicians practicing in the review area. Alternatively, the PRO may be a physician-access organization that has available to it, by arrangement or otherwise, the services of a sufficient number of licensed doctors of medicine or osteopathy practicing medicine or surgery in the review area to assure adequate peer review of the services provided by the various medical specialties and subspecialties. A PRO must not be a health care facility in the review area, an association of health care facilities, or a health care facility affiliate in the review area. Payor organizations in the designated PRO review area may be considered if no eligible nonpayor organization is available for the contract.

II. Health Care Quality Improvement Initiative

The PRO program was enacted to ensure that services provided to Medicare beneficiaries and reimbursed through title XVIII are:

(a) Reasonable and medically necessary and otherwise not in violation of section 1862 of the Social Security Act;

(b) Of a quality which meets professionally recognized standards of health care; and

(c) Provided in the most effective and economic setting.

The Congress left the precise mechanisms to be used in review to the Secretary, and the scope, focus, and nature of reviews has evolved over time. In recent years, research both on the current PRO operations and in other areas of quality assurance suggests that greater improvements in quality of care may be achieved through improvements to the total system rather than through retrospective individual case review.

With the Scope of Work effective beginning April 1, 1993, we are changing our approach to quality assurance for Medicare beneficiaries and enrollees. The new approach is called the Health Care Quality Improvement Initiative (HCQII). The goal of HCQII is to change the focus of review from dealing with individual clinical errors to helping providers improve the mainstream of care for Medicare beneficiaries and enrollees.

Four important forces drive the HCQII.

- Variations research: Research has revealed a substantial variation in patterns and outcomes of care from hospital to hospital, and geographical area to area. Accumulated evidence indicates that variations in risk-adjusted outcomes reflect variations in appropriateness and quality of care.
- Studies of peer review: A growing body of research is raising questions about the reliability of physician review of hospital medical records to determine quality of care.
- New models for quality improvement: New approaches to quality improvement that have entered the health care industry from other industries suggest that substandard care generally results from poor process design, inadequate information, and poor training.
- Practice guidelines development: The Federal government and professional groups have started a process to develop and publish clinical practice guidelines, which provide potential blueprints for quality improvement efforts in the clinical areas they address.

In response to these forces, HCFA has established a comprehensive program in which PROs will use a data-driven approach to monitoring care and outcomes and a cooperative approach for working with the health care community to improve care. While PROs will continue individual case review, including types of reviews required by statute and regulation, the major changes in the direction of PRO activities with the implementation of HCQII include the following:

- PROs will use clinical and other data bases to examine patterns of care and outcomes;
- PROs will focus primarily on differences that occur regularly between the observed and the achievable in both care and outcomes, rather than on isolated cases;
- HCFA and the PROs will identify variations that are of concern or interest by monitoring patterns of care and outcomes. Providers will be encouraged to conduct more detailed studies of the sources of outstanding performance or of problems, and how and why they occurred; and
- PROs will work cooperatively with the health care community to improve the processes and outcomes of care for Medicare beneficiaries and enrollees.

The following sources may be consulted for additional information and background concerning HCQII:

Jencks, Stephen F., MD and Wilensky, Gail R., PhD; "The Health Care Quality Improvement Initiative, A New Approach to Quality Assurance in Medicare"; Journal of the American Medical Association; August 19, 1992; 900–903.

Lohr, Kathleen N. (ed.), "Medicare: A Strategy for Quality Assurance", Institute of Medicine Report, February, 1990.

III. New PRO Contracts (Fee-for-Service)

The Scope of Work for review of services furnished on a fee-for-service basis is the result of extensive analysis of the review requirements, results, and experience achieved under previous contracts. During the formulation of this Scope of Work, HCFA regularly

consulted with an advisory group of PRO executives. Equally important was the input HCFA solicited from a number of interested groups, including the Agency for Health Care Policy and Research, the American Medical Association, the American Hospital Association, the Federation of American Health Systems, the American Association of Retired Persons, the National Committee to Preserve Social Security and Medicare, and the American Medical Peer Review Association. Additionally, we considered the input received from PROs and HCFA regional offices regarding their experiences in working with providers and in evaluating and changing patterns of care. This collaborative effort produced a Scope of Work that reflects the HCQII, creates a more effective review system, and makes more efficient use of PRO resources.

The detailed requirements of the new contracts may be found in the next Scope of Work. An individual or organization interested in obtaining copies of the next Scope of Work, which will be incorporated into all the new PRO or modified contracts, should address requests to: Office of Budget and Administration, Division of Health Standards Contracts, Attn: Brian Hebbel, Contracting Officer, room G–M–1, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

This Scope of Work requires some changes in the types or amounts of PRO medical review activities, and, accordingly, the PRO may need to make adjustments in staff functions or in the types or quantities of staff.

A. Implementation of the Health Care Quality Improvement Initiative

The role of the PROs in the HCQII is to work with provider administrative and medical staffs on a variety of HCFA-initiated national projects and PRO-initiated local projects. The essence of each project is to combine the statistical interpretation of Medicare data (for example, pattern analysis) with feedback to the medical community to improve care and outcomes measurably.

Two national cooperative projects will be implemented at the outset of the new PRO contracts. One of these projects is the Medicare Hospital Information Project (MHIP), which involves the PROs in HCFA's periodic release of Medicare hospital data and the discussion/explanation of these data with the medical community in their States.

The other national cooperative project to be implemented under the next Scope of Work is the Cooperative Cardiovascular Project (CCP). The CCP is a collaborative effort involving HCFA, PROs, physician and provider organizations, and other groups interested in improving care for Medicare beneficiaries hospitalized for acute myocardial infarction, coronary artery bypass graft surgery or percutaneous transluminal coronary angioplasty. Under the CCP, PROs will use data supplied by HCFA to identify patterns of care and patterns of outcomes for the stated cardiovascular conditions and procedures and will feed these data back to hospitals and their medical staffs in order to promote improved care.

Additional national cooperative projects will be developed in cooperation with representatives of PROs, major specialty and provider groups, the American Medical Peer Review Association, the Agency for Health Care Policy and Research, HCFA central and regional office staff, and other interested parties. Each national cooperative project will have a particular clinical focus. Over the course of the Scope of Work, HCFA will phase in new projects. The PROs will also initiate cooperative quality improvement projects for their own areas of interest or concern. (See Section III.E. in this notice.)

A primary source of data for the PROs in the implementation of HCQII will be the Uniform Clinical Data Set (UCDS) in conjunction with HCFA's National Claims History, Medicare Enrollment Database and other administrative data sets. (See Section III.J. for further information about UCDS.) Additionally, HCFA will supply the PROs with instructions to use these data in determining the provider-specific distribution of important variables, as well as specifications for comparative national distributions. The PROs will systematically and regularly analyze these data to identify trends, changes in trends, and variations from national or peer group patterns. Once significant patterns have been identified, the PROs will, through their feedback and cooperative projects, work with provider administrative and medical staffs, as well as with interested expert groups, to improve the processes and outcomes of care provided to, and experienced by, Medicare beneficiaries. The PROs will also use baseline data to monitor progress toward sustained superior ("benchmark") performance. PRO-initiated cooperative projects are discussed in section III.E.

B. Case Review

The PROs will conduct case review for care furnished to a sample of Medicare beneficiaries that HCFA selects. (See Section III.H. for a discussion of sampling.) The PROs will perform retrospective review for quality of care, admission, discharge, invasive procedures, documentation, coverage, diagnostic-related group (DRG) coding validation and, when required, make length of stay, outlier costs and limitation of liability determinations. For cases reviewed as a part of the sample, HCFA regional offices will also continue to monitor hospitals' compliance with the requirement to provide all Medicare beneficiaries with the "An Important Message from Medicare" and with the attestation and acknowledgment (penalty) statement requirements.

Outside of the beneficiary sample, the PROs will continue to review hospital requests for increased DRG payments; hospital-issued notices of noncoverage; beneficiary complaints; and referrals from the fiscal intermediary, the Medicare carrier, and the Office of Inspector General (OIG). The PROs will perform preprocedure review for the elective use of an assistant for cataract surgery for codes designated by HCFA.

C. The Quality Review Process

The quality review process has been modified to reflect the essence of the HCQII requirements. The PROs will work with providers to identify the sources of patterns of quality problems and to correct them. The process relies heavily on communication and feedback between the PRO and the provider or practitioner.

D. Feedback Activities

To improve the quality, utilization, documentation, and reporting of care, the PROs will implement an educational feedback process. The process utilizes information derived from case review, quality and utilization profiling, systematic pattern analysis, and national and PRO-initiated cooperative projects. As a part of feedback activities, PROs will provide information pertaining to patterns of quality concerns to medical and hospital associations and to individual physicians and providers.

The feedback process will be used when a pattern of concerns or interests (for example, practices that generally result in positive outcomes) is identified. (Singular concerns will continue to be addressed through the PRO's established mechanisms for handling single-case problems; for example, concerns about denials and DRG adjustments.)

Under the educational feedback process, the PROs will develop and

implement feedback using information gathered from pattern analysis activities. The PROs will use all of the information available to them through individual case review, focused sampling, profiling, and pattern analysis to determine where the feedback process can be utilized most efficiently and effectively to improve overall performance.

When a pattern of concerns is identified for a physician or provider, the PROs will work with the relevant physician or provider to identify remediable problems that have given rise to these concerns. Systemic problems will receive priority consideration.

In order to furnish the medical community with the data necessary to promote optimal practices, PROs will furnish reports of interest to the medical community in their States on a calendar semi-annual basis. These reports will include concerns/variations in the PRO's analyses of data concerning quality of care, utilization, coding and documentation as well as patterns of utilization and DRG rates. The reports will present the PRO's findings. They are an educational tool that may positively influence the medical practices of those members of the medical community who review the findings.

E. Cooperative Projects

HCFA requires the PRO to devote a portion of its work effort to locally-initiated cooperative projects. When information from the medical community or PRO data indicate that it might be beneficial to implement a particular study, review or analysis, the PRO can develop a cooperative project. Cooperative projects are usually developed when a pattern of interests (for example, practices that consistently result in a positive outcome) or concerns is identified. (Singular concerns will be addressed through the PRO's established mechanisms for handling single-case problems; for example, denials, DRG adjustments.) Cooperative projects may be Statewide or may concentrate on groups of providers or practitioners.

Under the cooperative project process, the PROs will develop and implement cooperative projects using information gathered from pattern analysis activities. The PROs will use all of the information available to them through individual case review, focused sampling, profiling, and pattern analysis to determine where the cooperative project process can be utilized most efficiently and effectively to improve overall performance.

The cooperative projects are initiated in an individual PRO area. They parallel the national cooperative projects and utilize the expertise gained by participation in the national projects. Like the national projects, local quality improvement projects will be selected based on the prevalence of the clinical condition, a solid scientific base, demonstrable variations in care and outcomes, and feasibility of improvement. Also, like the national projects, local projects will follow the cooperative project design (with providers, physicians, beneficiaries and others as appropriate): data collection, analysis, feedback, action planning, implementation, and monitoring. The PRO-initiated projects will be designed to bring about measurable improvement in the quality, appropriateness of delivery, documentation, and/or reporting of patterns and outcomes of care.

F. Focused Review

The PROs will utilize focused review to identify and quantify results derived from all data sources to examine a pattern or concern. The PROs will also examine the reasons for unusually good outcomes or patterns of concerns and will monitor the results of interventions. The results of focused review will become part of the materials utilized by the PROs for feedback and cooperative projects (Sections III.D. and III.E.). The PROs will identify areas for focused review based on analyses of case review results, pattern analysis performed on the analytic files HCFA supplies and systematic quarterly analysis of utilization and DRG data.

G. Outreach Activities

The PROs will be required to increase their outreach activities both to beneficiaries and to the medical communities in the States. We continue to believe that beneficiaries are becoming more sophisticated health care consumers and deserve the opportunity to become informed about PROs and Medicare. Additionally, we consider it critical that physicians and providers become a proactive force in the various new activities of the PRO program. To this end, we are requiring the PROs to make special efforts to familiarize these constituencies with the PRO review and quality improvement processes.

H. Sampling

HCFA has changed its sampling methodology from a facility-specific to a beneficiary-specific selection. Under a facility-specific selection, HCFA studied services provided by an individual provider or practitioner, and thus PRO analysis of services was limited to comparing providers' current performance to past performance. The beneficiary-specific sample allows HCFA to select cases randomly from a national universe of cases, thus allowing us to analyze national trends. Additionally, HCFA will consistently track the services provided to some beneficiaries to gather more data on all the inpatient and outpatient services provided to these Medicare beneficiaries. The PROs and HCFA will use these data to better evaluate total patient care provided to beneficiaries in general.

To maximize the ability of the PROs to achieve the goals of the program, we have devised a sampling methodology that, when combined with data from other sources, will allow the PROs to identify and address both individual cases and patterns of concerns and interests. HCFA will select records for the special projects (such as the CCP) and for almost all case review. The standard sampling for the PRO contract at the national level will be approximately equal to the following:

- Twelve percent of all Medicare inpatient hospital discharges nationally (consisting of two components: those cases used for national HCQII and those requiring individual case review); and
- Five percent of all claims for specified ambulatory surgery.

The actual percentages will vary slightly by PRO depending on the extent to which a PRO focuses on inpatient and outpatient cases.

I. Sanctions/Fraud and Abuse

The PROs are responsible for initiating sanction recommendations in accordance with applicable laws, regulations, PRO Manual issuances, and other HHS instructions. When a PRO, through individual case review or pattern analysis activity, finds that Medicare obligations are not being met by a practitioner or other person, the PRO must initiate the sanction process. The PRO must provide the practitioner or other person, including representatives of the provider, with an opportunity to complete a corrective action plan (CAP), unless the PRO determines, based on the nature of the problem, that a CAP is inappropriate. If, in the judgment of the PRO, the practitioner or other person has violated an obligation(s) and is unable or unwilling to comply with the Medicare obligations violated, the PRO must send to the OIG its recommendation as to the specific sanction to be imposed.

PROs will also review cases for possible sanction actions when requested to do so by the OIG.

J. Uniform Clinical Data Set (UCDS) and Clinical Data Abstraction Centers (CDACs)

Quality assurance approaches focusing on patterns and outcomes of care are data-intensive, and new systems for acquiring and analyzing data are critical to their success. Under HCQII, the clinical data for PRO analysis will primarily be drawn from the UCDS which will provide detailed clinical information on a sample of Medicare inpatient discharges.

On September 4, 1991 (56 FR 43793), we published a notice in the **Federal Register** describing the UCDS. It is a nationally held data base of clinical data gathered through a government-furnished software system developed by HCFA. The UCDS database, when linked with Medicare claims data, provides a means for PROs to assess quality of care as reflected by patterns of use and outcomes after adjusting for the condition of the patient. The UCDS database gives the PROs and HCFA a powerful tool to evaluate quality of care using systematic, objective criteria, rather than individual experience.

The UCDS represents a standardized set of data elements to be captured from acute-care inpatient hospital medical records. Currently, approximately 1,800 UCDS variables have been defined. An average of 250–350 elements are captured for a typical hospital stay.

Six States are currently using the UCDS system for PRO review of a sample of inpatient hospital cases. These States are Alabama, Colorado, Connecticut, Iowa, Utah, and Wisconsin. The UCDS system is in a continuous quality improvement process aimed at improving the reliability of the data, the efficiency of the data entry system, and the effectiveness of the case screening system. The results of the review and experience in these six states are used to improve the UCDS system software. HCFA also works in conjunction with an American Medical Association workgroup and specialty/medical associations to improve the UCDS system. Updates to the software are implemented on a quarterly basis. The UCDS system will also be used to collect the data for the cooperative cardiovascular project in four of the six States (Colorado and Utah are not included) beginning in early 1993.

The UCDS system will be implemented nationally for the cooperative cardiovascular project beginning late 1993. This involves the collection of a subset of UCDS system data elements focusing specifically on those elements needed to support the cardiovascular project. However, the case screening portion of the UCDS system, which is applied to the broad range of clinical care provided in the inpatient setting, will continue to be pilot tested until at least January 1995. The goal is to implement the UCDS system for case screening on a national basis when it is determined that the system is operating efficiently, effectively, and producing reliable data. The current schedule plans for the first decision point for national implementation of the UCDS system for case screening to be made during October 1994. If the UCDS system is determined to be ready for national implementation at that time, phase-in of the UCDS system will begin in January 1995.

When UCDS is implemented, HCFA will coordinate the process, as well as maintain the UCDS repository. The immediate application of UCDS will be to collect data for analysis of treatment patterns and outcomes and to give providers information that will allow them to identify and improve ineffective practices.

Abstraction of clinical data will be performed within the framework of a limited number of contracts specifically focused on UCDS data abstraction. The UCDS information will be compiled by specialized contractors called Clinical Data Abstraction Centers (CDACs), which will abstract information from the hospital medical records using the UDCS direct data entry software. Each PRO will enter into a subcontract with the CDAC for its area for data abstraction services only (at a set labor rate to be determined based on HCFA's contract award). PROs will make payments directly to the CDACs for all data abstraction/entry services. The PRO will pay the CDAC on a monthly basis and HCFA will reimburse the PRO as it would for any other direct costs. A limited number of abstraction-focused contracts will allow HCFA to control the consistency, reliability and timeliness of data abstraction carefully by standardizing the abstraction protocol, putting production standards into place and implementing rigorous quality control procedures.

HCFA expects that the CDACs will begin data abstraction utilizing the UCDS for the CCP in late 1993 through early 1994. CDACs will provide the abstracted data to HCFA. HCFA will provide these data to the PROs along with other analytic data sets.

UCDS data collection and nonphysician screening for a random sample of Medicare acute, short-term general hospital discharges will be phased in starting no earlier than 1995. The CDACs will forward case screening information and associated individual records to the PROs. Ultimately, we anticipate that data will be collected and nonphysician screening will be performed at a sample level of six percent of acute, short-term general hospital discharges—approximately six hundred thousand records each year.

IV. Provisions of the PRO Contracts in Maryland, the Finger Lakes Region of New York, Virgin Islands, Guam, American Samoa, and the Northern Marianas

The case review requirements in Maryland, the Finger Lakes area of New York, the Virgin Islands, Guam, American Samoa, and the Northern Marianas are slightly different than those in most PRO areas because hospitals in these PRO areas are paid under a different methodology than that generally applicable under the Medicare prospective payment system. For example, in Maryland, the PRO performs a length-of-stay review on all cases selected, whereas in most States there is no such routine review.

V. The New PRO Contracts for HMOs and CMPs

In developing the new HMO Scope of Work, HCFA received considerable input from the American Association of Retired Persons, the Group Health Association of America and the American Managed Care and Review Association as well as PROs and HCFA regional offices.

PROs will continue to perform review of the quality of services, both inpatient and outpatient, furnished to Medicare enrollees by HMOs/CMPs with risk-based contracts under section 1876 of the Act. Following are the major areas of change in PRO contracts for review of these HMOs/CMPs:

- There will be a standard "level" of review for all HMOs/CMPs. Under the prior contract, HMOs/CMPs were subject to three levels of review (Limited, Basic and Intensified) depending upon the number or percentage of quality problems identified during PRO review.
- PROs will review a random sample of Medicare enrollees who have used HMO/CMP services. The sample will be derived from HCFA's listing of HMO/CMP enrollees and will reflect HMO/CMP reporting of those enrollees who have used services in the prior 12 month period. The annual number of cases to be reviewed will range from a minimum of 50 cases to a maximum of

300 per HMO/CMP, depending on Medicare enrollment size.

PROs will also review a 10 percent random sample, by HMO/CMP, of deceased enrollees who used services within the 12 months preceding their death. Further, PROs will review all beneficiary complaints regarding quality of care.

- PROs will review 12 months of health care services for the cases selected in the random samples and the sample of deceased enrollees. In the prior contract, PROs reviewed care for varying periods of time, ranging from one day to one year, depending on the reason the case was selected for review.
- HMOs/CMPs will now have 60 days to provide medical records required for review to the PROs. The prior contract allowed 30 days.
- When quality concerns are identified through the PRO review process, the HMO/CMP and the PRO will cooperatively develop an appropriate action plan to correct the concerns. Under the prior contract, the primary follow-up action when problems were identified was an increase in the number of cases reviewed by the PRO.
- PROs will conduct "targeted" review to demonstrate that quality concerns identified through their review activity have been corrected. This review will concentrate on HMO/CMP performance subsequent to problem identification and corrective action. Where appropriate, it will focus on monitoring activities performed under the HMO's/CMP's internal quality assurance plan.

VI. Information Collection Requirements

Provisions of this notice will be implemented by information collection requirements contained in revised PRO quarterly and monthly reporting forms. As required by section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504), these records are subject to approval by the Office of Management and Budget (OMB). These reporting and recordkeeping requirements are not effective until a notice of OMB's approval is published in the **Federal Register**. The information collection requirements concern collection of information on costs of implementation along with results of PRO review; for example, admissions, partial denials, quality and utilization findings, coding changes, and physician review outcomes. The respondents who will provide the information are PROs. Public reporting burden for this collection of information is estimated to be 283 hours per year per PRO, which includes programming hours.

Organizations and individuals desiring to submit comments on the information collection and recordkeeping requirements should direct them to HCFA and to the OMB official whose name appears in the "**ADDRESSES**" section of this preamble.

Authority: Section 1153 of the Social Security Act (42 U.S.C. 1320c–2).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 8, 1993.

William Toby, Jr.,

Acting Deputy Administrator, Health Care Financing Administration.

[FR Doc. 93–4906 Filed 3–1–93; 8:45 am]

BILLING CODE 4120–01–M

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the following Heart, Lung, and Blood Special Emphasis Panels.

These meetings will be closed in accordance with the provisions set forth in Section 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and Section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications, contract proposals, and/or cooperative agreements. These applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Panel: NHLBI SEP for Review of Small Grants(R03).

Dates of Meeting: February 26, 1993.

Time of Meeting: 8 a.m.

Place of Meeting: Hyatt Regency Bethesda, One Bethesda Metro, Bethesda, Maryland.

Agenda: To review and evaluate grant applications.

Contact Person: Dr. David Monsees, 5333 Westbard Avenue, room 550, Bethesda, Maryland 20892, (301) 496–7361.

Name of Panel: NHLBI SEP for Review of Small Grants(R03).

Dates of Meeting: February 28, 1993.

Time of Meeting: 8:15 a.m.

Place of Meeting: Hyatt Regency Bethesda, One Bethesda Metro, Bethesda, Maryland.

Agenda: To review and evaluate grant applications

Contact Person: Dr. David Monsees, 5333 Westbard Avenue, room 550, Bethesda, Maryland 20892, (301) 496–7361.

Name of Panel: NHLBI SEP for Review of RFPs on Phased Readiness Testing of Implantable Total Artificial Hearts.

Dates of Meeting: March 22–23, 1993.

Time of Meeting: 8:00 p.m.

Place of Meeting: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland.

Agenda: To review and evaluate contract proposals.

Contact Person: Dr. Carl Ohata, 5333 Westbard Avenue, Room 5A09, Bethesda, Maryland 20892, (301) 496–8184.

(Catalog of Federal Domestic Assistance Program Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: February 22, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–4794 Filed 2–25–93; 4:49 pm]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–020–01–4332–02]

Phoenix District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Phoenix District Advisory Council.

DATES: March 29, 1993.

SUMMARY: The Phoenix District Advisory Council of the Bureau of Land Management meets March 29, 1993, at the Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona, at 9 a.m. to discuss and make recommendations on various public land issues.

The Council has been established by and will be managed according to the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976, and the Public Rangelands Improvement Act of 1978.

The agenda for the meeting includes:

—Introduction of new Advisory Council member
—Discussion of Advisory Council Charter
—Election of chairperson and co-chairperson
—Update on status of Kingman Resource Management Plan
—Land Exchange opportunities and priorities
—Black Mountain Burro/Desert Bighorn Issue status
—BLM Management Updates

—Business from the Floor

—Comments and Statements

—Future Meetings and Agenda Topics

SUPPLEMENTARY INFORMATION: This is a public meeting and the Bureau of Land Management welcomes the presentation of oral statements or the submission of written statements that address the issues on the meeting agenda or related matters. Those interested in presenting oral statements to the council are requested to notify the Phoenix District Managers Office, telephone (602) 780–8090 by 2 p.m., March 26, 1993.

Dated: February 19, 1993.

David J. Miller,

District Manager.

[FR Doc. 93–4764 Filed 3–1–93; 8:45 am]

BILLING CODE 4320–03–M

[NM–940–4110–03; OKNM 77144]

Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice.

SUMMARY: Under the provisions of Public Law 97–451, a petition for reinstatement of Oil and Gas Lease OKNM 77144, Woods County, Oklahoma, was timely filed and was accompanied by all required rentals and royalties accruing from September 1, 1992, the date of termination. No valid lease has been issued affecting the land. The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 per acre or fraction thereof and 16⅔ percent, respectively. Payment of a $500.00 administrative fee has been made. Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective August 1, 1992, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this notice.

FOR FURTHER INFORMATION CONTACT:

Martha A. Rivera, BLM, New Mexico State Office, (505) 438–7584.

Dated: February 18, 1993.

Dolores L. Vigil,

Chief, Adjudication Section

[FR Doc. 93–4695 Filed 3–1–93; 8:45 am]

BILLING CODE 4310–FB–M

[CA–010–4210–04, CACA 31234, CACA 31274]

Realty Action; Acquisition of Private Land by Exchange in Placer County, CA

AGENCY: Bureau of Land Management (BLM), Department of Interior.

SUMMARY: The following described private land (surface and mineral estate) is being considered for acquisition by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Offered Private Land

CACA 31234

Placer County, CA

T. 15N., R. 9E., M.D.M.
- Sec. 26: a portion of the E½SW¼ lying east of Highway I–80 (AP No. 99–15–19, 21-acres)
- Sec. 35: a portion of the NW¼SW¼ lying east of Highway I–80 (AP No. 101–03–13, 8-acres)

Containing 29-acres, more or less.

CACA 31274

T. 15n., R.9E., M.D.M.
- (Sec. 26: a portion of the 5½ lying east of Highway I–80 (AP Nos. 99–15–20, 22 and 24)
- Sec. 35: a portion of the N½NE¼ (AP Nos. 101–01–17 & 20)
- Sec. 36: a portion of the W½NW¼ (AP No. 101–02–01)

Containing 110-acres, more or less.

The purpose for acquiring the above described lands would be to improve the BLM's management capabilities in the vicinity of the North Fork of the American River, and in particular along the Stevens Trail. This proposal is considered to be in the public interest and is consistent with current land use plans. In exchange for the above private property, the U.S. would transfer to the proponent Federal lands previously published in the **Federal Register**.

ADDRESSES: For a period of 45 days from publication of this notice in the **Federal Register**, interested parties may submit comments concerning the private lands identified above to the District Manager, c/o Area Manager, Folsom Resource Area, 63 Natoma Street, Folsom, CA 95630.

FOR FURTHER INFORMATION CONTACT:
Contact Mike Kelley at (916) 985–4474, or at the address listed above.

D.K. Swickard,

Area Manager.

[FR Doc. 93–4693 Filed 3–1–93; 8:45 am]

BILLING CODE 4310–40–M

[OR–942–00–4730–02; GP3–118]

Filing of Plats of Survey; Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 10 S., R. 1 E., accepted February 2, 1993
T. 6 S., R. 2 E., accepted February 9, 1993
T. 10 S., R. 2 E., accepted February 8, 1993
T. 10 S., R. 3 E., accepted February 9, 1993
T. 5 S., R. 4 E., accepted February 2, 1993
T. 40 S., R. 2 W., accepted January 27, 1993
T. 4 S., R. 6 W., accepted February 9, 1993

Washington

T. 9 N., R. 15 E., accepted February 4, 1993
T. 10 N., R. 15 E., accepted February 4, 1993
T. 23 N., R. 20 E., accepted January 19, 1993
(Sheets 1 and 2)
T. 33 N., R. 39 E., accepted January 21, 1993
T. 33 N., R. 40 E., accepted January 21, 1993

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1300 NE., 44th Avenue, Portland, Oregon 97213, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT:
Bureau of Land Management, 1300 NE., 44th Avenue, P O Box 2965, Portland, Oregon 97208

Dated: February 18, 1993.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 93–4782 Filed 3–1–93; 8:45 am]

BILLING CODE 4310–33–M

Fish and Wildlife Service

Preparation of an Environmental Impact Statement on a Permit Application to Incidentally Take Stephens' Kangaroo Rats, an Endangered Species, in Riverside County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent and meeting.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has under consideration a proposal to issue a 30-year permit under section 10(a) of the Endangered Species Act that would authorize incidental taking of the endangered Stephens' kangaroo rat (*Dipodomys stephensi*). The applicant for this incidental take permit is the Riverside County Habitat Conservation Agency (RCHCA). The application is to be accompanied by a proposed Habitat Conservation Plan (HCP) for the Stephens' kangaroo rat. In response to the permit application and the accompanying proposal, the Service intends to prepare a joint Federal Environmental Impact Statement (EIS) and State Environmental Impact Report (EIR). This notice describes the currently proposed action and alternatives, outlines the scoping process that will be employed in preparing the joint document, and identifies the Service's address to which questions and comments concerning the proposed action and the EIS/EIR may be directed.

DATES: Public scoping meetings will be held at the three following dates and locations:

Monday, March 8, 1993 (7 p.m. to 9 p.m.), Callaway Winery, 32720 Rancho California Road, Temecula, California 92591;

Wednesday, March 10, 1993 (7 p.m. to 9 p.m.), Riverside City Council Chambers, 3900 Main Street, Riverside, California 92522; and

Thursday, March 11, 1993, (7 p.m. to 9 p.m.), Perris High School, Multi-Purpose Room, 175 East Nuevo Road, Perris, California 92571.

Written comments related to the scope and content of the EIS/EIR will be accepted by the Service at the address below until April 1, 1993.

ADDRESSES: Information, comments, or questions related to preparation of the EIS/EIR and the National Environmental Policy Act process should be submitted to the Regional Director, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181.

FOR FURTHER INFORMATION CONTACT: Persons wishing to review background material may obtain it by contacting the RCHCA. Documents also will be available for public inspection by appointment during normal business hours (8 a.m. to 5 p.m., Monday through Thursday) at the Riverside County Habitat Conservation Agency, 4080 Lemon Street, 12th Floor, Riverside, California 92501. The RCHCA may be contacted by telephone at (909/275–1100).

Interested persons are encouraged to attend one of the public meetings to identify and discuss major issues and alternatives that should be addressed in the EIS/EIR. The proposed agenda for the public scoping meetings includes a summary of the proposed action and tentative issues, concerns, opportunities, and alternatives. The primary purpose of the scoping process is to identify, rather than to debate or argue, the significant issues related to the proposed action.

SUPPLEMENTARY INFORMATION:

Background

The Service listed the Stephens' kangaroo rat as an endangered species, effective October 31, 1988 (53 FR 38485). Because of its listing as an endangered species, the Stephens' kangaroo rat is protected by the Endangered Species Act (Act) which has prohibition against "take," that is, no one may harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect the species, or attempt to engage in such conduct (16 U.S.C. 1538). The Service, however, may issue permits to conduct activities involving endangered species under certain circumstances, including carrying out scientific purposes, enhancing the propagation or survival of the species, or incidentally taking the species in connection with otherwise lawful activities.

The RCHCA presently has an interim permit from the Service, which expires on December 31, 1993, to incidentally take Stephens' kangaroo rats in connection with various proposed public and private projects in the western portion of Riverside County. Under the program established through this interim permit, Stephens' kangaroo rat habitat in public and private ownership is being acquired and managed for the long-term benefit of the species. Acquisition of private lands is funded in part from mitigation fees collected by the RCHCA as developments proceed.

As intended when the interim permit was granted, the RCHCA is applying to the Service for a 30-year incidental take permit for the same purposes. The area covered by the proposed 30-year permit will include much of the historical range of the Stephens' kangaroo rat in Riverside County. The procedures for the RCHCA to incidentally take Stephens' kangaroo rats under the proposed, 30-year permit will be evaluated in the EIS/EIR.

Congress has directed that an incidental take permit be issued if issuance is in accordance with the requirements of section 10(a) of the Act. Therefore, the Service must make a decision on the RCHCA's application. The Service's underlying purpose in evaluating the RCHCA's application is to maintain a program designed to ensure the continued existence of the Stephens' kangaroo rat in Riverside County, while resolving conflicts that arise from otherwise lawful private and public improvement projects.

The RCHCA has developed a preliminary list of five alternatives to address the Service's underlying purpose in evaluating this permit application, including; no action; continuation of the existing HCP; fixed boundaries for final reserves; elimination of study areas; and reserves based upon agreements and acquisitions at the end of 1993.

The public scoping meetings will provide an opportunity to discuss the potential effects of these alternatives and to propose others.

Dated: February 23, 1993.

William F. Shake,

Acting Regional Director.

[FR Doc. 93–4783 Filed 3–1–93; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 20, 1993. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington,

DC 20013–7127. Written comments should be submitted by March 17, 1993.

Antoinette J. Lee,

Acting Chief of Registration, National Register.

Connecticut

Hartford County

Tariffville Historic District, Roughly bounded by Winthrop St., Main St., Mountain Rd., Laurel Hill Rd. and Elm St., Simsbury, 93000173

Windsor Avenue Congregational Church, 2030 Main St., Hartford, 93000174

Indiana

Adams County

Colter, Ben, Polygonal Barn (Round and Polygonal Barns of Indiana MPS), IN 101 E side, 0.6 mi. S of jct. with Piqua Rd., Pleasant Mills vicinity, 93000194

Boone County

VanHuys, Andrew B., Round Barn (Round and Polygonal Barns of Indiana MPS). Address Restricted, Lebanon vicinity, 93000181

De Kalb County

Wiltrout, Maria and Franklin, Polygonal Barn (Round and Polygonal Barns of Indiana MPS), 0209 Co. Rd. 16, Corunna vicinity, 93000183

Fulton County

Haimbaugh, John, Round Barn (Round and Polygonal Barns of Indiana MPS). Jct. of IN 25 and Co. Rd. 400N, Rochester vicinity, 93000192

Leedy, Bert, Round Barn (Round and Polygonal Barns of Indiana MPS). Jct. of Co. Rd. 375N and US 31, SW side, Rochester vicinity, 93000182

Hancock County

Littleton, Frank, Round Barn (Round and Polygonal Barns of Indiana MPS), Address Restricted, Mount Comfort vicinity, 93000184

Huntington County

Snider, S.C., and George McFeeley Polygonal Barn (Round and Polygonal Barns of Indiana MPS), IN 9/37 1/2 mi. S of jct, with Division Rd., Huntingdon vicinity, 93000195

Jay County

Rankin, Rebecca, Round Barn (Round and Polygonal Barns of Indiana MPS). IN 18, ¼ mi. W of jct, with Co. Rd. 75E, Poling vicinity, 93000189

Kosciusko County

Orr, Robert, Polygonal Barn (Round and Polygonal Barns of Indiana MPS), IN 13, ½ mi, N of jct, with Co. Rd, 150N, North Webster vicinity, 93000190

Lagrange County

Yoder, Menno, Polygonal Barn (Round and Polygonal Barns of Indiana MPS), Co. Rd. 250N, 3/4 mi. W of jct, with IN 5, Shipshewana vicinity, 93000191

Montgomery County

Fisher, William, Polygonal Barn (Round and Polygonal Barns of Indiana MPS), Co. Rd. 850N just E of jct. with Co. Rd. 800E, Bowers vicinity, 93000188

Owen County

CCC Recreation Building—Nature Museum (New Deal Resources in Indiana State Parks MPS), McCormick's Creek SP, W of jct. of IN 43 and IN 46, Spencer vicinity, 93000176

McCormick's Creek State Park Entrance and Gatehouse (New Deal Resources in Indiana State Parks MPS), McCormick's Creek SP, W of jct. of IN 43 and IN 46, Spencer vicinity, 93000175

Stone Arch Bridge over McCormick's Creek (New Deal Resources in Indiana State Parks MPS), McCormick's Creek SP, W of jct. of IN 43 and IN 46, Spencer vicinity, 93000177

Parke County

Hill, William, Polygonal Barn (Round and Polygonal Barns of Indiana MPS), School St., Bloomingdale, 93000186

Posey County

Hagemann, Frederick and Augusta, Farm, Jct. of IN 62 and IN 69, SW corner, Mount Vernon, 93000180

Steuben County

Griffin, Cornish, Round Barn (Round and Polygonal Barns of Indiana MPS), 2015 SW. Fox Lake Rd., Pleasant Lake vicinity, 93000187

Vigo County

Senour, Frank, Round Barn (Round and Polygonal Barns of Indiana MPS), 6400 E. Organ Church Rd., Blackhawk vicinity, 93000193

New York

Essex County

Sheldon—Owens Farm, Lake Shore Rd. SE of jct. with Middle and West Rds., Willsboro vicinity, 93000171

Oregon

Lane County

Chi Psi Fraternity House (Eugene West University Neighborhood MPS), 1018 Hilyard St., Eugene, 91001563

Tennessee

Bradley County

Centenary Avenue Historic District, Roughly bounded by 8th, Harle, 13th and Ocoee Sts., Cleveland, 93000172

[FR Doc. 93–4672 Filed 3–1–93; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Notice of Investment Opportunity

The Agency for International Development (A.I.D.) has authorized the guaranty of a loan to the Government of the Kingdom of Morocco ("Borrower") as part of A.I.D.'s development assistance program. The proceeds of these loans will be used to finance shelter projects for low-income families in Morocco. At this time, the Borrower has authorized A.I.D. to request proposals from eligible lenders for a loan under this program of $5 million ($5,000,000). The name and address of the Borrower's representative to be contacted by interested U.S. lenders or investment bankers, the amount of the loan and project number are indicated below:

Kingdom of Morocco

Project: 608–HG–003—$5,000,000, Loan Guaranty Authorization No: 608–HG–004 A01.

Attention: Mr. Thami El Barki, Adjoint au Directeur de Tresor, et des Finances Exterieures, Ministere des Finances.

Mailing Address: Direction du Tresor et des Finances Exterieures, Ministere des Finances, Boulevard Mohamed V, Rabat, Morocco, Telex No.: 36.860, Telefax No.: 212–7–764–950, Telephone No.: 212–7–762–717.

Interested lenders should contact the Borrower as soon as possible and indicate their interest in providing financing for the Housing Guaranty Program. Interested lenders should deliver their bids to the Borrower's representative by Tuesday, March 16, 1993, 12 noon Eastern Standard Time. Bids should be open for a period of 48 hours from the bid closing date. Copies of all bids should be simultaneously sent to the following:

Mr. Harry Birnholz, Housing and Urban Development Officer, RHO USAID/Rabat, Morocco, c/o American Embassy, PSC 74, Box 022 APO AE 09718, (Street address: USAID/Rabat, 137 Avenue Allal Ben Abdellah, B.P. 120, Rabat Morocco), Telex No.: 31005M, Telefax No.: 212–7–707–930 (preferred communication), Telephone No.. 212–7–762–265, ext. 2346.

Mr. David Grossman/Mr. Peter Pirnie, Agency for International Development, PRE/H, room 401, SA–2, Washington, DC 20523–0214, Telex No.: 892703 AID WSA, Telefax No.: 202/663–2552 (preferred communication), Telephone No.: 202/663–2557 or 2530.

For your information the Borrower is currently considering the following terms:

(1) *Amount:* U.S. $5 million.
(2) *Term:* Up to 30 years.
(3) *Grace Period:* Ten years grace on repayment of principal. Repayment of principal to amortize in equal, semi-annual installments over the remaining life of the loan.
(4) *Interest Rate:* Alternatives of variable rates and variable rates with interest "caps" are requested.
(a) *Variable Interest Rate:* To be based on the six-month British Bankers Association LIBOR, preferably with terms relating to Borrower's right to covert to fixed. The rate should be adjusted weekly.
(b) *Variable Interest Rate With "Cap".* Offers should include a maximum (cap) rate ranging from 10% to 12% per annum, and are to be based on the six-month British Bankers Association LIBOR. The rate should be adjusted weekly.
(5) *Prepayment:*
(a) Offers should include options for prepayment mentioning prepayment premiums, if any, and specify the earliest date the option can be exercised without penalty.
(b) Federal statutes governing the activities of A.I.D. require that the proceeds of A.I.D.-guaranteed loans be used to provide affordable shelter and related infrastructure and services to below median-income families. In the extraordinary event that the Borrower materially breaches its obligation to comply with this requirement, A.I.D. reserves the right, among its other rights and remedies, to accelerate the loan.
(6) *Fees:* Offers should specify the placement fees and other expenses, including A.I.D. fees, and Paying and Transfer Agent fees. Lenders are requested to include all legal fees and out of pocket expenses in their placement fee. Such fees and expenses shall be payable at closing from the proceeds of the loan.
(7) *Closing Date:* Estimated 60 days from date of selection of lender.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. Disbursements under the loan will be subject to certain conditions required of the Borrower by A.I.D. as set forth in agreements between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by A.I.D.

Information as the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Mr. Peter M. Kimm, Director, Office of Housing and Urban Programs, Agency for International Development, room 401, SA–2, Washington, DC 20523–0214, Telephone: 202/663–2530.

Dated: February 26, 1993.

Michael G. Kitay,

Assistant General Counsel, Bureau for Private Enterprise, Agency for International Development.

[FR Doc. 93–4893 Filed 3–1–93; 8:45 am]

BILLING CODE 6116–01–M

Housing Guaranty Program; Notice of Investment Opportunity

The Agency for International Development (A.I.D.) has authorized the guaranty of a loan to Fonds d'Equipement Communal, Rabat, Morocco ("Borrower") as part of A.I.D.'s development assistance program. The proceeds of these loans will be used to finance infrastructure and shelter projects for low-income families in the Kingdom of Morocco. At this time, the Fonds d'Equipement Communal has authorized A.I.D. to request proposals from eligible lenders for a loan under this program of $9 Million Dollars ($9,000,000). The name and address of the Borrower's representative to be contacted by interested U.S. lenders or investment bankers, the amount of the loan and project number are indicated below:

Kingdom of Morocco

Project: 608–HG–001—$9,000,000, Loan Guaranty Authorization No. 608–HG–001 B01.
Attention: Mr. Abdelhak Sakout, Directeur, Fonds d'Equipement Communal.
Mailing Address: 1, Oued Baht, Angle Charia Omar Ibn al Khattab, Rabat, Agdal-Morocco, Telex No.: 212–7–36023, Telefax No.: 212–7–763–849, Telephone No.: 212–7–778–027.

Interested lenders should contact the Borrower as soon as possible and indicate their interest in providing financing for the Housing Guaranty Program. Interested lenders should deliver their bids to the Borrower's representative by Tuesday, March 16, 1993, 12:00 noon Eastern Standard Time. Bids should be open for a period of 48 hours from the bid closing date. Copies of all bids should be simultaneously sent to the following:

Mr. Harry Birnholz, Housing and Urban Development Officer, RHO USAID/Rabat, Morocco, c/o American Embassy, PSC 74, Box 022, APO AE 09718, (Street address: USAID/Rabat, 137 Avenue Allal Ben Abdellah, B.P. 120, Rabat, Morocco), Telex No.: 31005M, Telefax No.: 212–7–707–930 (preferred communication), Telephone No.: 212–7–762–265, ext. 2346.

Mr. David Grossman/Mr. Peter Pirnie, Agency for International Development, PRE/H, room 401, SA–2, Washington, DC 20523–0214, Telex No.: 892703 AID WSA, Telefax No.: 202/663–2552 (preferred communication), Telephone No.: 202/663–2557 or 2530.

For your information the Borrower is currently considering the following terms:
(1) *Amount:* U.S. $9 million.
(2) *Term:* Up to 30 years.
(3) *Grace Period:* Ten years grace on repayment of principal. For fixed interest rate, semi-annual level payments of principal and interest.
(4) *Interest Rate:* Fixed, Rates are to be quoted based on a spread over an index, and the lender should use as its index a long bond, specifically the 7⅛% U.S. Treasury Bond due February 15, 2023. Such rate is to be set at the time of acceptance.
(5) *Prepayment:*
(a) Offers should include options for prepayment and mention prepayment premiums, if any.
(b) Federal statutes governing the activities of A.I.D. require that the proceeds of A.I.D.-guaranteed loans be used to provide affordable shelter and related infrastructure and services to below median-income families. In the extraordinary event that the Borrower materially breaches its obligation to comply with this requirement, A.I.D. reserves the right, among its other rights and remedies, to accelerate the loan.
(6) *Fees:* Offers should specify the placement fees and other expenses, including A.I.D. fees, and Paying and Transfer Agent fees. Lenders are requested to include all legal fees and out of pocket expenses in their placement fee. Such fees and expenses shall be payable at closing from the proceeds of the loan.

(7) *Closing Date:* Estimated 60 days from date of selection of lender.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. Disbursements under the loan will be subject to certain conditions required of the Borrower by A.I.D. as set forth in agreements between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Mr. Peter M. Kimm, Director, Office of Housing and Urban Programs, Agency for International Development, room 401, SA–2, Washington, DC 20523–0214, Telephone: 202/663–2530.

Dated: February 26, 1993.

Michael G. Kitay,

Assistant General Counsel, Bureau for Private Enterprise, Agency for International Development.

[FR Doc. 93–4894 Filed 3–1–93; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[No. MC–C–30212]

State of New Jersey—Petition for Declaratory Order—Scope of Intrastate Passenger Authority; Notice

AGENCY: Interstate Commerce Commission.

ACTION: Notice of institution of proceeding.

SUMMARY: The State of New Jersey, through the New Jersey Department of Transportation (NJDOT), seeks a declaratory order as to whether the intrastate motor passenger service conducted by Sphinx Express, Inc. (Sphinx) and Hudson County Executive Express, Inc. (Hudson) is within the scope of their I.C.C. certificates. NJDOT explains that if the operations conducted by Sphinx and Hudson are outside the scope of their I.C.C. certificates, then the operations would be subject to regulation by NJDOT. The petition presents a controversy sufficient to warrant instituting a proceeding under 5 U.S.C. 554(e), and by this decision the Commission is instituting a proceeding.

DATES: Any person interested in participating in this proceeding as a party of record by filing and receiving written comments must file a notice of intent to do so by March 12, 1993. We will issue a service list of the parties of record shortly thereafter. Petitioner will have 10 days after service of the service list to serve each party on the list with a copy of the petition. Initial written comments must be filed within 30 days after service of the service list. All parties will have 50 days after service of the service list to reply. The exact filing dates will be specified in the notice accompanying the service list. Comments must be served upon all parties of record.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927–5610. [TDD for hearing impaired: (202) 927–5721]

ADDRESSES: An original and 10 copies of all notices of intent and comments must be sent to: Office of the Secretary, Case Control Branch, Attn: Docket No. MC–C–30212, Interstate Commerce Commission, Washington, DC 20423.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: February 23, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–4780 Filed 3–1–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32248]

Hanson Natural Resources Co.—Non-Common Carrier Status—Petition for a Declaratory Order

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of declaratory order petition and request for comments.

SUMMARY: The Commission is seeking public comment on a petition filed February 8, 1993, by Hanson Natural Resources Company (HNRC). The petition seeks a declaratory order that HNRC will not, upon consummation of certain anticipated transactions, become a common carrier by railroad. The transactions involve a rail line that serves the Lee Ranch Mine located in McKinley County, New Mexico.

DATES: Written comments must be submitted by March 22, 1993.

ADDRESSES: Send an original and 15 copies of comments referring to Finance Docket No. 32248 to: Office of the Secretary, Case Control Branch, Attn.: Finance Docket No. 32248, Interstate Commerce Commission, Washington, DC 20423.

In addition, send one copy to HNRC's representative: C. Michael Loftus, SLOVER & LOFTUS, 1224 Seventeenth Street, NW., Washington, DC 20036, (202) 347–7170.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: By petition filed February 8, 1993, HNRC seeks a declaratory order that it will not become, upon consummation of certain anticipated transactions, a common carrier by railroad.

The transactions involve a rail line that serves the Lee Ranch Mine located in McKinley County, New Mexico, which is presently owned and operated by Santa Fe Pacific Coal Corporation (SFPCoal), an affiliate of the Santa Fe Pacific Corporation. The Mine is served by a rail line that runs approximately 40 miles from the mine to a connection with a main line of The Atchison, Topeka and Santa Fe Railway Company (ATSF). This rail line, which connects to the ATSF main line at a location known as Baca, NM (also known as Prewitt, NM), consists of two segments. The first segment, called the Baca Spur (also called the LRCS Spur), runs approximately 27.4 miles from the ATSF main line at Baca/Prewitt to a point called Lee Ranch Junction. The second segment, called the LRM Spur (also called the Lee Ranch Mine Spur),

runs approximately 13 miles from Lee Ranch Junction to the Lee Ranch Mine.

The anticipated transactions envision that HNRC will receive, from affiliates of the Santa Fe Pacific Corporation, a combination of the right-of-way and certain usage rights with respect to certain portions of the right-of-way. The anticipated transactions further envision that SFPCoal will retain adequate rights of use to fulfill any future rail common carrier obligations that it has heretofore committed itself to fulfill.

HNRC contends that its use of the two spurs will be, in all respects, the same as the use typically made of mine spurs and other industry tracks. It states that it will not hold itself out in any manner to provide rail services for other parties, nor will it have the ability to provide such services. It therefore maintains that it will not become a common carrier through the acquisition of the various interests in the Baca Spur and the LRM Spur that are envisioned by the anticipated transactions.

Additional information is contained in the Commission's decision. To receive a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 927–7428. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Any person seeking a copy of HNRC's declaratory order petition may request such, in writing or by phone, from HNRC's representative: C. Michael Loftus, SLOVER & LOFTUS, 1224 Seventeenth Street, NW., Washington, DC 20036, (202) 347–7170.

Decided: February 19, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden. Commissioner Philbin did not participate in the disposition of this proceeding.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–4779 Filed 3–1–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 25, 1993, Mallinckrodt Specialty Chemicals Company, Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Coca Leaves (9040)	II
Opium, raw (9600)	II
Poppy Straw (9650)	II
Poppy Straw Concentrate (9670)	II

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 1, 1993.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: February 22, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–4745 Filed 3–1–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 1, 1993, MD Pharmaceutical, Inc., 3501 West Garry Avenue, Santa Ana, California 92704, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methylphenidate (1724)	II
Diphenoxylate (9170)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA **Federal Register** Representative (CCR), and must be filed no later than April 1, 1993.

Dated: February 22, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–4743 Filed 3–1–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on January 7, 1993, Med-Physics, Inc., 3350 North Ridge Avenue, Arlington Heights, Illinois 60004, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Phenylacetone (8501)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and

may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than 30 days from publication.

Dated: February 22, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–4744 Filed 3–1–93; 8:45 am]

BILLING CODE 4410–09–M

Federal Bureau of Investigation

Notice of Charter Renewal

In accordance with the provisions of the Federal Advisory Committee Act (title 5, United States Code, appendix 2), and title 41, Code of Federal Regulations, section 101–6.1015, the Director, FBI, with the concurrence of the Attorney General, has determined that the renewal of the National Crime Information Center (NCIC) Advisory Policy Board is in the public interest in connection with the performance of duties imposed upon the FBI by law, and hereby gives notice of its renewal.

The Board recommends to the Director, FBI, general policy with respect to the philosophy, concept, and operational principles of the NCIC, particularly the system's relationship with local and state criminal justice systems.

The Board consists of thirty members of which twenty are elected from state and local criminal justice representatives; six are appointed by the Director, FBI, consisting of two members each from the judicial, prosecutorial, and correctional segments of the criminal justice community; four are representatives of criminal justice professional associations, e.g., American Probation and Parole Association, National Sheriffs' Association, National District Attorney's Association, and the International Association of Chiefs of Police.

The Board functions solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed in accordance with the provisions of the Act.

Dated: February 22, 1993.

William S. Sessions,

Director.

[FR Doc. 93–4761 Filed 3–1–93; 8:45 am]

BILLING CODE 4410–02–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Request for copies must be received in writing on or before April 16, 1993. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Agriculture (N1–16–93–1). Rulemaking dockets.
2. Department of Agriculture, Food Safety and Inspection Service (N1–462–93–1). Correspondence relating to meat and poultry inspection.
3. Department of Commerce, Bureau of Export Administration (N1–476–93–1). Reduction in retention period for case files and public comments maintained by the Director of Administration.
4. Department of Health and Human Service, Centers for Disease Control, Office on Smoking and Health (N1–442–92–2). Lists of tobacco additives.
5. Department of Health and Human Service, Office of the Assistant Secretary for Health, Office of Research Integrity (N1–514–93–1). Summary records of disbarment from Federal funding maintained for quick reference.
6. Department of Justice, Office of Intelligence Policy and Review (N1–60–93–6). Investigative review forms.
7. Department of State, Bureau of Educational and Cultural Affairs (N1–59–93–5). Routine and facilitative files.
8. Department of State, All Foreign Service Posts (N1–84–93–6). Refugee records.
9. Department of Treasury, Internal Revenue Service (N1–58–91–6). Annual Employer's Return for Employee's

Pension and Profit Sharing Plans maintained in Service Centers.

10. Defense Logistics Agency (N1–361–93–3). Decrease in retention period for legal opinions.

11. Federal Emergency Management Agency (N1–311–92–7). Records relating to Radiological Defense Program Database.

12. Federal Emergency Management Agency (N1–311–92–8). Input documents for the National Inventory of Dams electronic system.

13. Interstate Commerce Commission (N1–134–93–1). General program and administrative records.

14. National Archives and Records Administration Division (N2–77–93–1). Glass photographic copy negatives of maps, charts, and drawings related to the Upper Mississippi River and its tributaries, accessioned from the Army Corps of Engineers.

15. National Archives and Records Administration (N2–77–93–2). Data tapes of summary statistics from the agricultural censuses of 1949, 1959, and 1964, accessioned from the Army Corps of Engineers.

16. Railroad Retirement Board (N1–184–93–3), Employee and Beneficiary Data Listings.

Dated: February 18, 1993.

Raymond A. Mosley,

Acting Archivist of the United States.

[FR Doc. 93–4696 Filed 3–1–93; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Mechanical and Structural Systems; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following six meetings.

Date and Time: March 23–24, 1993; 9 a.m. to 5 p.m.

Place: Room 1133, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Contact Person: Dr. Jorn Larsen-Basse, Program Director, Surface Engineering and Tribology, Telephone: (202) 357–9542.

Date and Time: March 24–25, 1993; 8:30 a.m. to 5 p.m.

Place: Room 500B, National Science Foundation, 1110 Vermont Avenue, NW., Washington, DC 20550.

Contact Person: Dr. John Scalzi, Program Director, Large Structural and Building Systems, Telephone: (202) 357–9542.

Date and Time: March 16, 1993; 8:30 a.m. to 5 p.m.

Place: Room 1108, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Contact Person: Dr. Ken P. Chong, Program Director, Structural Systems and Building Processes, Telephone: (202) 357–9542.

Date and Time: March 30–31, 1993; 8:30 a.m. to 5 p.m.

Place: Room 500B, National Science Foundation, 1110 Vermont Avenue, NW., Washington, DC 20550.

Contact Person: Dr. Jerome Sackman, Program Director, Mechanics and Materials Program, Telephone: (202) 357–9542.

Date and Time: March 30–31, 1993; 8:30 a.m. to 5 p.m.

Place: Room 500B, National Science Foundation, 1110 Vermont Avenue, NW., Washington, DC 20550.

Contact Person: Dr. Huseyin Sehitoglu, Program Director, Mechanics and Materials Program, Telephone: (202) 357–9542.

Date and Time: April 1–2, 1993; 8:30 a.m. to 5 p.m.

Place: Room 536, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Contact Person: Dr. Mehmet Tumay, Program Director, Geomechanical, Geotechnical, and Geo-Environmental Systems, Telephone: (202) 357–9542.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for various programs within the Division of Mechanical and Structural Systems as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 25, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–4730 Filed 3–1–93; 8:45 am]

BILLING CODE 7555–01–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Sherry Turpenoff, (202) 606–0950.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on February 12, 1993 (58 FR 8433). Individual authorities established or revoked under Schedules A and B and established under Schedule C between January 1 and January 30, 1993, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30, 1993, will also be published.

Schedule A

No Schedule A authorities were established or revoked during January 1993.

Schedule B

No Schedule B authorities were established or revoked during January 1993.

Schedule C

Commodity Futures Trading Commission

Supervisory Public Affairs Specialist to the Chairman. Effective January 11, 1993.

Department of Agriculture

Director, Congressional Relations to the Assistant Secretary for Congressional Relations. Effective January 27, 1993.

Department of Health and Human Services

Staff Assistant (Scheduling) to the Chief of Staff. Effective January 8, 1993.

Federal Maritime Commission

Secretary (Typing) to the Chairman. Effective January 8, 1993.

Federal Trade Commission

Special Assistant to the Commissioner. Effective January 11, 1993.

General Services Administration

Special Assistant to the Administrator. Effective January 27, 1993.

Interstate Commerce Commission

Staff Advisor (Management) to the Commissioner. Effective January 27, 1993.

Secretary (Typing) to the Commissioner. Effective January 15, 1993.

International Trade Commission

Staff Assistant to the Commissioner. Effective January 13, 1993.

Congressional Liaison to the Chairman. Effective January 15, 1993.

Confidential Assistant to a Commissioner. Effective January 15, 1993.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218.

Office of Personnel Management.

Patricia W. Lattimore,

Acting Director.

[FR Doc. 93–4617 Filed 3–1–93; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act of 1934 Release No. 34–31910; File Nos. SR–CBOE–92–17; SR–OCC–92–33; ODD 93–1]

Order Designating Flex Options as Standardized Options Under Rule 9b–1 of the Securities Exchange Act of 1934

February 23, 1993.

On August 31, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Commission a proposed rule change under the Securities Exchange Act of 1934 ("Exchange Act") for the purpose of establishing a framework for the CBOE to list and trade large-size, tailored index options, referred to as Flexible Exchange Options ("FLEX Options") based on the Standard & Poor's Corporation ("S&P") 100 and 500 Stock Indexes. On September 22, 1992, the Options Clearing Corporation ("OCC") filed with the Commission a proposed rule change under Section 19(b) of the Exchange Act to authorize the issuance and clearance and settlement of these options. FLEX Options will provide investors with the ability, within specified limits, to designate certain of the terms of the options.

Notice of the proposals appeared in the **Federal Register** on November 4, 1991 [1] and November 18, 1992.[2] The Commission received three comment letters supporting the CBOE proposal, none in regard to the OCC proposal.

Currently, the CBOE lists and trades several classes of options issued by OCC that are registered under the Securities Act of 1933 ("Securities Act") [3] on Form S–20 and for which the CBOE and OCC prepare an Options Disclosure Document ("ODD") pursuant to Rule 9b–1 of the Exchange Act. In connection with the proposals, the CBOE and OCC have sought clarification that FLEX Options are deemed "standardized" within the meaning of Rule 9b–1 under the Exchange Act, and that therefore, Form S–20 and the ODD disclosure framework may be used for FLEX Options.[4]

Form S–20 and Rule 9b–1 establish a disclosure framework specifically tailored to the informational needs of investors in standardized options that are traded on national securities exchanges and cleared through clearing agencies registered as such under the Exchange Act. Under this options disclosure system, the exchange(s) on which standardized options are listed and traded must prepare an ODD, that among other things, identifies the issuer and describes the uses, mechanics and risks of options trading and other matters in language that can be easily understood by the general investing public. Broker-dealers must provide a copy of the ODD to each customer at or prior to the approval of the customer's account for trading in any standardized option. Any amendment to the ODD must be distributed to each customer whose account is approved for trading the options class for which the ODD relates. The issuer of a "standardized option" may use Form S–20 to register the class of options under the Securities Act and the ODD is treated as a substitute for the traditional prospectus. The content of the abbreviated Form S–20 registration statement is limited to information related to the registrant (*i.e.*, OCC) and the securities to be registered.

Under rule 9b–1, use of the ODD is limited to "standardized options" for which there is an effective registration statement on Form S–20 under the Securities Act. Standardized options are defined in the Rule as:

> [O]ptions contracts trading on a national securities exchange, an automated quotation system of a registered securities association, or a foreign securities exchange which relate to options classes the terms of which are limited to specific expiration dates and exercise prices, *or such other securities as the Commission may, by order, designate.* (Emphasis added)

In the original proposal to Rule 9b–1, the Commission proposed that the options disclosure framework should apply solely to "standardized options," defined as options contracts traded on an options market which relate to options classes whose terms are limited to specific expiration dates and exercise prices. The Commission specifically reserved in the rule the authority to designate other securities in response to comments from OCC to permit use of Rule 9b–1 for new investment vehicles "that the Commission believes should be included within the options disclosure framework."[5] The Commission has used this authority once to date, in connection with the listing and trading on national securities exchanges of Index Participations ("IPs").[6]

The Commission believes that FLEX Options should be treated in a manner similar to standardized options for purposes of Rule 9b–1 under the Exchange Act. Apart from the flexibility with respect to strike prices, settlement, expiration dates, and exercise style, all of the other terms of FLEX Options are standardized pursuant to OCC and CBOE rules. Standardized terms include matters such as exercise procedures, contract adjustments, time of issuance, effect of closing transactions, restrictions on exercise under OCC rules, margin requirements, and other matters pertaining to the rights and obligations of holders and writers. In addition, FLEX Options are similar to existing exchange-traded options based on the S&P 100 and 500 stock indexes because FLEX Options are limited to these well-known underlying broad-based, stock indexes. Finally, FLEX Options can be written in a manner that would make them fully fungible with certain existing options issued by OCC that fall within the framework of Rule 9b–1.

Therefore, it is hereby ordered pursuant to Rule 9b–1 under the Exchange Act, that FLEX Options are deemed standardized options for purposes of the options disclosure framework established under Rule 9b–1 of the Exchange Act.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4702 Filed 3–1–93; 8:45 am]

BILLING CODE 8010–01–M

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[1] See Securities Exchange Act Release No. 31361 (October 27, 1992), 57 FR 52655 (CBOE filing).

[2] See Securities Exchange Release No. 31419 (November 6, 1992), 57 FR 54436 (OCC filing).

[3] 15 U.S.C. § 77a *et seq.* (1993).

[4] 17 CFR § 240.9b–1(a)(4) (1992).

[5] See Securities Exchange Act Release No. 19055 and Securities Act Release No. 6426 (September 16, 1982), 47 FR 41950.

[6] See Securities Exchange Act Release No. 26709 (April 11, 1989), 54 FR 15280 (IPs are a type of security that falls into the category of "other security" under Rule 9b–1 which the Commission should treat in a manner similar to standardized options for purposes of Rule 9b–1 under the Act).

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Intervisual Books, Inc., Common Stock, No Par Value) File No. 1–10916)

February 24, 1993.

Intervisual Books, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, its Board of Directors (the "Board") unanimously approved resolutions on January 28, 1992, to withdraw the Company's Common Stock from listing on the American Stock Exchange ("Amex") and, instead, list such Common Stock on the National Association of Securities Dealers Automated Quotations/National Market Systems ("NASDAQ/NMS"). According to the Company, the decision of the Board followed a lengthy study of the matter, and was based upon the belief that listing of the Common Stock on NASDAQ/NMS will be more beneficial to its stockholders than the present listing on the Amex because:

(1) The Company believes that the NASDAQ/NMS system of competing market-makers will result in increased visibility and sponsorship for the Common Stock than is presently the case with the single specialist assigned to the stock on the Amex; .

(2) The Company believes that the NASDAQ/NMS system will offer the Company's stockholders more liquidity than that presently available on the Amex and less volatility in quoted prices per share when trading volume is slight. The Company believes that the NASDAQ/NMS the Company will have an opportunity to secure its own group of market-makers and, in doing so, expand the capital base available for trading in its Common Stock; and

(3) The Company believes that firms making a market in the Company's Common Stock on the NASDAQ/NMS system will be inclined to issue research reports concerning the Company, thereby increasing the number of firms providing institutional research and advisory reports.

Any interested person may, on or before March 17, 1993, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–4703 Filed 3–1–93; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (The Kroger Co., Common Stock $1.00 Par Value; Common Stock Purchase Rights) File No. 1–303

February 24, 1993.

The Kroger Co. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities from listing and registration on the Cincinnati Stock Exchange, Inc. ("CSE").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

According to the Company, it decided to withdraw the above-specified securities from listing on the CSE because the management of the Company has determined that the continued listing of the securities on the CSE entails unnecessary expenditure and administrative burden while no longer serving any useful business purpose. These securities are also listed on the New York Stock Exchange, Inc. ("NYSE").

Any interested person may, on or before March 17, 1993, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–4704 Filed 3–1–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 1768]

Announcement of FY 1993 Russian, Eurasian and East European Studies Grant Recipients

On January 15, 1993, the US Department of State approved the December 11, 1992, recommendations of the Russian, Eurasian and East European Studies Advisory Committee for awards in the competition which ended September 25, 1992. These awards are in connection with the Soviet-Eastern European Research and Training Act of 1983.

1. American Council of Teachers of Russian/American Council for Collaboration in Education and Language Study

Grant: $425,000.

Purpose: To provide fellowships for advanced in-country language training and combined on-site research and language training in Russian, Eurasian, and East European languages.

Contact: Dan E. Davidson, Director, ACTR/ACCELS, Third Floor, suite 300, 1776 Massachusetts Avenue, NW., Washington, DC 20036 (202) 833–7522.

2. Center for Advanced Study in the Behavioral Sciences

Grant: $77,000.

Purpose: To provide partial support for 2 residential postdoctoral fellowships on Russia, Eurasia, or Eastern Europe.

Contact: Philip E. Converse, Director, CASBS, 202 Junipero Serra Boulevard, Stanford, CA 94305 (415) 321–2052.

3. Council on International Educational Exchange

Grant: $143,000.

Purpose: To support 4 academic year and 5 semester fellowships for intensive in-country language training; 12 summer graduate research fellowships; and 10 fellowships for "Social Sciences Program for Advanced Students of Russian" at St. Petersburg University.

Contact: Damon B. Smith, Deputy Executive Director, Cooperative Russian

Language Program/CIEE, 205 East 42nd Street, New York, NY 10017 (212) 661–1414.

4. Hoover Institution on War, Revolution and Peace

Grant: $200,000.

Purpose: To support six postdoctoral fellowships (6–12 months duration) and eight summer grants for individual research projects on the countries of the former Soviet Union and Eastern Europe at Hoover.

Contact: Richard F. Staar, Coordinator, International Studies Program, Hoover Institution, Stanford, CA 94305 (415) 723–1348.

5. University of Illinois at Urbana-Champaign

Grant: $180,559.

Purpose: To provide partial funding for the University's Summer Research Laboratory on Russia and Eastern Europe, and the Slavic Reference Service.

Contact: Diane Merridith, Program Administrator, Russian and East European Center, University of Illinois at Urbana-Champaign, 104 International Studies Building, Champaign, IL 61820 (217) 333–1244.

6. Institute on International Education

Grant: $132,860.

Purpose: To support 15 Professional Development Fellowships for advanced graduate students and junior faculty in professional fields for research on policy analysis of East Central Europe, including the Baltic countries.

Contact: Giulia Squatriti, Assistant Manager, East Central Europe, Institute on International Education, 809 United Nations Plaza, New York, NY 10017–3580 (212) 984–5326.

7. International Research and Exchanges Board

Grant: $2,208,783.

Purpose: To support a variety of programs facilitating American scholarly access to the countries of the former Soviet Union and Eastern Europe: Field research fellowships; predeparture orientation; specialized language training; developmental fellowships; individual short-term research; collaborative projects and senior scholar grants; special projects; research residencies; and dissemination.

Contact: Robert Huber, IREX, Sixth Floor, 1616 H Street, NW., Washington, DC 20006 (202) 628–8188.

8. Joint Committee on Eastern Europe

Grant: $1,180,750.

Purpose: To support advanced graduate training, dissertation completion, pre- and postdoctoral research fellowships; individual and institutional language training grants; research conferences; the Junior Scholars' Training Seminar; and German-American Collaborative Research Program.

Contact: Jason Parker, Executive Associate, JCEE/American Council of Learned Societies, 228 East 45th Street, New York, NY 10017 (212) 697–1505.

9. Joint Committee on the Soviet Union and its Successor States

Grant: $1,641,220.

Purpose: To support a national fellowship program at the early and advanced graduate, dissertation, and postdoctoral levels, including a new postdoctoral retraining program, an annual workshop in underrepresented fields; institutional grants for intensive training in languages of the former Soviet Union; Research & Development program; and support for the *American Bibliography for Soviet and East European Studies* (ABSEES).

Contact: Susan Bronson, Program Officer, JCSSS/Social Science Research Council, 605 Third Avenue, New York, NY 10158 (212) 661–0280.

10. National Academy of Sciences

Grant: $136,667.

Purpose: To support training for young researchers in environmental protection through workshops with colleagues in Central Asia and the Baltic countries.

Contact: Gary Waxmonsky, Acting Director, Office for Central Europe and Eurasia, National Academy of Sciences, 2101 Constitution Avenue, NW., FO 2014, Washington, DC 20418 (202) 334–2644.

11. National Council for Soviet and East European Research

Grant: $2,459,185.

Purpose: To conduct a national competition among American institutions of higher education and non-profit corporations in support of postdoctoral research projects on the former Soviet Union and Eastern Europe.

Contact: Robert Randolph, Executive Director, NCSEER, 1755 Massachusetts Avenue, NW., suite 304, Washington, DC 20036 (202) 387–0168.

12. The Woodrow Wilson Center for International Scholars

Grant: $1,110,976 ($704,440 to Kennan; $406,536 to EES).

Purpose: To support the fellowships, meetings, and publications programs of the Kennan Institute for Advanced Russian Studies and the East European activities of the East and West European Program, including an annual Junior Scholars' Training Seminar, co-sponsored with the JCEE.

Contact: Blair Ruble, Director, Kennan Institute for Advanced Russian Studies; or John Lampe, East European Studies, East and West European Program. The Wilson Center, 370 L'Enfant Promenade, suite 704, Washington, DC 20024–2518, Kennan Institute (202) 287–3400, East European Studies (202) 287–3000, x. 225.

Dated: February 9, 1993.

Kenneth E. Robert,

Executive Director, Russian, Eurasian and East European Studies Advisory Committee.

[FR Doc. 93–4763 Filed 3–1–93; 8:45 am]

BILLING CODE 4715-32-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 93–012]

Towing Safety Advisory Committee; Applicants for Membership

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard is seeking applicants for appointment to membership on the Towing Safety Advisory Committee (TSAC). This committee advises the Secretary of Transportation on matters related to shallow-draft inland and coastal waterway navigation and towing safety.

Nine members will be appointed as follows: Three members from the barge and towing industry, reflecting a geographical balance; one member from the offshore mineral and oil supply vessel industry; two members from port districts, authorities or terminal operators; one member from maritime labor; and two members from the general public.

To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women. The committee will meet at least once a year in Washington, DC or another location selected by the Coast Guard.

DATES: Requests for applications should be received no later than May 15, 1993.

ADDRESSES: Persons interested in applying should write to Commandant (G–MTH–4), room 1304, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: CDR Robert Letourneau, Executive Director,

Towing Safety Advisory Committee (G–MTH–4), room 1304, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593–0001, (202) 267–2997.

Dated: February 10, 1993.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–4748 Filed 3–1–93; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Guaranteed Minimum Investment Yields of United States Savings Bonds and Savings Notes

AGENCY: Bureau of the Public Debt, Department of the Treasury.

ACTION: Notice.

SUMMARY: This notice announces the reduction of the guaranteed minimum investment yield for United States Savings Bonds of Series EE, bearing issue dates of March 1, 1993, or thereafter, from 6 percent per annum, compounded semiannually, to 4 percent per annum, compounded semiannually. The minimum guaranteed investment yields for all outstanding Series E and EE, and United States Savings Notes, entering a new extended maturity period will be 4 percent per annum, compounded semiannually, except as noted below. The investment yield on current-income Series HH bonds issued on or after March 1, 1993, will be 4 percent. Series H and HH bonds entering new extended maturity periods on or after March 1, 1993, will also have an investment yield of 4 percent.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Calvin Ninomiya, Chief Counsel, Bureau of the Public Debt, Washington, DC 20239–0001, (202) 219–3320.

SUPPLEMENTARY INFORMATION: The Secretary of the Treasury has announced that the guaranteed minimum investment yield for Series EE savings bonds, having an issue date on or after March 1, 1993, will be reduced from 6 percent per annum, compounded semiannually, to 4 percent per annum, compounded semiannually. The 4 percent yield will apply to all such Series EE bonds issued, until the effective date of any subsequent revision in the guaranteed minimum investment yield.

The guaranteed minimum investment yield for Series EE bonds, theretofore issued and held for 5 years or more, had been last fixed at 6 percent per annum, compounded semiannually. The new guaranteed minimum investment yield will also apply to any Series E/EE savings bond or savings note that enters into a new extended maturity period, on or after March 1, 1993, except for Series E bonds bearing either a July 1, or August 1, 1953, issue date, until the effective date of any subsequent revision in the guaranteed minimum investment yield.

Effective March 1, 1993, Series HH savings bonds issued in exchange for Series E/EE savings bonds and for savings notes, or issued upon the reinvestment of matured Series H savings bonds, will also have an investment yield of 4 percent per annum, compounded semiannually. This rate will apply to all Series HH bonds issued until the effective date of any subsequent revision in the investment yield. The investment yield had last been 6 percent per annum, compounded semiannually. Series H and HH bonds entering a new extended maturity period on or after March 1, 1993, will have an investment yield of 4 percent, until the effective date of any subsequent revision in the guaranteed minimum investment yield.

In addition, effective March 1, 1993, the original maturity period for Series EE savings bonds bearing the issue date of March 1, 1993, or thereafter, will be lengthened from 12 years to 18 years. This will permit the issue prices of the bonds to remain unchanged and make their maturity values (calculated at the minimum investment yield) approximately twice the purchase price at issue.

Investment yields are being reduced to reflect the general decline in interest rates that has occurred, to preserve the cost effectiveness of the Savings Bond Program, and to avoid excessive competition with other thrift instruments.

Revised offering circulars for United States Savings Bonds, Series E, EE, H, HH, and for United States Savings Notes, reflecting the changes described in this notice, and providing information on redemption values and interest payments, will be published shortly.

Dated: February 26, 1993.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 93–4912 Filed 3–1–93; 8:45 am]

BILLING CODE 4810–10–P

DEPARTMENT OF VETERANS AFFAIRS

Medical Research Service Merit Review Boards; Notice of Meetings

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act, 5 U.S.C. App., of the meetings of the following Federal Advisory Committees.

Merit review board for	Date	Time	Location
Nephrology	March 23, 1993	8 a.m. to 5 p.m.	Ramada Renaissance[1].
Infectious Diseases	March 26, 1993	do	Madison Hotel[2].
Immunology	March 26, 1993	do	Madison Hotel.
Respiration	April 2, 1993	do	Holiday Inn Central[3].
Surgery	April 4, 1993	do	Ramada Renaissance.
Hematology	April 5, 1993	do	Ramada Renaissance.
Endocrinology	April 9, 1993	do	Ramada Renaissance.
Alcoholism and Drug Dependence	April 16, 1993	do	Washington Vista[4].
Gastroenterology	April 19, 1993	do	Washington Vista.
Neurobiology	April 20, 1993	do	Ramada Renaissance.
Oncology	April 23, 1993	do	Ramada Renaissance.
Basic Sciences	April 26, 1993	do	Ramada Renaissance.
Cardiovascular Studies	April 29, 1993	do	Holiday Inn Central.
Mental Health and Behavioral Sciences	April 30, 1993	do	Holiday Inn Central.

[1] Ramada Renaissance, 999 9th Street, NW., Washington, DC 20001.
[2] Madison Hotel, 1177 15th Street, NW., Washington, DC 20005.
[3] Holiday Inn Central, 1501 Rhode Island Avenue, NW., Washington, DC 20005.
[4] Washington Vista, 1400 M Street, NW., Washington, DC 20005.

These meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Department of Veterans Affairs (VA) investigators working in VA Medical Centers and Clinics.

These meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. All of the Merit Review Board meetings will be closed to the public after approximately one-half hour from the start, for the review, discussion and evaluation of initial and renewal projects.

The closed portion of the meeting involves: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of these meetings is in accordance with 5 U.S.C., 552b(c)(6) and (9)(B). Because of the limited seating capacity of the rooms, those who plan to attend should contact Dr. LeRoy Frey, Chief, Program Review Division, Medical Research Service, Department of Veterans Affairs, Washington, DC, (202) 523–5942 at least five days prior to each meeting. Minutes of the meetings and rosters of the members of the Boards may be obtained from this source.

Dated: February 17, 1993.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 93–4706 Filed 3–1–93; 8:45 am]

BILLING CODE 8320–01–M

Special Medical Advisory Group; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that a meeting of the Special Medical Advisory Group will be held on March 18–19, 1993, at the Washington, DC Renaissance Hotel, 999 9th Street, NW., Washington, DC. The purpose of the Special Medical Advisory Group is to advise the Secretary and Under Secretary for Health relative to the care and treatment of disabled veterans, and other matters pertinent to the Department's Veterans Health Administration. The session on March 18 will convene at 6:30 p.m. and the session on March 19 will convene at 8 a.m. All sessions will be open to the public up to the seating capacity of the rooms. Because this capacity is limited, it will be necessary for those wishing to attend to contact Ginny Rassman, Office of the Under Secretary for Health, Department of Veterans Affairs (phone 202/535–7605) prior to March 16, 1993.

Dated: February 17, 1993.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 93–4705 Filed 3–1–93; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 39
Tuesday, March 2, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11 a.m., Monday, March 8, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: February 26, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–4868 Filed 2–26–93; 2:12 pm]

BILLING CODE 6210–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: March 8, 1993 at 2:30 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings.
2. Minutes.
3. Ratification List.
4. Invs. Nos. 731–TA–546–547 (Final) (Steel Wire Rope from Korea and Mexico)—briefing and vote.
5. Outstanding action jacket requests:

1. GC–92–114, Administrative protective order breach inquiry and abuse of process allegations in an investigation under section 337 of the Tariff Act of 1930.
2. GC–93–017, Request for permission to file appeal in *Hosiden Corp.* v. *United States.*
6. Any items left from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Paul R. Bardos, Acting Secretary, (202) 205–2000.

Issued: February 24, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–4820 Filed 2–26–93; 8:55 am]

BILLING CODE 7020–02–M

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federal register

Tuesday
March 2, 1993

Part II

Department of Transportation

Federal Highway Administration
23 CFR Part 450
Federal Transit Administration
49 CFR Part 613

Metropolitan Planning; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 450

[FHWA Docket No. 93–4]

Federal Transit Administration

49 CFR Part 613

FHWA RIN 2125–AC95; FTA RIN 2132–AA44

Metropolitan Planning

AGENCIES: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FHWA and the FTA are jointly proposing to replace the planning regulations governing the development of transportation plans and programs for urbanized areas. The FHWA and the FTA are requesting comments from interested parties concerning the issuance of these regulations. The Intermodal Surface Transportation Efficiency Act of 1991 significantly amended the law governing metropolitan transportation planning and, thus, requires modification of the existing implementing regulations. By implementing the law, these regulations will ensure the eligibility of metropolitan areas for Federal transportation funds.

DATES: Comments must be submitted on or before May 3, 1993.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 93–4, Federal Highway Administration, HCC–10, room 4232, 400 Seventh Street SW., Washington, DC 20590. All comments will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: For FHWA: Ms. Virginia Cherwek, FHWA Office of the Chief Counsel (HCC–31), (202) 366–1372 or Mr. Sheldon Edner, Planning Operations Branch (HEP–21), (202) 366–4066. For the FTA: Mr. Paul Verchinski, Resource Management Division (TGM–21), (202) 366–6385. Both agencies are located at 400 Seventh Street SW., Washington, DC 20590. Office hours for FHWA are 7:45 a.m. to 4:15 p.m., e.t., and for the FTA are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Sections 1024 and 3012 of Public Law 102–240, 105 Stat. 1914, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) amended title 23 U.S.C., and the Federal Transit Act by revising sections 134 of title 23 and 8 of the Federal Transit Act (49 U.S.C. app. 1607) which require a continuing, comprehensive, and coordinated transportation planning process in metropolitan areas. The FHWA and the FTA are revising their current regulations to implement these changes.

This proposed rule was prepared over a period of several months and addresses a host of complex planning and policy issues. Recognizing intense interest among state and local transportation and planning agencies in the early availability of the rule, the Department has approved its prompt publication. However, the Department is considering publishing, within two weeks, a supplement to this NPRM that would identify additional questions on which public comment would be solicited.

To facilitate public input to the development of this regulation, it is the intent of the FHWA and the FTA to hold a series of joint public meetings to receive comments. These meetings would provide a means for written and verbal comments to be received, in addition to those submitted to the docket identified above. The schedule for the meetings will be announced after the publication of this proposed rule. For further information, please contact Mr. Sheldon Edner or Mr. Paul Verchinski at the location and phone numbers specified above.

General

Revise Existing Planning Requirements for Urban Transportation

The FHWA intends to revise part 450 and to redesignate it as Subpart A Metropolitan Planning Requirements. The FTA would revise 49 CFR part 613 to reference the provisions of 23 CFR part 450 for the FTA's programs. Finally, the FHWA and the FTA are proposing a rule on statewide planning (to implement 23 U.S.C. 135) that would be designated as subpart B of 23 CFR part 450 and would be referenced in 49 CFR part 613. This proposed rule is published elsewhere in this issue of the **Federal Register.**

Throughout this proposed rule any references to 23 CFR part 450 would, as a result of the FTA's cross-reference, also be applicable to 49 CFR part 613.

Development of Proposed Regulation

This proposed regulation was developed by an interagency task force of the FHWA and the FTA with input from the Federal Aviation Administration, Federal Railroad Administration, Maritime Administration, Office of the Secretary of the U.S. DOT, and the U.S. Environmental Protection Agency (EPA). In developing the proposed regulation, the FHWA and the FTA took cognizance of several documents and conferences which provided context for making determinations regarding its content. Specifically, the following written documents were considered and have been placed in the docket for this NPRM:

(1) The proceedings of the Conference "Moving Urban America" held in Charlotte, NC on May 4–6, 1992;

(2) The proceedings of the Conference "Transportation Planning, Programming, and Financing" held in Seattle, WA on July 19–22, 1992;

(3) The content of questions submitted to the FHWA Electronic Bulletin Board during the period subsequent to the passage of the ISTEA; and

(4) The Interim Guidance on ISTEA Metropolitan Planning Requirements issued April 6, 1992.

Relationship to Interim Guidance Issued April 6, 1992

On April 6, 1992, the FHWA and the FTA jointly issued interim guidance to aid States and MPOs in complying with the new legislative requirements. The guidance was published in the April 23, 1992, **Federal Register** at 57 FR 14943. This interim guidance will remain in effect until this regulation has been adopted or it has otherwise been superseded.

Applicability

The provisions of this NPRM would apply to all metropolitan planning organizations serving an urbanized area population of at least 50,000, State departments of transportation, and publicly operated transit agencies as appropriate. The proposed rule would provide for the development of transportation plans and Transportation Improvement Programs (TIPs) and for the selection of projects to be funded under title 23, U.S.C. and under the Federal Transit Act in metropolitan areas.

Linkage to Management System Requirements

The transportation management systems required under 23 U.S.C. 303 are being addressed in a separate rulemaking. However, these management systems are a significant factor in the metropolitan planning process and provide valuable

information and strategies supporting the development of transportation plans and programs. A section is included in this proposed rule on the Congestion Management System (CMS) and its linkage to plan and TIP development. A subsection is proposed to address the linkage of the Intermodal Management System (IMS) and the Public Transportation Management System (PTMS) to the planning process.

Single Occupant Vehicle (SOV) Capacity Additions

Section 134(l) of title 23, U.S.C., and section 8(l) of the Federal Transit Act prohibit programming of Federal funds for highway or transit projects that provide a significant increase in SOV capacity in Transportation Management Areas (TMAs) classified as nonattainment for carbon monoxide and/or ozone pursuant to the Clean Air Act unless this project results from an approved CMS. Because the implementation of the management systems under 23 U.S.C. 303 is not required before Federal fiscal year 1995, an interim procedure was included in the interim metropolitan planning guidance to permit programming action. Specifically, if a project results from a metropolitan transportation planning and/or NEPA process that meets certain criteria it will be considered a part of an approved CMS. That approach has been adopted in this proposed rule. In meeting this proposed requirement, the metropolitan planning and/or environmental impact analysis would need to address a full range of multimodal transportation management options, including demand reduction, that demonstrate that these options cannot satisfy the need for additional SOV capacity.

Planning and Programming

The ISTEA amended section 23 U.S.C. 134 and section 8 of the Federal Transit Act by expanding the area of coverage and legislatively mandating elements of the transportation planning process. Further, these changes significantly altered the nature of the planning and programming processes traditionally used in metropolitan transportation decisionmaking. Specific examples of these changes can be seen in the requirement for transportation plans that more broadly account for environmental and intermodal considerations within a financially constrained vision of future metropolitan transportation improvements. Similarly, TIPs are required to be prioritized, financially constrained, and subjected to the air quality conformity requirements in nonattainment areas established by section 176 of the Clean Air Act (42 U.S.C. 7506). In a broader sense, transportation plans are now required to be intermodal and system performance oriented in a dynamic fashion. While the planning horizon for metropolitan planning must be for a 20-year period and the metropolitan planning areas must now extend to the 20-year growth (area forecast to become urbanized) boundary, the transportation plan must be updated every three years in nonattainment areas and every five years in attainment areas, making it a dynamic planning tool rather than a static description of expected facility changes. This orientation is strengthened by the limitations on single occupancy vehicle capacity increases in TMAs that are nonattainment for carbon monoxide and ozone and by the transferability provisions of the Surface Transportation Program.

In carrying out the transportation planning process, the results of the management systems must be considered. In programming, the regulatory requirement that the TIP be a prioritized and fiscally constrained program of projects is now a statutory requirement. The TIP also must include management system strategies proposed for implementation during the timeframe of the TIP. In nonattainment areas, priority must be given to transportation control measures (TCMs). The TIP is also subject to the conformity provisions of the Clean Air Act. In sum, the TIP has become more of a management tool, permitting MPOs to establish an overall program strategy reflecting the transportation plan, in addition to being a list of projects to be funded.

Intermodal and Multimodal Transportation Planning

The NPRM reflects the intent of the ISTEA, by relying upon both intermodal and multimodal approaches to planning to meet mobility needs. For the purposes of this proposed regulation, multimodal planning reflects consideration of more than one mode to serve transportation needs in a given area and is included within the meaning of intermodal. Intermodal planning reflects a focus on connectivity between modes as a means of facilitating linked trip making. It emphasizes connections (transfers of people or freight in a single journey), choices (provisions of transportation options to facilitate trip making), and coordination and cooperation (collaboration among transportation organizations). It is the intent of the FHWA and the FTA that metropolitan plans reflect the widest consideration of modal options to most efficiently and effectively serve mobility needs within metropolitan areas and in terms of national economic goals and competitiveness.

Updates to Transportation Plan

The interim metropolitan planning guidance indicated that nonattainment areas would have to have updated transportation plans by October 1, 1993. Because of substantial comment received on this guidance provision, the FHWA and the FTA considered extending this date. Nevertheless, the dates for initial plan updates in nonattainment and maintenance areas requiring TCMs contained in this proposed rule remain unchanged from the interim guidance.

The basis for the original guidance and its retention in this proposed rule are the requirements of the Clean Air Act. The October 1, 1993, target date was established because 23 U.S.C. 134(g)(3) and section 8(g)(3) of the Federal Transit Act specifically require that the development of the transportation plan in nonattainment areas be coordinated with the process for development of transportation control measures (TCMs) for the State implementation plan (SIP). Further, there was particular concern that the SIP not include TCMs that have not been analyzed for effectiveness and financial feasibility as part of the transportation planning process.

Small particulate matter (PM–10) SIP revisions were due November 15, 1991. A comprehensive emission inventory for all nonattainment areas and SIP revisions for carbon monoxide nonattainment areas were due November 15, 1992. For ozone nonattainment areas classified as moderate and above, the SIP revisions that demonstrate a 15% reduction in hydrocarbon emissions by 1996, which also include the required TCMs to accomplish this, are due November 15, 1993. The U.S. EPA is considering requiring that a quantitative analysis of the transportation plan be conducted. The final EPA air quality conformity rule is scheduled for publication in the **Federal Register** in the fall 1993. While a phase-in period is currently provided for, mandatory milestone dates are fast approaching and it is important that States and metropolitan areas be working diligently toward improving the process and plan now to avoid potential non-conformity determinations later.

Major Metropolitan Transportation Investments

The proposed rule includes a number of provisions that deal with planning activities for major metropolitan transportation investments. These provisions would accomplish three objectives. First, the rule would ensure involvement of local officials, acting through the MPO, in corridor and subarea planning studies. Second, it would establish uniform FHWA and FTA requirements for the analysis of major metropolitan transportation investments. Finally, the rule would explain the role of major metropolitan investment analyses in the transportation planning process.

In the past, major projects in urbanized areas proposed for funding by the FHWA typically have been initiated through the areawide planning effort, followed by highway location studies and preparation of environmental impact statements (EISs). The location studies have in some instances been conducted by State highway agencies with the secondary involvement of local officials, often acting through the MPO. Major projects proposed for FTA discretionary funding have been assessed in areawide analyses and then studied in more detail in a corridor level alternatives analysis, documented in a draft EIS. Alternatives analyses have typically been conducted by the local transit operator, in some instances with full MPO involvement.

Separate corridor level analyses by the implementing agencies have tended to constrain full consideration of various transportation "modes" (e.g., highway, mass transit). To address this problem, it is proposed that the requirements for the analysis of major investments be included within the cooperative planning process established in §§ 450.114 through 450.122. Proposed § 450.112 defines responsibility for metropolitan transportation planning as a cooperative effort among the MPO, the State, and local public transit operators with the involvement of other operators of major modes of transportation as appropriate.

Included within the proposed process are all planning activities for major investments leading to the development of the draft EIS. The intent is to ensure cooperation without prescribing specific responsibilities or degrees of involvement for each agency. This flexibility would permit local officials to decide the specific institutional arrangements and procedures to be used in the consideration of transportation alternatives. These proposed procedures would be tailored to the range of alternatives being considered, their stage of advancement in the process, and other local considerations. It is anticipated that the degree of responsibility and involvement of the various agencies would vary with the development of proposals and their implementation. For example, the responsibility of MPOs would be heaviest at the areawide planning level, with appropriate input from implementing agencies. As proposals become more definitive, implementing agency responsibility would increase and become predominant as projects near implementation.

Section 450.118 proposes that an appropriate range of modal alternatives be considered in terms of their costs, effectiveness, air quality contributions, contribution to metropolitan transportation system performance, etc. A scoping conference composed of appropriate agency representatives would be used to establish the range of options. Where the need for a major investment is apparent but the substantiating technical work has not been completed, the adopted transportation plan could stipulate a set of assumptions regarding proposed improvements, or a no-build option, that would be refined subsequently during a corridor or subarea technical study. When corridor or subarea studies are completed, they would become the basis for amending the metropolitan transportation plan.

Corridor studies refer to improvements for existing or proposed linear corridors to serve existing or anticipated transportation demand. The anticipated improvements may be highway, transit or multimodal in nature and may entail significant new facilities or capacity upgrades. Subarea studies refer to areawide studies that may result in a linear corridor improvement but which start with the presumption that right-of-way and non-right-of-way improvements across a broad spatial area could be utilized to satisfy transportation demand. These studies are intended to provide decision makers with detailed information about the potential consequences of implementing various options for dealing with anticipated demand.

Proposed § 450.118 also identifies the FHWA and the FTA funds that may be used for corridor and/or subarea refinement studies. In the past, highway location studies have been funded by FHWA construction funds while transit alternatives analyses have used Federal Transit Act formula grant funds (49 U.S.C. 1607a). To support the more detailed analysis undertaken in a corridor refinement study and to recognize funding flexibility under the Surface Transportation Program, the FTA and the FHWA believe that additional funding may be required. Consequently, this proposed section implements the provision of the ISTEA that permits utilization of capital funds under title 23 for detailed alternatives analysis studies, paralleling the use of Federal Transit Act section 9 funds for these purposes which has been permitted since authorization of the section 9 program. Indeed, these studies would constitute the alternatives analyses required under the Federal Transit Act. Specific funding arrangements would be established on a case-by-case basis by State and local officials with the concurrence of the FHWA and the FTA.

The proposed rule specifies that the Unified Planning Work Program (UPWP) describe the corridor planning activities, regardless of funding source and implementation responsibility. The UPWP has always described planning activities financed with Federal Transit Act sections 8 and 9 funds, including alternatives analyses. Highway location studies proposed for FHWA funding usually were included in the TIP rather than in the UPWP. FHWA capital funds used for planning will now be included in the UPWP as well as the TIP.

Public Involvement

The proposed rule responds to Congress' intent to provide increased public awareness of and involvement in transportation planning and programming processes. It also recognizes the interrelationship between the conformity process for air quality nonattainment and maintenance areas and the transportation planning process. Hence, the proposed rule indicates the linkage, by cross-reference, to the specific requirements of the U.S. EPA's conformity regulations for nonattainment and maintenance areas.

Air Quality

Proposed §§ 450.108 through 450.134 contain provisions related to the transportation/air quality planning and programming roles and responsibilities of the MPO. These reflect modifications required by the Clean Air Act Amendments of 1990 as well as a series of agreements reached between the DOT and the EPA as they relate to the metropolitan transportation planning process and Federal review and approval responsibilities. These proposed sections identify those actions necessary for the enhanced coordination of the air quality and transportation planning processes at the State and local level.

The proposed regulation would provide the procedures necessary to implement the conformity and priority requirements of the Clean Air Act (42 U.S.C. 7506 (c) and (d)). Since there is significant linkage between planning, programming and project conformity findings, the FHWA and the FTA believe it is important that the entire conformity procedure be seen as an integrated element of the transportation planning and programming processes. Thus, the revised metropolitan transportation planning regulations would incorporate this requirement by reference to the U.S. EPA forthcoming rule (which is expected to be included in 40 CFR part 51) (see 58 FR 3768, Jan. 11, 1993) rather than specifying separate planning requirements.

Planning Boundaries

The ISTEA provides that the boundaries of the metropolitan planning area are, at a minimum, the urbanized area (UZA) for each metropolitan area, and the surrounding area forecast to become urbanized in a 20-year planning horizon. In areas that are nonattainment or maintenance for ozone or carbon monoxide, the planning boundary must also include the entire nonattainment or maintenance area, except where reduced by joint action of the Governor and the MPO. Where such action is taken, it is proposed that the State and the MPO indicate in a joint agreement how conformity for the total nonattainment or maintenance area will be assured. Where the planning area is expanded, the adequacy of the representation on the MPO for the added area would need to be evaluated. Adding representation for additional areas would not automatically require redesignation of the MPO.

Transportation Management Areas (TMAs)

The ISTEA requires that TMAs must be designated for UZAs exceeding 200,000 in population and for other UZAs where requested by the Governor and MPO or the affected local officials. MPOs in TMAs, in cooperation with transit operators and the State, must fully comply with the planning process requirements. MPOs also have greater responsibility for selecting projects within their TMA boundaries (in cooperation with the State), and a congestion management system must be developed as part of the metropolitan planning process.

TMA requirements apply to the entire metropolitan planning area. In situations where the MPO's jurisdiction covers more than one UZA, the provisions governing TMAs extend to the entire metropolitan planning area for the multiple UZAs whether or not all of the UZAs are over 200,000 in population. The proposed rule includes these statutory provisions.

Project Selection and Prioritization

The ISTEA retains some elements of the traditional project selection process but in modified form. In areas designated as TMAs, project selection is the responsibility of the appropriate MPO, in consultation with the State and appropriate transit operator, except for projects on the National Highway System (NHS) or funded under the Bridge and Interstate Maintenance programs. Projects selected by the MPO must come from an approved metropolitan TIP. Responsibility for selecting NHS, Bridge and Interstate Maintenance projects rests with the State in cooperation with the appropriate MPO, based on an approved metropolitan TIP. Further, highway and public transportation projects not included on the approved Statewide TIP will not be eligible for funding under title 23, U.S.C., the Federal Transit Act or other Federal funding sources. In all urbanized areas not designated as TMAs, project selection responsibility rests with the State, in consultation with the appropriate transit operator and in cooperation with the MPO (projects must come from an approved metropolitan TIP).

Because TIPs must be financially constrained, prioritized and cooperatively developed by the MPO, the State, and transit operators, the proposed rule would utilize the decision processes leading up to the approval of the TIP as an alternate to individual project selection. Hence, the first year of an approved TIP would be deemed to constitute an agreed upon list of selected projects. Projects not in the first year of an approved TIP but which are subsequently chosen for implementation by the State or MPO, as appropriate, would utilize the selection procedure specified in proposed § 450.132. In nonattainment areas, priority must be given to the timely implementation of Transportation Control Measures (TCMs) in accordance with the U.S. EPA conformity regulations.

The statutory language provides that no public lands highway projects may proceed unless the State concurs in the selection of the project.

Financial Requirements

The transportation plan must include a financial plan that demonstrates that the funding necessary to implement the transportation improvements in the plan, over its life, is expected to be available. In addition, for nonattainment areas, the plan must address the financial resources necessary to ensure compliance with the attainment of clean air requirements. The proposed rule indicates that at a minimum the financial plan must address estimated revenues and strategies for ensuring their availability for implementing, operating and maintaining all projects. In addition, innovative financing such as private participation in both capital and operating expenses would be considered.

The proposed rule also addresses the financial constraints that must be part of the TIP.

Linkage to Statewide Planning Process and Regulations

Section 135 of title 23, U.S.C. requires States to develop statewide transportation plans and programs. A separate NPRM is being developed for these plans. The linkage between these planning requirements is addressed in proposed § 450.128. Specifically, statewide transportation plan elements covering metropolitan areas must be developed cooperatively with the MPOs. Further specification of the relationship between MPO metropolitan transportation plans and plans developed by the State for metropolitan areas will be included in the statewide transportation planning NPRM.

Interim Phase-in of Legislatively Mandated Requirements

A few deadlines are established by the ISTEA. The Secretary is directed to establish schedules for implementing the law in other areas. Where the Secretary is directed to establish schedules, interim deadlines, as needed, have been proposed in § 450.136.

Certification

The planning process in TMAs must be certified every three years, or more frequently, by the Secretary. The certification/recertification process is described within the proposed rule to provide a framework for the certification process.

Section-By-Section Analysis

Section 450.100 Purpose

Proposed § 450.100 describes the general purpose of the proposed regulation: to implement certain sections of title 23, U.S.C. and the Federal Transit Act of 1964, as amended, which require metropolitan areas to have a continuing, cooperative, and comprehensive transportation planning process as a condition of receipt of Federal capital or operating

assistance. The overall rationale for requiring this transportation planning process is to achieve an efficient, effective, integrated, intermodal transportation system for each metropolitan area. Contextually, such a system should reflect the expected development patterns of the metropolitan area.

Section 450.102 Applicability

Proposed § 450.102 provides that this subpart is applicable to the agencies and organizations responsible for conducting the transportation planning process for metropolitan planning areas. The primary responsibility rests with the designated MPO which must work cooperatively with the State and public transit operators in carrying out the transportation planning process. The role and involvement of other operators of major modes of transportation also is discussed in this proposed section.

Section 450.104 Definitions

Proposed § 450.104 defines terms used in this subpart.

Section 450.106 Metropolitan Planning Organization: Designation and Redesignation

Designations of metropolitan planning organizations (MPOs), after December 18, 1991, for metropolitan areas where an MPO did not previously exist, would be made by agreement among the representatives of units of general purpose local government (representing 75% of the affected population including central cities in the metropolitan area) and the Governor or in accordance with procedures in State or local law. To the extent possible, new MPOs should be designated under specific State legislation, State enabling legislation or by interstate compact. In addition, the principal elected officials of the general purpose local governments would be adequately represented on the MPO.

All previous designations of MPOs would remain in effect until such time as redesignated or revoked by the Governor and appropriate elected local officials. Officials of general purpose local government representing 75% of the population within the existing MPO boundaries would have to agree to the redesignation. The central cities would have to be among those agreeing to the redesignation.

Special ISTEA provisions that affect only Chicago, Illinois, and southern California allow local officials representing 25% of the population residing within the existing MPO's boundaries, including central cities, to request redesignation. Similar provisions are contained in this proposal. The Governor and local officials representing 75% of the affected population, including central cities, would have to redesignate a new MPO. The current designation stays in force until the new MPO is designated. The newly designated MPO would have to provide representation for officials of general purpose local government and operators of major modes of transportation.

In TMAs, MPOs designated after December 18, 1991, would include representatives of local elected officials, agencies that operate major modes of transportation, and appropriate State officials on their policy body(ies). The ISTEA conference report (H.R. Conf. Rep. No. 404, 102d Cong., 1st Sess. 316 (1991)) also indicates that if an MPO in a TMA reorganizes after December 18, 1991, these same officials are entitled to representation on the MPO. Reorganization is not addressed in the NPRM and comments are being sought on this item. Consideration is being given to requiring changes in MPO policy board representation only for major reorganization where the planning area is significantly increased and additional representation is required. We continue to encourage all MPOs to give such officials a voice in the MPO whether or not there is a redesignation or reorganization.

In proposed § 450.110 we have used the precise language of the legislation in describing agreements. The FHWA and the FTA will encourage State and local officials to develop mutually acceptable procedures for making MPO designations. This proposal does not impose a Federal mandate on the definition of "adequate representation" of principal elected officials on the MPO policy body. In the spirit of a cooperative planning process, we expect State and local officials to develop a mutually acceptable organizational structure and representation.

Section 450.108 Metropolitan Planning Organization: Geographic Scope of Metropolitan Planning Area Boundaries

Proposed § 450.108 requires that the transportation planning process at least cover the urbanized area and the area likely to be urbanized in the period covered by the long-range element of the transportation plan. In addition, for air quality nonattainment and maintenance areas, the boundaries would extend to the entire nonattainment and maintenance area unless reduced by agreement of the Governor and the MPO. Where a reduction is made, the State and MPO would establish an agreement that specifies how conformity for the entire nonattainment area would be assured. The FHWA and the FTA need to be consulted during the development of this agreement since they also must make a conformity determination for plans, programs and projects within the nonattainment area and would rely on State/MPO procedures for their determination. The MPO and the Governor would jointly designate the metropolitan planning area. While the FHWA and the FTA will not formally approve the boundary locations, copies of the final designated metropolitan planning area boundaries must be provided to both agencies for information.

Section 450.110 Metropolitan Planning Organization: Agreements

Proposed § 450.110 requires that the responsibilities for cooperative transportation planning and programming would be identified in an agreement or memorandum of understanding between the State and the MPO. The responsibilities of the MPO and the operators of publicly owned transit services would also be specified by agreement. If the MPO is not the designated agency for air quality planning under section 174 of the Clean Air Act, there would be an agreement between the MPO and the designated local air quality planning agency regarding their respective responsibilities. To the extent possible, these agreements would be contained in a single cooperative agreement. The proposed requirement for an agreement between the MPO, the State, the public transit operators, and the air quality agency would be met if the parties agree to document their responsibilities in a unified planning work program. Responsibility for coordinating the development of agreements and the UPWP would rest with the MPO.

Section 450.112 Metropolitan Planning Organization: Responsibilities, Cooperation and Coordination

Proposed § 450.112 provides that the MPO, in cooperation with the State and the operators of publicly owned transit services, be responsible for the metropolitan transportation planning process specified in §§ 450.120 and 450.122. The MPO would also be responsible for developing the unified planning work program, the transportation plan, and the TIP in cooperation with the State and transit operator(s). In addition, the MPO would be required to develop, or assist in developing, the transportation control measures of the State implementation plan (SIP) in nonattainment and

maintenance areas. In accordance with the Clean Air Act, the MPO would be prohibited from endorsing any project, program or plan which does not conform to the SIP.

The MPO, the State, and operators of publicly owned transit services would cooperatively determine the responsibility of each in the planning area including preparation of the corridor and subarea studies described in § 450.118. The discussion relating to the responsibilities for public involvement (proposed § 450.122) activities, including the response to comments, is contained under the heading, "Major Metropolitan Transportation Investment."

Section 450.114 Urban Transportation Planning Process: Unified Planning Work Programs

Proposed § 450.114 requires the development of a UPWP in TMAs. The UPWP would include:

(1) A discussion of the area's important transportation issues;

(2) A description of all proposed transportation and transportation-related planning activities, including corridor planning activities (§ 450.118), regardless of funding sources;

(3) A description of transportation-related air quality planning activities, regardless of funding sources or which agency conducts such activities; and

(4) Documentation of all work to be performed with planning assistance provided under sections 8, 9, or 26(a)(2) of the Federal Transit Act (49 U.S.C. app. 1607, 1607(a) and 1622 (a)(2)) and 23 U.S.C. The development of a prospectus would be optional.

Section 450.116 Metropolitan Transportation Planning Process: Elements

Proposed § 450.116 requires that the urban transportation planning process consider the fifteen factors required by the ISTEA. It also stresses the importance of citizen participation by proposing a process for the development of a citizen participation program which will provide full access to the planning process. It emphasizes the continuing and meaningful participation of the public, including minorities, women and other interested persons, in the planning process.

It would also encourage increased participation of operators of major modes of transportation, private transportation providers and other interested parties. While involvement of these interests is intended to ensure consideration of their perspectives in the development of transportation plans and programs, it also serves the policy of considering all modes during the planning process.

The proposed regulation indicates that in attainment areas, not designated as TMAs, simplified planning procedures for plans and programs may be proposed. In developing such proposed simplified procedures, consideration is to be given to the complexity of the transportation planning problems and the growth the area is experiencing. Before engaging in such simplified procedures, the MPO and the State would consult with the FHWA and the FTA. Approximately fifty percent of all metropolitan planning areas not designated as TMAs might qualify for such simplified procedures.

Section 450.118 Metropolitan Transportation Planning Process: Major Metropolitan Transportation Investments

The major metropolitan investment concept, described in this section, focuses on the need, as identified through the planning process, faced by some metropolitan areas to develop large scale facilities to meet transportation demand and proposes special requirements covering such investments. The proposed definition of a major metropolitan investment (§ 450.104(b)) emphasizes projects equivalent to a controlled access arterial of more than a mile or similar scale transit projects. Such projects are considered to provide significant capacity increases and require substantial public investment. The proposed definition makes this distinction while excluding smaller facilities that serve more localized purposes.

The proposed definition of corridor or subarea study identifies the spatial context of the facility as identified by local officials working with appropriate State, FHWA, FTA and transit agency officials. The scope of the investment spatially, physically and financially would be addressed in a scoping conference convened by the MPO and including agencies with a planning and/or operational interest in the corridor and/or subarea.

The analytical effort would establish the value of the potential investment from the perspective of local, State and national goals. The cost analysis would consider the direct dollar costs of such investments as well as the indirect costs in terms of alternate investment opportunities and strategies for meeting transportation demands. Similarly, the social and environmental costs and benefits of alternatives would be addressed, as well as the more specific dimensions of land use, development and energy consumption. The objective would be to consider a wide range of alternate, multimodal strategies aimed at meeting mobility needs while establishing the relative benefits and costs of such an investment across the dimensions identified in this section.

Such studies, properly conducted, would take the place of FTA-required alternatives analyses. They would also serve as a vehicle for satisfying other Federal Transit Act section 3 requirements regarding local financial commitment, economic development, etc. The intent is to recognize the increased responsibility of State and local decision makers in evaluating alternative investments and their financial responsibility for the Federal resources provided.

Further, such studies would provide critical input to required conformity analyses required by the Clean Air Act in terms of strategies to reduce transportation related air pollutants and achieve air quality standards within nonattainment areas. It should be noted, however, that subarea studies are not a substitute for a given regional emission analysis, nor are they a substitute for required "hot spot" analyses for project level decisionmaking. An appropriate regional and/or localized analysis would still be required for the purpose of determining conformity.

Such a study would serve to evaluate the scope of all environmental impacts, including air quality. It is the intent of the FHWA and the FTA to allow utilization of such studies, done at the appropriate level of detail, to serve as the core of required draft environmental analyses under 23 CFR part 771 and the Federal Transit Act. This would reduce required analytical and reporting effort and expedite funding decisions.

Finally, such studies could be supported both with planning and capital funds available to a given urbanized area. The studies would be included in the metropolitan UPWP. If funded with capital monies, the project also would be included in the metropolitan and statewide TIP.

Section 450.120 Metropolitan Planning Process: Congestion Management System

Section 134(i)(3) of title 23, U.S.C. and section 8(i)(3) of the Federal Transit Act require that the transportation planning process in TMAs include the development of a congestion management system that provides for the effective management of new and existing transportation facilities eligible for funding under title 23, U.S.C. and under the Federal Transit Act through

the use of travel demand reduction and operational management strategies. Section 303(a) of title 23, U.S.C., requires the States, in cooperation with the MPOs and agencies receiving Federal Transit Act assistance, to develop a system for traffic congestion management. The specific requirements for the CMS required under 23 U.S.C. 134(i)(3) and 23 U.S.C. 303(a) will be detailed in a separate regulation being developed jointly by the FHWA and the FTA. Primary responsibility for developing the CMS rests with the State except that in TMAs the CMS would be part of the metropolitan planning process conducted by the MPO in cooperation with the State and transit operator.

Section 134(l) of title 23, U.S.C., requires that in TMAs that are nonattainment for carbon monoxide and/or ozone, Federal funds not be programmed for a project that will result in a significant increase in capacity for single occupant vehicles (SOV) unless the project results from an approved CMS. At a minimum, the CMS would be required to demonstrate that alternative demand reduction and operational strategies would not adequately address travel demand needs.

Since a fully operational CMS is not required before Federal fiscal year 1995, this proposed regulation would provide for an interim approach utilizing the metropolitan transportation planning and/or environmental assessment processes (see 23 U.S.C. 303 and proposed § 450.136(c)). To meet the intent of the ISTEA such analyses would address a full range of reasonable trip reduction and operational management strategies, including such areawide strategies as employer trip reduction programs, carpooling, vanpooling, and other similar techniques. If the analysis of these strategies demonstrates that they cannot fully meet the need for additional capacity in the corridor, a project that provides significant increase in SOV capacity could be considered. Nevertheless, all reasonable measures to manage the facility effectively or to facilitate its management in the future would have to be incorporated into the project. Other travel demand reductions and operation management strategies appropriate to the corridor or subarea, but not appropriate for the proposed project, would also have to be committed to by the MPO and the State. We believe this approach meets the legislative intent, is a reasonable first step in providing for the effective management of new and existing facilities, and provides a sound basis for determining whether to advance SOV projects that also meet all conformity tests in TMAs that are nonattainment for carbon monoxide or ozone.

Section 450.122 Metropolitan Planning Process: Transportation Plan

It has been traditional to treat a transportation plan as a document, formally adopted by the appropriate policy body, which serves as a statement of goals, justifying the framework for intended improvements and specifying needed facilities. Amended infrequently, plans often become historical referents and occasionally legitimating documents for transportation investment actions taken. The intent of the ISTEA is to strengthen the planning process and make it a central mechanism for structuring effective investments to enhance overall metropolitan transportation system efficiency. To this end, the plan described in the proposed regulation would be dynamic, subject to more frequent revision and intended to serve as a "current" framework for transportation decisionmaking. Hence, it would be contemporaneous, comprehensive and strategically driven (from the perspective of financial constraint and the operational efficiency of the existing transportation system). It would reflect an effective public participation process which fosters meaningful public input to the decisions ratified within the plan and, in nonattainment and maintenance areas, it would also be consistent with the conformity requirements of the U.S. EPA.

The schedule of updates proposed for the plan reflect the dynamic quality intended by the ISTEA. Nonattainment and maintenance areas would update plans more frequently, every three years, to reflect the objectives of the Clean Air Act. Attainment areas would update plans no less often than every five years.

The content of the plan would address the fifteen factors identified in the ISTEA and a twenty-year planning horizon. The plan would include both long- and short-range strategies decided upon by the MPO. Overall there would be a systematic approach to addressing current and future transportation demand. Consistent with this systematic process, the plan also would reflect the results of the management systems. These management systems are not required to be fully implemented before Federal fiscal year 1995 and, hence, plans prepared before this effective date may be limited with regard to their consideration of the full range of management strategies.

The design concept and scope of all transportation facilities identified in the plan in nonattainment and maintenance areas would be in sufficient detail to permit conformity determinations as specified by the U.S. EPA. For further information on the conformity requirements, please consult the notice of proposed rule making issued by the U.S. EPA (See 58 FR 3768, Jan. 11, 1993).

The plan would be multimodal in focus. At a minimum this would include highway and transit improvements and, as appropriate to the metropolitan area, other transportation improvements that would affect the overall structure and performance of the metropolitan transportation system. This would include port access routes, airport access routes, major freight terminal access routes, intermodal facilities and other similar projects. The plan should reflect also the consideration of multiple modes as a means for serving transportation demand. It should recognize and incorporate information from State Rail Plans (as required under FRA regulations) and the FAA National Integrated Airport System Plan and supporting State and metropolitan airport plans if available. Other modal plans (e.g., ports, freight terminals and waterways), as appropriate, also should be addressed.

In circumstances where a corridor or subarea study is anticipated as a means for assessing potential transportation improvements but is not complete, the plan may indicate for such areas that the design concept and scope (modes and alignment) are not fully determined. In these instances, the plan may stipulate a set of assumptions concerning potential improvements or a no-build condition. In the former, the level of detail concerning the potential improvement would need to be sufficient to sustain a conformity determination under 40 CFR part 51 (see 58 FR 3768, Jan. 11, 1993) and should represent the best judgment as to the likely improvement option. In some cases the option could be multimodal rather than a single mode option.

A subsequent corridor or subarea study could lead to further refinement of feasible options and the selection of the appropriate mode(s) and alignment(s) for preliminary engineering. This could result in a plan amendment. The intent of the proposed plan requirement would be to provide a wide range of multimodal options for technical evaluation rather than fixing on a given mode by virtue of its intuitive appeal or initial apparent feasibility. A no-build alternative could

be later replaced, after appropriate study and justification, with a build option reflecting appropriate planning procedures and technical justification in the same fashion.

Current adopted land use plans depicting the existing and planned development of the region should serve as a framework for the transportation planning process to the extent available. Where such plans are not available, the planning process should place a priority on the development of such plans. Additional supporting context would be drawn from the environmental, social and energy conservation objectives of the region. In this context, transportation (mobility) demand should be addressed in balance with the other demands of the community comprising the metropolitan area. The intent is to establish the reciprocal relationship between these goals in a mutually supportive fashion wherever possible.

Transportation enhancement activities funded under the provisions of the ISTEA would be identified in the plan. Wherever possible, the basis for including these enhancements should be specified.

The ISTEA requires that the plan include a financial plan that demonstrates that funds are reasonably available to fully implement the plan by the forecast (horizon) year. Wish list plans that obviously cannot be fully funded will no longer be appropriate. The analysis would address historically available revenue sources, including sources of operating and maintenance revenue. Additionally, attention would be given to the identification of potential new sources of revenue, including innovative financing techniques and private financial participation. Where appropriate, strategies for securing such financing should be identified. Long-range forecasts should be based on historical trends and any new funding sources which can reasonably be expected to be available. Past success in obtaining motor fuel tax increases or passage of bonding programs may provide a rationale for including such sources. Where new sources of funds cannot be demonstrated to be reasonably available, they would not be considered in financing the plan.

The ISTEA places considerable emphasis on enhanced public involvement processes. The specific aspects of such involvement would be developed by the MPO with an opportunity for the public to comment on the proposed procedures. In TMAs and nonattainment areas where the range of issues and potential solutions can be expected to be complex, comprehensive procedures will need to be developed. At a minimum, a public involvement process would publish the draft transportation plan and make it readily available to the public for review and comment prior to final approval.

Transportation plans would be approved by the MPO. The FHWA and the FTA would not approve metropolitan transportation plans, but copies would be sent to the appropriate division or regional office of these agencies for informational purposes. In addition, in nonattainment areas, these agencies would make their conformity finding consistent with the requirements of the EPA regulations. This conformity finding would apply to new and revised plans.

Section 450.124 Transportation Improvement Program: General and Content

As indicated above, the TIP is now considered to be a central program management tool for structuring metropolitan transportation programs. In addition to being financially constrained and prioritized, it also would have to be consistent with the plan and planning process. Cooperatively developed by the MPO with the State and local public transit operator(s), it would reflect the overall metropolitan transportation goals specified in the plan and planning process.

The TIP would be updated at least every two years, as required by 23 U.S.C. 134. Approval responsibility would rest with the MPO and the Governor. The FHWA and the FTA would not approve metropolitan TIPs but would require copies of approved and amended TIPs. In nonattainment areas, the MPO, the FHWA, and the FTA would make conformity findings in accordance with the requirements of U.S. EPA's conformity regulations (40 CFR part 51) (see 58 FR 3768, Jan. 11, 1993).

As with the development of the plan, the development of the TIP would provide for public participation.

The TIP would cover a minimum period of three years and include a priority list of those projects proposed for funding. As a minimum, projects for each year would be identified, consistent with the level of funding expected to be available in each year. Nevertheless, if an area decides to order its priorities for the entire period of the TIP, this would be acceptable. At the discretion of the MPO, the TIP could cover a longer period but would have to provide detailed financial information and a prioritization of projects. In nonattainment and maintenance areas, TCMs would be given priority and the TIP would be required to provide for their timely implementation.

The financial constraint of the plan would be reflected in more detailed fashion in the TIP. Since the TIP covers a current timeframe and projects are more fully detailed, the financing program for the TIP would reflect a higher level of detail. Sources of funds and the timing of their availability would be specified. Non-Federal sources must also be specified. The TIP would also indicate that funds to operate and maintain the existing transportation system are also available.

Included in the TIP would be all transportation projects, included phases of segmented projects, that will be funded utilizing title 23, U.S.C., and Federal Transit Act monies. Only projects consistent with the metropolitan plan could be programmed. Additionally, projects requiring FHWA or FTA approvals, but not funded with title 23, U.S.C., or Federal Transit Act funds, also would be included. Similarly, projects funded with Federal funds from other Federal agencies would be identified for information purposes to reflect the integrated and intermodal nature of the metropolitan transportation system. Projects with a regional transportation impact funded with State, local or private resources also would be identified for informational purposes.

This regulation would specify the level of detail that must be provided to identify proposed projects in the TIP. At a minimum a project description, estimated total cost, required Federal funds to be obligated in each program year, sources of Federal and non-Federal funds, and fund recipient would be included. In nonattainment areas, projects serving as TCMs would be specified. Further, all projects in these areas would be specified in sufficient detail to permit analysis in accordance with U.S. EPA conformity requirements.

Recognizing that many projects would facilitate the preservation of existing transportation facilities, a factor required to be considered under the metropolitan planning process, MPOs are encouraged to cooperate with the State and public transit operators in developing streamlined procedures for processing projects that would result in the preservation of existing facilities without a significant increase in capacity for SOVs. Such projects may be grouped in the TIP. However, in nonattainment and maintenance areas, only those projects that are exempt from conformity determinations in

accordance with 40 CFR part 51 (see 58 FR 3768, Jan. 11, 1993) may be grouped.

Projects proposed to be funded with transportation enhancement monies would be separately identified and included in the TIP.

In proposing transit projects to be funded with Federal Transit Act section 9 support, the total annual amount proposed would not exceed the Federal Transit Act section 9 funds apportioned for that year. Subsequent years might reflect reasonable projections of past trends.

Recognizing the emphasis in ISTEA on regional approaches to transportation systems, suballocation of STP funds below the metropolitan level (modal or geographic) would be prohibited unless it can be shown to be consistent with the planning process, i.e., an outgrowth of one of the fifteen factors that must be considered. The rationale for this position is drawn from the ISTEA language which empowers the MPO in cooperation with the State and transit operator to develop the TIP. Suballocation could prevent the inclusion of the highest priority projects in the TIP for a given year. While the desirability of providing an equitable distribution of funds throughout the metropolitan region is recognized, this should be a long term goal rather than an annual entitlement.

A provision is included to permit funding operating assistance and emergency relief projects in the absence of an approved metropolitan TIP. These projects are considered to be essential to the performance of the transportation system, e.g., operating assistance, or are needed to reestablish an element of the system damaged by natural causes and eligible for emergency relief funds.

To reflect the management focus of the TIP, the MPO would identify the criteria and process for prioritizing plan and program elements. Changes from previous TIPs in terms of priorities also would be identified. To permit monitoring of program progress, major projects from previous TIPs that were implemented should be described and any delays in the planned implementation of projects would be explained. In nonattainment and maintenance areas all projects previously found to conform with State implementation plans and now included in the base case for air quality purposes must be identified. Listing of these projects would continue until they are fully authorized for construction or acquisition.

Section 450.126 Transportation Improvement Program: Modification

TIPs may be amended as the need arises, consistent with the procedures developed in this proposed regulation. Based on the multi-year nature of the TIP, the FHWA and the FTA expect a minimal need to amend TIPs on more than an annual basis. Where the projects added or subtracted are exempt (neutral with regard to their air quality impacts), public comment would not be required. Nevertheless, for all other projects, provision for public involvement would be required. Further, in nonattainment and maintenance areas, amendments which add or delete projects which affect regional transportation emissions will require new conformity determinations by the MPO, the FHWA and the FTA.

Section 450.128 Transportation Improvement Program: Relationship to the Statewide TIP

This section focuses on the relationship between metropolitan TIPs and the statewide transportation improvement program (STIP) and clarifies that gubernatorial approval would constitute State commitment to include projects in the metropolitan TIPs in the STIP. The required approval of the metropolitan TIP by the MPO and the Governor would mean that the TIP is to be automatically included in the STIP, except in nonattainment and maintenance areas. Before an approved metropolitan TIP from a nonattainment or maintenance area can be included in an STIP, it must be found by the FHWA and the FTA to be conforming in accordance with the requirements of the U.S. EPA conformity regulations (40 CFR part 51) (see 58 FR 3768, Jan. 11, 1993).

Section 450.130 Transportation Improvement Program: Action Required by FHWA/FTA

This section would detail the specific findings which would have to be made by the FHWA and the FTA that the TIP results from a comprehensive, continuing and cooperative planning process and that in nonattainment areas, the plans and programs conform with the SIP.

Section 450.132 Project Selection for Implementation

This proposed project selection process identifies the agency responsible for choosing projects to be implemented from approved TIPs. For TMAs, responsibility would lie with the MPO in consultation with the State and transit operator, with the exception of projects on the NHS and projects funded under the Bridge and Interstate Maintenance programs where the State would have responsibility in cooperation with the MPO. For non-TMAs, the responsibility lies with the State and transit operator (where transit projects are involved) in cooperation with the MPO. As drafted, the rule proposes that projects in the first year of an approved TIP could be selected for implementation without going through the formal project selection process discussed above. The rationale for this is that, under a fiscally constrained TIP, only those projects which have support for implementation will be incorporated into the first year of a TIP. Requiring re-examination of this decision would place unnecessary burdens on State and local officials. Movement of projects from years two and three of the TIP to the first year would require following the project selection process. The proposed rule also states that TCMs in nonattainment areas are to be given priority.

Section 450.134 Metropolitan Transportation Planning Process: Certification

Proposed section 450.134 would provide that the FTA and the FHWA Administrators would jointly review the transportation planning process for each Transportation Management Area to determine if it meets the requirements of this regulation. In nonattainment areas, the review would include an assessment of the adequacy of the process to ensure conformity of the plans and programs.

The proposed regulation allows the FHWA and the FTA to certify with conditions where the process substantially meets the requirements. Where the process does not substantially meet the requirements an optional sanction would be available. If an area remains uncertified for two consecutive years after September 30, 1994, a mandatory sanction would go into effect on October 1, 1996. Any funds withheld under these sanction provisions that have not lapsed would be restored to the area when it becomes certified.

Section 450.136 Phase-in of New Requirements

In order to provide a reasonable period of time to meet new requirements, several provisions of the proposed rule would be phased in. The ISTEA conference report provides for such a phase-in period. To facilitate their identification and subsequent removal as they become obsolete they have been grouped together under this section.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The FHWA and the FTA have determined that this rulemaking is not major within the meaning of Executive Order 12291. This rulemaking is considered a significant regulation under Department of Transportation regulatory policies and procedures because of substantial State, local government, congressional and public interest. These interests involve receipt of Federal financial support for transportation investments, appropriate compliance with statutory requirements, and balancing of transportation mobility and environmental goals. The FHWA and the FTA anticipate that the economic impact of this rulemaking will be minimal. Most of the costs associated with this proposed rule are attributable to the provisions of the ISTEA, the Clean Air Act (as amended), and other statutes including earlier highway acts. This proposed rule revises existing planning regulations of the FHWA and the FTA and conforms those regulations to the requirements of the ISTEA. For these reasons, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C., 605(b)), the FHWA and the FTA have evaluated the effects of this proposed rule on small entities such as local governments and businesses. The proposed regulation modifies existing requirements for urban transportation planning and does not create a new activity. The modifications of the existing planning requirements are substantially dictated by the provisions of the ISTEA and the Clean Air Act Amendments of 1990. Hence, the FHWA and the FTA believe that overall compliance burden on public entities implementing the provisions of the legislation will not be substantially greater than previously existed. Based on this evaluation, the FHWA and the FTA certify that this rulemaking would not have a significant economic impact on a substantial number of small entities. The need to further evaluate economic consequences will be reviewed on the basis of comments submitted in response to this notice and the public meetings.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The ISTEA authorizes the Secretary to promulgate rules to implement the provisions of the ISTEA regarding metropolitan planning. The proposed rule recognizes the role of State and local governments in implementing the metropolitan planning provisions of the ISTEA, including the increased discretionary authority allocated to them under the Act. Accordingly, it is certified that the policies contained in this document have been assessed in light of the principles, criteria, and requirements of the Federalism Executive Order, as well as the applicable provisions of the ISTEA. It has been determined that this proposed rule does not have sufficient Federalism implications to warrant a full Federalism Assessment under the principles and criteria contained in Executive Order 12612.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Numbers 20.205, Highway Planning and Construction; 20.500, Federal Transit Capital Improvement Grants; 20.505, Federal Transit Technical Studies Grants; 20.507, Federal Transit Capital and Operating Assistance Formula Grants. The regulations implementing Executive Order 12372 regarding intergovernmental consultation in Federal programs and activities apply to these programs.

Paperwork Reduction Act

The information collection, reporting and recordkeeping provisions in this proposal have been reviewed for compliance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The creation and submission of required reports and documents have been constrained to those specifically required by the ISTEA or essential to the performance of the FHWA and the FTA's findings and approvals. The reporting requirements for UPWPs were approved by the Office of Management and Budget under OMB control number 2132–0031. The reporting requirements for metropolitan transportation plans and programs were approved by the Office of Management and Budget under OMB control number 2132–0529.

National Environmental Policy Act

The FHWA and the FTA have analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR Parts 450 and 613

Grant programs-transportation, Highways and roads, Mass transportation, Metropolitan planning, Project selection, and Transportation improvement program.

In consideration of the foregoing, the Federal Highway Administration proposes to amend title 23, Code of Federal Regulations, by revising part 450, and the Federal Transit Administration proposes to amend title 49, Code of Federal Regulations, by revising subpart A of part 613 as set forth below.

Issued on: February 17, 1993.

E. Dean Carlson,

Executive Director, Federal Highway Administration.

Robert H. McManus,

Acting Administrator, Federal Transit Administration.

Title 23

1. In chapter I of title 23 CFR, part 450 is revised to read as follows:

SUBCHAPTER E—PLANNING

PART 450—PLANNING ASSISTANCE AND STANDARDS

Subpart A—Metropolitan Transportation Planning and Programming

Sec.

450.100 Purpose.
450.102 Applicability.
450.104 Definitions.
450.106 Metropolitan planning organization: Designations and redesignation.
450.108 Metropolitan planning organization: Metropolitan planning area boundaries.
450.110 Metropolitan planning organization: Agreements.
450.112 Metropolitan transportation planning: Responsibilities, cooperation and coordination.
450.114 Metropolitan transportation planning process: Unified planning work programs.
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450.100 Metropolitan transportation planning process: Congestion management system.
450.102 Metropolitan transportation planning process: Transportation plan.
450.104 Transportation improvement program: General.
450.106 Transportation improvement program: Modification.
450.108 Transportation improvement program: Relationship to statewide TIP.
450.110 Transportation improvement program: Action required by FHWA/FTA
450.112 Project selection for implementation.
450.114 Metropolitan transportation planning process: Certification.
450.116 Phase-in of new requirements.

Subpart B—[Reserved]

Authority: 23 U.S.C 104(f), 134, 217, and 315; 49 U.S.C. app. 1602, 1604, 1607, and 1607(a)); sections 110, 172, 174, 175, 176, 179 of the Clean Air Act; and 49 CFR 1.48(b) and 1.51.

Subpart A—Metropolitan Transportation Planning and Programming

§ 450.100 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 134 and section 8 of the Federal Transit Act, as amended, which require that an MPO be designated for each urbanized area and that the metropolitan area have a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs that consider all transportation modes. These plans and programs shall lead to the development of an integrated, intermodal metropolitan transportation system that facilitates the efficient, economic movement of people and goods.

§ 450.102 Applicability.

The provisions of this subpart are applicable to agencies involved in the transportation planning, program development, and project selection processes in metropolitan planning areas.

§ 450.104 Definitions.

Except as otherwise provided, terms defined in 23 U.S.C. 101(a) are used in this subpart as so defined.

Governor means the Governor, or his/her designee, of any one of the fifty States, or Puerto Rico, and includes the Mayor of the District of Columbia.

Maintenance Area means any geographic region of the United States that the U.S. Environmental Protection Agency (EPA) has designated as a maintenance area under section 175A of the Clean Air Act Amendments of 1990 for a transportation related pollutant(s) for which a national ambient air quality standard exists.

Major metropolitan transportation investment means a project that involves new construction or extension of a controlled access principal arterial, or the capacity expansion of a controlled access principal arterial by at least one lane (or an equivalent increase in capacity through access control or technological improvement), or construction or extension of a busway, high occupancy vehicle (HOV) facility, or fixed guideway transit facility, or adding lanes to a busway, or adding tracks to fixed guideway transit facility, or a substantial increase in service on a fixed guideway. It does not include, for example:

(1) Lesser localized improvements to existing controlled access principal arterial, busway, or fixed guideway transportation facilities;

(2) Safety improvements or resurfacing, restoration, or rehabilitation of existing facilities;

(3) Added lanes to short controlled access principal arterial and busway segments (normally less than 1 mile) to alleviate specific, localized traffic flow problems;

(4) Added segments to fixed guideway transit facilities to provide specific localized improvements to system operations;

(5) Projects that are part of a demonstration program (funded under title 23, U.S.C.); and

(6) The emergency replacement of facilities damaged or destroyed as a result of a natural disaster or catastrophic failure.

Metropolitan planning area means the area in which the metropolitan transportation planning process required by 23 U.S.C. 134 and section 8 of the Federal Transit Act must be carried out.

Metropolitan planning organization (MPO) means that organization designated as being responsible, together with the State, for carrying out the provisions of 23 U.S.C. 134, as provided in 23 U.S.C. 104(f)(3) and 134(b), and capable of meeting the requirements of sections 3(e)(1), and 8 (a), (b) and (c) of the Federal Transit Act (49 U.S.C. app. 1602(e)(1) and 1607 (a), (b) and (c)). This organization is the forum for cooperative transportation decisionmaking.

Nonattainment area means any geographic region of the United States that the EPA has designated as a nonattainment area for a transportation related pollutant(s) for which a national ambient air quality standard exists.

State means any one of the fifty States, the District of Columbia, or Puerto Rico; when an action by the State is required, then "State" means the State transportation agency.

State implementation plan (SIP) means the portion (or portions) of an applicable implementation plan approved or promulgated, or the most recent revision thereof, under sections 110, 301(d) and 175A of the Clean Air Act (42 U.S.C. 7409, 7601, and 7505a).

Transportation improvement program (TIP) means a staged multiyear program of transportation projects, excluding planning and research activities funded under 23 U.S.C. 104(f) and 23 U.S.C. 307(c), section 6055(b) of Public Law 102–240, and/or sections 49 U.S.C. 1607 and 49 U.S.C. 1622.

Transportation management area (TMA) means an urbanized area (UZA) over 200,000 population, as determined by the 1990 census, or other areas when TMA designation is requested by the Governor and MPO (or affected local officials) and officially designated by the Administrators of the FHWA and the FTA. The TMA designation applies to the metropolitan planning area established by the MPO and the Governor.

§ 450.106 Metropolitan planning organization: Designations and redesignation.

(a) Designations of metropolitan planning organizations (MPOs) made after December 18, 1991, shall be made by agreement among the Governor(s) and units of general purpose local governments representing 75% of the affected metropolitan population (including the central city or cities as defined by the Bureau of the Census), or in accordance with procedures established by applicable State or local law. To the extent possible, only one MPO shall be designated for each urbanized area or group of contiguous urbanized areas. More than one MPO can be designated within an urbanized area only if the Governor(s) determines that the size and complexity of the urbanized area make designation of more than one MPO appropriate.

(b) The designation shall clearly identify the policy body that is the forum for cooperative decisionmaking and will be taking the required approval actions as the MPO.

(c) To the extent possible, the MPO designated shall be established under specific State legislation, State enabling legislation, or by interstate compact, and shall have authority to carry out metropolitan transportation planning.

(d) Redesignation (designation of a new MPO(s) to replace an existing MPO) shall occur by agreement of the Governor and affected local units of

government representing 75% of the population in the entire metropolitan area. In addition, the central city(ies) must be among the units of local government agreeing to the redesignation.

(e) Nothing in this subpart shall be deemed to prohibit the MPO from utilizing the staff resources of other agencies to carry out selected elements of the planning process.

(f) Existing MPO designations remain valid until a new MPO is redesignated unless revoked by the Governor and local units of government representing 75% of the population in the area served by the existing MPO (the central city must be among those desiring to revoke the MPO designation), or as otherwise provided under State or local procedures. If the Governor and local officials decide to redesignate a new MPO, but do not formally revoke the existing MPO designation, the existing MPO remains in effect until a new MPO is formally redesignated.

(g) Redesignation of an MPO in a multistate metropolitan area requires the approval of the Governor of each State and local officials representing 75% of the population in the entire metropolitan planning area; the local officials in the central city(ies) must be among those agreeing to the redesignation.

(h) Redesignation of an MPO covering more than one urbanized area requires the approval of the Governor and local officials representing 75% of the population in the metropolitan planning area covered by the current MPO; the local officials in the central city(ies) in each urbanized area must be among those agreeing to the redesignation.

(i) In TMAs, MPOs designated/redesignated subsequent to December 18, 1991, must include representation of local elected officials, officials of agencies that administer or operate major modes or systems of transportation, e.g., sponsors of major local airports, maritime ports, rail operators, etc. (including all transportation agencies that were included in the MPO on June 1, 1991), and appropriate State officials. Where representatives of other major modes of transportation do not already have a voice, existing MPOs (in cooperation with the States) are encouraged to provide such officials a voice in the decisionmaking process. Adding such officials to an MPO will not, in itself, constitute a redesignation action.

(j) Where the metropolitan area planning boundaries for a previously designated MPO need to be expanded, the membership on the MPO policy body, etc., should be reviewed to ensure that the added area has appropriate representation.

(k) Adding membership (e.g., local elected officials and operators of major modes or systems of transportation, or representatives of newly urbanized areas) to the policy body or expansion of the metropolitan planning area does not automatically require redesignation of the MPO. To the extent possible, it is encouraged that this be done without a formal redesignation. The State and MPO will need to review the previous MPO designation, State and local law, MPO bylaws, etc., to determine if this can be accomplished without a formal redesignation. If redesignation is considered necessary, the existing MPO will remain in effect until a new MPO is formally designated or the existing designation is formally revoked in accordance with the procedures discussed above.

§ 450.108 Metropolitan planning organization: Metropolitan planning area boundaries.

(a) The transportation planning process shall, as a minimum, cover the urbanized area(s) and the contiguous area(s) likely to become urbanized within the twenty year forecast period covered by the transportation plan described in § 450.122. The process may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census. For areas designated as nonattainment and maintenance areas for transportation related pollutants under the Clean Air Act, the boundaries of the metropolitan planning area shall include at least the boundaries of the nonattainment and maintenance areas, except as otherwise provided by agreement between the metropolitan planning organization and the Governor, based upon reasonable cause, under the procedures specified in § 450.110(f). In the absence of a formal agreement between the Governor and the MPO to reduce the metropolitan planning area to an area less than the boundaries of the nonattainment and maintenance area, the MPO shall develop transportation plans and programs for the entire nonattainment and maintenance area.

(b) The planning area covered by an MPO for a new UZA shall be established in accordance with these criteria. The current planning/study area boundaries for previously designated MPOs shall be reviewed and modified if necessary to comply with these criteria.

(c) In addition to the criteria in paragraph (a) of this section, consideration should be given to the planning areas currently in use for all transportation modes in establishing the metropolitan planning area boundary. Where appropriate, adjustments should be made to reflect the most comprehensive boundaries to foster an effective planning process that ensures connectivity between modes, reduces access disadvantages experienced by modal systems, and promotes efficient overall transportation investment strategies.

(d) Approval of the metropolitan area planning boundaries by the FHWA or the FTA is not required. However, metropolitan area planning boundary maps must be submitted to the FHWA and the FTA so these agencies can meet their program responsibilities.

§ 450.110 Metropolitan planning organization: Agreements.

(a) The responsibilities for cooperatively carrying out transportation planning (including corridor and subarea studies) and programming shall be clearly identified in an agreement or memorandum of understanding between the State and the MPO.

(b) There shall be an agreement between the MPO and operators of publicly owned transit services which specifies cooperative procedures for carrying out transportation planning (including corridor and subarea studies) and programming as required by this subpart.

(c) In nonattainment and maintenances areas, if the MPO is not designated for air quality planning under section 174 of the Clean Air Act (42 U.S.C., 7504), there shall be an agreement between the MPO and the designated agency describing their respective roles and responsibilities for air quality related transportation planning.

(d) To the extent possible, there shall be one cooperative agreement containing the understandings required by paragraphs (a) to (c) of this section among the State, MPO, and publicly owned operators of mass transportation services.

(e) Where parties involved agree, the requirement for agreements specified in paragraphs (a), (b), (c) and (d) of this section may be satisfied by including the responsibilities and procedures for carrying out a cooperative process in the unified planning work program or a prospectus as defined in § 450.114(c).

(f) If the metropolitan planning area does not include the entire nonattainment or maintenance area, there shall be an agreement between the State department of transportation, State air agency, other affected local agencies, and the MPO describing the process for

cooperative planning and analysis of all projects outside the metropolitan planning area but within the nonattainment or maintenance area. The agreement also must indicate how the total transportation related emissions for the nonattainment and maintenance area, including areas both within and outside the metropolitan planning area, will be treated for the purposes of determining conformity in accordance with the U.S. EPA conformity regulation. The agreement shall address policy mechanisms for resolving potential conflicts between the metropolitan planning area, and the portion of the nonattainment or maintenance area outside the metropolitan planning area such as when total transportation related emissions exceed the allowable levels. Such proposals shall be coordinated with the FHWA, the FTA, the EPA, and the State air quality agency before a final decision is made to exclude a portion of the nonattainment or maintenance area.

(g) Where more than one MPO has authority within a metropolitan planning area or a nonattainment or maintenance area, there shall be an agreement between the State department(s) of transportation and the MPOs describing how the processes will be coordinated to assure the development of an overall plan for the metropolitan planning area. In metropolitan planning areas that are nonattainment and maintenance areas, the agreement shall include State and local air agencies and shall address policy mechanisms for resolving potential conflicts between the MPOs, such as when total transportation related emissions exceed the allowable levels. Such proposals shall be coordinated with the FHWA, the FTA, the EPA, and the State air quality agency before a final decision is made to exclude a portion of the nonattainment or maintenance area.

(h) For all requirements specified in paragraphs (a) through (g) of this section, existing agreements shall be reviewed for compliance and reaffirmed or modified as necessary to ensure participation by all appropriate modes.

§ 450.112 Metropolitan transportation planning: Responsibilities, cooperation, and coordination.

(a) The MPO in cooperation with the State and with operators of publicly owned transit services shall be responsible for carrying out the metropolitan transportation planning process and shall cooperatively determine their mutual responsibilities in the conduct of the planning process, including corridor refinement studies described in §§ 450.116 through 450.118. They shall cooperatively develop the unified planning work programs, transportation plan, and transportation improvement program specified in §§ 450.114 through 450.118. In addition, the MPO shall coordinate the development of the plan and TIP with other providers of transportation, e.g., sponsors of regional airports, maritime port operators, rail freight operators, etc.

(b) In nonattainment and maintenance areas, the MPO shall coordinate the development of the transportation plan with the process for the development of the transportation control measures of the SIP. The MPO shall develop or assist in developing the transportation control measures.

(c) The MPO shall approve the metropolitan transportation plan and its periodic updates. The MPO and the Governor shall approve the metropolitan transportation improvement program.

(d) In nonattainment and maintenance areas for transportation related pollutants, the MPO shall not approve any transportation plan or program which does not conform with the SIP, as determined in accordance with the U.S. EPA conformity regulation.

(e) If more than one MPO has authority in a metropolitan planning area (including multi-State metropolitan planning areas) or in an area which is designated as nonattainment for transportation related pollutants, the MPOs and the State(s) shall cooperatively establish the boundaries of the metropolitan planning area (including the twenty year planning horizon and relationship to the nonattainment and maintenance) and the respective jurisdictional responsibilities of each MPO. The MPOs shall consult with each other and the State(s) to assure the preparation of integrated plans and programs for the entire metropolitan planning area. An individual MPO plan and program may be developed separately. However, each plan and program must be consistent with the plans and programs of other MPOs in the metropolitan planning area. For the overall metropolitan planning area the individual MPO plans and programs shall reflect coordinated data collection, analysis and development. In those areas where this provision is applicable, coordination efforts shall be initiated and the process and outcomes documented in subsequent transmittals of plans and programs to the State, the FHWA, and the FTA.

(f) The Secretary must designate as transportation management areas all urbanized areas over 200,000 population. Through a Federal Register notice (Monday, May 18, 1992, 57 FR 21160–21161), TMAs have been designated for all UZAs over 200,000 population as determined by the 1990 census urbanized area population. TMAs must comply with the special requirements applicable to such areas regarding congestion management systems, project selection, and certification. The TMA designation applies to the entire metropolitan planning area for the MPOs involved. If the metropolitan planning area(s) encompasses more than one urbanized area, the designation applies to the entire metropolitan planning area(s) whether or not all of the urbanized areas are over 200,000 population.

(g) As required by 23 U.S.C. 303, the required management systems shall be developed cooperatively by the State and the MPOs for each metropolitan planning area, except in TMAs where the congestion management system will be developed by the MPO as part of the metropolitan planning process in cooperation with the State and transit operator(s). The cooperative process shall extend to the development and implementation of data and analytical systems as well as performance measures used in the assessment of transportation system performance and development of strategies and programs identified to improve such performance.

(h) The State shall cooperatively participate in the development of metropolitan transportation plans. The relationship of the statewide transportation plan and the metropolitan plan is specified in the statewide planning regulation of this part.

§ 450.114 Metropolitan transportation planning process: Unified planning work programs.

(a) In TMAs, the MPO(s) in cooperation with the State and operators of publicly owned transit shall develop unified planning work programs (UPWPs) that meet the requirements of 23 CFR part 420, subpart A and:

(1) Discuss the planning priorities facing the metropolitan planning area and describe all metropolitan transportation and transportation-related air quality planning activities (including the corridor and subarea studies discussed in § 450.118) anticipated within the area during the next one or two year period regardless of funding sources or agencies conducting activities, in sufficient detail to indicate who will perform the work,

the schedule for completing it and the products that will be produced;

(2) Document planning activities to be performed for MPO purposes with funds provided under title 23, U.S.C., and the Federal Transit Act.

(3) Demonstrate that adequate funds and staff resources are committed to the high priority activities.

(b) Arrangements may be made to combine the UPWP requirements with the work program for other Federal sources of planning funds.

(c) The metropolitan transportation planning process may include the development of a prospectus that establishes a multiyear framework within which the UPWP is accomplished. The prospectus may be used to satisfy the requirements of § 450.110 and paragraph (a)(1) of this section.

(d) In areas not designated as TMAs, the MPO in cooperation with the State and transit operators shall cooperatively describe who will perform the work and the work that will be accomplished using Federal funds.

§ 450.116 Metropolitan transportation planning process: Elements.

(a) Section 134(f) of 23 U.S.C. and Federal Transit Act section 8 (49 U.S.C. app. 1607) list 15 factors that must be considered as part of the planning process for all metropolitan areas. The consideration of the following factors shall be explicitly reflected in the planning process products:

(1) Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently (including an analysis of existing conditions of travel, transportation facilities, vehicle fuel consumption, and systems management);

(2) Consistency of transportation planning with applicable Federal, State, and local energy conservation programs, goals, and objectives;

(3) The need to relieve congestion and prevent congestion from occurring where it does not yet occur including:

(i) The consideration of congestion management strategies or actions which improve the mobility of people and goods in all phases of the planning process; and

(ii) In TMAs, a phased in congestion management system that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operation management strategies (e.g., various elements of IVHS) shall be developed in accordance with § 450.120;

(4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans (the analysis should include projections of metropolitan planning area economic, demographic, environmental protection, and land use activities consistent with metropolitan development goals, and projections of potential transportation demands based on the interrelated level of activity in these areas);

(5) Programming of expenditures for transportation enhancement activities as required under 23 U.S.C. 133;

(6) The effects of all transportation projects to be undertaken within the metropolitan planning area, without regard to the source of funding (the analysis shall consider the effectiveness, cost effectiveness, and financing of alternative investments in meeting transportation demand and supporting the overall efficiency and effectiveness of transportation system performance);

(7) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations (supporting technical efforts should provide an analysis of goods and services movement problem areas, as determined in cooperation with appropriate private sector involvement, including, but not limited to addressing interconnected transportation access and service needs of intermodal facilities);

(8) Connectivity of roads within metropolitan planning areas with roads outside of those areas;

(9) Transportation needs identified through the use of the management systems required under 23 U.S.C. 303 (each management system will identify prioritized facility needs, policies, and strategies that will be analyzed during the development of the transportation plan, including its financial component, for possible inclusion in the metropolitan and statewide plans and TIPs);

(10) Preservation of rights-of-way for construction of future transportation projects, including future transportation corridors;

(11) Enhancement of the efficient movement of freight;

(12) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement (operating and maintenance costs must be considered in analyzing transportation alternatives);

(13) The overall social, economic, energy, and environmental effects of transportation decisions (the analysis shall give consideration to the effects and impact of the plan on the natural and man made environment, be based on adequate consultation with appropriate resource and permit agencies to ensure early and continued coordination with environmental resource protection and management plans, and shall place appropriate emphasis on consideration of transportation-related air quality problems and in support of the requirements of 23 U.S.C. 109(h), and sections 5(h)(2) and 14 of the Federal Transit Act (49 U.S.C. 1604(h)(2) and 1610), and section 174(b) of the Clean Air Act (42 U.S.C. 7504(b)));

(14) Expansion, enhancement, and increased use of transit services; and

(15) Capital investments that would result in increased security in transit systems.

(b) In addition, the metropolitan transportation planning process shall:

(1) Include provisions to ensure early and continuing involvement of the public in the development of plans and TIPs so that:

(i) Public involvement procedures shall reflect consultation with interested parties. As a minimum, the MPO shall publish the procedures to be used and allow 45 days for written public comment before the procedures are adopted;

(ii) When the MPO revises its established public involvement procedures, it shall publish the new procedures and allow 45 days for written public comment before the revised procedures are adopted;

(iii) In nonattainment and maintenance areas, when significant written and oral comments are received on the draft transportation plan or TIP, a summary, analysis, and report on the disposition of comments shall be submitted to the FHWA and the FTA by the MPO with the transportation plan or TIP and be made available to other parties upon request;

(iv) In nonattainment and maintenance areas, if the final transportation plan or TIP is significantly different than the one which was made available for public comment by the MPO and raises new material issues which interested parties could not reasonably have foreseen from the MPO notifications, an additional opportunity for public comment on the revised plan or TIP must be provided; and

(v) Citizens, affected public agencies, representatives of transportation agency employees, private providers of

transportation and other interested parties shall have full access to plans and programs, their supporting materials, and an opportunity to participate in all stages of the planning process.

(2) Be consistent with title VI of the Civil Rights Act of 1964 and the title VI assurance executed by each State under 23 U.S.C. 324 and 29 U.S.C. 794, which ensure that no person shall, on the grounds of race, color, sex, national origin, or physical handicap, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program receiving Federal assistance from the United States Department of Transportation;

(3) Identify actions necessary to comply with the Americans With Disabilities Act of 1990 (Pub. L. 101–336, 104 Stat. 327, as amended) and U.S. DOT regulations "Transportation for Individuals with Disabilities" (49 CFR parts 27, 37, and 38);

(4) Provide for the involvement of traffic, ridesharing, parking, and enforcement agencies; airport and port authorities; toll authorities; and appropriate private transportation providers; and

(5) Provide for the involvement of local, State, and Federal environmental resource and permit agencies as appropriate.

(c) In attainment areas not designated as TMAs, simplified procedures for the development of plans and programs, if considered appropriate, shall be submitted for approval by the FHWA and the FTA. In developing proposed simplified planning procedures, consideration shall be given to the transportation problems in the area and their complexity, the growth rate of the area (e.g., fast, moderate or slow), the appropriateness of the factors specified for consideration in this subpart, and the desirability of continuing any planning process that has already been established. Areas experiencing fast growth should give consideration to a planning process that addresses all of the general requirements specified in this subpart. As a minimum, all areas employing a simplified planning process will need to develop a transportation plan to be adopted by the MPO and a TIP to be approved by the MPO and the Governor.

(d) The metropolitan transportation planning process shall include preparation of technical and other reports to assure documentation of the development, refinement, and reappraisal of the transportation plan. The reports shall be reasonably available to interested parties, consistent with § 450.116(b)(1).

§ 450.118 Metropolitan transportation planning process: Major metropolitan transportation investments.

(a) Where the need for a major metropolitan transportation investment is identified as part of the metropolitan transportation planning process, and where the environmental process pursuant to 23 CFR part 771 has not been initiated, corridor or subarea studies shall be undertaken to specify the precise nature of the investment. While not required, it is encouraged that necessary studies be completed before such investments are included in the plan. The extent of the analysis shall be determined through a cooperative process which involves the MPO, the State, public transit operators, environmental resource and permit agencies, the FHWA and the FTA. A reasonable opportunity shall be provided for citizens and interested parties including affected public agencies, representatives of transportation agency employees, and private providers of transportation to comment on the proposed study. This cooperative process shall establish the range of alternatives to be studied, such as alternative modes and technologies (including intelligent vehicle and highway systems), general alignment, number of lanes, the degree of grade separation, interchange and transit station locations, and operating characteristics. Where the environmental process has been initiated, the FHWA and the FTA should be consulted on appropriate modifications of the analysis to meet the requirements of this section.

(b) To the extent appropriate as determined under paragraph (a) of this section, corridor and subarea studies shall evaluate the effectiveness and cost-effectiveness of alternative investments or strategies in attaining local, State and national goals and objectives. The analysis shall consider the direct and indirect costs of relevant alternatives and such factors as mobility improvements; social, economic, and environmental effects; operating efficiencies; land use and economic development; and energy consumption.

(c) These corridor and/or subarea studies will serve as the "alternatives analyses" required by section 3(i)(1)(A) of the Federal Transit Act (49 U.S.C. app. 1602(i)) for certain projects for which discretionary section 3 "New Start" funding is being sought. The studies will also be used as the primary source of information for the other section 3(i)(1)(A) Secretarial findings on cost-effectiveness, local financial commitment and capacity, mobility improvements, environmental benefits, economic development, etc.

(d) Corridor and subarea studies shall serve as input to the draft and final environmental documents prepared pursuant to 23 CFR part 771 and shall lead to decisions on design concept and scope in sufficient detail to meet the requirements of the U.S. EPA conformity regulations.

(e) Corridor and subarea studies are eligible for funds authorized under sections 8, 9 and 26 of the Federal Transit Act (49 U.S.C. app. 1607, 1607(a), and 1622) and planning and capital funds apportioned under title 23, U.S.C., and shall be included in the UPWP. If FHWA capital funds are utilized for this purpose, the study must also be included in the TIP.

§ 450.120 Metropolitan transportation planning process: Congestion management system.

(a) In TMAs, the planning process must include the development of a CMS that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operational management strategies.

(b) In TMAs designated as nonattainment for ozone or carbon monoxide, Federal funds may not be programmed for any project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project results from an approved congestion management system.

(c) As required by the provisions of the management system regulations, within all metropolitan planning areas, the congestion management, public transportation, and intermodal management systems to the extent appropriate shall be part of the metropolitan transportation planning process required under the provisions of 23 U.S.C. 134 and 49 U.S.C. app. 1607. In metropolitan planning areas that have more than one MPO and in metropolitan areas that include more than one State, the establishment, development, and implementation of these systems shall be coordinated among the State(s) and MPO(s) to ensure compatibility of the systems and appropriate consideration of their outputs.

(d) The effectiveness of the congestion management system in enhancing transportation investment decisions and improving the overall efficiency of the metropolitan area's transportation systems and facilities shall be evaluated periodically as part of the metropolitan planning process.

§ 450.122 Metropolitan transportation planning process: Transportation plan.

(a) The metropolitan transportation planning process shall include the development of a transportation plan addressing at least a twenty year planning horizon. The plan shall include both long range and short range strategies/actions that lead to the development of an integrated intermodal metropolitan transportation system. The transportation plan shall be reviewed and updated at least triennially in nonattainment and maintenance areas and at least every five years in attainment areas to confirm its validity and its consistency with current and forecasted transportation and land use conditions and trends and to extend the forecast period. The transportation plan must be approved by the MPO.

(b) In addition, the plan shall:

(1) Identify the near-term transportation demand of persons and goods in the metropolitan planning area;

(2) Identify adopted congestion management strategies including, as appropriate, traffic operations, ridesharing, pedestrian and bicycle facilities, alternative work schedules, freight movement options, high occupancy vehicle treatments, telecommuting, and public transportation improvements (including regulatory, pricing, management, and operational options), that demonstrate a systematic approach in addressing current and future transportation demand;

(3) Identify pedestrian walkway and bicycle transportation facilities in accordance with 23 U.S.C. 217(g);

(4) Reflect the consideration given to the results of the management systems, including in TMAs that are nonattainment areas for carbon monoxide and ozone identification of SOV projects that result from an approved congestion management systems;

(5) Assess capital investment and other measures necessary to preserve the existing metropolitan transportation system (including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities) and make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods;

(6) Include design concept and scope descriptions of existing and proposed transportation facilities in sufficient detail in nonattainment and maintenance areas to permit conformity determinations under the U.S. EPA conformity regulations at 40 CFR part 51;

(7) Reflect a multimodal evaluation of the transportation, socioeconomic, environmental, and financial impact of the overall plan, including all major transportation investments in accordance with § 450.118;

(8) For major transportation investments for which analyses are not complete, indicate that the design concept and scope (mode and alignment) have not been fully determined and will require further analysis. The plan shall stipulate either a set of assumptions concerning the proposed improvements which will be subsequently analyzed in a corridor or subarea level analysis under § 450.118 or a no-build condition. In nonattainment and maintenance areas, the set of assumptions shall be in sufficient detail to specify design concept and scope to permit conformity determinations under U.S. EPA conformity regulations at 40 CFR part 51;

(9) Reflect, to the extent that they exist, consideration of: the area's comprehensive long-range land use plan and metropolitan development objectives; environmental resource plans of local, State and Federal agencies; local, State, and national goals and objectives; and the area's overall social, economic, environmental, and energy conservation goals and objectives;

(10) Indicate, as appropriate, proposed transportation enhancement activities; and

(11) Include a financial plan that demonstrates the consistency of proposed transportation investments with known and projected sources of revenue. The financial plan shall compare the estimated revenue from existing and proposed funding sources that can reasonably expected to be available for transportation uses, and the estimated costs of constructing, maintaining and operating the total (existing plus planned) transportation system over the period of the plan. The estimated revenue by existing revenue source (at the local, State, and Federal level) available for transportation projects shall be calculated and any shortfalls identified. Proposed new revenues and/or revenue sources to cover shortfalls shall be identified, including strategies for ensuring their availability for proposed investments. Existing and proposed revenues shall cover all forecasted capital, operating, and maintenance costs. All cost and revenue projections shall be based on the best reasonably available data and trends. For nonattainment and maintenance areas, the financial plan shall address the specific financial strategies required to ensure the implementation of projects and programs to reach air quality compliance.

(c) There must be adequate opportunity for public official and citizen involvement in the development of the transportation plan before it is approved by the MPO, in accordance with the requirements of § 450.116(b)(1). Such procedures shall include opportunities for interested parties (including citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation) to be involved in the early stages of the plan development/update process. The procedures shall include publication of the plan or other methods to make it readily available for public review and comment.

(d) Although transportation plans do not need to be approved by the FHWA or the FTA, copies of any new/revised plans must be provided to each agency.

(e) In nonattainment and maintenance areas for transportation related pollutants, the FHWA and the FTA, as well as the MPO, must make a conformity determination on any new/revised plan in accordance with the Clean Air Act and the EPA conformity regulations at 40 CFR part 51.

§ 450.124 Transportation improvement program: General.

(a) The metropolitan transportation planning process shall include development of a transportation improvement program (TIP) for the metropolitan planning area by the MPO in cooperation with the State and public transit operators.

(b) The TIP must be updated and approved at least every two years by the MPO and the Governor. Although metropolitan TIPs do not need to be approved by the FHWA or the FTA, copies of any new or amended TIPs must be provided to each agency. Additionally, in nonattainment and maintenance areas for transportation related pollutants, the FHWA and the FTA, as well as the MPO, must make a conformity determination on any new or amended TIPs in accordance with the Clean Air Act requirements and the EPA conformity regulations.

(c) There must be reasonable opportunity for public comment on the proposed TIP prior to approval in accordance with the requirements of § 450.116(b)(1).

(d) The TIP shall cover a period of not less than 3 years, but may at local discretion cover a longer period if it identifies priorities and financial information for the outyears. The TIP must include a priority list of projects to be carried out in the first 3 years. As a minimum, the priority list shall group the projects that are to be undertaken in each of the years, e.g., year 1, year 2, year 3. In nonattainment and maintenance areas, the TIP shall give priority to TCMs identified in the approved SIP in accordance with 40 CFR part 51 and shall provide for their timely implementation.

(e) The TIP shall be financially constrained and include a financial plan that demonstrates how the projects can be implemented while the existing transportation system is being adequately operated and maintained. Only projects for which construction and operating funds can reasonably be expected to be available may be included. In developing the financial analysis, the MPO shall take into account all projects and strategies funded under title 23, U.S.C., and the Federal Transit Act, other Federal funds, local sources, State assistance, and private participation.

(f) The TIP shall include:

(1) All transportation projects, or identified phases of a project, (including pedestrian walkways, bicycle transportation facilities and transportation enhancement projects) within the metropolitan planning area proposed for funding under title 23 and the Federal Transit Act;

(2) Only projects that are consistent with the transportation plan;

(3) All projects for which an FHWA or FTA approval is required whether or not the projects are to be funded with title 23, U.S.C., or Federal Transit Act funds, e.g., addition of an interchange to the Interstate System with State, local, and/or private funds or demonstration projects not funded under title 23, U.S.C., or the Federal Transit Act;

(4) For informational purposes, all transportation projects proposed to be funded with Federal funds, including intermodal facilities, not covered in paragraph (f)(1) or (f)(3) of this section; and

(5) For informational purposes, all regionally significant projects to be funded with non-Federal funds.

(g) With respect to each project under paragraph (f) of this section the TIP shall include:

(1) Sufficient descriptive material (i.e., type of work, termini, length, etc.) to identify the project or phase;

(2) Estimated total cost;

(3) The amount of Federal funds proposed to be obligated during each program year;

(4) Proposed source of Federal and non-Federal funds;

(5) Identification of the recipient/subrecipient and State and local agencies responsible for carrying out the project; and

(6) In nonattainment and maintenance areas, identification of those projects which are TCMs.

(h) In nonattainment and maintenance areas, projects included shall be specified in sufficient detail (design concept and scope) to permit air quality analysis in accordance with the U.S. EPA conformity requirements at 40 CFR part 51.

(i) Projects proposed for Federal support that are not considered by the State and MPO to be of appropriate scale for individual identification in a given program year may be grouped by function, geographic area, and work type. In nonattainment and maintenance areas, classifications must be consistent with the exempt project classifications contained in the U.S. EPA conformity requirements at 40 CFR part 51.

(j) Federal funds that have been allocated to the area pursuant to 23 U.S.C. 133(d)(3)(E) shall be identified.

(k) The total Federal share of projects included in the TIP and proposed for funding under section 9 of the Federal Transit Act (49 U.S.C. app. 1607(a)) may not exceed apportioned section 9 funds available to the area during the program year.

(l) Procedures or agreements that distribute suballocated Surface Transportation Program or section 9 funds to individual jurisdictions or modes within the metropolitan area by predetermined percentages or formulas are inconsistent with the legislative provisions that require MPOs in cooperation with the State and transit operators to develop a prioritized and financially constrained TIP and shall not be used unless they can be clearly shown to be based on considerations required to be addressed as part of the planning process.

(m) As a management tool for monitoring progress in implementing the transportation plan, the TIP shall:

(1) Identify the criteria and process for prioritizing implementation of transportation plan elements (including intermodal trade-offs) within the TIP and any changes in priorities from previous TIPs.

(2) List major projects from the previous TIP that were implemented and identify any significant delays in the planned implementation of major projects.

(3) In nonattainment and maintenance areas, describe the progress in implementing any required TCMs, including the reasons for any significant delays in the planned implementation.

(4) In nonattainment and maintenance areas, include a list of all projects found to conform in a previous TIP and are now part of the base case for the purpose of air quality conformity analyses. Projects shall be included in this list until construction or acquisition has been fully authorized.

(n) In order to maintain or establish operations, in the absence of an approved metropolitan TIP, the FTA and/or the FHWA Administrators, as appropriate, may approve operating assistance or emergency relief funding for specific projects or programs.

§ 450.126 Transportation improvement program: Modification.

The TIP may be modified at any time consistent with the procedures established in this part for its development and approval, except an opportunity for public comment is not required for TIP amendments that only involve projects of the type covered in § 450.124(i). In nonattainment and maintenance areas for transportation related pollutants if the TIP is amended by adding or deleting projects which contribute to and/or reduce transportation related emissions or replaced with a new TIP, new conformity determinations by the MPO and the FHWA and the FTA will be necessary.

§ 450.128 Transportation improvement program: Relationship to statewide TIP.

(a) After approval by the MPO and the Governor, the TIP shall be included in the statewide transportation improvement program required under 23 U.S.C. 135, except that in nonattainment and maintenance areas, a conformity finding by the FHWA and the FTA must be made before it is included in the STIP. After approval, a copy shall be provided to the FHWA and the FTA.

(b) The State shall notify the MPO when the TIP has been included in the STIP.

§ 450.130 Transportation improvement program: Action required by FHWA/FTA.

(a) The FHWA and the FTA must jointly find that each metropolitan TIP is based on a continuing, comprehensive transportation process carried on cooperatively by the States and local communities in accordance with the provisions of 23 U.S.C. 134 and section 8 of the Federal Transit Act (49 U.S.C. app. 1607). This finding shall be based on the self-certification statement

submitted by the State and MPO under § 450.134 and upon other reviews as deemed necessary by the FHWA and the FTA.

(b) In nonattainment and maintenance areas, the FHWA and the FTA must also jointly find that the metropolitan TIP conforms with the adopted SIP and that priority has been given to the timely implementation of transportation control measures contained in the SIP in accordance with 40 CFR part 51. If the TIP is found to be in nonconformance with the SIP, the TIP shall be returned to the Governor/MPO with the joint finding. If the TIP is found to conform with the SIP, the Governor/MPO shall be notified of the joint finding. After the FHWA and the FTA find the TIP to be in conformance, the TIP shall be incorporated into the statewide transportation improvement program.

§ 450.132 Project selection for implementation.

(a) In areas not designated as TMAs, projects to be implemented shall be selected by the State and transit operator in cooperation with the MPO from the approved metropolitan TIP.

(b) In areas designated as TMAs, all projects, except projects on the NHS and projects funded under the bridge and interstate maintenance programs, shall be selected by the MPO in consultation with the State and transit operator from the approved metropolitan TIP and in accordance with the priorities in the approved metropolitan TIP. Projects on the NHS, and projects funded under the bridge and interstate maintenance programs shall be selected by the State, in cooperation with the MPO, from the approved metropolitan TIP.

(c) Notwithstanding any other provision of title 23, U.S.C., no public lands highway projects in TMAs may proceed unless the State concurs in the selection of the project. This concurrence will need to be reflected in the MPO/State selection procedures for such projects.

(d) Once a TIP that meets the requirements of § 450.124 has been developed and approved, the first year of the TIP shall constitute an "agreed to" list of projects for project selection purposes and no further project selection action is required for the State or transit operator to proceed with projects. If the State or transit operator wishes to proceed with a project not in the first year of the TIP the specific project selection procedures stated in paragraphs (a) and (b) of this section must be used. The MPO, State, and transit operator may jointly develop expedited project selection procedures to provide for the advancement of projects from the second or third year of the TIP.

(e) Projects not included in the federally approved STIP will not be eligible for funding with title 23, U.S.C., or Federal Transit Act funds.

(f) In nonattainment and maintenance areas, priority will be given to the timely implementation of TCMs in accordance with the U.S. EPA conformity regulations at 40 CFR part 51.

§ 450.134 Metropolitan transportation planning process: Certification.

(a) At the time the metropolitan TIP is submitted to the FHWA and the FTA, the State and the metropolitan planning organization shall certify that the planning process addressing the major issues facing the area is being conducted in accordance with all applicable requirements of:

(1) Section 134 of title 23, U.S.C., section 8 of the Federal Transit Act (49 U.S.C. app. 1607) and these regulations;

(2) Sections 174 and 176 (c) and (d) of the Clean Air Act (42 U.S.C. 7504, 7506 (c) and (d));

(3) Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each State under 23 U.S.C. 324 and 29 U.S.C. 794;

(4) Section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240) regarding the involvement of disadvantaged business enterprises in FHWA and FTA funded planning projects (Pub. L. 97–424, section 105(f); 49 CFR part 23); and

(5) The provisions of the Americans with Disabilities Act (Pub. L. 101–336, 104 Stat. 327, as amended) and U.S. DOT regulations "Transportation for Individuals with Disabilities" (49 CFR parts 27, 37, and 38).

(b) The FHWA and the FTA Administrators jointly will review and evaluate, as appropriate (but at least once every three years), the transportation planning process for each TMA to determine if the process meets the requirements of this subpart.

(c) In nonattainment and maintenance areas for transportation related pollutants, the FHWA and the FTA Administrators shall also review and evaluate the transportation planning process to assure that the MPO has an adequate process to ensure conformity of plans and programs in accordance with procedures contained in 40 CFR part 51.

(d) Upon the review and evaluation conducted under paragraphs (b) and (c) of this section, the FHWA and the FTA Administrators jointly determine that the transportation planning process in a metropolitan planning area meets or substantially meets the requirements of this part, they may take one of the following actions, as appropriate:

(1) Jointly certify the transportation planning process;

(2) Jointly certify the transportation planning process subject to certain specified corrective actions be taken; or

(3) Jointly certify the planning process as the basis for approval of only those categories of programs or projects that the Administrators may jointly determine and subject to certain specified corrective actions being taken.

(e) A certification action under this section will remain in effect for three years unless a new certification determination is made sooner.

(f) If, upon the review and evaluation conducted under paragraph (b) or (c) of this section, the FHWA and the FTA Administrators jointly determine that the transportation planning process in a metropolitan planning area does not substantially meet the requirements, they may take the following action as appropriate: If after September 30, 1993, the transportation planning process is not certified, withhold in whole or in part the apportionment attributed to the relevant metropolitan planning area under 23 U.S.C. 133(d)(3), capital funds apportioned under section 9 of the Federal Transit Act, and section 3 funds under the Federal Transit Act (49 U.S.C. 1607(a)).

(g) If a transportation planning process remains uncertified for more than two consecutive years after September 30, 1994, 20 percent of the apportionment attributed to the metropolitan planning area under 23 U.S.C. 133(d)(3) and capital funds apportioned under the formula program of section 9 of the Federal Transit Act (49 U.S.C. app. 1607(a)) shall be withheld;

(h) The State and the MPO shall be notified of the actions taken under paragraphs (f) and (g) of this section. Upon full certification by the Administrators of the FHWA and the FTA, all funds withheld shall be restored to the metropolitan area, unless they have lapsed.

§ 450.136 Phase-in of new requirements.

(a) Compliance with the criteria established in § 450.108 shall be accomplished as soon as possible to ensure that the process, plan, and TIP fully cover the metropolitan area no later than October 1, 1993.

(b) Except for reflecting the consideration given the results of the management systems, all plans in nonattainment and maintenance areas requiring TCMs, as established in § 450.122, shall comply to the extent

possible with the requirements of this subpart by October 1, 1993. Where time does not permit a quantitative analysis of certain factors, a qualitative analysis of those factors will be acceptable. If a forecast period of less than twenty years is acceptable for SIP development and air quality conformity purposes, that same time period will be acceptable for transportation planning. The initial plan update shall be financially feasible, taking into account capital costs and the funds reasonably available for capital improvements, as well as addressing to the extent possible the costs of and revenues available for operating and maintenance of the transportation system. Subsequent updates of the plan shall comply with the requirements of this subpart. Except for reflecting consideration of the management systems, plans for all other metropolitan areas shall address the requirements of this subpart as soon as possible, but no later than December 18, 1994. Plan updates performed in all areas subsequent to the date that the management systems have been implemented to the point where they provide recommended projects or strategies shall reflect the consideration of the results of the management systems.

(c) (1) During the period prior to the full implementation of the CMS in a TMA, the MPO in cooperation with the State, the public transit operators, and other operators of major modes of transportation shall identify the location of the most serious congestion problems in the metropolitan area and proceed with the development of a comprehensive CMS to address these problems.

(2) During the interim prior to the full implementation of a CMS, an adequate interim CMS in a TMA designated as nonattainment for carbon monoxide or ozone shall, as a minimum, include a process that results in an appropriate analysis of all reasonable (including multimodal) travel demand reduction and operational management strategies for the corridor in which a SOV facility is proposed. This analysis must demonstrate how far such strategies can go in eliminating the need for additional SOV capacity in the corridor. If the analysis demonstrates that additional SOV capacity is warranted, then all reasonable strategies to manage the facility effectively (or to facilitate its management in the future) shall be incorporated into the proposed facility. Other travel demand reduction and operational management strategies appropriate for the corridor, but not appropriate for incorporation into the SOV facility itself must be committed to by the State and the MPO for implementation in a timely manner. If the area does not already have a traffic management and carpool/vanpool program, the establishment of such programs must be a part of the commitment.

(3) In TMAs that are nonattainment and maintenance areas for carbon monoxide and ozone, the MPO, a State and/or transit operator may not advance a project utilizing Federal funds that provides a significant capacity increase for SOVs beyond the NEPA process unless an interim CMS is in place that meets the criteria in paragraphs (c)(1) and (2) of this section and the project results from this interim CMS.

(4) Projects that are part of or consistent with a State mandated congestion management system/plan are not subject to the requirements in paragraphs (c)(1) and (c)(2) of this section.

(5) Projects that have advanced beyond the NEPA process and which are being implemented, e.g., right-of-way acquisition has been approved, will be deemed to be programmed and not subject to this requirement.

(d) (1) Except for consideration of the management systems, the planning process in all areas (other than newly designated urbanized area) established in § 450.116 shall comply to the extent possible with all requirements of this subpart by October 1, 1993. Initially, where a quantitative analysis is not possible, the elements may be addressed in a qualitative manner. The planning process for subsequent updates shall comply with all requirements of this subpart. The planning process shall consider the results of the management systems.

(2) MPOs in new UZAs designated as a result of the 1990 census that are not under the jurisdiction of an existing MPO shall meet the metropolitan planning requirements by December 18, 1994.

Title 49

PART 613—PLANNING ASSISTANCE AND STANDARDS

2. The authority citation for part 613 is revised to read as follows:

Authority: 23 U.S.C 104(f), 134, 217, and 315; 49 U.S.C. app. 1602, 1604, 1607, and 1622; Sections 110, 172, 174, 175, 176, 179 of the Clean Air Act; and 49 CFR 1.48(b) and 1.51.

3. Subpart A of part 613 is revised to read as follows:

Subpart A—Metropolitan Transportation Planning and Programming

§ 613.100 Metropolitan transportation planning and programming.

The regulations in 23 CFR part 450, subpart A, shall be followed in complying with the requirements of this subpart. These regulations require a metropolitan planning organization (MPO) be designated for each urbanized area and that the metropolitan area have a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs that consider all transportation modes. These plans and programs shall lead to the development of an integrated, intermodal metropolitan transportation system that facilitates the efficient, economic movement of people and goods.

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March 2, 1993

Part III

Department of Transportation

Federal Highway Administration
23 CFR Part 450
Federal Transit Administration
49 CFR Part 613

Statewide Transportation Planning; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 450

[FHWA/FTA Docket No. 93-5]

Federal Transit Administration

49 CFR Part 613

FHWA RIN 2125-AC94; FTA RIN 2132-AA48

Statewide Transportation Planning

AGENCIES: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FHWA and the FTA are proposing to issue joint regulations governing the development of statewide transportation plans and programs. The Intermodal Surface Transportation Efficiency Act of 1991 amended the surface transportation laws of the United States to include requirements for a statewide transportation planning process that considers all modes of transportation. These regulations would help ensure the adequacy of statewide transportation planning and the eligibility of States to receive Federal transportation funds. The FHWA and the FTA are requesting comments from interested parties concerning the issuance of these regulations.

DATES: Comments must be submitted on or before May 3, 1993.

ADDRESSES: Submit written, signed comments to FHWA/FTA Docket No. 93-5, Federal Highway Administration, HCC-10, room 4232, 400 Seventh Street, SW., Washington, DC 20590. All comments will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: For the FHWA: Mr. Martin Weiss, Planning Programs Branch (HEP-12), (202) 366-5010, or Ms. Virginia I. Cherwek, Right-of-Way and Environmental Law Branch (HCC-31), (202) 366-1372. For the FTA: Mr. Paul Verchinski, Resource Management Division (TGM-21), (202) 366-6385, or Mr. Scott A. Biehl, Environmental and Regional Operations Division, Office of the Chief Counsel, (TCC-40), (202) 366-4063. Both agencies are located at 400 Seventh Street, SW., Washington, DC 20590. Office hours for the FHWA are 7:45 a.m. to 4:15 p.m., e.t., and for the FTA are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Section 1025 of Public Law 102-240, 105 Stat. 1914, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and section 502 of Public Law 102-388, 106 Stat. 1520, the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 1993, amended title 23, U.S.C., and the Federal Transit Act (49 U.S.C. app. 1601 *et seq.*) by revising 23 U.S.C. 135 and section 8 of the Federal Transit Act, respectively, to require a continuing, comprehensive and coordinated transportation planning process in each State. The FHWA and the FTA are proposing regulations to implement this requirement.

This proposed rule was prepared over a period of several months and addresses a host of complex planning and policy issues. Recognizing intense interest among state and local transportation and planning agencies in the early availability of the rule, the Department has approved its prompt publication. However, the Department is considering publishing, within two weeks, a supplement to this NPRM that would identify additional questions on which public comment would be solicited.

To facilitate public input leading to the development of a final rule, the FHWA and the FTA intend to hold a series of joint public meetings to receive comments. The schedule for these meetings will be announced in a separate notice.

Development of the Proposed Regulation

This proposed regulation was developed by the FHWA and the FTA in consultation with other agencies of the Department of Transportation. In developing the proposed regulation, the FHWA and the FTA considered several documents. Specifically, the following documents were considered, and copies of them have been placed in the docket for this NPRM: (1) The proceedings of the conferences "Moving Urban America" held in Charlotte, NC, May 4-6, 1992, and "Transportation Planning, Programming, and Financing" held in Seattle, WA, July 19-22, 1992; (2) preliminary guidance contained in questions and answers placed on the FHWA electronic bulletin board subsequent to the passage of the ISTEA; and (3) written comments submitted to the FHWA and the FTA on the interim guidance issued on May 28, 1992, for the new statutory statewide transportation planning requirements.

General Approach and Objective

Unlike metropolitan transportation planning, there was no statutory basis for the FHWA and the FTA to require a statewide transportation planning process in each State prior to the ISTEA. Section 1025 of the ISTEA not only provides a legislative basis for statewide transportation planning but also prescribes elements of the statewide process, plan and program. Given the detail provided in the legislation, the fundamental objective of the FHWA and the FTA has been to implement the new legislation as mandated without adding unnecessary prescription. The FHWA and the FTA also intend to issue guidance to assist the States to satisfy the statewide transportation planning requirements.

Relationship to Interim Guidance

Interim guidance was issued jointly by the FHWA and the FTA on May 28, 1992, to aid the States in their initial efforts to comply until completion of this rulemaking process. The guidance has been used in preparing this proposed regulation. In some instances, however, the FHWA and the FTA are proposing changes from the interim guidance, in response to further analysis and suggestions from interested parties. For example, the interim guidance provided for approval of the transportation plan by the Governor. The proposed regulation would not require a specific type of approval but stresses that the plan be formally recognized by the State. A Governor or a State legislature could, however, choose to review this plan and/or provide specific direction to the State transportation agency regarding content or format. The FHWA and the FTA specifically invite comments on the desirability or need to require formal plan approval and, if a need is identified, how such approval should occur.

Structure of the Proposed Regulation

The proposed regulation largely follows the structure of the law with two important exceptions. The first is that a separate section is included in the proposed regulation on "coordination." The intent of this section is to bring together in one place important coordination tasks which, if successfully carried out, would substantially enhance the effectiveness and validity of the statewide transportation planning process. The FHWA and the FTA strongly believe that successful coordination of programs

and actions is a key to implementing the Federal statewide transportation planning requirements intended in the ISTEA. The separate section would emphasize this vital element of the statewide transportation process. This emphasis was not added explicitly to the interim guidance.

The second exception is that the proposed regulation contains a unified section on "public involvement," whereas public involvement requirements are addressed separately in the law as a part of plan development and program development. In this manner, the FHWA and the FTA intend (1) to highlight the overall importance of public involvement and (2) to stress its importance throughout the entire statewide transportation planning process. In the interim guidance, the States were required to establish or modify existing public involvement procedures to comply with the ISTEA. Because some States may have already accomplished this step, no further specific direction on the subject is proposed. However, the FHWA and the FTA encourage the States to further improve their public involvement procedures, as appropriate.

Section-by-Section Analysis

Section 450.200 Purpose

This section describes the general purpose of the proposed regulation. Although the specific purpose of the regulation is to prescribe policies and procedures to implement 23 U.S.C. 135, the FHWA and the FTA recognize that the fundamental purpose of the proposed regulation is to achieve the development of transportation plans and programs that facilitate the efficient movement of people and goods with full consideration of all modes and all significant planning factors.

Section 450.202 Applicability

This section makes the provisions of this subpart applicable to agencies and organizations which carry out statewide transportation planning. The primary responsibility rests with the State transportation agency working with the metropolitan planning organizations (MPOs) and other agencies and jurisdictions in carrying out the statewide transportation planning process. The FHWA and the FTA recognize that the structure for statewide transportation planning varies among States; therefore, specific organizational and institutional arrangements for carrying out statewide transportation planning are not proposed.

Section 450.204 Definitions

This section defines various terms used in the proposed regulation. The FHWA and the FTA recognize that, even with definitions, there may be some initial confusion since, among other things, the meanings of terms have changed over time (e.g., "metropolitan planning areas" have evolved from the "urbanized areas" used in earlier regulations). However, the FHWA and the FTA have avoided definitions that could unnecessarily restrict program actions, but have attempted to make definitions consistent among regulations implementing the statutory language of the ISTEA.

A number of terms used in the regulation are defined elsewhere in the CFR. At the time a final rule is issued, the FHWA and the FTA intend to combine the definitions used in metropolitan and statewide transportation planning in a separate subpart.

The terms "statewide transportation plan" and "statewide transportation improvement program" (STIP) use the word "statewide" to cover the statutory "for all areas of the state". These are specifically defined in the proposed regulation. The former term omits the statutory "long-range" because the time horizon is established in the body of the regulation.

The terms "coordination", "cooperation" and "consultation" are also specifically defined. The first of these is defined for reasons noted above in the discussion of the general structure of the proposed regulation. The latter two terms are defined essentially the same as in the guidance on the FHWA electronic bulletin board and are important in development of the statewide transportation plan and in project selection. Notwithstanding the above, the FHWA and the FTA encourage all agencies involved in statewide transportation planning to attempt to reach mutual agreement on all important matters, especially on such matters as overall policy, objectives and priorities. However, in the case of the term "consultation", the definition implies that the consulting party is not bound by the views of the other party.

The defined term "regionally significant" is mentioned in development of the statewide transportation improvement program.

The term "metropolitan area" in the law has been expanded to "metropolitan planning area" to avoid confusion with the term established by the Office of Management and Budget for statistical purposes.

A number of statewide and metropolitan planning processes are already underway that define the term "intermodal" which is used in the proposed regulation and a related term "multimodal" which is not used in the proposed regulation. For the purpose of this proposed regulation, multimodal planning reflects consideration of more than one mode to serve transportation needs in a given area and is included within the meaning of intermodal. Intermodal planning reflects a focus on connectivity between modes as a means of facilitating linked tripmaking. It emphasizes connections, choices, coordination and cooperation. The continued use by planning agencies of definitions similar to these is acceptable. Details of how intermodal transportation needs should be considered are addressed in a concurrent rulemaking on Intermodal Facilities and Systems: Management Systems (57 FR 23459, June 3, 1992, advance notice of proposed rulemaking).

No definition is believed necessary for the terms "continuing" or "comprehensive," as used in § 450.200. The FHWA and the FTA do, however, recognize a continuing process to be one in which on-going analysis and decision activities are not subject to major interruptions (frequent, basic, fundamental and substantial change) and a comprehensive process to be one in which all relevant considerations (e.g. modes, geography, time period) are part of on-going analysis and decision activities.

The term "transportation control measure" (TCM) is used in the proposed regulation in connection with air quality. This term is not defined in the proposed regulation; however, it refers to measures identified in air quality implementation plans which reduce transportation related emissions by reducing vehicle use or changing traffic flow or congestion conditions. Two air quality terms are defined, however. One is the term "nonattainment area" which essentially refers to areas where air quality standards are not met for transportation related pollutants. The other is the term "maintenance area" which essentially refers to areas where standards are met but conformity procedures are found necessary to maintain standards. Separate proposed conformity regulations (See 58 FR 3768, Jan. 11, 1993.) more fully discuss this subject. Finally, the term "management systems" is used in the proposed regulation. The definition of this term will be established in a separate rulemaking; however, the term refers to the systems required by 23 U.S.C. 303

to manage pavements, bridges, safety, congestion, public transportation and intermodal facilities.

Comments on the need for formal definition of terms (e.g., cooperation, comprehensive), or the appropriate use of terms (e.g., intermodal) are encouraged and will be considered for the final rule.

Section 450.206 State Transportation Planning Process: General Requirements

This section would require several components for the statewide transportation planning process in each State. Since no substantive Federal requirements for statewide transportation planning existed prior to the ISTEA, the FHWA and the FTA would establish a general framework for this process. The six steps of the process are identified in the order that they would typically occur. However, the FHWA and the FTA acknowledge that process is not necessarily sequential. For example, data collection and coordination activities (which, in turn, may be part of a management system) typically occur throughout the process, rather than as unique or individual steps in the process. Further, much of the data collection and coordination is not specific to any given project or group of projects. The FHWA and the FTA intend to confine their monitoring of the statewide transportation planning process to these six steps.

Section 450.208 Statewide Transportation Planning Process: Factors

The factors included under paragraph (a) of this section are a restatement of those contained in 23 U.S.C. 135 (c) and (d) with each factor given equal weight.

Paragraph (b) recognizes that because conditions clearly vary from one State to another, it is reasonable that the degree of consideration given to the factors in paragraph (a) of this section may vary. The FHWA and the FTA considered minimum requirements for the specific factors in paragraph (a), but are proposing instead to allow flexibility to the States in deciding how the factors should be addressed.

The FHWA and the FTA do expect the States to give maximum practicable consideration to the factors in paragraph (a) and to provide a reasonable explanation of the extent of consideration given to each factor. For example, consideration of a factor may be reflected in a product or procedure in the planning process. If substantive consideration of a factor did not occur, a reasonable explanation of the reason(s) would be expected. The FHWA and the FTA specifically invite comments on this approach or others that should be considered in developing the final rule. As noted above, the FHWA and the FTA intend to issue additional guidance to assist the States in providing substantive consideration of the factors in paragraph (a).

Section 450.210 Coordination

This section specifies various types of coordination that the FHWA and the FTA believe are crucial to an effective statewide transportation planning process. These requirements are consistent with the overall mandate of 23 U.S.C. 135 that statewide transportation planning be continuous, cooperative, and comprehensive in nature. In proposing these requirements, the FHWA and the FTA acknowledge that the degree to which they apply in each State will vary depending on the complexity of transportation problems and other factors. As in the case of § 450.208, minimum requirements for this section are not specified. Instead, the FHWA and the FTA will expect the States to provide maximum practicable consideration to the 11 areas identified in the proposed regulation and to provide a reasonable explanation of the extent of such coordination or lack thereof.

Neither the FHWA nor the FTA is under the illusion that the difficulties of coordination are easily or quickly solvable. For example, paragraph (a)(6) specifies coordination between transportation planning carried out by the State highway/transportation agency and planning by other agencies for economic development and recreation and tourism resources and operators for ports, airports, and other intermodal transportation. In carrying out this coordination, agencies and operators have to learn each other's basic rules, constraints and language. This may be difficult and could take some time to accomplish. Nonetheless, the FHWA and the FTA believe such coordination is essential and should be required.

States may find establishment of on-going advisory or other types of committees useful in undertaking the coordination requirements. Such committees could be structured by function (e.g., goods movement, intermodal access, etc.) or by geographical area.

The FHWA and the FTA invite comments on whether the need for better coordination justifies addition of this section and, if this section is justified, which areas of coordination are the most important and whether the 11 areas in this section are too many or too few.

Section 450.212 Public Involvement

This section proposes specific public involvement requirements for the statewide transportation planning process. Paragraph (a) of this section addresses public involvement in the development of the statewide transportation plan, and paragraph (b) the statewide transportation improvement program. The proposed requirements of this section are similar except that the State is responsible for the former, while the Governor, specifically, is responsible for the latter. This distinction is made in the statutory language of 23 U.S.C. 135(e) and (f).

The FHWA and the FTA also intend to provide further guidance in this area. Until guidance is issued, the FHWA and the FTA encourage the States to use approaches that emphasize opportunities for meaningful input from and interaction with the broadest possible range of parties who provide, use or are affected by transportation facilities and programs.

Section 450.214 Statewide Transportation Plan

This section proposes requirements for the statewide transportation plan. With two exceptions the proposed requirements simply mirror those contained in 23 U.S.C. 135(e). The first is a proposed requirement that the statewide transportation plan reference, summarize, or contain various studies, reports, etc., related to the plan. The FHWA and the FTA recognize that the statewide transportation plan is but one product of the statewide transportation planning process and that many other policies and studies provide the substance or framework for the plan and process. However, to ensure that the plan is comprehensive, the FHWA and the FTA believe that relevant policies and studies should be included either by reference or in summary form.

The second exception is a proposed requirement that the statewide transportation plan reference, summarize, or contain information on available financial and other resources needed to carry out the plan. Although financial planning requirements are not explicitly included in 23 U.S.C. 135(e), the FHWA and the FTA believe this proposed requirement is consistent with the overall intent of the law to address transportation needs in an efficient and effective manner and specifically invite comment on this provision.

The FHWA and the FTA propose neither structural nor content details of the plan, with the exception of the statutory requirement that the plan contain a bicycle and pedestrian

element. Instead, the proposed regulation would require that the plan accomplish a number of functions, e.g., be intermodal (including consideration and provision, as applicable, of elements of rail, waterway, and aviation facilities, particularly with respect to intercity travel), reflect factors to which substantive consideration was provided, etc. This approach is intended to provide sufficient flexibility for the States to tailor their plan to their needs. For example, the proposed regulations would provide several ways for the States to structure the relationship of the statewide transportation plan and the metropolitan transportation plans required by 23 U.S.C. 134(g)(2) as well as several ways to incorporate information from other on-going planning efforts involving railroads, airports, ports, freight terminals and waterways.

The FHWA and the FTA received a number of inquiries about the content of the statewide transportation plan, whether a State policy plan will satisfy the requirement for a plan, and about the time horizon and update schedule for the statewide transportation plan. With respect to the content of the plan, the three paragraphs above provide some additional direction. With respect to the adequacy of a State policy plan to satisfy the requirement, the proposed regulation does not rule out such a plan. However, the FHWA and the FTA believe that the proposed requirements can best be met though a corridor-level systems plan which is based on appropriate policy plans and studies. Although the proposed regulation does not prescribe content details for the plan, it must have sufficient specificity for development of a STIP. Further, by including corridor level information, the FHWA and the FTA believe that public involvement will be considerably more meaningful. The FHWA and the FTA invite comments on whether a State policy plan, alone, meets the statewide transportation plan requirement.

With respect to the time horizon and update schedule of the statewide transportation plan, the FHWA and the FTA recognize that an equal time horizon of 20 years in metropolitan areas, with metropolitan transportation plans incorporated by reference, and in non-metropolitan areas may have some value from a consistency standpoint. Such an alternative would also have some disadvantages. For example, the plan would need frequent revisions, especially if the State had many metropolitan planning areas.

Another alternative would be to have an initial horizon of 25 years in metropolitan areas, with more general corridor information than that contained in the metropolitan transportation plans, and 30 years in non-metropolitan areas (where the transportation system changes more slowly than in metropolitan areas). This has the disadvantage of making the statewide and metropolitan transportation plans different in time horizon. It may have the advantage, however, of allowing about 5 years between plan updates. To allow the flexibility to use either of these approaches, the phrase "reasonably consistent" is used in § 450.214(a)(1).

Finally, 23 U.S.C. 135(e) and these proposed regulations provide for the development of the statewide transportation plan by the State in cooperation with the MPOs and Indian tribal governments. States are encouraged to actively involve the MPOs and Indian tribal governments in the development of elements of the statewide transportation plan within their jurisdiction. As a minimum, MPOs or Indian tribal governments should, as appropriate, provide technical and policy information to the State, participate in analytical and decision-related activities and/or make informal comments on any elements of the statewide transportation plan that have an impact on the area within their jurisdiction. The proposed regulation also provides for the statewide transportation plan to be consistent with the metropolitan transportation plans; however, the FHWA and the FTA recognize that the statewide transportation plan may contain less detail than the metropolitan transportation plans. The FHWA and the FTA acknowledge that, given the cooperation required, one portion of the plan may be completed before another portion, and that the plan may evolve in a piecemeal manner, while elements are developed for specific subareas of the State. In this event, the State in cooperation with the MPO or Indian tribal government must identify sufficient existing plans and policies to support projects in the statewide transportation improvement program. The possibility that projects in a proposed STIP may not be funded due to a lack of plan support should, in this case, be a substantial incentive to reach agreement on the plan. The FHWA and the FTA invite comments on the relationship of the statewide transportation plan to plans for areas within the jurisdiction of an MPO or Indian tribal government and the appropriate roles and responsibilities of the States, MPO and Indian tribal governments in developing the statewide transportation plan.

Section 450.216 Statewide Transportation Improvement Program (STIP)

This section specifies what must be included and what must not be included in a STIP. To be included are projects throughout the State, projects with an identified priority (e.g., year 1 is highest priority), projects consistent with the plan, projects for which funds can reasonably be expected to be available, projects proposed for funding under title 23, U.S.C., or under the Federal Transit Act, and projects for which approval by the FHWA or the FTA is required (e.g., Interstate system access, projects listed in section 1103 of the ISTEA, etc.). Other projects may be included for informational purposes and more effective public involvement in the review of the STIP. The FHWA and the FTA intend that not only projects requiring funding but also projects (most of which will probably come from metropolitan TIPs) which substantially change the existing transportation system itself, e.g., changes in the definition of high occupancy vehicle for a certain facility, major changes in traffic control, changes in parking charges as a part of a congestion pricing project, etc., be included in the proposed STIP. It is also important to note that, except in air quality nonattainment and maintenance areas, the approvals of the metropolitan TIP by the MPO and Governor mean that the metropolitan TIP is automatically included in the STIP. In nonattainment and maintenance areas, there is an additional step, namely the conformity finding that the FHWA and the FTA are required to make. However, in both attainment and nonattainment areas the Governor's approval of the metropolitan TIP is a State commitment to include the TIP in the proposed STIP.

The FHWA and the FTA, recognizing the importance of air quality concerns throughout 23 U.S.C. 135, require projects in the STIP to be conforming (that is, essentially, conforming with air quality plans and standards). This applies to nonattainment areas or maintenance areas. Conformity is typically through a conformity determination made on a metropolitan TIP. Furthermore, in nonattainment areas, projects identified as transportation control measures (i.e., essentially projects whose implementation is required to achieve attainment) are to be given priority. With respect to the requirement that funds be reasonably available, the FHWA and the FTA recognize that

obligational limitations on Federal funds are typically not known during development of the STIP. Thus, authorized title 23, U.S.C., funds and Federal Transit Act section 9 apportionments (49 U.S.C. app. 1607a) may be used to comply with this requirement. A number of suggestions have been received to allow a specific amount of over-programming, 10 or 25 percent. The FHWA and the FTA, while not requiring available funds and project costs to be equal, are not proposing to allow over-programming. However, there are two provisions in this section that provide States with a certain amount of flexibility. The first would allow projects to be moved from one year of the STIP to another year, subject to project selection requirements; the second would allow the STIP to be amended. The FHWA and the FTA invite comments on the need for further flexibility in programming projects. The FHWA and the FTA intend that the funds availability requirement apply to each year of the STIP and that a summary sheet or other means be provided to readily compare the funds available and the funds required.

Also, in a manner similar to that for partial plans, the FHWA and the FTA recognize that there will be some cases in which partial STIPs should be approved. This provides a mechanism whereby a failure to, for example, obtain a conformity finding in one portion of the State does not jeopardize projects in another part of the State. This interpretation was implied in the interim guidance discussed previously, and subsequently made explicit.

Paragraph (a)(6) identifies the project-specific information that would be included in the STIP. This prescription was not included in the interim guidance. It is important to note that this paragraph applies to both non-capital and capital projects as discussed previously. The FHWA and the FTA believe this detail is necessary to assure reasonable consistency within a State, especially between the TIPs and the STIP.

Paragraph (a)(7) allows projects with small-scale impacts (e.g., seismic retrofit, pavement resurfacing, rehabilitation of transit vehicles, etc.) to be grouped to avoid minor amendments to the STIP for scope of work, cost, etc., and provides a flexible mechanism for reducing the bulk of the STIP. In the NPRM for conformity (See 58 FR 3768, Jan. 11, 1993.), the discussion of exempt projects is in 40 CFR 51.403 and the listing of such projects is in table 3.

The FHWA and the FTA believe that, in most cases, States and metropolitan areas will establish an effective process to coordinate the timing of TIPs for metropolitan areas and STIPs for States without having a requirement to this effect in the regulation.

The ISTEA did not rescind the programming requirements of 23 U.S.C. 105, which are similar to, but less detailed than, those in 23 U.S.C. 135(f). The FHWA and the FTA believe the Congress fully intended for 23 U.S.C. 135 to be the operative requirement. Until a legislative remedy is made, the FHWA will consider compliance with the proposed regulations to constitute compliance with 23 U.S.C. 105. Similarly, the FTA will consider the STIP as the programming document for sections 3, 9, 16 and 18 of the Federal Transit Act.

Finally, as an implication of the requirements of the proposed regulation, suballocation of flexible surface transportation program (STP) funds and STP funds allocated for use in areas with less than 200,000 population to individual jurisdictions or by mode, except for the allocation of funds to transportation management areas, is discouraged. While geographic equity is desirable and encourages local funding of local needs, the FHWA and the FTA believe it is more desirable that priorities be based on objective areawide estimates of needs, benefits, etc.

Section 450.218 Funding

This section confirms that certain funding categories in title 23, U.S.C., and the Federal Transit Act are eligible for accomplishing the requirements of the proposed regulation.

Section 450.220 Approvals

This section details the respective responsibilities of the States and the FHWA/FTA with respect to approval of the STIP. The State has the responsibility to submit a proposed STIP and to certify that the STIP complies with Federal law relating to disadvantaged business enterprises, title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, lobbying, and air quality. The FHWA and the FTA have the responsibility to jointly review and approve or disapprove the proposed STIP. Federal approval is a determination that the State has complied with the requirements of 23 U.S.C. 135 as a condition of eligibility of the State's projects for Federal-aid funding. It does not relate to the content of the plan or STIP, which (except for TCMs in a SIP for a nonattainment area) is the prerogative of the State. The FHWA and the FTA also have the responsibility to notify the State of their action.

Paragraph (e) indicates that the FHWA and the FTA, may approve certain projects, even without an approved STIP. These projects, however, include only operating assistance and emergency projects. The FHWA and the FTA invite comments on the need for this flexibility and whether its scope should be expanded or further restricted.

Section 450.222 Project Selection for Implementation

This section would prohibit using title 23, U.S.C., or Federal Transit Act funds to fund projects not on the federally approved STIP, other than the exceptions identified in section 450.220. The section also contains the project selection criteria in the ISTEA and an interpretation that identifies the projects on the first year of the STIP as being "selected" projects.

Finally, this section contains a procedure for moving projects from the second or third year of the STIP to the first, i.e., "selected" year of the STIP by using the selection procedures contained in the ISTEA or expedited procedures as agreed to by the parties involved in the selection.

Section 450.224 Phase-in of New Requirements

This section would establish an effective date of January 1, 1995, for full implementation of 23 U.S.C. 135 and would allow the use of existing transportation plans and policies on an interim basis to meet the plan requirements. Notwithstanding the phase-in allowed by this section and the phase-in of other ISTEA requirements (e.g., management systems), the FHWA and the FTA encourage the States to complete the statewide transportation plan requirement, including the documentation task as described in § 450.214, as soon as reasonably practicable. A plan that is fully responsive to the requirements of 23 U.S.C. 135 will expedite development of intermodal projects and will provide a vehicle for public involvement in the entire transportation planning process.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The FHWA and the FTA have determined that this rulemaking is not major within the meaning of Executive Order 12291. This rulemaking is considered a significant regulation under Department of Transportation

regulatory policies and procedures because of substantial State, local government, congressional, and public interest. These interests involve receipt of Federal financial support for transportation investments, appropriate compliance with legislative instructions, and balancing of transportation mobility and environmental goals. Because the proposed regulation adds only minimally to the requirements of the ISTEA, the FHWA and the FTA anticipate that the economic impact of this rulemaking will be minimal and, therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 601–612), the FHWA and the FTA have evaluated the effects of this proposed rule on small entities such as local governments and businesses. The proposed regulation establishes new requirements for statewide transportation planning; however, these are substantially dictated by the provisions of the ISTEA and the Clean Air Act Amendments of 1990. Where legislative language required clarification, regulatory language has been provided. Hence, the FHWA and the FTA believe that the overall compliance burden on public entities implementing the provisions of the legislation will not be substantially greater than previously existed and is mandated by legislative provision. Based on the evaluation, the FHWA and the FTA certify that this rulemaking would not have a significant economic impact on a substantial number of small entities. The need to further evaluate economic consequences will be reviewed on the basis of comments submitted in response to this notice and the public meetings.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The proposed rule recognizes the role of State and local governments in implementing the statewide transportation planning provisions of the ISTEA, including the increased discretionary authority allocated to them under the Act. Accordingly, it is certified that the policies contained in this document have been assessed in light of the principles, criteria, and requirements of the Federalism Executive Order as well as the applicable provisions of the ISTEA authority for this proposal. It has been determined that this proposed rule does not have sufficient Federalism implications to warrant a full Federalism Assessment under the principles and criteria contained in Executive Order 12612.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Numbers 20.205, Highway Planning and Construction; 20.500, Federal Transit Capital Improvement Grants; 20.505, Federal Transit Technical Studies Grants; 20.507, Federal Transit Capital and Operating Assistance Formula Grants. The regulations implementing Executive Order 12372 regarding intergovernmental consultation in Federal programs and activities apply to these programs.

Paperwork Reduction Act

The information collection, reporting and recordkeeping provisions in this proposal have been reviewed for compliance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The creation and submission of required reports and documents have been constrained to those specifically required by the ISTEA or essential to the performance of the FHWA and the FTA's findings and approvals.

National Environmental Policy Act

The FHWA and FTA have analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have determined that this action would not have a significant effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 450 and 49 CFR Part 613

Highways and roads, Mass transportation, Statewide transportation planning, Statewide transportation improvements Program, and Project selection.

In consideration of the foregoing, the Federal Highway Administration proposes to amend 23 CFR part 450 and the Federal Transit Administration proposes to amend 49 CFR part 613, as set forth below.

Issued on: February 17, 1993.

E. Dean Carlson,

Executive Director, Federal Highway Administration.

Robert H. McManus,

Acting Administrator, Federal Transit Administration.

Title 23

PART 450—PLANNING ASSISTANCE AND STANDARDS

1. The authority citation for part 450 is revised to read as follows:

Authority: 23 U.S.C. 104(f), 134, 135, 217, and 315; 49 U.S.C. app. 1602, 1604, 1607, and 1607a; and 49 CFR 1.48(b) and 1.51.

2. Subpart B of part 450 is revised to read as follows:

Subpart B—Statewide Transportation Planning

Sec.

450.200 Purpose.
450.202 Applicability.
450.204 Definitions.
450.206 Statewide transportation planning process: General requirements.
450.208 Statewide transportation planning process: Factors.
450.210 Coordination.
450.212 Public involvement.
450.214 Statewide transportation plan.
450.216 Statewide transportation improvement program (STIP).
450.218 Funding.
450.220 Approvals.
450.222 Project selection for implementation.
450.224 Phase-in of new requirements.

Subpart B—Statewide Transportation Planning

§ 450.200 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 135, which requires each State to carry out a continuing, comprehensive, and intermodal statewide transportation planning process, including the development of a statewide transportation plan and transportation improvement program, that facilitates the efficient, economic movement of people and goods in all areas of the State, including those areas subject to the requirements of 23 U.S.C 134.

§ 450.202 Applicability.

The requirements of this subpart are applicable to States and any other agencies/organizations which are responsible for satisfying these requirements.

§ 450.204 Definitions.

Except as otherwise provided, terms defined in 23 U.S.C. 101(a) are used in this part as so defined.

Consultation means that one party confers with another identified party and, prior to taking action(s), considers that party's views.

Cooperation means that actions taken are subject to the concurrence of the identified parties.

Coordination means the comparison of the transportation plans, programs, and schedules of one agency with related plans, programs and schedules of other agencies or entities with legal standing, and the subsequent adjustment of plans, programs and schedules to maintain consistency and reduce or resolve possible omissions, duplications and conflicts.

Governor means the Governor, or his/her designee, of any one of the fifty States, or Puerto Rico, and includes the Mayor of the District of Columbia.

Maintenance Area means any geographic region of the United States that the U.S. Environmental Protection Agency (EPA) has designated as a maintenance area, under section 175A of the Clean Air Act Amendments of 1990, for a transportation related pollutant(s) for which a national ambient air quality standard exists.

Metropolitan planning area means the area in which the metropolitan transportation planning process required by 23 U.S.C. 134 and section 8 of the Federal Transit Act must be carried out.

Metropolitan planning organization (MPO) means that organization designated as being responsible, together with the State, for carrying out the provisions of 23 U.S.C. 134, as provided in 23 U.S.C. 104(f)(3) and 134(b), and capable of meeting the requirements of sections 3(e)(1), and 8(a), (b) and (c) of the Federal Transit Act (49 U.S.C. app. 1602(e)(1) and 1607(a), (b) and (c)). This organization is the forum for cooperative transportation decisionmaking.

Nonattainment area means any geographic region of the United States which the U.S. Environmental Protection Agency (EPA) has designated as a nonattainment area for a transportation related pollutant(s) for which a national ambient air quality standard exists.

Regionally significant means any transportation facility with an arterial or higher functional classification, plus any other facility that serves regional travel needs (such as access to and from the area outside of the region, to major activity centers in the region, or to transportation terminals) and would normally be included in the modeling for the transportation network.

State means any one of the fifty States, the District of Columbia, or Puerto Rico; when an action by the State is required, then the *State* means the State transportation agency.

Statewide transportation improvement program (STIP) means a staged multiyear program of transportation projects that are capital and non-capital, highway and transit, metropolitan and nonmetropolitan, federally funded and nonfederally funded.

Statewide transportation plan means the official transportation plan that is:

(1) Intermodal in scope, including bicycle and pedestrian features;

(2) Addresses at least a twenty year planning horizon; and

(3) Covers the entire State.

Transportation improvement program (TIP) means a staged multiyear program of transportation projects for a metropolitan planning area, excluding planning and research activities funded under 23 U.S.C. 104(f) and 23 U.S.C. 307(c), section 6055(b) of the Intermodal Surface Transportation Efficiency Act and/or sections 8 and 26 of the Federal Transit Act (49 U.S.C. app. 1607 and 1622).

§ 450.206 Statewide transportation planning process: General requirements.

(a) The statewide transportation planning process shall include, as a minimum:

(1) Data collection and analysis;

(2) Consideration of factors contained in § 450.208;

(3) Coordination of activities as noted in § 450.210;

(4) Development of a statewide transportation plan;

(5) Development of a statewide transportation improvement program; and

(6) Development and evaluation of alternative transportation solutions and projects.

(b) The statewide transportation planning process shall be carried out in coordination with the metropolitan planning process required by 23 CFR part 450, subpart A.

§ 450.208 Statewide transportation planning process: Factors.

(a) Each State shall, at a minimum, consider the following factors throughout a continuous statewide transportation planning process:

(1) The results of the management systems required by 23 U.S.C. 303;

(2) Any Federal, State, or local energy use goals, objectives, programs, or requirements;

(3) Strategies for incorporating bicycle transportation facilities and pedestrian walkways in appropriate projects throughout the State;

(4) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation and scenic areas, monuments and historic sites, and military installations;

(5) The transportation needs of areas outside of metropolitan planning areas through a process that includes consultation with local elected officials with jurisdiction over transportation;

(6) Any metropolitan area plan developed pursuant to 23 U.S.C. 134;

(7) Connectivity between metropolitan planning areas within the State and with metropolitan planning areas in other States;

(8) Recreational travel and tourism;

(9) Any State plan developed pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*);

(10) Transportation system management and investment strategies designed to make the most efficient use of existing transportation facilities;

(11) The overall social, economic, energy, and environmental effects of transportation decisions;

(12) Methods to reduce traffic congestion and to prevent traffic congestion from developing in areas where it does not yet occur, including methods which reduce motor vehicle travel, particularly single-occupant motor vehicle travel;

(13) Methods to expand and enhance appropriate transit services and to increase the use of such services;

(14) The effect of transportation decisions on land use and land development, including the need for consistency between transportation decisionmaking and the provisions of all applicable short-range and long-range land use and development plans;

(15) The transportation needs identified through use of the management systems required by 23 U.S.C. 303;

(16) Where appropriate, the use of innovative mechanisms for financing projects, including value capture pricing, tolls, and congestion pricing;

(17) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors, and identification of those corridors for which action is most needed to prevent destruction or loss;

(18) Long-range needs of the State transportation system;

(19) Methods to enhance the efficient movement of commercial motor vehicles;

(20) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavements;

(21) The coordination of transportation plans and programs developed for metropolitan planning areas of the State under 23 U.S.C. 134 and section 8 of the Federal Transit Act with the statewide transportation plans and programs developed under this subpart, and the reconciliation of such plans and programs as necessary to ensure connectivity within transportation systems;

(22) Investment strategies to improve adjoining State and local roads that support rural economic growth and tourism development, Federal agency renewable resources management, and multipurpose land management practices, including recreation development; and

(23) The concerns of Indian tribal governments having jurisdiction over lands within the boundaries of the State.

(b) The degree of consideration of the factors may be appropriate to the scale and complexity of the transportation problems, land use, economic development and environmental objectives, and other circumstances within the State and to the problems, objectives and/or circumstances that vary from one portion of the State to another.

§ 450.210 Coordination.

(a) In addition to the coordination required under § 450.208(a)(20), each State shall, to the extent appropriate, provide for coordination of the following activities and/or organizational entities participating in the activities in carrying out the requirements of this subpart:

(1) Data collection, data analysis and evaluation of alternative transportation projects for a transit, highway, bikeway, scenic byway, recreational trail, or pedestrian program with any such activities for the other programs;

(2) Plans, such as the statewide transportation plan required under § 450.214, with programs and priorities for transportation projects, such as the STIP;

(3) Data analysis used in development of plans and programs, especially information resulting from traffic data analysis, with land use projections, public involvement relating to project implementation and with establishment and maintenance of management systems developed in response to 23 U.S.C. 303;

(4) Consideration of intermodal facilities with land use planning, including land use activities carried out by local, regional, and multistate agencies;

(5) Transportation planning carried out by the State with transportation planning carried out by Indian tribal governments, Federal agencies and local governments, MPOs, large-scale private transportation providers and multistate businesses;

(6) Transportation planning carried out by the State with significant transportation-related actions carried out by other agencies for recreation, tourism, and economic development and for the operation of airports, ports, and other intermodal facilities;

(7) Public involvement carried out for planning with public involvement carried out for programming and project development;

(8) Transportation planning carried out by the State with Federal, State, and local environmental resource planning that substantially affects transportation actions;

(9) Transportation planning with financial planning;

(10) Transportation planning with analysis of potential corridors for preservation; and

(11) Transportation planning with analysis of social, economic, energy and environmental effects of transportation actions.

(b) The degree of coordination may be appropriate to the scale and complexity of the transportation problems, land use, economic development and environmental objectives, and other circumstances within the State and to the objectives and/or circumstances that vary from one portion of the State to another.

§ 450.212 Public involvement.

(a) During development of the statewide transportation plan required under § 450.214, the State shall provide citizens, affected public agencies and jurisdictions, employee representatives of transportation and other affected agencies, private providers of transportation, and other interested parties a reasonable opportunity to comment on the proposed plan. Opportunities shall be provided for interested parties to be involved in the early stages of the plan development/update process. The plan shall be published, with reasonable notification of its availability, or otherwise made readily available for public review and comment.

(b) During development of the statewide transportation improvement program required under § 450.216, the Governor shall provide citizens, affected public agencies and jurisdictions, employee representatives of transportation or other affected agencies, private providers of transportation, and other interested parties a reasonable opportunity to comment on the proposed program. Opportunities shall be provided for interested parties to be involved in the early stages of the program development and update process. The program shall be published, with reasonable notification of its availability, or otherwise made readily available for public review and comment.

(c) The State shall, as appropriate, provide for public comment on existing and proposed procedures for public involvement throughout the statewide transportation planning and programming process.

§ 450.214 Statewide transportation plan.

(a) The State shall develop a statewide transportation plan for all areas of the State. The portion of the plan in metropolitan planning areas shall be developed in cooperation with the MPOs and shall be consistent with the metropolitan transportation plans required under 23 U.S.C. 134. The portion of the plan for areas of the State under the jurisdiction of an Indian tribal government shall be developed in cooperation with such government and the Secretary of the Interior. The State shall provide for public involvement as the plan is being developed, as required under § 450.212. When the document, or documents, comprising the plan is completed or amended, the State shall provide a mechanism to establish the plan as the official statewide transportation plan.

(b) In addition, the plan shall:

(1) Be intermodal (including consideration and provision, as applicable, of elements of rail, waterway, and aviation facilities, particularly with respect to intercity travel) and statewide in scope in order to facilitate the efficient movement of people and goods;

(2) Be reasonably consistent in time horizon among its elements, but cover a period of at least 20 years;

(3) Contain, as an element, a plan for bicycle transportation and pedestrian walkways in appropriate areas of the State which is interconnected with other modes;

(4) Reflect those factors to which substantive consideration was provided under § 450.208;

(5) Reflect substantive coordination provided under § 450.210;

(6) Reference, summarize or contain any applicable short range planning

studies, strategic planning and/or policy studies, transportation need studies, management system reports and any statements of policies, goals and objectives that were significant to development of the plan; and

(7) Reference, summarize or contain information on the availability of financial and other resources needed to carry out the plan.

(c) The plan may be revised using the procedures in this section for development and establishment of the plan.

§ 450.215 Statewide transportation improvement program (STIP).

(a) Each State shall develop a statewide transportation improvement program for all areas of the State. The portion of the STIP in a metropolitan planning area shall be developed in cooperation with the MPO. Metropolitan TIPs in nonattainment and maintenance areas are subject to FHWA and FTA conformity findings before their inclusion in the STIP. Otherwise, the metropolitan planning area TIP shall be included in the STIP, either directly or by reference, once it has been approved by the MPO and the Governor. In nonattainment and maintenance areas outside metropolitan planning areas, Federal findings of conformity must be made prior to placing projects in the STIP. The Governor shall provide for public involvement as required by § 450.212. In addition, the STIP shall:

(1) Include a priority list of transportation projects to be carried out in the first 3 years of the STIP. As a minimum, the priority lists shall group the projects that are to be undertaken in each of the years, e.g., year 1, year 2, year 3. The STIP shall cover a period of not less than 3 years, but may at State discretion cover a longer period. If the STIP covers more than 3 years, the projects in the additional years will be considered by the FHWA and the FTA only as background information. In nonattainment areas, the State shall give priority to TCMs and other projects identified in an approved air quality state implementation plan as having potential to substantially reduce transportation related pollution;

(2) Be consistent with the plan developed under § 450.214;

(3) In nonattainment and maintenance areas, contain only transportation projects found to conform, or from programs that conform, to the requirements contained in 40 CFR part 51.

(4) Be financially constrained and include sufficient financial information to demonstrate that funds can reasonably be expected to be available to implement the projects, as well as to maintain the system as a whole;

(5) Contain all capital and non-capital transportation projects (including transportation enhancements and pedestrian walkways and bicycle transportation facilities), or identified phases of transportation projects, proposed for funding under title 23, U.S.C., and/or sections 3, 9, 16(b)(2) and 18 of the Federal Transit Act (49 U.S.C. app. 1602, 1607a, 1612, and 1614), other than funds authorized by section 402 of the Surface Transportation Assistance Act of 1982, as amended (49 U.S.C. app. 2302), section 6055 of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240, 105 Stat. 1914), section 8 or 26 of the Federal Transit Act (49 U.S.C. app. 1607 and 1622) or 23 U.S.C. 104(f) or 23 U.S.C. 307(c)(1). The STIP shall also contain all transportation projects for which an approval by the FHWA or the FTA is required whether or not the projects are to be funded with title 23, U.S.C. or Federal Transit Act funds. The STIP should, for information purposes, include all transportation projects proposed to be funded with Federal funds other than title 23, U.S.C., or Federal Transit Act funds. It may also include, for information purposes, all regionally significant projects, irrespective of source of funding; and

(6) Include for each project the following:

(i) Sufficient descriptive material (i.e., type of work, termini, length, etc.) to identify the project or phase;

(ii) Estimated total cost;

(iii) The amount of Federal funds proposed to be obligated during each program year;

(iv) Proposed category of Federal funds and source(s) of non-Federal funds; and

(v) Identification of the agencies responsible for carrying out the project.

(b) Projects that are not considered to be of appropriate scale for individual identification in a given program year may be grouped by function and/or geographic area using the classifications under 23 CFR 771.117 (c) and (d) and/or 40 CFR part 51.

(c) Projects in any of the first three years of the STIP may be moved to any other of the first three years of the STIP in nonattainment and maintenance areas, and in other areas, to any year of the STIP, without requiring an amendment to the STIP, subject to the project selection requirements of § 450.222.

(d) The STIP may be amended at any time under procedures consistent with the procedures established in this section for STIP development and in § 450.220 for FHWA and FTA approval.

§ 450.218 Funding.

Funds provided under sections 8, 9, 18, and 26(a)(2) of the Federal Transit Act and 23 U.S.C. 104(b)(1), 104(b)(3), 104(f)(3) and 307(c)(1) may be used to accomplish activities in this subpart.

§ 450.220 Approvals.

(a) At least every two years each State shall submit the entire proposed STIP concurrently to the FHWA and the FTA for approval and amendments as necessary. The State shall certify that the transportation planning process is being carried out in accordance with all applicable requirements of:

(1) 23 U.S.C. 135, and these regulations;

(2) Title VI of the Civil Rights Act of 1964 and the title VI assurance executed by each State under 23 U.S.C. 324 and 29 U.S.C. 794;

(3) Section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240, 105 Stat. 1914) regarding the involvement of disadvantaged business enterprises in FHWA and FTA funded projects (Pub. L. 97–424, section 105(f); 49 CFR part 23);

(4) The provisions of the Americans with Disabilities Act (Pub. L. 101–336, 104 Stat. 327, as amended) and U.S. DOT regulations "Transportation for Individuals with Disabilities" (49 CFR parts 27, 37, and 38);

(5) The provisions of 49 CFR part 20 regarding restrictions on influencing certain Federal activities; and

(6) In States containing nonattainment and maintenance areas, sections 174 and 176 (c) and (d) of the Clean Air Act as amended (42 U.S.C. 7504, 7506 (c) and (d)).

(b) The FHWA and the FTA will, by mutual arrangement, review the STIP or amendment and jointly determine to what extent the STIP meets or substantially meets the requirements of title 23, U.S.C., the Federal Transit Act and these regulations. Approval action will take one of the following forms, as appropriate:

(1) Joint approval of the STIP; or

(2) Joint approval of the STIP subject to certain corrective actions being taken; and/or

(3) Joint approval of the STIP as the basis for approval of identified categories of projects.

(c) If, upon review, the FHWA and the FTA Administrators jointly determine that the STIP or amendment does not substantially meet the requirements of 23 U.S.C. 135 and these regulations for any identified categories of projects, they will not approve the STIP.

(d) The FHWA and the FTA will notify the State of actions taken under this section.

(e) Where necessary in order to maintain or establish operations in the absence of an FHWA/FTA approved STIP, the Federal Highway and/or Transit Administrators, as appropriate, will approve operating assistance or emergency funding for specific projects or programs.

§ 450.222 Project selection for implementation.

(a) Projects not included in the federally approved STIP, except as described in § 450.220(e) shall not be eligible for funding with title 23, U.S.C., or Federal Transit Act funds.

(b) In metropolitan planning areas, transportation projects to be implemented shall be selected in accordance with procedures established pursuant to 23 CFR 450.132.

(c) Outside metropolitan planning areas, transportation projects undertaken on the National Highway System and under the bridge and Interstate maintenance programs shall be selected by the State in consultation with the affected local officials. Federal lands highway projects shall be selected in accordance with 23 U.S.C. 204. Other transportation projects undertaken shall be selected by the State in cooperation with the affected local officials.

(d) Transportation projects listed in the first year of an approved STIP shall be considered selected. Movement of projects in the second or third year of an approved STIP to the first year of the STIP requires use of the selection procedures in paragraphs (b) and (c) of this section. Expedited selection procedures which provide for the advancement of projects from the second or third years of the STIP may be used if agreed to by all the parties involved in the selection.

§ 450.224 Phase-in of new requirements.

The State shall, by January 1, 1995, identify the official statewide transportation plan, described under § 450.214, to be used as a basis for subsequently approved STIPs. Until such a plan is identified, but no later than January 1, 1995, the State may identify existing plans and policies which can serve as the official interim plan. Development of the STIP may be based on the interim plan, provided that all factors identified in § 450.208 are considered.

Title 49

PART 613—PLANNING ASSISTANCE AND STANDARDS

3. The authority citation for part 613 is revised to read as follows:

Authority: 23 U.S.C. 104(f), 134, 135, 217, and 315; 49 U.S.C. app. 1602, 1604, 1607, 1607 and 1622; 49 CFR 1.48(b) and 1.51.

4. Subpart B of part 613 is revised to read as follows:

Subpart B—Statewide Transportation Planning

§ 613.200 Statewide transportation planning.

The regulations in 23 CFR part 450, subpart B, shall be followed in complying with the requirements of this subpart. These regulations require each State to carry out an intermodal statewide transportation planning process, including the development of a statewide transportation plan and transportation improvement program that facilitates the efficient, economic movement of people and goods in all areas of the State, including those areas subject to the requirements of 23 U.S.C. 134, in order to implement 23 U.S.C. 135 and sections 3, 5, 8, 9 and 26 of the Federal Transit Act (49 U.S.C. app. 1602, 1604, 1607, 1607 and 1622).

[FR Doc. 93–4124 Filed 3–1–93; 8:45 am]

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Federal Register

Tuesday
March 2, 1993

Part IV

Department of Transportation

Federal Highway Administration
23 CFR Part 500, et al.
Federal Transit Administration
49 CFR Part 614

Management and Monitoring Systems; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 500, 511, and 626

[FHWA/FTA Docket No. 92-14]

Federal Transit Administration

49 CFR Part 614

FHWA RIN 2125-AC97; FTA RIN 2132-AA47

Management and Monitoring Systems

AGENCIES: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FHWA and the FTA are requesting comments from interested parties concerning the issuance of regulations to implement the provisions of section 1034 of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. In accordance with the provisions of section 1034, the Secretary of Transportation (the Secretary) is required to issue regulations for State development, establishment, and implementation of systems for managing highway pavement of Federal-aid highways; bridges on and off Federal-aid highways; highway safety; traffic congestion; public transportation facilities and equipment; and intermodal transportation facilities and systems. In addition the Secretary must issue guidelines and requirements for the State development, establishment, and implementation of a traffic monitoring system for highways and public transportation facilities and equipment. An advance notice of proposed rulemaking (ANPRM) was published in the June 3, 1992, **Federal Register** (57 FR 23459) to solicit early input for development of these regulations. The ANPRM was issued with two docket numbers, FHWA 92-14 and FTA 92-B. Approximately two-thirds of the comments submitted to the FTA docket were duplicates of those submitted to the FHWA docket. Therefore, to avoid further duplication, FTA Docket 92-B is closed and this NPRM is being issued under FHWA/FTA Docket 92-14 only. Those comments submitted to FTA Docket 92-B that were not duplicates have been placed in FHWA/FTA Docket 92-14. In order to facilitate analysis of comments on this NPRM, it is requested that commenters specify in their submission which management system(s) their comments address.

These proposed regulations are being issued jointly by the FHWA and the FTA because the sanction provisions may be applied to funds apportioned under the Federal Transit Act (formerly the Urban Mass Transportation Act of 1964, as amended), as well as under Title 23, United States Code, Highways. In addition, the metropolitan planning provisions under both the Federal Transit Act and title 23, U.S.C., require consideration of the needs identified by the management systems. While not included as issuing agencies, other DOT administrations, such as the National Highway Traffic Safety Administration (NHTSA), may be actively involved in particular systems as appropriate.

DATES: Comments must be received on or before May 3, 1993.

ADDRESSES: Submit written, signed comments to FHWA/FTA Docket No. 92-14, Federal Highway Administration, HCC-10, room 4232, 400 Seventh Street, SW., Washington, DC 20590. All comments will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Wilbert Baccus, FHWA Office of the Chief Counsel, (202) 366-0780. For information on the general provisions, Mr. Tony Solury, (202) 366-5003. For information on a specific system: Highway pavement—Mr. Frank Botelho, (202) 366-1336; Bridges—Mr. Dan O'Connor, (202) 366-1567; Highway safety—Mr. Fred Small, (202) 366-2171; Traffic congestion—Mr.Tony Solury, (202) 366-5003; Public transportation facilities and equipment—Mr. Ron Jensen-Fisher, (202) 366-0257; Intermodal transportation facilities and systems—Mr. Dane Ismart, (202) 366-4071; Traffic monitoring—Mr. Ed Kashuba, (202) 366-0175. Office hours are 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Section 1034 of the ISTEA amended title 23, United States Code, Highways by adding new section 303, Management Systems which requires the Secretary of Transportation to issue regulations for State development, establishment, and implementation of a system for managing each of the following:

(1) Highway pavement of Federal-aid highways (PMS),

(2) Bridges on and off Federal-aid highways (BMS),

(3) Highway safety (SMS),

(4) Traffic congestion (CMS),

(5) Public transportation facilities and equipment (PTMS), and

(6) Intermodal transportation facilities and systems (IMS).

The systems must be developed and implemented in cooperation with metropolitan planning organizations (MPOs) in metropolitan areas and with affected agencies receiving assistance under the Federal Transit Act.

In accordance with the legislation, the regulations may include a compliance schedule and minimum standards for each such system.

States must be implementing each management system beginning in Federal fiscal year 1995, and must annually certify, before January 1 of each fiscal year (the first certification is due by January 1, 1995), that the systems are being implemented, or the Secretary may withhold up to 10% of funds apportioned under title 23, U.S.C., or under the Federal Transit Act for any fiscal year beginning after September 30, 1995.

Section 303 also requires the Secretary to issue guidelines and requirements for the State development, establishment, and implementation of a traffic monitoring system (TMS) for highways and public transportation facilities and equipment.

Both the metropolitan (23 U.S.C. 134 and 49 U.S.C. app. 1607) and statewide (23 U.S.C. 135) transportation planning processes must include consideration of the needs identified under all of the management systems.

Beginning January 1, 1993, the Secretary must submit annual reports to Congress on the progress being made by both the Secretary and the States in carrying out the provisions of 23 U.S.C. 303.

An advance notice of proposed rulemaking (ANPRM) covering the six management systems and the traffic monitoring system was issued jointly by the FHWA and the FTA in the June 3, 1992, **Federal Register** (57 FR 23459). Comments were requested on issues common to all systems. Background information on each system and specific issues and questions for comment for each system were discussed. The comment period for the ANPRM closed on August 3, 1992.

Public workshops for the SMS were announced in the April 28, 1992, **Federal Register** (57 FR 17868) and were conducted in Washington, DC, on May 29, in San Francisco, CA, on June 1, and in Kansas City, MO, on June 10. Four public workshops for the CMS, PTMS, and IMS were announced in the May 26, 1992, **Federal Register** (57 FR 21915) and were conducted in Los Angeles, CA, on June 18, in New York

City, NY, on June 29, in Chicago, IL, on July 14, and in Houston, TX, on July 21. The purpose of the workshops was to obtain input to the rulemaking process to supplement the comments to the ANPRM docket.

Approximately 125 individuals attended the SMS workshops and over 320 attended the workshops for the CMS, PTMS, and IMS. Summaries of comments presented and documents submitted at the public workshops have been placed in FHWA docket 92–14 and are available for review.

Approximately 162 sets of comments totaling over 900 pages were submitted to dockets FHWA 92–14 and FTA 92–B. Approximately 48% of the comments to the dockets were from State agencies (transportation/highway departments, motor vehicle departments, State police, etc.), 13% from National interest groups/associations, 10% from regional planning agencies/MPOs, 10% from local agencies (cities, counties), 8% from private businesses or individuals, 7% from transit operators, and 4% from miscellaneous agencies. All of the testimony from the workshops and comments to the dockets have been reviewed and used to prepare this NPRM.

Testimony received at the workshops and the comments submitted to the dockets were similar. A summary of the significant comments and their disposition follows.

General

These proposed regulations will be issued as part 500 of subchapter F of title 23, Code of Federal Regulations (23 CFR). Subpart A of part 500 includes definitions and general requirements applicable to all of the systems. Subparts B through H of part 500 include additional regulations applicable to specific systems. The general requirements in subpart A and the requirements for the CMS, PTMS and IMS in subparts E through G would be incorporated by cross reference into the FTA's regulations as part 614 of chapter VI of title 49, Code of Federal Regulations.

By design, the proposed regulations are not definitive in all instances. The FHWA and the FTA intend to develop an extensive program to provide technical assistance to the States and other affected agencies in implementing the requirements.

Discussion of Comments to Dockets FHWA 92–14 and FTA 92–B and at the Public Workshops

The legislation states that the regulations may include minimum standards for the management systems. Based on comments on the questions raised in the ANPRM related to this issue, it was decided that establishment of a minimum set of standards applicable to all of the systems or to all States would not be appropriate or practicable. In addition, the FHWA and the FTA agree with the majority of commenters who indicated that the end results should be identified in the regulations but that the States should be allowed to develop systems to produce the desired results without overly prescriptive Federal requirements. While the regulations for each system include minimum requirements applicable to that system, an "end-result" philosophy is reflected to a great degree in the proposed regulations.

As defined in § 500.103 of the general subpart of the proposed regulations, the term "Federal agency(ies)" means the FHWA for the pavement and bridge management systems; the FHWA and the NHTSA for the safety management system; and the FHWA and the FTA for the congestion, public transportation, and intermodal management systems. This term is used in the proposed regulations to avoid the need to identify each involved agency for each system when referring to common requirements.

While the legislation requires development, establishment, and implementation of each management system by the States, in metropolitan areas the systems must be developed, established, and implemented in cooperation with MPOs. States also must cooperate with affected agencies receiving assistance under the Federal Transit Act. Several questions were asked in the ANPRM with regard to the nature of this cooperation and the degree of flexibility that the States should be allowed in determining how to meet this requirement. A few commenters indicated that a minimum level of cooperation needs to be specified in the regulations. However, while none disagreed that cooperation is essential, the vast majority indicated that each State and metropolitan area should be allowed to determine the nature of the cooperation because of unique organizational structure and requirements. Many indicated that cooperative mechanisms were already in place and functioning well within existing MPO processes. The FHWA and the FTA agree that flexibility is desirable. Such flexibility is reflected in proposed § 500.105(c), but the State must give MPOs and agencies (including private owners and operators) that have responsibility for operation of the affected transportation systems or facilities, and the public the opportunity for involvement in the development, establishment, and implementation of each management system. In addition proposed § 500.107(b) would require cooperation among the States, MPOs, and such agencies, and § 500.107(d) would permit them to mutually determine their roles.

Title 23, U.S.C., section 134 and 49 U.S.C. app. 1607 specify that MPOs, in developing plans and programs, must consider the transportation needs identified through use of the management systems. Similarly, the statewide planning process required under 23 U.S.C. 135 also must consider these needs. In addition, the results of the management systems must be considered in making project selection decisions under title 23, U.S.C., and under the Federal Transit Act. Most of the responses to issues raised in the ANPRM on this subject supported allowing considerable flexibility to the States, MPOs, and other affected agencies to determine how the results of the management systems will be considered in the planning processes and indicated that mechanisms for such consideration already exist. Paragraph (d) of § 500.105 would require consideration of the outputs as specified above, but does not mandate a specific level or form of consideration. Implementation of the outputs of the systems would be one significant indicator of such consideration.

The questions of what institutional structure should be established at the State or MPO level to implement the CMS, PTMS, and IMS and whether a common institutional structure should be required for all of the management systems were raised in the ANPRM. A few respondents expressed the opinion that a particular management system should be the "umbrella" mechanism for coordinating the outputs of the systems. However, the most often mentioned mechanism for coordination of the outputs of the systems was the transportation planning processes. The FHWA and the FTA agree that the metropolitan and statewide planning processes are the appropriate forums for coordinating the outputs of the management systems, as well as other transportation needs, particularly since the legislation specifically requires the outputs of the systems to be considered in these planning processes. This legislative requirement is reflected in proposed § 500.107(a). In addition, it is proposed in § 500.107(c) that, as appropriate, the CMS, PTMS, and IMS be part of the transportation planning processes in all metropolitan planning areas. It is also proposed in § 500.107(e) that the combined effectiveness of all of

the management systems in enhancing transportation investment decisions be periodically evaluated, preferably as part of the metropolitan and statewide planning processes. With respect to a mechanism to coordinate all of the systems at the State level, proposed § 500.107(a) would require each State to establish procedures to oversee the development, establishment, and implementation of the systems to ensure that target dates are met, that the outputs of the systems are considered, and that common or coordinated databases are used, but specific procedures are not mandated.

Each of the management systems will require data to define and monitor the magnitude of the problems, identify needs, analyze alternative solutions, and measure the effectiveness of the implemented actions. Some data needs, such as traffic volumes or travel demand, may be common to all systems while other data will be unique to the particular system, e.g., specific structural data for bridges, and vehicle or person hours of delay for congestion. At least one respondent to this issue suggested that standardized data be provided to the U.S. DOT for all systems and be made available to the public at low cost. A few others indicated that at least a minimum dataset should be provided to the Federal agencies for comparing performance among States and metropolitan areas. It is not the intent of the FHWA and the FTA to burden the States with data collection efforts or to have such data reported to the agencies for comparison purposes. Any data collected should be that necessary to implement effective management systems. Therefore, the proposed regulations in § 500.105(e) indicate that the traffic monitoring system required by the legislation, the FHWA's Highway Performance Monitoring System (HPMS), and the data required by section 15 of the Federal Transit Act, 49 U.S.C. app. 1611, (Section 15 data) will be used by the FHWA and the FTA to the extent possible to meet their needs. States are encouraged to also use these databases to the extent possible. In addition, proposed § 500.107(a) would require the use of data bases with common or coordinated reference systems to facilitate data sharing, but would not mandate specific data systems or elements. Any specific data that may be needed for the individual systems are identified in the proposed regulations for that system.

At the Transportation Research Board (TRB) Conference on Transportation Data Needs: Programs for a New Era, held in Irvine, California, on May 27–29, 1992, the FHWA presented a paper, "Data Needs for Management Systems," that identified potential data needs for the CMS, PTMS, and IMS. A copy of this paper has been placed in the docket and is available from the contacts identified for these three systems. The conference proceedings, which should be available in January 1993, will contain additional information on management systems data needs.

To provide information for the Secretary's annual report to Congress on the status of implementation of the systems, § 500.109(c) proposes that the annual State certifications include information on the status of each system in lieu of separate status reports. However, since both the States' certifications and the Secretary's status report are due by January 1, separate status reports may be needed from the States to avoid a delay in the Secretary's report to Congress. Comments on the amount of additional effort that would be needed to submit separate status reports are solicited.

Section 307(h) of title 23, U.S.C., requires the Secretary to report estimates of future highway needs of the nation biennially to the Congress. Similarly, 49 U.S.C. 308 requires the Secretary to report biennially to Congress the condition, performance, and needs of the nation's public transportation systems and facilities. These requirements are separate from the provisions of 23 U.S.C. 303 and are accommodated primarily by use of the FHWA's HPMS and the FTA's Section 15 data, respectively.

By January 1, 1995, and annually thereafter, States must certify that they are implementing the six management systems. The legislation allows the regulations to include a compliance schedule for development, establishment, and implementation of each such system, but did not provide a definition of "implementation." Comments ranged from one State indicating that all of the management systems could be fully implemented within 18 months of issuance of final regulations to various phase-in scenarios that would require five or more years. The agencies recognize that sufficient time must be allowed to develop systems that produce useful results, particularly for those systems that are new, such as the CMS, PTMS and IMS. Proposed § 500.109(a) indicates that a State shall be considered to be implementing a system if the system is in operation by the date of the certification in accordance with any phase-in criteria for each system as specified in the proposed regulations for the specific system. For some systems, phase-in schedules by facility classification (e.g., National Highway System (NHS) versus lower order systems) or by jurisdictional responsibility (e.g., State versus local facilities) are proposed. Each management system must be in operation to some degree in Federal fiscal year 1995.

With respect to the issue of whether there should be one State certification statement covering all six management systems or separate statements for each system, a majority of commenters expressed a preference for a single statement while a few recommended separate statements, particularly if responsibility for the systems resided in different State agencies. In recognition of differing State organizational structures, the proposed regulations in § 500.109 do not mandate a single certification but recommend it. A single certification should significantly reduce administrative and paperwork burdens and may facilitate coordination of implementation of the systems. If more than one certification statement is used, they should be coordinated and submitted simultaneously. Also, to reduce the burden on the States, it is proposed that the statement(s) only be submitted to the FHWA division office in each State and that the division office provide copies to other U.S. DOT agencies involved with the specific system(s). The majority of commenters on the issue of the level of State government (e.g., Governor, State secretary of transportation, etc.) that should certify implementation, recommended that it be the head of the State transportation agency. While a high level transportation official is a logical choice, the proposed regulations do not mandate it. The proposed regulations at § 500.109(b) would require the Governor of the State or the Mayor of the District of Columbia to notify the FHWA in writing of the name(s) or title(s) of the certifying official(s) and recommend that one certifying official be designated for all systems.

The legislation does not specify the extent of coverage for the systems except for highway pavement, bridges, and congestion in transportation management areas (TMAs). The legislation specifies that the highway pavement management system is to cover "Federal-aid highways" (those highways eligible for assistance under title 23, U.S.C., except those functionally classified as local or rural minor collectors). The bridge management system is to cover bridges on and off "Federal-aid highways." In TMAs, the congestion management

system is to provide for effective management of existing and future transportation facilities eligible for funding under title 23, U.S.C., and under the Federal Transit Act. Responses to this issue also varied, from coverage of all public roads to only the NHS. The majority of State transportation agencies indicated that all of the systems, including those where the legislation specifies broader coverage, should be limited to facilities under State jurisdiction since the States only have authority for managing those facilities and they should not be held accountable and sanctioned for noncompliance by local jurisdictions. The FHWA and the FTA believe that the ISTEA clearly indicates Congress' concern for protecting and enhancing the performance of the nation's transportation infrastructure, regardless of level of jurisdictional control. Some of the management systems by their nature, such as the PTMS and the IMS, will be limited in coverage since the facilities to be managed are limited in extent. With respect to the remainder of the management systems (PMS, BMS, SMS, and CMS), the FHWA and the FTA believe that the minimum extent of coverage should be Federal-aid highways as defined above. In addition, it is proposed that a lower level of effort and sophistication be allowed for some of the systems for local jurisdictions and/or lower functional class transportation facilities. The extent of coverage for each management system is specified in the regulations for that system.

While the systems may cover facilities under the jurisdiction of other than the State transportation agency, the FHWA and the FTA propose to use discretion before imposing sanctions for noncompliance. As indicated in § 500.111, the FHWA and the FTA propose to carefully consider the extent of non-compliance so that any sanctions to be imposed can be targeted to the specific situation. The intent of any such sanctions would be to correct the deficiency as soon as feasible without undue adverse effect. It is also proposed in § 500.111(c) to give consideration to efforts underway or planned to correct any deficiencies in a timely manner before imposition of a sanction.

In lieu of development of a new congestion management system in States where one already exists, 23 U.S.C. 135(h) allows State laws, rules or regulations pertaining to congestion management systems or programs to constitute the congestion management system required under the ISTEA if the Secretary finds that the State laws, rules or regulations are consistent with, and fulfill the intent of 23 U.S.C. 135, 23 U.S.C. 134, or section 8 of the Federal Transit Act, as appropriate. The legislation does not address acceptance of existing State laws or procedures for the other systems. The FHWA and the FTA do not consider it appropriate to impose duplicative requirements if procedures are in place that would meet the intent of the legislation for any of the management systems; therefore, it is proposed in § 500.115 that existing State laws, rules, or procedures that fulfill the purposes of any of the management systems as specified in the applicable regulations be accepted by the FHWA and the FTA in lieu of development and implementation of a new system by the State. It is proposed that the State submit a written request, with appropriate supporting documentation, to the FHWA Division Office in the State within 6 months of the effective date of the regulations if it desires to use its existing procedures. The FHWA Division Office would be required to coordinate with other affected U.S. DOT agencies before taking action on the State's request.

Highway Pavement of Federal-Aid Highways

As part of its PMS, each State would have a comprehensive process for: Establishing the network inventory and project histories; collecting and storing the condition data; analyzing the information; identifying the network needs; and considering the PMS information in the metropolitan and statewide planning processes.

Existing 23 CFR part 626, Pavement Policy, which addresses pavement management, pavement design, safety, and eligibility, would be superseded. However, this proposed rule would continue the current requirement that each State shall have a pavement management system that covers rural and urban principal arterials under its jurisdiction by January 13, 1993, and would expand coverage to all Federal-aid highways by January 1, 1995, as required by the ISTEA. The existing policy contains detailed requirements for the design and type selection of new, as well as reconstructed pavements. All of the States have developed, or have made significant progress in developing, processes to meet these requirements. Accordingly, pavement design requirements are now proposed to be integrated with pavement management and included in § 500.205. The proposed definition of pavement design, § 500.203, includes consideration of alternative materials to provide adequate load carrying capacity. Section 500.205, Policy, would require that pavements be designed to accommodate current and predicted traffic needs in a safe, durable, and cost-effective manner. The proposed rule, therefore, extends the basic requirements of the existing policy as it pertains to pavement management, pavement design, safety, and eligibility as to design features. Because all of the States have procedures in place to comply with these requirements, much of the detail of the existing policy is no longer needed and is not included in the proposed rule.

Discussion of Comments to Dockets FHWA 92–14 and FTA 92–B

Of the responses to the June 3, 1992, ANPRM, 48 pertained to PMS: Thirty-one State highway agencies (SHAs), four local highway agencies, four metropolitan planning organizations (MPOs), three individuals, two local associations, one consultant, one institute, one association, and one Federal agency.

The eight major PMS issues raised by the ANPRM were: (1) Levels of technical complexity, (2) standards, (3) responsibility, (4) data, (5) coverage, (6) uniformity, (7) MPOs, and (8) the implementation date.

Of major concern to most commenters were the issues of level of technical complexity and standards which accounted for 54 out of 97 issue-related comments. Thirty-two respondents favored the tiered approach to developing State and local PMSs. The respondents indicated that PMSs can be less technically complex at the local level than at the State level. The respondents favored local jurisdictions using less inventory data, a limited condition survey, a lower frequency of data collection, and only a basic analysis with a limited number of maintenance and rehabilitation techniques. The concept put forth in this NPRM agrees with the position of the 32 respondents. Each SHA should work with MPOs and local agencies to determine the level of technical capability to meet their needs.

It is likely that some local highway agencies that have a limited number of miles and/or low volume roads may choose to use subjective methods to collect data and manual data storage and analysis rather than a computer. This may be the simplest, least costly, and most practical approach for some local agencies. States, MPOs, and local agencies would have the flexibility to determine what level of technical capability best suits their needs.

The second major issue concerned the degree to which the FHWA should set standards for a PMS. Twenty-two out of

23 respondents supported the current FHWA policy on PMS standards. Commenters recommended that the new rule establish the framework and basic components of a PMS and allow each agency the maximum flexibility to design its PMS to fit the agency's needs. The current FHWA policy and this NPRM agree with this concept. The NPRM includes the basic framework, essential components, and basic analyses that are germane and essential to all PMSs. These are fundamental building blocks that all PMSs need in order to function adequately. If an agency were to reduce this framework and the essential components, the resulting system would not meet the minimum definition and purpose of a PMS. One of the 23 respondents recommended that the new rule contain detailed PMS standards, engineering criteria, pavement maintenance and performance standards, detailed data and reporting requirements. Since pavement conditions and factors vary greatly from State-to-State, region-to-region, and locale-to-locale, it would not be economically prudent or viable from an engineering viewpoint to mandate one PMS to fit all agencies. Each agency should establish the engineering criteria that fit its conditions and factors.

The other six issues in the ANPRM accounted for the remaining 43 comments.

Issue No. 3 dealt with who has the responsibility to oversee the State and local PMSs. Five out of 10 respondents indicated that State and local agencies should be independently responsible, three wanted the States to have the option, and two wanted more guidance. The NPRM reflects the intent of the ISTEA that the SHAs have the primary responsibility to oversee the statewide program, including the coordination that is required with MPOs and local agencies. The MPO issue is covered in more detail under Issue No. 7.

Issue No. 4 dealt with the collection, storage, analysis, and use of the data. All eight respondents supported high quality data collection, analysis, and use. Two of the respondents advocated optimization. While optimization and near-optimization are extremely beneficial in many ways, the NPRM does not require it. The NPRM would require multi-year prioritization which can approach optimization. Optimization is highly desirable and its use is strongly encouraged.

Issue No. 5 dealt with the amount of network coverage that is required in the ISTEA. Seven out of 14 respondents supported the coverage in the ISTEA and seven out of 14 recommended that the coverage be limited to either the NHS or the mileage in the current FHWA PMS policy. Because this issue of coverage is mandated by law in the ISTEA, it is not possible to change the coverage under this NPRM.

One State DOT made the comment that, "it may not be worthwhile to collect information on all eligible roads unless there is Federal investment in them." As each SHA plans and oversees the development and implementation of its statewide PMS program, it should carefully consider all factors that contribute to providing an acceptable pavement network to the motoring public. Some of the major factors that should be considered in this evaluation and planning stage are the size of the system, distribution of the network by functional class, usage of the network, funding programs, the administration of various pavement preservation programs, and the types of agreements existing between the State and local agencies.

Issue No. 6 dealt with uniformity of data collection among the SHAs and the local agencies. Three out of seven respondents favored uniformity, three did not, and one favored limited uniformity on key components. The NPRM proposes to allow the States and local agencies the flexibility to determine what is needed or not needed for their particular organizations. Uniformity can have as many disadvantages as advantages depending on its application. Because the detailed design of PMSs varies at every level, it is not prudent to predetermine in this NPRM that uniformity is beneficial in all or most cases. Therefore, the issue of whether to institute uniformity should be determined at the State and local levels.

Issue No. 7 dealt with the role of MPOs in a PMS. Three out of six respondents indicated that the role of an MPO should be to coordinate with other agencies, one indicated that the MPOs should provide technical assistance to local agencies, and two requested more guidance. The general ISTEA requirement that the PMS be developed and implemented in cooperation with MPOs is clear. However, each SHA would have responsibility for the overall State PMS, and therefore, would be responsible for reaching an understanding with the MPOs on their specific roles. Each State and MPO would develop and implement a PMS program to meet their needs, organizational structure, and institutional operating procedures. More information is available on this issue in § 500.107 of the general section of this NPRM.

Issue No. 8 dealt with the implementation deadline in the ISTEA. Three out of five respondents recommended keeping January 1, 1995, as the implementation date with coverage limited to the NHS, one recommended extending the time period but did not specify the date, and one supported the ISTEA implementation date. Information on the compliance schedule is provided in § 500.205(b) of the NPRM.

Bridges On and Off Federal-Aid Highways

A total of 41 commenters responded to issues raised in the June 3, 1992, ANPRM pertaining to BMS. The commenters consisted of 32 State transportation agencies, 2 cities, 2 counties, 1 regional transportation agency, 1 MPO, 1 county organization, 1 transit authority, and 1 consumer group. The comments on issues that pertain to BMS are discussed in the section-by-section analysis portion of this NPRM where they apply.

Background

All States are currently required by Federal law to inventory, inspect, and report the condition of all highway bridges (23 U.S.C. 151). This requirement was first established under the Federal-aid Highway Act of 1968 (Pub. L. 90–495, 82 Stat. 815) as a part of the National Bridge Inspection Program for bridges on the nation's principal highways, involving some 274,000 bridges. The Surface Transportation Assistance Act of 1978 (Pub. L. 95–599, 92 Stat. 2689) later expanded the National Bridge Inspection Program to include bridges on all public roads, comprising some 577,000 bridges in total. The regulations that were promulgated under 23 U.S.C. 151 are contained in 23 CFR part 650, subpart C. Section 650.311(a) of those regulations specifies that certain data conforming to National Bridge Inspection Standards (NBIS) are to be collected and retained within each of the various State organizations. A tabulation of the data collection requirements is contained in the FHWA's "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges."[1] The FHWA annually collects and assembles these data into what is known as the National Bridge Inventory (NBI). These data include, for each bridge, inventory information (e.g., structure type, size,

[1] Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, DOT/FHWA, December 1988, is available for inspection and copying as prescribed in 49 CFR part 7, appendix D.

location, age, material composition, ownership, traffic characteristics, etc.), and ratings of the bridge's physical condition, load carrying capacity, and functional adequacy for the traffic being served. The FHWA uses the NBI data for apportioning Federal funds to the States for bridge replacement and rehabilitation, to monitor the National Bridge Inspection Program, and to report to Congress biennially on the status of the nation's bridges. The States make similar uses of the NBI in administering State and local programs for bridge replacement and rehabilitation, and in managing State and local bridge inspection programs.

BMS development began in the mid 1980's when several States (principally Wisconsin, North Carolina, Pennsylvania, and Indiana) initiated studies to develop, test, and evaluate concepts and tools, and to implement BMSs. Also, in recognition that a BMS was a high priority in many States, the American Association of State Highway and Transportation Officials (AASHTO), through the National Cooperative Highway Research Program (NCHRP), sponsored research beginning in 1984 for the development of a model BMS. This research led to the publication of NCHRP Report 300, Bridge Management Systems, in December 1987, and became, in part, the basis for an ongoing NCHRP project for the development of BMS software to meet the needs of small to medium transportation agencies. In addition, AASHTO, through the NCHRP, prepared "AASHTO Guidelines for Bridge Management Systems" [2] in 1992 (hereinafter referred to as the AASHTO BMS Guidelines). The AASHTO BMS Guidelines describe the minimum requirements of a BMS, as well as alternative methodologies and implementation steps. Although this rulemaking does not propose to formally adopt the AASHTO BMS Guidelines as regulations, the rulemaking acknowledges them as representing "good practices," and incorporates many of the recommendations on minimum requirements. The AASHTO BMS Guidelines also provide practical guidance to agencies on organizational, managerial, and technical issues relating to the establishment and implementation of a BMS.

Concurrent with AASHTO developments, the FHWA promoted interest in BMS through State workshops in 1986–88 under Demonstration Project 71, and subsequently sponsored the development of a BMS named Pontis in 1989–91. Pontis is a network level BMS which incorporates models that can operate efficiently for both small and large bridge inventories, and that can be readily adapted to the needs and practices of any agency. Pontis was developed in California under an agreement with the FHWA, and with technical assistance and oversight by a committee made up of engineers from the FHWA, the NCHRP, and the States of California, North Carolina, Minnesota, Tennessee, Vermont, and Washington. A pre-release version of the Pontis software has undergone extensive testing in several States over the past year and an updated version containing minor technical and programming modifications will be available soon. Pontis is also being introduced into the AASHTO Cooperative Computer Software Development program as an AASHTOWare™ product for long-term maintenance, support, and enhancement.

[2] *AASHTO Guidelines for Bridge Management Systems*, 1992, may be purchased from the American Association of State Highway and Transportation Officials, 444 N. Capitol Street, NW., Suite 225, Washington, D.C. 20001. It is available for inspection as prescribed in 49 CFR part 7, appendix D.

Section-by-Section Analysis

Section 500.301 Purpose

The purpose of subpart C of this rulemaking is to set forth policies, requirements, and minimum standards for State development, establishment, implementation, and continued operation of a bridge management system (BMS) for bridges on and off Federal-aid highways within each State.

Section 500.303 Definitions

The introductory paragraph of § 500.303 references the terms defined in 23 U.S.C. 101(a) and 23 CFR 500.103.

A definition of a "Bridge Management System (BMS)" is provided. As stated in the June 3, 1992, ANPRM (57 FR 23460), the primary purpose of management systems is to improve the efficiency of, and protect the investment in, the nation's existing and future transportation infrastructure. A BMS serves this purpose primarily by providing decisionmakers information for making informed decisions on bridge program expenditures. The system itself consists of a database and an analysis capability that enable an agency to efficiently evaluate bridge needs, develop recommendations, and assess the near and long-term impacts of bridge policies and alternative courses of action. The definition expresses this concept of a BMS and is similar to the AASHTO BMS Guidelines definition.

The remainder of the section provides definitions of technical terms that are used in § 500.307 on minimum standards. The definitions conform to the usual meaning of the terms and, with the exception of "multiperiod optimization," are identical to those given in the AASHTO BMS Guidelines. The definition of "multiperiod optimization" follows the AASHTO BMS Guidelines explanation. "Multiperiod" means that bridge conditions, traffic growth, and budgets are projected and analyzed for each period (typically one or two years) within a long-term planning cycle (typically 10 to 20 years). "Optimization" means that feasible actions are selected in a way that best meets an objective, typically maximizing benefits or minimizing costs. Multiperiod optimization models have the ability to examine bridge conditions and costs over the long term, and determine the best allocation of multiperiod budgets across the bridge inventory for maintenance, repair, rehabilitation, and replacement. They also give management a tool that can work efficiently with large databases to explore a wide variety of policy and planning questions. Examples of multiperiod optimization programs are North Carolina's Optimum Budget Forecasting and Allocation System (OPBRIDGE), and the optimization routines in *Pontis*.

Section 500.305 Policy

This section specifies requirements for the development, establishment, implementation, and continued operation of a BMS for bridges on and off Federal-aid highways within each State. The States are required to cooperate and take the lead in establishing agreements with MPOs and local bridge owners to establish system specifications, operational requirements, and responsibilities of MPOs and bridge owners for developing, implementing, and operating a BMS that meets the minimum standards set forth in § 500.307. It requires the State to maintain a centralized database for all bridges in the State, and to implement network analysis procedures that are capable of analyzing data for all bridges in the inventory or subset. Local jurisdictions are not precluded from operating separate BMSs to complement the State BMS.

State and Local Responsibilities for BMS

In most States, bridges that are off Federal-aid highways are owned and maintained primarily by cities and counties. In addition, in some States, a significant share of the bridges on Federal-aid highways are also owned

and maintained by cities and counties. The June 3, 1992, ANPRM raised the question of the division of State and local responsibilities in operating a BMS in view of the widely diverse bridge ownership and maintenance responsibilities. The specific questions raised were whether it is necessary for local bridge owners to operate management systems that are separate from the State's management system, and would it suffice for local bridge owners to simply collect the required data for purposes of establishing needs estimates and funding allocations under the bridge program (57 FR 23460 at 23462).

Twenty-five State transportation agencies, 1 regional transportation agency, 1 MPO, 2 counties, 1 county organization, 2 cities, 1 transit authority, and 1 consumer group responded to this question. Seventeen of the 25 State transportation agencies indicated that a State-operated BMS that includes locally owned bridges should be sufficient. Seven State transportation agencies seemed more in favor of locally operated systems, 6 stressed the need for flexibility in setting up State/local relationships and responsibilities, 6 mentioned that local bridge owners should be responsible for data collection, 3 indicated that local participation in the State's BMS should be optional, 5 indicated that local bridge owners should be free to operate a BMS that is consistent with the State's BMS, 5 indicated that the State should not be responsible for carrying out BMS recommendations for bridges not owned by the State, and 1 indicated that the BMS should not be required for programming projects where no Federal money is involved. Of the other commenters (other than State transportation agencies), 6 favored a State operated BMS with local involvement, 1 suggested that the MPO should be primarily a coordinator between the State and the locals, 1 proposed that local bridge owners be afforded the option to operate a BMS which is based on the State system, and 2 indicated that the local bridge owners should have an active role in the operation of the BMS.

The rulemaking follows the recommendations of the majority of the commenters who prefer a State operated system that includes locally owned bridges. The fact that States administer State and local bridge programs involving Federal bridge program funds and maintain a complete bridge inventory favors the concept of a central State operated BMS. Under this arrangement, MPOs and local governments would be provided network analysis results for use in their decisionmaking processes. The FHWA's view is that the BMS needs of local jurisdictions can be provided for adequately through a central, State operated BMS. Central operation also facilitates statewide analyses of bridge needs and provides better assurances that the bridge needs of all local jurisdiction bridges are uniformly considered in the development of statewide transportation plans and programs, as compared with a decentralized approach. Since the legislation requires a State BMS for bridges on and off Federal-aid highways, local jurisdiction non-participation is not an option. The proposed regulation would not preclude local jurisdictions, such as cities, counties, or toll authorities, from operating a BMS that is tailored to their needs; however, participation in the State's BMS would also be required. The minimum requirements would be that bridge data conforming to State standards are submitted to the State for inclusion in the State's central database and that outputs of the State's BMS are considered in the Statewide and metropolitan planning and programming processes where Federal funds are used.

Section 500.307 Minimum Standards

This section proposes minimum standards for data collection, analysis, and monitoring activities of a State BMS. It proposes to incorporate NBI data and use the bridge inspection and data collection process currently in place in all States under the NBIS. Section 500.307(b) specifies 4 types of data in addition to NBI data. These are element condition data, cost data, traffic and accident statistics, and historical data. Element condition and agency cost data are essential inputs to deterioration, action, and cost models. Traffic and accident statistics are necessary to assess the safety and serviceability of bridges and to model user costs. Historical data of bridge condition and actions taken are needed for estimating deterioration and cost models.

For analysis, the basic requirement is a network model capable of multiperiod optimization. The model must include, as a minimum, the procedures listed under § 500.307(c) which follow the recommendations of the AASHTO BMS Guidelines.

Section 500.307(d) specifies minimum monitoring requirements, which are to monitor the status of BMS recommendations and to update the database when actions are taken. The monitoring system provides feedback on the adequacy of the BMS in guiding project decisions, and it provides the essential information for keeping BMS condition and cost data current. The monitoring system includes a construction and maintenance reporting and cost tracking process.

Standardization of Data

The June 3, 1992, ANPRM raised the issue of the need for statewide data uniformity to allow flexibility for grouping bridges in various ways for analysis (e.g., needs estimates, funding distributions, deterioration rate predictions, etc.) (57 FR 23460 at 23463). The question was: "To what extent should data collection requirements be standardized?"

Twenty-two State transportation agencies, 1 MPO, 1 county, 1 transit authority, 1 consumer group, and 1 Federal military agency responded to the question. Of the 22 State transportation agencies, 15 indicated that data collection should be standardized statewide, 3 responded that flexibility for local jurisdictions should be allowed, 2 suggested it was not appropriate for the regulations to require standardization outside of the NBIS, 1 suggested data could be less detailed for lower functional class highways, and 1 indicated that the database pertaining to cost should be flexible. Of the remaining 5 commenters (not State transportation agencies), 4 indicated that data collection within a State should be standardized, and 1 respondent (the Department of the Army) indicated that the method of determining inventory and operating ratings should be standardized and suggested that there be consideration of the use of the Bridge Analysis Rating System (BARS) for all States to support specific vehicle and load evaluations for defense needs.

The requirement that the State maintain a centralized database and implement network analysis procedures that are capable of analyzing data for all bridges or any subset essentially sets a standard for uniformity of data formats. However, States would have flexibility with respect to the detail of the data collected for various classes of roads. For example, in tracking element level data, an agency may find that it is not important to subdivide certain elements by type of construction (e.g., to differentiate among types of bearing assemblies, joint seals, or paint systems) except on the higher classes of roads. Analysis procedures that work with elements allow more detail to be considered where element definition supports it. The FHWA plans to address the issue of standardization of the

method for determining inventory and operating ratings reported to the NBI, but not as a part of this rulemaking. States and other bridge owners were advised by way of the 1988 revisions to the FHWA's "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges," page 41, that they "should anticipate that the FHWA will require that a single uniform method be used to calculate the inventory and operating ratings reported to the NBI sometime in the 1990's."

Compatibility With NBI Data

The June 3, 1992, ANPRM raised the issue of possible conflicts between the current system of reporting bridge conditions under the NBI, and the more detailed descriptions of bridge condition that are used in a BMS (57 FR 23460 at 23463). As discussed in the ANPRM, NBI data include overall condition ratings for the deck, superstructure, and substructure, while BMS data would generally include a more detailed breakdown of bridge elements (e.g., beams, joints, bearings, etc.) as well as an indication of the extent of deterioration. States were concerned that bridge inspectors would be required to report under both systems. They were also concerned that a computer conversion of more detailed BMS condition information to NBI codes may not be consistent with past reporting practices and may adversely affect a State's apportionment of Federal-aid bridge funds. The question was: "Should the FHWA provide standard procedures or guidelines for converting BMS element level condition data to NBI data?"

A total of 32 commenters responded to this ANPRM issue. The commenters included 28 State transportation agencies, 1 county, 1 MPO, 1 transit authority, and 1 consumer group.

Of the 28 State transportation agencies responding, 18 indicated that the FHWA should provide standard procedures or guidelines to convert BMS condition data to NBI data, with 5 of the 18 suggesting that it should be in the form of a guideline. Eight State transportation agencies suggested that rather than data conversion, there should be one reporting format consistent with the needs of a BMS. Four State transportation agencies that favored one reporting format suggested a transition period for converting over. Three State transportation agencies appeared to be opposed to a conversion process; one commented that use of a conversion should be optional, and that State input should be solicited for its development. Of the other commenters (not State transportation agencies), 1 indicated that certain structure information in the NBI should be replaced with superior BMS information, 2 suggested that the FHWA should issue standard guidelines for converting element level condition data, and 1 suggested a transition to BMS data.

The FHWA plans to distribute guidelines for converting element condition data to NBI condition rating codes. For Pontis users, the FHWA will provide a computer program that will make the conversion automatically, based on a set of commonly recognized elements. The States will be given an opportunity to comment on the guidelines and the program before they are finalized. The FHWA is not proposing to convert the NBI database to a BMS database at this time, believing that data needs at the national level can be adequately served through improved uniformity in condition and load rating data now reported to the NBI.

Section 500.309 Compliance Schedule

This section specifies the implementation requirements for BMSs. The State would be considered to be implementing a BMS in Federal fiscal year 1995, if, by October 1, 1994, the State has defined its BMS objectives and system design is completed or underway. For subsequent annual certifications, the State would be considered to be implementing a BMS if system design and testing are completed and full-scale data collection is underway. Within 4 years of the effective date of the final rule, a State BMS would need to meet the minimum standards in § 500.307 and result in the identification and consideration of bridge needs as specified in § 500.305(b). The proposed 4-year implementation time frame is intended to allow sufficient time after system design is completed to conduct a full cycle of bridge inspections.

Highway Safety

The primary purpose of all of the management systems is to improve the efficiency of, and protect the investment in, the nation's existing and future transportation infrastructure. The Highway Safety Management System may be further defined as management processes to ensure that all opportunities to improve safety are identified, considered, implemented where appropriate, and evaluated. Highway safety necessitates the involvement of many agencies, internal agency units, and organizations within the States and localities. It is therefore imperative that a management approach be adopted wherein safety is totally integrated into the decisionmaking processes of day-to-day activities and the development of programs and project priorities, within agencies and among the involved disciplines.

Previous activities associated with highway safety and safety management, date to the 1966 Highway Safety Act (Pub. L. 89–564, 80 Stat. 731), which provided the basic foundation for establishing active highway safety programs in the States. Legislation in subsequent highway and surface transportation bills strengthened and broadened the requirements and scope of the States' involvement in enhancing highway safety. Specific highway safety program policy guidance is directed through 23 CFR chapters I and II and 49 CFR chapter III.

Section 402 of title 23, U.S.C., includes State highway safety planning requirements, with vehicle and driver related activities primarily administrated and implemented by the NHTSA and with roadway related and commercial motor carrier safety programs primarily administrated and implemented by the FHWA.

Two major initiatives were undertaken in the early 1980's by the Transportation Research Board (TRB) and the American Association of State Highway and Transportation Officials' (AASHTO), Standing Committee on Highway Traffic Safety (SCOHTS). The TRB conducted a conference in 1981 on the subject of "Enhancing Highway Safety in an Age of Limited Resources." This conference was followed up by the AASHTO committee in 1983 through development and publication of a document titled "A Guide For Enhancement of Highway Safety Directed to Agencies, Programs and Standards"[3] (AASHTO Safety Guide). Each of these activities were directed toward the effective management of highway activities to ensure timely and appropriate consideration of safety in the ongoing programs and operations of State transportation agencies.

The findings and recommendations from these two organizations were utilized by an FHWA task force in 1988, in reviewing ongoing programs and activities by the States in implementing good safety management initiatives. Model State initiatives or practices were assembled into a draft document titled "Management Approach to Highway Safety—A Compilation of Good

[3] *A Guide For Enhancement of Highway Safety Directed to Agencies, Programs and Standards*, 1983, can be purchased from the American Association of State Highway and Transportation Officials, 444 N. Capitol Street, NW., suite 225, Washington, DC 20001. It is available for inspection as prescribed in 49 CFR part 7, appendix D.

Practices." A pilot program was then initiated wherein the elements of the document were reviewed by 9 States to test its practicality and effectiveness when applied to enhancing highway safety in State DOTs. The pilot program included States that were institutionally organized to incorporate all highway safety programs under one organizational unit and States which have their highway safety programs dispersed among several agencies. The pilot States were, Delaware, Florida, Maine, Minnesota, North Carolina, Oregon, Pennsylvania, Virginia, and Washington. The degree of review by each State varied due to changes in administration at the State level, reorganization, and the uncertainty of statutory requirements, as legislation for management systems was under consideration by Congress during the pilot States' efforts. Each State did report that the "Management Approach to Highway Safety" document served as a good basis from which it could develop an SMS. Several States expanded their pilot review activities to include an examination of internal organizational restructuring to better address the multi-disciplinary functions and activities of highway safety within their State.

A Safety Management System Workshop was conducted in Williamsburg, Virginia, in September 1991 to review the findings of the task force, obtain feedback from the pilot States, and receive input on the content of the "Management Approach to Highway Safety" document from other States and organizations involved in highway safety activities. Proceedings of this workshop were published in December 1991. The "Management Approach to Highway Safety" document was revised on December 20, 1991, to reflect recommendations from the workshop. The workshop proceedings and the above document have been placed in FHWA/FTA docket 92–14 and are available for review.

Discussion of Comments to Dockets FHWA 92–14 and FTA 92–B and at the Public Workshops

Eighty-eight of the responses to the ANPRM specifically addressed the SMS. In addition, a number of the responses included comments which were generally applicable to all of the management systems. Responses to specific issues in the ANPRM relative to the safety management system are addressed in the analysis of individual applicable sections below.

Section-by-Section Analysis

Section 500.401 Purpose

The rulemaking provides a policy for the development and implementation of a Highway Safety Management System (SMS) in each State.

Section 500.403 Definitions

It is proposed that definitions in 23 U.S.C. 101(a) and § 500.103 be applicable to the SMS. In addition it is proposed that highway safety, the SMS, and operations be defined. These definitions and discussion are as follows:

Highway safety is the reduction of traffic accidents, and deaths, injuries, and property damage resulting therefrom, on public roads.

Highway safety management system means a systematic process to ensure that all opportunities to improve highway safety are identified, considered, implemented where appropriate, and evaluated.

Operations means those activities associated with managing, controlling, and regulating traffic. It is proposed that operations be defined to incorporate the multi-disciplinary activities involved with safety on the nations roadways. The proposed definition includes signing, marking, maintenance of traffic control devices and highway elements, enforcement and emergency response activities associated with operating the highway system.

Section 500.405 Policy

This section delineates the requirement for each State to have a Highway Safety Management System (SMS). The SMS is proposed to be applicable to all roads within a State. The SMS would also address safety elements from a comprehensive approach, including roadway, human, and vehicle safety components. These roadway system coverage and safety element components would be addressed by the States, as a minimum through formalized communication and coordination mechanisms.

The issues of roadway system coverage and the extent to which coverage of the roadway, human, and vehicle safety components should be included, were the two greatest concerns expressed by respondents to the docket, public workshops, and the Safety Management System Workshop in 1991. Under the roadway system coverage, there were four options suggested: (1) The NHS, (2) roads eligible under the Surface Transportation Program (i.e., Federal-aid highways), (3) roads under State highway agency jurisdiction, and (4) all public roads. There was strong support for the safety management system to provide adequate roadway system coverage to ensure that motorists are provided consistent operational practices which affect their safety, as they cross jurisdictional or administrative road system boundaries. There was also a concern that extensive expansion of the roadway system coverage would create severe coordination and control issues for the States and localities.

There were 48 responses to the ANPRM on application of the SMS to the roadway system coverage, with 12 in support of only the NHS, 13 supporting the Federal-aid roadway, 9 favoring only those roads under the jurisdiction of the State DOTs, and 14 supporting application to all roads.

In response to the ANPRM, 36 State agencies, 4 metropolitan planning organizations, 2 cities, 7 national associations and organizations, 1 private industry, and 1 private individual supported a comprehensive safety management system to include the roadway, human, and vehicle safety elements. Thus, 51 of the 73 responses received on this specific issue support a comprehensive system and the comments to the dockets were indicative of the responses received during the public workshops. In addition, a number of the 18 respondents who advocated restricting the safety element coverage supported a comprehensive approach but did not support a mandatory requirement. Of the 51 supporters for including all safety elements in a comprehensive approach, the responses ranged from full comprehensiveness with mandatory requirements, to a more limited approach to encourage and require that the safety management activities of the State highway agency be closely coordinated with the safety activities of other State and local agencies. There were also concerns with organizational and institutional structures within the States. The State DOTs expressed concern with the potential for being sanctioned for actions or failure to act by others, over which the State DOTs had no control. The AASHTO suggested that mandated requirements subject to the sanction provisions should be limited to only those functions and responsibilities under the control of each highway agency. The International Association of Chiefs of Police (IACP) responded that any attempt to manage one of the safety elements without the others will ultimately fail.

The National Association of Governors Highway Safety Representatives responded that

inclusion of only the roadway would result in a static, incomplete, and ineffective plan. Other positions supported the need for the SMS to be comprehensive, while recognizing the control and sanction concerns. These comments provide the general thrust of the different perspectives of the various responses to the docket.

Each of these issues was carefully weighed, and while the importance of each position is understood, the following basis provided the rationale for the proposed roadway system coverage and the comprehensiveness of the system relative to the roadway, human, and vehicle safety elements.

At a time in which the Congress has expressed overwhelming concern for the safety of our highway transportation system, it seems inconceivable that it would deliberately plan or intend for the Safety Management System to apply to only a small portion of the highway safety problem, particularly those that are not addressed through other sections of legislation. Admittedly, there are factors and concerns associated with extending roadway system coverage beyond roadway jurisdictional boundaries of State DOTs, but the principal objective of providing a safe and efficient transportation system must be the overriding factor in establishing and implementing the SMS. Legislative language supports the broader roadway system coverage proposed in this NPRM.

Section 303 of title 23 U.S.C., requires that, in developing and implementing a management system under this section, each State shall cooperate with metropolitan planning organizations for urbanized areas of the State and affected agencies receiving assistance under the Federal Transit Act and shall consider the results of the management systems in making project selection decisions under this title and under this Act. (Implying that highways eligible for Federal assistance under these provisions should be included as part of the SMS).

Further, both the metropolitan (23 U.S.C. 134) and statewide (23 U.S.C. 135) planning processes required under the legislation must include consideration of the needs identified under all the management systems (again, implying broader road system coverage).

Section 106(b)(3) of title 23 U.S.C., provides that safety consideration on resurfacing, restoration, and rehabilitation (3R) projects on the NHS, non-NHS projects and low-cost NHS projects, may be met by phase construction consistent with an operative safety management system established in accordance with 23 U.S.C. 303.

Paragraph (d)(1) of 23 U.S.C. 133 provides that 10 percent of the funds apportioned to a State under 23 U.S.C. 104(b)(3) for the surface transportation program for a fiscal year shall only be available for carrying out 23 U.S.C. 130 and 152. These funds may be used on roads other than the NHS or roads under the State DOT's jurisdiction.

Paragraph (b)(1) of 23 U.S.C. 326 provides that the Secretary may make grants and enter into contracts for education and training, technical assistance, and related support services to assist rural local transportation agencies to develop and expand their expertise in road and transportation areas (including pavement, bridge, and safety management systems).

Each of the above referenced sections necessitates that the roadway network coverage of the management system be sufficiently comprehensive to incorporate the requirements of those sections.

In addition to the impetus provided by the legislative language, the safety needs for the highway users that are provided through a continuity of designs or activities associated with like roadways must be a paramount force in determining any safety program coverage or components. The consistency in design and operation of similar type roadways must be maintained. The highway users do not always have physical clues, or realize the need to adjust their expectations, based on some jurisdictional or administrative boundary.

Should the management system's roadway system coverage be limited to only the NHS or roads under the State DOT's jurisdiction, it would, in many situations, be applying only to the roads in the nation that experience the most favorable accident rates and design characteristics. Likewise, if the regulations require that the same level of standards, data collection, etc., be developed and maintained for all public roads, small percentages of traffic and accidents would likely demand too much attention and resources. It is therefore proposed that the States be provided the flexibility of developing an SMS for non-Federal-aid highways consistent with their functional classification and characteristics, while still providing the States the ability to identify and correct safety problems.

The component comprehensiveness (roadway, human, vehicle or any combination thereof) of the SMS presents a more complex issue. Safety issues cannot be addressed in a vacuum, thus all components must be considered. However, these three components, in combination, involve a multitude of entities and activities that could preclude either the effective or efficient achievement of managing or enhancing highway safety, unless approached in a systematic and coordinated manner. There is a need to ensure that initiatives or activities in any of the components consider the impact and benefits from the others. This proposed position is supported by the ISTEA since the SMS is required under Title I while safety issues involving the vehicle and driver components are included in other titles and sections of the ISTEA.

Achieving the safety management system objectives through the formalized coordination and cooperation issues that emerge from the proposal set forth in this NPRM should be readily facilitated through the coordination and cooperation requirements contained in other sections of the ISTEA. It is also proposed that the States identify a focal point for the SMS. This provision of the regulation provides the mechanisms from which States can establish and enhance their formalized coordination and communication processes.

The concern that a State could be sanctioned for actions, or inactions, out of its jurisdictional and administrative control again involves the requirements of cooperation between State and local agencies as contained in other sections in the Act. It should be noted that the legislation requires the State and not one of its agencies or localities to develop and implement the management systems. It is therefore incumbent on the Chief Executive of the State, as he/she deems appropriate, to ensure that necessary mechanisms are in place to effectively achieve maximum utilization of resources and funds throughout the entire State.

Section 500.407 Program Structure

The program structure for the Highway Safety Management System is proposed to incorporate components for planning, coordination, implementation, and evaluation of activities at the State and local level as necessary to provide for effective highway safety programs and projects. These components would be comprised of plans, processes, procedures, and practices developed by the States, in cooperation with MPOs where appropriate. The basic structure for these components evolve from the "Management Approach to Highway Safety" document, augmented by responses to the dockets and at the public workshops. The document's

approach would be adapted in the proposed regulations to target the need to focus on a coordinated, comprehensive system by addition of a major element—coordination and integration of broad base safety programs such as motor carrier, corridor, and community based traffic safety activities into a comprehensive management approach for highway safety. The "Management Approach to Highway Safety" was very strongly endorsed by States and responding organizations as a foundation from which States could develop their SMS. The proposed regulations are directed toward identifying specific major areas and key elements associated with the major areas each State must address in its SMS. To offer flexibility to the States, the proposed regulations do not include reference to the how-to requirements, thus allowing the States the latitude to develop the SMS to best fit each State's situation.

It is proposed that States identify and incorporate provisions for collecting, maintaining and analyzing data to facilitate an effective SMS and that data requirements and integration of databases be determined by the individual States to allow flexibility for integration of safety into their total decision-making processes. Minimum data requirements would include information on crashes, traffic (including trains at highway-rail crossings), highway inventory, pedestrians, enforcement, vehicle, driver, and emergency medical services in sufficient detail to allow the identification and analysis of problems and to determine improvement priority. Most States are currently collecting, maintaining, and utilizing the proposed data; however it is often fragmented among and within various agencies. States are encouraged to use Federal data sources such as the Fatal Accident Reporting System and the HPMS. Analysis requirements are associated with those data elements necessary to determine specific problem identification or improvement needs. Such analysis would include procedures for identifying causative factors and highway locations, sections and elements determined to be hazardous or have a high accident potential; and for establishing countermeasure or improvement priorities either through construction, operations, maintenance, or programs; and other analysis as determined appropriate by the State. The SMS would also include provisions for ensuring that goals, accountability, training, monitoring and evaluation, integrated databases, safety analysis, coordination, technology and information exchange, and public information elements are considered and established as appropriate for the following five major areas.

The "Management Approach to Highway Safety" presented four major areas, and these, along with an additional fifth area for coordination and integration, are proposed as the specific major areas to be included in the States' SMS. It is proposed that the major areas include:

(a) Coordinating and integrating broad base safety programs such as motor carrier, corridor, and community based traffic safety activities into a comprehensive management approach for highway safety. This area incorporates a management approach to address safety problems and issues in a comprehensive and coordinated effort of multi-disciplinary activities and programs.

(b) Identifying and investigating hazardous or potentially hazardous highway safety problems, roadway locations and features, including railroad-highway grade crossings, and establishing countermeasures and setting priorities to correct the identified hazards or potential hazards. This area would include a number of the requirements set forth in 23 CFR parts 924 and 1251. The States would include procedures and measures to identify and correct highway safety problems and locations.

(c) Ensuring early consideration of safety in all highway transportation programs and projects. Processes would be developed by the States to ensure the early consideration of safety needs, goals, and priorities throughout the planning, development, and construction of all projects and activities.

(d) Identifying safety needs of special user groups, such as older drivers, pedestrians, bicyclists, motorcyclists, commercial motor carriers, and hazardous material carriers, in the planning, design, construction and operation of the highway system. Provisions in the States' SMS would include processes for consideration and provisions where appropriate to address the needs and special requirements of these diverse user groups of the highway facilities.

(e) Routinely maintaining and upgrading safety hardware, highway elements and operational features. States would include policies, practices, or procedures to address safety enhancement opportunities in maintenance and operational activities.

Traffic Congestion

Subpart E of this NPRM would require that each State develop, establish, and implement a traffic congestion management system (CMS) in accordance with the provisions of 23 U.S.C. 303. This subpart also recognizes the requirements in 23 U.S.C. 134 and 49 U.S.C. app. 1607 that the metropolitan planning process in TMAs include a congestion management system and that, in TMAs that are nonattainment for ozone or carbon monoxide, Federal funds may not be programmed for a project that significantly increases single-occupant-vehicle (SOV) capacity unless the project is part of an approved CMS.

In addition to the comments to the ANPRM dockets and testimony presented at the four public workshops held in June and July, the proceedings of two other workshops were considered in the development of this subpart. The first, as noted in the ANPRM, was an FHWA sponsored workshop held in Arlington, Virginia in August 1991, that was designed to conceptualize approaches and identify issues related to congestion management. Representatives from States, MPOs, transit agencies, universities, professional organizations, the FHWA, and the FTA participated in this workshop. The second was the May 1992, TRB conference on transportation data needs, cited in the discussion of general issues, at which suggested measures of congestion and potential data needs for a CMS were presented.

As proposed in § 500.505(a), a CMS would identify areas where congestion occurs or may occur, identify the causes of the congestion, evaluate strategies for managing congestion and enhancing mobility, and develop a plan for implementation of the most effective strategies. The CMS would consider a wide variety of traditional and non-traditional strategies for reducing congestion and enhancing mobility. These strategies, as identified in § 500.507(d), would include, but not be limited to:

(1) Transportation demand management measures such as carpooling, vanpooling, alternative work hours, telecommuting, and parking management;

(2) Traffic operations improvements such as the installation of traffic surveillance and control equipment, computerized signal systems, motorist information systems, integrated traffic control systems, roadway channelization and intersection improvements;

(3) Measures to encourage use of high occupancy vehicles (HOV) such as public transit improvements, HOV lane provisions, guaranteed ride home programs, and employer trip reduction ordinances;
(4) Congestion pricing;
(5) Land use management and activity center strategies; (6) access management techniques;
(7) Incident management strategies;
(8) Applications of intelligent vehicle-highway system technology; and
(9) The addition of general purpose lanes.

Discussion of Comments to Dockets FHWA 92–14 and FTA 92–B and at the Public Workshops

Eighty-three of the commenters to dockets FHWA 92–14 and FTA 92–B, and many commenters at the public workshops, addressed the CMS.

In addition to issues common to all of the management systems, six issues related specifically to the CMS were raised in the ANPRM. The first CMS issue in the ANPRM dealt with the question of whether national standards for an acceptable level of congestion should be established for all areas or for the NHS; or whether each State and/or metropolitan area should be allowed to establish its own standards. The responses fit into three categories. The first category consisted of those that suggested that each State or region be allowed to decide what congestion means in its area, but that national guidelines would be acceptable and that consistency for national comparisons may be desirable. The second category consisted of responses that indicated that a single national standard was not warranted, but that Federal guidance and, in some cases, approval might be desirable. Responses in the third category were that a national standard was needed to facilitate statewide comparison and/or reporting to Congress. However, most of the respondents stressed that the States and MPOs should determine what an "acceptable" level of congestion would be in their areas. There were no emphatic requests for a single national standard for all areas. Proposed § 500.507(b) would allow the State, in cooperation with MPOs, local agencies, and operators of major modes of transportation, to establish standards for acceptable congestion levels.

The monitoring of congestion would require a continuous data collection effort. The second issue in the ANPRM dealt with the questions of what congestion data should be reported, whether new reporting mechanisms need to be developed, or whether existing mechanisms could be refined to meet data needs. Most responses to this issue indicated that reported data needed to include measures of mobility, such as people-moving capabilities, not just vehicle movement. Many of the commenters expressed the hope that the National Cooperative Highway Research Program (NCHRP) study 7–13 "Quantifying Congestion," which is scheduled to be completed in 1994, would produce better performance measures to describe mobility. A majority of the commenters stated that existing tools such as the HPMS and Section 15 data should be expanded and enhanced, or overhauled. However, several commenters requested that no increases be made to the reporting requirements. Many States and MPOs indicated that existing mechanisms were adequate and requested that they not be "plagued" with excessive monitoring and reporting requirements. Proposed § 500.507(c) specifies that data requirements and collection techniques be determined jointly by the States, MPOs, and operators of major modes of transportation, that the data be updated periodically, and that new sources of data be considered. The following categories and specific data items are among those that should be considered in a CMS:

System characteristics. Lane miles, HOV lane miles, capacity, roadway functional class, proportion of system congested, type and location of construction underway, location and duration of incidents.

System usage/demand. Vehicle miles of travel, person miles of travel, average daily traffic, number of vehicles and persons using HOV lanes, proportion of travel congested/delayed, proportion of persons and vehicles delayed, duration of peak period.

Time/cost. Person hours and vehicle hours of delay, average speed, peak period speed, average peak and off-peak travel time, proportion of travel time under congestion or delay, parking cost.

Geographic location or area of interest. Central city, suburbs, suburban fringe, geographic information system coordinates, specific functional classification.

The development and implementation of a CMS will require the involvement of various public and private agencies. The third issue dealt with the questions of how implementing agencies could successfully be integrated into a CMS process developed as part of a transportation planning process and what roles various public and private agencies and groups should play in the development, establishment, and implementation of the CMS. Some respondents stated that the CMS should serve as the umbrella for the other management systems, especially the public transportation and the intermodal management systems. These respondents indicated that, of all the management systems, the CMS is best suited for assessing the overall efficiency of the transportation system because the CMS recognizes the multimodal, physical facility, and traveller behavior aspects of the transportation system. Proposed § 500.505(c) through (f) recognize the need for cooperation and for coordination with the other management systems, the process for development of the State implementation plan for air quality, and the statewide and metropolitan transportation planning processes in the development, establishment and implementation of the CMS.

The fourth issue dealt with the capability of existing transportation planning models and procedures to identify congestion problems and possible corrective strategies and to measure performance of implemented strategies at the micro-level. Respondents were asked to identify new tools that would be needed to perform these tasks. Response to this issue was mixed, and tended to correlate with population densities of the responding States and MPOs. Approximately one-third of the responses, generally from rural States, said that existing tools were adequate. Another third of the responses, primarily from States with a mixed level of urban development, indicated that existing tools needed to be enhanced. The remaining responses were from highly urbanized States and indicated that existing tools were not adequate and needed to be completely replaced. Several respondents stated that new planning models were needed to coordinate land use and transportation planning, correlate congestion levels with air quality, and measure total transportation system mobility. Proposed § 500.507(a)(4) would require that a comprehensive program of traditional and nontraditional congestion reduction strategies be developed but does not specify the methodologies to be used in the evaluation of these strategies. Enhanced evaluation methodologies are expected to be developed and incorporated into the CMS on a regular basis. The FHWA and the FTA intend to support the development of these methodologies and will, through a program of technical assistance, provide for the transfer of these enhanced

methodologies to implementing agencies.

The fifth issue dealt with the question of what current measures of changes in congestion and mobility could be used on a multimodal basis and what measures would be suitable in a fully implemented system. NCHRP study 7–13 was mentioned again by several commenters as a possible future source for new and enhanced congestion measures. As noted previously, § 500.507(b) would allow the State, in cooperation with MPOs, local agencies, and operators of major modes of transportation, to select appropriate performance measures. While the proposed regulations do not require specific performance measures, the following measures, or combination of them, might be appropriate: Level-of-service (LOS); lane-miles over a specific LOS; vehicle-miles-of-travel (VMT) over a specific LOS; percent of VMT by functional class; VMT per lane-mile; delay per lane-mile; delay per VMT; delay per trip; delay per vehicle; delay per person delayed; delay per incident; delay due to construction; average travel time per trip; persons per hour on facility or corridor; or persons per vehicle.

Issue six dealt with the question of the time that would be needed for development and implementation of a statewide or metropolitan CMS. Most of the responses to this issue stated that it would take 2 to 3 years, but provided no rationale supporting these time frames. A few commenters stated 3 to 5 years were necessary and one said that implementation depended on the degree of cooperation between the involved parties. Section 500.511 would require that the CMS be fully operational by October 1, 1995. By October 1, 1994, as a minimum: Performance measures would need to be established, data collection activities initiated, the most critical areas requiring analysis be identified, and a work plan developed that shows how full implementation will be achieved by October 1, 1995.

While not singled out as an issue in the ANPRM, many commenters addressed the requirements in 23 U.S.C. 134 and 49 U.S.C. app. 1607 that the metropolitan planning process in TMAs include a CMS that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operational strategies and that, in TMAs that are nonattainment for ozone or carbon monoxide, Federal funds may not be programmed for a project that significantly increases SOV capacity unless the project is part of an approved CMS.

In response to these requirements, the proposed regulations recognize that, while the addition of general purpose lanes may be an appropriate strategy to consider to relieve congestion, priority needs to be given to strategies that reduce SOV travel and improve the existing transportation system. Full consideration needs to be given to all reasonable travel demand reduction and operational management strategies before the decision can be made to proceed with the implementation of general purpose lanes. In addition, in the design and construction of general purpose lanes, consideration would need to be given to the incorporation of appropriate operational management strategies, or measures to facilitate the addition of such strategies in the future when conditions warrant them.

In TMAs that are nonattainment for carbon monoxide and/or ozone, a project that significantly increases the capacity for SOVs cannot be programmed for Federal funding unless the project results from an approved congestion management system. To meet this requirement, the following criteria would need to be met: the analysis performed in the development of the strategy would need to show that the implementation of all reasonable travel demand and operational management strategies in the corridor in which the SOV project is proposed will not satisfy the need for additional capacity in the corridor; the SOV project would need to incorporate all reasonable strategies to manage it effectively and the design must facilitate the addition of such measures in the future; and all other appropriate strategies that can reasonably be expected to affect demand in the corridor, but have broader application than the immediate project right-of-way, would need to be committed to by the State and the MPO. An interim provision for meeting this requirement was included in the Joint FHWA/FTA Interim Guidance on the ISTEA Metropolitan Planning Requirements issued on April 6, 1992 (and published at 57 FR 14943 on April 23, 1992), and is also included in the metropolitan transportation planning NPRM. Section 500.509 of this NPRM addresses how these requirements can be satisfied with a fully implemented CMS.

Other related legislative requirements in 23 U.S.C. 134 and 135 specify that, respectively, the metropolitan planning process consider the need to relieve congestion and prevent it from occurring where it does not yet occur and that the statewide planning process consider methods to reduce traffic congestion and to prevent it from developing in areas where it does not yet occur, including methods which reduce motor vehicle travel, particularly SOV travel. These planning process requirements will be addressed more specifically in the metropolitan and statewide regulations currently under development.

Public Transportation Facilities and Equipment

Subpart F of 23 CFR Part 500 would require each State to develop, establish, and implement a system for managing public transportation facilities and equipment (PTMS).

Discussion of Comments to Dockets FHWA 92–14 and FTA 92–B and at the Public Workshops

The comments submitted to dockets FHWA 92–14 and FTA 92–B and presented at the public workshops provided guidance on the eight PTMS issues described in the ANPRM.

The first PTMS issue sought information on the specific goals and objectives of the PTMS. The most common response was that the primary goal of the PTMS should be the preservation of current capital facilities and equipment in a good state of repair. The PTMS was characterized as a planning tool which should not replace, but provide data for, the transportation planning processes. This proposed NPRM emphasizes that preservation of transit assets is the primary goal of the PTMS and that the information in the PTMS should supplement the planning processes.

A common response was that the nature of each PTMS could vary significantly because of the diverse nature of public transportation agencies. The proposed NPRM would accommodate this diversity by recognizing different classes of transportation providers with different information requirements.

The second issue asked what the appropriate roles should be for the States, MPOs, public transit operators, and private transit operators in the development, establishment and implementation of the PTMS. There was no consensus regarding which agency should be the lead for the development of the PTMS. Generally, each respondent thought that its agency should have the lead. Also, there was no agreement over the type of agency that should be responsible for data collection and analysis. However, many respondents identified the need for coordination among States, MPOs, and transit operators if the PTMS is to be useful. The NPRM would require coordination among local agencies in

the development, establishment, and implementation of the PTMS. The States would be given the option of designating lead agencies and agencies responsible for other aspects of the PTMS.

The third issue asked if the U.S. DOT should provide national summaries of the information from the management systems, or if the data from the management systems should be solely for the benefit of the States, local governments, and transit operators. Most respondents emphasized that the PTMS was primarily for local needs and that national reporting must recognize the difficulty in consistent definitions among diverse agencies and peer comparisons. The NPRM would not require national reporting of PTMS information.

The fourth issue requested suggestions on whether a PTMS should be required only for urbanized areas, or for rural areas as well. About as many respondents thought that the PTMS should include rural operators as did not. The NPRM would require that rural transit operators be included in the PTMS.

The fifth issue sought guidance on whether the PTMS should be required for agencies receiving little Federal funding. No clear consensus emerged from the responses. Some respondents thought that all transit systems, regardless of funding source, should be covered while others suggested minimum thresholds and types of Federal funding which should be met before inclusion is required. The NPRM would require only those systems receiving Federal funds to be included in the PTMS.

The sixth issue asked what other elements should be included in a PTMS and to what extent the elements of a PTMS should be standardized. Many respondents suggested that data requirements be as consistent as possible with those now in effect for section 15 data and that the data elements included within the PTMS be flexible so that local concerns could be addressed. The NPRM suggests, but does not require, the collection of information on the age, condition, useful life, and replacement cost of transit system assets. Comments are invited on the adequacy of these data elements, the data elements suggested for dedicated transit right-of-ways in § 500.609(c)(2), and whether other data may be needed.

The seventh issue requested guidance on whether the emphasis of a PTMS should be on condition of facilities and equipment or system performance, or both. The most common response was that the PTMS should emphasize maintenance of facilities and equipment in a good state of repair. A few respondents indicated that system performance should be considered. The NPRM would place emphasis on maintaining facilities and equipment in a good state of repair by requiring an assessment of their condition. Performance of the system as measured by passenger utilization, except for dedicated transit right-of-ways, or cost per unit of service would not be required as part of the PTMS.

The eighth issue sought information on the coordination of the PTMS with other management systems and the statewide and metropolitan transportation planning processes. The majority of respondents suggested that it is necessary for the PTMS to be linked to both the CMS and IMS and to other ongoing planning processes. The NPRM would require coordination with these systems and planning processes.

Intermodal Transportation Facilities and Systems

Subpart G of 23 CFR part 500 would require each State to establish an intermodal facilities and systems management system (IMS) that: identifies intermodal facilities, efficiency measures, and performance standards or goals; encourages data collection at the project and systems levels; and evaluates and implements intermodal strategies and actions. A fully implemented IMS would result in: (1) A continuing inventory of intermodal facilities and systems, (2) incorporation of IMS strategies and actions into transportation planning processes, and (3) an implementation plan for integrating results of an IMS into the statewide and metropolitan transportation plans and programs.

An effective, comprehensive IMS should consider the following intermodal needs:

—Connections: The convenient, rapid, efficient, and safe transfer of people and goods among modes that characterize comprehensive and economic transportation service.
—Choices: Opportunities afforded by modal systems that allow transportation users to select their preferred means of conveyance.
—Coordination and Cooperation: Collaborative efforts of planners, users, and transit providers to resolve travel demands by investing in dependable, high-quality transportation service either by a single mode or by two or more modes in combination.

The objective of the IMS as a transportation planning element is to increase efficiency, productivity and the use of advanced technologies in transportation systems.

Discussion of Comments to Dockets FHWA 92–14 and FTA 92–B and at the Public Workshops

In addition to issues common to each of the systems, the ANPRM requested public comment on eight issues related specifically to the IMS. To varying degrees, the responses provided guidance on how each of the issues should be addressed.

The first IMS issue raised in the ANPRM sought guidance on what parameters should be used to measure the efficiency of intermodal transportation facilities and systems. The responses to this question identified a number of parameters for passenger and freight facilities and systems. For passenger facilities, suggested parameters included: Numbers of passengers, origins and destinations, time, cost, capacity, delay, impacts on air quality and energy consumption, accidents, and comfort. For freight facilities parameters included: Time, cost, delay, system reliability, system flexibility, ease of access, modal commodity changes, turn-around rates, contingency operations, information flows, level of service, impacts on air quality and energy consumption, condition of freight on arrival, facilities and equipment capacity and measures of freight cargo, value, units per distance traveled, transfers, and origins and destinations. The NPRM recognizes that transportation services and their perceived quality vary between communities and industries, and that performance standards or goals should be established at the State or local level with private sector coordination.

Many of the respondents also indicated a strong desire to avoid costly, duplicative data collection efforts by relying on existing data collection programs to generate information on intermodal movements. The NPRM endorses the use of existing data collection programs in ways that will reduce costs and express data in consistent, continuous formats that can be consolidated into regional and national databases.

The second IMS issue requested information on mechanisms or institutional arrangements that should be established to address intercity, interstate, and international IMS issues. The majority of respondents indicated that when intercity and intrastate issues are to be addressed, States should cooperate with MPOs to establish regional multi-disciplinary technical

and policy working groups, with public and private sector representation from transportation users, modal operators, and private carriers. These working groups would develop guidelines for intermodal priorities, identify issues, develop an approach to intermodal planning, and coordinate issues.

A minority of respondents advocated creation of a national commission of Federal, State, and local government agencies, private industry and citizens to resolve interstate and international issues. The rulemaking recognizes the need for establishing institutional arrangements with multi-disciplinary involvement. Title V of the ISTEA identifies the U.S. DOT as the entity responsible for addressing national and international transportation issues.

The third IMS issue requested suggestions on how an IMS should be coordinated with the statewide and metropolitan area transportation planning processes. Several respondents indicated that the statewide planning process should include an intermodal element and provide the policy framework and direction for designing and implementing an IMS.

The ISTEA requires the involvement of representatives of all interested/affected parties in intermodal transportation, including MPOs. The NPRM provides States and MPOs with a framework in which to identify intermodal issues and problems, to develop intermodal solutions to problems and to make the difficult tradeoffs in programming limited fiscal resources for intermodal projects versus other projects. The level of sophistication and effort required or appropriate for rural States and small urban areas should be significantly less than that for larger, more complex urban States and metropolitan areas. The requirements should therefore be flexible.

This NPRM directs the States and MPOs to consider the needs identified by the IMS strategies in development of plans and programs. The IMS would provide MPOs and States with planning opportunities and processes for identifying intermodal issues, problems and solutions. The NPRM would allow flexibility in developing and implementing an IMS and allow for differences in sophistication and effort appropriate for small and rural States.

The fourth IMS issue asked for feedback on how IMS requirements should vary based on the complexity of the transportation issues of individual States and metropolitan areas. The majority of respondents indicated that while IMS regulations should specify the required elements and overall framework, they should also provide flexibility to adapt individual IMS requirements to accommodate demographic and geographic diversity of States and metropolitan areas. A minority of respondents indicated that national standards should be developed for an IMS, and States would then be required to adopt those standards.

A fully implemented IMS required by this NPRM would result in an inventory of intermodal facilities and systems and incorporation of IMS strategies and actions into State and metropolitan area transportation plans, programs, and project selection. The IMS elements in this NPRM allow for consideration of differences in transportation services and perceived quality between communities and industries and the establishment of performance standards or goals at the State or local level with private sector coordination.

The fifth IMS issue dealt with how the private sector should be involved in the IMS. Respondents identified five different ways in which the private sector should be involved in IMS: (1) The private sector should be involved at all levels from the problem definition stage to implementation. Private/public partnerships should be fostered at both the policy and operational levels, and input from private/public resource groups should be encouraged at all transportation planning levels; (2) The private sector should be involved through participation on advisory committees that would include all major private sector providers and users of intermodal services. These advisory committees could work with the State and MPOs in the development of the Statewide and metropolitan transportation plans and programs; (3) Private industry participation that reflects input from transportation service providers, manufacturers, and their clients must be considered at all levels of transportation planning if the IMS is to be successful; (4) Data collection will also require large scale private sector involvement to identify intermodal needs and determine what types of data they would be willing or able to share. Since most of this data will be proprietary, there need to be safeguards to insure confidentiality; and (5) Private sector participation should be voluntary because the States and MPOs are not in a position to mandate such participation.

A concern was expressed by some respondents that full participation in an IMS by the private sector would be difficult due to the expense and liability of reporting proprietary data and the fact that their pricing structure and competitive advantages may be compromised by open discussions in evaluating intermodal priorities.

Responses to the docket characterized private sector coordination as being both anticipated and necessary for a successful intermodal management system. This coordination was believed to be necessary in all elements of the intermodal management system, but was seen as especially important in identifying intermodal facilities, identifying efficiency measures and performance standards and evaluating system and facility performance. The NPRM recognizes that the specific mechanisms for involving the private sector will be a State and local decision.

The sixth IMS issue requested suggestions on whether the IMS should be applied in a narrow context (connections and transfers at terminals) or in a broader context (system-wide, multi-modal). The vast majority of respondents to this question were in favor of a broader context. The reasons for this view were varied: (1) The IMS must meet the demands of the program and operational goals of the overall transportation network; (2) System-wide problems will be more difficult to solve because they are geographically dispersed but intermodalism encompasses more than just terminal transfers; and (3) An IMS must encompass system level analysis of intermodal barriers and issues to reflect consistent and complementary access of modes.

The minority who were in favor of a more narrow context stated that initial efforts should be focused on intermodal transfer points at terminals and then five years later expand the scope of the IMS. Others indicated that time and resources are not available now for a broad implementation of the IMS.

The NPRM uses a narrow context as a base when it addresses identification of intermodal facilities, identification of efficiency measures and performance standards as well as data collection and system monitoring. The NPRM builds on this base and has a broader context when it addresses system and facility performance evaluations, strategy and action identification and evaluation and implementation of products.

The ANPRM requested input on a seventh issue addressing identification of existing data sources that could provide information on intermodal facilities and systems. The majority of respondents noted a variety of sources including private industry, State and local governments, commissions, trade associations, public records and census data. A minority of respondents stated that data sources for freight/goods movement are very limited. The NPRM

looks to State and local transportation officials to define the level of precision needed in the performance evaluation process to provide input on information needs. The NPRM does not specify the types of data to be collected or the level of precision required in recognition of the flexibility needed by the States to develop their systems. The NPRM does, however, direct States to coordinate their data collection programs with the U.S. DOT as directed by the ISTEA.

The eighth and final IMS issue raised in the ANPRM requested guidance on whether the IMS requirement for an implementation plan should include financial analysis. The majority of respondents were in favor of an implementation plan that included financial analysis, indicating that the reason for including it is to ensure the most efficient expenditure of limited public financial resources and that the analysis should also include a cost/benefits analysis. Several respondents noted that a financial analysis was important because of the involvement and impact of the private sector in freight transportation (improvements to one carrier will yield a competitive advantage over other carriers). A minority indicated that a financial plan should be included, but not immediately, and it should not be as detailed as the analysis required for the statewide and metropolitan transportation improvement programs. The NPRM encourages financial analysis in the implementation plan to identify the proposed methods and obstacles (institutional, financial or legal) to implement the strategies and actions.

Traffic Monitoring System

Subpart H of the rulemaking is directed to the highway component of a TMS (TMS/H) including travel associated with public transportation on public highways and streets. This subpart reflects comments received in response to the advance notice of proposed rulemaking (ANPRM) published in the June 3, 1992, **Federal Register**. This subpart would require States to establish a TMS/H. As part of its TMS/H each State would have a comprehensive process for the collection of highway person and vehicular traffic data. This comprehensive process would include elements to assure that the data precision is adequate to address highway issues, that adequate care is taken in the collection of highway traffic data through continuous and short term monitoring, that procedures used in the field data collection phase of a TMS/H support the acquisition of high quality data, that data is readily available to the user, and that the processing of collected data into estimates of average highway traffic is carried out in a consistent fashion. The regulations would ensure comparable and consistently high quality data for application to the administration of the national highway program and in the consideration of intermodal issues.

Paragraph (b) of 23 U.S.C. 303 identifies the required traffic monitoring system as being for highways and public transportation facilities and equipment. Because of the special monitoring needs of both highways and public transportation facilities and equipment, it has been determined that separate monitoring systems should be developed for highways and for non-highway public transportation facilities and equipment. The current rulemaking concerns the traffic monitoring system for highways including public transportation on public roads and highways. Guidance on traffic monitoring for non-highway public transportation facilities and equipment is included in subpart F of 23 CFR part 500.

States must be implementing the six management systems beginning in Federal fiscal year 1995. Since traffic data is a significant element in the administration of each of the management systems, traffic monitoring systems for highways are proposed to be functioning no later than by October 1, 1994.

Previous direction and guidance to States on the collection and reporting of highway traffic data has been provided by the FHWA as part of its "Traffic Monitoring Guide,"[4] (TMG) (originally issued in 1985 and reissued in 1992), and as directions for the reporting of traffic data to the FHWA's HPMS. In addition, the 1992 publication "AASHTO Guidelines for Traffic Data Programs"[5] (AASHTO Traffic Guidelines) provides a basis for a common understanding of traffic data as well as describing an appropriate state of the practice for a State.

The TMG is the FHWA's statement of good traffic monitoring practices. The TMG describes the number and duration of traffic data collection sessions and the adjustments that need to be made to the collected data to develop location or system level estimates of count. The TMG also describes vehicle classification and truck weight data collection programs. As a guide, the application of the TMG procedures by the States is voluntary.

The HPMS, established in 1979, is the Federal Highway Administration's inventory of the nation's highways and their traffic volumes. The concepts for traffic data collection in the HPMS reference those in the TMG. Because of the use of the HPMS data for biennial reports to Congress and its extensive use in policy and program assessments, all data reported to the HPMS, including traffic data, are expected to conform to the rigorous collection, reporting, editing, and review procedures developed to support the current HPMS and planned 1993 revision to the HPMS.

The AASHTO Traffic Guidelines were developed to define and work toward a common traffic monitoring practice on a national basis. Six fundamental principles established in the AASHTO Traffic Guidelines are:

1. These Guidelines will move toward a common traffic monitoring practice.
2. These Guidelines will establish a phased program to achieve a common practice, including near-term minimum practices and future direction.
3. These Guidelines will be practical and capable of implementation.
4. What is practical in these Guidelines will be directed by the need to provide quality traffic data for decisionmaking.
5. Truth-in-Data, which is the disclosure of practice and estimate of data variability, is central to these Guidelines to ensure appropriate data quality and use.
6. These Guidelines will present a dynamic approach to traffic data programs. Further development will be encouraged through the clarity and integrity of common practice.

The AASHTO Traffic Guidelines are intended to identify the importance of common and consistent practice within and among transportation agencies. Its scope ranges from field equipment to traffic reports. It is expected that the AASHTO Traffic Guidelines will be updated and refined over the coming years through implementation by State agencies.

The FHWA worked with the member AASHTO States in the development of the AASHTO Traffic Guidelines and has based the proposed regulations on the principles embodied in these Guidelines.

Because of the various organizational arrangements in use by States to collect highway traffic data, sufficient flexibility would be provided to assure

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[4] *Traffic Monitoring Guide*, DOT/FHWA, October 1992, is available for inspection and copying as prescribed in 49 CFR part 7, appendix D.

[5] *AASHTO Guidelines for Traffic Data Programs*, 1992, can be purchased from the American Association of State Highway and Transportation Officials, 444 N. Capitol Street, NW., Suite 225, Washington, DC 20001. It is available for inspection as prescribed in 49 CFR part 7, appendix D.

that the actions covered by the rulemaking are reasonable and can be adequately supported by the implementing agencies. This flexibility extends to the recognition that assessment of the quality of the highway traffic data in use by a State must depend on how well it meets the expectations of the users of the data and particularly those users who are responsible for the development, implementation and operation of the six management systems called for in 23 U.S.C. 303(a).

The FHWA's existing practice has been to allow States to use procedures other than those recommended by the FHWA in the collection and reporting of highway traffic data, if it can be objectively demonstrated that the alternative procedures achieve the same statistical objectives as the recommended FHWA procedures. The existing practice continues under the proposed rulemaking. States are allowed to use alternative procedures if such procedures meet the statistical objectives for FHWA programs.

Discussion of Comments to Dockets FHWA 92–14 and FTA 92–B

Six issues were raised in the ANPRM. A total of 24 comments were received. To varying degrees the respondent agencies (one city, one metropolitan association of governments, one metropolitan transportation commission, and 21 State transportation and/or highway agencies) provided guidance on how each of the issues should be addressed.

The first issue dealt with information that might be reflected in development of a regulation. The ANPRM noted that development of guidelines and requirements were expected to reflect (1) the content of guidelines and requirements for traffic monitoring, (2) the traffic data needs of the managements systems called for in 23 U.S.C. 303(a), (3) redesign of the HPMS, (4) EPA guidance relative to the Clean Air Act Amendments of 1990 (Pub. L. 101–549, 104 Stat. 2399), (5) potential AASHTO adoption of "AASHTO Guidelines for Traffic Data Programs," (6) ASTM Standard E1442–91 "Standard Practice for Highway-Traffic Monitoring," and (7) procedures and techniques documented in the FHWA's "Traffic Monitoring Guide" (report No. HPM–30/R7–90(100)QE, June 1985). None of the respondents disagreed with the documents cited and only one currently available source document was suggested for inclusion, ASTM Standard E1318–90 "Standard Specification for Highway Weigh-in-Motion (WIM) Systems with User Requirements and Methods." The TMS regulations would encourage the use of national standards developed by the ASTM and the AASHTO without citing specific standards. The results of the 1992 proceedings of the Transportation Research Board Conference "Transportation Data Needs: Programs for a New Era: Implications for State DOTs and MPOs" were suggested but were not available in time for development of the NPRM. These results will be considered in any revision process if they are available.

The ANPRM also requested suggestions as to program areas that might require special emphasis in the traffic data collection program. Additional direction was requested by one respondent each on the topics of the collection of data in support of the Clean Air Act Amendments of 1990, the collection of freight movement data and the collection of transit data. The EPA has provided, and continues to provide, guidance on the traffic data needed in the Clean Air program. This rule would require the traffic data collector to be responsive to user needs. Freight data needs in the NPRM are directed to the collection of vehicle weight information for highway vehicles. Data collection for transit vehicles operating on public highways is discussed in the NPRM, while guidance on collection of data for non-highway transit vehicles will be provided by the FTA.

The third issue requested guidance on the precision levels needed in the collection of various types of traffic data. Although three respondents provided specific suggestions as to precision levels, no clear consensus was apparent. Six respondents indicated that existing levels of data collection efforts were sufficient for national and State level reporting. The NPRM looks to the users of the data to define the level of precision needed and specifies that the traffic data collection program provide information on how well these precision levels are met.

The fourth issue requested information on how the precision level might vary with system level issues versus site or project specific issues. The five comments received on this issue asserted that project level issues do not require national standards. The proposed regulations would require that any traffic data used in support of a Federal program, study, or Federal-aid project conform, as appropriate, to the regulations. For site specific data this may mean that the traffic data were collected, edited and adjusted in conformance with the documented procedures of the highway agency.

The fifth issue sought guidance on the appropriateness of including only vehicle data or including transit and automobile passenger trips data as well. Seven of the 16 comments received on this issue favored the collection of person data as part of a traffic monitoring system. The NPRM provides for the collection of such data to the level deemed appropriate by the data collection agency using data collection methods that are determined to be most effective by the agency.

The sixth issue focused on which ISTEA management system should maintain transit passenger data. Four of the 16 comments supported the inclusion of such data as a part of a traffic monitoring system with the other comments in opposition or suggesting other management systems for retaining such data. The NPRM calls for the traffic monitoring system to have data on bus usage.

Section-by-Section Analysis

This analysis discusses the proposed addition of 23 CFR part 500, subpart H, Traffic Monitoring System.

Section 500.801 Purpose

The rulemaking would provide a policy for the collection, reporting and retention of data as part of a person and vehicular traffic monitoring system for highways (TMS/H) and encompasses data programs for traffic monitoring systems related to public transportation on public roads and highways if the data are reported to the U.S. Department of Transportation (U.S. DOT) or if the data are collected using funds provided by the U.S. DOT.

Section 500.803 Definitions

Except as noted below, the definitions are taken directly from the AASHTO Traffic Guidelines.

The definition of "annual seasonal factors" was developed by the FHWA to emphasize the factoring necessary to convert a coverage count to an AADT estimate. Although the definition refers to only twelve factors, States may use a more refined factoring process, such as week of year factors instead of month of year factors.

The definition of "automatic traffic recorder" is an elaboration of the definition in the AASHTO Traffic Guidelines. The AASHTO Traffic Guidelines does not emphasize that the count is for vehicles across all lanes of traffic. Proper development of factors for application to coverage counts and the use of automatic traffic recorders for tracking the trend in changes in highway travel require that travel in all highway lanes be included.

A definition of "continuous counter" is included because of the widespread use of the term in reference to automatic traffic recorders.

"Functional system" is defined to emphasize that the delineation of highway systems is a product of the functional classification process.

The definition of "highway traffic data" highlights the interrelationship of the various traffic data elements and emphasizes not only the movement of vehicles but, more importantly, the movement of people and goods.

The definition of "traffic data collection session" was developed by the FHWA and means the period of time during which highway traffic data is collected at a specific location.

"Traffic Monitoring Guide" (TMG) means the FHWA's statement of good traffic monitoring practices.

Section 500.805 Policy

This section would require each State to have a TMS/H. Whether the FHWA accepts the TMS/H will depend on the TMS/H's adherence to the concepts described in the current, or amended, AASHTO Traffic Guidelines. It is further expected that any TMS/H will be responsive to the concepts of the FHWA's TMG and able to supply traffic data needed for the HPMS. Although a State's TMS/H could cover all highways, it must as a minimum include all highways in the following functional classes, both on and off State administered systems: rural interstate, rural other principal arterials, rural minor arterials, rural major collectors, urban interstate, urban other freeways and expressways, urban other principal arterials, urban minor arterials, and urban collectors. To be useful in the implementation of the management systems called for under 23 U.S.C. 303(a), a TMS/H must be operational as soon as possible but no later than by October 1, 1994. Recognizing that various approaches may achieve the objectives of a TMS/H, States would be allowed to use procedures other than those specified in the rulemaking if the alternative procedures are found acceptable by the FHWA. Nothing in this section is intended to prohibit the collection of other types of traffic data needed for the administration of the highway program such as vehicle weights for enforcement purposes, axle weights for pavement research, adherence to national and local speed limits or provision of level of service.

Each State's TMS/H is expected to address the following elements:

(1) Precision of Reported Data—The intensity of the TMS/H data gathering effort should reflect the precision needed by the data user. At a minimum, a State's TMS/H will meet any statistical precisions established by the State for the six management systems identified in 23 U.S.C. 303(a) and the FHWA's HPMS. Therefore the TMS/H should have a method to respond to the special data needs of the data user and to estimate the precision of an item of data provided to a data user. This feature of a TMS/H makes the data user an active participant in the formation of the traffic data gathering program.

(2) Continuous Counter Operations—An analysis of the data needs to be addressed and the necessary accuracy of the data expected by the data user would be required to determine the necessary number of continuous counters. The rulemaking emphasizes the importance of the continuous count program to the TMS/H in order for a State's TMS/H to be able to track changes in highway travel patterns at the functional class level and to provide for the development of day-of-week, seasonal and growth factors.

(3) Short Term Traffic Monitoring—Data collected to make estimates of traffic volumes using short term traffic monitoring must be adjusted to AADT in order to provide comparability from one location or time of data collection to another location or time of data collection. The AADT is the result of the application of seasonal factors, day-of-week factors and when necessary, axle correction and growth factors. The use of other factors in the calculation of AADT such as corrections for the use of pneumatic tubes as the axle sensing device or for temperature would not be allowed because of the lack of rigorous development of methods that would allow their application by all States.

Because of the high national interest in better monitoring of the nation's heavy truck movements (and therefore motor freight flows) more intense vehicle classification activities are specified for the NHS. The rule would provide that vehicle classification activities be sufficient to ensure that, as a minimum, on a three year cycle, on the NHS, every major rural system segment (defined as between interchanges or intersections of principal arterials of the rural NHS) will be monitored to provide information on the numbers of single-trailer combination trucks, multiple-trailer combination trucks, two-axle four-tire vehicles, buses and the total number of vehicles operating on an average day. In urban areas (i.e., areas of 5,000 or more population) similar monitoring would be required, as a minimum, on every four-mile segment of the NHS. The installation of permanent monitoring detectors (and associated classifier electronics to the extent possible) is strongly encouraged by the FHWA.

(4) Vehicle Occupancy Monitoring—States in cooperation with local governments and official transportation planning groups would be expected to collect data on the average number of persons per automobile, light two-axle truck, or bus that are appropriate for addressing the issues of their concern including the six management systems called for under 23 U.S.C. 303(a). The decisions as to duration, geographic extent and level of detail of such data collection are left to the States, MPOs, and cooperating local governments. The FHWA believes that vehicle occupancy data should be updated at a minimum of every three years if it is to be of value in tracking changes in occupancy. A wide range of data collection methods are acceptable including roadside monitoring, traveler surveys, and the use of administrative records, such as accident reports. Other data collection methods mutually acceptable to the State, MPOs and the FHWA may also be used.

(5) Field Operations—(a) The FHWA expects that a State's TMS/H will have specific procedures for acceptance testing of traffic monitoring equipment when initially received and for the periodic retest of such equipment. In order to assure consistency from one equipment test to the next, the testing procedures should be documented for use by the State's staff. If appropriate testing procedures are available from national organizations such as the American Society for Testing and Materials or the AASHTO, these national procedures may be referenced as the State's testing procedures. In those situations where traffic data is collected using human observers, the State's TMS/H is expected to have quality control procedures to assure that the manually collected data are accurate.

(b) The documentation for a TMS/H shall provide a clear description of the functional systems monitored, the procedures used to gather the data, the number of counts, the period of monitoring, the cycle of monitoring, and the spatial and temporal distribution of count sites.

(6) Source Data Retention—(a) The AASHTO Traffic Guidelines emphasize the continuing need to retain the data as collected and to be able to describe those elements that might bear on the resulting traffic estimates. These elements are: when and where the data are collected, the data as originally collected, and the identity of the

specific machine(s) used in the data collection.

(b) In conformance with the AASHTO Traffic Guidelines, the original data are expected to be available for at least 10 years. Longer time periods may be appropriate depending on the use of the data. Having the data available in an electronic medium is believed to be reasonable in order to promote the widest use of the data.

(c) Although data need not be retained in any specific format, a State's TMS/H must be able to provide data in formats compatible with the FHWA guidance. This feature will assure that States can be certain there will be a similar format for the sharing of traffic data.

(7) Office Factoring Procedures—(a) The importance of accurate factors to be applied to short counts is emphasized in calling for the annual update of these factors. It is further emphasized that the factors should be specific to each of the functional groups identified in the "Policy" section.

(b) The discussion of rounding of decimal values is intended to assure a degree of uniformity in the calculation of the factors used to adjust short counts without being unduly burdensome.

(c) The method of rounding to be applied in the reporting of estimates of traffic volumes is taken from the AASHTO Traffic Guidelines.

(d) Emphasis is placed on the adherence to practices documented by the State of its procedures for the derivation of annual traffic estimates based on short counts. This emphasis is necessary in order to assure that each data analyst within a State will be following the same procedures. It is expected that application of the same procedures will assure that each analyst will produce the same estimate of annual travel given the same original data. The documentation will include the factors to be applied when making an estimate of average traffic conditions. The documentation will explain how information based on data that was actually collected at a specific site is differentiated from information that was estimated for a site based on data collected at a different site or sites. The documentation will remain available as long as the source data to which the procedures were applied remain available.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The actions being considered in this document are required by statute. The FHWA and the FTA have determined that this rulemaking is not major within the meaning of Executive Order 12291. However, the FHWA and the FTA consider this to be a significant regulation under the regulatory policies and procedures of the DOT because of substantial State, local government, congressional and public interest. These interests involve infrastructure management, receipt of Federal financial support for transportation investments, and compliance with legislative requirements. This proposed regulation would implement section 1034 of the ISTEA which expressly requires that States implement the identified management and monitoring systems. This proposal builds upon existing requirements and State practices, especially in the areas of pavement, bridge, safety, congestion relief, and traffic monitoring programs. The FHWA and the FTA believe that most States and local governmental units have processes and procedures that parallel the basic requirements for these systems. The effect of this regulation would be to strengthen these processes and procedures by emphasizing the collection and analysis of data to support better informed transportation investment decisionmaking. The FHWA and the FTA believe that any additional costs to State and local governments to develop and implement these systems will be minimal and, in view of current process and procedures, that these costs will be outweighed by the benefits. For these reasons, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354), the FHWA and the FTA have evaluated the effects of this proposed rule on small entities, such as local governments and businesses. This proposed regulation would require States, in cooperation with MPOs, local governments, and others, to develop and implement the management and monitoring systems required by section 1034 of the ISTEA. Several categories of Federal funds that are available for these purposes are identified in the proposed regulations. Because the FHWA and the FTA believe that the cost of implementing these systems will be minimal and because Federal funds are available for these activities, the FHWA and the FTA believe that this proposal will not have a significant economic impact on a substantial number of small entities. Accordingly the FHWA and the FTA certify that this rulemaking would not have a significant economic impact on a substantial number of such entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612.

Section 303 of title 23, U.S.C., requires the Secretary to issue regulations and requirements/guidelines to implement the management and traffic monitoring system provisions. The proposed rule recognizes the role of States, MPOs, local governments, and operators of transportation systems and facilities in implementing these systems. Accordingly, it is certified that the policies contained in this document have been assessed in light of the principles, criteria, and requirements of the Federalism Executive Order as well as the applicable provisions of the title 23, U.S.C., for this proposal. It has been determined that this proposed rule does not have sufficient Federalism implications to warrant a full Federalism Assessment under the principles and criteria contained in Executive Order 12612.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Numbers 20.205, Highway Planning and Construction, 20.505, FTA Technical Studies Grants, and 20.507, Capital and Operating Assistance Formula Grants. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to these programs.

Paperwork Reduction Act

The creation and submission of required reports and documents have been limited to those necessary for performance of the FHWA's and the FTA's legislative and administrative responsibilities. The legislation requires the States to certify annually that they are implementing the management systems. The Secretary must also report annually to the Congress on progress being made in implementing the legislative provisions. The proposed rule would require the States to provide information on status of implementation for use in preparing the Secretary's report as part of the certification statements. It is estimated that the burden per year for the States to provide the certifications and status information will be approximately 2100 hours. To the extent possible, the FHWA's HPMS data (approved through September 30, 1993, by the OMB under control number 2125–0028) and the FTA's Section 15

data (approved through May 13, 1994, by the OMB under control number 2132–0008) will be used for the systems. It is believed by the FHWA and the FTA that any additional data needed for the systems is already being collected by the States, MPOs, local governments, or Federal Transit Act recipients.

National Environmental Policy Act

The FHWA and the FTA have analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

23 CFR Part 500

Bridges, Grant programs—transportation, Highway pavement, Highway traffic safety, Highways and roads, Intermodal transportation facilities and systems, Management systems, Public transportation facilities and equipment, Traffic congestion, Traffic monitoring, Transportation infrastructure.

23 CFR Part 511

Grant programs—transportation, Highways and roads, Research.

23 CFR Part 626

Design standards, Grant programs—transportation, Highways and roads.

49 CFR Part 614

Intermodal transportation facilities and systems, Management systems, Public transportation facilities and equipment, Traffic congestion, Transportation infrastructure.

Issued on: February 17, 1993.

E. Dean Carlson,

Executive Director, Federal Highway Administration.

Robert H. McManus,

Acting Administrator, Federal Transit Administration.

In consideration of the foregoing, the Federal Highway Administration proposes to amend chapter I of title 23, Code of Federal Regulations, by removing parts 511 and 626, by amending subchapter F by revising the heading and by adding part 500, and subparts A through G, and the Federal Transit Administration proposes to amend chapter VI of title 49 CFR by adding new part 614 as set forth below.

Title 23

PART 511—RESEARCH AND DEVELOPMENT (R&D) STUDIES ANDPROGRAMS; GENERAL [REMOVED]

1. Chapter I of title 23 CFR is amended by removing part 511, §§ 511.1 through 511.10, in its entirety.

SUBCHAPTER F—(PARTS 500 THROUGH 599) [REVISED]

2. The heading of subchapter F, Research and Development, is revised and a new part 500 is added to read as follows:

SUBCHAPTER F—TRANSPORTATION INFRASTRUCTURE MANAGEMENT

PART 500—MANAGEMENT AND MONITORING SYSTEMS

Subpart A—General

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500.101 Purpose.
500.103 Definitions.
500.105 Policy.
500.107 Coordination and evaluation of systems.
500.109 Certification of implementation.
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Subpart B—Pavement Management System

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500.201 Purpose.
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500.401 Purpose.
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500.501 Purpose.
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500.507 Management system structure.
500.509 Single-occupant-vehicle capacity projects.
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Subpart F—Public Transportation Facilities and Equipment Management System

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500.601 Purpose.
500.603 Definitions.
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Subpart G—Intermodal Facilities and Systems Management System

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500.701 Purpose.
500.703 Definitions.
500.705 Policy.
500.707 Management system structure.

Subpart H—Traffic Monitoring System

Sec.
500.801 Purpose.
500.803 Definitions.
500.805 Policy.

Authority: 23 U.S.C. 134, 135, 303 and 315; 49 U.S.C. app. 1607; 23 CFR 1.32; and 49 CFR 1.48 and 1.51.

Subpart A—General

§ 500.101 Purpose.

The purpose of 23 CFR part 500 is to implement the requirements of 23 U.S.C. 303, Management Systems, which requires State development, establishment, and implementation of systems for managing highway pavement of Federal-aid highways (PMS), bridges on and off Federal-aid highways (BMS), highway safety (SMS), traffic congestion (CMS), public transportation facilities and equipment (PTMS), and intermodal transportation facilities and systems (IMS). Section 303 also requires State development, establishment, and implementation of a traffic monitoring system for highways and public transportation facilities and equipment (TMS). This subpart includes definitions and general requirements that are applicable to all of these systems. Additional requirements applicable to a specific system are included in subparts B through H of this part 500.

§ 500.103 Definitions.

Unless otherwise specified herein, the definitions in 23 U.S.C. 101(a) are applicable to this part 500.

Certifying official(s). The individual(s)/position(s), designated by the Governor of a State or the mayor of the District of Columbia to certify that the management system(s) is/are being implemented in the State.

Federal agency(ies). For the PMS and BMS, the Federal Highway Administration (FHWA); for the SMS, the FHWA and the National Highway Traffic Safety Administration; for the CMS, PTMS, and IMS, the FHWA and the Federal Transit Administration (FTA).

Federal-aid highways. Those highways eligible for assistance under title 23, U.S.C., except those functionally classified as local or rural minor collectors.

Highway Performance Monitoring System (HPMS). The system used by the FHWA to provide information to Congress, the States, and the public on the extent and physical condition of the nation's highway system, its use, performance, and needs. The system includes an inventory of the nation's highways including traffic volumes. (Approved through September 30, 1993, by the OMB under control number 2125–0028.)

Metropolitan planning area. The area, established by the MPO and the Governor in accordance with 23 CFR part 450, in which the metropolitan transportation planning process required by 23 U.S.C. 134 and section 8 of the Federal Transit Act (49 U.S.C. app 1607) must be carried out.

Metropolitan planning organization (MPO). The organization designated, in accordance with 23 CFR part 450, as being responsible, together with the State, for carrying out the metropolitan planning provisions of 23 U.S.C. 134 and 49 U.S.C. app. 1607. This organization is the forum for cooperative transportation decisionmaking.

National highway system (NHS). The system of highways designated and approved in accordance with the provisions of 23 U.S.C. 103(b).

Section 15 data. A reporting system required under section 15 of the Federal Transit Act (49 U.S.C. app. 1611) that annually accumulates public mass transportation financial and operating information by uniform categories and a uniform system of accounts and records.

(Approved through May 13, 1994, by the OMB under control number 2132–0008.)

State. Any one of the fifty states, the District of Columbia, or Puerto Rico.

Transportation Management Area (TMA). An urbanized area with a population over 200,000, as determined by the latest decennial census, or other area when TMA designation is requested by the Governor and MPO (or affected local officials), and officially designated by the Administrators of the FHWA and the FTA. The TMA designation applies to the metropolitan planning area.

§ 500.105 Policy.

(a) The primary purpose of the management systems is to provide additional information needed to make effective decisions on the use of limited resources to improve the efficiency of, and protect the investment in, the nation's existing and future transportation infrastructure at all levels of jurisdictional control.

(b) Each State shall develop, establish, and implement, on a statewide basis, each of the management and monitoring systems identified in § 500.101. Each State may tailor management systems to meet State, regional, and local goals, policies, and resources, but the systems must be acceptable to the Federal agencies and shall meet the requirements and cover the transportation systems/elements applicable to the particular system as specified in subparts B through H of this part. Documentation that describes each management system and procedures for implementing each system and its outputs shall be maintained by the States for the Federal agencies to determine, on a periodic basis, if the systems fulfill the purpose stated in paragraph (a) of this section and meet the requirements in this subpart and subparts B through H, as applicable.

(c) MPOs, agencies (including private owners and operators) that have responsibility for operation of the affected transportation systems or facilities, and the public shall be given appropriate opportunities for involvement in the development, establishment, and implementation of each management system.

(d) The outputs (e.g., policies, programs, projects, etc.) of the individual management systems shall be integrated into the metropolitan planning process required under 23 U.S.C. 134 and 49 U.S.C. app. 1607 and the statewide transportation planning process required under 23 U.S.C. 135, and shall be considered in the development of metropolitan and statewide transportation plans and improvement programs and in making project selection decisions under title 23, U.S.C., and under the Federal Transit Act.

(e) Existing data sources, such as the HPMS and Section 15 data, and the traffic monitoring system described in subpart H of this part will be used by the Federal agencies to the maximum extent possible to meet their needs. States are encouraged to also use these databases to the extent possible in the management systems.

§ 500.107 Coordination and evaluation of systems.

(a) Each State shall have procedures, within the State's organization, for coordination of the development, establishment and implementation of the management systems. The procedures must include: An oversight process to assure that adequate resources are available for implementation and that target dates of the systems are complementary so that the outputs of all systems can be given timely consideration in development of metropolitan and statewide transportation plans and programs; the use of data bases with a common or coordinated reference system and methods for data sharing; and interrelationships among the systems to address outputs and issues related to the purposes of more than one management system.

(b) In developing and implementing each management system, States shall cooperate with MPOs in metropolitan areas, local officials in non-metropolitan areas, and with affected agencies receiving assistance under the Federal Transit Act.

(c) Within all metropolitan planning areas, to the extent appropriate the CMS, PTMS, and IMS shall be part of the metropolitan transportation planning process required under the provisions of 23 U.S.C. 134 and 49 U.S.C. app. 1607. In metropolitan planning areas that have more than one MPO and or that include more than one State, the establishment, development, and implementation of these systems shall be coordinated among the State(s) and MPO(s) to ensure compatibility of the systems and appropriate consideration of their outputs.

(d) The roles and responsibilities of the State, MPO(s), recipients of assistance under the Federal Transit Act, and other agencies involved in the development, establishment, and implementation of each system shall be mutually determined by the parties involved. A State may enter into agreements with local governments, regional agencies (such as MPOs), recipients of funds under the Federal Transit Act, or other entities to develop, establish, and implement appropriate parts of any or all of the systems, but the State shall be responsible for overseeing and coordinating such activities.

(e) Each management system must include appropriate means to evaluate the effectiveness of implemented actions developed through use of that system. The effectiveness of the management systems in enhancing transportation investment decisions and improving the overall efficiency of the

State's transportation systems and facilities shall be evaluated periodically, preferably as part of the metropolitan and statewide planning processes.

§ 500.109 Certification of implementation.

(a) States must be implementing each management system beginning in Federal fiscal year 1995 (October 1, 1994 to September 30, 1995) and must certify annually to the FHWA that they are implementing each of the management systems. A State shall be considered to be implementing a system if the system is in operation by the date of the certification in accordance with any phase-in criteria for that system as specified in subparts B through H of this part. While a State may enter into agreements with local governments or other agencies to develop, establish, and implement all or parts of the management systems, in accordance with the provisions of § 500.107(d), the State's certification(s) shall describe the status of implementation for the entire State.

(b) The FHWA shall be notified by the Governor of the State or the Mayor of the District of Columbia in writing by September 30, 1994, of the name(s) or title(s) of the certifying official(s) for each management system. Designation of a position title, instead of an individual by name, is recommended to reduce the need for subsequent designations. If there is a change in designated official(s)/position(s), the State shall provide documentation of the revised designation with, or prior to, the next annual certification. In those States where responsibility for all of the management systems is within a single agency (e.g., State DOT), designation of one certifying official for all of the systems is recommended.

(c) The certification statement(s) shall be submitted by the State to the FHWA Division Administrator by January 1 of each year, beginning January 1, 1995. To the extent possible, one certification statement should cover all 6 management systems. If more than one certification statement will be submitted by a State, the statements should be coordinated at the State level and submitted simultaneously. The certification statement(s) shall include a summary of the status of implementation of each system and a discussion of planned actions and target dates for implementation of any systems that are not fully operational. The information in the State certification statements will be used to prepare annual reports to the Congress on the status of implementation of the management systems.

(d) The FHWA Division Office will provide copies of the certification statement(s) and any relevant supporting documentation and correspondence to other Federal agencies identified for the specific system(s) in § 500.103. After review by the Federal agencies, the State will be notified by the FHWA if the certification statement(s) is acceptable.

§ 500.111 Sanctions.

(a) Beginning January 1, 1995, if a State fails to certify annually as required by this regulation, or if the Federal agencies determine that any management system is not being adequately implemented within the entire State, notwithstanding the State's certification(s), the Secretary may withhold up to 10 percent of the funds apportioned to the State under title 23, U.S.C., and to any recipient of assistance under the Federal Transit Act for any fiscal year beginning after September 30, 1995. Depending on such factors as which systems are not being adequately implemented or are not being implemented in specific areas of a State or by specific agencies, sanctions may be imposed on a statewide basis, by sub-area of a State, for specific categories of funds or types of projects, or for specific recipients of funds under the Federal Transit Act.

(b) While a State may enter into agreements with local governments or other agencies to develop, establish, and implement all or parts of the management systems, in accordance with § 500.107(d), the State shall be responsible for ensuring that the systems are being implemented statewide and for taking any necessary corrective action, including implementing the systems at the regional and local levels if necessary.

(c) Prior to imposition of a sanction, a State will be notified in writing by the Federal agencies of the sanction(s) to be imposed, the reasons why, and what actions and by whom are necessary to correct the deficiencies. The State will have a reasonable period of time to respond to such notice and to propose actions, satisfactory to the Federal agencies, to correct the identified deficiencies.

(d) In instances where a State, or responsible sub-unit of a State or recipient of funds under the Federal Transit Act, has not fully implemented all of the management systems, consideration shall be given by the Federal agencies to efforts underway or planned to make the systems fully operational within a reasonable time period.

(e) To the extent that they have not lapsed, funds withheld pursuant to this subpart shall be made available to the State or recipient under the Federal Transit Act upon a determination by the Federal agencies that the management systems are being adequately implemented.

§ 500.113 Funds for establishment, development, and implementation of the systems.

(a) The following categories of funds may be used for development, establishment, and implementation of any of the management and monitoring systems: National Highway System, Surface Transportation Program, FHWA state planning and research and metropolitan planning funds (including the optional use of minimum allocation funds authorized under 23 U.S.C. 157(c) for carrying out the provisions of 23 U.S.C. 307(c)(1) and 23 U.S.C. 134(a)), Federal Transit Act Section 9 (Capital, Planning, and Operating), Federal Transit Act Section 8 (Metropolitan Planning), Federal Transit Act section 26(a)(2) (State Planning and Research), and Federal Transit Act section 26(b)(1) (National Planning and Research). Congestion Mitigation and Air Quality Improvement Program funds (23 U.S.C. 104(b)(2)) may be used for certain management system purposes, if such use will likely contribute to the attainment of a national ambient air quality standard. Apportioned bridge funds (23 U.S.C. 144(e)) may be used for development and establishment of the bridge management system.

(b) Federal funds identified in paragraph (a) of this section used for development, establishment, or implementation of the management and monitoring systems shall be administered in accordance with the procedures and requirements applicable to the category of funds.

§ 500.115 Acceptance of existing management systems.

(a) Existing State laws, rules, or procedures that the Federal agencies determine fulfill the purposes of a management system, or portion thereof, as specified in this subpart and the subpart for the applicable system may be accepted by the Federal agencies in lieu of the State's development and implementation of a new system.

(b) If a State has existing laws, rules, or procedures that it wishes to use to meet the requirements of these regulations, it shall submit a written request to the FHWA Division Administrator that the Federal agencies accept the existing management system in lieu of development of a new system.

The State shall submit any documentation necessary to show that the existing system meets such requirements along with a discussion of how it does so.

(c) Upon receipt of a request, the FHWA Division Administrator will coordinate review of the request with the other Federal agencies specified in § 500.103 and, after consultation with appropriate FHWA headquarters offices, notify the State that the existing system is either fully acceptable, acceptable subject to specific modifications, or unacceptable and that a new system must be developed.

(d) To meet implementation deadlines, the State must submit any requests under paragraph (a) of this section within 6 months of issuance of these regulations, so that any needed modifications can be made, or a new system developed, by Federal fiscal year 1995 (i.e., by October 1, 1994).

Subpart B—Pavement Management System

§ 500.201 Purpose.

The purpose of this subpart is to set forth a policy for State development, establishment, and implementation of a system for managing pavements of Federal-aid highways.

§ 500.203 Definitions.

Unless otherwise specified herein, the definitions in 23 U.S.C. 101(a) and § 500.103 of this part are applicable to this subpart.

Pavement design. A project level activity where detailed consideration is given to alternative combinations of subbase, base, and surface materials which will provide adequate load carrying capacity. Factors which are considered include: materials, traffic, climate, maintenance, and drainage.

Pavement management system (PMS). A systematic process that collects and analyzes pavement information used as input in selecting cost-effective strategies for providing and maintaining pavements in a serviceable condition.

§ 500.205 Policy.

(a) Each State highway agency (SHA) shall have a PMS that covers rural arterial and urban principal arterial routes under its jurisdiction by January 13, 1993.

(b) Each SHA shall have a PMS that covers all Federal-aid highways, by January 1, 1995. This coverage includes rural arterials and major collectors and urban arterials and collectors. The needs identified by the PMS must be considered in the metropolitan (23 U.S.C. 134) and statewide (23 U.S.C. 135) planning processes. Pavements shall be designed to accommodate current and predicted traffic needs in a safe, durable, and cost effective manner.

§ 500.207 Coordination.

Each SHA is responsible for PMS coverage of all Federal-aid highways in its State. A SHA may enter into agreements with counties, municipalities, MPOs, toll authorities or other agencies to develop, establish, and implement PMSs that cover the Federal-aid highways under that agency's jurisdiction. In metropolitan planning areas, the State must develop and implement the PMS in cooperation with the MPO.

§ 500.209 Standards.

(a) *Components.* (1) Each SHA's PMS shall be based on the concepts described in the "AASHTO Guidelines for Pavement Management Systems."[1] It is anticipated that PMSs will be designed at various levels of technical complexity depending on the nature of the pavement network. These different levels may depend on mileages, functional classes, volumes, loadings, usage, or other criteria the agency deems appropriate. It is expected that most local PMSs will be less complex than State PMSs.

(2) Each PMS shall be designed to fit the agency's goals, policies, criteria, and resources using the following essential components as a basic framework for a PMS:

(i) *Inventory.* The physical pavement features including the number of lanes, length, width, surface type, functional classification, and shoulder information.

(ii) *History.* The project dates and types of construction, reconstruction, rehabilitation, and maintenance.

(iii) *Condition survey.* The ride, distress, rutting, and surface friction.

(iv) *Traffic.* The volumes, classification, and load data.

(v) *Database.* The compilation of all the data files used in the PMS. The database shall also be the source for reporting pavement related information to FHWA for the Highway Performance Monitoring System (HPMS). Data reported for the HPMS shall be collected and reported in accordance with the HPMS Field Manual.[2]

(3) If some of the inventory or historic data is difficult to establish, it should be collected when preservation or reconstruction work is performed.

(b) *Analyses.* The following are analyses that shall be performed in a PMS:

(1) Condition analysis. Includes ride, distress, rutting, and surface friction.

(2) Performance analysis. Includes pavement performance analysis and an estimate of the remaining service life.

(3) Investment analysis. Includes an estimate of network-level and project-level investment strategies. Network-level includes total cost estimates for present and projected future conditions. Project level includes a prioritized list of recommended candidate projects that span a single-year and multi-year period. Most agencies use 5 years for the multi-year horizon. Each agency should determine the appropriate horizon for its pavement program. The analysis should consider life-cycle cost evaluation.

(4) Engineering analysis. Includes the evaluation of design, construction, rehabilitation, materials, mix designs, and maintenance as they relate to the performance of pavements.

(5) Feedback analysis. Includes the annual evaluation and updating of procedures and calibration of relationships and criteria using the PMS performance data and the agency's most current engineering criteria.

Subpart C—Bridge Management System

§ 500.301 Purpose.

The purpose of this subpart is to set forth policies, requirements, and minimum standards for the development, establishment, implementation, and continued operation of a management system for bridges on and off Federal-aid highways within each State.

§ 500.303 Definitions.

Unless otherwise specified herein, the definitions in 23 U.S.C. 101(a) and § 500.103 are applicable to this subpart.

Bridge management system (BMS). A decision support tool that supplies analyses and summaries of data, uses mathematical models to make predictions and recommendations, and provides the means by which alternative policies and programs may be efficiently considered. A BMS includes formal procedures for collecting, processing, and updating data, predicting deterioration, identifying alternative

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[1] *AASHTO Guidelines for Pavement Management Systems,* July 1990, can be purchased from the American Association of State Highway and Transportation Officials, 444 N. Capitol Street, NW., suite 225, Washington, DC 20001. It is available for inspection as prescribed in 49 CFR part 7, appendix D.

[2] *Highway Performance Monitoring System (HPMS) Field Manual for the Continuing Analytical and Statistical Data Base,* DOT/FHWA, December 1987 (FHWA Order M5600.1A), as revised July 15, 1988, and April 20, 1990, is available for inspection and copying as prescribed in 49 CFR part 7, appendix D.

actions, predicting costs, determining optimal policies, performing short- and long-term budget forecasting, and recommending projects and schedules within policy and budget constraints.

Elements. The components of a bridge important from a structural, user, or cost standpoint. Examples are decks, joints, bearings, girders, abutments, and piers.

Lifecycle cost analysis. Procedure for evaluating the economic worth of one or more projects or investments by discounting future costs over the life of the project or investment.

Multiperiod optimization. A procedure that optimally allocates limited funds among alternative actions over a planning horizon (both short and long-term) using an optimization procedure such as minimizing life-cycle and user costs. The modeling procedure accounts for traffic growth and deterioration, and facilitates "what if" analysis of the effects of alternative policies, budgets, and operational practices on the future conditions and long-term serviceability of the bridge inventory.

Network level analysis. An analysis pertaining to policy, system planning, programmatic, or budgeting issues for the whole bridge inventory on a roadway network or a subset thereof.

Serviceability. The degree to which a bridge provides satisfactory service from the point of view of its users.

User costs. Costs borne by bridge users, traveling on or beneath the structure. Also includes excess costs to those who cannot use the bridge due to load and clearance restrictions. The costs include travel time, motor vehicle operating, and accident costs.

§ 500.305 Policy.

(a) Each State shall have a BMS for bridges on and off Federal-aid highways that meets the minimum standards set forth in § 500.307 of this subpart. The State shall cooperate and take the lead in establishing agreements with the metropolitan planning organizations in metropolitan areas, and local bridge owners to:

(1) Define the scope of responsibilities of each for the development, establishment, implementation, and continued operation of the BMS.

(2) Set system specifications and operational requirements for the BMS including standards for data collection, analysis, reporting, and exchanging information.

(b) Each State shall maintain a centralized database that contains the BMS data for bridges on and off Federal-aid highways, and shall implement network analysis procedures that are capable of analyzing data for all bridges in the inventory or any subset. Local bridge owners are not precluded from supplementing the State BMS with a locally operated system that is tailored to their particular needs.

§ 500.307 Minimum standards.

(a) A State BMS shall include, as a minimum, the processes and procedures identified in paragraphs (b) through (d) of this section.

(b) A computerized database and an ongoing program for the collection and maintenance of the inventory, inspection, cost, and supplemental data needed to support the BMS. A minimum BMS database shall include, or link:

(1) The data required by 23 CFR 650.311.

(2) Data characterizing the severity and extent of deterioration of bridge elements.

(3) Data for estimating the cost of actions.

(4) Traffic and accident statistics to support estimates of user cost savings.

(5) A history of conditions and actions taken on each bridge, excluding minor or incidental maintenance.

(c) A computer model for applying network level analysis and optimization to the bridge inventory. The network model shall include procedures to:

(1) Predict the deterioration of bridge elements with and without intervening actions.

(2) Identify feasible actions to improve bridge condition, safety, and serviceability.

(3) Estimate the cost of actions.

(4) Estimate expected user cost savings for safety and serviceability improvements.

(5) Determine least-cost maintenance, repair, and rehabilitation strategies for bridge elements using lifecycle cost analysis or a comparable procedure.

(6) Perform multiperiod optimization.

(7) Generate summaries and reports as needed for the planning and programming processes.

(d) A system for monitoring the status of actions recommended by the BMS and for updating the BMS database when actions are taken.

§ 500.309 Compliance schedule.

The State will be considered to be implementing a BMS in Federal fiscal year 1995 if, by October 1, 1994, BMS objectives are formally established and system design is completed or underway. In subsequent fiscal years, system design and testing must be completed and full-scale data collection must be underway. Within 4 years of the effective date of this regulation, a State BMS that meets the minimum standards of § 500.307 and results in the identification and consideration of bridge needs, as specified in § 500.105(d), shall be fully implemented.

Subpart D—Highway Safety Management System

§ 500.401 Purpose.

The purpose of this subpart is to establish regulations for the development, establishment, and implementation of a Highway Safety Management System (SMS) in each State in accordance with the provisions of 23 U.S.C. 303.

§ 500.403 Definitions.

Unless otherwise specified herein, the definitions in 23 U.S.C. 101(a) and § 500.103 are applicable to this subpart.

Highway safety. The reduction of traffic accidents, and deaths, injuries, and property damage resulting therefrom, on public roads.

Highway safety management system. Systematic processes to ensure that all opportunities to improve highway safety are identified, considered, implemented where appropriate, and evaluated.

Operations. Those activities associated with managing, controlling, and regulating highway traffic.

§ 500.405 Policy.

Each State shall develop, establish, and implement, on a continuing basis, an SMS that has the overall goal of reducing the number and severity of highway crashes. The SMS shall apply to all public roads and encompass a comprehensive approach incorporating the roadway, human, and vehicle safety elements. Formalized interactive communication, coordination, and cooperation shall be established among the organizations responsible for these major safety elements including: enforcement, emergency medical services, emergency response, motor carrier safety, motor vehicle administration, State highway safety agencies; the public health community; State and local transportation/highway agencies; and State and local railroad regulatory agencies. State agencies shall also coordinate, as appropriate, with Local Technical Assistance Program centers to develop and expand the SMS expertise of local transportation agencies. In addition, the coordination requirements set forth in § 500.107 in development, establishment, and implementation of the SMS, and in carrying out the provisions for planning and project selection are applicable. States shall also consider and include, where appropriate, projects and

programs identified under the SMS in their Highway Safety Plan, 23 CFR chapter II, and Motor Carrier Safety Assistance Program, State Enforcement Plans, 49 CFR chapter III.

§ 500.407 Program structure.

(a) The SMS shall ensure that safety is considered and implemented as appropriate, in all phases of highway planning, design, construction, maintenance, and operations. This necessitates that safety be totally integrated into the decisionmaking processes of day-to-day activities and the development of projects and program activities.

(b) Plans, processes, procedures, and practices shall be established to implement, coordinate, and evaluate programs, projects, and activities of the five major areas identified in paragraph (c) of this section. These plans, processes, procedures, and practices, shall incorporate as a minimum:

(1) Establishment of long and short term highway safety goals. These goals should be tailored to allocate resources and address both existing and anticipated safety problems as well as substandard highway locations, designs, and features;

(2) Establishment of accountability by identifying and defining the safety responsibilities of units and positions;

(3) Recognition of institutional and organizational initiatives through identification of disciplines involved in highway safety at the State and local level, assessment of multi-agency responsibilities and accountability, and establishment of coordination, cooperation, and communication mechanisms. This includes assignment of a focal point of responsibility for the SMS at the State level;

(4) Collection, maintenance, and dissemination of data necessary for problem identification and determining improvement needs. Data bases and data sharing shall be integrated as necessary to achieve maximum utilization of existing and new data within and among the agencies. These records, as a minimum, shall consist of information pertaining to: Crashes, traffic (including number of trains at highway-rail crossings), pedestrians, enforcement, vehicle, driver, highways, and emergency medical services;

(5) Analysis of available data, multi-disciplinary and operational investigations, and comparisons of existing conditions and current standards to assess highway safety needs, select countermeasures, and set priorities;

(6) Evaluation of the effectiveness of all activities that relate to highway safety performance. This information shall be used to guide future decisions;

(7) Development and implementation of public information and education activities to educate and inform the public on safety needs, programs, and countermeasures which affect safety on the nation's highways; and

(8) Identification of skills and resources needed to implement the State's activities and programs affecting highway safety, identification of current and future training needs, development of a program to carry out necessary training, and development of methods for monitoring and disseminating new technology and incorporating effective results.

(c) Five major areas shall be addressed in structuring each State's SMS:

(1) Coordinating and integrating broad base safety programs such as motor carrier, corridor, and community-based traffic safety activities into a comprehensive management approach for highway safety;

(2) Identifying and investigating hazardous or potentially hazardous highway safety problems, roadway locations and features, including railroad-highway grade crossings, and establishing countermeasures and setting priorities to correct the identified hazards or potential hazards;

(3) Ensuring early consideration of safety in all highway transportation programs and projects;

(4) Identifying safety needs of special user groups such as older drivers, pedestrians, bicyclists, motorcyclists, commercial motor carriers, and hazardous material carriers, in the planning, design, construction, and operation of the highway systems; and

(5) Routinely maintaining and upgrading safety hardware (including highway-rail crossing warning devices), highway elements, and operational features.

(d) While the SMS applies to all public roads, the extent of system requirements (e.g., data collection, analyses, and standards) for local and rural minor collectors may be tailored to be consistent with the functional classification of the road. However, adequate detail must be included for each functional classification to provide for effective inclusion of safety decisions in the administration of highway transportation by State and local agencies.

Subpart E—Traffic Congestion Management System

§ 500.501 Purpose.

The purpose of this subpart is to implement the provisions of 23 U.S.C. 303 that require State development, establishment, and implementation of a system for managing traffic congestion. The requirement in 23 U.S.C. 134 that the transportation planning process in a transportation management area (TMA) include a congestion management system is also covered by this subpart and by 23 CFR part 450.

§ 500.503 Definitions.

Unless otherwise specified herein, the definitions in 23 U.S.C. 101(a) and § 500.103 are applicable to this subpart.

Congestion. The level at which transportation system performance is no longer acceptable to the traveling public due to traffic interference. The level of acceptable system performance may vary by type of transportation facility, geographic location and/or time of day.

Congestion management system (CMS). A systematic process that provides information on transportation system performance to decisionmakers for selecting and implementing cost-effective strategies to manage new and existing facilities so that traffic congestion is alleviated and the mobility of persons and goods is enhanced.

§ 500.505 Policy.

(a) Each State shall develop, establish, and implement, on a continuing basis, a CMS that identifies and assesses transportation system congestion and leads to the implementation of strategies that provide the most efficient use of existing and future transportation facilities and enhance the mobility of people and goods.

(b) The CMS must cover the entire State, but may consist of sub-systems for each metropolitan and non-metropolitan area. The State may enter into agreements with metropolitan planning organizations (MPOs), local governments, and other appropriate agencies for the development, establishment, and implementation of appropriate portions of the CMS, but the State shall be responsible for ensuring that the CMS is implemented in accordance with the requirements of the regulations in this subpart.

(c) States shall cooperate with MPOs in metropolitan planning areas, local officials in non-metropolitan planning areas, and with affected agencies receiving assistance under the Federal Transit Act in the development, establishment, and implementation of the CMS.

(d) In TMAs, the CMS shall be part of the metropolitan planning process as required under the provisions of 23 U.S.C. 134 and 49 U.S.C. app. 1607.

(e) In areas that are nonattainment for transportation related pollutants, the

development of the CMS strategies shall be coordinated with the process for the development of the transportation control measures of the State implementation plan for air quality required by the Clean Air Act.

(f) If the CMS covers the performance of intermodal facilities, the relationship of the CMS and the intermodal management system, described in subpart G of 23 CFR Part 500, must be established and coordination between these systems must be addressed.

§ 500.507 Management system structure.

(a) *Area of consideration.* Each State shall identify metropolitan and rural areas where congestion is occurring, or where the potential for congestion exists, based on an acceptable level of transportation system performance established by the State in cooperation with MPOs, local agencies and operators of major modes of transportation. Within these areas, all corridors and facilities with existing or potential recurring and nonrecurring congestion shall be identified and an assessment of the level of congestion shall be made. Based on this assessment, the geographical area to be covered and the transportation facilities and land use activities to be included in the CMS shall be established. Coverage of facilities and activities shall be sufficient to accurately reflect any cumulative effects that a combination of physical improvements and/or areawide transportation policy decisions may have on transportation system performance.

(b) *Performance measures.* Performance measures or indicators shall be established that will provide for the identification and monitoring of the extent of both recurring and nonrecurring congestion and the evaluation of the effectiveness of congestion reduction and mobility enhancement strategies. Performance measures shall be established cooperatively by the States and affected MPOs or local officials in consultation with the operators of major modes of transportation in the coverage area.

(c) *Data collection and system monitoring.* A continuous program of data collection and system monitoring shall be established so that the duration and magnitude of congestion can be determined and monitored. Both existing and new sources of data shall be considered in order to best meet the data requirements of selected performance measures. Where existing data collection activities do not adequately measure the movement of people and goods, new data collection activities must be initiated. The data collection activities shall provide information needed for the evaluation of the effectiveness of implemented strategies.

(d) *Identification and evaluation of proposed strategies.* The CMS shall identify and evaluate anticipated performance, based on the area's established performance measures, and expected benefits of traditional and nontraditional strategies that will ensure the most efficient use of existing and future transportation systems. These strategies shall include, but not be limited to:

(1) Transportation demand management measures such as carpooling, vanpooling, alternative work hours, telecommuting, and parking management;

(2) Traffic operations improvements such as intersection and roadway widening, channelization, and geometric and signalization improvements;

(3) Measures to encourage high occupancy vehicle (HOV) use such as public transit improvements, HOV lane provisions, guaranteed ride home programs, and employer trip reduction ordinances;

(4) Congestion pricing;

(5) Growth management and activity center strategies;

(6) Access management techniques;

(7) Incident management;

(8) Application of intelligent vehicle-highway system technology; and

(9) The addition of general purpose lanes.

(e) *Implementation of strategies.* For each proposed CMS strategy, the following information shall be identified as a minimum: implementation responsibilities, time frame for implementation, and probable funding sources.

(f) *Evaluation of the effectiveness of implemented strategies.* A process for periodic assessment of the effectiveness of implemented strategies, in terms of the area's established performance measures, shall be developed. The results of this evaluation shall be provided to State and local decisionmakers to determine future actions and provide direction on the most effective strategies for further implementation.

§ 500.509 Single-occupant-vehicle capacity projects.

(a) In both metropolitan and non-metropolitan areas, priority shall be placed on strategies that reduce single-occupant vehicle travel and improve existing transportation system efficiency. Where the addition of general purpose lanes is determined to be an appropriate strategy, consideration shall be given to the incorporation of appropriate features which will facilitate future demand management and operational improvement strategies that will serve to maintain the functional integrity of those lanes.

(b) In TMAs that are nonattainment for carbon monoxide and/or ozone, Federal funds may not be programmed for a highway or transit project that significantly increases capacity for single-occupant-vehicles (SOVs) unless the project results from an approved CMS. To satisfy this requirement, the CMS shall, as a minimum, include a process that results in an appropriate analysis of all reasonable (including multimodal) travel demand reduction and operational management strategies for the corridor in which an SOV facility is proposed. This analysis must demonstrate the degree to which such strategies can reduce travel demand and thus reduce the need for additional SOV capacity in the corridor. If the analysis demonstrates that additional SOV capacity is warranted, all reasonable strategies to manage the facility effectively (or to facilitate its management in the future) shall be incorporated into the proposed facility. Other travel demand reduction and operational management strategies appropriate for the corridor, but not appropriate for incorporation into the SOV facility itself must be committed to by the State and the MPO for implementation in a timely manner. If the TMA does not already have traffic management and carpool/vanpool programs, the establishment of such programs must be a part of the commitment unless it can be demonstrated that such measures are not appropriate for the area. Projects that have advanced beyond the process required under the National Environmental Policy Act and which are being implemented, e.g., right-of-way acquisition has been approved, will be deemed to be programmed and not subject to this requirement.

§ 500.511 Compliance schedule.

(a) By October 1, 1994, as a minimum: performance measures must be established, data collection activities must be initiated, the most critical areas requiring analysis must be identified, and a work plan must be developed that shows how full implementation will be achieved by October 1, 1995.

(b) Each State's CMS, including any subsystems, shall be fully operational by October 1, 1995.

Subpart F—Public Transportation Facilities and Equipment Management System

§ 500.601 Purpose.

The purpose of this subpart is to set forth a policy for State development, establishment, and implementation of a system for managing public transportation facilities, equipment and rolling stock.

§ 500.603 Definitions.

Unless otherwise specified herein, the definitions in 23 U.S.C. 101(a) and § 500.103 of this part are applicable to this subpart.

Public transportation facilities and equipment management system (PTMS). A systematic process that collects and analyzes transit facilities, equipment, and rolling stock information on an ongoing basis. It provides information for decisionmakers to select cost-effective strategies for providing and maintaining transit facilities, equipment, and rolling stock in a serviceable condition.

§ 500.605 Policy.

Each State shall develop, establish, and implement a PTMS in cooperation with recipients and subrecipients of funds under Federal Transit Act Sections 3, 9, 16, and 18. Transit facilities, equipment, and rolling stock shall be designed to accommodate current and predicted ridership in a safe and cost effective manner.

§ 500.607 General requirements.

Facilities, equipment, and rolling stock (dates of initial construction and major renovations/additions) shall be inventoried and condition identified to establish estimated replacement schedules. Estimated major maintenance and/or replacement costs shall be identified.

§ 500.609 Management system structure.

(a) *Identification of public transportation systems.* Urban and rural area public transportation systems operated by the State, local jurisdictions, public transportation agencies and authorities, and private transit operators receiving Federal funds for capital and/or operating assistance shall be identified.

(b) *Identification of condition measures.* Measures and standards that allow for the evaluation of the condition of the assets of transit systems shall be developed. The measures and standards shall reflect State and local goals and objectives. These measures shall address such factors as the condition of transit facilities, equipment, and rolling stock. The standards shall reflect the necessity to maintain transit assets in a good state of repair.

(c) *Data collection and system monitoring.* (1) A base year comprehensive inventory of the transit system's facilities (e.g., maintenance facilities, stations, terminals, transit related structures), equipment, and rolling stock shall be collected. For each type of asset in the inventory, information could be collected on its age, condition, useful life, and replacement cost. Facility, equipment, and rolling stock data shall be collected in conjunction with transit operators at a frequency and level of detail appropriate to the type of capital stock of the transit system.

(2) As required by 23 U.S.C. 303(b), data related to highway transit vehicles and ridership will be collected as part of the highway traffic monitoring system as specified in subpart H of this part. As part of the PTMS, number of vehicles and ridership data for dedicated transit right-of-ways (e.g., rail and busways) should be collected, at a minimum, at the maximum load points for the peak period in the peak direction and for the daily time period.

(3) Data collection shall be coordinated with the intermodal facilities and systems management system.

(d) *Strategy and action identification and evaluation.* Based on the results of the data collection and system monitoring activities, strategies and projects shall be identified and alternatives evaluated, where appropriate, to address current and future deficiencies. The costs of these strategies and projects, along with priorities and potential funding sources, shall be identified. Strategies and projects will be evaluated for potential incorporation into the metropolitan and statewide transportation plans and programs required under 49 U.S.C. app. 1607 and 23 U.S.C. 134 and 135.

Subpart G—Intermodal Facilities and Systems Management System

§ 500.701 Purpose.

The purpose of this subpart is to establish policy and regulations for the development, establishment, and implementation of an intermodal management system (IMS) in each State in accordance with the provisions of 23 U.S.C. 303.

§ 500.703 Definitions.

Unless otherwise specified herein, the definitions in 23 U.S.C. 101(a) and § 500.103 of this part are applicable to this subpart.

Intermodal facility. A transportation element that accommodates and interconnects different modes of transportation. Intermodal facilities include, but are not limited to, highway elements, coastal, inland and Great Lakes ports, canals, pipeline farms, airports, marine and/or rail terminals, truck terminals, and intercity bus terminals. Intermodal transportation facilities serve intrastate, interstate, and international movement of goods and passengers.

Intermodal system. A transportation network for moving people and goods using various combinations of transportation modes.

§ 500.705 Policy.

(a) Each State in cooperation with MPOs shall develop, establish, and implement, on a continuing basis, an IMS that has the overall goal of better integration of all transportation facilities and systems and that improves the coordination in planning and implementation of air, water, and the various land-based transportation systems.

(b) Intermodal needs shall be addressed by a process that considers the following issues:

(1) *Connections.* The convenient, rapid, efficient and safe transfers of people and goods among modes that characterize comprehensive and economic transportation service.

(2) *Choices.* Opportunities afforded by modal systems that allow transportation users to select their preferred means of conveyance.

(3) *Coordination and cooperation.* Collaborative efforts of planners, users, and transit providers to resolve travel demands by investing in dependable, high-quality transportation service either by a single mode or by two or more modes in combination.

(c) An intermodal management system shall consider the movement of both goods and people; provide timely and appropriate information for intermodal transportation decisions for site-specific intermodal facilities, as well as the overall systems necessary to achieve the most efficient transportation movement; and be integrated with the metropolitan and statewide planning processes. Intermodal movements may also be covered by the congestion management system (CMS); therefore the IMS and the CMS must be coordinated.

§ 500.707 Management system structure.

The State shall establish an IMS consisting of plans, processes, procedures, and practices to implement, coordinate and evaluate programs,

projects and activities. In metropolitan planning areas that have more than one MPO and/or include more than one State, the development, establishment and implementation of the IMS shall be coordinated among the State(s) and MPO(s) to ensure compatibility of the systems and appropriate consideration of their outputs. These plans, processes, procedures, and practices, as a minimum shall incorporate:

(a) *Identification of intermodal facilities.* Intermodal facilities to be identified include, but are not limited to, highway elements, coastal, inland and Great Lakes ports, canals, pipeline farms, airports, marine and/or rail terminals, major truck terminals, and intercity bus terminals. The IMS will identify the intermodal transportation networks connecting intermodal facilities and the demands placed upon them to accommodate intrastate, interstate, and/or international movements of goods and passengers.

(b) *Identification of efficiency measures and performance standards.* In order to evaluate the efficiency of intermodal facilities and systems, parameters shall be identified that will allow measurement and evaluation of the movement of people and goods from origin to destination. Parameters may include the total travel time, cost, and volumes for moving cargo and passengers, origins and destinations, capacity, accidents, ease of access, perceived quality, and the average time to transfer people or freight from one mode to another. Since the expectations and measurements of transportation quality of service vary between communities and industries, performance standards or goals shall be established at State and local levels with private sector coordination.

(c) *Data collection and system monitoring.* A base year inventory consisting of physical condition and operational characteristics of intermodal facilities and systems is essential. Data collection should be coordinated with the traffic congestion and public transportation facilities and equipment management systems. Operational and physical characteristics survey will be based on selected efficiency measures and performance measures. Operational characteristics may include time, cost, capacity, usage, and environmental impact information for the intermodal facilities and systems. This information should be obtained, to the extent possible, from the ongoing metropolitan and statewide planning processes. States shall coordinate their data collection programs with programs of the U.S. DOT. These data shall include:

(1) The volume of goods and number of people carried in intermodal transportation by relevant classification;

(2) Patterns of movement of goods and people carried in intermodal transportation by relevant classification in terms of origin and destination; and

(3) Public and private investment in intermodal transportation facilities and services.

(d) *System and facility performance evaluation.* Data collection and system monitoring shall be used by the States and local agencies to evaluate the performance of intermodal facilities and systems. The performance evaluation program is to determine the efficiency of the movement of goods and people as part of an intermodal transportation system.

(e) *Strategy and action identification and evaluation.* Strategies and actions shall be developed and evaluated for improving intermodal efficiency. Statewide as well as local strategies and actions shall be identified for the movement of people and goods. Interstate and international IMS coordination issues should be referred to the U.S. DOT. Methods for increasing productivity, increasing the use of advanced technologies, and the use of innovative marketing techniques shall be evaluated, including high speed rail, maglev, and just-in-time delivery where appropriate. The evaluation program should determine what project or combination of projects and actions would most effectively increase intermodal productivity.

(f) *Implementation.* An IMS shall produce strategies and actions for improving the intermodal productivity of transportation systems for both the short and long term. A fully implemented IMS will result in:

(1) An inventory of intermodal facilities and systems, and

(2) Incorporation of appropriate IMS strategies and actions in developing State and metropolitan area transportation plans, programs and project selection.

Subpart H—Traffic Monitoring System

§ 500.801 Purpose.

(a) The purpose of this subpart is to set forth a policy for the collection, reporting and retention of highway related person and vehicular traffic data, including public transportation on public highways and streets, as part of a traffic monitoring system for highways (TMS/H) to be used by Federal departments and agencies, States, local governments, other public agencies, or private agencies when:

(1) The data are supplied to the U.S. Department of Transportation (U.S. DOT),

(2) The data are used in support of the management systems required under 23 U.S.C. 303,

(3) The data are used in support of studies which are the responsibility of the U.S. DOT,

(4) The collection of the data is supported by the use of Federal funds provided from programs of the U.S. DOT,

(5) The data are used in the apportionment or allocation of Federal funds,

(6) The data are used in the design or construction of a Federal-aid project, or

(7) The data are required as part of a federally mandated program.

(b) Nothing in this rule shall prohibit the collection of additional traffic data if it is needed in the administration or management of a highway activity or is needed in the design of a highway project.

§ 500.803 Definitions.

Unless otherwise specified herein, the definitions in 23 U.S.C. 101(a) and § 500.103 are applicable to this subpart.

Annual average daily traffic (AADT). The estimate of typical daily traffic on a road segment for all days of the week, Sunday through Saturday, over the period of one year.

Annual seasonal factors. The set of 12 factors, one for each month of the year, that is used to adjust coverage counts to estimates of AADT. Annual Seasonal Factors make use of the full year's data collected by continuous counters.

Automatic traffic recorder. A device that records the continuous passage of vehicles across all lanes of a given section of roadway by hours of the day, days of the week or months of the year.

Continuous counter. An automatic traffic recorder that operates continuously for all hours of a year.

Coverage count. A traffic count taken as part of the requirement for system-level estimates of traffic. The count is typically short-term, and may be volume, classification, or weigh-in-motion.

Functional classification. The grouping of streets and highways into classes, or systems, according to the character of service they are intended to provide. The recognition that individual roads do not serve travel independently and most travel involves movement through a network of roads is basic to functional classification.

Functional system. Highways of a similar type as determined by functional classification.

Highway traffic data. Estimates of the amount of person or vehicular travel,

vehicle usage or vehicle characteristics associated with a system of highways or with a particular location on a highway. These types of data include estimates of the number of vehicles traversing a section of highway or system of highways during a prescribed time period (traffic volume), the portion of such vehicles that may be of a particular type (vehicle classification), the weights of such vehicles including weight of each axle and associated distances between axles on a vehicle (vehicle weight), or the average number of persons being transported in a vehicle (vehicle occupancy).

Traffic data collection session. The collection of highway traffic data for a defined period of time at a specific highway location.

Traffic Monitoring Guide (TMG). The FHWA's statement of good traffic monitoring practices. The TMG describes the number and duration of traffic data collection sessions and the adjustments that need to be made to the collected data in order to develop location or system level estimates of the average traffic volume. The TMG also describes vehicle classification and truck weight data collection programs.

§ 500.805 Policy.

(a) Each State shall have a TMS/H that is based on the concepts described in the American Association of State Highway and Transportation Officials (AASHTO) "AASHTO Guidelines for Traffic Data Programs",[1] as augmented by the FHWA "Traffic Monitoring Guide",[2] and which is in conformance with the HPMS Field Manual.[3] The State's TMS/H shall cover all highways in the following functional classes, both on and off State administered systems: rural arterial (interstate, other principal arterials, and minor arterials), rural major collector, urban arterials (interstate, other freeways and expressways, other principal arterials, and minor arterials), and urban collectors. The State's TMS/H will provide for its application to the collection, reporting and retention of traffic data by local governments and other public or private non-State government entities collecting data within the State if the collected data is to be used for any of the purposes enumerated in § 500.801 of this subpart. The expansion of a State's TMS/H to include all highway classes regardless of jurisdiction is desirable. These traffic monitoring requirements including documentation of State practice are applicable starting with data to be collected beginning no later than October 1, 1994. Copies of the State's documentation of its field operations and office factoring procedures shall be provided to the FHWA. States may use procedures other than those referenced in this regulation if the alternative procedures are documented by the State to furnish the precision levels as defined for the various purposes enumerated in § 500.801 of this subpart and are found acceptable by the FHWA. Finally, it is recognized that additional measurements of traffic beyond those discussed in this rule may be necessary for the effective management or implementation of a highway program and such additional measurements are permitted under this rule.

(b) Each State's TMS/H, including those using alternative procedures, shall affirmatively address the following elements:

(1) *Precision of reported data.* Traffic data supplied for the purposes identified in § 500.801 of this subpart will be to the statistical precision currently applicable at the time of the data's collection as specified by the data user. At a minimum, a State's TMS/H will meet any statistical precisions established by the State for the six management systems identified in this part and the FHWA's Highway Performance Monitoring System. A State's TMS/H will be capable of providing estimates of the statistical precision of the supplied data if requested by the data user.

(2) *Continuous counter operations.* Within each State there shall be sufficient continuous counters of traffic volumes, vehicle classification, and vehicle weight to provide estimates of changes in highway travel patterns at the functional class level and to provide for the development of day-of-week, seasonal, axle correction and growth factors supporting traffic data estimates that meet the statistical precision requirements of the data uses identified in § 500.801 of this subpart. Further, the number and location of continuous counters will be adjusted, as needed, to conform to the requirements of the HPMS.

(3) *Short term traffic monitoring.* (i) Count data for traffic volumes, vehicle classification and vehicle weight collected in the field shall be adjusted to reflect annual average conditions. The estimation of AADT for traffic volumes will be through the appropriate application of only the following: seasonal factors, day of week factors and when necessary, axle correction and growth factors. Whenever possible, vehicle classification and vehicle weight data will be adjusted to annual average conditions using patterns developed from continuous traffic monitoring operations. Count data that have not been adjusted to represent annual average conditions will be noted as being unadjusted when they are reported. The duration and frequency of such monitoring shall comply to the data needs identified in § 500.801 of this subpart, the HPMS or the AASHTO Traffic Guidelines whichever is more stringent.

(ii) Vehicle classification activities on the National Highway System (NHS), which consists of interstate plus most other principal arterials, shall be sufficient to assure that, on a cycle of no greater than three years, every major rural system segment (defined as between interchanges or intersections of principal arterials of the rural NHS) will be monitored to provide information on the numbers of single-trailer combination trucks, multiple-trailer combination trucks, two-axle, four-tire vehicles, buses and the total number of vehicles operating on an average day. In urban areas similar monitoring will occur at least on every four-mile segment of the NHS. The installation of permanent monitoring detectors (and associated classifier electronics to the extent possible) is strongly encouraged by the FHWA.

(4) *Vehicle occupancy monitoring.* As deemed appropriate by States in cooperation with local governments, MPOs, and transit operators, and as necessary to support the management systems authorized by 23 U.S.C. 303(a), data will be collected on the average number of persons per automobile, light two-axle truck, and bus. The duration, geographic extent and level of detail shall be at the discretion of the States, MPOs, and cooperating local governments. Such vehicle occupancy data shall be updated at a minimum of every three years. Acceptable data collection methods include roadside monitoring, traveler surveys, the use of administrative records such as accident reports, or any other method mutually acceptable to the State and the FHWA.

(5) *Field operations.* (i) Each State's TMS/H shall include the testing of

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[1] *AASHTO Guidelines for Traffic Data Programs*, 1992, can be purchased from the American Association of State Highway and Transportation Officials, 444 N. Capitol Street, N.W., suite 225, Washington, D.C. 20001. It is available for inspection as prescribed in 49 CFR part 7, appendix D.

[2] *Traffic Monitoring Guide*, DOT/FHWA, October 1992, is available for inspection and copying as prescribed in 49 CFR part 7, appendix D.

[3] *Highway Performance Monitoring System (HPMS) Field Manual for the Continuing Analytical and Statistical Data Base*, DOT/FHWA, December 1987 (FHWA Order M5600.1A), as revised July 15, 1988, and April 20, 1990, is available for inspection and copying as prescribed in 49 CFR part 7, appendix D.

equipment used in the collection of highway traffic data. This testing shall be based on documented procedures developed by the State. This documentation will describe the test procedure as well as the frequency of testing. Equipment shall be tested prior to initial use and at least every third year thereafter. The same documentation shall describe methods used to ensure that measurements made using manual techniques adhere to the State's quality control practices. Whenever available, the standards of the American Society for Testing and Materials or guidance from the AASHTO will be used. In lieu of other guidance, permanent volume counting devices shall be within 2 percent of the actual value; portable volume counting devices shall be calibrated within 5 percent of the actual value; classification devices shall be properly calibrated to identify 95 percent of all vehicles including at least 90 percent of all single-unit trucks, 90 percent of all single-trailer combination trucks, and 90 percent of all multi-trailer combination trucks in terms of the number of axles and units making up the vehicle. Equipment failing to pass the test procedures will not be used for the collection of data to be used for the purposes identified in § 500.801 of this subpart.

(ii) Documentation of field operations shall include all pertinent aspects of traffic data collection and cover all highway functional classes for which data are reported. As a part of the documentation, a complete description of the procedures will be provided including the number of counts, the period of monitoring, the cycle of monitoring, and the spatial and temporal distribution of count sites.

(6) *Source data retention.* (i) The following data will be available for each highway traffic data collection session:

(A) Each value or values as collected during the session,

(B) The date on which each count was made,

(C) The location of the counting session,

(D) The hours during which the count took place,

(E) The type/model of machine used,

(F) The machine serial number or other machine specific identifier,

(G) The date of the last successful test of the machine used, or

(H) If human observers are used instead of automatic data collection, the names of the observers will be a part of the information for the data collection session.

(ii) All of the data identified in this section will remain available as computer readable electronic media for a minimum of 10 years from the date of the data's collection.

(iii) Data shall be available in formats that conform to those in the version of the TMG current at the time of data collection or as then amended by the FHWA.

(7) *Office factoring procedures.* (i) Functional class specific factors used to adjust data from short term monitoring sessions to estimates of average daily conditions shall be used to adjust for month, day of week, axle correction, and growth, and such factors shall be updated annually.

(ii) All decimals in factors shall be rounded to two places after the decimal or to the first significant digit if rounding to two decimal places results in a value of zero.

(iii) Reporting of all traffic volumes derived through factoring or other estimating processes are to be rounded to the nearest ten for values less than 1,000; to the nearest 100 for values equal or greater than 1.000 and less than 10,000; and to the nearest 1,000 for values of 10,000 or greater.

(iv) The procedures used by a State to edit and adjust highway traffic data as collected at field locations to estimates of average traffic volume shall be documented. The methodology used by the State for assigning a coverage count to a particular continuous counter (or group of continuous counters) when assigning adjustment factors shall be described in the documentation. The documentation shall explain how reported highway traffic characteristics for a specific highway section or highway system that are based on monitoring specific to that segment or system are differentiated from reported highway traffic characteristics that are not based on monitoring specific to that segment or system. The documentation shall include the factors discussed in paragraph (b)(7)(i) of this section. The documentation shall remain available for the same duration as the associated source data discussed in paragraph (b)(6)(ii) of this section.

PART 626—PAVEMENT POLICY [REMOVED]

3. Chapter I of 23 CFR is amended by removing part 626, §§ 626.1 through 626.7, in its entirety.

4. Title 49, Code of Federal Regulations, chapter VI, is amended by adding part 614 to read as follows:

Title 49

CHAPTER VI—FEDERAL TRANSIT ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 614—TRANSPORTATION INFRASTRUCTURE MANAGEMENT

Sec.

614.101 Cross reference to management systems.

Authority: 23 U.S.C. 303; 49 U.S.C. app. 1607; and 49 CFR 1.48 and 1.51.

§ 614.101 Crossreference to management systems.

The regulations in 23 CFR part 500, subparts A and E through G, shall be followed in complying with the requirements of this part. These regulations implement 23 U.S.C. 303 for State development, establishment, and implementation of systems for managing traffic congestion (CMS), public transportation facilities and equipment (PTMS), and intermodal transportation facilities and systems (IMS).

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Part V

Department of Transportation

Federal Aviation Administration

14 CFR Parts 71 and 93

Offshore Airspace Reconfiguration; Control Areas; Area Low Routes; Reporting Points; Flushing (New York) Traffic Rule; and Valparaiso, FL Terminal Area; Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 93

[Docket No. 26968; Amendment Nos. 71–19, 93–67]

RIN 2120–AE32

Offshore Airspace Reconfiguration; Additional Control Areas; Continental Control Area; Area Low Routes; Control Areas Associated With Jet Routes Outside the Continental Control Area; Reporting Points; Flushing (New York) Airport Traffic Rule; and Valparaiso, Florida Terminal Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Aviation Regulations (FAR) by designating additional control areas as offshore airspace areas or en route domestic airspace areas, as appropriate; revising certain additional control areas; including restricted and prohibited areas in the Continental Control Area; eliminating domestic area low routes; eliminating control areas associated with jet routes outside the Continental Control Area; eliminating domestic high altitude reporting points; eliminating certain domestic low altitude reporting points; eliminating the special air traffic rules for Flushing, New York; and replacing the Valparaiso, Florida terminal area and special air traffic rules with the Eglin, Florida Class D airspace areas. These amendments respond to recommendations from the National Airspace Review (NAR) and meet a goal of the Airspace Reclassification final rule—to simplify airspace assignment and use.

EFFECTIVE DATES: The amendments to §§ 71.1 and 71.9 which are currently in effect, become effective April 1, 1993, through September 15, 1993; the removal of § 71.6 become effective April 1, 1993; the removal of subpart P of part 93 becomes effective June 20, 1993; the amendments to §§ 71.1, 71.33 and 71.71 which are effective September 16, 1993, and the removal of § 71.77, become effective September 16, 1993; and the removal of subpart F of part 93 becomes effective December 9, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Mosley, ATP–230, Air Traffic Rules Branch, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9251.

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1991, the final rule on Airspace Reclassification was published (56 FR 65638). The new airspace classes described in that final rule will become effective on September 16, 1993. That final rule amends FAR part 71 (14 CFR part 71) to reclassify U.S. airspace in accordance with the airspace classes adopted by the International Civil Aviation Organization (ICAO).

Under the Airspace Reclassification final rule, effective September 16, 1993, positive control areas (PCA's), jet routes, and area high routes are classified as Class A airspace areas; terminal control areas (TCA's) are classified as Class B airspace areas; airport radar service areas (ARSA's) are classified as Class C airspace areas; control zones for airports with operating control towers and airport traffic areas that are not associated with the primary airport of a TCA or an ARSA are classified as Class D airspace areas; all other controlled airspace is classified as Class E airspace; and airspace that is not otherwise designated as a controlled airspace area is classified as Class G airspace.

The implementation of the Airspace Reclassification final rule includes two reviews of certain existing airspace areas to ensure that the areas correspond to the new airspace classifications. The first of these reviews, the Terminal Airspace Reconfiguration, addressed control zones, transition areas, certain TCA's, and certain ARSA's. The Terminal Airspace Reconfiguration final rule was published on August 27, 1992 (Amendment Number 71–16; 57 FR 38962).

This final rule, which addresses offshore airspace and other areas related to the reclassification of airspace, is the second rulemaking action.

Discussion of the Amendments and Public Comments

This final rule is based on Notice of Proposed Rulemaking (NPRM) No. 92–13 (57 FR 42810; September 16, 1992). The rule amends part 71 by revising certain existing airspace areas designated in FAA Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. This final rule also revises the corresponding airspace areas designated in FAA Order 7400.9, Airspace Reclassification, effective September 16, 1993, which is also incorporated by reference in 14 CFR 71.1.

This final rule reflects amendments that have been issued since the publication of Notice No. 92–13. On November 27, 1992, Amendment No. 71–18 "Airspace Reclassification; Incorporation by Reference" was published in the **Federal Register** (57 FR 56246). Amendment No. 71–18 reflected the approval of the Director of the Federal Register for the incorporation by reference of FAA Order 7400.7A, Compilation of Regulations, as of November 27, 1992, through September 15, 1993.

In addition, this final rule reflects Airspace Docket No. 92–ANM–2 "Alteration of VOR Federal Airways" (57 FR 46977; October 14, 1992), which established the Rogue Valley, Oregon reporting point.

Four comments were submitted in response to Notice No. 92–13. The comments were submitted by the Air Line Pilots Association (ALPA), Aircraft Owners and Pilots Association (AOPA), the New York City Economic Development Corporation, and Vandenberg Air Force Base, California.

ALPA stated that the proposed rule is a natural extension of other rulemaking related to airspace reclassification. The other commenters addressed specific proposals in the NPRM; their comments are addressed under the amendment to which they pertain.

The Department of Defense (DOD) expressed concern that, although the FAA consulted with the Department of State and DOD in accordance with Executive Order 10854, Notice No. 92–13 did not include language that explains the impact of this rulemaking action on international and DOD operations. These issues are addressed in this final rule in the portion entitled "ICAO Considerations." Correspondence from DOD to the FAA pertaining to this issue was placed in the docket.

Additional Control Areas

In Notice No. 92–13, the FAA proposed to designate additional control areas as either offshore airspace areas or en route domestic airspace areas, as appropriate, and to revise controlled airspace in accordance with Presidential Proclamation No. 5928, "Territorial Sea of the United States," which was signed on December 27, 1988. The proclamation extended the sovereignty of the U.S. Government to 12 nautical miles from the baselines of the United States (including its territories) in accordance with international law. On January 4, 1989, the FAA published Amendment Nos. 71–12 and 91–207, "Applicability of Federal Aviation Regulations in the Airspace Overlying

the Waters Between 3 and 12 Nautical Miles From the United States Coast" (54 FR 264). These amendments extended controlled airspace and the applicability of certain flight rules to the airspace overlying the waters between 3 and 12 nautical miles from the U.S. coast.

Notice No. 92–13 proposed to: (1) Designate additional control areas as offshore airspace areas or en route domestic airspace areas, as appropriate; (2) implement, to the extent practicable, a uniform base altitude of 5,500 feet mean sea level (MSL) for offshore airspace areas; (3) identify offshore airspace areas by name, to the extent possible; (4) classify offshore airspace as Class A or Class E airspace areas, as appropriate; and (5) classify en route domestic airspace areas as Class E airspace areas.

The commander of the 30th Space Wing at Vandenberg Air Force Base, California, questioned the replacement of existing lateral boundaries of offshore airspace areas. These boundaries are currently designated at 3 nautical miles from the U.S. coast and were proposed to be designated at 12 nautical miles from the U.S. coast. The commenter expressed concern that the revision would affect Restricted Areas R–2516 and R–2517, in which missile launches and commercial space launches occur.

The FAA is not altering special use airspace, including the special use airspace near Vandenberg Air Force Base, under this amendment. The current boundaries of warning and restricted areas will remain unchanged under this amendment. Specific proposals in Notice No. 92–13 apply to controlled airspace that is off the U.S. coast and designated by the FAA in FAR part 71 and FAA Order 7400.7A. The proposals do not apply to any special use airspace designated by the FAA in FAR part 73 and FAA Order 7400.8, Special Use Airspace. Examples of special use airspace are warning areas, restricted areas, and prohibited areas.

In addition, the FAA will continue the current air traffic control (ATC) procedures associated with offshore airspace and warning areas. Specifically, ATC will continue to prohibit any aircraft operating under instrument flight rules (IFR) to be routed through an active warning areas unless the FAA receives approval from the using agency.

AOPA supports the FAA's proposed action to establish a uniform base of 5,500 feet MSL for most of the offshore airspace areas.

The FAA received no other comments on the proposal to revise additional control areas. The amendments to additional control areas are addressed below the titles "Offshore Airspace Areas" or "En Domestic Airspace Areas."

The separation of additional control areas into offshore airspace areas or en route domestic areas only applies to the airspace areas found in subpart E of FAA Order 7400.9, which is effective September 16, 1993. Specifically, the FAA amends part 71, effective September 16, 1993, by revising § 71.33 to designate Class A offshore airspace areas and § 71.71(e) to designate Class E en route domestic airspace areas and by adding § 71.71(f) to designate Class E offshore airspace areas.

Offshore Airspace Areas

The FAA amends the additional control areas in section 71.163 of FAA Order 7400.7A as discussed below. The United States has jurisdiction over these airspace areas through an ICAO regional agreement.

No comments were received on the proposals concerning individual airspace areas. The offshore airspace areas are adopted as proposed in Notice No. 92–13 with the exception of technical corrections to the airspace descriptions, which are discussed below.

Many of the changes to the airspace descriptions are technical corrections of an administrative nature. These changes are based on suggestions from the National Ocean Service (NOS) to help simplify the airspace descriptions and ensure proper depiction on aeronautical charts. For example, these changes include replacing references to geographic positions with references to control area (CTA)/flight information region (FIR) boundaries, ensuring that the areas meet adjacent controlled airspace, amending the airspace descriptions by moving the clause describing the area's floor to the beginning of the airspace description (which is consistent with the format of other airspace descriptions), eliminating unnecessary or redundant geographic positions, and converting geographic positions from the North American Datum (NAD) of 1927 survey to the NAD of 1983 survey. The NAD–83 survey has been adopted as the horizontal geodetic referencing system used in all NOS charts and chart publications. The more accurate geographic locations in NAD–83 are necessary for systems such as the Global Positioning Systems (GPS). Regardless of the number or type of administrative changes made, this final rule does not increase any existing controlled airspace beyond what was proposed in Notice No. 92–13.

The FAA adopts the proposal to eliminate the existing control areas entitled Newport, Oregon; San Francisco, California; and Santa Barbara, California, and to establish the Pacific High and Pacific Low offshore airspace areas. The lateral boundaries of the Pacific High and Pacific Low offshore airspace areas are based upon the existing lateral boundaries of the Newport, Oregon; San Francisco, California; and Santa Barbara, California control areas. The Pacific Low extends upward from 5,500 feet MSL up to, but not including, 18,000 feet MSL. The overlying Pacific High has a floor of 18,000 feet MSL and a ceiling of flight level (FL) 600.

The eastern boundaries for the Pacific High and Pacific Low offshore airspace areas are 12 miles off the U.S. shoreline.

The FAA adopts the proposals to eliminate the existing control areas entitled Barnegat, New Jersey; Brunswick, Maine; North Atlantic; and South Atlantic; to revise the South Florida control area; to designate the South Florida control area as the South Florida Low offshore airspace area; and to establish the Atlantic Low and Atlantic High offshore airspace areas.

The South Florida Low offshore area's lateral boundaries align with the Miami Oceanic CTA/FIR lateral boundaries. This revised boundary includes the existing portion of the South Atlantic control area south of latitude 28°00'00" North. The South Florida Low offshore airspace area extends upward from 2,700 feet MSL up to, but not including, 18,000 feet MSL. The South Florida airspace description is amended by replacing references to geographic positions, which describe the area's lateral boundaries, with references to the lateral boundaries of the Houston Oceanic CTA/FIR, Jacksonville Air Route Traffic Control Center, New York Oceanic CTA/FIR, San Juan Oceanic CTA/FIR, Santo Domingo FIR, Port-Au-Prince CTA/FIR, and Havana CTA/FIR.

The lateral boundaries of the Atlantic Low offshore airspace area are based upon the existing boundaries of the Brunswick, Maine; North Atlantic; and South Atlantic control areas, north of latitude 28°00'00" North except that the western boundary has been changed from 3 miles to 12 miles from and parallel to the U.S. shoreline. The Atlantic Low extends upward from 5,500 feet MSL up to, but not including, 18,000 feet MSL. The Atlantic Low airspace description is amended by replacing references to geographic positions, which describe the area's northern and eastern lateral boundaries, with references to the lateral boundaries

of the Moncton FIR and New York Oceanic CTA/FIR.

The Atlantic High offshore airspace area has a floor of 18,000 feet MSL and a ceiling of FL 600. The lateral boundaries of the Atlantic High are based upon the boundaries of the following control areas: (1) Existing Brunswick, Maine; (2) existing North Atlantic; (3) existing South Atlantic, north of latitude 28°00'00" North; and (4) revised South Florida Low except that the western boundary has been changed from 3 miles to 12 miles from and parallel to the U.S. shoreline. The Atlantic High airspace description is amended by replacing references to geographic positions, which describe the area's northern, eastern, and southern lateral boundaries, with references to the lateral boundaries of the Moncton FIR, New York Oceanic CTA/FIR, San Juan Oceanic CTA/FIR, Santo Domingo FIR, Port-Au-Prince CTA/FIR, Havana CTA/FIR, Houston Oceanic CTA/FIR, and Jacksonville Air Route Traffic Control Center.

The FAA adopts the proposal to revise the existing Gulf of Mexico control area by dividing it into two airspace areas: The Gulf of Mexico Low and Gulf of Mexico High offshore airspace areas. The Gulf of Mexico Low extends upward from 1,200 feet MSL up to, but not including, 18,000 feet MSL. The floor of the Gulf of Mexico Low remains at 1,200 feet MSL due to the high volume of air traffic and the requirement for air traffic control services below 5,500 feet MSL. The Gulf of Mexico High has a floor of 18,000 feet MSL and a ceiling of FL 600.

The lateral boundaries of the areas are based on the existing lateral boundaries for the Gulf of Mexico control area, except the eastern boundaries of the areas are aligned with the Houston Oceanic CTA/FIR. The airspace descriptions for the Gulf of Mexico Low and Gulf of Mexico High areas are amended by replacing references to geographic positions which describe the areas with references to the Jacksonville Air Route Traffic Control Center, Miami Oceanic CTA/FIR, Houston CTA/FIR; by specifying that the line 12 miles offshore and parallel to the U.S. shoreline is off the coast of Texas, Louisiana, Mississippi, Alabama, and Florida; and by ensuring that the lateral boundary off the U.S. shoreline meets the lateral boundaries of the adjoining controlled airspace. The adjoining controlled airspace areas include the Continental Control Area and transition areas.

The FAA adopts the proposal to establish the San Juan low, by revising the existing control area for San Juan, Puerto Rico, in section 71.163 of FAA Order 7400.7A. The floor is raised from 2,000 feet MSL to 5,500 feet MSL. The portion of the San Juan Low offsore airspace area that was proposed to have a floor of 2,700 feet MSL is included in the San Juan transition area that became effective October 15, 1992; therefore, this portion is eliminated from the San Juan Low offshore airspace description. The airspace description is updated by replacing the geographic position for Fernando Luis Ribas Dominicci Airport from "lat. 18°27'33"N., long. 66°05'55"W." to "lat. 18°27'25"N., long. 66°05'53"W."

The FAA adopts the proposal to divide the following additional control areas into two offshore airspace areas: Control 1155, Control 1156, Control 1176, Control 1177, Control 1316, Control 1318, Control 1415, Control 1416, Control 1418, Control 1419, Control 1486, and Control 1487. These areas retain their current lateral boundaries. In each case, one offshore airspace area extends upward from 5,500 feet MSL up to, but not including, 18,000 feet MSL. The other offshore airspace area has a floor at 18,000 feet MSL and a ceiling of FL 450. To distinguish between the offshore airspace areas with the same numerical identification, the titles of those offshore airspace areas that are below 18,000 feet MSL have an "L" suffix and the titles of those that are above 18,000 feet MSL have an "H" suffix.

The airspace descriptions for Control 1176H and Control 1176L are amended to eliminate duplicated descriptions of airspace areas and to ensure that the lateral boundaries continue to meet the adjoining warning areas.

The airspace descriptions for Control 1316H and Control 1316L are amended by replacing "VOR" with "VORTAC."

The airspace descriptions for Control 1318H and Control 1318L are amended by replacing "Elkey Fix" with the "Oakland CTA/FIR."

The airspace descriptions for Control 1415H and Control 1415L are amended by replacing "VOR" with "VORTAC."

The airspace descriptions for Control 1418H and Control 1418L are amended by specifying that the Hoquiam 232° radial is from the Hoquiam, Washington VORTAC.

The airspace descriptions for Control 1419H and Control 1419L are amended by specifying that the Newport 237° radial is from the Newport, Oregon VORTAC.

The airspace descriptions for Control 1486H and Control 1486L are amended by replacing "VOR" with "VORTAC" and by replacing "Seattle Oceanic CTA/FIR" with "Oakland Oceanic CTA/FIR."

The airspace descriptions for Control 1487H and Control 1487L are amended to ensure that lateral boundaries off the U.S. shoreline meet the lateral boundaries of the adjoining controlled airspace. The adjoining controlled airspace areas include the Continental Control Area and transition area.

The FAA adopts the proposal to divide Control 1154 and Control 1173 into two areas each. The western boundaries of the areas are amended to meet the current eastern boundary of the Oakland Oceanic CTA/FIR. The southeast boundaries of Control 1173H and Control 1173L continue to meet Warning Area 283, Warning Area 285A, and Warning Area 285B, which are adjacent special use airspace areas. Control 1154L and Control 1173L have floors of 5,500 feet MSL and ceilings of up to, but not including, 18,000 feet MSL. Control 1154H and Control 1173H have floors at 18,000 feet MSL and ceilings of FL 450.

The airspace description of Control 1154H is amended by replacing references to VOR Federal Airway V–199, which describes the eastern boundary, with references to specific geographic positions.

The airspace descriptions for Control 1154L and Control 1173L are amended by eliminating a reference to controlled airspace below 5,500 feet MSL.

The FAA adopts the proposal to divide Control 1234 into two airspace areas. Control 1234L retains the existing floor of Control 1234, which is 2,000 feet above the surface, so that aircraft operating under IFR at low altitudes over the Alaskan Peninsula, the Aleutian Islands, and the surrounding waters remain within controlled airspace. Control 1234L would extend up to, but not including, 18,000 feet MSL. Control 1234H has a floor at 18,000 feet MSL and a ceiling of FL 450. Both retain the current lateral boundaries of Control 1234. The airspace descriptions are amended by replacing references to certain geographic positions, which describe the lateral boundaries, with references to the boundaries of the Anchorage Air Route Traffic Control Center.

The FAA adopts the proposal to establish the Gulf of Alaska low offshore airspace area. The airspace area retains the current lateral boundaries except the northern boundaries are changed to 12 miles off the U.S. shoreline. The airspace area has a floor at 700 feet MSL, and a ceiling of up to, but not including, 18,000 feet MSL.

The FAA will not adopt the proposed Gulf of Alaska High offshore control area because the same airspace area is within Control 1487H.

The FAA adopts the proposal to divide the control areas for Norton Sound and Woody Island, Alaska, into two offshore airspace areas each. Both areas retain their current lateral boundaries. The Norton Sound and Woody Island Low offshore airspace areas extend upward from 14,500 feet MSL to, but not including, 18,000 feet MSL. The Norton Sound and Woody Island High offshore airspace areas have floors of 18,000 feet MSL and ceilings of FL 450.

The airspace descriptions for the Norton Sound High, Norton Sound Low, Woody Island High, and Woody Island Low are amended to ensure that the lateral boundaries meet the adjoining controlled airspace. The adjoining controlled airspace areas include the Continental Control Area and transition areas. These changes will eliminate the potential for a small corridor of uncontrolled airspace next to the areas.

The FAA adopts the proposal to designate Control 1485 as Control 1485H. The revised airspace area retains its floor of FL 230, its ceiling of FL 450, and its existing lateral boundaries except that the northern boundary has been changed from 3 miles to 12 miles from and parallel to the U.S. shoreline.

The FAA adopts the proposal to designate Control 1141 as Control 1141L; Control 1142 as Control 1142L; Control 1143 as Control 1143L; Control 1144 as Control 1144L; and Control 1146 as Control 1146L. The amended airspace areas retain current lateral boundaries, have floors at 5,500 feet MSL, and ceilings of up to, but not including, 18,000 feet MSL.

The airspace description for Control 1143L is amended by replacing "RBN" with "NDB" and by excluding airspace in Canada.

The FAA amends subparts A and E of FAA Order 7400.9, effective September 16, 1993, by: (1) revising, as described above, the areas that correspond to the offshore airspace areas in section 71.163 of FAA Order 7400.7A; and (2) designating these control areas as Class A or Class E airspace areas as noted below.

The FAA designates those offshore airspace areas listed below, which have a floor of 18,000 feet MSL, or higher, as Class A airspace areas.

Offshore Airspace Areas That Become Class A Airspace

Atlantic High
Control 1154H
Control 1155H
Control 1156H
Control 1173H
Control 1176H
Control 1177H
Control 1234H
Control 1316H
Control 1318H
Control 1415H
Control 1416H
Control 1418H
Control 1419H
Control 1485H
Control 1486H
Control 1487H
Gulf of Mexico High
Norton Sound High, Alaska
Pacific High
Woody Island High, Alaska

The FAA designates those offshore airspace areas listed below as Class E airspace. These airspace areas have a floor set at a specified altitude and extend up to, but not including, 18,000 feet MSL.

Offshore Airspace Areas That Become Class E Airspace

Atlantic Low
Control 1141L
Control 1142L
Control 1143L
Control 1144L
Control 1146L
Control 1154L
Control 1155L
Control 1156L
Control 1173L
Control 1176L
Control 1177L
Control 1234L
Control 1316L
Control 1318L
Control 1415L
Control 1416L
Control 1418L
Control 1419L
Control 1486L
Control 1487L
Gulf of Alaska Low, Alaska
Gulf of Mexico Low
Norton Sound Low, Alaska
Pacific Low
San Juan Low, Puerto Rico
South Florida Low
Woody Island Low, Alaska

En Route Domestic Airspace Areas

In Notice No. 92–13, the FAA proposed to revise the additional control areas in section 71.163 of FAA Order 7400.7A, which are en route domestic airspace areas. Specifically, the FAA proposed to eliminate the additional control areas entitled Kirksville, Missouri, and Ottumwa, Iowa. The airspace described for these areas is encompassed in the statewide transition areas for Iowa and Missouri, which have floors at 1,200 feet above the surface. The FAA also proposed to rename the additional control area entitled Sault Sainte Marie, Michigan, as Upper Peninsula, Michigan. This would distinguish the additional control area entitled Sault Sainte Marie, Michigan, from the transition area entitled Sault Sainte Marie, Michigan.

No comments were received on the proposals concerning individual airspace areas. The FAA amends section 71.163 of FAA Order 7400.7A by eliminating the two additional control areas entitled Kirksville, Missouri, and Ottumwa, Iowa; renaming the Sault Sainte Marie, Michigan additional control area as Upper Peninsula, Michigan; and minor changes to the airspace descriptions, which are discussed below. Many of the changes to the airspace descriptions are technical corrections of an administrative nature. These changes are based on suggestions from the National Ocean Service (NOS) to help simplify the airspace descriptions and ensure proper depiction on aeronautical charts. For example, these changes ensure that the areas meet geographic positions, and convert geographic positions from the North American Datum (NAD) of 1927 survey to the NAD of 1983 survey. Other changes are discussed below.

The Bozeman, Montana additional control area is eliminated. The airspace area is within the Helena, Montana and Livingston, Montana transition areas that became effective October 15, 1992.

The Browerville/Barter Island, Alaska airspace description is amended by deleting a reference to the Lonely, AK NDB, which has been decommissioned, and by replacing "RBN" with "NDB."

The Burley, Idaho additional control area is eliminated. The airspace area is within the Burley, Idaho transition area that became effective October 15, 1992.

The Lakeview, Oregon additional control area is eliminated. The airspace is within the Lakeview, Oregon transition area that became effective October 15, 1992.

The Ogden, Utah additional control area is eliminated. The airspace is within the Ogden, Utah transition area that became effective October 15, 1992.

The Omak, Washington additional control area is eliminated. The airspace area is within the Omak, Washington transition area that became effective October 15, 1992.

The Rattlesnake, Wyoming airspace description is amended by eliminating an unnecessary reference to the Casper ILS west course.

The Reveille, Nevada airspace description is amended by ensuring that the southern lateral boundary meets the adjoining controlled airspace.

The Schloredt, Wyoming airspace description is amended by replacing the geographic position of Ellsworth Air Force Base from "lat. 44°08′45″N., long. 103°06′15″" to "lat. 44°08′42″N., long. 103°06′13″W." In addition, the references to 53 miles and 5.3 miles,

which are distances in statute miles, are replaced with 46.2 miles and 4.6 miles, which are the nearest equivalent in nautical miles.

The Zuni, New Mexico airspace description is amended by replacing the radial from the St. Johns, AZ, VORTAC from 247° to 248°.

The FAA amends subpart E of FAA Order 7400.9, effective September 16, 1993, by deleting the airspace descriptions that correspond to the airspace areas eliminated in section 71.163 of FAA Order 7400.7A; by revising the airspace descriptions that correspond to the airspace descriptions modified in section 71.163 of FAA Order 7400.7A; and by renaming the area entitled Sault Sainte Marie, Michigan, as Upper Peninsula, Michigan. In addition, the FAA designates the following en route domestic airspace areas as Class E airspace areas.

En Route Airspace Areas That Become Class E Airspace

Badlands, South Dakota
Boardman, Oregon
Boise, Idaho
Brownerville/Barter Island, Alaska
Colville, Washington
Olympic Peninsula, Washington
Rattlesnake, Wyoming
Reveille, Nevada
Schloredt, Wyoming
Sidney, Montana
Upper Peninsula, Michigan
Zuni, New Mexico

Continental Control Area

Currently, the Continental Control Area consists of the airspace at and above 14,500 feet MSL overlying the United States, including the waters within 12 nautical miles of the 48 contiguous States and Alaska, excluding the Alaska peninsula west of longitude 160°00'00" West. The Continental Control Area does not include: Airspace less than 1,500 feet above the surface; prohibited areas; or restricted areas other than the restricted areas currently listed in part 71, subpart D. Effective September 16, 1993, the Continental Control Area will be designated as Class E airspace extending upward from 14,500 feet MSL to, but not including, 18,000 feet MSL.

In Notice No. 92–13, the FAA proposed that the Continental Control Area include the airspace in any prohibited area or restricted area that is at or above 14,500 feet MSL.

The FAA adopts the proposal to include the airspace in any prohibited or restricted area that is at or above 14,500 feet MSL in the Continental Control Area. In addition, the FAA: (1) Revises existing § 71.9, "Continental control area," by deleting the provision to exclude prohibited and restricted areas; (2) revises § 71.71(a), effective September 16, 1993, by deleting the provision to exclude prohibited and restricted areas; (3) removes and reserves section 71.151 in FAA Order 7400.7A, which lists all restricted areas included in the Continental Control Area; and (4) revises subpart E of FAA Order 7400.9, effective September 16, 1993, by eliminating the restricted areas included in the Class E airspace area described in § 71.71(a), effective September 16, 1993.

Area Low Routes

In Notice No. 92–13, the FAA proposed to remove the provisions for establishing area low routes. No area low routes exist, and the FAA has no plans to create any area low routes. No comments were submitted in response to this proposal and it is adopted by the FAA as proposed.

To accomplish removal of the area low route provisions, the FAA: (1) Removes and reserves existing § 71.6, "Extent of area low routes;" (2) removes and reserves section 71.301 in FAA Order 7400.7A which, if any existed, would list the airspace descriptions for area low routes; (3) removes and reserves § 71.77, "Extent of area low routes," effective September 16, 1993; (4) revises subpart E of FAA Order 7400.9, effective September 16, 1993, by deleting the provision that would list the airspace descriptions for area low routes; and (5) revises § 71.71(d), effective September 16, 1993, by eliminating the reference to area low routes.

Control Areas Associated with Jet Routes Outside the Continental Control Area

In Notice No. 92–13, the FAA proposed to eliminate control areas associated with jet routes outside the Continental Control Area. Control areas associated with jet routes outside of the Continental Control Area duplicate controlled airspace encompassed by the other airspace areas off the U.S. coast and over Alaska that extend upward from 18,000 feet MSL to FL 450.

No comments were received in response to this proposal. The proposal is adopted by the FAA. The FAA removes and reserves section 71.161, "Designation of control areas associated with jet routes outside the Continental Control Area," of FAA Order 7400.7A. In addition, the FAA revises subpart A of FAA Order 7400.9, effective September 16, 1993, by eliminating the corresponding airspace descriptions for control areas associated with jet routes outside the Continental Control Area.

Reporting Points

In Notice No. 92–13, the FAA proposed to eliminate domestic high altitude and domestic low altitude compulsory reporting points. Because of extensive domestic radar coverage, pilots are seldom required to report passing these points.

AOPA agreed with the FAA's proposal to let air traffic control retain the option of requiring pilots to make position reports because of radar system limitations or as circumstances warrant.

Individual FAA regions have stated that certain domestic low altitude reporting points are necessary. Most of these reporting points are necessary because of a lack of complete radar coverage to the minimum en route altitude (MEA) or because of a lack of overlapping radar coverage in mountainous regions. The FAA revises section 71.203, "Domestic low altitude reporting points," of FAA Order 7400.7A and subpart H of FAA Order 7400.9, effective September 16, 1993, by eliminating all of the domestic low altitude reporting points except the 72 points listed below.

FAA Region: Central

Fort Dodge, IA
Goodland, KS
Hill City, KS
Ainsworth, NE
O'Neill, NE
Pawnee City, NE
Sidney, NE

FAA Region: Eastern

Pulaski, VA

FAA Region: Great Lakes

MILTO: INT Eau Claire, WI, 134° and Nodine, MN, 055° radials
Pellston, MI
White Cloud, MI
Alexandria, MN
Humboldt, MN
Mankato, MN
Bismarck, ND
Dickinson, ND
Dupree, SD
Yankton, SD
Wausau, WI

FAA Region: Northwest Mountain

GARRI: INT Drummond, MT, 092° and Butte, MT, 002° radials
TITON: INT Yakima, WA 284° and Ellensburg, WA 191° radials
Akron, Co
Alamosa, CO
Blue Mesa, CO
Grand Junction, CO
Gunnison, CO
Hayden, CO
Kremmling, CO
Pueblo, CO

Thurman, CO
Burley, ID
Twin Falls, ID
Bozeman, MT
Cut Bank, MT
Lewistown, MT
Miles City, MT
Rogue Valley, OR
Rome, OR
Bryce Canyon, UT
Delta, UT
Hanksville, UT
Lucin, UT
Yakima, WA
Cherokee, WY
Crazy Woman, WY
Sheridan, WY

FAA Region: Southern

HEFIN: INT Talladega, AL, 087° and La Grange, GA, 342° radials
Barretts Mountain, NC
Greensboro, NC
Sugarloaf Mountain, NC
Holston Mountain, TN

FAA Region: Southwest

Carlsbad, NM
Columbus, NM
Corona, NM
Deming, NM
Farmington, NM
Pinon, NM
Roswell, NM
Santa Fe, NM
Zuni, NM
Sayre, OK
Childress, TX
Dalhart, TX
Fort Stockton, TX
Pecos, TX
Salt Flat, TX

FAA Region: Western Pacific

Mendicino, CA
Saint Johns, AZ
Winslow, AZ
Battle Mountain, NV
Coaldale, NV
Sod House, NV

No comments were received on the proposal to eliminate all domestic high altitude reporting points. Therefore, the FAA removes and reserves section 71.207, "Domestic high altitude reporting points," in FAA Order 7400.7A and revises subpart H of FAA Order 7400.9, effective September 16, 1993, by deleting domestic high altitude reporting points.

Flushing (New York) Airport Traffic Rule

In Notice No. 92–13, the FAA proposed to eliminate the special air traffic rules for the Flushing, New York airport. The Flushing, New York airport is closed and no immediate plans exist to reopen it. One commenter responded to this proposal.

The New York City Economic Development Corporation supports the proposal. However, the commenter stated that its support is based on the premise that eliminating the special air traffic rules will not adversely affect the Flushing Airport airspace exclusion from the LaGuardia Airport TCA.

The elimination of the Flushing (New York) special air traffic rules will not affect other airspace. Currently, the FAA does not intend to revise the New York TCA, including the portion for LaGuardia Airport. However, if in the future, the FAA decides to revise the New York TCA, the revision would be addressed under a separate rulemaking action.

The New York City Economic Development Corporation disagreed with the FAA's statement that no known plans exist to reopen Flushing Airport in the immediate future. The commenter noted that the City of New York is conducting an Airport Feasibility/Master Plan Study and preparing an associated Environmental Impact Statement to establish a vertiport at Flushing Airport.

As stated in Notice No. 92–13, Flushing Airport is closed. The possibility of reopening the airport as a vertiport remains uncertain. If plans to reopen Flushing Airport as a vertiport, or in any other capacity, are finalized and approved, the surrounding airspace would be reviewed.

The FAA adopts the proposal to eliminate the Flushing (New York) special air traffic rules and removes and reserves subpart P of part 93. The amendment becomes effective June 20, 1993, and will appear on the next sectional aeronautical chart for New York.

Valparaiso, Florida Terminal Area

In Notice No. 92–13, the FAA proposed to replace the Valparaiso, Florida Terminal Area with the Eglin, Florida Class D airspace areas. The proposal provided for one airspace area for the north-south corridor and one for the east-west corridor.

The proposed Eglin, Florida Class D airspace areas would revise existing vertical limits and the lateral boundaries, which separate the existing north-south and east-west corridors. The lateral boundaries between the corridors would be moved from north of Eglin Air Force Base to south of the base. This would ensure restricted access to the north-south corridor during military testing without constraining access to the east-west corridor.

The FAA also proposed to revise the current vertical limits of the area. The existing east-west corridor extends upward from the surface up to, but not including 8,500 feet MSL. The FAA proposed that the corresponding portion of the Eglin, Florida Class D airspace area also have a ceiling of 8,500 feet MSL, except that the portion of the existing corridor that does not underlie Restricted Areas R–2915C, R–2919B, and R–2914B was proposed to extend upward from the surface to, but not including, 18,000 feet MSL. The existing north-south corridor does not have a specified ceiling; the FAA proposed that the corresponding portion of the Eglin, Florida Class D airspace area have a vertical limit up to, but not including, 18,000 feet MSL.

No comments were received on these proposals. The FAA adopts the proposal by removing and reserving subpart F of part 93, "Valparaiso, Florida, Terminal Area" and revising subpart D of FAA Order 7400.9, and by establishing the Eglin, Florida Class D airspace areas. The airspace descriptions for the Eglin, Florida Class D airspace areas are revised by incorporating the airspace formerly contained in subpart F to part 93 and ensuring that the lateral boundaries of the areas continue to meet the lateral boundaries of the adjoining restricted areas. This amendment becomes effective December 9, 1993, which is when the New Orleans sectional aeronautical chart is issued.

The FAA revises subpart D of FAA Order 7400.9, effective September 16, 1993, by deleting the Eglin Air Force Base and Eglin AF Aux No. 3 Duke Field, Florida Class D airspace areas, which are encompassed by the Eglin, Florida Class D airspace areas. The airspace descriptions for these areas are amended by converting geographic positions from the NAD–27 to the NAD–83 survey.

The FAA revises subpart D and subpart E of FAA Order 7400.9, effective September 16, 1993, by modifying the Hurlburt Field, Florida Class D airspace area and the Crestview, Florida Class E airspace area. The revised airspace areas exclude the portion of each airspace area that extends into the Eglin, Florida Class D airspace areas.

Incorporation by Reference

The FAA amends the airspace descriptions of certain additional control areas and control zones; eliminates certain domestic low altitude reporting points; includes restricted and prohibited areas in the Continental Control Area; and eliminates all domestic high altitude reporting points, area low routes, and control areas associated with jet routes outside the Continental Control Area. The descriptions of these airspace areas, reporting points, and routes are not listed in the Code of Federal Regulations (CFR) and are not set forth in the full

text of this final rule. The full listings for all additional control areas, restricted areas included in the Continental Control Area, control areas associated with jet routes outside the Continental Control Area, domestic low altitude reporting points, domestic high altitude reporting points, and area low routes are contained in sections 71.151, 71.161, 71.163, 71.203, 71.207, and 71.301 of FAA Order 7400.71, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The amended descriptions will subsequently be published in FAA Order 7400.7A—Supplement. Copies of FAA Order 7400.7A and FAA Order 7400.7A—Supplement may be obtained from the Document Inspection Facility, APA–220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–3485. Copies of FAA Order 7400.7A and FAA Order 7400.7A—Supplement may be inspected in Docket Number 26968 at the Federal Aviation Administration, Office of the Chief Counsel, AGC–10, room 915G, 800 Independence Avenue, SW., Washington, DC, weekdays between 8:30 a.m. and 5 p.m. or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Under the Airspace Reclassification final rule, descriptions of additional control areas, restricted areas included in the Continental Control Area, area low routes, and control areas associated with jet routes outside the Continental Control Area are set forth as Class E airspace areas in subpart E of FAA Order 7400.9, and descriptions of domestic low altitude reporting points and domestic high altitude reporting points are set forth in subpart H of FAA Order 7400.9. Class D airspace areas are set forth in subpart D of FAA Order 7400.9. FAA Order 7400.9, Airspace Reclassification, effective September 16, 1993, is also incorporated by reference in 14 CFR 71.1. The amended airspace descriptions are not listed in the CFR and are not set forth in the full text of this final rule but will subsequently be published in FAA Order 7400.9—Supplement. Copies of FAA Order 7400.9 and FAA Order 7400.9—Supplement may be obtained from the Document Inspection Facility, APA–220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–3485. Copies of FAA Order 7400.9 and FAA Order 7400.9—Supplement may be inspected in Docket Number 26968 at the Federal Aviation Administration, Office of the Chief Counsel, AGC–10, room 916G, 800 Independence Avenue, SW., Washington, DC, weekdays between 8:30 a.m. and 5 p.m. or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

ICAO Considerations

Because a portion of this amendment relates to navigable airspace outside the United States, this amendment is subject to, and complies with, the ICAO International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the FAA Air Traffic Rules and Procedures Service in areas outside U.S. domestic airspace is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of the documents is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply in those portions of airspace under the contracting state's jurisdiction, which is granted by ICAO, wherein air traffic services are provided and where a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner that is consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, a state's aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Because these amendments involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), no requirements for information collection are associated with this rule.

Regulatory Evaluation Summary

Executive Order 12291 established the requirement that, within the extent permitted by law, a Federal regulatory action may be undertaken only if the potential benefits to society for the regulations outweigh the potential costs to society. In response to this requirement, and in accordance with Department of Transportation policies and procedures, the FAA has estimated the anticipated benefits and costs of this rulemaking action. The results are summarized in this section. For more detailed economic information, see the full regulatory evaluation contained in the docket.

Costs

The costs of the Offshore Airspace Reconfiguration final rule are a part of the $1.9 million cost of the Airspace Reclassification final rule because the costs, which include modification of manuals, charts, and training materials, have already been accounted for in that final rule. For a detailed discussion of how the FAA derived these costs, the reader is directed to the final regulatory analysis of the Airspace Reclassification final rule (56 FR 65638). A brief discussion explaining each of these costs is presented below.

Revisions to Aeronautical Charts

The cost of modifying the aeronautical charts to reflect the new offshore airspace areas is part of the estimated $1.2 million cost of making all revisions necessitated by airspace reclassification. The National Ocean Service (NOS), which publishes and distributes aeronautical charts, provided this cost estimate. The estimate represents the cost of changing the airspace dimensions and symbols on the plates from which aeronautical charts are printed.

Revisions of Air Traffic Training Courses

The cost of revising the courses used to instruct air traffic controllers in offshore airspace areas is part of an estimated $53,000 (discounted) in controller training costs noted in the Airspace Reclassification final rule. This includes developing and conducting a one-week seminar for FAA student controllers ($10,000) and revising lesson plans, visual aids, handouts, laboratory exercises, and tests ($43,000).

Re-education of Pilot Community

The cost of re-educating the pilot community on the modifications in the

Offshore Airspace Reconfiguration final rule is part of an estimated $625,000 (discounted) total cost of re-educating the pilot community specified in the Airspace Reclassification final rule. This includes the publication and mailing of an advisory circular ($550,000) and the production of a video tape documenting the new airspace classifications ($75,000).

Conversion of Statute Miles to Nautical Miles

The statute mile designations in part 71 and FAA Order 7400.7A, Compilation of Regulations, and FAA Order 7400.9, Airspace Reclassification, are being converted to nautical miles as part of the Airspace Reclassification final rule. The Offshore Airspace Reconfiguration final rule will share some of the $1.2 million (discounted) cost to complete the revision to aeronautical charts.

Revising Offshore Airspace Areas

The current base levels of offshore areas range from 700 feet MSL to FL 240. Most of the base levels, however, are below 5,500 feet MSL so the final rule will, in effect, raise them. Raising the base levels will convert controlled airspace into uncontrolled airspace and consequently lower the minimum visibility and cloud clearance requirements. The volume of air traffic offshore and the need for air traffic control services are minimum below 5,500 feet MSL. Thus, the FAA contends that raising the base levels will not result in a decrease in safety or impose any costs on the FAA or on the flying public.

Deletion of Area Low Routes

Since the FAA has not established any area low routes and because there is no need to create any, there will be no monetary cost or decrease in safety when their reference is removed from the FAR.

Removal of High and Low Altitude Reporting Points

Advances in radar technology have increased domestic radar coverage so extensively that most compulsory reporting points have become an unnecessary redundancy in the air traffic control system. Therefore, there will be no reduction in safety when domestic high altitude reporting points and most domestic low altitude reporting points are removed.

Continental Control Area

The provision to include prohibited and restricted areas above 14,500 feet MSL in the Continental Control Area will not impose costs or decrease safety. Restricted airspace and prohibited airspace will be released to air traffic control only with the permission of the using agency, and then IFR aircraft operators will be allowed in only with a clearance from air traffic control.

Benefits

The Offshore Airspace Reconfiguration final rule will share benefits of enhanced aviation safety and operational efficiency with the Airspace Reclassification final rule. Like the costs, most of the benefits of this final rule have already been attributed to the Airspace Reclassification final rule. However, there are some additional safety and efficiency benefits that this final rule will generate apart from the Airspace Reclassification final rule. All of these benefits are discussed below.

Offshore Airspace Reconfiguration

This final rule will reclassify certain airspace areas that were not specifically addressed in the Airspace Reclassification final rule. However, these changes will be carried out in conjunction with that rule. The areas that would be reclassified by the Offshore Airspace Reconfiguration final rule are as follows:

- Offshore airspace areas from 18,000 feet MSL to FL 600 will be reclassified as Class A airspace; and
- Offshore airspace areas designated between 5,500 feet MSL, or other specified altitudes, and 18,000 feet MSL will be reclassified as Class E airspace.

These new offshore airspace classifications will enhance aviation safety by simplifying the airspace classifications and reducing airspace complexity. The airspace areas affected by the final rule will be designated on aeronautical charts with fewer airspace names, terms, and symbols. Furthermore, the new airspace classifications will mirror those established by ICAO, thus making U.S. airspace more standardized and more familiar to foreign pilots. All of these changes will generate benefits of easier and more precise navigation and safer operation in offshore airspace areas.

Uniform Base Levels

Establishing a uniform base of 5,500 feet MSL for offshore areas will, in effect, convert controlled offshore airspace into uncontrolled and, consequently, lower the minimum visibility and cloud clearance requirements. This will benefit pilots because they can operate in more uncontrolled offshore airspace with less stringent requirements.

Continental Control Area

By eliminating the automatic exclusion of prohibited and restricted areas from the Continental Control Area, these areas automatically revert to controlled airspace when released to air traffic control by the using agency. This action benefits aircraft operators and air traffic control because it promotes real time use of joint use airspace by allowing air traffic control to route IFR aircraft through the special use airspace.

Simplification of U.S. Airspace

The Offshore Airspace Reconfiguration final rule will also generate benefits in the form of a simpler and more efficient airspace system. This will be accomplished by deleting several airspace designations that have become obsolete or redundant due to advances in radar technology, expansion of radar and radio coverage, and changes in air traffic control and aircraft operator's airspace requirements. The deletions and their specific benefits are discussed below.

High and Low Altitude Reporting Points

Advances in radar technology have increased domestic radar coverage so extensively that most domestic compulsory reporting points have become an unnecessary redundancy in the air traffic control system. Because of extensive radar coverage, pilots are seldom required to inform air traffic control when passing reporting points. Therefore, there will be no reduction in safety when all domestic high altitude reporting points and most domestic low altitude reporting points are removed.

Area Low Routes

Deleting area low routes will not reduce aviation safety because no routes were ever established.

Conclusion

The costs of the Offshore Airspace Reconfiguration final rule are part of an estimated $1.9 million cost (discounted, 1990 dollars), which has already been accounted for in the Airspace Reclassification final rule. The benefits of the final rule will be a simpler, more efficient, and more uniform airspace system, ultimately resulting in increased safety to the aviation community. Thus, the FAA contends that the final rule is cost beneficial.

International Trade Impact Analysis

Because the Offshore Airspace Reconfiguration final rule will only affect U.S. airspace and airspace over which the United States has jurisdiction, it will not impose any adverse operating requirements on

foreign aircraft operators. By September 16, 1993, virtually all foreign aircraft operators will be operating under requirements similar to those contained in this final rule and the Airspace Reclassification final rule. The requirements in this Final Rule are based on those established by ICAO's airspace reclassification. Thus this final rule will have no effect on the sale of foreign aviation products or services in the U.S., nor will it affect the sale of U.S. products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules that may have "a significant economic impact on a substantial number of small entities." The small entities that the final rule will affect are pilot schools (SIC 8299).

Training materials used in the courses offered by the pilot schools will have to be modified to reflect the changes in airspace classification. However, pilot schools will not incur any cost impact since the documents they use must be regularly updated as a normal cost of doing business. Thus, the final rule will not have a significant cost impact on them.

Federalism Implications

The regulation herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive order 12612, the FAA has determined that this regulation will not have sufficient federalism implications to warrant the preparation of the Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not major under Executive Order 12291. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This regulation is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A final regulatory evaluation of the regulation, including a final Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects

14 CFR Part 71

Airspace, Airways, Incorporation by reference.

14 CFR Part 93

Special air traffic rules.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends parts 71 and 93 of the Federal Aviation Regulations (14 CFR parts 71 and 93) as follows:

The following amendments are to part 71 currently in effect:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS, JET ROUTES, AND AREA HIGH ROUTES

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

2. Section 71.1 is revised to read as follows:

§71.1 Applicability.

The complete listing of all jet routes, area high routes, Federal airways, control areas, control area extensions, area low routes, control zones, transition areas, terminal control areas, airport radar service areas, positive control areas, reporting points, and other controlled airspace can be found in FAA Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992. Superseding portions of FAA Order 7400.7A, the descriptions of additional control areas, domestic low altitude reporting points, and control zones can be found in FAA Order 7400.7A—Supplement. The incorporation by reference of FAA Order 7400.7A was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The approval to incorporate by reference FAA Order 7400.7A and 7400.7A—Supplement is effective November 27, 1992, through September 15, 1993. During the incorporation by reference period, proposed individual changes to the listings of jet routes, area high routes, Federal airways, control areas, control area extensions, control zones, transition areas, terminal control areas, airport radar service areas, positive control areas, reporting points, and other controlled airspace will be published in full text as proposed rule documents in the **Federal Register.** Amendments to the listings of jet routes, area high routes, Federal airways, control areas, control area extensions, control zones, transition areas, terminal control areas, airport radar service areas, positive control areas, reporting points, and other controlled airspace will be published in full text as final rules in the **Federal Register.** Periodically, the final rule amendments will be integrated into a revised edition of the FAA Order and submitted to the Director of the Federal Register for approval for incorporation by reference in this section. Copies of FAA Order 7400.7A and FAA Order 7400.7A—Supplement may be obtained from the Document Inspection Facility, APA–220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–3485. Copies of FAA Order 7400.7A and FAA Order 7400.7A—Supplement may be inspected in Docket Number 26968 at the Federal Aviation Administration, Office of the Chief Counsel, AGC–10, room 915G, 800 Independence Avenue, SW., Washington, DC, weekdays between 8:30 a.m. and 5 p.m. or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. This section is effective from April 1, 1993, through September 15, 1993.

§71.6 [Removed and reserved]

3. Section 71.6 is removed and reserved.

4. Section 71.9 is revised to read as follows:

§71.9 Continental control area.

The Continental Control Area consists of the airspace at and above 14,500 feet MSL overlying the 48 contiguous States, including the waters within 12 nautical miles from the coast of the 48 contiguous States; the District of Columbia; Alaska, including the waters within 12 nautical miles from the coast of Alaska; excluding the Alaska peninsula west of longitude 160°00′00″W. The Continental Control Area does not include the airspace less than 1,500 feet above the surface of the earth.

The following amendments are to part 71 in effect as of September 16, 1993:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

2. Section 71.1 is amended by revising the introductory text to read as follows:

§ 71.1 Airspace classification.

The complete listing of these airspace designations can be found in FAA Order 7400.9, Airspace Reclassification, which is effective September 16, 1993. Superseding portions of subparts A, D, E, and H of FAA Order 7400.9, the descriptions of Class A, Class D, and Class E airspace areas and reporting points can be found in FAA Order 7400.9—Supplement. The incorporation by reference of FAA Order 7400.9 was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The approval to incorporate by reference FAA Order 7400.9 and 7400.9—Supplement is effective as of September 16, 1993, through September 15, 1994. During the incorporation by reference period, proposed individual changes to the listings of Class A, Class B, Class C, Class D, and Class E airspace areas, airways, routes, and reporting points will be published in full text as proposed rule documents in the **Federal Register.** Amendments to the listings of Class A, Class B, Class C, Class D, and Class E airspace areas, airways, routes, and reporting points will be published in full text as final rules in the **Federal Register**. Periodically, the final rule amendments will be integrated into a revised edition of the FAA Order and submitted to the Director of the Federal Register for approval for incorporation by reference in this section. Copies of FAA Order 7400.9 and FAA Order 7400.9—Supplement may be obtained from the Document Inspection Facility, APA–220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–3485. Copies of FAA Order 7400.9 and FAA Order 7400.9—Supplement may be inspected in Docket Number 26968, at the Federal Aviation Administration, Office of the Chief Counsel, AGC–10, room 915G, 800 Independence Avenue, SW., Washington, DC 20591, weekdays between 8:30 a.m. and 5 p.m. or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

* * * * *

3. Section 71.33 is amended by adding paragraph (c) to read as follows:

§ 71.33 Class A airspace areas.

* * * * *

(c) The airspace areas listed as offshore airspace areas in subpart A of FAA Order 7400.9 (incorporated by reference, see § 71.1) that are designated in international airspace within areas of domestic radio navigational signal or ATC radar coverage, and within which domestic ATC procedures are applied.

4. Section 71.71 is amended by revising paragraphs (a), (d), and (e), and by adding paragraph (f) to read as follows:

§ 71.71 Class E airspace.

* * * * *

(a) The airspace of the United States, including that airspace overlying the waters within 12 nautical miles of the coast of the 48 contiguous states and Alaska, extending upward from 14,500 feet MSL to, but not including, 18,000 feet MSL, and excluding—

(1) The Alaska peninsula west of longitude 160°00′00″W.; and

(2) The airspace below 1,500 feet above the surface of the earth.

* * * * *

(d) The Federal airways described in subpart E of FAA Order 7400.9 (incorporated by reference, see § 71.1).

(e) The airspace areas listed as en route domestic airspace areas in subpart E of FAA Order 7400.9 (incorporated by reference, see § 71.1). Unless otherwise specified, each airspace area has a lateral extent identical to that of a Federal airway and extends unward from 1,200 feet above the surface of the earth to the overlying or adjacent controlled airspace.

(f) The airspace areas listed as offshore airspace areas in subpart E of FAA Order 7400.9 (incorporated by reference, see § 71.1) that are designated in international airspace within areas of domestic radio navigational signal or ATC radar coverage, and within which domestic ATC procedures are applied. Unless otherwise specified, each airspace area extends upward from a specified, altitude up to, but not including, 18,000 feet MSL.

§ 71.77 [Removed and reserved]

5. Section 71.77 is removed and reserved.

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPROT TRAFFIC PATTERNS

6. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. app. 1302, 1303, 1348, 1354(a), 1421(a), 1424, 2451 *et seq.* 49 U.S.C. 106(g).

Subpart F—§§ 93.81, 93.83 [Removed and Reserved]

7. Part 93 is amended by removing and reserving subpart F (§§ 93.81 and 93.83).

8. Part 93 is amended by removing and reserving subpart P (§§ 93.181, 93.183, 93.185, 93.187, 93.189, 93.191 and the map at the end of the subpart).

Issued in Washington DC, on February 24, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–4715 Filed 3–1–93; 8:45 am]

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federal register

Tuesday
March 2, 1993

Part VI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 22, 36 and 52
Federal Acquisition Regulation; Issuance of Final Rule to Implement Executive Order 12836

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 36, and 52

[FAC 90-17]

Federal Acquisition Regulation; Issuance of Final Rule To Implement Executive Order 12836

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are issuing a final rule that eliminates two interim rules published in the Federal Register at 57 FR 55470, November 25, 1992, and 57 FR 20372, May 12, 1992.

FAR subpart 22.5, Open Bidding on Federal Construction Contracts, and the clause at FAR 52.222-5 are removed. They were published on an interim basis to implement Executive Order 12818 of October 23, 1992.

FAR subpart 22.15, Notification of Employee Rights Concerning Payment of Union Dues or Fees, and the clause at FAR 52.222-18 are also removed. They were published on an interim basis to implement Executive Order 12800 of April 13, 1992.

EFFECTIVE DATE: March 2, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb at (202) 501-4547 in reference to Executive Order 12818, FAR case 92-300, or Mr. Jack O'Neill at (202) 501-3856 in reference to Executive Order 12800, FAR case 92-608.

For general information, contact the FAR Secretariat, room 4037, GSA Building, Washington, DC 20405, (202) 501-4755. Please cite FAC 90-17, Implementation of Executive Order 12836.

SUPPLEMENTARY INFORMATION:

A. Background

On February 1, 1993, President Clinton signed Executive Order 12836, Revocation of Certain Executive Orders Concerning Federal Contracting. Section 1 of Executive Order No. 12836 revoked Executive Order No. 12818 of October 23, 1992 (prohibiting the use of project agreements on Federal construction contracts), and Executive Order No. 12800 of April 13, 1992 (requiring Federal contractors to post a notice that workers are not required to join unions). Executive Orders 12818 and 12800 were deemed to not be in the public interest.

B. Regulatory Flexibility Act

FAR Case 92-608 and FAR Case 92-300

This final rule will not have a significant economic impact on a substantial number of small entities because it is a deletion of two interim rules that did not have a significant economic impact on the same entities.

C. Paperwork Reduction Act

FAR Case 92-300

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

FAR Case 92-608

Paperwork collection under the interim rule was approved under the Office of Management and Budget clearance number 9000-0127. Inasmuch as the interim rule is being deleted in its entirety, the paperwork clearance is no longer necessary.

List of Subjects in 48 CFR Parts 22, 36, and 52

Government procurement.

Dated: February 24, 1993.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition Policy

Federal Acquisition Circular

Number 90-17

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90-17 is effective March 2, 1993.

Dated: February 11, 1993.

Eleanor R. Spector,

Director, Defense Procurement, DOD.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy, GSA.

Walker Lee Evey,

Acting Associate Administrator for Procurement, NASA.

Accordingly, the interim rules (FAR cases 92-608, and 92-300) published at 57 FR 20372, May 12, 1992, and 57 FR 55470, November 25, 1992, are deleted.

1. The authority citation for 48 CFR parts 22, 36, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.5 [Removed]

2. Subpart 22.5, consisting of sections 22.501 through 22.507, is removed and reserved.

22.15 [Removed]

3. Subpart 22.15, consisting of sections 22.1500 through 22.1509, is removed.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

4. Section 36.101 is amended at the end of paragraph (a) by removing the parenthetical.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.222-5 [Removed]

5. Section 52.222-5 is removed and reserved.

52.222-18 [Removed]

6. Section 52.222-18 is removed and reserved.

[FR Doc. 93-4675 Filed 3-1-93; 8:45 am]

BILLING CODE 6820-34-M

federal register

Tuesday
March 2, 1993

Part VII

Environmental Protection Agency

40 CFR Part 300
Notification of Policy Change; Categorization of Superfund Sites

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-4561-5]

Notification of Policy Change; Categorization of Superfund Sites

AGENCY: Environmental Protection Agency.

ACTION: Policy change.

SUMMARY: In this document, the Environmental Protection Agency (EPA) is introducing the Superfund Construction Completion List (CCL). EPA is also categorizing or recategorizing a number of present or former National Priority List (NPL) sites on the CCL. The CCL contains 155 sites and publishes these in one place to show Superfund progress. EPA is taking this step to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities.

EFFECTIVE DATE: March 2, 1993.

FOR FURTHER INFORMATION CONTACT: Hugo Paul Fleischman, State Requirements Section (5203G), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; (703) 603–8769. An alternative contact is the Superfund Hotline; 1–800–424–9346 (TDD 800–553–7672), or in the Washington, DC, area, (703) 920–9810 (TDD 703–486–3323)

SUPPLEMENTARY INFORMATION:

A. Background

The National Priorities List (NPL) is appendix B to 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA promulgated the NPL pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq.*, as amended. The NCP lets EPA categorize releases on the NPL or delete sites from the NPL when such action is appropriate. This notice describes changes to the process for categorizing sites previously defined in the preamble to the 1990 revisions to the NCP (55 FR 8666, 8699–8700), and subsequent guidance (See 56 FR 66601, December 24, 1991, and OSWER Directive 9320.2–3C, February 19, 1992).

B. Notice of Policy Change

Construction Completion List Introduced

The CCL is a compilation of sites presently or formerly on the NPL. Sites qualify for the CCL when:

(1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved;

(2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or

(3) The site qualifies for deletion from the NPL. See 40 CFR 300.425(e).

Sites that have been deleted from the NPL are included on the CCL, with the year of deletion noted. However, deleted sites will not qualify for the CCL if physical construction remains to be conducted under another statutory authority.

The CCL is simply a mechanism for better communicating Superfund progress to the public. Inclusion of an NPL site on the CCL does not have any legal significance. The CCL will be published periodically in the **Federal Register**. The CCL is not a rulemaking document like the NPL, so it will not be included in the Code of Federal Regulations (CFR).

Documentation

Each site on the CCL has a preliminary, interim, or final Close Out Report (COR); a Record of Decision (ROD) requiring no further construction; or, documentation showing deletion from the NPL. A "preliminary COR" documents the completion of physical construction at a site; at these sites the final cleanup levels or other requirements specified in the ROD may not yet have been achieved. An "interim COR" documents the completion of construction and the Operational and Functional periods at long-term remedial action sites (e.g., ground water restoration actions). The interim COR is being phased out and will not be required in the future. A "final COR" documents the achievement of all cleanup levels and other requirements related to site cleanup. A ROD may be used to document construction completion when no additional response is necessary.

Routine Adjustments

Work is expected to continue at many sites on the CCL until final ROD requirements are attained and the site can be deleted from the NPL. Also, routine adjustments and modifications to a constructed remedy can be expected, but do not affect a site's status on the CCL. Examples of adjustments or modifications include the drilling of additional extraction wells, modifications to unit processes at ground water treatment plants, and dismantling and removing on-site remediation facilities.

C. Notice of Categorization

On January 16, 1992 (57 FR 1872), EPA announced the inclusion of 25 sites in the Construction Completion category of the NPL. The CCL consists of those 25 sites, plus 130 sites added today, for a total of 155 sites. Sites added today are marked with an asterisk (*). The CCL includes 47 sites that have been deleted from the NPL.

Construction Completion List

1. A&F Material Reclaiming, Inc., Greenup, Illinois. *
2. Action Anodizing, Plating, & Polishing Corp., Copiague, New York. *
3. Adrian Municipal Well Field, Adrian, Minnesota. *
4. Advanced Micro Devices, Inc. (Building 915), Sunnyvale, California. (LTRA) *
5. Aidex Corporation, Council Bluffs, Iowa. *
6. Alpha Chemical, Galloway, Florida.
7. A.L. Taylor (Valley of Drums), Brooks, Kentucky.
8. Arkansas City Dump, Arkansas City, Kansas. *
9. Arrcom (Drexler Enterprises), Rathdrum, Idaho. *
10. Arsenic Trioxide Site, Southeastern North Dakota. *
11. Bayou Sorrel Site, Bayou Sorrel, Louisiana. *
12. Beachwood/Berkeley Wells, Berkley Township, New Jersey. (Deleted 1992) *
13. BEC Trucking, Vestal, New York. (Deleted 1992) *
14. Belvidere Municipal Landfill, Belvidere, Illinois. *
15. Big River Sand, Wichita, Kansas. (Deleted 1992)
16. BioClinical Laboratories, Inc., Bohemia, New York. *
17. Boise Cascade/Onan Corp./Medtronics, Inc., Fridley, Minnesota. *
18. Bowers Landfill, Circleville, Ohio. *
19. Brown Wood Preserving, Live Oak, Florida. *
20. Bruin Lagoon, Bruin Borough, Pennsylvania. *
21. Cannon Engineering Corporation, Bridgewater, Massachusetts. (LTRA)
22. Cecil Lindsey, Newport, Arkansas. (Deleted 1989) *
23. Celtor Chemical Works, Hoopa, California.
24. Cemetery Dump, Rose Center, Michigan.
25. Charlevoix Municipal Well, Charlevoix, Michigan. *
26. Chem-Dyne, Hamilton, Ohio. (LTRA) *
27. Chemical Metals Industries, Inc., Baltimore, Maryland. (Deleted 1982) *
28. Chemical & Minerals Reclamation, Cleveland, Ohio. (Deleted 1982) *
29. Chisman Creek, York County, Virginia. (LTRA)
30. Cimarron Mining Corp., Carrizozo, New Mexico. (LTRA) *
31. Compass Industries (Avery Drive) (once listed as Compass Industries), Tulsa, Oklahoma. *

32. Conservation Chemical Company, Kansas City, Missouri. (LTRA)
33. Cooper Road, Voorhees Township, New Jersey.(Deleted 1989) *
34. CTS Printex, Inc., Mountain View, California. (LTRA) *
35. Crystal City Airport, Crystal City, Texas.
36. Darling Hill Dump, Lyndon, Vermont. *
37. Del Norte Pesticide Storage, Crescent City, California. (LTRA) *
38. Distler Farm, Jefferson County, Kentucky. (LTRA) *
39. Eau Claire Municipal Well Field, Eau Claire, Wisconsin. (LTRA) *
40. Enterprise Avenue, Philadelphia, Pennsylvania. (Deleted 1986) *
41. Fairchild Semiconductor Corp. (South San Jose Plant) (once listed as Fairchild Camera & Instrument Corp. (South San Jose Plant)), South San Jose, California. (LTRA) *
42. Firestone Tire & Rubber Co. (Salinas Plant), Salinas, California. (LTRA) *
43. FMC Corp. (Fridley Plant), Fridley, Minnesota. (LTRA) *
44. Friedman Property (once listed as Upper Freehold site), Upper Freehold Township, New Jersey. (Deleted 1986) *
45. Fulbright Landfill, Springfield, Missouri. *
46. General Mills/Henkel Corp., Minneapolis, Minnesota. (LTRA) *
47. Gold Coast Oil Corporation, Miami, Florida. (LTRA) *
48. Grand Traverse Overall Supply Co.,Greilickville, Michigan. *
49. Gratiot County Golf Course, St. Louis, Michigan. (Deleted 1983) *
50. Harris (Farley Street), Houston, Texas. (Deleted 1988) *
51. Henderson Road, Upper Merion Township, Pennsylvania. (LTRA) *
52. Highlands Acid Pit, Highlands, Texas. *
53. Hydro-Flex Inc., Topeka, Kansas. *
54. IMC (Terre Haute East Plant), Terre Haute, Indiana. (Deleted 1991) *
55. Independent Nail, Beaufort, South Carolina.
56. Industrial Waste Control, Fort Smith, Arkansas. *
57. Intel Corp. (Santa Clara III), Santa Clara, California. (LTRA) *
58. Intel Magnetics, Santa Clara, California. (LTRA) *
59. Intersil Inc./Siemens Components, Cupertino, California. (LTRA) *
60. Jibboom Junkyard, Sacramento, California.(Deleted 1991) *
61. John Deere (Ottumwa Works Landfills), Ottumwa, Iowa. *
62. Johns Manville Corp., Waukegan, Illinois. *
63. Johns' Sludge Pond, Wichita, Kansas. (Deleted 1992) *
64. Katonah Municipal Well, Bedford, New York. (LTRA) *
65. Krysowaty Farm, Hillsborough, New Jersey.(Deleted 1989) *
66. LaBounty Site, Charles City, Iowa.
67. Lakewood Site, Lakewood, Washington. (LTRA) *
68. Lansdowne Radiation, Lansdowne, Pennsylvania. (Deleted 1991) *
69. Lawrence Todtz Farm, Camanche, Iowa.
70. Lee's Lane Landfill, Louisville, Kentucky.
71. Leetown Pesticide, Leetown, West Virginia. *
72. Lehigh Electric & Engineering Co., Old Forge Borough, Pennsylvania. (Deleted 1986) *
73. Lehillier/Mankato Site, Lehillier/Mankato, Minnesota. (LTRA) *
74. Luminous Products, Inc., Athens, Georgia. (Deleted 1982) *
75. M&T De Lisa Landfill, Asbury Park, New Jersey. (Deleted 1991) *
76. Matthews Electroplating, Roanoke County, Virginia. (Deleted 1989) *
77. McKin Co., Gray, Maine. (LTRA) *
78. Metal Working Shop, Lake Ann, Michigan. *
79. Mid-South Wood Products, Mena, Arkansas. (LTRA)
80. Middletown Road Dump, Annapolis, Maryland.(Deleted 1988) *
81. Morris Arsenic Dump, Morris, Minnesota. (Deleted 1986) *
82. Mountain View Mobile Home Estates (once listed as Globe) Globe, Arizona. (Deleted 1988) *
83. Mowbray Engineering Company, Greenville, Alabama.
84. New Castle Spill (once listed as TRIS Spill), New Castle County, Delaware. *
85. New Castle Steel, New Castle County, Delaware. (Deleted 1989) *
86. New Lyme Landfill, New Lyme, Ohio. (LTRA) *
87. Newport Dump, Newport, Kentucky.
88. Northern Engraving Co., Sparta, Wisconsin.
89. Novaco Industries, Temperance, Michigan. *
90. Nutting Truck & Caster Co., Faribault, Minnesota.(LTRA) *
91. Old Mill (once listed as Rock Creek/Jack Webb), Rock Creek, Ohio. (LTRA)
92. Ordot Landfill, Guam. *
93. Pagano Salvage, Los Lunas, New Mexico. (Deleted 1992)
94. Parramore Surplus, Mount Pleasant, Florida.(Deleted 1989) *
95. PCB Spills, 243 miles of road, North Carolina. (Deleted 1986) *
96. PCB Warehouse, Saipan, Guam. (Deleted 1986) *
97. PCB Wastes, Pacific Trust Territory. (Deleted 1986) *
98. Pesses Chemical Co., Fort Worth, Texas. *
99. Pesticide Lab (Yakima), Yakima, Washington. *
100. Petersen Sand & Gravel, Belvidere, Illinois.(Deleted 1991) *
101. Pioneer Sand Co., Warrington, Florida. *
102. Plymouth Harbor/Cannon Engineering Corp. (once listed as Plymouth Harbor/Cordage), Plymouth, Massachusetts. *
103. Poer Farm, Zionsville, Indiana. (Deleted 1991) *
104. Pomona Oaks Residential Wells, Galloway Township, New Jersey. *
105. Presque Isle, Erie, Pennsylvania. (Deleted 1989) *
106. Reeser's Landfill, Upper Macungie Township, Pennsylvania. (Deleted 1990) *
107. Republic Steel Corp. Quarry, Elyria, Ohio. *
108. Revere Textile Prints Corps., Sterling, Connecticut. *
109. Rose Park Sludge Pit, Salt Lake City, Utah. *
110. Route 940 Drum Dump (once listed as Pocono Summit), Pocono Summit, Pennsylvania. *
111. SCRDI Dixiana, Cayce, South Carolina. (LTRA) *
112. Sealand Limited, Mount Pleasant, Delaware. *
113. Silver Mountain Mine, Loomis, Washington. *
114. Sola Optical USA, Inc., Petaluma, California. (LTRA) *
115. Spectra-Physics, Inc., Mountain View, California.(LTRA) *
116. Stewco, Inc., Waskom, Texas. *
117. Suffern Village Well Field, Suffern, New York. *
118. Suffolk City Landfill, Suffolk, Virginia. *
119. Sylvester, Nashua, New Hampshire. (LTRA) *
120. Synertek, Inc. (Building 1), Santa Clara, California. (LTRA) *
121. Taputimu Farm, Island of Tutila, American Samoa. (Deleted 1986) *
122. Taylor Borough Dump, Taylor Borough, Pennsylvania.
123. Teledyne Semiconductor, Mountain View, California.(LTRA) *
124. Toftdahl Drums, Brush Prairie, Washington.(Deleted 1988) *
125. Town Garage/Radio Beacon (once listed as Holton Circle Ground Water Contamination), Londonderry, New Hampshire. *
126. Triana/Tennessee River (once listed as Triana (Redstone) Arsenal), Limestone/Morgan, Alabama. (LTRA)
127. Triangle Chemical, Bridge City, Texas.
128. Tri-City Oil Conservationist, Inc., Tampa, Florida. (Deleted 1988) *
129. Tri-State Plating, Columbus, Indiana. (LTRA) *
130. Twin Cities Air Force Reserve Base (Small Arms Range Landfill), Minneapolis, Minnesota. *
131. Union Scrap Iron and Metal, Minneapolis, Minnesota. (Deleted 1991) *
132. United Chrome Products, Inc., Corvallis, Oregon. (LTRA)
133. Varsol Spill (once listed as part of Biscayne Aquifer), Miami, Florida. (Deleted 1988) *
134. Velsicol Chemical Corp. (Illinois), Marshall, Illinois. *
135. Vineland State School, Vineland, New Jersey. *
136. Voortman Farm, Upper Saucon Township, Pennsylvania. (Deleted 1989) *
137. Wade (ABM) (once listed as ABM-Wade), Chester, Pennsylvania. (Deleted 1989) *
138. Walcotte Chemical Co. Warehouses, Greenville, Mississippi. (Deleted 1982) *
139. Washington County Landfill, Lake Elmo, Minnesota. *
140. Wedzeb Enterprises, Lebanon, Indiana. (Deleted 1991) *
141. Western Processing Co., Inc., Kent, Washington. (LTRA)

142. Western Sand & Gravel, Burrillville, Rhode Island. *
143. Westline, Westline, Pennsylvania. (Deleted 1992)
144. Wheeler Pit, La Prairie Township, Wisconsin. *
145. Whitehall Wells, Whitehall, Michigan. (Deleted 1991) *
146. Whitewood Creek, Whitewood, South Dakota. *
147. Whittaker Corp., Minneapolis, Minnesota. (LTRA) *
148. Wide Beach Development, Brant, New York. *
149. Wildcat Landfill, Dover, Delaware. *
150. Wilson Concepts of Florida, Inc.,Pompano Beach, Florida. *
151. Windom Dump, Windom, Minnesota. (LTRA) *
152. Witco Chemical Corp. (Oakland Plant),Oakland, New Jersey. *
153. Woodbury Chemical Co., Commerce City, Colorado. *
154. Woodbury Chemical Co. (Princeton Plant),Princeton, Florida. *
155. Yakima Plating Co., Yakima, Washington. *

Dated: February 17, 1993.

Richard J. Guimond,

Assistant Surgeon General, USPHS, Acting Assistant Administrator.

[FR Doc. 93–4773 Filed 3–1–93; 8:45 am]

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Tuesday, March 2, 1993

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H.J. Res. 101/P.L. 103–5

To designated February 21 through February 27, 1993, as "National FFA Organization Awareness Week". (Feb. 25, 1993; 107 Stat. 31; 2 pages)

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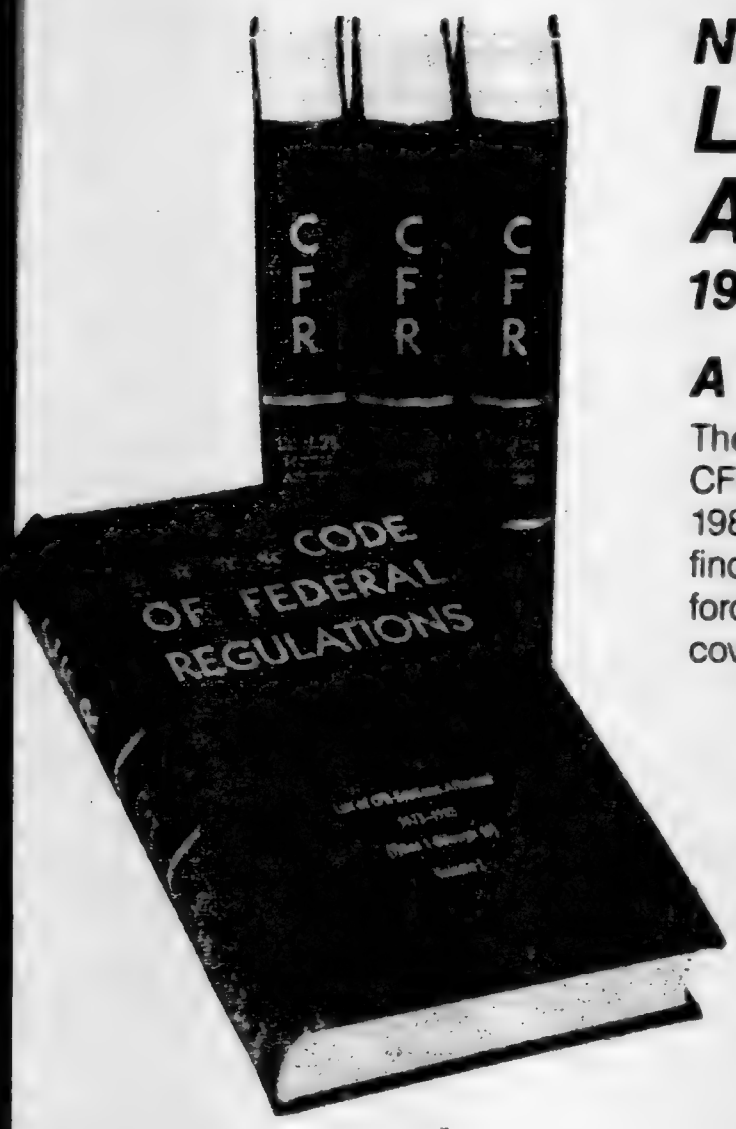

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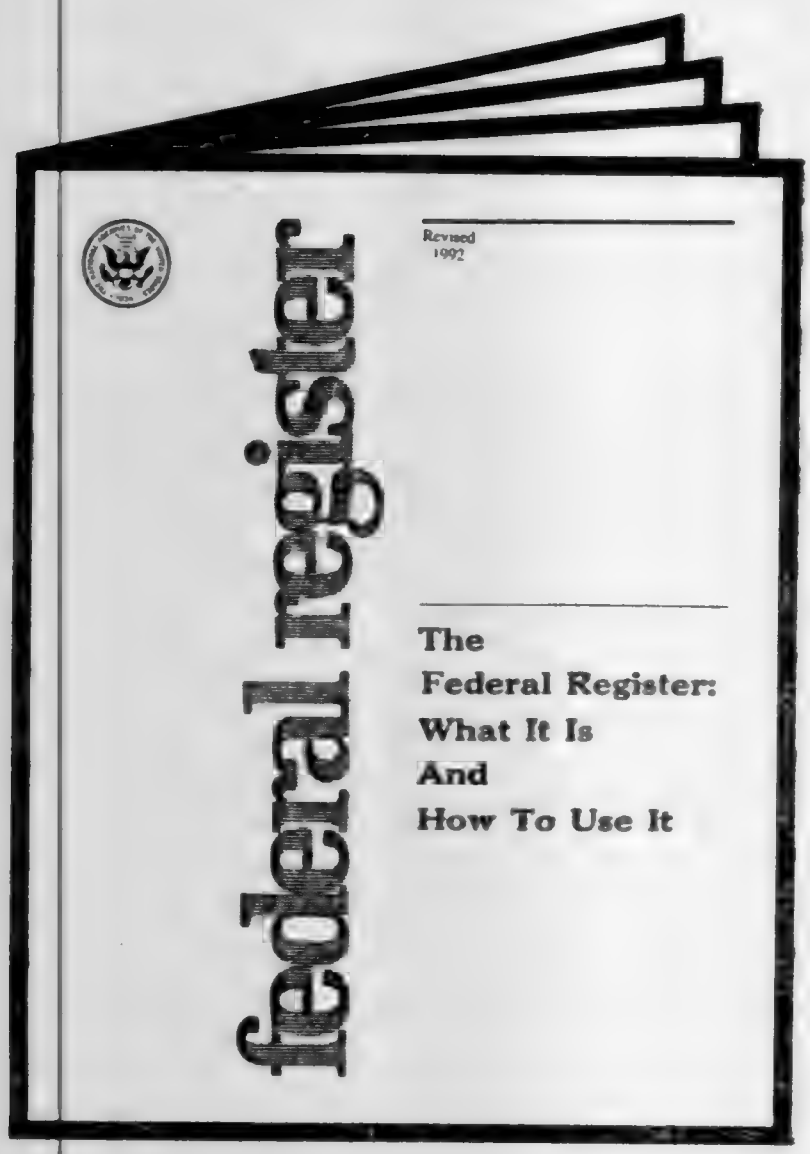

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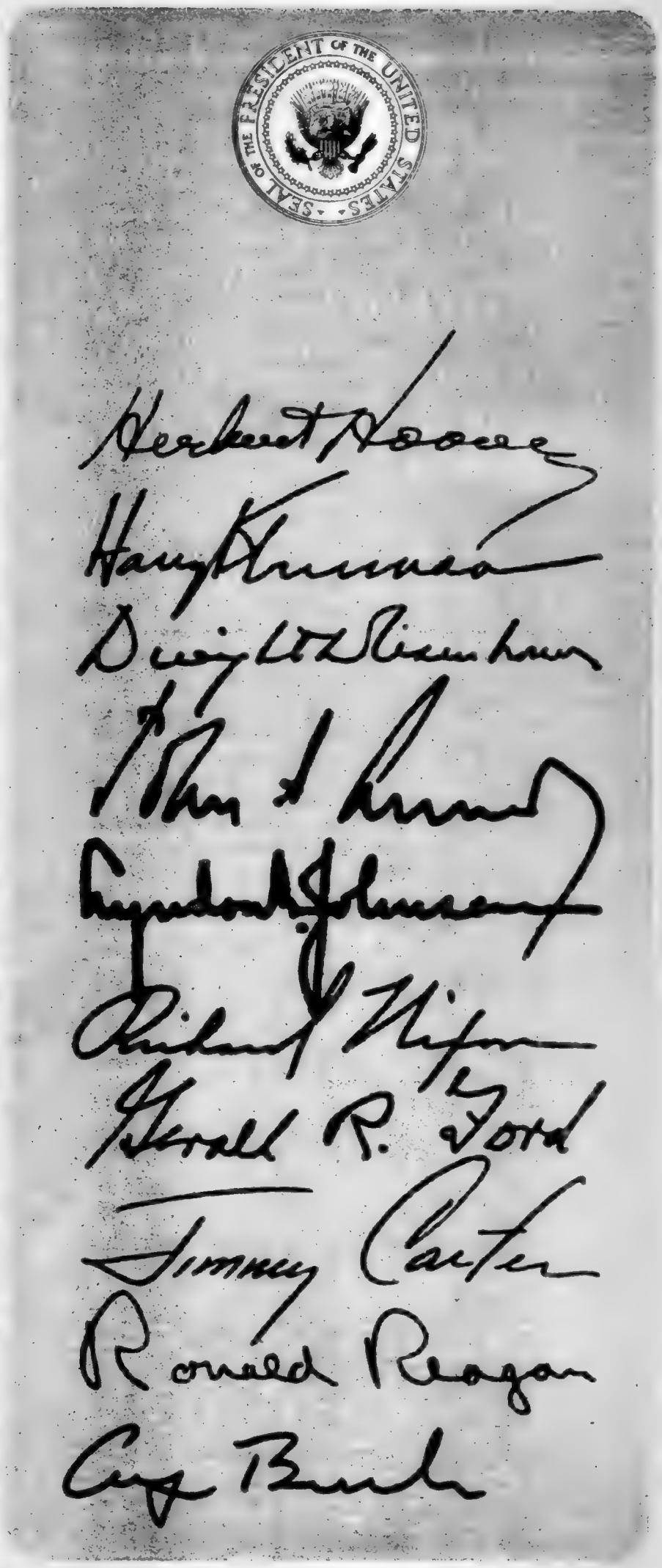

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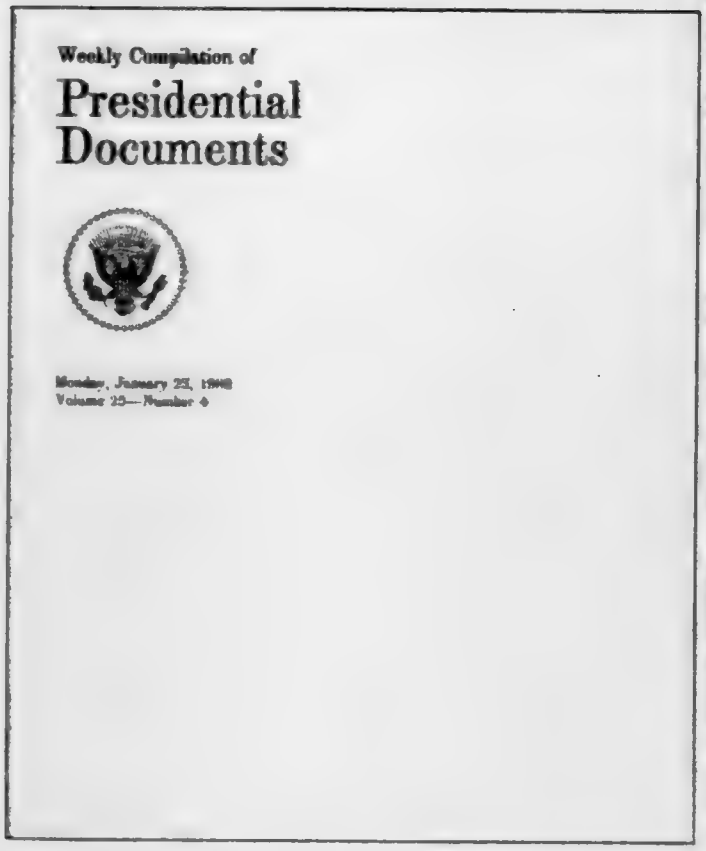

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federal register

Wednesday
March 3, 1993

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Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 307

RIN 3206–AE59

Veterans Readjustment Appointments

AGENCY: Office of Personnel Management.

ACTION: Interim rule.

SUMMARY: This interim rule reflects statutory changes in the Veterans Readjustment Appointment (VRA) authority. On October 29, 1992, the President signed the Veterans' Benefits Act of 1992, which includes a provision to restore eligibility to Vietnam-era veterans for Federal employment under the VRA authority. The new law puts Vietnam-era service on equal footing with post-Vietnam-era service in qualifying for the VRA program, simplifies the eligibility requirements, and enables Federal agencies to make greater use of the VRA authority by expanding the pool of VRA eligibles.

DATES: Effective: March 3, 1993. Comments must be received on or before April 3, 1993.

ADDRESSES: Send or deliver comments to: Leonard R. Klein, Associate Director for Career Entry, Career Entry Group, U.S. Office of Personnel Management, room 6F08, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: John Flannery, (202) 606–2677.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) has responsibility for implementing the VRA program as provided by the initial statute, the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4214). Accordingly, OPM is required by law to issue and amend regulations governing the VRA program.

The VRA program reflects the nation's continuing interest in enhancing employment opportunities for Vietnam-era and post-Vietnam-era veterans. The VRA program is intended to meet the unique needs of veterans in the labor market, and to enable Federal agencies to hire needed talent quickly.

The VRA is an excepted appointment to a position otherwise in the competitive service that, prior to the Veterans' Benefits Act of 1992, Public Law 102–568, had been available to most post-Vietnam-era veterans but only to those Vietnam-era veterans who have a compensable service-connected disability, a separation from active duty for a disability incurred or aggravated in the line of duty, or a campaign or expeditionary medal for service during the Vietnam era. The new law eliminates those restrictions on Vietnam-era veterans. The term "Vietnam era" refers to the period beginning August 5, 1964, and ending on May 7, 1975; the term "post-Vietnam era" refers to the period after May 7, 1975.

The VRA program was established in 1970 to help recently discharged Vietnam-era veterans who lacked marketable skills "readjust" by making it easier for them to obtain civil service employment. The VRA authority has been amended at various times over the years, with the primary concern being to provide a helping hand to the more recent service members. However, there was concern that the amendments of 1989 and 1991 to extend the program to veterans serving after the Vietnam era had an adverse impact on Vietnam-era veterans by restricting their eligibility. As a result, the Office of Personnel Management asked Congress to put Vietnam-era service on equal footing with post-Vietnam-era service as qualifying for the VRA program. Congress agreed, passed the authorizing bill, and the President signed it into law.

The regulations are also amended to reflect the modification of the definitions of VRA eligibility made by Public Laws 102–16 and 102–127.

Because the VRA law (38 U.S.C. 4214) specifies the time limits on VRA eligibility, maximum entry grade level, the development of education/training agreements by agencies, and other matters, those requirements are not repeated in the regulations. Following regular practice, OPM will continue to provide instructions, information, and guidance to agencies through the Federal Personnel Manual (FPM) system.

Pursuant to section 553(b)(3)(B) of title 5 of the United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking and making this effective immediately upon publication. The regulation is being made effective immediately to ensure maximum consistency with Public Law 102–568, which became effective October 29, 1992.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined in E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it applies only to Federal Government employment practices.

List of Subjects in 5 CFR Part 307

Government employees, Veterans.

U.S. Office of Personnel Management.
Patricia W. Lattimore,
Acting Director.

Accordingly, OPM is revising 5 CFR part 307 to read as follows:

PART 307—VETERANS READJUSTMENT APPOINTMENTS

1. The authority citation for part 307 is revised to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 11521, 3 CFR, 1970 Comp., p. 912; 38 U.S.C. 4214.

2. Section 307.101 is revised to read as follows:

§ 307.101 Definitions.

In this part,

(a) The term *veteran* has the meaning given in section 4211 (2)(A), (3) and (4) of title 38, United States Code, as follows:

(1) *Veteran of the Vietnam era* means an eligible veteran any part of whose active military, naval, or air service was during the Vietnam era.

(2) *Disabled veteran* means:

(i) A veteran who is entitled to compensation (or who, but for the receipt of military retired pay, would be entitled to compensation) under laws administered by the Department of Veterans Affairs; or

(ii) A person who was discharged or released from active duty because of a service-connected disability.

(3) *Eligible veteran* means a person who:

(i) Served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge; or

(ii) Was discharged or released from active duty because of a service-connected disability; or

(iii) As a member of a reserve component under an order to active duty pursuant to section 672(a), (d), or (g), 673, or 673b of title 10 of the United States Code, served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from such duty with other than a dishonorable discharge.

(b) *Post-Vietnam-era veteran* means an eligible veteran who first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces after May 7, 1975.

(c) *Vietnam era* means the period beginning August 5, 1964 and ending May 7, 1975.

(d) *Veterans readjustment appointment (VRA)* is an excepted appointment made after April 8, 1970, under this part, to a position otherwise in the competitive service of eligible veterans of the Vietnam era and the post-Vietnam era.

3. Section 307.102 is revised to read as follows:

§ 307.12 Coverage and general responsibilities.

(a) Federal agencies have the responsibility to provide the maximum of employment and job advancement opportunities to eligible veterans of the Vietnam era and the post-Vietnam era who are qualified for such employment and advancement.

(b) Employees with VRA appointments who satisfactorily complete two years of substantially continuous service under the VRA program, including training when required, shall be converted to career-conditional or career employment, as appropriate.

(c) The Office of Personnel Management will prescribe instructions and guidance for implementing the VRA program through the Federal Personnel Manual (FPM) system.

4. Section 307.103 is revised to read as follows:

§ 307.103 Appointing authority.

An agency may appoint any veteran who meets the basic veterans readjustment eligibility requirements provided by law as follows:

(a) Vietnam-era veteran who is disabled;

(b) Vietnam-era veteran who is nondisabled;

(c) Post-Vietnam-era veteran who is disabled;

(d) Post-Vietnam-era veteran who is nondisabled.

[FR Doc. 93–4797 Filed 3–2–93; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 532

RIN 3220–AF11

Prevailing Rate Systems

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to add San Patricio County, Texas, as an area of application to the Nueces, Texas, Nonappropriated Fund (NAF) wage area for pay-setting purposes. The Department of the Navy recently commissioned a Naval Base in Ingelside, Texas. Ingelside Naval Base is located in San Particio County, which is not currently defined for NAF pay-setting purposes. The intent of this action is to assign San Patricio County to the proper NAF wage area for pay-setting purposes.

EFFECTIVE DATE: April 2, 1993.

FOR FURTHER INFORMATION CONTACT: Brenda Roberts, (202) 606–2848.

SUPPLEMENTARY INFORMATION: On September 30, 1992, OPM published a proposed rule to add San Patricio County, Texas, to the Nueces, Texas, wage area as an area of application (57 FR 45005). No comments were received during the 30-day comment period. The proposed rule, therefore, is being adopted as a final rule without any changes.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Patricia W. Lattimore,

Acting Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92–502.

2. Appendix D to subpart B is amended by revising the area of application listing for the Nueces, Texas, wage area to read as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas.

* * * * *

Texas

* * *

Nueces

* * *

Area of Application. Survey area plus:

Texas:
Bee
Calhoun
Kleberg
San Patricio
Webb

* * * * *

[FR Doc. 93–4796 Filed 3–2–93; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 208, 209, and 274a

[INS No. 1347–92; AG Order No. 1651–93]

RIN 1115–AC93

Fees for Processing Certain Asylee/Refugee Related Applications

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule enables the Immigration and Naturalization Service (Service) and the Executive Office for Immigration Review (EOIR) to charge fees for the processing of certain asylee-related and refugee-related applications. The Service intends to charge asylees for applications for adjustment of status to permanent residence pursuant to 8 CFR 209.2 upon submission of Form I–485, Application for Permanent Residence, and upon submission of Form I–765, Application for

Employment Authorization, for renewal of their employment authorization. The Service believes it is necessary to charge asylees both for applications for adjustment to permanent residence and for renewal of work authorization so that the Service and other applicants will not have to bear the financial burden of providing special services that do not accrue to the public at large. Presumably, the asylee who is applying for these benefits has already been employed and is better able to pay a fee than at the time of his or her arrival and initial application for work authorization. If the asylee applicant is unable to pay either fee, there is a waiver provision contained in 8 CFR 103.7(c).

EFFECTIVE DATE: March 18, 1993.

FOR FURTHER INFORMATION CONTACT: Barbara Atherton, Chief, Fee Analysis and Operations Branch, Immigration and Naturalization Service, 425 I Street NW., room 6240, Washington, DC 20536, telephone (202) 514–2677.

SUPPLEMENTARY INFORMATION: The Service published a proposed rule on January 14, 1992, at 57 FR 1404, to amend the schedule of fees charged by the Service and EOIR for processing certain asylee-related and refugee-related applications. Comments were received from 83 commenters, including volunteer service agencies, private immigration attorneys, elected and appointed officials, attorney organizations, private citizens, and Service employees. All of the comments were carefully considered before preparing this final rule. The following is a summary of the substantive comments.

The overwhelming majority of commenters opposed the fees. Two commenters expressed general support for the proposal as a means of having applicants pay for special services rendered to them.

Forty-eight commenters specifically opposed the fee for Form I–730, the Refugee/Asylee Relative Petition. The majority of these commenters believed that most of these applicants would not be able to pay the I–730 application fee, implying that the inability to pay the fee would cause a delay in the family reunification process. Such a delay might, in turn, contradict the humanitarian spirit of the asylum programs and a fundamental principle underlying immigration law, the principle of family reunification. Although a provision for waiving fees exists for truly needy cases (see 8 CFR 103.7(c)), such a fee requirement and waiver request could delay the family reunification process.

Thirty-two commenters submitted identical or similar comments and/or suggested changes to the proposed fees and processing changes. Specifically, they suggested that:

(1) Establishing a fee from Form I–730 is inappropriate, as it contradicts the humanitarian spirit of refugee and asylum programs, as well as a fundamental principle of immigration law, namely, family reunification.

(2) Requiring refugees and asylees to pay a fee for adjustment of status is inconsistent with the goals of refugee protection and burdensome for persons and families who are likely to be unable to pay such a fee.

(3) District directors should not be granted discretion in the issuance of work authorization because the new asylum regulations contained at 8 CFR 208.7(a) state that non-frivolous asylum applicants shall be granted work authorization.

(4) Regulations and the revised Form I–765 should clearly state that a fee will be charged for renewals of work authorization and that fee waivers are available to those who cannot afford the renewal fee.

(5) Charging asylum applicants for renewal of their Employment Authorization Documents could create confusion for Immigration and Naturalization Service staff.

The following is the Service's response to these comments:

(1) The Service disagrees that there was any intent on the part of the agency to subvert the humanitarian spirit of refugee and asylum programs by charging a fee for filing Form I–730. Periodically, the Service and EOIR review the fee structure of immigration programs in order to remain in compliance with 31 U.S.C. 9701 and Office of Management and Budget (OMB) Circular A–25. Section 9701 authorizes the Attorney General to establish a fee for services provided by the Service and EOIR so that the services will be "self-sustaining to the extent possible." The amount of each fee must be fair and based upon the direct and indirect costs to the Government of providing the service, the value of the service to the recipient, the public policy served by these programs, and other pertinent facts. This is what the Service intended to do by establishing a fee for Form I–730 in the amount of $75.00. However, upon review, the Service has decided not to charge a fee for the I–730 because the Service recognizes that the fee might compromise the Service's commitment to family reunification. Unlike some benefits sought by asylees, a relative petition may be filed at a time when the asylee has recently arrived in the United States and is most unlikely to be financially self-sufficient. Therefore, the fee requirement has been eliminated in furtherance of the agency's commitment to promote family reunification and in light of the special circumstances of refugees and asylees.

(2) The Service has weighed the public policy interest in encouraging asylees to adjust their status to that of lawful permanent resident aliens under 8 CFR 209.2(a) against its legitimate interest in complying with the provisions of 31 U.S.C. 9701 and OMB A–25 regarding fees for special services and benefits and programs which are "self-sustaining to the extent possible." The Service finds no evidence that asylees who have been living in the United States for one year or more and have had time to establish themselves and who are authorized to work are more likely to be impoverished than any other class of benefit applicants. It would, therefore, be unfair to treat such applicants differently from other similarly situated applicants, especially in light of the fact that such treatment would effectively require these other benefit applicants to absorb the cost of the services provided without fee to the adjusting asylees. Any asylee who has been unable to acquire sufficient resources to pay the application fee for adjustment of status within a year after the grant of asylum will qualify for a fee waiver under § 103.7.

Although it is true that persons admitted as refugees, unlike asylees, are not required to pay a fee with an application for adjustment of status, this is because refugees do not file such applications. Rather, section 209(a) of the Immigration and Nationality Act provides that one year after admission as a refugee, an alien admitted in such status is automatically returned to the custody of the Service for inspection and examination to the United States as an immigrant. In contrast, section 209(b) provides that an asylee may be adjusted to permanent resident status only after he or she applies for such adjustment. This final rule affords applicants for adjustment of status who are asylees treatment as favorable as that afforded other applicants for this benefit.

(3) The Service agrees with the commenters that the proposed change to 8 CFR 274a.13(a) authorizing a district director to exercise discretion over an application for work authorization, filed in relation to an asylum claim, contradicts 8 CFR 208.7(a), which mandates that an asylum officer adjudicate an initial request for work authorization filed in relation to an asylum claim. In fact, asylum officers

have no discretion under 8 CFR 208.7(a) to deny a request for work authorization if the asylum application is not frivolous. Therefore, 8 CFR 274a.13(a) is being amended in this final rule to eliminate this apparent contradiction. The Service also agrees that the renewal of employment authorization filed in relation to a claim for asylum under 8 CFR 208.7(c) is not discretionary and that a request to renew work authorization should be granted by the district director if the alien has a pending asylum claim. Therefore, 8 CFR 274a.13 is being amended in this final rule to eliminate this apparent inconsistency. Furthermore, there is no provision in the regulations which allows for an "extension" of work authorization filed in relation with a claim for asylum. Instead, there is a provision in the regulations which allows for a "renewal" of work authorization under 8 CFR 208.7(c). Therefore, in the final rule the words "or extension" in the phrase "an application for renewal or extension of employment authorization" which were included in proposed § 274a.13(a) have been removed.

(4) The final regulations retain the language of the proposed rule which clearly indicates that only renewal, and not initial, Employment Authorization Document applications are required to be filed with a fee, and any revision to the Form I–765 itself will indicate the same. One commenter suggested that the proposed rule presumed that, once granted employment authorization, asylees and refugees can maintain gainful employment permanently. The commenter also suggested that many asylees and refugees lack the basic language and employment skills necessary to locate and retain employment. Although this may well be true of some asylees as well as of some aliens in other immigration classifications, the fee waiver provision of § 103.7 is applicable to such cases. This same commenter also expressed concern that the imposition of fees for the renewal of employment authorization will result in disparate treatment between refugees and asylum applicants, since refugees would not be required to pay the renewal fee if they adjust their status to that of lawful permanent resident aliens after one year of maintaining physical presence in the United States. However, persons granted refugee status have already established their claim of persecution and, therefore, their right to remain in the United States. Asylum applicants are still pursuing their claims and, therefore, are not entitled to the same employment authorization benefits as refugees who have adjusted to lawful permanent residence. The final rule affords identical treatment to asylees and refugees, in that each may adjust his or her status to that of lawful permanent resident (and thereby avoid the need to pay fees for future employment authorization) one year after attaining the status of asylee or being admitted as a refugee.

Finally, one commenter expressed fear that significant, undue delays in granting renewals of employment authorization may result if fees are required. The Service does not anticipate that the submission of a fee will significantly delay the processing of request for renewals, and it will make every effort to issue employment authorization in a timely manner.

(5) The Service staff will be instructed and trained to implement this new fee program.

Several of the commenters suggested that the Service fee accounts are being balanced at the expense of asylees and refugees, that the Service has not explained the methodology used to determine the fee, and that the Service has failed to demonstrate a need to charge the proposed fee.

The methods and procedures used to conduct this fee review were consistent with those used in prior reviews. The formula used to determine new fees contains several elements. Direct and indirect officer and clerical costs per application are first calculated. Added to that are actual and projected general expense costs divided equally among the total projected volume of cases. Finally, the costs of non-revenue work are included.

Several commenters asserted that the Service listed the cost associated with non-revenue programs, such as the refugee and asylum programs, as one of the reasons for across-the-board fee increases in recent months. The actual amount of non-revenue asylum costs included in prior fee increases was a per application surcharge of $2.59. That amount represented unreimbursed program costs, not costs associated with the actual processing of applications, as is the case in this rulemaking.

Finally, this final rule states that the initial application for an Employment Authorization Document (Form I–765) for asylum applicants under § 274a.12(c)(8) may be filed either with the asylum office having jurisdiction over the asylum application or with any other designated Service office. An application for renewal of employment authorization shall be filed with the district director having jurisdiction over the applicant's residence, with the district director having jurisdiction over the port of entry at which the alien applies, or with such other Service office as shall be designated by the Commissioner.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with section 6 of E.O. 12612.

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget, under the provisions of the Paperwork Reduction Act. Clearance numbers for these collections are contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects

8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 209

Aliens, Immigration, Refugees.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF DEPORTATION

1. The authority citation for part 208 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1158, 1226, 1252, 1282; 31 U.S.C. 9701; 8 CFR part 2.

§ 208.7 [Amended]

2. In § 208.7, paragraph (c), introductory text, the first sentence is amended by revising the phrase "Form I–765" to read "Form I–765, with fee,".

PART 209—ADJUSTMENT OF STATUS OF REFUGEES AND ALIENS GRANTED ASYLUM

3. The authority citation for part 209 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1157, 1158, and 1159; 31 U.S.C. 9701.

4. In § 209.2, paragraph (c), the first sentence is revised to read as follows:

§ 209.2 Adjustment of status of alien granted asylum.

* * * * *

(c) *Application.* An application for the benefits of section 209(b) of the Act may be filed on Form I–485, with fee, with the district director having jurisdiction over the applicant's place of residence.* * *

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

5. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

6. In § 274a.13, paragraph (a) is revised to read as follows:

§ 274a.13 Application for employment authorization.

(a) *General.* An application for employment authorization (Form I–765) by an alien under § 274a.12(a) (3)–(8) and (10)–(13), and under § 274a.12(c) of this part, except for § 274a.12(c)(8), shall be filed in accordance with the instructions on Form I–765 with the district director having jurisdiction over the applicant's residence, or the district director having jurisdiction over the port of entry at which the alien applies, or with such other Service office as the Commissioner may designate. The approval of such an application for employment authorization shall be within the discretion of the district director. Where economic necessity has been identified as a factor, the alien must provide information regarding his or her assets, income, and expenses in accordance with instructions on Form I–765. An initial application for employment authorization (Form I–765) for asylum applicants under § 274a.12(c)(8) of this part shall be filed in accordance with the instructions on or attached to Form I–765 with the regional service center, with the district director having jurisdiction over the applicant's residence, with the district director having jurisdiction over the port of entry at which the alien applies, with the asylum office having jurisdiction over the asylum claim or with such other Service office as the Commissioner may designate. An application for renewal of employment authorization submitted in relation to a pending claim for asylum, as provided for in 8 CFR 208.7, shall be filed in accordance with the instructions on or attached to Form I–765 with the asylum office having jurisdiction over the asylum application, with the district director having jurisdiction over the applicant's residence, with the district director having jurisdiction over the port of entry at which the alien applies, or with such other Service office as the Commissioner may designate. An application for an initial employment authorization or for a renewal of employment authorization filed in relation to a pending claim for asylum shall be adjudicated in accordance with 8 CFR 208.7.

* * * * *

Dated: February 22, 1993.

Stuart M. Gerson,

Acting Attorney General.

[FR Doc. 93–4585 Filed 3–2–93; 8:45 am]

BILLING CODE 4410–10–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064–AB18

Statement of Policy on Risk-Based Capital; Presold Residential Construction Loans

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC is amending its risk-based capital guidelines to lower from 100 percent to 50 percent the risk weight assigned to certain loans to builders to finance the construction of presold one-to-four family residential properties. This amendment will implement section 618(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. This amendment is intended to facilitate lending to creditworthy builders to finance the construction of presold homes.

EFFECTIVE DATE: December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Robert F. Storch, Chief, Accounting Section, Division of Supervision, (202) 898–8906, or Walter P. Doyle, Counsel, Legal Division, (202) 898–3682, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Background

On March 14, 1989, the Board of Directors of the FDIC adopted a Statement of Policy on Risk-Based Capital (12 CFR part 325, appendix A, later redesignated as appendix A to subpart A of part 325) which is applicable to all insured state nonmember banks supervised by the FDIC (54 FR 11500). The Office of the Comptroller of the Currency (OCC) and the Federal Reserve Board (FRB) have also adopted similar risk-based capital standards for the banks under their supervision. In addition, the Office of Thrift Supervision (OTS) has implemented risk-based capital rules for savings associations.

Under the FDIC's risk-based capital framework, a bank's balance sheet assets and the credit equivalent amounts of its off-balance sheet items are assigned to one of four broad risk categories—0, 20, 50, or 100 percent—according to the obligor or, if relevant, the guarantor or the nature of the collateral. In this regard, the Basle Accord, the international agreement upon which the FDIC's risk-based capital guidelines are based, affords member countries the discretion to assign a 50 percent risk weight to loans secured by residential properties provided that the loans are fully secured by mortgages on residential property that is rented or is (or is intended to be) occupied by the borrower and the risk weight is applied in accordance with strict prudential criteria.

Thus, the FDIC's risk-based capital guidelines allow loans secured by one-to-four family residential properties that meet certain criteria to qualify for the 50 percent risk category. More specifically, the guidelines state that in order for such a loan to be accorded a 50 percent risk weight, it must be a first lien, must have been approved in accordance with prudent underwriting standards (including standards relating to the loan amount as a percent of the appraised value of the property), and must not be past due 90 days or more or carried in nonaccrual status. In contrast, loans to builders to finance the construction of residential properties that have been presold to purchasers who intend to occupy the property have been assigned to the 100 percent risk category in the FDIC's risk-based capital guidelines on the basis of the perceived inherent riskiness of these loans. Nevertheless, under the Basle Accord, such loans could at national discretion be assigned a 50 percent risk weight if strict prudential criteria are met.

After the risk-based capital guidelines were adopted, the FDIC, the OCC, the FRB, and the OTS (collectively, the banking agencies) reexamined the issue of the captial treatment of residential mortgages. Specifically, the banking agencies began to consider whether a 50 percent risk weight should be applied to certain loans to builders to finance the construction of residential properties

which have been presold to qualifying individuals.

Before the banking agencies proceeded with proposals, Congress enacted the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (RTCRRIA), Public Law 102–233, 105 Stat. 1761 (December 12, 1991). Section 618(a) of the RTCRRIA requires the banking agencies to amend their regulations and guidelines to provide for a risk weight of 50 percent for any single family residential construction loan that meets certain criteria (presold residential construction loans). The criteria listed in section 618(a) are that:

(1) The loan must be for the construction of a one-to-four family residence;

(2) The institution that is lending to the builder must have sufficient documentation, as may be required by the appropriate banking agency, to demonstrate the intent and ability of the buyer to purchase the residence;

(3) The buyer must provide to the builder a nonrefundable deposit in an amount determined by the appropriate banking agency, but not less than one percent of the principal amount of the buyer's mortgage for the purchase of the residence; and

(4) The loan must satisfy prudent underwriting standards as established by the appropriate banking agency.

The FDIC and the FRB initially concluded that an appropriate method for accomplishing the statutorily-mandated lowering of the risk weight for presold residential construction loans from 100 to 50 percent would be to revise the definition of loans "secured by one-to-four family residential properties" as that term is used for purposes of reporting loans in the Consolidated Reports of Condition and Income (Call Reports) filed quarterly by insured commercial and FDIC-supervised savings banks. At the same time, the Call Report definition of "construction and land development" loans secured by real estate would be revised to exclude presold residential construction loans.

The FDIC and the FRB selected this method because each agency's risk-based capital guidelines state that, for purposes of the 50 percent risk weight category, the types of properties that qualify as one-to-four family residential properties are listed in the Call Report instructions. Consequently, a change in the Call Report instructions that would place certain presold residential construction loans within the types of properties that qualify as one-to-four family residential properties would have the effect of reducing the risk weight applicable to presold residential construction loans from 100 percent to 50 percent for banks supervised by the FDIC and the FRB.

On the other hand, the Call Report definitional change would have had no effect on the risk weight for presold residential construction loans held by national banks and thrifts since neither the OCC's nor the OTS's risk-based capital rules reference the Call Report definition of loans secured by one-to-four family residential properties. As a result, both the OCC and OTS needed to amend their risk-based capital rules to effect the lower risk weight.[1]

Nevertheless, the Federal Financial Institutions Examination Council (FFIEC) agreed to publish a proposal that would enable the FDIC and the FRB to achieve the reduction in the risk weight for presold residential construction loans through a Call Report definitional change. The proposal was published on February 3, 1992 (57 FR 4028), and requested comment on whether the FFIEC should add "loans made in accordance with sound lending principles to builders with substantial project equity for the construction of one-to-four family residences that have been presold under firm contracts to purchasers who have obtained firm commitments for permanent qualifying mortgage loans and have made substantial 'earnest money' deposits" to the list of loans that must be reported for Call Report purposes as loans "secured by one-to-four family residential properties" and exclude these loans from the list of loans made for "construction and land development."

Summary of Comments Received

Comments were received from 41 respondents. The respondents included 31 banking organizations, one thrift institution, two bank trade associations, one thrift trade association, four housing-related trade associations, one government-sponsored entity, and one other party. Overall, 32 commenters, or approximately 78 percent of the respondents, agreed with the proposal by expressing the view that the definitional change and consequent reassignment of these loans to a lower risk weight category is fair and consistent with the riskiness inherent in these types of residential real estate loans.

The nine commenters that opposed the proposed Call Report definitional change did so on the grounds that, in their view, the perceived reporting burden to implement the proposal did not justify the merits of the outcome. One of these commenters stated that it would agree with the proposal if the reporting of presold residential construction loans as loans secured by one-to-four family residential properties in the Call Report were optional.

Another suggestion in the comments was that the provisions of section 618(a) be implemented by amending the risk-based capital guidelines rather than by changing the definition of loans secured by one-to-four family residential properties. One commenter observed that this approach would be more appropriate and much simpler for banking organizations to implement than a regulatory reporting change.

The Call Report proposal requested specific comment on builder equity and purchaser earnest money standards, "including the most appropriate way to define and compute a builder's project equity and the percentages or amounts of builder equity and purchaser earnest money that should be at risk." Eleven comment letters suggested definitions and amounts for "builder equity" and "purchaser earnest money." The amounts suggested for builder's equity ranged from ten percent to 75 percent of the contract price. In addition, a number of commenters offered specific suggestions on what that percentage should be based on, such as cost of land acquisition or hard costs of construction. Suggested amounts for substantial earnest money deposits ranged from one percent to 20 percent.

Final Rule

Based upon the public comments received and discussions with the other banking agencies, the FDIC has determined that it would be preferable to accomplish the lowering of the risk weight for presold residential construction loans by directly amending its risk-based capital guidelines rather than by taking the indirect Call Report definitional route as had originally been proposed. The FDIC is therefore amending its guidelines to state that, for risk-based capital purposes, the types of loans secured by one-to-four family residential properties that are eligible for the 50 percent risk weight category include "loans to builders with substantial project equity for the construction of one-to-four family residences that have been presold under firm contracts to purchasers who have obtained firm commitments for permanent qualifying mortgage loans and have made substantial earnest money deposits."

[1] The OCC and the OTS have adopted the necessary amendments to their risk-based capital rules. The OCC amendment became effective October 5, 1992, while the OTS amendment became effective May 13, 1992.

Then, in order to be assigned a 50 percent risk weight, these residential construction loans, like other loans for one-to-four family residences, must satisfy certain criteria that are specified in the risk-based capital guidelines. These criteria state that such loans must be first liens, must be made in accordance with prudent underwriting standards (including standards relating to the loan amount as a percent of the appraised value of the property), and must not be past due 90 days or more or carried in nonaccrual status. In this regard, the FDIC notes that section 618(a) specifies that the banking agencies may establish prudent underwriting standards that loans to builders for one-to-four family residential property construction must meet in order to be accorded a 50 percent risk weight.

Thus, the amended guidelines further state that such loans to builders will be considered prudently underwritten only if the bank has obtained sufficient documentation that the buyer of the home intends to purchase the home (i.e., has a legally binding written sales contract) and has the ability to obtain a mortgage loan sufficient to purchase the home (i.e., has a firm written commitment for permanent financing of the home upon completion), provided the following criteria are met:

(1) The purchaser is an individual(s) who intends to occupy the residence and is not a partnership, joint venture, trust, corporation, or any other entity (including an entity acting as a sole proprietorship) that is purchasing one or more of the homes for speculative purposes.

(2) The builder must incur at least the first ten percent of the direct costs (i.e., actual costs of the land, labor, and material) before any drawdown is made under the construction loan and the construction loan may not exceed 80 percent of the sales price of the presold home.[2]

(3) The purchaser has made a substantial "earnest money deposit" of no less than three percent of the sales price of the home and the deposit must be subject to forfeiture if the purchaser terminates the sales contract.

(4) The earnest money deposit must be held in escrow by the bank financing the builder or by an independent party in a fiduciary capacity and the escrow agreement must provide that, in the event of default arising from the cancellation of the sales contract by the buyer, the escrow funds must first be used to defray any costs incurred by the bank.

This change to the FDIC's risk-based capital guidelines has the effect of including the 50 percent risk weight category those presold residential construction loans that section 618(a) of the RTCRRIA requires to be included in this category.

This final rule is effective December 31, 1992, in order to place insured state nonmember banks on an equal footing with insured depository institutions supervised by the other banking agencies with respect to the risk weight that can be accorded presold residential construction loans in risk-based capital calculations made as of year-end 1992. In addition, a December 31, 1992, effective date is appropriate because the revision reduces rather than expands regulatory burden.

Regulatory Flexibility Act Analysis

The FDIC certifies that the adoption of this amendment to its risk-based capital guidelines will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required.

The amendment will benefit insured state nonmember banks by reducing the minimum amount of capital that they are required to maintain for presold residential construction loans. The proposal would apply equally to all insured state nonmember banks, regardless of size, and should not disproportionately affect a substantial number of small banks.

List of Subjects in 12 CFR Part 325

Bank deposit insurance, Banks, banking, Capital adequacy, Reporting and record keeping requirements, State nonmember banks.

For the reasons set forth in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation amends 12 CFR part 325 as follows.

PART 325—CAPITAL MAINTENANCE

1. The authority citation for part 325 is revised to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1919(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 3907, 3909; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2386 (12 U.S.C. 1828 note).

2. In appendix A to subpart A of part 325, the first paragraph of section II.C. category 3 and paragraph (1) of table II. category 3 are revised to read as follows:

Appendix A to subpart A of part 325—Statement of Policy on Risk-Based Capital

* * * * *

II. * * *

C. * * *

Category 3 * * * This category includes loans fully secured by first liens[26] on *one-to-four family residential properties*, provided that such loans have been approved in accordance with prudent underwriting standards, including standards relating to the loan amount as a percent of the appraised value of the property,[27] and provided that the loans are not past due 90 days or more or carried in nonaccrual status.[28] The types of loans that qualify as loans secured by one-to-four family residential properties are listed in the instructions for preparation of the Consolidated Reports of Condition and Income. These properties may be either owner-occupied or rented. In addition, for risk-based capital purposes, loans secured by one-to-four family residential properties include loans to builders with substantial project equity for the construction of one-to-four family residences that have been presold under firm contracts to purchasers who have obtained firm commitments for permanent qualifying mortgage loans and have made substantial earnest money deposits. Such loans to builders will be considered prudently underwritten only if the bank has obtained sufficient documentation that the buyer of the home intends to purchase the home (i.e., has a legally binding written sales contract) and has the ability to obtain a mortgage loan sufficient to purchase the home (i.e., has a firm written commitment for permanent financing of the home upon completion), provided the following criteria are met:

(1) The purchaser is an individual(s) who intends to occupy the residence and is not a partnership, joint venture, trust, corporation, or any other entity (including an entity acting as a sole proprietorship) that is purchasing one or more of the homes for speculative purposes;

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[2] Under the FDIC's real estate lending standards regulation and guidelines, as a general matter, institutions may extend loans for the construction of one-to-four family residences with loan-to-value (LTV) ratios of up to 85 percent. These standards and guidelines, which implement section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991, become effective on March 19, 1993 (57 FR 62890). While the guidelines permit institutions to make loans for the construction of one-to-four family residences with LTV ratios that exceed 80 percent, such loans would not qualify for the 50 percent risk category. Rather, they should be assigned to the 100 percent risk category.

[26] If a bank holds the first and junior lien(s) on a residential property and no other party holds an intervening lien, the transactions will be treated as a single loan secured by a first lien.

[27] For risk-based capital purposes, the loan-to-value ratio generally is based upon the most current appraised value of the property. The appraisal should be performed in a manner consistent with the Federal banking agencies' real estate appraisal guidelines and with the bank's own appraisal guidelines.

[28] Real estate loans that do not meet all of the specified criteria or that are made for the purpose of property development are placed in the 100 percent risk category.

(2) The builder must incur at least the first ten percent of the direct costs (i.e., actual costs of the land, labor, and material) before any drawdown is made under the construction loan and the construction loan may not exceed 80 percent of the sales price of the presold home;

(3) The purchaser has made a substantial "earnest money deposit" of no less than three percent of the sales price of the home and the deposit must be subject to forfeiture if the purchaser terminates the sales contract; and

(4) The earnest money deposit must be held in escrow by the bank financing the builder or by an independent party in a fiduciary capacity and the escrow agreement must provide that, in the event of default arising from the cancellation of the sales contract by the buyer, the escrow funds must first be used to defray any costs incurred by the bank.

* * * * *

Table II. * * *

Category 3 * * *

(1) Loans fully secured by first liens on one-to-four family residential properties (including certain presold residential construction loans), provided that the loans were approved in accordance with prudent underwriting standards and are not past due 90 days or more or carried in nonaccrual status.

* * * * *

By order of the Board of Directors.

Dated at Washington, DC, this 23rd day of February, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93-4711 Filed 3-2-93; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-ANE-63; Amendment 39-8483, AD 93-02-01]

Airworthiness Directives; Garrett Engine Division, Allied-Signal Inc., Model TPE331 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Garrett Engine Division, Allied-Signal Incorporated, Model TPE331 series turboprop engines. This action supersedes priority letter AD 92-02-19 that currently requires removal and replacement of certain fuel manifold assemblies. This action also requires the removal and replacement of the manifolds but changes the applicability. This amendment is prompted by reports of cracks in the fuel manifold assemblies that have led to fuel leaks. The actions specified by this AD are intended to prevent fuel spraying on hot turbine components, which can result in an engine fire.

DATES: Effective March 18, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 18, 1993.

Comments for inclusion in the Rules Docket must be received on or before April 2, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-ANE-63, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

The service information referenced in this AD may be obtained from Garrett General Aviation Services Division, Distribution Center, 2340 E. University, Phoenix, Arizona 85034. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Propulsion Branch, ANM-140L, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, Aircraft Certification Service, FAA, 3229 East Spring Street, Long Beach, California 90806-2425; telephone no. (310) 988-5246; fax (310) 988-5210.

SUPPLEMENTARY INFORMATION: On January 14, 1992, the FAA issued priority letter AD 92-02-19, applicable to Garrett Engine Division, Allied-Signal Incorporated, Model TPE331 series turboprop engines, which requires removal and replacement of certain fuel manifold assemblies manufactured by Stratoflex between February 1991 and July 1991. Analysis has revealed that fuel hose segments manufactured by Stratoflex during this time period have developed cracks in the internal teflon tube. That action was prompted by three reports of cracks in fuel manifold assemblies which have lead to fuel leaks. That condition, if not corrected, could result in fuel spraying on hot turbine components, which can result in an engine fire.

Since the issuance of that priority letter AD, the FAA has determined that fuel manifold assembles with no identification tags, that are presently affected by the AD, were manufactured prior to the subject time period. Hence, the provision to remove and replace fuel manifold assemblies with no identification tags, has been deleted.

The time period to remove and replace affected fuel manifold assemblies has been changed to 50 hours time in service after the effective date.

The FAA has reviewed and approved the technical contents of Allied-Signal Aerospace Company, Garrett Engine Division, Alert Service Bulletin (SB) No. TPE331-A73-0198, Revision 1, dated January 10, 1992, that describes the removal and replacement of fuel manifold assemblies.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, this AD supersedes priority letter AD 92-02-19 to delete the requirement to remove and replace fuel manifold assemblies with no identification tags. The actions are required to be accomplished in accordance with the service bulletin described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "ADDRESSES." All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments

submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–ANE–63." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have significant federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93–02–01 Garrett Engine Division, Allied-Signal Incorporated: Amendment 39–8483. Docket No. 92–ANE–63.

Applicability: Garrett Engine Division, Allied-Signal Incorporated Model TPE331–8, –10, –11, and –12 series turboprop engines installed on but not limited to Cessna Model 441 series (Conquest or Conquest II), Construcciones Aeronauticas, S.A. (CASA) 212 series, Twin Commander 695 series, Mitsubishi MU–2B series (Marquise/Solitaire), Fairchild SA226 and SA227 series (Merlin and Metro), and British Aerospace (BAe) Jetstream 3101 and 3201 series (31 and 32) aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel spraying on hot turbine components, which can result in an engine fire, accomplish the following:

(a) Within the next 50 hours time in service after the effective date of this AD, remove from service in accordance with the Accomplishment Instructions of Garrett Engine Division, Allied-Signal Aerospace Company Alert Service Bulletin (SB) No. TPE331–A73–0198, Revision 1, dated January 10, 1992, Stratoflex fuel manifold assemblies, Part Number 3102469–2, manufactured on the dates listed in the service bulletin, and replace with a serviceable part.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The removal and replacement of the fuel manifold shall be done in accordance with the following service bulletin:

Document No.	Page	Revision	Date
Garrett Engine Division, Allied-Signal Aerospace Company, SB No. TPE331–A73–0198	1, 5–8 2–4	Revision 1 Original	Jan. 10, 1992. Dec. 20, 1991.
Total Pages	8.		

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Garrett General Aviation Services Division, Distribution Center, 2340 E. University, Phoenix, Arizona 85034. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, Room 311, 12 New England Executive Park, Burlington, Massachusetts; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment supersedes priority letter AD 92–02–19, issued January 14, 1992.

(f) This amendment becomes effective on March 18, 1993.

Issued in Burlington, Massachusetts, on January 11, 1993.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–4825 Filed 3–2–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 92–ANE–13; Amendment 39–8344; AD 92–08–51]

Airworthiness Directives; Textron Lycoming Model ALF502R–5 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) Telegraphic AD T92–08–51 that was sent previously to all known U.S.

owners and operators of Textron Lycoming Model ALF502R–5 turbofan engines by individual telegrams. This AD requires replacement of the engine fuel control with an improved fuel control or rework of the engine fuel control to adjust the acceleration and starting schedules and bleed band operating limits. This amendment is prompted by reports of in-flight uncommanded engine power reductions during inclement weather and icing conditions. The actions specified by this AD are intended to prevent in-flight uncommanded engine power reductions of engines during inclement weather and icing conditions.

DATES: Effective March 18, 1992, to all persons except those persons to whom it was made immediately effective by telegraphic AD T92–08–51, issued April 8, 1992, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 18, 1993.

Comments for inclusion in the Rules Docket must be received on or before May 3, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–ANE–13, 12 New England Executive Park, Burlington, Massachusetts 01803–5299.

The applicable service information may be obtained from Textron Lycoming, Stratford Division, 550 Main Street, Stratford, Connecticut 06497. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 12 New England Executive Park, Room 311, Burlington, Massachusetts; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Mark A. Rumizen, Engine Certification Office, Engine and Propeller Directorate, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803: Telephone (617) 273–7087; Fax (617) 270–2412.

SUPPLEMENTARY INFORMATION: On April 8, 1992, the FAA issued telegraphic AD T92–08–51, applicable to Textron Lycoming ALF502R series turbofan engines, that requires replacement of the engine fuel control with an improved fuel control or rework of the engine fuel control to adjust the acceleration and starting schedules and bleed band operating limits. That action was prompted by four events within the past year of uncommanded inflight engine power reductions of Textron Lycoming ALF502R–5 engines during inclement weather or icing conditions. In the most recent incident, all four engines experienced an uncommanded inflight engine power reduction to a sub-idle condition, which resulted in the inability of the aircraft to maintain altitude until it descended to 10,000 feet where two engines were successfully restarted. In another incident, three of the four engines experienced an uncommanded engine power reduction to a sub-idle condition resulting in a single engine emergency landing. This condition, if not corrected, could result in in-flight uncommanded power reductions of engines during inclement weather and icing conditions.

The FAA has reviewed and approved the technical contents of Textron Lycoming Alert Service Bulletin No. A–ALF 502R 73–12, Revision 1, dated April 7, 1992, that describes replacement of the existing fuel control with an improved fuel control or rework of the existing fuel control by adjusting the acceleration and starting schedules and bleed band operating limits.

Since the unsafe condition described is likely to exist or develop on other engines of the same type design, the FAA issued Telegraphic AD T92–08–51 to prevent in-flight uncommanded engine power reductions of engines during inclement weather or icing conditions. The AD requires replacement of the existing engine fuel controls, Part Numbers (P/N) 2–163–810–07, 2–163–810–12, or 2–163–810–15 with an improved fuel control, P/N 2–163–810–20, 2–163–810–21, or 2–163–810–23 or rework of the existing engine fuel controls to the improved configuration by adjusting the acceleration and starting schedules and bleed band operating limits. The reworked engine fuel controls must be reidentified with the applicable new P/N 2–163–810–20, 2–163–810–21, or 2–163–810–23. The actions are required to be accomplished in accordance with the alert service bulletin described previously.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on April 8, 1992, to all known U.S. owners and operators of Textron Lycoming ALF502R series turbofan engines. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to Section 39.13 of part 39 of the Federal Aviation Regulations to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES**." All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–ANE–13." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with

respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-08-51 Textron Lycoming: Amendment 39-8344. Docket 92-ANE-13.

Applicability: Textron Lycoming Model ALF502R series turbofan engines installed on British Aerospace BAe-146 airplanes.

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded in-flight engine power reduction of engines during inclement weather or icing conditions, accomplish the following:

(a) Replace the existing engine fuel control, Part Number (P/N) 2-163-810-07, 2-163-810-12, or 2-163-810-15 with an improved fuel control, P/N 2-163-810-20, 2-163-810-21, or 2-163-810-23, or rework the existing engine fuel control, in accordance with Textron Lycoming Alert Service Bulletin (ASB) No. A-ALF 502R 73-12, Revision 1, dated April 7, 1992, at the first maintenance access of the engine fuel control or within 300 operating cycles after the effective date of this AD, whichever occurs first.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office, FAA, Engine and Propeller Directorate. The request should be forwarded through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The replacement or rework of the engine fuel control shall be done in accordance with the following Textron Lycoming Alert Service Bulletin (ASB):

Document No.	Pages	Version	Date
Textron Lycoming ASB A-ALF-502R 73-12	1, 2, 4, 5	Rev. 1	April 7, 1992.
Total pages: 8	3, 6, 7, 8	Original	April 1, 1992.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Textron Lycoming, Stratford Division, 550 Main Street, Stratford, Connecticut 06497. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC 20001.

(e) This amendment becomes effective on March 18, 1993, to all persons except those persons to whom it was made immediately effective by telegraphic AD T92-08-51, issued April 8, 1992, which contained the requirements of this amendment.

Issued in Burlington, Massachusetts, on January 26, 1993.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93-4826 Filed 3-2-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 93-CE-18-AD; Amendment 39-8504; AD 93-04-02]

Airworthiness Directives; Rockwell International/Collins Aviation Division TDR-94D Mode S Transponders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Rockwell International/Collins Aviation Division (Collins) TDR-94D Mode S transponders installed on certain aircraft. This action requires fabricating and installing a placard that specifies limiting the operation of this equipment to the traffic advisory mode only, and modifying the software of this equipment, which will eliminate the placard requirement. Tests have shown that these Mode S transponders, when operating in the resolution advisory mode, could lose the capability of coordinating with other aircraft. This could result in either a near-miss situation or a mid-air collision. The actions specified by this AD are intended to prevent collisions or near misses caused by failure of these Mode S transponders.

DATES: Effective March 26, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 26, 1993.

Comments for inclusion in the Rules Docket must be received on or before May 21, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 93-CE-18-AD, room 1558, 01 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Rockwell International/Collins General Aviation Division, 1100 West Hibiscus Boulevard, Melbourne, Florida 32901. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 93-CE-18-AD, room 1558,

601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. A.E. Clark, Manager, Systems and Equipment Branch, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–3020, Facsimile (404) 991–3606.

SUPPLEMENTARY INFORMATION: The Traffic Alert and Collision Avoidance System (TCAS) is a system that was developed by the FAA and the aviation industry as a way of reducing the risks of mid-air collisions between aircraft equipped with the system. In particular, TCAS II provides traffic advisories (TA) and resolution advisories (RA). A TA depicts the position of the traffic relative to the TCAS equipped aircraft, which assists the pilot in visually acquiring intruding aircraft. An RA indicates the vertical rate that must be achieved or the recommended escape maneuver needed to maintain safe separation from threatening aircraft.

The Mode S transponder works with the TCAS computer where control information is relayed to the pilot through this transponder. Recent compatibility testing between two aircraft equipped with different TCAS II systems indicated a problem with the Collins TDR–94D Mode S transponders, part number (P/N) CPN 622–9210–002. Under the present configuration, this Mode S transponder could lose the capability of coordinating RA's between more than one aircraft. This loss of coordination could result in more than one aircraft selecting the same climb or dive RA, possibly resulting in a near-miss situation or mid-air collision.

The FAA has determined that the affected Mode S transponders could be installed on, but not limited to, the following:

Aerospatiale ATR–42 and ATR–72 series airplanes
Saab 340A and 340B airplanes
Short Model SD3–60 airplanes
de Havilland DHC–7 and DHC–8 series airplanes
British Aerospace ATP airplanes
Gulfstream G–II, G–III, and G–IV series airplanes
Dassault Mystere-Falcon 50, Mystere-Falcon 200, and Mystere Falcon 900 airplanes
Canadair Challenger CL–601 airplanes
British Aerospace HS 125–700A airplanes
Beechcraft 300 series airplanes

Collins has issued Service Bulletin (SB) TDR–94/94D–34–6, Revision 2, dated September 21, 1992, which specifies procedures for modifying the software of these Collins TDR–94D Mode S transponders, P/N CPN 622–9210–002.

After examining the circumstances and reviewing all available information related to the incidents described above including the referenced service information, the FAA has determined that (1) Aircraft equipped with these Mode S transponders should not operate in the RA mode until the software is modified; and (2) AD action should be taken in order to prevent a mid-air collision or a near-miss situation caused by failure of these Mode S transponders.

Since an unsafe condition has been identified that is likely to exist or develop in other Collins TDR–94D Mode S transponders, P/N CPN 622–9210–002, of the same type design, this AD requires fabricating and installing a placard that limits the operation of this equipment in the traffic advisory (TA) mode only, and eventually modifying the software of this equipment, which will eliminate the placard requirement. The actions are to be accomplished in accordance with the instructions in Collins SB TDR–94/94D–34–6, Revision 2, dated September 21, 1992.

The condition specified by the required AD is not caused by actual hours time-in-service (TIS) of the aircraft that the equipment is installed in. There is no correlation between improper operation of the equipment and the age or number of times the equipment is utilized. Based on this, the compliance time of the required AD is presented in calendar time instead of hour TIS.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 93–CE–18–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39

of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-04-02 Rockwell International/Collins Aviation

Division: Amendment 39-8504; Docket No. 93-CE-18-AD.

Applicability: TDR-94D Mode S transponders, P/N CPN 622-9210-002, installed on, but not limited to the following, certificated in any category:

Aerospatiale ATR-42 and ATR-72 series airplanes
Saab 340A and 340B airplanes
Short Model SD3-60 airplanes
de Havilland DHC-7 and DHC-8 series airplanes
British Aerospace ATP airplanes
Gulfstream G-II, G-III, and G-IV series airplanes
Dassault Mystere-Falcon 50, Mystere-Falcon 200, and Mystere-Falcon 900 airplanes
Canadair Challenger CL-601 airplanes
British Aerospace HS 125-700A airplanes
Beechcraft 300 series airplanes.

Compliance: Required as indicated, unless already accomplished.

To prevent a mid-air collision or a near-miss situation caused by failure of these Mode S transponders, accomplish the following:

(a) Within the next 10 calendar days after the effective date of this AD, fabricate a placard with the following words in letters at least 0.10-inch in height and install this placard within the pilot's clear view on the instrument panel: "OPERATION OF TCAS II IN ANY MODE OTHER THAN THE "TA ONLY" MODE IS PROHIBITED."

(b) Within the next 6 calendar months after the effective date of this AD, modify the software of the Mode S transponders in accordance with the Accomplishment Instructions section of Collins Service Bulletin TDR-94/94D-34-6, Revision 2, dated September 21, 1992. The placard required by paragraph (a) of this AD is no longer required after this modification is incorporated.

(c) If parts for the above modification are not available, the airplane operator may comply with the placard requirement of paragraph (a) of this AD until the modification is incorporated based upon a schedule established by the manufacturer through the Atlanta Aircraft Certification Office.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta Aircraft Certification Office.

(f) The modification required by this AD shall be done in accordance with Collins Service Bulletin TDR-94/94D-34-6, Revision 2, dated September 21, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Rockwell International/Collins General Aviation Division, 1100 West Hibiscus Boulevard, Melbourne, Florida 32901. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(g) This amendment (39-8504) becomes effective on March 26, 1993.

Issued in Kansas City Missiouri, on February 23, 2993.

John E. Tigue,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-4824 Filed 3-2-93; 8:45 am]

BILLING CODE 4910-13-U

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14 CFR Part 71

[Airspace Docket No. 90-AWA-11]

Establishment of the Bangor International Airport Airport Radar Service Area; ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final rule published on February 9, 1993 (58 FR 7738). This final rule established an Airport Radar Service Area (ARSA) at Bangor International Airport, Bangor, ME. The final rule contained erroneous information concerning the availability of the ARSA service. The description of the Bangor ARSA is corrected to remove the reference to specific days and hours of operation applicable to the Bangor Tower and Approach Control. Service in the ARSA will be available continuously.

EFFECTIVE DATE: 0901 U.T.C., April 1, 1993.

FOR FURTHER INFORMATION CONTACT:

Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9255.

SUPPLEMENTARY INFORMATION: On February 9, 1993, the FAA published a final rule that established an ARSA at the Bangor International Airport (58 FR 7738). The final rule contained erroneous information concerning the availability of the ARSA service. Reference to the specific days and hours of operation applicable to the Bangor Tower and Approach Control was published in error because the ARSA service will be available continuously. This action corrects the description of the Bangor ARSA by removing any language referring to these days an hours of operation.

Correction of Final Rule

Accordingly, pursuant to the authority delegated to me, the publication in the **Federal Register** on February 9, 1993 (58 FR 7738; **Federal Register** Document 93-2927) and the corresponding description in FAA Order 7400.7A, which is incorporated by reference in 14 CFR 71.1, are corrected as follows:

§ 71.1 [Corrected]

On page 7744 in the second column, the description for the Bangor, ME, ARSA is corrected to read as follows:

ANE ME ARS Bangor, ME
Bangor International Airport
(lat. 44°48'27"N., long. 68°49'41"W.)
Bangor VORTAC
((lat. 44°50'31"N., long. 68°52'26"W.)

That airspace extending upward from the surface to and including 4,200 feet MSL within a 5-mile radius of Bangor International Airport; and that airspace extending upward from 2,000 feet MSL to and including 4,200 feet MSL within a 10-mile radius of the airport from the 111° radial of the Bangor VORTAC clockwise to the 232° radial of the VORTAC; and that airspace extending upward from 1,500 feet MSL to and including 4,200 feet MSL within a 10-mile radius of the airport from the 232° radial of the VORTAC clockwise to the 111° radial of the VORTAC.

Issued to Washington, DC, on February 23, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93-4875 Filed 3-2-93; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 121

[Docket No. 26142; Amdt. No. 121-230]

RIN 2120-AB45

Miscellaneous Operational Amendments; Flight and Navigational Equipment; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correcting amendments.

SUMMARY: On September 15, 1992, the Federal Aviation Administration (FAA) issued a final rule amending the Federal Aviation Regulations governing, among other things, flight and navigational equipment (57 FR 42662; September 15, 1992). This action corrects an error concerning the intent of the effective date for large turbojet powered airplanes and large turboprop powered airplanes.

EFFECTIVE DATE: April 2, 1993.

FOR FURTHER INFORMATION CONTACT: Larry Youngblut, Regulations Branch (AFS-240), Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; Telephone (202) 267-8096.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 1992, the FAA issued a final rule amending the Federal Aviation Regulations governing, among other things, flight and navigational equipment (57 FR 42662; September 15, 1992). As amended, § 121.305 reads, in pertinent part, "After October 17, 1994 on large airplanes other than reciprocating-engine-powered airplanes, in addition to two gyroscopic bank-and-pitch indicators (artificial horizons) for use at the pilot stations, a third such instrument * * *." The FAA did not propose and at no time intended to change the effective date of all of § 121.305(j). The agency's proposal and intent was to extend the applicability of § 121.305(j) to all large turboprop airplanes, with a 2-year compliance date for such large turboprop airplanes.

This action corrects the error by amending the phrase "After October 17, 1994 on large airplanes other than reciprocating-engine-powered airplanes" to read, "On large turbojet powered airplanes, and after October 17, 1994, on large turboprop powered airplanes,".

List of Subjects in 14 CFR Part 121

Air carriers, Air transportation, Aviation safety, Common carriers, Safety, Transportation.

Accordingly, 14 CFR part 121 is corrected by making the following correcting amendments:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS, AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421-1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983).

§ 121.305 [Corrected]

2. Section 121.305 is amended by revising the introductory text of paragraph (j) to read as follows:

§ 121.305 Flight and navigational equipment.

* * * * *

(j) On large turbojet powered airplanes, and after October 17, 1994, on large turboprop powered airplanes, in addition to two gyroscopic bank-and-pitch indicators (artificial horizons) for use at the pilot stations, a third such instrument that—

* * * * *

Issued in Washington, DC, on February 25, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

[FR Doc. 93-4874 Filed 3-2-93; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2700

Procedural Rules

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Final rule.

SUMMARY: This rule makes final the first major revision of the present procedural rules of the Federal Mine Safety and Health Review Commission (Commission). The ultimate goal of the Commission's procedural rules remains the just, speedy and inexpensive determination of all proceedings before the Commission. These final rules are intended to carry forward the present rules' tradition of simple, easily understood, and efficient procedure in an administrative setting.

EFFECTIVE DATE: These revised rules will take effect on May 3, 1993.

The final rules will apply to cases initiated after the rules take effect. The final rules also will apply to further proceedings in cases then pending, except to the extent that such application would be infeasible or unfair, in which event the present procedural rules would apply. The Commission will receive any further comment on these rules during the 60-day period before they take effect. The Commission welcomes comment on its procedural rules, which are always open to comment and suggestions.

ADDRESSES: Comments and questions may be sent to the Office of General Counsel, Federal Mine Safety and Health Review Commission, 1730 K Street, N.W., Ste. 630, Washington, D.C. 20006-3867.

FOR TELEPHONE INQUIRIES CALL: L. Joseph Ferrara (General Counsel), 202-653-5610 (202-708-9300 for TDD Relay). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Discussion of Procedural Rules

A. Background

The Commission is an independent adjudicative agency that provides administrative trial and appellate review of cases arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq. (1988)(Mine Act). The Commission is not a part of, and is independent from, the Department of Labor and that Department's Mine Safety and Health Administration (MSHA). The Commission's procedural rules govern practice and procedure in proceedings at both the trial and review levels.

The Commission adopted its present procedural rules on June 29, 1979 (44 FR 38226). Only a few rules have been revised since that time. In 1989, the Commission determined that a general reexamination of its rules was appropriate to take account of ten years of experience with their operation. In developing proposed revisions, the Commission considered its own experience with the rules and also the views of its administrative law judges, who preside at the Commission's trial proceedings. The Commission considered possible revisions in a series of public meetings and in 1990 published proposed revisions in the **Federal Register** (55 FR 4853). In its discussion of the proposals, the Commission explained that it was adapting its rules to present needs in light of experience and changing practical and legal circumstances. (55 FR 4853).

The proposed rules clarified some procedures, modified the treatment of other procedural subjects in light of case law developments under the Mine Act,

and addressed a number of procedural topics not covered in the original rules. For example, the procedures for contesting citations and orders pursuant to section 105(d) were set forth in greater detail. See proposed § 2700.20 (55 FR 4859); compare present 29 CFR 2700.20. Procedures for pretrial discovery also were set forth in greater detail. See proposed §§ 2700.56–2700.59 (55 FR 4862); compare present 29 CFR 2700.55–2700.58. The Commission proposed adopting new procedures dealing with intervention and amicus curiae participation at both the trial and review levels. See proposed §§ 2700.4 (b) and (c), 2700.73, and 2700.74 (55 FR 4858, 4864); compare present 29 CFR 2700.4. The Commission also clarified its procedures in such areas as interlocutory review, disciplinary referral, and ex parte communications. See proposed §§ 2700.76, 2700.80, and 2700.82 (55 FR 4865–66); compare present 29 CFR 2700.74, 2700.80, and 2700.82.

Although notice and comment rulemaking, as required under the Administrative Procedure Act, does not apply to rules of agency procedure such as these rules (see 5 U.S.C. 553(b)(3)(A)), the Commission has traditionally encouraged public participation in its rulemaking process. The Commission invited the comment and suggestions of the mining community, the Commission bar, and all other interested persons (55 FR 4854). A number of organizations and individuals filed comments, including the American Mining Congress and the National Coal Association (joint filing), the Appalachian Research & Defense Fund of Kentucky, the Office of the Solicitor of the Department of Labor, several law firms engaged in practice before the Commission, and the United Mine Workers of America.

Almost all the Commission's proposed rules received some comment, in particular: (1) The proposed deletion from the present rules (29 CFR 2700.2) of the definition of the term "representative of miners" (proposed § 2700.2 (55 FR 4858)); (2) intervention and amicus curiae participation (proposed §§ 2700.4 (b) and (c), 2700.73, and 2700.74 (55 FR 4858, 4864)); (3) the manner and date of filing pleadings and other documents (proposed § 2700.5(d) (55 FR 4858)); (4) the proposed deletion of requirements in the present rules (29 CFR 2700.7(c), 2700.26, and 2700.27) that certain documents generated in Mine Act litigation be posted on mine bulletin boards (proposed §§ 2700.7, 2700.26, and 2700.28 (55 FR 4859, 4860)); (5) the proposed deletion from the present rules (29 CFR 2700.8(b)) of the 5-day "grace" period for filing documents in response to those served by mail (proposed § 2700.8 (55 FR 4859)); (6) the treatment of contests of citations and orders pursuant to section 105(d) of the Mine Act (proposed § 2700.20 (55 FR 4859)); (7) hearing sites (proposed § 2700.51 (55 FR 4861–4862)); (8) the timing for initiation and completion of discovery (proposed §§ 2700.56 (c) and (d) (55 FR 4862)); (9) the proposed deletion from the present rules (29 CFR 2700.59) of the provision that names of miner witnesses not be disclosed until 2 days prior to a hearing (proposed § 2700.61 (55 FR 4863)); and (10) the treatment of ex parte communications (proposed § 2700.82 (55 FR 4866)).

While most commenters expressed degrees of agreement with various aspects of the proposed rules, there also were objections. Some commenters opposed the proposed deletions from the present rules of the definition of the term "representative of miners"; of the references to posting requirements; of the 5-day grace period for filing documents in response to those served by mail; and of the limitation on the disclosure of the names of miner witnesses until 2 days prior to a hearing. Disagreement was expressed with the proposal to make filing by mail complete upon receipt by the Commission. The Commission was urged to permit filing and service by facsimile transmission (FAX). Objections were raised to the proposed time periods for pre-trial discovery. In addition, some commenters suggested new rules.

While action on the proposed rules was pending, the Commission resolved by case adjudication a number of procedural issues raised in the comments. These issues are discussed in the section-by-section analysis. In public meetings held in late 1992, the Commission considered the comments and deliberated on the rules. The Commission again sought and received suggestions from its administrative law judges concerning a number of trial-related rules.

The final rules retain many provisions of both the present and proposed rules. In significant changes from the proposed rules, the Commission has restored a reference to the Mine Act's posting requirement (§ 2700.7(b)), and has retained the present requirement (29 CFR 2700.59) that the names of miner witnesses not be disclosed until 2 days prior to trial (§ 2700.62). In general, filing by mailing is effective upon mailing (§ 2700.5(d)). The Commission also has decided to retain the present 5-day grace period (29 CFR § 2700.8(b)) for filing documents in response to those served by mail (§ 2700.8).

In response to comments and upon further reflection, the Commission has provided for FAX filing of motions for expedition of proceedings (§ 2700.52(a)) and of petitions for discretionary review (§ 2700.70(a)). FAX filing may also be permitted for other documents (§ 2700.5(d)). The Commission has further clarified its general filing and service rules. The rules provide throughout that, whenever legible copies of underlying citations and orders are not attached to pleadings, as required, the pleadings shall set forth their text. Subpoenas may now also be served by registered or certified mail, return receipt requested (§ 2700.60). The final rules further clarify the proposed rules on intervention and amicus curiae participation (§§ 2700.4(b) and (c), 2700.73, and 2700.74), discovery (§§ 2700.56–2700.59), recusal and disqualification (§ 2700.81), and ex parte communications (§ 2700.82).

The Commission also has made editorial changes in the final rules. Rules that are based on the text of the Mine Act follow the statute. Certain rules have been changed to accord with related changes in others.

The Commission thanks all those who commented on the proposed rules for their contribution.

B. Section-by-Section Analysis

Set forth below is an analysis of the more significant comments received on the Commission's proposed rules and the final actions taken. Minor changes or modifications to present or proposed rules are not discussed. All comments were carefully considered. Readers are advised to consult the text of the final rules and not to rely exclusively on this summary of changes.

Subpart A—General Provisions

§ 2700.1 Scope; applicability of other rules; construction.

Paragraph (b) retains the proposed language that the Commission also be guided, so far as practicable, by the Federal Rules of Appellate Procedure when considering procedural questions not covered by the Mine Act, the Commission's procedural rules, or the Administrative Procedure Act. One commenter suggested that this section should also incorporate the Federal Rules of Evidence. The Commission declines to incorporate expressly into its simple administrative procedure the more complex Federal Rules of Evidence. *See Mid-Continent Resources, Inc.*, 6 FMSHRC 1132, 1136 n.6 (May 1984).

§ 2700.2 Definitions.

The proposed rule deleted the definition of "representative of miners" from the present rules. That term is not defined in the Mine Act. The present procedural rule (29 CFR 2700.2) merely repeats the definition promulgated by the Secretary of Labor (Secretary) at 30 CFR 40.1(b). Some commenters objected to the proposed deletion. The Commission is aware of the importance of the role of miners' representatives under the Mine Act but deems it inappropriate to incorporate in its procedural rules the Secretary's definition. The definition of miners' representative and its application in various circumstances have been at issue in litigation under the Mine Act, and the Commission reserves resolution of such questions to its adjudicative process. This procedural determination is not intended to signal any view as to the reasonableness of the Secretary's definition or its application.

§ 2700.3 Who may practice.

The Commission adopts the proposed rule with minor changes. In the Commission's judgment, a number of the matters raised by commenters, such as the addition of a requirement that representation of a party by an owner, officer, or employee be specifically authorized, are best resolved in adjudication.

§ 2700.4 Parties, intervenors, and amici curiae.

The proposed rule added new procedures dealing with intervention and amicus curiae participation at the trial level. The Commission received a number of comments on these proposals and has modified the proposals. Paragraph (b)(2) provides that motions to intervene made by persons other than affected miners or their representatives shall be filed before the start of a hearing on the merits, unless the judge, for good cause shown, permits later filing.

Some commenters suggested that the proposed criteria for intervention were too restrictive, and urged the Commission to permit intervention on the basis of an interest in the issues involved in a proceeding. The Commission has determined that interest in issues is too broad a criterion for intervention. Such a standard could serve to deprive the parties of control over the litigation and could encumber the Commission's simple administrative trial process. See Mid-Continent Resources, Inc., 11 FMSHRC 2399 (December 1989)(discussing criteria for non-party standing to appeal a Commission judge's decision to the Commission). In denying a motion to intervene, however, a Commission judge may alternatively permit the movant to participate in the proceeding as amicus curiae (§ 2700.4(c)).

In response to comments, the Commission has deleted from paragraph (c) a time limit for making a motion for amicus curiae participation. Amicus participation may be helpful at any stage of a proceeding, and Commission judges will exercise their sound discretion in considering the timeliness of such motions.

§ 2700.5 General requirements for pleadings and other documents; status or informational requests.

The Commission received extensive comments on the proposed manner and date of filing. The proposed rule changed the date on which certain mailed pleadings are deemed filed, from the date of mailing to the date of receipt by the Commission. A number of commenters explained the practical problems caused by a system based upon receipt. After further considering the proposed rule, the Commission has decided to revise its procedure for filing by mail and agrees that certain filings should be effective upon mailing.

Under present procedure (29 CFR 2700.5(d)), filing may be accomplished by personal delivery or by mail and is effective upon receipt or upon mailing by certified or registered mail, return receipt requested. Consistent with present procedure, paragraph (d), in general, permits filing either by personal delivery or by mail. FAX filing is also allowed in certain instances. Paragraph (d) now requires that initial pleadings filed by mail must be sent by certified or registered mail, return receipt requested. Such a requirement will provide documentation of initial pleadings. This requirement applies to the mailing of a contest of a citation or order, a petition for assessment of penalty, a complaint for compensation, a discrimination complaint, an application for temporary reinstatement, and an application for temporary relief. Contests of orders include contests of orders issued under either section 104 or section 107 of the Mine Act. In order to simplify mail filing after initiation of pleadings, paragraph (d) further provides that all subsequent documents, such as responsive pleadings and briefs, may be filed with a judge or the Commission by first class mail. This procedure for filing by mail generally parallels the service by mail procedure set forth in § 2700.7(c).

Paragraph (d) also clarifies that filing by personal delivery includes courier service and that filing by first class mail includes express mail. Filing by personal delivery is effective upon receipt; filing by mail is effective upon mailing, except for the filing of a petition for discretionary review (see § 2700.70(a)), which is effective upon receipt.

In response to a number of comments, the Commission has included in paragraph (d) a provision that motions for expedition (§ 2700.52(a)) and petitions for discretionary review (§ 2700.70(a)) may be filed by FAX. Paragraph (d) also provides that FAX filing may be permitted for other documents and that filing by FAX is effective upon receipt. When filing by FAX, the filer is required under paragraph (e) to provide, in addition, the appropriate number of non-facsimile copies within three days of the facsimile transmission.

Paragraph (g) provides that inquiries concerning filing requirements, case status, or docket information shall be directed to the Commission's Office of General Counsel or its Docket Office.

§ 2700.7 Service.

A number of commenters objected to the proposed rules' deletion of a reference to the Mine Act's posting requirements. Section 109 of the Mine Act requires that mines maintain bulletin boards, on which certain documents arising in Mine Act litigation are to be posted. This is a substantive requirement that the Commission believes is subject under the Mine Act to the Secretary's rulemaking and enforcement authority. The Commission's present rule (29 CFR 2700.7(c)) requires the posting of some documents not referenced in the Mine Act. The Commission deems it inappropriate for it to establish any posting requirements beyond those set forth in the Mine Act, and, therefore, has limited paragraph (b) to a general reference to the statutory posting requirements.

Paragraph (c) sets forth methods of service, which correspond to methods of filing in § 2700.5(d). Paragraph (c) permits service by personal delivery or by mail. Service of the initial pleadings must be by certified or registered mail, return receipt requested. All subsequent papers served by mail may be sent by first class mail. Consistent with filing procedure (§ 2700.5(d)), paragraph (c) clarifies that service by personal delivery includes courier service and service by first class mail includes express mail. Service by personal delivery is effective upon receipt; service by mail is effective upon mailing. When filing a document by

FAX, the filing party also must serve by FAX or by a means as expeditious as FAX. Service by FAX is effective upon receipt.

§ 2700.8 Computation of time.

The proposed rule deleted the 5-day grace period presently allowed for filing a document in response to one served by mail (29 CFR 2700.8(b)). Many commenters opposed the deletion of this allowance. The Commission, upon further consideration, reinstates the 5-day grace period, but emphasizes that it applies only to the filing of responsive pleadings.

§ 2700.10 Motions.

The proposed rule changed the time allowed for response to a written motion from 10 to 15 days, to compensate for the deletion of the present rule's 5-day grace period. In view of the reinstatement in § 2700.8 of the 5-day grace period, the time allowed for response is again set at 10 days, unchanged from the present rule.

§ 2700.11 Withdrawal of pleading.

The Secretary suggested that he and an affected mine operator be permitted to withdraw a petition for assessment of civil penalty and notice of contest of proposed penalty, respectively, upon notification to the Commission judge or the Commission that the penalty in issue has been paid in full. The Commission declines to adopt this suggestion. Section 110(k) of the Mine Act provides that no proposed penalty that has been contested before the Commission be compromised, mitigated, or settled without the Commission's approval.

§ 2700.12 Consolidation of proceedings.

The present rule states that the Commission and its judges may order consolidation of proceedings in certain appropriate circumstances. In a technical change, the final rule now clarifies that such consolidation may be ordered by the Commission and its judges upon the basis of their own, or a party's, motion.

Subpart B—Contests of Citations and Orders

§ 2700.20 Notice of contest of a citation or order issued under section 104 of the Act.

The proposed rule attempted to clarify the various forms of contest that may be filed pursuant to section 105(d) of the Mine Act with respect to citations and orders issued under section 104. A number of comments revealed that some confusion still exists in this area. In order to achieve greater clarity, paragraph (a), tracking section 105(d), expressly distinguishes the contests that may be filed by an operator from those that may be filed by a miner or representative of miners.

In response to a comment from the Secretary, paragraph (b) more specifically sets forth where such notices of contest are to be filed with the Secretary. In paragraphs (c) and (d), the Commission retains the requirements that the Secretary and the contesting party shall, respectively, advise the Commission of, and file with the Commission, such notices of contest. Section 105(d) requires the Secretary to advise the Commission of such contests. In response to another comment, paragraph (e) provides that whenever a legible copy of the contested citation or order is not attached, the notice of contest shall set forth the text of the citation or order.

The Secretary requested that he be given 30 rather than 15 days to file answers to notices of contest. Paragraph (b) allows the Secretary 20 days to file such answers.

§ 2700.22 Notice of contest of imminent danger withdrawal orders under section 107 of the Act.

One commenter suggested adding language to address Commission review of orders issued under sections 103(j), 103(k), and 104(g) of the Mine Act. Section 105(d) of the Mine Act and § 2700.20 already provide for contest of any order issued under section 104, but the Mine Act does not expressly provide for contest of section 103 orders.

As in § 2700.20, paragraph (b) provides that whenever a legible copy of the contested imminent danger order is not attached, the notice of contest shall set forth its text.

Subpart C—Contests of Proposed Penalties

§ 2700.25 Proposed penalty assessment.

One commenter noted that neither the present nor the proposed rule sets forth a time limit within which the Secretary is to notify the operator of a proposed penalty assessment, and suggested that the Commission prescribe such a time limit. Section 105(a) of the Mine Act states that the Secretary shall provide such notice "within a reasonable time." Disputes over the meaning of that phrase will be resolved in the adjudicative process.

§ 2700.26 Notice of contest of proposed penalty assessment.

The proposed rule deleted the present rule's reference to the posting of notices of contest of proposed penalty assessments. The Mine Act's posting requirements are referenced generally in § 2700.7(b) and the proposed deletion is adopted.

§ 2700.28 Filing of petition for assessment of penalty with the Commission.

For the reason set forth with respect to § 2700.26, § 2700.28 deletes, as was proposed, a requirement that the petition for assessment of penalty be posted. One commenter suggested that the rule should prohibit the Secretary from basing a penalty petition upon a policy not promulgated pursuant to notice and comment rulemaking procedures. Such substantive legal issues are best resolved in the adjudicative process. See, e.g., Drummond Co., 14 FMSHRC 661 (May 1992). This rule also sets forth the requirement that whenever legible copies of the underlying citation or order are not attached, the petition shall set forth the text of the citation or order.

§ 2700.29 Answer.

The Secretary suggests that the proposed rule be amended to require an operator to state whether it admits or denies each allegation in the petition. This proposal would complicate the Commission's simple "notice" pleading and is not adopted.

Subpart D—Complaints for Compensation

§ 2700.36 Contents of complaint.

One commenter suggested that the Commission require that a complaint for compensation set forth the names of all miners on whose behalf the complaint is filed. All miners entitled to compensation, however, may not be known at the time of filing. The miners will be identified during the course of litigation. Accordingly, the final rule does not add such a requirement. The rule provides that, whenever a legible copy of the pertinent withdrawal order is not attached, the text of the order shall be set forth in the complaint.

Subpart E—Complaints of Discharge, Discrimination or Interference

§ 2700.40 Who may file.

One commenter suggested that the Commission reinstate a previous version of this rule, which allowed a miner to file a discrimination complaint with the Commission, pursuant to section 105(c)(3) of the Mine Act, if the Secretary failed to make a determination, within the 90-day period prescribed in the statute, as to whether discrimination occurred. The

Commission rejects that suggestion. In conformity with its decision in *Gilbert v. Sandy Fork Mining Co.*, 9 FMSHRC 1327 (August 1987), rev'd on other grounds, 866 F.2d 1433 (D.C. Cir. 1989), the Commission had amended the rule to prohibit such filings. 52 FR 44882, November 23, 1987. Paragraph (b) includes the proposed provision that a miner's independent discrimination complaint may not be filed with the Commission until after a determination by the Secretary that no discrimination has occurred.

§ 2700.44 Petition for assessment of penalty in discrimination cases.

Proposed § 2700.44(b) provided that a judge who sustains a miner's independent discrimination complaint shall notify the Secretary of his decision, and required the Secretary to file a petition for assessment of penalty with the Commission within 45 days. The Secretary commented that requiring him to file a penalty petition in such circumstances would be inefficient, and recommended that the Commission itself assess the penalty.

The Commission has determined that it is best to follow the Mine Act's normal progression of penalty proposal by the Secretary and penalty assessment by the Commission. Accordingly, the proposed rule is adopted. The Commission will continue to review this process.

§ 2700.45 Temporary reinstatement proceedings.

The Commission adopts § 2700.45 as proposed with minor modifications. The Commission advises practitioners that, given the extraordinary remedy involved, the rule requires special methods of filing and service. The rule contemplates expeditious proceedings at all stages, and its time limits are to be strictly observed.

Paragraph (a) clarifies that service by personal delivery includes courier service. Paragraph (e) clarifies that the judge's order upon an application for temporary reinstatement must be in writing.

One commenter disagreed with the proposed elimination in § 2700.45(g) of a provision that allowed a judge to dissolve an order of temporary reinstatement if the Secretary fails to file a discrimination complaint with the Commission within 90 days. As explained in the discussion of that proposal (55 FR 4855), the dissolution provision was omitted in order to conform temporary reinstatement procedure to the Commission's decision in Gilbert, *supra*. In conformity with Gilbert, the Commission retains the proposed rule.

Subpart F—Applications for Temporary Relief

§ 2700.46 Procedure.

In response to comments, paragraph (b) reduces the time for opposing applications for temporary relief, and provides that such opposition is to be filed within 4 days of receipt of an application.

Subpart G—Hearings

§ 2700.51 Hearing sites.

Some comments related problems with inconvenient hearing sites under the present rule and suggested that hearing sites be closer to the mine. Selecting an appropriate site involves balancing the convenience of the parties with scheduling and cost constraints of the Commission. The Commission's judges endeavor to exercise sound and fair discretion in selecting hearing sites. Should a significant problem arise, an aggrieved party may petition the Commission for interlocutory review of the judge's hearing site order.

§ 2700.52 Expedition of proceedings.

In response to comments, paragraph (a) permits FAX filing of motions for expedition of proceedings.

The Secretary expressed concern that the Commission would grant such motions automatically. In Wyoming Fuel Co., 14 FMSHRC 1282 (August 1992), the Commission examined the Mine Act's provisions in section 107(e) for expedition of proceedings involving challenges to imminent danger orders. The Commission concluded that, notwithstanding the statutory requirements for expedition in imminent danger cases, Commission judges retain discretion in scheduling such hearings to consider relevant factors in each case. 14 FMSHRC at 1287. Commission judges will exercise informed discretion in considering all motions for expedition.

Another commenter suggested that the rule include a provision for making emergency motions after office hours or in unusual circumstances. The Commission believes that emergency situations can be accommodated under its procedures.

§ 2700.55 Powers of Judges.

Both the present and proposed rules stated that among a judge's powers is the authority to "take depositions" (29 CFR 2700.54(a)(4); proposed § 2700.55(a)(4)). That provision was incorporated from section 556(c) of the Administrative Procedure Act.

The Secretary suggested deletion of this provision. Rarely, if ever, has a Commission judge taken a party's deposition. Section 556(c) of the Administrative Procedure Act does not grant an agency or its judges additional powers beyond those conferred upon them by their organic statute. Section 113(e) of the Mine Act empowers the Commission and its judges to compel testimony and to "order testimony to be taken by deposition." The Commission does not regard this language as authorizing its judges themselves to depose witnesses. Accordingly, paragraph (d) deletes that provision and, instead, refers only to a judge's power to order the taking of depositions.

§ 2700.56 Discovery; general.

Numerous comments were received concerning the appropriate time period for the conduct of discovery. The Commission has reexamined the matter.

The proposed rule provided that discovery was to be initiated within 30 days after the filing of certain enumerated responsive pleadings (proposed § 2700.56(c)) and completed within 60 days of initiation (proposed § 2700.56(d)).

Some commenters suggested expanding this time period. Commission judges have reported that discovery is normally completed in a relatively brief period of time. They have expressed concern that expanding the time for discovery could result in serious delay of hearings.

Upon further consideration, the Commission has revised the period available for pre-trial discovery. Under paragraph (d), discovery is to be initiated within 20 days after the filing of the relevant responsive pleading and, under paragraph (e), is to be completed within 40 days of initiation. These periods are adequate for most discovery purposes and will not generally delay Commission hearings. Pre-trial discovery under the Commission's administrative procedure contrasts with the relatively more complex and time-consuming discovery process under general federal civil practice. The Commission emphasizes that paragraphs (d) and (e) expressly permit the judge, for good cause shown, to extend the times for initiation and completion of discovery. The Commission will determine whether the time periods work as intended.

The Secretary suggested that proposed § 2700.56(e), dealing with limitation of discovery, should include provision for in camera review of documents sought for which the Secretary has raised a claim of privilege. The Commission has addressed in camera review and

discovery privileges in its decisions. See, e.g., Asarco, Inc., 12 FMSHRC 2548 (December 1990). The Commission believes that such matters are best resolved on a case-by-case basis.

§ 2700.59 Failure to cooperate in discovery; sanctions.

In response to comments, § 2700.59 includes among the sanctions for failure to cooperate in discovery, the dismissal of a proceeding in favor of the party seeking discovery. Some commenters suggested that the rule should also allow monetary sanctions for discovery abuse. In *Francis A. Marin* v. *Asarco, Inc.*, 14 FMSHRC 1269 (August 1992), the Commission held that, in general, it is not authorized by the Mine Act to make monetary awards to litigants. In any event, the Commission's experience does not suggest a need for monetary sanctions for discovery abuse.

§ 2700.60 Subpoenas.

In response to the Secretary's suggestions, paragraph (a) permits both oral and written application for subpoenas. Paragraph (a) has been further revised to provide that, in addition to personal delivery, a subpoena may be served by registered or certified mail, return receipt requested. In such case, any risk of delivery is on the sender.

§ 2700.61 Name of miner informant.

Considerable comment was generated by the proposed deletion of the requirement in 29 CFR 2700.59 that the names of miner witnesses not be disclosed until 2 days before a hearing. The Commission has reexamined this matter.

A number of comments reflected confusion between miner informants and miner witnesses. These topics are now addressed in separate rules, §§ 2700.61 and 2700.62. Rule 2700.61 addresses only the subject of miner informants, and provides that, except in extraordinary circumstances, a judge shall not disclose, or order disclosure of, the names of miner informants. A miner informant may also be a witness in Commission proceedings.

§ 2700.62 Name of miner witness.

Section 2700.62 addresses only the subject of miner witnesses. After reconsidering the issue, the Commission has decided to continue the 2-day disclosure rule. The Commission recognizes the importance of protecting miner witnesses from possible intimidation or retaliation and of safeguarding the integrity of its trial proceedings. This rule is not intended to suggest that operators would engage in improper conduct with regard to miner witnesses, but to guard against any possibility of such abuse. Consistent with § 2700.61, in disclosing the names of miner witnesses, a judge shall not disclose whether any were also informants.

§ 2700.63 Evidence; presentation of case.

Some commenters suggested that the proposed rule be amended to provide restrictive criteria for the admission and weighing of hearsay evidence. The Commission has held that hearsay evidence is admissible in its proceedings, and has set forth the appropriate criteria for weighing such evidence. *See, e.g., Mid-Continent, supra*, 6 FMSHRC at 1135–39.

Subpart H—Review by the Commission

§ 2700.70 Petitions for discretionary review.

In response to comments, paragraph (a) permits FAX filing of petitions for discretionary review.

§ 2700.72 Unreviewed decisions.

One commenter questioned whether an unreviewed judge's decision has preclusive effect, in the sense of res judicata or collateral estoppel, in other proceedings before judges. A judge's decision not reviewed by the Commission does not have such preclusive effect. The Commission, as an appellate body, is not bound by the unreviewed decisions of its judges.

§ 2700.73 Procedure for intervention.

Some comments opposed the proposed rule on the grounds that intervention should not be permitted after trial-level proceedings. The Commission believes that, although appellate intervention may occur only infrequently, it may be helpful. Paragraph (d) requires that a motion for intervention at the appellate level must set forth the reasons excusing the movant's failure to move for intervention before the judge. In response to comments, the rule requires that a motion to intervene be filed within 30 days after the Commission directs review, unless later filing is permitted for good cause shown.

§ 2700.74 Procedure for participation as amicus curiae.

In response to comments, paragraph (a) deletes the proposed provision that a motion to participate as amicus curiae be filed not later than 30 days after the Commission's direction for review. Paragraph (a) states that, after a case is directed for review, any person may move to participate as amicus. Paragraph (b) provides that an amicus brief normally is to be filed within the briefing period of the party whose position the amicus supports. Paragraph (b) also recognizes that, in the interest of avoiding duplication of argument, the Commission may permit the filing of an amicus brief within 20 days of the close of the relevant briefing period, provided that the motion for participation is filed within the briefing period allotted to the party whose position the amicus supports.

§ 2700.75 Briefs.

Practitioners are advised to familiarize themselves with all procedures relevant to the time for filing briefs and the length of briefs. Paragraph (d) provides that a motion for extension of time for filing a brief will not be granted except for good cause shown.

§ 2700.76 Interlocutory review.

In response to comments, paragraph (b) provides that a petition for interlocutory review shall not exceed 15 pages in length.

§ 2700.77 Oral argument.

Section 2700.77 provides that a party's request for oral argument shall be made by separate motion no later than at the time of filing its opening or response brief.

Subpart I—Miscellaneous

§ 2700.80 Standards of conduct, disciplinary proceedings.

Paragraph (c)(3) provides that, in referring a matter for disciplinary hearing before a judge, the Commission may designate counsel to prosecute the matter before the judge. This provision conforms to standard litigation procedure in such matters.

§ 2700.81 Recusal and disqualification.

Paragraph (a) clarifies that a Commissioner or judge may recuse himself from a proceeding whenever he deems it appropriate. Paragraphs (b) and (c) continue the present procedure for requesting the withdrawal of a Commissioner or judge on the grounds of bias or other disqualification and the steps to be taken if the Commissioner or judge does not withdraw.

§ 2700.82 Ex parte communications.

The proposed rule was further modified in response to comments and upon further consideration. Paragraph (a)(1) clarifies that a "status or informational request" does not constitute an ex parte communication. Paragraph (a)(2) defines "status or informational request" as a "request for

a status report on any matter or proceeding or a request concerning filing or other docket information." Paragraph (b) adds amici to the group of persons covered by the prohibition against ex parte communications. Paragraph (d) specifies that inquiries concerning filing requirements, the status of cases before the Commission, or docket information shall be directed to the Commission's Office of General Counsel or to its Docket Office.

§ 2700.84 Effective date.

Section 2700.84 provides that the final rules are effective 60 days after publication in the **Federal Register**. The final rules will apply to cases initiated after they take effect. The final rules also will apply to further proceedings in cases then pending, except to the extent that such application would be infeasible or unfair, in which case the present rules of procedure would apply

Miscellaneous

A number of additional new procedures were also suggested in the public comments. To the extent that the final revisions do not incorporate such new procedures, commenters are advised that such suggestions were considered and rejected. The Commission notes that one commenter proposed a new rule on amendment of pleadings. The Commission will continue to deal with that area adjudicatively rather than by procedural rule. See, e.g., Cyprus Empire Corp., 12 FMSHRC 911, 916 (May 1990).

Public Comment

The Commission will receive any further comment on these final rules during the 60-day period before they take effect. The Commission welcomes comment on its procedural rules, which are always open to comment and suggestions.

List of Subjects in 29 CFR Part 2700

Hearing and appeal procedures, Administrative practice and procedure, Ex parte communications, Government employees, Lawyers.

For the reasons set forth in the preamble, part 2700 of chapter XXVII of title 29 of the Code of Federal Regulations is revised as follows:

PART 2700—PROCEDURAL RULES

Subpart A—General Provisions

Sec.

2700.1 Scope; applicability of other rules; construction.
2700.2 Definitions.
2700.3 Who may practice.
2700.4 Parties, intervenors and amici curiae.
2700.5 General requirements for pleadings and other documents; status or informational requests.
2700.6 Signing of documents.
2700.7 Service.
2700.8 Computation of time.
2700.9 Extensions of time.
2700.10 Motions.
2700.11 Withdrawal of pleading.
2700.12 Consolidation of proceedings.

Subpart B—Contests of Citations and Orders

2700.20 Notice of contest of a citation or order issued under section 104 of the Act.
2700.21 Effect of failure to file notice of contest of citation.
2700.22 Notice of contest of imminent danger withdrawal orders under section 107 of the Act.
2700.23 Review of a subsequent citation or order.

Subpart C—Contests of Proposed Penalties

2700.25 Proposed penalty assessment.
2700.26 Notice of contest of proposed penalty assessment.
2700.27 Effect of failure to contest proposed penalty assessment.
2700.28 Filing of petition for assessment of penalty with the Commission.
2700.29 Answer.
2700.30 Assessment of penalty.
2700.31 Penalty settlement.

Subpart D—Complaints for Compensation

2700.35 Time to file.
2700.36 Contents of complaint.
2700.37 Answer.

Subpart E—Complaints of Discharge, Discrimination or Interference

2700.40 Who may file.
2700.41 Time to file.
2700.42 Contents of complaint.
2700.43 Answer.
2700.44 Petition for assessment of penalty in discrimination cases.
2700.45 Temporary reinstatement proceedings.

Subpart F—Applications for Temporary Relief

2700.46 Procedure.
2700.47 Contents of application.

Subpart G—Hearings

2700.50 Assignment of Judges.
2700.51 Hearing sites.
2700.52 Expedition of proceedings.
2700.53 Prehearing conferences and statements.
2700.54 Notice of hearing.
2700.55 Powers of Judges.
2700.56 Discovery; general.
2700.57 Depositions.
2700.58 Interrogatories, requests for admissions and requests for production of documents.
2700.59 Failure to cooperate in discovery; sanctions.
2700.60 Subpoenas.
2700.61 Name of miner informant.
2700.62 Name of miner witness.
2700.63 Evidence; presentation of case.
2700.64 Retention of exhibits.
2700.65 Proposed findings, conclusions and orders.
2700.66 Summary disposition of proceedings.
2700.67 Summary decision of the Judge.
2700.68 Substitution of the Judge.
2700.69 Decision of the Judge.

Subpart H—Review by the Commission

2700.70 Petitions for discretionary review.
2700.71 Review by the Commission on its own motion.
2700.72 Unreviewed decisions.
2700.73 Procedure for intervention.
2700.74 Procedure for participation as amicus curiae.
2700.75 Briefs.
2700.76 Interlocutory review.
2700.77 Oral argument.
2700.78 Reconsideration.
2700.79 Correction of clerical errors.

Subpart I—Miscellaneous

2700.80 Standards of conduct; disciplinary proceedings.
2700.81 Recusal and disqualification.
2700.82 Ex parte communications.
2700.83 Authority to sign orders.
2700.84 Effective date.

Authority: 30 U.S.C. 815, 820 and 823.

Subpart A—General Provisions

§ 2700.1 Scope; applicability of other rules; construction.

(a) *Scope.* This part sets forth rules applicable to proceedings before the Federal Mine Safety and Health Review Commission and its Administrative Law Judges.

(b) *Applicability of other rules.* On any procedural question not regulated by the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq. ("the Act"), these Procedural Rules, or the Administrative Procedure Act (particularly 5 U.S.C. 554 and 556), the Commission and its Judges shall be guided so far as practicable by the Federal Rules of Civil Procedure and the Federal Rules of Appellate Procedure.

(c) *Construction.* These rules shall be construed to secure the just, speedy and inexpensive determination of all proceedings, and to encourage the participation of miners and their representatives. Wherever the masculine gender is used in these rules, the feminine gender is also implied.

§ 2700.2 Definitions.

For purposes of this part, the definitions contained in section 3 of the Act, 30 U.S.C. 802, apply.

§ 2700.3 Who may practice.

(a) *Attorneys.* Attorneys admitted to practice before the highest court of any State, Territory, District, Commonwealth or possession of the United States are permitted to practice before the Commission.

(b) *Other persons.* A person who is not authorized to practice before the Commission as an attorney under paragraph (a) of this section may practice before the Commission as a representative of a party if he is:

(1) A party;

(2) A representative of miners;

(3) An owner, partner, officer or employee of a party when the party is a labor organization, an association, a partnership, a corporation, other business entity, or a political subdivision; or

(4) Any other person with the permission of the presiding judge or the Commission.

(c) *Entry of appearance.* A representative of a party shall enter an appearance by signing the first document filed on behalf of the party; filing a written entry of appearance with the Commission or Judge; or, if the Commission or Judge permits, by orally entering an appearance in open hearing.

(d) *Withdrawal of appearance.* Any representative of a party desiring to withdraw his appearance shall file a motion with the Commission or Judge. The motion to withdraw may, in the discretion of the Commission or Judge, be denied where it is necessary to avoid undue delay or prejudice to the rights of a party.

§ 2700.4 Parties, intervenors, and amici curiae.

(a) *Party status.* A person, including the Secretary or an operator, who is named as a party or who is permitted to intervene, is a party. In a proceeding instituted by the Secretary under section 105(c)(2) of the Act, 30 U.S.C. 815(c)(2), the complainant on whose behalf the Secretary has filed the complaint is a party and may present additional evidence on his own behalf. A miner, applicant for employment, or representative of a miner who has filed a complaint with the Commission under sections 105(c)(3) or 111 of the Act, 30 U.S.C. 815(c)(3) and 821, and an affected miner or his representative who has become a party in accordance with paragraph (b) of this section, are parties.

(b) *Intervention.* (1) *Intervention by affected miners and their representatives.* Before a case has been assigned to a Judge, affected miners or their representatives shall be permitted to intervene upon filing a written notice of intervention with the Executive Director, Federal Mine Safety and Health Review Commission, 1730 K Street, N.W., Sixth Floor, Washington, DC 20006–3867. If the case has been assigned to a Judge, the notice of intervention shall be filed with the Judge. The Commission or the Judge shall mail forthwith a copy of the notice to all parties. After the start of the hearing, affected miners or their representatives may intervene upon just terms and for good cause shown.

(2) *Intervention by other persons.* (i) Motions by other persons for leave to intervene shall be filed before the start of a hearing on the merits unless the Judge, for good cause shown, allows a later filing. The motion shall set forth:

(A) The interest of the movant relating to the property or events that are the subject of the proceeding;

(B) The reasons why such interest is not otherwise adequately represented by the parties already involved in the proceeding; and

(C) A showing that intervention will not unduly delay or prejudice the adjudication of the issues.

(ii) Such intervention is not a matter of right but of the sound discretion of the Judge. In denying a motion to intervene, the Judge may alternatively permit the movant to participate in the proceeding as amicus curiae.

(c) *Procedure for participation as amicus curiae.* Any person may move to participate as amicus curiae in a proceeding before a Judge. Such participation as amicus curiae shall not be a matter of right but of the sound discretion of the Judge. A motion for participation as amicus curiae shall set forth the interest of the movant and show that the granting of the motion will not unduly delay or prejudice the adjudication of the issues. If the Judge permits amicus curiae participation, the Judge's order shall specify the time within which such amicus curiae memorandum, brief, or other pleading must be filed and the time within which a reply may be made. The movant may conditionally attach its memorandum, brief, or other pleading to its motion for participation as amicus curiae.

§ 2700.5 General requirements for pleadings and other documents; status or informational requests.

(a) *Jurisdiction.* A proposal for a penalty under section 110, 30 U.S.C. 820; an answer to a notice of contest of a citation or withdrawal order issued under section 104, 30 U.S.C. 814; an answer to a notice of contest of an order issued under section 107, 30 U.S.C. 817; a complaint issued under sections 105(c) or 111, 30 U.S.C. 815(c) and 821; and an application for temporary reinstatement under section 105(c)(2), 30 U.S.C. 815(c)(2), shall allege that the violation or imminent danger took place in or involves a mine that has products which enter commerce or has operations or products that affect commerce. Jurisdictional facts that are alleged are deemed admitted unless specifically denied in a responsive pleading.

(b) *Where to file.* Until a Judge has been assigned to a case, all documents shall be filed with the Commission. Documents filed with the Commission shall be addressed to the Executive Director and mailed or delivered to the Docket Office, Federal Mine Safety and Health Review Commission, 1730 K Street, N.W., Sixth Floor, Washington, DC 20006–3867. After a Judge has been assigned, and before he issues a decision, documents shall be filed with the Judge at the address set forth on the notice of assignment. Documents filed in connection with interlocutory review shall be filed with the Commission in accordance with § 2700.76. After the Judge has issued his final decision, documents shall be filed with the Commission.

(c) *Necessary information.* All documents shall be legible and shall clearly identify on the cover page the filing party by name. All documents shall be dated and shall include the assigned docket number and the filing person's address and telephone number. Written notice of any change in address or telephone number shall be given promptly to the Commission or the Judge and all other parties.

(d) *Manner and date of filing.* A notice of contest of a citation or order, a petition for assessment of penalty, a complaint for compensation, a complaint of discharge, discrimination or interference, an application for temporary reinstatement, and an application for temporary relief shall be filed by personal delivery, including courier service, or by registered or certified mail, return receipt requested. All subsequent documents that are filed with a Judge or the Commission may be filed by first class mail, including express mail, or by personal delivery. When filing is by personal delivery, filing is effective upon receipt. When filing is by mail, filing is effective upon mailing, except that the filing of a petition for discretionary review with the Commission is effective upon receipt. *See* § 2700.70. Filing by facsimile transmission is permissible only when specifically permitted by these rules (*see* §§ 2700.52 and 2700.70), or when otherwise allowed by a Judge or the Commission. Filing by facsimile transmission is effective upon receipt.

(e) *Number of copies.* In cases before a Judge, two copies shall be filed for each docket; in cases before the Commission, seven copies shall be filed; but if the filing party is not represented by a lawyer or other representative, one copy shall be sufficient. When filing is by facsimile transmission, the

appropriate number of non-facsimile copies must be filed with the Judge or Commission within 3 days of the facsimile transmission.

(f) *Size of paper.* Pleadings and other documents shall be 8½ by 11 inches in size.

(g) *Status or informational requests.* Any inquiries concerning filing requirements, the status of cases before the Commission, or docket information shall be directed to the Office of General Counsel or the Docket Office of the Federal Mine Safety and Health Review Commission, 1730 K St., N.W., Sixth Floor, Washington, DC 20006–3867.

§ 2700.6 Signing of documents.

When a person who appears in a representative capacity signs a document, that person's signature shall constitute his certificate:

(a) That under the provisions of the law, including these rules and all federal conflict of interest statutes, he is authorized and qualified to represent the particular party in the matter; and

(b) That he has read the document; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

§ 2700.7 Service.

(a) *Generally.* A copy of each document filed with the Commission shall be served on all parties. In addition, a copy of a notice of contest of a citation or order, a petition for assessment of penalty, a discrimination complaint, a complaint for compensation, and an application for temporary relief shall be served upon the representative of miners, if known.

(b) *Posting.* A copy of an order, citation, notice, or decision required under section 109 of the Act, 30 U.S.C. 819, to be posted on a mine bulletin board shall, upon receipt, be immediately posted on such bulletin board by the operator.

(c) *Methods of service.* A notice of contest of a citation or order, a proposed penalty assessment, a petition for assessment of penalty, a complaint for compensation, a complaint of discharge, discrimination or interference, an application for temporary reinstatement, and an application for temporary relief shall be served by personal delivery, including courier service, or by registered or certified mail, return receipt requested. All subsequent papers may be served by personal delivery or by first class mail, including express mail service, with the exception of the papers specified in § 2700.45 (Temporary reinstatement proceedings). Service by mail is effective upon mailing. Service by personal delivery is effective upon receipt. When filing by facsimile transmission (see § 2700.5(d)), the filing party must also serve by facsimile transmission or by a means as expeditious as facsimile. Service by facsimile transmission is effective upon receipt.

(d) *Service upon representative.* Whenever a party is represented by an attorney or other authorized representative, subsequent service shall be made upon the attorney or other authorized representative.

(e) *Proof of service.* All pleadings and other filed documents shall be accompanied by a statement setting forth the date and manner of service.

§ 2700.8 Computation of time.

In computing any period of time prescribed in these rules, the day from which the designated period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or federal holiday, in which event the period runs until the end of the next business day. When the period of time prescribed is less than 7 days, intermediate Saturdays, Sundays, and federal holidays shall be excluded in the computation. When service of a document is by mail, 5 days shall be added to the time allowed by these rules for the filing of a response or other documents.

§ 2700.9 Extensions of time.

The time for filing or serving any document may be extended for good cause shown. A request for an extension of time shall be filed before the expiration of the time allowed for the filing or serving of the document.

§ 2700.10 Motions.

(a) An application for an order shall be by motion which, unless made during a hearing or a conference, shall be made in writing and shall set forth the relief or order sought.

(b) Written motions shall be set forth in a document separate from other pleadings.

(c) A statement in opposition to a written motion may be filed by any party within 10 days after service upon the party. Unless otherwise ordered, oral argument on motions will not be heard.

§ 2700.11 Withdrawal of pleading.

A party may withdraw a pleading at any stage of a proceeding with the approval of the Judge or the Commission.

§ 2700.12 Consolidation of proceedings.

The Commission and its Judges may at any time, upon their own motion or a party's motion, order the consolidation of proceedings that involve similar issues.

Subpart B—Contests of Citations and Orders

§ 2700.20 Notice of contest of a citation or order issued under section 104 of the Act.

(a) *Who may contest.* (1) An operator may contest:

(i) A citation or an order issued under section 104 of the Act, 30 U.S.C. 814;

(ii) A modification of a citation or an order issued under section 104 of the Act; and

(iii) The reasonableness of the length of time fixed for abatement in a citation or modification thereof issued under section 104 of the Act.

(2) A miner or representative of miners may contest:

(i) The issuance, modification or termination of any order issued under section 104 of the Act; and

(ii) The reasonableness of the length of time fixed for abatement in a citation or modification thereof issued under section 104 of the Act.

(b) *Time to contest.* Contests filed by an operator pursuant to paragraph (a)(1) of this section shall be filed with the Secretary at the appropriate Regional Solicitor's Office or at the Solicitor's Office, Mine Safety and Health Division, Arlington, Virginia, within 30 days of receipt by the operator of the contested citation, order, or modification. Contests filed by a miner or representative of miners pursuant to paragraph (a)(2) of this section shall be filed in the same manner within 30 days of receipt by the miner or representative of miners of the contested order, modification, or termination.

(c) *Notification by the Secretary.* The Secretary, in accordance with section 105(d) of the Act, 30 U.S.C. 815(d), shall immediately advise the Commission of such notice of contest upon its receipt.

(d) *Copy to Commission.* The contesting party shall also file a copy of his notice of contest with the Commission at the time he files with the Secretary.

(e) *Contents of notice of contest.* (1) A notice of contest shall contain a short and plain statement of:

(i) The party's position with respect to each issue of law and fact that the party contends is pertinent; and

(ii) The relief requested by the party.

(2) A legible copy of the contested citation or order shall be attached to the notice of contest. If a legible copy is not available, the notice of contest shall set forth the text of the contested citation or order.

(f) *Answer.* Within 20 days after service of a notice of contest, the Secretary shall file an answer responding to each allegation of the notice of contest.

§ 2700.21 Effect of failure to file notice of contest of citation.

An operator's failure to file a notice of contest of a citation or order issued under section 104 of the Act, 30 U.S.C. 814, shall not preclude the operator from challenging, in a penalty proceeding, the fact of violation or any special findings contained in a citation or order including the assertion in the citation or order that the violation was of a significant and substantial nature or was caused by the operator's unwarrantable failure to comply with the standard.

§ 2700.22 Notice of contest of imminent danger withdrawal orders under section 107 of the Act.

(a) *Time to file.* A notice of contest of a withdrawal order issued under section 107 of the Act, 30 U.S.C. 817, or any modification or termination of the order, shall be filed with the Commission by the contesting party within 30 days of receipt of the order or any modification or termination of the order.

(b) *Contents of notice of contest.* (1) A notice of contest shall contain a short and plain statement of:

(i) The contesting party's position on each issue of law and fact that the contesting party contends is pertinent; and

(ii) The relief requested by the contesting party.

(2) A legible copy of the contested order shall be attached to the notice of contest. If a legible copy is not available, the notice of contest shall set forth the text of the contested order.

(c) *Answer.* Within 15 days after service of the notice of contest, the Secretary shall file an answer responding to each allegation of the notice of contest.

§ 2700.23 Review of a subsequent citation or order.

(a) The contesting party shall file any subsequent citation or order that modifies or terminates the citation or order under review within 30 days of its receipt. The notice of contest under section 105 or section 107 of the Act, 30 U.S.C. 815 and 817, unless withdrawn, shall be deemed to challenge any such subsequent citation or order.

(b) A person who is not a party in a pending proceeding for review of a citation or order may obtain review of a modification or termination of the citation or order by filing a notice of contest under section 105 or section 107 of the Act. The notice of contest shall be filed within 30 days of receipt of the citation or order that modifies or terminates the citation or order being reviewed.

Subpart C—Contests of Proposed Penalties

§ 2700.25 Proposed penalty assessment.

The Secretary, by certified mail, shall notify the operator or any other person against whom a penalty is proposed of the violation alleged, the amount of the proposed penalty assessment, and that such person shall have 30 days to notify the Secretary that he wishes to contest the proposed penalty assessment.

§ 2700.26 Notice of contest of proposed penalty assessment.

A person has 30 days after receipt of the proposed penalty assessment within which to notify the Secretary that he contests the proposed penalty. The Secretary shall immediately transmit to the Commission the notice of contest.

§ 2700.27 Effect of failure to contest proposed penalty assessment.

If, within 30 days from the receipt of the Secretary's proposed penalty assessment, the operator or other person fails to notify the Secretary that he contests the proposed penalty, the Secretary's proposed penalty assessment shall be deemed to be a final order of the Commission not subject to review by any court or agency.

§ 2700.28 Filing of petition for assessment of penalty with the Commission.

(a) *Time to file.* Within 45 days of receipt of a timely contest of a proposed penalty assessment, the Secretary shall file with the Commission a petition for assessment of penalty.

(b) *Contents.* The petition for assessment of penalty shall list the alleged violations and the proposed penalties. Each violation shall be identified by the number and date of the citation or order and the section of the Act or regulations alleged to be violated. The petition for assessment of penalty shall state whether the citation or order has been contested and the docket number of any contest. The petition for assessment of penalty shall advise the party against whom a penalty is filed that he has 30 days to file an answer pursuant to § 2700.29.

(c) *Attachments.* A legible copy of each citation or order for which a penalty is sought shall be attached to the petition for assessment of penalty. If a legible copy is not available, the petition for assessment of penalty shall set forth the text of the citation or order.

§ 2700.29 Answer.

A party against whom a petition for assessment of penalty is filed shall file an answer within 30 days after service of the petition for assessment of penalty. An answer shall include a short and plain statement responding to each allegation of the petition.

§ 2700.30 Assessment of penalty.

(a) In assessing a penalty the Judge shall determine the amount of penalty in accordance with the six statutory criteria contained in section 110(i) of the Act, 30 U.S.C. 820(i), and incorporate such determination in a written decision. The decision shall contain findings of fact and conclusions of law on each of the statutory criteria and an order requiring that the penalty be paid.

(b) In determining the amount of penalty, neither the Judge nor the Commission shall be bound by a penalty proposed by the Secretary or by any offer of settlement made by a party.

§ 2700.31 Penalty settlement.

(a) *General.* A proposed penalty that has been contested before the Commission may be settled only with the approval of the Commission upon motion.

(b) *Settlement motion.* A motion to approve a penalty settlement shall include the following information for each violation:

(1) The amount of the penalty proposed by the Secretary;

(2) The amount of the penalty agreed to in settlement; and

(3) Facts in support of the penalty agreed to by the parties.

(c) *Order approving settlement.* Any order by the Judge approving a settlement shall set forth the reasons for approval and shall be supported by the record. Such order shall become the final decision of the Commission 40 days after issuance unless the Commission has directed that the order be reviewed.

Subpart D—Complaints for Compensation

§ 2700.35 Time to file.

A complaint for compensation under section 111 of the Act, 30 U.S.C. 821, shall be filed within 90 days after the beginning of the period during which the complainants are idled or would

have been idled by the order that gives rise to the claim.

§ 2700.36 Contents of complaint.

A complaint for compensation shall include:

(a) A short and plain statement of the facts giving rise to the claim, including the period for which compensation is claimed;

(b) The total amount of the compensation claimed, if known; and

(c) A legible copy of any pertinent order of withdrawal or, if a legible copy is not available, the text of the order.

§ 2700.37 Answer.

Within 30 days after service of a complaint for compensation, the operator shall file an answer responding to each allegation of the complaint.

Subpart E—Complaints of Discharge, Discrimination or Interference

§ 2700.40 Who may file.

(a) *The Secretary.* A discrimination complaint under section 105(c)(2) of the Act, 30 U.S.C. 815(c)(2), shall be filed by the Secretary if, after an investigation conducted pursuant to section 105(c)(2), the Secretary determines that a violation of section 105(c)(1), 30 U.S.C. 815(c)(1), has occurred.

(b) *Miner, representative of miners, or applicant for employment.* A discrimination complaint under section 105(c)(3) of the Act, 30 U.S.C. 815(c)(3), may be filed by the complaining miner, representative of miners, or applicant for employment if the Secretary, after investigation, has determined that the provisions of section 105(c)(1) of the Act, 30 U.S.C. 815(c)(1), have not been violated.

§ 2700.41 Time to file.

(a) *The Secretary.* A discrimination complaint shall be filed by the Secretary within 30 days after his written determination that a violation has occurred.

(b) *Miner, representative of miners, or applicant for employment.* A discrimination complaint may be filed by a complaining miner, representative of miners, or applicant for employment within 30 days after receipt of a written determination by the Secretary that no violation has occurred.

§ 2700.42 Contents of complaint.

A discrimination complaint shall include a short and plain statement of the facts, setting forth the alleged discharge, discrimination or interference, and a statement of the relief requested.

§ 2700.43 Answer.

Within 30 days after service of a discrimination complaint, the respondent shall file an answer responding to each allegation of the complaint.

§ 2700.44 Petition for assessment of penalty in discrimination cases.

(a) *Petition for assessment of penalty in Secretary's complaint.* A discrimination complaint filed by the Secretary shall propose a civil penalty of a specific amount for the alleged violation of section 105(c) of the Act, 30 U.S.C. 815(c). The petition for assessment of penalty shall include a short and plain statement of supporting reasons based on the criteria for penalty assessment set forth in section 110(i) of the Act. 30 U.S.C. 820(i).

(b) *Petition for assessment of penalty after sustaining of complaint by miner, representative of miners, or applicant for employment.* Immediately upon issuance of a decision by a Judge sustaining a discrimination complaint brought pursuant to section 105(c)(3), 30 U.S.C. 815(c)(3), the Judge shall notify the Secretary in writing of such determination. The Secretary shall file with the Commission a petition for assessment of civil penalty within 45 days of receipt of such notice.

§ 2700.45 Temporary reinstatement proceedings.

(a) *Service of pleadings.* A copy of each document filed with the Commission in a temporary reinstatement proceeding shall be served on all parties either by personal delivery, including courier service, or by certified or registered mail, return receipt requested.

(b) *Contents of application.* An application for temporary reinstatement shall state the Secretary's finding that the miner's discrimination complaint was not frivolously brought and shall be accompanied by an affidavit setting forth the Secretary's reasons supporting his finding. The application also shall include a copy of the miner's complaint to the Secretary, and proof of notice to and service on the person against whom relief is sought by the most expeditious means of notice and delivery reasonably available.

(c) *Request for hearing.* Within 10 days following receipt of the Secretary's application for temporary reinstatement, the person against whom relief is sought shall advise the Commission's Chief Administrative Law Judge or his designee, and simultaneously notify the Secretary, whether a hearing on the application is requested. If no hearing is requested, the Judge assigned to the matter shall review immediately the Secretary's application and, if based on the contents thereof the Judge determines that the miner's complaint was not frivolously brought, he shall issue immediately a written order of temporary reinstatement. If a hearing on the application is requested, the hearing shall be held within 10 days following receipt of the request for hearing by the Commission's Chief Administrative Law Judge or his designee, unless compelling reasons are shown in an accompanying request for an extension of time.

(d) *Hearing.* The scope of a hearing on an application for temporary reinstatement is limited to a determination as to whether the miner's complaint was frivolously brought. The burden of proof shall be upon the Secretary to establish that the complaint was not frivolously brought. In support of his application for temporary reinstatement, the Secretary may limit his presentation to the testimony of the complainant. The respondent shall have an opportunity to cross-examine any witnesses called by the Secretary and may present testimony and documentary evidence in support of its position that the complaint was frivolously brought.

(e) *Order on application.* Within 7 days following the close of a hearing on an application for temporary reinstatement, the Judge shall issue a written order granting or denying the application. However, in extraordinary circumstances, the Judge's time for issuing an order may be extended as deemed necessary by the Judge. The Judge's order shall include findings and conclusions supporting the determination as to whether the miner's complaint has been frivolously brought. The parties shall be notified of his determination by the most expeditious means reasonably available. Service of the order granting or denying the application shall be by certified or registered mail, return receipt requested.

(f) *Review of order.* Review by the Commission of a Judge's written order granting or denying an application for temporary reinstatement may be sought by filing with the Commission a petition for review with supporting arguments within 5 days following receipt of the Judge's written order. The opposing party shall be served simultaneously. The filing of a petition for review shall not stay the effect of the Judge's order unless the Commission so directs. Any response shall be filed within 5 days following receipt of a petition. The Commission's ruling on a petition for review shall be rendered within 10 days following receipt of any response or the expiration of the period for filing such

response. In extraordinary circumstances, the Commission's time for decision may be extended.

(g) *Dissolution of order.* If, following an order of temporary reinstatement, the Secretary determines that the provisions of section 105(c)(1), 30 U.S.C. 815(c)(1), have not been violated, the Judge shall be so notified and shall enter an order dissolving the order of reinstatement. An order dissolving the order of reinstatement shall not bar the filing of an action by the miner in his own behalf under section 105(c)(3) of the Act, 30 U.S.C. 815(c)(3), and § 2700.40(b) of these rules.

Subpart F—Applications for Temporary Relief

§ 2700.46 Procedure.

(a) *When to file.* As provided in section 105(b)(2) of the Act, 30 U.S.C. 815(b)(2), an application for temporary relief from any modification or termination of any order or from any order issued under section 104 of the Act, 30 U.S.C. 814, may be filed at any time before such order becomes final. No temporary relief shall be granted with respect to a citation issued under sections 104(a) or (f) of the Act. 30 U.S.C. 814(a) and (f).

(b) *Statements in opposition.* Any party opposing the application shall file a statement in opposition within 4 days after receipt of the application.

(c) *Prior hearing required.* Temporary relief shall not be granted prior to a hearing on such application.

§ 2700.47 Contents of application.

(a) An application for temporary relief shall contain:

(1) A showing of substantial likelihood that the findings and decision of the Judge or the Commission will be favorable to the applicant;

(2) A statement of the specific relief requested; and

(3) A showing that such relief will not adversely affect the health and safety of miners in the affected mine.

(b) An application for temporary relief may be supported by affidavits or other evidence.

Subpart G—Hearings

§ 2700.50 Assignment of Judges.

Judges shall be assigned cases in rotation as far as practicable.

§ 2700.51 Hearing sites.

All cases will be assigned a hearing site by order of the Judge. The Judge shall give due regard to the convenience and necessity of the parties or their representatives and witnesses, the availability of suitable hearing facilities, and other relevant factors.

§ 2700.52 Expedition of proceedings.

(a) *Motions.* In addition to making a written motion pursuant to § 2700.10, a party may request expedition of proceedings by oral motion, with concurrent notice to all parties, or may file and serve such motion by facsimile. Oral motions shall be reduced to writing within 24 hours.

(b) *Timing of hearing.* Unless all parties consent to an earlier hearing, an expedited hearing on the merits of the case shall not be held on less than 4 days notice.

§ 2700.53 Prehearing conferences and statements.

(a) The Judge may require the parties to participate in a prehearing conference, either in person or by telephone. The participants at any such conference may consider and take action with respect to:

(1) The formulation and simplification of the issues;

(2) The possibility of obtaining stipulations, admissions of fact and of documents that will avoid unnecessary proof and advance rulings from the Judge on the admissibility of evidence;

(3) The exchange of exhibits and the names of witnesses and a synopsis of the testimony expected from each witness;

(4) The necessity or desirability of amendments to the pleadings and the joinder of parties;

(5) The possibility of agreement disposing of any or all of the issues in dispute;

(6) Such other matters as may aid in the expedition of the hearing or the disposition of the case.

(b) The Judge may also require the parties to submit prehearing statements addressing one or more of the matters set forth in paragraph (a) of this section.

§ 2700.54 Notice of hearing.

Except in expedited proceedings, written notice of the time, place, and nature of the hearing, the legal authority under which the hearing is to be held, and the matters of fact and law asserted shall be given to all parties at least 20 days before the date set for hearing. The notice shall be mailed by certified or registered mail, return receipt requested.

§ 2700.55 Powers of Judges.

Subject to these rules, a Judge is empowered to:

(a) Administer oaths and affirmations;

(b) Issue subpoenas authorized by law;

(c) Rule on offers of proof and receive relevant evidence;

(d) Order depositions to be taken;

(e) Regulate the course of the hearing;

(f) Hold conferences for the settlement or simplification of the issues;

(g) Dispose of procedural requests or similar matters;

(h) Make decisions in the proceedings before him, provided that he shall not be assigned to make a recommended decision; and

(i) Take other action authorized by these rules, by 5 U.S.C. 556, or by the Act.

§ 2700.56 Discovery; general.

(a) *Discovery methods.* Parties may obtain discovery by one or more of the following methods: Depositions upon oral examination or written questions; written interrogatories; or requests for admissions, for production of documents or objects or for permission to enter upon property for inspecting, copying, photographing, and gathering information.

(b) *Scope of discovery.* Parties may obtain discovery of any relevant, non-privileged matter that is admissible evidence or appears likely to lead to the discovery of admissible evidence.

(c) *Limitation of discovery.* Upon motion by a party or by the person from whom discovery is sought or upon his own motion, a Judge may, for good cause shown, limit discovery to prevent undue delay or to protect a party or person from oppression or undue burden or expense.

(d) *Initiation of discovery.* Discovery shall be initiated within 20 days after an answer to a notice of contest, an answer to a petition for assessment of penalty, or an answer to a complaint under sections 105(c) or 111 of the Act has been filed. 30 U.S.C. 815(c) and 30 U.S.C. 821. For good cause shown, the Judge may permit discovery to be initiated after that date.

(e) *Completion of discovery.* Discovery shall be completed within 40 days after its initiation. For good cause shown, the Judge may extend the time for discovery.

§ 2700.57 Depositions.

(a) *Generally.* Any party, without leave of the Judge, may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories.

(b) *Orders for deposition.* If the parties are unable to agree, the time, place, and manner of taking depositions shall be governed by order of the Judge.

§ 2700.58 Interrogatories, requests for admissions and requests for production of documents.

(a) *Interrogatories.* Any party, without leave of the Judge, may serve written

interrogatories upon another party. A party served with interrogatories shall answer each interrogatory separately and fully in writing under oath within 25 days of service unless the proponent of the interrogatories agrees to a longer time. The Judge may order a shorter or longer time period for responding. A party objecting to an interrogatory shall state the basis for the objection in its answer.

(b) *Requests for admissions.* Any party, without leave of the Judge, may serve on another party a written request for admissions. A party served with a request for admissions shall respond to each request separately and fully in writing within 25 days of service, unless the party making the request agrees to a longer time. The Judge may order a shorter or longer time period for responding. A party objecting to a request for admissions shall state the basis for the objection in its response. Any matter admitted under this rule is conclusively established for the purpose of the pending proceeding unless the Judge, on motion, permits withdrawal or amendment of the admission.

(c) *Request for production, entry or inspection.* Any party, without leave of the Judge, may serve on another party a written request to produce and permit inspection, copying or photocopying of designated documents or objects, or to permit a party or his agent to enter upon designated property to inspect and gather information. A party served with such a request shall respond in writing within 25 days of service unless the party making the request agrees to a longer time. The Judge may order a shorter or longer period for responding. A party objecting to a request for production, entry or inspection shall state the basis for the objection in its response.

§ 2700.59 Failure to cooperate in discovery; sanctions.

Upon the failure of any person, including a party, to respond to a discovery request or upon an objection to such a request, the party seeking discovery may file a motion with the Judge requesting an order compelling discovery. If any person, including a party, fails to comply with an order compelling discovery, the Judge may make such orders with regard to the failure as are just and appropriate, including deeming as established the matters sought to be discovered or dismissing the proceeding in favor of the party seeking discovery. For good cause shown the Judge may excuse an objecting party from complying with the request.

§ 2700.60 Subpoenas.

(a) *Compulsory attendance of witnesses and production of documents.* The Commission and its Judges are authorized to issue subpoenas, on their own motion or on the oral or written application of a party, requiring the attendance of witnesses and the production of documents or physical evidence. A subpoena may be served by any person who is at least 18 years of age. A subpoena may also be served by registered or certified mail, return receipt requested, but, in such case, any risk of delivery is on the serving party. A copy of the subpoena bearing a certificate of service shall be filed with the Commission or the Judge.

(b) *Fees payable to witnesses.* Subpoenaed witnesses shall be paid the same fees and mileage as are paid in the district courts of the United States. The witness fees and mileage shall be paid by the party at whose request the witness appears, or by the Commission if a witness is subpoenaed on the motion of the Commission or a Judge. This paragraph does not apply to Government employees who are called as witnesses by the Government.

(c) *Motions to revoke or modify subpoenas.* Any person served with a subpoena may move within 5 days of service or at the hearing, whichever is sooner, to revoke or modify the subpoena. The Commission or the Judge, as appropriate, shall revoke or modify the subpoena if it seeks information outside the proper scope of discovery as set forth in § 2700.56(b); or if it does not describe with sufficient particularity the evidence required to be produced; or if for any other reason it is found to be invalid or unreasonable. The Commission or the Judge shall set forth a concise statement of the grounds for such ruling.

(d) *Availability of transcript.* Persons compelled to submit evidence at a public proceeding are entitled to obtain, on payment of prescribed costs, a transcript of that part of the proceeding that sets forth their testimony or refers to their production of evidence.

(e) *Failure to comply.* Upon the failure of any person to comply with an order to testify or with a subpoena issued by the Commission or the Judge, the Judge or the Commission's General Counsel, at the request of the Judge or at the direction of the Commission, may undertake to initiate proceedings in the appropriate district court of the United States for the enforcement of the subpoena.

§ 2700.61 Name of miner informant.

A Judge shall not, except in extraordinary circumstances, disclose or order a person to disclose to an operator or his agent the name of an informant who is a miner.

§ 2700.62 Name of miner witness.

A Judge shall not, until 2 days before a hearing, disclose or order a person to disclose to an operator or his agent the name of a miner who is expected by the Judge to testify or whom a party expects to summon or call as a witness.

§ 2700.63 Evidence; presentation of case.

(a) Relevant evidence, including hearsay evidence, that is not unduly repetitious or cumulative is admissible.

(b) The proponent of an order has the burden of proof. A party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

§ 2700.64 Retention of exhibits.

All exhibits received in evidence in a hearing or submitted for the record in any proceeding before the Commission shall be retained with the official record of the proceeding. The withdrawal of original exhibits may be permitted by the Commission or the Judge, upon request and after notice to the other parties, if true copies are substituted, where practical, for the originals.

§ 2700.65 Proposed findings, conclusions and orders.

The Judge may require the submission of proposed findings of fact, conclusions of law, and orders, together with supporting briefs. The proposals shall be served upon all parties, and shall contain adequate references to the record and authorities.

§ 2700.66 Summary disposition of proceedings.

(a) *Generally.* When a party fails to comply with an order of a Judge or these rules, except as provided in paragraph (b) of this section, an order to show cause shall be directed to the party before the entry of any order of default or dismissal. The order shall be mailed by registered or certified mail, return receipt requested.

(b) *Failure to attend hearing.* If a party fails to attend a scheduled hearing, the Judge, where appropriate, may find the party in default or dismiss the proceeding without issuing an order to show cause.

(c) *Penalty proceedings.* When the Judge finds a party in default in a civil penalty proceeding, the Judge shall also enter an order assessing appropriate penalties and directing that such penalties be paid.

§ 2700.67 Summary decision of the Judge.

(a) *Filing of motion for summary decision.* At any time after commencement of a proceeding and no later than 10 days before the date fixed for the hearing on the merits, a party may move the Judge to render summary decision disposing of all or part of the proceeding.

(b) *Grounds.* A motion for summary decision shall be granted only if the entire record, including the pleadings, depositions, answers to interrogatories, admissions, and affidavits, shows:

(1) That there is no genuine issue as to any material fact; and

(2) That the moving party is entitled to summary decision as a matter of law.

(c) *Form of motion and affidavits.* The motion may be supported by affidavits or other verified documents, and shall specify the grounds upon which the party seeks relief. Supporting and opposing affidavits shall be made on personal knowledge and shall show affirmatively that the affiant is competent to testify to the matters stated. Sworn or certified copies of all papers or parts of papers referred to in an affidavit shall be attached to the affidavit or be incorporated by reference if not otherwise a matter of record. The Judge shall permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, admissions or further affidavits. When a motion for summary decision is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for a hearing. If the party does not respond, summary decision, if appropriate, shall be entered against him.

(d) *Case not fully adjudicated on motion.* If a motion for summary decision is denied in whole or in part, the Judge shall ascertain what material facts are controverted and shall issue an order directing further proceedings as appropriate.

§ 2700.68 Substitution of the Judge.

(a) *Generally.* Should a Judge become unavailable to the Commission, the proceedings assigned to him shall be reassigned to a substitute Judge.

(b) *Substitution following a hearing.* The substitute Judge may render a decision based upon the existing record, provided the parties are notified of his intent and they are given an opportunity to object. An objection to the Judge rendering a decision based upon the existing record shall be filed within 10 days following receipt of the Judge's notice, or the objection shall be deemed to be waived. An objection shall be founded upon a showing of a need for the resolution of conflicting material testimony requiring credibility determinations. Upon good cause shown the Judge may order a further hearing on the merits, which shall be limited, so far as practicable, to the testimony in dispute.

§ 2700.69 Decision of the Judge.

(a) *Form and content of the Judge's decision.* The Judge shall make a decision that constitutes his final disposition of the proceedings. The decision shall be in writing and shall include all findings of fact and conclusions of law, and the reasons or bases for them, on all the material issues of fact, law or discretion presented by the record, and an order. If a decision is announced orally from the bench, it shall be reduced to writing after the filing of the transcript. An order by a Judge approving a settlement proposal is a decision of the Judge.

(b) *Termination of the Judge's jurisdiction.* The jurisdiction of the Judge terminates when his decision has been issued.

(c) *Correction of clerical errors.* At any time before the Commission has directed that a Judge's decision be reviewed, and on his own motion or the motion of a party, the Judge may correct clerical errors in decisions, orders or other parts of the record. After the Commission has directed that a Judge's decision be reviewed, the Judge may correct such errors with the leave of the Commission. If a Judge's decision has become the final order of the Commission, the Judge may correct such errors with the leave of the Commission.

Subpart H—Review by the Commission

§ 2700.70 Petitions for discretionary review.

(a) *Procedure.* Any person adversely affected or aggrieved by a Judge's decision or order may file with the Commission a petition for discretionary review within 30 days after issuance of the decision or order. Filing of a petition for discretionary review, including a facsimile transmission, is effective upon receipt. Two or more parties may join in the same petition; the Commission may consolidate related petitions.

(b) *Review discretionary.* Review by the Commission shall not be a matter of right but of the sound discretion of the Commission. Review by the Commission shall be granted only by affirmative vote of at least two of the Commissioners present and voting.

(c) *Grounds.* Petitions for discretionary review shall be filed only upon one or more of the following grounds:

(1) A finding or conclusion of material fact is not supported by substantial evidence;

(2) A necessary legal conclusion is erroneous;

(3) The decision is contrary to law or to the duly promulgated rules or decisions of the Commission;

(4) A substantial question of law, policy, or discretion is involved; or

(5) A prejudicial error of procedure was committed.

(d) *Requirements.* Each issue shall be separately numbered and plainly and concisely stated, and shall be supported by detailed citations to the record, when assignments of error are based on the record, and by statutes, regulations, or other principal authorities relied upon. Except for good cause shown, no assignment of error by any party shall rely on any question of fact or law upon which the Judge had not been afforded an opportunity to pass.

(e) *Statement in opposition.* A statement in opposition to a petition for discretionary review may be filed, but the opportunity for such filing shall not require the Commission to delay its action on the petition.

(f) *Scope of review.* If a petition is granted, review shall be limited to the issues raised by the petition, unless the Commission directs review of additional issues pursuant to § 2700.71.

(g) *Denial of petition.* A petition not granted within 40 days after the issuance of the Judge's decision is deemed denied.

§ 2700.71 Review by the Commission on its own motion.

At any time within 30 days after the issuance of a Judge's decision, the Commission may, by the affirmative vote of at least two of the Commissioners present and voting, direct the case for review on its own motion. Review shall be directed only upon the ground that the decision may be contrary to law or Commission policy or that a novel question of policy has been presented. The Commission shall state in such direction for review the specific issue of law, Commission policy, or novel question of policy to be reviewed. Review shall be limited to the issues specified in such direction for review.

§ 2700.72 Unreviewed decisions.

An unreviewed decision of a Judge is not a precedent binding upon the Commission.

§ 2700.73 Procedure for intervention.

After the Commission has directed a case for review, a person may move to intervene. A motion to intervene shall be filed within 30 days after the Commission's direction for review unless the Commission, for good cause shown, allows a later filing. Intervention before the Commission shall not be a matter of right but of the sound discretion of the Commission. The movant shall set forth:

(a) A legally protectible interest directly relating to the property or events that are the subject of the case on review;

(b) A showing that the disposition of the proceeding may impair or impede his ability to protect that interest;

(c) The reasons why the movant's interest is not adequately represented by parties already involved in the proceeding; and

(d) The reasons why the movant should be excused for failing to file for intervention before the Judge. A motion for intervention shall also show that the granting of the motion will not unduly delay the proceeding or prejudice any party and shall explain why the movant's participation as an amicus curiae would be inadequate. If the Commission permits intervention, the Commission's order shall specify the time within which the intervenor's brief and any response or reply may be filed. In denying a motion to intervene, the Commission may alternatively permit the movant to participate in the proceeding as amicus curiae.

§ 2700.74 Procedure for participation as amicus curiae.

(a) After the Commission has directed a case for review, any person may move to participate as amicus curiae. Such participation before the Commission shall not be a matter of right but of the sound discretion of the Commission. A motion for participation as amicus curiae shall set forth the interest of the movant and show that the granting of the motion will not unduly delay the proceeding or prejudice any party. The movant may conditionally attach its brief to its motion for participation as amicus curiae.

(b) The brief of an amicus curiae should normally be filed within the briefing period allotted to the party whose position the amicus curiae supports. In the interest of avoiding duplication of argument, however, the Commission may permit the filing of an amicus curiae brief within 20 days after the close of the briefing period set forth in § 2700.75(a), provided that the motion for participation as amicus curiae is filed within the briefing period allotted to the party whose position the amicus curiae supports. If the Commission grants the motion for participation as amicus curiae, the Commission's order shall specify the time within which a response or reply may be made to the amicus curiae brief.

§ 2700.75 Briefs.

(a) *Time to file.* (1) *Opening and response briefs.* Within 30 days after the Commission grants a petition for discretionary review, the petitioner shall file his opening brief. If the petitioner desires, he may notify the Commission and all other parties within the 30-day period that his petition and any supporting memorandum are to constitute his brief. Other parties may file response briefs within 30 days after the petitioner's brief is served. If the Commission directs review on its own motion, all parties shall file any opening briefs within 30 days of the direction for review. In such cases, a party may file a response brief within 20 days after service of the opposing party's opening brief.

(2) *Reply briefs.* In cases where the Commission has granted a petition for discretionary review, the petitioner may file a reply brief within 20 days after the service of the response briefs.

(b) *Additional briefs.* No further briefs shall be filed except by leave of the Commission.

(c) *Length of brief.* Except by permission of the Commission, opening briefs shall not exceed 35 pages, response briefs shall not exceed 25 pages, and reply briefs shall not exceed 15 pages. A brief of an amicus curiae shall not exceed 25 pages. A brief of an intervenor shall not exceed the page limitation applicable to the party whose position it supports in affirming or reversing the Judge, or if a different position is taken, such brief shall not exceed 25 pages. Tables of contents or authorities shall not be counted against the length of a brief.

(d) *Motion for extension of time.* A motion for an extension of time to file a brief will not be granted except for good cause shown. A motion for extension of time shall be filed within the time limit prescribed for filing the brief. The Commission may decline to accept a brief that is not timely filed.

(e) *Consequences of petitioner's failure to file brief.* If a petitioner fails to timely file a brief or to designate the petition as his brief, the direction for review may be vacated.

(f) *Number of copies.* As provided in § 2700.5(e), each party shall file seven copies of its brief. If the filing party is not represented by a lawyer or other representative, one copy shall be sufficient.

§ 2700.76 Interlocutory review.

(a) *Procedure.* Interlocutory review by the Commission shall not be a matter of right but of the sound discretion of the Commission.

(1) Review cannot be granted unless:

(i) The Judge has certified, upon his own motion or the motion of a party, that his interlocutory ruling involves a controlling question of law and that in his opinion immediate review will materially advance the final disposition of the proceeding; or

(ii) The Judge has denied a party's motion for certification of the interlocutory ruling to the Commission, and the party files with the Commission a petition for interlocutory review within 30 days of the Judge's denial of such motion for certification.

(2) In the case of either paragraph (a)(1)(i) or (ii) of this section, the Commission, by a majority vote of the full Commission or a majority vote of a duly constituted panel of the Commission, may grant interlocutory review upon a determination that the Judge's interlocutory ruling involves a controlling question of law and that immediate review may materially advance the final disposition of the proceeding. Interlocutory review by the Commission shall not operate to suspend the hearing unless otherwise ordered by the Commission. Any grant or denial of interlocutory review shall be by written order of the Commission.

(b) *Petitions for interlocutory review.* Where the Judge denies a party's motion for certification of an interlocutory ruling and the party seeks interlocutory review, a petition for interlocutory review shall be in writing and shall not exceed 15 pages. A copy of the Judge's interlocutory ruling sought to be reviewed and of the Judge's order denying the petitioner's motion for certification shall be attached to the petition.

(c) *Briefs.* When the Commission grants interlocutory review, the parties shall file briefs not to exceed 25 pages within 20 days of the order granting interlocutory review unless otherwise ordered by the Commission.

(d) *Scope of review.* Unless otherwise specified in the Commission's order granting interlocutory review, review shall be confined to the issues raised in the Judge's certification or to the issues raised in the petition for interlocutory review.

§ 2700.77 Oral argument.

Oral argument may be ordered by the Commission on its own motion or on

the motion of a party. A party requesting oral argument shall do so by separate motion no later than the time that it files its opening or response brief.

§ 2700.78 Reconsideration.

(a) A petition for reconsideration must be filed with the Commission within 10 days after a decision or order of the Commission. Any response must be filed with the Commission within 10 days of service of the petition.

(b) Unless the Commission orders otherwise, the filing of a petition for reconsideration shall not stay the effect of a decision or order of the Commission and shall not affect the finality of a decision or order for purposes of review in the courts.

§ 2700.79 Correction of clerical errors.

The Commission may correct clerical errors in its decisions at any time.

Subpart I—Miscellaneous

§ 2700.80 Standards of conduct; disciplinary proceedings.

(a) *Standards of conduct.* Individuals practicing before the Commission and Commission Judges shall conform to the standards of ethical conduct required of practitioners in the courts of the United States.

(b) *Grounds.* Disciplinary proceedings may be instituted against anyone who is practicing or has practiced before the Commission on grounds that such person has engaged in unethical or unprofessional conduct; has failed to comply with these rules or an order of the Commission or its Judges; has been disbarred or suspended by a court or administrative agency; or has been disciplined by a Judge under paragraph (e) of this section.

(c) Disciplinary proceedings shall be subject to the following procedure:

(1) *Disciplinary referral.* Except as provided in paragraph (e) of this section, a Judge or other person having knowledge of circumstances that may warrant disciplinary proceedings against an individual who is practicing or has practiced before the Commission shall forward to the Commission for action such information in the form of a written disciplinary referral. Whenever the Commission receives a disciplinary referral, the matter shall be assigned a docket number.

(2) *Inquiry by the Commission.* The Commission shall conduct an inquiry concerning a disciplinary referral and shall determine whether disciplinary proceedings are warranted. The Commission may require persons to submit affidavits setting forth their knowledge of relevant circumstances. If the Commission determines that disciplinary proceedings are not warranted, it shall issue an order terminating the referral.

(3) *Transmittal and hearing.* Whenever, as a result of its inquiry, the Commission, by a majority vote of the full Commission or a majority vote of a duly constituted panel of the Commission, determines that the circumstances warrant a hearing, the Commission's Chief Administrative Law Judge shall assign the matter to a Judge, other than the referring Judge, for hearing and decision. The Commission shall specify the disciplinary issues to be resolved through hearing and may designate counsel to prosecute the matter before the Judge. The Judge shall provide the opportunity for reply and hearing on the specific disciplinary matters at issue. The individual shall have the opportunity to present evidence and cross-examine witnesses. The Judge's decision shall include findings of fact and conclusions of law and either an order dismissing the proceedings or an appropriate disciplinary order, which may include reprimand, suspension, or disbarment from practice before the Commission.

(d) *Appeal from Judge's decision.* Any person adversely affected or aggrieved by the Judge's decision is entitled to review by the Commission. A person seeking such review shall file a notice of appeal with the Commission within 30 days after the issuance of the Judge's decision.

(e) *Misconduct before a Judge.* A Judge may order the removal of any person, including a representative of a party, who engages in disruptive conduct in the Judge's presence. If a representative is ordered removed, the Judge shall allow the party represented by the person a reasonable time to engage another representative. In all instances of removal of a person for disruptive conduct, the Judge shall place in the record a written statement on the matter. A party aggrieved by a Judge's order of removal may appeal by requesting interlocutory review pursuant to § 2700.76 or, alternatively, may assign the Judge's ruling as error in a petition for discretionary review.

§ 2700.81 Recusal and disqualification.

(a) *Recusal.* A Commissioner or a Judge may recuse himself from a proceeding whenever he deems such action appropriate.

(b) *Request to withdraw.* A party may request a Commissioner or a Judge to withdraw on grounds of personal bias or other disqualification. A party shall make such a request by promptly filing an affidavit setting forth in detail the matters alleged to constitute personal bias or other grounds for disqualification.

(c) *Procedure if Commissioner or Judge does not withdraw.* If, upon being requested to withdraw pursuant to paragraph (b) of this section, the Commissioner or the Judge does not withdraw from the proceeding, he shall so rule upon the record, stating the grounds for his ruling. If the Judge does not withdraw, he shall proceed with the hearing, or, if the hearing has been completed, he shall proceed with the issuance of his decision, unless the Commission stays the hearing or further proceedings upon the granting of a petition for interlocutory review of the Judge's decision not to withdraw.

§ 2700.82 Ex parte communications.

(a) For purposes of this section, the following definitions shall apply:

(1) *Ex parte communication* means an oral or written communication not on the public record concerning any matter or proceeding with respect to which reasonable prior notice to all parties has not been given. A status or informational request does not constitute an ex parte communication.

(2) *Status or informational request* means a request for a status report on any matter or proceeding or a request concerning filing requirements or other docket information.

(3) *Merits of a case,* which shall be broadly construed by the Commission, includes discussion of the factual or legal issues in a case or resolution of those issues.

(b) *Prohibited ex parte communication.* There shall be no ex parte communication with respect to the merits of a case not concluded, between the Commission, including any member, Judge, officer, or agent of the Commission who is employed in the decisional process, and any of the parties, intervenors, representatives, amici, or other interested persons.

(c) *Procedure in case of violation.* (1) In the event a prohibited ex parte communication occurs, the Commission or the Judge may make such orders or take such action to remedy the effect of the ex parte communication as circumstances require. Upon notice and hearing, the Commission may take disciplinary action against any person who knowingly and willfully makes or causes to be made a prohibited ex parte communication.

(2) A memorandum setting forth all ex parte communications, whether prohibited or not, shall be placed on the public record of the proceeding.

(d) *Inquiries.* Any inquiries concerning filing requirements, the status of cases before the Commission,

or docket information shall be directed to the Office of General Counsel or the Docket Office of the Federal Mine Safety and Health Review Commission, 1730 K Street, N.W., Sixth Floor, Washington, DC 20006–3867.

§ 2700.83 Authority to sign orders.

The Chairman or other designated Commissioner is authorized to sign on behalf of the Commissioners, orders disposing of the following procedural motions: motions for extensions of time, motions for permission to file briefs in excess of page limits, motions to accept late filed briefs, motions to consolidate, motions to expedite proceedings, motions for oral argument, and similar procedural motions. A person aggrieved by such an order may, within 10 days of the date of the order, file a motion requesting that the order be signed by the participating Commissioners.

§ 2700.84 Effective date.

These rules are effective on May 3, 1993 and apply to cases initiated after they take effect. They also apply to further proceedings in cases then pending, except to the extent that application of the rules would not be feasible, or would work injustice, in which event the former rules of procedure apply.

Dated: February 25, 1993.

Arlene Holen,

Chairman, Federal Mine Safety and Health Review Commission.

[FR Doc. 93–4804 Filed 3–2–93; 8:45 am]

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AD57

Dependency and Income; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations which were published Tuesday, December 15, 1992 (57 FR 59296). The regulations were required to implement legislation regarding dependency income and estate.

EFFECTIVE DATE: January 14, 1993.

FOR FURTHER INFORMATION CONTACT: Steven Thornberry, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–3005.

Correction of Publication

On page 59296, the effective date is corrected to read as follows:

EFFECTIVE DATES: The changes to §§ 3.261(a)(36), 3.262(u), 3.263(f), 3.272(p), and 3.275(g) are effective August 10, 1988, the effective date of section 105, Public Law 100–383. The changes to §§ 3.261(a)(14), 3.262(r), and 3.272(n) are effective September 29, 1988, the effective date of section 653, Public Law 100–456. The changes to §§ 3.261(a)(28), 3.262(t), and 3.272(d) are effective November 18, 1988, the effective date of section 1402, Public Law 100–687. The changes to §§ 3.261(a)(35), 3.262(s), 3.263(e), 3.272(o), and 3.275(f) are effective January 1, 1989, the effective date of Public Law 101–201. All other changes are effective January 14, 1993.

§ 3.261 [Corrected]

1. On page 59298, in § 3.261, in the table, paragraph (a)(35) is corrected by adding "(Pub. L. 101–201)" after "payments".

2. On page 59298, § 3.261, in the table, paragraph (b)(4) is corrected by adding "debts; expenses of last illness and burial." after the word "just".

3. On page 59298, § 3.216 at the end of the table, the authority citation is removed.

Dated: February 19, 1993.

Majorie M. Leandri,

Chief, Records, Reports, and Regulations Division.

[FR Doc. 93–4788 Filed 3–2–93; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–4562–4]

Georgia; Final Authorization of State's Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule; correction.

SUMMARY: This action corrects the list of authorities previously published in the **Federal Register** dated November 25, 1992, for final authority. Approval of Georgia's program revision for requirements promulgated between July 1, 1989, and June 30, 1990, became effective on January 25, 1993; however, two provisions were inadvertently omitted from the November 25, 1992, **Federal Register** document.

DATES: Final authorization for Georgia shall be effective retroactively to January 25, 1993, unless EPA publishes a **Federal Register** action withdrawing this immediate final rule. All comments on this correction must be received by close of business by March 18, 1993.

ADDRESSES: Comments should be directed to Leonard W. Nowak at the address listed below.

FOR FURTHER INFORMATION CONTACT: Leonard W. Nowak, Acting Chief, State Program Section, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365; (404) 347–2234.

SUPPLEMENTARY INFORMATION: These provisions were made publicly available for review during the public comment period in the original application and are still available at Georgia Department of Natural Resources, 205 Butler Street, SE, Atlanta, Georgia 30034; U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365. Public comments on the two omitted provisions will be received until the close of business March 18, 1993. If there are no adverse public comments, final authority for Georgia for these provisions will be effective retroactively to January 25, 1993.

In the immediate final rule published on November 25, 1992, at 57 FR 55466, insert the following entries in the table which begins on Page 55467.

Provision	FR reference	FR date	State authority
(67) Testing and Monitoring Activities	54 FR 40260	9/29/89	391–3–11–.02(1) 391–3–11–.07(1)
(68) Reportable Quantity Adjustment Methyl Bromide Production Wastes	54 FR 41402	10/6/89	391–3–11–.07(1)

Dated: February 1, 1993.

D. Guinyard,

Acting Regional Administrator.

[FR Doc. 93–4887 Filed 3–2–93; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket 90–571; FCC 93–104]

Telecommunications Services for Hearing and Speech Disabled

AGENCY: Federal Communications Commission.

ACTION: Final rules; interpretation.

SUMMARY: On February 19, 1993, the Commission adopted an Order on Reconsideration (Reconsideration), Second Report and Order (Second R&O) and Further Notice of Proposed Rulemaking (Further NPRM) in CC Docket 90–571. The Reconsideration and Second R&O (collectively called Order) amend part 64 of the rules to establish shared-funding as the interstate cost recovery mechanism for telecommunications relay services (TRS). The effect of this action is to provide an effective cost recovery system for all carriers.

EFFECTIVE DATE: May 3, 1993.

FOR FURTHER INFORMATION CONTACT: Linda Dubroof, Domestic Services Branch, Domestic Facilities Division, Common Carrier Bureau, (202) 634–1808.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Reconsideration and Second R&O in the matter of Telecommunications Services for Persons with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990 (CC Docket 90–571, FCC 93–104, adopted February 19, 1993, and released February 25, 1993. The file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, room 239, 1919 M St., NW., Washington, DC, or copies may be purchased from the Commission's duplicating contractor, ITS, Inc. 2100 M St., NW., suite 140, Washington, DC 20037, phone (202) 857–3800.

Analysis of Proceeding

In its Report and Order and Request for Comments, adopted July 11, 1991 (56 FR 36729 August 1, 1991), the Commission adopted rules to implement the ADA. The rules require each common carrier providing telephone voice transmission services to provide TRS not later than July 26, 1993, throughout the area in which it offers services. Carriers may provide services individually, through designees, through a competitively selected vendor, or in concert with other carriers. The Commission also fashioned a comprehensive set of rules which set forth terminology and definitions of TRS, prescribe operational, technical, and functional minimum standards of all TRS providers, and delineate the state certification process. Specifically, the Commission's rules require that TRS shall be capable of handling any type of call normally provided by common carriers. The burden of proving the infeasibility of handling any type of call is on the carriers. The ADA and corresponding rules of the Commission are intended to ensure that interstate and intrastate TRS are available, to the extent possible and in the most efficient manner, to persons in the United States with hearing and speech disabilities.

With regard to confidentiality, the Commission's rules require that, consistent with the obligations of common carrier operators, TRS communications assistants (CAs) are prohibited from disclosing the content of any relayed conversation regardless of content.

Furthermore, the Commission, noting that the record was not adequate to determine a specific cost recovery mechanism, sought further comments containing specific proposals on interstate cost recovery.

In the Order adopted February 19, 1993, we clarify that satellite service providers operating as common carriers offering voice services to the public are subject to the TRS service provisions. Similarly, common carriers leasing satellite capacity for the provision of voice transmission services are subject to the provisions of the ADA. However, where satellite services are private network services which do not carry voice transmission services to the general public, these satellite services do not constitute telephone voice transmission services under the ADA. The Order also states that the functional equivalency standard mandated by the ADA requires that TRS be capable of handling any type of call normally provided by common carriers, including coin-sent paid calls. Petitioners' proposal to limit the billing alternatives of persons with hearing and speech disabilities does not satisfy the requirements of the ADA. Moreover, petitioners do not provide a cost benefit basis for finding that it is advisable to exclude coin-sent paid calls from TRS and thereby discourage the development of improved pay telephone technology. The Order affirms that while provision of enhanced services offered by common carriers is not required, carriers are obligated to handle all other basic telephone services. The Commission clarifies rule section 64.604(a)(2) with regard to the confidentiality provided under the ADA, the limited exemptions provided in section 705 of the Communications Act, and the preemption of conflicting state statutes in order to make this rule section more accurately reflect these obligations. With respect to liability, we continue to believe a CA *generally* would not be deemed to be knowingly involved in illegal use. The Commission amends the rule to reflect that there is an exception to the requirement to complete all calls where such completion would be inconsistent with federal, state or local law regarding use of telephone company facilities for illegal purposes.

Final Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, *et seq.*, the Commission's final analysis in this Order on Reconsideration and Second Report and Order is as follows:

I. Need and Purpose of This Action

This *Order on Reconsideration* and *Second Report and Order* further amends the Commission's rules requiring that each common carrier engaged in interstate and/or intrastate telephone voice transmission services shall, no later than July 26, 1993, provide telecommunications relay services throughout the area in which it offers service. The rule amendments are required by the Americans with Disabilities Act of 1990, which, *inter alia*, adds Section 225 to the Communications Act of 1934, as amended, 47 U.S.C. Section 225. The rules are intended to ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to persons in the United States with speech and/or hearing disabilities.

II. Summary of Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis

No comments were submitted in direct response to the Regulatory Flexibility Analysis in the Report and Order and Request for Comments.

III. Significant Alternatives Considered

The Report and Order and Request for Comments in this proceeding offered several proposals and requested comments as well as the views of

commenters on other possibilities. The Commission has considered all comments, and has adopted most of its proposals in addition to some alternatives recommended by commenters. The Commission considers its Order on Reconsideration and Second Report and Order to be the most reasonable course of action under the mandate of section 225 of the Communications Act, as amended.

Ordering Clauses

1. Accordingly, It is Ordered, That, pursuant to sections 1, 4(i), 4(j), 201–205, 225 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 225 and 403, Part 64 of the Commission's Rules and Regulations is amended as set forth below, effective May 3, 1993.

2. The petitions for reconsideration filed by Ameritech Operating Companies, Bell Atlantic Telephone Companies, Bell South Corporation, GTE Service Corporation, and NYNEX Telephone Companies are denied in part and granted in part.

List of Subjects in 47 CFR Part 64

Communications Common Carriers, Handicapped, Individuals with hearing and speech disabilities, Telecommunications relay services.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Change

Part 64 of the Commission's Rules and Regulations (chapter I of title 47 of the Code of Federal Regulations) is amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows::

Authority: Section 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 225, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 225 unless otherwise noted.

2. Section 64.604(a)(2) and (c)(4)(ii) are revised as follows:

§ 64.604 Mandatory minimum standards.

(a) * * *

(2) *Confidentiality and conversation content.* Except as authorized by section 705 of the Communications Act, 47 U.S.C. § 605, CAs are prohibited from disclosing the content of any relayed conversation regardless of content and from keeping records of the content of any conversation beyond the duration of a call, even if to do so would be inconsistent with state or local law. CAs are prohibited from intentionally altering a relayed conversation and, to the extent that it is not inconsistent with federal, state or local law regarding use of telephone company facilities for illegal purposes, must relay all conversation verbatim unless the relay user specifically requests summarization.

* * * * *

(c) * * *

(4) * * *

(ii) *Cost recovery.* Costs caused by interstate TRS shall be recovered from all subscribers for every interstate service, utilizing a shared-funding cost recovery mechanism. Costs caused by intrastate TRS shall be recovered from the intrastate jurisdiction. In a state that has a certified program under section 64.605, the state agency providing TRS shall, through the state's regulatory agency, permit a common carrier to recover costs incurred in providing TRS by a method consistent with the requirements of this section.

[FR Doc. 93–4844 Filed 3–2–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 90

[PR Docket No. 89–553; FCC No. 93–34]

Use of 200 Channels in 896–901/935–940 MHz Bands Allotted to the Specialized Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This docket adopts rules giving licensees with exclusive licenses above 800 MHz greater flexibility in the transmission of a station identifier, and ensuring that spectrum allocated to the Specialized Mobile Radio Service does not remain unused for extended periods. The proposals contained in this first report and order will provide for the continued development of SMR services. This first report and order was combined with a further notice of proposed rule making in this proceeding. A summary of and information on the further notice of proposed rule making is published elsewhere in this issue.

DATES: These regulations are effective April 2, 1993.

ADDRESSES: Federal Communications Commission, 1919 M St., NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steve Sharkey, Private Radio Bureau, (202) 634–2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's first report and order, PR Docket No. 89–553, FCC No. 93–34, adopted January 14, 1993, and released February 12, 1993. The full text of this first report and order is available for inspection during normal business hours in the FCC Dockets Branch, room 230, 1919 M St., NW. Washington, DC. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 2100 M St., NW., suite 140, Washington, DC, 20037, telephone (202) 857–3800. This first report and order imposes no paperwork burden on the public.

Summary of First Report and Order

1. In this *First Report and Order* the Commission adopts rules which state that stations operating on either 800 MHz or 900 MHz channels, licensed on an exclusive basis, that normally employ digital signals for the transmission of data, text, control codes, or digitized voice may transmit a station identifier by digital transmission of the call sign. Additionally, the Commission modifies its rules so that an SMR license will cancel automatically if the licensee discontinues operation for a period in excess of 60 consecutive days and fails to file written justification with the FCC. Finally, the Commission declined to make fixed operations co-primary with mobile operations in the 896–901/935–940 MHz bands, noting that, because these channels are authorized on an exclusive basis, licensees will be able to provide fixed services on a secondary basis.

Final Regulatory Flexibility Analysis

2. Need and Purpose of This Action

These changes to Part 90 of the Commission's Rules will enhance use of channels allocated to the SMR service. The amended rules will allow licensees more operational flexibility and will ensure that the spectrum is being used.

3. Summary of Issues Raised By the Public Comments in Response to the Initial Regulatory Flexibility Analysis

The Initial Regulatory Flexibility Analysis stated that we anticipate that many small and large entities will be positively affected by this action because additional communications options would be made available to them. The number of small entities that will be affected is unknown. We did not receive any comments that specifically addressed our Initial Regulatory Flexibility Analysis.

4. Significant Alternatives Considered and Rejected

All significant alternatives have been addressed in this first report and order. This item is intended to minimize the regulatory burdens to our licensees, many of whom may be considered small business entities.

List of Subjects in 47 CFR Part 90

Business and industry, Communications equipment, Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amendatory Text

Part 90 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for part 90 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303 and 332.

2. Section 90.631 is amended by revising paragraph (f) to read as follows:

§ 90.631 Trunked system loading, construction and authorization requirements.

* * * * *

(f) If a station is not placed in permanent operation, in accordance with the technical parameters of the station authorization, within one year, except as provided in § 90.629, its license cancels automatically and must be returned to the Commission. For purposes of this section, a base station is not considered to be placed in operation unless at least two associated mobile stations, or one control station and one mobile station, are also placed in operation. An SMR licensee with facilities that have discontinued operations for a period in excess of sixty (60) consecutive days is presumed to have permanently discontinued operations, with the underlying license(s) subject to automatic cancellation unless the licensee provides the Commission with written justification of such a planned discontinuance of operations. Such justification must be received by the Commission 30 days before the expiration of the 60-day period and must include the reason for discontinuance and the anticipated duration of the discontinuance. The Commission may reject the licensee's justification and if so, the licensed facility must resume operations within 5 days of receipt of the Commission's rejection notification or by the sixtieth day from the date the station ceased operating, whichever is later. Failure to resume operations within this time will render the underlying license(s) subject to automatic cancellation.

* * * * *

3. Section 90.647 is amended by revising paragraph (b) and adding new paragraph (c) to read as follows:

§ 90.647 Station identification.

* * * * *

(b) Trunked systems of communication, except as noted in paragraph (c) of this Section, shall be identified through the use of an automatic device which transmits the call sign of the base station facility at 30 minute intervals. Such station identification shall be made on the lowest frequency in the base station trunk group assigned the licensee. Should this frequency be in use at the time station identification is required, such identification may be made at the termination of the communication in progress on this frequency. Identification may be made by voice or International Morse Code. When the call sign is transmitted in International Morse Code, it must be at a rate of between 15 to 20 words per minute and by means of tone modulation of the transmitter, the tone frequency being between 800 and 1000 hertz.

(c) Stations operating in either the 806–824/851–869 MHz or 896–901/935–940 MHz bands that are licensed on an exclusive basis, and normally employ digital signals for the transmission of data, text, control codes, or digitized voice may also be identified by digital transmission of the call sign. A licensee that identifies its station in this manner must provide the Commission, upon its request, information sufficient to decode the digital transmission and ascertain the call sign transmitted.

[FR Doc. 93–4284 Filed 3–2–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 90

[PR Docket No. 91–72; FCC 93–32]

Creation of the Emergency Medical Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted rules that create the Emergency Medical Radio Service. This action was taken to redress the adverse consequences on public health and safety resulting from current crowding on emergency medical channels. The rule changes will establish a discrete radio service category dedicated strictly to eligibles providing basic or advanced life support services on an ongoing basis and thereby ensure the reliability of emergency medical communications.

EFFECTIVE DATE: April 2, 1993.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Rules Branch, Private Radio Bureau, (202) 632–7125.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, PR Docket No. 91–72, FCC 93–32, adopted January 14, 1993, and released February 12, 1993. The full text of this Report and Order is available for inspection and copying during normal business hours in the FCC Dockets Branch, room 230, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, telephone (202) 857–3800.

This Report and Order imposes no paperwork burden on the public.

Summary of Report and Order

1. In this Report and Order, we establish the Emergency Medical Radio Service (EMRS) as a new Public Safety Radio Service under subpart B of part 90 of our Rules. A discrete radio service category dedicated solely to transmissions related to life support will help to enhance the reliability of emergency medical communications. Further, by placing the EMRS in Subpart B, its licensees will have access to 19 UHF frequency pairs on a shared basis with other Public Safety Radio Service licensees.

2. Eligibility in the EMRS will be limited to persons or entities that provide basic or advanced life support services on an ongoing basis for the transmission of communications essential to the delivery of emergency medical services. Further, we will permit EMRS applicants to maintain eligibility in Special Emergency Radio Service (SERS) because EMRS licensees need continued access to SERS channels in order to interface with other entities using SERS channels and to conduct necessary non-emergency communications.

3. We are assigning certain frequencies, primarily from the SERS, to the EMRS. We conclude that the SERS spectrum, currently limited primarily for emergency medical communications, is the most appropriate source of spectrum for the EMRS. Thus, we are reassigning to this new service category the ten paired UHF channels in the 460

MHz range known as the MED channels, and five VHF simplex frequencies in the 155 MHz range. Because of the EMRS eligibility criteria, we are removing certain restrictions currently applicable to these frequencies. Additionally, we are prohibiting interservice sharing on these channels. We also are reassigning SERS frequencies in the 453 and 458 MHz band to the EMRS, and where justified, will accommodate medical paging systems currently operating on these channels.

4. Finally, we are reassigning to the EMRS two low power SERS frequencies in the 150 MHz range for full power use, two frequency pairs in the 460 MHz and 465 MHz band, and five pairs of 220 MHz narrowband frequencies.

5. On May 24, 1991, the Private Radio Bureau imposed a freeze on acceptance of applications for the 220–222 MHz band (Order, DA 91–647, 56 FR 25639, June 5, 1991). All 200 MHz frequencies, including Channels 181 through 185 being assigned to the EMRS, remain subject to the Bureau's freeze Order. At such time as we begin accepting applications for the 220–222 MHz band, EMRS eligibles may apply to operate on Channels 181 through 185.

6. We also designate IMSA/IAFC as the certified coordinator for the EMRS.

Final Regulatory Flexibility Analysis

7. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final analysis is as follows:

Need and Purpose of the Action

8. By establishing a discrete Emergency Medical Radio Service, the Commission will improve the quality and reliability of EMS communications. This action will help alleviate the congestion and interference currently hampering EMS communications by restricting use of the relevant channels and assigning additional spectrum for emergency medical communications.

Issues Raised in Response to the Initial Regulatory Flexibility Analysis

9. There were no comments submitted in response to the Initial Regulatory Flexibility Analysis.

Significant Alternatives Considered and Rejected

10. All significant alternatives have been addressed in this Order.

List of Subjects in 47 CFR Part 90

Emergency medical services, Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amendatory Text

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4, 303, 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, and 332, unless otherwise noted.

2. Section 90.27 is added to subpart B to read as follows:

§ 90.27 Emergency Medical Radio Service.

(a) *Eligibility.* Persons or entities engaged in the provision of basic or advanced life support services on an ongoing basis are eligible to hold authorizations in the Emergency Medical Radio Service to operate stations for transmission of communications essential for the delivery or rendition of emergency medical services for the provision of basic or advanced life support. Applications submitted by persons or organizations other than governmental entities must be accompanied by a statement prepared by the governmental body having jurisdiction over the state's emergency medical service plans indicating that the applicant is included in the state's emergency plan or otherwise supporting the application.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Emergency Medical Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations explained in paragraph (c) of this section. (Frequencies below 450 MHz indicated for base or mobile stations may be authorized to fixed stations on a secondary basis to stations in the mobile service):

EMERGENCY MEDICAL RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
72.00 to 76.00.	Operational-fixed ..	1
150–170	Base or mobile	2
150.775	Mobile	.....
150.790	.....do	.....
155.325	Base or mobile	3, 4
155.340	.....do	4, 5
155.355	.....do	3, 4
155.385	.....do	3, 4
155.400	.....do	3, 4

EMERGENCY MEDICAL RADIO SERVICE FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations
169–172	Mobile	6
220.9025	Base	25
220.9075	.....do	25
220.9125	.....do	25
220.9175	.....do	25
220.9225	.....do	25
221.9025	Mobile	25
221.9075	.....do	25
221.9125	.....do	25
221.9175	.....do	25
221.9225	.....do	25
450 to 470	Fixed	7
453.025	Base	9, 19, 22, 26
453.050	Base or mobile	8
453.075	Base	9, 19, 22, 26
453.100	Base or mobile	8
453.125	Base	9, 19, 22, 26
453.150	Base or mobile	8
453.175	Base	9, 19, 22, 26
453.200	Base or mobile	8
453.250	.....do	8
453.300	.....do	8
453.350	.....do	8
453.400	.....do	8
453.450	.....do	8
453.500	.....do	8
453.550	.....do	8
453.600	.....do	8
453.650	.....do	8
453.700	.....do	8
453.750	.....do	8
453.800	.....do	8
453.850	.....do	8
453.900	.....do	8
453.950	.....do	8
458.025	Mobile	9, 22, 26
458.050	.....do	8
458.075	.....do	9, 22, 26
458.100	.....do	8
458.125	.....do	9, 22, 26
458.150	.....do	8
458.175	.....do	9, 22, 26
458.200	.....do	8
458.250	.....do	8
458.300	.....do	8
458.350	.....do	8
458.400	.....do	8
458.450	.....do	8
458.500	.....do	8
458.550	.....do	8
458.600	.....do	8
458.650	.....do	8
458.700	.....do	8
458.750	.....do	8
458.800	.....do	8
458.850	.....do	8
458.900	.....do	8
458.950	.....do	8
460.525	Base or Mobile	10
460.550	.....do	10
462.950	.....do	3, 11, 12
462.975	.....do	3, 11, 12
463.000	.....do	9, 13, 20
463.025	.....do	9, 13, 20
463.050	.....do	9, 13, 20
463.075	.....do	9, 13, 21
463.100	.....do	9, 13, 21
463.125	.....do	9, 13, 21
463.150	.....do	9, 13, 21
463.175	.....do	9, 13, 21
465.525	Mobile	10
465.550	.....do	10
467.950	.....do	3, 11, 12
467.975	.....do	3, 11, 12
468.000	.....do	9, 13, 20

EMERGENCY MEDICAL RADIO SERVICE FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations
468.025	....do	9, 13, 20
468.050	....do	9, 13, 20
468.075	....do	9, 13, 21
468.100	....do	9, 13, 21
468.125	....do	9, 13, 21
468.150	....do	9, 13, 21
468.175	....do	9, 13, 21
470 to 512	Base or Mobile	14
806 to 824	Mobile	15
851 to 869	Base or Mobile	15
928 and above.	Operational-fixed	16
929 to 930	Base only	24
1427 to 1435	Operational-fixed base or mobile.	17
2450 to 2500	Base or Mobile	18
10,550 to 10,680.	....do	23

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) The frequencies available for use at operational-fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(2) Rules concerning the use of this band for narrowband operations are set forth in § 90.271.

(3) A licensee regularly conducting two-way communications operations on this frequency may, on a secondary basis, also transmit one-way alert-paging signals to ambulance and rescue squad personnel.

(4) In addition to other authorized uses, the use of F1B, F1D, F2B or F2D emission is permitted on this frequency for the operation of biomedical telemetry systems except in the following geographic locations:

(i) New York, N.Y.-Northeastern New Jersey; Los Angeles-Long Beach, Calif.; Chicago, Ill.-Northwestern Indiana; Philadelphia, Pa.-N.J.; Detroit, Mich.; San Francisco-Oakland, Calif.; Boston, Mass.; Washington, D.C.-Md.-Va.; Cleveland, Ohio; St. Louis, Mo.-Ill.; Pittsburgh, Pa.; Minneapolis-St. Paul, Minn.; Houston, Tex.; Baltimore, Md.; Dallas, Tex.; Milwaukee, Wis.; Seattle-Everett, Wash.; Miami, Fla.; San Diego, Calif.; Atlanta, Ga.; Cincinnati, Ohio-Ky.; Kansas City, Mo.-Kans.; Buffalo, N.Y.; Denver, Colo.; San Jose, Calif.; New Orleans, La.; Phoenix, Ariz.; Portland, Oreg.-Wash.; Indianapolis, Ind.; Providence-Pawtucket-Warwick, R.I.-Mass.; Columbus, Ohio; San Antonio, Tex.; Louisville, Ky.-Ind.; Dayton, Ohio; Forth Worth, Tex.; Norfolk-Portsmouth, Va.; Memphis, Tenn.-Miss.; Sacramento, Calif.; Fort Lauderdale-Hollywood, Fla.; Rochester, N.Y.; Tampa-St. Petersburg, Fla.

(ii) The continuous carrier mode of operation may be used for telemetry transmissions on this frequency for periods up to two-minutes duration; following which there must be a break in the carrier for at least a one-minute period.

(iii) Geographical coordinates for the above-listed urbanized areas may be found at Table 1 of § 90.635.

(5) This frequency may be designated by common consent as an intersystem mutual assistance frequency under an area-wide medical communications plan.

(6) Frequencies in this band will be assigned for low power wireless microphones in accordance with the provisions of § 90.265.

(7) The frequencies available for use at fixed stations in this band and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Industrial and Land Transportation Radio Service where they are assigned for land mobile operations.

(8) This frequency is available in this service on a shared basis with all other Public-Safety Radio Services.

(9) The continuous carrier mode of operation may be used for telemetry transmission on this frequency.

(10) This frequency is shared with the Police and Fire Radio Services. This frequency may be designated by common consent for intra-system and inter-system mutual assistance purposes and is subject to the coordination requirements specified in § 90.175.

(11) This frequency is primarily authorized for use in the dispatch of medical care vehicles and personnel for the rendition or delivery of medical services. This frequency may also be assigned for intra-system and inter-system mutual assistance purposes. For uniformity in usage, the frequency pairs 462.950/467.950 and 462.975/467.975 MHz may be referred to as MED–9 and MED–10, respectively.

(12) This frequency is shared with Police Radio Service licensees authorized prior to April 16, 1976. This frequency is available on a primary basis to operations by licensees in the Emergency Medical Radio Service.

(13) For applications for new radio systems received after August 15, 1974, the eight frequency pairs listed below will be assigned in a block for shared operation under § 90.27(a) subject to the following:

(i) For uniformity in usage, these frequency pairs may be referred to by channel name as follows:

Frequencies base and mobile (Megahertz)	Mobile only (MHz)	Channel name
463.000	468.000	MED–1
463.025	468.025	MED–2
463.050	468.050	MED–3
463.075	468.075	MED–4
463.100	468.100	MED–5
463.125	468.125	MED–6
463.150	468.150	MED–7
463.175	468.175	MED–8

(ii) Except as provided in paragraphs (c)(13)(iii) and (iv) of this section, mobile or portable stations must employ equipment that is both wired and equipped to transmit/receive, respectively, on each of these eight frequency pairs with transmitters operated on the 468 MHz frequencies.

(iii) Portable (hand-held) units operated with a maximum output power of 2.5 watts are exempted from the multi-channel equipment requirements specified in paragraph (c)(13)(ii) in this section.

(iv) Stations located in areas above line A, as defined in § 90.7 will be required to meet multi-channel equipment requirements only for those frequencies up to the number specified in paragraph (c)(13)(ii) of this section that have been assigned and coordinated with Canada in accordance with the applicable U.S.-Canada agreement.

(14) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(15) Subpart S contains rules for assignment of frequencies in the 806–824 MHz and 851–869 MHz bands.

(16) Assignment of frequencies above 928 MHz for operational-fixed stations is governed by part 94 of this Chapter.

(17) This frequency band is available in this service subject to the provisions of § 90.259.

(18) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices. In the 2483.5–2500 MHz band, no applications for new or modifications to existing stations to increase the number of transmitters will be accepted. Existing licensees as of July 25, 1985, or on a subsequent date as a result of submitting an application for license on or before July 25, 1985, are grandfathered and their operation is co-primary with the Radio-determination Satellite Service.

(19) Paging licensees as of March 20, 1991, may continue to operate on a primary basis until January 14, 1998.

(20) This frequency is authorized for use only for operations in biomedical telemetry stations. F1B, F1D, F2B, F2D, F3E, G1B, G1D, G2B, G2D and G3E emissions may be authorized. Entities

eligible in this Radio Service may use this frequency on a secondary basis for any other permissible communications consistent with § 90.27(a).

(21) This frequency is authorized only for communications between medical facilities vehicles and personnel related to medical supervision and instruction for the treatment and transport of patients in the rendition or delivery of medical services. F1B, F1D, F2B, F2D, G1B, G1D, G2B, F3E and G3E emissions are authorized. Entities eligible in this Radio Service may use this frequency on a secondary basis for any other permissible communications consistent with § 90.27(a).

(22) Local government highway radio call box operations first licensed prior to 3/31/80 on this frequency may continue to operate in accordance with § 90.17(c)(11).

(23) This band is available for Digital Termination Systems and for associated intermodal links under part 94 of this Chapter. No new licenses will be issued under this subpart but current licenses will be renewed.

(24) Frequencies in this band are available only for one-way paging operations in accordance with § 90.494.

(25) Rules concerning the use of this frequency are set forth in subpart T.

(26) This frequency is also authorized for use for operations in biomedical telemetry stations. F1B, F1D, F2B, F2D, F3E, G1B, G1D, G2B, G2D, and G3E emissions may be authorized for biomedical transmissions.

3. Section 90.53 is amended by revising paragraphs (a) and (b) to read as follows:

§ 90.53 Frequencies available.

(a) The following table indicates frequencies available for assignment to stations in the Special Emergency Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (b) of this section. (Frequencies below 450 MHz indicated for base or mobile stations may be authorized to fixed stations on a secondary basis to stations in the mobile service):

SPECIAL EMERGENCY RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
2000–3000	Fixed	1
2726	Base or mobile	2
3201	do	
Megahertz:		
33.02	do	3, 25
33.04	do	25
33.06	do	3, 25
33.08	do	25
33.10	do	3, 25
35.02	Mobile	27
35.64	Base	4
35.68	do	4
37.90	Base or mobile	3, 25
37.94	do	3, 25
37.98	do	3, 25
43.64	Base	4, 28
43.68	do	4
45.92	Base or mobile	25
45.96	do	25
46.00	do	25
46.04	do	25
47.42	do	5, 25
47.46	do	25
47.50	do	25
47.54	do	25
47.58	do	25
47.62	do	25
47.66	do	25
72.00 to 76.00.	Operational fixed	6
150–170	Base or mobile	30
152.0075	Base	4, 31
155.160	Base or mobile	25
155.175	do	25
155.205	do	25
155.220	do	25
155.235	do	25
155.265	do	25
155.280	do	25
155.295	do	25
157.450	Base	4, 11
163.250	do	4
169–172	Mobile	33
450–470	Fixed	12
453.025	Base	26
453.075	do	26
453.125	do	26
453.175	do	26
806 to 824	Mobile	21
851 to 869	Base or mobile	21
928 and 952MHz.	Operational-fixed	22
929 to 930	Base only	7
1427 to 1435	Operational-fixed, base or mobile.	23
2450 to 2500	Base or mobile	24
10,550 to 10,680.	do	5

(b) Explanation of assignment limitations appearing in the frequency table of paragraph (a) of this section:

(1) Appropriate frequencies in the band 2000–3000 kHz which are designated in part 80 of this chapter as available to Public Ship Stations for telephone communications with Public Coast Stations may be assigned on a secondary basis to Special Emergency fixed Stations for communication with Public Coast Stations only, provided such stations are located in the United States and the following conditions are met:

(i) That such fixed station is established pursuant to the eligibility provisions of § 90.47 and that the isolated area involved is an island or other location not more than 480 km (300 statute miles) removed from the desired point of communication and isolated from that point by water.

(ii) That evidence is submitted showing that an arrangement has been made with the coast station licensee for the handling of emergency communications permitted by § 80.453 and § 90.47(d) of this chapter.

(iii) That operation of the Special Emergency fixed station shall at no time conflict with any provision of Part 80 of this chapter and further, that such operation in general shall conform to the practices employed by Public Ship Stations for radiotelephone communication with the same Public Coast Station.

(2) This frequency is shared with the Local Government Radio Service where it is available for State Guard operations.

(3) This frequency is shared with the Highway Maintenance Radio Service.

(4) This frequency will be assigned only for one-way paging communications to mobile receivers. Transmissions for the purpose of activating or controlling remote objects on this frequency are not authorized.

(5) Thus frequency is reserved for assignment only to national organizations eligible for disaster relief operations under § 90.41.

(6) The frequencies available for use at operational-fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(7) Frequencies in this band are available only for one-way paging operations in accordance with § 90.494.

(8) [Reserved]

(9) The frequencies in the band 10.55–10.68 GHz are available for Digital Termination Systems and for associated intermodal links in the Point-to-Point Microwave Radio Service. No new licenses will be issued under this subpart but current licenses will be renewed.

(10) [Reserved]

(11) Operations on this frequency are limited to 30 watts transmitter output power.

(12) The requirements for secondary fixed use of frequencies in this band are set forth in § 90.261.

(13) [Reserved]

(14) [Reserved]

(15) [Reserved]

(16) [Reserved]

(17) [Reserved]

(18) [Reserved]

(19) [Reserved]

(20) [Reserved]

(21) Subpart S contains rules for assignment of frequencies in the 806–824 MHz and 851–869 MHz bands.

(22) Assignment of frequencies above 928 MHz for operational-fixed stations is governed by part 94 of this chapter.

(23) This frequency band is available in this service subject to the provisions of § 90.259.

(24) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices. In the 2483.5–2500 MHz band, no applications for new or modification to the existing stations to increase the number of transmitters will be accepted. Existing licensees as of July 25, 1985, or on a subsequent date following as a result of submitting an application for license on or before July 25, 1985, are grandfathered and their operation is co-primary with the Radiodetermination Satellite Service.

(25) A licensee regularly conducting two-way communication operations on this frequency may, on a secondary basis, also transmit one-way alert-paging signals to ambulance and rescue squad personnel.

(26) Paging licensees as of March 20, 1991, may continue to operate on a primary basis until January 14, 1998.

(27) This frequency is available in this service only to persons eligible under the provisions of § 90.38(a) for operation of transmitters having a maximum power output of three watts using A1A, A1D, A2B, A2D, F1B, F1D, F2B, F2D, G1B, G1D, G2B, or G2D emission. This frequency is also available in the Business Radio Service on a co-equal basis with the Special Emergency Radio Service users.

(28) No new licenses will be granted for one-way paging under § 90.487 for use on this frequency after August 1, 1980. This frequency is available to persons eligible for station licenses under the provisions of § 90.38(a) on a co-equal basis with one-way paging users under § 90.487 prior to August 1, 1985, and on a primary basis after August 1, 1985. Only A1A, A1D, A2B, A2D, F1B, F1D, F2B, F2D, G1B, G1D, G2B, G2D emissions and power not exceeding 10 watts will be authorized. Antennas having gain greater than 0 dBd will not be authorized. Transmissions shall not exceed two seconds duration.

(29) [Reserved]

(30) Rules concerning the use of this and for narrowband operations are set forth in § 90.271.

(31) This frequency is removed by 22.5 kHz from frequencies assigned to other radio services. Utilization of this frequency may result in, as well as be subject to, interference under certain operating conditions. In considering the use of this frequency, adjacent channel operations should be taken into consideration. If interference occurs, the licensee may be required to take the necessary steps to resolve the problem. See § 90.173(b).

(32) [Reserved]

(33) Frequencies in this band will be assigned for low power wireless microphones in accordance with provisions of § 90.265.

(34) [Reserved]

* * * * *

4. Section 90.55 is amended by revising the first sentence of the introductory text to read as follows:

§ 90.55 Paging operations.

Paging operations may be authorized in this service only on frequencies assigned under the provisions of §§ 90.53(b)(4), (7), (25) and (26).* * *

* * * * *

5. Section 90.176 is amended by revising paragraph (a) and (b), redesignating paragraph (c) as (d), and adding a new paragraph (c) to read as follows:

§ 90.176 Interservice sharing of frequencies in the 150–174 and 450–470 MHz bands.

(a) Entities eligible in the Public Safety Radio Services governed by this rule part may apply to use any of the 150–174 and 450–470 MHz frequencies allocated to these services. Applicants are required to make the showing set forth in paragraph (c) of this section.

(b) Entities eligible in the Special Emergency Radio Service or the Industrial and Land Transportation Radio Services governed by this rule part may apply to use any of the above-mentioned frequencies allocated to these services. Applicants are required to make the showing set forth in paragraph (c) of this section.

(c) Applications for frequencies available under this rule must be accompanied by:

(1) A determination by the applicable frequency coordinator that there are no satisfactory frequencies available within the applicant's own radio service in the area of desired operation;

(2) A demonstration that the frequency(ies) requested in another radio service are not assigned in that radio service in the area of desired operation;

(3) A statement from the frequency coordinator having responsibility for coordination in the radio service or group in which the frequency is assigned concurring in its assignment in the manner requested. In cases where concurrence is not given, the coordinator must provide an explanation why the requested sharing is inappropriate;

(4) A statement or showing that the proposed use of the assignment will not violate any of the technical limitations applicable in the service or services to which the frequency is regularly allocated.

* * * * *

§ 90.311 [Amended]

6. Section 90.311(a) is amended by revising the table column heading under "Public Safety Pool" to list the radio-services as follows:

* * * * *

Fire, Police, Local Government, Highway Maintenance, Forestry Conservation and Emergency Medical Radio Services.

* * * * *

7. Section 90.555 is amended by revising the list of letter symbols under Public Safety Services in the table in paragraph (a), and revising the entries for frequencies 150.775 MHz, 150.790 MHz, 155.325 MHz through 155.355 MHz, 155.385 MHz, 155.400 MHz, 453.025 through 453.200 MHz, 453.250 MHz, 453.300 MHz, 453.350 MHz, 453.400 MHz, 453.450 MHz, 453.500 MHz, 453.550 MHz, 453.600 MHz, 453.650 MHz, 453.700 MHz, 453.750 MHz, 453.800 MHz, 453.850 MHz, 453.900 MHz, 453.950 MHz, 458.025 MHz through 458.200 MHz, 458.250 MHz, 458.300 MHz, 458.350 MHz, 458.400 MHz, 458.450 MHz, 458.500 MHz, 458.550 MHz, 458.600 MHz, 458.650 MHz, 458.700 MHz, 458.750 MHz, 458.800 MHz, 458.850 MHz, 458.900 MHz, 458.950 MHz, 460.525 MHz, 460.550 MHz, 462.950 MHz through 463.175 MHz, 465.525 MHz, 465.550 MHz, 467.950 MHz through 468.175 MHz in paragraph (b) to read as follows:

§ 90.555 Combined frequency listing.

(a) * * *

Public Safety Services

PF—Fire.
PH—Highway maintenance.
PL—Local government.
PO—Forestry-conservation.
PP—Police.
PS—Special Emergency.
PM—Emergency Medical.

(b) Combined frequency list.

Frequency	Services	Special limitations
* *	* *	*
150.775	PM	Mobile.
150.790	PM	Do.
* *	* *	*
155.325	PM	Do.
155.340	PM	Do.

Frequency	Services	Special limitations
155.385	PM	Do.
• •	• •	•
155.385	PM	Do.
155.490	PM	Do.
• •	• •	•
453.025	PM	Do.
453.050	PL, PP, FP, PH, PO, PM.	Do.
453.075	PM	Do.
453.100	PL, PP, PF, PH, PO, PM.	Do.
453.125	PM	Do.
453.150	PL, PP, PF, PH, PO, PM.	Do.
453.175	PM	Do.
453.200	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.250	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.300	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.350	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.400	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.450	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.500	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.550	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.600	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.650	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.700	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.750	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.800	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.850	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.900	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
453.950	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.025	PM	Do.
458.050	PL, PP, PF, PH, PO, PM.	Do.
458.075	PM	Do.
458.100	PL, PP, PF, PH, PO, PM.	Do.
458.125	PM	Do.
458.150	PL, PP, PF, PH, PO, PM.	Do.
458.175	PM	Do.
458.200	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.250	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.300	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.350	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.400	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.450	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.500	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.550	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.600	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.650	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.700	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.750	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.800	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.850	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.900	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
458.950	PL, PP, PF, PH, PO, PM.	Do.
• •	• •	•
460.525	PP, PF, PM	Do.
460.550	PP, PF, PM	Do.
• •	• •	•
462.950	PM	Med 9.
462.975	PM	Med 10.
463.000	PM	Med 1.
463.025	PM	Med 2.
463.050	PM	Med 3.
463.075	PM	Med 4.
463.100	PM	Med 5.
463.125	PM	Med 6.
463.150	PM	Med 7.
463.175	PM	Med 8.
• •	• •	•
465.525	PP, PF, PM	Do.
465.550	PP, PF, PM	Do
• •	• •	•
467.950	PM	Med 9.
467.975	PM	Med 10.
468.000	PM	Med 1.
468.025	PM	Med 2.
468.050	PM	Med 3.
468.075	PM	Med 4.
468.100	PM	Med 5.
468.125	PM	Med 6.
468.150	PM	Med 7.
468.175	PM	Med 8.
• •	• •	•

8. Section 90.719 is revised to read as follows:

§ 90.719 Individual channels available for assignment in the 220–222 MHz band.

Channels 171–200 are available to both Government and non-Government applicants, and may be assigned singly or in contiguous channel groups. Channels 171–180 are available for any use consistent with this subpart. Channels 181–185 are set aside for Emergency Medical Radio Service use under subpart B. Channels 186–200 are set aside for data only operations until March 31, 2000. The term "data", for purposes of this subpart, includes the transmission of text, control codes, and other information typical of machine-to-machine communications. Digitized voice signals are considered data signals under this subpart.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 171

[Docket No. HM–181; Amendment No. 171–111]

RIN 2137–AA01

Infectious Substances; Extension of Compliance Date

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; extension of compliance date.

SUMMARY: RSPA has received two petitions for reconsideration, and a number of comments concerning provisions for infectious substances adopted in a final rule. In this document, RSPA is extending a compliance date applicable to infectious substances from April 1, 1993, to January 1, 1994, in order to provide additional time to consider the issues. Elsewhere in today's **Federal Register**, RSPA has published an advance notice of proposed rulemaking and announced a public hearing concerning these issues.

EFFECTIVE DATE: This amendment is effective on March 3, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Eileen Martin, or Ms. Jennifer Posten, Office of Hazardous Materials Standards, Research and Special Programs Administration, 400 Seventh St., SW., Washington, DC 20590–0001, telephone: (202) 366–4488.

SUPPLEMENTARY INFORMATION: On December 21, 1990, RSPA issued a final rule under Docket HM–181 (55 FR 52402) which comprehensively revised the Hazardous Materials Regulations (HMR) with respect to hazard communication, classification, and packaging requirements. A document making editorial and substantive revisions to the December 1990 final rule was published on December 20, 1991 (56 FR 66124). The revisions contained in the latter document were primarily in response to over 250 petitions for reconsideration received on the December 21, 1990 final rule.

Following issuance of the December 1991 rule, RSPA received two additional petitions for reconsideration and numerous comments and requests for clarification concerning provisions of the final rule applicable to infectious substances and regulated medical waste. On October 1, 1992 (57 FR 45442), 49 CFR 171.14(b) was revised to establish a compliance date of April 1, 1993, rather than October 1, 1992, for new requirements applicable to infectious substances. Elsewhere in today's **Federal Register**, RSPA has published an advance notice of proposed rulemaking (ANPRM) and announced a public hearing concerning the need for additional regulatory changes pertaining to infectious substances. In order to provide time for evaluation of comments to the ANPRM and to develop additional rulemaking documents, if warranted, RSPA is revising 49 CFR 171.14 to extend the compliance date applicable to infectious substances from April 1, 1993, to January 1, 1994.

The reader should note that § 171.14 was revised on October 1, 1992 (57 FR 45442) by redesignating paragraphs (b)(3), (b)(4) and (b)(5) as paragraphs (b)(4), (b)(5) and (b)(6), respectively, and by adding a new paragraph (b)(3) which applied the April 1, 1993 compliance date to infectious substances. In this document, paragraph (b)(3) is removed to delete reference to the April 1, 1993 date and paragraphs b(5) and b(6) are redesignated as b(6) and b(7), respectively. A new paragraph b(5) is added to make the classification, hazard communication, and packaging requirements adopted under Docket HM–181 applicable to infectious substances effective January 1, 1994.

During the transition period provided in § 171.14, a person may comply with either the applicable "old" requirements of the HMR (i.e., those which were in effect on September 30, 1991) or the current requirements adopted under HM–181. If a material is an etiologic agent under the old regulations and does not meet any of the old exceptions, it must conform to either the old requirements (i.e., must be described, labeled and packaged as an "etiologic agent") or the current requirements of the HMR for "infectious substances". (Notice that Section 171.14(c)(3) provides for limited intermixing of old and new requirements). If a material meets the new "infectious substance" definition but not the old "etiologic agent" definition, it may be shipped in accordance with the new requirements, but compliance is not mandatory until January 1, 1994.

Because the amendments adopted herein extend the compliance date of certain regulations, and impose no new regulatory burden on any person, notice and public procedure are unnecessary. For these same reasons, these amendments are being made effective without the usual 30-day delay following publication.

Rulemaking Analyses and Notices

Executive Order 12291

This final rule has been reviewed under the criteria specified in section 1(b) of Executive Order 12291 and is determined not to be a major rule. Although the December 20, 1991 final rule was significant under the regulatory procedures of the Department of Transportation (44 FR 11034),this document is not significant because it does not impose additional requirements and has the effect of extending a compliance date. A regulatory evaluation for the December 20, 1991 final rule is available for review in the docket.

Executive Order 12612

This action has been analyzed in accordance with Executive Order 12612 on Federalism. It has no substantial direct effect on the States, the current Federal-State relationship, or the current distribution of power and responsibilities among levels of government. Therefore, no Federalism Assessment is required.

Regulatory Flexibility Act

Based on information concerning the size and nature of entities likely to be affected by this rule, I certify that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Paperwork Reduction Act

This amendment does not impose information collection or recordkeeping requirements.

List of Subjects in 49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 171 is amended as set forth below:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1805, 1808, 1818; 49 CFR Part 1.

2. In Section 171.14, paragraph (b)(3) is removed and reserved, paragraphs (b)(5) and (b)(6) are redesignated as paragraphs (b)(6) and (b)(7), respectively, and a new paragraph (b)(5) is added to read as follows:

§ 171.14 Transitional provisions for implementing requirements based on the UN Recommendations.

* * * * *

(b) * * *

(3) (Reserved.

(4) * * *

(5) *January 1, 1994.* On January 1, 1994, all applicable regulatory requirements, including those pertaining to classification, (see § 173.134 of this subchapter), hazard communication, and packaging for Division 6.2 materials (infectious substances, including regulated medical waste) are effective.

* * * * *

Issued in Washington, DC on February 26, 1993. under authority delegated in 49 CFR part 1.

Rose A. McMurray,

Acting Administrator.

[FR Doc. 93–4881 Filed 3–2–93; 8:45 am]

BILLING CODE 4910-60-P

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 92–33; Notice 2]

RIN 2127—AE36

Federal Motor Vehicle Safety Standards Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice adopts identification markings for lenses on round sealed beam headlamps that

would be an alternative to those markings presently required. This will allow manufacture of replacement headlamps for old cars that replicate the appearance of the original headlamps. The notice also transfers some existing requirements for replacement equipment from S5.1, the section on new vehicle equipment, to S5.8, the section on replacement equipment. Finally, the notice deletes the footnotes and associated references from the Tables.

DATES: The effective date for the final rule is April 2, 1993.

FOR FURTHER INFORMATION CONTACT: Patrick Boyd, Office of Rulemaking, (202–366–6346).

SUPPLEMENTARY INFORMATION: This rulemaking action affects only the marking of lenses of replacement equipment headlamps of 7-inch and 5¾-inch diameters. A notice of proposed rulemaking on this subject was published on July 8, 1992 (57 FR 30189).

Until 1974, the only types of headlamp systems permitted by Standard No. 108 were a two headlamp system of lamps with lens diameters of 7 inches, and a four headlamp system of lamps with lens diameters of 5¾ inches. The headlamps were required to be designed to conform to SAE Standard J579a *Sealed Beam Headlamp Units for Motor Vehicles*, August 1965. In 1978, headlamps designed to conform to the newer photometrics of SAE Standard J579c (December 1974) were added to the list of permissible frontal lighting systems, and, effective July 1, 1979, their lenses were required to be marked in accordance with a three-digit code established by the standard. At the same time, NHTSA incorporated by reference SAE Standard J571d *Dimensional Specifications for Sealed Beam Headlamp Units*, June 1976, which contained a single digit code applicable to headlamps designed to conform to SAE J579a. In 1989, in a move toward regulatory simplification, Standard No. 108 was amended to eliminate SAE J571d, and SAE J579a as a permissible headlighting option as these lamps were no longer being manufactured.

Under the nomenclature adopted effective from 1979 to the present, a 7-inch diameter sealed beam headlamp designed to conform to the photometrics of SAE J579c is known as Type 2D1, and the 5¾-inch diameter headlamps as Types 1C1 and 2C1. These alpha-numeric type designations are required to be placed on the headlamp lenses in order to facilitate replacement of headlamps with those of like performance.

Lectric Limited Inc., and Wagner Lighting Division of Cooper Industries Inc., petitioned for rulemaking to allow use of "1", "2", and "Top" as markings to identify Type 1C1, 2C1, and 2D1 headlamps. The designators "1" and "2" were required for headlamps designed to conform to SAE Standards J571d and J579a. The headlamps contemplated by the petitioners would be designed to conform to the contemporary photometrics of SAE J579c.

Thus, the headlamps would have the appearance of those which were standard equipment on all passenger cars of 1974 and previous model years (as well as those of subsequent model years intended to meet SAE J579a), but have the performance required today. A rule of this nature would allow the petitioners "to satisfy a previously unaddressed need in the classic and collector car market." This need is for replacement headlamps on older vehicles to replicate the appearance of the original headlamps. According to the petitioners, the owners of such vehicles will not accept a replacement headlamp with descriptive lettering which is incorrect in appearance for the era in which the car was manufactured. General Motors has granted the petitioners a license to use GM's "Guide T-3" marking on the lamps as it was in effect during the 1950s to 1970s.

Petitioners stated that these headlamps will be sold only through wholesalers and retailers who service the classic and restored car market. Their low volume and consequent high cost is not likely to attract the average consumer who simply owns and drives an old car.

NHTSA granted the petition and proposed the removal of a regulatory barrier to the manufacture of new headlamps for vehicles of special interest to collectors. Comments were received from Chicago Corvette Supply, Rainbow Unlimited, Broughton Automotive, General Motors Corporation, Zip Products, Ford Motor Company, Chrysler Corporation, and Cooper Wagner Lighting. The comments were unanimous in support of the alternative lens marking proposal. Accordingly, S5.8 *Replacement Equipment* is amended to allow the requested marking as an alternative to that presently required (that specified by SAE Standard J1383 APR85 which adopted the NHTSA nomenclature).

In reviewing Standard No. 108, NHTSA found that a number of the exceptions of S5.1 *Required Motor Vehicle Lighting Equipment* in fact apply to individual items of replacement equipment rather than equipment comprised in new vehicle lighting systems. From the standpoint of regulatory consistency and logic, the agency proposed a transfer of these provisions to S5.8, and a consequent redesignation of the remaining subparagraphs of S5.1. Ford pointed out that the redesignation of subparagraphs S5.1.1.11 and S5.1.1.12 as subparagraphs S5.8.5 and S5.8.6 would have the unintended effect of removing, from the standards for original equipment parking lamps and taillamps, the provision of photometric compliance on a zonal rather than test point basis. NHTSA agrees, and is retaining the original equipment portion of these subparagraphs under S5.1, as well as the provisions for motorcycle turn signals which were similarly affected.

While reviewing Ford's comment, NHTSA also discovered that S5.1.1.11, as published in the October 1, 1991, revision of 49 CFR is inconsistent with the actual text as a result of apparent printing errors. The words "Table 1 and Table 3 of SAE J588 NOV84 *Turn Signal Lamps*" were substituted for "Figure 1b" in an inappropriate place in addition to the proper place, and the second sentence of the subparagraph was omitted. These errors have been corrected.

Ford also commented that the redesignations proposed in S5.1 were in conflict with the subparagraph designations relating to center highmounted stop lamps for vehicles other than passenger cars that were adopted on April 19, 1991 (56 FR 16105), but that will not become effective until September 1, 1993. In agreement with this comment, NHTSA published a notice in the **Federal Register** that accelerated the effective date of the redesignations to October 1, 1992 (57 FR 45327). Thus, the redesignations adopted by this notice are consistent with the redesignations adopted in April 1991 that are now effective.

There were two further comments by Ford that the agency has not adopted. NHTSA proposed to delete all footnotes and associated references in the Tables. These footnotes originated in the early days of Standard No. 108 as a guide to manufacturers unfamiliar with the standard. NHTSA deemed their continued presence no longer necessary for regulatory clarity. Ford disagreed, and recommended revisions consistent with the redesignations. Because no other commenters addressed the point, the agency has concluded that Standard No. 108 is sufficiently clear to industry that the footnotes no longer serve a

useful purpose, and they are deleted as proposed.

Ford also requested the addition of language to Standard No. 108 stating that stop lamps and turn signal lamps are not subject to the photometric guidelines at each test point in SAE Standards J586 FEB84 and J588 NOV84. The company believed that this would clarify a previous statement of the agency that these SAE standards provide that compliance is determined through sums of test points within a group rather than doing so at individual test points. NHTSA believes that the standard is clear enough without the language that Ford suggests. These SAE standards specify photometric compliance on a zonal basis. The design guidelines for each test point are intended to assist in the design of lamps which will meet the zonal requirements. The SAE is not ambiguous regarding the distinction between guidelines and requirements.

Effective Date

Because the amendment relieves a regulatory barrier not required for safety and imposes no additional burden upon any regulated party, it is found for good cause shown that an effective date earlier than 180 days after issuance of the final rule is in the public interest, and the rule is effective 30 days after its publication in the **Federal Register**.

The rule will not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Rulemaking Analyses

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has considered the impacts of this rulemaking action and has determined that it is neither major within the meaning of Executive Order 12291 "Federal Regulation", nor significant under Department of Transportation regulatory policies and procedures. The amendment to the identification mark requirements will not affect the cost of producing headlamps. The agency concludes that the impacts are so minimal as not to warrant the preparation of a full regulatory evaluation.

Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking action in relation to the Regulatory Flexibility Act. I certify that this rulemaking action will not have a significant economic effect upon a substantial number of small entities. Motor vehicle manufacturers and lighting manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions will not be significantly affected as the price of new motor vehicles should not be impacted. Accordingly, no Regulatory Flexibility Analysis has been prepared.

Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 on "Federalism." It has been determined that the rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for purposes of the National Environmental Policy Act. The rulemaking action will not have a significant effect upon the environment. There is no environmental impact associated with the marking of headlamp lenses. The rulemaking action will not have an effect upon fuel consumption.

List of Subjects in Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.108 [Amended]

2. S5.1.1.6 (a) and (b) are redesignated S5.8.3 (a) and (b), and S5.1.1.6(c) is removed.

3. S5.1.1.7(a) is redesignated S5.8.4(a). The first sentence of S5.1.1.7(b) is redesignated S5.8.4(b). The second sentence of S5.1.1.7(b) is designated S5.8.5. The third sentence of S5.1.1.7(b) is removed. S5.1.1.7(c) is removed.

4. New paragraph S5.1.1.7 is added to read:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S5 *Requirements.*

* * * * *

S5.1.1.7 A motorcycle turn signal lamp need meet only one-half of the minimum photometric values specified in Table 1 and Table 3 of SAE J588 NOV84 *Turn Signal Lamps.*

* * * * *

5. S5.1.1.11 is redesignated S5.1.1.6, and is revised to read:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S5 *Requirements.*

* * * * *

S5.1.1.6 Instead of the photometric values specified in Table 1 of SAE Standards J222 September 1970, or J585e September 1977, a parking lamp or tail lamp, respectively, shall meet the minimum percentage specified in Figure 1a of the corresponding minimum allowable value specified in Figure 1b. The maximum candlepower output of a parking lamp shall not exceed that prescribed in Figure 1b, or of a tail lamp, that prescribed in Figure 1b at H or above. If the sum of the percentages of the minimum candlepower measured at the test points is not less than that specified for each group listed in Figure 1c, a parking lamp or tail lamp is not required to meet the minimum photometric value at each test point specified in SAE Standards J222 or J585e respectively.

* * * * *

6. New paragraph S5.1.1.11 is added to read:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S5 *Requirements.*

* * * * *

S5.1.1.11 A stop lamp that is not optically combined, as defined by SAE Information Report J387 *Terminology—Motor Vehicle Lighting* NOV87, with a turn signal lamp, shall remain activated when the turn signal lamp is flashing.

* * * * *

7. S5.1.1.12 is removed, and S5.1.1.32 is redesignated S5.1.1.12.

8. S5.1.1.23 is redesignated S5.8.8.

9. S5.1.1.24 is redesignated S5.8.9.

10. S5.1.1.29 is redesignated S5.1.23.

11. S5.1.1.26 is removed, and S5.1.1.31 is redesignated S5.1.1.26.

12. S5.1.1.30 is redesignated S5.1.1.24.

13. Section S5.8 *Replacement equipment* is amended as follows:

(a) Revising S5.8.1 to read:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S5 Requirements.

* * * * *

S5.8.1 Except as provided below, each lamp, reflective device, or item of associated equipment manufactured to replace any lamp, reflective device, or item of associated equipment on any vehicle to which this standard applies, shall be designed to conform to this standard.

* * * * *

(b) Redesignating S5.8.2 as S5.8.10.

(c) Adding new paragraph S5.8.2 to read:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S5 Requirements.

* * * * *

S5.8.2. A Type C replacement headlamp designed to conform to the requirements of paragraph S7.3.2(a) through (d) of this standard may be marked "1" and "2" rather than "1C1" and "2C1" respectively. A Type D replacement headlamp designed to conform to S7.3.2(a) through (c) and S7.3.5(b) of this standard may be marked "TOP" or "2" rather than "2D1".

* * * * *

14. New paragraph S5.8.6 is added to read:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S5 Requirements.

* * * * *

S5.8.6. Instead of the photometric values specified in SAE Standards J588c and J588e, a stop lamp manufactured to replace a stop lamp designed to conform to SAE Standard J588c, or a turn signal lamp manufactured to replace a turn signal lamp designed to conform to SAE Standard J588e, shall meet the minimum percentage specified in Figure 1a of the corresponding minimum allowable value specified in Figure 1b. The maximum candlepower output of each such stop lamp or turn signal lamp shall not exceed that prescribed in Figure 1b. If the sum of the percentages of the minimum candlepower measured at the test points is not less than that specified for each group listed in Figure 1c, a stop lamp or turn signal lamp is not required to meet the minimum photometric value at each test point specified in SAE Standards J588c and J588e, respectively.

* * * * *

15. New paragraph S5.8.7 is added to read:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S5 Requirements.

* * * * *

S5.8.7 Note 8 of Table 1 in SAE Standard J588e, *Turn Signal Lamps*, September 1970, does not apply.

16. Tables I, II, III, and IV are amended to delete all footnotes and associated references in the text thereof.

Issued on: February 24, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93-4634 Filed 3-2-93; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 58, No. 40
Wednesday, March 3, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 92-112-1]

In Vitro Tests in Place of Animal Tests for Immunogenicity

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations regarding the use of in vitro tests in place of animal tests for immunogenicity. This amendment would provide for the use of a parallel line assay in determining the relative antigenic content (potency) of a serial of product derived from an approved Master Seed which has been tested for immunogenicity in a manner acceptable to the Animal and Plant Health Inspection Service. As is currently required for other products tested in vitro, immunogenicity tests would have to be repeated at least every 3 years. The effect of these amendments would be to standardize the method used to calculate relative potency, and to assure that the products concerned remain potent throughout the dating period. These proposed amendments are necessary in order to allow for the use of fewer animals in potency tests for veterinary biologics, to standardize testing methods, and to assure adequate potency.

DATES: Consideration will be given only to comments received on or before May 3, 1993.

ADDRESSES: Please send an original and three copies to Chief, Regulatory Analysis and Development PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 92-112-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Albert P. Morgan, Chief Staff Veterinarian, Veterinary Biologics, BBEP, APHIS, USDA, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 113 *et seq.* (referred to below as the regulations) concern the use of in vitro tests in place of animal tests for determining the relative potency of veterinary biological products. Determining the log 10 virus titer, and performing live bacterial counts on final container samples of product in place of animal inoculation are recognized as valid procedures and are preferred to more expensive and time consuming host animal tests.

Currently, § 113.8 identifies procedures which may provide a basis for exempting a product from a required animal test for release. To be valid, such procedures must be correlated to host animal protection studies which establish the minimum level of antigen required to protect against disease. This minimum level of antigen product, which is referred to as the reference preparation, defines the minimum requirement for the release of each subsequent serial of product based on a valid relative potency assay. This proposed revision of the regulations would retain the current validation procedures but would add an alternative procedure which allows potency to be calculated using a parallel line assay. A parallel line assay is a biometric method which compares the potency response of a product against a standard reference preparation.

This amendment would provide for parallel line assays when enzyme immunosorbent assays (EIA/ELISA) are used to establish the equivalence of two biological preparations: (1) When one preparation has been evaluated by host animal protection study; or (2) when comparing to an established laboratory animal test contained in part 113. At this time, there is no generally accepted best method for comparing the potency responses of these preparations. Therefore, what is required is a biometrically valid method. A biometrically valid parallel line assay has been developed through the cooperative efforts of licensees, researchers, and the National Veterinary Services Laboratories. We are, therefore, proposing to amend § 113.8 by providing for the use of the parallel line assay to determine the relative antigenic content of a serial of product derived from an approved Master Seed. As in the case of other products which utilize in vitro tests, repeat immunogenicity tests would have to be performed at least every 3 years to assure adequate potency throughout the dating period.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291 and Department Regulation 1512-1 and have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed amendment, if adopted, would supplement and expand the current regulations to allow the use of any valid EIA assay procedure to establish potency provided it satisfies the parallel line criteria. Ultimately, this revision may affect licensed firms (120 total) that use EIA-based relative potency assays. This proposal, however, does not impose any additional economic burden since the testing of product for potency is already required by § 113.5 of the regulations which specifies that no biological product shall be released prior to the completion of tests prescribed in a filed Outline of Production or Standard Requirement to establish that the product is pure, safe, potent, and efficacious. The overall effect of this revision would be to reduce the cost of potency testing by providing an alternative to the more expensive host animal tests.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws, regulations, and policies that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection provisions included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please send a copy of your comments to (1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 and (2) Clearance Officer, ORIM, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

List of Subjects in 9 CFR Part 113

Animal biologics, Exports, Imports, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 113 would be amended as follows:

PART 113–STANDARD REQUIREMENTS

1. The authority citation for part 113 would continue to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 113.8 would be amended as follows:

a. The section heading would be revised.

b. Paragraph (a) would be revised.

c. Paragraph (b) the introductory text would be revised.

d. Paragraph (b)(5) would be removed.

e. Paragraph (c) would be redesignated as paragraph (e) and new paragraphs (c) and (d) would be added.

As amended § 113.8 would read as follows:

§ 113.8 In vitro tests in place of animal tests for immunogenicity.

(a) The Administrator may exempt a product from a required animal test for release when an evaluation can, with reasonable certainty, be made by:

(1) Testing the Master Seed for immunogenicity in a manner acceptable to the Animal and Plant Health Inspection Service (APHIS);

(2) Establishing a satisfactory potency for the product based on the protective dose used in the Master Seed immunogenicity test plus an adequate average allowance for adverse conditions and test error. Acceptable potency tests shall include:

(i) Determining the $\log_{10}$ virus titer;

(ii) Determining the live bacterial count; and

(iii) Determining the relative antigenic content, as compared with a reference, using a parallel line assay.

(3) Determining the potency of each serial in an accepted test system.

(b) Each serial and subserial of desiccated live product and bulk or final container samples of completed liquid live product derived from an approved Master Seed shall be evaluated by a test procedure acceptable to APHIS. On the basis of the results of the test, as compared with the required minimum potency, each serial shall either be released to the firm for marketing or withheld from the market. The evaluation of such products shall be made in accordance with this paragraph.

* * * * *

(c) On the basis of the results of the test, as compared to the required minimum potency, bulk or final container samples of completed product derived from an approved Master Seed and evaluated for relative antigenic content, as compared with a reference, by a parallel line assay procedure acceptable to APHIS shall be either released to the firm for marketing or withheld from market. The evaluation of such products shall be made in accordance with this paragraph.

(1) A test that results in no valid lines is considered a no test and can be repeated.

(2) An initial test that results in valid lines that are not parallel is considered a valid equivocal test that is neither satisfactory nor unsatisfactory.

(3) If the initial test shows that potency equals or exceeds the required minimum potency, the serial is satisfactory without additional testing.

(4) If the initial test is an equivocal test due to lack of parallelism, the serial may be retested up to three times: *Provided,* That if the test is not repeated, the serial shall be deemed unsatisfactory.

(i) If a least 50% of all valid tests show that potency equals of exceeds the required minimum potency, the serial is satisfactory.

(ii) If greater than 50% of all valid tests show either lack of parallelism or that potency is less than the required minimum potency, the serial is unsatisfactory.

(5) If the initial test shows that potency is less than the required minimum potency, the serial may be retested at least twice but no more than three times. *Provided,* That if the test is not repeated, the serial shall be deemed unsatisfactory.

(i) If at least 50% of all valid tests show that potency equals or exceeds the required minimum potency, the serial is satisfactory.

(ii) If greater than 50% of all valid tests show either lack of parallelism or that potency is less than the required minimum potency, the serial is unsatisfactory.

(d) Immunogenicity tests shall be repeated at least every 3 years.

(1) The accuracy of the protective dose established in the Master Seed immunogenicity test and defined as $\log_{10}$ virus titer or live bacterial count shall be confirmed in 3 years, unless use of the lot of Master Seed previously tested is discontinued. The Master Seed shall be retested for immunogenicity in a manner acceptable to APHIS.

(2) The lot of reference product used to determine relative antigenic content shall have an initial dating period equal to the dating period of the biological product. The reference product may be granted extensions of dating equal to or exceeding the original dating period by confirming the potency of the reference product at the expiration date in a manner acceptable to APHIS.

* * * * *

Done in Washington, DC, this 25th day of February 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Service.

[FR Doc. 93–4872 Filed 3–2–93; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL ELECTION COMMISSION

11 CFR Part 102

[Notice 1993–9]

Rulemaking Petition: Citizens Against David Duke; Notice of Availability

AGENCY: Federal Election Commission.

ACTION: Rulemaking petition: Notice of availability.

SUMMARY: On February 5, 1993, the Commission received a Petition for Rulemaking from Citizens Against David Duke ["CADD"]. The petition requests the Commission to reconsider its rules on special fundraising projects and other use of candidate names by unauthorized committees. The petition is available for public inspection in the Commission's Public Records Office.

DATES: Statements in support of or in opposition to the petition must be filed on or before April 2, 1993.

ADDRESSES: Comments must be in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Rulemaking Petition: Notice of Availability

Petitioners have requested that the Commission reconsider its rules on special fundraising projects and other use of candidate names by unauthorized committees. These rules were promulgated on July 15, 1992, and became effective on November 4, 1992. (57 FR 31424, July 15, 1992).

The pertinent rules prohibit the use of a candidate's name in the title of any fundraising project or other communication of any committee that has not been authorized by that candidate. 11 CFR 102.14(a). The petition questions the application of these rules to projects that oppose, rather than support, federal candidates.

Copies of the Petition for Rulemaking are available for public inspection at the Commission's Public Records Office, 999 E Street, NW., Washington, DC 20463, Monday through Friday between the hours of 9 a.m. and 5 p.m.

Statements in support of or in opposition to the Petition for Rulemaking must be submitted in writing by April 2, 1993. Consideration of the merits of the petition will be deferred until the close of the public comment period.

Dated: February 26, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93–4861 Filed 3–2–93; 8:45 am]

BILLING CODE 6715–01–M

11 CFR Parts 102 and 110

[Notice 1993–8]

Multicandidate Political Committees

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission is seeking comments on proposed revisions to 11 CFR parts 102 and 110, regarding multicandidate political committees. The revisions would require political committees to note on their Statements of Organization whether they had achieved multicandidate status; provide documentation to the Commission verifying such status at the time this was first reported; and give written notice of this status to candidates and their committees that receive campaign contributions from multicandidate committees. These revisions would help the Commission carry out its statutory responsibility to maintain a current Multicandidate Committee Index, and also help candidates determine what level of contributions they could accept from donor committees.

DATES: Comments must be received on or before April 2, 1993.

ADDRESSES: Comments must be in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: A political committee may generally contribute a maximum of $1,000 per election to a federal candidate or that candidate's authorized committee. 2 U.S.C. 441a(a)(1)(A), 11 CFR 110.1(b)(1). However, a "multicandidate political committee" may contribute a maximum of $5,000 per candidate, per election. 2 U.S.C. 441a(a)(2)(A), 11 CFR 110.2(b)(1).

A political committee qualifies as a "multicandidate political committee" if it has been registered with the Federal Election Commission for at least six months; received contributions from more than 50 persons; and, except for state party organizations, made contributions to five or more candidates for federal office. 2 U.S.C. 441a(a)(4), 11 CFR 100.5(e)(3). The Commission is required to maintain an index of committees that have qualified as multicandidate committees. 2 U.S.C. 438(a)(6)(C).

At the present time, a committee informs the Commission that it has qualified as a multicandidate committee by checking the appropriate box on the first regularly-scheduled Report of Receipts and Disbursements [FEC Form 3X] due after this status is achieved. This can result in a significant time lapse between the date on which the committee qualifies and the date on which this information is made known to the Commission, and hence to the general public. For example, if a committee achieves multicandidate status shortly after filing its July 31 semi-annual report in a non-election year, the Commission's Index will not list this committee until after the committee files the year-end report due on January 31 of the following year. 2 U.S.C. 434(a)(4), 11 CFR 104.5. A candidate or candidate's committee may find it difficult to verify the legality of a contribution over $1,000 received during this period.

This Notice proposes several revisions to current rules in an effort to ameliorate this situation. The first would require that information on multicandidate status be reported as an amendment to the Statement of Organization that each political committee is required to file. 2 U.S.C. 433(a), 11 CFR 102.1. Any change in information previously submitted in a Statement or Organization must be reported to the Commission no later than 10 days after the date of the change. 2 U.S.C. 433(c), 11 CFR 102.2(a)(2). (Information on multicandidate status could not be reported on an original Statement of Organization, because of the requirement that a committee be registered at least six months before it can qualify as a multicandidate committee.)

Another proposed revision would require each committee to submit to the Commission data verifying its multicandidate status, at the time such status is reported. This action is required because the Commission would otherwise be unable to verify that a committee had qualified as a multicandidate committee.

Formerly, this information was apparent from the committee's reports filed at the time this status was reported. Under the proposed change, however, the committee would be required to provide this information at the time it amends its Statement of Organization, since the information may not have been reported by the time the

amended Statement of Organization is filed.

In order to provide this information, a committee would provide the Commission with: (1) A certification that it had received contributions from more than 50 people, (2) the date on which it first registered with the Commission, and (3) a listing of the federal candidates it had supported, if this information was not available from the other documentation. The Commission welcomes comments on how else this information could be documented.

Finally, the proposal would require multicandidate committees to notify recipients of this status in writing, at the time a contribution was made. This approach would allow a candidate or authorized committee to easily determine the legality of a committee contribution over $1,000.

The Notice does not specify the nature of this writing. Multicandidate committees might choose to have this information printed on their checks and/or their letterhead stationery. Prior to the time this was available, they could handwrite or type this information on their checks. Alternatively, they could include this information in the body of an accompanying letter or other communication.

The Commission welcomes comments on any aspect of this proposal, as well as on any related topic.

List of Subjects

11 CFR Part 102

Campaign funds, Political candidates, Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 110

Campaign funds, Political candidates, Political committees and parties.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The attached proposed rules, if promulgated, will not have a significant economic impact on a substantial number of small entities. The basis of this certification is that any entities affected are already required to comply with the Act's requirements in this area.

For the reasons set out in the preamble, it is proposed to amend title 11, chapter I as follows:

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (2 U.S.C. 433)

1. The authority citation for part 102 would continue to read as follows:

Authority: 2 U.S.C. 432, 433, 438(a)(8), 441d.

2. In section 102.2, paragraph (a)(1)(vi) would be revised and paragraphs (a)(1)(vii) and (a)(3) would be added, to read as follows:

§ 102.2 Statement of organization: Forms and committee identification number (2 U.S.C. 433(b), (c)).

(a) * * *

(1) * * *

(vi) A listing of all banks, safe deposit boxes, or other depositories used by the committee;

(vii) If the committee is an unauthorized committee, whether the committee has qualified as a multicandidate committee as defined in 11 CFR 100.5(e)(3).

* * * * *

(3) A committee shall certify to the Commission that it has satisfied the criteria for becoming a multicandidate committee as set forth at 11 CFR 100.5(e)(3) at the time this status is reported.

* * * * *

PART 110—[AMENDED]

3. The authority citation for part 110 would continue to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 473d(a)(8), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g and 441h.

4. In § 110.2, paragraph (a) would be redesignated as paragraph (a)(1) and new paragraph (a)(2) would be added, to read as follows:

§ 110.2 Contributions by multicandidate political committees (2 U.S.C. 441a(a)(2)).

(a) * * *

(2) *Notice to Recipients.* Each multicandidate committee that makes a contribution under this section shall notify the recipient in writing of its status as a multicandidate committee.

* * * * *

Dated: February 26, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93–4862 Filed 3–2–93; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–216–AD]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Industrie Model A320 series airplanes. This proposal would require inspections to detect cracking of the floor beams and the side box-beams between frames 42 and 43, and repair of cracks. It also would require a modification of the pressure floor which, when accomplished, would terminate the inspection requirements. This proposal is prompted by results of a full-scale fatigue test. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the fuselage.

DATES: Comments must be received by April 27, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–216–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2104; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall

identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–216–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–216–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de ÍAviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Industrie Model A320 series airplanes. The DGAC advises that during a full-scale fatigue test on an Airbus Industrie Model A320 series airplane, fatigue cracks were detected between frames 42 and 43. At 42,810 simulated flight cycles, cracks were detected in the top inboard horizontal flanges of the outer floor beams and side box-beams. At 77,154 simulated flight cycles, cracks were detected in the inboard wall of the side box-beams. At 85,970 simulated flight cycles, a crack was detected in the fillet radius of the top outboard flange. At 95,956 simulated flight cycles, a crack was detected in the flange corner-radius of the side box-beam. No fatigue cracks have been detected on in-service Model A320 series airplanes. However, based on the results of the fatigue test, it is apparent that fatigue cracking potentially could occur as these airplane accumulate flight cycles. Such fatigue cracking, if not detected and corrected in a timely manner, could lead to reduced structural integrity of the fuselage.

Airbus Industrie has issued Service Bulletin A320–53–1024, dated September 23, 1992, which describes procedures for conducting eddy current inspections around the fastener bolt holes at the inboard flange of the floor beam, in the side box-beams, at the two sides of the pressure floors, and at the vertical integral stiffener. This service bulletin also describes procedures for conducting visual inspections of the fillet radius of the top outboard flange and the flange corner-radius of the slanted inboard flange of the side box-beam. The inspection area is between frame 42 and frame 43.

Airbus Industrie has also issued Service Bulletin A320–53–1023, dated September 23, 1992, as amended by Service Bulletin Change Notice 0A, dated January 20, 1993, which describes procedures for accomplishing Modification 21202K1225. This modification entails cold expansion of the fastener/bolt holes in the horizontal flanges of the outer floor beams and side box-beams and the installation of elongated fittings, corner fittings, and support angles. When accomplished, this modification eliminates the need for the inspections of the floor beams and the side box-beams.

The DGAC classified these service bulletins as mandatory and issued French Airworthiness Directive 92–205–033(B), dated September 30, 1992, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require inspections to detect cracking of the floor beams and the side box-beams between frames 42 and 43, and repair of the cracks. The inspections would be required to be accomplished in accordance with Airbus Industrie Service Bulletin A320–53–1024, dated September 23, 1992, described previously.

The FAA has determined that long term continued operational safety will be better assured by actual modification of the airframe to remove the source of the problem, rather than by repetitive inspections. Long term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. Therefore, in consonance with these considerations, this proposal would require a modification to reinforce the pressure floor, which would terminate the inspection requirements of this AD. The modification would be required to be accomplished in accordance with Airbus Industrie Service Bulletin A320–53–1023, dated September 23, 1992, described previously.

The FAA estimates that 22 airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 24 work hours per airplane to accomplish the proposed inspections, and 54 work hours per airplane to accomplish the proposed modification. The average labor rate is $55 per work hour. Required parts would cost approximately $5,603 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $217,646, or $9,893 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 92–NM–216–AD.

Applicability: Model A320 series airplanes; manufacturer's serial numbers 005 through 008, inclusive, 010 through 078, inclusive; and 080 through 108, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the fuselage, accomplish the following:

(a) Prior to the accumulation of 12,000 total landings, or 6 months after the effective date of this AD, whichever occurs later, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD, in accordance with Airbus Industrie Service Bulletin A320–53–1024, dated September 23, 1992:

(1) Conduct an eddy current inspection to detect cracking around the fastener bolt holes at the inboard flange of the floor beam, in the side box-beams, at the two sides of the pressure floor, and at the vertical integral stiffener between frame 42 and frame 43; and

(2) Conduct a detailed visual inspection to detect cracking of the fillet radius of the top outboard flange and the flange corner-radius of the slanted inboard flange of the side box-beam between frame 42 and frame 43.

(b) If no crack is detected during either inspection required by paragraph (a) of this AD, repeat the inspections at intervals not to exceed 6,000 landings.

(c) If a crack is detected during the inspections required by paragraph (a) or (b) of this AD, prior to further flight, repair the crack in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(d) Prior to the accumulation of 18,000 total landings, accomplish Modification 21202K1225, in accordance with Airbus Industrie Service Bulletin A320–53–1023, dated September 23, 1992, as amended by Service Bulletin Change Notice 0A, dated January 20, 1993. Accomplishment of this modification constitutes terminating action for the inspection requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 25, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–4834 Filed 3–2–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 92–NM–231–AD]

Airworthiness Directives; Canadair Model CL–600–1A11 and CL–600–2A12 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Model CL–600 series airplanes, that currently requires a one-time inspection to verify proper installation of the 8 gauge feeder wires from generators 1 and 2 and the auxiliary power unit (APU), and correction or replacement of discrepant parts. That action was prompted by reports of wire overheating under heavy electrical load conditions. This action would limit the applicability of the rule by eliminating certain airplanes that are equipped with improved wiring. The actions specified by the proposed AD are intended to prevent potential wire overheating, which could result in a cabin fire.

DATES: Comments must be received by April 27, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–231–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station A, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Michele Maurer, Aerospace Engineer, Systems and Equipment Branch, ANE–173, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791–6427; fax (516) 791–9024.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to

Docket Number 92–NM–231–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–231–AD, 1601 Lind Avenue, SW., Renton, Washington, 98055–4056.

Discussion

On March 24, 1983, the FAA issued AD 83–07–09, Amendment 39–4609 (48 FR 14353, April 4, 1983), applicable to all Canadair Model CL–600 series airplanes, to require a one-time inspection to verify proper installation of the 8 gauge feeder wires from generators 1 and 2 and the auxiliary power unit (APU), and correction or replacement of discrepant parts. That action was prompted by reports of wire overheating under heavy electrical load conditions. The requirements of that AD are intended to prevent potential wire overheating, which could result in a cabin fire.

Since the issuance of that AD, Transport Canada Aviation, which is the airworthiness authority for Canada, has advised the FAA that certain later models of the Model CL–600 series airplanes are equipped with improved generator and APU feeder wires. These airplanes are not subject to the unsafe condition addressed in AD 83–07–09.

Transport Canada Aviation has issued Canadian Airworthiness Directive CF–82–12R1, dated August 28, 1992, that describes a one-time inspection to verify proper installation of the 8 gauge feeder wires from generators 1 and 2 and the APU and correction or replacement of discrepant parts. Additionally, this Canadian airworthiness directive limits the effectivity to include only Model CL–600–1A11 and CL–600–2A12 series airplanes. The later models have improved generator and APU feeder wires.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 83–07–09 to continue to require a one-time inspection to verify proper installation of the 8 gauge feeder wires from generators 1 and 2 and the APU and correction or replacement of discrepant parts. Additionally, the proposed AD would limit the applicability to include only Model CL–600–1A11 and CL–600–2A12 series airplanes. The actions would be required to be accomplished in accordance with Canadair Drawings 600–58001, Note 17; or 600–58031, Note 14 and CL–600 Completion Center Handbook Section 6.

The FAA estimates that 90 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $24,750, or $275 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–4609 (48 FR 14353, April 4, 1983), and by adding a new airworthiness directive (AD), to read as follows:

Canadair: Docket 92–NM–231–AD. Supersedes AD 83–07–09, Amendment 39–4609.

Applicability: Model CL–600–1A11 and CL–600–2A12 series airplanes, certificated in any category.

Note: Paragraph (a) of this AD restates the requirements of AD 83–07–09, paragraph 1. As allowed by the phrase, "unless accomplished previously," if the requirements of AD 83–07–09 have been accomplished previously, paragraph (a) of this AD does not require the one-time inspection to be repeated.

Compliance: Required as indicated, unless accomplished previously.

To prevent possible wire overheating, which could result in a cabin fire, accomplish the following:

(a) Within 300 hours time-in-service or within 3 calendar months after April 13, 1983 (the effective date of AD 83–07–09, Amendment 39–4609), whichever occurs earlier, perform an inspection to verify proper installation of the 8 gauge feeder wires from generators 1 and 2 and the APU, in accordance with Canadair Drawings 600–58001, Note 17; or 600–58031, Note 14; and CL–600 Completion Centre Handbook Section 6. Prior to further flight, correct any discrepant wires in accordance with the drawings or handbook.

(b) Replacement of the 8 gauge generator 1, generator 2, and auxiliary power unit (APU) feeder wires with 4 gauge feeder wires of the same type constitutes an approved alternative method of compliance for the requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the New York ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 25, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–4835 Filed 3–2–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 92–NM–248–AD]

Airworthiness Directives; Beech Model 400A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Beech Model 400A airplanes. This proposal would require a one-time inspection to verify the installation of all rivets in the area adjacent to the upper edge of the emergency exit door, and installation of any missing rivets. This proposal is prompted by reports that, during manufacturing, 35 rivets may have been inadvertently omitted from the area adjacent to the upper edge of the emergency exit door. The actions specified by the proposed AD are intended to prevent structural failure of the emergency door frame support, which could lead to decompression of the cabin.

DATES: Comments must be received by April 27, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–248–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Aerospace Engineer, Wichita Aircraft Certification Office, Airframe Branch, ACE–120W, FAA, Small Airplane Directorate, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4122; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–248–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–248–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

During the manufacture of certain Beech Model 400A airplanes, 35 rivets may have been inadvertently omitted from the area adjacent to the upper edge of the emergency exit door. Operating these airplanes without these rivets may eventually affect the fatigue characteristics of the fuselage stringer skin and attachment rivets adjacent to the door, and could lead to fatigue cracking of these fuselage components. This condition, if not corrected, could result in structural failure of the emergency door frame support, which could lead to decompression of the cabin.

The FAA has reviewed and approved Beechcraft Service Bulletin 2482, dated December 1992, that describes procedures for a one-time inspection to verify the installation of all rivets in the area adjacent to the upper edge of the emergency exit door, and installation of any missing rivets.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time inspection to verify the installation of all rivets in the area adjacent to the upper edge of the emergency exit door, and installation of any missing rivets. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 59 Beech Model 400A airplanes of the affected design in the worldwide fleet. The FAA estimates that 41 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $6,765, or $165 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in

the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Beech: Docket 92–NM–248–AD.

Applicability: Model 400A airplanes, serial numbers RK–1 through RK–41, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure of the emergency door frame support, which could lead to decompression of the cabin, accomplish the following:

(a) Within 200 hours time-in-service after the effective date of this AD, perform a one-time inspection to verify the installation of all rivets in the area adjacent to the upper edge of the emergency exit door, in accordance with Beechcraft Service Bulletin 2482, dated December 1992.

(1) If no rivets are missing, no further action is required by this AD.

(2) If any rivet is missing, prior to further flight, install a rivet in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 25, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–4833 Filed 3–2–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 92–NM–200–AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737 series airplanes. This proposal would require incorporation of certain structural modifications. This proposal is prompted by an evaluation by the Model 737 Structures Working Group, comprised of aircraft operators, manufacturers, and the FAA. This Working Group evaluated Boeing service bulletins that must be included as part of the "Aging Airplane Structural Modification Program." The actions specified by the proposed AD are intended to prevent degradation in the structural capabilities of the affected airplanes. This action also reflects the FAA's decision that long term continued operational safety should be assured by actual modification of the airframe rather than repetitive inspections.

DATES: Comments must be received by April 27, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–200–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Thomas Rodriguez, Aerospace Engineer, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056, telephone (206) 227–2779; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–200–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–200–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In April 1988, a high-cycle transport category airplane (specifically, a Boeing Model 737) was involved in an accident in which the airplane suffered major structural damage during flight. Investigation of this accident revealed that the airplane had numerous fatigue cracks and a great deal of corrosion. Subsequent inspections conducted by the operator on other high-cycle transport category airplanes in its fleet revealed that other airplanes had extensive fatigue cracking and corrosion.

Prompted by the data gained from this accident, the FAA sponsored a

conference on aging airplanes in June 1988, which was attended by representatives from the aviation industry and airworthiness authorities from around the world. It became obvious that, because of the tremendous increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes, rather than retiring them, increased attention needed to be focused on the aging airplane fleet and maintaining its continued operational safety.

The Air Transport Association (ATA) of America and the Aerospace Industries Association (AIA) of America agreed to undertake the task of identifying and implementing procedures to ensure continued structural airworthiness of aging transport category airplanes. An Airworthiness Assurance Task Force (AATF) was established in August 1988, with members representing aircraft manufacturers, operators, regulatory authorities, and other aviation representatives worldwide. The objective of the AATF was to sponsor "Working Groups" to:

1. Select service bulletins, applicable to each airplane model in the transport fleet, to be recommended for mandatory modification of aging airplanes;
2. Develop corrosion-directed inspections and prevention programs;
3. Review the adequacy of each operator's structural maintenance program;
4. Review and update the Supplemental Structural Inspections Documents (SSID); and
5. Assess repair quality.

The Working Group assigned to review the Boeing Model 737 series airplanes completed its work on Item 1 (mandatory structural modifications), above, in March 1989. The Working Group's recommendations are contained in Boeing Document Number D6–38505, "Aging Airplane Service Bulletin Structural Modification Program—Model 737–100/–200/–200C," dated March 31, 1989. On January 16, 1990, the FAA issued AD 90–06–02, amendment 39–6489 (55 FR 8372, March 7, 1990), which mandates the installation of the modifications specified in that document.

The Working Group completed its work on Item 2 (corrosion-directed inspections), above, in July 1989, and developed a baseline program for controlling corrosion problems that may jeopardize the continued airworthiness of the Boeing Model 737 fleet. This program is contained in Boeing Document Number D6–38528, "Aging Airplane Corrosion Prevention and Control Program—Model 737," dated July 28, 1989. On November 5, 1990, the FAA issued AD 90–25–11, amendment 39–6789 (55 FR 49263, November 27, 1990), which mandates the implementation of a corrosion control program.

The action being proposed herein follows from the ongoing activities of the Working Group relative to Item 1 (mandatory structural modifications). The Model 737 Working Group determined that certain service difficulties warranted additional mandatory airplane modifications. The Working Group determined that these modifications should be mandatory to assure continued operational safety of the Boeing Model 737 fleet that have exceeded their economic design service goal. The Working Group's proposal is contained in Boeing Document Number D6–38505, "Aging Airplane Service Bulletin Structural Modification and Inspection Program—Model 737–100/–200/–200C," Revision F, dated April 23, 1992. The FAA has reviewed and approved this Document.

This revision of the Boeing Document includes two new Appendices, A.3 and B.3, which reference additional modifications described in eight service bulletins. These modifications consist of three modifications to the wing, three modifications to the fuselage, one modification to the doors, and one modification to the landing gear.

Since fatigue cracking and corrosion are likely to exist or develop on other products of this same type design, the proposed AD would require modification of Boeing Model 737 series airplanes at their economic design goal, or in some cases, at a specific time, in accordance with the Boeing Document described previously.

The "economic design goal" of an airplane is typically considered to be the period of service, after which a substantial increase in the maintenance costs is expected to take place in order to assure continued operational safety. The economic design goal for the Boeing Model 737 airplane is 20 years for structural problems associated with environmental deterioration, and 75,000 flight cycles for structural problems associated with fatigue damage.

The proposed compliance time for implementation of the mandatory structural modification program is upon reaching the applicable economic design goal or within 4 years after the effective date of the AD, whichever occurs later. This time interval was based upon the ability of the manufacturer to provide the parts necessary for the modification, and the time necessary to incorporate the modifications.

In the interim, safety will be provided by various means currently in place that are considered satisfactory to detect damage prior to the occurrence of an unsafe condition. These include operators' ongoing basic maintenance programs; continuing inspections required by numerous previously issued AD's; the Supplemental Structural Inspection Document (SSID) program, mandated by AD 91–14–20, Amendment 39–7061 (56 FR 30680; July 5, 1991); the FAA's increased emphasis on surveillance of operators' maintenance programs and procedures; and the FAA's participation in programs to physically inspect high-time airplanes during scheduled heavy maintenance.

There are approximately 1,200 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 29 airplanes of U.S. registry would be affected by this proposed AD within the initial threshold of 4 years. The cost to modify each airplane is estimated to be $57,887. This cost includes the price of modification kits, which is $27,252 per airplane, and the estimated number of work hours to accomplish the modifications, which is 557 work hours at $55 per work hour. It does not include downtime, planning, setup, familiarization, or tool acquisition costs. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,678,723 over the 4-year time period. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in

the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 3913 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive.

Boeing: Docket 92–NM–200–AD.

Applicability: Model 737–100, 737–200, 737–200C series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure, accomplish the following:

(a) Except as provided below, prior to reaching the incorporation thresholds listed in Boeing Document No. D6–38505, "Aging Airplane Service Bulletin Structural Modification and Inspection Program—Model 737–100/–200/–200C," Revision F, dated April 23, 1992," or within the next 4 years after the effective date of this AD, whichever occurs later, accomplish the structural modifications listed in Appendices A.3 and B.3 of the Boeing Document. Service bulletins whose threshold is specified in the Boeing Document by a calendar date must be modified by that date in lieu of the 4 years specified in this paragraph.

Note: The modifications required by this paragraph do not terminate the inspection requirements of any other AD unless that AD specifies that any such modification constitutes terminating action for the inspection requirements:

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 25, 1992.

Darrell M. Pederson, Acting Manager,

Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 93–4832 Filed 3–2–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 92–ANE–40]

Proposed Revocation of Transition Area; Claremont, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would revoke the Claremont, New Hampshire Transition Area. This action is prompted by the relocation of the Claremont Non-Directional Beacon (NDB) and the cancellation of all Standard Instrument Approach Procedures (SIAP) to the Claremont Airport.

DATES: Comments must be received on or before April 16, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, Air Traffic Division, New England Region, Docket No. 92–ANE–40, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299.

The docket may be examined in the Office of the Assistant Chief Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299, weekdays, except Federal holidays, between the hours of 8 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Charles M. Taylor, Airspace Specialist, System Management Branch, ANE–530, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; Telephone: (617) 270–2428; Facsimile: (617) 272–0395.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed under "**ADDRESSES**". Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92–ANE–40." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposal rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, ANE–7, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299. Communications must identify the notice number of the NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR 71) to revoke the transition area at Claremont, New Hampshire (NH). This action is being prompted by the relocation of the Claremont Non-Directional Beacon (NDB) and the cancellation of all Standard Instrument Approach Procedures (SIAP) to the Claremont Airport. Transition Areas are published in § 71.181 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is

incorporated by reference in 14 CFR 71.1. The Claremont, NH transition area would be removed subsequently from the Order.

The FAA has determined that this proposed regulation involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under Dot Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small business entities under the criteria of the Regulator Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Transition Areas

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ANE NH TA Claremont, NH [Removed]

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Issued in Burlington, Massachusetts, on February 1993.

Francis J. Johns,

Manager, Air Traffic Division, New England Region.

[FR Doc. 93–4876 Filed 3–2–93; 8:45 am]

BILLING CODE 4910–13–M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM93–1, Order No. 963]

Complexity in Rates Inquiry

AGENCY: Postal Rate Commission.

ACTION: Extension of time for comments.

SUMMARY: On December 3, 1992, the Commission published an advance notice of proposed rulemaking in the **Federal Register** (57 FR 57124–25) soliciting suggestions from interested persons regarding the consideration which should be given to complexity when examining rate and classification proposals. A number of mailer groups have requested the Commission to either suspend or defer the proceeding. The Commission has decided to extend the period for comments.

DATES: Comments responding to the December 3, 1992, advance notice of proposed rulemaking are due by August 3, 1993.

ADDRESSES: Comments and correspondence should be sent to Charles L. Clapp, Secretary of the Commission, 1333 H Street, NW., suite 300, Washington, DC 20268–0001 (telephone: 202/789–6840). All documents submitted in this proceeding are available at the Commission's Docket Office at this address.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, Acting Legal Advisor, Postal Rate Commission, 1333 H Street, NW., suite 300, Washington, DC 20268–0001 (telephone: 202/789–6820).

SUPPLEMENTARY INFORMATION: The Commission began this proceeding by publishing a **Federal Register** notice on December 3, 1992, stating that it might be profitable to focus on the topic of the appropriate amount of complexity in rates and classifications outside the confines of a case proposing specific changes. The Commission anticipated providing a forum for the exchange of ideas on whether it is possible to simplify the existing rate and classification schedules while continuing to reflect the other necessary considerations. Three possible outcomes of the proceeding were mentioned in the December 3, 1992, notice: (1) Changes in the Commission's filing rules, (2) publication of a compilation of the comments received, and (3) initiation of one or more classification cases. The Commission has received three comments on its notice. Two are from mailers who have participated in previous Commission rate proceedings. The third comment was submitted by the former Vice Chairman of the Commission.

On January 15, 1993, representatives of ten mailer groups filed a joint motion requesting that the Commission abandon the proceeding or defer the time for filing comments until the beginning of August 1993. The joint motion asserts that consideration of possible simplification of rates and classifications could be done more efficiently if specific proposals were before the Commission. The joint motion mentions ongoing discussions within the Postal Service, as well as talks between the Postal Service and mailer groups. Those who signed the joint motion are concerned that this rulemaking might impede progress being made elsewhere.

Dow Jones & Company, Inc. (Dow Jones), the Commission's Office of the Consumer Advocate (OCA), and the American Bankers Association filed in support of the joint motion. After citing a statement from the former Vice Chairman's comments in this docket, Dow Jones states that the Postal Service should be given the opportunity to devote its resources to developing concrete proposals. The OCA, after noting the trend of developing rates which are more complex but more closely aligned with costs, also expresses a preference for waiting for the Postal Service to file its anticipated classification case.

Newspaper Association of America (NAA) supports the joint motion to the extent of postponing the due date for comments for three months. NAA believes that extension would provide sufficient opportunity for the development of proposals that mailers could address.

We are setting August 3, 1993, as the new date for comments on the December 3, 1992, advance notice of proposed rulemaking. Rather than being a distraction to the Postal Service's and mailers' efforts to develop a classification proposal, we believe these proceedings should be viewed as a resource available to help them. It may provide a convenient opportunity for mailers not involved in the Postal Service's ongoing discussions to have their viewpoints recognized and considered.

Issued by the Commission on February 25, 1993.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 93–4787 Filed 3–2–93; 8:45 am]

BILLING CODE 7715–FW–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-4600-8]

Open Meeting of the Disinfection By-Products Negotiated Rulemaking Advisory Committee

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Disinfection By-Products Negotiated Rulemaking Advisory Committee will meet on March 18–19 to develop consensus that can be used as the basis of a proposed rule.

DATES: On March 18, the meeting will begin at 9:30 a.m. and end by 5 p.m. On March 19, the meeting will begin at 8:30 a.m. and end by 4 p.m.

ADDRESSES: The Committee will meet at "Resolve", 1250 24th Street NW., 5th Floor, Washington, DC 20037, [202] 293–4800.

FOR FURTHER INFORMATION: For further information on substantive aspects of the rule, call Stig Regli of EPA's Water Office at [202] 260–7379. For further information on the meeting, call Gail Bingham, the Committee Co-Chair, at [202] 778–9632.

Dated: February 26, 1993.

Chris Kirtz,

Director, Consensus and Dispute Resolution Program.

[FR Doc. 93–4890 Filed 3–2–93; 8:45 am]

BILLING CODE 6560–60–M

40 CFR Part 180

[OPP–300276; FRL–4572–4]

Acrylic Acid-Sodium Acrylate-Sodium-2-Methylpropanesulfonate Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of acrylic acid-sodium acrylate-sodium-2-methylpropanesulfonate copolymer (CAS No. 97953-25-8) when used as an inert ingredient (dispersing agent) in pesticide formulations applied to growing crops only. This proposed regulation was requested by the Petrolite Corp.

DATES: Comments, identified by the document control number [OPP-300276], must be received on or before April 2, 1993.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Support Branch, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 711I, Crystal Mall Bldg. #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7252.

SUPPLEMENTARY INFORMATION: At the request of the Petrolite Corp., 369 Marshall Ave., St. Louis, MO 63119-1897, the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), proposes to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for residues of acrylic acid-sodium acrylate-sodium-2-methylpropanesulfonate copolymer when used as an inert ingredient (dispersing agent) in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk. The Agency has decided that the data normally required to support the proposed tolerance exemption for acrylic acid-sodium acrylate-sodium-2-methylpropanesulfonate copolymer will not need to be submitted. The rationale for this decision is described below.

In the case of certain chemical substances which are defined as "polymers," the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Acrylic acid-sodium acrylate-sodium-2-methylpropanesulfonate copolymer conforms to the definition of a polymer given in 40 CFR 723.250(b)(11) and meets the following criteria which are used to identify low-risk polymers:

1. The minimum average molecular weight of the above-mentioned copolymer is 4,500. Substances with molecular weights greater than 400 are generally not readily absorbed through the intact skin, and substances with molecular weights greater than 1,000 are generally not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract are generally incapable of eliciting a toxic response.

2. The above-mentioned copolymer is not a cationic polymer, nor is it reasonably expected to become a cationic polymer in a natural aquatic environment.

3. The above-mentioned copolymer does not contain less than 32.0 percent by weight of the atomic element carbon.

4. The above-mentioned copolymer contains as an integral part of its

composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. The above-mentioned copolymer does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(3)(ii).

6. The above-mentioned copolymer is not a biopolymer, a synthetic equivalent of a biopolymer, or a derivative or modification of a biopolymer that is substantially intact.

7. The above-mentioned copolymer is not manufactured from reactants containing, other than as impurities, halogen atoms or cyano groups.

8. The above-mentioned copolymer does not contain reactive functional groups that are intended or reasonably anticipated to undergo further reaction.

9. The above-mentioned copolymer is not designed or reasonably anticipated to substantially degrade, decompose, or depolymerize.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300276]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic effect on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: February 18, 1993.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) is amended by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert Ingredients	Limits	Uses
. . .	. . .	. . .
Acrylic acid-sodium acrylate-sodium-2-methyl-propanesulfonate copolymer (minimum average molecular weight 4,500); CAS No. 97953-25-8.	.....	Dispersing agent
. . .	. . .	. . .

* * * * *

[FR Doc. 93-4661 Filed 3-2-93; 8:45 am]

BILLING CODE 6560-50-F

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40 CFR Part 180

[OPP-300277; FRL-4572-5]

RIN 2070-AB78

FD & C Red No. 40; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of FD & C Red No. 40 (CAS Reg. No. 25956-17-6) when used as an inert ingredient (dye, coloring agent) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. This proposed regulation was requested by the UNOCAL Corp.

DATES: Comments, identified by the document control number [OPP-300277], must be received on or before April 2, 1993.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by the EPA without prior notice. The public docket is available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Rosalind L. Gross, Registration

Support Branch, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 724A, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 305-5971.

SUPPLEMENTARY INFORMATION: UNOCAL Corp., 1201 5th St., Los Angeles, CA 90034, submitted pesticide petition (PP) 2E04132 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for residues of FD & C Red No. 40 ((CAS Reg. No. 25956-17-6), principally disodium salt of 6-hydroxy-5-[(2-methoxy-5-methyl-4-sulfophenyl)azo]-2-naphthalenesulfonic acid) when used as an inert ingredient (dye, coloring agent) not to exceed 0.002 percent by weight in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk.

The Agency has decided that the data normally required to support the proposed tolerance exemption for FD & C Red No. 40 will not need to be submitted. The rationale for this decision is described below.

1. FD & C Red No. 40 is considered safe for use in coloring foods under 21 CFR 74.340.

2. FD & C Red No. 40 is considered safe for use in coloring drugs under 21 CFR 74.1340.

3. FD & C Red No. 40 is considered safe for use in coloring cosmetics under 21 CFR 74.2340.

4. FD & C Red No. 40 was the subject of an Interagency Working Group chaired by the Food and Drug Administration. The Working Group, which included scientists and statisticians from academia and government, including EPA, reviewed the design and conduct of an *in utero* exposed lifetime rat study and two *in utero* exposed lifetime mouse studies. In the unpublished "Report of the Interagency Working Group on FD & C Red No. 40," June 1981, EPA MRID 412365-03, the Working Group concluded:

> The results from the two mouse studies and the rat study were analyzed statistically both for tumor incidence and time-to-tumor. No pattern of statistically significant increases in the incidence of cancer in relation to FD & C Red No. 40 has been found in any of the three studies***. We find no substantial question of safety and at this time see no need for additional testing in chronic rodent studies.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300277]. All written comments filed in response to this petition will be available in thepublic Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: February 19, 1993.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(c) is amended in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
FD & C Red No. 40 (CAS Reg. No. 25956-17-6) conforming to 21 CFR 74.340.	Not to exceed 0.002% by weight of pesticide formulation.	Dye, coloring agent.

* * * * *

[FR Doc. 93-4662 Filed 3-2-93; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 21

[CC Docket No. 93-2; FCC 93-5]

Revised Application and Reporting Requirements for the Domestic Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission invites comments on its proposed rules to permit certain applicants in the Point-to-Point Microwave Radio Service (PPMS) to begin construction of station facilities upon filing FCC Form 494, rather than waiting until the Commission grants their station authorizations, as required by current rules. The proposed rule changes will serve the public interest by eliminating delays in the delivery of telecommunication services to the public and by allowing greater flexibility to applicants in coordinating construction projects, thereby, reducing construction costs. The Commission is also proposing to streamline or eliminate certain reporting requirements applicable to all applicants in the Domestic Radio Services.

DATES: Comments must be received on or before March 16, 1993, and reply comments on or before April 16, 1993.

ADDRESSES: Federal Communications Commission, 1919 M St., NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John Hayes, Common Carrier Bureau, (202) 634-1798.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's notice of proposed rulemaking in CC Docket No. 93-2, adopted January 6, 1993 and released February 9, 1993. The notice of proposed rulemaking is available for inspection and copying during normal business hours in the FCC Dockets Branch, room 230, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS, Inc.), suite 140, 2100 M Street NW., DC 20037, telephone (202) 857-3800.

The following collections of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20554. Persons wishing to comment on this collection of information should direct their comments to Jonas Neihardt, (202) 395-4814, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503. A copy of any comments filed with the Office of Management and Budget should also be sent to the following address at the Commission: Federal Communications Commission, Records Management Division, room 416, Paperwork Reduction Project (3060), Washington, DC 20554. For further information contact Judy Boley, (202) 632-7513.

Title: Amendment of part 21 of the Commission's Rules for the Domestic Public Fixed Radio Services.
OMB Number: None.
Action: New Collections.
Respondents: Businesses or other for profit, including small businesses.
Frequency of Response: On occasion.

Proposed revised forms/requirements	Est. average hrs. per response	Est. annual responses
FCC Form 494	2.5	10,000
FCC Form 494A	.33	300
FCC Form 430	2	300
FCC Form 705	7	1,400

Estimated Annual Burden: 36,039 Hours.
Needs and Uses: The Notice of Proposed Rulemaking (NPRM) solicits public comment on the Commission's proposals to permit applicants in the Point-to-Point Microwave Radio Service (PPMS) to begin construction upon filing FCC Form 494 and prior to grant of an authorization, provided that the PPMS applicants meet certain conditions. The Commission also seeks comment to eliminate the use of the FCC Form 494A by PPMS applicants; to eliminate the use of FCC Form 430 by all part 21 applicants; and to create a new FCC Form 705 (Application for Consent to Assignment or Transfer of Control of Radio Station Construction Authorization or License). The information will be used by the staff in carrying out its duties as set forth in the Communications Act of 1934, as amended.

Summary of Notice of Proposed Rulemaking

1. The Commission proposes to revise part 21 of the rules to permit PPMS applicants to begin construction of proposed facilities upon filing FCC Form 494 (Application for New or Modified Microwave Radio Station License under part 21) and prior to grant of an authorization, provided that certain requirements are met. Specifically, the proposed rules would permit a PPMS applicant to engage in construction upon filing FCC Form 494, provided that its application meets the conditions set forth in § 21.43(c)(3) of the proposed rules. In addition, the Commission seeks comment on whether PPMS applicants requesting modification of existing licenses pursuant to §§ 21.40 and 21.41 of the rules should be permitted to begin construction prior to grant of an authorization under the aforementioned conditions.

2. The Commission also seeks comment on several proposed changes in reporting requirements for part 21 applicants. Under the proposal, FCC Form 430 would be eliminated. FCC Form 494 would be revised to include the licensee qualification information currently reported on FCC Form 430. PPMS applicants would no longer use FCC Form 494A. FCC Form 702 (Application for Consent to Assignment of Radio Station Construction Authorization or License) and FCC Form 704 (Application for Consent to Transfer of Control) would be eliminated. Part 21 applicants would

use a new FCC Form 705 (Application for Consent to Assignment or Transfer of Control of Radio Station Construction Authorization or License) for reporting information currently requested on FCC Forms 702 and 704. The streamlining of these reporting requirements would reduce the filing burden on all PPMS and part 21 applicants.

Regulatory Flexibility Act Initial Analysis

Reason for action. The Commission is proposing to remove the requirement that PPMS applicants receive an authorization prior to the construction of facilities.

Objectives. The objective of this proposal is to give applicants greater flexibility in scheduling construction and enable licensees to begin providing service to the public more quickly. The proposed rule may also result in reduced costs for both the licensees and the public. The rule would also help further the Commission's goal of eliminating unnecessary regulation.

Legal basis. The proposed action is authorized under sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303.

Reporting, recordkeeping and other compliance requirements: None.

Federal rules which overlap, duplicate or conflict with these rules: None.

Description, potential impact and number of small entities involved: This Notice of Proposed Rulemaking will have a minimum impact on small entities by providing them with increased flexibility in the scheduling and consolidation of construction projects thereby reducing construction costs and expediting the initiation of service to the public by Point-to-Point Microwave Radio Service licensees.

Any significant alternatives: None.

Ex Parte Presentations

This is a nonrestricted notice and comment rulemaking proceeding. *Ex Parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as required by Commission rules. See generally 47 CFR 1.1202, 1.1203 and 1.1206(a).

Ordering Clauses

Accordingly, pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303, that there is issued a notice of proposed rulemaking as hereby provided above.

List of Subjects in 47 CFR Part 21

Communications common carriers, Domestic public fixed radio services, Radio, Reporting and recordkeeping requirements.

Federal Communication Commission.

Donna R. Searcy,

Secretary.

Proposed Amendatory Text

Part 21 of chapter 1 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

1. The authority citation for part 21 continues to read as follows:

Authority: Secs. 1, 2, 4, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 410, 602; 48 Stat. as amended, 1064, 1066, 1070–1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 154, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602; 47 U.S.C. 552.

2. Section 21.7 is revised to read as follows:

§ 21.7 Standard application form for domestic public fixed radio service licenses.

FCC Form 494 ("Application for a New and Modified Microwave Radio Station License under Part 21") must be submitted and a license granted for each station prior to commencement of any proposed station construction, except as otherwise provided in § 21.43(c). FCC Form 494 also must be submitted to amend any license application, to modify any license pursuant to §§ 21.40(a) and 21.41, to notify the Commission of modifications made pursuant to § 21.42, to delete licensed facilities, and to notify the Commission of any changes in licensee qualification information.

3. Section 21.11 is amended by revising paragraphs (a), (d) and (f) to read as follows:

§ 21.11 Miscellaneous forms shared by all domestic public radio services.

(a) *Licensee qualifications.* FCC Form 494 ("Application for New or Modified Microwave Radio Application") must be filed to notify the Commission of any changes in licensee qualification information within 30 days of the change.

* * * * *

(d) *Assignment of license.* FCC Form 705 ("Application for Consent to Assignment or for Transfer of Control of Radio Station Construction Authorization or License"), must be submitted to assign voluntarily (for example, contract) or involuntarily (for example, death, bankruptcy, or legal disability) the station authorization. In the case of involuntary assignment, the application must be filed within 10 days of the event causing the assignment. FCC Form 705 must also be used for non-substantial (*pro forma*) assignments. Whenever a group of station licenses in the same radio service is to be assigned to a single assignee, a single "blanket" application may be filed to cover the entire group, if the application identifies each station by call sign and station location and if two copies are provided for each station affected. The assignment must be completed within 60 days from the date of authorization. Upon consummation of an approved assignment, the Commission must be notified by letter of the date of consummation within 10 days of its occurrence.

* * * * *

(f) *Transfer of control of corporation holding an authorization or license.* FCC Form 705 ("Application for Consent to Assignment or for Transfer of Control of Radio Station Construction Authorization or License"), must be submitted in order to voluntarily or involuntarily transfer control (*de jure* or *de facto*) of a corporation holding any construction authorizations or licenses. In the case of involuntary transfer of control, the application must be filed within 10 days of the event causing the transfer of control. FCC Form 705 must also be used for non-substantial (*pro forma*) transfers of control. The transfer must be completed within 60 days from the date of authorization. Upon consummation of an approved transfer, the Commission must be notified by letter of the date of consummation within 10 days of its occurrence.

4. Section 21.43 is revised to read as follows:

Section 21.43. Period of construction.

(a) Each license for a radio station for the services included in this part shall specify as a condition therein the period during which construction of facilities must be completed and the station made ready for operation. Construction may not commence until the grant of a license, except as otherwise provided in this section, and must be completed by the date specified in the license as the termination date of the construction period. Except as may be limited by § 21.45(b) or otherwise determined by the Commission for any particular application, the following will be the maximum construction periods for each service:

(1) For stations in the Digital Electronic Message Service, a maximum

of 18 months from the date of the license grant.

(2) For stations in the Point-to-Point Microwave Radio Service, a maximum of 6 months from the date of the license grant.

(3) For all other stations licensed under this part, a maximum of 12 months from the date of the license grant.

(b) Each license for a radio station for the services included in this part, except licenses for radio stations in the Point-to-Point Microwave Radio Service, shall also specify as a condition therein that upon the completion of construction, each licensee must file with the Commission a certification of completion of construction using FCC Form 494A, certifying that the facilities as authorized have been completed and that the station is now operational and ready to provide service to the public, and will remain operational during the license period, unless the license is submitted for cancellation.

(c) Commencing construction prior to grant of a radio station authorization. (1) Scope. Section 21.43(c) applies to all Point-to-Point Microwave Radio Service (PPMS) applicants as defined in § 21.2, including:

(i) Applicants for an initial station authorization in the PPMS;

(ii) Applicants for facility modifications in the PPMS, pursuant to §§ 21.40 and 21.41;

(iii) Applicants to amend pending initial applications in the PPMS.

(2) (i) General rule. After the applicant has filed a Form 494 with the Commission, provided that the requirements of paragraph (c)(3) of this section have been met, the applicant may commence construction.

(ii) Notwithstanding any provision of paragraph (c) of this section, if the Commission for any reason determines that construction should not commence or should be terminated pending the grant of an authorization, the applicant must immediately cease construction upon notification from the Commission. Notification may be made in writing or orally followed with a written confirmation. The Commission, at its discretion, may allow recommencement of construction after it determines, in writing, the reason for making such notification no longer exists.

(3) Conditions. An applicant may not commence or continue construction prior to the grant of an authorization as long as any of the following conditions persist:

(i) The application is mutually exclusive with a previously filed application or authorized station, or a petition to deny has been filed against the application;

(ii) The applicant requests a waiver of a Commission rule pursuant to § 21.19;

(iii) The application is returned as unacceptable for filing pursuant to § 21.20;

(iv) The applicant, where required (and not exempted under § 17.14 of this Chapter), has not filed a notice of proposed construction with the FAA and received a determination from the FAA that the proposed antenna structure would pose no hazard to aviation, and has not received a determination from the Commission as to any required antenna structure marking and lighting specifications;

(v) The applicant has not taken all of the following steps:

(A) Considered whether the proposed facility may have a significant environmental effect pursuant to §§ 1.1301 through 1.1319 of this chapter;

(B) Determined that the proposed facility will not have such an effect; and

(C) Indicated this determination on the Form 494;

(vi) The proposed facility is within 56.3 kilometers (35 miles) of the U.S.-Canadian or U.S.-Mexican border, or is otherwise subject to a treaty or agreement between the United States and Canada or the United States and Mexico regarding frequency coordination, or both.

(4) Applicants who commence construction, prior to receiving an authorization pursuant to this paragraph (c) of this chapter, assume the risk of and have no recourse against the United States on account of:

(i) Not receiving an authorization;

(ii) Errors and time lags in the public notice system;

(iii) Having to alter, relocate or dismantle the facility; and

(iv) Incurring whatever costs may be necessary to bring the facility into compliance with applicable laws and regulations.

(5) Applicants constructing facilities without prior Commission authorization pursuant to paragraph (c) of this section must not commence operating such facilities until after the Commission grants an authorization.

[FR Doc. 93–4609 Filed 3–2–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Parts 64 and 69

[CC Docket No. 90–571; FCC 93–104]

Telecommunications Services for Hearing and Speech Disabled

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Further Notice of Proposed Rulemaking (Further NPRM) proposes to amend parts 64 and 69 of the Commission's rules to establish a telecommunications relay services (TRS) interstate cost recovery plan. This action is pursuant to requirements of the Americans with Disabilities Act of 1990 (ADA) which, among other things, amended Title II of the Communications Act of 1934 by adding section 225, and will have the effect of implementing an effective cost recovery program for all carriers.

DATES: Comments due April 5, 1993, Reply Comments due April 19, 1993.

FOR FURTHER INFORMATION CONTACT: Linda Dubroof, Domestic Services Branch, Domestic Facilities Division, Common Carrier Bureau, (202) 634–1808.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Further NPRM in the matter of Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990. The item was adopted by the Commission on February 19, 1993, and released February 25, 1993, and bears the title of "Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Order on Reconsideration, Second Report and Order, and Further Notice of Proposed Rulemaking" (CC Docket 90–571, FCC 93–104). The Order on Reconsideration and Second Report and Order are summarized elsewhere in this issue.

The Further NPRM and supporting file are available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the FCC Reference Center, room 239, 1919 M St., NW., Washington, DC, or copies may be purchased from the Commission's duplicating contractor, ITS, 2100 M St., NW., suite 140, Washington, DC 20037, phone (202) 857–3800. The Further NPRM will be published in the FCC Record.

Paperwork Reduction Act Statement

The following collection of information contained in this proposed rule has been submitted to the Office of

Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037. Persons wishing to comment on this collection of information should direct their comments to Jones Neihardt, (202) 395–4814, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503. A copy of any comments filed with the Office of Management and Budget should also be sent to the Commission, Records Management Division, Room 416, Paperwork Reduction Project, Washington, DC 20554. For further information contact Judy Boley, (202) 632–7513.

Title: Proposed Rules and Requirements for Telecommunications Relay Services (TRS) Interstate Cost Recovery.

OMB Number: None.

Action: Proposed new collection.

Respondents: Business or other for profit.

Frequency of Response: On occasion, semi-annual..

Estimated Annual Burden: 120 responses; 4 hours per response; 480 hours total.

Needs and Uses: The notice of Proposed Rulemaking solicits public comment to establish a TRS interstate cost recovery plan and on the date to be filed by TRS providers with NECA. The information will be used to calculate a national average rate requirement to recover the total interstate TRS revenue.

Analysis of Proceeding

This summarizes the Commission's Further NPRM in the matter of Telecommunications Services for Persons with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990 (CC Docket 90–571, FCC 93–104, adopted February 19, 1993, and released February 25, 1993). In the Report and Order and Request for Further Comments, adopted July 26, 1991, (56 FR 36729, August 1, 1991), the Commission adopted rules to implement the Americans with Disabilities Act of 1990 (ADA). The rules require each common carrier providing telephone voice transmission services to provide telecommunications relay services (TRS) not later than July 26, 1993, throughout the area in which it offers services. Carriers may provide services individually, through designees, through a competitively selected vendor, or in concert with other carriers. The Commission also fashioned a comprehensive set of rules which set forth terminology and definitions of TRS, prescribe operational, technical, and functional minimum standards of all TRS providers, and delineate the state certification process. Specifically, the Commission's rules require that TRS shall be capable of handling any type of call normally provided by common carriers. The burden of proving the infeasibility of handling any type of call is on the carriers. With regard to confidentiality, the Commission's rules require that, consistent with the obligations of common carrier operators, TRS communications assistants (CAs) are prohibited from disclosing the content of any relayed conversation regardless of content. Furthermore, the Commission, noting that the record was not adequate to determine a specific cost recovery mechanism, sought further comments containing specific proposals on interstate cost recovery.

In the Further NPRM adopted February 19, 1993, the Commission proposes rules tasking NECA with the responsibility for administering the shared-funding plan, but the Commission invites other proposals. Under the proposed rules, the Administrator's performance would be reviewed after an initial two year period.

Further Notice of Proposed Rulemaking

This is a nonrestricted notice and comment rulemaking proceeding. *Ex Parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 CFR 1.1202, 1.1203 and 1.1206(a).

We certify that the Regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because if the proposed rule amendment is promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined in section 601(3) of the Regulatory Flexibility Act. The Secretary shall send a copy of this order on reconsideration, second report and order and further notice of proposed rulemaking including the certification to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(A) of the Regulatory Flexibility Act. Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before April 5, 1993, and reply comments on or before April 19, 1993. To file formally in this proceeding, interested parties must file an original and four copies of all comments, reply comments, and supporting documents with the reference number "CC Docket 90–571" on each document. If interested parties want each Commissioner to receive a personal copy of comments, interested parties must file an original plus nine copies. Interested parties should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, room 239, Federal Communications Commission, 1919 M Street, NW., Washington, DC. Copies of comments and reply comments are available through the Commission's duplicating contractor: International Transcription Service, Inc. (ITS, Inc), 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 64

Communications Common Carriers, Handicapped, Individuals with Hearing and Speech Disabilities, Telecommunications Relay Services.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–4843 Filed 3–2–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 90

[PR Docket No. 89–553; FCC No. 93–34]

Use of 200 Channels in 896–901/935–940 MHz Bands Allotted to the Specialized Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This docket proposes methods for licensing the 200 channels in the 896–901/935–940 MHz bands allotted to the Specialized Mobile Radio (SMR) Service in a combination of nationwide, regional, and local systems. This further notice is necessary to determine the most appropriate method of licensing these channels outside of the 46 Designated Filing Areas where systems have already been licensed. The proposals contained in this further notice will provide for the continued development of SMR services in the 900 MHz band. This further notice of proposed rule making was combined with a first report and order in this

proceeding. A summary of and information on the first report and order is published elsewhere in this issue.

DATES: Comments must be filed on or before April 23, 1993, and reply comments must be filed on or before May 10, 1993.

ADDRESSES: Federal Communications Commission, 1919 M St., NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steve Sharkey, Private Radio Bureau, (202) 634–2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's further notice of proposed rule making, PR Docket No. 89–553, FCC No. 93–34, adopted January 14, 1993, and released February 12, 1993. The full text of this further notice of proposed rule making is available for inspection during normal business hours in the Records Room of the Federal Communications Commission, room 239, 1919 M St., NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 2100 M St., NW., suite 140, Washington, DC, 20037, telephone (202) 857–3800.

Summary of Further Notice of Proposed Rule Making

1. This further notice of proposed rule making addresses issues related to further licensing the 200 channels pairs allotted to the Specialized Mobile Radio (SMR) service in the 896–901/935–940 MHz bands. The Commission allocated these channels to the SMR service on September 26, 1986. To expedite service to areas most in need, the 1986 Report and Order allocating the channels also established a two-phase licensing procedure. The Commission began licensing in accordance with the first phase (Phase I) in 1987. In 1989, however, the Commission adopted a notice of proposed rule making 55 FR 744, January 9, 1990, proposing to eliminate the planned second phase of licensing in favor of an alternative approach. This further notice continues to examine the most appropriate means of further licensing the 200 SMR channels.

2. Specifically, in the further notice the Commission requests additional comments on the allocation of the 200 channels among local, regional, and nationwide licenses. The Commission also requests comment on how the regions for regional licenses should be configured. The Commission proposes to create three nationwide licenses of 20 channels each; six regional licenses of 20 channels in each of the seven Regional Bell Operating Company regions; and allot the remaining 20 channels on a local basis in all areas of the country. The Commission proposes to use lotteries to select the licensees; however, if Congress grants the FCC auction authority the FCC may consider licensing nationwide and regional systems by competitive bidding. To discourage speculation, the Commission proposes strict entry criteria for nationwide and regional licenses. The Commission also proposes to initially restrict eligibility for nationwide applicants to entities that had a substantial presence in Phase-I markets and requested comments on whether a similar restriction would be appropriate for regional licenses. Finally, the Commission proposes that nationwide licensees be exempt from transmitting a station identifier and that all secondary sites of constructed by Phase-I licensees be granted primary status. This summary of proposed rule changes may not be all inclusive. Parties interested in a complete description of proposed changes should consult the full text of the further notice of proposed rule making available in the FCC Dockets Center or for purchase from ITS, Inc. as described above.

Further Initial Regulatory Flexibility Analysis

3. *Reason for action.* The changes, both proposed and adopted herein, to part 90 of the Commission's Rules will enhance use of the 200 channels allocated to the SMR service in the 900 MHz band. The new rules will allow licensees more flexibility, both geographically and operationally, to provide innovative, diverse services to land mobile users and will help create a 900 MHz SMR service distinct from the 800 MHz SMR service.

4. *Objectives.* The Commission seeks to promote development of a competitive and innovative SMR service in the 900 MHz band. Such a service will provide valuable new advanced communications options to the public.

5. *Legal Basis.* The legal basis for these rule changes is found in sections 4(i), 303(g), 303(r), and 331(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(g), 303(r), and 332(a).

6. *Reporting, recordkeeping, and other compliance requirements.* Regional applicants must demonstrate that they have sufficient net assets to construct 40 percent of the proposed regional system and operate the system for two years. Nationwide applicants must demonstrate that they have sufficient net assets to construct 40 percent of the proposed system and operate the system for four years.

7. *Federal rules which overlap, duplicate or conflict with these rules.* None.

8. *Description, potential impact, and number of small entities involved.* Many small entities could be positively affected by this proposal because additional communications options would be made available to them. The number of small entities that will be affected is unknown. Additionally, expanded service opportunities will generate a demand for new communciations equipment, a benefit for equipment manufacturers. An initial regulatory flexibility analysis was prepared for the notice of proposed rule making in this proceeding. That analysis anticipated that our actions in this proceeding will have a positive effect on a number of small and large businesses. We did not receive any comments that specifically addressed our Initial Regulatory Flexibility Analysis.

9. *Any significant alternatives minimizing the impact on small entities consistent with the stated objectives.* This Further Notice solicits comments on a variety of alternatives. Additionally, all significant alternatives presented in response to the notice in this proceeding have been addressed in this further notice of proposed rule making. This item is intended to minimize the regulatory burdens to our licensees, many of whom may be considered small business entities.

Paperwork Reduction

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of this submission may be purchased from the Commission's copy contractor, ITS, Inc., 2100 M St., NW., suite 140, Washington, DC, 20037, telephone (202) 857–3800. Persons wishing to comment on this collection of information should direct their comments to Jonas Niehardt, (202) 395–4814, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503. A copy of any comments filed with the Office of Management and Budget should also be sent to the following address at the Commission: Federal Communications Commission, Office of Managing Director, Paperwork Reduction Project, Washington, DC 20554. For further information contact Judy Boley, Information Resources Branch, Office of Managing Director, Federal Communications Commission, (202) 632–7513.

OMB Number: 3060–0517 and 3060–0518.

Title: Amendment of parts 2 and 90 of the Commission's rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz and 935–940 MHz Bands Allocated to the Specialized Mobile Radio Service.
Action: New collection.
Respondents: State or local governments, business or other for profit entities, non-profit institutions, and small business or organizations.
Estimated Annual Burden: The item requires new reporting requirements which will impose 360 total burden hours for information to be filed as part of the original applications, 4.5 total hours for the three nationwide licensees to file system status reports at 4, 6, and 10 years after the initial license is granted and every 10 years after that, and 67.5 total hours for the 6 licensees in each of seven regions to file reports at 2, 5, and 10 years after the initial license is granted.
Estimated frequency of response. For nationwide licensees: At 4, 6, and 10 years after the initial license is granted and every 10 years after. For regional licensees: At 2, 5, and 10 years after the initial license is granted, and every 10 years after that.
Needs and uses. Periodic reports are required to ensure efficient use of the spectrum and to confirm that licensees have met the minimum construction requirements that their licenses are conditioned upon.

List of Subjects in 47 CFR Part 90

Business and industry, Communications equipment, Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–4736 Filed 3–2–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

49 CFR Part 23

[Docket No. 48478; Notice 93–10]

RIN 2105–AB92

Participation by Disadvantaged Business Enterprise in Department of Transportation Programs

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Extension of comment period.

SUMMARY: The Department is extending the comment period on its notice of proposed rulemaking to amend its disadvantaged business enterprise (DBE) regulation. The NPRM proposed changes in a number of provisions of the DBE rule. The extension is in response to requests from interested parties for additional time to review the proposed rule and formulate comments.

DATES: Comments are requested by April 8, 1993. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Comments should be sent, preferably in triplicate, to Docket Clerk, Docket No. 48478, Department of Transportation, 400 7th Street, SW., room 4107, Washington, DC 20590. Comments will be available for inspection at this address from 9 a.m. to 5:30 p.m., Monday through Friday. Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date-stamp the postcard and mail it back to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street, SW., room 10424, Washington, DC 20590. (202) 366–9306 (voice); (202) 755–7687 (TDD).

SUPPLEMENTARY INFORMATION: The Department of Transportation published a notice of proposed rulemaking (NPRM) on December 9, 1992 (57 FR 58288) to amend its disadvantaged business enterprise (DBE) rule (49 CFR part 23). The proposed amendments would tighten the structure of the rule, improve administrative procedures, provide for better coordination of guidance from the Department, clarify certification standards, and add new DBE program elements. The original 90-day comment period for this NPRM would end March 9, 1993.

The Department has received a number of written requests from commenters, particularly transit authorities and DBE firms, for additional time to review the NPRM and to formulate comments on the proposal. Department staff have also received a number of informal comments and inquiries at meetings and in phone calls asking to extend the comment period. The Department believes that it would be beneficial to extend the comment period for a time, in order to ensure that it will have the benefit of thoughtful comments from the widest possible spectrum of interested parties. For these reasons, the Department has determined that a 30-day extension is appropriate. The comment period will now close on April 8, 1993. As is typically the case with DOT rulemakings, late-filed comments will be considered to the extent practicable.

Issued this 25th day of February, 1993 at Washington, DC.

Rosalind A. Knapp,

Acting General Counsel.

[FR Doc. 93–4879 Filed 3–2–93; 8:45 am]

BILLING CODE 4910–62–M

Research and Special Programs Administration

49 CFR Parts 171, 172, and 173

[Docket No. HM–181G; Notice No. 93–5]

RIN 2137–AC36

Infectious Substances; Notice of Public Hearing and Advance Notice of Proposed Rulemaking

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of public hearing and advance notice of proposed rulemaking.

SUMMARY: On December 20, 1991, RSPA published a final rule in the **Federal Register** amending the Hazardous Materials Regulations (HMR), including those for infectious substances. RSPA received two petitions for reconsideration to revise the infectious substance provisions in the December 1991 final rule and a number of comments and exemption applications which raised issues for which RSPA needs additional public input. In this document, RSPA is announcing a public hearing to gain more detailed information on the need for additional regulatory action concerning infectious substances in light of petitions and comments received.

DATES: *Comments.* Written comments concerning this notice must be submitted on or before April 20, 1993.

Public Hearing. A public hearing will be held from 9:30 a.m. to 5 p.m. on March 17, 1993, in Washington, DC.

ADDRESSES: *Comments:* Address comments to Dockets Unit (DHM–30), Office of Hazardous Materials Safety, RSPA, U.S. Department of Transportation, Washington, DC 20590–0001. Comments should identify the docket (HM–181G) and notice number (Notice No. 93–5) and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Unit is located in room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., Monday through Friday,

except on public holidays when the office is closed.

Public hearing. The March 17, 1993 public hearing will be held at the Regional Office Building Auditorium, room 1041, first floor, National Capital Region, General Services Administration, 7th and D Streets, SW., Washington, DC 20407.

Any person wishing to present an oral statement at the public hearing should notify Eileen Martin, by telephone or in writing, by March 15, 1993. Each request must identify the speaker; organization represented, if any; daytime telephone number; and the anticipated length of the presentation, not to exceed 10 minutes. Written text of the oral statement should be presented to the hearing officer prior to the oral presentation. The hearing may conclude before 5 p.m. if all persons wishing to testify have been heard.

FOR FURTHER INFORMATION CONTACT: Eileen Martin or Jennifer Posten, Office of Hazardous Materials Standards, (202) 366–4488, or George Cushmac, Office of Hazardous Materials Technology, (202) 366–4545, Research and Special Programs Administration, 400 Seventh St., SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. History of Department of Transportation (DOT) Regulation of Etiologic Agents/Infectious Substances

A. Regulation Prior to 1991

The Hazardous Materials Regulations Board (Board; a predecessor to the RSPA) adopted a final rule under Docket HM–142 on September 30, 1972 (37 FR 20554), that added "etiologic agents" to the list of hazardous materials regulated by the Secretary. The final rule at 49 CFR 173.386(a)(1) defined an etiologic agent as

> a viable microorganism, or its toxin, which causes or may cause human disease, and is limited to those agents listed in 42 CFR 72.25(c) of the regulations of the Department of Health, Education, and Welfare.

(The Department of Health, Education, and Welfare (HEW) is now the Department of Health and Human Services (DHHS).) The final rule at 49 CFR 173.387 also specified packaging requirements for etiologic agents, and excepted, at 49 CFR 173.386(d), from DOT regulation "diagnostic specimens" and "biological products," which were subject to regulation by HEW. The final rule was adopted after notice and opportunity to comment (36 FR 25163, December 29, 1971).

On November 29, 1972, after receiving two petitions for reconsideration and several comments, the Board proposed in the **Federal Register** (37 FR 25243) to except from DOT regulation cultures of etiologic agents of less than 50 milliliters (1.666 fluid ounces) in one package. The petitions stated that such an exception was necessary to allow physicians in rural areas to transport cultures to laboratories on passenger-carrying aircraft, rather than by slower surface transportation which, in turn, promotes health safety. The petitions added that cultures of etiologic agents may perish if in transportation too long. The Board adopted the proposal as final on March 29, 1973 (38 FR 8161). One commenter objected to excepting such quantities of etiologic agents from all regulation. The Board noted, however, that quantities of etiologic agents excepted from DOT regulation would still be subject to HEW labeling and packaging regulations under 42 CFR 72.25(c). The March 29, 1973 rule also adopted incident notification requirements for etiologic agents, as proposed on July 22, 1972 (37 FR 14728).

B. The 1988 Notice of Proposed Rulemaking (NPRM) Under Docket HM–142A

On November 10, 1988, RSPA proposed (Docket HM–142A, 53 FR 45525) to revise the definition of "etiologic agent," remove the 50 milliliter (ml) exception, and align the per package quantity limits of etiologic agents aboard aircraft with the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). RSPA proposed broadening the definition of "etiologic agent" to include, in addition to etiologic agents listed by DHHS in 42 CFR 72.3, any agent that poses a similar degree of hazard, such as the acquired immune deficiency syndrome (AIDS) virus. The DHHS has not updated the list in 42 CFR 72.3 since July 1, 1980 (45 FR 48627). On March 2, 1990 (55 FR 7678), DHHS proposed to delete the list from its regulations but a final rule has not been published. RSPA noted that the proposed definition was not as broad as the definition for infectious substances (Division 6.2) contained in the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations) and international regulations based on the UN Recommendations, such as the ICAO Technical Instructions.

C. January 3, 1991 Final Rule Under Docket HM–142A

On January 3, 1991, RSPA published a final rule in the **Federal Register** (56 FR 197) under Docket HM–142A. The final rule (1) adopted a revised definition of "etiologic agent," (2) removed the 50 ml exception, and (3) clarified quantity limitations for etiologic agents transported aboard aircraft. "Etiologic agent" was defined to mean

> a viable microorganism, or its toxin, which is listed in 42 CFR 72.3 of the regulations of the [DHHS] or which causes or may cause severe, disabling or fatal human disease.

The definition adopted differed from the proposed definition in response to commenters who suggested that the language of the definition be modified to better reflect agents that may pose an unreasonable risk to health and safety during transportation. Accordingly, the wording was revised to include other agents that cause or may cause severe, disabling or fatal human diseases in humans in addition to the agents listed in 42 CFR 72.3 of the DHHS regulations. In response to comments, RSPA indicated in the preamble that it believed most medical waste is composed of material that does not contain etiologic agents either because it does not contain any infectious material or because the infectious material does not meet the regulatory definition of etiologic agent. RSPA also stated that, in many cases, if medical waste is known or suspected to contain an etiologic agent, it is treated on-site to destroy the agent by using a method such as incineration, autoclaving, or treatment with disinfectants. However, RSPA clearly stated that "* * * if an infectious waste that contains an etiologic agent is offered for transportation, it must conform with the requirements in the Hazardous Materials Regulations (HMR; 49 CFR parts 171–80) for etiologic agents" (56 FR 198). As stated earlier, the final rule also removed the 50 ml exception, as proposed in 1988. The January 3 preamble responded to numerous comments received on the 50 ml proposal and comprehensively discussed the reasons for this action.

The January 3 preamble also discussed the relationship of Docket HM–142A to Docket HM–181—the Performance-Oriented Packaging Standards. In that discussion, RSPA stated that HM–181 had proposed to replace the term "etiologic agent" with "infectious substance" for consistency with international regulations. However, RSPA noted that the scope of changes proposed under HM–181 was so extensive that RSPA was unsure when that proposal would be adopted as final. As a result, RSPA proceeded with a separate rulemaking under Docket HM–

142A (an abbreviated version of the infectious substance provisions in HM–181) to ensure that the risks posed by etiologic agents were adequately regulated under the HMR. RSPA intended the provisions under HM–142A to serve as a transition until the provisions of HM–181 became effective. Both final rules were published at approximately the same time. However, the initial effective date for HM–142A was February 19, 1991, and the effective date for HM–181 was October 1, 1991. Although HM–142A was to become effective before HM–181, RSPA encouraged shippers to implement the HM–181 provisions as soon as practicable.

D. Performance-oriented Packaging Standards—HM–181

In 1987, RSPA proposed to align the classification, packaging, and hazard communications provisions in the HMR with the UN Recommendations and the ICAO Technical Instructions. The May 5, 1987 NPRM (Docket HM–181, 52 FR 16482) proposed to replace the term "etiologic agent" with the term "infectious substance" and adopt the INFECTIOUS SUBSTANCE label (52 FR 16700). RSPA proposed to include "infectious substance" in UN classification Class 6, Division 6.2. "Infectious substance" was proposed to mean

> a viable microorganism, or its toxin, which causes or may cause human disease, and is limited to those agents listed in 42 CFR 72.3 of the regulations of the [DHHS]. The terms "infectious substance" and "etiologic agent" are synonymous.

(52 FR 16700).

On December 21, 1990, RSPA issued a final rule under Docket HM–181 (55 FR 52402) which comprehensively revised the HMR with respect to hazard communication, classification, and packaging requirements. "Infectious substance" was defined in 49 CFR 173.134(a)(1) to mean

> a viable microorganism, or its toxin, which causes or may cause disease in humans or animals, and includes those agents listed in 42 CFR 72.3 of the regulations of the [DHHS] or any other agent that has the potential to cause severe, disabling or fatal disease. The terms "infectious substance" and "etiologic agent" are synonymous.

RSPA had planned to issue a final rule under Docket HM–142A (etiologic agents) before issuing the final rule under Docket HM–181. However, the final rule under HM–181 was issued on December 21, 1990, and the final rule under HM–142A was not issued until January 3, 1991. As explained in the preamble to the January 3, 1991 rule, the comments on HM–142A were considered in the decisionmaking process for HM–181, and reflected in the December 21, 1990 rule. For example, not only did the December 1990 definition of "infectious substance" adopt the broader definition of etiologic agent proposed in 1988, it also reflected RSPA's consideration of comments suggesting that the language be modified to better define agents that may pose an unreasonable risk to health and safety during transportation.

A document incorporating editorial and substantive revisions to the December 1990 final rule was published on December 20, 1991 [56 FR 66124]. (These final rules are referred to jointly herein as Docket HM–181.) The revisions contained in the latter document were primarily in response to petitions for reconsideration received on the December 21, 1990 final rule and also made editorial and technical corrections to the December 21, 1990 final rule, and to the January 3, 1991 final rule.

E. January 3, 1991 Final Rule and Partial Response to a Petition For Reconsideration

A petition for reconsideration filed by the National Solid Wastes Management Association (NSWMA) recommended that RSPA revise the definition of infectious substances (etiologic agents) to exclude solid waste or medical waste as defined in 40 CFR 259.10 of the Environmental Protection Agency's (EPA's) regulations. To allow adequate time to evaluate the petition, RSPA delayed the effective date of the January 3 rule to September 30, 1991 (February 22, 1991, 56 FR 7312). In a meeting to obtain clarification of the petition, NSWMA urged RSPA to reestablish the 50 ml exception for infectious substances. The NSWMA stated that RSPA's regulation was inconsistent with the approach taken by EPA, and would increase the costs of transporting medical waste for the regulated community. The NSWMA stated that, contrary to RSPA's preamble discussion that most medical waste did not contain etiologic agents or was treated on-site to destroy the agent before being transported for disposal, substantial quantities of untreated medical waste are transported off-site. This information was the first indication RSPA had received from any commenter that removal of the 50 ml exception would affect a larger segment of the industry than had previously been indicated.

On September 18, 1991 (56 FR 47158), RSPA incorporated HM–142A into HM–181 and, in partial response to NSWMA's request, extended the 50 ml exception from October 1, 1991, to October 1, 1992. (The September 1991 rule also required that packages exceeding the 50 ml exception comply on October 1, 1991, with the revised hazard communication (shipping paper, marking, and labeling) and classification requirements in Docket HM–181). RSPA anticipated that this extension would provide enough time to fully respond to NSWMA's comments in the final correction document to HM–181 that was being prepared. However, NSWMA submitted a September 26, 1991 letter asking that RSPA clarify that the January 3, 1991 and September 18, 1991 final rules "apply to only isolated cultures or stocks such as clinical laboratory specimens and not to 'medical waste' as defined in 40 CFR 259.30(a) and 'mixtures' as defined in 40 CFR 259.31." In essence, NSWMA was requesting clarification that the HMR do not apply to medical waste containing any amount of an infectious substance. In order to allow RSPA additional time to carefully review NSWMA's substantive concerns, RSPA again extended the compliance transition date for all new requirements for infectious substances until October 1, 1992 (October 1, 1991, 56 FR 49830).

F. December 20, 1991 Final Rule

In the December 20, 1991 final rule responding to petitions for reconsideration in Docket HM–181, RSPA agreed with NSWMA that medical waste containing an infectious substance should be treated differently than other infectious substances. RSPA had no basis, however, to except from regulation medical waste containing an infectious substance, and stated "* * * since the majority of these wastes are untreated and, thus, may potentially contain infectious substances, RSPA strongly believes that the public and transport personnel be protected from the hazards of these materials during transportation" (56 FR 66142). Accordingly, RSPA revised the regulations (49 CFR 173.197 (1991)) to specify "* * * less rigorous requirements for infectious substances that are 'regulated medical wastes'" (56 FR 66131). RSPA observed that EPA's regulations on medical waste in 40 CFR part 259 applied in only five States and had expired on June 22, 1991, with the end of a 2-year demonstration program that EPA had established under the Medical Waste Tracking Act of 1988 (MWTA; Pub.L. 100–582). To provide less rigorous requirements for medical waste containing infectious substances, RSPA turned to the expired EPA regulations as a model that could be adapted, with some modifications, to

the HMR. RSPA wanted to take advantage of the technical expertise and knowledge of the medical waste industry that EPA had developed during its demonstration project under the MWTA. Accordingly, RSPA adopted a definition of "regulated medical waste" (to distinguish between all medical waste and medical waste containing an infectious substance) and specified packaging requirements for regulated medical waste (RMW) that were consistent with those contained in the expired EPA regulations.

RSPA thus created a subcategory of infectious substances—infectious substances that are contained in or constitute medical waste. The threshold question to be addressed is whether an infectious substance is being offered for transportation or transported. If so, the infectious substance must be labeled, packaged, and offered for transportation in accordance with the HMR. If the infectious substance is also medical waste, or is contained in medical waste, then the shipper may use the less rigorous packaging requirements that are provided for RMW.

If RSPA had not provided this measure of regulatory relief in response to petitions, all infectious substances, regardless of how they are generated, would be classified and described as Division 6.2 materials, and would be subject to the full extent of regulation provided in the HMR.

G. Petitions for Reconsideration and Comments Received in Response to the December 20, 1991 Rule

Following issuance of the December 1991 rule, RSPA received two additional petitions for reconsideration and a number of requests for clarification and additional comments concerning the provisions for infectious substances and regulated medical waste. The petitioners requested a stay in the effectiveness of the final rule and the reopening of the rulemaking for additional public input.

An issue of particular concern to petitioners and commenters was the HMR's potential overlap or inconsistency with other Federal regulations governing infectious substances. Federal agencies such as the Occupational Safety and Health Administration (OSHA) of the Department of Labor (DOL), the Centers for Disease Control (CDC) and the Food and Drug Administration (FDA) of the DHHS, the United States Postal Service (USPS), and the Animal and Plant Health Inspection Service (APHIS) of the Department of Agriculture (USDA) have regulations applying to infectious substances/etiologic agents.

OSHA's regulations under Docket H–370 (56 FR 64004), "Occupational Exposure to Bloodborne Pathogens," cover issues dealing with worker exposure to potentially infectious materials. CDC administers regulations under 42 CFR Part 72 concerning the interstate shipment of etiologic agents. USPS recently published a final rule (57 FR 29028) concerning the mailability of sharps. USPS requires DOT labels, packagings designed and constructed in accordance with 49 CFR, absorbent material, and a manifest for used sharps and other medical devices shipped in the mail. APHIS regulates biological products derived from animal blood and tissue by prescribing permits, packaging, and labeling under 9 CFR parts 102–104.

Both OSHA and CDC require packaging and labeling for infectious substances/etiologic agents which differ from those of the HMR. Neither OSHA nor CDC require testing or certification of packagings. However, OSHA's definition for infectious substances is broader than RSPA's in that it assumes all human blood and human body fluids are infectious unless proven otherwise. The HMR's definition for infectious substances includes materials known or suspected to contain infectious substances. OSHA uses the term "bloodborne pathogens and other potentially infectious substances" and CDC uses the term "etiologic agents." In HM–181, RSPA adopted "infectious substances" in place of "etiologic agents," in part for consistency with international standards. These materials are referred to herein generically as infectious substances. Perhaps the most obvious overlap of the various infectious substance regulations is the fact that each agency/organization involved requires one or more different labels on packages.

In addition to suggesting the need for a uniform Federal approach to regulating infectious substances, petitioners and commenters have indicated that there may be a need to revise certain definitions and packaging provisions adopted under Docket HM–181. RSPA is also faced with evaluating the merits of aligning the HMR with the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations). The HMR embody performance-oriented packaging standards, hazard communication standards, and classification criteria generally consistent with the UN Recommendations. These and other issues are further addressed in the section of this notice entitled "Request for Comments."

H. Transitional Provisions

RSPA had not completed its evaluation of the petitions for reconsideration as of October 1, 1992, the date on which the new HM–181 provisions for infectious substances were to take effect. On October 1, 1992, RSPA published a final rule (57 FR 45442) extending this transition date, found at 49 CFR 171.14(b)(3), to April 1, 1993. Based on the issues raised in this document, it is apparent that even more time will be needed in order to provide for notice and opportunity to comment and, if warranted, to develop additional rulemaking documents. Therefore, elsewhere in today's **Federal Register**, RSPA is further extending the transition date to January 1, 1994.

During the transition period, a person may comply with either the applicable "old" requirements of the HMR, i.e., those in effect on September 30, 1991, or the current requirements adopted under HM–181. A person who was not subject to the old requirements, but is subject to the new requirements, has until expiration of the transition period to comply with the new requirements. For example, a material which meets the new "infectious substance" definition but not the old "etiologic agent" definition, or which qualifies for the old 50 milliliter exception, may be shipped in accordance with the new requirements, but compliance is not mandatory until January 1, 1994. A person who was subject to the old requirements and is subject to the new requirements must comply with either the old or the new requirements.

II. Request for Comments

RSPA is requesting comments in response to the following questions and recommendations on possible regulatory changes to the requirements adopted under HM–142A and HM–181. Further, RSPA is conducting the public hearing to discuss these issues. RSPA's aim is to ensure that its regulations (1) adequately protect the public, transport workers, and the environment from the hazards posed by infectious materials; (2) do not impose undue burdens on the regulated industry; and (3) do not unnecessarily overlap or conflict with the regulations of other Federal agencies. Commenters are requested to present as much quantitative information as is available concerning costs and benefits attributable to the recommendations.

In the following questions, the provisions adopted under HM–181 are referred to as the "current" regulations, even though they may not be in effect due to transitional provisions.

A. Consistency With Other Regulations

1. Agencies such as RSPA, OSHA, USPS, APHIS, FDA and CDC regulate infectious substances. To what extent do overlapping Federal regulations affect transportation costs and create other burdens? What regulatory changes are recommended to ease the movement of these materials in transportation while still providing an adequate level of safety?

2. OSHA's "BIOHAZARD" label, CDC's "BIOMEDICAL MATERIAL" label, and DOT's "INFECTIOUS SUBSTANCE" label may all appear on packages in transportation, sometimes with two or more different labels on the same package. Does the appearance of multiple labels on packages cause confusion to transport workers or emergency response personnel? Considering each agency's differing definitions for infectious substances, are there practicable alternatives to multiple labeling?

3. The infectious substance definition in the HMR is partially based on the sixth edition of the UN Recommendations for the Transport of Dangerous Goods. For consistency with the UN Recommendations, substances infectious to animals were included in the definition. Should the HMR address substances infectious to animals for transportation purposes? Are these substances adequately addressed in regulations of other agencies such as those of the USDA?

4. RSPA is considering development of a proposal to incorporate the seventh revised edition of the UN Recommendations into the HMR. The seventh edition of the UN Recommendations differs from the HMR in that it (1) modifies the definitions of biological products and diagnostic specimens by including those that may contain infectious substances; (2) excludes toxins from the definition of infectious substances; and (3) includes infectious genetically modified organisms and microorganisms. Should the infectious substance regulations of the HMR conform to the seventh revised edition of the UN Recommendations?

5. A CDC report defines the term "universal precautions" as an approach to infection control that treats all human blood and certain human body fluids as if known to be infectious. This approach is utilized internationally and domestically by agencies such as OSHA and USPS. What percent of medical waste transported off-site is known to be infectious? How much more waste would be covered under the universal precautions approach? Is there a practicable means of differentiating between waste which can reasonably be expected to be infectious versus waste which can be expected not to be infectious? Should RSPA adopt universal precautions to be consistent with other agencies' infectious substance regulations?

6. Under OSHA's bloodborne pathogens rule, contaminated laundry must be properly packaged and each package must be labeled or color-coded prior to shipment. Under the HMR, laundry and other reusable materials containing infectious substances are not specifically addressed. In the absence of specific provisions or exceptions, they are subject to the same hazard communication and packaging requirements as cultures and stocks of infectious substances. Should RSPA except certain reusable materials, such as laundry and surgical instruments, from the HMR, should these items be addressed in a manner similar to OSHA's regulations, or should the HMR remain unchanged?

7. The CDC has proposed to remove the list of agents in 42 CFR 72.3 and replace it with a general definition: "*Etiologic agent* means a microbiological agent or its toxin that causes, or may cause, human disease." The HMR currently references the CDC list in the definition of infectious substances in 49 CFR 173.134. If CDC adopts the new definition, it would apply to many more materials than does DOT's definition, which limits disease-causing agents to those which are "severe, disabling or fatal." Should RSPA consider adopting the broader definition proposed by CDC? Are estimates available as to the number of additional infectious substance and regulated medical waste shipments that would be subject to the HMR if this were done?

8. Biological products and diagnostic specimens are currently excepted from regulation (unless they become regulated medical waste) under the HMR even though many of them contain infectious substances. The CDC defines "biological products" and "clinical specimens" similar to the HMR definitions. However, CDC provides packaging and labeling requirements for these materials. FDA, APHIS, and OSHA also have regulatory requirements applicable to biological products. For example, OSHA requires packaging and labeling for potentially infectious biological products and clinical specimens. Should RSPA remove the exception for biological products and diagnostic specimens that contain infectious substances under the HMR? Should RSPA exclude waste biological products and diagnostic specimens from regulation? Should RSPA adopt the term "clinical specimens"? What hazard communication and packaging standards, if any, should apply to biological products and diagnostic/clinical specimens under the HMR?

9. Currently under the HMR, untreated cultures and stocks of infectious substances transported for disposal would meet the definition for regulated medical waste. As such, they are subject to less rigorous packaging and hazard communication requirements than those applicable to non-waste cultures and stocks of infectious substances. Commenters requested that RSPA remove this provision and subject all cultures and stocks, including waste, to the more stringent infectious substance requirements, particularly those for packaging in 49 CFR 173.196, because of their high level of hazard. To what extent are waste cultures and stocks transported off-site without being rendered harmless (i.e., treated so that they are no longer capable of causing severe, disabling, or fatal disease)? Should these cultures and stocks be transported in the same manner as non-waste, i.e., subject to the packaging provisions of § 173.196?

B. Non-bulk packagings

10. RSPA is aware that packages of medical waste may undergo rough handling in transportation. However, commenters have stated that some of the performance tests in subpart M of part 178 of 49 CFR are irrelevant to the transportation of regulated medical waste in non-bulk packagings. Which tests are irrelevant and why?

11. The HMR require use of UN performance-based packagings which meet a Packing Group II performance level for regulated medical waste. UN packagings are required for other hazardous materials which pose an equivalent or lesser degree of potential hazard than regulated medical waste. What justification, if any, exists for relaxing packaging requirements for these materials?

12. For the purposes of packaging, medical waste may be differentiated as liquids, solids, or sharps. (Sharps are described in 49 CFR part 173, appendix G.) Are there different levels of risk associated with these forms? If so, should different packing group levels or different packaging standards apply?

13. Medical waste may often include both liquids and solids, with the liquids either absorbed in the solids or remaining as residues in bottles, bags, needles, or other containers. Under the provisions of the HMR, if there are any

liquid contents to be packaged, then only a UN packaging tested and certified for liquids may be used. This can necessitate the testing of many combinations of inner and outer packagings. Under what conditions, if any, should RSPA permit a packaging tested for solids to be used for regulated medical waste containing liquids? For example, should RSPA permit small amounts of liquid residues to be packaged as a solid, provided the inner packaging also contains absorbent waste materials in sufficient quantity to absorb the total volume of waste liquid residue?

14. Under the HMR, a plastic film bag (generally known as a "red bag") is authorized for regulated medical waste only as an inner packaging inside a rigid outer packaging, such as a fiberboard box. The completed package must be capable of withstanding Packing Group II performance levels. The thickness of the red bag is not specified. Is there a need to specify thicknesses for red bags of various capacities and, if so, what should they be?

15. What is the average or typical weight of a plastic film red bag containing medical waste? What is the maximum weight that might be found in transportation?

16. Presently under the HMR, the size of a sharps container may be as great as 400 kilograms maximum net mass for solids or 450 liters maximum capacity for liquids. As a practical matter, much smaller containers (e.g., 17 kilograms; 19 liters) are in use. In the interest of safety, should RSPA further restrict container size for sharps and, if so, to what degree? Is it practical to drain sharps containers of their liquid contents prior to transportation? Do any state or local laws require sharps to be disinfected (e.g., soaking needles in liquid bleach)? Should all sharps containers meet the requirements of the HMR applicable to packagings for liquids?

C. Bulk Packagings

17. The HMR prohibit the bulk transportation of regulated medical waste. However, RSPA is aware that medical waste has been transported in bulk packagings and currently has several applications for exemptions pending to permit the use of bulk packagings under the HMR. Generally, these bulk packagings are covered bins, constructed of polyethylene and ranging from about 450 to 850 liters (119 to 225 gallons) in capacity, into which red-bagged material and sharps receptacles are placed with no other intermediate containment. There are also roll-on-roll-off containers and van-type transport vehicles which have been used for the bulk transport of medical waste. Should RSPA revise the HMR to provide for the transport of regulated medical waste in bulk packagings?

18. For sizes where it might be practicable, such as for packagings in the 450 to 800 liter range, should RSPA authorize the use of bins which meet performance requirements applicable to non-bulk packagings?

19. Most of the covered bins which have been used for medical waste are seamless on their bottoms and sides, making them leakproof when in an upright position. Should RSPA require that bins be seamless or have fully sealed bottom and side seams? Most bins have top closures which are not leakproof, but are held closed by positive means (i.e., are held in place by other than gravity or friction). Is it necessary and practicable to require that top closures be leakproof and have positive means of closure or would operating controls such as "must be transported in a manner that will ensure they remain in an upright position" suffice in place of such a requirement?

20. Most bins used for wastes would not withstand the hydrostatic pressure test currently required for non-bulk packagings used for liquids. Under what circumstances, if any, should RSPA relax the hydrostatic test requirement for bulk packagings intended to contain liquid, infectious medical waste?

21. If RSPA were to authorize bulk size packagings (i.e., bins over 800 liters capacity and van-type vehicles or dump-body vehicles), what standards should apply? Should side and bottom seams be fully sealed? Should plastic film red bags be required as an intermediate packaging when infectious medical waste is transported? Should standards address ease of cleaning and provision of sumps to retain leakage from intermediate packaging?

D. Scope

22. Is infectious medical waste imported to or exported from the U.S.? If so, what are the circumstances of these shipments (e.g., why, where, what types of materials, mode of transport)?

23. To what extent is infectious medical waste transported by modes other than highway?

24. Some commenters suggested that of an estimated 158 million tons of U.S. municipal solid waste produced annually, between 0.3 percent to 1.0 percent is medical waste. Some sources suggest that approximately 15% of all medical waste actually contains infectious substances. Are these estimates accurate? Are they consistent with known operating experience?

25. Some commenters have stated that the risk of infection from medical waste comes almost entirely from sharps and is negligible for other wastes. Is this an accurate assessment? Are there objective criteria or statistics to support this assessment?

26. It has been suggested that 5% of the infectious medical waste in transportation contains sharps. Is this a reasonable estimate? If not, what is a better percentage?

27. What percentage of infectious substances offered for transportation off-site by hospitals, clinics and similar entities is intended for reuse or treatment rather than for disposal?

28. To what extent is infectious medical waste treated on-site to eliminate the risks posed by infectious substances? What percent of the U.S. hospital population treats its medical waste on-site using methods such as chemical decontamination, autoclaving, incineration, or irradiation? How do smaller generators of medical waste, e.g., medical offices and clinics, typically treat or dispose of their waste?

29. It has been stated that costs are between $0.04 to $0.06 per pound for disposal of non-infectious medical waste and that prices of up to 10 times this amount are charged for infectious medical waste. How accurate are these estimates?

III. Rulemaking Analyses and Notices

A. Executive Order 12291

The effect of this advance notice of proposed rulemaking does not meet the criteria specified in section 1(b) of Executive Order 12291 and is determined not to be a major rule. It is a significant rule under the regulatory procedures of the Department of Transportation (44 FR 11034) because of potential impacts on medical facilities. This advance notice of proposed rulemaking does not require a Regulatory Impact Analysis, or an environmental assessment or impact statement under the National Environmental Policy Act (42 FR 4321 et seq.) A preliminary regulatory evaluation will be prepared if further rulemaking action is warranted.

B. Executive Order 12612

This advance notice of proposed rulemaking has been analyzed in accordance with the principles and criteria in Executive Order 12612 ("Federalism").

The Hazardous Materials Transportation Act (49 App. U.S.C. 1801–1819) contains express preemption provisions (49 App. U.S.C. 1811) that preempt a non-Federal

requirement if (1) compliance with both the non-Federal and the Federal requirement is not possible; (2) the non-Federal requirement creates an obstacle to accomplishment of the Federal law or regulations; or (3) it is preempted under section 105(a)(4), concerning certain covered subjects, or section 105(b), concerning highway routing. Covered subjects include:

(i) The designation, description, and classification of hazardous materials;

(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(iii) The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents;

(iv) The written notification, recording, and reporting of unintentional release in transportation of hazardous material; or

(v) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials. (49 App. U.S.C. 1804(a)(4)(A) and (B)).

This advance notice of proposed rulemaking addresses certain covered subjects. If rulemaking action leads to promulgation of a final rule, this rule would preempt any State, local, or Indian tribe requirements concerning covered subjects unless the non-Federal requirements are "substantively the same" (56 FR 20424, May 13, 1992) as the Federal requirement. Thus, RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

C. Regulatory Flexibility Act

Based on limited information concerning size and nature of entities likely affected, I certify that this advance notice of proposed rulemaking will not, if promulgated, have a significant impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act. This certification is subject to modification based on the merits of comments received.

Issued in Washington, DC, on February 26, 1993, under authority delegated in 49 CFR part 106, appendix A.

Robert A. McGuire,

Deputy Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93–4882 Filed 3–2–93; 8:45 am]

BILLING CODE 4910-60-P

49 CFR Part 195

[Docket No. PS–117; Notice 3]

RIN 2137–AB86

Transportation of a Hazardous Liquid in Pipelines Operating at 20 Percent or Less of Specified Minimum Yield Strength

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: By regulatory exception, the Federal pipeline safety standards governing hazardous liquid pipelines do not apply to pipelines operated at a stress level of 20 percent or less of the specified minimum yield strength (SMYS) of the pipe. In this Notice of Proposed Rulemaking (NPRM), the Research and Special Programs Administration (RSPA) proposes to revise the current exception and to apply the pipeline safety standards to certain pipelines operating at a stress level of 20 percent or less of SMYS. RSPA expects that this rulemaking will improve public safety and environmental protection by minimizing the possibility of accidents.

DATES: Comments must be received by May 3, 1993. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Send comments in duplicate to the Dockets Unit, room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Identify the docket and notice number stated in the heading of this notice. All comments and docketed material will be available for inspection and copying in Room 8421 between 8:30 a.m. and 5 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: G. Joseph Wolf, (202) 366–4560, regarding the subject matter of this NPRM. Contact the Dockets Unit, (202) 366–4453, for copies of the NPRM or other docket material. Contact the Transportation Safety Institute, Pipeline Safety Division, 6500 South MacArthur Boulevard, Oklahoma City, OK 73125, (405) 680–4643, for a copy of 49 CFR part 195.

SUPPLEMENTARY INFORMATION:

Background

When the Federal pipeline safety regulations applicable to transportation of hazardous liquids by pipeline (49 CFR part 195) were issued in 1969, pipelines operated at a stress level of 20 percent or less of SMYS, hereafter referred to as low stress pipelines, were excepted from the regulations because they were thought to pose little risk to public safety. Since then, however, accidents that have occurred on low stress pipelines provide reasons to reconsider the exception. Recent failures of such pipelines and recommendations to revise their exception from regulation were described in the Advance Notice of Proposed Rulemaking (ANPRM) published on October 31, 1990 (Notice 1; 55 FR 45822). The ANPRM noted that RSPA would determine whether and to what extent to remove the exception. Based on data in the responses to the ANPRM, which indicate a favorable benefit to cost ratio, RSPA is proposing to regulate certain low stress pipelines.

Current Requirements

Section 195.1(b)(3) provides that Part 195 does not apply to "Transportation of a hazardous liquid through pipelines that operate at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe." The pipelines excepted are those steel pipelines in which the internal operating pressure results in a stress level of the pipe that does not exceed 20 percent of SMYS at any point along the length of the pipeline.

Information Acquisition

Because low stress pipelines have been excepted under § 195.1(b)(3), owners and operators are excepted from filing accident reports with RSPA pursuant to subpart B of part 195.

Consequently, RSPA lacked accident data about such pipelines. However, the ANPRM contained a questionnaire for the purpose of gathering information to make a decision regarding rulemaking. The owners or operators of hazardous liquid pipelines operated at 20 percent or less of SMYS and not otherwise excepted under § 195.1(b) were requested to complete the questionnaire for each such pipeline and return it. RSPA requested the information in the questionnaire to estimate the number and mileage of low stress pipelines, to perform a regulatory impact analysis (including a cost-benefit analysis), and to develop and consider alternatives that would ensure the safe operation of low stress pipelines.

In addition, state and local governments and other interested parties were invited to provide comments and available information about low stress pipelines located within their jurisdictions. Comments received provided the data to develop the proposals in this NPRM.

Data Summary

RSPA received 50 responses to the ANPRM: 40 from pipeline operators, 2 from other representatives of the pipeline industry, 5 from government representatives, and 3 from unaffiliated members of the public. The data furnished in the responses were tabulated in computerized format. Using the computerized data and the narrative comments in the responses, the Volpe National Transportation Systems Center (VNTSC) of RSPA prepared a draft regulatory evaluation titled "Economic Evaluation of Regulating Certain Hazardous Liquid Pipelines Operating at 20% or Less of Specified Minimum Yield Strength."

Nine of the 40 pipeline operators who submitted comments furnished no data. The other 31 operators reported the operation of 1555 individual pipelines, a total of more than 3,600 miles, operating at a stress level of 20% or less of SMYS. The largest number of these are classified as interfacility lines (lines between petrochemical facilities) with 996 lines (939 miles) reported. Also reported were 272 trunk pipelines (1,816 miles), 153 gathering lines (564 miles), 116 offshore pipelines (463 miles, estimated), and 105 delivery pipelines (126 miles). Interfacility and delivery lines are described later. For 12 pipelines, information furnished was inadequate for classifying the lines. Based on the data submitted, regulated hazardous liquid pipeline miles would increase an estimated 5 percent to 157,100 miles if low stress pipelines were regulated to the extent proposed in this NPRM.

The sum of the miles of pipelines in high risk areas as defined in the ANPRM exceeded the total miles of pipelines reported because many pipeline lengths are in more than one kind of higher risk area. For those pipelines for which risk or absence of risk was reported, the sum of the total length of all pipelines that traverse higher risk areas was 1,045 miles. Of those 1,045 miles, 349 miles (33 percent) traverse populated areas, and 101 miles (10 percent) cross navigable waters, some both traversing populated areas and crossing navigable waters.

Comments and Analysis

RSPA anticipated that there were three categories of low stress pipelines—interfacility lines moving hazardous liquids between petrochemical facilities, gathering lines, and trunk (long distance transportation) lines. Commenters to the ANPRM discussed an additional category of low stress pipelines which they called delivery lines. Delivery lines generally were described as pipelines that transport hazardous liquids between trunk lines or marine facilities and other petrochemical facilities, for example, refineries, manufacturing plants, and storage or transfer terminals.

In general, operators report that deleting the exception would have minimal economic impact on the operation of low stress trunk lines. Minimal impact is expected because many low stress trunk lines already are operated in accordance with Part 195 even though they are excepted from this requirement. On the other hand, operators anticipate that the initial and continuing annual cost of complying with Part 195 for delivery lines, interfacility lines and gathering lines will be high. Some operators reported anticipated costs of compliance, which have been considered in a regulatory impact analysis of the proposed changes.

Most trunk lines are operated at an internal pressure creating a pipe hoop stress in excess of 20 percent of SMYS of the pipe because it is not economical to construct and operate trunk lines at a low stress. To maximize economy, many trunk lines are designed to be operated at the maximum pressure permitted by Part 195, which is equivalent to 72 percent of SMYS. Low stress trunk pipelines represent 18 percent of the pipelines and 53 percent of the mileage reported and have an average length of 6.7 miles. They are operated at low stress for varying reasons.

In the ANPRM, RSPA stated that it believed that there may be a limited number of low stress trunk lines that transport hazardous liquids for long distances. RSPA believed that these pipelines are operated at low stress because typically they are old and potentially in poor condition. Some operators disputed RSPA's belief, stating that a pipeline is operated at low stress for numerous reasons but not because of its age or condition. Among the reasons given were: structural considerations other than internal pressure (for example, rigidity); low volume demands on the pipeline; diminishing volumes transported; and minimal consequences of damage from external sources.

Of the pipelines for which length was reported, 20 pipelines were reported to be 30 miles and longer. Of the 20 lines, 15 were trunk lines which normally would be operated at high stress. RSPA considered that the average accident costs per mile reported for these 20 longer lines are about one-fourth of the average for all types of low stress pipelines. Therefore, the longer low stress trunk lines represent no greater risk than all reported pipelines operated at low stress. Regulation of a low stress pipeline on the basis of its length is not proposed.

Gathering lines represent another category of low stress pipelines. As set forth in § 195.1, gathering lines in non-rural areas, other than low stress lines, currently are subject to Part 195, while gathering lines in rural areas, regardless of their stress level, are not subject to those rules. Of 1526 pipelines identifiable by pipeline category for which length was reported, there were 153 gathering lines (564 miles) with an average length of 3.7 miles. They represent 16 percent of the mileage and 10 percent of the pipelines analyzed.

Some operators and one industry trade association commented that, if regulated, low stress gathering lines in economically marginal operations could be shut down. They further commented that shutdown would result in hazardous liquids being moved by other modes of transportation, which they argue are more expensive and more hazardous. The commenters did not suggest specific separate treatment for economically marginal gathering operations.

Some operators expressed concern that gathering lines in rural areas would become regulated. No change in the definition of rural area is proposed, and rural gathering lines have been excepted from regulation by statute. However, the Pipeline Safety Act of 1992, Public Law No. 102–508, which was enacted on October 24, 1992, allows regulation of rural gathering lines. Therefore, certain rural gathering lines currently excepted from regulation may be regulated in the future. In this NPRM, RSPA proposes to regulate low stress gathering lines only to the extent they are located in populated areas or offshore.

The ANPRM questionnaire requested reports of pipelines within 220 yards of populated areas, defined as areas other than rural areas under § 195.2. Currently, gathering lines in non-rural (populated) areas are subject to Part 195 unless they are operated at low stress. The data reported indicate that some low stress gathering lines are transporting large volumes of hazardous liquids in populated areas. Some operators suggested that no gathering lines should be regulated but offered nothing to address the safety and environmental concerns about gathering lines or a rationale for different treatment. RSPA proposes to regulate those lengths of low stress level gathering lines traversing populated areas. Whether all gathering lines

(regardless of their stress level), including those in populated areas, should be excepted from regulation is beyond the scope of this rulemaking.

Some operators expressed concern that incorporated political subdivisions of state governments such as counties and townships would be considered by regulation to be non-rural areas, and therefore that gathering lines in such areas would become regulated. Under the definition in § 195.2, rural area means outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, or community development. A county, township, and similar political subdivision is not the same as a city, town, or village. Therefore a gathering line in a rural area of a county, township or similar political subdivision is not intended to be regulated.

Comments confirmed RSPA's belief that low stress interfacility pipelines used to move hazardous liquids to or from petrochemical facilities such as refineries, manufacturing plants, and hazardous liquid terminals, are relatively short. Low stress operation is adequate to move the liquid to or from the complex at the rate required for operation. Design of such pipelines frequently is based on considerations other than internal pressure, for example, additional thickness to provide rigidity or an allowance for expected corrosion. The operators of low stress interfacility lines usually have not operated pipelines subject to part 195, and therefore may not be familiar with its requirements. Certain interfacility pipelines will become regulated under the proposed rulemaking. Interfacility lines represented about 65 percent of the pipelines and 27 percent of the miles reported. Included in these interfacility pipeline statistics are 891 pipelines (716 miles) reported by one operator, Shell, of a total of 996 interfacility pipelines (939 miles) reported.

In response to the ANPRM, commenters asked whether intrafacility lines (in-plant piping) within petrochemical facilities and interfacility lines (piping connecting facilities) crossing a common boundary or a single public thoroughfare between adjacent properties would be subject to regulation if the regulations were changed. Intrafacility lines are excepted from regulation in accordance with § 195.1(b)(6). However, intrafacility piping connecting adjacent facilities separated by navigable waterways or separated by third party property other than single public thoroughfares in populated areas would be subject to the regulations if the 20% SMYS exception is modified.

The data reported in response to the ANPRM indicate that delivery lines were a type of low stress pipeline not anticipated by RSPA prior to the ANPRM. Comments by operators indicate that low stress delivery lines typically are short lines. The data for those reported (105 lines, 126 miles) indicate an average length of about 1¼ mile. They represent a small portion of the lines affected by the proposed rulemaking, but generally they move large volumes of hazardous liquids. Of all pipelines reported, delivery lines represent only about 7 percent of the lines and 4 percent of the miles. The proposed rules would regulate many of these low stress delivery lines based on their transporting a highly volatile liquid or traversing a populated area or navigable waterway. RSPA does not propose a separate treatment for them.

Some operators expressed concern that piping within storage or terminal facilities would become regulated. Piping associated with breakout tanks at storage facilities of regulated hazardous liquid pipelines currently is regulated, regardless of operating stress, if the liquids are reinjected and transported further by a pipeline system that is regulated. Conversely, piping within distribution and marketing terminals exclusively transferring hazardous liquids between modes of transportation excepted from regulation under § 195.1(b)(7).

Some operators explicitly included the cost to pressure test in their estimates of the cost of compliance. The treatment of the cost of hydrostatic testing is covered in the regulatory impact analysis performed by VNTSC.

Some operators and one government representative have suggested the use of pneumatic testing (air under pressure) as a low cost alternative to hydrostatic testing (water under pressure). The American Society of Mechanical Engineers (ASME) Code for Pressure Piping ASME B31.4–1989 Edition for Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols (B31.4) permits the use of hydrostatic or pneumatic testing for pipelines to be operated at a hoop stress of 20 percent or less of SMYS of the pipe. Part 192 (Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards) permits the use of pneumatic tests as an alternative to hydrostatic tests. The use of pneumatic testing would eliminate the need to collect and process the testing water contaminated by residual contents of the pipeline. RSPA has not included a proposal to permit pneumatic testing of hazardous liquid pipelines. Comments are invited on whether and to what extent pneumatic testing should be permitted in lieu of hydrostatic testing.

Some commenters claimed that the cost to bring low stress pipelines into compliance and to operate the pipelines in compliance with Part 195 is not commensurate with the benefits of regulation. The principal costs noted were preparation and maintenance of operations and maintenance manuals, drug testing programs, pressure monitoring equipment, cathodic protection systems, and pressure testing. Some operators of low stress pipelines suggest that, because of the cost, only low stress pipelines traversing populated areas, navigable waters, or environmentally sensitive areas should be considered for regulation. Two government commenters supported removing the blanket exception for low stress pipelines, but argued for a limited exception based on criteria such as age, length, location, and volume transported. Two other government commenters supported regulation of all low stress pipelines.

RSPA carefully considered comments that suggested regulating low stress pipelines. The regulatory impact analysis indicates that the benefits of regulating all low stress pipelines substantially exceed the costs. At this time, RSPA proposes regulating low stress pipelines only on the basis of one or more measures of risk as discussed below.

Several commenters discussed the length of time needed to comply with regulations if the exception is deleted or modified. Both 1 year and 5 years were suggested as the time needed for compliance. Comments are solicited as to whether one year would provide sufficient time to bring newly regulated low stress pipelines into compliance with parts 195 and 199.

A letter from Senator Lautenberg of New Jersey suggested that RSPA require that operators of low stress pipelines apply to RSPA on an individual basis to continue the exception from regulation of individual low stress pipelines. The Senator would require that operators certify initially and annually thereafter the conditions justifying the exception. Since RSPA's proposal would discontinue the exception for most higher risk pipelines, and there is an existing method to obtain waiver from regulation, RSPA plans no further action on this comment.

Proposal

RSPA proposes to revise § 195.1(b)(3) which excepts low stress pipelines from regulation under Part 195 by excepting from regulation only a low stress pipeline that is not used in the transportation of a highly volatile liquid or that does not traverse a populated area or a navigable waterway. RSPA does not propose to regulate low stress pipelines on the basis of any additional criteria. RSPA's proposed rule will reduce the risk to public safety and the environment and is supported by a favorable benefit/cost ratio determined on the basis of data furnished by operators of low stress hazardous liquid pipelines and published data on pipelines. This proposal was developed in response to recommendations from the National Association of Pipeline Safety Representatives (NAPSR) and the Safety Review Task Force of the Department of Transportation (DOT). It also is responsive to the delegation to RSPA following passage of the Oil Pollution Act of 1990 regarding prevention of spills and the containment of oil in pipelines. This delegation concerns the prevention of pollution of navigable waters, shorelines, and the exclusive economic zone. Finally, this proposal is responsive to the amendment to section 203(b) to the Hazardous Liquid Pipeline Safety Act (HLPSA) made by section 206 of the Pipeline Safety Act of 1992. That amendment provides that exception to regulation under the HLPSA shall not be based solely on operation at low internal stress.

RSPA now proposes to regulate the low stress pipelines which are used for the transportation of highly volatile liquids or which traverse populated areas or crossing navigable waterways. RSPA is deferring a decision on whether to propose regulation of low stress lines in environmentally sensitive areas because that subject is being studied to evaluate the extent to which pipeline spills affect environmentally sensitive areas and to develop a definition of environmentally sensitive areas appropriate for pipeline regulation.

This proposal to regulate low stress pipelines that cross navigable waters will assure that pipelines that could be struck and damaged by vessel operations, will not be excepted from regulation. Low stress pipelines also may be located in water which is "navigable" under some definitions, but which is not navigable in fact. Because these pipelines are not at risk of being damaged by vessel operations, RSPA does not propose to regulate such pipelines at this time. They will be considered for regulation when RSPA considers extension of the regulation of low stress pipelines in environmentally sensitive areas.

Regardless of the stress at which they are operated, pipelines are vulnerable to damage from the two principal causes of pipeline failures—outside force damage and corrosion. Admittedly, pipelines which are operated at lower stresses may survive damage from outside force and corrosion for a longer period before failure than will high stress pipelines, but the risk of failure is present nevertheless. The December 1989 Exxon pipeline failure, which spilled oil into the Arthur Kill waterway between New York and New Jersey at a cost of $45 million, is an illustration of a spill from an unregulated low stress pipeline caused by outside force damage. The December 1986 Kinley pipeline failure, which spilled 5000 gallons of jet fuel into surface and ground water in Iowa and has cost $273,000 to date, is an illustration of a spill from an unregulated low stress pipeline caused by corrosion.

Under the proposed rulemaking, RSPA would revise § 195.1(b)(3), which now excepts from regulation all low stress pipelines, to regulate certain new and existing low stress pipelines. Existing pipelines that would be brought under the regulations because of the modification of the exception would be subject to Part 199 and all subparts of Part 195 except Subparts C—Design Requirements, D—Construction, and E—Hydrostatic Testing, except that Subpart E would apply only to low stress pipelines used in the transportation of a highly volatile liquid (HVL). The exception from the design and construction requirements is covered by the proposed addition of § 195.401(c)(5). Although the requirements of Subpart E—Hydrostatic Testing currently would not apply to non-HVL pipelines constructed before dates specified in § 195.302, an NPRM published on May 22, 1991 (Docket No. PS–121; Notice 1; 56 FR 23538) proposes hydrostatic testing of those pipelines at a pressure at least 25 percent in excess of the maximum operating pressure or, alternatively, a commensurate reduction of the operating pressure. RSPA proposes that the testing rules proposed in PS–121 Notice 1 would not apply to non-HVL low stress pipelines that would become subject to Part 195 if § 195.1(b)(3) is modified as proposed in this NPRM.

All sections of parts 195 and 199 would apply to regulated low stress pipelines constructed after the effective date of the issuance of a final rule. The proposed modification of § 195.1(b)(3) would not affect pipelines currently excepted by other criteria in § 195.1(b).

RSPA proposes to correct § 195.1(b)(7) to delete the period at the end and add "; and". This will clarify that part 195 does not apply to pipelines excepted under any of the criteria in § 195.1(b).

Operators of pipelines currently excepted under § 195.1(b)(3) are cautioned that proposed regulations being considered now or in the future may apply to the operation of those pipelines currently excepted under § 195.1(b)(3), and are advised to follow all notices pertaining to hazardous liquid pipeline regulation appearing in the Federal Register.

Request for Comments

Comments may address any aspect of this proposal. However, RSPA requests specific comments on the following: Whether there should be separate treatment in this rulemaking for economically marginal gathering line operations in non-rural areas and what form such treatment should take; whether pneumatic testing of low stress pipelines should be permitted as an alternative to hydrostatic testing under subpart E; and whether one year would provide sufficient time to comply with parts 195 and 199 to the extent they would be made applicable.

Impact Assessment

These proposals would extend the requirements of parts 195 and 199 to certain steel pipelines currently excepted from regulation solely on the basis of a low operating stress level under § 195.1(b)(3). Pipelines constructed prior to or under construction on the effective date of the proposed rule would be subject to all of Part 195 except subparts C, D, and E which apply respectively to design, construction, and hydrostatic testing. Operators have raised issues regarding the cost of implementation, particularly regarding the cost of implementation for gathering lines in areas other than rural areas. Operators also have suggested that any change to the existing exception be limited to low stress pipelines in higher risk areas. The proposed modification of the regulations is consistent with these operator comments.

From the responses to the ANPRM, the accident cost per mile per year on low stress pipelines not operated in accordance with those regulations was estimated to be $3692. The accident cost per mile per year on low stress pipelines already operated in accordance with the pipeline safety regulations was estimated to be $105 per mile per year. Further, the five-year average cost of

accidents on high stress (regulated) lines taken from incident reports in OPS files is similar to the costs for those low stress lines operated in compliance with the regulations. Therefore, RSPA presumes that the cost of accidents on low stress pipelines will be reduced to a level of $105 per mile per year.

In developing the analysis, the cost of the Exxon Arthur Kill accident was distributed over ten years. RSPA considers this distribution period equitable because of the age of pipelines systems in general, and because the cost consequences of accidents are increasing rapidly as a consequence of environmental considerations. Overall, the regulatory impact analysis indicates a favorable benefit/cost ratio.

Regulatory Analyses and Notices

Executive Order 12291 and DOT Policies and Procedures

This proposed rule is considered to be non-major under Executive Order 12291, and is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A Draft Regulatory Evaluation has been prepared and is available in the docket.

Paperwork Reduction Act

The reporting requirements in subpart B and recordkeeping requirements under §§ 195.54, 195.55, 195.56, 195.57, 195.234, 195.266, 195.310, 195.402, and 195.404 are being submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act. Comments on the collection of information should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Department of Transportation. This submission would modify the current approval of pipeline recordkeeping and accident reporting under OMB Nos. 2137–0047, 2137–0578, and 2137–0583. The proposed regulation of certain pipelines operated at 20 percent or less of SMYS would represent an increase of about 7100 additional pipeline miles subject to the reporting and recordkeeping requirements in Part 195, or 5 percent more than the miles currently subject to those requirements. RSPA estimates that burden hours for recordkeeping and accident reporting will increase a total of 2494 hours above the current burden of 55639 hours to 58133 hours.

Regulatory Flexibility Act

Based on the facts available about the anticipated impact of this proposed rulemaking action, I certify, pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that the action will not have a significant economic impact on a substantial number of small entities, because few, if any, small entities operate pipelines subject to part 195. Each operator responding to the ANPRM reported that it was not a small business.

Executive Order 12612

RSPA has analyzed this action in accordance with the principles and criteria contained in E.O. 12612 (52 FR 41685) and has determined that it does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 195

Ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

Part 195—Transportation of Hazardous Liquids by Pipeline

1. The authority citation for part 195 continues to read as follows:

Authority: 49 App. U.S.C. 2001 et seq.; 49 CFR 1.53.

2. Section 195.1 would be amended by revising paragraphs (b)(3) and (b)(7), and adding paragraph (d) to read as follows:

§ 195.1 Applicability.

* * * * *

(b) * * *

(3) Transportation of a hazardous liquid through a pipeline that is operated at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe, and that:

(i) Is not used in the transportation of highly volatile liquids;

(ii) Does not traverse a populated area; or

(iii) Does not traverse a navigable waterway.

* * * * *

(7) Transportation of a hazardous liquid or carbon dioxide by vessel, aircraft, tank truck, tank car, or other vehicle, or terminal facilities used exclusively to transfer hazardous liquids or carbon dioxide between such modes of transportation; and

* * * * *

(d) The operator of a pipeline that was excepted from regulations prior to [date of pubulication of the final rule will be inserted] on the basis of operation at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe must comply with this part by [one year after the date of publication of the final rule will be inserted].

3. Section 195.2 would be amended by adding in appropriate alphabetical order the followning definitions:

§ 195.2 Definitions.

* * * * *

Navigable waterway means a waterway which is navigable in fact and is currently used for commercial navigation.

* * * * *

Populated area means any onshore area other than a rural area.

* * * * *

4. Section 195.302 would be amended by redesignating paragraph (c) as paragraph (d) and adding new paragraph (c) to read as follows:

§ 195.302 General requirements.

* * * * *

(c) After [one year after date of publication of the final rule will be inserted], no person may transport a highly volatile liquid in a pipeline that was excepted from regulation under this part prior to [date of publication of the final rule will be inserted] on the basis of operation at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe unless the pipeline has been hydrostatically tested in accordance with this subpart or its maximum operating pressure has been established under § 195.406(a) (6) or (7).

* * * * *

5. Section 195.401 would be amended by adding paragraph (c)(5) to read as follows:

§ 195.401 General requirements.

(c) * * *

(5) A pipeline not regulated on the basis of operation at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe prior to [date of publication of the final rule will be inserted] on which construction was begun after [date of publication of the final rule will be inserted].

6. Section 195.406 would be amended by adding paragraphs (a)(6) and (a)(7) to read as follows:

§ 195.406 Maximum operating pressure.

(a) * * *

(6) In the case of a pipeline used for the transportation of hazardous liquids that was not regulated prior to [date of publication of the final rule will be inserted] because it was operated at a stress level of 20 percent or less of the specified minumum yield strength of the line pipe and that was not tested under subpart E of this part, 80 percent of the test pressure or 100 percent of the highest operating pressure to which the

pipeline was subjected for four or more continuous hours that can be demonstrated by recording charts or logs made at the time the test or operations were conducted.

(7) In the case of a pipeline used for the transportation of highly volatile liquids that was not regulated prior to [date of publication of the final rule will be inserted] because it was operated at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe and that was not tested under subpart E of this part, 80 percent of the test pressure or highest operating pressure to which the pipeline was subjected for four or more continuous hours that can be demonstrated by recording charts or logs made at the time the test or operations were conducted.

* * * * *

Issued in Washington, DC on February 26, 1993.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

[FR Doc. 93–4850 Filed 3–2–93; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register
Vol. 58, No. 40
Wednesday, March 3, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of the meeting of the Committee on Rulemaking of the Administrative Conference of the United States.

Committee on Rulemaking

Date: Tuesday, March 9, 1993
Time: 9:00 a.m.
Location: Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC. 20037 (Library, 5th Floor).

Agenda: The Committee will meet to further discuss a report by Jerry Mashaw on improving the environment of agency rulemaking.

Contact: Kevin L. Jessar, 202–254–7020.

Attendance at the committee meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request. The contact person's mailing address is: Administrative Conference of the United States, 2120 L Street NW., suite 500, Washington, DC 20037. Telephone: 202–254–7020.

Dated: February 26, 1993.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 93–4914 Filed 3–2–93; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Grouse Insect Salvage Timber Sale, Sequoia National Forest, CA; Exemption from Appeal

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal, Grouse Insect Salvage Timber Sale Decision, Hume Lake Ranger District, Sequoia National Forest.

SUMMARY: The Forest Service is exempting from appeal the decision resulting from the Grouse Insect Salvage Timber Sale Environmental Analysis. This environmental analysis is being prepared in response to the severe timber mortality in the Dry Compartment on the Hume Lake Ranger District, Sequoia National Forest. The mortality was caused by drought and related insect infestation. The Grouse Analysis Area is south of Kings Canyon National Park in the Dry Creek and Upper Mill Creek Watersheds.

There are currently much higher than normal levels of tree mortality occurring throughout the Sequoia National Forest as a result of six consecutive years of below normal precipitation. The Hume Lake District is proposing tractor harvest of 1.0 million board feet (MMBF) on 1,000 acres in the Grouse Insect Salvage Analysis. No new road construction will be done and only minor road reconstruction associated with winter storm damage is planned in the analysis area. All areas are within the General Forest Zone, as delineated by the Sequoia National Forest Land and Resource Management Plan.

The drought has caused a high degree of stress within the trees, which reduces their natural defense mechanisms and weakens them to the extent that they are now predisposed to attack by bark beetles. Trees killed by insect attack deteriorate very rapidly. In addition, excessive numbers of dead trees produce heavy fuel concentrations, which makes wildfire control extremely difficult. Prompt removal of the dead and dying timber minimizes value and volume loss.

The decision for the proposed project is scheduled to be issued the end of February 1993. Implementation of the project will occur in April, 1993, when the timber sale will be sold. Harvest is expected to begin in May, 1993.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeal the decision relating to the harvest and restoration of lands affected by drought-induced timber mortality covered by the Grouse Insect Salvage Timber Sale Environmental Analysis on the Hume Lake Ranger District, Sequoia National Forest. The environmental document being prepared will address the effects of the proposed actions on the environment, will document public involvement and will address the issues raised by the public.

EFFECTIVE DATE: This decision is effective March 3, 1993.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, Forest Service, USDA, 630 Sansome Street, San Francisco, CA 94111, (415) 705–2648, or to Sandra Key, Forest Supervisor, Sequoia National Forest, 900 W. Grand Ave., Porterville, CA 93257, (209) 784–1500.

SUPPLEMENTARY INFORMATION: The environmental analysis for this proposal will be documented in the Grouse Insect Salvage environmental document. Scoping letters were mailed in February to representatives of various environmental groups and the timber industry, to provide information about the project and to generate public issues and concerns. The project files and related maps are available for public review at the Hume Lake Ranger District, 35860 East Kings Canyon Road, Dunlap, California 93621.

The catastrophic damage presently occurring in the Dry Creek and Upper Mill Creek Watersheds involves approximately 8,200 acres. Within this area, approximately 1,000 acres with an associated 1.0 MMBF, is presently being analyzed for salvage in one sale. The value to the Forest Service of the salvage volume is estimated at $250,000. This figure does not include the many jobs and thousands of dollars in benefits that are realized in related service, supply, and construction industries. Fresno and Tulare Counties will share 25% of the selling value for any of the timber that is salvaged in a commercial timber sale. Rehabilitation and restoration measures will be implemented for watershed protection, erosion prevention, and fuels reduction.

The proposals are not expected to adversely affect snag dependent wildlife species. Initial review indicates that post-harvest snag numbers will be in compliance with the Forest Plan Standard and Guidelines. No Wild and Scenic rivers, wetlands, wilderness areas, roadless areas, or threatened or endangered species are within the proposed project areas.

Dated: February 23, 1993.

Dale N. Bosworth,

Deputy Regional Forester.

[FR Doc. 93–4837 Filed 3–2–93; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–820)

Notice of Postponement of Final Determination of Sales at Less Than Fair Value: Certain Compact Ductile Iron Waterworks Fittings and Accessories Thereof From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 2, 1993.

FOR FURTHER INFORMATION CONTACT: Kate Johnson, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4929.

POSTPONEMENT: On February 3, 1993 (58 FR 6930, February 18, 1993), the Department of Commerce (the Department) issued an affirmative preliminary determination in the antidumping duty investigation of certain compact ductile iron waterworks fittings and accessories thereof from the People's Republic of China (PRC).

On February 12, 1993, China National Metal Products Import and Export Corporation (CMP), which accounted for a significant portion of exports from the PRC to the United States, requested that the Department postpone the final determination 60 days, until June 18, 1993. Respondent made this request in order to ensure adequate time to prepare for verification and to allow the Department to complete its margin calculation after the verification.

In order to allow the Department sufficient time to analyze the data it has gathered in the investigation, we are postponing the final determination the full extent authorized under section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)). The final determination will, therefore, be issued not later than July 6, 1993, which is 135 days after the date of publication of the preliminary determination.

On February 18, 1993, respondent requested a public hearing in this investigation. Because of the postponement of the final determination, the tentative hearing date of April 5, 1993 announced in the preliminary determination has been changed. In accordance with 19 CFR 353.38, case briefs, or other written comments, must now be submitted in at least ten copies to the Assistant Secretary for Import Administration no later than June 1, 1993, and rebuttal briefs no later than June 8, 1993. In addition, a public version and five copies should be submitted by the appropriate date if the submission contains business proprietary information. Tentatively, the hearing will be held at 9:30 a.m. on June 10, 1993, at the U.S. Department of Commerce, Room 1411, 14th Street and Constitution Avenue NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

This notice is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)) and 19 CFR 353.20(b)(2).

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–4785 Filed 3–2–93; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–122–820, A–122–821, A–122–822, A–122–823]

Postponement of Final Antidumping Duty Determinations: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From Canada

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice.

EFFECTIVE DATE: March 3, 1993.

FOR FURTHER INFORMATION CONTACT: Jean Kemp or Art Stern, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3793.

POSTPONEMENT OF FINAL DETERMINATIONS: Dofasco, Inc. (Dofasco), and Stelco, Inc. (Stelco), respondents in these proceedings, represent a significant proportion of exports of certain hot-rolled carbon steel flat products (hot-rolled steel), certain cold-rolled carbon steel flat products (cold-rolled steel), certain corrosion-resistant carbon steel flat products (corrosion-resistant steel), and certain cut-to-length carbon steel plate (steel plate) from Canada to the United States. On February 2, 1993, Dofasco and Stelco requested that the Department postpone the final determinations until not later than 135 days after the date of publication of the preliminary determinations, in accordance with section 735(a)(2) of the Tariff Act of 1930, as amended (the Act).

Pursuant to 19 CFR 353.20(b), if exporters who account for a significant proportion of exports of the merchandise under investigation request an extension subsequent to an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Dofasco and Stelco together account for a significant proportion of exports under investigation in these proceedings. Accordingly, we are postponing our final determinations as to whether sales of hot-rolled steel, cold-rolled steel, corrosion-resistant steel, and steel plate from Canada have been made at less than fair value until not later than June 21, 1993.

This notice is published pursuant to section 735(d) of the Act and 19 CFR 353.20(b)(2).

Dated: February 22, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–4790 Filed 3–2–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–122–701]

Potassium Chloride From Canada; Determination Not To Terminate Suspended Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of determination not to terminate suspended investigation.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the suspended antidumping investigation on potassium chloride from Canada.

EFFECTIVE DATE: March 3, 1993.

FOR FURTHER INFORMATION CONTACT: Wendy Frankel, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

On December 23, 1992, the Department of Commerce (the Department) published in the Federal Register (57 FR 61046) its notice of intent to terminate the suspended investigation on potassium chloride (potash) from Canada. Pursuant to 19 CFR 353.25(d)(4)(i), the Department may terminate a suspended investigation if the Secretary of Commerce concludes that the suspended investigation is no longer of interest to interested parties because the Department has not received a request by an interested party to conduct an administrative review of the suspended investigation for five consecutive anniversary months, and there has been no objection to the termination by an interested party.

On January 29, 1993, the following United States producers of potassium chloride, which meet the requirements of 19 CFR 353.2(k)(3) as interested parties, objected to the Department's intent to terminate this suspended investigation: Cedar Chemical Corporation (which operates New Mexico Potash Corporation and Eddy Potash Inc.) and Mississippi Chemical Corporation. On January 28, 1993, Horizon Potash Corporation, another U.S. producer of potash, also objected to termination of the suspended investigation. The following parties also objected to termination of the suspended investigation: The City of Carlsbad, New Mexico, the United Steelworkers of America Local Union Number 177, the International Association of Machinists and Aerospace Workers Local Lodge Number 1265, the International Brotherhood of Electrical Workers Local Union Number 611, the Mine Supply Company, the Carlsbad Department of Development, and the Carlsbad Chamber of Commerce. As a result of the objections filed by the parties meeting the requirements of 19 CFR 353.2(k)(3), we no longer intend to terminate the suspended investigation.

This notice is in accordance with section 353.25(d)(4) of the Commerce Department's regulations (19 CFR 353.25(d)(4)).

Dated: February 19, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–4789 Filed 3–2–93; 8:45 am]

BILLING CODE 3510–DS–M

Minority Business Development Agency

Business Development Center Applications: New Orleans MBDC, Project I.D. No. 06–10–93004–01

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as $230,400 in Federal funds. An audit fee of $5,760 has been added to the Federal amount. The total funding breakdown is as follows: $236,160 Federal and $41,675 non-Federal for a total of $277,835. The period of performance will be from July 1, 1993 to June 30, 1994. The MBDC will operate in the New Orleans, Louisiana MSA geographic service area.

The funding instrument for the MBDC will be a cooperative agreement.

Competition is open to individuals, non-profit and for-profit organizations, State and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance, with OMB Circular A–129, "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of MBDC

work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law. All applicants are subject to a name check review.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Public Law 100–690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreement" and CD–511, the "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" is required in accordance with section 319 of Public Law 101–121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered by Transactions and Lobbying".

CLOSING DATE: The closing date for applications is April 6, 1993. Applications must be postmarked on or before April 6, 1993.

Note: Please mail completed application to the following address: Dallas Regional Office, 1100 Commerce St., Room 7B23, Dallas, Texas 75242.

FOR ADDITIONAL INFORMATION REGARDING THIS SOLICITATION: Dallas Regional Office, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara, (214) 767–8001.

Requests for application kit must be in writing.

A pre-bid conference will be held on March 19, 1993 in the Earl Cabell Federal Building, room 7B23, on 1100 Commerce Street, Dallas, Texas at 10 a.m.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development
(Catalog of Federal Domestic Assistance)

Dated: February 25, 1993.

Melda Cabrera,

Regional Director, Dallas Regional Office.

[FR Doc. 93–4828 Filed 3–2–93; 8:45 am]

BILLING CODE 3510–21–M

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, 16–17 March 1993.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Becky Terry, AGED Secretariat, 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law No. 92–463, as amended, (5 U.S.C. App. II sec. 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: February 25, 1993.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–4786 Filed 3–2–93; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before April 2, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 708–5174. Individuals who are hearing impaired may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service publishes this notice containing proposed information collection requests prior to submission of these requests to OMB Each proposed

information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: February 25, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement
Title: Annual Supported Employment Caseload Report
Frequency: Annually
Affected Public: State or local government
Reporting Burden:
Responses: 84
Burden Hours: 84
Recordkeeping Burden:
Recordkeepers: 84
Burden Hours: 84
Abstract: This form will collect data on severely disabled clients served by State supported employment service programs. The Department will use the information to report to Congress.

Office of Educational Research and Improvement

Type of Review: New
Title: Baccalaureate and Beyond Longitudinal Study: First Followup
Frequency: On occasion
Affected Public: Individuals or households
Reporting Burden:
Responses: 1,904
Burden Hours: 1,558
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This collection will report data about students who completed a baccalaureate degree in academic year 1992–93. The Department will use this data to address major policy issues related to postsecondary education.

Type of Review: Reinstatement
Title: National Education Longitudinal Study: 1988–1994
Frequency: Annually
Affected Public: Individuals or households
Reporting Burden:
Responses: 800
Burden Hours: 550
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This longitudinal study will collect data from individual respondents on the educational, vocational and personal development of a subsample of eighth grade students. The Department will use the information to make possible analyses of the patterns of transition from the eight grade level through high school and postsecondary education and into adulthood and the world of work.

Office of Policy and Planning

Type of Review: New
Title: School Dropout Demonstration Assistance Program Evaluation, Student Followup Survey
Frequency: Annually
Affected Public: Individuals or households institutions
Reporting Burden:
Responses: 10,176
Burden Hours: 6,818
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This project will examine the effects of dropout prevention programs on students' educational outcomes. The Department will use the information to assess the effectiveness of various models of educational intervention in promoting improved educational experiences and outcomes.

Office of Bilingual Education and Minority Language Affairs

Type of Review: New
Title: Verification of Title VII Funded Grant Applications
Frequency: Annually
Affected Public: State or local governments
Reporting Burden:
Responses: 1,223
Burden Hours: 184
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: These verification instruments will collect information on the services provided to students/participants served by FY 92 Title VII funded projects. The Department will use the information to support policy-related and program management decisions.

[FR Doc. 93–4851 Filed 3–2–93; 8:45 am]
BILLING CODE 4000–01–M

National Education Commission on Time and Learning; Hearing

AGENCY: National Education Commission on Time and Learning, Education.

ACTION: Notice of public hearing.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming public Hearing of the National Education Commission on Time and Learning. This notice also describes the functions of the Commission. Notice of this Hearing is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: March 24, 1993 from 1 p.m. to 4 p.m.; March 25, 1993 from 1:30 p.m. to 3:30 p.m.; and March 26, 1993 from 9 a.m. to 4 p.m.

ADDRESSES: Santa Monica Malibu Unified School District, Board Room, 1651 16th Street, Santa Monica, California. Telephone: Barbara Camptelli, (310) 576–1400.

FOR FURTHER INFORMATION CONTACT: Julia Anna Anderson, Deputy Executive Director, 1255 22nd Street, NW., suite 502, Washington, DC 20202–7591. Telephone: (202) 653–5063.

SUPPLEMENTARY INFORMATION: The National Education Commission on Time and Learning is established under section 102 of the Education Council Act of 1991 (20 U.S.C. 1221–1). The Commission is established to examine the quality and adequacy of the study and learning time of elementary and secondary students in the United States, including issues regarding the length of the school day and year, how time is being used for academic subjects, the use of incentives, how time is used outside of school, the extent and role of homework, year-round professional opportunities for teachers, the use of school facilities for extended learning programs, if appropriate a model for adopting a longer day or year, suggested changes for state laws and regulations, and an analysis and estimate of the additional costs.

The Hearing of the Commission is open to the public. The proposed agenda for March 24 includes: A site visit to the Beacon Day School in Oakland, California and a panel discussion with students, parents, teachers and administrators. The proposed agenda for March 25 and 26 includes: Discussions with practitioners, researchers, and the general public on Cost Issues and Time Use and the other mandates as outlined in Public Law 102–62. Records are kept of all Commission proceedings, and are available for public inspection at the Office of the Commission at 1255 22nd Street, NW., suite 502, Washington, DC 20202–7591 from the hours of 9 a.m. to 5:30 p.m.

Dated: February 25, 1993.

John Hodge Jones,

Chairman, National Education Commission on Time and Learning.

[FR Doc. 93-4885 Filed 3-2-93; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER93-381-000, et al.]

Pacific Gas & Electric Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

February 24, 1993.

Take notice that the following filings have been made with the Commission:

1. Pacific Gas and Electric Company

[Docket No. ER93-381-000]

Take notice that on February 18, 1993, Pacific Gas and Electric Company tendered for filing a Settlement Agreement between PG&E and the Western Area Power Administration (Western).

The Settlement Agreement revolves pending litigation between the parties as well as a number of billing and payment-related issues arising from Contract 14-06-200-2948A (Contract 2948A) and effects certain modifications to that contract. The issues resolved concern specific outstanding disputes relating to a) Western's purchase of capacity from PG&E for the period January 1, 1980 through December 31, 1992, b), PG&E excess capacity purchases from Western for the period January 1, 1988 through December 31, 1992, as well as other disputed transactions between the parties that took place between January 1, 1980 and the date the Settlement Agreement was last signed, December 31, 1992. Western shall pay to PG&E one hundred and eighteen million, three hundred fifty thousand dollars ($18,350,000). PG&E shall separately pay to Western forty-four million, six hundred thousand dollars ($44,600,000) and, once the necessary regulatory approvals have been obtained, dismiss certain litigation now pending. Interest shall accrue on the principal sums commencing August 24, 1992. As part of the Settlement Agreement, the Capacity Account and the Capacity Exchange Account (Article 20(a) and 20(e) of Contract 2948A respectively, are deemed to have a zero balance as of December 31, 1992, and are abolished as of that time.

Copies of this filing have been served upon Western and the California Public Utilities Commission.

Comment date. March 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa Electric Light and Power Company

[Docket No. ER93-262-000]

Take notice that Iowa Electric Light and Power Company (Iowa Electric), on February 19, 1993, tendered for filing a second Amendment to its December 7, 1992 filing in the above docket. The Amendment provides additional information relating to and justification for a change in the rates charged in Service Schedule E (Limited Term Power) to the Interconnection Agreement between Iowa Electric and Central Illinois Public Service Company.

Copies of this filing have been sent to Central Illinois Public Service Company, the Iowa State Utilities Board, and the Illinois Commerce Commission.

Comment date: March 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Gas and Electric Company

[Docket No. ER93-38-000]

Take notice that on February 22, 1993, Pacific Gas and Electric Company (PG&E) tendered an amendment to its filing in FERC Docket No. ER93-38-000. That docket consists of an agreement entitled "Special Facilities Agreement for the Atlantic Substation Upgrade" between the Sierra Pacific Power Company (Sierra) and PG&E. In response to concerns raised by Commission staff, PG&E has included further information regarding the Special Facilities Agreement, and presents for filing and acceptance a related amendment to the PG&E-Sierra Interconnection Agreement. This amendment sets a cap on transmission revenues received from Sierra for existing transmission services, including the service supplied in part as a result of the Special Facilities Agreement.

Copies of this filing have been served upon Sierra and the California Public Utilities Commission.

Comment date: March 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Delmarva Power & Light Company

[Docket Nos. ER92-236-000, EL92-13-000, ER93-96-000 and EL93-11-000]

Take notice that Delmarva Power & Light Company of Wilmington, Delaware (Delmarva) on February 19, 1993, filed a request that the Commission (i) terminate as between Delmarva and the City of Berlin, Maryland (Berlin) Docket No. EL92-13-000; (ii) terminate as between Delmarva and Berlin Docket No. ER92-236-000 to the extent that docket involves issues that do not relate to rate design; (iii) approve the rate filed in Docket No. ER92-236-000 on March 19, 1992 for application to the City of Berlin for the period February 19, 1992 through and including June 2, 1993; and (iv) terminate the refund contingency currently associated with that rate. Delmarva describes its request as having no effect on the rate design litigation between Delmarva and Berlin in Docket No. ER92-236-000, and as having no effect on Docket Nos. ER93-96-000 and EL93-11-000.

Delmarva states that Berlin does not oppose its request. Delmarva also states that the aforesaid request has been served on the City of Berlin and on each of the persons listed on the official service list in Docket Nos. ER92-236-000, EL92-13-000, ER93-96-000 and EL93-11-000. Delmarva serves Berlin under its Rate Schedule No. 63.

Comment date: March 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Public Service Corporation

[Docket No. ER93-382-000]

Take notice that on February 19, 1993, Wisconsin Public Service Corporation (WPSC) tendered for filing with the Federal Energy Regulatory Commission an Interchange Agreement with Otter Tail Power Company (OTP). WPSC and OTP request an effective date of 60 days after the date of filing.

WPSC states that a copy of the filing has been provided to OTP and also to the State Commissions where WPSC and OTP serve at retail.

Comment date: March 10, 1993, in accordance with Standard Paragraph E end of this notice.

6. Arizona Public Service Company

[Docket No. ER93-384-000]

Take notice that on February 19, 1993, Arizona Public Service Company (APS) tendered for filing revised Exhibit II to the Wholesale Power Agreement between APS and Aguila Irrigation District (Aguila) (APS-FERC Rate Schedule No. 141) and revised Exhibit II to the Wholesale Power Agreement between APS and McMullen Valley Water Conservation and Drainage District (McMullen) (APS-FERC Rate Schedule No. 142) (collectively Exhibits). The Exhibits list estimated loads which are used for planning purposes only.

Current rate levels are unaffected, revenue levels are unchanged from those currently on file with the Commission, and no other change in service to these or any other customer results from the revisions proposed herein. No new or modifications to existing facilities are required as a result of these revisions.

A copy of this filing had been served on Aguila, McMullen and the Arizona Corporation Commission.

Comment date: March 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4810 Filed 3–2–93; 8:45 am]

BILLING CODE 6717–01–M

Application Filed With the Commission

February 25, 1993.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. *Type of Application:* Amendment of License for Non-project Use of Project Lands

b. *Project No:* 2354–024

c. *Date Filed:* February 19, 1993

d. *Applicant:* Georgia Power Company

e. *Name of Project:* North Georgia Project

f. *Location:* Tallulah and Tugalo Rivers in Raburn, Habersham and Stephens Counties, Georgia and Oconee County, South Carolina

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Ms. JoLee Gardner, Georgia Power Company, P.O. Box 4545, 270/7, Atlanta, GA 30302, (404) 526–3576

i. *FERC Contact:* Heather Campbell, (202) 219–3097

j. *Comment Date:* March 23, 1993.

k. *Description of Project:* Georgia Power Company proposes to lease land and grant a conservation easement for certain project lands to the Georgia Department of Natural Resources for the purpose of establishing a public park, conservation and recreation area. The property is located in an area of Raburn and Habersham Counties known as the Tallulah Gorge. The licensee and the Georgia Department of Natural Resources also propose entering into an operating agreement relating to Terrora Park Campground and Visitors Center and Tallulah Point.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

B. Comments, Protests, or Motions, to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed providing an original and eight copies to: Secretary, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426. A representative of Georgia Power.

D2. Agency Comments—The Commission invites federal, state, and local agencies to file comments on the described application. (Agencies may obtain a copy of the application directly from the applicant.) If an agency does not file comments within the time specified for filing comments, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to the applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4813 Filed 3–2–93; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2785–000]

Wolverine Hydroelectric Corporation; Requesting Comments

February 25, 1993.

As part of staff's review of the license applications for Projects Nos. 10808, 10809, and 10810 and the rehearing of the order issuing license for the Sanford Project No. 2785,[1] staff requested Wolverine Hydroelectric Corporation (Wolverine) to conduct an instream flow study downstream of the Sanford Project. On February 1, 1993, Wolverine filed the results of the study. The study results will be used in an environmental assessment, which will include the Sanford Project and Wolverine's three upstream projects, Edenville Project No. 10808, Secord Project No. 10809, and Smallwood Project No. 10810.

Prior to preparing the environmental assessment, persons and entities are invited to submit comments on the instream flow study as it relates to the Sanford Project. The deadline to file comments pursuant to this notice is 60 days from the date of issuance of this notice.

In addition, the Commission's staff has determined that the Edenville, Smallwood, and Secord Projects, located upstream of the Sanford Project No. 2785, are ready for environmental analysis. By separate notices, the Commission has requested entities to provide recommendations for terms and conditions to be included in the licenses for the Edenville, Smallwood, and Secord Projects.

The staff will consider the comments filed pursuant to this notice and the recommendations filed pursuant to the notices issued for Projects Nos. 10808 through 10810 in the cumulative environmental analysis to be used as part of the record in acting on the rehearing request for the Sanford Project and on the license applications for the Edenville, Secord, and Smallwood Projects.

All filings must: (1) bear in all capital letters the title "COMMENTS," (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address and telephone number of the person

[1] 41 FERC ¶ 61,192

submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4864 Filed 3–2–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. EG93–21–000, et al.]

Jersey Generating Co., L.P., et al.; Applications for Determination of Exempt Wholesale Generator Status

February 24, 1993.

Take notice that the following filings have been made with the Commission:

1. Jersey Generating Co., L.P.

[Docket No. EG93–21–000]

On February 18, 1993, Jersey Generating Company, L.P. (JGC), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935 as amended.

JGC states that it is developing and intends to own and operate a natural gas-fired electric generating facility with a capacity of up to 170 MW. JGC states that all of the facility's electricity will be sold at wholesale to electric utility companies.

Comment date: March 11, 1993, in accordance with Standard Paragraph W at the end of this notice.

2. SEI Birchwood, Inc.

[Docket No. EG93–22–000]

On February 18, 1993, SEI Birchwood, Inc. (the Applicant) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935 as amended.

The Applicant states that it is a Delaware limited partnership formed to develop, construct, finance, own and operate a 200 MW coal-fired generation station to be located in King County, Virginia.

Comment date: March 11, 1993, in accordance with Standard Paragraph W at the end of this notice.

3. SEI Hawaiian Cogenerators, Inc.

[Docket No. EG93–25–000]

On February 18, 1993, SEI Hawaiian Cogenerators, Inc. (the Applicant), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935 as amended.

The Applicant states that it is a Delaware Corporation, organized for the purpose of acquiring an interest in Kalaeloa Partners, L.P., a Delaware limited partnership that owns and operates a 209 MW oil-fired combined cycle cogeneration facility located at Barkers Point Oahu, Hawaii.

Comment date: March 11, 1993, in accordance with Standard Paragraph W at the end of this notice.

4. Birchwood Power Partners, L.P.

[Docket No. EG93–24–000]

On February 18, 1993, Birchwood Power Partners, L.P. (the Applicant) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935 as amended.

The Applicant states that it is a Delaware limited partnership formed to develop, construct, finance, own and operate a 200 MW coal-fired electric generation station to be located in King George County, Virginia.

Comment date: March 11, 1993, in accordance with Standard Paragraph W at the end of this notice.

5. SEI Birchwood, Inc.

[Docket No. EG93–23–000]

On February 18, 1993, SEI Birchwood, Inc. (the Applicant) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935 as amended.

The Applicant states that it is a Delaware limited partnership formed to develop, construct, finance, own and operate a 200 MW coal-fired electric generation station to be located in King George County, Virginia.

Comment date: March 11, 1993, in accordance with Standard Paragraph W at the end of this notice.

Standard Paragraphs

W. Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. Any person wishing to become a party must file a motion to intervene. Copies of this filng are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4863 Filed 3–2–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–84–000]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

February 25, 1993.

Take notice that K N Energy, Inc. (K N) on February 23, 1993, tendered for filing the following tariff sheets in its First Revised Volume No. 1–A.

Third Revised Sheet No. 6
Third Revised Sheet No. 42

K N states that the purpose of the filing is to provide for the availability of no fee exchange service. K N requests an effective date of March 25, 1993.

K N states that copies of its filing were served on all of its jurisdictional customers and appropriate state commissions.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene or a Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before March 4, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4819 Filed 3–2–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TA92-1-59-002, TA92-1-59-003, TA92-1-59-005]

Northern Natural Gas Co.; Extension of Time

February 25, 1993.

On January 25, 1993, Northern Natural Gas Company (Northern Natural) filed a motion for an extension of time to make a compliance filing required by Ordering Paragraph (C) of the Commission's Order Accepting and Rejecting Certain Tariff Sheets, Rejecting Another as Moot, and Requiring PGA Revisions issued December 2, 1992, in the above-docketed proceeding. In its motion, Northern states that additional time is needed because of the press of other business involving personnel who will be preparing the compliance filing.

Upon consideration, notice is hereby given that an extension of time for complying with Ordering Paragraph (C) of the Commission's December 2, 1992, order is granted to an including April 1, 1993.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93-4866 Filed 3-2-93; 8:45 am]

BILLING CODE 6717-01-M

Federal Energy Regulatory Commission

[Project Nos. 11104-000, 11106-000, 11107-000, and 11108-000]

City of Oswego, New York; Effective Date of Withdrawal of Applications for Preliminary Permit

February 25, 1993.

On March 14, 1991, the City of Oswego filed applications for preliminary permits for the Spier Falls Incremental Capacity Hydroelectric Project No. 11104-000 and the Sherman Island Incremental Capacity Hydroelectric Project No. 11106-000, both to be located on the Hudson River in Warren and Saratoga Counties, New York; and for the Norfolk Incremental Capacity Hydroelectric Project No. 11107-000 and the Sugar Island Incremental Capacity Hydroelectric Project No. 11108-000, both to be located on the Raquette River in St. Lawrence County, New York. On January 15, 1993, Oswego filed notices of withdrawal of these applications.

No one filed a motion in opposition to the notice of withdrawal, and the Commission took no action to disallow the withdrawal. Accordingly, pursuant to Rule 216 of the Commission's Rules of Practice and Procedure,[1] the withdrawals became effective on February 1, 1992.

Lois D. Cashell,

Secretary.

[FR Doc. 93-4865 Filed 3-2-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-83-000]

Williston Basin Interstate Pipeline Co.; Proposed Changes in FERC Gas Tariff

February 25, 1993.

Take notice that on February 23, 1993, Williston Basin Interstate Pipeline Company (Williston Basin), suite 300, 200 North Third Street, Bismarck, North Dakota 58501, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1-B:

Second Revised Sheet No. 75
Original Sheet No. 75A

Williston Basin states that the purpose of the filing is to provide for the availability of no-fee exchange service. Williston Basin requests an effective date of March 25, 1993.

Williston Basin states that copies of its filing were served on all its jurisdictional customers and appropriate state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 4, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-4811 Filed 3-2-93; 8:45 am]

BILLING CODE 6717-01-M

[1] 18 CFR 385.216 (1992).

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4600]

Environmental Financial Advisory Board (EFAB)

The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) has been rechartered as a necessary committee which is in the public interest, in accordance with the provisions of the Federal Advisory Committee Act (FACA). The purpose of EFAB is to provide authoritative analysis and advice to the EPA Administrator regarding environmental finance issues to assist EPA in carrying out its environmental mandates. EFAB focuses upon environmental finance issues at the federal, state, and local levels, particularly with regard to their impact upon local governments and small communities.

Dated: February 23, 1993.

John J. Sandy,

Director, Resource Management Division.

[FR Doc. 93-4891 Filed 3-2-93; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4600-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before April 2, 1993.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THIS ICR, CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Prevention, Pesticides and Toxic Substances

Title: Comprehensive Assessment Information Rule (CAIR). (EPA ICR No. 1325.04.; OMB No. 2070-0019). This is a request for extension of the expiration date of a currently approved collection.

Abstract: Under section 8(a) of the Toxic Substances Control Act (TSCA), EPA has the authority to require chemical manufacturers, importers and

processors to maintain records and submit reports to the Agency. The CAIR establishes uniform reporting and recordkeeping requirements for the chemical industry, as well as a list of generic questions that the EPA and other Federal agencies can use to collect chemical-specific information. The information collected under CAIR will be used to support the assessment and regulation of chemical substances and to comply with the TSCA.

Burden Statement: The public burden for this collection of information is estimated to average 225 hours per response annually. This estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Respondents: Chemical manufacturers, importers, and processors.

Estimated Number of Respondents: 597.

Estimated Number of Responses Per Respondent: Varies.

Estimated Total Annual Burden on Respondents: 134,325 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC, 20460.

and

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC, 20503.

Dated: February 26, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–4892 Filed 3–2–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180886; FRL 4572–9]

Receipt of Application for Emergency Exemption to use Acephate; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the South Carolina Department of Fertilizer and Pesticide Control (hereafter referred to as the "Applicant") to use the pesticide acephate (CAS 30560–19–1) to treat up to 4,500 acres of freshmarket tomatoes to control stinkbugs. The Applicant proposes a use for which an emergency exemption has been requested and granted for the past 3 years, and a complete application for registration of this use and a petition for tolerance for residues of acephate in or on tomatoes has not been submitted; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before March 18, 1993.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180886," should be submitted by mail to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 718, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–305–7890).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of Orthene 75S Soluble Powder (acephate) on tomatoes to control stinkbugs. Information in accordance with 40 CFR part 166 was submitted as part of this request.

The Applicant states that stinkbugs are an important tomato pest in South Carolina and must be controlled to prevent very serious economic loss. The Applicant claims that this pest could potentially destroy approximately 25 percent of the fruit under heavy population pressure. Registered alternatives for this pest on tomatoes are highly toxic to aquatic organisms, and can significantly reduce beneficial parasite/predator insect populations. The Applicant claims that these beneficial insects are relied upon for control of less serious tomato pests such as vegetable leafminers, with a minimum of pesticide applications needed. In South Carolina, tomatoes are also grown in highly sensitive coastal areas, and legal applications of registered alternative pesticides for stinkbug control in tomatoes have led to fish kills in the past due to rains and subsequent run-off into adjacent creeks, streams, and estuarine areas.

The Applicant proposes to apply Orthene 75S Soluble Powder at a maximum rate of 1.0 pound active ingredient per acre with a maximum of 7 applications on up to 4,500 acres of tomatoes. This amounts to a maximum of 31,500 pounds of active ingredient. This is the eighth year that the Applicant has applied for the use of acephate on tomatoes. In 1983, the request was denied. In the following 6 years for which this use was requested (1987–1992) permission for this use was granted under section 18. Until July of 1989, there was a tolerance petition pending at the Agency for this use, and progress was being made toward its registration. In 1989, the active ingredient and product was transferred to a different registrant, and at that time, the pending tolerance petition was voluntarily withdrawn. Therefore, this use did not meet requirements for publication and solicitation of public comment, as set forth in 40 CFR 166.24, until this year's request.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing a use for which there has been an emergency exemption requested or granted in any 3 previous years, and a complete application for registration of the use and/or a petition for tolerance for residues in or on the commodity has not been submitted to the Agency. Such notice provides for opportunity for public comment on the

application. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the South Carolina Department of Fertilizer and Pesticide Control.

Dated: February 19, 1993.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93-4663 Filed 3-2-93; 8:45 am]

BILLING CODE 6560-50-F

[OPP-60045; FRL-4189-6]

Intent to Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of notices of intent to suspend.

SUMMARY: This Notice, pursuant to section 6(f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, announces that EPA has issued Notices of Intent to Suspend pursuant to sections 3(c)(2)(B) and 4 of FIFRA. The Notices were issued following issuance of Section 4 Reregistration Requirements Notices by the Agency and the failure of registrants subject to the Section 4 Reregistration Requirements Notices to take appropriate steps to secure the data required to be submitted to the Agency. This Notice includes the text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information. Table A of this Notice further identifies the registrants to whom the Notices of Intent to Suspend were issued, the date each Notice of Intent to Suspend was issued, the active ingredient(s) involved, and the EPA registration numbers and names of the registered product(s) which are affected by the Notices of Intent to Suspend. Moreover, Table B of this Notice identifies the basis upon which the Notices of Intent to Suspend were issued. Finally, matters pertaining to the timing of requests for hearing are specified in the Notices of Intent to Suspend and are governed by the deadlines specified in section 3(c)(2)(B). As required by section 6(f)(2), the Notices of Intent to Suspend were sent by certified mail, return receipt requested, to each affected registrant at its address of record.

FOR FURTHER INFORMATION CONTACT: Stephen L. Brozena, Office of Compliance Monitoring (EN-342), Laboratory Data Integrity Assurance Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 308-8267.

SUPPLEMENTARY INFORMATION:

I. Text of a Notice of Intent to Suspend

The text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information, follows:

United States Environmental Protection Agency

Office of Prevention, Pesticides and Toxic Substances

Washington, DC 20460

Certified Mail

Return Receipt Requested

SUBJECT: Suspension of Registration of Pesticide Product(s) Containing _____ for Failure to Comply with the Section 4 Phase 5 Reregistration Eligibility Document Data Call-In Notice for _____ Dated _____.

Dear Sir/Madam:

This letter gives you notice that the pesticide product registrations listed in Attachment I will be suspended 30 days from your receipt of this letter unless you take steps within that time to prevent this Notice from automatically becoming a final and effective order of suspension. The Agency's authority for suspending the registrations of your products is sections 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Upon becoming a final and effective order of suspension, any violation of the order will be an unlawful act under section 12(a)(2)(J) of FIFRA.

You are receiving this Notice of Intent to Suspend because you have failed to comply with the terms of the Phase 5 Registration Eligibility Document Data Call-In Notice imposed pursuant to section 4(g)(2)(b) and section (3)(2)(B) of FIFRA.

The specific basis for issuance of this Notice is stated in the Explanatory Appendix (Attachment III) to this Notice. Affected products and the requirements which you failed to satisfy are listed and described in the following three attachments:

Attachment I Suspension Report - Product List

Attachment II Suspension Report - Requirement List

Attachment III Suspension Report - Explanatory Appendix

The suspension of the registration of each product listed in Attachment I will become final unless at least one of the following actions is completed.

1. You may avoid suspension under this Notice if you or another person adversely affected by this Notice properly request a hearing within 30 days of your receipt of this Notice. If you request a hearing, it will be conducted in accordance with the requirements of section 6(d) of FIFRA and the Agency's procedural regulations in 40 CFR part 164.

Section 3(c)(2)(B), however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this Notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding.

Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75-day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your products.

A request for a hearing pursuant to this Notice must (1) include specific objections which pertain to the allowable issues which may be heard at the hearing, (2) identify the registrations for which a hearing is requested, and (3) set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing. If a hearing is requested by any person other than the registrant, that person must also state specifically why he asserts that he would be adversely affected by the suspension action described in this Notice. Three copies of the request must be submitted to: Hearing Clerk, A-110, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and an additional copy should be sent to the signatory listed below. The request must be *received* by the Hearing Clerk by the 30th day from your receipt of this Notice in order to be legally

effective. The 30–day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30–day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business 30 days after your receipt of this Notice and will not be subject to further administrative review.

The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within 30 days of your receipt of this Notice, the Agency determines that you have taken appropriate steps to comply with the section 4 Phase 5 Reregistration Eligibility Document Data Call-In Notice requirements. In order to avoid suspension under this option, you must satisfactorily comply with Attachment II, Requirement List, for each product by submitting all required supporting data/information described in Attachment II and in the Explanatory Appendix (Attachment III) to the following address (preferably by certified mail):

Office of Compliance Monitoring (EN–342), Laboratory Data Integrity Assurance Division, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

For you to avoid automatic suspension under this Notice, the Agency must also determine within the applicable 30–day period that you have satisfied the requirements that are the bases of this Notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product(s).

The suspension of the registration(s) of your company's product(s) pursuant to this Notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this Notice. Such compliance may only be achieved by submission of the data/information described in the attachments to the signatory below.

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this Notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this Notice, including all supplemental registrants of product(s) listed in Attachment I, may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Persons other than the registrant subject to this Notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Nothing in this Notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I in any manner which would have been unlawful prior to the suspension.

If the registrations of your products listed in Attachment I are currently suspended as a result of failure to comply with another section 4 Data Requirements Notice or section 3(c)(2)(B) Data Call-In Notice, this Notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e. all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

You are reminded that it is your responsibility as the basic registrant to notify all supplementary registered distributors of your basic registered product that this suspension action also applies to their supplementary registered products and that you may be held liable for violations committed by your distributors. If you have any questions about the requirements and procedures set forth in this suspension notice or in the subject section 4 Data Requirements Notice, please contact Stephen L. Brozena at (703) 308–8267.

Sincerely yours,

Director, Office of Compliance Monitoring

Attachments:
Attachment I - Product List
Attachment II - Requirement List
Attachment III - Explanatory Appendix

II. Registrants Receiving and Affected by Notices of Intent to Suspend; Date of Issuance; Active Ingredient and Products Affected

The following is a list of products for which a letter of notification has been sent:

TABLE A.—LIST OF PRODUCTS

Registrant Affected	EPA Registration Number	Active Ingredient	Name of Product	Date Issued
Airco Gases, Carbon Dioxide Division	03871900005	Carbon and CO2	Carbon Dioxide	01/27/93
Atlas Chemical Corp	01055100001	Inorganic Nitrate/Nitrite	The Giant Destroyer	01/27/93
Dorsey, Inc.	04373900010	Silicon Dioxide	Shellshock Insecticide	01/25/93
Miller Chemical and Fertilizer Corporation	00007200574	Capsaicin	Miller Hot Sauce Animal Repellent	01/25/93
Noti Manufacturing Company Inc.	00035800137	Inorganic Nitrate/Nitrite	Smoke'em	01/27/93
Southern Mill Creek Products	00672000379	Silica Gel	Superior Drione	01/26/93
State Chemical Manufacturing Co.	00168500053	Silica Gel	797-A State Powdered Insecticide	01/25/93
Sungro Chemicals Inc.	01147400064	Silica Gel	Sun-Dust Roach Away	01/26/93
Sureco, Inc.	00078900569	Silica Gel	Stephenson Chemicals D.P.S. Roach Powder	01/26/93

TABLE A.—LIST OF PRODUCTS—Continued

Registrant Affected	EPA Registration Number	Active Ingredient	Name of Product	Date Issued
Wallace C. Tharp	00633000032	Silicon Dioxide	Perma-Guard Pet and Animal Insecticide D-20	01/26/93
	00633000001	Silicon Dioxide	Perma-Guard Household Insecticide D-20	01/26/93
	00633000009	Silicon Dioxide	Perma Guard Garden & Plant Insecticide D-21	01/26/93
	00633000012	Silicon Dioxide	Perma-Guard Kleen Bin Insecticide D-20	01/26/93
	00633000031	Silicon Dioxide	Perma Guard D-20 Professional Insecticide	01/26/93
Whitmire Research Laboratories, Inc.	00049900223	Silica Gel	Whitmire PT 230 TRI-DIE	01/26/93
Xtrrium Labs Inc.	00546400006	Capsaicin	Shock Repellent	01/26/93

III. Basis for Issuance of Notice of Intent; Requirement List

The following companies failed to submit the following required data or information:

TABLE B.—LIST OF REQUIREMENTS

Active Ingredient	Registrant Affected	Requirement Name	Guideline Reference Number	Original Due Date
Carbon and CO2	Airco Gases, Carbon Dioxide Division	Confidential Statement of Formula (CSF) Form		11/02/92
		Certification Form: Data Compensation		11/02/92
		Chemical Identity	61–1	11/02/92
		Beginning Material and Manuf Process	61–2(a)	11/02/92
		Certification of Ingredient Limits	62–2	11/02/92
		Analytical Method to Verify Certified Limits	62–3	11/02/92
		Color	63–2	11/02/92
		Physical State	63–3	11/02/92
		Odor	63–4	11/02/92
		Density, Bulk Density, or Specific Gravity	63–7	11/02/92
		Oxidizing/Reducing Action	63–14	11/02/92
		Explodability	63–16	11/02/92
		Storage Stability	63–17	11/02/92
		Corrosion Characteristics	63–20	11/02/92
	ADM Corn Processing	Confidential Statement of Formula (CSF) Form		11/02/92
		Certification Form: Data Compensation		11/02/92
		Chemical Identity	61–1	11/02/92
		Beginning Material and Manuf Process	61–2(a)	11/02/92
		Certification of Ingredient Limits	62–2	11/02/92
		Analytical Method to Verify Certified Limits	62–3	11/02/92
		Color	63–2	11/02/92
		Physical State	63–3	11/02/92
		Odor	63–4	11/02/92
		Density, Bulk Density, or Specific Gravity	63–7	11/02/92
		Oxidizing/Reducing Action	63–14	11/02/92
		Explodability	63–16	11/02/92
		Storage Stability	63–17	11/02/92
		Corrosion Characteristics	63–20	11/02/92
Capsaicin	Miller Chemical and Fertilizer Corporation	90-Day Response		12/06/92
	Sevana Co.	90-Day Response		12/06/92
	Xttrium Labs Inc.	90-Day Response		12/06/92
Inorganic Nitrate/Nitrite	Nott Manufacturing Company Inc.	Beginning Material and Manuf Process	61–2(a)	10/22/92
	Atlas Chemical Corp	Certification Form: Data Compensation		10/22/92
		Beginning Material and Manuf Process	61–2(a)	10/22/92
		Analytical Method to Verify Certified Limits	62–3	10/22/92
		Color	63–2	10/22/92
		Physical State	63–3	10/22/92
		Odor	63–4	10/22/92
		Density, Bulk Density, or Specific Gravity	63–7	10/22/92
		Oxidizing/Reducing Action	63–14	10/22/92
		Explodability	63–16	10/22/92
		Storage Stability	63–17	10/22/92
		Corrosion Characteristics	63–20	10/22/92
Silica Gel	Whitmire Research Laboratories, Inc.	Confidential Statement of Formula (CSF) Form		10/27/92
		Product Specific Data Report Form		10/27/92
		Chemical Identity	61–1	10/27/92
		Beginning Material and Manuf Process	61–2(a)	10/27/92
		Discussion of Impurities	61–2(b)	10/27/92
		Preliminary Analysis of Product Samples	62–1	10/27/92
		Certification of Ingredient Limits	62–2	10/27/92
		Analytical Method to Verify Certified Limits	62–3	10/27/92
		Color	63–2	10/27/92
		Physical State	63–3	10/27/92
		Odor	63–4	10/27/92
		Melting Point	63–5	10/27/92

TABLE B.—LIST OF REQUIREMENTS—Continued

Active Ingredient	Registrant Affected	Requirement Name	Guideline Reference Number	Original Due Date
		Boiling Point	63–6	10/27/92
		Density, Bulk Density, or Specific Gravity	63–7	10/27/92
		Solubility	63–8	10/27/92
		Vapor Pressure	63–9	10/27/92
		Dissociation Constant	63–10	10/27/92
		Octanol/Water Partition Coefficient	63–11	10/27/92
		pH	63–12	10/27/92
		Stability	63–13	10/27/92
		Oxidizing/Reducing Action	63–14	10/27/92
		Flammability	63–15	10/27/92
		Explodability	63–16	10/27/92
		Storage Stability	63–17	10/27/92
		Viscosity	63–18	10/27/92
		Miscibility	63–19	10/27/92
		Corrosion Characteristics	63–20	10/27/92
		Dielectric Breakdown Voltage	63–21	10/27/92
		Acute Oral Toxicity - Rat	81–1	10/27/92
		Acute Dermal Toxicity - Rabbit/Rat	81–2	10/27/92
		Acute Inhalation Toxicity - Rat	81–3	10/27/92
		Primary Eye Irritation - Rabbit	81–4	10/27/92
		Primary Dermal Irritation	81–5	10/27/92
		Dermal Sensitization	81–6	10/27/92
	Sureco, Inc.	Confidential Statement of Formula (CSF) Form		10/27/92
		Product Specific Data Report Form		10/27/92
		Chemical Identity	61–1	10/27/92
		Beginning Material and Manuf Process	61–2(a)	10/27/92
		Discussion of Impurities	61-2(b))	10/27/92
		Preliminary Analysis of Product Samples	62-1	10/27/92
		Analytical Method to Verify Certified Limits	62–3	10/27/92
		Color	63–2	10/27/92
		Physical State	63–3	10/27/92
		Odor	No: 63–4	10/27/92
		Melting Point	63–5	10/27/92
		Boiling Point	63–6	10/27/92
		Density, Bulk Density, or Specific Gravity	63–7	10/27/92
		Solubility	63–8	10/27/92
		Vapor Pressure	63–9	10/27/92
		Dissociation Constant	63–10	10/27/92
		Octanol/Water Partition Coefficient	63–11	10/27/92
		pH	63–12	10/27/92
		Stability	63–13	10/27/92
		Oxidizing/Reducing Action	63–14	10/27/92
		Flammability	63–15	10/27/92
		Explodability	63–16	10/27/92
		Storage Stability	63–17	10/27/92
		Viscosity	63–18	10/27/92
		Miscibility	63–19	10/27/92
		Corrosion Characteristics	63–20)	10/27/92
		Dielectric Breakdown Voltage	63–21	10/27/92
		Acute Oral Toxicity - Rat	81–1	10/27/92
		Acute Dermal Toxicity - Rabbit/Rat	81–2	10/27/92
		Acute Inhalation Toxicity - Rat	81–3	10/27/92
		Primary Eye Irritation - Rabbit	81–4	10/27/92
		Primary Dermal Irritation	81–5	10/27/92
		Dermal Sensitization	81–6	10/27/92
	Southern Mill Creek Products	Confidential Statement of Formula (CSF) Form		10/27/92
		Product Specific Data Report Form		10/27/92
		Chemical Identity	61–1	10/27/92
		Beginning Material and Manuf Process	61–2(a)	10/27/92
		Discussion of Impurities	61-2(b)	10/27/92
		Preliminary Analysis of Product Samples(	62–1	10/27/92
		Certification of Ingredient Limits	62–2	10/27/92
		Analytical Method to Verify Certified Limits	62–3	10/27/92
		Color	63–2	10/27/92
		Physical State	63–3	10/27/92
		Odor	63–4	10/27/92
		Melting Point	63–5	10/27/92
		Boiling Point	63–6	10/27/92
		Density, Bulk Density, or Specific Gravity	63–7	10/27/92
		Solubility	63–8	10/27/92
		Vapor Pressure	63–9	10/27/92
		Dissociation Constant	63–10	10/27/92
		Octanol/Water Partition Coefficient	63–11	10/27/92
		pH	63–12	10/27/92
		Stability	63–13	10/27/92
		Oxidizing/Reducing Action	63–14	10/27/92
		Flammability	63–15	10/27/92
		Explodability	63–16	10/27/92
		Storage Stability	63–17	10/27/92
		Viscosity	63–18	10/27/92

TABLE B.—LIST OF REQUIREMENTS—Continued

Active Ingredient	Registrant Affected	Requirement Name	Guideline Reference Number	Original Due Date
		Miscibility	63-19	10/27/92
		Corrosion Characteristics	63-20	10/27/92
		Dielectric Breakdown Voltage	63-21	10/27/92
		Acute Oral Toxicity - Rat	81-1	10/27/92
		Acute Dermal Toxicity - Rabbit/Rat	81-2	10/27/92
		Acute Inhalation Toxicity - Rat	81-3	10/27/92
		Primary Eye Irritation - Rabbit	81-4	10/27/92
		Primary Dermal Irritation	81-5	10/27/92
		Dermal Sensitization	81-6	10/27/92
	State Chemical Manufacturing Co.	Confidential Statement of Formula (CSF) Form		10/27/92
		Product Specific Data Report Form		10/27/92
		Certification Form: Data Citation		10/27/92
		Certification Form: Offer to Cost Share		10/27/92
	Sungro Chemicals, Inc.	Confidential Statement of Formula (CSF) Form		10/27/92
		Product Specific Data Report Form		10/27/92
		Certification Form: Data Citation		10/27/92
		Certification Form: Offer to Cost Share		10/27/92
Silicon Dioxide	Dorsey, Inc.	Confidential Statement of Formula (CSF) Form		10/27/92
		Product Specific Data Report Form		10/27/92
		Chemical Identity	61-1	10/27/92
		Beginning Material and Manuf Process	61-2(a)	10/27/92
		Discussion of Impurities	61-2(b)	10/27/92
		Preliminary Analysis of Product Samples	62-1	10/27/92
		Certification of Ingredient Limits	62-2	10/27/92
		Analytical Method to Verify Certified Limits	62-3	10/27/92
		Color	63-2	10/27/92
		Physical State	63-3	10/27/92
		Odor	63-4	10/27/92
		Melting Point	63-5	10/27/92
		Boiling Point	63-6	10/27/92
		Density, Bulk Density, or Specific Gravity	63-7	10/27/92
		Solubility	63-8	10/27/92
		Vapor Pressure	63-9	10/27/92
		Dissociation Constant	63-10	10/27/92
		Octanol/Water Partition Coefficient	63-11	10/27/92
		pH	63-12	10/27/92
		Stability	63-13	10/27/92
		Oxidizing/Reducing Action	63-14	10/27/92
		Flammability	63-15	10/27/92
		Explodability	63-16	10/27/92
		Storage Stability	63-17	10/27/92
		Viscosity	63-18	10/27/92
		Miscibility	63-19	10/27/92
		Corrosion Characteristics	63-20	10/27/92
		Dielectric Breakdown Voltage	63-21	10/27/92
		Acute Oral Toxicity - Rat	81-1	10/27/92
		Acute Dermal Toxicity - Rabbit/Rat	81-2	10/27/92
		Acute Inhalation Toxicity - Rat	81-3	10/27/92
		Primary Eye Irritation - Rabbit	81-4	10/27/92
		Primary Dermal Irritation	81-5	10/27/92
		Dermal Sensitization	81-6	10/27/92
	Wallace C. Tharp	Confidential Statement of Formula (CSF) Form		12/05/92
		Acute Oral Toxicity - Rat	81-1	12/05/92
		Acute Dermal Toxicity - Rabbit/Rat	81-2	12/05/92
		Acute Inhalation Toxicity - Rat	81-3	12/05/92
		Primary Eye Irritation - Rabbit	81-4	12/05/92
		Primary Dermal Irritation	81-5	12/05/92
		Dermal Sensitization	81-6	12/05/92

IV. Attachment III Suspension Report--Explanatory Appendix

A discussion of the basis for the Notice of Intent to Suspend follows:

A. Carbon and CO2

On January 29, 1992, EPA issued the Phase 5 Reregistration Data Requirements Notice imposed pursuant to section 4 of FIFRA which required registrants of products containing Carbon and CO2 to develop and submit certain data. These data were determined to be necessary to satisfy reregistration data requirements of section 4(g)(2)(B) of FIFRA.

The Carbon and CO2 Phase 5 Reregistration Data Requirements Notice dated January 29, 1992, required each affected registrant to submit materials relating to the election of the options to address each of the data requirements. That submission was required to be received by the Agency within 90 days of the registrant's receipt of the Notice. The Agency received a response from you in which you committed to undertake the required testing. The Notice further required that data be submitted by deadlines noted for the subject data requirements on Attachment II. These deadlines have passed and to date the Agency has not received adequate data to satisfy these data requirements. Because you have failed to provide an appropriate or adequate response within the time provided for data requirements listed on Attachment II, the Agency is issuing this Notice of Intent to Suspend.

B. Capsaicin

On August 17, 1992, EPA issued the Phase 5 Reregistration Eligibility Document Data Call-In Notice imposed pursuant to section 4(g)(2)(B) and 3(c)(2)(B) of FIFRA which required registrants of products containing capsaicin used as an active ingredient to develop and submit certain data. These data were determined to be necessary to satisfy reregistration data requirements of section 4(g). Failure to comply with the requirements of a Phase 5 Reregistration Eligibility Document Data Call-In Notice is a basis for suspension under section 3(c)(2)(B) of FIFRA.

The Capsaicin Phase 5 Reregistration Eligibility Document Data Call-In Notice dated August 17, 1992, required each affected registrant to submit materials relating to the election of the options to address each of the data requirements. That submission was required to be received by the Agency within 90 days of the registrant's receipt of the Notice. Because the Agency has not received a response from you as a capsaicin registrant to undertake the required testing or any other appropriate response, the Agency is initiating through this Notice of Intent to Suspend the actions which FIFRA requires it to take under these circumstances.

C. Silica Gel

On February 27, 1992, EPA issued the Phase 5 Reregistration Data Requirements Notice imposed pursuant to section 4 of FIFRA which required registrants of products containing silicon dioxide and silica gel to develop and submit certain data. These data were determined to be necessary to satisfy reregistration data requirements of section 4(g)(2)(B) of FIFRA.

The Silicon Dioxide and Silica Gel Phase 5 Reregistration Data Requirements Notice dated February 27, 1992, required each affected registrant to submit materials relating to the election of the options to address each of the data requirements. That submission was required to be received by the Agency within 90 days of the registrant's receipt of the Notice. The Agency received a response from you in which you committed to undertake the required testing. The Notice further required that data be submitted by deadlines noted for the subject data requirements on Attachment II. These deadlines have passed and to date the Agency has not received adequate data to satisfy these data requirements. Because you have failed to provide an appropriate or adequate response within the time provided for data requirements listed on Attachment II, the Agency is issuing this Notice of Intent to Suspend.

D. Silicon Dioxide

On February 27, 1992, EPA issued the Phase 5 Reregistration Data Requirements Notice imposed pursuant to section 4 of FIFRA which required registrants of products containing silicon dioxide and silica gel to develop and submit certain data. These data were determined to be necessary to satisfy reregistration data requirements of section 4(g)(2)(B) of FIFRA.

The Silicon Dioxide and Silica Gel Phase 5 Reregistration Data Requirements Notice dated February 27, 1992, required each affected registrant to submit materials relating to the election of the options to address each of the data requirements. That submission was required to be received by the Agency within 90 days of the registrant's receipt of the Notice. The Agency received a response from you in which you committed to undertake the required testing. The Notice further required that data be submitted by deadlines noted for the subject data requirements on Attachment II. These deadlines have passed and to date the Agency has not received adequate data to satisfy these data requirements. Because you have failed to provide an appropriate or adequate response within the time provided for data requirements listed on Attachment II, the Agency is issuing this Notice of Intent to Suspend.

E. Inorganic Nitrate/Nitrite

On January 13, 1992, EPA issued the Phase 5 Reregistration Data Requirements Notice imposed pursuant to section 4 of FIFRA which required registrants of products containing inorganic nitrate/nitrite to develop and submit data. These data were determined to be necessary to satisfy reregistration data requirements of section 4(g)(2)(B) of FIFRA.

The Inorganic Nitrate/Nitrite Phase 5 Reregistration Data Requirements Notice dated January 13, 1992, required each affected registrant to submit materials relating to the election of the options to address each of the data requirements. That submission was required to be received by the Agency within 90 days of the registrant's receipt of the Notice. The Agency received a response from you in which you committed to undertake the required testing. The Notice further required that data be submitted by deadlines noted for the subject data requirements on Attachment II. These deadlines have passed and to date the Agency has not received adequate data to satisfy these data requirements. Because you have failed to provide an appropriate or adequate response within the time provided for data requirements listed on Attachment II, the Agency is issuing this Notice of Intent to Suspend.

V. Conclusions

EPA has issued Notices of Intent to Suspend on the dates indicated. Any further information regarding these Notices may be obtained from the contact person noted above.

Dated: February 22, 1993.

Connie S. Musgrove,

Acting Director, Office of Compliance Monitoring.

[FR Doc. 93–4666 Filed 3–2–93; 8:45 am]

BILLING CODE 6560-50-F

[OPP–50755; FRL–4573–8]

Receipt of Application for An Experimental Use Permit; Genetically Engineered Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application (EUP No. 58788–EUP–A) from Crop Genetics International (CGI) requesting an experimental use permit for a genetically engineered microbial pesticide. The first EUP on this organism was issued June 14, 1988 (EUP No. 58788–EUP–1). The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting public comments on this application.

DATES: Written comments must be received on or before April 2, 1993.

ADDRESSES: Comments in triplicate, must bear the docket control number OPP–50755 and be submitted to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked, will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA

without prior notice to the submitter. Information on the proposed test and all written comments will be available for public inspection in rm. 246 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 18, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 213, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–7690).

SUPPLEMENTARY INFORMATION: An application for an EUP has been received from Crop Genetics International of 7170 Standard Drive, Hanover, MD 21076. This EUP application EPA File Symbol is 58788–EUP–A. The proposed experiment involves the endophytic (plant-dwelling) bacterium *Clavibacter xyli* subspecies *cynodontis* that has been genetically engineered to contain a delta-endotoxin gene obtained from *Bacillus thuringiensis* subspecies *kurstaki*. After inoculation, the endophytic bacterium grows within the corn plants and produces the pesticidal agent which is active against the larval stages of the European corn borer (ECB), *Ostrinia nubilalis*. The product is referred to as Cxc/Bt.

Field activity of the Cxc/Bt construction (MDR1.586) against the ECB was demonstrated in several field corn hybrids during the 1991 and 1992 field tests. Therefore, the purpose of this EUP application is to conduct small-scale Cxc/Bt recombinant field trials to evaluate further insecticidal activity of one or more new Cxc/Bt constructions against ECB in several corn genotypes of commercial interest in Maryland, Nebraska, and Iowa. Data on the incidence of Cxc/Bt colonization, population levels of Cxc/Bt, and activity of Cxc/Bt will be obtained during the growing season. In addition, genetic segregation of the Cxc/Bt constructions will be studied using colonies isolated from plants in these field tests.

CGI is proposing to test several constructions genetically similar to those constructs previously tested (MDR1.586 and MDR1.1413) at small-scale sites in 1993: Ingleside, Queen Anne's County, Maryland; Hastings, Clay County, Nebraska; and at 8 out of 12 additional sites in Iowa to include: Hampton, Franklin County; Badger, Webster County; Odebolt, Sac County; Grinnell, Poweshiek County; Readlyn, Brower County; Havelock, Pocahontas County; Slater, Story County; Boone, Boone County; Maxwell, Story County; Oskaloosa, Mahaska County; Winterset, Madison County; and Humeston, Wayne County. Each site in Maryland and Nebraska will occupy approximately 49,000 ft^2 or 1.1 acres and consist of a maximum of four field corn genotypes and four recombinant strains of Cxc/Bt. In Iowa, test sites will occupy approximately 13,950 ft^2 or 0.32 acre and consist of a maximum of three field corn genotypes and three recombinant strains of Cxc/Bt. All test sites will consist of two uninoculated buffer rows planted between each sub-subplot and along the periphery of the test plot for each test site. Test sites at both the Maryland and Nebraska locations will be designed: (1) To evaluate the activity of several Cxc/Bt constructions against ECB in four corn genotypes and (2) determine the resulting grain yield of each treatment. Treatments will be introduced into seed via seed-inoculation and will include a control (phosphate buffered saline), and up to four Cxc/Bt constructions. Thus, a total of five treatments across four corn genotypes may be included in these tests. Tests at both sites will be initiated at planting and will continue through harvest. Planting will take place between early April and late May. Test sites in Iowa will be designed: (1) To evaluate the activity of several Cxc/Bt constructions in three corn genotypes against ECB, (2) assess the yield of Cxc/Bt-inoculated plants in the absence of ECB pressure (a measure of theoretical yield potential), and (3) determine the yield benefit of plants treated with Cxc/Bt when subjected to ECB. The tests will consist of three factors: hybrid, seed-inoculation treatment, and ECB status. Three field corn genotypes will be evaluated. Up to four treatments will be introduced via seed-inoculation. The seed-inoculation treatments will include a control (phosphate buffered saline) and up to three Cxc/Bt constructions. In addition, each hybrid X treatment combination will be exposed to two ECB conditions: ECB "present" (heavily infested), and ECB "absent" (non-infested and standard methods will be used to control ECB). Thus, a total of eight treatment combinations across three hybrids may be included in these tests. Test sites will be initiated at planting and will continue through harvest. Planting will take place between early April and late May. The proposed field test sites in Maryland, Nebraska, and Iowa would allow the use of 1.0 kg active ingredient on seeds and plants sufficient to plant approximately 4.8 test plot acres. The actual amount of active ingredient present in the seeds after seed inoculation is estimated to be not more than 6 g. The amount active ingredient requested per State is less than 2.0 g. Upon completion of the tests, all plant debris and stubble will be incorporated into the soil by disking. Harvested grain will be discarded by either (1) Spreading the grain onto the test site, or (2) transporting the grain in sealed containers to a field station and discarding at a designated site. Based on previous data (EUP No. 58788–EUP–1, Vol. 2, MRID No. 4045401, EUP No. 58788–EUP–2, Vol. II, MRID No. 40920401, and Report on 1989 Field Trails Conducted Pursuant to EUP No. 58788–EUP–2, Vol. X and XI, MRID Nos. 41337009 and 41337010), extensive monitoring performed during 1990 as presented in Extension of EUP No. 58788–EUP–4, Vol. VIII, MRID No. 41707707, and additional information provided in Vol. V of the current submission, no overwintering of Cxc/Bt is anticipated.

The labeling proposed by CGI that would govern the conduct of the experiment states:

> Applicator should wear protective clothing and waterproof gloves. For use only in accordance with the terms and conditions of the experimental use permit.

Following the review of the CGI application and any comments received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the Federal Register.

Dated: February 23, 1993.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–4665 Filed 3–2–93; 8:45 am]

BILLING CODE [illegible]

[OPP–180884; FRL–4188–6]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 10 States as listed below. Three crisis exemptions were initiated by the various States. Two quarantine exemptions were also granted to the United States Department of Agriculture, and one was granted to the California Environmental Protection Agency. These exemptions, issued during the months of October,

November, and December 1992, except for the one in May and one in September, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. EPA has denied two exemptions from the Louisiana Department of Agriculture and Forestry and one from the Texas Department of Agriculture. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific, quarantine, and crisis exemption for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 718, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703–305–5806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arkansas State Plant Board for the use of dicamba on cotton to control redvine; October 8, 1992, to December 1, 1992. (Susan Stanton)

2. California Environmental Protection Agency, Department of Pesticide Regulation, for the use of sodium tetrathiocarbonate on wine grapes to control grape *Phylloxera*; November 27, 1992, to November 26, 1993. A solicitation of public comment was published in the **Federal Register** of October 19, 1992 (57 FR 47642); no comments were received. The Agency has issued this exemption on the basis that the presence of a new strain (biotype B) of phylloxera and the cancellation of carbofuran permits in Mendocino, Napa, and Sonoma counties have created an urgent nonroutine situation that would result in substantial losses. The availability of sodium tetrathiocarbonate will allow growers to defer replanting costs over a longer period of time, thereby reducing the economic impacts. The use can be toxicologically supported. The use is not expected to cause unreasonable adverse effects on nontarget organisms or the environment. (Susan Stanton)

3. California Environmental Protection Agency for the use of fenamiphos on broccoli and cauliflower to control nematodes; November 9, 1992, to November 8, 1993. (Libby Pemberton)

4. California Environmental Protection Agency, Department of Pesticide Regulation, for the use of myclobutanil on strawberries to control powdery mildew; October 5, 1992, to July 27, 1993. California had initiated a crisis exemption for this use. (Susan Stanton)

5. California Environmental Protection Agency, for the use of prometryn on parsley to control burning nettle, cheeseweed, and shepherd's purse; December 24, 1992, to December 24, 1993. (Andrea Beard)

6. Florida Department of Agriculture and Consumer Services for the use of avermectin B_1 on strawberries to control spider mites; November 5, 1992, to July 31, 1993. (Larry Fried)

7. Florida Department of Agriculture and Consumer Services for the use of cyromazine on tomatoes to control leafminers; October 28, 1992, to October 27, 1993. (Libby Pemberton)

8. Florida Department of Agriculture and Consumer Services for the use of lactofen on tomatoes and green peppers to control nightshade and parthenium; November 26, 1992, to August 31, 1993. (Larry Fried)

9. Florida Department of Agriculture and Consumer Services for the use of cyromazine on potatoes to control leafminers; October 5, 1992, to July 1, 1993. (Susan Stanton)

10. Georgia Department of Agriculture for the use of streptomycin on onions to control *Pseudomonas virdiflava*; December 31, 1992, to June 30, 1993. (Susan Stanton)

11. Georgia Department of Agriculture for the use of sethoxydim on canola to control Italian ryegrass; October 28, 1992, to April 15, 1993. (Susan Stanton)

12. Idaho Department of Agriculture for the use of pendimethalin on mint to control kochia and redroot pigweed; November 20, 1992, to April 1, 1993. (Larry Fried)

13. Idaho Department of Agriculture for the use of imazalil on sweet corn seed to control damping-off and dieback diseases; October 2, 1992, to October 1, 1993. (Susan Stanton)

14. Louisiana Department of Agriculture and Forestry for the use of dicamba on cotton to control redvine; November 3, 1992, to December 1, 1992. (Susan Stanton)

15. Mississippi Department of Agriculture and Commerce for the use of dicamba on cotton to control redvine; October 8, 1992, to December 1, 1992. (Susan Stanton)

16. Pennsylvania Department of Agriculture for the use of chlorothalonil on mushrooms to control verticillium diseases; October 5, 1992, to October 1, 1993. Pennsylvania had initiated a crisis exemption for this use. (Susan Stanton)

17. Texas Department of Agriculture for the use of fenpropathrin on tomatoes to control the sweet potato whitefly; October 5, 1992, to October 5, 1993. (Andrea Beard)

18. Washington Department of Agriculture for the use of pendimethalin on mint to control kochia and redroot pigweed; November 20, 1992, to April 1, 1993. (Larry Fried)

19. United States Department of Agriculture for the use of naled on tree trunks, utility poles, and inanimate objects to control the Oriental fruit fly (*Bactrocera orientales*), and *Dacus* spp.; December 23, 1992, to December 16, 1995. (Libby Pemberton)

Crisis exemptions were initiated by the:

1. Arkansas State Plant Board on May 28, 1992, for the use of fomesafen on snap beans to control broadleaf weeds. This program has ended. (Larry Fried)

2. Illinois Department of Agriculture on September 4, 1992, for the use of avermectin on snap beans to control puncture vine. This program has ended. (Larry Fried)

3. Michigan Department of Agriculture on October 13, 1992, for the use of iprodione on canola to control alternaria brassicicola. This program has ended. (Libby Pemberton)

Quarantine exemptions were granted to the:

1. California Environmental Protection Agency, Department of Pesticide Regulations, for the use of malathion on various food and feed crops to eradicate exotic (non-established, quarantined) members of the fruit fly family Tephritidae; December 18, 1992, to December 17, 1995. (Susan Stanton)

2. United States Department of Agriculture for the use of methyl bromide on pineapples, plaintains, melons, avocados, chayote, apuntia, raspberries, blackberries, bananas, asparagus, and grapes to control certain plant pests new to, or not known to be widely distributed within and throughout the United States and its territories at ports of entry throughout the United States; October 13, 1992, to October 12, 1995. USDA had initiated a crisis exemption for use on asparagus only. (Libby Pemberton)

3. United States Department of Agriculture for the use of methy bromide on various imported foods to control various plant pests not currently established in the United States; November 27, 1992, to November 26, 1995. (Libby Pemberton)

EPA has denied specific exemption requests from the:

1. Louisiana Department of Agriculture and Forestry for the use of

iprodione as a postharvest treatment on sweet potatoes to control rhizopus soft rot. (Susan Stanton)

2. Louisiana Department of Agriculture and Forestry for the use of iprodione on sweet potatoes to control sclerotial blight. (Susan Stanton)

3. Texas Department of Agriculture for the use of cyromazine on peppers to control vegetable leafminers. (Susan Stanton)

Authority: 7 U.S.C. 136.

Dated: February 22, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 93–4667 Filed 3–2–93; 8:45 am]

BILLING CODE 6560–60–F

[OPP–180887; FRL 4573–1]

Receipt of Application for Emergency Exemption to use Fenpropathrin; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Florida Department of Agriculture and Consumer Services (hereafter referred to as the "Applicant") to use the pesticide fenpropathrin (CAS 39515–41–8) to treat up to 50,000 acres of tomatoes to control the sweet potato whitefly (SPWF). The Applicant proposes the first food use of an active ingredient; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before March 18, 1993.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180887," should be submitted by mail to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 718, Crystal Mall #2, 1921 Jefferson Davis Highway,Arlington, VA, (703–305–7890).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of Danitol 2.4 EC Spray (fenpropathrin) on tomatoes to control the SPWF. Information in accordance with 40 CFR part 166 was submitted as part of this request.

The SPWF was discovered in Florida in 1900 and has been a pest in the "desert-cropping systems" in California and Arizona for some time. It is common on many wild and cultivated crops such as tomatoes, cotton, cucurbits and solanaceae. The Applicant states that the SPWF first caused economic impacts in Florida in 1987, and since then, its impacts have rapidly expanded over the total production area. The SPWF causes direct damage to the tomato plant through its feeding activity and the production of honeydew which enhances sooty mold development. The SPWF is also considered responsible for the introduction and distribution of at least one geminivirus (which can lead to extreme yield losses), and also causes a physiological disorder resulting in irregular ripening of fruit. The Applicant claims that without control of the SPWF, the overall tomato industry in Florida can anticipate production losses of about 40–50 percent. This translates to a net loss of $1,922 per acre.

The Applicant proposes to apply Danitol 2.4 EC Spray at a maximum rate of 0.2 pounds active ingredient per acre with a maximum of 6 applications on up to 50,000 acres of tomatoes. This amounts to 25,000 gallons of product, or 60,000 pounds of active ingredient. This is the third year that the Applicant has applied for the use of fenpropathrin on tomatoes, and permission for this use was granted for the past 2 years under section 18 to both Florida and Texas. This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing the first food use of a registered chemical. Such notice provides for opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Florida Department of Agriculture and Consumer Services.

Dated: February 22, 1993.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–4664 Filed 3–2–93; 8:45 am]

BILLING CODE 6560–55–F

[OPP–66172; FRL 4188–1]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by June 1, 1993, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (H7502C), Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 220, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 703–305–5761.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 37 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000059–00193	Flair	Butoxypolypropylene glycol 1-Napthyl-*N*-methylcarbamate *O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins
000134–00039	Hess & Clark Six Roost Paint	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
000279 IN–92–0001	Command 4EC	2-(2-Chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone
000279 OH–92–0001	Command 4EC	2-(2-Chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone
000400 OR–76–0005	Vitavax Flowable Fungicide	5,6-Dihydro-2-methyl-1,4-oxathiin-3-carboxanalide
000432–00744	Roost No More Bird Repellent	Polybutene
000432–00745	Roost No More Repells Nuisance Birds	Polybutene
000655–00080	Prentox Malathion 25% WP	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
000655–00123	Prentox Malathion 8 Lb. Emulsifiable Concentrate	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
000655–00149	Prentox 80% Malathion Emulsifiable Concentrate	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
000655–00323	Prentox Malathion 5 Lb. Emulsifiable Concentrate Premium	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
000655–00550	10% Malathion Dust	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
000876 MT–79–0004	Banvel D Herbicide	Dimethylamine 3,6-dichloro-*o*-anisate
001386–00576	Unico Snail and Slug Pellets-M	4-(Methylthio)-3,5-xylyl methylcarbamate
002792–00055	Peach, Nectarine & Plum Luster 274 with Fungicides	2,6-Dichloro-4-nitroaniline Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
002935 OR–79–0044	Red-Top Malathion 25 Spray Powder	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
003125 OR–76–0017	Morestan 25% Wettable Powder Miticide	6-Methyl-2,3-quinoxalinedithiol cyclic *S,S*-dithiocarbonate
003125 OR–77–0067	Meta-Systox-R Spray Concentrate	*S*-(2-(Ethylsulfinyl)ethyl) *O,O*-dimethyl phosphorothioate
003772–00007	Earl May 57% Malathion Spray	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate Xylene range aromatic solvent
005887–00030	Pelletized Warf with Prolin	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin
005887–00129	Black Leaf Benomyl Systemic Fungicide	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
007969–00022	U-46D Acid Manufacturers Concentrate	2,4-Dichlorophenoxyacetic acid
008005–00008	Easy Cattle Oil	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
020954 AZ–91–0015	Solicam DF Herbicide	4-Chloro-5-(methylamino)-2-(alpha,alpha,alpha-trifluor *o*-*m*-tolyl)-3(2H)-
034704–00575	Hopkins Mesrepel	4-(Methylthio)-3,5-xylyl methylcarbamate
036301–00011	J-Mal-92 Premium Grade Malathion Agricultural Insecticide	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
047000–00009	Malathion 5-E Grain Protectant Contains Cythion	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
047000–00010	2% Malathion Backrubber Solution	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
047000–00022	Economy Mal-Thox Dust	Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane) *O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
047000–00024	Economy's 57% Malathion Emulsifiable Concentrate	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
047000–00037	Economy Malathion 5% Dust Insecticide	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
055947 CO–88–0006	Banvel Herbicide	Dimethylamine 3,6-dichloro-*o*-anisate
055947 ND–87–0009	Banvel Herbicide	Dimethylamine 3,6-dichloro-*o*-anisate
055947 SD–87–0001	Banvel Herbicide	Dimethylamine 3,6-dichloro-*o*-anisate
055947 SD–87–0005	Banvel Herbicide	Dimethylamine 3,6-dichloro-*o*-anisate
055947 WY–87–0002	Banvel Herbicide	Dimethylamine 3,6-dichloro-*o*-anisate
059639 CA–90–0011	Slug-Geta Snail & Slug Bait (pelleted)	4-(Methylthio)-3,5-xylyl methylcarbamate

Unless a request is withdrawn by the registrant within 90 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 90-day period. The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000059	Coopers Animal Health Inc., 1201 Douglas Ave., Kansas City, KS 66103.
000134	Hess & Clark, Inc., 7th & Orange, Ashland, OH 44805.
000279	FMC Corp., ACG Specialty Products, 1735 Market Street, Philadelphia, PA 19103.
000400	Uniroyal Chemical Co., Inc., 74 Amity Rd, Bethany, CT 06524.
000432	Rousael UCLAF Corp., 170 Beaver Brook Rd, Lincoln Park, NJ 07035.
000655	Prentiss Inc., C. B. 2000, Floral Park, NY 11002.
000876	Velsicol Chemical Corp., 10400 W. Higgins Rd., Suite 600, Rosemont, IL 60018.
001386	Universal Cooperatives Inc., Box 460, 7801 Metro Parkway, Minneapolis, MN 55440.
002752	ELF Atochem N.A. Inc., Decco Division, Three Parkway, Philadelphia, PA 19102.
002935	Wilbur Ellis Co., 191 W. Shaw Ave, Fresno, CA 93704.
003125	Miles Inc., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.
003772	Earl May Seed & Nursery L.P., c/o Bonide Products Inc., 2 Wurz Ave, Yorkville, NY 13495.
005887	Wilbur-Ellis Co., Box 9518, Fresno, CA 93792.
007969	BASF Corp., Agricultural Chemicals Group, Box 13528, Research Triangle Park, NC 27709.
008006	Easy Chemical & Mfg Co., Inc., R R 1, Seward, NE 68434.
020954	Sandoz Crop Protection Corp., Zoecon Research Institute, 12200 Denton Dr, Dallas, TX 75234.
034704	Platte Chemical Co., Inc., c/o Willaim M. Mahlburg, Box 667, Greeley, CO 80632.
036301	Degesch America, Inc., Houston Division, 14802 Park Almeda Drive, Box 451036, Houston, TX 77245.
047000	Chem-Tech, Ltd, 4515 Fleur Dr., #303, Des Moines, IA 50321.
055947	Sandoz Agro, Inc., 1300 E. Touhy Ave., Des Plaines, IL 60018.
059639	Valent U.S.A. Corp., 1333 N. California Blvd., Box 8025, Walnut Creek, CA 94596.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before June 1, 1993. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1-year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** No. 123, Vol. 56, dated June 26, 1991. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

Dated: February 19, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 93–4668 Filed 3–2–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–240102; FRL–4185–4]

State Registrations of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 18 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register**.

DATES: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT: Edith Minor, Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 226, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5263.

SUPPLEMENTARY INFORMATION: This notice only lists the section 24(c)

applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the appropriate State for action. Most of the registrations listed below were received by the EPA in September through November of 1992. Receipts-of-State registrations will be published periodically. Of the following registrations, one involves a changed-use pattern (CUP). The term "changed use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Alabama

EPA SLN No. AL 92 0007. Ciba-Geigy Corp. Registration is for Profenofos to be used on cotton to control insects and mites. September 1, 1992.

Arizona

EPA SLN No. AZ 92 0010. Gowan Co. Registration is for Dimethoate to be used on citrus to control thrips. November 20, 1992.

EPA SLN No. AZ 92 0011. Gowan Co. Registration is for Diazinon to be used on Chinese cabbage to control mile cricket, fleas, and cucumber beetles. November 20, 1992.

California

EPA SLN No. CA 92 0016. Great Lakes Chem Corp. Registration is for Methyl Bromide to be used on coffee beans to control coffee rust disease. September 1, 1992.

EPA SLN No. CA 92 0018. Rohm & Haas Co. Registration is for Oxyfluorfen to be used on garlic to control broadleaf weeds. September 1, 1992.

EPA SLN No. CA 92 0019. ICI Americas, Inc. Registration is for Permethrin to be used on alfalfa to control cutworms. September 1, 1992.

EPA SLN No. CA 92 0021. Rohm & Haas Co. Registration is for Myclobutanil to be used on ornamental plants to control rust and leaf spot mildew. September 1, 1992.

EPA SLN No. CA 92 0022. Gowan Co. Registration is for Diazinon to be used on broccoli Raab (rapini) to control diamondback moth. September 30, 1992.

EPA SLN No. CA 92 0024. Pace International, L.P. Registration is for Metaldehyde to be used on prickly pear cactus to control slugs and snails. September 30, 1992.

EPA SLN No. CA 92 0025. Miles, Inc. Registration is for Di-Syston to be used on bermuda grass seed crops to control mealybugs, white flies, and thrips. October 2, 1992.

EPA SLN No. CA 92 0026. Rohm & Haas Co. Registration is for Dicofol to be used on cantaloupe, melons, squash and cucumbers to control mites. October 7, 1992.

EPA SLN No. CA 92 0027. Miles, Inc. Registration is for Bayleton 25 Turf to be used on western red cedar to control cedar leaf blight. October 21, 1992.

Florida

EPA SLN No. FL 92 0008. Haco, Inc. Registration is for Carbaryl to be used on fresh dill to control moles, crickets, and cutworms. September 21, 1992.

EPA SLN No. FL 92 0009. DowElanco. Registration is for Chlorpyrifos to be used on peppers to control beet armyworms. October 6, 1992.

EPA SLN No. FL 92 0010. Dowelanco. Registration is for Chlorpyrifos to be used on tomatoes to control various insects. October 6, 1992.

EPA SLN No. FL 92 0012. Miles, Inc. Registration is for Methamidophos to be used on lettuce to control aphids and cutworm. November 24, 1992.

Hawaii

EPA SLN No. HI 92 0007. ICI Americas, Inc. Registration is for Napropamide to be used on basil to control grasses and weeds. November 20, 1992.

EPA SLN No. HI 92 0009. Drexel Chemical Co. Registration is for Sulfur to be used on papayas to control mites. September 29, 1992.

EPA SLN No. HI 92 0010. Drexel Chemical Co. Registration is for Sulfur to be used on macadamia nuts to control broad mites. September 29, 1992.

Louisiana

EPA SLN No. LA 92 0011. American Cyanamid Co. Registration is for Phorate to be used on sugarcane to control wireworms. September 2, 1992.

EPA SLN No. LA 92 0012. K-I Chemical U.S.A., Inc. Registration is for Thiobencarb to be used on rice to control redstem, cheat, annual weeds, and aquatic weeds. October 21, 1992.

EPA SLN No. LA 92 0013. K-I Chemical U.S.A., Inc. Registration is for Thiobencarb to be used on rice to control aquatic weeds. October 21, 1992.

EPA SLN No. LA 92 0014. Platte Chemical Co., Inc. Registration is for Phorate to be used on sugarcane to control wireworms. November 2, 1992.

Missouri

EPA SLN No. MO 92 0005. Valent U.S.A. Corp. Registration is for Thiobencarb to be used on rice to control grasses and aquatic weeds. September 14, 1992.

EPA SLN No. MO 92 0006. Dearborn Division. Registration is for Dearcide 723 to be used in water systems to control bacteria. September 29, 1992.

Montana

EPA SLN No. MS 92 0009. Ciba-Geigy Corp. Registration is for Cyromazine to be used on cotton gin trash to control flies. September 10, 1992.

Nebraska

EPA SLN No. NE 92 0007. E. I. du Pont DeNemours & Co., Inc. Registration is for Metsulfuron to be used on rangelands and in pastures to control weeds. October 2, 1992.

EPA SLN No. NE 92 0008. E. I. du Pont DeNemours & Co., Inc. Registration is for Finesse Herbicide to be used on winter wheat to control weeds and grasses. October 2, 1992.

North Carolina

EPA SLN No. NC 92 0012. ISK Biotech Corp. Registration is for Chlorothalonil to be used on peaches to control peach scab. November 30, 1992.

EPA SLN No. NC 92 0013. FMC Corp. Registration is for Permethrin to be used on conifer nurseries to control weevils. November 30, 1992.

North Dakota

EPA SLN No. ND 92 0002. Ciba-Geigy Corp. Registration is for Metalaxyl + Mancozeb to be used on potatoes to control blight and tuber and pink rot. September 15, 1992.

New York

EPA SLN No. NY 92 0003. Roussel UCLAF Corp. Registration is for Resmethrin to be used in residential areas and swamps to control mosquitoes. September 1, 1992.

Oregon

EPA SLN No. OR 92 0005. Elf Atochem N.A., Inc. Registration is for Sulfur to be used on apples and pears to control powdery mildew, fungus-scab, and pear psylla. September 4, 1992.

EPA SLN No. OR 92 0008. Gowan Co. Registration is for Phosmet to be used on blueberries to control leafrollers and blueberry maggots. September 10, 1992.

EPA SLN No. OR 92 0009. Miles, Inc. Registration is for Metasystox-R S.C. to be used on apples to control aphids. September 9, 1992.

EPA SLN No. OR 92 0011. Gowan Co. Registration is for Methyl Parathion to

be used on canola/rapeseed to control cabbage aphid and fleabeetles. September 14, 1992.

EPA SLN No. OR 92 0012. Wilbur Ellis Co. Registration is for Methyl Parathion to be used on rapeseed/canola to control cabbage aphids and leaf beetles. October 21, 1992.

EPA SLN No. OR 92 0013. E. I. du Pont DeNemours and Co., Inc. Registration is for Metsulfuron Methyl to be used in pastures and on rangeland to control weeds. October 26, 1992.

EPA SLN No. OR 92 0014. FMC Corp. Registration is for Carbofuran to be used on sugarbeets to control sugarbeet rot and maggots. October 23, 1992.

South Carolina

EPA SLN No. SC 92 0006. Ciba-Geigy Corp. Registration is for Profenofos to be used on cotton to control insects and mites. September 11, 1992.

EPA SLN No. SC 92 0007. ICI Americas, Inc. Registration is for Ro-Neet 6-E to be used on spinach to control nutsledge, annual grasses, and broadleaf weeds. November 20, 1992.

Texas

EPA SLN No. TX 92 0025. E. I. du Pont DeNemours & Co., Inc. Registration is for Benomyl to be used on turnip greens to control leaf spots and powdery mildew. November 24, 1992.

Virginia

EPA SLN No. VA 93 0001. FMC Corp. Registration is for Carbofuran to be used on cucurbits to control cucumber beetles. November 24, 1992.

Washington

EPA SLN No. WA 92 0037. Wilbur Ellis Co. Registration is for Busan 1020 to be used in fruit orchards to control replant diseases. October 14, 1992.

EPA SLN No. WA 92 0038. Buckman Labs, Inc. Registration is for Busan 1020 to be used in fruit orchards to control replant diseases. October 14, 1992.

Wyoming

EPA SLN No. WY 92 0006. Sandoz Agro, Inc. Registration is for Dicamba to be used on millet to control weeds. November 20, 1992.

Authority: Sec. 24, as amended, 92 Stat. 835 (7 U.S.C. 136).

Dated: February 23, 1993.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–4889 Filed 3–2–93; 8:45 am]
BILLING CODE 6560–50–F

[FRL–4600–6]

Proposed Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act; In re M.T. Richards, Inc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Request for public comment.

SUMMARY: Notice of *de minimis* settlement: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), notice is hereby given of a proposed administrative settlement concerning the removal action at the M.T. Richards Superfund Site, Village of Crossville, White County, Illinois. The agreement was proposed by EPA Region V on February 12, 1993. EPA Region V has submitted the proposed agreement to the U.S. Department of Justice for review concurrent with this request for public comment. As of the date of publication, U.S. EPA has not received Department of Justice approval for the proposed agreement.

DATES: Comments must be provided on or before April 2, 1993.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, and should refer to: In Re M.T. Richards Superfund Site in Crossville, Illinois, U.S. EPA Docket No. V–W–93–C–182.

FOR FURTHER INFORMATION CONTACT: Barbara Wester, U.S. Environmental Protection Agency, Office of Regional Counsel, 77 W. Jackson Blvd., Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: Below are listed the parties who have executed binding certifications of their consent to participate in the settlement:

List of Settlors

Abner Trucking Company; Absher Chevrolet, Inc.; Absher Oil Company; Ashland Petroleum Company; Buttes Oil & Gas Company; Cliff Jones Trucking; Eddie Dillon; Farrar Oil Company; Farrar Drilling Company; Grayville Casing Pulling and Supply Co., Inc.; Gwaltney Drilling Company; H&H Oil Company; Jarvis Brothers & Marcell, Inc.; Major Oil Company; Oil Field Research, Inc.; Royalco, Inc.; Royal Oil & Gas Corporation; Ellis Shepherd; Southern Triangle Oil Company; Tamarack Petroleum Company; Texas Eastern Products, Inc.; J.D. Turner; Village of Crossville; Lloyd W. Abbott; Ashland Exploration Inc.; Ashland Oil & Refining Co.; Ashland Pipeline Co.; Bell Brothers; Collins Bros. Oil Co.; Conoco, Inc.; Bill Conyers; Conyers Well Service; Neil R. Etson; Perry Fulk; V.R. Gallagher; Don Gordon; Gulf Oil Corp.; Halliburton Co.; H & H Oil Co.; G.L. Kelly; Kendall Drilling Co.; Kewanee Oil Co.; Kirby Petroleum Co.; Kirk Drilling Co.; Paul S. Knight; Mabee Petroleum Co.; Mac Oil Co.; Marathon Oil Co.; Mobile Oil Corp.; Kenneth E. Musgrove/Musgrove Oil Co.; Murvin Oil Co.; Murvin & Steber; National Supply Co.; Penn Central Corp.; Phillips Petroleum Co.; Richard W. Portis; Reed's Texaco; James L. Schaefer; Schaefer Oil Co.; Shulman Bros., Inc.; Skelly Oil Co.; Jack Small; Sun Co.; Sun Pipeline Co.; Superior Oil Co.; Tartan Oil Co.; T.W. George Trust; West Drilling Co.; William R. Rowe Tank Truck Service; Country Mark Cooperative, Inc., Yingling Oil, Inc.

These parties will pay $1.60 per gallon, with a minimum payment of $500.00, in settlement payments for removal costs under the agreement, subject to the contingency that EPA may elect not to complete the settlement based on matters brought to its attention during the public comment period established by this Notice. One hundred percent of this amount will reimburse EPA for its past costs at the M.T. Richards, Inc. Superfund Site.

EPA is entering into this agreement under the authority of section 122(g) and 107 of CERCLA. Section 122(g) authorizes settlements with *de minimis* parties to allow them to resolve their liabilities at Superfund sites without incurring substantial transaction costs. Under this authority, the agreement proposes to settle with parties for the reimbursement of past costs at the M.T. Richards, Inc. Superfund Site who are responsible for less than 0.0629 percent of the total volume of waste sent to the site between 1947 and 1982. The proposed settlement reflects, and was agreed to based on, conditions as known to the parties as of February 12, 1993. Settling Parties will be required to pay their volumetric share of the Government's past costs at the Site. Settling parties will also be required to pay a settlement premium of 1.0 (i.e., a 2.0 multiplier) to cover the risk of underestimating response costs and of not recovering 100 percent of the Agency's outstanding costs from parties not eligible for or not joining the *de minimis* settlement. In exchange, Settling Parties will receive a complete release from further civil or administrative liabilities for the removal costs expended at the Site. The settlement makes certain allowances for those parties with an inability to pay

defense. The affected parties are: William R. Rowe; Kenneth Musgrove.

The Environmental Protection Agency will receive written comments relating to this agreement for thirty days from the date of publication of this notice.

A copy of the proposed administrative settlement agreement or additional background information relating to the settlement is available for review and may be obtained in person or by mail from Barbara L. Wester, Office of the Regional Counsel, U.S. Environmental Protection Agency, Region V, 77 W. Jackson, Mail Code CS–3T, Chicago, Illinois 60604.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601–9675.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 93–4931 Filed 3–2–93; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or method of collection.

Title: Uniform Application/Uniform Termination for Municipal Securities Principal or Representative.

Form Number: MSD–4/MSD–5.

OMB Number: 3064–0022.

Expiration Date of OMB Clearance: May 31, 1993.

Respondents: Insured state nonmember banks.

Frequency of Response: On occasion.

Number of Respondents: 114.

Number of Responses Per Respondent: 1.

Total Annual Responses: 114.

Average Number of Hours per Response: 1.

Total Annual Burden Hours: 114.

OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0022, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted before May 3, 1993.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: An insured state nonmember bank which is a municipal securities dealer must file Form MSD–4 with the FDIC to permit an employee to be associated with it as a municipal securities principal or representative, and MSD–5 to notify the FDIC that an employee is no longer a municipal securities principal or representative. FDIC uses the forms to ensure compliance with the professional requirements for municipal securities dealers in accordance with the rules of the Municipal Securities Rulemaking Board.

Dated: February 25, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–4831 Filed 3–2–93; 8:45 am]

BILLING CODE 6714-01-M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or method of collection.

Title: Notification of Performance of Bank Services.

Form Number: FDIC 6120/06.

OMB Number: 3064–0029.

Expiration Date of OMB Clearance: May 31, 1993.

Respondents: Insured state nonmember banks.

Frequency of Response: On occasion.

Number of Respondents: 175.

Number of Responses per Respondent: 1.

Total Annual Responses: 175.

Average Number of Hours per Response: 0.5.

Total Annual Burden Hours: 87.5.

OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0029, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted before May 3, 1993.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Form FDIC 6120/06 is used by insured state nonmember banks to notify the FDIC of the existence of a relationship with a bank service corporation as required by section 7 of the Bank Service Corporation Act (12 U.S.C. 1867).

Dated: February 25, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–4830 Filed 3–2–93; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Nippon Yusen Kaisha, et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 472.603 of title 46 of the Code of Federal Regulations. Interested persons

should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 217–011404.

Title: Nippon Yusen Kaisha and Mitsui, O.S.K. Lines, Ltd. Slot Charter, Agreement in the U.S. Far East-U.S., Atlantic Coast.

Parties:

Nippon Yusen Kaisha ("NYK"),
Mitsui O.S.K. Lines, Ltd. ("MOL").

Synopsis: The proposed Agreement authorizes NYK to charter space to MOL from the space allocated to it on vessels operated under Agreement No. 203–011398 (Nippon Yusen Kaisha, Hapag Lloyd, A.G. and Neptune Orient Lines, Ltd. Far East/United States/North Europe Space Charter and Sailing Agreement) in the trade between ports in the Far East and ports and points on the U.S. Atlantic Coast. The parties have requested a shortened review period.

Agreement No.: 224–200746.

Title: Port Authority of New York and New Jersey/Zim American Israeli Shipping Co. Inc., Container Incentive Agreement.

Parties:

Port Authority of New York and New Jersey ("Port Authority"), Zim American Israeli Shipping Co. Inc. ("Zim").

Synopsis: The subject Agreement permits the Port Authority to make incentive payments to Zim of $20 per import and $40 per export container loaded with cargo that transits the Port and is shipped by rail to or from points more than 260 miles from the Port.

Agreement No.: 224–200747.

Title: The Port Authority of New York & New Jersey/Hapag-Lloyd (America) Inc. Container Incentive Agreement.

Parties:

The Port Authority of New York and New Jersey ("Port Authority"), Hapag-Lloyd (America) Inc. ("Hapag").

Synopsis: The Agreement provides for the Port Authority to make payments to Hapag in the amount of $20/import and $40/export for containerized cargo loaded or unloaded at the Port Authority. In addition each container must have been shipped by rail to or from points more than 260 miles from the port and be subject to a rail freight bill or waybill issued on or after January 1, 1993. The Agreement will terminate on December 1, 1993.

Agreement No.: 224–200749.

Title: Port Authority of New York and New Jersey/Ivaran Agencies Inc. Container Incentive Agreement.

Parties:

Port Authority of New York and New Jersey ("Port Authority"), Ivaran Agencies, Inc. ("Ivaran").

Synopsis: The subject Agreement permits the Port Authority to make incentive payments to Ivaran of $20 per import and $40 per export container loaded with cargo that transits the Port and is shipped by rail to or from points more than 260 miles from the Port.

Agreement No.: 224–200750.

Title: The Port Authority of New York & New Jersey/Lykes Brothers Shipping Co. Container Incentive Agreement.

Parties:

The Port Authority of New York and New Jersey ("Port Authority"), Lykes Brothers Shipping Co. ("Lykes").

Synopsis: The Agreement provides for the Port Authority to make payments to Lykes in the amount of $20/import and $40/export for containerized cargo loaded or unloaded at the Port Authority. In addition each container must have been shipped by rail to or from points more than 260 miles from the port and be subject to a rail freight bill or waybill issued on or after January 1, 1993. The Agreement will terminate on December 1, 1993.

Dated: February 25, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–4814 Filed 3–2–93; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Discovery Cruise Line Partnership, Discovery Cruises, Inc. and Discovery Sea Tours, Inc., 1850 Eller Drive, Ft. Lauderdale, Florida 33316.

Vessel: Discovery I.

Dated: February 25, 1993.

Joseph C. Polking.,

Secretary.

[FR Doc. 93–4802 Filed 3–2–93; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Discovery Cruise Line Partnership, Discovery Cruises, Inc. and Discovery Sea Tours, Inc., 1850 Eller Drive, Ft. Lauderdale, Florida 33316.

Vessel: Discovery I.

Dated: February 25, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–4802 Filed 3–2–93; 8:45 am]

BILLING CODE 6730–01–M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

Proposed Border Station, Located East of Calexico, CA, Notice of Availability for a Draft Environmental Impact Statement

The General Services Administration (GSA) hereby gives notice that a Draft Environmental Impact Statement (DEIS) has been prepared in accordance with the National Environmental Policy Act (NEPA) for a proposed new port of entry to be located approximately six miles east of the city of Calexico, California. The DEIS is being made available February 26, 1993. GSA is the lead federal agency for the preparation of the EIS. The DEIS evaluates the proposed project, the no-action alternative, and expansion of the existing port of entry in Calexico.

Written comments on the alternatives, impacts and mitigation measures should be sent no later than April 14, 1993 to the GSA's EIS contractor, Environmental Science Associates, Inc. at 4221 Wilshire Boulevard, suite 480, Los Angeles, CA 90010–3512. Comments will also be accepted at a public meeting to be held on March 25, 1993, at the El Centro Community Center, 375 South First Street, El Centro, California 92243. The meeting will be held in two sessions: One starting at 2:30 p.m., and another starting at 7 p.m. At these sessions, representatives of GSA, the California Department of Transportation, and Environmental

Science Associates will receive comments from interested parties regarding the proposed project, the environmental analysis and proposed mitigation measures. All comments received will be made a part of the administrative record for the DEIS and will be evaluated as part of the Final EIS review process.

For further information contact Mr. Alan Campbell, General Services Administration, Public Buildings Service, Planning Staff (9PL), 525 Market Street, San Francisco, California 94105. Telephone number (415) 744–5252.

Dated: February 22, 1993.

Wolfgang J. Zoellner,

Acting Regional Administrator (9A).

[FR Doc. 93–4829 Filed 3–2–93; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Workshop To Assist In Developing a Standardized Test Battery for Birth Defects and Reproductive Disorders for Use in Environmental Health Field Studies; Meeting

The Agency for Toxic Substances and Disease Registry (ATSDR), in association with the University of Cincinnati, announces the following meeting.

Name: Workshop to Assist in Developing a Standardized Test Battery for Birth Defects and Reproductive Disorders for Use in Environmental Health Field Studies.

Time and Dates: 8 a.m.–6 p.m., May 17–18, 1993.

Place: Days Hotel at Lenox, 3377 Peachtree Road, NE., Atlanta, Georgia 30326.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: This workshop will assist ATSDR in the selection of standardized testing and evaluation methods for investigating the association between reproductive and developmental disorders in humans and exposure to hazardous substances in the environment.

Matters to be Considered: Participants will be divided into the following three workgroups:

Workgroup 1: Female Reproductive Disorders
Workgroup 2: Male Reproductive Disorders
Workgroup 3: Developmental Disorders and Birth Defects

Each workgroup will discuss three major topics:

(1) Development of testing and evaluation methods for immediate use in environmental health studies.

(2) Identification of significant information needs in the implementation of these evaluation methods and criteria for the interpretation and continuous modification and updating/of the standard methods.

(3) Development of criteria for classification of birth defects and reproductive disorders.

Contact Person for More Information: Joyce Smith, Division of Health Studies, ATSDR (MS E31), 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/639–6200.

Dated: February 24, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination.

[FR Doc. 93–4863 Filed 3–2–93; 8:45 am]

BILLING CODE 4160–70–M

Food and Drug Administration

[Docket No. 93N–0077]

Heather Drug Co., et al.; Withdrawal of Approval of 25 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 25 abbreviated new drug applications (ANDA's). The holders of the ANDA's notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: April 2, 1993.

FOR FURTHER INFORMATION CONTACT: Lola E. Batson, Center for Drug Evaluation and Research (HFD–360), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8038.

SUPPLEMENTARY INFORMATION: The holders of the ANDA's listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

ANDA no.	Drug	Applicant
80–189	Sulfisoxazole Tablets, USP, 500 milligrams (mg) ...	Heather Drug Co., c/o Lachman Consultant Services, Inc., 1600 Stewart Ave., Westbury, NY 11590.
80–841	Dimenhydrinate Tablets, 50 mg ...	Do.
83–953	Diphenhydramine Hydrochloride Capsules, USP, 50 mg	Do.
84–046	Meclizine Hydrochloride Tablets, USP, 25 mg	Richlyn Laboratories, Inc., Castor and Kensington Avenues, Philadelphia, PA 19124.
84–256	Meclizine Hydrochloride Tablets, USP, 12.5 mg	Do.
84–329	Meprobamate Tablets, 600 mg	Heather Drug Co.
84–341	Prednisone Tablets, USP, 10 mg	Do.
84–524	Diphenhydramine Hydrochloride Capsules, USP, 25 mg	Do.
84–675	Methocarbamol Tablets, 500 mg .	Do.
84–924	Methocarbamol Tablets, 750 mg .	Do.
85–400	Succinylcholine Chloride Sterile Solution, 5 milliliters (mL), 100 mg	International Medication Systems, Limited, 1886 Santa Anita Ave., South El Monte, CA 91733.
85–543	Prednisone Tablets, USP, 20 mg	Heather Drug Co.
85–736	Cortisone Acetate Tablets, USP, 25 mg	Do.
85–780	Propantheline Bromide Tablets, 15 mg	Do.
86–798	Diphenoxylate Hydrochloride with Atropine Tablets, 2.5/0.025 mg	Do.
86–948	Prednisone Tablets, USP, 50 mg	Do.
87–307	Sulfamethoxazole Tablets, 500 mg .	Shionogi USA, Inc., 3848 Carson St., suite 206, Torrance, CA 90503.
87–452	Heparin Sodium Injection, USP, 1,000 units/mL	Luitpold Pharmaceuticals, Inc., One Luitpold Dr., Shirley, NY 11967.

ANDA no.	Drug	Applicant
87–693	Ergomar Sublingual Tablets (ergotamine tartrate tablets, USP), 2 mg	Fisons Corp., P.O. Box 1710, Rochester, NY 14603.
88–453	Sodium Polystyrene Sulfonate Suspension, USP	Roxane Laboratories, Inc., P.O. Box 16532, Columbus, OH 43216–6532.
88–470	Isoetharine Inhalation Solution, USP, 0.167%	Astra Pharmaceutical Products, Inc., 50 Otis St., Westborough, MA 01581–4500.
88–471	Isoetharine Inhalation Solution, USP, 0.2%	Do.
88–472	Isoetharine Inhalation Solution, USP, 0.25%	Do.
89–052	Chlorthalidone Tablets, USP, 50 mg	Pharmaceutical Basics, Inc., 301 South Cherokee St., Denver, CO 80223.
89–063	Heparin Lock Flush Solution, 10 USP units/mL	Luitpold Pharmaceuticals, Inc.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of the ANDA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective April 2, 1993.

Dated: February 18, 1993.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 93–4792 Filed 3–2–93; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Final Funding Preference and Priority for Cooperative Agreements for Area Health Education Centers Program for Fiscal Year 1993

The Health Resources and Services Administration (HRSA) announces the final funding preference and priority for Cooperative Agreements for Area Health Education Centers authorized under section 746(a)(1) (previously section 781(a)(1) of the Public Health Service (PHS) Act), as amended by the Health Professions Education Extension Amendments of 1992, Public Law 102–408, dated October 13, 1992.

Purpose

Section 746(a)(1) of the PHS Act authorizes Federal assistance to schools of medicine and osteopathic medicine which have cooperative arrangements with one or more public or nonprofit private area health education centers for the planning, development and operation of area health education center programs.

Approximately $18.7 million will be available in FY 1993 for this program. Total continuation support recommended is $9.7 million. It is anticipated that $9.0 million will be available to support eight competing awards averaging $1.1 million each.

The Health Professions Education Extension Amendments of 1992, Public Law 102–408, Dated October 13, 1992

Since this program was announced on October 5, 1992, Pub. L. 102–408 was passed by the Congress and signed by the President. This legislation resulted in the following changes for the AHEC Program:

(1) Period of Support

The maximum period during which the AHEC *program* may receive payments shall be 12 years, subject to annual approval by the Secretary and the availability of appropriated funds. The maximum period during which an AHEC *center* developed by a program may receive payments shall be 6 years. The provision for a 12-year maximum shall not be construed as establishing a limitation on the number of awards under this authority that may be made to the school involved.

(2) General Requirements

As provided in section 746(b), a medical or osteopathic medical school may not receive an award for operational expenses under the existing basic AHEC award authority unless the program:

(a) maintains preceptorship educational experiences for health science students;

(b) maintains community-based primary care residency programs or is affiliated with such programs;

(c) maintains continuing education programs for health professionals or coordinates with such programs;

(d) maintains learning resource and dissemination systems for information identification and retrieval;

(e) has agreements with community-based organizations for the delivery of education and training in the health professions;

(f) is involved in the training of health professionals (including nurses and allied health professionals), except to the extent inconsistent with the law of the State in which the training is conducted; and

(g) carries out recruitment programs for the health science professions, or programs for health-career awareness, among minority and other elementary or secondary students from areas the program has determined to be medically underserved.

(3) Requirement for Participation of Other Health Professions Schools or Programs

The former requirement that participating medical schools provide for the active participation of at least 2 schools or programs of other health professions (including a school of dentistry if there is one affiliated with the medical school's university) is modified to require also participation of a graduate program of mental health practice if there is one affiliated with the university.

(4) Requirement for Expenditure of at Least 75 Percent of Award in Centers

The former requirement that at least 75 percent of the total funds provided to a school under any AHEC program authority (basic AHEC programs, AHEC Special Initiatives, or model AHEC programs) be expended by the AHEC program in AHEC centers has been amended, as provided in section 746(e)(1)(A) to require also that the school enter into an agreement with each of such centers for purposes of specifying the allocation of the 75 percent of funds.

(5) Alternative Matching Requirements for New AHEC Programs Developed Under Basic AHEC Authority

As provided in section 746(e)(2), for an AHEC center developed as part of an AHEC program first funded under the basic AHEC authority on or after the date of enactment of this Act, the existing requirement that not more than 75 percent of total operating funds be provided by the Federal Government is amended to establish a ceiling of 55 percent of any fifth or sixth year of the development or operation of the center.

Established Funding Preference for Fiscal Year 1993

In making awards for fiscal year 1993, a funding preference will be given to approved competing continuation applications under section 746(a)(1).

Established Funding Priorities for Fiscal Year 1993

A funding priority will be given to the following:

1. Applications which demonstrate substantial clinical training (a student or resident clerkship or preceptorship of 4 to 8 weeks) in one or more PHS Act, section 332 Health Professional Shortage Area(s) and/or PHS Act, section 329 Migrant Health Center, a PHS Act, section 330 Community Health Center, or a State designated clinic/center serving an underserved population. Section 332 establishes criteria to designate geographic areas, population groups, medical facilities, and other public facilities in the States as Health Professional Shortage Areas. Section 329 authorizes support for migrant health facilities nationwide and comprises a network of health care services for migrant and seasonal farm workers. Section 330 authorizes support for community health care services to medically underserved populations.

2. Applications proposing centers that will serve Health Professional Shortage Areas with a greater proportion of American Indian/Alaskan Natives, Asian/Pacific Islanders, Blacks and/or Hispanics than exists in the general population in the United States.

Final Funding Preference and Funding Priority for Fiscal Year 1993

An additional proposed funding preference and priority were announced in the **Federal Register** on October 5, 1992 at 57 FR 45815. No comments were received during the 30-day comment period. Therefore, the proposed funding preference and priority will be retained as follows:

Funding Preference

A funding preference will be given to approved competing new applications under section 746(a)(1) which propose to plan, develop and implement an AHEC program in a State where there is no existing AHEC program. These approved applications will be funded after approved competing continuation applications.

Funding Priority

A funding priority will be given to applications which demonstrate the development or implementation of information dissemination systems with the capability to provide state-of-the-art information on clinical modalities, protocols, and other guidelines which can address emerging health issues such as substance abuse, clinical preventive services, infant mortality and geriatrics for primary care practitioners, including National Health Service Corps personnel.

Additional Information

If additional programmatic information is needed, please contact: Ms. Cherry Tsutsumida, Chief, AHEC and Special Programs Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, Room 4C–05, Rockville, Maryland 20857, Telephone: (301) 443–6817. FAX (301) 443–8890.

This program is listed at 93.824 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: February 25, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–4791 Filed 3–2–93; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health (NIH)

National Institute on Aging; Notice of Meeting of the Task Force on Aging Research

Pursuant to Public Law 92–463, notice is hereby given that the Task Force on Aging Research will meet on March 23, 1993, from 9 to 11 a.m. in Conference Room 6, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The entire meeting will be open to the public. The Task Force will meet to approve the interim report of the Task Force and decide how to prioritize the recommendations that by then will have been developed by the members. Attendance by the public will be limited to space available.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ronald P. Abeles, Ph.D., Executive Secretary, Task Force on Aging Research, the Gateway Building, 7201 Wisconsin Avenue, suite 2C–234, Bethesda, Maryland 20892, at (301) 496–3136, in advance of the meeting. Dr. Abeles will also provide substantive information on the meeting, a roster of the committee members and a summary of the meeting upon request.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: February 24, 1993.

Suan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–4795 Filed 3–2–93; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS (Formerly: National Institute on Drug Abuse, ADAMHA, HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11979, 11986). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

FOR FURTHER INFORMATION CONTACT: Denise L. Goss, Program Assistant, Division of Workplace Programs, Room 9–A–54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443–6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in an every-other-

month performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are *not* to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

AccuTox Analytical Laboratories, 427 Fifth Avenue NW., P.O. Box 770, Attalla, AL 35954–0770, 205–538–0012/800–247–3893

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Road, Suite 21, Nashville, TN 37211, 615–331–5300

Alabama Reference Laboratories, Inc., 543 South Hull Street, Montgomery, AL 36103, 800–541–4931/205–263–5745

Allied Clinical Laboratories, 201 Plaza Boulevard, Hurst, TX 76053, 817–282–2257

American Medical Laboratories, Inc., 14225 Newbrook Drive, Chantilly, VA 22021, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Avenue, Suite 250, Las Vegas, NV 89119–5412, 702–733–7866

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–227–2783 (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Bayshore Clinical Laboratory, 4555 W. Schroeder Drive, Brown Deer, WI 53223, 414–355–4444/800–877–7016

Bioran Medical Laboratory, 415 Massachusetts Avenue, Cambridge, MA 02139, 617–547–8900

California Toxicology Services, 1925 East Dakota Avenue, Suite 206, Fresno, CA 93726, 209–221–5655/800–448–7600

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Avenue, Miami, FL 33136, 305–325–5810

Centinela Hospital Airport Toxicology Laboratory, 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310–215–6020

Clinical Pathology Facility, Inc., 711 Bingham Street, Pittsburgh, PA 15203, 412–488–7500

Clinical Reference Lab, 11850 West 85th Street, Lenexa, KS 66214, 800–445–6917

CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263/800–833–3984

CompuChem Laboratories, Special Division, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263

Cox Medical Centers, Department of Toxicology, 1423 North Jefferson Avenue, Springfield, MO 65802, 800–876–3652/417–836–3093

CPF MetPath Laboratories, 21007 Southgate Park Boulevard, Cleveland, OH 44137–3054, 800–338–0166 (outside OH)/800–362–8913 (inside OH) (name changed: formerly Southgate Medical Laboratory; Southgate Medical Services, Inc.)

Damon Clinical Laboratories, 140 East Ryan Road, Oak Creek, WI 53154, 800–638–1100 (name changed: formerly Chem-Bio Corporation; CBC Clinilab)

Damon Clinical Laboratories, 8300 Esters Blvd., Suite 900, Irving, TX 75063, 214–929–0535

Dept. of the Navy, Navy Drug Screening Laboratory, Norfolk, VA, 1321 Gilbert Street, Norfolk, VA 23511–2597, 804–444–8089 ext. 317

Doctors & Physicians Laboratory, 801 East Dixie Avenue, Leesburg, FL 32748, 904–787–9006

Drug Labs of Texas, 15201 I–10 East, Suite 125, Channelview, TX 77530, 713–457–3784

DrugScan, Inc., P.O. Box 2969 , 1119 Mearns Road, Warminster, PA 18974, 215–674–9310

Eagle Forensic Laboratory, Inc., 950 North Federal Highway, Suite 308, Pompano Beach, FL 33062, 305–946–4324

ElSohly Laboratories, Inc., 1215½ Jackson Ave., Oxford, MS 38655, 601–236–2609

Employee Health Assurance Group, 405 Alderson Street, Schofield, WI 54476, 800–627–8200 (name change: formerly Alpha Medical Laboratory, Inc.)

General Medical Laboratories, 36 South Brooks Street, Madison, WI 53715, 608–267–6267

Harrison & Associates Forensic Laboratories, 606 N. Weatherford, P.O. Box 2788, Midland, TX 79702, 800–725–3784/915–687–6877

HealthCare/Preferred Laboratories, 24451 Telegraph Road, Southfield, MI 48034, 800–328–4142 (inside MI)/800–225–9414 (outside MI)

Hermann Hospital Toxicology Laboratory, Hermann Professional Building, 6410 Fannin, Suite 354, Houston, TX 77030, 713–793–6080

IHC Laboratory Services Forensic Toxicology, 930 North 500 West, Suite E, Provo, UT 84604, 800–967–9766

Jewish Hospital of Cincinnati, Inc., 3200 Burnet Avenue, Cincinnati, Ohio 45229, 513–569–2051

Laboratory of Pathology of Seattle, Inc., 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672

Laboratory Specialists, Inc., 113 Jarrell Drive, Belle Chasse, LA 70037, 504–392–7961

Marshfield Laboratories, 1000 North Oak Avenue, Marshfield, WI 54449, 715–389–3734/800–222–5835

Mayo Medical Laboratories, 200 S.W. First Street, Rochester, MN 55905, 507–284–3631

Med-Chek Laboratories, Inc., 4900 Perry Highway, Pittsburgh, PA 15229, 412–931–7200

MedExpress/National Laboratory Center, 4022 Willow Lake Boulevard, Memphis, TN 38175, 901–795–1515

MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc., 9176 Independence Avenue, Chatsworth, CA 91311, 818–718–0115/800–331–8670 (outside CA)/800–464–7081 (inside CA) (name changed: formerly Laboratory Specialists, Inc.; Abused Drug Laboratories)

MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc., 2356 North Lincoln Avenue, Chicago, IL 60614, 312–880–6900 (name changed: formerly Bio-Analytical Technologies)

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 800–832–3244/612–636–7466

Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Boulevard, Indianapolis, IN 46202, 317–929–3587

Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Avenue, Peoria, IL 61636, 800–752–1835/309–671–5199

MetPath, Inc., 1355 Mittel Boulevard, Wood Dale, IL 60191, 708–595–3888

MetPath, Inc., One Malcolm Avenue, Teterboro, NJ 07608, 201–393–5000

MetWest-BPL Toxicology Laboratory, 18700 Oxnard Street, Tarzana, CA 91356, 800–492–0800/818–343–8191

National Center for Forensic Science, 1901 Sulphur Spring Road, Baltimore, MD 21227, 410–536–1485 (name changed: formerly Maryland Medical Laboratory, Inc.)

National Drug Assessment Corporation, 5419 South Western, Oklahoma City, OK 73109, 800–749–3784 (name changed: formerly Med Arts Lab)

National Health Laboratories Incorporated, 2540 Empire Drive, Winston-Salem, NC 27103–6710, 919–760–4620/800–334–8627 (outside NC)/800–642–0894 (inside NC)

National Health Laboratories Incorporated, 75 Rod Smith Place, Cranford, NJ 07016–2843, 908–272–2511
National Health Laboratories Incorporated, d.b.a. National Reference Laboratory, Substance Abuse Division, 1400 Donelson Pike, Suite A–15, Nashville, TN 37217, 615–360–3992/800–800–4522
National Health Laboratories Incorporated, 13900 Park Center Road, Herndon, VA 22071, 703–742–3100/800–572–3734 (inside VA)/800–336–0391 (outside VA)
National Psychopharmacology Laboratory, Inc., 9320 Park W. Boulevard, Knoxville, TN 37923, 800–251–9492
National Toxicology Laboratories, Inc., 1100 California Avenue, Bakersfield, CA 93304, 805–322–4250
Nichols Institute Substance Abuse Testing (NISAT), 7470–A Mission Valley Road, San Diego, CA 92108–4406, 800–446–4728/619–686–3200 (name changed: formerly Nichols Institute)
Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361
Occupational Toxicology Laboratories, Inc., 2002 20th Street, Suite 204A, Kenner, LA 70062, 504–465–0751
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Avenue, Eugene, OR 97440–0972, 503–687–2134
Parke DeWatt Laboratories, Division of Comprehensive Medical Systems, Inc., 1810 Frontage Rd., Northbrook, IL 60062, 708–480–4680
Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400
PDLA, Inc. (Precision), 5 Industrial Park Drive, Oxford, MS 38655, 601–236–5600/800–237–7352
PDLA, Inc. (Princeton), 100 Corporate Court, So. Plainfield, NJ 07080, 908–769–8500/800–237–7352
PharmChem Laboratories, Inc., 1505–A O'Brien Drive, Menlo Park, CA 94025, 415–328–6200/800–446–5177
PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Drive, Fort Worth, TX 76118, 817–595–0294 (Formerly: Harris Medical Laboratory)
Physicians Reference Laboratory Toxicology Laboratory, 7800 West 110th Street, Overland Park, KS 66210, 913–338–4070
Poisonlab, Inc., 7272 Clairemont Mesa Road, San Diego, CA 92111, 619–279–2600/800–882–7272
Precision Analytical Laboratories, Inc., 13300 Blanco Road, Suite #150, San Antonio, TX 78216, 512–493–3211
Puckett Laboratory, 4200 Mamie Street, Hattiesburgh, MS 39402, 601–264–3856/800–844–8378
Regional Toxicology Services, 15305 N.E. 40th Street, Redmond, WA 98052, 206–882–3400
Resource One, Inc., Seven Pointe Circle, Greenville, SC 29615, 803–233–5639
Roche Biomedical Laboratories, 1801 First Avenue South, Birmingham, AL 35233, 205–581–4170
Roche Biomedical Laboratories, 1957 Lakeside Parkway, Suite 542, Tucker, GA 30084, 404–939–4811
Roche Biomedical Laboratories, Inc., 1120 Stateline Road, Southaven, MS 38671, 601–342–1286
Roche Biomedical Laboratories, Inc., 69 First Avenue, Raritan, NJ 08869, 800–437–4986
Scott & White Drug Testing Laboratory, 600 S. 25th Street, Temple, TX 76504, 800–749–3788
S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505–848–8800
Sierra Nevada Laboratories, Inc., 888 Willow Street, Reno, NV 89502, 800–648–5472
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Avenue, Van Nuys, CA 91045, 818–376–2520
SmithKline Beecham Clinical Laboratories, 3175 Presidential Drive, Atlanta, GA 30340, 404–934–9205 (name changed: formerly SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 506 E. State Parkway, Schaumburg, IL 60173, 708–885–2010 (name changed: formerly International Toxicology Laboratories)
SmithKline Beecham Clinical Laboratories, 11636 Administration Drive, St. Louis, MO 63146, 314–567–3905
SmithKline Beecham Clinical Laboratories, 400 Egypt Road, Norristown, PA 19403, 800–523–5447 (name changed: formerly SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301 (name changed: formerly SmithKline Bio-Science Laboratories)
South Bend Medical Foundation, Inc., 530 N. Lafayette Boulevard, South Bend, IN 46601, 219–234–4176
St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee Street, Oklahoma City, OK 73102, 405–272–7052
St. Louis University Forensic Toxicology Laboratory, 1205 Carr Lane, St. Louis, MO 63104, 314–577–8628
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 314–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Avenue, Miami, FL 33166, 305–593–2260

The following laboratory has voluntarily withdrawn from the National Laboratory Certification Program, effective February 11, 1993: Eastern Laboratories, Ltd., 95 Seaview Boulevard, Port Washington, NY 11050, 516–625–9800

Richard Kopanda,

Acting Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 93–4899 Filed 3–2–93; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–060–03–4410–03]

Proposed Amendment for the Henry Mountain Resource Area Management Framework Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The proposed planning amendment for the Henry Mountain Resource Area (HMRA) Management Framework Plan (MFP) and associated Environmental Assessment (EA) to allow for the change in allocation of forage between wildlife and livestock is available. The Utah Division of Wildlife Resources has evaluated the need for additional buffalo (Bison bison) in the HMRA and has assisted the Bureau of Land Management (BLM) in preparing an Environmental Assessment addressing the forage allocations in the Pennell, Steel Butte, and Nasty Flat allotments. This area is within the area which has been nominated for the Buffalo Habitat Area of Critical Environmental Concern. The following Wilderness Study Areas (WSA) are involved: Mount Ellen-Blue Hills WSA, Bull Mountain WSA, and Mount Pennell WSA. Changes would be within the guidelines of the Interim Management Policy and would not impair or prevent areas from being eligible for wilderness designation.

This amendment will increase the allocation of forage to buffalo and reduce the allocation of forage to livestock on the Pennell, Steel Butte, and Nasty Flat allotments.

This amendment would also provide for the adjustment in forage allocations between allotments throughout the HMRA between livestock and wildlife as determined to be needed by monitoring and analysis.

DATES: The protest period for this proposed plan amendment will commence with the date of publication of this notice. Protests must be submitted on or before April 2, 1993.

FOR FURTHER INFORMATION CONTACT: Alan Partridge, Bureau of Land Management, Richfield District Office, 900 North 150 East, Richfield, Utah 84701.

SUPPLEMENTARY INFORMATION: This action is announced pursuant to section 202(a) of the Federal Land Policy and Management Act of 1976, and 43 CFR part 1610. The planning amendment is subject to protest from any adversely affected party who participated in the planning process. Protest must be made in accordance with the provisions of 43 CFR 1610.5–2. Protests must be received by the Director of the BLM, MS 5660, 1849 C Street, NW., Washington, DC 20240, within 30 days after the date of publication of this Notice of Availability for the proposed planning amendment.

James M. Parker,

State Director.

[FR Doc. 93–4849 Filed 3–2–93; 8:45 am]

BILLING CODE 4310–DQ–M

[UT–020–03–4333–02]

Notice of Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice is to advise the public that the Bureau of Land Management (BLM), Salt Lake District, proposes to amend the Pony Express Resource Management Plan (RMP) and complete associated environmental assessments (EA). Necessary amendment to the approved plan will keep the document current and viable. This notice is intended to inform the public of the planning effort and to invite public participation in the identification of the planning process.

FOR FURTHER INFORMATION CONTACT: Howard Hedrick, Pony Express Resource Area Manager, Bureau of Land Management, Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119, or telephone (801) 977–4300.

SUPPLEMENTARY INFORMATION: The amended Pony Express RMP will be prepared under 43 CFR part 1610 to meet the requirements of section 202 of the Federal Land Policy and Management Act of 1976. Decisions generated during this planning process will supersede the decisions in the 1990 Pony Express RMP.

The Pony Express Resource Area encompasses the Salt Lake, Tooele, and Utah Counties in the northwest corner of Utah. Additionally, the Pony Express Resource Area manages mineral interests on other public lands.

Two amendments and associated EAs will be prepared. The first will address the following issues: Withdrawals and transportation corridors, recreation and visual resource management, wildlife habitat management areas, and cultural resource management. The second will address proposed changes to the area's wild horse range designations.

Public participation is being sought at this initial stage in the planning process to ensure the RMP amendments address all issues, problems, and concerns from those interested in the management of lands within the Pony Express Resource Area. Public meetings will be announced at a later date in local newspapers. The comment period for this notice will commence with the date of publication of this notice. Comments must be submitted on or before April 2, 1993.

G. William Lamb,

Acting State Director.

[FR Doc. 93–4848 Filed 3–2–93; 8:45 am]

BILLING CODE 4310–DQ–M

[CA–060–4410–03]

South Coast Proposed Resource Management Plan and Final Environmental Impact Statement, Southern California

AGENCY: Bureau of Land Management, Palm Springs-South Coast Resource Area, California Desert District.

ACTION: Notice of availability.

SUMMARY: A Proposed Resource Management Plan/Final Environmental Impact Statement (PRMP/FEIS) has been prepared for the South Coast Planning Area (FES No. 93–5). The PRMP/FEIS describes and analyzes alternatives for future management of approximately 296,000 acres of public land located in portions of the California Counties of San Diego, Riverside, Los Angeles, San Bernardino and Orange; these public lands include 167,000 acres of split estate lands where there are federally-owned minerals but the land surface is privately owned. Copies of the PRMP/FEIS may be obtained from the Palm Springs-South Coast Resource Area, 63–500 Garnet Avenue, P.O. Box 2000, North Palm Springs, CA 92258, phone (619) 251–0812. Copies will be available for reading at several public libraries within the five county planning area and at the following additional BLM locations:

Office of Public Affairs, Main Interior Bldg., room 5600, 18th and C Street NW., Washington, DC 20240

California State Office, 2800 Cottage Way, room E–2845, Sacramento, CA 95825

California Desert District Office, 6221 Box Springs Boulevard, Riverside, CA 92507

SUPPLEMENTARY INFORMATION: The PRMP/FEIS describes and analyzes the proposed action to resolve the following issues: (1) Land Ownership and Use Authorizations, (2) Threatened, Endangered and Other Sensitive, (3) Open Space, (4) Recreation and Public Access, and (5) Oil and Gas Leasing and Sand and Gravel Development.

The PRMP/FEIS proposes seven Areas of Critical Environmental Concern (ACEC's). The PRMP would designate:

The Cedar Canyon ACEC (705 acres) for preservation of populations of Mexican flannelbush. Cedar Canyon is near Otay Mountain in San Diego County. The ACEC would be a right-of-way avoidance area, not available for mineral material sales or livestock grazing and closed to motorized vehicle use. Acquisition of 280 acres for addition to the ACEC would be pursued.

Lands surrounding Tecate Peak (355 acres) and Little Tecate Peak (269 acres) as the Kuchamaa ACEC for the protection of Native American religious heritage. The ACEC would be a right-of-way avoidance area, not available for mineral material sales or livestock grazing. Motorized vehicle use within the ACEC would be limited. The feasibility of relocating or removing the existing communication site facilities on Tecate Peak would be explored. Acquisition of approximately 500 acres for addition to the ACEC would be pursued.

Potrero ACEC (1,030 acres) in Riverside County for preservation of Stephens' kangaroo rat habitat. The ACEC would be a right-of-way avoidance area and unavailable for mineral material sales. Withdrawal of the ACEC from mineral leasing and entry under the 1872 mining law would be pursued. Acquisition of approximately 12,00 acres for addition to the ACEC would be pursued.

The Santa Ana River Wash ACEC, totalling of 760 acres, for protection of Santa Ana River woolly-star and slender-horned spineflower. The ACEC would be a right-of-way avoidance area, unavailable for mineral material sales, closed to motorized vehicle use and unavailable for livestock grazing.

Public land (1,260) acres within the Santa Margarita Ecological Reserve as the Santa Margarita Reserve ACEC for

protection for sensitive species and natural values. The ACEC would be a right-of-way avoidance area, unavailable for mineral material sales and livestock grazing. Withdrawal of the ACEC from mineral leasing and entry under the 1872 mining law would be pursued. A portion of the ACEC, 360 acres, would be closed to motorized vehicle use. Acquisition of 300 acres for addition to the ACEC would be pursued.

The Million Dollar Spring ACEC, approximately 5,830 acres of public lands within the eastern part of the Beauty Mountain Wilderness Study Area, for the protection of watershed and sensitive natural values. The ACEC would be a right-of-way avoidance area and not available for material sales. Acquisition of 510 acres for addition to the ACEC would be pursued.

The Johnson Canyon ACEC, approximately 1,710 acres including 1,150 acres currently leased to the San Diego State University Systems Ecology Group, for the protection of unique vegetation resources. The ACEC would not be available for mineral material sales or livestock grazing and would be a right-of-way avoidance area. Acquisition of 2,100 acres for addition to the ACEC would be pursued.

The RMP contains a determination of eligibility for three segments of the Santa Margarita River as a potential unit of the national Wild and Scenic River System. The 1.15 miles under BLM management meet the classification of "wild river". Interim protective measures are identified in the RMP.

DATES: Written protests on the proposed decisions may be filed with the District Manager at the address below on or before April 2, 1993.

FOR COMMENTS AND FURTHER INFORMATION CONTACT: Russell Kaldenberg, Area Manager, Palm Springs-South Coast Resource Area; P.O. Box 2000, North Palm Springs, CA 92258; phone (619) 251–0812.

Dated: February 24, 1993.

Russell L. Kaldenberg,

Area Manager.

[FR Doc. 93–4899 Filed 3–2–93; 8:45 am]

BILLING CODE 4310–40–M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–775798

Applicant: Louis Meissner, Kennewick, WA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) to be culled from the captive herd maintained by Mr. F.W.M. Bowker, "Thornkoff", Grahamstown, Cape Province, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT–775793

Applicant: Helen Keim, Wheaton, IL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. Theo Erasmus, "Mariendal", Kroostad, Orange Free State, for the purpose of enhancement of survival of the species.

PRT–775792

Applicant: Joseph Keim, Wheaton, IL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. Theo Erasmus, "Mariendal", Kroostad, Orange Free State, for the purpose of enhancement of survival of the species.

PRT–775788

Applicant: Jeffrey Keim, Wheaton, IL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. Theo Erasmus, "Mariendal", Kroostad, Orange Free State, for the purpose of enhancement of survival of the species.

PRT–776066

Applicant: St. Louis Zoological Park, St. Louis, MO.

The applicant requests a permit to import two captive-hatched Bali mynahs (*Leucospar rothschildi*) from the Jurong Birdpark, Singapore, for enhancement of propagation and survival of the species.

PRT–774891

Applicant: Brian Bowen, University of Florida, Gainesville, FL.

The applicant requests a permit to import from worldwide sources eggs, hatchlings, and blood and tissue samples, including DNA aliquots, of the following species of sea turtles for scientific research: *Chelonia mydas* (green), *Caretta caretta* (loggerhead), *Dermochelys coriacea* (leatherback), *Lepidochelys olivacea* (olive ridley) and *Eretmochelys imbricata* (hawksbill).

PRT–766018

Applicant: Franklin Gress, Davis, CA.

The applicant requests a permit to collect brown pelican (*Pelecanus occidentalis*) eggs from nests on Anacapa Island, Channel Islands National Park, California, for scientific research. An unspecified number of eggs may be collected in future years.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (1–800/358–2104); FAX: (703/358–2281).

Dated: February 26, 1993.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 93–4880 Filed 3–2–93; 8:45 am]

BILLING CODE 4310–55–M

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Rio Grande American Canal Extension Project, El Paso, TX; Finding of No Significant Impact

AGENCY: United States Section, International Boundary and Water Commission.

ACTION: Notice of finding of no significant impact.

SUMMARY: Based on an environmental assessment, the U.S. Section finds that the proposed action of an extension to be constructed to the existing American Canal is not a major Federal action that would have a significant adverse affect on the quality of the human environment. Therefore, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations (40 CFR parts 1500 through 1508); and the U.S. Section's Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981 (46 FR 44083–44094); the U.S. Section hereby gives

notice that an environmental impact statement will not be prepared for the proposed project.

ADDRESSES: Dr. Conrad G. Keyes, Jr., Principal Engineer, Planning; U.S. Section, International Boundary and Water Commission, United States and Mexico, 4171 North Mesa Street, Building C–310, El Paso, Texas 79902–1422. Telephone: 915/534–6703.

SUPPLEMENTARY INFORMATION:

Proposed Action

The proposed Rio Grande American Canal Extension (RGACE) involves the rehabilitation and enlargement of segments of the existing Franklin Canal; the construction of a new, reinforced concrete-lined canal; and other associated works. The United States Section (U.S. Section) of the International Boundary and Water Commission, United States and Mexico (Commission) is authorized under the Rio Grande American Canal Extension Act of 1990 (the Act of 1990), Pubic Law 101–438, dated October 15, 1990, to construct, operate, and maintain an extension of the existing American Canal in El Paso, Texas. As stated in section 2(6) of the Act of 1990, "(t)he construction and operation of an extension of the American Canal which would lie wholly in the United States would provide for a more equitable distribution of waters between the United States and Mexico, reduce water losses, and minimize many hazards to public safety." The canal extension and associated facilities would be located adjacent to the Rio Grande Rectification Flood Control Project within the City of El Paso, El Paso County, Texas.

Water for domestic and irrigation use is diverted into the American Canal at the American Dam located on the Rio Grande upstream from downtown El Paso. The diversion dam and canal were constructed completely within United States territory to divert United States waters away from the Rio Grande and to permit the discharge into the international reach of the Rio Grande only those waters assigned to the Republic of Mexico under the Convention of 1906. This ensures that United States waters diverted at the American Dam are completely retained within the United States to a point downstream of the location where the United States delivers the 1906 Convention waters near International Dam. Depending on the schedule submitted by Mexico, up to 8.5 cubic meters per second (cms) or 300 cubic feet per second (cfs) of water is released into the Rio Grande channel downstream from American Dam for delivery to the Republic of Mexico in the bed of the river near the head works of the Acequia Madre, Mexico's principal canal, immediately upstream of International Dam. As provided in the 1906 Convention a total of 74.008 million cubic meters (60,000 acre-feet) of water is delivered to Mexico annually.

United States Rio Grande Project waters assigned to water districts are currently in part conveyed in the international reach of the Rio Grande. A significant amount of these waters is lost through seepage, evaporation, transpiration, and by unauthorized diversion or collection as they are conveyed in the international reach of the Rio Grande. A significant amount of these water losses could be salvaged by conveying them in the proposed concrete-lined canal extension.

Alternatives Considered

Five alternatives, including the Proposed Action Alternative and the No Action Alternative, were considered during the preparation of the environmental assessment. The alternatives are summarized here:

1. No Action Alternative—Under this alternative, there would be no construction of an extension to the existing American Canal. United States waters in the international reach of the Rio Grande from International Dam to Riverside Diversion Dam would continue to be susceptible to unauthorized diversion or withdrawal and would continue to be lost through seepage, evaporation, and transpiration while flowing in the Rio Grande or the unlined canals. There would be no change in existing facilities or conditions under this alternative, and existing hazards to public health and safety would remain the same.

2. Proposed Action Alternative—This Alternative would ensure the equitable distribution of United States and Mexican waters, reduce water losses that would otherwise occur within the unlined canals and the river channel, and minimize many hazards to public safety and health.

The proposed RGACE is composed of both reconstruction and new construction of a concrete lined channel. Even though work has not yet been authorized for the existing American Canal upstream of International Dam, it is possible that some rehabilitation will be necessary throughout its 3.2 kilometers (1.98 miles) length to make it compatible with the proposed action design capacity of 42 cms (1,500 cfs) and could be accomplished by the construction of parapet walls. An existing portion of the Franklin Canal from International Dam to the Leon Street Wasteway will be reconstructed throughout its 2.4 kilometers (1.48 miles) length as a trapezoidal or rectangular concrete lined channel to convey the design capacity. The existing Wasteway No. 1 in this segment will also be upgraded. The deteriorated, un-reinforced concrete lining in the existing Franklin Canal from the Leon Street Wasteway to the Second Street Lateral will be replaced with reinforced concrete. This 2.3 kilometers (1.45 miles) segment will be designed to convey the design capacity. The new construction segment extends for 20 kilometers (12.5 miles) from the Second Street Lateral to Riverside Diversion Dam. It will incorporate a turnout for the existing Valley Gate Lateral, obliterate the portion of the Playa Lateral which is located between Loop 375 (Border Highway) and the United States Levee of the Rio Grande Rectification Project, and incorporate a turnout for the Playa Lateral at the point where it deviates from the proposed RGACE alignment. The existing Playa Intercepting Drain will be relocated or replaced with a buried pipe. The construction extension will be an open, concrete lined channel designed to convey 42 cms (1,500 cfs).

3. Extension of Existing Canal to Ascarate Wasteway Alternative—This alternative would involve a 7 kilometers (4.3 miles) extension of the American Canal to Ascarate Wasteway. Water delivered to the end of the canal extension would be diverted to the Franklin Canal through the Ascarate Lateral by a pump station or other means and excess flows returned to the Rio Grande for subsequent diversion at Riverside Diversion Dam. This alternative would not accomplish the authorized purpose of keeping United States waters totally out of the Rio Grande between International Dam and Riverside Diversion Dam. Unauthorized diversion or withdrawal of United States waters would continue to occur below Ascarate Lateral. Construction of this alternative would not significantly reduce water losses since seepage losses would continue to accrue in the Rio Grande below Ascarate Lateral. Though the 7 kilometers (4.3 miles) extension would be fenced, existing public health and safety hazards would not be significantly reduced.

4. Franklin Canal Reconstruction Alternative—Under this alternative, the existing Franklin Canal would be reconstructed to convey 42 cms (1,500 cfs) to the heading of the Southside Feeder Canal at Ysleta. The feeder canal would transmit water to the Riverside Canal at a point downstream from the

Riverside Diversion Dam. The Southside Feeder Canal would be reconstructed, a 4.8 kilometers (3 miles) section of the Riverside Canal would require excavation, and the Riverside Wasteway No. 1 would be reconstructed to accommodate the design capacity of 42 cms (1,500 cfs). Even though this alternative meets the criteria of the authorizing legislation, evaluation has shown that it would greatly exceed the design and construction costs of the proposed action. For this reason it is considered the least favored alternative to the proposed RGACE.

5. Regulating Reservoir Alternative—An operational enhancement to the proposed action, the construction of a regulating reservoir near the terminus of the proposed RGACE, was also evaluated in the environmental assessment. The reservoir would have a design capacity of 1.233 million cubic meters (1,000 acre-feet), a maximum water depth of 3 meters (10 feet), and a water surface area of 40 hectares (100 acres). It is estimated that approximately 55.507 million cubic meters (45,000 acre-feet) per year of excess water could be saved by this measure. It does not, however, minimize hazards to public health and safety because persons coming into contact with the reservoir would be exposed to the dangers associated with open bodies of water. Further, no monies have been appropriated by Congress for the study, design, or construction of this operational enhancement to the proposed action.

Environmental Assessment

The U.S. Section completed the Draft Environmental Assessment for the proposed agreement on February 26, 1993. It is currently available for review and comment.

Finding of the Environmental Assessment

The Draft Environmental Assessment finds that the proposed action does not constitute a major federal action which would cause a significant local, regional, or national adverse impact on the environment based on the following:

The Proposed Action Alternative would:

1. Ensure the equitable distribution of United States and Mexican waters;
2. Reduce water losses that would otherwise occur within the unlined canals and the river channel;
3. Minimize many hazards to public safety and health;
4. Benefit fish and wildlife by the implementation of mitigation plans to provide a wetland habitat in association with the proposed action; and
5. Not affect any known cultural resources in the United States now listed on, or proposed for nomination to, the National Register of Historic Places with the exception of a small portion of the existing Franklin Canal which will be properly mitigated for through coordination with the State Historic Preservation Officer.

On the basis of the Draft Environmental Assessment, the U.S. Section has determined that an environmental impact statement is not required for the United States Government to construct the proposed action and hereby provides notice of a finding of no significant impact.

An environmental impact statement will not be prepared unless additional information which may affect this decision is brought to our attention within thirty (30) days of the date of this Notice.

The Draft Environmental Assessment and Draft Finding of No Significant Impact have been forwarded to the Environmental Protection Agency and various Federal, State, and local agencies and interested parties. A limited number of copies of these documents are available to fill single copy requests at the above address.

Dated: February 23, 1993.

Suzette Zaboroski,

Staff Counsel.

[FR Doc. 93–4840 Filed 3–2–93; 8:45 am]

BILLING CODE 4710–03–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–338]

Certain Bulk Bags and Process for Making Same; Notice of Commission Determination Not To Review Initial Determination Granting Joint Motions To Terminate the Investigation With Respect to Remaining Respondents and Terminating Investigation in Its Entirety

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's initial determination (ID) in the above-captioned investigation granting joint motions to terminate the investigation with respect to respondents Sanwey Industria de Containers, Ltda. ("Sanwey") and Helios Container Systems, Inc. ("Helios") on the basis of settlement agreements.

ADDRESSES: Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000.

FOR FURTHER INFORMATION CONTACT: Lyle B. Vander Schaaf, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3107. Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202–205–1810.

SUPPLEMENTARY INFORMATION: On May 21, 1992, Better Agricultural Goals Corporation and Super Sack Manufacturing Corporation (collectively "complainants") filed a complaint with the Commission alleging unfair acts in violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The unfair acts alleged in the complaint are the importation and sale of certain bulk bags that infringe claim 8 of U.S. Letters Patent 4,143,796 and claim 20 of U.S. Letters Patent 4,194,652. On June 5, 1992, complainants filed an amended complaint. On June 18, 1992, the Commission voted to institute an investigation of the complaint and publish notice of its investigation in the **Federal Register** (57 FR 28185 (June 24, 1992)).

On January 15, 1993, complainants and respondent Sanwey jointly moved for termination of this investigation as to Sanwey on the basis of a settlement agreement (Motion Docket No. 338–19). On the same date, complainants and respondent Helios jointly moved for termination of this investigation as to Helios on the basis of a settlement agreement (Motion Docket No. 338–30). The Commission investigative attorney filed papers supporting the joint motions. On January 26, 1993, the presiding administrative law judge issued an ID granting the motions and terminated the investigation in its entirety as there are no remaining respondents. No petitions for review, or agency or public comments were received.

This action is taken pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and Commission interim rule 210.53 (19 CFR 210.53, as amended)

By order of the Commission.

Issued: February 23, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–4815 Filed 3–2–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigation 337–TA–339]

Certain Commercial Food Portioners, Components Thereof, Including Software, and Process Thereof; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above captioned investigation terminating the following respondents on the basis of a settlement agreement: Lumetech, Ltd.; Koch Supplies, Inc.; and Carl Jorgensen Company.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on February 19, 1993.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

Issued: February 19, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92–4817 Filed 3–2–92; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–344]

Certain Cutting Tools for Flexible Plastic Conduit and Components Thereof; Notice of Commission Determination Not to Review an Initial Determination Amending the Complaint and Notice of Investigation to Terminate a Respondent

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ) initial determination (ID) (Order No. 6) in the above-captioned investigation amending the notice of investigation to terminate Orbit Underground, d/b/a Orbit Sprinklers, as a respondent.

FOR FURTHER INFORMATION CONTACT: Robin L. Turner, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3103.

SUPPLEMENTARY INFORMATION: On January 25, 1993, the ALJ issued an ID granting a motion by complainants Dawn Industries, Inc., Dextel Inc., and Duane Robertson to amend the complaint and notice of investigation to terminate Orbit Underground, d/b/a/ Orbit Sprinklers, as a respondent in the investigation. Orbit Underground is an unincorporated division of ProMark, Inc. No petitions for review or government agency comments were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and § 210.53(h) of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.53(h)).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

By order of the Commission.

Issued: February 23, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–4816 Filed 3–2–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 332–341]

Proposed Reorganization of U.S. International Trade Relief Laws

AGENCY: International Trade Commission.

ACTION: Institution of investigation.

SUMMARY: Following receipt on December 16, 1992, of a request from the Committee on Ways and Means, U.S. House of Representatives, the Commission instituted investigation No. 332–341, *Proposed Reorganization of U.S. International Trade Relief Laws*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

EFFECTIVE DATE: February 22, 1993.

FOR FURTHER INFORMATION CONTACT: For further information, contact P. N. Smithey or William Gearhart, Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3061. Hearing-impaired individuals can obtain further information by contacting the Commission's TDD terminal at 202–205–1810.

SUPPLEMENTARY INFORMATION: The Committee's letter requested that the Commission conduct a study and prepare a report concerning the proposed reorganization of U.S. trade relief laws under which tariffs (including countervailing and antidumping duties) or quantitative or other import restrictions may be imposed (other than the Harmonized Tariff Schedule of the United States). The Committee's letter also indicated that the Commission's proposals should seek to achieve the following objectives: (1) The logical and accessible arrangement of the law; (2) the elimination of duplicative provisions; and (3) the elimination or simplication

of anomalous or illogical provisions, to the extent that this is possible without substantive or procedural changes to the existing provisions of law.

Most of the trade relief laws are currently set forth in title 19 of the United States Code. The Committee has indicated that the Commission's study is not to include the customs laws administered by the U.S. Customs Service or the laws governing the administration of the Commission or the Office of the United States Trade Representative, which are also set forth in title 19.

Some of the trade relief provisions that will be covered by the Commission's report are administered by other agencies, such as the U.S. Department of Commerce and the U.S. Customs Service. The Committee accordingly has directed the Commission to consult with those agencies in the preparation of the report.

The Commission report that will be issued at the conclusion of the study will have two parts. Part I will outline a Commission proposal for reorganizing the relevant laws into a proposed import relief chapter for possible inclusion in title 19 of the United States Code. The text of the proposed chapter will be provided as well. Part II of the report will consist of a section-by-section analysis of the proposed import relief chapter.

Before preparing the report for submission to the Committee, the Commission will consult with the appropriate agencies and prepare a draft of the proposed import relief chapter. The Commission expects to have the draft ready by late June of 1993 and will publish notice of its availability and opportunity for comment at that time. No public hearing is currently scheduled in connection with this investigation.

Issued: February 22, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–4818 Filed 3–2–93; 8:45 am]

BILLING CODE 7035–01–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32240]

Bradford Industrial Rail, Inc.—Acquisition and Operation Exemption—Consolidated Rail Corporation; Notice of Exemption

Bradford Industrial Rail, Inc. (BIR), a noncarrier, has filed a verified notice under 49 CFR 1150 subpart D—*Exempt Transactions* to exempt its acquisition and operation of about 3.73 miles of rail line owned by Consolidated Rail Corporation (Conrail) between milepost 9.6, at East Bradford, PA, and milepost 13.33, at Bradford, PA. In addition, Conrail will assign to BIR its incidental trackage rights over 15.11 miles of rail line owned by Buffalo & Pittsburgh Railroad, Inc., between milepost 107.0, at Salamanca, and milepost 121.3, near Bradford. The exemption became effective February 4, 1993.[1]

Genesee & Wyoming Industries, Inc., has filed a petition for exemption in Finance Docket 32241 to continue to control BRI on its becoming a carrier.

Any comments must be filed with the Commission and served on: Charles D. Cramton, of Harter, Secrest & Emery, 700 Midtown Tower, Rochester, NY 14604.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: February 25, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–4845 Filed 3–2–93; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte Nos. 399 and 431 (Sub-No. 2)]

Cost Recovery Percentage and Review of the General Purpose Costing System

AGENCY: Interstate Commerce Commission.

ACTION: Adoption of individual carrier "make-whole" adjustments for use in rail costing.

SUMMARY: The Commission has adopted the use of the so called individual carrier "make-whole" adjustments as part of the annual calculation of the Cost Recovery Percentage (CRP) and for inclusion in the URCS Phase III costing program. The use of the individual carrier "make-whole" adjustments in CRP costing is supported by both railroad and shipping interests party to these proceedings. The Commission believes that the inclusion of individual carrier "make-whole" adjustments in the URCS Phase III program will permit users that do not have actual data to better estimate the higher costs of single car shipments.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Thomas A. Schmitz, (202) 927–5720, Jeff Warren, (202) 927–6242 (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to, or call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 927–5721.)

This action will not significantly affect either the quality of the human environment or energy conservation.

Authority: 49 U.S.C. 10321, 10709, 5 U.S.C. 553.

Decided: February 23, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–4821 Filed 3–2–93; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 347 (SUB–NO. 2)]

Rate Guidelines; Non-Coal Proceedings

In a Notice of Proposed Guidelines ("NPG") served November 16, 1992, (57 FR 54252, November 17, 1992) we requested comments on three methods of evaluating the reasonableness of railroad rates on relatively low-volume or infrequent shipments. Tables in the appendix of the NPG contained the results of calculations used in developing two of the methodologies. The tables on pages 8, 9 and 16 of the appendix have been revised to incorporate 1991 data and to correct computational errors.

We also note that our NPG used both regional and individual carrier make-whole adjustments in developing costs. In a decision March 1, 1993 in Ex Parte No. 399, Cost Recovery Percentage, a carrier specific make-whole adjustment was adopted for all waybill costing exercises. As a result of this decision, all reference to, and use of, regional make-whole adjustments in the NPG should be disregarded.

For further information contact: Thomas A. Schmitz (202) 927–5720 or

[1] According to the verified notice (at page 3), the proposed transactions were to have been consummated "on or *before* February 4, 1993, following the [exemption's] effective date" (emphasis added). Since the verified notice was not filed until January 28, 1993, and the exemption did not become effective until 7 days thereafter, on February 4, the transactions could not have been consummated before then.

H. Jeff Warren (202) 927–6442 (TDD for hearing impaired: (202) 927–5721).

Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to, call, or pick up in person from Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 927–5721.)

As this decision affects only minimal changes to our action in this proceeding, it will not have a substantial adverse impact upon a significant number of small entities.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: February 19, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L Strickland, Jr.,

Secretary.

[FR Doc. 93–4822 Filed 3–2–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32254]

Fox River Valley Railroad Corporation Trackage Rights Exemption—Wisconsin and Southern Railroad Company; Notice of Exemption

Wisconsin and Southern Railroad Company has agreed to grant trackage rights to Fox River Valley Railroad Corporation over approximately 9.4 miles of rail line between milepost 103.1 at DBR Junction, near Granville, WI, and milepost 93.7 at North Milwaukee, WI. The trackage rights were to become effective on February 18, 1993.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Charles A. Spitulnik, Hopkins & Sutter, 888 Sixteenth Street, NW., suite 700, Washington, DC 20006.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino, Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: February 25, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–4846 Filed 3–2–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

February 26, 1993.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and

(7) An indication as to whether section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jefferson B. Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Don Wolfrey, on (202) 514–4115 or facsimile: (202) 514–1534. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Don Wolfrey, DOJ Clearance Officer, SPS/JMD/850 WCTR, Department of Justice, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Biographic Information.

(2) Form G–325. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form will be used by the Immigration and Naturalization Service to check other agency records to ensure that Service action is in the best interest of the United States.

(5) 1,044,994 annual responses at .25 hours per response.

(6) 261,249 annual burden hours.

(7) Not applicable under 3504(h).

(1) Application for Certificate of Citizenship.

(2) Form N–600. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form will be used by the Immigration and Naturalization Service to determine the eligibility for issuance of a Certificate of Citizenship to a person who claims to have derived or acquired U.S. citizenship.

(5) 30,000 annual responses at 1 hour per response.

(6) 30,000 annual burden hours.

(7) Not applicable under 3504(h).

(1) Petition to Classify Orphan as an Immediate Relative and Application for Advance Processing of Orphan Petition.

(2) Form I–600 and Form I–600A. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. These forms will be used by the Immigration and Naturalization Service to determine eligible orphans and for advanced processing of said orphans.

(5) 34,000 annual responses at .5 hour per response.

(6) 17,000 annual burden hours.

(7) Not applicable under 3504(h).

Public comment on the these items is encouraged.

Dated: February 26, 1993.

Don Wolfrey,

Department Clearance Officer, Department of Justice.

[FR Doc. 93–4867 Filed 3–2–93; 8:45 am]

BILLING CODE 4410–10–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisory Panel; Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby

given that a meeting of the Design Arts Advisory Panel (Project Grants for Organizations Section) to the National Council on the Arts will be held on March 24–25, 1993 from 9 a.m.–7 p.m. and March 26 from 9 a.m.–4 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsvylaniva Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on March 24 from 9 a.m.–10 a.m. and March 26 from 3 p.m.–4 p.m. for policy discussion.

The remaining portions of this meeting on March 24 from 10 a.m.–7 p.m., March 25 from 9 a.m.–7 p.m. and March 26 from 9 a.m.–3 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506 or call (202) 682–5439.

Yvonne M. Sabine,

Director, Panel Operations; National Endowment for the Arts.

[FR Doc. 93–4847 Filed 3–2–93; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Instrumentation and Resources; Notice of Amendment

The meeting of the Special Emphasis Panel in Biological Instrumentation and Resources scheduled to be held March 8–9, 1993 at the National Science Foundation in Washington, DC has been changed to March 12–13, 1993.

The notice for this meeting originally appeared in the February 18, 1993 issue of the **Federal Register**, Vol. 58, No. 31, p. 8997.

Dated: February 25, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–4793 Filed 3–2–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from February 5, 1993, through February 19, 1992. The last biweekly notice was published on February 17, 1993 (58 FR 6992).

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Directives Review Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 2, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set

forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request:
November 16, 1992

Description of amendment request:
The proposed amendment would revise Technical Specification 3.6.3.4, "Suppression Pool Makeup (SPMU) System," to allow continued operation with a reduced upper containment pool water level when the minimum required suppression pool water level is increased to compensate. The revision will allow for maintenance in portions of the upper containment pool. The proposed amendment also clarifies the requirements for the upper containment pool gate positions.

Basis for proposed no significant hazards consideration determination:
As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The function of the upper containment pool (UCP) as part of the suppression pool makeup (SPMU) system is to provide a source of makeup water to the suppression pool (SP), subsequent to the occurrence of a LOCA [loss of coolant accident], in order to maintain the required horizontal vent coverage and provide an adequate suppression pool heat sink to ensure the

primary containment internal pressure and temperature stays within design limits.

The proposed Action statement and Surveillance Requirement to permit reductions in the upper containment pool level, maintains the same "effective upper containment pool water volume" as the current design basis, the difference being that some of this "effective UCP water volume" has been relocated to the suppression pool as additional volume needed beyond that required to meet the minimum suppression pool low water level requirement of Limiting Condition for Operation 3.6.3.1.a. The probability of a LOCA occurring has not increased as a result of the proposed changes since the probability of a LOCA is unaffected by a relocation of the UCP water. The consequences of a LOCA are also not changed because under normal operating conditions the upper containment pool level is maintained within the required limits by the administrative controls imposed through the SPMU system Technical Specification Action and Surveillance Requirements. This change simply extends that approach by providing an additional Action and Surveillance Requirement to ensure that both the upper containment pool and suppression pool are maintained within their proposed respective limits (which ensure that the effective UCP water volume is maintained) when the upper containment pool is below its normal level. The proposed surveillance requirement ensures that the same "effective upper containment pool water volume" is always maintained. Therefore, there is no change in the overall water volume available as a heat sink for long-term cooling, no reduction in containment performance, and hence no change in consequences for any postulated LOCA.

There is also no change in the probability of occurrence of an inadvertent SPMU system dump, since no change has been made to the system design or initiating circuitry. This change clarifies that the fuel transfer tube pool gate is not required to be installed, but that it may be left in place, if desired, to allow for maintenance of equipment within the fuel transfer tube pool. With the gate installed the same amount of UCP water is available as was assumed in the current inadvertent dump analysis, therefore there is no change in consequences. With the gate removed there would be a slight increase in the volume of water contained in the UCP which would be dumped in the event of an inadvertent upper containment pool dump. However, there is a very small likelihood of an inadvertent UCP dump due to the necessity to have a LOCA permissive signal in conjunction with a low-low suppression pool level signal or the completion of a 30-minute time delay. The total volume would only actually be increased if the dump were to occur when the suppression pool is at its high water level (with maximum differential pressure). Even if a UCP dump were to occur, a bounding analysis (for up to ten feet of water in the drywell) for the drywell piping and components wetted in this event under worst case conditions has demonstrated that there would be no safety concerns. This analysis was reviewed and agreed with by the NRC as documented in Section 10.1 of Appendix R to Supplement 6 of the Safety Evaluation Report for Perry (NUREG-0887). Therefore, removing the fuel transfer tube pool gate during Operational Conditions 1,2, and 3 does not impose a significant increase in consequences, regarding a drywell flooding transient, while it does provide a positive benefit in that extra water would be made available to provide for the long-term energy absorption within the suppression pool.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated because no design changes or new or different modes of operation are proposed for the plant. Operation under the proposed Action statement and Surveillance Requirement (determined to be acceptable on the basis discussed above) does not constitute a different mode of operation since adequate monitoring of both the suppression pool and upper containment pool levels is required by the Technical Specification Surveillance Requirements under both normal and reduced UCP water level conditions. The required upper containment pool gate positions are also controlled by Surveillance Requirements. The proposed Action statement and Surveillance Requirements on pool levels and gate positions ensure that the same (or greater) "effective upper containment pool volume" is available following an UCP dump, which is equivalent to the current design basis, therefore, the proposed changes do not create the possibility of a new or different accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The design basis of the suppression pool makeup system is to provide a makeup volume from the UCP following an UCP dump, that together with the suppression pool volume (between the normal low water level (LWL) and the minimum post-accident water level) is sufficient to account for all conceivable post-accident entrapment volumes, to ensure the long-term energy sink capabilities of the suppression pool and maintain the two foot minimum water coverage over the uppermost horizontal vents. This capability is currently enforced by maintaining the water level within the suppression pool above the LWL (through Specification 3.6.3.1) and maintaining the upper containment pool above its minimum water level (through Specification 3.6.3.4). Adding Action statements and Surveillance Requirements to provide an alternative way of maintaining the same volume of water between the upper containment pool and the suppression pool does not reduce, but rather maintains the same margins of safety, provided that both the suppression pool and the upper containment pool levels are properly controlled. The water level values chosen, and enforced through the new Action and Surveillance Requirement meet both sets of requirements and consequently do not reduce the margin of safety. As described in the answer to question 1, a very unlikely set of circumstances has to occur to initiate an upper containment pool dump, and even if a dump were to occur, a bounding analysis for the drywell piping and components wetted in this event under worst case conditions has demonstrated that there would be no safety concerns. Therefore, removing the fuel transfer tube pool gate during Operation Conditions 1, 2, and 3 does not impose a significant reduction in the margin of safety, regarding a drywell flooding transient, while it does provide a positive benefit in that extra water would be made available to provide for the long-term energy absorption within the suppression pool (which would increase the margin of safety in this respect).

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of amendment request: November 5, 1992

Description of amendment request: The proposed amendment would delete the Technical Specification requirements to perform additional surveillances when the associated redundant components and/or subsystems have been found to be inoperable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

This change does not result in any hardware or operating procedure changes. The components covered by these Technical Specifications are not assumed to be initiators of any analyzed event. The components are assumed to be mitigators of analyzed events. This change redefines the method for demonstrating OPERABILITY of the remaining equipment when a component is declared inoperable. The requirement to maintain the remaining equipment OPERABLE is retained, ensuring the equipment is available to mitigate analyzed events. Since the equipment remains

OPERABLE, redefining the method by which the equipment is demonstrated OPERABLE does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed change will only redefine the method by which remaining equipment is verified OPERABLE when a component is declared inoperable. Redefining the method by which equipment is demonstrated OPERABLE does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

This change eliminates the requirement to perform surveillances on equipment when a component is declared inoperable. Instead, this change allows credit to be taken for normal periodic surveillances as a demonstration of OPERABILITY and availability of the remaining components. The periodic frequencies specified to demonstrate OPERABILITY of the remaining components have been shown to be adequate to ensure equipment OPERABILITY. As stated in NRC Generic Letter 87-08, "It is overly conservative to assume that systems or components are inoperable when a surveillance requirement has not been performed. The opposite is in fact the case; the vast majority of surveillances demonstrate that systems or components in fact are operable." Therefore, reliance on the specified surveillance intervals does not result in a reduced level of confidence concerning the equipment availability. In addition, the current surveillance requirements for the affected components are more comprehensive than the current testing requirements being deleted. Therefore, the normal surveillance requirement approach can be judged to be an equivalent or more reliable testing program as compared to the requirements being deleted. Thus, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

NRC Project Director: James E. Dyer

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: December 8, 1992

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) to: (1) extend the frequency of the Reactor Protection System (RPS) instrument channel tests in Table 4.1-1 from monthly to every 45 days on a staggered test basis, (2) add the definition of "staggered test basis" to TS Section 1.5, and (3) remove the time limitation in Table 3.5.1-1 on placing one RPS channel in bypass and one channel in the tripped condition. Also, the Bases would be revised to be consistent with the above changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Duke Power Company has made the determination that [...] operation of the facility in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated:

Each accident analysis addressed within the Oconee Final Safety Analysis Report (FSAR) has been examined with respect to the change proposed within this amendment request. The probability of any Design Basis Accident (DBA) is not affected by this change, nor are the consequences of a DBA affected by this change since extension of the RPS on-line test interval and removal of limitations on placing one RPS channel in trip and one RPS channel in bypass based on an NRC approved Topical Report are not considered to be an initiator or contributor to any accident analysis addressed in the Oconee FSAR. Plant specific provisions of the associated NRC SER regarding drift data have been met. The probability of any DBA is not affected by this change, nor are the consequences of a DBA affected by this change since addition of the definition of "staggered test basis" is not considered to be an initiator or contributor to any accident analysis...addressed in the Oconee FSAR.

(2) Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

Operation of ONS in accordance with these Technical Specifications will not create any failure modes not bounded [by] previously evaluated accidents. Consequently, this change will not create the possibility of a new or different kind of accident from any kind of accident previously evaluated.

(3) Involve a significant reduction in a margin of safety:

The Technical Specifications will continue to require the RPS trip setpoints [to] remain within the assumptions of the accident analysis, thus preserving existing margins of safety. Therefore, there will be no significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: David B. Matthews

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2 (ANO-1&2), Pope County, Arkansas

Date of amendment request: November 10, 1992

Brief description of amendment: The proposed amendment would revise the Administrative Controls of the Technical Specifications (TSs) for each unit to change the qualifications of the Plant Safety Committee (PSC) to be independent of position titles. The proposed amendment would also incorporate the Technical Review and Control Process to facilitate procedure revision, change the approval authority for procedures to a more appropriate level of management and correct a typographical error.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The change in the PSC composition qualification requirements is administrative in nature. The proposed changes do not affect assumptions contained in the plant safety analyses, the physical design or operation of the plants. TS that preserve the safety analyses assumptions of ANO-1 and ANO-2 are not affected by the changes. The same level of expertise applied to the PSC review function will remain with the approval of the proposed changes. There will be no loss in PSC effectiveness due to the proposed changes. The typographical error correction in the ANO-1 TS is purely administrative in nature, and has no affect on plant safety.

The addition of the Technical Review and Control Process to the TS provides an additional method for the technical review and approval of selected station procedures, while maintaining an equivalent level of

thoroughness consistent with that established by the PSC. An independent technical review, conducted by an individual whose qualification and knowledge encompass the area affected by the procedure, combined with the added expertise contributed by the cross-disciplinary review will establish an equivalent level of review to that provided by the PSC. The Technical Review and Control Process will be controlled by station administrative procedures which will continue to be reviewed by the PSC, thereby allowing PSC oversight of the process.

Approval of procedures reviewed by the Technical Review and Control Process may be performed by the department head responsible for the affected procedure, after ensuring all necessary procedure reviews and cross-disciplinary reviews have been completed. Additionally, the General Manager, Plant Operations has the option of designating a higher approval authority for any procedure or block of procedures.

The procedures governing plant operation will continue to ensure that the plant parameters are maintained within acceptable limits. Procedure changes will be reviewed and approved at a level commensurate with their importance to nuclear safety and, where appropriate, an interdisciplinary review will be required. All modifications, tests, and experiments that affect nuclear safety will continue to be reviewed by the PSC. Also, the PSC will continue to review the Plant Security Plan, Emergency Plan, and Fire Protection Program.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed changes are administrative in nature. No physical alterations of plant configuration or changes to setpoints or operating parameters are proposed. The level of position qualifications of the PSC members are not reduced in the TS. The same quality of PSC review is maintained by this proposed change.

Because no new equipment is being introduced, and no equipment is being operated in a manner inconsistent with its design, the probability of equipment malfunction is not increased. The applicable procedures governing the operation of installed equipment will receive reviews and approvals at a level commensurate with their importance to nuclear safety and, where appropriate, an interdisciplinary review will be required. This provides an equivalent level of review to that provided by the PSC. The PSC will continue to review all modifications, tests, and experiments that affect nuclear safety ensuring a continuing commitment to nuclear safety by ANO management.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

[Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety.]

The proposed changes are administrative in nature and do not relate to or modify the safety margins defined in and maintained by the TS. The change does not alter ANO's commitment to maintain a management structure that contributes to the safe operation and maintenance of the plants. No position qualifications are being reduced in the TS. The level and quality of PSC review is maintained because there will be no change in the collective expertise on the PSC. The independent review of those items important to nuclear safety by the PSC will continue with these changes.

The initial conditions utilized in the accident analyses remain unchanged. The methodologies used for the safety analyses are not affected by this change. Sufficient controls are included in the proposed review methodology to ensure that the plant conditions and equipment availability required to support the integrity of the analyses, and hence the margin to safety, will continue to be maintained.

Therefore, this change does **not** involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: George T. Hubbard, (Acting)

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: George T. Hubbard, (Acting)

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: February 11, 1993

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) 6.0, "Administrative Controls" of the Turkey Point Units 3 and 4 relating to the qualifications of the plant Operations Manager. Presently, TS 6.2.2.h. requires the Operations Supervisor to hold a Senior Reactor Operator (SRO) License and TS 6.2.2.i. requires that the Operations Manager either hold or have held a SRO License on the Turkey Point plants or on a similar plant. The licensee proposes to revise the TS to require that either the Operations Manager or the Operations Supervisor hold an active SRO License on the Turkey Point plants. Accordingly, the proposed changes would delete TS 6.2.2.i. and revise TS 6.2.2.h. to read "The Operations Manager or the Operations Supervisor shall hold a Senior Reactor Operator License." Consistent with the proposed TS 6.2.2.h. change, the phrase in TS 6.3.1, "...the Operations Manager whose requirement for a Senior Reactor Operator License is as stated in Specification 6.2.2.h..." would be editorially revised to read "...the Operations Manager or Operations Supervisor whose requirement for a Senior Reactor Operator License is as stated in Specification 6.2.2.h..."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes being proposed are administrative in nature, address organizational issues, and do not affect assumptions contained in plant safety analyses, the physical design and/or operation of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions.

The individual Florida Power & Light Company (FPL) chooses to fill the position of Operations Manager will have extensive educational and management-level nuclear power experience meeting the criteria of standard ANSI N18.1-1971. The Operations Supervisor and Nuclear Plant Supervisors maintain SRO Licenses on Turkey Point. The current Technical Specifications do not require the Operations Manager to hold an active SRO License at Turkey Point. In fact, the current Technical Specifications permit the Operations Manager to have held an SRO License on a similar plant (i.e. another pressurized water reactor). Since the proposed change will continue to require that at least one individual in the operations organization off-shift management chain of command hold an SRO License at Turkey Point, there will be no change in the operations management operational experience at Turkey Point.

Additionally, the proposed changes do not impact nor change, in any way, the minimum on-shift manning or qualifications for those individuals responsible for the actual licensed operation of the facility.

Based on the above, the proposed changes do not affect the probability or consequences of accidents previously analyzed.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The changes being proposed are administrative in nature and do not affect assumptions contained in plant safety analyses, the physical design and/or operation of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions. The proposed changes address organizational and qualifications issues related to the criteria used for assignment of individuals to the operations organization off-shift management chain of command. In light of the above, and since the proposed changes do not impact nor change, in any way, the minimum on-shift manning or qualifications for those individuals responsible for the actual licensed operation of the facility, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed changes address organizational and qualifications issues related to the criteria used for assignment of individuals to the operations organization off-shift management chain of command. The proposed changes do not impact nor change, in any way, the minimum on-shift manning or qualifications for those individuals responsible for the actual licensed operation of the facility. FPL's operating organization at Turkey Point Plant is shown on Figure 1-2, Appendix A of the NRC-approved FPL Topical Quality Assurance Report (TQAR). Since changes to the TQAR are governed by 10 CFR 50.54(a)(3), any changes to the TQAR that reduce commitments previously accepted by the NRC require approval by the NRC prior to implementation. FPL will continue to inform the NRC of any organizational changes affecting Turkey Point Plant.

While the Operations Manager is responsible for the plant's operating organization, his responsibilities also include management of the plant's Health Physics and Chemistry departments. The on-shift operations organization is supervised and directed by the Operations Supervisor, who is currently required by Technical Specification 6.2.2.h. to hold a Senior Reactor Operator License. Since the Technical Specifications do not require that the Operations Manager maintain an SRO License (nor even that the incumbent has ever held a Senior Reactor Operator License at Turkey Point), the other qualifications guidance of standard ANSI N18.1-1971, as required by Turkey Point Technical Specification 6.3.1, *FACILITY STAFF QUALIFICATIONS*, will ensure that the individual filling the Operations Manager position has the requisite education and experience for the management position. As a result, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: April 16, 1991, as supplemented by letter of January 6, 1993

Description of amendments request: The proposed amendments would make changes to the Technical Specifications (TS) in accordance with the guidance of Generic Letter (GL) 90-06. Specifically, TS 3.4.9.3, "Overpressure Protection System," TS 3.4.11, "Relief Valves - Operating," and the applicable bases would be changed to reflect guidance contained in GL 90-06 regarding power operated relief valves (PORVs) and low-temperature overpressure protection (LTOP), with some exceptions and modifications to reflect plant-specific design features. The changes would require different actions for a PORV that is inoperable because of excessive leakage rather than any other reason, and add additional surveillances to be conducted in Mode 3 for verifying PORV operability. The changes also allow the use of a blocked open PORV as a suitable vent path in low pressure conditions as well as apply a more conservative allowable outage time for a single LTOP channel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does not involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed [TS] changes in this submittal generally adopt the PORV and overpressure protection [TS] proposed by the staff in Generic Letter 90-06 with three exceptions, and also with minor modifications necessary to reflect the plant-specific design features of Cook Nuclear Plant. The staff's proposed [TS] will result in an increase in PORV and block valve reliability as well as additional LTOP. Since the proposed [TS] changes augment or preserve the requirements contained in the current Cook Nuclear Plant [TS], and since the three exceptions to GL 90-06 retain the current [TS] requirements, it is concluded that the proposed [TS] changes do not involve a significant increase in the probability or consequences of an accident previously analyzed in Chapter 14, "Safety Analysis," of the Updated FSAR [Final Safety Analysis Report] for Cook Nuclear Plant.

(2) Does not create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated.

The proposed [TS] changes either retain or enhance the LCOs, action statements, and surveillance requirements of the current Cook Nuclear Plant [TS]. It is concluded, therefore, that the proposed [TS] changes do not create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated in Chapter 14, "Safety Analysis," of the UFSAR.

(3) Does not involve a significant reduction in a margin of safety.

The proposed [TS] changes either retain or enhance the LCOs, action statements, and surveillance requirements of the current Cook Nuclear Plant [TS]. It is concluded, therefore, that the proposed [TS] changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: L. B. Marsh

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: May 1, 1992

Description of amendments request: The proposed amendments would make changes to the Technical Specifications (TS) in accordance with the guidance of Generic Letter (GL) 90-09. The changes would revise the visual inspection surveillance requirements and the acceptance criteria associated with TS-related snubbers. Additionally, the changes would remove the snubber component lists contained in TSs in accordance with the guidance contained in GL 84-13.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes do not result in any physical change to the facility which could cause an increase in the probability or consequences of any previously evaluated accident. The requested changes incorporate the alternative inspection schedule provided by the NRC in Generic Letter 90-09, dated December 11, 1990, and remove the snubber component lists from the [TS] in accordance with the guidance set forth in Generic Letter 84-13, dated May 3, 1984.

As determined by the NRC, the alternative schedule for visual inspections maintains the same confidence level as the existing schedule and, therefore, does not affect the probability or consequences of an accident previously evaluated.

The removal of the snubber component lists from the [TS] will not alter the existing [TS] requirements nor change the components to which they apply. The lists being removed from the [TS]s will be placed under administrative control and a 10 CFR 50.59 evaluation will be required for changes in snubber quantities, types, or location. The editorial changes to the [TS] will not affect the probability or consequences of an accident in any way, they merely reflect the shifting of page numbers. Therefore, the proposed amendment does not involve a change in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed amendment does not create the possibility of a new or different kind of accident previously evaluated. The proposed amendment does not result in any physical change to the plant or method of operating the plant from that allowed by the [TS]. No new failure modes have been defined for any system or component nor has any new limiting single failure been identified.

The NRC has generically reviewed the proposed changes and has determined that the alternative snubber visual inspection interval maintains the same confidence level in snubber operability. Therefore, the proposed change does not create the possibility of a new or different kind of accident.

The removal of snubber component lists will not alter existing [TS] requirements or those components to which they apply. No physical changes are being made to the facility as a result or in support of the removal of the component lists. Since the requirements for the components will remain the same, this proposed amendment will not affect the outcome of previously evaluated accidents. A 10 CFR 50.59 review will be performed for changes to the administrative snubber list to ensure that an unreviewed safety question, such as a new accident, does not result from future changes in the list. The editorial changes to the [TS] will not affect the previously evaluated accidents since they do not change the meaning of any [TS]. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Involve a significant reduction in a margin of safety.

The proposed amendment does not involve a significant reduction in the margin of safety. As stated above, the proposed amendment incorporates the alternative [TS] requirements for visual inspections of snubbers provided by the NRC in Generic Letter 90-09 and removes the snubber component lists from the [TS] in accordance with the guidance set forth in Generic Letter 84-13.

The NRC has previously reviewed these changes and determined that the alternative visual inspection interval maintains the same confidence level in snubber operability. The removal of the component lists from the [TS] will not alter the existing [TS] requirements nor change the components to which they apply. The component lists will be incorporated into plant procedures that are subject to the change control provisions for plant procedures specified in the administrative controls section of [TS]. Since neither the list of components nor the requirements that those components are required to meet are changing, the margin of safety is not affected.

The editorial changes made to refine the [TS] will not affect the margin of safety. Consequently, the proposed amendment, including both changes, does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: November 11, 1992

Description of amendments request: The proposed amendments would increase the tolerances for the main steam safety valves to within three percent of set point for both units as contained in Table 4.7-1 (Unit 1) and Table 3.7-4 (Unit 2) of Technical Specification (TS) 3.7.1.1 "Safety Valves." The amendments would also modify Unit 2 TS 3.5.2 to provide a limitation to the allowable thermal power when a safety injection cross-tie valve is closed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

Based on the analyses presented in Attachment 4, [Westinghouse Report SECL-91-429, Rev. 1, "Donald C. Cook Units 1 and 2, Main Steam Safety Valve Lift Setpoint Tolerance Relaxation≥] all of the applicable LOCA and non-LOCA design basis acceptance criteria are satisfied. Although increasing the valve setpoint [tolerances] may result in an [increased steam release to the environment]... in the event of a steam generator tube rupture [that is] above the current UFSAR [Updated Final Safety Analysis Report] value foundin Chapter 14.2.4 for both units by approximately 0.2 percent, the analysis indicates that the calculated doses are within a small fraction of the [10 CFR 100] dose guidelines. The evaluation also concludes that the existing mass releases used in the offsite dose calculations for the remaining transients (i.e., steam line break, rod ejection) are still applicable.

There are no hardware modifications to the valves and, therefore, there is no increase in the probability of a spurious opening of a MSSV. Sufficient margin exists between the normal steam system operating pressure and the valve setpoints with the increased tolerance to preclude an increase in the probability of actuating the valves.

Based on the above, there is no significant increase in the probability of an accident previously evaluated in the UFSAR or in the dose consequences.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

Increasing the lift setpoint tolerance on the MSSVs [main steam safety valves] does not introduce a new accident initiator mechanism. No new failure modes have been defined for any system or component important to safety nor has any new limiting single failure been identified. No accident will be created that will increase the challenge to the MSSVs and result in increased actuation of the valves. Therefore, the possibility of a new or different kind of accident than any already evaluated in the UFSAR is not created.

(3) Involve a significant reduction in a margin of safety.

As discussed in the safety evaluation (Attachment 4), the proposed increase in the MSSV lift setpoint tolerance will invalidate neither the LOCA nor the non-LOCA conclusions presented in the UFSAR accident analyses of record. The new loss of load/turbine trip analysis concluded that all applicable acceptance criteria are still satisfied. For all the UFSAR non-LOCA transients, the DNB design basis, primary and secondary pressure limits, and dose limits

continue to be met. Peak cladding temperatures remain below the limits specified in 10 CFR 50.46 for normal operation and when the thermal power is reduced to compensate for closure of the safety injection cross tie valves as required by the proposed Technical Specifications. The calculated doses resulting from a steam generator tube rupture event remain within a small fraction of the 10 CFR 100 permissible releases. Thus, there is no reduction in the margin to safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: L. B. Marsh

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: December 16, 1992

Description of amendments request: The proposed amendments would allow the use of digital instrumentation in the reactor protection system. The amendments would add conditions to the Unit 1 and 2 licenses stating that the licensee is authorized to use digital signal processing instrumentation in the reactor protection system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The Foxboro SPEC 200 and SPEC 200 MICRO lines of instrumentation are designed to mitigate anticipated operational occurrences and design basis accidents by actuating the reactor trip and engineered safeguards signals credited in the Cook Nuclear Plant safety analyses (see Attachment 5, Report No. 2985-WGS-03, "SPEC 200/SPEC 200 MICRO Hardware and Firmware System Description"). This instrumentation is designed to monitor and process signals for temperature, pressure, fluid flow, and fluid level (see Attachment 5, Report No. 2985-HEI-01, "Summary Report for Response Time Evaluations," and Report No. 2985-SKF-01, "Technical Specification Compliance Assessment"). While it is a form, fit and functional replacement for the existing Foxboro reactor protection system instrumentation, its reliability and availability is better than that of the present instrumentation (see Attachment 5, Report No. 2985-HEI-15, "Reliability and MTBF Analysis"). As such, in the highly unlikely event that the new instrumentation experiences a failure, the consequences will not exceed those caused by a failure of the existing system. The new instrumentation's failure modes and effects are discussed in Attachment 5 in Report No. 2985-HEI-14, "Failure Modes and Effects Analysis Protection Set 1 Foxboro SPEC 200."

Since the ability of the reactor protection system to detect faults and initiate protective action is not reduced and since the FSAR analyses remain bounding as indicated above, the probability or consequences of accidents previously analyzed are not increased.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The Foxboro SPEC 200 and SPEC 200 MICRO instrumentation is designed to mitigate anticipated operational occurrences and design basis events by actuating reactor trip or engineered safeguards signals credited in the safety analyses. The instrumentation is designed to monitor and process signals for temperature, pressure, fluid flow, and fluid levels. It is a form, fit and functional replacement for the existing Foxboro analog instrumentation.

To ensure that the equipment will perform as required, extensive measures have been taken to ensure that the response of the new instrumentation is enveloped by the design basis accident analyses contained in Chapter 14 of the Cook Nuclear Plant FSAR. This is demonstrated, in part, in reports that are summarized in Attachment 5 including: Report No. 2985-VDV-01, "Reactor Protection Functional Diversity Assessment;" Report No. 2985-HEI-01, "Summary Report for Response Time Evaluations;" and Report No. 2985-SKF-01, "Technical Specification Compliance Assessment".

Application of the Foxboro instrumentation in the Cook Nuclear Plant reactor protection system includes, among other things, such considerations as single failure, independence, functional diversity, and separation criteria. In addition, the response of the instrumentation during events such as station blackout and design basis earthquake was assessed. The reports contained in Attachment 5 summarize these efforts.

An analysis of the response times of the instrumentation indicates that they will be bounded by the existing FSAR analyses and existing Cook Nuclear Plant technical specification limits (see Attachment 5, Report No. 2985-HEI-01, "Summary Report for Response Time Evaluations").

With regard to the application of digital technology in the Cook Nuclear Plant reactor protection system, a battery of EMI/RFI evaluations was performed, as discussed in Report No. 2985-HEI-03, "Preliminary EMI/RFI Evaluation." These evaluations concluded that the EMI/RFI environment at Cook Nuclear Plant is suitable for the application of this type of equipment.

The SPEC 200 and SPEC 200 MICRO have been designed, verified, and validated to be in compliance with the protection system functional requirements. This statement is supported by Report No. 2985-DPS-01, "Functional Requirement Summary," and Report No. 2985-HHH-01, "Qualification Compliance," both of which are provided in Attachment 5. Additionally, reliability studies of the instrumentation, as well as the verification and validation studies and the equipment qualification programs, indicate that the susceptibility of the reactor protection system to common mode failure mechanisms will be reduced. (See Attachment 5, Report No. 2985-HEI-15, "Reliability and MTBF Analysis.")

A failure of the digital instrumentation will not create a new or different accident. In the highly unlikely event that the new reactor protection system instrumentation should fail, the consequences experienced would be equivalent to those experienced if the existing equipment failed. (See Attachment 5, Report No. 2985-HEI-14, "Failure Modes and Effects Analysis Protection Set 1 Foxboro SPEC 200," and Report No. 2985-VDV-01, "Reactor Protection Functional Diversity Assessment.")

Consequently, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for the Cook Nuclear Plant.

(3) Involve a significant reduction in a margin of safety.

The proposed change will not reduce a margin of safety. The accuracy and reliability of the reactor protection system will be improved with the installation of the Foxboro SPEC 200 and SPEC 200 MICRO instrumentation (see Attachment 5, Report No. 2985-HEI-15, "Reliability and MTBF Analysis"). The various reactor trip and engineered safeguard actuation circuits continue to provide signals to automatically open the reactor trip breakers or actuate engineered safeguards equipment, as applicable, whenever a condition monitored by the reactor protection system or the engineered safeguards features actuation system reaches a preset or calculated level. In addition to redundant channels and trains, the protection system will continue to monitor numerous system variables, thereby providing protection system functional diversity (see Attachment 5, Report No. 2985-VDV-01, "Reactor Protection Functional Diversity Assessment").

In addition, since it is assumed that our overall response times and setpoint and allowable values will continue to remain bounding (see Attachment 5, Report No. 2985-HEI-01, "Summary Report for Response Time Evaluations," and Report No. 2985-SKF-01, "Technical Specification Compliance Assessment"), the results and conclusions of the accident analyses remain valid, as supported by Report No. 2985-VDV-01, "Reactor Protection Functional Diversity Assessment," contained in Attachment 5. Response time testing performed as part of the factory acceptance testing will verify that the response times assumed in the accident analyses are not exceeded.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: L. B. Marsh

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: January 29, 1993

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) by changing the surveillance interval for the Source Range Monitor (SRM) functional test from daily to weekly. In a previous TS amendment the surveillance interval was erroneously changed to daily.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1) The proposed change does not increase the probability or consequences of an accident occurring because it merely corrects an error and restores the appropriate surveillance interval for the SRM functional test. No other changes are proposed.

2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because this change to the surveillance interval merely corrects a previous error and is consistent with DAEC and NRC guidance.

3) The margin of safety will not be reduced since the change corrects an error as noted above and therefore does not affect the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: John N. Hannon

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: February 1, 1993.

Description of amendment request: The proposed amendment would revise the technical specifications (TS) for the Cooper Nuclear Station (CNS) to (1) incorporate the NRC staff position on leak detection per the guidance of Generic Letter 88-01 and its supplement, (2) incorporate the NRC staff position on inservice inspection schedules, methods, personnel, and sample expansion per the guidance of Generic Letter 88-01 and its supplement, and (3) make administrative changes where certain system names are replaced by system names which are more consistent with those used in other portions of the TS and the implementing surveillance procedures.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The first proposed change addresses the NRC position on leak detection, delineated in Generic Letter 88-01. This change imposes a 2 gpm limit on the increase of unidentified reactor coolant leak rate over a 24-hour period, establishes specific operability requirements for drywell sump flow measuring systems, and increases the frequency of Reactor Coolant System (RCS) leakage checks. This proposed change provides more stringent criteria for the early detection of unidentified leakage within primary containment. This additional restriction will enhance the ability to detect leaks in the reactor coolant pressure boundary, thereby reducing the potential for a significant failure of the pressure boundary. Additional requirements regarding the drywell sump flow measuring systems will provide added assurance that the sumps will always be available for the early detection of unacceptable leakage during plant operations. This change incorporates additional restrictions into the plant Technical Specifications and does not involve the modification or addition of any plant hardware, nor does it involve a change in those plant settings that affect plant operation responses. The District concludes that this proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The second proposed change addresses the NRC position on inservice inspection methods and personnel, delineated in Generic Letter 88-01. This change involves the addition of a statement that commits the station to conducting the inservice inspection program in accordance with the guidance of Generic Letter 88-01, in regard to schedule, methods, personnel, and sample expansion. This change incorporates additional restrictions into the plant Technical Specifications and does not result in any plant modifications or change in plant hardware. The augmented inservice inspection program, for piping identified in Generic Letter 88-01, does not affect plant operations. However, adoption of this augmented inservice inspection program should provide added assurance that piping, susceptible to Intergranular Stress Corrosion Cracking, will maintain integrity throughout all modes of plant operation. Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The third proposed change involves the replacement of various terms (system names) used to refer to the drywell air sampling system and the sump flow measuring systems with the terms "drywell air sampling system" and "sump flow measuring systems", respectively. The purpose of this change is to utilize system names that are consistent with those used in other parts of the Technical Specifications and the applicable implementing surveillance procedures. This proposed change is administrative in nature and does not involve a change in plant operations, plant modification, or a change in plant hardware. Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility for a new or different kind of accident from any accident previously evaluated?

The first proposed change addresses the NRC position on leak detection, delineated in Generic Letter 88-01, by establishing new requirements for restricting unidentified leak rate increases, increasing the surveillance frequency for RCS leakage, and establishing specific operability requirements for the drywell sump flow measuring systems. Cooper Nuclear Station (CNS) is analyzed for large, unisolatable leaks in primary containment and leakage is carefully monitored to reduce the probability of this occurring. This proposed change provides additional restrictions on operation with increasing leakage or inoperable monitoring equipment. Since this change does not result in a change to the design, operation, maintenance, or testing of the plant, a new mode of operation or failure is not created. Therefore, the proposed change does not create the possibility for a new or different kind of accident from any accident previously evaluated.

The second proposed change addresses the NRC position on inservice inspection methods and personnel, delineated in Generic Letter 88-01. This change adds a statement that requires piping, identified in Generic Letter 88-01, to undergo inservice inspection in accordance with NRC

guidelines. This change does not result in the addition or modification of any structure, system, or component, and does not introduce or change any mode of plant operation. Therefore, the District concludes that the proposed change does not create the possibility for a new or different kind of accident from any accident previously evaluated.

The third proposed change involves the replacement of various terms (system names) used to refer to the drywell air sampling system and the sump flow measuring systems in order to utilize system names that are consistent with those used in other parts of the Technical Specifications and the applicable implementing surveillance procedures. This proposed change is administrative in nature and does not introduce a change in the way Technical Specifications are interpreted or implemented. This change does not result in the addition, deletion, or modification of any structure, system, or component, and does not introduce or change any mode of plant operation. Therefore, the District concludes that the proposed change does not create the possibility for a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change create a significant reduction in the margin of safety?

The first proposed change addresses the NRC position on leak detection, delineated in Generic Letter 88-01. This proposed change provides additional restrictions to the rate of leakage increase allowed to the primary containment from unidentified sources, along with additional testing frequency requirements. These additional requirements enhance the ability for early detection of small leaks in the reactor coolant pressure boundary, thereby reducing the potential for significant failure of the pressure boundary. This change also includes the establishment of specific operability requirements for the drywell sump flow measuring system. This change will provide additional assurance that the sumps are available for the monitoring of RCS leakage. There are no changes to the plant hardware and no changes to plant safety setpoint settings resulting from this change. Therefore, this proposed change does not create a significant reduction in the margin of safety.

The second proposed change addresses the NRC position on inservice inspection methods and personnel, delineated in Generic Letter 88-01. This proposed change involves the inclusion of piping, identified in Generic Letter 88-01, into the CNS in-service inspection program per the guidance provided in the Generic Letter. This proposed change incorporates additional restrictions into the plant Technical Specifications and there are no modifications to plant hardware or changes to the plant safety setpoint settings. Therefore, this proposed change does not create a significant reduction in the margin of safety.

The third proposed change involves the replacement of various system names used to refer to the drywell air sampling system and the sump flow measuring systems. This proposed change is administrative in nature. It involves no hardware changes, plant modifications, or changes in plant operations. There are no changes to the plant safety setpoint settings. Therefore, this proposed change does not create a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68602-0499

NRC Project Director: George T. Hubbard, Jr. (acting)

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: April 3, 1992, as supplemented January 12, 21, and 22, 1993

Description of amendment request: The amendment would revise the Surveillance Requirements (SRs) in the Technical Specifications (TS) for the Standby Liquid Control (SLC) system to substitute the pertinent requirements from the draft improved Standard TS provided in NUREG-1433.

The initial information supporting a finding of no significant hazards consideration was provided in the licensee's original application dated April 3, 1992, and confirmed in the licensee's January 12, 1993, submittal. The verification of SLC system operability focuses on maintaining or recovering the required temperature of the sodium pentaborate solution, and not on the means of achieving the solution temperature required to prevent precipitation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The revised proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The revised proposed SR to verify that the SLC system pump suction line is unblocked does not delineate a specific flow path. The current TS SR specified flow path from the SLC system storage tank to the test tank creates a large amount of liquid waste requiring special handling as a result of the post-test pipe flushing. An alternative testing method would be to pump solution from the storage tank to a test drain. This would reduce the amount of piping and equipment subjected to the flow of the sodium pentaborate solution and the subsequent required flushing. Accordingly, the result of performing the proposed SR would be equivalent to performing the current SR: affected heat traced piping would continue to be verified unblocked. The revised proposed SR deletes the prescribed method specified in the current and originally proposed TS, and thereby allows flexibility in the methods employed to perform this SR verification. The revised proposed SR also includes a clarification of the period during which this SR is required to be performed if the piping temperature drops below the low temperature limit (i.e., 70°F).

The revised proposed SR changes include deletion of the required demonstration of SLC system storage tank heater operability. This proposed change is based upon the ultimate objective of determining SLC system operability as a function of the temperature of the sodium pentaborate solution in the storage tank, which the TS will continue to require to be checked daily, and not on the method of achieving this verification. Specifically, the storage tank heaters are the "A" heater, a 10KW cycling heater (i.e., controlling solution temperature between 75°F and 85°F), and the "B" heater, a 40KW manually operated heater used primarily during solution mixing activities. The storage tank is located within heated spaces of the Reactor Enclosure that are normally maintained at or above the "A" heater low temperature activation setpoint of 75°F. Furthermore, low storage tank solution temperature (i.e., 70°F) is alarmed in the Main Control Room.

In addition, the revised proposed SR includes clarification of the period within which the verification of solution concentration is required to be performed after water or boron is added to the storage tank, or if the solution temperature drops below 70°F.

This clarification is based on the recognition of realistic time limits to perform actions to preclude precipitation of the sodium pentaborate. Based on the above discussion, our previous conclusion that the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated remains unchanged.

2. The revised proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The revised proposed changes tot he SLC system SRs do not add or delete any equipment, and do not involve any systems or equipment that would create an accident. Therefore, our previous conclusion that the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated remains unchanged.

3. The revised proposed TS changes do not involve a significant reduction in [a] margin of safety.

The revised proposed changes to the SLC system SRs do not involve physical changes

to the system, and continue to provide an equivalent level of assurance that the SLC system will be capable of performing its safety function. Therefore, our previous conclusion that the proposed changes do not reduce the margin of safety remains unchanged.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-278, Peach Bottom Atomic Power Station, Unit No 3, York County, Pennsylvania

Date of application for amendment: January 28, 1993

Description of amendment request: The licensee proposes to modify Section 1.1.A of the Peach Bottom Atomic Power Station, Unit 3 Technical Specifications. The proposed change would revise the safety limit minimum critical power ratio (MCPR) for two recirculation loop and single recirculation loop operation to 1.07 and 1.08 respectively. The change is requested to accommodate installation and use of a new fuel type, GE-11 fuel, during the Cycle 10 operation. Unit 3, Cycle 10 is expected to begin in November of 1993.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

PECo [Philadelphia Electric Company] proposes that the changes to the MCPR Safety Limits do not involve significant hazards considerations for the following reasons.

i) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. Because the MCPR Safety Limits are operational thresholds analytically selected using proven methods, they cannot, themselves, initiate an accident. The probability of occurrence of transients is determined by the frequency of operator errors and equipment failures, not by the adequacy of the MCPR Safety Limits selected. Because the proposed MCPR safety limits have been selected such that no fuel damage is calculated to occur during the most severe moderate frequency transient events, they will ensure that the consequences of these events are not increased. The response of the plant to transients will be within the bounds of the discussion in Chapter 14 and Appendix G of the Updated Final Safety Analysis Report since the proposed MCPR Safety Limits will accomplish the same objectives as the previous limits.

ii) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed MCPR Safety Limits have been selected such that the design basis is satisfied. The MCPR Safety Limits are operational thresholds analytically selected using proven methods; therefore, they cannot, themselves, initiate an accident. An improperly selected limit could result in fuel damage, which is a consequence of previously evaluated accidents. Thus, no new or different type of accident could be created by revising the limits.

iii) The proposed changes do not involve a significant reduction in a margin of safety because the proposed MCPR Safety Limits have been selected such that the design basis is satisfied and such that the conservatism described in the Bases for the Fuel Cladding Integrity Safety Limit TS are maintained. Thus, margins of safety with the proposed MCPR Safety Limits are the same as with the previous limits.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 5, 1993

Description of amendment request: The licensee has requested a change in the Technical Specification fuel storage criticality criteria. The development of new fuel designs has resulted in fuel bundles with higher average enrichment and more burnable poisons than the design used as the basis for the existing TS requirement. The existing and the proposed TS criteria are used to ensure compliance with the requirement to have fuel storage k-eff less than or equal to 0.95. The licensee proposes to replace the existing TS 5.5.D that "The average fuel assembly loading shall not exceed 17.3 grams U-235 per axial centimeter of total active fuel height of the assembly" with a requirement that states "The spent fuel storage racks are designed and shall be maintained with fuel assemblies having a maximum k-infinity of 1.362 in the nominal reactor core configuration at cold conditions." The licensee contends the proposed criteria is more appropriate to new fuel designs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Licensee proposes that this application does not involve a significant hazards consideration for the following reasons:

i) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change replaces the method of assuring the compliance with the storage reactivity criterion. The existing fuel enrichment criteria is converted to a k-infinity criteria by computing the in-core k-infinity of the exact same lattice type used by the rack supplier in the original fuel storage criticality analysis. Since the proposed change does not affect operations, equipment, or any safety related activity, current accident precursors are unaffected. Therefore, there is no increase in the probability or consequences of an accident previously evaluated.

ii) The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not make any physical changes to the plant or changes to operating procedures. Therefore, implementation of the proposed change will not affect the design function or configuration of any component or introduce any new operating scenarios or failure modes or accident initiation. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

iii) The proposed change does not involve a significant reduction in a margin of safety.

Replacing the method by which the fuel storage criticality is assured does not affect any safety related equipment activity or equipment. Therefore, the proposed change does not reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: October 14, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3/4.7.5, "Control Room Emergency Air Cleanup System," and associated Bases, to delete requirements for duct heaters and diverting valves, and to incorporate modifications in the Action statement, Surveillance Requirements (SR), and Bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The proposed TS change will not result in a significant increase in the probability or consequences of any accident previously evaluated. The proposed TS change clarifies the ACTION statements when each unit is in a different operational MODE, and will not decrease the ability of the control room emergency air cleanup system (CREACUS) to perform its intended function of protecting the control room operators from a postulated uncontrolled release of radioactivity or toxic gas. The proposed TS change also modifies the surveillance requirements for the CREACUS, including deleting duct heaters that are not required and removing reference to diverting valves that do not exist in the system. The licensee states that the duct heaters are not needed to maintain the relative humidity below the required level, and the reliability and performance of the CREACUS will not be affected by the proposed changes in the surveillance requirements. The staff concludes that the licensee's analysis of the impact of these modifications to the CREACUS surveillance requirements appears to satisfy this standard of 10 CFR 50.92(c)

2. The proposed TS change will not create the possibility of a new or different kind of accident from any previously evaluated. The CREACUS is utilized to protect the control room operators from certain accident scenarios, and its operation will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The operation of the facility in accordance with this proposed TS change will not result in a significant reduction in a margin of safety. The discussion in Item 1 above contains the staff's evaluation of the licensee basis for concluding that the reliability and performance will not be adversely affected by the proposed TS change. This conclusion also means that no significant decrease in any margin of safety will result from this proposed TS change.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 30, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3/4.3.2, "Engineered Safety Feature Actuation System Instrumentation," and TS 3/4.3.3, "Radiation Monitoring Instrumentation." This amendment request, identified as Proposed Change Number 405, would eliminate the TS requirements and ESFAS circuitry for the Control Room Isolation System (CRIS) particulate/iodine channel. The licensee has reviewed the design basis for the CRIS particulate/iodine channel and determined that it is not necessary for this channel to perform an Engineered Safety Feature Actuation System (ESFAS) function.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change would eliminate the ESFAS technical specification requirements and ESFAS circuitry of the CRIS particulate/iodine radmonitor channel. The function of the particulate/iodine channel is to detect airborne radioactivity entering the control room normal ventilation supply and initiate a CRIS signal. The CRIS signal realigns the ventilation system to a configuration that is capable of maintaining a suitable control room environment following a Design Basis Accident. Since the CRIS particulate/iodine channels are only used following an accident, the probability of occurrence of an accident previously evaluated would not be affected by the proposed change.

CRIS instrumentation is credited in the [Updated Final Safety Analysis Report] UFSAR for two design basis events: a steam generator tube rupture and a [Fuel Handling Accident] FHA inside containment. Eliminating the particulate/iodine channel would not alter the ESFAS function of the CRIS signal. The response time of the CRIS particulate/iodine channel has been evaluated in comparison with the CRIS gaseous channels. The gaseous channels would respond to initiate a CRIS signal faster than the particulate/iodine channels.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change would eliminate ESFAS technical specification requirements and ESFAS circuitry of CRIS instrumentation used solely for the purpose of protecting the control room during a design basis accident. Eliminating the particulate/iodine channel would not alter the ESFAS function of the CRIS system. With the exception of eliminating these two channels, the proposed change would not alter the design of the interface between CRIS instrumentation and existing plant equipment. CRIS functions would continue to be performed by the redundant gaseous channels of the airborne radmonitors. Operation of the facility in accordance with this proposed change would not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change would eliminate ESFAS technical specification requirements and ESFAS circuitry of the CRIS particulate/iodine channel. During all credible accidents which require CRIS actuation, the gaseous radmonitor channels would initiate the required safety function. Since the proposed change would not alter the response of the gaseous channels, operation of the facility in accordance with the proposed change would not involve a significant reduction in a margin of safety.

CRIS instrumentation is credited in the UFSAR for two design basis events: a steam generator tube rupture and a FHA inside containment. Eliminating the particulate/iodine channels would not alter the ESFAS function of the CRIS signal. The response time of the particulate/iodine channel has been evaluated in comparison with the CRIS gaseous channel. The gaseous channels would respond to initiate a CRIS signal faster than the particulate/iodine channels. Since for both design basis events, the response of the redundant gaseous channels would initiate a CRIS signal faster than would the particulate/iodine channel, operation of the facility in accordance with this proposed change would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 30, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3.3.3.1, "RADIATION MONITORING." This amendment request, identified as Proposed Change Number 416, would increase the required number of plant vent stack wide range noble gas radiation monitors from 1 to 2 when either Unit 2 or 3 is in Mode 1, 2, or 3. When either Unit 2 or 3 is in Mode 4 and the other unit is in Mode 4, 5, or 6, either the plant vent stack monitor (2/3RT-7808) or both wide range gas monitors (2RT-7865-1 and 3RT-7865-1) will be required. Editorial clarifications are also made.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This proposed change increases the number of wide range noble gas plant vent stack radiation monitors from one to two. The proposed TS will require that whenever Unit 2 or Unit 3 is in Mode 1, 2, or 3, both plant vent stack effluent pathways will be continuously monitored. In Mode 4 either the normal plant vent stack monitor (2/3RT-7808) or both 2RT-7865-1 and 3RT-7865-1 will be required. This proposed change does not reduce the requirements for any radiation monitor credited in the UFSAR for mitigation of the consequences of any previously evaluated accident. Therefore, this proposed change will not increase the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This proposed change increases radiation monitoring requirements using existing qualified equipment. This proposed change neither adds new equipment nor changes the configuration or operation of the plant. Therefore, no new or different kind of accident is created from any previously evaluated.

3. Will operation of the facility in accordance with this proposed amendment involve a significant reduction in a margin of safety?

Response: No.

This proposed change increases the operability requirements for wide range noble gas plant vent stack radiation monitors. This proposed change is limited to the requirements of [Plant Vent Stack] PVS radiation monitoring with 2RT-7865-1 and 3RT-7865-1 which are not identified with any margin of safety. Therefore, this proposed change will not significantly reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 30, 1992

Description of amendment requests: The licensee proposes to include a new Technical Specification (TS) 3/4.7.3.1, "Component Cooling Water Safety Related Makeup System," and its associated Bases, in the San Onofre Units 2 and 3 Technical Specifications. This TS amendment request, identified as Proposed Change Number 418, is being submitted to support the installation (during the Units 2 and 3 Cycle 7 refueling outages) of a safety related Seismic Category I source of emergency makeup water for the Component Cooling Water (CCW) System.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No

The CCW Safety Related Makeup System provides an assured water supply to the CCW in case of a Design Basis Event. As such, the proposed Technical Specifications describe a new system which will ensure that the CCW remains OPERABLE following a Design Basis Event. Therefore, this proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No

The changes proposed herein improve the reliability of the CCW system by providing it with a safety related makeup. Therefore, this proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

Operation of the facility in accordance with the proposed change will not be altered as a result of the proposed change. The

purpose of this change is to ensure the CCW will continue to perform its functions in case of a [Design Basis Event] [DBE] without reliance on the non-Seismic I Nuclear Service Water System. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 31, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3.2.1, "LINEAR HEAT RATE," and TS 3.2.4, "DNBR MARGIN," and the corresponding Bases. This amendment request, identified as Proposed Change Number 325, increases the ACTION time from 1 hour to 4 hours when the Core Operating Limit Supervisory System (COLSS) is out of service. During the 4-hour ACTION period, new Surveillance Requirements will verify every 15 minutes that no adverse trend in departure from nucleate boiling ratio (DNBR) margin or linear heat rate (LHR) will occur. In addition, new power reduction requirements are proposed when the Limiting Conditions for Operability cannot be met from "HOT STANDBY" to "less than or equal to 20% Rated Thermal Power."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This proposed change distinguishes between the action requirements applicable when COLSS is either in service or out of service. If COLSS is in service the actions and time requirements remain unchanged. When COLSS is not available the action time is increased from 1 hour to 4 hours. The purpose of these TS changes is to provide a reasonable opportunity for appropriate corrective actions when the COLSS becomes inoperable.

The TS [Limiting Conditions for Operation] LCOs for DNBR margin and LHR are more restrictive when operating without the COLSS due to [Core Protection Calculators] CPC uncertainties and the overpower margin reserved to ensure that specified acceptable fuel design limits are not exceeded in the event of anticipated operational occurrences. Consequently, when COLSS becomes inoperable the existing DNBR margin limits based on CPC information can only be satisfied by either a power reduction or by restoring the COLSS to service. By itself, a loss of COLSS or returning the COLSS to service does not affect plant operation and does not affect the actual DNBR or the LHR. In addition, a loss of the COLSS does not immediately mean that the actual core power should be changed. Therefore, during normal operation within the COLSS [Power Operating Limits] POLs, if there are no indications that the actual DNBR margin or LHR has degraded, the required overpower margin discussed in chapter 15 of the [Updated Final Safety Analysis Report] UFSAR will continue to be maintained.

When either TS 3.2.1 or TS 3.2.4 is not satisfied compensatory actions will provide additional assurance that the actual DNBR margin and LHR do not exceed the safety limits stated in the UFSAR. The new [surveillance requirements] SR will ensure that DNBR margin and LHR are monitored every 15 minutes and appropriate action is taken if an adverse trend is noted when COLSS is out of service and the LHR and DNBR TS LCOs are not met.

The primary consideration in extending the COLSS out of service time limit is the remote possibility of a slow, undetectable transient that degrades the DNBR margin or LHR within the 4 hour action time and is then followed by an anticipated operational occurrence or accident. The plant parameters monitored by COLSS which could affect DNBR margin and LHR include [Reactor Coolant System] RCS flow rate as determined from reactor coolant pump shaft speed, axial power distribution, cold leg temperature, reactor core power, RCS pressure, and azimuthal tilt. Of these parameters, the CPC's directly incorporate measured values for reactor core power, RCS flow rate as determined from reactor coolant pump shaft speed, RCS pressure, and cold leg temperature into the calculations of DNBR and LHR. Therefore, any degradation of conditions with respect to these parameters is expected to be evident in the equivalent CPC margins.

San Onofre is stable with respect to azimuthal power tilt within any 4 hour time period. The only credible events affecting azimuthal tilt are an inadvertent drop or misalignment of a Control Element Assembly (CEA). The probability of an undetected dropped or misaligned CEA is remote within any four hour time period and beyond the basis of LCO monitoring. In addition, a CEA calculator indicating light and alarm will alert operators that corrective action is required if this situation were to occur. Thus, during the proposed 4 hour action statement any degradation of azimuthal tilt is unlikely and would be quickly and positively identified.

Axial xenon oscillations are a normal consequence of the San Onofre Unit 2 and 3 core designs, particularly near the end of a fuel cycle. The resultant axial core power fluctuations are strictly controlled to insure efficient fuel burnup. As a result, axial power shape is strictly maintained by existing procedures well within the limits assumed in the safety analysis. Typically, axial shape control will maintain the [Axial Shape Index] ASI within 0.05 ASI units of the Equilibrium Shape Index (ESI).

Typically, one full xenon oscillation will take approximately 26 hours. Since operating procedures will be revised to require CPC calculated LHR and DNBR to be monitored every 15 minutes, any significant change in ASI will be identified. Therefore, due to the attention given the axial power distribution when COLSS is in service and the increased LHR and DNBR monitoring when COLSS is not in service, it is unlikely that a change in ASI during the 4 hour ACTION period of steady plant operation would either be undetected or lead to a condition outside the range of initial conditions assumed in the safety analysis.

This proposed change does not modify either the LHR or DNBR Limiting Conditions for Operation (LCOs). The core power distribution during all phases of normal operation and anticipated operational occurrences will remain bounded by the initial conditions assumed in chapter 15 of the safety analysis. The COLSS calculated POLs and the CPC based LHR and DNBR operating limits will remain unchanged. Therefore, this proposed change will not significantly increase the probability or consequences of an accident previously evaluated.

This proposed change increases the core power limit if LHR and DNBR limits are not restored within the applicable action time, from "HOT STANDBY" to "less than or equal to 20% of Rated Thermal Power (RTP). This administrative change provides consistency with the existing TS applicability statements. The increased power level allows in-core and ex-core neutron detectors to provide meaningful data for COLSS trouble shooting and operability determination without decreasing any safety margin.

Therefore, this change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This proposed change is limited to administrative limits, does not involve any physical change to plant systems, and the

COLSS and CPC software is not altered. This change will not affect any safety-related equipment used in the mitigation of anticipated operational occurrences or design basis accidents. The only significant change resulting from this amendment will be to the [Operating Instructions] OIs used when COLSS is out of service. These OI changes will be reviewed and implemented in accordance with 10 CFR 50.59 and TS Administrative Controls. The DNBR and LHR LCOs are not affected by these changes. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed amendment involve a significant reduction in a margin of safety?

Response: No.

TS LCOs 3.2.1 and 3.2.4 ensure that operation of the reactor is within the range of conditions assumed in the Safety Analysis. When COLSS is unavailable, the new SR will monitor DNBR margin and LHR using the CPCs to ensure that the DNBR margin and LHR have not degraded and no anticipated operational occurrence or postulated accident will result in core conditions exceeding Specified Acceptable Fuel Design Limits or the maximum peak cladding temperature of 2200°F specified by 10 CFR 50.46. Therefore, the analysis as described in Chapter 15 of the UFSAR remains bounding. For these reasons, this change will not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: November 24, 1992

Description of amendment request: The proposed amendment would revise Technical Specification Section 15.3.10, "Control Rod and Power Distribution Limits." The first sentence of Specification 15.3.10.A.5 currently reads: "When the reactor is in the hot shutdown condition or during any approach to criticality, except for physics tests, the critical rod position shall not be lower than the insertion limit for zero power." The proposed amendment would change this sentence to read: "During any approach to criticality, except for physics tests, the critical rod position shall not be lower than the insertion limits for zero power."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of this facility under the proposed Technical Specification will not create a significant increase in the probability or consequences of an accident previously evaluated. This proposed change modifies Specification 15.3.10.A.5 by removing its applicability when the reactor is in hot shutdown. The intent of this section is to prevent the occurrence of a reactor criticality below the control rod insertion limits. Under the proposed amendments, the intent of this section will still be maintained because sufficient actions to ensure that a criticality only occurs above the control rod insertion limits are still required to be performed before a critical approach can be commenced. Additionally, the proposed changes will not minimize the existing controls for the hot shutdown mode of operation. Specification 15.3.10.A.3 adequately addresses the hot shutdown condition in its consideration of shutdown margin requirements. There is no physical change to the facility, its systems, or its operation. Thus, an increased probability or consequences of an accident previously evaluated cannot occur.

Operation of this facility under the proposed Technical Specification will not create the possibility of a new or different kind of accident from any accident previously evaluated. This proposed change modifies Specification 15.3.10.A.5 by removing its applicability when the reactor is in hot shutdown. The intent of this section is to prevent a reactor criticality below the control rod insertion limits. Under the proposed amendments, the intent of this section will be maintained. Sufficient actions to ensure that criticality only occurs above the control rod insertion limits are still required before a critical approach can be commenced. Additionally, the proposed changes will not minimize the existing controls for the hot shutdown mode operation. Specification 15.3.10.A.3 adequately addresses the hot shutdown condition in its consideration of shutdown margin requirements. There is no physical change to the facility, its systems, or its operation. Thus, a new or different kind of accident cannot occur.

Operation of this facility under the proposed Technical Specification will not create a significant reduction in a margin of safety. This proposed change modifies Specification 15.3.10.A.5 by removing its applicability when the reactor is in hot shutdown. The intent of this section is to prevent a reactor criticality below the control rod insertion limits. Under the proposed amendments, the intent of this section will be maintained. Sufficient actions to ensure that a criticality only occurs above the control rod insertion limits are still required to be performed before a critical approach can be commenced. Additionally, the proposed changes will not minimize the existing controls for the hot shutdown mode of operation. Specification 15.3.10.A.3 adequately addresses the hot shutdown condition in its consideration of shutdown margin requirements.

There is no physical change to the facility, its systems, or its operation. Thus, a significant reduction in a margin of safety cannot occur.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: January 14, 1993

Description of amendment request: The proposed amendment would revise Technical Specification 15.3.1.E, "Maximum Reactor Coolant Oxygen and Chloride and Fluoride Concentration for Power Operation." Item 2 under this specification limits the concentration of chloride and fluoride each to 0.15 ppm. The amendment would separate this into two parts, one for chloride, the other for fluoride. The limits would not be changed.

The amendment would also revise the action statement by changing the times in which actions must be taken. The current action statement requires action only when oxygen and either chloride or fluoride exceed specified limits. As revised, action would be taken when any one of the three parameters exceeds its specified limit. Under the existing specification, if normal operation specifications are not achieved within 24 hours, the reactor is to be brought to a hot shutdown condition within an unspecified time period. The amendment would specify that this be done within 8 hours. The current specification continues with a

requirement that, if the system is not brought to within specifications within an additional 24 hours, the system is to be brought to a cold shutdown condition in an unspecified time period. The amendment would specify that this period to achieve cold shutdown be 12 hours.

The specification is reworded to tie all actions to the time of discovery of the out-of-specification condition.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1

Operation of the Point Beach Nuclear Plant in accordance with the proposed license amendment does not result in a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment assures that timely corrective action is taken for an out-of-specification reactor coolant chemistry condition. Control of oxygen, chloride, and fluoride contaminants helps insure the long-term integrity of the reactor coolant pressure boundary, fuel clad, and reactor vessel internals. Degradation caused by an out-of-specification chemistry condition is time-dependent and therefore does not present an immediate safety concern. Any degradation will be detected by existing inspection programs and procedures. It is appropriate to allow a reasonable, though limited period of time, in which to correct the condition while maintaining the plant operating. Fuel damage and loss of coolant accidents, including a steam generator tube rupture, are the principal accidents involving reactor coolant system materials analyzed in the updated Final Safety Analysis Report (FSAR). Reactor coolant chemistry is not analyzed as a contributing factor to these events. Therefore, the probability or consequences of any accident previously evaluated will not significantly increase.

Criterion 2

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not result in or from a physical change to the facility or a significant change in its operation. Corrective action will be taken expeditiously to correct any out-of-specification chemistry condition. Therefore, operation of the facility in accordance with this amendment cannot result in a new or different type of accident than any presently analyzed.

Criterion 3

The proposed amendment does not involve a significant reduction in a margin of safety.

Controlling oxygen, chlorides, and fluorides within specified limits insures the functional integrity of the reactor coolant system material under all operating conditions. Degradation due to out-of-specification chemistry conditions is a slow, time-dependent process. The out-of-specification conditions do not present an immediate concern as to the integrity of the reactor coolant system materials and the fuel cladding. A limited period of time to correct the condition, 24 hours, will not cause significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon

Previously Published Notices of Consideration of Issuance of Amendments to Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: January 15, 1993, as supplemented January 21, 1993

Description of amendment request: The amendment would revise the Technical Specifications, Section 4.7.10.e, by extending the surveillance requirement frequency for the snubber functional tests by allowing a one-time extension to the current 18-month surveillance, plus the additional 25 percent allowed by Technical Specification 4.0.2.

Date of publication of individual notice in **Federal Register:** February 5, 1993 (58 FR 7265).

Expiration date of individual notice: March 8, 1993

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Georgia Power Company, et al., Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: February 2, 1993 (This amendment request supersedes previous August 31, 1992, request as noticed in the **Federal Register** September 30, 1992, 57 FR 45084)

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 4.8.1.1.2.h.7 and its associated footnote to remove the requirement to have the diesel generators perform the LOOP/ESFAS test within 5 minutes after completing the 24-hour test and substitute the requirement to start the diesel generator in accordance with TS 4.8.1.1.2.a.4 within 5 minutes after the 24-hour test.

Date of publication of individual notice in **Federal Register:** February 18, 1993 (58 FR 8999)

Expiration date of individual notice: March 22, 1993

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830

Notice of Issuance of Amendment to Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance

with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: October 30, 1991

Brief description of amendment: The amendment revised Technical Specification 3.3.2-2 by adding new isolation signals for the Reactor Water Cleanup (RWCU) system and by revising the existing setpoint for the delta-flow timer isolation signal. The new signals will initiate an RWCU system isolation based on high temperature or high delta-temperature in containment rooms where the "cold" portion of the RWCU piping is located. The RWCU delta-flow timer setpoint was extended from 45 seconds to 10 minutes.

Date of issuance: February 8, 1993

Effective date: February 8, 1993

Amendment No. 46

Facility Operating License No. NPF-58. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 11, 1991 (56 FR 64649). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 8, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: April 20, 1992

Brief description of amendment: The amendment removes certain fire protection related items from Oyster Creek Nuclear Generating Station Technical Specifications and relocates them in the Fire Protection Program to the Updated Final Safety Analysis Report. This amendment was requested in accordance with the guidance provided in Generic Letter 86-10 and 88-12.

Date of issuance: February 18, 1993

Effective date: February 18, 1993

Amendment No.: 161

Facility Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 13, 1992 (57 FR 20511) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 18, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of applications for amendment: August 9, 1991, and October 29, 1991

Brief description of amendment: The amendment revises the Technical Specifications Bases addressing the minimum borated water storage volumes to ensure adequate shutdown margin exist with respect to the loss of coolant accident (LOCA) linear heat rate allowable limits. Technical Specifications Figure 3.5-2M, "LOCA Limited Maximum Allowable Linear Heat Rate," is revised to reflect the Babcock & Wilcox reevaluations of generic linear heat rate limits. In accordance with the intent of NRC Generic Letter 88-16, this figure is removed from the TMI-1 Technical Specifications and incorporated into the TMI-1 Core Operating Limits Report.

Date of issuance: February 11, 1993

Effective date: February 11, 1993

Amendment No.: 168

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notices in **Federal Register:** August 5, 1992 (57 FR 34583) and December 9, 1992 (57 FR 58246) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 11, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Date of application for amendment: June 24, 1992

Brief description of amendment: The amendment revises the requirements for the number of licensed Senior Reactor Operators required to be stationed for Refueling Operations, in accordance with 10 CFR 50.54.

Date of issuance: February 11, 1993

Effective date: February 11, 1993

Amendment No.: 169

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 14, 1992 (57 FR 47138) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 11, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Date of application for amendment: August 25, 1992

Brief description of amendment: The amendment change revises the Technical Specifications to allow receipt, storage, and transfer of reactor fuel enriched to as high as 5.0 weight percent with U-235.

Date of issuance: February 17, 1993

Effective date: February 17, 1993

Amendment No.: 170

Facility Operating License No. DPR-50. Amendment revised Technical Specifications.

Date of initial notice in **Federal Register:** October 14, 1993 (57 FR 47139) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 17, 1993. No significant

hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: July 27, 1992

Brief description of amendment: The amendment revises the Technical Specifications for reactor vessel water level as follows:

• Provides in Section 3.3.3.6 separate actions when either one or two channels of reactor vessel water level monitoring are not operable.

• Adds a definition to Table 3.3-10 of an operable channel.

• Clarifies Table 4.3-7 that an electronic calibration from the Inadequate Core Cooling cabinets is the appropriate surveillance for the reactor vessel water level instrumentation.

Date of issuance: February 18, 1993

Effective date: February 18, 1993

Amendment No.: 76

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 2, 1992 (57 FR 40217) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 18, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of amendments request: January 21, 1992

Description of amendments request: The amendments revise surveillance tests intervals for engineered safety feature systems pumps and valves to be consistent with the Standard Technical Specifications.

Date of issuance: February 5, 1993

Effective date: February 5, 1993

Amendment Nos.: 104 and 97

Facility Operating License Nos. DPR-42 and DPR-60. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 1, 1992 (57 FR 11112) and January 6, 1993 (58 FR 597) for clarification. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 5, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: September 29, 1992

Brief description of amendment: The amendment revised the Technical Specifications to incorporate the following changes:

(1) The frequency of pressurizer safety valve set pressure checks (specified in Table 4.1-3) was changed to accommodate operation on a 24-month cycle.

(2) The frequency of pressurizer safety valve position indicator calibration and testing (specified in Table 4.1-1) was changed to accommodate operation on a 24-month cycle.

(3) The frequency of the PORV and PORV block valve operability testing (specified in Table 4.1-3) was changed to accommodate operation on a 24-month cycle.

(4) The frequency of the PORV position indicator testing for both the limit switch and acoustic monitor and the PORV position indicator calibration for the acoustic monitor (specified in Table 4.1-1) was changed to accommodate operation on a 24-month cycle. In addition, the limit switch calibration requirement was deleted.

(5) The frequency of the reactor vessel head vent operability check (specified in Table 4.1-3) was changed to accommodate operation on a 24-month cycle.

These changes followed the guidance provided in Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle."

Date of issuance: February 9, 1993

Effective date: February 9, 1993

Amendment No.: 127

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 28, 1992 (57 FR 48825) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 9, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Texas Utilities Electric Company, Docket No. 50-445, Comanche Peak Steam Electric Station, Unit No. 1, Somervell County, Texas

Date of amendment requests: April 2, 1991, and August 31, 1992. The August 31, 1992 application was supplemented by letters dated October 29, 1992, and December 14, 1992.

Brief description of amendment: This amendment modifies the technical specifications by: (1) adding action requirements for the engineered safety features actuation system instrumentation loss of power function, (2) changing the Unit 1 TS to the Combined TS for Units 1 and 2, (3) revising the TS for the station service water system to reflect two operational units, (4) removing the option of performing a containment reduced pressure test in lieu of a containment peak pressure test during preoperational, periodic and supplemental tests, (5) revising the safety limits and limiting conditions for operation related to departure from nucleate boiling ratio to make them applicable to both Unit 1 and 2, (6) changing the pressure/temperature limits for both Unit 1 and 2 and making the new limits applicable for 16 effective full power years, (7) revising the heatup/cooldown curves and power operated relief valve setpoints for low temperature overpressure protection, and (8) adding a TS and associated bases for the feedwater isolation valve pressure/temperature limit.

Date of issuance: January 29, 1993

Effective date: January 29, 1993, to be implemented upon issuance of low power license for Unit 2.

Amendment No.: Amendment No. 14

Facility Operating License No. NPF-87: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 25, 1992, December 21, 1992, and December 23, 1992 (57 FR 555595, 57 FR 55596, 57 FR 55597, 57 FR 60544 and 57 FR 61121). No significant hazards consideration comments received: No

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019

Notice of Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration and Opportunity for Hearing (Exigent or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By April 2, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above. Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific

sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-277, Peach Bottom Atomic Power Station, Unit No. 2, York County, Pennsylvania

Date of application for amendment: February 2, 1993, as supplemented by letter dated February 8, 1993

Brief description of amendment: The amendment changed the Technical Specifications Section 3.6.D.2 to allow operation with the pressure relief function of safety relief valves inoperable. The amendment is to remain in effect until the next outage of sufficient duration requiring a drywell entry to allow the licensee to repair the valve. The amendment shall expire no later than February 28, 1994.

Date of issuance: February 12, 1993

Effective date: As of its date of issuance and is to remain in effect until the next outage of sufficient duration requiring a drywell entry. The amendment shall expire no later than February 28, 1994.

Amendment No.: 172

Facility Operating License No. DPR-44: This amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes. The NRC published a public notice of the proposed amendment, issued a proposed finding of no significant hazards consideration and requested that any comments on the proposed no significant hazards consideration be provided to the staff by the close of business on February 12, 1993. The notice was published in the York Daily Record, York Dispatch, Lancaster New Era and the Lancaster Intelligencer-Journal on February 5, 1993. The notice was also published in the Cecil Whig on February 9, 1993, and in the Bel Air Aegis on February 10, 1993. No comments have been received.

The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of Pennsylvania and final no significant hazards consideration determination are contained in a Safety Evaluation dated February 12, 1993.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (Regional Depository) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Project Director: Charles L. Miller

Dated at Rockville, Maryland, this 24th day of February 1993.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 93-4749 Filed 3-2-93; 8:45 am]

BILLING CODE 7590-01-F

Documents Containing Reporting or Recordkeeping Requirements Submitted for Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to the OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR part 26, "Fitness for Duty Programs".

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required to report: Nuclear power plant licensees.

6. An estimate of the number of responses annually: a. 148 semi-annual reports (an average of 40 hours per response).

b. 74 telephonic event reports (an average of 15 minutes per response).

c. 44,000 written statements from applicants for unescorted access authorization to protected areas (an average of 30 seconds per response).

7. An estimate of the total number of hours needed annually to complete the requirement: 80,692 (7,210 hours of reporting burden and 73, 482 hours of recordkeeping burden).

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: 10 CFR part 26 of NRC's regulations, "Fitness for Duty Programs," requires operators of nuclear power plants to implement fitness-for-duty programs to assure that personnel are not under the influence of any substance or mentally or physically impaired, to retain certain records associated with the management of

these programs, and to provide reports concerning significant events. Compliance with these requirements is mandatory for licensees subject to 10 CFR part 26.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150–0146), NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 24th day of February 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93–4869 Filed 3–2–93; 8:45 am]

BILLING CODE 7590–01–M

Installation and Operation of Hardened Vents From Suppression Pool Airspaces of Boiling Water Reactors (BWRs) With Mark I Containments

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance of Generic Environmental Assessment (GEA) and Finding of No significant Impact (FONSI).

SUMMARY: This GEA is being issued to inform the public of the NRC's assessment of the installation of hardened wetwell venting capability. The installation of the hardened wetwell vents in Mark I containment plants will reduce the environmental impact of severe accidents that challenge the Integrity of Mark I containments, will provide a significant improvement in safety, and will not otherwise significantly increase the environmental impacts. The installation of such vents was recommended by NRC in Generic Letter 89–16, dated September 1, 1989.

The incremental occupational radiation dose for the recommended operation of the hardened wetwell vent path is insignificant (unmeasurable) because the vent would be operated from the control room. The licensees should be able to keep the small radiation doses associated with installing the hardened wetwell vent path within the limits of 10 CFR part 20 and as low as is reasonably achievable. Furthermore, the non-radiological impacts of the vent path will also be insignificant.

Alternative Use of Resources

This action does not involve the use of significant resources beyond the existing resources used for piping and replacement parts at all nuclear plants.

Agencies and Persons Consulted

The NRC staff's evaluation is based on research performed by the Office of Nuclear Regulatory Research. No other agencies or persons were consulted.

EFFECTIVE DATE: 30 days after publication.

Public Comments

No public comments on the Draft Generic Environmental Assessment (55 FR 25916, June 25, 1990) were received. However, the NRC staff has made editorial changes to the text of the Generic Environmental Assessment. The editorial changes had no effect on the technical basis of the Generic Enviornmental Assessment.

FOR FURTHER INFORMATION CONTACT: Mohan C. Thadani, Division of Reactor Projects I/II, Telephone (301) 504–1476, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION:

Background

In SECY–87–297 (Reference 1), the NRC staff presented to the Commission its plan to evaluate generic severe accident vulnerabilities of containments. The staff's plan included a program for Containment Performance Improvement (CPI). This program was initiated to determine whether generic severe accident challenges to light water reactor (LWR) containments may exist that the NRC staff should assess to ascertain whether additional regulatory guidance or requirements for these containment features were warranted. The staff concluded that such assessments were needed because of the relatively large uncertainty in the ability of some LWR containments (that is, Mark I containments) to successfully survive some possible severe accident challenges as indicated in draft NUREG–1150 (Reference 2). The CPI program is intended to resolve hardware and procedural issues related to generic containment challenges. The staff presented its findings related to the Mark I CPI program to the Commission in SECY–89–017 (Reference 3), dated January 23, 1989. In one of these findings, the staff concluded that properly implemented venting can significantly mitigate potential accident risks.

The capability to vent has long been recognized as important in reducing risk at boiling water reactor (BWR) Mark I facilities. For accidents involving the loss of capability to remove long-term decay heat (TW), controlled venting at pressures close to the containment pressure limits can prevent (1) the long-term overpressurization and failure of the containment, (2) the failure of emergency core cooling system pumps from inadequate net-positive suction head, and (3) the failure of the automatic depressurization system (ADS) caused by the failure of ADS valves to operate.

A vent path from wetwells of the containments exists for some Mark I facilities. However, this vent path includes a ductwork system that has a low design pressure of only a few pounds per square inch. Venting under high-pressure conditions (as would be required for accidents involving high-pressure challenges, either before or after core melt) could cause this ductwork to fail, releasing the containment atmosphere into the reactor building (with eventual release to the environment) and potentially contaminating or damaging equipment needed for accident recovery.

In addition, with the existing hardware and procedures at some plants, opening or closing the vent valves during certain accident sequences may not be possible. The inability to operate the vent path valves could result in uncontrolled release of containment atmosphere to the reactor building through the failed sheet metal ductwork. Therefore, venting through a sheet metal ductwork path, as has been implemented at some Mark I plants, most likely would greatly hamper or complicate post-accident recovery activities and is viewed by the NRC staff as inadequate for minimizing the risks to the public health and safety. For high-pressure venting to be effective, the entire vent system must be strengthened to withstand the expected venting pressure. On July 11, 1989, the Commission endorsed the staff's view (Reference 4) that the Mark I design should include a hardened wetwell vent from the airspace of the containment wetwell, and directed the staff to require a hardened vent capability for all Mark I plants for which the requisite modifications could be shown to be cost-effective. At that time, the Staff prepared and on June 25, 1990 published a draft Generic Environmental Assessment concerning hardened wetwell vent path modifications. The Staff issued generic

letters to Mark I licensees requesting that they install hardened wetwell vents.

All BWR Mark I licensees have voluntarily agreed to implement the actions recommended in the generic letter or, in the case of FitzPatrick plant, were found by the staff to have hardened vent path satisfying the intent of the generic letter. The NRC has concluded, in light of both the voluntarily actions of BWR Mark I licensees and 10 CFR 51.10(d), that the issuance of the generic letter need not be supported by the GEA. 10 CFR 51.10(d) states that Commission actions "initiating or relating to administrative or judicial civil or criminal enforcement actions are not subject to section 102(2) of NEPA * * * [including] any other matters covered by appendix C to part 2 of this chapter." 10 CFR part 2, appendix C, Paragraph IV.H, "Related Administrative Actions," lists generic letters as an "administrative mechanism" that supplements its formal enforcement authority. For this reason, the NRC concludes that the generic letter need not be supported by a GEA. However, since a draft GEA and FONSI was published, the NRC has decided to publish a final GEA to reflect the agency's final views on the environmental impacts of installation of hardened wetwell vents at BWR plants with Mark I containments.

Description of the Recommended Action: Review of the Impacts of Installation of the Hardened Wetwell Vents

The NRC staff's safety evaluation report (Reference 5) approved Revision 4 of the Boiling Water Reactor Owners Group Emergency Procedures Guidelines (EPGs) that included the staff's approval for venting BWR Mark I containments. This approval indicated that venting from the wetwell with the existing systems could reduce the likelihood of core melt and, in extremely rare cases, could help avoid uncontrolled releases of radioactive materials during severe core damage accidents. Since the issuance of Revision 4 of the EPGs, additional insights have indicated that the proposed venting strategy has a potential to breach the vent path inside the reactor building and could have significant detrimental effects on (1) radiation exposure effects on personnel, (2) potential plant recovery actions, and (3) public risk. A hardened wetwell vent capable of withstanding the anticipated severe accident pressure loadings would eliminate these disadvantages of using a vent path containing sheet metal ductwork.

The use of the containment vent to prevent a core-melt accident by reducing containment pressure would result in the release of very low levels of radioactivity associated with the reactor coolant. The reactor coolant steam would be released to the suppression pool that would retain most of the fission products. In the unlikely event of a core-melt accident, venting of the wetwell airspace would provide a scrubbed venting path to significantly reduce the release of particulate and volatile fission products (radioactive materials) to the environment. Only the noble gases would escape to the environment without any attenuation. Venting would reduce the likelihood of a late overpressure failure of the containment and would reduce offsite consequences for severe accidents if the containment shell does not fail.

If the shell fails because of a core debris attack (shall melt through by core melt released to the containment floor), venting will provide little benefit because fission products would be released directly into the reactor building. However, if shell failure was delayed for a period of a few hours (for example, by the addition of containment spray water over the molten core debris released to the containment floor), significant scribbing of radioactive material would still take place.

As discussed in SECY–87–297 (Reference 1), the installation of hardened vent to bypass the ductwork from the wetwell airspace to the plant's environment could include (1) additional isolation values to isolate the ductwork from the hardened vent path and (2) radiation monitors to monitor any offsite releases of radioactive materials in case of venting. The installation of a hardened vent would prevent any loss of safety equipment owning to a failure of the vent path inside the reactor building and, in the unlikely event of core melt, would result in release only of residual fission products (not scrubbed by the suppression pool) through the stack. Because the vent path is not expected to fail inside the reactor building, personnel would be able to repair equipment and perform other plant-recovery activities, if the levels of radiation in the containment were not excessive. Furthermore, because the environmental conditions in the reactor building would not be harsh, important equipment would not be expected to degrade or fail.

Estimated reductions of potential risks of severe accidents involving loss of decay heat removal capability (TW accident sequences) are shown in Table 1. The risk reductions are shown in persons-rems per reactor year (the bases and assumptions for the staff analyses are presented in Reference 6). The hardened wetwell vent path would also provide additional risk reduction for those accidents in which core melt occurred, because the suppression pool would scrub the radioactive material released to the containment by core debris.

The staff estimated the costs for installation of hardened wetwell vent path to be about $750,000. Costs were also provided by the licensees for the Dresden, FitzPatrick, Millstone 1, and Oyster Creek facilities. The NRC's and the licensees' cost estimates are summarized in Table I. The estimated costs of hardened wetwell vent installations are minimal when compared to the operating expenses of the plants and are not excessive when compared to the significant enhancement of safety achieved by the proposed action.

Environmental Impacts of Installation and Operation of Hardened Wetwell Vents

Radiological Impacts

The radiological impacts of installing a hardened wetwell vent system should not be significantly different from other operational modifications that occur at facilities such as reactors with Mark I containments. For example, a conceptual analysis of radiation exposures for installation of a filtered vent at the Limerick Generating Station indicates that annual radiation exposures (assuming 20 years of remaining plant life) would not exceed 2 man-rems per reactor-year. The small radiation dose associated with this proposed plant modification will not affect the licensees' ability to maintain individual occupational doses within the limits of 10 CFR part 20. This dose is expected to meet the criteria for the requirements of as low as is reasonably achievable (ALARA).

Each plant contains radioactive waste treatment systems that are designed to collect and process the gaseous, liquid, and solid waste that might contain radioactive material. The installation of a hardened wetwell vent will not affect any waste treatment systems or their effluents under normal plant conditions or under design basis accident conditions.

Installation of the hardened wetwell vent path should not significantly increase the radiation dose to operating personnel or the public. Any increased doses associated with the testing of the additional isolation valves should be

minimal and, in most cases, insignificant.

Thus, the staff has concluded that the installation of the hardened wetwell vent will not result in any significant increase in radiological impacts to workers or the public.

Because the operation of the wetwell vent system is postulated for extremely rare severe accidents, the impacts of the use of the wetwell vent system are discussed in terms of environmental risks. As stated previously, the venting from the wetwell airspace is intended to (1) reduce the risk of over-pressure failure of the containment and subsequent damage to the reactor core and (20) provide a scrubbed pathway (to decontaminate effluents) for containment pressure relief for rare situations involving core damage. Table 1 lists the reductions of potential risks for all Mark I facilities caused by venting before core damage. The reductions in potential risks are calculated to range from about 15 to 282 person-rems per reactor year. For rare situations in which core damage could occur, venting could prevent containment failure and unmitigated release of fission products to the environment. Venting through the suppression pool will ensure that most of the radioactive materials, excluding noble gases, would be trapped in the suppression pool and would not be released to the environment. Therefore, venting through the wetwell would reduce the radiological risks posed by severe accidents involving core damage. These additional benefits of wetwell venting have not been included in Table 1 results.

On the basis of the preceding discussion, the staff concludes that no incremental radiological environmental risks will be posed by operation of the wetwell vent system.

Non-Radiological Impacts

The non-radiological impacts from installing hardened wetwell vent systems should not be expected to be different from other operational modifications that occur during routine plant outages at facilities with Mark I containments.

No non-radiological effluents are expected to be affected from installing or using the hardened wetwell vent. The proposed plant modification and use of hardened wetwell vent will not require any change to the national pollution discharge elimination system permit.

Therefore, the staff concludes that the non-radiological environmental impacts of installing a hardened wetwell vent will be insignificant.

Alternatives Considered

To prevent or delay containment failure caused by overpressurization, the NRC staff considered the following alternatives to installation of hardened vents.

1. The containment pressure could be relieved using the existing ductwork vent path (the "No Action" option).
2. A hard pipe path to an external filter could be installed.
3. An alternative means of removing the decay heat either from the reactor or from containment could be installed.
4. Venting of containment could be prohibited.

Each of these alternatives is discussed in the following paragraphs.

Existing Ductwork Vent Path (No Action Option)

This alternative consists of no action and continued venting of the containment through the existing ductwork. However, the existing ductworks are designed to withstand a pressure of a few psi (Reference 7). The venting pressures expected during some accidents will be substantially higher than the ductwork design pressure. Consequently, venting could result in failure of the ductwork and a direct release of reactor coolant steam into the reactor building. The discharge of this high-temperature steam and other gases over an extended period of time could pose a threat to the availability or performance of safety-related equipment. In the event of core melt, the threat would be even greater, because substantially large amounts of radioactive materials will be released with the steam to the reactor building. Electrical cables, motor operators on valves, and relays could fail under these environmental conditions.

Adverse environmental conditions would also complicate personnel entry into the reactor building. Calculations from a study that examined venting during an anticipated transient without scram (ATWS) sequence indicated that a severe environment (high temperature and radiation) would be present in the reactor building during venting (Reference 8). The discharge of hydrogen under core melt conditions could result in hydrogen burns or detonations inside the reactor building. This environment could hamper recovery efforts by preventing personnel access to the reactor building and preventing repair of systems needed to terminate the accident. For these reasons, the existing Mark I designs do not ensure an adequate tractor building environment after a severe accident to permit personnel entry to regain control of the facility and do not maximize the potential reduction in environmental risk. Thus, the staff has concluded that the no-action alternative is unacceptable.

Installation of Hard Pipe Vent to External Filter System

This alternative is the same as the installation of a hardened vent with addition of an external filter. However, the external filter would not significantly increase removal of radioactive material because the suppression pool would remove nearly all material that could be removed by filtration. Consequently, the additional reduction in risk caused by an external filter system is expected to be small. Moreover, an external filter would not yield an incremental reduction in the core damage frequency beyond the reduction obtained with the hard pipe vent alone. In both cases, there would be no retention of noble gases. External filters have been estimated to cost $20 million (1982 dollars) (Reference 9) to $65 million (1987 dollars) for the Filtra design. Because the incremental benefit is very small compared to the proposed action and the incremental cost is very high, this alternative is not considered practical or reasonable.

Installation of Other Means of Decay Heat Removal

In lieu of venting containment, an addition decay heat removal system could be provided to remove the heat from either the reactor or the containment, or a system that has not been previously accounted for could be used on an ad hoc basis, such as the reactor water cleanup system. Installation of a new system was considered in NUREG–1289 (Reference 10), which is associated with Unresolved Safety Issue A–45, "Shutdown Decay Heat Removal Requirements." The installation of a new decay heat removal system was not found to be cost beneficial in NUREG–1289. The use of another, previously unaccounted-for system was estimated to require unusual or unplanned system piping line-ups, which, if performed incorrectly or inappropriately, could reduce the likelihood of accident recovery with normal systems or create a new and unanalyzed accident sequence (Reference 11). Therefore, this alternative is not considered practical or reasonable.

No Venting of Containment

This alternative would remove the guidance in Revision 4 of the Emergency Procedure Guideline (EPGs) that instructs the operator to vent the

containment under certain conditions. In the event of the loss of long-term decay heat removal capability without drywell failure, the containment drywell will probably fail because of overpressurization. The drywell failure could have a significant effect on the ability to return the plant to a safe and controlled condition and would result in an increase in risk to plant personnel and to the public (Reference 12). Therefore, this alternative is not practical or reasonable.

Finding of No Significant Impact

The staff reviewed the plant-specific features in conjunction with the installation of hardened wetwell vent path modifications. From the environmental assessment, the staff concluded that there are no significant radiological or non-radiological impacts associated with the installation of hardened wetwell vents and that such use will not have significant adverse effects on the quality of the human environment.

TABLE 1.—ESTIMATED REDUCTION OF POTENTIAL RISKS OF SEVERE ACCIDENTS INVOLVING LOSS OF DECAY HEAT REMOVAL CAPABILITY (TW ACCIDENT SEQUENCES)

Plant name	TW frequency (per reactor-year)	Potential risk reduction (persons-rem per reactor-year) [*]	Installation cost (million)
Browns Ferry 1	2.3 E–05	32.7	[*]0.75
Browns Ferry 2	2.3 E–05	32.7	[*]0.75
Browns Ferry 3	2.3 E–05	32.7	[*]0.75
Brunswick 1	4.5 E–05	44.0	[*]0.75
Brunswick 2	4.5 E–05	44.0	[*]0.75
Cooper	4.5 E–05	45.6	[*]0.75
Dresden 2	1.4 E–05	50.2	[1]1.00
Dresden 3	1.4 E–05	50.2	[1]1.00
Duane Arnold	4.5 E–05	55.0	[*]0.75
Fermi 2	4.5 E–05	192.4	[*]0.75
Fitzpatrick	4.5 E–05	85.5	[1]0.68
Hatch 1	4.5 E–05	39.2	[*]0.75
Hatch 2	4.5 E–05	39.2	[*]0.75
Hope Creek	6.3 E–05	281.9	[*]0.75
Millstone 1	1.4 E–05	35.1	[1]1.10
Monticello	4.5 E–05	33.9	[*]0.75
Nine Mile Point 1	1.4 E–05	15.3	[*]0.75
Oyster Creek	1.4 E–05	55.4	[1]1.50
Peach Bottom 2	3.6 E–06	15.5	[*]0.75
Peach Bottom 3	3.6 E–06	15.5	[*]0.75
Pilgrim	2.3 E–05	31.2	[*]0.75
Quad Cities 1	4.5 E–05	94.1	[*]0.75
Quad Cities 2	4.5 E–05	94.1	[*]0.75
Vermont Yankee	2.3 E–05	28.9	[*]0.75

[*] NRC estimate.
[1] Licensee Estimate.

References

1. SECY-87–297, U.S. Nuclear Regulatory Commission, "Mark I Containment Performance Improvement Program Plan," Commission Paper from V. Stello to NRC Commissioners, December 8, 1987.
2. NUREG-1150, U.S. NRC, "Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants," June 1989.
3. SECY-89–017, U.S. NRC, "Mark I Containment Performance Improvement Program," Commission Paper from V. Stello to NRC Commissioners, January 23, 1989.
4. Memorandum from S.J. Chilk to V. Stello, "SECY-89–017-Mark I Containment Performance Improvement Program," July 11, 1989.
5. Letter from A.C. Thadani to D. Grace, Chairman, BWROG, "Safety Evaluation of BWR Owners Group-Emergency Procedures Guidelines, Revision 4, NEDO-31331, March 1987," September 12, 1988.
6. Memorandum from M. Cunningham to W.D. Beckner, "Reduction in Risk from the Addition of Hardened Vents in BWR Mark I Reactors," October 19, 1989.
7. NUREG/CR-5225, U.S. NRC, "An Overview of BWR Mark I Containment Venting Risk Implications," November 1988.
8. Harring, R.M., "Containment Venting as a Mitigation Technique for BWR Mark I Plant ATWS," 1986 Water Reactor Safety Meeting, Gaithersburg, Maryland, October 1986.
9. K. Johansson, L. Nilsson, and A. Persson, "Design Considerations for Implementing a Vent-Filter System at the BARSEBACK Nuclear Power Plant," International Meeting on the Thermal Nuclear Safety, Chicago, August 29-September 2, 1982.
10. NUREG-1289, U.S. NRC, "Regulatory and Backfit Analysis: Unresolved Safety Issue A–45, Shutdown Decay Heat Removal Requirements," November 1988.
11. Letter from J. Dallman to J. Ridgely, "A Preliminary Assessment of BWR Mark II Containment Challenges, Failure Modes, and Potential Improvements in Performance," May 10, 1989.
12. NUREG/CR-5225, Addendum 1, "An Overview of BWR Mark I Containment Venting Risk Implications, An Evaluation of Potential Mark I Containment Improvements," June 1989.

Note: All referenced documents are available for public inspection and copying for a fee in the Commission's Public Document Room at 2120 L. Street, Lower Level, NW., Washington, DC 20555

Dated at Rockville, Maryland, this 18th day of February, 1993.

For the U.S. Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 93–4870 Filed 3–2–93; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on March 11–13, 1993, in room P–110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the **Federal Register** on February 24, 1993.

Thursday, March 11, 1993

8:30 a.m.–8:45 a.m.: Opening Remarks by ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. The Committee will discuss

priorities for preparation of reports during this session.

8:45 a.m.–10:45 a.m.: Current License Renewal Issues (Open)—The Committee will hear a briefing by and hold discussions with representatives of the NRC staff on the status of current license renewal issues, the establishment of a senior management review group to review the harmonization of the Maintenance and License Renewal Rules.

11 a.m.–11:30 a.m.: Computer Issues (Open)—The Committee will hear a briefing by and hold discussions with representatives of the NRC staff regarding the need for and progress toward the staff's development of standards and criteria for digital instrumentation and control systems and the staff's policy on diversity.

11:30 a.m.–12:30 p.m.: Research on Organizational Factors (Open)—The Committee will discuss proposed ACRS reports on the NRC-sponsored research on organization factors, and on the NRC staff's Study of Human Performance in Operating Events. Representatives of the NRC staff and of the industry will participate as appropriate.

1:30 p.m.–3 p.m.: Reactor Operating Experience (Open/Closed)—The Committee will hear a briefing and hold discussions regarding the reactor trip and stuck open pressurizer safety valve event of July 3, 1992, that occurred at the Fort Calhoun Nuclear Power Plant. Representatives of the licensee and of the NRC staff will participate, as appropriate.

Portions of the session will be closed as necessary to discuss Proprietary Information related to this subject.

3:15 p.m.–4:45 p.m.: ISO Quality Standards (Open)—The Committee will hear a briefing by and hold discussions with representatives of the NRC staff regarding the ISO 9000 quality management standard used by the European community, and how it differs from the quality standards being used in the U.S. nuclear industry.

4:45 p.m.–6 p.m.: Proposed ACRS Report on Computer Issues (Open)—The Committee will discuss a proposed ACRS report on the NRC staff's activities in defining appropriate standards and requirements for computer-based instrumentation and control systems. Representatives of the NRC staff and of the industry will participate, as appropriate.

Friday, March 12, 1993

8:30 a.m.–9:45 a.m.: ACRS Subcommittee Activities (Open)—The Committee will discuss the status of ACRS subcommittee assignments, including: (a) Alternate plugging criteria for degraded steam generator tubes, (b) piping design improvements for advanced plant designs, (c) proposed priority ranking of Generic Issue 152, "Design Basis for Values that Might be Subjected to Significant Blowdown Loads," and (d) the PWR version of the RELAP5/MOD-3 code and the analytical and experimental programs in support of the AP600 design certification effort. Representatives of the NRC staff will participate, as appropriate.

9:45 a.m.–10:30 a.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed reports items considered during this meeting.

10:45 a.m.–11:30 a.m.: Appointment of New Members (Open/Closed)—The Committee will discuss the qualifications of candidates proposed for appointment to the committee.

Portions of this session will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

11:30 a.m.–12 noon: Upgrade of ACRS Conference Room (Open)—The Committee will be briefed by the ACRS staff on use of advanced audio-visual technology.

1 p.m.–1:30: Upgrade of ACRS Conference Room (Open)—The Committee will be briefed by the ACRS staff on the architectural arrangement for the new conference room.

1:30 p.m.–2:15 p.m.: Future ACRS Activities (Open)—The Committee will discuss the report of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee.

2:15 p.m.–3:15 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports regarding items considered during this meeting.

3:30 p.m.–4 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss responses received from the NRC staff on recommendations made in ACRS rpeorts.

4 p.m.–4:30 p.m.: Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the report of the Planning and Procedures Subcommittee.

4:30 p.m.–6 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed reports regarding items considered during this meeting.

Saturday, March 13, 1993

8:30 a.m.–12:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed Committee reports regarding items considered during this meeting.

12:30 p.m.–1 p.m.: Miscellaneous (Open)—The Committee will discuss matters considered but not completed at previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 16, 1992 (57 FR 47494). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those open portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Acting ACRS Executive Director, Dr. John T. Larkins, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Acting ACRS Executive Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Acting ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss Proprietary Information applicable to the matters being considered per 5 U.S.C. 552(c)(4) and information the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the Acting ACRS Executive Director, Dr. John T. Larkins (telephone 301–492–4516), between 8:00 a.m. and 4:30 p.m. e.s.t.

Dated: February 25, 1993.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93–4871 Filed 3–2–93; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–31920; File No. SR–CBOE–92–17]

Self-Regulatory Organizations; Order Approving and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 1, 2, 3, and 4 to Proposed Rule Changes by the Chicago Board Options Exchange, Inc., Relating to Flexible Exchange Options ("FLEX Options")

February 24, 1993.

I. Introduction

On August 31, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposal to list and trade

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1991).

large-size, customized index options, referred to as Flexible Exchange Options ("FLEX Options") based on the Standard & Poor's Corporation ("S&P") 500 and 100 Stock Indexes.

Notice of the proposed rule changes were published for comment and appeared in the **Federal Register** on November 4, 1992.[3] Three comment letters were received on the proposed rule change.[4] The CBOE amended the proposal on January 19, 1993,[5] January 27, 1993,[6] February 9, 1993,[7] and February 24, 1993.[8] This order approves the proposal as amended.[9]

II. Background

The purpose of the CBOE's FLEX Option proposal is to provide a framework for the Exchange to list and trade index options that give investors the ability, within specified limits, to designate certain of the terms of the options. The CBOE is currently proposing to trade FLEX Options only on the S&P 100 and 500 stock indexes. In recent years, an over-the-counter ("OTC") market in customized index options has developed which permits participants to designate the basic terms of the options, including size, term to expiration, exercise style, exercise price, and exercise settlement value, in order to meet their individual investment needs. Participants in this OTC market are typically institutional investors, who buy and sell options in large-size transactions[10] through a relatively small number of securities dealers. The Exchange believes FLEX Options will help it compete with this growing OTC market in customized index options. In particular, the CBOE's FLEX Option proposal will not fix the following contract terms: (1) Strike prices; (2) exercise types; (3) expiration date;[11] and (4) form of settlement.

The CBOE believes that market participants will benefit from the trading of FLEX Options in several ways, including, but not limited to the following: (1) Enhanced efficiency in initiating and closing out positions; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of the Options Clearing Corporation ("OCC") as issuer and guarantor of FLEX Options.

III. Description of the Proposal

Transactions in FLEX Options traded on the CBOE generally will be subject to the same rules that presently apply to the trading of CBOE index options.[12] In order, however, to provide investors with the flexibility to designate certain of the terms of the options and to accommodate other special features of FLEX Options and the way in which they are traded, the CBOE has proposed several new rules.

The principal rules proposed by the CBOE that are uniquely applicable to the FLEX market include a rule containing a new definitions (Rule 24A.1), a special rule regarding trading rotations (Rule 24A.3), rules setting forth the special terms of FLEX contracts and certain special pieces of information that must be included in FLEX Requests for Quotes and Responsive Quotes (Rule 24A.4), rules prescribing the mechanics of initiating a FLEX Request for Quotes and bidding and offering in response, thereto, rules setting forth the principles applicable to the formation of binding FLEX contracts, rules defining the applicable priority principles (Rules 24A.5), special position limit and exercise limit rules (Rules 24A.7 and 24A.8), special FLEX market-maker appointment rules (Rule 24A.9) and special market-maker capital and letter of guarantee rules (Rules 24A.13, 24A.14 and 24A.15), as well as certain administrative rules respecting Exchange services (Rules 24A.12 and 24A.16). Discussion of each of these rules follows.

Proposed Rule 24A.1 adopts nomenclature uniquely tailored to fit the special characteristics of FLEX Options and the FLEX market. For example, the term "Request Response Time" refers to the time interval, set by the submitting member in its Request for Quotes, during which responsive bidding and offering is to take place. Similarly, the term "FLEX Quote" has both its usual connotation—market-maker bids and offers—and a new connotation—brokers' orders to purchase and orders to sell—that is necessary in view of the unique mechanics of the FLEX exchange auction.

Proposed Rule 24A.2 provides that FLEX trading will take place during the normal exchange trading hours set for trading index options, although the Exchange's Board of Directors ("Board") is given specific authority to narrow or otherwise restrict the time set for FLEX trading as circumstances dictate.[13] At the present time, the Board has determined that FLEX trading will commence at 9 a.m. Central Time, one-half hour later than the opening time currently set for the trading of non-FLEX index options, and, will conclude at 3:15 p.m. Central Time, the existing close of trading at the Exchange for index options.[14] as a complementary rule uniquely applicable to FLEX Options, Proposed Rule 24A.3 specifies that there will be no trading rotations in

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[3] *See* Securities Exchange Act Release No. 31361 (October 27, 1992), 57 FR 52655.

[4] *See* Letters from David B. Bohl, Partner, KC–CO Investments, LP, to Jonathan G. Katz, Secretary, SEC, dated November 25, 1992 ("KC–CO Letter"); R. Warren Langley, General Partner, Hull Trading Company, to Jonathan G. Katz, Secretary, SEC, dated November 23, 1992 ("Hull Trading Letter"); and Vincent J. Bailey, Jr., Vice President, BEA Associates, to Jonathan G. Katz, Secretary, SEC, dated November 24, 1992 ("BEA Associates Letter").

[5] On January 19, 1993, the CBOE filed Amendment No. 1 regarding technical revisions to exercise limits/minimum size, expiration dates, requests for quotes, SPX Floor Procedure Committee, quote display, capital requirements and letters of guarantee.

[6] The Exchange on January 27, 1993 filed Amendment No. 2 setting forth applicable position and exercise limits for FLEX Options.

[7] On February 9, 1993, Amendment No. 3 was filed with the Commission for the purpose of applying the S&P 500 index options arbitrage restrictions to certain S&P 500 FLEX Options, and, confirming that position limits for FLEX Options will be treated as a three-year pilot program.

[8] The Exchange on February 24, 1993 filed Amendment No. 4, which among other things, clarifies that priority, parity, and precedence procedures for bids and offers of FLEX Options must be in compliance with Section 11(a) of the Exchange Act and the rules promulgated thereunder. *See* Letter from William J. Barclay, Vice President, Strategic Planning and International Development, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated February 24, 1993.

[9] Although the Commission is approving the proposal, including the amendments on an accelerated basis, the Commission is soliciting comment on the substance of those amendments. Any comments received will be considered in connection with review of further CBOE initiatives in this area.

[10] Large size in this context is intended to mean options having an underlying contract value equal to or greater than $1 million.

[11] The FLEX Options proposal, however, requires that the expiration dates for FLEX Options be at least three business days away from the expiration dates for existing listed options in order to protect against possible market disruptions that may otherwise result from the concurrent expiration of listed and FLEX Options.

[12] *See* CBOE Constitution and Rules, Chapter XXIV (January 1992), as amended by appropriate CBOE rule changes.

[13] Specifically, the CBOE proposes to implement the hours of trading for FLEX Options as follows: (1) Initial hours of FLEX trading will be 9 a.m.—3:15 p.m. (Chicago Time); (2) FLEX trading hours may be altered at the discretion of the Exchange by 15 minutes or less so long as the change does not extend trading beyond the normal CBOE business hours of 8:30 a.m.—3:15 p.m. (Chicago Time); (3) FLEX trading hours that are altered by more than 15 minutes but remain within normal business hours must be submitted by the Exchange to the Commission in a section 19(b)(3)(A) filing; (4) FLEX trading hours extended beyond the CBOE's normal business hours must be submitted to the Commission for approval pursuant to section 19(b)(2); and (5) the Exchange will provide adequate advance notification to its members and member organizations of such changes in FLEX trading hours. *See* Letter from William J. Barclay, Vice President Strategic Planning and International Development, CBOE, to Sharon M. Lawson, Assistant Director, SEC, dated February 11, 1993.

[14] *Id.*

FLEX Options, either at the opening or at the close of trading.

Proposed Rule 24A.4 specifies the term elements and other informational ingredients that must be included in Requests for Quotes, FLEX Quotes submitted in response to such requests, and, ultimately, FLEX contracts that are the product of FLEX trading. As paragraph (b) of this proposed rule indicates, the content of certain terms of each FLEX contract is to be determined by the parties of the contract. Other terms, such as the level of the index multiplier and the nature of the rights and obligations of FLEX Option purchasers and sellers, are the same for FLEX as for non-FLEX index options.

More specifically, Paragraph (c) of Proposed Rule 24A.4 specifies the term elements that a submitting member must include in its Request for Quotes and indicates the content alternatives available for each term. Under this paragraph a submitting member must designate, among other terms, the day, month and year of the FLEX Option's expiration, subject to certain limitations designed to avoid the overlap of FLEX expirations with expirations of non-FLEX index options.[15] Similarly, a submitting Member must identify the exercise price [16] and the exercise settlement value [17] of the FLEX Option, and those variable FLEX terms must fit within stated parameters.

Paragraph (d) of this proposed rule lists certain additional categories of information that must be addressed by the submitting member in its Request for Quotes. In particular, under this paragraph a submitting member must indicate the type and form of quote sought, the length of the Request Response Time (*i.e.*, the time interval during which FLEX-participating members may enter quotes responsive to the request),[18] and the submitting member's intention, if any, to cross a customer order or act as principal with respect to any part of the FLEX trade.

Finally, paragraph (e) of this proposed rule specifies the maximum term and the minimum value size of any FLEX contract and provides that the term and size may be set, within the stated limits, at the discretion of the submitting member or the quoting party, as applicable. Under this paragraph, the maximum FLEX term is five years; the minimum value size (i.e., the aggregate underlying dollar value that is the subject of the option) for a FLEX Request for Quotes is $10 million in an opening transaction in a new FLEX Option series and $1 million in an opening or closing transaction in any currently-opened FLEX series (or less in a closing transaction where the remaining underlying value is less than $1 million); and the minimum value size for quotes of market-makers in response to a Request for Quotes is $1 million or any lesser amount reflected in a Request for Quotes (except that market-makers appointed to FLEX Options on the underlying index that is the subject of the Request for Quotes must be prepared to respond to a Request for Quotes in a size of at least $10 million underlying value or the dollar amount indicated in the Request for Quote, whichever is less).

These provisions, collectively, provide investors and FLEX-participating members with significant latitude in structuring the terms of FLEX Options contracts. The Exchange believes that such latitude is both important and necessary to the Exchange's effort to create a product and a market that provides members and investors interested in FLEX-type options with an improved but comparable alternative to the OTC options market. To enable the efficient, centralized clearance and active secondary trading of opened FLEX Options, however, the extent of variability in structuring FLEX Options is necessarily limited. Only certain terms are subject to flexible structuring by the parties to FLEX transactions, and most of such terms have a specified number of alternative configurations. In addition to the specified term alternatives indicated above, FLEX Options will be limited to transactions on the S&P 100 and the S&P 500 Indexes [Proposed Rule 24A.4(a)] and shall be denominated for settlement in cash in U.S. dollars only [Proposed Rule 24A.4(e)].

Proposed Rule 24A.5 prescribes in some detail the mechanics of submitting Requests for Quotes and entering responsive bids and offers. These mechanics, described below, are designed to create a modified auction that takes into account the relatively small number of transactions that are likely to occur in this institutional, large-size market, while at the same time providing the FLEX market with the price improvement and transparency benefits of competitive Exchange floor bidding and offering, as compared with the OTC market. Proposed Rule 24A.5 establishes time and price priority principles and contains special rules respecting the bidding and offering process and the method of allocating trades in instances in which the submitting member expresses an intention to cross or act as principal on a Request for Quotes. These proposed rules are designed to promote active bidding and offering that will generate the best price available, while also providing incentives to market-makers appointed to FLEX Options, floor participants, and upstairs firms alike to participate in the FLEX market.

In particular, paragraphs (a) and (b) of proposed Rule 24A.5 indicate that the FLEX-bidding and offering process is initiated once a submitting member has supplied a Request for Quotes in proper form and the FLEX Post Official has disseminated the term of that request at the post and over FLEX communications. Thereafter, FLEX Quotes in proper form must be entered, but may be modified or withdrawn (subject to special limitations imposed on appointed market-makers) by public outcry at any time during the Request Response Time. The length of the Request Response Time, which must fall within time parameters to be set by the SPX Floor Procedure Committee, is to be specified in the Request for Quotes. At the expiration of the Request Response Time, the FLEX Post Official will determine the best bid and/or offer (the "BBO").

Proposed paragraphs (c)–(f) provide that the BBO will be displayed at the post and over communication facilities and, at that point, or after further bidding and offering that occurs in certain specified circumstances, the submitting member will have the opportunity to accept or reject the BBO.

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[15] See Securities Exchange Act Release Nos. 31800 (February 1, 1993), 58 FR 7274 ("QIX Approval Order"); 30944 (July 21, 1992), 57 FR 33376 ("A.M.-settled SPX Approval Order").

[16] Specifically, exercise prices can be determined in reference to (a) a specific index value number, (b) a method for fixing such a number at the time a FLEX quote is accepted, (c) a percentage of index value calculated as of the open or close of trading on the Exchange on the trade date, or (d) the cap interval in the case of European-Capped style options.

[17] Specifically, exercise settlement value is defined as the index value reported at the close or at the open of trading on the Exchange or as a specified average provided that any average index value must conform to the averaging parameters established by the SPX Floor Procedure Committee, that is used in setting the exercise settlement amount.

The SPX Floor Procedure Committee has determined that the averaging parameters will be limited to three alternatives: the average of the opening and closing index values; the average of the intra-day high and low index values; and the average of the opening, closing, and intra-day high and low index values. *See* Amendment No. 4, *supra* note 8.

[18] Initially, the Request Response Time will be a minimum of 10 minutes and a maximum of 30 minutes. Under the proposed rules, the SPX Floor Procedure Committee has the authority to set the range for the Request Response Time. The Exchange will provide at least 2 days notice to members and member organizations of any changes to the Request Response Time range. *See* Amendment No. 4, *supra* note 8.

The submitting member, however, has no obligation to accept the BBO. Thus, whenever the BBO is rejected the Request for Quotes expires, although FLEX-participating members other than the submitting member may accept the unfilled balance of the BBO. Similarly, whenever the BBO is accepted, the transaction (or transactions) will be executed in accordance with the crossing principles and priority principles set forth in paragraph (e), although, again, FLEX-participating members may accept any unfilled balance of the BBO.

Proposed Rule 24A.7 states position limits that will be unique to FLEX Options. Specifically, proposed Rule 24A.7 provides that FLEX Options will be subject to a maximum limit of 200,000 contracts on the same side of the market on a given underlying index, without aggregation for other contracts on the same index with one exception. Under the proposal members must, at the close of business two days prior to the last day of trading of the calendar quarter aggregate positions in P.M.-settled FLEX Options with comparable quarterly expiration index options ("QIXs") and those positions may not exceed the QIX limits specified in Rule 24.4 (*i.e.*, 25,000 contracts on the same side of the market in the case of options on the S&P 100 stock index and 45,000 contracts on the same side of the market in the case of options on the S&P 500 stock index).[19] In each case, the applicable hedge exemptions under Rule 24.4 may be applied to the aggregate positions.[20]

Proposed Rule 24A.9 provides for separate appointments of market-makers to FLEX Options, although the appointment process will be essentially the same as appointments to other options. This rule further provides that appointed market-makers will have an affirmative obligation to quote in a size of at least $10 million, in response to every Request for Quotes on a FLEX Option on an index to which the market-maker is appointed. Such quotes must be firm, unless modified or withdrawn prior to the end of the Request Response Time, for the duration of the Request Response Time and, if applicable, the BBO Improvement Interval. As noted earlier, market-makers have no obligation to maintain continuous quotes or to quote a minimum spread, and quotes expire at the end of each FLEX bidding and offering period.

Proposed Rules 24A.13, 24A.14, and 24A.15 set minimum financial requirements for Market-Makers trading or appointed to FLEX Options. The financial minimums stated in proposed Rules 24A.13 and 24A.14 are unique to FLEX Options.

Proposed Rule 24A.13 requires every market-maker to maintain at least $100,000 in net liquidating equity in any FLEX trading account with each given clearing member. Proposed Rule 24A.14 requires FLEX-appointed market-makers to maintain at least $1 million in net liquidating equity or net capital, as applicable.

Proposed Rule 24A.15 extends the general letter of guarantee requirement under existing Exchange Rule 8.5 to FLEX market-makers, thereby subjecting FLEX market-makers to a focused creditworthiness review by their clearing members. The review and issuance requirement imposed under proposed Rule 24A.15 substantially supplements the independent financial requirements of proposed Rules 24A.13 and 24A.14.[21]

IV. Comments Concerning the Proposal

As noted above, the Commission received three comment letters in support of CBOE's FLEX Options proposal. Two of the commentators are CBOE market makers who expressed their intent to become FLEX market makers and expressed the view that the FLEX product will allow holders of equity portfolios to hedge risk and modify return profiles matching their business needs and would be an essential step in the process of linking the exchange and OTC derivatives markets.[22] Both of these commentators agreed that larger position limits (than are presently available for standardized stock index options) and the ability to specify the manner of expiration settlement value for the component securities of the index at either the open or close of trading are necessary in order for the FLEX Options to be successful. The final commentator supported the CBOE's FLEX proposal, asserting that the customization and flexibility inherent in FLEX Options will benefit the options markets by providing price discovery, liquidity and financial stability for options that would otherwise be traded in a non-transparent fashion in the OTC market.[23]

V. Discussion

The Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[24] In particular, the Commission believes that the proposed rule change is designed to provide investors with a tailored or customized product that may be more suitable to their investment needs. For instance, as noted by the CBOE and the commentators, the OTC market in customized index options has developed, in part, to meet the needs of institutional investors who require increased flexibility for the purpose of satisfying particular investment objectives that could not be met by the standardized or exchange markets in options. Accordingly, the Commission believes the CBOE proposal is a reasonable response by the Exchange to meet the demands of sophisticated portfolio managers and other institutional investors who are increasingly using the OTC market in order to satisfy their hedging needs, and will thereby promote competition among these markets.

In addition, the Commission believes that the CBOE proposal will help to promote the maintenance of a fair and orderly market because the purpose of the proposal is to extend the benefits of a listed, exchange market in S&P 100 and 500 options that have certain terms varied by the particular investor. The attributes of the Exchange's options

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[19] In the case of P.M.-settled FLEX Options based on the S&P 500, no more than 25,000 contract may be used for purposes of taking advantage of any differential in price between the S&P 500 index and securities underlying the S&P 500.

[20] Under the proposal, CBOE's position limits would be established as a three-year pilot, during or following which adjustments may be required. In addition, the CBOE has stated that it will monitor the affect of the position limits at the end of the first year of trading and provide the Commission with a report concerning the adequacy of the limits and its effects on the underlying cash market. *See, infra*, discussion section on one year monitoring report.

[21] The proposed rule changes include the following minor changes as well as the changes discussed in the text. Proposed Rules 24A.16 and 24A.17 make certain Exchange services and certain specific rules inapplicable to FLEX Options. Proposed Rule 24A.6 enables a Floor Broker to exercise discretion with respect to the number of FLEX Option contracts to be purchased or sold—notwithstanding contrary limitations in Rule 6.75—in view of the special features that will be associated with FLEX Option bidding and offering. Finally, proposed Rule 24A.12 establishes a new class of Exchange employee—a FLEX post official—and sets forth the post official's special duties.

[22] *See* KC–CO Letter and Hull Trading Letter, *supra* note 4. Specifically, Hull Trading asserted that linking the exchange and OTC derivatives markets was critical for the following reasons: (1) To achieve sufficient market transparency and oversight of equity security transactions in an integrated fashion and insure market integrity under all conditions; (2) to "level the playing field" providing a more competitive market for investors and reducing the artificial oligopoly in the OTC market for the large international financial institutions; and (3) to improve the competitiveness of the U.S. market placer reducing the transfer of business to foreign markets.

[23] *See* BEA Associates Letter, *supra* note 4.

[24] 15 U.S.C. § 78f(b)(5) (1982).

market versus an OTC market include, but are not limited to, a centralized market center, an auction market with posted transparent market quotations and transaction reporting, standardized contract specifications, parameters and procedures for clearance and settlement, and the guarantee of OCC for all contracts traded on the Exchange.

In general, transactions in FLEX Options will be subject to many of the same rules that apply to index options traded on the CBOE. In order to provide investors with the flexibility to designate terms of the options and accommodate the special trading of FLEX Options, however, several new rules will apply solely to FLEX Options.

Due to the customized nature of these options, FLEX Options will not have trading rotations at either the opening or closing of trading. In addition, the auction process outlined above in proposed Rule 24A.5 sets forth a procedure of customized negotiation for those investors seeking particular flexibility in options terms.[25] Accordingly, the CBOE proposed rules specific to FLEX vary from the traditional procedure for trading non-FLEX stock index options.

The Commission believes that the FLEX auction process, as outlined in CBOE's proposal, appears reasonably designed to provide the benefits of an Exchange auction with features of a negotiated transaction between investors. The Commission recognizes that CBOE's proposal marks, in many respects, an experiment in trading option contracts of substantial value, for which continuous quotation may be difficult to sustain.

Accordingly, CBOE has established procedures for quotes upon request, which must then be firm for a designated period and which will be disseminated through the Options Price Reporting Authority ("OPRA").

The Commission notes that FLEX Options can be constructed with expiration exercise settlement based on the closing values of the component securities, which can result in adverse effects for the markets in those securities.[26] Although the Commission continues to believe that basing the settlement of index products on opening as opposed to closing prices on Expiration Fridays helps alleviate stock market volatility,[27] these concerns are reduced in the case of FLEX Options, since expiration of these stock index options will not correspond to the normal expiration of stock index option, stock index futures, and options on stock index futures. In particular, FLEX Options will never expire on an "Expiration Friday" or any other "Expiration Fridays" in March, June, September and December, thereby diminishing the impact that FLEX Options could have on the market. Also, as noted above, the proposal would limit the effect on securities markets by addressing the relationship between FLEX and QIX Options. As proposed, CBOE Rule 24A.7 requires P.M.-settled FLEX Options to be aggregated with QIXs that are based on the same index and have the same expiration date. In such a case, the FLEX Options would be aggregated two days prior to expiration subject to the lower QIX position limits of 25,000 for S&P 100 options and 45,000 for S&P 500 options. The Commission believes that these rules should help prevent an investor from using FLEX Options for the purpose of avoiding the position limits applicable to QIXs.

Nevertheless, because the position limits for FLEX Options are much higher than those currently existing for outstanding exchange-traded index options and open interest in one or more FLEX series could grow to significant exposure levels, the Commission cannot rule out the potential for adverse effects on the securities markets for the component securities underlying FLEX Option stock indices. The CBOE has taken several steps to address this concern, including establishing the proposed position limits as a three-year pilot and undertaking to monitor open interest, position limit compliance and potential adverse market effects carefully and to report to the Commission after one year's experience trading FLEX Options. That report will include, among other things:

- The type of strategies used by FLEX Options market participants and whether FLEX Options are being used, in lieu of existing standardized stock index options.
- The type of market participants using FLEX Options.
- The terms which are predominantly being "flexed" by market participants, *i.e.*, strike prices, settlement value (A.M. v. P.M.), term of duration, European v. American style.
- The size of the FLEX position on average, the size of the largest FLEX positions on any given day and the size of the largest FLEX position held by any single customer/member.
- The relationship between strike prices and current index value.
- Whether there is significant interest in long-term expirations greater than nine months.
- Any effect FLEX positions have had on the underlying cash market, including an analysis of FLEX positions and their market impact on days NYSE's Rule 80A is invoked.

In addition, the Commission expects and the CBOE has agreed to monitor the actual effect of FLEX Options once trading commences and take prompt action (including timely communication with marketplace self-regulatory organizations responsible for oversight of trading in component stocks) should any unanticipated adverse market effects develop.

Lastly, based on representations from the CBOE, the Commission believes that the CBOE and OPRA will have adequate systems processing capacity to accommodate the additional options listed in connection with FLEX Options. Specifically, the Exchange represents that "CBOE and OPRA have the necessary systems capacity to support the new series which could result from introduction of FLEX options.[28]

The Commission finds good cause for approving proposed Amendments Nos. 1, 2, 3, and 4 prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** because such amendments will help to benefit the FLEX Options market and market participants employing these options while at the same time reducing the possible exposure to the market from these larger positions.[29] In addition, the changes included in Amendment No. 1 are technical in nature rendering acceleration reasonable. The Commission accordingly believes that granting accelerated approval of the

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[25] A submitting member (the Exchange member that initiates the FLEX auction process by submitting a request for quotes) is under no obligation to accept any FLEX bid or offer, even if it is the best bid or offer ("BBO"). Proposed CBOE Rule 24A.5(c)(iv).

[26] See A.M.-settled SPX Approval Order *supra* note 13.

[27] *Id.*

[28] See Letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated February 8, 1993, incorporating a memorandum from Joseph P. Corrigan, Executive Director, OPRA, to Bill Barclay, CBOE, dated February 8, 1993.

[29] In the original FLEX Option rule filing, the CBOE proposed position and exercise limits of 500,000 contracts. The Commission received three comments supporting the expanded position limits for FLEX Options. Accordingly, the Commission believes that permitting a maximum FLEX Options position of 200,000 contracts instead of the requested 500,000 contracts is equally supportable by market participants such as the commentators, even though it is not expansive as originally proposed. For a more detailed discussion of the comments, See *supra* Section IV.

proposed rule change is appropriate and consistent with Section 6 of the Act.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the AMEX. All submissions should refer to File No. SR–CBOE–92–17 and should be submitted by (insert date 21 days from date of publication).

VII. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act and Sections 6 and 11A of the Act in particular.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[30] that the proposed rule change (SR–CBOE–92–17) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4799 Filed 3–2–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

February 25, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Volunteer Capital Corp.
Common Stock, $.05 Par Value (File No. 7–10291)
Washington National Corp.
$2.50 Conv. Pfd., $5.00 Par Value (File No. 7–10292)
Washington Post Company
Class B Common Stock, $1.00 Par Value (File No. 7–10293)
Waxman Industries, Inc.
Common Stock, No Par Value (File No. 7–10294)
Wean, Inc.
Common Stock, $1.00 Par Value (File No. 7–10295)
Wean, Inc.
5.25% Pfd. Ser. A, $24.00 Par Value (File No. 7–10296)
Wells Fargo & Company
Adj. Rte. Cum. Pfd. Ser. A, No Par Value (File No. 7–10297)
Wells Fargo & Company
Adj. Rte. Cum. Pfd. Ser. B, No Par Value (File No. 7–10298)
Western Mining Corp. Holdings Ltd.
American Depositary Shares, No Par Value (File No. 7–10299)
Williams Companies
$3.875 Conv. Exch. Pfd., $1.00 Par Value (File No. 7–10300)
Xerox Corporation
$3.6875 Ten-Yr. S.F. Pfd., $1.00 Par Value (File No. 7–10301)
Xerox Corporation
$4.125 Twenty-Yr. S.F. Pfd., $1.00 Par Value (File No. 7–10302)
Zenxi Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10303)
2002 Target Term Trust, Inc.
Common Stock, $.001 Par Value (File No. 7–10304)
Acceptance Insurance Companies, Inc.
Common Stock, $.40 Par Value (File No. 7–10305)
Banco Bilbao Vizcaya Int'l (Gibraltar) Ltd.
American Depository Shares, Ser. B. (rep. 1 Non-Cum. Gtd. Pref. Sh. Ser. B) (File No. 7–10306)
Betz Laboratories, Inc.
Common Stock, $.10 Par Value (File No. 7–10307)
Blackrock 1999 Term Trust, Inc.
Common Stock, $.01 Par Value (File No. 7–10308)
Capitol American Financial Corp.
Common Stock, No Par Value (File No. 7–10309)
Caremark International
Common Stock, $1.00 Par Value (File No. 7–10310)
Carmike Cinemas, Inc.
Class A Common Stock, $.03 Par Value (File No. 7–10311)
Central Maine Power Co.
Div. Ser. Pfd. Stk. 7⅞% Ser., $100.00 Par Value (File No. 7–10312)
Chart Industries, Inc.
Common Stock, $.01 Par Value (File No. 7–10313)
Chesapeake Utilities Corp.
Common Stock, $0.4867 Par Value (File No. 7–10314)
Coles Myer Ltd.
American Depositary Receipts (rep. 8 Ord. Shares) (File No. 7–10315)
Comp USA
Common Stock, No Par Value (File No. 7–10315)
Extercapital Ltd.
Non-Cum. Gtd. Pref. Shares, Ser. A (File No. 7–10316)
First Chicago Corp.
Depositary Shares (rep. 1/25 sh. of 8.45% Cum. Pfd. Stock, Ser. E) (File No. 7–10317)
First Colony Corp.
Common Stock, No Par Value (File No. 7–10318)
Hayes Wheels International, Inc.
Common Stock, $.01 Par Value (File No. 7–10319)
Health Care Reit, Inc.
Common Stock, $1.00 Par Value (File No. 7–10320)
Health Care Reit, Inc.
Common Stock, $1.00 Par Value (File No. 7–10320)
Health Images, Inc.
Common Stock, $.01 Par Value (File No. 7–10321)
Kroger Co.
Common Stock, $1.00 Par Value (File No. 7–10322)
Resource Mortgage Capital Corp.
Common Stock, $.01 Par Value (File No. 7–10323)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 18, 1993, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–4859 Filed 3–2–93; 8:45 am]

BILLING CODE 8010–01–M

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[30] 15 U.S.C. § 78s(b)(2) (1982)

[31] 17 CFR § 200.30–3(a)(12) (1992).

[Release No. 34–31918; File No. SR–NASD–92–35]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval of Proposed Rule Change Relating to Margin Requirements

February 24, 1993.

On August 20, 1992, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and rule 19b–4 thereunder.[2] The NASD subsequently filed on December 4, 1992, Amendment No. 1 to the filing which replaced in its entirety the original filing. The rule change amends Article III, section 30, Schedule A of the Rules of Fair Practice to conform closely to the NASD's margin rules with those of the New York Stock Exchange[3] ("NYSE") by deleting and replacing the current provisions of appendix A with rule language substantially identical to the NYSE margin rules.[4]

Notice of the proposed rule change, together with the terms of the substance of the proposal was provided by issuance of a Commission release (Securities Exchange Act Release No. 31684, January 4, 1993), and by publication in the **Federal Register** (58 FR 3576, January 11, 1993). No comments were received in response to the Commission release. This order approves the proposed rule change.

In November 1988 the NASD filed a proposed rule change, SR–NASD–88–50,[5] with the SEC to amend appendix A to Article III, Section 30 of the Rules of Fair Practice ("appendix A") in order to make it consistent with the then-recently approved amendments to the NYSE's margin rules (NYSE Rule 431). While the proposed rule change was pending, the NYSE again amended its margin rules.[6] The NASD's current proposal further amend appendix A to conform closely the provisions of appendix A to the amended NYSE margin rules.

The Commission has determined to approve the NASD's proposal. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, including the requirements of section 15A(b)(6) of the Act.[7] Section 15A(b)(6) requires, in part, that the rules of the NASD be designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest. The proposed rule change is designed to make the NASD's margin rules consistent with those of the NYSE. This will in turn foster coordination between the markets by achieving parity between the margin requirements of the various SROs. The rule change herein approved will foster coordination in regulating, clearing, settling, and facilitating transactions in securities by providing for uniformity in the SROs' margin schemes and reducing confusion among customers dealing with NYSE and non-NYSE-member firms. This proposal will protect investors and the public interest, and is consistent with the Act because it will ensure that the margin requirements reflect current regulatory and credit risk returns.

The Commission does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–NASD–92–35 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4800 Filed 3–2–93; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] *See* NYSE Rules 431 and 700; *see also* Securities Exchange Act Release No. 24144 (February 27, 1987), 52 FR 7245 (March 9, 1987) and Securities Exchange Act Release No. 25178 (December 8, 1987) 52 FR 24920 (December 15, 1987) which amended the NYSE's rules on margins.

[4] While similar, there are a number of substantive differences between the NYSE and the NASD's margin rules; such as the manner in which net capital is computed and the technical margin requirements for basket transactions with market makers and specialists accounts.

[5] Simultaneously with the filing of this proposed rule change, the NASD withdrew its filing SR–NASD–88–50.

[6] In addition the Commission approved an amendment to appendix A of the Rules of Fair Practice to provide margin rules for securities which are listed on "incubetor" or "emerging company" exchanges such as the American Stock Exchange's Emerging Company Marketplace. *See* Securities and Exchange Act Release No. 30703 (May 14, 1992), 57 FR 21684 (May 21, 1992).

[7] 15 U.S.C. § 78*o*–3 (1988).

[8] 17 CFR 200.30–3(a)(12) (1992).

[Release No. 34–31919; File No. ODD–93–1]

Self-Regulatory Organization; the Options Clearing Corporation; Order Approving Supplement to Options Disclosure Document Regarding Flexible Exchange Options ("FLEX Options")

February 24, 1993.

On January 22, 1993, the Options Clearing Corporation ("OCC"), in conjunction with the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Rule 9b–1 under the Securities Exchange Act of 1934 ("Exchange Act"),[1] copies of a Supplement to the Options Disclosure Document ("ODD") which describes the characteristics and risks of trading in the CBOE's new Flexible Exchange Options ("FLEX Options").[2] Five definitive copies of the Supplement were delivered on February 24, 1993.

The proposed Supplement to the ODD provides for disclosure to accommodate the CBOE's FLEX Options proposal which has been submitted to the Commission separately.[3] This Supplement, which is to be read in conjunction with the more general ODD entitled "*Characteristics and Risks of Standardized Options,*" describers, among other things, the special characteristics, features, and risks of FLEX Options. Pursuant to rule 9b–1, the Supplement will have to be provided to investors in FLEX Options before their accounts are approved for FLEX transactions or their orders for FLEX Options are accepted.

The Commission has reviewed the ODD Supplement and finds that it complies with rule 9b–1. The Supplement is intended to be read in conjunction with the ODD, which discusses the characteristics and risks of stock index options generally. The Supplement provides additional information regarding FLEX Options sufficient to describe the special characteristics and risks of these products.

[1] 17 CFR 240.9b–1 (1990).

[2] In conjunction with the filing of the Supplement to the ODD, the CBOE and OCC requested a Commission order pursuant to rule 9b–1(a)(4) designating FLEX Options as "standardized options" for purposes of Rule 9b–1 under the Exchange Act as well as Form S–20 under the Securities Act of 1933 ("Securities Act"), as amended. The Commission approved this request. *See* Securities Exchange Act Release No. 31910 (February 23, 1993).

[3] *See* Securities Exchange Act Release No. 31361 (October 27, 1992), 57 FR 52655.

Rule 9b–1 provides that an options market must file five copies of amendments to a disclosure document with the Commission at least 30 days prior to the date definitive copies are furnished to customers, unless the Commission determines otherwise having due regard to the adequacy of the information disclosed and the protection of investors.[4] The Commission believes it is consistent with the public interest and the protection of investors to allow distribution of the Supplement as of February 24, 1993, a date which is within 30 days of the date definitive copies of the Supplement were submitted to the Commission. Specifically, the Commission believes that, because the proposed Supplement provides adequate disclosure of the special characteristics, features, and risks of trading in FLEX Options, thereby helping to ensure that customers engaging in FLEX Options transactions are capable of understanding the risks of such trading activity, it is consistent with the public interest for it to be distributed to investors before the planned February 26, 1993 commencement of FLEX Options trading on the CBOE.

It is therefore ordered, pursuant to rule 9b–1 under the Act,[5] that the proposed Supplement to the ODD to accommodate the CBOE's proposed trading of FLEX Options is approved, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland

Deputy Secretary.

[FR Doc. 93–4801 Filed 3–2–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19298; 812–8028]

Colonial Trust I, et al.

Dated: February 25, 1993.

AGENCY: Securities and Exchange Commission (the "SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Colonial Trust I, Colonial Trust II, Colonial Trust III, Colonial Trust IV, Colonial Trust V, Colonial Trust VI, Colonial Income Trust, Colonial International Equity Index Trust, Colonial Small Stock Index Trust, Colonial Strategic Income Trust, Colonial United States Equity Index Trust (the "Trusts"), and Colonial Management Associates, Inc. ("Colonial").

RELEVANT ACT SECTIONS: Order requested under section 6(c) for exemptions from sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek to amend a prior order permitting the Trusts to: (a) issue three classes of shares representing interests in the same portfolio of securities, one of which would convert into another class with a lower rule 12b–1 distribution fee after a specified period, and (b) assess and, under certain circumstances, waive a contingent deferred sales charge ("CDSC") on certain redemptions of shares of one class. The amended order would permit the Trusts to issue additional classes of shares under terms that may differ from those of the three classes permitted under the prior order

FILING DATE: The application was filed on August 2, 1992 and amended on October 23, 1992, January 14, 1993, and February 19, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Any interested person may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m., on March 22, 1993 and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549; Applicants, One Financial Center, Boston, Massachusetts 02111.

FOR FURTHER INFORMATION CONTACT: Maura A. Murphy, Senior Attorney, at (202) 272–7779, or Jeremy N. Rubenstein, Assistant Director, at (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Each Trust is an open-end management investment company registered under the Act. Some Trusts have multiple portfolios with separate investment objectives and policies, and with segregated assets. Colonial serves at the Trusts' investment adviser and principal underwriter.

2. Under an order of the Commission dated May 6, 1992 (Investment Company Act Release No. 18692) (the "Original Order"), the Trusts and any other open-end management investment company that is a member of the Colonial "group of investment companies," as defined in rule 11a–3 under the Act (together with each existing series of the Trusts, the "Funds"), are permitted to issue three classes of shares, and to impose and, under specified circumstances, waive a contingent deferred sales charge ("CDSC").

3. Applicants seek to amend the Original Order to permit the establishment of a multi-class distribution system (the "Multi-Class Distribution System") that would allow the Funds from time to time to issue additional classes of shares under terms that may differ from those of the Class A, Class B, and Class C shares permitted under the Original Order. Under the Multi-Class Distribution System, the only differences among the classes of shares of the same Fund will relate solely to: (a) the impact of the disproportionate payments made under the rule 12b–1 plans, the different transfer agency costs, if any, attributable to the various classes of shares, and any other expenses subsequently identified that should be properly allocated to one class which shall be approved by the SEC pursuant to an amended order; (b) the fact that the classes will vote separately with respect to a Fund's rule 12b–1 plans, except as provided in condition 14, below; (c) the different exchange privileges of the classes of shares; (d) the designation of each class of shares of a Fund; and (e) the different conversion features of each class of shares.

4. Applicants request relief in addition to that granted by the Original Order, which remains in full force and effect. Each of the representations upon which the Original Order was based remains true and accurate, except that applicants have now implemented the distribution system permitted by the Original Order with respect to most of the existing series of the Trusts.

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[4] This provision is intended to permit the Commission either to accelerate or extend the time period in which definitive copies of a disclosure document may be distributed to the public.

[5] 17 CFR 240.9b–1 (1990).

[6] 17 CFR 200.30–3(a)(39) (1990).

Applicants' Legal Analysis

1. Applicants seek an exemption from: sections 18(f)(1) and 18(g) of the Act to the extent the proposed Multi-Class Distribution System may result in a senior security prohibited by section 18(f); section 18(i) of the Act to the extent that the different voting rights associated with the proposed Multi-Class Distribution System may be deemed to result in some classes having unequal voting rights with other classes of shares; and sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c–1 thereunder to the extent necessary or appropriate to permit the imposition of a contingent deferred sales charge ("CDSC") in connection with the redemption of certain classes of shares in the Multi-Class Distribution System, as described in the application for the Original Order.

Applicant's Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each class of shares will represent interests in the same portfolio of investments of a Fund, and be identical in all respects, except as set forth below. The only differences among the classes of shares of the same Fund will relate solely to: (a) The impact of the disproportionate payments made under the rule 12b–1 plans, the different transfer agency costs, if any, attributable to the various classes of shares, and any other expenses subsequently identified that should be properly allocated to one class which shall be approved by the SEC pursuant to an amended order; (b) the fact that the classes will vote separately with respect to a Fund's rule 12b–1 plans, except as provided in condition 14, below; (c) the different exchange privileges of the classes of shares; (d) the designation of each class of shares of the Fund; and (e) the different conversion features of each class of shares.

2. The Trustees of a particular Fund, including a majority of the independent Trustees, will approve the Multi-Class Distribution System prior to its implementaion by such Fund. In addition, the Trustees of a particular Fund, including a majority of the independent Trustees, will approve the subsequent creation of any additional class of shares. The minutes of the meetings of the Trustees of each of the Funds regarding the deliberations of the Trustees with respect to the approvals necessary to implement the Multi-Class Distribution System will reflect in detail the reasons for the Trustees' determination that the proposed Multi-Class Distribution System is in the best interests of both the Fund and its respective shareholders and such minutes will be available for inspection by the SEC staff.

3. On an ongoing basis, the Trustees of the Funds, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor each Fund for the existence of any material conflicts among the different classes of shares. The Trustees, including a majority of the independent Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. Colonial will be responsible for reporting any potential or existing conflicts to the Trustees. If a conflict arises, Colonial at its own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. The Trustees of the Funds will receive quarterly and annual statements concerning distribution and service expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or service of a particular class of shares will be used to justify any distribution or service fee charged to that class. Expenditures not related to the sale or service of a particular class will not be presented to the Trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent Trustees in the exercise of their fiduciary duties.

5. Dividends paid by a Fund with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that distribution and service payments relating to any particular class of shares will be borne exclusively by that class and any incremental transfer agency costs relating to a particular class of shares will be borne exclusively by such class.

6. The methodology and procedures for calculating the net asset value and dividends and distributions of the various classes and the proper allocation of expenses among the various classes have been reviewed by an expert (the "Expert") who has rendered a report to the applicants, which has been filed as an exhibit to amendment No. 1 to this application, stating that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by a Fund (which the Funds agree to make), will be available for inspection by the SEC staff upon the written request to the Fund for such work papers by a senior member of the Division of Investment Management or of a Regional Office of the Commission, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.[1]

7. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the various classes of shares and the proper allocation of expenses among such classes of shares and this representation has been concurred with by the Expert in the initial report referred to in condition (6) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (6) above. Applicants agree to take immediate corrective action if the Expert, or appropriate substitute Expert, does not so concur in the ongoing reports.

8. The prospectuses of the Funds will contain statements to the effect that salespersons and any other persons entitled to receive compensation for selling or servicing Fund shares may receive different compensation with respect to different classes of shares.

[1] The Staff notes that SAS No. 44 of the AICPA has been superseded by SAS No. 70, which is effective for all auditors' reports dated after March 31, 1993.

9. Colonial will adopt compliance standards as to when shares of each class may appropriately be sold to particular investors. Applicants will require all persons selling shares of a Fund to agree to conform to such standards. Applicants' compliance standards will require all investors eligible to purchase Class C shares of a Fund offering such shares to invest in Class C, rather than shares of any other class.

10. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees of the Funds with respect to the Multi-Class Distribution System will be set forth in guidelines which will be furnished to the Trustees as part of the materials setting forth the duties and responsibilities of the Trustees.

11. Each Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares (other than Class C) in every prospectus (other than a prospectus relating exclusively to Class C) through which such Fund's shares are offered, regardless of whether all classes of shares are offered through each prospectus. The prospectus for any class of shares of a Fund will identify the existence of all other classes of such Fund and, with the exception of a prospectus for Class C, will identify the persons eligible to purchase shares of such other classes. The shareholder reports of each Fund will disclose the respective expenses and performance data applicable to each class of shares. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole generally and not on a per class basis. Each Fund's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Fund. To the extent any advertisement of sales literature describes the expenses or performance data applicable to one class of shares (other than Class C shares), it will disclose the expenses and/or performance data applicable to all other classes (other than Class C). Advertising materials reflecting the expenses or performance data for Class C shares will be available only to Class C eligible investors. The information provided by applicants for publication in any newspaper or similar listing of the Funds' net asset values and public offering prices will separately present the different classes of shares (other than Class C).

12. Applicants acknowledge that the grant of the exemptive order requested by the application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that the Funds may make pursuant to their rule 12b–1 distribution or service plans in reliance on the exemptive order.

13. Any class of shares with a conversion feature ("Converting Class") will convert into another class ("Target Class") of shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in Article III, Section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

14. If a Fund implements any amendment to its rule 12b–1 plan (or, if presented to shareholders, adopts or implements any amendment of a non-Rule 12b–1 shareholder services plan) that would increase materially the amount that may be borne by Target Class shares under the plan, existing Converting Class shares will stop converting into Target Class shares unless the Converting Class shareholders, voting separately as a class, approve the proposal. The Trustees shall take such action as is necessary to ensure that existing Converting Class shares are exchanged or converted into a new class of shares ("New Target Class"), identical in all material respects to the Target Class as it existed prior to implementation of the proposal, no later than such shares previously were scheduled to convert into the Target Class. If deemed advisable by the Trustees to implement the foregoing, such action may include the exchange of all existing Converting Class shares for a new class ("New Converting Class"), identical to existing Converting Class shares in all material respects except that the New Converting Class will convert into the New Target Class. A New Target Class or New Converting Class may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in any manner that the Trustees reasonably believe will not be subject to federal taxation. In accordance with condition 3, any additional cost associated with the creation, exchange, or conversion of a New Target Class or New Converting Class shall be borne solely by Colonial. Converting Class shares sold after the implementation of the proposal may convert into Target Class shares subject to the higher maximum payment, provided that the material features of the Target Class plan and the relationship of such plan to the Converting Class shares are disclosed in an effective registration statement.

15. Applicants will comply with the provisions of proposed rule 6c–10 under the Act (Investment Company Act Release No. 16619 (Nov. 2, 1988)), as such rule is currently proposed and as it may be reproposed, adopted, or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4853 Filed 3–2–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

February 25, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission ") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Laser Technology, Inc.
Common Stock, $.01 Par Value (File No. 7–10252)

Preferred Income Management Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10253)

Prospect Street High Income Portfolio, Inc.
Rights to Subscribe (File No. 7–10254)

Atlantis Group
Common Stock, $.10 Par Value (File No. 7–10255)

All American Target Term Trust, Inc.
Common Stock, $.001 Par Value (File No. 7–10256)

Alta Energy Corp.
Common Stock, $.01 Par Value (File No. 7–10257)

Hyperion 2005 Investment Grade Opportunity Term Trust, Inc.
Common Stock, $.001 Par Value (File No. 7–10258)

Intercapital California Insured Municipal Income
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–10259)

Intercapital Insured Municipal Income
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–10260)

C.H.I.C. By His, Inc.
Common Stock, No Par Value (File No. 7–10261)

Nuveen Premium Income Municipal Fund IV, Inc.

Common Stock, $.01 Par Value (File No. 7–10262)
Voyageur Arizona Municipal Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10263)
Voyageur Florida Insured Municipal Income Fund
Common Stock, $.01 Par Value (File No. 7–10264)
Voyageur Minnesota Municipal Income Fund II, Inc.
Common Stock, $.01 Par Value (File No. 7–10265)
Citadel Holding Corp.
Rights to Subscribe (File No. 7–10266)
Berlitz International, Inc.
Common Stock, $.10 Par Value (File No. 7–10267)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 18, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–4857 Filed 3–2–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19297; 812–7928]

Nations Fund Trust, et al.; Notice of Application

February 25, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Nations Fund Trust (formerly Nations Fund) (the "Trust"), Nations Fund, Inc. (formerly Hatteras Funds, Inc., d/b/a Nations Fund Portfolios), NationsBank of North Carolina, N.A. ("NationsBank"), and Funds Distributor, Inc. ("FDI") (formerly TBC Funds Distributor, Inc.).

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from sections 18(f), 18(g), and 18(i).

SUMMARY OF APPLICATION: Applicants seek a conditional exemption from the provisions of sections 18(f), 18(g), and 18(i) to the extent necessary to permit applicants to issue multiple classes of shares in the same portfolio.

FILING DATES: The application was filed on May 26, 1992, and amendments were filed on August 26, 1992, November 3, 1992, January 13, 1993 and February 23, 1993. By letter dated February 24, 1993, applicants' counsel stated that an amendment, the substance of which is incorporated herein, will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 22, 1993, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants: Nations Fund Trust and Nations Fund, Inc., One Exchange Place, 53 State Street, Boston, Massachusetts 02109; NationsBank of North Carolina, N.A., 101 South Tryon Street, Charlotte, North Carolina 28255; and Funds Distributor, Inc., Exchange Place, Boston, Massachusetts 02109–2873.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 504–2920, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Nations Fund Trust is a Massachusetts business trust registered under the Act as an open-end management investment company. Nations Fund Trust is a series company presently consisting of 23 separate investment portfolios. Nineteen of the portfolios declare net investment income as a dividend on a daily basis and are hereinafter referred to, together with any future portfolios of any other Company (as defined below), as the "Daily Dividend Funds." The other four portfolios declare net investment income as a dividend on a basis other than daily, and are hereinafter referred to, together with any future portfolios of any other Company, as the "Non-Daily Dividend Funds."

2. Nations Fund, Inc. is a Maryland corporation registered under the Act as an open-end management investment company, and is a series company consisting of five separate investment portfolios. Three of the portfolios are Daily Dividend Funds, and two are Non-Daily Dividend Funds.

3. Applicants intend that the requested relief also apply to all open-end investment companies for which FDI acts or will act in the future as principal underwriter (collectively with Nations Fund Trust and Nations Fund, Inc., as the "Companies," and individually, a "Company").[1]

4. NationsBank serves as the investment adviser of Nations Fund Trust and Nations Fund, Inc. FDI serves as the principal underwriter of Nations Fund Trust and Nations Fund, Inc.

5. Nations Fund Trust and Nations Fund, Inc., as well as certain other investment companies, currently are permitted to offer three classes of shares representing interests in the same portfolio pursuant to a prior order (the "Existing Order"). *The Galaxy Fund*, Investment Company Act Release Nos. 18507 (Jan. 30, 1992) (notice) and 18558 (Feb. 19, 1992) (order). Once the requested order is issued, the Companies will rely on such requested order in lieu of the Existing Order. The requested order will not supersede or replace the Existing Order to the extent any other investment companies, including the Galaxy Fund, are relying on or will in the future rely on the Existing Order.

6. The Existing Order allows three classes of shares to be issued: (a) the 12b–1 class offered in connection with a plan adopted pursuant to rule 12b–1 under the Act (the "12b–1 Plan"); (b) the Non-12b–1 class offered in connection with a non-rule 12b–1

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[1] Nations Fund Trust and Nations Fund, Inc. are the only two investment companies distributed by FDI that currently intend to rely on any order issued in connection with the requested relief. Applicants request that any existing investment companies that use FDI as its principal underwriter and have not signed the application be permitted to reply on any order granting the requested relief so long as they determine to issue multiple classes of shares in accordance with the representations and conditions of the application.

administrative plan (the "Non-12b–1 Plan," and, collectively with the 12b–1 Plan, the "Plans"); and (c) the Trust class. The 12b–1 class and Non-12b–1 class may incur the additional expense of fees paid to financial institutions that have entered into agreements ("Plan Agreements") with a Company to provide administrative services to certain customers, and certain additional transfer agency expenditures. The 12b–1 class also may be subject to additional distribution expenditures made pursuant to the respective rule 12b–1 Plan. Financial institutions which have entered into Plan Agreements with a Company or such Company's distributor to provide administrative support services to their customers with respect to the 12b–1 class or Non-12b–1 class are referred to herein as "Organizations." The Trust class incurs no additional expenses.

7. Applicants request an order to permit the Companies to offer multiple classes of shares representing interests in the same portfolio. Under the proposed arrangement, each share of a portfolio of a Company would be identical in all respects to all other shares except for class designation, allocation of certain expenses by class ("Class Expenses"), voting rights, exchange privileges, sales loads, of certain of the classes, and conversion privileges.

8. Because of the expenses that may be borne by each class of shares of a portfolio of a Company, the net income of and dividends payable to each class may be different from the net income of and dividends payable to the other classes of such portfolio. Dividends paid to each class of shares would, however, be declared and paid on the same days and at the same time, and, except as noted with respect to Class Expenses, would be determined in the same manner and paid in the same amounts.

9. Shares of certain classes ("Class B") could automatically convert into shares of another class ("Class A") approximately five years after the purchase of the Class B shares. Class A shares will in all cases be subject to aggregate lower asset-based sales charges and/or service fees, if any, than Class B shares. Shares purchased through the reinvestment of dividends and other distributions paid in respect to Class B shares will be Class B shares. Such shares will convert to Class A shares on the earlier of: (a) Five years from the date of such reinvestment purchase, or (b) the conversion date of the most recently purchased Class B shares that were not acquired through the reinvestment of dividends or other distributions. Thus, for example, if an investor makes a one-time purchase of Class B shares and subsequently acquires additional Class B shares only through reinvestment of dividends and other distributions, all Class B shares, including Class B shares acquired through reinvestment, will convert to Class A shares five years after the original purchase date.

10. The conversion of the Class B into Class A shares would be subject to the availability of an opinion of counsel or Internal Revenue Service private letter ruling to the effect that the conversion of the Class B shares does not constitute a taxable event under Federal income tax law. The proposed conversion may be suspended if such a ruling or opinion is not available. In that event, no further conversions would occur and the Class B shares might be subject to a higher distribution and administrative support services fee for an indefinite period.

11. All outstanding shares representing interests in the Non-Daily Dividend Funds will bear the same portfolio expenses, which will first be allocated *pro rata* to each class on the basis of the relative net asset value of the respective class, and then further allocated on a per share basis within the class, except that each class will bear its own respective Class Expenses.

12. With respect to the Daily Dividend Funds, the net asset value of all outstanding shares representing interests in the same fund will be computed on the same days and at the same time by adding the value of all securities and other assets belonging to such fund, subtracting the liabilities charged to such fund, and dividing the result by the same number of outstanding shares. The gross income of such fund would in effect be calculated on a *pro rata* basis to each outstanding share in such fund regardless of class, and all expenses incurred by such fund would be borne on a *pro rata* basis by such outstanding shares, except for Class Expenses applicable to each class of shares. The Daily Dividend Funds will take certain steps as detailed in condition 18 below to ensure that the net asset value per share of each class of shares of a Daily Dividend Fund does not deviate from the net asset value per share of the other classes in the fund.

13. Shareholders will generally be limited to exchanging shares for the same or similar class of shares of another portfolio within a single group of investment companies, as such term is defined in rule 11a–3. Any exceptions to such policy will be disclosed in the appropriate prospectuses. The Companies' exchange policies will in all events comply with rule 11a–3.

Applicants' Legal Analysis

1. Applicants request an exemptive order to the extent that the proposed issuance and sale of any of the classes of shares might be deemed to result in a "senior security" within the meaning of section 18(g) and prohibited by section 18(f)(1) and to violate the equal voting provisions of section 18(i). Applicants assert that the proposed allocation of expenses and voting rights in the manner described is equitable and would not discriminate against any group of shareholders. Applicants argue that investors purchasing shares and receiving the services provided under a plan would bear the costs associated with such services, but would also enjoy shareholder voting rights with respect to matters affecting the Plan. Applicants also argue that investors purchasing shares not offered in connection with a Plan would not bear those expenses, receive the service benefits of such plans, or enjoy those voting rights.

2. Applicants assert that the proposed arrangement does not raise any of the concerns which section 18 is intended to redress. It does not involve borrowings, affect a Company's existing assets or reserves, or increase the speculative character of the shares of a Company. Applicants further state that mutuality of risk is preserved because all shares of a Company will be redeemable at all times. Applicants believe that, because no class of shares will have liquidation or distribution preference with respect to particular assets, and because no class will be protected by any reserve or other account, investors will not be given misleading impressions as to the safety or risk of the shares. In addition, applicants assert that a Company's capital structure will not enable insiders to manipulate the expenses and profits since the capital structure is not organized in a pyramid fashion and since all expenses and profits of a Company, other than Class Expenses, will be borne *pro rata* by all shares of each portfolio of a Company, irrespective of class.

Applicants' Conditions: Applicants agree that the following conditions may be imposed in any order of the SEC granting the requested relief:

1. Each class of shares representing interests in the same portfolio of a Company will be identical in all respects, except for differences related to:

(a) The method of financing certain Class Expenses, which are limited to (i) transfer agent fees identified by the transfer agent as being attributable to a specific class of shares; (ii) printing and

postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses, reports, and proxies to current shareholders of a specific class or to regulatory agencies with respect to a specific class of shares; (iii) blue sky registration or qualification fees incurred by a class of shares; (iv) SEC registrations fees incurred by a class of shares; (v) the expense of administrative personnel and services (including, without limitation, those of a portfolio accountant, custodian or dividend paying agent charged with calculating net asset values or determining or paying dividends) as required to support the shareholders of a specific class of shares; (vi) different levels of 12b–1 and/or non-12b–1 fees and expenses incurred by a class of shares ("Plan Payments"); (vii) litigation or other legal expenses relating solely to one class of shares; (viii) fees of Trustees [2] incurred as a result of issues relating to one class of shares; and (ix) independent accountants' fees relating solely to one class of shares;

(b) voting rights of the classes with respect to the Plans;

(c) the different exchange privileges, if any, of such classes as described in the prospectuses (and statements of additional information) of the portfolios and consistent with any order granted pursuant to this application.

(d) class designation differences; and

(e) the conversion of shares of one class to shares of a second class approximately five years after the purchase of the shares of the first class, which classes differ with respect to the distribution services and administrative support fees payable by such classes of shares.

Any additional incremental expenses not specifically identified above which are subsequently identified and determined to be properly allocated to one class of shares shall not be so allocated until approved by the SEC pursuant to an amended order.

2. The Trustees of a Company, including a majority of the independent Trustees, will approve the creation of additional classes of shares from time to time by an affirmative vote prior to the creation of any such class. The minutes of the meetings of the Trustees regarding the deliberations of the Trustees with respect to the approvals necessary to create any additional class of shares will reflect in detail the reasons for the Trustees' determination that the creation is in the best interests of both the Company involved and its shareholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the Trustees of a Company, including a majority of the Trustees who are not interested persons of the Company. Any person authorized to direct the allocation and disposition of monies paid or payable by the Company to meet Class Expenses shall provide to the Trustees, and the Trustees shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the Trustees of a Company, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the portfolios for the existence of any material conflicts between the interests of the classes of shares. The Trustees, including a majority of the independent Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. A Company's adviser and distributor will be responsible for reporting any potential or existing conflicts to the Trustees. If a conflict arises, a Company's adviser and distributor, at their own cost, will remedy such conflict up to and including establishing a new registered management investment company.

5. Any Non–12b–1 Plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1(b) through 12b–1(f) as if the expenditures made thereunder were subject to rule 12b–1, except that holders of Non–12b–1 shares will not receive the voting rights specified in rule 12b–1. In evaluating any Non–12b–1 Plan, the Trustees of a Company will specifically consider whether (a) the Plan is in the best interest of the applicable class of shares and their respective shareholders, (b) the services to be performed pursuant to the Plan are required for the operation of the applicable class of shares, (c) the Organizations can provide services at least equal in nature and quality to similar services provided by others, including the Company, and (d) the fees for such services are fair and reasonable in light of the usual and customary charges made by other entities, especially non-affiliated entities, for services of the same nature and quality.

6. Each agreement entered into pursuant to a Plan will contain a representation by the Organization that any compensation payable to the Organization in connection with the investment of its customers' assets in a portfolio (a) will be disclosed by it to its customers, (b) will be authorized by its customers, and (c) will not result in an excessive fee to the Organization.

7. Each agreement entered into pursuant to a Plan will provide that, in the event an issue pertaining to the Plan is submitted for shareholder approval, the Organization providing services will vote any shares held for its own account in the same proportion as the vote of those shares held for its customers' accounts.

8. The Trustees of a Company will receive quarterly and annual statements concerning Plan Payments (including, in the case of 12b–1 Plans, expenditures relating to distribution) complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale (in the case of 12b–1 shares) or servicing of a particular class of shares will be used to justify any distribution (in the case of 12b–1 shares) or servicing fee charged to that class. Expenditures not related to a particular class will not be presented to the Trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent Trustees in the exercise of their fiduciary duties.

9. Dividends or other distributions paid by a Company with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in proportion to each class of shares' respective net asset value, except that any Plan Payments and other Class Expenses relating to a particular class of shares will be borne exclusively by the applicable class.

10. The methodology and procedures for calculating the net asset values, dividends and distribution of the classes of shares and the proper allocation of expenses between those classes have been reviewed by an expert (the "Expert") who has rendered a report to Applicants, which has been provided to the staff of the Commission, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to Applicants that the calculations and allocations are being made properly.

[2] As used herein, "Trustees" refers to trustees of a trust or directors of a corporation, as appropriate.

The reports of the Expert shall be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by a Company (which the Company agrees to provide), will be available for inspection by the Commission staff, upon the written request to the Company for such work papers, by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System," as defined and described in SAS No. 44 of the AICPA, and the ongoing reports filed after March 31, 1993, will be "Reports on Policies and Procedures Placed in Operations and Tests of Operating Effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

11. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset values, dividends and distributions of the classes of shares and the proper allocation of expenses between such classes of shares, and this representation has been concurred with by the Expert in the initial report referred to in condition (10) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (10) above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

12. The prospectus for each portfolio with more than one class will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing shares may receive different compensation for selling or servicing one particular class of shares over another class in the same portfolio.

13. FDI will adopt compliance standards as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares to agree to conform to such standards.

14. The conditions pursuant to which the order is granted and the duties and responsibilities of the Trustees of a Company with respect to the Plans and related agreements will be set forth in guidelines which will be furnished to the Trustees of the Company.

15. Each portfolio will disclose the respective expenses, performance data, distribution arrangements, services, fees, transfer agency expenses, sales loads, deferred sales loads, conversion features, and exchange privileges applicable to each class of shares of such portfolio in every prospectus, regardless of whether all classes of shares in the portfolio are offered through the prospectus. Each portfolio will disclose the respective expenses and performance data applicable to all class of shares in every shareholder report. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares in a portfolio, it will also disclose the respective expenses and/or performance data applicable to all classes of shares in each portfolio. The information provided by a Company for publication in any newspaper or similar listing of each portfolio's net asset value and public offering price will present each class of shares separately.

16. Any class of shares with a conversion feature will convert into another class of shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in Article III, section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

17. If a portfolio of a Company implements any amendments to its 12b–1 Plan (or, if presented to shareholders, adopts or implements any amendment of a Non-12b–1 Plan) that would increase materially the amount that may be borne by the Class A shares under the plan, existing Class B shares will stop converting into Class A unless the Class B shareholders, voting separately as a class, approve the proposal. The Trustees shall take such action as is necessary to ensure that existing Class B shares are exchanged or converted into a new class of shares ("New Class A"), identical in all material respects to Class A as it existed prior to implementation of the proposal, no later than such shares previously were scheduled to convert into Class A. If deemed advisable by the Trustees to implement the foregoing, such action may include the exchange of all existing Class B shares for a new class ("New Class B"), identical to existing Class B shares in all material respects except that New Class B will convert into New Class A. New Class A or New Class B may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the Trustees reasonably believe will not be subject to federal taxation. In accordance with condition 4, any additional cost associated with the creation, exchange, or conversion of New Class A or New Class B shall be borne solely by the adviser and the distributor of a Company. Class B shares sold after the implementation of the proposal may convert to Class A shares subject to the higher maximum amount, provided that the material features of the Class A plan and the relationship of such plan to the Class B shares are disclosed in an effective registration statement.

18. To ensure that the net asset value per share of each class of shares of a Daily Dividend Fund does not deviate from the net asset value per share of the other classes as a result of variations in net income among the classes from day to day, no Daily Dividend Fund class will on any day bear any accrued Class Expenses that would cause the accrued expenses of such class for such day to exceed its allocated gross income. To accomplish this, each Daily Dividend Fund may seek to obtain undertakings from its service providers stating that, if necessary to prevent accrued Class Expenses of any class from exceeding the allocated gross income of such class on any given day, they will waive some or all of the payments to which they otherwise would have been entitled. If such waivers are not obtained or they are not sufficient to prevent accrued Class Expenses for the day from exceeding a class's gross income for the day, the investment adviser and/or principal underwriter will waive their fees up to the amount by which such day's accrued Class Expenses exceed a class's gross income. If after giving effect to such waivers by service providers, if any, and by the investment adviser and principal underwriter, Class Expenses for the day would nevertheless exceed a class's gross income, the investment adviser and/or principal underwriter will, within five business days, reimburse the Daily Dividend Fund in such amount as may be necessary to prevent such Class Expenses from exceeding a class's gross income for the day. Fees and expenses waived by a service provider or reimbursed to the Fund by the investment adviser and/or principal underwriter will not be

carried forward or recouped at a future date.

19. Applicants acknowledge that the grant of the order requested by this application will not imply Commission approval, authorization, or acquiescence in any particular level of payments that a Company may make pursuant to a Plan in reliance on the order.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4855 Filed 3–2–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19296; 812–8158]

Oppenheimer Value Stock Fund, et al.; Notice of Application

February 25, 1993.

AGENCY: Securities and Exchange Commission "(SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Oppenheimer Value Stock Fund ("Value Stock"), a series of Oppenheimer Integrity Funds, Oppenheimer Blue Chip Fund ("Blue Chip)," and together with Value Stock, the "Funds"), and Massachusetts Mutual Life Insurance Company ("MassMutual").

RELEVANT ACT SECTIONS: Order requested under section 17(b) that would grant an exemption from section 17(a).

SUMMARY OF APPLICATION: Applicants seek an order to permit Value Stock to acquire substantially all of the assets of Blue Chip in exchange solely for shares of Value Stock, notwithstanding the fact MassMutual (i) controls the investment adviser for both Value Stock and Blue Chip, and (ii) owns more than 25% of the outstanding shares of Value Stock.

FILING DATE: The application was filed on November 12, 1992, and amended on January 26, 1993 and February 25, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 22, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Oppenheimer Value Stock Fund and Oppenheimer Blue Chip Fund, c/o Oppenheimer Management Corporation, Two World Trade Center, Suite 3400, New York, New York 10048–0203; Massachusetts Mutual Life Insurance Company, 1295 State Street, Springfield, Massachusetts 01111.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 504–2920, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Blue Chip and Oppenheimer Integrity Funds, of which Value Stock is a series, are each open-end diversified management investment companies organized as Massachusetts business trusts and registered under the Act.

2. Oppenheimer Management Corporation ("OMC") is the investment adviser to both Blue Chip and Value Stock. MassMutual is the sub-adviser to Value Stock, and owns at least 50% of the outstanding voting securities of Value Stock. OMC is a wholly-owned subsidiary of Oppenheimer Acquisition Corporation, a holding company controlled by MassMutual.

3. Value Stock proposes to acquire substantially all of the assets of Blue Chip in exchange solely for shares of Value Stock. At a meeting held August 25, 1992, the Board of Trustees of Blue Chip unanimously adopted and recommended to the shareholders of Blue Chip that they approve an Agreement and Plan of Reorganization (the "Plan") under which: (a) Substantially all of the assets of Blue Chip would be exchanged at net asset value for shares of Value Stock, (b) such shares would be distributed *pro rata* among the shareholders of Blue Chip, and (c) Blue Chip would be dissolved and liquidated and its registration under the Act would be terminated within one year after the closing.

4. The reorganization has three conditions: (a) MassMutual, whose current investment in Value Stock is approximately $40 million, agrees to retain at least 90% of such investment in Value Stock for at least two years following the reorganization; (b) the Funds will receive an opinion of independent auditors to the effect that the Plan constitutes a tax-free event pursuant to the Internal Revenue Code of 1986 and the regulations thereunder; and (c) applicants must receive a clearance letter from the Federal Trade Commission pursuant to the premerger filing requirements of the Hart-Scott-Rodino Anti-Trust Improvements Act of 1976.

5. Applicants have set forth each Fund's expense ratios for the last six years, and represent that they believe that Blue Chip's shareholders will benefit from the reorganization. Applicants have also set forth each Fund's annual total return for the last one year, five years, and from the commencement of operations, and these figures show that Value Stock has earned a higher return in all cases. The management fees and 12b–1 fees for each Fund have also been set forth, and applicants do not believe that Blue Chip will pay higher fees as a result of the reorganization.

6. Each Fund will share equally the cost of obtaining an opinion of counsel concerning the tax-free nature of the Plan, and will share equally the costs of printing and mailing the proxies and proxy statements. Other out-of-pocket expenses, including legal, accounting, and transfer agent expenses, will be borne by the respective Fund. The costs of all expenses associated with the Plan are estimated to be $20,000. If Blue Chip must bear expenses of $20,000, such expenses would approximate 0.1% of its total assets, and equate to a cost of $.017 per share; if Value Stock must bear expenses of $20,000, such expenses would approximate .04% of its total assets, and equate to a cost of $.005 per share.

Legal Analysis

1. Section 17(a) generally prohibits the sale of securities or property to a registered investment company by an affiliated person or by an affiliated person of an affiliated person of such company. Blue Chip and Value Stock may each be deemed to be an affiliated person of the other, and therefore subject to the proscriptions set forth in section 17(a). MassMutual, which indirectly owns 100% of the investment adviser of each Fund, may be deemed to control each Fund. If so, the Funds would be under common control and, under section 2(a)(3)(C), affiliated persons of each other. MassMutual also is presumed to control Value Stock by reason of its stock ownership. Section 2(a)(9) provides in relevant part that

there is a rebuttable presumption of control when a person owns more than 25% of the voting securities of a company, and applicants represent that MassMutual owns at least 50% of the shares of Value Stock. In addition, because MassMutual owns more than 5% of the shares of Value Stock, MassMutual is an affiliated person of Value Stock pursuant to section 2(a)(3)(A).

2. Rule 17a–8 under the Act grants an exemption from section 17(a) for reorganizations among registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied. The proposed reorganization would be exempt from the provisions of section 17(a) by virtue of rule 17a–8 but for the fact that MassMutual beneficially owns 5% or more of the outstanding shares of Value Stock and indirectly owns 100% of the investment adviser for both Funds. Although the nature of the affiliations precludes applicants from relying on the exemption rule 17a–8 affords, applicants represent that the boards of trustees of the Funds have made the findings required by rule 17a–8. The terms of the Plan, including the consideration to be received by Blue Chip, have been reviewed and approved by the trustees of Blue Chip and Value Stock, including the trustees who are not "interested persons" as defined in the Act, and the trustees have concluded that the reorganization is in the best interests of the shareholders of both Blue Chip and Value Stock and will not result in the dilution of the interest of any of the existing shareholders of either Blue Chip or Value Stock. These findings and the bases therefore will be recorded fully in the minute books of Blue Chip and Value Stock.

3. Applicants assert that the policy that underlies rule 17a-8 would not prohibit reorganizations by and among affiliated persons where no person responsible for evaluating and approving the transaction would have an interest in improperly influencing the terms thereof. Applicants believe that the reorganization is consistent with the policies and purposes of rule 17a-8.

4. Applicants assert that the SEC has indicated that section 17(a) is designed to protect investors from purchase or sale transactions when a party has both the ability and pecuniary incentive to influence the actions of the investment company. Applicants represent that MassMutual's pecuniary interest in Value Stock has increased and further diversified Value Stock's net assets, and possibly reduced its expense ratios. Therefore, MassMutual's pecuniary interest in Value Stock is designed to foster the purposes of the Act and benefit existing shareholders. Applicants believe that it is reasonable to conclude that MassMutual does not have the pecuniary incentive to influence the actions of these investment companies.

5. Section 17(b) of the Act provides that, notwithstanding section 17(a), any person may file an application for an order exempting a proposed transaction and the SEC shall issue such order if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

6. Applicants submit that they have satisfied the requirements of section 17(b). The trustees of Blue Chip, including the trustees who are not "interested persons" as defined in the Act, considered, among other things, the proposed management, advisory and distribution arrangements, the continuity of Blue Chip's investment policies and objectives, and the impact of the reorganizations on expenses and pro forma expense ratios. Applicants submit that the terms of the reorganization and the consideration to be paid or received are fair and reasonable and do not involve overreaching by any person. Applicants assert that the proposed reorganization will be consistent with the policies of each of the Funds, and are consistent with the general purposes of the Act.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4854 Filed 3–2–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

February 25, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

LTV Corporation

15% Reset Notes due 1/15/2000; 9¼% Sinking Fund Debentures due 2/1/1997; 11% Subordinated Sinking Fund Debentures due 7/15/2007; 14% Sinking Fund Debentures due 8/15/2004; Exchangeable Variable Rate Subordinated Notes due 8/15/1995; 10⅜% Reset Notes due 3/15/1999; 5% Subordinated Sinking Fund Debentures due 1/15/1998; 7⅞% Springing Senior Subordinated Reset Notes due 4/1/1998; 11½% Springing Senior Subordinated Reset Notes due 3/15/1997; 8¾% Springing Reset Notes 6/1/1998; 13⅞% Sinking Fund Debentures due 12/1/2002 (File No. 7–10251)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 18, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–4858 Filed 3–2–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31914; File No. SR–PTC–92–14]

Self-Regulatory Organizations; Participants Trust Company; Order Approving on an Accelerated Basis Proposed Rule Change Relating to the Designation by PTC of Certain Securities Guaranteed by the United States Department of Veterans Affairs as Eligible Securities

February 24, 1993.

I. Introduction.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

("Act"),[1] the Participants Trust Company ("PTC") has filed a proposed rule change with the Securities and Exchange Commission ("Commission") extending PTC's authority to accept certain securities guaranteed by the United States Department of Veterans Affairs ("VA securities") as securities eligible for deposit at PTC. On February 5, 1993, notice of the proposed rule change was published in the **Federal Register** to solicit comments from interested persons.[2] To date, no comments have been received. As discussed below, the Commission is approving PTC's proposal on an accelerated basis.[3]

II. Description of the Proposal

The proposed rule change will allow PTC to continue to accept certain securities guaranteed by the Veterans Administration ("VA")[4] as eligible for deposit with PTC under Article I, Rule 2 of PTC's rules.

The Commission approved a proposed rule change allowing PTC to accept VA securities as eligible for deposit at PTC through December 31, 1992[5] pursuant to the then current authorizing legislation which expired by its terms on December 31, 1992. The VA's authority to issue guaranteed securities has been extended until December 31, 1995.[6] PTC now desires to make its designation of VA securities as eligible for deposit in PTC permanent, with the caveat that those securities issued by the VA will be eligible at PTC only if they are guaranteed by the United States Government. In addition, should the VA's authority to issue securities with such a guarantee cease, the VA securities currently in PTC shall remain depository eligible securities at PTC.

The VA plans to issue through a trust approximately three or four REMIC issues per year.[7] Each issue will be comprised of a series of tranches each of which constitute a "security" within the PTC definition of "security." The anticipated total face value of each securities issuance is approximately $350,000,000 to $500,000,000. On the closing for issuance of securities under this program, the issuing trust will receive an opinion of the General Counsel of the VA to the effect that the VA's obligations under the VA guarantee constitute absolute and unconditional general obligations of the United States, for which the full faith and credit of the United States is pledged.

PTC's current system is capable of accommodating the VA securities. With respect to processing, because the VA securities are comparable to GNMAs, no substantive operational changes need to be made to PTC's computer processing system. For example, it is expected that there will be daily settlement of the VA securities. Currently, a substantial portion of GNMAs settle daily. There will be a single monthly payment date for principal and interest ("P&I") on the VA securities. GNMA is currently paying on the 15th of the month and PTC distributes P&I on payment date plus one. GNMA IIs currently pay on the 20th of the month, and PTC pays on that date. Therefore, PTC's system is capable of making distributions of P&I on the same day as payment date. The VA securities will be registered in the name of PTC's nominee, "MBSCC & Co.," and the physical certificates will be held in custody for PTC by a custodian bank, as is the case for GNMA securities.

The volume of the VA securities to be deposited at PTC will continue to be modest compared to the total face amount of GNMA securities now on deposit at PTC[8] and is expected to have a relatively modest effect on PTC's overall transaction volume. P&I distributions also continue to be modest compared to the multi-billion dollar P&I distributions for GNMA Is. Accordingly, PTC has stated that the VA securities will have no meaningful impact on the capacity of PTC's transaction processing or P&I disbursement facilities.

The acceptance for deposit of the VA securities as eligible securities will not require any change in PTC's Rules or affect the rights of its participants. As an eligible security, functionally and legally comparable to GNMA securities, PTC's Rules and Procedures are applicable, without change, and govern PTC's and its participants' rights and obligations with respect to the VA securities. Finally, the fees imposed by PTC for providing depository services for VA securities will be the same as those in effect for GNMAs.

III. Discussion

Section 17A(b)(3)(F) of the Act[9] requires that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. The Commission believes that PTC's proposal to designate VA guaranteed securities as eligible securities for deposit with PTC is consistent with this goal.

PTC has gained almost five years of experience with GNMAs. VA securities share many of the general attributes of GNMAs.[10] The Commission believes that PTC's experience with GNMAs serves as a good foundation for continuing to handle REMICs. Therefore, the Commission believes that this proposal furthers the perfection of the national system for the clearance and settlement of securities transactions because VA REMICs will be processed within a centralized, electronic book-entry environment instead of a decentralized, manually intensive physical settlement environment.

PTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing in the **Federal Register**. Because the next issuance of VA securities will occur on February 25, 1993, PTC has requested that the Commission approve the proposal prior to that date. The Commission believes that there is good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing in the **Federal Register**. Such accelerated approval will permit PTC to make eligible for deposit at PTC the REMICs that the VA plans to issue on February 25, 1993. In addition, a notice and order granting accelerated approval of a similar proposed rule change (SR–PTC–92–07) designating VA securities as PTC eligible was published in the **Federal Register** on June 19, 1992.[11]

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[1] 15 U.S.C. § 78s(b)(1).

[2] Securities Exchange Act Release No. 31804 (February 1, 1993), 58 FR 7284.

[3] The staff of the Board of Governors of the Federal Reserve System ("Board of Governors") has stated that it believes that the proposed rule change is consistent with the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible and therefore has no objection to accelerated approval. Telephone conversation between William R. Stanley, Senior Trust Analyst, Board of Governors, and Francois-Ihor Mazur, Staff Attorney, Division of Market Regulation, Commission (February 9, 1993).

[4] These securities are issued and guaranteed pursuant to 38 U.S.C. § 3720 h (1) and (2), as amended by P.L. 102–547, enacted on October 28, 1992.

[5] SR–PTC–92–07, Securities Exchange Act Release No. 30792 (June 19, 1992), 57 FR 27495.

[6] *See supra* note 4.

[7] A REMIC is a real estate mortgage investment conduit, a pass-through vehicle created under the Tax Reform Act of 1986 to issue multiclass mortgage-backed securities.

[8] PTC currently has on deposit approximately $680 billion of GNMA securities. The total face value of VA securities already on deposit at PTC is approximately $1.6 billion.

[9] 15 U.S.C. § 78q–1(b)(3)(F).

[10] *E.g.*, both are issued in physical form and are backed by the full faith and credit of the U.S. Government.

[11] The proposal was approved through December 31, 1992. Securities Exchange Act Release No. 30792 (June 10, 1992), 57 FR 27495. No comments were received with respect to SR–PTC–92–07.

IV. Conclusion

For the reasons stated above, the Commission finds that PTC's proposal is consistent with section 17A of the Act. The Commission also finds good cause for approving the proposal prior to the thirtieth day after publication in the **Federal Register**.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that PTC's proposed rule change (SR–PTC–92–14) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4856 Filed 3–2–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

February 25, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Carr Realty Corporation
Common Stock, $.01 Par Value (File No. 7–10268)
IRT Property Company
Common Stock, $1 Par Value (File No. 7–10269)
Digicon, Inc.
Common Stock, $.01 Par Value (File No. 7–10270)
Preferred Income Management Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10271)
Rymer Foods, Inc.
Common Stock, $1 Par Value (File No. 7–10272)
Prudential Realty Trust
Capital Shares of Beneficial Interest, $0.01 Par Value (File No. 7–10273)
Puerto Rican Cement Company, Inc.
Common Stock, $1 Par Value (File No. 7–10274)
Raytech Corporation
Common Stock, $1 Par Value (File No. 7–10275)
Real Estate Investment Trust of California
Shares of Beneficial Interest, No Par Value (File No. 7–10276)
Voyageur Florida Insured Municipal Income Fund
Common Stock, $.01 Par Value (File No. 7–10277)
Voyageur Minnesota Municipal Income Fund II, Inc.
Common Stock, $.01 Par Value (File No. 7–10278)
Voyageur Arizona Municipal Income Fund
Common Stock, $.01 Par Value (File No. 7–10279)
Pride Companies L.P.
Common Units (File No. 7–10280)
Proler International Corporation
Common Stock, $1 Par Value (File No. 7–10281)
San Juan Basin Royalty Trust
Common Shares of Beneficial Interest (File No. 7–10282)
Hyperion 2005 Investment Grade Opportunity Term Trust, Inc.
Common Stock, $.001 Par Value (File No. 7–10283)
Intercapital California Insured Municipal Income Trust
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–10284)
Intercapital Insured Municipal Income Trust
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–10285)
Salomon, Inc.
Dep. Shares 3.08 Pc Cum Pfd Stock (File No. 7–10286)
Nuveen Premium Income Municipal Fund 4, Inc.
Common Stock, $.01 Par Value (File No. 7–10287)
Redwood Empire Bancorp
7.80 Non Cum Conv. Pfd Stock, No Par Value (File No. 7–10288)
Texas Utilities Electric Co.
Depositary Shares 8.20 Cum Pfd Stock, Par Value (File No. 7–10289)
Chic by H.I.S., Inc.
Common Stock, $.01 Par Value (File No. 7–10290)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 18, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–4860 Filed 3–2–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 1767]

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Department of State.

ACTION: The Department of State has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511.

SUMMARY: Section 38 of the Arms Export Control Act (22 U.S.C. 2778) authorizes the President to control the export and import of defense articles and defense services and to promulgate implementing regulations thereunder. The President delegated this statutory authority to the Secretary of State. Through further delegations, the regulations, the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130), are primarily administered by the Director of the Office of Defense Trade Controls (DTC) within the Bureau of Politico-Military Affairs. The information collection requirements listed are associated with the registration, reporting, and issuance of licenses for the export and import of items on the United States Munitions List. The following summarizes the information collection proposals submitted to OMB:

1. Type of request—Reinstatement.
Originating office—Bureau of Politico-Military Affairs.
Title of information collection—Application for Registration.
Form No.—DSP–9.
Frequency—Every one, two or five years.
Respondents—Manufacturers and exporters of items on the U.S. Munitions List.
Estimated number of respondents—3,000.
Average number of responses per respondent—.33.
Average hours per response—1 hour.
Total estimated burden hours—983.
2. Type of request—Reinstatement.
Originating office—Bureau of Politico-Military Affairs.
Title of information collection—Authority to Export Defense Articles

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[12] 15 U.S.C 78s(b)(2).

& Defense Services Sold Under the Foreign Military Sales Program.
Form No.—DSP–94.
Frequency—Biennially.
Respondents—Exporters of U.S. Munitions List items covered under the Foreign Military Sales Program.
Estimated number of respondents—250.
Average number of responses per respondent—20.
Average hours per response—½ hour.
Total estimated burden hours—2,500.
3. Type of request—Reinstatement.
Originating office—Bureau of Politico-Military Affairs.
Title of information collection—Non-transfer and Use Certificate.
Form No.—DSP–83.
Frequency—Every three years.
Respondents—Exporters of significant military equipment and foreign end-users.
Estimated number of respondents—4,500.
Average number of responses per respondent—7.57.
Average hours per response—½ hour.
Total estimated burden hours—17,025.
4. Type of request—Existing collection without an OMB Number.
Originating office—Bureau of Politico-Military Affairs.
Title of information collection—Request for Approval of Manufacturing License and Technical Assistance Agreements.
Frequency—On occasion.
Respondents—Exporters of U.S. technology.
Estimated number of respondents—4,500.
Average number of responses per respondent—.22.
Average hours per response—6 hours.
Total estimated burden hours—6,000.
5. Type of request—Reinstatement.
Originating office—Bureau of Politico-Military Affairs.
Title of information collection—Statement of Political Contributions, Fees or Commissions in Connection with the Sale of Defense Articles or Services.
Frequency—On occasion.
Respondents—Exporters of Defense Articles or Services.
Estimated number of respondents—3,000.
Average number of responses per respondent—.04.
Average hours per response—8 hours.
Total estimated burden hours—952.

Section 3504(h) of Public Law 96–511 was addressed in the regulation published in the **Federal Register** (49 FR 49671).

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook (202) 647–3538. Comments and questions should be directed to (OMB) Lin Liu (202) 395–7340.

Dated: February 11, 1993.

Jerome F. Tolson, Jr.,

Acting Assistant Secretary for Administration.

[FR Doc. 93–4798 Filed 3–2–93; 8:45 am]

BILLING CODE 4710–24–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Dockets 48426 and 48437; Order 93–2–44]

Applications of Continental Air Transport Co. for Issuance of New Certificate Authority

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding Omni fit, willing, and able, and (2) awarding it certificates of public convenience and necessity to engage in interstate, overseas, and foreign charter air transportation of property and mail.

DATES: Persons wishing to file objections should do so no later than March 8, 1993.

ADDRESSES: Objections and answers to objections should be filed in Dockets 48426 and 48437 and addressed to the Documentary Services Division (C–55, Room 4107), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Lawyer, Air Carrier Fitness Division (P–56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: February 25, 1993.

Patrick V. Murphy,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 93–4873 Filed 3–2–93; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Aircraft Certification Procedures Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration's Aviation Rulemaking Advisory Committee to discuss aircraft certification procedures issues.

DATES: The meeting will be held on March 24, 1993 at 1 p.m. Arrange for oral presentations by March 10, 1993.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association, suite 801, 1400 K Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Ball, Aircraft Certification Service (AIR–1), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8235.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on March 24, 1993, at the General Aviation Manufacturers Association, suite 801, 1400 K Street, NW., Washington, DC 20005. The agenda for the meeting will include:

- Opening Remarks
- Review of Action Items
- Final Report of the International Certification Procedures Harmonization Working Group
- Reports of other working groups
- Discussion of harmonization and working group schedules

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by March 10, 1993, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director for Aircraft Certification Procedures or by bringing the copies to him at the meeting. Arrangements may be made by contacting the person listed under the heading "**FOR FURTHER INFORMATION CONTACT.**" Anyone who wishes to obtain a copy of the International Certification Procedures Harmonization Working Group report may contact Mrs. Jeanne Trapani, FAA Office of Rulemaking, ARM–208, on (202) 267–7624 or fax (202) 267–5075.

Issued in Washington, DC, on February 24, 1993.

William J. Sullivan,

Assistant Executive Director for Aircraft Certification Procedures, Aviation Rulemaking Advisory Committee.

[FR Doc. 93–4877 Filed 3–2–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

[FHWA Docket No. 93–10]

Transfer of Interstate Maintenance Program Funds

AGENCY: Federal Highway Administration (FHEA), DOT.

ACTION: Interim policy statement.

SUMMARY: This interim policy statement establishes the FHWA's policy for addressing the interstate maintenance program funds transfer provisions of section 119(f)(1) of title 23, United States Code (U.S.C.), which was amended by Section 1009 of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. By publishing this interim policy statement the FHWA seeks to advise States of the criteria the agency will use in evaluating a State's request to transfer interstate maintenance funds, while providing the opportunity for public comment prior to issuing a final policy statement.

DATES: Comments must be received on or before May 3, 1993.

ADDRESSES: Submit written, signed comments concerning this policy statement to FHWA Docket No. 93–10, Federal Highway Administration, room 4232, HCC–10, Office of the Chief Counsel, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m. e.t., Monday through Friday, except legal Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Louis Papet, Chief, Pavement Division, (202) 366–1324, or Mrs. Vivian Philbin, Attorney Advisor, Office of Chief Counsel, General Law Branch, (202) 366–0780, Federal Highway Administration, 400 Seventh Street SW., Washington DC 20590.

SUPPLEMENTARY INFORMATION:

Background

Section 1009 of the ISTEA amended 23 U.S.C. 119 by replacing "Interstate System resurfacing" with the "Interstate maintenance program" (IM) Public Law No. 102–240, section 1009, 105 Stat. 1914, 1933. Section 1009 also established additional constraints affecting the States' options for transferring a portion of these funds to the States' apportionments for other Federal-aid programs.

Section 119(f)(1), as amended, allows the transfer of IM funds to other Federal-aid highway programs provided the State certifies to the Secretary that: (1) Any part of the IM funds are in excess of the needs of the State for resurfacing, restoring, or rehabilitating Interstate System routes and (2) that it is adequately maintaining the Interstate System, and the Secretary accepts such certification. Notwithstanding section 119(f)(1), section 119((f)(2), as amended, allows the States to "unconditionally" transfer up to 20 percent of unobligated IM apportioned funds based solely on the request of the States.

Further, section 1009(c)(2) of the ISTEA requires the Secretary to develop and make available to the States criteria for determining what constitutes adequate maintenance of the Interstate System for the purposes of section 119(f)(1) of title 23, United States Code. The criteria for determining what constitutes adequate maintenance, which are included in this policy, are associated with only the transfer of IM funds and are not related to the State's responsibility to properly maintain projects constructed with Federal-aid funds outlined in 23 U.S.C. 116, Maintenance.

In developing the specific criteria, the FHWA believes that transfers of apportioned IM funds specifically earmarked for Interstate maintenance to other designated programs should only be allowed when the Interstate System routes are in a physical condition to perform at or near the level for which they were designed and intended.

Pavement and bridge activities constitute the majority of IM eligible activities. The FHWA has focused on pavement and bridge condition indicators as determining factors for eligibility to transfer IM funds.

The FHWA has selected Interstate pavement condition indicators (surface roughness, rutting, and faulting) and bridge condition indicators (bridge deck condition and the need for load posting) for evaluating State's requests to transfer IM funds under the provisions of 23 U.S.C. 119(f)(1), These indicators are collected and used by the States in evaluating the condition of the Interstate for their own management purposes. They are generally incorporated into State pavement and bridge management systems and the national bridge inventory and highway performance monitoring system.

Pavement Condition Indicators

Roughness

The FHWA will use the International Roughness Index (IRI) to evaluate roadway roughness, and has set an upper IRI limit of 240 cm per km (150 inches per mile) for surface roughness.

The IRI was developed at the International Road Roughness Experiment sponsored by the World Bank and several countries, including the United States, in Brazil in 1982. It is designed to provide a common quantitative basis with which to reference the different measures of roughness. It summarizes the longitudinal surface profile in the wheel track and simulates the response of one wheel of a typical passenger car traveling 80 km per hour (50 miles per hour) to road roughness.

The IRI upper limit of 240 cm per km, selected by the FHWA, is based on consideration of research efforts that relate actual roadways with a known IRI with the public's perception of ride quality. A recent study [1] conducted for the FHWA indicated that objectively developed IRI numbers could be mathematically correlated with subjectively developed pavement serviceability ratings [2] (PSR) generated by panels of road users. This work included mathematical formulas that allow conversions between IRI readings and anticipated road user evaluation of pavement performance (*i.e.*, PSR).

Conversion formulas [3] indicate that an IRI of 240 cm per km correlates to a PSR range of between 3.0 and 3.5, which is slightly greater than the 2.5 to 3.0 PSR range associated with terminal serviceability for Interstate highway pavements.[4]

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[1] Bashar Al-Omari and Michael I. Darter, "Relationships between IRI and PSR: A Report of the Findings of Pavement Model Enhancements for the Highway Performance Monitoring System (HPMS)," Transportation Engineering Series No. 69, University of Illinois at Urbana Champaign, Report No. UILU–ENG–92–2013, September 1992. This document is available for inspection in FHWA Docket No. 93–10.

[2] The PSR concept was developed at the 1956 American Association of State highway Officials (AASHO) road test to relate the pavement serviceability index (PSI), computed from objectively measured pavement distress, with subjective serviceability ratings by panels of road users.

[3] Includes conversion formulas developed inhouse by the State of Maine, for the South Carolina pavement management system by PMS Inc. and the previously mentioned Al-Omari and Darter research cited in footnote No. 1.

[4] The "AASHTO Guide for Design of Pavement Structures", AASHTO, 1986 (page I–8) defines terminal serviceability index as the lowest acceptable level before resurfacing or reconstruction becomes necessary for the particular class of highway. The AASHTO Guide goes on to note that

Continued

Rutting

The FHWA has established 15 mm (⅝ inch) as the upper allowable limit of rutting.

The American Association of State Highway and Transportation Officials (AASHTO) Highway Subcommittee on Construction surveyed State highway agencies in 1988 on rutting. The survey revealed that for State maintained roads, ½ inch rutting would initiate rehabilitation in about 35 percent of the States. An additional 35 percent of the States indicated that ⅝ inch of rutting would initiate rehabilitation. The "Highway Pavement Distress Identification Manual" (HPDIM)[5] classifies ½ to 1 inch of rutting as moderate severity.

The FHWA 15 mm (⅝ inch) criterion is consistent with the performance levels expected on the Interstate System.

Faulting

The FHWA has established two levels of faulting criteria that are related to pavement type. The FHWA has established an upper limit on faulting of 3 mm (⅛ inch) on jointed plain concrete pavements (JPCP), and an upper limit on faulting of 6 mm (¼ inch) on jointed reinforced concrete pavements (JRCP).

Generally, State highway agencies consider faulting to be objectionable in the ¼ to ½ inch range. The HPDIM classifies faulting between 1/16 and ⅛ inch as moderate severity. The "Pavement and Shoulder Maintenance Performance Guides," August 1984, FHWA publication number TS–84–208, indicates faulting should be repaired at ¼ inch. A copy of TS–84–208 is available for inspection in FHWA Docket No. 93–10.

The FHWA selected a lower level of faulting for JPCP than for JRCP because JPCP joints occur more frequently. The levels selected are consistent with the higher expectation the traveling public associates with Interstate highways.

Pavement Data

Procedures for developing IRI are currently well defined in the guidance provided in the "Highway Performance Monitoring System (HPMS) Field Manual," Appendix J "Roughness Equipment, Calibration and Data Collection." This document is widely available in planning sections of State highway agencies and the FHWA division offices and a copy of this publication is available for inspection in FHWA Docket No. 93–10. IRI data are collected annually and reported to the FHWA under the HPMS program.

The FHWA pavement policy, (23 CFR part 626) requires each State to have an operational pavement management system (PMS) for principal arterials (which includes the Interstate system) in place by January 13, 1993.

The FHWA envisions that the States will assemble necessary pavement surface roughness, rutting, and faulting information from data currently available in the States' PMS database(s) and from information reported in HPMS.

The FHWA division offices will work with the States in identifying acceptable procedures for measuring and compiling the data available from the States' PMS. Data supporting each State's IM transfer request will be made available for inspection by the FHWA.

Bridge Condition Indicators

The FHWA will use the current national bridge inventory (NBI) bridge deck condition rating (item 58) and the rating indicating whether the bridge requires load posting (item 70) as indicators of Interstate bridge condition for purposes of evaluating States' requests for IM transfer. The NBI ratings are determined in accordance with the "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges" (Coding Guide) US DOT/FHWA, December 1988. A copy of this publication is available for inspection in FHWA Docket No. 93–10.

Bridge Decks

The FHWA will require that bridge decks have a condition rating (item 58) of 5 or better.

Bridge decks are rated in item 58 on a scale of 0 to 9 with a rating of 9 representing a bridge deck in excellent condition. A Coding Guide deck rating of less than 5 indicates a poor condition with the deck showing deterioration and spalling. In relation to pavement roughness, a deck with a rating less than 5 is considered a rough deck that would not provide a reasonably smooth ride. A deck rating of less than 5 is a long-standing condition rating used to determine a structurally deficient bridge.

Posting

The FHWA will require that NBI item 70, for load posting, must be a rating of 5.

The National Bridge Inspection Standards (23 CFR part 650, subpart C) require the posting of load limits only if the maximum legal load in a State produces stresses in excess of the operating stress levels. The operating stress level will result from the absolute maximum permissible load to which a bridge may be subjected. Coding Guide item 70 of the NBI is the item for bridge posting, and a State's rating of 5 indicates that no posting is required at the operating level.

Load posting of a bridge reduces the level of service of the system of which the bridge is an integral part and can potentially disrupt interstate and intrastate commerce. Heavy vehicles may be required to take long detour routes thereby indirectly adding to the costs the public must bear for goods and services. Load posting of a bridge may also be an indicator of a bridge's superstructure or substructure capacity that may have been affected by continual and long term deterioration of the bridge's elements and which could have been prevented or abated by adequate preventive maintenance.

Policy

For the purpose of 23 U.S.C. 119(f)(1), which provides for transfer of IM funds apportioned to the States, the FHWA will accept a State's certification if the State's Interstate routes meet the following criteria:

Pavement

(1) An IRI of 240 cm per km (150 inches per mile) or less;

(2) Rutting of 15 mm (5/8 inch) or less; and

(3) Faulting of 3 mm (1/8 inch) or less on JPCP and 6 mm (1/4 inch) or less on JRCP.

Bridges

(1) Bridge decks in "fair condition" or better (Coding Guide item 58 rated 5 or better); and

(2) No load posting required (Coding Guide item 70 rated 5).

In the event that the condition, as reflected by current condition data bases, for any segment of Interstate pavement or bridge does not meet the required criteria, the State's request for funding transfer may later be approved only if the State certifies that the deficient segments have been subsequently upgraded to meet the required criteria or that the work necessary to correct any such deficient segments is included in the approved State Transportation Improvement Program, required by 23 U.S.C. 135(f).

Section 119(f)(2) of title 23 U.S.C. allows the States to "unconditionally" transfer up to 20 percent of unobligated

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a terminal serviceability index of 2.5 to 3.0 is often suggested for use in the design of major highways. A copy of this publication is available for inspection in FHWA Docket No. 93–10.

[5] The "Highway Pavement Distress Identification Manual", US DOT/FHWA, DOT–FH–11–9175/ NCHRP 1–19, March, 1979 reprinted February 1986. This Publication is available for inspection in FHWA Docket No. 93–10.

IM apportioned funds based solely on the request of the States.

Authority: 23 U.S.C. 119 and 315; 49 CFR 1.48(b).

Issued on: February 24, 1993.

E. Dean Carlson,

Executive Director, Federal Highway Administration.

[FR Doc. 93–4809 Filed 3–2–93; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

[Docket No. 93–09; Notice 1]

Receipt of Petition for Determination That Nonconforming 1990 Honda VFR 750 Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1990 Honda VFR 750 motorcycles are eligible for importation.

SUMMARY: This notice requests comments on a petition submitted to the National Highway Traffic Safety Administration (NHTSA) for a determination that a 1990 Honda VFR 750 motorcycle that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is April 2, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

J.K. Motors, Inc. of Kingsville, Maryland ("J.K.") (Registered Importer No. R–90–006) has petitioned NHTSA to determine whether 1990 Honda VFR 750 motorcycles are eligible for importation into the United States. The vehicle that J.K. believes is substantially similar is the 1990 Honda VFR 750 that was manufactured for importation into and sale in the United States and that was certified by its manufacturer, Honda Motor Company Ltd, as complying with all applicable Federal motor vehicle safety standards.

The petitioner stated that it examined the non-U.S. certified 1990 Honda VFR 750, and determined that it is substantially similar to its U.S. certified counterpart. Based on this examination, the petitioner contends that the non-U.S. certified 1990 Honda VFR 750, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the two models are identical with respect to compliance with Standards Nos. 106 Brake Hoses, 108 Lamps, Reflective Devices and Associated Equipment, 111 Rearview Mirrors, 116 Brake Fluid, 119 New Pneumatic Tires for Vehicles other than Passenger Cars, 120 Tire Selection and Rims for Motor Vehicles other than Passenger Cars, 122 Motorcycle Brake Systems, 123 Motorcycles Controls and Displays, and 205 Glazing Materials.

Petitioner also contends that the non-U.S. certified 1990 Honda VFR 750 is capable of being readily modified to meet Standard No. 115 Vehicle Identification Number, by adding a permanent VIN plate to the motorcycle dash.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: April 2, 1993.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 25, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–4896 Filed 3–2–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–10; Notice 1]

Receipt of Petition for Determination That Nonconforming 1988 Mercedes-Benz 500SE Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1988 Mercedes-Benz 500SE passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1988 Mercedes-Benz 500SE that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was

certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is April 2, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

ICI International Inc. of Orlando, Florida (Registered Importer No. R–90–003) has petitioned NHTSA to determine whether 1988 Mercedes-Benz 500SE (Model ID 126.036) passenger cars are eligible for importation into the United States. The vehicle which ICI believes is substantially similar is the 1988 Mercedes-Benz 300SE (Model ID 126.024). ICI has submitted information indicating that Daimler Benz A.G., the company that manufactured the 1988 Mercedes-Benz 300SE, certified that vehicle as conforming to all applicable Federal motor vehicle safety standards and offered it for sale in the United States.

The petitioner contends that the 500SE is substantially similar to the 300 SE, and "differs mainly in engine size and minor options which go with it." In accounting for the differences between the two vehicles, the petitioner observed that manufacturers such as Daimler Benz A.G. "generally design only a few basic body shell designs which they then equip with a multitude of engine-size and cosmetic or comfort options." The petitioner further surmised that the 500SE's absence from the United States market could be attributed to "salability considerations, or legislative restrictions such as the strict emission control requirements in the United States."

ICI submitted information with its petition intended to demonstrate that the 1988 model 500SE, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1988 model 300SE that was offered for sale in the United States, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the 1988 model 500SE is identical to the certified 1988 model 300SE with respect to compliance with Standard Nos. 102 Transmission Shift Lever Sequence * * *, 103 Defrosting and Defogging Systems, 104 Windshield Wiping and Washing Systems, 105 Hydraulic Brake Systems, 106 Brake Hoses, 107 Reflecting Surfaces, 109 New Pneumatic Tires, 113 Hood Latch Systems, 116 Brake Fluid, 124 Accelerator Control Systems, 201 Occupant Protection in Interior Impact, 202 Head Restraints, 203 Impact Protection for the Driver From the Steering Control System, 204 Steering Control Rearward Displacement, 205 Glazing Materials, 207 Seating Systems, 209 Seat Belt Assemblies, 210 Seat Belt Assembly Anchorages, 211 Wheel Nuts, Wheel Discs and Hubcaps, 212 Windshield Retention, 216 Roof Crush Resistance, 219 Windshield Zone Intrusion, and 302 Flammability of Interior Materials.

Petitioner also contends that the 1988 model 500SE is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 Controls and Displays: (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 Lamps, Reflective Devices and Associated Equipment: (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 Tire Selection and Rims: Installation of a tire information placard.

Standard No. 111 Rearview Mirrors: Permanently marking required warning statement on lower edge of the passenger's outside rearview mirror, which is convex.

Standard No. 114 Theft Protection: Installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 Vehicle Identification Number: Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch pot nearest the driver.

Standard No. 118 Power-Operated Window Systems: Rewiring of the power window system so that the window transport is inoperative when the ignition is turned off.

Standard No. 206 Door Locks and Door Retention Components: Replacement of the rear door locks and locking buttons with U.S.-model parts.

Standard No. 208 Occupant Crash Protection: Installation of an ignition switch-actuated seat belt warning buzzer. The petitioner claims that the 1988 model 500SE is equipped with an ignition switch-actuated seat belt warning light that displays the seat belt identifying symbol.

Standard No. 214 Side Door Strength: Installation of reinforcing beams.

Standard No. 301 Fuel System Integrity: Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the 1988 model 500SE must be reinforced to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and

will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 25, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–4895 Filed 3–2–93; 8:45 am]

BILLING CODE 4910–59–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Additional Venue

On February 2, 1993, notice was published at page 6852 of the **Federal Register** (58 FR 6852) by the United States Information Agency pursuant to Public Law 89–259 relating to the exhibit "Scrolls from the Dead Sea: The ancient Library of Qumran and Modern Scholarship." In addition to the venues listed, this exhibit will also be on display at the M. H. de Young Memorial Museum, San Francisco, California, from on or about February 1, 1994, to on or about June 1, 1994. A copy of the list of objects covered by this notice may be obtained by contacting Mr. Paul Manning of the Office of the General Counsel of USIA. The telephone number is 202–619–6827, and the address is room 700, 301 4th Street, SW., Washington, DC 20547.

Dated: February 23, 1993.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 93–4898 Filed 3–2–93; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 40
Wednesday, March 3, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of March 1, 8, 15, and 22, 1993.

PLACE: Commissioner's Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of March 1

Tuesday, March 2

3:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Wednesday, March 3

2:00 p.m.
Briefing on Activities of Nuclear Waste Technical Review Board (Public Meeting) (Contact: Seth Coplan, 301–504–1850)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) a. Environmental and Resource Conservation Organization's Appeal of LBP–92–23 (Rancho Seco) (Postponed from February 26) (Tentative) (Contact: Margaret Doane, 301–504–2001)

Friday, March 5

10:00 a.m.
Briefing by Executive Branch (Closed—Ex. 1)

Week of March 8—Tentative

Monday, March 8

10:00 a.m.
Briefing on NRC Financial Management Matters (Public Meeting) (Contact: Ron Scroggins, 301–492–4750)

2:30 p.m.
Discussion of NRC Policy Options Concerning Nuclear Safety Issues in Eastern Europe and Former Soviet Union (Public Meeting) (Contact: Michael Congdon, 301–504–2744)

Tuesday, March 9

10:00 a.m.
Briefing on Activities of the Center for Nuclear Waste Regulatory Analysis (CNWRA) (Public Meeting) (Contact: Malcolm Knapp, 301–504–3324)

11:00 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

2:00 p.m.
Briefing on Proposed Rulemaking for Preparation and Use of Radiopharmaceuticals (Public Meeting) (Contact: Anthony Tse, 301–492–3797)

Week of March 15—Tentative

Monday, March 15

10:00 a.m.
Discussion on Full Power Operating License for Comanche Peak (Unit 2) (Public Meeting) (Tentative) (Contact: Suzanne Black, 301–504–1318)

11:30 a.m.
Affirmative/Discussion and Vote (Public Meeting) (if needed)

Week of March 22—Tentative

Friday, March 26

10:00 a.m.
Briefing on Progress of NRC Regulatory Review (Public Meeting) (Contact: Frank Gillespie, 301–504–1275)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: By a vote of 4–0 (Commissioner de Planque not present) on February 26, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Discussion of Internal Management Issues" (Closed—Ex. 2) be held on February 26, and on less than one week's notice to the public.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

William M. Hill, Jr.,
SECY Tracking Officer Office of the Secretary.
[FR Doc. 93–4942 Filed 3–1–93; 10:57 am]
BILLING CODE 7590–01–M

Federal Register

Wednesday
March 3, 1993

Part II

Department of Health and Human Services

Agency for Toxic Substance and Disease Registry

Environmental Data Needed for Public Health Assessments; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–67]

Environmental Data Needed for Public Health Assessments

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice of availability of draft guidance document; and request for comments.

SUMMARY: This notice announces the availability of the draft guidance document, Environmental Data Needed for Public Health Assessments, prepared by ATSDR. The public is invited to comment on this guidance document.

DATES: Comments must be received on or before June 30, 1993.

ADDRESSES: Written comments in response to this notice should bear the docket control number ATSDR–67, and should be submitted to: Robert C. Williams, P.E., DEE, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mail Stop E–32, Atlanta, Georgia 30333.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, ATSDR, telephone number (404) 639–0610.

SUPPLEMENTARY INFORMATION: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) (42 U.S.C. 9604(i)) requires ATSDR to perform public health assessments. The general administrative functions, practices, and procedures that ATSDR uses in conducting public health assessments are included in the regulation "Health Assessment and Health Effects Studies of Hazardous Substances Releases and Facilities," 42 CFR part 90, published at 55 FR 5136, February 13, 1990.

The draft guidance document, Environmental Data Needed for Public Health Assessments, describes the general focus of a public health assessment and provides a list of site information and environmental data that ATSDR attempts to obtain from the Environmental Protection Agency (EPA), the potentially responsible party, or other lead agencies responsible for conducting environmental investigations. It is intended for use by EPA Remedial Project Managers (RPMs), Federal Facility Installation Restoration Program Managers, ATSDR Regional Representatives, and other parties involved in the public health assessment process.

A public health assessment is the evaluation of data and information on the release of hazardous substances into the environment in order to assess any current or future impact on public health, to develop health advisories or other recommendations, and to identify studies or actions needed to evaluate and mitigate or prevent human health effects. The public health assessment evaluates three primary types of information: Environmental data, community health concerns, and health outcome data. This guidance document addresses only environmental data needs.

During analysis of human exposure pathways, environmental data are used to determine how human exposure may have occurred, is occurring, or may occur. An exposure pathway consists of five elements:

1. Source (landfill, spill, etc.);
2. Transport media (groundwater, air, etc.);
3. Exposure point (drinking water well, food source, shower, etc.);
4. Route of exposure (ingestion, inhalation, etc.); and
5. Receptor population (families, school children, etc.).

During preparation of a public health assessment, ATSDR must evaluate specific data that address pathways, especially at potential exposure points. This guidance document describes specific data that are crucial for determining human exposure to hazardous substances and evaluating related health effects. The availability of this information early in the remediation process would contribute to the timely identification of needed public health actions. This document has been prepared to make other organizations aware of the environmental data needed by ATSDR.

Dated: February 24, 1993.

Walter R. Dowdle,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

Appendix—Environmental Data Needed for Public Health Assessments

February 1993 Draft Prepared by U.S. Department of Health and Human Services, Public Health Service, Agency for Toxic Substances and Disease Registry, Division of Health Assessment and Consultation, Atlanta, Georgia 30333

Data Needs Workgroup:

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Introduction

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986, directs the Agency for Toxic Substances and Disease Registry (ATSDR) to perform specific public health activities in response to actual or potential exposure to toxic substances released into the environment. Although that mandate covers a wide range of health-related activities, this document focuses on the specific requirement that ATSDR conduct a public health assessment of each site on, or proposed for inclusion on, the National Priorities List (NPL).

This document describes the general purpose and focus of a public health assessment and provides a list of general site information and environmental data that ATSDR attempts to obtain from the Environmental Protection Agency (EPA), the potentially responsible party, or other lead agencies responsible for conducting environmental investigations. It is intended for use by EPA Remedial Project Managers (RPMs), Federal Facility Installation Restoration Program Managers, ATSDR Regional Representatives, and other parties involved in the public health assessment process.

A public health assessment is the evaluation of data and information on the release of hazardous substances into the environment in order to assess any current or future impact on public health, to develop health advisories or other recommendations, and to identify studies or actions needed to evaluate and mitigate or prevent human health effects. The public health assessment evaluates three primary types of information: environmental data, community health concerns, and health outcome data. This document addresses only environmental data needs.

During analysis of human exposure pathways, environmental data are used to determine how human exposure may have occurred, is occurring, or may occur. An exposure pathway consists of five elements:

1. Source (landfill, spill, etc.);
2. Transport media (groundwater, air, etc.);
3. Exposure point (drinking water well, food source, shower, etc.);

4. Route of exposure (ingestion, inhalation, etc.); and

5. Receptor population (families, school children, etc.).

During preparation of a public health assessment, ATSDR must evaluate specific data that address pathways, especially at potential exposure points. Much of that needed information is available in reports of remedial investigations (RIs) and other environmental studies conducted by EPA, Federal facilities, and state agencies. Other environmental information critical to exposure pathway analysis, such as contaminant concentrations at off-site human exposure points, is not as likely to be available at the beginning of the RI process. The following sections describe specific data that are crucial for determining human exposure to hazardous substances and evaluating related health effects. The availability of this information early in the remediation process would contribute to the timely identification of needed public health actions.

Data Quality Information

To determine the likelihood of human exposure, health assessors evaluate all available environmental data. Environmental data are collected by different organizations for very different purposes; such data often are not of the necessary quality nor intended for use in public health assessments. Therefore, the following information should accompany data sent to ATSDR.

Data quality objectives (DQOs)—the anticipated use for which samples were taken, which then determines the types of laboratory analysis used and resulting data quality.

Quality assurance/quality control (QA/QC) requirements—the criteria by which data accuracy and precision are judged.

When formulating DQOs for sampling and analysis of contaminated media at human exposure points (water supply wells, playground soils, etc.), the level of QA/QC should not be less than that used for risk assessment data (Levels III to V), as specified in the EPA OSWER Directive 9355.0–7B, March 1987, entitled Data Quality Objectives for Remedial Response Activities Development Process. This document is available from the U.S. Environmental Protection Agency, Office of Solid Waste and Emergency Response, 401 M Street, SW., Washington, DC 20460.

The ATSDR data evaluation process is discussed in detail in Appendix C of the ATSDR Public Health Assessment Guidance Manual, March 1992 (reference **Federal Register**, 57 FR 21987, May 26, 1992).

Electronic Data Transfer

Currently, health assessors receive most information from EPA and other organizations in written reports, e.g., remedial investigation/feasibility studies (RI/FSs) and data sheets, with accompanying maps, figures, and tables. A few sites are making their environmental databases available to ATSDR in machine-readable formats or through communication linkages. An interagency workgroup, including representatives from EPA, Army, Air Force, Department of Energy, ATSDR, and U.S. Geological Survey, is attempting to develop a standard format for transferring electronic data between agencies. Site-specific data transfer is ongoing, and additional demonstration transfers should take place in early Fiscal Year 1993.

Electronic transfer of data, and use of database query and analysis techniques, should speed review and analysis of environmental data. For some large sites, however, so much information is being collected and interpreted that review and analysis of the written reports are not adequate. As a result, some type of automated analytical technique is required. Electronic transfer greatly speeds the review and analysis process by eliminating the need for duplicative data entry and verification. Also, data in an electronic format can be imported to a Geographic Information System (GIS) so that disparate, geographically based information, such as contaminant distributions, census data, and land uses, can be integrated and interpreted. ATSDR supports the use of electronic reporting methods and is actively pursuing their use during preparation of public health assessments.

General Information Needs

ATSDR needs the following general background information and analytical data for each site it evaluates.

Site Identifiers

- Site name and alias.
- Site address or location.
- Site type (e.g., mine tailings, landfill, surface impoundment, spills, etc.).
- EPA technical contact's name and phone number (e.g., Remedial Project Manager, On-Scene Coordinator, etc.).
- Descriptions of problems/concerns.
- Current owner's name.

Site History

- Dates of operation and significant events (e.g., fires, changes in ownership or products, etc.).
- Descriptions of previous releases, and actions taken by EPA or the facility to remedy them.
- NPL listing document, i.e., why was the site listed on the NPL.
- Descriptions of physical barriers to prevent pollutant transport (e.g., liners, slurry walls, fences, dikes).
- Current CERCLA/RCRA status of site.
- Current structural condition of containers, vessels, and buildings holding substances.

Geographic and Demographic Data

- Plotting of the site on the USGS quadrangle map, including the scale and map name if the complete map is not furnished.
- Political geography, i.e., city/town, county, state.
- Distance from site to closest residence.
- Approximate population residing within 1 mile of site, or within the potentially affected area, whichever is greater.
- Sensitive land uses and features within 1 mile of the site or within the potentially affected area (e.g., schools, day care facilities, hospitals, retirement homes, streams, rivers, wetlands, aquifer recharge zones, water wells, etc.).
- Copies of photographs or databases that depict past or current site conditions, including aerial photographs, satellite imagery, and GIS coverages (databases).

Relationship to Nearby Community

- On-site activities and the estimated number of people involved in each activity (e.g., working, dirt-biking, camping, hunting, fishing, etc.).
- Copy of the community relations plan.
- Types of barriers or signs used to prevent public access.
- Estimated frequency of on-site activities.
- Number and types of other potential environmental contamination sources within 1 mile of the site (or within the potentially affected area) including RCRA-type operating industrial facilities and other NPL or CERCLIS sites.

Substances identified

- List of chemical names and Chemical Abstract System (CAS) numbers (if known).
- Estimate of the quantities of contaminants released to each medium

(soil, air, surface water, and groundwater).

- Maximum concentration, range, and extent of contamination in each medium (including biota).
- Identification of waste materials and quantities.
- Documentation of any chemical, mechanical, meteorologic, or other phenomena that might rapidly alter the current physical state of the chemicals present or the general condition of the site (e.g., earthquake zone, flood plain, etc.).

Analytical Information

- All analytical results for each sample taken, in addition to documents that summarize data. Raw data may be requested under certain circumstances.
- Detection limits for all analytical data.
- Descriptions of the level of QA/QC used, and of QA/QC results and data validation reports.
- Analyses of total concentrations, not only RCRA extraction analyses concentrations.
- Analyses that identify which form of a chemical is present if toxicity of the agent's various forms is significantly different (e.g., chromium III and chromium VI, elemental mercury and methylated mercury, etc.).

Soil Exposure Pathway

Contaminated soils may expose individuals who live, play, or work near the site to multiple contaminants at levels of health concern. Ingestion of contaminated surface soil, particularly by children, is a primary concern. Inhalation of contaminated dusts and direct dermal contact with contaminated soils also can lead to adverse health effects. Generally, the public is exposed to only the top few inches of soil; therefore, ATSDR has defined surface soil as the top 3 inches. For its evaluation, ATSDR needs concentrations of contaminants found in surface soil reported separately from those found in subsurface soil. Because ATSDR considers past, current, and future exposure scenarios, the Agency needs to know the concentrations of contaminants in the soil before and after removal or remedial actions. Following is information relevant to ATSDR's evaluation of the soil pathway.

- Exact sample locations, including descriptions and map locations, and the purpose of the sampling.
- Depth of sampling points: specify if sample is a vertical composite of soil between specified depth ranges (e.g., 0–3 inches, 3–12 inches, 1–3 feet).
- Type of sample (e.g., grab or composite).
- Sampling scheme for composite samples (e.g., composite of five grab samples from a 100 square foot grid, etc.).
- Constituents analyzed for, analytical methods used, detection limits, and concentrations detected.
- Date of sampling.
- Discrete samples (grab) as well as composite samples because composited samples may not be representative of the maximum contaminant concentration to which individuals are exposed.
- Type of soil (sandy, silty, clayey, etc.).
- Description of vegetative cover.
- Land use or special features.

Surface Water Exposure Pathway

Representative sampling of surface water upgradient and downgradient of the site is necessary to distinguish health implications associated with the site. All surface water bodies on or impacted by the site should be sampled, including ditches, gulleys, and perennial and intermittent streams that could transport contaminants away from the site. Samples should be taken in areas where there is potential for human exposure. The following data are needed for evaluation of the surface water pathway.

- Indication on map of 100-year flood plain.
- Locations of all downstream surface water intakes for a distance of potential impact from the site.
- Identification and descriptions of National Pollution Discharge Elimination System (NPDES) effluents from the site, and sources upstream and downstream of the site at distances potentially affecting the surrounding community. Copies of NPDES permits and compliance reports may also be requested.
- Use classification of the surface water bodies.
- Past, current, and future uses of surface water on site and downstream (e.g., recreational, agricultural, drinking water, livestock watering, etc.).
- Hydrologic characteristics.
- Relationship of surface water to groundwater.
- Copies of surface water sampling record and log.
- pH and specific contaminant concentrations.
- Sampling and analytical methods used, detection limits, QA/QC data, and concentrations detected.

Sediment Exposure Pathway

Residents may be exposed to contaminated sediment either through direct contact, ingestion, and inhalation, or through a secondary pathway—ingestion of contaminated biota. Sediment sampling is needed at possible human exposure points such as recreational areas or children's play areas and where contaminated sediment may enter the food chain such as known fishing and hunting areas, if there is the possibility of uptake of contaminated sediments by wildlife, fish, or shellfish that later may be eaten by people.

Sediments may also be mechanically disturbed and transported to possible human exposure points by dredging. Therefore, sampling and analysis of the dredged sediments, as well as the stream channels and impoundments, may be needed at some sites.

Contaminated sediments are not always found in constantly wet drainage areas. Many drainage ditches, surface impoundments, and ephemeral streams associated with releases of hazardous waste are dry part of the year. To prevent confusion between "soil" and "sediment," ATSDR defines sediment to be any solid material, other than waste material or waste sludge, that lies below a water surface; that has been naturally deposited in a waterway, water body, channel, ditch, wetland, or swale; or that lies on a bank, beach, or floodway land where solids are deposited.

The following information is relevant to ATSDR's analysis of the sediment pathway.

- Descriptions and locations on map of samples obtained.
- Depths of sampling points: specify if sample is a composite of soil between specified depth ranges (e.g., 0–3 inches, 3–12 inches, 1–3 feet, etc.).
- Type of sample (e.g., grab or composite).
- Sampling scheme for composite samples (e.g., composite of five grab samples from a 100-foot length of stream, whether the sampling program was designed to collect samples at regular intervals or from depositional areas, etc.).
- Constituents analyzed for, analytical methods used, detection limits, QA/QC data, and concentrations detected.
- Date of sampling event and site conditions at that time.

Groundwater Exposure Pathway

Human exposure to contaminated groundwater from water supply wells is a common public health problem associated with hazardous waste sites. To prevent or mitigate such exposure, the location and use of potentially contaminated wells or springs should be identified as soon as possible after discovery of the hazardous waste problem. Characterization of the vertical

and lateral extent of the groundwater contamination plume is also needed to evaluate the groundwater exposure pathway, but only as it relates to past, present, and future contaminant movement to human exposure points.

Groundwater pathways analysis and public health recommendations can be enhanced by the following approaches to groundwater monitoring.

• Correlation of groundwater contaminants measured in site monitoring wells to contaminants measured in water supply wells can be greatly improved if some of the site monitoring wells are screened in the same groundwater zone as the water supply wells.

• Because of the heterogenous nature of groundwater systems, water supply wells and springs within or at the leading fringe of a groundwater contamination plume usually need more than a one-time sampling to be evaluated for possible human exposure. Quarterly monitoring for a least one year is preferred.

• Valid comparisons between analyses of metals from groundwater samples and EPA drinking water standards can only be made if the groundwater samples are NOT FILTERED during sampling; EPA drinking water standards and health studies are based on UNFILTERED samples.

Following are several types of information needed for the groundwater exposure pathway analysis.

• Well survey and inventory within at least 1 mile of the site, or within the potentially affected area, whichever is greater:

■ An inventory of a larger area downgradient of any known groundwater plumes may be required, depending on site-specific hydrogeology and the extent of contamination.

■ The well inventory should include the number, depth (including screen interval), and location of all local wells and developed springs.

• Water sources designated by the following categories:

■ Monitoring wells.
■ Facility water supply wells.
■ Municipal/utility wells or springs.
■ Residential wells or springs or small, unregulated water systems.
■ Commercial/industrial production wells.
■ Irrigation wells (including lawn-watering systems).
■ Community wells, such as wells serving mobile home parks.
■ Piezometers.
■ Livestock water wells/springs.

• Descriptions of site-specific and regional hydrogeology, including these characteristics:

■ Depth, thickness, extent, name, and characteristics (including flow direction) of all groundwater zones and aquifers affected or potentially affected by contaminants.
■ Depth, thickness, extent, name, and characteristics (including flow directions) of all local drinking-water aquifers.
■ Vertical and lateral extent of groundwater contamination.
■ Natural geochemistry (may be the same as background) of all contaminated groundwater zones and drinking water aquifers.

• Descriptions of past and current groundwater monitoring, including the following information:

■ Dates and frequency of past and current monitoring.
■ List of analytes.
■ Sampling procedures.
■ Water level measurement procedures.
■ Dates of and procedures used for aquifer tests.

• Analytical results of groundwater monitoring, including the following information:

■ For each sample, field measurements for temperature, conductivity, and pH.
■ Tables of analytical results listed by sample location.
■ Any available summaries of analytical results in which the maximum concentrations of contaminants are identified.
■ QA/QC analyses for different sampling episodes.
■ Analytical results of metal contaminants derived from unfiltered groundwater samples.
■ Water level measurements, calculated gradients, potentiometric contour maps, and figures.
■ Monitoring well construction logs, boring logs, and site-specific, cross-sectional maps.
■ Descriptions of past, current, or planned groundwater remedial actions, including provision of alternative water supplies.
■ Descriptions and results of any geophysical, geochemical (including tracer studies), or soilgas surveys performed for the purpose of defining sources and extent of groundwater contamination.
■ Descriptions and locations of all known or surmised facility- or site-related sources of groundwater contamination. Non-site-related sources may also be included if pertinent to contamination of water supply wells or springs.
■ Descriptions and locations of any on-site or near-site groundwater/surface water recharge/discharge areas, such as sinkholes, sinking or disappearing streams, streambank or drainage ditch seeps, leachate seeps, or undeveloped springs.

Air Exposure Pathway

Adverse health effects (acute and chronic) associated with inhalation of air contaminants is a common concern of citizens living and working near hazardous waste sites. Air emissions from past or current production processes, as well as volatilization of organic compounds, airborne particulates, and acid gases from hazardous waste areas, may expose residents who live or work near the site to contaminants at levels of health concern.

Hazardous waste areas from which air releases may be significant are surface impoundments, where there may be leaking drums or tanks containing volatile organic compounds; landfills that produce methane gas, which can migrate; waste piles of materials that may be easily entrained by winds or that contain volatile organic contaminants; and contaminated soils that may become entrained in the air by winds or vehicular traffic. Air emissions may also be generated by certain remedial technologies such as excavation, landfarming or bioremediation, air stripping, pond aeration, incinerator stack emissions and ash, or during handling of decontaminated soil.

Air releases from past and/or current production processes may cause off-site deposition of contaminants that may lead to soil, biota, and surface water contamination, which in turn may result in the population near the site having secondary exposure. Therefore, site characterization should include an evaluation of production area air releases, meteorologic data, and, possibly, modeling of those releases to determine potential off-site air exposure points and deposition areas that may need to be sampled. The following information is relevant to the air pathway.

Ambient Air Data

• Locations where samples were taken, including descriptions and illustrations on maps.

• Meteorologic conditions, temperature, wind speed, and wind direction when samples were taken (i.e., which samples were upwind, and which were downwind?).

• Descriptions of activities in the area during sampling that may have contributed to concentrations of constituents detected (e.g., 10 feet from busy intersection, 20 feet downwind

constituents detected (e.g., 10 feet from busy intersection, 20 feet downwind from bulldozers excavating contaminated soil, etc.).

• Documentation that samples were taken in the breathing zone (4–5 feet above ground).

• Descriptions of sampling methods used and constituents collected by each method (personal monitors, fixed monitoring stations, Tenax® tubes, total particulate or PM10, Drager® tubes, OVA®, HNU®, etc.).

• Sampling frequency and dates (duration of continuous or integrated composite sampling, grab samples, etc.).

• Constituents analyzed for, analytical methods used, detection limits, QA/QC, and concentrations detected.

• Ambient air sampling where people may be exposed at on- and off-site locations, if fugitive air emissions are the only source of potential human air exposure and on-site or fence-line sampling indicates contaminants are present at levels that could potentially cause adverse health effects.

• Ambient air data from the maximum predicted off-site exposure locations to ensure modeling predictions are accurate and to protect public health, if there are current stack emissions from production areas or remedial technologies, and if modeling of those emissions indicates a potential for people off site to be exposed to constituents at levels that may cause health effects.

• It is recommended that ambient air samples be taken even if modeling does not indicate a potential for off-site exposure, if there is community concern about site emissions.

Stack Emissions Data

• Detailed descriptions of the treatment technology or manufacturing process associated with each stack, including design drawings, raw feed materials, operating temperatures and conditions, products and byproducts of the system, any air pollution control equipment, etc.

• All permits (state and Federal, Clean Air Act [CAA], polychlorinated biphenyls [PCB], and hazardous waste [RCRA]), if permitted under those programs, or, if a CERCLA unit, all documents relevant to the unit's design and operating requirements.

• All compliance reports required under any of the previously described permits and any other documents that discuss past planned and unplanned air releases.

• All stack testing or trial burn results for the units (including testing or trial burn plans, sampling, analytical, and QA/QC reports, and any written reviews of the data).

• Identification of the closest meteorologic station and general meteorologic conditions (including wind rose, prevalence of air stagnation events, or other unusual conditions for that area), and a determination that the information is representative of the meteorologic conditions at the site and surrounding areas.

• Any air modeling for the stack(s) and/or fugitive emissions at the site (including all parameters used in the modeling, such as land use, terrain features, nearby building dimensions, meteorologic conditions used or dates and source of meteorologic data used in the modeling, flue gas temperature and velocity, stack height, contaminant emission rate, etc.).

Soil Gas Data

• Analytical results from any soil gas surveys and a description of the sample locations and survey methods.

• Measurements of flammable and explosive gases, such as methane or ethylbenzene, at landfills and other waste source areas where such gases may be generated, migrate, or accumulate.

• Descriptions of calibration gases and concentrations are needed in addition to the instrument readings of a combustible gas meter or other instrument calibrated to determine concentrations at or above the lower explosive limit of gases under investigation.

• Gas pressure measurements to estimate how far soil gas contaminants may migrate from their source to human exposure points, such as an occupied residence.

• Permanent gas monitoring wells should be equipped with a permanent pressure gauge that should be read before sampling. Vertical and lateral zones of soil gas movement can best be determined when gas monitoring wells are screened in the most likely subsurface zone of movement and not over the entire depth of the unsaturated zone.

• Investigation of buried utility lines that lie beneath or adjacent to the hazardous waste area to determine if they serve as preferential pathways for soil gas movement from the source area into occupied buildings.

Indoor Air Quality Data

• Indoor air sampling data.

■ Indoor air sampling data may be needed to determine potential health effects on building occupants (workers and/or residents), if on-site buildings that are occupied (or may be occupied by people in the future) are constructed of contaminated materials, or the buildings became contaminated during use.

■ Indoor air sampling may also be needed if gases or volatile organic compounds are known to be migrating through the soil, or if soil gas measurements around the building indicate that gases may accumulate in the building. If flammable or explosive atmospheres are possible, instruments capable of detecting flammable and explosive gases at and above the lower explosive limit should be used.

• Type of instruments and sample collection methods used (include air volume sampled).

• Analytical data and analytical methods used, including detection limits for all contaminants, calibration of equipment, and QA/QC procedures and results.

• Date, time, and temperature when samples were taken.

• Diagram of building showing sampling locations.

• Descriptions of building construction materials and significant construction features (on concrete slab, basement, number of stories, below grade, on stilts, etc.).

• Descriptions of sampling locations including type of room (bedroom, den, garage, basement, attic, process, or storage area, etc.), height in the room, and distances from significant structures in the room, such as ceilings, hoods, vents, workbenches, chemical storage or use areas, doors or other large openings, etc.

• Descriptions of building air flow before and during the sampling (e.g., was the building unoccupied and closed with no air circulation? Was central heating or air conditioning operating for sufficient time to reach equilibrium in air quality?).

• Descriptions of other contaminants that may be present in the air because of normal building use (especially important for residential sampling), such as chemicals or solvents used for hobbies, freshly painted surfaces, cleaners, lawn care products, etc.

• Aggressive air sampling of buildings that are/may be contaminated with metals, particulates, or fibers.

■ ATSDR recommends such sampling be performed because it is difficult to interpret surface wipe sampling data for health purposes.

■ Aggressive air sampling should be conducted when buildings are not occupied, with the indoor air constantly "stirred up" to simulate worst case conditions. Contaminants may be in homes as a result of contaminated soil being tracked in, contaminated clothing

being brought home from work, or air deposition through open windows, vents, etc.

Food-Chain Exposure Pathway

Human populations may be exposed to site contaminants by eating plants or animals that have incorporated the contaminants into their bodies. Both on- and off-site hunting, fishing, foraging, and farming activities may bring people into contact with those contaminants. Some substances, particularly fat-soluble substances and heavy metals, may reach concentrations in animal tissues that are thousands of times higher than those found in water, soil, and sediment. For discussion in the public health assessment, it is important that the edible portions of such food items be analyzed for contaminants of concern. It is impossible to draw meaningful human food-safety conclusions when the whole body of a fish is analyzed, rather than fillet samples, or when a whole plant is analyzed and only the fruits are normally ingested, etc.

When planning and designing an investigation of food-chain contamination, it is important to have a well-designed biota sampling protocol, with sample size large enough to be statistically significant (more than 20 samples per location per sampling episode are recommended when parametric statistical methods will be used). In particular, organisms of different species, ages, or reproductive status should not be sampled without strong justification. For example, when assessing the impact of contaminated sediment upon the edible fish populations in a stream, results of analyses of tissues from bottom-feeding fish should not be combined with those from water-column feeders; because of their different feeding habits, very different effects may be expected. Discrete ("grab") samples are preferred because ATSDR tries to determine the maximum contamination in order to model worst-case scenarios.

Special handling of biologic samples needs to be considered. Some analytical procedures require that live or fresh-frozen fish be transported to the lab immediately for analysis; the accuracy of other procedures may not be affected if formalin-preserved specimens or those held frozen for weeks or months are used. Such considerations, along with any special problems encountered, should be included in an appendix to the document for quality assurance review.

When contamination of consumable plants and/or animals is suspected, the following data are needed by ATSDR to evaluate the food-chain pathway.

- Non-sampling information (past/present).

■ Animal and plant species that may be eaten by people if these species are potentially affected by the site (e.g., annual animal population or crop volume harvested).

■ Descriptions of populations consuming each potentially contaminated crop and animal (e.g., residential gardens containing tomatoes, corn, and peas consumed by owners [include ethnicity, if known]; local subsistence hunting for rabbits, dove, and deer; commercial and subsistence fishing for salmon and catfish; commercial beef cattle ranches and feedlots in the area; etc.).

■ Descriptions of past, present, and intended future land use.

- If contamination exists on site:

■ Sampling and analysis of edible plants and on-site edible animal species.

■ Sampling and analysis of off-site edible animal species likely to pass through the contaminated area.

- If contamination exists off site:

■ Sampling and analysis of all plant and animal species believed to be exposed to contaminated media, if they are potentially used as human food sources.

- When biota studies are performed:

■ A copy of the protocol used, including how each species was harvested; how representative samples were selected; what portions were sampled and analyzed; special specimen-handling procedures; contaminants analyzed for; methods used and their detection limits, etc.

■ All analytical results and reports, including any QA/QC data and reports, and a list of samples and their label identification.

■ A sample size of at least 20 individuals per species, per episode, is desirable.

■ Analysis of edible portions only.

■ Analysis of individual ("grab") rather than composite samples.

■ A control population of at least 20 individuals from a comparable uncontaminated location, for background levels.

Identification of Physical Hazards

Public health assessments include evaluations of site hazards that may endanger human populations that live or work on or near the site. Physical hazards at hazardous waste sites are often overlooked during initial site documentation and remediation activities. The absence of an adequate barrier between the site hazards and the community often is the single most important factor in determining whether members of the community are likely to access the site and risk physical injury. A gate or fence that can easily be climbed through or over is not considered an adequate barrier to curious children. On-site workers are issued appropriate personal protective equipment and made aware of the hazards on site; community members are not.

The following data are needed for identification and evaluation of physical hazards.

- Descriptions and locations of physical barriers that would prevent access to on-site physical hazards.
- Descriptions and locations of on-site and perimeter warning signs that would warn trespassers of dangerous conditions.
- Descriptions of all existing potential physical hazards at the site. Examples of physical hazards include:

■ Confined spaces, especially underground areas (danger of entrapment and accumulation of toxic or suffocating gases).

■ Industrial equipment (danger of falls from such equipment, or unsecured equipment falling onto individuals).

■ Explosive or hazardous vapors, especially soil gases.

■ Explosive, shock-sensitive, air- or water-reactive, or incompatible materials stored on site.

■ Electrocution hazards, such as exposed wires and unsecured fuse boxes.

■ Structurally unsafe or deteriorating structures because of poor repair or weather damage.

■ Open pits or vats containing chemicals or water.

■ Sink holes or soil erosion.

■ Stored materials (danger of collapse because of deteriorating packaging).

■ Leachate (may be strongly acidic or caustic, causing chemical burns).

■ Cables, chains, wires, ropes (danger of entanglement, breaking under loads).

Radiologic Parameters and Samples

Interpretation of radiologic samples can be quite difficult if certain important information is not included in the data package. In some cases, improper calibration standards might be used, resulting in erroneous readings. In many cases, it is unclear if the readings are gross (including background) or net. Efficiencies of the actual monitoring probes can vary; probes can be specific for certain types of radiation. Those and other factors must be clarified for ATSDR to evaluate the information.

ATSDR needs the following information for review of radiologic data.

- The types of instruments used (e.g., solid state, ionization, scintillation) and the manufacturer and model number for each type of detector and probe.
- Calibration information such as the radioisotope used (e.g., Cs/Ra/Co), date of last calibration, and the instrument efficiency for each radioisotope.
- Detection limits for each radioisotope, including length of time the sample was counted, the statistical error, total counts, and/or counts per minute.
- For laboratory instruments, the average background value, and how often the background was determined.
- For multi-channel analyzers, specification of channels and whether a standard was run before and/or following the analysis.
- Field measurements, including the following elements:
  - Probe location (e.g., distance from the surface or surface contact).
  - Background reading, what instrument was used, and where the background data were collected.
  - Results with a notation identifying gross or net readings.
  - The proper units (e.g., cpm converted to dose rate or to exposure rate).
- Smears results.

These are indicative of the mobility of radioactive materials from surfaces. The results should include the area covered by smears (e.g., 100 cm^2) and what type of laboratory instrument (GeLi, HPGe, α/β etc.) was used to analyze the samples.

- Air sample reports.

These should include a description of the sampler; the height above ground of the sampling system; volumetric flow through the filter; sample time; and area, pore size, and type of filter used (charcoal, AgI, etc.). See Air Exposure Pathway section for additional information needs.

- Soil sample reports.

These should include information about the area represented by the sample (grid size) and sampling depths. The number of samples collected should be stated, and, if the results are composite samples, how many individual samples comprised the composite before sample counting. See Soil Exposure and Sediment Exposure Pathways sections for additional information needs.

- Water sample reports.

These should include information on whether the sample was filtered before counting and how the samples were prepared (e.g., ashed, coprecipitated and radioisotope percent recovery, or distilled, etc.). Information on the type of EPA method used to analyze the water sample is also needed. See Surface Water Exposure and Groundwater Exposure Pathways sections for additional information needs.

- Radon level determinations.

These should state what type of detector was used (e.g., charcoal canisters, alpha track, etc.). If indoor measurements were taken, was the house or building vacant, sealed, or inhabited? What time of year was the sample collected, and what were the indoor and outdoor temperatures during the collection period? How long was the detector in the structure? Was the laboratory that performed the monitoring approved by the EPA radon program?

Summary

ATSDR must depend on other agencies or corporate potentially responsible parties to generate the environmental data necessary to determine public exposure to toxic chemicals at hazardous waste sites. Most of the environmental information that ATSDR needs is the same as that routinely required by EPA at NPL/hazardous waste sites. ATSDR typically requires additional information in the following categories:

- Contaminant concentrations in all off-site media to which the public may be exposed;
- An appropriate detection limit and level of QA/QC in samples to ensure the resulting data are adequate for assessing possible human exposures;
- Discrete samples that reflect the potential range of exposure of the public;
- Surface soil samples not deeper than 3 inches;
- More extensive biota studies, and analyses of edible portions only;
- More ambient and indoor air sampling; and
- Lists of physical hazards and barriers to site access.

This document is intended to provide general guidance that will help persons responsible for designing hazardous waste site characterizations include the data that ATSDR needs to develop a public health assessment of the site. It is recommended that, when possible, ATSDR review draft workplans for each NPL site to provide site-specific guidance on data that will be needed to address site-related public health issues that may arise.

[FR Doc. 93–4639 Filed 3–2–93; 8:45 am]

BILLING CODE 4160–70–P

federal register

Wednesday
March 3, 1993

Part III

Department of Education

Library Research and Demonstration: Online and Dial-In Access to a Statewide Multitype Library Database Demonstration Project; Notice Inviting Applications

DEPARTMENT OF EDUCATION

[CFDA No.: 84.039]

Library Research and Demonstration: Online and Dial-In Access to a Statewide Multitype Library Database Demonstration Project; Notice Inviting Applications for a New Award for Fiscal Year (FY) 1993

Purpose of Program: The Library Research and Demonstration Program provides grants to institutions of higher education and other public or private agencies, institutions, and organizations for research and demonstration programs related to the improvement of libraries, including the promotion of economical and efficient delivery of information, cooperative efforts, developmental projects, education in library and information science, and dissemination of information derived from such projects. The competition announced in this notice is for demonstration of online and dial-in access to a statewide, multitype library bibliographic database through a statewide fiber optic network.

Eligible Applicants: Institutions of higher education that meet the definition of eligibility under the terms of 20 U.S.C. 1141 (a) and other public or private agencies, institutions, and organizations.

Deadline for Transmittal of Applications: May 28, 1993.

Deadline for Intergovernmental Review: July 29, 1993.

Applications Available: March 17, 1993.

Available Funds: $2.480 million.

Estimated Average Size of Awards: $2.480 million.

Estimated Number of Awards: One.

Project Period: Up to 15 months.

Budget Period: October 1, 1993 to December 30, 1994.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, 86; and (b) the regulations for this program in 34 CFR part 777.

Priority: Under 34 CFR 75.105(c)(3) and the fiscal year 1993 appropriations act (Pub. L. 102–394), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Demonstration of online and dial-in access to a statewide, multitype library bibliographic database through a statewide fiber optic network housing a point of presence in every county, connecting library services in every municipality.

Supplementary Information: Public Law 102–394, enacted October 6, 1992, provides FY 1993 appropriations for federally assisted library programs. That legislation specifies that, of the total funds appropriated for federally assisted library programs, $2,480,000 shall be used to address the priority as stated above.

Any institution of higher education that wishes to apply for funds under one of the programs authorized by title II of the Higher Education Act (HEA) (20 U.S.C. 1021 *et seq.*) must be an eligible institution under the terms of 20 U.S.C. 1141(a). If you wish to apply to the Department of Education for a determination of institutional eligibility, you may contact: Ms. Lois Moore, U.S. Department of Education, Office of Postsecondary Education, Debt Collection and Management Assistance Service, Division of Eligibility and Certification, 400 Maryland Avenue, SW., room 3522, Washington, DC 20202–5323.

For Applications or Information Contact: Neal Kaske or Louise V. Sutherland, U.S. Department of Education, 555 New Jersey Avenue, NW., room 404, Washington, DC 20208–5571. Telephone (202) 219–1315. Individuals who are hearing impaired may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m. Eastern time.

Program Authority: 20 U.S.C. 1033.

Dated: February 25, 1993.

Emerson J. Elliott,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 93–4852 Filed 3–2–93; 8:45 am]

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Federal Register

Wednesday
March 3, 1993

Part IV

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 173, 178, and 180
Cargo Tanks; Miscellaneous Requirements; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173, 178, and 180

[Docket No. 183C; Notice No. 93–7]

RIN 2137–AC37

Cargo Tanks; Miscellaneous Requirements

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM) and announcement of public meeting.

SUMMARY: RSPA proposes to amend certain requirements on the manufacture, qualification and maintenance of cargo tank motor vehicles. The proposed changes are based on petitions for rulemaking, exemptions, and National Transportation Safety Board recommendations. In addition, in response to certain petitions, this notice announces a public meeting to discuss certain technical areas on specification cargo tank motor vehicles. The intended effect of these actions is to relax certain regulatory requirements and to reduce unnecessary economic burdens on industry where there will be no adverse effect on safety.

DATES: *Written comments:* Comments must be received on or before June 15, 1993.

Public meeting: A public meeting will be held on March 24 and 25, 1993. It will begin at 2 p.m. on March 24, 1993.

ADDRESSES: *Written comments* should be submitted to the Dockets Unit (DHM–30), Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001. Comments should identify the docket and notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped post card. The Dockets Unit is located in room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, DC. Public dockets may be reviewed between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

The *public meeting* will be held in the Federal Aviation Administration Building, 2300 East Devon Avenue, room 166–170, Des Plaines, Illinois, 60018.

FOR FURTHER INFORMATION CONTACT: Ronald Kirkpatrick, telephone (202) 366–4545, Office of Hazardous Materials Technology, or Jennifer Karim, (202) 366–4488, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

A. Background:

Most of the issues raised in this NPRM relate to requirements that were adopted in final rules published under Dockets Nos. HM–183/HM–183A (June 12, 1989, 54 FR 24982; May 22, 1990, 55 FR 21035; September 7, 1990, 55 FR 37028; June 17, 1991, 56 FR 27872). The final rules established three new cargo tank specifications designated as DOT 406, DOT 407 and DOT 412. Manufacture of cargo tanks to these new specifications was authorized beginning on December 31, 1990.

RSPA received several petitions for rulemaking requesting amendment to certain requirements relating to the new DOT 400 series cargo tank motor vehicles in part 178, and to the operation and maintenance requirements in parts 173 and 180. All petitions have been given full consideration. RSPA proposes to grant certain petitions that would reduce unnecessary and burdensome regulations and result in positive benefits to industry. Additionally, these proposals would reduce costs for industry without reducing the level of public safety.

B. Summary of Petitions.

The Cargo Tank Manufacturing Association (CTMA) petitioned (P–1125) DOT to suspend, review and rewrite the Hazardous Materials Regulations (HMR) on cargo tank motor vehicles. Certain issues raised by CTMA and several other petitioners also were raised in rulemaking proceedings and were fully addressed during the rulemakings published under HM–183/183A and in public meetings. The petitioners requested that RSPA reverse its position on earlier requests that had been denied. Some petitioners also made certain other requests that were not practical, were not within RSPA's purview under the Hazardous Materials Transportation Act (HMTA), or if granted, would adversely affect safety. Some of the requests made by the petitioners are as follows:

CTMA recommendation that DOT organize a joint government/industry task force to develop acceptable solutions to correct serious defects in HM–183. RSPA believes the scheduled public meeting will address issues that must be resolved to ensure the smooth implementation of the new regulations. A public meeting will provide a broader forum for open discussion, allow a more rapid resolution of problems identified by petitioners, and facilitate quicker implementation of regulatory changes than an advisory committee or joint task force. A record containing a summary of the key issues discussed at the meeting will be placed in the Public Docket.

CTMA request that DOT review and consider the over 1,000 petitions received by DOT regarding HM–183 requirements. During the development of the regulations published under Dockets HM–183/183A, DOT evaluated all outstanding petitions for rulemaking and considered all petitions for reconsideration. RSPA received nearly 1,100 petitions for reconsideration. Approximately 900 of these petitions were from the propane gas industry concerning a misunderstanding of a provision that applies to liquid hazardous materials and not to gases; RSPA addressed these petitions in the May 22, 1990 **Federal Register** publication (55 FR 21035). About another 100 petitions were from the petroleum industry concerning the retention of petroleum products in external piping and hoses. These petitions from the petroleum industry and the other remaining petitions within the scope of the rulemaking were addressed in the September 7, 1990 **Federal Register** publication (55 FR 37028). RSPA accepted certain requests that were outside the scope of the rulemaking as petitions for rulemaking. This NPRM addresses most of those requested changes.

CTMA request that DOT require all cargo tanks operating at 15 psi and above to be ASME certified and stamped. This issue was fully considered in the development of the regulations published under Dockets HM–183/183A. RSPA originally proposed that all new specification cargo tank motor vehicles must be constructed and certified in accordance with the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code). In responding to the merits of comments from interested persons, RSPA revised the proposal in the final rule. Except for vacuum-loaded cargo tank motor vehicles, only those DOT 407 cargo tank motor vehicles with a maximum allowable working pressure (MAWP) greater than 35 psig and DOT 412 cargo tank motor vehicles with an MAWP greater than 15 psig are required to be constructed and certified in accordance with the ASME Code. RSPA provided for all DOT 406 cargo tanks, for all DOT 407 cargo tanks with an MAWP of 35 psig or less and for all DOT 412 cargo tanks with an MAWP of 15 psig or less

to be constructed, but not certified, to the ASME Code largely because of manufacturers' use of "stuffed head" configurations and noncylindrical designs. By accepting these variations, RSPA provided for the continued use, based on their proven safety record, of design configurations and construction practices used in producing MC 306 and MC 307 cargo tanks for many years. For additional discussion, refer to the heading "Application of the ASME Code to Low Pressure Cargo Tanks," in the June 12, 1989 **Federal Register** publication (54 FR 24983).

CTMA request that DOT determine actual forces, by test or modeling, that effect accident damage protection devices, roll-over, rear bumpers, etc., including the structural integrity of the tank and develop design procedures that are appropriate, as recommended by National Transportation Safety Board (NTSB) and industry. In response to a recommendation from the NTSB, Federal Highway Administration (FHWA) and RSPA are evaluating the area of rollover protection devices. Based upon the results of the analysis, RSPA will take appropriate action.

CTMA recommendation that DOT develop venting and relief requirements that conform with good engineering practices. CTMA provided no data that demonstrates the venting and pressure relief requirements for DOT 400 series specification cargo tank motor vehicles do not meet good engineering practices. These requirements were given full consideration in the rulemaking process. In addition, two companies advertised that they currently make pressure relief devices fully conforming to the prescribed requirements.

CTMA recommendation to eliminate the requirement for self-closing systems on hazardous waste tanks that handle liquid and semi-solid hazardous waste containing suspended solids. This issue was fully considered during the rulemaking proceeding. RSPA based the requirements contained in the HMR on petitions for reconsideration and comments received during several HM–183/183A public meetings. Before adoption of the final rule under HM–183/183A, the HMR required that product discharge openings on MC 306 and MC 307 cargo tanks and bottom outlet openings on MC 312 cargo tanks be equipped with internal self-closing valves (§§ 178.341–5(a), 178.342–5(a) and 178.343–5(a)). The valve seat had to be located inside the tank or within the welded flange, its companion flange, nozzle, or coupling. The valves also had to be protected by a shear section or suitable guards. The vast majority of vacuum-loaded cargo tank motor vehicles operated under DOT exemptions. Those exemptions required outlets to be equipped with self-closing valves. Under HM–183/183A final rules (June 12, 1989, 54 FR 24982; May 22, 1990, 55 FR 21035; September 7, 1990, 55 FR 37028; June 17, 1991, 56 FR 27872) the requirements for self-closing systems were applied consistently across the board. The self-closing valve is needed as a safety feature to ensure that the discharge valve closes in an emergency situation such as a fire, where the operator may not be able to reach the valve. Vacuum-loaded waste tanks were included because waste haulers often do not know the exact composition of the waste being transported and the final rule did not limit the use of these cargo tanks to hazardous wastes. RSPA repeatedly stated in working meetings, and in written clarifications of the new requirements, that the self-closing systems are needed only during emergencies (hose ruptures, fires, etc.) and that the system may be designed for manual operation under normal conditions but must be self-closing in an emergency.

CTMA recommendation that DOT implement an effective enforcement program as recommended by NTSB and industry. FHWA holds delegated authority for enforcement matters regarding cargo tank motor vehicles. FHWA expanded its cargo tank enforcement program as a result of the new cargo tank requirements. The Office of Motor Carrier Field Operations established a National Cargo Tank Manufacturer, Assembler, and Repair/Inspection Facility Program to enhance compliance. Although FHWA recently focused much attention on motor carriers operating cargo tanks, now it plans to increase compliance monitoring of cargo tank manufacturers.

C. Public Meeting

Items open for discussion at the public meeting include the following:

1. Application of the ASME Code to DOT 400 series specification cargo tank motor vehicles.

a. The feasibility of citing all sections of the ASME Code that must be met in construction of DOT specification cargo tank motor vehicles as opposed to citing only those sections that do not apply.

b. The development of a consensus standard containing procedures for quality control, welding and design as an alternative to the procedures contained in the ASME Code.

2. The progress of the industry on development and testing of dual function vents, reclosing pressure relief devices capable of reseating with the loss of less than one-gallon of lading, and self-closing systems for vacuum-loaded waste tanks.

3. The regulatory proposals contained in this notice

D. Section-by-Section Review

The following is a section-by-section summary of the proposed changes:

Section 173.225

Paragraph (e)(2) would be revised to authorize the use of MC 307 and DOT 407 cargo tank motor vehicles for organic peroxides. This proposed change is based on the satisfactory experience of MC 307 cargo tanks operating under exemption (e.g., E 6610, E 8396, E 8710, E 8932) and a recent revision to the HMR, under a separate rulemaking action [57 FR 45446, October 1, 1992], authorizing use of the DOT 412 cargo tank, which is equal in integrity to the MC 307 cargo tank, for organic peroxides.

Section 173.315

The table in paragraph (a) would be revised to correct an error. For the entry "Nitrous oxide, refrigerated liquid" in Column 4, the ditto notation "do" would be removed and replaced with "DOT–51, MC–330, MC–331". This revision is necessary to eliminate reference to the preceding entry containing Note 23. Note 23 applies to cargo tanks used to transport poisonous by inhalation materials. Nitrous oxide does not meet this criteria.

Paragraph (o)(1) prescribes requirements for piping, hose, or other devices used for loading or unloading cargo tank motor vehicles in chlorine service. The Chlorine Institute petitioned (P–1062) RSPA to remove a restriction that no hose, piping, or tubing used for loading or unloading may be mounted or carried on the motor vehicle. The Chlorine Institute stated that a private carrier often is more experienced and qualified than the consignee to select, handle, test and maintain the high-pressure hoses for chlorine. RSPA agrees with the commenter's request and proposes to revise § 173.315(o)(1) to allow hose, piping, or other tubing to be carried on the vehicle. However, the hose, piping or tubing must be capped to prevent the entry of moisture.

Paragraph (o)(2) requires that each angle valve on a cargo tank used in chlorine service be leak tested once every five loadings or once a week, whichever occurs first. The Chlorine Institute petitioned (P–1062) RSPA to remove the requirement on the basis that it is unnecessary. The Chlorine Institute further stated that identical

angle valves are used on chlorine tank cars and there has never been a requirement to retest these valves. RSPA agrees that the experience record on the use of angle valves on tank cars is satisfactory. Accordingly, RSPA proposes to require that angle valves must be tested once every two years, to coincide with the periodic retest schedule for chlorine tanks specified in § 180.407(c). A separate requirement for testing of angle valves and gasketed joints before installation is retained.

Section 178.337–1

Paragraph (a)(3) contains references to § 173.33(i) and § 173.315(a) Table Note 11. The reference to § 173.33(i) would be corrected to read § 178.337–1(e)(2) and reference to Note 11 of the § 173.315(a) Table would be removed. Paragraph (e)(1) prescribes that each tank required to be insulated must conform with the use and performance requirements contained in § 173.315(a) Table, Note 11. This note 11 is intended for refrigerated gases. Among its requirements is the use of insulated cargo tanks with a design service temperature of minus 100 °F., or no warmer than the boiling point at one atmosphere of the hazardous material to be transported therein, whichever is colder. However, recent changes to the § 172.101 Hazardous Materials Table require that bulk packagings used to transport any compressed gas meeting the poisonous by inhalation criteria for Hazard Zones A, B and C must meet the requirements of special provision B14. This provision requires each tank to be insulated. Thus, even if transported at ambient temperatures, any gas meeting the poisonous by inhalation criteria must be in insulated cargo tanks with a design service temperature of at least minus 100 °F. This was not RSPA's intent. To correct this oversight, RSPA proposes to remove the reference to "Note 11" in § 178.337–1(e)(*1*). Therefore, Note 11 would be applicable only when specified for a particular entry in the § 173.315(a) Table.

Paragraph (e)(2) prescribes that cargo tanks used in chlorine service must have insulation of corkboard or polyurethane foam. The Chlorine Institute petitioned (P–1062) RSPA to authorize the use of a ceramic fiber/fiberglass insulation, as currently allowed for tank cars in chlorine service. The Chlorine Institute pointed out that based on a study, initiated by the Chlorine Institute in 1982, the thermal protection system can protect chlorine cargo tanks below the 483 °F chlorine/iron reaction temperature experienced in a pool fire, for at least 100 minutes. RSPA agrees that the experience record for the use of this insulation on chlorine tank cars is satisfactory and that it is suitable for cargo tanks. RSPA proposes to revise § 178.337–1(e)(2) to authorize the use of ceramic fiber/fiberglass insulation.

Section 178.337–9

Paragraph (b)(7)(i) would be revised to remove a restriction that hose, piping, or tubing used for loading or unloading may not be mounted or carried on a cargo tank. See earlier preamble discussion to § 173.315 in this NPRM.

Section 178.337–11

RSPA proposes to implement a recommendation made by the National Transportation Safety Board (NTSB) in connection with an accident involving release of a toxic lading from an MC 331 cargo tank during an unloading operation. NTSB concluded that the release occurred due to the failure of a fitting on the output side of the cargo tank discharge pump. The only method of stopping the flow of lading was to close the internal shut-off valve, but the valve control was located in the same equipment cabinet as the leaking transfer pump. The NTSB recommended (H–90–91) that controls for internal shut-off valves for the discharge system be installed at remote locations on DOT specification cargo tanks that are used for the transportation of any hazardous material. This proposed change would be contained in paragraph (a)(2) for new construction.

Section 178.338–9

When more than one cargo tank is made to the "same design," § 178.338–9(c) requires that only one cargo tank must be subjected to a full holding time test at the time of manufacture. Each subsequent cargo tank made to the same design may be performance tested during its first trip. A petitioner requested (P–1004) that RSPA also allow verification of the holding time on the first trip for subsequent cargo tanks constructed with a minor change in the length of the tank from the original design. RSPA agrees that certain minor variations are acceptable for cargo tanks constructed to the same design taking into account the safety factor included in the holding time criteria. Therefore, RSPA proposes to remove the definition of "same design" in § 178.338–9(c)(2) and to add a reference to the definition of "same design" contained in § 178.320. The definition, contained in § 178.320, provides for minor design variations and applies to all DOT specification cargo tanks, including MC 338 cargo tanks. Therefore, this change will eliminate an inconsistency.

Section 178.338–11

Paragraph (c) contains requirements for each liquid filling and liquid discharge line on a cargo tank intended for service transporting a flammable lading. Based on an NTSB recommendation [H–90–91], paragraph (c) would be revised to make these provisions applicable to all newly constructed DOT specification MC 33*8* cargo tanks.

Section 178.345–1

Paragraph (i)(2) requires that any void space within connecting structures joining multiple cargo tanks in a cargo tank motor vehicle must be vented to the atmosphere using a drain of at least 1 inch inside diameter. The Truck Trailer Manufacturers Association (TTMA) petitioned (P–1135) RSPA to remove the restriction on the size of the drain opening. TTMA stated that the length of the void space can vary depending on whether bulkhead dishes are nested or opposed, and submitted a sketch of a design in which the longitudinal distance between nested bulkheads is only one-fourth inch. RSPA agrees that the size of this drain hole should be determined in light of cargo tank design details and by functional requirements.

Paragraph (i)(2) also requires that inspection openings be provided in the connecting structure to permit inspection of interior surfaces. TTMA (P–1135) and another petitioner (P–1134) stated that it is difficult to perform an adequate visual inspection of surfaces inside this void. TTMA said that an inspector would have to enter this void space in order to perform a visual inspection. Therefore, the bulkheads would have to be 18-inches apart to permit installation of a manhole assembly. Finally, TTMA stated that head-to-shell welds always are on the lading side of the bulkheads; thus, inspecting the void would serve no useful purpose. TTMA provided no technical information to substantiate its claim that these areas are corrosion free. As the result of an investigation of a major accident involving an MC 312 cargo tank, the NTSB concluded that the cause of the tank's failure was severe corrosion in the void space between the shell and hat-shaped ring stiffeners; material thickness was found to have been reduced by 50 percent in the area of the failure. The space was provided with a drain hole of 0.375-inch diameter. The NTSB recommended [H–83–29] that RSPA prohibit design configurations that create air cavities adjacent to external cargo tank sheet material and to eliminate exceptions

based on provisions for venting and draining. A related recommendation [H–83–30] called for periodic external visual inspection of surfaces obscured by appurtenances, structural members, etc.; these provisions have been incorporated in §§ 180.405 and 180.407. However, the void between double bulkheads presents the same conditions as closed-section ring stiffeners, and thus it is important to provide a means of inspecting interior surfaces, particularly the shell in the vicinity of the bottom centerline of the tank.

For these reasons, RSPA solicits information on suitable dimensional controls for these drains, how often these areas are inspected, the conditions revealed during such inspections, and the availability of equipment for inspecting these areas.

Section 178.345–3

Paragraph (c)(3), which deals with longitudinal forces due to acceleration and deceleration, defines the longitudinal force at the key support members as 0.75 times the vertical reaction in the case of decelerative forces, but as 0.75 times the static weight of the entire cargo tank in the case of the accelerative forces. TTMA (P–1124) and another petitioner (P–1134) requested a revision to paragraphs (c)(3) (iv) and (v) to correct the calculations by considering the load at the kingpin or turntable pivot.

Longitudinal forces acting on the cargo tank wall during acceleration and deceleration are applied differently depending upon the configuration of the cargo tank motor vehicle. For example, a truck-mounted cargo tank is supported by the chassis of the truck. Vertical reactions to the static weight of a fully loaded cargo tank motor vehicle occur at the truck suspension assemblies, and the longitudinal forces in acceleration and deceleration are applied at the surface of the road. These forces are transmitted between the truck chassis and the cargo tank through structural supports and anchors; they are broadly distributed through the truck-to-tank support structure. In this configuration, stresses in the cargo tank wall due to axial loads and bending moments generated by longitudinal forces are comparatively low under both acceleration and deceleration, being shared by the chassis of the truck. A conventional semi-trailer cargo tank, however, is supported at the front by the tractor through the upper coupler (fifth wheel) and at the rear by the trailer suspension. These longitudinal forces are concentrated locally at two points and vary according to the direction of the application. All accelerative forces are transmitted from the tractor to the cargo tank motor vehicle through the upper coupler, while decelerative forces are applied both through the horizontal pivot of the upper coupler (fifth wheel) or turntable, and at the trailer suspension assembly, applied at the surface of the road. The distribution of braking loads between the tractor and the trailer must be considered in this configuration. Therefore, RSPA proposes to revise paragraphs (c)(3) (iv) and (v), as suggested by the petitioners. RSPA also proposes to make other minor editorial changes to paragraph (c)(3) and to reconstruct the paragraph for clarity.

Also a petitioner requested that § 178.345–3(c) be revised by adding a sentence as follows: "These calculations may be made using a weld joint efficiency of 1.0 in place of that value found in UW–12 of the ASME Code." The petitioner stated that the use of the joint efficiency values tabulated in UW–12 is required in § 178.345–3(b) for analysis of static stresses of the cargo tank motor vehicle. If these joint efficiency factors were used in calculating stresses due to dynamic and accident induced loads, the petitioner stated that unrealistically high stresses would be obtained for the following reasons: (a) The specified highway dynamic loads are maximum combined loads which probably are not seen in the life of a cargo tank; (b) a four-to-one safety factor already is included in the allowable stress; and (c) the ASME Code does not require the consideration of combined stresses as currently required in § 178.345–3 (c) and (d). As an example, the petitioner stated that applying these joint efficiency factors in calculation of dynamic stresses for a typical aluminum DOT 407 cargo tank would increase weight by 690 pounds, resulting in a cost increase of $1460.00 and a loss of 96 gallons in cargo capacity. Further, the petitioner contends that its successful experience in building more than 30,000 cargo tank motor vehicles over 40 years demonstrates the structural reliability of cargo tanks designed by established industry techniques without using ASME Code weld efficiencies in calculation of dynamic stresses.

RSPA agrees, in part, with the petitioner. Paragraph (a), concerning general requirements and acceptance criteria, states "* * * the maximum calculated design stress at any point in the tank wall may not exceed the maximum allowable stress value prescribed in section VIII of the ASME Code, or 25 percent of the tensile strength of the material used at design conditions." This requirement applies to welds as well as to heads, shell and other members which are designed to carry part of the structural loading of the cargo tank motor vehicle. It is pointed out that paragraph (a)(3) permits the use of alternate tests or analytical methods in place of the procedures described in paragraphs (b), (c) and (d) provided they are accurate and verifiable.

As the petitioner stated, the efficiency values for weld joints addressed in UW–12 are required for stress analysis under static conditions as prescribed in paragraph (b); these efficiencies are not applicable to analyses of dynamic loads and combined static and dynamic loads such as those described in paragraph (c). Therefore, RSPA considers the additional text suggested by the petitioner as unnecessary and it is not included in this proposed rule.

Section 178.345–5

RSPA proposes to include a recommendation made by the NTSB in connection with an accident involving the overturn of an MC 306 cargo tank and a subsequent gasoline fire. NTSB concluded that lading was released through an opening in a manhole cover, "most likely after a liquid-level sensor was dislodged by a dynamic surge of the gasoline cargo." The NTSB recommended [H–91–34] that all fittings and devices mounted on a manhole cover of cargo tanks be required to meet the same performance standard to withstand the static internal fluid pressure as that required for the manhole cover. This proposed change would clarify that manhole assemblies must be tested with all fittings and devices in place. This proposed change would be contained in paragraph (b).

Section 178.345–6

RSPA proposes to make a minor editorial change to the requirements, concerning supports and anchoring requirements. This change would clarify the requirement that design calculations of the support elements must include the stresses described in § 178.345–3(c).

Section 178.345–13

A paragraph heading, "Leakage test." would be added to paragraph (c).

Section 178.345–14

Minor editorial changes would be made to paragraph (d) for clarity.

Section 178.345–15

A petitioner (P–1134) pointed out that § 178.340–10(a)(2) allows cargo tanks not meeting all of the applicable specification requirements to be affixed with a metal certification plate without a compliance date being stamped on the

plate. The petitioner requested that similar provisions be allowed for DOT 400-series cargo tank motor vehicles manufactured with specification shortages. RSPA agrees that similar provisions should be made for DOT 400 series cargo tanks. These requirements are proposed in new paragraph (e).

Section 178.346–1

A petitioner (P–1134) requested that RSPA amend paragraph (d) to grant two additional exceptions from the ASME Code to allow the use of a single full fillet lap joint without plug welds for longitudinal seams with an assigned weld joint efficiency of 0.45 and to waive the requirements contained in paragraph UW–9(d) of the ASME Code. To support the request, the petitioner stated, in part:

Table UW–12 of the ASME Code does not allow single, full, fillet lap joints to be used as longitudinal seams. In addition, UW–9 requires that vessels made up of two or more courses shall have the centers of the welded longitudinal joints of the adjacent courses staggered or separated by at least five times the thickness of the thicker plate. Furthermore, a full radiographic examination of the longitudinal joint 4 inches either side of the circumferential welded intersection is the only provision for an exemption to the staggered requirement in UW9.* * *

Elliptical tanks have low MAWPs, routinely 3.3 psi, and thus have very low circumferential, or hoop stress. The longitudinal joints are stressed at very low levels. Calculating circumferential stresses in oval vessels is complex and requires numerous assumptions with several established techniques that can be used.* * *

Use of the single fillet lap seam allows us to install our baffles and bulk heads with the top 42 inches of the tank open. This technique assures a close fit of the head or baffle flanges to the bottom of the tank. This has been very effective in assuring against intercompartment leaks as the tank ages. Another advantage is our employees spend considerably less time inside the closed up vessel, considered by OSHA as confined space.* * *

The petitioner further stated that its company has been manufacturing aluminum and steel tanks for many years, all having two single fillet lap seams without plug welds. The petitioner has no knowledge of any structural problems experienced with this joint configuration, or with nonstaggered welds.

RSPA has reviewed the information supplied by the petitioner and believes the petitioner's request has merit based on its years of experience with no adverse effect on safety. RSPA proposes to add these exceptions in paragraph (d). However, because this welding procedure is limited to the top of the cargo tank motor vehicle, RSPA proposes similarly to limit the procedure to the top 25 percent of the cargo tank motor vehicle circumference.

Section 178.346–2

A minor editorial change would be made to paragraph (a).

Section 178.346–3

This section provides that DOT 406 cargo tank motor vehicles must conform to the structural integrity requirements contained in § 178.345–3. A petitioner (P–1134) requested an exception from the requirements on allowable compressive stresses. The petitioner stated the following:

Section 178.346–3 on structural integrity should be changed as follows:

The structural integrity of each cargo tank motor vehicle must conform to 178.345–3 except that allowable compressive stresses for cargo tanks having r/t values over 200 may be determined by the following formula, and need not comply with paragraph UG–23(b) of the ASME Code. However, in no case should the calculated compressive stress be greater than 25% of the ultimate strength.

Compressive critical buckling stress

$$S_b = \frac{\left(\frac{\pi}{4}\right)^2 E}{\left[\frac{R_1}{t_s}\right]\left[1+\frac{\left[\frac{R_1}{t_s}\right]^{\frac{1}{2}}}{35}\right]^2}$$

Where:

The actual compressive stress due to combined bending loads, S_c shall not exceed 0.67 of S_b.

E = modulus of elasticity of material at design temperature.

R_1 = inside radius of shell.

t_s = minimum thickness of shell less corrosion allowance.

S_b = Compressive critical buckling stress.

S_c = compressive stress due to combined bending loads.

The above equation is taken from the Alcoa Structural Handbook. * * * It is based on Euler's formula for cylindrical columns, empirically modified by their experience with curved plates, thin walled tubes, and cylinders. The values obtained from Alcoa's approach are less conservative than ASME but more conservative than other alternatives.

We believe using 67 percent (1.5 factor of safety) of the value given in this formula applied to the dynamic loading is sufficient in view of the fact that high dynamic loads are infrequent and the shells are well reinforced by heads, baffles and longitudinal stiffeners. The use of the Alcoa approach with a 1.5 factor of safety is based upon 40 years of cargo tank building experience.

Allowable compressive stresses in the ASME Code were developed basically for cylindrical vessels, vessels not necessarily reinforced either circumferentially or longitudinally.

DOT 406 cargo tanks have circumferential reinforcements spaced no more than 60" apart longitudinally and have two longitudinal overturn rails which substantially reinforce the top of the cargo tank against critical buckling.

Most DOT 406 cargo tanks will be designed with elliptical or oval cross sections in order to lower the center of gravity of the cargo tank. These sections have large top and bottom shell radii. These large radii result in higher r/t values. These large values for r/t used in ASME calculations reduce allowable compressive stresses to low levels. Over thirty-five years experience with these designs, lead us to believe the approach in ASME VIII, UG–23(b) is unnecessary.

Most of the nation's 50,000, or so, oval aluminum tanks currently in service were designed using the aluminum company formula for allowable compressive stresses. The apparent structural success of these tanks substantiates our argument.

If we cannot get relief from the ASME Code's allowable compressive stresses, a typical DOT 406 cargo tank will weigh 530 pounds more with a resulting loss of 87 gallons of cargo capacity. This means that for every 98 MC 306 cargo tank motor vehicles in service, 99 DOT 406 cargo tank motor vehicles will be required to transport equal amounts of hazardous materials. Therefore, an additional 510 vehicles would be required in the nation's fleet.

This suggested procedure applies only to oval aluminum cargo tank motor vehicles having two full length horizontal overturn rails. However, the petitioner's suggested regulatory text would apply the procedure to all DOT 406 cargo tanks, regardless of material, cross-section, or configuration of the overturn device.

RSPA does not agree that this procedure is applicable to all DOT 406 cargo tanks. However, in an effort to recognize standards that may provide better manufacturing procedures, RSPA solicits comments on the suggested procedure for calculation of compressive stresses.

Section 178.346–10

Paragraph (c)(1) prescribes pressure settings of relief valves on DOT 406 cargo tanks. The opening and closing schedules for primary relief valves on DOT 406 cargo tanks adopted in the June 12, 1989 final rule were revised by RSPA in response to the merits of petitions for reconsideration. Petitioners stated that requiring pressure relief valves to reclose at 90% of set pressure (108% Maximum Allowable Working Pressure (MAWP)) would not allow "a valve seat to lift high enough" to attain the large airflows prescribed in the specification. The commenters recommended that the reclosing requirement be reduced to 75% of set pressure, actually below MAWP. RSPA responded to the petitions for reconsideration in a September 7, 1990 final rule by revising the set pressure from a minimum of 120% MAWP to 125% MAWP, with a minimum of 3.3 psig, and by requiring that reclosing occur at no less than the MAWP.

It was brought to RSPA's attention that these changes effectively reduced the average difference in pressure across the valve during the venting cycle. The difference in pressure between the point at which the valve begins to open (set pressure) and the point at which it is fully open (test pressure) is an important parameter with respect to the rate of flow across the valve opening. For purposes of this discussion, this difference in pressure is called "differential pressure." When plotted, a differential pressure of 1.7 psi is derived at the minimum 2.65 psi MAWP, based on the requirement that the test pressure be no less than 5.0 psig. However, this differential decreases rapidly as the MAWP increases up to the point where 1.5 times MAWP equals 5.0 psig (3.333 psig MAWP); at this point, differential pressure is only 0.834 psi. From that point, the differential pressure rises progressively to 1.0 psi at 4.0 psig MAWP. For low MAWPs, this relationship provides both increased pressure differential and increased assurance of structural integrity. However, the changes in opening and closing schedules for primary pressure relief valves on DOT 406 cargo tanks have an adverse effect on flow ratings of these valves at higher MAWPs.

A petitioner requested changes in the pressure relief valve opening and closing requirements and in the test pressure, stating the changes would enable compliance with all requirements for DOT 406 dual function vents. The petitioner stated that the suggested changes would provide for higher differential pressures over the entire range of MAWP, but the changes proposed also would reduce the differential in the mid-range of MAWP; in this case, the lowest differential would be 1.25 psi at an MAWP of 3.125 psig. Under the petitioner's recommended schedule, the set pressure would be reduced to not less than 120 percent of the MAWP (as opposed to 125 percent) or 3.3 psig, whichever is greater, and the test pressure would be increased to 1.6 times MAWP (as opposed to 1.5 times MAWP). The minimum test pressure of 5.0 psig would remain unchanged.

Additionally, TTMA commented on the difficulty of obtaining adequate flow with the narrow range of "set to test pressure." TTMA recommended changes in both pressure relief valve scheduling and test pressures. The recommended schedule would provide for set pressure to be not less than 110 percent MAWP, thus achieving higher differential pressures at the low end of the MAWP range without eliminating the reduced differential in the mid-range of MAWP. Also, TTMA recommended that manufacturers be allowed to specify test pressures in excess of 1.5 times MAWP.

RSPA agrees with the petitioners that the difference between set pressure and test pressure should be increased for primary pressure relief valves on DOT 406 cargo tanks. Therefore, RSPA is proposing to revise § 178.346–10(c)(1) to permit DOT 406 cargo tanks to have the same set pressure and test pressure as prescribed in § 178.345–10(d)(1), and as prescribed for DOT 407 and 412 cargo tanks, except that the reclosing pressure would remain at "no less than MAWP." In addition, the unintended, non-functional reduction in differential pressure in the mid-range of MAWPs would be eliminated by expressing test pressure simply as 2.4 psi above MAWP, i.e., test pressure would vary from 5.05 psig for an MAWP of 2.65 psig to 6.4 psig for an MAWP of 4.0 psig. This would result in a differential pressure of 1.87 psi at the low end of the MAWP range, progressively diminishing to 1.6 psi at the high end. The small increase in test pressures is in line with the increases requested by petitioners except that it is limited to a maximum of 0.75 above the previous schedule. In view of the improved structural integrity of DOT 406 cargo tanks, no deleterious effects are expected.

Section 178.346–13

Paragraph (b) containing requirements for pressure test would be revised for consistency with the proposed changes to § 178.346–10. Refer to earlier preamble discussion to § 178.346–10.

Paragraph (c)(2) authorizes the use of the Environmental Protection Agency's (EPA) Method 27 "Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test" as an alternative to the leakage test prescribed in § 178.345–13(c)(2), where applicable. RSPA has received numerous questions concerning this leakage test; in particular, the meaning of the phrase "where applicable" has been questioned. The intent of this phrase is to allow the use of this alternative leakage test in geographical locations where the EPA Method 27 vapor-tightness test is mandated. It was intended to relieve the burden of duplicate requirements for cargo tanks subject to this test in those locations where EPA has determined that release of gasoline vapors constitutes a hazard to the environment.

TTMA requested, in petition (P–1115), that the EPA Method 27 test for vapor-tightness be authorized for all DOT 406 cargo tanks without regard to whether they are: (1) Used in gasoline delivery, (2) fitted with vapor collection equipment, or (3) subject to this test under EPA rules. TTMA stated that a manufacturer may not know under what local air pollution requirements the cargo tank may operate. TTMA pointed out that EPA also references use of EPA Method 27 for benzene.

It is RSPA's position that if a manufacturer does not provide vapor collection equipment as part of the completed cargo tank, the manufacturer may not use EPA Method 27 but must perform leak testing in accordance with § 178.345–13(c); i.e., at not less than 80 percent of MAWP. RSPA believes there is merit in extending this alternative test for benzene, but RSPA has received no data to support the use of Method 27 for other than DOT 406 cargo tanks, or for other ladings. Therefore, RSPA proposes to revise paragraph (c)(2) to allow use of EPA Method 27 as an alternative leakage test for DOT 406 specification cargo tanks that are fitted with vapor

collection equipment and are intended for use in gasoline or benzene delivery service only. Additionally, EPA Method 27 would be allowed for these cargo tanks without regard to geographical location.

Section 180.403

This section defines "rebarrelling" to mean replacing more than 50 percent of the combined shell and head material of a cargo tank. TTMA requested that the definition for "rebarrelling" be revised to mean replacement of more than 50 percent and less than 100 percent of the combined shell and head material. TTMA also requested that a new definition for "replacement of barrel" be added to cover the complete replacement of the tank with a newly constructed tank using only new materials. RSPA has included TTMA's suggestions in the proposal. TTMA suggested several other changes to requirements pertaining to the rebarrelling of cargo tanks. These changes are addressed in the preamble discussion to § 180.413.

Section 180.405

In paragraph (f), minor editorial changes would be made in subparagraphs (f)(1)(iii) and (f)(4). In paragraph (g)(2), RSPA proposes to implement the NTSB recommendation [H–91–34] on manhole cover fittings. See earlier preamble discussion for § 178.345–5.

Section 180.407

Paragraph (c) prescribes compliance dates for periodic test and inspection of specification cargo tanks. The Chlorine Institute has requested that MC 330 and MC 331 cargo tanks used in chlorine service be leakage tested every two years, in conjunction with the pressure test, in place of an annual test. Because of the odor of chlorine, a leak in a cargo tank transporting this material would be readily detected. Therefore, RSPA agrees with the Chlorine Institute and proposes to extend the frequency of the leakage test to two years.

Paragraphs (e)(4) and (f)(3) both prescribe that degraded or defective areas of a cargo tank liner must be removed and the tank wall below the defect must be inspected. Therefore, RSPA proposes to remove the duplicative requirement in paragraph (e)(4).

Paragraph (g)(1)(iv), covering the pressure test of specification cargo tanks, would be revised to correct the test pressure prescribed for DOT 406 cargo tank motor vehicles for consistency with the proposed changes to § 178.346–10. Refer to preamble discussion to § 178.346–10.

Paragraph (h)(2) would be revised to permit the use of the EPA Method 27 vapor tightness test on any cargo tank fitted with a vapor recovery system and used in gasoline or benzene service. Refer to preamble discussion to § 178.346–13(c)(2).

Paragraph (i) prescribes that the heads and shell of all unlined cargo tanks used for the transportation of materials corrosive to the tank must be thickness tested. A new paragraph (5) containing a minimum thickness table for steel and aluminum would be added. The values contained in this table are based on the size of sheets and plates authorized for the MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, and MC 312 specifications for manufacture of heads and shells. The nomenclature used to express minimum thicknesses has varied over the years. For example, steel thicknesses generally have been expressed in terms of U.S. Standard Gauge, but in the MC 303 specification, both gauge values and decimal values were shown. Thickness values for aluminum generally have been expressed in decimals, but for the MC 302 specification, both gauge values and decimal values were shown. In other cases, calculation of thickness values were required. For example, for the MC 304 specification, the values for aluminum had to be calculated by multiplying the gauge values listed for mild steel by a factor of 1.44; and in the case of the MC 312 specification, the values for aluminum must be calculated from tabulated gauge values using a formula set forth at § 178.343–2(a)(1).

In this proposed rule, a multiplication factor of 1.44 is used to derive the values for minimum thicknesses of aluminum cargo tanks contained in the proposed table § 180.407(i)(5). The nominal thicknesses in the table range from 19 gauge to ⅜" for steel and 0.078" to 0.540" for aluminum.

Note: Editions of the National Tank Truck Carriers' (NTTC) publication "Cargo Tank Hazardous Material Regulations", prior to 1992, interchanged the minimum thickness tables in the MC 303 specification with that contained in the MC 305 specifications.

Section 180.413

This section provides that any repair, modification, stretching, or rebarrelling must be performed by a cargo tank manufacturer holding an ASME "U" stamp or a repair facility holding a National Board "R" stamp. TTMA objects to a repair facility being allowed to rebarrel 100-percent of a cargo tank. TTMA stated that mounting a cargo tank on a motor vehicle requires the proper attachment to: (1) The upper coupler and undercarriage supporting structure on a frameless cargo tank motor vehicle; or (2) the frame on a cargo tank motor vehicle chassis in accordance with the applicable specification. TTMA further stated that, under the National Board Inspection Code, any alteration involving physical changes must be made by an organization holding an ASME "U" stamp, or by an organization holding a National Board "R" stamp provided the change in design is documented by an organization holding an ASME "U" stamp. TTMA also takes the position that a repair facility should not be allowed to modify or stretch a cargo tank without guidance from a Design Certifying Engineer. TTMA pointed out that § 180.403 defines "modification" or "stretching" as any change to the original design and construction of a cargo tank which affects its structural integrity and that § 180.413(d)(2) requires the person performing the stretching to "have knowledge of the original design concept" and to "assure compliance with the rebuilt cargo tank's structural integrity." Therefore, the same requirements should apply to a person responsible for a modification. TTMA stated essentially the same skills are necessary to modify, stretch, or replace a cargo tank as to design and construct a new cargo tank. Hence, the person should have possession of an ASME "U" stamp or a National Board "R" stamp and authorization and guidance from, and certification by, a Design Certifying Engineer should be required for these activities.

RSPA believes TTMA's request has merit. However, significant changes were made in the National Board Inspection Code, effective July 1, 1992. The National Board revised its inspection code to prohibit the repair, modification, stretching, or rebarrelling of an ASME-stamped cargo tank by a manufacturer who holds an ASME "U" stamp but not a National Board "R" stamp. The National Board informed RSPA that this change was made because the National Board lacks jurisdiction over the quality of work for these activities when performed by manufacturers. Therefore, in view of TTMA's request and the change in the National Board Inspection Code, RSPA proposes to revise this section so that any repair, modification, stretching or rebarrelling of an ASME Code-stamped cargo tank must be performed by a repair facility holding a National Board "R" stamp. The current provisions allowing these activities to be performed on non-ASME-stamped cargo tanks by a

manufacturer holding an ASME "U" stamp or a National Board "R" stamp would be retained.

E. Rulemaking Analyses and Notices

1. Executive Order 12291 and DOT Regulatory Policies and Procedures

This notice of proposed rulemaking has been reviewed under the criteria specified in section 1(b) of Executive Order 12291 and: (1) Is determined not to be a major rule under Executive Order 12291; (2) does not require a Regulatory Impact Analysis; and (3) is determined not to be significant under DOT's regulatory policies and procedures (44 FR 11034; February 26, 1979). This proposed rulemaking would not impose additional requirements and, in fact, would provide regulatory and economic relief in some areas. A draft Regulatory Evaluation has been placed in the docket.

2. Executive Order 12612

The proposed rule has been analyzed in accordance with the principles and criteria in Executive Order 12612 ("Federalism").

The Hazardous Materials Transportation Act (49 App. U.S.C. 1801–1819) contains express preemption provisions (49 App. U.S.C. 1811) that preempt a non-Federal requirement if: (1) Compliance with both the non-Federal and the Federal requirement is not possible; (2) the non-Federal requirement creates an obstacle to accomplishment of the Federal law or regulations; or (3) it is preempted under section 105(a)(4), concerning certain covered subjects, or section 105(b), concerning highway routing. Covered subjects include:

(i) The designation, description, and classification of hazardous materials;

(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(iii) The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents;

(iv) The written notification, recording, and reporting of unintentional release in transportation of hazardous material; or

(v) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials. (49 App. U.S.C. 1804(a)(4) (A) and (B)).

This proposed rule concerns design, manufacturing, repairing, and other requirements for packages represented as qualified for use in the transportation of hazardous materials. If adopted as final, this rule would preempt any State, local, or Indian tribe requirements concerning this subject unless the non-Federal requirements are "substantively the same" (56 FR 20424, May 13, 1992) as the Federal requirement. Thus, RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

3. Regulatory Flexibility Act

I certify that this proposal would not, if promulgated, have a significant economic impact on a substantial number of small entities. There are no direct or indirect adverse economic impacts for small units of government, businesses, or other organizations.

4. Paperwork Reduction Act

This notice of proposed rulemaking would have no changes to the information collection and recordkeeping requirements contained in the June 12, 1989 final rule, which were approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and assigned control number 2137–0014.

5. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

6. National Environmental Policy Act

RSPA has concluded that this proposal would have no significant impact on the environment and does not require the preparation of an environmental impact statement under the National Environmental Policy Act.

List of Subjects

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 178

Hazardous materials transportation, Motor vehicles safety, Packaging and Containers, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, title 49, chapter I of the Code of Federal Regulations, would be amended as set forth below:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for part 173 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1807, 1808, 1817; 49 CFR part 1, unless otherwise noted.

§ 173.225 [Amended]

2. In § 173.225, in paragraph (e)(2), the phrase "MC 310, MC 311, MC 312, and DOT 412" would be revised to read "MC 307, MC 310, MC 311, MC 312, DOT 407, and DOT 412".

3. In § 173.315, paragraph (o)(1) and the first sentence in paragraph (o)(2) would be revised to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tanks.

* * * * *

(o) * * *

(1) Any hose, piping, or tubing used for loading or unloading that is mounted or carried on the motor vehicle may not be attached to any valve and must be capped at all ends to prevent the entry of moisture, except at the time of loading or unloading. Except at the time of loading and unloading, the pipe connection of each angle valve must be closed with a screw plug which is chained or otherwise fastened to prevent misplacement.

(2) Each chlorine cargo tank angle valve must be tested to be leak free at not less than 225 psig using dry air or inert gas before installation and thereafter every 2 years when performing the required periodic retest in § 180.407(c) of this subchapter. * * *

* * * * *

§ 173.315 [Amended]

4. In addition, in the table in § 173.315(a), for the entry "Nitrous oxide, refrigerated liquid", in Column 4, the ditto notation "do" is removed and replaced with "DOT–51, MC–330, MC–331.".

PART 178—SPECIFICATIONS FOR PACKAGINGS

5. The authority citation for part 178 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR Part 1.

8. In § 178.337–1, paragraph (e)(2) would be amended by revising the last sentence to read as follows:

§ 178.337–1 General requirements.

* * * * *

(e) * * *

(2) * * * Insulating material used on tanks for chlorine must be corkboard or polyurethane foam, with a minimum thickness of 4 inches, or 2 inches minimum thickness of ceramic fiber of 4 pounds per cubic feet minimum density covered by 2 inches minimum thickness of glass fiber.

* * * * *

§ 178.337–1 [Amended]

7. In addition, in § 178.337–1, the following changes would be made:

a. In paragraph (a)(3), the reference "173.33(i)" would be revised to read "178.337–1(e)(2)" and the reference "173.315(a) Table Note 11" would be revised to read "173.315(a) Table".

b. In paragraph (e)(1), the reference "173.315(a) Table, Note 11" would be revised to read "173.315(a) Table".

§ 178.337–9 [Amended]

8. In § 178.337–9, paragraph (b)(7)(i) would be removed, and paragraphs (b)(7)(ii) and (b)(7)(iii) would be redesignated as paragraphs (b)(7)(i) and (b)(7)(ii), respectively.

§ 178.337–11 [Amended]

9. In paragraph (a)(2) introductory text, in the first sentence, the phrase "a flammable compressed gas" would be revised to read "a compressed gas".

10. In § 178.338–9, paragraph (c)(2) would be revised to read as follows:

§ 178.338–9 Holding time.

* * * * *

(c) * * *

(2) *Same design.* The term "same design" as used in this section means cargo tanks made to the same design type. See § 178.320(a)(3) for definition of "design type".

* * * * *

11. In § 178.338–11, in the introductory text in paragraph (c), the first sentence would be revised to read as follows:

§ 178.338–11 Discharge control devices.

* * * * *

(c) Each liquid filling and liquid discharge line must be provided with a remotely controlled shut-off valve. * * *

* * * * *

12. In § 178.345–1, the first two sentences in paragraph (i)(2) would be revised to read as follows:

§ 178.345–1 General requirements.

* * * * *

(i) * * *

(2) The strength of the connecting structure joining multiple cargo tanks in a cargo tank motor vehicle must meet the structural design requirements in § 178.345–3. Any void within the connecting structure must be vented to the atmosphere and have a drain which must be kept open at all times. * * *

* * * * *

13. In § 178.345–3, paragraphs (c)(3) and (c)(4) would be revised to read as follows:

§ 178.345–3 Structural integrity.

* * * * *

(c) * * *

(3) S_x = The net longitudinal stress generated by the following loading conditions, in psi:

(i) The longitudinal stresses resulting from the MAWP and from the lowest pressure at which the cargo tank may operate, in combination with the bending stress generated by the static weight of the fully loaded cargo tank, all structural elements, equipment and appurtenances supported by the cargo tank wall;

(ii) The tensile or compressive stress resulting from longitudinal acceleration or deceleration. In each case, the forces applied must be at least 0.75 times the vertical reaction at each suspension assembly, applied at the road surface, and as transmitted to the cargo tank wall through suspension assembly, the horizontal pivot of the upper coupler (fifth wheel) or turntable, and anchoring and support members, as applicable. The vertical reaction must be calculated based on the static weight of the fully loaded cargo tank, all structural elements, equipment and appurtenances supported by the cargo tank wall. The following loadings must be included:

(A) The axial load generated by a decelerative force;

(B) The bending moment generated by a decelerative force;

(C) The axial load generated by an accelerative force; and

(D) The bending moment generated by an accelerative force; and

(iii) The tensile or compressive stress generated by the bending moment resulting from an upward vertical accelerative force equal to at least 0.75 times the vertical reaction at each suspension assembly, applied at the road surface, and as transmitted to the cargo tank wall through suspension assembly, the horizontal pivot of the upper coupler (fifth wheel) or turntable, and anchoring and support members, as applicable. The vertical reaction must be calculated based on the static weight of the fully loaded cargo tank, all structural elements, equipment and appurtenances supported by the cargo tank wall.

(4) S_s = The following shear stresses that apply, in psi:

(i) The vertical shear stress generated by an upward vertical accelerative force equal to at least 1.7 times the vertical reaction at each suspension assembly, applied at the road surface, and as transmitted to the cargo tank wall through suspension assembly, the horizontal pivot of the upper coupler (fifth wheel) or turntable, and anchoring and support members, as applicable. The vertical reaction must be calculated based on the static weight of the fully loaded cargo tank, all structural elements, equipment and appurtenances supported by the cargo tank wall;

(ii) The lateral shear stress generated by a lateral accelerative force equal to at least 0.4 times the vertical reaction at each suspension assembly, applied at the road surface, and as transmitted to the cargo tank wall through the suspension assembly, the horizontal pivot of the upper coupler (fifth wheel) or turntable, and anchoring and support members, as applicable. The vertical reaction must be calculated based on the static weight of a fully loaded cargo tank, all structural elements, equipment and appurtenances supported by the cargo tank wall; and

(iii) The torsional shear stress generated by the same lateral forces as described in paragraph (c)(4)(ii) of this section.

* * * * *

14. In § 178.345–5, paragraph (b) introductory text would be revised to read as follows:

§ 178.345–5 Manhole assemblies.

* * * * *

(b) Each manhole, fill opening and washout assembly must be structurally capable of withstanding, without leakage or permanent deformation that would affect its structural integrity, a static internal fluid pressure of at least 36 psig, or cargo tank test pressure, whichever is greater. All fittings and devices mounted on a manhole cover must withstand the same static internal fluid pressure as that required for the manhole cover. The manhole assembly manufacturer shall verify compliance with this requirement by hydrostatically testing at least one percent (or one manhole closure, whichever is greater) of all manhole closures of each type produced each 3 months, as follows:

* * * * *

§ 178.345–6 [Amended]

15. In § 178.345–6, in paragraphs (a) and (b), the second sentence of each paragraph would be revised to read "The design calculations of the support elements must include the stresses indicated in § 178.345–3(b) and as generated by the loads described in § 178.345–3(c).".

§ 178.345–13 [Amended]

16. In § 178.345–13, a heading would be added to paragraph (c) to read "*Leakage test.*".

§ 178.345–14 [Amended]

17. In § 178.345–14, in paragraph (d), the following changes would be made:

a. The paragraph heading *"Multi-cargo tank cargo tank motor vehicle"* would be revised to read *"Multi-tank cargo tank motor vehicle"*.

b. At the end of the second sentence the phrase "unless all of the cargo tanks are identical" would be revised to read "unless all cargo tanks are made to the same specification".

18. In § 178.345–15, a new paragraph (e) would be added to read as follows:

§ 178.345–15 Certification.

* * * * *

(e) *Specification shortages.* If a cargo tank is manufactured which does not meet all applicable specification requirements, thereby requiring subsequent manufacturing involving the installation of additional components, parts, appurtenances or accessories, the cargo tank manufacturer may affix the name plate and specification plate required by § 178.345–14 (b) and (c), without the original date of certification stamped on the specification plate. The manufacturer shall state the specification requirements not complied with on the manufacturer's certification. When the cargo tank is brought into compliance with the applicable specification, the date of compliance shall be stamped on the specification plate. The Registered Inspector shall issue a Certificate of Compliance stating details of the particular operations performed on the cargo tank, and the date and person (manufacturer, carrier, or repair organization) accomplishing the compliance.

19. In § 178.346–1, a new paragraph (d)(9) would be added to read as follows:

§ 178.346–1 General requirements.

* * * * *

(d) * * *

(9) Single full fillet lap joints without plug welds may be used for longitudinal seams in arc or gas welded joints on the top one-fourth of the cargo tank circumference with an assigned weld joint efficiency of 0.45 without radiographic examination. Additionally, the requirements of paragraph UW–9(d) of the ASME Code do not apply.

§ 178.346–2 [Amended]

20. In § 178.346–2, the paragraph (a) designation is removed and the phrase "DOT 406 cargo tanks" would be revised to read "DOT 406 cargo tank motor vehicles".

21. In § 178.346–10, paragraph (c)(1) would be revised to read as follows:

§ 178.346–10 Pressure relief.

* * * * *

(c) * * *

(1) The setting of pressure relief valves must be in accordance with § 178.345–10(d)(1), except that each primary relief valve must reclose at not less than the maximum allowable working pressure (MAWP) and remain closed at lower pressures.

* * * * *

22. In § 178.346–13, paragraphs (b)(1), (b)(2), and (c)(2) would be revised to read as follows:

§ 178.346–13 Pressure and leakage tests.

* * * * *

(b) * * *

(1) Using the hydrostatic test method, the test pressure must be no less than the cargo tank MAWP plus 2.4 psi.

(2) Using the pneumatic test method, the test pressure must be no less than the cargo tank MAWP plus 2.4 psi, and the inspection pressure must be the cargo tank MAWP.

(c) * * *

(2) The Environmental Protection Agency's "Method 27—Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test," as set forth in 40 CFR part 60, appendix A, is an acceptable alternate leakage test for any cargo tank equipped with a vapor recovery system and intended for use in benzene or gasoline service.

PART 180–CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

23. The authority citation for part 180 would continue to read as follows:

Authority: 49 App. U.S.C. 1803; 49 CFR part 1.

24. In § 180.403, the definition for "Rebarrelling" would be revised and a new definition "Replacement of a barrel" would be added, in the appropriate alphabetical order, to read as follows:

§ 180.403 Definitions.

* * * * *

Rebarrelling means replacing more than 50 percent and less than 100 percent of the combined shell and head material of a cargo tank.

* * * * *

Replacement of a barrel means to replace the existing tank on a motor vehicle chassis with an unused tank (for *tank*, see § 178.345–1(c), § 178.337–1, or § 178.338–1 of this subchapter, as applicable).

* * * * *

25. In § 180.405, paragraph (g)(2) introductory text would be revised to read as follows:

§ 180.405 Qualification of cargo tanks.

* * * * *

(g) * * *

(2) On or before August 31, 1995, each owner of a cargo tank marked or certified before December 31, 1990, authorized for the transportation of a hazardous material, must have the cargo tank equipped with manhole assemblies conforming with § 178.345–5 of this subchapter, except for the dimensional requirements in § 178.345(a) of this subchapter, the hydrostatic testing requirements in § 178.345–5(b) of this subchapter, and the marking requirements in § 178.345–5(e) of this subchapter. All fittings and devices mounted on a manhole cover are part of the manhole assembly and must meet all performance standards required for the manhole cover. A manhole assembly meeting one of the following provisions is considered to be in compliance with this paragraph:

* * * * *

§ 180.405 [Amended]

26. In addition, in § 180.405 the following changes would be made:

a. In paragraph (f)(1)(iii), the phrase "prescribed in § 178.345–3 of the specification" would be revised to read "prescribed in § 178.345–3 of this subchapter or the specification" .

b. In paragraph (f)(4) introductory text, the phrase "and an outlet is equipped" would be revised to read "and except that an outlet is equipped".

27. In § 180.407, in the table in paragraph (c), immediately under the subheading "Leakage Test" in the first column, the following entry would be added; paragraph (e)(4) would be removed, and paragraph (e)(5) would be redesignated as paragraph (e)(4); paragraph (h)(2) would be revised; paragraphs (i)(5) through (i)(7) would be redesignated as paragraphs (i)(6) through (i)(8), respectively; and a new paragraph (i)(5) would be added, to read as follows:

§ 180.407 Requirements for test and inspection of specification cargo tanks.

* * * * *

(c) * * *

COMPLIANCE DATES—INSPECTIONS AND RETESTS UNDER § 180.407(c)

Test or inspection (cargo tank specification, configuration, and service)	Date by which first test must be completed (see note 1)	Interval period after first test
[ADD]		
• • • • • • •	•	•
Leakage Test:		
MC 330 and MC 331 cargo tanks in chlorine service	September 1, 1991	2 years.
• • • • • • •	•	•

* * * * *

(h) * * *

(2) The Environmental Protection Agency's "Method 27—Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test," as set forth in 40 CFR part 60, appendix A, is an acceptable alternate leakage test for cargo tanks equipped with a vapor recovery system and intended for use in benzene or gasoline service.

* * * * *

(i) * * *

(5) Minimum thicknesses for MC 300, MC 301, MC 302, MC 303, MC 305, MC 306, MC 307, MC 310, MC 311, and MC 312 cargo tanks are shown in the minimum thickness table below. The values shown for the nominal thicknesses are those prescribed in Tables I and II of the applicable specification for construction of new cargo tanks.

MINIMUM THICKNESS TABLE

Nominal Thickness (gauge or inches)	Steel		Aluminum	
	Nominal decimal equivalent	Minimum thickness (inches)	Nominal thickness (inches)	Minimum thickness (inches)
19	0.0418	0.038	0.078	0.072
18	.0478	.043	.087	.078
17	.0538	.048	.096	.086
16	.0598	.054	.109	.098
15	.0673	.061	.130	.117
14	.0747	.067	.141	.127
13	.0897	.081	.151	.136
12	.1046	.094	.172	.155
11	.1196	.108	.173	.156
10	.1345	.121	.194	.175
9	.1495	.135	.216	.194
8	.1644	.148	.237	.213
7/16	.1875	.169	.270	.243
1/4	.2500	.225	.360	.324
5/16	.3125	.281	.450	.405
3/8	.3750	.338	.540	.486

Note: Based on 90% of nominal U.S. gauges and decimal values from DOT specification tables (values for both steel and aluminum minimums rounded to 3 places).

* * * * *

§ 180.407 [Amended]

28. In addition, in § 180.407, in paragraph (g)(1)(iv), in the table, for the entry "DOT 406", column 2 would be revised to read "No less than the MAWP plus 16.6 kPa (2.4 psig)".

29. Section 180.413 would be revised to read as follows:

§ 180.413 Repair, modification, stretching, or rebarrelling of cargo tanks.

(a) *General.* For purposes of this section only, "stretching" is not considered a "modification" and "rebarrelling" is not considered a "repair." Any repair, modification, stretching, or rebarrelling of a cargo tank must be performed in conformance with the requirements of this section.

(b) *Records.* Each owner of a cargo tank must retain at its principal place of business all records of repair, modification, stretching, or rebarrelling made to each tank during the time the tank is in service and for one year thereafter. Copies of these records must be retained by a motor carrier, who is not the owner of cargo tank, at its principal place of business during the period the tank is in the carrier's service.

(c) *Repair.* (1) Non-ASME Code stamped cargo tanks. Any work involving repair on a MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, or MC 312 cargo tank that is not ASME Code stamped must be performed by:

(i) A cargo tank manufacturer holding a valid ASME Certificate of Authorization for the use of the ASME "U" stamp and registered in accordance with subpart F of part 107 of subchapter B of this chapter; or

(ii) A repair facility holding a valid National Board Certificate of Authorization for the use of the National Board "R" stamp and registered in accordance with subpart F of part 107 of subchapter B of this chapter.

(2) ASME Code stamped cargo tanks. After June 30, 1992 the repair on any ASME stamped cargo tank must be performed by a repair facility holding a valid National Board Certificate of Authorization for the use of the National Board "R" stamp and registered in accordance with subpart F of part 107 of subchapter B of this chapter.

(3) The following provisions apply to cargo tank repairs:

(i) DOT 406, DOT 407, and DOT 412 cargo tanks must be repaired in accordance with the specification requirements in effect at the time of manufacture or at the time of repair;

(ii) MC 300, MC 301, MC 302, MC 303, MC 305, and MC 306 cargo tanks must be repaired in accordance with the original specification or with the DOT

406 specification in effect at the time of repair;

(iii) MC 304 and MC 307 cargo tanks must be repaired in accordance with the original specification or with the DOT 407 specification in effect at the time of repair;

(iv) MC 310, MC 311, and MC 312 cargo tanks must be repaired in accordance with the original specification or with the DOT 412 specification in effect at the time of the repair;

(v) MC 338 cargo tanks must be repaired in accordance with the specification requirements in effect at the time of manufacture or at the time of repair; and

(vi) MC 330 and MC 331 cargo tanks must be repaired in accordance with the repair procedures described in CGA Technical Bulletin TB–2 and the National Board Inspection Code—Provisions for Repair of Pressure Vessels. Each cargo tank having cracks or other defects requiring welded repairs must meet all of the requirements of § 178.337–16 of this subchapter, except that postweld heat treatment after minor weld repairs is not required. When any repair is made of defects revealed by the wet fluorescent magnetic particle inspection, including those by grinding, the affected area of the cargo tank must again be examined by the wet fluorescent magnetic particle method after hydrostatic testing to assure that all defects have been removed.

(4) Prior to any repair work, the cargo tank must be emptied of any hazardous material lading. Cargo tanks containing flammable or toxic lading must be purged.

(5) After June 30, 1992 any repair of a cargo tank involving welding on the shell or head must be certified by a Registered Inspector. Any repair of an ASME Code "U" stamped cargo tank must be in accordance with the National Board Inspection Code.

(6) The suitability of any repair affecting the structural integrity of the cargo tank must be determined by testing as prescribed in § 180.407.

(d) *Maintenance or replacement of piping, valves, hoses or fittings.* In the event of repair, maintenance or replacement, any piping, valve, or fitting must be properly installed in accordance with the provisions of the applicable specification before the cargo tank is returned to hazardous materials service. After maintenance or replacement which does not involve welding on the cargo tank wall, piping, valves and fittings must be leak tested. After repair or replacement of piping, valves or fittings which involves welding on the cargo tank wall, the cargo tank, including the repaired or replaced piping, valve or fitting, must be pressure tested in accordance with the applicable specification. Hoses permanently attached to the cargo tank must be tested either before or after installation.

(e) *Modification, stretching, or rebarrelling.* Modification, stretching or rebarrelling of a cargo tank must conform to the following provisions:

(1) *Non-ASME Code stamped cargo tanks.* (i) Any work involving modification, stretching, or rebarrelling on a MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, MC 307, MC 310, MC 311, or MC 312 cargo tank that is not ASME stamped must be performed by:

(A) A cargo tank manufacturer holding a valid ASME Certificate of Authorization for the use of the ASME "U" stamp and registered in accordance with subpart F of part 107 of subchapter B of this chapter; or

(B) A repair facility holding a valid National Board Certificate of Authorization for the use of the National Board "R" stamp and registered in accordance with subpart F of part 107 of subchapter B of this chapter.

(ii) If the modification, stretching, or rebarrelling will result in a design change, then it must be performed under the direction of a Design Certifying Engineer.

(2) *ASME Code stamped cargo tanks.* After June 30, 1992 the modification, stretching, or rebarrelling on any ASME Code stamped cargo tank must be performed by a repair facility holding a valid National Board Certificate of Authorization for the use of the National Board "R" stamp and registered in accordance with subpart F of part 107 of subchapter B of this chapter. If the modification, stretching, or rebarrelling will result in a design change, then it must be performed under the direction of a Design Certifying Engineer.

(3) All new material and equipment, and equipment affected by the modification, stretching or rebarrelling must conform with requirements of the specification in effect at the time of such work. In addition, the modification, stretching or rebarrelling must be performed such that the cargo tank, as modified, stretched or rebarrelled, meets the applicable structural integrity requirements (§ 178.337–3, § 178.338–3, or § 178.345–3 of this subchapter) of the specification in effect at the time of such work. The work must conform to the requirements of the applicable specification as follows:

(i) For specification MC 300, MC 301, MC 302, MC 303, MC 305 and MC 306 cargo tanks, the provisions of either specification MC 306 or DOT 406 until August 31, 1993 and, thereafter to specification DOT 406 only;

(ii) For specification MC 304 and MC 307 cargo tanks, the provisions of either specification MC 307 or DOT 407 until August 31, 1993 and, thereafter to specification DOT 407 only;

(iii) For specification MC 310, MC 311, and MC 312 cargo tanks, the provisions of either specification MC 312 or DOT 412 until August 31, 1993 and, thereafter to specification DOT 412 only; and

(iv) For specification MC 330 cargo tanks, the provisions of specification MC 331.

(4) The person performing the modification, stretching, or rebarrelling must:

(i) Have knowledge of the original design concept, particularly with respect to structural design analysis, material and welding procedures;

(ii) Assure compliance with the rebuilt cargo tank's structural integrity, venting, and accident damage protection requirements;

(iii) Assure compliance with all applicable Federal Motor Carrier Safety Regulations for any newly installed safety equipment;

(iv) Pressure retest each cargo tank in accordance with applicable specification;

(v) Change the existing specification plate to reflect the cargo tank as modified, stretched, or rebarrelled, attach a supplemental specification plate noting appropriate changes that have been made to the cargo tank, or remove the existing specification plate and attach a new specification plate to the cargo tank; and

(vi) On a variable specification cargo tank, install a supplemental or new variable specification plate.

(5) The design of the modified or stretched cargo tank must be certified by a Design Certifying Engineer registered in accordance with subpart F of part 107 of subchapter B of this chapter. The Design Certifying Engineer must certify that the modified or stretched cargo tank meets the structural integrity requirements of the applicable specification. The person performing the modifying, stretching or rebarrelling and a Registered Inspector must certify that the cargo tank is in accordance with this section and the applicable specification by issuing a supplemental manufacturer's certificate. The registration number of the Registered Inspector must be entered on the certificate. A 100 percent rebarrelled cargo tank must be designed, constructed, and certified in accordance

with a current cargo tank specification in part 178 of this subchapter.

(6) If the mounting of the cargo tank on the cargo tank motor vehicle involves welding on the cargo tank vessel, then the mounting must be performed as follows:

(i) Non-ASME Code stamped cargo tanks. For a non-ASME Code stamped cargo tank—

(A) By a cargo tank manufacturer holding an ASME "U" stamp and registered with DOT and under the direction of a Design Certifying Engineer; or

(B) By a repair facility holding an ASME "U" stamp or a National Board "R" stamp, registered with DOT and under the direction of a Design Certifying Engineer.

(ii) *ASME Code stamped cargo tank.* For an ASME Code stamped cargo tank, by a repair facility holding a National Board "R" stamp, registered with DOT, and under the direction of a Design Certifying Engineer.

(7) If the mounting of a cargo tank on a cargo tank motor vehicle does not involve welding on the cargo tank wall, then the mounting shall be in accordance with the original specification or with the specification in effect at the time of the mounting.

(8) Prior to any modification, stretching, or rebarrelling a cargo tank must be emptied of any hazardous material lading. Cargo tanks containing flammable or toxic lading must be purged.

(9) After June 30, 1992 any modification, stretching, or rebarrelling on the cargo tank involving welding on the shell or head must be certified by a Registered Inspector. Any repair of an ASME Code "U" stamped cargo tank must be in accordance with the National Board Inspection Code.

(10) The suitability of modification, stretching, or rebarrelling affecting the structural integrity of the cargo tank must be determined by testing as prescribed for new manufacture in the applicable specification.

Issued in Washington, DC on February 22, 1993, under authority delegated in 49 CFR part 106, appendix A.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1413

RIN 0560–AC72

Common Provisions for the 1993 Wheat, Feed Grains, Cotton, and Rice Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: On September 17, 1992, the Commodity Credit Corporation (CCC) issued a proposed rule with respect to discretionary provisions for the price support and production adjustment programs for wheat, feed grains, upland and extra long staple (ELS) cotton, and rice which are conducted by the CCC in accordance with the Agricultural Act of 1949 (the 1949 Act), as amended. This final rule amends the regulations to implement the changes on the following program determinations: (a) The types of crops which may not be planted on "flexible acreage"; (b) whether targeted option payments (TOP) should be instituted; (c) whether the planting of designated crops on up to one-half of the reduced acreage should be allowed; (d) whether the planting of oats for harvest on wheat and feed grain acreage conservation reserve (ACR) should be allowed; (e) whether the planting of conserving use crops on ACR should be allowed; (f) whether the planting of alternative crops on conserving use acreage for payment should be allowed; and (g) whether producers of malting barley should be exempt from complying with the acreage reduction requirements to maintain eligibility for feed grain loans, purchases, and payments.

EFFECTIVE DATE: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: James A. Langley, Senior Policy Analyst, Office of the Deputy Administrator, Policy Analysis, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture (USDA), room 3090–S, P.O. Box 2415, Washington, DC 20013–2415 or call 202–690–0445.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Departmental Regulation 1512–1

This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

Final Regulatory Impact Analysis

The Final Regulatory Impact Analysis describing the options considered in developing this final rule and the impact of the implementation of each option is available on request from the above-named individual.

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of the final rule are not retroactive and preempt State laws only to the extent such provisions are inconsistent with State laws. Before any judicial action may be brought concerning these provisions, the administrative appeal remedies at 7 CFR part 780 must be exhausted.

Federal Assistance Programs

The titles and numbers of the Federal Assistance Programs, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies are as follows:

Titles	Numbers
Commodity Loans and Purchases	10.051
Cotton Production Stabilization	10.052
Feed Grains Production Stabilization	10.055
Wheat Production Stabilization	10.056
Rice Production Stabilization	10.065

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The amendments to 7 CFR part 1413 set forth in this final rule contain information collection requirements that require clearance by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35. ASCS has submitted a request for approval of the information collection requirements to OMB. Public reporting burden for these collections is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing the burden, to the Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project, (OMB No. 0560–0092) Washington, DC 20503.

7 CFR Part 1413

This final rule amends 7 CFR part 1413 to set forth the determination of whether certain discretionary provisions of the 1949 Act will be implemented and the manner in which implementation would be made.

In response to the proposed rule published on September 17, 1992, 32 timely letters were received. Four of these letters did not address the issues on which comments were sought. The remaining 28 respondents included: 12 producers, 7 State producer organizations, 3 National producer

organizations, 1 State Department of Agriculture, 1 member of Congress, 1 National trade association, 1 bank, 1 producer cooperative, and 1 USDA Board.

Comments and Decisions

A. Crops Prohibited on Flexible Acreage

Comments were received from 18 respondents concerning crops prohibited from being planted on flexible acreage. Respondents included: Seven producers, six State producer organizations, two National producer organizations, one producer cooperative, one bank, and one USDA Board. Fifteen respondents recommended no changes to the list of prohibited crops. Two respondents recommended that no restrictions be implemented on flexible acres, and one respondent recommended prohibiting all crops on flexible acres.

Eight of the 15 comments recommending no changes to the list of crops prohibited on flexible acres were from wild rice producers. As in 1991 and 1992, the decision was made not to allow the production of wild rice on flexible acres because of the volatility of the specialty market that currently exists for wild rice.

The decision was made not to eliminate all restrictions on crops currently prohibited on flexible acres. Not only is the Secretary of Agriculture (Secretary) prohibited from allowing fruits and vegetables from being harvested on flexible acres, the current list of prohibited crops provides producers with a large degree of flexibility. The decision was also made not to expand the list of prohibited crops to maintain current flexibility opportunities.

B. Implementation of TOP

Ten responses were received on the TOP provision. Three State producer organizations, two producers, one National producer organization, and one State Department of Agriculture requested that the TOP be implemented. Two State producer organizations and one National producer organization requested that the TOP not be implemented.

TOP will not be implemented because it was determined that producers already have substantial planting flexibility and because it would not currently be feasible to operate the TOP as mandated by the 1949 Act, which requires that TOP be implemented in a way that is participation, production, and budget neutral.

C. Designated Crops on ACR

Seventeen comments were received. Five State producer organizations, four producers, two National producer organizations, and one Member of Congress requested that the harvesting of designated crops not be allowed on up to one-half of the announced acreage reduction. One National producer organization, one National trade association, one State producer organization, one USDA Board, and one producer requested that the harvesting of designated crops be allowed on up to one-half of the announced acreage reduction.

The harvesting of designated crops on up to one-half of ACR will not be permitted because it is determined that producers already have sufficient flexibility to plant designated crops on flexible acreage.

D. Oats on Wheat and Feed Grain ACR

A total of eight comments were received concerning the planting of oats for harvest on wheat and feed grain ACR. Responses from three State producer organizations, one National producer organization, and one producer were opposed to the harvest of oats on ACR. One National trade association, one State producer organization, and one producer were in favor of harvesting oats on ACR.

The planting of oats for harvest on wheat and feed grain ACR will not be permitted because it is determined that producers already have the ability to expand oats production under the planting flexibility provisions.

E. Conserving Crops for Harvest on ACR

Ten comments were received concerning conserving crops for harvest on ACR. Four State producer organizations and one producer opposed harvesting conserving crops on ACR. Two National producer organizations, one State producer organization, one USDA Board, and one producer were in favor of harvesting conserving crops on ACR.

Because producers can plant all of the conserving crops under the flexibility provisions and a sufficient supply of conserving crops in available, harvesting of conserving crops on ACR is not allowed.

F. Alternative Crops on Conserving Use Acres for Payment

Eight comments were received related to alternative crops on conserving use acres for payment. Two National producer organizations, two State producer organizations, and two producers did not support permitting harvesting of alternative crops on conserving use acres for payment. One USDA Board and one State producer organization supported implementation of this provision.

Because producers can plant all of the alternative crops under the flexibility provisions and a sufficient supply of alternative crops is available, harvesting of alternative crops on conserving use acres for payment is not allowed.

G. Malting Barley Exemption

Three comments were received requesting that malting barley not be exempt from acreage reduction requirements. The respondents included two State producer organizations and one National producer organization. One State producer organization and one producer requested that malting barley be exempt from acreage reduction requirements.

Malting barley will not be exempt from the acreage reduction requirements because malting barley supplies are expected to be adequate and such exemption would complicate the program since producers often plant varieties that can be used for either malting or feed purposes.

Program Determinations

Accordingly, the following program determinations are made with respect to the provisions that are applicable to the crops of wheat, feed grains, upland and ELS cotton, and rice:

A. The Types of Crops Which May Not Be Planted on Flexible Acres

Section 504 of the 1949 Act states that producers may plant crops other than the program crop on up to 25 percent of any participating crop acreage base. This acreage is known as "flexible" acreage.

Crops that may be planted on flexible acreage are: (1) Any program crop; (2) any oilseed crop; (3) any other crop, except any fruit or vegetable crop (including potatoes, dry edible beans, lentils, and peas); and (4) mung beans. The planting of certain fruits or vegetables may be permitted if such crop is an industrial or experimental crop, or if no substantial domestic production or market exists for the crop. The planting of any crop on flexible acres may also be prohibited.

CCC will permit the same crops to be grown on flexible acreage in 1993 as were allowed in 1992.

B. Whether the TOP Will Be Implemented

Sections 107B(e)(3), 105B(e)(3), 103B(e)(3), and 101B(e)(3) of the 1949 Act, with respect to wheat, feed grains, upland cotton, or rice, provide that, if

an acreage limitation program is in effect, the Secretary may offer producers the option of increasing or decreasing the acreage reduction level, within certain restrictions, with a corresponding decrease or increase in the target price. The target price may be decreased or increased by not less than 0.5 percent nor more than 1 percent for each percentage point change in the acreage reduction level. The acreage limitation requirement cannot be increased by more than 15 percentage points or above 25 percent total for wheat; by more than 10 percentage points or above 20 percent total for feed grains; by more than 10 percentage points or above 25 percent total for cotton; and by more than 5 percentage points for rice. The decrease in the acreage limitation requirement for all crops cannot be more than one-half of the announced acreage limitation percentage.

The Secretary shall, to the extent practicable, ensure that the TOP does not have a significant effect on program participation, total production or budget outlays.

The TOP provision will not be implemented for the 1993 crops.

C. Whether To Permit the Planting of Designated Crops on Up to Half of the Announced Acreage Reduction

Sections 107B(e)(2)(F)(i), 105B(e)(2)(F)(i), 103B(e)(2)(F)(i), and 101B(e)(2)(F)(i) of the 1949 Act, with respect to wheat, feed grains, upland cotton, and rice, provide that the Secretary may permit producers to plant a designated crop on not more than one-half of the reduced acreage on the farm.

The designated crops may be: (a) Any oilseed crop; (b) any industrial or experimental crop designated by CCC; and (c) any other crop, except any fruit or vegetable (including potatoes and dry edible beans), not designated by the Secretary as (i) an industrial or experimental crop, or (ii) a crop for which no substantial domestic production or market exists. In addition, program crops may not be planted on the reduced acreage on the farm.

If producers on a farm elect to plant a designated crop, the amount of deficiency payments that the producers are otherwise eligible to receive shall be reduced, for each acre that is planted to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate. Such reductions in deficiency payments must be sufficient to ensure that this provision does not increase CCC outlays.

Planting of designated crops on up to one-half of the ACR will not be implemented for the 1993 crop year.

D. Whether To Permit the Planting of Oats on ACR

In any crop year that it is determined that projected domestic production of oats will not fulfill the projected domestic demand for oats, CCC: (a) May provide that acreage designated as ACR under the wheat and feed grains programs may be planted to oats for harvest under sections 107B(e)(8) and 105B(e)(8) of the 1949 Act; (b) may make program benefits (including loans, purchases, and payments) available under the annual program for oats under section 105B of the 1949 Act for oats planted on ACR; and (c) shall not make program benefits other than the benefits specified in (b) available to producers with respect to acreage planted to oats under this provision.

The planting of oats on wheat and feed grains ACR for harvest will not be permitted for the 1993 crops.

E. Whether To Permit Conserving Crops To Be Planted on ACR

Under sections 107B(e)(4)(B)(iii), 105B(e)(4)(B)(iii), 103B(e)(4)(B)(iii), and 101B(e)(4)(B)(iii) of the 1949 Act, with respect to wheat, feed grains, upland cotton, and rice, producers may be authorized to plant all or any part of the ACR to castor beans, crambe, sweet sorghum, guar, sesame, plantago ovato, triticale, rye, mung beans, milkweed or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program and will not adversely affect farm income.

The planting of conserving crops on ACR will not be implemented for the 1993 crops.

F. Alternative Crops on Conserving Use Acres

Under sections 107B(c)(1)(F)(i), 105B(c)(1)(F)(i), 103B(c)(1)(E)(i), and 101B(c)(1)(E)(i) of the 1949 Act, with respect to wheat, feed grains, upland cotton, and rice, producers may be authorized to plant all or any part of acreage otherwise required to be devoted to conserving uses as a condition of qualifying for payment under the 0/92 or 50/92 provisions to sweet sorghum, guar, castor beans, plantago ovato, triticale, rye, millet, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, or commodities grown for experimental purposes (including kenaf and milkweed). The Secretary may permit these crops to be planted on conserving use acres only if the Secretary determines that the production is not likely to increase the cost of the price support program, is needed to provide an adequate supply of the commodities, or is needed to encourage domestic manufacture of industrial raw materials derived from these crops.

The planting of alternative crops on conserving use acreage for payment will not be implemented for the 1993 crops.

G. Malting Barley Exemption From Acreage Reduction Requirements

Under section 105B(p) of the 1949 Act with respect to feed grains, the Secretary may exempt producers of malting barley, as a condition of eligibility for feed grain loans, purchases and payments, from complying with the acreage reduction requirements.

Malting barley will not be exempted from the feed grain acreage reduction requirements for the 1993 crop.

List of Subjects in 7 CFR Part 1413

Cotton, Feed grains, Price support programs, Rice, Wheat.

Accordingly, 7 CFR part 1413 is amended as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. In § 1413.11, paragraph (b)(4)(iii) is added to read as follows:

§ 1413.11 Planting flexibility.

* * * * *

(b) * * *

(4) * * *

(iii) For 1993, any other crop with the exception of those crops listed in paragraphs (b)(4)(i) and (b)(4)(ii) of this section.

* * * * *

3. In § 1413.54, paragraphs (b), (c)(1), and (e) are revised to read as follows:

§ 1413.54 Acreage reduction program provisions.

* * * * *

(b) Targeted option payments shall not be available with respect to the 1991, 1992, and 1993 crops of wheat, feed grains, upland cotton, and rice.

(c)(1) Acreage designated as ACR under the 1991, 1992, and 1993 wheat, feed grain, upland cotton, and rice

programs may not be devoted to oilseeds, industrial or experimental crops, to other program crops, to designated crops, or any other crop and must be devoted to approved uses as otherwise provided in this part.

* * * * *

(e) With respect to the 1991, 1992, and 1993 crop years, in order to receive feed grain loans, purchases and payments in accordance with this part and part 1421 of this title, producers of malting barley must comply with the acreage reduction requirements of this part.

* * * * *

Signed February 26, 1993, at Washington, DC.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93-4915 Filed 3-1-93; 10:02 am]

BILLING CODE 3410-05-M

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7 CFR Parts 1413 and 1427

RIN: 0560-AC64

1993 Extra Long Staple Cotton Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: On October 28, 1992, the Commodity Credit Corporation (CCC) issued a proposed rule with respect to the 1993 Production Adjustment Program for Extra Long Staple (ELS) cotton, which is conducted by the CCC in accordance with the Agricultural Act of 1949 (1949 Act), as amended. The 1993 ELS cotton Acreage Reduction Program (ARP) percentage has been determined to be 20 percent. This final rule amends the regulations to set forth the ARP, the established (target) price, the price support rate, and the advance deficiency payment percentage for the 1993 crop of ELS cotton. No paid land diversion (PLD) program will be implemented for the 1993 crop of ELS cotton.

EFFECTIVE DATE: March 4, 1993.

FOR FURTHER INFORMATION CONTACT:

Kathryn A. Broussard, Fibers and Rice Analysis Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, room 3754-S, PO Box 2415, Washington, DC 20013-2415 or call 202-720-9222.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Departmental Regulation 1512-1

This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and provisions of Departmental Regulation 1512-1 and has been classified as "not major." It has been determined that an annual effect on the economy of $100 million or more will not result from implementation of the provisions of this final rule.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051 and Cotton Production Stabilization—10.052.

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of the final rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Information Collection Requirements

The amendments to 7 CFR parts 1413 and 1427 set forth in this proposed rule do not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35.

Final Regulatory Impact Analysis

The Final Regulatory Impact Analysis describing the options considered in developing this final rule and the impact of the implementation of the selected option is available on request from the above-named individual.

Background

This final rule amends 7 CFR part 1413 to set forth determinations on the 1993 Production Adjustment Program and the PLD Program and 7 CFR part 1427 to set forth the determinations on the 1993 price support level. General descriptions of the statutory basis for the 1993 ELS ARP percentage determination in this final rule were set forth at 57 FR 48748 (October 28, 1992).

A total of five comments were received during the comment period. Three respondents favored a 15-percent ARP level, citing the belief that higher ARP's may result in some producers forgoing the program to benefit from reducing costs across higher planted acreages. One respondent requested no change in the ARP level from the 1992 level of 5 percent. One comment recommended a 20-percent ARP level, citing potential for a stronger market price with a higher ARP level.

After considering these comments, the Secretary of Agriculture (Secretary) announced a 20-percent ARP level on December 1, 1992. The Secretary determined that a 20-percent ARP would maintain U.S. competitiveness in world markets while balancing the risks of excessive supplies and possible shortages. A 20-percent ARP reflects the current supply situation while signaling to domestic and foreign customers that the U.S. will be a reliable supplier.

Acreage Reduction

In accordance with section 103(h)(5)(A) of the 1949 Act, an ARP has been established for the 1993 crop of ELS cotton at 20 percent. Accordingly, producers will be required to reduce their 1993 acreage of ELS cotton for harvest from the crop acreage base established for ELS cotton by at least this established percentage in order to be eligible for price support loans, purchase, and payments.

Paid Land Diversion

In accordance with section 103(h)(5)(B) of the 1949 Act, a PLD Program will not be implemented for the 1993 crop of ELS cotton.

Price Support Rate

In accordance with section 103(h)(2) of the 1949 Act, the price support rate has been established with respect to the

1993 crop of ELS cotton at 88.12 cents per pound.

Established (Target) Price

In accordance with section 103(h)(3)(B) of the 1949 Act, the established (target) price has been established with respect to the 1993 crop of ELS cotton at 105.70 cents per pound.

Advance Deficiency Payment Percentage

In accordance with section 103(h)(3)(C) of the 1949 Act, the advance deficiency payment percentage has been established with respect to the 1993 crop of ELS cotton at 50 percent.

List of Subjects

7 CFR Part 1413

Acreage allotments, Cotton, Disaster assistance, Feed grains, Price support programs, Reporting and recordkeeping requirements, Rice, Soil conservation, Wheat.

7 CFR Part 1427

Cotton, Loan programs/agriculture, Packaging and containers, Price support programs, Reporting and recordkeeping requirements, Surety bonds, Warehouses.

Accordingly, 7 CFR parts 1413 and 1427 are amended as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. Section 1413.54 is amended by:
A. Revising paragraph (a)(5)(ii),
B. Adding paragraph (a)(5)(iii),
C. Revising paragraph (d)(3)(ii), and
D. Adding paragraph (d)(3)(ii) to read as follows:

§ 1413.54 Acrage reduction program provisions.

(a) * * *
(5) * * *
(ii) 1992 ELS cotton, 5 percent; and
(iii) 1993 ELS cotton, 20 percent.
* * * * *
(d) * * *
(3) * * *
(ii) Shall not be made available to producers of feed grains, and
(iii) Shall not be made available to producers of ELS cotton.
* * * * *

3. Section 1413.104 is amended by revising paragraphs (a)(8) and (b) to read as follows:

§ 1413.104 Established (target) prices.

(a) * * *
(8)(i) 1991 ELS cotton—$0.996/lb;
(ii) 1992 ELS cotton—$1.058/lb; and
(iii) 1993 ELS cotton—$1.057/lb.

(b) ELS cotton target price for the 1994 and 1995 crops will be established as 120 percent of the loan rate for ELS cotton.

4. Section 1413.109 is amended by revising paragraph (d) to read as follows:

§ 1413.109 Timing and calculation of deficiency payments.

* * * * *

(d)(1) For the 1991, 1994, and 1995 crops of wheat, feed grains, upland cotton, and rice, if an acreage limitation program is in effect, CCC shall make available 40 percent of the projected final deficiency payments, made in accordance with § 1413.108, as an advance payment to producers in the manner determined and announced by CCC. For the 1992 and 1993 crops of wheat, feed grains, upland cotton, and rice, if an acreage limitation program is in effect, CCC shall make available 50 percent of the projected final deficiency payments made in accordance with § 1413.108, as an advance payment to producers in the manner determined and announced by CCC.

(2) For the 1991 and 1992 crop of ELS cotton, no advance deficiency payments shall be made available. For the 1993 crop of ELS cotton, CCC shall make available 50 percent of the projected final deficiency payments made in accordance with § 1413.108, as an advance payment to producers in the manner determined and announced by CCC.

PART 1427—COTTON

5. The authority citation for 7 CFR part 1427 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1444, and 1444–2; 15 U.S.C. 714b and 714c.

6. Section 1427.8 is amended by:

A. Revising paragraph (a)(2)(ii), and

B. Adding paragraph (a)(2)(iii) to read as follows:

§ 1427.8 Amount of loan.

(a) * * *
(2) * * *
(ii) 1992 ELS cotton, 88.15 cents per pound; and
(iii) 1993 ELS cotton, 88.12 cents per pound.
* * * * *

Signed at Washington, DC, on February 26, 1993.

Bruce R. Weber,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93–4917 Filed 3–1–93; 10:16 a.m.]
BILLING CODE 3410–05–M

FARM CREDIT ADMINISTRATION

12 CFR Part 601

RIN 3052–AB38

Employee Responsibilities and Conduct; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final regulation under part 601 on January 25, 1993 (58 FR 5919). The final regulation amends 12 CFR part 601 that has been or will be superseded by Office of Personnel Management and Office of Government Ethics (OGE) regulations on "Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees" and OGE "Standards of Ethical Conduct for Employees of the Executive Branch" to facilitate the issuance of uniform standards of ethical conduct for employees of the executive branch. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is March 3, 1993.

EFFECTIVE DATE: The regulation amending 12 CFR part 601, published on January 25, 1993 (58 FR 5919) is effective March 3, 1993.

FOR FURTHER INFORMATION CONTACT:

Eric Howard, Policy Analyst, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4498,

or

Wendy R. Laguarda, Senior Attorney and Deputy Ethics Official, Administrative Law and Enforcement Division, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

(12 U.S.C. 2252(a)(9) and (10))

Dated: February 26, 1993.
Curtis M. Anderson,
Secretary, Farm Credit Administration Board.
[FR Doc. 93-4904 Filed 3-3-93; 8:45am]
BILLING CODE 6705-01-P

SMALL BUSINESS ADMINISTRATION

13 CFR part 121

Small Business Size Standards; Business Loan Program; Alternative Size Standard

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: On December 21, 1992, the Small Business Administration (SBA) adopted, on an interim final basis, an alternate size standard criterion for its General Business Loan (7(a)) program, which would allow a concern to qualify as small if it satisfied certain net worth and net income tests which are presently used for SBA's Certified Development Company (504) program and Small Business Investment Company (SBIC) program. This alternate standard consists of two measures, $6 million in net worth and $2 million in net income (after Federal income taxes). Both of these measures must be met for a firm to qualify as small under the alternate size criterion. However, a firm may still continue to qualify as a small business pursuant to the size standard applicable to its primary industry, even if it does not meet this alternate standard. SBA has decided to further review the desirability of the alternate standard. This final rule retracts the alternate standard and reinstitutes the size standards specific to an industry in which a firm operates for the General Business Loan program, which were in effect immediately prior to December 31, 1992, as the sole criteria for eligibility.

EFFECTIVE DATE: March 4, 1993.

ADDRESSES: Send comments to Robert N. Ray, Acting Director, Size Standards Staff, 409 Third Street SW., suite 8150, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Ajoy K. Sinha, Size Standards Staff at (202) 205-6618.

SUPPLEMENTARY INFORMATION: Under the interim final rule published on December 31, 1992 (57 FR 62477), a two-part alternate size standard test was applied for purposes of SBA's General business Loan (7(a)) program. As such, a concern applying for a 7(a) loan may elect to meet either the alternate standard of $6 million in net worth and $2 million in net income (after Federal taxes), or the single employee or receipts based standard that is specified for its industry.

SBA promulgated the alternate net worth/net income standard rule on an interim final basis, without opportunity for prior public comment, pursuant to authority contained in the Administrative Procedure Act, 5 U.S.C. 553(b)(B). SBA sought public comment on the rule as it recognized that the public may desire input into the Agency's final decision on its application of the alternate standard to a particular Agency program.

SBA has decided to withdraw the interim final rule and return the relevant size standard for its General Business Loan program to its former status before publication of the interim final rule of December 31, 1992. This is being done in order to afford the Agency a further opportunity to review the implications of the alternative rule on its business loan program, including a review of public comments received on the interim final rule. It is expected that once this period of review is complete, the matter will be treated by appropriate regulatory action.

Compliance With Regulatory Flexibility Act, Executive Orders 12291, 12612, and 12778, and the Paperwork Reduction Act

General

SBA considers that this final rule will have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act (5 U.S.C. 601, et seq.). In addition, the rule constitutes a major rule for the purpose of Executive Order 12291. Immediately below, SBA has set forth a summary regulatory impact analysis and an initial regulatory eligibility analysis of this proposal.

(1) Description of Entities to Which the Rule Applies

For purposes of financial assistance, SBA estimates that about 47,000 firms currently defined as small business for the 504 and SBIC programs will not be eligible to seek financial assistance offered by the SBA's General Business Loan program. The vast majority of the firms losing eligibility for the 7(a) program because of this rule operate in the retail trade and services industries; almost no firms in manufacturing or mining will lose eligibility for the 7(a) program because of this rule.

(2) Description of Potential Benefits of the Rule

Under this rule, some firms which are eligible for other SBA financial assistance will not be eligible for the General Business Loan program. This may result in an elimination of duplication of SBA program assistance.

(3) Description of Potential Costs of the Rule

This rule should not result in any extra costs with respect to SBA's loan programs. The competitive effects of size standards revisions differ from those normally associated with regulations affecting key economic factors such as the price of goods and services, costs, profits, growth, innovation, mergers and foreign trade.

The change in size standards is not anticipated to have any appreciable effect on any of these factors.

(4) Description of the Potential Net Benefits From the Rule

From the above discussion, SBA believes that, because the potential costs of this rule are minimal, the potential net benefits would approach fairly closely the potential benefits described above. The impact of the standard will appear exclusively in the Federal business lending area in which it is targeted.

(5) Description of Reasons Why This Action Is Being Taken and Objectives of Rule

This revision is being undertaken in order to afford SBA more time to study the implications of any change of size standards on its General Business Loan program.

(6) Legal Basis for Rule

The legal basis for the rule is sections 3(a) and 5(b) of the Small Business Act, 15 U.S.C. 632(a), 634(b)(6), 637(a) and 644(c).

(7) Federal Rules

There are no Federal rules which duplicate, overlap or conflict with this rule.

(8) Significant Alternatives to This Rule

Significant alternatives such as that made effective by the December 31, 1992 interim final rule are under consideration.

SBA certifies that this rule will not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612. SBA further certifies that this rule will not add any new reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35. For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in

accordance with the standards set forth in section 2 of that order.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs—business, Loan programs—business, Small business.

Accordingly, part 121 of 13 CFR is amended as follows:

PART 121—[AMENDED]

1. The authority citation for Part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a) and 644(c).

§ 121.802 [Amended]

2. Section 121.802(a)(1) is amended by adding the words "Business Loan," before the words "Disaster Loan."

3. Section 121.802(a)(2) is revised to read as follows:

§ 121.802 Establishment of the size standard.

(a) * * *

(2) For financial assistance and/or management/technical assistance under the Small Business Investment Company, and Development Company Programs, an applicant concern must meet one of the following standards:

(i) Together with its affiliates, it does not have net worth in excess of $6 million, and does not have average net income after Federal income taxes (excluding any carry-over losses) for the preceding two years in excess of $2 million; or

(ii) Together with its affiliates, it meets the size standard for the industry in which it is primarily engaged and excluding its affiliates, meets the size standard for the industry in which it is primarily engaged. These size standards are set forth in § 121.801.

* * * * *

Dated: February 9, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–4886 Filed 3–3–93; 8:45 am]

BILLING CODE 8025–01–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1030

Employee Standards of Conduct; Partial Revocation of Superseded Regulation

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission is revoking parts of its Employee Standards of Conduct, 16 CFR part 1030, which have been superseded by regulations issued by the Office of Government Ethics.

EFFECTIVE DATE: The revocation of subpart F, §§ 1030.601 through 1030.611, is effective October 5, 1992. All other revocations are effective February 3, 1993.

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207-0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, room 420, 5401 Westbard Avenue, Bethesda, Maryland, telephone (301) 504-0800.

FOR FURTHER INFORMATION CONTACT: Richard W. Allen, Alternate Agency Ethics Official, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207-0001, telephone (301) 504-0980.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics (OGE) has issued 5 CFR part 2634, Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees (57 FR 11800, April 7, 1992). Effective October 5, 1992, these regulations superseded the current executive branch reporting regulation at 5 CFR part 735, subpart D and § 735.106, and agencies' implementing regulations, including subpart F of the Commission's regulations.

Under the authority of Executive Order 12674 (April 12, 1989) as modified by Executive Order 12731, (October 17, 1990), OGE has issued 5 CFR part 2635, Standards of Ethical Conduct for Employees of the Executive Branch (57 FR 35006, August 7, 1992). These standards of conduct, when they became effective on February 3, 1993, superseded comparable agency regulations and authorized agencies to issue jointly with OGE "supplemental agency regulations which the agency determines are necessary and appropriate, in view of its programs and operations, to fulfill the purposes" of part 2635. Part 2635 does not supersede other agency ethics regulations which an agency has independent authority to issue.

However, as permitted by § 2635.803 of the OGE Standards of Conduct, the Commission is retaining its requirement for employees obtaining prior approval before engaging in outside employment or activities. This approval requirement will continue until February 3, 1994, or until issuance of a supplemental regulation, whichever occurs first.

Accordingly, the Commission is revoking all of 16 CFR part 1030 except §§ 1030.402, 1030.404, 1030.405, 1030.406, and 1030.408, the sections providing for preapproval of outside activities, and subpart M, dealing with disclosure of information about individuals.

In addition, the appendices to part 1030, the texts of which have never been published as part of the Code of Federal Regulations, are also being revoked as superfluous.

Since this rule relates solely to internal agency management and procedures, it is not subject to the advance notice and other public procedures otherwise required by 5 U.S.C. 553.

List of Subjects in 16 CFR Part 1030

Conflict of interests, Government employees, Privacy.

For the reasons set forth above, 16 CFR part 1030 is amended as follows:

PART 1030—[AMENDED]

1. The authority citation for part 1030 is revised to read as follows:

Authority: 5 U.S.C. app. (Ethics in Government Act); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR part 2635.

2. All of subparts A through C are removed.

3. In subpart D §§ 1030.401, 1030.403, 1030.407, 1030.409, and 1030.410 are removed.

4. Subparts E though L are removed.

5. Appendices A through F are removed.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 93–4784 Filed 3–3–93; 8:45 am]

BILLING CODE 6355–01–F

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Eligibility: Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation ("Corporation") is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the official Federal Poverty Income Guidelines as issued by the Department of Health and Human Services.

EFFECTIVE DATE: March 4, 1993.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, General Counsel, Legal Services Corporation, 750 First Street NE., Washington, DC 20002–4250; 202–336–8810.

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act ("Act"), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that other specified factors shall be taken into account along with income. Section 1611.3(b) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the official Federal Poverty Income Guidelines as set by the Office of Management and Budget.

Responsibility for revision of the official Federal Poverty Income Guidelines was shifted in 1982 from the Office of Management and Budget to the Department of Health and Human Services. The revised figures for 1993 that are equivalent to 125% of the current official Poverty Income Guidelines as set out at 58 FR 8287 (Feb. 12, 1993) are set forth below.

List of Subjects in 45 CFR Part 1611

Legal services.

PART 1611—ELIGIBILITY

1. The authority citation for part 1611 continues to read as follows:

Authority: Secs. 1006(b)(1), 1007(a)(1) Legal Services Corporation Act of 1974, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).

2. Appendix A of part 1611 is revised to read as follows:

APPENDIX A OF PART 1611—LEGAL SERVICES CORPORATION 1993 POVERTY GUIDELINES*

Size of family unit	All States but Alaska and Hawaii[1]	Alaska[2]	Hawaii[3]
1	$8,713	$10,876	$10,050
2	11,788	14,725	13,575
3	14,863	18,575	17,100
4	17,938	22,425	20,625
5	21,013	26,275	24,150
6	24,088	30,125	27,675
7	27,163	33,975	31,200
8	30,238	37,825	34,725

* The figures in this table represent 125% of the poverty income level by family size as determined by the Department of Health and Human Services.
[1] For family units with more than eight members, add $3,075 for each additional member in a family.
[2] For family units with more than eight members, add $3,850 for each additional member in a family.
[3] For family units with more than eight members, add $3,525 for each additional member in a family.

Dated: February 26, 1993.

Victor M. Fortuno,

General Counsel.

[FR Doc. 93–4925 Filed 3–3–93; 8:45 am]

BILLING CODE 7050–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 674

[Docket No. 40679–4079]

High Seas Salmon Fishery Off Alaska

CFR Correction

In title 50 of the Code of Federal Regulations, part 600 to end, revised as of October 1, 1992, on page 436, § 674.5 should be removed in its entirety.

BILLING CODE 1505–01–D

50 CFR Part 675

[Docket No. 921185–3021]

Groundfish of the Bering Sea and Aleutian Islands Area (BSAI)

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Change in recordkeeping and reporting requirements.

SUMMARY: NMFS is requiring all processors that catch or receive pollock under any Western Alaska Community Development Quota (CDQ) Program to submit Daily Production Reports. This action is necessary to prevent exceeding each allocated CDQ. It is intended to accomplish the goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP).

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), February 26, 1993, through 12 midnight, A.l.t., December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Martin Loefflad, Resource Management Specialist, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the FMP prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The CDQ Program was created to help develop commercial fisheries in communities on the Bering Sea coast. Qualifying communities are assigned a portion of the overall program allocation. Each vessel and processor involved in a CDQ fishery must be individually monitored to keep each CDQ participant within its allocation. The combination of several CDQs, each varying in quota amounts and expected effort, necessitates additional reporting requirements to manage the fisheries effectively.

The Director of the Alaska Region, NMFS (Regional Director), in accordance with § 675.5(c)(3)(i), is requiring processor vessels and shoreside processing facilities (processors) that conduct fishing activities in, or receive groundfish from, any CDQ fishery in the BSAI management area to submit Daily Production Reports in addition to Weekly Processor Reports. Daily Production Reports are required from 12 noon, February 26, 1993, through December 31, 1993, or until the Regional Director determines that these reports are no longer necessary.

Daily Production Reports must include all information required by § 675.5(c)(3)(ii). Processors must submit the required information on the "Alaska Groundfish Processor Daily Production Report" (Daily Production Report) form available in the processors' recordkeeping reference manual or from

the Regional Director at the address listed in the manual.

Processors must transmit their completed Daily Production Reports to the Regional Director by facsimile transmission to 907–586–7131, by telephone via number 907–586–7228, or by telex (U.S. Code) at 6229600 no later than 12 noon, A.l.t., of the day following the day the groundfish was harvested or received.

Classification

This action is taken under § 675.5 and complies with E.O. 12291.

The Assistant Administrator for Fisheries, NOAA, finds that reasons justifying promulgation of this action also make it impracticable and contrary to the public interest to provide notice and opportunity for prior public comment or to delay for 30 days its effective date under sections 553 (b) and (d) of the Administrative Procedure Act. Further, this action is made pursuant to regulations which were promulgated by providing notice to the public and an opportunity for publication participation. CDQ fishing effort without Daily Production Reports could result in exceeding the individual CDQ allotments.

The collection-of-information requirement contained in this notice was approved by the Office of Management and Budget (OMB) as a revision to OMB No. 0648–0123 (56 FR 9636, March 7, 1991).

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 23, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–4903 Filed 2–26–93; 4:37 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 58, No. 41
Thursday, March 4, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1421

RIN 0560–AD12

1993–95 Wheat and Feed Grain Marketing Loan Provisions

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations to set forth the marketing loan provisions for the 1993 through 1995 crops of wheat and feed grains. Section 1104 of the Agricultural Reconciliation Act of 1990 requires implementation of wheat and feed grain marketing loan provisions for the 1993 through 1995 crops in accordance with the Agricultural Act of 1949, as amended (the 1949 Act), if the U.S. does not enter into an agricultural agreement in the Uruguay Round of the multilateral trade negotiations under the General Agreement on Tariffs and Trade (GATT) by June 30, 1992. These actions are necessary because an agreement was not entered into by June 30, 1992.

DATES: Comments must be received on or before April 5, 1993 in order to be assured of consideration.

ADDRESSES: Comments must be mailed to the Acting Deputy Administrator for Policy Analysis, Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA), P.O. Box 2415, room 3742–S, Washington, DC 20013–2415. Comments received may be inspected between 9 a.m. and 4:30 p.m. Monday through Friday, except holidays, in room 3742, South Agriculture Building, USDA, 14th and Independence Avenue, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Philip W. Sronce, Director, Grains Analysis Division, ASCS, USDA, P.O. Box 2415, room 3742–S, Washington, DC 20013–2415 or call 202–720–4418.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Departmental Regulation 1512–1

This proposed rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been designated as "non-major." It has been determined that this proposed rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in domestic or export markets. The Preliminary Regulatory Impact Analysis describing the options considered in developing this rule and the impact of the implementation of each option is available on request from Craig Jagger, Agricultural Economist, Grains Analysis Division, ASCS, USDA, P.O. Box 2415, room 3742–S, Washington, DC 20013–2415 or call 202–720–4418.

Federal Assistance Programs

The titles and numbers of the Federal Assistance Programs, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are as follows:

Title	Number
Commodity Loans and Purchases	10.051
Feed Grain Production Stabilization	10.055
Wheat Production Stabilization	10.058

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Executive Order 12778

This proposed rule has been reviewed in accordance with Executive Order 12778. The provisions of this proposed rule do not preempt State laws, are not retroactive, and do not require the exhaustion of any administrative appeal remedies.

Environmental Assessment or Impact Statement

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The amendments to 7 CFR part 1421 set forth in this proposed rule contain information collection requirements that require clearance by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35. ASCS has submitted a request for approval of the information collection requirements to OMB. Public reporting burden for these collections is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing the burden, to the Department of Agriculture, Clearance Officer, OIRM, room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Public Comments

Comments are requested with respect to this proposed rule and such comments shall be considered in developing the final rule.

Statutory Background

Section 1104 of the Agricultural Reconciliation Act of 1990 requires that marketing loan provisions be implemented for the 1993 crop of wheat and feed grains if an agricultural agreement relating to the GATT negotiations was not entered into by

June 30, 1992. Since such negotiations had not produced such an agreement, marketing loan provisions must be implemented for the 1993 through 1995 crops of wheat and feed grains.

In accordance with section 107B(a)(4)(C), in the case of wheat, and section 105B(a)(4)(C), in the case of feed grains, of the 1949 Act, when the world market price, adjusted to U.S. quality and location (i.e., the adjusted world price or AWP) is less than the loan level, the Secretary of Agriculture (the Secretary) may permit a producer to repay a nonrecourse loan at an alternative repayment rate (ARR) that the Secretary determines will (1) minimize potential loan forfeitures, (2) minimize the accumulation of wheat and feed grain stocks, (3) minimize the cost incurred by the Federal Government in storing wheat and feed grains, and (4) allow wheat and feed grains produced in the U.S. to be marketed freely and competitively, both domestically and internationally.

In accordance with section 107B(b), in the case of wheat, and section 105B(b), in the case of feed grains, of the 1949 Act, the Secretary may make payments (i.e., loan deficiency payments) available to producers who, although eligible to receive a loan or purchase agreement, may forego obtaining the loan or purchase agreement in return for the loan deficiency payment. The loan deficiency payment rate shall be the amount by which the loan level exceeds the marketing loan repayment rate.

Marketing Loan Repayment Rate

In accordance with section 107B(a)(4)(C), in the case of wheat, and section 105B(a)(4)(C), in the case of feed grains, of the 1949 Act, it is proposed that when the AWP is less than the loan level, a producer may repay a nonrecourse loan at the ARR. For the purposes of this rule, the ARR equals the AWP, and the loan level determined for a crop equals the loan level and charges, plus interest.

It is proposed that AWPs for wheat and feed grains be established on a daily basis for each county based upon the previous day's market prices at appropriate U.S. terminal markets, as determined by CCC, adjusted to reflect quality and location. Thus, the marketing loan repayment rates proposed for the wheat and feed grain marketing loan provisions of the 1949 Act would be set at the same levels at which generic certificates can currently be exchanged for wheat and feed grains.

The Secretary has determined that this approach would (1) minimize potential loan forfeitures, (2) minimize the accumulation of wheat and feed grain stocks, (3) minimize the cost incurred by the Federal Government in storing wheat and feed grains, and (4) allow wheat and feed grains produced in the U.S. to be marketed freely and competitively, both domestically and internationally.

Loan Deficiency Payments

In accordance with sections 107B(b) and 105B(b) of the 1949 Act, it is proposed that producers who are eligible to receive a nonrecourse loan or purchase agreement be permitted to forgo obtaining the loan or purchase agreement in return for loan deficiency payments.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Soybeans, Surety bonds, Warehouses.

Accordingly, 7 CFR part 1421 is amended as follows:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1. The authority citation for 7 CFR part 1421 continues as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1441z, 1444f–1, 1445b–3a, 1445b–3a, 1444c–3, 1445e, and 1446f; 15 U.S.C. 714b and 714c.

2. In § 1421.1, paragraph (c)(1) is revised as follows:

§ 1421.1 Applicability.

* * * * *

(c)(1) Price support loans, purchase agreements, and loan deficiency payments shall be available as provided in this part with regard to barley, corn, grain sorghum, oats, rye, and wheat produced in the U.S.

* * * * *

3. In § 1421.20, paragraph (d) is revised as follows:

§ 1421.20 Release of the commodity pledged as collateral for a loan.

* * * * *

(b) CCC may allow a producer to establish a loan repayment rate determined in accordance with § 1421.25 (a)(1)(ii), (b)(2), or (d)(2) on Form CCC–681–1, provided the producer complies with all terms and conditions set forth on Form CCC–681–1. If a producer fails to repay a loan within the time period prescribed by CCC in accordance with the terms and conditions of Form CCC–681–1 and the commodity pledged as collateral for such loan has been delivered to a buyer in accordance with Form CCC–681–1, Authorization for Delivery of Loan Collateral for Sale, such producer may not repay the loan at the level that is less than the loan level determined in accordance with § 1421.25 (a)(1)(ii), (b)(2), or (d)(2).

* * * * *

4. In § 1421.25:

A. Paragraphs (d) and (e) are revised,

B. Paragraph (f) is redesignated as paragraph (g) and revised, and

C. A new paragraph (f) is added as follows:

§ 1421.25 Market price repayments.

* * * * *

(d) For 1993 through 1995 crops of barley, corn, grain sorghum, oats, rye, and wheat, a producer may repay a nonrecourse loan at a level that is the lesser of:

(1) The loan level and charges, plus interest determined for such crop; or

(2) The alternative repayment rate (ARR) for barley, corn, grain sorghum, oats, rye, and wheat.

(e) The ARR for barley, corn, grain sorghum, oats, rye, and wheat will be established individually on a daily basis in each county based upon the previous day's market prices at appropriate U.S. terminal markets, as determined by CCC, adjusted to reflect quality and location.

(f) To the extent practicable, CCC shall determine and announce the repayment levels for each crop of a commodity as follows:

(1) On a weekly basis for rice and oilseeds, except soybeans, and

(2) On a daily basis for barley, corn, grain sorghum, oats, rye, soybeans, and wheat.

(g) The difference between the loan level, excluding charges and interest, and the loan repayment level is the market gain. The total amount of any market gain realized by a producer is limited in accordance with the regulations at part 1497 of this title.

* * * * *

Signed on February 26, 1993 at Washington, DC.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93–4916 Filed 3–1–93; 10:58 am]

BILLING CODE 3410–05–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM–50–58]

Virginia Electric and Power Company; Filing of a Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking.

SUMMARY: The Virginia Electric and Power Company has submitted a petition for rulemaking requesting that the Nuclear Regulatory Commission (NRC) amend its current regulations governing domestic licensing of production and utilization facilities, as necessary, to change the frequency of required emergency planning exercises to biennially instead of annually. The proposed amendment would require each licensee to conduct, at each site, an integrated exercise every 2 years and to otherwise ensure that their emergency response capabilities are maintained during the 2-year interval. The petitioner believes that the requirement for each licensee at each site to annually conduct an emergency plan exercise is but one of many indicators designed to provide reasonable assurance that actions can and will be taken during an emergency situation that will provide for the health and safety of the public.

DATES: Submit comments by May 3, 1993. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch. For a copy of the petition, write Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, Washington, DC 20555, Telephone: (301) 492–7758 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION:

Background

The NRC has received a petition for rulemaking submitted by the Virginia Electric and Power Company. The petition was assigned Docket No. PRM–50–58 on December 16, 1992. The petitioner has requested that the NRC amend appendix E, section IV, F.2., to 10 CFR Part 50, "Emergency Planning and Preparedness for Production and Utilization Facilities," to change the requirement that each site exercise its emergency plan biennially rather than annually. The petitioner's proposed amendment would require each licensee to conduct a biennial integrated exercise of the emergency plan at each site and to take actions necessary to ensure that its emergency response capability is maintained during the 2-year interval. The petitioner believes that the annual graded exercise is but one of many indicators designed to provide reasonable assurance that actions can and will be taken during an emergency situation that will provide for the health and safety of the public.

The petitioner quotes 10 CFR part 50, appendix E, section IV, F.2., which states that "each licensee at each site shall annually exercise its emergency plan." The petitioner contends that although not explicitly defined in the rule, this statement has been interpreted throughout the industry to require that each licensee at each site annually conduct an integrated exercise which will be evaluated by the NRC.

The petitioner indicates that regulations governing the frequency of State and local emergency planning exercises have been in place since 1984. According to the petitioner, these regulations require a biennial exercise of State and local emergency plans. Therefore, the petitioner contends that the requirement for an annual integrated exercise for the onsite organization is inconsistent and must be clarified.

The petitioner states that emergency preparedness programs throughout the industry are designed to achieve and maintain an adequate level of emergency response capability. As defined by NUREG–0654/FEMA–REP–1, Rev. 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," a joint Nuclear Regulatory Commission/Federal Emergency Management Agency (NRC/FEMA) report published in November 1980,[1] an exercise is an event that tests the integrated capability and major portions of the basic elements existing within emergency preparedness plans and organizations. The petitioner contends, therefore, that an exercise is designed to merely confirm the level of response. As confirmation, an annual exercise is not necessary to achieve the underlying intent of the rule which is to attain an acceptable level of emergency preparedness. Further, because the annual exercise is the primary mechanism presently used by the NRC to evaluate readiness, the resources dedicated to this event are naturally more focused on exercise performance than on emergency preparedness. The petitioner states that because of the effectiveness of the emergency preparedness program, the annual graded exercise merely represents a separate means for the NRC to evaluate the licensee's performance. The petitioner believes that the graded exercise has, in effect, become an end unto itself.

The petitioner states that the response of offsite response organizations during exercises performed over the past 8 years has demonstrated that a biennial frequency is sufficient to provide reasonable assurance to protect the health and safety of the public. During this time, there has been no indication of a need to increase the frequency of the demonstration. The petitioner states further that although it is recognized that the Commission retained the annual frequency requirement for licensees when it amended its regulations in 1984 to allow State and local governments to participate in emergency preparedness exercises every 2 years, the request to amend 10 CFR part 50 is implicitly supported by another part of the *Code of Federal Regulations*. The petitioner contends that regulations issued by FEMA at 44 CFR 350.9, by virtue of the stated requirements for offsite response organizations, recognize that, within the context of that regulation, the biennial conduct of an exercise is sufficient to demonstrate that protective measures can and will be taken in the event of an accident, thereby providing reasonable assurance of the health and safety of the public. Further, it is noted that provisions for giving the States and local response organizations the opportunity to participate in the licensee's drill and exercise program could be easily accommodated independent of petitioner's proposed rule change.

The petitioner states that technological advancements and applications have served to greatly enhance and automate accident assessment activities employed during an emergency response for both the licensee (through the use of Safety Parameter Display System and dose assessment computer models) and the Federal Government (through the use of the Emergency Response Data System and RASCAL, which is a computer dose assessment model). Improvements to equipment and facilities and programmatic enhancements within the nuclear emergency preparedness

[1] Copies of NUREGs may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P. O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and/or copying at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

discipline over the past decade have elevated the level of response capability throughout the industry. As evidence, the petitioner refers to the results of the Systematic Assessment of Licensee Performance (SALP) program, a mechanism employed by the NRC to assess, among other things, emergency preparedness indicators. The petitioner indicates that during the period between 1980 and 1992, the industry-averaged SALP rating for emergency preparedness improved from 2.29 to 1.26. The overall average for emergency preparedness SALP ratings for this 12-year period is 1.61.

The Petitioner

The petitioner is a U.S. commercial nuclear power reactor licensee for North Anna Power Station, Units 1 and 2, and Surry Power Station, Units 1 and 2. The petitioner states that emergency planning regulations, promulgated as a result of the March 1979 accident at Three Mile Island, govern virtually all aspects of a licensee's emergency preparedness program and that they have done much to lay the basis for a structured formal response capability. The petitioner further states that maintenance and verification of emergency response capability are accomplished through programs that ensure the adequacy and effectiveness of plans, procedures, facilities, equipment, response personnel, and performance demonstrations. The petitioner focuses the petition on the need to conduct an annual exercise to ensure the adequacy of the emergency response capability. The petition is based on the petitioner's belief that the annual exercise is only one of many indicators designed to provide reasonable assurance that actions can and will be taken during an emergency situation that will protect the health and safety of the public.

The petitioner believes that the proposed amendment to 10 CFR part 50 would do nothing to undermine the provisions already in place for ensuring that identified deficiencies resulting from the conduct of an exercise are corrected. Further, both 10 CFR 50.47(b)(14) and appendix E, section IV, F.4., would remain unchanged.

Need for the Suggested Amendments

The petitioner states the current annual testing requirement of a licensee's emergency response capability exceeds the threshold needed for determining the adequacy of the level of response. Therefore, the adoption of a biennial demonstration frequency would allow an increase in cost efficiency for industry and the Federal Government. Emergency preparedness exercises conducted in 1990 and 1991 have averaged a total of approximately $20,000 per inspection in NRC fees for the Virginia Electric and Power Company. The petitioner estimates that each exercise costs approximately $200,000 in resource commitments for the company. The approximately 450 personnel required for each exercise could be more effectively utilized in their normal function rather than by participating in an unneeded test of response capability.

Furthermore, the petitioner states that, based on experience, approximately 750 staff hours are expended during the development of an exercise scenario. Emergency planning resources, therefore, could be more effectively applied to the development and maintenance of emergency preparedness activities rather than exercise demonstration activities such as exercise scenario development, controller organization preparations, organizational impact evaluation, and facility availability determination (e.g., control room simulator time).

The petitioner characterizes the present requirement as one that is resource intensive but of marginal importance to safety. The petitioner has identified a number of issues associated with the current requirement to conduct an emergency plan exercise annually as grounds for change. The issues are as follows:

(1) The requirement to conduct an integrated annual exercise is not clearly defined; therefore the regulation should be clarified.

(2) The existing regulation, 10 CFR part 50, appendix E, is inconsistent with other regulations that govern the frequency of offsite response organization integrated exercises (i.e., 44 CFR part 350).

(3) The performance of offsite response organizations during biennial exercises has confirmed that a biennial frequency is sufficient to provide the reasonable assurance finding.

(4) The existing regulation, 10 CFR 50.54(t), provides for an independent review of the adequacy of program implementation.

(5) The existing requirement to conduct an annual exercise is not necessary to achieve the underlying purpose of the rule. A biennial exercise is sufficient to provide an acceptable formal confirmation of capability.

(6) Reconsideration of the requirement is warranted in light of the completion and implementation of enhanced emergency preparedness facilities, the current level of industry proficiency and performance, and the increased industry sensitivity to emergency preparedness.

(7) Personnel could be more effectively utilized in their normal professional function rather than by participating in a resource-intensive integrated test that only serves to confirm the already existing level of the response capability.

(8) Emergency planning resources could be more effectively utilized to further the development and maintenance of emergency preparedness activities.

The Solution

The petitioner requests that the NRC amend its regulations governing domestic licensing of production and utilization facilities, as necessary, to change the requirement that each licensee exercise its emergency plans for each site biennially rather than annually and to otherwise ensure that its emergency response capability is maintained during the 2-year interval. The petitioner requests that the NRC modify the existing regulation to provide greater clarification by explicitly defining the requirement.

The Petitioner's Suggested Amendments

Petitioner requests that the NRC—

1. Amend Section IV, paragraph F.2., of Appendix E to 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," to read as follows:

"Each licensee at each site shall conduct an integrated exercise every 2 years. The licensee shall take actions necessary to ensure the emergency response capabilities are maintained during the 2-year interval."

2. Amend Section IV, paragraph F.3.(f), of Appendix E to 10 CFR Part 50 to read as follows:

"Licensees shall enable any State or local government located within the plume exposure pathway EPZ to participate in exercises when requested by such State or local government."

3. Revise Section IV, paragraph F.2., of Appendix E to 10 CFR Part 50 to provide greater clarification regardless of any action taken to amend the existing rule. Although not explicitly defined in the regulation, it has been interpreted throughout the industry that the regulation requires each licensee to annually conduct, at each site, an integrated exercise that will be evaluated by the NRC.

Requests for Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing discussion.

Dated at Rockville, Maryland, this 26th day of February 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–4943 Filed 3–3–93; 8:45 am]

BILLING CODE 7590–01–P

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10 CFR Part 60

[Docket No. PRM–60–4]

States of Washington and Oregon: Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM–60–4), submitted by the States of Washington and Oregon, which deals with the process and criteria for classifying radioactive waste materials at defense facilities as high-level radioactive waste (HLW) or as non-HLW. (As noted in the petition, certain facilities for the storage of HLW are subject to NRC licensing authority.) The petition is being denied because the NRC concludes that the principles for waste classification are well established and can be applied on a case-by-case basis without revision to the regulations.

ADDRESSES: Copies of the petition for rulemaking, the public comments received, and the NRC's letter to the petitioner are available for public inspection or copying in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Naiem S. Tanious, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3878.

SUPPLEMENTARY INFORMATION:

I. The Petition

The States of Washington and Oregon, and the Yakima Indian Nation, initially submitted a petition for rulemaking on this subject on January 2, 1990. On February 7, 1990, the NRC staff conferred with the petitioners as contemplated by paragraph (b) of 10 CFR 2.802. In response to suggestions by the NRC staff, the petition was clarified and resubmitted (by the States of Washington and Oregon) on July 27, 1990.

On December 17, 1990, the Nuclear Regulatory Commission published a notice of receipt of the petition for rulemaking (55 FR 51732). The petition requested that the Commission revise the definition of "high-level radioactive waste" (HLW) so as to establish a procedural framework and substantive standards by which the Commission will determine whether reprocessing waste, including in particular certain waste stored at the U.S. Department of Energy's (DOE) site at Hanford, Washington, is HLW and, therefore, subject to the Commission's licensing authority.

The petitioners request that the Commission amend 10 CFR 60.2 to clarify the definition of HLW and the definition of "HLW facility." The petitioners specifically request that the Commission:

1. Establish a process to evaluate the treatment of defense reprocessing wastes in tanks so that such wastes will not be considered HLW if, prior to disposal, each tank is treated to remove the largest technically achievable amount of radioactivity; and

2. Require that the heat produced by residual radionuclides, together with the heat of reaction during grout processing (if employed as a treatment technology), will be within limits established to ensure that grout meets temperature requirements for long-term stability for low-level waste forms.

The petitioners state that the petition for rulemaking is based, in part, on Section 202 of the Energy Reorganization Act of 1974 (ERA), which provides for the Commission to exercise licensing and related regulatory authority over "facilities authorized for the express purpose of subsequent long-term storage of high-level radioactive wastes generated by [DOE] which are not used for, or are part of, research and development activities."

According to the petitioners, the legislative history of the ERA reveals that Congress intended the Commission to license defense reprocessing tank wastes at the point of long-term storage or disposal. The petitioners note that "low-fraction wastes" resulting from pretreatment of tank wastes are scheduled to be grouted and disposed of in land-based grout vaults on the Hanford site in accordance with regulations developed under the Resource Conservation and Recovery Act (RCRA). The petitioners believe that if these wastes are HLW, they clearly fall under the Commission's licensing jurisdiction under Section 202(4) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842(4)).

The petitioners acknowledge that the present definition of HLW in the Commission's regulations is based upon the source of the waste, and that "incidental waste" generated in the course of reprocessing is not HLW. (The latter point is evident from the proposal to amend 10 CFR 60.2 to provide that a residual fraction would be "considered an incidental waste and, therefore, not HLW.") The petitioners claim, however, that wastes stored in tanks at Hanford cannot practicably be classified as incidental waste (as opposed to HLW) because the tanks contain a mixture of wastes from a number of sources, including reprocessing of reactor fuel. Moreover, the petitioners state that radionuclide inventories are estimates subject to substantial uncertainty, owing to lack of accurate records. Further, the petitioners assert that neither DOE, the Commission, nor the petitioners have adequate information regarding the source and composition of the tank waste. Hence, the petitioners believe that the Commission needs to establish both a procedure and a standard for making an evaluation as to whether wastes are HLW on a tank-by-tank basis.

The petitioners assert that the proposed amendment is essential to provide protection of the future health and safety of the citizens of the Pacific Northwest.

II. Classification of DOE Reprocessing Wastes

At Hanford and other sites, questions have arisen regarding the classification of reprocessing wastes for which DOE must provide disposal. In the long-standing view of the Commission, these questions must be resolved by examining the source of the wastes in question. The reason for this is that when Congress assigned to NRC the licensing authority over certain DOE facilities for "high-level radioactive wastes," the Congress was referring to those materials encompassed within the meaning of the term "high-level radioactive waste" in Appendix F of 10 CFR Part 50. (For a full statement of this position, see the discussion presented in the Commission's advance notice of proposed rulemaking, "Definition of High-Level Radioactive Waste" (52 FR 5993, February 27, 1987).) Accordingly, any facility to be used for the disposal of "those aqueous wastes resulting from the operation of the first cycle solvent extraction system, or equivalent . . ." as HLW is defined in Appendix F to Part 50, must be licensed by the NRC. Most of the waste storage tanks at Savannah River (South Carolina), West Valley (New York), and Hanford contain wastes that meet this definition, and the facilities to be used for disposal of these wastes are, therefore, potentially subject to NRC licensing jurisdiction.

However, when the Appendix F definition was promulgated, the Atomic Energy Commission specifically noted that the term HLW did not include "incidental" waste resulting from reprocessing plant operations, such as ion exchange beds, sludges, and contaminated laboratory items, such as clothing, tools, and equipment. Neither were radioactive hulls and other irradiated and contaminated fuel structural hardware encompassed by the Appendix F definition. Under the same reasoning, as the Commission has previously indicated, incidental wastes generated in further treatment of HLW (e.g., salt residues or miscellaneous trash from waste glass processing) would be outside the Appendix F definition.

In the cases of Savannah River and West Valley wastes, DOE plans to retrieve the wastes from their storage tanks and to separate essentially all of the radioactive materials for eventual disposal in a deep-geologic HLW repository.[1] Accordingly, the projected recovery of HLW from the wastes in tank storage at those sites will be sufficiently complete that the decontaminated salts and other residual wastes are classified as "incidental" (i.e., non-HLW). The NRC will have no regulatory authority, under Section 202 of the Energy Reorganization Act, over DOE's facilities to be used for processing and disposal of the incidental waste.

At Hanford, DOE plans to process the wastes presently stored in double-shell tanks in a manner similar to that planned for the wastes at Savannah River and West Valley. Such processing would separate most of the radioactive constituents of the wastes for eventual deep-geologic repository disposal and, the residual salts would be disposed of onsite in a shallow, near-surface concrete-like grout facility. (Plans for processing of single-shell tank wastes have been deferred.) However, classification of the Hanford double-shell tank wastes has proven more difficult than classification of Savannah River and West Valley wastes. At Hanford, many of the primary reprocessing wastes were generated using older separation technologies, which resulted in substantial dilution of those wastes with nonradioactive materials. In addition, many of the tanks at Hanford contain mixtures of wastes from both reprocessing sources and other sources. Finally, recordkeeping at Hanford was not always thorough enough to allow precise determinations of the origins of the wastes now present in specific tanks at Hanford. For these reasons, some of the Hanford tank wastes cannot be readily classified as either HLW or incidental wastes using only the definitions and concepts discussed above.

Taking into account these uncertainties and their implications with respect to NRC jurisdiction, the NRC and DOE staff held several meetings to explore the situation in detail. A principal objective of these meetings was to ascertain, to the extent practicable, whether some or all of the wastes should be regarded as HLW and whether, on the other hand, some or all of the wastes should be classified as non-HLW. Several things became clear as a result of these meetings.

First, management records were adequate for DOE to determine that two double-shell waste tanks do not contain wastes from reprocessing of reactor fuels. Therefore, these wastes clearly do not contain HLW within the Appendix F definition. The NRC agreed with DOE that any disposal facility intended exclusively for these wastes would not be subject to NRC licensing authority.

Second, DOE has carried out a "material balance" analysis of waste management activities at Hanford. This analysis estimated the total amount of "first cycle reprocessing wastes" generated at Hanford and, to the extent practical, the current location of those wastes. The DOE proposed onsite grout disposal of the residual waste from the double-shell tank waste processing would be only a small fraction of the reprocessing wastes originally generated at the site.

Finally, DOE studied possible technologies for additional waste processing, and agreed to remove the largest practical amount of radioactive material from double-shell tank wastes prior to disposal in onsite grout facilities. This commitment by DOE, coupled with the material-balance study indicating that most of the originally-generated radioactive material would be recovered, led the NRC staff to conclude that the residual waste material should be classified as incidental waste, since they are wastes incidental to the process of recovering HLW. With this classification, DOE could proceed with onsite disposal of such incidental wastes in a grout facility without licensing by the NRC. It should be noted that if the DOE processing operations go as planned, the residual activity of these incidental wastes would be below the concentration limits for Class C wastes under the waste classification criteria of 10 CFR part 61.

Following its review, the NRC staff, by letter dated September 25, 1989, from R.M. Barnero, Director, Office of Nuclear Material Safety and Safeguards, NRC, to A.J. Rizzo, Assistant Manager for Operations, Richland Operations Office, DOE, endorsed DOE's plans to sample and analyze the grout feeds before disposal in an effort to control the final composition of the grout feed. However, the staff indicated that if DOE were to find, in the course of conducting the sampling program, that the inventories of key radionuclides entering the grout facility are significantly higher than previously estimated, DOE should notify the NRC and other affected parties in a timely manner.

It should be noted that the appropriate classification of some Hanford wastes remains to be determined—specifically, any single-shell tank wastes, and any empty but still contaminated waste tanks DOE might dispose of in-place. For both types of wastes, a case-by-case determination of the appropriate waste classification might be necessary.

III. Discussion

The petition for rulemaking presents two basic issues. The question is not whether "high-level waste" should be interpreted by reference to the source-based concepts derived from appendix F to 10 CFR part 50. The petitioners agree that this is proper. Nor is there any fundamental challenge to the concept that "incidental wastes" are excluded from the definition of "high-level waste." The issues are much narrower ones. The first issue is a substantive one—the criteria to be applied in differentiating incidental waste from high-level waste. The second issue is a procedural one—the process that should be employed by the Commission in arriving at a judgment whether or not it has jurisdiction over particular facilities. These will be addressed in turn.

A. The Standard for Classification

We first address the standard that should be employed in distinguishing high-level waste from incidental waste. In doing so, we strive to apply the policies that underlie the adoption of appendix F to 10 CFR part 50 (and, hence, section 202 of the Energy Reorganization Act).

[1] See 52 FR 5992, February 27, 1987 (definition of "high-level waste"), n. 1, where the Commission characterizes as "incidental waste," the decontaminated salt with residual activities on the order of 1,500 nCi/g Cs-137, 30 nCi/g Sr-90, 2 nCi/g Pu, as described in the Department of Energy's FEIS on long-term management of defense HLW at the Savannah River Plant, DOE/EIS–0023, 1979. Although an EIS has not yet been published for the West Valley Demonstration Project, preliminary estimates indicate the likelihood of an equivalent degree of separation.

The petitioners suggest that the proper standard, to be applied on a tank-by-tank basis, is to consider all processing streams to be high-level waste unless they have been treated, prior to disposal, "to remove the largest technically achievable amount of radioactivity." Adoption of such a criterion would certainly serve the goal, which had been contemplated by the Commission, of removing the hazardous process streams to a geologic repository for permanent storage. It is not the only standard, however, that would suffice for this purpose, particularly when it is viewed in a broader regulatory context.

The clearest expression of the overall regulatory objectives is the Atomic Energy Commission's (AEC's) explanatory statement when it promulgated appendix F—namely, "that the public interest requires that a high degree of decontamination capability be included in such facilities and that any residual radioactive contamination after decommissioning be sufficiently low as not to represent a hazard to the public health and safety." 35 FR 17530, November 14, 1970. As we read the AEC's intent, the reference to "a high degree of decontamination capability" leaves a substantial degree of discretion. It certainly does not rule out consideration of economic factors as well as technical ones. It was the AEC's contemporaneous practice to consider financial impacts as, for example, in controlling releases of radioactive materials from licensed facilities to the lowest levels "technically and economically practical." AEC Manual Chapter 0511. When the AEC spoke of a "high degree" of decontamination capability, we believe that it was guided by similar considerations. Moreover, from a policy standpoint, this makes good sense, for so long as there is adequate protection of public health and safety, it would not be prudent to expend potentially vast sums without a commensurate expectation of benefit to health and the environment.

Achieving a "high degree of decontamination capability" implies, then, that the facility should separate for disposal as much of the radioactivity as possible, using processes that are technically and economically practical. In addition, however, as the AEC's statement indicates, the residual radioactive contamination should be sufficiently low as not to endanger public health and safety.

These principles—high decontamination capability and protection of health and safety—are the essential benchmarks that have influenced the development of NRC's position vis-a-vis DOE on the question of the proper classification of the tank wastes and grout at Hanford.

When the question regarding classification of wastes was first raised, the NRC staff identified to DOE some approaches that might be used in distinguishing HLW from incidental waste. One approach was expressed as follows:[2]

> As an alternative approach, we suggest that DOE attempt an overall material balance for HLW at the Hanford site, using the source-based meaning of HLW. It is hoped that this approach might provide a more efficient means of identifying those wastes subject to licensing by NRC under terms of the 1974 Energy Reorganization Act. Under this approach, if DOE could demonstrate that the largest practical amount of the total site activity attributable to "first-cycle solvent extraction" wastes has been segregated for disposal as HLW, then NRC would view the residual as a non-HLW. We would anticipate that at least 90 percent of the activity would have been separated in this way. Thus, if it can be shown that DOE has processed the waste with the intent to dispose of the HLW in a repository or other appropriate licensed facility, leaving behind only a small fraction of only moderately radioactive material, then the goals stated in 10 CFR part 50 appendix F and incorporated in the Energy Reorganization Act would have been satisfied; and the disposal of the residual would accordingly not be subject to NRC licensing.

In response, DOE considered the practicality of various waste processing alternatives and presented the results of its study by letter dated March 6, 1989.[3] The results were also presented at a meeting among interested parties, including the petitioners, held on August 4, 1989. (Minutes of the meeting are available for public inspection in the NRC Public Document Room) DOE's "baseline" disposal plans would have recovered all but about 12–13 million curies of cesium-137, together with lesser activities of strontium-90, transuranics, and other radionuclides.[4] DOE's study indicated the practicality of removing an additional 6 million curies of cesium-137 for repository disposal. DOE proposed to remove this additional 6 million curies of cesium-137. DOE also identified additional treatment alternatives, with their associated costs, which it viewed as not being economically practical. DOE's material balance showed that, after the residue from the double-shell tank wastes is grouted, 2 to 3 percent of the key radionuclides which originally entered all Hanford tanks would be disposed of as LLW in near-surface vaults. The concentrations of radionuclides in the grout would be comparable to Class C for cesium and transuranic wastes, and to Class A or B for the remainder.[5] DOE also noted certain engineering and institutional factors that might compensate, especially as to potential intrusion hazards, for the possibility that the total amount of waste that would be grouted would be greater than the amount of Class C waste that might be contained in a typical commercial burial ground.

Based on its review of DOE's March 6, 1989 submission, the NRC staff concluded that DOE's proposed processing would remove the largest practical amount of total site activity, attributable to HLW, for disposal in a deep geologic repository. This finding was based on: (1) Past and planned treatment of the tank wastes; (2) radionuclide concentration and material balance; and (3) cost-effectiveness of additional radionuclide removal. These conclusions reflected DOE's undertakings both to achieve a high degree of separation and to provide protection of public health and safety. As a result, the staff concluded that the expected residual waste would not be high-level waste and would thus not be subject to NRC licensing authority. The staff thereupon advised DOE that NRC agreed that the criteria used by DOE for classification of the grout feed are appropriate and that the grout facility for the disposal of the double-shell tank waste would not be subject to NRC licensing authority.[6]

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[2] Letter from Michael J. Bell, Chief, Regulatory Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards, NRC, to Ronald E. Gerton, Director, Waste Management Division, Richland Operations Office, DOE, November 29, 1988. The letter included some "suggested criteria" involving a "good faith" effort to achieve isolation of HLW from nonradioactive salts, such an effort to be judged, as a practical matter, by considering (among other things) alternative separation processes.

[3] Letter from A. J. Rizzo, Assistant Manager for Operations, Richland Operations Office, DOE, to Robert M. Bernero, Director, Office of Nuclear Materials Safety and Safeguards, NRC, March 6, 1989.

[4] DOE noted in the March 6, 1989 letter from Rizzo to Bernero that, based on limited available analytical data, the total cesium-137 could be as much as 20 million curies versus the 12–13 million estimate.

[5] NRC understood this statement to connote that cesium-137 and transuranic radionuclides in the residual waste would be less than the concentration limits for Class C low-level waste, as defined in NRC's requirements in 10 CFR Part 61, and that the concentration of other radionuclides would be less than the concentration limits for Class A or B low-level waste.

[6] Letter from Robert M. Bernero, Director, Office of Nuclear Material Safety and Safeguards, NRC, to A. J. Rizzo, Assistant Manager for Operations, Richland Operations Office, DOE, September 25, 1989. The letter also called upon DOE to advise NRC periodically of the analytical results of samples of key radionuclides entering the grout facility, so that the classification of the waste might be reconsidered if the inventories were significantly higher than DOE had estimated.

At a meeting in Richland, Washington on July 16, 1992, DOE staff presented more detailed double-shell tank waste processing options and, based on recent analyses, summarized available information on the characteristics of waste within the tanks. DOE's current estimate of the total amount of radioactivity proposed for disposal in grout in near-surface vaults is within earlier range estimates but is now believed to be nearer the upper end of the range. DOE also clarified its intention to apply criteria comparable to the Performance Objectives set out in 10 CFR part 61. Among other things, these performance objectives include numerical radiation exposure limits for protection of the general population from releases of radioactivity and requires a design to achieve long-term stability of the disposal site.

DOE intends to complete a reassessment of the tank waste processing options by March 1993. This reassessment, the NRC staff understands, will include a reexamination of the practicality of achieving higher degrees of separation, particularly with respect to those tanks that contain substantial quantities of key radionuclides.

Assuming implementation of DOE's plans as described above, the Commission concludes that any radioactive material from the double shell tanks that is deposited in the grout facility would not be high-level radioactive waste subject to NRC's licensing jurisdiction. The responsibility for safely managing those wastes rests with the Department of Energy. The basis for the Commission's conclusion is that the reprocessing wastes disposed of in the grout facility would be "incidental" wastes because of DOE's assurances that they: (1) Have been processed (or will be further processed) to remove key radionuclides to the maximum extent that is technically and economically practical; (2) will be incorporated in a solid physical form at a concentration that does not exceed the applicable concentration limits for Class C low-level waste as set out in 10 CFR part 61; and (3) are to be managed, pursuant to the Atomic Energy Act, so that safety requirements comparable to the performance objectives set out in 10 CFR part 61 are satisfied.

The petitioners also requested that the Commission exercise oversight to assure that the grout meets temperature requirements for low-level waste forms. They acknowledge that DOE's vault design is protective of human health and the environment if heat produced by residual radioactivity, together with heat generated from reactions during the grout process, is kept within defined limits. They present no technical data to suggest that achievement of these temperature controls presents any unusual engineering challenge. In any event, inasmuch as the Commission does not consider the grout produced in accordance with DOE's plans to be high-level waste, it does not have the authority to carry out this oversight function.

B. Procedural Issues

1. Whether Rulemaking Is Necessary and Desirable

The petitioners urge that the Commission initiate rulemaking procedures that would result in the establishment of substantive criteria for determining whether particular radioactive wastes either are or are not high-level waste. Generally, a decision whether to proceed by rulemaking (as requested) or to make determinations in individual, *ad hoc* litigation lies within the informed discretion of the cognizant administrative agency. Rulemaking is most appropriate where an agency seeks to establish a general principle, having prospective effect, to be applied in a wide variety of factual contexts. Where the issue before an agency involves the application of law to a very specific existing fact situation, especially where that situation is not representative of other matters that may need to be decided by the agency, then it is clearly more efficient and more to the point to decide by a process of adjudication (i.e., on a case-by-case basis).

Applying these principles to the petition at hand, the Commission has little difficulty in concluding that rulemaking is neither necessary nor desirable. Reprocessing wastes are located at only four principal locations in the United States. The Commission has previously determined that the residual contamination anticipated from proposed operations at Savannah River should be characterized as incidental waste and not high-level waste (see 52 FR 5993, Feb. 27, 1987, cited above, at footnote 1.) Wastes generated at the Idaho Chemical Processing Plant are markedly different from those at Hanford and Savannah. Therefore, if questions about classification of the Idaho wastes should arise, precedents established at Savannah River and Hanford might be difficult to apply. Any wastes at the Western New York Nuclear Service Center will require treatment in accordance with the applicable provisions of the West Valley Demonstration Project Act.

The limited practical effect of the decision—i.e., restricted to the Hanford tanks—is reason enough to proceed by way of adjudication instead of rulemaking. The Commission is persuaded further by the need to avoid making premature decisions with respect to the wastes stored at Hanford in single-shell tanks that are not the subject of pending treatment plans. If the Commission were to establish rules to apply to the wastes remaining in those tanks, our inquiry would have to be greatly broadened; and it might become necessary to consider a wide range of situations that might or might not ever come to pass in the future.

2. Whether the Commission Is Adequately Informed

Petitioners suggest that their proposed procedures, which include detailed tank-by-tank assessments, are necessary to ensure confidence in the treatment process employed by DOE and to build confidence that the treatment standard is being met.

The issue to be decided by the Commission is a much narrower one: It is merely to determine whether the activities being undertaken by the Department of Energy fall within the NRC's statutory jurisdiction. As in the case of other persons whose activities may fall within our regulatory sphere, the Commission may from time to time demand information so as to be able to determine whether or not to initiate an enforcement action. The NRC staff has acted in this manner in its inquiries to DOE. It has obtained and evaluated information that is relevant and material to a determination whether or not the proposed activities of the DOE are subject to NRC licensing jurisdiction. All the information obtained and evaluated has been made available contemporaneously to the public.

Moreover, as a practical matter, NRC recognized the uncertainties associated with the projected radionuclide inventories in the tank wastes and endorsed DOE plans for sampling and analyzing the grout feeds before disposal. The objective of these efforts is to control the final composition of the grout wastes. If DOE finds that it can no longer assure that these wastes will be managed in accordance with the criteria previously discussed, DOE should notify NRC.

If a standard of "largest technically achievable amount * * * will be isolated" were to be applied, then the facts submitted by DOE might not be sufficient to conclude that NRC lacked jurisdiction. However, the proper standard includes considerations of economical practicality as well. As

indicated in an earlier part of this decision, the Commission has obtained information that is sufficient for this purpose.

3. Future Adjudications

The petitioners contemplate that if a rule were to be adopted in accordance with their proposal, particular determinations of how specific wastes would be characterized would be "left to individual adjudicative proceedings." The NRC infers that the "proceedings" contemplated by petitioners are licensing activities of the kinds specified in Section 189 of the Atomic Energy Act, as amended, 42 U.S.C. 2239. Adjudications in this type of proceeding are in some cases to be conducted in accordance with the hearing provisions of subpart L of 10 CFR part 2.

These procedures are often appropriate with respect to activities that are subject to NRC regulatory and licensing authority. However, the NRC is reluctant to employ them in the context that is proposed—to determine whether NRC has jurisdiction in the first place. To do so would entail the conduct of an adjudicatory proceeding in order to see whether another adjudicatory licensing proceeding must be held. More importantly, the Commission considers that the existing record contains all the factual information needed for a decision and that no unresolved material factual issues remain that would require further proceedings.

4. Other Considerations

While both NRC and DOE have focused their attention upon the meaning of the statutory term "high-level waste" and its application to the materials in storage at Hanford, other considerations might come into play in determining whether or not DOE activities are subject to licensing. In particular, it should be recalled that NRC exercises licensing authority under section 202(4) only as to "facilities authorized for the express purpose of subsequent long-term storage of [DOE-generated] high-level waste." The content of individual waste tanks is by no means dispositive of the question whether the facilities for storage of the treated waste are subject to licensing. A number of other factors may be relevant and material as well: (1) What are the limits, geographically and functionally, of "facilities"; (2) have those facilities been "authorized" (and by whom is such authorization required); and (3) have those facilities been authorized "for the express purpose of subsequent long-term storage of high-level waste" where those who may authorize the facility make no express mention of high-level waste? It is not necessary for the Commission to address these questions at length in order to dispose of the pending petition.

IV. Public Comments on the Petition

The NRC received letters from 12 commenters. Two letters were from other Federal agencies, two were from public interest groups, one was from a nuclear industry corporation, and seven were from private individuals. Most comments were opposed to the petition.

A. Process and Standards Proposed in Petition

Several comments expressed concern that granting the petition would have an adverse effect on the timely disposal of radioactive waste at Hanford. This was a concern because many of the Hanford waste tanks were seen as nearing or exceeding their design life. The provisions of the rulemaking proposed in the petition were viewed as limiting DOE's flexibility in selecting the most effective processes for waste treatment and disposal. The petitioner's request that "best available technology" be used in removing HLW material from the tank wastes was seen as ignoring costs of disposal, exposures to workers, and environmental impacts.

Some comments disputed the petitioner's claim that the rulemaking proposed in the petition would offer a better process for classification and disposal of the Hanford tank wastes. These commenters did not see any advantage in the proposed process over the process for classification and disposal currently in use. One comment suggested that the Commission's rulemaking requiring disposal of Greater-than-Class C waste in a geologic repository or Commission-approved alternative (53 FR 17710, May 19, 1989) might force DOE to allocate resources to handle the hazards, rather than to waste further time fruitlessly searching for ways to remove more and more activity from one part of the waste. The action proposed by the petitioners was viewed as not increasing the safety of disposal of the waste.

The Commission believes that adherence to the standard of technical and economic practicality generally reflects agreement with these comments.

B. Creation of a Risk-Based Classification System

Several comments, while noting that the rulemaking proposed by the petition would not do so, favored creation of a risk-based system of radioactive waste classification.

The Commission has previously addressed the costs and benefits of creating a new system of radioactive waste classification. Its rationale for not doing so is outlined in the statement of considerations to the proposed part 61 rulemaking on disposal of Greater-than Class C waste (53 FR 17709, May 18, 1988). Further consideration of these issues is beyond the scope of this proposed rulemaking action.

C. NRC Licensing Authority

Some comments focused on the licensing authority of NRC over the Hanford tank wastes. DOE stated that the rulemaking suggested in the petition would involve NRC in regulation of DOE's predisposal waste treatment and processing activities, which would be inconsistent with NRC authority to license specific DOE facilities under the Energy Reorganization Act of 1974. Another commenter stated that the proposed rulemaking was inconsistent with the statutory responsibilities of DOE and NRC. These arguments have already been discussed, and require no further response. It may be emphasized, however, that even if the Commission were found to have jurisdiction over the disposal facilities, it would not regulate either the tanks themselves or the facilities being used to process the wastes in these tanks; and there is reason for concern that implementation of the petitioner's proposal might draw the Commission improperly into regulation of those facilities.

A commenter concluded that DOE was currently in violation of 10 CFR part 30 requirements for a license because various near-surface waste disposal facilities at Hanford are being used for "long-term storage" of high-level radioactive waste. The issue is not pertinent to the subject matter of the petition. However, in any case, the comment does not take into consideration the judicial interpretation of the term in *Natural Resources Defense Council, Inc.* v. *U.S. Nuclear Regulatory Commission*, 606 F.2d 1261 (D.C. Cir., 1979). The D.C. Circuit Court of Appeals ruled in this case in support of NRC's position that the tanks have not been authorized for use as long-term storage or disposal and are, therefore, not subject to NRC licensing.

D. Public Input

A number of comments stressed the importance of adequate public input into decision making regarding disposal of the Hanford tank wastes. Some called for public hearings on this subject to be held in the Pacific Northwest. One commenter noted that the EIS which was done for Hanford provided the

opportunity for public comment. Another commenter believed that the Commission's rulemaking procedures did not offer the public a better opportunity for input than does the current licensing procedure.

As indicated in the Discussion above, the NRC's review of the situation with respect to the double-walled tanks has been carried out publicly from the start. Meetings with DOE have been open, and at least one of the petitioners (the State of Washington) has been provided advance notice and an opportunity to attend. Documents have been placed in the Public Document Room and have been made available for public inspection. It appears to the Commission that the essence of the issue concerns the appropriate standard for evaluating whether certain wastes should be regarded as high-level waste or not. Sufficient factual information is available to carry out these evaluations. Also, the petition for rulemaking has afforded an opportunity for views to be expressed with respect to the appropriateness of the standard.

A decision that NRC lacks licensing jurisdiction does not mean that opportunities for public input will be denied. As DOE undertakes its waste management activities, it will afford opportunities for public participation to the extent required by its own enabling statutes, regulations, and orders.

E. Other Comments

One commenter took exception to the petitioner's claim that the radioactive inventory of the Hanford tank wastes was inadequately known. The commenter believed that the contents of the tanks can be bounded well enough to judge the relative safety of various disposal options.

The Commission considers the available information to be sufficiently bounded to enable it to conclude that DOE's proposed operations (with respect to the material stored in the double-shell tanks) can result in the removal from the Hanford double-shell tanks of as much of the radioactive waste as may be technically and economically practical, and that the applicable regulatory objectives have been satisfied. Once these judgments are made, it is not the NRC's role to judge the relative safety of various disposal options, and we decline to do so.

One comment stated that while the petition was aimed solely at the Hanford tank wastes, its provisions could potentially affect all radioactive wastes from reprocessing, including those at Savannah River, West Valley, and the Idaho National Engineering Laboratory. As the waste management programs at these other sites are in different stages of implementation, the impacts of the provisions would vary from site to site. As indicated above, the Commission is sensitive to this consideration yet believes that the specific case at hand only needs to be addressed at this time.

Some comments urged the Commission not to change the present definition of HLW. The Commission is not changing the present definition.

V. Conclusion

For the reasons presented in this document, the petition for rulemaking is denied.

Dated at Rockville, Maryland this 26th day of February, 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–4944 Filed 3–3–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–05–AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, that currently requires repetitive inspections of the wing main tank float switch electrical conduits for trapped water, and removal of the water, if found. This action would require installation of grease in the interior of the float switch conduits, which would terminate the requirement for repetitive inspections of the conduits. This action would also expand the applicability of the rule. This proposal is prompted by the development of a modification that would preclude the possibility for water to accumulate in the conduits. The actions specified by the proposed AD are intended to prevent fuel leakage from the wing main tanks, which could propagate down the wing leading edge cavity, on to the respective engine tail pipe, and cause an external fire under the wing.

DATES: Comments must be received by April 27, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–05–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Bray, Aerospace Engineer, Seattle Aircraft Certification Office, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2681; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number'93–NM–05–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate,

ANM-103, Attention: Rules Docket No. 93-NM-05-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

On September 12, 1991, the FAA issued AD 91-20-11, Amendment 39-8045 (56 FR 50042, October 3, 1991), to require repetitive inspections of the wing main tank float switch electrical conduits for trapped water, and removal of the water, if found. That action was prompted by several incidents of failure of the wing main tank float switch electrical conduits. The requirements of that AD are intended to prevent fuel leakage from the wing main tanks, which could propagate down the wing leading edge cavity, on to the respective engine tail pipe, and cause an external fire under the wing.

Since the issuance of that AD, the manufacturer has developed a modification, which would terminate the requirement for repetitive inspections of the wing main tank float switch electrical conduits required by AD 91-20-11. This modification would eliminate the possibility for water to accumulate in the conduits by installing grease, which is insoluble in fuel, in the airspace of the conduits.

The FAA has reviewed and approved Boeing Service Letter 737-SL-28-42, dated December 15, 1992, that describes procedures for the installation of grease in the interior of the float switch conduits. The manufacturer has accomplished this procedure, prior to delivery, on airplanes having line positions 2429 and subsequent. This service letter also adds airplanes to the effectivity; these additional airplanes have been identified as subject to the same unsafe condition as those airplanes listed in the effectivity of the service letter issued previously.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 91-20-11 to require installation of grease in the interior of the float switch conduits, which would terminate the requirement for repetitive inspections of the wing main tank float switch electrical conduits for trapped water. This action would also add airplanes to the applicability of the rule. The installation of grease would be required to be accomplished in accordance with the service letter described previously.

There are approximately 2,132 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 799 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S.operators is estimated to be $131,835, or $165 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-8045 (56 FR 50042, October 3, 1991), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 93-NM-05-AD. Supersedes AD 91-20-11, Amendment 39-8045.

Applicability: Model 737-300, -400, and -500 series airplanes, line positions through 2428, inclusive; and Model 737-200 series airplanes, equipped with DC powered fuel tank float switches; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the wing main tank float switch electrical conduits and subsequent fuel leakage resulting in an engine tail pipe fire, accomplish the following:

(a) For airplanes listed in Boeing Service Letter 737-SL-28-36, dated November 30, 1990: Within 90 days after November 7, 1991 (the effective date of AD 91-20-11, Amendment 39-8045), and thereafter at intervals not to exceed 1,500 flight hours, perform an inspection of the wing main tank float switch electrical conduits for fuel leakage and condensation build-up, in accordance with Boeing Service Letter 737-SL-28-36, dated November 30, 1990. If evidence of fuel leakage and/or water condensation is found while performing the initial or repetitive inspections, prior to further flight, purge and install a new vapor seal assembly in accordance with the Boeing service letter.

Note: The installation of a new vapor seal assembly does not terminate the requirement for the 1,500 flight hour repetitive inspection.

(b) For airplanes listed in Boeing Service Letter 737-SL-28-42, dated December 15, 1992, that are not subject to paragraph (a) of this AD: Within 90 days after the effective date of this AD, and thereafter at intervals not to exceed 1,500 flight hours, perform an inspection of the wing main tank float switch electrical conduits for fuel leakage and condensation build-up, in accordance with Boeing Service Letter. 737-SL-28-36, dated November 30, 1990. If evidence of fuel leakage and/or water condensation is found while performing the initial or repetitive inspections, prior to further flight, purge and install a new vapor seal assembly in accordance with the Boeing service letter.

Note: The installation of a new vapor seal assembly does not terminate the requirement for the 1,500 flight hour repetitive inspection.

(c) Within 3 years after the effective date of this AD, install grease in the interior of the wing main tank float switch electrical conduits in accordance with Boeing Service Letter 737-SL-28-42, dated December 15, 1992. Installation of grease in the conduits constitutes terminating action for the inspections required by paragraph (a) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 26, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–4919 Filed 3–3–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 92–NM–157–AD]

Airworthiness Directives; de Havilland, Inc., Model DHC–7 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–7 series airplanes. This proposal would require a one-time inspection to assess the adequacy of the clearance between the wing forward pick-up adapter plate and the seal retaining angle on the fuselage side access panel, and modification, if necessary; and a one-time inspection to assess the adequacy of the clearance between the wing rear mounting adapter plates and the seal retaining angle on the fuselage side access panel, and modification, if necessary. This proposal is prompted by reports of incidents involving corrosion and fatigue cracking in commuter-class airplanes that are approaching or have exceeded their economic design goal. These incidents have jeopardized the airworthiness of the affected airplanes. The actions specified by the proposed AD are intended to prevent degradation of the structural capabilities of the affected airplanes.

DATES: Comments must be received by April 27, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–157–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from de Havilland Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Sol Maroof, Aerospace Engineer, Airframe Branch, ANE–172, FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; telephone (516) 791–6220; fax (516) 791–9024.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–157–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–157–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In June 1988, the FAA sponsored a conference on aging airplane issues, which was attended by representatives of the aviation industry from around the world. It became obvious that, because of the tremendous increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes rather than retiring them, increased attention needed to be focused on this aging fleet and maintaining its continued operational safety.

The FAA, in concert with the Regional Airline Association (RAA); several U.S. and non-U.S. operators of de Havilland airplanes; Transport Canada Aviation, which is the airworthiness authority for Canada; and de Havilland, Inc.; has undertaken the task of identifying and implementing procedures to ensure the continued structural airworthiness of aging commuter-class airplanes. This group reviewed selected service bulletins, applicable to de Havilland Model DHC–7 series airplanes, to be recommended for mandatory rulemaking action to ensure the continued operational safety of these airplanes.

The group reviewed and recommended the following de Havilland service bulletins for mandatory rulemaking action:

1. de Havilland Service Bulletin 7–57–11, dated December 17, 1982, which describes procedures for a one-time inspection to assess the adequacy of the clearance between the wing forward pick-up adapter plate and the seal retaining angle on the fuselage side access panel, and modification (Modification no. 7/2319), if necessary.

2. de Havilland Service Bulletin 7–57–19, dated February 24, 1984, which describes procedures for a one-time inspection to assess the adequacy of the clearance between the wing rear mounting adapter plates and the seal retaining angle on the fuselage side access panel, and modification (Modification no. 7/2355), if necessary.

Modifications 7/2319 and 7/2355 entail trimming damaged retention angles and blending out light scoring on the adapter plates. Modification 7/2319 has been accomplished prior to delivery on airplanes having serial numbers 78 and 84. Design changes that would ensure the adequacy of clearance between the wing forward pick-up adapter plate and the seal retaining angle on the fuselage side access panel have been incorporated prior to delivery on airplanes having serial numbers 87 and subsequent.

The procedures described in these service bulletins are intended to positively address conditions identified in Model DHC–7 series airplanes that, if

not corrected, could result in reduced strength in the attachment of the wing-body fairing to the fuselage.

Transport Canada Aviation classified these service bulletins as mandatory and issued Canadian Airworthiness Directives CF–91–09 and CF–91–12, both dated May 10, 1991, in order to assure the continued airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a one-time inspection to assess the adequacy of the clearance between the wing forward pick-up adapter plate and the seal retaining angle on the fuselage side access panel, and modification, if necessary; and a one-time inspection to assess the adequacy of the clearance between the wing rear mounting adapter plates and the seal retaining angle on the fuselage side access panel, and modification, if necessary. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 44 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $19,360, or $440 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

De Havilland, Inc.: Docket 92–NM–157–AD.

Applicability: Model DHC–7 airplanes, serial numbers 1 through 99, inclusive, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure, accomplish the following:

(a) For airplanes having serial numbers 1 through 77, inclusive; 79 through 83, inclusive; 85 and 86: Within 6 months after the effective date of this AD, inspect the clearance between the wing forward pick-up adapter plates and the seal retaining angle on the fuselage side access panel in accordance with de Havilland Service Bulletin 7–57–11, dated December 17, 1982.

(1) If scoring on the adapter plates does not exceed 0.050 inch in depth, prior to further flight, accomplish Modification 7/2319 in accordance with the service bulletin.

(2) If scoring on the adapter plates exceeds 0.050 inch in depth, prior to further flight, repair in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, Engine and Propeller Directorate.

(3) If the adapter plates are undamaged, then no further action is required by this AD.

(b) For airplanes having serial numbers 1 through 99, inclusive: Within 6 months after the effective of this AD, inspect the clearance between the rear mounting adapter plates and the seal retaining angle on the fuselage side access panel in accordance with de Havilland Service Bulletin 7–57–19, dated February 24, 1984.

(1) If scoring on the adapter plates does not exceed 0.050 inch in depth, prior to further flight, accomplish Modification 7/2355 in accordance with the service bulletin.

(2) If scoring on the adapter plates exceeds 0.050 inch in depth, prior to further flight, repair in accordance with a method approved by the Manager, New York ACO, ANE–170, FAA, Engine and Propeller Directorate.

(3) If the adapter plates are undamaged, then no further action is required by this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York ACO, ANE–170, FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 26, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–4920 Filed 3–3–93; 8:45 am]

BILLING CODE 4910–13–M

Office of the Secretary

14 CFR Parts 221 and 389

[Docket No. 48385; Notice No. 93–1]

RIN 2137–AC18

Electronic Filing of Property and Passenger Tariffs

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: RSPA is withdrawing its notice of proposed rulemaking (NPRM) on electronic filing of property and passenger tariffs. The NPRM would have allowed air carriers and foreign air carriers to file all tariffs electronically instead of on paper. RSPA authorized electronic filing of passenger fares in

1989, and the NPRM would have authorized passenger rules and cargo rates and rules also to be filed electronically. On February 3, 1993, RSPA held a public meeting to discuss the NPRM. Industry commenters, including representatives from major air carriers, computer reservation systems, and filing agents, expressed significant concerns about the feasibility, costs, and benefits of the proposals in the NPRM. RSPA has concluded that the NPRM should be withdrawn to allow the agency to reconsider these issues in light of the industry comments.

FOR FURTHER INFORMATION CONTACT: Mr. Dean Johnson, Office of Automated Tariffs, (202) 366–4080, or Mr. Edward H. Bonekemper, III, Assistant Chief Counsel, Hazardous Materials Safety and Research and Technology Law, (202) 366–4400, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: On October 15, 1992, RSPA published an NPRM inviting comment on electronic filing of property and passenger tariffs (Docket 48385, 57 FR 47303). RSPA proposed to allow all tariffs to be filed electronically instead of on paper. RSPA authorized electronic filing of passenger fares in 1989, and the NPRM would have authorized passenger rules and cargo rates and rules to be filed electronically. In addition, the NPRM proposed to prescribe the form and content of electronic fare rules; require a finished electronic tariff arrangement or format in addition to the existing subscription service for electronic raw tariff data; allow the filer to charge a fee to reproduce electronic tariffs in a finished construction; clarify the tariff regulations affecting the filer's proposed effective date on an electronic tariff filing; and revise the user fee regulations to reflect current costs and to clarify the initial exclusion from electronic user fees for electronic filers.

On October 28, 1992, the Airline Tariff Publishing Company (ATPCO) requested a delay in response date, a public meeting, and disclosure of cost studies. Comments in support of ATPCO's request were received from Japan Airlines Company, Swissair, Varig, S.A., American Airlines, Delta Air Lines, Northwest Airlines, United Air Lines, and USAir. In addition, ATPCO submitted a petition for rulemaking to allow air carriers to initiate fare action at any time and the Department to accept those filings as of the time they are filed.

RSPA agreed that additional time should be provided, and on January 5, 1993, announced that it would reopen the comment period until March 5, 1993, and would hold a public meeting on February 3, 1993, to discuss the NPRM (58 FR 287). The public meeting was widely attended by members of the public and representatives of U.S. and foreign air carriers, ATPCO, computer reservations systems, and foreign governments. Many of the commenters raised serious concerns about the scope of the NPRM, the feasibility and practicality of the proposals, and the costs and benefits to industry and the government. ATPCO recommended that RSPA explore the possibility of using an advisory committee or other working level group, or a negotiated rulemaking to achieve the goal of all-electronic tariff filing capability.

Subsequent to the public meeting, that same commenter, by letter, specifically requested that this rulemaking be converted to a negotiated rulemaking because of the highly technical nature of the rulemaking and its potential impact, and because "[t]here is grave concern that the proposed rule * * * is unworkable and that the impact of the rule as drafted could go well beyond what was intended by its drafters." In a subsequent letter, that commenter confirmed that it is requesting withdrawal of the present rulemaking. In addition, the European Civil Aviation Conference has filed a comment stating, *inter alia*, that there is a need for international dialogue on certain issues involved in this rulemaking.

As a result of the public meeting and the subsequent correspondence, RSPA believes it is in the interest of all parties to withdraw the NPRM and reconsider the appropriate means to achieve an electronic tariff filing system that meets the needs of the government, the airline industry, and the public. Accordingly, the NPRM is withdrawn.

Rulemaking Analyses and Notices

Executive Order 12291 and DOT Regulatory Policies and Procedures

The action being withdrawn by RSPA in this document would have authorized electronic filing of all passenger and cargo tariffs. RSPA has determined that this document does not contain a major rule under Executive Order 12291. It is considered a significant regulation under DOT's Regulatory Policies and Procedures. However, RSPA is withdrawing the NPRM to reconsider all the issues.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, RSPA evaluated the effects of this proposal on small entities. The proposal, if adopted, would have applied only to air carriers filing scheduled service tariffs. These air carriers are large operators with revenues in excess of several million dollars each year. Therefore, RSPA certifies that withdrawal of this proposed rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that withdrawal of the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the information collection requirements associated with this rule were submitted to the Office of Management and Budget (OMB) for review as a revision to an existing collection (OMB control number 2106–0009) and were approved on January 21, 1993. Since the proposed rule is being withdrawn, a request is being sent to OMB to reinstate the previous information collection requirements.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

14 CFR Part 221

Air fares and rates, Freight, Reporting and recordkeeping requirements.

14 CFR Part 389

Administrative practice and procedure, Fees and charges, Reporting and recordkeeping requirements.

Issued in Washington, DC, on February 25, 1993.

Richard R. John,

Acting Associate Administrator for Research, Technology, and Analysis.

[FR Doc. 93–4883 Filed 3–3–93; 8:45 am]

BILLING CODE 4910–60–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter 1

[FR 4601–2]

Open Meeting on Proposed Wood Furniture Rules and/or Control Techniques Guidelines

AGENCY: Environmental Protection Agency.

ACTION: Notice of public exploratory meeting.

SUMMARY: As part of EPA's effort to determine the desirability of regulatory negotiation or some other consensus-based approach to develop proposed rules regulating hazardous air pollutant emissions and/or a Control Techniques Guideline covering volatile organic compound emissions associated with wood furniture manufacturing, this meeting will continue to discuss and refine scope and issues.

DATES: The meeting will take place on March 25–26. On March 25, it will start at 9 a.m. and end at 5 p.m. On March 26, it will start at 8 a.m. and end by 3 p.m.

ADDRESSES: The meeting will take place at the Omni Europa Hotel, 1 Europa Drive, Chapel Hill, NC 27514, (919) 968–4900.

FOR FURTHER INFORMATION CONTACT: For additional information on substantive aspects of the meeting, please contact Ellen Ducey of EPA's Office of Air Quality Planning and Standards, (919) 541–5408. For additional information on procedural or administrative matters please contact Susan Wildau or John Lingelbach, EPA's co-convenors, at (303) 442–7367.

Dated: February 26, 1993.

Chris Kirtz,

Director, Consensus and Dispute Resolution Program.

[FR Doc. 93–4932 Filed 3–3–93; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 761

[OPPTS–62122A; FRL–4572–6]

Polychlorinated Biphenyls (PCBs), Storage for Disposal of PCBs; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; correction.

SUMMARY: In the **Federal Register** of January 26, 1993, EPA issued a proposed rule to amend one of the criteria used for granting written, final approval to engage in the commercial storage of PCB waste (58 FR 6184). This document corrects the omission of a date from the "Background" section of the proposed rule.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, rm. E–543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551, FAX: (202) 554–5603 (document requests only).

SUPPLEMENTARY INFORMATION: In the January 26, 1993, issue of the **Federal Register**, published at 58 FR 6184, EPA issued a proposed rule which amended one of the criteria EPA uses to grant approvals to begin commercial storage of PCBs for disposal. The following correction is made to FR Doc. 93–1875:

In the "Background" section of the preamble, the second sentence before the end of that section, the sentence that reads "On , EPA and the petitioners filed a Settlement Agreement with the court whereby petitioners agreed to dismiss with prejudice their petition if EPA adopts a final rule in substantial conformity with the proposal described in this notice.", should read "On November 20, 1992, EPA and the petitioners filed a Settlement Agreement with the court whereby petitioners agreed to dismiss with prejudice their petition if EPA adopts a final rule in substantial conformity with the proposal described in this notice."

Dated: February 22, 1993.

John W. Melone,

Director, Chemical Management Division.

[FR Doc. 93–4930 Filed 3–3–93; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[CGD 88–031a]

RIN 2115–AE25

Documentation of Vessels; Controlling Interest

AGENCY: Coast Guard, DOT.

ACTION: Notice of withdrawal.

SUMMARY: The Coast Guard is withdrawing its action to develop a new interpretation of the citizenship "grandfather" or savings provision of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (the Act). This action is being withdrawn because the United States Circuit Court of Appeals for the District of Columbia reversed the decision of the United States District Court which determined that the Coast Guard's current interpretation of the savings provision was incorrect, thereby upholding the Coast Guard's interpretation.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Don M. Wrye, Staff Attorney, Vessel Documentation and Tonnage Survey Branch, (202) 267–1492.

SUPPLEMENTARY INFORMATION: On December 12, 1990, the Coast Guard published its final rule implementing the American control provisions of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (the Act). Among other things, the rule set forth the Coast Guard's interpretation of the Act's citizenship savings provision. That interpretation is currently set forth in 46 CFR 67.03–15 of the Coast Guard's vessel documentation regulations.

The Coast Guard's rules implementing the citizenship savings provision has been the subject of litigation: *Southeast Shipyard Assn.* v. *United States*, No. 90–1142 (D.D.C.). On April 30, 1991, the District Court decided that the Coast Guard's interpretation of the Act's citizenship savings provision was incorrect. The court did not provide the Coast Guard with a new interpretation, but rather, directed the Coast Guard to develop a new interpretation. On September 21, 1992, the Coast Guard published an advance notice of proposed rulemaking (ANPRM) in which additional information was sought to assist the Coast Guard in developing a new interpretation. The comment period for the ANPRM closed on December 21, 1992.

The Coast Guard noted in the ANPRM that the decision of the District Court was being appealed. On November 24, 1992, the Circuit Court of Appeals for the District of Columbia issued its opinion in the appeal. That opinion reversed the decision of the District Court and upheld the Coast Guard's interpretation of the Act's citizenship savings provision. Therefore, development of a new interpretation is unnecessary.

For the reasons stated above, the ANPRM (CGD 88–031a) published on September 21, 1992, is withdrawn.

Dated: December 22, 1992.

R.C. North,

Acting Chief, Captain, U.S. Coast Guard, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–4984 Filed 3–3–93; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Comment Period on Proposed Endangered Status for the Relict Darter

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: The Service announces that a public hearing will be held in accordance with provisions of the Endangered Species Act of 1973, as amended, on the proposed rule to list the relict darter *(Etheostoma chienense)* as an endangered species. The comment period is reopened to accommodate the hearing and allow receipt of written comments as well.

DATES: A public hearing on the proposal will be held April 6, 1993, from 7 p.m. to 10 p.m. The comment period is reopened on the proposal from March 22, 1993 through April 20, 1993.

ADDRESSES: Comments should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Asheville Field Office, 330 Ridgefield Court, Asheville, North Carolina 28806. The public hearing will be held in the large conference room at Purchase Area Development District, 1002 Medical Drive, Mayfield, Kentucky.

FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Biggins at the above field office address (704/665–1195 ext. 228).

SUPPLEMENTARY INFORMATION:

Background

The relict darter *(Etheostoma chienense)*, a small 2½-inch fish, is endemic to the Bayou du Chien watershed (Graves and Hickman Counties) in extreme western Kentucky. Historically, this darter was likely more widespread in the Bayou du Chien system. However, it is currently known from only five sites within this drainage and is known to spawn in only one Bayou du Chien tributary. The relict darter has been and continues to be impacted by water quality and habitat deterioration resulting from stream channelization, siltation from some land use practices, and by other water pollutants.

On December 11, 1992, the Service published in the **Federal Register** (57 FR 58774) a proposal to list the relict darter as an endangered species. Section 4(b)(5) of the Endangered Species Act provides for a public hearing on a proposed listing, if requested. Prior to expiration of the deadline for requesting a public hearing, January 25, 1993, as published in the proposed rule, the Service received written requests from Mr. Tony Smith, Graves County Judge Executive; Mr. Gregory D. Pruitt, Hickmam County Judge Executive; Mr. Harold M. Garrison, Fulton County Judge Executive; and Mr. Paul Beck, a local farmer.

The Service has scheduled a public hearing that is to be held in the large conference room at Purchase Area Development District, 1002 Medical Drive, Mayfield, Kentucky, on April 6, 1993, from 7 p.m. to 10 p.m. The comment period will remain open through April 20, 1993.

Those parties wishing to make a statement for the record are encouraged to provide a copy of their statement to the Service at the start of the hearing.

Author

The primary author of this notice is Mr. Richard Biggins, Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806.

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531–1544).

Dated: February 23, 1993.

W.T. Olds, Jr.,

Acting Regional Director.

[FR Doc. 93–4974 Filed 3–3–93; 8:45 am]

BILLING CODE 4310-55-P

Notices

Federal Register
Vol. 58, No. 41
Thursday, March 4, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 26, 1993.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Revision

- Agricultural Marketing Service

7 CFR part 59, Regulations for Inspection of Eggs and Egg Products
PY–38, PY–76, PY–155, PY–156, PY–214, PY–222, PY–240, PY–518–1
Recordkeeping; Monthly; Quarterly; Semi-annually; Daily
State or local governments; Businesses or other for-profit; Small businesses or organizations; 46,738 responses; 30,874 hours
C. Shields Jones, Jr., (202) 720–3506

- Farmers Home Administration

7 CFR 1980–A, Guaranteed Loan Program (General)
FmHA 449–14, 30, 35, 36, 1980–19, 22, 41, 43, and 44
On occasion
Individuals or households; Businesses or other for-profit; 119,635 responses; 239,430 hours
Jack Holston, (202) 720–9736

- Farmers Home Administration

7 CFR 1980–B, Guaranteed Farmer Program Loans
FmHA 449–11, 1980–15, 24, 25, 38, 58, 64
On occasion
Individuals or households; State or local governments; Farms; Businesses or other for-profit; 158,140 responses; 235, 427 hours
Jack Holston, (202) 720–9736

Extension

- Agricultural Marketing Service

Food Facility Survey
TMD–4, TMD–5
On occasion
Business or other for-profit; 625 responses; 375 hours
Arthur F. Burns, (202) 702–8317

Reinstatement (Emergency)

- Agricultural Stabilization and Conservation Service

7 CFR 1413 and 1414—Forms for Participation in Price Support and Production Adjustment Programs
CCC–477, 477 Appendix, 477A, 477B, 505, 507A, 406, 406 Appendix, 300, 300 Appendix, 302; ASCS–503, 658–1
Annually
Farms; 1,732,000 responses; 429,500 hours
Bruce Hiatt, (202) 245–4798

New Collection

- Food and Nutrition Service

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Larry K. Roberson,

Deputy Department Clearance Officer.

[FR Doc. 93–4978 Filed 3–3–93; 8:45 am]

BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

[Docket No. 93–011–1]

Availability of an Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit To Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and a finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to allow the field testing of genetically engineered organisms. The environmental assessment provides a basis for our conclusion that the field testing of the genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect these documents are encouraged to call ahead (202–690–2817) to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belchrest Road, Hyattsvile, MD 20782, (301) 436–7612. For copies of the environmental assessment and finding of no significant impact; write to Mr. Clayton Givens at the same address. Please refer to the permit number listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the

introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing the permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued a permit for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessment and finding of no significant impact, which are based on data submitted by the applicant and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impact associated with conducting the field tests.

An environmental assessment and a finding of no significant impact have been prepared by APHIS relative to the issuance of a permit to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test location
92-352-01, renewal of permit 92-049-03, issued on 04-15-92.	Petoseed Company, Incorporated.	01-27-93	Tomato plants genetically engineered to express anti-sense gene constructs of polygalacturonase (PG), pectinesterase (PE), and ethylene forming enzymes, to modify ripening.	California.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381-50384, August 28, 1979, and 44 FR 51272-51274, August 31, 1979).

Done in Washington, DC, this 1st day of March 1993.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93-4980 Filed 3-3-93; 8:45 am]

BILLING CODE 3410-01-M

[Docket No. 93-010-1]

Receipt of Permit Applications for Release into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that 45 applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: Copies of the applications referenced in this notice, with any confidential business information deleted, are available for public inspection in room 1141, South Building, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect applications are encouraged to call ahead (202-690-2817) to facilitate entry into the comment reading room. You may obtain copies of the documents by writing to the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason To Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) into the United States certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application No.	Applicant	Date received	Organisms	Field test location
93-011-01	Pioneer Hi-Bred International, Incorporated.	01-11-93	Soybean plants genetically engineered to express a methionine-rich seed storage protein gene.	Illinois, Iowa, Missouri, Mississippi, Ohio, Tennessee.
93-011-02, renewal of permit 91-347-03, issued on 04-14-92	Monsanto Agricultural Company	01-11-93	Cotton plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *Kurstaki* for resistance to lepidopteran insects.	North Carolina.

Application No.	Applicant	Date received	Organisms	Field test location
93-011-03, renewal of permit 92-037-02, issued on 06-03-92.	Monsanto Agricultural Company.	01-11-93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	North Carolina.
93-011-04, renewal of permit 92-073-03, issued on 05-15-92.	Monsanto Agricultural Company.	01-11-93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Minnesota.
93-011-05	Monsanto Agricultural Company.	01-11-93	Cotton plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *kurstaki* for resistance to lepidopteran insects.	Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, South Carolina, Tennessee, Texas.
93-012-02	Monsanto Agricultural Company.	01-12-93	Cotton plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	North Carolina.
93-012-03	Monsanto Agricultural Company.	01-12-93	Cotton plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, Texas.
93-012-04	Monsanto Agricultural Company.	01-12-93	Corn plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. kurstaki for resistance to European corn borer and a gene for tolerance to the herbicide glyphosate and to express genes for increased solids content.	Illinois, Ohio.
93-012-05, renewal of permit 92-007-01, issued on 04-29-92.	Monsanto Agricultural Company.	01-12-93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Illinois.
93-012-06, renewal of permit 92-037-03, issued on 05-19-92.	Monsanto Agricultural Company.	01-12-93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvly shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Wisconsin.
93-012-07, renewal of permit 92-055-01, issued on 05-20-92.	Monsanto Agricultural Company.	01-12-93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvly shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Virginia.
93-013-01	R.J. Reynolds Tobacco Company.	01-13-93	Tobacco plants, genetically engineered to express an acetohydroxyacid enzyme for tolerance to the herbicide sulfonylurea or a nitrilase enzyme for tolerance to the herbicide bromoxynil.	North Carolina.
93-014-01	Ciba-Geigy Corporation	01-14-93	Corn plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *kurstaki* for resistance to European corn borer.	Florida, Hawaii, Illinois, Iowa, Nebraska, North Carolina.
93-014-02	DeKalb Plant Genetics	01-14-93	Corn plants genetically engineered to express a phosphionthricin acetyl transferase gene for tolerance to the herbicides glufosinate and bialaphos.	Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, Ohio, Pennsylvania, South Dakota, Texas, Wisconsin.
93-014-03	Northrup King Company	01-14-93	Corn plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *kurstaki* strain HD-1 for resistance to European corn borer or the coat protein genes of maize dwarf mosaic virus strain B (MDMV-B) for resistance to MDMV-B.	Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Nebraska, North Carolina, Ohio, Pennsylvania, Tennessee, Wisconsin.
93-019-01, renewal of permit 92-002-05, issued on 05-05-92.	Pioneer Hi-Bred International, Incorporated.	01-19-93	Corn plants genetically engineered to express a coat protein from maize dwarf mosaic virus (MDMV) for resistance to MDMV.	Iowa.
93-019-02	North Carolina State University.	01-19-93	Corn plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *kurstaki* strain HD-1 for resistance to lepidopteran insects.	North Carolina.
93-019-03, renewal of permit 92-014-01, issued on 04-29-92.	North Carolina State University.	01-19-93	Tobacco plants genetically express a delta-endotoxin from *Bacillus thuringiensis* subsp. *kurstaki* strain HD-1 for resistance to lepidopteran insects.	North Carolina.
93-021-01	Campbell Research and Development.	01-21-93	Tomato plants genetically engineered to express two genes for modified ripening.	California.
93-021-02	Monsanto Agricultural Company.	01-21-93	Corn plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *kurstaki* for resistance to European corn borer and a gene for tolerance to the herbicide glyphosate.	Illinois.
93-021-03	Monsanto Agricultural Company.	01-21-93	Corn plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *kurstaki* for resistance to European corn borer and a gene for tolerance to the herbicide glyphosate.	Iowa.
93-021-04	Monsanto Agricultural Company.	01-21-93	Corn plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *kurstaki* for resistance to European corn borer and a gene for tolerance to the herbicide glyphosate.	Illinois.
93-021-05	Monsanto Agricultural Company.	01-21-93	Corn plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *kurstaki* for resistance to European corn borer and a gene for tolerance to the herbicide glyphosate.	Illinois.

Application No.	Applicant	Date received	Organisms	Field test location
93–021–06	Monsanto Agricultural Company.	01–21–93	Corn plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *kurstaki* for resistance to European corn borer and a gene for tolerance to the herbicide glyphosate.	Illinois.
93–021–07	Monsanto Agricultural Company.	01–21–93	Corn plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *kurstaki* for resistance to European corn borer and a gene for tolerance to the herbicide glyphosate.	Illinois.
93–021–08	Monsanto Agricultural Company.	01–21–93	Corn plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *kurstaki* for resistance to European corn borer and a gene for tolerance to the herbicide glyphosate.	Iowa.
93–021–09	Hoechst Roussel Agri-Vet Company.	01–21–93	Corn plants genetically engineered to express the enzyme phosphinothricin-N-acetyltrans-ferase (PAT) for tolerance to the herbicide glufosinate.	Illinois, Indiana, Iowa, Mississippi, Missouri, Nebraska, North Dakota.
93–021–10, renewal of permit 92–017–04, issued on 05–15–92.	Hoechst Roussel Agri-Vet Company.	01–21–93	Corn plants genetically engineered to express the enzyme phosphinothricin acetyltrans-ferase (PAT) for tolerance to the herbicide glufosinate.	Illinois, Indiana, Iowa, Nebraska.
93–021–11, renewal of permit 92–043–01, issued on 06–05–92.	Hoechst Roussel Agri-Vet Company.	01–21–93	Corn plants genetically engineered to express the enzyme phosphinothricin acetyltrans-ferase (PAT) for tolerance to the phosphinothricin class of herbicides.	Minnesota.
93–022–01	North Dakota State University.	01–22–93	Potato plants genetically engineered to express a gene for altered hydrate metabolism.	North Dakota.
93–022–02, renewal of permit 92–022–03, issued on 05–04–92.	Pioneer Hi-Bred International, Incorporated.	01–22–93	Corn plants genetically engineered to express wheat germ agglutinin for resistance to European corn borer.	Iowa.
93–022–03	AgriPro Seeds	01–22–93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Indiana, Iowa.
93–022–04	Upjohn Company	01–22–93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Arkansas, Illinois, Indiana, Iowa, Maryland, Michigan, Wisconsin.
93–026–01, renewal of permit 92–015–01, issued on 05–11–92.	Monsanto Agricultural Company.	01–26–93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate..	Arkansas.
93–026–02	Delta and Pine Land Company.	01–26–93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Mississippi.
93–026–03, renewal of permit 92–113–01, issued on 06–09–92.	University of Wisconsin-Madison.	01–26–93	*Pseudomonas syringae* which is a non-lesion forming Tn5 mutant.	Wisconsin.
93–026–04	University of California, Berkeley.	01–26–93	*Pseudomonas syringae* which is a Tn5 mutant having reduced epiphytic fitness.	California.
93–026–05, renewal of permit 92–049–05, issued on 04–29–92.	Upjohn Company	01–26–93	Corn plants genetically engineered to express a phosphinothricin acetyltransferase (PAT) gene for tolerance to the herbicide glufosinate.	Michigan, Puerto Rico
93–026–06	Pioneer Hi-Bred International Incorporated.	01–26–93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate or a methionine-rich seed storage protein from Brazil nut.	Illinois, Iowa, Mississippi, Missouri, Ohio, Tennessee.
93–026–07, renewal of permit 92–002–03, issued on 04–16–92.	Pioneer Hi-Bred International, Incorporated.	01–26–93	Corn plants genetically engineered to express a coat protein from maize chlorotic dwarf virus (MCDV) for resistance to MCDV.	Tennessee.
93–026–08, renewal of permit 92–002–04, issued on 04–30–92.	Pioneer Hi-Bred International, Incorporated.	01–26–93	Corn plants genetically engineered to express a coat protein from maize chlorotic mottle virus (MCDV) for resistance to MCMV.	Nebraska.
93–026–09, renewal of permit 92–156–01, issued on 08–29–91.	University of Florida	01–26–93	Tobacco plants genetically engineered to express a coat protein from tobacco etch virus (TEV) for resistance to TEV.	Florida.
93–027–01, renewal of permit 92–028–01, issued on 05–27–92.	Purdue University	01–27–93	Tomato plants genetically engineered to express an antisense pectin methyl-esterase (PME) chimeric gene to increase the soluble solid content.	Indiana
93–029–01	Dairyland Seed Company, Incorporated.	01–29–93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Illinois, Indiana, Wisconsin.
93–029–02	DowElanco, United AgriSeeds.	01–29–93	Corn plants genetically engineered to express resistance to certain insects and tolerance to certain herbicides.	Illinois, Indiana.

Done in Washington, DC, this 1st day of March 1993.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93–4979 Filed 3–3–93; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Exemption of Grizzly Creek Salvage Timber Sale Project From Appeal

AGENCY: USDA, Forest Service, Northern Region.

ACTION: Notification that a salvage timber sale project designed to recover insect- and disease-killed timber is exempted from appeals under provisions of 36 CFR part 217.

SUMMARY: During routine forest surveys conducted during 1991 and 1992, insect and disease infestations in the Grizzly Creek drainage about 15 miles northwest of Silverton, Idaho, were identified and monitored. Approximately 115 acres of commercial sawtimber killed or severely damaged were identified. In 1992, the Wallace District Ranger, Idaho Panhandle National Forests, proposed rehabilitation action designed to salvage insect- and disease-killed timber and promote forest health in the affected area. The District Ranger has determined through the environmental analysis documented in the Grizzly Creek Salvage Timber Sale Environmental Assessment (EA) that there is good cause to expedite these actions in order to rehabilitate National Forest system lands and recover damaged resources. Salvage of commercial sawtimber within the affected area must be accomplished as soon as possible in order to avoid further deterioration of sawtimber, reduce the risk of catastrophic wildfire, and avoid further spread of insect and disease to adjacent healthy stands.

EFFECTIVE DATE: Effective on March 4, 1993.

FOR FURTHER INFORMATION CONTACT: Steve Williams; District Ranger; Wallace Ranger District; Idaho Panhandle National Forests; Box 14; Silverton, Idaho 83867.

SUPPLEMENTARY INFORMATION: Routine forest surveys of insect and disease infestations conducted during 1991 and 1992 on the Wallace Ranger District resulted in the identification of approximately 115 areas of salvageable commercial sawtimber in the Grizzly Creek drainage. The timber killed by insects and diseases is located within Management Areas 1 and 4, as designated in the Idaho Panhandle National Forests and Resource Management Plan (1987). These lands are designated as suitable timberlands and to be managed for a variety of resource goals.

In February of 1992, the District Ranger, Wallace Ranger District, Idaho Panhandle National Forests, proposed the salvage harvest of the trees killed by insect and disease infestations. This proposal was designed to meet the following needs: (a) Salvage merchantable timber products; (b) protect against insect and disease; (c) improve the net growth and yield of timber resources; (d) rehabilitate timber stands that are understocked through site preparation and planting; (e) contribute to watershed recovery through application of management practices designed to minimize erosion and sedimentation potential; (f) manage big game habitat toward achieving the goals of the Idaho Panhandle National Forests Forest Plan; and (g) reduce the risk of large wildfires by reducing fuel loading to the point where fire suppression efforts would be more effective.

An interdisciplinary team was convened, and scoping began in 1992. Eight issues were identified and were the basis for the analysis of the environmental analysis disclosed in the EA. Four alternatives were developed; a No Action alternative and three salvage and rehabilitation alternatives.

The selected alternative would salvage approximately 2,420 MBF of dead timber on 115 acres. Group shelterwood harvesting is prescribed for the salvage operations. All units are accessible for existing roads. No new road construction or reconstruction is planned for this sale. Conifer species less likely to be susceptible to mortality due to root rot and/or blister rust will be planted in the harvested areas. Approximately 6 miles of non-system road will be ripped and re-vegetated.

The sale and accompanying rehabilitation work is designed to accomplish the objectives as quickly as possible. Prompt implementation of the salvage sale is necessary to capture potential volume losses due to deterioration. This would facilitate the prompt reforestation of the affected area, initiation of watershed and fisheries habitat recovery projects, the restoration of elk habitat and maintenance of elk security, and reduce the risk of large wildfires. To expedite implementation of this decision, procedures outlined in 36 CFR part 217(a)(11) are being followed. Under this regulation the following may be exempt from appeal:

Decisions related to rehabilitation of National Forest System lands and recovery of forest resources from natural disasters or other natural phenomena * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

Based on the environmental analysis documented in the Grizzly Creek Salvage Timber Sale EA and the District Ranger's Decision Notice for this project, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project will not be subject to review under 36 CFR part 217.

Dated: February 24, 1993.

David F. Jolly,

Regional Forester, Northern Region.

[FR Doc. 93–4838 Filed 3–3–93; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 12:30 p.m. and adjourn at 3 p.m. on Friday, March 19, 1993, 624 Ninth Street, NW., Washington, DC, Conference Rm. 540. The purpose of the meeting is to review the status of the Committee's project on mortgage lending and discuss follow up to the Commission's report on civil rights issues in Mount Pleasant.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ms. M. Charito Kruvant, 202/966–5804, or John I. Binkley, Director, Eastern Regional Office at (202) 376–7533, facsimile 376–7548, TDD (202) 376–8116. Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office of least five (5) working days before the schedule date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 24, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–4977 Filed 3–3–93; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Notice of Public Meeting of the Ohio Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio Advisory Committee to the Commission will be held from 9 a.m. until 5 p.m. on Wednesday, March 24, 1993 at the Westin Hotel, at Fountain Square, Cincinnati, Ohio. The purpose of the meeting is to discuss current issues, orient members and plan future activities.

Persons desiring additional information should contact Lynwood L. Battle, Committee Chairperson at (513) 983–2843 or Constance M. Davis, Regional Director of the Midwestern Regional Office, U.S. Commission on Civil Rights, at (312) 353–8311. Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 23, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–4976 Filed 3–3–93; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Intent To Conduct Public Scoping Meetings for the Hawaiian Islands Humpback Whale National Marine Sanctuary, HI

AGENCY: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public scoping meetings.

SUMMARY: On November 4, 1992, former President Bush signed Public Law 102–587, the Oceans Act of 1992, which created the Hawaiian Islands Humpback Whale National Marine Sanctuary. The Act legislatively designates the marine environment to the 100-fathom (183-meter) isobath adjoining the islands of Lanai, Maui and Molokai, including Penguin Banks. The deep water area of Pailolo Channel from Cape Halawa, Molokai to Nakalele Point, Maui and southward is included as part of the sanctuary, as is the area adjacent to the Kilauea National Wildlife Refuge (to the 100-fathom isobath) on the island of Kauai. The primary purposes of the sanctuary are to protect humpback whales and their habitat and to provide for the identification of marine resources and ecosystems of national significance for possible inclusion in the sanctuary. The Act also provides for the inclusion of the waters around Kahoolawe Island in the sanctuary on January 1, 1996, unless the Secretary of Commerce finds that the area is not suitable for sanctuary status based on an examination and assessment of the resources and uses of the area.

The National Oceanic and Atmospheric Administration (NOAA), within the Department of Commerce, is proceeding to address the legislative mandates contained within the Act. These include:

(1) The preparation of a draft environmental impact statement, management plan and proposed implementing regulations for the Hawaiian Islands Humpback Whale National Marine Sanctuary;

(2) The continued assessment of the marine environment adjacent to the Island of Kahoolawe; and

(3) The identification of marine resources and ecosystems of national significance for possible inclusion in the sanctuary.

NOAA will conduct six public meetings in Hawaii between March 15 and March 23, 1993, and one meeting in Washington, DC on March 30, 1993, to obtain public comments regarding the scope and purpose of the sanctuary. Information pertaining to boundary modification alternatives, management alternatives, existing resource protection and management regimes, research and interpretive opportunities, as well as the identification of additional public concerns, will be solicited. Individuals and representatives of concerned organizations and government agencies, including native Hawaiian interests, are invited and encouraged to attend the meetings. NOAA also encourages the submission of written comments, prior to April 30, 1993, to the office identified below.

FOR FURTHER INFORMATION CONTACT: Rafael V. Lopez, Pacific Regional Manager, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., suite 714, Washington, DC 20235, (202/606–4126). FAX (202) 606–2496.

DATES AND LOCATIONS: NOAA's Sanctuaries and Reserves Division will hold the following public scoping meetings:

- March 15, 1993, at 7 p.m. at the Central Intermediate School Auditorium, 1302 Queen Emma St., Honolulu, Oahu;
- March 16, 1993, at 6:30 p.m. at the Mitchell Pauole Meeting Hall, 90 Ainoa Street, Kaunakakai, Molokai;
- March 17, 1993, at 6:30 p.m. at the Lanai School and Public Library, 6th and Fraser, Lanai City, Lanai;
- March 18, 1993, at 6:30 p.m. at the Lihikai High School Cafeteria, 335 S. Papa Avenue, Kahului, Maui;
- March 22, 1993, at 6:30 p.m. at the Kaha-Kai Elementary School Cafeteria, 147 Royal Poinciana Dr., Kailua-Kona;
- March 23, 1993, at 6:30 p.m. at the Kilauea Elementary School Cafeteria, 2440 Kolo Road, Kilauea, Kauai; and
- March 30, 1993, at 1 p.m. at the Herbert C. Hoover Building, 14th and Constitution, NW., room 1414, Washington, D.C.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.*, (MPRSA) authorizes the Secretary of Commerce to designate discrete areas of the marine environment as national marine sanctuaries to protect their special conservational, recreational, ecological, historical, research, educational, or aesthetic qualities. The Act is administered by the National Oceanic and Atmospheric Administration (NOAA) through the Office of Ocean and Coastal Resource Management, Sanctuaries and Reserves Division.

In December 1977, NOAA received a nomination for a humpback whale national marine sanctuary in the waters off the western coast of Maui, Hawaii. This area had been identified as a principal breeding and calving area for the wintering population of endangered North Pacific humpbacks. On March 17, 1982, NOAA declared the site an Active Candidate for national marine sanctuary designation. In January 1984, NOAA released the "Proposed Hawaii Humpback Whale National Marine Sanctuary Draft Environmental Impact Statement/Draft Management Plan" for

review and comment. Based on the comments received from the general public and the local, state and Federal governments, subsequent review and consideration of the site by NOAA was suspended.

In October 1990, the 101st U.S. Congress directed NOAA to conduct a study of the feasibility of establishing a national marine sanctuary in the marine environment adjacent to Kahoolawe Island, Hawaii (Public Law 101–515). In conducting the study, NOAA was instructed to give special consideration to the effects such a sanctuary would have on the humpback whale populations that seasonally inhabit the waters off Kahoolawe Island.

The feasibility study concluded that: (1) There is evidence of both biological and cultural/historical resources adjacent to Kahoolawe Island that merit further investigation for national marine sanctuary status; (2) there are additional marine areas within the Hawaiian archipelago that also merit further consideration; and (3) the National Marine Sanctuary Program could contribute to enhanced resource protection of marine resources in Hawaii. The study was transmitted to Congress, the State of Hawaii and the general public in January 1992.

In November 1992, former President Bush signed Public Law 102–587, the Oceans Act of 1992, which contained language designating the marine environment (out to 100 fathoms) around the islands of Maui, Lanai, Molokai and a portion of Kauai as the Hawaiian Islands Humpback Whale National Marine Sanctuary. The primary purposes of the sanctuary are to protect humpback whales and their habitat and to provide for the identification of marine resources and ecosystems of national significance for possible inclusion in the sanctuary. In response to this legislation, NOAA will: (1) develop an environmental impact statement, comprehensive management plan and implementing regulations for the sanctuary; (2) assess the marine environment adjacent to Kahoolawe Island; and, (3) identify marine resources and ecosystems, in addition to the humpback whales and their habitat, for possible inclusion in the sanctuary.

The waters around Maui, Lanai, Molokai and Kauai represent a unique marine ecosystem that provides habitat for numerous marine species, including wintering populations of the humpback whale (*Megaptera novaeangliae*). The humpback whale was classified as an endangered species with the passage of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) in 1973 and remains so today. Current estimates of the number of North Pacific humpback whales in existence are approximately 2,000 individuals—considerably less than the estimated 15,000 whales that existed prior to exploitation.

Humpback whales in Hawaiian waters principally use the shallow waters within the 100-fathom (183-meter) isobath for breeding and calving purposes. The highest density of whales occurs between the months of December and March, primarily in waters around the islands of Maui, Molokai, Lanai, and Kahoolawe; around Niihau Island; and along the northwestern coast of the island of Hawaii from Keahole Point north to Upola Point. Lower densities are found around Kauai, Oahu, and the eastern and southwestern coast of the island of Hawaii. Few hampback whales have been reported around the atolls, islands, banks and reefs of the Northwestern Hawaiian Islands.

Other species of marine mammals that frequent these waters include pilot whales (*Gobicephala melaena*), false killer whales (*Pseudorca crassidens*), pygmy killer whales (*Feresa attenuata*), melon headed whales (*Peponocephala electra*), Pacific bottlenose dolphins (*Tursiops truncatus*), spinner dolphins (*Stenella longirostris*), spotted dolphins (*Stenella* spp.), and rough tooth dolphins (*Steno bredanensis*). A majority of the Hawaiian population of juvenile and adult green sea turtles (*Chelonia mydas*) are found in the nearshore habitat of the main Hawaiian islands. However, at least 90% of all reproductive activity associated with this Federally-protected species occurs at French Frigate Shoals in the Northwestern Hawaiian Islands. Small numbers of the endangered hawksbill (*Eretmochelys imbricats*) sea turtles are found around the islands of Molokai and Hawaii where a few females have nested recently. The endangered leatherback (*Dermochelys coraicea*) and olive ridley (*Lepidochelys olivacea*) sea turtles also occur in Hawaiian waters, but nest elsewhere. The endangered Hawaiian monk seal (*Monachus schauinslandi*) is found primarily in the Northwestern Hawaiian Islands.

Coral reef development in the Hawaiian Islands is varied. In general, reefs in the eastern portion of the island chain are less developed than the complex calcareous structures found in the Northwestern Hawaiian Islands and tropical Indo-Pacific region. This is due to several factors such as: Exposure to large waves; suboptimal water temperature, clarity and salinity; and geographic isolation, which has left the archipelago without large waves; suboptimal water temperature, clarity and salinity; and geographic isolation, which has left the archipelago without the main reef-building coral of the Pacific, *Acropora* sp. However, extensive fringing reefs are found off the coasts of Oahu, Kauai, the south coast of Molokai, and the northwest coast of Lanai. *Porites* sp. and *Pocillopora* sp. are the most common reef-building corals in the Hawaiian Islands. Coral reefs provide habitat for a wide variety of marine life including fish, crustaceans, mollusks and worms. They also provide important breeding and nursery grounds for economically important fisheries within state waters.

In addition to resource information collected by NOAA, material gathered through the public scoping meetings, coordination with other Federal, state, and local resource management agencies, and input from public advocacy groups will be used to develop an environmental impact statement, management plan and implementing regulations for the sanctuary.

Federal Domestic Assistance Catalog Number 11.429, National Marine Sanctuaries Program.

Dated: February 25, 1993.

Frank Maloney,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 93–4888 Filed 3–3–93; 8:45 am]

BILLING CODE 3510–08–M

Minority Business Development Agency

Business Development Center Applications: California IBDC

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) is revising the closing date and the performance period for the California IBDC. The new closing date will be April 26, 1993. The revised performance period will be from August 1, 1993 thru July 31, 1994. The original Announcement was published in the February 19, 1993, issue of the **FEDERAL REGISTER**. The mailing address for submission is: San Francisco Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 221 Main Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Xavier Mena, Regional Director, San Francisco Regional Office at 415/744–3001.

11.801 American Indian Program (Catalog of Federal Domestic Assistance

Dated: February 26, 1993.

Xavier Mena,

Regional Director, San Francisco Regional Office.

[FR Doc. 93–4996 Filed 3–3–93; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Mississippi Coastal Management Program and the North Carolina National Estuarine Research Reserve.

These evaluations will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended. The CZMA requires a continuing review of the performance of coastal states with respect to coastal management. Evaluation of coastal management programs and estuarine reserves require findings concerning the extent to which a state has adhered to the CZM program or estuarine reserve management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA. These reviews include a site visit, consideration of public comments, and consultations with interested Federal, state, and local agencies and members of the public. Public meetings are held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of public meetings during the site visits:

The Mississippi Coastal Management Program site visit will be April 19 to 23, 1993. A public meeting will be held Wednesday, April 21, 1993, at 7 p.m., at the Conference Room, Coastal Management Division, Bureau of Marine Affairs, Mississippi Department of Wildlife Conservation, 2620 West Beach Boulevard, Biloxi, Mississippi 39531.

The North Carolina National Estuarine Research Reserve site visit will be May 10 to 14, 1993. Public meetings will be held Wednesday, May 12, 1993, at 7 p.m., at the North Carolina Maritime Museum Auditorium, 315 Front Street, Beaufort, North Carolina 28516; and Thursday, May 13, 1993, at 7:30 p.m., at the Bryan Auditorium, Morton Hall, University of North Carolina at Wilmington, 601 South College Road, Wilmington, North Carolina 28403.

The States will issue notices of the public meetings in local newspapers at least 45 days prior to the public meetings being held, and will issue other timely notices as appropriate.

Copies of the state's most recent performance reports, as well as OCRM's notifications and supplemental request letters to the states, are available upon request from OCRM. Written comments from interested parties regarding these programs are encouraged at this time and will be accepted until 15 days after the site visit. Please direct written comments to Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Ave., NW., Washington, DC 20235. When the final evaluation findings are completed, OCRM will place a notice in the **Federal Register** announcing their availability.

FOR FURTHER INFORMATION CONTACT: Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Avenue, NW., Washington, DC 20235, (202) 606–4100.

Federal Domestic Assistance Catalog 11.419. Coastal Zone Management Program Administration.

Dated: February 25, 1993.

Frank Maloney,

Deputy Assistance Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 93–4823 Filed 3–3–93; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Department of the Army

Withdrawal of Notice of Intent to Prepare an Environmental Impact Statement (DEIS) for a Section 205 Flood Control Study of the Rio Anton Ruiz, Punta Santiago, PR

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of withdrawal.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers, has formulated plans for providing flood protection along the Rio Anton Ruiz in the vicinity of Punta Santiago, Puerto Rico. Recommendable plans, including mitigation, will result in no net significant impacts to the human environment, and an Environmental Impact Statement will not be required.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action can be answered by Mr. Edil Rosas, Study Manager, San Juan; telephone 809/729–6893; and on the proposed action and withdrawal of the DEIS by Dr. Gerald Atmar, Environmental Studies; telephone 904/232–2615; P.O. Box 4970, Jacksonville, Florida 32232–0019.

SUPPLEMENTARY INFORMATION:

a. The Rio Anton Ruiz feasibility study is being conducted under authority of section 205 of the Flood Control Act of 1948 as amended. An intent to prepare a draft Environmental Impact Statement was published in March 1991.

b. The recommended plan includes a levee around the communities of Punta Santiago and Verde Mar, a Boca Prieta diversion channel, internal drainage works and mitigation measures to avoid, minimize and compensate for net wetland impacts.

c. Studied alternatives include non-structural alternatives and structural measures, including reservoir, channelization, and levees.

d. Scoping consisted of exchanges of correspondence and conferences with affected or interested Federal, Commonwealth and local agencies, individuals and organizations. On-site inspections and conferences were held with local residents and with representatives of the PR Department of Natural Resources and the U.S. Fish and Wildlife Service.

e. Issues identified and addressed during the study include (1) potential impacts on wetlands of the Humacao Natural Reserve, (2) impacts on groundwater and surface water quality from unidentified hazardous and toxic waste (3) impacts on potentially present archeological or historical resources and (4) mitigation alternatives.

The draft feasibility report and environmental assessment will be made available for public and agency for review in June 1993.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–4924 Filed 3–3–93; 8:45 am]

BILLING CODE 3710–AJ–M

Proposed Change To Increase the Limitation of Carrier Liability in the International Through Government Bill of Lading (ITGBL) Program

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice of proposed change.

SUMMARY: The Military Traffic Management Command is proposing to increase the limitation of carrier liability from the current 60 cents per pound per article to $1.25 times the net weight of the shipment for all DOD-sponsored ITGBL shipments. The decision to increase the carrier liability responds to MTMC and the military services' concerns that the current 60 cents per pound per article is considerably below the average value of a personal property shipment, and the limitation may contribute to less than satisfactory service. The increased carrier liability is intended to improve quality of service. It also provides the military claims services' a potential source of funds that would more effectively, and equitably result in the recovery of amounts due for personal property lost or damaged while in transit or in storage. The $1.25 released valuation would become the lowest value to be cited for all Codes 4, 5, 5a, 6, 7, 8, J, and T international shipments. The current procedures for processing claims will remain the same. The cost for released valuation at $1.25 times the net weight of a shipment (in pounds) will be determined by the carrier and factored into the carriers transportation single factor rate (SFR). The increased carrier liability will become effective with the International winter (IW93) Cycle, October 1, 1993.

DATES: Coments must be received on or before March 30, 1993.

ADDRESSES: Mail comments to: Headquarters, Military Traffic Management Command, ATTN: MTOP–T–NI (Ms. Shelly Johnson), 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Ms. Shelly Johnson, (703) 756–1870.

SUPPLEMENTARY INFORMATION: The following changes will be made to the International Personal Property Rate Solicitation, I–2.

Item 410. Limitation of Carrier Liability

a. All rates in this solicitation apply to a released value of $1.25 times the net weight of the shipment (in pounds).

b. The carrier accepts property for shipment on the PPGBL under the following terms and conditions:

(1) Carrier's legal liability for loss or damage to goods will be limited to $1.25 times the net weight (in pounds) of the shipment.

(2) No change.

(3) The carrier reserves the right to decline articles prohibited by law or regulatory body, or which are injurious or contaminating to the shipment. The carrier shall be liable for loss or damage resulting from non-observance thereof.

(4) The carrier is not responsible for loss or damage caused by:

(a) Act of God, public authority, or negligence of the owner, and/or owner's agent.

(b) Hostile or warlike action in the time of peace or war, including action in hindering, combating, or defending against an actual, impending, or expected attack.

1 By any government or sovereign power (de jure or de facto), or by an authority maintaining forces.

2 By an agent of any such Government, power, authority or forces.

3 Contamination attributable to effects of radioactive or fissionable materials.

(c) Any weapon of war employing atomic fission or radioactive force whether in time of peace or war.

(d) Insurrection, rebellion, revolution, civil war, usurped power, or action taken by government authority in hindering, combating, or defending against such occurrence, seizure or destruction under quarantine or Customs regulations, confiscation by order of any Government or public authority, or risks of contraband or illegal transportation or trade.

(e) Strikes, lockouts, labor disturbances, riots, civil commotion, acts of person or persons taking part in such occurrence or disorder.

(f) Inherent vice of the article or infestations by mollusks, arachnids, crustaceans, parasites, or other types of pests; fumigations or decontamination when not the fault of the carrier.

(g) The burden of proof shall be on the carrier to show that the loss or damage was caused by the excepted conditions which relieve it of liability.

(5) The carrier shall not be liable for intangible property, stamps, coins, bank notes, or securities, nor for the intrinsic or sentimental value of an item.

(6) The carrier shall be liable, only to the extent of its stated liability, for small items of extraordinary value such as expensive cameras, watches, jewelry and furs.

(7) The carrier shall not be liable for pre-existing damage indicated on the inventory.

(8) The carrier shall not be liable for damage resulting from improper packing, when such packing was not performed by the carrier.

(9) The carrier shall be liable for concealed damage caused by the carrier, or when any visible damage to the container is noted, or when the entire contents (or a portion thereof) are lost, either while intransit, storage-in-transit, or when delivered by the carrier at destination.

(10) Carrier may, at its option, require proof of loss or damage claimed.

c. For the sake of clarity, the following examples apply. These examples identify carrier's maximum liability. Carrier's actual liability will not exceed the actual cost of repairing or replacing any article lost or damaged:

(1) Shipment net weight 10,000 pounds. Carriers maximum liability for any loss and/or damage occurring to this shipment would be $1.25 times 10,000 pounds or $12,500.

(2) Shipment net weight 7,200 pounds. Carriers maximum liability for any loss and/or damage occurring to this shipment would be $1.25 times 7,200 or $9,000.

(3) Shipment net weight 12,000 pounds. Frame is broken on concern grand piano while in transit. It is the only item damaged in shipment. Carriers maximum liability for the piano would be $1.25 times 12,000 or $15,000; or the actual cost or repairs/ replacement, whichever is the lesser amount.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–4923 Filed 3–3–93; 8:45 am]

BILLING CODE 3710–08–M

Procedural Changes in DOD Freight Rate Acquisition Programs—Final Action

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice.

SUMMARY: On December 16, 1992 (57 FR 59834), the Military Traffic Management Command (MTMC), on behalf of the Department of Defense (DOD), published a notice of intent to modify the procedures used to acquire rates and charges from the commercial motor carrier industry to transport military shipments. These modifications include the issuance of freight traffic rules designed to standardize and simplify the procurement of carrier rates and services under 49 U.S.C. 10721. MTMC Freight Traffic Rules Publication No. 2, providing these rules, is now final. Copies of this publication may be obtained by writing to: Headquarters, Military Traffic Management Command, ATTN: MTOP–P, 5611 Columbia Pike, Falls Church, VA 22041–5050, telephone (703) 756–1808.

EFFECTIVE DATE: MTMC Freight Traffic Rules Publication No. 2 is effective April 12, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Julian Jolkvosky, Military Traffic Management Command, ATTN: MTOP–P, 5611 Columbia Pike, Falls Church, VA 22041–5050, telephone (703) 756–1808.

SUPPLEMENTARY INFORMATION: MTMC Freight Traffic Rules Publication No. 2 (MFTRP No. 2) contains rules and accessorial services which will govern the rates and services of motor carriers providing driveway or towaway service within the United States or between the United States and Canada or Alaska. Carriers must file these rates and services on a DOD Standard Tender of Freight Services (MT Form 364–R).

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–4975 Filed 3–3–93; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent to Award a Grant to Texaco, Inc.

AGENCY: U.S. Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.6(a)(6), it is making a financial assistance award based on an unsolicited application which does not satisfy the selection criteria of 10 CFR 600.14(e)(1)(ii) but does satisfy the selection criteria of 10 CFR 600.7(b)(2)(i)(B). The Grant will be awarded to Texaco, Inc. under the instrument number DE–FG01–93FE62803. Total estimated cost for this study is valued at $1,400,000, of which the U.S. Department of Energy will contribute $300,000.

SCOPE: Texaco, Inc. has determined to fund this project with $1.1 million of its own money. The Department of Energy has determined, in accordance with 10 CFR 600.7(b)(2)(i)(B), that Texaco, Inc. would conduct the activity with its own resources; however, DOE's support of that activity would enhance the public benefits to be derived and DOE knows of no other entity which is planning or conducting such a project. Texaco, Inc. has developed a commercial technology in which they propose to perform a feasibility study on the development of a co-combustion, low-rank coal and heavy distillates cogeneration facility for the generation of electricity, district heat and industrial heat. The feasibility study will look at developing an efficient and environmentally clean 1300 MW integrated gasification combined cycle cogeneration plant in Czechoslovakia. It is anticipated that the export of a development of a cogeneration plant. The Department of Energy has determined it to be in the best interest of DOE to award a noncompetitive grant to Texaco, Inc. for performance of this feasibility study. The anticipated project period of the proposed grant is 12 months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, ATTN: Stanley T. Colt, PR–322.1, 1000 Independence Avenue SW., Washington, DC 20585, (202) 634–4414.

Scott Sheffield,

Acting Director, Division "B", Office of Placement and Administration.

[FR Doc. 93–4988 Filed 3–3–93; 8:45 am]

BILLING CODE 6450–01–M

Office of Arms Control and Nonproliferation Policy

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangements to be carried out under the above-mentioned agreements involve approval of the following retransfers: RTD/JA(EU)–65, for the transfer of 67.5 grams of uranium enriched to 3 percent in the isotope uranium-235 from Belgium to Japan for use as reference material for calibration of mass spectrometers. RTD/JA(EU)–66, for the transfer of uranium mini plates containing 80 grams of uranium enriched to 19.95 percent in the isotope uranium-235 from France to Japan for use in the NSR Reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC, on March 1, 1993.

Edward T. Fei,

Acting Director, Office of Nonproliferation Policy.

[FR Doc. 93–4986 Filed 3–3–93; 8:45 am]

BILLING CODE 6450–01–M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Switzerland concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves the delivery of 215 kilograms of fissile plutonium from France to Belgium for use in the fabrication of mixed uranium-plutonium oxide (MOX) fuel for use as power reactor fuel within the European Community. This fissile plutonium, which is subject to United States consent rights, will be used to repay the loan of plutonium from Belgonucleaire in Belgium to Switzerland of an equivalent amount of fissile plutonium which was not subject to United States consent rights. The United States will consent to the use of this plutonium within the European Community for the above-mentioned purpose.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131(b)(1) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

Issued in Washington, DC on March 1, 1993.

Edward T. Fei,

Acting Director, Office of Nonproliferation Policy.

[FR Doc. 93–4987 Filed 3–3–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP93–121–001]

Williston Basin Interstate Pipeline Co.; Amendment to Application

February 26, 1993.

Take notice that on February 24, 1993, Williston Basin Interstate Pipeline Company (Williston), 200 North Third Street, suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP93–121–001 a modification to its application in said docket to specify a change in the testing of certain facilities to be uprated, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

On December 21, 1992, Williston filed an application pursuant to section 7(c) of the Natural Gas Act, in Docket No. CP93–121–000, requesting authorization to uprate 59.8 miles of existing 12-inch natural gas transmission pipeline from its Worland Compressor Station to the Madden/Wind River Junction by increasing its maximum allowable operating pressure from 850 psig to 1017 psig. Williston proposed, in that application, to hydrostatically test to approximately 1300 psia approximately 9 miles of the line extending from the Worland Compressor Station to just beyond the town of Worland. The remaining 50.8 miles of line would be incrementally tested with gas to 1200 psia.

Williston states that, after additional review, it has decided to hydrostatically test the entire 59.8 miles of transmission line to approximately 1300 psia for at least 8 hours. All uprating and testing would continue to be conducted in accordance with title 49, part 192 of the Code of Federal Regulations.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 5, 1993, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Persons who have heretofore filed need not file again.

Lois D. Cashell,

Secretary.

[FR Doc. 93–4913 Filed 3–3–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[Docket EA–76–A]

Amendment to Authorization PP–76–EA

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of issuance.

SUMMARY: The Office of Fossil Energy gives notice that it has issued an amendment to order PP–76–EA authorizing the New England Power Pool to increase its maximum rate of export of electric energy from 725-megawatts (MW) to 2,000–MW

DATES: This action is effective as of February 19, 1993.

ADDRESSES: Copies of this order are available for inspection during normal business hours in the Office of Fuels Programs Docket Room 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9624.

Issued in Washington, DC, March 1, 1993.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–4990 Filed 3–3–93; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 93–13–NG]

American Hunter Exploration Ltd.; Order Granting Blanket Authorization to Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice that it has issued an order granting blanket authorization to American Hunter Exploration Ltd. to export up to 100 Bcf of natural gas to Canada over a two-year term beginning on the date of first delivery.

This order is available for inspection and copying in the Office of Fuels Program Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 18, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs.

[FR Doc. 93–4989 Filed 3–3–93; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. CL–93–35–A]

Common Carrier Public Mobile Information; Revision to the Dates and Filing Requirements for Applications for Cellular Radio Unserved Areas

February 26, 1993.

The Public Notice Report No. CL–93–36, released December 23, 1992 (Dates and Filing Requirements for Applications For Cellular Radio Unserved Areas) (57 FR 62339, Dec. 30, 1992) is revised to include cellular market 291 B Pine Bluff, AR. The system information update for this market is due by March 24, 1993 and the filing window for acceptance of applications for unserved areas in market 291 B is May 12, 1993. All other information listed in the December 23, 1992 Public Notice remains in effect. In addition, Appendix E to the First Report and Order in the Unserved Areas Rulemaking, 6 FCC Rcd 6185 (1991) is revised to change the original grant date of the construction permit for market 291 B from August 5, 1988 to August 5, 1987.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–4905 Filed 3–3–93; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1928]

Petitions for Reconsideration and Clarification and Application For Review of Actions in Rulemaking Proceedings

February 24, 1993.

Petitions for reconsideration and clarification have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to these petitions must be filed March 19, 1993. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)).

Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of part 22 of the Commission's Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular and to Modify other Cellular Rules. (CC Docket No. 90.6) Number of Petitions Filed: 3

Subject: Regulation of International Accounting Rates. (CC Docket No. 90–337) Number of Petitions Filed: 1

Subject: Billed Party Preference of 0+ InterLATA Calls (CC Docket No. 92–77) Number of Petitions Filed: 8

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–4951 Filed 3–3–93; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

First Alabama Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 29, 1993.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. First Alabama Bancshares, Inc., Montgomery, Alabama; to merge with Republic Bancshares, Inc., Nashville, Tennessee, and thereby indirectly acquire Franklin County Bank, Winchester, Tennessee.

2. First Capital Bancorp, Inc., Norcross, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Central Gwinnett Bank, Norcross, Georgia.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Community First Bankshares, Inc., Fargo, North Dakota; to merge with Lincoln Banking Company Ltd., Steamboat Springs, Colorado, and thereby indirectly acquire Bank Northwest, Steamboat Springs, Colorado.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. FirstPerryton Bancorp, Inc., Perryton, Texas; to acquire 99.9 percent of the voting shares of Texas Commerce Bank - Amarillo, Amarillo, Texas.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. First Security Corporation, Salt Lake City, Utah; to merge with Desert Southwest Community Bancorp, Las Vegas, Nevada, and thereby indirectly acquire Nevada Community Bank, Las Vegas, Nevada.

Board of Governors of the Federal Reserve System, February 26, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–4928 Filed 3–3–93; 8:45 am]

BILLING CODE 6210-01-F

Aliant National Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 24, 1993.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Aliant National Corporation, Alexander City, Alabama; to engage *de novo* through its subsidiary, Aliant Financial Services Corporation, Alexander City, Alabama, in securities brokerage and investment advisory activities pursuant to §§ 225.25(b)(4) and (b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 26, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–4926 Filed 3–3–93; 8:45 am]

BILLING CODE 6210-01-F

James Joseph Buquet, Jr., et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for

processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 24, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. James Joseph Buquet, Jr., Houma, Louisiana; to acquire 6.79 percent; Hilton Joseph Michel, Jr., Houma, Louisiana, to acquire 1.23 percent; Jerome Hilliard Mire, Houma, Louisiana, to acquire 0.25 percent; and Calvin Joseph Ortego, Houma, Louisiana, to acquire 0.50 percent of the voting shares of First National Bankshares, Inc., Houma, Louisiana, and thereby indirectly acquire First National Bank of Houma, Houma, Louisiana.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. William T. Graham, to acquire an additional 12.73 percent of the voting shares of First Business Bancshares, Inc., Madison, Wisconsin, for a total of 15 percent, and thereby indirectly acquire First Business Bank, Kingston, Wisconsin.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Mary A. Berkley, Salina, Kansas; to acquire an additional 31.5 percent for a total of 51.2 percent; Bill D. Berkley, Downs, Kansas, to acquire an additional 31.5 percent for a total of 51.2 percent; and Bradley D. Berkley, Lawrence, Kansas, to acquire 31.5 percent of the voting shares of B Bank, Inc., Downs, Kansas, and thereby indirectly acquire State Bank of Downs, Downs, Kansas.

Board of Governors of the Federal Reserve System, February 26, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–4927 Filed 3–3–93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93N–0073]

Animal Drug Export; Furazolidone Aerosol Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Vetoquinol Canada, Inc., has filed an application requesting approval for export to Canada of the animal drugs Topazone and Norizone (furazolidone aerosol powders) which are manufactured and packaged at Heartland Industries, Industry, CA. The drugs are for use as topical antibacterials for the prevention and treatment of superficial bacterial infections in horses and dogs.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–3, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of non-food animal drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Gregory S. Gates, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8617.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review an application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Vetoquinol Canada, Inc., Joliette, QC, Canada J6E 3Z1, through their U.S. agent, James H. Schafer, has filed an application requesting approval for export to Canada of the animal drugs Topazone and Norizone (furazolidone aerosol powders) manufactured and packaged at Heartland Industries, Div. of Aerosol Services, Inc., Industry, CA 91746. The drugs are for use as topical antibacterials for prevention and treatment of superficial bacterial infections in horses and dogs.

The application was received and filed in the Center for Veterinary Medicine on February 16, 1993, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 15, 1993, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.44).

Dated: February 19, 1993.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 93–4933 Filed 3–3–93; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

Office of Research on Women's Health; Meeting

Notice is hereby given that the Office of Research on Women's Health (ORWH) in the Office of the Director, National Institutes of Health (NIH), will hold a public hearing on March 29 and 30, 1993, from 8:30 a.m. to 4:30 p.m., in Lister Hill Auditorium, Building 38A, NIH, 9000 Rockville Pike, Bethesda, Maryland.

The purpose of this hearing is to accept public testimony from individuals and representatives of organizations interested in the recruitment and retention of women in clinical studies. Members of the ORWH Task Force on the Recruitment and Retention of Women in Clinical Studies (Task Force), an ad hoc group of consultants to the Advisory Committee to the Director, NIH, will be present to accept testimony. This testimony will be used to assist the ORWH and the Task Force to identify issues and strategies for increasing the recruitment and retention of women in clinical studies. A scientific meeting to address such

issues will be held on July 12 and 13, 1993, in Bethesda, Maryland.

Women's health issues and the importance of including women in clinical trials have gained increasing attention over the past few years. Reports on the participation of women in clinical studies, including trials, show that women have frequently been underrepresented in such research. The exclusion of women from studies results in a lack of knowledge regarding gender differences and effective interventions for diagnosing, treating, and preventing diseases, disorders, and conditions in women.

Progress is being made by the NIH and the scientific community in closing existing gaps in knowledge pertaining to women's health, including that of individuals from diverse racial/ethnic groups and socioeconomic strata. Successful recruitment and retention of women into clinical studies are necessary to ensure that women are appropriately represented in biomedical and biobehavioral research studies supported by the NIH.

This hearing is open to the public. However, attendance may be limited by seat availability. Testimony for the public hearing should be confined to comments relating to the recruitment and retention of women in clinical studies. Only one representative of an organization may present oral testimony. Each speaker will be permitted 5 to 7 minutes for their presentation.

A letter of intent to present such testimony must be sent by interested individuals and representatives of organizations to the attention of Ms. Margaret Pickerel of Prospect Associates, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852. Correspondence must be received by Prospect Associates no later than 5 p.m. (EST) on Tuesday, March 16, 1993. The order of presentations during the hearing will be determined by the date and time letters of intent are received by Prospect Associates.

Oral presenters and individuals wishing to provide only written statements must send three (3) typewritten copies of their testimony, including a brief description of their organization, to the above address no later than 5 p.m. (EST) on Tuesday, March 23, 1993. Statements submitted after that date will be accepted, but may not be available to the Task Force prior to the hearing.

Individuals who plan to attend the public hearing and need special assistance, such as sign language interpretation or other special accommodations, should contact the person named below in advance of the hearing.

For additional information, contact Carrie P. Hunter, M.D., Special Assistant to the Director, Office of Research on Women's Health, National Institutes of Health, Building 1, room 201, Bethesda, Maryland 20892, 301–402–1770, 301–402–1798 (FAX).

Dated: February 26, 1993.

Susan K. Feldman,

NIH Committee Management Officer.

[FR Doc. 93–4993 Filed 3–1–93; 3:13 pm]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–967–4230–15]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), will be issued to Sealaska Corporation for approximately 15 acres. The lands involved are in the vicinity of Noyes Island, Alaska.

Copper River Meridian

T. 74 S., R. 76 E.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Juneau Empire. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until April 5, 1993 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of KCS Adjudication.

[FR Doc. 93–4992 Filed 3–3–93; 8:45 am]

BILLING CODE 4310–JA–M

[AZ–050–03–4380–03; 8364]

Arizona: Closure of Public Land to Camping and Off-Highway Vehicle Use

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure.

SUMMARY: Notice is hereby given that the Bureau of Land Management is closing an area of public land located north of Del Norte road, on the south mesa of Fortuna Wash, to all camping and all vehicle use.

ORDER: Effective on March 18, 1993, that portion of public land in the west 3,000 feet of the south 1,320 feet of sec. 33, T. 8 S., R. 21 W., Gila and Salt River Meridian, Arizona, is closed to all camping and all vehicle use. The area covered by this closure contains 35.24 acres. No person may use, drive, transport, park, let stand, or have charge or control over any vehicle in this area.

Exemptions to this order are granted to law enforcement and other emergency vehicles in the course of official duties. All other exemptions to this order are by written authorization of the Yuma Resource Area Manager only.

EFFECTIVE DATE: March 18, 1993.

FOR FURTHER INFORMATION CONTACT: Area Manager Michael A. Taylor, Bureau of Land Management, Yuma Resource Area, 3150 Winsor Avenue, Yuma, Arizona 85365, telephone (602) 726–6300.

SUPPLEMENTARY INFORMATION: The purpose of this closure is to protect the public health of nearby residents by reducing dust and noise pollution caused by off-highway vehicle use.

Maps showing the affected area may be obtained by contacting the Yuma Resource Area Office. The affected area will be posted with standard signs prohibiting camping and vehicle use, and closure notices will be published in local newspapers.

Authority for this closure of public land to camping and vehicle use is found at Title 43, Code of Federal Regulations, subpart 8365, Section 1–6(c). Violation of this order is punishable by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months.

This notice is published under the authority of Title 43, Code of Federal Regulations, Subpart 8365, Section 1–6(c).

Dated: February 23, 1993.

Herman L. Kast,

District Manager.

[FR Doc. 93–4970 Filed 3–3–93; 8:45 am]

BILLING CODE 4310–32–M

[CA-060-01-4410-04-ADVB]

Meeting of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92-463 and 94-579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet in formal session Thursday, March 25, 1993 from 8 a.m. to 5 p.m., and Saturday, March 27, 1993, from 8 a.m. to 11 a.m., in the Carriage Inn meeting room at 901 North China Lake Boulevard in Ridgecrest, California.

Agenda Items for the meetings will include:

—Introduction of the new Desert District Advisory Council members and election of Council Chairperson and Vice Chairperson.
—An update on desert tortoise related issues.
—A briefing on sheep and cattle grazing Section 7 consultations.
—A progress report on the West Mojave Coordinated Management Plan.
—Status reports on major Desert District Environmental Assessments/ Environmental Impact Statements and Planning Initiatives.
—A review of the 1992 CDCA Plan Amendments.
—Discussion of the Motor Vehicle Access CDCA Plan Amendment.
—An update on route designation.
—A briefing on the proposed Fort Irwin expansion project.

On Friday, March 26, from 7:30 a.m. to 5 p.m., Council members and interested members of the public will participate in a field tour, which will include scheduled stops at BLM's Wild Horse and Burro corral facilities, Manly Fall, Panamint Springs, Fossil Falls ACEC, and the Coso Geothermal area. The tour will assemble at the Carriage Inn, 901 North China Lake Boulevard in Ridgecrest on Friday morning at 7:15 a.m.

The public is welcome to participate in the field tour, but should plan on providing their own transportation, drinks, and lunch. Anyone interested in participating in the tour should contact BLM at (909) 697-5215 for more information.

All Desert District Advisory Council meetings are open to the public. Time for public comment may be made available by the Council Chairman during the presentation of various agenda items, and is scheduled at the end of the meeting for topics not on the agenda.

FOR MORE INFORMATION AND MEETING CONFIRMATION: Contact the Bureau of Land Management, California Desert District, External Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507; (909) 697-5215.

Dated: February 25, 1993.

Jean Rivera-Council,

Acting District Manager.

[FR Doc. 93-4991 Filed 3-3-93; 8:45 am]

BILLING CODE 4310-40-M

[CO-050-4320-01]

Canon City District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 463), that a meeting of the Canon City District Grazing Advisory Board will be held at 10:30 a.m. Tuesday, April 6, 1993 at the Bureau of Land Management Office, 3170 East Main, Canon City, Colorado. The purpose of this meeting will be:

1. Prioritization of Range Improvement projects.
2. Initiate, conduct and settle business pertaining to the expenditure of Range Betterment Funds.
3. Update Board on status of ongoing resource management planning efforts in the Canon City District.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public. Any member of the public may file with the Board a written statement concerning matters to be discussed. Minutes of the meeting will be made available for public inspection 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Donnie R. Sparks, District Manager, Bureau of Land Management, 3170 East Main Street, Canon City, Colorado 81212 or telephone at (719) 275-0631.

Donnie R. Sparks,

District Manager.

[FR Doc. 93-4971 Filed 3-3-93; 8:45 am]

BILLING CODE 4310-JB-M

[CO-920-93-4110-03; COC52490]

Colorado; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97-451, a petition for reinstatement of oil and gas lease COC52490, Moffat County, Colorado, was timely filed and was accompanied by all required rentals and royalties accruing from September 1, 1992, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The lessee has paid the required $500.00 administrative fee for the lease and has reimbursed the Bureau of Land Management for the cost of this Federal Register notice.

Having met all the requirements for reinstatement of the lease as set out in sections 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective September 1, 1992, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Joan Gilbert of the Colorado State Office at (303) 239-3783.

Dated: February 22, 1993.

Joan E. Gilbert,

Acting Chief, Fluid Minerals Adjudication Section.

[FR Doc. 93-4972 Filed 3-3-93; 8:45 am]

BILLING CODE 4310-JB-M

[ID-943-4210-06; IDI-28082]

Opening of Land in a Proposed Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The temporary 2-year segregation of a proposed withdrawal of 20.00 acres of National Forest System land for the Nez Perce Indian Tribe Chinook Salmon Rearing Ponds expires April 7, 1993, after which the land will be opened to surface entry and mining. It has been and will remain open to mineral leasing.

EFFECTIVE DATE: April 7, 1993.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, (208) 384-3166.

SUPPLEMENTARY INFORMATION: A notice of Proposed Withdrawal was published in the Federal Register (56 FR 67, April 8, 1991), which segregated the land described therein for up to 2 years from the mining laws, subject to valid existing rights, but not from the mineral leasing laws or other forms of disposition which may by law be made of National Forest System land. The 2-year segregation expires April 7, 1993. The withdrawal application will continue to be processed unless it is canceled or denied. The land is described as follows:

Boise Meridian

T. 35 N., R. 6 E.,
Sec. 1, S½SW¼SE¼.

The area described contains 20.00 acres in Idaho County.

At 9 a.m. on April 8, 1993, the lands shall be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: February 16, 1993.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 93–4969 Filed 3–3–93; 8:45 am]

BILLING CODE 4310–GG–M

[ID–060–01–3110–10–D001; IDI–27558]

Realty Action; Exchange of Public Lands in Lewis, Clearwater, and Nez Perce Counties, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, exchange of public lands in Lewis, Clearwater, and Nez Perce Counties, Idaho.

SUMMARY: This notice is to advise the public that the Cottonwood Resource Area of the Bureau of Land Management (BLM) and Steve Schilling are proposing a land exchange. The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

Boise Meridian, Idaho

T. 35 N., R. 2 E.,
Sec. 5, SW¼NE¼;
T. 36 N., R. 2 E.,
Sec. 32, SE¼NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 33, SW¼SE¼.

Comprising 400 acres in Lewis and Clearwater Counties, Idaho.

In exchange for these lands, the Federal Government will acquire the following described lands for Steve Schilling:

Boise Meridian, Idaho

T. 36 N., R. 4 W.,
Sec. 21, Metes and Bounds.

Comprising 13.60 acres of land in Nez Perce County.

The purpose of this exchange is to improve the resource management programs of the Bureau of Land Management. The public lands to be exchanged are isolated parcels without public access. The private lands to be exchanged have recreation values that merit acquisition into public ownership. The exchange is in conformance with the Bureau's land use plans. Lands to be transferred from the United States will be subject to the following reservations:

1. A reservation of the United States of a right-of-way for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

2. Valid existing rights of record.

The public lands described above are presently under grazing lease to Daniel Becker and William White. The rights of Mr. Becker and Mr. White to graze domestic livestock on the lands described in grazing authorizations 36104 and 36225 that may transfer out of public ownership shall cease upon title transfer if they elect to waive their rights in accordance with 43 CFR 2711.1–3 and 43 CFR 2201.1(c).

Lands to be acquired by the United States will be subject to valid existing rights or record.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. Any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant. The segregative effect shall terminate as provided by 43 CFR 2201.1(b).

COMMENTS: For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Coeur d'Alene District Office, Bureau of Land Management, 1808 North Third Street, Coeur d'Alene, Idaho 83814. Objections will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior. Further information concerning the realty action can be obtained from Ron Grant, Realty Specialist, Cottonwood Resource Area Office, (208) 962–3245.

Dated: February 22, 1993.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 93–4967 Filed 3–3–93; 8:45 am]

BILLING CODE 4310–GG–M

[ID–060–01–3110–10–D024; IDI–28559]

Realty Action; Exchange of Public Lands in Lewis County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, exchange of public lands in Lewis County, Idaho.

SUMMARY: This notice is to advise the public that the Cottonwood Resource Area of the Bureau of Land Management (BLM) and Central Idaho Title, Inc., as trustee for FLEX Northwest, Inc., are proposing a land exchange. The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

Boise Meridian, Idaho

T. 35 N., R. 2 E.,
Sec. 4, lots 3 & 4;
Sec. 5, lots 1, 2, & 3, SE¼NW¼.

Comprising 244.59 acres in Lewis County, Idaho.

In exchange for these lands, the Federal Government will acquire the following described lands from Central Idaho Title, Inc.:

Boise Meridian, Idaho

T. 31 N., R. 3 W.,
Sec. 14, W½;
Sec. 23, SE¼NE¼, E½SE¼;
Sec. 24, S½NW¼, SW¼; less the east 70 feet of the SE¼NW¼ and the east 70 feet of the SW¼ as described in that Bargain and Sale Deed, dated March 28, 1992, and recorded April 3, 1992 as Instrument No. 113324.
Sec. 25, S½ of lot 2.

Comprising 695.61 acres in Lewis County, Idaho.

The purpose of this exchange is to improve the resource management programs of the Bureau of Land Management. The public lands to be exchanged are isolated parcels without public access. The private lands to be exchanged are adjacent to public land and have recreation, scenic, and wildlife values that merit acquisition into public ownership. These lands will be managed for multiple use consistent with the surrounding public lands. The exchange is in conformance with the Bureau's land use plans. Lands to be

transferred from the United States will be subject to the following reservations:

1. A reservation of the United States of a right-of-way for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

2. Valid existing rights of record.

The public lands described above, are presently under grazing lease to Ron Carey and Daniel Becker. The rights of Mr. Carey and Mr. Becker to graze domestic livestock on the lands described in grazing authorizations 36193 and 36104 that may transfer out of public ownership shall cease upon title transfer if they elect to waive their rights in accordance with 43 CFR 2711.1–3 and 43 CFR 2201.1(c).

Lands to be acquired by the United States will be subject to valid existing rights of record.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. Any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant. The segregative effect shall terminate as provided by 43 CFR 2201.1(b).

COMMENTS: For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Coeur d'Alene District Office, Bureau of Land Management, 1808 North Third Street, Coeur d'Alene, Idaho 83814. Objections will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior. Further information concerning the realty action can be obtained from Ron Grant, Realty Specialist, Cottonwood Resource Area Office, (208) 962–3245.

Dated: February 22, 1993.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 93–4968 Filed 3–3–93; 8:45 am]

BILLING CODE 4310–GG–M

[WY–930–4210–06; WYW 75480, WYW 75481, WYW 75482, WYW 75483, WYW 75484, WYW 75485]

Proposed Modification, Continuation, and Termination of Bureau of Reclamation Withdrawals; Riverton Reclamation Project, Wyoming

Amendment

SUMMARY: Public comment has resulted in approximately 2,692 acres of withdrawn lands proposed for termination in the **Federal Register** notice published on October 9, 1992, being identified as actually needed for the purposes associated with the Riverton Reclamation Project. The comments were reviewed by the Bureau of Reclamation which now proposes these lands be continued.

In notice document 92–24605 beginning on page 46595 in the issue of Friday, October 9, 1992, please make the following amendments:

1. On page 46595 in the first column, second paragraph, No. 1 should read, "1. Continue withdrawals on 47,751.53 acres which * * *"

2. On page 46595 in the first column, second paragraph, No. 2 should read, "2. Terminate withdrawals on 56,780.39 acres which * * *"

3. On page 46596 in the first column under T. 2 N., R. 3 E., insert the following:

Sec. 1, lots 1–2, S½NE¼, SE¼;
Sec. 11, S½N½NE¼NE¼SE¼, S½NE¼ NE¼SE¼, SE¼NE¼SE¼, E½SE¼ SE¼;
Sec. 12, all;
Sec. 13, N½N½, SW¼NW¼;
Sec. 14, E½NE¼NE¼;

4. On page 46596 in the second column under T. 3 N., R. 3 E., insert "sec. 36, S½SW¼NW¼, E½NW¼ SW¼, E½SW¼, SE¼;"

5. On page 46596 in the second column under T. 2 N., R. 4 E., delete all of secs. 6 and 7 and insert the following:

Sec. 5, lots 1–4, S½N½, SW¼, N½SE¼;
Sec. 6, lots 1–7, S½NE¼, SE¼NW¼, E½ SW¼, SE¼;
Sec. 7, lots 1–2 NE¼, E½NW¼, N½SE¼;
Sec. 8, SW¼SW¼NE¼, S½S½NW¼, N½ SW¼, W½NW¼SE¼, SE¼NW¼SE¼;

6. On page 46596 in the second column under T. 3 N., R. 4 E., insert, "sec. 31, lots 4–5;"

7. On page 46597 in the first column under T. 2 N., R. 4 W., change the acreage figure to "47,751.53."

8. On page 46597 in the first column, second full paragraph, second sentence, change the acreage figure to "56,780.39."

9. On page 46597 in the second column under T. 2 N., R. 3 E., delete all of secs. 1, 11, 12, 13, and 14.

10. On page 46597 in the second column under T. 3 N., R. 3 E., delete all of sec. 36.

11. On page 46597 in the second column under T. 2 N., R. 4 E., delete all of secs. 5, 6, 7, and 8.

12. On page 46597 in the third column under T. 3 N., R. 4 E., delete all of sec. 31.

13. On page 46598 in the first column under T. 4 N., R. 6 E., change the acreage figure to "56,780.39 "

Correction

1. On page 46595 in the second column under T. 3 N., R. 1 E., sec. 20 should read, "sec. 20, E½NE¼NW¼, N½S½NW¼, N½SW¼SE¼NW¼, SE¼SW¼SE¼NW¼, SE¼SE¼ NW¼;".

2. On page 46597 in the first column under T. 4 N., R. 6 E., sec. 19 should read, "sec. 19, lots 1–4, W½NE¼NE¼, NW¼NE¼, NE¼SW¼NE¼, W½SW¼ NE¼, W½NW¼SE¼NE¼, E½NW¼, W½E½SW¼, NE¼NE¼SW¼, W½ SE¼NE¼SW¼, NW¼NW¼NW¼ SE¼;"

Dated: February 22, 1993.

Ray Brubaker,

State Director, Wyoming.

[FR Doc. 93–4973 Filed 3–3–93; 8:45 am]

BILLING CODE 4310–22–M

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Johnnie Davis or Ms. Victoria Dettmar, Interstate Commerce Commission, Section of Energy and Environment, room 3219, Washington, DC 20423, (202) 927–5750 or (202) 927–6211.

Comments on the following assessment are due 15 days after the date of availability.

Comments on the following assessment are due 30 days after the date of availability.

AB–6 (Sub–No. 345X), Burlington Northern Railroad Company—Abandonment—Between Pacific and

Lewis Counties, Washington. EA available 2/26/93.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–4981 Filed 3–3–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Pursuant to the National Cooperative Research Act of 1984—Bell Communications Research, Inc.

Notice is hereby given that, on January 12, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") filed a written notification on behalf of Bellcore and RAM Mobile Data USA Limited Partnership ("RAM Mobile Data") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Bellcore, Livingston, NJ; and RAM Mobile Data, Woodbridge, NJ. Bellcore and RAM Mobile Data entered into an agreement effective as of December 3, 1992 to engage in cooperative research directed to exploring technologies for personal communications applications involving two-way messaging, including the interconnection of wireless and local exchange carrier networks, the application of the technologies for exchange and exchange access services, and prototype fabrication for experimental demonstration of the technologies.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–4962 Filed 3–3–93; 8:45 am]

BILLING CODE 4410–01–M

Pursuant to the National Cooperative Research Act of 1984—Cable Television Laboratories, Inc.

Notice is hereby given that, on December 4, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Cable Television Laboratories, Inc. ("CableLabs") and Digital Equipment Corporation ("Digital") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are CableLabs, Boulder, CO; and Digital, Marlboro, MA.

The area of planned activity is cooperation in the exchange of information about and development of interface concepts between existing data protocols and cable system networks for the transmission, compression/decompression, and storage of data for applications such as multimedia signals, electronic mail, and telecommuting.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–4963 Filed 3–3–93; 8:45 am]

BILLING CODE 4410–01–M

Pursuant to the National Cooperative Research Act of 1984—IBACoS, Inc.

Notice is hereby given that, on December 29, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), IBACoS, Inc., (formerly ABACoS Development, Inc. ("ABACoS")), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes. ABACoS changed its corporate name and added member companies' subsidiaries to its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ABACoS changed its name to IBACoS, Inc. and deemed Delta Faucet, Indianapolis, IN; Aqua Glass, Adamsville, TN; Kraftmaid Cabinetry Inc., Middlefield, OH; Ryland Homes Southwest Region, Dallas, TX; Ryland Homes West Region, Scottsdale, AZ; Ryland Homes Midwest Region, Cincinnati, OH; Ryland Homes Southeast Region, Roswell, GA; Ryland Homes Mid-Atlantic Region, Columbia, MD; United States Gypsum Co., Chicago, IL; USG Interiors Inc., Chicago, IL; USG International, Ltd., Chicago, IL; L&W Supply Corp., Chicago, IL; and Burt Hill/Pollock Krieg Architects, Inc., Fort Meyers, FL subsidiaries of its shareholders and therefore parties to IBACoS for purposes of agreements relating to its research and development. No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IBACoS intends to file additional written notification disclosing all changes in membership.

On April 6, 1992, ABACoS, (now IBACoS, Inc.), filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 6, 1992, 57 FR 19442.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–4964 Filed 3–3–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Office will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and/or Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the

recordkeeping/reporting requirements and the average hours per respondent.
The number of forms in the request for approval, if applicable.
An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ((202) 219–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3001, Washington, DC 20503 ((202) 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

New

Assistant Secretary for Policy
Case Studies on the Impact of the Immigration Nursing Relief of 1989 in Five Labor Markets
One-time survey
Individuals or households; Businesses or other for-profit; Non-profit institutions

Title	Number of respondents	Average time per response (hour)
Attesting (H1A) hospitals:		
CEO/Interview	30	1
Nursing Director/Interview	30	1
Human Resources Director/Interview	30	1
Human Resources Director/Compensation Survey	30	1
Registered Nurse/Interview	90	1
Medical Director/Interview	30	½
Union Representative/Interview	30	1
Non-attesting hospitals:		
CEO/Interview	30	1
Nursing Director/Interview	30	1
Human Resources Director/Interview	30	1
Human Resources Director/Compensation Survey	60	1
Registered Nurse/Interview	600	1
Medical Director/Interview	30	½
Union Representative/Interview	30	1
Nursing schools:		
Nursing School Administrator/Interview	25	1

1,915 total hours

This proposed information collection will enable the Immigration Nursing Relief Advisory committee to assess the impact of Public Law 101–238. Affected are selected hospitals and educational institutions in five labor markets, with individual respondents including administrators, human resource personnel, medical staff, union representatives and registered nurses.

Signed at Washington, DC, this 24th day of February 1993.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 93–4941 Filed 3–3–93; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

[TA–W–27, 920]

Bell Hellicopter, Fort Worth, TX; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Bell Hellicopter, Fort Worth, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–27,920; Bell Hellicopter
Fort Worth, Texas (January 19, 1993)

Signed at Washington, DC this 23rd day of February, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–4935 Filed 3–3–93; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Brazier Forest Industries, Inc., et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 15, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 15, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 15th day of February, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Brazier Forest Industries, Inc. (Co)	Molalla, OR	02/16/93	02/02/93	28,317	Softwood dimensional lumber.
Boelens' Well Service Co. (Co)	Thermopolis, WY	02/16/93	11/02/92	28,318	Oil well servicing.
Dernford Mfg. Co. (Wkrs)	Lebanon, PA	02/16/93	02/04/93	28,319	Ladies' tops, skirts and sweatshirts.

APPENDIX—Continued

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Cyterp Speciality Steel (Wkrs)	Titusville, PA	02/16/93	02/02/93	28,320	Billet-bar-flat s-shapes.
Charland Sports wear (Wkrs)	Charleroi, PA	02/16/93	02/01/93	28,321	Ladies' skirts, Shorts, and slacks.
C.H.C. Gerard and Assoc. (Co)	Shreveport, LA	02/16/93	01/29/93	28,322	Oil and gas.
Matchbox Toys (USA) LTD (Wkrs)	Moonachie, NJ	02/16/93	02/08/93	28,323	Die-cast toys.
Auburn Technology, Inc. (USW)	Auburn, NY	02/16/93	01/14/93	28,324	Diesel engine parts.
UNOCAL Corp.-Bakersfield Dist. (Wkrs)	Bakersfield, CA	02/16/93	12/30/92	28,325	Oil and gas.
UNOCAL Corp.-Ventura Dist. (Wkrs)	Ventura, CA	02/16/93	12/30/92	28,326	Oil and gas.
UNOCAL Corp.-Santa Maria Dist. (Wkrs)	Orcutt, CA	02/16/93	12/30/92	28,327	Oil and gas.
UNOCAL Corp.-Santa Fe Springs Dist (Wkrs)	Santa Fe Springs, CA	02/16/93	12/30/92	28,328	Oil and gas.
Optek Technologies (Wkrs)	El Paso, TX	02/16/93	12/09/93	28,329	Electronics components.
Northern Telecom Inc. (Co)	Morton Grove, IL	02/16/93	02/04/93	28,330	Telecommunications components.
XY Resources, Inc. (Wkrs)	Ardmore, OK	02/16/93	01/23/93	28,331	Metal fabricated products.
TK International, Inc. (IWU)	Tulsa, OK	02/16/93	02/03/93	28,332	Jet engines.
Struthers Wells Corp (IAMAW)	Warren, PA	02/16/93	01/29/93	28,333	Heat exchangers and pressurizes.
SynderGeneral Corporation (Wkrs)	Elkabethton, TN	02/16/93	02/02/93	28,334	Air filtration equipment.
Richard and Trute Tool and Die (Wkrs)	Warren MI	02/16/93	02/01/93	28,335	Stamping dies.
Nancy Fashions of Noxen Inc. (Wkrs)	Tunkhannock, PA	02/16/93	02/01/93	28,336	Ladies' dresses.
Link-Belt Construction Equip. Co. (Co)	Lexington, KY	02/16/93	01/04/93	28,337	Cranes and Excavators.
HECLA Mining Company (Co)	Mullan, ID	02/16/93	02/02/93	28,338	Lead-zinc-silver.
Globe Personnel Consultants (Wkrs)	Humble, TX	02/16/93	12/28/92	28,339	Oil and gas.
Giddings and Lewis Automation (IAM)	West Allis, WI	02/16/93	01/28/93	28,340	Machine tools.
Echo Ultrasound (Wkrs)	Reedsville, PA	02/16/93	02/02/93	28,341	Bi-plane and single planes.
Mobil Natural Gas Inc. (MNGI) (Wkrs)	Houston, TX	02/16/93	01/25/93	28,342	Natural gas.
Kearney and Trecker Corp. (IAM)	West Allis, WI	02/16/93	02/01/93	28,343	Machine tools.

[FR Doc. 93–4939 Filed 3–3–93; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–28, 216]

H & P Garment, Hoboken, NJ; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 19, 1993 in response to a worker petition which was filed on January 5, 1993 on behalf of workers at H & P Garment, Hoboken, New Jersey.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 22nd day of February 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–4934 Filed 3–3–93; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–28,190]

Middle Atlantic Warehouse Distributor, Inc., Tonawanda, NY; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Middle Atlantic Warehouse Distributor, Inc., Tonawanda, New York. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–28,190; Middle Atlantic Warehouse Distributor, Inc
Tonawanda, New York (February 19, 1993)

Signed at Washington, DC, this 23rd day of February, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–4938 Filed 3–3–93; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–26, 553]

Sundor Brands, Inc., Weslaco, TX; Negative Determination on Reconsideration

The Texas Rural Legal Aid, Inc., of Weslaco, Texas submitted a letter dated February 2, 1992 to the Department providing additional information and data to be used in the Department's remand investigation in *Former Employees of Sundor Brands,* v. *Secretary of Labor* (USCIT) 92–03–00177. This letter; however, reached the Office of Trade Adjustment Assistant too late to be included in the supplemental administrative record. However, the Department wants to further address the concerns of the workers and include the new material in a second supplemental record.

The Texas Rural Legal Aid claims that the Sundor Brands' Weslaco facility was closed as a result of imported citrus concentrates. Official government statistics on imports of citrus juice, in value and quantity, were submitted to support this agreement.

The Department found that the claims of the Texas Rural Legal Aid were considered and addressed in the supplemental administrative record. Its true that worker separations occurred when the Weslaco facility ceased concentrate production in 1989. However, these workers are beyond the coverage parameters for a petition dated October 29, 1991.

Actually the domestic and foreign purchases of citrus concentrates kept the bottling and canning portion of the facility open in 1990 and 1991 before it closed in November, 1991.

The Department's investigation found that concentrate production was dependent on the availability of fresh fruit. That availability ceased as of December 1989 as a result of a freeze that destroyed or damaged local fruit trees.

The freeze was the dominant factor that ultimately led to the closure of the plant in November 1991. Efforts to use other sources, after the freeze including imported concentrates, were not cost effective according to company officials.

Other findings on remand show that, after the closure of the Weslaco plant, all production of juices and drinks were transferred to two other domestic corporate facilities and a domestic contractor. A domestic transfer of production would not form a basis for a worker group certification.

Conclusion

After reconsideration, I affirm the original notice of negative determination to apply for adjustment

assistance to former workers of Sundor Brands, Inc., Weslaco, Texas.

Signed at Washington, DC, this 22nd day of February 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93–4936 Filed 3–3–93; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 15, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 15, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 8th day of February, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/worker/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Tanya A. Marie, Inc. (Wkrs)	Fall River, MA	02/08/93	01/25/93	28,299	Ladies' and men's coats and jackets.
Stratagraph, Inc. (Co)	Scott, LA	02/08/93	01/29/93	28,300	Oil service.
Syracuse China Corp. (PAWIU)	Syracuse, NY	02/08/93	01/26/93	28,301	Commercial china.
Reltoc Manufacturing Co (ACTWU)	Beaverton, AL	02/08/93	01/28/93	28,302	Men's dress slacks.
Obion E. Denton (Wkrs)	New Albany, MS	02/08/93	01/28/93	28,303	Children's sleepwear.
Pennzoil Production (Pepco) (Wkrs)	W. Neola, UT	02/08/93	01/21/93	28,304	Oil and gas.
Liebert Corp (Wkrs)	Columbus, OH	02/08/93	01/24/93	28,305	Printed circuit boards.
Ingersoll-Dresser (Wkrs)	Harrison, NJ	02/08/93	01/26/93	28,306	Industrial water pumps.
Hurlock Sportswear (ILGWU)	Hurlock, MD	02/08/93	01/27/93	28,307	Women's sportswear.
Evergreen Manufacturing (Wkrs)	Vancouver, WA	02/08/93	01/29/93	28,308	Steel parts.
C.P.S. (Wkrs)	Henderson, KY	02/08/93	01/15/93	28,309	Gift wrap products.
Cooper Power Systems (USWA)	Canonsbury, PA	02/08/93	01/29/93	28,310	Power transformers.
BHP Petroleum (Americas), Inc. (Wkrs)	Houston, TX	02/08/93	01/29/93	28,311	Oil and gas.
Berrong Enterprises, Ltd. (Wkrs)	Houston, TX	02/08/93	01/21/93	28,312	Data processing.
Amerace (IBEW)	Livingston, NJ	02/08/93	01/22/93	28,313	Electronic components.
Airfoil Textron (UAW)	Fostoria, OH	02/08/93	01/25/93	28,314	Aircraft engine compressor blades.
NT.T., Inc. (Co)	Meadville, PA	02/08/93	02/01/93	28,315	Electronic connectors.
Callaway Safety Equipment Co., Inc. (Wkrs)	Hobbs, NM	02/08/93	01/26/93	28,316	Sales service rental.

[FR Doc. 93–4940 Filed 3–3–93; 8:45 am]

BILLING CODE 4510-30-M

[TA–W–27,997]

Texaco Exploration & Production, Inc., Eastern E & P Region, New Orleans, LA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Texaco Exploration & Production, Inc., Eastern E & P Region, New Orleans, Louisiana. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–27,997; Texaco Exploration & Production, Inc., Eastern E & P Region, New Orleans, Louisiana (February 18, 1993).

Signed at Washington, DC, this 23d day of February 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–4937 Filed 3–3–93; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93–021]

NASA Advisory Council (NAC), History Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, History Advisory Committee.

DATES: March 24, 1993, 1 p.m. to 4:30 p.m.

ADDRESSES: NASA Headquarters, room 1T70, 300 E Street SW., Washington, DC 20277–2028.

FOR FURTHER INFORMATION CONTACT: Dr. Roger D. Launius, History Division, National Aeronautics and Space Administration, Washington, DC 20277–2028, 202/358–0384.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Advisory Committee Executive Order
—Publication Program Status Report
—New Projects
—Twenty-Five Year Anniversary of the Lunar Landing

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Dated: February 26, 1993.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 93–4921 Filed 3–3–93; 8:45 am]

BILLING CODE 7510–01–M

[Notice (93–022)]

NASA Advisory Council Task Force for the Hubble Space Telescope Servicing Mission; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council Task Force for the Hubble Space Telescope Servicing Mission.

DATES: March 8, 1993, 8 a.m. to 4 p.m.; and March 9, 1993, 8 a.m. to 4 p.m.

ADDRESSES: Capital Gallery, suite 300 East, 600 Maryland Avenue, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Mr. William Vantine, Code M, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1698.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The Task Force is reviewing the current status of the Hubble Space Telescope and the procedures for carrying out the servicing. The agenda for the meeting is as follows:

—Servicing Mission Preparations
—Hubble Space Telescope Systems Status
—Development Program
—Mission Scheduling

Public comments on other aspects of satellite rescue and repair will also be solicited at this meeting. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: March 1, 1993.

John W. Gaff,

Advisory Committee Management Officer.

[FR Doc. 93–5007 Filed 3–2–93; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMISSION ON CHILDREN

Termination of Commission

The National Commission on Children was created by Public Law 100–203, December 22, 1987 as an amendment to the Social Security Act. The purpose of the law was to establish a nonpartisan Commission directed to study the problems of children in the areas of health, education, social services, income security, and tax policy.

The powers of the Commission are vested in Commissioners consisting of 36 voting members as follows:

1. Twelve members appointed by the President
2. Twelve members appointed by the Speaker of the House of Representatives
3. Twelve members appointed by the President pro tempore of the Senate.

This notice announces the termination of the National Commission on Children on or before April 30, 1993. The Commission has fulfilled its mandate as set forth in Public Law 100–203. For further information, please contact Cheryl D. Hayes at 1111 18th Street, NW., suite 810, Washington, DC 20036, or (202) 254–3800.

John D. Rockefeller IV,

Chairman, National Commission on Children.

[FR Doc. 93–4966 Filed 3–3–93; 8:45 am]

BILLING CODE 4738–47–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Cooperative Agreement for the Administration of On-Site Evaluations and Technical Assistance

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement with a qualified organization or individual to assist the Endowment's Expansion Arts Program in the administration of artistic and administrative evaluations of grant applicants and grantees, and in the administration of a limited number of technical assistance projects. The responsibilities of the recipient of the Cooperative Agreement include: coordinating Consultant's travel arrangements; examining and approving Consultant's Travel Expense Reports; disbursing funds to Consultants; and furnishing reports. Those interested in receiving the Solicitation package should reference Program Solicitation PS 93–07 in their written request and include two (2) self-addressed mailing labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 93–07 is scheduled for release approximately March 8, 1993 with proposals due on April 8, 1993.

ADDRESSES: Requests for the Solicitation should be addressed to National Endowment for the Arts, Contract Division, room 217, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Anna Mott or William I. Hummel, Contracts Division, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202) 682–5482.

William I. Hummel,

Director, Contracts and Procurement Division.

[FR Doc. 93–4961 Filed 3–3–93; 8:45 am]

BILLING CODE 7537–01–M

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Office of Public Partnership Advisory Panel (State and Regional Section) will be held on March 29, 1993 from 9 a.m.–5:30 p.m. and March 30 from 8:30 a.m.–5 p.m. in room M–14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington DC 20506.

This meeting will be open to the public on a space available basis. The topics will include opening remarks, review of Arts in Underserved Communities applications, policy discussion, and guidelines review.

Any interested person may observe meetings, or portions thereof, which are open to the public, and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee

Management Officer, National Endowment for the Arts, Washington DC 20506, or call (202) 682–5439.

Dated: February 24, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–4965 Filed 3–3–93; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Instrumentation and Resources; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: Monday, March 22, 1993; 8:30 a.m.–6 p.m. Tuesday, March 23, 1993; 8:30 a.m.–6 p.m.

Place: International Room, Hotel Lombardy, 2019 I St. NW., Washington, DC 20006.

Type of Meeting: Closed.

Contact Person: Dr. Peter W. Arzberger, Program Director, Biological Instrumentation and Resources, room 312, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Telephone: (202) 357–7652.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Database Activities proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–4952 Filed 3–3–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Computer and Computation Research; Notice of Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Computer & Computation Research.

Date: March 23, 1993.

Time: 8:30 a.m.–5 p.m.

Place: St. James Hotel, 950 24th St., NW., Washington, DC.

Type of Meeting: Closed.

Agenda: Review and evaluate Research Initiation proposals.

Contact: Dr. Bruce H. Barnes, Deputy Division Director, Computer and Computation Research, National Science Foundation, rm. 304, Washington, DC 20550, (202) 357–9747.

Dated: March 1, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–4958 Filed 3–3–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design and Manufacturing Systems; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meetings.

Date & Time: March 30, 1993; 8:30 a.m. to 5:30 p.m.

Place: The Inn at Foggy Bottom, 824 New Hampshire Ave., NW., Washington, DC.

Contact Person: Drs. B. Kramer and K. Srinavasan, Program Directors, Division of Design and Manufacturing Systems, rm. 1128, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–5167.

Agenda: To review and evaluate Manufacturing and Processing Equipment Research Initiation and Equipment proposals as part of the selection process for awards.

Date & Time: March 31, 1993; 8:30 a.m. to 5:30 p.m.

Place: Rm. 500 E, National Science Foundation, 1110 Vermont Ave., NW., Washington, DC.

Contact Person: Dr. F. Stan Settles, Program Director, Division of Design and Manufacturing Systems, rm. 1128, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–5167.

Agenda: To review and evaluate Integrated Engineering and Engineering Design Research Initiation and Equipment proposals as part of the selection process for awards.

Date & Time: March 31, 1993; 8:30 a.m. to 5:30 p.m.

Place: Rm. 500 D, National Science Foundation, 1110 Vermont Ave., NW., Washington, DC.

Contact Person: Dr. F. Hank Grant, Program Director, Division of Design and Manufacturing Systems, rm. 1128, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone (202) 357–5167.

Agenda: To review and evaluate Operations Research and Production Systems' Research Initiation and Equipment proposals as part of the selection process for awards.

Date & Time: April 1, 1993; 8:30 a.m. to 5:30 p.m.

Place: Rms. 500 C & D, National Science Foundation, 1110 Vermont Ave., NW., Washington, DC.

Contact Person: Dr. F. Hank Grant, Program Director, Division of Design and Manufacturing Systems, rm. 1128, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–5167.

Agenda: To review and evaluate Engineering Research Deployment Teaching Initiative proposals as part of the selection process for awards.

Type of Meetings: Closed

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–4953 Filed 3–3–93; 8:45 am]

BILLING CODE 7555–01–M

Division of Environmental Biology; Notice Of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meetings.

Name: Advisory Panel for Ecology.

Date & Time: March 31–April 2, 1993, 8 a.m. to 5 p.m.

Place: Room 1242, National Science Foundation, 1800 G Street NW., Washington, DC.

Contact Person: Dr. Laurel Fox, rm. 215, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–9734.

Agenda: To review and evaluate Ecology proposals as part of the selection process for awards.

Name: Advisory Panel for Ecosystem Studies.

Date & Time: March 31–April 2, 1993, 8 a.m. to 5 p.m.

Place: Room 1243, National Science Foundation, 1800 G Street, NW., Washington, DC.

Contact Person: Dr. Richard Dame, Room 215 National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 375–9734.

Agenda: To review and evaluate Ecosystem Studies Proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–4954 Filed 3–3–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Environmental Biology; Notice Of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: March 25 & 26, 1993, 8 a.m.–5 p.m.

Place: Room 1243, National Science Foundation, 1800 G Street NW. Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. James Rodman, rm. 215, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–9588.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Research Planning Grants and Career Advancement Award proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; anti personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–4956 Filed 3–3–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: March 23–24, 1993 (9 a.m. to 5 p.m.).

Place: National Science Foundation, Vermont Avenue Building, 1110 Vermont Avenue, NW., room 500A, Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. William Y. Velez, Program Director, Division of Mathematical Sciences, Room 339, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–3693.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the DMS Research Opportunities for Women & Minority Research Initiation proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–4955 Filed 3–3–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Microelectronic Information Processing Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Microelectronic Information Processing Systems.

Date and Time: March 26, 1993 8:30 a.m.–5 p.m.

Place: National Science Foundation, 1800 G Street, NW, Washington, DC 20550, Conference Rooms: 543, 306, 417, 414A, 414B.

Type of Meeting: Closed.

Contact Person: Dr. John R. Lehmann, Deputy Division Director, Microelectronic Information Processing Systems Division, National Science Foundation, room 414, Telephone No.: 202–357–7373.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate FY 93 Research Initiation Award (RIA) proposals in the Microelectronic Information Processing Systems area of research.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature including technical information; financial data such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c)(4) and (6) of the Government in the Sunshine Act.

Dated: March 1, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–4957 Filed 3–3–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: IAEA Form N–71—Design Information Questionnaire

3. The form number if applicable: IAEA Form N–71

4. How often the collection is required: Once.

5. Who will be required or asked to report: Licensees of facilities on the U.S. eligible list who have been notified in writing by the Commission to submit the form.

6. An estimate of the number of responses annually: One.

7. An estimate of the total number of hours needed annually to complete the requirement or request: 360

8. An indication of whether Section 3504(h), Pub. L. 95–511 applies: Not applicable.

9. Abstract: Licenses of facilities that appear on the U.S. eligible list, pursuant to the USD/IAEA Safeguards Agreement, and who have been notified

in writing by the Commission, are required to complete and submit a Design Information Questionnaire, IAEA Form N–71.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room 2120 L Street, NW (Lower Level), Washington, DC

Comments and questions may be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150–0056), NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 396–3084. The NRC Clearance Office is Brenda J. Shelton, (301) 492–8132. Dated at Bethesda, Maryland, this 24th day of February 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93–4948 Filed 3–3–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 40–6659]

Petrotomics Company; Draft Finding of No Significant Impact Regarding the Construction of Evaporation Ponds at the Shirley Basin Mill Located in Carbon County, WY

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Draft finding of no significant impact.

1. Proposed Action

The proposed administrative action is to authorize the construction of additional evaporation ponds at the Shirley Basin mill by revision to Source Material License SUA–551.

2. Reasons for the Draft Finding of No Significant Impact

The Shirley Basin mill, owned and operated by Petrotomics Company, is a decommissioned uranium mill site. Activities authorized under SUA–551 include site reclamation and ground-water corrective actions. As part of Petrotomics' proposed modification to the ground-water corrective action plan, the licensee requested authorization to construct two additional evaporation ponds on the partially reclaimed site tailings impoundment. The NRC staff evaluated the evaporation pond design to assess the potential environmental impacts which could result if the proposed pond design were approved. Documents used to prepare the evaluation include licensee submittals entitled "Corrective Action Modifications, Upper Wind River Sand" dated January 1992, and "Supplement to Applicant's Environmental Report for Expanded Evaporation System-Corrective Action Plan" dated November 1992. Other submittals necessary for the evaluation of the licensee's proposal include the Environmental Report for the Shirley Basin Mill dated April 1, 1981, the Environmental Assessment issued in 1984 by the NRC, and information forwarded to the NRC by letters dated May 7, 1992, and January 8 and January 13, 1993.

The following statements support the draft Finding of No Significant Impact and summarize the environmental assessment.

A. In accordance with 10 CFR 51.60, the NRC does not require an Environmental Report for the type of license amendment request submitted by the licensee.

B. The evaporation ponds will be constructed within the main tailings embankment, which would be 10 feet higher than the crest of the proposed interior pond dikes. The design for the main tailings embankment was previously evaluated and approved in the NRC Environmental Assessment for the Shirley Basin mill in 1984.

C. There would be no additional natural resource commitments with implementation of the licensee's proposed pond design and location.

D. There would be no potential for spillage of recovered seepage. Also, there would be no potential for environmental damage due to a delay in identifying failure of a pond system component.

E. There would be no environmental impacts due to additional disturbance to the land or to the ecological system in the Shirley Basin mill area.

F. The proposed evaporation ponds should be adequate for storing effluent recovered as part of the Shirley Basin mill ground-water corrective action plan.

In accordance with 10 CFR 51.33(a) and the Memorandum of Understanding between the Environmental Protection Agency and the Commission (October 25, 1991, 56 FR 55432), the Director, Uranium Recovery Field Office made the determination to issue a draft finding of no significant impact and to accept comments on the draft finding for a period of 45 days after issuance in the **Federal Register**.

This finding and the environmental assessment setting forth the basis for the finding, are available for public inspection at the Commission's Uranium Recovery Field Office at 730 Simms Street, Denver, Colorado, and at the Commission's Public document Room at 2120 L Street, NW., Washington, DC.

Dated at Denver, Colorado, this 22nd day of February 1993.

For the Nuclear Regulatory Commission.

Ramon E. Hall,

Director.

[FR Doc. 93–4947 Filed 3–3–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 72–8 (50–317/318)]

Baltimore Gas & Electric Company Calvert Cliffs Nuclear Power Plant; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition of December 21, 1992, the Maryland Safe Energy Coalition requested that the Nuclear Regulatory Commission institute a proceeding pursuant to 10 CFR 2.202 with regard to the Independent Spent Fuel Storage Installation (ISFSI) at the Calvert Cliffs Nuclear Power Plant. The Petitioner requests that the NRC: (1) Halt the transfer of nuclear waste from the spent fuel pool at the Calvert Cliffs Plant to the ISFSI until certain alleged safety problems have been fully investigated and solved; (2) implement its Petition to reopen hearings and testimony for further rulemaking and regulation of nuclear waste storage at the plant; and (3) deny a Certificate of Compliance and suspend the license issued to the Baltimore Gas & Electric Company (BG&E) for dry cask storage of spent fuel until the concerns set forth in the Petition are addressed by the NRC and BG&E. The Petitioner asserts as basis for these requests that several relevant omissions from past NRC hearings, expert testimony, and rulings may seriously impact the safe operation of dry cask storage of spent fuel at Calvert Cliffs. In addition, new information allegedly proves the inadequacy of the NRC's and BG&E's evaluations of this spent fuel storage, to wit: That the Cove Point Natural Gas Plant, which is expected to resume operation in 1993, is a potential danger to safe storage that has not been analyzed, and failure to analyze it is a violation of NRC procedure. The Petitioner also alleges that safety problems related to the ISFSI at the Calvert Cliffs Plant exist with regard to the following matters: The thermal limits of passively cooled concrete vaults may be exceeded if the air convection ports become blocked, which could also damage the fuel in the canisters, increase the temperature of the canister beyond the design limits, or

increase embrittlement; the NRC has failed to require radiation limitations at the air inlets and outlets, which are the points of greatest risk, or to require inspection for canister embrittlement, corrosion or leakage, or internal canister monitoring; the NRC is permitting defective (leaking) fuel to be transferred to the dry casks without limits in quantity; if the thermal limits of the concrete in the ISFSI are exceeded, the canisters may become irretrievable; and dry cask storage has not been adequately tested.

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. As provided by section 2.206, appropriate action will be taken on this request within a reasonable time.

A copy of this Petition is available for inspection in the Commission's Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555, and at the Local Public Document Room at the Calvert County Public Library, 30 Duke Street, P.O. Box 405, Prince Frederick, Maryland, 20678.

Dated at Rockville, Maryland, this 24th day of February 1993.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 93–4945 Filed 3–3–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–213]

Connecticut Yankee Atomic Power Company; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–61, issued to Connecticut Yankee Atomic Power Company (the licensee), for operation of the Haddam Neck Plant located in Middlesex County, Connecticut.

The proposed amendment would modify the exiting steam generator tubes repair (plugging/sleeving) limits in the Technical Specifications. The change is justified based on a combination of enhanced inservice inspection, a repair limit based on crack length rather than crack depth and a limit on the number of tubes with characterized cracks retained in service.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By April 5, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Russell Library, 123 Broad Street, Middletown, Connecticut. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner mut provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such supplement which satisfies these requirements with respect to at last one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 343–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and the Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford,

Connecticut 06103–3499, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer of the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated January 29, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Dated at Rockville, Maryland, this 25th day of February 1993.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

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OFFICE OF PERSONNEL MANAGEMENT

SES Positions That Were Career Reserved During 1992

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: As required by the Civil Service Reform Act of 1978, this gives notice of all positions in the Senior Executive Service (SES) that were career reserved during 1992.

FOR FURTHER INFORMATION CONTACT: Charles Vaughn, Office of Executive and Management Policy, (202) 606–1927.

SUPPLEMENTARY INFORMATION: Below is a list of titles of SES positions that were career reserved any time in calendar year 1992 whether or not they were still career reserved on December 31, 1992. Section 3132(b)(4) of title 5, United States Code, requires that the head of each agency publish the list by March of the following year. OPM is publishing a consolidated list for all agencies.

U.S. Office of Personnel Management.

Patricia W. Lattimore,

Acting Director.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992

Agency, organization	Career reserved positions
Action:	
Office Inspector General	Inspector General.
Assoc Director for Mgmt & Budget	Associate Director for Management & Budget.
	Asst Dir for Financial Management.
Administrative Conference of the U.S.:	
Administrative Conference of the U.S.	Executive Director.
	Research Director.
	General Counsel.
Advisory Council on Historic Preservation:	
Ofc of the Exec Director	Executive Director.
Department of Agriculture:	
Ofc of the Inspector General	Deputy Inspector General.
	Asst Inspector General for Investigations.
	Dep Asst Inspector General for Investigation.
	Asst Inspector General for Audit.
	Dep Assistant Inspector General for Audit.
	Dep Asst Inspector General for Audit.
	Asst Inspector Gen for Pol Dev & Res Mgmt.
	Dep Asst Insp Gen for Invest Immediate Office.
Office of Asst Sec'y Administration	Deputy Chief Financial Officer.
Office of Operations	Director Office of Operations.
	Deputy Dir for Procurement & Real Property.
	Dep Dir for E/S, Real Property, F/P Division.
Office of Finance and Management	Director, Applications Systems Division.
	Dir, Info Resources Management Division.
	Director, Financial Services Division.
	Dir, Thrift Savings Plan Division.
Farmers Home Administration	Deputy Administrator for Management.
	Assistant Administrator, Finance office.
	Asst Admr for Automated Information Services.
	Asst Admr, Community and Business Programs.
Federal Crop Insurance Corporation	Asst Mgr for Actuarial & Underwriting Svcs.
	Assistant Manager for Administration.
	Assistant Manager for Insurance Services.
	Asst Manager for Research & Development.
Rural Development Administration	Asst Admr Fin Prog.
Agricultural Marketing Service	Deputy Administrator, Management.
	Director, Fruit & Vegetable Division.
	Director, Cotton Division.
	Director, Dairy Division.
	Director, Livestock Division.
	Director, Tobacco Division.
	Agricultural Marketing Svc, Dir Poultry Div.
	Director, Compliance Staff.
	Dir, Commodity Scientific Support Division.
	Director.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Animal & Plant Health Inspection Service	Deputy Administrator for Management & Budget.
	Assoc Dep Administrator for Mgt. & Budget.
Veterinary Services	Dep Admr. Regulatory Enforcement/Animal Care.
	Asst Deputy Administrator, Domestic Programs.
	Dir Natl Veterinary Services Labs, Ames.
	Director, Northern Region.
	Dir, S E Region, Veterinary Services.
	Director, Western Region.
	Director, South Central Region.
	Assistant Deputy Administrator.
	Dep Admr. Animal Damage Control.
Plant Protection & Quarantine Service	Dir, Operational Support, Veterinary Services.
	Dep Admr, International Services.
	Director Northeastern Region.
	Director, South Central Region.
	Director, Western Region.
	Director, Southeastern Region.
	Asst to the Asst Dep Admr, Natl Programs, PPQ.
	Director Operational Support PPQ.
Science and Technology	Director Science and Technology.
Federal Grain Inspection Service	Dir Field Management Division.
Food Safety and Inspection Service	Asst Deputy Admin Technical Services.
	Dep Admr-Administrative Mgmt.
	Dir Northeast Region, Phila., Pa.
	Regl Director, Atlanta, Georgia.
	Dir, North Central Region, Des Moines, Iowa.
	Director, Southwestern Region, Dallas, Texas.
	Asst Dep Admr Comp & Staff Operations.
	Asst Dep Admr, Scientific Staff Services.
	Asst Dep Admin (Admin Mgt).
	Deputy Administrator, Science.
	Dep Admr Interni Programs.
	Asst to the Dep Admr International Programs.
	Asst Deputy Administrator.
	Regional Director.
	Assistant Deputy Administrator.
Food & Nutrition Service	Associate Deputy Administrator.
	Deputy Admin for Financial Management.
Agricultural Stabilization & Conservation Service	Deputy Admr for Management.
	Accounting Officer.
Foreign Agricultural Service	Director, Budget Division.
	Director, Tobacco Cotton & Seeds Division.
	Dir, Grain & Feed Div.
	Dir, Oilseeds & Prod Div.
	Dir, Dairy, Livestock & Poultry Div.
	Deputy Assistant Administrator Export Credits.
	Dep Asst Admr, Interni Agric Statistics.
Agriculture Research Service	Deputy Asst Administrator for Management.
	Dep Admr for Adm Mgmt.
	Assoc Dep Admin for Administrative Management.
	Asst Adm for Cooperative Interactions.
	Global Change Research Staff Assistant.
	Corr for Sci & Educ Agencies for Intl Activ.
National Program Staff Office	Deputy Administrator National Program Staff.
	Assoc Dep Admr.
Beltsville Area Office	Associate Dep Administrator, Animal Sciences.
	Dir, Beltsville Human Nutrition Research Ctr.
	Director Beltsville Area Office.
	Assoc Dir Beltsville Area.
	Assoc Dep Admr, Natural Resources/Systems.
	Associate Deputy Admin Genetic Resources.
	Associate Deputy Administrator.
	Supervisory Research Chemist.
North Atlantic Area Office	Dir Beltsville Human Nutrition Research Ctr.
	Director, Eastern Regl Research Center.
	Research Programs Director.
	Director, North Atlantic Area.
South Atlantic Area Office	Assoc Dir, North Atlantic Area.
	Res Leader—Plant Physio & Photosynthesis Res.
	Director, South Atlantic Area.
	Associate Dir, South Atlantic Area.
	Director, Russell Research Center.
	Supervisory Research Geneticist.
	Supervisory Research Physiologist.
Midwest Area Office	Director, South Atlantic Area.
	Dir, Northern Regional Research Center.
	Dir, Midwest Area.
	Dir, Northern Regional Research Ctr.
	Assoc Dir, Midwest Area.
	Supervisory Veterinary Medical Officer.
	Supervisory Research Chemist.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Supervisory Research Geneticist (Plants).
Midsouth Area Office	Dir, Southern Regional Res Center, New Orleans.
	Director, Mid-South Area.
	Associate Director, Mid-South Area.
Central Plains Area Office	Dir, Nat'L Animal Disease Ctr.
Southern Plains Area Office	Director, Southern Plains Area.
	Director, Conservation & Production Res Lab.
	Assoc Dir, Southern Plains Area.
Northern Plains Area Office	Director, Northern Plains Area.
	Associate Director, Northern Plains Area Ofc.
	Dir, R.L. Hruska US Meat Animal Res Center.
	Supervisory Soil Scientist.
Northwest Area Office	Director, Northwest Region.
Pacific West Area Office	Director, Western Regional Research Center.
	Director, U.S. Salinity Laboratory.
	Res Leader, Natural Products Chemistry Res.
	Dir, Western Human Nutrition Research Center.
	Director, Pacific West Area Office.
	Director, Plant Gene Expression Center.
	Associate Director, Pacific West Area Office.
	Dir, Western Cotton Research Laboratory.
	Supervisory Research Plant Pathologist.
	Supervisory Research Plant Pathologist.
	Supervisory Soil Scientist.
	Supervisory Soil Scientist.
Cooperative State Research Service	Assoc Administrator for Grants & Program Sys.
Extension Service	Deputy Admin Management.
Soil Conservation Service	Director, Engineering Division.
	Dir, Ecological Sciences and Technology Divsl.
	Dep Chf for Administration.
	Dir, Consv Planning and App.
	Director, Watershed Projects Division.
	Dir, Basin & Area Planning (Soil Conserv).
	Assoc Dep Chief for Administration.
	Dir, Soils (Soil Scientist).
	Dir, Land Treatment Program.
	Dir, Information Res Management Division.
	Dir, South National Technical Center.
	Associate Deputy Chief for Technology Sci Tec.
Forest Service	Dep Chf for Administration.
	Associate Deputy Chief-Administration.
	Dir Forest Pest Mgmt Staff.
	Dir Fiscal and Accounting Management.
	Associate Deputy Chief for Administrator.
	Director, Fire and Aviation Staff.
Research	Director, Timber Mgmt Research Staff.
	Dir Insect and Disease Research Staff.
	Dir Forest Environment Research Staff.
	Director, Forest Resource Economics Staff.
	Dir Forest Prod & Harvesting & Research Staff.
	Dir, Forest Fire & Atmos Sciences Res Staff.
Nat'l Forest System	Dir, Range Management Staff.
	Dir, Recreation, Mgmt Staff.
	Dir Timber Management Staff.
	Director, Engineering Staff.
	Director, Lands Staff.
	Dir Land Management Planning Staff.
	Dir, Wildlife & Fisheries Mgmt Staff.
	Dir, Minerals & Geology Staff.
	Director, Watershed & Air Management Staff.
	Dir Ecological Management.
	IPA Assignment.
State & Private Forestry	Dir of Area Planning & Dev Staff.
	Dir Cooperative Forestry.
Field Units	NE Area Dir, State & Private Forestry, U Darb.
	Dir Intermountain Forest & Range Exp Stat, Ogd.
	Dir N Eastern Forest Experiment Station.
	Dir, North Central Forest Exp Station.
	Dir, Pacific NW Forest & Range Exp Station.
	Dir, Pacific SW For & Range Exper Sta.
	Director Rocky Mt Forest & Range Exper Stat.
	Dir S Eastern Forest Experiment Station.
	Dir, S. Forest Experiment Station, New Orlean.
	Director, Forest Products Laboratory.
	Dep Dir Forest Products Lab.
	Deputy Regional Forester.
International Forest System	Associate Deputy Chief.
Economic Research Service	Admr, Economic Research Service.
	Associate Administrator-Economic Rsch Svc.
	Director Agriculture & Trade Analysis Div.
	Director Commodity Economics Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Director Resources & Technology Division.
	Director Agriculture & Rural Econ Division.
	Dep Admin For Info Res & Mgt Oper.
Economics Management Staff	Director, Economics Management Staff.
National Agricultural Statistics Service	Admr, National Agricultural Statistics Serv.
	Deputy Administrator for Operations.
	Dir Estimates Div.
	Dir, Research and Applications Division.
	Dir, State Statistical Division.
	Deputy Administrator for Programs.
	Dir, System & Information Division.
	Director, Survey Management Division.
World Agricultural Outlook Board	Chairperson.
	Dep Chairperson.
Office of Energy	Director, Office of Energy.
Board for International Broadcasting:	
Board of International Broadcasting	Inspector General.
Board Staff	Exec Director.
	Dir for Research & Engineering.
	Dep Exec Director/Director of Program Review.
	General Counsel.
	Director of Financial & Congressional Affairs.
Department of Commerce:	
Office of Technology	Executive Director.
Office of the General Counsel	Asst General Counsel for Finance & Litigation.
	Director, Office of Intelligence Liaison.
Ofc of Asst Secy for Administration	Dir for Federal Asst & Management Support.
	Dir for Financial Management.
Director for Management and Information	Dir for Information Resources Management.
Director for Procurement & Administrative Services	Director for Procurement & Admin Services.
	Dep Dir for Procurement & Admin Services..
	Director, Office of Security.
	Deputy Director for Procurement.
Office of Human Resources Management	Director for Human Resources Management.
	Deputy Director of Personnel.
Director for Planning Budget and Evaluation	Director, Office of Budget.
Ofc of the Under Secy for Economic Affairs	Dep Asst Secy for Statistical Affairs.
	Dir Office of Business Analysis.
Bureau of Economic Analysis	Director.
	Dep Dir, Bur of Economic Analysis.
	Assoc Dir for Natl Economic Accounts.
	Assoc Dir for Regional Economics.
	Assoc Dir for International Economics.
	Chief Economist.
	Chf Statistician.
	Asst to the Director for Econometrics.
	Chf, Nat'l Income & Wealth Div.
	Chief, Business Outlook Div.
	Chief International Investment Division.
Bureau of the Census	Dep Dir.
	Asst Director for Adp.
	Prog Mgr, Computer-Assisted Survey Info Coll.
	Chief, Technical Services Division.
	Assoc Dir for Management Services.
	Chief, Personnel Division.
	Chief Admin & Publications Services Division.
	Senior Program Analyst.
	Asst Dir for Administration.
	Associate Director for Administration.
	Chief Data User Services Division.
	Chief, Computer Services Division.
Demographic Programs	Associate Director for Demographic Fields.
	Chf, Population Div.
	Chief Demographic Surveys Division.
	Chf, Housing & Household Econ Statistics Div.
	Chief, Statistical Methods Division.
	Chief Intl Statistical Programs Center.
Decennial Census	Associate Director for the Decennial Census.
	Asst Dir for Publicity and Outreach.
	Chf, Geography Div.
	Chief Decennial Management Division.
	Chief, Decennial Statistical Studies Div.
Statistical Design Methodology and Standards	Assoc Dir for Statistical Standards & Methodo.
	Chief, Year 2000 Res & Dev Staff.
	Chief Statistical Research Division.
	Senior Program Analyst.
Field Operations	Assoc Dir for Field Operations.
	Chief, Field Division.
	Chief, Data Preparation Division.
Economic Programs	Associate Director for Economic Programs.
	Assistant Director for Economic Programs.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Chief, Agriculture Div.
	Chf, Business Div.
	Chf, Construction Statistics Div.
	Chief Economic Census & Surveys Division.
	Chf, Foreign Trade Div.
	Chf, Government Div.
	Chf, Industry Div.
	Chief, Economic Statistical Methods Division.
	Chief, Economic Programming Division.
Institute for Telecommunications Sciences	Assoc Admr for Telecommunications Science.
	Deputy Dir for Systems & Networks.
	Deputy Director for Spectrum.
Economic Development Administration	Dep Director for Program Operations.
Ofc of the Inspector General	Assistant Inspector General for Auditing.
	Asst Inspector General for Investigations.
	Asst Insp. Gen for Compl & Audit Resolution.
	Deputy Assistant Inspector Gen for Auditing.
	Asst Insp Gen for Ptng, Eval & Inspections.
	Counsel to the Inspector General.
	Dep Asst Insp Gen for Insp & Res.
Ofc of the Under Sec for Export Administration	Director of Administration.
Ofc of Asst Secy for Trade Development	Director Office of Consumer Goods.
Ofc of Dep Asst Secy for Compliance	Dir, Office of Agreements Compliance.
	Dir, Office of Antidumping Compliance.
Ofc of Dep Asst Secy for Investigations	Dir, Office of Antidumping Investigations.
	Dir, Office of Countervailing Investigations.
National Oceanic and Atmospheric Administration	Dir for High Performance Computing Commun.
	Dir, NOAA Coastal Ocean Program Office.
Systems Program Office	Director, Systems Engineering Staff.
	ASOS Program Manager.
	Nexrad Program Manager.
	GOES Program Manager.
	Chf/Awi Interactive Processing System/ 1990's.
	Fleet Modernization Program Manager.
Office of Administration	Dir for Information Systems & Finance.
	Director for Personnel & Civil Rights.
	Dir for Procurement, Grants & Adm Services.
National Marine Fisheries Service	Senior Scientist for Fisheries.
	Dir, Ofc of Research & Environmental Info.
Fisheries Resource Management	Director, Office of Enforcement.
Fisheries Centers	Science & Research Dir Northeast Region.
	Science & Research Dir.
	Science & Research Dir Southwest Region.
	Science & Research Dir.
	Science and Research Director.
Deputy Asst Admr for Satellites	Dir, Natl Oceanographic Data Center.
	Director, National Climatic Data Center.
	Dir, National Geophysical Data Center.
	POES Program Manager.
	Dir, Ofc of Sys Development.
Office of Oceanic and Atmospheric Research	Director, Forecast Systems Laboratory.
Office of Oceanic Research Programs	Dep Dir, Ofc of Oceanic Research Programs.
	Program Director for Weather Research.
Environmental Research Laboratories	Dep Dir, Environmental Research Laboratories.
	Associate Director for Science & Data.
	Dir, Climate Monitoring & Diagnostics Lab.
Atlantic Oceanographic and Meterological Labs	Dir, Atlantic Oceanographic & Meteorological.
	Depy Dir, Atlantic Oceanographic & Meteorologi.
	Dir, Space Environment Laboratory.
Wave Propagation Lab	Director.
Aeronomy Lab	Director, Aeronomy Laboratory.
Geophysical Fluid Dynamics Laboratories	Director.
	Supervisory Rsch Meterologist.
	Supervisory Rsch Meterologist.
	Supervisory Rsch Meterologist.
Great Lakes Environmental Research Lab	Dir, Great Lakes Environmental Research Lab.
National Severe Storms Laboratory	Dir, Nat'l Severe Storms Lab.
Air Resources Laboratory	Director, Air Resources Laboratory.
Pacific Marine Environmental Lab	Dir, Pacific Marine Environmental Lab.
National Ocean Services	Chf, Marine Analysis & Interpretation Div.
	Dir, Office of Ocean & Earth Sciences.
	Senior Scientist for Ocean Services.
	Chief, Ocean Observation Division.
	Chief, Ocean & Lake Levels Division.
Ocean Resources Conservation and Assessment	Chf, Strategic Environmental Assessments Div.
	Chf, Hazardous Materials R & A Division.
	Chief Coast Monitoring Bioeffects Assessments Div.
	Chf, Physical Oceanography Division.
Charting and Geodetic Services	Chief, Geosciences Laboratory.
	Assoc Dir, Ofc of Aeronautical Charting & Cart.
National Weather Service	Director, NOAA Data Buoy Office.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Office of Meteorology	Chief, Management and Budget Staff.
	Chief, International Affairs Division.
	Chf, Ofc of the Fed Coordinator for Meteorolg.
	Deputy Assistant Administrator for Operations.
	Dir, NEXRAD Operational Support Facility.
	Dir of Scientific & Academic Affairs.
	Transition Dir, Transition Prog Ofc.
	Dir, Office of Meterology.
Office of Hydrology	Chief Operations Division.
	Chf, Prog Requirements & Plng Division.
	Director, Office of Hydrology.
Office of Systems Operations	Chief, Hydrologic Services Division.
	Chief, Hydrologic Research Laboratory.
	Chief, Engineering Division.
Office of Systems Development	Chief, Systems Operations Center.
	Chief, Systems Integration Division.
	Dir, Office of Systems Operations.
	Director, Office of Systems Development.
National Meteorological Ctr.	Chief, Integrated Systems Laboratory.
	Chief, Techniques Devel Laboratory.
	Chief, Advanced Devel & Demonstration Lab.
	Dep Dir, Office of Systems Development.
	Director National Meteorological Center.
	Deputy Director.
	Director, Climate Analysis Center.
	Chief, Automation Division.
	Chief, Development Div.
	Chf, Meteorological Operations Division.
Regional Offices & Centers	Dir, Natl Severe Storms Forecast Center.
	Director Natl Hurricane Center.
	Dir Southern Region, Ft Worth.
	Dir, Salt Lake City Region.
	Dir, Alaska Region, Anchorage.
	Dir Eastern Region NWS.
	Director Central Region.
National Institute of Standards and Technology	Director for Quality Programs.
	Dep Dir, Ofc of Quality Programs.
Office of Associate Director	Assoc Dir for Tech & Business Assessment.
	Director for International & Academic Affairs.
	Deputy Director for International Affairs.
	Deputy Director for Academic Affairs.
Advanced Technology Program	Dep Director, Advanced Technology Program.
	Director, Advanced Technology Program.
Technology Services	Deputy Director, Technology Services.
	Dir, Ofc of Technol Evaluation & Assessment.
Office of Technology Commercialization	Dir, Office of Technology Commercialization.
Office of Measurement Services	Chf, Phy Meas S/P Ofc of Measurement Services.
	Director, Office of Measurement Services.
Office of Standards Services	Dir, Office of Standards Services.
Electronics and Electrical Engineering Laboratory	Dir, Electronics & Electrical Eng Laboratory.
	Deputy Director.
	Dir, Office of Microelectronics Programs.
Electricity Division	Chief, Electricity Division.
Electromagnetic Technology Division	Chf-Electromagnetic Technology Division.
Semiconductor Electronics Division	Chief Semiconductor Electronics Division.
	Senior Research Scientist.
Manufacturing Engineering Laboratory	Dir, Manufacturing Engineering Laboratory.
	Chief, Automated Production, Technology Div.
	Manager for Industrial Relations.
	Program Manager Automated Manufacturing Res.
	Dep Dir, Manufacturing Engineering Laboratory.
Precision Engineering Division	Chief, Precision Engineering Division.
Robot Systems Division	Chief, Robot Systems Division.
Factory Automation Systems Division	Chief, Factory Automation Systems Division.
Physics Laboratory	Director, Physics Laboratory.
	Physicist (Nuclear).
	Coordinator of Radiation Measurement Services.
	Coordinator of Program Development.
	Deputy Director, Physics Laboratory.
Ionizing Radiation Division	Chief Ionizing Radiation Division.
Fundamental Constants Data Center	Mgr, Fundamental Constants Data Center.
Molecular Physics Division	Chief, Molecular Physics Div.
Quantum Metrology Division	Chief, Quantum Metrology Division.
Atomic Physics Division	Chief, Atomic Physics Division.
Time and Frequency Division	Chief, Time and Frequency Division.
Quantum Physics Division	Senior Scientist.
	Senior Scientist & Fellow of JILA.
Electron and Optical Physics	Senior Scientist & Fellow of JILA.
	Group Leader for FAR Ultraviolet Physics.
Chemical Science and Technology Laboratory	Dir, Chemical Sci & Technology Laboratory.
	Deputy Director for Programs.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Inorganic Analytical Research Division	Chief, Inorganic Analytical Research Division.
Organic Analytical Research Division	Chief, Organic Analytical Research Division.
Surface and Microanalysis Science Division	Chf, Surface & Microanalysis Science Division.
	Group Leader, Surface Spec. & Thin Films.
Process Measurements Division	Chief, Process Measurements Division.
Biotechnology Division	Chief, Biotechnology Division.
Thermophysics Division	Chief, Thermophysics Division.
Materials Science and Engineering Laboratory	Dir, Materials Sci & Eng Laboratory.
	Senior Scientist.
	Scientific Assistant to the Director, IMSE.
	Dep Dir, Materials Sci & Eng Lab.
	Chief, Film & Fiber Technology.
Materials Reliability Division	Chief, Materials Reliability Div.
Office of Intelligent Processing of Materials	Chf, Ofc of Intell Processing of Materials.
Ceramics Division	Chief, Ceramics Division.
Polymers Division	Chief, Polymers Division.
Metallurgy Division	Chf, Metallurgy Division.
	Physicist (Solid State).
Reactor Radiation Division	Chief, Reactor Radiation Division.
	Group Leader Neutron Condensed Matter Science.
	Chief, Reactor Operations.
Computer Systems Laboratory	Chief, Systems & Network Architecture Division.
	Chf, Advanced Systems Division.
	Chf, Info Syst Engineering Division.
	Chf, Systems and Software Technology Division.
	Associate Director for Computer Security.
	Associate Director for Program Implementation.
	Chief, Computer Security Division.
Building and Fire Research Laboratory	Chief, Structures Division.
	Dir, Building & Fire Research Laboratory.
	Dep Dir, Building & Fire Research Laboratory.
	Asst Dir, Building & Fire Research Laboratory.
Building Environment Division	Chief, Building Environment Division.
Building Materials Division	Chf, Building Materials Div.
Fire Science and Engineering Division	Chief, Fire Safety Engineering Division.
Fire Measurement and Research Division	Chief, Fire Science Division.
Computing and Applied Mathematics Laboratory	Dir, Computing & Applied Mathematics Lab.
	Dep Dir, Computing & Applied Mathematics Lab.
	Chief, Computer Services Division.
	Chief, Scientific Computing Division.
	Asst Dir for Management Information Technology.
	Associate Director for Computing.
Statistical Engineering Division	Chief, Statistical Engineering Division.
Patent and Trademark Administration	Asst Commissioner for Finance and Planning.
	Assistant Commissioner for External Affairs.
	Dep Asst Comr for Public Services & Adm.
	Dir Directorate for Interdiscipl Program.
Office of Assistant Commissioner for Patents	Administrator for Search & Information Res.
Chemical	Group Director 110.
	Group Director 120.
	Group Director—130.
	Group Director 150.
	Deputy Group Director—110.
	Group Director—180.
	Deputy Group Dir 150.
	Deputy Group Director 180.
Electrical	Group Director for 260.
	Group Director 210.
	Group Director for 220.
	Group Director—230.
	Group Director 240.
	Group Director 250.
	Deputy Group Director—250.
	Deputy Group Director—260.
	Deputy Group Director—230.
Mechanical	Group Director—310.
	Group Director—320.
	Group Director—330.
	Group Director—340.
	Group Director—350.
Office of Assistant Commissioner for Trademarks	Chairman, Trademark Trial & Appeal Board.
	Deputy Asst Commissioner for Trademarks.
	Director, Trademark Examining Operation.
Commodity Futures Trading Commission:	
Office of the General Counsel	Deputy General Counsel (Opinions & Review).
	Deputy General Counsel (Litigation).
	Deputy General Counsel (Reg & Adm).
Office of the Executive Director	Dep Exec Dir.
	Dir, Ofc in Information Resources Mgmt.
Office of Economic Analysis	Dep Chf Economist.
	Chf, Analysis Section.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Division of Enforcement	Associate Director for Surveillance. Director of Economic Research.
Division of Trading and Markets	Deputy Director (Western Operations). Deputy Director (Eastern Operations). Deputy Director (Contract Markets). Chief Counsel.
Consumer Product Safety Commission:	
Ofc of Executive Dir	Asst Exec Dir for Compliance & Enforcement. Assoc Exec Dir for Adm.
Office of Hazard Identification & Reduction	Associate Executive Dir for Field Operations. Asst Exec Dir for Hazard I & R. Associate Exec Dir for Epidemiology. Associate Executive Director for Economics.
Ofc Secy of Defense:	
Office of the Secretary	Asst to the Secy of Defense (Intel Oversight).
Ofc of Asst Secy (Solic)	Dep Asst Secy of Defense (Forces & Resources). Director for Budget and Execution. Director for Requirements & Programs.
Joint Activities	Director DESA.
Director Operational Test and Evaluation	Dep Dir for Resources & Administration.
Ofc of Inspector General	Deputy Inspector General. Asst Inspector General for Investigations. Dep Asst Inspector Gen for Investigations. Dep Asst Inspector General for Inspections. Asst Inspector Genl for Analysis & Followup. Asst Insp Gen for Adm & Info Management. AIG for Departmental Inquiries. Dep Asst Inspector Gen for Adm & Info Mgmt. Dir, Audit Planning & Technical Support. Dep Asst Insp Gen for Audit, Pol & Oversight. Director, Acquisition Management. Director, Logistics and Support. Director, Contract Management. Dir, Readiness & Operational Support. Director, Financial Management. Asst Inspector Gen for Audit, Pol & Oversight. Deputy Asst Inspector General for Auditing. Asst IG for Inspections. Asst Inspector General for Auditing. Dir for Investigative Opeations. Dir Inspections Directorate. Director for Criminal Policy & Oversight.
Ofc of Asst Secy of Defense (Reserve Affairs)	Principal Director (Manpower and Personnel).
Ofc Dep Asst Secy (Civilian Personnel P/E Opportunity)	Dep Dir, Compensation & Overseas Emply Policy. Director, Personnel Management. Prin Dir (Civilian Pers Poi/Equal Opp).
Ofc of Dir of DOD Dependents Schools	Dir, Personnel Management. Director, Staffing & Career Management. Dir, Pacific Region DODDS. Director, Germany Region. Dep Dir, Dep of Defense Dependents School.
Organization Abolished	Assoc Dir for Financial, Logistl, & Info Mgmt.
Office Assistant Sec Health Affairs	Asst Dir for Syst Engineering & Integration.
Office of Assistant Secretary, Public Affairs	Dir, Defense Medical Systems Support Center. Dir, Freedom of Information & Security Review.
Washington Headquarters Services	Dep Dir, Armed Forces Radio & Television Serv. Director of Personnel and Security. Dep Dir, Real Estate & Facilities.
Office of the General Counsel	Dep Dir, Personnel and Security. Deputy General Counsel (IG).
Ofc of Under Secy of Def for Acquisition	Dep Dir Missile & Space Systems. Deputy Dir Air Systems. Director for Defense Procurement. Sr Staff Specialist for S & A Systems. Dep Dir Maritime Systems. Sr Staff Spec for Tech & Analysis. Deputy Dir, Cost Pricing & Finance. Sr Staff Spec for Air Weapons Def Supp Sys. Sr Staff Spec for Ground Air Defense Systems. Sr Staff Spec Close Air Sup & Air Int Sys. Sr Staff Spe for Antisubmarine & Mine Sys. Sr Staff Spec for Ship Systems. Sr Staff Spec for Ball Missile Def Sys. Dep Dir Munitions. Sr Staff Spec for Air Mobility. Sr Staff Speciel for Air Superiority Systems. Dep Dir, Contract Pol & Administration. Deputy Dir, Test Facilities & Resources. Dep Dir, Land Systems. Dep Dir, Deep Strike Systems. Deputy Dir, Line Fire Test.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	ADUSD (Asia/Mid East/S. Hemisphere Affairs).
	Deputy Dir Program Assessment.
	Dep Dir, Def Syst Procurement Strategies.
	Dep Dir, Program & Budget Integration.
	Dep Dir, Electronic Combat Systems.
	DoD Contractor Adv & Assistance Serv Director.
	Asst Dep Under Secy of Def (Plnng & Eval).
	Dep Dir, Foreign Contractor.
	Sr Staff Spec for Submarine & Surveil Sys.
	Dep Dir for Acquisition R & C Simplification.
	Staff Spec for Spec Tech Program.
	Dep Dir WSA/Special T & E Programs.
	Dep Dir Strategy Arms Control & Compliance.
	Dep Dir, Aeronautical Systems.
	Special Asst Concepts & Plans.
	Deputy Director Defensive Systems.
Ofc of the Dir, Defense Research & Engineering	Executive Director, Defense Science Board.
Ofc of DD (Research and Advanced Tech)	Director, Engineering Technology.
	Staff Specialist for Vehicle Propulsion.
	Staff Specialist for Materials & Structures.
	Staff Specialist for Weapons.
	Dir, Environmental & Life Sciences.
	Staff Spec/Mobility, Logistics & Adv Concepts.
	Dir, Research & Laboratory Management.
	Spec Asst for MCTL & Long-Range Plnng Matters.
	Staff Spec for Electronic W/C, Ctrl & Comms.
	Staff Specialist for Electronic S/D.
	Dir, Balanced Technology Initiative.
Ofc of DD (Tactical Warfare Progs)	Assistant Deputy Director (TWP).
Office of DD (Plans & Resources)	Director, Plans Management.
	Deputy Director (Plans & Resources).
Ofc Dep Asst Secy (Installations)	Dir, Base Closure and Utilization.
Ofc Dep Asst Secy (Production resources)	Dir, Standardization & Acquisition Support.
	Dir, Computer Aided Logistics Support Office.
	Dir, Industrial Productivity & Quality.
Ofc Dep Asst Secy (Procurement)	Dir, Def Acquisition Reg Sys & Council.
Ofc Dep Asst Secy (Environment)	Principal Dir (Environmental Restoration).
Ofc Dep Asst Secy (Systems)	Dir, Acquisition Logistics & Production Supp.
Organization Abolished	Asst Dir for Elec Combat C3 Countermeasures.
Director, Strategic & Theater Nuclear Forces	Dir, Strategic & Theater Nuclear Forces C3.
	Staff Asst S/C, Control & Communications.
Director, Theater & Tactical C3	Dir, Theater & Tactical Commun Command & Contr.
	Dep Dir T & T Communications Command Control.
Deputy Assistant Secretary of Defense (Intelligence)	Dir, Policy & Planning.
	Dir, Requirements & Assessments.
	Senior Advisor for Measurement & Signature.
	Senior Advisor for Imaging Intelligence.
	Director, Intelligence Issues.
	Director, Intelligence Policy.
Senior Advisor for Human Intelligence Systems	Director, National Intelligence Systems.
	Dep Dir, National Intelligence Systems.
	Senior Advisor for Human Intelligence.
Senior Advisor, Signal Intelligence Systems	Director, Tactical Intelligence Systems.
	Dep Dir, Tactical Intelligence Systems.
	Senior Advisor, Signal Intelligence.
Organization Abolished	Dir, Intelligence Resources & Training.
Deputy Assistant Secretary of Defense (Defense-Wide C3)	Dir, Comm Electronics Technology.
Director, Information Systems	Director, Telecommunications.
Director, C3 Mobilization Systems	Director, C3 Mobilization Systems.
C3I, (Defense Information)	Asst Dep Dir (Information Technology).
DASD (Counterintelligence & Security Countermeasures)	Director, Counter Intelligence.
Ofc of Asst Secy (Principal Deputy for Intelligence)	Dir, Special Technology Support.
Defense Advanced Research Projects Agency	Director, ASTO.
	Assistant Director, Smart Weapons.
	Deputy Director, ASTO.
	Deputy Director, Management.
	Special Assistant for Special Operations.
	Assistant Director, Undersea Systems.
	Deputy Director.
	Dir, Electronic Systems Technology Office.
	Southcom Science & Technology Advisor.
	Dir, Land Systems Office.
	Director, Special Projects.
	Dir, Microelectronics Technology.
	Dep Dir, Micro Electronics Technology.
	Dir, Undersea Warfare Office.
	Chief, Advanced Technology.
	Executive Director, Manufacturing.
	Asst Dir, Sensors & Processing.
Computing Systems Technology Office	Executive Director (Software).
	Dir, Computing Systems Technology Office.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Defense Sciences Office	Dir, Defense Sciences Office.
	Assistant Director for Material Sciences.
Defense Manufacturing Office	Dep Dir, Defense Manufacturing Office.
	Executive Director.
Contracts Management Office	Dir, Contracts Management Office.
Nuclear Monitoring Office	Dir, Nuclear Monitoring Research Ofc.
Office of the Joint Chiefs of Staff	Dep Dir for Technical Operations.
Strategic Defense Initiative Organization	Assistant Director for Interceptors.
	Asst Dir for Sensors Demonstrations.
	Assistant Director for Sensor Technology.
	Asst Dir for Interceptors & Communications.
	Chief, Program Control.
	Director, Information Systems.
Defense Contract Audit Agency	Deputy for Program Operations.
	Director, DCAA.
	Deputy Director, DCAA.
	Assistant Director, Operations.
	Asst Dir, Policy & Plans.
Regional Managers	Director, Field Detachment.
	Regional Director, Eastern.
	Regional Director, Northeastern.
	Regional Director, Central.
	Regional Director, Western.
	Regional Director, Mid-Atlantic.
	Dep Regional Director, Eastern Region.
	Deputy Regional Director, Northeastern Region.
	Deputy Regional Dir, Central Region.
	Deputy Regional Director, Western.
	Dep Reg Dir, Mid-Atlantic Region.
Defense Logistics Agency	Special Asst for Integrity in Contracting.
	Dir, Defense Manpower Data Center.
	Chief Actuary.
Directorate for Contract Management	Executive Directive, Contract Management.
	Chf, Plans, Policies & Systems Division.
Directorate of Quality Assurance	Dep Exec Dir, Quality Assurance.
Ofc of Staff Dir-Small & Disadvantaged Business Util	Staff Dir, Small & Disadv Busin Utilization.
Office of Civilian Personnel	Staff Director, Civilian Personnel.
	Deputy Staff Director, Civilian Personnel.
Directorate of Contracting	Executive Director, Contracting.
	Chief, Contracts Division.
Directorate of Tech & Logistics Services	Chf, Property Disposal Div.
Defense Personnel Support Center	Exec Dir, Acquisition Mgmt Plan & Support.
Defense Training & Performance Data Center	Dir Defense Training and Performance Data Ctr.
Defense Contract Management	Deputy DCMC.
Office of the Director	Director, DITSO.
	Deputy Director, DITSO.
Ofc of Assoc Dir for Eng, Technol & Corporate Planning	Assoc Dir for Eng, Technology & Corp Ptng.
	Chief Information Officer.
	Dep Dir for Operations.
	Dep Dir for Systems.
Special Programs Organization	Spec Asst to the Dir, Spec Prog Organization.
National Communications System	Deputy Manager, Natl Communications Systems.
	Asst Mgr, NCS, Technology & Standards.
	Asst Mgr, NCS, Plans & Operations.
Center for Command Control & Communications (C3) Sys	Dep Dir, Theater Systems.
	Dep Dir, Mil Satellite Communication System.
	Dep Dir for Switched Network Engineering.
	S/A to the Dir, CPSI for Satellite Com Sys.
	Asst Dir for Prog Development & Coordination.
	Spec Asst to Dir, Ctr for C3 for Int Dig Arch.
	Dep Dir, Strategic Systems Directorate.
	Assistant Director for Process & Integration.
Defense Communications System Organization	Dir Military Satellite Communications.
	Dep Dir, Defense Comm System Organization.
	Dep Dir, DCS Telecommunications Networks.
	Deputy Director for DCS Integration.
	Assoc Deputy Director, DCS Data Systems.
Defense Communications Engineering Center	Dir, Def Communications Engineering Center.
Defense Commercial Communications Office	Dir Defense Commercial Communications Office.
Center for Agency Services	Director, Center for Agency Services.
Joint Data Systems Support Center	Director, Joint Data Systems Support Center.
	Tech Dir., WWMCCS ADP Tech Support Directorate.
	Deputy Director, NMCS ADP Directorate.
Joint Tactical Command, Control & Communications Agency	Assoc Dir for Technical & Management Support
	Asst Dir for Washington Operations
	Assistant Director, JTC3A.
	Dep Dir, Architecture Directorate.
	Deputy Director for Testing.
Information Management Center	Director, Information Management Center.
	Director, Technical Integration Office.
Comptroller Directorate	Comptroller.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Defense Nuclear Agency	Chief of Staff.
Office of the Director	Deputy Director.
	Special Assistant to the Deputy Director.
Acquisition Management Office	Dir, Acquisition Management.
Plans, Programs & Requirements Directorate	Director for Plans, Programs & Requirements.
Office of the Director, AFRRI	Scientific Director, AFRRI.
Operations Directorate	Deputy Director, Operations Directorate.
	Chief, Structural Dynamics Division.
Radiation Sciences Directorate	Dir for Radiation Sciences.
	Chief, Atmospheric Effects Division.
	Chief, Electronic Effects Division.
	Chief, Electromagnetic Applications Division.
Shock Physics Directorate	Director for Shock Physics.
	Chief, Weapons Effects Division.
Test Directorate	Director for Test
	Chf, Nevada Operations OFC, Test Directorate.
DMA Headquarters	Dep Dir for Hum Res-Dir DMA OFC Hum Res Mgt.
	Dep Dir for Acq Install & Logistics.
	Dep Dir for Progs, Production & Operations.
	Dep Dir for Research & Engineering.
	Dep Dir for Plns & Rqmts—Dir DMA OFC OFP&R
	Asst Dep Dir for Production.
	Asst Deputy Dir for Resources.
	Deputy Director.
	Asst Dep Dir for Advanced Sys Requirements.
	Deputy Director for Plans & Requirements.
	Dep Dir for Intl Prog Operations.
	Dep Dir for Information Resources Management.
DMA Field Activities	Tech Dir, DMA Aero Center.
	Tech Dir, DMA Hydrographic-Topographic Center.
	Dep Dir for Prog, Prod & Operations DMA HTC.
	Dep Dir. for Progs, Production and Operations.
	Chf, Digital Products Department AC.
	Chf, Digital Products Department HTC.
	Tech Dir/Dep Dir, Combat Support Center.
	Chief, Scientific Data Dept.
	Chief, Scientific Data Department.
	Dir, DMA Sys Ctr Dep Dir for Res & Engineering.
	Technical Director, Reston Center.
	Dep Dir for Prog, Production and Operations.
	Dep Dir for Modernization Development.
	Dir, Technical Serv Ctr.
	Chief, Digital Products Department.
	Chief, Data Services Department.
	Dep/Techn Dir/DMA Syst Cntr Asd for Res & Eng.
	Dep Dir for P/O, DMA Syst Cntr/Add for RDT&E.
	Chief, Mapping & Charting Department.
	Chief, Mapping & Charting Department.
	Chief, Reston Department.
	Technical Director.
	Dir, DMA Hydrographic/Topographic Center.
	Dir, DMA Reston Center.
	Dir, DMA Aerospace Center.
Defense Finance & Accounting Service	Deputy Director, Cleveland Center.
Defense Investigative Service	Dir, Defense Investigative Service.
	Deputy Director (Investigations).
	Dep Dir (Industrial Security).
	Deputy Director (Resources).
	Dir, Personnel Investigations Center.
Department of Air Force:	
Ofc of Administrative Assistant to the Secretary	Administrative Assistant to the Secy.
	Dep Administrative Assistant.
Ofc of Small & Disadv Bus Utilization	Dir, Ofc of Small & Disadv Bus Utilization.
Office of the Inspector General	Dep Asst Inspector Gen/Spec Investigations.
Office of ASAF for Financial Management & Comptroller	Principal Dep Asst Secy (Financial Mgmt).
ODAS Budget	Deputy for Budget.
	Director of Budget Investment.
	Director of Budget Management & Execution.
	Deputy Director of Budget Operations.
ODAS Cost & Economics	Assoc Dir of Mgmt Analysis.
	Dep Asst Secy (Cost & Economics).
Office of ASAF for Acquisition	Dir, Science & Technology.
	Assoc Dir, Strategic, SOF & Airlift Prog.
	Assoc Dir, Space and SDI programs.
	Assoc Dir, Tactical Programs.
	Competition Advocate Gen Dir, CAAS.
ODAS Acquisition	Dep Asst Secy (Acquisition).
ODAS Communications, Computers & Logistics	Assoc Dep Asst Secy (Logistics).
	Assoc Dep Asst Secy (Transportation).
ODAS Research & Engineering	DAS (Research & Engineering).
ODAS Management Policy & Program Integration	Assoc Dep Asst Secy Mgmt Pol & Prog Integrt.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
ODAS Contracting	Assoc Dep Asst Secy (Contracting).
Air Force Program Executive Office	AF Program Exec Officer, Info Systems.
	Program Director, Amraam Spo.
Ofc of ASAF for Manpower, Reserve Affairs, Install & Env	Dep for Air Force Review Boards.
ODAS Installations	Deputy for Installations Management.
Office of ASAF for Space	Deputy for Contracting.
Assistant Vice Chief of Staff	Air Force Historian.
Test and Evaluation	Deputy Director, Test & Evaluation.
Asst Chief of Staff for C3 and Computers	Director of Resources.
	Director of C4 Software, Architecture & Pol.
Deputy Chief of Staff, Logistics	Assoc Dir for Logistics Plans & Programs.
	Chief Modification & O&M Programs Division.
	Chief Combat Support Programs Division.
Civil Engineer	Assoc Dir of Maintenance Engineering & Supply.
Deputy Chief of Staff, Personnel	Assoc Dir for Engineering & Services.
	Dir of Civilian Personnel.
	Deputy Director of Personnel Management.
	Deputy Director for Plans and Requirement.
	Dep Dir for Work Force Effectiveness.
	Spec Project Ofcr for Personnel Management.
Assistant Chief of Staff, Intelligence	Assoc Dir, Strategy & Production.
Air Force Materiel Command	Chairman A F Logistics Command Procur Committ.
	Asst for Intelligence.
DCS/Personnel	Deputy Chief of Staff, Personnel.
	ACS/Personnel.
DCS/Contracting	Prin Asst/Contracting & Manufacturing.
	Dir Contract Clearance & Policy Development.
	Principal Asst DCS/Contracting.
	Dir Business Clearance.
DCS/Logistics	Principal Asst DCS/Logistics.
DCS/Engineering & Technical Management	DCS/Engineering & Technical Management.
	Principal Asst DCS/Product A/A Logistics.
	Technical Director, Product Assurance.
DCS/Financial Mgmt & Comptroller	DCS/Engineering & Technical Management.
	Asst to the DCS/Comptroller.
DCS/Comm-Computer Systems	Asst DCS/Financial Mgmt & Comptroller.
DCS/Plans & Programs	DCS/Communications—Computer Systems.
DCS/Science & Technology	Asst DCS/Plans & Programs.
	Director of Plans & Programs.
Space and Missile Systems Center	Director, Plans and Programs.
	Deputy Chief of Staff/Plans & Advanced Prog.
Phillips Laboratory	Deputy Director.
	Deputy Director.
Geophysics Directorate	Deputy Advanced Weapons & Surveillance.
	Dir, Space Physics Div, AFGL.
Astronautics Directorate	Ch, Atmospheric Structure Br.
	Dir, Astronautics Laboratory.
Electronic Systems Center	Director, Propulsion Directorate.
	Executive Director.
	Asst Dep for Contracting & Manufacturing.
	Prog Dir for Air Base Decision Systems.
	DCS/Engineering & Program Management.
	Chief Engineer.
	DCS/Plans & Advanced Programs.
	Deputy Director.
Rome Laboratory	Prog Dir Electronic Combat & Reconnaissance.
	Director (Plans).
	Technical Director (Command & Control).
Aeronautical Systems Center	Dir Plans & Programs.
	Dep Dir Financial Mgmt & Comptroller.
DCS/Development Planning	Executive Director.
	Director (Mission Analysis).
DCS/Contracting	Dir Advanced Systems Analysis.
	Asst Deputy for Contracting & Manufacturing.
DCS/Integrated Engineering & Tech Mgmt	Dep Dir Contracting.
	Engineering Advisor Product Assurance Engr.
	Technical Dir Avionics Engineering.
	Dir Support Systems Engineering.
	Director Avionics Engineering.
	Dir, Flight Systems Engineering.
Directors of Engineering	Director, Systems Engineering.
	Director of Engineering (F–16).
	Dir of Eng Reconnaissance & Elec Warfare Sys.
	Dir Engineering Propulsion Systems.
	Dir of Engineering (Advanced Technol Bomber).
	Dir of Eng. Adanced Tactical Fighter.
	Dir of Engineering C–17.
	Dir of Engineering Subsystems.
Systems Program Offices	Deputy Program Director Systems SPO.
	Deputy Program Director ATF.
	Deputy Program Director C–17.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Wright Laboratory	Program Dir Subsystems.
	Dir Manufacturing Technology.
Materials Directorate	Dir, Plans & Programs Directorate.
	Dir, Metals & Ceramics Div.
	Dir, Nonmetallic Materials Dn.
Human Systems Center	Deputy Director.
Armstrong Laboratory	Research Director (Crew Technology).
	Director Human Engineering.
Organization Abolished	Asst DCS-Comptroller.
	Asst Dep Chf of Staff, Maintenance.
	Assistant DCS/Plans & Programs.
	Director of Civilian Personnel.
	A/D Chf of Staff-Contracting & Manufacturing.
	Asst Deputy Chief of Staff, Materiel Mgt.
	Asst Deputy Chief of Staff Logis Magnt System.
	Asst Deputy Chief of Staff/Distribution.
	Principal Asst for Sci, Technol & Engineering.
	Executive Agent for Interim Standard Systems.
	Principal Deputy to the Commander ALD.
Joint Logistics Systems Center	DOD Exec Agt Dept Maint Automated Sys.
	DOD Exec Agt for Materiel Reqmts.
	Dir Depot Maintenance.
	Dir Corporate Integration.
Air Logistics Center, San Antonio	Director, Financial Management.
	Director, Propulsion Systems.
	Deputy Director.
	Director, Contracting.
Air Logistics Center, Oklahoma City	Director, Financial Management.
	Director, Commodities Management.
	Deputy Director.
	Director, Contracting.
Air Logistics Center, Warner Robins	Director, Financial Management.
	Director, Technology & Industrial Support.
	Deputy Director.
	Director, Contracting.
Air Logistics Center, Ogden	Director, Financial Management.
	Director, Technology & Industrial Support.
	Deputy Director.
	Director, Contracting.
Air Logistics Center, Sacramento	Director, Financial Management.
	Director, Technology & Industrial Support.
	Deputy Director.
	Director, Contracting.
Air Force Audit Agency	Auditor General of the Air Force.
	Asst Aud Gen (Field Activities).
	Asst Aud Gen (Operations).
	Asst Aud Gen (Financial + Support Audits).
	Asst Aud Gen (Acq + Logistics Audits).
Air Force Intelligence Command	Technical Director (Aerospace Systems).
Air Force Communications Command	Dir, Air Force Comms Computer Syst I/Ofc.
	Director Standard Systems Center.
Air Mobility Command	Asst DCS/Plans and Programs.
U.S. Strategic Command	Chief, Operations Analysis Division.
	Chief, Applied Research Division.
	Assoc Dir for Strategic Planning.
Air Combat Command	Chief Scientist Tactical Air Warfare Ctr.
Pacific Air Forces	Chief, Operations Analysis.
U.S. Air Forces in Europe	Director of Civilian Personnel.
Shape Technical Centre	Deputy Director.
AF Space Command	Sr Scientist & Tech Advisor for AFSPACECOM.
AF Operational Test & Eval Ctr	Technical Director.
Air University	Director of Academic Affairs.
Joint Electronic Warfare Center	Technical Director.
U.S. Central Command	Scientific Advisor.
Strategic Defense Initiative Organization	Spec Asst for GPALSP.
Department of Army:	
Office of the Under Secretary	Operations Research Analyst.
	Special Asst for Forces & Program Evaluation.
	Operations Research Analyst for Systems.
	Opers Research Analyst for Cmd, Cont, C & I.
	Special Asst to the Under Secretary.
Ofc of the Administrative Assistant	Adm Asst to the Secy of the Army.
	Dep Administrative Assistant.
Office of the General Counsel	Deputy General Counsel (Fiscal Law & Policy).
HQDA Army Acquisition Executive	Dep Prog Mgr, Light Helicopter Program.
	Deputy PEO, Close Combat Vehicle.
	Dep Prog Exe Ofcr, Army Cmd & Ctrl Syst.
	Deputy Prog Executive Officer Comm Systems.
	Deputy PEO for Air Defense.
	Program Executive Officer Stamis.
	Progr Exec Officer, Close Combat Armament.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Dir of Info Sys for Command, Control, Comms & Computers	Program Manager Sustaining Base Network. Dep Program Executive Officer for Aviation. Dep PEO, Intelligence & Electronic Warfare. Program Executive Officer, Combat Support. Program Executive Officer (Fire Support). Army Spectrum Manager. Dir Ofc US Army Info S & S Acq Activity. Dir Command Systems Integration Agency. Dir of Army Information.
OASA Research Development and Acquisition	Vice Director to the Disc4. Dir for Prog & Vulnerability Assessment. Dep Dir US Contracting Support Agency. Chief, Policy & Procedures Division.
ODASA Research and Development	Assistant Deputy for Plans & Programs. DAS for Res & Tech/Chief Scientist. Dir for Program Review. Director for Space & Strategic Technology. Director for Research Laboratory Management. Director for Technology.
ODASA Systems Mgmt Integration & Coord	Director for Adv Concepts & Tech Assessment. Dir Sys Mgt Integ & Coordination Ofc.
Odasa Procurement	Deputy Asst Secy of the Army (Procurement). Director for Procurement Policy.
ODASA Management and Programs	Dir for Program Evaluation. Dep Asst Secy for Plans & Programs.
Ofc of Asst Secretary (Installations, Logistics & Envmt)	Dep for Programs & Install Assistance. Dep Program Exec Officer for Chem/Demil.
Ofc of Asst Secy (Financial Mgmt)	Assistant Deputy ASA for Army Budget. Deputy for Cost Analysis. Dir of Investment. Dep Asst Secy for Army (Financial Operations). Spec Adv for Economic Pol & Productivity Prog.
Off of Asst Secretary, Manpower & Reserve Affairs	Dep for OPS, Support & Business Activities.
Ofc of Asst Secretary Civil Works	DAS (DAR BDS & EEO C & C REVIEW). Deputy ASA for Policy & Evaluation. Deputy for Management and Budget. Deputy for Plnng Pol & Legislation.
Office, Director of Army Staff	Deputy for Project Management. Dep Dir of Management (Installation M&R).
Office, Deputy Chief of Staff, Intelligence	Deputy Director, US Army Intelligence Agency.
USA Strategic Defense Command Huntsville AL OSCA FOA	Proj Mgr, Ground Based Interceptor Proj Ofc. Director, Directed Energy Weapons Directorate. Proj Mgr High Endo Atmos Def Int Proj. D/S Lethality & Key Technologies Directorate. Dir, Kinetic Energy Weap Directorate. Chief, Battle Management Division. Prin Assistant Resp for Contracting. Chief, Passive Sensors Division. Chf, Active Sensors Div Sensors Directorate. Chf, Discrimination Div Sensors Directorate. Dir, Advanced Technology Directorate. Proj Mgr, G-B Surveillance & Tracking Syst.
Operational Test & Evaluation Agency	Dir, USA Combat Develop Experimentation Ctr. Deputy to the Commander Technical Director.
Army Center of Military History	Chief Historian, Army Ctr of Military History.
Test and Evaluation Management Agency	Dir, Test and Evaluation management Agency.
Office, Dep Chief of Staff for Personnel	Director for Manprint. Director of Manpower.
Directoate of Civilian Personnel	Director of Civilian Personnel. Dep Director of Civilian Personnel. Chief Employment and Classification Office.
US Total Army Personnel Command	Director, Civilian Personnel Mgt.
Army Research Institute for Behavioral & Social Sciences	Dir, Systems Rsch Lab & Assoc Dir Art. Dir, Trng Res Lab & Assoc Dir, Ari.
Office, Deputy Chief of Staff for Logistics	Dir, Manp & Pers Res Lab & Assoc Dir, Art. Asst Director for Supply Mgmt. Asst Dir for Maintenance Mgmt. Spec Asst to DCSLOG & Chf Av Log Ofc. Asst Dir for Transportation. Asst Dir for Energy & Troop Support. Director for Security Assistance. Director for Resources and Management. Executive Director, Strategic Logistics Agcy.
Army Audit Agency	The Auditor General, U.S. Army. Deputy Auditor General. Director, Logistical & Financial Audits. Dir Personnel and Force Management Audits. Dir Audit Policy Plans and Resources. Regl Auditor General (Northeastern Region). Regl Auditor General (Southeastern Region).
Ofc Dep Chf of Staff for Operations & Plans	Tech Adv.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Technical Director, US Army Nuc & Chem Agency.
Concepts Analysis Agency (OCSA)	Assistant Dir for Res and Analysis Support.
Walter Reed Army Institute of Research	Chief Dept of Pharmacology.
Training and Doctrine Command (TRADOC)	Scientific Advisor to CG.
	Scientific Advisor.
	Asst Deputy COFS for Base OPS Spt (Civ Pers).
	Asst Deputy Chief of Staff for Resources Mgmt.
	ADCOS for Training Policy Plans and Programs.
Tradoc Analysis Command	Director of Operations.
	Deputy Director, Trac.
	Director of Operations.
Military Traffic Mgmt Comnd	Deputy to the Commander.
	Special Asst for Transportation Engineering.
U.S. Army Forces Command	Civilian Personnel Director.
	Deputy Comptroller.
U.S. Army Corps of Engineers	Director of Human Resources.
	Director Resource Management.
	Dir, Engineering and Housing Support Center.
Directorate of Civil Works	Deputy Director, Civil Works.
	Chf-Ofc of Policy.
	Chf, Programs Div.
	Chf-Planning Division.
	Chief Engineering Division.
	Chf, OPS, Construction & Readiness Division.
Directorate of Engineering & Construction	Deputy Chief Construction Division.
	Chief, DAEB, Engineering Division.
Directorate of Military Programs	Chief Construction Division.
	Chief Construction Division.
	Deputy Director, Military Programs.
US Army COE Water Resources Ctr	Chief, Water Resources Support Center.
Planning Divisions, COE	Dir of Planning, Ohio River.
	Dir of Planning, No Pacific.
	Dir of Planning, South Atlantic.
	Dir of Planning, Lower Miss Valley.
	Dir of Planning, South Pacific.
	Dir of Planning, N. Atlantic.
	Dir of Planning, Southwestern.
Engineering Divisions, COE	Dir of Engineering, Ohio River.
	Dir of Engineering, Southwestern.
	Dir of Engineering, North Central.
	Dir of Engineering, S. Pacific.
	Dir of Engineering, N. Atlantic.
	Dir of Engineering, S. Atlantic.
	Dir of Engineering, Lower Miss.
	Dir of Engineering, Missouri River.
	Dir of Engineering, North Pacific.
	Dir of Engineering, Pacific Ocean.
	Dir of Engineering, Huntsville.
Construction Divs-COE	Dir of Construc OPS, S Atlantic.
	Dir of Construc OPS, S Western.
	Dir of Construc OPS, Ohio River.
	Dir of Construc OPS, LR MS VAL.
	Dir of Construc OPS.
	Dir of Construc OPS.
	Dir of Construc OPS, N Atlantic.
	Dir of Construc OPS, Pacific.
	Dir of Construc OPS.
	Chief Scientist.
Army Materiel Command (AMC)	Asst DCS for Supply Maintenance & Trans.
Office of DCS Supply Maintenance & Transportation	Prin Asst Dep for Res Develop and Acquisition.
Ofc Dep Cmdg Gen Res, Development and Acquisition	Asst Dep Int'l Cooperative Programs.
	Asst Dep Chf of Staff Dev, E/A for ACQ P/R.
DCS for Development Engineering & Acquisition	Asst Dep Chief of Staff for ACQ Mgt.
	ADCS for Res, D&E for Pol Integ & Analysis.
Deputy Chief of Staff for Concurrent Engineering	Asst Dep for Materiel Readiness.
Ofc Deputy Commanding General for Matl Readiness	Asst Dep Chf of Staff for Policy & Procedures.
Dep Chf of Staff for Supply, Maintenance & Transp	Asst Deputy Chief of Staff for Ammunition.
Deputy of Staff for Ammunition	Asst DCS for Readiness.
Office of DCS for Readiness	Asst DCS for Procurement.
Office of DCS for Procurement	Deputy Executive Director for TMDE.
Executive Director, Test, Measurement & Diag EQ	Asst Deputy Chf of Staff for Personnel.
Deputy Chief of Staff for Personnel	Dep Chief of Staff for Personnel.
	ADCS for Resource Mgmt.
Office of the Deputy Chief of Staff for Res Management	ADCS for Cost Analysis.
	Chief Special Analysis Office.
Deputy Chief of Staff for Management	Deputy.
USA Security Affairs Command	Dir, Syst Integration Mgmt Activity.
U.S. Army Systems Integration & Management Activity	Deputy for Resources & Management.
U.S. Army Armament, Munitions & Chemical Command (AMCCOM)	Deputy for Procurement and Production.
	Deputy for Logistics Readiness.
	Director for Product Assurance.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Dep for Facilities, Ind Preparedness & Envmt.
	Dir, U.S. Army Def Ammunition Center & School.
AMCCOM, ARDEC	A/Tech/Dir/ (Sys Development & Engineering).
	Assoc Tech Dir (Producib & Process Technol).
Armament Engineering Directorate	Director, Armament Engineering Directorate.
	Chf, Energetics & Warheads Division.
Fire Support Armaments Center	Chf Fire Control Division.
	Chief Artillery Armaments Division.
	Chief Precision Munitions Division.
Close Combat Armament Center	Chief, Light Armament Division.
Chemical Research, Development & Engineering Center	Dir Munitions Directorate.
	Director, Research Directorate.
U.S. Army Aviation Systems Command (AVSCOM)	Director of Engineering.
	Director Aeroflight Dynamics Directorate.
	Director Propulsion Directorate.
	Acquisition Director.
	Dir Avionics Research & Development Act.
	Assoc Tech Dir for Tech Appl/Dir of Spec Prog.
	Director Aero Structures Dir.
	Logistics Director.
	Director of Electronics & Weaponization.
Communications & Elect Cmnd (CECOM)	Comptroller.
US Army Communication Electronics Comm	Dir, CECOM Ctr for Command, Cntrl & Commun Sys.
	Dir, E/W, Reconnaissance, Surveillance, TAD.
	Director, Concurrent Engineering.
	Assoc Techn Dir (Research & Technology).
	Dir, Comd, Control, C/I (C3I) L & R Center.
US Army Depot Systems Command (DESCOM)	Deputy to the Commander.
	Executive Director for Materiel Readiness.
US Army Laboratory Command	ADCS for Technology Planning & Management.
Harry Diamond Labs (HDL)	Director, Harry Diamond Laboratories.
	Dir, Target S&S Processing Lab.
	Dir, Technology Applications Lab.
Army Research Office (AMC)	Director, Materials Science Division.
	Dir, Engr Sci Div.
	Dir, Research & Technology Integration.
	Dir, Chem & Bio Sci Div.
US Army Ballistic Research Laboratory	Chf, Sys Engineering & Concepts Analysis Div.
	Chief, Interior Ballistics Division.
	Chf, Launch and Flight Division.
	Chf, Terminal Ballistics Div.
	Chf, Vulnerability-Lethality Division.
US Army Missile Command (Micom)	Director, Acquisitions Center.
	Dir, Integrated Material Mgt Ctr.
	Assoc Director for Product Assurance.
	Deputy for Procurement and Readiness.
Research Development & Engineering Center	Dir for System Engineering & Production.
	Director for Advanced Sensors.
	Associate Director for Systems.
US Army Troop Support Command (TROSCOM)	Director of Acquisition Management.
	Deputy to the Commander.
Belvoir Research & Development Center	Dir, Combat Engineering Directorate.
	Director, Logistics Equipment Directorate.
Natick Research, Development & Engineering Center	Dir, Individual Protection Directorate.
	Director, Soldier Science Directorate.
Tank-automotive Cmnd (TACOM)	Director of Resource Mgt.
	Dir for Procurement and Production.
	Technical Director.
	Director of Product Assurance & Test.
	Asst Deputy for Procurement and Readiness.
	Dep Dir for Engineering & Acquisition.
	Dir, Tank-automotive Technology Directorate.
US Army Test and Evaluation Command, (TECOM)	Technical Dir, Redstone Technical Test Center.
	Technical Director Combat Syst Test Activity.
	Tech Dir & Chf Sci.
	Dir for Test and Assessment.
US Army Materiel Systems Analysis Activity	Director.
	Chf, Combat Support Div.
	Chf, Air Warfare Div.
	Chf, Reliability, Availability & Maintainabil.
	Chf, Ground Warfare Division—AMSAA.
	Chf, Logistics Readiness & Analysis Division.
Army Information Systems Command	Deputy Chief of Staff for Resource Management.
	Dir, Info Systems Command Pentagon.
	Technical Director.
Headquarters, US Army, Europe	Asst Dep Chf of Staff, Personnel (Civ Pers).
	Asst Dep Chief of Staff Eng for Eng & Housing.
	Asst Dep Chf of Staff, Resource Mgmt USAREUR.
	Asst Dep Chf Staff for Eng (Intl Affairs).
Army Intel and Security Command	Deputy & Technical Director, FSTC.
	Deputy for Policy & Development.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Acisa, NATO	Asst Dir, Command, Control and Comms Syst.
Defense Systems Management College	Deputy Commandant (Provost).
DOD Wage Fixing Authority	Director, Technical Staff.
National Defense University	Dir, Information Resources Management College.
U.S. Southern Command	Spec Asst for Technology & Requirements Integ.
Department of the Navy:	
Office of the Secretary	Dir, Naval Industrial Management Program.
	Dir, Naval Criminal Invest Service.
Office of the Under Secretary of the Navy	Assistant for Administration.
Office of the Auditor General	Auditor General of the Navy.
Naval Audit Service	Director, Plans and Policy.
	Dir, Naval Audit Service Western Region.
	Dir, Naval Audit Service Capital Region.
	Director, Audit Operations.
Ofc of the Asst Secy of Navy (Manpwr & Res Affs)	Staff Dir, Dir Manpower Analysis Staff.
Office of Civilian Personnel Management	Dir, Civilian Personnel Programs Division.
	Dir, Ofc of Civilian Personnel Management.
	Associate Director (OCPM–30).
	Associate Director (OCPM–20).
	Associate Director (OCPM–10).
OCPM—Pacific Region	Director, Pacific Region.
OAS of Navy (Installations & Environment)	Director, Financial Management Office.
OAS of the Navy (Research, Dev & Acquisition)	Director, Procurement Policy.
	Director, Product Integrity.
	Head, Contract Policy.
	Program Exec Ofcr, Expeditionary Force Prog.
	Director, Acquisition Career Management.
	Dir, R&D Programming & Budgeting Division.
	Director for AAW & Strike Air Programs.
	Director for ASW, LASMAP.
	Dir, Navy International Programs Office.
	Deputy Dir, Acquisition Career Management.
Program Executive Officers	Director, Plans & Programs Division.
	HD, Guidance Section.
	Head, Fire Control Section.
	Head, Operations Engineering Section.
	Test & Instrumentation Branch Engineer.
	Branch Engr, Launcher Branch.
	Chf Engr, Missile Branch.
	Chf Engr.
	Br Engr, Fire Control & Guidance Br.
	Branch Engr, Ship Installation & Design Br.
	Dep Prog Mgr, Seawolf Class Submrne ACQ Prog.
	Asst Dep Comm ASW & Undersea Warfare Sys.
	Prog Mgr, MK–50 Torpedo Prog Ofc.
	Sect Head, Reentry Systems Sect, Missile Br.
	Dir, Strategic Warfare Contracts Division.
	Deputy Logistics Support Coordinator.
	Dep P/E Officer for Unmanned Aerial Vehicles.
	Dep Prog Exec Ofcr, Space, Comms & Sensors.
	Head, Resources Branch.
	Branch Engineer, Navigation Branch.
	Dep P/E Officer for Cruise Missiles Program.
	Prog Manager for Comm Satellite Programs.
	Asst for Systems Integration & Compatibility.
	Dep Prog Exec Ofcr for ASW, A/S Mission Prog.
	Dep Prog Exec Ofcr for Tactical Air Programs.
	Exec Dir, Aegis Shipbuilding Program.
Ofc of the Asst Secy of Navy (Financial Management)	Spec Asst for Info Res Mgmt (IRM) Cost Anal.
	Assoc Dir, Information Resources Management.
Naval Center for Cost Analysis	S/A for Cost A/T Dir, Naval Ctr for Cost Anal.
Office of the Comptroller of the Navy	Assoc Dir, Budget & Reports/Fiscal Manag Div.
	Counsel.
	Dir, Investment & Dev Div.
	Dir, Budget & Mgmt, Policy and Procedures Div.
	Dir, Ofc of Fin Mgt Syst.
	Dir, Budget Evaluation Group.
	Dep Director for Independent Cost Analysis.
	Director Financial Control Division.
	Director, Civilian-Contractor Manpower Div.
Office of the Naval Inspector General	Deputy Naval Inspector General.
Office of the General Counsel	Asst General Counsel (Acquisition).
	Asst General Counsel (Install & Environment).
	Asst Gen Counsel (Civilian Personnel Law).
Director-Naval Administration/Asst Vice CNO	Dir Naval History/Dir, Naval Historical Ctr.
	Asst for Educational Resources.
	CNO Executive for Total Quality Management.
Director, Navy Program Planning	Head, Studies & Analysis Branch.
	Asst Dir for Readiness Appraisal.
	Deputy Director for Programming.
	Head, Logistics & Fleet Support Branch.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Director Naval Medicine & Surg General	Director Resources Division.
Director Space Command and Control	Associate Dir Spectrum Management & Policy.
Director, Naval Warfare	Advanced Technology Advisor.
	Techn Dir, Naval Warfare Anal A/F Level Plans.
Office of the Oceanographer of the Navy	Technical Director.
Dir, Test & Evaluation and Technology Requirements	Director, Advanced Tech Dev Branch.
Director, Naval Intelligence	Technical Director.
	Advisor for Research & Development Programs.
	Deputy Director of Naval Intelligence.
	Asst for World Navies and Analysis.
DCNO (Manpower, Personnel & Training)	Dir, Total Force Info Res & Sys Mgnt Div.
Office ACNO (Undersea Warfare)	Tech Dir, Submarine & SSBN Security Program.
	Dir, Deep Submergence Systems Division.
Office DCNO (Logistics)	Dep Dir, Supportability, M & M Division.
	Director Strategic Sealift Division.
Office ACNO (Air Warfare)	Special Asst for Technology and Analysis.
Bureau of Naval Personnel	ACNP for MPN Financial Management.
Naval Observatory	Dir, Time Service Div.
Naval Data Automation Command Headquarters	Technical Director.
Naval Investigative Service Command	Dep Dir, Naval Investigative Service.
Naval Technical Intelligence Center	Technical Director.
	Director of Analysis.
Bureau of Medicine & Surgery	Dep Commander for Fin Mgmt & Comptroller.
Military Sealift Command	Counsel.
	Engineering Officer.
	Comptroller.
	Deputy Commander.
Naval Tactical Support Activity	Dir, Navy Tactical Support Acty.
Naval Oceanography Command	Technical/Deputy Director.
Ofc of Commander in Chf/Allied Forces/Southern Eur	Director, Tactical Development & Training.
Office of the Commander-in-Chief, U.S. Pacific Fleet	Deputy Fleet Inspector General.
Ofc of the Commander-in-Chief, U.S. Pacific Command	Chief, Research & Analysis.
Ofc of the Chief of Naval Education and Training	Comptroller.
	Deputy Chief of Naval Education & Training.
	Director, NROTC Selection and Placement.
Executive Development Cadre	Technology Assessment Consultant.
	Senior Quality Executive.
	Spec Asst to the Technical Director, NTSC.
	Spec Asst to the Chf Engineer of the Navy.
Naval Air Systems Command Headquarters	Dep Dir, Fleet Support & Field Activity Mgmt.
	Executive Director, Management, Plans & Progr.
	Exec Dir, Acquisition Mgt.
	Executive Director for Contracts.
	Deputy Comptroller.
	Counsel, Naval Air Systems Command.
	Assoc Director, Weapons Sys Eng Division.
	Dir, Prod Integrity & Production Eng Division.
	Tec Dir, Avionics Systems Eng Division.
	Dir, Weapons Advanced Technology.
	Dir, Evaluation Div.
	Techn Dir, Res & Techn.
	Technical Director, Air Vehicle Division.
	Assoc Dir, Logistics Management Division.
	Combat Aircraft Contracts Director.
	Dir, Missile Weapons Systems Contracts Div.
	Dir, Systems Acquisition Directorate.
	Special Asst for Tom.
	Director, Cost Analysis Division.
	Dir, Surveillance and Avionics Division.
	Dir for Systems Definition & Alternatives.
	Techn Dir, Navy Ranges & Field Activity Mgmt.
	Director, Aircraft Division.
	Associate Dir, Propulsion & Power Division.
	Assoc Dir for Systems Engineering Management.
	Deputy Commander, Naval Air Sys Command.
	Dir, Cruise Missile Contracts Division.
	Director, Procurement Budget Division.
	Director, Airborne Weapons Logistics Division.
	Deputy Counsel, Navair.
	Exec Director for Aviation Depots.
	Asst Commander for Corporate Operations.
	Dir, Information Resources Mgmt Division.
	Dir, ASW/Support A/A Components Contracts Div.
Naval Air Warfare Center	Technical Director.
Naval Air Warfare Center Aircraft Division, Warminster	Head, AVCSTD.
	Exec Director.
	Assoc Executive Director.
	Head, MATD.
	Head, Syst & Software Technology Department.
	Head, Tactical Air Systems Department.
	Head, Warfare Systems Analysis Department.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Head, Air Vehicle Technology & Programs.
Naval Air Warfare Center Aircraft Division, Lakehurst	Assoc Dep Head A/W D/Head, ASW A/D Division.
	Executive Director.
Naval Air Warfare Center Aircraft Division	Chief Engineer.
	Executive Director.
	Dir, Systems Engineering Test Directorate.
	Director, Range Directorate.
Naval Air Warfare Center Aircraft Div, Indianapolis	Dep Commander, NAWC-Aircraft Division.
	Executive Director.
	Dir of Avionic & Electronic Systems Design.
	Director, AESAMT.
Naval Air Warfare Center Weapons Div, Pt. Mugu, CA	Dir Sea Range Directorate.
	Director Weapons Systems Evaluation Direct.
	Executive Director.
	Head Electronic Warfare Dep.
	Dep Comr for Test & Eval, NAWC-Weapons Div.
	Dir, Threat Simulation Directorate.
Naval Air Warfare Center Weapons Div, China Lake, CA	Laboratory Dir/Deputy Tech Dir.
	Head, Attack Weapons Department.
	Asst Tech Dir Deve (Ord Sys) & Dept Head.
	Tech Dir/Consultant.
	Head, Research Department.
	Director, Land Range Directorate.
	Head Aircraft Weapons Integration Dept.
	Head, Engineering Department.
	Head Intercept Weapons Department.
	Head, Range Department.
	Dir, Weapons Directorate.
	Dir, Aircraft Weapons Systems Directorate.
	Dep Commander for R&D, NAWC-Weapons Division.
	Head Weapons Planning Group.
	Asst Tech Dir/Head, Aerosystems Department.
	Asst Techn Dir for Technol B/T Base Director.
	Dir, Services & Information Directorate.
Naval Training Systems Center	Technical Director.
	Executive Director.
	Dir of Research & Engineering.
	Dep Dir of Research & Engineering.
Space & Naval Warfare Systems Command	Exec Dir, Contracts.
	Techn Dir, Ship & Shore Communications.
	Tech Dir, Navy Space Project Ofc.
	Deputy Comptroller.
	Counsel.
	Executive Director, Contracts.
	Technical Director.
	Techn Dir.
	Exec Dir, Comm Syst Prog Directorate.
	Tech Dir, Submarine Commun Prog Ofc.
	Techn Dir, Surveillanc D/A Development Prog.
	Program Manager for Strategic Defense Systems.
	Dep & Techn Dir, NCCS Afloat Prog Office.
	Dep Prog Dir, Space & Sensor Sys Directorate.
	Assoc Tech Dir for Research & Technology.
	Executive Director, Life Cycle Support Group.
	Exec Dir, Space Technology Directorate.
	Asst Commander Acquisition & Logistic Plnng.
	Exec Dir/Communications Syst Prog Directorate.
	Techn Dir, Warfare Syst Architecture Group.
	Exec Dir, Undersea Surveillance Prog Dir.
	Tech Dir, Warfare Systems Engineering.
	Dep CMDR for Navy Lab/Director of Navy Lab.
	Dir of Tech Head Engineering Tech Group.
	Chief Logis/Hd Acquisition & Logis Pol App Grp.
	Asst Commander for TALESD.
	Exec Dir Tech Acquist Logistics Eng Supp Dir.
	Exec Dir, NWSAED.
	Techn Dir, Satellite Communications Prog Ofc.
Naval Command Control & Ocean Surveillance Center	Tech Dir, Technol A & A Program Directorate.
Naval Command C & O Surveillance Ctr. RDT&E Division	Technical Director.
	Head, Surveillance Dept.
	Head, Antisubmarine Warfare Department.
	Head, Engineering & Computer Sciences Dept.
	Executive Director.
	Dep Exec Director.
	Head, Marine Sciences & Technology Dept.
	Head, Navigation & Air C3 Department.
	Head, Command and Control Department.
Nav Command Control & Ocean Surveil Comm West Coast Div	Dir, Planning, I & A Office.
	Executive Director West Coast ISE.
Naval Facilities Engineering Command	Counsel.
	Dep Dir of Programs & Comptroller.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Naval Facilities Eng Command Western Div	Deputy Commander for Contracts.
	Chief Engineer.
	Asst Commander for Real Estate.
	Asst Commander for Construction.
	Asst Commander for Engineering & Design.
Naval Civil Engineering Lab	Spec Advisor for Res Dev, Test & Evaluation
Naval Sea Systems Command	Executive Director, Broadway Complex.
	Technical Director.
	Dir, Research Techn & Assessment Ofc.
	Counsel.
	Asst Dep Commander for Contracts.
	Dep Prog Mgr & Tech Dir, PMS396B.
	Executive Director/Deputy Comptroller.
	Dir Ship Survivability Subgroup.
	Dir Preliminary Design Div AST Deputy Dir SDG.
	Prog Mgr, Mine Warfare Ship Program.
	Dir, Submarine Systems (S5W & S8G) Division.
	Director, Reactor Materials Divisions.
	Director, Secondary Plant Components Division.
	Head, Advanced Reactor Branch.
	Dir, Structural Integrity subgroup.
	Director, Naval Architecture subgroup Director.
	Deputy Director, Ship Design group.
	Director, Hull Engineering group.
	Director Cost Estimating & Analysis.
	Dir, Shipbuilding Contracts Division.
	Exec Dir, Industrial & Facility Mgmt Dir.
	Executive Director, Surface Ship Directorate.
	Exec Dir, Submarine Directorate.
	Dep Prog Mgr/ Tech Dir, ASMSAP.
	Dir, Reactor Plant Value Division.
	Asst Dep Comptroller, ASW & Mine Warfare Syst.
	Director, Corporate Operations.
	Deputy Commander for Fleet Logistics Support.
	Deputy Director, Supship Management Division.
	D/C Engineer, Design & Manufacturing Quality.
	Tech Dir, Theater Nuclear Warfare Prog Office.
	Asst Dep Commander for Electronic Warfare.
	Dep Prog Manager, Tech Dir Attack Subm Prog.
	Dep Prog Mgr, Surface Combatants Prog Office.
	Dir, Nuclear Propulsion Logistics Division.
	Dep Prog Manager, Aircraft Carrier Prog Ofc.
	Director for Submarine Refuelings.
	Dir, Surface Ship Systems Division.
	Deputy Director, Nuclear Components Div.
	Dir, Reactor Plant Safety & Analysis Division.
	Dir, Ship Silencing Office.
	Dir, Propulsion Systems Subgroup.
	Dir, Hull System Subgroup.
	Exec Dir, WCS Directorate.
	Director, Field Operations Subgroup.
	Director, Machinery Group.
	Asst Deputy Commander for Combat Sys Eng.
	Director, Materials Engineering Office.
	D/D D/T Dir, AMPH & Combat S/S Logistic Div.
	Dep Dir, Electrical Systems Subgroup.
	Exec Dir, Anti-Air & Surface Warfare Systems.
	Exec Dir, Ship Design & Engrng Directorate.
	Prog Mgr, Amphibious W & S Sealift Program.
	Dir, Naval Shipyard Mgt Group.
	Dir, Surface Systems Contracts Division.
	Assoc Director for Regulatory Affairs.
	Asst Dep Commander, Surface & Area AAW Syst.
	Exec Dir, Amph, Aux, Mine & Sealift Ships Dir.
	Dir, Reactor Refueling Division.
	Deputy Counsel, Naval Sea Systems Command.
	Dir Environmental Protection Office.
	Prog Mgr, Deep Submergence Syst Prog.
	Asst Dep Comr & Dep Prog Mgr—Ship Self Def.
Naval Surface Warfare Center	Technical Director.
Naval Undersea Warfare Center	Technical Director.
Consolidate Civilian Personnel Office/Crystal City	Dir, HRO–CC/C Asst for Civilian P & EEO Prog.
Naval Ship Systems Engineering Station	Technical Director.
	Dep Dir, Carderock Division/Dir, Navsses.
Naval Surface Warfare Center, Crane Division	Executive Director.
Naval Warfare Assessment Center, Corona	Technical Director.
Naval Undersea Warfare Center Div, Keyport, WA	Executive Director.
	Chf Res Scientist (Arctic Submarine Tech).
Naval Surface Warfare Center, Pt. Hueneme Division	Executive Director.
Naval Surface Warfare Center, Indian Head Division	Technical Director.
Coastal Systems Station	Executive Director.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Naval Surface Warfare Center, Carderock Division	Head, Coastal Technology Department. Head, Engineering Test & Operations Dept. Head, Systems Dept. Assoc Dir for Syst Devel/Head, Syst Dept. Director. Assoc Dir for Structures/Head, SSPD. Assoc Dir/Head CMLD. Assoc Dir/Head Ship Acoustics Dept. Assoc Dir/Head PASD. Assoc Dir/Head Ship Hydromechanics Dept. Assoc Dir, MST/Head, SMED. Assoc Dir/Head Ship Electro Signatures Dept. Assoc Dir for Tech/Dir of Technology & Plans.
Naval Surface Warfare Center, Dahlgren Division	Exec Director. Head Strategic Systems Department. Head, Weapons Systems Department. Head, Underwater Systems Department. Head, Combat Systems Department. Assoc Exec Dir for Evaluation. Head Eng & Info Syst Dept. Head, Electronics Systems Department. Deputy Executive Director.
Naval Undersea Warfare Center Division, Newport, RI	Head, Research & Technology Department. Head, Protective Systems Department. Head, Warfare Systems Department. Head, Submarine Sonar Department. Assoc Tech Dir for Technology. Tech Dir, Consultant. Head, Test & Evaluation Department. Assoc Tech Dir for Submar Combat Control ACOU. Assoc Techn Dir for Submarine Warfare Systs. A/T Dir for Surface Anti-Submarine Warfare ASW. HD, Submarine Electromagnetic Sys Dept. Head, Combat Control Systems Department. Head, Combat Systems Analysis Staff.
Naval Supply Systems Command Hdqtrs	Director of Operations. Counsel. Asst Dep Cmdr for Fin Mgmt/Comp. Competition Advocate Gen/ADC, Contracting Mgr. Director of Contracting for Special Programs. Dep Cmmr for Info Resources Management. Dep Commander for Corporate Management. Dir Advanced Logis Tech Div. Prog Mgmt and Technology Program Mgmt Office.
Navy Ships Parts Control Center	Executive Director.
Navy Aviation Supply Office	Executive Dir for Contracts & Business Mgmt. Exec Dir, Acquisition & Logistics Plng & Suppt.
Navy Fleet Material Support Office	Executive Dir, Logistics Planning & Support. Exec Dir, Acquisition Mgmt & Planning.
Naval Supply Center, Norfolk	Exec Dir, ADP System Planning and Development. Executive Director, Planning and Resources.
U.S. Marine Corps Headquarters Office	Fiscal Dir of the Marine Corps. Dir, Contracts Division. Counsel for the Commandant. Deputy Asst Chief of Staff Intelligence. Asst Dep Chf of Staff for Installations & Log. Asst Dep Chief of Staff for Manpower. Asst Dep Chf of Staff for Requirements & Prog.
Marine Corps Systems Command	Executive Director. Comptroller.
Marine Corps Logistics Base Albany, GA	Executive Dir for Logistics Operations.
Office of Naval Research	Assoc Dir, ONR/Dir, Research Prog Dept. Dir Anti/Air Anti/Surf Warf & Aerspace Tec Dv. Dir, Fin Mgmt/Compt/Spec Asst (FM) To Asn (R,E&S). Director, Ofc of Naval Research. Dir of Planning and Assessment. Dep Dir for Technology Programs. Director, Computer Science Division. Dir, Ocean Biology/Optics/Chemistry Div. Dir, Office of Advanced Technology. Senior Advisor to the Navy Chair. Dep Dir, Ont/Dir, Plng & Assess Directorate. Dir, Office of Naval Technology. Director, Acquisition. Deputy Counsel (Patents). Dir, Ocean Eng Div. Dir, Industry Independent Res & Devel Dir. Counsel, Office of Naval Research. Director, Physics Division. Director, Chemistry Division. Dir, Support Technology Directorate.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Dir, Cognitive & Neural Sciences Div.
	Director, Life Sciences Directorate.
	Director, Biological Sciences Division.
	Dir, Mathematical & Physical Sciences Dir.
	Dir, Mathematical Sciences Division.
	Dir, Engineering Sciences Directorate.
	Director, Electronics Division.
	Dir, Geo-Acoustics/Arctic Sciences Div.
	Dir, Ocean & Atmospheric Physics Div.
	Dir, Ocean Science Directorate.
	Deputy Comptroller.
	Dir, Anti Submarine Warefae & Undersea Tech.
	Director, Materials Division.
	Dir, University Business Affairs.
	Dir, Operations Resources & Management Directo.
	Assoc Dir, Research Prog Department.
	Spec Asst to the Dir, ONR for Oceans Sciences.
Ofc of Naval Research Datachment, Boston	Dir, Applied Physics Field Division.
Naval Research Laboratory, Stennis Space Center	Technical Director.
	Assoc Tech Dir & Dir, OPS Res & Strat Plnng.
	Assoc Tech D & D, Atmospheric Sci Directorate.
	Assoc Tech Dir & Dir, Ocean Science Directorate.
	Assoc Tech Dir & Dir, Ocean Acoustics & Tech Dir.
NATO Saclant ASW Research Center	Director NATO Saclant Asw Research Centre.
Naval Research Laboratory	Superintendent, Chemistry Division.
	Superintendent, Optical Sciences Div.
	Supt Materials Sci and Tech Division.
	Superintendent, Plasma Physics Div.
	Supt Condensed Matter & Radiation Sci Div.
	Assoc Dir of Res for Matl Sci & Comp Technol.
	Superintendent, Info Technol Div.
	Head Combustion and Fuels Branch.
	Chf Sci, Lab for Structure of Matter.
	Dir of Research.
	Superintendent Space Science Div.
	Supt, Radar Div.
	Assoc Dir of Res for Gen Sci & Technol.
	Supt, Acoustics Div.
	Superintendent Electronics Technology Div.
	Supt, Tactical Electronic Warfare Div.
	Supt Underwater Sound Reference Division.
	Chief Sci Lab for Computational Physics.
	Chf Scientist & Head, Solar Physics Program.
	Chf Scie/Head, Radio/Infrared Astronomy Progr.
	Assoc Dir of Res for Business Operations.
	Chief Scientist & Beam Physics Program.
	Mgr, Joint Space Systems Technology Programs.
	Assoc Dir Res for Ocean & Atmospheric Sci Tec.
	Head Opt Tech Strategic Planning Organization.
	Superintendent, Space Syst Technology Dep.
	Head Elect Warfare Strategic Planning Org.
	Assoc Dir of Rese for Technical Services.
	Assoc Dir of Research for Strategic Planning.
	Head Program Coordination Office.
	Assoc Dir of Res for Warfare Sys & Senors Res.
	Superintendent, Space Syst Development Dep.
	Superintendent, Spacecraft Engineering Dep.
	Dir, Naval Center for Space Technology.
	Chief Scientist for Telecom & Director.
Defense Nuclear Facilities Safety Board:	
	Site Review Officer.
	Site Review Officer.
	Site Review Officer.
	Site Review Officer.
	Site Review Officer.
	Dep Gen Counsel for Pol & Litigation.
	Chief, Health Physics Branch.
	Deputy General Manager.
Department of Education:	
Office of Management & Budget Chief Financial Officer	Deputy Director for Financial Managemen..
Office of Human Resources and Administration	Dir Admin Resource Management Service.
	Director Personnel Management Service.
	Director Financial Management Service.
	Director, Grants and Contracts Service.
	Chairperson, Education Appeal Board.
Inspector General	Deputy Inspector General.
	Assistant Inspector General for Audits.
	Asst Insp Gen for Policy Plng & Mgmt Serv.
	Asst Inspector General for Investigation.
	Dep Asst Insp Gen for Audit Operations.
	Dep Asst Inspector Gen for Techn Audit Svc.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
General Counsel	Associate Inspector General. Dep Asst Inspector General for Investigation. Asst General Counsel for Educational Equity. Asst Gen Counsel for Regulations. Asst Gen Coun for Div of Legislative Counsel. Asst Gen Coun for Postsecondary Ed & Ed Res.
Educational Research and Improvement	Research Coordinator. Senior Advisor on Library Programs.
National Center for Education Statistics	Admr, Natl Center for Educational Statistics. Assoc Comr, Elem/Second Educ Stat Division Assoc Comr, Data Collection & Dissemination. Assoc Comr for Stat Std & Methodology Div. Assoc Comm Education Assessment Division.
Department of Energy:	
Office of Hearings & Appeals	Dep Dir for Legal Analysis. Dep Dir for Financial Analysis. Dep Dir for Econ Analysis.
Albuquerque Operations Office	Dir, Weapons Quality Division. Dir Transportation Safeguards Div. Dir Budget & Resources Mgmt Div. Dir, Production Assurance & Ops Division. Dir, Weapons Programs Div. Project Manager, Wipp Project Site Office. Dir of Emergency Plans & Operations. Asst Manager. Dir Ofc of Mgt Plan & Analysis. Dir, Waste Mgmt & Operational Surety Div.
Chicago Operations Office	Asst Manager for Administration. Area Manager Batavia Area Office. Asst Mgr for Laboratory Management.
Idaho Operations Office	Deputy Manager for Business Management.
Nevada Operations Office	Chief Financial Officer. Chief Counsel.
Oak Ridge Operations Office	Assistant Manager for Administration. Asst Manager for Administration. Chief Financial Officer.
Richland Operations Office	Asst Mgr for Admin. Assistant Manager for Operations. Assistant Manager for Technical Support. Assistant Manager for Projects.
San Francisco Operations Office	Asst Mgr for Admin.
Savannah River Operations Office	Asst Mgr for Admin. Asst Mgr for Site Safeguards & Security.
Western Area Power Administration	Chief Financial Officer. Asst Admr for Mgmt Svcs.
Ofc of the Inspector General	Spec Asst for Policy and Planning. Counsel to the Inspector General
Ofc of Asst Insp Gen for Audits	Asst Inspec Gen for Pol & Plng & Mgt. Manager, Western Regional Audit Office. Director, Program Development Division. Manager, Eastern Regional Audit Office. Director, Audit Management Division. Dir, Capitol Regional Audit Office.
Ofc of Asst Insp Gen for Inspections	Asst Inspector Gen for Inspections & Analysis.
Ofc of Asst Insp Gen for Investigations	Asst Inspector General for Investigations. Deputy Asst Inspector Gen for Investigations.
Energy Information Administration	Director, EIA-ADP Services Staff. Dir, Ofc of Integration Nal & Forecasting.
Office of Oil & Gas	Dir, Ofc of Oil and Gas. Director, Petroleum Supply Division. Chief Data Analysis and Support Branch. Dir, Reserves and Natural Gas Division. Director, Petroleum Marketing Division.
Ofc of Coal, Nuclear, Electric & Alternate Fuels	Dir, Ofc of Coal Nucl Elec & Altern Fuels. Director, Electric Power Division. Dir, Nuclear and Alternate Fuels Division. Dir, Coal Division. Dir, Energy Supply & Conversion Div. Dir, Analysis & Systems Div. Dir, Survey Mgmt Div.
Office of Energy Markets & End Use	Director, Ofc of Energy Markets & End Use. Director, Economics & Statistics Division. Dir, Interni & Contingency Planning Division. Dir, Energy Analysis & Forecasting Division. Dir, Energy End Use Div. Dir, EEUISD. Dir, Energy Demand & Integration Div.
Office of Statistical Standards	Dir, Ofc Statistical Standards. Director, Quality Assurance Division.
Asst Sec for Conservation & Renewable Energy	Director, Waste Material Management Division. Dir, Wind/Hydro/Ocean Technology Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Dir, Ofc Solar Energy Conversion.
	Assoc Dep Asst Secretary for Utility Tech.
Office or Renewable Technology	Dir, Ofc of Waste Reduction Tech.
	Dir, Geothermal Division.
Office of Nuclear Safety	Dir, Nuclear Safety Enforcement Division.
	Dep Dir, Invest Nuclear Safety Enforcement Div.
	Dep Dir (Legal), Nuclear Sfty Enforcement Div.
Asst Secretary for Environment, Safety & Health	Director, Office of Environmental Audit.
	Dir, Office of Environmental Compliance.
Assistant Secretary for Defense Programs	Deputy Dir, Ofc Self Assess & Emergency Mgmt.
Dep Asst Sec for Military Application	Assoc Dep Asst Secy for Military Application.
Deputy Assistant Secretary for Facilities	Dir, Ofc of Res, Development & Testing Facil.
	Nuclear Weapons Complex Project Manager.
	Dir, Ofc of Field Security Oversight.
	Dir, Office of Inspections.
Deputy Asst Secry for Weapons for Complex Reconfiguratl	Technical Director.
	Dir, Ofc of Environ Safety H & Q Assurance.
Das for Planning & Resource Management	Director, Ofc Mgmt Support.
	Dir, Ofc Program Analysis & Financial Mgmt.
Rocky Flats Office	Manager, Rocky Flats Office.
	Dep Mgr, Rocky Flats Office.
	Asst Mgr for Environmental Mgmt.
Dep Asst Sec for Energy Emergencies	Dir, Ofc of Energy Emergency Pol & Eval.
Office of Energy Research	Assoc Dir, Ofc of Scientific Computing.
Office of Management	Deputy Dir for Management.
	Director for Management.
	Deputy Dir for Nuclear Safety Safeguard.
	Dir, Office of Assessment & Support.
Office of Health & Environmental Research	Dir, Health Effects Research Division.
Office of Fusion Energy	Dir, International Programs Staff.
	Dir, Confinement Systems Div.
Office of Basic Energy Sciences	Dir, Engr Math and Geo Sci Div.
	Dir, Chem Sci Div.
	Dir, Mat Sci Div.
	Chf, Processes and Tech Br.
Office of High Energy & Nuclear Physics	Dir, High En Physics Div.
Ofc of Superconducting Super Collider	Assoc Dir for Superconducting Super Collide.
Science and Technology Adviser.	Dir for University & Science Ed Prog.
Dep A/S Sec for Mgmt Planning & Technical Coord	Director, Ofc of Resource Management.
Assistant Secretary for Nuclear Energy	Dir, Nuclear Operations & Analysis.
Deputy Assistant Secretary for Naval Reactors	Dir, Reactor Safety & Computation Div.
	Dir, Submarine Systems Div.
	Dir, Instrumentation & Control Div.
	Director, Office of Resources Management.
	Dep Dir, Kesselring/Windsor/Site/CGN/S6G Rec Sv.
	Asst Program Manager for Surface Ships.
	Deputy Director for Naval Reactors.
	Prog Mgr for Prototypes & Sapso.
	Asst Chief Physicist.
	Director, Nuclear Technology Div.
	Dir, Reactor Engineering Division.
	Head, Core Manufacturing Branch.
	Dep Director, Reactor Materials Division.
	Director, Fiscal Division.
	Program Manager for Shipyard Matters.
	Dir, Nuclear Components Division.
	Senior Naval Reactors Representative.
	Manager, West Milton Field Ofc.
	Prog Manager for Advanced Submarines.
	Head Advanced Concepts Branch.
	Senior Naval Reactors Representative.
	Engel, Walter P.
Schnectady Naval Reactors Office	Director, Acquisition Division.
Pittsburgh Naval Reactors Office	Asst Manager for Operations.
	Sr. Naval Reactors Rep. (Nwpt News).
	Senior Naval Reactors Rep (Pearl Harbor).
	Manager, Idaho Branch Office.
Dep Asst Secretary for Civilian Reactor Development	Asst Manager for Operations.
Office of Administration	Dir, Isotope Production & Distribution Prog.
Associate Director for Admin, Info & Fac Mgt	Dir, Ofc of Information Resources Management.
Office of Administrative Services	Dep Assoc Dir for Admin Info & Facilities Mgt.
	Dir, Ofc of Admin Svcs.
	Dep Dir of Administrative Services (GTN).
	Dep Dir of Administrative Services (Wash, DC).
Ofc of Project & Facilities Management	Director, Policy Development Division.
Ofc of Irm Pol, Plans & Oversight	Dep Dir, Ofc of ADP Mgmt.
Associate Director for Human Resources Mgmt	Dir, Ofc of Irm Pol, Plans, & Oversight.
Office of Personnel	Dir, Office of Personnel & Career Development.
	Director, Classification & Staffing Division.
	Dir, Employee/Labor R & P Evaluation Division.
	Dir, of Personnel.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Ofc of Organization & Management System	Dep Dir, of Personnel.
	Dir Ofc of Org and Mgmt Sys.
	Dir, Management Sys Analysis Div.
	Director, Management Systems Division.
	Dir, Organization & Manpower Analysis Div.
	Dir, Ofc of Organization, Res & Facilities Mgt.
Director Ofc of Civilian Radioactive Waste Management	Assoc Dir, Office of System & Compliance.
Office of New Production Reactors	Deputy Project Officer.
Office of Business Mgt	Dir Ofc, of Business Management.
	Deputy Dir, Ofc of Business Management.
Office of Environmental Restoration and Waste Mgmt	Assoc Das for Oversight & Self-Assessment.
Office of Technology Development	Dir, Div of Res & Development.
Office of Procurement, Assistance & Program Mgt	Director of Procurement & Assistance Mgmt.
Ofc of Assoc Dir for Procurement, Asstce & Property	Assoc Dir, Ofc of Procurement, Asst & Property.
	Dir, Ofc of Contractor Mgmt & Admin.
Office of Policy	Dir, Ofc of Policy.
	Dir, Ofc of Policy.
Office of Clearance and Support	Director, Office of Clearance and Support.
	Dir, Ofc of Clearance & Support.
Office of Management Review & Assistance	Director, Procurement Management Rev Div.
	Dir, Ofc Mgmt Review & Assistance.
Ofc of Contractor Human Resource Mgt	Dir, Ofc of Industrial Relations.
Associate Director for Pgm/Proj Mgt & Control	Assoc Dir for Proseam/Proj Mgt & Ctrl.
Ofc of Pgm/Proj Mgt	Dir, Prog/Const Mgm, Proce & Operations Div.
Associate Dir for HQ Procurement Opns	Dir, Ofc of Procurement Operations.
	Dep Dir, Ofc of Procur Op.
Office of Fin Management & Controller	Deputy Controller.
	Controller.
Office of Budget	Dir, Ofc of Budget.
	Dep Dir, Ofc of Budget.
	Director, Budget Analysis Division.
	Director, Budget Operations Division.
Office of Compliance & Audit Liaison	Dir, Ofc Compliance and Audit Liaison.
Ofc of Dept Acct & Fin Systems Development	Dir, Ofc of Dep Accounting & Fin Sys Dev.
Office of Headquarters Acct Operations	Dir, Ofc of Headquarters Accounting Operations.
Ofc of Small & Disadvantaged Bus Utilization	Dir, of Sm and Disadv Bus Utilz.
Office of Security Affairs	Dir, Ofc of Classification & Technology.
	Dir, Ofc of Security Affairs.
	Dep Dir, Ofc of Security Affairs.
Office of Contractor Employee Protection	Dir, Office of Contractor Employee Protection.
Environmental Protection Agency Ofc of the Asst Admr for Admin & Resources Management.	Dep Asst Admr for Admin & Resources Mgmt.
	Dep Asst Admr for Mgt.
	Dep Asst Admr for Finance & Acquisition.
	Senior Advisor for Environmental.
Office of the Comptroller	Dir, Ofc of the Comptroller.
	Dir, Financial Mgmt Div.
	Associate Comptroller.
	Director, Budget Division.
	Assoc Dir, Financial Management Division.
	Dir, Resource Management Division.
Office of Administration	Dir, Ofc of Administration.
	Deputy Dir, Ofc of Administration.
	Dir, Grants Admin Div.
	Dir, Procurement & Contracts Mgmt Division.
	Dir, Facilities & Support Services Division.
	Director, Management & Organization Division.
	Dir, New Headquarters Project Staff.
	Dir, Sfty, Health & Environmental Mgmt Div.
	Sr Advisor to the Dir/P & C Mgmt Div.
	Assoc Dir for Superfund/RCA Procurement Oper.
Office of Information Resources Management	Dir, Ofc of Information Resurces Management.
	Dep Dir, Ofc of Information Resources Magnt.
	Dir, Administrative Systems Division.
	Dir, Information Management & Services Div.
	Director, Program Systems Division.
Ofc of Administration & Resources Mgmt—Cincinnati OH	Dir, Ofc of Admin and Resources Management.
Office of Administration & Resources Mgmt—RTP, NC	Dep Dir, Ofc of Admin & Resources Mgt Rtp.
	Director Office of Administration & Res Mgmt.
	Director, Office of Data Processing.
	Assoc Dir, Ofc of Adm & Res Management.
Office of Human Resource Management	Director, Office of Human Resource Mgmt.
	Special Assistant to Director, OHM.
	Dep Dir, for Pol, Programs & Exec Resources.
	Dep Dir for Operations Comm & Client Services.
National Enforcement Investigations Ctr-Denver	Dir, Exec Res & Spec Prog Div.
	Dir, Nat'l Enforcement Investigations Center.
Office of Criminal Enforcement	Special Asst to the Dir NEIC.
Office of Compliance Analysis Program Operations	Director, Office of Criminal Enforcement.
	Dir, Ofc Compliance Analysis Prog Operations.
	Dep Dir, Ofc of Compliance A & P Operations.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Office of Policy Analysis	Dir, Water & Agriculture Policy Div.
	Dir, Air & Energy Policy Division.
	Dir, Waste & Chemical Policy Division.
Office of Regulatory Management and Evaluation	Dir, Science, Econ & Statistics Div.
Office of International Activities	Dir, Multilateral Staff.
Office of the Inspector General	Career Reserved Positions.
	Deputy Inspector General.
	Assist Inspector Gen for Investigations.
	Asst Inspector General for Audits.
	Dep Asst Inspector General for Audits.
	Dep Asst Inspector General for Investigations.
	Asst Inspector Gen for Mgmt & Tech Assessment.
	Deputy Inspector General.
	Spec Asst to the Inspector General.
Office of Wastewater Enforcement and Compliance	Director, Enforcement Division.
	Director, Permits Division.
	Director, Municipal Support Division.
Office of Science and Technology	Senior Science Advisor.
	Dir, Standards & Applied Science Division.
	Director, Engineering & Analysis Division.
	Dir, Health & Ecological Criteria Division.
Office of Wetlands, Oceans and Watersheds	Dir, Assessment & Watershed Protection Div.
	Dir, Oceans & Coastal Protection Division.
	Dir Wetlands Division.
Office of Ground Water & Drinking Water	Dir, E & P Implementation Division.
	Director, Drinking Water Standards Division.
	Director, Ground Water Protection Division.
Office of Waste Programs Enforcement	Dep Dir, Office of Waste Programs Enforcement.
	Dir, CERCLA Enforcement Division.
	Director, RCRA Enforcement Division.
Office of Solid Waste	Director, Waste Management Division.
	Dir, Characterization & Assessment Division.
	Director, Permits & State Programs Division.
	Spec Asst to the Dir, Office of Solid Waste.
	Dir, Municipal & Industrial Solid Waste Div.
Office of Emergency and Remedial Response	Director, Hazardous Site Evaluation Division.
	Dir, Emergency Response Div.
	Director, Hazardous Site Control Division.
Ofc of the Asst Admr for Air and Radiation	Director, Ofc of Program Mgmt Operations.
Office of Air Quality Planning and Standards	Dir, Stationary Source Compliance Division.
	Dir, Emission Standards Division.
	Assoc Dir for Intermedia & Intgovt Prog.
	Director, Air Quality Management Division.
	Director, Technical Support Division.
	Deputy Dir Ofc of Air Quality Planning & Stds.
Office of Mobile Sources	Director, Emission Control Technology Div.
	Director, Certification Division.
	Dir, Manufacturers Operations Division.
	Dir, Field Operations & Support Division.
Office of Radiation & Indoor Air	Dir, Criteria & Standards Div.
	Dir, Surveillance & Emergency Prepared Div.
	Director, Radon Division.
	Dir, Radiation Studies Division.
Office of Atmospheric Programs	Dir, Global Change Division.
	Director, Acid Rain Division.
Ofc of Asst Admr for Pesticides & Toxic Substances	Dir, Ofc of Program Management Operations.
Office of Pesticides Programs	Dir, Ofc of Pesticides Programs.
	Dir, Registration Division.
	Director, Program Support Division.
	Dir, Biological & Economic Analysis Division.
	Sr Science Advisor/Nat'l Laboratory Aud Prog.
	Senior Advisor
	Dir, Spec Review & Reregistration Division.
	Dir, Envir Fate and Effects Division.
	Dir, Health Effects Division.
	Dir, Policy & Special Projects Staff.
Office of Pollution Prevention and Toxics	Director, Exposure Evaluation Division.
	Dir, Existing Chemicals Assessment Division.
	Dir, Health & Environmental Rev Div.
	Director, Environmental Assistance Division.
	Dir, Economics Exposure and Technology Div.
	Director, Chemical Control Division.
	Director, Information Management Division.
	Dir, Pollution Prevention Div.
	Dir, Chemical Screening & Risk Assessment Div.
	Dir, Chemical Management Division.
Ofc of Research Program Management	Spec Asst to the Dir, Ofc of Ree Prog Mgmt.
Office of Health and Environmental Assessment	Director, Exposure Assessment Group.
	Director, Human Health Assessment Group.
Environmental Criteria & Assessment Ofc (RTP)	Dir, Environmental Criteria & Asses Ofc RTP.
Environmental Criteria & Assessment Office (CN)	Dir, Environmental Criteria & Assessment Ofc.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Atmospheric Rsch & Exposure Assessment Lab, RTP	Dir, Atmospheric Res & Exp Assessment Lab.
Environmental Monitoring Systems Lab—Cincinnati	Dir, Environment Monitoring Syst Lab.
Environmental Monitoring Systems Lab—Las Vegas	Dir, Env Monitoring Sys Lab, Las Vegas.
Air & Energy Engineering Research Laboratory—RTP	Dir, Air & Energy Eng Res Lab.
Risk Reduction Engineering Laboratory—Cincinnati	Dir, Risk Reduction Engineering Laboratory.
Environmental Research Laboratory—Corvallis	Dir, Env Research Laboratory Corvallis.
Environmental Research Laboratory—Athens	Dir, Environmental Research Laboratory—Athens GA.
Robert B Kerr Environmental Res Laboratory)—ADA	Dir, Robert S Kerr Environmental Res Lab.
Environmental Research Laboratory—Duluth	Dir, Environmental Research Lab—Duluth.
	Senior Science Advisor.
Environmental Research Laboratory—Narragansett	Dir, Environmental Res Lab, Narragansett.
Environmental Research Laboratory—Gulf Breeze	Dir, Env Res Lab Gulf Breeze.
Health Effects Research Laboratory—RTP	Dir, Health Effects Research Lab—RTP.
	Dep Dir, Health Effects Res Lab RTP.
Ofc of Technology Transfer & Regulatory Support	Dir, Ofc of Technology Transfer & Reg Support.
Center for Environmental Research Information	Dir, Center for Environmental Research Info.
Office of Exploratory Research	Dir, Ofc of Exploratory Research.
Region I—Boston	Director, Water Management Division.
	Dir, Waste Management Division.
	Regional Counsel.
	Asst Regl Admr for Planning & Management.
	Dir, Air Pesticides & Toxics Management Div.
Region II—New York	Director, Environmental Services Division.
	Director, Water Management Division.
	Asst Regl Admr for Policy and Management.
	Dir, Air & Waste Management Division.
	Regional Counsel, Region II, New York.
	Dir, Office of Emergency & Remedial Response.
Region III—Philadelphia	Director, Water Management Division Reg III.
	Regional Counsel.
	Director, Hazardous Waste Mgmt Div.
	Director, Environmental Services Division.
	Asst Reg Admin for Policy & Management.
	Dir, Air Management Division.
	Dir, Chesapeake Bay Program Office.
Region IV—Atlanta	Dir, Water Management Division Region IV.
	Dir, Environmental Services Division Region IV.
	Asst Regional Admin for Policy and Mgmt.
	Regional Counsel, Reg IV, Atlanta, Georgia.
	Director, Waste Management Division.
Region V—Chicago	Dir, Air Management Div Region V.
	Dir, Envir Services Div Region V.
	Dir, Water Management Div Region V.
	Asst Regional Admr for Policy & Management.
	Regional Counsel.
	Director, Waste Management Division.
	Associate Division Director for RCRA .
	Assoc Div Director for Superfund.
	Dir, Great Lakes Natl Prog Ofc.
Region VI—Dallas	Dir, Air & Waste Management Div.
	Dir Water Management Division.
	Director, Environmental Services Division.
	Asst Regional Admr for Management.
	Regional Counsel.
	Dir, Air, Pesticides & Toxic Division.
Region VII—Kansas City	Regional Counsel.
	Director, Waste Mgmt Division.
	Asst Reg Admin for Policy & Mgnt—Reg VII.
	Director, Air and Toxics Division.
Region VIII—Denver	Dir Water Management Division.
	Director, Air & Waste Management Division.
	Regional Counsel.
	Dir Air Toxics Division.
	Asst Regional Admr for Policy & Management.
Region IX—San Francisco	Director, Water Management Division.
	Director, Air Management Division
	Regional Counsel, Reg IX, San Fran, Cal.
	Dir, Toxics & Waste Management Div.
	Asst Regional Admr for Policy & Management.
Region X—Seattle	Dir, Water Div Reg X.
	Regional Counsel.
	Director Air and Toxics Division.
	Director, Hazardous Waste Division.
Equal Employment Opportunity Commission	
Office of the Chairman	Inspector General.
Office of Federal Operations	Dir, Office of Federal Operations.
Field Management—East	Program Manager (Baltimore).
	Dist Dir (New York).
	Dist Dir (Atlanta).
	District Director (Detroit).
	Dist Dir (Miami).

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Field Management—West	Dist Dir (Memphis). Dist Dir—(Birmingham). Dist Dir—(New Orleans). Dist Dir—(Charlotte). Dist Dir—(Cleveland). Dist Dir—(Philadelphia). Dist Dir (Houston). Dist Dir (San Francisco). Dist Dir (Dallas). Dist Dir (Chicago). Dist Dir—(St. Louis). Dist Dir—(Indianapolis). District Director (Los Angeles). Dist Dir—(Denver). Dist Dir—(Phoenix). District Dir—(San Antonio). Program Manager (Seattle). Program Manager (Milwaukee).
Federal Communications Commission	
Office of Inspector General	Inspector General.
Office of the Managing Director	Assoc Managing Director/Human Resources Mgmt.
Mass Media Bureau	Chief, Audio Services Division. Chief, Video Services Division. Chf, Enforcement Div.
Private Radio Bureau	Chief, Land Mobile & Microwave Division.
Field Operations Bureau	Chief, Enforcement Division. Assistant Bureau Chief, for Technology.
Common Carrier Bureau	Chief, Tariff Division. Asst Bureau Chief (International). Chief, Domestic Facilities Division. Chief, Accounting & Audits Division.
Olc of Engnieering Technology	Chief, Spectrum Engineering Division. Chief, Authorization and Evaluation Division.
Federal Emergency Management Agency:	
Office of the Director	Chief Financial Officer.
Office of the Inspector General	Deputy Chief Financial Officer. Deputy Inspector General. Asst Inspector General for Auditing. Asst Inspector General for Investigations. Asst Inspector Gen for Inspections.
Office of Management Services	Director of Security. Dir, Office of Acquisition Management.
National Preparedness Directorate	Deputy Associate Director. Senior Policy Advisor.
Office of Mobilization Preparedness	Asst Assoc Dir, Olc of Mobilization Prepared.
Office of Analysis & Support	Asst Assoc Dir, Olc of Analysis & Support.
Office of Facilities Management	Assistant Assoc Director.
Office of Systems Engineering	Special Asst for Architecture & Technology. Asst Assoc Dir, Olc of Systems Engineering.
Office of Operations	Asst Associate Director, Olc of Operations.
Federal Insurance Administration	Deputy Administrator.
Federal Energy Regulatory Commission (DOE):	
Olc of Chief Accountant	Deputy Chief Accountant. Dir, Division of Audits. Director, Division of Accounting Systems.
Olc of Hydropower Licensing	Dir, Div of Inspection.
Federal Labor Relations Authority:	
Office of the Chairman	Chief Counsel. Asst to the Chm for Prog Dev & New Initiative.
Office of Member	Chief Counsel.
Office of Member	Chief Counsel.
Federal Service Impasses Panel	Exec Director FSIP.
Olc of the Executive Director	Executive Director. Solicitor. Dir, Information Resources & Research Serv.
Olc of the General Counsel	Deputy General Counsel. Asst General Counsel (Appeals). Asst Gen Counsel, Legal Policy & Advice.
Regional Offices	Regional Director—Washington, D.C. Regional Director—Boston. Regional Director—New York. Regional Director—Atlanta. Regional Director—Dallas. Regional Director—Chicago, Illinois. Regional Director—Los Angeles. Regional Director—San Francisco. Regional Director—Denver.
Federal Maritime Commission:	
Office of the Members	Secretary.
Office of the Managing Director	Dep Managing Dir. Dir, Bureau of Administration.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Federal Retirement Thrift Investment Board	Prog Manager (Dir, Bur of Trade M & A). Dir, Bureau of Investigations. Dir, Bureau of Hearing Counsel. Deputy Managing Director. Assistant General Counsel (Admin). Assistant General Counsel (Programs). Director of Investments. Director of Contracts & Administration. Director of Automated Systems. Director of Benefits and Program Analysis. Director of Accounting. Director of Communications.
Federal Trade Commission:	
Office of the Inspector General	Inspector General.
Olc of Executive Director	Deputy Exec Dir for Management. Dep Exec Dir for Planning & Information.
General Services Administration:	
Office of the Administrator	Dir, Olc of Small & Disadvantaged Bus Utilz. Dep AA for Operations & Industry Relations.
Office of Associate Administrator for Administration	Dep Assoc Admr for Network Services. Assoc Dir for Operations (CASU). Director of Personnel. Dir of Administrative Programs & Support. Dir, Total Quality Management & Training.
Office of the Chief Financial Officer	Director of Financial Management.
Office of the Inspector General	Deputy Inspector General. Asst Inspector Gen for Auditing. Deputy Asst Inspector General for Auditing. Counsel to the Inspector General. Asst Inspector Gen for Administration. Asst Inspector Gen for Investigations. Asst Inspector General for Quality Management.
Office of Acquisition Policy	Assoc Administrator for Acquisition Policy. Dir of Acquis Mgmt and Contract Clearance. Policy Advr to the Asst Admr for ACQ Policy. Dir, Office of GSA Acquisition Policy.
Office of the Chief Financial Officer	Director of Finance. Director of Budget. Deputy Director of Finance.
Federal Property Resources Service	Asst Comm for Real Estate Policy/Sales (FPRS).
Public Buildings Service	Asst Regional Administrator, PBS Region 10. Asst Comm for Real Prop Mgmt & Safety. Asst Comr for Physical Security & Law Enf. Asst Comr for Procurement. Asst Comr for Real Property Development. Dep Asst Comr for Real Property Development. Dep Asst Comm for Real Prop Mgmt & Safety. Assistant Commissioner for Planning. Asst Comm for Govt Wide Real Prop Relations. Spec Asst/Asst Comr for Real Property Dev.
Office of Information Resources Management	Asst Comm for Info Resources Procurement. Dep Asst Comr for Info Res Mgmt Policy. Asst Comr for GSA Info Resources Management. Asst Commissioner for Technical Assistance. Dep Asst Comr for Regl Telecomm Services.
Office of Federal Supply and Services	Dir of Admin and Planning. Asst Commissioner for Customer Svc & Marketing. Asst Comm for Quality and Contract Admn. Asst Commissioner for Commodity Management. Asst Comr for Transportation & Property Mgt. Director for Transportation Audits. Asst Comm for Distribution Mgt.
Region 2—New York	Dep Asst Commissioner for Commodity Mgt. Asst Reg Admr for Public Bldg Service.
Region 3—Philadelphia	Asst Reg Admr for Federal Supply Service. Asst Reg Admr for Public Bldg Service.
National Capital Region	Asst Reg Admr for Infor Reso Mgmt Ser, NE Zone. Asst Regl Admr Federal Supply Service. Asst Regl Admr for Info Resources Mgmt. Asst Regl Admr for Real Property M & O. Asst Reg Admr for Public Bldgs Service, NCR. Dir of Fed Domes Asst CTLG Staff (IRMS) NCR.
Region 4—Atlanta	Asst Reg Admr for Public Bldg Service Assistant Reg Admin for Inform Res Mgmt–R–4.
Region 5—Chicago	Asst Reg Admr for Federal Supply & Services.
Region 6—Kansas City	Asst Reg Admr for Public Bldg Service. Asst Regional Admr for Administration, R6.
Region 7—Forth Worth	Asst Reg Admr for Public Bldg Service. Asst Reg Admr for Information Res Management. Asst Reg Admr for Public Bldg Service. Asst Regl Admr for Info Resources Mgmt R–7.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Region 9—San Francisco	Asst Reg Admr for Federal Supply Service.
	Asst Commissioner for Public Buildings SVC.
	Asst Reg Admr for Federal Supply Service.
	Asst Reg Admr for Information Res Management.
Department of Health and Human Services:	
ODAS for Budget	Dir, Division of OS Budget Analysis.
	Dir Div of Integrity & Ogan Review
OADS for Finance	Dep Asst Sec, Finance.
	Dir, OFC of Grant & Contract Fin Management.
	Dir, Office of Financial Policy.
	Dir OFC of Financial Operations.
ODAS for Management and Acquisition	Dir, Office of Acquisition & Grants Mgmt.
	Dir Office of Gran & Mgmt.
	Dep Asst Secy, Ogam.
OAS for Planning and Evaluation	Dep to Deputy Asst Secry for Plann & Evaluat.
OAS for Personnel Administration	Asst Sec for Personnel Administration.
	Dir, OFC of Human Relations.
	Dir, Center for Human Res Strategic P & P.
Associate General Counsel Divisions	Assoc Gen Coun, Business & Adm Law Division.
Office of the Inspector General	Principal Dep Inspector General.
	Asst Inspector Gen for Mgmt & Policy.
ODIG for Investigations	Dep Insp Gen for Investigations.
	Asst Insp General for Criminal Investigations.
	Asst Insp Gen for Civil & Adm Remedies.
	Asst Insp Gen for Investigation P & O.
ODIG for Audit Services	Dep Inspector General for Audit Services.
	Asst Inspector Gen for Social Security Audits.
	Asst Insp Gen for Human, F & D Serv Audits.
	Asst Inspector Gen for Health Care Fin Audits.
	Asst Inspector Gen for Audit Pol & Oversight.
	Asst Insp Gen for Public Health Serv Audits.
ODIG for Analysis & Inspections	Dep Insp Gen for Evaluation & Inspections.
	Asst Insp Gen for Analysis & Inspections.
Office of Program Support	Director, Ofc of Program Support.
	Dir, Ofc of Financial Management.
	Dep Dir, Ofc of Financial Management.
Ofc of Information Systems/Child Support Systems	Dir, Ofc of Infor Systems/Child Support Sys.
OAA for Management	Dir, Office of Financial Management.
	Chief Actuary.
	Dir, Bureau of Data Management and Strategy.
	Dep Dir, Bureau of Data Management & Strategy.
	Dir, Office of Medicare & Medicaid Cost Est.
	Dir, Office of Acquisitions and Grants.
OAA for Operations	Dir, Ofc of Prog Adm, Bur of Prog Operations.
	Director, Office of Financial Operations.
OAA for Program Development	Dir, Office of Demonstrations and Evaluations.
	Dir, Office of Research.
OAS for Health	Deputy Director, Office of Management.
	Director, Office of Resource Management.
	Dir, Div of Public Health Service Budget.
	Director, Ofc of Scientific Integrity Review.
	Director, Office of Research Integrity.
	Director, Div of Research Integrity Assurance.
Regional Administrators	Regl Health Administrator.
Alcohol, Drug Abuse & Mental Health Admin	Assoc Admin for Extramural Programs.
	Dir, Div of Community Prevention & Training.
Natl Inst on Alcohol Abuse & Alcoholism	Chief, Laboratory of Clinical Studies.
	Director, Division of Basic Research.
	Dir, Div of Intramural Clinical & Bio Res.
	Dir, Div of Biometry & Epidemiology.
	Director, Office of Scientific Affairs.
	Dir, Div of Clinical & Prevention Research.
National Institute on Drug Abuse	Director, Addiction Research Center.
	Director, Division of Clinical Research.
	Chief, Neuroscience Research Branch.
	Dir, Office of Extramural Program Review.
	Dir, Medications Development Division.
	Assoc Dir for Planning & Resource Management.
	Assoc Director for Services Research.
National Institute of Mental Health	Executive Officer, NIMH.
	Dir, Div of Basic Brain & Behavioral Sciences.
	Dir, Div of Educ & Serv Syst Liaison.
	Director, Division of Extramural Activities.
	Associate Dir for Special Program Operations.
Intramural Research	Dir, Intramural Research Programs.
	Dir, Division of Special Mental Health Research.
	Chf, Lab of Cerebral Metabolism.
	Chf, Lab of Neurochemistry.
	Chf, Lab of Gen & Comparative Biochemistry.
	Chf, Lab of Developmental Psychology.
	Chf, Clinical Neuropharmacology Branch.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Chief, Lab of Psychology and Psychopathology.
	Chief, Laboratory of Neuropsychology DCBR
	Chief, Section Histopharmacology.
	Chief, Biological Psychiatry Branch.
	Chief, Child Psychiatry Branch.
	Dep Dir, Div of Intramural Res Programs.
Substance Abuse, & Mental Health Services Adm	Assoc Admr for Extramural Programs.
Center for Substance Abuse Prevention	Dir, Div of Comm Prevention & Training.
Center for Mental Health Services	Chief, Retrovirus Branch.
Center for Substance Abuse Treatment	Director, Division of Viral Diseases.
Centers for Disease Control	Senior Advisor for Public Health Management.
	Senior Advisor for Preventive Health Services.
	Director, Financial Management Office.
Center for Infectious Diseases	Asst Dir for Laboratory Science.
Natl Institute for Occupational Safety & Health	Assistant Director for Science.
	Executive Officer, NIOSH.
Center for Env Health & Injury Control	Dir, Div of Environmental Health Lab Sciences.
Center for Prevention Services	Dir, Div of Std/HIV Prevention.
National Center for Health Statistics	Assoc Dir for Analysis & Epidemiology.
	Associate Dir, Ofc of P & E Programs.
	Assoc Dir for Research & Methodology.
	Assoc Dir, Ofc of Vital & Health Stats Syst.
	Assoc Dir for Internal Statistics.
Food and Drug Administration	Director, Parklawn Computer Center.
	Dir, Medicine Staff.
Office of Regulatory Affairs	Dep Assoc Commissioner for Regulatory Affairs.
	Regl Food & Drug Dir, Reg III, Philadelphia.
	Regl Dir, Food & Drug Adm, Reg IV, Atlanta.
	Regl Food and Drug Director, Reg V, Chicago.
	Regional Food & Drug Dir, Reg VI, Dallas.
	Regl Dir, Food & Drug Adm, Reg IX (San Fran).
	Regl Food & Drug Dir (Northeast Region).
National Center for Toxicological Research	Director, Division of Biometry.
	Director, Office of Research.
Center for Food Safety & Applied Nutrition	Dir, Ofc of Physical Sciences.
	Dir, Ofc of Nutrition & Food Sciences.
	Assoc Dir for Laboratory Investigations.
	Dir, Div of Nutrition.
	Dir, Ofc of Compliance.
	Dir, Div of Chemical Technology.
	Director, Ofc of Toxicological Sciences.
	Director, Product Policy Staff.
	Director, Office of Seafood.
Center for Drug Evaluation and Research	Dir, Div of Anti-Infective Drug Products.
	Dir, Div of Scientific Investigations.
	Dir, Div of Cardio-Renal Drug Products.
	Dir, Ofc of Compliance.
	Dep Dir, Ofc of Epidemiology & Biostatistics.
	Dir, Div of Biometrics.
	Director, Div of Biopharmaceutics.
	Dir, Div of Neuropharmacological Drug Prod.
	Dir, Div of Metabolism & Endocrine Drug Prod.
	Dep Dir for Prog Management.
	Director, Division of OTC Drug Evaluation.
	Dir, Office of Drug Evaluation I.
	Director, Office of Drug Standards.
	Deputy Dir, Ofc of Drug Standards.
	Dir, Div of G & C Drug Products.
	Dir, Ofc of Drug Eval II Ctr for Drug E&R.
	Director, Office of Research Resources.
	Dep Dir, Office of Research Resources.
	Dep Dir, Office of Drug Evaluation II.
	Dir, Div of Anti-Vir Drug Products.
	Director, Pilot Drug Evaluation Staff.
	Director, Office of Management.
	Dir, Div of Oncology-Pulmonary Drug Products.
	Dir, Div of Med Imaging, S&D Drug Products.
	Dir, Ofc of Generic Drugs.
	Deputy Dir, Ofc of Generic Drugs.
	Director Monograph Review Staff.
Center for Biologics Evaluation and Research	Dep Dir, Ofc of Biologics Research & Review.
	Director, Division of Biochem & Biophysics.
	Director, Division of Bacterial Products.
	Dir, Division of Cytokine Biology.
	Director, Office of Biologics Research.
	Dir, Div of Biol Investigational New Drugs.
	Dir, Div of Biostatistics & Epidemiology.
Center for Veterinary Medicine	Dir, Ofc of Surveillance & Compliance.
	Director, Ofc of New Animal Drug Evaluation.
	Director, Office of Science.
	Dir, Div of Biometrics & Production Drugs.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Center for Devices & Radiological Health	Dir Div of Therapeutic Drugs for Food Animals. Dep Dir for Human Food S&C Services. Dep Dir for Therapeutic & Production Drug Rev. Dep Dir, Ofc of Surveillance & Compliance. Dir Ofc of Device Evaluation. Dir, Ofc of Standards & Regulations. Dir, Office of Science & Technology. Dep Dir, Office of Science and Technology. Deputy Director, Office of Compliance. Dir, Div of Surgical & Rehabilitation. Dir, Division of Cardiovascular Devices. Dir, Ofc of Compliance & Surveillance.
Bureau of Health Resources Development	Dep Dir, Bureau of Health Resources Dev.
Office of the Director	Director, Div of Financial Management. Director, Division of Contracts & Grants. Dir, Ofc of Protection from Research Risk. Associate Director for Extramural Affairs. Associate Director for Disease Prevention. Dir, Ofc of Medical Applications of Research. Dir, Office of Scientific Integrity.
Nat'l Heart, Lung, & Blood Institute	Assoc Director for Review. Assoc Dir Epidemiology & Biometry Program. Chief, Sickle Cell Disease Br. Dir Div of Lung Diseases. Dir, Div of Blood Diseases & Resources. Dir, A/Sclerosis, Hypertension & Lip Met Prog. Dep Director Div of Extramural Affairs. Director, Division of Extramural Affairs. Dir Div of Epidemiology/Clinical Applications. Assoc Dir for International Programs.
Intramural Research	Chief, Biostatistics Research Branch. Deputy Dir, Division of Lung Diseases. Dir, Division of Intramural Research. Chf, Lab of Biochemical Genetics. Chf, Lab of Biochemistry. Chief, Molecular Hematology Branch. Chief, Lab of Biophysical Chemistry. Chief, Laboratory of Chemical Pharmacology. Chief, Macromolecules Section. Chf, Intermediary M&B Section. Chief, Laboratory of Cellular Metabolism. Chf, Lab of Kidney & Electrolyte Metabolism. Chief, Lab of Cardiac Energetics.
Division of Cancer Biology, Diagnosis and Centers	Dir, Div of Cancer Biology Diagnosis & Ctrs. Dep Dir, Div of Cancer Biology Diag & Centers. Chief, Lab of Cell Biol, Immun Prog, IRP. Chf, Microbial G&B Section, Lab of Biochem. Chief, Lab of Biochem Intramural Res Prog. Assoc Dir, Extramural Research Program. Chief Dermatology Br, Intramural Res Prog. Head, Cellular Immun of Modified Antigens Group. Chief, Lab of Tumor & Biol Immunology, IRP.
Division of Cancer Etiology	Assoc Dir, Ctrs Training & Resources Prog. Chief, Laboratory of Molecular Biology. Dir, Div of Cancer Etiology. Chief, Lab of Biology. Chief, Clinical Epidemiology Branch. Chief, Laboratory of Molecular Carcinogenesis. Chf, Lab of Experimental Pathology.
Division of Cancer Prevention & Control	Head, Math Statistics & Applied Mathematics S. Head, In Vitro Carcinogenesis Section. Dep Dir, Div of Cancer Prevention & Control. Assoc Dir, Cancer Prevention Research Prog. Associate Dir, Surveillance Program, DCPC. Assoc Dir, Cancer Control Sci Program, DCPC.
Division of Extramural Activities	Assoc Dir, Early D&C Oncology Program. Dir, Div of Extramural Activities.
Division of Cancer Treatment	Deputy Dir, Div of Extramural Activities. Assoc Dir, Developmental Therapeutics Prog. Chf, Radiation Oncology Br. Assoc Dir, Radiation Research Program.
Natl Institute of Diabetes & Digestive & Kidney Dis	Assoc/Dir, Biological Response Modifiers Prog. Dir, Div Kidney, Urologic & Hematologic Diseases. Dir Division of Extramural Activities.
Intramural Research	Assoc Director for Research & Assessment. Assoc Dir, Disease Prevention Technol Transfer. Assoc Dir for Mgt & Operations. Chief, Section on Biochemical Mechanisms. Chf, Sect on Biochemistry. Chf, Sect on Metabolic Enzymes. Chf, Sect on Physical Chemistry.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Chief, Section on Molecular Structure.
	Sr Res Physicist, Mathematical Research Br.
	Senior Research Chemist.
	Chief, Theoretical Biophysics Section.
	Chief, Laboratory of Bio-Organic Chemistry.
	Chief, Oxidation Mechanisms Section LBC.
	Chief, Laboratory of Biochemistry & Metabolism.
	Chf, Sec on Nuclear Mag Res, Lab/Chem Physics.
	Clinical Dir & Chief, Kidney Disease Section.
	Chief, Section on Molecular Biophysics.
	Chf, Sec Carbohydrates Lab of Chemistry/NIDDK.
	Chief, Metabolic Diseases Branch.
	Chief, Laboratory of Neuroscience, NIDDK.
	Chief, Epidemiology & Clinical Research Branch.
	Chf, Laboratory of Medicinal Chemistry.
Natl Inst of Arthr & Musculoskeletal & Skin Diseases	Chf, Lab of Physical Biology.
	Director, Extramural Program.
	Deputy Dir.
National Library of Medicine	Dep Dir, Natl Lib of Medicine.
	Dep Dir for Res and Education.
	Associate Director for Library Operations.
	Assoc Dir, Specialized Info Services.
	Dep Dir, Lister Hill Natl Ctr for Biomed Comms.
	Director, Information Systems.
	Dir, Natl Ctr for Biotech Info.
	Assoc Dir for Health & Info Prog Development.
Natl Inst of Allergy & Infectious Diseases	Dir, Div of Allergy/Immunology/Transplantatn.
	Chf, Lab of Parasitic Diseases.
	Dir, Div of Microbiology/Infectious Diseases.
	Chief, Lab of Immunogenetics.
	Dir, Div of Extramural Activities.
	Ch, Lab of Microbial Structure and Function.
	Chief, Lab of Molecular Microbiology.
	Head Malaria Section.
	Dir, Div Acquired Immunodeficiency Syndrome.
	Assoc Dir for Administration & Operations.
	Deputy Dir, Division of Extramural Activities.
	Chief, Biological Resources Branch.
	Head, Lymphocyte Biology Section.
	Chief, Laboratory of Infectious Diseases.
	Head, Experimental Pathology Section.
	Dep Dir Div of Acquired Immunodeficiency.
	Head, Epidemiology section.
	Chief, Laboratory of Malaria Research.
Natl Inst on Aging	Scientific Director Gerontology Rsch Cntr.
	Clin Director and Chief Clin Physiology Br.
	Chief, Lab of Cellular & Molecular Biology.
	Associate Dir for Behavioral Sciences Res.
	Assoc Dir, Biomed Res & Clinical Medicine Prog.
	Assoc Dir, Office of Extramural Affairs.
	Assoc Dir, Epidemi, Demo & Biometry Program.
	Assoc Dir, Ofc of Plnng, A&I Activities.
	Assoc Dir, Neurosci & Neuropsych of Aging Prog.
Natl Inst of Child Health & Human Development	Chief, Laboratory of Molecular Genetics.
	Dep Dir, Center for Population Res.
	Chf, Endocrinology & Reproduction Research Br.
	Director, Ctr Forres for Mothers & Children.
	Director, Cntr for Population Research.
	Chf, Lab of Neurochemistry & Neuroimmunology.
	Chief, Section on Growth Factors.
	Assoc Dir For Prevention Research.
	Chf, Section on Mammalian Gene Regulation.
	Chief, Section on Molecular Endocrinology.
	Chief, Section on Neuroendocrinology.
	Chief, Section on Microbial Genetics.
	Chief, Laboratory of Comparative Ethology.
	Associate Director for Administration.
	Dir, Natl Center for Medical Rehab Research.
Natl Inst of Dental Research	Chief Lab of Microbiology & Immunology
	Chf, Enzyme Chemistry Section.
	Dir, Extramural Program.
	Chief, Bone Research Branch.
	Chief, Neurobiology & Anesthesiology Branch.
Natl Inst of Environmental Health Sciences	Chf, Lab of Pulmonary Pathobiology.
	Chief, Lab of Genetics.
	Head, Mutagenesis Section.
	Head, Mammalian Mutagenesis Section.
	Dir, Div of Biometry and Risk Assessment.
	Senior Scientific Advisor.
	Dir, Div of Toxicology Research & Testing.
	Associate Director for Management.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Natl Inst of General Medical Sciences	Chief, Signal Transduction Section. Chf, Lab of Cellular & Molecular Pharmacology. Chief, Lab of Molecular & Integrative Neurosci. Chief, Lab of Molecular Carcinogenesis. Dir, Natl Inst of Environmental Health Science. Dep Dir, Natl Institute of General Med Sci. Dir, Cell & Molec Basis of Disease Prog. Dir, Genetics Program. Assoc Dir For Program Activities.
Natl Inst of Neurological Disorders and Stroke	Dir, Pharmacological Sciences Program Branch. Dir, Bio Phys Sciences Program Branch. Dir, Div of Fundamental Neurosciences. Director, Division of Stroke & Trauma. Associate Director for Administration.
Clinical Neurosciences Program	Dir; Basic Neurosci Prog/Chf/Lab of Neurochem. Chief, Lab of Central Nervous System Studies. Chf, Dev & Metabolic Neurology Branch. Deputy Chief, Lab of Central Nervous Sys Stud. Hd, Cellular Neuropathology Section. Chief, Neuroimaging Branch. Chief, Lab of Biophysics. Chf, Lab of Neuropathology & Neuroanatomical S. Chf, Surgical Neurology Branch. Chief, Biometry & Field Studies Branch. Chief, Laboratory of Neurobiology. Chief, Laboratory of Neura Control. Chief, Brain Structural Pathlty Section. Chf, Lab of Viral & Molecular Pathogenesis. Chief, Stroke Branch.
National Eye Institute	Chief, Laboratory of Retinal Cell & Mol Biolog. Dir, Intramural Research Program, NEI. Chief, Lab of Molecular & Dev. Biology. Chief, Laboratory of Sensorimotor Research. Chief, Lab of Opnthalmic Pathology.
Natl Inst on Deafness & Other Communication Disorders	Assoc Dir, Biometry & Epidemiology Prog. Dep Assoc Dir, Biometry & Epidemiology Prog. Chief, Laboratory of Molecular Biology. Dir, Div of Communication Sciences & Disorder. Dir, Div of Intra Res, NID & Other Comm Disor. Dir, Div of Extram Act, NID & Other Comm Diso.
NIH Clinical Center	Assoc Dir for Clinical Care/Dir, Clinical Ctr. Health Systems Administrator. Associate Director for Planning.
Division of Computer Research & Tech	Assoc Chf, Position Emission T&R. Chief, Computer Center Branch. Chief, Physical Sciences Lab. Chief, Data Management Branch.
John E Fogarty Intl Center	Deputy Director. Assoc Dir for Intl Advanced Studies.
National Center for Research Resources	Dir, Gen Clinical Res Center Program Branch. Dep Dir for Extramural Research Resources.
Division of Research Grants	Dir, Biomedical Engr & Instrumentation Branch. Associate Director for Referral and Review.
National Center for Nursing Research	Assoc Dir for Statistics & Analysis. Director National Cntr for Nursing Research.
National Center for Human Genome Research	Deputy Director.
Agency for Health Care Policy & Research	Dir Ctr for Medical Effectiveness Research. Dir, Ctr for Gen Health Serv Intramural Res. Dir, Ctr Gen Health Svce Extramural Research.
Olc of Actuary	Dir, Olc of Scl & Data Dev/Agcy for HCP & Res. Chf Actuary. Dep Chief Actuary (Long-Range). Dep Chief Actuary Short Range SSA.
Office of Finance, Assessment and Management	Chief Financial Officer. Senior Financial Executive.
Olc of Financial Policy & Operations	Assoc Comr, Office of Fin Policy & Operations. Dep Assoc Comm Financial Policy & Operations.
Office of Acquisition and Grants	Assoc Commissioner for Acquisition & Grants.
Department of Housing and Urban Development:	
Office of the General Counsel	Assoc Gen Coun for Program Enforcement.
Office of the Inspector General	Deputy Inspector General. Asst Inspector General for Investigations. Assistant Inspector General for Audit. Asst Inspector General for Management & Pol. Deputy Asst Inspector Gen for Audit Operation. Dep Asst Inspector Gen for P&O. Dep Asst Inspector General for Investigation.
Office of the Chief Financial Officer	Deputy Inspector General for Operations. Chief Financial Officer. Dep Chief Financial Officer for Operations. Dep Chief Financial Officer for Finance.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Assistant Secretary for Administration	Dir, Section 8 Systems Project Staff. Dep Chief Financial Ofcr for Field Operations. Dep Dir Office of Personnel. Dir, Ofc of Budget. Dep Dir, Ofc of Budget. Director, Ofc of Procurements & Contracts. Deputy Director, Office of Finance & Accounting. Adm Comptroller-Dir, Ofc of Fin & Accounting.
Assistant Secy for Housing	Dir, Mortgage Insurance Acctng & Serv Group. Dir, Ofc. of Multifamily Housing Management. Dir, Office of Elderly & Assisted Housing. Housing/Fed Housing Adm Comptroller. Dir, Ofc of Multifamily Housing Pres Prop Dis. Dir, Ofc of Insured Multifamily Housing Devel. Housing FHA Comptroller. Dir, Ofc of Pol, P&F Systems Enhancements.
Asst Secy for Fair Housing and Equal Opportunity	Director, Resps Enforcement Unit. Director, Office of Evaluation. Director, Office of Investigations.
Asst Secy for Community Planning and Development	Dir, Ofc of Fair Housing Asst & Voluntary Prog. Dir, Office of Environment and Energy. Dir, Ofc of Block Grant Asst. Director, Office of Economic Development.
Government National Mortgage Association	Vice President for Asset Management. Vice President for Mortgage Backed Securities. Vice President for Finance.
Asst Secy for Public and Indian Housing	Gen Dep Asst Secy for Public & Indian Housing. Dir, Rental Asst & Moderate Rehab Division. Public & Indian Housing—Comptroller. Dir, Ofc of Management & Operations. Dir, Ofc of Construction, Reh & Maintenance. Dir, Office of Assisted Housing.
Region II New York	Manager Newark. Manager Buffalo.
Region IV Atlanta	Manager Jacksonville.
Region V Chicago	Manager Columbus. Manager Detroit. Manager Indianapolis. Manager Mn/St Paul.
Region VI Fort Worth	Manager Oklahoma.
Region IX San Francisco	Manager Los Angeles.
Department of Interior:	
Ofc of the Inspector General	Assistant Inspector General for Auditing. Asst Inspector General for Investigations. Deputy Asst Inspector General for Audits.
Ofc of the Solicitor	Deputy Assoc Solicitor, General Law. Asst Solicitor, Bureau of Parks and Recreation. Special Asst to the Assoc Solicitor—Gen Law. Dep Associate Solicitor—Energy & Resources. Dep Associate Solicitor—Indian Affairs.
Asst Secy for Policy, Budget & Administration	Asst Dir for Economics. Asst Dir, Program Analysis Staff. Chief, Div of Budget Operations (A). Asst Dir for Special Analysis. Dep Agcy Ethics & Audit Coordination Officer. Chief, Division of Budget Operations (B) Chief, Div of Budget Admin.
Nat'l Park Service	Senior Scientist. Science & Technology Advisor. Asst Dir, Minority Business Enterprise. Asst Dir, Design & Construction (Mgr, DSC).
US Fish & Wildlife Service	Dep Reg Dir Reg 8 Rsch & Dev. Dep Asst Dir—Pol, Budget, & Administration. Exec Dir—North American Waterfowl Plan. Research Director Patuxent Research Center. Spec Asst to the Reg Dir Research & Develop.
Bureau of Mines	Resch Dir, Pittsburgh Research Center. Research Dir, Twin Cities Research Ctr. Research Director, Albany Research Ctr. Chief Div of Environmental Technology. Chief Division of Health Safety & Min Tech. Spec Asst to the Dir, Bureau of Mines. Senior Technical Advisor. Chief, Division of Resource Evaluation. Chief, Division of Policy Analysis. Chief Mineral Economist.
Bureau of Reclamation	Chief Div of Research & Lab Services. Dep Asst Commissioner—Engineering & Research. Director, Program Services Offices. Senior Scientist. Deputy Asst Commissioner—Resources Management.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
US Geological Survey	Project Manager/Arizona Projects Office.
National Mapping Div	Chief Div Prog Coordination & Finance.
	Staff Geologist for NPRA/Alaska Activities.
	Chief, National Mapping Division.
	Associate Chief, National Mapping Division.
	Chief, Eros Data Center.
	Chief Western Mapping Center.
	Chief Mid-Continent Mapping Center.
	Chief Rocky Mountain Mapping Center.
	Asst Div Chief for Information & Data Svc.
	Chief Eastern Mapping Center.
	Asst Div Chf for Program, Budget & Adm.
	Asst Div Chf for Research.
	Asst Div Chf for Coordination & Requirements.
	Asst Div Chief for Production Management.
Water Resources Div	Chief Hydrologist.
	Assoc Chief Hydrologist.
	Regl Hydrologist Central Reg Lakewood.
	Regl Hydrologist Southeastern Region.
	Regional Hydrologist, Western Region.
	Regional Hydrologist, Northeastern Region.
	Asst Chf Hydrologist for Operations.
	Asst Chief Hydrologist for Scien Info Mgmt.
	Asst Chf Hydrologist for Water A&D Coord.
	Asst Chf Hydro for Res & Extrnl Coordination.
	Chief, Natl Water Quality Assessment (NAWQA).
	Asst Chf Hydrologist/Prog Coord & Tech Supp.
	Chf, Ofc of Atmospheric Deposition Analysis.
	Chf, Ofc of Hydrologic Research.
	Chief, WRSIC Program.
	Chief, Office of Water Quality.
	Chf, Br of Water Information Transfer.
	Chief, Office of Surface Water.
	Chf, National Water Data Exchange Program.
Geologic Div	Chief Geologist.
	Chief, Ofc of Earthquakes, Volcanoes & Engr.
	Chief, Ofc of Scientific Publications.
	Assoc Chf Geologist.
	Chf, Ofc of Mineral Resources.
	Chief, Office of Energy & Marine Geology.
	Chief, Office of International Geology.
	Chief, Office of Regional Geology.
	Asst Chief, Ofc of Energy and Marine Geology.
	Assistant Chief Geologist for Programs.
Bureau of Land Management	Deputy Asst Dir, Management Services.
	Director, Boise Interagency Fire Center.
	Dep Asst Dir, Lands & Renewable Resources.
	Dep Asst Dir, Energy & Minerals Resources.
	Spec Asst to the Director/FOI Representative.
Ofc of Surface Mining Reclam & Enforcement	Administrator-Technical Center-West.
	Dep Asst Dir, Eastern Fld Ops (Programs Ops)
	Asst Dir for Eastern Field Operator.
	Assistant Director, Western Field Operations.
Minerals Management Service	Regional Director, Gulf of Mexico OCS Region.
	Dep Associate Director for Offshore Leasing
	Chief, Leasing Management Division.
	Regional Manager, Atlantic OCS Region.
	Regional Manager, Alaska OCS Region.
	Assistant Assoc Dir for Offshore Minerals Mgt.
	Regional Manager, Pacific OCS Region.
	Program Director for Indian Royalty Asst.
	Dep Associate Dir for Offshore Operations.
	Dep Assoc Dir for Collection & Disbursement.
	Prog Dir, Ofc of Strategic & Internatl Mnls.
	Dep Assoc Dir for Valuation & Audit.
	Dep Assoc Dir for Administration
Asst Secy-Indian Affs	Spec Asst to the Asst Secy-Indian Affairs.
Bureau of Indian Affairs	Asst Dir of Administration (Financial Mgmt)
	Dep to the Dir, Indian Education Programs
International Development Cooperation Agency.	
Ofc of the General Counsel	Deputy General Counsel.
	Ethics Officer.
Office of the Inspector General	Asst Inspector General for Security
	Asst Inspector General for Investigations
	Counsel to the Inspector General
	Deputy Inspector General.
Office of Equal Opportunity Programs	Dir, Ofc of Equal Opportunity Programs
Directorate for Finance & Administration	Assoc Admin for Finance & Admin.
	Director, Office of Financial Mgmt.
	Deputy Dir, Ofc of Financial Management.
	Dir, Office of Information Resource Management.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Deputy Director, Ofc of Procurement.
	Director, Office of Procurement.
	Deputy Director, Office of Infor Res Manag.
	Deputy Associate Administrator.
	Dep Dir, Office of HRDM.
	Dir, Ofc of Admin Services.
Interstate Commerce Commission:	
Office of the General Counsel	Assoc Gen Counsel—Litigation.
Ofc of the Managing Director	Assoc Managing Dir & Director of Personnel.
Office of Economics	Deputy Director—Accounts.
Bureau of Traffic	Dir, Bureau of Traffic.
Office of Compliance & Consumer Assistance	Deputy Director for Enforcement.
	Assoc Dir, Ofc of Compliance & Consumer Asst Director.
	Dep Dir, Section of Operation & Enforcement.
Regional Offices	Regional Director (Philadelphia).
	Regional Director (Chicago).
	Regional Director (San Francisco).
Office of Proceedings	Deputy Director—Legal Analysis.
	Deputy Director—Legal Counsel.
	Assistant Deputy Director—Legal Counsel.
Department of Justice:	
Office of the Attorney General	Counsel on Professional Responsibility.
	Dep Counsel on Professional Responsibility.
Ofc of the Legal Counsel	Special Counsel.
	Special Counsel.
Office of the Inspector General	Deputy Inspector General.
	Asst Inspector General for Inspections.
	Assistant Inspector General for Audit.
	Assistant Inspector General for Investigation.
	Asst Inspector Gen for Management & Planning.
	General Counsel.
	Dep Asst Inspector General for Investigations.
Office of the Deputy Attorney General	Dir Exec Ofc for Organ Crime Drug Enfor Task.
	Associate Deputy Attorney General.
Justice Management Division	Asst Attorney General for Administration.
	Prin Dep Asst Atty General for Administration.
	Dep Asst Attorney Gen, Personnel Adm.
	Dir, Security & Emergency Planning Staff.
	Dir, Facilities and Administrative Svc Staff.
	Assoc Asst Attorney General, Legal Counsel.
	Counselor to the Asst Attorney Gen for Admin.
	Associate Assistant Attorney General.
	Director, Management and Planning Staff.
	Director, Budget Staff.
	Senior Management Counsel.
	Procurement Executive.
	Senior Policy Advisor.
	Dep Asst Attorney General, Info Res Mgt.
	Dir, Procurement Services Staff.
Office of the Controller	Dep Asst Attorney General; Controller.
	Dir, Finance Staff.
	Dep Asst Atty Gen for Debt Collection.
	Asst Dir, Management & Planning Staff.
Office of Personnel and Administration	Director, Personnel Staff.
	Director, Ofc of Atty Pers Mgmt.
Office of Info & Admin Services	Director, Computer Services Staff.
	Director, Systems Policy Staff.
	Dir, Legal and Informations Systems Staff.
Executive Office for Immigration Review	Chief Immigration Judge.
	Assistant to the Director.
	Chief Admin Hearing Officer.
Antitrust Division	Chief Economic Litigation Section.
Office of Litigation	Dep Dir of Operations.
	Chief, Competition Policy Section.
Civil Division	Director of Management Programs.
Commercial Litigation Branch	Spec Litigation Counsel (Foreign Litigation).
	Spec Litigation Counsel.
	Deputy Branch Director/Commercial Litigation.
	Deputy Branch Dir Civil Frauds.
Federal Programs Branch	Special Litigation Counsel (Federal Programs).
	Deputy Branch Director (Federal Programs).
Torts Branch	Spec Litigation Counsel.
	Spec Litigation Counsel.
	Special Litigation Counsel (Tort Litigation).
	Deputy Branch Director.
	Deputy Branch Director.
	Deputy Branch Director.
	Director Office of Consumer Litigation.
Civil Rights Divison	Special Litigation Counsel.
Office of Environmental Resources	Special Litigation Counsel.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Deputy Assistant Attorney General-I	Deputy Chief.
	Special Litigation Counsel (Legislative).
	SR Trial Attorney.
	Special Litigation Counsel.
Immigration and Naturalization Service	Spec Litigation Counsel.
	Associate Commissioner for Finance.
	Asst Commissioner for Detention & Deportation.
	Asst Commissioner for Adjudication & Natural.
	Assistant Commissioner for Border Patrol.
	Asst Comm for Employer & Labor Relations.
	Director of Internal Audit.
	Director of Security.
	Assoc Comr for Human Resources & Admin.
Associate Commissioner for Information Systems	Asst Comr, Budget.
Associate Commissioner for Examinations	Assistant Commissioner for Records Systems.
Associate Commissioner for Enforcement	Asst Comm for Inspections.
Executive Associate Commissioner for management	Assistant Commissioner for Investigations.
	Asst Commissioner for Administration.
Ofc of the Associate Attorney General	Asst Commr for Personnel & Training.
Executive Ofc for U.S. Attorneys	Deputy Associate Attorney General.
	Dir Ofc of Mgnt Information Systems Support.
Criminal Division	Dir, Office of Administration & Review.
	Deputy Chief, Fraud Section.
	Chief, Terrorism & Violent Crimes Section.
	Chief, Money Laundering Section.
	Special Counsel for Money Laundering.
	Special Coun for International Programs.
	Senior Counsel.
	Senior Appellate Counsel.
	Senior Counsel.
Ofc of Senior Counsels	Executive Officer.
Ofc of Deputy Asst Attorney General I	Sr Counsel for Litigation.
	Cnsl to the Ofc; Ofc of Spec Investigations.
Federal Prison System	Counsel to the Office Fraud Section.
	Asst Dir for Planning and Development.
	General Counsel.
	Assoc Commr, Fed Prisons Industries, Unicor.
	Dep Assoc Comm for Fed Prison Industries.
	Dep Asst Dir for Edu and Vocational Training.
	Deputy Asst Dir for Admin.
	Contl Prog Admr Asst Dir for Human Res Mgmt.
	Sen Dep Asst Dir, Admin Div.
	Senior Deputy Asst Dir, Health Services Div.
	Senior Deputy Assistant Director.
	Assistant Dir, Program Review Division.
	Sr Dep Asst Dir, Federal Prison Industries.
	Regional Director, Mid Atlantic Division.
	Chief of Staff to the Director.
	Correctional Institution Administrator.
	Asst Dir., Community Corrections & Detention.
	Asst Dir, Info, Pol, & Public Afrs Div.
	Warden, Talladega AL.
	CIA (Warden), FCI, Texarkana, Texas.
	Sen Dep Asst Dir, Health Services Division.
	Correctional Institution Admin (Warden).
	Sr Dep Regl Director, Mid-Atlantic Region.
	Gen Counsel, Fed Prison Industries (Unicor).
	Warden, Allenwood, Pennsylvania.
	Chief Executive Officer (Warden).
	Senior Management Counsel.
Office of Correctional Programs	Correctl Instit Admr (Warden) FCC, Floren, CO.
	Dep Asst Dir for Correctional Programs.
Northeast Region	Asst Dir, Correctional Programs Div.
	Regional Director.
	Warden, Lewisburg, PA.
	Warden, Danbury, Conn.
	Warden, McKean, PA.
Southeast Region	Senior Deputy Regional Director.
	Regional Director.
	Warden, Atlanta.
	Warden, Lexington, Kentucky.
North Central Region	Warden, Butner, North Caroline.
	Regional Director.
	Warden, Leavenworth, Kansas.
	Warden, Springfield, MO.
	Warden, Marion, IL.
	Warden, Terre Haute, IN.
	Correctional Institution Admr.
South Central Region	Warden, Fed Correctional Institution.
	Correctional Institution Admr (Warden).
	Regional Director.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Warden, El Reno, Okla.
	Warden, Memphis, TN.
Western Region	Regional Director.
	Warden, Terminal Island, CA.
	Warden, Lompoc, CA.
	Warden, Phoenix, AZ.
	Warden, Federal Correctional Institution.
Ofc of Justice Programs	Comptroller, Ofc of the Comptroller.
National Institute of Justice	Asst Dir, Ofc of Dev Testing & Dissemination.
Bureau of Justice Statistics	Deputy Dir, Bureau of Justice Statistics.
U.S. Marshals Service	Sr Mgt Counsel, (Federal Bureau of Prisons).
	Associate Director for Administration.
	Associate Director for Operations.
	Assistant Director for Financial Management.
	Assistant Director for Human Resources.
	Special Projects Officer.
	Associate Director for Operations Support.
	Associate Director, for Administrative Serv.
	Asst Dir for Research & Development.
Department of Labor:	
Ofc of the Inspector General	Deputy Inspector General.
	Asst Inspector General for Investigations.
	Asst Inspector Gen for Audit.
	Deputy Assistant Inspector General for Audit.
	Dir Ofc Resource Mgmt & Legislative Assmt.
	Asst Inspector Gen for Labor Racketeering.
	Counsel to the Inspector General.
Office of the Deputy Secretary	Director, DOL Academy.
Office of the Solicitor	Deputy Solicitor (Regional Operations).
	Associate Solicitor for Labor-Management Laws.
	Assoc Solicitor for Plan Benefits Security.
	Assoc Solicitor for Civil Rights.
	Assoc Solicitor for Occupational Safety & Hlt.
	Assoc Solicitor for Mine Safety & Health.
	Assoc Solicitor for Fair Labor Standards.
	Assoc Solicitor for Employee Benefits.
	Associate Solicitor for Spec Litigation.
	Assoc Sol for Spec Appel & Sup Court Lit.
	Dep Solicitor for Planning and Coordination.
	Dir, Office of Management.
	Associate Solicitor for Black Lung Benefits.
Regional Solicitors	Regional Solicitor.
	Regional Solicitor Region IV–Atlanta.
	Regl Solicitor Boston.
	Regl Solicitor New York.
	Regional Solicitor Philadelphia.
	Regl Solicitor Dallas.
	Regl Solicitor Kansas City.
	Regl Solicitor San Francisco.
OAS for Administration and Management	Asst Sec'y for Admin & Mgmt.
	Dep Asst Sec for Adm and Mgmt.
	Director, Office of Budget.
	Dir of Management Policy and Systems.
	Comptroller for the Department.
	Dir of Personnel Management.
	Dep Dir of Personnel Management.
	Deputy Comptroller.
	Director, Directorate of Civil Rights.
	Dir Natl Capital Service Center.
	Director of Information Resources Management.
	Dir, Administrative & Procurement Programs.
Office of Management, Administration and Planning	Dir Ofc of Mgmt, Administration and Planning.
Ofc of Federal Contract Compliance Programs	Director, Division of Programs Operations.
Wage and Hour Division	Asst Admin for Policy Planning & Review.
	Dep Wage & Hour Admin.
Ofc of Workers Compensation Programs	Dir, Federal Employees Compensation.
	Dir, Coal Mine Workers Compensation.
Pension & Welfare Benefits Administration	Director of Enforcement.
	Dir of Regulations & Interpretations.
	Director of Program Services.
	Deputy Director of Program Services.
	Senior Dir of Policy & Legislative Analysis.
	Dep Asst Secy for Program Operations.
	Director of Exemption Determinations.
Office of Labor Management Standards	Dir, Ofc of Elect Trustshp/Intern'l Union Audt.
	Director, Ofc of Policy & Program Support.
Bureau of Labor Statistics	Deputy Commissioner.
	Associate Commissioner for Field Operations.
	Assoc Commr for Publications & Spec Studies.
Data Analysis	Assoc Commr, Economic Growth.
	Assoc Comm for Prices and Living Conditions.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Assoc Commr Productivity & Technology.
	Assoc Comr for Research & Evaluation.
	Assoc Comm for Employment & Unempl Statistics.
	Dep Assoc Commr for Prices & Living Cond.
	Asst Commr for Consumer Prices & Price Indexes.
	Asst Commr for Indust Prices & Price Indexes.
	Dep Assoc Comm for Empl & Unempl Statistics.
	Assistant Commissioner for Economic Research.
	Asst Commissioner for Federal-State Programs.
	Asst Commissioner for Current Employ Analysis.
	Asst Comr for Compensation Levels & Trends.
	Asst Comr for Safety, H & W Conditions.
	Assoc Comr Compensation & Working Conditions.
	Asst Comm for Survey Methods Research.
	Asst Comm for International Prices
Administrative and Internal Operations	Dep Comm for Adm and Internal Operations.
	Assistant Commissioner for Administration.
	Director of Survey Processing.
	Dir of Technology & Computing Svcs.
	Asst Comr for Technology & Survey Processing.
	Dir Quality & Info Management.
Office of Work-Based Learning	Director, Ofc of Trade Adjustment Assistance.
Office of Financial & Administrative Management	Comptroller.
	Admr, Ofc of Financial & Administrative Mgmt.
	Dir, Ofc of Information Resources Management.
Administrative Programs	Dir, Adm Progs.
Health Standards Programs	Dir Health Standards Programs.
Safety Standards Programs	Director Safety Standards Programs.
Federal/State Operations	Director, Federal/State Operations.
Technical Support	Director, Technical Support.
Mine Safety and Health Administration	Chf of Standards, Regulations & Variances.
	Director of Administration and Management.
	Director of Technical Support.
Merit Systems Protection Board:	
Office of the Board	Deputy General Counsel.
Ofc of the Executive Director	Executive Director.
	Deputy Executive Director.
	Director, Office of Policy & Evaluation.
	Deputy Director Office of Appeals Counsel.
	Director, Office of Administration.
	Dir, Office of Management Analysis.
	Director, Office of Regional Operations.
Regional Offices	Regional Director, San Francisco.
	Regional Director, Chicago.
	Regional Director, Atlanta.
	Regional Director, Philadelphia.
	Regional Director, Dallas.
	Regional Director, Washington, D.C.
National Aeronautics and Space Administration:	
Ofc of the Administrator	Associate Admin for Small Disadvantaged Bus.
	Director Benchmarking & External Programs.
	Director of Special Studies.
Office of the Comptroller	Assistant Comptroller for Systems Analysis.
	Deputy Chief Financial Officer.
	Asst Comptroller for Prog S & C Assessment.
Financial Management Division	Dep Dir, Financial Management Div.
Resources Analysis Divison	Director, Resources Analysis Division.
	Dep Dir, Resources Analysis Division.
Congressional Relations Office	Deputy Assistant Administrator.
	Dir, Congressional Liaison Division.
Ofc of Safety and Mission Quality	Director, Safety and Product Assurance Office.
	Dir, NASA Q & P Improvement Programs Division.
	Director, Safety Division.
	Dir, Reliability, M/Q Assurance Division.
	Dep Assoc Adm for Safety & Mission Quality.
	Dir, Technical Standards Division.
	Director, Programs Assurance Division.
	Dir, Systems Assessment Division.
Ofc of the Assoc Admr, Space Science and Applications	Special Ast to the Deputy Assoc Admin.
	Special Assistant to Associate Administrator.
	Asst Assoc Administrator (Institutions).
	Mgr, Unmanned Launch Vehicles/Upper Stages.
Earth Science and Applications Division	Chief, Flight Programs Branch.
	Chf, Upper Atmospheric R/T Chemistry Branch.
	Chf, Atmospheric Dynamics and Radiation Br.
	Chief, Land Processes Branch.
	Chf, Advanced M/I Science Research Branch.
	Spec Asst to the Dir, Earth Sci/Applications.
Communications Division	Chf, Information Systems Branch.
Life Sciences Division	Chief, Space Medicine & Biology Branch.
	Dep Dir, Life Sciences Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Administration and Resources Management Division	Dep Dir, Administration & Resources Mgmt Div.
Solar Systems Exploration Division	Dep Dir, Solar System Exploration Division.
	Manager, Cral-Cassini Program.
	Chief, Flight Programs Branch.
Flight Systems Division	Chf, Space Station Utilization Branch.
	Chief, Microgravity Payloads Branch.
	Deputy Dir Flight Systems Division.
Astrophysicis Division	Chf, High Energy Astrophysics Br.
	Chief, Astronomy/Relativity Branch.
	Deputy Dir, Astrophysics Division.
	Chief, Observatories Development Branch.
Microgravity Sciences and Applications Div	Dep Dir Microgravity Science Applications Div.
	Dir, Microgravity Sciences & Applications Div.
	Chief, Flight Programs Branch.
Space Physics Div	Chief, Solar Physics Branch.
	Dep Dir, Space Physics Division.
	Chief, Flight Programs Branch.
	Director, Space Physics Division.
Office of Procurement	Asst Admr for Procurement.
	Dir, Advanced Procurement Planning Division.
	Director, Program Operations Division.
	Director, Procurement Policy Division.
	Dir, Procurement Management Division.
	Dep Assistant Administrator for Procurement.
	Dir, Contract Pricing & Finance Office.
	Dir Contract Management Division.
Ofc of Asst Admr for Commercial Programs	Dir, Commercial Development Division.
	Deputy Assistant Administrator (Programs).
	Dir, Small Business Innovation Res Office.
	Special Asst for Industry Planning.
	Spec Asst to the Asst Admr.
Ofc of the Assoc Admr, External Relations	Director, Aircraft Management Office.
	Mgr, Institutional Planning & Operations.
Industry Relations Division	Dep Dir Industry Affairs Division.
International Relations Division	Dep Dir, International Relations Division.
Ofc of the Assoc Admr Space Flight	Chief Medical Officer.
	Dep Manager Space Shuttle Operations.
	Dep Assoc Admr for Space Flight (Russian AFS).
	Manager, Man-Tended Capability.
	Manager Operations Integration.
	Asst Assoc Admin (Policy).
Resources Management	Manager, Program Control Office (Reston).
	Director, Resources Management Division.
	Chief Program Evaluation.
	Manager, Program Control (JSC).
Transportation Services	Manager, Flight Requirements & Analysis.
	Dep Dir Transportation Services Division.
	Dir Transportation Services Offices.
	Manager National Security & DOD Affairs.
	Chf, U S civil & Intl Payloads Branch.
Flight Systems Directorate	Dir Unmanned Launch Vehs & Upper Stgs Div.
	Director, Shuttle Carrier Systems Division.
	Manager, Heavy Lift Launch Vehicle.
	Manager, Orbital Maneuvering Vehicles.
Space Shuttle Directorate	Manager, Operations Integration.
	Dir, Program Planning & Control Division.
	Deputy Director, Space Shuttle Operations.
	Special Asst to the Director.
Space Shuttle Program	Manager Natl Space Trans Syst Eng Integration.
	Manager, Management Integration.
	Deputy Manager for Integration.
	Mgr, Natl Space Trans Syst Integration & Ops.
	Director, Space Shuttle.
	Mgr, Assured Shuttle Availability.
	Dep Dir, Space Shuttle Program (JSC).
	Manager, Shuttle Projects Office (MSFC).
	Manager, Operations Integration (JSC).
	Manager Management Integration.
Systems Engineering and Analysis Division	Chief, Shuttle Systems Branch.
	Dep Dir, Syst Eng & Analysis Division.
	Chief, Shuttle Propulsion.
	Chief, Shuttle Orbiter/GFE.
Operations Utilization Division	Chief, KSC Projects.
	Director, Operations Utilization Division.
Institutions Directorate	Dir, Institutions.
Space Station Freedom Directorate	Special Assistant to the Director.
	Technical Assistant to the Director.
	Depassoc Adm for Space Station Freedom.
Space Station Engrng Division	Dir, Engineering Division.
Space Station Operations and Utilization Division	Dir, Space Station Opns & Utilization Div.
	Chief Utilization.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Space Station Freedom Program and Operations	Technical Assistant to the Deputy Director.
	Dep Mgr Space Station Freed Prog & Operations.
	Dep Dir, Space Station Freedom P & Ops.
Special Projects Office	Manager, Special Projects Office.
	Deputy Manager Special Projects Office.
Program Engineering Office	Deputy Manager Program Engineering Office.
	Manager Systems Engineering Office.
	Manager Avionics Systems.
Utilization and Operations Office	Manager, Utilization & Operations Office.
	Manager Space Operations Office.
	Dep Manager, Utilization & Operations Office.
	Manager Ground Operations and Logistics.
	Manager Mission Integration.
	Manager Payload Integration.
Management Integration Office	Dep Mgr Mgt Integration Office.
	Manager Tech Mgmt & Info System Office.
	Manager, Management Integration Office.
International Program Office	Deputy Manager, International Programs.
	Assistant Manager, International Program Ofc.
	Manager, International Program Office.
Integration Office	Manager System Integration.
	Manager for Integration.
Office of Management Systems and Facilities	Director, Management Operations.
Facilities Management	Dir, Fac Utilization, M & E Compliance Div.
	Dir Facilities Plan & Construction Division.
	Deputy Director, Facilities Engineering Div.
	Director, Facilities Engineering Division.
	Dep Asst Assoc Admr for Fac Eng Ofc of Mgmt.
Logistics and Security	Spec Asst to the Dir Logis Aircraft Sec Ofc.
	Dir, Logistics & Security Division.
Information Systems Division	Director, Information Resources Mgmt Division.
	Dep Dir, Information Res Mgmt Division.
Automated Information Management Program Office	Director, Automated Info Mgmt. Prog Ofc.
Ofc of Exploration	Director for Advanced Development.
Headquarters Operations	Dir, Information Syst & Technology Division.
Ofc of Director for Aeronautics	Asst Dir for Aeronautics (H–S Aircraft).
	Deputy Director for Aeronautics.
	Asst Dir for Aeronautics High Perfor Aircraft.
Office of Space Exploration	Asst Dir for Aeronautics Subsonic Aircraft.
	Asst Dir for Space Explorations (Intl).
	Dep Assistant Administrator for Exploration.
	Manager for Space Exploration (Res & Technol).
	Asst Dir for Space Exploration (Comms).
	Asst Dir for Space Exploration (Prog Defin).
	Manager, Space Exploration (Support Planning).
Ofc of Dir for Space	Special Asst for Strategic Planning.
	Deputy Director for Space Technology.
	Asst Dir for Space Technol (Prog Development).
	Asst Dir for Space (Spacecraft Technology).
Ofc of Dir for Institutions	Director for Space Technology.
	Asst Director for Institutions (Facilities).
	Asst Dir for Institution (Information Syst).
	Dir, Resources & Management Systems Office.
	Director for Institutions.
	Director for Institutions.
Aerodynamics Division	Deputy Dir Aerodynamics Division.
Materials & Structures Division	Director, Materials and Structures.
Propulsion, Power, & Energy Division	Dir, Propulsion, Power and Energy Division.
National Aerospace Plane Office	NASA Dep Prog Mgr, Natl Aero-Space Plane Prog.
	Dep Prog Manager, Natl Aero-Space Plane.
	Dep Dir, National Aero-Space Plane Office.
	Director National Aero-Space Plane.
	Director for Plans.
Office of Human Resources and Education	Associate Administrator for Human Resources.
	Director, Education Division.
	Director, Management Systems.
	Director, Personnel Division.
	Dep Assoc Adm for Human Res & Education.
Ofc of the Assoc Admr Space Operations	Assistant Associate Administrators (Plans).
	Special Asst (Operations).
	NASA Australian Representative.
Network System Division	Manager Space Network Operations.
	Dir, Ground Network Division.
	Dep Dir, Ground Network Division.
Communications and Data Systems Division	Dir, Communications & Data Systems Div.
	Chief, Communications Systems Branch.
TDRSS Division	Manager, White Sands Space Network Complex.
	Manager, TDRSS Continuation Program.
Ofc of Equal Opportunity Programs	Dir Minority Univ Res & Educ Prog Div.
Discrimination Complaints Division	Director, Discrimination Complaints Division.
Office of the Inspector General	Assist Inspector General for Investigation.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
AMES Research Center	Assistant Inspector General for Auditing.
	Asst to Center Dir for Advanced Sys Design.
Administration Directorate	Comptroller.
	Deputy Director of Administration.
Aerospace Systems Directorate	Chief, Aerodynamics Division.
	Chf, Flight Systems & Simulation Rsch Div.
	Chief, Aerospace Projects Office.
	Deputy Dir Aerospace Systems Directorate.
	Chief Aircraft Technology Division.
Space Research Directorate	Chief, Space Science Division.
	Chief, Earth Systems Science Division.
	Chf, Aerospace Human Factors Research Div.
	Chief, Advanced Life Support Division.
	Deputy Director of Space Research.
Engineering and Technical Services Directorate	Dep Director, Engineering & Tech Svcs.
Aerophysics Directorate	Chief, Computational Fluid Dynamics Branch.
	Chf, Systems Engineering Div.
	Chief, Full Scale Aerodynamics Research Center.
	Chief, Fluid Dynamics Division.
	Chief, Computer Systems & Research Division.
	Chief, Thermoscience Division.
	Chief, Information Sciences Division.
	Deputy Director of Aerophysics.
Flight Operation and Research Directorate	Chief, Science & Applications Aircraft Div.
	Chf, AMES Research Aircraft Operations Div.
Dryden Flight Research Facility	Chf Engineer.
	Chf, Flight Operations Division.
	Assoc Dir, Dryden Flight Research Facility.
	Dep Dir, NASA AMES Res Center DFRF.
Goddard Space Flight Center	Comptroller.
	Director of Human Resources.
	Dir of University Programs.
Management Opers Directorate	Dep Dir of Management Operations.
	Associate Director for Acquisition.
Flight Assurance Directorate	Director of Flight Assurance.
	Dep Dir of Flight Assurance.
Flight Projects Directorate	Deputy Director of Flight Projects.
	Assoc Dir of Flt Proj Space Stat Frdm-Goddard.
	Dep Assoc Dir of Flight Proj for EOS Res Mgt.
	Dep Assoc Dir of Flight Proj for H-S-T.
	Dep Dir Flight Project for Ping Business Mgmt.
	Assoc Dir of Flight Proj Flight Proj Dir.
	Mgr, Hubble Space Telescope Oper & Ground Syst.
	Project Manager, Gamma Ray Observatory.
	Assoc Dir of Flight Proj for Earth Obs Syst.
	Assoc Dir of Flt Proj Hubble Space Telescope.
	Proj Mgr, Intl Solar Terr Physics Proj (ISTP).
	Dir of Flight Projects.
	Proj Mgr, Hubble Spc Telescope Syst & Serv.
	Project Manager, Meteorological (METSAT) Projec.
	Dep Assoc Dir of Flight Proj Hubble Space Tel.
Mission Operations & Data Systems Directorate	Asst Director for Systems Engineering.
	Chief, NASA Communications Division.
	Assoc Dir of Mission Operations & Data Syst.
	Dep Dir of Mission Operations & Data Systems.
	Chief, Networks Division.
	Chief, Flight Dynamics Division.
Space & Earth Sciences Directorate	Chief, Mission Operations Division.
	Chief, Lab for Astronomy and Solar Physics.
	Chief, Lab for Extraterrestrial Physics.
	Assoc Dir for Projects Engineering.
	Chief, Lab for Hydrospheric Processes.
	Chief, Space Data and Computing Division.
	Chf, Laboratory for Atmospheres.
	Director of Space Sciences.
	Deputy Director for Earth Sciences.
	Chief, Goddard Institute for Space Studies.
	Associate Director for Science.
	Chief, Laboratory for High Energy Astrophysics.
	Deputy Director of Space Sciences.
	Director for Earth Sciences.
	Chief, Laboratory for Terrestrial Physics.
Engineering Directorate	Dep Dir of Engineering.
	Chief, Instrument Division.
	Chf, Applied Engineering Div.
	Chief Engineer.
	Chief, Special Payloads Division.
	Asst Dir of Engineering for Development Proj.
	Associate Director of Engineering.
Suborbital Projects and Operations Directorate	Chf, Operations Division.
Johnson Space Center	Comptroller.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Assistant Director (Plans).
	Dir of Public Affairs.
	Spec Asst for Engineering Operations & Safety.
	Assistant Director.
	Director of Procurement.
	Director of Human Resources.
New Initiatives Office	Manager, New Initiatives Office.
	Deputy Manager, New Initiatives Office.
Center Support	Deputy Dir, Center Operations.
	Dir Admin.
	Deputy Director, Administration.
	Dir, Center Operations.
Space Operations	Assistant Director, Mission Operations.
	Director, Mission Operations.
	Deputy Asst Dir for Program Support.
	Chief, Aircraft Operations Division.
	Director Information Systems.
	Deputy Director, Mission Operations.
	Assistant Director for Program Support.
	Chief, Space Station Ground Systems Division.
	Dep Dir, Flight Crew Operations.
	Asst Dir for Space Shuttle Program.
	Chief, Space Shuttle Ground Syst Division.
	Deputy Director, Information Systems.
Research & Engineering	Deputy Director, Engineering.
	Chief, Propulsion & Power Division.
	Chief, Structures and Mechanics Division.
	Chief, Medical Sciences Division.
	Chief, Automation and Robotics Division.
	Chief, Systems Engineering Division.
	Manager for Program Science.
	Associate Director, Engineering.
	Director, Engineering.
	Chief Engineer, New Initiatives.
	Manager, Orbiter Engineering Office.
	Deputy Director, Space and Life Sciences.
	Chief, Flight Data Systems Division.
	Chief, Tracking & Communications Division.
	Chief, Navigation, Contrl & Aeronautics Div.
Natl Space Transp Sys Prog Ofc	Dep Manager, Orbiter & GFE Projects Office.
	Chf, Man-systems Division.
	Manager, Orbeter and GFE Projects Office.
Space Station Project Office	Manager for Technical Projects.
	Manager for Development.
	Dep Mgr, Space Station Projects Office
	Dep Mgr for Prog & Operations Integration.
Safety, Reliability & Quality Assurance	Dir, Safety, Reliability, & Quality Assurance.
	Dep Dir, Safety, Reliability & Qual Assurance.
STS Operations Program Office	Manager, Lunar & Mars Exploration Prog Office.
NASA White Sands Test Facility	Manager, NASA White Sands Test Facility.
Kennedy Space Center	Dir, Exec Management Ofc.
	Associate Deputy Director.
	Spec Asst to the Center Director.
Comptroller	Deputy Controller.
Biomedical Office	Chf., Biomedical Office.
Procurement	Director, Procurement.
Public Affairs	Dir Public Affairs.
Space Station and Advanced Projects Office	Manager Space Station Projects Office.
Safety, Reliability and Quality Assurance	Director, Safety and Reliability.
	Dir Mission Assurance.
	Director, Quality Assurance.
Shuttle Management Operations	Dir, Shuttle Logistics Project Management.
	Dir of Space Trans System Mgmt & Operations.
Center Support Operations	Director of Center Support Operations.
Engineering Development	Deputy Director of Engineering Development.
	Dir, Mechanical Engineering.
Project Management	Director, Facilities Engineering.
Electronic Engineering	Director, Electronic Engineering.
Cargo Management and Operations	Director, Expendable Vehicles.
STS Cargo Operations	Director, STS Payload Operations.
Shuttle Projects Office	Director, Shuttle Operations.
	Director, Ground Engineering.
Langley Research Center	Chief Scientist.
	Chief Engineer.
Electronics Directorate	Chf., Analysis & Computation Division.
	Chief, Projects Division.
	Chief Flight Electronics Division.
	Chief Instrument Research Division.
Structures Directorate	Chf, Acoustics Division.
	Chief Materials Division.
	Chief, Structural Dynamics Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Aeronautics Directorate	Dir of Interagency Programs.
	Chief Applied Aerodynamics Division.
	Chief, Flight Applications Division.
	Dir, National Aero-space Plane Office.
	Chief, Fluid Mechanics Division.
Space Directorate	Chief, Space Systems Division.
	Chief Atmospheric Sciences Division.
	Manager, Space Station Freedom Office.
	Manager, Human Exploration Initiative Office.
	Chief, Advanced Vehicles Division.
Systems Engineering and Operations Directorate	Dep Dir for Syst Engineering & Operations.
	Chief, Systems Engineering Div.
	Chf, Syst Sfty, Quality & Reliability Div.
	Chief, Engineer S E & O.
	Chief, Facilities Engineer Division.
Management Operations	Deputy Director for Management Operations.
Flight Systems Directorate	Chief, Information Systems Division.
	Chf, Guidance and Control Division.
	Chief, Flight Management Division.
Lewis Research Center	Director, External Programs.
	Chf, Ofc of Sfty, Reliability & Quality Assur.
	Director of Lewis Research Academy.
Administration & Computer Services	Chief, Computer Services Division.
	Dir, Adm & Computer Services Directorate.
Aeronautics Directorate	Chf, Propulsion Systems Div.
	Chief, Instrumentation & Control Technol Div.
	Chf, Internal Fluid Mechanics Division.
	Chief Technologist.
	Chf, Aeropropulsion Analysis Office.
	Chf, Aeropropulsion Facilities & Exper Div.
Space Station Systems Directorate	Dep Dir of Space Station Systems.
	Chief, Electrical Systems Division.
	Chief Engineer.
	Chief, Power Technology Division.
	Deputy for Integration.
Aerospace Technology Directorate	Chief, Space Propulsion Technology Division.
	Chief, Materials Division.
	Chief, Structures Division.
	Chief, Interdisciplinary Technology Office.
Space Flight Systems Directorate	Chf, Advanced Space Analysis Office.
	Manager, Launch Vehicle Project Office.
	Manager, Acts Project Office.
	Chief, Space Experiments Division.
	Chief, Space Communications Division.
Engineering	Chief, Structural Systems Division.
	Chf, Electronics & Control Systems Division.
	Director of Engineering.
	Deputy Director of Engineering.
	Chief, Propulsion & Fluid Systems Division.
Marshall Space Flight Center	Comptroller.
	Dir, Human Res & Administrative Support Ofc.
	Associate Director.
Office of Sfty, Rel & Quality Assurance	Director, Quality Assurance Office.
	Dir, Systems Safety & Reliability Office.
	Director, Safety & Mission Assurance Office.
Heavy Lift Launch Vehicle Definition Office	Manager, Acquisition & Business Management.
	Manager, Space Transportation Main Engine Sys.
Science and Engineering	Chief Engineer, Observatory Projects.
	Director, Space Sciences Lab.
	Director, Propulsion Laboratory.
	Director, Syst Anal & Integration Laboratory.
	Deputy Director, Space Science Laboratory.
	Dep Dir, Structures & Dynamics Laboratory.
	Deputy Dir, Materials & Processes Laboratory.
	Dep Dir, Mission Operations Laboratory.
	Dep Dir, Syst Anal & Integration Laboratory.
	Manager Space Shuttle Main Engine Projects.
	Director Information & Electronic Sye Lab.
	Deputy Director for Space Systems.
	Dir Structures Dynamics Laboratory.
	Chief Engineer, Space Station Projects.
	Dir, Materials & Processes Laboratory.
	Dep Dir for Space Transportation Systems.
	Chief Engineer Heavy Lift Launch Vehicle.
	Dir, Research & Technology Office.
	Director, Mission Operations Laboratory.
Payload Projects Office	Mgr, Science & Applications Payload Projects.
	Dep Manager Payload Projects Office
Space Station Projects Office	Manager, Space Station Projects Office.
	Deputy Manager for Advanced Launch System
	Deputy Manager Space Station Projects Office.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Program Development	Deputy Director, Program Development.
	Director, Preliminary Design Office.
	Assoc Dir for Advanced Planning.
Shuttle Projects Office	Manager, External Tank Project.
	Mgr Solid Rocket Booster Project.
	Mgr Redesign Solid Rocket Motor Project.
	Manager, Advanced Solid Rocket Motor Project
Spacecraft Office	Manager, Observatory Projects Office.
	Dep Mgr, Observatory Projects Office.
	Manager, Spacecraft Office.
Administration and Program Support	Dir Info Systems Office.
	Dir, Institutional & Program Support.
	Director, Procurement Office.
	Dep Dir, Institutional & Program Support.
	Director, Facilities Office.
Stennis Space Center	Dir Sci & Tech Lab.
	Director, Center Operations.
	Deputy Director, NASA Stennis Space Center.
	Assoc. Director for Institution.
	Dir, Propulsion Test Operations.
National Archives & Records Administration:	
National Archives & Records Administration	Deputy Archivist of the United States.
	Asst Archivist for the National Archives.
	Asst Archivist for Presidential Libraries.
	Asst Archivist for Federal Records Centers.
	Director of the Federal Register.
	Asst Archivist for Records Administration.
	Asst Archivist for Mgt and Administration.
	Director, Lyndon B. Johnson Library.
	Director, Harry S. Truman Library.
	Asst Archivist for Spec & Regl Archives.
National Capital Planning Commission:	
National Capital Planning Commission Staff	Executive Director.
	Assoc Exec Dir D.C. Affairs.
	Assistant Executive Director for Operations.
	Dir of Intergovernmental & Public Affairs.
National Endowment for the Arts:	
National Endowment for the Arts	Director of Program Coordination.
	Director of Administration.
National Endowment for the Humanities:	
National Endowment for the Humanities	Dir, Office of Planning & Budget.
	Asst Chairman for Operations.
National Labor Relations Board:	
Ofc of the Board Members	Executive Secy.
	Deputy Executive Secretary.
	Inspector General.
Div of Enforcement Litigation	Deputy Assoc. Gen. Counsel Appellate Court Br.
	Director, Office of Appeals.
Div of Advice	Associate Gen Counsel, Div of Advice.
	Deputy Assoc Gen Counsel.
Div of Administration	Director of Administration.
	Deputy Director of Administration.
Div of Operations Management	Assoc General Counsel, Div of Operation—Mgmt.
	Dep Asso Gen Counsel, Div of Operations—Mgmt.
	Assistant General Counsel.
	Assistant General Counsel.
	Assistant General Counsel.
	Assistant General Counsel.
	Assistant General Counsel.
	Assistant to the General Counsel.
Regional Offices	Regl Dir Reg 1 Boston.
	Regional Director, Reg. 2, New York.
	Regional Director, Reg. 3, Buffalo.
	Regl Dir Reg 4 Philadelphia.
	Regional Director, Reg. 5, Baltimore.
	Regional Director, Reg. 6, Pittsburgh.
	Regl Dir, Region 7, Detroit Mich.
	Regional Director, Reg. 8, Cleveland.
	Regional Director, Reg. 9, Cincinnati.
	Regl Dir Reg 10 Atlanta.
	Regl. Dir., Reg. 11, Winston Salem
	Regional Director, Reg 12, Tampa.
	Regional Director, Reg 13, Chicago.
	Regl Dir Reg 14, St Louis.
	Regl Dir Reg 15, New Orleans.
	Regl Dir Reg 16, Ft Worth.
	Regl Dir Reg 17, Kansas City.
	Regl Dir Reg 18, Minneapolis.
	Regl Dir Reg 19, Seattle.
	Regional Dir, Reg 20, San Francisco.
	Regional Director, Reg. 21, Los Angeles.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Regional Director Reg. 22, Newark.
	Regional Director Reg 24, Hato Rey Puerto Rico
	Regl Dir, Reg 25, Indianapolis.
	Regl Dir Reg 26, Memphis.
	Regl Dir Reg 27, Denver.
	Regl. Dir. Reg. 28, Phoenix.
	Regl Dir Reg 29, Brooklyn.
	Regl Dir Reg 30, Milwaukee.
	Regl. Dir., Reg. 32, Oakland.
	Regional Director, Reg 33, Peoria, Ill.
	Regl Dir Reg 31, Los Angeles.
	Regional Director Reg 34, Hartford.
National Science Foundation:	
Office of the Director	Executive Asst to the Director.
	Executive Asst & Special Counsel.
Office of the General Counsel	Deputy General Counsel.
Office of Planning and Assessment	Director, Program Evaluation Staff.
	Section Head, Science & Innovation Pol. Sec.
	Senior Staff Associate Program Evaluation.
	Senior Staff Association Policy Analysis
Office of the Inspector General	Inspector General.
	Counsel to the Inspector General.
	Assistant Inspector General for Oversight.
Directorate for Geosciences	Executive Officer.
Division of a Atmospheric Sciences	Head. NCAR Coordination Staff.
	Section Head, Upper Atmosphere Section.
	Head Lower Atmosphere Section.
Division of Earth Sciences	Section Head, Research Grants Section.
	Head Major Project Section.
Division of Ocean Sciences	Section Head Ocean Sciences Research Section.
Division of Polar Programs	Manager Polar OPS Section.
	Head, Polar Coordination & Info Section.
	Dep Dir Division of Polar Programs.
Directorate for Engineering	Senior Engineering Advisor.
Division of Engineering Education & Centers	Deputy Division Director (Education).
	Senior Staff Associate.
Div of Design and Manufacturing Systems	Deputy Division Director.
Division of Biological and Critical Systems	Head Hazard Mitigation Section.
Div of Electrical and Communications Systems	Deputy Division Director.
Div of Mechanical and Structural Systems	Deputy Division Director.
Organization Abolished	Office Head.
	Senior Staff Associate.
Division of Industrial Innovation Interface	Dep Dir, Div of Eng Infrastructure Dev.
Directorate for Biological Sciences.	Dep Dir Div of Industrial Innovation Interf.
	Executive Officer.
Division of Environmental Biology	Deputy Asst Director.
Directorate for Mathematical and Physical Sciences	Deputy Division Director.
	Executive Officer.
Division of Physics	Senior Staff Associate for Planning.
Division of Astronomical Sciences.	Deputy Division Director.
Division of Mathematical Sciences.	Dep Dir, Division of Astronomical Sciences.
Division of Materials Research	Deputy Division Director.
	Deputy Director.
	Head, Special Programs in Materials Office.
	Senior Staff Scientist.
Division of Chemistry	Senior Staff Scientist.
	Head Special Projects Office.
	Dep Dir Division of Chemistry.
Directorate for Education & Human Resources	Senior Staff Associate.
	Deputy Asst Director.
	Senior Staff Associate.
	Senior Staff Associate.
	Senior Staff Associate.
Division of Human Resource Development	Deputy Director.
Office of Systemic Reform	Deputy Office Head.
Directorate for Social, Behavioral and Economic Sciences	Exe Officer Social Behavioral Econ Sciences.
	Senior Staff Associate.
Division of Science Resources Studies	Senior Staff for Human Res Studies & Assess.
Division of International Programs	Deputy Division Director.
	Senior Staff Associate.
	Head Europe Section.
	Head, East Asia/Pacific Section.
	Head, Latin America/Africa/Asia Section.
	Head, East Asia/Pacific Section.
	Senior Staff Associate.
	Senior Staff Associate.
Division of Social & Economic Sciences	Deputy Division Director.
Division of Behavioral & Cognitive Sciences	Dep Dir, Div of Behavioral & Cognitive Sci.
Directorate for Computer & Info Science & Engineering	Executive Officer
Div of Advanced Scientific Computing	Deputy Director
Div of Computer and Computation Research	Deputy Division Director.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Div of Information, Robotics & Intelligent Systems	Deputy Division Director.
Division of Microelectronic Information Processing Sys	Deputy Division Director.
Div of Networking & Comm Res & Infrastructure	Deputy Division Director.
Office of Budget, Finance and Award Management	Director, Ofc of Budget, F & A Management.
	Dep Dir, Ofc of Budget, F & A Management.
	Director, Budget Division.
Division of Grants and Contracts	Director Division of Grants and Contracts
	Director, Operations and Analysis.
Division of Financial Management	Division Director.
Office of Information and Resource Management	Dep Dir, Ofc of Information & Resource Mgmt.
	Senior Staff Associate.
	Dir Planning & Evaluation.
Division of Information Systems	Dir. Information Technologies Division.
	Dep Dir, Div of Information Systems.
Division of Human Resource Management	Div Dir, Div of Human Resource Management.
Division of Administrative Services	Dir. Division of Administrative Services.
National Transportation Safety Board:	
Office of the Managing Director	Dep Managing Dir for Mgmt & Policy.
	Dep Managing Dir for Program Operations
	Chief Technical Advisor.
Office of Administration	Dir Office of Administration.
Office of Aviation Safety	Director Ofc of Aviation Safety.
	Deputy Director Ofc of Aviation Safety.
Office of Research & Engineering	Dir Ofc of Research and Engineering.
Office of Safety Recommendations	Director Ofc of Safety Recommendations
Office of Surface Transportation Safety	Dir Ofc of Surface Transportation Safety.
	Deputy Director.
Nuclear Regulatory Commission:	
Atomic Safety and Licensing Brd Panel	Chairman ASLBP.
	Deputy Chief Administrative Judge Executive.
Office of the Inspector General	Dep Dir Ofc of the Inspector General.
	Asst Inspector General for Investigations.
	Asst Inspector General for Audits.
Deputy GC for Licensing & Regulation	Deputy Assistant GC/Legislative Counsel.
Dep GC for Hearings, Enforcement & Administration	Deputy Assistant GC for Administration.
Assistant GC for Hearing and Enforcement	Deputy Assistant General Counsel.
	Deputy Assistant General Counsel.
	Deputy Assistant General Counsel.
	Deputy Assistant General Counsel.
Office of Commission Appellate Adjudication	Dir Ofc of Comm Appellate Adjudication.
Division of Operational Assessment	Chief Incident Response Branch.
	Chf, Diagnostic Eval & Incident Invest Branch.
Division of Safety Programs	Chf, Reactor Operations Analysis Branch.
	Chf, Trends & Patterns Analysis Branch.
Office of Administration	Dir Div of Contracts & Property Management.
	Director, Div of Security.
Office of Information Resources Management	Dep Dir / Lss Admr, Ofc of Info Res Mgmt.
Office of the Controller	Dep Chief Financial Officer/Controller.
	Dir, Division of Accounting and Finance.
	Special Assistant for Internal Controls.
Office of Investigations	Associate Director for Legal Affairs.
Ofc of Small and Disadv Bus Utilization/Civil Rights	Director.
Program Management, Policy Development & Analysis Staff	Chief, Plng, Programs & Mgmt Support Branch.
	Chf, Pol Dev & Tech Support Branch.
	Chf, Inspection & Licensing Progs Branch.
Assistant Director for Region I Reactors	Project Dir, Project Directorate I–1.
	Project Director, Project Directorate I–2.
	Project Director, Project Directorate I–3.
	Project Director, Project Directorate I–4.
Assistant Director for Region II Reactors	Proj Dir, Project Directorate II 1.
	Proj Dir, Project Directorate II 2.
	Proj Dir, Project Directorate II 3.
	Proj Dir, Project Directorate II 4.
Division of Reactor Projects III, IV & V	Proj Dir, N–P Reactor, D & E Proj Directorate.
Assistant Director for Region III Reactors	Proj Dir, Project Directorate III 1.
	Proj Dir, Project Directorate III 2.
	Proj Dir, Project Directorate III 3.
Assistant Director for Region IV and V Reactors	Proj Dir, Project Directorate V.
	Proj Dir, Project Directorate IV–1.
	Proj Dir, Project Directorate IV–2.
Assoc Dir For Advanced Reactors & License Renewal	Project Dir, Standardization Proj Directorate.
	Proj Dir, License Renewal Proj Dir.
Division of Engineering Technology	Chief, Materials & Chemical Engineering Br.
	Chf, Mechanical Engineering Branch.
	Chf, Structural & Geosciences Branch.
Division of Systems Technology	Chf, Plant Systems Branch.
	Chf, Reactor Systems Branch.
	Chf, Instrumentation & Control Syst Branch.
	Chf, Electrical Systems Branch.
	Chief, Containment Sys & Severe Accident Brch.
Division of Operational Events Assessment	Chief, Generic Communications Branch.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Division of Reactor Inspection & Safeguards	Chf, Technical Specification Branch. Chief, Events Assessment Branch. Chf, Vendor Inspection Branch. Chf, Safeguards Branch. Chf, Special Inspections Branch.
Div of Radiation Protection & Emergency Preparedness	Chief, Emergency Preparedness Branch. Chf, Risk Application Branch. Chf, Radiation Protection Branch.
Division of Licensee Performance & Quality Evaluation	Chf, Human Factors Assessment Branch. Chf, Operator Licensing Branch. Chf, Performance & Quality Evaluation Branch
Division of Safeguards & Transportation	Chief, Domestic Safeguards Branch. Chf, International Safeguards Branch. Chief, Transportation Branch.
Div of Industrial & Medical Nuclear Safety	Chief, Operations Branch. Chief, Fuel Cycle Safety Branch. Chief, Medical, Acad & Com Use Sfty Branch.
Division of High Level Waste Management	Chief, Source Containment & Devices Br. Chief, Geology & Engineering Branch. Proj Dir, Repository L & Q Assurance.
Div of Low Level Waste Management & Decommissioning	Chief, Hydrology & Systems Performance Branch. Chief, Low-Level Waste Management Branch. Chief, Uranium Recovery Branch. Chf, Decommissioning & Regulatory Issues Br.
Ofc of Nuc Regulatory Research	Dir, Res Admin Fiscal Control & Budget.
Division of Engineering	Chief, Materials Engineering Branch. Chief, Waste Management Branch. Chief, Electrical and Mechanical Engineer Brh. Chief, Structural and Seismic Engineering Brh.
Division of Safety Issue Resolution	Chief, Severe Accident Issues Branch. Chief, Engineering Issues Branch. Chief, Reactor and Plant Sfty Issues Branch.
Division of Regulatory Applications	Chief, Regulation Development Branch. Chf, Radiation Protection & Health Effects Br.
Division of Systems Research	Chief, Adv Reactors and Generic Issues Branch. Chief, Accident Evaluation Branch. Chf, Probabilistic Risk Analysis Branch. Chief, Reactor and Plant Systems Branch. Chief, Human Factors Branch.
Region I	Deputy Regional Administrator. Dir, Div of Radiation Safety & Safeguards. Dep Dir, Div of Radiation Safety & Safeguards. Director Division of Reactor Safety. Dep Dir, Div of Reactor Safety. Director, Division of Reactor Projects. Deputy Director, Division of Reactor Projects.
Region II	Deputy Regional Administrator Region II. Dir, Div of Radiation Safety & Safeguards. Dep Dir, Div of Radiation Safety & Safeguards. Director, Division of Reactor Projects. Deputy Director, Division of Reactor Projects. Director, Division of Reactor Safety. Dep Dir, Div of Reactor Safety.
Region III	Dep Regional Administrator Region III. Director, Division of Reactor Safety. Dep Dir, Div of Reactor Safety. Director, Division of Reactor Projects. Deputy Director Division of Reactor Projects. Dir, Div of Radiation Safety & Safeguards. Dep Dir, Div of Radiation Safety & Safeguards.
Region IV	Deputy Regional Administrator Region IV. Director Uranium Recovery Field Office. Director Div of Reactor Projects. Deputy Director, Div of Reactor Projects. Dir, Div of Radiation Safety & Safeguards. Dir, Division of Reactor Safety. Dep Dir, Div of Radiation Safety & Safeguards.
Region V	Deputy Regional Administrator Region V. Dir Div of Reactor Safety and Projects. Dep Dir Div of Reactor Safety and Projects. Dir, Div of Radiation Safety & Safeguards.
Office of Government Ethics:	
Office of Government Ethics	Deputy Director. Deputy General Counsel. Assoc Dir for Program Develop & Compliance.
Office of Management and Budget:	
Office of the Director	Assistant Director for Administration. Deputy Associate Dir for Economic Policy. Assoc Dir for Legislative Ref & Adm. Critical Information Systems Manager. Dep Assistant Director for Administration.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Office of General Counsel	Dep Gen Counsel.
	Associate General Counsel for Budget.
Legislative Reference Division	Asst Dir Legislative Reference.
	Dep/Asst/Dir for Legislative Reference.
	Chief, Economics, Science & Govt. Branch.
	Chief, Resources-Defense-International Branch.
Office of Federal Procurement Policy	Assoc Admr for Procurement Law & Legislation.
	Assoc. Administrator for Management Control.
Office of Information and Regulatory Affairs	Chief, Information Policy Branch.
	Chief, Human Resources and Housing Branch.
	Chief, Commerce and Lands Branch.
	Chief, Statistical Policy Branch.
	Chief, Natural Resources Branch.
	Chf, Info Technology Management Branch.
Associate Director for Management	Chief, Management Integrity Branch.
	Chief, Financial Systems and Policy Branch.
	Chief, Personnel & General Services Branch.
	Chief, Credit and Cash Management Branch.
	Assistant Director for General Management.
	Deputy Assistant for General Management.
	Branch Chief, Federal Personnel Policy Branch.
	Chief, Federal Services Branch.
	Branch Chief, MBO Evaluation & Planning Branch.
	Chief, Fin Standards O Reporting Branch.
	Chief, Federal Financial Systems Branch.
Budget Review Division	Asst Dir for Budget Review.
	Dep Assistant Director for Budget Review.
	Chief, Fiscal Analysis Branch.
	Dep Chief, Fiscal Analysis Branch.
	Dep Asst Dir for Budget Review & Concepts.
	Chief, Resources Systems Branch.
	Chief, Central Budget Management Staff.
	Deputy Chief, Budget Preparation Branch.
Assoc Dir for National Security and International Affs	Deputy Associate Director for Special Studies.
International Affairs Division	Dep Assoc Dir for Internatl Affairs.
	Chief, State-USIA Branch.
	Chief, Economic Affairs Branch.
	Chief, International Security Affairs Branch.
National Security Division	Dep Assoc Dir for National Security.
	Dep Chief.
	Chief, Command, Ctrl, Comms, & Intellig Branch.
	Chief, Navy Branch.
	Chief, Force Structure & Investment Branch.
	Chief, Oper & Support Branch.
Health and Income Maintenance Division	Dep Assoc Dir for Health & Income Maintenance.
	Chf, Income Maintenance Branch.
	Chief, Health & Social Services Branch.
	Chief, Health & Financing Branch.
Labor, Veterans, and Education Division	Chief, Labor Branch.
	Chief, Education Branch.
	Chf Veteran Affairs Branch.
Associate Director for Economics and Government	Dep Assoc Dir for Special Studies.
Transportation, Commerce, and Justice Division	Dep Assoc Dir for Transp Commerce & Justice.
	Chief, Commerce & Justice Branch.
	Chief, Transport General Services Branch.
Housing, Treasury and Finance Division	Deputy Assoc Dir for Housing Treasury Finance.
	Chief, Treasury/post Branch.
	Chief, Financial Institutions Branch.
	Chief, Housing Branch.
Assoc Dir for Natural Resources, Energy, and Science	Dep Assoc Dir for Spec Studies.
Natural Resources Division	Dep Associate Dir for Natural Resources.
	Chief, Water Resources Branch.
	Chief, Agricultural Branch.
	Chief, Environment Branch.
	Chief, Interior Branch.
	Asst Division Chief NRD.
Energy and Science Division	Dep. Assoc. Dir for Energy & Science.
	Chief, Nuclear Energy Branch.
	Chief, Science and Space Programs Branch.
	Chief, Non-Nuclear Energy Branch.
Office of Personnel Management:	
Office of the Director	Dir, Olc of Combined Fed Campaign Operations.
Office of the Chief Financial Officer	Chief Financial Officer.
Office of the Inspector General	Deputy Inspector General.
	Asst Inspector General for Audits.
Office of Executive and Management Policy	Asst Dir for Executive & Management Policy.
Office of Information Management	Executive for ADP Operations.
Office of Actuaries	Director, Office of Actuaries.
Office of Insurance Programs	Asst Dir for Insurance Program.
Office of Retirement Programs	Asst Dir for Retirement Programs.
Office of Personnel Research and Dev	Asst Dir for Personnel Research & Development.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Office of Administrative Law Judges	Asst Dir for Administrative Law Judges.
Staffing Service Center	Assistant Director for Staffing Automation.
Office of Agency Compliance & Evaluation	Asst Dir for Agency Compliance & Evaluation.
Office of Classification	Asst Dir for Classification.
Office of Federal Investigations	Asst Dir for Federal Investigations.
Office of Washington Examining Services	Asst Dir for Wash Examining Services.
Office of the Special Counsel:	
Headquarters, Office of Special Counsel	Assoc Spec Counsel (Investigation).
	Assoc Special Counsel (Prosecution).
	Deputy Associate Spec Counsel for Prosecution.
	Director for Management.
	Assoc Special Counsel Planning and Oversight.
	Associate Special Counsel for Plan & Advice.
Railroad Retirement Board:	
Board Staff	Dir of Unemployment & Sickness Insurance.
	Director of Data Processing.
	Director of Administrative Services.
	Dir of Retirement & Survivor Programs.
	Chief Actuary.
	Director of Field Service.
	Director of Administration & Operations.
	Deputy General Counsel.
	Asst Inspector General for Investigations.
	Chief Financial Officer.
	Assistant Inspector General for Audit.
	Director of Systems Initiatives.
	Director of Taxation.
	General Counsel.
Securities and Exchange Commission:	
Office of the Chief Accountant	Dep Chf Accountant.
Office of the Executive Director	Dep Exec Director.
	Assoc Exec Dir Human Resources Mgnt.
	Associate Executive Director (Finance).
Div of Corporation Finance	Associate Director (Operations).
	Associate Director (Legal).
Div of Enforcement	Chief Accountant.
Selective Service System:	
Selective Service System	Assoc Dir, Information Management.
Small Business Administration:	
Office of the Administrator	Chief Financial Officer.
Olc of the Inspector General	Asst Inspector General for Auditing.
	Asst Inspector General for Investigations.
	Counsel to the Inspector General.
	Deputy Inspector General.
Office of the General Counsel	Associate General Counsel for General Law.
	Assoc Gen Counsel Litigation.
Office of Hearings & Appeals	Asst Administrator for Hearings and Appeals.
Office of Financial Assistance	Asst Administrator for Financial Assistance.
	Director of Portfolio Management.
Office of Procurement Assistance	Director of Prime Contracts.
Olc of Minority Small Business & Capital Ownership Dev	Assoc Admr for MSB–COD.
	Dep Assoc Admr For Pol Coor, Prog C&E.
	Dep Assoc Admr for Programs (MSB & COD).
Office of Information Resources Management	Asst Admin for Information Resources.
Office of Personnel	Director of Personnel.
Office of the Comptroller	Comptroller.
	Deputy Chief Financial Officer & Comptroller.
Office of Program Analysis & Quality Assurance	Director of Program Analysis and Review.
	Dep Dir of Prog Analysis & Quality Assurance.
Office of EEO & Compliance	Dir, Olc of Equal Employment Opport & Complian.
District Directors	District Dir, Phila.
	District Director, Region IX, San Francisco.
	District Dir, Reg IX, Los Angeles.
	District Director, Region V, Chicago.
	District Director, New York.
	District Director.
	District Director.
	District Director, Kansas City.
Department of State:	
Bureau of Administration	Supervisory Structural Engineer.
Bureau of Economic & Business Affairs	Dir, Office of East-West Trade.
Bureau of Intelligence and Research	Dir, Olc of Intelligence Resources.
Office of the Inspector General	Assistant Inspector General for Audits.
	Asst Inspector General for Investigations.
	Counsel to the Inspector General.
	Dep Asst Inspector General for Audits.
	Dep Asst Inspector Gen for Investigations.
	Asst Insp Gen for Policy, Plng and Managemen.
	Dep Asst Inspector Gen for Inspections.
	Dep Asst Insp Gen for Olc of Secur Oversight.
Bureau of Personnel	Director, Olc of Civil Service Personnel Mgmt.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
International Boundary & Water Commission	Supervisory Civil Engineer, Operations.
Department of Transportation:	
Office of the General Counsel	Asst Inspector General for Inspections & Eval.
	Deputy Inspector General.
Office of Inspector General	Asst Insp General for Auditing.
	Asst I/G for Policy, Planning and Resources.
	Asst Inspector General for Investigations.
	Dir, Ofc of Surface Transportation Programs.
	Dir, Ofc of Aviation Marine & Research Progs.
	Dep Asst Inspector General for Auditing.
	Dir, Office of ADP Audits & Technical Support.
	Dep Asst Inspector General for Investigations.
Asst Sec for Public Affairs	Dir, Office of Public Information.
Asst Sec for Administration	Asst Secy for Administration.
	Senior Procurement Advisor.
Office of Acquisition & Grant Management	Director, Ofc of Acquisition & Grant Mgmt.
	Dep Dir, Ofc of Acquisition & Grant Mgmt.
Assoc Adm'r for Safety	Assoc Admr for Safety.
	Director, Office of Safety Enforcement.
Associate Administration for Pipeline Safety	Assoc Admr for Pipeline Safety.
Ofc of Assoc Admr for Marketing	Associate Administrator for Marketing.
Office of Associate Administrator for Maritime Aids	Associate Administrator for Maritime Aids.
Organization Abolished	Dep Director, Office of Aviation Safety.
Organization Abolished	Mgr, Los Angeles Area Aircraft Cert Ofc.
	Mgr, Seattle Area Aircraft Cert Office.
Organization Abolished	Manager General Aviation Staff.
Organization Abolished	Mgr, Advanced Automation System Div.
Office of Airport Planning & Programming	Dir., Office of Airport Planning & Program.
	Mgr, Grants-in-Aid Division.
Assistant Administrator for Civil Aviation Security	Dep Asst Admr for Civil Aviation Security.
Office of Civil Aviation Security Policy & Planning	Dir, Ofc of Civil Avn Security Pol & Planning.
Office of Civil Aviation Security Operations	Dir, Ofc of Civil Aviation Security Operations.
	Dep Dir, Ofc of Civil Aviation Security Ops.
Office of Civil Aviation Security Intelligence	Dir, Ofc of Civil Aviation Security Intelligence.
Office Civil Aviation Security Program & Resource Mgmt	Dir, Ofc of Civil Aviation Security Prog Mgt.
Office of Accounting	Dir, Office of Accounting.
Associate Administrator for Air Traffic	Assoc. Administrator for Air Traffic.
	Dep Assoc Admin for Air Traffic.
Regional Air Traffic Divisions	Mgr, Air Traffic Division.
	Mgr, Air Traffic Division.
	Mgr, Air Traffic Div.
	Manager, Air Traffic Division.
	Mgr, Air Traffic Division.
	Mgr, Air Traffic Division.
	Manager, Air Traffic Division.
	Manager, Air Traffic Division.
Air Traffic Rules & Procedures Service	Manager, Procedures Division.
	Mgr, Airspace—Rules & Aeronautical Inf. Div.
	Dir, Air Traffic Rules & Procedures Service.
Office of Air Traffic Systems Management	Director, Air Traffic System Management.
Air Traffic Plans and Requirements Service	Dir, Air Traffic Plans & Requirements Serv.
	Manager System Plans & Program Div.
	Manager Automation Software Division.
	Manager Advanced Sys & Facilities Division.
Office of Air Traffic System-Effectiveness	Dir, Ofc of Air Traffic Syst Effectiveness.
Office of Air Traffic Program Management	Dir, Ofc of Air Traffic Program Management.
Associate Administrator for Aviation Standards	Assoc Administrator for Aviation Standards.
Office of Aviation Medicine	Fed Air Surgeon.
	Deputy Federal Air Surgeon.
	Mgr, Medical Specialties Division.
	Director, Civil Aeromed Institute.
Office of Accident Investigation	Dir, Office of Accident Investigation.
Office of Aviation Systems Standards	Dir, Aviation Standards Natl Field Ofc.
	Deputy Director.
Associate Administrator Airways Facilities	Director, Operational Support Service.
Associate Administrator for Regulation & Certification	Assoc Admr for Regulation & Certification.
	Dep Assoc Admr for Regulation & Certification.
Aircraft Certification Service	Dir, Aircraft Certification Service.
	Deputy Director, Aircraft Certification Servic.
	Asst Dir, Aircraft Certification Service.
	Manager, Aircraft Engineering Division.
	Manager, Aircraft Manufacturing Division.
Regional Aircraft Certification Divisions	Mgr, Transport Airplane Directorate.
	Mgr, Engine & Propeller Directorate.
	Mgr Small Airplane Directorate.
	Manager Rotorcraft Directorate.
Flight Standards Service	Dir, Flight Standards Service.
	Dep Dir, Flight Standards Service.
	Mgr, General Aviation and Commercial Div.
	Manager, Air Transportation Division.
	Manager, Aircraft Maintenance Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Manager, Field Programs Division.
	Manager, Technical Programs Division.
Regional Flight Standards Divisions	Mgr, Flight Standards Div.
	Mgr, Flight Standards Division.
	Mgr, Flight Standards Div.
	Manager, Flight Standards Division.
	Mgr, Flight Standards Div.
	Mgr, Flight Standards Div.
	Mgr, Flight Standards Division.
	Mgr, Flight Standards Div.
	Manager, Flight Standards Division.
Assoc Administrator for Contracting & Quality Assurance	Associate Administrator.
	Dep Assoc Admr for Acquisition Support.
	Mgr, Contracts Division.
Program Manager for Advanced Automation	Program Director for Advanced Automation.
	Dep Program Mgr for Advanced Automation.
	Dep Prog Mgr for Voice S & C System.
Program Director for Automation	Program Director for Automation.
Program Director for Communications	Program Director for Communications.
Program Director for Navigation & Landing Aids	Program Dir for Navigation & Landing Aids.
Program Director for Surveillance	Program Director for Surveillance.
Program Director for Weather & Flight Service Systems	Prog Dir for Weather & Flight Services Syst.
Office Acquisition Policy & Oversight	Dir, Ofc of Acquisition Pol & Oversight.
Associate Administrator for Aviation Safety	Assoc Admin for Aviation Safety.
	Dep Assoc Admin for Aviation Safety.
	Deputy Assoc Administrator Aviation Standards.
Federal Highway Administration	Executive Director.
Assoc Admr for Admin	Director Office of Fiscal Services.
	Director Office of Contracts and Procurement.
Associate Administrator for Safety & System App	Assoc Admr for Safety & System Applications.
Office of Highway Safety	Dir, Office of Highway Safety.
Organization Abolished	Chief, Program Requirements Division.
Office of Motor Carrier Standards	Dir, Office of Motor Carrier Standards.
Office of Motor Carrier Safety Field Operations	Dir, Ofc of Motor Carrier S/F Operations.
Office of Environment & Planning	Chief Environmental Operations Division.
Office of Right of Way	Dir Ofc of Right of Way.
	Chief, Operations Division.
Nat'l Center for Statistics and Analysis	Chf, Accident Investigation Div.
Assoc Admr for Enforcement	Assoc. Administrator for Enforcement.
Ofc of Defects Investigation	Dir, Ofc of Defects Investigation.
Ofc of Vehicle Safety Comp	Dir, Ofc of Vehicle Safety Compliance.
Ofc of Vehicle Safety Standards	Chf, Crash Avoidance Division.
	Chf, Crashworthiness Division.
US Coast Guard	Chief, Procurement Management Division.
Department of Treasury:	
Office of the Secretary	Senior National Intelligence Advisor.
Deputy Assistant Secretary (Intl Monetary Policy)	Dir, Ofc of Foreign Exchange Operations.
Fiscal Assistant Secretary	Fiscal Assistant Secretary.
	Assistant, Fiscal Assistant Secretary.
Financial Management Service	Commr of Financial Management Service.
	Dep Com, Financial Management Service.
	Dir, Regional Financial Center (Chicago).
	Director, Regl Fin Ctr (Philadelphia).
	Director, Regl Fin Ctr (San Francisco).
	Director, Regl Fin Ctr (Austin).
	Deputy Director, Operations Group.
	Comptroller.
	Director, Systems Services Directorate.
	Assistant Commissioner, Information Systems.
	Assistant Commissioner, Federal Finance.
	Director, Operations Group.
	Assistant Commissioner, Regional Operations.
	Asst Commr, Management (Chief Fin Ofcr).
	Assistant Commissioner, Agency Services.
	Dir, Systems Development Directorate.
	Dir, Fin Information Management Directorate.
	Dir, Technology & Information Group.
	Director, Working Capital Directorate.
	Assistant Commissioner, Financial Information.
Bureau of the Public Debt	Commissioner.
	Dep Commr of the Public Debt.
	Asst Commissioner (Savings Bond Operations).
	Asst Commr (Financing).
	Asst Commr (Administration).
	Government Securities Act Program Director.
	Government Securities Policy Advisor.
	Asst Commr/Securities & Accounting Services.
	Asst Commissioner (Automated Info Systems).
	Asst Commissioner (Public Debt Accounting).
Assistant Secretary (Economic Policy)	Asst Dir for Economic Forecasting.
	SR Economist.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Assistant Secretary (Domestic Finance)	Dir, Ofc of Finance and Market Analysis.
Ofc of the Inspector General	Dep Asst Insp Gen for Audit (Audit Prog Serv).
	Dep Asst Inspector Gen for Audit (Audit Ops).
	AIG for Policy, Planning & Resources.
	Asst Insp Gen for Oversight & Quality Assur.
	Asst Inspector General for Audit.
	Asst Inspector General for Investigations.
Assistant Secretary (Tax Policy)	Dir (Economic Mod & Computer Applications).
Assistant Secretary (Management)	Dep Dir of Personnel.
	Dir, Management Programs Directorate.
	Director, Office of Procurement.
Assistant Secretary (Enforcement)	Dir, Fin Crimes Enforcement Network.
	Dep Dir, Financial Crimes Enforcement Network.
	Director, Office of Asset Forfeiture Policy.
	Director, Office of Law Enforcement.
Bureau of Alcohol, Tobacco, and Firearms	Assistant Director, Internal Affairs.
	Assistant Chief Counsel (Chicago).
	Asst Dir, Congressional and Media Affairs.
	Director, Laboratory Services.
	Assistant Chief Counsel (New York).
	Staff Assistant to the Chief Counsel.
Office of Law Enforcement	Dep Dir/Assoc Dir (Law Enforcement).
	Chief, Spec Operations Division.
	Special Agent in Charge (NY District Office).
	Special Agent in Charge (LA District Office).
	Special Agent in Charge (Miami District Ofc).
	Chief, Planning & Analysis Staff.
	Spec Agent in Charge (Washington Dist Office).
	Spec Agent in Charge (Detroit Dist Office).
	Chief, Intelligence Division.
	Chief, Explosives Division.
	Deputy Assoc Dir (Law Enforcement).
	Chief, Firearms Division.
Office of Compliance Operations	Dep Dir/Assoc Dir (Compliance Operations).
	Dep. Associate Dir. (Compliance Operations).
	Chief, Revenue Programs Division.
	Chief, Firearms & Explosives Division.
	Regional Director (North Atlantic Region).
	Chief, Industry Compliance Division.
US Customs Service	Asst Commissioner for Internal Affairs.
	Deputy Asst Comr (International Affairs).
	Asst Commissioner (Ofc of Info Mgmt).
	Asst Commr (Inspection & Control).
	Comptroller.
	Deputy Asst Commr (Inspection & Control).
	Deputy Assistant Commissioner (Management).
	Dir Ofc of Training.
	Director, Ofc of Automated Systems Operations.
	Dir Budget and Planning.
	Exec Dir the International Committee.
	Assistant Commissioner Office of Management.
	Senior Adv for Automated Sys Select Projects.
	Dep Assoc Comr for Program Effectiveness.
	Dir Ofc of Human Resources.
	Inter-Departmental Liaison Officer.
	Director, Ofc of Automated Commercial Systems.
Office of Enforcement	Deputy Assistant Commissioner (Enforcement).
	Dir Ofc of Patrol.
	Dir, Office of Commercial Fraud Enforcement.
	Dir, Office of Investigative Programs.
	Dir, Office of Enforcement Support.
	Dir, Ofc of Domestic Operations.
	Director Ofc of Foreign Operations.
Office of Commercial Operations	Dep Asst Comr, Ofc of A & M Interdiction.
	Director, Technical Services Div.
	Director, Classification and Value Division.
	Deputy Asst Comm Ofc of Regul & Rulings.
	Dir, International Trade Compliance Division.
	Dir Ofc of Regulatory Audit.
	Dir, Office of Technical Services.
	Dep Asst Comm (Ofc of Trade Operations).
	Dep Asst Commissioner Commercial Operations.
	Director, Commercial Compliance Division.
	Dep Dir, Ofc of Regulatory Audit.
	Dir, Commercial Rulings Division.
Regional Commissioners	Regl Commr, Reg 2, N Y.
	Reg Commr, Reg 1, Boston.
	Asst Regl Commr, Operations Reg II, New York.
	Regl Commr, Reg 4, Miami.
	Reg Commr, Reg V, New Orleans.
	Reg Commr of Customs Reg VI.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Regional Commissioner, Chicago.
	Asst Regional Commr (Operations).
	Asst Regl Commr (Operations).
	Asst Regl Commr (Operations).
	Asst Regl Commr (Operations).
	Asst Regional Commr (Operations).
	Special Agent in Charge, Miami.
	District Director, Miami.
	Asst Regional Commissioner (Enforcement).
	District Director, Laredo.
	Special Agent in Charge—New York.
	Special Agent in Charge.
	Area Dir, Newark.
	Asst Regional Commissioner L.A. (Enforcement).
	Asst Regional Commissioner, Enforcement.
	Deputy Regional Commissioner, Pacific Region.
	Area Director, JFK Airport.
	Area Director, New York Seaport.
	Special Agent in Charge (New Orleans).
	Asst Regl Commr—Houston (Enforcement).
	Special Agent in Charge.
	Regional Commissioner.
	District Director, Los Angeles.
	Special Agent-in-Charge (Houston).
	Special Agent-in-Charge (Houston).
	Assistant Regl Commissioner (Enforcement).
	Special Agent-in-Charge.
	Asst Regl Commr (Enforcement).
	Asst Regional Commissioner (Enforcement).
	Regional Dir of Internal Affairs.
	Special Agent in Charge (Newark).
Chief Counsel	Special Agent-in-Charge (Chicago).
	Asst Chief Counsel (Customs Court Litigat).
	Miami Regl Counsel.
	Chicago Regl Counsel.
	New York Regl Counsel.
	Associate Chief Counsel Enforcement.
	Assoc Chief Counsel (Trade Tariff & Leg).
	Regional Counsel (Southwest Region).
	Regional Counsel (Pacific Region).
US Secret Service	Director of the Secret Service.
	Deputy Director, U.S. Secret Service.
	Assistant Director, Administration.
	Assistant Director, Inspection.
	Assistant Director—Training.
	Asst Director—Govt Liaison and Public Aff.
	Dep Asst Dir (Spec Agent Trng), Olc of Trng.
	DAD—Administration.
Office of Protective Operations	DAD (Uniformed Forces, F & E Dev), Olc Trng.
	Asst Dir (Protective Operations).
	Dep Asst Dir (Protective Operations).
	Spec Agent in Charge—Presidential Protective.
	DAD Protective Opers (Uniformed Div).
	Spec Agent in Charge—VP Protect Div.
	Basic Presidential Protective Division.
	Spec Agent in Charge Dignitary Protective Div.
	Deputy Special Agent in Charge Pres Prot Div.
	Deputy Special Agent in Charge—VP Prot Div.
Office of Protective Research	Asst Dir (Protective Research)
	Dep. Asst. Dir. (Protective Research).
	Spec Agent in Charge—Tech Sec Div.
	Spec Agent in Charge—Intelligence Div.
	Dep Spec Agent in Charge, Intelligence Div.
	Chf, Info Resources Management Division.
Office of Investigations	Asst Director, Investigations.
	Special Agent in Charge, New York Office.
	Special Agent in Charge, Chicago.
	Special Agent in Charge, Los Angeles Office.
	Spec Agent in Charge—Washington Field Office.
	Spec Agent in Charge—Philadelphia Field Office.
	Deputy Assistant Director Ses & Field Ops.
	Deputy Special Agent in Charge, New York.
	Spec Agent in Charge, San Francisco Office.
	Special Agent in Charge, Detroit.
	Special Agent in Charge, Dallas Field Office.
	Dep Spec Agent in Charge, Washington Fld Olc.
	Dep Asst Dir—Investigations (Hdqrtrs Ops).
	Deputy Director, Office of Investigations.
	Spec Agent in Charge—Miami Field Office.
	Special Agent in Charge—Boston Field Office.
	Spec Agent in Charge—Atlanta Field Office.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
US Mint	Associate Director of Operations.
	Dep Assoc Dir for Finance & Dep Chief Fin Ofc
	Assoc Dir of Pol & Management.
	Associate Director for Marketing.
Internal Revenue Service	Director, Appeals Division.
	Regl Dir of Appeals—Central Region.
	Regl Dir of Appeals—Mid-Atlantic Region.
	Regl Dir of Appeals—Southwest Reg.
	Regl Dir of Appeals—Southeast Reg.
	Regional Dir of Appeals—North Atlantic Region.
	Regional Dir of Appeals—Western Region.
	Asst to the Commissioner (Equal Opportunity).
	Chief Appeals Office New York City.
	Deputy Commissioner.
	Taxpayer Ombudsman.
	Asst to the Commissioner (Legis Affairs).
	National Director of Appeals.
	Chief Operations Officer.
	Deputy National Dir of Appeals.
	Asst to the Commissioner (Quality).
	Chief Information Officer.
	Assistant to the Senior Deputy Commissioner.
Chief Financial Officer	Chief Financial Officer.
	Dir, Tax Forms & Publications Div.
	Dir Martinsburg Computing Center.
	Dir, IRS Data Center Detroit.
	Dir Financial Management Division.
	Director, Budget Division.
	Deputy Assistant Commissioner (Procurement).
	Accounts Receivable Executive Officer.
	Dir Training & Development Division.
	Dir Systems Management & Oper Services Div.
	Dir, Facilities & Info Mgmt Support Division.
	Director, Research Division.
	Director, Planning and Analysis Division.
	Director, Support & Services Division.
	Spec Asst to Dep Comr (P & R)/Chf Fin Officer.
	Project Dir, Diagnostic Serv Center Proj Ofc.
	A/C (Planning & Research).
	Director, Planning Division.
	Dir, Support & Services Division.
	Dep Asst Commissioner (Planning & Research).
	Director, Human Resources Division.
	Asst Commissioner (Finance)/Controller.
	Dep Asst Commissioner (Human Res & Support).
	Dir Accounting Standards & Systems Division.
	Assistant Commissioner (Human Res & Support).
	Asst Comr (Procurement).
Chief Operations Officer	Asst Comr (Employee P & E Organizations).
	Special Asst for Exempt Organization Matters.
	Assistant Commissioner (Taxpayer Services).
	Asst Dir Returns Processing & Accounting Div.
	Program Manager (Tax Systems Modernization).
	Assistant Commissioner (Examination).
	Asst Commr (Criminal Investigation).
	Dir Exempt Organizations Technical Division.
	Dir Employee Plans & Exempt Org Oper Div.
	D/Employee Plans Tech & Actuarial Division.
	Deputy Assistant Commissioner (Examination).
	Dep Asst Commr (Criminal Investigation).
	Director, Ofc of Field Operations.
	Asst/Dir Employee Plans Techn & Acturial Div.
	Director, Coordinated Examination Program.
	Dep Asst Chf Info Officer Info System Dev.
	D/A Comr (Employee Plans & Exempt Orgs).
	Compliance 2000 Executive.
	Dep Asst Commr (Collection).
	Assistant Commissioner (Collection).
	Assistant Commissioner (International).
	Dir, Information Reporting Program.
	Dep Asst Comr (Taxpayer Services).
	Deputy Asst Commissioner (International).
	Director, Fed State Relations Division.
North Atlantic Region	Reg Commr.
	Asst Reg Commr (Exam) North Atlantic Reg.
	ARC (Criminal Investigation).
	ARC (Resources Mgmt).
	ARC (Collection) North Atlantic Region.
	Assistant Regional Commissioner (Data Proc).
	Service Center Director, Andover, Mass.
	Srvc Ctr Dir, Brookhaven.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	District Dir, Manhattan.
	District Dir, Brooklyn.
	District Dir, Boston.
	Chief Examination Div Manhattan.
	District Dir, Albany.
	Dist Dir (Hartford).
	District Dir, Buffalo.
	Asst Dist Dir, Brooklyn.
	Assistant District Director Manhattan.
	Asst District Dir, Boston.
	District Director, Providence.
	Dist Dir, Augusta.
	District Director, Portsmouth.
	District Director, Burlington.
	Asst Service Center Director, Brookhaven.
	Asst Service Center Director, Andover.
	Chief, Appeals Office, Long Island.
	Asst Service Center Director.
	Asst Service Center Director.
Mid-Atlantic Region	Reg Commissioner.
	ARC (Examination) Mid-Atlantic.
	ARC (Criminal Investigation) Mid Atlantic Reg.
	Asst Reg Commr (Collection).
	Assistant Regional Commissioner (Data Proc).
	Service Center Dir, Philadelphia.
	District Dir, Newark.
	District Dir, Pittsburgh.
	District Director Richmond District.
	Asst District Dir, Philadelphia.
	Asst District Director (Newark).
	Assistant District Director—Baltimore, MD.
	District Director, Wilmington.
	District Dir, Baltimore.
	District Director.
	Assist Reg'l Commissioner (Resources Mgmt).
	Asst Service Center Director.
Southeast Region	Reg Commr.
	ARC (Examination) Southeast Region.
	Asst Reg Commissioner—Criminal Investigation.
	Asst Reg'l Commr (Resources Management).
	Asst Reg (Collection) SE Reg Atlanta.
	Assistant Regional Commissioner (Data Proc).
	Service Center Director, Memphis.
	Srvc Ctr Dir, Atlanta.
	District Dir, Jacksonville.
	District Dir, Atlanta.
	District Director Greensboro.
	District Dir, Nashville.
	District Director Birmingham.
	District Dir, New Orleans.
	District Director, Columbia.
	District Director Little Rock District.
	District Director, Jackson, Miss.
	Asst District Director, Jacksonville.
	Assistant District Director, Atlanta.
	Asst Service Center Director, Memphis.
	Regional Director of Appeals.
	Asst Service Center Director.
	Assistant District Director.
	District Director.
	Assistant Service Center Director.
Central Region	Regional Commr, Central.
	ARC (Examination) Central Region.
	Asst Regl Comr (Criminal Investigation).
	Asst Reg Comm (Resource Management).
	Assistant Regional Commissioner (Collection).
	Asst Regl Commissioner (Data Processing).
	Dir Service Ctr Cincinnati.
	District Dir (Cleveland).
	District Director Detroit.
	District Director (Parkersburg).
	District Director, Indianapolis.
	District Director, Louisville.
	District Dir, Cincinnati.
	Assistant District Director Detroit.
	Asst Service Center Director.
Midwest Region	Regional Commr, Midwest Region.
	Asst Reg Commr (Resources Mgmt).
	ARC (Criminal Investigation) Midwest Region.
	Assistant Regional Commissioner (Data Proc).
	ARC (Examination), Midwest Region.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Southwest Region	ARC (Collection) Midwest Region. Srvc Ctr Dir, Kansas City. District Dir, Chicago. District Director St Louis. District Dir, St Paul. District Dir, Omaha. District Dir. Springfield. District Dir, Milwaukee. Asst District Dir, Chicago. Asst District Dir, St Louis. District Director, Fargo. District Director, Aberdeen. District Director, Helena. District Director. Assistant Service Center Director. Regional Comm: R. Asst Regl Commr (Examination). ARC (Criminal Investigation) S W Region. ARC (Resources Mgmt). Assistant Regional Commissioner (Collection). Assistant Regional Commissioner (Data Proc). Service Center Dir, Ogden. Service Center Director, Austin. District Dir, Austin. District Director, Dallas. District Director, Wichita. District Director, Oklahoma City. District Dir, Phoenix. District Dir, Denver. Assistant District Director, Dallas. District Director, Albuquerque. District Director, Cheyenne. District Director, Salt Lake City. Compliance Center Director. Asst Service Center Director, Ogden. Assistant Service Center Director. Asistant District Director, Houston. District Director, Houston. Assistant Service Center Director.
Western Region	Reg Commr. ARC (Criminal Investigation). Assistant Regional Commissioner (Data Proc). Asst Regional Commissioner (Examination). Asst Regl Commr (Collection). Asst Regl Commr/(Resources Management). Service Center Director, Fresno. District Dir, Los Angeles. District Dir, San Francisco. District Director, Portland District. District Dir, Seattle. Asst District Dir, Los Angeles. Asst District Dir, San Francisco. District Director, Honolulu. District Director, Anchorage. District Director Boise. District Director (Sacramento). District Director (Las Vegas). District Director, San Jose. Assistant District Director, Laguna Niguel. Asst Service Center Director. District Director, Laguna Niguel. Assistant District Director.
Chief Information Officer	Dir, Returns Processing and Accounting Div. Director, Systems Design Division. Director, Systems Acquisition Division. Dir, Input Systems Division. Dep Asst Commissioner (Info Systems Mgmt). Dir, Project Mgnt Division. Director, Statistics of Income Division. Director, Input Processing Division. Asst Commissioner (Information Systems Dev). Operations Dep Asst Comr (Returns Processing). Dir, Case Systems Division. Director, Systems Integration Division. Assistant Dir, Taxpayer Service Division. Director, Case Processing Division. Asst Dir, Detroit Computing Ctr. Business Integration DAC (Returns Processing). Asst Commissioner (Returns Processing). Dir, Taxpayer Service Division. Dir, Telecommunications Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
Chief Inspector	Director, Quality Assurance Division. Director, Corporate Systems Division. Asst Commissioner (Information Systems Mgmt). Chief Inspector. Dep Asst Commr (Inspection). Assistant Chief Inspector (Int Audit). Assistant Director, Internal Audit Division. Director, Internal Security Division. Asst Dir, Internal Security Division. Regional Inspector, Midwest Reg. Regional Inspector, North Atlantic. Regional Inspector, Western Region. Regional Inspector, Southwest Reg. Regional Inspector, Mid-Atlantic Reg. Regional Inspector, Central. Regional Inspector, Southeast.
Chief Counsel	Director, Individual Income Tax Div. Director, Corporation Tax Division. Chf, Corporation Tax Branch. Chf, Individual Income Tax Branch. Chief, Engineering & Valuation Branch Corp Ta. Asst Chief Counsel (General Litigation). Dir, Interpretative Div. Dir, Legislation & Regulations Div. Asst Chief Counsel (Criminal Tax). Asst Chief Counsel (General Legal Services). Asst Chief Counsel (Disclosure Litigation). Asst Dir, Interpretative Div. Asst Dir, Legislation & Regulations Div. Assistant Chief Counsel (International). Assistant Chief Counsel (Corporate). Director, Corporation Tax Division. Dep Asst Chf Coun (Income Tax & Accounting). Dep Asst Chf Coun (Passthroughs/Spec Indust). Chf Estate & Gift, Wage Excise & Prov Br. Dep Dir, Corporation Tax Division. Asst to the Assoc Chf Coun (Fin & Mgmt). Asst Chief Counsel (Field Service). Asst Chf Coun (Passthroughs/Spec Industries). Deputy Asst Chief Counsel (Corporate). Dep Assoc Chief Counsel (Fin & Management). Special Appellate Counsel. Dep Asst Chief Counsel (Field Service). Dep Asst Chief Coun (Financial Inst & Prod). Dep Assoc Chf Coun (Enforcement Litigation). Dep Assoc Chief Counsel, International. Asst Chf Coun (Fin Institutions & Products). Dep Asst Chief Coun (Income Tax & Accounting). Dep Assoc Chief Counsel (EBEO). Dep Asst Chf Coun (Income Tax & Accounting). Asst Chief Counsel (Income Tax & Accounting). Assoc Chief Counsel (Enforcement Litigation). Assoc Chief Counsel Emp Benefits Exempt Org. Special Counsel (Large Case). Special Litigation Counsel. Deputy Chief Counsel. Dep Assoc Chief Counsel (Domestic) (Technical). Associate Chief Counsel (International). Assoc Chf Counsel (Finance & Management). Dep Assoc Chief Coun (Domestic) (Field Serv). Assoc Chief Counsel (Domestic).
Regional Counsels	Regl Counsel, Central Reg. Regional Counsel, Mid-Atlantic Region. Dep Regl Counsel (Criminal Tax). Regl Counsel Midwest Region. Regl Counsel, North Atlantic Region. Dep Regl Coun (Tax Litigat) No-Atlantic Reg. Deputy Regional Counsel (General Litigation). Regional Counsel, SE Region. Regl Counsel, Southwest Region. Regional Counsel. District Counsel—Boston. District Counsel—Los Angeles. District Counsel—Cincinnati. District Counsel—Philadelphia. District Counsel—Newark. District Counsel, Chicago. District Counsel, Manhattan. District Counsel—Dallas. District Counsel—San Francisco. Dep Regional Counsel (Tax Litigation).

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Dep Regional Counsel (Tax Litigation).
	District Counsel.
	District Counsel.
	Deputy Regional Counsel (Tax Litigation).
	Regional Director of Appeals.
	District Counsel, Washington, DC.
	Deputy Regional Counsel (Tax Litigation).
	District Counsel, Miami.
	District Counsel, Brooklyn, New York.
	District Counsel, Washington, DC.
	District Counsel, Houston, Texas.
	District Counsel, Denver.
U.S. Arms Control and Disarmament Agency:	
Verification and Implementation Bureau	Chief, Verification Division.
Ofc of Administration	Administrative Director.
Strategic and Nuclear Affairs Bureau	Chief, Defense & Space Division.
Theater Affairs Division	Chief, Theater Affairs Division—A966.
Strategic Affairs Division	Chief, Strategic Affairs Division A–977.
Non-Proliferation Policy Bureau	Chief Scientist.
	Chf, Def Programs & Analysis Division.
	Chf, International Nuclear Affairs Divisions.
Multilateral Affairs Bureau	Chief, Sci & Technological Division.
United States Information Agency:	
Ofc of the Director	Assistant Inspector General for Audits.
	Assistant Inspector General for Inspections.
Bureau of Management	Director, Office of Personnel.
	Director, Office of the Comptroller.
	Dir of Security.
	Dir, Ofc of Contracts.
	Director, Office of Technology.
Bureau of Broadcasting	Dir, Engineering and Technical Operations.
	Deputy of Systems Engineering.
	Deputy for Projects Management.
	Deputy for Operations.
Ofc of the Gen Counsel	Deputy General Counsel.
U.S. International Trade Commission:	
Office of Industries	Dir, Ofc of Industries.
Office of Investigations	Dir, Ofc of Investigations.
Department of Veterans Affairs:	
Office of the Inspector General	Dep Inspector General.
	Assistant Inspector General for Auditing.
	Asst Inspector General for Investigations.
	Asst Insp Gen for Policy, Plan & Resources.
	Dep Asst Inspector General for Investigations.
	Counselor to the Inspector General.
	Asst Inspector General for Healthcare Inspect.
	Director for National Audits.
	Dep Asst Inspector General for Auditing.
Board of Veterans Appeals	Vice Chairman.
	Deputy Vice Chairman.
Office of Financial Management	Dir, VA Automation Ctr, Austin, TX.
	Dep Asst Secy for Financial Management.
	Assoc Dep Asst Secy for Financial Operations.
	Assoc Dep Asst Secy for ADP Systems.
Office of Information Resources Management	Assoc Dep Asst Secretary for Telecommunications.
	Assoc Das for Info Res Plans & Technology.
Office of Personnel and Labor Relations	Assoc Deputy Asst Secretary.
	Associate Deputy Asst Secretary.
Ofc of the Asst Secretary for Acquisition and Facilities	Dir, Canteen Service.
Office of Facilities Oversight	Dir, Contract Admin Staff.
Office of Acquisition and Materiel Management	Dep Asst Sec for Acquisition & Materiel Mgmt.
	Assoc Dep Assistant Secy for Acquisitions.
	Associate Dep Asst Secy for Depots.
	Assoc Dep Asst Secy for Resources.
	Associate Deputy Asst Secretary for Materiel.
Office of Security and Law Enforcement	Dep Asst Secy for Security & Law Enforcement.
Veterans Benefits Administration	Director, Budget & Finance Staff.
	Dep Dir, Compensation & Pension Service.
	Dep Dir, Info Loan Guaranty Svc.
	Dir, Info Management & Tech Assessment Service.
Veterans Health Administration	Northeastern Area Project Manager.
	Southern Area Project Manager.
	Central Area Project Manager.
	Western Area Project Manager.
	Dep Dir, Mental H & B Sciences Service.
	Director, Budget Office.
	Deputy Director, Budget Office.
	Dir, Office of Project Management.
	Director, Ofc of Architecture & Engineering.
	Dir, Office of Real Property Management.
	Dir, Office of Medical Sharing.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1992—Continued

Agency, organization	Career reserved positions
	Dir, Medical Care Cost Recovery Office. Dir, Emergency Medical Preparedness Office.

[FR Doc. 93-4618 Filed 3-3-93; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF STATE

[Public Notice 1771]

Statutory Debarment Under the International Traffic in Arms Regulations

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of which persons have been statutorily debarred pursuant to § 127.6(c) of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130).

EFFECTIVE DATE: December 28, 1992.

FOR FURTHER INFORMATION CONTACT: Clyde G. Bryant Jr., Chief, Compliance Analysis Division, Office of Defense Trade Controls, Department of State (703–875–6650).

SUPPLEMENTARY INFORMATION: Section 38(g)(4)(A) of the Arms Export Control Act (AECA), 22 U.S.C. 2778, prohibits the issuance of export licenses to a person, or any party to the export, who has been convicted of violating certain U.S. criminal statutes, including the AECA. The term "person," as defined in § 120.16 of the ITAR, means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization or group, including governmental entities. The ITAR, specifically § 126.7(e), defines the term "party to the export" to include the president, the chief executive officer, and other senior officers and officials of the license applicant; the freight forwarders or designated exporting agent of the license applicant; and any consignee or end-user of any item to be exported. The statute permits certain limited exceptions to this prohibition to be made on a case-by-case basis. 22 U.S.C. 2778(g)(4).

The ITAR, § 127.6, authorizes the Assistant Secretary of State for Political-Military Affairs to prohibit certain persons convicted of violating, or conspiring to violate, the AECA from participating directly or indirectly in the export of defense articles or in the furnishing of defense services. Such a prohibition is referred to as a "statutory debarment," which may be imposed on the basis of judicial proceedings that resulted in a conviction for violating, or of conspiring to violate, the AECA. See 22 CFR 127.6(c). The period for debarment will normally be three years from the date of conviction. At the end of the debarment period, licensing privileges may be reinstated at the request of the debarred person following the necessary interagency consultations, after a thorough review of the circumstances surrounding the conviction, and a finding that appropriate steps have been taken to mitigate any law enforcement concerns, as required by the AECA, section 38(g)(4).

Statutory debarment is based solely upon a conviction in a criminal proceeding, conducted by United States court. Thus, the administrative debarment procedures, outlined in the ITAR, 22 CFR part 128, are not applicable in such cases.

The Department of State will not consider applications for licenses or requests for approvals that involve any person or any party to the export who has been convicted of violating, or of conspiring to violate, the AECA during the period of statutory debarment. Persons who have been statutorily debarred may appeal to the Under Secretary for International Security Affairs for reconsideration of the ineligibility determination. A request for reconsideration must be submitted in writing within 30 days after a person has been informed of the adverse decision. 22 CFR 127.6(d).

The Department of State policy permits debarred persons to apply for an exception to the Director of the Office of Defense Trade Controls one year after the date of the debarment, in accordance with the AECA, section 38(g)(4)(A), and the ITAR, § 127.6. Any decision to grant an exception can be made only after the statutory requirements under section 38(g)(4) of the AECA have been satisfied. If the exception is granted, the debarment will be suspended.

Pursuant to the AECA, section 38(g)(4)(A), and the ITAR, 22 CFR 127.6, the Assistant Secretary for Political-Military Affairs has statutorily debarred nine persons who have been convicted of violating, or of conspiring to violate, the AECA.

These persons have been debarred for a three-year period following the date of their conviction, and have been so notified by a letter from the Office of Defense Trade Controls. Pursuant to ITAR, § 127.6(c), the names of these persons, their offense, date of conviction(s) and court of conviction(s) are hereby being published in the **Federal Register**. Anyone who requires additional information to determine whether a person has been debarred should contact the Office of Defense Trade Controls.

This notice involves a foreign affairs function of the United States and is thus excluded from the procedures of 5 U.S.C. Section 553 and Section 554 and Executive Order 12291 (44 FR 13193). It implements statutory and regulatory requirements that entered into force on December 22, 1987, and April 4, 1988, respectively.

In accordance with these authorities the following persons are debarred for a period of three years following their conviction for violating, or conspiring to violate, the AECA (name/ offense/ date/ court):

1. Symone Morris Behrmann, 18 U.S.C. 371 (conspiracy to violate 22 U.S.C. 2778) and 22 U.S.C. 2778, May 10, 1990, District of Columbia
2. Maryanne E. Callaghan, 18 U.S.C. 371 (conspiracy to violate 22 U.S.C. 2778) and 22 U.S.C. 2778, July 20, 1990, District of Columbia
3. Herbert J. Hoffmann, 18 U.S.C. 371 (conspiracy to violate 22 U.S.C. 2778), December 11, 1990, District of Maryland
4. John Jarema, 22 U.S.C. 2778, August 30, 1990, Eastern District of Michigan
5. Joseph McColgan, 18 U.S.C. 371 (conspiracy to violate 22 U.S.C. 2778) June 7, 1991, Southern District of Florida
6. Seamus Moley, 18 U.S.C. 371 (conspiracy to violate 22 U.S.C. 2778), June 7, 1991, Southern District of Florida
7. Frank J. Randazzo, 18 U.S.C. 371 (conspiracy to violate 22 U.S.C. 2778), May 10, 1990, District of Columbia
8. David R. Rosen, 18 U.S.C. 371 (conspiracy to violate 22 U.S.C. 2778) and 22 U.S.C. 2778, June 26, 1990, Eastern District of Pennsylvania
9. Rudy Yujen Tsai, 18 U.S.C. 371 (conspiracy to violate 22 U.S.C. 2778)

and 22 U.S.C. 2778, March 4, 1991, Eastern District of Pennsylvania

Dated: February 22, 1993.

William B. Robinson,

Director, Office of Defense Trade Controls, Bureau of Politico Military Affairs, Department of State.

[FR Doc. 93–4900 Filed 3–3–93; 8:45 am]

BILLING CODE 4710-25-M

[Public Notice 1769]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea and Associated Bodies, Working Group on Stability and Load Lines and on Fishing Vessels Safety; Meeting

The Working Group on Stability and Load Lines and on Fishing Vessels Safety of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on March 19, 1993, at 1 p.m. in room 4315 at Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The purpose of this Working Group meeting is to discuss the outcome for the 37th Session of the International Maritime Organization (IMO) Subcommittee on Stability and Load Lines and on Fishing Vessels Safety (SLF), which was held on January 11 to January 15, 1993.

Items of discussion will include the following: Subdivision and damage stability standards of passenger ships; harmonization of probabilistic damage stability provisions for all ship types; the new Code of Intact Stability; technical revisions to the 1966 Load Line Convention; stability aspects of open-top container ships; and probabilistic oil outflow.

Members of the public may attend this meeting up to the seating capacity of the room.

For further information on this SLF Working Group meeting, contact Mr. H.P. Cojeen or Mr. W.M. Hayden at (202) 267–2988; U.S. Coast Guard Headquarters (G–MTH), 2100 Second Street, SW., Washington, DC 20593–0001.

Dated: February 19, 1993.

Bruce Carter,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 93–4901 Filed 3–3–93; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Carroll County, MD

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Carroll County, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. David Lawton, Planning, Research, Environment and Safety Engineer, Federal Highway Administration, The Rotunda—Suite 220, 711 West 40th Street, Baltimore, Maryland 21211; telephone number (410) 962–4440.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the U.S. Army Corps of Engineers (COE) and the Maryland State Highway Administration, will prepare an Environmental Impact Statement (EIS) on a proposal to improve MD 140 in Carroll County, Maryland. The proposed improvement provides a new roadway from Reese Road, south of Westminster, to Hughes Shop Road, north of Westminster, a distance of about 8.5 miles.

Improvements to the corridor are considered necessary to provide for existing and projected traffic demand. Alternatives under consideration include (1) taking no action; (2) using alternative travel modes; (3) widening the existing highway, controlling access, and providing service roads; (4) relocating MD 140 to the north around Westminster creating a bypass; and (5) relocating MD 140 to the south around Westminster creating a bypass.

The Draft EIS will be available for public and agency review and comment prior to the public hearing. A scoping meeting for this project was held in June 11, 1987.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestion are invited from all interested parties.

Comments or questions concerning this proposed action and EIS should be directed to the FHWA at the addresses provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal Programs and activities apply to this program).

Issued on: February 1993.

A. P. Barrows,

Division Administrator, Baltimore, Maryland.

[FR Doc. 93–4960 Filed 3–3–93; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Rulemaking, Research and Enforcement Programs Meetings

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, enforcement and other programs. In addition, a second public meeting will be held to describe and discuss NHTSA's research and development programs.

DATES: The Agency's regular, quarterly public meeting relating to the agency's rulemaking, enforcement and other programs will be held on April 6, 1993, beginning at 9:30 a.m. and ending at approximately 12:30 p.m. Questions relating to the agency's rulemaking, enforcement and other programs must be submitted in writing by March 25, 1993, to the address shown below. If sufficient time is available, questions received after the March 25 date may be answered at the meeting. The individual, group or company submitting a question(s) does not have to be present for the question(s) to be answered. A consolidated list of the questions submitted by March 25, 1993, and the issues to be discussed will be mailed to interested personnel by March 31, 1993, and will be available at the meeting.

Also, the agency will hold a second public meeting later in the day devoted exclusively to a discussion of research and development programs. The meeting will begin at 1:30 p.m. and end at approximately 5 p.m. Questions may be submitted in advance regarding the Agency's crashworthiness and crash avoidance research programs. They must be submitted in writing by March 29 to the address given below. If sufficient time is available, questions received after the March 29 date will be answered at the meeting in the discussion period. The individual, group or company asking a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by March 29 will be mailed to interested

personnel by April 1 and will be available at the meeting.

ADDRESSES: Questions for the April 6 NHTSA Technical Industry Meeting, to be held from 9:30 a.m. to 12:30 p.m., relating to the agency's rulemaking, research, and enforcement programs should be submitted to Barry Felrice, Associate Administrator for Rulemaking, National Highway Traffic Safety Administration, room 5401, 400 Seventh Street, SW., Washington, DC 20590. Questions for the Research and Development Program Meeting to be held from 1:30 p.m. to 5 p.m. should be submitted to George L. Parker, Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, room 6206, 400 Seventh Street, SW., Washington, DC 20590. Both meetings will be held at the Ramada Inn, near the Detroit Metro Airport, 8270 Wickham Road, Romulus, MI 48174.

SUPPLEMENTARY INFORMATION: NHTSA will hold its regular, quarterly meeting from 9:30 a.m. to 12:30 p.m., to answer questions from the public and the regulated industries regarding the agency's rulemaking, enforcement and other programs, on April 6, 1993. Since the agency is holding a separate meeting on its crashworthiness and crash avoidance research programs, any questions on those issues will only be answered at the afternoon meeting and should be submitted to the Research and Development Office. Questions on other aspects of the agency's research and development activities should be submitted, as in the past, to the agency's Rulemaking Office. The meeting will be held at the Ramada Inn, 8270 Wickham Road, Romulus, Michigan. The purpose of the meeting is to focus on those phases of NHTSA activities which are technical, interpretative or procedural in nature. A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC, within four weeks after the meeting. Copies of the transcript will then be available at ten cents a page, (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, room 5108, 400 Seventh Street, SW., Washington DC 20590. The Technical Reference Section is open to the public from 9:30 a.m. to 4 p.m.

At the NHTSA research and development programs meeting, to be held from 1:30 p.m. to 5 p.m. addressing research and development programs only, the agency will provide information and respond to questions submitted in advance. At this meeting, the Agency will provide an overview of its research and development programs, including in particular, descriptions of crashworthiness research and crash avoidance research. Questions regarding these two program areas that have been submitted in advance will be answered as time permits. At subsequent meetings the Agency will describe other research program areas and respond to questions. As with the regular quarterly meeting as noted above, a transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section.

NHTSA will provide auxiliary aids to participants as necessary, during the NHTSA Technical Industry Meeting and the NHTSA Industry Research and Development Meeting. Thus, any person desiring assistance of "auxiliary aids" (e.g., sign-language interpreter, telecommunications devices for deaf persons (TDDs), readers, taped texts, Brailled materials, or large print materials and/or a magnifying device), please contact Barbara Carnes on (202) 366–1810, by COB March 25, 1993, for the 9:30 .m. to 12:30 p.m. portion of the meeting or Barbara Coleman (202) 366–1537 by COB March 26, 1993 for the 1:30 p.m. to 5 p.m. portion.

Issued: March 1, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–4983 Filed 3–3–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–12; Notice 1]

Volkswagen of America, Inc., Receipt of Petition for Determination of Inconsequential; Noncompliance

Volkswagen of America, Inc. (Volkswagen) of Auburn Hills, Michigan has determined that its replacement seat belts fail to comply with 49 CFR 571.209, Federal Motor Vehicle Safety Standard No. 209, "Seat Belt Assemblies," and has filed an appropriate report pursuant to 49 CFR part 573. Volkswagen has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

Between 1967 and the present, Volkswagen produced and sold replacement seat belts which did not include installation instructions required by Standard No. 209. While Volkswagen cannot calculate the total number of replacement seat belts sold since 1967, it sold approximately 5,300 replacement seat belts during the last 12 months, and assumes—based on an estimate of 5,000 assemblies sold per year—a total of 125,000 assemblies sold since 1967.

Standard No. 209, section S4.1(k) requires that "[a] seat belt assembly or retractor shall be accompanied by an instruction sheet providing sufficient information for installing the assembly in a motor vehicle except for a seat belt assembly installed in a motor vehicle by an automobile manufacturer. The installation instructions shall state whether the assembly is for universal installation or for installation only in specifically stated motor vehicles * * *" In addition, section S4.1(l) requires that "[a] seat belt assembly or retractor shall be accompanied by written instructions for the proper use of the assembly, stressing particularly the importance of wearing the assembly snugly and properly located on the body, and on the maintenance of the assembly and periodic inspection of all components. The instructions shall show the proper manner of threading webbing in the hardware of seat belt assemblies in which the webbing is not permanently fastened." The instructions pertaining to threading and nonlocking retractors do not apply to Volkswagen's belt designs.

Volkswagen supports its petition for inconsequential noncompliance with the following:

The noncompliance relates to the lack of installation instructions and use instructions as required in FMVSS No. 209. The belts are identified by part number to specific vehicle application and are labeled by model number, date of manufacture, and name of manufacturer in accordance with S4.1(j) of FMVSS 209. All Volkswagen owner's manuals for the vehicles for which such belts were designed have included detailed usage instructions for seat belts. Volkswagen service manual information describing seat belt system installations has been, and is, available to dealers and to the public.

The requirement for installation and seat belt use instructions dates back to the very first standard issued in 1966 at a time when many used vehicles did not have factory installed seat belts so that the automobile manufacturers and others were making available belts for retrofit installation. Therefore, it was possible for vehicle owners and others to install seat belts where none had been provided previously. Also for vehicles without factory installed seat belts, the owner's manuals may not have included seat belt use instructions.

The Canadian standard, CMVSS 209, does not include a requirement for providing

installation and use instructions with seat belt assemblies. Paragraph 32 of CMVSS 209 only requires that every vehicle equipped with a seat belt assembly be provided with written instructions regarding the proper use and maintenance of the seat belt assembly (emphasis original).

Seat belts currently sold by Volkswagen to its dealers are only for installations as replacement belts in specific seating positions in Volkswagen and Audi vehicles and are identified by part number in the parts catalog for use in specific vehicle models and seat positions. This method of identification and the physical differences between belt retractors and attachment hardware as well as the vehicle installation environment preclude the mis-installation of seat belt assemblies.

Seat belt assembly installation instructions are included in Volkswagen Service Manuals available to all Volkswagen and Audi dealers. Independent repair shops and individual owners can also purchase the Service Manual or seek dealer assistance and obtain copies of the instructions, if necessary. In most cases, reference to the installation instructions will not be necessary because the seat belt installation procedure will first be the reverse of the removal procedure.

Seat belt use instructions regarding proper seat belt positioning on the body and proper maintenance and periodic inspection for damage are, and have been included, in all Volkswagen and Audi owner's manuals. Fitting the belt snugly is not applicable with [emergency locking] retractors but appropriate instructions for manual lap belts are provided in the owner's manuals for vehicles equipped with such belts. Volkswagen and Audi have not provided non-locking retractors or Type IIa seat belts and all are integrally sewn so that proper threading of the webbing in the hardware is not applicable.

Volkswagen is presently developing installation and use instructions for replacement seat belt assemblies. This material will be provided to dealers for insertion into the packaging of seat belts in their inventory and will also be placed into the packages of seat belts at Volkswagen service parts warehouses. The required material will also be included with all seat belt assemblies shipped to Volkswagen of America, Inc. for resale to dealers in the future.

Volkswagen is not aware of owner complaints or field incident reports relating to the lack of installation and use instructions with replacement seat belt assemblies. Notification and remedy by mailing out such instructions to prior vehicle owners or non-dealer repair shops who have purchased seat belt assemblies would not be possible since records of such sales are not kept.

Interested persons are invited to submit written data, views, and arguments on the petition of Volkswagen, described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, D.C., 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: April 5, 1993.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: March 1, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–4982 Filed 3–3–93, 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

February 24, 1993.

The Department of the Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: IRS Form 8833
Type of Review: Resubmission
Title: Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b)
Description: Form 8833 will be used by taxpayers that are required by section 6114 to disclose a treaty-based return position to disclose that position. The form may also be used to make the treaty-based return position disclosure required by Regulations section 301.7701(b)–7(b) for "dual resident" taxpayers.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents/ Recordkeepers: 6,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—3 hours, 7 minutes
Learning about the law or the form—1 hour, 29 minutes
Preparing and sending the form to the IRS—1 hour, 37 minutes
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 37,260 hours
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93–4909 Filed 3–3–93; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

February 24, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Financial Management Service

OMB Number: 1510–0004
Form Number: TFS 285–A
Type of Review: Extension
Title: Schedule of Excess Risks
Description: Listing of Excess Risks written or assumed by Treasury Certified companies showing compliance with Treasury Regulations to assist Treasury in determining solvency of Certified companies for the benefit of writing Federal surety bonds.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents:
Applications: 40
Renewals: 305
Estimated Burden Hours Per Response:
20 hours

Frequency of Response: Quarterly
Estimated Total Reporting Burden: 25,200 hours
Clearance Officer: Jacqueline R. Perry (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93–4910 Filed 3–3–93; 8:45 am]

BILLING CODE 4810–35–M

Public Information Collection Requirements Submitted to OMB for Review

February 24, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0092
Form Number: ATF F 5100.31 (1648/1649/1650)
Type of Review: Extension
Title: Application for Certification/Exemption of Label/Bottle Approval Under the Federal Alcohol Administration Act
Description: The Federal Alcohol Administration Act regulates the labeling of alcoholic beverages and designates the Treasury Department to oversee compliance with regulations. This form is completed by the regulated industry and submitted to Treasury as an application to label their products. Treasury oversees label application to prevent consumer deception and to deter falsification of unfair advertising practices on alcoholic beverages.
Respondents: Businesses or other for-profit, Small businesses or other organizations
Estimated Number of Respondents: 6,060
Estimated Burden Hours Per Respondent: 30 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 27,300 hours

OMB Number: 1512–0185
Form Number: ATF F 5400.5
Type of Review: Extension
Title: Report of Theft or Loss Explosives
Description: Losses or theft of explosives must, by statute, be reported within 24 hours of the discovery of the loss or theft. This form contains the minimum information necessary for ATF to initiate criminal investigations.
Respondents: Businesses or other for-profit, Small businesses or other organizations
Estimated Number of Respondents: 250
Estimated Burden Hours Per Respondent: 1 hour, 48 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 450 hours

OMB Number: 1512–0204
Form Number: ATF F 5110.38
Type of Review: Extension
Title: Formula for Distilled Spirits Under the Federal Alcohol Administration Act (Supplemental)
Description: ATA F 5110.38 is used to determine the classification of distilled spirits for labeling and for consumer protection. The form describes the person filing, type of product to be made, and restrictions to the labeling and manufacture. The form is used by ATF to ensure that a product is made and labeled properly and to audit distilled spirits operations.
Respondents: Small businesses or other organizations
Estimated Number of Respondents: 200
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: On occasion
Estimimated Total Reporting Burden: 4,000 hours

OMB Number: 1512–0469
Form Number: None
Type of Review: Extension
Title: Labeling of Sulfites in Alcoholic Beverages
Description: In a final rule published in the **Federal Register** on July 9, 1986 (51 FR 25012) the Food and Drug Administration established 10 parts per million as the threshold for declaration of sulfites in food and wine products. The Bureau of Alcohol, Tobacco ad Firearms on September 30, 1986 published a final rule (ATF–236) (51 FR 34706) establishing the same threshold for declaration of sulfites in alcoholic beverages.
Respondents: Businesses or other for-profit, Small businesses or other organizations
Estimated Number of Respondents: 4,787
Estimated Burden Hours Per Respondent: 40 minutes
Frequency of Response: On occasion
Estimimated Total Reporting Burden: 3,159 hours

OMB Number: 1512–0482
Form Number: ATF REC 5100/1
Type of Review: Extension
Title: Labeling and Advertising Requirements under the Federal Alcohol Administration Act
Description: Under the Federal Alcohol Administration Act, bottlers and importers of alcohol beverages are required to display certain information for consumers on labels and in advertisements. Other optional statements are also required.
Respondents: Businesses or other for-profit, Small businesses or other organizations
Estimated Number of Respondents: 6,060
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: On occasion
Estimated Total Reporting Burden: 1 hour

OMB Number: 1512–0503
Form Number: ATF REC 5120/3
Type of Review: Reinstatement
Title: Marks on Wine Containers
Description: The Bureau of Alcohol, Tobacco and Firearms (ATF) requires that wine on wine premises be identified by statements of information on labels or contained in marks. ATF uses this information to validate the receipts of excise tax revenue by the Federal Government. Consumers are provided with adequate identifying information.
Respondents: Businesses or other for-profit, Small businesses or other organizations
Estimated Number of Respondents: 1,560
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: On occasion
Estimated Total Reporting Burden: 1 hour

Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive

Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93–4911 Filed 3–3–93; 8:45 am]

BILLING CODE 4810–31–M

[Directive No. 16–32]

Functions Pertaining to the Former Office of Defense Lending; Directive

February 22, 1993.

1. *Delegation.* By virtue of the authority granted to the Fiscal Assistant Secretary by Treasury Order (TO) 101–05, I hereby delegate to the Commissioner, Financial Management Service, the authority and responsibility for all functions pertaining to lending and liquidation transferred from the former Office of Defense Lending.

2. *Redelegation.* The Commissioner, Financial Management Service, may redelegate this authority, as appropriate, to subordinate officials.

3. *Cancellation.* Treasury Directive 16–32, "Functions Pertaining to Lending and Liquidation," dated September 22, 1986, is superseded.

4. *Authority.* TO 101–05, "Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury."

5. *Office of Primary Interest.* Office of the Fiscal Assistant Secretary.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 93–4908 Filed 3–3–93; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Public and Private Non-Profit Organizations in Support of International Educational and Cultural Activities; Request for Proposals; The Role of Legislative Staff and Information Resources in the Legislative Process (Africa)

ACTION: Notice—Request for proposals.

SUMMARY: The Office of Citizen Exchanges (E/P) of the United States Information Agency (USIA) proposes the development of two multi-phased exchange programs for legislative staff of African countries. One project will be designed for participants from the francophone countries of Benin, Cameroon, Congo, Mali and Rwanda. The other project is intended for participants from anglophone countries of Ghana, Kenya, Namibia, Zambia, and Zimbabwe. Each project should introduce participants to the responsibilities of various professional staff in conducting the business of a legislature, emphasizing professional non-partisan roles. Each program may address a wide range of administrative, legal, fiscal, and research services or concentrate on a few of notable priority. In all proposed programs, some activities should illustrate the role of information resources in conducting policy analysis and drafting legislation as well as the role of archival materials in establishing the legislature's official legal record. Each program should facilitate access to resource materials to promote the study of the legislative process and should lay the foundation for collaboration between U.S. and African legislatures and professional supportive organizations.

A U.S. not-for-profit institution will design and execute each program and select the American presenters. The institution should demonstrate success in coordinating international exchange programs for senior-level foreign participants. The applicant institution should have substantive working relationships with U.S. public and private sector organizations involved with legislative affairs and the professional development of key staff in Congress or in state assemblies. The program will begin in the late summer or fall of 1993.

Interested applicants are urged to read the complete Request for Proposals (RFP) announcement before addressing inquiries to the Office. After the RFP deadline, the Office of Citizen Exchanges may not discuss this competition in any way with applicants until the final decisions are made.

ANNOUNCEMENT NUMBER: This Announcement number is E/P–93–12. Please refer to this number and the title given above in all correspondence or telephone calls to USIA.

DATES: Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on May 7, 1993. Faxed documents will not be accepted, nor will documents postmarked May 7, 1993 but received at a later date. It is the responsibility of the grant applicant to ensure that proposals are received by this deadline. Grant activity should begin after August 1, 1993.

ADDRESSES: The original and 14 copies of the completed application and required forms should be submitted by the deadline to: U.S. Information Agency, REF: E/P–93–12, Office of Grants Management (E/XE), room 336, 301 Fourth Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested organizations should contact the Office of Citizen Exchanges (E/P), room 216, United States Information Agency, 301 Fourth Street SW., Washington, DC 20547, fax (202) 619–4350, to request the detailed Application Package which includes all necessary forms and guidelines for proposals, including specific budget preparation instructions. Please specify the name of USIA Program Specialist Stephen Taylor on all inquiries and correspondence.

Background

Several francophone and anglophone African countries are evolving from single-party to multi-party systems of government. In this process, national legislatures have the opportunity to gain greater independence, develop more effective legislation and take steps to serve more forcefully as a balance to executive power. The viability and institutional independence of these legislative bodies could be enhanced by professional staff better trained to play a support role for lawmakers and the legislative process. In addition to carrying out daily duties, legislative staff are well placed to provide continuity regardless of the legislature's partisan make-up or the political fortunes of elected representatives.

In the United States, Congress and many state legislatures employ professional staff to conduct research, draft legislation, analyze budgets, audit accounts, maintain records, monitor compliance with legislation and perform other duties. In many cases, professional staff provide these services on a non-partisan basis. For example, on Capitol Hill, the Office of the Legislative Counsel assists committees in drafting and amending legislation. The clerk of the House and secretary of the Senate, selected by the majority party, assist in processing legislation and performing various reporting functions. The House Office of the Law Revision Counsel updates and publishes an official classification of U.S. laws.

In drafting bills, lawmakers also rely on other non-partisan support organizations such as the Congressional Research Service, which analyzes public policy issues, and the Congressional Budget Office, which provides analyses of fiscal issues. Congress also has at its disposal organizations to support its oversight role such as the General Accounting Office which monitors executive branch expenditures.

While not every one of these services is directly applicable to needs in Africa, they reflect the evolving demands placed upon the U.S. Congress and

could help guide efforts to promote professional development of legislative staff in Africa. Several young African legislatures are drafting landmark legislation aimed at implementing political and economic reforms. This process has sparked needs for expanded information resources and archival systems. For example, Namibia, two years after gaining independence from South Africa, is drafting legislation aimed at eliminating the remnants of the apartheid system. Lawmakers and legislative staff in Benin and Zambia are seeking reference materials and other resources to draft legislation countering the effects of decades of single party government. In Mali, legislative staff could benefit from specialized training activities to support efforts to restore the National Assembly's archives. Legislative aides in these young African democracies could benefit from a project to enhance their capabilities to assist lawmakers fulfill their legislative mandates.

Objectives

Each program should be designed to:

—Provide an overview of the structure and practices of representative government in the United States, including the interrelationship between the three branches of government;

—Introduce participants to the professional support offices and staff employed by the U.S. Congress and appropriate state legislatures;

—Demonstrate the roles and skills of professional staff in the day-to-day operations of a legislature and the nature of their interaction with lawmakers;

—Analyze the relationship between partisan politics and the professional responsibilities of legislative staff;

—Develop workshops and appropriate instructional material designed to evaluate the needs of African legislators and professional aides in improving the legislative process;

—Develop strategies for improving management of archives, legislative records and other official documentation;

—Develop methods for training African professional legislative staff in the specialized skills necessary to do their jobs well;

—Devise strategies to facilitate access to reference materials and other appropriate information about the structure and functioning of the U.S. Congress, state legislatures and other democratic institutions, and

—Lay the groundwork for collaboration between the professional support services for U.S. legislatures and counterpart services of African legislatures.

Participants

In the francophone program, one phase in the U.S. should be designed for up to 12 legislative staff from Rwanda, Congo, Cameroon, Mali and Benin. In the anglophone program, one phase in the U.S. should be designed for up to 12 legislative staff from Ghana, Kenya, Namibia, Zambia and Zimbabwe. Participants should have professional responsibilities related to the operation of the national legislature. USIS personnel overseas will select the African participants, although recommendations from the grantee institution are welcome. USIS offices will facilitate the issuance of visas and can also help with the distribution of program-related materials to African participants. For the francophone program, two U.S. State Department interpreters and one escort officer will be available for a U.S. study tour. For the program phases in Africa, the grantee institution will select the American presenters in consultation with USIA. Presenters conducting activities in francophone Africa should be French-fluent.

Programming Suggestions

Pursuant to the legislation authorizing the USIA Bureau of Educational and Cultural Affairs, all programs sponsored by that Bureau must be balanced and non-partisan in nature and representative of the diversity of American political, social and cultural life.

USIA is interested in multi-phase programs in which the phases build on one another and include such programming elements as workshops or seminars overseas led by American experts, a study tour in the U.S. for selected African participants, U.S.-based internships, and specialized American consultancies overseas. For each program, a planning visit overseas by the American organizer can also be considered if crucial to successful development and implementation of the program. U.S.-based internships often work best when arranged for the most promising participants in earlier, in-country workshops. Funding from USIA probably will not be sufficient to support all these programming elements unless supplemented by substantial cost sharing from other sources. It is the applicant's responsibility to design a coherent and cost effective program proposal which addresses objectives delineated in this announcement and contains a funding request which does not exceed cost limitations noted below in the Funding section.

Each of the two proposed projects described herein should include at least one phase for African participants in the U.S. and at least one phase for American specialists in Africa. The following comments should serve not as a blueprint, but as a stimulus for development of an original program design.

Each project should include formats which maximize interaction between the delegates and the speakers/presenters. The program design should provide adequate time for delegates to meet individually with American professionals who have similar interests and specializations. It is preferred, though not essential, that presenters be familiar with issues pertaining to the political process in the participating African countries.

Each two-way exchange program should introduce participants to the responsibilities and skills of various professional staff in conducting the business of a legislature and should highlight the non-partisan nature of their roles.

U.S. Study Tour Phase

The U.S. study tour (approximately 3 weeks) could begin with an introduction to the U.S. Congress and its relationship to the other branches of the national government. However, the program should focus most heavily on one or more state legislatures whose scope and structure offer comparisons relevant to African legislative bodies. Participants would learn about the professional duties of various legislative aides and staff of support organizations including counsels, researchers, analysts, archivists, clerks and administrators.

Participants might also benefit from observing the activities of lawmakers' personal staff who perform functions from constituent services to media relations and committee staff who assist in setting agendas, organizing hearings and drafting legislation. Activities should stress the importance of professionalism in enhancing the long-term institutional viability of the legislature and consider the impact of partisan politics on the professional staff's pursuit of its responsibilities.

Participants also should study a variety of archival materials and their usage in supporting the legislative process and establishing the official record. Activities should help guide efforts to formulate appropriate strategies for handling archival materials in the participants' home countries.

Each program might also study media-related issues and examine liaison mechanisms which facilitate communication between the legislature and the executive branch.

Phase in Africa

It is recommended that the grantee institution organize a series of workshops to be conducted in the participating African countries. The workshops would bring together legislators and legislative staff to develop strategies aimed at strengthening the institutional capabilities of the legislature. This might include creating new staffing patterns, improving communication techniques or revising job responsibilities. The U.S. presenters would examine existing archives and advise participants on developing appropriate archiving systems. In francophone Africa, the U.S. presenters would conduct activities in French.

The themes, objectives and design of the activities in Africa would most likely be based on discussions with participants during the course of the U.S.-based phase and through consultations with E/P and USIS posts.

Each multi-phased exchange program should promote development of institutional linkages designed to advance the study of the legislative process. E/P encourages applicant institutions to consider strategies to facilitate access to information resources focusing on democratic institution building. This material might include reference books, periodicals, bibliographies, handbooks for elected representatives and lists of organizations that could offer assistance.

Program Responsibilities

For each program, the grantee institution's responsibilities include: Selecting speakers, themes and topics for discussion; organizing a coherent progression of activities; orienting and debriefing participants; providing any support materials; providing all travel arrangements, lodging and other logistical arrangements for the African participants, escort interpreters and U.S. presenters who travel to Africa; and overseeing the project on a daily basis to achieve maximum program effectiveness. The grantee institution is responsible for coordinating plans and implementation with E/P, participating USIS posts, and any African co-host institutions.

At the start of each program, the grantee institution will conduct an orientation session for the delegation. At the conclusion, the institution will conduct participant evaluations and submit to E/P a final program report summarizing the entire project and resulting organizational links. To prepare the participants for their U.S. experience, E/P encourages the grantee organization to forward to participants a set of preliminary materials outlining the basic principles of representative government, the role of professional legislative staff and other appropriate background information. E/P will ask African participants to prepare brief outlines describing their own particular interests in these areas. The grantee institution should brief the American presenters on the African delegates' backgrounds, interests and concerns.

Funding

Competition for USIA funding support is keen. Selection of a grantee institution is based on the substantive nature of the program proposal; the applicant's professional capability to carry the program through to a successful conclusion; and cost effectiveness, including in-kind contributions and the ability to keep overhead costs at a minimum. USIA will consider funding up to $160,000 for the francophone program and up to $145,000 for the anglophone program, but organizations with less than four years of successful experience in managing international exchange programs are limited to $60,000, and their budget submission should correspond to this limitation. Any proposal whose funding request to USIA exceeds these limits will be considered technically ineligible. Grant applicants may submit a proposal to manage both the francophone and the anglophone programs, or may submit a proposal to develop only one of these programs. If submitting a proposal for both programs, the applicant should be careful to avoid duplication of costs.

USIA will consider funding the following costs:

1. International and domestic air fares; visas; transit costs (e.g., airport fees); ground transportation costs;

2. Per diem: (A) In the United States: For foreign participants, organizations have the option of using a flat rate of $140/day for U.S. domestic per diem or the published Federal Travel Regulations per diem rates for individual American cities. (Note: Accompanying staff must use the published Federal per diem rates, not the flat rate.)

(B) In Africa:

The maximum per diem allowances for travel in foreign areas, established by the U.S. Department of State, applies to all U.S. presenters.

3. Escort-interpreters: Interpretation for U.S.-based programs is provided by the State Department's Language Services Division. USIA grants do not pay for foreign interpreters to accompany delegations during travel to or from their home country. Grant proposal budgets should contain a flat $140/day per diem rate for each State Department interpreter, as well as home-program-home air transportation of $400 per interpreter and any U.S. travel expenses during the program itself. Salary expenses are covered centrally and are not part of the applicant's budget proposal. Interpreters should only be included in the francophone program. Interpreters are not available for U.S.-based internship activities.

4. Book and cultural allowances: Participants are entitled to a one-time book allowance of $50 plus a cultural allowance of $150 per person during programs taking place in the United States. U.S. staff do not receive these benefits. Escort interpreters are reimbursed for cultural expenses incurred while escorting.

5. Consultants: Consultants may be used to provide specialized expertise or to make presentations. Honoraria generally should not exceed $250/day. Subcontracting organizations may also be used, in which case the written contract(s) should be included in the proposal.

6. Materials development: Proposals may contain costs to purchase, develop and translate materials for participants.

7. Room rentals, which generally should not exceed $250/day.

8. One working meal per project, for which per capita costs may not exceed $15–$20 for a lunch or $20–$30 for a dinner. The ratio of invited guests to project participants may not exceed two to one. These costs include room rental, where applicable.

9. Administrative costs: USIA-funded administrative costs are limited to twenty-two (22%) per cent of the total funds requested from USIA. Administrative costs are defined as salaries, benefits and other direct and indirect costs incurred in the United States (see the Application Package for details). Important note for universities: The USIA Bureau of Educational and Cultural Affairs defines American faculty salaries as an administrative expense, regardless of how the faculty time is to be used.

10. A return travel allowance of $70.00 for each participant which is to be used for incidental expenditures incurred during international travel.

All delegates will be covered under the terms of a USIA-sponsored health

insurance policy. The premium is paid by USIA directly to the insurance company.

Application Requirements

Proposals must be structured in accordance with the instructions contained in the Application Package. Supporting letters from U.S. and/or foreign co-sponsors will enhance a proposal. Because this is a competitive solicitation, representatives of the Office of Citizen Exchange can only respond to technical questions.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the Application Package.

Eligible proposals will be forwarded to panels of USIA officers for advisory review. Proposals will be reviewed by USIS posts and by USIA's Office of African Affairs. Proposals may also be reviewed by the Office of the General Counsel or other Agency offices. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer. The award of any grant is subject to availability of funds.

The U.S. Government reserves the right to reject any or all applications received. USIA will not pay for design and development costs associated with submitting a proposal. Applications are submitted at the risk of the applicant; should circumstances prevent award of a grant, all preparation and submission costs are at the applicant's expense. USIA will not award funds for activities conducted prior to the actual grant award.

Review Criteria

USIA will consider proposals based on the following criteria:

1. Quality of Program Idea

Proposals should exhibit originality, substance, rigor, and relevance to the Agency mission. They should demonstrate the matching of U.S. resources to a clearly defined need.

2. Institutional Reputation and Ability

Applicant institutions should demonstrate their potential for excellence in program design and implementation and/or provide documentation of successful programs. If an applicant is a previous USIA grant recipient, responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts will be considered. Relevant substantive evaluations of previous projects may also be considered in this assessment.

3. Project Personnel

The thematic and logistical expertise of project personnel should be relevant to the proposed program. Resumes or C.V.s should be summaries which are relevant to the specific proposal and no longer than two pages each.

4. Project Planning

A detailed agenda and relevant work plan should demonstrate substantive rigor and logistical capacity.

5. Thematic Expertise

Proposal should demonstrate the organization's expertise in the subject area which promises an effective sharing of information.

6. Cross-Cultural Sensitivity and Area Expertise

Evidence should be provided of sensitivity to historical, linguistic, religious, and other cross-cultural factors, as well as relevant knowledge of the target geographic area/country.

7. Ability to Achieve Program Objectives

Objectives should be realistic and feasible. The proposal should clearly demonstrate how the grantee institution will meet program objectives.

8. Multiplier Effect

Proposed programs should strengthen long-term mutual understanding and contribute to maximum sharing of information and establishment of long-term institutional and individual ties.

9. Cost-Effectiveness

Overhead and direct administrative costs to USIA should be kept as low as possible. All other items proposed for USIA funding should be necessary and appropriate to achieve the program's objectives.

10. Cost-Sharing

Proposals should maximize cost-sharing through other private sector support as well as direct funding contributions and/or in-kind support from the prospective grantee institution and its partners.

11. Follow-on Activities

Proposals should provide a plan for continued exchange activity (without USIA support) which ensures that USIA-supported programs are not isolated events.

12. Project Evaluation

Proposals should include a plan to evaluate the activity's success. USIA recommends that the proposal include a draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives. Grantees will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency which contradicts published language will not be binding.

Issuance of the RFP does not constitute an award commitment on the part of the U.S. Government. Awards cannot be made until funds have been fully appropriated by Congress and allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about July 21, 1993. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: February 26, 1993.

John Garner,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 93–4918 Filed 3–3–93; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Ann Bickoff, Veterans Health Administration (161B3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 535–7407.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before April 5, 1993.

Dated: February 24, 1993.

By direction of the Secretary

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information, Resources, Policies and Oversight.

Reinstatement

1. Agent Orange Registry Code Sheet, VA Form 10–9009.
2. The form is used to gather all the necessary information for entry into the Agency Orange Registry. The information is obtained through a personal interview process during the physical examination.
3. Individuals or households.
4. 3,000 hours.
5. 15 Minutes.
6. Non-recurring.
7. 12,000 respondents.

[FR Doc. 93–4922 Filed 3–3–93; 8:45 am]

BILLING CODE 8320-01-M

Summary of Precedent Opinions of the General Counsel.

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue.

FOR FURTHER INFORMATION CONTACT: Jane L. Lehman, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 523–3826.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 12.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

O.G.C. Precedent Opinion 19–92

Questions Presented

1. In the event of a readjustment in the rating schedule, does section 103 of the Veterans' Benefits Programs Improvement Act of 1991, Public Law No. 102–86, 105 Stat. 414–415 (1991) prohibit any reduction in the evaluation assigned to a service-connected disability unless new medical evidence supports a reduction of the rating under the superseded rating criteria?

2. Does the protection afforded by section 103 extend to minimum ratings that have been eliminated by a readjustment of the rating schedule? This question was illustrated by the following hypothetical situation: A veteran is receiving a minimum 10 percent rating under 38 CFR part 4, Diagnostic Code 7528 for residuals of a malignancy of the genitourinary system. After the minimum rating is eliminated by a readjustment of the rating schedule, the veteran suffers a recurrence of cancer and is assigned a 100 percent evaluation for the allowable period under the new rating criteria. If as a result of treatment the cancer again disappears completely leaving no residuals, may a noncompensable evaluation be assigned under the new rating criteria or must the 10 percent minimum evaluation be assigned under the superseded criteria?

3. Does section 103 permit, in a case where a veteran has a combined disability evaluation, the reduction of individual evaluations by reason of new rating criteria rather than an improvement in the veteran's disability as long as the combined evaluation, and hence, the total monetary benefit is not reduced?

4. In the event of legislative changes to those provisions of 38 U.S.C. 1114 which prescribe the circumstances under which special monthly compensation is payable, would the protection afforded by section 103 extend to veterans who are no longer entitled to payment of special monthly compensation by reason of changed criteria rather than an improvement in their disabilities?

Held

1. Section 103 of the Veterans' Benefits Programs Improvement Act of 1991, Public Law No. 102–86, 105 Stat. 414–415 (1991) requires that when evaluating service-connected disabilities, adjudicators consider both the old and the new rating criteria and apply the new criteria when an improvement in a disability sufficient to warrant a reduction under the old criteria occurs.

2. The protection afforded by section 103 of the Veterans' Benefits Programs Improvement Act of 1991, Public Law No. 102–86, 105 Stat. 414–415 (1991) applies only to ratings in effect when an adjustment in the rating schedule occurs. Hence, if a veteran is receiving a minimum 10 percent rating under 38 CFR part 4, Diagnostic Code 7528 for residuals of a malignancy of the genitourinary system when the minimum rating is eliminated by a readjustment of the rating schedule and he or she subsequently suffers a recurrence of cancer and is assigned a 100 percent evaluation for the allowable period under the new rating criteria, should the cancer again disappear completely leaving no residuals, a noncompensable evaluation under the new rating criteria should be assigned.

3. Even if a combined evaluation, and hence, the total monetary benefit payable for all service-connected disabilities is not reduced, section 103 of the Veterans' Benefits Programs Improvement Act of 1991, Public Law No. 102–86, 105 Stat. 414–415 (1991) does not authorize the reduction of individual disability ratings under new rating criteria in the absence of evidence of improvement in a veteran's disability.

4. In the event of legislative changes to those provisions of 38 U.S.C. 1114 which prescribe the circumstances under which special monthly compensation is payable, the language and, if necessary, the legislative history of such legislative changes will determine whether Congress intends to

preclude reductions in the rates of special monthly compensation solely by reason of the changed criteria.

Effective date: September 29, 1992.

O.G.C. Precedent Opinion 20–92

Questions Presented

a. Is the clothing allowance authorized by 38 U.S.C. 1162 subject to the provisions of 38 U.S.C. 5313, which limit the payment of certain benefits to veterans incarcerated for conviction of a felony?

b. If not, would the Secretary have other authority to similarly limit payment of the clothing allowance to incarcerated veterans?

Held

Section 5313 of title 38 U.S. Code, which operates to restrict entitlement to disability and death compensation and dependency and indemnity compensation, does not restrict entitlement to the clothing allowance payable under 38 U.S.C. 1162, and VA is not otherwise authorized to restrict entitlement to the clothing allowance on the basis of incarceration.

Effective date: October 13, 1992.

O.G.C. Precedent Opinion 21–92

Question Presented

Is the burial allowance authorized by 38 U.S.C. 2302 payable on behalf of an incompetent veteran whose compensation payments were in suspension at the time of the veteran's death pursuant to section 8001 of the Omnibus Budget Reconciliation Act of 1990, Public Law No. 101–508, 104 Stat. 1388, 1388–341, because the value of his or her estate exceeded $25,000?

Held

A veteran whose compensation payments were in suspension at the time of his or her death pursuant to section 8001 of the Omnibus Budget Reconciliation Act of 1990, Public Law No. 101–508, 104 Stat. 1388, 1388–341 (1990), which generally prohibits payment of compensation to an incompetent veteran having no spouse, child, or dependent parent and having an estate in excess of $25,000 (exclusive of the value of the veteran's home), was not in receipt of compensation for purposes of determining eligibility for the burial allowance authorized by 38 U.S.C. 2302.

Effective date: October 13, 1992.

O.G.C. Precedent Opinion 22–92

Question Presented

Does 38 U.S.C. 5122 require payment of amounts represented by uncashed VA benefit checks to the estate of a deceased beneficiary?

Held

Upon death of a veteran who has received but not negotiated VA benefit checks, VA is authorized under 38 U.S.C. 5122 to make payment of the amount represented by the checks to the classes of persons designated in 38 U.S.C. 5121(a), generally, the surviving spouse, child, or dependent parent, or the person bearing the expense of the veteran's last sickness and burial. Under section 5122, any sum not paid in that manner is to be distributed to the estate of the payee after settlement by the General Accounting Office, provided that the amount to be distributed will not escheat.

Effective date: November 4, 1992.

O.G.C. Precedent Opinion 23–92

Question Presented

Is payment of the greater aid-and-attendance allowance, provided under 38 U.S.C. 1114(r)(2) for veterans in need of a higher level of care, authorized where a veteran is receiving residential or nursing-home care in an institution at the veteran's own expense?

Held

The greater aid-and-attendance allowance, provided under 38 U.S.C. 1114(r)(2) for veterans in need of a higher level of care, may be paid where an otherwise eligible veteran is receiving residential or nursing-home care in an institution at the veteran's own expense.

Effective date: November 12, 1992.

O.G.C. Precedent Opinion 24–92

Question Presented

May discount points paid by the veteran on an interest-rate-reduction refinancing loan (IRRRL) be included in the loan amount if the Secretary elects to permit negotiated interest rates pursuant to 38 U.S.C. 3703(c)(4)(A)(i)?

Held

Veterans may not finance discount points on VA guaranteed interest-rate-reduction refinancing loans so long as the interest rate on VA loans is negotiated between the veteran and the lender pursuant to 38 U.S.C. 3703(c)(4)(A)(i).

Effective date: November 19, 1992.

O.G.C. Precedent Opinion 25–92

Question Presented

Does the increase in the maximum amount of Servicemen's Group Life Insurance (SGLI) from $50,000 to $100,000 provided by section 336 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Public Law No. 102–25, 105 Stat. 75 (Act), which became effective on April 6, 1991, apply to all SGLI insureds who died on or after the effective date of the Act regardless of the date of separation or release from military service?

Held

The language of section 336(c) of Public Law 102–25 is clear on its face that the increase in maximum SGLI benefits should apply to "deaths on or after the date of enactment" of the Act. The legislative history of Public Law 102–25 does not indicate the Congress intended to limit the higher coverage to those members separated or released on or after April 6, 1991. We conclude, therefore, that the increase in SGLI benefits applies to deaths of SGLI insureds which occurred on or after April 6, 1991, the date of enactment of Public Law 102–25.

Effective date: November 16, 1992.

O.G.C. Precedent Opinion 26–92

Questions Presented

1. Would the filing of a motion for reconsideration with the Court of Veterans Appeals (CVA) stay the precedential effect of the court's decision in *Fluharty* v. *Derwinski*, U.S. Vet. App. No. 90–676 (April 3, 1992), as to other cases? That is, if a motion for reconsideration is filed, would the Board of Veterans' Appeals (BVA) be bound to apply the reasoning in *Fluharty* to cases currently under active consideration pending the court's ruling on the motion for reconsideration?

2. Is the court's statement concerning the applicability of *Manio* v. *Derwinski*, 1 Vet. App. 140 (1991), and *Colvin* v. *Derwinski*, 1 Vet. App. 171 (1991), to claims for increased ratings and total ratings determinative of the court's holding in *Fluharty*, or is it dicta? That is, is the Board required to apply 38 U.S.C. 5108 to cases involving claims for increased and total ratings on the basis of *Fluharty*?

Held

1. The filing of a motion for reconsideration with the Court of Veterans Appeals does not stay the precedential effect of the court's decision as to other cases. Therefore, BVA is bound to apply the court's decision in similar cases pending the court's ruling on the motion for reconsideration if it chooses to adjudicate such cases before the court rules on the motion.

2. The court's statement, applying *Manio* and *Colvin* in *Fluharty*, is not

dicta. However, the parameters of its statement in this regard, and thus its precedential effect, are far from clear. In *Frank Proscelle* v. *Derwinski*, 2 Vet. App. 629 (1992), the court subsequently ruled that section 5108 does not apply to claims that disability has increased. Moreover, because in *Fluharty* CVA gave no explanation or reason for section 5108's application to individual unemployability cases, its remaining application to even those cases is uncertain. Under the circumstances, we do not believe VA is bound to apply section 5108 to any claims for increased rating, although we cannot predict with certainty how CVA will view the matter.

Effective date: December 9, 1992.

O.G.C. Precedent Opinion 27–92

Questions Presented

a. Whether the attorney-fee agreement ultimately filed in this case is legally sufficient to require the Department of Veterans Affairs (VA) to make payment out of past-due benefits?

b. If the fee agreement is sufficient, is VA legally obligated to pay the fee directly to the attorney when no past-due benefits are payable due to the fact that VA has already paid the complete amount of past-due benefits to the claimant?

Held

a. It would be improper for the General Counsel to rule on the sufficiency of a particular attorney-fee agreement under 38 U.S.C. 5904(c) since, as provided therein, Congress authorized the Board of Veterans' Appeals (BVA) to review fee agreements and, under 38 U.S.C. 7263(d), vested the Court of Veterans Appeals (CVA) with the authority to review BVA determinations regarding attorneys' fees. The General Counsel's role in such matters is properly limited to advising BVA on matters of legal interpretation.

b. The United States is immune from claims for attorneys' fees absent a waiver of sovereign immunity. The statute which authorizes the Secretary to pay attorney fees out of past-due benefits does not waive sovereign immunity, and expressly prohibits the withholding of benefits payable after the date of the decision awarding past-due benefits for the purpose of paying attorney fees. Accordingly, VA has no legal authority to pay attorney fees when payment of the complete amount of past-due benefits has been made to the claimant.

Effective: December 9, 1992.

C. Precedent Opinion 28–92

Question Presented

Whether the term, "pay grade," as used in the determination of the veteran's pay grade under 38 U.S.C. 1302(b)(1), includes the higher grade of a veteran in a reserve component, where the military service department has certified that the veteran held both the rank of "staff sergeant" on active duty and "major" in a reserve component when the veteran was released from active duty under conditions other than dishonorable?

Held

The term, "pay grade," as used for purposes of determining the veteran's pay grade under 38 U.S.C. 1302(b)(1), does not include the higher grade of a veteran in a reserve component, where the military service department has certified that the veteran held both the rank of "staff sergeant" on active duty and "major" in a reserve component when the veteran was released from active duty under conditions other than dishonorable.

Effective date: December 23, 1992.

By direction of the Secretary.

Robert E. Coy,

Acting General Counsel.

[FR Doc. 93–4959 Filed 3–3–93; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 41
Thursday, March 4, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, March 5, 1993.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–5031 Filed 3–2–93; 10:42 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, March 12, 1993.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–5032 Filed 3–2–93; 10:42 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, March 19, 1993.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–5033 Filed 3–2–93; 10:42 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, March 26, 1993.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–5034 Filed 3–2–93; 8:45 am]

BILLING CODE 6351–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 10:06 a.m. on Tuesday, March 2, 1993, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Reports of the Office of Inspector General.

Recommendation concerning administrative enforcement proceedings.

Application for consent to convert deposits from the Bank Insurance Fund to the Savings Association Insurance Fund.

Request for a waiver of the cross-guaranty provisions of the Federal Deposit Insurance Act.

Matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director Stephen R. Steinbrink (Acting Comptroller of the Currency), seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: March 2, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–5181 Filed 3–2–93; 3:33 pm]

BILLING CODE 6714–5–M

FEDERAL ELECTION COMMISSION

FEDERAL REGISTER NUMBER: 93–4560.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, March 4, 1993, 10:00 a.m. meeting open to the public.

THE FOLLOWING ITEMS WERE ADDED TO THE AGENDA:

Advisory Opinion 1993–2: Mr. Robert F. Bauer on behalf of the Democratic Senatorial Campaign Committee. (Continued from the meeting of February 25, 1993).

Voting Age Population (VAP) Figures for the 1993 Texas Senate Special Election. (Continued from the meeting of February 25, 1993).

DATE AND TIME: Tuesday, March 9, 1993 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, March 11, 1993 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This Meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes
Title 26 Certification Matters
Request for Public Hearing Ex Parte Rules
Status of Regulations Projects
Report from FEC Data Division
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 93–5173 Filed 3–2–93; 3:18 pm]

BILLING CODE 6715–01–M

Federal Register

Thursday
March 4, 1993

Part II

Environmental Protection Agency

40 CFR Part 435
Oil and Gas Extraction Point Source Category; Offshore Subcategory Effluent Guidelines and New Source Performance Standards; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 435

[FRL-4537-1]

RIN 2040-AA12

Oil and Gas Extraction Point Source Category; Offshore Subcategory Effluent Limitations Guidelines and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes effluent limitations guidelines and new source performance standards limiting the discharge of pollutants to waters of the United States from the offshore subcategory of the oil and gas extraction point source category. This rule is promulgated under authority granted to EPA by the Clean Water Act and is required by consent decree in *NRDC* v. *Reilly*, D. D.C. No. 79-3442 (JHP).

The regulation establishes effluent limitations guidelines attainable by the application of the "best available technology economically achievable" (BAT) and "best conventional pollutant control technology" (BCT), and establishes "new source performance standards" (NSPS) attainable by the application of the "best available demonstrated technology." The existing effluent limitations guidelines based on the achievement of the "best practicable control technology currently available" (BPT) are not being changed by this regulation. Since offshore oil and gas facilities currently do not discharge into publicly owned treatment works (POTWs), pretreatment standards are not included in this regulation.

DATES: The regulation shall become effective April 5, 1993.

The compliance date for NSPS is the date the new source begins operation. Deadlines for compliance with BCT and BAT are established in NPDES permits.

In accordance with 40 CFR part 23, this regulation shall be considered issued for the purposes of judicial review at 1 p.m. Eastern time on March 18, 1993. Under section 509(b)(1) of the Clean Water Act, judicial review of this regulation can be had only by filing a petition for review in the United States Court of Appeals within 120 days after the regulation is considered issued for purposes of judicial review. Under section 509(b)(2) of the Clean Water Act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 5, 1993.

ADDRESSES: For additional technical information contact Mr. Ronald P. Jordan, Office of Water, Engineering and Analysis Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460, (202) 260-7115. For additional information on the economic or regulatory impact analyses contact Dr. Mahesh Podar at the above address or by calling (202) 260-5387.

The complete public record for this rulemaking, including EPA's responses to comments received during rulemaking, is available for review at EPA's Water Docket; 401 M Street, SW., Washington, DC, 20460. For access to Docket materials, call (202) 260-3027 between 9 a.m. and 3:30 p.m. for an appointment. The EPA public information regulation (40 CFR part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ronald P. Jordan at (202) 260-7115.

SUPPLEMENTARY INFORMATION:

Overview

This preamble describes the legal authority, background, technical and economic basis, and other aspects of the final regulation. The abbreviations, acronyms, and other terms used in this rule are defined in appendix A to the preamble of this rule.

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Appendix A—Abbreviations, Acronyms, and Other Terms Used in This Notice

I. Scope of This Rulemaking

This final regulation establishes effluent limitations guidelines and standards of performance for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category under sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (The Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987), 33 U.S.C. 1311, 1314 (b), (c), and (e), 1316, 1317, 1318 and 1361; 86 Stat. 816, Public Law 92–500; 91 Stat. 1567, Public Law 95–217; 101 Stat. 7, Public Law 100–4 ("the Act" or "CWA"). This regulation is also established in response to a Consent Decree entered on April 5, 1990 (subsequently modified on May 28, 1992) in *NRDC* v. *Reilly*, D. D.C. No. 79–3442 (JHP) and is consistent with EPA's Effluent Guidelines Plan under section 304(m) of the CWA (September 8, 1992, 57 FR 41000). This regulation is referred to as the offshore guidelines throughout this preamble.

This regulation applies to discharges from offshore oil and gas extraction facilities, including exploration, development and production operations, that are seaward of the inner boundary of the territorial seas. The inner boundary of the territorial seas is defined in section 502(8) of the CWA as "the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters" (hereafter referred to as "shore"). The processes and operations which comprise the offshore oil and gas extraction subcategory (Standard Industrial Classification (SIC) Major Group 13), are currently regulated under 40 CFR part 435, subpart A. The existing effluent limitations guidelines, which were issued on April 13, 1979 (44 FR 22069), are based on the achievement of best practicable control technology currently available (BPT).

In general, BPT represents the average of the best existing performances of well known technologies and techniques for control of pollutants. BPT for the offshore subcategory limits the discharge of oil and grease in produced water to a daily maximum of 72 mg/l and a thirty day average of 48 mg/l; prohibits the discharge of free oil in deck drainage, drilling fluids, drill cuttings, and well treatment fluids; and, for sanitary wastes, requires a minimum residual chlorine content of 1 mg/l and prohibits the discharge of floating solids. BPT limitations are not being changed by this rule.

This rule establishes regulations based on best available technology economically achievable (BAT) that will result in reasonable progress toward the goal of the CWA to eliminate the discharge of all pollutants. At a minimum, BAT represents the best economically achievable performance in the industrial category or subcategory. This rule also establishes requirements based on best conventional pollutant control technology (BCT) and establishes new source performance standards (NSPS) based on the best demonstrated control technology.

Under this rule, EPA is establishing BCT, BAT and NSPS limitations prohibiting the discharge of drilling fluids and drill cuttings from wells located within three miles from shore (the inner boundary of the territorial seas). For wells located more than three miles from shore, BAT and NSPS: (1) Limit toxicity at 30,000 ppm in the suspended particulate phase; (2) limit cadmium and mercury at 3 mg/kg and 1 mg/kg, respectively, in stock barite (on a dry weight basis); (3) prohibit the discharge of diesel oil; and (4) prohibit the discharge of free oil with compliance determined by the static sheen test. BCT is limited to the control of conventional pollutants, and in this rule prohibits discharges of free oil beyond three miles from shore. All wells drilled off the Alaskan coast are excluded from the zero discharge limitation; instead, all discharges of drilling fluids and drill cuttings off Alaska must comply with the limitations on toxicity, cadmium, mercury, free oil, and diesel oil regardless of distance from shore.

Under BAT and NSPS, the discharge of oil and grease in produced water will be limited to a maximum for any one day (referred to as daily maximum) of 42 mg/l and an average of daily values for 30 consecutive days (referred to as monthly average) of 29 mg/l based on improved operating performance of gas flotation technology. BCT for produced water is being established equal to the current BPT limitations on oil and grease.

Discharges of produced sand are prohibited under BCT, BAT and NSPS. BCT, BAT and NSPS limitations for deck drainage are being set equal to the current BPT limitations prohibiting discharges of free oil. Compliance with the no discharge of free oil limit for deck drainage is to be determined by the visual sheen test.

For treatment, completion and workover fluids, the rule establishes BAT and NSPS limiting the discharge of oil and grease at a daily maximum of 42 mg/l and a monthly average of 29 mg/l. BCT for well treatment, completion and workover fluids is being set equal to the BPT prohibition on discharges of free oil (compliance by static sheen).

EPA is promulgating limitations on domestic wastes which prohibit the discharge of foam (under BAT and NSPS) and floating solids (under BCT and NSPS), and incorporate U.S. Coast Guard regulations (under BCT and NSPS) prohibiting discharges of garbage as required at 33 CFR part 151. For sanitary wastes, EPA is promulgating BCT and NSPS limitations equal to BPT limitations on floating solids and residual chlorine. EPA is not establishing BAT for sanitary wastes because no toxic or nonconventional pollutants of concern have been identified in these wastes.

II. Legal Authority and Background

This regulation is promulgated under the authority of sections 301, 304 (b), (c), and (e), 306, 307, 308, and 501 of the CWA.

The CWA establishes a comprehensive program to "restore and

maintain the chemical, physical, and biological integrity of the Nation's waters" (CWA section 101(a)). To implement the Act, EPA is to issue technology-based effluent limitations guidelines, new source performance standards and pretreatment standards for industrial dischargers. The levels of control associated with these effluent limitations guidelines and the new source performance standards for direct dischargers are summarized briefly below. Since no offshore facilities currently discharge into publicly-owned treatment works (POTWs), pretreatment standards are not included in this rule and are reserved.

A Consent Decree that was entered on April 5, 1990 (*NRDC* v. *Reilly*, D.D.C. No. 79-3442), required EPA to propose or repropose BAT and BCT effluent limitations guidelines and new source performance standards for produced water, drilling fluids and drill cuttings, well treatment fluids, and produced sand by November 16, 1990. The 1990 Consent Decree required EPA to promulgate final guidelines and standards for these wastestreams by June 19, 1992. Also, EPA was required to determine by November 16, 1990 whether effluent limitations guidelines and new source performance standards covering deck drainage and domestic and sanitary wastes were appropriate. If EPA determined that deck drainage and domestic and sanitary wastes should be regulated, then final effluent guidelines and standards covering these waste streams were to be promulgated by June 30, 1993. On May 28, 1992, the Court modified the Consent Decree to extend the date for promulgation of final effluent guidelines and standards for produced water, drilling fluids and drill cuttings, well treatment fluids, and produced sand from June 19, 1992 to January 15, 1993. EPA has determined that rules for deck drainage, domestic wastes, and sanitary wastes are appropriate and is promulgating limits for these wastestreams in this rule.

A. Best Practicable Control Technology Currently Available (BPT)

BPT limitations are generally based on the average of the best existing performance by plants of various sizes, ages, and unit processes within the point source category or subcategory.

In establishing BPT limitations, EPA considers the total cost in relation to the age of equipment and facilities involved, the processes employed, process changes required, engineering aspects of the control technologies and non-water quality environmental impacts (including energy requirements). The total cost of applying the technology is considered in relation to the effluent reduction benefits.

B. Best Available Technology Economically Achievable (BAT)

BAT limitations, in general, represent the best existing performance in the industrial subcategory or category. The Act establishes BAT as a principal national means of controlling the direct discharge of toxic and nonconventional pollutants. In arriving at BAT, EPA considers the age of the equipment and facilities involved, the process employed, the engineering aspects of the control technologies, process changes, the costs and economic impact of achieving such effluent reduction, non-water quality environmental impacts, and such other factors as the Administrator of EPA deems appropriate. EPA retains considerable discretion in assigning the weight to be accorded these factors.

C. Best Conventional Pollutant Control Technology (BCT)

The 1977 Amendments added section 301(b)(2)(E) to the Act establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Section 304(a)(4) of the Act designated the following as conventional pollutants: biochemical oxygen demand (BOD), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as an additional conventional pollutant on July 30, 1979 (44 FR 44501).

BCT is not an additional limitation, but replaces BAT for the control of conventional pollutants. In addition to other factors specified in section 304(b)(4)(B), the Act requires that BCT limitations be established in light of a two part "cost-reasonableness" test. *American Paper Institute* v. *EPA*, 660 F.2d 954 (4th Cir. 1981). EPA first published its methodology for carrying out the BCT analysis on August 19, 1979 (44 FR 50372).

A revised methodology for the general development of BCT limitations was proposed on October 29, 1982 (47 FR 49176), and became effective on August 22, 1986 (51 FR 24974; July 9, 1986).

D. New Source Performance Standards (NSPS)

NSPS are based on the best available demonstrated technology. New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-process control and treatment technologies that reduce pollution to the maximum extent feasible. In addition, in establishing NSPS, EPA is required to take into consideration the cost of achieving the effluent reduction and any non-water quality environmental impacts and energy requirements.

III. Overview of the Industry

A. Exploration, Development, and Production

Exploration and development activities for the extraction of oil and gas include work necessary to locate and drill wells. Exploration activities are those operations involving the drilling of wells to determine the potential hydrocarbon reserves. Exploratory activities are usually of short duration at a given site, involve a small number of wells, and are generally conducted from mobile drilling units. Development activities involve the drilling of production wells once a hydrocarbon reserve has been discovered and delineated. These operations, in contrast to exploration activities, usually involve a large number of wells which may be drilled from either fixed or floating platforms or mobile drilling units. Production operations include all work necessary to bring hydrocarbon reserves from the producing formation and begin with the completion of each well at the end of the development phase.

B. New and Existing Sources

1. New Source Definition

The Offshore Guidelines apply to all mobile and fixed drilling (exploratory and development) and production operations. Because many oil and gas facilities are mobile (particularly exploratory and development rigs), rather than stationary facilities that are typically covered by new source performance standards (NSPS), EPA's 1985 proposal discussed at length the question of which of these facilities should be considered new sources and which should be considered existing sources under these Guidelines. 50 FR 34617–34619 (Aug. 26, 1985).

As discussed in that proposal, provisions in the NPDES regulations define "new source" (40 CFR 122.2) and establish criteria for a new source determination. (40 CFR 122.29(b)). In the 1985 proposed Offshore Guidelines, (50 FR 34592, 34617–19, Aug. 26, 1985). EPA proposed special definitions applicable to new sources in the offshore subcategory which are consistent with 40 CFR 122.29 and

which provide that 40 CFR 122.2 and 122.29(b) shall apply "Except as otherwise provided in an applicable new source performance standard." See 49 FR 38046 (Sept. 26, 1984).

Section 306(a)(2) of the CWA defines "new source" to mean "any source, the construction of which is commenced after publication of the proposed NSPS if such standards are promulgated consistent with section 306." The Act defines "source" to mean any "facility * * * from which there is or may be a discharge of pollutants" and "construction" to mean "any placement, assembly, or installation of facilities or equipment * * * at the premises where such equipment will be used."

The regulations at 40 CFR 122.2 implementing this provision state in part:

"*New Source* means any building, structure, facility, or installation from which there is or may be a 'discharge of pollutants,' the construction of which is commenced:

(a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or

(b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal."

The regulations at 40 CFR 122.29(b)(4) state:

"(4) Construction of a new source as defined under 40 CFR 122.2 has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous on-site construction program:

(A) Any placement assembly, or installation of facilities or equipment; or

(B) *Significant site preparation work* including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation with a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility engineering, and design studies do not constitute a contractual obligation under the paragraph." (emphasis added).

EPA has developed an interpretation of "new source" that will apply to the offshore subcategory that the Agency believes is reasonable and effectuates the intent of the CWA and EPA's regulations defining new sources generally. In the final rule, EPA intends to follow the approach first proposed in 1985, in which EPA proposed to define, for purposes of the Offshore Guidelines, "significant site preparation work" as "the process of clearing and preparing an area of the ocean floor *for purposes of constructing or placing a development or production facility on or over the site.*" (emphasis added). Thus, development and production facilities at a new site would be new sources under the Offshore Guidelines. Further, with regard to 40 CFR 122.29(b)(4)(ii), EPA stated that although it was not "proposing a special definition of this provision believing it should appropriately be a decision for the permit writer," EPA suggested that the definition of new source include development or production facilities even if the discharger entered into a contract for purchase of facilities or equipment prior to publication, if no specific site was specified in the contract. Conversely, EPA suggested that the definition of new source exclude development or production facilities if the discharger entered into a contract prior to publication and a specific site was specified in the contract. In the final rule, EPA also intends to follow this approach.

As a consequence of the proposed definition of "significant site preparation work," if "clearing or preparation of an area for development or production has occurred at a site prior to the publication of the NSPS, then subsequent development and production activities at that site would not be considered a new source." (See 50 FR 34618) Also, exploration activities at a site would not be considered significant site preparation work; therefore, exploratory wells would not be new sources in any circumstance. (50 FR 34618) Exploration operations are short term, typically lasting only three to six months (as weather and climate and drilling conditions allow), while development and production operations occur over a much longer timeframe. The Agency does not consider exploratory activities to be "significant site preparation work" because such activities are not necessarily followed by development or production activity at a site. Even when exploratory drilling leads to development and production activities, the latter may not be commenced for months or years after the exploratory drilling is completed. The purpose of distinguishing between exploratory drilling and significant site preparation for production and development operations is to "grandfather" as an existing source any source if "significant site preparation work," * * * "evidencing an intent to establish full scale [development or production] operations at a site, had been performed prior to NSPS becoming effective." (50 FR 34618) At the same time, if only exploratory drilling had occurred prior to NSPS becoming effective, then subsequent drilling and production activities would make the facility a new source.

EPA also proposed a special definition for "site" in the phrase "significant site preparation work" used in 40 CFR 122.2 and 40 CFR 122.29(b). "Site" is defined in 40 CFR 122.2 as "the land or water area where any 'facility or activity' is physically located or conducted, including adjacent land used in connection with the facility or activity." EPA proposed that the term "water area" mean the "specific geographical location where the exploration, development, or production activity is conducted, including the water column and ocean floor beneath such activities. Therefore, if a new platform is built at or moved from a different location, it will be considered a new source when placed at the new site where its oil and gas activities take place. Even if the platform is placed adjacent to an existing platform, the new platform will still be considered a 'new source,' occupying a new 'water area' and therefore a new site." [50 FR 34618 (Aug. 26, 1985)].

As a consequence of these distinctions, exploratory facilities would always be existing sources. Production and development facilities where significant site preparation has occurred prior to the effective date of the Offshore Guidelines would also be existing sources. These same production and development facilities, however, would become "new sources" under the proposed regulatory definition if they moved to a new water area to commence production or development activities. The proposed definition, however, presents a problem because even though these facilities would be "new sources" subject to NSPS, they could not be covered by an NPDES permit in the period immediately following the issuance of these regulations. This is because no existing permits could have included NSPS until NSPS were promulgated.

To resolve this problem, the final rule temporarily excludes from the definition of "new source" (pending EPA's issuance of appropriate permits covering these facilities) new development and production facilities that would otherwise be "new sources" if, as of the effective date of the Offshore Guidelines, the facilities are subject to an existing NPDES permit. EPA believes this approach is reasonable because when Congress enacted section 306 of the CWA it did not specifically address

mobile activities of the sort common in this industry, as distinguished from activities at stationary facilities on land that had not yet been constructed prior to the effective date of applicable NSPS. Moreover, EPA believes that Congress did not intend that the promulgation of NSPS would result in stopping all oil and gas activities which would have been authorized under existing NPDES permits as soon as the NSPS are promulgated.

While the situation of mobile oil and gas facilities is rather unique, EPA faced a similar issue in its effluent limitations guidelines for the placer mining industry. Placer mines are also mobile, generally moving downstream or upstream. In that effluent guideline, 40 CFR 440.144(c), EPA set forth a number of factors that the Regional Administrator or Director of a state program with authority to administer the NPDES program should take into account in making a case-by-case determination of whether a placer mine constitutes a "new source." Three of these factors relate to whether the mine would operate in an area which is covered by a valid NPDES permit. (Another factor was whether the mine significantly alters the quantity or nature of pollutants discharged.) The United States Court of Appeals for the Ninth Circuit upheld this approach. "We find that the criteria set forth on what is a new-source placer mine are within the ambit of authority which Congress gave the EPA in the Clean Water Act and cannot be considered arbitrary or capricious." *Rybachek* v. *U.S. E.P.A.*, 904 F.2d 1276, 1293 (9th Cir. 1990).

Now that NSPS are promulgated, EPA will apply NSPS to appropriate facilities (i.e., those where there is significant site preparation work for development or production after promulgation of NSPS) within the Offshore Subcategory. EPA notes that BAT limitations are equal to NSPS in this rule. EPA intends to issue new source NPDES permits covering production and development facilities as soon as possible.

2. Industry Profile

Existing Platforms (BAT/BCT): EPA's industry profile estimates include structures that would incur costs under this rule. The estimate of existing structures includes only those platforms (1) in production, (2) with specific products (i.e., oil, gas, or both), (3) with a specific number of wells drilled or in production, (4) discharging, and (5) in the offshore subcategory. Two major sources of data were used to develop a profile of offshore oil and gas activities in the Gulf of Mexico (GOM). In the March 1991 proposal, EPA used the "Minerals Management Service (MMS) Platform Inspection System, Complex/Structure Data Base" to estimate the number of structures in the federal waters of the Gulf of Mexico that are likely to bear compliance costs under this rule. This estimate of 2,233 existing structures in the Gulf of Mexico (GOM) federal waters remains unchanged. A limitation of the March 1991 profile was that it lacked sufficient data regarding activities in state waters of the GOM. To fill this data gap and in response to comments received, EPA conducted a mapping effort to identify structures in production in state waters. Using maps and electronic data, EPA (1) identified wells whose well-head location lay seaward of the baseline that separates the coastal and offshore subcategories; (2) identified wells belonging to common platforms; and (3) verified which wells were still in production. As a result of this effort to update the industry profile, an additional 284 structures were identified in GOM state waters. For the Pacific, 32 structures are included in the BAT/BCT count of existing structures. There are no structures in the Atlantic at this time. Structures off Alaska in Cook Inlet are in the coastal subcategory and are not affected by this rulemaking. Currently, there is only one existing facility in Alaskan waters that is seaward of the inner boundary of the territorial seas. This facility is already required by State requirements to reinject produced water and incremental compliance costs associated with this rule are minimal. No existing Alaskan structures are projected to incur significant incremental compliance costs under this rule. A total of 2,549 offshore structures is used in the BAT/BCT economic impact analysis.

Future Drilling Projections (BAT/BCT and NSPS): Offshore drilling efforts vary from year to year depending on such factors as the price and supply of oil, the amount of state and federal leasing, and reservoir discoveries. EPA estimates future drilling activity averaging 759 wells per year during the 15-year period, from 1993–2007, after promulgation of this regulation. Estimated activity in the Gulf of Mexico and Alaska are based on MMS 30-year regionalized forecasts with an average barrel of oil equivalent (BOE) price of $21/bbl (1986 dollars) for the 15-year period. The drilling projections presented in the 1991 proposal for the Gulf of Mexico and Alaska were based on a 1986–2000 time frame. Moving the starting year forward for the 15-year period, from 1986 to 1993, resulted in about a three percent change in the number of wells from the original set of projections (i.e., slightly higher if based on the year 1990, slightly lower for projections beginning in 1993). Because the projection of estimated future activity does not change significantly by starting in 1992 rather than in 1986, EPA is using its projections beginning in 1986. Recent Presidential moratoria have prevented offshore activities in certain areas in the Eastern Gulf of Mexico, but this is not expected to cause a significant change in the regional estimate of future activity.

Recent moratoria and restricted leasing in the Pacific constrain drilling estimates to the level of activity associated with drilling on installed structures and existing leases. Due to the Presidential decision to cancel lease sale 96 (Georges Bank region in the North Atlantic) and strictly limit any activity in this planning area until after the year 2000, no activity is projected for the Atlantic during the 1986–2000 time period. (EPA is aware of one site off the coast of North Carolina where an operator has expressed interest in drilling.) EPA anticipates that these restrictions will remain applicable until after the year 2007. This set of projections corresponds to the "restricted" or "constrained" well forecast presented in the March 1991 proposal.

The projection of 759 wells drilled per year includes all new well—productive, non-productive (dry holes), exploratory, and development. The new well projections therefore include both BAT and NSPS wells. As explained above, BAT wells encompass exploratory wells in addition to development and production wells for which significant site preparation takes place prior to promulgation of the regulation. NSPS wells are drilled on platforms where significant site preparation and installation take place after promulgation of the regulation. Table 1 is a summary of the BAT and NSPS wells by region. Approximately one-third of the new wells may be considered existing sources. (The actual percentage of wells classified as existing sources will vary in time. Most will be exploratory efforts. The number of new wells drilled on existing platforms will decrease in time as those platforms complete their drilling programs. The numbers given in Table 1 reflect the annual average number of wells during the 15-year period following promulgation of the regulation.)

TABLE 1.—AVERAGE ANNUAL NEW WELL DRILLING
[wells/year]

Region	Existing sources (BAT)	New sources (NSPS)	Total
Gulf	215	500	715
Pacific	32	0	32
Alaska	3	9	12
Total	250	509	759

New Platforms: Platform projections were made based on the number of productive wells. An estimated total of 759 platforms will be installed during the 15-year period after promulgation of the regulation. The fact that the estimated average annual number of wells (759) is the same as the total number of platforms (759) installed during the 15-year period is coincidental.

C. Waste Streams

The primary wastewater sources from the exploration and development phases of the offshore oil and gas extraction industry include the following:

- Drilling fluids.
- Drill cuttings.
- Sanitary wastes.
- Deck drainage.
- Domestic wastes.

The primary wastewater sources from the production phase of the industry include the following:

- Produced water.
- Produced sand.
- Sanitary wastes.
- Deck drainage.
- Domestic wastes.
- Well treatment, completion and workover fluids.

Drilling fluids (typically termed muds) and drill cuttings are the most significant waste streams from exploratory and development operations in terms both of volume and toxic pollutants. Produced water is the largest waste stream from production activities based on its volume of discharge and quantity of pollutants. Deck drainage, sanitary wastes, domestic wastes, produced sand, and well treatment, completion, and workover fluids are often classified under the term miscellaneous wastes.

Drilling fluids are any fluid sent down the drillhole to aid the drilling process. This includes those materials used to maintain hydrostatic pressure control in the well, lubricate the drill bit, remove drill cuttings from the well, and stabilize the walls of the well during drilling or workover operations. A water-based drilling fluid is the conventional drilling system in which water is the continuous phase. Drill cuttings are the solids generated by drilling into subsurface geologic formations and are carried to the surface by the drilling fluid system.

Produced water is brought up from the hydrocarbon-bearing strata along with produced oil and gas. This waste stream can include formation water, injection water, and any chemicals (including well treatment, completion or workover fluids) added downhole or during the oil/water separation process.

Deck drainage includes all wastewater resulting from platform washings, deck washings, rainwater, and runoff from curbs, gutters, and drains including drip pans and work areas.

Well treatment fluids are fluids that resurface from acidizing and/or hydraulic fracturing operations to improve hydrocarbon recovery. Workover fluids and completion fluids are low solids fluids used to prepare a well for production, provide hydrostatic control, and/or prevent formation damage.

Produced sand consists of the slurried particles which surface from hydraulic fracturing and the accumulated formation sands and other particles (including scale) generated during production. This waste stream also includes sludges generated in the produced water treatment system, such as tank bottoms from oil/water separators and solids removed in filtration.

Sanitary wastes originate from toilets. Domestic wastes originate from sinks, showers, laundries, and galleys.

EPA presented detailed discussions of the origins and characteristics of the wastewater effluents from exploration, development, and production in the March 13, 1991 proposal. EPA generally focused data gathering efforts and data analyses on drilling fluids, drill cuttings, and produced water due to their volumes and potential toxicity. Information on the miscellaneous wastes is more limited. Their volumes are generally smaller, and in most cases are either infrequently discharged or are commingled with the major waste streams. However, EPA has determined that it is appropriate to promulgate regulations for miscellaneous wastes as well.

IV. Development of the Final Regulation

On September 15, 1975, EPA promulgated interim final BPT effluent limitations guidelines (40 FR 42543) and proposed BAT and NSPS regulations (40 FR 42572) for the offshore subcategory of the oil and gas extraction point source category ("offshore subcategory"). EPA promulgated final BPT regulations on April 13, 1979 (44 FR 22069), but deferred action on the BAT and NSPS regulations. Table 2 presents the 1979 BPT limitations.

The Natural Resources Defense Council (NRDC) filed suit on December 29, 1979 seeking an order to compel the Administrator to promulgate final NSPS for the offshore subcategory. In settlement of the action (*NRDC* v. *Costle*, C.A. No. 79–3442 (D. D.C.)(JHP)), EPA acknowledged the statutory requirement and agreed to take steps to issue such standards. However, because of the length of time that had passed since proposal, EPA believed that examination of additional data and reproposal were necessary. Consequently, EPA withdrew the proposed NSPS on August 22, 1980 (45 FR 56115). The proposed BAT regulations were withdrawn on March 19, 1981 (46 FR 17567).

On August 26, 1985 (50 FR 34592) EPA proposed BAT and BCT effluent limitations guidelines and new source performance standards for the offshore subcategory. The 1985 proposal also included an amendment to the BPT definition of "no discharge of free oil." The waste streams covered by the 1985 proposal were drilling fluids, drill cuttings, produced water, deck drainage, well treatment fluids, produced sand, and sanitary and domestic wastes.

TABLE 2.—BPT EFFLUENT LIMITATIONS (PROMULGATED 1979)

Waste stream	Parameter	BPT effluent limitation
Produced water	Oil and grease	72 mg/l daily maximum.
	.....	48 mg/l 30-day average.
Drilling fluids	Free oil	No discharge.
Drill cuttings	Free oil	No discharge.
Well treatment fluids.	Free oil	No discharge.
Deck drainage	Free oil	No discharge.
Sanitary-M10	Residual chlorine.	1 mg/L (minimum.)
Sanitary-M9IM	Floating solids	No discharge.

On October 21, 1988, EPA issued a Notice of Data Availability (53 FR 41356) concerning the development of NSPS, BAT, and BCT regulations for the drilling fluids and drill cuttings waste streams (the "1988 notice"). The 1988 notice presented substantial additional and revised technical, cost, economic, and environmental effects information which EPA collected after publication of the 1985 proposal. EPA presented new information regarding the diesel oil prohibition and the toxicity limitation, and new compliance costing and economic analysis results based on new profile data and treatment and control

option development. The new control technologies discussed were based on thermal distillation, thermal oxidation, and solvent extraction. Performance data for these technologies were also included. In addition, EPA proposed requirements for limitations on metals content in the stock barite based on the use of existing barite supplies, or alternatively in the drilling fluids (whole fluid basis) at the point of discharge.

On January 9, 1989, EPA published a Correction to Notice of Data Availability (54 FR 634) concerning the analytical method for the measurement of oil content and diesel oil. The 1988 notice had inadvertently published an incomplete version of that method.

On November 26, 1990, EPA published a notice and a reproposal (55 FR 49094) that presented the major BCT, BAT, and NSPS regulatory options under consideration for control of drilling fluids, drill cuttings, produced water, deck drainage, produced sand, domestic and sanitary wastes, and well treatment, completion, and workover fluids. On March 13, 1991 (56 FR 10664), EPA published a second notice proposing BAT, BCT, and NSPS limitations and standards for the offshore subcategory. The regulatory options presented were the same as those proposed on November 26, 1990 with the exception of deleting a requirement under NSPS which prohibited the discharge of visible foam from the sanitary wastestream (the requirement had been inadvertently included in the November 1990 proposal).

The 1990 and 1991 proposals did not supersede the 1985 proposal entirely. Rather, they revised the 1985 proposal in certain areas. The revisions were based on new data and information acquired by EPA since the 1985 proposal regarding waste characterization, treatment technologies, industrial practices, industry profiles, analytical methods, environmental effects, costs, and economic impacts. Some of this new information regarding drilling wastes had been published in a Notice of Data Availability (53 FR 41356) (October 21, 1988). This new information led EPA to develop additional regulatory options to those proposed in 1985.

On April 5, 1991 (56 FR 14049) EPA published notification of public workshops for the guidelines proposed on March 13, 1991, and extended the comment period for the proposed rule. The comment period for the majority of the rule was extended by 30 days. The comment period for membrane filtration and radioactivity issues was extended by 60 days, and ended on June 11, 1991.

The Consent Decree was again revised on May 28, 1992. Under this modification, the date for promulgation of the final effluent limitations guidelines and standards (BCT, BAT, and NSPS) for produced water, drilling fluids and drill cuttings, well treatment fluids, and produced sand wastestreams was extended from June 19, 1992 to January 15, 1993.

Ocean discharge criteria applicable to this industry subcategory were promulgated on October 3, 1980 (45 FR 65942) under section 403(c) of the Act. These guidelines are to be used in making site-specific assessments of the impacts of discharges. Section 403 limitations are imposed through section 402 National Pollutant Discharge Elimination System (NPDES) permits. Section 403 is intended to prevent unreasonable degradation of the marine environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal.

In addition, EPA has issued a series of general NPDES permits that set BAT and BCT limitations applicable to sources in the offshore subcategory on a Best Professional Judgment (BPJ) basis under section 402(a)(1) of the Clean Water Act. See e.g., 57 FR 54642 (November 19, 1992) (Western Gulf of Mexico OCS General Permit); 51 FR 24897 (July 9, 1986), (Gulf of Mexico OCS General Permit); 49 FR 23734 (June 7, 1984), modified 52 FR 30481 (September 29, 1987) (Bering and Beaufort Seas General Permit); 50 FR 23570 (June 4, 1985) (Norton Sound General Permit); 51 FR 35400 (October 3, 1986) (Cook Inlet/Gulf of Alaska General Permit); 53 FR 37840 (September 20, 1988), modified 54 FR 39574 (September 27, 1989) (Beaufort Sea II/Chukchi Sea General Permits). The rulemaking record for this final rule includes copies of the most significant **Federal Register** notices proposing these general permits and issuing them in final form.

The Gulf of Mexico General Permit was challenged by industry and an environmental group. *Natural Resources Defense Council* v. *EPA*, 863 F.2d 1420 (9th Cir. 1988). The Bering and Beaufort Sea General Permits were the subject of industry challenge. *American Petroleum Institute* v. *EPA*, 965 F.2d (5th Cir. 1986); later opinion following partial remand, 858 F.2d 261, (5th Cir. 1988); clarified and rehearing denied, 864 F.2d 1156 (5th Cir. 1989). Copies of these decisions are also included in the rulemaking record.

V. Major Changes to the Data Base for the Final Regulation

This section describes several of the most significant changes to the methodology and data base which have occurred since the proposals. Other areas of change and issues are discussed in other sections of this preamble, the Development Document, the Economic Impact Analysis, the Regulatory Impact Analysis, and the record for this rule.

A. Drilling Fluids and Drill Cuttings

1. Engineering Costs

a. *BAT and NSPS Costing Methodology.* The costing methodology for the final rule is based on the costing methodology presented in the March 13, 1991 proposal. However, EPA improved the database and sought additional confirmatory data in response to comments on the proposal. As discussed in the March 1991 proposal, EPA created a database and computer models to generate regionalized costing estimates for the handling and ultimate disposal of spent drilling fluids and drill cuttings. The database consists of the following elements:

- Projections of the number of wells that will be drilled over the next 15-year period in each geographic region.
- Characteristics of a "model well" describing average values for parameters such as well depth, volume of waste associated with drilling activity, use of additives to aid in drilling, and length of time to drill a well.
- Characteristics of drilling wastes, specifying pollutant concentration and physical properties of the waste specific to certain drilling scenarios.
- Failure rates of drilling wastes with respect to compliance tests for certain discharge limitations (e.g., static sheen, toxicity).
- Compliance costs, including analytical costs and disposal costs for transportation and land disposal of drilling wastes.

The data were entered into the computer models designed to predict regionalized compliance costs and pollutant removals for the various regulatory options considered. An analysis of each option was conducted to determine:

- Number of wells affected
- Cost incurred by industry to comply with the regulation
- Volume and percent of drilling waste requiring onshore disposal
- Direct and incidental pollutant removal

No distinction was made between the BAT and NSPS wells for compliance costing because of the negligible differential in drilling fluids and drill

cuttings compliance costs between a new well drilled as an existing source and one drilled as a new source. For BAT and NSPS, the computer models identified costs and pollutant removals which were incremental beyond what was required for "current" levels of control. Current control levels reflected existing NPDES permit requirements that EPA considered representative of control measures in practice. The current requirements were (and are) often more stringent than BPT.

b. *Costing Assumptions.* In projecting compliance costs, EPA made several assumptions about the current drilling practices to characterize the industry. These assumptions were based on Agency-sponsored analyses, industry-sponsored analyses, and public comments from previously published proposals or notices of data availability. Several assumptions presented in the rulemaking record as part of the March 13, 1991 proposal have been updated due to further investigation by EPA or through submission of additional data in public comments. EPA's reevaluation of costing assumptions has led to a reduction in barite usage volumes, barite substitution costs, onshore disposal volumes, and onshore disposal costs. The following paragraphs discuss the manner in which assumptions presented in previous costing estimates have been revised for the final rule.

The estimated volume of drilling fluids and drill cuttings generated have changed slightly due to revisions in calculations of: the average well depth, the deep well depth, and the percentage of wells greater than the average well depth. The determination of the volumes of drilling fluids and drill cuttings generated is still based on data and the methodology presented by the Offshore Operators Committee report entitled "Alternate Disposal Methods for Muds and Cuttings: Gulf of Mexico and Georges Bank," December 7, 1981. EPA revised the average model well depths, the deep well depths, and the percentage of wells greater than the average well depth to include well depth data from the API Joint Association Survey on Drilling Costs for a period of five years. The well depth data used for the March 1991 proposal was based on one year of data. The revised average well depths for the model wells are as follows: 10,559 feet in the Gulf of Mexico, 7,607 feet offshore California, and 10,633 feet offshore Alaska.

Since deep wells (those greater than 10,000 feet in depth) require larger bore holes and thus generate greater waste volumes, it is important to consider the frequency of drilling deep wells. Industry drilling data were used to revise estimates of the typical deep well depths as follows: 13,037 feet in the Gulf of Mexico, 10,081 feet offshore California, and 12,354 feet offshore Alaska. The proportion of wells drilled deeper than 10,000 feet was also revised. At proposal, EPA assumed that 30.8% of all wells would be deeper than 10,000 feet and that percentage was used for all regions. Based on data evaluated for this final rule, EPA revised estimates of the proportion of deep wells as follows: 49 percent in the Gulf of Mexico, 42 percent off California, and 59 percent off Alaska. At proposal, EPA used the waste volumes generated by model wells to estimate onshore disposal requirements. In reassessing these estimates, EPA made a distinction between the waste volumes generated from model wells and deep wells to more accurately characterize pollutant removals and onshore disposal requirements.

In the March 1991 proposal, EPA assumed that all deep wells used a mineral oil-based drilling fluid for that footage drilled deeper than 10,000 feet. Several industry commenters and a trade association stated that fifteen percent (15%) is a more representative estimation of the oil-based mud usage for deep well projects, and provided EPA with recent data on usage of oil-based drilling fluids. Upon review of this data, EPA revised its computer model to assume fifteen percent of all wells drilled deeper than 10,000 feet would utilize an oil-based drilling fluid. The application of this assumption projects a lower volume of drilling waste requiring onshore disposal. The previous estimates assumed that all drilling wastes generated deeper than 10,000 feet would require onshore proposal due to noncompliance with the free oil and toxicity limitations. However, the decrease in onshore disposal volumes based on new information is offset by the new information about greater numbers of deep wells and greater volumes from deep wells due to larger bore hole diameters.

Since proposal, EPA also revised its assumptions about the characteristics of the type of drilling fluids (or "muds") used, e.g., density of drilling fluids. In evaluating comments which disputed pollutant removal estimates for drilling wastes, EPA revised its assumptions about the mud compositions. The methodology used in the proposal attempted to characterize the drilling fluids used in different portions of the well based on drilling depth, lubricity, and type of mud (water-based or oil-based). In the March 1991 proposal, EPA made assumptions regarding barite use which were equivalent to the barite concentration in a relatively high density (18 pound per gallon) drilling fluid. Since proposal, EPA has learned that such high density drilling fluids are generally used only at deep well depths or for unusual circumstances, and they are not considered representative of the mud systems typically used in offshore drilling projects. Also, EPA's reevaluation of the metals loadings derived from the previous mud compositions revealed incomplete mass balances with the barite volumes in the muds and the barium concentrations in the metals database. (In other words, the amount of barite in drilling fluids did not correspond to the measured barium concentrations in the discharge of drilling fluids and drill cuttings.) To alleviate these inconsistencies, to simplify the costing model, and to characterize more accurately the drilling fluids used by the industry, EPA revised the estimated mud compositions to that of a drilling fluid with an average density of 11 pounds per gallon (ppg) based on a review of discharge monitoring report data and communications with industry sources. EPA considers the 11 ppg mud to be representative of a typical drilling program that includes low density muds used for the initial stages of drilling, and the medium to heavy density muds used towards completion at the bottom of the well. The net result of this revised assumption is a reduction in estimates of barite usage, barite substitution costs, and pollutant removals for the drilling fluids and drill cuttings.

In concert with revising the drilling fluid composition, EPA revised the data characterizing the metals content in barite to more closely represent the composition of a typical drilling fluid. Barite is used as a weighting agent to assist in controlling downhole pressure. EPA derived updated metals concentrations in drilling fluids from a statistical analysis of the API/USEPA Metals Database. This database, from several sampling programs conducted by EPA and the industry, contains end-of-pipe metals concentrations in drilling fluids. EPA presented these data in the rulemaking record for the March 13, 1991 proposal. The metals data set includes additional elements that EPA determined to be of significant occurrence, concentration and toxicity. In addition to the priority pollutants presented in 56 FR 10699, EPA estimated removals for aluminum, iron, tin, and titanium.

The revised costing estimates also include updated regionalized onshore disposal costs. The onshore disposal

costs presented in the March 1991 proposal consisted of one set of disposal costs for all geographical regions. In the reevaluation of the costing assumptions, EPA distinguished between costs for various geographic regions, namely the Gulf of Mexico, California, and Alaska.

Additional requirements placed on OCS sources under the recently promulgated air regulations for OCS sources (57 FR 40792; September 4, 1992) were considered in developing compliance costs for this rule. Emissions offset costs were calculated for all wells drilled off California, since this OCS planning area is adjacent to an onshore nonattainment area. Offset costs are assumed to be an annual expense and are included in the annual costs for the drilling fluids and drill cuttings options. Offset costs were calculated for nitrogen oxide and hydrocarbon emissions were calculated for this regulation based on annual costs of $15,000 per ton of nitrogen dioxide and $5,000 per ton of hydrocarbons.

2. Drilling Waste Pollutant Loadings

In projecting pollutant reductions resulting from this rule, EPA used an expanded data set some of which, although included in the rulemaking record at proposal, had been received too late to be included in the pollutant loadings analysis related to the metals content in drilling fluids. The updated metals concentrations were derived from a statistical analysis of the API/USEPA Metals Database. These data were obtained from several sampling programs sponsored by EPA and industry and represent end-of-pipe metals concentrations of drilling fluids. In addition to the priority pollutants used in loadings for the proposal, the pollutant loadings used for the final rule include aluminum, iron, tin, and titanium.

EPA also updated the pollutant loading estimates for drill cuttings. In the proposal, EPA based its loadings on estimates of barite concentration in the drill cuttings. In evaluating loadings for the final rule, EPA determined that previous estimates of 88 pounds of barite per barrel of drill cuttings were overestimates. The revised pollutant loading estimates for drill cuttings in this rule are based on the pollutants present in the drilling fluid adhering to the cuttings. Five percent, by volume, of drilling fluid adheres to drill cuttings after separation.

EPA's revision of the assumptions on drilling fluid composition also reduced estimates of the total suspended solid (TS$) content of the drilling fluids. The TSS concentration of the average drilling fluid density (11 ppg) serving as the basis for the projections for this rule is less than that of the higher density drilling fluid previously modeled in the 1991 proposal.

B. Produced Water

1. Gas Flotation Performance

EPA received additional data on performance of gas flotation technology in response to the 1991 proposal. The improved gas flotation technology basis for the produced water limitations considered for this final rule includes upstream gravity separation and chemical addition. This section summarizes these additional data and EPA's analysis, and presents limitations based on EPA's analysis.

Data available for this analysis included those collected for the EPA's 30 Platform Study (1981), the Offshore Operators Committee's (OOC) 42 Platform Study (1990), the OOC's 83 Platform Composite Study (1991), and EPA's "Oil Content in Produced Brine on Ten Louisiana Production Platforms" (1981).

For the EPA's 30 Platform Study, OOC member platforms were selected based on characteristics such as wide geographical distribution, type of production, ownership of the facility, and other non-random considerations. Seven of these thirty platforms used gravity separation and chemical addition followed by gas flotation to treat their produced water. All oil and grease measurements were made using EPA Method 413.1, a process for measuring total oil and grease. Grab samples of influent and effluent were measured.

For the OOC's 42 Platform Study, OOC member platforms were selected. The study was statistically designed to estimate within-process variation and laboratory variation. However, the sampling procedures used in the study inflate the estimated laboratory variation with some sampling variation. Total oil and grease measurements were made using Method 413.1. Grab samples of effluent were taken according to a balanced statistical design.

For the OOC's 83 Platform Composite Study, data from four studies were combined. These four studies include EPA's 30 Platform Study, OOC's 42 Platform Study, OOC's 10 Platform Database, and OOC's 12 Platform Refrigeration Study. The two additional OOC studies were designed in a fashion similar to that used for OOC's 42 Platform Study. All of the platforms in the OOC studies are described as conforming to specifications, operating properly, and adding chemicals as needed. All oil and grease measurements considered here were performed using Method 413.1 on grab samples of effluent. Again, the sampling procedures used inflate the laboratory variation estimate with some sampling variation.

For the EPA's "Oil Content in Produced Brine on Ten Louisiana Production Platforms," platforms were selected based on size, technology differences, and availability of living and working space. Grab samples of influent and effluent were measured for oil and grease by early methods for total oil and grease, insoluble oil and grease, and soluble oil and grease. Detailed information regarding the treatment system is summarized in the study report. Samples were taken according to a balanced statistical design.

All available oil and grease data for improved gas flotation, as measured by Method 413.1 were considered in establishing the limitations in the final rule. After screening platforms for compliance with current BPT limitations, EPA applied statistical methods to the data in order to calculate the long-term average concentration of oil and grease for use as the basis of the limitations. Then EPA calculated percentiles which express the relationship between the long-term average performance and the variability to be expected at a well-designed, operated, and maintained platform. The daily maximum limitation is set such that there is a 99 percent probability that a physical composite sample taken from the median performing platform will have total oil and grease measurements less than or equal to that concentration. Each physical composite is composed of four grab samples taken during a single day. The monthly average limitation is set such that there is a 95 percent probability that a monthly average of physical composite samples taken from the median performing platform will have total oil and grease measurements less than or equal to that concentration. The monthly average is the arithmetic average of four physical composite sample results collected during the same month (during a 30 day consecutive period). These percentiles correspond to large effluent values that would rarely be exceeded by a well-operated treatment system and represents levels that are achievable at all times under normal operating conditions.

The daily maximum limitation for total oil and grease not to be exceeded is a concentration of 42 mg/l and the monthly average limitation not to be exceeded is a concentration of 29 mg/l. Note that the addition of new data and

the modification of the methodology for approximating percentiles for composite samples measurements based on grab sample measurements, each done in response to comments, has not greatly changed the Agency's estimate of what limitations would be appropriate based on this technology. In the 1991 proposal, EPA presented a daily maximum limitation of 38 mg/l and monthly average limitation of 27 mg/l based on this technology.

2. Produced Water Engineering Costs

The costing methodology for produced water in the final rule is the same as the methodology for produced water presented in the March 13, 1991 proposal. However, EPA made several changes to the database due to comments on the proposal and after EPA conducted further analysis of the industry. As discussed in the proposal, EPA created a database and developed computer models to generate regionalized costing estimates for the treatment and disposal of produced water. The database consisted of the following elements:

- Industry profile data on the number and type of platforms and produced water discharge rates.
- Projected future production activity.
- Produced water contaminant effluent levels associated with BPT treatment and with BAT and NSPS treatment options.
- Cost to implement the BAT and NSPS treatment technology options.

Using the data and the computer models, EPA predicted regionalized compliance costs and pollutant removals for the various regulatory options as defined in section XIII of this Notice. These options are comprised of three potential treatment technologies for BAT and NSPS; the three treatment technologies are:

- Improved operating performance of gas flotation technology.
- Granular filtration and subsequent surface water discharge.
- Granular filtration followed by reinjection of the produced water into any compatible geologic formation.

Similar to the costing methodology for the proposal, the per-platform capital costs for the treatment equipment and the associated annual operating, maintenance and monitoring costs (annual costs) were developed for modeled treatment systems with design capacities of 200 barrels per day (bpd), 1,000 bpd, 5,000 bpd, 10,000 bpd, and 40,000 bpd of produced water. EPA derived costs for these systems based on vendor-supplied data, industry information, and cost analyses conducted by the Energy Information Administration of the Department of Energy (DOE/EIA). Curves depicting flow rate versus cost were generated to estimate the capital and annual costs for treatment systems with capacities other than the five modeled systems for which cost data were collected.

EPA calculated total industry costs for each treatment option using the per-platform capital and annual costs and industry profiles of current and projected future production activity in three geographical offshore areas, the Gulf of Mexico, California, and Alaska. EPA did not develop specific industry costs for the Atlantic offshore areas, including Florida, because of the lack of oil and gas leasing and development in these areas. However, the costs in these regions are considered similar to those developed for offshore California because conditions in these areas are more analogous to California than to the Gulf. Because of the extensive amount of activity in the Gulf of Mexico, costs of offshore operations in the Gulf are somewhat lower than in California. EPA expects that the amount of any future activity in the Atlantic or off the coast of Florida will, at most, approach the amount of activity in California rather than the amount of activity in the Gulf. Accordingly, EPA projects that costs for California are more appropriate for projecting costs in these other areas.

For each geographical area, EPA characterized the industry as a population consisting of various platform structure types, or model platforms. A model platform was characterized by the number of available well slots on the platform. Each producing well is brought to the wellhead on the platform through a dedicated well slot. The number of well slots on a platform indicates the maximum number of producing wells. The model platforms were further subdivided based on whether they produced: (1) Oil only; (2) both oil and gas; or (3) gas only.

For each "model platform," EPA estimated the number of producing wells, the quantity of produced water generated (average and peak flow), and the cost to implement a produced water treatment system. Thus, by dividing the industry among these "model platforms," EPA derived estimates of costs and pollutant reductions.

EPA determined contaminant removals by comparing the estimated effluent levels after treatment by the BAT and NSPS treatment systems versus the effluent levels associated with a typical BPT treatment.

The computer model calculated the capital costs for each model platform in each region based on the maximum daily produced water flow rate for the given platform. The maximum daily flow rate for each modeled platform determined the required capacity of the treatment system. Interpolating along the "capital cost-flowrate" curve developed for the five modeled treatment systems, EPA determined the capital costs for each of the model platforms.

The computer model calculated the annual costs for each model platform in each region based on the average daily produced water flow rate for the given platform. The average daily flow rate for each modeled platform was used to determine the annual costs. Interpolating along the "annual cost-flowrate" curve developed for the five modeled treatment systems, EPA determined the annual costs for each of the model platforms.

a. *Gas Flotation System Capital and Annual Costs.* EPA developed gas flotation equipment costs based on direct contact with vendors and manufacturers of offshore gas flotation equipment. The packaged equipment costs are the costs for the complete gas flotation system which includes the following: a skid-mounted flotation unit, complete electrical system, oil and water outlets brought to the edge of the skid, and sufficient instrumentation for proper operation.

EPA based gas flotation space requirements on information provided by vendors and manufacturers of offshore gas flotation equipment. Some existing (BAT) platforms could incur costs for additional space such as a cantilevered deck. A cantilevered deck or wing deck can be added along one side of a platform to increase the total square footage of the platform deck. For example, a one hundred foot long cantilevered deck that extends ten feet from the edge of the existing platform deck would add one thousand square feet to the platform deck. EPA estimated the cost of additional platform space at $250 per square foot based on information obtained from industry and the Department of Energy. The actual areas required by the gas flotation systems were estimated to be twice the area of the process equipment "footprints" that were furnished by the vendors. The additional area includes sufficient space for any additional process equipment, instrumentation, and walkways. For the NSPS scenario, because new facilities can include the gas flotation equipment in the design of the platform, EPA determined that no additional platform space, such as a cantilevered deck, would be required. (In cases where new sources would be

platforms that exist as of the effective date of the offshore guidelines, the cost of adding platform space has been accounted for in costing the BAT limitations for existing sources.) This methodology is identical to that presented in the proposal for other produced water treatment systems.

The annual operating and maintenance costs for the gas flotation treatment systems included energy costs, labor costs, and typical operating and maintenance costs such as polymer and/or flocculation enhancement chemicals or costs for pump and agitator maintenance and replacement.

b. *Granular Filtration Capital and Annual Costs.* The basis for the granular filtration costing is similar to that of the March 13, 1991 proposal. EPA contacted the DOE/EIA to assist in reevaluating the capital and annual costs for granular filtration systems developed for the proposal. EPA used information provided by DOE/EIA, as well as additional data collected by EPA, to update cost projections for granular filtration systems.

In revising costs, EPA no longer includes capital costs for chemical storage or electrical generators. Capital costs associated with the actual chemical injection system are included in the filtration system capital costs. Storage of chemicals is included as an annual cost. The revised costs also exclude previous cost projections for extra generators to provide power to operate treatment system modifications. The power requirements for the filtration system (approximately 30 horsepower) are minimal in comparison to the electrical generation capacity available on platforms and the existing generation capacity is considered adequate for this minimal power requirement increase. The revised costing now includes capital costs for a centrifuge to dewater the filter backwash. Backwash dewatering is necessary to minimize the space required to store the backwash and minimize the transportation and onshore disposal costs.

The revised costing assumes that additional deck space could be added to the platform for systems treating up to 40,000 barrels of produced water per day. This is based on data showing that filtration systems treating up to this volume could be installed in areas of less than 1,000 square feet. One thousand (1,000) square feet is assumed to be the largest area that can be added to a platform as a cantilevered deck. The costing presented in the March 1991 proposal had assumed that all filtration systems processing over 5,000 barrels per day (bpd) would have area requirements exceeding 1,000 square feet and thus would require construction of additional platform structures. EPA recalculated the area requirements for this final rule in consultation with DOE/EIA. Filtration systems treating more than 40,000 bpd are still considered to exceed the available space on the platform (including additional capacity from a deck addition), thus construction of a separate platform structure would be required.

c. *Reinjection Capital and Annual Costs.* Part of the basis for the reinjection costing methodology is similar to that of the granular filtration option since filtration of the produced water is typically necessary prior to reinjection. Without this pretreatment, fine solids can plug the pores of the formation, decreasing the capacity of the formation, thus preventing the reinjection of the produced water. For this costing estimation, EPA assumed that multi-media filtration would be the pre-treatment filtration technology used.

The capital costs for pumps and injection wells were revised to represent new data obtained by EPA. The DOE/EIA developed capital costs for gas turbine injection pumps which reflect more recent (1991) cost data and are slightly lower than the costs presented in the proposal. Injection well costs were revised based on data submitted with industry comments. The costs for new injection wells remained approximately the same as those presented in the proposal, but the costs to recomplete an existing dry hole changed significantly. The revised recompletion costs increased from $240,000 per well to $675,000 per well.

The revised capital costs for the reinjection option also do not include additional costs for electrical generators. Where facilities reinject, gas-powered, rather than electrical, injection pumps are generally used. Also, construction of separate platform structures to contain produced water treatment system modifications are not anticipated unless the system processes over 40,000 barrels per day of produced water. Based on EPA calculations made in consultation with DOE/EIA, area requirements for injection systems treating less than 40,000 bpd are less than 1,000 square feet and can be met by constructing platform additions such as cantilevered decks.

d. *Regional and Total Industry Costs.* The regional costs were calculated based on the per-platform capital and annual costs and the number of platforms within each geographical region. For the purposes of determining produced water compliance costs for this rule, EPA assumed that all newly installed production and development platforms would be new sources. EPA was unable to determine the extent to which existing platforms would be used to develop new hydrocarbon reserves. While an existing platform moved to a new location for development or production would also be classified as a new source, compliance costs for all existing platforms are included as BAT costs in this rule. Since BAT limitations are equal to NSPS, to ascribe both BAT and NSPS costs of compliance to one facility would double-count the costs of compliance with the rule. Also, EPA is unaware of any existing contractual obligations which could result in new production and development platforms being classified as existing sources. For this rule, new production and development platforms are included as new sources.

Based on information from the Department of the Interior and as presented in the March 1991 proposal, EPA estimated that thirty-seven percent (37%) of existing platforms currently pipe their produced water to shore for treatment. Therefore when developing the regional costs, only sixty-three percent (63%) of the total number of existing platforms and one hundred percent (100%) of new platforms were assigned offshore treatment costs. Onshore treatment costs were assigned to those facilities currently piping to shore. Onshore treatment costs are detailed in section V.B.2.e of this preamble. EPA cost projections for new platforms indicate that the cost of offshore treatment will be less than the combined cost of installing piping and establishing onshore treatment facilities. Thus, EPA assumed all new sources will treat water offshore. The total industry costs for the granular filtration and the reinjection option are the sum of the regional costs for each treatment option.

The total capital costs for gas flotation were more complicated to determine because many operators currently use the gas flotation technology to comply with the current BPT regulations. To avoid over-costing by assigning capital costs to all platforms, EPA predicted the number of existing platforms that currently have gas flotation systems and the number of platforms that will have to install new flotation systems. The following paragraphs explain EPA's basis for its estimate of the total industry costs for the gas flotation option.

EPA determined that to achieve BAT oil and grease limitations based on improved performance of gas flotation technology, operators who currently have gas flotation treatment systems

would continue to use the same treatment units, although some changes to those systems or their manner of operation might be necessary. For existing platforms that do not currently have gas flotation systems and can not meet the limitations of the final rule with their currently installed treatment systems, some form of add-on treatment would be necessary. For costing purposes, EPA assumed that all facilities currently without gas flotation systems are unable to meet the BAT (or for new sources, NSPS) limitations, and that flotation units would need to be installed. This assumption does not take into consideration the fact that other treatment technologies currently used by the operators are available for use, such as parallel plate coalescers, corrugated plate interceptors, hydrocyclones, or filtration, and their use may enable operators to meet the requirements of this rule without requiring installation of flotation units. (The establishment of an effluent limitation based on a given technology does not require use of the treatment technology upon which the limitation is based.) A report prepared in 1984 for the Offshore Operators Committee (OOC) found that thirteen percent (13%) of 319 outer continental shelf (OCS) facilities surveyed at that time used flotation systems for treatment of produced water. Since that same study noted that nearly all new platforms were expected to install gas flotation systems for produced water treatment and considering that the profile would likely have changed in the years since that survey was conducted, EPA collected information from the Minerals Management Service and various industry sources to update projections of existing gas flotation systems. EPA learned from MMS, which during 1990 conducted 1,677 drilling inspections and 4,830 production inspections, that approximately thirty-five percent (35%) of the offshore facilities in Gulf of Mexico are now using gas flotation systems for produced water treatment. The distribution of gas flotation systems, in conjunction with capital and annual cost data compiled for flotation systems was used to estimate total compliance costs.

EPA calculated the BAT annual operating and maintenance (O&M) costs using the projections of existing gas flotation systems discussed above. For those platforms that already have gas flotation units installed, the annual O&M costs of complying with BAT limitations based on improved performance of gas flotation are estimated to be higher than their current annual O&M costs because of modifications and enhancements needed to improve system performance. Enhanced removals of oil and grease can be achieved by existing gas flotation systems through closer supervision of the units by the platform operators, additional monitoring of operating parameters, proper sizing of the unit to improve hydraulic loading, additional maintenance of the process equipment, and addition and/or proper usage of flocculation enhancement chemicals. These costs are incremental to the current annual O&M costs. EPA estimates that the additional labor and other improvements necessary to achieve compliance with BAT limits will approximately double the annual O&M costs for existing flotation systems currently achieving BPT quality effluent.

Existing facilities needing to install a gas flotation unit (or other technology) to comply with the limit are projected to incur costs to design and select a treatment system to meet the BAT oil and grease limit. Total annual O&M costs for existing platforms that will need to install gas flotation were determined to be approximately ten percent (10%) of the capital costs of the new flotation system. EPA notes that the BAT and NSPS limitations of the final rule are based on data from existing facilities identified as being representative of platforms having well-operated gas flotation units. Thus, although not all existing facilities with gas flotation units would be expected to already be meeting the BAT and NSPS oil and grease limits of this rule, the data shows that a portion of the industry can already comply with the limitations of this final rule without incurring an additional cost. Because EPA does not know how many of these facilities would be able to comply without incurring additional cost, no allowance is made in EPA's cost projections to exclude such facilities in determining the cost of compliance for this rule. Thus, EPA is confident that compliance costs are not underestimated and may even be overestimated by up to 20–40 percent. On balance, however, EPA believes these cost projections reasonably reflect the aggregate compliance costs for the entire subcategory.

The 1984 industry (OOC) report stated that even in the absence of produced water limitations more stringent than BPT, eighty percent (80%) of new development and production platforms would be designed with gas flotation systems for treatment of produced water. Thus, EPA based compliance cost projections on the assumption that in the absence of NSPS limitations twenty percent (20%) of new platforms would not include a flotation unit in their treatment system design. This twenty percent (20%) of new platforms are considered to incur an incremental cost to comply with NSPS limitations.

In estimating NSPS capital costs, EPA assumed that it was necessary for the operator to add a flotation system to the produced water treatment system. The entire costs for adding on such a system were used in EPA's economic impact analyses. EPA notes that although some new platforms would not have planned to install flotation systems, the platforms would have contained some other type of treatment technology and it is entirely possible that the alternative system would enable compliance without incurring additional costs to comply with the NSPS limitations. EPA also notes that by adding on a flotation system to comply with NSPS limits, the operator may actually forego installation of other produced water treatment units, with the result being that the gas flotation unit would serve as a replacement system rather than an add-on system, incurring no, or reduced, incremental costs. However, in costing this rule it has been assumed that an add-on treatment system will be required and costs of entire flotation systems for 20 percent (20%) of all new platforms have been included.

For those eighty percent (80%) of new platforms that are expected to include gas flotation in the original design, capital costs consist only of an engineering redesign cost and not a new unit cost. It is assumed that the gas flotation units included in the existing design of the new platforms were able, at a minimum, to achieve the current BPT oil and grease limitations. For these systems to achieve the more stringent limitations of this final rule, EPA assumed that there may be an additional cost to upgrade the system. A design upgrade could consist of increasing the system's retention time through increasing the cell size or the addition of another cell, maximizing separation efficiency through properly sizing rotors, gas dispersers, and chemical injection equipment, and optimizing the system's performance through the addition of state-of-the-art instrumentation and controls. This system redesign cost was estimated at fifteen percent (15%) of the NSPS flotation system capital cost.

The NSPS annual O&M costs for new platforms were calculated using the same NSPS profile used in the development of the NSPS capital costs. For the twenty percent (20%) of new platforms assumed to not already

include flotation systems in the design, the annual costs are ten percent (10%) of the capital costs. However, for those new platforms that already have flotation systems in the design plans of the facility, there are no incremental annual costs for compliance with the NSPS limitations. EPA assumed that since there is a flotation system in the design of a facility, there are also annual costs associated with operation of that system in the financial projection of that project. The improved performance of that system has been accounted for by improving the design parameters of the flotation system.

Additional requirements placed on OCS sources under the recently promulgated air regulations for OCS sources (57 FR 40792) were also considered in developing compliance costs for this rule. Emissions offset costs were calculated for all facilities located off the Southern California coast, since this OCS planning area is adjacent to an onshore nonattainment area. Offset costs are assumed to be an annual expense and are included in the annual O&M costs for the produced water treatment options. Offset costs were calculated for nitrogen oxide and hydrocarbon emissions were calculated for this regulation based on annual costs of $15,000 per ton of nitrogen dioxide and $5,000 per ton of hydrocarbons.

e. *Onshore Treatment Costs.* EPA assumed that those facilities currently piping produced water to shore for treatment would continue to do so and no additional offshore treatment would be necessary. Since they are treating and discharging produced water which originated in the offshore subcategory, the onshore treatment facilities are required to meet the oil and grease limitations of this final rule and are expected to achieve compliance through either upgrading existing equipment or installing new treatment equipment. For this costing exercise, EPA evaluated the costs for installing new equipment at the onshore treatment facilities. For the 37 percent of the facilities piping to shore for treatment, EPA developed costs for onshore treatment by gas flotation, granular filtration, and reinjection technologies.

The onshore treatment costs were evaluated for both the BAT and NSPS scenarios. However, for the NSPS scenario, EPA projects that the cost to install piping to the offshore facility would greatly exceed the costs of installing the necessary treatment control technology onsite at the offshore platforms. Thus, EPA predicts that no new sources will pipe produced water to shore for treatment. Although EPA was unable to determine the extent to which it might happen, it is possible that in some instances new sources may reduce onshore treatment costs by sharing an existing pipeline to shore.

The basis for the onshore treatment system costs are similar to the offshore per-platform system costs, although there are a few exceptions. The exceptions are: (1) The offshore installation factor of 3.5 was not used (The multiplier is applied to onshore costs to account for the increased cost of transporting and installing equipment offshore. The multiplier is identical to that value used at proposal and was derived based on information supplied by DOE/EIA, equipment vendors, service providers, and other industry commenters); (2) there were no costs for platform additions; and (3) no centrifuge cost was assigned for the onshore filtration or reinjection options. EPA assumed that a centrifuge would be unnecessary to dewater the filter backwash because adequate space would be available at an onshore treatment facility to capture, settle and store backwash volumes from the granular filter.

3. Membrane Filtration

EPA reexamined the applicability of membrane filtration technology for the treatment of produced water as a result of additional data obtained on the technology and numerous comments on the March 13, 1991 proposal. In April 1991, EPA conducted a sampling program of the only full-scale ceramic membrane filtration unit processing oil field produced water in the United States.

EPA's reevaluation of membrane filtration technology concluded that membrane filtration technology is still in the development phase for applications in the treatment of produced water. EPA's sampling program clearly indicated that the technology is capable of substantially reducing the quantities of soluble and insoluble organics found in produced water. However, despite the outstanding pollutant removal performance of the ceramic membrane filtration unit, the unit experienced operating problems which preclude long-term continuous treatment of the entire produced water stream to the effluent levels presented in the proposal. The sampling program brought to light several operational difficulties that, according to the operator, are experienced with the full scale unit. The most significant problem experienced with that unit was fouling of the membrane. The operator identified several conditions responsible for significant fouling of the membrane surface. These conditions are: sea water in the produced water stream from the deck washdown system, high oil and grease loadings on the membrane during upsets, and the presence of production chemicals in the produced water. Membrane fouling results in a significant reduction of flux across the membrane and ultimate shutdown of the unit for chemical cleaning. As a result, the unit was operated at twenty percent (20%) of the rated design capacity and shutdowns for cleaning were reported to be frequent. An additional adverse effect was reported to result from recycling of the oil phase of the membrane retenate stream back into the produced water treatment system. Chemicals added to the filtration unit which become entrained in the oil phase reportedly result in decreased separation efficiency in the upstream separation unit (heater-treater).

EPA also received several comments regarding the proposal's selection of membrane filtration as a preferred technology. These comments paralleled EPA's conclusion that membrane filtration is not technically available as a BAT or NSPS treatment option at this time. The commenters provided data obtained from the same full scale system evaluated by the EPA and a pilot scale unit operating in the Gulf of Mexico. Commenters also provided information on a polymeric membrane filtration pilot unit being tested in the North Sea and a literature study which reviewed data furnished by manufacturers and oil companies regarding five different membrane filtration systems.

4. Produced Water Pollutant Loadings

Similarly to the March 1991 proposal, pollutant removals for the different regulatory options of the final rule were determined by comparing the estimated effluent levels of pollutants after treatment by the BCT/BAT/NSPS treatment system (improved performance of gas flotation, filtration, or reinjection) versus the effluent levels of pollutants associated with a typical BPT treatment (gas flotation or gravity separation).

In the March 1991 proposal, EPA characterized BPT treatment using data from the 30 Platform Study. Comments received subsequent to the proposal stated that certain pollutants found present in other studies of produced water effluent had been excluded by EPA and resulted in pollutant removals being underestimated. Several commenters also disputed the presence of one pollutant included in EPA's BPT characterization.

In response to the comments received regarding BPT characterization, EPA

developed an expanded data set based on published studies which included characteristics of produced water. As a result of this reanalysis, one pollutant, bis(2-ethylhexyl)phthalate, was deleted and anthracene, benzo(a)pyrene, chlorobenzene, di-n-butylphthalate, total xylenes, cadmium, lead, nickel and radium were added to the list of pollutants present in produced water BPT effluent.

Based on the presence of the pollutants in BPT effluent, BAT and NSPS pollutant reductions were reassessed for granular filtration systems based on "three facility study" data. Data from gas flotation units determined to be demonstrating improved performance in the 30 Platform Study were the primary basis for determining pollutant reductions from improved performance of gas flotation.

C. Produced Sand

The methodology used to determine compliance costs for the zero discharge limitation for produced sand is based on produced sand generation rate estimates, onshore disposal costs at permitted exploration and production waste disposal facilities, and onshore disposal costs at permitted low level radioactivity disposal facilities. EPA determined that no direct marine transportation costs (from the platform to shore) would be associated with the zero discharge requirement based on data from the Offshore Operators Committee (OOC) produced sand survey and additional information on produced sand handling and disposal practices submitted by the OOC. This information indicates that produced sand collected regularly through operation of desanders and blowdowns through valves on vessels accounts for less than ten percent of the volumes of sand collected annually. The majority of sand is collected during scheduled cleanouts. The information also indicates that ninety percent (90%) or more of the produced water treatment system cleanouts produce less than 100 barrels of produced sand per cleanout. The cleanouts occur during a platform shutdown and the typical cleanout cycle is once every three to five years. Therefore, EPA concluded that the volume of produced sand collected from vessel blowdowns is small enough that operators are able to use the supply boats that service offshore platforms on a frequent and regular basis, rather than contract for dedicated vessels to transport the waste to shore. The produced sand collected during tank and vessel cleanouts are typically small volumes that can be transported to shore using either the regularly scheduled supply boats or the work boats chartered to support the sand removal or other general maintenance during the platform shutdown.

Data evaluated by EPA for this rule indicates a generation rate of one barrel of produced sand for every 2,000 barrels of oil produced. EPA calculated produced sand volumes using peak year oil production estimates from the Minerals Management Service. Data from the produced sand survey indicated that, in 1989, thirty-four percent (34%) of the produced sand generated was hauled to shore for disposal. The industry does not incur any incremental compliance costs under this rule for that portion of the produced sand which is already being disposed of onshore. For determining the incremental costs of the zero discharge requirement of this rule, EPA based its costs projections on the produced sand volume being discharged offshore (66 percent of all produced sand generated).

In December 1991, the MMS Gulf of Mexico Regional Office issued a Letter to Lessees (LTL) providing guidance limiting ocean discharges of produced sand contaminated with naturally occurring radioactive materials (NORM). This LTL notified operators that, under authority provided MMS, discharges of produced sand with a radiation dose rate greater than 25 microroentgen per hour would not be approved. NORM is formed by co-precipitation of soluble radium from the formation water (produced water) along with barium sulfate, calcium carbonate, and other scale-producing constituents. These precipitates (as scale) collect in the separator tank bottoms (solids) along with the produced sand. Radionuclide data included in the produced sand survey indicated that NORM levels for some of the produced sand volumes previously discharged to the ocean (in 1989) exceed the current MMS guidelines and would now require onshore disposal. Therefore, EPA notes that the percentage of produced sand being discharged to sea may actually be less than 66 percent of the total volume generated. Since the MMS guidelines are interim guidance and could conceivably be withdrawn, EPA has continued to project compliance costs based on transporting 66 percent (66%) of produced sand generated annually to shore for disposal. The possible presence of NORM in produced sand did not drive EPA's determination that zero discharge is appropriate for this wastestream; however, because some produced sand contains NORM, EPA did consider the presence of NORM for the purpose of estimating compliance costs for the zero discharge limitations.

EPA used the data on radioactivity levels in produced sand to estimate average radium concentrations for the produced sand wastestream. The radioactivity data submitted provides either exposure rates expressed in microRoentgens per hour (microR/hr) or concentrations expressed in picocuries per gram (pCi/g). Average radium concentrations and the incremental increase in the volume of produced sand hauled to shore provided the basis for estimating radium removals. For the produced sand volumes considered to have elevated NORM levels (25 percent of produced sand according to OOC data), EPA assigned costs for disposal at low level radioactivity disposal facilities. Produced sand containing NORM above these levels may not actually require disposal at low-level radioactivity disposal facilities. To ensure compliance costs for zero discharge were not underestimated, however, EPA considers using this methodology to be an appropriate basis to project incremental costs of this rule. For the remaining volumes of produced sand (without elevated NORM levels) brought to shore for disposal, EPA assigned costs for disposal at licensed commercial oilfield waste disposal facilities.

The pollutant loadings calculations also estimated reductions in discharges of oil and total suspended solids. The loadings were calculated based on the reductions in produced sand discharges to the ocean. Oil removals were calculated using an average oil content in washed produced sand of 1.63 percent based on data submitted in response to the proposal.

D. Well Treatment, Completion and Workover Fluids

This rule requires well treatment, completion and workover fluids to meet oil and grease limitations based on the technology of cotreating these fluids with the produced water treatment system. Based on information provided by industry commenters, the technology of commingling these fluids with produced water is available. Treating these fluids with produced water is considered to incur no, or minimal, additional compliance costs. Costs to operate properly the produced water treatment system and monitor for compliance are accounted for in the compliance cost projections for produced water. Some facilities may be unable to treat well treatment, completion and workover fluids with the produced water and would incur compliance costs under this rule. The following paragraphs discuss the costing methodology for those facilities.

EPA used information submitted by industry commenters to determine most multiple-well facilities are able to treat the treatment, completion and workover fluids in the produced water treatment system. Because facilities with fewer than ten producing wells generate a relatively low volume of produced water, there is a potential for upset of the treatment systems due to inadequate equalization of wastewaters. For facilities with fewer than ten well slots, EPA developed compliance costs based on the technology of capturing and transporting the wastes to shore for treatment and/or disposal. No additional compliance costs are projected for the offshore facilities (37 percent of existing facilities) that pipe their produced water to shore for treatment. Because of the large volumes of produced water treated at these onshore sites, EPA believes the treatment, completion and workover fluids could be commingled with the produced water wastestream without causing treatment system upset. The onshore facility can adequately treat the occasional slug of treatment fluids and still maintain compliance with BAT and NSPS limitations.

Based on industry comments, well workovers or treatment jobs were determined to occur, on average, approximately every four years. According to industry comments and literature, workover fluids are typically reused at least once and treatment fluids can only be used once. The workover and treatment fluids volumes and onshore disposal costs estimates are averages based on the fifteen year period evaluated for this rule. Average yearly disposal costs were developed because workover and treatment fluids volumes are not generated, and hence costs are not incurred, until four years after well completion and subsequently every four years thereafter. The well completion fluids volumes and onshore disposal cost estimates are based on a yearly average projection of wells drilled over the fifteen years following promulgation.

The typical discharge volumes associated with workover, treatment, and completion have been revised since the proposal based on industry comments. The volume of workover and completion fluids generated is estimated to average 300 barrels per well. This volume accounts for a preflush and postflushing of the well and weighting fluid for a 10,000 foot well. The average volume of treatment fluids generated is 250 barrels per well.

EPA believes that there will be no cost for the containment of the spent fluids prior to transporting them to shore for disposal because during well treatment, workover, or completion, storage tanks currently exist on the platform or on tending workboats for fluid storage and separation. (To ensure compliance with the current BPT limitations prohibiting discharge of free oil, operators must maintain the capability to capture fluids which, if discharged, would cause a sheen on the receiving waters.) EPA believes that these tanks would provide adequate storage for the time between capturing the fluids as they come out of the well and the time of transporting the fluids to shore.

EPA also did not assign any incremental costs to the transportation of the fluids to shore. Based on comments from industry, EPA determined that the volumes would be small and the workboats tending the rig (for treatment, completion, or workover evaluations) or regularly scheduled supply boats would have adequate space to transport the containers of spent fluids. As discussed in the above paragraph, EPA determined that the platforms would have adequate space for storage of the spent fluids for the periods when the supply boats are not scheduled for the platform or when offloading to the supply boats is infeasible due to weather conditions.

To estimate compliance costs for those facilities unable to commingle fluids with the produced water, EPA determined the most common method of onshore treatment of spent fluids to be injection into underground formations at a centralized treatment facility. The disposal costs are estimated to be $12 per barrel and are based on the costs of transporting the fluids from an inland port transfer station to the disposal facility, solids removal if necessary, and injection into underground formations.

E. Non-Water Quality Environmental Impacts

The evaluation of non-water quality environmental impacts for this final rule generally follows the methodology presented by EPA in the March 1991 proposal. This methodology was patterned after calculations performed by Walk-Haydel and Associates, and submitted by the American Petroleum Institute (API) as part of API's comment submission on the 1988 Notice of Availability. These impacts were reassessed based on public comments on the March 1991 proposal. The manner in which those comments were considered and how they affected the non-water quality environmental impact analysis are presented in the following discussion.

1. Drilling Fluids and Drill Cuttings

Several commenters disputed EPA's estimates of drilling waste volumes requiring onshore disposal, as well as the manner in which these wastes would be transported and the adequacy of available disposal sites. Generally, these comments either: (1) Noted the potential for improved solids control equipment to reduce drilling waste volumes; (2) contended that EPA's assumption regarding the number of vessels necessary for transporting the drilling wastes was an overestimate; (3) contended that EPA had underestimated the drilling waste volumes requiring onshore disposal; or (4) stated that projected sites for disposal would encounter difficulties in obtaining operating permits. For this final rule, EPA reassessed estimates of the incremental increase in the volume of drilling fluids and drill cuttings requiring onshore disposal under the various options under consideration, reevaluated solids control equipment practices and supply boat utilization, updated estimates of the onshore disposal capacity for oilfield wastes, and reassessed the assumptions and methodologies used in determining energy requirements and air emissions. EPA also took into account the Clean Air Act Amendments of 1990 (and implementing regulations issued September 4, 1992 at 57 FR 40792) establishing new limitations on emissions of air pollutants from OCS sources.

2. Produced Water

Energy requirements and air emissions associated with the produced water treatment options were reassessed for the final rule. At proposal, energy requirements were calculated based on determining the total pressure drop across a treatment unit, converting this differential pressure value to a power requirement (horsepower) needed to operate the treatment system, then identifying fuel consumption. In reevaluating the non-water quality environmental impacts, EPA noted that energy requirements for the granular filtration option were underestimated and reinjection option fuel requirements were overestimated. To estimate more accurately the energy requirements for the final rule, EPA recalculated fuel needs based on the power requirements for each of the various capacities (produced water flowrates) of the modeled treatment systems.

EPA's revised calculations also based fuel usage calculations on reinjection pumps driven by natural gas turbines instead of electric-driven pumps, which

the calculations for the proposal were based upon. Gas-driven pumps are preferred offshore because the platforms typically have gas production on-site which serves as the fuel source. (Electrical reinjection pumps require more fuel than gas-driven pumps because of an extra energy conversion step.)

F. Industry Profile

The location, size, and number of existing platforms has been updated since the proposal in response to comments. First, information was gathered to account for current activity in State waters of the offshore subcategory in the Gulf of Mexico. Second, the Pacific profile was re-evaluated in light of comments. The new information is discussed in section III.B.2 of this notice.

Table 3 presents the estimated number of existing producing structures that are projected to incur costs under today's rule. Approximately 8 percent of the existing structures estimated to bear BAT costs lie within the 3-mile boundary.

Table 4 presents the number of new wells projected to be drilled annually by geographic region and distance from shore. The estimates include exploratory, development and production wells. Both productive and non-productive (dry holes) wells are included.

Table 5 presents the total number of new structures estimated to be installed during the 15-year period following promulgation. Fourteen percent of new structures are projected for installation within 3 miles from shore.

TABLE 3.—EXISTING STRUCTURES IN OFFSHORE WATERS

[Estimated to bear BAT costs]

	Distance from shore (miles)		
	0–3	>3	Total
Gulf of Mexico	201	2,316	2,517
California	10	22	32
Alaska	0	0	0
Total	211	2,538	2,549

Note: Two existing facilities offshore Alaska currently reinject produced water under state requirements. No compliance costs have been estimated for the two Alaskan facilities since any costs incurred under this rule would be minimal.

TABLE 4.—AVERAGE ANNUAL NUMBER OF WELLS DRILLED, BAT/BCT AND NSPS

[15 Years following promulgation]

	Distance from shore (miles)				
	0–3	3–4	4–8	>8	Total
Gulf of Mexico	60	12	64	579	715
California	0	0	29	3	32
Alaska	(1)	(1)	(1)	(1)	12
Total	.....	.....	.....	.....	759

[1] Not presented because Alaska excluded from zero discharge requirement for drilling fluids and drill cuttings.

TABLE 5.—TOTAL PROJECTED NEW FACILITIES

[15 Years following promulgation]

	Distance from shore (miles)			
	0–3	3–4	>4	Total
Gulf of Mexico	102	38	615	755
California	0	0	0	0
Alaska	2	0	2	4
Total	104	38	617	759

VI. Summary of the Most Significant Changes From the Proposal

This section briefly identifies the most significant changes from the proposal. More detailed discussion of these changes, and identification and discussion of other issues are included in other sections of this notice, the Development Document, the Economic Impact Analysis, and the record for this rule.

A. Drilling Fluids and Drill Cuttings

1. BCT

In the March 1991 proposal, EPA's preferred option for BCT control of drilling fluids and drill cuttings required zero discharge for wells drilled at a distance of four miles or less from shore. Discharges from wells drilled at a distance greater than four miles from shore were proposed to be limited by a prohibition on the discharge of free oil, as determined by the static sheen test. Wells drilled in the Alaska region were proposed to be excluded from the zero discharge limitation, and instead comply with the no free oil limitation.

For this final rule, the delineation for determining the zone of zero discharge is being set at a distance of three miles from shore. Drilling fluids and drill cuttings from wells drilled by existing sources at a distance of 3 miles or less from shore will be prohibited from discharge to the surface waters of the U.S. Discharges of drilling wastes (fluids and cuttings) from wells drilled beyond this distance will be prohibited from discharging free oil. As proposed, wells drilled off Alaska will be excluded from the zero discharge and will instead comply with the no free oil limitation.

2. BAT and NSPS

In the March 1991 proposal, EPA's preferred option for BAT and NSPS control of drilling fluids and drill cuttings was similar to the preferred BCT control and required zero discharge for wells drilled at a distance of four miles or less from shore. Additional requirements for control of priority and nonconventional pollutants in drilling fluids and drill cuttings were proposed for those wells drilled at a distance greater than four miles from shore and were as follows: (1) Toxicity limitation set at 30,000 ppm in the suspended particulate phase; (2) a prohibition on the discharge of detectable amounts of diesel oil used either for lubricity or spotting purposes; (3) no discharge of free oil based on the static sheen test; and (4) limitations for cadmium and mercury in the drilling fluids and drill cuttings at 1 mg/kg each in the whole drilling fluid at the point of discharge. All wells drilled in the Alaskan region were proposed to be excluded from the zero discharge limitation; instead, discharges from wells off Alaska were proposed to be controlled by the limitations on mercury and cadmium, toxicity, and diesel and free oil.

NSPS and BAT limitations of this final rule differ from the proposed limitations in the following manner. First, as established for BCT, the prohibition on discharges of drilling fluids and drill cuttings is being set at a distance of three miles from shore. Second, for reasons discussed in section VII.B.3 of this notice, the term "in detectable amounts" has been deleted from the limitation prohibiting discharges containing diesel oil. Third, instead of the proposed "end-of-pipe" limitation on cadmium and mercury content in the whole drilling fluid, EPA is limiting these metals at 3 mg/kg for cadmium and 1 mg/kg for mercury in the stock barite. Discharges beyond 3 miles from shore, as well as all discharges of drilling wastes off Alaska, will be required to comply with the limitations on mercury and cadmium, toxicity, and diesel and free oil.

B. Produced Waters

The BCT limitation of this final rule is unchanged from the proposal and is being established equal to current BPT limits (48 mg/l monthly avg., 72 mg/l daily max.). In March 1991, EPA proposed establishing oil and grease limitations for BAT and NSPS based on membrane filtration technology (7 mg/l monthly average, 13 mg/l daily

maximum) for produced water discharges located within four miles from shore, and setting BAT and NSPS equal to the current BPT limitations for discharges beyond that distance. Alternatively, EPA was also considering setting the limitations for those facilities within four miles of shore based on granular filtration technology (16 mg/l monthly avg., 29 mg/l daily max.). In this final rule, EPA is requiring all discharges of produced water to comply with BAT and NSPS oil and grease limitations of 42 mg/l daily maximum and 29 mg/l monthly average based on improved performance of gas flotation technology.

C. Produced Sand

The BAT and NSPS limitations for this wastestream remain unchanged from the proposed limitation of zero discharge. BCT in this final rule will prohibit all discharges of produced sand.

D. Deck Drainage

The BCT limitation of this final rule is unchanged from the proposal and is equal to the BPT limitation of no discharge of free oil. In March 1991, EPA proposed establishing oil and grease limitations for BAT and NSPS control of this wastestream based on commingling deck drainage with the produced water treatment system. The preferred option for control of deck drainage at proposal was to set the BAT and NSPS limits equal to those proposed for produced water. EPA also proposed setting BAT and NSPS equal to BPT (56 FR 10695 and 56 FR 10698). In the final rule, EPA is setting BAT and NSPS limitations equal to the current BPT limitations prohibiting discharge of free oil.

E. Well Treatment, Completion, and Workover Fluids

The BCT limitation of this final rule is unchanged from the proposal and is equal to the existing BPT limitation of no discharge of free oil. In March 1991, EPA proposed NSPS and BAT limitations prohibiting discharge of well treatment, completion and workover fluids which surfaced from the well as a discrete fluid slug, along with a buffer volume preceding and following that fluid slug. For those treatment, completion and workover fluids surfacing intermixed, or commingled, with produced water, EPA proposed establishing oil and grease limitations for BAT and NSPS control based on treatment by the produced water treatment system. The limitations were proposed to be equivalent to those proposed for produced water.

In this final rule, EPA is deleting the zero discharge requirement for discrete fluid slugs. BAT and NSPS limitations are being set equal to the BAT and NSPS limitations of this rule for produced water which is based on improved performance of gas flotation (29 mg/l monthly avg, 42 mg/l daily max).

F. Domestic Waste

In March 1991, EPA proposed prohibiting discharges of floating solids and foam. In addition to the limitations proposed, EPA is incorporating limitations on discharges of garbage and plastics, as required by 33 CFR Part 151. Discharges of foam will be prohibited under BAT as well as NSPS.

G. Sanitary Waste

The BCT and NSPS limitations for this wastestream remain unchanged from proposal and are equal to existing BPT requirements. BAT is not being promulgated for these wastes.

VII. Basis for the Final Regulation—Drilling Fluids and Drill Cuttings

A. BCT

Section 304(b)(4)(B) of the CWA requires EPA to take into account a variety of factors, in addition to the BCT cost test discussed below, in establishing BCT limitations. These additional factors include "non-water quality environmental impacts (including energy requirements), and such other factors as the Administrator deems appropriate." EPA conducted an investigation into both the impacts of transporting drilling wastes and the availability of land for drilling waste disposal (see section VII.A.4). These non-water quality environmental impacts and energy requirements and their effect on the control of drilling fluids and drill cuttings covering existing and new sources are discussed below. Also, EPA considered other factors such as administrative burden and enforcement issues in evaluating BCT options.

1. BCT Methodology

The methodology for determining "cost reasonableness" was proposed by EPA on October 29, 1982 (47 FR 49176) and became effective on August 22, 1986 (51 FR 24974). These rules set forth a procedure which includes two tests to determine the reasonableness of costs incurred to comply with candidate BCT technology options. If all candidate options fail any of the tests, or if no candidate technologies more stringent than BPT are identified, then BCT effluent limitations guidelines must be set at a level equal to BPT effluent limitations. The cost reasonableness methodology compares the cost of conventional pollutant removal under the BCT options considered to be the cost of conventional pollutant removal at publicly owned treatment works (POTWs).

BCT limitations for conventional pollutants that are more stringent than BPT limitations are appropriate in instances where the cost of such limitations meet the following criteria:

- *The POTW Test:* The POTW test compares the cost per pound of conventional pollutants removed by industrial dischargers in upgrading from BPT to BCT candidate technologies with the cost per pound of removing conventional pollutants in upgrading POTWs from secondary treatment to advanced secondary treatment. The upgrade cost to industry must be less than the POTW benchmark of $0.46 per pound ($0.25 per pound in 1976 dollars indexed to 1986 dollars).
- *The Industry Cost-Effectiveness Test:* This test computes the ratio of two incremental costs. The ratio is also referred to as the industry cost test. The numerator is the cost per pound of conventional pollutants removed in upgrading from BPT to the BCT candidate technology; the denominator is the cost per pound of conventional pollutants removed by BPT relative to no treatment (i.e., this value compares raw wasteload to pollutant load after application of BPT). The industry cost test is a measure of the candidate technology's cost-effectiveness. This ratio is compared to an industry cost benchmark, which is based on POTW cost and pollutant removal data. The benchmark is a ratio of two incremental costs: the cost per pound to upgrade a POTW from secondary treatment to advanced secondary treatment divided by the cost per pound to initially achieve secondary treatment from raw wasteload. The result of the industry cost test is compared to the industry Tier I benchmark of 1.29. If the industry cost test result for a considered BCT technology is less than the benchmark, the candidate technology passes the industry cost-effectiveness test. In calculating the industry cost test, any BCT cost per pound less than $0.01 is considered to be the equivalent of de minimis or zero costs. In such an instance, the numerator of the industry cost test and therefore the entire ratio are taken to be zero and the result passes the industry cost test.

These two criteria represent the two-part BCT cost reasonableness test. Each of the regulatory options was analyzed according to this cost test to determine if BCT limitations are appropriate.

2. BCT Options Considered

Following a review of the comments and data received in response to the March 1991 proposal, EPA modified the control and treatment options in developing the final rule. The following BCT effluent limitations options for drilling fluids and drill cuttings were evaluated for cost-reasonableness by the

POTW and the industry cost-effectiveness tests:

"3 Mile Gulf/California"—All regions except offshore Alaska would be prohibited from discharging drilling fluids and drill cuttings from all wells located within three miles from shore. All wells located beyond three miles from shore, as well as all wells being drilled off of Alaska, would be permitted to discharge drilling fluids and drill cuttings that are in compliance with the no discharge of free oil limitation as determined by the static sheen test.

"8 Mile Gulf/3 Mile California"—Zero discharge for all wells in the Gulf of Mexico located within eight miles from shore and zero discharge for all wells offshore California located within three miles from shore. All wells located beyond eight miles from shore in the Gulf of Mexico, beyond three miles from shore off California, and all wells drilled offshore Alaska would be permitted to discharge drilling fluids and drill cuttings that are in compliance with the no discharge of free oil limitation.

"Zero Discharge Gulf/California"—Zero discharge for all wells located in the Gulf of Mexico and offshore California. All wells being drilled offshore Alaska would be permitted to discharge drilling fluids and drill cuttings that are in compliance with the no discharge of free oil limitation.

EPA also evaluated the compliance costs and non-water quality environmental impacts for discharge prohibitions at four and six miles from shore in considering the appropriateness of the three- and eight-mile drilling activity profiles. These other options are discussed in detail in the Development Document for the final rule. "Miles" as used in this preamble and the regulation in reference to BCT, BAT and NSPS limitations for drilling fluids and drill cuttings refers to nautical miles. Although it is not a conventional pollutant, as is oil and grease, EPA is limiting free oil as a surrogate for oil and grease under BCT in recognition of its previous use under BPT.

In referring to the options considered for control of drilling fluids and drill cuttings, the Gulf of Mexico, California and Alaska regions are used in the option descriptions and accompanying discussion. Use of the word "Gulf" means any offshore location other than Alaska and California. EPA uses the term "Gulf" as a "shorthand" way of referring to regulatory options and does not exclude other geographic areas from coverage under this rule. For the BCT, BAT and NSPS limitations under this rule, all offshore areas other than offshore California and Alaska would be required to comply with the limitations established for the Gulf of Mexico.

For the purposes of this rule, EPA determined that reinjection of drilling wastes into underlying formations at offshore platforms was not an available technology at this time. Although this technology has been demonstrated at some onshore sites in Alaska and the Gulf of Mexico region, the size of the equipment required to perform these operations and questions regarding the feasibility of reinjecting a high solids slurry into underlying formations throughout the offshore regions affected by this rule currently preclude widespread application offshore.

The removals of TSS and oil and grease are the only conventional pollutants selected in calculating the BCT cost reasonableness tests for drilling wastes. BOD was not used because it was not a parameter normally measured in wastewaters from this industry since it is associated with the oil content. The use of both BOD and oil (or oil and grease) would essentially result in double-counting pollutant removals, thus giving erroneous results. (See 47 FR 49181 and 51 FR 24976)

Comments were submitted to EPA regarding specific situations in Alaskan waters (State and Federal waters off of Alaska) which make compliance with a zero discharge requirement based on transporting drilling wastes to shore for treatment and/or disposal difficult. Reasons for this primarily relate to the severe weather conditions. Because of sea ice, tugs and barges can only be used for 4 months in the summer during open-water/broken ice season. In addition, winter snow and fog conditions severely restrict visibility. White-out conditions occur restricting air and water travel. Other considerations which hinder compliance with the zero discharge requirement are the long distances (both offshore and onshore) required to transport wastes to areas which may be suitable for land disposal and the lack of permitted land disposal facilities. For these reasons, EPA is excluding Alaskan waters from the zero discharge requirement. All drilling fluids and drill cuttings discharges from existing sources off Alaska will be required to comply with the BCT limitation prohibiting the discharge of free oil (measured by the static sheen test), as well as the BAT limitations on free oil, diesel oil, toxicity, cadmium and mercury. All discharges of drilling fluids and drill cuttings from new sources off Alaska must comply with NSPS limits on free oil, diesel oil, toxicity, cadmium and mercury.

3. BCT Cost Test Calculations

a. *Drilling Fluids.* Using the volumes of drilling fluids projected by the computer model for each geographic region, it was estimated that offshore drilling activity annually generates a total of 944,364,000 lb/yr of conventional pollutants (TSS and oil) in the drilling fluids wastestream. Applying the BPT restrictions on free oil, it was estimated that under BPT a total of 47,807,000 lb/yr of conventional pollutants are removed from this waste stream for onshore disposal, at a cost of $7,152,000 per year (1986 dollars). Dividing the cost by pollutant removal, the BPT cost per pound of conventional pollutant removal for drilling fluids is $0.1496 per pound (1986 dollars). This value is the denominator of the industry cost-effectiveness test (the second part of the two part BCT cost-reasonableness test).

$$\text{BPT Result (\$/lb)} = \frac{\$7{,}152{,}000}{47{,}807{,}000 \text{ lbs}}$$

=$0.1496 per pound (1986 dollars)

The POTW test (first part of the two part BCT cost-reasonableness test) is calculated by comparing the cost per pound of conventional pollutants removed in upgrading from BPT to the BCT candidate technologies. The "3 Mile Gulf/CA" option for BCT, in relation to BPT requirements on drilling fluids, is projected to remove an additional 71,292,000 pounds of conventional pollutants from the drilling fluids wastestream at an incremental cost of $5,697,000 (1986 dollars). These BCT incremental compliance costs and pollutant removals are due to onshore disposal of drilling fluids within three miles from shore (costs and pollutant removals associated with the no free oil limit beyond three miles from shore are attributed to BPT limitations and are not counted again under BCT). Since the cost reasonableness methodology is concerned with the cost of conventional pollutant removal under BCT as it is applied incrementally to BPT, the effects of existing NPDES permit limitations which may be more stringent than BPT (such as toxicity, diesel and metals limits for the drilling fluids) are not considered for the cost-reasonableness tests. These BCT cost tests focus exclusively on the incremental costs/removals from raw wasteload to BPT, and the incremental costs/removals from BPT to BCT. Dividing the BCT costs by the conventional pollutant removals provides a POTW test result of $0.0799 per pound. Since the POTW test result is less than $0.46 per pound (1988 dollars), the result passes the POTW test.

$$\text{POTW Test Result (\$/lb)} = \frac{\$5,697,000}{71,292,000 \text{ lbs}}$$

=$0.0799 per pound (1986 dollars)

The industry cost test compares the result of the POTW test to the cost per pound of the BPT limitations. For the "3 Mile Gulf/CA" option, the test result for drilling fluids is 0.53.

$$\text{Industry Cost Test} = \frac{\text{POTW Test Result}}{\text{BPT Result (\$/lb)}} = \frac{0.0799}{0.1495} = 0.53$$

Since the test result is less than 1.29, the result passes the industry cost-effectiveness test. Since the BCT candidate option passes both tests, it is found to be cost-reasonable.

Additional discussion of the compliance costs and BCT cost tests are provided in the Development Document. The results of the BCT cost reasonableness test for the candidate options for drilling fluids are presented in Table 6. All BCT options considered for drilling fluids pass both cost-reasonableness tests.

TABLE 6.—BCT COST TEST RESULTS FOR DRILLING FLUIDS

BCT candidate options	Conventional pollutants removed[1] (MM lb/yr)	Regulatory compliance cost[1] (MM $/yr) (1986 $)	POTW cost test (1986 $/lb)	Industry cost test
3 Mile Gulf/CA	71.3	5.7	0.08	0.53
8 Mile Gulf/3 Mile CA	161.6	18.1	0.11	0.75
Zero Discharge Gulf and CA	879.1	116.8	0.13	0.89

[1] Incremental to BPT.

b. *Drill Cuttings.* Using the volumes of cuttings predicted by the computer model for each geographic region, it was estimated that the offshore drilling activity annually generates a total of 846,341,000 lb/yr of conventional pollutants (TSS and oil) in the drill cuttings wastestream. Applying the BPT restrictions on free oil, it was estimated that, under BPT limitations a total of 9,381,000 lb/yr of conventional pollutants are removed from this waste stream for onshore disposal at a cost of $635,000 per year (1986 dollars). Dividing the cost by pollutant removal, the BPT cost per pound of conventional pollutant removal for drill cuttings is $0.0677 per pound (1986 dollars). The results of the BCT cost reasonableness test for the candidate options for drill cuttings are presented in Table 7. All BCT options considered for drill cuttings pass both cost reasonableness tests.

TABLE 7.—BCT COST TEST RESULTS FOR DRILL CUTTINGS

BCT candidate options	Conventional pollutants removed[1] (MM lb/yr)	Regulatory compliance cost[1] (MM $/yr) (1986 $)	POTW cost test (1986 $/lb)	Industry cost test
3 Mile Gulf/CA	70.5	3.3	0.05	0.69
8 Mile Gulf/3 Mile CA	155.2	7.5	0.05	0.72
Zero Discharge Gulf and CA	825.3	41.0	0.05	0.73

[1] Incremental to BPT.

4. Non-Water Quality Environmental Impacts and Other Factors

The elimination or reduction of one form of pollution has the potential to aggravate other environmental problems. Under sections 304(b) and 306 of the CWA, EPA is required to consider these non-water quality environmental impacts (including energy requirements) in developing effluent limitations guidelines and NSPS. In compliance with these provisions, EPA has evaluated the effect of these regulations on air pollution, solid waste generation and management, consumptive water use, and energy consumption. Because the technology basis for the limitation on drilling fluids and drill cuttings requires transporting the wastes to shore for treatment and/or disposal, adequate onshore disposal capacity for this waste is critical in assessing the options. Safety, impacts of marine traffic on coastal waterways, and implementation considerations such as administrative burden and enforcement were other factors also considered. EPA evaluated the non-water quality environmental impacts on a regional basis because the different regions each have their own unique considerations (e.g., air emissions are a particular concern in Southern California, while availability of disposal sites is more limiting for the Gulf of Mexico). Although not specifically detailed in the discussion below, the non-water quality environmental impacts associated with the projected future drilling and production activities in regions other than the Gulf of Mexico, California, and Alaska have been considered acceptable.

The control technology basis for compliance with the options considered for the drilling fluids and drill cuttings wastestreams is a combination of product substitution and/or transportation of drilling wastes to shore for treatment and/or disposal. The non-water quality environmental impacts associated with the treatment and control of these wastes are summarized in Table 8.

TABLE 8.—NON-WATER QUALITY ENVIRONMENTAL IMPACTS DRILLING FLUIDS AND DRILL CUTTINGS

Options	Volume of barged waste (bbl/yr)	Air emissions (tons/yr)	Fuel requirements (bbl diesel/yr)
3 mile Gulf/CA	590,800	298	34,900
8 mile Gulf/3 mile CA	1,374,300	466	55,700
Zero Discharge Gulf and CA	6,811,400	1,798	221,400

Note: All values presented incremental to current industry practice.

a. *Solid Waste Generation and Management.* The regulatory options considered for this rule will not cause the generation of additional solids as a result of the treatment technology. However, used drilling fluids and drill cuttings contain high levels of solids, and considerable volumes of these wastes will be disposed of onshore instead of being discharged at the drilling sites under this final rule.

EPA estimates that drilling activity in the offshore subcategory generates approximately 7.7 million barrels per year of drilling wastes (drilling fluids and drill cuttings). Of that volume, it is estimated that about 760,000 barrels per year of drilling wastes already undergo onshore disposal to comply with current NPDES permit limitations which include BPT effluent limitations and BAT and BCT limits (based on Best Professional Judgment). This volume of drilling wastes (from the offshore subcategory) disposed onshore may be compared to EPA's 1987 estimates of 361 million barrels per year of drilling wastes generated from the drilling of wells in the "onshore" and "coastal" subcategories. (See "Report to Congress: Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy," U.S. EPA, Office of Solid Waste, EPA/530–SW–88–003, December 1987.) A significant portion of these wastes from onshore drilling activities are disposed of onsite and not transported to commercial treatment and/or disposal facilities.

The drilling wastes generated offshore and transported to shore for treatment and/or disposal under this rule would be deposited in commercial land disposal facilities similar to those used to manage a portion of the drilling wastes generated by the onshore and coastal subcategories. These land disposal sites are generally located near the coast where the wastes are brought to shore. In evaluating the impacts from land disposal of the drilling wastes, EPA determined the availability of disposal capacity on a regional basis. For each regulatory option, EPA estimated the volume of wastes requiring land disposal and the excess, or unused, capacity of disposal facilities.

In the proposal, EPA had estimated available capacity for drilling fluids and drill cuttings by reviewing permitted capacity. At that time, data on the degree to which disposal capacity was used was not available. For the final rule, EPA updated capacity estimates and obtained data on the volumes of wastes treated at the disposal sites to derive more accurate projections of the "excess" available capacity. The "excess" available capacity is more useful for evaluating the non-water quality environmental impacts of the various options considered for the rule.

While drilling wastes are exempted from federal regulation as hazardous wastes under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (Solid Waste Disposal Act [SWDA], 42 U.S.C. 6901–6992(k)), and no Subtitle D regulations specific to these wastes have been developed, there are existing State requirements for these wastes. No new federal requirements for the management of exploration and production wastes under RCRA Subtitle D have been proposed.

Gulf of Mexico Region

In developing the proposal, EPA surveyed state/local regulatory agencies and disposal facilities in late 1989 and early 1990 to estimate the available and projected annual disposal capacities of sites near the coast which could treat and dispose of drilling wastes. The results of this study are documented in "Onshore Disposal Of Offshore Drilling Waste: Capacity and Cost of Onshore Disposal Facilities," prepared for EPA by ERCE, March 1991. The evaluation reviewed the situation in the three major areas where onshore disposal of offshore drilling waste would be necessary: Gulf of Mexico, California, and Alaska. Treatment and disposal options for offshore waste disposal in each region were evaluated based on telephone contacts with knowledgeable individuals associated with regulatory agencies or disposal facilities. Estimates of regional capacity were derived from telephone contacts with facility operators, recently completed state hazardous waste Capacity Assurance Plans, State data on nonhazardous waste facilities, and literature sources.

In the Gulf Coast states, oil drilling wastes that are exempt from RCRA Subtitle C are generally accorded the regulatory status of nonhazardous wastes but are subject to state disposal requirements specific to oilfield wastes. Onshore oil drilling facilities are allowed to utilize drilling pits for storage of drilling fluids and drill cuttings. Upon closure and subject to state requirements, the drilling wastes can be either buried on-site, land spread, or injected into the underlying formation. Drilling wastes derived from onshore drilling operations are occasionally transported to an off-site, commercial disposal facility for ultimate disposal. Commercial disposal facilities in the region are permitted by the state to accept specific types of nonhazardous oilfield waste. These facilities are more commonly used by offshore and coastal drilling operations and by facilities located in wetlands areas or in inland waterways.

In the March 1991 study, disposal sites in the Gulf of Mexico region were classified in three categories. First, Tier 1 sites were those permitted to accept nonhazardous oilfield wastes which are currently accepting wastes from offshore. These are sites located in close proximity to drilling sites, generally are accessible by boat/barge, and charge competitive rates for disposal. Operations included in this category are landfarming, landfilling, and waste treatment prior to landfilling. The second category, Tier 2 sites, included facilities permitted to accept nonhazardous oilfield wastes but which were not accepting wastes from offshore at that time because of their relative lack of proximity to drill sites, their lack of marine unloading terminals or water access, their inability to compete with the rates charged by Tier 1 facilities, or the lack of sufficient demand for onshore disposal capacity. Finally, Tier 3 sites were those facilities permitted to accept hazardous waste and which could accept nonhazardous oilfield waste (at a much higher cost) should there be no other suitable disposal alternatives. The study projected the combined capacity of Tier 1 and Tier 2 sites at 30.7 million barrels of drilling wastes per year, with Tier 3 sites providing an additional 10.9 million barrels per year of capacity. It was noted that some portion of the permitted acreage in the Tier 1 category was not being used at the time of the survey; however, the capacity actually used was not quantified.

In developing options for the final rule, EPA improved upon the capacity estimates used for the proposal. EPA believes that in addition to the CWA's requirement to consider non-water quality environmental impacts, sound environmental policy requires that there be adequate onshore disposal capacity to dispose of drilling fluids and drill cuttings that will need to be barged to shore to comply with the zero discharge requirements, toxicity limits, and other requirements imposed by this rule. Thus, EPA must be careful in projecting how much landfill capacity is actually available for this use.

Accordingly, it is appropriate to determine how much of the permitted capacity is actually available for disposal of drilling fluids and drill cuttings generated offshore. Disposal capacity estimates made by EPA for the 1991 proposal did not account for impacts due to zero discharge limits for drilling fluids and drill cuttings limits proposed in a general permit covering

coastal drilling activities in Texas and Louisiana (55 FR 23348; June 7, 1990). EPA expects to promulgate this general permit in early 1993. If promulgated as proposed, EPA anticipates that this permit will result in an incremental increase of 1.1 million barrels per year of coastal drilling waste requiring onshore disposal as a result of these new permit limitations. Although these wastes are originating in the coastal subcategory and thus are not affected by this rulemaking, the coastal drilling wastes do compete for the same onshore disposal capacity and therefore must be considered in determining disposal site availability.

EPA reviewed the analysis prepared for the 1990 and 1991 proposals to evaluate what facilities should be considered as available sites for disposal of drilling fluids and drill cuttings from offshore oil and gas platforms for purposes of determining non-water quality environmental impacts.

EPA has determined that it should not include hazardous waste facilities in its overall capacity estimates for this rule. Drilling wastes are exempted from federal regulation as hazardous wastes under subtitle C of RCRA. While exempted under subtitle C, there are existing state requirements for disposal of these wastes. In the Gulf coast states, commercial disposal facilities are permitted to accept specific types of nonhazardous oilfield waste. In EPA's judgment, adequate disposal capacity for hazardous waste disposal is an ongoing problem, and these hazardous waste facilities should be reserved for use to dispose of waste which cannot be disposed of in any other type of facility.

Because EPA wanted to make a realistic estimate of disposal capacity, EPA included in its estimates of available disposal capacity only those facilities that are currently accepting the type of drilling fluids and drill cuttings that would be generated offshore. Facilities excluded from EPA's onshore disposal capacity estimates include a permitted, but not yet constructed, site and a facility for which the operating permit is currently suspended. EPA also excluded a facility in northern Louisiana because disposal at this facility would require at least a five-hour truck ride, resulting in additional air emissions, energy use, and significantly higher disposal costs than the other sites which are located closer to shore.

Based on this analysis, total permitted capacity in the Gulf of Mexico region is estimated at 8.5 million bbl/year. A review of the wastes receipts from the disposal facilities indicated that approximately 3 million bbl of wastes were accepted for treatment and/or disposal at these facilities in 1989. Using the permitted capacity estimate of 8.5 million bbl/year, approximately 5.5 million bbl/year of onshore disposal capacity is available to accept additional drilling wastes (8.5 − 3.0=5.5 million bbl/year available capacity).

Under the regulatory option (Zero Discharge Gulf/California) requiring zero discharge of all drilling wastes for the Gulf of Mexico region, EPA projects an incremental increase of 6.6 million barrels per year of drilling fluids and drill cuttings from the offshore subcategory requiring onshore disposal at facilities on the Gulf coast. (Accounting for the coastal drilling wastes under the proposed coastal permit would increase the total by 1.1 MMbbl/yr to 7.7 MMbbl/yr.) Comparing the volume of offshore drilling wastes to current projections of 5.5 million barrels of available excess disposal capacity in the Gulf coast region, EPA concluded that the offshore wastes requiring onshore disposal under this option would exceed the available disposal capacity.

Additional regulatory options with requirements prohibiting discharges over lesser geographic areas (options setting discharge prohibitions at distances of 3, 4, 6, or 8 miles from shore) were evaluated with respect to the revised land capacity estimates. For the options prohibiting discharges of drilling wastes within 8 miles of shore, 1.4 million barrels per year of wastes from the offshore subcategory would be disposed of onshore in the Gulf region. The combination of offshore wastes (1.4 MMbbl/yr) and projected coastal wastes (1.1 MMbbl/yr) represents an estimated 45 percent of the projected available excess land disposal capacity in the Gulf coast region (2.5 MMbbl/yr equals 45% of 5.5 MMbbl/yr capacity). For the options prohibiting discharges of drilling wastes within 3 or 4 miles of shore, 685,000 bbl/yr or 793,000 bbl/yr, respectively, of drilling wastes from the offshore subcategory will require onshore disposal in the Gulf region. Including the 1.1 MMbbl/yr of projected coastal-generated drilling wastes, 33 to 35 percent, respectively, of the excess land disposal capacity in the Gulf coast region will be required under the 3 and 4 mile options. Additional discussion on the drilling waste volumes requiring onshore disposal and projections of available excess disposal capacity are further discussed in sections concerning BCT, BAT and NSPS options selection for drilling fluids and drill cuttings.

California Region

California laws and regulations provide for oil and gas wastes to be designated either hazardous or nonhazardous. Drilling wastes in California are considered nonhazardous provided the operator uses only approved additives and fluids. Although offshore drilling wastes requiring onshore disposal in California would be nonhazardous if the operator uses the approved additives and fluids in the drilling operations, disposal options appear limited. While in theory it may be possible to dispose of any oilfield waste in local Class III (nonhazardous waste that will not decompose) landfills, local regulatory agencies have indicated that they are not inclined to allow such disposal unless the waste is first stabilized for use as landfill cover. If not stabilized and disposed in a Class III landfill, the alternative disposal option for offshore drilling waste is disposal at a Class I hazardous waste site. In the 1991 study report, permitted Class III (stabilized, nonhazardous waste) disposal capacity was estimated at 3.4 million barrels per year and the Class I (hazardous waste landfills) disposal capacity at 6.5–10.5 million barrels per year. It was projected that the facilities available to perform the stabilization necessary to allow disposal at Class III landfills were operating at no more than one-half of the permitted capacity. As part of the final rulemaking, EPA reevaluated capacity estimates and now projects the onshore disposal capacity in the California region at approximately 19.3 million barrels per year (including 15.5 MMbbl/yr for Class III landfills).

Under the option requiring zero discharge of all drilling wastes for the California region, EPA projects that 233,000 barrels of offshore-generated drilling fluids and drill cuttings would require onshore disposal at facilities on the California coast. Comparing that to the projected disposal capacity in the California region, EPA concluded that the wastes requiring onshore disposal under this option would require less than two percent (2%) of the disposal capacity. The distances considered in other drilling fluids and drill cuttings options for this rule require less than one percent of the disposal capacity in the California region.

Alaska Region

The 1991 report identified no commercially operating disposal sites in Alaska accepting offshore drilling wastes. This lack of commercial disposal sites would require operators to transport the drilling wastes to another

location such as Washington, Oregon, or California for disposal; apply to the State of Alaska for a permit to operate a commercial disposal facility for the offshore wastes; apply to the State to allow disposal of drilling wastes which have been either thermally treated or chemically stabilized (solidification) in currently-existing landfills; or inject the drilling wastes into underground formations. Injection of slurried drilling fluids and drill cuttings is currently practiced on a limited trial basis on the North Slope and has been considered for onshore use in other regions such as the Gulf of Mexico. However, the technology of injecting slurried drill cuttings is not sufficiently developed to apply to the offshore subcategory at this time.

Under all options considered by EPA for this rule, drilling wastes generated off Alaska would be excluded from the zero discharge limitation. (See the discussion of options considered.) Under the limitations imposed by this rule, EPA does anticipate a relatively small increase in the volume of offshore-generated drilling wastes requiring onshore disposal in this region. EPA considers the disposal options discussed above, in conjunction with privately-owned (industry-owned) onshore disposal sites, to provide ample capacity for disposal of these wastes. Onshore disposal capacity was a factor in excluding drilling wastes in this region from zero discharge; however, the difficulties involved in transporting large quantities of these wastes to shore (see section VII.A.2 of this notice), and the limited amount of storage space on-site at offshore drilling facilities (particularly mobile drilling units), also serve as a basis for the exclusion. Although the transportation and onshore disposal considerations precluded the zero discharge requirement for this region, these factors are not considered to prevent the industry from capturing and transporting the relatively small volumes of drilling wastes that are anticipated to require onshore disposal in this region. The volumes requiring onshore disposal under this rule would, for the most part, be relatively small, anticipated by the operator (and thus could be planned for accordingly), and typically occur toward the end of a drilling program when the potential for causing a halt to drilling would likely be minimized (since the waste volumes to be handled would either be small or onsite storage would be available). Such waste handling practices and operations would not be inconsistent with current practices under the current NPDES permit limitations.

b. *Energy Requirements.* Energy requirements for each of the treatment options considered in this rule were calculated by identifying those activities necessary to support onshore disposal of drilling wastes. Those activities requiring fuel consumption include supply boats to transport the drilling wastes, crane operation at the drilling sites and marine transfer stations to facilitate off-loading the wastes, trucks to transport the wastes from the marine transfer station to the onshore disposal site, and earth-moving equipment at the disposal site to facilitate landspreading and landfill operations. Since many disposal sites are either located at marine transfer stations, or wastes may be transferred at marine transfer stations from supply vessels to barges and then transported on waterways to the disposal sites, much of the drilling waste may not actually require truck transportation. However, the fuel requirements and air emissions attributed to truck usage in EPA's analysis are considered to approximate the energy requirements and air emissions resulting from the alternative use of barge traffic.

EPA used the volumes of drilling waste requiring onshore disposal to estimate the number of supply boat trips necessary to haul the waste to shore. Projections made regarding boat use included types of boats used for waste transport, the distance travelled by the boats, allowances for maneuvering, idling and loading operations at the drill site, and inport activities at the marine transfer station. EPA estimated fuel required to operate the cranes at the drill site and inport based on projections of crane usage. EPA determined crane usage by considering the drilling waste volumes to be handled and estimates of crane handling capacity. EPA also used drilling waste volumes to determine the number of truck trips required. The number of truck trips, in conjunction with the distance travelled between the marine transfer station and the disposal site, enabled an estimate of fuel usage. The use of land-spreading equipment at the disposal site was based on the drilling waste volumes and the projected capacity of the equipment. The methodology used to determine fuel consumption is further discussed in the Development Document. Table 8 summarizes the incremental increase in energy requirements for the drilling fluids and drill cuttings options considered for this rule.

c. *Air Emissions.* EPA estimated air emissions resulting from the operation of boats, cranes, trucks and earth-moving equipment by using emission factors relating the production of air pollutants to time of equipment operation and amount of fuel consumed. The incremental increase in air emissions associated with the control options considered by EPA in this final rulemaking are presented in Table 8.

In developing regulations to control air pollution from OCS sources pursuant to the 1990 Clean Air Act Amendments, the EPA Office of Air Quality Planning and Standards estimated the air emissions associated with various stages of oil/gas resource development activities ("Control Costs Associated With Air Emission Regulations For OCS Facilities," Final Report September 30, 1991. Prepared by Mathtech, Inc. for EPA). In this study, EPA estimated levels of both controlled and uncontrolled emissions from exploration, development, and production operations. Nitrogen oxides (NO_x) emissions from exploratory drilling activities were estimated at 78 tons/operation. For comparison, the increase in air emissions due to offshore and onshore activities related to onshore disposal of drilling wastes is estimated at approximately 1.5 tons of NO_x for each well subject to the zero discharge limitations.

d. *Interaction with OCS Air Regulations.* The regulation of air emissions from outer continental shelf (OCS) sources prior to the passage of the Clean Air Act Amendments of 1990 (CAAA) was the sole responsibility of the Minerals Management Service (MMS), which administered the Department of the Interior (DOI) air quality rules (30 CFR 270.45, 46). The CAAA partitioned the regulation of air emissions from OCS sources between MMS, which will continue to administer the DOI regulations for the Western and Central Gulf of Mexico planning areas (off the states of Texas, Louisiana, Mississippi and Alabama), and EPA, which will have responsibility for the regulation of OCS sources along the Pacific, Arctic and Atlantic coasts and along the Gulf coast off the state of Florida.

On September 4, 1992, EPA promulgated new requirements to control air pollution from OCS sources (57 FR 40792). The purpose of the requirements is to attain and maintain Federal and State ambient air quality standards, and to provide for equity between onshore facilities and OCS facilities located within 25 miles of state seaward boundaries (i.e., within 25 miles of the outer boundary of territorial seas). It should be noted that the effluent guidelines and NSPS

promulgated today by this rule under the CWA apply to all activities located seaward of the inner boundary of the territorial seas and thus includes the territorial seas, the contiguous zone and the ocean.

The OCS rule establishes two separate regulatory regimes. For OCS sources within 25 miles of states' seaward boundaries, the requirements are the same as those that would be applicable if the source were located in the corresponding onshore area (COA). The National Ambient Air Quality Standard (NAAQS) attainment classification of the onshore area determines the degree of additional control and air emission offset requirements for OCS sources within 25 miles of a State seaward boundary (except in the Central and Western GOM planning areas). If any part of the onshore area adjacent to an OCS planning area is designated as nonattainment for a pollutant, then the regulatory requirements applicable to the nonattainment classification for that area would apply to the entire area of the OCS planning area within 25 miles of the State seaward boundary.

Sources located beyond 25 miles of the states' seaward boundaries are subject to federal requirements for Prevention of Significant Deterioration (PSD), New Source Performance Standards (NSPS) and, to the extent that they are rationally related to the attainment and maintenance of federal or state ambient air quality standards or to PSD, National Emission Standards for Hazardous Air Pollutants (NESHAPS). All OCS sources operating adjacent to any State other than Texas, Louisiana, Mississippi, or Alabama will be subject to requirements under one of the above regimes.

In reevaluating the non-water quality environmental impacts associated with onshore disposal requirements for this rule, EPA considered the effect of the OCS air regulations and state requirements on the air emissions resulting from transporting drilling wastes. Areas requiring emissions offsets under the OCS air regulations (those adjacent to nonattainment areas) are located seaward of the outer boundary of the territorial seas (states' seaward boundary) to a distance of 25 miles from that boundary. Drilling activity within state waters would not come under the OCS air regulation, and those activities beyond the 25 mile delineation would not be subject to the limitations of a corresponding onshore area. Emissions in state waters would, however, be subject to state and local rules and may also require offsetting. In analyzing the impacts associated with this rule, EPA quantified potentially needed emission offsets and calculated their associated costs.

e. *Consumptive Water Use.* Since little or no additional water is required above that of usual consumption, no consumptive water loss is expected as a result of this final rule.

f. *Other Factors.* Impact of Marine Traffic on Coastal Waterways. In evaluating the impact of this rule on the potential for increased service vessel traffic, dredging, and the widening of navigation channels, EPA reviewed MMS data and industry comments regarding current practice in supply boat usage. The service vessel usage at offshore facilities may be as high as two supply boats per day and two crew boats per day during the exploration and development phases. In general, service vessels make three trips per week to exploration and development operations and one trip per week to production platforms. A boat may visit only one site or, if it is only going to production platforms, may visit as many as five platforms in a single trip.

The oil and gas industry in the Gulf of Mexico uses the extensive waterway system located within the Gulf coastal states to provide access between onshore support operations and offshore platforms and rigs. Oil industry support vessels moving along coastal navigation channels include crewboats, supply boats, barge systems, derrick vessels, geophysical-survey boats, and floating production platforms. Navigation channels serve as routes for service vessels traveling back and forth from service and supply bases. Generally, oil and gas industry use accounts for less than ten percent (10%) of all commercial usage of the Gulf coastal navigation channels according to MMS data.

The most recent data obtained from MMS show that about 25,000 service vessel trips are made annually to support oil and gas related activities in Federal waters of the Gulf of Mexico. The MMS data does not include vessel traffic destined for coastal or offshore activities in the State territorial seas and therefore undercounts actual boat traffic. (Note that, in the Gulf of Mexico, about 8 percent of existing platforms and 14 percent of projected new drilling activity in the offshore subcategory is within state territorial seas.) In estimating the vessel traffic resulting from this rule, EPA projected that transporting drilling wastes ashore from a well subject to zero discharge would require, on average, 5 to 6 service vessel trips and result in an incremental increase of approximately 740 service vessel trips per year. Ninety percent (90%), or 670, of these boat trips would take place in the Gulf of Mexico. Despite the limitations of the MMS data, it does indicate that the incremental increase in boat traffic due to this rule would be less than three percent (3%) of all service vessel traffic.

In evaluating impacts of vessel traffic for its Environmental Impact Statement for its five-year comprehensive program, MMS projected that an additional 100,000 service vessel trips will result from planned leasing and development activities. Although this boat activity will occur over the life of the new activities, the majority of the vessel traffic is expected to occur within the next 10–15 years. Upon analysis of current and projected vessel traffic and data on navigational channel usage, MMS concluded that some maintenance dredging or deepening of navigation channels may be required, but no new navigation channels were anticipated due to the increased traffic.

Since service vessels must have unimpeded access to supply bases to continue servicing offshore activities, maintenance dredging of navigation channels will be required regardless of whether this rule is promulgated. The channels used by vessel traffic in transporting drilling wastes to onshore disposal sites will also continue to be maintained since over 700,000 barrels of offshore-generated drilling wastes are already being transported to shore in compliance with NPDES permit limitations. Recalling that oil and gas related traffic accounts for less than ten percent of all commercial use of the navigation channels and that oil/gas related vessel traffic resulting from this rule will increase by less than three percent (3%), any increase in vessel traffic due to this rule would be small in relation to the total commercial boat traffic in these channels (3% of 10% equals 0.03%). No significant increase in dredging activities is anticipated as a result of this rule.

Safety

The industry has argued that injuries and fatalities would increase as a result of hauling additional volumes of drilling wastes to shore. EPA acknowledges that safety concerns always exist at oil and gas facilities, regardless of whether pollution control is required. EPA believes that the appropriate response to these concerns is adequate worker safety training and procedures as is practiced as part of the normal and proper operation of offshore oil and gas facilities.

Administrative/Enforcement Considerations

Administrative burden and enforcement issues associated with this rule were considered and are discussed in the following section on options selection.

5. BCT Option Selection

EPA has selected the "3 Mile Gulf/California" option for BCT effluent limitations for drilling fluids and drill cuttings. Drilling fluids and drill cuttings from wells drilled by existing sources at a distance of 3 miles or less from shore will be prohibited from discharge. Wells drilled by existing sources at a distance greater than 3 miles from shore would be allowed to discharge drilling fluids and drill cuttings after meeting the limitation for no discharge of free oil as determined by the static sheen test. However, for BCT in the Alaska region the BCT limitation for all wells is being set at no discharge of free oil as determined by the static sheen test. The exclusion from zero discharge only applies to drilling operations off Alaska; all other offshore regions, including those in which no drilling activity is currently taking place, must comply with the prohibition on discharges of drilling fluids and drill cuttings within 3 miles from shore.

As discussed above in section VII.A.2 under each option considered Alaska was excluded from the zero discharge requirement because specific situations exist in Alaskan waters (State and OCS waters off of Alaska) which make marine transport and onshore disposal of offshore-generated drilling wastes difficult. Reasons for this primarily relate to the severe weather conditions. Because of sea ice, tugs and barges can only be used for a short period of time in the summer during open water/broken ice season. In addition, winter snow and fog conditions restrict visibility. White-out conditions occur restricting air and water travel. EPA also considered the long distances (both offshore and onshore) required to transport the wastes to areas which may be suitable for land disposal, and the lack of current land disposal sites. For these reasons EPA is excluding wells drilled off Alaska from the zero discharge requirement. However, the discharges of drilling fluids and drill cuttings from all wells drilled in the offshore subcategory off of Alaska will be required to comply with the prohibition on discharges containing free oil.

The "3 Mile Gulf/California" option, when compared to the other options considered for the control of drilling fluids and drill cuttings, will result in progress toward the goal of the Clean Water Act to eliminate the discharge of all pollutants while providing the appropriate balance of the considerations required under the Act. As discussed in the above section on BCT costs, this option passes both BCT cost reasonableness tests and is economically achievable. EPA believes the non-water quality environmental impacts associated with the "3 Mile Gulf/California" BCT limitations, in conjunction with those additional impacts associated with the BAT and NSPS limitations on discharges of drilling fluids and drill cuttings and the impacts due to the coastal drilling general permit for Texas and Louisiana, are reasonable. The non-water quality environmental impacts are discussed in more detail in section VII.A.4 of this Notice and the Development Document.

EPA rejected a 4-mile zero discharge delineation due to the small difference in the number of new wells to be drilled between 3 and 4 miles, and comments identifying this mileage as causing some confusion and burden on permitting and inspection authorities and operators as well as a desire expressed by states and federal regulators to make the zero discharge zone consistent with the 3-mile delineation for state waters under the CWA. EPA has also rejected the "8 Mile Gulf/3 Mile California" and "Zero Discharge Gulf/California" options in large part due to non-water quality environmental impacts as discussed below. Since proposal, EPA has reevaluated the non-water quality environmental impacts and has determined that several factors have changed: the amount of waste to be disposed onshore under this rule, the amount of waste projected to be disposed onshore under the coastal drilling permit, and the disposal capacity for disposing of drilling fluids and drill cuttings. In reassessing the pollutant removals and non-water quality environmental impacts for this final rule, EPA revised downward the projections of energy requirements, air emissions, solid waste (drilling waste) requiring onshore disposal, and available "excess capacity" at permitted facilities available for disposal of drilling fluids and drill cuttings.

Prohibition on the discharge (zero discharge) of drilling fluids and drill cuttings as a treatment and control method (except for Alaska) was identified in the March 1991 proposal as technologically available and cost reasonable (passed BCT cost test). EPA rejected that option requiring zero discharge of all drilling wastes at the time of proposal because of concerns related to associated non-water quality environmental impacts. In this final rule, EPA rejects the "Zero Discharge Gulf/California" option because the incremental increase in drilling wastes (6.6 MMbbl/yr of drilling fluids and drill cuttings) requiring onshore disposal exceeds the onshore disposal capacity in the Gulf coast region and air emissions (54 tons/year) in the California region would be unacceptable.

As discussed above, under all options except "Zero Discharge Gulf/California," zero discharge off the coast of California was limited to a distance of three miles from shore. The Southern California air basin currently is in nonattainment of National Ambient Air Quality Standards (NAAQS) and the level of air emissions associated with some options considered for this rulemaking is significant. This region has undergone strict controls on air emissions for a number of years in an attempt to improve air quality. Although the absolute quantity of emissions anticipated off California due to compliance with today's rule are substantially less than those projected for the Gulf of Mexico, the California air basin is one in which impacts on air quality are of particular concern. Air quality in the Gulf region is generally much better than in California and, since controls on air emissions in the Gulf region are generally less stringent than in California, there are many options available in the Gulf region if needed to offset increased air emissions. In California, however, air quality controls have reached a point where it is much more difficult to obtain necessary offsetting reductions in air emissions. In evaluating the air emissions in this rulemaking, EPA determined that establishing a zero discharge limitation at 6 or 8 miles from shore, or for all wells off of California would result in an unacceptable level (42 to 54 tons/year) of air emissions. In setting the zero discharge requirement at a distance of 3 miles from shore, air emissions are significantly reduced to an acceptable level (3.3 tons/year). With regard to the drilling waste volumes for the California region, EPA identified no onshore disposal capacity problem and determined that sufficient disposal capacity exists for the volume of drilling waste anticipated under any regulatory option, including zero discharge from all wells. Energy requirements (440 bbl of diesel fuel per year) in this region were also determined to be acceptable under all regulatory options.

EPA rejects the "8 Mile Gulf/3 Mile California" option also because of unacceptable non-water quality

environmental impacts. The amount of drilling fluids and drill cuttings that would be required to be disposed of onshore under this rule and the general permit for coastal drilling in the Gulf of Mexico would consume approximately 45 percent of the excess disposal capacity in the Gulf coast region. EPA believes that selecting this option does not leave an adequate capacity margin to dispose of wastes from current offshore activities in which drilling wastes fail the static sheen, toxicity or metals limits (or from the zero discharge zone) and future offshore, coastal, or onshore drilling activities not anticipated by EPA, or other reductions in capacity caused by cessation of operation (voluntarily or through revocation of existing permits) of currently permitted sites. EPA's selected option of setting the zero discharge requirement at a distance of 3 miles from shore reduces the onshore disposal volume to an acceptable level.

EPA received a number of comments recommending the establishment of the zero discharge zone at 3 miles from shore. At proposal, EPA considered the 3 mile distance in addition to the distances discussed above. However, EPA declined to choose that distance in its preferred option because industry profile information on existing platforms within 3 miles from shore was limited and projections for new well drilling activity within 3 miles needed additional confirmation. In the 1991 proposal, EPA solicited information regarding activity within State waters (3 miles), and stated that it would consider setting the final rule on distances other than 4 miles, including a 3-mile delineation, if additional information regarding activity in State waters became available. Subsequent to the proposal, EPA received additional data on the number and location of existing platforms which increased estimates of existing platforms and confirmed earlier estimates of projected activity within 3 miles of shore.

EPA also received comments regarding the potential for confusion and the administrative burden in selecting a delineation other than the pre-existing 3-mile boundary between State territorial seas and Federal waters. In all offshore areas with the exception of Texas and the Gulf coast of Florida, States assert jurisdiction over the mineral rights off their shores up to a distance of three miles. There is overlapping jurisdiction under the CWA and the Submerged Lands Act (SLA) (43 U.S.C. 1301, et seq.). Under the CWA, States have jurisdiction over waters extending three miles from shore. Persons discharging to these waters are required to comply with any state water quality standards. Under the SLA, Texas and Florida exercise mineral rights in the Gulf of Mexico up to 3 marine leagues (approximately 10.35 miles). In waters beyond 3 miles, or 3 marine leagues for Texas and Florida, the Minerals Management Service (MMS) of the Department of the Interior leases mineral rights and manages OCS mineral operations under the authority of the Outer Continental Shelf Lands Act (OCSLA). MMS conducts periodic inspections of offshore oil and gas activities in the Federal waters under the OCSLA and, under a Memorandum of Understanding (MOU) with EPA, conducts NPDES compliance inspections on behalf of EPA in those areas. Commenters asserted that it would be more appropriate to select the State/Federal water boundary as the delineation for a zero discharge limitation, rather than the 4-mile limit so that MMS or the Region would not have to inspect for zero discharge at any facilities within the one-mile band between 3 and 4 miles while inspecting for compliance with a different set of discharge limitations beyond 4 miles. EPA also believes that the three mile option, which is consistent with state waters under the CWA, will help to simplify the regulatory framework applicable to offshore waters. Another factor considered by EPA is that only about 12 wells per year (less than two percent of the total wells drilled annually) are expected to be drilled in the one-mile band between three and four miles from shore.

EPA agrees that these administrative and enforcement concerns are valid and has agreed to adopt the 3-mile option in the interest of simplifying the regulatory framework applicable to offshore oil and gas activities.

B. BAT and NSPS

1. BAT and NSPS Options Considered

Following a review of the comments and data received in response to the proposal, EPA modified the control and treatment options in developing the final rule. Three options were considered for BAT and NSPS control and treatment of drilling fluids and drill cuttings for the final rule. These options set BAT and NSPS limitations identical to BCT limits with respect to areas of zero discharge for drilling fluids and drill cuttings. BAT and NSPS limits differ from BCT in that they place additional limitations on the discharge of toxic and non-conventional pollutants for areas (greater distances from shore) in which discharges are permissible. NSPS is also limiting the discharge of conventional pollutants. These limitations are being placed on the drill cuttings as well as the drilling fluids because the data show that drilling fluid adheres to drill cuttings and is discharged along with the drill cuttings. The same pollutants found in drilling fluids are thus found on the drill cuttings.

The BAT and NSPS limitations on permissible discharges of drilling fluids and drill cuttings (e.g., those facilities not covered by the zero discharge limitations) consist of four basic requirements: (1) A toxicity limitation set at 30,000 ppm in the suspended particulate phase; (2) a prohibition on the discharge of diesel oil; (3) no discharge of free oil based on the static sheen test; and (4) limitations for cadmium and mercury set in the stock barite at 3 mg/kg and 1 mg/kg, respectively.

The 30,000 ppm toxicity limitation, prohibition on discharges of diesel oil and free oil, and the limitations on mercury and cadmium in the stock barite are required by general NPDES permits in Region 6 and 10 (Region 10's pre-approval method for toxicity is based on the 30,000 ppm limit). In Region 6, compliance with the no discharge of free oil limitation is allowed by either the visual or static sheen test. Permits in Regions 4 and 9 also include limits similar to the BAT and NSPS limits of this rule. To the extent that the limitations of this rule are already required by permits, EPA believes that this demonstrates that the limits are technologically available and economically achievable. The availability and economic achievability of the limitations included in this rule are further discussed in other sections of this preamble, the Development Document and the Economic Impact Analysis (EIA).

The 30,000 ppm toxicity limitation is technologically available and economically achievable and reflects the BAT and NSPS levels of control, as discussed in sections XIV and XVI of the preamble, the Development Document and the EIA. The limitation is the same as that proposed. The purpose of the toxicity limitation is to encourage the use of water-based or other low toxicity drilling fluids and the use of low-toxicity drilling fluid additives.

EPA believes that the 30,000 ppm toxicity limit on drilling fluids and drill cuttings is an appropriate BAT/NSPS limit based on product substitution and/or transporting drilling wastes to shore for disposal. For the rationale as to why EPA selected this limitation see section XVI. EPA has evaluated product

substitution and barging/onshore disposal and finds these technologies to be available and economically achievable for this industry, resulting in no barrier to future entry. Product substitution refers to the substitution of lower toxicity drilling fluids and additives in place of higher toxicity fluids and additives. Product substitution as required in the Region 10 general permits for oil and gas facilities offshore Alaska and in the Region 6 general permit for oil and gas activities in the Gulf of Mexico has been upheld by two Federal Circuit Courts. See *API* v. *EPA*, 858 F.2d 261 (5th Cir. 1988) revised opinion, 864 F.2d 1156 (5th Cir. 1988) (Reg. 10 permit); *NRDC* v. *EPA*, 863 F.2d 1420 (9th Cir. 1988) (Reg. 6 permit). These standards are not expected to have any significant non-water quality environmental impacts mainly because the toxicity limits are already applied by existing permits and operators utilize product substitution wherever possible to prevent the need for onshore disposal. Where the toxicity of the spent drilling fluids and cuttings exceeds the toxicity limitation, the method of compliance with this limitation would be to transport the spent fluid system to shore for either reconditioning/reuse or land disposal. Further discussion on the implementation of the toxicity limitation is presented in section XX.

The prohibitions on the discharge of free oil and diesel oil are intended to limit the oil content in drilling fluids and drill cuttings wastestreams and thereby control the priority as well as conventional and nonconventional pollutants present in those oils. The pollutants free oil and diesel oil are each considered to be "indicators" of the toxic and nonconventional pollutants in the complex hydrocarbon mixtures present in those oils. An indicator pollutant is one that, by its regulation, will provide control on discharges of one or more toxic pollutants. Diesel oil is being regulated as a nonconventional pollutant and an indicator because it contains such toxic organic pollutants as benzene, toluene, ethylbenzene, naphthalene and phenanthrene. Free oil is being regulated as a nonconventional pollutant and an indicator of the toxic and nonconventional pollutants found present in crude and other oils, and (under NSPS) as a surrogate for oil and grease in recognition of its previous use under BPT. The sampling and analysis data demonstrate that when the amount of oil is reduced in drilling fluids, the concentrations of priority and nonconventional pollutants present in the fluid (and that portion of drilling fluid which adheres to drill cuttings) are reduced. EPA has determined that the controls on diesel oil and free oil will provide BAT and NSPS-level control of the toxic and nonconventional pollutants present in drilling fluids and drill cuttings. This method of toxic regulation is necessary because it is not feasible to establish specific limitations upon each of the toxic pollutants present in the drilling fluids and drill cuttings.

In the March 1991 proposal, EPA proposed a prohibition on the discharge of drilling fluids and drill cuttings containing diesel oil in detectable amounts. Comments received in response to the March 1991 proposal questioned the need to consider detectability and expressed concern regarding the potential for confusion over the term "in detectable amounts." EPA agrees that inclusion of the term "in detectable amounts" was superfluous. Since the proposed prohibition was an absolute prohibition on any diesel (whether as a mud system component or an additive for any purpose), any drilling fluid system to which an operator had added diesel oil would be automatically prohibited from discharge, regardless of its concentration and whether or not it was above the analytical level of detection. In addition, any drill cuttings associated with that diesel-contaminated drilling fluid system would also be prohibited from discharge. The term "in detectable amounts" has been deleted in this final rule since the discharge of all drilling fluids and drill cuttings containing diesel oil is prohibited.

The discharge of diesel oil, either as a component in an oil-based drilling fluid or as an additive to a water-based drilling fluid, would be prohibited under the BAT and NSPS limitations of this rule. The method of compliance with this prohibition is to: (1) Use mineral oil instead of diesel oil for lubricating and spotting purposes; or (2) transport to shore for recovery of the oil, reconditioning of the drilling fluid for reuse, and land disposal of the drill cuttings. EPA believes that in most cases substitution of mineral oil will be the method of compliance with the diesel oil discharge prohibition. Mineral oil is a less toxic alternative to diesel oil and is available to serve the same operational requirements.

The diesel oil prohibition is technologically available because an operator may substitute the diesel with mineral oil and water-based drilling fluids. Whenever this is not possible, the operator can transport the drilling fluids and drill cuttings to shore for treatment and/or disposal. The diesel oil prohibition is not expected to have any significant non-water quality environmental impacts and is economically achievable as shown in section XIV of the preamble and the EIA. Existing NPDES permits prohibit the discharge of oil-based drilling fluids as well as diesel added to a drilling fluid for lubricating purposes or a pill to free a stuck drill pipe.

The prohibition on discharges of free oil as determined by the static sheen test is technologically available and economically achievable and reflects the BAT and NSPS levels of control. The static sheen test requires the operator to collect a measured sample volume, mix it with a volume of receiving water in a container, and observe for the presence of a sheen. This pre-discharge test is preferable to the post-discharge visual sheen test because it prevents discharges of fluids containing free oil, rather than merely observing (after the discharge) for any noncompliance with the requirement. Further, the static sheen test is performed under carefully controlled conditions (such as lighting and viewing aspect) and can be performed at any time, while the visual sheen test (and thus discharges relying upon the visual sheen test) can only be conducted under conditions in which the operator can see the surface of the water and observe for the presence of a sheen. The existing BPT limitation prohibits discharges of free oil for drilling fluids and drill cuttings. Existing permits in Region 9 and 10 require operators to use the static sheen test to determine compliance with the no discharge of free oil limit. In Region 6, compliance may be determined by either the static sheen or visual sheen test. This limitation is not expected to result in any significant non-water quality environmental impacts under this rule.

Mercury, cadmium and other metals present in discharges of drilling fluids and drill cuttings are often also found present as impurities in the barite used as a weighting agent in drilling fluid systems. In this rule, EPA is limiting mercury and cadmium in the stock barite as indicator pollutants to control the metals content of the drilling fluids and drill cuttings discharges. Compliance with this limitation is based on product substitution of barite from sources that either do not contain these metals or contain the metals at levels below the limitation.

A number of studies have found that the level of metals impurities in barite is a function of the barite source. Barite deposits occur primarily as either vein or bedded deposits. The concentrations

of trace metals, including cadmium, mercury, iron, lead, zinc, mercury, arsenic, tin, titanium, and chromium vary considerably in mined deposits. The bedded, or "clean barite," deposits are relatively pure deposits with trace metals typically at very low levels. Vein, or "dirty barite," deposits are quite impure and contain elevated levels (10–100 times above those of clean barite) of the metals. EPA has evaluated data to determine whether limiting the levels of cadmium and mercury in stock barite would also limit the concentrations of other metals as well. The results of EPA's analysis showed that for cadmium in barite, the metals with positive correlations (the metals were reduced when cadmium was reduced) include arsenic, sodium, tin, titanium and zinc. For mercury in barite, the metals with positive correlations include chromium, lead, molybdenum, sodium, tin, vanadium and zinc. Based on this data, EPA believes limiting cadmium and mercury in stock barite as indicator pollutants will also limit other related metals in discharges of drilling fluids and drill cuttings. This method of regulation is necessary because it is not feasible to establish specific limitations for each of the toxic pollutants present in this wastestream. Based on data in the API/USEPA Metals Data Base, the availability and metals content of clean barite sources, the barite volumes required to support offshore drilling operations, and existing NPDES permit requirements, EPA has determined that the BAT and NSPS limitations should be set at 1 mg/kg for mercury and 3 mg/kg for cadmium, on a dry weight basis as measured in the stock barite.

In the 1985 proposal, EPA included proposed limitations of 1 mg/kg each (maximum) of cadmium and mercury in the discharge of the whole drilling fluid on a dry weight basis (essentially an end-of-pipe limitation). In the 1988 notice and 1991 proposal, EPA presented several additional alternative limitations on mercury and cadmium for drilling fluids and drill cuttings. One of these alternative limitations presented by EPA in the 1991 proposal was a limitation of 3 mg/kg of cadmium and 1 mg/kg of mercury based on stock barite composition. In its preferred option presented in the March 1991 proposal, EPA proposed setting the limitation on cadmium and mercury at 1 mg/kg each in the whole drilling fluid.

Subsequent to the March 1991 proposal, EPA received comments and information regarding the potential for the presence of cadmium in the formation itself to cause noncompliance with limitations applied at the point of discharge. In these comments, many industry representatives recommended establishing limits in the final rule on cadmium and mercury in the stock barite at 3 mg/kg and 1 mg/kg, respectively. EPA has analyzed data from the American Petroleum Institute's Fifteen Rig Study. In this study, samples of drill cuttings, used drilling fluid, and barite from a number of drilling sites were sampled for metals content. Results of EPA's statistical analysis indicate that some cadmium present in the drilling fluids came from a source other than the barite. Therefore, product substitution could not ensure compliance with the end-of-pipe limitation in the whole drilling fluid proposed in March 1991. In this final rule, EPA has rejected control alternatives establishing limitations on cadmium and mercury at the point of discharge and is instead setting the limitations in the stock barite.

The limitations on cadmium and mercury in stock barite are technologically available and economically achievable and reflect the BAT and NSPS levels of control. EPA has investigated the adequacy of available foreign and domestic supplies of barite to meet the final mercury and cadmium limits of the rule. This investigation compared foreign and domestic supplies, with compositions adequate to meet the final limits, to the projected industrial demand. The conclusion was that there are sufficient supplies of barite capable of meeting the limits of this rule to meet the needs of offshore drilling operations. As part of its investigation, EPA also considered the potential for the increased demand for clean barite stocks resulting from this rule to cause a rise in the cost of barite. The estimated increase in barite costs was included in EPA's economic impact analysis for the rule and found to be economically achievable. (See the Development Document, EIA and rulemaking record for a detailed discussion of the availability and economic achievability of the cadmium and mercury limitations.) Existing general NPDES permits in Regions 6 and 10 limit cadmium and mercury in the stock barite at 3 mg/kg and 1 mg/kg, respectively. Existing permits in Region 9 also limit cadmium and mercury in the stock barite. Since most existing permits already limit cadmium and mercury in the stock barite, and compliance with the limit is assured prior to the start of drilling operations by obtaining clean barite sources, no significant non-water quality environmental impacts associated with the cadmium and mercury limits are anticipated.

2. Non-Water Quality Environmental Impacts and Other Factors

The non-water quality environmental impacts associated with the BAT and NSPS limitations of this rule are the same as discussed for BCT in section VII.A.4.

3. BAT and NSPS Option Selection

EPA has selected the "3 Mile Gulf/California" option, and rejected the other BAT and NSPS options considered, for the final effluent limitations (BAT) and new source performance standards (NSPS). This option is technologically available and economically achievable and reflects the BAT and NSPS levels of control. Also, EPA considered non-water quality environmental impacts in selecting the final BAT and NSPS options. These considerations are summarized in section VIII.A describing the BCT option selection. This selected option will prohibit the discharge of drilling fluids and drill cuttings from new and existing sources at a distance of three miles or less from shore. New and existing sources at a distance greater than three miles from shore would be permitted to discharge drilling fluids and drill cuttings after meeting the following requirements: (1) A toxicity limitation set at 30,000 ppm in the suspended particulate phase; (2) a prohibition on the discharge of diesel oil; (3) a prohibition on the discharge of free oil as determined by the static sheen test; and (4) limitations of 3 mg/kg for cadmium and 1 mg/kg for mercury in the stock barite. However, for the Alaska region, discharges of drilling fluids and drill cuttings from existing sources will be excluded from the zero discharge limitation. As previously discussed for BCT, discharges in this region are excluded from zero discharge because of the special climate and safety conditions that exist for parts of the year that make marine transportation of drilling wastes particularly difficult and hazardous, the lack of current onshore disposal sites, and the long distances (offshore and onshore) over which the transportation of these wastes would have to occur. Instead, all wells drilled offshore of Alaska will be required to comply with the limitations on free oil, diesel oil, toxicity, and metals content in barite.

VIII. Basis for the Final Regulation—Produced Water

A. BCT

1. BCT Options Considered

EPA evaluated reinjection of produced water into underground

formations, granular filtration, membrane filtration, and gas flotation as options for the technology basis for the limitations established in final rule.

EPA rejected membrane filtration as a technology basis for the rule because it has not been sufficiently demonstrated as available to support national effluent limitations at this time. In the proposal, EPA selected membrane filtration as the preferred technology basis for BAT and NSPS produced water limitations. Membrane filtration is a commercially demonstrated technology in other industries and several manufacturers have been developing this technology for treatment of produced water. Although not yet available to the offshore oil and gas industry, operators have shown interest in membranes and some offshore testing of full-scale systems has begun. In the 1991 proposal, EPA relied upon pilot scale test data in proposing oil and grease limitations. In April 1991, EPA conducted a field study of a membrane filtration unit installed on an offshore platform to obtain additional full-scale data and performance information. Information collected by EPA during the field study and comments submitted by the industry in response to the proposal indicate that the membrane system tested at full-scale still suffers from periodic operational problems (e.g., clogging, actual treatment capacity less than design capacity). EPA continues to believe that further development of membrane systems (either that system already undergoing full scale testing, or other membrane systems under development) should enable full-scale systems capable of long-term, effective treatment of produced water. However, data currently available does not support selection of this technology as a basis for this rule.

Although technologically and economically achievable, granular filtration was rejected as the technology basis for this final rule. EPA's evaluation of granular filtration performance data indicates that, while this technology does provide some removals of priority and nonconventional pollutants, the pollutant removal efficiency of granular filtration is generally not as effective as that attainable through improved operation of gas flotation technology. In addition, the capital and annual operation and maintenance costs associated with granular filtration are significantly higher than the costs of gas flotation systems.

The four options selected for final consideration in developing BCT limitations for produced water discharges were based either on reinjection or gas flotation technologies.

BPT All Structures: EPA included as an option setting BCT equal to BPT. By doing so, EPA realized that the removals of conventional pollutants due to compliance with stricter standards may not be cost reasonable under the BCT cost tests.

Flotation All: All discharges of produced water, regardless of the water depth or distance from shore at which they are located, would be required to meet limitations on oil and grease content at 29 mg/l monthly average and a daily maximum of 42 mg/l. The technology basis for these limits is improved operating performance of gas flotation.

Zero Discharge 3 Miles Gulf and Alaska: Wells located at a distance of 3 miles or less from shore would be prohibited from discharging produced water. Facilities located more than 3 miles from shore would be required to meet oil and grease limitations of 29 mg/l monthly average and 42 mg/l daily maximum based on the improved operating performance of gas flotation technology. Because of the unacceptable level of air emissions associated with reinjection off California, all wells off California would be excluded from the zero discharge requirement. Currently existing single-well dischargers in the Gulf of Mexico would also be excluded from the discharge prohibition because the economic impacts of a zero discharge limit on these projects would result in immediate shutdown and cause significant production impacts. As considered for this rulemaking, single-well dischargers are defined as single-well facilities which operate their own, and do not share, produced water treatment systems. Discharges of produced water from these excluded facilities would be required to comply with the oil and grease limitations based on improved operating performance of gas flotation technology.

Zero Discharge Gulf and Alaska: This option would prohibit all discharges of produced water based on reinjection of the produced water. All facilities off California and all currently existing single-well dischargers in the Gulf of Mexico would be excluded from zero discharge requirement. They would, however, be required to comply with the oil and grease limitations developed based on improved operating performance of gas flotation technology.

In referring to the options considered for control of produced water discharges, the Gulf of Mexico, California and Alaska regions are used in the option descriptions and accompanying discussion. Use of these regions in this way is only a "shorthand" way of referring to regulatory options and does not exclude other geographic areas from coverage under this rule. For the BCT, BAT and NSPS limitations under this rule, all offshore areas other than offshore California and Alaska would be required to comply with the limitations established for the Gulf of Mexico.

2. BCT Options Selection

The options considered for BCT regulation were evaluated according to the BCT cost reasonableness tests. The pollutant parameters used in this analysis were total suspended solids (TSS) and oil and grease. All options, except the "BPT All Structures" option, fail the BCT cost reasonableness test. The range of results for the POTW test (first part of the BCT cost reasonableness test) test is $10.02 to $32.53 per pound of conventional pollutant removed. A value less than $0.46 per pound is required to pass the POTW test. Thus, EPA is establishing the BCT limitation in this final rule equal to BPT (48 mg/l monthly average; 72 mg/l daily maximum) for produced water. There are no non-water quality environmental impacts associated with this BCT limitation. The BCT cost reasonableness tests for the produced water options are discussed in more detail in the Development Document.

B. BAT and NSPS

1. BAT and NSPS Options Considered

The BAT limitations considered for produced water are similar to those previously discussed for BCT. The only difference is that while BCT options are intended to control the conventional pollutants, BAT options focus on the control of toxic and nonconventional pollutants. Oil and grease remains the only regulated pollutant in produced water. Oil and grease is being limited under BAT as an indicator pollutant controlling the discharge of toxic and nonconventional pollutants. Oil and grease is being limited under NSPS as both a conventional pollutant and as an indicator pollutant controlling the discharge of toxic pollutants.

The options considered for NSPS are similar to those considered for BAT, with the only exception being that the exclusion for single-well dischargers from the zero discharge limitation is not applicable under NSPS. The single-well exclusion for BAT was developed because the costs associated with requiring existing single-well dischargers to retrofit filtration and reinjection equipment are sufficiently high that a zero discharge limitation is not economically achievable and immediate shutdown of these facilities will result in unacceptable production impacts, as discussed further in section VIII.B.3, below. Since new sources are able to allow for adequate space in designing new facilities and compliance costs are less for the new sources, economic and production impacts on these facilities will be less than the impacts on existing sources.

2. Non-Water Quality Environmental Impacts

In assessing non-water quality environmental impacts for produced water, EPA projected energy requirements and air emissions associated with the regulatory options considered. The following is a description of the non-water quality environmental impacts and a summary of the results of the evaluations identifying the estimated levels and impacts for each option.

a. *Energy Requirements and Air Emissions.* Energy requirements and resulting air emissions for the control options considered by EPA are presented in Table 9. Estimates are presented incremental to current BPT limitations and thus represent the expected increase above current emissions levels and energy consumption. On September 4, 1992, EPA promulgated new regulations establishing requirements to control air pollution from outer continental shelf (OCS) sources (57 FR 40792). These new requirements on air emissions apply to all OCS sources located offshore of the states along the Pacific, Arctic, and Atlantic coasts and along the Gulf coast off the state of Florida. Those OCS sources located in the Gulf of Mexico west of 87.5 degrees longitude (i.e., off the coasts of Texas, Louisiana, Mississippi and Alabama), where the majority of offshore oil and gas activities are located, are not covered by the new rules. Sources of air pollution from offshore activities include leaks, oil-water separators, dissolved air flotation units, painting apparatus, and storage tanks, but more significantly diesel or gas engines for generating electrical power or driving reinjection pumps.

Energy consumption for the different options was determined based on the produced water flowrates and the associated power requirements of the treatment systems. For the zero discharge limitation requiring reinjection of produced water, energy consumption was based on gas-driven pumps operating at injection pressures of 1,800 psi. Gas-driven pumps are generally preferred by operators for use on offshore platforms because the structures typically have gas production on-site which can serve as the fuel source. When using electric-driven injection pumps, fuel must be consumed to generate electricity, then converted back to mechanical energy to pump the produced water underground. The extra energy conversion step needed for electrical reinjection pumps increases fuel requirements because of the reduced process efficiency. Electrical power is the energy source for gas flotation units. The energy consumption associated with gas flotation systems was derived based on power requirements and the fuel necessary to produce that level of electrical power.

Air emissions calculated for produced water treatment options include nitrogen oxides (NO_x), carbon monoxide (CO), sulfur dioxide (SO_2) and hydrocarbons (HC). Air emissions were determined by applying emission factors which estimate air emissions associated with the consumption of fuel. The methodologies used to estimate fuel consumption and calculate air emissions are described in more detail in the Development Document.

As illustrated in Table 9, the option requiring zero discharge of all produced water greatly increases air emissions and fuel requirements as compared to the flotation all option. This is due primarily to the energy required to operate the injection pumps.

TABLE 9.—NON-WATER QUALITY ENVIRONMENTAL IMPACTS PRODUCED WATER

Option	Fuel requirements (thousand BOE/yr)		Total emissions (tons/yr)	
	BAT	NSPS	BAT	NSPS
Flotation All	157	29	169	31
Zero Discharge 3 Miles Gulf & Alaska	165	152	185	164
Zero Discharge Gulf & Alaska	977	785	1,041	849

BOE: Barrel of oil equivalent.

3. BAT and NSPS Options Selection

EPA has selected the "Flotation All" option for the final BAT and NSPS limitations for produced water. This option requires all existing and new sources to meet discharge limitations on oil and grease content (29 mg/l monthly average; 42 mg/l daily maximum) based on improved performance of gas flotation technology. EPA has determined this option to be available and economically achievable and reflects the BAT and NSPS levels of control. Oil and grease is being regulated under BAT as an indicator pollutant for toxic and nonconventional pollutants. Under NSPS, oil and grease is being regulated both as a conventional pollutant and as an indicator for toxic and nonconventional pollutants.

Gas flotation is a technology which has been used for many years in the treatment of produced water at offshore oil and gas platforms and served as the technology basis for BPT effluent limitations. Currently, approximately 35 percent of offshore platforms use gas flotation in their produced water treatment systems. At proposal, EPA considered establishing limitations based on improved operation and maintenance of gas flotation technology. At that time, EPA identified problems associated with the performance evaluation that served as the basis for limitations considered at proposal. Subsequent to the proposal, EPA received a number of comments from industry claiming that the gas flotation technology was indeed capable of serving as the basis for BAT and NSPS limitations and submitted data as support. These comments and data support EPA's contention in the proposal that improved performance was achievable for gas flotation treatment systems and the data submitted corrected earlier limitations of the performance evaluation. The development of the produced water limitations is discussed in more detail in section V.B.1 of the preamble, the Development Document and record for the rule.

EPA rejected the most stringent option, zero discharge based on reinjection. Although reinjection technology is feasible in some circumstances, some facilities cannot reinject produced water because of geologic conditions in specific locations. Also, the air emissions (1,041 tons/year for BAT; 849 tons/year for NSPS) and energy requirements (977,000 BOE/year for BAT; 785,000 BOE/year for NSPS) associated with this option at offshore facilities, especially in light of the air emissions and energy requirements associated with potential future requirements for facilities in the

coastal subcategory (see e.g., proposed produced water permit proposing zero discharge of produced water based on reinjection at coastal facilities in Louisiana and Texas, 57 FR 60926 (December 22, 1992)), are unacceptably high. EPA also considered that a zero discharge requirement based on reinjection under BAT would result in capital costs of $3 billion, with a peak annualized cost of $737 million (year 1; 1991 dollars). Zero discharge based on reinjection under NSPS would result in capital costs of $2.6 billion, with a peak annualized cost of $391 million (year 15; 1991 dollars). In light of the statutory mandate to consider cost in setting BAT and NSPS, and the possibility that the industry might be required to bear the costs of reinjection in the coastal subcategory, EPA considered the very high aggregate cost on a nationwide basis in reinjecting the reinjection option. Also, reinjection for all production structures (both new and existing sources) is projected to result in a 1.0 percent loss in production (121 million barrels of oil equivalent (BOE)) over the 15-year period analyzed for this rule. This production loss, especially in light of the production loss that may occur as a result of potential future requirements for facilities in the coastal subcategory, are unacceptably high. This loss of production is not merely a cost concern. Loss of production has independent significance in light of the statutory directive that EPA consider energy impacts in establishing effluent limitations guidelines and new source performance standards under the Clean Water Act.

Finally, although reinjection is the only technology identified that would control naturally occurring radioactive materials (NORM) that may be present in produced water at offshore facilities, EPA believes that it would be premature to require zero discharge based on reinjection at this time. EPA has examined the existing information concerning the presence of radionuclides in the effluent of offshore oil and gas facilities. The results of this analysis are summarized in two support documents entitled "Prevalence of Radium in the Gulf of Mexico," (EPA January 15, 1993) and "Summary of Produced Water Radioactivity Studies," (EPA January 1993).

As is discussed in more detail in these documents, the data concerning the presence of radionuclides in the offshore subcategory are limited and exist only for a small number of platforms throughout the offshore subcategory. Most of the data that exist are from facilities in the coastal subcategory; of the offshore data that exist, most sampling took place at facilities within three miles of the coast of Louisiana. In addition, the data that do exist show wide variability in the concentration of radionuclides in produced water. The limited data that exist are not from studies designed to determine the distribution of radionuclides from oil and gas facilities across the offshore subcategory. In addition, EPA used the very limited data it has (data from a total of six platforms out of 2,549 platforms across the entire subcategory, which EPA does not believe are necessarily representative of produced water discharges across the entire Gulf of Mexico or the entire offshore subcategory) to make a preliminary estimate of risk to human health from produced water effluent in the offshore subcategory. As discussed further in the support document referenced above, in addition to EPA's uncertainty about whether the few platforms from which data were collected are representative of the entire subcategory, there are several additional difficulties inherent in these preliminary risk estimates.

EPA recognizes that it does not carry a high burden of demonstrating environmental harm from pollutants or of demonstrating environmental benefits of its technology-based effluent limitations guidelines and NSPS. EPA also does not have an obligation to sample each facility within a subcategory to identify pollutants to be regulated. At the same time, however, the CWA gives EPA discretion to determine when it has sufficient information to make a decision to regulate a pollutant.

In the case of this particular rule, EPA has determined that it does not have sufficient information concerning the presence of radionuclides in produced water effluent across the entire subcategory to regulate radionuclides at this time. EPA believes that this is a close case, but given the limited amount of information EPA has characterizing the presence of radium in entire offshore subcategory, EPA is exercising its discretion not to control radium in this rule. While EPA believes that regulating radionuclides that may be present in produced water is premature, EPA intends to obtain more information about the presence of radionuclides in the offshore subcategory by requiring radium monitoring requirements in NPDES permits for this subcategory. EPA has promulgated such requirements in its most recent permit issued for the OCS in the Western Gulf of Mexico. (57 FR 54642; November 19, 1992).

EPA also rejected the Zero Discharge 3 Mile Gulf and Alaska option because EPA has determined that gas flotation is the appropriate technology basis for BAT and NSPS established by this rule. EPA has no basis in terms of the factors considered in making this determination and in rejecting zero discharge to require zero discharge for only a small segment of the facilities within the offshore subcategory.

IX. Basis for the Final Regulation—Produced Sand

A. BCT, BAT and NSPS Options Considered

EPA considered two options for this waste stream: (1) Establish the requirement equal to the current NPDES permit limitations prohibiting discharges of free oil; or (2) prohibit discharge of produced sand, technologically based on transporting to shore for treatment and/or disposal. The technology basis for the option limiting free oil content is a water or solvent wash of produced sands prior to discharge. The method of determining compliance with the free oil prohibition would be the static sheen test. The prohibition on the discharge of free oil (as an indicator of toxic and nonconventional pollutants) or the zero discharge requirement for produced sand would reduce or eliminate the discharge of any toxic pollutants in the free oil to surface waters.

B. Option Selection

EPA has selected the zero discharge option for BCT, BAT and NSPS control of produced sand. The technology basis for this limitation is transportation to shore for treatment and/or disposal. EPA has determined that zero discharge reflects the BCT, BAT and NSPS levels of control because, as it is widely practiced throughout the industry, it is both economically and technologically achievable. The total cost of zero discharge under the rule is estimated at $4 million (1991 dollars) for the entire offshore subcategory.

EPA does not consider the prohibition on the discharge of free oil indicative of a "best available" or "best demonstrated" technology. As discussed in section VI.C., onshore disposal is widely practiced throughout the industry as a means to comply with current NPDES permit limitations on free oil discharge. Onshore disposal is usually selected by operators because of economics (costs of on-site washing are comparable to costs of onshore disposal), logistic considerations (scheduling or space), or because the sand fails NPDES permit limitations

even after washing. Data submitted from an industry-sponsored study demonstrates the variability of oil content in washed produced sand. The oil content of washed produced sand in the study ranged from 0.66 to 4.2 percent by weight. With the exception of a small percentage of the sand which is removed periodically from piping low points and tank blowdowns, produced sand discharges are infrequent bulk discharges occurring during scheduled shutdowns of the produced water treatment system. Sand washing systems are generally contracted from service companies as needed, although some operators permanently install sand washing systems on selected platforms to serve as a central facility to receive and clean wastes from other sites. Data submitted by the industry regarding sand washing performance demonstrates that even in the case of a washing system which provides for removal of the free oil, residual liquids and solids (by-products from washing) remain which are unable to meet the no free oil limitation and they must be disposed of in a manner other than ocean discharge (typically by onshore treatment and disposal).

In the March 1991 proposal, EPA suggested the possibility of requiring zero discharge only for those facilities within 4 miles from shore if information showed that the volumes associated with a zero discharge limit for all produced sand were excessive. EPA reevaluated projections of produced sand generation and onshore disposal capacity in developing this final rule, and has confirmed that zero discharge of all produced sand is achievable and the appropriate limitation for BCT, BAT and NSPS. Therefore, EPA is rejecting the 4-mile option for produced sand.

EPA did not perform a BCT cost test on the no discharge of free oil option, because no, or minimal, incremental costs would be incurred. NPDES permits currently limit discharges of produced sand containing free oil, with compliance determined by visual sheen test.

The basis for the compliance costs assigned to the zero discharge option is presented in section V.C. Although BPT limitations for produced sand have never been promulgated, existing NPDES permits prohibit the discharge of free oil in the produced sand wastestream. For the purpose of conducting the BCT cost reasonableness test for the rule, the BPT level of control is considered to be equal to the no free oil limitation of the existing permits. Thus, BPT costs and pollutant removals are determined as the costs/removals associated with the onshore disposal of 34 percent of produced sand generated, and the costs/removals associated with washing/discharge for 66 percent of the produced sand generated annually. The costs and pollutant removals due to upgrading from BPT to the candidate zero discharge BCT limitation are determined by the costs/removals associated with onshore disposal of the produced sand currently discharged at sea (66 percent of the produced sand generated annually).

EPA encountered difficulties in estimating the cost of BPT for produced sand. EPA was unable to obtain firm estimates of sand washing costs from industry operators. EPA did receive sand washing cost estimates of $125 per barrel of produced sand from an equipment vendor. Since the estimate of sand washing is substantially higher than EPA and industry estimates of the cost for onshore disposal of produced sand, EPA does not consider the $125 per barrel quote to be representative of the industry-wide cost of BPT. Also, the sand washing estimate provided by the vendor was for a prototype sand washing system under development and was estimated as the cost for a demonstration washing project.

The cost for sand washing can be difficult to estimate, even for the operators. The cost per unit volume of sand can vary significantly as a function of the sand volume washed, difficulties encountered in washing, and the success (or lack of success) in washing the sand. As discussed in section V.C., produced sand wastes are infrequently discharged (typically removed from vessels once every three to five years) and can vary widely in volume (usually less than 100 barrels per vessel cleanout, although downhole problems can infrequently result in substantially greater volume). Depending on the volume of sand generated, scheduling constraints, and other economic and logistical considerations, operators choose between: (1) Sand washing and discharge on-site; (2) transporting the sand to another platform where the sand from several platforms may be washed and discharged; or (3) onshore disposal. If sand washing is selected by the operator, it is usually contracted out to offshore service companies. The goal of the sand washing is to reduce the oil content of the produced sand to the extent that the discharge complies with the no free oil limitation. There is, however, no guarantee that sand washing will be successful. If after washing the produced sand is still unable to comply with the no free oil limit, onshore disposal is usually necessary (and therefore incurring both washing and onshore disposal costs). Also, according to data submitted by the industry, the sand washing evolution produces wastes (washing liquids and a portion of the solids) which are unable to meet the no free oil limit. These wastes are typically disposed of onshore.

For the purpose of conducting the BCT cost reasonableness test, and based on the information discussed above and the frequency at which produced sand is currently disposed of onshore as an alternative to sand washing, EPA estimated the cost of sand washing to be comparable to the cost of onshore disposal. The average industry-wide BPT cost of sand washing is estimated at $10 per barrel of produced sand. Considering that day rates for offshore service vessels are approximately $3,000 per day and that produced sand volumes are typically less than 100 barrels each, it would be difficult for operators to achieve significantly lower sand washing costs even if the produced sand from several platforms are combined. Using a higher per barrel sand washing cost for BPT (as would be suggested by the equipment vendor estimate discussed above) provides a lower value in the BCT industry cost test and would make the BCT zero discharge limitation more cost reasonable.

Based on the volumes of produced sand washed offshore and the volumes disposed of onshore under current limitations, EPA estimates a BPT cost of $2.4 million (1986 dollars) and conventional pollutant removals of 68.8 million pounds, resulting in an overall BPT cost per pound of $0.036 per pound (1986 dollars).

The zero discharge limitation, in relation to the existing no free oil limit on produced sand, is projected to remove an additional 129.2 million pounds of conventional pollutants at an incremental cost of $2.3 million (1986 dollars). The BCT costs and pollutant removals result in a POTW test result of $0.018 per pound (1986 dollars). Since the POTW test result is less than $0.46 per pound (1986 dollars), the result passes the POTW test.

For the industry cost effectiveness test, the result of the POTW test is divided by the BPT cost per pound, and results in a value of 0.51. Since the result is less than 1.29, the result passes the industry cost-effectiveness test. Since the zero discharge limitation passes both tests, it is found to be cost reasonable.

Based on existing data, EPA is unaware of any unacceptable non-water quality environmental impacts associated with this produced sand limitation. Cleanout of produced water

treatment systems typically produces less than 100 barrels of produced sand. The cleanouts occur during a platform shutdown and typical cleanout cycle is once every three to five years. The volume of produced sand collected from vessel blowdowns is small enough that operators are able to use the supply boats that service offshore platforms on a frequent and regular basis, rather than contract for dedicated vessels to transport the waste to shore. The produced sand collected during tank and vessel cleanouts are typically small volumes that can be transported to shore using either the regularly scheduled supply boats or the work boats chartered to support the sand removal or other general maintenance during the platform shutdown.

EPA is aware of current efforts by industry to develop technologies that would wash produced sand more efficiently than washers currently in use and achieve additional pollutant removals. In light of this ongoing effort, MMS and DOE have raised the concern that the imposition of a zero discharge requirement on produced sand will prevent the development of improved sand washing technologies. Also, as part of the ongoing environmental assessment for offshore new source permits to implement these offshore guidelines, additional information is being gathered on the characteristics of produced sand, including NORM levels in that waste stream.

MMS and DOE have indicated that it will provide EPA with additional information on these issues. EPA welcomes information from all interested parties on the feasibility and pollutant removal efficiency of new produced sand washing technologies, the fate of solvents from produced sand washing (i.e., treatment, recycle or disposal), the characteristics of produced sand, the availability of disposal sites, and appropriate site specifications and requirements for disposal of produced sand that contains NORM, including possible disposal alternatives such as down-hole disposal in abandoned wells. EPA will consider revising the zero discharge requirement for produced sand, if appropriate, after evaluating this information. If a technology-based limit contained in an NPDES permit is based on the zero discharge requirement for produced sand in this guideline, and the guideline is subsequently revised to permit discharge with limitations based on new sand washing technologies, the anti-backsliding provision of the CWA, section 402(o), would not preclude revision of the zero discharge permit limit consistent with the revised guideline (see (40 CFR 122.44 (1)(1) and 122.62)).

X. Basis for the Final Regulation—Deck Drainage

A. Options Considered

BPT limitations for deck drainage prohibit the discharge of "free oil." Typical BPT technology for compliance with this limitation is a "skim pile" which facilitates gravity separation of any floating oil prior to discharge of the deck drainage. The options considered by EPA for this rule were: (1) Prohibit the discharge of free oil; or (2) set the limitation for deck drainage equal to the limitation established for produced water under this rule, technologically based on commingling and treating deck drainage with produced water.

B. Option Selection

EPA has selected the option requiring no discharge of free oil for BCT, BAT and NSPS control of deck drainage; EPA has determined that these limitations and standards properly reflect BCT, BAT and NSPS levels of control. EPA did not identify any other available technology for this waste stream. Because of the difficulties in obtaining a representative sample of this waste stream for conducting the static sheen test since the effluent is located in an inaccessible location, compliance with this limitation is determined by the visual sheen test. Deck drainage is typically collected in a sump tank where initial oil/water separation takes place. Water discharged from the sump tank is usually directed to a skim pile, where additional oil/water separation occurs. The separation process in the skim pile typically occurs beneath the ocean surface, and the separated water is discharged to the ocean from the bottom of the skim pile. (The skim pile is essentially a bottomless pipe with internal baffles to collect the separated oil.) The difficulties in obtaining a representative sample of skim pile effluent preclude the use of the static sheen test for this wastestream. (The operation of a skim pile is discussed in more detail in the Development Document.)

In the proposal, EPA presented as its preferred option establishing effluent limitations for deck drainage based on commingling the deck drainage with the produced water. As such, limits based on filtration within 4 miles from shore, and oil and grease limits equal to current produced water BPT were selected as preferred in that proposal. Upon review of information received by the Agency since proposal, EPA determined that because of adverse effects on the produced water treatment system, basing the limitations on commingling deck drainage with produced water is not technologically available. Commingling deck drainage with produced water was rejected because: (1) The resulting flow variations could result in frequent upsets of the produced water treatment system; (2) oxygen-enriched deck drainage water, when combined with the high salt content of produced water could result in increased corrosion; (3) oxygen present in deck drainage may combine with iron and sulfide in produced water causing solids formation and fouling treatment equipment; and (4) detergents used in deck washdown cause emulsification of oil and may degrade the produced water treatment process.

EPA considered and rejected the option of establishing limitations on deck drainage based on an add-on system specifically designed to treat only deck drainage. An add-on treatment specifically designed to capture and treat deck drainage, other than the type of sump/skim pile systems typically used, on offshore platforms is not technologically feasible. Deck drainage discharges are not continuous discharges and they vary significantly in volume. At times of platform washdowns, the discharges are of relatively low volume and are anticipated. During rainfall events, very large volumes of deck drainage may be discharged in a very short period of time. A wastewater treatment system installed to treat only deck drainage would have to have a large treatment capacity, be idle at most times, and have rapid startup capability. Since startup periods are typically the least efficient for treatment systems and offshore platforms have limited available space for storage of the volumes of deck drainage which occur, EPA determined that an add-on treatment system appropriate for the treatment of deck drainage was not available.

Since BCT, BAT and NSPS are being set equal to the current BPT, there are no costs or non-water quality environmental impacts associated with this limitation and it is available and economically achievable. The BCT limitation of no discharge of free oil is also considered to be cost reasonable under the BCT cost test. Since the POTW test result and the industry cost-effectiveness test results are both zero (and therefore pass their respective tests), the limitation is cost reasonable. This determination that zero BCT cost results in passing the cost reasonableness test is consistent with the BCT methodology which became

effective August 22, 1986 (51 FR 24974; July 9, 1986).

XI. Basis for the Final Regulation—Well Treatment, Completion, and Workover Fluids

A. BCT

EPA is establishing BCT prohibiting discharges of free oil under BCT for this rule. Compliance with this limitation would be determined by the static sheen test. Based on the available data regarding the levels of conventional pollutants present in well treatment, completion and workover fluids, EPA did not identify any options which would pass the BCT cost test other than establishing the limitation equal to the current BPT prohibition on discharges of free oil. Using the pollutant loadings data presented for these fluids in the Development Document and the estimated compliance costs and pollutant removals for the option establishing oil and grease effluent limits on these fluids, the results fail the BCT cost reasonableness test. There are no costs or non-water quality environmental impacts associated with this BCT limitation and, since it is equal to BPT, it is available and economically achievable. The BCT limitation is also considered to be cost reasonable under the BCT cost test. Since the POTW test result and the industry cost-effectiveness test results are both zero (and therefore pass their respective tests), the limitation is cost reasonable.

B. BAT and NSPS

1. BAT and NSPS Options Considered

Well treatment, completion, and workover fluids may either stay in the hole, resurface as a concentrated volume (slug), or surface from the well dispersed with the produced water. Two options were considered for BAT and NSPS control for this waste stream: (1) Prohibit the discharge of free oil; or (2) meet the same limitations on oil and grease content as established under this rule for produced water.

In the options considered for BAT and NSPS, free oil or oil and grease are being limited as an indicator pollutant for the control of toxic and nonconventional pollutants. Oil and grease would also be limited under NSPS as a conventional pollutant. Compliance with the free oil prohibition would be determined by the static sheen test.

2. BAT and NSPS Option Selection

EPA is establishing BAT effluent limitations and new source performance standards (NSPS) for well treatment, completion, and workover fluids equal to the BAT and NSPS requirements for oil and grease content in produced water. EPA has determined that these limitations and standards properly reflect BAT and NSPS levels of control for well treatment, completion and workover fluids. The technology basis for this limitation is commingling and treating the treatment, completion and workover fluids with the produced water wastestream. This limitation requires all existing and new sources to meet the discharge limitations on oil and grease content of 29 mg/l monthly average; 42 mg/l daily maximum. Although it is a conventional pollutant, oil and grease is being regulated under BAT as an indicator for toxic and nonconventional pollutants. Under NSPS, oil and grease is being regulated both as a conventional pollutant and as an indicator for toxic and nonconventional pollutants. Those facilities unable to commingle without causing a treatment system upset could comply by transporting the fluids to shore for recycle and reuse, where appropriate, or disposal.

EPA has determined that BAT and NSPS oil and grease limitations based on commingling well treatment, completion and workover fluids with produced water are available and economically achievable based on information regarding industry operating practices, comments submitted by industry representatives, and an industry report on the treatment of these fluids (Hudgins, C.M., "Chemical Treatments and Usage in Offshore Oil and Gas Production Systems," October 1989.). Well treatment, completion and workover fluids often surface commingled with produced water, rather than as a discrete volume (or slug). At times operators are unable to predict when the fluids will surface or even distinguish when the return has occurred. At such times, the treatment, completion and workover fluids are commingled in the produced water treatment system even though there is no existing requirement to do so.

Some comments on the proposed rule submitted by industry representatives stated that the final rule should require treatment, completion and workover fluids to be treated the same as produced water based on commingling. Also, an industry-prepared report submitted by API (Hudgins, 1989) states that, except for platforms with very low produced water flowrates, the produced water treatment systems are capable of treating well treatment, completion and workover fluids without upset to the produced water treatment system. For those facilities considered by EPA to potentially be unable to commingle these fluids without causing a treatment system upset, EPA based compliance with the BAT and NSPS limitations on transporting these fluids to shore for recycle and reuse, where appropriate, or disposal.

The option prohibiting discharges of free oil under BAT and NSPS would achieve no incremental removal of pollutants from this wastestream over and above the existing BPT requirements, and ignores an economically and technologically available treatment alternative. Therefore, EPA rejected the no discharge of free oil limitation for BAT and NSPS.

In its preferred option for the March 1991 proposal, EPA presented effluent limitations for well treatment, completion, and workover fluids based on requiring zero discharge of any concentrated fluids slug along with a buffer volume preceding and following the fluids slug. Fluids which did not resurface as a distinct slug were proposed to comply with produced water limitations. EPA has since determined that a limitation which requires capturing a buffer volume on either side of a fluids slug is not technologically achievable because it is not always possible and may not be entirely effective. In commenting on the proposal, the industry characterized completion and workover fluid discharges as small volume discharges which occur several times during the workover or completion operations which can last between seven and thirty days. Based on this information, EPA no longer considers the discrete slug and buffer to be a proper characterization of the way workover, completion or treatment fluids resurface from the well. Since the fluids often resurface slowly and over a period of time, and are often commingled with the produced water, EPA considers treatment of these fluids commingled with produced water in the produced water treatment system to be the appropriate technology.

EPA estimates peak BAT (first year) compliance costs of $1.7 million (1991 dollars) and peak NSPS (year 15) compliance costs of $1.0 million. For those treatment, completion and workover fluids which are commingled and treated with the produced water, non-water quality environmental impacts will be negligible based on comparison of the fluid volumes with produced water volumes. For those fluids expected to be transported to shore for disposal, some non-water quality environmental impacts will occur. The anticipated non-water quality environmental impacts associated with the BAT and NSPS

limits are considered acceptable. The volumes of treatment, completion and workover fluids to be handled are small (250–300 barrels per event) and the regularly scheduled supply boats have adequate space to transport the containers of spent fluids. Offshore platforms would have adequate space for storage of the spent fluids for the periods when the supply boats are not scheduled for the platform or when offloading to the supply boats is infeasible due to weather conditions. Onshore treatment and disposal of spent fluids by injection into underground formations at centralized treatment facilities will result in a small increase in energy requirements and air emissions. The total volume of treatment, completion and workover fluids generated (and thus that portion requiring onshore disposal) is a function of the number of producing wells and drilling activity. EPA projects that the volume of these fluids disposed of onshore as a result of this rule will be greatest immediately after promulgation (141,000 bbl/yr) and decrease to approximately 50,000 bbl/yr fifteen years after promulgation. Fuel requirements and air emissions were estimated based on two reinjection scenarios: (1) Two 235–HP diesel pumps with average injection pressure of 1,000 psig; and (2) one 165–HP diesel pump with average injection pressure of 260 psig. Under the high pressure scenario, the peak year required 2,800 gallons of diesel fuel and emitted 2.8 tons of air pollutants, decreasing to 1,000 gallons of diesel fuel and 1.0 ton of air emissions in year 15. For the low pressure scenario, 700 gallons of diesel fuel were required and 1 ton of air pollutants emitted in the first year after promulgation, decreasing to 250 gallons of diesel fuel and 0.4 tons of air emissions in year 15.

XII. Basis for the Final Regulation—Domestic Wastes

Under BCT and NSPS, EPA is prohibiting the discharge of all floating solids and incorporating requirements limiting discharges of garbage as included in U.S. Coast Guard regulations at 33 CFR part 151. These Coast Guard regulations implement Annex V of the Convention to Prevent Pollution from Ships (MARPOL) and the Act to Prevent Pollution from Ships, 33, U.S.C. 1901 *et seq.* Discharges of foam are also prohibited under BAT and NSPS. (The definition of "garbage" is included in 33 CFR 151.05.)

The limitations established are all technologically available and economically achievable and reflect the BCT, BAT and NSPS levels of control. Under the Coast Guard regulations, discharges of garbage, including plastics, from fixed and floating platforms engaged in the exploration, exploitation and associated offshore processing of seabed mineral resources are prohibited with one exception. Victual waste (not including plastics) may be discharged from fixed or floating platforms located beyond 12 nautical miles from nearest land, if such waste is passed through a comminuter or grinder meeting the requirements of 33 CFR 151.75. Section 151.75 requires that the grinders or comminuters must be capable of processing garbage so that it passes through a screen with openings no greater than 25 millimeters (approximately one inch) in diameter. A permit promulgated by Region 6 for the Western Gulf of Mexico OCS incorporates the Coast Guard regulations (57 FR 54642; November 19, 1992). Discharge of foam in other than trace amounts is included in this Region 6 permit and the 1986 general permit for the Gulf of Mexico OCS as a mechanism for controlling detergents (51 FR 24922).

Since these BCT, BAT and NSPS limitations for domestic waste are already in either existing NPDES permits or Coast Guard regulations, these limitations will not result in any additional compliance cost, or additional non-water quality environmental impacts. There are no incremental costs associated with the BCT limitations; therefore, it is considered to pass the two part BCT cost reasonableness test.

XIII. Basis for the Final Regulation—Sanitary Wastes

BCT and NSPS limitations for sanitary wastes in this rule are equal to the current BPT limitations. Sanitary waste effluents from facilities continuously manned by ten (10) or more persons must contain a minimum residual chlorine content of 1 mg/l, with the chlorine level maintained as close to this concentration as possible. Offshore facilities continuously manned by nine or fewer persons or only intermittently manned by any number of persons must comply with a prohibition on the discharge of floating solids.

At proposal, EPA discussed the availability of alternative treatment and control options. No alternative technologies available for installation at the offshore facilities were identified. EPA did consider the appropriateness of requiring operators to capture sanitary wastes and transport the wastes to shore for treatment. Specific data were not available regarding the costs of transporting sanitary wastes to shore for treatment. EPA projected compliance costs based on the costs of transporting drilling wastes to shore (excluding the fee charged by onshore drilling waste disposal facilities). These projected compliance costs, in conjunction with pollutant removal estimates, did not pass the BCT cost-reasonableness tests and therefore EPA decided not to base limits on onshore disposal. EPA rejected zero discharge of sanitary wastes under NSPS because such a limitation would in reality result in operators transporting the wastes to shore for treatment and subsequent discharge by publicly owned treatment works (POTW) back into surface waters. Also, the zero discharge limitation would incur additional non-water quality environmental impacts (from the vessel traffic) and compliance costs.

Since there are no increased control requirements beyond those already required by BPT effluent guidelines, there are no incremental compliance costs or non-water quality environmental impacts associated with BCT and NSPS limitations for sanitary wastes. Since these limitations are equal to BPT, they are available and economically achievable. In addition, the BCT limitation is also considered to be cost reasonable under the BCT cost test. Since the POTW test result and the industry cost-effectiveness test results are both zero (and therefore pass their respective tests), the limitation is cost reasonable.

EPA is not establishing BAT effluent limitations for the sanitary waste stream because no toxic or nonconventional pollutants of concern have been identified in these wastes.

XIV. Economic Analysis

A. Introduction

EPA's economic impact assessment is presented in the "Economic Impact Analysis of Final Effluent Limitations Guidelines and Standards of Performance for the Offshore Oil and Gas Industry" (hereinafter, "EIA"). This report details the investment and annualized costs for the industry as a whole and the impacts of these costs on affected projects, typical companies involved in offshore oil and gas drilling and production operations, and future oil and gas production from the offshore region. The report also estimates the economic effect of compliance costs on Federal and State revenues, balance of trade considerations, and inflation.

EPA has also conducted an analysis of the cost-effectiveness of alternative treatment options. The results of the cost-effectiveness analysis are expressed in terms of the incremental costs per pound-equivalent removed. Pound-

equivalents account for the differences in toxicity among the pollutants removed. Total pound-equivalents are derived by multiplying the number of pounds of a pollutant removed by a toxic weighting factor. The toxic weighting factor is derived using ambient water quality criteria and toxicity values. The toxic weighting factors are then standardized by relating them to a particular pollutant, in this case, copper. Cost-effectiveness is calculated as the ratio of incremental annualized costs of an option to the incremental pound-equivalents removed by that option. This analysis, "Cost-Effectiveness Analysis of Effluent Limitation Guidelines and Standards of Performance for the Offshore Oil and Gas Industry" (hereinafter "CE report"), is included in the record of this rulemaking. Since the discharges are to a marine environment, salt-water toxic weighting factors were used wherever they were available.

B. Economic Methodology

EPA developed 34 economic model platforms to represent the diversity in offshore platform size (i.e., number of well slots per platform), geographic location (Gulf of Mexico, Pacific, and Alaska), and production type (oil only, gas only, or both). Distinct technical and economic characteristics were developed for each model. Costs included in the models are those associated with exploration, development, and production, as well as the costs needed to meet current regional permit requirements. Costs and revenues were estimated over the life of the project based on current requirements to establish baseline financial summary statistics, such as economic lifetime, production, corporate cost per BOE, net present value, and internal rate of return. Each of these parameters varies by model project.

Then, capital and annual O&M costs associated with various options were added to the baseline costs. The model recalculates the economic lifetime of the project, annualizes the regulatory costs over the new project lifetime, and recalculates production and financial summary statistics. Project impacts were evaluated by determining the change from the baseline values caused by the increased regulatory costs, rather than on the baseline values themselves. Costs were summed over all projects to provide total capital, annual, and annualized costs of the regulation.

EPA developed two representative company financial profiles—one for major integrated companies and one for independent oil companies—to assess the impact on oil and gas companies operating in the offshore area. Pre- and post-regulation balance sheets were developed for the typical companies. The impacts of the regulatory costs on the financial health of the companies were investigated by the change in financial ratios caused by those costs.

Production losses include those reductions in hydrocarbon extraction resulting from immediate closure of existing projects, new projects that are not undertaken, and curtailed lifetimes. These were based on the change in production and net present values for the projects induced by the regulatory costs. That is, if a project became unprofitable with the additional costs, it was assumed to close or not be undertaken.

EPA also analyzed secondary impacts of the regulation. These include: Revenue loss to the federal government due to tax shields on expenditures, revenue loss to federal and state governments through potentially lower bonus bids for new offshore projects, changes in the balance of trade, inflation, and impacts on related service industries.

C. Summary of Costs and Economic Impacts

1. Basis of the Analysis

The economic analysis has four major components: (1) An estimate of existing and projected structures that incur costs under this rule; (2) use of an economic model to evaluate per-project impacts and annualize capital costs and operating and maintenance costs; (3) an aggregate of the annualized costs to estimate the total costs for the regulation; and (4) an evaluation of the impacts of those costs on typical projects, typical companies, future oil and gas production, Federal and State revenues, balance of trade, and other secondary effects.

In response to comments received on the 1991 proposal, changes were made to the economic analysis. These changes include:

- The inclusion of existing structures currently in production in State waters of the offshore subcategory in the Gulf of Mexico (affects BAT profile).
- A re-evaluation of the profile of existing structures off California (affects BAT profile).
- Considering only the $21/bbl oil price, constrained development scenario (affects NSPS profile).
- Consideration of additional boundaries at 3-miles (for all effluents) and 8-miles (for drilling fluids and drill cuttings, only), in addition to the 4-mile boundary presented in the March 1991 proposal.
- Inclusion of compliance costs for waste streams previously believed to incur negligible costs, e.g., treatment, workover, and completion fluids; and produced sand. (The selected options for deck drainage, domestic wastes, and sanitary wastes are still assumed to create no additional costs and thus incur no impacts.)

The base year for the economic analysis is 1986. This was set for the 1988 Notice of Data Availability, when it was the most recent year for which a complete set of cost, revenue, and future production data were available. In other words, a consistent set of data were used to develop the economic models representing typical projects in that profile. This "snapshot" in time was maintained for several reasons. First, the economic impact analysis examines the change from the baseline values caused by the incremental costs of pollution control, rather than focusing on the baseline values themselves. Second, 1986 represents a recent nadir for the oil industry in terms of oil prices, revenues, and financial health. Third, not changing the baseline values of the economic models allows a clearer understanding of the changes caused by recosting, different boundaries, and other factors listed above. Fourth, EPA evaluated the changes to the profiles of new drilling activity and production structures when the 15-year period of the analysis was shifted into the future (1991–2005 and 1993–2007) and found that the results varied minimally (within 3 percent) around the original profile (see sections III.B.2 and V.F.); and therefore the 1986 projection remains valid for the 15 year period following promulgation. Costs are presented here in 1991 dollars. Where cost components have increased in time, the Engineering News Record Construction Cost Index is used to inflate 1986 dollars to 1991 dollars (see EIA for details).

The industry profile used in this analysis is presented in section V.F. EPA estimates 2,549 existing structures will incur compliance costs under the BAT regulations of this rule. It is estimated that a total of 759 new development and production structures will be installed during the 15-year period following promulgation. The costs for these new structures are assigned as NSPS compliance costs.

The number of wells drilled can vary widely from year to year. EPA estimated the total number of wells drilled during a 15-year period after the regulation goes into effect and then divided that total by 15 to obtain an average annual number of wells drilled. The average annual number of wells drilled is 759 wells per year. (It is coincidental that the average number of new wells drilled annually is equal to the total number of

new development and production structures to be installed over the next 15 years.) About one-third of new wells are projected to be classified as existing sources because they are exploratory in nature or will be drilled from existing structures. Since the difference in drilling waste compliance costs for new and existing sources is negligible (because they comply with the same requirements), the incremental costs for drilling waste options do not depend on whether they are BAT wells or NSPS wells.

2. Total Costs and Impacts of the Regulations

The total costs and impacts of the regulations combine the BAT and NSPS costs for all waste streams. BAT costs are highest in the first year following promulgation when, for the purposes of the analysis, all existing sources incur costs to upgrade their pollution control systems. These annualized costs will diminish in time as these projects come to the end of their economic life. NSPS costs, on the other hand, are small in year 1 but are assumed to grow annually until they peak in the 15th year following promulgation at which time the rate of new source facilities ceasing production will equal, or exceed, the rate of new sources coming into production. Adding the two sets of peak costs would overstate the impacts since the peaks occur 15 years apart. EPA therefore looked at the impacts in year 1 and year 15. The cost components are summarized in Table 10. The combined annualized cost for the selected options is $134 million in year 1 and $38 million in year 15 (1991 dollars).

TABLE 10.—COMBINED COST OF FINAL RULE

[1991 dollars, thousands]

Waste stream	Control option	Annualized cost in year one	Annualized cost in year fifteen
Drilling fluids & drill cuttings	3 mile Gulf/CA	18,954	18,954
BAT produced water	Flotation all	108,400	0
NSPS produced water	Flotation all	807	13,605
BAT treatment & workover fluids	Oil & grease limitations	1,693	0
NSPS treatment & workover fluids	Oil & grease limitations	0	842
NSPS completion fluids	Oil & grease limitations	210	210
Produced sand	Zero discharge	4,127	4,127
Total combined cost (before taxes)*		134,291	37,738

*Net cost to industry will be lowered by tax savings realized. These tax reductions have been included in estimates of federal revenue losses.
Note: No incremental compliance costs are incurred for deck drainage, domestic wastes and sanitary wastes.

EPA examined the combined effect of regulatory options on BAT and NSPS projects. The BAT models begin at the projects' economic midlife, a time at which most drilling programs have been completed. For an existing single-well structure in the Gulf of Mexico with its own production equipment (Gulf-1b) which is assumed to add-on a flotation system, the combined effects of the selected options for produced water, treatment and workover fluids, and produced sand is expected to reduce the net present value by 40 percent and increase the corporate cost per barrel-of-oil-equivalent (BOE) by 28 percent. (This model project, termed Gulf-1b, is considered indicative of offshore projects most sensitive economically because its source of revenue is a single producing well. Most offshore platforms produce hydrocarbons from multiple wells.) For a Gulf of Mexico project comprising 12 well slots and 10 producing wells, the same requirements lead to a four percent decline in net present value and an increase of three percent for the corporate cost per BOE. (This model, termed Gulf-12, is considered representative of a typical offshore platform.) There were no production losses beyond those already seen with the produced water option.

In evaluating the economic impacts of the rule on new projects, EPA included the costs of increased pollution control requirements for drilling fluids, drill cuttings, completion fluids, produced water, treatment and workover fluids, and produced sand. Although exploratory wells are always defined as existing sources under the rule, the drilling fluids and drill cuttings compliance costs associated with exploratory wells are incorporated into the NSPS models. Since the economic impact models are designed to estimate impacts and viability on a per-project basis, including in the NSPS model the exploratory efforts (wells) conducted to identify and quantify producible oil and gas deposits is appropriate and allows EPA to fully consider the effects on financial ratios.

For a Gulf-1b project, the combined costs lead to a 2 to 5 percent increase in the corporate cost of production, depending on whether new equipment is needed. If new equipment is needed, the net present value becomes negative. These projects are assumed to be canceled and production is lost. If new equipment is not needed, the net present value for the project remains positive, but with a 65 percent decline in value from the baseline. For a more typical Gulf-12 project, the same requirements lead to decrease in net present value of 5 to 6 percent, and an increased corporate cost of 1 to 1.5 percent per BOE.

In the real world, there will be projects that fall between the BAT and NSPS models, e.g., platforms that are installed prior to promulgation but complete part of their drilling program after this rule is issued. These platforms are much closer to the beginning of their economic life than to their midpoint but not all wells on the platform will have been drilled under the new BAT requirements. For these platforms, the per-project impacts are estimated to be equal to or less than the BAT per-project impacts, depending upon the number of wells drilled under the new requirements.

The year 1 costs are estimated to reduce the working capital of a typical major oil company by 0.5 percent. (Working capital is the financial ratio most sensitive to increased costs.) For year 15, the working capital decreases by 0.1 percent. For a typical independent oil company working offshore, the year 1 costs would reduce working capital by nearly 5 percent. The year 15 costs would reduce the working capital by about 1.4 percent.

Potential production losses are measured over the entire 15-year time period of the analysis. Production losses result from shortened economic lifetimes, immediate shut-down of existing projects, and cancellation of

new projects. Impacts associated with the final rule would result in the potential loss of 0.1 percent of the energy expected to be produced by the Offshore subcategory over the 15-year period (cumulative total of approximately 15.3 million BOE).

The selected options potentially could result in a $129 million (year 1) to $38 million (year 15) loss to federal revenues through tax effects and lower lease bids (1991 dollars). Losses to state revenues due to a potential lowering of lease bids ranges from $8 million (year 1) to $2 million (year 15; 1991 dollars). The impact of this potential loss in state revenue is minimal when compared to total state revenue representing, for example, less than 0.04 percent of total state revenues in Texas. Furthermore, these are potential losses. Companies may not choose to recoup all the cost increase through lower lease bids because if the bids are too low, companies might not win the lease. Therefore, companies may absorb the entire compliance cost of the regulation through reductions in profits. In other words, the impact on federal and state revenue would depend upon the action the companies may take through the lease bids—absorb the costs by not lowering the lease bids or pass on these costs through lower lease bids. The actual impact on revenues would probably be somewhere in this estimated range but is hard to predict at this time.

The final rule is not expected to affect energy prices, inflation, employment, or international trade. The selected options may, in fact, lead to positive impacts in the offshore service industry due to increased use of the service vessel fleet, onshore treatment/disposal requirements, and the need to retrofit or upgrade some existing treatment systems. EPA finds the costs of the final BAT and NSPS regulations to be economically achievable for the oil and gas industry.

D. Drilling Fluids and Drill Cuttings

BAT limitations and associated compliance costs for drilling fluids and drill cuttings are the same for BAT and NSPS wells. Because there is no difference between BAT and NSPS requirements for drilling wastes, EPA's analysis shows that the economic impact of the BAT limitations for drilling fluids and drill cuttings is the same as the impact of the NSPS limitations discussed below. For these reasons, the costs, cost-effectiveness, and economic achievability for BAT and NSPS drilling fluids and drill cuttings limitations are presented on a combined basis. The projections of future activity estimate that, on the average, 759 exploratory, delineation, and development wells will be drilled annually for the 15-year period of the analysis.

No capital costs are associated with the options for drilling fluids and drill cuttings because oil companies that drill offshore typically do not purchase vessels for transporting the wastes, but instead contract that service. The annualized cost of limits on drilling fluids and drill cuttings in this final rule is $19 million, of which about one-third or $6 million is estimated to be the BAT portion of the costs (1991 dollars). For new and existing oil and gas Gulf-12 model platforms, the net present value decreases by 0.6 percent while the corporate cost per BOE increases 0.1 percent. For the model single-well structure with its own production equipment (Gulf-1b), the drilling waste limitation decreases the net present value by 7 percent while the corporate cost of production increases by 0.2 percent. None of the options considered in this rulemaking for drilling fluids and drill cuttings has an adverse impact on hydrocarbon production.

The BAT and NSPS limitations of the final rule are projected to reduce the working capital of a typical major company by 0.1 percent and the working capital of a typical independent company by 0.7 percent. According to EPA's analysis, the rule would have no effect on oil and gas prices, employment, or international trade. EPA finds the costs of the selected option for BAT and NSPS control of drilling fluids and drill cuttings to be economically achievable.

BCT limitations for drilling fluids and drill cuttings within 3 miles from shore are equal to BAT and NSPS limits. Beyond 3 miles from shore, only the prohibition on discharges of free oil applies to BCT. Thus, compliance costs for BCT do not include the cost of substituting clean barite for dirty barite, monitoring costs for toxicity or diesel oil, or onshore disposal costs for drilling wastes failing the toxicity and diesel limitations.

On a per-well basis, the transportation and onshore disposal costs for BCT is equal to the BAT and NSPS costs. As discussed above, BAT and NSPS costs for drilling fluids and drill cuttings are economically achievable. Consequently, the BCT costs are also economically achievable. The BCT limitations passed the two part BCT cost reasonableness test.

E. Produced Water

1. BCT

As discussed in section XI.A, BCT limitations for produced water are equal to BPT. Therefore, there are no incremental costs and no economic impacts for produced water BCT limitations.

2. BAT

The cost of compliance for produced water limitations will be highest in the year in which the regulation goes into effect, because all existing structures must either meet the new limits with their current equipment and operation, upgrade their equipment and operation, or cease discharges of produced water. These impacts will diminish in time as existing projects come to the end of their economic life. For BAT produced water options, then, year 1 costs are the highest costs.

Total capital costs of the BAT limitations set by this rule are estimated to be $431 million. Annual operating and maintenance costs of $52 million also includes costs for two years of monitoring radium content of the produced waters. (This rule is not requiring radium monitoring of produced water. Monitoring costs of $3.4 million per year (1991 dollars) for the first two years of the analysis were included in the economic impact analysis to project impacts of such a monitoring requirement on facilities and companies. A radium monitoring requirement of finite, and relatively short-lived, duration is more appropriately implemented by permitting authorities and is not part of this regulation.) The annualized incremental cost in year 1 of the regulation is estimated to be $108 million and declines to zero in year 15. (All costs are in 1991 dollars.)

The EIA includes impacts of the options considered on each type of model platform. Selected impacts and model platforms are presented here for a Gulf-12 oil and gas platform (10 producing wells) and an oil and gas producing single-well structure with its own production and treatment equipment (Gulf-1b model, considered most sensitive to the costs of the regulation). For an existing Gulf-12 platform needing new treatment equipment to comply with the effluent limits of this rule, the net present value of the project declines by 3.6 percent while the corporate cost per BOE increases by 2.7 percent. For an existing Gulf-1b platform, the net present value declines by 35 percent, the corporate cost per BOE increases by 25 percent, and the project is assumed to cease

production operations one year early because of increased annual costs of operation. The total loss in future hydrocarbon production from existing structures due to increased regulatory costs from the rule is approximately 0.4 percent (14.7 million BOE) over the 15-year period analyzed.

The BAT limitation of this rule leads to an estimated decrease of less than 0.5 percent in the working capital of a typical major company engaged in offshore energy production and is projected to reduce the working capital of a typical independent company by 3.7 percent. EPA finds the costs of the final BAT limitations for produced waters to be economically achievable for the oil and gas industry.

3. NSPS

NSPS costs are small in the first year of the regulation, covering only the structures installed that year. NSPS costs continue to grow over time as more structures are installed. By the fifteenth year, the number of new source platforms going out of production is assumed to equal, or exceed, the number of new source platforms beginning production. Thus, the cost in the 15th year of the regulation is assumed to represent a peak NSPS cost. The total capital cost for the selected option is $96 million while the annual operating and maintenance costs are $6 million. The annualized cost in the 1st year is $1 million and $14 million in the 15th year. (All costs are in 1991 dollars.)

For a new Gulf-12 platform, the limits on produced water set by this rule are estimated to decrease the net present value by 1.4 percent while the corporate cost of production increases 0.5 percent. The NSPS economic models consider all costs from lease purchase, through platform installation, and operation. The BAT model considers only the cost of continuing operations past its midlife. For a single-well structure that has its own production equipment (i.e., a Gulf-1b), the net present value is smaller for the NSPS project than for the BAT project. This indicates that by the mid-life of a single well structure, the initial costs still have not been recovered. Under these circumstances, the same absolute decrease in net present value will appear as a greater impact on the NSPS project because of the smaller baseline value. This is what is seen under the selected limitations for this rule; the net present value for the single-well structure declines by 66 percent under NSPS, while the corporate cost of production increases by 3 percent. If new equipment is needed, the single-well project may cease production a year early. Loss of future production over the 15-year period due to early closures is estimated at less than 0.1 percent (0.5 million BOE) of the production from new structures.

The selected NSPS limits for produced water would have virtually no impact on the working capital of a typical major oil company involved in the offshore and would reduce the working capital of a typical independent by 0.5 percent. According to EPA's analysis, the selected limitations would have no effect on oil and gas prices, employment, or international trade. EPA finds the cost of NSPS for produced water to be economically achievable for the oil and gas industry.

F. Produced Sand

The annual compliance cost for produced sand from BAT and NSPS sources under the selected option is estimated at $4 million (1991 dollars). No capital investments are expected to be associated with the limitations for this waste stream. The transport of the produced sand to shore and its subsequent disposal is assumed to be contracted to another company supplying such services. For BAT models, the financial summary statistics change by no more than 0.7 percent and there is no estimated loss in production. For NSPS models, if produced sand from a single-well structure (Gulf-1b model) contains elevated levels of NORM (naturally occurring radioactive material) such that disposal at a low-level radioactive disposal site is required, the net present value may decrease by 3 percent. For all other financial statistics and all other projects, the parameters change by no more than 0.5 percent. There is no loss of production associated with this limitation. The costs lead to negligible changes in financial ratios for typical major and independent oil companies engaged in offshore oil and gas production. EPA finds the costs of the BAT and NSPS zero discharge limitations for produced sand to be economically achievable.

G. Well Treatment, Completion and Workover Fluids

1. BCT

As discussed in section XI, BCT limitations for well treatment, completion and workover fluids are equal to BPT. Therefore, there are no incremental costs and no economic impacts associated with the BCT limitations for these wastestreams.

2. BAT and NSPS

Existing wells will bear the costs of additional controls on treatment and workover fluids prior to discharge. Larger structures are assumed to generate enough produced water that treatment and workover fluids can be treated within the produced water system without upset and without additional costs. Smaller structures, which may be unable to process the fluids without treatment system upsets, bear the costs of segregated treatment and workover fluid disposal. As with produced water, the cost of BAT limitation on oil and grease for treatment and workover fluids is highest in the first year of the regulation, when all existing wells are covered, and will decrease in time as the wells become unproductive and cease operations. The first year costs for BAT treatment and workover fluids is $1.7 million (1991 dollars). The changes in the per-project net present value and corporate cost per BOE are small, about 1 percent or less for all projects investigated. The costs of the BAT limitations for control of treatment and workover fluids are economically achievable.

Each new productive well drilled will need to meet the limitations on completion fluids. Once in production, these wells are anticipated to require treatment or workover on the average of once every four years. The treatment and workover fluids, like the completion fluids, must meet new limits on oil and grease. Larger structures are assumed to generate sufficient volumes of produced water to commingle these waste streams without upset to the produced water treatment system, so incremental costs would be borne only by smaller projects. The annual compliance cost for completion fluids is estimated at $0.2 million. The compliance costs for treatment and workover fluids would begin at negligible levels when the regulation first goes into effect and would peak at $0.8 million in the 15th year. (Costs are in 1991 dollars.) The financial summary statistics for all economic models change by less than 1 percent and there are negligible impacts on company financial ratios. EPA finds the BAT and NSPS limitations for treatment, workover, and completion fluids to be economically achievable.

H. Deck Drainage, Sanitary, and Domestic Wastes

The new limitations for these miscellaneous waste streams have no associated increase in compliance costs because they are either the same as BPT, permit requirements, or U.S. Coast

Guard limits. Therefore, there are no associated economic impacts.

I. Cost-Effectiveness Analysis

In addition to the foregoing analyses, EPA has performed a cost-effectiveness analysis for the selected options for drilling fluids and drill cuttings, produced water, and produced sand. According to EPA's standard procedures for calculating cost-effectiveness, all the options considered for each waste stream have been ranked in order of increasing pounds-equivalent (PE) removed (see the introduction to this section for a discussion of pounds-equivalent, a methodology for putting pollutants of differing toxicity on a comparable basis.) The cost-effectiveness value calculated for produced sand includes only the estimated pollutant removals for radium. EPA believes that had specific data on other known constituents (heavy metals and organics) in produced sand been available, the cost-effectiveness for produced sand limitations in the rule would be considerably less than the reported $291 per pound-equivalent. Cost-effectiveness is calculated as the ratio of the incremental annual costs to the incremental pounds-equivalent removed for each option. So that comparisons of the cost-effectiveness among regulated industries may be made, annual costs for all cost-effectiveness analyses are reported in 1981 dollars.

In 1981 dollars, the incremental cost-effectiveness for the selected options are:

—$44/PE—drilling fluids and drill cuttings
—$33/PE—BAT produced water
—$17/PE—NSPS produced water
—$291/PE—produced sand (only radium removal was used to calculate pound-equivalent of pollutant reduction for this waste stream).

J. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that EPA prepare a Regulatory Flexibility Analysis (RFA) for regulations that have a significant economic impact on a substantial number of small entities. This analysis may be done in conjunction with or as a part of any other analysis conducted by EPA. The purpose of the RFA is to ensure that, while achieving EPA's statutory goals, the Agency has considered regulatory options for minimizing the cost of compliance on small entities.

The economic impact analysis described above indicates that the expenses necessary to meet the final effluent limitations guidelines and standards for the offshore oil and gas industry will be incurred by major and independent oil companies. These are not "small entities" by any standard. Additionally, the analysis has determined that none of the companies directly affected by this rule are small entities. Therefore no formal Regulatory Flexibility Analysis was proposed and EPA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

K. Paperwork Reduction Act

Today's rule places no additional information collection or record-keeping burden on respondents. Therefore, an information collection request has not been prepared and submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.*

XV. Executive Order 12291

A. Introduction

Executive Order 12291 requires the Environmental Protection Agency and other agencies to perform a Regulatory Impact Analysis (RIA) of major regulations. Major rules are those which impose an annual cost to industry of $100 million or more, or meet certain other economic impact criteria. The RIA prepared by EPA for this rule may be obtained at the address listed at the beginning of the preamble. This RIA was submitted to OMB for review as required by Executive Order 12291.

The RIA analyzes the effect of current discharges and benefits of final limitations for the major waste streams from offshore oil and gas drilling (e.g, drilling fluids and drill cuttings), and production activities (e.g., produced water) on the offshore environment. Three types of benefits are analyzed: quantified and monetized benefits, quantified and non-monetized benefits, and non-quantified and non-monetized benefits.

The monetized benefits analysis focuses on the human health-related benefits of the regulatory options considered. These health risk reduction benefits are associated with reduced human exposure to various carcinogenic and noncarcinogenic contaminants, including lead, by way of consumption of shrimp and recreationally caught finfish from the Gulf of Mexico. Major toxic effects by lead in humans include inhibition of heme synthesis, kidney disfunction, and damage to the central nervous system. Broad symptoms include increased blood pressure and reduced learning ability. The lead related benefits include: (1) Decreased infant mortality; (2) reduced I.Q. impairments in children; and (3) reduced risks of hearth disease, strokes, hypertension and death. All benefits were estimated using a saltwater leach scenario for calculating the bioavailability of lead in the marine environment.

Other benefits that are quantified, to the extent possible, but not monetized due to lack of appropriate data, include: (1) Human health risk reductions associated with systemics other than lead, pH-dependent leach rates, carcinogens for which there are no risk factors available, exposure to pollutants via sediment or food chair; (2) ecological risk reductions; (3) fishery benefits; and (4) intrinsic benefits.

The combined monetized benefits of regulating drilling fluids, drill cuttings, and produced water in the offshore subcategory of the oil and gas extraction industry are found to be reasonably commensurate with their costs. The total monetized benefits for selected options (in 1991 dollars for the Gulf of Mexico only) range from $28 to $104 million annually. Hypertension effects were estimated based on a dataset with a median blood lead concentration of 15 μg/dL. Average blood lead concentrations are around 4.5 μg/dL. There may be uncertainty associated with the estimate of hypertension effects, because EPA has assumed that the relationship between hypertension effects at 4.5 μg/dL is the same as the 15 μg/dL blood lead concentration. The monetized benefits associated with hypertension risk reduction are $0.2 million. The total annualized BAT and NSPS costs in the Gulf of Mexico are $122 million in the first year and decline to $32 million in the 15th year following promulgation. Quantified-monetized benefits are based solely on the predictive health-related impacts. Benefits associated with regulating drilling fluids and drill cuttings predominate over those associated with regulating produced water; for drilling fluids and drill cuttings, lead-related benefits predominate over carcinogen-related health benefits.

The quantified, non-monetized benefit assessment includes a review of case studies of environmental impacts of drilling fluids and drill cuttings and produced water that document adverse chemical and biological impacts resulting from discharge of these wastes in the Gulf of Mexico, Atlantic, California and off Alaska and water quality analysis. A comprehensive review of available data (over 1000 references, plus EPA's Ocean Data Evaluation System (ODES) database) show documented local impacts for drilling fluids and drill cuttings

discharges (22 case studies) and for produced water discharges (7 case studies). Geographically widespread marine impacts are not well documented. In preparing a water quality analysis for this rule, EPA used as a baseline permit conditions imposed by the Region 6 general permit for the OCS of the Gulf of Mexico, 51 FR 24897 (July 9, 1986). EPA projected exceedences of marine water quality criteria and toxic benchmarks, which are factors that EPA takes into account in making a determination of whether a discharge will cause unreasonable degradation of the marine environment. See 40 CFR 126.122(a)(10).

Discharged drilling fluids and drill cuttings are shown to cause contamination of sediments with heavy metals and hydrocarbons up to 4000 meters from the platforms. Other documented impacts include decline in abundance of benthic species (up to 1000 meters from the platform), reduced bryozoan coverage (within 2000 meters of discharge), altered benthic communities (up to 300 meters from platforms), bioaccumulation of heavy metals known to be present in drilling fluids and drill cuttings by benthic organisms, complete elimination of seagrass (within 300 meters of discharge), inhibited growth of seagrass (up to 3,700 meters, from the discharge point), and decreased coral coverage.

Produced water discharges are shown to cause contamination of sediments with metals and polynuclear aromatic hydrocarbons (PAH) up to 1000 meters from the platforms. Other significant impacts include reduction of benthic organisms (to below background levels) up to 300 meters from platforms, alteration of benthic communities (mostly toward opportunistic species), and sub-lethal (chronic) impacts to biota at distances in excess of 500 meters from the discharge point in high energy, open ocean environments.

The RIA uses models to project water quality impacts based on section 403(c) marine water quality criteria and human health risks from consumption of fish (consumed by recreational fishermen) and commercially caught shrimp (consumed by the general population) as a result of the offshore oil and gas discharges from existing and new offshore oil and gas platforms in the Gulf of Mexico. The "baseline," representing limitations under the 1986 general permit for the OCS in the Gulf of Mexico, and regulatory options considered for BAT and NSPS limits are assessed. The Gulf of Mexico was selected as a case study area because more than 90 percent of the offshore oil and gas exploration and production activities occur in this region, and because of its importance for commercial and recreational fishing.

The RIA attempted to quantify and monetize the specific environmental benefits that may result from the options considered for this rule. However, the high dilution afforded by the marine environment resulted in modeled pollutant concentrations that were sufficiently low that no directly quantifiable impacts on the Gulf of Mexico fishery could be attributed to the platform-related discharges. Predictions could not be made to quantify direct impacts of current discharges and benefits of options considered for this rule on composition and abundance of finfish and shellfish populations, recreational fishing and other recreational activities, commercial fishing, or nonuse benefits. Therefore, the RIA for this rule focuses exclusively on the benefits associated with human health risk reduction through modeled reduction in concentration of platform-related pollutants in recreationally-caught fish and commercially caught shrimp. Both carcinogenic and systemic human toxicant effects are considered. These quantified and monetized incremental benefits are compared to the annualized incremental cost in the Gulf of Mexico for the BAT and NSPS control options considered for this rule.

The non-quantified, non-monetized benefits assessed in this RIA include increased recreational fishing, increased commercial fishing, improved aesthetic quality of waters near the platform, and benefits to threatened or endangered species in the Gulf of Mexico. Recreational fishing benefits may be realized because (a) regulations may change perceptions about the risk to health posed by fish caught near the platforms, thus encouraging recreational fishing near the rigs and increasing fishing values; (b) to the extent anglers perceive that water quality near the platforms has improved, they may fish more often near the platforms thus increasing their participation; and (c) reduced discharges may improve the ecosystem in a way that enhances the fishery. For example, reduced pollutant concentrations would positively affect lower-level organisms in the food chain, improve reproductive success, increase the ability to avoid predation and improve growth.

Since data are not available to evaluate these hypotheses, EPA has not predicted potential recreational fishing benefits. However, if the regulations do have a positive impact on recreation, then the benefits of improved recreational fishing could be substantial. For example, even a 0.1 percent increase in recreational value would increase recreational fishing benefits by about $12 to $14 million.

Non-use benefits associated with improved water quality could be potentially significant. In freshwater settings, studies show that such benefits were no less than 50 percent of the associated recreational values.

The regulation may also have a beneficial effect on two federally-designated endangered species—the Kemp's Ridley Turtle and the Brown Pelican—that use the Gulf of Mexico as part of their habitat.

The commercial fishery in the Gulf of Mexico is a vital component of the regional economy. While there are data to suggest correlation between oil and gas extraction activities and fisheries catch statistics, definitive causal relationships cannot be developed. However, indirect impacts on the size or composition of the fishery, or on consumer demand for Gulf fishery products, may generate commercial fishery benefits.

B. Drilling Fluids and Drill Cuttings

The water quality analysis is performed for water column and sediment pore water quality impacts using mean seawater leachability (with mean leach percentages experimentally derived in seawater medium). Water quality impacts and benefits are projected for 23 pollutants representing average subcategory-wide drilling discharges.

The estimated human health benefits for the BAT and NSPS drilling fluids and drill cuttings limitations are in the range of $28 to $104 million (for seawater leach) compared to a projected incremental annualized cost of $19 million (in 1991 dollars for the Gulf of Mexico only) (Table 11) based on the combined quantified average risk reduction associated with consumption of fish and shrimp contaminated by lead and arsenic from drilling fluids and drill cuttings discharges. An additional reduction in human health risk from the subsistence fishing near the platforms is also anticipated but could not be quantified by this RIA.

Table 11.—INCREMENTAL ANNUALIZED BENEFITS AND COSTS FOR DRILLING FLUIDS AND CUTTINGS BAT/NSPS OPTIONS

[Millions of 1991 dollars per year; Gulf of Mexico only]

Regulatory option	Annual benefits*	Annual cost
3 Mile Gul/CA[b]	$28.1-$103.6	$19.6

Table 11.—Incremental Annualized Benefits and Costs for Drilling Fluids and Cuttings BAT/NSPS Options—Continued

[Millions of 1991 dollars per year; Gulf of Mexico only]

Regulatory option	Annual benefits[a]	Annual cost
3 Mile Gulf/3 Mile CA	28.5–104.7	33.1
Zero Discharge Gulf/CA[b]	30.0–110.5	142.4

[a] Relative to baseline of current practice.
[b] Regulatory option selected for this rule.

C. Produced Water

The water quality analysis is performed for water column water quality impacts. Water quality impacts and benefits are projected for 29 pollutants representing average subcategory-wide produced water discharges.

The estimated human health benefits for the BAT limitations of the final rule, based on the quantified average risk reduction associated with the consumption of platform-contaminated fish for three carcinogens (arsenic, benzene, benzo(a)pyrene) and one systemic toxicant (lead), are estimated to range from $30,000 to $123,000, versus a projected incremental annualized cost of $102 million in the first year that declines to zero in the 15th year (in 1991 dollars for the Gulf of Mexico only) (Table 12). The estimated human health benefits for the NSPS limitations (based on the same pollutants) are estimated to range from $39,000 to $162,000, versus a cost of $1 million in the first year that rises to $13 million in the 15th year (in 1991 dollars, for the Gulf of Mexico only) (Table 13). An additional reduction in human health risk due to subsistence fishing near the oil and gas platforms in the Gulf of Mexico region is also anticipated but could not be quantified by this RIA.

Table 12.—Incremental Benefits and Costs for Produced Water BAT Options

[Millions of 1991 dollars per year; Gulf of Mexico only]

Regulatory option	Annual benefits[a]	Annualized cost in year 1	Annualized cost in year 15
Flotation All[b]	$0.030–$0.123	$102.2	0.0
Zero 3 Miles Gulf and Alaska[c]	0.28–1.42	123.8	0.0
Zero Discharge Gulf and Alaska[c]	0.54–2.78	730.3	0.0

[a] Relative to baseline of current practice.
[b] Regulatory option selected for this rule.
[c] Benefits associated with controlling Ra–226 and Ra–228 are considered only for options that include zero discharge.

Table 13.—Incremental Benefits and Costs for Produced Water NSPS Options

[Millions of 1991 dollars per year; Gulf of Mexico only]

Regulatory option	Annual benefits[a]	Annualized cost in year 1	Annualized cost in year 15
Flotation All[b]	$0.039–$0.16	$0.9	13.4
Zero 3 Miles Gulf and Alaska[c]	0.30–1.5	3.9	57.7
Zero Discharge Gulf and Alaska[c]	0.55–2.8	25.0	375.5

[a] Relative to baseline of current practice.
[b] Regulatory option selected for this rule.
[c] Benefits associated with controlling Ra–226 and Ra–228 are considered only for options that include zero discharge.

XVI. Public Participation and Summary of Responses to Major Comments

Public participation in the development of the effluent limitations guidelines and standards for this industry has been extensive. Throughout the development of this regulation, EPA has made numerous documents available to the public for comment and has held public meetings for the purpose of providing information and receiving information and views from many individuals and organizations.

The public comment period for the 1985 proposal, set originally for three months, was extended to provide a total of six months for comment. Partly in response to these comments and partly to incorporate supplemental data, EPA modified its data base, methodologies and regulatory approaches and discussed these changes in a Notice of Availability and request for comments on October 21, 1988 (53 FR 41356). The comment period for this Notice of Availability, originally set for six weeks, was subsequently extended to provide a total of three months for comment.

On November 26, 1990 (55 FR 49094), EPA published a proposal and reproposal presenting additional modifications to the data base and changes to methodologies and regulatory approaches. A one month comment period was provided for this proposal.

On March 13, 1991 (56 FR 10664), EPA published a subsequent proposal describing the November 1990 proposal in greater detail and setting forth additional technical, economic, environmental, and other information relating to the establishment of effluent guidelines and standards for the offshore subcategory. The comment period for this proposal was originally set for one month. EPA subsequently extended the comment period for the majority of the proposal by an additional month, with several key issues extended to provide a total of three months to comment. In response to the notices and proposals discussed above, EPA received 145 submissions of comments and data from industry, government, environmental and other groups, and individuals. These submissions comprise over 5,000 pages.

Throughout this rulemaking, EPA has not only welcomed the submission of comments, but also solicited data that could be used to supplement, correct, or fill gaps in EPA's data base. Where adequately documented data of sufficient quality were submitted, EPA used the data along with other data it had collected. EPA believes that it has made all reasonable efforts to obtain public input on this rule.

Included in the record for this rule is a large response to comments document. The sheer volume of comments precludes the publication of EPA's responses to all of them in this preamble. EPA has discussed and responded to some comments earlier in this preamble. Other comments are

responded to in the separate response to comments document mentioned above. Finally, the various data compilations, editing, and other information contained in the record for this rule address (and in some instances were obtained or acquired specifically for the purpose of addressing) the public comments.

A. Cadmium and Mercury BAT and NSPS Limitations for Drilling Fluids and Drill Cuttings

Comment: Several commenters expressed opposition to establishing BAT and NSPS limitations on cadmium and mercury in drilling fluids and drill cuttings wastestreams at 1 mg/kg each, as measured in the whole drilling fluid. The commenters cited data indicating that the geologic formation can act as a contributor of cadmium to the drilling fluid, and recommended establishing the metals limits in the stock barite rather than "end-of-pipe." Some industry commenters suggested a stock barite limitation of 3 mg/kg cadmium and 1 mg/kg mercury, while others suggested a limit of 5 mg/kg cadmium and 3 mg/kg mercury in the stock barite.

Response: EPA agrees that the limitations on cadmium and mercury should be set in the stock barite. The final BAT and NSPS limits for drilling fluids and drill cuttings include limitations on cadmium and mercury at 3 mg/kg and 1 mg/kg (dry weight), respectively, in the stock barite. This is not an effluent limit to be measured at the point of discharge, but a standard pertaining to the metals content of the barite used to formulate drilling fluids. Compliance with the limitation would involve the use of barite from sources that either do not contain these metals or contain the metals at levels below the limitation.

EPA has analyzed data from the American Petroleum Institute's Fifteen Rig Study. In this study, samples of drill cuttings, used drilling fluid, and barite from a number of drilling sites were sampled for metals content. Results of EPA's statistical analysis indicate that some cadmium present in the drilling fluids came from a source other than the barite.

Establishing the final metals limitations on the stock barite, rather than "end-of-pipe" in the whole drilling fluid at the point of discharge, is consistent with EPA's original intent for control of drilling fluids and drill cuttings. EPA's technology basis for limits on metals content in drilling wastes has always been product substitution of "clean" barite sources containing low levels of impurities as a substitute for "dirty" barite with higher concentrations of impurities. In section VII.B of the preamble, EPA discusses why the limits selected for the final rule are available and economically achievable.

B. Clearinghouse Approach for Controlling Toxicity of Drilling Wastes

Comment: Several industry commenters have stated that EPA should use a "clearinghouse" approach to control toxicity for drilling fluids and drill cuttings, rather than establish "end-of-pipe" toxicity limits. Instead of measuring compliance through bioassay of drilling wastes, a clearinghouse approach would project the cumulative toxicity of the drilling fluids and additives in advance based on mud formulation.

Response: In the 1985 proposal, one of the options proposed for limiting the discharge of muds was referred to as the "Clearinghouse/Toxicity Approach" (50 FR 34592). The clearinghouse concept is based on the fact that operationally satisfactory drilling fluids can be formulated by substituting less toxic constituents. Under a clearinghouse concept, a list of effective muds that could be discharged from offshore operations would be compiled. The generic drilling fluid concept was developed in 1978 when EPA instituted a joint testing program for various formulations for operations in the Atlantic Ocean lease sale areas. EPA Region 2 and the Offshore Operators Committee (OOC) conducted the Mid-Atlantic Bioassay Program which identified eight water-based drilling fluid types (generic fluids) that encompassed virtually all types of drilling fluids in use at the time. The generic fluids were then bioassayed once as an alternative to having the participating operators perform bioassay and chemical tests every time a discharge occurred. To allow for the use of acceptable additives in drilling operations, EPA and the OOC also developed the concept of an "approved" additives list. An operator could submit bioassay data on a mud containing a particular additive to EPA for review. If EPA "approved" the additive, operators were then allowed to discharge the generic fluid types, including certain approved specialty additives ("additives"), without conducting additional testing (50 FR 34603). Other EPA Regions used the results from the generic fluids testing in permits issued for Outer Continental Shelf (OCS) lease areas, and the 1985 proposal also contained another option (Option 1, 50 FR 34607) which limited toxicity to 30,000 ppm for the suspended particulate phase (SPP) based on the results of bioassay program.

In the 1985 proposal, Option 2—Clearinghouse Approach discussed the establishment of a national clearinghouse to be administered by EPA. Under this option, EPA would serve as a repository for all toxicity and related physical and chemical characteristics of base drilling fluid formulations and additives. The information would be used by the public and operators for use in selecting fluid/additive formulations that would likely comply with the established toxicity regulations (50 FR 34608).

EPA Region 10 later issued several NPDES general permits (Bering and Beaufort Seas (49 FR 23734, June 7, 1984) Norton Sound (50 FR 23578, June 4, 1985), Cook Inlet/Gulf of Alaska (51 FR 35460, October 3, 1986), Chukchi Sea and Beaufort Sea II (53 FR 37846, September 28, 1988)) in which the discharge of certain additives was authorized without further bioassay testing if discharged in generic drilling muds. In all of its permits, Region 10 authorized the discharge of certain muds and a variety of specialty additives listed on tables in the permits. When operators needed to use muds or additives not directly authorized on the tables, Region 10 evaluated available bioassay data and authorized discharge (or not) based on its BPJ estimate of the cumulative toxicity for the proposed discharge. Region 10 often required bioassay of the discharged muds/additives at maximum (discharge) concentrations in order to obtain bioassay data that represented practical product concentrations and actual discharge toxicity. Region 10's approach was based on additivity (meaning that the toxicity of the whole drilling fluid could be estimated based on the toxicity of the constituents) because there were no other practicable ways in which to address available bioassay data.

In the 1985 proposal (50 FR 34592) and the 1991 proposal (56 FR 10664), EPA rejected the Clearinghouse option based on the time required to develop such a program, and the complexity of managing such a program on a national level. Although EPA has received comments in favor of a clearinghouse approach to fluids/additive discharge authorization, several important reasons remain that support rejection of this regulatory option.

First, EPA's NPDES permitting program (section 402 of the Act) is based on point of discharge ("end-of-pipe") accountability. While bioassays of drilling wastes to be disposed of are an established measure of compliance with "end-of-pipe" toxicity limits, a

clearinghouse approach would require the cumulative toxicity of the fluids and additives to be projected in advance. These advance estimates would have to be performed for each discharge of drilling fluids by hundreds of offshore wells annually. Whether EPA performs the estimates or industry submits them for Agency review, because of the large number of drilling operations in the offshore subcategory the administration of such a program would be complex and would place a huge administrative burden on the Agency. Compounding this, EPA would be required to maintain a data base with up-to-date information on fluids and additives, provide resources to track the data, and respond to challenges to clearinghouse determinations.

Although it has been demonstrated that the clearinghouse systems can be effective on a small scale, EPA has reservations regarding the feasibility of a nationwide program. The success of the Region 10 program is due, in large part, to the relatively small number of wells drilled in the past and estimated for the future. (The projected number of new drillings for the Region 10 offshore area is 12 per year). A national clearinghouse program involving over 700 new drillings per year and requiring maintenance and updating of a database containing information on numerous additives and fluids combinations would be much more difficult to manage and would place an enormous burden on the Agency.

For these reasons, EPA rejected the clearinghouse option as a component of nationally applicable regulations; however, this would not necessarily preclude EPA Regions from using a clearinghouse approach in permits as a means of implementing the toxicity limits in these regulations, if appropriate.

C. Synthetic Drilling Fluids

Comment: Several industry commenters noted recent developments in formulating new drilling fluid systems (e.g. vegetable oils, synthetic hydrocarbon-based fluids, polyolefins) as substitutes for the traditional water-based and oil-based (diesel or mineral oil) drilling fluids. Industry commenters contend that the new drilling fluids are potentially much less toxic than many of the more traditional drilling fluids currently in use. However, the newer fluids are not being used because they are costly and because they are likely to cause a discoloration on the receiving waters. This discoloration may be interpreted as a "sheen" which is the mechanism specified for determining compliance with the existing BPT limit and the BCT and BAT limits and NSPS established in this rule for no discharge of free oil from drilling fluids and drill cuttings. The newer fluids may cause a sheen even where there has been no discharge of diesel or mineral oil or hydrocarbons from the well. In other words, the static sheen test cannot distinguish between drilling fluids and drill cuttings containing these newer drilling fluids and drilling fluids and drill cuttings contaminated by diesel oil, mineral oil, or formation hydrocarbons. For these reasons, industry commenters further contend that these newer drilling fluids should be exempt from compliance with the no free oil limitation required by these effluent limitations and NSPS.

Response: EPA disagrees with the commenters' assertion that certain drilling fluids should be exempted from the BCT and BAT limitations and NSPS established in this rule prohibiting discharge of free oil in drilling fluids and drill cuttings as determined by the static sheen test. The technology basis for the no free oil requirement, onshore treatment and/or disposal of drilling fluids and drill cuttings is applicable to all drilling fluid systems and prevents discharge of substantial quantities of conventional, non-conventional and priority pollutants. The prohibition on discharge of free oil was originally established under BPT to prevent discharges of drilling waste contaminated with diesel oil, mineral oil, or formation hydrocarbons to surface waters. Since mineral oil or diesel oil is occasionally added to a drilling fluid system to enhance lubricity or as a pill to free stuck pipe, or hydrocarbons from the formation may enter the drilling fluid system during drilling operations through oil-bearing geologic strata, the prohibition on discharges of free oil remains an appropriate limitation for discharge of drilling fluids and drill cuttings.

While EPA agrees that some of the newer drilling fluids with non-mineral oil or non-diesel oil bases may be less toxic and more readily biodegradable than many of the drilling fluids currently in use, EPA is concerned that there is no method for determining compliance with the no free oil standard to replace the static sheen test. In other words, if EPA were to exclude certain fluids from the requirement, there would be no way to determine if at that particular facility, diesel oil, mineral oil or formation hydrocarbons were also being discharged.

At the same time, EPA wants to encourage development of less toxic drilling fluid substitutes or drilling fluids with a higher degree of biodegradability if an alternative method can be developed to distinguish between discharge of diesel oil, mineral oil, or formation hydrocarbons in drilling fluids and drill cuttings from discharges of these newer drilling fluids. EPA solicits data on alternative ways to differentiate between these two kinds of discharges, including gas chromatography or other analytical methods. EPA also solicits information on technological issues, related to the use of these newer fluids (e.g., under what geological conditions and for what part of the drilling operations can these newer drilling fluids be used), any toxicity data or biodegradation data on these newer fluids, and cost information. EPA will consider this information, and if appropriate, issue guidance on use of the static sheen test for distinguishing these newer drilling fluids from mineral oil-based fluids, diesel oil-based fluids or formation hydrocarbons. Also, if appropriate, EPA may propose alternative analytical methods or undertake other rulemaking to address this issue.

EPA acknowledges that the current Gulf of Mexico general permit prohibits the discharge of inverse emulsion drilling fluids, which are defined as oil-based drilling fluids which also contain a large amount of water. EPA solicits information on whether newer drilling fluids should be considered inverse emulsion fluids and what effect the current permit prohibition on discharge of inverse emulsion fluids will have on the ability to discharge newer, non-petroleum oil-based synthetic fluids if they pass the static sheen test, along with the other limitations applicable to drilling fluids and drill cuttings.

D. Non-Water Quality Environmental Impacts—Drilling Wastes

EPA received several comments regarding non-water quality environmental impacts associated with the limitations on discharges of drilling fluids and drill cuttings. These comments related primarily to the volumes of drilling fluids and drill cuttings that would need to be disposed and the number of vessels available to transport drilling fluids and drill cuttings to shore for disposal.

Comment: EPA received comments suggesting that the assessment of non-water quality environmental impacts (and any regulatory determination based on these impacts) should be based on drilling waste volumes which result from operators using enhanced solids control systems. The commenter contended that by basing drilling waste volume estimates on enhanced solids control systems, the volume of drilling

wastes requiring onshore disposal (as well as the necessary boat trips and associated energy usage and air emissions) would be substantially reduced.

Response: EPA believes that it made a reasonable estimate of the quantity of drilling fluids and drill cuttings that would be required to be disposed of onshore under the rule. EPA's estimate of the volume of drilling waste generated offshore is based on actual discharge data and is demonstrative of the fairly high level of solids control employed offshore.

Solids control equipment is used by the industry to remove drill cuttings and minimize the buildup of drilled solids in the drilling fluid system. In addition to enhancing drilling fluid properties, by minimizing solids buildup in the mud system the operator can reduce the extent to which dilution of the drilling fluid is required. All drilling operations utilize solids control equipment to some degree and the efficiency of the system, in determining the extent to which dilution is required, affects the volume of drilling wastes generated. A relatively low efficiency (40 percent) solids control system requires a substantial level of dilution in order to maintain proper mud system properties. Intermediate level of efficiency (about 60 percent), in providing greater solids removal from the mud system, substantially reduces the level of dilution required for the mud system and reduces the volume of drilling wastes generated. The intermediate level system will result in an increased volume of drill cuttings and a decreased volume of drilling fluids. (While the total drilling waste volume is reduced because of the reduced dilution, a portion of drilled solids discharged along with drilling fluids in low efficiency solids control systems will be removed by the higher efficiency solids control and included with the drill cuttings wastes.)

Finally, closed-loop solids control systems can provide approximately 80 percent solids removal efficiency, further reducing the overall drilling waste volume (the drill cuttings volume would increase, but the drilling fluid volume decreases by a greater amount.) While the closed-loop system provides volume reductions over the intermediate-level system, the volumetric reductions in waste generation are not linearly proportional to the solids control efficiency. As a result, operators gain significantly greater reductions in drilling waste volumes in going from low efficiency to intermediate level solids control equipment than achieved in going from intermediate-level equipment to closed loop systems.

In developing the final rule, EPA considered solids control equipment practices used in the offshore oil and gas industry. In evaluating the potential for enhanced solids control systems to reduce drilling waste volumes (and thus reduce non-water quality environmental impacts), EPA reviewed industry literature and solids control equipment currently used in offshore drilling situations and data on solid removal efficiencies. Based on the limited data available, EPA has determined that the offshore oil and gas industry, while not using the highest efficiency solids control systems available, is in general using a fairly high level of solids control in drilling operation.

While most platforms and drilling rigs may have a basic level (relatively low efficiency) of solids control equipment permanently installed, it is common industry practice for lease owners/operators, in contracting with the service firms providing drilling services, to require some level of enhanced solids control equipment to be used. EPA used industry data on drilling waste discharges, (for which solids information was unavailable) in conjunction with theoretical estimate of drilling waste volumes (calculated from the theoretical hole volume and use of solid control equipment with differing efficiencies), to determine that waste volumes generated in the offshore subcategory are demonstrative of a fairly high solids control efficiency.

A factor to be considered in offshore operations is whether available space exists on the platform or mobile drilling rig to support installation of higher efficiency solids control equipment. In onshore and coastal areas, drilling operations typically are not severely limited in terms of equipment space. (In coastal regions, additional equipment can often be added on the drilling barge or an additional barge brought to the drilling site.) Offshore, however, operators must balance the benefits of adding additional solids control equipment with the need to reserve space on the platform or drilling rig for storage of drill cuttings boxes. If the available space for storage of drill cuttings boxes becomes too limiting, additional boat trips to remove the drill cuttings are required if interruptions to the drilling operation are to be prevented. Also, installing higher-efficiency solids control equipment produces a greater drill cuttings volume, further limiting drilling operations. (While the drilling fluid volume is decreased, a corresponding space availability does not result since the muds are stored in tanks which have a smaller "footprint", or surface area requirement. Operators are limited in the extent to which cuttings boxes may be stacked.) Operators may retrofit additional platform space on platforms or mobile drilling rigs; however, in some cases such modifications may not be feasible and in any case would be made upon economic consideration of modification costs and onshore waste disposal costs.

In evaluating the impact of enhanced solids control equipment drilling waste volumes requiring onshore disposal, EPA used its estimates of current industry practice, platform addition costs, and onshore disposal costs to assess the potential for operators to further enhance their solids control systems. EPA was limited in this analysis by the lack of facility-specific data regarding the installed solids control equipment. Because the industry is already using a fairly high level of solids control (limiting the extent to which benefits could be realized through further efficiency increases), facility-specific data is lacking, and because the selection of the type of solids control system used at a particular drilling location depends on site-specific drilling conditions and economic variables, EPA was unable to determine the extent to which the industry would implement higher-efficiency solids control systems. To the extent that higher-efficiency solids control equipment may be utilized, some reduction in the total drilling waste volumes generated could be realized. Considering the fairly high level of efficiency already implemented offshore, such volume reductions would not likely be significant. Thus, EPA believes non-water quality environmental impacts estimated for drilling fluids and drill cuttings effluent limitations and NSPS would not change significantly with implementation of higher-efficiency solids control equipment.

Comment: EPA also received comments opposed to the comment above, that drilling waste volumes were understated and that additional boat trips would be necessary.

Response: EPA reassessed drilling waste volumes in developing the final rule in response to public comments. The projected volumes of drilling fluids and drill cuttings generated in the offshore subcategory have changed slightly since proposal due to revisions in calculations of: (1) The average well depth, based on an expanded set of drilling data; (2) the typical depth of a deep well (deep wells generate greater waste volumes than shallow wells

because of the footage drilled and the larger diameter borehole used); and (3) the percentage of all wells drilled greater than the average industry offshore well depth. The methodology used to calculate the drilling waste volumes is unchanged from the proposal. In estimating the volume of drilling waste generated requiring onshore disposal, EPA revised downward projections of the usage of oil-based drilling fluids. This downward revision reduces the volume of drilling waste requiring onshore disposal. However, the decrease in onshore disposal by this revision is offset by the updated assumption of greater numbers of deep wells and the volume increase associated with these wells. For these reasons, EPA believes that the projected waste volumes presented in section VII of this preamble and the Development Document are accurate estimates of the volume of drilling fluids and drill cuttings requiring onshore disposal.

Comment: Some commenters contended that EPA's assumption regarding the number of vessels necessary for transporting the drilling wastes was an over-estimate. A commenter to the rule disputed EPA's 1991 projections of the number of supply boats needed to transport drilling wastes to shore. This commenter claimed that EPA inappropriately estimated drilling waste volumes, overestimated the number of dedicated supply boats needed, and failed to consider the potential for using regularly scheduled supply boats to carry drilling wastes to shore. The commenter claimed that the drilling wastes could be brought to shore by regularly scheduled supply boats and that EPA was double-counting the number of boat trips needed.

EPA also received opposing comments. One commenter claimed that there are no vessels (barges) configured and certificated to carry oilfield wastes authorized to operate in offshore waters, and noted the improbability of modifying the open hopper barge design often used in inland wasters. Some commenters contended that there were insufficient vessels available to transport the drilling wastes to shore.

Response: EPA strongly disagrees with the contention that vessels are unavailable for offshore service. EPA estimates that approximately 760,000 barrels per year of drilling wastes are transported from drilling sites in the offshore category to the shore for disposal in order to comply with the current BPT and NPDES permit limitations. These wastes are transported to shore by offshore service vessels, typically supply boats. The population of service vessels available to transport offshore drilling wastes is difficult to determine; however, estimates regarding the number of vessels and the increased requirements resulting from this rule can be made.

As discussed above, supply boats make frequent visits to drilling and production sites throughout the offshore subcategory. Service vessel usage at offshore facilities may be as high as two supply boats per day and two crew boats per day during the exploration and development phases. In general, service vessels make three trips per week to exploration and development operations and one trip per week to production platforms. (EPA projects future wells in the offshore subcategory to be drilled at the average annual rate of about 760 wells per year. There are currently approximately 2,550 production platforms in the offshore subcategory.) MMS data show that there were 25,000 service vessel trips to support oil and gas related activities on the OCS (federal waters only) in the Gulf of Mexico in 1988. These data do not differentiate between types of vessels; however, it does provide some indication regarding the boat population and level of activity. EPA estimates that transporting drilling wastes to shore in compliance with the requirements of this rule will result in an increase of about 740 service vessel trips per year. (See the Development Document and record for this rule.)

EPA disagrees with the contention that the number of boats needed have been double-counted, and also does not agree that drilling wastes could be brought to shore exclusively by regularly scheduled supply boats. In projecting the number of boat trips required and associated non-water quality environmental impacts, EPA determined that both dedicated and regularly scheduled supply boats will be used to transport drilling wastes to shore. In the early stages of drilling a well, drill cuttings are generated at such a rate and in sufficient quantity that platform storage space can be a limiting factor and dedicated boats are needed to collect the wastes and prevent interruptions to the drilling program. As waste generation rates decline (drilling rates decline and the well diameter becomes smaller as depth increases), dedicated boats are unnecessary and regularly scheduled supply boats are used to transport the drilling wastes to shore. At the end of drilling, a dedicated supply boat is again typically needed to remove the bulk drilling fluid remaining in the system.

Comment: Some commenters stated that there was insufficient onshore disposal capacity available to receive drilling wastes generated offshore.

Response: In this final rule, EPA updated estimates of the onshore disposal capacity for oilfield wastes. The onshore disposal capacity was estimated on a regional basis in developing the November 1990 and March 1991 proposals. These regional estimates were updated subsequent to the proposal and identified current permitted capacity near the coast, the volumes of oilfield wastes currently treated by those sites, and the "excess" disposal capacity available to accept additional waste volumes. The projections of onshore disposal capacity are discussed in more detail in section VII of this notice and the Development Document. EPA concludes that there is adequate onshore disposal capacity available to accept offshore drilling wastes requiring onshore disposal under this rule.

E. Toxicity Limitation for Drilling Fluids and Drill Cuttings

Comment: Numerous comments were received concerning the proposed toxicity limitation for drilling fluids and cuttings. Some commenters argued that the limit was too stringent, while one commenter argued that the limit was not stringent enough. Most of the comments related to the original proposal in 1985 to limit discharges of drilling fluids to only those fluids that complied with a toxicity limitation for the suspended particulate phase (SPP) of 30,000 ppm (3 percent of volume). Drill cuttings discharges were to be controlled by prohibiting the discharge of free oil. Because of the adherence of drilling fluids to the cuttings during the drilling operation, however, the toxicity limitation for drill cuttings was included in the 1991 proposal. Commenters to the 1991 proposal raised the same or similar issues either specifically describing them in their 1991 comments or by reference to their 1985 comments. In general, industry comments objected to the use of a toxicity limitation as being too stringent. Specifically, industry commenters said EPA had not demonstrated a correlation between toxicity and the amount of pollutants present in the drilling fluids waste stream, had not verified with actual field data that the 30,000 ppm (SPP) limits can be achieved consistently in actual drilling operations, and had not demonstrated that the limit can be met by drilling fluids which are necessary to drill safely and effectively on the outer continental shelf. Industry commenters also raised issues concerning the toxicity test protocol and the lack of quantified

environmental benefits resulting from imposition of the toxicity limitation.

On the other hand, one commenter stated that the 1991 proposed toxicity limits of 30,000 ppm (SPP) were not stringent enough. The commenter stated that the 30,000 ppm (SPP) limit on mud toxicity is clearly not BAT and not even BPT. This commenter also raised questions concerning use of a toxicity test which does not take into account solid phase toxicity and chronic toxicity, including cumulative and sublethal effects. A toxicity limitation of 100,000 ppm (SPP) instead of 30,000 ppm (SPP) was recommended if EPA set a toxicity limit rather than establishing a zero discharge requirement. This recommendation was based on a draft Environmental Assessment Report (1982) citing data summarizing 415 toxicity tests of 68 muds using 70 species from an unspecified number of platforms. Because 44 percent of the data for the generic muds exhibited toxicity values greater than 100,000 ppm (SPP), the commenter recommended EPA raise the toxicity limitation to a minimum toxicity limitation of 100,000 ppm.

Response: Specific responses to the individual comments related to the 30,000 ppm (SPP) toxicity limitation are contained in the response to comments document for this final rule. A summary of the major portions of these responses is contained in this section of the preamble. This summary describes the basis for the 30,000 ppm (SPP) limitation, the appropriateness of the use of this limitation for all drilling activities and the suitability of the toxicity test method. In addition, an analysis of the economic impact of these limitations is discussed further in section XIV of the Preamble, the Economic Impact Analysis, and the record for the rule. A summary of comments concerning the environmental benefits or lack thereof is not contained in this section, but the individual comments are addressed in the comment response document and the environmental assessment conducted under Executive Order 12291, which is described in section XV of this Preamble.

Compliance with the toxicity limitation is based on the technologies of (1) product substitution of lower toxicity water-based or synthetic drilling fluids for higher toxicity drilling fluids and (2) transport to shore for ultimate land disposal of drilling wastes (fluids and cuttings) that do not meet the toxicity limits established by these regulations. As required by the CWA, BAT limitations are to be based on the best available technology and be economically achievable. NSPS are to reflect the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best demonstrated control technology, taking cost into consideration. Product substitution and transport to shore if the drilling fluids and drill cuttings to be disposed of will not meet applicable effluent limitations or NSPS, are the best available and best demonstrated technologies for controlling the discharge of toxic and nonconventional pollutants associated with the drilling fluids and drill cuttings wastestreams.

In response to industry comments that the limit is too stringent, EPA disagrees. EPA has determined that the toxicity limitation meets the statutory criteria for BAT and NSPS. EPA believes that the 30,000 ppm toxicity limit on drilling fluids is technologically achievable because industry has been operating under NPDES permits imposing such a limit since at least 1986 (General Permit for the Outer Continental Shelf in the Gulf of Mexico, 51 FR 24897). As discussed further below, the eight generic drilling fluids have properties that make them applicable to almost all drilling situations. Also, as discussed below, where more toxic drilling fluids are necessary, barging is available and adequate landfill disposal capacity exists to dispose of the drilling fluids and drill cuttings on shore.

With respect to the comment that a toxicity limitation of 30,000 ppm (SPP) is too lenient, the commenter argued that the toxicity limit (based on the most toxic of eight drilling fluids) establishes a least common denominator, rather than the highest common denominator demanded by the statutory definition of BAT and NSPS. EPA disagrees.

In looking at how to apply a product substitution approach, EPA worked with industry to identify water-based generic drilling fluids that are applicable to almost all drilling situations. Drilling fluids are complex mixtures of chemical constituents formulated to meet the individual requirements of each well. Many of the chemicals have numerous functions in the drilling fluids; however, individual chemicals usually have a primary function. Important functions which are performed by the drilling fluids are: the removal of drilled solids (cuttings) from the bottom of the hole to the surface where they are removed; the lubrication and cooling of the drill bit and string; the depositing of an impermeable layer (wall cake) on the well bore hole wall to seal the formation being drilled; the control of downhole pressure; the holding of drill cuttings in suspension within the fluid when circulation of the fluid is interrupted; the support of part of the weight of the drill bit and string; and the transmitting of hydraulic horsepower to the drill bit.

Drilling fluids are usually dense colloidal slurries which have several phases (generally a water phase and a solid phase, some also have an oil phase or a gas phase). The water phase may range from fresh to saturated salt mixtures. The fluids start with the water phase and clay, either bentonite or attapulgite clay. All of the generic fluids except one use one or the other of these clays. The one fluid composition which does not use either of these clays is the generic mud type #1, Seawater/Potassium/Polymer Mud. This mud uses potassium chloride starch and a cellulose polymer. The use of these components in generic mud type #1 is necessary because of the loose shale conditions often encountered in the Gulf of Mexico. The potassium chloride functions as a shale control additive, the cellulose polymer functions as a filtrate reducer and shale controller and the starch functions as a filtrate reducer. Both of these functions are important in keeping fluids from the mud system from entering the formation and keeping the formation from collapsing into the hole.

The clays used in the drilling fluids (either bentonite or attapulgite) are very hydrophilic and form the basis of a viscous gel. As drilling continues, drilled clays (from the formation) may thicken the drilling fluid, thus requiring thinners and dispersant to be added to control flow or rheological characteristics of the fluid. These rheological properties involve the viscosity and gel strength of the fluid, and are important in determining frictional pressure losses (lubricity), and the ability of the fluid to lift cuttings to the surface. A number of constituents (or additives) are used as dispersants or thinners, such as the lignosulfonates, lignite, phosphates and plant tannins. Several of the generic mud types used in the toxicity limitation testing contained these constituents (Mud Types #2, #3, #7, and #8).

Additional constituents must be used in many drilling situations. These include barite, a weighting agent, which controls downhole pressure by raising the density of the fluid system; bentonite, starch or other compounds, which control fluid loss by building a filter cake on the wall of the bore hole; and various constituents for lubricity, plugging holes in the formation which cause loss of the entire drilling fluid slurry, and biocides to control bacterial

growth which can interfere with the drilling and/or production activity.

Commenters identified numerous examples of the need for various compositions or types of fluids, generic or specialty, in order to drill in the different formation characteristics encountered in the Gulf of Mexico in particular.

For example, if an ineffective shale stabilizer is used, there could be severe hole problems which would cause increased drilling time and possible loss of the well; if the composition limits the amount of barite to that of the highest barite content in any of the generic muds, high pressure/high temperature drilling operations routinely encountered in the Gulf of Mexico could not be conducted; and the use of KCl (potassium chloride) muds for water sensitive shale formation control, although sporadic, are essential.

Because EPA believes that drilling fluids exhibiting the characteristics of the eight generic fluids are necessary for industry to conduct drilling operations in almost all drilling situations, EPA needed to set the compliance limit based on the most toxic of these eight fluids. EPA recognizes that even with product substitution, with the limit set at 30,000 ppm (SPP), there will be some instances in which the most toxic of the generic fluids or a more toxic drilling fluid or additive is needed to conduct drilling operations. The need for additional lubricity, or the need to stabilize the well bore hole, particularly in drilling through heavy shale formations are examples of the situations in which EPA believes the use of constituents or additives may require the drilling wastes to be transported to shore due to failure to comply with the 30,000 ppm (SPP) toxicity limitation. Thus, in these instances, transporting the drilling fluids and drill cuttings to shore would be the technology basis for compliance with the limit instead of product substitution.

In response to the comments that the 30,000 ppm (SPP) limitation is too lenient, EPA obtained the reported toxicity values of used drilling fluids and cuttings from monitoring required by the Gulf of Mexico General Permit (Permit No. GM280000) and several general permits from Offshore Alaska (Permit Nos. AKG284100, AKG288000, AKG283000, and AKG785000). Then EPA reviewed the distribution of these data. The available data do not include the level of information (described below) necessary to determine if the less toxic drilling fluids used to result in lower effluent toxicity could be used to address the myriad of drilling situations encountered in the field. Also, the probability distribution of the results does not follow any of the commonly used parametric distributions such as the normal or lognormal distribution. Thus, EPA could not determine whether the less toxic results could be related to some operational characteristics, nor could EPA extrapolate such a relationship based on these data.

Although the data show that drilling fluids and drill cuttings do have toxicity values higher (less toxic) than 30,000 ppm (SPP), EPA cannot establish a more stringent limit based on this information for a number of reasons. First, the data represent the drilling fluids that have been discharged. Thus, while the data indicate how frequently the drilling fluid discharges meet the 30,000 ppm (SPP) limit, EPA does not have firm information about the amount of drilling fluids and drill cuttings that are planned to be barged to shore (not discharged) because the operator knows the 30,000 ppm (SPP) toxicity limit cannot be met. Second, EPA does not know what complete drilling fluid composition was used in each case where we have toxicity data. Thus, EPA does not know whether a particular fluid composition that gave lower toxicity results could be used in most drilling situations. Third, EPA does not have enough information about the specifics of the drilling situation (meaning the formation geology and what part of the drilling process was occurring) corresponding to each toxicity data point. Thus, EPA does not know whether the particular fluid compositions that gave lower toxicity results represents the myriad of actual drilling situations that occur in the field. For these reasons, EPA is uncertain about why certain drilling fluids showed a toxicity less than 30,000 ppm (SPP), but, unless EPA has data about the applicability of those fluids to drilling needs across the subcategory, EPA does not believe that a more stringent limit has been shown to be available technology for BAT limits or demonstrated available technology for NSPS limits.

In response to the comment citing data used in the Environmental Assessment (1982), EPA does not believe that this data is useful for purposes of establishing an effluent limitation. At the outset, the cited data were used to demonstrate toxic effects to aquatic organisms from discharges of drilling fluids and drill cuttings rather than to set an effluent limitation. Further, all of the same problems discussed above regarding the use of monitoring data (e.g., not knowing what fluid resulted in what effluent toxicity, what geological formation was being drilled, and what phase of drilling was occurring) also applies to this data. Finally EPA cannot use this data to specify a toxicity limit because it is not possible to relate the data from many different species to a single species bioassay upon which the 30,000 ppm SPP limit is based.

The toxicity limitation is analogous to a daily maximum limitation required under this and other effluent guidelines. Such limitations include an allowance for reasonable treatment system variability that provides for variation in operating conditions expected at well-operated facilities. Operationally, ninety-ninth percentile estimates, determined through statistical analyses of performance data, are used as the basis for daily maximum limitations. The Agency believes that such limitations provide sufficient allowance for variation in normal operations. While the permit monitoring data are not the same type of data typically used to develop effluent guidelines (because we do not know what drilling fluid was used, what type of geology was encountered, and what part of the drilling process was occurring, among other things, see discussion above), the percentage of toxicity data that are more toxic than the 30,000 ppm (SPP) limit is approximately one percent no matter how the combined data from the Gulf of Mexico and Alaska Regions are analyzed. Thus, a review of these data shows that the 30,000 ppm (SPP) toxicity limit based on a product substitution approach is similar to the approach EPA generally takes in establishing maximum daily limitations.

In addition, EPA has considered that, in the absence of a reliable estimate of the number of facilities that could comply with a more stringent limitation, there would be an unknown amount of drilling fluids and drill cuttings not meeting the limitation that would need to be transported to shore.

In Alaska, transport to shore on a regular basis is not technologically achievable because of the special climate conditions that make transport from platforms to shore and ground transportation on shore infeasible during extended periods of time; in addition there is a lack of available land disposal sites. For these reasons, EPA excluded Alaska from the zero-discharge requirement applicable to drilling fluids and drill cuttings within three miles from shore.

In other regions, such a limit would increase the amount of non-water quality environmental impacts in addition to those already imposed by the three-mile zero discharge requirement for drilling fluids and drill

cuttings. Any increase in the toxicity limit would have an unknown increase in the amount of air emissions and energy use from transporting drilling fluids and drill cuttings to shore, and an increase in the amount of drilling fluids and drill cuttings that would need to be disposed of in land disposal sites.

In short, because EPA does not have sufficient information to know if a more stringent toxicity limit would be feasible for drilling needs across the subcategory and because EPA does not know what effect a more stringent toxicity limit would have on non-water quality environmental impacts, in the final rule, EPA is setting the toxicity limit at 30,000 ppm (SPP), a level which EPA knows to be feasible without interfering unreasonably with drilling operations and which does not result in unacceptable non-water quality environmental impacts.

Industry comments have asserted that the EPA toxicity test is not suitable for compliance monitoring of an effluent guideline. These comments are not correct. The toxicity test for drilling fluids is suitable because the test demonstratively measures the acute toxicity for the drilling fluid and multiple tests on the same toxic substance show a spread of toxicity values about an average toxicity value. One term for the spread of values around the average toxicity value is variability. Variability for this test is estimated in Variability Study of the EPA Toxicity Test for Drilling Fluids: Statistical Analysis (1993). Given that there are variability issues associated with any measurement test, these properties of the toxicity test are allowed for in setting the effluent guidelines limitation by using the EPA toxicity test to measure the toxicity of samples from a model "system" of eight generic drilling fluids. Since precision and accuracy are inherent components of the toxicity test and are therefore inherent in the data that result from the test, these factors are entrained in the subsequent calculations performed to develop effluent limitations from those data. That adequate variability was allowed for in this procedure is demonstrated by the high percentage, greater than 90 percent of offshore wells in the Gulf of Mexico that complied with this limitation as a permit requirement in the years 1984 to 1991.

EPA also notes that the 30,000 ppm SPP toxicity limit has been imposed as a requirement in the general permits for the Outer Continental Shelf (OSC) in the Gulf of Mexico since 1986. This limit was upheld in *NRDC* v. *EPA*, 863 F.2d 1420 (9th Cir. 1988). A pre-approval system based on this limit was imposed in two general permits for the Bering and Beaufort Seas in 1984 and was upheld in *API* v. *EPA*, 787 F.2d 965 (5th Cir. 1986).

F. Static Sheen Test

Comment: Several areas addressed by the comments received on the static sheen test concerned the difficulty and expense of conducting the test, the reproducibility and accuracy of the test, and the need for such a test from the environmental benefits perspective. Commenters stated that the test method was not well established nor cost effective and results in inaccurate identifications of sheens, both false positives and negatives (i.e., when no free oil is present but is identified and when oil is present but not identified, respectively). In addition, commenters criticized the Agency for not quantifying the benefits of the test method, while others supported the method as being "scientifically superior" to the visual sheen method previously used, because unlike the static sheen test, the visual sheen test is used to detect violations after discharge.

Response: EPA disagrees with the comment that the static sheen test is not well established, expensive and not cost-effective. The static sheen test, described in appendix 1 of the final rule, is the test method used to determine compliance with the no free oil requirement, except for the no free oil requirement for deck drainage. The visual sheen test is retained to measure deck drainage compliance.

The static sheen test differs from the visual sheen test by utilizing samples of the wastes to be tested (15 milliliter or 15 gram (on a wet weight basis) quantity depending on the type of waste) introduced into a container (bucket) filled with seawater and having a specified surface area, rather than visually looking at the surface of the receiving water for the occurrence of a sheen after discharge of the waste. In the static sheen test, observations are made no more than one hour after the waste samples are added to and dispersed upon the container of seawater.

EPA believes that the static sheen test is both established and inexpensive to conduct. The test method contained in the final rule is based on the method proposed in 1985 (50 FR 34627) and has been modified to reflect the method used in the Region 10 general permits. Possible changes to the 1985 proposed method were noticed in the 1991 proposal (56 FR 10675), including the Region 10 method. The Region 10 protocol was selected based on results of assessments that demonstrate lower false positives (56 FR 10676) and its use over a ten year period with acceptable reproducibility. This protocol incorporates a larger waste sample and container of seawater and uses a more detailed description of criteria for determining whether a sheen exists or not, than the 1985 version of the test. EPA believes this is an improvement over the 1985 version; however, EPA continues to believe that the 1985 version of the test method demonstrates acceptable accuracy.

In response to comments concerning the benefits of the test, EPA believes that a test method that evaluates the potential of a sheen prior to the waste being discharged more effectively meets the intent of the CWA. The static sheen test also eliminates or reduces effects of wave action, weather conditions, and lighting (sunlight or lack of lighting) which the use of the visual sheen on the receiving waters must overcome. While EPA is not required to assess the environmental benefits of a test method, EPA notes that because the static sheen test can be used in advance of discharge to determine noncompliance, it is preferable from an environmental standpoint to a test (like the visual sheen test) that determines noncompliance only after discharge occurs.

G. Effluent Guidelines Resulting in a "Taking"

Comment: One commenter argued that EPA should assess the takings implications of these effluent guidelines pursuant to Executive Order 12630. Another commenter argued that these effluent guidelines limitations could result in a "taking."

Response: EPA believes that takings claims do not apply to effluent limitations guidelines because the issue arises only when the guidelines are applied to a particular property. In a challenge to EPA's regulations of the placer mining industry, a federal court of appeals found that a takings claim was not ripe because the guideline had not yet been applied to a particular property. *Rybachek* v. *U.S. EPA*, 904 F.2d 1276 (9th Cir. 1990).

XVII. Best Management Practices

Section 304(e) of the CWA authorizes the Administrator to prescribe "best management practices" (BMP's). EPA is not promulgating BMP's for the offshore subcategory at this time.

XVIII. Upset and Bypass Provisions

A recurring issue of concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upsets" or

"bypasses". An upset, sometimes called an "excursion," is an unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision is necessary in EPA's effluent limitations because such upsets will inevitably occur even in properly operated control equipment. Because technology based limitations require only what the technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have disagreed on whether an explicit upset exemption is necessary, or whether upset incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253 (9th Cir.1977), with *Weyerhaeuser* v. *Costle*, 594 F.2d 1223 (8th Cir. 1979). See also *Sierra Club* v. *Union Oil Co.*, 813 F.2d 1480 (9th Cir. 1987), *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976), *CPC International, Inc.* v. *Train*, 540 F.2d 1320 (8th Cir. 1976), and *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

A bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented because of an emergency situation. EPA has in the past included bypass provisions in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits and has promulgated permit regulations that include upset and bypass permit provisions. See 40 CFR 122.41. The upset provision establishes an upset as an affirmative defense to prosecution for violation of, among other requirements, technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Consequently, although permittees in the offshore oil and gas industry will be entitled to upset and bypass provisions in NPDES permits, this regulation does not address these issues.

XIX. Variances and Modifications

Once this regulation is in effect, the effluent limitations must be applied in all NPDES permits thereafter issued to discharges covered under this effluent limitations guideline subcategory. Under the CWA certain variances from BAT and BCT limitations are provided for. Variances such as 301(c) (Economic Achievability from BAT) and 301(g) (variance from BAT for specific listed non-conventional pollutants) are not applicable to BAT and BCT limitations promulgated in this rule because there are no such limitations in this rule. A section 301(n) (Fundamentally Different Factors) variance is applicable to the BAT and BCT limits in this rule.

The Fundamentally Different Factors (FDF) variance considers those facility specific factors which a permittee may consider to be uniquely different from those considered in the formulation of an effluent guideline as to make the limitations inapplicable. An FDF variance must be based only on information submitted to EPA during the rulemaking establishing the effluent limitations from which the variance is being requested, or on information the applicant did not have a reasonable opportunity to submit during the rulemaking process for these effluent limitations guidelines. If fundamentally different factors are determined, by the permitting authority (or EPA), to exist, the alternative effluent limitations for the petitioner must be no less stringent than those justified by the fundamental difference from those facilities considered in the formulation of the specific effluent limitations guideline of concern. The alternative effluent limitation, if deemed appropriate, must not result in non-water quality environmental impacts significantly greater than those accepted by EPA in the promulgation of the effluent limitations guideline. FDF variance requests with all supporting information and data must be received by the permitting authority within 180 days of publication of the final effluent limitations guideline [Publication date here]. The specific regulations covering the requirements for and the administration of FDF variances are found at 40 CFR 122.21(m)(1), and 40 CFR part 125, subpart D.

XX. Implementation of Limitations and Standards

A. Toxicity Limitation for Drilling Fluids and Drill Cuttings

The toxicity limitation would apply to any periodic blowdown of drilling fluid as well as to bulk discharges of drilling fluids and drill cuttings systems. The term "drilling fluid systems" refers to muds and additives used during the drilling of an individual exploration, development or production well. Any given well may require several types of mud due to changes in downhole conditions. As an example, a well may require use of a spud mud for the first 200 feet, a seawater-gel mud to a depth of 1,000 feet, a lightly treated lignosulfonate mud to 5,000 feet, and finally a freshwater lignosulfonate mud system to a bottom hole depth of 15,000 feet. Typically, bulk discharges of spent drilling fluids occur when mud systems are changed during drilling of or upon completion of a well.

For the purpose of self monitoring and reporting requirements in NPDES permits, it is intended that only samples of the discharged drilling fluid systems be analyzed in accordance with the bioassay method. Upon (or before) discharge a mud system should be sampled by bioassay to determine toxicity of the discharge. All discharged muds should be analyzed. Muds that are not discharged (i.e., reinjected or disposed onshore) are not subject to the toxicity limit. In the example above, four such samples and bioassays would be required because four discrete mud systems are being discharged.

For determining the toxicity of the bulk discharge of mud used at maximum well depth, samples may be obtained at any time after 80% of actual well footage (not total vertical depth) has been drilled to the end of well (100 percent vertical depth) and up to and including the time of discharge. Permit writers have the discretion to specify the appropriate point of the well depth within these parameters at which the end of well sample will be obtained. This would allow time for a sample to be collected and analyzed by bioassay and for the operator to evaluate the bioassay results so that the operator will have adequate time to plan for the final disposition of the spent drilling fluid system, e.g., if the bioassay test is failed, the operator could then anticipate and plan for transport of the spent drilling fluid system to shore in order to comply with the effluent limitation. However, the operator is not precluded from discharging a spent mud system prior to receiving analytical results. Nonetheless, the operator would be subject to compliance with the effluent limitations regardless of when self monitoring analyses are performed. The prohibition on discharges of free oil and diesel oil would apply to all discharges of drilling fluid at any time.

B. Diesel Prohibition for Drilling Fluids and Drill Cuttings

Diesel oil is prohibited from discharge from offshore oil platforms. In addition to this prohibition, drilling fluids and drill cuttings that produce a sheen or fail the toxicity limitations cannot be discharged. There is, however, the possibility that the quantity of diesel oil in the drilling fluid or drill cuttings is insufficient to produce a sheen or toxicity at a level failing the limitations. Thus, to show compliance with the diesel oil discharge prohibition, the operator is required to prove that diesel oil is not present in the discharge material. This requirement has created

the need for measurement of "diesel oil".

As part of this rulemaking, EPA has developed an analytical technique capable of measuring diesel oil in drilling wastes and that would distinguish diesel oil from mineral oil, crude oil, and/or the additives that are also used in drilling fluids. Although many different techniques have been tested, there is no single analytical technique capable of unambiguously measuring diesel oil in drilling mud. In the March 13, 1991 proposal notice (56 FR 10676), EPA identified the EPA Method 1651 as adequate for use in identifying the presence of diesel oil. However, work was continued on alternative extraction and analysis techniques to simplify the operational portions of the method and enable better identification of diesel oil in the presence of interferences. As a result, EPA has developed test methods for the measurement of the hydrocarbons normally found in oil, including the polynuclear aromatic hydrocarbon (PAH) content of the oil. Combined, these techniques can be used to discern diesel oil in the presence of other components likely to be found in drilling wastes. This section gives a brief history of the efforts to develop test methods for the determination of diesel oil in drilling fluids and drill cuttings and a description of test methods that have been developed to measure and differentiate diesel oil, mineral oil, and crude oil.

In late 1990, the American Petroleum Institute (API) undertook a study of extraction and determination steps necessary to identify unambiguously diesel oil in the presence of interferences, and to overcome difficulties using Method 1651. These studies involved the evaluation of alternate extraction and determination techniques.

Extraction techniques included ultrasonic, Soxhlet/Dean-Stark, and supercritical fluid. Determinative techniques included high performance liquid chromatography with ultra-violet detection (HPLC/UV), and gas chromatography with flame ionization detection (GC/FID). One device combined extraction and determination. In this device, the drilling waste sample was placed in a small chamber and heated rapidly to desorb the oil into a flowing gas stream. The components of oil entrained in the gas stream were separated by gas chromatography, and detection by flame ionization.

Of these devices, Soxhlet/Dean-Stark extraction provided the most precise results and the results closest to true value, and HPLC/UV was found reliable for determining polynuclear aromatic hydrocarbons (PAHs) in the extract. Results of these studies are summarized in an April 1992 API Report, entitled, "Results of the API Study of Extraction and Analysis Procedures for the Determination of Diesel Oil in Drilling Muds" (the API Report). A copy of the API Report is included in the record for the rulemaking.

Based on the additional methods work resulting from comments on the proposed Method 1651, EPA is promulgating, in addition to the Method 1651, a test protocol measuring the PAH content by HPLC/UV to demonstrate that the oil is mineral oil, and will allow measurement of the normal hydrocarbon distribution by GC/FID to demonstrate that the oil is crude oil. However, EPA will not allow use of the total oil content to demonstrate that the mud is free of diesel oil.

EPA recognizes that in certain regions compliance with the diesel oil prohibition is accomplished by GC analysis of end-of-well samples. In other regions, compliance with the diesel prohibition is accomplished by review of well records maintained by platform operators to prove that diesel oil has not been added to the mud system. Both methods of determining compliance are acceptable. However, in the latter case where the enforcement agency believes that the well record is in error or has been falsified, the authority may insist that further testing be conducted to prove that diesel oil has not been used.

In this further testing for the presence of diesel oil, the drilling fluid or drill cuttings are extracted with a solvent and the amount of total extractable material is measured. If the material extracted exceeds the amount attributable to additives, the material could be diesel oil, crude oil, or mineral oil, and the next phase of testing must be conducted.

In this next phase, the PAH content of the oil in the drilling waste is determined using the HPLC/UV Method. If the PAH content is less than that attributable to mineral oil, the mud may be discharged; if greater than that attributable to mineral oil, the oil could be either diesel or crude oil. To determine whether the oil is diesel or crude, the absence of n-alkanes in the diesel range or the percent of C25—C30 alkanes using the GC/FID Method must be used to show that the oil was crude oil from the formation. If the oil was crude oil, the mud may be discharged providing it meets the other discharge limitations of the rule. Implementation of this approach employs methods contained within "Methods for the Determination of Diesel, Mineral, and Crude Oils in Offshore Oil and Gas Industry Discharges" (EPA 821–R–92–008).

XXI. Availability of Technical Information

The basis for this regulation is detailed in three major documents each of which in turn is supported and supplemented by additional information and analyses in the rulemaking record. EPA's technical foundation for the regulation is detailed in the "Development Document for Final Effluent Limitations Guidelines and New Source Performance Standards for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category" (EPA/821–R–93–003) EPA's economic analysis is presented in the "Economic Impact Analysis of Effluent Limitations Guidelines and Standards of Performance for the Offshore Oil and Gas Industry" (EPA/821–R–93–004) EPA's analysis of the monetized benefits of the regulation are presented in the "Regulatory Impact Analysis of the Effluent Guidelines Regulation for Offshore Oil and Gas Facilities" (EPA/821–R–93–002). Detailed responses to the public comments received on the proposed regulation and notices of data availability are presented in the document entitled "Response to Public Comments on Effluent Limitations Guidelines and New Source Performance Standards for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category." Additional information concerning the economic impact analysis and regulatory impact analysis may be obtained from Dr. Mahesh Podar, Engineering and Analysis Division (WH–552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 or by calling (202) 260–5387. Technical information may be obtained from Mr. Ronald P. Jordan, Engineering and Analysis Division (WH–552), at the above address, or by calling (202) 260–7115. The public record for this rulemaking is available for review at EPA's Water Docket; 401 M Street, SW.; Washington, DC.

XXII. Office of Management and Budget (OMB) Review

This regulation and the Regulatory Impact Analysis were submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. The regulation does not contain any information collection requirements.

List of Subjects in 40 CFR Part 435

Incorporation by reference, Oil and gas exploration, Oil and gas extraction, Waste treatment and disposal, Water pollution control.

Dated: January 15, 1993.

William K. Reilly,

Administrator.

Appendix to the Preamble

Appendix A—Abbreviations, Acronyms, and Other Terms Used in this Final Rule Document

Act—Clean Water Act.
Agency—U.S. Environmental Protection Agency.
API—American Petroleum Institute.
BAT—The best available technology economically achievable, under section 304(b)(2)(B) of the Clean Water Act.
bbl—barrel, 42 U.S. gallons.
bpd—barrels per day.
BCT—Best conventional pollutant control technology under section 304(b)(4)(B).
BMP—Best management practices under section 304(e) of the Clean Water Act.
BOD—Biochemical oxygen demand.
BPT—Best practicable control technology currently available, under section 404(b)(1) of the Clean Water Act.
Bypass—An act of intentional noncompliance during which waste treatment facilities are circumvented because of an emergency situation.
CFR—Code of Federal Regulations.
Clean Water Act—Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Pub. L. 95–217).
CWA—Clean Water Act.
Direct discharger—A facility which discharges or may discharge pollutants to waters of the United States.
DOE—Department of Energy.
DOE/EIA—Department of Energy, Energy Information Administration.
EIA—Economic Impact Analysis.
EPA—U.S. Environmental Protection Agency.
g—gram.
GOM—Gulf of Mexico.
kg—kilogram.
LC50—The concentration of a test material that is lethal to 50% of the test organisms in a bioassay.
mg/l—milligrams per liter.
MMS—Minerals Management Service, U.S. Department of the Interior.
NORM—Naturally Occurring Radioactive Materials.
NPDES Permit—A National Pollutant Discharge Elimination System permit issued under section 402 of the Clean Water Act.
NRDC—Natural Resources Defense Council.
NSPS—New source performance standards under section 306 of the Clean Water Act.
OCS—Outer Continental Shelf.
OOC—Offshore Operators Committee.
POTW—Publicly Owned Treatment Works.
ppm—parts per million.
Priority Pollutants—The 65 pollutants and classes of pollutants declared toxic under section 307(a) of the Clean Water Act.
RCRA—Resource Conservation and Recovery Act of 1976 (42 U.S.C. sections 6901–6992k). Amendments to Solid Waste Disposal Act.
SPP—Suspended particulate phase.
Spot—The introduction of oil to a drilling fluid system for the purpose of freeing a stuck drill bit or string.
Upset—An unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee.
U.S.C.—United States Code.
USCG—U.S. Coast Guard.

For the reasons set out in the preamble, 40 CFR part 435 is amended as set forth below:

PART 435—OIL AND GAS EXTRACTION POINT SOURCE CATEGORY

1. The authority citation for part 435 is revised to read as follows:

Authority: 33 U.S.C. 1311,1314, 1316, 1317, 1318 and 1361.

2. 40 CFR part 435, subpart A is revised to read as follows:

Subpart A—Offshore Subcategory

Sec.
435.10 Applicability; description of the offshore subcategory.
435.11 Specialized definitions.
435.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
435.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
435.14 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
435.15 Standards of performance for new sources (NSPS).

Appendix 1 to Subpart A of Part 435—Static Sheen Test

Appendix 2 to Subpart A of Part 435—Drilling Fluids Toxicity Test

Subpart A—Offshore Subcategory

§ 435.10 Applicability; description of the offshore subcategory.

The provisions of this subpart are applicable to those facilities engaged in field exploration, drilling, well production, and well treatment in the oil and gas extraction industry which are located in waters that are seaward of the inner boundary of the territorial seas ("offshore") as defined in section 502(g) of the Clean Water Act. Offshore facilities that transport wastes to onshore or coastal locations for treatment and disposal offshore are subject to the regulations that are applicable to the location of where the wastes are generated or the wellhead. Wastes transported from one subcategory for subsequent discharge in another subcategory of the oil and gas extraction point source category may only be disposed of pursuant to a valid NPDES permit.

§ 435.11 Specialized definitions.

For the purpose of this subpart: (a) Except as provided in paragraphs (b) through (aa) of this section, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term *average of daily values for 30 consecutive days* shall be the average of the daily values obtained during any 30 consecutive day period.

(c) The term *daily values* as applied to produced water effluent limitations and NSPS shall refer to the daily measurements used to assess compliance with the maximum for any one day.

(d) The term *deck drainage* shall refer to any waste resulting from deck washings, spillage, rainwater, and runoff from gutters and drains including drip pans and work areas within facilities subject to this subpart.

(e) The term *development facility* shall mean any fixed or mobile structure subject to this subpart that is engaged in the drilling of productive wells.

(f) The term *diesel oil* shall refer to the grade of distillate fuel oil, as specified in the American Society for Testing and Materials Standard Specification D975–81, that is typically used as the continuous phase in conventional oil-based drilling fluids. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. Copies may be inspected at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) The term *domestic waste* shall refer to materials discharged from sinks, showers, laundries, safety showers, eye-wash stations, hand-wash stations, fish cleaning stations, and galleys located within facilities subject to this subpart.

(h) The term *drill cuttings* shall refer to the particles generated by drilling into subsurface geologic formations and carried to the surface with the drilling fluid.

(i) The term *drilling fluid* shall refer to the circulating fluid (mud) used in the rotary drilling of wells to clean and condition the hole and to counterbalance formation pressure. A

water-based drilling fluid is the conventional drilling mud in which water is the continuous phase and the suspending medium for solids, whether or not oil is present. An oil-based drilling fluid has diesel oil, mineral oil, or some other oil as its continuous phase with water as the dispersed phase.

(j) The term *exploratory facility* shall mean any fixed or mobile structure subject to this subpart that is engaged in the drilling of wells to determine the nature of potential hydrocarbon reservoirs.

(k) The term *maximum* as applied to BAT effluent limitations and NSPS for drilling fluids and drill cuttings shall mean the maximum concentration allowed as measured in any single sample of the barite.

(l) The term *maximum for any one day* as applied to BPT, BCT and BAT effluent limitations and NSPS for oil and grease in produced water shall mean the maximum concentration allowed as measured by the average of four grab samples collected over a 24-hour period that are analyzed separately. Alternatively, for BAT and NSPS the maximum concentration allowed may be determined on the basis of physical composition of the four grab samples prior to a single analysis.

(m) The term *minimum* as applied to BAT effluent limitations and NSPS for drilling fluids and drill cuttings shall mean the minimum 96-hour LC50 value allowed as measured in any single sample of the discharged waste stream. The term *minimum* as applied to BPT and BCT effluent limitations and NSPS for sanitary wastes shall mean the minimum concentration value allowed as measured in any single sample of the discharged waste stream.

(n) The term *M9IM* shall mean those offshore facilities continuously manned by nine (9) or fewer persons or only intermittently manned by any number of persons.

(o) The term *M10* shall mean those offshore facilities continuously manned by ten (10) or more persons.

(p)(1) The term *new source* means any facility or activity of this subcategory that meets the definition of "new source" under 40 CFR 122.2 and meets the criteria for determination of new sources under 40 CFR 122.29(b) applied consistently with all of the following definitions:

(i) The term *water area* as used in the term "site" in 40 CFR 122.29 and 122.2 shall mean the water area and ocean floor beneath any exploratory, development, or production facility where such facility is conducting its exploratory, development or production activities.

(ii) The term *significant site preparation work* as used in 40 CFR 122.29 shall mean the process of surveying, clearing or preparing an area of the ocean floor for the purpose of constructing or placing a development or production facility on or over the site.

(2) "New Source" does *not* include facilities covered by an existing NPDES permit immediately prior to the effective date of these guidelines pending EPA issuance of a new source NPDES permit.

(q) The term *no discharge of free oil* shall mean that waste streams may not be discharged when they would cause a film or sheen upon or a discoloration of the surface of the receiving water or fail the static sheen test defined in Appendix 1 to 40 CFR 435, subpart A.

(r) The term *produced sand* shall refer to slurried particles used in hydraulic fracturing, the accumulated formation sands and scales particles generated during production. Produced sand also includes desander discharge from the produced water waste stream, and blowdown of the water phase from the produced water treating system.

(s) The term *produced water* shall refer to the water (brine) brought up from the hydrocarbon-bearing strata during the extraction of oil and gas, and can include formation water, injection water, and any chemicals added downhole or during the oil/water separation process.

(t) The term *production facility* shall mean any fixed or mobile structure subject to this subpart that is either engaged in well completion or used for active recovery of hydrocarbons from producing formations.

(u) The term *sanitary waste* shall refer to human body waste discharged from toilets and urinals located within facilities subject to this subpart.

(v) The term *static sheen test* shall refer to the standard test procedure that has been developed for this industrial subcategory for the purpose of demonstrating compliance with the requirement of no discharge of free oil. The methodology for performing the static sheen test is presented in Appendix 1 to 40 CFR 435, subpart A.

(w) The term *toxicity* as applied to BAT effluent limitations and NSPS for drilling fluids and drill cuttings shall refer to the bioassay test procedure presented in Appendix 2 of 40 CFR 435, subpart A.

(x) The term *well completion fluids* shall refer to salt solutions, weighted brines, polymers, and various additives used to prevent damage to the well bore during operations which prepare the drilled well for hydrocarbon production.

(y) The term *well treatment fluids* shall refer to any fluid used to restore or improve productivity by chemically or physically altering hydrocarbon-bearing strata after a well has been drilled.

(z) The term *workover fluids* shall refer to salt solutions, weighted brines, polymers, or other specialty additives used in a producing well to allow for maintenance, repair or abandonment procedures.

(aa) The term *96-hour LC50* shall refer to the concentration (parts per million) or percent of the suspended particulate phase (SPP) from a sample that is lethal to 50 percent of the test organisms exposed to that concentration of the SPP after 96 hours of constant exposure.

§ 435.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

BPT EFFLUENT LIMITATIONS—OIL AND GREASE

[In milligrams per liter]

Pollutant parameter waste source	Maximum for any 1 day	Average of values for 30 consecutive days shall not exceed	Residual chlorine minimum for any 1 day
Produced water	72	48	NA
Deck drainage	(1)	(1)	NA
Drilling muds	(1)	(1)	NA
Drill cuttings	(1)	(1)	NA
Well treatment fluids	(1)	(1)	NA
Sanitary:			
M10	NA	NA	[2] 1
M9IM [3]	NA	NA	NA
Domestic	NA	NA	NA

[1] No discharge of free oil.
[2] Minimum of 1 mg/l and maintained as close to this concentration as possible.
[3] There shall be no floating solids as a result of the discharge of these wastes.

§ 435.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available

technology economically achievable (BAT):

BAT EFFLUENT LIMITATIONS

Waste source	Pollutant parameter	BAT effluent limitation
Produced water	Oil & grease.	The maximum for any one day shall not exceed 42 mg/l; the average of daily values for 30 consecutive days shall not exceed 29 mg/l.
Drilling fluids and drill cuttings:		
(A) For facilities located within 3 miles from shore.	.....	No discharge.[1]
(B) For facilities located beyond 3 miles from shore.	Toxicity	Minimum 96-hour LC50 of the SPP shall be 3% by volume.[2]
	Free oil	No discharge.[3]
	Diesel oil	No discharge.
	Mercury	1 mg/kg dry weight maximum in the stock barite.
	Cadmium ...	3 mg/kg dry weight maximum in the stock barite.
Well treatment, completion, and workover fluids.	Oil and grease.	The maximum for any one day shall not exceed 42 mg/l; the average of daily values for 30 consecutive days shall not exceed 29 mg/l.
Deck drainage	Free oil	No discharge.[4]
Produced sand	.....	No discharge.
Domestic Waste ...	Foam	No discharge.

[1] All Alaskan facilities are subject to the drilling fluids and drill cuttings discharge limitations for facilities located beyond 3 miles offshore.
[2] As determined by the toxicity test (Appendix 2).
[3] As determined by the static sheen test (Appendix 1).
[4] As determined by the presence of a film or sheen upon or a discoloration of the surface of the receiving water (visual sheen).

§ 435.14 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–32, any existing point source subject to this Subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT):

BCT Effluent Limitations

Waste source	Pollutant parameter	BCT effluent limitation
Produced water	Oil & grease.	The maximum for any one day shall not exceed 72 mg/l; the average of values for 30 consecutive days shall not exceed 48 mg/l.
Drilling fluids and drill cuttings:		
(A) For facilities located within 3 miles from shore.	.....	No discharge.[1]
(B) For facilities located beyond 3 miles from shore.	Free oil	No discharge.[2]
Well treatment, completion and workover fluids.	Free oil	No discharge.[2]
Deck drainage	Free oil	No discharge.[3]
Produced sand	.....	No discharge.
Sanitary M10	Residual chlorine.	Minimum of 1 mg/l and maintained as close to this concentration as possible.
Sanitary M91M	Floating solids.	No discharge.
Domestic Waste ...	Floating solids.	No discharge.
	All other domestic waste.	See 33 CFR Part 151.

[1] All Alaskan facilities are subject to the drilling fluids and drill cuttings discharge limitations for facilities located more than 3 miles offshore.
[2] As determined by the static sheen test (Appendix 1).
[3] As determined by the presence of a film or sheen upon or a discoloration of the surface of the receiving water (visual sheen).

§ 435.15 Standards of performance for new sources (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

NEW SOURCE PERFORMANCE STANDARDS

Waste source	Pollutant parameter	NSPS
Produced water ...	Oil and grease.	The maximum for any one day shall not exceed 42 mg/l; the average of daily values for 30 consecutive days shall not exceed 29 mg/l.
Drilling fluids and drill cuttings:		
(A) For facilities located within 3 miles from shore.	.....	No discharge.[1]
(B) For facilities located more than 3 miles from shore.	Toxicity	Minimum 96-hour LC50 of the SPP shall be 3 percent by volume.[2]
	Free oil	No discharge.[3]
	Diesel oil	No discharge.

NEW SOURCE PERFORMANCE STANDARDS—Continued

Waste source	Pollutant parameter	NSPS
	Mercury	1 mg/kg dry weight maximum in the stock barite.
	Cadmium ...	3 mg/kg dry weight maximum in the stock barite.
Well treatment, completion, and workover fluids.	Oil and grease.	The maximum for any one day shall not exceed 42 mg/l; the average of daily values for 30 consecutive days shall not exceed 29 mg/l.
Deck drainage	Free oil	No discharge.[4]
Produced sand	.....	No discharge.
Sanitary M10	Residual chlorine.	Minimum of 1 mg/l and maintained as close to this as possible.
Sanitary M91M	Floating solids.	No discharge.
Domestic Waste ..	Floating solids.	No discharge.
	Foam	No discharge.
	All other domestic wastes.	See 33 CFR Part 151.

[1] All Alaskan facilities are subject to the drilling fluids and drill cuttings discharge standards for facilities located more than three miles offshore.
[2] As determined by the toxicity test (Appendix 2).
[3] As determined by the static sheen test (Appendix 1).
[4] As determined by the presence of a film or sheen upon or a discoloration of the surface of the receiving water (visual sheen).

Appendix 1 to Subpart A of Part 435—Static Sheen Test

1. Scope and Application

This method is to be used as a compliance test for the "no discharge of free oil" requirement for discharges of drilling fluids, drill cuttings, produced sand, and well treatment, completion and workover fluids. "Free oil" refers to any oil contained in a waste stream that when discharged will cause a film or sheen upon or a discoloration of the surface of the receiving water.

2. Summary of Method

15-mL samples of drilling fluids or well treatment, completion, and workover fluids, and 15-g samples (wet weight basis) of drill cuttings or produced sand are introduced into ambient seawater in a container having an air-to-liquid interface area of 1000 cm^2 (155.5 in^2). Samples are dispersed within the container and observations made no more than one hour later to ascertain if these materials cause a sheen, iridescence, gloss, or increased reflectance on the surface of the test

seawater. The occurrence of any of these visual observations will constitute a demonstration that the tested material contains "free oil," and therefore results in a prohibition of its discharge into receiving waters.

3. Interferences

Residual "free oil" adhering to sampling containers, the magnetic stirring bar used to mix the sample, and the stainless steel spatula used to mix the sample will be the principal sources of contamination problems. These problems should only occur if improperly washed and cleaned equipment are used for the test. The use of disposable equipment minimizes the potential for similar contamination from pipettes and the test container.

4. Apparatus, Materials, and Reagents

4.1 Apparatus

4.1.1 Sampling Containers: 1-liter polyethylene beakers and 1-liter glass beakers.

4.1.2 Graduated cylinder: 100-mL graduated cylinder required only for operations where predilution of mud discharges is required.

4.1.3 Plastic disposable weighing boats.

4.1.4 Triple-beam scale.

4.1.5 Disposable pipettes: 25-mL disposable pipettes.

4.1.6 Magnetic stirrer and stirring bar.

4.1.7 Stainless steel spatula.

4.1.8 Test container: Open plastic container whose internal cross-section parallel to its opening has an area of 1000 cm^2±50 cm^2 (155.5 ±7.75 in^2), and a depth of at least 13 cm (5 inches) and no more than 30 cm (11.8 inches).

4.2 Materials and Reagents.

4.2.1 Plastic liners for the test container: Oil-free, heavy-duty plastic trash can liners that do not inhibit the spreading of an oil film. Liners must be of sufficient size to completely cover the interior surface of the test container. Permittees must determine an appropriate local source of liners that do not inhibit the spreading of 0.05 mL of diesel fuel added to the lined test container under the test conditions and protocol described below.

4.2.2 Ambient receiving water.

5. Calibration

None currently specified.

6. Quality Control Procedures

None currently specified.

7. Sample Collection and Handling

7.1 Sampling containers must be thoroughly washed with detergent, rinsed a minimum of three times with fresh water, and allowed to air dry before samples are collected.

7.2 Samples of drilling fluid to be tested shall be taken at the shale shaker after cuttings have been removed. The sample volume should range between 200 mL and 500 mL.

7.3 Samples of drill cuttings will be taken from the shale shaker screens with a clean spatula or similar instrument and placed in a glass beaker. Cuttings samples shall be collected prior to the addition of any washdown water and should range between 200 g and 500 g.

7.4 Samples of produced sand must be obtained from the solids control equipment from which the discharge occurs on any given day and shall be collected prior to the addition of any washdown water; samples should range between 200 g and 500 g.

7.5 Samples of well treatment, completion, and workover fluids must be obtained from the holding facility prior to discharge; the sample volume should range between 200 mL and 500 mL.

7.6 Samples must be tested no later than 1 hour after collection.

7.7 Drilling fluid samples must be mixed in their sampling containers for 5 minutes prior to the test using a magnetic bar stirrer. If predilution is imposed as a permit condition, the sample must be mixed at the same ratio with the same prediluting water as the discharged muds and stirred for 5 minutes.

7.8 Drill cuttings must be stirred and well mixed by hand in their sampling containers prior to testing, using a stainless steel spatula.

8. Procedure

8.1 Ambient receiving water must be used as the "receiving water" in the test. The temperature of the test water shall be as close as practicable to the ambient conditions in the receiving water, not the room temperature of the observation facility. The test container must have an air-to-liquid interface area of 1000 ±50 cm^2. The surface of the water should be no more than 1.27 cm (.5 inch) below the top of the test container.

8.2 Plastic liners shall be used, one per test container, and discarded afterwards. Some liners may inhibit spreading of added oil; operators shall determine an appropriate local source of liners that do not inhibit the spreading of the oil film.

8.3 A 15-mL sample of drilling fluid or well treatment, completion, and workover fluids must be introduced by pipette into the test container 1 cm below the water surface. Pipettes must be filled and discharged with test material prior to the transfer of test material and its introduction into test containers. The test water/test material mixture must be stirred using the pipette to distribute the test material homogeneously throughout the test water. The pipette must be used only once for a test and then discarded.

8.4 Drill cuttings or produced sand should be weighed on plastic weighing boats; 15-g samples must be transferred by scraping test material into the test water with a stainless steel spatula. Drill cuttings shall not be prediluted prior to testing. Also, drilling fluids and cuttings will be tested separately. The weighing boat must be immersed in the test water and scraped with the spatula to transfer any residual material to the test container. The drill cuttings or produced sand must be stirred with the spatula to an even distribution of solids on the bottom of the test container.

8.5 Observations must be made no later than 1 hour after the test material is transferred to the test container. Viewing points above the test container should be made from at least three sides of the test container, at viewing angles of approximately 60° and 30° from the horizontal. Illumination of the test container must be representative of adequate lighting for a working environment to conduct routine laboratory procedures. It is recommended that the water surface of the test container be observed under a fluorescent light source such as a dissecting microscope light. The light source shall be positioned above and directed over the entire surface of the pan.

8.6 Detection of a "silvery" or "metallic" sheen or gloss, increased reflectivity, visual color, iridescence, or an oil slick on the water surface of the test container surface shall constitute a demonstration of "free oil." These visual observations include patches, streaks, or sheets of such altered surface characteristics. If the free oil content of the sample approaches or exceeds 10%, the water surface of the test container may lack color, a sheen, or iridescence, due to the increased thickness of the film; thus, the observation for an oil slick is required. The surface of the test container shall not be disturbed in any manner that reduces the size of any sheen or slick that may be present.

If an oil sheen or slick occurs on less than one-half of the surface area after the sample is introduced to the test container, observations will continue for up to 1 hour. If the sheen or slick increases in size and covers greater than one-half of the surface area of the test container during the observation period, the discharge of the material shall cease. If the sheen or slick does not increase in size to cover greater than one-half of the test container surface area after one hour of observation, discharge may continue and additional sampling is not required.

If a sheen or slick occurs on greater than one-half of the surface area of the test container after the test material is introduced, discharge of the tested material shall cease. The permittee may retest the material causing the sheen or slick. If subsequent tests do not result in a sheen or slick covering greater than one-half of the surface area of the test container, discharge may continue.

Appendix 2 to Subpart A of Part 435—Drilling Fluids Toxicity Test

I. Sample Collection

The collection and preservation methods for drilling fluids (muds) and water samples presented here are designed to minimize sample contamination and alteration of the physical or chemical properties of the samples due to freezing, air oxidation, or drying.

I–A Apparatus

(1) The following items are required for water and drilling mud sampling and storage:

a. Acid-rinsed linear-polyethylene bottles or other appropriate noncontaminating drilling mud sampler.

b. Acid-rinsed linear-polyethylene bottles or other appropriate noncontaminating water sampler.

c. Acid-rinsed linear-polyethylene bottles or other appropriate noncontaminated vessels for water and mud samples.

d. Ice chests for preservation and shipping of mud and water samples.

I–B. Water Sampling

(1) Collection of water samples shall be made with appropriate acid-rinsed linear-polyethylene bottles or other appropriate non-contaminating water sampling devices. Special care shall be taken to avoid the introduction of contaminants from the sampling devices and containers. Prior to use, the sampling devices and containers should be thoroughly cleaned with a detergent solution, rinsed with tap water, soaked in 10 percent hydrochloric acid (HCl) for 4 hours, and then thoroughly rinsed with glass-distilled water.

I–C. Drilling Mud Sampling

(1) Drilling mud formulations to be tested shall be collected from active field systems. Obtain a well-mixed sample from beneath the shale shaker after the mud has passed through the screens. Samples shall be stored in polyethylene containers or in other appropriate uncontaminated vessels. Prior to sealing the sample containers on the platform, flush as much air out of the container by filling it with drilling fluid sample, leaving a one inch space at the top.

(2) Mud samples shall be immediately shipped to the testing facility on blue or wet ice (do not use dry ice) and continuously maintained at 0–4° C until the time of testing.

(3) Bulk mud samples shall be thoroughly mixed in the laboratory using a 1000 rpm high shear mixer and then subdivided into individual, small wide-mouthed (e.g., one or two liter) non-contaminating containers for storage.

(4) The drilling muds stored in the laboratory shall have any excess air removed by flushing the storage containers with nitrogen under pressure anytime the containers are opened. Moreover, the sample in any container opened for testing must be thoroughly stirred using a 1000 rpm high shear mixer prior to use.

(5) Most drilling mud samples may be stored for periods of time longer than 2 weeks prior to toxicity testing provided that proper containers are used and proper condition are maintained.

II. Suspended Particulate Phase Sample Preparation

(1) Mud samples that have been stored under specified conditions in this protocol shall be prepared for tests within three months after collection. The SPP shall be prepared as detailed below.

II–A Apparatus

(1) The following items are required:

a. Magnetic stir plates and bars.

b. Several graduated cylinders, ranging in volume from 10 mL to 1 L

c. Large (15 cm) powder funnels.

d. Several 2-liter graduated cylinders.

e. Several 2-liter large mouth graduated Erlenmeyer flasks.

(2) Prior to use, all glassware shall be thoroughly cleaned. Wash all glassware with detergent, rinse five times with tap water, rinse once with acetone, rinse several times with distilled or deionized water, place in a clean 10-percent (or stronger) HCl acid bath for a minimum of 4 hours, rinse five times with tap water, and then rinse five times with distilled or deionized water. For test samples containing mineral oil or diesel oil, glassware should be washed with petroleum ether to assure removal of all residual oil.

Note: If the glassware with nytex cups soaks in the acid solution longer than 24 hours, then an equally long deionized water soak should be performed.

II–B Test Seawater Sample Preparation

(1) Diluent seawater and exposure seawater samples are prepared by filtration through a 1.0 micrometer filter prior to analysis.

(2) Artificial seawater may be used as long as the seawater has been prepared by standard methods or ASTM methods, has been properly "seasoned," filtered, and has been diluted with distilled water to the same specified 20±2 ppt salinity and 20±2° C temperature as the "natural" seawater.

II–C Sample Preparation

(1) The pH of the mud shall be tested prior to its use. If the pH is less than 9, if black spots have appeared on the walls of the sample container, or if the mud sample has a foul odor, that sample shall be discarded. Subsample a manageable aliquot of mud from the well-mixed original sample. Mix the mud and filtered test seawater in a volumetric mud-to-water ratio of 1 to 9. This is best done by the method of volumetric displacement in a 2–L, large mouth, graduated Erlenmeyer flask. Place 1000 mL of seawater into the graduated Erlenmeyer flask. The mud subsample is then carefully added via a powder funnel to obtain a total volume of 1200 mL. (A 200 mL volume of the mud will now be in the flask).

The 2–L, large mouth, graduated Erlenmeyer flask is then filled to the 2000 mL mark with 800 mL of seawater, which produces a slurry with a final ratio of one volume drilling mud to nine volumes water. If the volume of SPP required for testing or analysis exceeds 1500 to 1600 mL, the initial volumes should be proportionately increased. Alternatively, several 2–L drill mud/water slurries may be prepared as outlined above and combined to provide sufficient SPP.

(2) Mix this mud/water slurry with magnetic stirrers for 5 minutes. Measure the pH and, if necessary, adjust (decrease) the pH of the slurry to within 0.2 units of the seawater by adding 6N HCl while stirring the slurry. Then, allow the slurry to settle for 1 hour. Record the amount of HCl added.

(3) At the end of the settling period, carefully decant (do not siphon) the Suspended Particulate Phase (SPP) into an appropriate container. Decanting the SPP is one continuous action. In some cases no clear interface will be present; that is, there will be no solid phase that has settled to the bottom. For those samples the entire SPP solution should be used when preparing test concentrations. However, in those cases when no clear interface is present, the sample must be remixed for five minutes. This insures the homogeneity of the mixture prior to the preparation of the test concentrations. In other cases, there will be samples with two or more phases, including a solid phase. For those samples, carefully and continuously decant the supernatant until the solid phase on the bottom of the flask is reached. The decanted solution is defined to be 100 percent SPP. Any other concentration of SPP refers to a percentage of SPP that is obtained by volumetrically mixing 100 percent SPP with seawater.

(4) SPP samples to be used in toxicity tests shall be mixed for 5 minutes and must not be preserved or stored.

(5) Measure the filterable and unfilterable residue of each SPP prepared for testing. Measure the dissolved oxygen (DO) and pH of the SPP. If the DO is less than 4.9 ppm, aerate the SPP to at least 4.9 ppm which is 65 percent of saturation. Maximum allowable aeration time is 5 minutes using a generic commercial air pump and air stone. Neutralize the pH of the SPP to a pH 7.8±.1 using a dilute HCl solution. If too much acid is added to lower the pH saturated NaOH may be used to raise the pH to 7.8±.1 units. Record the amount of acid or NaOH needed to lower/raise to the appropriate pH. Three repeated DO and pH measurements are needed to insure homogeneity and stability of the SPP. Preparation of test concentrations may begin after this step is complete.

(6) Add the appropriate volume of 100 percent SPP to the appropriate volume of seawater to obtain the desired SPP concentration. The control is seawater only. Mix all concentrations and the control for 5 minutes by using magnetic stirrers. Record the time; and, measure DO and pH for Day 0. Then, the animals shall be randomly selected and placed in the dishes in order to begin the 96-hour toxicity test.

III. Guidance for Performing Suspended Particulate Phase Toxicity Tests Using Mysidopsis bahia

III–A Apparatus

(1) Items listed by Borthwick [1] are required for each test series, which consists of one set of control and test containers, with three replicates of each.

III–B Sample Collection Preservation

(1) Drilling muds and water samples are collected and stored, and the suspended particulate phase prepared as described in Section 1–C.

III–C Species Selection

(1) The Suspended Particulate Phase (SPP) tests on drilling muds shall utilize the test species *Mysidopsis bahia*. Test animals shall be 3 to 6 days old on the first day of exposure. Whatever the source of the animals, collection and handling should be as gentle as possible. Transportation to the laboratory should be in well-aerated water from the animal culture site at the temperature and salinity from which they were cultured. Methods for handling, acclimating, and sizing bioassay organisms given by Borthwick [1] and Nimmo [2] shall be followed in matters for which no guidance is given here.

III–D Experimental Conditions

(1) Suspended particulate phase (SPP) tests should be conducted at a salinity of 20±2 ppt. Experimental temperature should be 20±2°C.

Dissolved oxygen in the SPP shall be raised to or maintained above 65 percent of saturation prior to preparation of the test concentrations. Under these conditions of temperature and salinity, 65 percent saturation is a DO of 5.3 ppm. Beginning at Day 0-before the animals are placed in the test containers DO, temperature, salinity, and pH shall be measured every 24 hours. DO should be reported in milligrams per liter.

(2) Aeration of test media is required during the entire test with a rate estimated to be 50–140 cubic centimeters/minute. This air flow to each test dish may be achieved through polyethylene tubing (0.045-inch inner diameter and 0.062-inch outer diameter) by a small generic aquarium pump. The delivery method, surface area of the aeration stone, and flow characteristics shall be documented. All treatments, including control, shall be the same.

(3) Light intensity shall be 1200 microwatts/cm^2 using cool white fluorescent bulbs with a 14-hr light and 10-hr dark cycle. This light/dark cycle shall also be maintained during the acclimation period and the test.

III–E Experimental Procedure

(1) Wash all glassware with detergent, rinse five times with tap water, rinse once with acetone, rinse several times with distilled or deionized water, place in a clean 10 percent HCl acid bath for a minimum of 4 hours, rinse five times with tap water, and then rinse five times with distilled water.

(2) Establish the definitive test concentration based on results of a range finding test. A minimum of five test concentrations plus a negative and positive (reference toxicant) control is required for the definitive test. To estimate the LC–50, two concentrations shall be chosen that give (other than zero and 100 percent) mortality above and below 50 percent.

(3) Twenty organisms are exposed in each test dish. Nytex® cups shall be inserted into every test dish prior to adding the animals. These "nylon mesh screen" nytex holding cups are fabricated by gluing a collar of 363-micrometer mesh nylon screen to a 15-centimeter wide Petri dish with silicone sealant. The nylon screen collar is approximately 5 centimeters high. The animals are then placed into the test concentration within the confines of the Nytex cups.

(4) Individual organisms shall be randomly assigned to treatment. A randomization procedure is presented in Section V of this protocol. Make every attempt to expose animals of approximately equal size. The technique described by Borthwick [1], or other suitable substitutes, should be used for transferring specimens. Throughout the test period, mysids shall be fed daily with approximately 50 *Artemia* (brine shrimp) nauplii per mysid. This will reduce stress and decrease cannibalism.

(5) Cover the dishes, aerate, and incubate the test containers in an appropriate test chamber. Positioning of the test containers holding various concentrations of test solution should be randomized if incubator arrangement indicates potential position difference. The test medium is not replaced during the 96-hour test.

(6) Observations may be attempted at 4, 6 and 8 hours; they must be attempted at 0, 24, 48, and 72 hours and must be made at 96 hours. Attempts at observations refers to placing a test dish on a light table and visually counting the animals. Do not lift the "nylon mesh screen" cup out of the test dish to make the observation. No unnecessary handling of the animals should occur during the 96 hour test period. DO and pH measurements must also be made at 0, 24, 48, 72, and 96 hours. Take and replace the test medium necessary for the DO and pH measurements outside of the nytex cups to minimize stresses on the animals.

(7) At the end of 96 hours, all live animals must be counted. Death is the end point, so the number of living organisms is recorded. Death is determined by lack of spontaneous movement. All crustaceans molt at regular intervals, shedding a complete exoskeleton. Care should be taken not to count an exoskeleton. Dead animals might decompose or be eaten between observations. Therefore, always count living, not dead animals. If daily observations are made, remove dead organisms and molted exoskeletons with a pipette or forceps. Care must be taken not to disturb living organisms and to minimize the amount of liquid withdrawn.

IV. Methods for Positive Control Tests (Reference Toxicant)

(1) Sodium lauryl sulfate (dodecyl sodium sulfate) is used as a reference toxicant for the positive control. The chemical used should be approximately 95 percent pure. The source, lot number, and percent purity shall be reported.

(2) Test methods are those used for the drilling fluid tests, except that the test material was prepared by weighing one gram sodium lauryl sulfate on an analytical balance, adding the chemical to a 100-milliliter volumetric flask, and bringing the flask to volume with deionized water. After mixing this stock solution, the test mixtures are prepared by adding 0.1 milliliter of the stock solution for each part per million desired to one liter of seawater.

(3) The mixtures are stirred briefly, water quality is measured, animals are added to holding cups, and the test begins. Incubation and monitoring procedures are the same as those for the drilling fluids.

V. Randomization Procedure

V–A Purpose and Procedure

(1) The purpose of this procedure is to assure that mysids are impartially selected and randomly assigned to six test treatments (five drilling fluid or reference toxicant concentrations and a control) and impartially counted at the end of the 96-hour test. Thus, each test setup, as specified in the randomization procedure, consists of 3 replicates of 20 animals for each of the six treatments, i.e., 360 animals per test. Figure 1 is a flow diagram that depicts the procedure schematically and should be reviewed to understand the over-all operation. The following tasks shall be performed in the order listed.

(2) Mysids are cultured in the laboratory in appropriate units. If mysids are purchased, go to Task 3.

(3) Remove mysids from culture tanks (6, 5, 4, and 3 days before the test will begin, i.e. Tuesday, Wednesday, Thursday, and Friday if the test will begin on Monday) and place them in suitably large maintenance containers so that they can swim about freely and be fed.

Note: Not every detail (the definition of suitably large containers, for example) is provided here. Training and experience in aquatic animal culture and testing will be required to successfully complete these tests.

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Figure 1
Mysid Randomization Procedure

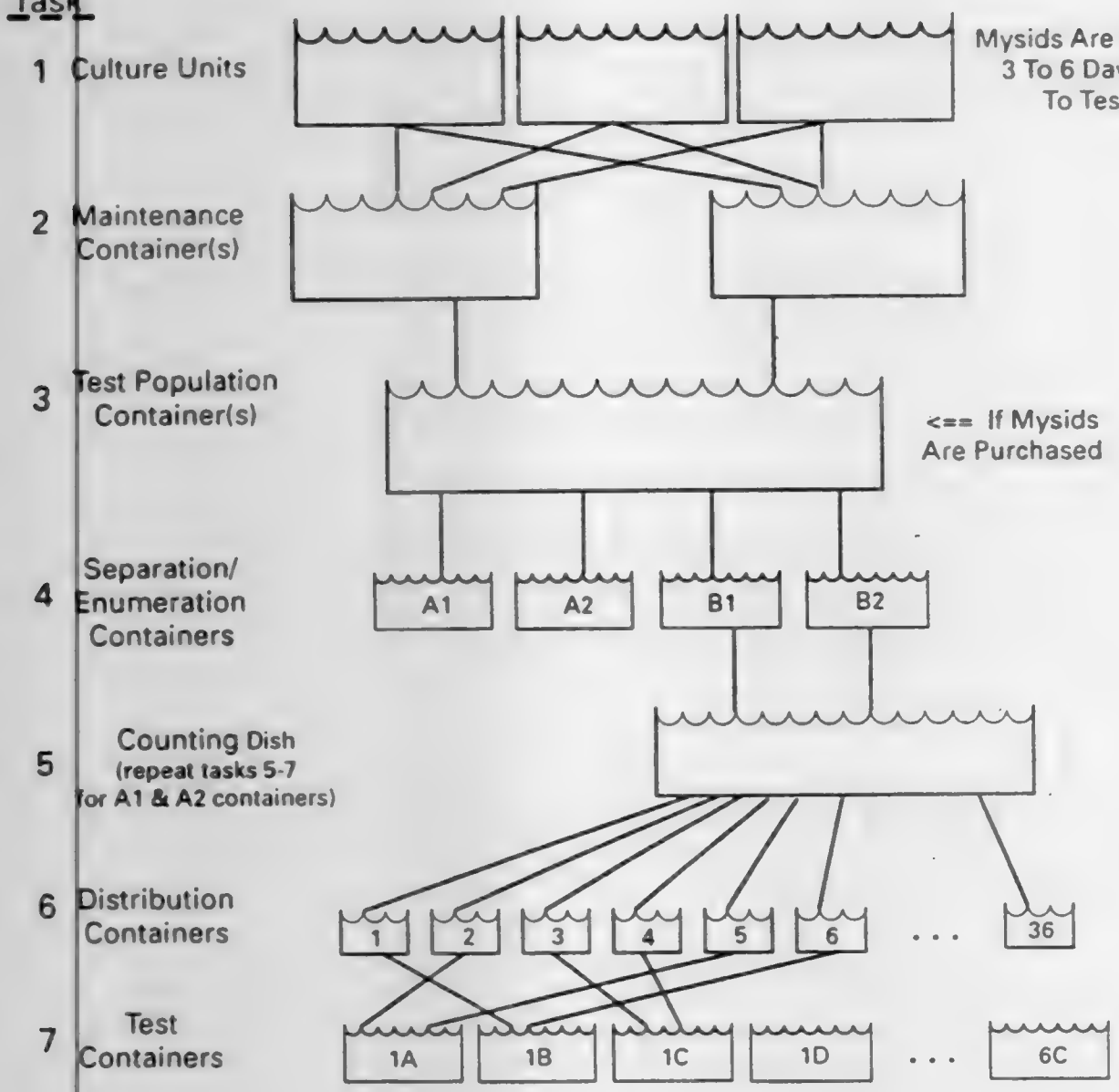

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(4) Remove mysids from maintenance containers and place all animals in a single container. The intent is to have homogeneous test population of mysids of a known age (3–6 days old).

(5) For each toxicity test, assign two suitable containers (500-milliliter (mL) beakers are recommended) for mysid separation/enumeration. Label each container (A1, A2, B1, B2, and C1, C2, for example, if two drilling fluid tests and a reference toxicant test are to be set up on one day). The purpose of this task is to allow the investigator to obtain a close estimate of the number of animals available for testing and to prevent unnecessary crowding of the mysids while they are being counted and assigned to test containers. Transfer the mysids from the large test population container to the labeled separation and enumeration containers but do not place more than 200 mysids in a 500-mL beaker. Be impartial in transferring the mysids; place approximately equal numbers of animals (10–15 mysids is convenient) in each container in a cyclic manner rather than placing the maximum number each container at one time.

Note: It is important that the animals not be unduly stressed during this selection and assignment procedure. Therefore, it will probably be necessary to place all animals (except the batch immediately being assigned to test containers) in mesh cups with flowing seawater or in large volume containers with aeration. The idea is to provide the animals with near optimal conditions to avoid additional stress.

(6) Place the mysids from the two labeled enumeration containers assigned to a specific test into one or more suitable containers to be used as counting dishes (2-liter Carolina dishes are suggested). Because of the time required to separate, count, and assign mysids, two or more people may be involved in completing this task. If this is done, two or more counting dishes may be used, but the investigator must make sure that approximately equal numbers of mysids from each labeled container are placed in each counting dish.

(7) By using a large-bore, smooth-tip glass pipette, select mysids from the counting dish(es) and place them in the 36 individually numbered distribution containers (10-ml beakers are suggested). The mysids are assigned two at a time to the 36 containers by using a randomization schedule similar to the one presented below. At the end of selection/assignment round 1, each container will contain two mysids; at the end of round 2, they will contain four mysids; and so on until each contains ten mysids.

EXAMPLE OF A RANDOMIZATION SCHEDULE

Selection/assignment round (2 mysids each)	Place mysid in the numbered distribution containers in the random order shown
1	8, 21, 6, 28, 33, 32, 1, 3, 10, 9, 4, 14, 23, 2, 34, 22, 36, 27, 5, 30, 35, 24, 12, 25, 11, 17, 19, 26, 31, 7, 20, 15, 18, 13, 16, 29.
2	35, 18, 5, 12, 32, 34, 22, 3, 9, 16, 26, 13, 20, 28, 6, 21, 24, 30, 8, 31, 7, 23, 2, 15, 25, 17, 1, 11, 27, 4, 19, 36, 10, 33, 14, 29.
3	7, 19, 14, 11, 34, 21, 25, 27, 17, 18, 6, 16, 29, 2, 32, 10, 4, 20, 3, 9, 1, 5, 28, 24, 31, 15, 22, 13, 33, 26, 36, 12, 8, 30, 35, 23.
4	30, 2, 18, 5, 8, 27, 10, 25, 4, 20, 26, 15, 31, 36, 35, 23, 11, 29, 16, 17, 28, 1, 33, 14, 9, 34, 7, 3, 12, 22, 21, 6, 19, 24, 32, 13.
5	34, 28, 16, 17, 10, 12, 1, 36, 20, 18, 15, 22, 2, 4, 19, 23, 27, 29, 25, 21, 30, 3, 9, 33, 32, 6, 14, 11, 35, 24, 26, 7, 31, 5, 13, 8.

(8) Transfer mysids from the 36 distribution containers to 18 labeled test containers in random order. A label is assigned to each of the three replicates (A, B, C) of the six test concentrations. Count and record the 96 hour response in an impartial order.

(9) Repeat tasks 5–7 for each toxicity test. A new random schedule should be followed in Tasks 6 and 7 for each test.

Note: If a partial toxicity test is conducted, the procedures described above are appropriate and should be used to prepare the single test concentration and control, along with the reference toxicant test.

V–B. Data Analysis and Interpretation

(1) Complete survival data in all test containers at each observation time shall be presented in tabular form. If greater than 10 percent mortality occurs in the controls, all data shall be discarded and the experiment repeated. Unacceptably high control mortality indicates the presence of important stresses on the organisms other than the material being tested, such as injury or disease, stressful physical or chemical conditions in the containers, or improper handling, acclimation, or feeding. If 10 percent mortality or less occurs in the controls, the data may be evaluated and reported.

(2) A definitive, full bioassay conducted according to the EPA protocol is used to estimate the concentration that is lethal to 50 percent of the test organisms that do not die naturally. This toxicity measure is known as the median lethal concentration, or LC–50. The LC–50 is adjusted for natural mortality or natural responsiveness. The maximum likelihood estimation procedure with the adjustments for natural responsiveness as given by D.J. Finney, in *Probit Analysis* 3rd edition, 1971, Cambridge University Press, Chapter 7, can be used to obtain the probit model estimate of the LC–50 and the 95 percent fiducial (confidence) limits for the LC–50. These estimates are obtained using the logarithmic transform of the concentration. The heterogeneity factor (Finney 1971, pages 70–72) is not used. For a test material to pass the toxicity test, according to the requirements stated in the offshore oil and gas extraction industry BAT effluent limitations and NSPS, the LC–50, adjusted for natural responsiveness, must be greater than 3 percent suspended particulate phase (SPP) concentration by volume unadjusted for the 1 to 9 dilution. Other toxicity test models may be used to obtain toxicity estimates provided the modeled mathematical expression for the lethality rate must increase continuously with concentration. The lethality rate is modeled to increase with concentration to reflect an assumed increase in toxicity with concentration even though the observed lethality may not increase uniformly because of the unpredictable animal response fluctuations.

(3) The range finding test is used to establish a reasonable set of test concentrations in order to run the definitive test. However, if the lethality rate changes rapidly over a narrow range of concentrations, the range finding assay may be too coarse to establish an adequate set of test concentrations for a definitive test.

(4) The EPA Environmental Research Laboratory in Gulf Breeze, Florida prepared a Research and Development Report entitled Acute Toxicity of Eight Drilling Fluids to Mysid Shrimp (*Mysidopsis bahia*), May 1984 EPA–600/3–84–067. The Gulf Breeze data for drilling fluid number 1 are displayed in Table 1 for purposes of an example of the probit analysis described above. The SAS Probit Procedure (SAS Institute, Statistical Analysis System, Cary, North Carolina, 1982) was used to analyze these data. The 96-hour LC50 adjusted for the estimated spontaneous mortality rate is 3.3 percent SPP with 95 percent limits of 3.0 and 3.5 percent SPP with the 1 to 9 dilution. The estimated spontaneous mortality rate based on all of the data is 9.6 percent.

TABLE 1.—LISTING OF ACUTE TOXICITY TEST DATA (AUGUST 1983 TO SEPTEMBER 1983) WITH EIGHT GENERIC DRILLING FLUIDS AND MYSID SHRIMP

[fluid N2=1]

Percent concentration	Number exposed	Number dead (96 hours)	Number alive (96 hours)
0	60	3	57
1	60	11	49
2	60	11	49
3	60	25	35
4	60	48	12
5	60	60	0

V–C. The Partial Toxicity Test for Evaluation of Test Material

(1) A partial test conducted according to EPA protocol can be used economically to demonstrate that a test material passes the toxicity test. The partial test cannot be used to estimate the LC–50 adjusted for natural response.

(2) To conduct a partial test follow the test protocol for preparation of the test material and organisms. Prepare the control (zero concentration), one test concentration (3 percent suspended particulate phase) and the reference toxicant according to the methods of the full test. A range finding test is not used for the partial test.

(3) Sixty test organisms are used for each test concentration. Find the number of test organisms killed in the control (zero percent SPP) concentration in the column labeled X_0 of Table 2. If the number of organisms in the control (zero percent SPP) exceeds the table values, then the test is unacceptable and must be repeated. If the number of organisms killed in the 3 percent test concentration is less than or equal to corresponding number in the column labeled X_1 then the test material passes the partial toxicity test. Otherwise the test material fails the toxicity test.

(4) Data shall be reported as percent suspended particulate phase.

TABLE 2

X_0	X_1
0	22
1	22
2	23
3	23
4	24
5	24
6	25

VI. References

1. Borthwick, Patrick W. 1978. Methods for acute static toxicity tests with mysid shrimp (*Mysidopsis bahia*). Bioassay Procedures for the Ocean Disposal Permit Program, [EPA–600/9–78–010:] March.

2. Nimmo, D.R., T.L. Hamaker, and C.A. Somers. 1978. Culturing the mysid (*Mysidopsis bahia*) in flowing seawater or a static system. Bioassay Procedures for the Ocean Disposal Permit Program, [EPA–600/9–78–010]: March.

3. American Public Health Association et al. 1980. Standard Methods for the Examination of Water and Wastewater. Washington, D.C. 15th Edition: 90–99.

4. U.S. Environmental Protection Agency, September 1991. Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms EPA/600/4–90/027. Washington, D.C. 4th Edition.

5. Finney, D.J. Probit Analysis. Cambridge University Press; 1971.

6. U.S. Environmental Protection Agency, May 1984. Acute Toxicity of Eight Drilling Fluids to Mysid Shrimp (*Mysidopsis bahia*). EPA–600/3–84–067.

[FR Doc. 93–4528 Filed 3–3–93; 8:45 am]

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federal register

Thursday
March 4, 1993

Part III

Department of Energy

Office of Conservation and Renewable Energy

10 CFR Part 440
Weatherization Assistance Program for Low-Income Persons; Final Rule

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 440

[Docket No. CE-RM-91-110]

Weatherization Assistance Program for Low-Income Persons

AGENCY: Department of Energy

ACTION: Notice of final rulemaking

SUMMARY: The Department of Energy (DOE) is today issuing final amendments to the regulation for the Weatherization Assistance Program for Low-Income Persons to implement statutory changes enacted as the State Energy Efficiency Programs Improvement Act of 1990. In addition to these statutory changes, DOE is adding other changes based on program experience gained over the past 5 years since issuance of the last version of the regulation. These changes add clarifying language or delete obsolete language in the regulation in order to ensure uniform interpretation of this regulation by State and local agencies administering the program. The amendments in this final rule will give States and local agencies additional flexibility in addressing the particular weatherization needs of their low-income citizens.

The principal amendments in today's final rule are for the purposes of: Adding certain cooling measures; addressing the needs of renters; clarifying the allowability of costs to abate energy-related health and safety hazards; establishing procedures and standards for waiver of the 40 percent materials average; establishing procedures and standards for adjustment of the average unit dwelling cost limitation for furnace and cooling efficiency modifications; allowing States to increase by up to 5 percent the amount of funds certain eligible local agencies can use for administrative purposes; allowing States the option of requiring financial participation from landlords when weatherizing their multifamily buildings; and repealing the performance fund.

EFFECTIVE DATE: This regulation is effective April 5, 1993. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 5, 1993.

FOR FURTHER INFORMATION CONTACT: James Gardner or Greg Reamy, Weatherization Assistance Program Division, U.S. Department of Energy, Mail Stop CE-532, 5G-023, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2207.

Neal J. Strauss or Vivian Lewis, Office of General Counsel, Conservation and Regulations, Mail Stop GC-41, 6B-256, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9507.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Department of Energy (DOE or Department) today gives notice of final amendments to revise the program regulations for the Weatherization Assistance Program for Low-Income Persons (WAP), which are codified in 10 CFR part 440 and which are authorized by title III of the Energy Conservation and Production Act, as amended (Act), 42 U.S.C. 6861, *et seq.* (WAP is also subject to the DOE general financial assistance regulations in 10 CFR part 600.) The principal purpose of the regulatory amendments finalized today is to implement most of the amendments to the Act by the State Energy Efficiency Programs Improvement Act of 1990 (Amending Act) (Pub. L. 101-440). Pursuant to the new statutory amendments, today's final amendments: (1) Add specific cooling measures to the program; (2) add provisions for a waiver to the requirement to spend an average of 40 percent of grant funds on weatherization materials; (3) add provisions for annual adjustment of the statewide average per-home expenditure; (4) allow local agencies receiving grants of less than $350,000 of appropriated funds to use up to an additional 5 percent for administrative purposes; (5) require States to ensure tenants' protection from rent increases and related actions due solely to weatherization work, and allow States to require landlord participation in the weatherization of multifamily buildings; (6) repeal the performance fund; (7) encourage States to actively seek non-Federal funds to increase the amount of funds available for low-income weatherization; and (8) require States to collect data annually on the average costs incurred in weatherization of individual dwelling units, the average size of the dwellings weatherized, and the average income of households receiving assistance. DOE expects to complete implementation of the WAP portion of the Amending Act by conducting at an appropriate point in time a rulemaking to establish regulations for the award of incentive funds to reward best performance by States or subgrantees. 42 U.S.C. 6865 (d), (e).

In addition to the parts of today's final rule to implement the amendments to the Act, DOE has made certain clarifications, corrections, and other discretionary changes to the existing rule. This action is necessitated by the evolution of the program since the last major rulemaking issued on January 4, 1984. 50 FR 708. These changes will help States by clarifying sections of the rule, thereby encouraging a uniform interpretation and application of the program requirements. DOE has also updated appendix A to include all new materials approved for use in the program through November 30, 1992, and the standards for those materials. Some of the definitions in § 440.3 have been clarified, and, where needed, new definitions have been added which will provide a clearer and more concise meaning to States and local agencies who must interpret these regulations. Other sections applying to energy audits, allowable expenditures, and subgrantees have been clarified to enhance their meanings; and certain obsolete items have been deleted.

On October 23, 1991 (56 FR 54932), DOE issued a Notice of Proposed Rulemaking, Public Hearings and Request for Public Comments for the Weatherization Assistance Program for Low-Income Persons. In response to this notice, DOE received 290 written comments and heard testimony from 49 individuals at public hearings held November 20, 1991, in San Francisco, CA; December 13, 1991, in Baltimore, MD; December 17, 1991, in Dallas, TX; and December 19, 1991, in Chicago, IL. As a result of the large number of comments received expressing concerns on several areas of the NOPR, a number of significant, as well as minor, changes have been made to the final rule, and those changes are reflected herein.

DOE consulted with the State Energy Advisory Board chartered under Public Law 101-440, and provided the members of the Board an opportunity to give advice on the major issues in the rulemaking including appropriate energy audit procedures.

II. Amendments to the Weatherization Assistance Program

§ 440.3 Definitions

The Amending Act added "children" to the "elderly" and "handicapped" as groups identified by § 411(b) as especially deserving of WAP services. DOE proposed a definition for "children" in § 440.3 which included dependents under the age of 18, or age 19 if a full-time student in a secondary school or equivalent technical or vocational school and who may reasonably be expected to complete the program before reaching the age of 19.

DOE believed that this definition would help facilitate the eligibility certification process for States and subgrantees that administer both the Health and Human Services and DOE weatherization programs. Twenty-three commenters suggested that States be given the option to limit the definition, for example to age 12 and under or age 6 and under. DOE agrees that the States should have some flexibility to define "children" in light of their assessments of how priorities should be assigned among their low-income population segments. Therefore, DOE has modified the definition of "children" and will allow States to define that term in a manner which meets their specific needs, provided it does not exceed 19 years of age. This change has been adopted in the final rule.

DOE has deleted the definition for "Operations Office Manager" and replaced it with "Support Office Director" as a result of DOE field realignment.

DOE proposed a change in the definition for "separate living quarters" which includes a reference to "shelters" for homeless persons. Additionally, a definition for "shelter" was proposed which would specifically address units that house individuals on a temporary basis. The current regulation does not specifically state that these units can be weatherized. This has led to confusion among States when addressing this issue. Two commenters contended that WAP funds should not be used to weatherize shelters, stating that other resources are available for shelters. DOE and 133 commenters believe that it is appropriate to include shelters under WAP. These shelters and their occupants generally meet all of WAP eligibility criteria. While it may be true in some States that other resources are available, DOE has no discretion to eliminate dwellings that are otherwise eligible on that basis. Therefore, § 440.22(f) specifically authorizes weatherization of shelters and defines their eligibility. Further, DOE wishes to clarify that shelters such as group homes, transitional housing, homes for battered women, and other types of living arrangements which meet the WAP definition of a shelter are dwelling units which are eligible for weatherization.

DOE also proposed to amend § 440.3, as required by the Amending Act, to allow States to include under "weatherization materials" the following items: Cooling efficiency modifications, which include replacement air-conditioners, ventilation equipment, screening, window films, and shading devices. Standards for purchasing these materials are listed in Appendix A. Adding these measures will allow States, especially in warm climates, to better address weatherization priorities where reducing energy consumption for cooling requirements is just as important as reducing energy consumption for heating requirements. Fifty-seven commenters supported the additional cooling measures.

With respect to air conditioners, DOE proposed to allow the replacement of existing ones only. Air conditioners include window units, central units, and heat pumps which perform a dual heating/cooling function. States which opt to include replacement air conditioners would have to follow applicable Federal, State, and local environmental laws covering the disposal of old air conditioners due to the types of chemicals used in these units. The costs associated with the disposal of old air conditioners which are replaced under this program would be an allowable program cost. Thirty-one commenters recommended that air conditioners not be limited to warm States. As with any other measure, the energy audit procedure must determine whether an air conditioner should be replaced. Thus, depending on the audit results, replacement air conditioners could possibly be installed in both warm- and cold-weather States. Five commenters recommended against including replacement air conditioners except for medical reasons. Still other commenters argued against the inclusion of air conditioners under any circumstances. However, the Amending Act explicitly requires inclusion of this measure. 104 Stat. 1012. Thus, this measure will be retained in the final rule.

With respect to ventilation equipment, DOE proposed to amend appendix A to include ceiling fans, attic fans, whole house fans, and evaporative coolers. Most comments were generally supportive, and DOE has retained the change in the final rule. Although several commenters recommended adding certain other types of ventilation equipment, such as table fans and window fans, DOE has decided to exclude them. These types of ventilation equipment are energy-inefficient and therefore not cost-effective.

Despite several comments received with respect to shading devices, DOE believes this measure should continue to be limited to items such as screens, window films, and reflective materials which are already listed in appendix A. Two commenters suggested that DOE include window shades, window blinds, and fabricated storm windows treated with ultraviolet plastic as shading devices. Window shades and fabricated storm windows treated with plastic window films are already included in appendix A. Window blinds have been added to appendix A for use as a shading device. Eleven commenters suggested that trees be included as shading devices. DOE believes that trees are not a viable option for this program because of the considerable amount of time it takes for trees to grow to a height which would provide sufficient shade to cool the exterior of the dwelling unit. DOE program funds would be better spent on measures which would provide immediate relief from areas experiencing extreme heat.

As a result of comments received, DOE is including a definition for the term "capital-intensive furnace and cooling efficiency modifications" which is used in § 440.18(b)(2). That term refers to those major improvements which require the expenditure of a substantial amount of funds to complete. These include, but are not limited to, furnace or cooling unit replacements, certain repairs and replacement of parts to boilers and furnaces, replacement of wood stoves, and others as listed in appendix A. In the absence of capital intensive furnace or cooling efficiency modifications, those items which are not capital-intensive should not be used to apply for an increase to the average per dwelling unit limitation on expenditures under § 415(c)(4)(A) of the Act. Examples of such items are furnace or cooling unit tune-ups, repairs, filters, or other inexpensive modifications listed in appendix A which improve the efficiency of the unit. 42 U.S.C. 6865(c)(4)(A). These relatively low-cost items should be included as a part of a State's regular weatherization program and the costs absorbed within the annually adjusted average per dwelling unit limitation on expenditures under § 415(c)(3) of the Act. 42 U.S.C. 6865(c)(3).

§ 440.12 State Application

DOE proposed to amend this section to require States to include, as a part of their application, a rental plan implementing the provisions in § 440.22(b)(3). Several commenters argued for modification of this provision to allow greater flexibility for States to describe and update as necessary what the procedures would be for meeting the requirements of § 440.22(b)(3). DOE agrees that such a modification is appropriate because the primary responsibility for ensuring that weatherization benefits accrue to tenants is on the States. 42 U.S.C.

6863(b)(2); 1990 U.S. Code Cong. and Admin. News 1657. The content of the rental plan is further discussed under § 440.22. Therefore, the rental plan requirement in § 440.12 has been eliminated, and the substance of it has been added to § 440.16(i) in order to reflect the statutory requirement on States to establish implementing procedures and processes. 42 U.S.C. 6863(b)(2)(B).

§ 440.13 Local Applications

DOE proposed to amend § 440.13 which describes what actions will take place in the event a local applicant becomes a direct grantee of the weatherization program. The proposed amendment is largely technical and would conform § 440.13 to the appeal procedures in § 440.30. Since there were no comments received to this proposed change, it has been adopted in the final regulation.

§ 440.14 State Plans

DOE proposed to amend this section to require States to include the criteria they will use for providing additional administrative funds to subgrantees as specified in § 440.18(d). Also, § 440.14(b)(9)(xii) was proposed to be amended to include the phrase "for use statewide" when referring to the definition of low income. This would clarify that a State must use the same eligibility criteria throughout the State. That is, when the State determines what income levels it will use for determining low income, those income levels would be applied uniformly throughout the State. The current regulation defines low income using three categories and is often misinterpreted to mean that the State can use any or all of the categories; thus, more than one income level could possibly be used throughout the State—for example, 125 percent of poverty for rural areas and 150 percent of poverty for urban areas. DOE wishes to make clear that a State may not use more than one income level in defining low income. Comments received in these areas were supportive, and DOE has retained its proposed changes.

Consistent with the new statutory amendments, DOE proposed to add § 440.14(b)(9)(xiv) which allows DOE to approve established plans and procedures, submitted by States as a part of the State plan, for using Federal funds to increase the amount of weatherization assistance that a State obtains from non-Federal sources including private sources. States may take a percentage of their base grant (including Petroleum Violation Escrow funds used under the weatherization program) or a percentage of their training and technical assistance funds or a portion of both to undertake leveraging activities. States must identify in their annual plans the specific amount of funds, details of how those funds will be used for obtaining non-Federal resources for their weatherization programs, and the expected leveraging effect from the use of those Federal funds. States must also explain how the amount to be used for leveraging is reasonable when considered in the context of § 440.15(b) of the regulation which requires funds to be allocated on the basis of relative need in each area.

Thirty-five commenters expressed concern that leveraging is important, but must supplement, not supplant, Federal allocations. In other words, States' leveraging of funds should not result in less Federal funding for WAP. DOE views leveraged funds as a way to supplement rather than supplant the Federal allocations. No changes in the proposed regulations appear necessary.

Another 45 commenters said that the regulations regarding leveraging should be more flexible. States do have the flexibility in developing leveraging approaches, and DOE encourages them to be innovative with their ideas. However, as stated above, DOE does require careful planning when using program funds for this activity. Nineteen commenters felt that leveraged funds should not be required to be used in accordance with WAP regulations. The funds discussed in this section are DOE appropriated funds of which a limited amount may be used to conduct leveraging activities. The types of leveraging undertaken pursuant to this provision may be different from those leveraging activities under the incentive fund provisions of the Amending Act. 42 U.S.C. 6865(d),(e). These leveraged funds obtained and used under this section are generally not considered "program income" under 10 CFR part 600 and, therefore, may be used to conduct activities that support WAP but are not subject to WAP rules.

DOE invited comments from States and other interested parties on possible changes that could be made to this section to eliminate duplication, reduce unnecessary paperwork, and help ease the reporting requirements consistent with the governing Act. Twenty-nine commenters said certain sections of the application and plan rarely changed, and it is a duplication of effort to provide these items each year as a part of the plan process. DOE is bound by the Act to certain specific content requirements; however, these requirements are in some instances redundant and unnecessary to repeat each year if no change has occurred. Thus, DOE will allow States to submit only those sections of the plan which have changed from the previous year. The sections needing changes must be updated by the States as warranted. This action will help to streamline the application process and reduce the amount of time, effort, and costs that go into the preparation of a State plan.

DOE proposed to amend § 440.14(a) to require that a State prepare a "court" transcript of State plan public hearings. Four commenters suggested that to require a court transcript of the public hearing on the State plan was unnecessary. They contended that the costs associated with providing a court transcript, which requires the services of a court reporter, were not justified. It was their view that a State-supplied transcript, regardless of whether a court reporter was used, is sufficient. DOE agrees and has not finalized the proposed amendment. Section 440.14(a) continues to require a verbatim transcript of the hearing proceedings.

§ 440.15 Subgrantees

DOE also proposed to clarify subgrantee selection and removal procedures in § 440.15 by adding a new paragraph (e) which would make clear that a subgrantee found in non-compliance must be offered a rulemaking-type public hearing as part of the removal or defunding process. Grantees have sometimes been unsure of procedural requirements when they determine to replace a subgrantee for non-compliance or for other reasons. DOE received 80 comments in response to the public hearing requirement.

With regard to terminations during a grant period, sixty-six commenters suggested that DOE drop the requirement to hold a rulemaking-type hearing in favor of an "administrative" hearing or offer the State the choice of either type of hearing. Fourteen commenters supported the requirement for a rulemaking-type hearing. Most of the commenters felt that the administrative hearing process offers the State and subgrantee the proper forum for resolving disputes with legal representation (if desired). They also noted that under most, if not all, State Administrative Procedure Acts (APAs), subgrantees would be able to receive a fair hearing on the issues involved. Additionally, these APAs allow affected parties to appeal to a State court.

With regard to selection of subgrantees for a *new* grant period, §§ 414(b)(4) and 415(b)(1) of the Act require a rulemaking-type proceeding with adequate notice, opportunity for public comment, and a public hearing.

42 U.S.C. 6864(b)(4), 6865(b)(1). If a State proposes to substitute a new subgrantee consistent with the Community Action Agency preference in § 440.15, the subgrantee who previously administered the program has the right to comment on the proposed substitution in that public hearing. States have the discretion to establish procedures for the conduct of such a public hearing including procedures to prevent unduly long or repetitive comments. (DOE has routinely incorporated such procedures in the notices of proposed rulemaking that have been issued for WAP.)

With regard to termination of a subgrantee by a grantee during a grant period, States are obligated to provide due process of law which at a minimum means adequate notice of the reasons for termination and an appropriate opportunity to be heard. Neither the Act nor DOE regulations specifically require that particular hearing procedures be used. DOE agrees that the State must have procedural requirements which should be adequate to provide a subgrantee due process of law. No comments were received to suggest otherwise. DOE therefore has decided not to finalize those provisions of the proposed rule which would have obligated the States to use a rulemaking-type hearing for a termination proceeding. Instead, DOE has substituted the more limited requirement that a State may only terminate a subgrantee during a grant period after adequate notice and an appropriate opportunity to be heard.

§ 440.16 Minimum Program Requirements

Consistent with the Amending Act, DOE proposed to add clarifying language to § 440.16(b) to allow States to include "children" as a priority group among those receiving weatherization services. The Amending Act altered § 411(b) of the Act, 42 U.S.C. 6861(b), by adding the word "children" to the legislative statement of "Purpose and Findings." However, the Amending Act did not alter § 414(b)(2) of the Act, 42 U.S.C. 6864(b)(2), which establishes a priority on providing weatherization services for elderly and handicapped persons and such priority as the applicant determines is appropriate for single-family or other high energy-consuming dwelling units. Sixty-nine commenters supported adding "children" as a priority, and another 39 commenters recommended giving priority to elderly persons and children in relation to the amount of energy usage. States, in establishing priorities among the above mentioned groups, may take into account energy usage. Since the reference to "children" is not contained in § 414(b)(2) of the Act, DOE has determined that States are not required to include children at the same level of priority as the elderly and handicapped, although States may do so if they wish. Therefore, DOE has made no changes to § 440.16(b).

No adverse comments were received regarding § 440.16(d), which makes clear that, in areas where it is difficult to secure the services of volunteers, subgrantees need not expend limited resources on efforts to find such workers. Therefore, the proposed change has been adopted in the final rule.

Paragraph (g) of § 440.16 deals with the circumstances which warrant a report to DOE that a dwelling unit is "complete." DOE proposed to amend that paragraph by including the phrase "all weatherization materials have been installed." A few commenters requested clarification of when a dwelling unit is "complete" and when a final inspection has been performed. DOE believes that, before a home is reported as complete, all of the materials associated with its weatherization must have been installed, and the unit must, in fact, be complete. All materials installed would include any relevant heating or cooling modifications or replacements made to the home, and the final inspection(s) would ensure that all necessary work to the unit has been completed in a satisfactory manner. Since no adverse comments were received, DOE has adopted the proposed language in the final rule.

Consistent with the addition by the Amending Act of health and safety as one of the stated statutory purposes in § 411(b) of the Act, 42 U.S.C. 6863(b), § 440.16(h) was proposed to add a requirement that procedures be developed by the State to ensure that subgrantees address health and safety concerns related to weatherization. DOE received a total of 243 comments on a variety of health and safety issues. DOE has responded to these comments in part by making § 440.16(h) much more specific.

DOE is not requiring at this time that States address any specific health or safety concern. Rather, DOE expects each State to develop procedures which provide for a list of types of hazards and related costs and methods of abatement to be funded under 10 CFR part 440 and which limit such expenditures for non-weatherization materials to a *reasonable* percent of average dwelling unit costs in light of the primary energy conservation purpose of WAP. The list (and updates to it) would be submitted with an annual financial assistance application for DOE approval.

The legislative history of the Amending Act indicates that health and safety concerns related to weatherization of dwellings occupied by low-income clients are of special interest to the Congress. Accordingly, DOE believes that States should carefully examine their programs to ensure these concerns are being addressed. However, States should be aware that the House report on the Amending Act clearly indicates that subgrantees should be seeking other funding sources to pay for non-energy-related health and safety repairs. See 1990 U.S. Code Congressional and Administrative News, 1659.

DOE received 16 comments requesting specific guidance in this rulemaking regarding health and safety issues. After reviewing health and safety procedures of the States, DOE may provide periodic guidance on health and safety issues. Further responses to comments on health and safety issues in this rulemaking appear in the discussion below of amendments to § 440.18(c) and 440.21.

§ 440.18 Allowable Expenditures

DOE proposed to amend § 440.18(b)(1) to incorporate provisions of § 415(c) of the Act as amended which provides that, beginning with fiscal year 1991, the Statewide average of $1,600 per dwelling unit shall be adjusted annually by increasing the previous year limitation amount by the lesser of: (1) The percentage increase in the Consumer Price Index for the previous year or (2) three percent. DOE will notify all grantees of the new expenditure limit in grant guidance that is issued each year. No adverse comments were received; therefore, DOE has retained the language in the final rule.

In addition to this annual increase, the Amending Act provides that DOE shall, upon application by a State, establish a "separate" average per-dwelling-unit limitation for dwelling units in those States which: (1) Conform to program requirements; and (2) in addition to any other weatherization modifications, have "furnace or cooling efficiency modifications" made with program funds. The phrase "furnace efficiency modifications" is not defined by the Act, but the legislative history indicates it is a term of art which refers to "major" furnace or cooling efficiency modifications, i.e., capital intensive (high cost) repairs or replacements. See 1990 U.S. Code Congressional and Administrative News, 1658–1659. DOE

has retained § 440.18(b)(2) to incorporate this waiver in the final rule.

States that wish to apply for an increase in the per-dwelling-unit average must propose to do, as a minimum, "capital- intensive furnace or cooling efficiency modifications" as defined in § 440.3. As indicated above in the discussion of that definition, those States which elect to perform *only* low-cost furnace or cooling efficiency modifications, such as tune-ups or other relatively low-cost efficiency improvements, must include them within the current limitations of the Statewide per-dwelling-unit average as stated in § 440.18(b)(1). Some comments complained generally that the list of "furnace efficiency modifications" and "cooling efficiency modifications" under the definition of "weatherization materials" in § 440.3 lacks enough specificity. These comments did not offer significant suggestions for amendments to promote specificity. The regulatory language offers general definitions with some examples which DOE believes is sufficient to be understood and applied. No further changes to the proposed definitions have been made.

Proposed § 440.18(b)(2) deals with the application requirements for a separate Statewide average for dwelling units with "furnace efficiency modifications." Under this section, all State applications to increase the per-dwelling-unit average must be accompanied by supporting documentation on the costs associated with furnace or cooling efficiency modifications in that State. Seventy-seven commenters recommended that DOE remove "capital-intensive" from this section or broaden the definition. The Amending Act is clear that this separate average will apply only to those homes selected for furnace efficiency modifications involving major repairs or replacements which necessarily are capital intensive. States which apply to DOE for a "separate" Statewide average for doing capital-intensive improvements may include in their request the costs of all furnace and cooling modifications (including tune-ups, filters, etc.) on those units when determining the "separate" amount of funds to be requested for those specific units. Eighty-six commenters supported the "separate" average.

Fourteen commenters suggested that DOE allow States to combine all homes into one average, while 42 commenters felt the maximum average per-unit limit should be eliminated. They believe that maintaining a separate average for dwelling units with furnace efficiency modifications is too burdensome. However, as previously noted, the statutory language is clear that States must maintain a "separate" average for these units and, therefore, DOE has retained it. The following example illustrates how the requirement for separate averages should work. State X plans to weatherize 1,000 units, and estimates that 30 percent of the units will receive furnace or cooling measures that qualify for the separate higher average. The State estimates the average cost for the 300 units to be $3,000, and DOE approves the State application as a separate average for those units. The remaining 700 units that do not receive the qualifying furnace or cooling modifications cannot exceed the annually adjusted per dwelling unit average under § 440.18(b)(1). The State would have to maintain data and report to DOE on each of the averages, one average for those dwellings which qualify for the higher average expenditure, and the average discussed in § 440.18(b)(1) for those dwellings which do not.

DOE proposed to add § 440.18(c)(12) to allow the costs of weatherization program financial audits to be charged as a separate program support cost. These costs are currently charged under the administrative cost category. Experience indicates that the percentage limitation on that category is an undesirable incentive to skimp on financial audits. While 18 commenters opposed making this a separate allowable cost category, 72 commenters were in support of this idea. Since this proposed amendment would enable States to press for more rigorous financial auditing to prevent waste, DOE has retained it in the final rule.

The Amending Act provides that States may increase the percentage of subgrantee administrative funds up to an additional 5 percent for those subgrantees receiving grants of less than $350,000 in DOE appropriated dollars. DOE proposed to implement this provision by amending the language in § 440.18(d) to require States to provide in their plans the criteria they will use in carrying out this provision. While DOE encourages States to develop their own guidelines for the increase, the procedures for deciding which of the eligible subgrantees should receive additional funds and what additional percentage they may use must be addressed as a part of the plan and will be reviewed by DOE for reasonableness. The limit for maximum administrative expenditures by a State remains unchanged at 5 percent. DOE received 41 comments favoring the method of implementing this requirement; therefore, it has been retained in the final rule.

DOE proposed to amend § 440.18 by adding paragraph (c)(14) which would permit the expenditure of funds for leveraging activities by States, discussed above in the explanation of proposed amendments to § 440.14(b)(9)(xiv). No adverse comments were received, and DOE has retained it.

As indicated earlier, there is statutory authority for expending WAP funds on elimination of energy-related health and safety hazards. Consistent with that discussion, DOE has added a new paragraph (c)(15) to the list of allowable costs in § 440.18, covering costs attributable to the necessary elimination of such hazards before, or as a result of, installation of weatherization materials. An example of such a hazard would be carbon monoxide exposure from a gas-fired unvented space heater in a dwelling where DOE installs weatherization materials to insulate and otherwise reduce air infiltration. If DOE-approved State procedures allow for elimination of such a hazard with DOE funds, then the cost is allowable. As a technical and conforming change, a cross reference to new paragraph (c)(15) has been added to paragraph (b) of § 440.18 to provide that health and safety costs are subject to the average per dwelling unit cost limitation.

Section § 440.18(e)(2)(iii) proposed to amend the cut-off date from September 30, 1979, to September 30, 1981, under which States may reweatherize a unit. DOE received 220 comments favoring extending the cut-off date to September 30, 1985, the date when expenditures were raised to the current annually adjusted average limit to account for expanded mechanical measures allowed in the program. Along with commenters favoring extension of the cut-off date, 251 commenters suggested that States should be allowed to count all or at least a percentage of these reweatherized units as completions.

Thirty-eight commenters opposed a new audit requirement for reweatherization. Twenty-five commenters supported requiring a new audit. DOE will continue to require that: these units receive a new energy audit that takes into account any previous improvements to the dwelling; and these units are reported to DOE separately from the completion of homes that have not been reweatherized. DOE will allow States to count these reweatherized units as completions for the purposes of compliance with § 440.18(b). Thirty-nine commenters recommended eliminating cut-off dates and allowing reweatherization of units which are 5

years or older, while 17 commenters offered various other cut-off dates. DOE will extend the cut-off date to September 30, 1985, which would allow States to return to those homes where significant weatherization opportunities may have been overlooked because the average dwelling cost limitation was $1,000 or less.

The number of reweatherized units expected to be completed in a State must be identified in the State plan. DOE will give the States flexibility in this area by deferring to them on the question of whether and to what extent there should be a limitation on the number of reweatherized units that can be done. However, DOE reminds States that while reweatherization is an important issue, there remain nearly 18 million homes that have received no assistance.

§ 440.19 Labor

One State requested that DOE clarify § 440.19(a)(2) by removing the phrase "to install weatherization materials." That phrase was removed in 1981 after notice and comment and reinserted in 1984 inadvertently. *Compare* 46 FR 29242, 29245 (June 1, 1981) with 49 FR 3624, 3627, 3634 (January 27, 1984). Today DOE corrects the 1984 error by removing the subject phrase.

§ 440.21 Standards and Techniques for Weatherization

DOE proposed to add clarifying language to § 440.21(b) to make clear that only those weatherization materials that are listed in Appendix A of this regulation can be purchased with DOE funds. Some subgrantees and potential material suppliers continue to believe that the standards in Appendix A apply only to materials listed there. They believe materials not listed in appendix A may be purchased and installed without the need to meet any standard. DOE believes this clarification will ensure that only weatherization materials that are listed in appendix A may be purchased with DOE funds. However, a State may submit an unlisted material to DOE at any time for evaluation and possible addition to appendix A. Please note, however, that materials used to complete incidental repairs or eliminate health and safety hazards generally are not "weatherization materials" and, therefore, are not required to be listed or to meet the standards in appendix A.

Section 415(a) of the Act as amended, 42 U.S.C. 6865(a), authorizes DOE to grant a waiver from the 40 percent Statewide average for weatherization materials expenditures based on voluntary State adoption of energy audit procedures more rigorous than those currently required by the program regulations. Among other things, the Act specifically required measurement of the "rate of return" on the "total conservation investment" but did not define those terms. DOE proposed a number of provisions designed to implement the waiver provisions of the Act as well as provisions designed to strengthen the base program procedure in the existing regulations (Project Retro-Tech and the alternate audit procedure). DOE received over 300 comments arguing that the provisions proposed for the base program audit and for the waiver audit were too restrictive and would have many undesirable effects inconsistent with legislative intent.

Base Program Audit Comments. Twenty-nine commenters said that the April 1, 1993, implementation deadline for base program changes does not provide enough time and that there is not sufficient funding available to implement the proposed changes at the local level. Further, commenters thought that the effort to upgrade the base program energy auditing requirements through the prescriptive approach proposed in the NOPR would severely restrict the State flexibility when Congress did not indicate a specific intent to *impose* changes on those requirements.

Waiver Audit Comments. One hundred eleven commenters were concerned with § 440.21(g) which proposed to require the use of "site-specific data" (rather than data from typical dwellings) as part of a State energy audit prior to DOE granting a waiver. States and local agencies argued that requiring such data would involve complex and time-consuming operations that would not necessarily result in significant additional energy savings. One-hundred twelve commenters suggested that repeated cost-effectiveness tests are not required for measures that have already been proven to be consistently justified. Those commenters said that a computerized audit can be effectively used, however, to develop decision trees and priority lists. Eighty-seven commenters said that one uniform audit is not practical, and 7 commenters indicated that data required by the audit procedure was not always available. The requirement to blower-door test all units as a prerequisite to a waiver was also questioned by 76 commenters on the grounds that these tests are not appropriate for certain heating systems, climatic conditions, types of units (such as multi-family), and other circumstances.

The proposal to include *all* significant costs (not just material and labor costs) in calculating the "total conservation investment" when testing for cost-effectiveness received a wide variety of critical comments. Forty-four commenters said that client education would be eliminated from their programs if the costs of such education were deemed part of the "total conservation investment." It should be noted that it was never the DOE intent to require the inclusion of such education costs, which are now excluded from the costs required under the average cost per home limit. Three-hundred sixty-four commenters suggested that health and safety costs to eliminate hazards should be exempt from any cost-effectiveness test because they are generally associated with the heating or cooling unit in the home and could be life-threatening. Such costs in many cases would not meet a savings-to-investment ratio (SIR) requirement. Commenters also said that the inclusion of all incidental repair (103 commenters) and transportation costs (53 commenters), if bound by a SIR, would preclude the installation of certain measures in certain units even though these measures are proved cost-effective when installed as part of a comprehensive weatherization package. In addition, subgrantees that must travel great distances could be forced to restrict weatherization of some units solely on the basis of travel costs needed to reach those units. It should be noted that it was never the DOE intent to require calculation of transportation costs for individual units, but rather for an estimate of average program transportation costs to be considered in determining measure cost-effectiveness. One-hundred fifty commenters suggested that other methods to calculate payback or efficiency gains should be considered. Twenty-six commenters were opposed to discounting future energy cost savings. Those commenters said that, if energy savings are to be discounted, then fuel cost escalation should also be taken into account.

Based on the comments received, DOE has modified § 440.21 in the final rule to reflect the need for more flexibility as indicated by the preponderance of those comments. DOE believes this flexibility will allow State and local program operators to maximize energy saving efforts while dealing responsibly with the many related health and safety issues that arise during the weatherization work.

DOE continues to assume States are accountable for achieving the energy savings and efficiency improvements

anticipated by the legislation. DOE believes that States can be encouraged to improve the level of program performance through improved audit and related techniques designed to get the best benefit for the Federal dollars spent. While DOE believes that States should be held accountable for maximizing energy savings for low-income clients, DOE accepts that incremental steps are necessary to attain this objective and agrees with the Congress that the 60/40 waiver incentive will move the program toward greater achievement.

Final Base Program Audit Procedures. DOE believes that a primary objective of the Weatherization Assistance Program is to provide cost-effective energy savings and related benefits to low-income households. Through the use of improved energy audit methods and effective program management, DOE believes that this program objective can be achieved. However, DOE remains concerned that existing weatherization activities may be significantly less cost-effective than they could be and, in some areas, program costs may exceed the resulting benefits to low-income households.

There are numerous factors that may be reducing the cost-effectiveness of existing weatherization activities, several of which have their basis in long standing DOE regulations or program procedures. For example, under DOE regulations, States and local agencies may exclude from their cost-effectiveness calculations for individual measures a substantial percentage of the costs of weatherizing individual homes. Additionally, DOE regulations do not require States to set any limits on the amount of general heat waste reduction measures or energy-related repairs that may be installed on individual homes, although many States have established such limits.

While DOE proposed a number of changes to the base program audit procedures, it has chosen not to include any of these changes in the final rule in order to give States an opportunity to adopt voluntarily the procedures necessary to obtain a waiver from the 40 percent materials cost requirement or to take other steps to enhance achievement of the program's objectives. It is also anticipated that the results of the major DOE-funded Weatherization Assistance Program evaluation, which is nearing completion, will provide better information upon which to base further Federal, State, or local actions to improve the effectiveness of the program. Based on the results of this evaluation and the actions of States and local agencies, DOE intends to reconsider whether further changes to the regulations governing existing weatherization programs are needed.

Although the Department has decided not to make large-scale changes to the base audit procedures at this time, DOE wishes to make clear its concern about the inadequacies inherent in the Project Retro-Tech audit. DOE remains interested in phasing out the use of this audit which places undue weight on the installation of general heat waste measures and has other limitations. But DOE recognizes the difficulties of making major changes in the program's energy audit procedures and, therefore, believes it is logical to postpone regulatory action on the base audit until States have had an opportunity to assimilate the 60/40 waiver energy audits and to respond to the DOE intention that the program improve its energy savings.

DOE believes that those States and local agencies that choose not to seek a waiver from the 40 percent material cost minimum should modify their existing programs to incorporate as many as possible of the procedures required for such waivers. Specifically, DOE encourages States, particularly those continuing to use Project Retro-Tech, to consider the following steps to improve the cost-effectiveness of their programs.

First, avoid installing any measures that are not cost-effective, even though DOE regulations do not preclude the installation of such measures.

Second, clearly define and limit the installation of general heat waste reduction measures. While measures such as weatherstripping and caulking are usually cost-effective and for this reason are automatically classified as the number one priority by Project Retro-Tech and related audits, DOE is aware that some local programs have placed excessive emphasis on such measures (without using adequate diagnostic techniques) and, in some instances, have included in this category inappropriate measures.

Third, set limits on the costs incurred performing measure-related incidental repairs to ensure that they do not exceed the net cost savings expected to result from weatherization measures being installed.

With respect to the estimates of measure costs used in determining cost-effectiveness, States should review the estimates of measure costs to ensure that they accurately represent the current costs of installing measures. In this regard, a few comments suggested the need to clarify a longstanding interpretation of the existing rule. In calculating labor costs for purposes of evaluating a weatherization material for cost-effectiveness under section 440.21, all on-site supervisory costs must be included in the cost-effectiveness calculations. In addition, States and local agencies may exceed the minimum requirements for costs that have to be considered by including other home weatherization costs (e.g., tools and transportation). Although today's rule does not require the inclusion of these additional costs, DOE encourages the States to do so wherever feasible.

Finally, consistent with the statutory priority on assisting the elderly and handicapped, States should consider the adoption of procedures to identify and give priority consideration to those homes that may offer the greatest potential for energy and energy cost savings from the installation of weatherization measures. State and local agencies are reminded that the selection of homes to be weatherized affects the overall cost-effectiveness of the program. The energy auditor should examine the condition of each home to insure that the home in which the eligible person lives will receive the maximum benefit of the weatherization services provided. Homes that need rehabilitation (extensive repairs) are not the most cost-effective sites for weatherization until after rehabilitation work has been completed. Such homes should be referred to other Federal or State programs which provide for rehabilitation. Furthermore, States should work toward implementing advanced energy audits which not only ensure the selection of the most cost-effective measures to install in a home, but also ensure that the priority of those eligible homes to be weatherized will result in the maximum program effectiveness.

Even with such improvements, Project Retro-Tech audits would still have many shortcomings. Therefore, DOE strongly encourages all States to move rapidly to the 60/40 waiver energy audits. Those few States that do not adopt a 60/40 waiver energy audit would then be the only ones affected by changes DOE may make later to the base energy audit procedures. The following explanation is given of the DOE approach to the 60/40 waiver audit requirements.

Final Waiver Audit Procedures. The final standards for the waiver audit procedures are far more flexible than those DOE proposed. They omit most parts of the proposal which drew heavy criticism in the public comments. DOE has substituted revised regulatory provisions which, as described below, should prove acceptable to most States or are required by law. Section 440.21(h)(1) will require that a State

audit must treat the house as a system by examining the heating and cooling system for efficiency, the air exchange system, the occupants' living habits and needs, and make appropriate changes to the priority of the measures installed on the dwelling unit. Section 411(b) of the Act, as amended, 42 U.S.C. 6861(b), states that the purpose of the weatherization program is to increase the energy efficiency of dwellings occupied by low-income persons, reduce their energy expenditures, and improve their health and safety. Therefore, the audit must include provisions that allow an examination of the rate of energy use (i.e., energy efficiency concerns) as well as energy savings concerns. In the case of an electric space heater, the existing one may only heat one room. A new, more efficient and safe space heater may allow heating of more rooms efficiently but not save energy. In areas where cooling needs are considered significant, the audit must address both heating and cooling needs. In formulating energy audit procedures, States should take into account that cooling, as distinguished from heating, is sometimes purely for comfort rather than a necessity of life.

DOE has abandoned the proposed requirement, drawn from legislative history, to use blower doors to determine the extent to which weatherization materials to reduce general heat waste are appropriate. The comments pointed out that the use of such tests is inappropriate in some types of buildings. DOE has substituted a generic provision in § 440.21(h) for use of advanced diagnostic and assessment techniques consistent with sound engineering practices. DOE intends to provide information regarding such techniques to the States who can decide whether to include them or others which they can support in a waiver audit application.

DOE proposed a discounted savings to investment ratio to determine cost effectiveness and assign priorities among weatherization materials under a waiver audit. In response to criticism in public comments, DOE has revised the requirements for calculating such ratios and the manner in which they are to be used. Paragraphs 440.21(h)(5) through (h)(7) are the relevant provisions in the final rule. Except for certain general heat waste reduction weatherization materials (discussed below), paragraph (h)(5) requires calculation of a discounted savings to investment ratio with investment costs limited to basically the same costs considered under the base program audit and any other significant costs required by the State. Health and safety costs are excluded because the materials used to abate hazards are not weatherization materials.

As under the base program, States should ensure that estimates of measure costs accurately represent the current costs of installing measures, including all costs of materials, labor, and on-site supervision. In addition, States and local agencies may exceed the minimum requirements for costs that have to be considered by including other home weatherization costs (e.g., tools and transportation). Although today's rule does not require the inclusion of these additional costs, DOE encourages the States to do so wherever feasible. The advantage of doing so is to avoid marginally cost-effective investments and to focus scarce program resources where the need is greatest.

Each weatherization material would have to be cost-effective, i.e., the ratio would have to be greater than or equal to one. Although some commenters argued against such a requirement, DOE does not think that Congress intended to authorize waiver of the 40 percent materials provision of the Act to facilitate use of program funds for cost *ineffective* weatherization materials.

Paragraph (h)(6) of § 440.21 requires establishment of priorities among weatherization materials in descending order of their cost effectiveness ratios. That paragraph requires adjustment in light of interaction between architectural and mechanical weatherization materials and elimination of those materials which, as a result of the adjustment, have an adjusted ratio below one.

Consistent with the statutory requirement to measure the "rate of return" on the "total conservation investment," paragraph (h)(7) of § 440.21 provides, with the possible exception of general heat waste reduction weatherization materials, for calculation of an overall discounted savings to investment ratio comparing the cumulative net fuel cost savings of all weatherization materials to be installed to the cumulative investment costs considered under paragraph (h)(5) and (h)(6) and incidental repair costs. Incidental repairs, by definition in § 440.3, involve repairs necessary for the effective performance or preservation of weatherization materials. They, therefore, are properly categorized as a part of the "total conservation investment" as that term is used in the Act.

DOE has not accepted comments arguing against the desirability of discounting future energy cost savings to present value. Discounting adds needed accuracy in estimating the net fuel cost savings of high-cost weatherization materials with long useful lives which were practically precluded by average unit cost limitations in the early years of WAP. Moreover, as explained in the notice of proposed rulemaking, discounting is necessary to make the SIR equivalent enough to an actual rate of return. DOE also rejects the idea of adjusting the discount rate for externalities because such an adjustment would be an arbitrary distortion which could result in significant misallocation of scarce resources. However, in response to comments, DOE has provided for a real discount rate adjusted by DOE region for energy cost escalation predicted by the DOE Energy Information Administration. Each year DOE will provide to the States tables with factors reflecting both the discount rate and the regional energy cost escalation rates.

States may leave the discount rate adjusted for energy cost escalation unchanged for up to 5 years, although DOE will issue a new discount rate each year. Consequently, States will not have to change the audit calculations, priority lists, and other related program procedures on a yearly basis. DOE believes it would be unnecessarily disruptive to implement such a requirement, although it does not preclude a State from doing so.

With regard to the requirement, drawn from the Act, to "account for interaction among energy efficiency measures," DOE believes that the only significant interaction of measures is that which occurs when mechanical measures (other than furnace tune-ups) are used in conjunction with building envelope measures. Where this occurs, an iterative calculation procedure must be used to reassess potential energy savings whenever the two types of weatherization materials are installed in the same dwelling. The audit must use the savings due to the first weatherization materials chosen to adjust the priority of all other potential measures. The audit must repeat this process each time the material selection changes from mechanical to architectural or the reverse. Audits that are computerized can be easily revised to make these calculations. Non-computerized audits can be revised to account for such interactions also, but the number of hand calculations that may have to be made may be cumbersome unless the audit limits the number and type of measures to be considered.

In response to criticism of the proposed requirement for site-specific audits for all dwelling units, DOE has

added § 440.21(j) to describe the procedures for States using priority lists under the 60/40 waiver. The priority lists must be generated using an audit which meets the requirements in § 440.21(h) for a representative sample of typical dwellings for each major housing type covered by the State's weatherization program. Each dwelling unit must be examined to determine whether the unit requires an on-site energy audit because of any non-typical situations which could lead to higher- or lower-than-expected energy use. All priority lists developed by the States to receive a 60/40 waiver must be revalidated at least once every 5 years, using the discount rate issued by DOE at that time. The State must conduct an on-site energy audit which meets the requirements of § 440.21(h) on each dwelling where measures that are not on the priority list are found to be needed. For example, the State may have a priority list which predetermines the order of installing measures, but the energy auditor may encounter situations during the initial on-site inspection which would require an adjustment to that priority list which would further insure the cost-effectiveness of the program.

DOE has also added § 440.21(k) providing for development of a list of general heat waste materials that can be installed on any dwelling unit and identification of circumstances under which materials may be presumed cost-effective without further need for audit justification when the list of measures is approved by DOE as reasonable. This provision is mandatory only for States operating under the 60/40 waiver audit because Project Retro-Tech already includes general heat waste as its number one priority. In some States, certain measures have been installed under the general heat waste category that were not cost-effective.

DOE will review audit procedures submitted for approval on an individual basis so that it can maintain consistency in the review and approval process and so that it can offer assistance as needed to help grantees meet waiver requirements. DOE intends to distribute periodically a list of all audits which have been approved. DOE encourages States that want DOE to consider a waiver to review their audits for potential compliance with the applicable provisions of § 440.21 and, as soon as possible, to submit those that appear to qualify or are close to meeting the criteria so the review process can begin. DOE anticipates that it will use "special conditions" as a part of the waiver approval process, as it does currently with alternative audit requests, so that grantees may begin implementing their audit procedures as quickly as possible. If minor changes are needed to make the audit fully acceptable, they can be made later by the State in accordance with appropriate special conditions.

The Amending Act also requires DOE to provide information and training to States and local agencies applying for a waiver. DOE is prepared to provide training as necessary to implement new audit requirements. A State should be aware that it may use more than one audit and that it may have some subgrantees operating their programs without the waiver even though the State has been granted the waiver for overall State expenditures. In a case where a subgrantee does not use the audit on which the waiver was based, that subgrantee continues to be subject to the 40 percent materials requirement, and the State must collect data that will allow DOE to monitor that subgrantee's compliance.

States that do not choose to seek a waiver from the 40 percent minimum will be able to continue to use simplified procedures, based on Project Retro-Tech or other similar energy audit techniques subject to approval by DOE, for determining the cost-effectiveness of measures applicable to typical homes within the State.

§ 440.22 Eligible Dwelling Units

DOE proposed to amend § 440.22(a)(2) to include the phrase "at any time" when referring to the period of time during the 12-month period preceding the determination of eligibility. This proposed clarification permits States to qualify potential applicants who received cash assistance payments during the 12-month period preceding the determination of eligibility but may not have received these cash assistance payments for the full 12-month period. Twenty-eight comments were supportive of this change, and DOE has retained it.

DOE proposed to add § 440.22(b)(3) which would require States to establish procedures to address the weatherization of rental units. As required by the Amending Act, these procedures must ensure that: (1) The benefits of weatherization will accrue primarily to the tenants even if the tenants pay for their energy use through their rent; (2) for a reasonable period of time, occupants of these dwellings will not be subject to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed; and (3) tenants may file complaints, and owners, in response to such complaints, may demonstrate that rent increases are justified. In addition, in order to secure the Federal investment and address eviction and sale of property receiving assistance under this program, pursuant to § 413 of the Act as amended (42 U.S.C. 6863(b)(2)(C)), States may seek landlord agreements to place liens or other contractual restrictions. In establishing these procedures, the State should adopt a comprehensive approach to weatherizing rentals. A key component of this approach is to develop procedures that strengthen the landlord-tenant agreements that the subgrantees will use. These agreements should contain language which is explicit in detailing the above provisions.

Nine commenters were opposed to the placement of liens or other contractual restrictions on landlord properties. These restrictions would be used to secure the Federal investment in the weatherized property. DOE points out that the proposed rule merely suggested these types of restrictions. A State may decide to use other methods which may be as effective as liens. DOE may provide further guidance in this area after reviewing the initial rental plans submitted by the States. Also, DOE notes that some areas of the country have excellent written landlord/tenant agreements which outline alternative dispute resolution procedures and may address all of the provisions in this section. DOE will make available to all States examples of these agreements for possible replication where needed.

Section 413(b)(6) of the Act as amended, (42 U.S.C. 6863 (b)(6), allows States to require financial participation from owners of multifamily buildings as a condition of having weatherization assistance provided with DOE funds. In implementing the provisions of § 440.22(d), States should remain aware that, while they may want to assign service-priorities among multifamily buildings based on financial participation, they should be careful not to bar low-income tenants living in buildings from receiving assistance where the owner is not able to afford to make financial contributions for energy conservation improvements. Fifteen commenters suggested requiring landlord participation only if the landlord pays the heating bills. This idea has some merit, but the Amending Act does not make such a distinction and therefore, neither does DOE. States may, however, elect to implement their programs in this manner.

Seventeen commenters encouraged DOE to require the same financial participation of single-family rentals including mobile homes. The statute did not address single-family units, and

DOE feels that placing a requirement on this group of dwelling units may have an adverse effect on their participation in the program, as most of these units are owned by single-unit landlords with little means, in many cases, to provide additional financial assistance. DOE continues to support State and local agencies' efforts to encourage landlord participation in the weatherization of single-family units or mobile home units but will not require it. Forty-six commenters were supportive of the provision on landlord participation. DOE has retained this provision in the final rule.

DOE also proposed to include clarifying language in § 440.22(d) which provides that such financial contributions as may be made by the landlord are not "program income" as that term is used in the DOE Financial Assistance Regulations. 10 CFR 600.113. Such a contribution is not "program income" because it is not income derived from activities supported by a grant or subgrant. DOE expects that such financial contributions made by the landlord will be expended only in accordance with the agreement between the landlord and the weatherization agency. This is important because in most instances, landlords make contributions that are intended for use on their property for specific types of energy conservation improvements or other supporting activities. Comments were generally supportive of this proposed clarification, therefore, DOE has retained it.

There were 104 commenters who opposed proposed paragraph (e) of § 440.22. In that paragraph, DOE provided statutorily required "guidance" suggesting that States "should consider" using alternative dispute resolution procedures such as arbitration to settle tenant complaints against rent increases and evictions allegedly related to landlord efforts to appropriate for themselves the benefits of weatherization. The commenters stated that subgrantees are not qualified and/or lack the resources to undertake such an activity nor should they become collection agencies in enforcing compliance. Further, 16 commenters suggested that DOE provide further guidance on alternative dispute resolutions. The examples offered in the proposed rule by DOE did not place requirements on the States if there are alternative methods to meeting the provisions. States are free to establish other procedural protection for tenants. As stated earlier, DOE believes that the primary responsibility and expertise in all areas of rental issues rest with State and local agencies. Some States, as pointed out by 33 commenters, have already set up, through legal services or other social programs, procedures to draft landlord/tenant agreements to handle disputes. Thirty-three commenters also stated that landlords and tenants need training on how to reach such agreements. At the present time, DOE does not plan to set up training sessions but may decide to do so later.

DOE also proposed to add § 440.22(f) permitting States to weatherize shelters. The definition of a "dwelling unit" and "separate living quarters" in the current regulations does not include the term "shelter." DOE policy has always interpreted these definitions to include a reference to the term "shelter." However, because it is not in the program regulations, States and local agencies have been unclear whether shelters can or cannot be weatherized. By modifying the definition of "separate living quarters" and including a separate definition for "shelter," DOE wishes to make it clear that a State may weatherize a shelter which meets the definition stated in § 440.3.

For the purpose of determining how many dwelling units exist in a shelter, DOE proposed to set a minimum size for each dwelling unit within the shelter of 800 square feet of space that may be counted as a dwelling unit, or each floor of the shelter may be counted as a dwelling unit. That proposal was based on recent evaluation studies. Twenty comments suggested that DOE lower to 500 square feet the size of the space used to determine a dwelling unit. Another three commenters suggested that the size should be 600 square feet. However, these comments only offered conclusory opinions and lacked any supporting data. Therefore, DOE did not find them persuasive and has retained 800 square feet as the minimum for determining dwelling unit size, or a State may count each floor as a dwelling unit. DOE further believes that using 800 square feet for each unit is a generous interpretation and that dividing 800 square feet into the overall square footage of the building and then multiplying that number by $1,600 per unit provides ample funds to perform weatherization of these structures, regardless of their size. Therefore, DOE has retained the proposed changes in the final rule.

§ 440.24 Recordkeeping

The Amending Act requires DOE as a part of its annual report on weatherization to include more information and data than previously required. Therefore, DOE has amended § 440.24 to require States to collect data on the average costs incurred in weatherization of individual dwelling units, the average size of the dwellings being weatherized, and the average income of households receiving assistance. Many commenters suggested that this requirement would increase the workload and reporting of the local agencies. DOE acknowledges that compiling and maintaining the additional data is a burden. However, that burden is legislatively mandated and DOE has no discretion to dispense with it. DOE would point out to States that this information may remain at the subgrantee level where it is collected. DOE will not impose additional quarterly reporting requirements on States; rather DOE will use supplemental surveys as needed to obtain data from the States subgrantees to respond to the Congress. Therefore, DOE has retained the proposed changes in the final rule.

§ 440.26 Incentive Fund

DOE has reserved § 440.26 to describe the Incentive Fund, authorized by § 415(d) of the Act as amended (42 U.S.C. 6865(d)), and the manner in which it will operate. DOE received 179 comments on the Incentive Fund as a part of the written comments on the proposed rule. Those comments specific to the Incentive Fund will be addressed in the Incentive Fund rulemaking.

§ 440.26, 440.27, 440.28, 440.29 Performance Fund

Section 415(d) of the Act was repealed by the Amending Act, thereby eliminating the Performance Fund requirement for the weatherization program. Therefore, § 440.26, 440.27, 440.28, and 440.29, as they refer to the Performance Fund, are eliminated from 10 CFR part 440.

§ 440.30 Administrative Review

DOE proposed to add the words "or § 440.13" after the words "§ 440.12" in paragraphs (a) and (d) of this section. This change will clarify the procedures for any appeals of decisions made under § 440.13. No adverse comments were received pertaining to the proposed change; therefore, DOE has retained the language in the final regulation.

Appendix A—Standards for Weatherization Materials

Based on criteria provided by the National Institute of Standards and Technology and other sources, DOE proposed to amend appendix A to include an update of the standards for weatherization materials approved for use by DOE at the time of publication of the proposed rule and new standards

for the additional cooling measures proposed as a result of the amendments to the Act. The current standards were amended by DOE and made available to the States in September 1988. Since that time, standards have changed for many materials. States should be aware that the standards published in today's rule may be superseded in the future by the many entities which develop and set standards. DOE will make every effort to keep States informed as these changes take place.

DOE received 16 comments that suggested appendix A did not include all measures already approved for use in the program. The commenters noted that appendix A does not include door locks, hinges, screws, gaskets, and many other common miscellaneous hardware items. These types of items are not measures. They are necessary for the installation of weatherization materials on the home and represent an almost endless list. Therefore, they may be purchased as commercially available. In cases where the weatherization material standard requires certain type(s) of hardware items for installation, States and local agencies are expected to follow the criteria for those items which are a part of the standard for the material.

States are reminded that certain measures approved by DOE for pilot projects in specific areas of the country are approved only for evaluation purposes for their possible inclusion for general use in the program. Until the evaluation of the performance of those products is completed and recommendations made for their inclusion, those products are not permitted for general use. DOE received 171 comments which recommended including fluorescent lamps and other lighting measures, 34 for space heaters, 57 for water heaters, and 34 for energy-efficient appliances. These four measures are not allowed under the program but are under review by DOE.

Pursuant to § 440.21(a), States may submit requests at any time for DOE to consider adding new materials or technologies to the program. Five commenters stated that the approval process for smaller measures, as opposed to major ones, needs to be more flexible and that some of the red tape needs to be eliminated. Other commenters said there should be a time limitation on how long DOE takes to approve or disapprove proposed measures. Based on these comments, DOE will review its process for evaluating new measures and technologies and consider streamlining the criteria and timeliness of responses. It should be noted that where DOE believes a new measure or technology may pose a health or safety risk, the Department will take the extra time and effort to ensure a particular product performs adequately and safely.

Other Comments

DOE received 83 comments arguing for changes in the allocation formula. However, DOE stated in the preamble to the proposed rule that it had decided not to propose any changes to the allocation formula in § 440.10 because Congress considered the arguments for and against such changes and ultimately did not make any of those changes part of the Amending Act. The 83 commenters are, therefore, out of scope.

As usual, DOE has not specifically responded to irrelevant and out of scope comments.

III. Review Under Executive Order 12291

Today's regulatory amendments were reviewed under Executive Order 12291. DOE has concluded that the rule is not a "major rule" because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the U.S.-based enterprises to compete in domestic export markets. In accordance with the requirements of the Executive Order, this rule has been reviewed by the Office of Management and Budget.

IV. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency subject to Executive Order 12291 to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in Sections 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulation to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: Specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's regulation meets the requirements of §§ 2(a) and (b) of Executive Order 12778.

V. Review Under Executive Order 12612

Executive Order 12612 requires that regulations be reviewed for any substantial direct effects on States, on the relationship between the national Government and the States, or on the distribution of power among various levels of Government. If there are sufficient substantial direct effects, the Executive Order requires preparation of a federalism assessment to be used in decisions by senior policymakers in promulgating or implementing the regulation.

Today's regulatory amendments will not have a substantial direct effect on the traditional rights and prerogatives of States in relationship to the Federal Government. Preparation of a federalism assessment is therefore unnecessary.

VI. Review Under the Regulatory Flexibility Act

The proposed regulations were reviewed under the Regulatory Flexibility Act, Public Law 96–354, which requires preparation of a regulatory flexibility analysis for any proposed regulation that will have a significant economic impact on a substantial number of small entities, i.e., small businesses and small government jurisdictions. DOE concluded that the proposed rule will affect most of the States and local agencies operating weatherization programs. The impact of the amendments in this rule will be to provide even greater flexibility to State and local agencies to develop and operate their respective programs. Therefore, DOE certified that there will not be a significant economic impact on a substantial number of small entities and that preparation of a regulatory flexibility analysis is not warranted. None of the comments received by DOE argued against that certification.

VII. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed on the public by today's rules. Accordingly, no OMB clearance is required under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, or implementing regulations at 5 CFR part 1320.

VIII. Review Under National Environmental Policy Act

In accordance with the National Environmental Policy Act (42 U.S.C. 4312 *et seq.*), Council of Environmental

Quality guidelines (40 CFR Parts 1500–1508), and DOE environmental guidelines (10 CFR Part 1021), DOE reviewed the environmental impacts of the program amendments issued today. DOE has concluded that promulgation of these amendments would not represent a major Federal action having significant impact on the human environment not previously addressed in the Environmental Assessment (EA) (DOE/EA–0085) that DOE conducted in 1979. See also 44 FR 21323 (April 10, 1979). Therefore, no additional EA is needed nor is an environmental impact statement required.

IX. Other Federal Agencies

DOE provided draft copies of the rule to the Department of Health and Human Services Low-Income Home Energy Assistance Program and the Department of Agriculture Farmers Home Administration. No comments have been received. DOE also provided a draft copy to the Administrator of the Environmental Protection Agency, pursuant to § 7 of the Federal Energy Administration Act, as amended, 15 U.S.C. 766. The Administrator has made no comment.

X. The Catalog of Federal Domestic Assistance

The *Catalog of Federal Domestic Assistance* number for the Weatherization Assistance Program for Low-Income Persons is 81.042.

List of Subjects in 10 CFR Part 440

Administrative practice and procedure, aged, energy conservation, grant programs-energy, grant programs-housing and community development, handicapped, housing standards, incorporation by reference Indians, reporting and recordkeeping requirements, and weatherization. incorporation by reference.

In consideration of the foregoing, DOE hereby amends chapter II of title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, DC on February 5, 1993.

Robert L. San Martin,

Acting Assistant Secretary, Conservation and Renewable Energy.

10 CFR part 440 is amended as follows:

PART 440—WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS

1. The authority citation for part 440 is revised to read as follows:

Authority: 42 U.S.C. 6861 *et seq.*, as amended; 42 U.S.C. 7101 *et seq.*

2. Section 440.1 is revised to read as follows:

§ 440.1 Purpose and scope.

This part contains the regulations adopted by the Department of Energy to carry out a program of weatherization assistance for low-income persons established by the Energy Conservation in Existing Buildings Act of 1976, 42 U.S.C. 6861 *et seq.*, enacted as Title IV, Part A, of the Energy Conservation and Production Act, Pub.L. 94–385, 90 Stat. 1150 *et seq.*, and amended by Title II, Part 2, of the National Energy Conservation Policy Act, Pub.L. 95–619, 92 Stat. 3206 *et seq.*, by the Energy Security Act, Pub. L. 96–294, 94 Stat. 611 *et seq.*, and the State Energy Efficiency Programs Improvement Act, Pub. L. 101–440, 104 Stat. 1006 *et seq.* It is the purpose of this part to implement a weatherization assistance program to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential energy expenditures, and improve their health and safety, especially low-income persons who are particularly vulnerable such as the elderly, the handicapped, and children.

3. In § 440.3, the definition for "Operations Office Manager" is removed; the definitions for "Separate Living Quarters" and "Weatherization Materials" are revised; and the following definitions are added in alphabetical order:

§ 440.3 Definitions.

* * * * *

Capital-Intensive furnace or cooling efficiency modifications means those major heating and cooling modifications which require a substantial amount of funds, including replacement and major repairs, but excluding such items as tune-ups, minor repairs, and filters.

Children means dependents not exceeding 19 years or a lesser age set forth in the State plan.

* * * * *

Separate Living Quarters means living quarters in which the occupants do not live and eat with any other persons in the structure and which have either direct access from the outside of the building or through a common hall or complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements, and includes shelters for homeless persons.

Shelter means a dwelling unit or units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another and who are not living in nursing homes, prisons, or similar institutional care facilities.

* * * * *

Support Office Director means the Director of the DOE Field Support Office with the responsibility for grant administration or any official to whom that function may be redelegated by the Assistant Secretary.

* * * * *

Weatherization Materials mean:

(1) Caulking and weatherstripping of doors and windows;

(2) Furnace efficiency modifications including, but not limited to—

(i) Replacement burners, furnaces, or boilers or any combination thereof;

(ii) Devices for minimizing energy loss through heating system, chimney, or venting devices; and

(iii) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(3) Cooling efficiency modifications including, but not limited to—

(i) Replacement air conditioners;

(ii) Ventilation equipment;

(iii) Screening and window films; and

(iv) Shading devices.

* * * * *

5. In § 440.13, paragraphs (a)(2) and (c) are revised and paragraphs (d) (e), and (f) are added as follows:

§ 440.13 Local applications.

(a) * * *

(2) The Support Office Director finally disapproves the application of a State, and, under § 440.30, either no appeal is filed or the Support Office Director's decision is affirmed.

* * * * *

(c) In the event one or more local applicants submits an application for financial assistance to carry out projects in the same geographical area, the Support Office Director shall hold a public hearing with the same procedures that apply under section § 440.14(a).

(d) Based on the information provided by a local applicant and developed in any hearing held under paragraph (c) of this section, the Support Office Director shall determine in writing whether to award a grant to carry out one or more weatherization projects.

(e) If there is an adverse decision in whole or in part under paragraph (d) of this section, that decision is subject to administrative review under § 440.30 of this part.

(f) If, after a State application has been finally disapproved by DOE and the Support Office Director approves local

applications under this section, the Support Office Director may reject a new State application in whole or in part as disruptive and untimely without prejudice to submission of an application for the next program year.

6. Section 440.14 is amended by revising paragraph (b) to read as follows:

§ 440.14 State plans.

* * * * *

(b) Subsequent to the hearing, the State shall prepare a final State plan which shall identify and describe:

(1) The production schedule for the State, which shall indicate projected expenditures and the number of dwelling units which are expected to be weatherized each quarter during the program year;

(2) An estimate of the number of dwelling units expected to be weatherized during the program year by category to include:

(i) Single-family and multi-family residences;

(ii) Elderly persons' residences;

(iii) Handicapped persons' residences;

(iv) Renters' residences;

(v) If Native Americans do not receive direct grants under § 440.11, Native American residences; and

(vi) Children's residences, if the State selects this category as a priority with paragraphs (b)(2)(ii) and (b)(2)(iii) of this section.

(3) The climatic conditions within the State;

(4) The type of weatherization work to be done;

(5) An estimate of the amount of energy to be conserved;

(6) An estimate of the number of eligible dwelling units in which the elderly reside;

(7) An estimate of the number of eligible dwelling units in which the handicapped reside;

(8) Each area to be served by a weatherization project within the State, and shall include for each area:

(i) The tentative allocation;

(ii) The number of dwelling units expected to be weatherized during the program year, and the number of previously weatherized units expected to be weatherized;

(iii) The estimated number of rental dwelling units to be weatherized; and

(iv) Sources of labor.

(9) The manner in which the State plan is to be implemented, and shall include:

(i) An analysis of the existence and effectiveness of any weatherization project being carried out by a subgrantee;

(ii) An explanation of the method used to select each area to be served by a weatherization project;

(iii) The extent to which priority will be given to the weatherization of single-family or other high energy consuming dwelling units;

(iv) The amount of non-Federal resources to be applied to the program;

(v) The amount of Federal resources, other than DOE weatherization grant funds, to be applied to the program;

(vi) The amount of weatherization grant funds tentatively allocated to the State under this part;

(vii) The expected average cost per dwelling to be weatherized, taking into account the total number of dwellings to be weatherized and the total amount of funds, Federal and non-Federal, expected to be applied to the program;

(viii) The average amount of the DOE funds specified in § 440.18(c) (1) through (11) to be applied to any dwelling unit;

(ix) The average amount of DOE funds to be applied to any dwelling unit for weatherization materials as specified in § 440.18(c)(1);

(x) The procedures used by the State for providing additional administrative funds to qualified subgrantees as specified in § 440.18(d).

(xi) Procedures for determining the most cost-effective measures in a dwelling unit or a statement that Project Retro-Tech or another DOE-approved audit will be used;

(xii) The definition of "low income" which the State has chosen for use statewide for determining eligibility under § 440.22(a).

(xiii) The definition of "children" which the State has chosen consistent with § 440.3.

(xiv) The amount of Federal funds to be used, and an explanation of how they will be used, to increase the amount of weatherization assistance that the State obtains from non-Federal sources, including private sources, and the expected leveraging effect to be accomplished.

7. Section 440.15 is amended by adding paragraph (e) to read as follows:

§ 440.15 Subgrantees.

* * * * *

(e) A State may terminate financial assistance under a subgrant agreement for a grant period only in accordance with established State procedures that provide to the subgrantee appropriate notice of the State's reasons for termination and afford the subgrantee an adequate opportunity to be heard.

8. Section 440.16 is amended by revising paragraphs (b), (d), (f) and (g) sand by adding paragraphs (h) and (i) to read as follows:

§ 440.16 Minimum program requirements.

* * * * *

(b) Priority is given to identifying and providing weatherization assistance to elderly and handicapped low-income persons and such priority as the applicant determines is appropriate is given to dwelling units containing children and to single-family or other high-energy-consuming dwelling units;

* * * * *

(d) To the maximum extent practicable, the grantee will secure the services of volunteers when such personnel are generally available, training participants and public service employment workers, pursuant to JTPA, to work under the supervision of qualified supervisors and foremen;

* * * * *

(f) The low-income members of an Indian tribe shall receive benefits equivalent to the assistance provided to other low-income persons within a State unless the grantee has made the recommendation provided in § 440.12(b)(5);

(g) No dwelling unit may be reported to DOE as completed until all weatherization materials have been installed and the subgrantee, or its authorized representative, has performed a final inspection(s) including any mechanical work performed and certified that the work has been completed in a workmanlike manner and in accordance with the priority determined by the audit procedures required by § 440.21; and

(h) Subgrantees limit expenditure of funds under this part for installation of materials (other than weatherization materials) to abate energy-related health and safety hazards, to a list of types of such hazards, permissible abatement materials and their costs which is submitted, and updated as necessary at the same time as an annual application under § 440.12 of this part and which DOE shall approve if—

(1) Elimination of such hazards are necessary before, or as a result of, installation of weatherization materials; and

(2) The grantee sets forth a limitation on the percent of average dwelling unit costs which may be used to abate such hazards which is reasonable in light of the primary energy conservation purpose of this part;

(i) The benefits of weatherization to occupants of rental units are protected in accordance with § 440.22(b)(3) of this part.

9. Section 440.18 is revised to read as follows:

§ 440.18 Allowable expenditures.

(a) An average of at least 40 percent of the funds provided in a State under

this part for weatherization materials, labor, and related matters included in paragraphs (c)(1) through (9) of this section shall be spent for weatherization materials, except if DOE approves a State's application to waive the 40 percent requirement under § 440.21(h).

(b) The expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters included in paragraphs (c)(1) through (9) and (c)(15) of this section shall not exceed an average of $1,600 per dwelling unit weatherized in the State, except as adjusted as follows:

(1) The $1,600 average will be adjusted annually by DOE beginning in calendar year 1991 by increasing the limitation by an amount equal to:

(i) The limitation amount for the previous year, multiplied by

(ii) The lesser of:

(A) The percentage increase in the Consumer Price Index (all items, United States city average) for the most recent calendar year completed before the beginning of the year for which the determination is being made, or

(B) Three percent.

(2) In addition to the average per-dwelling-unit limitation applicable in a State under this section, DOE shall, upon application by a State, establish a separate average per-dwelling-unit limitation for dwelling units in such States which conform to program requirements and, in addition to any other weatherization modifications, have capital-intensive furnace or cooling efficiency modifications as defined in § 440.3 made under this part. The average per-dwelling-unit limitation applicable in a State which meets these requirements shall not exceed an amount equal to:

(i) The amount permitted for the expenditure of financial assistance for labor, weatherization materials, and related matters for dwelling units in such State in paragraphs (c) (1) through (9) and (c)(15) of this section plus

(ii) An amount determined by the State to be the average amount that is appropriate for capital-intensive furnace or cooling efficiency modifications of dwelling units of the type assisted under this part in such State and approved by DOE.

(c) Allowable expenditures under this part include only:

(1) The cost of purchase and delivery of weatherization materials;

(2) Labor costs, in accordance with § 440.19;

(3) Transportation of weatherization materials, tools, equipment, and work crews to a storage site and to the site of weatherization work;

(4) Maintenance, operation, and insurance of vehicles used to transport weatherization materials;

(5) Maintenance of tools and equipment;

(6) Purchase or annual lease of tools, equipment, and vehicles, except that any purchase of vehicles shall be referred to DOE for prior approval in every instance;

(7) Employment of on-site supervisory personnel;

(8) Storage of weatherization materials, tools, and equipment;

(9) The cost of incidental repairs if such repairs are necessary to make the installation of weatherization materials effective;

(10) The cost of liability insurance for weatherization projects for personal injury and for property damage;

(11) The cost of carrying out low-cost/no-cost weatherization activities in accordance with § 440.20;

(12) The cost of weatherization program financial audits as required by § 440.23(d);

(13) Allowable administrative expenses under paragraph (d) of this section; and

(14) Funds used for leveraging activities in accordance with § 440.14(b)(9)(xiv); and

(15) The cost of eliminating health and safety hazards elimination of which is necessary before, or because of, installation of weatherization materials.

(d) Not more than 10 percent of any grant made to a State may be used by the grantee and subgrantees for administrative purposes in carrying out duties under this part, except that not more than 5 percent may be used by the State for such purposes, and not less than 5 percent must be made available to subgrantees by States. A State may provide in its annual plan for recipients of grants of less than $350,000 to use up to an additional 5 percent of such grants for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by DOE pursuant to this part.

(e) No grant funds awarded under this part shall be used for any of the following purposes:

(1) To weatherize a dwelling unit which is designated for acquisition or clearance by a Federal, State, or local program within 12 months from the date weatherization of the dwelling unit would be scheduled to be completed; or

(2) To install or otherwise provide weatherization materials for a dwelling unit weatherized previously with grant funds under this part, except:

(i) As provided under § 440.20;

(ii) If such dwelling unit has been damaged by fire, flood, or act of God and repair of the damage to weatherization materials is not paid for by insurance; or

(iii) That dwelling units partially weatherized under this part or under other Federal programs during the period September 30, 1975, through September 30, 1985, may receive further financial assistance for weatherization under this part. While DOE will continue to require these homes to be reported separately, States may count these homes as completions for the purposes of compliance with the per-home expenditure limit in § 440.18. Each dwelling unit must receive a new energy audit which takes into account any previous energy conservation improvements to the dwelling.

§ 440.19 [Amended].

10. Paragraph 440.19(a)(2) is amended by removing the phrase "to install weatherization materials" before the word "provided."

11. Section 440.21 is revised as follows:

§ 440.21 Standards and techniques for weatherization.

(a) Paragraphs (b) through (g) of this section set forth the energy audit procedures which apply to the grantees and subgrantees who are subject to the 40 percent material cost requirement in § 440.18(a) of this part. Paragraphs (b), (d), (e), and (h) through (k) of this section set forth the requirements for the energy audit procedures which, if satisfied in the State plan, warrant approval of a State's application to waive the 40 percent material cost requirement in § 440.18(a) of this part.

(b) Only weatherization materials which are listed in appendix A and which meet or exceed standards prescribed in appendix A to this part shall be purchased with funds provided under this part, except that DOE may approve an unlisted material upon application from any State.

(c) The most cost-effective weatherization materials for each dwelling unit shall be determined by audit procedures using the following formula:

(1) The cost of fuel saved per year by installing a weatherization material in a dwelling unit;

(2) Multiplied by the appropriate lifetime of the weatherization material; and

(3) Divided by the cost of the weatherization material and the cost of the installation of the weatherization material.

(d) The computation of the cost of fuel saved per year must take into account

the number of heating or cooling degree days in the area of which the computation is being made and must otherwise use reasonable methods and assumptions.

(e) The figures used for the lifetime of the materials and for the costs of materials and cost of the installation of the materials must be generally accepted in the relevant trade.

(f) The weatherization materials which shall be installed first are those which are determined to be the most cost effective using the formula in paragraph (c) of this section.

(g) The audit procedures used in Project Retro-Tech to determine the most cost-effective weatherization materials comply with this section. The grantee or subgrantee may use other audit procedures to determine the most cost-effective weatherization materials, provided that these procedures comply with this section and are approved by the Support Office Director prior to their use. A grantee or subgrantee may use results obtained from audits conducted under the Residential Conservation Service Program as part of the audit procedures which have been approved by the Support Office Director.

(h) The energy audit procedures must—

(1) Consider the rate of energy use;

(2) Address significant heating and cooling needs;

(3) Make provision for use of advanced diagnostic and assessment techniques which DOE has determined are consistent with sound engineering practices;

(4) Determine energy use from actual energy bills or by generally accepted engineering calculations;

(5) Consistent with paragraphs (d) and (e) of this section, determine that each weatherization material is cost effective by ensuring that the net fuel cost savings over the lifetime of such weatherization material, discounted to present value in accordance with paragraph (i) of this section, to the costs to be claimed as allowable under § 440.18(c)(1), (2), and (7), and any other significant, related cost required to be included by a State, is greater than or equal to one;

(6) Assign priorities among weatherization materials in descending order of their cost effectiveness ratios calculated under paragraph (h)(5) of this section;

(i) After adjusting those ratios for interaction between architectural and mechanical weatherization materials by decreasing the estimated fuel cost savings for a lower priority weatherization material in light of fuel cost savings for a related higher priority weatherization material; and

(ii) Eliminating any weatherization material if its cost effectiveness ratio, as adjusted under paragraph (h)(6) of this section, is less than one;

(7) Determine that the total conservation investment has a positive rate of return by ensuring that the ratio of the cumulative net fuel cost savings of all weatherization materials, adjusted for interaction between architectural and mechanical weatherization materials if any, to the cumulative costs included under paragraph (h)(5) of this section and the costs to be claimed as allowable under § 440.18(c)(9), is greater than or equal to one;

(8) Identify health and safety hazards to be abated with DOE funds in compliance with the State's DOE-approved health and safety procedures under § 440.16(h); and

(9) Treat the dwelling unit as a whole system by examining its heating and cooling system, its air exchange system and it occupants' living habits and needs, and making necessary adjustments to the priority of weatherization materials with adequate documentation of the reasons for such an adjustment.

(i) The energy audit must provide for use of the annually adjusted discount rate provided by DOE except that a State may keep that rate constant up to 5 years or may use a reasonable higher real discount rate. Subject to a ceiling of 10 percent and floor of 3 percent and subject to adjustment by DOE region for a rate of fuel cost escalation predicted by the DOE Energy Information Administration, DOE shall calculate annually the adjusted discount rate, for use under paragraph (h) of this section as a 12-month average of the composite yields of all outstanding U.S. Treasury bonds neither due nor callable in less than 10 years, as most recently reported by the Federal Reserve, adjusted to exclude estimated increases in the general level of prices consistent with projections of inflation in the most recent Economic Report of the President's Council of Economic Advisers.

(j) For typical dwelling units without unusual energy consuming characteristics which significantly alter typical energy usage, energy audits may be accomplished by using a priority list developed by conducting, in compliance with paragraph (h) of this section, site-specific energy audits of a representative sample of typical dwelling units for each major dwelling type covered by the State's weatherization program. Priority lists developed in accordance with this paragraph must be revalidated by conducting a representative sample of site-specific energy audits every 5 years.

(k) Subject to DOE approval, a State may use as a part of an energy audit, a list of presumptively cost effective general heat waste reduction weatherization materials and the circumstance under which such materials may be presumed cost effective without need for further audit justification if those materials are shown to be cost effective in typical dwelling units for major dwelling unit types in the State based on documentation of a representative number of site-specific energy audits.

12. Section 440.22 is revised to read as follows:

§ 440.22 Eligible dwelling units.

(a) A dwelling unit shall be eligible for weatherization assistance under this part if it is occupied by a family unit:

(1) Whose income is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget;

(2) Which contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable State or local law at any time during the 12-month period preceding the determination of eligibility for weatherization assistance; or

(3) If the State elects, is eligible for assistance under the Low-Income Home Energy Assistance Act of 1981, provided that such basis is at least 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

(b) A subgrantee may weatherize a building containing rental dwelling units using financial assistance for dwelling units eligible for weatherization assistance under paragraph (a) of this section, where:

(1) The subgrantee has obtained the written permission of the owner or his agent;

(2) Not less than 66 percent (50 percent for duplexes and four-unit buildings) of the dwelling units in the building:

(i) Are eligible dwelling units, or

(ii) Will become eligible dwelling units within 180 days under a Federal, State, or local government program for rehabilitating the building or making similar improvements to the building; and

(3) The grantee has established procedures for dwellings which consist of a rental unit or rental units to ensure that:

(i) The benefits of weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

(ii) For a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed;

(iii) The enforcement of paragraph (b)(3)(ii) of this section is provided through procedures established by the State by which tenants may file complaints, and owners, in response to such complaints, shall demonstrate that the rent increase concerned is related to matters other than the weatherization work performed; and

(iv) No undue or excessive enhancement shall occur to the value of the dwelling units.

(c) In order to secure the Federal investment made under this part and address the issues of eviction from and sale of property receiving weatherization materials under this part, States may seek landlord agreement to placement of a lien or to other contractual restrictions;

(d) As a condition of having assistance provided under this part with respect to multifamily buildings, a State may require financial participation, when feasible, from the owners of such buildings. Such financial participation shall not be reported as program income, nor will it be treated as if it were appropriated funds. The funds contributed by the landlord shall be expended in accordance with the agreement between the landlord and the weatherization agency.

(e) In devising procedures under paragraph (b)(3)(iii) of this section, States should consider requiring use of alternative dispute resolution procedures including arbitration.

(f) A State may weatherize shelters. For the purpose of determining how many dwelling units exist in a shelter, a grantee may count each 800 square feet of the shelter as a dwelling unit or it may count each floor of the shelter as a dwelling unit.

Section 440.23 [Amended]

13. In § 440.23(d), the words "OMB Circular A–102, Attachment P" are changed to read "10 CFR part 600".

14. Section 440.24 is revised to read as follows:

§ 440.24 Recordkeeping.

Each grantee or subgrantee receiving Federal financial assistance under this part shall keep such records as DOE shall require, including records which fully disclose the amount and disposition by each grantee and subgrantee of the funds received, the total cost of a weatherization project or the total expenditure to implement the State plan for which assistance was given or used, the source and amount of funds for such project or program not supplied by DOE, the average costs incurred in weatherization of individual dwelling units, the average size of the dwelling being weatherized, the average income of households receiving assistance under this part, and such other records as DOE deems necessary for an effective audit and performance evaluation. Such recordkeeping shall be in accordance with the DOE Financial Assistance Rule, 10 CFR part 600, and any further requirements of this part.

Sections 440.26, 440.27, 440.28, 440.29 [Removed and Reserved]

15. Sections 440.26, 440.27, 440.28 and 440.29 are removed and reserved.

Section 440.30 [Amended]

16. In § 440.30, add the words "or § 440.13" after the words "§ 440.12" in paragraphs (a) (both occurrences) and (d).

Sections 440.10, 440.11, 440.12, 440.13, 440.17, 440.20, 440.23, 440.30 [Amended]

17. In § 440.10, 440.11, 440.12, 440.13, 440.17, 440.20, 440.23, 440.30 the words "Operations Office Manager" are changed to read "Support Office Director" in:

Section 440.10(e);
Section 440.11(a) (introductory text), (b) (2 times), (c) (introductory text), (d) (3 times), and (e) (2 times);
Section 440.12 (a) (4 times) and (c) introductory text (2 times);
Section 440.13(a) (introductory text) and (b);
Section 440.17(a) (introductory text);
Section 440.20(b);
Section 440.23 (a) and (c); and
Section 440.30 (b), (d), (f), and (i).

18. Appendix A to Part 440 is revised to read as follows:

Appendix A—Standards for Weatherization Materials

The following Government standards are produced by the Consumer Product Safety Commission and are published in title 16, Code of Federal Regulations:

Thermal Insulating Materials for Building Elements Including Walls, Floors, Ceilings, Attics, and Roofs Insulation—organic fiber—conformance to Interim Safety Standard in 16 CFR part 1209;

Fire Safety Requirements for Thermal Insulating Materials According to Insulation Use—Attic Floor—insulation materials intended for exposed use in attic floors shall be capable of meeting the same flammability requirements given for cellulose insulation in 16 CFR part 1209;

Enclosed spaces—insulation materials intended for use within enclosed stud or joist spaces shall be capable of meeting the smoldering combustion requirements in 16 CFR part 1209.

The following standards which are not otherwise set forth in part 440 are incorporated by reference and made a part of part 440. The following standards have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on April 5, 1993 and a notice of any change in these materials will be published in the **Federal Register**. The standards incorporated by reference are available for inspection at the Office of the Federal Register Information Center, 800 North Capitol Street, suite 700, Washington, DC.

The standards incorporated by reference in part 440 can be obtained from the following sources:

Air Conditioning and Refrigeration Institute, 1501 Wilson Blvd., Arlington, VA 22209; (703) 524–8800.

American Gas Association, 1515 Wilson Blvd., Arlington, VA 22209; (703) 841–8400.

American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018; (212) 642–4900.

American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017; (212) 705–7800.

American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103; (215) 299–5400.

American Architectural Manufacturers Association, 1540 East Dundee Road, Palatine, IL 60067; (708) 202–1350.

Federal Specifications, General Services Administration, Specifications Section, Room 6654, 7th and D Streets, SW, Washington, DC 20407; (202) 708–5082.

Gas Appliance Manufacturers Association, 1901 Moore St., Arlington, VA 22209; (703) 525–9565.

National Electrical Manufacturers Association, 2101 L Street, NW, Suite 300, Washington, DC 20037; (202) 457–8400.

National Fire Protection Association, Batterymarch Park, P.O. Box 9101, Quincy, MA 02269; (617) 770–3000.

National Standards Association, 1200 Quince Orchard Blvd., Gaithersburg, MD 20878; (301) 590–2300. (NSA is a local contact for materials from ASTM).

National Wood Window and Door Association, 1400 East Touhy Avenue, Des Plaines, IL 60018; (708) 299–5200.

Sheet Metal and Air Conditioning Contractors Association, P.O. Box 221230, Chantilly, VA 22022–1230; (703) 803–2980.

Steel Door Institute, 712 Lakewood Center North, 14600 Detroit Avenue, Cleveland, OH 44107; (216) 899–0100.
Steel Window Institute, 1230 Keith Building, Cleveland, OH 44115; (216) 241–7333.
Tubular Exchanger Manufacturers Association, 25 North Broadway, Tarrytown, NY 10591; (914) 332–0040.
Underwriters Laboratories, Inc., P.O. Box 75330, Chicago, IL 60675–5330; (708) 272–8800.

More information regarding the standards in this reference can be obtained from the following sources:

Environmental Protection Agency, 401 M Street, NW, Washington, DC 20006; (202) 554–1080.
National Institute of Standards and Technology, U.S. Department of Commerce, Gaithersburg, MD 20899, (301) 975–2000
Weatherization Assistance Programs Division, Conservation and Renewable Energy, Mail Stop 5G–023, Forrestal Bldg, 1000 Independence Ave, SW, Washington, DC 20585; (202) 586–2207.

Thermal Insulating Materials for Building Elements Including Walls, Floors, Ceilings, Attics, and Roofs

[Standards for conformance]

Insulation—mineral fiber:	
Blanket insulation	ASTM[1] C665–88.
Roof insulation board	ASTM C726–88.
Loose-fill insulation	ASTM C764–88.
Insulation—mineral cellular:	
Vermiculite loose-fill insulation.	ASTM C516–80 (1990).
Perlite loose-fill insulation	ASTM C549–81 (1986).
Cellular glass insulation block.	ASTM C552–88.
Perlite insulation board	ASTM C728–89a.
Insulation—organic fiber:	
Cellulosic fiber insulating board.	ASTM C208–72 (1982).
Cellulose loose-fill insulation	ASTM C739–88.
Insulation-organic cellular:	
Preformed block-type polystyrene insulation.	ASTM C578–87a.
Rigid preformed polyurethane insulation board.	ASTM C591–85.
Polyurethane or polyisocyanurate insulation board faced with aluminum foil on both sides.	FS[2] HH–I–1972/1 (1981).
Polyurethane or polyisocyanurate insulation board faced with felt on both sides.	FS HH–I–1972/2 (1981). And Amendment 1, October 3, 1985.
Insulation—composite boards:	
Mineral fiber and rigid cellular polyurethane composite roof insulation board.	ASTM C726–88.
Perlite board and rigid cellular polyurethane composite roof insulation.	ASTM C984–83.
Gypsum board and polyurethane or polisocyanurate composite board.	FS HH–I–1972/4 (1981).
Materials used as a patch to reduce infiltration through the building envelope.	Commercially available.

[1] ASTM indicates American Society for Testing and Materials.
[2] FS indicates Federal Specifications.

Thermal Insulating Materials for Pipes, Ducts, and Equipment Such as Boilers and Furnaces

[Standards for conformance]

Insulation—mineral fiber:	
Preformed pipe insulation	ASTM[1] C547–77.
Blanket and felt insulation (industrial type).	ASTM C553–70 (1977).
Blanket insulation and blanket type pipe insulation (metal-mesh covered) (industrial type).	ASTM C592–80.
Block and board insulation	ASTM C612–83.
Spray applied fibrous insulation for elevated temperatures.	ASTM C720–89.
High-temperature fiber blanket insulation.	ASTM C892–89.
Duct work insulation	Selected and applied according to ASTM C971–82.
Insulation—mineral cellular:	
Diatomaceous earth block and pipe insulation.	ASTM C517–71 (1979)
Calcium silicate block and pipe insulation.	ASTM C533–85 (1990).
Cellular glass insulation	ASTM C552–88.
Expanded perlite block and pipe insulation.	ASTM C610–85.
Insulation—Organic Cellular:	
Preformed flexible elastomeric cellular insulation in sheet and tubular form.	ASTM C534–88.
Unfaced preformed rigid cellular polyurethane insulation.	ASTM C591–85.
Insulation skirting	Commercially available.

[1] ASTM indicates American Society for Testing and Materials.

Fire Safety Requirements for Insulating Materials According to Insulation Use

[Standards for conformance]

Attic floor	Insulation materials intended for exposed use in attic floors shall be capable of meeting the same smoldering combustion requirements given for cellulose insulation in ASTM[1] C739–88.
Enclosed space.	Insulation materials intended for use within enclosed stud or joist spaces shall be capable of meeting the smoldering combustion requirements in ASTM C739–88.
Exposed interior walls and ceilings.	Insulation materials, including those with combustible facings, which remain exposed and serve as wall or ceiling interior finish, shall have a flame spread classification not to exceed 150 (per ASTM E84–89a).
Exterior envelope walls and roofs.	Exterior envelope walls and roofs containing thermal insulations shall meet applicable local government building code requirements for the complete wall or roof assembly.
Pipes, ducts, and equipment.	Insulation materials intended for use on pipes, ducts and equipment shall be capable of meeting a flame spread classification not to exceed 150 (per ASTM E84–89a).

[1] ASTM indicates American Society for Testing and Materials.

Storm Windows

[Standards for conformance]

Storm windows:	
Aluminum insulating storm windows.	ANSI/AAMA[1] 1002.10–83.
Aluminum frame storm windows.	ANSI/AAMA 1002.10–83.
Wood frame storm windows.	ANSI/NWWDA[2] I.S. 2–87. (Section 3)
Rigid vinyl frame storm windows.	ASTM[3] D4099–89.
Frameless plastic glazing storm.	Required minimum thickness windows is 6 mil (.006 inches).
Movable insulation systems for windows.	Commercially available.

[1] ANSI/AAMA indicates American National Standards Institute/American Architectural Manufacturers Association.
[2] ANSI/NWWDA indicates American National Standards Institute/National Wood Window & Door Association.
[3] ASTM indicates American Society for Testing and Materials.

Storm Doors

[Standards for conformance]

Storm doors—Aluminum:	
Storm Doors	ANSI/AAMA[1] 1102.7–89.
Sliding glass storm doors.	ANSI/AAMA 1002.10–83.
Wood storm doors	ANSI/NWWDA[2] I.S. 6–86.
Rigid vinyl storm doors	ASTM[3] D3679–88.
Vestibules:	
Materials to construct vestibules.	Commercially available.
Replacement windows:	
Aluminum frame windows.	ANSI/AAMA 101–88.
Steel frame windows	Steel Window Institute recommended specifications for steel windows, 1990.
Wood frame windows	ANSI/NWWDA I.S. 2–87.
Rigid vinyl frame windows.	ASTM D4099–89.

[1] ANSI/AAMA indicates American National Standards Institute/American Architectural Manufacturers Association.
[2] ANSI/NWWDA indicates American National Standards Institute/National Wood Window & Door Association.
[3] ASTM indicates American Society for Testing and Materials.

Replacement Doors

[Standards for conformance]

Replacement doors—	
Hinged doors:	
Steel doors	ANSI/SDI[1] 100–1985.
Wood doors:	
Flush doors	ANSI/NWWDA[2] I.S. 1–87. (exterior door provisions)
Pine, fir, hemlock and spruce doors.	ANSI/NWWDA I.S. 6–86.
Sliding patio doors:	
Aluminum doors	ANSI/AAMA[3] 101–86.
Wood doors	NWWDA I.S. 3–83.

[1] ANSI/SDI indicates American National Standards Institute/Steel Door Institute.
[2] ANSI/NWWDA indicates American National Standards Institute/National Wood Window & Door Association.
[3] ANSI/AAMA indicates American National Standards Institute/American Architectural Manufacturers Association.

CAULKS AND SEALANTS:
[Standards for conformance]

Caulks and sealants:	
Putty	FS[1] TT–P–00791B, October 16, 1969 and Amendment 2, March 23, 1971.
Glazing compounds for metal sash.	ASTM[2] C669–75 (1989).
Oil and resin base caulks.	ASTM C570–72 (1989).
Acrylic (solvent types) sealants.	FS TT–S–00230C, February 2, 1970 and Amendment 2, October 9, 1970.
Butyl rubber sealants	FS TT–S–001657, October 8, 1970.
Chlorosulfonated polyethylene sealants.	FS TT–S–00230C, February 2, 1970 and Amendment 2, October 9, 1970.
Latex sealing compounds.	ASTM C834–76 (1986).
Elastomeric joint sealants (normally considered to include polysulfide, polyurethane, and silicone).	ASTM C920–87
Preformed gaskets and sealing materials.	ASTM C509–84.

[1] FS indicates Federal Specifications.
[2] ASTM indicates American Society for Testing and Materials.

WEATHERSTRIPPING
[Standards for conformance]

Weatherstripping	Commercially available.
Vapor retarders	Selected according to the provisions cited in ASTM[1] C755–85 (1990). Permeance not greater than 1 perm when determined according to the desiccant method described in ASTM E96–80.
Items to improve attic ventilation.	Commercially available.
Clock thermostats	NEMA[2] DC 3–1989.

[1] ASTM indicates American Society for Testing and Materials.
[2] NEMA indicates National Electrical Manufacturers Association.

HEAT EXCHANGERS
[Standards for conformance]

Heat exchangers, water-to-water and steam-to-water.	ASME[1] Boiler and Pressure Vessel Code, 1992, Sections II, V, VIII, IX, and X, as applicable to pressure vessels. Standards of Tubular Exchanger Manufacturers Association, Seventh Edition, 1988.

HEAT EXCHANGERS—Continued
[Standards for conformance]

Heat exchangers with gas-fired appliances[2].	Conformance to AGA[3] Requirements for Heat Reclaimer Devices for Use with Gas-Fired Appliances No. 1–80, June 1, 1980. AGA Laboratories Certification Seal.
Heat pump water heating heat recovery systems.	Electrical components to be listed by UL.[4]

[1] ASME indicates American Society of Mechanical Engineers.
[2] The heat reclaimer is for installation in a section of the vent connector from appliances equipped with draft hoods or appliances equipped with powered burners or induced draft and not equipped with a draft hood.
[3] AGA indicates American Gas Association.
[4] UL indicates Underwriters Laboratories.

BOILER/FURNACE CONTROL SYSTEMS
[Standards for conformance]

Automatic set back thermostats.	Listed by UL.[1] Conformance to NEMA[2] DC 3–1989.
Line voltage or low voltage room thermostats.	NEMA DC 3–1989.
Automatic gas ignition systems.	ANSI[3] Z21.21–1987 and Z21.21a-1989. AGA[4] Laboratories Certification Seal.
Energy management systems.	Listed by UL.
Hydronic boiler controls	Listed by UL.
Other burner controls	Listed by UL.

[1] UL indicates Underwriters Laboratories.
[2] NEMA indicates National Electrical Manufacturers Association.
[3] ANSI indicates American National Standards Institute.
[4] AGA indicates American Gas Association.

WATER HEATER MODIFICATIONS
[Standards for conformance]

Insulate tank and distribution piping.	(See insulation section of this appendix).
Install heat traps on inlet and outlet piping.	Applicable local plumbing code.
Install/replace water heater heating elements.	Listed by UL[1].
Electric, freeze-prevention tape for pipes.	Listed by UL.
Reduce thermostat settings.	State or local recommendations.
Install stack damper, gas-fueled.	ANS1[2] Z21.66–1988, including Exhibits A&B, and ANSI Z223.1–1988.
Install stack damper, oil-fueled.	UL 17, November 28, 1988, and NFPA[3] 31–1987.
Install water flow modifiers.	Commercially available.

[1] UL indicates Underwriters Laboratories.
[2] ANSI indicates American National Standards Institute.
[3] NFPA indicates National Fire Prevention Association.

WASTE HEAT RECOVERY DEVICES
[Standards for conformance]

Desuperheater/ water heaters.	ARI[1] 470–1987.

WASTE HEAT RECOVERY DEVICES—Continued
[Standards for conformance]

Condensing heat exchangers.	Commercially available components and in new heating furnace systems to manufacturers' specifications.
Condensing heat exchangers.	Commercially available (Commercial, multi-story building, with teflon-lined tubes institutional) to manufacturers' specifications.
Energy recovery equipment.	Energy Recovery Equipment and Systems Air-to-Air (1978) Sheet Metal and Air-Conditioning Contractors National Association (SMACNA).[2]

[1] ARI indicates Air Conditioning and Refrigeration Institute.
[2] SMACNA denotes Sheet Metal and Air Conditioning Contractors' National Association.

BOILER REPAIR AND MODIFICATIONS/ EFFICIENCY IMPROVEMENTS
[Standards for conformance]

Install gas conversion burners.	ANSI[1] Z21.8–1984, (for gas or oil-fired systems) ANSI Z21.17–1984, ANSI Z21.17a-1990, and ANSI Z223.1–1988. AGA[2] Laboratories Certification seal.
Replace oil burner	UL[3] 296, February 28, 1989 Revision and NFPA[4] 31–1987.
Install burners (oil/gas)	ANSI Z223.1–1988 for gas equipment and NFPA 31–1987 for oil equipment.
Re-adjust boiler water temperature or install automatic boiler temperature reset control.	ASME[5] CSD–1–1988, ASME CSD–1a-1989, ANSI Z223.1–1988, and NFPA 31–1987.
Replace/modify boilers	ASME Boiler and Pressure Vessel Code, 1992, Sections II, IV, V, VI, VIII, IX, and X. Boilers must be Institute of Boilers and Radiation Manufacturers (IBR) equipment.
Clean heat exchanger, adjust burner air shutter(s), check smoke no. on oil-fueled equipment. Check operation of pump(s) and replacement filters.	Per manufacturers' instructions.
Repair combustion chambers.	Refractory linings may be required for conversions.
Replace heat exchangers, tubes.	Protection from flame contact with conversion burners by refractory shield.

Boiler Repair and Modifications/Efficiency Improvements—Continued

[Standards for conformance]

Install/replace thermostatic radiator valves.	Commercially available. One pipe steam systems require air vents on each radiator; see manufacturers' requirements.
Install boiler duty cycle control system.	Commercially available. NFPA 70, National Electrical Code (NEC) 1993 and local electrical codes provisions for wiring.

[1] ANSI indicates American National Standards Institute.
[2] AGA indicates American Gas Association.
[3] UL indicates Underwriters Laboratories.
[4] NFPA indicates National Fire Prevention Association.
[5] ANSI/ASME indicates American National Standards Institute/American Society of Mechanical Engineers.

Heating and Cooling System Repairs and Tune-ups/Efficiency Improvements

[Standards for conformance]

Install duct insulation	FS[1] HH-I-558C, January 7, 1992 (see insulation sections of this appendix).
Reduce input of burner; derate gas-fueled equipment.	Local utility company and procedures if applicable for gas-fueled furnaces and ANSI[2] Z223.1-1988 (NFPA[3] 54-1988) including Appendix H.
Repair/replace oil-fired equipment.	NFPA 31-1987.
Replace combustion chamber in oil-fired furnaces or boilers.	NFPA 31-1987.
Clean heat exchanger and adjust burner: adjust air shutter and check CO_2 and stack temperature. Clean or replace air filter on forced air furnace.	ANSI Z223.1-1988 (NFPA 54-1988) including Appendix H.
Install vent dampers for gas-fueled heating systems.	Applicable sections of ANSI Z223.1-1988 (NFPA 54-1988) including Appendices H, I, J, and K. ANSI Z21.66-1988 and Exhibits A & B for electrically operated dampers.
Install vent dampers for oil-fueled heating systems.	Applicable sections of NFPA 31-1987 for installation and in conformance with UL[4] 17, November 28, 1988.

Heating and Cooling System Repairs and Tune-ups/Efficiency Improvements—Continued

[Standards for conformance]

Reduce excess combustion air:	
A: Reduce vent connector size of gas-fueled appliances.	ANSI Z223.1-1988 (NFPA 54-1988) Part 9 and Appendices G & H.
B: Adjust barometric draft regulator for oil fuels.	NFPA 31-1987 and per manufacturers' (furnace or boiler) instructions.
Replace constant burning pilot with electric ignition device on gas-fueled furnaces or boilers.	ANSI Z21.71-1981, Z21.71a-1985, and Z21.71b-1989.
Readjust fan switch on forced air gas or oil-fueled furnaces.	Applicable sections and Appendix H of ANSI Z223.1-1988 (NFPA 54-1988) for gas furnaces and NFPA 31-1987 for oil furnaces.
Replace burners	See power burners (oil/gas).
Install/replace duct furnaces (gas).	ANSI Z223.1-1988 (NFPA 54-1988).
Install/replace heat pumps.	Listed by UL.
Replace air diffusers, intakes, registers, and grilles.	Commercially available.
Install/replace warm air heating metal ducts.	Commercially available.
Filter alarm units	Commercially available.

[1] FS indicates Federal Specifications.
[2] ANSI indicates American National Standards Institute.
[3] NFPA indicates National Fire Prevention Association.
[4] UL indicates Underwriters Laboratories.

Replacement Furnaces, Boilers, and Wood Stoves

[Standards for conformance]

Chimneys, fireplaces, vents and solid fuel burning appliances.	NFPA[1] 211-1988.
Gas-fired furnaces	ANSI[2] Z21.47-1987, Z21.47a-1988, and Z21.47b-1989. ANSI Z223.1-1988 (NFPA 54-1988).
Oil-fired furnaces	UL[3] 727, August 27, 1991 Revision and NFPA 31-1987.
Liquified petroleum gas storage.	NFPA 58-1989.
Ventilation fans: Including electric attic, ceiling, and whole house fans.	UL 507, August 23, 1990 Revision.

[1] NFPA indicates National Fire Prevention Association.
[2] ANSI indicates American National Standards Institute.
[3] UL indicates Underwriters Laboratories.

Air Conditioners and Cooling Equipment

[Standards for conformance]

Air conditioners:	
Central air conditioners	ARI[1] 210/240-1989.
Room size units	ANSI/AHAM[2] RAC-1-1982.
Other cooling equipment: Including evaporative coolers, heat pumps and other equipment.	UL[3] 1995, November 30, 1990.[4]

[1] ARI indicates Air Conditioning and Refrigeration Institute.
[2] AHAM/ANSI indicates American Home Appliance Manufacturers/American National Standards Institute.
[3] UL indicates Underwriters Laboratories.
[4] This standard is a general standard covering many different types of heating and cooling equipment.

Screens, Window Films, and Reflective Materials

[Standards for conformance]

Insect screens	Commercially available.
Window films	Commercially available.
Shade screens:	
Fiberglass shade screens	Commercially available.
Polyester shade screens	Commercially available.
Rigid awnings:	
Wood rigid awnings	Commercially available.
Metal rigid awnings	Commercially available.
Louver systems:	
Wood louver systems	Commercially available.
Metal louver systems	Commercially available.
Industrial-grade white paint used as a heat-reflective measure on awnings, window louvers, doors, and exterior duct work (exposed).	Commercially available.

[FR Doc. 93-3697 Filed 3-3-93; 8:45 am]
BILLING CODE 6450-01-P

Federal Register

Thursday
March 4, 1993

Part IV

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice of Approved Tribal-State Compact

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compact for Class III Gaming Between the Confederated Tribes of the Chehalis Reservation and the State of Washington, enacted on December 21, 1992.

DATES: This action is effective upon date of publication.

FOR FURTHER INFORMATION CONTACT: Hilda Manuel, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240. (202) 219–4068.

Dated: February 22, 1993.

Stan Speaks,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 93–4949 Filed 3–3–93; 8:45 am]

BILLING CODE 4310–02–M

Federal Register

Thursday
March 4, 1993

Part V

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice of Approved Tribal-State Compact

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compact Between the Upper Skagit Indian Tribe and the State of Washington, enacted on December 21, 1992.

DATES: This action is effective upon date of publication.

FOR FURTHER INFORMATION CONTACT: Hilda Manuel, Interim Staff Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–0994.

Dated: February 19, 1993.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 93–4950 Filed 3–3–93; 8:45 am]

BILLING CODE 4310–02–M

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Friday
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federal register

Friday
March 5, 1993

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For information on briefings in New York, NY, Los Angeles, CA, and Independence, MO, see announcement on the inside cover of this issue.

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WHO: The Office of the Federal Register.

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Rules and Regulations

Federal Register
Vol. 58, No. 42
Friday, March 5, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–77; Special Conditions No. 25–ANM–67]

Special Conditions: Dessault-Aviation Mystere-Falcon 50 Airplane; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for a certain Dassault-Aviation Mystere-Falcon Model 50 airplane modified by Delta Engineering Corporation. This airplane is equipped with high-technology digital avionic systems that perform critical functions. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields (HIRF). These special conditions provide the additional safety standards which the Administrator considers necessary to ensure that the critical functions performed by these systems are maintained when the airplane is exposed to HIRF.

DATES: The effective date of these special conditions is 2–17–93.

Comments must be received on or before April 19, 1993.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–77, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM–77. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Gary Lium, FAA, Standardization Branch, ANM–113, 1601 Lind Ave., SW., Renton, WA 98055–4056, telephone (206) 227–1112.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM–77." The postcard will be date stamped and returned to the commentor.

Background

On December 21, 1992, Delta Engineering Corporation applied to the FAA New York Aircraft Certification Office for a supplemental type certificate (STC) to modify a certain Mystere-Falcon Model 50 airplane. The Mystere-Falcon Model 50 is a minimum two-crew, three-engine airplane, with a minimum takeoff weight of up to 40,780 lbs. The proposed modification incorporates the installation of an Electronic Flight Instrument System (EFIS) and additional navigation and avionics systems. The equipment originally installed in these airplanes presented the required information in the form of analog displays. The information presented is flight critical. The EFIS as a digital system is vulnerable to high-intensity radiated fields external to the airplane.

Supplemental Type Certification Basis

Under the provisions of § 21.101, Delta Engineering Corporation must show that the modified Dassault-Aviation Mystere-Falcon Model 50 airplane continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate A46EU, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate No. A46EU are as follows: Section 21.29 of the FAR; part 25 dated February 1, 1965, including Amendment Nos. 25–1 through 25–34; § 25.255, as amended by Amendment 25–42; §§ 25.979 (d) and (e), as amended by Amendment 25–38; § 25.1013(b)(1), as amended by Amendment 25–36; § 25.1351(d), as amended by Amendment 25–41; § 25.1353(c)(6), as amended by Amendment 25–42; Special Conditions 25–86–EU–24 dated March 6, 1979; part 36 of the FAR through Amendment 36–9; and SFAR 27 through Amendment SFAR–27–1 (fuel venting).

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25 requirements) do not contain adequate or appropriate safety standards for the modified Dassault-Aviation Mystere-Falcon Model 50 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.26 to establish a level of safety equivalent to that established by the regulations. (In this context, "novel or unusual design feature" means novel or unusual with respect to the applicable standards of part 25. Such features may or may not be unusual as far as industry "state-of-the-art" is concerned.)

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.101(b)(2).

Discussion

There is no specific regulation that addresses protection requirements for

electrical and electronic systems from high-intensity radiated fields (HIRF). Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, these special conditions require that new technology electrical and electronic systems, such as the Electronic Flight Instrument System (EFIS), be designed and installed to preclude component damage and interruption of function due to HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communication, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as EFIS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special conditions is shown with either paragraph 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz–2000 KHz	70	70
2 MHz–30 MHz	200	200
30 MHz–70 MHz	30	30
70 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1000 MHz	1,700	170
1 GHz–2 GHz	5,000	990
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz–8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S.

Conclusion

This action affects only certain unusual or novel design features on one model of airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for this airplane has been subject to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore, these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. app. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O.11514; and 49 U.S.C. 106(g).

The Final Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the modified Dassault-Aviation Mystere-Falcon Model 50 airplane:

1. *Protection from unwanted effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated field external to the airplane.

2. The following definition applies with respect to this special condition:

Critical Function. Function whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on February 17, 1993.

Ronald T. Wojnar,

Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 93–5117 Filed 3–4–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 93–11]

Removal of Brazil From the List of Nations Entitled to Reciprocal Exemption From the Payment of Special Tonnage Taxes

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by removing Brazil from the list of nations whose vessels are entitled to reciprocal exemption from the payment of any higher tonnage duties than are applicable to vessels of the U.S. and from the payment of light money. The U.S. Department of State has informed Customs that U.S. vessels and their cargoes are presently charged discriminatory duties by the Government of Brazil; thus, Brazil no longer qualifies for the exemption available to nations who do not charge such duties. Accordingly, Customs is withdrawing the exemption privileges formerly granted Brazil.

EFFECTIVE DATE: This amendment is effective March 5, 1993. The reciprocal privileges extended to vessels registered in Brazil were withdrawn effective January 25, 1993.

FOR FURTHER INFORMATION CONTACT: Larry L. Burton, Carrier Rulings Branch (202) 482–6940.

SUPPLEMENTARY INFORMATION:

Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton denominated "light money", on all foreign vessels which enter U.S. ports (46 U.S.C. app. 121 and 128). Vessels of a foreign nation, however, may be exempted from the payment of such special tonnage taxes and light money upon presentation of satisfactory proof that no discriminatory duties of tonnage or impost are imposed by that foreign nation on U.S. vessels or their cargoes (46 U.S.C. app. 141). The list of nations whose vessels have been found to be reciprocally exempt from the payment of any higher tonnage duties than are applicable to vessels of the U.S. and from the payment of light money is found at § 4.22, Customs Regulations (19 CFR 4.22). Nations granted these commercial privileges that subsequently impose discriminatory duties are subject to retaliatory suspension of the commercial privileges (46 U.S.C. app. 141 and 142).

Brazil is currently listed among the nations exempt from the payment of any higher tonnage duties than are applicable to vessels of the U.S. and from the payment of light money. By letter dated January 15, 1993, however, the Customs Service was informed by the Department of State that the Government of Brazil was presently charging discriminatory duties in the forms of lighthouse fees and a Merchant Marine Renewal Tax on U.S. vessels and their cargoes. As this circumstance violates the reciprocal nature of the exemption privilege granted, Brazil no longer qualifies for the exemption and the Department of State, referring to Executive Order 10289 of September 17, 1951, 16 FR 9499, 3 CFR 1949–1953 Comp. p. 787, as amended, see 3 U.S.C.A. 301 note, has recommended to Customs, on behalf of the Secretary of the Treasury, that Brazil be removed from the list of nations found at § 4.22. On January 25, 1993, the Customs Service determined that the vessels of Brazil were no longer exempt from the payment of special tonnage taxes, effective immediately, and that § 4.22 of the Customs Regulations should be amended accordingly. The authority to amend this section of the Customs Regulations has been delegated to the Chief, Regulations and Disclosure Law Branch.

Inapplicability of Public Notice, Comment and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12291

Because this amendment merely amends a list to reflect the loss of a previously extended reciprocal tax exemption, a matter in which the general public is not particularly interested, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are considered unnecessary; further, for the same reason, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1) and (3). Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This amendment does not meet the criteria for a "major rule" as defined in E.O. 12291, therefore, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was Gregory R. Vilders, Regulations and Disclosure Law Branch. Personnel from other offices, however, participated in its development.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Cargo vessels, Maritime carriers, Vessels.

Amendment to the Regulations

Part 4, Customs Regulations (19 CFR part 4), is amended as set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The authority citation for part 4 continues to read in part as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1624; 46 U.S.C. App. 3;

* * * * *

Section 4.22 also issued under 46 U.S.C. App. 121, 128, 141;

* * * * *

§ 4.22 [Amended]

2. Section 4.22 is amended by deleting "Brazil" from the list of nations entitled to reciprocal exemption from the payment of any higher tonnage duties than are applicable to vessels of the U.S. and from the payment of light money.

Dated: February 26, 1993.

Kathryn C. Peterson,

Chief Regulations and Disclosure Law Branch.

[FR Doc. 93–5000 Filed 3–4–93; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 09–92–24]

Disestablishing Special Anchorage Area, Lake Ontario, Sodus Bay, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is disestablishing a special anchorage area in Sodus Bay, Lake Ontario, New York, because increased congestion and background lighting in the area creates a danger of collision with unlighted vessels.

EFFECTIVE DATE: April 5, 1993.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Scott Smith, Aids to Navigation Branch, room 2083, 1240 East Ninth Street, Cleveland, Ohio 44199–2060, (216) 522–3990.

SUPPLEMENTARY INFORMATION: On October 16, 1992, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (57 FR 47431, October 16, 1992). Interested persons were invited to submit comments, and no comments were received.

Drafting Information

The drafters of this regulation are Captain Roderick A. Schultz, U.S. Coast Guard, Chief, Ninth Coast Guard District Aids to Navigation Branch, and Commander M. Eric Reeves, U.S. Coast Guard, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Proposed Regulations

A "special anchorage area" is an area on the water in which vessels less than 20 meters (approximately 65 feet, 7.4 inches) in length are allowed to anchor without displaying the navigation lights which are otherwise required for anchored vessels under Rule 30 of the Inland Navigational Rules, codified at 33 U.S.C. 2030. Since the establishment of this area in Sodus Bay, use of the area has changed. There is less need for a special anchorage area because of newly constructed piers, and there is greater danger of collision with unlighted vessels because of increased congestion and background lighting in the area.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the

preparation of a Federalism Assessment. These regulations do not impose any new regulatory requirements in an area not heretofore regulated by the Federal Government, and do not impose any requirements or restrictions on State or local authorities.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that, under section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, they are categorically excluded from further environmental documentation.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034 of February 26, 1979). The impact of these regulations is expected to be minimal, and the Coast Guard therefore certifies that, if adopted, they will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

Collection of Information

These regulations will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 33 CFR Part 110

Anchorage grounds, Navigation (water).

Regulations

In consideration of the foregoing, the Coast Guard amends part 110 of title 33, Code of Federal Regulations, as follows:

PART 110—[AMENDED]

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. 1223 and 1231.

§ 110.85 [Removed]

2. In part 110, § 110.86 is removed.

Dated: February 24, 1993.

G.A. Penington,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 93–5135 Filed 3–4–93; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD8–92–27]

Drawbridge Operation Regulations; Bayou Dularge, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Terrebonne Parish School Board and the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is changing the regulation governing the operation of the State Route 315 Bayou Dularge drawbridge over the Gulf Intracoastal Waterway, mile 59.9, at Houma, Terrebonne Parish, Louisiana, by extending the 7 a.m. to 8:30 a.m. closure by 15 minutes to 6:45 a.m. to 8:30 a.m. The afternoon closure of 4:30 p.m. to 6 p.m. remains the same. This change is being made to accommodate school bus traffic due to a newly implemented school starting schedule. This action will accommodate the needs of school bus traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This regulation becomes effective on April 5, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. John Wachter, Bridge Administration Branch, Eighth Coast Guard District, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: On October 8, 1992, the Coast Guard published a proposed rule (57 FR 46361) concerning this amendment. The Commander, Eighth Coast Guard District also published the proposal as a Public Notice dated October 21, 1992. Interested parties were given until November 23, 1992, to submit comments.

Drafting Information:

The drafters of this regulation are Mr. John Wachter, project officer, and CDR D. Dickman, project attorney.

Discussion of Comments:

Two letters were received in response to Public Notice No. CGD8–14–92 issued on October 21, 1992. The National Marine Fisheries Service and the U.S. Department of Interior, Fish and Wildlife Service offered no objection to the proposed rule change.

Federalism:

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification:

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034: February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that mariners requiring the bridge openings are repeat users of the waterway and scheduling their arrivals at the bridge to avoid the regulated period will eliminate delays in their passage through the bridge and should involve little or no additional expense to them. Since the economic impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Environment:

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.(5) of Commandant Instruction M16475.1B, the National Environmental Policy Act. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.451 is amended by revising paragraph (c), by redesignating existing paragraphs (d) and (e) as paragraphs (e) and (f) respectively, and by adding new paragraph (d) as follows:

§ 117.451 Gulf Intracoastal Waterway.

* * * * *

(c) The draws of the East Main Street bridge, mile 57.5, and East Park Avenue bridge, mile 57.6, at Houma, shall open on signal; except that, the draws need not be opened for the passage of vessels Monday through Friday except holidays from 7 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m.

(d) The draw of the Bayou Dularge bridge, mile 59.9, at Houma, shall open on signal; except that, the draw need not be opened for the passage of vessels through Friday except holidays from 6:45 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m.

* * * * *

Dated: February 22, 1993.

J.C. Card,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 93–5132 Filed 3–4–93; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[IL64–1–5712; FRL–4600–9]

Approval and Promulgation of Designation of Areas for Air Quality Planning Purposes; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving a request by Illinois to revise area designations for Total Suspended Particulate (TSP) from nonattainment to attainment. USEPA's action is based upon a redesignation request which was submitted by the State on November 13, 1992, to satisfy the requirements of the Clean Air Act (Act).

DATES: This action will be effective May 4, 1993, unless notice is received by April 5, 1993 that someone wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the redesignation request and other materials relating to this rulemaking are available at the following address for review: (It is recommended that you telephone David Pohlman at (312) 886–3299, before visiting the Region 5 office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604.

Comments on this proposed rule should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson boulevard, Chicago, Illinois 60604.

A copy of today's redesignation is also available by contacting: Jerry Kurtzweg (ANR–443), U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Regulation Development Branch, Regulation Development Section (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On November 13, 1992, the Illinois Environmental Protection Agency (IEPA) submitted a request to redesignate the following areas to attainment for TSP. The areas were previously designated nonattainment.

Cook County: Berwyn Township (Twp.), Bloom Twp., Calumet Twp., Cicero Twp., Elk Grove Twp., Hyde Park Twp., Jefferson Twp., Lake Twp., Lakeview Twp., Northfield Twp., Norwood Park Twp., Palatine Twp., Proviso Twp., River Forest Twp., Riverside Twp., Rogers Park Twp., South Stickney Twp., South Town Twp., Thorton Twp., West Town Twp., Wheeling Twp., and Worth Twp., but not including the area bounded on the north by 79th Street, on the west by Interstate 57 between Sibley Boulevard and Interstate 94 and by Interstate 94 between Interstate 57 and 79th Street, on the south by Sibley Boulevard, and on the east by the Illinois/Indiana State line.
Dupage County: Addison Twp.
Grundy County: Aux Sable Twp., Morris Twp.
JoDaviess County: Derinda Twp., East Galena Twp., Rawlins Twp., West Galena Twp.
Kane County: Aurora Twp., Elgin Twp.
Kankakee County: All Twps. except Essex, Norton, Pilot
Kendall County: Little Rock Twp.
LaSalle County: Deer Park Twp., Dimmick Twp., LaSalle Twp., Peru Twp., Utica Twp. and Waltham Twp., but not including the following Townships, ranges and sections: T32N, R1E, S1; T32N, R2E, S6; T33N, R1E, S24; T33N, R1E, S25; T33N, R2E, S30; T33N, R2E, S31; and T33N, R1E, S36.
McLean County: Bloomington Twp., Normal Twp.
Macon County: Decatur Twp., Hickory Point Twp.
Madison County: Alton Twp., Chouteau Twp., Collinsville Twp., Fort Russell Twp., Foster Twp., Godfrey Twp., Moro Twp., Venice Twp., Wood River Twp.
Massac County: T.15S–R.4E, T.16S–R.4E
Menard County: Petersburg East, Petersburg North, Petersburg South
Monroe County: T.1N–R.10W, T.1N–R11W, T.1S–R.10W
Peoria County: Hollis Twp., Kickapoo Twp., Limestone Twp., Medina Twp., Peoria Twp., Richwoods Twp.
Rock Island County: Blackhawk Twp., Hampton Twp., Moline Twp., Rock Island Twp., South Moline Twp., South Rock Island Twp.
St. Clair County: Canteen Twp., Caseyville Twp., Centreville Twp., Millstadt Twp., Shiloh Valley Twp., Sites Twp., St. Clair Twp., Stookey Twp., Sugar Loaf Twp.
Sangamon County: Springfield Twp.
Tazewell County: Cincinnati Twp., Elm Grove Twp., Fondulac Twp., Groveland Twp., Morton Twp., Pekin Twp., Washington Twp.
Warren County: All twps.
Whiteside County: Clyde Twp., Coloma Twp., Genessee Twp., Hopkins Twp., Hume Twp., Jordan Twp., Lyndon Twp., Montmorency Twp., Mt. Pleasant Twp., Prophetstown Twp., Sterling Twp.
Will County: Channahon Twp., Crete Twp., DuPage Twp., Jackson Twp., Joliet Twp., Lockport Twp., Monee Twp., New Lenox Twp., Plainfield Twp., Troy Twp., Wheatland Twp., Wilmington Twp.

II. Analysis of State Submittal

In 1971 the USEPA promulgated primary and secondary National Ambient Air Quality Standards (NAAQS) for particulate matter, measured as "total suspended particulate matter" or "TSP". The primary standards were set at 260 micrograms per cubic meter ($\mu g/m^3$), 24-hour average not to be exceeded more than once per year, and 75 $\mu g/m^3$, annual geometric mean. The secondary standard, also measured as TSP, was set at 150 $\mu g/m^3$, 24-hour average not to be exceeded more than once per year.

On July 1, 1987 (52 FR 24634), USEPA promulgated changes to the particulate matter (PM) standards. Specifically, USEPA replaced: (1) TSP as the indicator for determining attainment of PM standards with a new indicator that consists of measuring only particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}); (2) the 24-hour primary TSP standard with a 24-hour PM_{10} standard of 150 $\mu g/m^3$, with no more than one expected exceedance per year; (3) the annual primary TSP standard with a PM_{10} standard of 50 $\mu g/m^3$; and (4) the secondary TSP standards with 24-hour and annual PM_{10} standards that are identical in all respects to the primary standards.

The PM_{10} indicator was selected since it includes all the particles small enough to cause the adverse health effects associated with breathing particle-laden air. These smaller particles are detrimental to human respiratory health due to their ability to penetrate the sensitive alveolar regions of the lung.

Section 107(d)(4)(B) of the Clean Air Act (CAA) as amended on November 15, 1990, expressly provides that any designation for particulate matter (measured in terms of TSP) that the Administrator promulgated pursuant to section 107(d), prior to the date of enactment of the 1990 Amendments, shall remain in effect for purposes of

implementing the maximum allowable concentrations of particulate matter (measured in terms of TSP) pursuant to section 163(b), until the Administrator determines that such designation is no longer necessary for that purpose. In comparison, section 107(d)(3) of the amended Act sets out the requirements governing area redesignation. For example, section 107(d)(3)(A) indicates the basis upon which USEPA may initiate a redesignation and sections 107(d)(3)(A)–(D) specify the affected State's role in the designation process including authority for the State to initiate the process. Sections 107(d)(3)(E) and (F) set out restrictions which apply to redesignation of a nonattainment area. Section 107(d)(3)(E) prohibits redesignation of an area from nonattainment to attainment unless five specified conditions are met. Section 107(d)(3)(F) of the Act prohibits redesignation of an area from nonattainment to unclassifiable.

It is the view of the USEPA that the purpose for the TSP designations, elaborated in section 107(d)(4), evinces a Congressional intent which is largely different from the purpose for the redesignation requirements specified in section 107(d)(3). Section 107(d)(4) indicates that Congress envisioned that USEPA would keep the TSP designations for the narrow purpose of implementing the particulate matter increments measured in terms of TSP.

Section 107(d)(3) is, in part, directed to limiting redesignation consistent with the statute's air quality goals by ensuring, for example, that before a nonattainment area is redesignated to attainment, the applicable SIP requirements have been implemented and the area has attained the applicable National Ambient Air Quality Standards (NAAQS). These requirements make sense and have force where there are NAAQS in place. However, there are no TSP NAAQS and there is no TSP directed SIP program. While at this time USEPA believes that a TSP designation may be necessary to implement the particulate matter increments, this narrow purpose can be fostered by any designation for TSP. Accordingly, we believe it is reasonable to conclude that TSP resedignations are not subject to the section 107(d)(3) requirements. Thus, among other things, an area could be redsignated from nonattainment to unclassifiable for TSP. However, an area such as the Illinois redesignation request, which is the subject of this rulemaking, may be concurrently eligible for redesignation to attainment with no additional requirements for air quality analysis. This is not intended to suggest that these redesignations are exempt from rulemaking requirements, generally. The TSP redesignations are subject to the notice-and-comment rulemaking requirements under the Administrative Procedure Act and, therefore, the applicable rulemaking procedures should be observed.

If a State submitted a SIP revision for an area after its TSP nonattainment designation was revised and the area also is unclassifiable for PM_{10}, then section 193 would not apply because there would be no particulate matter nonattainment designation for the area. However, that SIP revision would be subject to review under section 110(1), and must not interfere with the requirements of hte Act. For example, the revision must not interfere with the requirement of the Act to ensure maintenance of the PM_{10} NAAQS (see, e.g., section 110(a)(1)). Similarly, there are section 110(1) implications if the State TSP plan for an area contains provisions which modify the plan automatically upon approval of a TSP redesignation by USEPA. The USEPA should not redesignate the area unless USEPA has adequate assurance that the modifications flowing from the redesignation will not interfere with any requirement of the Act, such as maintenance of the PM_{10} NAAQS. Thus, if a TSP paln revision either submitted to USEPA for approval or automatically occurring upon redesignation would result in a significant increase in particulate matter emissions then, prior toapproval of either action, air quality analyses should be conducted to assess the potential impact on continued maintenance of the PM_{10} NAAQS.

Illinois' submittal is consistent withthese rquirements. REdesignation of these areas will have no effect on the maintenance of PM_{10} NAAQS since no TSP emission limits will change as a result of the redesignation.

III. Rulemaking Action

Based on the information contained in the State's November 13, 1992, submittal, USEPA is approving Illinois' request to revise area designations for TSP. Because USEPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on May 4, 1993. Howver, if we receive notice by April 5, 1993 tha someone wishes to submit adverse comments, then USEPA will publish: (1) A notice that withdraws the action; and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This redesignation does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

The Agency has reviewed this request for redesignation from nonattainment to attainment for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 4, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 22, 1993.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 93–5105 Filed 3–4–93; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–259]

Organization and Delegation of Powers and Duties; Delegation to the Commandant, United States Coast Guard

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Secretary of Transportation has delegated to the Commandant, United States Coast Guard, the authority contained in 33 U.S.C. 1226 to prevent or respond to acts of terrorism and in 46 U.S.C. app. 1803 to assess the state of security standards at foreign ports. The Code of Federal Regulations does not reflect this delegation; therefore, a change is necessary.

EFFECTIVE DATE: March 5, 1993.

FOR FURTHER INFORMATION CONTACT: LT John P. Sifling, Port Safety & Security Division, Office of Marine Safety, Security and Environmental Protection (202) 267–0491, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593; or Mr. Steve Farbman, Office of the Assistant General Counsel for Regulation and Enforcement, C–50, (202) 366–9307, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Secretary of Transportation has delegated to the Commandant, United States Coast Guard, the authority contained in 33 U.S.C. 1226 to prevent or respond to acts of terrorism and in 46 U.S.C. app. 1803 to assess the state of security standards at foreign ports. The Code of Federal Regulations does not reflect this delegation; therefore, a change is necessary.

Since this amendment relates to departmental management, organization, procedure, and practice, notice and comment on it are unnecessary, and it may be made effective in fewer than 30 days after publication in the **Federal Register**. Therefore, this final rule is effective upon publication in the **Federal Register**.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended to read as follows:

PART 1—[AMENDED]

1. The authority citation for part 1 continues to read as follows:

Authority: 49 U.S.C. 322.

2. Section 1.46 is amended by adding a new paragraph (xx) to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

* * * * *

(xx) Carry out the functions and exercise the authority vested in the Secretary by 33 U.S.C. 1226 to prevent or respond to acts of terrorism and 46 U.S.C. app. 1803, subsections (a) and (b), to assess the state of security standards at foreign ports. This authority may be redelegated.

Issued on: February 26, 1993.

Federico F. Peña,

Secretary of Transportation.

[FR Doc. 93–5082 Filed 3–4–93; 8:45 am]

BILLING CODE 4910–62–M

Research and Special Programs Administration

49 CFR Part 107

[Docket HM–208, Amdt No. 107–26]

Hazardous Materials Transportation Registration and Fee Assessment Program Technical Revision

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; technical revision.

SUMMARY: On July 9, 1992, a final rule was published which established a national registration program for persons engaged in the offering for transportation and transportation of certain categories and quantities of hazardous materials in intrastate, interstate, or foreign commerce. This document revises certain provisions of the registration program based on a correction contained in the Pipeline Safety Improvement Act of 1992, and provides regulatory relief by permitting payment of registration and processing fees by personal checks and by removing a recordkeeping requirement for documents showing payment of these fees.

EFFECTIVE DATE: March 5, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph S. Nalevanko, Office of Hazardous Materials Planning and Analysis (202) 366–4109, or Beth Romo, Office of Hazardous Materials Standards (202) 366–4488, Hazardous Materials Safety, 400 Seventh Street SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: On July 9, 1992, RSPA published a final rule under Docket HM–208 [57 FR 30620], establishing a national registration program, as mandated by Congress in the 1990 amendments to the Hazardous Materials Transportation Act, for persons engaged in the offering for transportation and transportation of certain categories and quantities of hazardous materials in intrastate, interstate, and foreign commerce. Persons subject to the registration program are required to annually file a registration statement with RSPA and pay an annual fee of $300, $250 of which is to fund a nationwide emergency response training and planning grant program for States, local governments, and Indian tribes and $50 of which is to offset DOT processing costs. An initial filing deadline of August 31, 1992 was imposed for filing the registration statement and paying the fee. The regulation requires payment of the registration and processing fee by certified check, cashier's check, money order, or by a VISA or Master Card.

Numerous persons subject to the registration requirements stated that it is easier for them to pay by personal checks and suggested that RSPA accept personal checks also. RSPA did accept some personal checks during the initial registration period and found this to be a generally acceptable method of payment. Therefore, § 107.616(b) is revised to include personal checks. RSPA also recognizes that many banks no longer return cancelled checks to account holders. Therefore, RSPA is removing the requirement in § 107.620(a)(2) for persons to maintain a copy of the certified check, cashier's check, money order, or a copy of the credit card billing statements showing payment of the registration and processing fee.

The registration program is focused on persons who offer for transportation or transport certain hazardous materials which pose a heightened safety risk either because of their hazardous nature or because they are packaged in larger quantities. Persons subject to the registration program are those engaged

in offering for transportation or transporting: (1) Highway route-controlled quantities of Class 7 (radioactive) materials; (2) more than 25 kilograms (55 pounds) of Division 1.1, 1.2, or 1.3 (Class A or Class B explosives) materials in a motor vehicle, rail car, or transport container; (3) more than one liter (1.06 quarts) per package of a material extremely toxic by inhalation; (4) a hazardous material in a bulk package having a capacity equal to or greater than 13,248 liters (3,500 gallons) or more than 13.24 cubic meters (468 cubic feet); and (5) a shipment of 2170 kilograms (5,000 pounds) or more of a class of a hazardous material for which placarding of a vehicle, rail car, or freight container is required. As it applies to the registration program, "shipment" means, and is limited to, the hazardous material being offered or loaded at one loading facility.

In the preamble to the July 9 final rule, RSPA stated that on May 8, 1992, the Secretary of Transportation formally proposed amendment of 49 App. U.S.C. 1805(c)(1)(C) to eliminate registration of farmers transporting ammonia in nurse tanks. RSPA also noted the likelihood that confusion about the applicability of this rule existed among farmers and other transporters of hazardous materials weighing more than 2,170 kg (5,000 pounds) in a bulk packaging, container or tank with a capacity less than 13,248 liters (3,500 gallons). To alleviate this problem, RSPA delayed application of this rule to those persons until July 1, 1993 by providing an exception in § 107.601(d).

After publication of the final rule, RSPA received hundreds of telephone calls from persons indicating confusion about the applicability of the rule to farmers and other persons offering or transporting hazardous materials weighing more than 5,000 pounds in a "small" bulk packaging, container or tank (i.e., with a capacity less than 3,500 gallons), such as a nurse tank. In a July 28, 1992 clarification document, RSPA explained that, under paragraph (d) of § 107.601, any hazardous material offered for transportation or transported in a *bulk* packaging having a capacity *equal to or greater than 3,500 gallons* (or greater than 468 cubic feet) *is subject* to registration requirements, even when placards are not required. RSPA also clarified that until July 1, 1993, bulk packagings having a capacity of less than 3,500 gallons (such as a nurse tank which is limited to 3,000 gallons or less under 49 CFR 173.315(m)) are not subject to registration requirements. Furthermore, in an August 21, 1992 revised final rule, RSPA editorially revised § 107.601(d) and (e) to clarify that paragraph (e) applies only to non-bulk shipments until July 1, 1993.

The Pipeline Safety Improvement Act of 1992, Public Law 102–508, was signed by the President on October 24, 1992. A correction appears in Title V, Sec. 503(a)(1) of the Act, which amends section 106(c)(1)(C) of the Hazardous Materials Transportation Act by inserting the wording "(in other than a bulk packaging)" after "5,000 pounds or more". This statutory change requires that RSPA revise 49 CFR 107.601(e) to permanently limit the applicability of paragraph (e) to non-bulk packagings. Therefore, RSPA is revising § 107.601(e) to mirror the statutory language. This revision eliminates the requirement that persons who offer or transport smaller bulk packagings with capacities of less than 3,500 gallons or 468 cubic feet register with RSPA after July 1, 1993.

This document clarifies and revises certain provisions of the HMR. These changes impose no new regulatory burden on any person and provide relief from existing requirements. Therefore, notice and public comment are unnecessary and good cause exists to make these amendments effective less than 30 days following publication.

Rulemaking Analyses and Notices

A. Executive Order 12291

This final rule has been reviewed under the criteria specified in § 1(b) of Executive Order 12291 and is determined not to be a major rule. Although the underlying rule was considered to be "significant" under the regulatory procedures of the Department of Transportation, this document is considered to be "nonsignificant" because it corrects a provision of the final rule based on a statutory change that limits the agency's discretion. This final rule does not impose additional requirements and, in fact, grants relief to some persons subject to the rule. The net result is that costs imposed under the final rule published in the Federal Register on July 9, 1992 are reduced, but without a reduction in safety (57 FR 30620). The original regulatory evaluation of the final rule was reexamined but was not modified because the changes made under this rule provide limited relief and thus will result in minimal economic impact on industry.

B. Executive Order 12612

This action has been analyzed in accordance with Executive Order 12612 ("Federalism"). States and local governments are "persons" under the HMTA, but are specifically exempted from the requirement to file a registration statement. The regulations herein have no substantial effects on the States, on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various levels of government. This registration regulation has no preemptive effect. It does not impair the ability of States, local governments or Indian tribes to impose their own fees or registration or permit requirements on intrastate, interstate or foreign offerors or carriers of hazardous materials. Therefore, preparation of a Federalism Assessment is not warranted.

C. Impact on Small Entities

Based on information concerning size and nature of entities likely to be affected by this rule, I certify this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The rule will have no direct impact on small units of government.

D. Paperwork Reduction Act

Under 49 App. U.S.C. 1805, the information management requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) do not apply to this rule.

E. Regulation Identification Number (RIN)

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

F. National Environmental Policy Act

This final rule has been reviewed under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and does not require an environmental impact statement.

List of Subjects in 49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 107 is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 continues to read as follows:

Authority: 49 App. U.S.C. 1421(c); 49 App. U.S.C. 1802, 1804, 1805, 1806, 1808–1811,

1815; Public Law 89–670, 80 Stat. 933 (49 U.S.C. 1653(d), 1655); 49 CFR 1.45 and 1.53 and app. A of 49 CFR part 1.

2. In § 107.601, paragraph (a) is revised to read as follows:

§ 107.601 Applicability.

* * * * *

(e) A shipment in other than a bulk packaging of 2,268 kg (5,000 pounds) gross weight or more of one class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required for that class, under the provisions of subpart F of part 172 of this chapter. For applicability of this subpart, the term "shipment" means, and is further limited to, the hazardous material being offered or loaded at one loading facility.

§ 107.616 [Amended]

3. In § 107.616, in paragraph (b), the wording "personal check," is added immediately after "cashier's check," and before "or money order".

§ 107.620 [Amended]

4. In § 107.620, the word "and" is added at the end of paragraph (a)(1), paragraph (a)(2) is removed and paragraph (a)(3) is redesignated as paragraph (a)(2).

Issued in Washington, DC, on March 2, 1993, under the authority delegated in 49 CFR part 1.

Rose A. McMurray,

Acting Administrator, Research and Special Programs Administration.

[FR Doc. 93–5136 Filed 3–4–93; 8:45 am]

BILLING CODE 4910–60–M

National Highway Traffic Safety Administration

49 CFR Part 501

Organization and Delegation of Powers and Duties

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule revises the regulations on the organization and delegations of powers and duties within the National Highway Traffic Safety Administration to reflect a change in the title of an agency official. The NHTSA official formerly known as the Managing Director is now known as the Executive Director.

EFFECTIVE DATE: March 5, 1993.

FOR FURTHER INFORMATION CONTACT: Dorothy Nakama, Office of Chief Counsel, NHTSA, 400 Seventh Street SW., room 5219, Washington, DC 20590. Ms. Nakama's telephone number is: (202) 366–2992.

SUPPLEMENTARY INFORMATION: The final rule revises the regulations on the organization and delegations of powers and duties within the National Highway Traffic Safety Administration (NHTSA) to reflect a change in the title of an agency official. The official formerly known as the Managing Director is now known as the Executive Director. Accordingly, all references in part 501 to "Managing Director" have been revised to read "Executive Director."

The amendments set forth below relate solely to a change in title of a NHTSA official, and have no substantive regulatory effect. As matters relating to agency management, they are not covered by the notice and comment or the effective date requirements of the Administrative Procedure Act. In addition, they are not covered by Executive Order 12291 or the Department of Transportation's regulatory policies and procedures. Notice and the opportunity for comment are, therefore, not required, and these amendments are effective immediately upon publication in the **Federal Register.**

List of Subjects in 49 CFR Part 501

Authority, Delegations.

In consideration of the foregoing, 49 CFR part 501 is amended as follows:

PART 501—[AMENDED]

1. The authority citation for part 501 continues to read as follows:

Authority: 49 U.S.C. sections 105 and 322; delegation of authority at 49 CFR 1.50.

§§ 501.3, 501.4, 501.5, 501.7, 501.8 [Amended]

2. In 49 CFR part 501, remove the words "Managing Director" and add, in their place, the words "Executive Director" in the following places:

(a) Section 501.3(a)(3) paragraph heading;

(b) Section 501.4(b);

(c) Section 501.5(a);

(d) Section 501.5(b);

(e) Section 501.7 introductory text;

(f) Section 501.8(b) paragraph heading; and

(g) Section 501.8(b).

Issued on: March 2, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93–5123 Filed 3–4–93; 8:45 am]

BILLING CODE 4910–59–M

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49 CFR Part 582

[Docket No. 74–40; Notice 4]

RIN 2127–AE16

Insurance Cost Information Regulation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends 49 CFR part 582, Insurance Cost Information Regulation, to implement section 201(e) of the Motor Vehicle Information and Cost Savings Act by requiring new car dealers to distribute to prospective customers comparative insurance cost information that is prepared and provided annually by NHTSA from data compiled by the Highway Loss Data Institute ("HLDI"). This notice also sets forth a sample form for presentation of the HLDI information. These amendments may assist prospective purchasers in comparing differences in passenger vehicle collision loss experience that could affect auto insurance costs.

EFFECTIVE DATE: These amendments are effective April 5, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street SW., Washington, DC 20590 (202–366–4936).

SUPPLEMENTARY INFORMATION:

Background

Section 201(e) of the Motor Vehicle Information and Cost Savings Act ("Act"), 15 U.S.C. 1941(e), states that the Secretary [of Transportation] shall by rule establish procedures requiring automobile dealers to distribute to prospective purchasers information developed by the Secretary and provided to the dealer which compares differences in insurance costs for different makes and models of passenger motor vehicles based upon differences in damage susceptibility and crashworthiness.

The authority to carry out this provision has been delegated to the NHTSA Administrator. 49 CFR 1.50(f).

On January 31, 1975, NHTSA issued 49 CFR part 582, Insurance Cost Information Regulation (40 FR 4918). Part 582 requires that automobile dealers "make available to prospective purchasers information reflecting differences in insurance costs for different makes and models of passenger motor vehicles based upon differences in damage susceptibility and crashworthiness," but does not contain any specific information that dealers must provide. Rather, § 582.5 indicated

that the information would be provided at a later date. This Final Rule complements the 1975 rule and completes the implementation of section 201(e) by specifying the particular information to be made available and the form in which it is to appear.

This rulemaking proceeding commenced in response to a lawsuit filed in September 1990 by Consumers Union of the United States ("CU") against the Secretary of Transportation and the Administrator of NHTSA to compel the agency to "develop and ensure disclosure of comparative insurance cost information" in accordance with section 201(e). *Consumers Union* v. *Card*, No. 90–2369 (D.D.C., filed September 26, 1990). In response to this lawsuit, agency officials met with representatives of CU and the Insurance Institute for Highway Safety ("IIHS") and further scrutinized insurance data in an effort to determine if there is a correlation between insurance premiums and vehicle crashworthiness and/or damage susceptibility. Following an informal inquiry into the methods used by insurance companies to set premiums for collision coverage, NHTSA tentatively concluded that collision loss experience data collected and reported by the Highway Loss Data Institute ("HLDI") are the best available indicator of the effect of damage susceptibility on insurance costs, but that they bear no relationship to vehicle crashworthiness. On November 7, 1991. NHTSA published a proposal to require that dealers of new automobiles make available to prospective purchasers collision loss experience data that HLDI collects, updates, and publishes annually. 56 FR 56963.

HLDI's most recent statistics are based on insurance claim and coverage data furnished by Aetna Life and Casualty Co, Allstate Insurance Co., Fireman's Fund Insurance Co., Government Employees Insurance Company ("GEICO"), Kemper Corp., Liberty Mutual Insurance Co., Nationwide Mutual Insurance Co., The Prudential Insurance Co., Safeco Corp. ("SAFECO"), State Farm Mutual Automobile Insurance Co., The Travelers Corp., and United Services Automobile Association ("USAA"). This data base, representing the combined experience of companies that write approximately 45 percent of all automobile insurance policies nationwide, is large enough to provide detailed and statistically significant information about most passenger motor vehicles.

HLDI's glossy color pamphlet, entitled Injury and Collision Loss Experience by Make and Model, which is published each September, has reflected the collision loss experience of various vehicle makes and models, for the two model years that immediately preceded the compilation of the report (as well as personal injury loss experience for the three model years that immediately preceded the compilation of the report.) For example, the September 1991 HLDI pamphlet includes collision information from the 1989–1990 model years. (HLDI has informed NHTSA that as of September 1992, this pamphlet will report collision data for three model years.) HLDI also publishes updated, three-year data (collision experience only) each December, in a booklet entitled HLDI Insurance Collision Report.

NHTSA proposed to require that dealers make available the collision data category from HLDI's September pamphlet which reflects the relative "average loss payment per insured vehicle year." Those combined data appeared to be the best available reflection of "differences in insurance costs * * * based upon differences in damage susceptibility" that Congress directed NHTSA to require dealers to provide to consumers in section 201(e) of the Act.

NHTSA proposed to require dealers to present this information in a set format, which would include introductory text as well as a table of data. With respect to the table, the agency proposed to group vehicles by type and size and to list vehicle makes and models falling within a particular group in alphabetical order. The agency also proposed text that would explain the HLDI data and the limitations on its use that result from the fact that most of the factors associated with determining the cost of automobile insurance, except for the vehicle's value, are not directly related to the vehicle itself. The proposed text would also inform consumers that information on vehicle crashworthiness in frontal collisions is available from NHTSA through its New Car Assessment Program ("NCAP"), and advise consumers to contact insurance companies directly to ascertain the actual premiums that would be charged for particular vehicles. NHTSA stated its intention to publish HLDI's September data each fall in the **Federal Register**, and to require dealers to make the data available to prospective purchasers within 30 days of publication.

In response to this proposal, NHTSA received fifteen comments. Several comments questioned the proposal to rely on HLDI data, for a variety of reasons, and two proposed that data other than the HLDI data be distributed. In addition, most comments suggested that NHTSA publish the data in booklet form and distribute the booklets to dealers, rather than merely making the data available to dealers for publication and distribution to prospective purchasers. Two automobile manufacturers and two trade associations proposed that the data be distributed by insurance companies rather than by automobile dealers.

A. Choice of Data Source

Ford Motor Company ("Ford"), General Motors Corporation ("GM"), the National Automobile Dealers Association ("NADA"), Chrysler Corporation ("Chrysler"), Mercedes-Benz of North America, Inc. ("MBNA"), the Motor Vehicle Manufacturers Association of the United States ("MVMA"), Volkswagen of America, Inc. ("VWoA"), Tech-Cor, Inc. ("Tech-Cor"), (an affiliate of Allstate Insurance Company), and the Association of International Automobile Manufacturers ("AIAM"), questioned the agency's proposed use of the HLDI data. Of these AIAM, Chrysler, Ford, and MBNA opposed the proposed amendment to part 582, while the other commenters indicated their reasons for believing that the HLDI data were of limited usefulness to consumers and, in some instances, suggested alternative approaches. NADA, a trade association that represents approximately 20,000 automobile dealers nationwide, expressed the belief that, although the HLDI data would probably be of only little use to consumers, the distribution of the HLDI data is responsive to section 201(e).

CU, the Superintendent of the Traffic Division, City of Cheyenne, Wyoming ("Cheyenne"), Advocates for Highway and Auto Safety ("Advocates"), and HLDI supported the proposed amendment. All four of these commenters suggested that the agency include personal injury loss data as well as collision or damageability information in the information to be provided.

1. Merits of HLDI Data

For the reasons stated in the NPRM, NHTSA agrees with those commenters who claim that the HLDI data are of only limited usefulness to consumers. Much of insurance ratesetting is based upon driver-related, rather than vehicle-related, factors, and the price of the vehicle is by far the most important vehicle-related factor. Moreover, the HLDI information is only applicable to the collision portion of the insurance

premium, which is not mandatory, varies in cost depending on the amount of the deductible selected by the purchaser, and varies from company to company.

Despite these limitations, the HLDI data appear to be the best readily-available source of comparative information on automobile damage susceptibility. HLDI's "average loss payment per insured vehicle year" statistic, which combines two other statistics that represent "claim frequency" and "claim cost," indicates the average loss payment per vehicle per year. This average loss payment is reported in relative terms, with 100 representing the average for all vehicles. Usually, the patterns reflected in these data tend to be relatively stable from one model year to the next (for the same basic model, exclusive of redesigned models).

Many insurance companies rely on HLDI data to some extent in establishing their premiums for collision coverage; they use the data to adjust the vehicle's assigned "base rate" (reflecting price or appraised value) upward if the loss experience of the particular model is worse than average, or downward if the loss experience is better than average.

Differences in the HLDI data among cars of the same size and body style may be considerable. For example, in HLDI's September, 1991 pamphlet, among midsize, two-door models, one model had a relative loss payment per insured vehicle year of 70 (30% better than average), and the worst model in the same group had a relative loss payment rating of 140 (40% worse than average.)

NHTSA is concerned that the large percentage differences in the HLDI data could possibly mislead consumers into believing that the insurance premiums for different vehicles will vary significantly from car to car on the basis of damage susceptibility. This possibility remains even though, as described below, the text of the notice that will accompany the data clearly describes its limitations. Indeed, doubt about the value to consumers of this type of information is the primary reason why the agency did not complete its implementation of section 201(e) until CU brought its lawsuit. However, as CU has noted, Congress has directed the agency, in section 201(e), to require dealers to provide information regarding the effect of damage susceptibility on insurance premiums, and the HLDI data, despite their limitations, provide the best readily-available source of such information.

2. HLDI Data Sources

While HLDI does not publish its "combined" pamphlet containing collision and personal injury loss data until September of the calendar year after the last model year that is covered in the pamphlet, HLDI also publishes another booklet, which contains updated collision loss data only, in December of each year. Because the number of collision loss reports far exceeds the number of personal injury loss reports, the "collision only" data are more current and include more vehicle models than the "combined" data. NHTSA has concluded that HLDI's December Insurance Collision Report is a better data source for the agency's Insurance Cost Information Regulation than HLDI's September Insurance and Collision Loss Experience By Make and Model Year pamphlet, because the December booklet contains more current data and covers more vehicle models. Therefore, NHTSA has decided to adopt HLDI's suggestion in its comment to use the December publication as the data source for this regulation.

3. Limitations of Alternate Data Sources

NHTSA does not believe that Allstate Insurance Company's collision repair cost data, whose use was recommended by General Motors and Tech-Cor, minimize driver factors sufficiently to warrant relying on these data, which are less comprehensive than the HLDI data. Although the Allstate data present actual repair costs, these costs do not necessarily reflect damageability, but, at least in the case of luxury cars, may instead reflect the ability or willingness of luxury car owners to pay higher repair costs than other owners. Moreover, as Tech-Cor, an affiliate of Allstate, noted in its comments, Allstate's projections are based on comprehensive as well as collision claims experience. Because comprehensive claims relate largely to theft, they are not informative with respect to damage susceptibility or crashworthiness, and they could therefore skew the results.

B. Format of Data Presentation

In response to a number of comments, NHTSA has reevaluated its proposal to present the comparative data chart in alphabetical order. Only one commenter (VWoA) supported an alphabetical presentation of the data. Several other commenters suggested presenting the data in a format that ranks the vehicles in each class, from the best to the worst (with numerical values given for each). NHTSA agrees that the use of this ranking system should assist consumers in evaluating the comparative performance of comparable vehicles, and is adopting this suggestion.

C. Mandatory Accompanying Text

The mandatory text that is to accompany the HLDI data is designed to explain the limitations of that data as a predictor of differences in insurance premiums. Essentially, these limitations result from the fact that most of the factors that insurance companies use to establish premiums, except for the vehicle's value, are not directly related to the vehicle itself. Thus, as the text explains, the fact that a vehicle's historical claims experience is somewhat better or worse than that of other vehicles in its class may not be reflected in the premium that a particular insurance company establishes for that vehicle and a particular driver, and if it is reflected, it is likely to have only a small impact on the premium.

The text also explicitly urges consumers to contact insurance companies if they wish to obtain precise information about actual premiums for particular makes and models of vehicles. Previous studies by NHTSA have revealed that the difference between the premiums charged by different insurance companies for the same car and driver is greater than the difference between the premiums charged by a given company for comparably-valued cars that have different claims experience. NHTSA believes that the text should help to minimize consumer confusion by providing consumers with an understanding of the limitations and uses of the HLDI data.

Several commenters believed that the wording of the explanatory text that was proposed in the NPRM was too complex, and recommended that the text be simplified. NHTSA has adopted this recommendation and has redrafted the text. Commenters also recommended a variety of specific changes to the wording of the explanatory text. NHTSA has considered all of these recommendations, and has adopted changes that more accurately describe the limitations of the HLDI data.

HLDI suggested that all references in the text to the manner in which insurance companies set auto insurance premiums be deleted, because the process of setting premiums is too complex to summarize succinctly. However, NHTSA has concluded that the summary information provided in the text could improve consumers understanding of the limitations of the data and is unlikely to confuse any

reader. Thus, the agency is not adopting HLDI's suggestion.

A number of commenters questioned the wisdom of NHTSA's publishing HLDI's data when NHTSA has not compiled or independently verified that data. NADA specifically suggested that the agency's text include explicit disclaimers as to the accuracy of the data. NHTSA believes that the portions of the text that state that HLDI is the source of the information and that NHTSA has not verified the information, and that refer readers who desire further information about the data to HLDI, are a sufficient "disclaimer" to remove NHTSA's "imprimatur" from the information. The agency notes further that it has no reason to doubt the accuracy of the HLDI information, and that many insurance companies use that information in making business decisions.

D. Exclusion of Personal Injury Loss Data

In its September booklet, HLDI publishes data regarding losses under personal injury protection ("PIP") coverage as well as data regarding collision losses. NHTSA solicited comments on whether to include this information in the notices required by part 582. Five comments discussed this issue; of these, two (GM and VWoA) recommended against using the PIP information, and three others (HLDI, Cheyenne and Advocates) recommended including it.

After reviewing these comments, NHTSA has decided not to require dealers to make the PIP data available to consumers. Those data are outside the scope of section 201(e) because they do not reflect the effect of vehicle damage susceptibility or crashworthiness on insurance premiums. Further, NHTSA's 1989 survey of automobile insurers revealed that PIP insurance premiums are generally the same for all makes and models covered by an insurer (aside from a possible few discounts for vehicle safety features and possible surcharges for "high performance" vehicles). In addition, PIP premiums typically represent only a small fraction (typically ten percent or less) of the total annual automobile insurance premium, even in those jurisdictions in which PIP coverage is a required element of mandatory automobile insurance coverage. Therefore, NHTSA has concluded that, while PIP claims data may be of interest to some consumers, it is not appropriate to require dealers to make these data available to prospective purchasers.

E. Responsibility for Costs of Printing and Distribution

The NPRM proposed that dealers would be required to make the HLDI data and accompanying text available to prospective purchasers within 30 days of NHTSA's annual publication of the updated information in the **Federal Register**, and anticipated that vehicle manufacturers or dealer trade associations could provide the booklets to the dealers. The NPRM also described two alternative distribution methods: (1) The Government to publish the booklets and send sufficient copies to each dealer; and (2) the Government to supply a sample booklet to each dealer who would be responsible for making copies of the booklet. The agency solicited comments on the most effective way to distribute the information, and on the cost of distributing the information.

None of the commenters specifically addressed the costs of any of the distribution options outlined in the NPRM. Some commenters (GM, NADA) suggested that the insurance cost information be added to the Government's "Gas Mileage Guide," which the Department of Energy ("DOE") publishes and distributes to new car dealers pursuant to section 506(b) of the Act. Some (Ford, GM, NADA) suggested that the distribution be patterned after DOE's method for publishing and distributing the "Gas Mileage Guide" to dealers.

NHTSA has concluded that the proposal to include insurance cost information in the DOE "Gas Mileage Guide" is unworkable. First, it could lead to coordination problems with the Department of Energy that would delay publication of the insurance cost information. Also, the "Gas Mileage Guide" subdivides the new car fleet by categories (i.e., interior roominess, engine, and transmission) that do not correspond to HLDI's categories, which are based on wheelbase. This could cause confusion to consumers.

NHTSA also has decided against adopting the suggestion that this agency itself publish and distribute to all new car dealers the requisite number of copies of a booklet containing the insurance cost information. Although section 506(b) of the Act requires DOE to publish and distribute the "Gas Mileage Guide," there is no parallel requirement in section 201(e), which instead requires only that dealers distribute to prospective purchasers the insurance cost information that NHTSA develops and provides.

NHTSA does not currently have sufficient appropriated funds available to publish and distribute multiple copies of the booklets to the more than 23,000 new car dealers in the United States. The agency would therefore have to receive a supplemental appropriation from Congress for fiscal year 1993 (as well as increased annual appropriations) to implement this suggestion. In the absence of such appropriations, NHTSA has decided to provide each dealer with a single copy of the booklet. Dealers will have the responsibility of reproducing a sufficient number of copies of the booklet to assure that they are available for retention by prospective purchasers.

NHTSA does not maintain a mailing list of the nation's automobile dealers. Accordingly, the agency explored with NADA the possibility of using that organization's mailing lists to distribute the booklet to dealers. After NADA declined to cooperate, NHTSA obtained the mailing list that the Department of Energy uses to distribute the "Gas Mileage Guide." NHTSA will mail a sample copy of the booklet to each dealer on the list, simultaneously with the publication of a **Federal Register** notice setting forth the MY 1990–1992 HLDI data, which will occur shortly. Dealers who do not receive a copy of the booklet within 15 days of the date of that notice should contact Mr. Orron Kee of NHTSA's Office of Market Incentives ((202) 366–4936) to receive a copy of the booklet and to be added to the mailing list.

AIAM objected to "any requirement" that automobile manufacturers provide insurance cost information to automobile dealers, and the Texas Automobile Dealers Association ("TADA") commented that trade associations should not be an alternative source for providing this information. NHTSA recognizes that section 201(e) imposes requirements upon automobile dealers, and the agency is not adopting a requirement that either manufacturers or trade associations make booklets available to dealers. However, trade associations may voluntarily provide dealers with booklets that contain the required insurance cost information, thereby reducing the cost to each dealer of duplicating the booklets.

F. Timeframe for Publication and Dealer Compliance

NHTSA believes that the purpose of section 201(e) would best be served by requiring that the information be available to prospective purchasers as soon as possible after its publication date. Therefore, as HLDI suggested in its comment, NHTSA will publish its annual **Federal Register** notice containing HLDI's December Insurance

Collision Report data no later than January of the calendar year that follows HLDI's publication of the data. This will provide dealers and consumers with updated data as early as possible during the current model year, and well before the beginning of the next model year.

The NPRM proposed to require dealers to have the updated annual data available in their showrooms within 30 days of publication of the data in the **Federal Register**. General Motors and TADA indicated that the proposed 30-day distribution requirement would be inadequate unless NHTSA sent copies of the insurance cost information directly to dealers prior to or simultaneously with the publication of the **Federal Register** notice. No other commenter objected to the 30-day time period.

As noted above, under this final rule, NHTSA will provide a single copy of the information and accompanying text to each dealer on the DOE mailing list. Therefore, NHTSA has decided that it is not necessary to extend the time period in which dealers must make the insurance cost information available to their customers. The agency believes that the 30-day time period should provide adequate time for dealers to comply with the requirement.

G. Other Issues

In the NPRM, NHTSA proposed to limit the applicability of part 582 to new car dealers, by modifying the definition of "automobile dealer" in § 582.3 to limit it to "new car dealers." However, it solicited comments about whether also to require used car dealers to distribute the HLDI data. (The statute does not define the term "automobile dealer," and the legislative history does not address it.) Three commenters addressed this issue; one (Advocates) supported applying the requirement to both new and used automobile dealers, while two (NADA and TADA) favored restricting the applicability of the regulation to new car dealers, in accordance with the agency's proposal.

NHTSA has decided to limit the applicability of part 582 to new car dealers, as proposed in the NPRM. The costs of complying with the regulation would be greater if used car dealers were covered, yet the benefits of such a requirement would be limited, since potential purchasers of used cars could obtain the information from other sources, including new car dealers and HLDI. Also, the HLDI data cover only vehicles that are between one and three years old, and are not directly applicable to older used cars.

The NPRM also proposed to delete the definitions of "Insurance cost" and "Medical payment insurance" from § 582.3(b). Although the agency did not receive any comments on this proposal, it has decided to retain those definitions because the terms appear in § 582.2 and in the explanatory text of the agency's booklet. The agency is also revising the "Authority" section to correct an error in the citation of the delegation of authority.

A number of commenters, including AIAM, Chrysler, MBNA, TADA, and VWoA, suggested that the agency should require insurance companies, rather than automobile dealers, to distribute insurance cost information to prospective purchasers. NHTSA has not adopted this suggestion because it is inconsistent with section 201(e), which requires that automobile dealers, rather than insurance companies, provide insurance cost information to prospective purchasers. Likewise, NHTSA has not adopted the related suggestion that insurance companies be required to provide consumers with detailed descriptions of their methods for setting premiums. The Act does not authorize the agency to require insurance companies to provide consumers with this type of information. NHTSA obtained general information on premium-setting methodology from a number of insurers prior to issuing the NPRM, and also obtained more detailed information on this subject in 1989 from several insurers, in response to an agency questionnaire. The responses are in NHTSA Docket 74–40–NO3.

Advocates commented that section 201(e) of the Act uses the verb "distribute" to describe the dealers' role with respect to the insurance cost information, and argued that NHTSA should substitute that verb for the verb "provide," which the agency used in the text of the proposed amendment to 49 CFR 582.4(a). While the agency agrees with Advocates' general view of section 201(e) as a statute that affirmatively encourages the dissemination of insurance cost information to consumers, it disagrees with Advocates' assertion that, by using the verb "distribute," Congress has required that dealers hand out a copy of the insurance cost information to every potential customer who enters the dealership. NHTSA finds no support for this assertion in Congress' choice of the verb "distribute," which is quite close in meaning to the verb "provide." The agency believes that the legislative intent of section 201(e) will be satisfied if copies of the insurance cost information are readily available to consumers. To ensure consumer awareness of the availability of the information, dealers may choose to follow procedures similar to those they currently use for displaying the EPA "Gas Mileage Guide", or may utilize wall posters or other media displays in the dealership to announce that the information is available.

Since 1975, part 582 has used the term "make available" to define the dealers' obligation, and NHTSA has decided to use that terminology in § 582.4 of this Final Rule. The agency has subdivided § 582.4 into three subsections in order to clarify its requirements. To emphasize the fact that consumers may keep the insurance cost information booklets, NHTSA also has decided to modify § 582.4(b) of this Final Rule to require that each dealer maintain a sufficient quantity of the booklets to be available for retention by prospective purchasers.

This Final Rule does not have any retroactive effect, and it does not preempt any State law. The Motor Vehicle Information and Cost Savings Act ("Cost Savings Act") does not provide for judicial review of rules issued pursuant to section 201(e) (15 U.S.C. 1941(e)). The Administrative Procedure Act, 5 U.S.C. 701 *et seq.*, provides generally for judicial review of final agency action, which in certain circumstances may include this rule. The Administrative Procedure Act does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Rulemaking Analyses and Notices

1. Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The agency has considered the costs and other impacts of this rule and determined that the rule is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has determined that the economic effects of the amendments are minimal, so that a full regulatory evaluation is not required.

Assuming that photocopying costs were approximately five cents per page, or 40 cents per eight-page booklet, the maximum overall annual cost of duplicating 10 million copies of the booklet would be $4,000,000, if, on average, dealers provided their customers with one copy of the insurance cost information booklet per vehicle sold. As DOE currently distributes only six million copies of its "Gas Mileage Guide" per year, and as

retail photocopying costs are often less than five cents per page, and could be reduced still further by utilizing two-sided copying, NHTSA believes that this estimate is quite high.

Moreover, the costs would be significantly lower if a central source, such as a trade association, printed the booklet in large volume and made it available to dealers. While there would be costs associated with mailing a sufficient number of booklets to the dealers, storage costs should be incidental and administrative costs should be insignificant.

The agency notes that no comment responded to the agency's specific request in the proposal that commenters provide information about the cost impacts of the proposed regulation.

2. Regulatory Flexibility Act

NHTSA has analyzed the effects of this final rule on small entities in accordance with the Regulatory Flexibility Act. As indicated above, there are approximately 23,000 new automobile dealers; many of these are small entities that will be affected by this regulation. However, NHTSA believes that this regulation will not have a significant economic impact on these dealers.

As indicated above, the requirements established in this rule are limited to duplicating and providing copies of a short booklet whose text is prepared by the Government. At an estimated average duplication cost of five cents per page, the average cost to each of the nation's new car dealers of duplicating one copy of the eight-page booklet per vehicle sold should not exceed $175.00. NHTSA believes that these figures are overstated, both with respect to the average duplication cost per booklet and the number of booklets produced.

The potential costs associated with this rule should have only negligible effects, if any, on the purchase price of new passenger cars. Thus, small organizations and small governmental jurisdictions that purchase passenger cars should not be significantly affected. Based upon this evaluation, I certify that the amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, no final regulatory flexibility analysis has been prepared.

3. Executive Order 12612 (Federalism)

This rule has been analyzed in accordance with the principles and requirements contained in Executive Order 12612, and the agency has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

4. National Environmental Policy Act

The agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act of 1969 and has determined that it will not significantly affect the quality of the human environment.

List of Subjects in 49 CFR Part 582

Insurance, Motor vehicles.

For the reasons set out in the preamble, 49 CFR part 582 is amended as set forth below:

PART 582—[AMENDED]

1. The authority citation for part 582 is revised to read as follows:

Authority: 15 U.S.C. 1941(e); delegation of authority at 49 CFR 1.50(f).

2. In § 582.3, paragraph (b)(1) is revised to read as follows:

§ 582.3 Definitions.

* * * * *

(b) * * *

(1) *Automobile dealer* means any person who engages in the retail sale of new automobiles as a trade or business.

3. Section 582.4 is revised to read as follows:

§ 582.4 Requirements.

(a) Each automobile dealer shall make available to prospective purchasers, without charge, the information specified in § 582.5, at each location where he or she offers new vehicles for sale.

(b) Each automobile dealer shall maintain a sufficient quantity of booklets containing the information specified in § 582.5 to assure that they are available for retention by prospective purchasers.

(c) The booklets shall be revised to reflect the updated data published by NHTSA each year within 30 days of NHTSA's publication of the data in the **Federal Register**.

4. Section 582.5 is revised to read as follows:

§ 582.5 Information form.

The information made available pursuant to § 582.4 shall be presented in writing in the English language and in not less than 10-point type. It shall be presented in the format set forth below, and shall include the complete explanatory text and the updated data published annually by NHTSA.

JANUARY [YEAR TO BE INSERTED]

COMPARISON OF DIFFERENCES IN INSURANCE COSTS FOR PASSENGER MOTOR VEHICLES ON THE BASIS OF DAMAGE SUSCEPTIBILITY

The National Highway Traffic Safety Administration (NHTSA) has provided the information in this booklet in compliance with Federal law as an aid to consumers considering the purchase of a new car. The booklet compares differences in insurance costs for different makes and models of passenger cars on the basis of damage susceptibility. However, it does not indicate a vehicle's relative safety.

The following table contains the best available information regarding the effect of damage susceptibility on auto insurance premiums. It was taken from data compiled by the Highway Loss Data Institute (HLDI) in its December [YEAR TO BE INSERTED] Insurance Collision Report, and reflects the collision loss experience of passenger vehicles sold in the United States in terms of the average loss payment per insured vehicle year for [THREE APPROPRIATE YEARS TO BE INSERTED]. NHTSA has not verified the data in this table.

The table presents vehicles' collision loss experience in relative terms, with 100 representing the average for all passenger vehicles. Thus, a rating of 122 reflects a collision loss experience that is 22 percent higher (worse) than average while a rating of 96 reflects a collision loss experience that is 4 percent lower (better) than average. The table does not include information about new models, models that have been substantially redesigned, and models without enough claim experience.

Although many insurance companies use the HLDI information to adjust the "base rate" for the *collision portion* of their auto insurance premiums, the amount of any such adjustment is usually small. It is unlikely that your total premium will vary more than five percent depending upon the collision loss experience of a particular vehicle.

If you do not purchase collision coverage or your insurance company does not use the HLDI information, your premium will not vary at all in relation to these rankings.

In addition, different insurance companies often charge different premiums for the same driver and vehicle. Therefore, you should contact insurance companies directly to determine the actual premium that you will be charged for insuring a particular vehicle.

Please Note: In setting auto insurance premiums, insurance companies mainly rely on factors that are not directly related to the vehicle itself (except for its value). Rather, they mainly consider driver characteristics (such as age, gender, marital status, and driving record), the geographic area in which the vehicle is driven, how many miles are traveled, and how the vehicle is used. Therefore, to obtain complete information about insurance premiums, you should contact insurance companies directly.

Insurance companies do not generally adjust their premiums on the basis of data reflecting the crashworthiness of different vehicles. However, some companies adjust their premiums for personal injury protection

and medical payments coverage if the insured vehicle has features that are likely to improve its crashworthiness, such as airbags and automatic seatbelts.

Test data relating to vehicle crashworthiness are available from NHTSA's New Car Assessment Program (NCAP). NCAP test results demonstrate relative frontal crash protection in new vehicles. Information on vehicles that NHTSA has tested in the NCAP program can be obtained by calling the agency's toll-free Auto Safety Hotline at (800) 424–9393.

[INSERT TABLE TO BE PUBLISHED EACH JANUARY BY THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION]

If you would like more details about the information in this table, or wish to obtain the complete Insurance Collision Report, please contact HLDI directly, at: Highway Loss Data Institute, 1005 North Glebe Road, Arlington, VA 22201, Tel: (703) 247–1600.

Issued on: March 1, 1993.

Howard M. Smolkin,

Acting Administrator.

[FR Doc. 93–5100 Filed 3–2–93; 4:25 pm]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 58, No. 42
Friday, March 5, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1717

Lien Accommodations and Subordinations

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to issue a regulation which will set forth REA policies, requirements and procedures governing the accommodation and subordination of the government's lien on electric borrowers' systems in order to facilitate non-REA financing of borrower investments.

DATES: Written comments must be received by REA or carry a postmark or equivalent by May 4, 1993.

ADDRESSES: Written comments should be addressed to Mr. F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, U.S. Department of Agriculture, Rural Electrification Administration, room 2234–S, 14th Street and Independence Avenue, SW., Washington, DC 20250–1500. REA requires a signed original and three copies of all comments (7 CFR 1700.30 (e)). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Mr. John Arnesen, Assistant Administrator—Electric, U.S. Department of Agriculture, Rural Electrification Administration, room 4037–S, 14th Street & Independence Avenue, SW., Washington, DC 20250–1500. Telephone: 202–720–9545.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation as established by the Executive Order.

Regulatory Flexibility Act Certification

The Administrator of REA has determined that the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply to this proposed rule.

National Environmental Policy Act Certification

The Administrator of REA has determined that this rule will not significantly affect the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under number 10.850 Rural Electrification Loan and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402.

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. A Notice of Final Rule titled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts REA electric loans and loan guarantees from coverage under this Order.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If adopted, this proposed rule:

(1) Will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule;

(2) Will not have any retroactive effect; and

(3) Will not require administrative proceedings before any parties may file suit challenging the provisions of this rule.

Information Collection and Recordkeeping Requirements

The existing recordkeeping and reporting burdens contained in this proposed rule were approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), under control numbers 0572–0017 and 0572–0032.

Additional reporting requirements contained in this proposed rule have been submitted to OMB. They will not be effective until approved by OMB.

Send questions or comments regarding these burdens or any other aspect of these collections of information, including suggestions for reducing the burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for USDA, room 3201, New Executive Office Building, Washington, DC 20503.

Background

REA is revising its mortgage and loan agreement, and its policies and procedures governing the granting of an accommodation or subordination of the government's lien on electric borrowers' systems. The objectives of these proposed revisions are to facilitate and support borrowers' efforts to obtain private sector financing of their capital needs, to allow borrowers greater flexibility in the management of their business affairs without compromising REA loan security, and to reduce the cost to borrowers, in terms of time, expense and paper work, of obtaining lien accommodations and subordinations. The objectives will be accomplished by updating REA's policies, requirements, and documents to bring them more in line with private commercial practice, and to clarify and streamline REA's procedures relating to loan security documents and the granting of lien accommodations and subordinations.

Because of the magnitude and complexity of the task, the effort has been divided into several phases. The first phase is concentrating on updating and streamlining REA's policies and procedures for granting a lien accommodation or subordination under the current mortgage for electric borrowers. Later phases will focus on developing one or more new standard

forms of the mortgage and loan agreement.

On December 2, 1991, REA published an advance notice of proposed rulemaking in the **Federal Register** (56 FR 61201) inviting comments on possible changes to REA's loan security documents and its policies and procedures governing lien accommodations and subordinations. Comments were received from 42 organizations. Most of these organizations offered comments on lien accommodations and subordinations, the subject of this proposed rule.

In addition, on June 30, 1992, REA held a public meeting on REA policies and procedures for granting lien accommodations and subordinations under the electric mortgage. Eighteen organizations, including distribution and power supply borrowers and their representatives, the National Rural Electric Cooperative Association, the National Rural Utilities Cooperative Finance Corporation, CoBank, and First Boston Corporation, attended the meeting, gave testimony and responded to questions from a panel consisting of representatives from REA and the Department of Agriculture's Office of General Counsel. Written comments were also received following the public meeting from several participants and 14 other organizations, mostly borrowers.

The comments, recommendations, and other information received from the public have been very helpful in drafting this proposed rule. While the public comments received cover a wide range of topics relating to REA's loan security documents and the question of lien accommodations and subordinations, several themes and issues emerged that are especially relevant to the topic at hand. The more important and more frequently raised issues are as follows:

1. Financial and other objective criteria, including historical and pro forma performance tests and such financial criteria as TIER, DSC, equity and bondable property, should be established for granting lien accommodations and subordinations.

2. REA should retain the flexibility to grant a lien accommodation or subordination for borrowers that do not meet the objective qualification criteria.

3. REA should be required to take action on a request for a lien accommodation or subordination within a specified time period, such as 30 to 90 days, or at least inform the borrower when a decision will be made.

4. Requirements and procedures for granting lien accommodations and subordinations should be clearly defined.

5. REA should be willing to approve a lien accommodation up front for concurrent supplemental financing required in connection with an REA insured loan, rather than waiting until the insured loan is approved.

6. The REA mortgage should be updated to bring it more in line with mortgages used in private utility financing, and a trusteed indenture should be developed and made available to borrowers as an option.

This proposed rule attempts to respond to the first five issues summarized above. It addresses lien accommodations and subordinations from the standpoint of the existing REA mortgage, and recognizes that some additional changes may be required when a new mortgage is developed.

The proposed rule is divided into two subparts: Subpart R dealing with lien accommodations and subordinations for 100 percent private financing of electric facilities and other purposes, and Subpart S dealing with lien accommodations for concurrent supplemental loans required in connection with REA insured loans.

Subpart R

Subpart R deals with lien accommodations and subordinations for three different types of private financing (excluding financing guaranteed by REA): Financing of electric facilities, including equipment and systems (sections 854 through 856), refinancing of existing secured debt (section 857), and financing of rural development investments (section 858).

Financing of Electric Facilities

Section 854 proposes criteria whereby distribution borrowers would be able to receive advance approval for a lien accommodation or subordination for 100 percent private financing of distribution and subtransmission facilities. Advance approval would mean that REA would approve the request automatically once REA is satisfied that the borrower has met the requirements for advance approval. In all cases, if other lenders secured under the REA mortgage have the right of approval of lien accommodations and subordinations, their approval would also be required.

The proposed qualification criteria include financial tests in terms of equity, Times Interest Earned Ratio (TIER), Debt Service Coverage (DSC), and the ratio of net utility plant to total outstanding long-term debt. In addition, the borrower's board of directors must agree to implement any required increases in rates; there must be no pending litigation against the borrower and no threatened actions by third parties that would have a material adverse effect; the borrower must be current on all financial obligations and not in default under the REA mortgage, the loan contract, any debt restructing agreement, or any other agreement with REA; and the borrower must be in compliance with REA requirements on accounting, irregularities, financial reporting and record keeping.

Advance approval would not be authorized for lien accommodations or subordinations for financing of bulk transmission and generation facilities mainly because such construction may require an environmental assessment (EA) or an Environmental Impact Statement (EIS), and may involve greater financial risks. Preparation of the environmental documents normally would require additional time beyond that allowed for advance approval. Power supply borrowers would not be eligible for advance approval because few if any of them would be able to meet the financial tests, and also because the financial conditions and requirements of these borrowers generally are more complex and diverse than in the case of distribution borrowers.

Specific suggestions are invited from the public on deletions, additions, or modifications to the proposed qualification criteria for advance approval. A bondable property test, as suggested by public comments, was considered. It was felt that such a test was not necessary to protect mortgagees' security interests as long as an adequate equity test was included and there was adequate collateral to cover secured debt. The net utility plant to outstanding long-term debt ratio was included to attempt to address adequacy of the collateral. While an equity test is more consistent with the current mortgage, in developing a new mortgage further consideration might be given to a bondable property test.

Approximately 48 percent of distribution borrowers would qualify for advance approval under the proposed criteria. The information and documents required in the application would be significantly less than in the case of "normal review." Since REA's review would be limited to verifying that the borrower meets the requirements for advance approval, the time required for REA review and action would also be substantially reduced. The rule proposes that REA act on these applications within 45 days of receiving a complete application satisfactory to REA.

The proposed rule is responsive to public comments that REA retain the flexibility to grant lien accommodations and subordinations in the case of borrowers that are not able to meet the objective criteria for advance approval. These borrowers would have to demonstrate, in a long-range financial forecast, that their system is economically viable and that the proposed loan is financially feasible. The proposed time frame for REA action in these cases is 90 days after receiving a complete application satisfactory to REA. In both the case of advance approval and normal review, if a new mortgage or mortgage amendment is required, the proposed time frame for REA to execute these documents is 30 days, once satisfactory documents are received.

Refinancing of Existing Secured Debt

Section 857 proposes establishment of criteria whereby both distribution and power supply borrowers would qualify for advance approval for a lien accommodation or subordination for loans to refinance existing debt secured under the REA mortgage. Under the proposed advance approval process, REA would automatically approve the request once it was satisfied that the borrower met the requirements for advance approval. This would eliminate uncertainty and substantially reduce the time required for qualified applicants to obtain a lien accommodation or subordination for refinancings. A lien subordination would be available only if the lien of the mortgage had been subordinated with respect to the assets securing the debt being refinanced.

The qualification criteria for advance approval in the case of refinancings are designed to identify those refinancing that are, a priori, in the government's interest. The criteria are designed to limit REA's credit exposure to not more than what it was before the refinancing; to prevent the repayment of loan principal from being pushed off into the future, which could increase the borrower's future debt burden and increase uncertainty about its ability to repay; to ensure that the borrower's annual cost of the debt, on a present value basis, is reduced as a result of the refinancing, thus strengthening the borrower's repayment ability; and to limit uncertainty about REA's credit exposure and risks by limiting qualified transactions to standard types of current refundings. Public comments are invited on deletions, additions, or modifications to the proposed criteria.

The proposed time frame for REA to act on an application for advance approval is 15 days upon receipt of a complete and satisfactory application. The proposed time frame for REA action on applications subject to normal review is 30 days.

Section 857 also proposes that, when a supplemental loan made concurrently with an REA insured loan is refinanced, the refinancing would not be deemed a prepayment if the principal amount of the refinancing loan is not less than the amount of principal being refinanced, and the weighted average life of the refinancing loan is materially equal to the weighted average remaining life of the loan being refinanced. Under these circumstances, no proportional prepayment of the concurrent REA insured loan would be required. The refinancing loan, once made, would itself be considered a concurrent loan with regard to provisions of the mortgage and REA's regulations, including provisions governing any future prepayments.

Rural Development Investments

Under proposed section 858, REA borrowers would be encouraged to consider investing in financially sound projects likely to have a substantial effect on economic development and employment in rural areas. It would be recommended that such investments be made through an independent subsidiary of the borrower in order to clearly separate the financial risks and the revenues and costs of the rural development enterprise from those of the borrower's electric utility business. The proposed separation of financial interests and risks would be consistent with requirements of most state public service commissions.

It is also proposed that REA consider subordinating or releasing its lien on the stock held by a borrower in a subsidiary whose primary business directly contributes to or supports economic development and employment in rural areas, as defined in section 13 of the RE Act, when requested by a lender to the subsidiary, other than the borrower. This would provide support to private financing of rural development investments by allowing the lender to obtain a first lien on the stock held by the borrower in the subsidiary. To limit the financial risks to a borrower's utility system and to discourage possible undisclosed cross subsidization of rural development activities by electric rate payers, REA would not lien accommodate or subordinate for loans made directly to a borrower for rural development purposes.

Clearly Defined Requirements and Procedures

This proposed rule attempts to respond positively to public demands for clearly defined requirements and procedures for lien accommodations and subordinations. It sets forth proposed qualification requirements for a lien accommodation or subordination for the three different types of financing (electric facilities, refinancing, and rural development), as well as proposed procedures and the information and documents to be submitted as part of the application for the three different types. Uncertainty by borrowers and private sector lenders regarding these questions should be greatly reduced.

Advance of Funds

Paragraph 850(g) proposes that the advance of funds from 100 percent private loans lien accommodated or subordinated by REA not be subject to REA approval. Instead, the private lender would be responsible to ensure that the loan funds are used for the purposes for which the loan was made and the lien accommodation or subordination was granted. This should simplify the loan advance process and reduce the time required to obtain loan fund advances.

Safety and Performance Standards

Proposed paragraph 850(f) would require borrowers seeking a lien accommodation or subordination for 100 percent private financing of electric facilities to certify that they will follow REA safety requirements and construction standards, and use REA accepted materials for distribution and transmission facilities. Construction plans and specifications would not be subject to REA review and approval; instead the borrower would be required to obtain a certification from a registered professional engineer that the construction complies with REA requirements on accepted materials, safety, and construction standards.

Contracting and Procurement Procedures

The rule also proposes to waive certain REA post-loan requirements for facilities financed with 100 percent private loans lien accommodated or subordinated by REA. Proposed paragraph 850(h) would waive REA post-loan requirements regarding contracting, procurement and bidding procedures; contract close-out procedures pertaining to construction completion, final payment of contractor, and related matters; and standard forms of construction and procurement contracts listed in 7 CFR 1726.300.

These proposed waivers would give borrowers greater latitude and flexibility in constructing facilities financed with 100 percent private loans, while still complying with REA requirements on safety, accepted materials, and construction standards.

Subpart S

Supplemental lenders recommended that REA approve requests for a lien accommodation early in the process for concurrent supplemental loans required in connection with an REA insured loan, rather than waiting until funding is available for the REA insured loan. REA agrees that "early approval" of such lien accommodations should be an option available to borrowers.

Under proposed section 901, to exercise the option, a borrower would have to request early approval and certify that the funds are needed and will be drawn before insured loan funds are expected to be available, assuming the concurrent insured loan is approved. Since the early approval process would involve some duplication of REA efforts in reviewing first the lien accommodation request and later the insured loan request, it would not make sense for REA to incur this extra expense unless the borrower actually needed the supplemental funds earlier than would normally be available, and intended to draw the supplemental funds as soon as the accommodation was approved. If the borrower intends to wait until the concurrent insured loan is approved and its funds advanced, there is little or no justification for early approval of a lien accommodation for the concurrent supplemental loan.

It is proposed that REA will take action on the lien accommodation within 90 calendar days of receiving the request for early approval and a complete application satisfactory to REA. REA's approval of the lien accommodation would not ensure that the concurrent insured loan would also be approved.

In summary, this proposed rule attempts to deal with several issues regarding the granting of lien accommodations and subordinations under the existing REA electric mortgage. The rule responds to major comments received from the public regarding the establishment of objective criteria for granting lien accommodations and subordinations, maintenance of REA flexibility to grant lien accommodations and subordinations when borrowers are not able to meet the objective criteria, updating, clarifying, and streamlining REA's requirements and procedures, and establishing time frames for REA action on requests.

List of Subjects in 7 CFR Part 1717

Administrative practice and procedure, Electric power, Electric utilities, Intergovernmental relations, Investments, Lien accommodation, Lien subordination, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

For reasons explained in the preamble, REA proposes to amend 7 CFR chapter XVII by amending part 1717 as follows:

PART 1717—POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1717 continues to read as follows:

Authority: 7 U.S.C. 901–950b; Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.72, unless otherwise noted.

2. Subparts O through Q are added and reserved and subparts R and S are added to read as follows:

Subpart O—[Reserved]

Sec.
1717.700–1717.749 [Reserved]

Subpart P—[Reserved]

Sec.
1717.750–1717.799 [Reserved]

Subpart Q—[Reserved]

Sec.
1717.800–1717.849 [Reserved]

Subpart R—Lien Accommodations and Subordinations for 100 Percent Private Financing

Sec.
1717.850 General.
1717.851 Definitions.
1717.852 Financing purposes.
1717.853 Loan terms and conditions.
1717.854 Advance approval—100 percent private financing of distribution and subtransmission facilities.
1717.855 Application contents: advance approval—100 percent private financing of distribution and subtransmission facilities.
1717.856 Application contents: normal review—100 percent private financing of distribution, transmission and/or generation facilities.
1717.857 Refinancing of existing secured debt—distribution and power supply borrowers.
1717.858 Lien subordination for rural development investments.
1717.859 Application process and time frames.
1717.860–1717.899 [Reserved]

Subpart S—Lien Accommodations for Supplemental Financing Required by 7 CFR 1710.110

Sec.
1717.900 Qualification requirements.
1717.901 Early approval.
1717.902 Other REA requirements.
1717.903–1717.949 [Reserved]

Subpart O—[Reserved]

§§ 1717.700–1717.749 [Reserved]

Subpart P—[Reserved]

§§ 1717.750–1717.799 [Reserved]

Subpart Q—[Reserved]

§§ 1717.800–1717.849 [Reserved]

Subpart R—Lien Accommodations and Subordinations for 100 Percent Private Financing

§ 1717.850 General.

(a) *Scope.* This subpart establishes policies and procedures for the accommodation, subordination or release of the government's lien on borrower assets in connection with 100 percent private sector financing of facilities and other purposes. Policies and procedures regarding lien accommodations for concurrent supplemental financing required in connection with an REA insured loan are set forth in subpart S of this part.

(b) *Overall policy.* Consistent with prudent lending practices, the maintenance of adequate security for REA's loans, and the objectives of the Rural Electrification Act (RE Act), it is the policy of REA to provide effective and timely assistance to borrowers in obtaining financing from other lenders for electric facilities, equipment and systems by sharing REA's lien on a borrower's assets, and in certain circumstances by subordinating REA's lien on specific assets financed by other lenders. It is also the policy of REA to provide effective and timely assistance to borrowers in promoting rural development by subordinating REA's lien for financially sound rural development investments under the conditions set forth in § 1717.858.

(c) *Decision factors.* In determining whether to accommodate, subordinate, or release its lien on property pledged by the borrower under the REA mortgage, REA will consider the effects of such action on the achievement of the purposes of the RE Act, the repayment and security of REA loans secured by the mortgage, and other factors set forth in this subpart. The following factors will be considered in assessing the effects on the repayment and security of REA loans:

(1) The value of the added assets compared with the amount of new debt to be secured;

(2) The value of the assets already pledged under the mortgage, and any effects of the proposed transaction on the value of those assets;

(3) The ratio of the total outstanding debt secured under the mortgage to the value of all assets pledged as security under the mortgage;

(4) The borrower's ability to repay debt owed to the government, as indicated by the following factors:

(i) Revenues, costs (including interest, lease payments and other debt service costs), margins, Times Interest Earned Ratio (TIER), and Debt Service Coverage (DSC);

(ii) The variability and uncertainty of future revenues, costs, margins, TIER, and DSC;

(iii) Future capital needs and the ability of the borrower to meet those needs at reasonable cost; and

(iv) The ability of the borrower's management to manage and control its system effectively and plan for future needs; and

(5) Other factors that may be relevant in individual cases, as determined by REA.

(d) *Environmental considerations.* Under certain circumstances, such as when the project does not qualify for a categorical exclusion, the environmental requirements of 7 CFR part 1794 may apply to applications for lien accommodations, subordinations, and releases.

(e) *Co-mortgagees.* Other mortgagees under existing mortgages shared with REA may have the right to approve requests for lien accommodations, subordinations and releases. In those cases, borrowers would have to obtain the approval of such mortgagees in order for the lien of the mortgage to be accommodated, subordinated or released.

(f) *Safety and performance standards:* (1) In the case of distribution and transmission facilities financed by a loan that is lien accommodated or subordinated under this subpart, an authorized official of the borrower must certify that the borrower will:

(i) Comply with the National Electrical Safety Code, in accordance with 7 CFR 1724.41;

(ii) Use only materials for distribution and transmission facilities that have been determined by REA to be acceptable, as required by 7 CFR 1728.70 (a) and (b), or if such materials are not available, use materials approved by a registered professional engineer;

(iii) Comply with standards for construction established by REA, such as those in 7 CFR 1728.97, except as otherwise provided in 7 CFR 1724.45; and

(iv) Obtain a certification from a registered professional engineer that the requirements of this paragraph have been met.

(2) REA "Buy American" requirements shall not apply.

(g) *Advance of funds.* The advance of funds from 100 percent private loans lien accommodated or subordinated by REA will not be subject to REA approval. It is the private lender's responsibility to ensure that such loan funds are used for the purposes for which the loan was made and the lien accommodation or subordination granted.

(h) *Contracting and procurement procedures.* (1) Facilities financed with debt obtained entirely from non-REA sources, without an REA loan guarantee, are not subject to REA post-loan requirements regarding contracting, procurement and bidding procedures; contract close-out procedures pertaining to project completion, final payment of contractor, and related matters; and standard forms of construction and procurement contracts listed in 7 CFR 1726.300.

(2) To the extent that provisions in a borrower's loan contract or mortgage in favor of REA may be inconsistent with paragraphs (g) and (h)(1) of this section, these paragraphs are intended to constitute an approval or waiver under the terms of such instruments, and in any regulations implementing such instruments, with respect to facilities financed with debt obtained entirely from non-REA sources without an REA guarantee. Specifically, the following requirements customarily found in typical REA loan instruments and in implementing regulations are deemed satisfied or not applicable:

(i) All provisions in Loan Contract Article II, entitled "Advances and Disposition of Funds";

(ii) Those provisions in Loan Contract Article III, entitled "Construction," found in sections 1, 2 or 3 and respectively concerning limitations on the use of force account construction, requirements to use REA approved construction contracts, or requirements to use competitive bidding;

(iii) Those provisions in Loan Contract Article IV, entitled "Particular Covenants," found in sections 1, 2, 3, 9, 10, 14 or 16 and concerning the following matters: approval of depositories and engineers, plans and specifications, construction contracts, materials, and equipment and supplies contracts; delivery of contractor's and subcontractor's bonds; procedures for energizing the system; clauses for inclusion in contracts for federally assisted construction; or requirements for approval of evidence of the Borrower's right, title or interest in real property being acquired or improved by the Borrower; and

(iv) Those provisions in Mortgage Article II, entitled "Particular Covenants of the Mortgagor," found in section 10 thereof and concerning approval of extensions and improvements to the system, other than extensions or improvements related to serving any consumer having an anticipated demand in excess of 1,000 kilowatts, and provisions concerning approval of expenses for legal, engineering, supervisory, accounting or other similar expenses.

(i) *Access of handicapped to buildings.* To be eligible for a lien accommodation or subordination for 100 percent private financing of the construction of buildings, the borrower must provide REA with a certification by the project architect that the buildings will be designed and constructed in compliance with section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794), as applicable under that Act, and that the facilities will be readily accessible to and usable by persons with handicaps in accordance with the Uniform Federal Accessibility Standards (UFAS), (appendix A to 41 CFR part 101.19, subpart 101–19.6). The certification must be included in the borrower's application for a lien accommodation or subordination. In addition to these requirements, building construction may also be subject to requirements of The Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*).

(j) Any breach of any warranty or any material inaccuracy in any representation, warranty, certificate, document, or opinion submitted pursuant to this subpart, including, without limitation, any representation regarding the use of funds from loans lien accommodated or subordinated pursuant to this subpart, shall constitute a default by the borrower under the terms of its loan agreement with REA.

(k) *Guaranteed loans.* The provisions of this subpart do not apply to loans guaranteed by REA.

(l) *Release of lien.* To avoid repetition, release of lien is not mentioned in every instance where it may be an acceptable alternative to subordination of REA's lien. Generally, lien subordination is favored over release of lien, and any decision to release REA's lien is at the sole discretion of REA.

§ 1717.851 Definitions.

Terms used in this subpart have the meanings set forth in 7 CFR 1710.2. References to specific REA forms and other REA documents, and to specific sections or lines of such forms and documents, shall include the corresponding forms, documents, sections and lines in any subsequent revisions of these forms and documents. In addition to the terms defined in 7 CFR 1710.2, the following terms have the following meanings for the purposes of this subpart:

Calendar day means any day of the year, except a Federal holiday that falls on a work day.

Equity, less deferred debits, means Line 33 less Line 25 of Part C of REA Form 7.

Front-end costs means the reasonable cost of engineering, architectural, environmental and other studies and plans needed to support the construction of facilities.

Lien accommodation means the sharing of the government's (REA's) lien on property, usually all property, covered by the lien of the REA mortgage.

Lien subordination means allowing another lender to take a first mortgage lien on certain property covered by the lien of the REA mortgage, and the government (REA) taking a second lien on such property.

Net utility plant means Part C, Line 5 of REA Form 7 (distribution borrowers) or Section B, Line 5 of REA Form 12a (power supply borrowers).

ODSC means Operating Debt Service Coverage calculated as:

$$ODSC = \frac{A+B+C}{D}$$

where:

A = Depreciation and Amortization Expense, which equals Part A, Line 12 of REA Form 7;

B = Interest on Long-term Debt, which equals Part A, Line 15 of REA Form 7, except that Interest on Long-term debt shall be increased by 1/3 of the amount, if any, by which the rentals of Restricted Property (Part M, Line 3 of REA Form 7) exceeds 2 percent of Total Margins and Equities (Part C, Line 33 of REA Form 7);

C = Patronage Capital & Operating Margins, which equals Part A, Line 20 of REA Form 7; and

D = Debt Service Billed (REA + other) which equals all interest and principal billed during the calendar year plus 1/3 of the amount, if any, by which the rentals of Restricted Property (Part M, Line 3 of REA Form 7) exceeds 2 percent of Total Margins and Equities (Part C, Line 33 of REA Form 7).

OTIER means Operating Times Interest Earned Ratio calculated as:

$$OTIER = \frac{A+B}{A}$$

where:

A = Interest on Long-term Debt, which equals Part A, Line 15 of REA Form 7, except that Interest on Long-term debt shall be increased by 1/3 of the amount, if any, by which the rentals of Restricted Property (Part M, Line 3 of REA Form 7) exceeds 2 percent of Total Margins and Equities (Part C, Line 33 of REA Form 7); and

B = Patronage Capital and Operating Margins, which equals Part A, Line 20 of REA Form 7.

Total outstanding long-term debt means Part C, Line 38 of REA Form 7.

Transaction costs means the reasonable cost of legal advice, accounting fees, filing fees, recording fees, financing costs, underwriting commissions, and printing associated with borrower financing.

§ 1717.852 Financing purposes.

(a) *Purposes eligible.* The following financing purposes, except as excluded in paragraph (b) of this section, are eligible for a lien accommodation from REA, or in certain circumstances a subordination of REA's lien on specific assets, provided that all applicable provisions of this subpart are met:

(1) The acquisition, construction, improvement, modification, and replacement (less salvage value) of systems, equipment, and facilities (including distribution, transmission, generation, and other facilities listed in 7 CFR 1710.251(c) and 1710.252(c)), used to supply electric power to:

(i) RE Act beneficiaries; and/or

(ii) End-user customers of the borrower who are not beneficiaries of the RE Act;

(2) The purchase, rehabilitation and integration of existing distribution facilities and associated service territory;

(3) Front-end costs, when and as the borrower has obtained a binding commitment from the non-REA lender for the financing required to complete the procurement or construction of the facilities;

(4) Transaction costs included as part of the cost of financing assets or refinancing existing debt, provided, however, that the amount of transaction costs eligible for lien accommodation or subordination normally shall not exceed 2 percent of the principal amount of financing or refinancing provided, net of all transaction costs;

(5) The refinancing of existing debt secured under the mortgage; and

(6) Lien subordinations for certain rural development investments, as provided in § 1717.858.

(b) *Purposes ineligible.* (1) Except as provided in paragraph (b)(2) of this section, the following financing purposes are not eligible for a lien accommodation or subordination from REA:

(i) Working capital, including operating funds, unless the working capital is required to ensure the repayment of REA loans;

(ii) Electric facilities, equipment, appliances, or wiring located inside the premises of the consumer, except certain load-management equipment (see 7 CFR 1710.251(c)(11));

(iii) Investments in a lender required of the borrower as a condition for obtaining financing; and

(iv) Debt incurred by a distribution or power supply borrower for investment in projects other than the borrower's primary business of supplying electric power to its members and consumers.

(2) REA may, at its sole discretion, grant an exception to any of the restrictions on accommodating or subordinating its lien on a borrower's property set forth in paragraph (b)(1) of this section, if REA determines that the accommodation or subordination will enhance the repayment and/or security of loans made by REA to the borrower.

(c) *Lien subordination for electric utility investments.* REA will consider subordinating its lien on specific electric utility assets financed by the lender, when the assets can be split off without materially reducing the stability, safety, reliability, operational efficiency, or liquidation value of the rest of the system.

§ 1717.853 Loan terms and conditions.

(a) *Terms and conditions.* A loan, bond or other financing instrument, for which a lien accommodation or subordination is requested from REA, must comply with the following terms and conditions:

(1) The maturity of the loan or bond used to finance facilities or other capital assets must not exceed the weighted average of the expected useful lives of the facilities being financed;

(2) The loan or bond must have a maturity of not less than 5 years;

(3) The principal of the loan or bond must be amortized at a rate that will yield a weighted average life not greater than the weighted average life that would result from level payments of principal and interest; and

(4) The loan, or any portion of the loan, may bear either a variable (set annually or more frequently) or a fixed interest rate, provided that if the loan bears a variable interest rate the loan will not result in the total outstanding debt of variable-rate loans exceeding 15

percent of all outstanding debt at the time the loan is approved.

(b) *REA approval.* Loan terms and conditions and the loan agreement between the borrower and the lender are subject to REA approval. However, REA will usually waive its right of approval for distribution borrowers that meet the conditions for advance approval of a lien accommodation or subordination set forth in § 1717.854. REA may also waive its right of approval in the case of refinancings of existing debt under § 1717.857. In both cases, REA's decision to waive its right of approval will depend on the adequacy of security for REA's loans, the current and projected financial strength of the borrower and its ability to meet its financial obligations, REA's familiarity with the lender and its lending practices, whether the transaction is ordinary or unusual, and the uncertainty and credit risks involved in the transaction.

§ 1717.854 Advance approval—100 percent private financing of distribution and subtransmission facilities.

(a) *Policy.* All requests for a lien accommodation or subordination from distribution borrowers for 100 percent private financing of distribution and subtransmission facilities that meet the conditions of this section and all other applicable provisions of this subpart, qualify for advance approval by REA. Advance approval means REA will approve these requests once REA is satisfied that the conditions of this section and all other applicable provisions of this subpart have been met.

(b) *Eligible purposes.* Lien accommodations or subordinations for the financing of distribution and subtransmission facilities, except the purchase, rehabilitation and integration of existing distribution facilities and associated service territory, are eligible for advance approval (see § 1717.852).

(c) *Qualification criteria.* To qualify for advance approval, the following requirements, as well as all other applicable requirements of this subpart, must be met:

(1) The borrower meets at least one of the following two criteria:

(i) The ratio of the borrower's equity, less deferred debits (expenses), to total assets is at least 40 percent at the time of the lien accommodation request, and is not less than 37 percent after taking into account the effect of the proposed loan, and the borrower has achieved a TIER of at least 1.5 and a DSC of at least 1.25 in each of the 3 calendar years immediately preceding the request for a lien accommodation or subordination; or

(ii) The ratio of the borrower's equity, less deferred debits (expenses), to total assets is at least 35 percent at the time of the lien accommodation request, and is not less than 32 percent after taking into account the effect of the proposed loan, and the borrower has achieved an operating TIER (OTIER) of at least 1.5 and an operating DSC (ODSC) of at least 1.25 in each of the 3 calendar years immediately preceding the request for a lien accommodation or subordination;

(2) The borrower's net utility plant as a ratio to total outstanding long-term debt, after taking into consideration the effect of the proposed loan and associated plant additions, is not less than 1.1;

(3) The borrower's board of directors has agreed by resolution to place into effect any increases in rates required as a result of the proposed loan in order to meet the TIER and DSC ratios required by the mortgage, and take all reasonable steps to obtain any approvals required by state regulatory authorities;

(4) There is no pending litigation and no threatened actions by third parties that would materially affect the borrower's operations and/or financial condition;

(5) The borrower is current on all debt payments and all other financial obligations, and is not in default under the REA mortgage, the REA loan contract, any debt restructuring agreement, or any other agreement with REA;

(6) The borrower has:

(i) Submitted the annual auditor's report, report on compliance, report on internal controls, and management letter in accordance with 7 CFR part 1773;

(ii) Received an unqualified opinion in the most recent auditor's report;

(iii) Resolved all findings and recommendations made in the most recent Loan Fund and Accounting Review;

(iv) Resolved all findings and recommendations made in the most recent financial statement audit, including those findings and recommendations made in the report on internal control, report on compliance, and management letter;

(v) Resolved all outstanding accounting issues with REA; and

(vi) Resolved any significant irregularities to REA's satisfaction; and

(7) If the borrower has a power supply contract with a power supply borrower, the power supply borrower is current on all debt payments and all other financial obligations, and is not in default under the REA mortgage, the REA loan contract, any debt restructuring agreement, or any other agreement with REA.

(d) *Right of normal review reserved.* REA reserves the right to review any request for lien accommodation or subordination under its normal review process rather than under advance approval procedures if REA, in its sole discretion, determines there is reasonable doubt as to whether the requirements of paragraphs (b) and (c) of this section have been or will be met, or whether the borrower will be able to meet all of its present and future financial obligations.

§ 1717.855 Application contents: advance approval—100 percent private financing of distribution and subtransmission facilities.

Applications for a lien accommodation or subordination that meet the requirements of § 1717.854 must include the following information and documents:

(a) The certification regarding safety and performance standards required by § 1717.850(f), combined with a certification by an authorized official of the borrower that the borrower and, as applicable, the loan are in compliance with all conditions set forth in § 1717.854(c) and all applicable provisions of §§ 1717.852 and 1717.853;

(b) A resolution of the borrower's board of directors requesting the lien accommodation or subordination and including the amount and maturity of the proposed loan, a general description of the facilities or other purposes to be financed, the name and address of the lender, and an attached term sheet summarizing the terms and conditions of the proposed loan;

(c) The borrower's financial and statistical report (REA Form 7), the data in which shall not be more than 60 days old when the complete application is received by REA;

(d) Draft copy of any new mortgage or mortgage amendment (supplement) required by REA or the lender, unless REA has notified the borrower that it wishes to prepare these documents itself;

(e) A copy of the loan agreement and the loan note, bond or other financing instrument if REA has advised the borrower that it has not waived its right to approve these documents;

(f) Borrower's environmental report and/or other environmental documentation, if required by 7 CFR part 1794, and board resolution adopting said documents;

(g) REA Form 740c, Cost Estimates and Loan Budget for Electric Borrowers, and REA Form 740g for buildings;

(h) A construction work plan (CWP) or CWP amendment covering the

proposed project, in accordance with 7 CFR part 1710, subpart F, and a resolution of the borrower's board of directors adopting the CWP;

(i) The certification by the project architect for any buildings to be constructed, as required by § 1717.850(i);

(j) A certification by an authorized official of the borrower that flood hazard insurance will be obtained for the full value of any buildings, or other facilities susceptible to damage if flooded, that will be located in a flood hazard area;

(k) Form AD–1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions, as required by 7 CFR part 3017;

(l) A report by the borrower stating whether or not it is delinquent on any Federal debt, and if delinquent, the amount and age of the delinquency and the reasons therefor; and

(m) Other information that REA may require to determine whether all of the applicable provisions of this subpart have been met.

§ 1717.856 Application contents: normal review—100 percent private financing of distribution, transmission and/or generation facilities.

Applications for a lien accommodation or subordination for 100 percent financing of distribution, transmission, and/or generation facilities that do not meet the requirements of § 1717.854 must include the following information and documents:

(a) The certification regarding safety and performance standards required by § 1717.850(f) (if the financing is for distribution or transmission facilities), combined with a certification by an authorized official of the borrower that:

(1) The borrower and, as applicable, the loan are in compliance with all applicable provisions of §§ 1717.852 and 1717.853; and

(2) There is no pending litigation and no threatened actions by third parties that would materially adversely affect the borrower's operations and/or financial condition. If this certification cannot be made, the application must include an opinion of borrower's counsel regarding any pending litigation (including levels of related insurance coverage and the potential effect on the borrower) and any threatened actions by third parties that would materially adversely affect the borrower's operations or financial condition, such as actions affecting service territory, loads or rates;

(b) The information and documents set forth in § 1717.855 (b) through (m);

(c) A long-range financial forecast providing financial projections for at least 10 years, which demonstrates that the borrower's system is economically viable and that proposed loan is financially feasible, and a resolution of the borrower's board of directors adopting the long-range financial forecast. The financial forecast must comply with the requirements of 7 CFR part 1710, subpart G. REA may, in its sole discretion, waive the requirement of this paragraph that a long range financial forecast be provided, if:

(1) The borrower is current on all of its financial obligations and is in compliance with all requirements of its mortgage and loan agreement with REA;

(2) In REA's judgment, granting a lien accommodation or subordination for the proposed loan will not adversely affect the repayment and security of outstanding debt of the borrower owed to or guaranteed by REA;

(3) The borrower has achieved the TIER and DSC levels required by its mortgage in each of the three most recent calendar years; and

(4) The amount of the proposed loan does not exceed 3 percent of the borrower's current net utility plant;

(d) Equity development plan. A borrower must submit a new or revised equity development plan, and a resolution of its board of directors adopting the plan, if the borrower's equity as a percentage of total assets is less than 40 percent (distribution borrowers) or less than 20 percent or some higher percentage based on the borrower's particular financial circumstances and needs (power supply borrowers), after taking into consideration the effects of the proposed loan on the borrower's balance sheet. Such borrowers are subject to the requirements of 7 CFR 1710.116;

(e) As applicable to the type of facilities being financed, a CWP, related engineering and cost studies, a power cost study, and a resolution of the borrower's board of directors adopting these documents. These documents must meet the requirements of 7 CFR part 1710, subpart F;

(f) Unless the requirement has been waived in writing by REA, a current, REA-approved power requirements study, which must meet the requirements of 7 CFR part 1710, subpart E, to the same extent as if the loan were being made by REA, and a resolution of the borrower's board of directors adopting the study; and

(g) A discussion of the borrower's compliance with REA requirements on accounting, financial reporting, record keeping, and irregularities (see § 1717.854(c)(6)). REA will review the case and determine the effect of any noncompliance on the feasibility and security of REA's loans, and whether the requested lien accommodation or subordination can be approved.

§ 1717.857 Refinancing of existing secured debt—distribution and power supply borrowers.

(a) *Advance approval.* All applications for a lien accommodation or subordination for the refinancing of existing secured debt that meet the qualification criteria of this paragraph, except applications from borrowers in default under their mortgage or loan contract with REA, are eligible for advance approval. Such lien accommodations and subordinations are deemed to be in the government's interest, and REA will approve them once REA is satisfied that the requirements of this paragraph and paragraph (c) of this section have been met. The qualification criteria are as follows:

(1) The refinancing is a current refunding and does not involve interest rate swaps, forward delivery contracts, or similar features;

(2) The principal amount of the refinancing loan does not exceed the sum of the outstanding principal amount of the debt being refinanced plus the amount of transactions costs included in the refinancing loan that are eligible for lien accommodation or subordination under § 1717.852(a)(4);

(3) The weighted average life of the refinancing loan is not greater than the weighted average remaining life of the loan being refinanced; and

(4) The present value of the cost of the refinancing loan, including all transaction costs and any required investments in the lender, is less than the present value of the cost of the loan being refinanced, as determined by a method acceptable to REA.

(b) *Other applications.* Applications for a lien accommodation or subordination for refinancing that do not meet the requirements of paragraph (a) of this section will be reviewed by REA under normal review procedures for these applications. In the case of either advance approval or normal review, a lien subordination would be authorized only if the lien of the mortgage was subordinated with respect to the assets securing the loan being refinanced.

(c) *Application contents—advance approval of refinancing.* Applications for a lien accommodation or subordination for refinancing of existing secured debt that meet the qualification criteria for advance approval set forth in paragraph (a) of this section, must

include the following information and documents:

(1) A certification by an authorized official of the borrower that the application meets the requirements of paragraph (a) of this section and all applicable provisions of §§ 1717.852 and 1717.853;

(2) Documentation and analysis demonstrating that the application meets the qualification criteria set forth in paragraph (a) of this section;

(3) A resolution of the borrower's board of directors requesting the lien accommodation or subordination and including the amount and maturity of the proposed loan, a general description of the debt to be refinanced, the name and address of the lender, and an attached term sheet summarizing the terms and conditions of the proposed loan;

(4) The borrower's financial and statistical report (REA Form 7 for distribution borrowers and REA Form 12 for power supply borrowers), the data in which shall not be more than 60 days old when the complete application is received by REA;

(5) Draft copy of any new mortgage or mortgage amendment (supplement) required by REA or the lender, unless REA has notified the borrower that it wishes to prepare these documents itself;

(6) A copy of the loan agreement and the loan note, bond or other financing instrument, if requested by REA;

(7) Form AD–1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions, as required by 7 CFR part 3017;

(8) A report by the borrower stating whether or not it is delinquent on any Federal debt, and if delinquent, the amount and age of the delinquency and the reasons therefor; and

(9) Other information, documents and opinions that REA may require to determine whether all of the applicable provisions of this subpart have been met.

(d) *Application contents—normal review of refinancing.* Applications for a lien accommodation or subordination for refinancing of existing secured debt that do not meet the requirements for advance approval set forth in paragraph (a) of this section, must include the following information and documents:

(1) The information and documents set forth in paragraphs (c) (3) through (9) of this section;

(2) A complete description of the refinancing loan and the outstanding debt to be refinanced;

(3) An analysis comparing the refinancing loan with the loan being refinanced as to the weighted average life and the net present value of the costs of the two loans; and

(4) If the present value of the cost of the refinancing loan is greater than the present value of the cost of the debt being refinanced, financial forecasts for at least 5 years comparing the borrower's debt service and other costs, revenues, margins, cash flows, TIER, and DSC, with and without the proposed refinancing.

(e) *Application process and time frames.* The application process and time frames for REA review and action for refinancings are set forth in § 1717.859(d).

(f) *Prepayments of concurrent REA insured loans.* If the loan being refinanced was made concurrently as supplemental financing required by REA in connection with an REA insured loan, the refinancing will not be considered a prepayment under the REA mortgage, and no proportional prepayment of the concurrent REA insured loan will be required, provided that the principal amount of the refinancing loan is not less than the amount of loan principal being refinanced, and the weighted average life of the refinancing loan is materially equal to the weighted average remaining life of the loan being refinanced. The refinancing loan shall be considered a concurrent loan.

§ 1717.858 Lien subordination for rural development investments.

(a) *Policy.* REA encourages borrowers to consider investing in financially sound projects that are likely to have a positive effect on economic development and employment in rural areas. In addition to the guidance set forth in § 1717.651, REA recommends that such investments be made through a subsidiary of the borrower in order to clearly separate the financial risks and the revenues and costs of the rural development enterprise from those of the borrower's electric utility business. This should reduce credit risks to the borrower's primary business, and minimize the possibility of undisclosed cross subsidization of the rural development enterprise by electric rate payers.

(b) *Lien subordination.* REA will consider subordinating or releasing its lien on the stock held by a borrower in a subsidiary whose primary business directly contributes to or supports economic development and employment in rural areas, as defined in section 13 of the RE Act, when requested by a lender to the subsidiary, other than the borrower. To be eligible for said lien subordination or release:

(1) The borrower must be current on all of its financial obligations and be in compliance with all provisions of its mortgage and loan agreement with REA; and

(2) In the judgment of REA, the borrower must be able to repay all of its outstanding debt, and the security for all outstanding loans made to the borrower by REA, including loans guaranteed by REA, must be adequate, after taking into account the proposed subordination or release of lien.

(c) *Application contents.* Applications for a lien subordination or release of lien for rural development investments must include the following information and documents:

(1) A resolution of the borrower's board of directors requesting the lien subordination or release of lien;

(2) A certification by an authorized official of the borrower that the borrower is current on all of its financial obligations and is in compliance with all provisions of its mortgage and loan agreement with REA;

(3) A description of the facilities or other purposes to be financed and the projected effects on economic development and employment in rural areas;

(4) The borrower's financial and statistical report (REA Form 7 for distribution borrowers or REA Form 12a for power supply borrowers), the data in which shall not be more than 60 days old when the complete application is received by REA;

(5) If requested by REA, a long-range financial forecast providing financial projections for at least 10 years, in form and substance satisfactory to REA, which demonstrates that the borrower's system is economically viable and that the borrower will be able to repay all of its outstanding debt and meet all other financial obligations;

(6) A discussion of the borrower's compliance with REA requirements on accounting, financial reporting, record keeping, and irregularities (see § 1717.854(c)(6)). REA will review the case and determine the effect of any noncompliance on the feasibility and security of REA's loans, and whether the requested lien subordination or release of lien can be approved;

(7) If any buildings are to be constructed with the proceeds of the loan to be made to the subsidiary, a certification by the project architect that the buildings will be designed and constructed in compliance with section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794), as applicable under that Act, and that the facilities will be readily accessible to and usable by persons with handicaps in

accordance with the Uniform Federal Accessibility Standards;

(8) A certification by an authorized official of the borrower that flood hazard insurance will be obtained for the full value of any buildings, or other facilities susceptible to damage if flooded, that will be located in a flood hazard area;

(9) Form AD–1047, Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions, as required by 7 CFR part 3017;

(10) A report by the borrower stating whether or not it is delinquent on any Federal debt, and if delinquent, the amount and age of the delinquency and the reasons therefor; and

(11) Other information that REA may require to determine whether all of the applicable provisions of this subpart have been met.

§ 1717.859 Application process and time frames.

(a) *General.* (1) Borrowers are responsible for ensuring that their applications for a lien accommodation or subordination are complete and sound as to substance and form before they are submitted to REA. REA will not accept any application that, on its face, is incomplete or inadequate as to the substantive information required by this subpart. REA will notify borrowers in writing when their applications are complete and in form and substance satisfactory to REA.

(2) It is recommended that borrowers consult with REA staff before submitting their applications to determine whether they will likely qualify for advance approval or normal review, and to obtain answers to any questions about the information and documents required for the application.

(3) A borrower shall, after submitting an application, promptly notify REA of any changes that materially affect the information contained in its application.

(4) After submitting an application and having been notified by REA of additional information and documents and other changes needed to complete the application, if the required information and documents are not supplied to REA within 30 calendar days of the borrower's receipt of the notice, REA may cancel the application and return it to the borrower. The borrower may resubmit the application when the required additional information and documents are available.

(5) Time frames. The time frames for review of applications set forth in this section are based on the following conditions:

(i) The types of lien accommodations or subordinations requested are of the "standard" types that REA has approved previously, i.e., the so-called Type I, II and III lien accommodations. Type I is typically used for electric distribution borrowers; Type II is typically used for power supply borrowers; and Type III is typically used to subordinate liens on assets not essential to the borrower's core utility business. Future revisions of the REA mortgage may result in other "standard" types of lien accommodations and lien subordinations acceptable to REA. Requests for lien accommodations or subordinations that are substantially different than the "standard" types previously approved by REA may require additional time for review and action; and

(ii) The requested lien accommodation or subordination does not require the preparation of an environmental assessment or an Environmental Impact Statement. Preparation of these documents often will require additional time beyond the time frames cited in this section.

(b) *Advance approval—100 percent private financing of distribution and subtransmission facilities.* (1) Applications that qualify under § 1717.854 for advance approval of a lien accommodation or subordination for 100 percent private financing of distribution and subtransmission facilities are submitted to the general field representative (GFR). The GFR will work with the borrower to ensure that all components of the application are assembled. Once the application is satisfactory to the GFR, it will be sent promptly to the Washington office for further review and action. If a new mortgage or mortgage amendment is required, a draft of these documents must be included in the application, unless the borrower has been notified that REA wishes to prepare the documents itself.

(2) If no additional or amended information is needed for REA to complete its review of the application once it is received in the Washington Office, REA will, within 45 calendar days of receiving the application in the Washington Office, either:

(i) Approve the lien accommodation or subordination if the borrower has demonstrated satisfactorily to REA that all requirements of this subpart applicable to advance approval have been met, and send written notice to the borrower. REA's approval, in this case and all other cases, will be conditioned upon execution and delivery by the borrower of a satisfactory security instrument, if required, and such additional information, documents, and opinions of counsel as REA may require;

(ii) If all requirements have not been met, so notify the borrower in writing. The application will be cancelled unless the borrower requests that it be reconsidered under the requirements and procedures for normal review set forth in paragraph (c) of this section and in § 1717.856; or

(iii) Send written notice to the borrower explaining why a decision cannot be made at that time and giving the estimated date when a decision is expected.

(3) If additional or amended information is needed after the application is received in the Washington Office, REA will so notify the borrower in writing within 15 calendar days of receiving the application in the Washington Office. If REA subsequently becomes aware of other deficiencies in the application, additional written notice will be sent to the borrower. Within 30 calendar days of receiving all of the information required by REA to complete its review, REA will act on the application as described in paragraphs (b)(2)(i) through (b)(2)(iii) of this section.

(4) If a new mortgage or mortgage amendment is required, within 30 days of receiving such documents satisfactory to REA, including required execution counterparts, REA will execute the documents and send them to the borrower, along with instructions pertaining to recording of the mortgage, an opinion of borrower's counsel, and other matters. REA will promptly notify the borrower upon receiving satisfactory evidence that the borrower has complied with said instructions.

(c) *Normal review—100 percent private financing of distribution, transmission, and/or generation facilities—*(1) *Distribution borrowers.* (i) Applications from distribution borrowers for a lien accommodation or subordination for 100 percent private financing of distribution and subtransmission facilities that do not meet the criteria for advance approval are also submitted to the GFR. Procedures at this stage are the same as in paragraph (b)(1) of this section.

(ii) If no additional or amended information is needed for REA to complete its review of the application once it is received in the Washington office, REA will, within 90 calendar days of receiving the application in the Washington office, send written notice to the borrower either approving the request, disapproving the request, or explaining why a decision cannot be made at that time and giving the

estimated date when a decision is expected.

(iii) If additional or amended information is needed after the application is received in the Washington Office, REA will so notify the borrower in writing within 15 calendar days of receiving the application in the Washington Office. If REA subsequently becomes aware of other deficiencies in the application, additional written notice will be sent to the borrower. Within 90 calendar days of receiving all of the information required by REA to complete its review, REA will act on the application as described in paragraph (c)(1)(ii) of this section.

(iv) If a new mortgage or mortgage amendment is required, the procedures and time frames of paragraph (b)(4) of this section will apply.

(2) *Power supply borrowers.* (i) Applications from power supply borrowers for a lien accommodation or subordination for 100 percent private financing of distribution, transmission, and/or generation facilities, as well as applications from distribution borrowers regarding bulk transmission and generation facilities, are submitted to the REA Power Supply Division, or its successor, in Washington, DC.

(ii) Within 30 calendar days of receiving the borrower's application containing the information and documents required by § 1717.856, REA will send written notice to the borrower of any deficiencies in its application as to completeness and acceptable form and substance. Additional written notices may be sent to the borrower if REA subsequently becomes aware of other deficiencies in the borrower's application.

(iii) Within 90 calendar days of receiving all of the information required by REA to complete its review, REA will act on the application as described in paragraph (c)(1)(ii) of this section.

(iv) If a new mortgage or mortgage amendment is required, these documents will be reviewed and executed pursuant to the procedures and time frames of paragraph (b)(4) of this section.

(d) *Refinancing of existing debt.* All requests for a lien accommodation or subordination for refinancing are sent directly to the Washington office.

(1) *Advance approval.* (i) Within 15 calendar days of receiving the borrower's application containing the information and documents required by § 1717.857(c), REA will send written notice to the borrower of any deficiencies in its application as to completeness and acceptable form and substance. Additional written notices may be sent to the borrower if REA subsequently becomes aware of other deficiencies in the borrower's application.

(ii) Within 15 calendar days of receiving all of the required information and documents, in form and substance satisfactory to REA, REA will either:

(A) Approve the lien accommodation or subordination if the borrower has demonstrated satisfactorily to REA that all requirements of § 1717.857 (a) and (c) have been met, and send written notice to the borrower;

(B) If all requirements have not been met, so notify the borrower in writing. The application will be canceled unless the borrower requests that it be reconsidered under the requirements and procedures for normal review set forth in paragraph (d)(2) of this section and in § 1717.857; or

(C) Send written notice to the borrower explaining why a decision cannot be made at that time and giving the estimated date when a decision is expected.

(iii) If a new mortgage or mortgage amendment is required, these documents will be reviewed and executed pursuant to the procedures and time frames of paragraph (b)(4) of this section.

(2) *Normal review.* (i) Within 20 calendar days of receiving the borrower's application containing the information and documents required by § 1717.857(d), REA will send written notice to the borrower of any deficiencies in its application as to completeness and acceptable form and substance. Additional written notices may be sent to the borrower if REA subsequently becomes aware of other deficiencies in the borrower's application.

(ii) Within 30 calendar days of receiving all of the required information and documents, in form and substance satisfactory to REA, REA will notify the borrower in writing either approving the request, disapproving the request, or explaining why a decision cannot be made at that time and giving the estimated date when a decision is expected. If the proposed refinancing involves complicated transactions such as interest rate swaps or forward delivery contracts, additional time may be required for REA review and final action.

(iii) If a new mortgage or mortgage amendment is required, these documents will be reviewed and executed pursuant to the procedures and time frames of paragraph (b)(4) of this section.

(e) *Rural development investments.* (1) Applications for a lien subordination for rural development investments are submitted by distribution borrowers to the GFR and by power supply borrowers to the REA Power Supply Division, or its successor, in Washington, DC.

(2) The GFR will work with the borrower to ensure that all components of the application are assembled. Once the application is satisfactory to the GFR, it will be sent promptly to the Washington Office for further review and action. After the application is received in the Washington Office, if additional or amended information is needed for REA to complete its review, REA will so notify the borrower in writing within 15 calendar days of receiving the application.

(3) Applications from power supply borrowers containing the information and documents required by § 1717.858(c) will be reviewed in the Washington office and the borrower given written notice within 30 calendar days of receiving the application of any deficiencies as to completeness and acceptable form and substance. Additional written notices may be sent to the borrower if REA subsequently becomes aware of other deficiencies in the borrower's application.

(4) Within 60 calendar days of receiving in the Washington office all of the required information and documents, in form and substance satisfactory to REA, REA will give written notice to the borrower either approving the request, disapproving the request, or explaining why a decision cannot be made at that time and giving the estimated date when a decision is expected.

(5) If a new mortgage or mortgage amendment is required, these documents will be reviewed and executed pursuant to the procedures and time frames of paragraph (b)(4) of this section.

§§ 1717.860–1717.899 [Reserved]

Subpart S—Lien Accommodations for Supplemental Financing Required by 7 CFR 1710.110

§ 1717.900 Qualification requirements.

Applications for a lien accommodation for supplemental financing required by 7 CFR 1710.110 must meet the same requirements as an REA insured loan. The justification and documentation materials submitted as part of the borrower's application for an insured loan also serve as the justification and documentation of the request for a lien accommodation for the required supplemental loan. Unless early approval under § 1717.901 is requested by a borrower, these

applications will be processed during the same time as REA's review of the borrower's application for the concurrent insured loan.

§ 1717.901 Early approval.

(a) *Conditions.* If requested by a borrower in writing, REA will review the application for a lien accommodation for required supplemental financing early in the process, before funding is available for the concurrent REA insured loan, and approve the lien accommodation if the following conditions are met:

(1) The required supplemental loan meets the requirements for an insured loan, as set forth in 7 CFR part 1710, subparts A through G, and other REA regulations pertaining to required supplemental loans;

(2) The borrower has demonstrated the ability to obtain the funds that would be needed to complete the project, if the portion to be constructed with private funds could not be used productively without completion of the entire project, in the event concurrent REA insured loan funds are not forthcoming; and

(3) An authorized official of the borrower has requested early approval of the lien accommodation and explained the reasons therefor, and has certified that the funds are needed and will be drawn down before funds from the concurrent insured loan are expected to be available, assuming that the insured loan is approved.

(b) *Time frame for REA action.* (1) REA will either approve or disapprove the lien accommodation within 90 days of receiving the borrower's request for early approval and the complete application for the concurrent REA loan and required supplemental financing, in form and substance satisfactory to REA, or notify the borrower in writing of the estimated date when a decision is expected. If an environmental assessment or an Environmental Impact Statement is required, additional time beyond the 90 days may be required to prepare these documents. REA's approval of the lien accommodation will be conditioned upon execution and delivery by the borrower of a satisfactory security instrument, if required, and such additional information, documents, and opinions of counsel as REA may require.

(2) If a mortgage or mortgage amendment is required, REA will consult with the other mortgagees as to who will prepare the documents. Within 30 days of obtaining the documents satisfactory to REA, including required execution counterparts, REA will execute the documents and send them to the borrower, along with instructions pertaining to recording of the mortgage, an opinion of borrower's counsel, and other matters. REA will promptly notify the borrower upon receiving satisfactory evidence that the borrower has complied with said instructions.

(c) *Approval of concurrent insured loan.* Early approval of a lien accommodation for a required supplemental loan does not ensure that the concurrent REA insured loan will be approved. The request for the concurrent insured loan will be reviewed when funds are available to make the loan. The borrower may be requested to update certain supporting information in the loan application if substantial time has elapsed since the lien accommodation or subordination was approved.

§ 1717.902 Other REA requirements.

Supplemental loans required by 7 CFR 1710.110 are subject to the same post-loan requirements as insured REA loans regarding accepted materials, construction standards, contracting and procurement procedures, standard forms of contracts, REA approval of the advance of loan funds, and other matters.

§§ 1717.903–1717.949 [Reserved]

Dated: February 24, 1993.

Charles Resnick,

Acting Under Secretary, Small Community and Rural Development.

[FR Doc 93–4755 Filed 3–4–93; 8:45 am]

BILLING CODE 3410–15–F

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–78; Notice No. SC–93–1–NM]

Special Conditions: Modified Dassault-Aviation Mystere-Falcon Model 50 and Model 900 Airplanes, Lightning and High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes modified by Falcon Jet Corporation in Little Rock, Arkansas. These special conditions apply to airplanes being modified by Falcon Jet Corporation of Little Rock Arkansas, by installation or modification of high-technology digital avionics systems or other electronic systems which perform critical or essential functions. The applicable regulations for Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes do not contain adequate or appropriate safety standards for the protection of these systems from the effects of lightning and high-intensity radiated fields (HIRF). This notice proposed additional safety standards which the Administrator considers necessary to ensure that the critical and essential functions that these systems perform are maintained when the airplane is exposed to lightning and HIRF.

DATES: Comments must be received on or before April 19, 1993.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–78, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked; Docket No. NM–78. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: William Schroeder, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (206) 227–2148.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on this proposal. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments

submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM–78." The postcard will be date/time stamped, and returned to the commentor.

Background

On October 16, 1991, Falcon Jet Corporation applied for a Supplemental Type Certificate to modify the Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes. The proposed modification incorporates a number of novel or unusual design features, such as digital avionics including, an electronic flight instrument system (EFIS) which is vulnerable to lightning and high-intensity radiated fields (HIRF) external to the airplane. Other similar modifications often installed when updating to digital avionics include attitude and heading reference systems (AHRS) and engine indication and crew alerting systems (EICAS). Because these are typical modernization modifications for retrofitting state-of-the-art avionics and electronics to older airplanes, it is expected that Falcon Jet Corporation at Little Rock, Arkansas, will apply for supplemental type certificates for installation of similar modifications on Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes in the near future. Therefore, Falcon Jet Corporation will need appropriate lightning and HIRF criteria available for application to those projects.

The Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes are both on Type Certificate A46EU. The airplanes are pressurized, 8 to 19 passengers plus two pilots and an observer, executive transport type airplanes having maximum brake release weights prior to takeoff of 38,800 to 45,500 pounds maximum operating speeds of 350 to 370 knots (IAS), and maximum operating altitudes of 45,000 to 51,000 feet, all depending on the specific model and airplane configuration. The airplanes are powered by two aft fuselage mounted turbojet or turbofan engines, depending on the specific model and airplane configuration.

Supplemental Type Certification Basis

Under the provisions of § 21.115, subpart C of the FAR, Falcon Jet must show that the modified Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes meet the applicable requirements as specified in § 21.101 (a) and (b) of the FAR; unless (1) Otherwise specified by the Administrator, or (2) Compliance with later effective amendments is elected or required under § 21.101 (a) and (b), and (3) Special conditions are prescribed by the Administrator.

Based on the provisions of § 21.101 (a) and (b) of the FAR, Falcon Jet Corporation, when accomplishing their modification projects on Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes will have to show compliance with the applicable type certification basis on Type Certificate Data Sheet (TCDS) No. A46EU, plus any additional requirements or amendments necessary to provide a level of safety equal to that established by the regulations at the time application is made for Supplemental Type Certification.

If the Administrator finds that the applicable airworthiness regulations (i.e., applicable part 25 requirements) do not contain adequate or appropriate safety standards for the modified Dassault-Aviation Mystere-Falcon Model 50 or Model 900 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.101(b)(2) of the FAR to establish a level of safety equivalent to that established in the regulations. The special conditions which may be developed as a result of this notice will form an additional part of the type certification basis when critical or essential digital avionics/electronic systems are being modified or installed.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29 of the FAR, and become part of the type certification basis in accordance with § 21.115(a) of the FAR.

Discussion

The existing lightning protection airworthiness certification requirements are insufficient to provide an acceptable level of safety with the new technology avionic and electronic systems. There are two regulations that specifically pertain to lightning protection: One for the airframe in general (§ 25.581), and the other for fuel system protection (§ 25.954). There are, however, no regulations that deal specifically with protection of electrical and electronic systems from lightning. The loss of a critical function of these systems due to lightning would prevent continued safe flight and landing of the airplane. Although the loss of an essential function would not prevent continued safe flight and landing, it would significantly impact the safety level of the airplane.

There is also no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are proposed for the Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes which would require that new technology electrical and electronic systems, such as electronic flight information systems, electronic engine information displays, digital avionics systems and electronic propulsion controls be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of lightning and HIRF.

Lightning

To provide a means of compliance with the proposed special conditions, a clarification on the threat definition of lightning is needed. The following "threat definition," based on FAA Advisory Circular 20–136, Protection of Aircraft Electrical/Electronic Systems Against the Indirect Effects of Lightning, dated March 5, 1990, is proposed as a basis to use in demonstrating compliance with the proposed lightning protection special condition.

The lightning current waveforms (Components A, D, and H) defined below, along with the voltage waveforms in AC 20–53A, will provide a consistent and reasonable standard which is acceptable for use in evaluating the effects of lightning on the airplane. These waveforms depict threats that are external to the airplane. How these threats affect the airplane and its systems depend upon their installation configuration, materials, shielding, airplane geometry, etc. Therefore, tests (including tests on the completed airplane or an adequate simulation) and/or verified analyses need to be conducted in order to obtain the resultant internal threat to the installed systems. The electronic systems may then be evaluated with this internal threat in order to determine their susceptibility to upset and/or malfunction.

To evaluate the induced effects to these systems, three considerations are required:

1. *First Return Stroke:* (Severe Strike—Component A, or Restrike—Component D). This external threat needs to be evaluated to obtain the resultant internal threat and to verify

that the level of the induced currents and voltages is sufficiently below the equipment "hardness" level; then

2. *Multiple Stroke Flash:* (½ Component D). A lightning strike is often composed of a number of successive strokes, referred to as multiple strokes. Although multiple strokes are not necessarily a salient factor in a damage assessment, they can be the primary factor in a system upset analysis. Multiple strokes can induce a sequence of transients over an extended period of time. While a single event upset of input/output signals may not affect system performance, multiple signal upsets over an extended period of time (2 seconds) may affect the systems under consideration. Repetitive pulse testing and/or analysis needs to be carried out in response to the multiple stroke environment to demonstrate that the system response meets the safety objective. This external multiple stroke environment consists of 24 pulses and is described as a single Component A following by 23 randomly spaced restrikes of ½ magnitude of Component D (peak amplitude of 50,000 amps). The 23 restrikes are distributed over a period of up to 2 seconds according to the following constraints: (1) The minimum time between subsequent strokes is 10 ms, and (2) the maximum time between subsequent strokes is 200 ms. An analysis or test needs to be accomplished in order to obtain the resultant internal threat environment for the system under evaluation.

And,

3. *Multiple Burst:* (Component H). In-flight data-gathering projects have shown bursts of multiple, low amplitude, fast rates of rise, short duration pulses accompany the airplane lightning strike process. While insufficient energy exists in these pulses to cause physical damage, it is possible that transients resulting from this environment may cause upset to some digital processing systems.

The representation of this interference environment is a repetition of short duration, low amplitude, high peak rate of rise, double exponential pulses which represent the multiple bursts of current pulses observed in these flight data gathering projects. This component is intended for an analytical (or test) assessment of functional upset of the system. Again, it is necessary that this component be translated into an internal environmental threat in order to be used. This "Multiple Burst" consists of 24 random sets of 20 strokes each, distributed over a period of 2 seconds. Each set of 20 strokes is made up to 20 repetitive Component H waveforms distributed within a period of one millisecond. The minimum time between individual Component H pulses within a burst is 10 microseconds, the maximum is 50 microseconds. The 24 bursts are distributed over a period of up to 2 seconds according to the following constraints: (1) the minimum time between subsequent strokes is 10ms, and (2) the maximum time between subsequent strokes is 200ms. The individual "Multiple Burst" Component H waveform is defined below.

The following current waveforms constitute the "Severe Strike" (Component A), "Restrike" (Component D), "Multiple Stroke" (½ Component D), and the "Multiple Burst" (Component H).

These components are defined by the following double exponential equation:

$$i(t) = I_o (e^{-at} - e^{-bt})$$

where:

t = time in seconds,

i = current in amperes, and

		Severe strike (component A)	Restrike (component D)	Multiple stroke (½ component D)	Multiple burst (component H)
I_o, amp	=	218,810	109,405	54,703	10,572
a, sec^{-1}	=	11,354	22,708	22,708	187,191
b, sec^{-1}	=	647,265	1,294,530	1,294,530	19,105,100
This equation produces the following characteristics:					
I_{peak}	=	200 KA	100 KA	50 KA	10 KA
and,					
$(di/dt)_{max}$(amp/sec)	=	1.4×10^{11} @t = 0+sec	1.4×10^{11} @t = 0+sec	0.7×10^{11} @t = 0+sec	2.0×10^{11} @t = 0+sec
di/dt, (amp/sec)	=	1.0×10^{11} @t = .5μs	1.0×10^{11} @t = .25μs	0.5×10^{11} @t = .25μs	
Action Integral (amp^2 sec)	=	2.0×10^6	0.25×10^6	0.625×10^6	

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as EFIS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz–2 MHz	70	70
2 MHz–30 MHz	200	200
30 MHz–70 MHz	30	30
70 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1 GHz	1,700	170
1 GHz–2 GHz	5,000	990
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz–8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270

Frequency	Peak (V/M)	Average (V/M)
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S. It will also be adopted by the European Joint Airworthiness Authorities.

Conclusion

This action affects only certain unusual or novel design features on Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes modified at Falcon Jet Corporation in Little Rock, Arkansas, by installation or modification of electronic systems that perform critical or essential functions. It is not a rule of general applicability and affects only Falcon Jet Corporation in Little Rock, Arkansas, when they apply to the FAA for approval of modifications involving these features on Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; and 49 U.S.C. 106(g).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for modification or installation of critical and essential electronic systems on Dassault-Aviation Mystere-Falcon Model 50 and Model 900 airplanes at Falcon Jet Corporation in Little Rock, Arkansas.

1. *Lightning Protection.*

a. Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to lightning.

b. Each essential function of electrical or electronic systems or installations must be protected to ensure that the function can be recovered in a timely manner after the airplane has been exposed to lightning.

2. *Protection From Unwanted Effects of High-Intensity Radiated Fields (HIRF).*

Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields external to the airplane.

3. The following definitions apply with respect to these special conditions:

Critical Functions. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure would contribute to or cause a failure condition that would significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

Issued in Renton, Washington, on February 22, 1993.

Darrel M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 93–5118 Filed 3–4–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ANM–11]

Proposed Amendment To Billings Transition Area; Billings, Montana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the Billings, Montana, 700-foot and 1200-foot Transition Areas. Additional controlled airspace is necessary to contain IFR traffic operating in the Billing Terminal area. The area would be depicted on aeronautical charts to provide reference for pilots.

DATES: Comments must be received on or before April 19, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 93–ANM–11, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT:

James Riley, ANM–537, Federal Aviation Administration, Docket No. 93–ANM–11, 1601 Lind Avenue SW., Renton, Washington 98055–4056, Telephone: (206) 227–2537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ANM–11." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, ANM–530, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM'S should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the 700-foot and 1200-foot transition areas at Billings, Montana, to contain IFR traffic in controlled airspace while operating in the Billings terminal area. The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Transition areas are published in section 71.181 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition areas listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Avaition safety, Incorporation by reference, Transition areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a); 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation of Transition Areas

* * * * *

ANM MT TA Billings, MT [Revised]
Billings Logan International Airport, MI
(Lat. 45°48'30" N, Long. 108°32'38" W
Billings VORTAC
(Lat. 45°48'31" N, Long. 108°37'29" W)

That airspace extending upward from 700 feet above the surface within a 16 mile radius of Billings Logan International Airport; that airspace extending upward from 1200 feet above the surface within an area beginning at a point 40 miles north of the 356 degree bearing from Billings Logan International Airport, thence within an arc of a 40 mile radius circle centered on the airport, clockwise between the 356 degree and the 176 degree bearings from the airport, extending to a point 40 miles south on the Billings VORTAC 176 degree radial, thence within an arc of a 40 mile radius circle centered on Billings VORTAC, clockwise between the 176 degree and the 356 degree radials, thence to the point of beginning.

That airspace extending upward from 6700 feet MSL within an arc of a 60 mile radius circle centered on Billings Logan International Airport clockwise between the 360 degree and the 117 degree bearings from the airport, excluding the airspace within federal airways; that airspace extending upward from 11,200 feet MSL within an arc of a 60 mile radius circle centered on Billings Logan International Airport clockwise between the 117 degree and the 201 degree bearings from the airport, excluding the airspace within federal airways; that airspace extending upward from 14,300 feet MSL within an arc of a 60 mile radius circle centered on Billings Logan International Airport, clockwise between the 201 degree and the 269 degree bearings from the airport, excluding the airspace within federal airways; that airspace extending upward from 7700 feet MSL within an arc of a 60 mile radius circle centered on Billings Logan International Airport, clockwise between the 269 degree and the 321 degree bearings from the airport, excluding the airspace within federal airways; that airspace extending upward from 10,000 feet MSL within an arc of a 60 mile radius circle centered on Billings Logan International Airport, clockwise between the 321 degree and the 360 degree bearings from the airport, excluding the airspace within federal airways.

* * * * *

Issued in Seattle, Washington, on February 19, 1993.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division.

[FR Doc. 93–5119 Filed 3–4–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ANM–12]

Proposed Amendment to Wenatchee Transition Area; Wenatchee, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the Wenatchee, Washington, 700-foot Transition Area. Additional controlled airspace is necessary to container IFR operations during portions of a revised instrument procedure at Pangborn Memorial Airport, Wenatchee, Washington. The area would be depicted on aeronautical charts to provide reference for pilots.

DATES: Comments must be received on or before April 19, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 93–ANM–12, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: James Riley, ANM–537, Federal Aviation Administration, Docket No. 93–ANM–12, 1601 Lind Avenue SW., Renton, Washington 98055–4056, Telephone: (206) 227–2537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ANM–12." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available

for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, ANM–530, 1601 Lind Avenue SW., Renton, Washington, 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the 700-foot transition area at Wenatchee, Washington, to provide controlled airspace for aircraft executing a revised instrument approach procedure to Pangborn Memorial Airport, Wenatchee, Washington. The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Transition areas are published in § 71.181 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition areas listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation of Transition Areas

* * * * *

ANM WA TA Wenatchee, WA [Revised]
Pangborn Memorial Airport, WA
(Lat. 47°23'56" N, Long. 120°12'24" W)
Wenatchee VOR/DME
(Lat. 47°23'59" N, Long. 120°12'39" W)

That airspace extending upward from 700 feet above the surface within a 4.2 mile radius of the Pangborn Memorial Airport, and that airspace within 4 miles each side of the Wenatchee VOR/DME 124° and 299° radials extending from the 4.2 mile radius to 10 miles southeast of the VOR/DME and from the 4.2 mile radius to 13.4 miles northwest of the VOR/DME.

* * * * *

Issued in Seattle, Washington, on February 19, 1993.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division.

[FR Doc. 93–5120 Filed 3–4–93; 8:45 am]

BILLING CODE 4910–13–M

Coast Guard

33 CFR Part 117

[CGD8–93–03]

Drawbridge Operation Regulations; Terrebonne Bayou, LA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Terrebonne Parish Consolidated Government, the Coast Guard is considering a change to the regulation governing the vertical lift span bridge on State Route 55 across Terrebonne Bayou, mile 27.3, at Klondyke, Terrebonne Parish, Louisiana. The proposed regulation is similar to operation regulations currently in effect for other bridges in the area. The proposal would require that at least four hours advance notice be given for an opening of the draw between 9 p.m. and 5 a.m. Presently, the draw is required to open on signal at all times.

This action will provide relief to the bridge owner and should still provide for the reasonable needs of navigation.

DATES: Comments must be received on or before April 19, 1993.

ADDRESSES: Comments should be mailed to Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130–3396. The Comments and other materials referenced in this notice will be available for inspection and copying in room 1313 at this address. Normal office hours are between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. John Wachter, Bridge Administration Branch, at the address given above, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: This proposal is similar to other drawbridge regulations in the area.

Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulation may be changed in the light of comments received.

Drafting Information:

The drafters of this regulation are Mr. John Wachter, project officer, and CDR D.G. Dickman, project attorney.

Discussion of Proposed Regulation:

Vertical clearance of the bridge in the closed to navigation position is four feet above mean high water. Navigation through the bridge consists of fishing boats and recreational craft.

Data submitted by the Terrebonne Parish Consolidated Government show that for the State Route 55 Klondyke Bridge, 24 vessels passed the bridge between the hours of 9 p.m. and 5 a.m.

during the past three years. This is considerably fewer than one vessel per month during the proposed advance notice period.

Considering the few vessels that pass the bridge during the affected hours, the Coast Guard feels that vessel operators should be able to give the bridge owner four hours notice for a bridge opening between 9 p.m. and 5 a.m. with little or no expense or inconvenience to themselves.

Federalism Implications:

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification:

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034: February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that during the proposed regulated period there will be very little inconvenience to vessels using the waterway. In addition, mariners requiring the bridge openings are repeat users of the waterway and scheduling their arrivals to avoid the proposed regulated periods should involve little or no additional expense to them. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Environmental Impact:

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.(5) of the National Environmental Policy Act, Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking document.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. In section 117.505 paragraph (a) is revised to read as follows:

§ 117.505 Terrebonne Bayou

(a) The draw of the S58 bridge, mile 22.2 at Montegut, and the draw of the S55 bridge, mile 27.3 at Klondyke, shall open on signal; except that from 9 p.m. to 5 a.m. the draws shall open on signal if at least four hours notice is given.

* * * * *

Dated: February 22, 1993.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 93–5134 Filed 3–4–93; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL–4600–3]

Ocean Dumping; Proposed Site Designation

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to designate an Ocean Dredged Material Disposal Site (ODMDS) in the Atlantic Ocean offshore Fort Pierce, Florida, as an EPA-approved ocean dumping site for the dumping of suitable dredged material. This action is necessary to provide an acceptable ocean dumping site for consideration as a disposal option for dredged material disposal projects in the Fort Pierce, Florida vicinity.

DATES: Comments must be received on or before April 5, 1993.

ADDRESSES: Send comments to:

Wesley B. Crum, Chief, Coastal Programs Section, Water Management Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

The file supporting this proposed designation is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), room 2904 (rear), 401 M Street, SW., Washington, DC, 20460.

EPA/Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Christopher J. McArthur, (404) 347–1740.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.* ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean disposal may be permitted. On December 23, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the sites are located. This proposed designation of a site offshore Fort Pierce, Florida, which is within Region IV, is being made pursuant to that authority.

The EPA Ocean Dumping Regulations promulgated under the Act (40 CFR chapter I, subchapter H, § 228.4) state that ocean dumping sites will be designated by promulgation in this part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 at (42 FR 2461). The list established the existing Fort Pierce site as an interim site.

B. EIS development

Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4321 *et seq.*, requires that Federal agencies prepare an Environmental Impact Statement (EIS) on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

The object of NEPA is to build careful consideration of all environmental aspects of proposed actions into the agency decision-making process. EPA has committed to prepare EISs in connection with ocean disposal site designations such as this. EPA, in cooperation with the Jacksonville District of the U.S. Army Corps of Engineers (COE), has prepared a draft EIS entitled "Draft Environmental Impact Statement for Designation of a Fort Pierce, Florida Ocean Dredged Material Disposal Site." This Proposed Rule may include excerpts from the EIS.

The proposed action discussed in the EIS is the permanent designation of an ocean dredged material disposal site near Fort Pierce, Florida. The purpose of the action is to provide an environmentally acceptable location for ocean disposal. The need for the permanent designation of the Fort Pierce ODMDS is based on a continuing U.S. Army Corps of Engineers need for ocean disposal of maintenance dredged material from the Fort Pierce area. The

need for ocean disposal will be determined on a case-by-case basis as part of the COE's process of issuing permits for ocean disposal for private/Federal actions and a public review process for their own actions.

For the Fort Pierce Harbor ODMDS, the COE and EPA would evaluate all Federal dredged material disposal projects pursuant to the EPA criteria given in the Ocean Dumping Regulations (40 CFR parts 220 through 229) and the COE regulations (33 CFR 209.120 and 209.145). The COE also issues MPRSA permits to private applicants for the transport of dredged material intended for disposal after compliance with these regulations is determined. EPA has the right to disapprove any ocean disposal project if, in its judgement, all provisions of MPRSA and the associated implementing regulations have not been met.

On January 22, 1993, the Notice of Availability of the draft EIS for public review and comment was published in the **Federal Register** on January 22, 1993 at (58 FR 5728). The public comment period on the draft EIS closes on March 8, 1993.

The DEIS discusses the need for this site designation and examines ocean disposal site alternatives to the proposed action. The need for ocean disposal is determined on a case-by-case basis as a part of the process of permitting for ocean disposal. The EIS presents the information needed to evaluate the suitability of ocean disposal areas for final designation use and is based on one of a series of disposal site environmental studies. The environmental studies and final designation are being conducted in accordance with the requirements of the MPRSA, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

EPA has evaluated the proposed site designation for consistency with the State of Florida's (the State) approved coastal management program. EPA has determined that the designation of the proposed site is consistent to the maximum extent practicable with the State coastal management program, and has submitted this determination to the State for review in accordance with EPA policy. In addition, as part of the NEPA process, EPA has consulted with the State regarding the effects of the dumping at the proposed site on the State coastal zone. EPA will take the State's comments into account in preparing the final EIS for the site, in determining whether the proposed site should be designated, and in determining whether restrictions or limitations should be placed on the use of the site, if it is designated.

Concerns raised by the state of Florida on CZM consistency, regarding use of suitable material for beach nourishment, will be addressed in the FEIS. EPA concurs with the state of Florida regarding the use of suitable material for beach nourishment, in circumstances were this use is practical.

Pursuant to section 7 of the Endangered Species Act, the National Marine Fisheries Service (NMFS) has been asked by EPA to concur with EPA's conclusion that this site designation will not affect the endangered species under their jurisdictions.

EPA will accept comments on the DEIS during the 45-day NEPA review period for the DEIS. These comments will be addressed in the FEIS. Similarly, EPA will accept public comments on the Proposed Rule during its 30-day review period and will address them in the Final Rule.

C. Proposed site designation

The proposed site is located east of Fort Pierce Harbor, Florida, approximately 4 nautical miles (nmi) offshore and occupies an area of about 1 square nautical mile (nmi2), approximately 1 nmi by 1 nmi. Water depths within the area range from 40 to 54 feet. The coordinates of the Fort Pierce site proposed for final designation are as follows: 27°28'00"N, 80°12'33"W; 27°28'00"N, 80°11'27"W; 27°27'00"N, 80°11'27"W; and 27°27'00"N, 80°12'33"W.

Center coordinates are 27°27'30"N and 80°12'00"W.

D. Regulatory requirements

Pursuant to the Ocean Dumping Regulations, 40 CFR part 228, five general criteria are used in the selection and approval for continuing use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to prevent any temporary perturbations associated with the disposal from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. If, at any time, disposal operations at a site cause unacceptable adverse impacts, further use of the site will be restricted or terminated. The proposed site conforms to the five general criteria.

The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists the 11 specific criteria used in evaluating a proposed disposal site to assure that the general criteria are met. Application of these 11 criteria constitutes an environmental assessment of the impact of disposal at the site. The characteristics of the proposed site are reviewed below in terms of these 11 criteria.

1. Geographical position, depth of water, bottom topography, and distance from coast (40 CFR 228.6(a)(1))

The boundary and center coordinates of the proposed site are given above. The proposed site is located about 4 nmi offshore of Fort Pierce Harbor, Florida. The site is approximately a 1 nmi by 1 nmi square configuration. Water depth in the area ranges from 40 to 54 feet.

2. Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases (40 CFR 228.6(a)(2))

The Fort Pierce ODMDS is located in general proximity to breeding, spawning, nursery, feeding, and passage areas for a wide variety of marine and estuarine organisms. The most active breeding and nursery areas are located in the Indian River estuary and along adjacent beaches or in offshore waters and reef areas. While breeding, spawning, and feeding activities may take place in the ODMDS, these activities are not believed to be confined to, concentrated in, or dependent on this area. Specific migration routes are not known in the Fort Pierce area. While marine and estuarine species would be expected to pass through the ODMDS, passage is not geographically restricted to this area. The motility of organisms passing through the area makes significant impacts from dredged material disposal unlikely.

3. Location in relation to beaches and other amenity areas (40 CFR 228.6(a)(3))

Beaches and adjacent nearshore areas approximately 4 nmi west of the ODMDS support a wide variety of recreational activities. Several protected areas lie inshore west of the ODMDS. The largest of these is the Indian River Aquatic Preserve that encompasses almost all inshore waters between the barrier islands and the west Florida mainland. Other protected areas in the Fort Pierce ODMDS vicinity include the North Fork St. Lucie Aquatic Preserve, the Savannas State Preserve, Pepper Beach State Park, and Fort Pierce Inlet State Park. The Florida Department of Environmental Regulation (FDER) has given the waters of these areas special protection by designating them as Outstanding Florida Waters (OFWs). Past surveys indicated one natural reef and one artificial reef site are located in the Fort Pierce ODMDS vicinity. The natural reef area is located

approximately 1.3 nmi due east of the disposal site and has been described by Florida Sea Grant (1979) as a flat bottom with heavy coral growth. The artificial reef site has been established approximately 1.5 nmi southeast of the ODMDS. More recent investigations have revealed the presence of hard bottom communities in the northern portion of the interim site resulting in a shift in location of the proposed site to 0.5 miles to the south. Model studies indicates that it is unlikely that any significant amount of disposed material would be transported as far as these sites from the disposal area.

4. Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any (CFR 228.6(a)(4))

It is anticipated that the candidate site will be used primarily for disposal of maintenance material from the Fort Pierce Harbor entrance channel and turning basin. Sediments of the entrance channel are predominantly sand, while those of the turning basin are finer sands, shell and silt. Annual volumes have averaged 21,000 cubic yards. Annual volumes are expected to increase to a maximum of approximately 117,000 cy. Each disposal plan must be evaluated on a case-by-case basis to ensure that ocean disposal is the best alternative and that the material meets the Ocean Dumping Criteria in 40 CFR part 227.

5. Feasibility of surveillance and monitoring (40 CFR 228.6(a)(5))

The geographic and physical setting of the candidate site poses no special problems for monitoring or surveillance. Water depth at the site is amenable to diver collection or surface sampling and does not require use of a large, specialized surface vessel. The areal extent of the site allows use of towed trawls for bottom and water column sampling. Baseline data collected at the site can serve as reference information for future monitoring and aid in assessing possible perturbations resulting from disposal at the site. A detailed Site Management and Monitoring Plan (SMMP) was developed for the Fort Pierce ODMDS. A draft of the SMMP can be found in the DEIS. This plan establishes a sequence of monitoring surveys to be undertaken to determine any impacts resulting from disposal activities. These surveys can include bathymetry, sediment tracking, benthic faunal analyses, video and side scan sonar surveys.

6. Dispersal, horizontal transport and vertical mixing characteristics of the area including prevailing current direction and velocity, if any (40 CFR 228.6(a)(6))

Currents in the area are mainly wind driven. Net current flow is alongshore with the direction of movement related to season. In 1989, the Army Corps of Engineers Waterways Experiment Station (WES) performed a technical study of the Gulf Stream meanders, spin-off eddies and prevailing tides and currents off the east coast of Florida with respect to the potential for contamination of nearshore amenities by dredged material placed in the Fort Pierce ODMDS. A numerical modeling approach was used for estimating both short-term and long-term rate of dredged material dispersal at the proposed ODMDS. The modeling of the short-term dumping operation was performed using the disposal from an Instantaneous Dump (DIFID) model. Long-term simulations were conducted to determine whether non-storm related currents are capable of transporting sediments outside of the proposed ODMDS over long periods of time. The effects of storm erosion were separately modeled by simulating the passage of a storm surge over the site. Current velocities used were estimated. The results of the study indicate that the Fort Pierce ODMDS poses no threat to reef areas.

7. Existence and effects of current and previous discharges and dumping in the area (including cumulative effects) (40 CFR 228.6(a)(7))

Dredged materials have been disposed at the Fort Pierce Harbor interim ODMDS since 1949. An environmental survey of the Fort Pierce Harbor ODMDS was conducted in December 1985. This survey detected no consistent differences in water quality, sediment quality, or sediment composition between the ODMDS and nearby areas. Potential disposal-induced changes in benthic macro-invertebrate community structure were localized within the ODMDS and did not extend beyond ODMDS boundaries. Prior disposals at the ODMDS have resulted in minor localized changes in the community structure of the area. Deposit feeding macroinfauna are dominant at the disposal site while suspension feeding macroinfauna are dominant in the surrounding area. This may be due to higher organic content in the discharged materials. If this is the case, it would be an indication of the high level of stability of the discharged materials since the last disposal took place in May 1983. There are no differences in the abundance or diversity of the meiofauna of the disposal area, although nematode: Harpacticoid ratios are highest within the disposal area, which may be a further indication of the higher organic content of the discharged materials. No differences in epibenthic invertebrate, fish, or plankton populations are evident. It is expected that any further discharge at the site would not significantly change these conditions.

8. Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean (40 CFR 228.6(a)(8))

The Fort Pierce Harbor ODMDS is located about 2.5 nmi outside the seaward extent of the Fort Pierce Inlet entrance channel. Use of this site to date has not interfered with shipping and continued intermittent use of the site should not disrupt either commercial shipping or recreational boating.

Most commercial and recreational fishing activity is concentrated in inshore and nearshore waters or at offshore natural or artificial reefs. The nearest natural reef is located 1.3 nmi east of the disposal site (Florida Sea Grant, 1979). Because of the north-south orientation of the prevailing currents, no adverse impacts to this reef area have occurred from dredged material disposal operations. An artificial reef area has recently been established approximately 1.5 nmi southeast of the ODMDS.

No mineral extraction, desalination, or mariculture activities occur in the immediate area. Recreational and scientific resources are extensive throughout the area but are not geographically limited to the disposal site or nearby waters.

9. The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys (40 CFR 228.6(a)(9))

Water quality at the ODMDS is variable and influenced both by discharges from inshore estuarine systems and by periodic oceanic intrusions. Estuarine discharges are greatest during the wet season, from late summer to early fall, and may deliver both nutrients and anthropogenic contaminants to coastal waters. Nutrients may also be introduced to shelf waters by upwellings (Worth and Hollinger, 1977). Surface and bottom waters sampled in the ODMDS vicinity in December 1985 did not contain measurable concentrations of selected

trace metals, pesticides, hydrocarbons, or PCBs.

Benthic communities in the ODMDS vicinity have been described from a survey conducted in December 1985. Nematodes, copepoda crustaceans, and larval polychaetes are the most abundant representatives of the meifaunal community. The area's diverse benthic macroinvertebrate fauna are dominated by carnivorous polychaete worms of the family Syllidae. Other abundant macroinfaunal groups included nematodes, oligochaete worms, molluscs, amphipod crustaceans and turbellarians.

Epibenthic invertebrates characteristic of the disposal site vicinity include the crabs *Portunus gibbesi* and *Portunus spinimanus*, the shrimp, *Trachypenaeus constrictus*, the sea urchin, *Lytechinus variegatus*, starfish and brittle stars (Camp el al., 1977).

The demersal fish fauna of the area are not abundant (Futch and Dwinell, 1977). Fish characteristic of the sandy offshore ODMDS environment include leopard sea robin (*Prionotus scitulus*), sand perch (*Diplectrum formosum*), and lizardfish (*Synodus foetens*).

10. Potentiality for the development or recruitment of nuisance species in the disposal site (40 CFR 228.6(a)(10))

The Fort Pierce Harbor ODMDS has been utilized since 1949. To date, no nuisance species have been reported from the interim ODMDS or nearby previously utilized disposal sites. The potential for the development or recruitment of nuisance species at this site is considered quite low. A December 1985 survey of the ODMDS vicinity yielded no evidence of undesirable organisms.

11. Existence at or in close proximity to the site of any significant natural or cultural features of historical importance (40 CFR 228.6(a)(11))

It is unlikely that significant natural or cultural features of historical importance exist at the disposal site. In the unlikely event that historical features are present on site, they will have been covered with sand and would be further covered by continued disposal operations.

E. Site management

Site management of the Fort Pierce ODMDS is the responsibility of EPA as well as the COE. The COE issues permits to private applicants for ocean disposal; however, EPA/Region IV assumes overall responsibility for site management.

A Site Management and Monitoring Plan (SMMP) was developed as a part of the process of completing the EIS. This plan provides a framework for both site management and for the monitoring of effects of disposal activities. Site management may include strategically locating and/or orienting dredged material within the site boundaries relative to predominant current patterns. Monitoring could involve sediment mapping of disposed material to determine any movement of material off of the site. Determination of the significance of any biological impacts of dredged material outside the ODMDS boundaries would then be appropriate. The draft SMMP can be found in Appendix D of the Draft EIS.

F. Proposed action

The EIS concludes that the proposed site may appropriately be designated for use. The proposed site is compatible with the general criteria used for site evaluation.

The designation of the Fort Pierce site as an EPA-approved ODMDS is being published as Proposed Rulemaking. Overall management of this site is the responsibility of the Regional Administrator of EPA/Region IV.

It should be emphasized that, if an ODMDS is designated, such a site designation does not constitute EPA's approval of actual disposal of material at sea. Before ocean dumping of dredged material at the site may commence, the COE must evaluate a permit application according to EPA's Ocean Dumping Criteria. EPA reviews and has the right to disapprove the actual dumping if it determines that environmental concerns under the Act have not been met.

The Fort Pierce ODMDS is not restricted to disposal use by Federal Projects; private applicants may also dispose suitable dredged material at the ODMDS once relevant regulations have been satisfied. This site is restricted, however, to suitable dredged material from the Fort Pierce Harbor, Florida vicinity.

G. Regulatory assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules that may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the designation will only have the effect of providing a disposal option for dredged material. Consequently, this Rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this Rule does not necessitate preparation of a Regulatory Impact Analysis.

This Proposed Rule does not contain any information collection requirements subject to Office Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: February 12, 1993.

Patrick M. Tobin,

Acting Regional Administrator.

In consideration of the foregoing, subchapter H of chapter I of title 40 is proposed to be amended as set forth below:

PART 228–[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.12 is amended by removing from paragraph (a)(3) the dredged material disposal site for "Fort Pierce Harbor"; and by adding paragraph (b)(93) to read as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(93) Fort Pierce Harbor; Fort Pierce, Florida; Ocean Dredged Material Disposal Site—Region IV.

Location:

27°28'30"N, 80°12'33"W;
27°28'30"N, 80°11'27"W;
27°27'30"N, 80°11'27"W; and
27°27'30"N, 80°12'33"W.

Size: 1 square nautical miles.

Depth: Average range 40 to 54 feet.

Primary use: Dredged material.

Period of use: Continuing use.

Restrictions: Disposal shall be limited to suitable dredged material from the greater Fort Pierce, Florida vicinity. All dredged material consisting of greater than 10% fine grained material (grain size of less then 0.074mm) by weight shall be limited to that part of the site east of 80°12'00"W and south of 27°27'20"N.

[FR Doc. 93–5104 Filed 3–4–93; 8:45 am]
BILLING CODE 6560–50–F

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1056

[Ex Parte No. MC–19 (Sub-No. 42)]

Practices of Motor Common Carriers of Household Goods; Performance Reports

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule; extension of comment due date.

SUMMARY: By decision served January 28, 1993, (58 FR 6912, February 3, 1993), the Commission sought public comment by March 22, 1993, on a proposal to modify the Annual Performance Report, Form OCP–101 (OCP–101), which sets forth the requirements that relate to carrier performance information given to prospective individual shippers of household goods. By petition filed February 16, 1993, the American Movers Conference (AMC) and the Household Goods Carriers Bureau, Inc. (HGCB), on behalf of approximately 3,000 member household goods carriers and agents, requested an extension to June 15 1993 to file comments. AMC and HGCB indicate an extension is necessary to circulate the proposal to AMC/HGCB members for their input and recommendations prior to the annual AMC/HGCB convention scheduled for May 12–16, 1993, and to prepare a response to the issues raised in this proceeding. The request is reasonable and will be granted.

DATES: Comments are due on June 15, 1993.

ADDRESSES: Send an original and 10 copies of comments, referring to Ex Parte No. MC–19 (Sub-No. 42), to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Charles E. Wagner, (202) 927–5530 or John W. Fristoe, (202) 927–5520 [TDD for hearing impaired: (202) 927–5721].

Decided: March 2, 1993.

By the Commission, Sidney L. Strickland, Jr., Secretary.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5088 Filed 3–4–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB91

Endangered and Threatened Wildlife and Plants; Proposed Determination of Critical Habitat for the Colorado River Endangered Fishes: Razorback Sucker, Colorado Squawfish, Humpback Chub, and Bonytail Chub; Extension of Public Comment Period and Notice of Public Hearings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of comment period and notice of public hearing.

SUMMARY: Notice is hereby given that the Fish and Wildlife Service (Service) is extending the comment period on the Service's proposal to designate critical habitat for four species of endangered fishes: Razorback sucker (*Xyrauchen texanus*), Colorado squawfish (*Ptychocheilus lucius*), humpback chub (*Gila cypha*), and bonytail chub (*Gila elegans*). The comment period will be extended until April 15, 1993, and three public hearings are scheduled before this date.

DATES: The original comment period extended from January 29 through March 30, 1993. The comment period is extended until April 15, 1993. Three public hearings are scheduled from 5 p.m. to 8 p.m. on March 29, 30, and 31, 1993.

ADDRESSES: Three hearings will be held: (1) March 29, 1993, at the Sturges Center for Fine Arts, 780 North East Street, San Bernardino, California; (2) March 30, 1993, at the Leadership Development Center, YMCA of the USA, 9440 North 25th Avenue, Phoenix, Arizona; and (3) March 31, 1993, at the City Lights Room, Sheraton Denver West Hotel and Conference Center, 360 Union Boulevard, Lakewood, Colorado. Comments and materials concerning the Service's proposal to designate critical habitat for the four species of fishes should be sent to the State Supervisor, U.S. Fish and Wildlife Service, 2060 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104–5110. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert D. Williams, Utah State Supervisor, at the above address, telephone 801/975–3630.

SUPPLEMENTARY INFORMATION:

Background

The Fish and Wildlife Service (Service) proposed to designate critical habitat for the four fishes on January 29, 1993 (58 FR 6568). These four endemic fishes, razorback sucker (*Xyrauchen texanus*), Colorado squawfish (*Ptychocheilus lucius*), humpback chub (*Gila cypha*), and bonytail chub (*Gila elegans*), are listed as endangered under the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). These fishes historically occurred in main channels of the Colorado River system from Wyoming to Mexico.

Significant changes have occurred in habitats required for the conservation of the four endangered fishes due to the diversion of water, introduction of nonnative fishes, and construction and operation of dams. Further changes are anticipated as these activities continue. The proposed critical habitat designation of 3,370 kilometers (2,094 miles) of the Colorado River system would afford greater protection for the four fishes and provide for their conservation.

Three public hearings will provide interested parties an opportunity to make their views known on the proposed rulemaking. While the public comment period is open, any member of the public may send in comments, which must be received by April 15, 1993. Comments are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the habitats of the four endangered fishes;

(2) Reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range, distribution, and habitat utilization of the four endangered fishes; and

(4) Current or planned activities in the critical habitat area and their possible impacts on the four endangered fishes.

Authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Author

The author of this notice is Harold Tyus, U.S. Fish and Wildlife Service, Denver Regional Office, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: March 1, 1993.

Ralph O. Morgenweck,

Regional Director.

[FR Doc. 93–5024 Filed 3–4–93; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 58, No. 42
Friday, March 5, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Big Meadows Helicopter Salvage Timber Sale Decision, Hume Lake Ranger District; Sequoia National Forest; Notice of Exemption

AGENCY: Forest Service, USDA.

ACTION: Notice of Exemption from Appeal, Big Meadows Helicopter Insect Salvage Timber Sale Decision, Hume Lake Ranger District, Sequoia National Forest.

SUMMARY: The Forest Service is exempting from appeal the decision resulting from the Big Meadows Helicopter Insect Salvage Timber Sale Environmental Analysis. This environmental analysis is being prepared in response to the severe timber mortality in the Buck Compartment on the Hume Lake Ranger District, Sequoia National Forest. The mortality was caused by drought and related insect infestation. The Big Meadow Analysis Area is within the Big Meadows and Boulder Creek Watersheds, and adjacent to Jennie Lakes Wilderness.

There are currently much higher than normal levels of tree mortality occurring throughout the Sequoia National Forest as a result of six consecutive years of below normal precipitation. The Hume Lake District is proposing tractor and helicopter harvest of 1.0 million board feet (MMBF) on 1,000 acres in the Big Meadows Helicopter Insect Salvage Timber Sale Analysis. No new road construction will be done, and only minor road reconstruction is planned in the analysis area. All areas are within the General Forest Zone, as delineated by the Sequoia National Forest Land and Resource Management Plan.

The drought has caused a high degree of stress within the trees, which reduces their natural defense mechanisms and weakens them to the extent that they are now predisposed to attack by bark beetles. Trees killed by insect attack deteriorate very rapidly. In addition, excessive numbers of dead trees produce heavy fuel concentrations making wildfire control extremely difficult. Prompt removal of the dead and dying timber minimizes value and volume loss.

The decision for the proposed project is scheduled to be issued by the end of February 1993. Implementation of the project will occur in May, 1993, when the timber sale will be sold. Harvest is expected to begin in June, 1993.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeal the decision relating to the harvest and restoration of lands affected by drought-induced timber mortality covered by the Big Meadows Helicopter Insect Salvage Timber Sale Environmental Analysis on the Hume Lake Ranger District, Sequoia National Forest. The environmental document being prepared will address the effects of the proposed actions on the environment, will document public involvement, and will address the issues raised by the public.

EFFECTIVE DATE: This decision is effective March 5, 1993.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, Forest Service, USDA, 630 Sansome Street, San Francisco, CA 94111, (415) 705–2648, or to Sandra Key, Forest Supervisor, Sequoia National Forest, 900 W. Grand Ave., Porterville, CA 93257, (209) 784–1500.

ADDITIONAL INFORMATION: The environmental analysis for this proposal will be documented in the Big Meadows Helicopter Insect Salvage environmental document. A public scoping notice was published in the Porterville Recorder in December 1992 to solicit information regarding issues to be addressed in the environmental analysis. Additionally, letters were mailed in December 1992 to representatives of various environmental groups and the timber industry to provide information on the project and to generate public issues and concerns. The project files and related maps are available for public review at the Hume Lake Ranger District, 35860 East Kings Canyon Road, Dunlap, California 93621.

The catastrophic damage presently occurring in the Big Meadows and Boulder Creek watersheds involves approximately 3,000 acres. Within this area, approximately 1,000 acres, with an associated 1.0 MMBF, is presently being analyzed for salvage in one sale. The value to the Forest Service of the salvage volume is estimated at $250,000. This figure does not include the many jobs and thousands of dollars in benefits that are realized in related service, supply, and construction industries. Tulare County will receive 25% of the selling value for any of the timber that is salvaged in a commercial timber sale. Rehabilitation and restoration measures will be implemented for watershed protection, erosion prevention, and fuels reduction.

The proposal is not expected to adversely affect snag dependent wildlife species. Initial review indicates post-harvest snag numbers will be in compliance with the Forest Plan Standard and Guideline of 1.5 snags per acre.

No Wild and Scenic Rivers, wetlands, wilderness areas, roadless areas, or threatened or endangered species are within the proposed project areas.

Dated: February 26, 1993.

Dale N. Bosworth,

Deputy Regional Forester.

[FR Doc. 93–5016 Filed 3–4–93; 8:45 am]
BILLING CODE 3410–11–M

Jerritt Canyon Mine Expansion, Humboldt National Forest, NV; Intent To Prepare an Environmental Impact Statement

AGENCY: USDA, Forest Service, Humboldt National Forest.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service will be directing the preparation of an Environmental Impact Statement (EIS) for the proposed expansion and development of open pit gold mines in Elko, County, Nevada. This EIS will be prepared by contract and funded by the proponent, Independence Mining Company, Incorporated (IMC).

DATES: Scoping meetings will be held March 8, 1993, at the Red Lion Inn and Casino, 2065 E. Idaho St., Elko, Nevada at 7 p.m.; an informal open house

meeting at the Bureau of Land Management State Office, 850 Harvard Way, Reno, Nevada on March 15, 1993 between 3–8 p.m.; and an informal open house to be held at Independence School, Tuscarora and Forest Service Office, Mountain City, Nevada on March 17, and 18 from 3 to 7 p.m. respectively. Comments concerning the scope of the analysis must be received by April 10, 1993 to ensure timely consideration.

RESPONSIBLE OFFICER: John Inman, Forest Supervisor, Humboldt National Forest, 976 Mountain City Highway, Elko, NV 89801.

ADDRESSES: Scoping comments are to be sent to: Jack Carlson, District Ranger, Humboldt National Forest, P.O. Box 276, Mountain City, NV 89831.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed project and DEIS to Don Carpenter, Project Coordinator, Humboldt National Forest, P.O. Box 276, Mountain City, NV 89831 702–763–6691.

SUPPLEMENTARY INFORMATION: Independence Mining Company has submitted to the Mountain City Ranger District, Humboldt National Forest, a Proposed Plan of Operation (POO). The POO describes the proposed mining development activities, operation and reclamation procedures in Elko County, Nevada. The proposal includes: Developing three new open pits mines; constructing additional waste rock dumps, soil stockpiles, ore stockpiles, haul roads and support facilities; expanding an existing open pit and waste rock dump; and development of specific mitigation measures. The proposal would disturb approximately 3,000 acres of land of which about 280 acres have been disturbed by previous and current mining activities. The detailed analysis area is about 10,850 acres in size. Ore will be processed at the existing mill site. Two additional tentative alternatives have been developed for analysis based on internal scoping. They were developed to reduce the acres of disturbance in response to resource values and economics; and the other was intended to increase the area of potential revegetation. A No Action alternative will also be considered during the analysis process. Other alternatives may be developed to address significant issues and to mitigate impacts. Initial internal scoping with cooperating and participating agencies developed issues which were used to developed two tentative alternatives for analysis. The following issues are not intended to be an all inclusive list, but to identify some of the basic issues involved in the proposed project area. They are: Effects on golden eagle nests identified in the area; impacts to ground water quality; impacts to surface water quality; what is the potential for acid rock drainage (ARD); what are the impacts to the mule deer habitat and sage grouse brooding habitat; what impacts will result from aspen removal; how much wetland area is going to be removed; what will be the reduction in grazing AUM's; what is the reclamation potential for the area; will the project be economical to mine?

Public participation will be especially important at several points during the analysis. The first point is during the scoping process. The Forest Service will be seeking information, comments, and assistance from Federal, State and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft EIS. The process will include: (1). Identifying potential issues; (2). Identifying issues to be analyzed in depth; (3). Eliminating issues or those which have been covered by a relevant previous environmental analysis; (4). Exploring additional alternatives; (5). Identifying potential environmental effects of the proposed action and alternatives; (6). Determining potential cooperating agencies and task assignments. Several government agencies have been invited to participate in this project. The Bureau of Land Management is a cooperating agency because the mill site is located on lands they administer. In addition the Nevada State Department of Minerals and Nevada State Department of Wildlife are also cooperating agencies. The U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, U.S. Environmental Protection Agency and the Nevada Department of Environmental Protection will participate in the process as technical advisors and reviewers on those areas they have technical expertise and/or regulatory authority. Various Federal, State and local permits and licenses will be required to implement the proposed action. They include, but are not limited to, a 404 permit and National Pollution Discharge Elimination System Permit for stormwater discharges.

The Forest Service is the lead agency for this project. John Inman, Forest Supervisor of the Humboldt National Forest is the responsible officer. He will need to make a decision to approve the proposed Plan of Operation or one of the alternatives and mitigation measures giving consideration to IMC's rights under the 1872 Mining Law as amended and other applicable Forest Service regulations and allowances for surface uses consistent with the Humboldt National Land and Resource Management Plan (1986), while providing for resource protection which is necessary for the proposal to comply with federal and state statutes and regulations. The Draft Environmental Impact Statement (DEIS) is expected to be filed with the U.S. Environmental Protection Agency (EPA) and be available for public review in July, 1993. At that time, EPA will publish a notice of availability of the DEIS in the **Federal Register**.

The comment period on the draft environmental impact statement will be 45 days from the date that the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980. Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: February 22, 1993.

John P. Inman,

Forest Supervisor.

[FR Doc. 93–5234 Filed 3–4–93; 8:45 am]

BILLING CODE 3410–11–M

Suitability Studies for Ten Wild and Scenic Rivers, Willamette National Forest, Lane and Linn Counties, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: Notice is hereby given that the Forest Service, USDA, will prepare an environmental impact statement (EIS) to study the suitability of ten rivers in the Willamette National Forest in Oregon for inclusion in the National Wild and Scenic River System. Nine of these rivers were found eligible for consideration as Wild and Scenic Rivers in the 1990 Willamette National Forest Land and Resource Management Plan (Forest Plan). One of these rivers, the South Fork McKenzie, is a Congressional Study river identified in the Oregon Omnibus Wild and Scenic Rivers Act of 1988. All ten rivers are found within the boundaries of the Willamette National Forest. The Forest will evaluate all ten rivers under one process and will develop alternatives within a range of suitability findings from "no rivers suitable" to "all rivers suitable and recommended for designation".

The agency gives notice of this study to solicit comments from interested and affected people on the scope and findings of the analysis. The proposed study will be implemented during fiscal years 1993 and 1994. The final EIS and preferred alternative will be forwarded to the United States Congress for a decision.

DATES: Comments on the scope of the study should be received by March 31, 1993.

ADDRESSES: Send written comments to Darrel L. Kenops, Forest Supervisor, Willamette National Forest, P.O. Box 10607, Eugene, Oregon 97440.

FOR FURTHER INFORMATION CONTACT: Director questions about the proposed study and EIS to Steve Sorseth, Rivers Team Leader, Willamette National Forest, P.O. Box 10607, Eugene, Oregon 97440, phone (503) 465–6494.

SUPPLEMENTARY INFORMATION: This study proposes to evaluate the suitability of ten rivers for designation as Wild and Scenic Rivers. A suitability determination is the last administrative step in the Wild and Scenic Rivers process before a recommendation is made to Congress for designation. Only rivers found eligible for Wild and Scenic River status are evaluated in the suitability study. The Willamette National Forest analyzed eligibility of these and other rivers in its Forest Planning process in 1990.

The Willamette National Forest has chosen to study all ten rivers together to maintain consistency across the Forest and to complete the work efficiently. The ten rivers considered in this process are described in Appendix E of the final EIS for the Willamette National Forest Land and Resource Management Plan. Five of the rivers fall on the Detroit Ranger District: Little North Santiam River; Opal Creek; South Fork Breitenbush River; Breitenbush River; and North Santiam River. Three of the rivers exist on the Sweet Home Ranger District: Quartzville Creek; Middle Santiam River; South Santiam River. One river is on the Blue River Ranger District: South Fork McKenzie River. One river flows through the Rigdon Ranger District: Middle Fork Willamette River. There will be an opportunity to learn more about the rivers and the process through periodic newsletters and five public scoping meetings to be held in March of 1993. The meetings will be scheduled in Salem, Mill City, Lebanon, Eugene, and Oakridge. A notice of these meetings will be sent in the February 1993 newsletter to people on the rivers planning mailing list and to media in the Willamette Valley. Written comments or suggestions are encouraged throughout the planning process and during the public meetings.

The responsible official is Secretary of Agriculture, Administration Building, 12th Street, SW., Washington, DC 20250.

The draft EIS will be completed in July 1994. The comment period on the draft EIS will be 60 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes it is important to give notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Because of this court ruling, it is very important that those interested in this proposed action participate by the close of the 60-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewer's may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be complete by October 1994. The Secretary will consider the comments, responses, environmental consequences discussed in the final EIS and applicable laws, regulations, and policies in making his recommendation to the President regarding the suitability of these rivers for inclusion in the National Wild and Scenic River System. The decision on inclusion of a river in the National Wild and Scenic River System rests with the United States Congress.

Dated: February 26, 1993.

Tom J. Mills,

Associate Deputy Chief.

[FR Doc. 93–5001 Filed 3–4–93; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Materials Technical Advisory Committee will be held March 25, 1993, 10:30 a.m., Herbert C. Hoover Building, room 1617–M2, 14th St. & Pennsylvania Ave., NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to materials or technology.

Agenda:

General Session

1. Opening remarks by the Chairman.
2. Introduction of members and visitors.

3. Presentation of papers or comments by the public.

4. Review of assignments and presentation of reports in preparation for List Review.

Executive Session

5. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, presentation materials should be forwarded two weeks prior to the meeting to the address below: Ms. Lee Ann Carpenter, ODAS/EA/BXA, room 1621, U.S. Department of Commerce, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on May 1, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call (202) 482–2583.

Dated: March 1, 1993.

Lee Ann Carpenter,

Acting Director, TAC Unit.

[FR Doc. 93–5077 Filed 3–4–93; 8:45 am]

BILLING CODE 3510–07–M

National Oceanic and Atmospheric Administration

Endangered and Threatened Species; Incidental Take Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of receipt of applications for incidental take permits.

Notice is hereby given that the Washington Department of Fisheries (WDF), the Washington Department of Wildlife (WDW), the Oregon Department of Fish and Wildlife (ODFW), and the Idaho Department of Fish and Game (IDFG) have applied for permits to incidentally take endangered and threatened species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and the National Marine Fisheries Service (NMFS) regulations governing endangered and threatened fish and wildlife permits (50 CFR part 217 through 227). These permits involve hatchery activities.

The artificial propagation projects, for which these agencies request authorization, will involve incidental takes of listed species. These incidental takes include the impacts of juvenile hatchery reared salmonids (anadromous and resident) on juvenile listed salmon, as well as impacts of hatchery produced adults on adult listed salmon. Juvenile hatchery reared salmon may adversely impact juvenile listed salmon through competition for food and space, disease transmission, and increased vulnerability to predation by hatchery fish and other predators. Hatchery produced adults may adversely affect listed adult salmon through interbreeding, which could negatively affect the gene pool and possibly reduce the survival of future generations.

WDF requests authorization to operate seven major salmon hatchery complexes in the Columbia River required by the Federal Energy Regulatory Commission (FERC) as mitigation during the licensing of hydropower projects. Two of these facilities, Cowlitz and Lewis River, are located on tributaries to the Columbia River below Bonneville Dam. The remaining five (Priest Rapids, Rocky Reach, Eastbank, Wells, and Methow) are located above the confluence with the Snake River. In addition, the WDF requests authorization to continue working with 27 educational and 4 enhancement volunteer salmon projects within the Columbia River system.

WDW requests authorization to operate 4 major steelhead and 11 resident finfish hatchery complexes (Cowlitz, Wells, Chelan Falls, and Eastbank) within the Columbia River required by FERC as mitigation during the licensing of hydropower projects. In addition, WDW requests authorization to operate a new combination steelhead and resident finfish facility (Lewis River at Merwin Dam), scheduled to become operational in September 1993 and intended to replace fish production from three of the existing facilities. WDW also requests authorization to cooperate with a variety of local organizations in the operation of small projects to rear steelhead and searun cutthroat.

ODFW requests authorization to rear and release legal size rainbow trout from Wallowa hatchery (mitigation under the Lower Snake River Compensation Program) into the Grande Ronde River Basin, within the range of listed Snake River spring/summer chinook salmon. ODFW also requests authorization to conduct six other anadromous salmonid propagation programs (Round Butte, Roaring River, Oak Springs, Big Creek hatcheries of ODFW, the Clatsop Economic Development Council Hatchery, and the Salmon Trout Enhancement Program) in the mainstem Columbia River.

IDFG requests authorization to continue operation of Idaho Power Company mitigation hatcheries. Specifically, IDFG requests authorization to: (1) Release hatchery steelhead in the Pahsimeroi and Snake rivers; (2) collect adult hatchery steelhead in the Pahsimeroi and Snake rivers for broodstock; (3) release hatchery summer chinook in the Pahsimeroi River; (4) release hatchery spring chinook in Rapid River; and (5) collect adult hatchery spring chinook in Rapid River for broodstock.

WDF, WDW, ODFW, and IDFG have submitted conservation plans that specify the steps that are proposed to be taken to monitor, minimize, and mitigate impacts. NMFS will review these applications in accordance with the criteria in 50 CFR 222.2 (55 FR 20603, May 18, 1990).

Written data or views, or requests for a public hearing on these applications should be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, room 8268, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on any of these particular applications would be appropriate. The holding of such hearings is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in these application summaries are those of the Applicants and do not necessarily reflect the views of NMFS.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, NMFS, 1335 East-West Highway, room 8268, Silver Spring, MD 20910. Contact: Marta Nammack at 301/713–2322; and

Environmental and Technical Services Division, NMFS, 911 North East 11th Avenue, room 620, Portland, OR 97232. Phone: 503/230–5400.

Dated: March 1, 1993.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 93–5017 Filed 3–4–93; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Request for modification to Scientific Research Permit No. 772 (P475).

Notice is hereby given that Ms. Dena Matkin, P.O. Box 22, Gustavus, AK 99826, has requested a modification to Permit No. 772 (P475) issued pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 772 was issued on March 20, 1992 (57 FR 10650), and subsequently modified on December 3, 1992 (57 FR 58794). It authorizes the inadvertent harassment of up to 150 killer whales (*Orcinus orca*) annually in southeastern Alaskan waters during photo-identification studies over a one-year period.

The permittee is requesting that, pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216) and § 222.23 of the Regulations Governing Endangered Species (50 CFR parts 217–222), the permit be modified to: Extend its duration for an additional four years; increase the number of killer whales that may be inadvertently harassed to 400 annually; and authorize the inadvertent harassment of up to 100 humpback whales (*Megaptera novaeangliae*) annually during photo-identification studies. The subject animals of both species may be approached up to five times annually.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this modification request to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request, should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices (by appointment):

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 (301/713–2289); and

Director, Alaska Region, National Marine Fisheries Service, NOAA, Federal Annex, 9109 Mendenhall Mall Rd., suite 6, Juneau, AK 99802 (907/586–7221).

Dated: February 23, 1993.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–5018 Filed 3–4–93; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: April 5, 1993.

ADDRESSES: Committee for Purchase from People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On October 23, December 29, 1992 and January 15, 1993, the Committee for Purchase from People Who Are Blind or Severely Disabled published notices (57 FR 48359, 61884 and 58 FR 4658) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List. Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Carrier, Water Canteen
8465–01–314–4286

Services

Grounds Maintenance, Andersonville National Historic Site, Route 1, Box 85, Andersonville, Georgia

Janitorial/Custodial, O'Hare Air Reserve Forces Facility, Building #4, Chicago, Illinois

Mailroom Operation, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, Virginia

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 93–5139 Filed 3–4–93; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 5, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agency employing persons who are blind or have other severe disabilities.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information

It is proposed to add the following commodities and services to the Procurement List for production by the nonprofit agencies listed.

Commodities

Gloves, Cloth, Cotton
8415–00–964–4615
8415–00–964–4760
8415–00–964–4925
Nonprofit Agency: Georgia Industries for the Blind, Inc., Bainbridge, Georgia

Napkin, Table, Paper
8540–00–285–7001
8540–01–056–2897
Nonprofit Agency: Maine Center for the Blind and Visually Impaired, Portland, Oregon; and Royal Maid Association for the Blind, Inc., Hazlehurst, Mississippi

Services

Janitorial/Custodial, Automated Flight Service Station, Air Traffic Control Tower, Bowman Field, Louisville, Kentucky
Nonprofit Agency: Custom Manufacturing Services, Inc., Louisville, Kentucky

Janitorial/Custodial, Naval Support Activity (basewide except commissary and exchange facilities), New Orleans, Louisiana
Nonprofit Agency: Goodwill Industries of Southeastern Louisiana, Inc., New Orleans, Louisiana

Janitorial/Custodial, Federal Complex, 1500 E. Bannister Road and 9240 Troost, Kansas City, Missouri
Nonprofit Agency: The Helping Hand of Goodwill Industries Extended Employment Sheltered Workshop, Kansas City, Missouri

Janitorial/Custodial, U.S. Army Reserve Center, 2501 Fraser, Conroe, Texas
Nonprofit Agency: Tri-County Mental Health/Mental Retardation Services, Conroe, Texas

Janitorial/Custodial, U.S. Army Reserve Center, 920 S. Sam Houston, Huntsville, Texas
Nonprofit Agency: Tri-County Mental Health/Mental Retardation Services, Conroe, Texas

Janitorial/Custodial, U.S. Army Reserve Center, 2414 Winddecker Street, Midland, Texas
Nonprofit Agency: Permian Basin Community Centers for the Mental Health and Mental Retardation, Midland, Texas

Beverly L. Milkman,

Executive Director.

[FR Doc. 93–5131 Filed 3–4–93; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Coastal Engineering Research Board; Meeting

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of open meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Coastal Engineering Research Board.

Dates of Meeting: March 23–26, 1993.

Place: Coastal Engineering Research Center, U.S. Army Engineer Waterways Experiment Station, Vicksburg, Mississippi.

Times:

8:30 a.m. to 5 p.m., 23 March
8:30 a.m. to 5 p.m., 24 March
8:30 a.m. to 5 p.m., 25 March
8:30 a.m. to 12 noon on 26 March

Proposed Agenda: The 1994 Coastal Engineering Program review is to be held on March 23–26, 1993. On Tuesday, March 23, a review on ending work units and ongoing work units of the Coastal Engineering Research and Development Programs will be discussed. The afternoon session will be devoted to new work units. On Wednesday, March 24, there will be discussions on proposed new work units and identification of research needs. On Thursday, March 25, Monitoring Completed Coastal Projects Program Review which includes the status of existing projects and review of monitoring plans will be discussed. On Friday morning, March 26, the Coastal Field Data Collection Program will be discussed.

This meeting is open to the public, but since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

Inquiries and notice of intent to attend the meeting may be addressed to Dr. James R. Houston, Director, Coastal Engineering Research Center, U.S. Army Engineer Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, Mississippi 39180–6199.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–5021 Filed 3–4–93; 8:45 am]

BILLING CODE 370–02–M

Corps of Engineers

Inland Waterways Users Board; Meeting

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92–463 announcement is made of the following committee meeting:

Name of Committee: Inland Waterways Users Board.

Date of Meeting: March 31, 1993.
Place: Washington Court Hotel, 525 New Jersey Avenue, NW., Washington, DC 20001–1527, (Tel: 202–628–2100).
Time: 8:30 a.m. to 5 p.m.

Proposed Agenda:

AM Session

8:30—Registration
9:05—Welcoming Remarks and Introductions
9:15—Business Section
—Administrative Announcements
—Chairman's Call to Order
—Executive Director's Comments
—Approval of Prior Meeting Minutes
9:45—Trust Fund Analysis
10:15—Break
10:45—Internal Revenue Service Tax Collection Update
12:00—Lunch

PM Session

1:30—Innovative Design and Construction Techniques Update
2:00—Status of Existing Projects and Rehabilitations
2:45—Break
3:15—Investment Program Focus
4:00—Public Comment Period
5:00—Instructions to Board Staff/ Adjourn

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Mr. David B. Sanford, Jr., Headquarters, U.S. Army Corps of Engineers, ATTN: CECW–P, Washington, DC 20314–1000.

Kenneth L. Denton,
Army Federal Register Liaison Officer.
[FR Doc. 93–5022 Filed 3–4–93; 8:45 am]
BILLING CODE 3710–92–M

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance; Meeting

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of upcoming meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming symposium on loan simplification sponsored by the Advisory Committee on Student Financial Assistance. This notice also describes the functions of the Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

DATE AND TIME: Monday, April 5, 1993, beginning at 9 a.m. and ending at 5 p.m.

ADDRESSES: The Ritz-Carlton Hotel, Pentagon City, 1250 South Hayes Street, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Dr. Brian K. Fitzgerald, Staff Director, Advisory Committee on Student Financial Assistance, room 4600, ROB–3, 7th & D Streets, SW., Washington, DC 20202–7582 (202) 708–7439.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under section 491 of the Higher Education Act of 1965 as amended by Public Law 100–50 (20 U.S.C. 1098). The Advisory Committee is established to provide advice and counsel to the Congress and the Secretary of Education on student financial aid matters, including providing technical expertise with regard to systems of need analysis and application forms, making recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students, and conducting a study of institutional lending in the Stafford Student Loan Program. The Congress has also directed the Advisory Committee to assist with a series of special assessments and produce an in-depth study of student loan simplification.

The Advisory Committee will meet in Arlington, Virginia on April 5, 1993, from 9 a.m. to 5 p.m.

The proposed agenda includes discussion sessions on the following issues: (a) Multiple, overlapping loan programs; (b) conflicting terms and conditions among programs; (c) burdensome legislative and regulatory requirements; (d) inconsistent lender and guarantor policies; (e) nonstandard processes and forms; and (f) inadequate data and network infrastructures.

The symposium will examine proposals for loan program simplification offered by the community; discuss the implementation feasibility and timetable necessary to effect change; and bring together a diverse group of witnesses from within and outside the Washington, DC, area who are involved in the student loan program to share their views on the study and address the identified sources of complexity in the existing program.

Space is limited and you are encouraged to register early if you plan to attend. To register, please contact the Advisory Committee staff office at (202) 708–7439. **The registration deadline is March 26, 1993.**

Records are kept of all Committee proceedings, and are available for public inspection at the Office of the Advisory Committee on Student Financial Assistance, room 4600, 7th and D Streets, SW., Washington, DC, from the hours of 9 a.m. to 5:30 p.m., weekdays, except Federal holidays.

Dated: March 1, 1993.

Dr. Brian K. Fitzgerald,
Staff Director, Advisory Committee on Student Financial Assistance.
[FR Doc. 93–4995 Filed 3–4–93; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

International Energy Agency Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

FOR FURTHER INFORMATION CONTACT: Samuel M. Bradley, Acting Assistant General Counsel for International Affairs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–2900.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on March 11 and 12, 1993, at the headquarters of the Organization for Economic Cooperation and Development (OECD), 2, rue Andre-Pascal, Paris, France, beginning at 9 a.m. on March 11. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ) and of the IEA's Standing Group on the Oil Market (SOM), which is scheduled to be held at the OECD on these dates, including a preparatory meeting on March 11 among IAB members. The agenda for the meeting is under the control of the SEQ and the SOM. It is expected that the following draft agenda will be followed:

1. Adoption of the Agenda.
2. Summary Record of the 77th Meeting.
3. The Appraisal of the Seventh Allocation Systems Test (AST–7):
—NESO Appraisal Reports on AST–7
—Company Appraisal Reports of AST–7, ISAG Appraisal Report of AST–7, AST–7 Shipping Issues
—IAB Appraisal of AST–7
—Secretariat Appraisal of AST–7
4. Emergency Response Reviews of IEA Countries:
—Finland
—Greece

—Portugal
—Australia
—New Zealand

5. Emergency Reserve and Net Import Situation of IEA Countries on 1st October 1992.

6. Emergency Data System and Related Questions:

—The Quality of Questionnaire C
—MOS to October 1992
—MOS to November 1992
—MOS to December 1992
—BPFC Q491–Q392

7. Any other business.

As permitted by 10 CFR 209.32, the usual 7-day period for publication of the notice of this meeting in the **Federal Register** has been shortened because unanticipated circumstances pertaining to the IEA's scheduling of this meeting delayed the issuance of this notice.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting is open only to representatives of members of the IAB and their counsel, representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of the Congress, the SEQ and the SOM, and the Commission of the European Communities, and invitees of the SEQ, SOM, and IEA.

Issued in Washington, DC, March 1, 1993.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 93–5129 Filed 3–4–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RS92–93–000]

Blue Lake Gas Storage Co.; Proposed Changes in FERC Gas Tariff

February 26, 1993.

Take notice that on December 30, 1992, Blue Lake Gas Storage Company ("Blue Lake") tendered for filing the following tariff sheets which Blue Lake proposes to become effective April 1, 1993.

Original Volume No. 1

Original Sheet No. 1
through
Original Sheet No. 158

Blue Lake states that these tariff sheets are being submitted to comply with the Commission's order issued September 14, 1992 in Docket No. CP91–2704–002. As more fully described in the filing, the proposed tariff sheets represent the terms and conditions under which Blue Lake proposes to provide natural gas storage service pursuant to Commission Orders No. 636, and 636A and 636B.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street, NE., Washington, DC 20426 by March 10, 1993, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests and comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants or commenters parties to the proceeding. Any person wishing to comment on said filing should file its comments by March 10, 1993. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5005 Filed 3–4–93; 8:45 am]

BILLING CODE 6717–01–M

STS HydroPower, Ltd. et al.; Application Filed With the Commission

March 1, 1993.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. Type of Application: Transfer of License.

b. Project No.: 9840–017.

c. Date filed: February 19, 1993.

d. Applicant: STS HydroPower, Ltd. and Appomattox River Associates, L.P.

e. Name of Project: Brasfield Hydroelectric Project.

f. Location: On the Appomattox River in Chesterfield and Dinwiddie Counties, Virginia.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791 (a)–825 (r).

h. Applicant contact: Mark J. Sundquist, President, STS HydroPower, Ltd., 111 Pfingsten Road, Northbrook, IL 60062, (708) 272–6520.

M. Curtis Whittaker, Esquire, Rath, Young, Pignatelli and Oyer, P.A., Two Capital Plaza, P.O. Box 854, Concord, NH 03302–0854.

i. FERC contact: Etta Foster, (202) 219–2679.

j. Comment Date: March 23, 1993.

k. Description of Proposed Action: STS HydroPower, Ltd. proposes to add Appomattox River Associates, L.P. as co-licensee for the Brasfield Hydroelectric Project, and requests expedited consideration of the approval request in order to allow closing to proceed on permanent debt financing for the project. STS became licensee pursuant to a license transfer application made pursuant to section 1075 (a)(2) of the Intermodel Surface Transportation Infrastructure Act of 1991, and this application shall not be deemed to affect in any way the rights afforded the Appomattox River Water Authority under said statute.

l. This notice also consists of the following standard paragraphs: B & C.

Standard Paragraphs

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR §§ 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATIONS," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: The Director, Office of Hydropower Licensing, Division of Project Compliance and Administration, Federal Energy Regulatory Commission, ATTN: HL–21, room 1148 UCP, at the above address. A notice of intent, competing application, or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5004 Filed 3–4–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 93–11–NG]

Amerada Hess Corporation; Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Amerada Hess Corporation blanket authorization to import from Canada up to 50 Bcf of natural gas over a period of two years beginning on the date of the first delivery.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on March 1, 1993.

Clifford Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–5128 Filed 3–4–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4560–1]

Public Water System Supervision Program Revision for the State of Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Public notice is hereby given in accordance with the provisions of § 1413 of the Safe Drinking Water Act as amended, 42 U.S.C. 300f et seq., and 40 CFR part 142, subpart B, the National Primary Drinking Water Regulations (NPDWR), that the State of Utah has revised its Public Water System Supervision (PWSS) Primacy Program. Utah's PWSS program, administered by the Utah Division of Drinking Water, has adopted (November 12, 1992) regulations for filtration, disinfection, turbidity, *Giardia Lamblia*, viruses, Legionella and heterotrophic bacteria that correspond to the NPDWR for filtration, disinfection, turbidity, *Giardia Lamblia*, viruses, Legionella and heterotrophic bacteria promulgated by EPA on June 29, 1989 (54 FR 27486–27541). The Environmental Protection Agency (EPA) has completed their review of Utah's primacy revisions and has determined that they are no less stringent. EPA therefore approves Utah's primacy revisions. This determination shall become effective April 5, 1993.

Any interested parties are invited to submit written comments on this determination, and may request a public hearing on or before April 5, 1993. If a public hearing is requested and granted, this determination shall not become effective until such time following the hearing that the Regional Administrator issues an order affirming or rescinding this action.

Requests for a public hearing should be addressed to: Jack W. McGraw, Acting Regional Administrator, c/o Bob Clement (8WM–DW), U.S. Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, CO 80202–2466.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request is made within thirty (30) days after this notice, a public hearing will be held.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of the responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the **Federal Register** and in newspapers of general circulation in the State of Utah. A notice will also be sent to the person(s) requesting the hearing as well as to the State of Utah. The hearing notice will include a statement of purpose, information regarding time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on April 5, 1993. Please bring this notice to the attention of any persons known by you to have an interest in this determination.

All documents relating to this determination are available for inspection at the following locations: (1) U.S. EPA Region VIII, Drinking Water Branch, 999 18th Street (4th floor), Denver, Colorado; (2) Division of Drinking Water, 288 North, 1460 West, (3rd floor), Salt Lake City, Utah 84114.

FOR FURTHER INFORMATION CONTACT: Bob Clement, Drinking Water Branch, EPA Region VIII 8WM–DW, 999 18th Street, suite 500, Denver, Colorado 80202–2466, telephone (303) 293–1259.

Dated: February 12, 1993.

Kerrigan G. Clough,

Acting Regional Administrator, EPA, Region VIII.

[FR Doc. 93–5106 Filed 3–4–93; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4597–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 or (202) 260–5075.

Availability of Environmental Impact Statements Filed February 22, 1993 through February 26, 1993 pursuant to 40 CFR 1506.9.

EIS No. 930049, DRAFT EIS, SFW, MO, New Madrid National Wildlife Refuge Establishment, Land Acquisition, New Madrid County, MO, Due: April 26, 1993, Contact: Jim Salyer (417) 926–5500.

EIS No. 930050, DRAFT EIS, FHW, CA, I–215 Improvements, Orange Show Road to CA–30, Funding, City of San Bernardino, San Bernardino County, CA, Due: April 19, 1993, Contact: Leonard E. Brown (916) 551–1307.

EIS No. 930051, DRAFT EIS, EPA, Synthetic Organic Chemical Manufacturing Industry, Hazardous Air Pollutants from Processing Units, Emission Standards, Due: April 19, 1993, Contact: Dr. Janet Meyer (919) 541–5299.

EIS No. 930052, FINAL SUPPLEMENT, COE, WV, Winfield Locks and Dam Project, Lock Replacement, Alignment Modifications and Land Purchase, Implementation, Kanawha River near Eleanor, Putnam County, WV, Due: April 5, 1993, Contact: Ben Borda (304) 529–5712.

EIS No. 930053, FINAL EIS, AFS, WY, Union Pass Road Relocation Project, Union Pass Road and Green River Lakes

Road Connection, Approval and Implementation, Bridger-Teton National Forest, Pinedale Ranger District, Fremont, Sublette and Lincoln Counties, WY, Due: April 5, 1993, Contact: Bob Reese (307) 367–4326.

EIS No. 930054, DRAFT EIS, FHW, CA, US 101 Improvements, north of Boronda Road to north of Crazy Horse Canyon Road, Funding and COE Section 404 Permit, City of Prunedale, Monterey County, CA, Due: April 19, 1993, Contact: John S. Schultz (916) 551–1314.

EIS No. 930055, FINAL EIS, BLM, CA, South Coast Planning Area Land and Resource Management Plan, Implementation, California Desert District, San Diego, Riverside, San Bernardino, Los Angeles, and Orange Counties, CA, Due: April 5, 1993, Contact: Robin Knehr (619) 251–0812.

EIS No. 930056, FINAL SUPPLEMENT, COE, WA, ID, OR, 1992 Columbia/Snake Rivers Salmon Flow Measures, Implementation, WA, OR and ID, Due: April 5, 1993, Contact: Peter Poolman (509) 522–6619.

EIS No. 930057, FINAL EIS, UAF, NC, Pope Air Force Base (AFB) Beddown of a Composite Wing under the Air Combat Command (ACC), Implementation, NC, Due: April 5, 1993, Contact: Stephine Stevenson (804) 764–7844.

EIS No. 930058, FINAL EIS, FHW, VA, US 29 Corridor Improvement, US 250 Bypass, Charlottesville to South Fork Rivanna River in Albemarle, Funding, COE Section 10 and 404 Permits, Albermarle County, VA, Due: April 5, 1993, Contact: James M. Tumlin (804) 771–2371.

EIS No. 930059, DRAFT EIS, UAF, PA, Institute for Advanced Science and Technology (IAST) Site Selection and Construction, Funding, University of Pennsylvania, Philadelphia, PA, Due: April 19, 1993, Contact: Lt. Col. Gary Baumgartel (210) 536–3869.

EIS No. 930060, FINAL EIS, BPA, WA, OR, CA, NV, NM, ID, MT, WY, UT, AZ, Resource Programs to Acquire Sufficient New Resources to meet Potential Electric Power Requirements, Implementation, WA, ID, OR, MT, CA, WY, NV, UT, NM, AZ, and British Columbia, Due: April 5, 1993, Contact: Charles Alton (503) 230–5878.

EIS No. 930061, DRAFT SUPPLEMENT, COE, MI, Sault Ste. Marie Federal Facilities, Operation, Maintenance and Minor Improvements, Opening Operation Date March 15, 1993 through April 1, 1993 Implementation, Chippewa County, MI, Due: April 19, 1993, Contact: Thomas M. Freitage (313) 226–6753.

EIS No. 930062, FINAL EIS, NPS, AZ, Petrified Forest National Park General Management and Develop Concept Plans, Implementation, Navajo and Apache Counties, AZ, Due: April 5, 1993, Contact: Gary Cummins (602) 524–6228.

Dated: March 2, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93–5064 Filed 3–4–93; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4597–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 15, 1993 through February 19, 1993 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1992 (57 FR 12499).

Draft EISs

ERP No. D–AFS–L65184–OR Rating EC2, 1991 Warner Creek Fire Recovery Project, Northern Spotted Owl Habitat and Other Resources Reforestation, Northern Spotted Owl Habitat Conservation Area 0–10, Willamette National Forest, Oakridge Ranger District, Lane County, OR.

Summary

EPA expressed concerns regarding water quality issues and the known sensitivity of the watersheds in the area. Additional information was requested on water quality monitoring and air quality effects.

ERP No. D–AFS–L65186–ID Rating EC2, Trail Creek II Timber Sale, Implementation, Timber Harvest, Road Construction and Reconstruction, Trail, Ninemile and Packsaddle Creeks, Boise National Forest, Lowman Ranger District, Valley County, ID.

Summary

EPA expressed concerns that the project could cause water quality standards to be exceeded. EPA requested additional information on water quality monitoring and a more comprehensive air quality analysis.

ERP No. D–FAA–L51041–AK Rating LO, Anchorage International Airport Instrument Landing Systems (ILS), Construction and Operation, Install ILS on Runway 14, Approval, Funding and section 404 Permit, Anchorage, AK.

Summary

EPA had no objections to the preferred alternative as it is described in the draft EIS.

ERP No. DS–FAA–E51043–TN Rating EC2, Memphis International Airport Construction and Operation, Updated Information on Noise Analysis, Runway 18L–36R, Relocation of Swinnea Road, portion of Winchester Road and Shelby Drive, Airport Layout Plan (ALP) Approval, Funding and Section 404 Permit, Shelby County, TN.

Summary

EPA's review found that although an overall noise reduction is projected for the airport environs by the year 2000, additional information on air traffic patterns, noise level increases within the 65 and 60 Ldn contours, and noise mitigation is needed to fully evaluate all noise impacts.

Final EISs

ERP No. F–COE–K36105–CA, San Rafael Canal Flood Control/Marin County Shoreline Study, Implementation, City of San Rafael, Marin County, CA.

Summary

Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

Dated: March 2, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93–5063 Filed 3–4–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4601–5]

Announcement of Public Meeting to Review Draft Office of Water Strategic Plan

AGENCY: Environmental Protection Agency.

ACTION: Announcement of public meeting.

Over the past eighteen months the Office of Water (OW) has been developing a draft plan designed to outline its strategic directions and program goals for the future. A draft of this plan has recently been completed.

As a result, we are now announcing that a public meeting to discuss the plan in more detail is being held on March 18, 1993, at the Hyatt Regency Hotel in Crystal City, Virginia. The meeting will occur from 9 a.m. until 5 p.m. and the phone number for the hotel is (703) 418–1234.

At the meeting, participants will be asked to respond to a number of specific components of the draft plan, to include its vision and mission statements, as well as a number of strategic goals and associated measures of success. The format of the meeting will be highly interactive with attendees asked to participate actively.

In order to obtain a copy of the draft plan or raise any questions prior to the meeting, please contact Barbara Brozon or Mary Marsters at (518) 797–3783.

Dated: February 26, 1993.

John P. Lehman,

Acting Director, Office of Wastewater, Enforcement and Compliance.

[FR Doc. 93–5107 Filed 3–4–93; 8:45 am]

BILLING CODE 6560–60–M

[FRL–4601–1]

Proposed Settlement of Administrative Order by Consent

AGENCY: U.S. Environmental Protection Agency (U.S. EPA).

ACTION: Proposed *de minimis* settlement.

SUMMARY: U.S. EPA is proposing to settle a claim under section 122 of CERCLA with *de minimis* potentially responsible parties for costs that have been incurred during removal activities at the Great Lakes Asphalt Facility in Boone County, Indiana. Two hundred and six (206) Respondents have agreed to pay a total of $165,655.87. The money will be used to reimburse the U.S. EPA for costs incurred during U.S. EPA's removal actions at the Facility. This action is being taken to settle all liability related to the Great Lakes Asphalt Facility with the Respondents pursuant to the intent of section 122(g) of CERCLA, as amended.

DATES: Comments on this proposed settlement must be received within thirty (30) days from the publication of this notice.

ADDRESSES: A copy of the proposed settlement is available at the following address for review: (It is recommended that you telephone Peter Felitti at (312) 886–7157, before visiting the Region V Office) U.S. Environmental Protection Agency, Region V, Office of Superfund, Remedial and Enforcement Response Branch, 77 West Jackson Street, Chicago, Illinois 60604–3590.

Comments on the proposed settlement should be addressed to: (Please submit an original and three copies, if possible.) Peter Felitti, Assistant Regional Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency, Region V, 77 West Jackson Street, Chicago, Illinois 60604–3590, (312) 886–7157.

FOR FURTHER INFORMATION CONTACT: Peter Felitti, Office of Regional Counsel, at (312) 886–7157.

SUPPLEMENTARY INFORMATION: The Great Lakes Asphalt Facility, was originally an asphalt production facility. In 1979 and 1982, the use of several tanks on the Facility were leased to the operators of the Enviro-Chem Site for the storage of "synthetic fuel". On May 10, 1989, The Emergency Response Branch of the Indiana Department of Environmental Management was notified of a release at the Facility. The release flowed north to contaminate the soil, a drainage system, a waterway and entered Eagle Creek. U.S. EPA was notified on the day of the release and conducted cleanup activities at the facility. Removal activities were completed by the U.S. EPA's Emergency and Enforcement Response Branch in the summer of 1990.

The Respondents are the alleged generators of the hazardous substances that were transshipped from the Enviro-Chem Site to the Great Lakes Asphalt Facility. Each Respondent's share of the waste delivered to the facility is believed not to exceed 1.0 percent of the total waste delivered to the facility.

A 30-day period, beginning on the date of publication, is open pursuant to section 122(i) of CERCLA for comments on the proposed settlement. Comments should be sent to the Office of Public Affairs, U.S. Environmental Protection Agency, Region V, 77 West Jackson Street, Chicago, Illinois 60604–3590..

Valdas V. Adamkus,

Regional Administrator—Region V, U.S. Environmental Protection Agency.

[FR Doc. 93–5110 Filed 3–4–93; 8:45 am]

BILLING CODE 6560–60–M

[FRL–4601–2]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act ("CERCLA"), notice is hereby given that a proposed administrative cost recovery settlement concerning the Intel Santa Clara 3 site in Santa Clara, California was executed by the Agency on February 17, 1993. The proposed settlement resolves an EPA claim under section 107 of CERCLA against Intel Corporation. The proposed settlement was entered into under the authority granted EPA in section 122(h) of CERCLA, and requires Intel Corporation to pay $247,944.69 in past costs and interest to the Hazardous Substances Superfund. In addition, this settlement requires Intel Corporation to reimburse EPA for all future response costs incurred at or in connection with the Intel Santa Clara 3 site.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency's response to any comments received will be available for public inspection at: Santa Clara Library, located at 2635 Homestead Road in Santa Clara, CA 95051; and the U.S. Environmental Protection Agency, 75 Hawthorne Street, 16th Floor, San Francisco, CA 94105 (Attention: Steven Armsey, Regional Hearing Clerk).

DATES: Comments must be submitted on or before April 5, 1993.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at the U.S. Environmental Protection Agency at the address provided above. A copy of the proposed settlement may be obtained from Steven Armsey, U.S. EPA Regional Hearing Clark (RC–1), 75 Hawthorne, San Francisco, CA 94105. Comments regarding the proposed settlement should be addressed to Steven Armsey at the address provided above, and should reference the Intel Santa Clara 3 site located in Santa Clara, California (EPA Docket No. 93–08).

FOR FURTHER INFORMATION CONTACT: Karen Goldberg (RC–3–3), Assistant Regional Counsel, U.S. Environmental Protection Agency, San Francisco, CA 94105, Telephone: (415) 744–1382.

Dated: February 17, 1993.

Jeff Zelikson,

Director, Hazardous Waste Management Division.

[FR Doc. 93–5108 Filed 3–4–93; 8:45 am]

BILLING CODE 6560–60–M

[FRL–4601–3]

Notice of Proposed Administrative Settlement; Yttrium Processing Plant, Laramie, WY

AGENCY: U.S. Environmental Protection Agency (U.S. EPA).

ACTION: Proposed administrative settlement.

SUMMARY: In accordance with the requirements of section 122(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), notice is hereby given of a proposed Administrative Settlement under section 122(h) concerning the Yttrium Processing Plant Site in Laramie, Wyoming. The proposed Administrative Settlement requires Howard T. Carroll, Allene W. Krueger, Kim J. Krueger, Catherine E. Millett, George J. Millett, and Riverside Acres Limited Partnership, the Potentially Responsible Parties at the site, to pay $30,000.00 in removal costs incurred by the U.S. EPA in cleaning up the site.

DATES: Comments must be submitted by April 5, 1993.

ADDRESSES: Comments should be addressed to Carol Pokorny (8HWM-ER), U.S. Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202-2405, and should refer to the Yttrium Processing Plant Site, Laramie, Wyoming.

FOR FURTHER INFORMATION CONTACT: Jessie Goldfarb, Office of Regional Counsel, at (303) 293-1458.

Jack W. McGraw,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region VIII.

[FR Doc. 93-5109 Filed 3-4-93; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1929]

Petitions for Reconsideration of Actions in Rule Making Proceedings

February 26, 1993

Petitions for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857-3800. Opposition to these petitions must be filed before March 22, 1993. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Rulemaking to Amend Part 1 and Part 21 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Band and to Establish Rules and Policies for Local Multipoint Distribution Service: (CC Docket No. 92-297, RM-7872 & RM-7722).

Number of Petitions Filed: 48

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93-4994 Filed 3-4-93; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Port of New York and New Jersey/Maersk Terminal Agreement, et al.; Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200745.

Title: Port of New York and New Jersey/Maersk Terminal Agreement.

Parties:

Port Authority of New York and New Jersey ("Port")
Maersk Inc. ("Maersk")

Synopsis: The Agreement provides that the Port will pay to Maersk a container incentive fee of $20.00 for each import container and $40.00 for each export container moved through the Port's marine terminals during calendar year 1993 provided that each container is shipped by rail to or from points more than 260 miles from the port.

Agreement No.: 224-200748.

Title: Port of New York and New Jersey/Atlantic Container Line Terminal Agreement.

Parties:

Port Authority of New York and New Jersey ("Port")
Atlantic Container Line AB ("ACL")

Synopsis: The Agreement provides that the Port will pay to ACL a container incentive fee of $20.00 for each import container and $40.00 for each export container moved through the Port's marine terminals during calendar year 1993 provided that each container is shipped by rail to or from points more than 260 miles from the port.

Agreement No.: 224-200751.

Title: Port of New York and New Jersey/OOCL (USA) Terminal Agreement.

Parties:

Port Authority of New York and New Jersey ("Port")
OOCL (USA) Inc. ("OOCL")

Synopsis: The Agreement provides that the Port will pay to OOCL a container incentive fee of $20.00 for each import container and $40.00 for each export container moved through the Port's marine terminals during calendar year 1993 provided that each container is shipped by rail to or from points more than 260 miles from the port.

Agreement No.: 224-200752.

Title: Tampa Port Authority/G & C Stevedoring Company, Inc. Refrigerated Container Electrical Service Incentive Agreement.

Parties:

Tampa Port Authority ("Port")
G & C Stevedoring Company, Inc. ("G & C")

Synopsis: This Agreement permits the Port to offer G & C an incentive rate on refrigerated container electrical service of $21.75 per container per 24-hour period, based on a minimum of 30 containers per month through August 31, 1993.

By Order of the Federal Maritime Commission.

Dated: March 1, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93-5003 Filed 3-4-93; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR-68]

Quarterly Public Health Assessments Completed and Public Health Assessments to be Conducted in Response to Requests From the Public

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice contains the following: 1. A list of sites for which ATSDR has completed a public health assessment, or issued an addendum to a previously completed public health assessment, during the period October–December 1992. This list includes sites that are on, or proposed for inclusion on, the National Priorities List (NPL) and a non-NPL site for which ATSDR has prepared a public health assessment in response to a request from the public (petitioned site). 2. A list of sites for which ATSDR, during the same period, has accepted a request from the public to conduct a public health assessment (petitioned public health assessment). Acceptance for a request for the conduct of a public health assessment is based on a determination by the Agency that there is a reasonable basis for conducting a public health assessment at the site.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, N.E., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–0610.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments, public health assessments with addenda, and petitioned public health assessments which were accepted by ATSDR during July–September 1992 was published in the **Federal Register** on December 21, 1992, [57 FR 60526]. The quarterly announcement is the responsibility of ATSDR under the regulation, Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities [42 CFR part 90]. This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) (42 U.S.C. 9604(i)), and appeared in the **Federal Register** on February 13, 1990, (55 FR 536).

Availability

The completed public health assessments are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 487–4650. There is a charge determined by NTIS for these public health assessments. The NTIS order numbers are listed in parentheses after the site name.

1. Public Health Assessments or Addenda Completed or Issued

Between October 1, 1992 and December 31, 1992, public health assessments or addenda to public health assessments were issued for the sites listed below:

NPL Sites

California

Micro Storage/Intel Magnetics—Santa Clara—(PB93–113256)

Florida

Broward County-21st Manor Dump—Ft. Lauderdale—(PB93–138618)

Minnesota

Reilly Tar & Chemical St. Louis Park—St. Louis Park—(PB93–135838)

New Hampshire

Dover Municipal Landfill—Dover—(PB93–136166)

Pennsylvania

Modern Sanitation Landfill—York—(PB93–138782)

South Dakota

Williams Pipe Line Company—Sioux Falls—(PB93–126100)

Petitioned Site—(Non-NPL Site)

Maryland

Southern Maryland Wood Treating—Hollywood—(PB93–126118)

2. Petition for Public Health Assessments Accepted

Between October 1, 1992, and December 31, 1992, ATSDR determined that there was a reasonable basis to conduct public health assessments for the sites listed below in response to requests from the public. As of December 31, 1992, ATSDR initiated public health assessments at these sites.

Arizona

Tuscon International Airport #2—Tuscon

New Mexico

Los Almos National Laboratory—Los Almos

Dated: February 26, 1993.

Walter R. Dowdle, Ph.D.,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 93–5019 Filed 3–4–93; 8:45 am]

BILLING CODE 4160–70–P

Centers for Disease Control and Prevention

Advisory Committee for Injury Prevention and Control: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following committee meeting.

NAME: Advisory Committee for Injury Prevention and Control (ACIPC).

TIMES AND DATES:

9 a.m.-5 p.m., March 22, 1993.
9 a.m.-5 p.m., March 23, 1993.

PLACE: Holiday Inn Decatur Conference Plaza, 130 Clairemont Avenue, Decatur, Georgia 30030.

STATUS: Closed 9 a.m.-1:30 p.m., March 22; Open 1:30 p.m.-5 p.m., March 22; Open 9 a.m.-5 p.m., March 23.

PURPOSE: The Committee will continue to make recommendations on policy, strategy, objectives, and priorities including the balance and mix of intramural and extramural research; advise on the development of a national plan for injury prevention and control, the development of new technologies and their application; and review progress toward injury prevention and control.

MATTERS TO BE DISCUSSED: This meeting will convene in closed session from 9 a.m. to 1:30 p.m. on March 22, 1993. The purpose of this closed session is for the Science and Program Review Work Group to consider injury control research grant applications recommended for further consideration by CDC's Injury Research Grant Review Committee. The full committee will then vote on a funding recommendation. This portion of the meeting will be closed to the public in accordance with provisions set forth in section 552(c)(4) and (6), title 5 U.S.C., and the Determination of the Director, CDC, pursuant to Public Law 92–463. After the closed session, the full committee will discuss the development of injury control recommendations for bicycle helmets, the World Conference on Injury Control, guidelines for traumatic head injury surveillance, the extramural research program, state injury control programs, the national plan for injury control, and reauthorization of the injury control program.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Richard J. Waxweiler, Ph.D., Acting Executive Secretary, ACIPC, National Center for Injury Prevention and

Control, CDC, 4770 Buford Highway, NE., Mailstop F–41, Atlanta, Georgia 30341–3724, telephone 404/488–4031.

Dated: March 1, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–5020 Filed 3–4–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 92D–0380]

Draft Guidance to Manufacturers of In Vitro Analytical Test Systems for Preparation of Premarket Submissions Implementing the Clinical Laboratory Improvement Amendments of 1988; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to April 14, 1993, the comment period for a draft guidance document to manufacturers for preparation of premarket submissions implementing the Clinical Laboratory Improvement Amendments of 1988 (58 FR 3952, January 12, 1993). This action is being taken to give additional time to evaluate and comment on the draft guidance document.

DATES: Written comments by April 14, 1993.

ADDRESSES: Submit written requests for single copies of the draft guidance document to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the draft guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jan Ohrmundt, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1005.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 12, 1993 (58 FR 3952), FDA announced the availability of a draft document which provides guidance to manufacturers of in vitro diagnostic devices and biologics on when and how to obtain complexity categorizations and FDA clearance of quality control (QC) instructions for use by clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (Pub. L. 100–578). In addition, as set forth in the draft guidance document, FDA announced that it would consider QC validation when it conducts its premarket review of new in vitro diagnostic products, effective upon issuance of final guidance.

FDA had provided for interested persons to submit written comments on the draft guidance document by March 15, 1993. The agency received a request for an extension of the comment period and agrees that additional time may be needed to evaluate and comment on the draft guidance document. FDA is extending the comment period for an additional 30 days. Comments received by April 14, 1993, will be considered by FDA during its review.

Interested persons may, on or before April 14, 1993, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 26, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–5027 Filed 3–4–93; 8:45 am]

BILLING CODE 4160–01–F

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, February 12, 1993.

(Call PHS Reports Clearance Officer on 202–690–7100 for copies of requests)

1. National Treatment Improvement Evaluation Study (NTIES)—New—The NTIES is an evaluation of Office for Treatment Improvement demonstration programs aimed at improving drug abuse treatment. The evaluation will document the grantees' activities and address: (1) Process Outcome, (2) Patient Outcomes, (3) Community Contexts and Impacts and (4) Cost Effective Analysis. A hierarchical data collection system has been developed to reduce respondent burden. Respondents: Individuals or households, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations. Number of Respondents: 3,471; Number of Responses per Respondent: 5.08; Average Burden Per Response: .66 hours; Estimated Annual Burden: 11,637 hours.

2. Leukemia Among Chernobyl Cleanup Workers—New—Chernobyl cleanup workers from the Baltic countries who were irradiated during the cleanup operation will be asked to respond to a mailed questionnaire that assesses information about cancer and its risk factors, in order to estimate radiation risks. Questions on radiation work histories will also be asked to assist in dose reconstruction. Respondents: Non-profit institutions. Number of Respondents: 1,100; Number of Responses per Respondent: 1; Average Burden Per Response: 0.33 hours; Estimated Annual Burden: 363 hours.

3. Community Partnership Demonstration Program Surveys: Student Survey and Adult Community Survey—New—The youth and audit surveys will collect alcohol and drug abuse data from communities that participate in the Community Partnership Demonstration Program (CPDP) as well as control communities, to provide estimates of the efficacy of the CPDP. Findings will be used by the Center for Substance Abuse Prevention and Congress to maximize the efficacy of future programs. Respondents: Individuals or households. Number of Respondents: 81,700; Number of Responses per Respondent: .388; Average Burden Per Response: .7 hours; Estimated Annual Burden: 22,190 hours.

4. Methodology Study For the Institutional Population Component of the National Medical Expenditure Survey (NMES): Round 3—New—This is Round 3 of a methodology study which will assess methods for enhancing the quality of data on

medical care and expenditures in the institutional component and for improving the efficiency of data collection. Respondents: Individuals or households; Businesses or other for-profit. Number of Respondents: 232; Number of Responses per Respondent: 1 Average Burden Per Response: .94 hours; Estimated Annual Burden: 218 hours.

Desk Officer: Shannah Koss

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: March 1, 1993.

James Scanlon,

Director, Division of Data Policy, Office of Health Planning and Evaluation.

[FR Doc. 93–5065 Filed 3–4–93; 8:45 am]

BILLING CODE 4160–17–M

Office of the Assistant Secretary for Health; Privacy Act of 1974; Addition of Routine Use to an Existing System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notice of addition of a new routine use to an existing system of records.

SUMMARY: The Public Health Service (PHS) is publishing notice of its intent to add a new routine use for the disclosure of information from the following Privacy Act system of records: 09–15–0058, "Faculty Loan Repayment Program, HHS/HRSA/BHPr"

DATES: PHS invites public comments on the new routine use on or before April 5, 1993. This routine use will become effective without further notice 30 days after the date of publication unless PHS receives comments which would result in a contrary determination.

ADDRESSES: Please address comments to the Privacy Act Officer, Health Resources and Services Administration (HRSA), Parklawn Building, Room 14A–20, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–3780. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: Director, Division of Disadvantaged Assistance, BHPr/HRSA, Room 8A09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–2100. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: HRSA maintains system of records 09–15–0058, "Faculty Loan Repayment Program, HHS/HRSA/BHPr", to: (1) Maintain all information relative to the application for the awarding of a contract to an individual; (2) monitor recipient's continued eligibility; (3) monitor recipient's employment with the accredited health professions school; (4) monitor all repayment actions until the repayment obligation is satisfied; and (5) compile and generate managerial and statistical reports.

HRSA is proposing to add a new routine use to permit disclosure to the Department of the Treasury, Internal Revenue Service (IRS), as taxable income, the amount of the contract awarded the individual.

This routine use is compatible with the purposes for which the records were collected.

Dated: February 23, 1993.

Wilford J. Forbush,

Director, Office of Management.

SYSTEM NAME:

09–15–0058, Faculty Loan Repayment Program, HHS/HRSA/BHPr.

New routine use number 11 is added as follows:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

* * * * *

11. PHS will report to the Department of the Treasury, Internal Revenue Service (IRS), as taxable income, the amount of the contract awarded the individual.

* * * * *

[FR Doc. 93–5023 Filed 3–4–93; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–93–1917; FR–3350–N–21]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is

encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: GSA: Leslie Carrington, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 208–0619; Dept. of Agriculture: Marsha Pruitt, Realty Officer, USDA, South Bldg. Rm. 1566, 14th and Independence Ave. SW., Washington, DC 20250; (202) 447–3338; Dept. of Transportation: Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW., room 10319, Washington, DC 20590; (202) 366–4246; (These are not toll-free numbers).

Dated: February 26, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

Title V, Federal Surplus Property Program Federal Register Report for 03/05/93

Suitable/Available Properties

Buildings (by State)

North Dakota

Barracks/Admin Bldg.
Lamoure Co: Lamoure ND 58458–
Landholding Agency: GSA
Property Number: 549240007
Status: Excess
Comment: 11,800 sq. ft., 1 story masonry frame, most recent use—offices, in wetlands area.
GSA Number: 7–U–ND–0494

Texas

Marine Corps Reserve Center
208 South F Street
Harlingen Co: Cameron TX 78550–6475
Landholding Agency: GSA
Property Number: 549240002
Status: Excess
Comment: 4 Bldgs. and 0.82 acres of land; most recent use of bldgs—administration (4708 sq. ft. brick); carport/storage (1782/2800 sq. ft. wood); storage (4256 sq. ft. tin).
GSA Number: 7–N–TX–1032

Del Rio Federal Building
Main at Broadway
Del Rio Co: Val Verde TX 78840–
Landholding Agency: GSA
Property Number: 549310001
Status: Excess
Comment: 15,600 sq. ft., 3 story plus basement, masonry frame, most recent use—offices and courthouse.
GSA Number: 7–G–TX–1034

Washington

Federal Building
801 Capitol Way
Olympia Co: Thurston WA
Landholding Agency: GSA
Property Number: 549240003
Status: Excess
Comment: 13,800 sq. ft., 3-story plus basement, sandstone blocks over steel-concrete superstructure, most recent use—office space, listed on National Historic Register
GSA Number: G–WA–1040

Vancouver Substations
Vancouver Co: Clark WA 98661–
Landholding Agency: GSA
Property Number: 549240004
Status: Excess
Comment: 7 electrical control houses and transmission line corridors, access restrictions, high voltage present, minor contamination
GSA Number: 9–B–WA–1019—1028

Land (by State)

California

Receiver Site
Delano Relay Station
Route 1, Box 1350
Delano Co: Tulare CA 93215–
Location: 5 miles west of Pixley, 17 miles north of Delano.
Landholding Agency: GSA
Property Number: 549010044
Status: Excess
Comment: 81 acres, 1560 sq. ft. radio receiver bldg. on site, subject to grazing lease, potential utilities, environmental restrictions
GSA Number: 9–2–CA–1308

.4075 acres
Ocotillo Wells
Borrego CA
Landholding Agency: GSA
Property Number: 549230002
Status: Excess
Comment: unimproved land, surrounding land—desert
GSA Number: 9–F–CA–1327

(P) Camp Elliott
Rosedale Tract
San Diego Co: San Diego CA
Landholding Agency: GSA
Property Number: 549310006
Status: Surplus
Comment: Parcel 1—0.15 acre, Parcel 2—0.17 acre, located in the narrow median strip between Murphy Canyon Rd. and State Highway 15, previously leased by homeless provider
GSA Number: 9–GR(6)–CA–694A

Colorado

Portion/Curecanti Substation
Cimarron Co: Montrose CO 81220–
Location: 2 miles east of Cimarron on Highway 50
Landholding Agency: GSA
Property Number: 419030009
Status: Excess
Comment: 36.39 acres, easement restrictions
GSA Number: 7–B–CO–624

Idaho

Portion
Former Farragut Naval Training Center
Athol Co: Kootenai ID 83801–
Landholding Agency: GSA
Property Number: 549230004
Status: Excess
Comment: 48.42 acres, former railroad right-of-way
GSA Number: 9–GR(2)–ID–421C

Indiana

Portion, Cannelton Locks & Dam
Adjacent to Middle Creek Boat Launching Ramp Co: Floyd IN
Landholding Agency: GSA
Property Number: 549240008
Status: Excess
Comment: 28.65 acres with pumphouse, no utilities, periodic flooding
GSA Number: 2–D–IN–569–C

Iowa

C BAR J Ranch
¼ mile south of River Rd. on Stagecoach Rd.
Ames Co: Story IA
Landholding Agency: GSA
Property Number: 159230002
Status: Unutilized
Comment: 24.5 acres w/bldgs.—animal, shops, barn, storage; wood and metal frames; potential utils.; limestone quarry approx ¾ mi. north, perform some blasting; fenced area w/locked gate.
GSA Number: 7–A–IA–493

Massachusetts

Por. of Former Navy Ammo. Plt.
Fort Hill Street
Hingham Co: Plymouth MA 02043–
Location: Across from Bus Company Parking Garage
Landholding Agency: GSA
Property Number: 549030017
Status: Excess
Comment: 1.129 acres, gravel pavement, most recent use—parking lot
GSA Number: 2–GR–MA–591B

North Dakota

US Army Reserve Center

SE intersection of US 83 & County Road 10A
Minot Co: Ward ND 58701–
Landholding Agency: GSA
Property Number: 549240001
Status: Excess
Comment: 5 acres; most recent use—agricultural
GSA Number: 7–D–ND–0492

Ohio

Portion, VA Hospital Reservat.
Union Co: Ross OH 45601–
Landholding Agency: GSA
Property Number: 449310002
Status: Excess
Comment: 19.98 acres, no known utility potential, ravine and heavily forested, hospital restrictions, most recent use—biological sampling station for educational use
GSA Number: 2–GR(1)–OH–452–E

Oklahoma

Parcel No. 18
Fort Gibson Lake
Section 12
Wagoner Co. Co: Wagoner OK
Landholding Agency: GSA
Property Number: 219013808
Status: Excess
Comment: 8.77 acres; subject to grazing lease; most recent use—recreation.
GSA Number: 7–D–OK–0442E–0004.

Parcel No. 100/GSA No. 13
Lake Texoma
Section 25, T7S, R5E
Enos Co: Marshall OK
Location: 1 mile northeast of Enos
Landholding Agency: GSA
Property Number: 319010440
Status: Excess
Comment: 11.77 acres; most recent use—recreation.
GSA Number: 7–D–OK–507–H

Parcel No. 44/GSA No. 4
Lake Texoma
Section 15, T5S, R7E Co: Johnston OK
Location: About ½ miles southeast of Bee
Landholding Agency: GSA
Property Number: 319010475
Status: Excess
Comment: 14.98 acres, no utilities, most recent use—recreation.
GSA Number: 7–D–OK–507–H

Parcel No. 46/GSA No. 5
Lake Texoma
Section 15 and Section 16, T5S, R7E Co: Johnston OK
Location: About 1 mile southwest of Bee
Landholding Agency: GSA.
Property Number: 319010477
Status: Excess
Comment: 23.91 acres, no utilities, most recent use—recreation.
GSA Number: 7–D–OK–507–H

Parcel 7
Fort Gibson Lake
Section 6 Co: Cherokee OK 74434
Landholding Agency: GSA
Property Number: 319010869
Status: Excess
Comment: 16.31 acres; potential utilities; most recent use—recreational and development.
GSA Number: 7–D–OK–0442E–0001.

Parcel 14
Fort Gibson Lake
Section 20 Co: Cherokee OK 74434
Landholding Agency: GSA
Property Number: 319010870
Status: Excess
Comment: 52.09 acres; potential utilities; subject to haying/grazing leases; most recent use—recreational.
GSA Number: 7–D–OK–0442E–0002.

Parcel 15
Fort Gibson Lake
Section 22 Co: Cherokee OK 74434
Landholding Agency: GSA
Property Number: 319010871
Status: Excess
Comment: 7.51 acres; potential utilities; most recent use—recreational.
GSA Number: 7–D–OK–0442E–0003.

Parcel 28
Fort Gibson Lake
Section 35 Co: Mayes OK 74434
Landholding Agency: GSA
Property Number: 319010877
Status: Excess
Comment: 36.59 acres; potential utilities; most recent use—recreational.
GSA Number: 7–D–OK–0442E–0005.

Parcel 75
Fort Gibson Lake
Section 16 Co: Mayes OK 74434
Landholding Agency: GSA
Property Number: 319010887
Status: Excess
Comment: 45 acres; potential utilities; subject to haying lease and flowage easement; most recent use—recreational.
GSA Number: 7–D–OK–0442E–0009

Parcel 88
Fort Gibson Lake
Section 7 Co: Wagoner OK 74434
Landholding Agency: GSA
Property Number: 319010899
Status: Excess
Comment: 14 acres; potential utilities; subject to grazing lease; most recent use—recreational.
GSA Number: 7–D–OK–0442E–0010

Parcel 89
Fort Gibson Lake
Section 7 Co: Wagoner OK 74434
Landholding Agency: GSA
Property Number: 319010900
Status: Excess
Comment: 16 acres; potential utilities; subject to grazing lease and flowage easement; most recent use—recreational.
GSA Number: 7–D–OK–0442E–0011

Parcel 95
Fort Gibson Lake
Section 33 Co: Wagoner OK 74434
Landholding Agency: GSA
Property Number: 319010906
Status: Excess
Comment: 8 acres; potential utilities; most recent use—recreational.
GSA Number: 7–D–OK–0442E–0012

Parcel No. 13/GSA No. 1
Lake Texoma
Section 7, T7S, R8E Co: Bryan OK
Location: Approximately 2 miles south of Mead, OK.
Landholding Agency: GSA
Property Number: 319011345
Status: Excess
Comment: 26.76 acres; most recent use—recreation.
GSA Number: 7–D–OK–507–H

Parcel No. 21/GSA No. 2
Lake Texoma
Section 3 T7S, R7E Co: Bryan OK
Location: Approximately 5 miles southwest of Mead, OK.
Landholding Agency: GSA
Property Number: 319011352
Status: Excess
Comment: 41.16 acres; most recent use—recreation.
GSA Number: 7–D–OK–507–H

Parcel No. 23/GSA No. 3
Lake Texoma
Section 34, T7S, R7E Co: Bryan OK
Location: Approximately 3½ miles west of Mead, OK.
Landholding Agency: GSA
Property Number: 319011354
Status: Excess
Comment: 9 acres; most recent use—recreation.
GSA Number: 7–D–OK–507–H

Parcel No. 43
Fort Gibson Lake
Section 11 Co: Mayes OK 74434
Landholding Agency: GSA
Property Number: 319011371
Status: Excess
Comment: 125 acres; potential utilities; portion subject to grazing lease and flowage easements.
GSA Number: 7–D–OK–0442E–0006

Parcel No. 49
Fort Gibson Lake
Section 15 Co: Mayes OK 74434
Landholding Agency: GSA
Property Number: 319011377
Status: Excess
Comment: 26.94 acres; potential utilities; portion subject to grazing lease and flowage easements.
GSA Number: 7–D–OK–0442E–0007

Parcel No. 61
Fort Gibson Lake
Section 13 Co: Mayes OK 74434
Landholding Agency: GSA
Property Number: 319011389
Status: Excess
Comment: 54 acres; potential utilities; subject to flowage easement; most recent use—recreation.
GSA Number: 7–D–OK–0442E–0008

Parcel No. 99
Fort Gibson Lake
Section 21 Co: Wagoner OK 74434
Landholding Agency: GSA
Property Number: 319011400
Status: Excess
Comment: 5 acres; small creek on land; most recent use—recreation.
GSA Number: 7–D–OK–0442E–0013

Parcel No. 102
Fort Gibson Lake
Section 33 Co: Wagoner OK 74434
Landholding Agency: GSA
Property Number: 319011403
Status: Excess
Comment: 7 acres; subject to grazing lease; most recent use—recreation.
GSA Number: 7–D–OK–0442E–0014

Parcel No. 54/GSA No. 6

Lake Texoma Co: Marshall OK 73439–
Location: Section 17, 3½ miles north of Little City, OK
Landholding Agency: GSA
Property Number: 549210007
Status: Excess
Comment: 5.05 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 63/GSA No. 8
Lake Texoma Co: Marshall OK 73439–
Location: Section 19, 3½ miles southwest of Cumberland, OK
Landholding Agency: GSA
Property Number: 549210008
Status: Excess
Comment: 40.32 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 66/GSA No. 9
Lake Texoma Co: Marshall OK 73439–
Location: Section 12 and 13, 2½ miles southwest of Cumberland, OK
Landholding Agency: GSA
Property Number: 549210009
Status: Excess
Comment: 14.05 acres, potential utilities, most recent use—low density recreation/ natural gas well and pipelines.
GSA Number: 7–D–OK–0507–H

Parcel No. 78/GSA No. 11
Lake Texoma Co: Marshall OK 73439–
Location: Section 24, 1 mile east of McBride, OK
Landholding Agency: GSA
Property Number: 549210010
Status: Excess
Comment: 30.28 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 86/GSA No. 12
Lake Texoma Co: Marshall OK 73439–
Location: Section 1824, 3½ miles south of Kingston, OK
Landholding Agency: GSA
Property Number: 549210011
Status: Excess
Comment: 13 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 125/GSA No. 14
Lake Texoma Co: Marshall OK 73439–
Location: Section 17
Landholding Agency: GSA
Property Number: 549210012
Status: Excess
Comment: 11.24 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 150/GSA No. 15
Lake Texoma Co: Marshall OK 73439–
Location: Section 6
Landholding Agency: GSA
Property Number: 549210013
Status: Excess
Comment: 12.64 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 164/GSA No. 16
Lake Texoma Co: Love OK 73441–
Location: Section 3
Landholding Agency: GSA
Property Number: 549210014
Status: Excess
Comment: 40.20 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 165/GSA No. 17
Lake Texoma Co: Love OK 73441–
Location: Section 3
Landholding Agency: GSA
Property Number: 549210015
Status: Excess
Comment: 32.62 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 166/GSA No. 18
Lake Texoma Co: Love OK 73441–
Location: Section 10
Landholding Agency: GSA
Property Number: 549210016
Status: Excess
Comment: 62.61 acres, potential utilities, most recent use—low density recreation.
GSA Number: 7–D–OK–0507–H

Parcel No. 68/GSA No. 10
Lake Texoma, Sect. 11 T6S, R6E
Cumberland Co: Marshall OK
Landholding Agency: GSA
Property Number: 549240010
Status: Excess
Comment: 29.76 acres, most recent use—recreation
GSA Number: 7–D–OK–507–H

Pennsylvania

Portion of Tract 1037
Blue Marsh Lake
On PA Route 183
Bernville Co: Berks PA
Landholding Agency: GSA
Property Number: 549240011
Status: Excess
Comment: Approx. 32.45 acres, 5.72 acre flowage easement and .04 acre roadway easement
GSA Number: 4–D–PA–0765

Texas

Parcel # 185/GSA No. 19
Lake Texoma Co: Cooke TX
Location: Robert Firinash survey A–368
Landholding Agency: GSA
Property Number: 319010405
Status: Excess
Comment: 31.64 acres, most recent use—recreation
GSA Number: 7–D–OK–507–H

Tract F–516 O.C. Fisher Lake
Parallel with Grape Creek Road
San Angelo Co: Tom Green TX 76902–3085
Landholding Agency: GSA
Property Number: 319120002
Status: Unutilized
Comment: 2.13 acres, potential limited utilities
GSA Number: 7–D–TX–0968–A

Washington

Land
Goodnoe Hills Substation & Wind Study Site
Co: Klickitat WA 98620–
Location: 15 mi SE of Goldendale on S side of St. Hwy. 122
Landholding Agency: GSA
Property Number: 549210005
Status: Excess
Comment: 123 acres w/ a 20' x 20' visitors center and a 6' x 6' substation bldg. which has secured areas.
GSA Number: 9–B–WA–1017

Suitable/Unavailable Properties

Buildings (by State)

Maryland

Chesapeake Bay Hydraulic Model
Matapeake Co: Queen Annes MD 21666–
Landholding Agency: GSA
Property Number: 549040007
Status: Excess
Comment: 617,280 sq. ft., 1 story metal bldg., ceiling height over 40 ft., lease restriction, Corps will maintain an antenna on property
GSA Number: 4–D–MD–578

Minnesota

Coast Guard Family Housing
404 East Hamilton Avenue
Baudette Co: Lake of the Woo MN 56623–
Landholding Agency: GSA
Property Number: 549230007
Status: Excess
Comment: 1,333 sq. ft., 1-story frame residence
GSA Number: 2–U–MN–503–E

Coast Guard Family Housing
406 East Hamilton Avenue
Baudette Co: Lake of the Woo MN 56623–
Landholding Agency: GSA
Property Number: 549230008
Status: Excess
Comment: 1,633 sq. ft., 1-story wood frame residence
GSA Number: 2–U–MN–503–E

Coast Guard Family Housing
408 East Hamilton Avenue
Baudette Co: Lake of the Woo MN 56623–
Landholding Agency: GSA
Property Number: 549230009
Status: Excess
Comment: 1,633 sq. ft., 1-story wood frame residence
GSA Number: 2–U–MN–503–E

Coast Guard Family Housing
418 East Hamilton Avenue
Baudette Co: Lake of the Woo MN 56623–
Landholding Agency: GSA
Property Number: 549230010
Status: Excess
Comment: 1,633 sq. ft., 1-story wood frame residence
GSA Number: 2–U–MN–503–E

Missouri

Bldg. 208–C
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120047
Status: Excess
Comment: 2,210 sq. ft., most recent use—general storage, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 208–D
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120048
Status: Excess
Comment: 750 sq. ft., most recent use—general storage, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 222
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120049
Status: Excess
Comment: 16,150 sq. ft., most recent use—medical/dental, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 223–A
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120050
Status: Excess
Comment: 77,340 sq. ft., most recent use—dormitory, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 223–B
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120051
Status: Excess
Comment: 21,380 sq. ft., most recent use—education bldg., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 230
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120052
Status: Excess
Comment: 1,840 sq. ft., most recent use—facility maintenance, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 230–A
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120053
Status: Excess
Comment: 1,890 sq. ft., most recent use—facility maintenance, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 232–A–H
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120054
Status: Excess
Comment: 29,280 sq. ft., most recent use—vocational training shop, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 234
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120055
Status: Excess
Comment: 44,620 sq. ft., most recent use—admin/food service, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 237
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120056
Status: Excess
Comment: 300 sq. ft., most recent use—storage, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 244
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120057
Status: Excess
Comment: 7,480 sq. ft., most recent use—weld/automotive shop, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 223C
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120058
Status: Excess
Comment: 123 sq. ft., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 224B
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120059
Status: Excess
Comment: 100 sq. ft., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 233A
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120060
Status: Excess
Comment: 837 sq. ft., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 233F
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120061
Status: Excess
Comment: 837 sq. ft., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

New Mexico

Indian School of Prac. Nursing
1015 Indian School Road, NW
Albuquerque NM 87104–
Landholding Agency: GSA
Property Number: 549140004
Status: Excess
Comment: 21,635 sq. ft., 2 story plus basement, brick & masonry frame on 1.68 acres of improved land.
GSA Number: 7–F–NM–509B

Former Post Office
4th & Mitchell
Clovis Co: Curry NM 88101–
Landholding Agency: GSA
Property Number: 549230005
Status: Excess
Comment: 9,225 sq. ft., 2 story concrete, brick & steel structure, good condition, pres. of asbestos, listed on Natl Register of Historic Places, most recent use—public library
GSA Number: 7–GR–NM–478

Bldg. 1 and 4
U.S. Navy Reserve Center
412 N. 12th Street
Carlsbad Co: Eddy NM 88220–3046
Landholding Agency: GSA
Property Number: 779040001
Status: Excess
Comment: 2,460 sq. ft., one story, frame/concrete block bldg., most recent use—office, presence of asbestos, and 152 sq. ft. metal storage shed on 1.03 acres
GSA Number: 7–N–NM–0555

New York

Bldg. 1
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120008
Status: Excess
Comment: 31,519 sq. ft., 7 story brick frame presence of asbestos on pipe insulation, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 2
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120009
Status: Excess
Comment: 35,537 sq. ft., story bay brick frame, presence of asbestos on pipe insulation, most recent use-office, storage, auto shop, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 3
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120010
Status: Excess
Comment: 2,700 sq. ft., 2 story brick frame, most recent use—office, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 5
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120012
Status: Excess
Comment: 3,330 sq. ft., 2 story brick frame, most recent use—office, scheduled to be vacated Oct. 1992
GSA Number: 2-N-NY-797

Bldg. 10
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120015

Status: Excess
Comment: 3,100 sq. ft., 1 story, concrete & fiberglass frame, no utilities, most recent use—storage, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 306
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120016
Status: Excess
Comment: 8364 sq. ft., 1 story brick frame, presence of asbestos on pipe insulation, most recent use—storage, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 311
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120017
Status: Excess
Comment: 9720 sq. ft., 2 story brick frame, needs heating system repairs, needs rehab, presence of asbestos on pipe insulate., most recent use—ofc/storage, sched. to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 316
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120019
Status: Excess
Comment: 3952 sq. ft., 1 story brick frame, needs heating system repairs, potential utils., pres. of asbestos on pipe insula, most recent use—storage, sched. to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 353
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120020
Status: Excess
Comment: 670 sq. ft., 1 story brick frame, limited utilities, needs rehab, most recent use—storage, needs heating system repairs, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 670
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120021
Status: Excess
Comment: Concrete block gasoline station, no sanitary or heating facilities, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 672
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120023
Status: Excess
Comment: 400 sq. ft., 1 story wood frame, most recent use—pool house, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R1
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120025
Status: Excess
Comment: 5274 sq. ft., 2 story single family housing, brick veneer/ wood frame, presence of asbestos on pipe insulation, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R2
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120026
Status: Excess
Comment: 2400 sq. ft., 2 story single family hsg., cement asbestos/wood frame, needs heating system repairs, presence of asbestos on pipe insulation, sched. to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R3
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120027
Status: Excess
Comment: 2400 sq. ft., 2 story single family housing, cement asbestos/wood frame, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R4
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120028
Status: Excess
Comment: 2517 sq. ft., 3 story four-family housing, brick asbestos/tile frame, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R5
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120029
Status: Excess
Comment: 2140 sq. ft., 1 story single family residence, brick frame, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R6
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120030
Status: Excess
Comment: 2140 sq. ft., 1 story single family residence, brick frame, needs rehab, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R7
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120031
Status: Excess
Comment: 2140 sq. ft., 1 story single family housing, brick frame, needs rehab, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R103
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120032
Status: Excess
Comment: 1650 sq. ft., 2 story brick frame, needs heating system repairs, limited utils., most recent use—storage, presence of asbestos on pipe ins., scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R103A
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120033
Status: Excess
Comment: 2620 sq. ft., 1 story concrete block frame, limited utils., most recent use—garage, presence of asbestos on pipe insulation, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R104
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120034
Status: Excess
Comment: 712 sq. ft., 2 story brick frame, most recent use—bachelor officers quarters, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R109
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120035
Status: Excess
Comment: 2 story brick frame, limited utilities, needs heating syst. repairs, most recent use-storage & garage, presence of asbestos on pipe insul., scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R426
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120036
Status: Excess
Comment: 2409 sq. ft., 1 story brick frame, needs heating system repairs, most recent use-storage, presence of asbestos on pipe ins., limited utils., scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R448
Naval Station New York
207 Flushing Avenue

Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120037
Status: Excess
Comment: 969 sq. ft., 1 story concrete & glass frame, limited utilities, needs major rehab, most recent use-greenhouse, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R475
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120039
Status: Excess
Comment: 1789 sq. ft., 1 story concrete block frame, most recent use-auto hobby shop, presence of asbestos on pipe insulation scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R476
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120040
Status: Excess
Comment: 36 sq. ft., 1 story metal frame, most recent use-security gate house, needs heating system repairs, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. RG
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120041
Status: Excess
Comment: 15490 sq. ft., 3 story brick & stucco frame, needs heating system repairs, needs major rehab, presence of asbestos on pipe ins., scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R8R9
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120042
Status: Excess
Comment: 2800 sq. ft., 2 story brick frame, most recent use-residential duplex, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R95
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 779010256
Status: Excess
Comment: 41800 sq. ft., 2 story frame, needs heating system repairs, pres. of asbestos on pipe ins., needs major rehab, NYS Historical Landmark, sched. to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. RD
Naval Station
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 779010257
Status: Excess
Comment: 14120 sq. ft., 2 story brick and stone frame, needs heating system repairs, pres. of asbestos on pipe ins., needs major rehab, sched. to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 305
Naval Station
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 779010258
Status: Excess
Comment: 18920 sq. ft., 2 story brick frame, limited util., needs major rehab, presence of asbestos on pipe insulation, needs heating system repairs, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

North Carolina

Federal Building
301 East King Street
Kinston Co: Lenoir NC 28501–
Landholding Agency: GSA
Property Number: 549230011
Status: Excess
Comment: 3950 sq. ft., 2-story building
GSA Number: 4–G–NC–706

Ohio

Parcel 2
Lock and Dam #16
Washington Co: Washington OH
Location: On the Ohio River; 4 miles downstream from New Matamoras, Grandview Township.
Landholding Agency: GSA
Property Number: 549110010
Status: Excess
Comment: Two story brick frame, subject to periodic flooding, possible asbestos on pipes, most recent use—office space
GSA Number: 2–GR(1)–OH–730

Parcel 1
Lock and Dam #16
Washington Co: Washington OH
Location: On the Ohio River, 4 miles downstream from New Matamoras, Grandview Township.
Landholding Agency: GSA
Property Number: 549110011
Status: Excess
Comment: 2.5 story brick frame, subject to periodic flooding, possible asbestos on pipes, most recent use—storage
GSA Number: 2–GR(1)–OH–730

Oregon

Former Resource Area Hdqts.
6615 Officers Row
Tillamook Co: Tillamook OR 97141–
Landholding Agency: GSA
Property Number: 549220001
Status: Surplus
Comment: 4400 sq. ft., 3-story wood bldg., needs repair, on 5.51 acres.
GSA Number: 9–I–OR–515F

126 Duplexes
Kingsley Field Family Housing Annex
Midland Road
Klamath Falls Co: Klamath OR 97034–
Landholding Agency: GSA
Property Number: 549220014
Status: Surplus
Base closure Number of Units: 126
Comment: 1064 to 2204 sq. ft., wood frame, 1 story, 2 & 3 bedrooms, needs rehab, sewer treatment plant unable to accommodate fully operational fac., possible asbestos, 38 acres of land.
GSA Number: 9–D–OR–434I

38 Single Family Residences
Kingsley Field Family Housing Annex
Midland Road
Klamath Falls Co: Klamath OR 97034–
Landholding Agency: GSA
Property Number: 549220015
Status: Surplus
Base closure Number of Units: 38
Comment: 1064 to 2204 sq. ft., wood frame, 1 story, 3 & 4 bedrooms, needs rehab, sewer treatment plant unable to accommodate fully operational fac., possible asbestos, 38 acres of land.
GSA Number: 9–D–OR–434I

10 Miscellaneous Buildings
Kingsley Field Family Housing Annex
Midland Road
Klamath Falls Co: Klamath OR 97034–
Landholding Agency: GSA
Property Number: 549220016
Status: Surplus
Base closure Number of Units: 10
Comment: 1 story, most recent use—fire station, storage sheds, quonset hut, well housings
GSA Number: 9–D–OR–434I

Tennessee

Federal Building
216 North Jackson Street
Athens Co: McMinn TN 37303–
Landholding Agency: GSA
Property Number: 549210003
Status: Excess
Comment: 2069 sq. ft., 3 story brick and concrete frame, presence of asbestos on pipes and air ducts in mechanical areas, most recent use—offices.
GSA Number: 4–G–TN–632

LAND (by State)

California

Receiver Site
Dixon Relay Station
7514 Radio Station
Dixon CA 95620–9653
Location: Approximately .16 miles southeast of Dixon, CA.
Landholding Agency: GSA
Property Number: 549010042
Status: Excess
Comment: 80 acres, 1560 sq. ft. radio receiver bldg. on site, subject to grazing lease, limited utilities.
GSA Number: 9–2–CA–1162–A

Colorado

Railroad Spur and Right-of-Way
Denver Federal Center
Lakewood Co: Jefferson CO 80215–
Landholding Agency: GSA
Property Number: 549120007
Status: Excess
Comment: 1.5 miles long (width varies 35 to 200 ft.), limited access, right-of-way restrictions
GSA Number: 7–G–CO–441–Q

Georgia

Tracts 3, 16 and 33
Fort Gillem

GA Hwy 42
Forest Park Co: Clayton GA 30051–
Landholding Agency: GSA
Property Number: 219014293
Status: Excess
Comment: 11.19 acres, narrow strip of land, most recent use—railroad spur, access limitation
GSA Number: 4–D–GA–585–B

Land—Fort Gordon
Between Windermere Dr. & Wyevale Rd.
Augusta Co: Richmond GA 30909–
Landholding Agency: GSA
Property Number: 219210382
Status: Excess
Comment: Approximately .54 acres, entire parcel under easement to State Hwy. Dept.
GSA Number: 4–D–GA–0547F

Hawaii

21.615 acres
Manana Housing Area
Pearl HI 96782–
Landholding Agency: GSA
Property Number: 549230001
Status: Excess
Comment: predominantly steep cliffsides, subject to easements, buffer zone, land use restrictions
GSA Number: 9–N–HI–566

New York

Land 671
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120022
Status: Excess
Comment: 50 ft. by 25 ft., most recent use—swimming pool concrete frame, scheduled to be vacated Oct. 1992.
GSA Number: 2–N–NY–797

Playing Field—675
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120024
Status: Excess
Comment: 67974 sq. ft., limited utilities, most recent use—baseball field, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Land R464/R474
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120043
Status: Excess
Comment: 90' X 45' each, concrete over gravel, most recent use—tennis courts, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Pennsylvania

6.98 acres—Army Rsv Center
Edgemont Military Reservation
Delchester-Gradyville Road
Willistown Township Co: Chester PA 19013–
Landholding Agency: GSA
Property Number: 549220004
Status: Surplus
Comment: 6.98 acres with dilapidated building
GSA Number: 4–GR–PA–632A

5.19 acres—Army Rsv Center
Edgemont Military Reservation
Delchester-Gradyville Road
Willistown Township Co: Chester PA 19013–
Landholding Agency: GSA
Property Number: 549220005
Status: Surplus
Comment: 5.19 acres with dilapidated building
GSA Number: 4–GR–PA–632B

South Dakota

Por. of Pactola Dist. Ad. Site
803 Soo San Drive
Rapid City Co: Pennington SD 57702–
Landholding Agency: GSA
Property Number: 159130003
Status: Excess
Comment: 3.36 acres, potential utilities
GSA Number: 7–A–SD–511

Virginia

St. Helena Annex (former portion)
Treadwell and South Main Streets
Norfolk Co: Norfolk VA 23523–
Landholding Agency: GSA
Property Number: 549120005
Status: Excess
Comment: 7.69 acres, most recent use—paved parking lot
GSA Number: 4–GR(2)–VA525AA

Wyoming

Wind Site A
Medicine Bow Co: Carbon WY 82329–
Location: 3 miles south and 2 miles west of Medicine Bow
Landholding Agency: GSA
Property Number: 419030010
Status: Excess
Comment: 46.75 acres, limitation-easement restrictions

Unsuitable Properties

BUILDINGS (by State)

California

5 bungalows
125 South Grand Avenue
Pasadena Co: Los Angeles CA 91105–
Landholding Agency: GSA
Property Number: 549230012
Status: Excess
Reason: Other
Comment: Extensive deterioration

Colorado

Double A Bar Ranch (6 bldgs)
Grand Lake Co: Grand CO 80447–
Landholding Agency: Agriculture
Property Number: 159310001
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Baker Land Exchange (2 bldgs)
Winter Park Co: Grand CO 80482–
Landholding Agency: Agriculture
Property Number: 159310002
Status: Unutilized
Reason: Other
Comment: Extensive Deterioration

Illinois

Calumet Harbor Station
U.S. Coast Guard
Chicago Co: Cook IL
Landholding Agency: DOT
Property Number: 879310005
Status: Excess
Reason: Secured Area

New York

Bldg. 8
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120013
Status: Excess
Reason: Other
Comment: Electrical substation
GSA Number: 2–N–NY–797

Bldg. 7
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120014
Status: Excess
Reason: Other
Comment: Electrical Substation
GSA Number: 2–N–NY–797

Bldg. R450
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120038
Status: Excess
Reason: Other
Comment: Electrical Substation
GSA Number: 2–N–NY–797

Hospital Area Steam Tunnel
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120045
Status: Excess
Reason: Other
Comment: Structurally unsound
GSA Number: 2–N–NY–797

North Street Steam Tunnel
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120046
Status: Excess
Reason: Other
Comment: Structurally unsound
GSA Number: 2–N–NY–797

Puerto Rico

NAFA Warehouse
U.S. Coast Guard Air Station Borinquen
Aquadilla PR 00604–
Landholding Agency: DOT
Property Number: 879310011
Status: Unutilized
Reason: Secured Area

South Dakota

Booster Station
Tract # 1, Mapleton Township Co: Minnehaha SD 57101–
Landholding Agency: GSA
Property Number: 549230006
Status: Excess
Reason: Other
Comment: Extensive deterioration
GSA Number: 7–I–SD–480–A

Virginia

Little Creek Station

Navamphib Base, West Annex. U.S. Coast Guard
Norfolk Co: Princess Anne VA 23520–
Landholding Agency: DOT
Property Number: 879310004
Status: Unutilized
Reason: Secured Area

LAND (by State)

Alaska

Nike Site, Tract 104
Jig Battery "D"
Eielson Defense Area
Fairbanks Co: Fairbanks AK 99701–
Landholding Agency: GSA
Property Number: 549120001
Status: Excess
Reason: Other
Comment: Property is landlocked
GSA Number: 9–D–AK–506–AD

Portion—Gibson Cove
1211 Gibson Cove Road
Kodiak Co: Kodiak Island AK 99615–
Landholding Agency: GSA
Property Number: 549220011
Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 9–C–AK–573

Arizona

11.217 Acre Site
Davis-Monthan AFB
Tucson Co: Pima AZ 85707–5000
Landholding Agency: GSA
Property Number: 549210020
Status: Excess
Reason: Floodway
GSA Number: 9–GR1–AZ–437HHH, 9–GR2–AZ–437Y

Portion, Gila River
Buckeye Co: Maricopa AZ 85337–
Landholding Agency: GSA
Property Number: 549240005
Status: Excess
Reason: Floodway
GSA Number: 9–GR–AZ–533

California

Portion, Travis AFB
6 miles southeast of Vacaville
Travis AFB Co: Solano CA 94535–
Landholding Agency: GSA
Property Number: 549220012
Status: Surplus
Reason: Floodway
GSA Number: 9–D–CA–499L

Central Valley Project
San Luis Drain
Tracy Co: San Joaquin CA 95376–
Landholding Agency: GSA
Property Number: 549230003
Status: Excess
Reason: Other
Comment: Landlocked
GSA Number: 9–I–CA–1325

Colorado

Sunset Canyon Field Station
Boulder Co: Boulder CO 80302–
Location: 5 miles west of Wall Street on County Road 118
Landholding Agency: GSA
Property Number: 549030019
Status: Excess
Reason: Floodway
GSA Number: 7–C–CO–602

Georgia

(P) Dobbins AFB/(P) NAS Atlanta
N.E. Quadrant of Intersection between Fairground & South Cobb Drive
Marietta Co: Cobb GA 30060–
Landholding Agency: GSA
Property Number: 549140001
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4–GR–GA–557 & 4–GR–GA–587A

Illinois

1.6 acres of land
Rock Island Arsenal
South Shore Mississippi River Moline Pool
Moline Co: Rock Island IL 61299–
Landholding Agency: GSA
Property Number: 549310009
Status: Excess
Reason: Floodway
GSA Number: 2–D–IL–620–B

Kentucky

E. C. Clements Job Corps Cntr.
1 Mile East of Morganfield, Ky.
Morganfield Co: Union KY 42437–
Landholding Agency: GSA
Property Number: 549120002
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material. Within airport runway clear zone
GSA Number: 4–L–KY–432–E

Louisiana

Land
Louisiana Army Ammunition Plant
Doyline Co: Webster LA
Landholding Agency: GSA
Property Number: 219013923
Status: Excess
Reason: Other
Comment: Barrow pit, predominately under water
GSA Number: 7–D–LA–0435D

Montana

Sherryl Tap Point Site
3 miles south of Drummond, MT Co: Granite MT
Landholding Agency: GSA
Property Number: 549240006
Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 7–B–MT–0598

Oregon

Tract 108 (Portion of)
Willow Creek Lake Project
Heppner Co: Morrow OR 77836–
Location: Located up hill from the left abutment of the dam structure.
Landholding Agency: GSA
Property Number: 319011687
Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 9–D–OR–708

South Carolina

Land—2.66 acres
Port Royal Co: Beaufort SC 29902–6148
Landholding Agency: GSA
Property Number: 549240009
Status: Excess
Reason: Floodway

[FR Doc. 93–4852 Filed 3–4–93; 8:45 am]
BILLING CODE 4310–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–060–03–4410–03]

Notice of Intent to Amend the Henry Mountain Resource Area Management Framework Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: The Bureau of Land Management (BLM) is proposing to amend the Henry Mountain Resource Area Management Framework Plan, which includes public lands in Wayne County, Utah, to allow for sale to Wayne County 80 acres for the purpose of a regional sanitary landfill.

DATES: The comment period for this proposed plan amendment will commence with the date of publication of this notice. Comments must be submitted on or before April 5, 1993.

FOR FURTHER INFORMATION CONTACT: Roy Edmonds, 150 East 900 North, Richfield, Utah 84701. Existing planning documents and information are available at the above address, as well as the Henry Mountain Resource Area Office, 406 South 100 West, Hanksville, Utah 84734, telephone (801) 542–3461.

SUPPLEMENTARY INFORMATION: The purpose of the amendment would be to identify certain lands as suitable for sale to Wayne County for the purpose of a regional sanitary landfill.

The lands identified for sale comprise 80 acres described as follows: T. 28 S., R. 8 E., Sec. 26, E½NW¼, Salt Lake Meridian, Utah.

The existing plan does not identify these lands for disposal. However, because of the resource values and public objectives involved, the public interest may well be served by sale of these lands.

G. William Lamb,

Acting State Director.

[FR Doc. 93–5145 Filed 3–4–93; 8:45 am]
BILLING CODE 4310–DQ–M

[NM–940–4110–03; NMNM 69324]

Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice.

SUMMARY: Under the provisions of Public Law 97–451, a petition for reinstatement of Oil and Gas Lease NMNM 69324, Eddy County, New Mexico, was timely filed and was accompanied by all required rentals and royalties accruing from November 1, 1992, the date of termination. No valid lease has been issued affecting the land. The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof and 16⅔ percent, respectively. Payment of a $500.00 administrative fee has been made. Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective November 1, 1992, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Martha A. Rivera, BLM, New Mexico State Office, (505) 438–7584.

Dated: February 26, 1993.

Dolores L. Vigil,

Chief, Adjudication Section.

[FR Doc. 93–4997 Filed 3–4–93; 8:45 am]

BILLING CODE 4310–FB–M

National Park Service

Cape Cod National Seashore Advisory Commission; Meeting Notice; Correction

This announcement is a correction to the previous notice (published February 17, 1993), which had erroneously stated that next meeting of the Cape Cod National Seashore Advisory Commission would be Friday, March 30, 1993. The correct date for the meeting is Tuesday, March 30, 1993 at 1 p.m. at Cape Cod National Seashore Headquarters, South Wellfleet, Massachusetts.

Dated: February 25, 1993.

John J. Burchill,

Acting Regional Director.

[FR Doc. 93–5008 Filed 3–4–93; 8:45 am]

BILLING CODE 4310–70–M

Maine Acadian Culture Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1 section 10), that the Maine Acadian Culture Preservation Commission will meet on Thursday, March 25, 1993.

The Committee was established pursuant to Public Law 101–543. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary with respect to the development and implementation of an interpretive program of Acadian culture in the State of Maine and the selection of sites for interpretation and preservation by means of cooperative agreements.

The meeting will convene at 7 p.m. at the St. Francis Elementary School on Maine State Route 161 (16 miles north of the terminus of U.S. Route 1) in St. Francis, Aroostock County, Maine. The agenda for the meeting is as follows:

1. Review and approval of the summary report of the January 21, 1993 meeting;
2. Reports of the following working groups: Annual Report; Mission Statement; Cooperating Organizations; and Public Involvement.
3. Presentation by Aubrey Raus from Van Buren on the importance of the St. John River to the history of the St. John Valley Acadians.
4. Report of the National Park Service planning team;
5. Opportunity for public comment;
6. Proposed agenda, place and date of next Commission meeting.

The meeting is open to the public. Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning these meetings may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, telephone (207) 288–5472

Date: February 25, 1993

John J. Burchill,

Acting Regional Director

[FR Doc. 93–5009 Filed 3–4–93; 8:45 am]

BILLING CODE 4310–70–M

Petroglyph National Monument Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92–463, that a meeting of the Petroglyph National Monument Advisory Commission will be held 2 p.m., Thursday, April 15, 1993, University of New Mexico, Continuing Education Conference Center, room H, 1634 University Boulevard, NE., (University Boulevard and Indian School Road), Albuquerque, New Mexico.

The Petroglyph National Monument Advisory Commission was established pursuant to Public Law 101–313, establishing Petroglyph National Monument, to advise the Secretary of the Interior on the management and development of the monument and on the preparation of the monument's general management plan.

The matters to be discussed at this meeting include:

—Introduction of advisory commission members and guests
—Approval of minutes from September 11, 1992 meeting
—Superintendent's Report
—Discussion of General Management Plan
—Land Protection Program Update
—Discussion of Cohen/Emery Property
—New Business
—Public Comments

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed at the commission meeting with the Superintendent, Petroglyph National Monument.

Persons who wish further information concerning the meeting, or who wish to submit written statements may contact Stephen Whitesell, Superintendent, Petroglyph National Monument, 123 4th Street SW., room 101, Albuquerque, New Mexico 87102, telephone 501/766–8375.

Minutes of the commission meeting will be available for public inspection six weeks after the meeting at the office of Petroglyph National Monument.

Dated: February 26, 1993.

John Cook,

Regional Director, Southwest Region.

[FR Doc 93–5011 Filed 3–4–93; 8:45 am]

BILLING CODE 4310–70–M

Sudbury, Assabet and Concord Rivers Study Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1 section 10), that there will be a meeting of the Sudbury, Assabet and Concord Rivers Study Committee on Thursday, March 25, 1993.

The Committee was established pursuant to Public Law 101–628. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary in conducting the study of the Sudbury, Assabet and

Concord River segments specified in section 5(a)(110) of the Wild and Scenic Rivers Act. The Committee shall also advise the Secretary concerning management alternatives, should some or all of the river segments studied be found eligible for inclusion in the National Wild and Scenic Rivers System.

The meeting will be held at 7:30 p.m. at Billerica Town Hall Auditorium, Billerica, Massachusetts. Billerica's Town Offices are located in a former school building on the south side of Boston Road (also Rte. 3A) about a quarter of a mile west of the town center, where the original Town Hall building is located. From Rte. 3 north, take the Concord Road exit (exit 27) and go north (right) to the town center. Bear left past the common and turn left onto Rte. 3A. The Town Offices are ahead on the left. Watch for a school department sign and three flagpoles.

Agenda

I. Welcome and introductions—Bill Sullivan
II. Approval of minutes from 1/28/93 meeting
III. Brief statements and comments from the public
IV. Subcommittee Reports—Subcommittee Chairs
  A. River Conservation Planning Subcommittee
  B. Water Resources Subcommittee
  C. Public Participation Subcommittee
V. Discussion—Issues of Local Concern
VI. Opportunity for public questions and comments
VII. Other Business
  A. Next meeting dates and locations

Dated: February 23, 1993.

John J. Burchill,

Acting Regional Director.

[FR Doc. 93–5010 Filed 3–4–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32250]

Rail-West, Inc.—Continuance in Control Exemption—Willamette Valley Railway Company

Rail-West, Inc. (Rail-West) has filed a notice of exemption to continue in control of Willamette Valley Railway Company (WVRY) upon the latter's becoming a carrier.

WVRY, a noncarrier, has concurrently filed a notice of exemption in Finance Docket No. 32249, *Willamette Valley Railway Company—Acquisition, Lease and Operation Exemption—Southern Pacific Transportation Company*, to acquire by lease and to operate 72.37 miles of rail line owned by Southern Pacific Transportation Company in the State of Oregon. WVRY expected that transaction to be consummated on or after February 22, 1993.

Rail-West also controls: Willamina & Grand Ronde Railway Company and Port of Tillamook Bay Railroad. Rail-West indicates that: (1) None of these railroads connect with WVRY; (2) the proposed transaction is not a part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a class I carrier. The transaction therefore is exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Fritz R. Kahn, Verner, Liipfert, Bernhard, McPherson and Hand, suite 700, The McPherson Building, 901 15th Street, NW., Washington, DC 20005–2301.

Decided: March 1, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5089 Filed 3–4–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32249]

Willamette Valley Railway Company—Acquisition, Lease and Operation Exemption—Southern Pacific Transportation Company

Willamette Valley Railway Company (WVRY) has filed a notice of exemption to acquire by lease and to operate 72.37 miles of certain rail lines owned by Southern Pacific Transportation Company (SPTC). The lines to be acquired by lease are: (1) The West Stayton Branch between milepost 708.11 at Stayton and milepost 737.76 at Woodburn, a distance of 29.65 miles in Marion County, OR; (2) the Geer Branch between milepost 719.16 at Geer and milepost 725.81 at Salem, a distance of 6.65 miles in Marion County, OR; and (3) Mill City Branch between milepost 689.64 at Page and milepost 725.71 at Mill City, a distance of 36.07 miles in Marion and Linn Counties, OR.[1] WVRY will become a class III rail carrier.[2] The proposed transaction was expected to be consummated on or after February 22, 1993.

Any comments must be filed with the Commission and served on: Fritz R. Kahn, Verner, Liipfert, Bernhard, McPherson and Hand, suite 700, The McPherson Building, 901 15th Street, NW., Washington, DC 20005–2301.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 1, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5084 Filed 3–4–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

[1] In its verified notice of exemption, applicant misstated the milepost at Page as milepost 690.97 and miscalculated the distance of the Mill City Branch as 36 miles. Applicant's representative confirmed the inadvertent errors and submitted the corrections noted above.

[2] This proceeding is related to Finance Docket No. 32250, *Rail-West, Inc.—Continuance in Control Exemption—Willamette Valley Railway Company*, wherein Rail-West, Inc. has currently filed a verified notice of exemption to continue in control of WVRY when WVRY becomes a carrier upon consummation of the transaction described in this notice.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 15, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 15, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, D.C. this 22nd day of February 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Tektronix, Inc. (Wkrs)	Beaverton, OR	02/22/93	02/09/93	28,344	Television Systems.
Wirnan Apparel (Wkrs)	Plymouth, MN	02/22/93	02/10/93	28,345	Men's Coats and Jackets.
TSE, Inc. (Wkrs)	Fairfax, MN	02/22/93	01/25/93	28,346	Mobile Phone Wiring.
Hayes Wheels International, Inc. (UAW)	Romulus, MI	02/22/93	02/04/93	28,347	Steel Aluminum Wheels.
G.L.G. Energy L.P. (Wkrs)	Sidney, MT	02/22/93	12/29/92	28,348	Oil and Gas.
USS/USX Clairton Works (USWA)	Clairton, PA	02/22/93	01/29/93	28,349	Coke for Steel.
United Technologies Motor Systems (Wkrs).	Brownsville, TX	02/22/93	02/08/93	28,350	Parts for Fractional Motors.
Todd Shipyard (IBEW)	Seattle, WA	02/22/93	02/11/93	28,351	Overhaul and new Construction.
Power Resources, Inc (Wkrs)	Denver, CO	02/22/93	02/09/93	28,352	Uranium.
Soundesign Corp. (Wrks)	Carteret, NJ	02/22/93	02/01/93	28,353	Stereos, Radios and Audio Systems.
Melville Knitwear Co. Inc. (Wkrs)	Monroe, NC	02/22/93	02/09/93	28,354	Ladies' Sweaters.
American Tourister (ILGPNW)	Warren, RI	02/22/93	02/02/93	28,355	Hardsided Luggage.
Arnold Engineering (IAM)	Marengo, IL	02/22/93	02/08/93	28,356	Wound Core Products.
Baron Peters Corp. (ILGWU)	Lowell, MA	02/22/93	02/05/93	38,357	Ladies' Dresses.
M–I Drilling Fluids Co. (OCAW)	Westlake, LA	02/22/93	02/08/93	28,358	Barite.
Cooper Indus.—Belden Div. (Co)	Jena, LA	02/22/93	02/15/93	28,359	Electric Motor Lead Wire.
Melville Knitwear Co (Wkrs)	Waxhaw, NC	02/22/93	02/09/93	28,360	Ladies' Sweaters.
Bertard Mfg. Corp. (ILGWU)	Lowell, MA	02/22/93	02/05/93	28,361	Ladies' Dresses.
Charlestown Mfg. Corp. (ILGWU)	Charlestown, MA	02/22/93	02/05/93	28,362	Ladies' Dresses.
Thomson Consumer Electronics (IBEW)	Indianapolis, IN	02/22/93	02/19/93	28,363	Plastic Television Cabinets.

[FR Doc. 93–5091 Filed 3–4–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28,242]

Tetley, Inc., Morris Plains, NJ; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 25, 1993 in response to a worker petition which was filed on January 14, 1993 on behalf of workers at Tetley, Incorporated, Morris Plains, New Jersey.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA–W–28,207). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 24th day of February, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–5090 Filed 3–4–93; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective

from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Ave, NW., room S–3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State.

Volume I

District of Col:
DC93–2 (Mar. 5, 1993)

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I:

New York:
NY93–3 (Feb. 19, 1993)
NY93–4 (Feb. 19, 1993)
NY93–14 (Feb. 19, 1993)
NY93–20 (Feb. 19, 1993)
Rhode Island:
RI93–1 (Feb. 19, 1993)

Volume II:

Iowa:
IA93–5 (Feb. 19, 1993)
IA93–9 (Feb. 19, 1993)
Illinois:
IL93–12 (Feb. 19, 1993)
Indiana:
IN93–1 (Feb. 19, 1993)
IN93–6 (Feb. 19, 1993)
Michigan:
MI93–2 (Feb. 19, 1993)
MI93–5 (Feb. 19, 1993)
Minnesota:
MN93–5 (Feb. 19, 1993)
MN93–7 (Feb. 19, 1993)
MN93–8 (Feb. 19, 1993)
MN93–15 (Feb. 19, 1993)
Oklahoma:
OK93–13 (Feb. 19, 1993)
OK93–14 (Feb. 19, 1993)
OK93–18 (Feb. 19, 1993)
Texas:
TX93–10 (Feb. 19, 1993)

Volume III:

California:
CA93–1 (Feb. 19, 1993)
CA93–2 (Feb. 19, 1993)
CA93–4 (Feb. 19, 1993)
Colorado:
CO93–1 (Feb. 19, 1993)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 26th day of February 1993.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 93–4878 Filed 3–4–93; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL INDIAN GAMING COMMISSION

Fee Rates

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to 25 CFR 514.1(a)(3), that the National Indian Gaming Commission has adopted a preliminary annual fee rate of .75% (.0075) for calendar year 1993. The rate shall apply to all assessable gross revenues (tier 1 and tier 2) from each class II gaming operation regulated by the Commission.

FOR FURTHER INFORMATION CONTACT: Fred W. Stuckwisch, National Indian Gaming Commission, 1850 M Street, NW., suite 250, Washington, DC 20036; telephone 202/632–7003; fax 202/632–7055 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act established the National Indian Gaming Commission which is charged with, among other things, regulating Class II gaming on Indian lands.

The regulations of the Commission (25 CFR part 500) provide for a system of fee assessment and payment that is self-administered by the Class II gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates; the gaming operations are required to apply those rates to their revenues, compute the fees to be paid, and report and remit the fees to the Commission on a quarterly basis.

The regulations of the Commission and this rate are effective for calendar year 1993. Therefore, all Class II gaming operations within the jurisdiction of the Commission are required to self-administer the provisions of these regulations and report and pay any fees that are due to the Commission before the end of the first quarter of 1993 (March 31), and quarterly thereafter.

Anthony J. Hope,

Chairman, National Indian Gaming Commission.

[FR Doc. 93–5002 Filed 3–4–93; 8:45 am]

BILLING CODE 7565–01–M

NATIONAL SCIENCE FOUNDATION

Astronomical Sciences; Notice of Intent To Prepare an Environmental Impact Assessment

Summary

The National Radio Astronomy Observatory (NRAO), a National Astronomy Center operated by

Associated Universities, Inc., under a Cooperative Agreement with the National Science Foundation (NSF), is proposing to construct for the United States Naval Observatory (USNO) a fully steerable 20-meter-class radio telescope in Green Bank, Pocahontas County, West Virginia. Upon completion, this telescope will be operated by NRAO as part of USNO's mission to provide timing and navigational information. It will replace existing telescopic equipment present on the site. The Green Bank site for the telescope, owned by the NSF, is located in the National Radio Quiet Zone which was established in 1958 specifically to protect the electromagnetic environment of the radio telescopes located and to be built on the site.

The construction of the USNO telescope entails site preparation for a wheel and track, elevation over azimuth, configuration on a foundation of a cast-in-place concrete ring of approximately 10 meters (33 feet) diameter, and the assembly and erection of a solid-surface reflector of a diameter of approximately 20 meters (66 feet). Operation, to start in 1994, will be continuous and identical to the operation of existing telescopes at the Green Bank site.

The NSF will prepare an Environmental Impact Assessment prior to the beginning of construction. All interested Federal, state, and local agencies and private organizations are invited to submit, by March 31, 1993, comments and/or requests for further information on the proposed construction.

ADDRESS AND POINT OF CONTACT: National Science Foundation, 1800 G Street, NW., Washington, DC 20550. Attn: Ludwig F. Oster, (202–357–9857).

Dated: February 25, 1993.

William C. Harris,

Assistant Director, Mathematical and Physical Sciences, National Science Foundation.

[FR Doc. 93–5035 Filed 3–4–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Earth Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

DATE AND TIME: March 25, 1993; 8 a.m.—5 p.m.

PLACE: Conference Room # 536, 1800 G St., NW., Washington, DC.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Marvin E. Kauffman, Program Director, Education and Human Resources Program, Division of Earth Sciences, room 602, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–7356.

PURPOSE OF MEETING: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

AGENDA: To review and evaluate National Science Foundation Young Investigators (NYI) Applications as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 2, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–5137 Filed 3–4–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 030–05980–EA and 030–05982–EA; ASLBP No. 93–675–04–EA]

Establishment of Atomic Safety and Licensing Board; Safety Light Corp., et al.

Pursuant to delegation by the Commission dated December 29, 1992, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding.

Safety Light Corporation, et al.

Material License Nos. 37–00030–02 and 37–00030–08
(Bloomsburg Site Decommissioning and License Renewal Denials)
(Bloomsburg Site Decontamination)

This Board is being established pursuant to the request by Safety Light Corporation; USR Industries, Inc; USR Lighting, Inc.; USR Chemical Products, Inc.; USR Metals, Inc.; U.S. Natural Resources, Inc.; United States Radium Corporation; Lime Ridge Industries, Inc.; and Metals, Inc. (Licensees), to promptly rescind, or, in the alternative, grant an administrative hearing on a January 29, 1993 NRC Staff Order prohibiting, *inter alia*, a transfer of assets. This Board will consider this Order pursuant to the provisions of 10 CFR 2.202(c) and other governing regulations.

All correspondence, documents and other materials shall be filed in accordance with 10 CFR 2.701. The Board is comprised of the following administrative judges:

Thomas S. Moore, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

James H. Carpenter, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Frederick J. Shon, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Issued at Bethesda, Maryland, this 26th day of February, 1993.

B. Paul Cotter, Jr.,

Acting Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 93–5029 Filed 3–4–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. STN50–483]

Exemption

In the Matter of Union Electric Company (Callaway Plant, Unit No. 1)

I

The Union Electric Company (the licensee), is the holder of Facility Operating License No. NPF–30 which authorizes operation of the Callaway Plant, Unit No. 1. The license provides, among other things, that it is subject to all rules, regulations and orders of the Nuclear Regulatory Commission (the Commission) now and hereafter in effect.

The facility consists of a pressurized water reactor located at the license's site in Callaway County, Missouri.

II

In its letter dated June 16, 1992, the Union Electric Company (the licensee) applied for an amendment to Operating License NPF–30 to change certain provisions of the Callaway Technical Specifications (TSs). The licensee in this letter also requested an exemption from the Commission's regulations. The subject exemption is from a requirement in appendix J to 10 CFR part 50 which requires a set of three Type A tests (Containment Integrated Leakage Rate Test or CILRT) be performed, at approximately equal intervals during each 10-year service period.

Type A tests are defined in 10 CFR part 50, appendix J, section II.F as "* * * test intended to measure the primary reactor containment overall integrated leakage rate (1) after the containment has been completed and is ready for operation, and (2) at periodic intervals thereafter." The 10-year service period begins with the inservice date. The licensee's submittal assumed the service period began when the preoperational CILRT was performed. Therefore, the first CILRT testing interval was actually 29 months, instead of the assumed 40-month interval. The time interval between CILRTs should be about 40 months based on performing three such tests at approximately equal intervals during each 10-year service period. Since refueling outages do not necessarily occur coincident with a 40-month interval, a permissible variation of 10 months (25 percent variation) is typically authorized in the technical specifications issued with an operating license to permit flexibility in scheduling the CILRTs.

The proposed revision to the Callaway TSs associated with the licensee's June 16, 1992, request for a one-time exemption would change the TSs by extending the surveillance requirements of Technical Specification 4.6.1.2.a and its associated Bases. The extension would allow the third Type A Containment Leakage Rate Test within the first 10-year service period, to be conducted during the Cycle 7 refueling outage. This TS change is a one-time schedular extension of the current maximum interval from 50 months to 53 months and of the first 10-year service period by approximately 3 months.

The TS also requires that three Type A tests be conducted at 40 ± 10 month intervals during shutdown in each 10-year service period. This particular TS incorporates the requirements of section III.D.1.(a) of appendix J, with regard to performing three Type A tests at approximately equal intervals during each 10-year service period. This portion of the proposed revision to TS 4.6.1.2.a will be considered as a separate licensing action after completion of the pending exemption request.

With respect to the subject exemption request, the NRC staff notes that the first and second CIRLT of the set of three tests for the first 10-year service period for Callaway were conducted in April 1987 and October 1990, respectively. This represents testing intervals of 40 and 41 months from the initial preoperational CILRT performed in January 1984. The third of the first set of three CILRTs will be scheduled for March 1995 (53 months), pending approval of the exemption request. However, the licensee's assumption that the 10-year service period began with preoperational CILRT, is not correct. The 10-year service period actually began with the inservice date of December 19, 1984. This assumption has no bearing on the request for extending the third test interval to 53 months, but it does change the current service period. The current service period will actually be exceeded by approximately 3 months beyond the normal 10-year service period, instead of 14 months as stated in the licensee's request. The NRC staff concludes that this deviation from the 10-year service period, ending December 1994, is not significant in terms of complying with the scheduling requirements of section III.D.1.(a). Accordingly, the staff finds, for the reasons set forth above, that the subject exemption request meets the underlying purpose of the rule (10 CFR 50.12(a)(2)(ii)) which requires three type A tests be performed in a 10-year period.

On this basis, the NRC staff finds that the licensee has demonstrated that there are special circumstances present as required by 10 CFR 50.12 (a)(2). Further, the staff also finds that extending the service period will not present an undue risk to the public health and safety; since the licensee has justified the leaktight integrity of the containment based on previous leakage test results, the staff concludes that a one-time extension of approximately 3 months beyond the maximum permitted test interval will not have a significant safety impact.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemption with respect to a requirement of 10 CFR part 50, appendix J, section III.D.1(a):

For the Callaway Plant, Unit 1, the current service period may be extended by approximately 3 months beyond the normal 10-year service period, so that the third periodic Type A test to be performed during the first 10-year service period may be performed during the Cycle 7 refueling outage.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of the subject exemption will not have a significant effect on the quality of the human environment (57 FR 59850).

This Exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 25th day February 1993.

Jack W. Roe,

Director, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–5030 Filed 3–4–93; 8.45 am]

BILLING CODE 7590–01–M

Application for a Licenee To Export a Utilization Facility

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following request to amend Export License XR136. A Copy of the amendment request is on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of a request to amend a license to export a utilization facility as defined in 10 CFR part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility to be exported. The information concerning this request to amend follows.

NRC EXPORT LICENSE AMENDMENT

Name of Applicant; Date of Appl.; Date Received; Application No.	Description	Value	End use	Country of destination
Westinghouse; 02/12/93; 02/16/93; XR136/01.	3600 MW, Taiwan Power, Nuclear Units, Lungmen 1 and 2.	$1,200,000,000	Amended to increase power from 2785 MW to 3600 MW; increase $ value from $250,000,000 to $1,200,000,000; and, change names from Taiwan Power Nuclear Units 7 and 8 to Taiwan Power Nuclear Units Lungmen 1 and 2.	Taiwan.

For the Nuclear Regulatory Commission.

Dated this 26th day of February 1993 at Rockville, Maryland.

Ronald D. Hauber,

Assistant Director for Exports, Security, and Safety Cooperation, Office of International Programs.

[FR Doc. 93–5028 Filed 3–4–93; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Request for Reclearance of Form RI 38–45

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, Chapter 35), this notice announces a request for reclearance of an information collection. Form RI 38–45, We Need the Social Security Number of the Person Named on the Back of This Form, is used to collect information used by the Civil Service Retirement System and the Federal Employees Retirement System to identify the records of individuals with similar or the same names. It is also needed to report payments to the Internal Revenue Service.

Approximately 3,000 RI 38–45 forms are completed annually. The form requires approximately 5 minutes to complete. The annual burden is 250 hours.

For copies of this proposal, call C. Ronald Trueworthy on (703) 908–8550.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Retirement and Insurance Group, Operations Support Division, U.S. Office of Personnel Management, 1900 E Street, NW., room 3349, Washington, DC 20415; and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW. room 3002, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Chief, Administrative Management Branch, (202) 606–0616.

U.S. Office of Personnel Management.

Patricia W. Lattimore,

Acting Director.

[FR Doc. 93–5006 Filed 3–4–93; 8:45 am]

BILLING CODE 6325–01–M

POSTAL RATE COMMISSION

[Docket No. A93–11; Order No. 964]

Colfax, ND 58018 (Citizens of Colfax, ND, Petitioners); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued March 2, 1993.

Before Commissioners: George W. Haley, Chairman; John W. Crutcher; W. H. "Trey" LeBlanc III; H. Edward Quick, Jr.; Wayne A. Schley.

Docket Number: A93–11.

Name of Affected Post Office: Colfax, North Dakota 58018.

Name(s) of Petitioner(s): Citizens of Colfax, North Dakota.

Type of Determination: Consolidation.

Date of Filing of Appeal Papers: February 23, 1993.

Categories of Issues Apparently Raised:

1. Effect on the community (39 U.S.C. 404(b)(2)(A));

2. Effect on postal services (39 U.S.C. 404(b)(2)(C)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before March 10, 1993.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

Docket No. A93–11, Colfax, North Dakota 58018

February 23, 1993	Filing of Petition.
March 2, 1993	Notice and Order of Filing of Appeal.
March 22, 1993	Last day of filing of petitions to intervene (see 39 CFR 3001.111(b)).
April 1, 1993	Petitioners' Participant Statement or Initial Brief (see CFR 3001.115 (a) and (b)).
April 21, 1993	Postal Service Answering Brief (see 39 CFR 3001.115(c)).
May 6, 1993	Petitioners' Reply Brief should Petitioner choose to file one (see 39 CFR 3001.115(d)).
May 13, 1993	Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116).

June 22, 1993 ..... Expiration of 120-day decisional schedule (see 39 U.S.C. 404(b)(5)).

[FR Doc. 93–5138 Filed 3–4–93; 8:45 am]
BILLING CODE 7710–FW–M

POSTAL SERVICE

Temporary Change to the Domestic Mail Classification Schedule Regarding Prebarcoding of Letter-Size Mail

AGENCY: Postal Service.

ACTION: Notice of implementation of a temporary change to the Domestic Mail Classification Schedule.

SUMMARY: This gives notice that the Domestic Mail Classification Schedule is amended, on a temporary basis, to provide that First-, second-, and third-class letter-size mail must bear a barcode as prescribed by the Postal Service in order to qualify for pre-barcoded rates.

EFFECTIVE DATE: March 21, 1993.

FOR FURTHER INFORMATION CONTACT: Grayson M. Poats, (202) 268–2981.

SUPPLEMENTARY INFORMATION: On November 9, 1992, pursuant to 39 U.S.C. 3623, the Postal Service filed with the Postal Rate Commission a Request for a Recommended Decision on Pre-barcoded Letter Mail Requirements, PRC Docket No. MC93–2. In its Request and supporting testimony, the Postal Service set forth its plans to begin automated delivery point sequencing of letter-size mail on March 21, 1993. The Postal Rate Commission published a notice in the **Federal Register** on November 20, 1992 (57 FR 54866) describing the request and offering interested parties an opportunity to intervene.

Section 3641(e), 39 US Code, provides, in pertinent part, that

> If the * * * Commission does not transmit to the Governors within 90 days after the Postal Service has submitted * * * to the Commission a request for a change in the mail classification schedule * * * the Postal Service, upon 10 days' notice in the **Federal Register**, may place into effect temporary changes in the mail classification schedule in accordance with proposed changes under consideration by the Commission.

More than 90 days having elapsed since the filing of its Request without the transmittal of a recommended decision, the Postal Service has determined, pursuant to this statutory authority and as authorized by the Board of Governors of the Postal Service in Resolution No. 93–3 (March 1, 1993), to place into effect a temporary change to sections 100.0204, 100.0214, 100.031, 100.043, 100.047, 100.10, 200.095, 300.0232, 300.0235, and 300.0236 of the Domestic Mail Classification Schedule as set forth below, effective at 12:01 a.m. on March 21, 1993.

On February 18, 1993, the Postal Service published a proposed rule setting forth the amendments to the prebarcoding requirements in the Domestic Mail Manual that the Postal Service proposed to make in the event a temporary classification change was placed into effect (58 FR 8921). The provisions of the proposed rule would require a delivery point barcode on all letter-size mail for which a barcoded discount is claimed, and make conforming changes to the requirements for ZIP+4 numeric discounts. A final rule adopting implementing regulations is expected to be published in the near future. Those regulations will also take effect on March 21, 1993.

Stanley F. Mires,
Chief Counsel, Legislative.

Changes to the Domestic Mail Classification Schedule

(Additions are italicized, deletions are bracketed.)

Classification Schedule 100—First-Class Mail

* * * * *

100.0204 Pre-barcoded [ZIP + 4] Presorted Mail

Pre-barcoded [ZIP + 4] presorted mail is First-Class Mail presented in mailings of 500 or more pieces presorted to three- or five-digit ZIP Codes or both, *which bears a barcode as prescribed by the Postal Service*, which meets the *machinability, addressing, and barcoding* specifications [of] *and other preparation requirements prescribed by* the Postal Service, and which meets the preparation requirements in section 100.047.

* * * * *

100.0214 [ZIP + 4] Pre-barcoded Rate Category Post Cards

A [ZIP + 4] pre-barcoded rate category post card is a privately printed mailing card for the transmission of messages which meets the eligibility and preparation requirements in sections 100.0211b, 100.043, and 100.047.

a. Double post cards may be mailed at the [ZIP + 4] pre-barcoded rate [category] for post cards. A double post card consists of two attached cards, one of which may be detached by the receiver and returned by mail as a single post card.

b. [ZIP + 4] *P*[p]re-barcoded rate category post cards must:

i. Bear a [proper ZIP + 4] barcode *as prescribed by the Postal Service.*

ii. Be presented in mailings of 500 or more pieces.

iii. Meet machinability criteria as prescribed by the Postal Service but may not exceed any of the following dimensions:

(1) Length not greater than 6 inches;

(2) Width not greater than 4¼ inches; or,

(3) Thickness not greater than 0.0095 inch and uniform.

iv. Meet address*ing* [readability] specifications for applicable mail processing equipment as prescribed by the Postal Service.

v. Meet barcoding specifications *and other preparation requirements* [as] prescribed by the Postal Service.

vi. Have postage paid in a manner not requiring cancellation.

* * * * *

100.031 Cards exceeding the maximum post card dimensions set forth in section 100.021c or 100.0211b or section 100.0214 for ZIP + 4 and [ZIP + 4] prebarcoded rate category cards may be mailed only under sections 100.020, 100.0201, 100.0203, and 100.0204, as appropriate.

* * * * *

100.043 Postal and post cards, including ZIP + 4 and pre-barcoded [ZIP + 4] rate category post cards, with any of the following four characteristics are not mailable unless prepared as prescribed by the Postal Service:

a. Numbers or letters unrelated to postal purposes appearing on the address side of the card;

b. Punched holes;

c. Vertical tearing guide;

d. An address portion which is smaller than the remainder of the card.

* * * * *

100.047 Pieces mailed under sections 100.0201, [100.0202,] 100.0203, 100.0204, 100.0211, and 100.023 must be prepared as follows:

a. All pieces in a mailing must be presented in a manner specified by the Postal Service.

b. All pieces in a mailing must bear markings as required by the Postal Service.

c. Pieces not within the same postage increment may be mailed at ZIP + 4 rate category or pre-barcoded [ZIP + 4] presorted mail rates only when specific methods approved by the Postal Service for ascertaining and verifying postage are followed.

d. Pieces mailed at presorted ZIP + 4 rate category or pre-barcoded [ZIP + 4] presorted mail rates must be properly prepared and presorted as prescribed by the Postal Service.

* * * * *

100.10 Authorizations and Licenses

100.100 A presorted mailing fee as set forth in Rate Schedule 1000 must be paid once each year at each office of mailing by any person who mails presorted mail, including presorted ZIP + 4 rate category mail and pre-barcoded [ZIP + 4] presorted mail.

* * * * *

Classification Schedule 200—Second-Class Mail

* * * * *

200.095 Copies of any automation compatible second-class mail which bear a proper ZIP + 4 code, or *which bear a* [ZIP + 4] barcode *as prescribed by the Postal Service*, and which meet *the* machinability, address*ing*, [readability] and barcoding specifications *and other preparation requirements* [as] prescribed by the Postal Service qualify for the applicable ZIP + 4 or pre-barcoding discounts as set forth in Rate Schedules 200, 201, 202, and 203.

* * * * *

Classification Schedule 300—Third-Class Mail

* * * * *

300.0232 Basic Sortation, [ZIP + 4] Pre-barcoded Mail

Basic sortation [ZIP + 4 P] pre-barcoded mail is mail mailed under section 300.0230 which bears a [proper ZIP + 4] barcode *as prescribed by the Postal Service*, and which meets the machinability, address*ing*, [readability,] and barcoding specifications and other preparation requirements prescribed by the Postal Service.

* * * * *

300.0235 Three-Digit Presort Level, [ZIP + 4] Pre-barcoded Mail

Three-digit presort level, [ZIP + 4] pre-barcoded mail is mail mailed under section 300.0233 which is presorted to three digits, [is ZIP + 4 pre-barcoded,] *which bears a barcode as prescribed by the Postal Service*, and *which* meets the machinability, address*ing*, [readability] *and barcoding specifications* and other preparation requirements prescribed by the Postal Service.

300.0236 Five-Digit Presort Level, [ZIP + 4] Pre-barcoded Mail

Five-digit presort level, [ZIP + 4] pre-barcoded mail is mail mailed under section 300.0233 which is presorted to five digits, [is ZIP + 4 pre-barcoded,] *which bears a barcode as prescribed by the Postal Service*, and *which* meets the machinability, address*ing*, [readability] and barcod[e]ing specifications, and other preparation requirements prescribed by the Postal Service.

[FR Doc. 93–5083 Filed 3–4–93; 8:45 am]

BILLING CODE 7710–12–M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; Brookside Meadows, Marin County, CA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Brookside Meadows, located in Novato, Marin County, California, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 3, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. E. Ted Hine, Resolution Trust Corporation, California Office, 4000 MacArthur Boulevard; 2nd Floor, East Tower, Newport Beach, CA 92660–2516, (714) 263–4648, Fax (714) 852–7623.

SUPPLEMENTARY INFORMATION: The Brookside Meadows property is located 2.5 miles west of U.S. Highway 101 on Novato Boulevard in the City of Novato, Marin County, California. The property has recreational value and is adjacent to the City of Novato's O'Hair Park and equestrian facility. The north side of the site also faces the Mt. Burnell Open Space Preserve. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990. Pub. L. 101–591 (12 U.S.C. 1441a–3).

Characteristics of the property include: The Brookside Meadows property is an undeveloped tract of land consisting of approximately 58 acres. The property is located along a pedestrian/bicycle path adjacent to Novato Boulevard which provides access to a recreational area at Stafford Lake to the west. The property is also adjacent to a city park and an open space preserve.

Property size: Approximately 58 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before June 3, 1993 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 3, 1993 to Mr. E. Ted Hine at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

Re: Brookside Meadows

Federal Register Publication Date: March 5, 1993.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Pub. L. 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: March 1, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–5013 Filed 3–4–93; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability; FM 1382/Cedar Hill, Dallas County, TX

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as FM 1382/Cedar Hill, located in Cedar Hill, Dallas County, Texas, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 3, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Steven Reid, Resolution Trust Corporation, Dallas Field Office, 3500 Maple Avenue, Riverchon Plaza, 18th Floor, Dallas, TX

75219–3935, (214) 443–4738, Fax (214) 443–4825.

SUPPLEMENTARY INFORMATION: The FM 1382/Cedar Hill property is on the southwest side of FM 1382 in Cedar Hill, Dallas County, Texas, east of Joe Pool Lake. Access is available via the Cedar Hill State Park. The property contains habitat for the federally endangered Black-capped vireo and is adjacent to Cedar Hill State Park. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Pub. L. 101–591 (12 U.S.C. 1441a–3).

Characteristics of the property include: The FM 1382/Cedar Hill property is an undeveloped tract of land consisting of approximately 110 acres. The property is mostly wooded and situated in a floodplain around an escarpment.

Property size: Approximately 110 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before June 3, 1993 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 3, 1993 to Mr. Steven Reid at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

Re: FM 1382/Cedar Hill

Federal Register Publication Date: March 5, 1993.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Pub. L. 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: March 1, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–5014 Filed 3–4–93; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability; Lake Ridge/330, Dallas County, TX

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Lake Ridge/330, located in Cedar Hill, Dallas County, Texas, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 3, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Steven Reid, Resolution Trust Corporation, Dallas Field Office, 3500 Maple Avenue, Riverchon Plaza, 18th Floor, Dallas, TX 75219–3935, (214) 443–4738, Fax (214) 443–4825.

SUPPLEMENTARY INFORMATION: The Lake Ridge/330 property lies east of Joe Pool Lake near the intersection of Mansfield Road and Belt Line Road in Cedar Hill, Dallas County, Texas. Access to the site is available via Belt Line Road. The property contains habitat for the federally endangered Black-capped vireo and is adjacent to lands managed by the U.S. Army Corps of Engineers as a part of the Joe Pool Lake recreational area. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Pub. L. 101–591 (12 U.S.C. 1441a–3).

Characteristics of the property include: The Lake Ridge/330 property is an undeveloped tract of land consisting of approximately 330 acres. The property is mostly wooded and situated in a floodplain around an escarpment.

Property size: Approximate 330 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before June 3, 1993 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 3, 1993 to Mr. Steven Reid at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

Re: Lake Ridge/330

Federal Register Publication Date: March 5, 1993.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Pub. L. 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: March 1, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–5015 Filed 3–4–93; 8:45 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–31936; File No. SR–Amex–92–48]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating To Increased Annual Fee for Listed Company Equity Issues

March 1, 1993.

On December 21, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to increase the annual fee imposed on Amex-listed company equity issues.

The proposed rule change was noticed in Securities Exchange Act Release No. 31752 (January 22, 1993), 58 FR 6542 (January 29, 1993). No

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

comments were received on the proposal.

The Amex proposes to increase the annual fee imposed on listed company equity issues. This annual fee, which is based on the number of outstanding shares of stock, is set forth in seventeen (17) separate categories in increments of one million shares. Each category of fees increases by $500. Currently, the fee ranges from $5,500 for one million shares or less of shares outstanding to $13,500 for shares of stock outstanding in excess of 16 million. The Exchange proposes to increase the fee charged by $1,000 for all 17 categories of shares outstanding. The proposal, therefore, would increase the current minimum fee of $5,500 to $6,500 and increase the maximum fee from $13,500 to $14,500.[3]

The Exchange states that the purpose of the proposed rule change is to increase the annual fee in order to keep the Exchange competitive with other equity exchanges offering similar services. The Exchange also states that its most recent proposal to increase the annual fee imposed on listed company equity issues was approved by the Commission in 1991.[4]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of section 6 of the Act.[5] More specifically, the Commission believes that the proposed rule change is consistent with section 6(b)(4) of the Act which requires that the rules of an exchange assure the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons using its facilities. The Commission notes that an increase in Amex's annual listing fee was last approved in 1991,[6] and that the proposed increase is modest on an absolute basis. Moreover, the current increases do not place an excessive allocation of Amex fees on its issuers as opposed to members and other persons using its facilities. Accordingly, the Commission believes that it is appropriate to approve the proposed rule change.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (SR–Amex–92–48) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5068 Filed 3–4–93; 8:45 am]

BILLING CODE 8010–01–M

[3] The complete schedule of fee changes is contained in Exhibit A to File No. SR–Amex–92–48.

[4] See Securities Exchange Act Release No. 28908 (February 22, 1991), 56 FR 9033 (March 4, 1991) (order approving File No. SR–Amex–90–35).

[5] 15 U.S.C. 78f (1988).

[6] See Securities Exchange Act Release No. 28908, *supra* note 4.

[7] 15 U.S.C. 78s(b)(2) (1988)

[8] 17 CFR 200.30–3(a)(12) (1991).

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges in an Over-the-Counter Issue and To Withdraw Unlisted Trading Privileges in an Over-the-Counter Issue

February 26, 1993.

On February 17, 1992, the Midwest Stock Exchange, Inc. ("MSE") submitted an application for unlisted trading privileges ("UTP") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") security, i.e., a security not registered under section 12(b) of the Act.

File No.	Symbol	Issuer
7–10324 ...	PYXS	Pyxis Corp., Common Stock, $.01 par value.

The above-referenced issue is being applied for as a replacement for the following security, which forms a portion of the Exchange's program in which OTC securities are being traded pursuant to the granting of UTP.

The MSE also applied to withdraw UTP pursuant to section 12(f)(4) of the Act for the following issue:

File No.	Symbol	Issuer
7–10325 ...	CNTO	Centocor, Inc., Common Stock, $.01 par value.

A replacement issue is being requested as the common stock of Centocor Inc. has been listed on the NYSE, rendering it ineligible for the OTC/UTP program.

Comments

Interested persons are invited to submit, on or before March 19, 1993, written comments, data, views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Commentators are asked to address whether they believe the requested grant of UTP as well as the withdrawal of UTP would be consistent with section 12(f)(2), which requires that, in considering an application for extension or withdrawal of UTP in an OTC security, the Commission consider, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension of the existing markets for such security, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5075 Filed 3–4–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31933; File No. SR–NASD–92–55]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating To Market Maker Location

February 26, 1993.

On December 16, 1992, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder.[2] The proposed rule change amends Part VI, Section 1 of Schedule D to the By-Laws to require that members append a fifth-character indicator to their market making symbol ("MMID") when a trading desk is located somewhere other than the firm's primary trading location.

Notice of the proposed rule change together with its terms of substance appeared in the **Federal Register** on January 25, 1993.[3] The Commission has received no comments on the proposal. This order approves the rule change.

The NASD currently requests that members append a fifth-character indicator to their four-character MMIDs on the NASDAQ Workstation screen to notify market participants that the trading desk of a member in a particular

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] Securities Exchange Act Release No. 31728 (January 13, 1993), 54 FR 33996.

stock may not be located at the member's main trading office. This fifth MMID character has been available for many years, but its use is currently voluntary. The NASD believes that the use of this character should be mandatory to eliminate confusion and delay in contacting the appropriate market maker in a particular security. The NASD believes that use of the fifth-character with the MMID will ensure that when traders call to transact an order, they will direct the call to the appropriate location and avoid instances where multiple phone calls are needed to access a market maker's quote.

The Commission finds that use of the location identifier will likely foster cooperation between market makers in transacting business in securities that are traded at branch offices. Moreover, use of the location identifier should eliminate unnecessary confusion and delay in the trading of securities, which is in the public interest. For these reasons, and for the reasons stated above, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A(b)(6) of the Act.[4] Section 15A(b)(6) requires that NASD rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5076 Filed 3–4–93; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78o–3(b)(12) (1988).

[5] 17 CFR 200.30–3(a)(12) (1992).

[Release No. 34–31937; File No. SR–NSCC–92–14]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving on an Accelerated Basis a Proposed Rule Change To Modify Mutual Fund Services

March 1, 1993.

On November 18, 1992, the National Securities Clearing Corporation ("NSCC") filed a proposed rule change (File No. SR–NSCC–92–14) with the Securities and Exchange Commission ("Commission") pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act")[1] concerning modifications to its Mutual Fund Services. Notice of the proposal was published in the **Federal Register** on February 1, 1993, to solicit comments from interested persons.[2] One comment letter was received prior to the publication of notice.[3] As discussed below, this order approves the proposal on an accelerated basis.

I. Description

The purpose of the proposed rule change is to permit NSCC to modify its Rule 52, Mutual Fund Services, to provide system flexibility in processing mutual fund transactions. The Mutual Fund Settlement, Entry, and Registration Service ("Fund/Serv") was implemented in 1986[4] to enable NSCC members to submit mutual fund purchase and redemption orders to NSCC and to enable NSCC in turn to transmit the orders to its members acting on behalf of eligible mutual funds. Fund/Serv provides members with numerous benefits such as automatic settlement of purchases on T+5, fewer errors than occurred when trades were settled outside NSCC, and reduced dependence on telephone calls and correspondence. Since its original approval, NSCC has made several enhancements to Fund/Serv.[5]

The Fund/Serv system needs additional flexibility in order to accommodate the increased needs of system users, but it has become difficult to enhance further. The revised Fund/Serv system provides participants the ability to tailor processing requirements as their businesses and the mutual fund market grow and change.

The revised Fund/Serv system accommodates mutual fund transactions regardless of their settlement cycles or the type of funds[6] in which they settle. It supports the same-day and next-day settlements in same-day funds through the Federal Reserve Wire Transfer System ("Fedwire") and short settlement cycles for underwritings.[7]

The revised system provides participants with expanded capabilities for preconfirmation trade corrections and post-settlement corrections.[8] It also allows the selection of processing options to be determined by both a member's capability and by the type of security. This provides greater flexibility for individual members that may require unique processing.

As revised, Fund/Serv supports single batch processing, multiple batch processing, and interactive transaction processing capabilities.[9] Single batch processing allows members to submit one file each day for all activity and NSCC to create output files once a day. Time frames for single batch processing are similar to current Fund/Serv input and output time frames. Multiple batch processing allows members to submit more than one file each day and NSCC

[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release No. 31758 (January 25, 1993), 57 FR 56395 (File No. SR–NSCC–92–14).

[3] Letter from James F. Lilly, Senior Vice President, U.S. Clearing Corp., to David F. Hoyt, Vice President, NSCC, and carbon-copied to Jonathan Katz, Secretary, Commission (January 19, 1993). Mr. Lilly advocated the approval of the proposed rule change stating that the revisions to the Fund/Serv system are very beneficial to the mutual fund industry.

[4] Securities Exchange Act Release No. 22926 (February 20, 1986), 51 FR 6954 (File No. SR–NSCC–85–09) (notice of filing and order granting accelerated approval on a temporary basis to the Fund/Serv system).

[5] E.g., Securities Exchange Act Release Nos. 24088 (February 10, 1987), 52 FR 5226 (File No. SR–NSCC–86–05); 24227 (March 17, 1987), 52 FR 9603 (File No. 86–14); and 26377 (December 28, 1988), 53 FR 52546 (File No. SR–NSCC–87–12) (orders approving rule changes concerning Fund/Serv).

[6] I.e., same-day funds or next-day funds.

[7] While proposed Rule 52 will accommodate same day funds settlements, NSCC will not offer this option until the appropriate methodology has been determined. NSCC will submit a section 19(b)(2) proposed rule change to the Commission for approval prior to the introduction of same-day funds settlement into the Fund/Serv system.

[8] The expanded trade correction facilities of new Fund/Serv include two presettlement capabilities and one post-settlement capability. One preconfirmation trade correction facility allows a broker-dealer to correct a submission of a mutual fund transaction prior to its confirmation by the mutual fund. The other preconfirmation correction facility permits a mutual fund to confirm or reject the broker-dealer's preconfirmation trade correction. The mutual fund also may confirm a previously rejected transaction or reject a previously confirmed transaction. The post-settlement correction facility allows a broker-dealer to correct the account in which the shares of a settled mutual fund transaction have been placed.

[9] Although the system is designed to provide interactive transaction processing and this filing amends NSCC's Rules as needed for such processing, NSCC is not prepared at this time to offer interactive transaction processing but will notify the Commission and its participants when such processing becomes available.

to make multiple output files available throughout the day. Interactive transaction processing allows members to submit activity as individual transactions or as groups of transactions on a real time basis. NSCC makes output from this option available immediately on a transactional basis or in the case of settlement or reminder activity on a file basis.

Initially, implementation of the revised Fund/Serv services will be transparent to members. A period of time will be allowed for members to convert their current systems to the new Fund/Serv system. NSCC will announce conversion timeframes following system implementation.

NSCC believes the proposed rule change is consistent with the requirements of the Act in that the revised system promotes the prompt and accurate clearance and settlement of mutual fund transactions. NSCC believes that it will better serve its participants and will enable them to better serve mutual fund purchasers because of the enhancements to NSCC's mutual fund clearance and settlement services.

II. Discussion

The Commission believes the proposal is consistent with the Act and specifically with section 17A of the Act.[10] Sections 17A(b)(3) (A) and (F) require that a clearing agency be organized and that its rules be designed to facilitate the prompt and accurate clearance and settlement of securities transactions.[11] As the mutual fund industry continues to grow and change, NSCC's Fund/Serv system needs flexibility to accommodate the changing needs of its participants. New Fund/Serv provides that flexibility by providing the ability to clear transactions with varying settlement cycles and to handle settlements in both same-day funds and next-day funds. It also provides participants with expanded error correction capabilities.[12] Given the fact that it can accommodate a variety of features and, therefore, more mutual funds will be eligible for clearance and settlement through NSCC, the revisions to the Fund/Serv system increase the likelihood that mutual fund transactions will be cleared and settled in a prompt and accurate manner pursuant to the requirements of section 17A of the Act.

NSCC has revised Fund/Serv to receive from and deliver to participants transaction and registration information in cycles that match the participants' facilities and processing requirements. A participant may use single batch, multiple batch, or, in the future, interactive transaction processing depending on the participant's needs and capabilities. This flexibility permits NSCC to offer its automated services in a nondiscriminatory fashion to a wide variety of participants and helps NSCC to meet its statutory obligations under section 17A(b)(3)(F) of the Act.[13] That section requires that a clearing agency's rules be designed to prohibit unfair discrimination among participants in the use of the clearing agency. Similarly, NSCC has designed the new Fund/Serv system not only to accommodate the different settlement variables of each mutual fund but also to accommodate the special processing needs of individual members.

Currently, the mutual fund industry has no automated clearance and settlement system for no-load funds.[14] Because the revised Fund/Serv has the capacity to accommodate these funds,[15] the proposed rule change will be the first step in bringing no-load funds into a centralized, automated clearance and settlement system. In section 17A(a)(1)(B)[16] Congress found that inefficient procedures for clearance and settlement impose unnecessary costs on investors and persons facilitating transactions on the behalf of investors. In light of the increasing public demand for no-load funds, the Commission believes that including no-load funds in NSCC's automated process should promote the prompt and accurate clearance and settlement of these funds while reducing costs and improving efficiency for NSCC's participants.

The enhancements to the Fund/Serv system also help NSCC to accommodate several of the Group of Thirty's recommendations. These include shortening the settlement cycle for securities transactions and increasing the number of transactions that settle in same-day funds.[17]

NSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing. The Commission finds good cause for so approving because NSCC will be ready to switch to the new Fund/Serv system on March 1, 1993, and has participants ready to access the system. In light of the fact that NSCC notified its participants of the proposed rule changes in the NSCC Bulletin of December 14, 1992, and has received only one comment letter, which was favorable, the Commission does not expect to receive adverse comments on the revisions to Fund/Serv [18] and believes it is in the best interest of NSCC, its participants, and mutual fund investors to allow implementation and use of the new system as soon as possible.

III. Conclusion

For the reasons stated above, the Commission finds that NSCC's proposal is consistent with section 17A of the Act.[19] The Commission also finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, [20] that the proposed rule change (File No. SR–NSCC–92–14) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5076 Filed 3–4–93; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. 78q–1 (1988).

[11] 15 U.S.C. 78q–1(b)(3) (A) and (F) (1988).

[12] See *supra* note 8 and accompanying text.

[13] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[14] Transactions in no-load mutual funds generally settle one day after trade date ("T+") with payment in same-day funds through the Fedwire. Previously, Fund/Serv had been unable to process mutual fund transactions that settle on T+1.

[15] Until NSCC has completed its development of the methodology and obtains Commission approval to operate a same-day funds settlement system, the full integration of no-load mutual funds into the NSCC Fund/Serv program cannot occur. To the extent that certain no-load mutual fund transactions can be settled in next-day funds, participants will be able to begin processing immediately such transactions in the new Fund/Serv system. Telephone conversation between Karen Saperstein, Associate General Counsel, NSCC, and Jeffrey T. Brown, Staff Attorney, Division of Market Regulation, Commission (February 12, 1993).

[16] 15 U.S.C. 78q–1(a)(1)(B) (1988).

[17] Group of Thirty, New York and London, Clearance and Settlement in the World's Securities Markets (March 1989).

[18] See supra note 3.

[19] 15 U.S.C. 78q–1 (1988).

[20] 15 U.S.C. 78s(b)(2) (1988).

[21] C.F.R. 200.30–3(a)(12) (1992)

[Release No. 34-31935; File No. SR-PSE-92-46]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to an Extension of the Pacific Options Exchange Trading System Pilot Program

March 1, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 14, 1992, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to extend until April 30, 1993, its automated options trading system pilot program designated as the Pacific Options Exchange Trading System ("POETS").[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In January 1990 the Commission approved POETS on a pilot basis.[2] Subsequently, the Commission approved several Exchange proposals to extend the pilot, including most recently, a six-month extension through October 31, 1992.[3]

On October 28, 1992, the Exchange submitted a request for permanent approval of POETS.[4] This filing was supplemented by a detailed report, dated September 18, 1992, which evaluated the effectiveness of the program ("POETS Report").

The Exchange now requests an extension of the POETS pilot program through April 30, 1993, to allow the pilot to continue while it awaits permanent approval. The Exchange believes that POETS is a viable and effective trading system and that its continuation is an important factor in maintaining the quality and integrity of the Exchange's markets.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that the trading system promotes just and equitable principles of trade while affording protection to investors and the public interest. In addition, the Exchange believes that the proposal is consistent with section 11A(a)(1)(B) of the Act in that it facilitates an environment that serves to promote an efficient and fair marketplace, resulting in benefits to the public and to the securities industry.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change to extend the pilot program is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 thereunder.[5] In particular, the Commission finds that the extension of the pilot through April 30, 1993, is consistent with section 6(b)(5) of the Act based on the PSE's representations that POETS has enabled the Exchange to provide on-line updating of market quotes, more efficient execution of customer orders, and faster, more accurate trade information reports.[6] The POETS Report also indicated that POETS availability from January through August 1992 was 99.96%. As the Commission has found in previous extensions of the pilot program, POETS is consistent with section 6(b)(5) of the Act because, according to the PSE, POETS has facilitated the efficient execution of public customer market and limit orders, has facilitated trading on high volume days, and has provided the PSE's Regulation Department with more accurate trade information.[7] The Commission continues to believe that the enhanced efficiency of order processing resulting from POETS should help the PSE to provide deeper, more liquid and more efficient options markets. Moreover, the Commission believes that POETS should allow the Exchange to develop more accurate and

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[1] POETS is a completely automated trading system comprised of an automatic execution system, an options order routing system ("ORS"), an on-line limit order book system ("Auto-Book"), and an automatic market quote update system ("Auto-Quote"). The Commission approved the PSE's POETS system on a six-month pilot basis on January 18, 1990. See Securities Exchange Act Release No. 27633 (January 18, 1990), 55 FR 2466 (order approving File SR-PSE-89-26). The initial six-month approval expired on July 22, 1990, and was extended until October 22, 1990 in order to allow the PSE to complete installation of the system's hardware. See Securities Exchange Act Release No. 28264 (July 26, 1990), 55 FR 31272 (order approving File No. SR-PSE-90-26). In January 1991, the POETS pilot program was extended until June 30, 1991. See Securities Exchange Act Release No. 28778 (January 14, 1991), 56 FR 2576 (order approving File No. SR-PSE-90-36). In April 1991, the Commission approved the PSE's proposal to implement the system's automatic and semi-automatic execution features, termed "Auto-Ex" and "Semi Auto-Ex," respectively, on a floor-wide basis, and to extend the pilot until July 31, 1992. See Securities Exchange Act Release No. 29104 (April 18, 1991), 56 FR 19134. Most recently, the POETS pilot program was extended through October 31, 1992. See Securities Exchange Act Release No. 31022 (August 12, 1992), 57 FR 37179 (order approving File No. SR-PSE-92-26).

[2] See *supra*, note 1 for a description of POETS.

[3] See Securities Exchange Act Release No. 31022, *supra* note 1.

[4] See File No. SR-PSE-92-37.

[5] 15 U.S.C. 78f(b)(5) (1982).

[6] See POETS Report.

[7] In its July 1990 request to extend the pilot program, the PSE represented that POETS had benefitted Exchange members and public investors as follows: (1) By providing faster order turnaround time; (2) by providing better tracking of orders for members, member firms and Exchange staff due to the ability of POETS to retain large amounts of order and transaction information; (3) by facilitating trading during periods of high activity due to the ability of POETS to adjust to market fluctuations by upgrading its capability while on-line; and (4) by providing the Exchange's Regulation Department with more accurate trade data and information. See Securities Exchange Act Release No. 28264, *supra* note 1. See also Securities Exchange Act Release Nos. 28778, 29104, and 31022, *supra* note 1.

timely audit trails, thereby helping the PSE to maintain the integrity of its markets.

The Commission finds good cause for approving the extension of the pilot prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** in order to permit the continuation of the pilot program. In addition, because there have been no adverse comments concerning the pilot program since its implementation or prior to the Commission's approval of POETS in January 1990 and because of the importance of maintaining the quality and efficiency of the PSE's options markets, the Commission believes good cause exists to approve the extension of the pilot program through April 30, 1993, on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 26, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR–PSE–92–46) relating to any extension of the POETS pilot program until April 30, 1993, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5069 Filed 3–4–93; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78s(b)(2) (1982).

[Rel. No. IC–19299; File No. 811–3867]

Acacia National Variable Life Insurance Account B; Application for Order

February 26, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Acacia National Variable Life Insurance Account B ("Account B").

RELEVANT 1940 ACT SECTION: Order requested under section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Account B seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on December 3, 1992 and amended on February 4, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 23, 1993, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Robert-John H. Sands, Esquire, Acacia National Life Insurance Company, 51 Louisiana Avenue NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Cindy J. Rose, Accountant, or Wendell M. Faria, Deputy Chief, on (202) 272–2060, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application, the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Account B, registered as a unit investment trust under the 1940 Act, is a separate account of Acacia National Life Insurance Company ("Acacia"). Account B was organized under the provisions of Virginia insurance law on August 31, 1982 for the purpose of issuing variable life insurance contracts.

2. On October 7, 1983, Account B filed a notification of registration as an investment company on Form N–8A, a registration statement under the 1940 Act on Form N–8B–2 (File No. 811–3867), and a registration statement under the Securities Act of 1933 ("1933 Act") on Form S–6 (File No. 2–87058). The 1933 Act registration statement was declared effective on November 19, 1985. Two other registration statements on Form S–6 were also filed by Account B pursuant to the 1933 Act. File No. 33–3679 was filed on March 3, 1986 and declared effective on October 8, 1986, and File No. 2–89867 was filed on March 9, 1984 and declared effective on October 17, 1984.

3. As of December 31, 1992, Account B had 12 security holders and assets of $3,388,017, consisting of shares of Acacia Capital Corporation, a mutual fund. Account B retains these assets for purposes of funding its outstanding variable life insurance contracts.

4. As of December 31, 1992, Account B is contractually liable for the surrender value of its outstanding variable life insurance contracts in the amount of $101,951.

5. During the last 18 months, Account B has not, for any reason, transferred any of its assets to a separate trust, the beneficiaries of which are security holders of Account B.

6. Account B is not a party to any pending litigation or administrative proceedings.

7. Account B has not sold any new variable life contracts since April 1, 1991, and does not intend to do so in the future.

8. Acacia will continue to administer Account B, and will fulfill all continuing obligations under the life contracts in accordance with the terms of such contracts.

9. Acacia represents that it will send a letter to all variable life insurance contract owners informing them of the submission of this application and their right to surrender their contracts.

Applicant's Legal Analysis

1. Section 3(c)(1) of the 1940 Act excludes from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and does not presently propose to make a public offering of its securities. Account B meets the conditions of section 3(c)(1) of the 1940 Act because the variable insurance contracts of Account B are beneficially owned by less than 100 persons and because Applicant is not making and does not propose to make a public offering of its securities.

2. Account B requests an order pursuant to section 8(f) of the 1940 Act declaring that it has ceased to be an investment company.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5072 Filed 3–4–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19301; International Series Rel. No. 521; 812–7905]

The Brazilian Investment Fund, Inc.; Application for Exemption

March 1, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Brazilian Investment Fund, Inc.

RELEVANT ACT SECTIONS: Order requested under section 10(f) exempting applicant from that section.

SUMMARY OF APPLICATION: Applicant seeks an order under section 10(f) that would permit it to purchase securities in underwritten public offerings in the Federative Republic of Brazil during the existence of an underwriting syndicate in which an affiliated person of applicant's subadviser is a principal underwriter.

FILING DATE: The application was filed on April 16, 1992 and amended on August 4, 1992 and January 19, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 26, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, c/o Donald R. Crawshaw, Esq., Sullivan & Cromwell, 125 Broad Street, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Maura A. Murphy, Senior Attorney, at (202) 272–7779 or Jeremy N. Rubenstein, Assistant Director at (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Applicant, a Maryland corporation, is a non-diversified closed-end management investment company registered under the Act. Its investment objective is to seek long-term capital appreciation through investment primarily in equity securities of Brazilian companies. Applicant's policy is to invest at least 80% of its net assets in equity securities of Brazilian companies that are registered with the Commissao de Valores Mobiliários (the "Brazilian Securities Commission") and that have securities listed on the Brazilian stock exchanges or traded in organized over-the-counter markets. The balance of applicant's investments, which are short-term in nature pending investment or reinvestment in Brazilian equity securities and for working capital purposes, generally consist of U.S. dollar-denominated and Brazilian cruzeiro-denominated debt securities and, to the extent permitted by applicable law, related repurchase agreements. Applicant is subject to an investment policy, which cannot be changed without the approval of a majority if its outstanding voting securities, requiring that applicant not invest more than 25% of its total assets in a combination of securities not listed on a Brazilian stock exchange and repurchase agreements having a maturity greater than seven days. At December 31, 1992, applicant's aggregate net assets were approximately $46,687,000.

2. Applicant's investment adviser is Morgan Stanley Asset Management, Inc. (the "Adviser"), a wholly-owned subsidiary of Morgan Stanley Group Inc. Applicant's Brazilian investment adviser is Unibanco Consultoria de Investimentos S/C Ltda. (the "Brazilian Adviser"), a subsidiary of Unibanco-União de Bancos Brasilieros S.A. ("Unibanco"), a bank organized under the laws of Brazil. Pursuant to a Brazilian advisory agreement with applicant, the Brazilian Adviser furnishes to the Adviser such statistical and other factual information and advice regarding economic factors and trends in Brazil as the Adviser, on applicant's behalf, requests. Such information and advice may include recommendations, in accordance with the applicant's investment objective, policies, and restrictions, as to investments in specific Brazilian securities.

3. Pursuant to a Brazilian management agreement and a Brazilian custody and asset administration contract with applicant and the Adviser, Unibanco acts as applicant's Brazilian custodian and furnishes to applicant and the Adviser such administrative services and assistance as are required to be furnished by a Brazilian administrator pursuant to regulations promulgated by the Brazilian National Monetary Council and as the Adviser, on applicant's behalf, may reasonably request. Such services include effecting the registration of applicant's foreign capital with the Central Bank of Brazil, processing remittances of earnings, capital gains, and returns of invested capital, paying applicable withholding tax on remittances, handling the bookkeeping of applicant's portfolio, and, pursuant to the Adviser's instructions and supervision, managing applicant's cash position in Brazil.

4. Under Brazilian law, new issues of equity and debt securities may be underwritten only by investment banks, brokerage firms, and securities dealers registered with the Brazilian Securities Commission. Unibanco is a commercial and investment bank and frequently acts as lead manager or co-manager for underwritten public offerings of both debt and equity securities. Applicant wishes to participate in underwritten public offerings of securities in Brazil in which Unibanco or an affiliated person of Unibanco acts as a principal underwriter.

Applicant's Legal Analysis

1. Section 10(f) of the Act prohibits an investment company from purchasing securities from any member of an underwriting syndicate in which an affiliated person of its investment adviser participates as a principal underwriter. Unibanco is an affiliated person of the Brazilian Adviser within the meaning of section 2(a)(3). Thus, applicant is prohibited from purchasing securities from any member of an underwriting syndicate in which Unibanco or any of its affiliates is a principal underwriter.

2. Rule 10f–3 exempts securities purchases from section 10(f) under specified circumstances. Under paragraph (a)(1) of rule 10f–3, the securities must be part of an issue registered under the Securities Act of 1933 (the "Securities Act"). Applicant invests in equity securities of Brazilian

companies. If such securities are not offered publicly in the United States, they are not required to be registered under the Securities Act, and thus do not satisfy paragraph (a)(1) of rule 10f–3. Applicant believes that, except for the registration requirement of paragraph (a)(1), its purchases of Brazilian securities in underwritten public offerings can satisfy the conditions of rule 10f–3.

3. The public offering of equity securities in Brazil generally requires prior approval from the corporate issuer's shareholders. Resolutions approving issuance and public offering usually are adopted at a general meeting of shareholders. Such resolutions must contain the terms and conditions of the offering and the underwriting, including the issue price to the public and the justification therefor, the underwriting spread, the offering procedure, and any provisions relating to preemptive rights.

4. Brazilian law requires registration of equity securities being offered to the public. The Brazilian Securities Commission reviews and analyzes the offering document, and may deny registration if it considers the proposed issuance to be unfeasible or otherwise not advisable. In addition, after granting registration, the Brazilian Securities Commission may suspend such registration and public offering if it uncovers fraud or determines that the offering is not being conducted in compliance with Brazilian securities laws.

5. Brazilian law also requires that a corporation publicize an offering of equity securities for at least two days in the applicable state official gazette and in newspapers in prescribed locations. The Brazilian Securities Commission prescribes the contents of the published announcement, which must include the number, kind, and description of the securities, the price to the public, and the offering procedure. Such information may not differ from the information in the offering document filed as part of the registration process. All publications promoting a public offering must be approved by the Brazilian Securities Commission before use, and may be used only after the Brazilian Securities Commission has granted registration of the issue.

6. Brazilian law generally provides preemptive rights to existing shareholders unless a corporation's by-laws expressly waive them. When there are preemptive rights, existing shareholders must be informed of the details of the offering by publication as described above. Existing shareholders have a minimum of 30 days in which to subscribe for the securities in proportion to their holdings. Unsubscribed shares remaining at the end of the exercise period may be offered again to shareholders for a shorter period, generally five or ten days. If the corporation's by-laws expressly exclude preemptive rights, a corporation nevertheless may offer the shares first to existing shareholders, giving them a priority to subscribe for a short period, usually two days. At the end of the period for exercising preemptive rights or priorities, the unsubscribed shares are offered to the public for subscription, by again publishing the announcement described above.

7. Applicant asserts that the publication requirement ensures that a public offering will be truly public. Further, applicant believes that the publication requirement, together with the general existence of preemptive rights, facilitates offerings to a wide group of offerees. There is only one public offering price for all offerees, including existing shareholders who may be affiliates of the issuing company, and the terms of the offering remain the same for all offerees throughout the offering.

8. The public offering of securities in Brazil can be made through a single intermediary or a consortium of intermediaries formed for the purpose of underwriting the issue. Applicants believe that most public offerings in Brazil are made through consortia of selling groups with designated representatives or lead underwriters. Such consortia must be governed by a contract or contracts that contain the conditions and limits for each participating institution and grant powers of representation by the consortium members to the leader or leaders of the distribution. The Brazilian Securities Commission has prescribed certain terms and provisions that all underwriting and distribution contracts must contain at a minimum. In the case of a firm commitment underwriting, any and all shares that are not subscribed by the public or existing shareholders by the end of the subscription period will be subscribed by the members of the underwriting consortium in the proportion established by the consortium agreement. As contemplated by clause (3) of paragraph (a) of rule 10f–3, applicant is seeking relief only to the extent necessary to purchase securities that are the subject of an agreement or agreements (including any relating to assumption of marketing risk) under which the underwriters are committed to purchase all of the securities covered by such agreements, except those purchased by others pursuant to a rights offering, if the underwriters purchase any thereof.

Applicant's Conditions

Applicant agrees that any order granting it an exemption from section 10(f) so that it may purchase Brazilian securities in underwritten public offerings in which Unibanco or its affiliates participate as principal underwriters will be subject to the following conditions:

1. With the exception of paragraph (a)(1) of the rule 10f–3, all other conditions set forth in rule 10f–3 will be satisfied.

2. The Brazilian securities subject to section 10(f) will be purchased in a public offering conducted in accordance with the laws of Brazil.

3. The Brazilian securities subject to section 10(f) will be listed on a Brazilian stock exchange.

4. Applicant will only purchase securities of Brazilian issuers that have made available to prospective purchasers financial statements, audited in accordance with the laws of Brazil, for the two years prior to the purchase.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5071 Filed 3–4–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 35–25750]

Filings Under the Public Utility Holding Company Act of 1935; Correction

March 1, 1993.

In FR Document No. 93–4462 beginning on page 11655 for Friday, February 26, 1993, the release number for Filings Under the Public Utility Holding Company Act of 1935 was incorrectly stated as 35–25744. The correct release number is 35–25750.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5074 Filed 3–4–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–19300; File No. 812–8190]

Northwestern Mutual Capital Appreciation Stock Fund, Inc. et al.; Application For Exemption

February 26, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Northwestern Mutual Capital Appreciation Stock Fund, Inc. (the "Stock Fund"), Northwestern Mutual Index 500 Stock Fund, Inc. (the "Index Fund"), The Northwestern Mutual Life Insurance Company ("Northwestern"), NML Variable Annuity Account B ("Account B"), and Northwestern Mutual Investment Services, Inc. ("NMIS").

RELEVANT ACT SECTIONS: Exemption requested under section 17(b) from the provisions of sections 17(a)(1) and 17(a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order that would permit the Stock Fund to merge into the Index Fund, which is an affiliate of the Stock Fund, and would allow the divisions of Account B that invest in those funds to combine.

FILING DATES: The application was filed on November 20, 1992 and amended on February 2, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 23, 1993, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, The Northwestern Mutual Life Insurance Company, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202. .

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Counsel, at (202) 504–2802, or Michael V. Wible, Special Counsel, at (202) 272–2060, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Northwestern is a mutual life insurance company that was organized by a special act of the Wisconsin Legislature in 1857. Northwestern is licensed to do business as a life insurance company in all states and the District of Columbia, and has offered variable annuity contracts since 1969.

2. Currently, Northwestern operates three variable annuity separate accounts, including Account B. Account B was established in 1968 as a separate investment account of Northwestern pursuant to the Wisconsin separate account provisions, and is registered under the Act as a unit investment trust. Account B is the separate account used for all variable annuity contracts offered by Northwestern, except for contracts offered to tax-qualified corporate pension and profit-sharing plans and HR–10 plans. The contracts issued by Account B are individual deferred and immediate variable annuities. Each of Northwestern's separate accounts consists of six divisions, and invests its assets entirely in shares of six corresponding mutual funds organized by Northwestern.

3. The Stock Fund and the Index Fund are Maryland corporations that are registered under the Act as open-end management investment companies. The Stock Fund's investment objective is to achieve long-term appreciation of capital, by selecting investments that reasonably can be expected to share in the growth of the nation's economy over an extended period. The Index Fund seeks to replicate the performance of the Standard and Poor's 500 Composite Stock Price Index by acquiring the stocks that compose that index. Shares of the Stock Fund and the Index Fund are registered under the Securities Act of 1933 (the "Securities Act"), and are offered only to Northwestern and its variable annuity separate accounts. As of October 31, 1992, 57% of the Stock Fund's outstanding shares and 62% of the Index Fund's outstanding shares were owned by Account B.

4. NMIS is a wholly-owned, second-tier subsidiary of Northwestern, and is the investment adviser to each of the mutual funds (including the Stock Fund and the Index Fund) that sell their shares to Northwestern's separate accounts. NMIS is registered as an investment adviser under the Investment Advisers Act of 1940, and is a registered broker-dealer under the Securities Exchange Act of 1934.

5. On August 6, 1992, the directors of the Stock Fund and Index Fund unanimously adopted resolutions approving in principle a proposal to combine the Stock Fund into the Index Fund on or about May 1, 1993. The principal purposes of the combination are to eliminate the redundancy caused by the similarity of the two funds' investment objectives, reduce management and transaction costs, and improve investment performance.

6. On November 5, 1992, the directors of the Stock and Index Funds approved the form of an Agreement and Plan of Reorganization (the "Agreement") to be executed by both funds. The Agreement provides that on the closing date, the Stock Fund will transfer all of its assets to the Index Fund in exchange for shares of the Index Fund having an aggregate net asset value equal to the aggregate value of the net assets acquired from the Stock Fund. For purposes of the transaction, the assets and liabilities of the Stock Fund and the Index Fund will be valued as of the close of trading on the New York Stock Exchange on the business day next preceding the closing date in accordance with the valuation procedures described in the funds' registration statements. Thereafter, the Stock Fund will distribute the Index Fund shares to the Stock Fund shareholders in exchange for their Stock Fund shares, on a *pro rata* basis. The Index Fund shares issued in the transaction will be registered under the Securities Act on Form N–14. Northwestern will pay all expenses of the funds attributable to the proposed combination.

7. A special meeting of the Stock Fund shareholders is planned to occur in April, 1993 to vote on the proposed combination. Prior to the meeting, Northwestern will solicit voting instructions from the Account B variable annuity contract owners and payees whose values are allocated to the Stock Fund, and Northwestern will vote the Account B shares in accordance with the instructions it receives, as required by the provisions of the Account B variable annuity contracts. The Stock Fund shares held by Account B for which no voting instructions are received will be voted in the same proportions as those shares for which instructions are received.

8. The rest of the Stock Fund shares are held by variable annuity separate accounts funding contracts for tax-qualified corporate pension and profit-sharing plans and HR–10 plans. These separate accounts are not investment companies by reason of section 3(c)(11) of the Act. The employee plans that hold the contracts funded by these separate accounts are subject to The Employee Retirement Income Security Act of 1974 ("ERISA") requirements, which generally provide that assets of the plans must be administered solely in the interest of plan participants and beneficiaries. According to Applicants, ERISA has been interpreted by its administrators and the courts to mean

that proxies for securities held as plan assets must be voted in accordance with ERISA fiduciary concepts. The Stock Fund shares held for the pension separate accounts are not plan assets as such because the plan holds contracts issued by the pension separate accounts rather than shares of the Stock Fund.[1] Applicants state, however, that the policy of ERISA suggests that the Stock Fund shares should be voted based on the intelligent exercise of discretionary authority on behalf of plan participants and beneficiaries. Northwestern intends to vote the Stock Fund shares held for these pension separate accounts in favor of the proposed transaction.

9. Applicants represent that in accordance with Maryland General Corporation Law, the proposed merger will not take place unless it has been approved by the affirmative vote of at least two-thirds of the outstanding shares of the Stock Fund. In addition, Applicants represent that they will not proceed with implementation of the proposal unless the proposal also receives the support of at least two-thirds of the Account B shares.

10. In addition to the required approval by the Stock Fund shareholders, the Agreement provides that the funds must receive from the Commission the requested order of exemption, and must receive an opinion of tax counsel to the effect that the combination of the funds will qualify as a tax-free reorganization under the Internal Revenue Code of 1986.

11. Simultaneously with the combination of the Stock Fund into the Index Fund, Northwestern will make conforming changes in Account B and the other variable annuity separate accounts. The separate account divisions that invest in the Stock Fund ("Stock Divisions") will be combined with the divisions that invest in the Index Fund ("Index Divisions"). The number of units and unit values for each variable annuity contract participating in a Stock Division at the date of the transaction will be adjusted to reflect the relationship between the unit values for the Stock Division and the Index Division at that date, in a manner that corresponds to the parallel transaction in shares of the funds, and the aggregate value of the Stock Division units eliminated for each contract will be equal to the aggregate value of the Index Division units thereupon credited to the same variable annuity contract.

12. Variable annuity contract owners and payees in all of the separate accounts, including the owners and payees who are not currently invested in the Stock Divisions, will be notified of the proposed combination. All contract owners and payees will have the opportunity to reallocate amounts held under the contracts among the available funds, including the four mutual funds that are not parties to the transactions. The contracts provide for a nominal charge for such transfers, but Northwestern intends to waive this charge for the foreseeable future.

[1] The application will be amended during the notice period to reflect this representation.

Applicants' Legal Analysis

1. Section 2(a)(3) of the Act states that an "affiliated person" of another person means, among other things, (a) any person directly or indirectly owning, controlling, or holding with power to voter, 5 per centum or more of the outstanding voting securities of such other person, (b) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person, and (c) any person directly or indirectly controlling, controlled by, or under common control with, such other person. Because Account B owns in excess of five percent of the shares of each of the Stock Fund and the Index Fund, Account B and the Stock Fund are "affiliated persons" of each other and Account B and the Index Fund are "affiliated persons" of each other. The Stock Fund and the Index Fund also may be deemed to be under common control.

2. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company or any affiliated person of such a person, acting as principal (a) knowingly to sell any security or other property to such registered company or (b) knowingly to purchase from such registered company any security or other property. In light of the affiliations mentioned above, the sale of the Stock Fund's assets to the Index Fund would violate section 17(a). Analogous issues are presented at the separate account level if the Stock and Index Divisions of Account B are considered as separate investment companies for the purpose of section 17.

3. Rule 17a–8 under the Act permits affiliated registered investment companies to merge under certain conditions, notwithstanding the prohibitions of section 17(a). One of those conditions stipulates that the investment companies be affiliated solely because they share common officers, directors, or a common investment adviser. Applicants believe that the exemption provided by rule 17a–8 may not be available to them, in that the Stock Fund and the Index Fund may be deemed to be affiliated in ways not contemplated by the rule. Nonetheless, Applicants have complied with rule 17a–8's other conditions. Specifically, the directors of the Stock Fund and the Index Fund, including a majority of the disinterested directors, have determined that the proposed combination is in the best interests of the shareholders of the Stock Fund and the Index Fund, and have approved the form of the Agreement and Plan of Reorganization which is to be executed by the Stock Fund and the Index Fund.

4. Section 17(b) of the Act provides that the Commission, upon application, shall grant an order exempting a proposed transaction otherwise barred by section 17(a) if evidence establishes that (a) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act; and (c) the proposed transaction is consistent with the general purposes of the Act. The Applicants contend that the proposed transaction meets these tests.

5. In evaluating the proposed combination from the perspective of both the Stock Fund and the Index Fund, and their respective shareholders, the directors gave particular attention to the duplication in the investments of the two funds, and the fact that the funds are made available to the same group of offerees through Northwestern's variable annuity contracts. All of the securities in which the Index Fund invests are consistent with the investment objectives and policies of the Stock Fund. The investment performance of both funds has correlated generally with the performance of the stock market since operations of the Index Fund began.

6. According to the Applicants, combining the funds will result in significant economies of scale and cost savings that will be reflected in future improved performance. The Stock Fund's total assets at October 31, 1992 stood at $147.4 million. The Index Fund's total assets were $62 million on that date. The proposed combination will result in a fund with assets of approximately $207 million on a *pro forma* basis, as of May 1, 1993. Certain administrative costs of the funds are relatively fixed, and will be reduced on a unit basis as the funds are combined into a single, larger enterprise.

7. Applicants note that the Index Fund, which will survive the combination, has inherent cost advantages over the Stock Fund. The investment advisory fee for the Index Fund is at the annual rate of 2/10 of 1% of the Fund's net assets. For the Stock Fund, the advisory fee is 5/10 of 1% for the first $50 million of assets, 4/10 of 1% for the next $50 million, and 3/10 of 1% for assets in excess of $100 million. For 1992, the Stock Fund's management fee was .43% of its average net assets, compared with .2% for the Index Fund. The portfolio turnover rate of the Index Fund has been substantially lower than that for the Stock Fund, and this will result in reduced transaction costs.

8. Applicants believe that the proposed combination of the funds will have no adverse tax consequences for the funds or their shareholders. Northwestern will pay the cost of the transaction, including the cost of soliciting voting instructions from annuity contract owners and any costs incurred by the Index Fund in liquidating any securities received from the Stock Fund that are inconsistent with the investment objectives and policies of the Index Fund. There will be no dilution of any investor's interests as a result of the transaction.

9. Applicants assert that as a mutual life insurance company, Northwestern has no reason to prefer one group of its contract owners over another group. From Northwestern's perspective, the sole purpose of the funds is to serve as investment funding vehicles for Northwestern's variable annuity contracts.

10. Applicants state that the arguments favoring the proposed combination of the funds apply with equal persuasive force to the proposed combination of the Stock and Index Divisions of Account B. For each variable annuity contract owner whose values are invested in the Stock Division of Account B, and each annuitant receiving monthly installments on a variable basis from the Stock Division, the number of accumulation units or annuity units credited to the variable annuity contract, and the value of each unit, will be changed as the Stock Division is combined with the Index Division of the separate account, reflecting the respective unit values for the divisions on the date of the transaction. But the aggregate value of the units for each contract will be identical before and after the transaction takes place. Northwestern will pay all costs relative to the combination of the separate account divisions. The combination of the divisions will have no adverse tax effects.

11. The combination of separate account divisions will give rise to certain administrative cost savings for Northwestern. While these savings may not immediately redound entirely to the benefit of the owners and payees of the variable annuity contracts, Northwestern is a mutual life insurance company and gives careful consideration to the emerging cost experience of each of its lines of business. Applicants represent that Northwestern intends to reflect favorable cost experience ultimately in the pricing of its variable annuity contracts. For the more immediate future, the combination of the Divisions will free up certain resources now required to operate the Stock Divisions of the separate accounts. Northwestern expects to deploy these resources so as to provide additional investment options for variable annuity contract owners and payees. Northwestern represents that the administration cost savings will not result in gains or profits from administrative services in contravention of the provisions of section 26(a)(1) of the Act.

Conclusion

For the foregoing reasons, Applicants submit that the terms of the proposed transaction, including the consideration to be paid and received by both funds, are reasonable and fair and do not involve overreaching on the part of any party concerned, and that the proposed transaction is consistent with the policy of each of the funds, as recited in its registration statement and reports filed under the Act. In addition, the proposed transaction is consistent with the general purposes and polices of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 35–25752]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

February 26, 1993.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 22, 1993 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing if ordered, and will receive a copy of any notice or order issued in the matter After said date, the application(s) and/or declaration(s), as filed or as amended may be granted and/or permitted to become effective.

Ohio Power Company (70–5886)

Ohio Power Company ("OPCo"), 301 Cleveland Avenue, SW., Canton, Ohio 44702, an electric public-utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed a post-effective amendment to its application under sections 9(a) and 10 of the Act.

By order dated August 31, 1976 (HCAR No. 19663), OPCo was authorized to enter into an agreement of sale ("Agreement") with Marshall County, West Virginia ("County") concerning the construction, installation, financing and sale of pollution control facilities ("Facilities") at OPCo's Mitchell Generating Station. Under the Agreement, the County may issue and sell its pollution control revenue bonds ("Revenue Bonds") or pollution control refunding bonds ("Refunding Bonds"), in one or more series, and deposit the proceeds with the trustee ("Trustee") under an indenture ("Indenture") entered into between the County and the Trustee. The proceeds are applied by the Trustee to the payment of the costs of construction of the Facilities, or in the case of proceeds from the sale of Refunding Bonds, to the payment of the principal, premium (if any) and/or interest on Revenue Bonds to be refunded. The Agreement provides that the Revenue and Refunding Bonds shall have such terms as shall be specified by OPCo.

OPCo was also authorized to convey an undivided interest in a portion of the Facilities to the County, and to reacquire that interest under an installment arrangement requiring OPCo to pay as the purchase price semi-annual installments in such an amount, together with other monies held by the Trustee under the Indenture for that purpose, as to enable the County to pay, when due, the interest and principal on the Revenue Bonds. The County has issued and sold three series of bonds in connection with the financing of the Facilities.

It is now proposed that OPCo will effect the County's issuance and sale of its Series D Refunding Bonds in the aggregate principal amount of up to $35 million, the proceeds of which will be used to provide for the early redemption at a price of 100.50% of the $35 million aggregate principal amount of outstanding Series B Revenue Bonds, 7¼%, June 1, 2008. The Series D Refunding Bonds will be issued under and secured by the Indenture and a third supplemental indenture, will bear interest semi-annually at a rate of interest not exceeding 6.95% per annum and will mature at a date not more than thirty years from the date of issuance.

The Series D Refunding Bonds will be subject to mandatory redemption under the circumstances and terms specified in the supplemental indenture, including, if it is deemed advisable, a sinking fund provision. In addition, the Series D Refunding Bonds may not, if it is deemed advisable, be redeemable at the option of the County, in whole or in part, at any time for a period of up to thirty years. OPCo may provide credit enhancement for the Series D Refunding Bonds in the form of a letter of credit, surety bond or bond insurance, and pay any related fees.

Any discount from the initial public offering price of the Series D Refunding Bonds shall not exceed 5% of their principal amount and the initial public offering price shall not be less than 95% of such amount. OPCo will not enter into the proposed refunding transactions unless the estimated present value savings derived from the net difference between interest payments on a new issue of comparable securities and on the securities to be refunded is, on an after-tax basis, greater than the present value of all redemption and issuing costs, assuming an appropriate discount rate. The discount rate used shall be the estimated after-tax interest rate on the Series D Refunding Bonds to be issued.

Ohio Valley Electric Corporation (70–7969)

Ohio Valley Electric Corporation ("OVEC"), P.O. Box 468, Piketon, Ohio 45661, an electric public-utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed a post-effective amendment to its application-declaration under sections 6(b) and 12(c) of the Act and Rule 42 thereunder.

By prior order dated July 22, 1992 (HCAR No. 25586) ("Order") OVEC was authorized to issue and sell short-term notes ("Notes") to various banks, through December 31, 1994, in aggregate principal amounts not to exceed $25 million outstanding at any one time. The Notes will mature not more than 270 days after the date of issuance or renewal, provided that none will mature later than June 30, 1995. They will bear interest at an annual rate not greater than the lending bank's prime commercial rate in effect from time-to-time.

The Notes may be sold under various lines of credit with different terms, including rates at prime. OVEC may be required to maintain separate or additional compensating balances of not greater than 20% of amounts available under the lines of credit and fees of up to ⅛ of 1% per annum of such amounts. No line of credit will exceed an effective cost of borrowing of 125% of the prime commercial rate in effect from time-to-time, or not more than 8.125% based on a prime rate of 6.5%. The proceeds of the short-term debt incurred by OVEC will be added to its general funds and used to pay its general obligations, including expenditures incurred in connection with payments for purchased power from Indiana-Kentucky Electric Corporation ("IKEC"), including IKEC's program to comply with Clean Air Act Amendments of 1990, and for other corporate purposes.

OVEC now requests authority to issue and sell short-term notes to banks, through December 31, 1994, in aggregate principal amounts not to exceed $50 million outstanding at any one time, under the same terms and conditions as provided in the Order.

UNITIL Corporation, et al. (70–8066)

UNITIL Corporation ("UNITIL"), 216 Epping Road, Exeter, New Hampshire 03833, a registered holding company under the Act, together with its wholly-owned subsidiary companies ("Subsidiaries" and each a "Subsidiary"), Concord Electric Company ("Concord"), 1 Maguire Street, Concord, New Hampshire 03302, Exeter & Hampton Electric Company ("Exeter"), 216 Epping Road, Exeter, New Hampshire 03883, Fitchburg Gas and Electric Light Company ("Fitchburg"), 285 John Fitch Highway, Fitchburg, Massachusetts 01420, UNITIL Power Corp. ("UNITIL Power"), 216 Epping Road, Exeter, New Hampshire 03883, UNITIL Realty Corp. ("UNITIL Realty"), 216 Epping Road, Exeter, New Hampshire 03883, and UNITIL Service Corp. ("UNITIL Service" and, together with UNITIL and the other Subsidiaries, "Applicants"), 216 Epping Road, Exeter, New Hampshire 03883, have filed a declaration pursuant to sections 6(a), 7, 9(a), 10 and 12(b) of the Act and pursuant to Rules 23, 43 and 45 thereunder.

UNITIL requests authorization through June 30, 1995 to borrow up to $15 million in short-term borrowings on a revolving basis under current and proposed unsecured facilities ("Facilities") from different banks, all with maturities of less than nine months from the date of issuance. UNITIL currently is engaged in short-term borrowings from four banks under the following facilities: A $6 million line of credit from the Bank of Boston dated June 20, 1992, a $3 million line of credit from Shawmut Bank N.A. dated July 17, 1992, a $3 million facility offering money market rate loans with Shawmut Bank N.A. dated July 17, 1992 and a $2 million demand note from Fleet Bank—New Hampshire dated August 12, 1992.

Interest on loans made to UNITIL under the Facilities are and would be charged at rates not to exceed the higher of (a) the leading bank's own base rate and (b) fifty basis points over the Federal Funds rate. Additionally, certain loans under the Facilities may be available at money market rates, which would not be excess of such lending bank's base rate. Loans made under the Facilities are and would be prepayable at UNITIL's option, except for those made at money market rates under the current facilities, which are not prepayable. Loans that would be made under proposed facilities at money market rates may or may not be prepayable at UNITIL's option. Commitment fees on unused lines under the existing facilities range from one-quarter of one percent to three-eighths of one percent, except for the above-referenced money market facility from Shawmut Bank which carries no commitment fee. Commitment fees on the proposed facilities could range up to one-half of one percent.

Proceeds from the use of the Facilities will be added to the general funds of UNITIL and the Subsidiaries and will be

used for (i) loans to subsidiaries made through the Money Pool as described below, (ii) payment of indebtedness, or (iii) general purposes. None of the proceeds shall be used to finance exempt wholesale generators or foreign utility companies, as defined in the Energy Policy Act of 1992, without Commission approval.

Further, each Subsidiary requests authorization through June 30, 1995 to borrow funds pursuant to formal or informal credit lines ("Subsidiary Facilities") with certain lending institutions up to the following limits: Concord—$5 million; Exeter—$5 million; Fitchburg—$12 million; UNITIL Power—$6 million; UNITIL Realty—$3.5 million; and UNITIL Service—$1.4 million.

Obligations by a Subsidiary to repay loans made under the Subsidiary Facilities would be evidenced by notes ("Notes") which would in all cases mature not more than 270 days after the date of issuance or renewal thereof. Each Note issued to a lending bank under one of the Subsidiary Facilities would bear an interest rate that would not exceed the higher of (a) such lending bank's own base rate and (b) fifty basis points over the Federal Funds rate. Additionally, certain loans under the Subsidiary Facilities might be available at money market rates, which would not be in excess of such lending bank's base rate. Loans made to a Subsidiary under the Subsidiary Facilities would be prepayable at such Subsidiary's option, except for those made at money market rates which may or may not be prepayable. Commitment fees on unused lines under the Subsidiary Facilities could range up to one-half of one percent. Proceeds of borrowings by the Subsidiaries under the Subsidiary Facilities would be used for the interim financing of capital expenditure programs, temporary working capital needs, repayment of borrowings and preferred stock redemptions.

UNITIL and each Subsidiary also request authorization to operate a system money pool ("Money Pool") pursuant to the Cash Pooling and Loan Agreement among UNITIL and each Subsidiary dated as of February 1, 1985, as amended ("Agreement"). Under the Agreement, UNITIL and each Subsidiary lend their surplus funds to the Money Pool and the Subsidiaries borrow these surplus funds on a short-term basis for up to one year. UNITIL participates in the Money Pool only insofar as it has funds available for lending through the Money Pool.

The Agreement allows each Subsidiary access to surplus funds in the Money Pool on an equal footing. To the extent total available surplus funds contributed to the Money Pool are insufficient to meet the short-term borrowing needs of a Subsidiary, the Agreement allows such Subsidiary to borrow proceeds of the Facilities contributed to the Money Pool by UNITIL for that purpose. The aggregate principal amount of borrowings by a Subsidiary under the Money Pool outstanding at any one time through June 30, 1995 will not, when taken together with the then outstanding obligations of such Subsidiary under a Subsidiary Facility, be in excess of the limit described above for that Subsidiary.

The daily interest rate applicable to any borrowing of surplus funds by a Subsidiary pursuant to the Agreement will be the daily rate in effect on outstanding borrowings loaned to UNITIL by its then-designated lead bank ("Daily Rate"). The Daily Rate on any day is the weighted average of rates paid to by UNITIL to such lead bank for loans outstanding on that day. These rates are and would be (a) the higher of (i) such lead bank's own base rate and (ii) fifty basis points over the Federal Funds rate, and/or (b) money market rates which would not be in excess of such lead bank's base rate.

The daily interest rate charged to a Subsidiary for a loan under the Agreement funded by a bank borrowing will equal the average rate paid by UNITIL for all bank borrowings used on any day to meet the funding requirements of the Money Pool, adjusted by the cost of any compensating balances, commitment fees and fees paid to banks to maintain bank accounts and credit lines for purposes of such borrowings. The individual rates making up such average rate paid by UNITIL to a bank are and would be (a) the higher of (i) such bank's own base rate and (ii) fifty basis points over the Federal Funds rate, and/or (b) money market rates which would not be in excess of such bank's base rate.

All borrowings through the Money Pool (a) are evidenced on the books of each Applicant that is borrowing or contributing funds through the Money Pool, (b) are repayable no later than one year after such borrowing was made and (c) may be prepaid without penalty by such Subsidiary at any time. The Money Pool is administered at cost by UNITIL Service and all costs of compensating balances, commitment fees and fees paid to banks to maintain bank accounts shall be charged to each of UNITIL and each Subsidiary pro-rata based on the amount of funds borrowed that represent loans from any of the Banks.

The Agreement further allows each UNITIL and each Subsidiary to earn interest on contributed surplus funds borrowed by another Subsidiary pursuant to the Agreement at a rate equal to the Daily Rate. Funds contributed to the Money Pool by a Subsidiary that are not in use funding a loan to a Subsidiary may be temporarily invested in: (a) Federally insured savings accounts and certificates of deposit, (b) obligations issued or guaranteed by the U.S. government or an instrumentality thereof, (c) obligations issued by any state or political subdivision thereof which are assigned at least an "A" by Moody's Investor Service, Inc. ("Moody's") or "S–1" by Standard & Poor's Corporation ("S&P"), (d) U.S. Treasury and other direct obligations guaranteed by the U.S. government, or instrumentality thereof, under repurchase agreements, (e) commercial paper rated "P–1" by Moody's or S&P, or (f) such other investments as are permitted by section 9(c) of the Act and Rule 40 thereunder. Surplus funds contributed by a Subsidiary may be withdrawn by that Subsidiary at any time.

Mississippi Power Company 70–8127

Mississippi Power Company ("Mississippi"), 2992 West Beach, Gulfport, Mississippi 39501, a wholly owned electric public-utility subsidiary company of The Southern Company, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(c) and 12(d) of the Act and Rules 42, 44, 50 and 50(a)(5) thereunder.

Mississippi proposes to enter into a loan agreement or installment sales agreement at any time on or before December 31, 1995 in connection with the issuance and sale by public instrumentalities of one or more series of pollution control revenue bonds ("Revenue Bonds") in an aggregate principal amount of up to $50 million. If a loan agreement is entered into, Mississippi proposes to issue the related note under an exception from the competitive bidding requirements of Ruel 50 under subsection (a)(5).

The Revenue Bonds will be issued for the financing or refinancing of the costs of certain air and water pollution control facilities and sewage and solid waste disposal facilities at one or more of Mississippi's electric generating plants or other facilities located in various counties in the State of Mississippi. It is proposed that each such county or its appropriate instrumentality ("County") will issue its Revenue Bonds to finance or refinance

the costs of the acquisition, construction, installation and equipping of said facilities at the plant or other facility located in its county ("Project").

It is proposed that the Revenue Bonds will mature from one to 40 years from the first day of the month in which they are initially issued and may, if it is deemed advisable for purposes of the marketability of the Revenue Bonds, be entitled to the benefit of a mandatory redemption sinking fund calculated to retire a portion of the aggregate principal amount of the Revenue Bonds prior to maturity.

Mississippi proposes to enter into a Loan or Installment Sale Agreement with the County ("Agreement") pursuant to each issue of the Revenue Bonds, and Mississippi may issue a Note therefor, or the County will undertake to sell the related Project to Mississippi. The proceeds from the sale of the Revenue Bonds will be deposited with a trustee ("Trustee") under an indenture to be entered into between the County and such Trustee ("Trust Indenture"), pursuant to which such Revenue Bonds are to be issue and secured, and will be applied by Mississippi to payment of the Cost of Construction (as defined in the Agreement) of the Project or to refund outstanding pollution control revenue obligations.

The Trust Indenture and the Agreement may give the holders of the Revenue Bonds the right, during such time as the Revenue Bonds bear interest at a fluctuating rate, to require Mississippi to purchase the Revenue Bonds from time-to-time, and arrangements may be made for the remarketing of any such Revenue Bonds through a remarketing agent. Mississippi also may be required to purchase the Revenue Bonds, or the Revenue Bonds may be subject to mandatory redemption, at any time if the interest thereon is determined to be subject to federal income tax. Also in the event of taxability, interest on the Revenue Bonds may be effectively converted to a higher variable or fixed rate, and Mississippi also may be required to indemnify the bondholders against any other additions to interest, penalties and additions to tax.

In order to obtain the benefit of ratings for the Revenue Bonds equivalent to the rating of Mississippi's first mortgage bonds outstanding under the indenture dated as of September 1, 1941 between Mississippi and Morgan Guaranty Trust Company of New York, as Trustee, as supplemented and amended ("Mortgage"), Mississippi may determine to secure its obligations under the Note and/or Agreement by delivering to the Trustee, to be held as collateral, a series of its first mortgage bonds ("Collateral Bonds") issued under an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereunder. The aggregate principal amount of the Collateral Bonds would be equal to either: (1) The principal amount of the Revenue Bonds; or (2) the sum of such principal amount of the Revenue Bonds plus interest payments thereon for a specified period.

As a further alternative to, or in conjunction with, securing its obligations through the issuance of the Collateral Bonds, Mississippi may: (1) Cause an irrevocable letter of credit ("Letter of Credit") to be delivered to the Trustee; and/or (2) cause an insurance company to issue a policy ("Policy") guaranteeing the payment of the Revenue Bonds. In the event that either the Letter of Credit is delivered to the Trustee or the Policy is issued, Mississippi may also convey to the County a subordinated security interest in the Project or other property of Mississippi as further security for Mississippi's obligations under the Agreement. However, in the event that Mississippi is unable or determines not to issue the Collateral Bonds, deliver the Letter of Credit to the Trustee or cause the Policy to be issued, it proposes to (1) convey to the County a subordinated security interest in the Project or other property of Mississippi as further security for Mississippi's obligations under the Agreement and/or (2) guarantee the payment of the principal of, premium, if any, and interest on the Revenue Bonds ("Guaranty"). Mississippi requests an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereof for the Collateral Bonds and the Guaranty.

Mississippi also proposes to issue and sell, at any time on or before December 31, 1995: (1) One or more series of its first mortgage bonds ("Bonds"), having a maturity of up to 40 years and/or (2) preferred stock ("Preferred"), in an aggregate principal amount (or par value, as the case may be) of up to $220 million. The Bonds will be issued pursuant to the Mortgage, as to be further supplemented, and sold for the best price obtainable, but for a price to Mississippi of not less than 98% nor more than 101¾% of the principal amount thereof, plus accrued interest (if any), which may be an adjustable interest rate determined on a periodic basis, or a fixed interest rate. The Bonds may be subject to a mandatory or optional cash sinking fund.

Mississippi may choose to enhance the marketability of the Bonds by purchasing an insurance policy to guarantee the payment when due of the Bonds. It also may be desirable that the terms of the Bonds, or any series thereof, provide for an adjustable interest rate thereon to be determined on a periodic basis, rather than a fixed interest rate. In such event, it is proposed that the rate of interest on such Bonds for an initial period would be a fixed rate per annum. Periodically thereafter, the interest rate would be adjusted by periodic auction or remarketing procedures, or in accordance with a formula or formulae based upon certain reference rates, or by other predetermined methods.

Mississippi seeks authority to deviate from the redemption and dividend limitation provisions contained in the Commission's Statement of Policy Regarding First Mortgage Bonds (HCAR No. 13105, February 16, 1956, as amended by HCAR No. 16369, May 8, 1969) ("Statement") with respect to the issuance of the Bonds. Specifically, Mississippi requests authority to deviate from the provisions of the Statement with respect to (i) redemptions and refunding provisions by, for example, providing refunding limitations for periods of more than five years or prohibiting redemptions for specified periods of time (including as long as the life of any series of the Bonds), and (ii) limitations on payment of common stock dividends by, for example, including a less restrictive provision or no such provision in the supplemental indenture relating to a particular series, all as determined in light of market conditions and other relevant considerations at the time of issuance.

The Preferred would be issued at a par value ranging from $10 per share to $100 per share and sold for a price to Mississippi of not less than 100% of par value. There are currently 1,244,139 shares of Preferred authorized and Mississippi proposes to increase the authorized number of Preferred to 23,144,139 shares. The Preferred would carry either a fixed or adjustable dividend rate and could be subject to a mandatory or optional sinking fund.

Mississippi further proposes that it be authorized to effect arrangements involving the deposit by Mississippi of the Preferred with a depositary and the issuance by such depositary of receipts evidencing depositary preferred shares, each representing a specified fraction of a share of the Preferred and entitling the owner thereof, proportionately, to all the rights, preferences and privileges of the Preferred.

Mississippi proposes to issue and sell the Bonds and the Preferred under an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereunder, should circumstances develop which make such exception in the best interest of Mississippi, its investors and consumers. Otherwise, Mississippi proposes to issue and sell the Bonds and Preferred under the competitive bidding procedures of Rule 50 of the Act as modified by the Commission's Statement of Policy dated September 2, 1982 (HCAR No. 22623).

Mississippi may use the proceeds from the sale of the Bonds and the Preferred to redeem or otherwise retire its outstanding first mortgage bonds, pollution control bonds and/or preferred stock, or along with other funds, to pay a portion of its cash requirements to carry on its electric utility business.

Metropolitan Edison Company, et al. (70–8141)

Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsylvania 15907, and Metropolitan Edison Company ("Met-Ed"), 2800 Pottsville Pike, Muhlenburg Township, Berks County, Pennsylvania 19640, both electric public-utility subsidiary companies of General Public Utilities Corporation, a registered holding company, have filed a declaration under section 6(a) and 7 of the Act.

Penelec and Met-Ed each maintain insurance policies that provide coverage for workers compensation claims, as required by Pennsylvania law. The insurance policies also provide liability insurance coverage for employee claims made directly against Penelec or Met-Ed. Prior to January 1, 1993, the insurance policies required the insurance company to pay all claims without a deductible and to pay all expenses and costs, including legal fees, incurred in connection with the investigation, defense or settlement of claims.

Penelec and Met-Ed have decided to modify the insurance policies so that Penelec and Met-Ed are now required to pay a deductible for each claim, up to a specified maximum amount for all claims in the calendar year, and to pay the expenses attributable to all claims. While the insurance company would continue to administer and pay all claims and expenses as they arise, Penelec and Met-Ed would, on a monthly basis, reimburse the insurance company for the amount of each claim paid up to the deductible and all expenses paid in such month.

In order to secure their obligations, Penelec and Met-Ed propose to enter into certain letter of credit repayment or reimbursement agreements with banks and to deliver to the insurance company irrevocable bank letters of credit ("L/Cs") from time to time through December 31, 1998. The insurance company would be entitled to draw upon the L/Cs in the event that Penelec or Met-Ed fails to reimburse the insurance company.

The L/Cs would expire not later than December 31, 1998, and would be in aggregate face amount not to exceed $20 million, provided that the L/Cs delivered on behalf of Met-Ed or Penelec individually would not exceed $15 million outstanding at any one time. Penelec would not be liable for a draw on an L/C delivered by Met-Ed, and vice versa. Drawings on the L/Cs would bear an interest at not more than 5% above the bank's prime rate as in effect from time to time. Penelec and Met-Ed may also be required to pay annual letter of credit fees which would not exceed 1% of the face amount of the L/Cs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5070 Filed 3–4–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2623]

Arizona; Amendment #2 Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, in accordance with a Presidential amendment dated February 9, 1993, to expand the type of incident to include, in addition to flooding, damages resulting from severe storms and tornadoes beginning on January 5, 1993.

All other information remains the same, i.e., the termination date for filing applications for physical damage is March 22, 1993 and October 19, 1993 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 17, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–5092 Filed 3–4–93; 8:45 am]

BILLING CODE 8025–01–M

California; Amendment #1; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, effective February 12, 1993, to include Humboldt, Napa, and Santa Barbara Counties, the City of Los Angeles, and Culver City in the State of California as a disaster area as a result of damages caused by severe winter storms, mud and rock slides, and flooding which occurred January 5 through January 22, 1993.

In addition, applications for economic injury loans from small businesses located in the contiguous county of Yolo, California may be filed until the specified date at the aforementioned location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is April 5, 1993 and November 3, 1993 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 23, 1993.

Bernard Kalik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–5094 Filed 3–4–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2627]

Louisiana and Contiguous Counties in Mississippi; Amendment #1, Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, effective February 11, 1993, to include Iberville, St. Tammany, Tangipahoa, and Vermilion parishes as a disaster area as a result of damages caused by severe storms and flooding beginning on January 20, 1993 and continuing through January 25, 1993.

In addition, applications for economic injury loans from small businesses located in the contiguous parishes of Cameron, Jefferson Davis, Orleans, and Washington in the State of Louisiana, and Amite, Hancock, Pearl River, and Pike Counties in the State of Mississippi may be filed until the specified date at the aforementioned location.

The economic injury numbers are 784400 for Louisiana and 785600 for Mississippi.

All other information remains the same, i.e., the termination date for filing applications for physical damage is

April 3, 1993 and November 2, 1993 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 17, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–5093 Filed 3–4–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2619]

New Jersey; Amendment #2; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, effective February 17, 1993, to extend the deadline for filing applications for physical damage. The new deadline is March 18, 1993.

The termination date for filing applications for economic injury remains the close of business on September 20, 1993.

(Catalog of Federal Domestic Assistance Program No. 59002 and 59008)

Dated: February 23, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–5096 Filed 3–4–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2620]

New York; Amendment #2; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, effective February 18, 1993, to extend the deadline for filing applications for physical damage. The new deadline is March 21, 1993.

The termination date for filing applications for economic injury remains the close of business on September 21, 1993.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 23, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–5095 Filed 3–4–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2630]

Pennsylvania, (and Contiguous Counties in New Jersey); Declaration of Disaster Loan Area

Bucks County and the contiguous counties of Lehigh, Montgomery, Northampton, and Philadelphia in Pennsylvania, and Burlington, Hunterdon, Mercer, and Warren Counties in New Jersey constitute a disaster area as a result of damages caused by a fire which occurred on February 8, 1993 in the Robert Morris Apartments in Morrisville. Applications for loans for physical damage may be filed until the close of business on April 26, 1993 and for economic injury until the close of business on November 23, 1993 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, or other locally announced locations.

The interest rates are:

For physical damage:	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.625
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster for physical damage are 263005 for Pennsylvania and 263105 for New Jersey. For economic injury the numbers are 785700 for Pennsylvania and 785800 for New Jersey.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 23, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–5098 Filed 3–4–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2632]

Tennessee; Declaration of Disaster Loan Area

Loudon County and the contiguous counties of Anderson, Blount, Knox, McMinn, Monroe, and Roane in the State of Tennessee constitute a disaster area as a result of damages caused by tornadoes which occurred on February 21, 1993. Applications for loans for physical damage may be filed until the close of business on April 26, 1993 and for economic injury until the close of business on November 24, 1993 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308 or other locally announced locations.

The interest rates are

For physical damage:	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.625
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 263212 and for economic injury the number is 787000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 24, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–5097 Filed 3–4–93; 8:45 am]

BILLING CODE 8025–01–M

[License No. 09/09–0308]

City Ventures, Inc.; Surrender of License

Notice is hereby given that City Ventures, Inc., 120 South Spaulding Drive, Suite 320, Beverly Hills, California 90212 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act).

City Ventures, Inc. was licensed by the Small Business Administration on June 4, 1982.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on this date, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 18, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–5111 Filed 3–4–93; 8:45 am]

BILLING CODE 8025–01–M

[License No. 02/02–0088]

Monmouth Capital Corporation; Licensee Surrender

Notice is hereby given that Monmouth Capital Corporation, 125 Wyckoff Road, P.O. Box 335, Eatontown, New Jersey, has surrendered its license to operate as

a small business investment company under section 301(c) of the Small Business Investment Act of 1958, as amended (the Act). Monmouth Capital Corporation was licensed by the Small Business Administration on May 28, 1961.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the licensee was accepted on January 15, 1993 and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 16, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–5112 Filed 3–4–93; 8:45 am]

BILLING CODE 8025–01–M

[License No. 02/02–5532]

Yuzary Capital Funding, Inc.; License Revocation

Notice is hereby given that License No. 02/02–5532 issued to Yuzary Capital Funding, Inc., 386 Park Avenue South, New York, New York, on October 19, 1990, has been revoked.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the revocation of the license was effective on January 20, 1993 and accordingly, all rights, privileges and franchises derived thereform have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 24, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–5113 Filed 3–4–93; 8:45 am]

BILLING CODE 8025–01–M

Public Meeting

The National Small Business Development Center Advisory Board will hold a public meeting 9 a.m. on Monday, March 22, through noon Tuesday, March 23, 1993, at the Small Business Administration (SBA), 409 3rd Street SW., Washington, DC.

The purpose of the meeting is to discuss such matters as may be presented by Advisory Board members, staff of the SBA, or others present.

For further information, write or call Judith Dunn, SBA, 5th Flr., 409 3rd Street SW., Washington, DC 20416, telephone 202/205–7301.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–5099 Filed 3–4–93; 8:45 am]

BILLING CODE 8025–01–M

Santa Ana District Advisory Council; Public Meeting

The U.S. Small Business Administration Santa Ana District Advisory Council will hold a public meeting from 9 a.m. to 11:30 a.m. on Thursday, April 8, 1993 at Spring Valley Lake Country Club, 13229 Spring Valley Parkway, Victorville, California, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. John S. Waddell, District Director, U.S. Small Business Administration, 301 W. Civic Center Drive, Suite 160, Santa Ana, California 92703, (714) 836–2494.

Dated: February 22, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–5114 Filed 3–4–93; 8:45 am]

BILLING CODE 8025–01–M

[Application Number: 99000076]

First Legacy Fund, Inc.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company (SBIC) under the provisions of section 301(c) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661, *et seq.*) has been filed by First Legacy Fund, Inc. (Applicant) 1225 19th Street, NW., 5th Floor, Washington, DC 20036, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1992).

The proposed officers, directors and owner of the Applicant are as follows:

Name and address	Position	Percentage of ownership
Robert C. McCormack, 700 New Hampshire Avenue NW., Washington, DC 20037.	Chairman of the Board of Directors.	100
Jonathan J. Ledecky, 1400—34th Street NW., Washington, DC 20007.	President and Director.	0
Dr. Jaromir Ledecky, Leopoldova 2046, 14900 Prague 4, Czechoslovakia.	Secretary and Director.	0

The Applicant proposes to begin operations with a capitalization of $3,000,000 and will be a source of equity capital and long-term loan funds for qualified small business concerns.

The Applicant intends to conduct its business primarily in the Mid-Atlantic region of the United States.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operations of the applicant under their management including profitability and financial soundness, in accordance with the Act and Regulations.

Notice is hereby given that any person may, no later than 30 days from the date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication shall be addressed to the Associate Administrator for Investment, Small Business Administration, 409 Third St., Washington, DC 20416.

A copy of this notice will be published in a newspaper of general circulation in the Washington, DC area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 24, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–5115 Filed 3–4–93; 8:45 am]

BILLING CODE 8025–01–M

[License No. 01/01–0344]

First New England Capital, L.P.; Filing of an Application for an Exemption Under Regulation 107.903 Governing Conflicts of Interest

Notice is hereby given that First New England Capital, L.P. (Licensee), 100 Pearl Street, Hartford, Connecticut 06103, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the U.S. Small Business Administration (SBA) pursuant to Section 107.903(b) of the Regulations governing small business

investment companies (13 CFR 107.903(b)) for an exemption from the provisions of the cited regulation.

Subject to SBA approval, the Licensee proposes to provide funds to an associate, Globe Ticket and Label Company (Globe), to be used in restructuring a prior financing received by Globe from an entity which is not affiliated with Globe or the Licensee, CIT Group/Equity Investments, Inc.

The proposed financing is brought within the purview of Section 107.903(b) of the regulations solely because Mr. John Ramey, a director of the corporate general partner of the Licensee, is also a director of Globe.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments on the proposed transaction to the Associate Administrator for Investment, Small Business Administration, 409 3d Street SW., Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in the cities of Warminster, Pennsylvania and Hartford, Connecticut.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 18, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–5116 Filed 3–4–93; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended February 26, 1993

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48667.
Date filed: February 25, 1993.
Parties: Members of the International Air Transport Association.
Subject: TC3 Reso/P 0520 dated December 11, 1993 Japan–TC3 resos 002c(r–1) 002d(r–2) 003q(r–3).
Proposed Effective Date: April 1, 1992.

Docket Number: 48668.
Date filed: February 25, 1993.
Parties: Members of the International Air Transport Association.
Subject. TC2 Telex Mail Vote 616 Tunisia to Middle East fares.
Proposed Effective Date: April 1, 1993.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–5025 Filed 3–4–93; 8:45 am]

BILLING CODE 4910-62-M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended February 26, 1993

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48664
Date Filed: February 22, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 22, 1993
Description: Application of Export Air Del Peru, S.A., pursuant to section 402 of the Act and Subpart Q of the Regulations applies for a Foreign Air Carrier Permit authorizing it to engage in (a) scheduled foreign air transportation of property and mail between Lima, Peru and Miami, Florida pursuant to the Air Transport Services Agreement between the United States and Peru dated December 16, 1986 and (b) charter foreign air transportation of property and mail between Peru and the United States.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–5026 Filed 3–4–93; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 93–008]

Response Exercise Workshops

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The Coast Guard will conduct a series of four workshops covering various topics to solicit comments from the public and to serve as an open forum for the discussion of response exercises for Area Contingency Plans and vessel and facility response plans. Members of Federal, State, and local agencies, and the public are invited to participate and provide oral or written comments. This notice announces the dates, times, locations, format and topics for the series of workshops.

DATES: Comments should be submitted by October 31, 1993. The four workshops are scheduled for April 2 (Tampa, FL), May 6 and 7 (Washington, DC), July 1 and 2 (Washington, DC), and August 5, 1993 (Washington, DC). Individuals interested in attending the public workshops should contact LCDR Rhae Giacoma, as further explained in **SUPPLEMENTARY INFORMATION**, at least 7 calendar days before the workshop is held, and indicate which workshop(s) they wish to attend.

ADDRESSES: Written comments may be either mailed to COMMANDANT (G–MEP–4), room 2100, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, Attn: LCDR Rhae Giacoma, or delivered to the moderator at any of the workshops.

FOR FURTHER INFORMATION CONTACT: LCDR Rhae Giacoma, Office of Marine Safety, Security and Environmental Protection (G–MEP–4), (202) 267–2616.

SUPPLEMENTARY INFORMATION:

Background Information

In accordance with the requirements of the Clean Water Act (33 U.S.C. 1321 *et. seq.*), as amended by the Oil Pollution Act of 1990 (Pub. L. 101–380) (the Act), Area Committees comprised of Federal, State and local government representatives have been established throughout the country and are in the process of developing Area Contingency Plans for response to oil and hazardous substance spills within their area of responsibility. The Act requires that drills (exercises) be conducted to assess the effectiveness of these plans.

Also, in accordance with the Act, the Coast Guard issued regulations on February 5, 1993 (58 FR 7330, 7376) requiring owners or operators of vessels and marine transportation-related facilities to submit response plans to the Coast Guard for approval. The purpose of the response plans is to enhance private sector planning and response capabilities to minimize the environmental impacts of spilled oil. The response plans must identify a planned exercise program. The program must include announced and unannounced exercises conducted by the owner or operator of certain facilities and vessels as necessary to ensure that a response plan will

function in an emergency. (33 CFR 154.1055, 155.1060; 58 FR 7363, 7438).

In addition to the Federal mandates, there are also State requirements for exercises. To facilitate the coordination of all exercises, the Coast Guard is conducting a series of four workshops to solicit comments from the public and to serve as an open forum for discussing the exercise requirements. The workshops will explore the various elements that will be involved in developing a means to assist the response community in complying with the exercise requirements.

The workshops will address, at a minimum, the following topics:

Scheduling and execution of the exercises.

Establishment of a system to provide "credit" for exercise participation to document compliance with Federal and State requirements.

Development of a means to evaluate the exercises.

Development of procedures to share information obtained through the execution of the exercises.

Each workshop will address at least one of these topics. The first workshop will focus primarily on scheduling and execution of the exercises, but will also address other issues brought up by the workshop participants. The agendas for the remaining workshops will be established at the first workshop and will be published in the **Federal Register**. Through the workshop process, voluntary guidelines may be developed to assist all members of the response community, including facility and vessel owners and operators, in meeting the statutory goals and requirements.

Workshop Format and Schedule

The workshop format will consist of presentations by a panel, followed by discussions and a question and answer period. Due to limited time, the Coast Guard will limit the number and duration of panel presentations. The Coast Guard will select panel members to make the presentations in a manner designed to ensure the broadest possible representation of viewpoints. The Coast Guard specifically solicits presentations from representatives of the following groups:

Federal government.
State government.
Oil and hazardous substance handling facilities.
Environmental organizations.
Spill removal organizations.
Vessel owners and operators.

Those wishing to participate as a panel member and give an oral presentation should submit their name, address, organization represented (if any), identify the specific workshop and topic, and provide a summation of their presentation at least 14 days prior to the workshop, to the address listed under **ADDRESSES.** Written comments may be submitted at any time prior to and after each workshop, or comments may be submitted to the moderator at the workshop. All comments should be submitted prior to October 31, 1993.

The workshops will be conducted in an informal manner. Any changes to locations or dates of scheduled workshops will be announced in the **Federal Register**.

The public workshop schedule is as follows:

1. April 2, 1993; 9 a.m. to 4 p.m.; Hyatt Regency Tampa, Two Tampa Center, Tampa, Florida. Topic—Scheduling and execution of the exercises.
2. May 6 and 7, 1993; 9 a.m. to 4 p.m. each day; Department of Transportation, Nassif Building, 400 7th St., SW., Washington, DC.
3. July 1 and 2, 1993; 9 a.m. to 4 p.m. each day; Department of Transportation, Nassif Building, 400 7th St., SW., Washington, DC.
4. August 5, 1993; 9 a.m. to 4 p.m.; Department of Transportation, Nassif Building, 400 7th St., SW., Washington, DC.

Dated: February 25, 1993.

A.E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–5133 Filed 3–4–93; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

[Summary Notice No. PE–93–12]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before March 25, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mrs. Jeanne Trapani, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7624.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on February 26, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 23499.
Petitioner: Lifetime Pilots.
Sections of the FAR Affected: 14 CFR 61.118(a).
Description of Relief Sought: To extend the termination date of Exemption No. 5068, which expires July 31, 1993, to allow private pilots who perform flight services for Lifeline Pilots to be reimbursed for their fuel expenses.

Docket No.: 25091.
Petitioner: Allied-Signal Aerospace Company.
Sections of the FAR Affected: 14 CFR 21.325(b) (1) and (3).
Description of Relief Sought: To extend the termination date of Exemption No. 4830, which expires July 31, 1993, to allow Allied-Signal Aerospace Company to be eligible for issuance of export airworthiness approvals for Class I, II, and III products under Production Certificate No. 413, at

Rolls-Royce Limited in East Kilbride, Scotland.

Dispositions of Petitions

Docket No.: 24052.
Petitioner: U.S. Navy Flight Demonstration Squadron (Blue Angels).
Sections of the FAR Affected: 14 CFR 91.70 (a) and (b); 91.71 (c) and (d); and 91.79(c).
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 4504, which permits the U.S. Navy Flight Demonstration Squadron (Blue Angels) pilots to conduct airshow rehearsals involving low level, high speed, and acrobatic flight, subject to certain conditions and limitations. *Grant, February 12, 1993, Exemption No. 4504C*

Docket No.: 25731.
Petitioner: Experimental Aircraft Association.
Sections of the FAR Affected: 14 CFR 45.25 and 45.29.
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 5019, which expires February 28, 1993, and which allows the operation of historic military airplanes with 2-inch high nationality and registration marks located under the horizontal stabilizer. *Grant, February 19, 1993, Exemption No. 5019B*

Docket No.: 26730.
Petitioner: New York Helicopter.
Sections of the FAR Affected: 14 CFR 135.244(a)(1).
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 5507, which expires February 28, 1993, and which permits substitution of at least 50 hours of flight time as a Bell 206 helicopter pilot in command (PIC) with New York Helicopter (NYH) in part 135 operations, combined with previous completion of all operating experience specified in § 135.244(a)(1) as PIC with NYH in the SK 58T helicopter, to be substituted for up to no more than 3 hours of operating experience in the Bell 206 helicopter as PIC with NYH. *Denial, February 16, 1993, Exemption No. 5606*

Docket No.: 27039.
Petitioner: William Ashley McCullough.
Sections of the FAR Affected: 14 CFR 61.103(a).
Description of Relief Sought/ Disposition: To permit William A. McCullough to be eligible for a private pilot certificate prior to 17 years of age. *Denial, February 9, 1993, Exemption No. 5601*

[FR Doc. 93–5121 Filed 3–4–93; 8:45 am]
BILLING CODE 4910–13–M

Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Clinton County Airport, Plattsburg, NY

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Clinton County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 5, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Manager New York Airport District Office, 181 South Franklin Avenue, Room 305, Valley Stream, New York 11581.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Ralph Hensel, Manager of the Clinton County Airport at the following address: Clinton County Airport, 198 Airport Road, Plattsburg, New York 12901. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Clinton County Airport under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Brito, Manager New York Airport District Office, 181 South Franklin Avenue, room 305, Valley Stream, New York 11581, (Tel. 718–553–1882). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Clinton County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On January 29, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by The County of Clinton was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 30, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00
Proposed charge effective date: June 1, 1993
Proposed charge expiration date: December 31, 1999
Total estimated PFC revenues: $391,058

Brief description of proposed project(s):

Runway Crack Repair
Reconstruct Taxiway A
Airport Signage
Rehabilitate Taxiway B, C, D, F
Land Acquisition R/W 1, 14, & 19
Airport Layout Plan
Purchase Snow Removing Equipment
Expand Maintenance/ARFF Garage
Access Road and Auto Parking (Non-Revenue) Improvements On Airport Obstruction Removal

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: All Air Taxi/ commercial operators filing FAA form 1800–31.

Any person may inspect the application in person at the FAA office listed above under "FOR FURTHER INFORMATION CONTACT" and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Clinton County Airport.

Issued in Jamaica, New York on February 11, 1993.

Peter A. Nelson,
Assistant Manager, Airports Division, Eastern Region.

[FR Doc. 93–5122 Filed 3–4–93; 8:45 am]
BILLING CODE 4910–13–M

Maritime Administration

Notice of Change of Name of Approved Trustee

Notice is hereby given that effective January 11, 1993, The Connecticut National Bank, Hartford, Connecticut, changed its name to Shawmut Bank Connecticut, National Association.

Dated: March 1, 1993.

By Order of the Maritime Administrator.
James E. Saari,
Secretary.
[FR Doc. 93–5012 Filed 3–4–93; 8:45 am]
BILLING CODE 4910–81–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

March 1, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0034
Form Number: ATF F 5000.9
Type of Review: Extension
Title: Personnel Questionnaire—Alcohol and Tobacco Products
Description: The information listed on ATF F 5000.9, Personnel Questionnaire, enables ATF to determine whether or not an applicant for an alcohol or tobacco permit meets the minimum qualifications. The form identifies the individual, residence, business background, financial sources for the business and criminal record. If the applicant is found not to be qualified, the permit may be denied.
Respondents: Individuals or households, Businesses or other for profit, Small businesses or other organizations
Estimated Number of Respondents: 5,000
Estimated Burden of Hours Per Respondent: 2 hours
Frequeny of Response: On occasion
Estimated Total Reporting Burden: 10,000 hours

OMB Number: 1512–0089
Form Number: ATF F 5100.24 (1637)
Type of Review: Extension
Title: Application for a Basic Permit Under the Federal Alcohol Administration Act
Description: ATF F 5100.24 (1637) is an application for basic a permit for beverage distilled spirits plants and bonded wineries. The issuance of basic permits to distillers, and wine producers is required by the Federal Alcohol Administration Act. The permit identifies persons entitled to engage in operations and the location and extent of operations.
Respondents: Businesses or other for-profit, Small businesses or other organizations
Estimated Number of Respondents: 150
Estimated Burden Hours Per Respondent: 2 hours, 54 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 435 hours

OMB Number: 1512–0117
Form Number: ATF F 5620.7 (2147)
Type of Review: Extension
Title: Claim for Drawback of Tax on Cigars, Cigarettes, Cigarette Papers and Cigarette Tubes
Description: ATF F 5620.7 documents that cigars, cigarettes, cigarette papers and tubes were shipped to a foreign country, Puerto Rico or the Virgin Islands, and that the tax was already paid on these products. ATF F 5620.7 is used as the claim filed by a person who paid the tax to claim a drawback for the tax that has already been paid.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 288
Estimated Burden Hours Per Respondent: 30 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 144 hours

OMB Number: 1512–0190
Form Number: ATF F 5100.11
Type of Review: Extension
Title: Withdrawal of Spirits, Denatured Spirits, or Wines for Exportation (Supplemental)
Description: ATF F 5100.11 is completed by exporters to report the withdrawal of spirits, denatured spirits, and wines from internal revenue bonded premises, without payment of tax for direct exportation, transfer to a foreign trade zone, customs manufacturers bonded warehouse or customs bonded warehouse or for use as supplies on vessels or aircraft.
Respondents: Businesses or other for-profit, Small businesses or other organizations
Estimated Number of Respondents: 300
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: On Occasion
Estimated Total Reporting Burden: 6,000 hours

OMB Number: 1512–0198
Form Number: ATF REC 5110/03—ATF F 5110.28
Type of Review: Extension
Title: Distilled Spirits Plant (DSP) Processing Records and Report
Description: The information collected is necessary to account for and verify the processing of distilled spirits in bond. It is used to audit plant operations, monitor industry activities for the efficient allocation of personnel resources and the compilation of statistics.
Respondents: Businesses or other for-profit, Small businesses or other organizations
Estimated Number of Respondents: 136
Estimated Burden Hours Per Respondent: 2 hours
Frequency of Response: Monthly
Estimated Total Reporting Burden: 3,944 hours

OMB Number: 1512–0200
Form Number: ATF F 5110.31
Type of Review: Extension
Title: Application and Permit to Ship Puerto Rican Spirits to the United States Without Payment of Tax
Description: ATF F 5110.31 is used to allow a person to ship spirits in bulk into the U.S. The form identifies the person in Puerto Rico from where shipments are to be made, the person in the U.S. receiving the spirits, amount of spirits to be shipped and the bond of the U.S. person to cover taxes on such spirits.
Respondents: Businesses or other for-profit, Small businesses or other organizations
Estimated Number of Respondents: 20
Estimated Burden Hours Per Respondent: 75 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 450 hours

OMB Number: 1512–0207
Form Number: ATF REC 5110/04—ATF F 5110.43
Type of Review: Extension
Title: Distilled Spirits Plant (DSP) Denaturation Records and Reports
Description: The information collected is necessary to account for and verify the denaturation of distilled spirits. It is used to audit plant operations, monitor the industry for the efficient allocation of personnel resources, and compile statistics for government economic planning.
Respondents: Businesses or other for-profit, Small businesses or other organizations
Estimated Number of Respondents: 93
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: Monthly
Estimated Total Reporting Burden: 1,116 hours

Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol,

Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 93–5079 Filed 3–4–93; 8:45 am]
BILLING CODE 4810-31-M

Public Information Collection Requirements Submitted to OMB for Review

March 1, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Financial Management Service

OMB Number: 1510–0024.
Form Number: FMS 1503.
Type of Review: Extension.
Title: Return Notice of Claim Against the United States for the Proceeds of a Government Check.
Description: This form is used to return an incomplete claim form to the claimant (payee) who has submitted a formal claim against the Government for the proceeds of a Treasury check, alleging that its negotiation was unauthorized or it was presented for payment bearing a forged endorsement.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 9,500.
Estimated Burden Hours Per Response: 8 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 475 hours.
Clearance Officer: Jacqueline R. Perry, (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 93–5080 Filed 3–4–93; 8:45 am]
BILLING CODE 4810-35-M

Public Information Collection Requirements Submitted to OMB for Review

March 1, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0301
Form Number: Letter 1117(c)
Type of Review: Revision
Title: Confirmation Letter
Description: It is necessary to directly communicate with taxpayers and/or other knowledgeable parties to obtain verification of information such as the correct amount of tax due, returns filed, etc. Response information is used to determine the accuracy of tax and general ledger accounts, etc.
Affected public: Taxpayers
Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents: 4,200
Estimated Burden Hours Per Respondent: 15 minutes
Frequency of Response: On occasion
Estimated Total Reporting burden: 1,050 hours
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 93–5078 Filed 3–4–93; 8:45 am]
BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

March 1, 1993

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0056.
Form Number: Form 1023 and Form 872–C.
Type of Review: Revision.
Title: Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code (1023) Consent Fixing Period of Limitation Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code (872–C).
Description: Form 1023 is filed by applicants seeking Federal income tax exemption as organizations described in section 501(c)(3). IRS uses the information to determine if the applicant is exempt and whether the applicant is a private foundation. Form 872–C extends the statute of limitations for assessing tax under section 4940.
Respondents: Non-profit institutions.
Estimated Number of Respondents/Recordkeepers: 49,772.
Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing, and sending the form to IRS
1023 Parts I to IV	55 hrs	4 hrs., 31 min	8 hrs., 1 min.
1023 Sch. A	7 hrs., 10 min		7 min.
1023 Sch. B	4 hrs., 47	30 min	36 min.
1023 Sch. C	5 hrs., 1 min	35 min	43 min.
1023 Sch. D	4 hrs., 4 min	42 min	47 min.
1023 Sch. E	9 hrs., 20 min	1 hr., 5 min	1 hr., 17 min.
1023 Sch. F	2 hrs., 38 min	2 hrs., 53 min	3 hrs., 3 min.
1023 Sch. G	2 hrs., 38 min		21 min.
1023 Sch. H	1 hr., 55 mim	42 min	46 min.
1023 Sch. I	3 hrs., 35 min		4 min.
1872–C	1 hr., 26 min	24 min	26 min.

Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 2,788,309 hours.
OMB Number: 1545–0200.
Form Number: IRS Form 5307.
Type of Review: Revision.
Title: Application for Determination for Adopters of Master or Prototype, Regional Prototype or Volume Submitter Plans.
Description: This form is filed by employers or plan administrators who have adopted a master or prototype plan approved by the IRS National Office or a regional prototype plan approved by the IRS District Director to obtain a ruling that the plan adopted a qualified under Internal Revenue Code (IRC) sections 401(a) and 501(a). It may not be used to request a letter for a multiple employer plan.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents/ Recordkeepers: 39,000.
Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	10 hours, 46 minutes.
Learning about the law or the form.	5 hours, 58 minutes.
Preparing the form	9 hours, 12 minutes.
Copying, assembling, and sending the form to the IRS.	48 minutes.

Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 1,042,470 hours.
OMB Number: 1545–0817.
Regulation ID Number: EE–28–78 Final.
Type of Review: Extension.
Title: Inspection of Applications for Tax Exemption and Applications for Determination Letters for Pension and Other Plans.
Description: Internal Revenue Code section 6104 requires applications for tax exempt status, annual reports of private foundations, and certain portions of returns to be open for public inspection. Some information may be withheld from disclosure. IRS needs information to comply with requests for public inspection of the above-named documents.
Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents: 51,070.
Estimated Burden Hours Per Respondent: 14 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 12,018 hours.
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 93–5081 Filed 3–4–93; 8:45 am]
BILLING CODE 4830–01–M

Customs Service

Application for Recordation of Trade Name: "U.S. Rope"

ACTION: Notice of application for recordation of trade name.

SUMMARY: Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "U.S. Rope," used by United States Rope Company, a corporation organized under the laws of the State of California, located at 709 Hamilton Avenue, Menlo Park, California 94025.

The application states that the trade name is used in connection with the sale of rope and other cordage, including rope made of polypropylene, nylon, polyester, Mylar, and blended materials; they are of three-stranded twisted and of braided construction. The merchandise is manufactured in the United States.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register.**

DATES: Comments must be received on or before May 4, 1993.

ADDRESSES: Written comments should be addressed to U.S. Customs Service, Attention: Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Franklin Court), Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Delois P. Cooper, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Franklin Court), Washington, DC 20006 (202–482–6960).

Dated: February 24, 1993.

John F. Atwood,
Chief, Intellectual Property Rights Branch.
[FR Doc. 93–5141 Filed 3–4–93; 8:45 am]
BILLING CODE 4820–02–M

Application for Recordation of Trade Name: "United States Rope"

ACTION: Notice of application for recordation of trade name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "United States Rope," used by United States Rope Company, a corporation organized under the laws of the State of California, located at 709 Hamilton Avenue, Menlo Park, California 94025.

The application states that the trade name is used in connection with the sale of rope and other cordage, including rope made of polypropylene, nylon, polyester, Mylar, and blended materials; they are of three-stranded twisted and of braided construction. The merchandise is manufactured in the United States.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register**.

DATES: Comments must be received on or before May 4, 1993.

ADDRESSES: Written comments should be addressed to U.S. Customs Service, Attention: Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Franklin Court), Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Delois P. Cooper, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Franklin Court), Washington, DC 20006 (202–482–6960).

Dated: February 24, 1993.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 93–5143 Filed 3–4–93; 8:45 am]

BILLING CODE 4820–02–M

Application for Recordation of Trade Name: "United States Rope Company"

ACTION: Notice of application for recordation of trade name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "United States Rope Company," used by United States Rope Company, a corporation organized under the laws of the State of California, located at 709 Hamilton Avenue, Menlo Park, California 94025.

The application states that the trade name is used in connection with the sale of rope and other cordage, including rope made of polypropylene, nylon, polyester, Mylar, and blended materials; they are of three-stranded twisted and of braided construction. The merchandise is manufactured in the United States.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register**.

DATES: Comments must be received on or before May 4, 1993.

ADDRESSES: Written comments should be addressed to U.S. Customs Service, Attention: Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Franklin Court), Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Delois P. Cooper, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Franklin Court), Washington, DC 20006 (202)–482–6960).

Dated: February 24, 1993.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 93–5144 Filed 3–4–93; 8:45 am]

BILLING CODE 4820–02–M

Application for Recordation of Trade Name: "U.S. ROPE CO.,"

ACTION: Notice of application for recordation of trade name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "U.S. Rope Co.," used by United States Rope Company, a corporation organized under the laws of the State of California, located at 709 Hamilton Avenue, Menlo Park, California 94025.

The application states that the trade name is used in connection with the sale of rope and other cordage, including rope made of polypropylene, nylon, polyester, Mylar, and blended materials; they are of three-stranded twisted and of braided construction. The merchandise is manufactured in the United States.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register**.

DATES: Comments must be received on or before May 4, 1993.

ADDRESSES: Written comments should be addressed to U.S. Customs Service, Attention, Intellectual Property Rights Branch, 1301 Constitution Avenue, N.W, (Franklin Court), Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Delois P. Cooper, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Franklin Court), Washington D.C. 20006 (202–482–6960).

Dated: February 24, 1993.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 93–5142 Filed 3–4–93; 8:45 am]

BILLING CODE 4820–02–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 42
Friday, March 5, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting, 10:00 a.m., Thursday, March 4, 1993.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

FY 1994 Budget

The Commission will consider issues related to the budget for Fiscal Year 1994.

*The Commission decided on March 1, 1993 that agency business required scheduling this meeting without the normal seven day notice.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD. 20207 (301) 504–0800.

Dated: March 1, 1993.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 93–5185 Filed 3–2–93; 4:38 pm]

BILLING CODE 6355–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, March 10, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1 Publication for comment on proposed rulemaking to revise the Board's risk-based capital guidelines to implement Section 305 of the Federal Deposit Insurance Corporation Improvement Act regarding concentration of credit risk and the risks of nontraditional activities. (Proposed earlier for public comment; Docket No. R–0764)

2. Publication for comment on proposed rulemaking to revise the Board's risk-based capital guidelines to implement Section 305 of the Federal Deposit Insurance Corporation Improvement Act regarding interest rate risk. (Proposed earlier for public comment; Docket No. R–0764)

3. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: March 3, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–5311 Filed 3–3–93; 10:27 am]

BILLING CODE 6210–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:30 a.m., Wednesday, March 10, 1993, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 3, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–5214 Filed 3–3–93; 10:27 am]

BILLING CODE 6210–01–M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 10:00 a.m., March 15, 1993.

PLACE: 4th Floor, Conference Room, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the last meeting.

2. Thrift Savings Plan activity report by the Executive Director.

3. Congressional Budget Office option to reduce TSP matching contributions.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: March 3, 1993.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 93–5311 Filed 3–3–93; 3:29 pm]

BILLING CODE 6760–01–M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Board of Directors' Meeting

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: The Pennsylvania Avenue Development Corporation announces the date of their forthcoming meeting of the Board of Directors.

DATE: The meeting will be held Wednesday, March 24, 1993, at 10:00 a.m.

ADDRESS: The meeting will be held at the Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, NW., Washington, DC.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with 36 Code of Federal Regulations Part 901, and is open to the public.

Dated: March 1, 1993.

M.J. Brodie,

Executive Director.

[FR Doc. 93–5298 Filed 3–3–93; 3:25 pm]

BILLING CODE 7630–01–M

Corrections

Federal Register
Vol. 58, No. 42
Friday, March 5, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1901 and 1944

Rural Development Administration

7 CFR Part 4284

RIN 0570-AB00

Community Facility Loans and Grants

Correction

In rule document 93-1408 beginning on page 5564 in the issue of Friday, January 22, 1993, make the following corrections:

PART 1901—[CORRECTED]

1. On page 5565, in the second column, in the amendatory instruction 2., in the second line, "(a)(2)" should read "(a)(20)".

PART 1944—[CORRECTED]

2. On page 5566, in the first column, in paragraph designation "(5)", should read "(4)".

PART 4284—[CORRECTED]

3. On the same page, in the third column, in the table of contents, in the third line from the bottom, "Guide" should read "Guides".

Exhibit A to Subpart E [Corrected]

4. On page 5569, in the 1st column, in the 13th line, "loans" should read "loan" and in the 16th line, 'signatures" should read "signature".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 13

[FO Docket No. 92-206; FCC 93-33]

Privatization of the Administration of Examinations for Commercial Operator Licenses and Clarification of Certain Rules

Correction

In rule document 93-3895 beginning on page 9123 in the issue of Friday, February 19, 1993, make the following correction:

§ 13.7 [Corrected]

On page 9124, in the third column, § 13.7(c)(2) was omitted and should appear as follows:

"(2) Six Months Service Endorsement (First and Second Class Radiotelegraph Operator's License)."

BILLING CODE 1505-01-D

federal register

Friday
March 5, 1993

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Parts 1001, et al.

Milk in the New England and Other Marketing Areas; Decision on Proposed Amendments to Tentative Marketing Agreements and Orders; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1001, 1002, 1004, 1005, 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1075, 1076, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1124, 1126, 1131, 1134, 1135, 1137, 1138, 1139

[Docket No. AO–14–A64, et al.; DA–90–017]

RIN 0581–AA37

Milk in the New England and Other Marketing Areas; Decision on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA

ACTION: Proposed rule.

7 CFR Part	Marketing area	AO Nos.
1001	New England	AO–14–A64
1002	New York-New Jersey	AO–71–A79
1004	Middle Atlantic	AO–160–A67
1005	Carolina	AO–366–A3
1006	Upper Florida	AO–356–A29
1007	Georgia	AO–366–A33
1011	Tennessee Valley	AO–251–A35
1012	Tampa Bay	AO–347–A32
1013	Southeastern Florida	AO–356–A32
1030	Chicago Regional	AO–361–A28
1032	Southern Illinois-Eastern Missouri.	AO–313–A39
1033	Ohio Valley	AO–166–A60
1036	Eastern Ohio-Western Pennsylvania.	AO–179–A55
1040	Southern Michigan	AO–225–A42
1044	Michigan Upper Peninsula.	AO–299–A26
1046	Louisville-Lexington-Evansville.	AO–123–A62
1049	Indiana	AO–319–A38
1050	Central Illinois	AO–355–A27
1064	Greater Kansas City	AO–23–A60
1065	Nebraska-Western Iowa.	AO–86–A47
1068	Upper Midwest	AO–178–A45
1075	Black Hills, South Dakota.	AO–248–A21
1076	Eastern South Dakota	AO–260–A30
1079	Iowa	AO–295–A41
1093	Alabama-West Florida	AO–386–A11
1094	New Orleans-Mississippi.	AO–103–A53
1096	Greater Louisiana	AO–257–A40
1097	Memphis, Tennessee	AO–219–A46
1098	Nashville, Tennessee	AO–184–A55
1099	Paducah, Kentucky	AO–183–A45
1106	Southwest Plains	AO–210–A52
1108	Central Arkansas	AO–243–A43
1124	Pacific Northwest	AO–368–A19
1126	Texas	AO–231–A60
1131	Central Arizona	AO–271–A29
1134	Western Colorado	AO–301–A22
1135	Southwestern Idaho-Eastern Oregon.	AO–380–A9
1137	Eastern Colorado	AO–326–A26
1138*	New Mexico-West Texas.	AO–335–A36
1139	Great Basin	AO–309–A30

*The Lubbock-Plainview, Texas Panhandle and Rio Grande Valley Orders were merged to form the New Mexico-West Texas order, effective December 1, 1991.

SUMMARY: This final decision deals with a wide variety of industry proposals to amend all Federal milk marketing orders. The issues addressed in this decision include: Class I (bottling) and Class II (soft products) milk prices; classification of milk used in various products; and the treatment of concentrated and reconstituted milk under the orders. The amendments adopted in this decision are based on evidence received at a hearing held in September, October and November 1990, at six locations, and on exceptions and comments filed in response to Recommended Decision that was published in the **Federal Register** on November 22, 1991. Any changes from the Recommended Decision are discussed in the document. The amendments adopted in this decision include providing three uniform classes of milk use in all orders; and changing the pricing of reconstituted fluid milk products made from concentrated milk or nonfat dry milk.

Referendums will be conducted in eight markets, and dairy farmer cooperatives will be polled in the remaining 32 markets to determine whether dairy farmers approve issuance of the revised orders.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amended orders will promote more orderly marketing of milk by producers and regulated handlers.

These proposed amendments have been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. If adopted, this proposed action will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

When this proceeding was initiated, the Notice of Hearing listed separately the Lubbock-Plainview, Texas (part 1120); the Texas Panhandle (part 1132); and Rio Grande Valley (part 1138) orders. A hearing on a merger of these three orders was held in December 1989. As a result of that hearing, the three orders were merged effective December 1, 1991, under the name of the New Mexico-West Texas order, which is 7 CFR part 1138. Therefore, all proposed order language in connection with this proceeding is in terms of the merged order. In this and future documents in this proceeding, the New Mexico-West Texas order will replace the three orders named above.

Prior documents in this proceeding;

Advance Notice of Proposed Rulemaking: Issued March 29, 1990; published April 3, 1990 (55 FR 12369).

Notice of Hearing: Issued July 11, 1990; published July 17, 1990 (55 FR 29034).

Extension of Time for Filing Briefs and Reply Briefs: Issued March 28, 1991; published April 3, 1991 (56 FR 13603).

Recommended Decision: Issued November 6, 1991; published November 22, 1991 (56 FR 58972).

Extension of Time for Filing Exceptions: Issued December 24, 1991; published January 6, 1992 (57 FR 383).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the New England and other marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice (7 CFR part 900), at Eau Claire Wisconsin; Minneapolis, Minnesota; St.

Cloud, Minnesota; Syracuse, New York; Tallahassee, Florida; and Irving, Texas, on September 5, 1990, through November 20, 1990. Notice of such hearing was issued on July 11, 1990, and published July 17, 1990 (55 FR 29034).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Administrator, on November 6, 1991, issued his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under the subheading "Background".

a. Three new paragraphs are added after paragraph 8.

b. Paragraph 9 is revised by adding three new lines to the subsection "Federal and State Government Witnesses".

2. Under material issue "1. Class I milk pricing and related issues."

a. The last sentence of paragraph 10 is revised and two new paragraphs are added following it.

b. Fourteen new paragraphs are added after paragraph 136.

c. Four new paragraphs are added after paragraph 138.

d. Twelve new paragraphs are added after paragraph 140.

e. One new paragraph is added after paragraph 142.

f. Two new paragraphs are added after paragraph 143.

g. Two new paragraphs are added after paragraph 150.

h. Six new paragraphs are added after paragraph 165.

3. Under material issue "2. Class II pricing and related issues.", three new paragraphs are added after paragraph 27.

4. Under material issue "3. Product Classification".

a. Paragraph 20 is revised and ten new paragraphs are added following it.

b. Paragraph 21 is revised.

c. Eleven new paragraphs are added after paragraph 21.

d. Paragraph 28 is revised.

e. Seven new paragraphs are added after paragraph 29.

f. Two new paragraphs are added after paragraph 32.

g. Four new paragraphs are added after paragraph 33.

h. Paragraph 34 is revised.

i. Nine new paragraphs are added after paragraph 36.

j. Seven new paragraphs are added after paragraph 38.

k. Two new paragraphs are added after paragraph 41.

l. A sentence is added to paragraph 42 and two new paragraphs are added following it.

m. Six new paragraphs are added after paragraph 45.

n. Eleven new paragraphs are added after paragraph 47.

o. Two new paragraphs are added after paragraph 49.

p. Twelve new paragraphs are added after paragraph 56.

5. Under material issue "4. Pricing concentrated and Reconstituted Milk."

a. Paragraphs 1 and 7 are revised and 4 new paragraphs are added after paragraph 7.

b. Paragraphs 18, 19 and 24 are revised and 10 new paragraphs are added after paragraph 24.

c. Three new paragraphs are added after paragraph 35.

d. Eleven paragraphs are added after paragraph 37.

e. Paragraph 38 is deleted.

The material issues on the record of the hearing relate to:

1. Class I milk pricing and related issues;

2. Class II milk pricing and related issues;

3. Product classification; and

4. Pricing of concentrated and reconstituted milk.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Background

This proceeding was initiated in response to concerns voiced by midwestern dairy farm groups about the Federal milk marketing order program, and particularly about those provisions relating to Class I prices.

Federal milk marketing orders classify milk according to its use. Most orders have three classes: Class I includes primarily beverage milk; Class II consists primarily of fluid cream items plus "soft" products, such as cottage cheese, ice cream and yogurt. Class III consists primarily of "hard" manufactured products, including butter, nonfat dry milk and hard cheeses. Each class has a specific price, with Class I being the highest, Class II being an intermediate price and Class III being the lowest price.

Class I milk prices since the mid-1960's and early 70's have been determined by adding a market-specific Class I differential to the Minnesota-Wisconsin (M-W) price, which more recently has been for the second preceding month. The differentials currently vary from $1.20 per hundredweight at Minneapolis, Minnesota, to $4.18 per hundredweight at Miami, Florida.

This basic system of pricing was developed over a long period of time. Prior to Congress' passage of the Food Security Act of 1985, the Class I differentials had not been significantly changed in nearly 20 years. However, on May 1, 1986, Class I differential increases mandated by Congress in the Food Security Act of 1985 were implemented in 35 of the orders. Congress also specified that none of the differentials could be reduced for a two-year period beginning May 1, 1986. Congress took this action because the then-current differentials, which reflected a hauling cost of 1.5 cents per hundredweight per 10 miles, no longer covered the costs of hauling milk.

The Class I differential increases implemented on May 1, 1986, varied from $.08 per hundredweight for the Upper Midwest order to $1.03 per hundredweight for the Southeastern Florida order. Since then, increasing dissatisfaction with the resulting Class I pricing structure of Federal milk orders has been voiced by various Upper Midwest parties. Others across the country also expressed various criticisms about the program.

On March 29, 1990, the Secretary announced that USDA would hold a national hearing on milk marketing orders to "* * * determine whether reasons exist to change current Federal milk orders." The main issues at the hearing would be: (1) Class I pricing differentials, (2) multiple base points for pricing, (3) pricing of reconstituted milk, and (4) pricing of Class II milk. Concurrently, the Administrator of the Agricultural Marketing Service issued an Advance Notice of Proposed Rulemaking inviting any interested person to submit proposals on the main issues. Proposals were to be mailed by May 31, 1990.

A Notice of Hearing was issued on July 11, 1990, setting forth 70 proposals that would be considered and announcing the dates and locations of the hearing. The hearing began September 5, 1990, in Eau Claire, Wisconsin, and concluded on November 20, 1990, in Irving, Texas. Other sessions were held in Minneapolis and St. Cloud, Minnesota, Syracuse, New York, and Tallahassee, Florida. In all, the hearing lasted 43 days and produced about 10,000 pages of transcript, 237 exhibits, and an estimated 3,000 pages of Officially Noticed documents.

About 200 witnesses participated in the hearing. Rather than attempting to

detail or summarize the testimony of each person or organization we are providing a detailed list of hearing participants, except that we have not identified by name some 25 dairy farmers who testified. Thus, recognition of the hearing participants is provided without reiterating who said what in regard to the Class I and Class II price issues. This will aid in keeping this document a reasonable length.

The exceptions filed by the Upper Midwest Federal Order Coalition (UMFOC) noted with interest that while certain state officials were listed as participants, those from Minnesota and Wisconsin were not.

In response we would point out that both the Minnesota Department of Agriculture and the Wisconsin Department of Agriculture, Trade and Consumer Protection were indicated as hearing participants by being listed as organizations included in UMFOC.

Nevertheless, in this decision we have included additional parties under the heading of "Federal and State Government Witnesses".

The following list of hearing participants is grouped according to affiliation:

Dairy Farmer Cooperatives & Other Farmer Organizations:

Agri-Mark, Inc.
Alabama Farmers Federation
American Farm Bureau Federation
Bear Lake Milk Cooperative
Central Milk Producers Cooperative (CMPC), consisting of the following organizations: A-G Cooperative Creamery, Alto Dairy Cooperative, Associated Milk Producers Inc., Golden Guernsey Dairy Cooperative, Greenwood Milk Producers Cooperative, Independent Milk Producers Cooperative, Lake to Lake Cooperative (a Division of Land O'Lakes, Inc.), Manitowac Milk Producers Cooperative, Mid-America Dairymen Inc., Midwest Dairymens Company, Milwaukee Cooperative Milk Producers, Southern Milk Sales, Inc., Wisconsin Dairies Cooperative, and Woodstock Progressive Milk Producers Association.
Coalition of Northeastern Dairy Farmers (CONE), consisting of the following organizations: Agri-Mark, Inc., Allied Federated Cooperatives, Inc., Cabot Farmers' Cooperative Creamery Company, Dairylea Cooperative, Inc., Eastern Milk Producers Cooperative Association, Inc., Niagra Milk Cooperative, Inc., St. Albans Cooperative Creamery, Inc., Upstate Milk Cooperatives, Inc., and Regional Cooperative Marketing Agency, Inc.
Darigold Inc.
Dairymen's Creamery Association, Inc.
Farm Bureau Federations of North Carolina, South Carolina, Georgia, Tennessee, and Virginia
Farmers Union Milk Marketing Cooperative (FUMMC)
Land O'Lakes, Inc.
Louisiana Farm Bureau
Lowville Producers Dairy Co-Op
Maine Farm Bureau
Mid-America Dairymen, Inc. (Mid-Am)
Milk Marketing, Inc. (MMI)
National Family Farm Coalition
National Farmers' Organization (NFO)
National Milk Producers Federation (NMPF)
New York Farm Bureau
New York State Grange
North Dakota Milk Producers Association and the North Dakota Dairy Industries Association
Penn Marva Dairymen's Federation (Penn Marva), consisting of the following organizations: Atlantic Dairy Cooperative, Mid-Atlantic Division of Dairymen, Inc., Maryland Virginia Milk Producers Cooperative Association, and Valley of Virginia Cooperative Milk Producers Association
Pennsylvania Farmers' Association Dairy Committee
Pennsylvania Farmers Union and Northern Tier Milk Cooperative
Pennsylvania State Grange
Prairie Farms Dairy, Inc. (PFD)
Producers Equalization Committee (PEC), consisting of the following organizations: Michigan Milk Producers Association, Independent Cooperative Milk Producers Association, and the National Farmers Organization
Rusk County (Wisconsin) Farm Bureau
Southern Coalition of Dairy Farmers (SCDF), consisting of the following organizations: Associated Dairy Farmers, Inc., Associated Milk Producers, Inc. (Southern Region), Carolina Dairies, Carolina Jersey Milk Producers Association, Carolina Virginia Milk Producers Association, Coble Dairy Products Cooperative, Inc., Dairymen, Inc., Edisto Milk Producers Association, Florida Dairy Farmers Association, Gulf Coast Dairymen, Gulf Dairy Association, Inc., Land-O-Sun Independent Producers, Mountain Milk Producers Association, Palmetto Milk Producers Association, Piedmont Milk Sales, Inc., Southern Milk Sales, Inc., and Tampa Independent Dairy Farmers Association, Inc.
Texas Farm Bureau
Texas Farmers Union
United Dairy Services
United Oneida-Lewis Milk Producers
Upper Midwest Federal Order Coalition (UMWFOC), consisting of the following organizations: Iowa Dairy Products Association, Minnesota Association of Cooperatives, Minnesota Farm Bureau, Minnesota Farmers Union, Minnesota Milk Producers Association, Wisconsin Farm Bureau Federation, Wisconsin Farmers Union, Wisconsin Federation of Cooperatives, A-G Cooperative Creamery, Alto Dairy Cooperative, Associated Milk Producers, Inc. (Morning Glory Farms Region), Associated Milk Producers, Inc. (North Central Region), Ellsworth Cooperative Creamery, Farmers Union Milk Marketing Cooperative, First District Association, Glencoe Butter and Produce, Land O'Lakes, Inc., Manitowac Milk Producers Co-op, Milwaukee Co-op Milk Producers, Plainview Milk Products Association, Swiss Valley Farms, Co., Wisconsin Dairies Cooperative, Minnesota Department of Agriculture, and Wisconsin Department of Agriculture, Trade and Consumer Protection
Western Dairymen Cooperative, Inc. (WDCI)
Wisconsin Farm Bureau Federation
Women Involved in Farm Economics (WIFE)

Proprietary Handlers & Handler Organizations:

Americana Foods, Inc., Morningstar Foods, Inc., Blue Bell Creameries, Inc., Hunter Jersey Farms, Inc., Hygeia Dairy Company, Inc., and Pine State Creamery Company (Americana et al.)
Anderson-Erickson Dairy Company
Borden Company
Dean Foods Co.
Farm Fresh
Galloway Company
Gold Star Dairy
Hershey Chocolate, USA
Hunter Jersey Farms, Inc.
Kraft General Foods, Inc.
Kroger Company
Lamers Dairy, Hansens Dairy, Oberweis Dairy, Seeger's Dairy, Inc., Stoer Dairy (Lamers et al.)
Lifeway Foods, Inc.
Marigold Foods
Malone & Hyde Dairy
Milk Industry Foundation and International Ice Cream Association (MIF/IICA)
Morningstar Foods, Inc., Hunter Jersey Farms, Inc., Hygeia Dairy Company, Inc., Pine State Creamery Company (Morningstar et al.)
Nestle Foods Corporation
Northeast Ad Hoc Federal Order Committee (NEFOC), composed of the following entities: Crowley Foods, Inc., Durling Farms, Farmland Dairies, Inc., H.P. Hood, Inc., Johanna Dairies, and Middlebrook Dairy.
Nutrasweet Company
Southern Foods Group
Trade Association of Proprietary Plants (TAPP)
Turner's Dairy
United States Cheesemakers Association, Wisconsin Cheese Makers Association, Ohio Swiss Cheese Association, American Producers of Italian Type Cheese Association, (U.S. Cheesemakers et al.)
Wells Dairy

Individual Dairy Farmers:

A total of 25 individual dairy farmers testified at this hearing. They include 2 dairy farmers from New York; 3 from Pennsylvania; 7 from Wisconsin; and 13 from Minnesota.

U.S. Members of Congress, Governors, State Representatives, and Candidates:

Senator James M. Jeffords, Vermont
Steve Kerr for 25 members of the House of Representatives from the northeastern states of the U.S.
John McCann, New York State Legislator
Marc Smith for Congresswoman Louise Slaughter, New York
Leslie Rowan for Congressman Sherwood L. Boehlert, New York
Jim O'Connor for Congressman James T. Walsh, New York

R. Stephen Hawley, New York State Legislator
James Ziegeweid, Candidate for U.S. House of Representatives, Wisconsin
Al Baldus, Wisconsin State Assemblyman
Congressman Steven Gunderson, Wisconsin
Congressman David R. Obey, Wisconsin
Al Zepp for Congressman Robert W. Kastenmeier, Wisconsin
Virgil Roberts, Wisconsin State Assemblyman
Senator Robert Kasten, Wisconsin
Tommy Thompson, Governor of Wisconsin
Brenda Kettleson for Senator Herb Kohl, Wisconsin
Congressman Arland Stangeland, Minnesota
Steve Wenzel, Minnesota State Legislator
Sylvester Uphus, Minnesota State Legislator

Federal and State Government Witnesses:

Carolyn Liebrand, Agricultural Cooperative Service, USDA, for the Economic Research Service, USDA
Deputy Commissioner of Agriculture, Vermont, for the Commissioner
Director, Dairy Division, Georgia Department of Agriculture
Commisioner of Agriculture, State of Minnesota
Counsel for the Minnesota Department of Agriculture
Secretary of Agriculture, Trade and Consumer Protection, State of Wisconsin
U.S. Department of Justice, Antitrust Division
Representatives from 16 Market Administrator Offices of the Agricultural Marketing Service (AMS), USDA

Other Witnesses:

Dr. Robert E. Jacobson, Professor, Department of Agricultural Economics, Ohio State University, at the request of Milk Marketing, Inc.
James N. Putnum, Farm Credit Banks of Springfield, Massachusetts
Milo Olsen, Retired County Agent, Wisconsin
Dr. Emerson Babb, Professor, Food and Resource Economics Department, University of Florida
Dr. Jerome Hammond, Professor, Department of Agricultural and Applied Economics, University of Minnesota

1. Class I Milk Pricing and Related Issues.

No changes should be made in the Class I differentials on the basis of this record. The Notice of Hearing contained 35 proposals on the Class I price issue. Four of those (A–1, A–2, A–3 and A–6) involved eliminating or reducing significantly the Grade A and distance differential components of Class I prices.

Proposals A–1 and A–3 involved the Grade A differentials, while A–2 and A–6 involved distance differentials. There was no sworn testimony in support of proposals A–3 and A–6. Testimony in support of proposals A–1 and A–2 was presented by a witness for the Department of Justice as part of its entire presentation on the general desirability, in its view, of deregulating the milk industry.

Proposals A–4 and A–5 would merge orders to result in four to eight regional orders of more or less equal Class I utilization. Proposal A–4 also would have based the prices to be paid producers on a single site in a milk surplus area in each such region, including adjustments for volume, market, and production differentials and the grade or quality of milk purchased. The total amount of such adjustments would be not less than $1.12 per hundredweight of milk having 3.5 percent milkfat. There also was no sworn testimony in support of either of these proposals.

Numerous parties spoke in opposition to all of the proposals listed above.

Proposal A–7 called for eliminating the Class I differential increases included in the Food Security Act of 1985, or establishing a uniform system of determining Class I differentials that would be fair to all dairy producers in Federal orders. The latter concept alone was proposal A–8. There was no sworn testimony in support of either proposal. However, several parties specifically opposed adoption of the proposals because there was no detail provided on the notion of "fairness".

Proposal A–9 in the Notice of Hearing called for the Class I milk price to be tied to an escalator formula representing the cost of production plus a return on equity as well as a true representative figure for management. At the hearing, a witness for the proponent (Pennsylvania Farmers Union) modified the proposal to provide a "floor price" on Class III milk at $14.00 per hundredweight, which would be adjusted for inflation twice a year. Also, modified Class I differentials should reflect the total cost of transportation and be adjusted twice each year for inflation. Thus, the modified proposal became similar, in concept, to proposals A–10 (proposed by MMI) and A–11 (proposed by the Producers Equalization Committee), which proposed basic formula "floor prices" of $10.60 and $11.00, respectively.

Several witnesses testified on proposal A–9 as included in the Notice of Hearing, apparently unaware that the proponents had modified, or would modify, the proposal. As a result, there was considerable testimony presented regarding the cost of production for milk in various areas. Although many witnesses indicated a strong belief that cost of production should be a factor in determining Class I milk prices under Federal orders, no one offered any specific mechanism for doing so. Five witnesses spoke in opposition to proposal A–9. Further discussion relative to costs of producing milk appears later in discussing the Class I price issue.

Proponents of specifying a floor under Federal order milk prices generally expressed the view that such action would remove price fluctuations so that producers can better plan their dairy operations. They also claimed that it would provide a greater incentive to have milk made available for Class I use during a falling M-W price, it would assure an equal cost to handlers, rather than relying so heavily on over-order charges, and it would assure an adequate supply of Class I milk to consumers. Opposition to "flooring" prices was presented on behalf of the Milk Industry Foundation and Borden, Inc., and in briefs by Anderson-Erickson Dairy, Co., Marigold Foods, and the Southern Foods Group.

Proposal A–12 in the hearing notice called for a Class I differential of $1.00 over the Class II price (when set at the M-W price) nationwide. The Class I differential would be increased temporarily to attract more milk, if needed. Also, a Class I transportation differential (amount unspecified) would be added to the Class I price nationwide to pay handlers 75 percent of the cost of hauling milk more than 100 miles to meet local needs. There was no sworn testimony in support of this proposal. However, five witnesses voiced strong opposition to the proposal.

Proposal A–13, (by Lamers Dairy, Inc., et al.) specified that the Class I milk price for all orders should be the basic formula price for the second preceding month plus $0.75. At the hearing the proponent modified the proposal so that the differential on all classes would be $0.30, plus an additional $0.30 on the Class I milk price.

The exception filed by Lamers Dairy, Inc., contained a "Correction of interpretation of proposal A–13". According to the exception, the modified proposal, which was received as Exhibit 56, indicated that there would be a Grade A differential of 30 cents per hundredweight plus an additional 30 cents for a Class I differential.

Based on this information, the description of proposal A–13 above has been revised to reflect this interpretation.

In support of this proposal, the proponent offered the following points:

(a) Class differentials are no longer needed to attract Grade A producer milk since the supply of Grade A milk is more than adequate.

(b) The manufacturing market over the five-year period 1984–1988 averaged $0.47 higher than the announced M–W price, with a low of $0.29.

(c) Over-order premiums are paid to producers in almost every area in the country. Plants will continue to pay producers a price high enough to ensure themselves an adequate supply.

(d) A 30-cent differential on all classes would still reward dairy farmers for producing Grade A milk, as opposed to producing manufacturing grade milk.

The proponent contended that this proposal would result in a free, competitive market, with over-order charges setting actual prices, simpler orders to administer, no location adjustments, no inefficient movements of milk, and would be a step toward deregulation of business by the government. This would best protect the interests of producers and consumers, in proponent's view.

There was no other supporting testimony. Opposition was voiced by two parties which opposed any reduction of Class I differentials and elimination of classified pricing. One party maintained that the proposal is based on false perceptions about the nature of Federal order markets.

Proposals A–14 and A–15 would specify Class I differential amounts at certain cities and change the Class I differentials for six orders back to what they were prior to May 1, 1986. These proposals were abandoned.

Proposal A–16 proposed a new set of Class I differentials in all Federal order markets in order to restore the alignment of Class I prices that existed prior to May 1, 1986. The proposal, as modified at the hearing amounted to increasing the differentials in a pattern such that the increases due to the Food Security Act of 1985 plus the changes now being proposed would total a minimum 69-cent increase in all orders east of the Rocky Mountains. The only decrease proposed was a minus 12 cents for the Texas order. Increases were not proposed for orders in the Far West and the Southeast.

Proposal A–16 was combined with proposal A–30, which would establish transportation credits for handlers receiving Class I or Class II milk at a rate that would compensate the party responsible for shipping the milk for 80 percent of its transportation costs. The proposed rate would be 2.8 cents per hundredweight per 10 miles for supplemental milk, which was defined as inter-order movements of milk. The monies to fund the transportation credits would come from the higher differentials proposed in A–16, and from an increase in the Class II differential to 50 cents (proposal B–1). The funds would be paid out as transportation credits to handlers operating distributing plants on receipts of supplemental milk and in the form of a fluid market differential to producers whose milk is received at a distributing plant or a supply plant that ships milk to a fluid distributing plant. The testimony offered by a witness for the proponent offered details of exactly how these payments would be calculated. The basic reason for the proposals is to help attract milk to fluid distributing plants. The testimony included examples of difficulties the proponent had experienced in obtaining the desired quantities of milk for its Class I and Class II needs. Two other handlers indicated support for the proposal.

Proposal A–17 would increase the Class I differential in each order by amounts ranging from five cents for the Southwestern Idaho-Eastern Oregon order to $1.10 for the New England order. The proponent of A–17 is Agri-Mark, Inc., a cooperative association of dairy farmers with 2,000 members in seven northeast states. The proponent's witness indicated he also was authorized to indicate support for the proposal by two other cooperatives in Vermont, which together with the proponent, represent the majority of producers in the New England order.

The proponent's witness indicated the belief that Class I differentials throughout the Federal order system have been administratively depressed for the last two decades. He maintained that information on general price levels, inequities in over-order pricing, intermarket alignment problems in securing adequate supplies for Class I needs, and projections of future milk prices and supplies clearly show that increased differentials are both needed and warranted.

In support of A–17, the witness cited the criteria peovided in the Agricultural Marketing Agreement Act of 1937 that the Secretary must consider in establishing milk prices in Federal order markets. The thrust of his testimony was that those criteria need to be reviewed in light of the current situation compared to the situation that existed in the markets when the Class I differentials were set in the late 1960's and then modified somewhat as a result of the 1985 Farm Bill.

The witness then proceeded to review various price changes, concluding that the "real" value of Class I differentials has declined dramatically since 1970. He then reviewed changes in the receipts of producer milk between 1970 and 1989, along with changes in Class I utilization. Although the changes varied from order to order or among regions, he concluded that from a "northeast perspective," existing Class I differentials have not brought about excess supplies of milk. He cited data to show that milk production and the number of farms in all New England States declined in the last 20 years, while U.S. milk production increased more than 23 percent.

The proponent's spokesman projected that milk prices would decline by the end of 1990. He then cited cost-of-production data and foresaw "tremendous" attrition in farm numbers and milk production in the Northeast in general, and in New England in particular. He stated a best guess that over 20 percent of New England dairy farms would go out of business in the next two or three years, removing at least 12 to 15 percent of milk production in the region. Thus, by his analysis, the area could become short of milk and might have to bring in milk from the Upper Midwest. He testified that the proponent's transportation experts estimate that it would cost at least 4.3 cents per hundredweight per 10 miles to haul milk long distances without regular backhauls. In his view, the nation's ultimate reserve supply of Grade A milk is in the Upper Midwest. He noted that the Class I differentials in proposal A–17 are less than transportation costs plus a Grade B/Grade A conversion factor, regardless of whether a transportation cost of 3.5 cents or 4.5 cents per hundredweight is used, except for the Upper Midwest and Southeastern Idaho-Eastern Oregon orders.

The final point offered in justification for higher differentials in the Northeast is over-order Class I premiums. The witness cited premiums charged by the proponent as well as higher differentials that prevailed in Massachusetts, New York, and Pennsylvania.

Adoption of proposal A–17 was supported by a federation of four cooperatives, three in New York and one in Pennsylvania. In addition, the Federation's witness called for a consolidated single Northeast order, continued classified pricing, a Class I differential over $3.00 per hundredweight, component pricing of all milk, and adoption of membrane technology to leave water on the farm and reduce hauling costs. Howeve., the proposals for order merger, component pricing, and adoption of membrane technology are beyond the scope of proposals included in the hearing notice. Therefore, these proposals are not considered further in this decision.

Specific opposition to proposals A–16 and A–17 was voiced by three parties. A witness for the Milk Industry Foundation and the International Ice Cream Association (MIF/IICA) stated that there is no economic justification

for broad-based increases or changes in Federal order Class I prices. He also expressed the view that perceived inequities between producers in one area versus others is not a proper basis to increase prices.

A witness spoke in opposition to the proposals on behalf of four handlers that operate milk plants in Florida, Maryland, Texas, Wisconsin, and North Carolina. The primary thrust of his testimony was that higher Class I prices would hurt fluid milk sales. He claimed that the primary area of growth in commercial dairy products is in the cheese segment, while fluid milk sales are stagnant. He also expressed the view that a Class I price surface should not exceed two cents per hundredweight per 10 miles, which would mean a "flattening" of prices rather than price increases. In support of this view, he called attention to development of a new method of hauling packaged milk: The use of one way corrugated boxes, which makes the truck available for a revenue-generating backhaul that can cut in half the costs of distributing milk.

A third witness, on behalf of a handler that, in addition to other plants, operates 28 milk plants fully regulated under 22 Federal orders, also opposed adoption of proposals A–16 and A–17.

Proposal A–18 calls for providing Class I differentials of not less than $2.30 in the New England, New York-New Jersey, Southern Michigan, Eastern Ohio-Western Pennsylvania, Ohio Valley, Indiana, Chicago Regional, Central Illinois, Louisville-Lexington-Evansville, Upper Midwest, Eastern South Dakota, Black Hills, Iowa, Nebraska-Western Iowa, and Greater Kansas City orders and changing the location adjustments in each of these orders as necessary in view of the new level of Class I differentials. The proponents of this proposal were four separate associations of cheesemakers, which operate 176 plants in 18 states and process about 14 billion pounds of milk annually.

The proponents' spokesman clarified the proposal by stating that it is not a proposal for a flat $2.30 in all the areas specified. Rather, it is a proposed minimum for those orders. Also, the proposal to change location adjustments should be considered on a regional basis at a separate hearing or hearings. In this regard, he suggested the Secretary issue a final decision adopting the proposed Class I differential changes but delay the effective date of such prices for six months to hold hearings and adopt location adjustment changes.

In support of proposal A–18, the witness testified that the portion of the value of milk represented by Class I differentials has shrunk during the last several decades because they have not been adjusted to account for inflation or the declining purchasing value of the dollar. As a result, a greater portion of the Class I value is paid through over-order premiums. He claimed purchasing power in constant dollars is a very relevant factor for the Secretary to consider. He also claimed the reduction in the value of the Class I differential has contributed to several problems:

(a) When the M-W price increases at a rate equal to the Class I differential over a period of two months, the minimum Class I price will be below the M-W price, or Class III price for the month, as happened in the fall of 1989. This situation caused a considerable volume of milk to not be pooled. Moreover, handlers that had Class II and Class III milk remaining in the pool had to make payments into the producer-settlement fund.

(b) The decreasing value of Class I differentials has been offset in many markets by increasing over-order prices for Class I milk, which cause instability that the order program was designed to alleviate.

The witness also said higher Class I differentials in the Midwest are justified because milk production costs there are no longer lower than in most other parts of the country. He claimed that the current level of Class I differentials in the Midwest reflects an assumption that production costs are lower there.

Finally, according to the witness, increased Class I differentials would permit implementation of an effective seasonal incentive plan to help balance the seasonal variations in milk production. The specific seasonal incentive plan proposed by the proponents is described later.

Direct testimony in support of proposal A–18 was presented by NFO. According to the NFO witness, the answer to economic difficulties of dairy farmers is in building up dairy farm prices. He contended that Federal order pricing policy needs to be fashioned with an element of income recognition in it for dairy farmers. In his view, the present structure of Federal order Class I differentials does not generate an adequate and equitable amount of income for producers in the lowest-priced orders east of the Rocky Mountains. This represents a substantial failure of the Federal order program to provide any income to a significant group of producers in an important dairy region. According to the witness, adoption of proposal A–18 would have several positive effects:

(a) It would provide a modest blend price increase to dairy farmers in the lowest-priced Federal orders.

(b) It would establish pricing in the Chicago Regional and Upper Midwest orders that would eliminate the disorder involved in volumes of milk being flip-flopped on and off the orders, as has occurred in recent years and will continue unless some price changes are made. This pooling and de-pooling of milk makes the determination of shipping standards in both orders difficult, if not impossible, with regard to the discretionary adjustments to supply plant performance standards that may be made by the market administrators and the Director of the Dairy Division.

(c) It would establish a larger flat price, northern zone which would tend to encourage more efficient movements of milk to southern points from the nearest geographical location where milk supplies are not committed to fluid usage during times of short supply in the South.

The NFO witness stated that such an increase in northern Class I differentials would require some adjustments in the Class I differentials in the Northeast, Southeast, and Mid-South, as shown in Exhibit No. 89. No changes were proposed for other areas.

A representative for Anderson-Erickson Dairy Company expressed opposition to proposal A–18. He opposed a flat Class I price for the Midwest because it would make it difficult to compete and move milk to areas south of his location and would cause similar problems for other handlers in other orders. He suggested that the Class I price increases advocated by the cheesemakers would do nothing to address the real problem of fluid milk handlers, which is how to attract milk to fluid uses in markets with low Class I utilization levels.

Proposal A–19, by MMI, would increase Class I differentials $1.20 in the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Louisville-Lexington-Evansville orders and $1.00 in the Indiana order.

In support of the proposal, the MMI witness testified that in order for milk to move from where it is produced to where it is needed for Class I, a higher price must be established. He maintained that costs of production and local supply/demand conditions must also be considered in establishing Class I prices. He pointed out that the Pennsylvania Milk Marketing Board has established a Class I minimum price in western Pennsylvania that is $1.20 above the Federal order Class I price for the same area, and that the Board

determined such a price was necessary to insure a continuing adequate supply of milk. This is the basis for the proposed increase of $1.20 for the Eastern Ohio-Western Pennsylvania order. The other increases are proposed for price alignment purposes and to insure consumers in those markets a continuing adequate supply of milk.

Opposition to proposal A–19 was expressed by witnesses for MIF and one other handler on the same basis noted above for proposals A–16 and A–17. Opposition testimony also was presented by a witness for the Milk Foundation of Indiana, an organization of six proprietary handlers that operate distributing plants. The witness stated that because of price disparities created by the Class I differential changes implemented on May 1, 1986, Indiana plants lost some 15 to 16 million pounds of Class I sales per month, or nearly 14 percent of their Class I sales, based on a comparison of sales in November 1985 to November 1989. Also, he noted that for the same monthly comparison, Indiana plants' Class I sales in other markets declined some 13 million pounds. Thus, he expressed the view that if A–19 were adopted, Indiana plants would lose another 30 million pounds of Class I sales because of even greater price disparities between Indiana and its neighboring markets.

Proposal A–20 was declared abandoned by the proponent, Prairie Farms Dairy, Inc. A–20 would have established minimum Class I differentials of $2.00 in 18 orders ranging from the Eastern Ohio-Western Pennsylvania order to the Pacific Northwest order and as far south as the Greater Kansas City order. It also would have established multiple basing points at six locations and would have established prices at orders south of a basing point by adding 3 cents for each 10 miles from the nearest basing point, with no changes in plant and producer location adjustments. Class I differentials in the Indiana, Western Colorado, Eastern Colorado, and the three northeastern orders would have been changed. On a simple average, Class I differentials in the 41 orders would have been increased by 40 cents per hundredweight. One handler offered specific opposition to A–20.

Proposal A–21, also proposed by Prairie Farms Dairy, Inc., similarly was abandoned. This proposal would have changed the calculation of location adjustments at pool plants under all orders.

Opposition to proposal A–21 was expressed by two witnesses on behalf of the Coalition of Southern Dairy Farmers and a witness for a group of four proprietary handlers.

Proposal A–22 was offered by Mid-America Dairymen, Inc., a large midwestern dairy farmer cooperative. The proposal would provide a minimum Class I differential of $2.00 in any order currently having a differential less than $2.00. Testimony by a witness for the proponent, however, was limited to supporting the $2.00 figure for the Chicago Regional, Central Illinois, Southern Illinois-Eastern Missouri, Upper Midwest, Eastern South Dakota, Iowa, Nebraska-Western Iowa, and Greater Kansas City orders. He stated that the proposed increases are necessary and justified because of the decrease in milk production that has taken place throughout the area. Compared to 1988, he cited production declines in 1989 throughout the area ranging from 4 percent in Wisconsin to 0.3 percent in Nebraska. He expressed the view that production declines in Minnesota and Wisconsin are highly significant because these two States have historically served as a reserve supply for other areas of the country, particularly the Southeast. The witness said that unless dairy farmers in the Upper Midwest area receive assurances of long-term price stability they will continue to exit the dairy business. He contended that the order Class I differentials have not been sufficient to attract sufficient supplies of milk for Class I use and that over-order pricing had been utilized to assure bottling plants an adequate supply of milk. He also expressed the view that a portion of the increased differentials should be used to provide a market service payment to those dairy farmers actually supplying the Class I needs of the market.

Proposal A–22 was opposed by witnesses for the MIF/IICA, and by two handlers for the same reasons cited in opposition to other proposals to increase Class I differentials.

Proposal A–23 would reduce the Class I differential for the Nebraska-Western Iowa order from $1.75 to $1.68. This proposal also was abandoned.

Proposal A–24 by the Trade Association of Proprietary Plants (TAPP) has four parts. Part one would restructure Class I differentials throughout the Federal order system. First, the minimum Class I differential would be $2.00 per hundredweight. The maximum Class I differential would be $3.75, based on the cost of processing and transporting nonfat dry milk 1400 miles (estimated straight-line distance) from Eau Claire, Wisconsin, to the Southeastern Florida market. All other Class I differentials would be aligned by drawing a line from the western border of Minnesota southeasterly through the western border of Alabama. East of that line, Class I differentials would be computed based on 200-mile zones radiating out from Eau Claire to the primary basing point in each market. For each 200 miles the differential would increase by 25 cents (reflecting a rate of 12.5 cents per 100 miles). West of the line, differentials would decrease by 25 cents per 200 miles. The proposal would increase Class I differentials in some orders and reduce them in others.

Part two would provide a uniform transportation allowance, or credit, of 30 cents per hundredweight per 100 miles for interplant movements of Class I milk within and between all Federal order markets regardless of direction of milk movement.

Part three would provide a supply-demand adjustor for all Federal orders. Each year, on January 1, Class I differentials would be adjusted based on the percentage of milk production purchased by the Commodity Credit Corporation (CCC) on a total solids milk equivalent basis the prior marketing year. If the percentage was 0 to 5 percent, there would be no adjustment. Negative adjustments would increase from minus 10 cents at 5 percent, up to minus 50 cents if 10 percent of national production was purchased by CCC.

Part four proposed price incentives to encourage producers to adjust the supply of milk to demand on a national seasonal basis through two separate provisions. The first provision would add 50 cents to all Class I differentials in the six lowest U.S. production months and subtract 50 cents in the highest production months. The second provision would institute a takeout-payback plan simultaneously in all Federal orders with the same takeout amounts and months and the same payback months. If both provisions are adopted, maximum takeout in the months of December through June would be 10 cents per hundredweight with a payback period of August through November. If the first provision is not adopted, the maximum takeout would be 10 cents per hundredweight.

The witness for TAPP contended that changes in the Class I price structure were needed and offered his rationale as to why proposal A–24–1 would provide a reasonable system of Class I prices:

(a) The most economical source of supplemental milk for a deficit market, such as Southeastern Florida, for example, is nonfat dry milk for reconstitution.

(b) The Class I differential in the most distant market should be the delivered cost of the amount of powder sufficient

to make 100 pounds of reconstituted milk, including the Class I differential at Eau Claire ($1.64), plus a processing cost of making powder ($1.22), plus the cost of reconstituting (estimated at 10 cents), plus the hauling of 11 pounds of powder to West Palm Beach, Florida (43 cents), for a total delivered cost of $3.39.

(c) The difference between $3.39 and $1.64 is $1.75, which divided by 1400 miles (the air-miles distance from Eau Claire to West Palm Beach) results in an adjustment factor of 12.5 cents per 100 miles, or 25 cents per 200 miles. This rate would be used to set the Class I differential in intermediate markets.

This would result, in the proponents' view, in a superior system of Class I prices. Also, according to the witness, a $2.00 Class I differential in Chicago is justified to:

(a) Solve the problem of de-pooling milk because of rapid, large increases in the M-W price.

(b) To allow for a national seasonal pricing plan.

(c) To allow for a national supply-demand adjustor.

(d) To maintain a reasonable Class I price level in other markets.

Under cross-examination, the witness acknowledged that adoption of this part of the proposal is contingent upon adoption of another of TAPP's proposals to classify powder used for reconstitution as a Class I use in the originating market. That proposal is considered elsewhere under issue No. 4 in this decision.

With regard to the transportation credit part of this proposal (A–24–2), the witness maintained that increased costs of transportation have made zoning to cover costs of transportation in Federal orders obsolete. In his view, the transportation credit would result in more equitable pricing and orderly movement of milk within and between Federal orders.

According to the witness, a supply-demand adjustor is needed because over the years Class I prices have become higher than necessary, thus encouraging a more than adequate supply in most Federal order markets.

Finally, the witness contended that there is a need to encourage better seasonal balancing of milk production with demand. He indicated that problems associated with seasonality of production are:

(a) Waste of money associated with:

(1) Unnecessary inventories and storage costs for hard products.

(2) Added hauling costs of moving milk around to handle seasonal surpluses and deficits.

(3) Inefficient manufacturing due to fluctuating milk supplies.

(4) Maintaining costly excess manufacturing capacity.

(b) Erratic fluctuation of milk prices due to manufacturing plants and fluid milk handlers competing for milk during short production months.

There was no other testimony in support of proposal A–24. General opposition was voiced in the testimony of six other parties. One, a proprietary handler, maintained that Class I differentials should be tied to the cost of moving fluid milk, not milk powder.

Proposal A–25, by the Farmers Union Milk Marketing Cooperative, is comprised of three parts. The first part would establish the Class I milk price for each area by adding $1.20 to the basic formula price for the second preceding month plus a "market area differential", derived by multiplying a regional Class I utilization percentage by $2.98 per hundredweight. To this would be added a handler transportation adjustment. From the monies generated by the transportation adjustment, shipping handlers would receive a transportation credit, and there would also be a producer credit adjustment.

The second part of the proposal would provide that the basic Class I differential of $1.20 would be pooled in a separate national pool. The third part would establish one or more regional marketing areas for pricing and pooling the Class I marketing area differential.

Three witnesses testified in support of proposal A–25, two on behalf of the proponent. The first witness testified that the General Accounting Office Report to the Congress on the milk order program describes "* * * what's wrong and what has to be fixed if marketing orders are to be effective tools in the 1990's."

The second witness testified that proposal A–25 is supportive of proposal A–27, but goes a little farther toward FUMMC's goals. He indicated support for proposal A–27 and cited the testimony of others who testified in support of A–27. The FUMMC witness said national pooling should be adopted because, in his view, the market for Grade A milk is national in scope. In support of this concept he pointed to expanding areas of packaged milk distribution and noted that reserve supplies of Grade A milk can be obtained from many different sources in many different areas. He also contended that Federal order blend prices "* * * do not recognize the integrated nature of fluid milk markets on the production side." He further maintained that orders "* * * serve to artificially localize, through regulation, naturally broader markets by imposing economic penalties on the use of reconstituted concentrated milk.

The brief filed by FUMMC said that the $1.20 in its proposal is justified by the testimony of another witness regarding proposal A–27. The brief relies on a producer's cost of converting to and maintaining Grade A status at 15 cents per hundredweight divided by a national Class I utilization of 45 percent, which gives a factor of 33 cents. This figure, added to an imputed net margin for manufacturing plants of 87 cents equals $1.20.

The FUMMC brief also said that the second tier of the Class I price should be equal to the difference between the individual order's current Class I differential and the $1.20 base differential, or $1.00, whichever is greater. Thus, the smallest Class I differential would be $2.20 and the largest would be $4.18.

The brief also called for a national transportation pool that would compensate handlers for up to 70 percent of the cost of transporting milk to fluid handlers.

The third witness who testified in support of proposal A–25 is a Professor in the Department of Agricultural and Applied Economics at the University of Minnesota. He also was critical of the current Federal order pricing system. He took the view that the current system is inequitable to producers in the Upper Midwest region of the U.S. and that it creates inefficiencies and frequently fails to provide an incentive for suppliers to provide milk for fluid uses.

This witness indicated that the orders should be grouped into regions and suggested the regions that USDA uses for its cost of production studies. He proposed that the Class I price should be the national Class III price (Class II in markets with only two classes) plus a single national base differential of $1.00. To this would be added a price element determined by multiplying the average Class I use percentage of the region for the preceding year by a factor representing the location value of milk and production cost differences among regions. He used $3.00 for illustrative purposes. A third pricing factor would be a transportation Class I component as supported in the testimony of a principal witness for the proponents of proposal A–27. As envisioned by this witness, the base Class I differential of $1.00 would be pooled nationally and would require interregional transfers of funds. Equity considerations justify this approach, according to the witness.

Five witnesses specifically opposed adoption of proposal A–25, mostly on the basis that no changes should be made. In addition, because of the many

similarities between A–25 and A–27, opposition to proposal A–27 would generally also be opposition to A–25.

Proposal A–26, by Land O'Lakes, would provide supply balancing credits for handlers who operate plants that supply milk to distributing plants. Also, handlers who have to obtain supplemental milk supplies for Class I use from nonpool sources would receive a payment to cover give-up costs plus a transportation credit. The witness for the proponent indicated that other aspects of proposal A–26 had been incorporated into proposal A–27 and therefore he would not testify on them in connection with proposal A–26.

As proposed, handlers who provide more than ordinary service to the fluid market relative to handlers who provide less than ordinary service would be compensated for that service. Each year the market administrator would use a formula to estimate the total amount of balancing payments to be paid over the next 12 months at a proposed rate of 50 cents per hundredweight. The total of such estimated payments would be divided by the estimated volume of milk at distributing plants to arrive at the Class I surcharge that would fund the balancing payments. Thus, the balancing payment would be funded by handlers as an increment of the Class I differential.

The basis for this proposal is that, according to the proponent: (1) Differences in seasonality of milk production and contra-seasonality in the needs of distributing plants result in a variable volume of reserve milk; (2) Handlers who secure an outlet for the orderly disposal of this reserve incur costs; (3) This disposal cost is not shared equally by the participants in the Federal order pool; (4) This proposal would reestablish equity between pool handlers who provide varying levels of service to distributing plants in the market; and (5) The level of the balancing payment should reflect the fixed costs of maintaining a level of manufacturing capacity adequate to handle the variable Class I market reserve supplies.

This proposal is related to the price issue only because the surcharge would become an annual element in the Class I differential. Basically, it is a proposal for a marketwide service payment.

A second aspect of this proposal is to establish in each order a supplemental milk fund. As proposed, a handler that obtained supplemental milk for Class I uses from nonpool sources would receive a payment of $3.00 per hundredweight plus a transportation credit of 3.5 cents per 10 miles per hundredweight.

As proposed, the market administrator would estimate the total of such payments and would include the rate per hundredweight to cover the payments as part of the transportation surcharge on Class I milk proposed by the UMFOC proposal No. 27.

Land O' Lakes' brief expressed the view that the Secretary should consider limiting the acquisition payment to the months when over-order charges approximate $3.00 per hundredweight and when Class I utilization exceeds 75 percent in the receiving market.

The proponent maintains that this provision would restore equity among handlers because not all handlers have to buy supplemental milk and, therefore, some handlers have higher costs than others. Although no one else specifically addressed this aspect of proposal A–26, other parties did indicate agreement with this view.

A witness for the Southern Coalition of Dairy Farmers (SCDF) testified in opposition to proposal A–26. In his view, this proposal calls "* * * for the extension of regulation and control over marketing activities and functions which can best be carried out, and made efficient through the competitive process." In its brief, the NFO opposed adoption of balancing payments. The brief noted that claims for such payments "are very market-specific and, therefore, not ripe for adoption on this hearing record." NFO also expressed the view that balancing services are services performed for handlers and that, therefore, the payments for such services should be made by handlers.

Proposal A–27 by the Upper Midwest Federal Order Coalition (UMFOC) as included in the hearing notice was general, calling for Class I prices to be the M-W price for the second preceding month plus a uniform Class I base differential to be pooled nationally and a Class I marketing area differential consisting of a producer credit adjustment and a transportation credit adjustment. In addition, one or more marketing areas would be established for pricing and pooling Class I milk.

At the hearing, a witness for UMFOC modified the proposal and indicated that UMFOC would not present testimony on national pooling. As modified, proposal A–27 would establish the Class I price for each order using the following elements:

(a) The basic formula price for the second preceding month.

(b) A uniform Class I base differential of $1.80 for all markets.

(c) A marketwide service differential based on the hauling costs associated with delivery of pool and nonpool milk to pool distributing plants, which would be unique to each order.

As proposed by UMFOC, the common $1.80 Class I price element was composed of two parts. The first part is an imputed net margin for Minnesota and Wisconsin manufacturing plants of 87 cents per hundredweight. The second part is a Grade A element of 96 cents per hundredweight.

The first element is intended to offset costs incurred by manufacturers in Federal milk order pools. They include the extra cost of maintaining Grade A certification of plant facilities, the market administrator's administrative fees on pooled milk, and the extra cost of maintaining records and filing reports to the market administrator, according to UMFOC's witness. The 87 cents represents an average calculated return to cover such costs at Minnesota and Wisconsin manufacturing plants over a ten-year period ending with 1989, as estimated by another witness for UMFOC. The details of how the imputed net returns were calculated are in the record; they need not be repeated here.

The second element, 96 cents, was based on an analysis of the costs involved for a dairy farmer to convert the farm from Grade B to Grade A. According to UMFOC's witness, the major element of costs involved in converting is the drilling of a new well. Amortized over 10 years, the cost of conversion averaged about 15 cents per hundredweight. The UMFOC position was that producers must be able to recover this cost if they are to continue to produce Grade A milk. In the Chicago Regional market, Class I utilization of milk for August 1989 through July 1990 was about 15.6 percent of all the Grade A milk normally associated with the market, according to the UMFOC witness. In order to have 15 cents per hundredweight available to pay to producers in a market with 15.6 percent Class I use, the Grade A component must carry a value of 96 cents (15 cents divided by .156 = 96 cents). This was the basis for the 96 cents component. The two components added together total $1.83 (.87 + .96 = $1.83), which was rounded to $1.80 for the proposal. This $1.80 would be the basic Class I differential in all Federal milk orders.

The UMFOC also proposed, in addition to the Class I base differential ($1.80), that there be a "producer credit adjustment" and a "transportation credit adjustment," that the Class I base differential be pooled in a separate national pool, and that one or more marketing areas be established for purposes of pricing Class I milk and pooling Class I revenues. At the hearing,

these additional proposals were abandoned, except the transportation credit adjustment.

As developed through testimony at the hearing, a transportation credit would be established for each order as follows:

(a) Based on evidence concerning hauling rates, a rate of 3.5 cents per hundredweight per 10 miles is representative of hauling rates. However, to avoid overcompensation and to provide incentives for promoting efficient movements of milk, it was proposed that the transportation credit be 80 percent of the hauling rate. Thus, the transportation credit would be based on 2.8 cents (3.5 cents x .80 = 2.8 cents) per hundredweight per 10 miles.

(b) Each year the market administrator for each order would estimate separately the total distance that milk will be transported from pool and nonpool sources to pool distributing plants over a 12-month period.

(c) The total estimated distance would be multiplied by $0.0035 per mile and the result multiplied by 0.80. For concentrated milk, the multiplier would be 1.0 on product weight. The final figure would be the expected amount of hauling compensation to be provided during the succeeding 12 months.

(d) The total estimated value of handler location adjustments would be deducted from the above estimate of total hauling compensation. The remainder would be the estimated hauling compensation to be provided through marketwide service payments.

(e) The estimated hauling compensation would be divided by the total estimated amount of producer milk to be allocated to Class I in the 12-month period to arrive at the Class I surcharge needed to fund the marketwide service payments.

(f) Payments of hauling compensation would be made to handlers at the rate of $0.28 per hundredweight times the distance from the origin of the milk to the distributing plant on all milk received direct from the farms of producers or as transfers of bulk fluid milk products from pool and nonpool plants, less the difference in location adjustment between the originating plant and the destination plant. For concentrated milk the rate of compensation would be $0.35. Receipts from cooperatives acting as bulk tank handlers would be treated the same as direct-shipped milk.

(g) Distances between plants would be determined using the latest Mileage Guide as published by the Household Goods Carriers Bureau. For direct-shipped milk, it was proposed that the trunk highway intersection nearest to the closest producer on the farm bulk pickup route be used. In the case of plant transfers, transportation credits would not be available on movements of milk from the farms of producers to the plant of first receipt.

(h) Payments in compensation for hauling would be made directly to the handler who ordinarily receives a location adjustment credit for transfers between pool plants. For transfers from a nonpool plant, payment would be made to the operator of the receiving pool distributing plant. For direct-shipped milk, payment would be made to the handler that accounts to the pool for that producer milk. For cooperative bulk tank handler milk, payment would be made to the cooperative. For diverted milk, payment would be made to the diverting handler. For direct-shipped milk, any handler receiving the marketwide service payments would be required to keep records that show that the payments received were in fact paid out for hauling services or paid directly to producers as partial reimbursement for hauling charges paid by the producers.

(i) Because the amounts of money generated by the Class I surcharge to fund the marketwide service payments may not match exactly the payments to be made, it was proposed that the market administrators establish a reserve within the producer settlement fund so that the accumulation of funds be treated as an obligated reserve.

This proposal for a Class I differential composed of the $1.80 plus the transportation surcharge was designed, according to the proponents, to provide all the necessary incentives to assure an adequate supply of Grade A milk for fluid use in all markets. It would provide incentives to produce and pool Grade A milk, attract it away from manufacturing uses, and transport it to fluid processors. Proponents maintained that if adopted it would perform these functions more efficiently and more effectively than the system of incentives now provided in Federal milk orders.

As envisioned by the proponents, this proposal would have several impacts:

(a) It would likely increase minimum Class I and blend prices in a few midwestern markets and reduce them elsewhere. In those markets with reduced blend prices, locally produced milk could decline while Class I sales would increase in response to lower prices. Overall, national milk supplies would be expected to decrease, resulting in an increase in the value of milk used in manufactured dairy products. The net impact on total dollars flowing into the Grade A milk sector is unknown. Another witness for the proponents later testified about using a computer model and input data for 1988 and 1989 to estimate the net impact of adopting proposal A–27 four years after its implementation. That analysis indicated that after four years, 23 markets would lose $337 million and 14 markets would gain $156 million for a net loss of $181 million.

(b) It would create some new price alignment problems, but the proponents were not able to anticipate in advance all the alignment problems that might arise. It was suggested that local market alignment problems be addressed through regional hearings, as was done in 1986. In this regard, it was stated by a witness for the proponents that if the Secretary "* * * concludes, based on what others may say, that adoption of our proposal without a concurrent change in location adjustments could lead to disorderly marketing, then we suggest that he defer implementation of our final decision until he arrives at a final decision relative to location adjustment hearings and implement them both at the same time."

(c) Another impact of this proposal would be to change the economics of fluid milk distribution. Currently, it is generally more favorable to expand distribution in the direction of higher-priced markets to the south. Under this proposal, expansion of distribution in any direction would be equally favorable. Thus, fluid processors would likely face stiffer competition from their more southerly competitors and less stiff competition from their more northerly competitors. This change in the competitive environment may be painful for some distributing plant operators, according to proponents' witness.

In summary, the principal witness for the proponents indicated their belief that adoption of this proposal would accomplish the following:

(a) Assure an adequate supply of Grade A milk for the system of Federal order markets.

(b) Provide improved incentives to promote the release of Grade A milk and its delivery to the fluid market.

(c) Reduce the Class I cost of assuring an adequate supply of Grade A milk for the fluid market.

(d) Provide greater equity among producers regulated under different orders by reducing blend price differences.

(e) Reflect supply and demand conditions on a system-wide basis.

Thirty-three different persons spoke in support of proposal A–27, including members of Congress, a governor, state representatives, representatives of State government, University faculty and staff

members, members of farm organizations and individual dairy farmers. Most of the supporting testimony was very general in nature, basically endorsing the notion that a change is needed in the way milk is priced under Federal orders and indicating support for proposal A–27 as the way to do that.

Fifteen witnesses spoke in opposition to proposal A–27. These included representatives of numerous dairy farmer cooperatives, some speaking on behalf of coalitions and others just for their own organizations. In addition, opposition to A–27 was voiced by proprietary handlers, the Milk Industry Foundation and International Ice Cream Association, and individual dairy farmers.

More will be said later regarding both supporting and opposing testimony concerning proposals A–24, A–25, A–26, and A–27.

Proposal A–28 would provide seven basing points for Class I pricing: Boise, Idaho; Southern Arizona; Central Texas; Eau Claire, Wisconsin; Nashville, Tennessee; North Central Pennsylvania; and Northern New Hampshire and Vermont. Initial Class I differentials would range from $1.50 to $2.50. A location differential of about 10 cents per hundredweight per 100 miles distance from the basing point would be added to the Class I differential, with pricing points in individual marketing areas to allow for movement of milk to metropolitan areas within the marketing area. Also, there could be established a transportation credit pool to pay for transportation of milk from another base point area, controlled by the market administrator based on the need for additional Class I milk. The proponents of this proposal were the North Dakota Milk Producers Association and North Dakota Dairy Industries Association.

The witness for the proponents introduced two exhibits showing details of the proposed prices for each existing order, which would range from $1.75 for the Upper Midwest order to $4.18 for the Southeastern Florida order.

The witness contended that the current pricing system does not adequately price milk throughout the United States and that new production centers now exist other than in Wisconsin. As proposed, Class I milk prices would be increased in the Midwest to stem declining production that is occurring because prices are not sufficient to cover production costs, according to the witness. He cited increased milk production in the Southwest (Texas, Arizona, New Mexico and California) and maintained that if that production increase trend continues, there would be milk available to move to the Southeast or other parts of the country.

The witness also indicated that the Upper Midwest order needs a larger location adjustment to provide an incentive to ship milk. This proposed pricing would allow 20 cents per hundredweight to move milk and would restructure the zones to provide higher prices in southern and northwestern Minnesota and in eastern South Dakota. He suggested that if other areas of the country have similar problems, location adjustments should be changed as indicated based on testimony at the hearing in this proceeding.

In summarizing, the witness indicated that this proposal is designed to provide a new system for the 1990's and beyond and to recognize an ever-changing dairy supply system, and that it could work towards fewer orders if that is desired by the industry. The witness stated that "It is hopeful that it will stabilize production in the Midwest and slow down the increase that is occurring in the Southwest, both of which would be in the best interest of the industry."

On cross-examination the witness indicated that for those areas for which the proposal did not provide a specific basing point, there would need to be local input from those areas to determine where the basing point should be. He agreed that lacking such input, the record would be short of enough information to decide exactly what to do. There was no other supporting testimony on proposal A–28.

Proposal A–29 was a non-specific proposal to establish a system of multiple basing points. It was proposed by the Rusk County Farm Bureau (Wisconsin). The witness for the proponent contended that a new system was needed and referred to a study by the Economic Research Service of the USDA as the source of information he had relied on in proposing a multiple basing point pricing system. He also indicated that he had relied on the General Accounting Office study. He further indicated that he was supporting a concept but that he did not have a specific proposal to offer.

Five parties specifically opposed adoption of multiple basing points. Mostly the testimony was in opposition to any changes from the current system or was general opposition to any increases in Class I differentials. One witness, for CMPC, expressed the view that proponents have not advanced sufficient data to define the term "multiple basing points", or the need for it or its operation. He further stated that only those areas that have volumes of milk in the fall months in excess of their Class I and Class II needs could be considered as reserve supply areas.

Proposal A–30 was described in connection with proposal A–16.

Proposal A–31 called for a producer fall production incentive program in all Federal order markets. As proposed, five cents per hundredweight would be deducted from the uniform price on all producer milk during the months of April, May and June. The funds so generated would be paid back to producers in the short production months. The payment would be made on the quantity of milk that each dairy farmer produced in excess of 95 percent of the amount produced during the flush months. The proponent was Milk Marketing, Inc.

At the hearing, proponent's witness stated that the seasonal incentive fund should be created by increasing all class prices by 10 cents per hundredweight in the months that the individual markets are normally in the tightest supply/demand conditions.

The witness indicated that seasonally varying patterns of production cause inefficiency in the entire milk marketing system and that seasonal incentive pricing would be beneficial to everyone in the industry and to consumers as well. Since it would be paid for by handlers, producers would view the program as very beneficial and would adjust production patterns to meet market demands. This would result in less costs associated with a low seasonal production pattern and should reduce procurement costs and over-order prices. No one else testified in direct support of proposal A–31.

Proposal A–32 also proposed a seasonal incentive plan providing a take-out of as much as 45 cents per hundredweight during a four-month period, to as little as 20 cents per hundredweight during a nine-month period, and a pay-back of not less than 60 cents per hundredweight each month of September through November. This plan was proposed by the cheesemaker organizations mentioned as proponents of A–18.

The witness for the proponents expressed the view that seasonality of milk production is a national problem requiring a national solution. The problem is one of imbalance between the production of milk with demand for milk in various products, which causes: shortages of milk supplies during the fall months; seasonal needs to transport milk long distance during the fall; assessment of give-up charges to release fall milk supplies; idle manufacturing plant capacity in the fall; inadequate manufacturing capacity in the spring; and instability of minimum prices and

premiums. In supporting adoption of the proposal, he pointed to testimony of another witness for the proponent who had studied the costs of contra-seasonality in milk production and who concluded that there is an annual minimum cost of $40 million to the industry.

The proponents' witness claimed that there has been little improvement in the pattern of seasonal production over the last decade. In order to provide an incentive for producers to adjust production seasonally, he proposed a take-out of 45 cents per hundredweight from the uniform price during each of the months of January through June for all markets. The amount so set aside would be paid back to producers with interest during September, October and November. He believed the pay-back would likely exceed $1.00 per hundredweight. However, he urged that the take-out be floored at the M–W price plus 10 cents.

The brief filed by the cheesemakers stated that if the Secretary found that producers under such a plan would lose income not likely to be compensated for in the marketplace, the cheesemakers would not object to a uniform sharing of such costs with producers by all handlers through implementation of a surcharge on Class prices not to exceed 5 cents per hundredweight on a year-round basis. This would allow the take-out to be reduced about 30 percent without reducing the payback, according to the brief.

There was no other direct testimony in support of A–32.

Proposal A–33, by Prairie Farms Dairy, Inc., was another proposal for a seasonal incentive plan. As proposed, for producer milk delivered during April, May and June, an amount equal to 35 percent of the Class I differential would be subtracted, from each handler's total value of pooled milk, provided such adjustment does not provide a uniform price at location of less than the Class III price. For milk delivered in September, October and November, one-third of the amount subtracted would be added.

In his testimony supporting the proposal the proponent's witness modified the proposal by adding March as a deduct month and adding December as a payback month. In addition, the deduction would be equal to 25 percent of the Class I differential, and the deductions could not yield a blend price below the Class III price plus 10 cents. He indicated that the variable deduction would encourage some markets with low Class I utilization and low Class I differentials to participate, even though there is a small difference between the Class III price and the Uniform price. This was the reason for snubbing the deduction so that the blend price would not be less than the Class III price plus 10 cents.

According to the witness, higher deducts in markets with higher Class I use and higher Class I differentials would be beneficial because such markets tend to have a greater need for the market to provide a balancing service to fluid handlers. Thus, if production is balanced to meet fluid handlers' needs, they will need less supplemental milk on a yearly basis, which should reduce the volatility of their raw milk prices. He also said it would benefit suppliers as well. Moreover, larger paybacks in deficit markets would help attract milk to those markets.

The witness said his analysis showed that nearly 80 percent of the markets would see seasonal blend price swings of at least $1.00 per hundredweight, which would cause many producers to shift their production to better meet the needs of the industry. He also cited several problems that result from an imbalance of production relative to demand for milk. There was no other direct testimony in support of A–33.

A witness for CMPC did not specifically endorse any particular seasonal incentive plan, but indicated support for such a concept, if it is adopted in all orders, has a maximum deduct or charge of four to five cents per hundredweight, pays out to only those producers who perform, and allows some flexibility in developing provisions appropriate to Federal orders.

The brief filed by NFO opposed proposals A–32 and A–33, but supported adoption of A–31 as the best-designed seasonal incentive plan and urged its adoption to address the seasonality cost problem.

Over all, there was not a great deal of support for any seasonal incentive plan except as noted above. Moreover, there was some general opposition to any changes in the orders regarding Class I prices.

Proposal A–34 would amend all orders to provide that the Class I and Class II butterfat differentials be announced on the fifth day of the month for the following month. The proponents are the MIF/IICA. The principal reason advanced by the proponents' witness in support of this proposal was that it would "* * * greatly enhance the ability of Class I and Class II handlers to more accurately determine their raw product costs." He also indicated that over the long run, adoption of the proposal would have no impact on producers and would facilitate more orderly marketing of both Class I and Class II milk products.

Several parties supported adoption of proposal A–34. There was no opposition.

Proposal A–35, submitted by Prairie Farms Dairy, Inc., would provide that a uniform butterfat differential for the month be announced by the fifth of the month. The proposal was abandoned by the proponent.

The above description of proposals and testimony portrays a wide range of views regarding how Federal orders should be changed or not changed. Altogether, nearly 200 persons, including dairy farmers, cooperative association representatives, members of other general farm organizations, proprietary handlers, state officials, members of the United States Congress, and others, testified at the hearing. Thus, the record contains the views and testimony of a broad cross-section of the dairy industry and other interested parties.

In general, the testimony reflects one of two basic views. The first is one of basic support for the order program as is. This point of view was expressed by virtually all parties from areas of the country other than the Midwest. Many of them opposed any broad-based changes in the Class I pricing system of the orders. Others, however, proposed increases in Class I prices, ranging from changes in Class I differentials for a few orders to Class I differential increases in all orders.

The second point of view reflected in the testimony of most parties from the Midwest also expressed strong support for the Federal order program, but was critical of the system of Class I prices that now operates in all the orders. Their criticisms were based on a belief that the current Class I pricing system discriminates against producers in the Midwest. Many of those who participated in the hearing testified that the Class I prices in the Midwest are too low relative to Class I prices in other areas, particularly in the Northeast and the Southwest. In general, those who expressed this view maintained that the costs of producing milk in the Midwest are not very different from the costs of producing milk in other regions. Many maintained that a Class I pricing system based on a single basing point is obsolete, causes pricing inequities, and needs to be substantially revised to reflect current marketing conditions and technology.

Among the most critical of all groups in this regard was the Upper Midwest Federal Order Coalition (UMFOC). UMFOC witnesses offered extensive

testimony about what is wrong with the Federal order pricing system. The witness who offered a substantial amount of testimony in this regard stated that the current system of Class I price differentials has deficiencies. These were identified as follows: (1) When prices are above competitive free-market levels due to regulation, there will be increased production in those markets where the blend price is substantially greater than the M–W price; (2) When excess milk production occurs, this milk is either moved outside the market or processing capacity is expanded within the market; and (3) This additional manufactured product is sold, which decreases the value of milk used in manufacturing. This is detrimental to those areas where a large percentage of the milk produced goes into manufacturing.

The witness further contended that the purpose of the orders, to establish and maintain orderly marketing conditions, is not currently being met. He claimed that costs of production are about the same across the country while Class I differentials established through single basing point provisions increase as the distance from Eau Claire, Wisconsin, increases. He further contended that Federal order Class I prices do not reflect supply and demand conditions in that excessive production occurs in some regions. This, he maintained, is a detriment to the Upper Midwest. As a result, in his view, the orders now cause inequitable treatment of producers based on location. In this regard, a major concern cited is single basing point pricing, whereby the Class I differentials increase as distance from Eau Claire increases. The witness claimed that single basing point pricing and order requirements for equalizing payments on reconstituted milk create and maintain a system of local markets that hamper competitive market forces. (The issue of pricing reconstituted milk is discussed under issue No. 4.)

According to the witness, there are three implicit assumptions underlying single basing point pricing:

(1) Locally produced milk is preferred over imports and the pricing system thus should encourage local production. In his opinion, this was true once, but is not true under current marketing conditions.

(2) Cost of production varies directly with distance from the Upper Midwest. The witness also said this was once true, but no longer is true.

(3) The Upper Midwest is a primary source of reserve supplies. Here again, he argued that this is no longer the case. He claimed there were at least 12 other Federal orders that had enough milk available on an annual basis to meet the fluid milk needs of all deficit Federal order markets.

For all the reasons cited above, the witness reached the following conclusions:

(1) Single basing point pricing is no longer supportable;

(2) The current Federal order system of Class I pricing is a source of industry conflicts between regions;

(3) Single basing point pricing, combined with restrictions on reconstituted milk, represents protectionism for the higher-price markets;

(4) The current system restricts free movement of milk from low to high-cost-of-production areas;

(5) The pricing system benefits those producers most distant from the Upper Midwest, but such prices are not justified on the basis of costs of providing an adequate supply of milk to consumers;

(6) Markets distant from the Midwest, because of excessively high prices, have expanded production beyond Class I needs, thus putting downward pressure on the price of milk used for manufacturing; and

(7) Upper Midwest farmers are unable to share in the returns that distant dairy farmers enjoy based on their high Class I utilization.

For the reasons cited above, the witness argued that it was time for a new approach to establishing Class I milk prices under the Federal order program. He indicated that proposal A–27 was developed with this in mind.

Numerous other parties from the Midwest also expressed the belief that the Federal order Class I pricing system discriminates against midwestern dairy farmers while encouraging milk production in other areas. They also called for changes to "level the playing field."

Many other hearing participants disagreed with the positions and arguments stated by those from the Midwest. These parties generally opposed any changes in the Federal orders that would lower returns to dairy farmers in their respective areas. Among these were witnesses from the Northeast, Middle Atlantic, Southeast, South Central, Southwest, Far West and Pacific Northwest regions. The testimony of most of these parties presents a strong statement of support for the status quo, as well as a defense of the order program as a stabilizing influence in milk markets.

Testimony of various expert witnesses with many years of milk marketing experience provided the record with a history of the order program and the conditions and market experiences that led to its development. These witnesses described in some detail the nature of milk production and the associated marketing problems that make milk marketing regulation unique. In summary, various witnesses indicated that milk is a unique agricultural product that requires special consideration, and that many of the production and marketing problems that originally gave rise to the Federal order system still exist.

After a review of the testimony and other evidence in the record relating to this issue, it is concluded that the present Class I differentials should remain in place. The underlying basis for the level of Class I prices under the order program is the statutory pricing standard which requires that prices reflect the supply and demand for milk. Within this context, the present Class I differentials appear to be set at a reasonably satisfactory level. Although there might be a basis for some downward adjustments in certain markets, such as in the heavy production areas of the Midwest, it is difficult to determine from this record what the adjustments should be. This is particularly so when the industry has strongly supported over the years a coordinated set of differentials based on fairly constant rates of change from market to market.

In reviewing the adequacy of milk supplies in the regulated markets, the supplies and utilization of producer milk were analyzed, order by order and region by region. For this purpose, the monthly data (taken from Federal Milk Order Statistics) for the years 1987, 1988 and 1989 were selected as being representative of normal market conditions. When the market data are reviewed in light of both Class I and Class II needs, it is clear that there are no large supplies of Class III milk left for shipment to other areas except for the Chicago Regional, Upper Midwest, Pacific Northwest and Idaho markets.

The record indicates that in order to serve the varying needs of a Class I market on a year-round basis, reserve milk supplies equal to about 30 percent of the total milk in the market are needed. The views on this point varied from 15 percent to 40 percent, with a fairly persuasive argument for at least 30 percent. Thus, a reserve milk supply equal to 30 to 35 percent of the total milk in the market appears to be a reasonable reserve requirement.

It is in the fall months of the year when market supplies of milk are reduced. Thus, it is the fall months that must be looked at first to determine whether a given market has adequate

supplies of milk or whether there are inadequate supplies or excessive supplies available. In order to evaluate each market for this purpose, the months of September, October and November for 1988 and 1989 combined were reviewed. Also, monthly data for the years 1987, 1988 and 1989 were combined to depict this information on a year-round basis rather than just the fall months.

It should be noted here that for this analysis, estimates of Class II use were made for those orders that provide, or did provide during the review period, only two classes of utilization. Eight orders fall into that category: the three Florida orders, the three northeastern orders, the Michigan Upper Peninsula order, and the Black Hills order. There is no data available in the record for the Michigan Upper Peninsula order, and the Black Hills order data are combined with data for the Greater Kansas City and Eastern South Dakota orders, all to preserve confidentiality of proprietary information. For the Florida markets, virtually all use other than Class I was considered to be used in the intermediate classification. For the New England, New York-New Jersey and Middle Atlantic orders, published data were used to extract the pounds of milk used to produce the various intermediate class products. However, for the New England order, market data reported condensed milk with butter, so that an appropriate separation of Class II and Class III in that case was not possible from published data.

The New England order, the New York-New Jersey order and the Middle Atlantic order were amended April 1, 1991, to provide three classes of milk use. (Official notice is taken of the Assistant Secretary's order amending orders for the New England, New York-New Jersey and Middle Atlantic Marketing Areas, Docket Numbers AO–14–A62, etc., issued January 31, 1991, published February 11, 1991, 56 FR 5308.) Market data reported by the market administrator for the New England order for April 1991 were used, specifically the pounds of producer milk assigned to Class II, to go back and adjust the earlier estimates in an attempt to better distinguish the amount of producer milk that would have been Class II if the order had been a three-class order.

The numbers developed as described above for the three northeastern markets were considered to be the pounds of producer milk in Class II. Class III pounds were estimated by subtracting the Class I producer milk and the estimated Class II producer milk from total producer milk receipts for each month.

Also, during the hearing, only market data for the month of September 1990 was available for the Carolina order, since the order for that market did not become fully effective until September 1, 1990. Therefore, we are taking Official Notice of data for October, November, and December 1990 in order to have further information for analysis.

Official notice is taken of the following sources of data for the northeast orders and the Carolina order:

1. New England Milk Market Statistics for the years 1986 and 1990; issued by the Market Administrator, P. O. Box 1478, Boston, MA 02205.

2. Monthly Statistical Report for the New England Marketing Area for April 1991, issued by the Market Administrator, P. O. Box 1478, Boston, MA 02205.

3. The Market Administrator's Bulletin for the New York- New Jersey Milk Marketing Area, Quarterly issues A, B, C and D for the years 1986 and 1990 (Volumes 46 and 50), issued by the Market Administrator, 708 Third Avenue, New York, NY 10017.

4. Annual Statistical Report for Federal Order No. 4, the Middle Atlantic Marketing Area, for the years 1986, 1987, 1988, 1989 and 1990, issued by the Market Administrator, P. O. Box 25828, Alexandria, VA 22313.

5. Statistical Summary, for October through December 1990, for the Carolina Milk Marketing Order, issued by the Market Administrator, 3920 Bardstown Road, Louisville, KY 40218.

The simplest way to get an overview of combined Class I and Class II use is to look at Class III use in the various orders. If a reserve of at least 30 percent, and maybe as much as 40 percent, is necessary on an annual basis to supply the Class I market, then any market with 40 percent or less Class III use cannot be considered to be a surplus market.

Analysis of the market data for all the orders on an annual basis reveals three distinct groups of markets, as follows:

(1) The orders in the Southeast (Alabama-West Florida; Georgia; Nashville; Tennessee Valley; Upper Florida; Tampa Bay; Southeastern Florida; Memphis, Tennessee; Central Arkansas; New Orleans-Mississippi; Greater Louisiana; and Carolina) have very high levels of Class I use. These orders have low levels of Class II (soft products & ice cream), and very low Class III utilizations. Some of these markets are deficit markets, that is, they do not produce enough milk to supply the Class I needs, including reserves on a year-round basis.

(2) A group of Midwest and Far West and Northwest markets (Upper Midwest; Chicago Regional; Iowa; Nebraska-Western Iowa; Great Basin; Southwestern Idaho-Eastern Oregon; and Pacific Northwest) that obviously have far more milk available than is needed for Class I and Class II use, plus reserves. Even in the fall months (September, October, November, 1988 and 1989 combined) all the markets in this group had Class III utilizations greater than 45 percent, and only one (Great Basin) was below 50 percent.

(3) The remaining markets exhibit essentially a balance between supply and demand. Within this group there is considerable variation of Class II use, from about four percent for the Central Illinois order to nearly 27 percent for the Middle Atlantic order. Class I use in these markets (three-year average) ranges from 41 percent (New York-New Jersey) to over 77 percent (Paducah). For the combined period of 1987 through 1989, only one market in this group had Class III use of above 40 percent, and that was the Southern Michigan market. However, in the fall months, Class III use in the Southern Michigan market was less than 40 percent, and Class III use was less than 35 percent in most of the other markets.

Based on this analysis, it is concluded that producer milk supplies are not excessive outside of the markets identified in the second group above.

The exception filed by UMFOC mistakenly concluded that supply and demand were analyzed by looking at production and use only in the fall months. This is not correct, since both fall and annual data were reviewed for the years 1987, 1988 and 1989.

Also, UMFOC's exception maintains that too high a reserve requirement was used and that a UMFOC witness was the only one who provided actual calculations for seasonal reserves.

In response, we would only point to the analysis of Class I reserve requirements presented by a witness for the Coalition of Southern Dairy Farmers, in which he concluded that an adequate reserve on an annual basis should be about 32 percent.

As the recommended decision indicated, there was a range of views expressed concerning the reserve supplies needed to serve Class I needs on a year-round basis. When both Class I and Class II needs are considered, we believe the analysis of supply and demand for milk on the various markets and regions is valid.

The exception filed by UMFOC expresses the view that it is inappropriate to measure supply for a market by looking at producer milk and

to measure demand by looking at Class I and Class II use. This argument is based on the fact that producer milk is limited to the milk that is defined by the order as producer milk and does not represent the potential supplies available from outside the local market. The exception suggests that total in-area sales is a more appropriate way to measure demand, and that it is inappropriate to include Class II use.

We disagree with these views. As indicated in the recommended decision, the supply and demand standard set forth in the Act requires that milk prices be set for each order individually. There is no national supply and demand standard for the order program as a whole. That is not to say that a regulated market cannot rely on milk supplies from another area, as is often the case. Nevertheless viewed on an individual market basis, we reaffirm our conclusion that milk supplies available for Class I and Class II uses are adequate, but not excessive in most markets.

Perhaps total in-area sales could be used to measure demand, but that approach has a major shortcoming in that Class II dispositions are not reported by area of disposition. Class II is associated with Class I use, and as explained under issue No. 4 (classification), the products identified as Class II uses of milk are demand-driven. They are not a residual or surplus use of milk. This is the case whether or not the orders include shipping standards and whether or not Class II differentials fully reflect the market value of those products.

The idea of measuring demand involves a basic question of whether demand for milk and its products is best identified by looking at the area of ultimate disposition (which information is not available for Class II products), or by looking at the plant where the product is made (and thus the market where producer milk is pooled). We think the latter approach is preferred since it presents the most complete data to work with.

The exception filed by UMFOC maintains that the Administrator failed to address the question of efficiency in the discussion of the Class I pricing issue.

Marketing efficiency may be viewed from several different perspectives. There may be efficiencies involved in assembling and hauling milk to plants for fluid use. Other efficiencies may be involved in disposing of surplus milk. Efficiencies are involved in looking at where plants are located and the areas where it is feasible to distribute milk in consideration of packaging, handling, and distribution costs.

The exception points to the testimony of one UMFOC witness that it is less costly, from a marketing standpoint, for handlers to obtain other source milk than for producers to increase production to meet additional needs for Class I milk.

In response to the concerns about efficiency, two points are cogent. One is that other actions discussed elsewhere in this decision that deal with the treatment under the orders of concentrated milk and reconstituted milk made from nonfat dry milk may provide a way to achieve greater efficiencies in supplying milk to meet handlers' needs beyond the availability of local producer milk supplies.

It also should be pointed out that the Class I pricing structure does not cover the total cost of moving bulk fluid milk from one area to another. Because of this, it is erroneous to consider the current Class I pricing system to be a single basing point system based on Eau Claire, Wisconsin. If the pricing system were based on the price of milk in Eau Claire, plus the cost of hauling to the other areas, Class I prices in other areas would have to be considerably higher. Thus, although it is true that central Wisconsin is viewed as being the center of an area where large supplies of milk are available for shipment to other areas as supplemental milk, there is no case in the Federal order system where the Class I differential is sufficient to cover the costs of hauling fluid milk to the local market from Central Wisconsin, or from any other alternative source of fluid milk supplies.

Moreover, it is generally true that the costs for hauling bulk milk from one market or region to another are greater than any difference in costs of production. That is why any concept of a flat Class I differential would not reflect the economic conditions which affect market supply and demand for milk in the various marketing areas. If a lower flat Class I differential pricing scheme were adopted, such as in proposal A–27, the lower prices to producers would almost certainly have the effect of reducing production in the southeastern markets. The concept of a lower Class I price in the Southeast initially has appeal because it might appear that fluid milk would thus be available to consumers at lower prices. However, any such lower prices could not last long because eventually more and more of the markets' fluid milk needs would have to be shipped in from other areas, perhaps even from Wisconsin. In terms of fresh fluid milk, it simply is not possible to obtain such milk at prices below the current Class I prices in the southeastern markets when hauling costs are included.

This may be illustrated as follows. Assume that milk is available at Columbus, Ohio, which is about 1,000 miles from Miami Beach, Florida. If the Class I differential at Columbus was $1.80 (as proposed in A–27), and it costs $3.50 per hundredweight to haul bulk milk from Columbus to Miami Beach, the delivered price differential is $3.50 plus $1.80, which is $5.30, or $1.12 higher than the current $4.18 Class I differential for the Southeastern Florida market. But even more to the point is the fact that the $4.18 Class I differential at Miami Beach, Florida is $3.36 below the proposed Class I differential of $1.80 at Eau Claire, Wisconsin, plus a hauling cost of at least $5.74, which totals $7.54. This $7.54 figure is what the Class I differential at Miami Beach would be if that price were based on the Class I price at Eau Claire, Wisconsin, plus hauling. In terms of alternative milk supplies, this example refutes the notion, held by many, that the Federal order Class I price in Florida is too high.

When the hearing in this proceeding was held, the Notice of Hearing included the Lubbock-Plainview, Texas; Texas Panhandle; and Rio Grande Valley orders. On December 6–8, 1989, a hearing was held on a proposal to merge these three orders and to expand the marketing area. On August 14, 1991, the Assistant Secretary issued a Decision to merge the three orders and to expand the marketing area. (Official Notice is taken of the Assistant Secretary's Decision for Rio Grande Valley and Certain Other Marketing Areas, Docket Numbers AO–335–A34, etc., issued August 14, 1991, published August 27, 1991 (56 FR 42240) and the Assistant Secretary's Order Amending Orders, Docket Numbers AO–335–A34, etc; issued October 9, 1991, published October 21, 1991 (56 FR 52446)). The merger became effective December 1, 1991. Accordingly, in this decision, all order language will be in terms prepared for the merged order, which will be the New Mexico-West Texas order (7 CFR part 1138). The merger decision cited above modified the Class I price structure in eastern New Mexico and reduced the Texas order Class I differential by twelve cents per hundredweight. Other conforming location adjustment changes were provided in the Texas and Southwest Plains orders to recognize the pricing structure of the New Mexico-West Texas order.

Several parties offered testimony in the present national hearing concerning milk production costs in New Mexico

and Texas, where milk is produced in New Mexico, and other information concerning plant locations. One purpose of such evidence was to provide a basis for further review of the Class I price relationships in the New Mexico-Texas area. However, that question was previously reviewed in the proceeding that led to the merger and expansion of order territory for the New Mexico-West Texas order, which has already been mentioned. The decision in that proceeding appropriately dealt with the question of price alignment in that region. Accordingly, no action in that regard should be taken on the basis of the record developed in this proceeding.

Gold Star Dairy in their exceptions urged the Secretary to revise the Administrator's decision concerning the appropriate level of Class I prices in New Mexico.

The exception states that in the proceeding that led to a merger of three orders to form the New Mexico-West Texas market, Gold Star urged that the Class I price in eastern New Mexico be reduced rather than increased, based on data about production increases and costs of production. Nevertheless, in the decision on the merger, the Secretary indicated that the record on the issue was insufficient. The exception notes that Gold Star offered to provide additional information, but the hearing was not reopened. Instead, the upcoming hearing in this national proceeding would provide the appropriate forum for considering such data in the context of the national hearing proposals. Gold Star did present detailed data, but the Administrator declined to change the New Mexico price. The exception contends that this amounts to arbitrary and capricious action and urges that the issue be further addressed, or, in the alternative, the Department reopen the southwest merger proceeding for that purpose.

The exception and the motion to reopen the merger hearing are denied. The proposals that were considered at the hearing in this proceeding involved possible changes on at least a regional or multi-order basis, possibly even changing all orders. There was no notice given that the appropriate Class I price level for any individual market would be considered outside the context of price alignment among a group of orders.

If the decision had been made to change Class I prices over a broad area that had included New Mexico, then the evidence offered by Gold Star could have been considered. But that is not the case. As stated earlier, this decision finds that no changes in the Class I pricing system are warranted. Within the context of this decision, a change in the New Mexico price that would result in a different alignment with other nearby markets would be inappropriate.

In its brief, a handler that operates two plants in the Southeast urged that Class I differentials in southern Louisiana under both the New Orleans-Mississippi and Greater Louisiana orders be reduced to recognize that Class I prices under the Texas order had been lowered 12 cents. The brief noted that a regional hearing to consider appropriate location differentials and other issues in the area had been scheduled for December 1990. That hearing has since been postponed indefinitely and the brief concluded that it is now necessary for the Secretary to address the adjustment of Class I prices in southern Louisiana in this proceeding. The brief further maintained that such price adjustments are reasonably within the scope of several proposals included for consideration in this proceeding.

This petition is denied. The alignment of Class I prices in Louisiana and Mississippi and other areas was considered and adjusted based on a regional hearing for that purpose as a result of the changes in Class I differentials established by Congress in the Food Security Act of 1985.

The exception filed on behalf of Anderson-Erickson Dairy Company, Marigold Foods, Inc., and Southern Foods Group (AE, et al.) stated the parties did not disagree with the recommended decision to not change the Class I price structure. Nevertheless, the exception claims the recommended decision's discussion of the Class I pricing issue was too brief to fully address the Class I price proposals and that a full discussion should be part of this decision.

To some extent, some of the responses herein to other exceptions also are responsive to the concerns expressed by AE, et al. However, any additional discussion regarding the individual proposals appears unnecessary. The basic issue is whether a compelling case was made that some other Class I pricing system is needed. After a review of the supply and demand situation in the various markets, it is concluded that no changes are needed. Having concluded that the current Class I pricing system is appropriate and is in accord with the pricing standard in the Act, it is not necessary to then proceed to discuss in detail why each of numerous proposals should not be adopted. The reasoning is basically the same in each instance.

The exception on behalf of AE, et al., also urged that USDA adopt a principle that the proponents of change have the "burden" of proving that such change is essential. The exception further urges that this decision specifically state that UMFOC, as the leading proponents for change, failed to provide such "burden of proof."

In response, it must be noted that the recommended decision found that there was no need to change the Class I pricing system. A finding in a decision that no change is needed is tantamount to declaring that the proponents have failed to meet the so-called burden of proof.

Several exceptions by various parties complained that the recommended decision ignored evidence and therefore wrongfully did not reach the conclusions that those parties believe should have been reached. Stated simply, those parties believe that the Administrator should have found that the Federal milk order program's Class I pricing system is obsolete, unfair, inefficient, and discriminates against producers in the upper midwestern area. These exceptions essentially disregard the testimony of all other parties who expressed strong opinions that the current Class I pricing system has worked and is working well and should be maintained.

The arguments are rejected. These exceptions seem to reflect an expectation that the proposals should have been adopted. That is not how the hearing process works. Rather, all participants are heard and all the evidence is considered. The fact that an interested party submits a proposal and then testifies in support of the proposal does not assure adoption of the proposal.

The exception filed by TAPP expressed that organization's concerns that the recommended decision did not adopt any of the proposals to restructure the Class I pricing system. The exception basically reiterated the positions stated on behalf of TAPP at the hearing in support of its various proposals. Moreover, the exception stated the view that if some major changes are not made, the future of the Federal order program could be endangered.

The exception also suggests that a possible alternative action would be to restore Class I price differentials to the pre-1986 levels, and then argues why adoption of TAPP's proposals would be more desirable. The exception stated that TAPP's proposals concerning a Class I price supply-demand adjuster, seasonal pricing, and uniform transportation credits should be considered on their own merits

separately from the other proposals on Class I price alignment.

As was indicated in the recommended decision, after a full review of the record and extensive analysis of various market data, it was concluded that no changes should be made to the Class I pricing structure as it currently exists. That conclusion has not changed after full consideration of all the exceptions received. Therefore, the exceptions raised by TAPP are denied.

The recommended decision did not specifically address the various proposals for transportation credits because they were specific to Class I or Class II milk. Moreover, the supporting testimony for the proposal by TAPP, and related cross examination, did not specify the source of funds from which the 30-cent transportation credit would be paid for Class I milk.

Whether the source of funding would be a surcharge on the Class I milk price, or a higher Class II milk price, or pooled proceeds prior to calculating the blend price, a transportation credit is related to pricing. Since it was concluded that no changes to Class I and Class II pricing are warranted, the question of transportation credits was not considered further. Even if considered as a separate issue, the record evidence is not compelling that there is a need for transportation credits in all orders. The exception is denied.

With regard to seasonal pricing plans and a supply-demand adjuster, those issues were considered separately. A review of these issues in light of the exceptions (TAPP's and others) does not provide any basis for changing the conclusion reached in the recommended decision.

Other Related Issues

National Pooling

There is no basis in this record for concluding that the returns from Class I milk under the present orders should be pooled under some regional or national arrangement. Although some parties expressed a view that there is now a national market for Class I milk, the record does not support such a conclusion. It is true that some Class I and Class II products are distributed over wide areas. Also, it is clear that there are some overlaps in production areas. Although this information may be an indication that some merging of orders may be warranted, there is not a sufficient basis in this record for taking such action.

Cost of Production

Many witnesses expressed views that costs of producing milk should be a factor in determining prices under the order program. However, no one provided a sound basis for doing so or explained just how Federal order prices should be tied to or established using such data.

The AE, et al., exception urged that costs of production evidence should be declared unsuitable for use as a milk pricing factor. The exception identified a few problems with the data. We agree, but only to the extent that the data provided in this record could not appropriately have been used to establish milk prices under the Federal order program.

Elimination of Grade A and Distance Differentials

The proposals to eliminate Grade A and distance differentials in pricing Class I milk amount, in essence, to proposals to eliminate classified pricing. However, this approach has virtually no support from those who are regulated under Federal orders (handlers) and from producers. Adoption of these proposals would render Federal orders without any basis to recognize the value and service provided by Grade A milk in the marketplace. The record does not provide a persuasive argument for eliminating classified pricing under the order program.

The United States Department of Justice filed exceptions to the fact that the recommended decision did not eliminate or lower significantly the Grade A and distance differentials. The exception maintains that no party offered any facts or arguments that undermined the Justice Department's conclusion that USDA can and should adopt their proposals.

The statements and the briefs and exceptions presented by the Justice Department do not reflect a full understanding of the economics of the milk industry and the inherent characteristics of milk and its production. As the record in this proceeding demonstrates, many of the factors that brought the orders into existence still exist today. While it is true that not all of the marketing conditions of the 1930's exist today, fluid milk is still highly perishable, milk production still varies seasonally (although not to the extent that it once did), and there are still areas that do not produce enough milk locally to meet the consumer demand. Because of these conditions, classified pricing of Grade A milk still serves to help provide a stable and orderly environment within which fluid milk marketing takes place. There is no basis in the record of this proceeding to conclude that Class I differentials should be eliminated or substantially reduced. Either one essentially would eliminate classified pricing, which is the most fundamental element of the Federal marketing order program.

Multiple Basing Points

The orders should not be amended to specify that Class I milk prices will be determined by using several basing points. As noted earlier, it is concluded that the current system of Class I prices is functioning properly and is in accord with the provisions of the Act with regard to establishing milk prices. Thus, no changes in the Class I differentials are adopted.

The record in this proceeding fails to provide sufficient information to provide a sound basis for deciding that multiple basing points should be adopted. Two such proposals were discussed, but in neither case was detailed information provided that would facilitate deciding exactly where basing points should be. One proponent's spokesman indicated that further hearings might be needed to develop more detailed information.

In order to permit a full evaluation of this issue, the record should include a full exploration of those factors that are important in deciding where basing points should be located and how the Class I differential amount at such points should be determined. Additionally, it would be important for the record to provide a basis for properly establishing Class I differentials at locations other than the basing points. This in turn raises questions about location adjustments and price alignment between markets. Although some of these items were touched upon in the record, there nevertheless is a serious lack of information that would be necessary to make a decision that multiple basing points should be adopted and then to follow through with a specific set of order provisions to implement that decision.

Placing a "Floor" Under Federal Order Prices

Several parties supported the concept of placing a "floor" under Federal order prices. The proposals ranged from $10.60 per hundredweight to $14.00 per hundredweight, with adjustments twice a year for inflation. Some proposals would undergird Class I and Class II prices only. One proposal would also specify a minimum Class III price.

Class prices under Federal orders are tied to the M–W price, which currently serves as the "price mover". As the M–W price moves up or down reflecting market forces and competition at work

in the marketplace, so do the Class prices under Federal orders move up or down. This pricing mechanism responds to market changes in the value of milk for manufactured dairy products. This is an important consideration in maintaining a proper relationship between Federal order reserve milk and non-order milk made into the same products. If a floor price were put under the Class III price, this price relationship may not be maintained.

Similarly, the differences in price between Class III uses and Class I and Class II uses state appropriate value differences. Changing such value differences through placing a floor under Class I and Class II prices only could distort these price relationships.

A price floor may be an appropriate mechanism to use if it is necessary to prevent prices from going so low as to jeopardize the adequacy of milk supplies. However, the record evidence in this proceeding does not support a finding that a floor price should be adopted for that purpose. While a price floor could prevent some price fluctuations, it could also isolate Federal order prices from properly responding to changes in market conditions. For these reasons, all proposals to place a "floor" under Federal order minimum prices are denied.

In their exceptions, MMI and SCDF took strong exception to the recommendation that none of the proposals for "floor" pricing should be adopted. The main argument advanced in the exceptions is that a "floor" under Class I and/or Class II prices would provide dairy farmers some assurance that milk prices would not fall to unreasonably low levels that would jeopardize the adequacy of future milk supplies.

The recommended decision recognized that a floor price could serve such a purpose, but it was concluded, nonetheless, that this record did not support a finding that a floor price should be adopted for that purpose. That finding is confirmed and the exceptions are denied.

Supply-demand Adjuster

The orders should not be amended to apply a supply-demand adjuster uniformly to all orders, based on the level of dairy product purchases under the price support program. The proposal would result in Class I prices in all orders being reduced by the same amount. Also, as proposed it would work in only one direction, that is, it would reduce the Class I differentials in response to increases in price support purchases. Thus, milk prices could decline; but no mechanism is proposed to deal with a shortage of milk (which could be a signal that a higher price is needed).

It is not apparent that a supply-demand adjuster should apply to all orders at the same time and in the same amount. We cannot conclude, for example, that the Southeastern Florida Class I price should be decreased because price support purchases are large. It does not appear likely that the Southeastern Florida order contributes at all to higher levels of support purchases.

Balancing Payments

The proposal by Land O'Lakes to provide balancing payments to handlers that dispose of a market's reserve milk supplies should not be adopted on the basis of the record in this proceeding.

The proposed payments would be funded by adding a surcharge to the Class I milk price. Thus, all handlers who use Class I milk would help pay the costs of disposing of reserve milk supplies, and Class I prices would be increased in a given market by the amount estimated by the market administrator to be necessary to cover the expected payments.

It has already been stated that there is no basis in the record of this proceeding to restructure Class I milk prices throughout the order program. Thus, the concept of adding specific amounts to a basic Class I price differential as several proposals would have provided has already been rejected.

Payment for services of marketwide benefit are permitted under revisions to the Act contained in the Food Security Act of 1985. However, the adoption of such provisions should be based on evidence pertaining to the need for them in specific market situations. That kind of evidence is not provided in the record of this proceeding. Moreover, there is no indication of support for adoption of this proposal by cooperatives in other markets outside the area that Land O'Lakes serves. Another shortcoming of this record is that there is not adequate information concerning the costs of providing the balancing services, nor of the equity, or lack of equity, concerning the provision of balancing services in the various markets. Thus, the proposal for balancing payments is denied.

Supplemental Milk Credit

After considering the evidence, it is concluded that the proposal to provide a supplemental milk credit should not be adopted. While there is merit to the argument that handlers who have to pay "give-up" charges to manufacturing plants may have a higher cost of milk than those who do not, we do not agree that the proposal offers an appropriate response.

Part of the concern is that it is not demonstrated that there is uniformity in give-up charges. It seems clear that give-up charges are often made on supplemental milk, but supplemental milk may be obtained from various sources. Also, it would appear that adopting such a credit would "institutionalize" a $3.00 give-up charge, thus tending to insure that such a charge would be applied. It is more appropriate to leave this charge within the context of over-order charges, which are responsive to changes in the competition for milk.

Seasonal Pricing

All of the proposals to provide some form of seasonally varying prices are denied. Evidence submitted in support of those proposals demonstrates that milk production continues to exceed Class I needs in the spring, and often falls short of meeting Class I needs in the fall months. This is a general occurrence, and there are degrees of variation among the orders.

Addressing individual market seasonal production variations is not practicable in a proceeding such as this one that involves all markets. Moreover, the record fails to provide any clear sense that a majority of producers favor one type of plan over another one, or that support for the concept is widespread among producers. Therefore, it is concluded that none of the specific proposals considered in this proceeding should be adopted. If seasonal incentive plans are to be provided, the need for such plans and details of the type of programs desired should be based on local or regional hearings called for that specific purpose.

Advance Announcement of Class I and II Butterfat Differentials

Currently, a single butterfat differential is announced on the fifth day of the month for the previous month. The proposal by MIF and IICA would require the use of one butterfat differential for Class I and Class II and a separate differential for Class III. Each month the producer differential would be the weighted average value for butterfat in all three classes (under actions discussed in Issue No. 3, all orders will have three classes).

The purpose of the proposal is to provide handlers a greater amount of pricing information in advance so that they could more accurately determine their raw product costs.

Even though there was rather broad support for announcing the Class I and Class II butterfat differential in advance, the proposal should not be adopted. There is no question that the proposal would allow handlers, especially those who make Class II items, to more accurately determine their raw product costs. However, there is a consideration in multiple component pricing that overrides this issue. The butterfat differential is a critical factor in determining the value of the component other than the butterfat component in an order with multiple component pricing. In the Great Basin order, the value of protein is established by subtracting from the M–W price the value of butterfat and dividing the remainder by the average percent protein in producer milk. The resulting milk protein price is the same for protein used in both Class II and Class III milk.

It should be noted that, in addition to the multiple component pricing (MCP) plan currently in effect for the Great Basin marketing area, MCP has also been recommended for adoption in the Middle Atlantic order. Additionally, a hearing has been held to consider MCP, for the Indiana, Ohio Valley and Eastern Ohio-Western Pennsylvania orders. (Official notice is taken of the Administrator's recommended decision for the Middle Atlantic Marketing Area, Docket Number AO–160–A65–RO–2, issued May 23, 1991, published May 31, 1991, 56 FR 24746, and the Administrator's Notice of Hearing on proposed amendments to the Ohio Valley, Eastern Ohio-Western Pennsylvania and Indiana order, issued July 25, 1990, published July 31, 1990, 55 FR 31056).

Under the proposal, however, the butterfat differentials for Class II and III would not necessarily be the same. The result would be that the value of butterfat and protein used in Class II would not be the same as that used in Class III. This possibility, and any ramifications that might result with respect to changing product values, was not discussed at the hearing. Thus, a change in the butterfat differential should not be made on the basis of this record.

Several parties took exception to the finding in the recommended decision that the proposals to provide advance announcement of Class I and Class II butterfat differentials should not be adopted. One argued that the reason for denial was not valid, and held that if USDA was concerned about the impacts of the proposal on orders with multiple component pricing systems, then questions should have been raised at the hearing. One asked that the decision be reconsidered because support for adoption was indicated by most hearing participants. Another held that advance announcement of at least the Class I butterfat differential should be adopted.

The basic reason for denial in the recommended decision remains valid. We maintain that there is no basis in the record of this proceeding to change the Federal order price relationship between butterfat and protein or solids not fat in Class II and Class III in those orders that provide for multiple component pricing.

Moreover, when a single butterfat differential was adopted in most orders (1974), the basic concept underlying that decision was that all Class prices should be adjusted by the same differential. Thus it would seem that if this concept was to be changed, the testimony should address why the concept was no longer appropriate.

Widespread support at the hearing for announcing butterfat differentials in advance is acknowledged. But the primary reason was that handlers want it that way so that they may be better informed about ingredient costs. This desire is certainly understandable. However, the expression of this desire does not address the question of why the single butterfat differential pricing policy adopted many years ago should be changed, or what the impact of such a change on milk pricing would be.

Therefore, despite the fact that these proposals were very popular, the record in this proceeding lacks certain information that would be essential to their adoption. The exceptions must be denied.

2. Class II Milk Pricing and Related Issues

a. *Level of Class II differentials.* The Class II price differentials under the orders should not be changed, except for the two orders that do not have a Class II differential. These are the Michigan Upper Peninsula and Black Hills orders.

Most of the orders have three classes of use. In most cases, the Class II differential is 10 cents. A 15-cent differential applies under the three Florida orders, and a 25-cent differential applies under the Pacific Northwest order (although this latter differential is reduced whenever the Class III price is based on a butter-powder formula price). Under the existing advance pricing arrangement, however, these various differentials, in actuality, have averaged 4 cents higher during the past 10 years. (Advance pricing will be discussed in a later section.)

Five orders—Michigan Upper Peninsula; Black Hills, South Dakota; Southeastern Florida; Tampa Bay; and Upper Florida—have only two use classes. The Florida orders currently have a 15-cent differential over the Minnesota-Wisconsin price. However, under the Michigan Upper Peninsula and Black Hills orders Class II milk is priced at the Minnesota-Wisconsin price (the Black Hills order has a butter-powder snubber). As indicated earlier, all orders would provide for three classes under the changes adopted herein.

At the time of the hearing, the New England, New York-New Jersey, and Middle Atlantic orders also provided for only two use classes. Effective April 1, 1991, these orders were amended on the basis of an earlier hearing to provide for three classes, with the soft products being included in a new middle-priced class (56 FR 5308). The new Class II price for these three orders is the same as under the other three-class orders, except that the price is subject to the same seasonal adjustments that apply to Class III milk under the three orders.

The notice of hearing included five proposals (B–1, B–4, B–5, B–6, and B–7) that would increase the level of the Class II differentials. The predominate support was for setting the differentials at 50 cents. Other proposals were for differentials of $1.00 and $1.20. Another proposal in the hearing notice (B–3), which would have changed the Class II price formula but kept the present 10-cent differential, was modified at the hearing to provide for a 15-cent differential.

In supporting Class II differentials of 50 cents or more, the basic contention of proponents was that milk used in soft products has far more value to Class II processors than is reflected by the current 10-cent differential. Proponents, which included both cooperatives and proprietary handlers, pointed out that processors want a steady supply of high-quality milk for Class II uses and are willing to pay much more than the minimum Class II prices set by the orders. They indicated that over-order prices for Class II milk are common throughout the country, often ranging from 50 cents to $1.00 or more over the Class III price. Proponents also indicated that these higher payments for Class II milk are not disruptive to the marketing of producer milk in that processors find little incentive to seek alternative ingredients for making Class II products, such as Grade B milk or nonfat dry milk.

In supporting a substantially higher Class II price, proponents also claimed that Class II uses should bear, along with fluid milk products, a reasonable part of the cost of attracting a sufficient

supply of high-quality milk to the market. They indicated that this is particularly relevant today since Class II products in many areas now must be made from Grade A milk. In addition, they contended that the cost of moving producer milk to Class II outlets far exceeds the order Class II differentials and that only through over-order prices can milk be attracted away from the more remunerative Class III outlets, which are usually located within the milkshed.

Proponents of substantially higher Class II differentials were not in agreement on the level that should be adopted. Some argued that a differential much higher than 50 cents would provide an economic incentive for processors to substitute alternative ingredients. At the same time, others pointed out that substantially higher over-order prices are being paid without disruption of the marketing of producer milk to Class II outlets.

The cooperative proposing the Class II differential of $1.00 argued that this much higher price level reflects what processors are willing to pay for Class II milk. The cooperative also indicated that this is a more realistic price level in view of the strong position of Class II products in the marketplace. Citing retail and wholesale price indices for Class II products, the cooperative pointed out that Class II products show greater strength and profitability relative to dairy products in general. At the same time, it was argued, producers have not shared appreciably in these returns. According to the proponent, adopting a $1.00 Class II differential would help close the gap between the prices received by producers and the wholesale prices received by Class II processors.

In proposing a Class II differential of 15 cents, the trade associations of milk and ice cream processors argued that the price of Class II milk under the orders should remain essentially unchanged. The proposed 5-cent increase in the Class II differentials, they claimed, is merely to offset the 4-cent per hundredweight price enhancement to producers that the present advance pricing arrangement has provided but which would be eliminated under the processors' proposal to change advance pricing, as discussed later. The associations indicated that it is their desire to make the Class II pricing changes revenue neutral for producers.

In supporting no change in the Class II price level, the trade associations argued basically three points. First, these groups claimed that on the basis of price elasticity studies a much higher differential would result in a significant decline in the consumption of Class II products. Any loss of Class II sales, they noted, would mean an increase in surplus milk, which could drive down all milk prices.

A second concern by processors was that a much higher Class II price for producer milk would result in an economic incentive for processors to use cheaper alternative ingredients. Also, in this same vein, processors are concerned that a higher order price would eventually cause consumers to shift to less expensive nondairy substitutes.

A third concern is the potential inequity that could exist between regulated and unregulated processors if Class II prices are increased under the orders. The processor groups claimed that this situation was recognized by the Secretary when the present 10-cent differential was established in the mid-1970's.

It is clear from the record that the present Class II prices under the orders substantially understate the price that regulated handlers are paying for Class II milk. Although the Class II differential in most markets is 10 cents, handlers in most areas are paying much more than this to get a supply of milk for the soft product uses. Over-order prices for such milk range anywhere from 50 cents to $1.00 or more over the Class III price, depending on the particular marketing conditions in the area.

Although the Class II market usually represents a relatively small part of their business, handlers nevertheless consider the processing of Class II products an important part of their total operation. Handlers want a regular supply of Grade A milk for such uses, which requires essentially all of the costly supply services associated with procuring milk for the Class I market. These include moving the milk long distances from the milkshed to the city processing plants and balancing milk supplies with demand. Handlers also often want milk delivered in a standardized form.

A Class II price that is only 10 cents higher than the Class III price does not cover the cost of these services. Unless a processor is willing to pay more for the milk, the cooperative associations that are supplying the milk find it more profitable to channel the milk into the Class III uses, which do not entail the same costly services.

Most handlers are already having to pay substantial over-order prices to obtain milk for Class II use. Such pay prices in conjunction with Class I prices are generating adequate supplies of Grade A milk for both Class I and Class II uses. As discussed under the Class I pricing issue, an analysis of supply and demand conditions under the orders indicates that there are adequate reserves of Class III milk to balance both Class I and Class II needs under the program. Thus, it is concluded that an increase in Class II differentials under all orders is not needed.

b. *Advance pricing of Class II milk.* The advance pricing procedure that applies under most orders to Class II milk should not be modified.

For most orders, the Class II price is the M-W price for the second preceding month as adjusted by an "updating" product price formula (the basic Class II formula price provision of those orders), plus the amount by which the simple average of the basic formula prices (M-W prices) for the most recent 12-month period, plus 10 cents, exceeds the same 12-month period's average of the basic Class II formula prices. The Class II price is announced by the 15th of the previous month. However, if the announced Class II price for a given month is less than the Class III price for the same month, the difference between these prices is then "added back" in computing the second succeeding month's Class II price.

The purpose of the basic Class II formula price (Section 51a in most orders) is to provide a mechanism for updating the M-W price for the second preceding month so that the Class II price for the current month can be based on this M-W price but still reflect more current marketing conditions that might indicate forthcoming changes in the M-W price. This updating is done by comparing movements of wholesale prices for butter, nonfat dry milk, and Cheddar cheese during the first 15 days of the preceding month with such price movements during the same period a month earlier.

Of the eight Class II price proposals on which there was testimony, all except proposal B–1 proposed, either directly or indirectly, the elimination of the basic Class II formula pricing provisions from the orders. Four of the proposals (B–3, B–4, B–5, and B–7) specifically called instead for the use of a Class II price announcement procedure that would operate in the same manner as for the Class I price, i.e., the Class II price would be the basic formula price for the second preceding month plus a specified differential.

While proposal B–6 did not specifically call for the elimination of the basic Class II formula price provision, testimony by the proponent was clear that the proposed $1.00 per hundredweight Class II differential would operate in the same manner as under proposals B–3, B–4, B–5, and B–

7, leaving no need to retain the basic Class II formula price provisions. Also, proposals B–9, B–10, and B–11, which call, in part, for the establishment of floor prices on Class II milk, would leave the basic Class II formula price with little value in the establishment of a Class II price.

Witnesses supporting a Class II price announcement procedure identical to that used for the Class I price indicated that the revised procedure would better reflect and respond to market conditions. They also testified that it would be simpler for everyone to understand than using the complex basic Class II formula pricing provisions. Witnesses generally indicated that the basic Class II formula price had worked reasonably well when there was price stability in the marketplace, but that this was not the case today.

One proponent testified that because the basic Class II formula price attempts to forecast future M-W prices in arriving at a current Class II price, large M-W price movements often send confusing market signals by having Class I and Class II prices move in opposite directions and with differing magnitude. Another proponent noted that this had occurred nine times in the past three years. Similarly, another testified that because of large milk price swings, there is less reliability in the basic Class II formula price projecting raw milk costs for any given month. This results, according to this proponent, in time-lags in the adjustment of product costs and prices that are burdensome to manufacturers. Another proponent said that this sort of opposite price movement was difficult to explain to customers.

Most proponents for eliminating the basic Class II formula price maintained that Class I and Class II milk prices should move in the same direction. They claimed that Class I and Class II products are closely interrelated and that keeping the basic Class II formula pricing provision would not ensure the desired relationship between Class I and Class II prices.

It would be helpful to handlers to have the Class II price move in the same magnitude and direction as the Class I price. However, with a basic differential of 10 cents it is more important that the Class II price be coordinated with the current month's Class III price, since Class III products can be used as an alternative source of ingredients for Class II use. The updating product price formula is intended to obtain this objective.

In most markets the effective Class II prices are those announced by cooperative associations and they are substantially higher than the minimum order prices. Thus in practice it is not often that the order price is the effective price faced by handlers. On those occasions that it is the effective price, handlers still have the benefit of knowing the price well in advance. Accordingly, it is concluded that the current Class II pricing formula should be continued under the orders.

Numerous parties took exception to the recommended decision to not provide a higher Class II price differential and/or to not provide for advance announcement of the Class II prices. It was pointed out that there was widespread support for both, although there obviously was a divergence of views on how large any increase in the Class II differentials should be. Some of the exceptions noted agreement with the recommendation to not increase the Class II differentials, but expressed a view that the Administrator erred in not providing for advanced announcement of the Class II price. The exceptions charge that the Administrator ignored the record evidence on the advance pricing issue.

Some exceptions expressed the view that the recommended decision was contradictory because it finds in the discussion of milk use classification that Class II items have a high value in the marketplace, but then declines to reflect that higher value through the Class II price orders. One such exception states, "The Secretary should cut to the heart of the issue and increase the Class II differentials to reflect more of this value."

After review of all the arguments raised in exceptions, and for the reasons set forth in the recommended decision, we reaffirm the decision that the existing Class II pricing provisions should not be changed.

c. *The Class II "add-back" provision.* The proponents of proposals B–1 and B–3 believe that if the Class II milk price for a given month is less than the Class III price for the same month, the difference between these prices should not be "added back" in computing the second succeeding month's Class II price, as most orders now provide. However, the proponents of B–4, B–5, and B–6 believe that this difference should be "added-back" in calculating the next month's Class II milk price. This "add-back" provision is an integral part of these proposals.

The proponent of proposal B–3 testified that adding an additional amount to the Class II price in those months when the M-W price increases dramatically and may be greater than the announced Class II price would result over the long-term in a Class II price level that is significantly higher than their proposed Class II differential of 15 cents per hundredweight. A witness who testified in support of proposal B–3 believed that if the Class II price is established by the basic formula price plus a differential, the "add-back" provision is not needed. This witness said that the current basic Class II formula price cannot provide a guarantee that producers will receive at least the Class III value for Class II milk and therefore, the "add-back" provision was justified. Adopting this proposal, said this witness, would eliminate this need because dairy farmers would be assured of receiving no less than the basic formula price plus the Class II differential for Class II sales in two months' time. Similarly, a proponent of proposal B–1 testified that the "add-back" provision results in a Class II price that is higher than the intended amount above the Class III price.

It is important to recognize that since the adoption of the "add-back" provision in the Class II pricing mechanism contained in most Federal orders, the effective Class II differential has averaged 4 cents higher than the intended differential level of 10 cents per hundredweight. The add-back feature was intended to ensure that producers receive not less than the Class III value for Class II milk in the blend price whenever the M-W price exceeds the announced Class II price. Thus, the add-back provision of the Class II price formula should be retained so as not to reduce returns to producers.

d. *Recognizing Class II needs in establishing shipping requirements.* There were proposals to require supply plants to ship milk for Class II uses or otherwise recognize Class II milk needs in the performance standards of the orders. After considering all the evidence, it is concluded that such recognition should not be provided under the orders.

A few handlers expressed concern that the Federal orders no longer function to secure adequate supplies of milk for Class I and Class II uses. They noted, for example, that the present Class II differential does not even cover the cost of moving milk from the farm to the plant where Class II milk is used. Thus, in their view, if a higher Class II price is to be paid, then a part of the increased price should be used to help make milk more available for Class II. It was argued that shipping standards should be increased and that monies generated by the higher Class II differential should be paid out only to those producers who delivered their milk to either Class I or Class II plants.

There was not a large base of support for the concept of requiring additional milk to be delivered to Class I and Class II operations. The CMPC position, for example, was that this matter could be handled outside the order program and so CMPC did not propose shipping requirements to meet Class II needs. Others opposed such a requirement for orders in the Southeast and Southwest. Moreover, without an increase in the Class II differential it is questionable whether proponents would maintain their position on these proposals.

The question of whether or not shipping or other performance standards for pooling milk should be changed cannot be dealt with properly on the basis of this hearing. Pooling standards were not an issue and the testimony and other evidence generated at the hearing are not directed towards this issue. This record provides no basis for determining how performance standards should be changed on an order-by-order basis. This matter should be handled in another proceeding or proceedings, if there is a need to deal with it further.

3. Product Classification

The Federal milk order system should contain uniform classification provisions. The uniform provisions adopted herein would provide for three classes of use, and are based primarily on the present "uniform classification" provisions contained in most orders. The Agricultural Marketing Agreement Act of 1937 requires that milk be classified "in accordance with the form in which or the purpose for which it is used."

Several of the proposals considered in this proceeding under the heading "Product classification" dealt specifically with the need for uniform classification provisions throughout the order system. Although other proposals under the same heading dealt only with the classification of milk used in particular products, the proponents also recognized the importance of having changes in classification considered on a national basis, rather than only in particular orders. There was no support at the hearing for retaining or establishing differing classification provisions for different orders.

The need for uniform classification provisions has grown since 1974 as intermarket movements of milk products have increased due to improved highways and transportation methods. In addition, new technologies and equipment have increased the capacity of milk plants, resulting in fewer and larger plants with wider distribution. In this competitive environment, differences in classification and resulting differences in the prices paid for milk used to process or manufacture dairy products result in competitive inequities between handlers regulated under different orders. The artificial competitive advantage caused by classification differences between orders can also influence handlers' decisions of where to build plants and produce products whose classification is inconsistent between orders. Classification differences can threaten the orderly marketing of milk between orders.

A survey of each order's Class II provisions by one of the hearing participants delineated a significant variation in classification between the orders. According to the witness, the impact of such variation has become greater as movements of Class II products increase as much as 1,000 miles between marketing areas and between regions.

Several proposals considered at the hearing would replace the current 3-class pricing system with a 2-class system. Under these proposals, surplus products and a few of the products currently in Class II would be in the lower-priced class, while all other milk uses would be Class I. Proponents of the adoption of 2 use classes stated that the proposals would increase blend prices to producers by adding products to the higher-priced class, and counteract a long-term decline in the percentage of milk used in Class I.

The record shows no legitimate basis for replacing the current 3-class pricing system with 2 classes. The 3-class pricing system allows for greater differentiation among products based on the form in which and the purpose for which they are used than would a 2-class system. Factors such as the form and function of a product, its perishability, and the manner in which it is packaged and distributed can and should be considered in the determination of its classification. The 3-class pricing system has worked well in most Federal orders for a number of years. Some fine-tuning is necessary to achieve uniformity of classification, but a change to 2 classes would not be an improvement. Although a desire to increase returns to producers is understandable, such a goal would be more appropriately addressed through changes in price rather than changes in classification.

A proposal to establish a new Class II-A for some current Class II uses of milk in the event Class II prices are increased significantly is unnecessary because this decision adopts no Class II price increase. A witness for Darigold, Inc., a large cooperative association operating in the Pacific Northwest marketing area, testified that Darigold supports three classes of use. However, he stated, Darigold would like to see a division of Class III into two parts, with the price for each part based on values returned by the marketplace for the products in that part of Class III. The witness explained that Darigold has experienced problems with a "misalignment" between Federal order Class III prices for butter and nonfat dry milk and the returns the cooperative has been able to realize from the sale of those products. The Darigold witness stated that when returns for one Class III product, such as cheese, are greater than for other Class III products such as butter and powder, plant facilities cannot be changed to manufacture the higher-valued product, in part because the adjustment in the price of the noncompetitive product may be temporary. According to the witness, some highly efficient plants could lose their markets and their place in the industry if the situation is not corrected.

Although it is true that at times the market prices obtainable for butter and powder return less for the milk used in these products than the price of cheese does for milk used in cheese, the record of this proceeding does not support a conclusion that the problem addressed by the Darigold witness is one that should be addressed in this proceeding. There is no indication that the problem is widespread. None of the other witnesses testified with regard to the issue. The hearing record does not contain sufficient basis for evaluating the merits of such a proposal. Accordingly, classification of milk in all of the Federal milk orders should be on the basis of three uniform classes, without subclasses.

Testimony by a number of witnesses, and also post-hearing briefs, addressed the issue of the criteria to be used in establishing the appropriate classification of milk used in various products. Many of those testifying advocated a particular classification for milk used to make a specific product, and therefore identified criteria that best supported the classification they favored. The criteria identified by those testifying on the subject of classification fell into two principal categories: characteristics of particular products, and issues relating to the demand for those products and for the milk needed to produce them.

The characteristics of specific milk uses mentioned by witnesses include the physical characteristics of the products themselves, such as perishability, form, percentage of

moisture and butterfat, similarity to other products, and packaging, and also the location at which products are processed and the area over which they are distributed. Issues raised in the proceeding that relate to the demand for milk used in various products included whether demand by handlers is for a relatively constant supply of high-quality milk and whether it is related to the demand by consumers for the processed product, whether a product represents a surplus or balancing use of milk or its production is driven by consumer demand, the elasticity of demand or price-sensitivity of a particular product, and whether the value returned by the market for a product should be reflected in returns to the dairy farmers who produced the milk ingredients of the product.

Historically, the fluid or beverage uses of milk have been classified in the highest-priced class of use (Class I), and the lowest-priced class (Class III) has been reserved for the hard, or dry, uses. The soft products, those from which some moisture has been removed, have fallen into an intermediate class of use (Class II). Closely related to these classifications on the basis of the physical forms in which products are marketed is the concept of storability versus perishability. The demand by handlers for a readily available supply of high-quality milk for fluid purposes is directly related to the perishability of these fluid products. Consumers expect to find fluid milk products available at all times. Because of the perishable nature of beverage milk products, handlers must be able to replenish stocks in the supermarket dairy case on a fairly constant basis, and have a regular and dependable supply of producer milk from which to process those stocks. Milk supplies that are available for use in fluid products consequently command a higher price than milk supplies used in less perishable products.

Products such as butter, nonfat dry milk and Cheddar cheese, however, are storable for significant periods of time. These products can be made whenever milk supplies are available and held in inventory for some time. In addition, the role played by these products in balancing the supply of and demand for fresh fluid milk is recognized by the dairy price support program of the United States government through its purchases of butter, powder and cheese. As a result, the market value of these products is the foundation upon which prices for the higher use-classifications of milk supplied to handlers are based.

The products included in the intermediate class of use are those that are neither as perishable as fluid products nor perform a balancing function for the market. The milk used in these intermediate products, generally described as "soft" products, is used to process or manufacture products for which handlers know a consumer demand exists. Generally, these products have some of the water content removed from producer milk or contain a high enough butterfat content that they will not be used as beverages. Many Class II products have longer shelf-lives than fluid milk products, while being less storable than the markets' surplus uses for milk.

Class II products traditionally have been processed primarily in the same facilities that process fluid milk products, and therefore require reliable supplies of Grade A milk. It is clear from the record of this proceeding that a number of soft product processing plants are separate from any fluid milk facility, and that not all jurisdictions require that Grade A milk be used in these products. However, the area over which products such as ice cream and cottage cheese are distributed has clearly grown beyond intra-regional and may be, for some centrally located Class II processors, national. At the same time, the availability of Grade B milk has declined, leaving many handlers with no alternative to Grade A supplies. However, even if handlers wished to obtain supplies of Grade B milk for use in Class II products, their inability to sell a product made from non-Grade A milk in many jurisdictions would complicate greatly their ability to distribute that product across broad regions of the country.

The primary distinction between Class II products and the truly surplus milk uses of the market is existing consumer demand. Handlers do not process milk into perishable or semi-perishable dairy products if they do not have a consumer market for those products. Similarly, commercial food processing establishments do not buy milk or intermediate dairy products to use as ingredients in other food products if there is no commercial market for the finished products. Although the argument can be made that a commercial market exists for cheese, nonfat dry milk and butter, all of these products, at the time of their manufacture, are in the position of having to successfully compete in the commercial market or being taken off the market by the government as surplus. These surplus products are manufactured as a means of storing non-perishable milk products for later use. Their potential for storage is the manner in which these products perform their balancing role.

The concept of elasticity of demand, or price sensitivity, often is raised by economists in questions of classification. Some claim that the inelastic nature of demand for fluid milk products has been used as a basis for pricing Class I milk above the level of other dairy products. The demand for Class II and Class III dairy products, on the other hand, has been viewed as being more price elastic. Although testimony was received in this proceeding that cited price sensitivity as a basis for determining the appropriate classification of milk used to produce specific products, the record contains no actual data on the relative price elasticities of the demand for various dairy products. Therefore, there is insufficient basis in the record of this proceeding for using elasticity as a criterion for classification decisions about specific products.

The "form" and "use" requirements of the Act provide most of the needed criteria for classifying milk used in various products. When combined with consideration of types of packaging and recognition of the ability of some dairy products to compete with, or substitute for, others that clearly belong within a certain class, these criteria should make the classification of most products relatively easy to determine.

The new uniform classification provisions for the orders will necessitate new "fluid milk product" and "fluid cream product" definitions that are uniform throughout the orders. In addition, the format of several orders that were not included in the 1974 uniform classification decisions should be changed so that provisions dealing with classification will be more uniform between the orders.

The orders that must be amended substantially to change their classification provisions to accommodate three classes instead of two are the Federal orders regulating the handling of milk in the Upper Florida, Tampa Bay, Michigan Upper Peninsula, and Black Hills marketing areas. In addition, the Southeastern Florida order, which currently provides a Class III price only for the butterfat salvaged from milk of which the skim portion is dumped or used for fertilizer or animal feed, should be amended to incorporate uniform classification provisions.

Class I milk should be all skim milk and butterfat contained in milk products that are intended to be consumed in fluid form as beverages. On the basis of exceptions to the recommended decision, the only change made in this decision to the products included in

Class I is in the case of eggnog. The exceptions received and the basis for changing the proposed classification of eggnog are discussed later in this decision. Fluid milk products require dependable supplies of Grade A milk, usually delivered to city locations with rapid access to concentrations of consumers. However, the most salient features of Class I products are that they are fluid in form and used as beverages. Consequently, a hearing proposal to classify kefir as Class II because it competes with liquid, or drinkable, yogurt should be denied. Instead, milk used to make the beverage form of yogurt should be Class I. Both of these cultured products clearly are intended to be consumed as beverages, and are packaged as beverage milk products.

Comments opposing the Class I classification of liquid yogurt were filed by MIF and IICA and by Lifeway Foods, Inc., a manufacturer of kefir. MIF/IICA objected that there had been no industry request or support for reclassification of liquid yogurt, and that the yogurt market is different from the fluid market in production, distribution and usage. MIF/IICA stated that because of limited markets and compositional differences, liquid yogurt is not competitive with fluid milk, and that sales of the product are far more price-sensitive than those of fluid milk.

The handler group pointed out that liquid yogurt is specialized in a small number of plants, and distributed over far greater distances than fluid milk products. According to MIF/IICA, the widespread pattern of distribution would seriously challenge the ability of market administrators to administer the pricing of milk used to make liquid yogurt. Combined with the projected reduction in sales due to higher product cost, the organizations claimed, enforcement difficulties and costs resulting from the reclassification of liquid yogurt to Class I would offset any appreciable additional revenue for producers.

Lifeway Foods, Inc., a manufacturer of kefir, objected to the Class I classification of both liquid yogurt and kefir. According to the Lifeway comments, kefir differs from yogurt only in the cultures used to produce the products, and is marketed with yogurt, not milk or buttermilk. Lifeway stated that both products are made drinkable by breaking the curd formed in the manufacturing process.

Lifeway's comments protested that a decision making some yogurt Class I and some Class II has no support in the hearing record, which, the handler claims, supported making all forms of yogurt and kefir Class II. The handler stated that if liquid yogurt is priced higher than yogurt, consumers will purchase the lower-price product.

According to Lifeway, the "form" of kefir, liquid yogurt and yogurt is the same, made from the same milk ingredients, while the "use" is as dietary health products, purchased by consumers to improve dietary goals, not quench thirst. Lifeway's comments stated that nothing in the record explains what is "spoonable" as opposed to "drinkable".

Lifeway complained that the decision fails to account for competition from unregulated and California plants with lower costs, while Federal order-regulated plants have to pay Federal order prices plus, in the Chicago area, the Central Milk Producers Cooperative premium. According to Lifeway, the difference in regulation results in a price for producer milk that is 90 cents higher at Chicago than the price Alta-Dena Dairy (in Southern California) has to pay.

Lifeway noted that kefir is marketed outside of Chicago, and compared an announced co-op price of $19.26 for Class I milk in Miami, Florida, in December 1991, with a Northern California Class II price of $11.77. As a result of such price differences, Lifeway claimed, the decision would result in giving up all liquid yogurt and kefir sales to plants outside the Federal order system. Lifeway observed that in another proceeding USDA used the price of California milk used to make nonfat dry milk in its justification for amending the Pacific Northwest order to include a Class III-A.

Because of their characteristics as beverage milk products, kefir and liquid yogurt should be considered Class I. There is no reason to believe that the demand for these products is so elastic that the difference between the Class I and Class II prices (3 cents per quart in Chicago) will result in any significant reduction in demand for liquid yogurt, or that persons wanting a cultured milk beverage will consider spoonable Class II yogurt an acceptable substitute.

There is no indication in the record what the extent of the difference between kefir and cultured buttermilk might be, but it seems difficult to justify any difference in the classification of these two cultured fluid products. Although the differences between "drinkable" and "spoonable" are not spelled out, such descriptive criteria should differentiate more clearly between the form and use of products than such criteria as percentages of milk solids or milkfat.

Kefir may be marketed outside Chicago, but there is no indication that it is being processed in Miami, or that Lifeway is processing it there. Therefore, price comparisons between the two locations are irrelevant. Price is determined only under the order regulating the plant that processes the product. Additionally, in the case of the price comparisons made between Chicago and California, the California price cited by Lifeway is the Class II price for the Northern California marketing area, while Alta-Dena is subject to the higher price effective in the Southern California marketing area, and yogurt (including liquid yogurt), is a Class I product under the California order.

Milk used to make milkshake drink beverage products should also be Class I, without specifying a maximum nonfat solids content or a butterfat content less than 9 percent, at which point fluid products are considered "fluid cream products." Specifically (but not exclusively), milkshake drinks that are sold in the dairy case in single-serving containers (pints and smaller) should be considered fluid milk products. Some of these products may contain previously processed and priced skim milk and butterfat, such as ice cream mix. In such case, only the fluid skim milk and butterfat used in the beverage (not the ice cream mix) should be considered Class I.

Several proprietary fluid milk handlers and organizations representing such businesses filed exceptions to the decision to consider milkshake drinks as fluid milk products. In addition to stating that milkshake drinks are low-volume specialty items that do not compete with other fluid products, would be at a competitive disadvantage to substitute dairy products and frozen dessert items if reclassified, and are generally consumed in smaller serving sizes than fluid milk products, those filing comments argued that consumer use of such products has not changed or expanded since the 1974 decision was issued. Exceptors argued that Class I classification of milkshake drinks and their resulting higher prices could lead to a decline in sales. The most extensive comments filed, by the Milk Industry Association/International Ice Cream Association (MIF/IICA), stated that the products have local or very limited regional distribution.

MIF/IICA urged that the 20% maximum nonfat solids standard be retained for the fluid milk product definition, stating that heavier drink products are functionally different than beverages, and are positioned differently with consumers. The comments stated that milkshake drinks, because they are more viscous than fluid milk products,

usually require some alterations to make them more palatable, such as being shaken to incorporate air.

In response to the recommended decision's explanation that ice cream mix added to fluid milk to make milkshake drinks would retain its Class II classification, comments filed by H. P. Hood, Inc., stated that milkshake drinks are not made by adding milk to mix, but are processed in one operation, making it difficult to separate and account for the portion of the product that would have gone into mix if mix had been used separately from fluid milk. Of course, if none of the milk used in such products is manufactured first into ice cream mix, all of it would be classified as Class I.

Several of the comments urged that the 20% total solids criterion be retained for distinguishing Class I products from Class II because the difference can be easily ascertained. However, the total solids standard allows products that meet the form and use criteria of a beverage milk product to be engineered easily to meet the definition of a nonfluid product solely for the purpose of being classified in a lower-priced class.

Similarly, products such as lowfat sour creams, that resemble and compete with traditional cream products, have been developed recently to meet consumer preferences for less fat. The long-standing criterion of fat content to distinguish between fluid milk and cream products (and thus between Class I and Class II) must be modified in such cases to assure that the product is classified in accordance with its form and use, rather than according to its butterfat or solids content.

Comments filed by the Upper Midwest Federal Order Coalition requested clarification of the classification of milkshake drink items sold in half-gallons and delivered to grocery stores for retail sale and for use in in-store soft-serve dispensers, or sold at warehouse club stores frequented by small ice cream shop owners as well as the public. It seems reasonable to assume that such products sold in containers such as half-gallons, that are larger than single-serving sizes, would be intended for use in small ice cream freezers, rather than for beverage purposes, while milkshake drink products sold in containers of one pint or less are clearly intended for beverage use.

Comments filed on behalf of a number of fluid milk handlers, including the Milk Industry Foundation and International Ice Cream Association (MIF/IICA), excepted to the findings of the recommended decision that would have made eggnog a fluid milk product. Many of the comments argued that there was no proposal in the hearing notice to change the classification of eggnog from Class II to Class I, nor any testimony supporting such a change.

The comments stated that the proposed change in classification would increase the cost of processing eggnog by $.20–$.30 per gallon, when the cost of dairy ingredients in eggnog is already greater than the cost of the dairy ingredients in packaged whole milk (because of its high butterfat content), even in the markets with the highest Class I differentials. Exceptions filed on behalf of six proprietary handlers noted that the Class II cost of the milk ingredients in eggnog under the Southeastern Florida order is higher than the cost of whole milk under that order's Class I price. To support their position, the handlers requested that official notice be taken of the Southeastern Florida Class prices and butterfat differential for November 1991. According to those commenting, the result of increasing the cost of eggnog by changing its classification would be to reduce sales and make fresh eggnog noncompetitive with unregulated canned products made from non-priced milk or substitutes.

Those opposing Class I classification of milk used in eggnog argued that eggnog does not fit the category of fluid table milk because it is not prepared for regular and ordinary beverage use, its production and use is highly seasonal, and it is used in such small volumes that it is not competitive with fluid milk. The comments stated that eggnog contains significantly higher solids than fluid table milk, is generally consumed in smaller serving sizes because of its rich taste and heavier body, and has a relatively longer shelf life.

Several exceptions noted that the number of substitutes for eggnog has grown dramatically since the 1974 decision, in which it was estimated, "on the basis of a limited survey", that 35% to 45% of the eggnog market consisted of substitute products. Exceptors failed to estimate the current percentage of the eggnog market consisting of substitute products, and there is no such estimate in the record. Comments also noted that eggnog competes with other bottled and canned mixes designed for use with alcoholic beverages, and with the soft drink market.

Although it is apparent that eggnog is a beverage milk product, eggnog, as defined by FDA as having a butterfat content of more than 6%, has specifically been classified as a Class II manufactured product for some time, there was no proposal in the notice of this proceeding to change that classification, and no testimony in the record about eggnog. Further, the adopted changes in the fluid milk product definition would not necessarily result in any change in the Class II classification of eggnog. Although eggnog clearly meets many of the criteria for being considered a fluid milk product, such classification should be based on another hearing record. Therefore, the findings of the recommended decision that would have resulted in a change of classification for milk used to produce eggnog containing between 6% and 9% butterfat from Class II to Class I are reversed.

A proposal that the classification of packaged fluid milk products in inventory at the end of each month be classified as Class I instead of Class III should be adopted. Testimony by a proponent witness representing Milk Marketing, Inc., stated that such a change would result in less administrative difficulty in adjusting inventory values in the following month, when the products are actually distributed. In addition, he stated, exclusion of Class I milk from component pricing provisions would result in very complex adjustments in the following month if the fluid milk products in inventory were originally priced on a component basis in Class III.

The post-hearing brief filed on behalf of the National Farmers Organization stated that Class III classification of packaged fluid milk products in inventory at the end of the month allows handlers a 30-day lag in payment for use of milk in Class I, and increases the market administrator's administrative and bookkeeping burden in having to make an adjustment to the handler's obligation in the following month. Although the representative of a group of midwestern cooperative associations indicated that the group was taking no position on the proposal because some members of the group opposed it, there was no testimony in opposition to the proposal.

The proposal should be adopted because it is reasonable to require handlers to pay for the milk used in fluid products for the month in which they used it. Furthermore, adoption of the proposal will assure that handlers ceasing operation at the end of a month will pay the appropriate price for any milk left in inventory. For the markets which have incorporated, or will incorporate, component pricing provisions in their orders, adoption of this proposal will simplify the pricing of fluid milk products in inventory.

A provision is needed in each order where the classification of ending inventory of packaged fluid milk

products is being changed from Class III to Class I to specify in the allocation section that in the first month this change is effective, beginning inventory should be subtracted from the skim milk and butterfat remaining in each class, in series beginning with Class III. Beginning with the second month, such beginning inventory would be subtracted from Class I. This procedure will avoid the assignment to Class I without an upcharge of inventory that was classified the previous month in Class III.

Class II milk should be all skim milk and butterfat contained in fluid cream products; used to produce soft, or "spoonable," dairy products regardless of butterfat content; used to produce intermediate dairy products for further processing; and used as ingredients in other food products or other food ingredients. These uses of milk are all governed by consumer demand for the milk components, either as dairy products or as other food products that use milk as an ingredient. Classifying any of these uses as surplus would result in undervaluing the milk produced by dairy farmers. Further, the cost of making Class II products from alternative ingredients, such as nonfat dry milk or condensed milk, would be greater than the cost of using milk priced as Class III to make such products because of the processing or manufacturing costs involved in making the alternative ingredients.

The "fluid cream product" definition now in most orders should be amended to remove sour cream as an item which must be accounted for as disposed of instead of on a used-to-produce basis and to incorporate a standard minimum butterfat content for fluid cream products of 9 percent. The new fluid cream product definition should also be included in those orders without such a definition.

Most products included in Class II as a result of the 1974 uniform classification decisions should continue to be classified as Class II, including frozen desserts, yogurt and cottage cheese, and products that resemble these products in form and use. These products cannot, in the form in which they are acquired by consumers, be consumed as beverages and generally must be eaten with spoons. Frozen desserts should include ice cream, ice milk, frozen yogurt, and milkshake mixes that are disposed of for use in soft-serve form, such as for use in fast-food restaurant dispensers. Milkshake drinks that are disposed of in single-serving consumer-type packaging, such as those sold in supermarket dairy cases as beverages, should be considered fluid milk products and classified in Class I regardless of their solids content.

The amended orders should specify that a Class II classification of milk used to produce formulas especially prepared for infant feeding or dietary use should apply only to formulas that constitute replacements for meals, rather than merely having some added vitamins and minerals.

Dean Foods Company (Dean), H.P. Hood, Inc. (Hood), Ross Laboratories, and the Upper Midwest Federal Order Coalition filed comments regarding the proposed classification of milk used to produce meal replacement products and infant formula. Dean and Hood excepted to Class I classification of meal replacement products packaged in consumer-sized cartons and distributed in refrigerated or frozen form, stating that such products compete directly with similar products packaged in hermetically-sealed containers that are classified as Class II under the recommended decision.

Dean observed that the products packaged in hermetically-sealed containers were granted a price advantage under the decision, while already enjoying the advantages of needing no refrigeration, having an extended shelf life, and allowing shipments over greater distances without damage or leakers.

Hood's comments stated that the company's ultra-pasteurized dairy shake nutrient supplement has superior taste and convenience compared with similar products packaged in hermetically-sealed sterile containers, or with dry supplements that may also contain vegetable proteins and fats instead of dairy components. Hood complained that the proposed classification would make their better-tasting and more-nutritious product uncompetitive with lower-cost dry products.

Ross Laboratories (Ross) excepted to the Class II classification of milk used to produce infant formula. Ross described itself as the largest manufacturer of infant formula in the United States, obtaining more than 50 percent of its milk supply under Federal Orders 33, 36 and 40 in Ohio and Michigan, where milk used to produce infant formula is Class III. Consequently, Ross explained, at least 25 percent of the infant formula produced in the U.S. is produced from milk pooled under these three orders, and complained that a change in the classification of milk in such uses would increase Ross' cost by $1–4 million per year. According to the Ross comments, their increased cost of production would have the potential of increasing the cost of infant formula to the Supplemental Food Program for Women, Infants and Children (WIC) and create a competitive advantage for companies producing infant formula from whey.

The Upper Midwest Federal Order Coalition (the Coalition) commented that the recommended decision implies that beverage meal replacement drinks would be Class I if packaged in regular consumer cartons and sold in fresh dairy case, but Class II if packaged in hermetically-sealed containers. The Coalition argued that the product should be Class I in either case because it is a beverage and is intended to be used as such. The Coalition urged that the issue be clarified.

The Coalition's assessment of the recommended decision is correct. The intent of the proposed provisions is to classify fresh fluid milk beverages in regular consumer cartons that are sold in the fresh dairy case as Class I, while classifying sterilized products packaged in hermetically-sealed containers as Class II. As noted by Hood, the fresh product has taste, nutrition, and convenience advantages over other products with which it may compete. In addition, the cost of extra packaging, and the Class II attributes of having an extended shelf-life and being distributed over a wider area justify Class II classification for hermetically sealed packaging, while fresh product with limited shelf-life should be Class I.

The use of a product in government nutrition programs should not affect its classification. The use of producer milk for infant formula is clearly demand-driven, and there is no suggestion in the hearing record that prices to producers for other commodities purchased under the WIC program are kept at an artificially low level. For instance, the classification of fluid dairy products included in the program will remain Class I. Also, there is no indication in the hearing record of the percentage of infant formula that is purchased with the help of the WIC program. Downward reclassification of all of the milk used in a product of which only a minor portion is covered by a government nutrition program would not be an equitable solution.

A considerable amount of the testimony dealing with classification involved handlers advocating Class III classification for specific uses of milk that have been, or will be, classified as Class II. A handler representative testified that buttermilk biscuit mix is a very price-sensitive product, that it is distributed over a much wider area than are fluid milk products, and that Class II classification of milk used in the product would make it very susceptible

to substitution by dry milk products. Other witnesses stressed the importance of classifying buttermilk biscuit mix uniformly under all of the orders. Several parties expressed the opinion that buttermilk biscuit mix and similar products should be Class II.

Biscuit and pancake mixes, like other batter-type products such as coatings, are sold in a form that allows them to be poured, but certainly are not used or intended for use as beverages. At the same time, their production is driven by demand for the products in which they are used. These uses are in no way surplus uses of milk. Since the production of these products uses a fluid milk product as an ingredient in another product for which there is a specific market demand, it is only equitable that dairy farmers share in the market value of those products by having the milk used in those products priced above the surplus level.

Several witnesses testified that milk disposed of to commercial food processing establishments or used to make sweetened condensed milk sold to commercial food processing establishments should be classified as Class III. One witness stated that Class III classification of milk in such uses would affect only one percent of total milk pooled, and therefore would have little effect on producer returns. A Wisconsin handler who processes sweetened condensed milk testified that the product fits the description of a Class III product in that it has a long shelf life without special packaging or processing, it is manufactured close to the milkshed rather than close to the end users of the product, and that it is not processed or distributed in the same channels as fluid milk products. According to the witness, 75 percent of the sweetened condensed product sold by the handler is processed to meet customers' proprietary formulas, and the product is sold by Wisconsin handlers to locations as far away as Florida, Texas and California. The witness claimed that any Class II price differential would result in a price disadvantage three times the differential for sweetened condensed milk versus nonfat milk powder because the sweetened condensed product is condensed to one-third of its original volume.

The Central Milk Producers Cooperative (CMPC) pointed out that the classification order language contains no specification of sweetened condensed milk in Class II, and asked if it should fit (or be covered in) § .40(b)(4)(vi) of the orders. CMPC also stated that sweetened condensed milk should be defined by name and classified as Class II, or, like concentrated milk, should be defined by name and classified as Class II unless used to produce a Class I or Class III product, stating that they preferred the latter.

Sweetened condensed should be specified in the classification section as a Class II product in § .40(b)(4)(vi). It is used primarily as an ingredient in other food products.

During the five years preceding the hearing, the Minnesota-Wisconsin, or Class III, price ranged from slightly over $10 to almost $15 per hundred weight. The largest percentage by which the Class II price could have exceeded the Class III price during this period, using an average 15-cent Class II price differential, would have been 1.5 percent. The smallest percentage difference between the two prices would have been approximately 1 percent. During the same time period, sweetened condensed milk formulated to meet customers' proprietary formulas was apparently moved to Florida, Texas and California, among other destinations, at costs per hundredweight for transportation that represented 10–25% of the Class III price of the milk from which the product was made. (The cost of transportation was computed by dividing the 3.83 cents/ hundredweight/ 10 miles hauling rate established in the record by a factor of 3 to adjust for condensation of the product, and multiplying the resulting 1.3-cent rate by the mileage to St. Petersburg, Florida (1301 miles); Dallas, Texas (1078 miles); and San Francisco, California (2196 miles) from a location approximately 175 miles north of Chicago, as described by the witness.)

Comments by the National Cheese Institute and Kraft General Foods, Inc., were critical of the decision's use of the Class II differential in describing the difference between the Class II and Class III prices. According to the comments, the method of announcing the Class II and Class III prices affects the magnitude of the differential in a seasonal pattern, resulting in price differences that often greatly exceed the amount of the Class II differential during the months of January through June.

The Cheese Institute stated that the monthly and seasonal differences clearly place milk used by commercial food processors in direct competition with milk used in Class III surplus products that may be used as alternative ingredients by commercial food processors.

For the years 1987, 1988 and 1989, the average difference between the Class II and Class III prices in most markets averaged, respectively, 19 cents, 9 cents and 13 cents. The Class II-Class III price differences cited by the Institute and Kraft are for 1990, however, over the course of which the Class III price declined from $14.93 in December 1989 to $10.19 in December 1990 with only a few minor upward movements during the year. During 1990, the Class II price averaged 61 cents over the Class III price, but also included 3 months in which the Class III price exceeded the Class II price, once by as much as $1.42.

Although Class II prices can exceed Class III prices by much more than intended by the pricing provisions, it is clear that during most years the average difference between the prices of the two classes is approximately the value intended under the orders.

Given the price differential effective in most years, it is not logical that a differential of less than 2 percent over the Class III price would persuade food processors who are already paying a significant cost for a product custom-tailored to their needs to be delivered over a considerable distance to change their ingredient use from sweetened condensed to powder. The product purchased by the food processors is not a standardized surplus product, but one that is made specifically for their purposes according to their specifications. In addition, the processors apparently are willing to pay significantly more than the raw product cost for the ingredient product they are purchasing. Accordingly, milk used to make sweetened condensed milk should be classified as Class II.

Arguments advanced to classify milk moved to commercial food processors as Class III instead of Class II also are not persuasive. A witness representing the Trade Association of Proprietary Plants (TAPP), a proponent of such a classification change, stated that Class II classification of milk disposed of to a commercial food processor represents unnecessary regulation and government intrusion into the business of unregulated plants. TAPP's brief stated that enhancement of the value of the marketwide pool and the relative value of end products sold by a commercial food processor are not appropriate reasons for extending pricing, accounting and regulation to non-fluid uses of milk. The brief also argued that milk disposed of to commercial food processors does not meet the criteria of competing with or following the same channels of commerce as fluid milk products.

A brief filed by Kraft, another proponent of Class III classification of milk disposed of to commercial food processors, stated that products

produced by such facilities are more similar to Class III uses than to Class II. The brief concluded that the milk used to make such products should be classified as Class III or followed through the facility and prorated to its ultimate use, as is done in milk plants. A Kraft witness had testified at the hearing that milk delivered to a commercial food processing establishment in Wisconsin for use in a cheese powder product is Class II, while milk used to make the same product at a nonpool cheese plant in Missouri is classified as Class III. The witness advocated adoption of a size criterion to distinguish between true commercial food processing establishments, such as small bakery operations, and true processing plants. Milk delivered to commercial food processors would be Class II, and milk moved to processing plants would be Class III.

Exceptions filed in response to the recommended decision by the Trade Association of Proprietary Plants (TAPP), the National Cheese Institute (the Institute), and Kraft General Foods, Inc., opposed the Class II classification of milk used by commercial food processors. The Trade Association of Proprietary Plants (TAPP) opposed Class II pricing for sales to commercial food processing plants, especially candy manufacturers, and the Class II classification of soft cheeses, i.e. ricotta. TAPP's comments contended that Federal order pricing is intended only for fluid and associated uses, such as products manufactured in the same plants or handled in the same distribution channels as fluid milk products, and claimed that Class II classification of sales to food processing firms needlessly extends regulation and adds value to pool.

The TAPP comments stated that the criterion used to determine Class III classification apparently is whether the milk is manufactured into nonperishable products for potential government storage at a later time. TAPP's arguments against the criterion of commercial market demand and use vs. potential government surplus storage use included the statement that Federal orders were intended to regulate and enhance pricing of milk for fluid uses only. The comments also stated that the decision unnecessarily extends Federal order pricing into non-fluid use, and auditing into unregulated plants. TAPP further argued that the government's consideration of butter, powder and cheese as surplus is arbitrary, and that CCC could start purchasing milk chocolate.

The TAPP comments went on to state that if there were no government support program, the criteria used for distinguishing between Class II and Class III would be invalid. Therefore, according to TAPP, the criteria used in the decision to determine the difference between Class II and Class III products are meaningless. The criteria TAPP would use are whether the distinction is necessary to the purposes and objectives of the Act, the product competes directly with fluid products or products associated with fluid products, and whether the product is normally manufactured or distributed by Class I handlers.

TAPP's comments argued that candy doesn't compete with Class I and II products, and is not classified as an essential food. Further, TAPP stated, pricing milk used for candy is unnecessary for the orderly marketing of dairy products, and Class III classification of condensed used in candy is more appropriate than the present classification of condensed in hermetically sealed cans.

TAPP requested that in lieu of classifying all sales to commercial food processors as Class III, sales to candy manufacturers should be classified as Class III rather than as Class II.

The desire of cooperatives and handlers to maintain the pool status of producer milk to retain their milk supplies is the principal reason for regulating the prices of milk moved to CFPEs. If milk is to be pooled, the value assigned to its use should reflect the added value attributed by the market over the value of surplus uses. Products such as ice cream and cottage cheese, although often processed in nonpool plants, compete with the same products processed in plants operated by regulated handlers who pay order prices for milk. One possible solution would be to pool only milk received at distributing plants. No such proposal was considered at the hearing, nor was any testimony received to support such an approach.

Nonfluid milk values are determined by the marketplace, rather than by Federal orders, and the prices determined by the marketplace are reflected in the M-W price series, as a result of what manufacturers are willing to pay for milk to use in the products they sell in the market. The classification of milk used in products processed by CFPEs is not just a question of whether the food products compete with fluid or Class II milk products, but rather that CFPEs compete with fluid and soft product processors for a milk supply.

Comments filed on behalf of the National Cheese Institute stated that monthly and seasonal differences between Class II and Class III prices clearly place milk moved to CFPEs in direct competition with milk going to Class III surplus products that are used as alternative ingredients to fresh milk, such as nonfat dry milk or dry whole milk powder. The Institute argued that the conclusion reached in the decision, that milk moved to CFPEs has greater value than milk used in production of cheese, butter or powder, is not supported by any evidence in record. In fact, the Institute's remarks stated, there is little evidence on that issue at all.

The Institute also found in the decision no consideration of the final competitive market for processed food products that incorporate cheese as an ingredient with the substitutes with which such products compete. According to the Institute's comments, reclassification of milk going into processed food products without extensive market impact analysis would jeopardize the competitive position of a vast array of finished products that offer significant uses for producer milk.

It is unclear how the classification of milk moved to commercial food processors is any more of a government intrusion than classification of milk used in a pool plant, or how Class II classification differs in this regard from classification in any other class. The potential of Class II classification in such uses for enhancing the value of marketwide pools is an effect of Class II classification, and not the cause. The ingredient use of milk or its components in any food products of which the manufacture is driven by consumer demand is one basis for determining that Class II classification is appropriate. Dairy farmers should share in the value of their product when its value as an ingredient in other food products is recognized in the marketplace. Many consumers rely on the nutritional value, as well as the convenience, of processed food products, and the contribution of milk to that value should not be understated by pricing ingredient-use milk as if it were surplus to the requirements of the market. The criterion of following the same channels of commerce as fluid milk products is one of the characteristics descriptive of Class II use, but not the only one.

Use of milk, or its components, as an ingredient in other food products is a Class II use. Therefore, milk disposed of to a commercial food processor does not have to be followed through the facility to its end use to determine classification. Although some products produced by commercial food processors may, in some respects, resemble Class III products, they cannot be classified as Class III because they are

not surplus uses of milk and do not compete directly with such uses. In addition, milk used in food products that may be processed in milk plants, pool or nonpool, should be classified as Class II. Milk used in the cheese powder products such as those discussed by Kraft should be classified as Class II wherever the product is processed. The cheese used in making the powder has already been priced as Class III and should not be affected, but the condensed fluid milk products used to make the powder represent milk used to process another food product. A description of the dry milk products that should be considered Class III is contained in the later discussion of milk to be classified as Class III.

The comments filed by Kraft General Foods, Inc. included a thorough discussion of the amount by which the Class II price has exceeded the Class III price for specific selected months, with the seasonal pattern of the spread. The comments argued that there is no substantial evidence that milk processed in CFPEs commands greater value than milk used to produce cheese, butter, or powder, and that the amount paid for sweetened condensed above product cost is for transportation, not a function of value of milk used in sweetened condensed at the point of manufacture. Kraft agreed that dairy farmers should share in the enhanced value of a product when the value of milk as an ingredient is recognized in marketplace, but stated that the record does not establish a premium value in the market for milk used by CFPEs, especially those making non-standardized cheese powder and candy.

Kraft's exceptions argued that although cheese powder is a product of milk, it is not a standardized milk product, and thus does not fit the definition of "any milk product in dry form". Instead, Kraft argued, cheese powder meets the use, form, function and manufacturing characteristics of Class III, and listed twelve characteristics of cheese powder that characterize Class III products. Kraft described the cheese powder product as being in dry, powder form with very low moisture content; storable for long periods, allowing it to be produced when milk is available and held for future use in the absence of consumer demand; competing with and used by consumers in the same way as natural cheeses in cooking; processed at country plants and marketed in a national market, like other cheeses; packaged unlike other Class II products; and using non-grade A condensed in its manufacture.

Kraft stated that the use of milk for powdered cheese is highly sensitive to price, and noted that when the Class II price effective at the Kraft plant in Wisconsin became too high, Kraft moved its production of powdered cheese to a Missouri nonpool plant where milk used to process the product would be classified as Class III. Kraft explained that it can readily substitute part-reconstituted powder for milk used in powdered cheese, depending upon prices and projections for the month and season, and stated that the same arguments apply to candy manufacture.

The powdered cheese product processed by Kraft is a consumer convenience product produced to meet market demand, and not to utilize surplus supplies of producer milk. Only the fresh milk used to produce the product is to be classified as Class II, not the cheese that has already been made from milk classified as Class III. If there is no reason to use fresh milk in the cheese powder manufacturing process, Kraft's best interests would dictate the use of dry milk powder, since it can be purchased at a seasonally low price and used at any time. Contrary to Kraft's assertions, dairy farmers would not lose a market for their milk if Kraft uses powder instead of fresh milk, since the powder would have to be made from milk. At the same time, there would be no difference in the financial impact on dairy farmers between the use of Class III milk and the use of already-manufactured powder.

Competing products made solely from dehydrated cheese solids, or a combination of such solids and nonfat dry milk have no competitive advantage over the Kraft product, since the milk from which the solids are derived would all have been classified as Class III, as is the milk used to make the cheese used in Kraft's product. Any difference in cost is due solely to Kraft's preference for a manufacturing process using fresh milk, which presumably results in a product with greater consumer appeal.

The National Cheese Institute argued that classifying all "skim milk and butterfat * * * used to produce intermediate dairy products for further processing and used as ingredients in other food products that use milk as an ingredient" opens the door for administrative interpretations to reclassifying all products moving through commercial food processing establishments (CFPEs) to Class II, even mozzarella cheese used for pizza or dry cheese powder in prepackaged macaroni and cheese. The comments complained that the decision is too ambiguous and vague, providing the Department with great discretionary powers to reclassify major portion of dairy products from Class III to Class II.

Only fluid milk used by CFPEs would be Class II. The milk used to make already-manufactured products such as mozzarella and other cheeses has already been classified. The decision leaves very little discretion with the Department, or with individual market administrators, to reclassify any products, whether named in proposed order language or not.

No distinctions between commercial food processing establishments and processing plants should be made on the basis of size. Adoption of such a distinction would result in small candy makers disadvantaged by the cost of their ingredients in relation to large candy manufacturers, who already enjoy advantages in regard to economies of scale. Other small food product processors would be similarly disadvantaged on the basis of the size of their operations.

The orders should be amended to allow diversions of producer milk directly from farms to commercial food processors. A number of hearing participants testified in favor of such a change on the basis that it would result in transportation efficiencies. No reasons were given, and none is apparent, for limiting milk receipts at commercial food processors to those which come through pool plants. Such a change will improve the efficiency with which milk can be moved from producers' farms to where it will be used. Therefore, the minor amendments necessary to effect such a change should be made.

Based on the above determinations that milk used as an ingredient in other food products should be Class II, it very clearly follows that milk used in the manufacture of milk chocolate and of a "dairy protein-based fat substitute" should be Class II. Extensive arguments supporting the Class III classification of milk used to make milk chocolate were offered on behalf of Hershey and Nestle, two well-known chocolate manufacturers. However, the witnesses' many comparisons of the properties of chocolate crumb, an intermediate product of the milk chocolate-manufacturing process, with those of Class III products overlooked the fact that chocolate crumb is not a surplus dairy product and, in fact, is not a dairy product at all. In milk chocolate, milk is used as a necessary ingredient of a product whose production is driven by consumer demand and not, as implied by proponents, by the availability of milk during the spring months.

In exceptions filed in response to the recommended decision, Hershey argued that the recommended decision failed to consider adequately record evidence in four key areas. The comments stated that the record of this proceeding establishes that milk chocolate manufacturers should be treated the same whether they use fluid milk or whole milk powder, and demonstrates that classifying milk used to make milk chocolate as Class II will create further inequities with California chocolate producers, increasing the incentive to shift milk chocolate production to California or substitute whole milk powder from California for local Federal order milk.

The exceptions argued that the record shows milk used to make milk chocolate has the same characteristics as Class III products in that it plays a significant role in balancing the market; its use in the Spring does not reflect current consumer demand for the product, which is greatest in the Fall; it is not produced near market centers; and it can be stored for long periods. In addition, Kraft stated that milk used to make milk chocolate is similar to Class III uses in that manufacturers do not require advance pricing for the milk, the product is not an integral part of fluid milk operation, and manufacturers can use manufacturing grade whole milk or whole milk powder in the manufacture of milk chocolate.

Hershey and Nestle may, as they claimed, be able to replace their fresh fluid milk receipts with less expensive sources of whole milk powder, or with other sources of fresh milk. However, if such replacement were easily accessible or significantly less expensive, it is unlikely that handlers in Wisconsin would be able to market sweetened condensed milk to Florida, Texas and California for use in candy-making, as the record indicates they are able to do. The manufacturing process described by Hershey that results in a higher cost of production than would a process using whole milk powder is the result of manufacturing decisions made by Hershey that without doubt have a major effect on the company's ability to market a product of the quality it desires. However, there is no reason for dairy farmers to, in effect, pay the additional costs associated with Hershey's preferred manufacturing process. If the use of whole milk powder gives handlers a large competitive advantage over those using Class II whole milk, processors should probably use whole milk powder.

Further, the use of powder to make products is more common in Class II products such as ice cream and cottage cheese than in Class III products. Chocolate manufacture is not primarily a dairy plant operation, but is a use of milk as an ingredient in another food product, like soup or bakery operations.

In response to other issues raised by Hershey, milk chocolate is not a surplus dairy product, and thus cannot be considered a Class III use. It is produced for a consumer market which the manufacturer anticipates will buy all of the product produced.

A witness for NutraSweet testified that milk used to produce a new product manufactured by that company, a "dairy protein-based fat substitute," should be Class III because it can also be made from egg whites or from whey protein concentrate, and will compete with vegetable oils and cellulose gel. The witness stated that the product has been approved for use in frozen desserts, but should be seen as an opportunity for the dairy industry to maintain its share of the food market and sell more dairy protein rather than as a substitute for butterfat.

A trade group of handlers supported Class III classification for milk used to make any new fat-substitute products on the basis that dairy-based ingredients should not be priced higher than non-dairy ingredients used for the same purpose. Two cooperative association spokesmen argued that milk used to make the fat substitute product should be classified and priced according to the classification of the product in which it is used as a substitute for milkfat.

The dairy protein-based fat substitute is very likely only one of the first to be made from milk components, and it is important to assure that the milk used to produce such products is not priced as if these were surplus uses. Milk and its components have unique and valuable nutritive qualities, and they should not be undervalued, either by those who would use them to produce new products desired by consumers or by the dairy farmers who produce the raw materials. Consequently, milk used to produce new products that cannot be clearly identified as belonging in either Class I or in Class III should be classified as Class II. An attempt has been made to describe in order language the types of products that are intended to be included in each class of use, so that classification of new products will be more clear-cut than at present. New products for which the appropriate classification is not readily apparent should be classified in Class II until the proper classification is established through another proceeding.

Comments opposing the Class II classification of milk used to make fat substitutes and the Class II classification of milk used to make products not readily identifiable as Class I or Class III under the proposed uniform classification were filed by the NutraSweet Company and the National Cheese Institute. The NutraSweet Company opposed Class II classification of milk used to make dairy protein-based fat substitutes only if the Class II differential were increased significantly. The comments stated that such products present the first opportunity for the dairy industry to offset losses in sales of milkfat since dietary fat and cholesterol became an issue. As such, NutraSweet claimed, increasing the cost of dairy protein-based fat substitutes significantly would be highly detrimental to the industry.

The National Cheese Institute (the Institute) argued that the decision ignores the existence of alternative ingredients and systems to produce fat substitutes, stating that the category is a processing system which can use a number of nondairy ingredients to replace fat in processed food products. According to the Institute, Class II classification of such milk uses would make milk a noncompetitive ingredient in such products.

The Institute expressed a desire to retain Class III classification of new products and those without a standard of identity, stating that the Class III classification of such products is an established practice. The Institute also argued that Class III products made with fat substitutes should not lose their Class III classification, and cited proposed regulations by the Food and Drug Administration providing that products may be modified by reducing fat content and still retain the name of the food.

According to the Institute, Class II classification would inhibit the development of new uses for milk in the face of new technology that provides unlimited potential for the development of an increasing number of new products. The Institute stated that potential new products allow dairy to be competitive in the future, and that Class II classification will hurt the dairy industry's competitiveness in the long run.

It was not the intent of the recommended decision to classify as Class II such products as cheese made with artificial fat derived from milk protein, but rather to assure that milk used to manufacture the artificial fat used in such products receives a Class II classification. Cheese made with artificial fat and skim milk could be expected to command a significant premium in the marketplace, and there is no reason to entirely exclude dairy

farmers from any share in that premium. However, at the present time, when there is no data or experience in the marketing of such products, it would seem proper to classify the skim milk used to make such cheese as Class III. It may be necessary in the future to revisit the issue of classification of all of the milk used in products containing artificial fat. The production of such products certainly must be considered demand-driven.

The development of new Class III products will do little to improve the economic situation of dairy farmers. Given the costs of much of the advanced technology brought to bear in developing new products, the difference between the Class II and Class III prices is surely a negligible factor in developing and marketing new products, with or without artificial fat. In addition, it must be assumed that the production of new products developed with the aid of advanced technology would be generated by consumer demand, and not merely by the availability of surplus milk supplies. If such production is based only on the availability of surplus milk, a hearing would have to be held to determine the proper classification of the new product.

A proposal to classify mozzarella and other Italian cheeses as Class II instead of Class III should be denied. Although testimony that the manufacture of these cheeses is demand-generated and that Mozzarella has a relatively short shelf-life appears to be accurate, the form in which Mozzarella and some of the other Italian cheeses are sold is like that of Cheddar cheese. Although Mozzarella is considered a soft cheese and has a higher moisture content (52–60 percent) than Cheddar (maximum 39% moisture), it maintains its shape in a block and is sold to consumers in the same packaging and form (sliced, shredded) as cheddar. (Official notice is taken of the publication Cheese Varieties and Descriptions, U.S. Department of Agriculture, Agricultural Handbook Number 54, Prepared by Agricultural Research Service, Issued December 1953, Slightly revised January 1978; Reprinted by National Cheese Institute, 699 Prince Street, Alexandria, Virginia). The moisture content of Provolone is just a little higher than that of Cheddar, and Parmesan cheese contains less moisture, at 32%, than any of the others. In terms of "form", all of the cheeses mentioned so far exist in a solid form and, when shredded or grated, the small pieces of cheese remain separate without flowing back together. Although Mozzarella is not customarily eaten as an hors d'oeuvre with crackers, it and the other "hard" Italian cheeses are often used similarly to Cheddar, as sprinkled toppings and additives to food for the purpose of enhancing flavor. Therefore, milk used in manufacturing these Italian cheeses should be classified with Cheddar cheese as Class III.

Although the proponent for classifying Italian cheese as Class II considered Italian cheeses as a group, it is clear that Ricotta cheese differs significantly from the others. Ricotta has a moisture content of 68–73 percent, comparable to that of cottage cheese (70–72 percent). Ricotta is packaged in cup form, similar to the packaging of cottage cheese and yogurt, does not hold a solid form, and cannot be shredded or grated into pieces that remain distinct. Ricotta and cottage cheese can be used as substitutes in some prepared foods. Although whey is a major ingredient in the manufacture of Ricotta cheese, the whey constituents would already have been priced (as Class II or Class III) as part of the milk used to make cottage cheese or cheese. Therefore, only the fresh skim milk and butterfat used to make Ricotta should be classified and priced as Class II.

Ten proprietary cheesemakers, including Kraft, Inc., and six associations of such businesses filed exceptions to the classification of ricotta and similar cheeses in Class II. According to the comments, ricotta does not have be to made from Grade A milk, and may be made with whey, as well as Grade B milk.

The comments stated that Federal order Class II classification of ricotta would result in unfair competition with handlers in the upper midwest who have ready access to Grade B sources of milk, and with handlers in California and Western New York who are subject to prices lower than Federal order prices. Handlers located in the Northeast stated that reclassification of milk used to produce ricotta would favor manufacturers in the midwest and California, eliminating the market for eastern producers and creating further imbalances in U.S. milk production, while an Ohio cheese manufacturer argued that the market for midwest producer milk would be eliminated.

According to exceptors, ricotta is almost always manufactured as a secondary product in an Italian cheese facility because its manufacture requires fresh sweet whey available from Italian or Swiss cheese manufacture, not the acid whey resulting from cottage or cheddar cheese.

Several of those filing comments stated that ricotta is manufactured in both low- and high-moisture styles and is not similar to cottage cheese due to its extended shelf life, extensive area of distribution, and the large volume of the product going into processed pasta food products. According to the exceptions, ricotta is not used as a substitute for cottage cheese, and cottage cheese is used only infrequently as a substitute for ricotta, in ingredient use. The exceptions filed stated that ricotta and cream cheese are more likely to be used as substitutes, in bakery products and toppings. The comments argued that ricotta is not made in Class I and Class II Grade A facilities, and is not distributed with, marketed in the same channels, or used by consumers in the same way as fluid or Class II products.

Exceptors raised the likelihood of encountering problems in accounting for milk used in Class II and Class III in the same plant, where present measuring systems do not distinguish between milk pumped to ricotta production from Class III uses in the same plant. According to these comments, Class II classification of ricotta would require upgraded pumping and measuring systems, and additional recordkeeping, reporting, reconciling, and general accounting.

Comments filed by Kraft, Inc., stated that the decision is unclear regarding the classification of cheeses containing moisture contents lower than the specified high-moisture cheeses, but which are not hard, shreddable, or gratable. The comments pointed out that soft spreadable cheeses have moisture contents up to 65%, while that of ricotta is 68–73%. Kraft stated that the difference between Class II and Class III cheeses could be clarified by specifying a maximum moisture percentage for Class III cheeses, but that Kraft opposes any expansion of the category of Class II cheeses.

Kraft argued that the proposed reclassification would reflect a major change in the product classification policy of the Department, and therefore must be supported by substantial record evidence. The comments stated that the record provides no evidence of milk used in high-moisture cheeses having a greater value of commanding higher prices than milk used in hard cheeses, and that the bases for a change in the classification of high-moisture non-cottage cheeses cited in the decision do not provide economic justification without further evidence and explanation.

A manufacturer of "farmer" cheese stated that the hearing record contains no evidence regarding the physical form and use of that product, or its competitiveness or substitutability for other cheese products. The comments argue that the decision was made in a

factual vacuum, and therefore is not supported by record evidence. The handler requested that the hearing be reopened for the purpose of obtaining more evidence if the decision is not reversed.

Reliance on the form and use of dairy products for the determination of the proper classification of the milk used to produce them necessitates that high-moisture cheeses that resemble cottage cheese, are packaged like cottage cheese, and are sold in the same area of the supermarket as cottage cheese should be classified in the same class.

In this instance, using an objective standard such as percent of moisture contained in the product may make sense, since that would be one of the primary determinants of the form taken by the product. Apparently, a 65% maximum moisture content for Class III would assure that spreadable cheeses and cheeses that can be crumbled into separate pieces would be classified as Class III, while other, more liquid products would be Class II. However, a slight adjustment to the order language including spreadable cheeses and cheeses that can be crumbled into separate pieces in the Class III order language should be sufficient to assure the proper classification of these products.

It is not necessary to re-open the hearing to deal with the classification issue in more detail. Although the scope of the hearing was very broad and focussed primarily on pricing issues, the hearing notice was fully adequate to alert participants that a complete reconsideration of the classification issue was at least a strong possibility. Basing classification on the "form" and "use" criteria specified in the Act does not require as much detail in the hearing record as would be required if some other criteria were used.

In the three Northeastern orders, whey is currently included as a by-product with cottage cheese as a Class II product and with cheese as a Class III product. None of the other orders mentions the classification of skim milk and butterfat used to produce whey, as it is considered a by-product of cottage cheese and cheese manufacture. There is no need to continue to specify under any order a classification for whey in the classification section. Although whey often is converted to a powdered product, dried whey is not considered a milk product. The production of whey is incidental to the manufacture of cottage cheese and cheese, and all of the skim milk and butterfat used to produce such products should be classified in the same class as the product which is intended to be manufactured.

Class III milk should be all skim milk and butterfat used to make hard cheeses, of types that can be grated or shredded; butter and other spreads such as cream cheese, and alternative forms in which milkfat or butterfat can be stored for later use such as butteroil, anhydrous milkfat and plastic cream; and nonfat dry milk and other forms of dry milk that can be reconstituted as fluid milk products. Evaporated or condensed products in consumer packaging should also be included in Class III because of their highly storable nature and because those products, too, can be reconstituted as fluid products by consumers. In addition, fluid milk products and Class II products that are dumped or sold as livestock feed for reasons beyond a handler's control (such as spoilage or failure to form cottage cheese curd, for instance) or lost in accidents, should be Class III. The portion of nonfluid milk products used to fortify fluid milk products with nonfat solids that do not represent an increase in the volume of fluid milk products should be Class III, as should skim milk and butterfat in shrinkage or plant loss up to the limit determined in the shrinkage provision.

In exceptions filed by the Upper Midwest F.O. Coalition, the Coalition inquired as to the reason for classifying numerous varietal cheeses in Class III, when they are not true surplus products. The Coalition questioned why Class III classification was not limited to only butter, powder and cheese.

Even though many of the products classified as Class III, such as hard Italian cheeses and cream cheese, are not true surplus products, they do compete with, have the same uses, and are purchased in the same forms as butter, powder and cheese. In a classification system based on the form and use of dairy products, milk used in products with the same form and uses as the truly surplus products must be classified in the same class.

In determining the appropriate products to be included in Class III use the form and purpose of the primary surplus products must be considered, as well as the forms and purposes of products that may be used as substitutes or are similar in form and/or purpose. The basic surplus products are Cheddar cheese, butter and nonfat dry milk. These are the products purchased by the United States government in the operation of the price support program. The primary purpose of these three products is as a means of storing milk solids in non-perishable form when milk production exceeds the market's immediate needs. A common physical characteristic of the products is that they are in a solid form, in that they hold their shape at room temperature.

A witness representing Central Milk Producers Cooperative supported a change in the classification of anhydrous milk fat, plastic cream and butteroil from Class II to Class III by explaining that these products are used to store fat for later use, and are marketed largely for export for reconstitution purposes. The witness stated that the butterfat content of these products makes them very much like butter, and that plastic cream is stiff and moisture-reduced. A Kraft representative testified that anhydrous milk fat is used for balancing the fat content of processed cheese, and a brief filed on behalf of Kraft asserted that none of these products meets the criteria of Class II use, that they all contain less skim milk than butter does, and that they are storable for longer periods.

According to USDA General Specifications for Approved Dairy Plants and Standards for Grades of Dairy Products, plastic cream contains approximately 80 percent milkfat, equivalent to the milkfat content of butter; and anhydrous milkfat and butteroil both contain over 99 percent fat and less than .3 percent moisture. (Official notice is taken of the specifications, issued October 2, 1975; published October 10, 1975; 40 FR 47925.) It is apparent that these products do represent a means of storing milkfat for later use, and are distributed not only on a national basis, but in international commerce as well. Accordingly, their classification should be in Class III.

Cream cheese, although a soft cheese with a high moisture content, is sold in a brick form, like harder cheeses. Although its physical form does not lend itself to grating or shredding, cream cheese is used as a substitute for butter in that product's function as a spread. Consequently, milk used to produce cream cheese should be classified as Class III.

Nonfat dry milk and other dry milk products such as whole milk powder and buttermilk powder that can be reconstituted as fluid milk products should be classified as Class III. These products exist in dry powdered form, and serve the function of storing milk solids for later use in a variety of fluid products, Class II dairy products, and other food products, in place of fresh fluid milk. Although testimony in the record indicates that whole milk powder has a much shorter shelf life than skim milk powder, both products take the same form and are used for somewhat the same purposes. In addition, national market prices for

whole milk powder are reported along with those for butter, Cheddar cheese and nonfat dry milk. (Official notice is taken of Dairy Market News, Volume 58, Report 22, page 9, for the week of May 27–31, 1991).

The Class III milk uses which are not discussed in this decision represent no change from the current Class III classification provisions resulting from the 1974 uniform classification decisions. In several orders, provisions closely related to the actual classification language, including shrinkage, will be changed so that the orders will be more uniform.

In view of the accommodations of Class II diversions to commercial food processors and the change in the classification of unspecified products as Class II rather than Class III, the classification of transfers and diversions to nonpool plants from fully regulated plants should be amended to give priority assignment to Class II over Class III. Products processed at nonpool plants often compete with products processed by commercial food processors.

Kraft filed exceptions to the proposed changes in classification of milk transferred from pool plants to nonpool plants. According to Kraft, the recommended changes would create significant advantages for pool manufacturing plants over unregulated nonpool plants. The Kraft exceptions stated that currently, pool and nonpool manufacturing plants with the same mix of Class II and Class III uses and the same mix of pool and nonpool milk receipts will have comparable allocation of milk from regulated sources to classes of use at the plant. Kraft explained that milk moved to pool plants is classified first to Class III (if so requested), and receipts at nonpool plants are similarly assigned. According to Kraft, the recommended changes could make a substantial difference in the competitiveness of nonpool versus pool plants, especially if the definition of Class II cheeses is expanded.

Kraft argued that the orders should allocate and classify pool milk moved to regulated and unregulated plants in the same way. Otherwise, according to the comments, when the price difference between Classes II and III widens in late winter and early spring, the proposal could create a substantial disadvantage for unregulated plants competing with pool plants. Kraft's comments included an arithmetical example comparing how milk used for manufacturing is now allocated uniformly at pool plants and at nonpool plants with the manner in which Kraft claims a higher proportion of milk delivered to nonpool plants will be allocated to Class II than at pool plants under the recommended decision.

The example provided by Kraft is incorrect. It shows pool milk allocated to Class III at pool plants before unregulated receipts are allocated. In practice, pool receipts are allocated in the next-to-last allocation step, just before overage and after any receipts from unregulated sources. According to Kraft's example of the classification of pool milk moved to nonpool plants under the recommended language, the recommended change would produce the same result for nonpool plants as is currently the case for pool plants.

As stated by Kraft, it is important that pool plants and nonpool plants manufacturing the same product incur essentially the same costs for pool milk. Currently, a distributing plant manufacturing cottage cheese would settle with the pool at the Class II price for the milk used to produce cottage cheese. At a nonpool plant manufacturing both cottage cheese and Class III products and receiving both pooled and unregulated milk, the pooled milk would be assigned first to Class III use, while the unregulated milk would be assigned to any remaining Class III use and then to Class II use. The nonpool plant would then settle with the pool plant from which it received the pooled milk at the Class III price, and also pay the Class III price for the unregulated milk. As a result, the nonpool plant would be paying the Class III price for milk used in cottage cheese, while the pool plant would be paying the Class II price, giving the nonpool plant a cost advantage in the processing of cottage cheese. The changes adopted in this decision will remedy such inequities.

The portion of the recommended decision dealing with classification was criticized as containing no discussion or relevant economic arguments to document any change in competitive markets and consumer usage of products for which the classification was changed by this decision to counter the '74 decision and justify changing the classification of these products as Class II. The exceptions stated that enforcement of the classification of those products reclassified by the decision would be difficult and would provide no significant additional revenue to producers. In fact, they stated, the decision would result in no benefit to any segment of the industry and would have a negative impact on consumers.

It was agreed in exceptions that the proposed amendatory language provides USDA unprecedented discretion in interpretation and application of the orders. Specifically, they objected to the phrase "intended to be used as beverages" as subjective, leaving interpretation open to USDA. The comments also described the decision's Class II criteria as vague, containing no clear objective definition of "spoonable". The decision's approach to classification was termed "unprecedented", in that the Department was described as relying historically only on specifically and technically defined criteria with no room for agency interpretation, and no opening for applications that could result in market inequities or distortions. The "20-percent total solids" criterion was praised as precise and measurable, allowing definitive classification, unlike the now criteria, which are subjective.

According to those excepting to the decision, it does nothing to enhance or clarify uniform classification, and is without any practical basis. The classification criteria used in the decision are described as vague, providing tremendous latitude and discretion to the Department in interpretation and application, and allowing for the reclassification of a broad base of dairy products. Exceptors stated that reclassification should be based on specific proposals, and objective criteria should be retained.

Kraft General Foods, Inc. and U.S. Cheesemakers argued that the substantial evidence standard imposes a considerable burden on the agency and limits its discretion in arriving at a factual predicate.

The Upper Midwest Federal Order Coalition, Pennsylvania Farmers' Association, Eastern Milk Producers (and Dairylea and affiliates), Milk Marketing, Inc., NFO and Dean Foods all supported the idea of uniform classification. In addition, comments by the Coalition, Eastern, MMI and NFO praised the discussion of principles of classification and the factors distinguishing products in various classes as salutary. The Coalition singled out reliance on intended use and competition, and marketplace value, as useful criteria for determining classification.

The use of objective standards for determining classification may result in inequities in regard to such products as lowfat sour cream, which competes with the Class II product sour cream rather than with fluid milk products. However, under the current objective basis of butterfat percentage, lowfat sour cream is clearly a Class I product. Many products have a similar potential of being processed to fall just outside Class

I criteria, such as products containing just over 20 percent solids, in the case of milkshake drinks, solely for the purpose of being classified in a lower-priced class even though they compete with and are sold to consumers in the same form as beverage fluid milk products. The standards cited in the decision, although not objective, have the desirable characteristic of allowing classification to be determined on the basis of form and use, as specified in the Act. Such classification determination will be subject to review by the Dairy Division, as is currently the case, and leaves no room for arbitrary decisions made on the basis of an individual's whim, as implied by exceptors.

The objections to the recommended decision made on the basis of potential difficulties of accounting and enforcement are not persuasive. The market administrators of many Federal orders currently manage quite well to track the distribution of packaged fluid milk products that are sold over a wide area, and to audit the records of plants that manufacture a wide variety of products in different classes.

Minor corrections to the order language published with the recommended decision have had to be made in several orders to conform with the classification changes adopted in this decision. The amendatory language of Orders 2, 6, 12, 33, 36 and 40 has been affected by such changes.

4. Pricing of Concentrated and Reconstituted Milk

All orders should be amended to define concentrated milk that contains less than 50 percent total milk solids as a fluid milk product. As a result, the classification of receipts of concentrated milk will be determined on the basis of use but in a different manner than was provided for in the recommended decision. Concentrated milk will encompass "condensed milk", which is an accepted alternative name for "concentrated milk", but will not include other concentrated forms of milk that are distinguishable products, such as "sweetened condensed milk" and "evaporated milk." In order to reduce confusion, the term "condensed milk" would be eliminated from all orders.

Current regulatory provisions that apply to reconstituted milk made from nonfluid milk ingredients, such as nonfat dry milk, should be modified. Any payment obligation that currently applies to reconstituted fluid milk products made from such ingredients should be reduced by $1.00 per hundredweight. Also, an additional option is provided that allows for the Class I value of reconstituted milk to be passed back to the Federal order market that provides the nonfluid milk ingredients. These modifications will apply if labeled reconstituted products are distributed. Furthermore, receipts of nonfat dry milk should be allocated to Class I use on pro rata basis the same as receipts of concentrated milk.

A number of proposals were considered that concerned regulatory changes to deal with intermediate concentrated milk products, such as concentrated milk and nonfat dry milk, that are reconstituted and disposed of as fluid milk products. Concentrated milk products were referred to collectively throughout the hearing as those milk products from which water has been removed by evaporation and drying processes or the use of reverse osmosis (RO) technology. Most hearing participants contended that new technology, such as RO, could increase marketing efficiencies if current regulatory provisions were revised. The overlying basis of most of the proposals is the potential for increased marketing efficiency that could result from reduced hauling costs obtained by shipping concentrated milk products long distances to supply or supplement the fluid milk needs of deficit markets.

Under the current provisions of most orders, milk that is used to produce nonfat dry milk is priced as a Class III use. Milk that is used to produce concentrated milk that is disposed of in bulk form is priced in Class II, unless the handler can establish a Class III use. However, any beverage reconstituted milk which is made by combining water with nonfat dry milk or a concentrated milk product is defined as a fluid milk product and is a Class I use.

In order to provide uniform pricing among handlers for milk in Class I use, the orders provide a procedure for recognizing any conversion of lower-priced nonfluid milk products into the higher-priced fluid uses. This is accomplished by allocating a handler's receipts of nonfluid milk products to the lowest-priced class (referred to as down allocation) and then in sequence to the higher-priced classes of milk. If any of the nonfluid receipts are allocated to Class I, then a charge on such receipts equal to the difference between the Class I and Class III prices is applied (referred to as a compensatory payment).

Most of the parties advancing changes in the pricing of reconstituted milk contend that the current regulatory treatment inhibits the use of these concentrated milk ingredients as an alternative to bulk fluid milk. Also, others contend that the payment at the Class I price for nonfat dry milk that is reconstituted is excessive since no recognition is given to the extra manufacturing costs involved in the initial processing of the nonfat dry milk. Most of the industry proposals would preserve classified pricing as a necessary element to stabilize marketing conditions by pricing the milk used in concentrated ingredients (when used in fluid milk products) as a Class I use in some manner although proposals that would eliminate any Class I pricing were also considered. Elimination of Class I pricing for reconstituted nonfat dry milk was proposed as a first step in the elimination of Federal milk order regulation by the Antitrust Division of the Department of Justice (DOJ).

The major issue raised by the DOJ is that Federal milk orders are no longer necessary in view of a number of changes that have occurred in the milk industry. On the other hand, other hearing participants testified that inherently unstable marketing conditions continue to exist because of a number of unique features that are associated with the production and marketing of milk.

The recommended decision did not deal with the basic issue of whether a government-enforced classified pricing plan continues to be necessary to promote the orderly marketing of milk. Instead, it dealt only with proposed changes to the treatment of concentrated milk ingredients and reconstituted milk in the context of the current regulatory plan.

The DOJ filed exceptions to the recommended decision claiming that the recommended changes do not go far enough in revising the current system of Federal order regulation. DOJ continues to argue that concentrated ingredients that are reconstituted should not be subject to classified pricing.

The DOJ proposal would essentially provide that a surplus class use product could be converted into a fluid use without any payment obligation and be distributed in competition with fluid milk products that are purchased by handlers at not less than minimum Class I prices. Such a situation would establish a contradiction within the regulatory framework by undercutting the very purpose of an enforced classified pricing plan to stabilize marketing conditions. Elimination of classified pricing basically means the elimination of milk orders.

Federal orders were authorized to help minimize the ruinous effects of destructive competition among handlers financed in large part by dairy farmer suppliers. Inherently unstable marketing conditions continue to exist because of

the unique features of milk marketing. Milk production is a high fixed cost enterprise where the production assets cannot readily be transferred to other enterprises. Milk production is a daily and continuous function that involves the marketing of a highly perishable and bulky commodity over a broad area. Milk is produced by a relatively large number of producers and marketed to fewer and larger processing plants. Technological improvements, by and large, have intensified competition both among producers for outlets and among handlers for supplies and sales over broader areas. Consequently, it cannot be concluded that changes in the milk industry have eliminated the inherently unsettling conditions that led to the issuance of orders to provide a minimum framework of regulations within which competitive forces are free to operate without destructive consequences. Furthermore, the basic framework of Federal milk order regulation is to rely on market forces to establish prices for milk. Prices that are established by and are free to respond to supply and demand conditions are enforced as minimum prices. The marketplace, rather than Federal orders, establish the basic level of and monthly changes in minimum prices that are applicable to handlers as well as blend prices that are payable to producers.

The other remaining proposals would maintain classified pricing by pricing concentrated milk ingredients (both concentrated milk and powder) in the same manner as fluid milk receipts are now priced. The obvious intent of the proposals is to provide for the minimum order pricing of concentrated ingredients in the source market or plant on the basis of the classification in the destination plant or market. The first step necessary to accomplish this objective would be to expand the fluid milk product definition to include concentrated ingredients. Such a definitional change would automatically result in the application of the order provisions concerning the classification of bulk fluid milk products, including the provisions that apply to the classification of transfers of such products.

Provisions to classify transfers of bulk fluid milk products are necessary to determine a handler's complete utilization of the total amount of milk that is received. Also, the purpose of the provisions concerning the classification of producer milk that are commonly referred to as allocation provisions is to determine how a handler's different types of receipts have been used. The end result is the amount of producer milk used in each class that is subject to Class prices. The relationship between the two sets of provisions is that bulk fluid milk that is transferred is classified in accordance with the manner in which it is allocated to uses in the transferee plant or market.

The regulatory treatment of nonfluid milk products is significantly different from the treatment accorded to fluid milk products. For example, the amount of milk that is used to produce nonfat dry milk is priced in Class III under the order regulating the initial receipt of milk. If the nonfat dry milk is supplied to an other order plant, that order allocates the receipts of milk (the nonfat dry milk plus the water originally associated with such product) to a plant's uses of milk. Any Class I use allocation is retained in such market without affecting the original obligation under the source order.

The provisions concerning the classification of transfers and producer milk in most orders are based on the regulatory treatment provided by the uniform classification decisions issued February 19, 1974 (39 FR 8202, 8452, 8712 and 9012) and decisions issued June 19, 1964 concerning the manner of integrating into the regulatory plan milk that is not subject to classified pricing (29 FR 9002, 9110 and 9214).

The consensus of opinion among hearing participants is that the use of concentrated ingredients provides a potential for substantial marketing efficiencies because of reduced hauling costs. However, actual marketing experience with the use of such ingredients is extremely limited. There has been some use of nonfat dry milk for reconstitution of certain fluid milk products in milk shortage situations in southern areas of the country. However, there is no marketing experience with the use of concentrated milk for fluid products. This is despite the fact that concentrated milk is already defined as a fluid milk product in the three Florida orders which have had the need to import substantial quantities of supplemental supplies of bulk fluid milk from distant areas.

Despite the lack of marketing experience, the conclusion that there is a potential for substantially reducing hauling costs is logical in view of the weight-reduction associated with the removal of water from milk. The record identifies the substantial amounts of milk that have been shipped from surplus to deficit areas over a number of years. The removal of one-half to two-thirds of the water from milk obviously has the potential to greatly reduce the number of loads of milk that would need to be shipped to meet fluid milk demand. As a result, concentrated milk should be defined as a fluid milk product to provide the potential to take advantage of weight-reducing technology in supplying fluid milk needs. However, nonfat dry milk should not be so defined.

Nonfat dry milk is a storable product that is marketed through different channels than fresh fluid milk, including concentrated milk. Fluid milk is priced in the month in which it is marketed, including milk that is used to produce nonfat dry milk which is a Class III, surplus use product. The conversion of nonfat dry milk to a fluid use, and the time delay between its initial production and the conversion to fluid use, presents a host of technical, administrative, and equity problems in determining the appropriate Class I value to associate with nonfat dry milk if it were to be defined and treated as a fluid milk product.

In addition to other areas of concern, questions were raised as to which Class I price should apply, i.e., the price that applied during the month the nonfat dry milk was made or the price during the month that the nonfat dry milk is reconstituted. In order to provide for uniform Class I pricing, it would appear that the month of reconstitution would be the appropriate basis for Class I pricing. The application of such price would then require a payment by the handler that originally processed the milk to make the nonfat dry milk. With the time lag involved, the plant making the nonfat dry milk may not be a pool plant, or may not even be operating, in the month of reconstitution. Thus, the issue of the uniform treatment of regulated versus unregulated milk as potential sources of nonfat dry milk is also presented. Even if the original plant is identifiable and regulated in the month of reconstitution, such Class I pricing after the fact has implications to the original value of the nonfat dry milk. On the other hand, pricing the milk at the Class I value during the month that the nonfat dry milk is processed obviously would have an immediate impact on the price of nonfat dry milk. It is questionable as to why a manufacturer would be willing to pay the Class I price for milk used to make nonfat dry milk when it is not known if it will eventually be used in fluid milk products.

It is obvious that the processing, storing and marketing of nonfat dry milk does not lend itself to including such dry milk ingredients within the fluid milk product definition. Such concerns are not evident with respect to concentrated milk which, in its fresh fluid form, is marketed over a short period of time. Although nonfat dry

milk should not be treated as a fluid milk product, reconstituted milk made from nonfluid milk ingredients should continue to be defined as a fluid milk product as is currently provided under orders. However, some pricing and allocation changes should be made to the current process that recognizes the conversion from a nonfluid to a fluid use, as discussed later.

Concentrated milk that contains less than 50 percent total milk solids should be defined as a fluid milk product. The use of the 50 percent milk solids standard was generally proposed and referred to in testimony. However, there was no significant testimony relating directly to the use of such standard. In this regard, it is noted that the process of removing up to two-thirds of the water contained in milk or skim milk would result in a product that contains substantially less than 50 percent total milk solids. Thus, the use of such a standard to distinguish between fluid and nonfluid products would accommodate the objectives that are sought.

Defining concentrated milk as a fluid milk product would automatically result in the application of different provisions to establish the classification of receipts of such milk, as previously mentioned. Without other changes the provisions applicable to the classification of bulk fluid milk would be applied to concentrated milk. Currently, bulk fluid milk that is transferred between orders is priced in the transferor order on the basis of the classification in the transferee order. Such milk can be classified as Class II or Class III to the extent that such use is available if the operators of both plants agree on such uses. Otherwise, such transfers are prorated to Class uses on the basis of the receiving plant's or market's Class I use, whichever is lower. Bulk fluid milk transfers between plants regulated under the same order are assigned to Class I, unless the operators of both plants request the same classification in another class, but are limited to the pounds of butterfat and skim milk remaining in each class.

Although most of the testimony concerning the potential benefits of shipping concentrated milk dealt with intermarket shipments, the definitional change would also result in fundamental changes to intramarket shipments of such milk which could also result in reduced hauling costs. Furthermore, such milk may also be received from unregulated supply plants. Such movements should likewise be accommodated under the regulatory provisions, but with some modification from current provisions.

The removal of water from milk to make a concentrated milk product obviously creates some administrative and accountability difficulties. A handler who concentrates milk that is received from producers is obligated to pay for the amount of milk that was originally received. Thus, it is necessary to account for the original volume of water that was associated with the producer milk. In addition, accountability is further complicated since the classification of the concentrated milk that is transferred to another market will be determined on the basis of its allocation to uses in the second market. A handler who reconstitutes concentrated milk must likewise account for the water that was originally associated with the producer milk. Otherwise, fluid milk disposition would exceed the receipts of milk. A full accounting of the milk solids content of milk received is not conducted since virtually all orders provide for only butterfat and skim milk accounting.

In view of possible accounting problems, some hearing participants suggested that it might be necessary to account for milk on the basis of both the butterfat and nonfat milk solids content of milk. On the other hand, order provisions currently recognize the potential problem by requiring that a handler must account for an equivalent amount of water originally associated with nonfat milk solids that are ultimately disposed of by the handler. Conversion factors are generally used to determine a full accounting of milk receipts. For example, nonfat dry milk is converted to its fluid skim equivalent by multiplying the pounds of nonfat dry milk by a factor of 11. Other factors are applied for lesser concentrations of milk solids. In addition, the marketing of concentrated milk would generally reflect the pounds of product marketed as well as the butterfat and solids content. Such information, in conjunction with standard conversion factors, would appear to accommodate the marketing of concentrated milk for fluid use. In the event that actual marketing experience with concentrated milk indicates accountability problems, further rule making proceedings are available to deal with such actual problems that may develop. Until such time as any further precision is necessary, the use of available market information and conversion factors appears to be sufficient to account for the marketing of concentrated milk.

Although concentrated milk should be defined as a fluid milk product, such milk should not be classified in exactly the same manner as applies to transfers of bulk fluid milk products. A modification is necessary to further promote marketing efficiency that would not exist if current provisions were applied to concentrated milk. The modification is also consistent with the views of at least one hearing participant who suggested that concentrated milk should be followed to insure that it is used in Class I to provide for a classification in the same manner that applies to bulk fluid milk. The hearing participant contended that simply defining concentrated milk as a fluid milk product would place free standing Class II nonpool plants at a disadvantage in using concentrated ingredients relative to pool distributing plants that have Class II uses.

Absent a modification, concentrated milk that is now shipped from one order to another for other than fluid use would be allocated to some extent to Class I use if the receiving plant has any Class I use. Such milk would then be priced in the transferor market at a lower price than the transferee market if the transfer is from a lower-priced to a higher-priced market. The price difference between the two markets is, in effect, a location adjustment credit that would cover some of the transportation cost. As a result of such a classification, a corresponding amount of producer milk in the transferee market would be assigned to other than Class I use. As a result, the minimum order price for milk in Class I use would be reduced for a distributing plant that has Class II and Class III uses even though the receipt of concentrated milk was intended for a Class II or Class III use. Under these circumstances, there would be no marketing efficiency gain. Fluid milk sales and revenues would be merely transferred from the higher-priced market to the lower-priced market. The potential gain from treating concentrated milk as a fluid milk product only occurs if milk is shipped in its concentrated form for use in fluid milk products.

In order to accomplish the intended objectives, the recommended decision provided that interorder transfers of concentrated milk should be treated the same as transfers of bulk fluid milk products if the transferee plant establishes an actual disposition of a concentrated or labeled reconstituted fluid milk product. Otherwise, any receipts of concentrated milk were to be down allocated. The same requirement was recommended to be applied to receipts of concentrated milk from unregulated supply plants to establish a uniform treatment for such types of shipments.

A number of handlers filed exceptions to the recommended procedure for assigning a handler's receipts of concentrated milk to the uses of such milk. They pointed out that under current provisions receipts of concentrated milk (as a nonfluid milk product) are assigned to Class II use if used in such products. Remaining receipts that are not assigned to Class II use are then subject to down allocation. The exceptions indicate that defining concentrated milk as a fluid milk product would result in such receipts being assigned to classes of use under different provisions than those that apply to nonfluid milk products. Under these provisions, fluid milk that is shipped for Class II use is first assigned to Class III use. Consequently, the change in the allocation of concentrated receipts would result in assignment to Class III use, to the extent that a handler has any Class III uses, rather than Class II uses. To the extent that this occurs, an equivalent amount of producer milk would be assigned to Class II use, rather than Class III use, and result in increasing a handler's obligation by the difference between the Class II and Class III prices on the amount of reassignment that would occur even though there was no change in the handler's operation.

The handlers suggested that such a problem could be rectified by a further modification to the provisions contained in the recommended decision. The modification would extend a Class II utilization to receipts of concentrated milk shipped between handlers on the basis of an agreement between the handlers that the receipts were for Class II uses. It is noted that such a procedure would address the unintended impact on handlers who use concentrated ingredients for Class II use to the extent that such receipts are used during the month of receipt. However, if the receipts are not used and are held as ending inventory, a similar problem occurs since bulk fluid ending inventories are defined as a Class III use and would pass back a Class III use to the shipping market. Currently, a Class II use would be identified in the shipping market.

A number of those filing exceptions also indicated that it was their impression that the amount of concentrated receipts assigned to Class I use would be limited to the amount of fluid milk products that was reconstituted. Otherwise, a handler who reconstitutes a token amount of fluid milk products could have a disproportionate amount of concentrated ingredients assigned to Class I use, even though the receipts were used for other than fluid uses. This would result in a corresponding amount of producer milk being assigned to other than Class I uses.

The recommended decision did not specifically limit the amount of concentrated receipts that could be assigned to Class I use. Nevertheless, the recommended decision specifically recognized that the potential for a marketing efficiency gain would only occur if concentrated receipts were used in reconstituted fluid milk products. It would not be appropriate to reduce returns to producers through the receipt of concentrated milk for use in other than fluid milk products. It is for this reason that the recommended decision provided for the down allocation of concentrated milk in the absence of any demonstration of an actual disposition of a concentrated or properly labeled reconstituted fluid milk product.

The regulatory provisions contained in the recommended decision, in conjunction with the further modifications suggested in exceptions, would provide for assigning concentrated fluid milk receipts to Class II use on the basis of agreements between handlers and initial assignments to Class II use of any concentrated nonfluid receipts. Any remaining concentrated receipts (fluid or nonfluid) would be prorated to remaining uses, if reconstitution occurs, under one of two different steps of the allocation provisions depending upon whether the receipts were from unregulated or regulated sources. In addition to being cumbersome, there is a conceptual problem with a prorata assignment of those concentrated receipts that remain to be assigned to the uses of milk after assignment to Class II use. If some concentrated receipts are initially assigned to Class II use, it is questionable why any remaining concentrated receipts should be prorated to the remaining uses of milk along with receipts of producer milk. In other words, if 100 percent of concentrated receipts are reconstituted, then all of such receipts should be assigned to Class I use rather than being prorated to classes of use on the basis of the rules that apply to receipts of fluid milk products from various sources. Part of the rationale for the pro rata allocation of fluid milk receipts is that it cannot specifically be determined how each category of receipts of milk is utilized in finished products when all of the receipts are commingled in a plant. In this circumstance, the proration rules provide for each source of fluid milk receipts to share in a portion of the Class I use in a plant or market. However, this situation does not exist with respect to concentrated receipts since it is obvious that only concentrated receipts can be reconstituted. Thus, the provisions that are applicable to the assignment of fluid milk receipts are not totally adaptable to receipts of concentrated milk receipts.

As a result of these considerations, the provisions concerning the allocation of concentrated milk receipts have been revised from those contained in the recommended decision. The revised approach begins with the recognition that only concentrated receipts can be reconstituted. Thus, any receipts of concentrated milk ingredients (fluid and nonfluid) should be assigned to Class I use prior to the assignment of any other milk receipts to a handler's uses of milk. In order to qualify for such an assignment, the transferee plant will have to properly label the reconstituted fluid milk products and the amount of receipts assigned to Class I should be limited to the reconstituted volume of the labeled reconstituted fluid milk products.

The recommended decision provided that a handler would have to demonstrate an actual disposition of a concentrated or labeled reconstituted fluid milk product in order to qualify for the assignment provisions that were provided. The distribution of a packaged concentrated fluid milk product has been deleted as a criteria for implementing the priority assignment of concentrated receipts to Class I use. Disposition of a packaged concentrated fluid milk product does not identify a need or a desire by a handler to receive concentrated ingredients. Also, any receipts of fluid milk or concentrated ingredients can be distributed in concentrated form while only concentrated ingredients can be reconstituted. Furthermore, the record does not indicate the disposition of any significant quantities of packaged concentrated fluid milk products. This issue can be dealt with in the future if marketing conditions develop to the point where bulk concentrated milk is received for disposition in packaged form.

A proration of concentrated receipts to reconstituted Class I volume would insure that each source of concentrated receipts (unregulated, other order, same order) would receive a proportionate share of such Class I use. However, any proration should be limited to the extent that a handler is able to establish that certain specific sources of concentrated receipts are in fact used in reconstituted fluid milk products. It may be that a handler may in fact use certain receipts in Class I uses, such as concentrated fluid milk receipts while receipts of

nonfluid milk products are used for other products. In such a situation where a handler can demonstrate the actual fluid use, such receipts should be assigned to Class I use. Absent such a demonstration, all concentrated receipts (fluid and nonfluid) should be prorated to the labeled reconstituted volume since these receipts can be used in reconstituted fluid milk products.

The receipts of concentrated milk products that are not assigned to reconstituted Class I use can be assigned to a handler's remaining uses of milk in the same manner that currently applies to receipts of nonfluid milk products. It will be necessary, however, to prorate the remaining uses among the concentrated receipts to determine the utilization to be passed back to the source market or plant for receipts of concentrated fluid milk products. As with Class I uses such proration of Class II and Class III uses among the concentrated receipts shall apply if the handler cannot demonstrate a specific use for such receipts.

Ending inventories of bulk concentrated fluid milk products should be defined as a Class II use. In the following month, such beginning inventories shall be assigned to a handler's Class II use. This procedure could present some administrative problems in the event that inventories of concentrated fluid milk as ultimately reconstituted for use in fluid milk products. In such a situation, it is intended that such a Class I use will accrue to the source market. These changes, in conjunction with the revised assignment procedure, should recognize and not disrupt the current marketing of concentrated ingredients for other than fluid use. At the same time it will accommodate the potential use of shipments of concentrated ingredients for fluid use by providing for a priority assignment of concentrated receipts to Class I use.

The pricing of intramarket transfers is somewhat different than intermarket shipments where a location adjustment credit automatically applies when milk is transferred from a lower to higher-priced market. Intramarket shipments are assigned to Class I use, unless both handlers agree on a lower classification, but are limited to the pounds of skim milk and butterfat remaining in each class. Milk that is assigned to Class I use is priced at the transferee plant subject to a location adjustment credit that may apply if it is demonstrated that such milk is actually needed for Class I use. This assignment of location adjustment credits is intended to prohibit the needless reduction of pool proceeds by having milk priced at distant, lower-priced areas when it is not demonstrated that it is needed for Class I use.

In order to provide a measure of equal treatment between intramarket and intermarket shipments, the location adjustment credits that now apply under the orders should be applied to the fluid milk equivalent of any concentrated milk shipped between pool plants. A failure to do so, and to base such credits on product pounds shipped, would reduce a supply plant's location adjustment credit and increase the handler's order obligation for Class I milk. Such an increase would partially offset any potential savings that could be realized from lower hauling costs associated with shipping milk in concentrated form.

It is noted that the inclusion of concentrated milk in the fluid milk product definition could affect the regulatory status of any number of plants. Plants that currently ship condensed milk could become regulated plants under other orders as a result of such qualifying shipments of fluid milk products. At the same time, plants that currently receive condensed milk shipments will experience an increase of fluid milk receipts that could jeopardize their regulatory status. Such regulatory issues were not considered at the hearing and, thus, the full impacts of the definitional change cannot be foreseen at this time. Any potential problems will have to be dealt with as circumstances warrant.

With respect to nonfat dry milk, a number of parties expressed the concern that the current procedure results in a total payment for nonfat dry milk that is in excess of fluid milk Class I prices because no recognition is given to the additional cost that is incurred in processing milk into nonfat dry milk. On this basis they contend that nonfat dry milk is prohibited from becoming a viable economic alternative to the use of supplemental supplies of fresh fluid milk for Class I use. Basically, the argument implies that the full Class I price in any market need not be applied to reconstituted milk because the additional processing costs involved offset a portion of the difference between the Class I and Class III prices for fluid milk.

In establishing minimum Class I prices, Federal orders have generally not recognized any processing costs that might be incurred by a fluid milk handler. With minimum raw milk prices being uniform among handlers, the remaining aspects of competition among handlers is the efficiency of their plant processing and distribution activities. Recognition of costs that might be incurred in processing operations, or because of an election by a handler to use nonfluid rather than fluid ingredients, would tend to diminish the economic incentive to minimize operating costs and maximize efficiency. Thus, the types of receipts, and the associated costs of such receipts, have had no bearing on the minimum order price for milk in Class I uses.

A decision by a handler to use nonfat dry milk to reconstitute skim milk would obviously be based on the relative costs of using nonfat dry milk or fluid skim milk. At a minimum, the order Class I price versus the cost of nine pounds of nonfat dry milk plus the difference between the Class I and Class III prices would provide the basis of the comparison.

Under the Upper Midwest order, the cost of nine pounds of Grade A nonfat dry milk exceeded the average Class I price for skim milk (with the value of all butterfat removed) by 71 cents and $1.89 per hundredweight for 1988 and 1989, respectively. With the application of a compensatory payment to reflect the difference between the minimum order Class I and Class III prices, the average cost per hundredweight of reconstituted skim milk versus fresh skim milk would have increased to $1.74 and $2.68 per hundredweight for 1988 and 1989. Such cost differences do not reflect any reconstituting costs.

Under the Southeastern Florida order, where the Class I price is substantially higher, the cost of fresh fluid Class I skim milk exceeded the cost of nine pounds of nonfat dry milk by $2.31 and $1.09 per hundredweight for 1988 and 1989. Such comparison excludes any transportation cost for Grade A nonfat dry milk. With a compensatory payment, the cost of a hundredweight of reconstituted skim milk would have exceeded the cost of Class I skim milk by the same amounts as under the Upper Midwest order.

In view of the increasing cost of nonfat dry milk over the years, it no longer appears necessary to apply an additional payment at the full difference between an order's Class I and Class III prices to maintain an effective classified pricing plan. The basic reason for such a conclusion is that the cost of processing milk into nonfat dry milk, as reflected in the prices of nonfat dry milk, has increased substantially while Class I differentials have increased little, except for increases mandated by the 1985 Farm Bill.

A number of parties referred to the margin between the Price Support level for manufacturing grade milk and the CCC purchase prices for butter and

nonfat dry milk of $1.22 per hundredweight as an indication of the cost of manufacturing nonfat dry milk. Other parties referred to processing costs in the range of $1.00 or more per hundredweight. Furthermore, a September 1989 Cornell University study on manufacturing costs in butter/powder plants concluded that the average cost per pound of manufacturing nonfat dry milk was 13.29 cents. Such cost averaged 7.89 cents per pound of nonfat dry milk if manufacturing operations were projected to 100 percent capacity. (Official Notice was taken of Manufacturing Costs in Ten Butter/Powder Processing Plants, by Mark W. Stephenson and Andrew Novakovic, Department of Agricultural Economics, Cornell University Agricultural Experiment Station, A. E. Res. 89–15, September 1989.) Such costs per pound of powder result in different costs per hundredweight of milk to process powder depending on the yield of powder from milk. However, since nine pounds of nonfat dry milk are necessary to produce one hundredweight of reconstituted milk, the processing cost per hundredweight would be in the area of $1.20 to 71 cents for the high and low costs per pound of powder indicated above.

As a result, the compensatory payment for converting a Class III use to a Class I use should be reduced by $1.00 per hundredweight, provided that the difference between the Class I and Class III prices is not less than $1.00. Such a reduction will preserve a classified pricing plan and also facilitate the potential use of nonfat dry milk to reconstitute fluid milk products. However, in order to qualify for the payment reduction, a handler will have to demonstrate a disposition of a labeled reconstituted milk product. Otherwise, there would be no basis to demonstrate that a payment reduction is in fact warranted. The application of the assignment provisions under orders can result in the assignment of receipts of nonfat dry milk to Class I when no reconstitution takes place. For example, if a handler fails to account for receipts of producer milk that is used in Class I, other source milk receipts could end up being assigned to such Class I use. Obviously, producers should receive the full Class I value of such Class I use. Moreover, sales of unlabeled reconstituted milk in competition with that which is appropriately labeled could result in unfair methods of competition among handlers, since the unlabeled product could be mistaken as a fresh milk product which is likely to command a higher price than a labeled reconstituted product. Also, in the absence of a different treatment of the unlabeled product the orders would fail to protect the interest of consumers by their not being informed that the product is other than a fresh milk product.

A number of exceptions indicated that it is not proper for Federal milk orders to enforce labeling requirements. Other exceptions indicated that the labeling requirement should be extended to include the source and content of any reconstituted fluid milk product.

The major reason for adopting the changes included herein is the potential to take advantage of lower hauling costs that may result from using concentrated ingredients for fluid use. As pointed out elsewhere in this decision, the potential gain can only occur if the ingredients are in fact used in fluid milk products. The existence of a label that identifies a fluid product as being reconstituted is an easy way to provide some measure of assurance that the concentrated ingredients are actually being used for fluid purposes. In the absence of such a requirement, concentrated ingredients that are now shipped great distances for Class II use could be assigned to a handler's Class I uses which would result in an unwarranted lowering of returns to producers whose milk is actually being used in fluid milk products.

Although the regulatory treatment varies depending on the existence of a label, the provisions contained herein do not require that a reconstituted fluid milk product be labeled as such. In the absence of a label, nonfluid milk ingredients would be treated in the same manner as under current provisions. Receipts of concentrated fluid milk ingredients would be subject to down allocation but would not be subject to a charge at the difference between the Class I and Class III prices if allocated to Class I uses. However, any such receipts assigned to Class I would be a Class I use at the source plant or market, the same as other receipts of fluid milk products. The difference in the regulatory treatment is consistent with section 608(c)(7)(A) of the Act which provides for terms and conditions prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

In addition, a further option should be provided that may be elected by a handler that distributes labeled reconstituted fluid milk products made from nonfat dry milk. This option will provide for a regulatory treatment that is similar to that being provided for concentrated milk, i.e., where the fluid milk value can be passed back to the market of origin.

Under this option, a handler can elect to be a partially regulated pool plant with respect to sales of reconstituted fluid milk products made from nonfat dry milk. Under this option, a handler will have the opportunity to make a pool obligation payment to the order under which the producer milk was priced that was used to produce the nonfat dry milk used for reconstituted milk. This essentially provides that the full Class I value accrues to the source market.

The regulatory language that accompanied the recommended decision did not provide sufficient guidelines as to which Federal order pool payments could be made. As pointed out in exceptions, nonfat dry milk could originate from manufacturing plants that are not regulated under any order, but which may receive milk for manufacturing that is regulated under a number of orders. As a result, additional guidelines are necessary to implement this payment option.

First of all, the provisions are modified to prohibit the application of the pricing option if a majority of the milk received at the manufacturing plant is not priced under Federal order markets. Since the objective is to allow for the compensation of Federal order producers that supply the milk for the nonfluid ingredients used in reconstituted milk, the option should not be provided if the manufacturing plant has a limited association with Federal order markets. If a plant demonstrates a substantial association with regulated markets there is a sufficient basis to conclude that Federal order priced milk has been used to manufacture the ingredients for later use in fluid milk products. Thus, if more than 50 percent of the milk is priced under Federal orders, then payment may be made to the Federal order pool that priced the largest quantity of milk that was used in the plant to produce the nonfat dry milk. The producers who supply the Federal order market that has the greatest amount of milk in the manufacturing plant should receive the benefit of any fluid milk sales that might result.

The recommended decision was drafted in terms of the potential use of nonfat dry milk for use in reconstituted fluid milk products. Most of the testimony was also presented in terms of nonfat dry milk since it is a product that has current limited use for reconstitution and is the product that is most likely to be used. However, since other nonfluid products, such as dry

whole milk, could be used to reconstitute fluid milk products, the regulatory language should not be restricted to the use of nonfat dry milk. The broader term, "nonfluid milk products" is used in the accompanying language to accommodate other nonfluid milk products that may be used for the reconstitution of fluid milk products.

The recommended decision provided that nonfat dry milk (i.e. nonfluid milk products) should be prorated to classes of use in the same manner as provided for concentrated milk rather than being subject to down allocation. The revised procedure, as previously explained, carries out this concept by assigning all concentrated receipts (fluid and nonfluid) to the volume of labeled reconstituted fluid milk products prior to any other assignment of receipts to uses.

A number of exceptions were filed in opposition to any changes to the regulatory treatment of concentrated milk ingredients. More were directed towards the treatment of nonfluid milk products although some were also directed towards the treatment of concentrated fluid milk products. Basically, it was contended in the exceptions that the recommended allocation and pricing changes are not supported by record evidence and that such changes would result in nonuniform costs to handlers. As a result, the exceptions contend that differences in costs among handlers could lead to a displacement of producer milk with concentrated ingredients being used for fluid use. The exceptions contend that concentrated ingredients would only be used in fluid products if the cost of the ingredients was less than the cost of producer milk. If any reconstitution occurs because of lower costs, competition would force other handlers to also use concentrated ingredients. The exceptions contend that available supplies of producer milk would then have to be processed into storable manufactured products. Such a displacement of milk supplies that are already available is contended to represent disorderly marketing conditions. In addition, some exceptions indicate that the provisions should not be adopted under marketing orders that have sufficient supplies of milk available, but, should be restricted to deficit milk producing areas. These exceptions contend that the primary basis for adopting the provisions is to take advantage of hauling efficiencies in supplying fluid milk needs in deficit markets. If such conditions do not exist, the exceptions contend that the provisions should not be adopted.

The changes in the regulatory provisions contained herein are intended to provide greater potential for the industry to take advantage of hauling efficiencies that can be obtained by hauling milk in concentrated form. It is obviously more economical to haul milk ingredients than to haul all of the water originally contained in fluid milk. The greatest potential for cost savings would probably occur for those deficit markets that receive substantial quantities of milk from distant sources to meet fluid milk needs. However, the potential for cost savings is not intended to apply to only deficit markets. Even in surplus milk producing areas, milk is often hauled long distances to plants for fluid use. The use of concentrated ingredients basically has the potential to reduce hauling costs in all areas.

The regulatory changes for concentrated fluid milk result in pricing bulk receipts of such milk in the source plant or market rather than the destination plant or market. This is the same pricing that occurs with respect to receipts of bulk fluid milk. If concentrated milk, or bulk fluid milk, can be delivered for a lesser cost than local milk supplies, it means that local milk supplies are being priced at a level that is in excess of alternative supplies of milk. However, as pointed out elsewhere in this decision, Class I prices need not be adjusted in view of the supply and demand conditions that currently exist. Such supply and demand conditions are partly a function of the Class I price relationships that currently exist under Federal orders. Thus, the contention that lower costs for concentrated milk would result in disorderly marketing by displacing producer milk seems to be unfounded. This is also the case with respect to nonfluid milk receipts, such as nonfat dry milk, which, under one option, will effectively be priced at its Class I value in the source market if used in reconstituted fluid milk products. Furthermore, the $1.00 per hundredweight reduction in the compensatory payment is justified in view of the substantial increases in manufacturing costs relative to fluid milk price increases. A payment at the full difference between Class I and Class III prices is no longer necessary to carry out an effective classified pricing plan.

The Act requires that orders establish minimum prices for each use classification of milk that are to be uniform as to all handlers, subject to certain adjustments. Under the provisions adopted herein, all milk and milk ingredients that are used in fluid milk products will continue to be subject to minimum Class I pricing. The only exception is the $1.00 per hundredweight reduction in the payment that may be applied to reconstituted nonfluid milk ingredients. As previously stated, such reduction is more than offset by the cost of processing milk to obtain such ingredients.

This does not mean, however, that all handlers will be subject to the same total ingredient costs for milk under all situations. This is not possible and is not attained even under current order provisions. For example, handlers that may use nonfat dry milk to reconstitute fluid milk products may have substantially higher costs than handlers that use producer milk in fluid milk products under current provisions, as previously set forth in this decision. On the other hand, handlers that use nonfat dry milk to reconstitute fluid milk products may have substantially lower costs than handlers that utilize producer milk. The differences in costs would depend on the changes in the prices of ingredients (nonfat dry milk and producer milk) that have varied substantially in recent years. For example, nonfat dry milk purchased in February 1989, plus the application of the current compensatory payment would have resulted in an ingredient cost that would have been less than the Class I price for skim milk during the following September through December period under all Federal orders. Changes in milk and product prices, and the storability of nonfluid ingredients make it impossible to obtain a complete equalization of costs at all times in all cases. Furthermore, if total costs were equal, there would be no potential value to be gained from the use of concentrated milk ingredients in fluid milk products.

Other exceptions requested that the regulatory provisions concerning the treatment of partially regulated distributing plants under the New York-New Jersey order (order 2) be modified to provide a regulatory option that is provided under most other orders. Basically, the exceptions requested that the order be modified to provide a partially regulated distributing plant with the option of paying at least as much for its milk supplies as it would have to pay if it were fully regulated under the order.

The differences in regulatory options for partially regulated distributing plants is beyond the scope of this proceeding. The decision provides a mechanism for recognizing the potential use of concentrated ingredients for fluid use at partially regulated distributing plants within the context of current regulations that apply to such plants.

However, the differences in the current regulations among orders that deal with such plants was simply a matter that was not addressed in the proceeding.

Conforming Changes

As proposed in the Notice of Hearing, conforming changes are provided wherever necessary to assure that all the provisions of the orders will function as intended. For example, in connection with providing three uniform classes of utilization, in orders currently having only two classes of utilization, it is necessary, in addition to all the changes in sections of the orders dealing with classification, to also provide for a Class III price. Changes such as this, and numerous others, have been made for the purpose stated above.

For a different reason, numerous non-substantive changes also are being made in the Ohio Valley (part 1033) and the Black Hills, South Dakota (part 1075) orders. These changes are made to bring the overall format of these two orders to more nearly conform with the format of most of the other orders. These changes will not have any bearing upon the classification and pricing of milk under these two orders.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the New England and Other Marketing Area orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing areas, and the minimum prices specified in the tentative marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the orders regulating the handling of milk in the New England and Other marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered that this entire decision and the two documents annexed hereto be published in the **Federal Register**.

Referendum Order To Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agents

It is hereby directed that referendums be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300–311), to determine whether the issuance of the attached orders as amended and as hereby proposed to be amended, regulating the handling of milk in the New York-New Jersey, Eastern Ohio-Western Pennsylvania, Louisville-Lexington-Evansville, Alabama-West Florida, Greater Louisiana, Memphis, Tennessee, Nashville, Tennessee, and Paducah, Kentucky marketing areas is approved or favored by producers, as defined under the terms of each of the orders, as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the respective marketing areas.

The representative period for the conduct of such referendum is hereby determined to be April 1992.

The agent of the Secretary to conduct such referendums are hereby designated to be Ronald C. Pearce (New York-New Jersey), Marvin A Baumer (Eastern Ohio-Western Pennsylvania), Arnold M. Stallings (Louisville-Lexington-Evansville, and Nashville, Tennessee), Paul W. Halnon (Alabama-West Florida and Greater Louisiana), Richard E. Arnold (Memphis, Tennessee) and Donald R. Nicholson (Paducah, Kentucky).

Determination of Producer Approval and Representative Period

April 1992 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the aforesaid marketing areas except the New York-New Jersey, Eastern Ohio-Western Pennsylvania, Louisville-Lexington-Evansville, Alabama-West Florida, Greater Louisiana, Memphis, Tennessee, Nashville, Tennessee, and Paducah, Kentucky marketing areas is approved or favored by producers, as defined under the terms of each of the orders (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the respective marketing areas.

List of Subjects in 7 CFR Parts 1001, 1002, 1004, 1005, 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1075, 1076, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1124, 1126, 1131, 1134, 1135, 1137, 1138, 1139

Milk marketing orders.

Signed at Washington, DC, on February 5, 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

Order Amending the Orders Regulating the Handling of Milk in the Certain Specified Marketing Areas

(This order shall not become effective unless and until the requirements of

§ 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.)

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) Findings. A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing areas; and the minimum prices specified in the orders as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered that on and after the effective date hereof, the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of the orders, as amended, and as hereby amended, as follows: The provisions of the proposed marketing agreements and order amending the orders contained in the recommended decision issued by the Deputy Administrator, Agricultural Marketing Service, on November 6, 1991 and published in the **Federal Register** on November 22, 1991 (56 FR 58972), as modified herein, shall be and are the terms and provisions of this order, amending the orders, and are set forth in full herein.

1. The authority citation for 7 CFR parts 1001, 1002, 1004, 1005, 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1075, 1076, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1124, 1126, 1131, 1134, 1135, 1137, 1138, 1139 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 1001—MILK IN THE NEW ENGLAND MARKETING AREA

1. Section 1001.17 is revised to read as follows:

§ 1001.17 Fluid milk product.

(a) Except as provided in paragraph (b) of this section fluid milk product means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term fluid milk product shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1001.18 is revised to read as follows:

§ 1001.18 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1001.22 is added under the undesignated centerheading "Definitions" to read as follows:

§ 1001.22 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1001.15, 1001.41 and 1001.52.

4. Section 1001.40 is amended by revising paragraphs (b) and

(c) to read as follows:

§ 1001.40 Classes of utilization.

* * * * *

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form, except nonfat dry milk;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1001.17 and the fluid cream product definition pursuant to § 1001.18; and

(7) In shrinkage assigned pursuant to § 1001.41(a) to the receipts specified in § 1001.41(a)(2) and in shrinkage specified in § 1001.41(b) and (c).

* * * * *

5. Section 1001.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2)(vi) and (vii) to read as follows:

§ 1001.42 Classification of transfers and diversions.

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1001.43 is amended by adding a new paragraph (g) to read as follows:

§ 1001.43 General classification rules.

* * * * *

(g) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1001.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1001.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1001.44 is amended by revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6) and (a)(7)(i), to read as follows:

§ 1001.44 Classification of producer milk.

* * * * *

(a) * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1001.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

* * * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1001.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1001.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II;

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1001.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

8. Section 1001.45 is amended by revising paragraph (b) to read as follows:

§ 1001.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the

class to which such receipts are allocated pursuant to § 1001.43(g) and § 1001.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1001.53 is amended by revising paragraph (h)(1) to read as follows:

§ 1001.53 Determination of applicable zone locations for pricing purposes.

* * * * *

(h) * * *

(1) After the allocation step of § 1001.44(a)(12) for the transferee-plant, multiply the remaining pounds of Class I skim milk and Class I butterfat, plus the pounds of skim milk and butterfat in receipts of concentrated fluid milk products from other pool plants that are assigned to Class I use, by 110 percent and 150 percent, respectively;

* * * * *

10. Section 1001.60 is amended by revising paragraphs (d), (f), and (g) and adding new paragraphs (h) and (i) to read as follows:

§ 1001.60 Handler's value of milk for computing basic blended price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1001.43(g) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1001.44(a)(7)(i) through (iv), (vii), and (viii) and the corresponding step of § 1001.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1001.43(g) and § 1001.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1001.44 (a)(11) and the corresponding steps of § 1001.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1001.43(g);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1001.61(e); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1001.61 is amended by redesignating paragraph (c) as paragraph (d), revising paragraphs (a) and (d), and adding new paragraphs (c) and (e) to read as follows:

§ 1001.61 Partially regulated distributing plant operator's value of milk for computing basic blended price.

* * * * *

(a) Subtract from the quantity of route disposition, except reconstituted milk products, distributed in the marketing area by the partially regulated distributing plant operator the quantity of fluid milk products (except reconstituted milk products and those described in paragraph (b) of this section) received at the plant during the month that is classified and priced as Class I milk or the equivalent thereof under any marketwide pool Federal order and that is not used to offset route disposition in any other marketing area, and multiply the result by the applicable Class I price;

* * * * *

(c) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant. Add the amount obtained from multiplying the pounds of labeled reconstituted milk included previously in this paragraph by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

(d) Add the values pursuant to paragraphs (a) through (c) of this section.

(e) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1001.43(g). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the

order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

PART 1002—MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

1. Section 1002.15 is revised to read as follows:

§ 1002.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1002.18 is revised to read as follows:

§ 1002.18 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1002.20 is added under the undesignated centerheading "General provisions and definitions" to read as follows:

§ 1002.20 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages.

4. Section § 1002.22 is amended by adding a new paragraph (e) to read as follows:

§ 1002.22 Additional duties of the market administrator.

* * * * *

(e) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to §§ 1002.40(c) and 1002.45 on the basis of such report (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

5. Section § 1002.40 is revised to read as follows:

§ 1002.40 General classification rules.

All skim milk and butterfat required to be reported by each handler pursuant to §§ 1002.30 and 1002.32 shall be classified each month pursuant to the provisions of §§ 1002.41 through 1002.46, subject to the following conditions:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1002.30, including the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1002.40 through 1002.44;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such products plus all the water originally associated with such solids; and

(c) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1002.45. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1002.45 on a pro rata basis, unless a specific use of such receipts is established by the handler.

6. Section 1002.41 is amended by revising paragraphs (c) and (d) to read as follows:

§ 1002.41 Classes of utilization.

* * * * *

(c) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (d) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (c)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(d) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:
(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (c)(4)(i) of this section;
(ii) Butter, plastic cream, anhydrous milkfat and butteroil;
(iii) Any milk product in dry form;
(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and
(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (c)(1) of this section in bulk form;
(3) In fluid milk products, products specified in paragraph (c)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (c)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;
(4) In fluid milk products, products specified in paragraph (c)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (c)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of naving the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;
(5) In fluid milk products and products specified in paragraph (c)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;
(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (c)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1002.15 and the fluid cream product definition pursuant to § 1002.18; and
(7) In shrinkage assigned pursuant to § 1002.42(a) to the receipts specified in § 1002.42(a)(2) and in shrinkage specified in § 1002.42(b) and (c).

7. Section 1002.44 is amended by revising the introductory text of paragraph (a), adding the following sentence to the text of paragraph (a)(1), and revising the introductory text of paragraph (d), to read as follows:

§ 1002.44 Transfers.

* * * * *

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant or a pool unit to another pool plant shall be classified as Class I-A milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:
(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;
* * * * *

(d) *Transfers to other nonpool plants.* Skim milk or butterfat transferred in the following forms from a pool plant or a pool unit to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:
* * * * *

8. Section 1002.45 is amended by revising the first sentence of paragraph (a)(6) and revising paragraphs (a)(7) and (a)(8)(i), to read as follows:

§ 1002.45 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *
(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1002.41(c)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *
* * * * *

(7) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1002.41(c) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1002.41(d)(6)), but not in excess of the pounds of skim milk remaining in Class II.
(8) * * *
(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(6) of this section applies, packaged inventory at the beginning of the month of products specified in § 1002.40(c)(1) that was not subtracted pursuant to paragraphs (a)(5), (a)(6) and (a)(7) of this section;
* * * * *

9. Section 1002.60 is amended by revising paragraph (d)(2), redesignating paragraphs (d)(3) and (d)(4) as paragraphs (d)(5) and (d)(6), adding new paragraphs (d)(3) and (d)(4), redesignating paragraph (e) as paragraph (f) and adding a new paragraph (e), to read as follows:

§ 1002.60 Net pool obligation of handlers.

* * * * *

(d) * * *
(2) Multiply the pounds of skim milk and butterfat in receipts of nonfluid milk products subtracted from Class I-A pursuant to § 1002.45(a)(8)(i) and the corresponding step of § 1002.45(b) and the pounds of skim milk and butterfat specified in § 1002.44(d)(3)(vii) by the difference between the Class I-A and Class III prices, each adjusted by the applicable differential pursuant to § 1002.52;
(3) Multiply the pounds of skim milk and butterfat in receipts of nonfluid milk products assigned to Class I pursuant to § 1002.40(c) by the difference between the Class I price less $1.00 (but not to be less than the Class III price) and the Class III price, both adjusted by the applicable differential pursuant to § 1002.52. Alternatively, the handler may, with respect to such receipts of nonfluid milk products processed from producer milk regulated under another Federal order, elect to make payment to the producer-settlement fund of the other order at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk products were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk products is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk products. This payment option shall not apply if the source of the nonfluid milk products used in reconstituted fluid milk products cannot be determined by the market administrator;
(4) Multiply the quantity of skim milk and butterfat in receipts of concentrated fluid milk products from plants other than those defined in § 1002.8(b) or (d)

or as a producer-handler and which are assigned to Class I pursuant to § 1002.40(c) or which are subtracted from Class I–A pursuant to § 1002.45(a)(8)(i) and the corresponding step of § 1002.45(b) by the Class I price, adjusted by the applicable differential pursuant to § 1002.52.

* * * * *

(e) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

* * * * *

10. Section 1002.61 is amended by revising paragraphs (g) and (h) to read as follows:

§ 1002.61 Computation of the uniform price.

* * * * *

(g) Subtract an amount equal to not less than 8 cents nor more than 9 cents per hundredweight of pool milk and receipts of concentrated fluid milk products for which a payment obligation is computed pursuant to § 1002.60(d)(4) to provide against the contingency of errors in reports and payments or of delinquencies in payments by handlers; and

(h) Divide the result obtained in paragraph (g) of this section by the total pounds of pool milk delivered by dairy farmers and the total pounds of concentrated fluid milk products for which a payment obligation is computed pursuant to § 1002.60(d)(4). The result shall be known as the uniform price.

11. Section 1002.74 is amended by deleting the word "and" at the end of paragraph (a)(1), replacing the period at the end of paragraph (a)(2) with a semicolon, and adding a new paragraph (a)(3) to read as follows:

§ 1002.74 Handler's pool debit or credit.

* * * * *

(a) * * *

(3) Multiply the quantity of concentrated fluid milk products for which a payment obligation is computed pursuant to § 1002.60(d)(4) by the uniform price.

* * * * *

12. Section 1002.85 is amended by changing the reference "§ 1002.60(d)(2)" to "§ 1002.60(d)(2), (d)(3) and (d)(4)".

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. Section 1004.15 is revised to read as follows:

§ 1004.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1004.16 is revised to read as follows:

§ 1004.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1004.22 is added under the undesignated centerheading "Definitions" to read as follows:

§ 1004.22 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1004.12, 1004.13, and 1004.41.

4. Section 1004.40 paragraphs (b) and (c) are revised to read as follows:

§ 1004.40 Classes of utilization.

* * * * *

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form, except nonfat dry milk;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1004.15 and the fluid cream product definition pursuant to § 1004.16; and

(7) In shrinkage assigned pursuant to § 1004.41(a) to the receipts specified in § 1004.41(a)(2) and in shrinkage specified in § 1004.41(b) and (c).

* * * * *

5. Section 1004.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2)(vi) and (vii) to read as follows:

§ 1004.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1004.43 is amended by adding a new paragraph (e) to read as follows:

§ 1004.43 General classification rules.

* * * * *

(e) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1004.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1004.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1004.44 is amended by revising the first sentence of paragraph (a)(6) and revising paragraphs (a)(7) and (a)(8)(i), to read as follows:

§ 1004.44 Classification of producer milk.

* * * * *

(a) * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1004.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

* * * * *

(7) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1004.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1004.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(8) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(6) of this section applies, packaged inventory at the beginning of the month of products specified in § 1004.40(b)(1) that was not subtracted pursuant to paragraphs (a)(5), (a)(6) and (a)(7) of this section;

* * * * *

8. Section 1004.45 is amended by revising paragraph (c) to read as follows:

§ 1004.45 Market administrator's reports and announcements concerning classification.

* * * * *

(c) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1004.43(e) and § 1004.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1004.60 is amended by revising paragraphs (f) and (h), and adding new paragraphs (l), (m) and (n) to read as follows:

§ 1004.60 Handler's value of milk for computing uniform price.

* * * * *

(f) The value of the product pounds, skim milk and butterfat assigned to Class I pursuant to § 1004.43(e) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1004.44(a)(8)(i) through (iv), and the corresponding step of § 1004.44(b), excluding receipts of bulk fluid cream products from another order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants, applicable at the location of the pool plant at the current month's Class I–Class III price difference;

* * * * *

(h) The value of the product pounds, skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1004.43(e) and § 1004.44(a)(8)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1004.44(a)(12) and the corresponding steps of § 1004.44(b), excluding such hundredweight in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent quantity disposed of to such plant by handlers fully regulated by any Federal order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order, applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received at the current month's Class I–Class III price difference;

* * * * *

(l) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1004.43(e);

(m) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1004.76(b)(5) or (c); and

(n) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1004.74 is amended by removing paragraph (a)(2)(iii) and redesignating paragraphs (a)(2)(iv) and (a)(2)(v) as paragraphs (a)(2)(iii) and (a)(2)(iv) respectively.

11. Section 1004.76 is amended by revising paragraphs (b)(3) and (b)(5) and adding a new paragraph (c) to read as follows:

§ 1004.76 Payments by a handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(3) Deduct the quantity of reconstituted milk that are made from nonfluid milk products and which are then disposed of on routes in the marketing area from the partially regulated distributing plant;

* * * * *

(5) From the value of such milk at the Class I price, subtract its value at the uniform price computed pursuant to § 1004.62, and add for the quantity of labeled reconstituted skim milk specified in paragraph (b)(3) of this section its value computed at the Class I price less $1.00 (but not to be less than the Class III price) and the value of such milk at the Class III price (except that the Class I price and the uniform price shall be adjusted for the location of the nonpool plant and shall not be less than the Class III price). For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1004.43(e). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1004.85 is amended by revising paragraph (a) to read as follows:

§ 1004.85 Assessment for order administration.

* * * * *

(a) Each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1004.9(c), and a cooperative association as the operator of a pool plant with respect to milk transferred in bulk to a pool plant) with respect to the handler's receipts of producer milk (including such handler's own-farm production, milk received from a cooperative association pursuant to § 1004.9(c), and milk transferred in bulk from a pool plant owned and operated by a cooperative association) and receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1004.43(e) and other source milk allocated to Class I pursuant to § 1004.44(a)(8) and (a)(12) and the corresponding step of § 1004.44(b), except such other source milk that is excluded from the computations pursuant to § 1004.60(f) and (h);

* * * * *

PART 1005—MILK IN THE CAROLINA MARKETING AREA

1. Section 1005.15 is revised to read as follows:

§ 1005.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1005.16 is revised to read as follows:

§ 1005.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. Section 1005.19 is revised to read as follows:

§ 1005.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1005.13, 1005.41 and 1005.53.

4. Section 1005.40 is revised to read as follows:

§ 1005.40 Classes of utilization.

Except as provided in § 1005.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1005.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1005.15 and the fluid cream product definition pursuant to § 1005.16; and

(7) In shrinkage assigned pursuant to § 1005.41(a) to the receipts specified in § 1005.41(a)(2) and in shrinkage specified in § 1005.41(b) and (c).

5. Section 1005.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2)(vi) and (vii) to read as follows:

§ 1005.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1005.43 is amended by adding a new paragraph (d) to read as follows:

§ 1005.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1005.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1005.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1005.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1005.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1005.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1005.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1005.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1005.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1005.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1005.45 is amended by revising paragraph (b) to read as follows:

§ 1005.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1005.43(d) and § 1005.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1005.53 is amended by revising paragraph (b)(1) to read as follows:

§ 1005.53 Plant location adjustments for handlers.

* * * * *

(b) * * *

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1005.44(a)(12) and the pounds of skim milk in receipts of concentrated fluid milk products from other pool plants that are assigned to Class I use, an amount equal to:

* * * * *

10. Section 1005.60 is amended by revising paragraphs (d) and (f), and adding new paragraphs (g), (h) and (i) to read as follows:

§ 1005.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1005.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1005.44(a)(7)(i) through (iv) and the corresponding step of § 1005.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid

milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1005.43(d) and § 1005.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1005.44(a)(11) and the corresponding steps of § 1005.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1005.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1005.76(a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1005.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1005.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1005.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1005.85 is amended by revising paragraph (c) to read as follows:

§ 1005.85 Assessment for order administration.

* * * * *

(c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1005.43(d) and other source milk allocated to Class I pursuant to § 1005.44(a)(7) and (a)(11) and the corresponding steps of § 1005.44(b), except such other source milk that is excluded from the computations pursuant to § 1005.60(d) and (f); and

* * * * *

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. Section 1006.15 is revised to read as follows:

§ 1006.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1006.16 is revised to read as follows:

§ 1006.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1006.21 is added under the undesignated centerheading "Definitions" to read as follows:

§ 1006.21 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1006.13, 1006.41 and 1006.52.

4. Section 1006.40 is revised to read as follows:

§ 1006.40 Classes of utilization.

Except as provided in § 1006.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1006.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded or grated and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1006.15 and the fluid cream product definition pursuant to § 1006.16; and

(7) In shrinkage assigned pursuant to § 1006.41(a) to the receipts specified in § 1006.41(a)(2) and in shrinkage specified in § 1006.41 (b) and (c).

5. Section 1006.42 is revised to read as follows:

§ 1006.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk and butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1006.44(a)(12) and the corresponding step of § 1006.44(b). The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1006.44(a)(7) or the corresponding step of § 1006.44(b), the skim milk or butterfat

so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1006.44(a)(11) or (a)(12) or the corresponding steps of § 1006.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (b)(2), or (b)(3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1006.40.

(c) *Transfers to producer-handlers and to exempt distributing plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or to an exempt distributing plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, an exempt distributing plant, or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i)(A) and (B) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2)(ii) through (viii) of this section:

(A) The transferor-handler or divertor-handler claims such classification in its report of receipts and utilization filed pursuant to § 1006.30 for the month within which such transaction occurred; and

(B) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(B) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(C) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(D) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(B) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(A) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(B) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool

plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in paragraph (d)(2) of this section.

6. Section 1006.43 is amended by revising paragraph (a) and adding new paragraphs (c) and (d), to read as follows:

§ 1006.43 General classification rules.

* * * * *

(a) Each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1006.30 and compute the total pounds of skim milk and butterfat, respectively, in each class at each pool plant.

* * * * *

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1006.9(b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1006.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1006.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1006.44 is revised to read as follows:

§ 1006.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1006.9(a) for each of the handler's pool plants separately and of each handler described in § 1006.9(b) and (c) by allocating the handler's receipts of skim milk and butterfat to such handler's utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1006.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I the remainder of such receipts.

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1006.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1006.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph (a)(5) or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1006.40(b), (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1006.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1006.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5), and (a)(6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2)(i) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant.

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i) and (a)(7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (a)(7)(v), and (a)(8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii)(A) through (C) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined

exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(A) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(B) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(C) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk unconcentrated fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1006.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraphs (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (a)(7)(v), and (a)(8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraphs (a)(7)(vi) and (a)(8)(iii) of this section:

(i) Subject to the provisions of paragraphs (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(A) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1006.45(a); or

(B) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler):

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the

computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1006.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as *overage*;

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

8. Section 1006.45 is amended by changing the reference "§ 1006.44(a)(9)" to "§ 1006.44(a)(12)" in paragraph (a) and revising paragraph (b) to read as follows:

§ 1006.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1006.43(d) and § 1006.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1006.50 is amended by adding a new paragraph (c) to read as follows:

§ 1006.50 Class prices.

* * * * *

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

10. Section 1006.60 is revised to read as follows:

§ 1006.60 Handler's value of milk for computing the uniform price.

For the purpose of computing the uniform price the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1006(b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1006.44(a) by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1006.44(a)(14) and the corresponding step of § 1006.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1006.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1006.44(a)(9) and the corresponding step of § 1006.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1006.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1006.44(a)(7)(i) through (iv) and the corresponding step of § 1006.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1006.44(a)(7)(v) and (vi) and the corresponding step of § 1006.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1006.43(d) and § 1006.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1006.44(a)(11) and the corresponding steps of § 1006.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1006.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1006.76(b)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1006.76 is amended by revising paragraphs (b)(3) and (b)(5) and by adding a new paragraph (c) to read as follows: § 1006.76 Payments by a

handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(3) Deduct from any remainder the pounds of reconstituted milk made from nonfluid milk products, and milk or skim milk contained in receipts from producer-handlers and exempt plants defined in any order, which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location, and add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (b)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1006.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1006.85 is amended by revising paragraph (b) to read as follows:

§ 1006.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1006.43(d) and other source milk allocated to Class I pursuant to § 1006.44(a)(7) and (a)(11) and the corresponding steps of § 1006.44(b), except such other source milk that is excluded from the computations pursuant to § 1006.60(d) and (f); and

* * * * *

PART 1007—MILK IN THE GEORGIA MARKETING AREA

1. Section 1007.15 is revised to read as follows:

§ 1007.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1007.16 is revised to read as follows:

§ 1007.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1007.21 is added under the undesignated center heading "Definitions" to read as follows:

§ 1007.21 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1007.13, 1007.41 and 1007.52.

4. Section 1007.40 is revised to read as follows:

§ 1007.40 Classes of utilization.

Except as provided in § 1007.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1007.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded or grated and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1007.15 and the fluid cream product definition pursuant to § 1007.16; and

(7) In shrinkage assigned pursuant to § 1007.41(a) to the receipts specified in § 1007.41(a)(2) and in shrinkage specified in § 1007.41(b) and (c).

5. Section 1007.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2)(vi) and (vii) to read as follows:

§ 1007.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1007.43 is amended by adding a new paragraph (d) to read as follows:

§ 1007.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1007.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1007.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1007.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1007.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1007.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1007.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1007.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1007.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1007.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1007.45 is amended by revising paragraph (b) to read as follows:

§ 1007.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1007.43(d) and § 1007.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1007.60 is amended by revising paragraphs (d), (f), and (g), and adding new paragraphs (h) and (i) to read as follows:

§ 1007.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1007.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1007.44(a)(7)(i) through (iv) and the corresponding step of § 1007.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1007.43(d) and § 1007.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1007.44(a)(11) and the corresponding steps of § 1007.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1007.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order § 1007.76(a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1007.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1007.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk

products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1007.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1007.85 is amended by revising paragraph (b) to read as follows:

§ 1007.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1007.43(d) and other source milk allocated to Class I pursuant to § 1007.44(a)(7) and (a)(11) and the corresponding steps of § 1007.44(b), except such other source milk that is excluded from the computations pursuant to § 1007.60 (d) and (f); and

* * * * *

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

1. Section 1011.15 is revised to read as follows:

§ 1011.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1011.16 is revised to read as follows:

§ 1011.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. Section 1011.19 is revised to read as follows:

§ 1011.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1011.13, 1011.41 and 1011.52.

4. Section 1011.40 is revised to read as follows:

§ 1011.40 Classes of utilization.

Except as provided in § 1011.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1011.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) Class II milk. Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1011.15 and the fluid cream product definition pursuant to § 1011.16; and

(7) In shrinkage assigned pursuant to § 1011.41(a) to the receipts specified in § 1011.41(a)(2) and in shrinkage specified in § 1011.41(b) and (c).

5. Section 1011.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1011.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1011.43 is amended by adding a new paragraph (d) to read as follows:

§ 1011.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1011.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1011.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1011.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i), and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1011.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1011.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1011.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1011.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1011.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1011.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1011.45 is amended by revising paragraph (b) to read as follows:

§ 1011.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1011.43(d) and § 1011.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1011.52 is amended by revising paragraph (b)(1) introductory text to read as follows:

§ 1011.52 Plant location adjustments for handlers.

* * * * *

(b) * * *

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1011.44(a)(12) plus the pounds of skim milk in receipts of concentrated fluid milk products from other pool plants that are assigned to Class I use, an amount equal to:

* * * * *

10. Section 1011.60 is amended by revising paragraphs (d), (f) and (g), and adding new paragraphs (h) and (i) to read as follows:

§ 1011.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1011.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1011.44(a)(7)(i) through (iv) and the corresponding step of § 1011.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1011.43(d) and § 1011.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1011.44(a)(11) and the corresponding steps of § 1011.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1011.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1011.76(a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1011.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1011.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1011.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1011.85 is amended by revising paragraph (c) to read as follows:

§ 1011.85 Assessment for order administration.

* * * * *

(c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1011.43(d) and other source milk allocated to Class I pursuant to § 1011.44(a)(7) and (a)(11) and the corresponding steps of § 1011.44(b), except such other source milk that is excluded from the computations pursuant to § 1011.60(d) and (f); and

* * * * *

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. Section 1012.15 is revised to read as follows:

§ 1012.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1012.16 is revised to read as follows:

§ 1012.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1012.20 is added under the undesignated centerheading "Definitions" to read as follows:

§ 1012.20 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1012.13, 1012.41 and 1012.52.

4. Section 1012.40 is revised to read as follows:

§ 1012.40 Classes of utilization.

Except as provided in § 1012.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1012.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler

must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1012.15 and the fluid cream product definition pursuant to § 1012.16; and

(7) In shrinkage assigned pursuant to § 1012.41(a) to the receipts specified in § 1012.41(a)(2) and in shrinkage specified in § 1012.41 (b) and (c).

5. Section 1012.42 is revised to read as follows:

§ 1012.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk and butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1012.44(a)(12) and the corresponding step of § 1012.44(b). The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1012.44(a)(7) or the corresponding step of § 1012.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1012.44(a)(11) or (a)(12) or the corresponding steps of § 1012.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (b)(2), or (b)(3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1012.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i) (A) and (B) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section:

(A) The transferor-handler or divertor-handler claims such classification in its report of receipts and utilization filed pursuant to § 1012.30 for the month within which such transaction occurred; and

(B) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(B) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(C) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(D) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(B) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(A) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(B) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in paragraph (d)(2) of this section.

6. Section 1012.43 is amended by revising paragraph (a) and adding new paragraphs (c) and (d), to read as follows:

§ 1012.43 General classification rules.

* * * * *

(a) Each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1012.30 and compute the total pounds of skim milk and butterfat, respectively, in each class at each pool plant.

* * * * *

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1012.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1012.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1012.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1012.44 is revised to read as follows:

§ 1012.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1012.9(a) for each of the handler's pool plants separately and of each handler described in § 1012.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to such handler's utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1012.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I the remainder of such receipts.

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1012.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1012.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph (a)(5) or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1012.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1012.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II; and

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form

of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1012.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5), and (a)(6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2)(i) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant.

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i) and (a)(7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (a)(7)(v), and (a)(8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii)(A) through (C) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(A) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(B) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(C) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk unconcentrated fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1012.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraphs (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (a)(7)(v), and (a)(8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraphs (a)(7)(vi) and (a)(8)(iii) of this section:

(i) Subject to the provisions of paragraphs (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever

of the following quantities represents the lower proportion of Class I milk:

(A) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1012.45(a); or

(B) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler):

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1012.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as *overage;*

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

8. Section 1012.45 is amended by changing the reference "§ 1012.44(a)(9)" to "§ 1012.44(a)(12)" in paragraph (a) and revising paragraph (b) to read as follows:

§ 1012.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1012.43(d) and § 1012.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1012.50 is amended by adding a new paragraph (c) to read as follows:

§ 1012.50 Class prices.

* * * * *

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

9. Section 1012.60 is revised to read as follows:

§ 1012.60 Handler's value of milk for computing the uniform price.

For the purpose of computing the uniform price the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1012.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1012.44(c) by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1012.44(a)(14) and the corresponding step of § 1012.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1012.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1012.44(a)(9) and the corresponding step of § 1012.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1012.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1012.44(a)(7)(i) through (iv) and the corresponding step of § 1012.44(b), excluding receipts of bulk fluid cream products from another order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1012.44(a)(7)(v) and (vi) and the corresponding step of § 1012.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1012.43(d) and § 1012.44(a)(7)(i) and the pounds of skim milk and butterfat

subtracted from Class I pursuant to § 1012.44(a)(11) and the corresponding steps of § 1012.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1012.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1012.76(b)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1012.76 is amended by revising paragraphs (b)(3) and (b)(5) and by adding a new paragraph (c) to read as follows:

§ 1012.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant and milk or skim milk contained in receipts from producer-handlers and exempt plants defined in any order disposed of as route disposition in the marketing area;

* * * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location, and add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (b)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1012.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1012.85 is amended by revising paragraph (b) to read as follows:

§ 1012.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1012.43(d) and other source milk allocated to Class I pursuant to § 1012.44 (a)(7) and (a)(11) and the corresponding steps of § 1012.44(b), except such other source milk that is excluded from the computations pursuant to § 1012.60 (d) and (f); and

* * * * *

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. Section 1013.15 is revised to read as follows:

§ 1013.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1013.16 is revised to read as follows:

§ 1013.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat,

with or without the addition of other ingredients.

3. A new § 1013.20 is added under the undesignated centerheading "Definitions" to read as follows:

§ 1013.20 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1013.13, 1013 41 and 1013.52.

4. Section 1013.40 is revised to read as follows:

§ 1013.40 Classes of utilization.

Except as provided in § 1013.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1013.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat.

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1013.15 and the fluid cream product definition pursuant to § 1013.16; and

(7) In shrinkage assigned pursuant to § 1013.41(a) to the receipts specified in § 1013.41(a)(2) and in shrinkage specified in § 1013.41 (b) and (c).

5. Section 1013.42 is revised to read as follows:

§ 1013.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk and butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1013.44(a)(12) and the corresponding step of § 1013.44(b). The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1013.44(a)(7) or the corresponding step of § 1013.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to

be allocated pursuant to § 1013.44 (a)(11) or (a)(12) or the corresponding steps of § 1013.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (b)(2), or (b)(3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1013.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i)(A) and (B) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2)(ii) through (viii) of this section:

(A) The transferor-handler or divertor-handler claims such classification in its report of receipts and utilization filed pursuant to § 1013 30 for the month within which such transaction occurred; and

(B) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(B) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(C) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(D) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(B) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(A) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(B) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in paragraph (d)(2) of this section.

6. Section 1013.43 is amended by adding new paragraphs (c) and (d), to read as follows:

§ 1013.43 General classification rules.

* * * * *

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1013.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1013.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1013 44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1013.44 is revised to read as follows:

§ 1013.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1013.9(a) for each of the handler's pool plants separately and of each handler described in § 1013.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to such handler's utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1013 41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I the remainder of such receipts.

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1013.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1013.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph (a)(5) or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1013.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1013.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1013.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5), and (a)(6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2)(i) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant.

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i) and (a)(7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (a)(7)(v), and (a)(8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii) (A) through (C) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(A) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(B) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(C) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk unconcentrated fluid milk products from an other order plant that are in excess of bulk unconcentrated fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1013.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraphs (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (a)(7)(v), and (a)(8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraphs (a)(7)(vi) and (a)(8)(iii) of this section:

(i) Subject to the provisions of paragraphs (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(A) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1013.45(a); or

(B) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler):

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest

plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1013.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as *overage;*

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

8. Section 1013.45 is amended by changing the reference "§ 1013.44(a)(10)" to "§ 1013.44(a)(12)" in paragraph (a) and revising paragraph (b) to read as follows:

§ 1013.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1013.43(d) and § 1013.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1013.50 is amended by revising paragraph (c) to read as follows:

§ 1013.50 Class prices.

* * * * *

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

10. Section 1013.60 is revised to read as follows:

§ 1013.60 Handler's value of milk for computing the uniform price.

For the purpose of computing the uniform price the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1013.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1013.44(c) by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1013.44(a)(14) and the corresponding step of § 1013.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1013.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1013.44(a)(9) and the corresponding step of § 1013.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1013.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1013.44(a)(7) (i) through (iv) and the corresponding step of § 1013.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1013.44(a)(7) (v) and (vi) and the corresponding step of § 1013.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1013.43(d) and § 1013.44(a)(7) (i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1013.44(a) (11) and the corresponding steps of § 1013.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1013.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1013.76(b)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1013.76 is amended by revising paragraphs (b)(3) and (b)(5) and by adding a new paragraph (c) to read as follows:

§ 1013.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(3) Deduct from any remainder the pounds of reconstituted milk that are made from nonfluid milk products and milk or skim milk contained in receipts from producer-handlers and exempt plants defined in any other order, which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location, and add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (b)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1013.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1013.85 is amended by revising paragraph (a)(2) to read as follows:

§ 1013.85 Assessment for order administration.

(a) * * *

(2) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1013.43(d) and other source milk allocated to Class I pursuant to § 1013.44(a)(6), (a)(7) and (a)(11) and the corresponding steps of § 1013.44(b), except such other source milk that is excluded from the computations pursuant to § 1013.60(d) and (f); and

* * * * *

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

1. Section 1030.15 is revised to read as follows:

§ 1030.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1030.16 is revised to read as follows:

§ 1030.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1030.21 is added under the heading "Definitions" to read as follows:

§ 1030.21 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1030.13, 1030.41 and 1030.52.

4. Section 1030.40 is revised to read as follows:

§ 1030.40 Classes of utilization.

Except as provided in § 1030.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1030.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta

cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1030.15 and the fluid cream product definition pursuant to § 1030.16; and

(7) In shrinkage assigned pursuant to § 1030.41(a) to the receipts specified in § 1030.41(a)(2) and in shrinkage specified in § 1030.41 (b) and (c).

5. Section 1030.42 is amended by adding the following sentence at the end of paragraph (a), and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1030.42 Classification of transfers and diversions.

* * * * *

(a) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products.

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1030.43 is amended by adding a new paragraph (d) to read as follows:

§ 1030.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1030.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1030.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1030.44 is amended by adding a new paragraph (a)(2)(iii); revising the first sentence of paragraph (a)(5); revising paragraphs (a)(6) and (a)(7)(i); redesignating (a)(8)(i) (*a*) and (*b*) as (A) and (B) and revising newly designated (a)(8)(i)(B) and (a)(9), to read as follows:

§ 1030.44 Classification of producer milk.

* * * * *

(a) * * *

(2) * * *

(iii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1030 40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1030.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1030.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1030.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(8) * * *

(i) * * *

(B) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler) by 1.25 and subtracting the sum of the pounds of skim milk in receipts of producer milk, fluid milk products from other pool plants, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(iv) of this section; and

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1030.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(iii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1030.45 is amended by revising paragraph (b) to read as follows:

§ 1030.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1030.43(d) and § 1030.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1030.52 is amended by revising paragraphs (c)(1) and (c)(5), to read as follows:

§ 1030.52 Plant location adjustments for handlers.

* * * * *

(c) * * *

(1) Determine the aggregate quantity of Class I milk, excluding beginning inventory of packaged fluid milk products, at such plant (or all pool plants of such handler for which the handler's total receipts are allocated for all such handler's pool plants combined pursuant to §§ 1030.43(d) and 1030.44 after eliminating duplication for transfer between such plants);

* * * * *

(5) Subtract the quantity of bulk fluid milk products received at the handler's pool plant(s) from other order plants and unregulated supply plants that are assigned to Class I pursuant to §§ 1030.43(d) and 1030.44;

* * * * *

10. Section 1030.60 is amended by revising paragraphs (d) and (f), removing "and" after the semicolon in paragraph (g), replacing the period after paragraph (h) with a semicolon, and adding new paragraphs (i), (j) and (k) to read as follows:

§ 1030.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1030.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1030.44(a)(7)(i) through (iv), (vii), and (viii) and the corresponding step of § 1030.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1030.43(d) and § 1030.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1030.44(a)(11) and the corresponding steps of § 1030.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

* * * * *

(i) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1030.43(d);

(j) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1030.76(a)(5) or (c); and

(k) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1030.76 is amended by revising paragraphs (a)(3) and (a)(5) and adding a new paragraph (c) to read as follows:

§ 1030.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the

order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1030.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1030.85 is amended by revising paragraph (b) to read as follows:

§ 1030.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1030.43(d) and other source milk allocated to Class I pursuant to § 1030.44(a)(7) and (a)(11) and the corresponding steps of § 1030.44(b), except such other source milk that is excluded from the computations pursuant to § 1030.60 (d) and (f); and

* * * * *

Part 1032—Milk in the Southern Illinois-Eastern Missouri Marketing Area

1. Section 1032.15 is revised to read as follows:

§ 1032.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1032.16 is revised to read as follows:

§ 1032.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. Section § 1032.19 is revised to read as follows:

§ 1032.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1032.13, 1032.41 and 1032.52.

4. Section 1032.40 is revised to read as follows:

§ 1032.40 Classes of utilization.

Except as provided in § 1032.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1032.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1032.15 and the fluid cream product definition pursuant to § 1032.16; and

(7) In shrinkage assigned pursuant to § 1032.41(a) to the receipts specified in § 1032.41(a)(2) and in shrinkage specified in § 1032.41(b) and (c).

5. Section 1032.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2)(vi) and (vii) to read as follows:

§ 1032.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1032.43 is amended by adding a new paragraph (d) to read as follows:

§ 1032.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1032.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1032.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1032.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1032.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1032.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1032.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1032.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1032.40(b)(1) that was not

subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1032.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1032.45 is amended by revising paragraph (b) to read as follows:

§ 1032.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1032.43(d) and § 1032.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1032.60 is amended by revising paragraphs (d), (f), and (g) and adding new paragraphs (h) and (i) to read as follows:

§ 1032.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1032.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1032.44(a)(7) (i) through (iv) and the corresponding step of § 1032.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1032.43(d) and § 1032.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1032.44(a)(11) and the corresponding steps of § 1032.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1032.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1032.76(a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1032.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1032.76 Payments by a handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1032.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1032.85 is amended by revising paragraph (b) to read as follows:

§ 1032.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1032.43(d) and other source milk allocated to Class I pursuant to § 1032.44(a)(7) and (a)(11) and the corresponding steps of § 1032.44(b), except such other source milk that is excluded from the computations pursuant to § 1032.60(d) and (f); and

* * * * *

1. The table of contents of part 1033 is revised to read as follows:

PART 1033—MILK IN THE OHIO VALLEY MARKETING AREA

General Provisions

1033.1 General provisions.

Definitions

1033.2 Ohio Valley marketing area.
1033.3 Route disposition.
1033.4 Plant.
1033.5 Distributing plant.
1033.6 Supply plant.
1033.7 Pool plant.
1033.8 Nonpool plant.
1033.9 Handler.
1033.10 Producer-handler.
1033.12 Producer.
1033.13 Producer milk.
1033.14 Other source milk.
1033.15 Fluid milk product.
1033.16 Fluid cream product.
1033.17 Filled milk.
1033.19 Cooperative association.
1033.20 Product prices.
1033.21 Commercial food processing establishment.

Handler Reports

1033.30 Reports of receipts and utilization.
1033.31 Payroll reports.
1033.32 Other reports.

Classification of Milk

1033.40 Classes of utilization.
1033.41 Shrinkage.
1033.42 Classification of transfers and diversions.
1033.43 General classification rules.
1033.44 Classification of producer milk.
1033.45 Market administrator's reports and announcements concerning classification.

Class Prices

1033.50 Class prices
1033.51 Basic formula prices.
1033.52 Plant location adjustments for handlers.
1033.53 Announcement of class prices.
1033.54 Use of equivalent prices.

Uniform Price

1033.60 Handler's value of milk for computing uniform price.
1033.61 Computation of the uniform price.

Payments for Milk

1033.70 Producer-settlement fund.
1033.71 Payments to the market administrator.
1033.72 Payments to producers and to cooperative associations.
1033.73 Butterfat differential.
1033.74 Plant location adjustments for producers and on nonpool milk.
1033.76 Payments by handler operating a partially regulated distributing plant.
1033.77 Correction of errors.
1033.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction

1033.85 Assessment for order administration.
1033.86 Deduction for marketing services.

Authority: Secs. 1–19, 48 Stat. 31, as amended 7 U.S.C. 601–674.

§ 1033.6 [Redesignated as § 1033.2.]

2. Section 1033.6 is re-designated as § 1033.2.

§ 1033.8 [Redesignated as § 1033.3.]

3. Section 1033.8 is re-designated as § 1033.3, and amended by changing the reference "§ 1033.41(a)" to "§ 1033.40(a)".

§ 1033.9 [Redesignated as § 1033.4.]

4. Section 1033.9 is re-designated as § 1033.4.

§ 1033.19 [Removed]

§ 1033.5 [Redesignated as § 1033.19.]

5. Section 1033.19 is removed, and § 1033.5 is re-designated as § 1033.19.

§ 1033.10 [Redesignated as § 1033.5.]

6. Section 1033.10 is re-designated as § 1033.5.

§ 1033.11 [Redesignated as § 1033.6.]

7. Section 1033.11 is re-designated as § 1033.6.

§ 1033.13 [Redesignated as § 1033.8.]

8. Section 1033.13 is re-designated as § 1033.8.

§ 1033.16 [Redesignated as § 1033.9.]

9. Section 1033.16 is re-designated as § 1033.9 and amended by changing the reference "§ 1033.15" in paragraph (b) to "§ 1033.13", the reference "§ 1033.17" in paragraph (e) to "§ 1033.10" and the reference "§ 1033.56" in paragraph (f) to "§ 1033.7(d)".

§ 1033.17 [Redesignated as § 1033.10.]

10. Section 1033.17 is re-designated as § 1033.10.

§ 1033.15 [Redesignated as § 1033.13.]

11. Section 1033.15 is re-designated as § 1033.13, and amended by changing all references to "§ 1033.16" to "§ 1033.9".

§ 1033.7 [Redesignated as § 1033.15.]

12. Section 1033.7 is re-designated as § 1033.15, and revised to read as follows:

§ 1033.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1033.12 [Redesignated as § 1033.7.]

13. Section 1033.12 is re-designated as § 1033.7 and amended in the introductory text by changing the reference "§ 1033.56" to "paragraph (d) of this section", in paragraph (b) introductory text by changing the reference "§ 1033.16(c)" to "§ 1033.9(c)" and adding a new paragraph (d) to read as follows:

§ 1033.7 Pool plant.

* * * * *

(d) The term *pool plant* shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant subject to the classification and pricing provisions of another order issued pursuant to the Act, unless the plant is qualified as a pool plant pursuant to paragraph (a) or (b) of this section during the current month and the immediately preceding month and a greater volume of fluid milk products, except filled milk, is disposed of in each such month from such plant as route disposition in the Ohio Valley marketing area than is disposed of from such plant as route disposition in the

marketing area regulated pursuant to the other order and to plants qualified as fully regulated plants under such other order on the basis of route disposition in the marketing area;

(3) A plant qualified pursuant to § 1033.7(a) which also meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order on the basis of distribution in such other marketing area and from which the Secretary determines route disposition, except filled milk, during the month in this marketing area is greater than route disposition in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order.

§ 1033.14 [Redesignated as § 1033.12.]

14. Section 1033.14 is re-designated as § 1033.12, and amended by changing the following references:

a. In paragraph (a)(2), the reference "§ 1033.16(c)" is changed to "§ 1033.9(c)";

b. In paragraph (a)(3), the reference "§ 1033.15" is changed to "§ 1033.13"; and

c. In paragraph (b)(2), the reference "§ 1033.46(a)(8)(ii) and the corresponding step of § 1033.46(b)" is changed to "§ 1033.44(a)(8)(ii) and the corresponding step of § 1033.44(b)".

§ 1033.18 [Redesignated as § 1033.14.]

15. Section 1033.18 is re-designated as § 1033.14, and amended in paragraph (b) by changing the reference "§ 1033.41(b)(1) and (b)(3)" to "§ 1033.40(b)(1) and (b)(4)".

16. A new § 1033.16 is added to read as follows:

§ 1033.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

17. Section 1033.20 is re-designated as § 1033.17.

18. Section 1033.21 is re-designated as § 1033.20 and amended in the introductory text by changing the reference "§ 1033.51a" to "§ 1033.51(b)".

19. A new § 1033.21 is added to read as follows:

§ 1033.21 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1033.13, 1033.41 and 1033.52.

§ 1033.27 [Removed.]

20. Section 1033.27 is removed.

§ 1033.30 [Amended.]

21. Section 1033.30 is amended by changing the following references:

a. In paragraphs (a)(1)(iv) and (a)(2), the reference "§ 1033.41(b)(1)" is changed to "§ 1033.40(b)(1)";

b. In paragraph (b)(1) introductory text, the reference "§ 1033.16(b) or (c)" is changed to "§ 1033.9(b) or (c)"; and

c. In paragraph (b)(2) introductory text, the reference "§ 1033.15(b)" is changed to "§ 1033.13(b)".

§§ 1033.31, 1033.32 [Redesignated as §§ 1033.32 and 1033.31.]

22. Section 1033.31 is re-designated as § 1033.32, and § 1033.32 is re-designated as § 1033.31. Re-designated § 1033.31 is amended by changing the reference "§ 1033.57(a)" in paragraph (b) to "§ 1033.76(a)"; and re-designated § 1033.32 is amended by changing the references "§ 1033.16(c)" in paragraphs (c)(4), (d)(3) and (e)(4) to "§ 1033.9(c)", and the reference "§ 1033.32" in paragraph (g) to "§ 1033.31".

§ 1033.40 [Removed.]

§ 1033.41 [Redesignated as § 1033.40.]

23. Section 1033.40 is removed and § 1033.41 is redesignated as § 1033.40, and revised to read as follows:

§ 1033.40 Classes of utilization.

Except as provided in § 1033.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1033.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butter oil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk

products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1033.15 and the fluid cream product definition pursuant to § 1033.16; and

(7) In shrinkage assigned pursuant to § 1033.41(a) to the receipts specified in § 1033.41(a)(2) and in shrinkage specified in § 1033.41 (b) and (c).

§ 1033.42 [Redesignated as § 1033.41.]

24. Section 1033.42 is re-designated as § 1033.41, and revised to read as follows:

§ 1033.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1033.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraphs (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraphs (b) (1) through (6) of this section which was received in bulk fluid form;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1033.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1033.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph (b)(2) shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b)(1), (b)(2), (b)(4), (b)(5), and (b)(6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1033.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1033.43 [Redesignated as § 1033.42.]

25. Section 1033.43 is re-designated as § 1033.42, and revised to read as follows:

§ 1033.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk and butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1033.44(a)(12) and the corresponding step of § 1033.44(b). The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1033.44(a)(7) or the corresponding step of § 1033.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1033.44(a) (11) or (12) or the corresponding steps of § 1033.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater

extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1033.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.*

Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i)(A) and (B) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2)(ii) through (viii) of this section:

(A) The transferor-handler or divertor-handler claims such classification in its report of receipts and utilization filed pursuant to § 1033.30 for the month within which such transaction occurred; and

(B) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(B) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(C) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(D) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(B) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(A) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(B) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of

the second plant's utilization using the same assignment priorities at the second plant that are set forth in paragraph (d)(2) of this section.

§ 1033.45 [Redesignated as § 1033.43]

26. Section 1033.45 is re-designated as § 1033.43, and revised to read as follows:

§ 1033.43 General classification rules.

In determining the classification of producer milk pursuant to § 1033.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1033.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1033.9(b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1033.40, 1033.41, and 1033.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids;

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1033.9(b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association;

(d) Bulk fluid milk products transferred or diverted from a pool plant operated by a cooperative association to another pool plant shall be classified in accordance with the rules set forth in § 1033.42(a) and the value thereof at class prices (applicable at the location of the transferee-plant) shall be used to compute the receiving handler's pool obligation for such milk pursuant to § 1033.60; and

(e) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1033.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1033.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

27. A new § 1033.44 is added to read as follows:

§ 1033.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1033.9(a) for each of its pool plants separately and of each handler described in § 1033.9(b) and (c) by allocating the handler's receipts of skim milk and butterfat to its utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1033.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from another order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1033.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1033.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1033.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1033.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1033.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5), and (a)(6) of this section;

(ii) Receipts of fluid milk products (except filled milk) and bulk cream for which bottling grade certification is not established;

(iii) Receipts of fluid milk products and bulk cream from unidentified sources;

(iv) Receipts of fluid milk products and bulk cream from a producer-handler, as defined under this or any other Federal order;

(v) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to paragraph (a)(2)(i) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant.

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i) and (a)(7)(v) of this section for which the handler requests classification other than Class I, but not

in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (a)(7)(v), and (a)(8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii)(A) through (C) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(A) Multiply by 1.25 the pounds of skim milk remaining in Class I at this allocation step (exclusive of transfers between pool plants of the same handler) at all pool plants of the handler;

(B) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(C) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants remaining at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) Receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1033.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraphs (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraphs (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraphs (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(A) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1033.45(a); or

(B) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler):

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such

excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1033.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as overage;

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

28. A new § 1033.45 is added to read as follows:

§ 1033.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1033.44(a)(12) and the corresponding step of § 1033.44(b), estimate and publicly announce on or before the 10th day of the month the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1033.43(e) and § 1033.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report; and

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant, the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association or its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month.

§ 1033.46 [Removed]

29. Section 1033.46 is removed.

§ 1033.50 [Removed]

30. Section 1033.50 is removed.

§ 1033.51 [Redesignated as § 1033.50]

31. Section 1033.51 is re-designated as § 1033.50 and amended by changing the reference "§ 1033.53" in the introductory language to "§ 1033.52", the reference "§ 1033.51a" in paragraph (b) introductory text to "§ 1033.51(b)", the reference "§ 1033.50" in paragraph (b)(1) to "§ 1033.50(a)", and the reference "§ 1033.51a" in paragraph (b)(2) to "§ 1033.51(b)".

32. A new § 1033.51 is added to read as follows:

§ 1033.51 Basic formula prices.

(a) The *basic formula price* shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential pursuant to § 1033.73 shall be used.

(b) The *basic Class II formula price for* the month shall be the basic formula price determined pursuant to § 1033.51(a) for the second preceding month plus or minus the amount computed pursuant to paragraphs (b)(1) through (4) of this section:

(1) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1033.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(i) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(A) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(B) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(C) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(ii) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(A) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(B) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(2) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(3) Compute weighting factors to be applied to the changes in gross values

determined pursuant to paragraph (b)(2) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraphs (b)(3)(i) and (ii) of this section:

(i) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the National Agricultural Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(ii) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the National Agricultural Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(4) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b)(2) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (b)(3) of this section.

§ 1033.51a [Removed]

33. Section 1033.51a is removed.

§ 1033.53 [Redesigned as § 1033.52]

34. Section 1033.53 is re-designated as § 1033.52, and amended by changing the reference "§ 1033.51(a)" in paragraph (a) introductory text to "§ 1033.50(a)", the reference "§ 1033.6" in paragraph (a)(1) to "§ 1033.2", and by revising paragraph (b), to read as follows:

§ 1033.52 Plant location adjustments for handlers.

* * * * *

(b) For the purpose of determining the quantity of Class I producer milk on which a location adjustment shall apply under paragraph (e) of this section, the quantity of fluid milk products transferred as Class I milk from pool plants to a pool distributing plant at which the Class I price is greater than the Class I price at the transferor plant shall be assigned pro rata with the receipts of producer milk at the transferee plant to the Class I milk remaining at such transferee plant after the assignments pursuant to § 1033.44(a)(1) through (a)(12) and the corresponding steps of § 1033.44(b) plus the pounds of skim milk and butterfat in receipts of concentrated fluid milk products from other pool plants that are assigned to Class I use. The Class I utilization so assigned to the transferred fluid milk products then shall be allocated first to receipts from plants at which the Class I price is not less than the Class I price at the transferee plant, and then to receipts from plants with lower Class I prices, in sequence beginning with the plant having the highest Class I price.

* * * * *

35. A new § 1033.53 is added to read as follows:

§ 1033.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1033.50(b).

§ 1033.56 [Removed]

36. Section 1033.56 is removed.

37. Section 1033.60 is revised to read as follows:

§ 1033.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk for each pool plant of each handler and for each handler pursuant to § 1033.9(b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1033.44(c) and the pounds of bulk fluid milk products received from a pool plant operated by a cooperative association pursuant to § 1033.43(d) in each class as determined pursuant to § 1033.42(a) by the applicable class price and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage deducted from each class pursuant to § 1033.44(a)(14) and the corresponding step of § 1033.44(b) by the applicable class price, as adjusted by the butterfat differential specified in § 1033.73;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I or Class II price for the current month, as the case may be, by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1033.44(a)(9) and the corresponding step of § 1033.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price at the pool plant and Class III price, both for the current month, by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1033.43(e) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to 1033.44(a)(7)(i) through (iv) and the corresponding steps of § 1033.44(b) excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants, and unregulated supply plants, except that for receipts of fluid milk products assigned to Class I pursuant to § 1033.44(a)(7)(v) and (vi) and the corresponding steps of § 1033.44(b) the Class I price shall be adjusted to the location of the transferor plant (but not to be less than the Class III price);

(e) Add the amount obtained from multiplying the Class I price adjusted for the location of the nearest unregulated supply plants from which an equivalent volume was received, but not to be less than the Class III price, by the hundredweight of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1033.43(e) and § 1033.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1033.44(a)(11) and the corresponding steps of § 1033.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(f) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1033.43(e);

(g) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1033.76(b)(5) or (c); and

(h) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per

hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

§ 1033.61 [Amended]

38. Section 1033.61 is amended by changing the reference "§ 1033.60(g)" in paragraph (f)(2) to "§ 1033.60(e)".

39. In § 1033.70, paragraph (c) is removed and paragraph (a) is revised and paragraph (b) is added to read as follows:

§ 1033.70 Producer-Settlement fund.

(a) All payments made by handlers pursuant to §§ 1033.71, 1033.76, and 1033.77 shall be deposited in this fund, and all payments made pursuant to §§ 1033.72 and 1033.77 shall be made out of this fund;

(b) The difference between the amount added pursuant to § 1033.61(e) and the amount resulting from the subtraction pursuant to § 1033.61(g) shall be deposited in, or withdrawn from, this fund, as the case may be.

40. Section 1033.71 is amended by changing the reference "paragraph (c)" in paragraph (a) and the introductory text of paragraph (b) to "paragraph (d)", changing the references "§ 1033.60(g)" in paragraph (b) introductory text and paragraph (b)(1) to "§ 1033.60(e)", redesignating paragraph (c) as paragraph (d), adding a new paragraph (c) and revising the introductory text of redesignated paragraph (d) to read as follows:

§ 1033.71 Payments to the market administrator.

* * * * *

(c) Subject to paragraph (d) of this section, each handler operating a distributing plant that is subject to the classification and pricing provisions of another order which provides for individual handler pooling shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of as route disposition in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant as route disposition in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to the route disposition in each marketing area; and

(2) Compute the value of the quantity of reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area at the Class I price under this part applicable at the location of the other order plant (not to be less than the Class III price) and subtract its value at the Class III price.

(d) The following conditions shall apply with respect to the payments prescribed in paragraphs (a), (b) and (c) of this section:

* * * * *

§ 1033.72 [Amended]

41. Section 1033.72 is amended by changing the reference "§ 1033.75" in paragraph (b)(2) to "§ 1033.86" and the reference "§ 1033.71(c)(2)" in paragraph (e)(2) to "§ 1033.71(d)(2)".

42. Section 1033.74 is revised to read as follows:

§ 1033.74 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk at a plant outside the Central Zone shall be the Central Zone uniform price adjusted according to the location of the plant at the rates set forth in § 1033.52(a); and

(b) For the purpose of computations pursuant to § 1033.71(b)(1), the weighted average price shall be adjusted at the rate set forth in § 1033.52(a) that is applicable at the location of the nonpool plant from which other source milk was received.

§ 1033.75 [Redesignated as § 1033.86]

43. Section 1033.75 is re-designated as § 1033.86 and the title of re-designated § 1033.86 is revised to "Deduction for marketing services."

§ 1033.76 [Redesignated as § 1033.85]

44. Section 1033.76 is re-designated as § 1033.85, the title of re-designated § 1033.85 is revised to "Assessment for order administration.", re-designated § 1033.85 is amended by changing the following references: in paragraph (a), the reference "§ 1033.16(c)" is changed to "§ 1033.9(c)"; in paragraphs (a) and (b), the reference "§ 1033.45(d)" is changed to "§ 1033.43(d)"; in paragraph (d)(2), the reference "§ 1033.57(b)(2)(ii)" is changed to "§ 1033.76(b)(2)(ii)"; and by revising paragraph (c) to read as follows:

§ 1033.85 Assessment for order administration.

* * * * *

(c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1033.43(e) and other source milk allocated to Class I pursuant to § 1033.44 (a)(7) and (a)(11) and the corresponding steps of § 1033.44(b), except such other source milk that is excluded from the computations pursuant to § 1033.60 (d) and (e); and

* * * * *

§ 1033.57 [Redesignated as § 1033.76]

45. Section 1033.57 is re-designated as § 1033.76, and re-designated § 1033.76 is amended by revising the section heading changing the reference "§ 1033.32(b)" in the introductory text and in paragraph (a)(1)(ii) to "§ 1033.31(b)", the reference "§ 1033.60(g)" in paragraph (a)(1)(i) to "§ 1033.60(e)", and the reference "§ 1033.12(b)" in paragraph (a)(1)(ii) to "§ 1033.7(b)"; revising paragraphs (b)(3) and (b)(5) and adding a new paragraph (c) to read as follows:

§ 1033.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class III price) subtract its value at the weighted average price applicable at such location (not to be less than the Class III price), and add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (b)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than

the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1033.43(e). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

46. The center headings in part 1033 would be removed and new center headings would be added to proceed the redesignated sections as follows:

a. Preceding § 1033.1, "General Provisions";

b. Preceding § 1033.2, "Definitions";

c. Preceding § 1033.30, "Handler Reports";

d. Preceding § 1033.40, "Classification of Milk";

e. Preceding § 1033.50, "Class Prices";

f. Preceding § 1033.60, "Uniform Price";

g. Preceding § 1033.70, "Payments for Milk"; and

h. Preceding § 1033.85, "Administrative Assessment and Marketing Service Deduction".

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. Section 1036.15 is revised to read as follows:

§ 1036.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, (concentrated to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1036.16 is revised to read as follows:

§ 1036.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1036.21 is added under the undesignated centered heading "Definitions" to read as follows:

§ 1036.21 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1036.13, 1036.41 and 1036.52.

4. Section 1036.40 is revised to read as follows:

§ 1036.40 Classes of utilization.

Except as provided in § 1036.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1036.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the

public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)-(iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)-(iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1036.15 and the fluid cream product definition pursuant to § 1036.16; and

(7) In shrinkage assigned pursuant to § 1036.41(a) to the receipts specified in § 1036.41(a)(2) and in shrinkage specified in § 1036.41(b) and (c).

5. Section 1036.41 is revised to read as follows:

§ 1036.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1036.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraphs (b)(1) through (b)(6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraphs (b)(1) through (b)(6) of this section which was received in bulk fluid form;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1036.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1036.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph (b)(2) shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b)(1), (b)(2), (b)(4), (b)(5), and (b)(6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1036.9(b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

6. Section 1036.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraph (c)(3)(iv) to read as follows:

§ 1036.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(c) * * *

(3) * * *

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class II milk to the extent Class II utilization is available and the remainder as Class III milk; and;

* * * * *

7. Section 1036.43 is revised to read as follows:

§ 1036.43 General classification rules.

In determining the classification of producer milk pursuant to § 1036.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1036.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1036.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1036.40, 1036.41, and 1036.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids;

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1036.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association; and

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1036.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1036.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

8. Section 1036.44 is amended as follows:

a. Revising paragraphs (a)(1) and (a)(2);

b. Revising paragraph (a)(3)(i);

c. Revising paragraph (a)(5);

d. Revising paragraph (a)(6);

e. Revising paragraph (a)(7)(i);

f. Changing the reference "(a)(2) in paragraph (a)(7)(iv) to "(a)(2)(i)";

g. Revising paragraphs (a)(8) through (a)(15);

h. Removing paragraph (a)(16);

i. Changing the reference "§ 1036.44(a)(16)" in paragraph (c) to "§ 1036.44(a)(15)";

The revisions as set forth above, read as follows:

§ 1036.44 Classification of producer milk.

* * * * *

(a) * * *

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III milk pursuant to § 1036.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(3) * * *

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in fluid cream products in packaged form and in bulk concentrated fluid milk products that are in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1036.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1036.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1036.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i) and (7)(iv) of this section for which the handler requests classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i) and (a)(7)(iv) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii)(A) through (C) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(A) Multiply by 1.25 the pounds of skim milk remaining in Class I at this allocation step (exclusive of transfers between pool plants of the same handler) at all pool plants of the handler;

(B) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(v) of this section; and

(C) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants remaining at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) Receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(v) of this section, if Class II or Class III classification is

requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1036.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraphs (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(7)(iv), and (a)(8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraphs (a)(7)(v) and (a)(8)(iii) of this section:

(i) Subject to the provisions of paragraphs (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(A) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1036.45(a); or

(B) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler):

(ii) Should the proportion pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1036.42(a);

(14) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of milk from a handler defined in § 1036.9(c) that also operates a pool plant;

(15) If the pounds of skim milk remaining exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

* * * * *

Section 1036.45 is amended by revising paragraph (b) to read as follows:

§ 1036.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received

from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1036.43(d) and § 1036.44 on the basis of such report (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1036.60 is amended by revising paragraphs (d), (e), and (f), and adding new paragraphs (g) and (h) to read as follows:

§ 1036.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price at the pool plant and the Class III price, both for the current month, by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1036.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1036.44 (a)(7) and (a)(8) and the corresponding steps of § 1036.44(b) (excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants), except that for receipts of fluid milk products assigned to Class I pursuant to § 1036.44(a)(7) (iv) and (v) and the corresponding step of § 1036.44(b) the Class I price shall be adjusted to the location of the transferor plant;

(e) Add the amount obtained from multiplying the Class I price adjusted for the location of the nearest nonpool plants from which an equivalent volume was received by the hundredweight of skim milk and butter in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1036.43(d) and § 1036.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1036.44(a)(11) and the corresponding steps of § 1036.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under this or any other order issued pursuant to the act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order.

(f) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1036.43(d);

(g) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1036.76 (b)(5) or (c); and

(h) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1036.76 is amended by revising paragraphs (b)(3) and (b)(5) and by adding a new paragraph (c) to read as follows:

§ 1036.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (b)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1036.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1036.85 is amended by revising paragraph (a) to read as follows:

§ 1036.85 Assessment for order administration.

* * * * *

(a) Each handler with respect to his receipts of producer milk (including such handler's own-farm production and milk recieved from a cooperative association pursuant to § 1036.9(c)), fluid milk products transferred or diverted in bulk from a pool plant operated by a cooperative association and receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1036.43(d) and other source milk allocated to Class I pursuant to § 1036.44 (a)(7) and (a)(11) and the corresponding steps of § 1036.44(b),

except such other source milk that is excluded from the computations pursuant to § 1036.60 (d) and (e); and

* * * * *

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

1. Section 1040.15 is revised to read as follows:

§ 1040.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1040.16 is revised to read as follows:

§ 1040.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1040.19 is added to read as follows:

§ 1040.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1040.13, 1040.41 and 1040.52.

4. Section 1040.40 is revised to read as follows:

§ 1040.40 Classes of utilization.

Except as provided in § 1040.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1040.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1040.15 and the fluid cream product definition pursuant to § 1040.16; and

(7) In shrinkage assigned pursuant to § 1040.41(a) to the receipts specified in § 1040.41(a)(2) and in shrinkage specified in § 1040.41(b) and (c).

5. Section 1040.41 is amended by revising paragraph (a)(2) to read as follows:

§ 1040.41 Shrinkage.

* * * * *

(a) * * *

(2) In other source milk not specified in paragraphs (b)(1) through (6) of this section which was received in bulk fluid form;

* * * * *

6. Section 1040.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2)(vi) and (vii) to read as follows:

§ 1040.42 Classification of transfers and diversions.

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

7. Section 1040.43 is amended by adding a new paragraph (e) to read as follows:

§ 1040.43 General classification rules.

* * * * *

(e) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1040.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1040.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

8. Section 1040.44 is amended as follows:

a. Revising paragraph (a)(2);

b. Revising paragraphs (a)(5) and (a)(6);

c. Revising paragraphs (a)(7)(i) through (a)(7)(iv);

d. Changing the reference "(a)(2)" in paragraphs (a)(7)(v) and (a)(8)(i) to "(a)(2)(i)";

e. Revising paragraph (a)(8)(ii);

f. Revising paragraph (a)(9);

g. Revising paragraph (a)(11);

h. Changing the reference "(a)(12)(i)" in paragraph (a)(12)(i) introductory text to "(a)(12) (ii), (iii) and (iv)";

i. Revising paragraphs (a)(12)(i)(B) and (a)(12)(ii);

j. Adding new paragraphs (a)(12) (iii) and (iv);

The additions and revisions as set forth above, read as follows:

§ 1040.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Except for the first month that a pool plant is subject to this paragraph, subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1040.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1040.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1040.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II;

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1040.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

(ii) Receipts of fluid milk products (except filled milk) and bulk cream for which Grade A certification is not established;

(iii) Receipts of fluid milk products and bulk cream from unidentified sources;

(iv) Receipts of fluid milk products and bulk cream from a producer-handler, as defined under this or any other Federal order;

* * * * *

(8) * * *

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii) (A) through (C) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like

amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(A) Multiply by 1.25 the pounds of skim milk remaining in Class I at this allocation step (exclusive of transfers between pool plants of the same handler) at all pool plants of the handler;

(B) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(C) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants remaining at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1040.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs 1040.44(a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

(11) Subject to the provisions of paragraphs (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (a)(7)(v), and (a)(8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) * * *

(i) * * *

(B) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler):

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

* * * * *

9. Section 1040.45 is amended by revising paragraph (b) to read as follows:

§ 1040.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1040.43(e) and § 1040.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

10. Section 1040.60 is amended by revising paragraphs (d), (f), (g) and (h) and adding a new paragraph (i) to read as follows:

§ 1040.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1040.43(e) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1040.44(a)(7) (i) through (iv) and the corresponding step of § 1040.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1040.43(e) and § 1040.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1040.44(a)(11) and the corresponding steps of § 1040.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1040.43(e);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1040.76(a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1040.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1040.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1040.43(e). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid milk ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1040.85 is amended by revising paragraph (b) to read as follows:

§ 1040.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1040.43(e) and other source milk allocated to Class I pursuant to § 1040.44(a)(7) and (a)(11) and the corresponding steps of § 1040.44(b), except such other source milk that is excluded from the computations pursuant to § 1040.60(d) and (f); and

* * * * *

PART 1044—MILK IN THE MICHIGAN UPPER PENINSULA MARKETING AREA

1. Section 1044.6 is revised to read as follows:

§ 1044.6 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary

use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. A new § 1044.18 is added to read as follows:

§ 1044.18 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1044.20 is added under "General provisions and definitions" to read as follows:

§ 1044.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1044.51(b):

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple price average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

4. A new § 1044.21 is added under the heading "General provisions and definitions" to read as follows:

§ 1044.21 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1044.14, 1044.41 and 1044.53.

5. Section 1044.22 is amended by revising paragraphs (i)(1)(iii), adding a new paragraph (i)(3), and revising paragraph (l), to read as follows:

§ 1044.22 Additional duties of the market administrator.

* * * * *

(i) * * *

(1) * * *

(iii) The Class III price for the preceding month; and

* * * * *

(3) On or before the 15th day of each month the Class II price for the following month computed pursuant to § 1044.50(b).

* * * * *

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1044.43(e) and § 1044.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

6. Section 1044.40 is removed and Section 1044.41 is redesignated as § 1044.40, and revised to read as follows:

§ 1044.40 Classes of utilization.

Except as provided in § 1044.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1044.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1044.6 and the fluid cream product definition pursuant to § 1044.18; and

(7) In shrinkage assigned pursuant to § 1044.41(a) to the receipts specified in § 1044.41(a)(2) and in shrinkage specified in § 1044.41(b) and (c).

§ 1044.42 [Redesignated as § 1044.41]

7. Section 1044.42 is re-designated as § 1044.41 and revised to read as follows:

§ 1044.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1044.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each fluid milk plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraphs (b)(1) through (b)(6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraphs (b)(1) through (b)(6) of this section which was received in bulk fluid form;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1044.10(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1044.10(c) and in milk diverted to such plant from another fluid milk plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph (b)(2) shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other fluid milk plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b)(1), (b)(2), (b)(4), (b)(5), and (b)(6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1044.10(c) or (d), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1044.43 [Redesignated as § 1044.42]

8. Section 1044.43 is redesignated as § 1044.42, and revised to read as follows:

§ 1044.42 Classification of transfers.

(a) *Transfers to fluid milk plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a fluid milk plant to another fluid milk plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk and butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1044.44 (a)(11) and the corresponding step of § 1044.44(b). The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1044.44(a)(7) or the corresponding step of § 1044.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1044.44(a)(11) or the corresponding steps of § 1044.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers to other order plants* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a fluid milk plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the fluid milk plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (b)(2), or (b)(3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1044.40.

(c) *Transfers to producer-handlers and to exempt plants.* Skim milk or butterfat in the following forms that is transferred from a fluid milk plant to a producer-handler under this or any other Federal order or to an exempt plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonfluid milk plants.* Skim milk or butterfat transferred or diverted in the following forms from a fluid milk plant to a nonfluid milk plant that is not an other order plant, a producer-handler plant or an exempt plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i)(A) and (B) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonfluid milk plant's utilization to its receipts as set forth in paragraphs (d)(2)(ii) through (viii) of this section:

(A) The transferor-handler or divertor-handler claims such classification in its report of receipts and utilization filed pursuant to § 1044.30 for the month within which such transaction occurred; and

(B) The nonfluid milk plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonfluid milk plant and transfers of packaged fluid milk products from such nonfluid milk plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of packaged fluid milk products at such nonfluid milk plant from fluid milk plants;

(B) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonfluid milk plant from other order plants;

(C) Pro rata to receipts of bulk fluid milk products at such nonfluid milk plant from fluid milk plants; and

(D) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonfluid milk plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonfluid milk plant shall be

assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonfluid milk plant from fluid milk plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonfluid milk plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of fluid milk products at such nonfluid milk plant from fluid milk plants; and

(B) Pro rata to any remaining unassigned receipts of fluid milk products at such nonfluid milk plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonfluid milk plant shall be assigned to the extent possible in the following sequence:

(A) To such nonfluid milk plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonfluid milk plant; and

(B) To such nonfluid milk plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonfluid milk plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonfluid milk plant from fluid milk plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonfluid milk plant;

(vii) Receipts of bulk fluid cream products at the nonfluid milk plant from fluid milk plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonfluid milk plant; and

(viii) In determining the nonfluid milk plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonfluid milk plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in paragraph (d)(2) of this section.

§ 1044.45 [Redesignated as § 1044.43]

9. Section 1044.45 is re-designated as § 1044.43, and revised to read as follows:

§ 1044.43 General classification rules.

In determining the classification of producer milk pursuant to § 1044.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1044.30 and shall compute separately for each fluid milk plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1044.10(c) or (d) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1044.40, 1044.41, and 1044.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids;

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1044.10(c) or (d) shall be determined separately from the operations of any fluid milk plant operated by such cooperative association;

(d) Bulk fluid milk products transferred or diverted from a fluid milk plant operated by a cooperative association to another fluid milk plant shall be classified in accordance with the rules set forth in § 1044.42(a) and the value thereof at class prices (applicable at the location of the transferee-plant) shall be used to compute the receiving handler's net obligation for such milk pursuant to § 1044.60; and

(e) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1044.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1044.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

§ 1044.46 [Redesignated as § 1044.44]

10. Section 1044.46 is re-designated as § 1044.44 and revised to read as follows:

§ 1044.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk at each fluid milk plant described in § 1044.10(a) by allocating the plant's receipts of skim milk and butterfat to its utilization pursuant to paragraphs (a) through (c) of this section.

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1044.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the fluid milk plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1044.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1044.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. This paragraph

(a)(5) shall apply only if the fluid milk plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1044.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1044.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1044.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5), and (a)(6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to paragraph (a)(2)(i) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i) and (a)(7)(v) of this section for which the handler requests classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (a)(7)(v), and (a)(8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii) (A) through (C) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other fluid milk plant of the handler, and then at each successively more distant fluid milk plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other fluid milk plants shall be adjusted in the reverse direction by a like amount:

(A) Multiply by 1.25 the pounds of skim milk remaining in Class I at this allocation step (exclusive of transfers between fluid milk plants of the same handler) at all fluid milk plants of the handler;

(B) Subtract from the above result the sum of the pounds of skim milk in receipts at all fluid milk plants of the handler of producer milk, fluid milk products from fluid milk plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(C) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants remaining at this fluid milk plant is of all such receipts remaining at this allocation step at all fluid milk plants of the handler; and

(iii) Receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1044.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all fluid milk plants of the receiving handler:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to paragraphs (a)(7)(vi) and (a)(8)(i) and (ii) of this section; and

(ii) (A) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to paragraph (a)(8)(iii) of this section;

(B) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the fluid milk plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other fluid milk plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other fluid milk plant of such handler at which such adjustment can be made;

(12) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from other fluid milk plants according to the classification of such products pursuant to § 1044.42(a); and

(13) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as *overage*;

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph

(a)(13) of this section and the corresponding step of paragraph (b) of this section.

§ 1044.50 [Removed]

11. Section 1044.50 is removed.

§ 1044.51 [Redesignated as § 1044.50]

12. Section 1044.51 is re-designated as § 1044.50 and is amended by changing the reference "§ 1044.52" in the introductory text to "§ 1044.53", revising paragraph (b), and by adding a new paragraph (c) to read as follows:

§ 1044.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1044.51(b) for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1044.51(a) and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1044.51(b).

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

13. A new § 1044.51 is added to read as follows:

§ 1044.51 Basic formula prices.

(a) The *basic formula price* shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential pursuant to § 1044.62 shall be used.

(b) The *basic Class II formula price* for the month shall be the basic formula price determined pursuant to § 1044.51(a) for the second preceding month plus or minus the amount computed pursuant to paragraphs (b)(1) through (4) of this section:

(1) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1044.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(i) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(A) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(B) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(C) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(ii) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(A) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(B) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(2) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(3) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b)(2) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraphs (b)(3)(i) and (ii) of this section:

(i) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the National Agricultural Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(ii) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the National Agricultural Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(4) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (2) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (b)(3) of this section.

§ 1044.60 [Amended]

14. Section 1044.60 is amended by changing the words "Class II" in paragraph (c) introductory text and paragraph (c)(2) to "Class III", and by changing references as follows:

a. In paragraph (a), the reference "§ 1044.46(c)" is changed to read "§ 1044.44(c)".

b. In paragraph (b), the reference "§ 1044.46(a)(9)" is changed to read "§ 1044.44(a)(13)", and the reference "§ 1044.46(b)" is changed to read "§ 1044.44(b)".

c. In paragraph (c)(1), the reference "§ 1044.46(a)(5) and the corresponding step of § 1044.46(b)" is changed to read "§ 1044.44(a)(9) and the corresponding step of § 1044.44(b)."

d. In paragraph (c)(2), the reference "§ 1044.46(a)(7)(i) and the corresponding step of § 1044.46(b)" is changed to read "§ 1044.44(a)(11)(i) and the corresponding step of § 1044.44(b)."

§ 1044.63 [Amended]

15. Section 1044.63 is amended by changing the reference "§ 1044.51" to "§ 1044.50".

16. Section 1044.71 is revised to read as follows:

§ 1044.71 Expense of administration.

For the pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production); and

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1044.43(e) and other source milk allocated to Class I pursuant

to § 1044.44(a)(7) and (a)(11)(i) and the corresponding steps of § 1044.44(b).

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

1. Section 1046.15 is revised to read as follows:

§ 1046.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1046.16 is revised to read as follows:

§ 1046.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1046.19 is added to read as follows:

§ 1046.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1046.13, 1046.41 and 1046.52.

4. Section 1046.40 is revised to read as follows:

§ 1046.40 Classes of utilization.

Except as provided in § 1046.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1046.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1046.15 and the fluid cream product definition pursuant to § 1046.16; and

(7) In shrinkage assigned pursuant to § 1046.41(a) to the receipts specified in § 1046.41(a)(2) and in shrinkage specified in § 1046.41 (b) and (c).

5. Section 1046.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1046.42 Classification of transfers and diversions.

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1046.43 is amended by adding a new paragraph (d) to read as follows:

§ 1046.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1046.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1046.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1046.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii) introductory text, and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1046.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1046.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1046.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1046.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1046.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1046.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1046.45 is amended by revising paragraph (b) to read as follows:

§ 1046.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1046.43(d) and § 1046.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1046.60 is amended by revising paragraphs (d), (f) and (g) and by adding new paragraphs (h) and (i) to read as follows:

§ 1046.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1046.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1046.44(a)(7)(i) through (iv) and (vii) and the corresponding step of § 1046.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat

in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1046.43(d) and § 1046.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1046.44(a)(11) and the corresponding steps of § 1046.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1046.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1046.76(a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1046.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1046.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1046.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1046.85 is amended by revising paragraph (b) to read as follows:

§ 1046.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1046.43(d) and other source milk allocated to Class I pursuant to § 1046.44(a)(7) and (a)(11) and the corresponding steps of § 1046.44(b), except such other source milk that is excluded from the computations pursuant to § 1046.60(d) and (f); and

* * * * *

PART 1049—MILK IN THE INDIANA MARKETING AREA

1. Section 1049.15 is revised to read as follows:

§ 1049.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1049.16 is revised to read as follows:

§ 1049.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1049.19 is added to read as follows:

§ 1049.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1049.13, 1049.41 and 1049.52.

4. Section 1049.40 is revised to read as follows:

§ 1049.40 Classes of utilization.

Except as provided in § 1049.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1049.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes, distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1049.15 and the fluid cream product definition pursuant to § 1049.16; and

(7) In shrinkage assigned pursuant to § 1049.41(a) to the receipts specified in § 1049.41(a)(2) and in shrinkage specified in § 1049.41(b) and (c).

5. Section 1049.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2)(vi) and (vii) to read as follows:

§ 1049.42 Classification of transfers and diversions.

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1049.43 is amended by adding a new paragraph (d) to read as follows:

§ 1049.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1049.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1049.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1049.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii) introductory text, and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1049.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1049.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1049.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1049.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1049.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1049.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1049.45 is amended by revising paragraph (b) to read as follows:

§ 1049.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1049.43(d) and § 1049.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1049.60 is amended by revising paragraphs (d) and (f) and adding new paragraphs (g), (h) and (i) to read as follows:

§ 1049.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1049.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1049.44(a)(7)(i) through (iv) and the corresponding step of § 1049.44(b), excluding receipts of bulk fluid cream products from another order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1049.43(d) and § 1049.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1049.44(a)(11) and the corresponding steps of § 1049.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1049.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1049.76(a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1049.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1049.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1049.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1049.85 is amended by revising paragraph (b) to read as follows:

§ 1049.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1049.43(d) and other source milk allocated to Class I pursuant to § 1049.44(a)(7) and (a)(11) and the corresponding steps of § 1049.44(b), except such other source milk that is excluded from the computations pursuant to § 1049.60(d) and (f); and

* * * * *

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

1. Section 1050.15 is revised to read as follows:

§ 1050.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1050.16 is revised to read as follows:

§ 1050.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1050.19 is added to read as follows:

§ 1050.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1050.13, 1050.41 and 1050.52.

4. Section 1050.40 is revised to read as follows:

§ 1050.40 Classes of utilization.

Except as provided in § 1050.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1050.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of

verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1050.15 and the fluid cream product definition pursuant to § 1050.16; and

(7) In shrinkage assigned pursuant to § 1050.41(a) to the receipts specified in § 1050.41(a)(2) and in shrinkage specified in § 1050.41(b) and (c).

5. Section 1050.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1050.42 Classification of transfers and diversions.

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1050.43 is amended by adding a new paragraph (d) to read as follows:

§ 1050.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1050.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1050.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1050.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii) introductory text, and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1050.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1050.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1050.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1050.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1050.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1050.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1050.45 is amended by revising paragraph (b) to read as follows:

§ 1050.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1050.43(d) and § 1050.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1050.60 is amended by revising paragraphs (d), (f) and (g) and adding new paragraphs (h) and (i) to read as follows:

§ 1050.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1050.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1050.44(a)(7)(i) through (iv) and the corresponding step of § 1050.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1050.43(d) and § 1050.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1050.44(a)(11) and the corresponding steps of § 1050.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1050.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1050.76(a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1050.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1050.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1050.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the

nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1050.85 is amended by revising paragraph (b) to read as follows:

§ 1050.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1050.43(d) and other source milk allocated to Class I pursuant to § 1050.44(a)(7) and (a)(11) and the corresponding steps of § 1050.44(b), except such other source milk that is excluded from the computations pursuant to § 1050.60(d) and (f); and

* * * * *

PART 1064—MILK IN THE GREATER KANSAS CITY MARKETING AREA

1. Section 1064.15 is revised to read as follows:

§ 1064.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1064.16 is revised to read as follows:

§ 1064.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1064.19 is added to read as follows:

§ 1064.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1064.13, 1064.41 and 1064.52.

4. Section 1064.40 is revised to read as follows:

§ 1064.40 Classes of utilization.

Except as provided in § 1064.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1064.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are dumped by a handler The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1064.15 and the fluid cream product definition pursuant to § 1064.16; and

(7) In shrinkage assigned pursuant to § 1064.41(a) to the receipts specified in § 1064.41(a)(2) and in shrinkage specified in § 1064.41 (b) and (c)

5. Section 1064.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1064.42 Classification of transfers and diversions.

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6 Section 1064.43 is amended by adding a new paragraph (d) to read as follows

§ 1064.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1064.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1064.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1064.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii) introductory text, and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1064.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1064.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1064.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1064.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1064.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1064.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1064.45 is amended by revising paragraph (b) to read as follows:

§ 1064.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1064.43(d) and § 1064.44 on the basis of such report (including any reclassification of inventories of bulk concentrated fluid

milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1064.60 is amended by revising paragraphs (d) and (f) and adding new paragraphs (g), (h) and (i) to read as follows:

§ 1064.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1064.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1064.44(a)(7) (i) through (iv) and the corresponding step of § 1064.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1064.43(d) and § 1064.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1064.44(a)(11) and the corresponding steps of § 1064.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1064.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1064.76 (a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1064.76 is amended by revising paragraphs (a)(3) and (a)(5) and adding a new paragraph (c) to read as follows:

§ 1064.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1064.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1064.85 is amended by revising paragraph (b) to read as follows:

§ 1064.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1064.43(d) and other source milk allocated to Class I pursuant to § 1064.44 (a)(7) and (a)(11) and the corresponding steps of § 1064.44(b), except such other source milk that is excluded from the computations pursuant to § 1064.60 (d) and (f); and

* * * * *

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. Section 1065.15 is revised to read as follows:

§ 1065.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are

flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1065.16 is revised to read as follows:

§ 1065.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1065.19 is added to read as follows:

§ 1065.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1065.13, 1065.41 and 1065.52.

4. Section 1065.40 is revised to read as follows:

§ 1065.40 Classes of utilization.

Except as provided in § 1065.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1065.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1065.15 and the fluid cream product definition pursuant to § 1065.16; and

(7) In shrinkage assigned pursuant to § 1065.41(a) to the receipts specified in § 1065.41(a)(2) and in shrinkage specified in § 1065.41(b) and (c).

5. Section 1065.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1065.42 Classification of transfers and diversions.

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1065.43 is amended by adding a new paragraph (d) to read as follows:

§ 1065.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1065.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1065.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1065.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii) introductory text, and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1065.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1065.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1065.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1065.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1065.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1065.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1065.45 is amended by revising paragraph (b) to read as follows:

§ 1065.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1065.43(d) and § 1065.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1065.52 is amended by revising paragraph (d)(1) to read as follows:

§ 1065.52 Plant location adjustments for handlers.

* * * * *

(d) * * *

(1) Subtract from the pounds of Class I remaining at the transferee-plant after the computations pursuant to § 1065.44(a)(12) and (b) plus the pounds of skim milk in receipts of concentrated fluid milk products from other pool plants that are assigned to Class I use, the pounds of packaged fluid milk products from other pool plants;

* * * * *

10. Section 1065.60 is amended by revising paragraphs (d) and (f) and adding new paragraphs (g), (h) and (i) to read as follows:

§ 1065.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1065.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1065.44(a)(7)(i) through (iv) and the corresponding step of § 1065.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by

the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1065.43(d) and § 1065.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1065.44(a)(11) and the corresponding steps of § 1065.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1065.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1065.76(a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1065.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1065.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1065.44(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1065.85 is amended by revising paragraph (b) to read as follows:

§ 1065.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1065.43(d) and other source milk allocated to Class I pursuant to § 1065.44(a)(7) and (a)(11) and the corresponding steps of § 1065.44(b), except such other source milk that is excluded from the computations pursuant to § 1065.60(d) and (f); and

* * * * *

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

1. Section 1068.15 is revised to read as follows:

§ 1068.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1068.16 is revised to read as follows:

§ 1068.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1068.19 is added to read as follows:

§ 1068.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1068.13, 1068.41 and 1068.52.

4. Section 1068.40 is revised to read as follows:

§ 1068.40 Classes of utilization.

Except as provided in § 1068.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1068.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semisolid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1068.15 and the fluid cream product definition pursuant to § 1068.16; and

(7) In shrinkage assigned pursuant to § 1068.41(a) to the receipts specified in § 1068.41(a)(2) and in shrinkage specified in § 1068.41(b) and (c).

5. Section 1068.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2)(vi) and (vii) to read as follows:

§ 1068.42 Classification of transfers and diversions.

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1068.43 is amended by adding a new paragraph (e) to read as follows:

§ 1068.43 General classification rules.

* * * * *

(e) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1068.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1068.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1068.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii) introductory text, and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1068.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1068.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1068.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1068.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1068.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1068.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1068.45 is amended by revising paragraph (b) to read as follows:

§ 1068.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1068.43(e) and § 1068.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1068.60 is amended by revising paragraphs (d) and (f), replacing the period after paragraph (g) with a semicolon, and adding new paragraphs (h), (i) and (j) to read as follows:

§ 1068.60 Handler's value of milk for determining pool obligation.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1068.43(e) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1068.44(a)(7)(i) through (iv) and the corresponding step of § 1068.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1068.43(e) and § 1068.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1068.44(a)(11) and the corresponding steps of § 1068.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

* * * * *

(h) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1068.43(e);

(i) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1068.76(a)(5) or (c); and

(j) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk

products received at the plant during the prior month.

10. Section 1068.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1068.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1068.43(e). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1068.85 is amended by revising paragraph (d) to read as follows:

§ 1068.85 Assessment for order administration.

* * * * *

(d) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1068.43(e) and other source milk allocated to Class I pursuant to § 1068.44(a)(7) and (a)(11) and the corresponding steps of § 1068.44(b), except such other source milk that is excluded from the computations pursuant to § 1068.60 (d) and (f); and

* * * * *

1. The table of contents is revised to read as follows:

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Administrative Assessment

1075.85 Assessment for order administration.

§ 1075.6 [Redesignated as § 1075.2]

2. Section 1075.6 is re-designated as § 1075.2.

§ 1075.20 [Redesignated as § 1075.3]

3. Section 1075.20 is re-designated as § 1075.3 and amended by changing the reference "§ 1075.41(a)" to "§ 1075.40(a)".

§ 1075.10 [Redesignated as § 1075.6]

4. Section 1075.10 is re-designated as § 1075.6 and amended by changing the reference "§ 1075.12" to "§ 1075.7(b)".

§ 1075.15 [Redesignated as § 1075.10]

5. Section 1075.15 is re-designated as § 1075.10.

§ 1075.18 [Redesignated as § 1075.15]

6. Section 1075.18 is re-designated as § 1075.15 and revised to read as follows:

§ 1075.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products

include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1075.5 [Redesignated as § 1075.18]

7. Section 1075.5 is re-designated as § 1075.18.

§ 1075.9 [Redesignated as § 1075.5]

8. Section 1075.9 is re-designated as § 1075.5.

§ 1075.14 [Redesignated as § 1075.9]

9. Section 1075.14 is re-designated as § 1075.9.

§ 1075.19 [Redesignated as § 1075.14]

10. Section 1075.19 is re-designated as § 1075.14 and revised to read as follows:

§ 1075.14 Other source milk.

Other source milk means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1075.40(b)(1) from any source other than producers, or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1075.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1075.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1075.40(b)(1)) for which the handler fails to establish a disposition.

§ 1075.7 [Removed]

§ 1075.12 [Redesignated as § 1075.7]

11. Section 1075.7 is removed and § 1075.12 is re-designated as § 1075.7, and a new paragraph (c) is added to read as follows:

§ 1075.7 Pool plant.

* * * * *

(c) The term *pool plant* shall not apply to the following plants:

(1) A producer-handler;

(2) A plant qualified pursuant to paragraph (a) of this section from which a lesser volume of fluid milk products, except filled milk, is disposed of from such plant to retail or wholesale outlets in the Black Hills marketing area and to pool plants under this part than is disposed of in the marketing area and to pool plants regulated pursuant to another order.

§ 1075.8 [Redesignated as § 1075.12]

12. Section 1075.8 is re-designated as § 1075.12 and revised to read as follows:

§ 1075.12 Producer.

Producer means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at a pool plant, or (b) diverted from a pool plant to a nonpool plant for the account of either the operator of the pool plant or a cooperative association.

§ 1075.13 [Redesignated as § 1075.8]

13. Section 1075.13 is re-designated as § 1075.8.

§ 1075.17 [Redesignated as § 1075.13]

14. Section 1075.17 is re-designated as § 1075.13 and revised to read as follows:

§ 1075.13 Producer milk.

Producer milk means the skim milk and butterfat contained in milk (a) received at a pool plant directly from producers or (b) diverted from a pool plant to a nonpool plant. Provided, that milk diverted pursuant to this section shall be deemed to have been received at the location of the plant from which diverted.

§ 1075.23 [Redesignated as § 1075.17]

15. Section 1075.23 is re-designated as § 1075.17.

§ 1075.11 [Removed]

16. Section 1075.11 is removed.

17. Section 1075.16 is revised to read as follows:

§ 1075.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§§ 1075.22, 1075.27 [Removed]

18. Sections 1075.22 and 1075.27 are removed.

19. A new § 1075.19 is added to read as follows:

§ 1075.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1075.13, 1075.41 and 1075.52.

20. Section 1075.20 is added to read as follows:

§ 1075.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1075.51(b):

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the

Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

21. Section 1075.30 is revised to read as follows:

§ 1075.30 Reports of receipts and utilization.

On or before the 5th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator for such month in detail and on forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of such handler's pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of fluid milk products and bulk fluid cream products received from pool plants;

(3) Receipts of other source milk;

(4) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1075.40(b)(1);

(5) The utilization or disposition of all milk, filled milk and milk products required to be reported pursuant to this paragraph.

(b) Each handler who operates a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required in paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of reconstituted skim milk in fluid milk products disposed of on routes in the marketing area.

(c) Each handler described in § 1075.9(b) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to such handler's receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

22. Section 1075.31 is amended by changing the heading, removing paragraph (a), redesignating paragraph (b) as paragraph (a), changing the reference "§ 1075.62(b)" in re-designated paragraph (a) to "§ 1075.76(a)" and adding a new paragraph (b) to read as follows:

§ 1075.31 Payroll reports.

* * * * *

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1075.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

23. A new § 1075.32 is added to read as follows:

§ 1075.32 Other reports.

(a) In addition to the reports required pursuant to §§ 1075.30 and 1075.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(b) Each producer handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

24. Section 1075.40 is removed, and § 1075.41 is re-designated as § 1075.40, and revised to read as follows:

§ 1075.40 Classes of utilization.

Except as provided in § 1075.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1075.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1075.15 and the fluid cream product definition pursuant to § 1075.16; and

(7) In shrinkage assigned pursuant to § 1075.41(a) to the receipts specified in § 1075.41(a)(2) and in shrinkage specified in § 1075.41(b) and (c).

§ 1075.42 [Redesignated as § 1075.41]

25. Section 1075.42 is re-designated as § 1075.41 and revised to read as follows:

§ 1075.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1075.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraphs (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraphs (b)(1) through (b)(6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) [Reserved]

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph (b)(3) shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b)(1), (b)(4), (b)(5), and (b)(6) of this section.

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1075.9(b), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1075.44 [Redesignated as § 1075.42]

26. Section 1075.44 is re-designated as § 1075.42, and revised to read as follows:

§ 1075.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk and butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1075.44(a)(12) and the corresponding step of § 1075.44(b). The amount of skim

milk of butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1075.44(a)(7) or the corresponding step of § 1075.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1075.44(a)(11) or (a)(12) or the corresponding steps of § 1075.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers to other order plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (b)(2), or (b)(3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1075.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i)(A) and (B) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2)(ii) through (viii) of this section:

(A) The transferor-handler or divertor-handler claims such classification in its report of receipts and utilization filed pursuant to § 1075.30 for the month within which such transaction occurred; and

(B) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(B) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(C) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(D) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(B) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(A) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(B) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent

possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in paragraph (d)(2) of this section. 27. Section 1075.45 is re-designated as § 1075.43, and revised to read as follows:

§ 1075.43 General classification rules.

In determining the classification of producer milk pursuant to § 1075.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1075.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1075.9(b) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1075.40, 1075.41, and 1075.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1075.9(b) shall be determined separately from the operations of any pool plant operated by such cooperative association.

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1075.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1075.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

§ 1075.46 [Redesignated as § 1075.44]

28. Section 1075.46 is re-designated as § 1075.44 and revised to read as follows:

§ 1075.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1075.9(a) for each of its pool plants separately and of each handler described in § 1075.9(b) by allocating the handler's receipts of skim milk and butterfat to its utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1075.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1075.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1075.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1075.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1075.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1075.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5), and (a)(6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(v) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to paragraph (a)(2)(i) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant.

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) Receipts of fluid milk products from an unregulated supply plant that

were not subtracted pursuant to paragraphs (a)(2)(i) and (a)(7)(v) of this section for which the handler requests classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (a)(7)(v), and (a)(8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii)(A) through (C) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(A) Multiply by 1.25 the pounds of skim milk remaining in Class I at this allocation step (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler) at all pool plants of the handler;

(B) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(C) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants remaining at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) Receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1075.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraphs (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (a)(7)(v), and (a)(8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to paragraph (a)(11) of this section exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraphs (a)(7)(vi) and (a)(8)(iii) of this section:

(i) Subject to the provisions of paragraphs (a)(12)(ii), (a)(12)(iii), and (a)(12)(iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(A) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1075.45(a); or

(B) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing

as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1075.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as *overage*;

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

29. Section 1075.45 is added to read as follows:

§ 1075.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1075.44(a)(12) and the corresponding step of § 1075.44(b), estimate and publicly announce on or before the 10th day of the month the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1075.43(d) and § 1075.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report; and

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to another order plant, the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler and, as necessary, any changes in such allocation arising from the verification of such report.

§ 1075.50 [Removed]

30. Section 1075.50 is removed.

§ 1075.51 Redesignated as § 1075.50]

31. Section 1075.51 is re-designated as § 1075.50 and amended in the introductory text by removing the reference "and § 1075.53", revising paragraph (b), and adding a new paragraph (c) to read as follows:

§ 1075.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1075.51(b) for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1075.51(a) and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1075.51(b).

(c) Class III price. The Class III price shall be the basic formula price for the month, but in no event shall the Class III price exceed an amount computed as follows:

(1) Multiply by 4.2 the Chicago butter price;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under paragraphs (c)(1) and (2) of this section subtract 48 cents, and round to the nearest cent.

32. New § 1075.51 is added to read as follows:

§ 1075.51 Basic formula prices.

(a) The *basic formula price* shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential pursuant to § 1075.74 shall be used.

(b) The *basic Class II formula price* for the month shall be the basic formula price determined pursuant to § 1075.51(a) for the second preceding month plus or minus the amount computed pursuant to paragraphs (b)(1) through (4) of this section:

(1) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1075.20 and yield factors in effect

under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(i) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(A) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(B) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(C) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(ii) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(A) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(B) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(2) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(3) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b)(2) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraphs (b)(3) (i) and (ii) of this section:

(i) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the National Agricultural Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(ii) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the National Agricultural Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(4) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b)(2) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (b)(3) of this section.

§ 1075.53 [Redesignated § 1075.52]

33. Section 1075.53 is re-designated as § 1075.52, and revised to read as follows:

§ 1075.52 Plant location adjustments for handlers.

(a) For producer milk received at a pool plant located 100 miles or more by the shortest hard-surfaced highway distance as determined by the market administrator, from the nearest of the Post Offices of Rapid City, Lead, Hot Springs, and Custer, South Dakota; and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1075.50(a) shall be reduced by 15 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles;

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant of producer milk, and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

34. A new § 1075.53 is added to read as follows:

§ 1075.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month, the Class II price for the following month computed pursuant to § 1075.50(b).

35. Section 1075.60 is removed and § 1075.70 is re-designated as new § 1075.60 and is revised to read as follows:

§ 1075.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1075.9(b) as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1075.44(c), by the applicable class prices adjusted pursuant to § 1075.52;

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1075.44(a)(14) and the corresponding step of § 1075.44(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1075.44 (a)(9) and the corresponding step of § 1075.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1075.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1075.44 (a)(7)(i) through (a)(7)(iv) and the corresponding step of § 1075.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1075.44 (a)(7)(v) and (a)(7)(vi) and the corresponding step of § 1075.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1075.43(d) and § 1075.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1075.44(a)(11) and the corresponding steps of § 1075.44(b), excluding such

skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1075.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1075.76 (a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

§ 1075.61 [Removed]

§ 1075.72 [Redesignated as § 1075.61]

36. Section 1075.61 is removed and § 1075.72 is re-designated as new § 1075.61 and is revised to read as follows:

§ 1075.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute an aggregate value from which to determine the uniform price per hundredweight for producer milk of 3.5 percent butterfat content, f.o.b. plants located within 100 miles of the Post Offices of Rapid City, Lead, Hot Spring, and Custer, South Dakota, as follows:

(a) Combine into one total the value computed pursuant to § 1075.60 for all handlers who filed reports prescribed in § 1075.30 for the month, except those in default of payments required pursuant to § 1075.71 for the preceding month;

(b) Add an amount equal to the sum of the location differential deductions to be made pursuant to § 1075.75;

(c) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund.

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1075.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The result shall be the *weighted average price* or the *uniform price* for producer milk.

§ 1075.62 [Redesignated as § 1075.76]

37. Section 1075.62 is re-designated as § 1075.76, and a new § 1075.62 is added to read as follows:

§ 1075.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

§ 1075.83 [Redesignated as § 1075.70]

38. Section 1075.83 is re-designated as § 1075.70 and is revised to read as follows:

§ 1075.70 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the *producer-settlement fund* into which he shall deposit all payments made by handlers pursuant to §§ 1075.71, 1075.76, and 1075.77 and out of which he shall make all payments pursuant to §§ 1075.72 and 1075.77; *Provided,* That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1075.71 [Removed]

§ 1075.84 [Redesignated as § 1075.71]

39. Section 1075.71 is removed and § 1075.84 is re-designated as new § 1075.71 and is revised to read as follows:

§ 1075.71 Payments to the producer-settlement fund.

(a) On or before the 10th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a)(1) of this section exceed the amounts specified in paragraph (a)(2) of this section:

(1) The total of the net pool obligation computed pursuant to § 1075.60 for such handler; and

(2) The sum of:

(i) The amount of the obligation pursuant to § 1075.73 of each handler for producer milk received during the month; and

(ii) The value at the weighted average price applicable at the location of the plant(s), from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1075.60(f).

(b) Each handler operating a distributing plant that is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of on routes in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant on routes in marketing areas regulated by two or more marketpool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area.

(2) Compute the value of the quantity assigned in paragraph (1) to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant and subtract its value at the Class III price.

§ 1075.85 [Redesignated as § 1075.72]

40. Section 1075.85 is re-designated as § 1075.72 and is revised to read as follows:

§ 1075.72 Payments from the producer-settlement fund.

On or before the 10th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1075.71(a)(2) exceeds the amount computed pursuant to § 1075.71(a)(1).

§ 1075.80 [Redesignated as § 1075.73]

41. Section 1075.80 is re-designated as § 1075.73 and amended by changing the heading to "Payments to producers and to cooperative associations"; in paragraph (a), changing the reference "§ 1075.72" to "§ 1075.61" and the

reference "§§ 1075.81 and 1075.82" to "§§ 1075.74 and 1075.75"; and in paragraph (b), changing the word "approved" to "producer" (2 occurrences).

§ 1075.81 [Redesignated as § 1075.74]

42. Section 1075.81 is re-designated as § 1075.74.

§ 1075.82 [Redesignated as § 1075.75]

43. Section 1075.82 is re-designated as § 1075.75 and amended by changing the heading to "Plant location adjustments for producers and on nonpool milk"; in paragraph (a), changing the reference "§ 1075.53" to "§ 1075.52"; and in paragraph (b), changing the reference "§§ 1075.84 and 1075.85" to "§§ 1075.71 and 1075.72" and the reference "§ 1075.53" to "§ 1075.52".

44. New § 1075.76 is added to read as follows:

§ 1075.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1075.30 and 1075.31 the information necessary to compute the amount specified in paragraph (b) of this section, the handler shall pay the amount computed pursuant to paragraph (a) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

(b) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1075.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class III milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class III price. There shall be included in the obligation so computed a charge in the amount specified in § 1075.60(f) and a credit in the amount specified in § 1075.71(a)(2)(ii) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class III price, unless an obligation with respect to such plant is computed as specified in paragraph (b)(1)(ii) of this section; and

(ii) If the operator of the partially regulated distributing plant so requests and provides, with reports filed pursuant to §§ 1075.30 and 1075.31, similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1075.7(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to paragraph (b)(1) of this section, and any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1075.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator

§§ 1075.86, 1075.87 [Removed]

45. Sections 1075.86 and 1075.87 are removed and a new § 1075.77, is added to read as follows:

§ 1075.77 Adjustment of accounts.

(a) Whenever verification by the market administrator of reports or payments of any handler discloses errors in payments to or from the producer-settlement fund pursuant to §§ 1075.71 and 1075.72, the market administrator shall promptly bill such handler for any unpaid amounts and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall within 5 days, make such payment to such handler.

(b) Whenever verification by the market administrator of the payments by a handler to any producer or cooperative association, discloses payment of less than is required by § 1075.73 the handler shall make up such payment to the producer or cooperative association not later than the time of making payments next following such disclosure.

§ 1075.88 [Redesignated as § 1075.85]

46. Section 1075.88 is re-designated as § 1075.85 and is revised to read as follows:

§ 1075.85 Assessment for order administration.

For the pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk;

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1075.43(d) and other source milk allocated to Class I pursuant to § 1075.44(a)(7) and (a)(11) and the corresponding steps of § 1075.44(b), except such other source milk that is excluded from the computations pursuant to § 1075.60(d) and (f); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

47. The center headings in part 1075 would be removed and new center headings would be added to precede the redesignated sections as follows:

a. Preceding § 1075.1, "General Provisions";

b. Preceding § 1075.2, "Definitions";

c. Preceding § 1075.30, "Handler Reports";

d. Preceding § 1075.40, "Classification of Milk";

e. Preceding § 1075.50, "Class Prices";

f. Preceding § 1075.60, "Uniform Price";

g. Preceding § 1075.70, "Payments for Milk"; and

h. Preceding § 1075.85, "Administrative Assessment".

PART 1076—MILK IN THE EASTERN SOUTH DAKOTA MARKETING AREA

1. Section 1076.15 is revised to read as follows:

§ 1076.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1076.16 is revised to read as follows:

§ 1076.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1076.19 is added to read as follows:

§ 1076.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1076.13, 1076.41 and 1076.52.

4. Section 1076.40 is revised to read as follows:

§ 1076.40 Classes of utilization.

Except as provided in § 1076.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1076.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen

dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1076.15 and the fluid cream product definition pursuant to § 1076.16; and

(7) In shrinkage assigned pursuant to § 1076.41(a) to the receipts specified in § 1076.41(a)(2) and in shrinkage specified in § 1076.41 (b) and (c).

5. Section 1076.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1076.42 Classification of transfers and diversions.

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1076.43 is amended by adding a new paragraph (d) to read as follows:

§ 1076.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1076.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1076.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1076.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii) introductory text, and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1076.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1076.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1076.40(b) (excluding the quantity of such skim milk that was

classified as Class III milk pursuant to § 1076.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1076.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1076.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1076.45 is amended by revising paragraph (b) to read as follows:

§ 1076.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1076.43(d) and § 1076.44 on the basis of such report (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1076.52 is amended by revising paragraph (b)(1) to read as follows:

§ 1076.52 Plant location adjustments for handlers.

* * * * *

(b) * * *

(1) Subtract from the pounds of Class I remaining at the transferee-plant after the computations pursuant to § 1076.44 (a)(12) and (b) plus the pounds of skim milk and butterfat in receipts of concentrated fluid milk products from other pool plants that are assigned to Class I use, the pounds of packaged fluid milk products from other pool plants;

* * * * *

10. Section 1076.60 is amended by revising paragraphs (d) and (f) and adding new paragraphs (g), (h) and (i) to read as follows:

§ 1076.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1076.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1076.44(a)(7) (i) through (iv) and the corresponding step of § 1076.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1076.43(d) and § 1076.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1076.44(a)(11) and the corresponding steps of § 1076.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1076.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1076.76 (a)(5) or (c); and

(i) For poolplants that transfer bulk concentrated fluid milk products to other poolplants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1076.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1076.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1076.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1076.85 is amended by revising paragraph (b) to read as follows.

§ 1076.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1076.43(d) and other source milk allocated to Class I pursuant to § 1076.44 (a)(7) and (a)(11) and the corresponding steps of § 1076.44(b), except such other source milk that is excluded from the computations pursuant to § 1076.60 (d) and (f); and

* * * * *

PART 1079—MILK IN THE IOWA MARKETING AREA

1. Section 1079.15 is revised to read as follows:

§ 1079.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1079.16 is revised to read as follows:

§ 1079.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1079.19 is added to read as follows:

§ 1079.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1079.13, 1079.41 and 1079.52.

4. Section 1079.40 is revised to read as follows:

§ 1079.40 Classes of utilization.

Except as provided in § 1079.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1079.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened

condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)-(iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)-(iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1079.15 and the fluid cream product definition pursuant to § 1079.16; and

(7) In shrinkage assigned pursuant to § 1079.41(a) to the receipts specified in § 1079.41(a)(2) and in shrinkage specified in § 1079.41 (b) and (c).

5. Section 1079.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1079.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1079.43 is amended by adding a new paragraph (d) to read as follows:

§ 1079.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1079.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1079.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1079.44 is amended by revising paragraphs (a)(2), (a)(5), (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1079.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) For a pool plant that was subject to § 1079.40(b)(1) or comparable provisions of another Federal order in the immediately preceding month, subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1079.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II.

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1079.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1079.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1079.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1079.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1079.45 is amended by revising paragraph (b) to read as follows:

§ 1079.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible

after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1079.43(d) and § 1079.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1079.52 is amended by revising paragraph (d)(1) to read as follows:

§ 1079.52 Plant location adjustments for handlers.

* * * * *

(d) * * *

(1) Subtract from the pounds of Class I remaining at the transferee-plant after the computations pursuant to § 1079.44 (a)(12) and (b) plus the pounds of skim milk and butterfat in receipts of concentrated fluid milk products from other pool plants that are assigned to Class I use, the pounds of packaged fluid milk products from other pool plants;

* * * * *

10. Section 1079.60 is amended by revising paragraphs (d) and (f), replacing the period after paragraph (g) with a semicolon, and adding new paragraphs (h), (i) and (j) to read as follows:

§ 1079.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1079.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1079.44(a)(7) (i) through (iv) and the corresponding step of § 1079.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1079.43(d) and § 1079.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1079.44(a)(11) and the corresponding steps of § 1079.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

* * * * *

(h) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1079.43(d);

(i) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1079.76(a)(5) or (c); and

(j) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1079.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1079.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1079.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1079.85 is amended by revising paragraph (d) to read as follows:

§ 1079.85 Assessment for order administration.

* * * * *

(d) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1079.43(d) and other source milk allocated to Class I pursuant to § 1079.44(a)(7) and (a)(11) and the corresponding steps of § 1079.44(b), except such other source milk that is excluded from the computations pursuant to § 1079.60(d) and (f); and

* * * * *

PART 1093—MILK IN THE ALABAMA-WEST FLORIDA MARKETING AREA

1. Section 1093.15 is revised to read as follows:

§ 1093.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1093.16 is revised to read as follows:

§ 1093.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1093.19 is added to read as follows:

§ 1093.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1093.13, 1093.41 and 1093.52.

4. Section 1093.40 is revised to read as follows:

§ 1093.40 Classes of utilization.

Except as provided in § 1093.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1093.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butter oil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)-(iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)-(iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler

must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1093.15 and the fluid cream product definition pursuant to § 1093.16; and

(7) In shrinkage assigned pursuant to § 1093.41(a) to the receipts specified in § 1093.41(a)(2) and in shrinkage specified in § 1093.41(b) and (c).

5. Section 1093.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2)(vi) and (vii) to read as follows:

§ 1093.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products.

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1093.43 is amended by adding a new paragraph (d) to read as follows:

§ 1093.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1093.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1093.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1093.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1093.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1093.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

* * * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1093.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1093.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1093.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1093.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1093.45 is amended by revising paragraph (b) to read as follows:

§ 1093.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1093.43(d) and § 1093.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1093.52 is amended by revising paragraph (b)(1) to read as follows:

§ 1093.52 Plant location adjustments for handlers.

* * * * *

(b) * * *

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1093.44(a)(12) plus the pounds of skim milk in receipts of concentrated fluid milk products from

other pool plants that are assigned to Class I use, an amount equal to:

* * * * *

10. Section 1093.60 is amended by revising paragraphs (d), (f) and (g), and adding new paragraphs (h) and (i) to read as follows:

§ 1093.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1093.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1093.44(a)(7)(i) through (iv) and the corresponding step of § 1093.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1093.43(d) and § 1093.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1093.44(a)(11) and the corresponding steps of § 1093.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1093.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1093.76(a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1093.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1093.76 Payments by a handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1093.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1093.85 is amended by revising paragraph (c) to read as follows:

§ 1093.85 Assessment for order administration.

* * * * *

(c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1093.43(d) and other source milk allocated to Class I pursuant to § 1093.44(a)(7) and (a)(11) and the corresponding steps of § 1093.44(b), except such other source milk that is excluded from the computations pursuant to § 1093.60(d) and (f); and

* * * * *

PART 1094—MILK IN THE NEW ORLEANS-MISSISSIPPI MARKETING AREA

1. Section 1094.15 is revised to read as follows:

§ 1094.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including

any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1094.16 is revised to read as follows:

§ 1094.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1094.19 is added to read as follows:

§ 1094.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1094.13, 1094.41 and 1094.52.

4. Section 1094.40 is revised to read as follows:

§ 1094.40 Classes of utilization.

Except as provided in § 1094.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1094.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1094.15 and the fluid cream product definition pursuant to § 1094.16; and

(7) In shrinkage assigned pursuant to § 1094.41(a) to the receipts specified in § 1094.41(a)(2) and in shrinkage specified in § 1094.41(b) and (c).

5. Section 1094.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1094.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1094.43 is amended by adding a new paragraph (d) to read as follows:

§ 1094.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1094.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1094.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1094.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), and revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1094.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1094.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

* * * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1094.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1094.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1094.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1094.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1094.45 is amended by revising paragraph (b) to read as follows:

§ 1094.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1094.43(d) and § 1094.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1094.52 is amended by revising paragraph (b)(1) to read as follows:

§ 1094.52 Plant location adjustments for handlers.

* * * * *

(b) * * *

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1094.44(a)(12) plus the pounds of skim milk in receipts of concentrated fluid milk products from other pool plants that are assigned to Class I use, an amount equal to:

* * * * *

10. Section 1094.60 is amended by revising paragraphs (d) and (f), replacing the period after paragraph (g) with a semicolon, revising paragraph (h), and adding new paragraphs (i) and (j) to read as follows:

§ 1094.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1094.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1094.44(a)(7)(i) through (iv) and the corresponding step of § 1094.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which

an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1094.43(d) and § 1094.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1094.44(a)(11) and the corresponding steps of § 1094.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

* * * * *

(h) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1094.43(d);

(i) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1094.76 (a)(5) or (c); and

(j) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1094.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding paragraph (c) to read as follows:

§ 1094.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1094.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1094.85 is amended by revising paragraph (c) to read as follows:

§ 1094.85 Assessment for order administration.

* * * * *

(c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1094.43(d) and other source milk allocated to Class I pursuant to § 1094.44(a)(7) and (a)(11) and the corresponding steps of § 1094.44(b), except such other source milk that is excluded from the computations pursuant to § 1094.60(d) and (f); and

* * * * *

PART 1096—MILK IN THE GREATER LOUISIANA MARKETING AREA

1. Section 1096.15 is revised to read as follows:

§ 1096.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1096.16 is revised to read as follows:

§ 1096.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1096.19 is added to read as follows:

§ 1096.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1096.13, 1096.41 and 1096.52.

4. Section 1096.40 is revised to read as follows:

§ 1096.40 Classes of utilization.

Except as provided in § 1096.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1096.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1096.15 and the fluid cream product definition pursuant to § 1096.16; and

(7) In shrinkage assigned pursuant to § 1096.41(a) to the receipts specified in § 1096.41(a)(2) and in shrinkage specified in § 1096.41 (b) and (c).

5. Section 1096.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1096.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1096.43 is amended by adding a new paragraph (d) to read as follows:

§ 1096.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1096.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1096.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1096.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1096.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1096.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

* * * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1096.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1096.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1096.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1096.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1096.45 is amended by revising paragraph (b) to read as follows:

§ 1096.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1096.43(d) and § 1096.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1096.52 is amended by revising paragraph (b)(1) to read as follows:

§ 1096.52 Plant location adjustments for handlers.

* * * * *

(b) * * *

(1) From the pounds of skim milk remaining in Class I at the transferee plant after the computations are made pursuant to § 1096.44(a)(12) plus the pounds of skim milk in receipts of concentrated fluid milk products from other pool plants that are assigned to Class I use, subtract the pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1096.9(c);

* * * * *

10. Section 1096.60 is amended by revising paragraphs (d), (f) and (g), and adding new paragraphs (h) and (i) to read as follows:

§ 1096.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1096.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1096.44(a)(7)(i) through (iv) and the corresponding step of § 1096.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1096.43(d) and § 1096.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1096.44(a)(11) and the corresponding steps of § 1096.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1096.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which

payments are made to the producer-settlement fund of another order under § 1096.76(a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1096.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1096.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1096.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1096.85 is amended by revising paragraph (a) to read as follows:

§ 1096.85 Assessment for order administration.

* * * * *

(a) Each pool handler with respect to:

(1) All receipts of producer milk including such handler's own production; and

(2) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1096.43(d) and other source milk allocated to Class I pursuant to § 1096.44(a)(7) and (a)(11) and the corresponding steps of § 1096.44(b), except such other source milk that is excluded from the computations pursuant to § 1096.60 (d) and (f); and

* * * * *

PART 1097—MILK IN THE MEMPHIS, TENNESSEE MARKETING AREA

1. Section 1097.15 is revised to read as follows:

§ 1097.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1097.16 is revised to read as follows:

§ 1097.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1097.19 is added to read as follows:

§ 1097.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1097.12, 1097.41 and 1097.52.

4. Section 1097.40 is revised to read as follows:

§ 1097.40 Classes of utilization.

Except as provided in § 1097.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1097.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1097.15 and the fluid cream product definition pursuant to § 1097.16; and

(7) In shrinkage assigned pursuant to § 1097.41(a) to the receipts specified in § 1097.41(a)(2) and in shrinkage specified in § 1097.41 (b) and (c).

5. Section 1097.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2)(vi) and (vii) to read as follows:

§ 1097.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1097.43 is amended by adding a new paragraph (d) to read as follows:

§ 1097.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1097.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1097.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1097.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1097.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1097.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

* * * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1097.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1097.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1097.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1097.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1097.45 is amended by revising paragraph (a) to read as follows:

§ 1097.45 Market administrator's reports concerning classification.

* * * * *

(a) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1097.43(d) and § 1097.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1097.85 is amended by revising paragraph (b) to read as follows:

§ 1097.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1097.43(d) and other source milk allocated to Class I pursuant to § 1097.44 (a)(7) and (a)(11) and the corresponding steps of § 1097.44(b).

* * * * *

PART 1098—MILK IN THE NASHVILLE, TENNESSEE MARKETING AREA

1. Section 1098.15 is revised to read as follows:

§ 1098.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1098.16 is revised to read as follows:

§ 1098.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1098.19 is added to read as follows:

§ 1098.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1098.13, 1098.41 and 1098.52.

4. Section 1098.40 is revised to read as follows:

§ 1098.40 Classes of utilization.

Except as provided in § 1098.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1098.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1098.15 and the fluid cream product definition pursuant to § 1098.16; and

(7) In shrinkage assigned pursuant to § 1098.41(a) to the receipts specified in § 1098.41(a)(2) and in shrinkage specified in § 1098.41 (b) and (c).

5. Section 1098.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1098.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1098.43 is amended by adding a new paragraph (d) to read as follows:

§ 1098.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1098.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1098.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1098.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1098.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the

pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1098.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

* * * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1098.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1098.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1098.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1098.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1098.45 is amended by revising paragraph (b) to read as follows:

§ 1098.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1098.43(d) and § 1098.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1098.60 is amended by revising paragraphs (d) and (f) and adding new paragraphs (g), (h) and (i) to read as follows:

§ 1098.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1098.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1098.44(a)(7) (i) through (iv) and (vii), and the corresponding step of § 1098.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1098.43(d) and § 1098.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1098.44(a)(11) and the corresponding steps of § 1098.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1098.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1098.76 (a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1098.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1098.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order

pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1098.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1098.85 is amended by revising paragraph (b) to read as follows:

§ 1098.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1098.43(d) and other source milk allocated to Class I pursuant to § 1098.44 (a)(7) and (a)(11) and the corresponding steps of § 1098.44(b), except such other source milk that is excluded from the computations pursuant to § 1098.60 (d) and (f); and

* * * * *

PART 1099—MILK IN THE PADUCAH, KENTUCKY MARKETING AREA

1. Section 1099.15 is revised to read as follows:

§ 1099.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1099.16 is revised to read as follows:

§ 1099.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1099.19 is added to read as follows:

§ 1099.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1099.13, 1099.41 and 1099.52.

4. Section 1099.40 is revised to read as follows:

§ 1099.40 Classes of utilization.

Except as provided in § 1099.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1099.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that

may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1099.15 and the fluid cream product definition pursuant to § 1099.16; and

(7) In shrinkage assigned pursuant to § 1099.41(a) to the receipts specified in § 1099.41(a)(2) and in shrinkage specified in § 1099.41 (b) and (c).

5. Section 1099.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1099.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1099.43 is amended by adding a new paragraph (d) to read as follows:

§ 1099.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1099.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1099.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1099.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1099.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1099.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

* * * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1099.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1099.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1099.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1099.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1099.45 is amended by revising paragraph (b) to read as follows:

§ 1099.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1099.43(d) and § 1099.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1099.60 is amended by revising paragraphs (d), (f) and (g), and adding new paragraphs (h) and (i) to read as follows:

§ 1099.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1099.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1099.44(a)(7) (i) through (iv) and the corresponding step of § 1099.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1099.43(d) and § 1099.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1099.44(a)(11) and the corresponding step of § 1099.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1099.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1099.76 (a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any Class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1099.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1099.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1099.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1099.85 is amended by revising paragraph (b) to read as follows:

§ 1099.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1099.43(d) and other source milk allocated to Class I pursuant to § 1099.44(a)(7) and (a)(11) and the corresponding steps of § 1099.44(b), except such other source milk that is excluded from the computations pursuant to § 1099.60(d) and (f); and

* * * * *

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. Section 1106.15 is revised to read as follows:

§ 1106.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1106.16 is revised to read as follows:

§ 1106.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1106.19 is added to read as follows:

§ 1106.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1106.13, 1106.41 and 1106.52.

4. Section 1106.40 is revised to read as follows:

§ 1106.40 Classes of utilization.

Except as provided in § 1106.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1106.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity

of skim milk in such product that was included within the fluid milk product definition pursuant to § 1106.15 and the fluid cream product definition pursuant to § 1106.16, and

(7) In shrinkage assigned pursuant to § 1106.41(a) to the receipts specified in § 1106.41(a)(2) and in shrinkage specified in § 1106.41(b) and (c).

5. Section 1106.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1106.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1106.43 is amended by adding a new paragraph (d) to read as follows:

§ 1106.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1106.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1106.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1106.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1106.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1106.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

* * * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1106.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1106.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1106.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1106.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1106.45 is amended by revising paragraph (b) to read as follows:

§ 1106.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1106.43(d) and § 1106.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1106.52 is amended by revising paragraph (b)(1) to read as follows:

§ 1106.52 Plant location adjustments for handlers.

* * * * *

(b) * * *

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1106.44(a)(12) plus the pounds of skim milk in receipts of concentrated fluid milk products from other pool plants that are assigned to Class I use, the pounds of skim milk in receipts of packaged fluid milk products from other pool plants;

* * * * *

10. Section 1106.60 is amended by revising paragraphs (d) and (f), replacing the period after paragraph (g) with a semicolon, and adding new paragraphs (h), (i) and (j) to read as follows:

§ 1106.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location

of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1106.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1106.44(a)(7) (i) through (iv) and (vii), and the corresponding step of § 1106.44(b), excluding receipts of bulk fluid cream products from another order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1106.43(d) and § 1106.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1106.44(a)(11) and the corresponding steps of § 1106.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

* * * * *

(h) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1106.43(d);

(i) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1106.76(a)(5) or (c); and

(j) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1106.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1106.76 Payments by a handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1106.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1106.85 is amended by revising paragraph (c) to read as follows:

§ 1106.85 Assessment for order administration.

* * * * *

(c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1106.43(d) and other source milk allocated to Class I pursuant to § 1106.44(a)(7) and (a)(11) and the corresponding steps of § 1106.44(b), except such other source milk that is excluded from the computations pursuant to § 1106.60(d) and (f); and

* * * * *

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. Section 1108.15 is revised to read as follows:

§ 1108.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that

contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1108.16 is revised to read as follows:

§ 1108.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1108.19 is added to read as follows:

§ 1108.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1108.13, 1108.41 and 1108.52.

4. Section 1108.40 is revised to read as follows:

§ 1108.40 Classes of utilization.

Except as provided in § 1108.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1108.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1108.15 and the fluid cream product definition pursuant to § 1108.16; and

(7) In shrinkage assigned pursuant to § 1108.41(a) to the receipts specified in § 1108.41(a)(2) and in shrinkage specified in § 1108.41(b) and (c).

5. Section 1108.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2)(vi) and (vii) to read as follows:

§ 1108.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and

other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1108.43 is amended by adding a new paragraph (d) to read as follows:

§ 1108.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1108.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1108.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1108.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1108.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1108.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

* * * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1108.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1108.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1108.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1108.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1108.45 is amended by revising paragraph (b) to read as follows:

§ 1108.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1108.43(d) and § 1108.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1108.52 is amended by revising paragraph (b)(1) to read as follows:

§ 1108.52 Plant location adjustments for handlers.

* * * * *

(b) * * *

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee plant after the computations pursuant to § 1108.44(a)(12) plus the pounds of skim milk in receipts of concentrated fluid milk products from other pool plants that are assigned to Class I use, an amount equal to the pounds of skim milk in receipts of milk at the transferee plant from producers and handlers described in § 1108.9(c), and in receipts of packaged fluid milk products from other pool plants;

* * * * *

10. Section 1108.60 is amended by revising paragraphs (d) and (f), replacing the period after paragraph (g) with a semicolon, and adding new paragraphs (h), (i) and (j) to read as follows:

§ 1108.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1108.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1108.44(a)(7)(i) through (iv) and the corresponding step of § 1108.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1108.43(d) and § 1108.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1108.44(a)(11) and the corresponding steps of § 1108.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an

unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

* * * *

(h) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1108.43(d);

(i) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1108.76(a)(5) or (c); and

(j) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1108.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1108.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1108.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1108.85 is amended by revising paragraph (c) to read as follows:

§ 1108.85 Assessment for order administration.

* * * * *

(c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1108.43(d) and other source milk allocated to Class I pursuant to § 1108.44(a)(7) and (a)(11) and the corresponding steps of § 1108.44(b), except such other source milk that is excluded from the computations pursuant to § 1108.60(d) and (f); and

* * * * *

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

1. Section 1124.15 is revised to read as follows:

§ 1124.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1124.16 is revised to read as follows:

§ 1124.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1124.20 is added under the undesignated center heading "Definitions" to read as follows:

§ 1124.20 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that

uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1124.13, 1124.41 and 1124.52.

4. Section 1124.40 is amended by revising paragraphs a, b, and c, to read as follows:

§ 1124.40 Classes of utilization.

Except as provided in § 1124.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1124.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form, except nonfat dry milk;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1124.15 and the fluid cream product definition pursuant to § 1124.16; and

(7) In shrinkage assigned pursuant to § 1124.41(a) to the receipts specified in § 1124.41(a)(2) and in shrinkage specified in § 1124.41 (b) and (c).

* * * * *

5. Section 1124.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows, and removing paragraph (e):

§ 1124.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1124.43 is amended by adding a new paragraph (f) to read as follows:

§ 1124.43 General classification rules.

* * * * *

(f) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the

reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1124.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1124.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1124.44 is amended by revising the first sentence of paragraph (a)(6) and revising paragraphs (a)(7), (a)(8)(i), and (a)(10), to read as follows:

§ 1124.44 Classification of producer milk.

* * * * *

(a) * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1124.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

* * * * *

(7) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1124.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1124.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

* * * * *

(8) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(6) of this section applies, packaged inventory at the beginning of the month of products specified in § 1124.40(b)(1) that was not subtracted pursuant to paragraphs (a)(5), (a)(6) and (a)(7) of this section;

* * * * *

(10) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1124.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(4), (a)(6) and (a)(8)(i) of this section;

* * * * *

8. Section 1124.45 is amended by revising paragraph (b) to read as follows:

§ 1124.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1124.43(f) and § 1124.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1124.52 is amended by revising paragraph (d)(1) to read as follows:

§ 1124.52 Plant location adjustments for handlers.

* * * * *

(d) * * *

(1) Subtract from the pounds of Class I remaining at the transferee-plant after the computations pursuant to § 1124.44(a)(13) and (b) plus the pounds of skim milk and butterfat in receipts of concentrated fluid milk products from other pool plants that are assigned to Class I use, the pounds of packaged fluid milk products from other pool plants;

* * * * *

10. Section 1124.60 is amended by revising paragraphs (d) and (f), redesignating paragraph (g) as (j) and adding new paragraphs (g), (h) and (i) to read as follows:

§ 1124.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1124.43(f) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1124.44(a)(8)(v) and (vi) and the corresponding step of § 1124.44(b);

* * * * *

(f) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1124.43(f) and § 1124.44(a)(8)(v) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1124.44(a)(12) and the corresponding steps of § 1124.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by a handler fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any payment obligation under this or any other order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1124.43(f);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1124.76(b)(4) or (c);

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month; and

* * * * *

11. Section 1124.76 is amended by revising paragraphs (b)(3) and (b)(4) and by adding a new paragraph (c) to read as follows:

§ 1124.76 Payments by a handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are

then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class III price), and add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (b)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1124.43(f). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1124.85 is amended by revising paragraph (b) to read as follows:

§ 1124.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1124.43(f) and other source milk allocated to Class I pursuant to § 1124.44(a)(8) and (a)(12) and the corresponding steps of § 1124.44(b), except such other source milk on which no handler obligation applies pursuant to § 1124.60(f); and

* * * * *

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. Section 1126.15 is revised to read as follows:

§ 1126.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1126.16 is revised to read as follows:

§ 1126.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1126.21 is added under the undesignated centerheading "Definitions" to read as follows:

§ 1126.21 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1126.13, 1126.41 and 1126.52.

4. Section 1126.40 is revised to read as follows:

§ 1126.40 Classes of utilization.

Except as provided in § 1126.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1126.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta

cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1126.15 and the fluid cream product definition pursuant to § 1126.16; and

(7) In shrinkage assigned pursuant to § 1126.41(a) to the receipts specified in § 1126.41(a)(2) and in shrinkage specified in § 1126.41 (b) and (c).

5. Section 1126.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1126.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1126.43 is amended by adding a new paragraph (d) to read as follows:

§ 1126.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1126.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1126.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1126.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1126.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1126.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

* * * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1126.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1126.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1126.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1126.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1126.45 is amended by revising paragraph (b) to read as follows:

§ 1126.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1126.43(d) and § 1126.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1126.52 is amended by revising paragraph (b)(1) to read as follows:

§ 1126.52 Plant location adjustments for handlers.

* * * * *

(b) * * *

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1126.44(a)(12) plus the pounds of skim milk in receipts of concentrated fluid milk products from other pool plants that are assigned to Class I use, an amount equal to:

* * * * *

10. Section 1126.60 is amended by revising paragraphs (d) and (f), replacing the period after paragraph (g) with a semicolon, replacing the period after paragraph (h) with a semicolon, and adding new paragraphs (i), (j) and (k) to read as follows:

§ 1126.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1126.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a)(7)(i) through (iv) and (vii), and the corresponding step of § 1126.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1126.43(d) and § 1126.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a)(11) and the corresponding steps of § 1126.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

* * * * *

(i) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1126.43(d);

(j) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1126.76(a)(5) or (c); and

(k) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

11. Section 1126.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows: § 1126.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk

received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1126.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1126.85 is amended by revising paragraph (c) to read as follows:

§ 1126.85 Assessment for order administration.

* * * * *

(c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1126.43(d) and other source milk allocated to Class I pursuant to § 1126.44(a)(7) and (a)(11) and the corresponding steps of § 1126.44(b), except such other source milk that is excluded from the computations pursuant to § 1126.60 (d) and (f); and

* * * * *

PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

1. Section 1131.15 is revised to read as follows:

§ 1131.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include: (1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1131.16 is revised to read as follows:

§ 1131.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1131.19 is added to read as follows:

§ 1131.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk or associated producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1131.12, 1131.13, 1131.22, 1131.41 and 1131.52.

4. Section 1131.40 is revised to read as follows:

§ 1131.40 Classes of utilization.

Except as provided in § 1131.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1131.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to

be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i)–(iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1131.15 and the fluid cream product definition pursuant to § 1131.16; and

(7) In shrinkage assigned pursuant to § 1131.41(a) to the receipts specified in § 1131.41(a)(2) and in shrinkage specified in § 1131.41(b) and (c).

5. Section 1131.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1131.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant pursuant to § 1131.22 or from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1131.43 is amended by adding a new paragraph (d) to read as follows:

§ 1131.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1131.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1131.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1131.44 is amended by revising paragraph (a)(2); revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1131.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1131.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

* * * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1131.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1131.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1131.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series

beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1131.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1131.45 is amended by revising paragraph (b) to read as follows:

§ 1131.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1131.43(d) and § 1131.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1131.60 is amended by revising paragraphs (d) and (f), and adding new paragraphs (g), (h) and (i) to read as follows:

§ 1131.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1131.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1131.44(a)(7) (i) through (iv) and (vii), and the corresponding step of § 1131.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1131.43(d) and § 1131.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1131.44(a)(11) and the corresponding steps of § 1131.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1131.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1131.76(a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1131.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1131.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1131.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid milk ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1131.85 is amended by revising paragraph (a)(2) to read as follows:

§ 1131.85 Assessment for order administration.

(a) * * *

(2) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk

products assigned to Class I use pursuant to § 1131.43(d) and other source milk allocated to Class I pursuant to § 1131.44(a)(7) and (a)(11) and the corresponding steps of § 1131.44(b), except such other source milk that is excluded from the computations pursuant to § 1131.60 (d) and (f); and

* * * * *

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

1. Section 1134.15 is revised to read as follows:

§ 1134.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1134.16 is revised to read as follows:

§ 1134.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1134.20 is added under the undesignated centerheading "Definitions" to read as follows:

§ 1134.20 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1134.12, 1134.13, 1134.41 and 1134.52.

4. Section 1134.40 is revised to read as follows:

§ 1134.40 Classes of utilization.

Except as provided in § 1134.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1134.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semisolid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumertype package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of

this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1134.15 and the fluid cream product definition pursuant to § 1134.16; and

(7) In shrinkage assigned pursuant to § 1134.41(a) to the receipts specified in § 1134.41(a)(2) and in shrinkage specified in § 1134.41 (b) and (c).

5. Section 1134.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1134.42 Classification of transfers and diversions.

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1134.43 is amended by adding a new paragraph (d) to read as follows:

§ 1134.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1134.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1134.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1134.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1134.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1134.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1134.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1134.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1134.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1134.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1134.45 is amended by revising paragraph (b) to read as follows:

§ 1134.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1134.43(d) and § 1134.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1134.60 is amended by revising paragraphs (d), (f) and (g) and adding new paragraphs (h) and (i) to read as follows:

§ 1134.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1134.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(7) (i) through (iv) and the corresponding step of § 1134.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other

order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1134.43(d) and § 1134.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(11) and the corresponding steps of § 1134.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1134.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1134.76 (a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1134.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1134.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1134.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1134.85 is amended by revising paragraph (b) to read as follows:

§ 1134.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1134.43(d) and other source milk allocated to Class I pursuant to § 1134.44 (a)(7) and (a)(11) and the corresponding steps of § 1134.44(b), except such other source milk that is excluded from the computations pursuant to § 1134.60 (d) and (f); and

* * * * *

PART 1135—MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

1. Section 1135.15 is revised to read as follows:

§ 1135.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1135.16 is revised to read as follows:

§ 1135.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1135.20 is added under the undesignated centerheading "Definitions" to read as follows:

§ 1135.20 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1135.13, and 1135.41.

4. Section 1135.40 is revised to read as follows:

§ 1135.40 Classes of utilization.

Except as provided in § 1135.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1135.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1135.15 and the fluid cream product definition pursuant to § 1135.16; and

(7) In shrinkage assigned pursuant to § 1135.41(a) to the receipts specified in § 1135.41(a)(2) and in shrinkage specified in § 1135.41 (b) and (c).

5. Section 1135.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1135.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to

the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1135.43 is amended by adding a new paragraph (d) to read as follows:

§ 1135.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1135.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1135.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1135.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1135.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1135.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1135.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1135.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1135.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1135.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1135.45 is amended by revising paragraph (b) to read as follows:

§ 1135.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1135.43(d) and § 1135.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1135.60 is amended by revising paragraphs (d) and (f), and adding new paragraphs (g), (h) and (i) to read as follows:

§ 1135.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1135.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1135.44(a)(7) (i) through (iv) and the corresponding step of § 1135.44(b), excluding receipts of bulk fluid cream products for an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1135.43(d) and § 1135.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1135.44(a)(11) and the corresponding steps of § 1135.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products form an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1135.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1135.76(a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable

class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1135.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1135.76 Payments by a handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1135.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1135.85 is amended by revising paragraph (b) to read as follows:

§ 1135.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1135.43(d) and other source milk allocated to Class I pursuant to § 1135.44(a)(7) and (a)(11) and the corresponding steps of § 1135.44(b), except such other source milk that is excluded from the computations pursuant to § 1135.60 (d) and (f); and

* * * * *

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

1. Section 1137.15 is revised to read as follows:

§ 1137.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1137.16 is revised to read as follows:

§ 1137.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1137.20 is added under the undesignated centerheading "Definitions" to read as follows:

§ 1137.20 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1137.12, 1137.13, 1137.41 and 1137.52.

4. Section 1137.40 is revised to read as follows:

§ 1137.40 Classes of utilization.

Except as provided in § 1137.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1137.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4)(i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1137.15 and the fluid cream product definition pursuant to § 1137.16; and

(7) In shrinkage assigned pursuant to § 1137.41(a) to the receipts specified in § 1137.41(a)(2) and in shrinkage specified in § 1137.41(b) and (c).

5. Section 1137.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2)(vi) and (vii) to read as follows:

§ 1137.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1137.43 is amended by adding a new paragraph (d) to read as follows:

§ 1137.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1137.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1137.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1137.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1137.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the

pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1137.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1137.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1137.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1137.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1137.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1137.45 is amended by revising paragraph (b) to read as follows:

§ 1137.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1137.43(d) and § 1137.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1137.60 is amended by revising paragraphs (d), (f) and (g) and adding new paragraphs (h) and (i) to read as follows:

§ 1137.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1137.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(7)(i) through (iv) and the corresponding step of § 1137.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1137.43(d) and § 1137.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(11) and the corresponding steps of § 1137.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1137.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1137.76(a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1137.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1137.76 Payments by the handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to

produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1137.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1137.85 is amended by revising paragraph (b) to read as follows:

§ 1137.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1137.43(d) and other source milk allocated to Class I pursuant to § 1137.44 (a)(7) and (a)(11) and the corresponding steps of § 1137.44(b), except such other source milk that is excluded from the computations pursuant to § 1137.60 (d) and (f); and

* * * * *

PART 1138—MILK IN THE NEW MEXICO-WEST TEXAS MARKETING AREA

1. Section 1138.15 is revised to read as follows:

§ 1138.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1138.16 is revised to read as follows:

§ 1138.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1138.21 is added under the undesignated centerheading "Definitions" to read as follows:

§ 1138.21 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1136.13, 1138.41 and 1138.53.

4. Section 1138.40 is revised to read as follows:

§ 1138.40 Classes of utilization.

Except as provided in § 1138.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1138.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that

may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1138.15 and the fluid cream product definition pursuant to § 1138.16; and

(7) In shrinkage assigned pursuant to § 1138.41(a) to the receipts specified in § 1138.41(a)(2) and in shrinkage specified in § 1138.41(b) and (c).

5. Section 1138.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1138.42 Classification of transfers and diversions.

* * * * *

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1138.43 is amended by adding a new paragraph (d) to read as follows:

§ 1138.43 General classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1138.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1138.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1138.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1138.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1138.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1138.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1138.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1138.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1138.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1138.45 is amended by revising paragraph (b) to read as follows:

§ 1138.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1138.43(d) and § 1138.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1138.60 is amended by revising paragraphs (d) and (f), replacing the period after paragraph (g) with a semicolon, and adding new paragraphs (h), (i) and (j) to read as follows:

§ 1138.60 Handler's value of milk for computing uniform price.

* * * * *

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1138.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1138.44(a)(7)(i) through (iv) and the corresponding step of § 1138.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

* * * * *

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1138.43(d) and § 1138.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1138.44(a)(11) and the corresponding steps of § 1138.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

* * * * *

(h) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1138.43(d);

(i) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1138.76(a)(5) or (c); and

(j) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1138.76 is amended by revising paragraphs (a)(3) and (a)(5) and by adding a new paragraph (c) to read as follows:

§ 1138.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1138.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

11. Section 1138.85 is amended by revising paragraph (c) to read as follows:

§ 1138.85 Assessment for order administration.

* * * * *

(c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1138.43(d) and other source milk allocated to Class I pursuant to § 1138.44(a)(7) and (a)(11) and the corresponding steps of § 1138.44(b), except such other source milk that is excluded from the computations pursuant to § 1138.60(d) and (f); and

* * * * *

PART 1139—MILK IN THE GREAT BASIN MARKETING AREA

1. Section 1139.15 is revised to read as follows:

§ 1139.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

2. Section 1139.16 is revised to read as follows:

§ 1139.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

3. A new § 1139.21 is added under the undesignated centerheading "Definitions" to read as follows:

§ 1139.21 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1139.12, 1139.13, 1139.41 and 1139.52.

4. Section 1139.40 is revised to read as follows:

§ 1139.40 Classes of utilization.

Except as provided in § 1139.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1139.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity

of skim milk in such product that was included within the fluid milk product definition pursuant to § 1139.15 and the fluid cream product definition pursuant to § 1139.16; and

(7) In shrinkage assigned pursuant to § 1139.41(a) to the receipts specified in § 1139.41(a)(2) and in shrinkage specified in § 1139.41 (b) and (c).

5. Section 1139.42 is amended by replacing the semicolon at the end of the text of paragraph (a)(1) with a period and adding the following sentence immediately thereafter, and by revising paragraphs (d)(2) (vi) and (vii) to read as follows:

§ 1139.42 Classification of transfers and diversions.

(a) * * *

(1) * * * The amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

* * * * *

(d) * * *

(2) * * *

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization, then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

* * * * *

6. Section 1139.43 is amended by adding a new paragraph (d) to read as follows:

§ 1139.43 General accounting and classification rules.

* * * * *

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1139.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1139.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

7. Section 1139.44 is amended by revising paragraph (a)(2), revising the first sentence of paragraph (a)(5), revising paragraphs (a)(6), (a)(7)(i) and (a)(9), and by changing the reference "(a)(2)" in paragraphs (a)(7)(v), (a)(8)(i), (a)(8)(ii), and the introductory text of paragraph (a)(11) to "(a)(2)(i)", to read as follows:

§ 1139.44 Classification of producer milk.

* * * * *

(a) * * *

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

* * * * *

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1139.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. * * *

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1139.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1139.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) * * *

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1139.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

* * * * *

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1139.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

* * * * *

8. Section 1139.45 is amended by revising paragraph (b) to read as follows:

§ 1139.45 Market administrator's reports and announcements concerning classification.

* * * * *

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1139.43(d) and § 1139.44 on the basis of such report, (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

* * * * *

9. Section 1139.60 is amended by revising paragraphs (e) and (g) and adding new paragraphs (j), (k) and (l) to read as follows:

§ 1139.60 Computation of handlers' obligation to pool.

* * * * *

(e) The value of the product pounds, skim milk and butterfat assigned to Class I pursuant to § 1139.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(7)(i) through (iv) and (vii), and the corresponding step of § 1139.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants, applicable at the location of the pool plant at the current month's Class I-Class III price difference;

* * * * *

(g) The value of the product pounds, skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to 1139.43(d) and § 1139.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1139.44(a)(11) and the corresponding

steps of § 1139.44(b), excluding such hundredweight in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent quantity disposed of to such plant by handlers fully regulated by any Federal order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order, applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received at the current month's Class I–Class III price difference;

* * * * *

(j) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1139.43(d);

(k) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1139.76(a)(1)(v) or (c); and

(l) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

10. Section 1139.61(a) is amended by changing the reference "(a) through (g)," to read "(a) through (g) and (j) and (k),".

11. Section 1139.76 is amended by revising paragraphs (a)(1)(iii) and (a)(1)(v) and by adding a new paragraph (c) to read as follows:

§ 1139.76 Payments by a handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(1) * * *

(iii) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

* * * * *

(v) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(1)(iii) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

* * * * *

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1139.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

12. Section 1139.85 is amended by revising paragraph (b) to read as follows:

§ 1139.85 Assessment for order administration.

* * * * *

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1139.43(d) and other source milk allocated to Class I pursuant to § 1139.44 (a)(7) and (a)(11) and the corresponding steps of § 1139.44(b), except such other source milk that is excluded from the computations pursuant to § 1139.60 (e) and (g); and

* * * * *

[**Editorial Note:** This marketing agreement will not appear in the Code of Federal Regulations.]

Marketing Agreement Regulating the Handling of Milk in Certain Marketing Areas

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR part 900), desire to enter into this marketing agreement and do hereby agree that the provisions referred to in paragraph I hereof as augmented by the provisions specified in paragraph II hereof, shall be and are the provisions of this marketing agreement as if set out in full herein.

I. The findings and determinations, order relative to handling, and the provisions of §§ [1] to all inclusive, of the order regulating the handling of milk in ('Name of order') marketing area (7 CFR part [2]) which is annexed hereto; and

II. The following provisions:

§ [3] Record of milk handled and authorization to correct typographical errors.

(a) Record of milk handled. The undersigned certifies that he handled during the month of April 1992, hundredweight of milk covered by this marketing agreement.

(b) Authorization to correct typographical errors. The undersigned hereby authorizes the Director, or Acting Director, Dairy Division, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

§ [3] Effective date. This marketing agreement shall become effective upon the execution of a counterpart hereof by the Secretary in

[1] First and last sections of order.

[2] Appropriate part number.

[3] Next consecutive section number.

accordance with Section 900.14(a) of the aforesaid rules of practice and procedure.

In Witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

(Signature)

(Seal)

By (Name)

(Title)

(Address)

Attest

[FR Doc. 93–3222 Filed 3–4–93; 8:45 am]

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Friday
March 5, 1993

Part III

Federal Trade Commission

16 CFR Part 305
Energy Costs and Consumption Information on Consumer Appliances; Proposed Rule

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules for Using Energy Costs and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On June 13, 1988, the Commission published a Notice of Proposed Rulemaking ("the NPR") proposing changes to the Appliance Labeling Rule ("the Rule").[1] The Commission initiated this rulemaking because, since the Rule went into effect on May 19, 1980, the Commission has obtained information from diverse sources indicating that modifications to the Rule should be considered. Certain additional amendments being proposed today would result in changes not raised in the NPR and change the form and substance of the EnergyGuide labels.[2] Consequently, before adopting a final amended rule, the Commission invites comment for 45 days on the proposed new label format.

The Commission also is allowing public comment on other proposed amendments. These amendments have been subject to prior comment and they are based on the Commission's analysis of the record to date. Consequently, the Commission requests that any additional comments be in the nature of rebuttal comments identifying analytical flaws or misunderstandings, rather than repetitions of earlier comments.

Finally, in accordance with a statutory directive, the Commission is inviting comment on whether certain of the Rule's provisions should continue requiring compliance in inch-pound terms, or require the use of metric terms only or metric and inch-pound terms together.

DATES: Written comments must be submitted on or before April 19, 1993.

Persons desiring a public hearing on the proposed amendments relating to the revised label format should advise Henry B. Cabell, the Presiding Officer, no later than March 25, 1993. If hearings on the proposed label format revisions are scheduled, the date and time of the hearings, as well as the date for submission of prepared witness statements and exhibits, will be announced in a subsequent Notice.

ADDRESSES: Written comments and requests for public hearings should be submitted to Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, DC 20580, 202–326–3642. Written comments should be submitted, when feasible and not burdensome, in five copies.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035, Enforcement Division, FTC, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: In addition to changes suggested by diverse sources since the Rule's promulgation, the Commission received comments during the review of the Rule under the Regulatory Flexibility Act regarding ways to modify the Rule.[3] The NPR invited comment on the suggestions offered during that review as well as on other parts of the Rule that the Commission believed might warrant changes, including the effect of the appliance efficiency standards contained in the National Appliance Energy Conservation Act ("NAECA 87"),[4] and, a proposal to exempt from coverage certain unvented space heaters. Part II below includes discussion of comments filed and Rule revisions proposed as a result of the NPR. Part III below includes further proposals to amend the Rule: To make it current in light of changes in related DOE regulations, to change the energy efficiency descriptor nomenclature, and to adopt a new label format. Sections A through D include instructions to the public for participating in the proceeding. Section E solicits comment on use of metrics in labels, and sections F and G have been included in conformance with the requirements of the Regulatory Flexibility Act and the Paperwork Reduction Act, respectively. The proposed amended rule sections appear in Section H, below.

I. Background

The Energy Policy and Conservation Act of 1975 ("EPCA"),[5] as amended, requires the Commission to prescribe labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for the following products:

(1) Refrigerators, refrigerator-freezers, and freezers
(2) Room air conditioners
(3) Central air conditioners and heat pumps
(4) Water heaters
(5) Furnaces
(6) Dishwashers
(7) Clothes washers
(8) Clothes dryers
(9) Direct heating equipment
(10) Kitchen ranges and ovens
(11) Pool heaters
(12) Television sets
(13) Fluorescent lamp ballasts
(14) General service fluorescent lamps and incandescent reflector lamps
(15) Showerheads, except safety shower showerheads
(16) Faucets
(17) Water closets
(18) Urinals
(19) Any other type of product which the Department of Energy (DOE) classifies as a covered product.

EPCA section 322(a), 42 U.S.C. 6292(a). However, no labeling rule need be prescribed until DOE has prescribed test procedures to measure the energy use of a particular covered product. EPCA section 324(b)(3), 42 U.S.C. 6294(b)(3). Moreover, the Commission may exempt from coverage:

(a) Products in categories 1, 2, 4, 6 and 8 through 12 if it determines that labeling is not technologically or economically feasible, EPCA section 324(a)(1), 42 U.S.C. 6294(a)(1); and

(b) Products in categories 3, 5 and 7 if labeling is not technologically or economically feasible or not likely to assist consumers in making purchasing decisions, EPCA section 324(a)(2)(A), 42 U.S.C. 6294(a)(2)(A).

There is an additional exemption provision for lamps that is not pertinent to this analysis. See EPCA section 324(a)(2)(C)(ii), 42 U.S.C. 6294(a)(2)(C)(ii).

Labels shall disclose the estimated annual operating cost of such products, as determined by DOE test procedures, unless DOE determines that disclosure of estimated annual operating costs is not technologically feasible, or the FTC determines that such disclosure is not likely to assist consumers in making

[1] 53 FR 22106.

[2] See discussion in sections II. C and II. D. 4 and III. C. below. The specific changes proposed to the label format are discussed in section III. D. below.

[3] Notice of the Commission's completion of the review of the Appliance Labeling Rule under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) was published in the **Federal Register** on June 13, 1988, at 53 FR 22022.

[4] The National Appliance Energy Conservation Act ("NAECA 87"), Pub. L. 100–12, 101 Stat. 103 (1987).

[5] Pub. L. 94–163, 89 Stat. 871 (1975), as amended by the National Energy Conservation Policy Act, Pub. L. 95–619, 92 Stat. 3258, (1978), the National Appliance Energy Conservation Act, Pub. L. 100–12, 101 Stat 103 (1987), the National Appliance Energy Conservation Amendments of 1988, Pub. L. 100–357, 102 Stat. 671 (1988), and the Energy Policy Act of 1992, Pub. L. 102–486 (October 24, 1992), 42 U.S.C. 6291 *et seq.* The Commission is currently considering whether to include pool heaters as covered products under the Rule. 58 FR 7852 (Feb. 9, 1993). The products in categories (14) through (18), which were only recently added to the list of covered products in EPCA by the Energy Policy Act of 1992, will be added to the Rule's coverage through rulemaking proceedings over the next two years.

purchasing decisions or is not economically feasible. In this event, the Commission shall require disclosure of a different useful measure of energy consumption, again determined in accordance with DOE test procedures. EPCA section 324(c), 42 U.S.C. 6294(c). Labels also shall disclose the range of estimated annual operating costs, or such alternate measure of energy consumption required above, for covered products. EPCA section 324(c)(1)(B), 42 U.S.C. 6294(c)(1)(B).

Regulatory History

On November 19, 1979 the Commission issued a final Rule covering seven appliance categories then covered by DOE test procedures: Refrigerators and refrigerator freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners and furnaces.[6] The Rule was subsequently amended to cover central air conditioners and air conditioning heat pumps, and fluorescent lamp ballasts.[7] For most product categories, the Rule requires that annual operating costs in dollars, and related information, be disclosed on labels and in retail sales catalogues. For three categories (room air conditioners, furnaces, central air conditioners) where usage cycles depend on disparate climate conditions across the U.S., such that "average" energy cost would be irrelevant to many consumers (and therefore not likely to assist in making purchasing decisions) the required disclosure is the energy efficiency rating ("EER").[8] In the case of room and central air conditioners, EERs must be disclosed on labels; in the case of furnaces, EERs must be disclosed on fact sheets. The corresponding cost information must be disclosed on the label for room air conditioners, on fact sheets for furnaces, and on fact sheets or in an industry directory for central air conditioners. In addition, certain point-of-sale promotional materials must disclose the availability of energy cost or energy efficiency rating information.

II. Issues Raised in the NPR

The NPR solicited comments in several areas, discussed at length below: (A) The effect of the implementation of NAECA 87 on the Rule; (B) proposed amendments to furnace requirements; (C) proposed amendments to central air conditioner requirements; (D) proposed amendments to room air conditioner requirements; (E) proposals to change the sub-categories on which ranges of comparability are based, for some products; (F) proposals to change the energy cost descriptor for several products from dollars to an alternate descriptor; (G) proposed changes in label adhesion strength and a suggestion to label only display models in retail outlets; (H) a directory option for water heaters; and (I) a proposal to label certain unvented heaters. In accordance with EPCA section 336(a), 42 U.S.C. 6306(a), the NPR afforded interested persons the opportunity to present their views orally at a public hearing. The Presiding Officer did not receive any requests for an oral presentation, so no hearing was held. During the comment and rebuttal periods, which extended from June 13 through August 18, 1988, comments were received from five appliance manufacturers, four public utilities, four appliance industry trade associations, four utilities trade associations, and The Coalition for Energy Efficient Appliance Labeling, hereinafter "CEEAL", a coalition group consisting of consumer, business, energy efficiency, utility, environmental and public sector organizations.[9] The Commission considered seriously all comments submitted in tentatively resolving the issues raised in this rulemaking, as outlined below.

A. Overall Effect of NAECA 87 on the Commission's Rule

Subsequent to the Commission's original adoption of the Rule, Congress enacted NAECA 87, which establishes minimum efficiency standards for certain categories of appliances, including many subject to the Rule. DOE, which administers the standards, uses its existing test procedures to determine compliance with the efficiency standards. The standards have effective dates at staggered intervals by appliance type from January 1, 1988, through January 1, 1993. See EPCA section 325, 42 U.S.C. 6295.[10] The NPR asked whether NAECA 87's implementation would result in narrowing of the energy usage ranges of comparable products to the point that labeling would no longer be useful, and whether, for this reason or any other, NAECA 87's adoption warranted modification of the Rule was warranted.[11]

Nine comments addressed this issue. Four suggested that the Rule would no longer be necessary after the standards set by NAECA 87 became effective, although each comment made constructive suggestions for improvements to the Rule in light of NAECA 87 if the Rule were to continue in effect.[12] Two comments stated that the Commission should wait and see how NAECA 87 actually affects the usefulness of the Rule (each also made constructive suggestions for improvements in the meantime),[13] and three favored keeping the Rule but improving it in specific ways, contending that the effects of NAECA 87 on the Rule would not justify its elimination.[14]

The commenters contending that the Rule would become useless argued that a substantial number of non-complying

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[6] 16 CFR part 305. The Statement of Basis and Purpose ("SBP") for the Rule describes why the Commission exempted the other categories of covered products. 44 FR at 66467–69.

[7] 52 FR 46888 (Dec. 10, 1987) (air conditioners and heat pumps); 54 FR 28031 (July 5, 1989) (lamp ballasts; note that the statute that mandates the Commission labeling rule for these products, the National Appliance Energy Conservation Amendments of 1988, requires that they simply bear a capital letter "E" to show that they meet the statute's minimum energy efficiency standards.)

[8] When promulgating the test procedures, DOE, as required by EPCA, developed two measures of energy consumption for each appliance category: (1) estimated dollar cost of operation, and (2) the energy factor, a measure of the useful output of an appliance's services divided by the energy input. For climate control equipment, under the Commission's Rule, the energy factor must be referred to as the "EER" (energy efficiency rating). As discussed in part III, C, below, however, the Commission is proposing to amend the Rule so the acronyms used in the DOE tests and by the industry ("SEER," AFUE," "HSPF," etc.) can be used in advertising and on fact sheets and labels, instead.

[9] The commenters were: Amtrol, Inc. ("Amtrol"), D–3; Ultimate Engineering Corp. ("Ultimate"), D–4; United Technologies Carrier ("Carrier"), D–10; The Peerless Heater Company ("Peerless"), D–15; Whirlpool Corporation ("Whirlpool"), D–16; Ferrellgas, D–7; Alabama Gas Corporation ("Alagasco"), D–9; Atlanta Gas Light Company ("Atlanta Gas"), D–13; West Texas Utilities Company ("WTU"), D–17; The Association of Home Appliance Manufacturers ("AHAM"), D–5; The Hydronics Institute, Inc. ("Hydronics"), D–6; The Gas Appliance Manufacturers Association ("GAMA"), D–8; The Air Conditioning and Refrigeration Institute ("ARI"), D–12; Edison Electric Institute ("Edison"), E–2; The National Rural Electric Cooperative Association ("NRECA"), E–3; The American Gas Association ("AGA"), D–11; The National Propane Gas Association ("NPGA"), D–14; The Coalition for Energy Efficient Appliance Labeling ("CEEAL"), E–1.

[10] After the effective date of a standard, the sale of non-complying products will be prohibited. See 42 U.S.C. 6302(a)(5).

[11] Each manufacturer annually submits to the Commission energy usage data for its various appliance models. The Commission analyzes these data and publishes "ranges" consisting of the highest and lowest energy use figures for each appliance category. The manufacturers disclose the ranges on either end of a bar scale on their Energy Guide labels, and indicate where their appliances fall on the bar. For example, the 1991 range for standard size dishwashers was from $39.00 to $78.00 (when using electrically heated water) and from $22.00 to $41.00 (when heating water with gas). Manufacturers suggested that once efficiency standards were implemented, the range for a given product could be limited (for example, from $39 to $41) to the point that providing that range information would not be very useful.

[12] Hydronics, D–6, 4; GAMA D–8, 1–2, 6–7, 11; ARI, D–12, 4; Whirlpool, D–16, 1–4, 9.

[13] AHAM, D–5, 12–13; Carrier, D–10, 4.

[14] CEEAL, E–1, 8–9; Alagasco, D–9, 2; Atlanta Gas, D–13, 2.

products would be eliminated from the marketplace. They contended the remaining products would be grouped at or slightly above the minimum energy usage standard, with a resultant energy usage spread so narrow that the information on labels would not help consumers make purchasing decisions. Others, however, favored retaining the rule. Alagasco commented, for example, that the range spread for furnaces after NAECA 87 goes into effect will continue to be broad enough (72% to 97%) to justify "more definitive, accessible furnace labeling."[15]

The record does not support the conclusion that new product standards adopted under NAECA 78 warrant elimination of some or all product categories from the Rule. Pursuant to EPCA section 324(a) (1) and (2), 42 U.S.C. 6294(a) (1) and (2), the Commission may exempt a covered product from labeling only if it determines that such labeling is not technologically or economically feasible, or, in the case of central air conditioners, furnaces and clothes washers, that such labeling is not likely to assist purchasing decisions. To date, no such showing has been made. No information has been submitted suggesting that such labeling is technologically or economically infeasible. With respect to the theoretical "narrowing" of energy use ranges, the only standards that have been in effect for sufficient duration for industry response to be evident are those for clothes washers and dishwashers. In those cases, there has been no meaningful change in the number of models available. Moreover, past experience with publishing ranges strongly suggests that competition will produce products that exceed minimum standards and continue to result in a significant spread of energy usage among products, such that publication of range information will continue to assist consumer decision making. Accordingly, at this time it does not appear that the record information supports wholesale modification of the Rule, or elimination of any specific category from coverage. However, the Commission recognizes that this conclusion is reached at any early point in the history of the new efficiency standards.[16] As new minimum efficiency standards become effective, and inventories of products pre-dating the standards' effectiveness are depleted, it may become appropriate to revisit this issue.

Numerous commenters suggested that the Commission adopt product sub-categories that were created or are specified in NAECA 87 and DOE's minimum efficiency standards rule, but not in the Commission's Rule. The commenters contended that the Rule's ranges of comparability, if arranged by these product sub-categories, would help consumers shopping for products with specific features. These suggestions are addressed in the discussion of generic ranges and product categories, in sections II, B, 4 and II, C, below.

In addition, the Commission notes that new definitions for certain products appear in NAECA 87, with the result that the corresponding definitions in the Commission's Rule are no longer accurate. Issues relating to the updating of the Rule's definitions and its internal references to DOE's test procedures, are discussed in part III, B, below.

B. Furnace Amendments

1. Current Furnace Labeling Requirements

Currently, furnaces are required to bear a label containing only general energy-saving tips and referring the consumer to a fact sheet. Section 305.11(a)(5)(ii) and Figure 3.[17] The fact sheets show the various combinations of components available[18] and the overall efficiency of any set of component combinations. In addition, the fact sheets provide costs grids for estimating what the "system" would cost the consumer to operate, depending on geographic location and utility rate structures. Section 305.11(b)(3)(viii). The Rule requires that retailers make the fact sheets available to consumers. Section 305.11(b)(1)(ii).

The NPR proposed the following modifications: (1) To permit the label to direct consumers to either fact sheets or industry directories for detailed cost information, and (2) to require that furnaces bear labels disclosing (a) the specific product's EER, (b) a "generic" range of EER's for all furnaces that use the same fuel as the labeled unit, see section H, proposed § 305.11; and (c) stronger language directing consumers to either fact sheets or a directory for additional information. These proposals, the comments they generated, and the Commission's proposed resolution of the furnace requirements are further discussed below.

2. The Directory Option Amendment

The NPR's proposed directory option amendment for furnace manufacturers is identical to the Rule requirement for central air conditioner manufacturers. Under this option, furnace manufacturers could comply with the Rule's disclosure requirements by listing required information in a trade association directory, rather than on fact sheets. See section H, proposed § 305.11(c). The proposed amendments would require that the directory be distributed to all retailers selling products listed in it and that it be made available to others at cost. See section H, proposed § 305.11(c)(1). Manufacturers who choose not to use the directory option would be required to produce fact sheets for consumer use. See § 305.11(b).

One directory that may be used under the proposal is published in connection with a voluntary certification program the Gas Appliance Manufacturers Association ("GAMA") administers.[19] Under the program, open to all manufacturers of residential-size furnaces,[20] participants submit to GAMA energy efficiency information derived from tests performed by using the DOE test procedures. GAMA conducts verification testing and

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[15] D–9, 2. See also CEEAL, E–1, 8–9; and Atlanta Gas, D–13, 2.

[16] Standards for refrigerators, refrigerator-freezers, freezers, water heaters, and room air conditioners became effective on January 1, 1990. Revised standards for refrigerators, refrigerator-freezers and freezers will become effective January 1, 1993. Standards for split-system central air conditioners and most furnaces became effective January 1, 1992. The Commission will not be able to evaluate the effect of the standards on these products until all the products manufactured before the effective date of the standards have worked their way out of the marketplace.

[17] The reasons underlying the Commission's current label and fact sheet disclosures requirements for furnaces are discussed in the SBP at 44 FR 66470–71.

[18] For example, whether the furnace would be available with a vent damper, standby pilot, automatic ignition, etc.

[19] GAMA represents members of the furnace manufacturing industry (which includes manufacturers of boilers). Another industry trade association is the Hydronics Institute, Berkeley Heights, New Jersey. The amendment does not specify that any particular directory must be used. Since the proposal that an industry directory be used as an alternative to fact sheets came from GAMA, this discussion focuses on GAMA's program. However, manufacturers could choose to have their required information published in GAMA's Directory, the Hydronics Institute's Directory, or in any other directory that meets the requirements in proposed § 305.11(c).

[20] GAMA program participants include manufacturers of oil-fired furnaces and boilers as well as manufacturers of gas-fired products. Electric furnace manufacturers have thus far not elected to participate in the program or the directory. ARI, the trade association that represents many electric furnace manufacturers, has suggested that electric furnaces be totally exempted from the Commission's labeling and disclosure requirements because these furnaces are all virtually 100% efficient (see Carrier, D–10, 2, Attachment 2, 1–2). The Commission rejects this proposal because electric furnaces are major users of electricity and information on their cost of operation is useful to consumers trying to decide between them and furnaces using other types of fuels.

maintains an internal enforcement mechanism. GAMA publishes and distributes a Directory listing participating manufacturers along with the DOE test-derived efficiency and annual cost information for each model.

Most comments on the directory option proposal were supportive.[21] GAMA contended that its Directory (and inferentially, the directory option generally) would be superior to the existing fact sheets because it would contain, in one place, information on the majority of models available in the marketplace. The comparability ranges for furnaces would appear in the front of the Directory in the form presently published by the Commission. In addition, the ranges would be broken down for the different furnace types, such as horizontal or outdoor types of furnaces.[22] GAMA also added directions to the Directory that enable consumers to identify where any particular furnace falls on an efficiency range scale provided in the Directory.

Alagasco and AGA opposed the directory option, contending that the GAMA Directory is too complicated for average consumers and not sufficiently available.[23] But, both agreed that the option could be very useful if it were used with product-specific labels (Alagasco); if the Directory were made more generally available to consumers (Alagasco and AGA); and, if the Directory contained cost information (AGA).

The Commission proposes to amend the Rule to include the directory option. See section H, proposed § 305.11(c). A directory is likely to be easier to use than fact sheets and, particularly with the assistance of a salesperson, is likely to be an efficient way for consumers to compare a large number of furnaces. We have addressed the concerns raised by Alagasco and AGA by requiring that any directory complying with the Rule be distributed to substantially all retailers and assemblers of furnaces selling or assembling models listed in the directory, and by requiring that it be made available at cost to all other interested parties.

[21] CEEAL, E–1, 4; Hydronics, D–6, 2; Ferrellgas, D–7, 1; GAMA, D–8, 1, 2–3, 13–14; AGA, M–1, 1–2 (provided some modifications to the GAMA Directory are made); Atlanta Gas, D–13, 1: NPGA, D–14, 3–4; Peerless, D–15, 3 (but without the use of product-specific labels).

[22] GAMA asserts that, if the Commission adopts the NAECA 87 categories for furnaces for range purposes, as discussed in section II, B, 4, below, these categories will be used in the Directory.

[23] D–9, 1–2; D–11, 3–6; but see M–1, 1–2 for AGA's conditional support in its rebuttal comment.

3. The Product-Specific Label Amendment

The present furnace label merely contains general energy-saving tips and refers consumers to the fact sheets for specific energy usage information. See § 305.11(a)(5)(ii). The NPR proposed amending the furnace disclosure requirements to require labels like those now required for central air conditioners. See § 305.11(a)(5)(iii). Under the proposal, each furnace label would show the EER of the specific model to which it is attached. Directly below the EER, the label would contain a "generic" range of EER's for all furnaces that use the type of fuel (gas, oil or electricity) used by the labeled model, rather than the range for models of a similar capacity and fuel type, as the Rule presently requires (on fact sheets). Finally, the labels would contain stronger language referring consumers to fact sheets or directories for further information regarding efficiency and operating costs.[24] The Commission previously chose this scheme for central air conditioners based on evidence that consumers were not being shown fact sheets by dealers under similar circumstances. The product-specific labels ensure that consumers receive at least a minimum amount of energy information if they do not see fact sheets or a directory.[25] The NPR envisioned that the proposed furnace label amendments could have similar advantages. Comments on the proposal to require product-specific labels were divided. Four comments supported the proposal, consisting of two from utilities, one from a utility association and one from CEEAL.[26] Three manufacturers and two trade associations for the furnace industry were opposed.[27]

GAMA's comment is illustrative of those opposing product-specific labels:

> The Commission should not require labels on furnaces and boilers, and especially not product-specific labels. [1] Product-specific labels are not necessary to stimulate consumer demand for more efficient furnaces and boilers. To day, product-specific labels have not been on furnaces and boilers; yet the efficiency of these products in recent years has increased significantly. [2] Also, labels on furnaces and boilers will seldom assist consumers in making purchasing decisions because of the way these products are normally purchased [(either without being seen before purchase or already installed in a new home)]. [3] Further, the mandatory efficiency standards for furnaces and boilers established by NAECA 87 already guarantee much of the energy savings that proponents of labeling these products would otherwise hope to achieve through labeling.[28]

Alagasco, however, commented that "the consumer and the utility would be better served if the present * * * label [for furnaces] was changed to include the furnace AFUE and reference operating cost data directly on the label because it would force contractors to address that information prior to the sale.[29] Moreover, Alagasco contended, a product-specific label permits quick verification by the consumer that the efficiency represented by the seller is the efficiency installed.

The Commission proposes to include product-specific label requirements for furnaces in the amendments to the Rule. See section H, proposed §§ 305.11(a)(5)(ii)(C) through (M). In the Commission's view, the Rule's requirement that energy efficiency be disclosed on fact sheets has been a major factor in the significant increase in the efficiency of furnaces and boilers in recent years. Product-specific labels could further improve the communication of efficiency information and reinforce the trend towards more energy efficient heating products. To the extent that consumers shopping for furnaces may see display models, either in a store or model home, for example, they would always see the minimum information required by EPCA (that is, the EER of the product and range information).[30] Labels on furnaces in new homes may encourage consumers to consider appliance energy usage as a factor in purchasing the home. With this information, an energy-conscious consumer could select one house over another; or, such a consumer could order a more efficient unit, where such a choice was possible. These options would be available to consumers who visit various model homes in new or soon-to-be-built subdivisions because they would be

[24] Current furnace labels suggest that consumers ask for fact sheets, while the proposed amended labels would use the stronger language of the central air conditioner labels:

> Federal law requires the seller or installer of this appliance to make available a fact sheet or directory giving further information regarding the efficiency and operating cost of this equipment. Ask for this information.

[25] See 52 FR 46890–92 (Dec. 10, 1987) for a further discussion of the Commission's reasons for requiring product specific labels for central air conditioners.

[26] CEEAL, E–1, 4; Alagasco, D–9, 1–2; AGA, D–11, 6; Atlanta Gas, D–13, 1.

[27] Ultimate, D–4, 1; Hydronics, D–6, 2–3; GAMA, D–8, 1–2, 4–9, 13–14; Carrier, D–10, 2–3; Peerless, D–15, 1–2.

[28] D–8, 4.

[29] D–9, 2.

[30] In the event that consumers do not see actual furnace units prior to purchase, the amended Rule also would require that the EER and range information appear in fact sheets or directories (as well as on the label).

able to see labels on the major appliances in the model homes. Even if, as GAMA suggests, consumers often do not see the furnace unit they are going to purchase until after they have settlement, the energy usage disclosure program overall seems to raise consumer awareness about the energy usage of these products. Consumers' receipt of energy usage information after consummation of the sale also could, to some extent, encourage builders to install energy efficient furnaces.

GAMA suggested as an alternative that labels should state only the following:[31]

SEE THE RATING PLATE ON THIS UNIT OR ASK YOUR DEALER FOR THE EFFICIENCY RATING.

According to GAMA, the manufacturer would include the AFUE on the rating plate of each furnace and boiler.[32] GAMA contended that this disclosure method, which would be more permanent than a label, would be easier and less costly for manufacturers to implement.[33]

The Commission concludes that this disclosure method falls short of the criterion for accessibility implicit in EPCA. The statute, EPCA section 324(c)(3), 42 U.S.C. 6294(c)(3), states that the Commission's Rule shall require labels to be displayed in a manner that the Commission determines is likely to assist consumers in making purchasing decisions. The Commission has adopted EnergyGuide labels with a distinctive yellow and black appearance and a specified format for providing required information. Rating plates would not be consistent with this standardized format that consumers can associate with government-required energy usage information. Further, rating plates on furnaces may be in locations on the product that are not readily accessible to consumers, especially when the products are installed, as in a model home. Even when they can be seen, the notations on these plates can be difficult to read. For these reasons, the Commission rejects GAMA's suggestion.

[31] D–8, 7–9, Attachments.

[32] Every furnace and boiler has a rating plate permanently affixed to it that discloses the manufacturer's name, the model number of the furnace, its heating capacity and input rating and other information. At present, the AFUE is not included.

[33] GAMA included an estimate from one of its larger members that the cost of affixing product-specific labels to its products would add approximately thirty cents per unit to the cost to the consumer, as opposed to using the rating plate labeling method. According to GAMA, this translates to $900,000 per year for all units sold. However, this means a thirty-cent increase on an item usually costing over one thousand dollars.

Below, the Commission responds to five specific issues pertaining to labeling of furnaces and boilers raised by the commenters.

a. *Different ignition systems.*— Hydronics commented that furnaces have different ignition systems (standby pilot, electric ignition, etc.). Consequently, it believes it would be difficult to know in advance what the AFUE of a given model would be and to label it accurately.[34] However, since the ignition system of a furnace is installed at the manufacturing level, the Commission believes that the manufacturer would know before shipping each unit what type of ignition it had and its AFUE.

b. *Separate jackets.* According to Hydronics, Ultimate, and Peerless, in some cases the inner workings of boilers produced by the boiler manufacturer are shipped separately, with the outer jacket being supplied as a separate unit by a different supplier.[35] The sheet metal enclosures for the units are made by third party vendors and each enclosure can be used on any one of as many as six different models, each with a different rating.[36] The commenters note that the label should be on the jacket but that it is not possible for the jacket manufacturer to know in advance the AFUE of the unit over which the jacket is going to be installed. They fear that adoption of the product-specific label requirement will require a change in this efficient shipment and assembly system.

It is unclear whether this problem would be experienced by a significant proportion of the furnace/boiler industry. However, to address this issue, the Commission has included language in the proposed amended Rule that would require manufacturers of boilers that are shipped without jackets to label their products with hang-tags that also have adhesive backing on them. See section H, proposed § 305.11(a)(5)(ii)(J). This proposed provision of the Rule would enable the retailer/installer to remove the hand-tag label from the boiler itself and attach it to the jacket. The Commission notes that, under EPCA section 332(a)(2), 42 U.S.C. 6302(a)(2), retailers are only required to refrain from removal or obliteration of labels already in place. The Commission suggests, however, that the manufacturer's contract with the retailer could require the retailer to perform this simple task under the above circumstances.

[34] D–6, 2.

[35] D–6, 2; D–4, 1; D–15, 1–2.

[36] D–15, 2.

c. *Furnace vent dampers.* Vent dampers, which control the loss of heat up the exhaust flue, have an effect of up to 10% on the AFUE of the furnace or boiler with which they are installed. Vent dampers have not always been shipped with furnaces. Instead, they have often been installed, as a separate item, in the field. This has made it difficult to know in advance whether a unit would be installed with a vent damper and, therefore, to know the AFUE of the unit and label it properly. As a result of DOE modifications to the furnace test procedure, however, the effect of vent dampers on furnace efficiency is no longer an impediment to accurate labeling. See 54 FR 6062, at 6076 (Feb. 7, 1989).

Under the modified test, furnaces (as distinct from boilers) now must be tested as isolated combustion systems, rather than in a simulated indoor (or outdoor) environment, as previously allowed. The test no longer allows credit to be taken for a damper that closes the vent when the burner is not operating to prevent the updraft from drawing outside air into the test area and adversely affecting AFUE. By their design, products that meet the 1992 efficiency standards, which became effective on January 1, 1992 (for example, induced-draft and induced-draft condensing furnaces) do not require the use of a vent damper. In the near future, labels on furnaces produced before the effective date of the standards that are still working their way through the distribution system will have to disclose AFUEs derived from the modified test (since September 5, 1989), which will not be affected by whether the furnace is installed with a vent damper. Thus, the issue is now moot.

d. *Boiler vent dampers.* As with furnaces, dampers have not usually been shipped with boilers. Boilers cannot meet the minimum efficiency requirements of the January 1, 1992, standards, however, without vent dampers or power dampers. Thus, all boilers manufactured since January 1, 1992, are shipped with dampers to comply with the standards, and this issue, too, is now moot.

e. *Differing input or firing rates.* Hydronics noted that some oil-fired boilers are shipped with three different input nozzles. This enables the installer to determine what nozzle to put with the boiler, which affects the firing rate and, therefore, the AFUE, of the boiler. The manufacturer, in these cases, would not know how to label the boiler at the factory.[37]

[37] D–6, 2.

Hydronics did not specify the amount by which different firing rates (which would not have to be disclosed on the product-specific label) could change the AFUE of a boiler. The Commission has examined specification sheets that were prepared by members of the oil-fired boiler industry and has concluded that typically, different input nozzles (and firing rates) will change a boiler's AFUE by only a point to two and a half points. Consequently, to the extent this problem exists, it is *de minimis*. The Commission proposes to resolve the issue by requiring manufacturers of such boilers to label them with the AFUE of the system when it is set up with the highest firing rate (which results in the lowest AFUE). Consumers would not be harmed by this slight compromise in accuracy, which would make labeling easier and less costly to accomplish. See section H, proposed § 305.11(a)(5)(ii)(K).

f. *Steam versus hot water.* Peerless noted that, in some cases, a boiler could be hooked up to either a steam system or a hot water system. Because the system used affects the AFUE, Peerless contended that the manufacturer cannot accurately label the boiler in advance.[38] To the extent that manufacturers ship out boilers that are not set up as either steam or hot water, the proposed amendments would require them to label the boilers with the AFUE value they derived by conducting the test on the boiler as a hot water unit, which is the more common system in residential settings. See section H, proposed § 305.11(a)(5)(ii)(L). The Commission understands that the difference between the two values is only around one AFUE point (for example, 82% and 83%). As with the firing rate issue, this small compromise in label accuracy would be offset by the benefit of having an easier, and thus less costly, requirement.

4. Generic Ranges and New Sub-Categories for Furnaces

Two comments addressed the generic range aspect of the proposed furnace amendments.[39] Carrier agreed that the existing ranges for furnaces should be simplified to a single range of efficiencies for each fuel type.[40] The Hydronics Institute also agreed that one range per fuel type is a reasonable approach for furnaces because of the similarity of the efficiency figures across the capacity groupings. Hydronics suggested, however, that the Commission break the furnace category into three subcategories: Furnaces; Boilers (except gas-fired steam); and, Gas-fired steam boilers.[41]

Hydronics' suggestion parallels three of the sub-categories established by NAECA 87. The Commission proposes using these three sub-categories, along with two others—small gas furnaces and mobile home furnaces—which also were established by NAECA 87 and incorporated in DOE's minimum efficiency standards.[42] See EPCA section 325(f), 42 U.S.C. 6295(f). This would divide the furnace category into five sub-categories, resulting in nine ranges when broken out by fuel type.[43] See section H, proposed appendices G–1 through G–9.

Using the DOE sub-categories would result in consistency between the ranges required by the Rule and DOE's minimum efficiency standards for these sub-categories and thus help manufacturers. These sub-categories also would help consumers in their shopping efforts. For example, for non-gas-steam boilers, the lowest efficiency permitted by the standards is 80% (75% for gas-steam boilers). The low end of a single range for all gas-fueled boilers (as proposed in the NPR) would be 75%. Using that figure as an end point on the range would inaccurately suggest to a shopper looking for a gas/hot water boiler that a model with an efficiency of 75% would be available, when the least efficient model of that sub-category permitted by the standards would be 80% efficient. Under the system proposed today, with separate ranges for each sub-category, the ranges for boilers (except gas-steam) would show the bottom end of the efficiency range to be at the pertinent minimum efficiency standard of 80%.[44]

5. Conclusion

The conclusions discussed in this section are reflected in the proposed amendments that appear in section H at the end of this Notice. Manufacturers that are members of an industry trade association with a certification program and a directory would have the option of being listed in the directory instead of preparing fact sheets, provided the directory meets the Rule's criteria. See section H, proposed § 305.11(c). Furnaces and boilers would have to bear a label that discloses product-specific information showing the unit's AFUE and a generic range based on the sub-categories in DOE's standards rule. See § 305.11(a)(5)(iii). When the working portions of boilers (or furnaces) are shipped separately from the outer jackets, the units would have to be labeled with hang-tag labels that also have adhesive backing, so the installer could affix the label to the outside of the jacket after the unit is installed. See section H, proposed § 305.11(a)(5)(ii)(J). When boilers are shipped with different nozzles, they would be labeled to show the AFUE of the unit when it is set up with the highest firing rate. See section H, proposed § 305.11(a)(5)(ii)(K). Finally, boilers that are not set up as either steam or hot water units would have to be labeled with the hot water AFUE. See section H, proposed § 305.11(a)(5)(ii)(L).

C. Central Air Conditioner Range Information on Fact Sheets and in Directories

Currently, the Rule requires, for central air conditioners,[45] that range

[38] D–15, 1.

[39] Seventy ranges are currently required—fourteen ranges, according to capacity rating (in Btu's of input per hour), for each of the three fuel types, with furnaces and boilers fueled by natural gas and oil broken out separately. A "generic range" would encompass all sizes within a fuel type (i.e., one range, rather than fourteen ranges based on capacity groupings, for electric furnaces).

[40] D–10, 3.

[41] D–6, 3.

[42] See 54 FR 6062, at 6077 (Feb. 7, 1989). The effective date for the minimum efficiency standards for all furnaces except mobile home furnaces was January 1, 1992. The effective date for mobile home furnaces was January 1, 1990.

[43] The nine "generic" ranges for the furnace category would be: Gas Furnaces, Small Gas Furnaces (Under 45,000 Btu's of input per hour), Electric Furnaces, Oil Furnaces, Mobile Home Furnaces, Gas Boilers (except Steam), Gas Boilers (Steam), Electric Boilers and Oil Boilers.

[44] See the discussion in Hydronics' comment, D–6, 3.

[45] Although the NPR posed no questions on this issue, two comments noted dissatisfaction with the current Rule's requirement that central air conditioners bear product-specific information. Carrier contended that these labels impose an additional burden on manufacturers but have little or no influence on consumer buying decisions, noting that its consumer data indicates that consumers have "little interest or understanding in efficiency matters." D–10, 3. ARI noted that the brief experience so far with product-specific labels for central air conditioners has shown that "it can be very difficult for an assembly line worker to be sure that the proper label is going on each condensing unit." ARI and GAMA suggested a generic label that refers to the efficiency rating located on the unit's rating plate. D–12, 2–3 and Attachments.

The Commission does not propose to modify the product-specific aspect of the central air conditioner label. Carrier's comments appear to reflect dissatisfaction with the EPCA scheme overall, rather than with specific aspects of the Rule. ARI's comment suggests that the Rule is technologically difficult to implement. Under EPCA, however, these products may be exempted from labeling only if labeling is not technologically or economically feasible or not likely to assist consumers in making purchasing decisions, 42 U.S.C. 6294(a)(2)(A). The information submitted does not rise to this level. Moreover, as we noted above in our discussion regarding GAMA's proposal for rating plate disclosures for furnaces, such a labeling system would not appear to provide the needed consumer information regarding the product. Accordingly, the Commission proposes no change to this aspect of the Rule. See, also, part III, A.

information appear only on the label. The NPR proposed to amend the current rule pertaining to central air conditioners to require that the EER and range information appear *both* on the label and in fact sheets or directories. It solicited comments on whether this proposed amendment would provide greater net benefits to consumers than the current requirement.

There was no comment on this proposal. The Commission notes, however, that ARI's current practice is to include the ranges in its Directory. The Commission tentatively concludes that requiring the range information on fact sheets and in directories as well as on labels would be in the public interest and has included it in the proposed amendments. See section H, proposed § 305.11(b)(3)(vi) (fact sheets), and proposed § 305.11(c)(3)(vi) (directories).

D. Generic Ranges and New Sub-Categories for Room Air Conditioners

Currently the Rule establishes for room air conditioners thirty-seven ranges. The NPR proposed amending this provision and establishing a single generic range, such as that proposed for furnaces.

Three commenters addressed this proposal. AHAM and Whirlpool favored reducing the number of ranges from the existing thirty-seven, but opposed having a single range for all room air conditioners.[46] Both recommended adopting the sub-categories for room air conditioners that were created by NAECA 87 and incorporated into the DOE minimum standards regulations. They also recommended adopting the capacity groupings that appear along with the sub-categories.[47] CEEAL noted that, while capacity ranges may not be needed for these products, classifications by features, which are the basis of the DOE sub-categories, are essential.[48]

The energy efficiency range information the Commission's staff has published over the years indicates that the range of efficiencies of room air conditioners is virtually the same for each of the capacity groupings. It thus seemed that reducing the number of ranges from thirty-seven to one would decrease the industry's labeling burden with no loss of information to consumers. However, the comments have persuaded the Commission that because products in the different sub-categories have different features and applications and must (as of January 1, 1990) meet different efficiency standards, consumer confusion could result from adopting a single product category range. A breakdown by capacity grouping is also justified, because NAECA 87 and DOE have set five different minimum EER's among the ten different capacity groupings.[49] The proposed sub-categories and capacity groupings for room air conditioner ranges are in section H, proposed appendix E.

E. Generic Ranges and Product Sub-Categories for Other Products

The NPR also sought comment on whether generic ranges or a reduction in the number of ranges[50] for other product categories would be appropriate, and, if so, whether such a change would reduce the compliance burden of small entities. In addition, the Commission solicited comment on whether any of the Rule's product categories should be modified. This issue was included because of suggestions that the categories for some products be divided into more specific sub-categories.

1. Generic Ranges

No comments requested additional range amendments. Edison and WTU were opposed to generic ranges on any products in favor of the categories established by NAECA 87 and the DOE test procedures.[51] GAMA requested that, if any changes to the range structure for water heaters were to be made, such changes be delayed until final standards for water heaters and a final, revised DOE test procedure are in place. GAMA explained that a switch to generic ranges for water heaters now would penalize larger models because of the way the current DOE test is set up.[52] Because no comments requested additional generic range amendments and the Commission is not otherwise aware of a need for them, the Commission proposes no further amendments regarding generic ranges today.

2. New Sub-Categories for Refrigerators, Refrigerator-Freezers and Freezers

Under the current Rule, there is one range category for refrigerators, one for refrigerator-freezers, and one for freezers. See appendices A–1, A–2 and B of the current Rule. Four comments recommended that the Commission instead adopt for these products the sub-categories established by NAECA 87 and prescribed in DOE's minimum standards rule.[53] All four agreed that grouping these products by defrost systems and door feature configurations would provide consumers with better information about a product category in which significant design advances have been made. As Whirlpool explained:

> Considerable differences in energy consumption for the same size category result from the fact that some units have manual defrost while others have various types of automatic defrost systems. These energy consumption differences are further accentuated by the fact that refrigerators are available with separate freezer compartments in bottom-mount, top-mount and side-by-side configurations. The bottom-mount units tend to use more energy than top-mount refrigerator models because the bottom freezer section is closer to the compressor. Side-by-side models use more energy than top-mount units because they have more gasket length. Similar energy consumption differences exist between chest and vertical freezers. Thus, a new series of product categories is necessary for refrigerators, refrigerator-freezers and freezers. Such product categories should align with current NAECA product categories.[54]

NAECA 87 divides refrigerators and refrigerator-freezers into seven sub-categories, based on the configuration of the doors to the two compartments and whether the defrost systems are manual or automatic.[55] The statute divides freezers into three sub-categories: Two

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[46] AHAM, D–5, 3–4; Whirlpool, D–16, 16–17.

[47] The categories and capacity groupings (making a total of twelve ranges) are as follows:

Without Reverse Cycle and with Louvered Sides: Less than 6,000 Btu; 6,000 to 7,999 Btu; 8,000 to 13,999 Btu; 14,000 to 19,999 Btu; 20,000 and more Btu.

Without Reverse Cycle and without Louvered Sides: Less than 6,000 Btu; 6,000 to 7,999 Btu; 8,000 to 13,999 Btu; 14,000 to 19,999 Btu; 20,000 and more Btu.

With [illegible] Cycle and with Louvered Sides (all capacities)

With [illegible] Cycle, without Louvered Sides (all capacities)

[48] E–1, 4–5.

[49] The EER's are: 8.0, 8.2, 8.5, 8.8 and 9.0. See 42 U.S.C. 6295(c) and 54 FR 6062, at 6077 (Feb. 7, 1989).

[50] For example, where there are many ranges for a product, whether the two smallest, or two largest, categories should be combined.

[51] E–2, 2; D–17, 1.

[52] D–8, 12. DOE published a final, revised test procedure for water heaters on October 17, 1990 (55 42162), and is in the process of reviewing the minimum efficiency standards for these products and seven others (ANPR published September 28, 1990 (55 FR 39624)).

[53] CEEAL, E–1, 5, 6; NRECA, E–3, 2; AHAM, D–5, 10; Whirlpool, D–16, 18–20.

[54] D–16, 18.

[55] The sub-categories in NAECA 87 (See 42 U.S.C. 6295(b)) and DOE's rule (54 FR 66062, 6077 (Feb. 7, 1989)) are:

Refrigerators and refrigerator-freezers with manual defrost; Refrigerator-freezers with partial automatic defrost; Refrigerator-freezers with automatic defrost with top-mounted freezer without through-the-door ice service; Refrigerator-freezers with automatic defrost with side-mounted freezer without through-the-door ice service; Refrigerator-freezers with automatic defrost with bottom-mounted freezer without through-the-door ice service; Refrigerator-freezers with automatic defrost with top-mounted freezer with through-the-door ice service; Refrigerator-freezers with automatic defrost with side-mounted freezer with through-the-door ice service.

for upright (depending on type of defrost system) and one for chest and all other types of freezers.[56]

The Commission proposes adopting the NAECA 87 refrigerator, refrigerator-freezer and freezer sub-categories. Over time, many have suggested that these categories are too general and all-inclusive, and that consumers would be better served with more specific sub-categories.[57] The NAECA 87 sub-categories would enable a consumer who has decided on a product with certain features and a specific door configuration to see a cost range on the label that includes only models with the same features as the labeled unit.[58] Moreover, each of the seven refrigerator and refrigerator-freezer sub-categories and three freezer sub-categories under NAECA 87 must meet a different minimum efficiency standard (as of January 1, 1990).[59] As noted in the earlier analysis of new range sub-categories for furnaces and room air conditioners, the inclusion, in a single range, of products that must meet different minimum efficiency levels could cause consumer confusion and frustration.

Whirlpool requested that, in addition to the NAECA 87/DOE standards sub-categories, the Commission adopt three other sub-categories to encompass models that Whirlpool produces: "built-in refrigerator-freezers" (in both the bottom-mounted freezer and side-mounted freezer configurations) and "all-refrigerators with automatic defrost."[60] The Commission is not including a sub-category for built-in refrigerator-freezers as this appears unnecessary to avoid consumer confusion. The Commission also notes that DOE rejected built-ins as a separate sub-category in its proposed[61] and final[62] standards rules because it had no information upon which to conclude that built-ins affect energy consumption.

DOE also did not create a separate sub-category for all-refrigerators with automatic defrost. Instead, DOE considered them as either part of the class for refrigerators and refrigerator-freezers with manual defrost or as part of the class for refrigerator-freezers with top-mounted freezer with automatic defrost without through-the-door-ice service (which is where the refrigerator with automatic defrost is included).[63] This is because the standards for these products are based on the adjusted volume of each individual unit. The adjusted volume is the sum of (1) the volume of the refrigerator compartment and (2) the product of the freezer compartment volume multiplied by an adjustment factor. Thus, the adjusted volume of a refrigerator-freezer (which has two external doors) is the equivalent of the unit's volume as if it were a refrigerator (which has one external door). Because both products are the same, from the point of view of adjusted volume, DOE concluded that a separate class was not warranted for standards purposes.

The Commission believes, however, that all-refrigerators with automatic defrost should be given separate treatment for range purposes. A separate range will be useful to those consumers who are looking for such a product (a single-door refrigerator with automatic defrost). Such consumers could be confused if range figures for this type of product were included in either the sub-category for double-door refrigerator-freezers with automatic defrost or the one for double-door refrigerator-freezers and single-door refrigerators with manual defrost. Today's proposed amendments, therefore, contain an eleventh, separate sub-category for all-refrigerators with automatic defrost. See section H, proposed appendix A1.

In addition, as a result of consultations with DOE, the Commission proposes to change the span of the capacity groupings within the sub-categories from two cubic feet to four cubic feet. The four-cubic-foot groupings would encompass a larger number of models than would be included in two-cubic-foot groupings among the eleven sub-categories and would provide consumers with a more meaningful grouping of the models available for comparison.

The proposed amendments in section H, below, thus contain eleven new appendices—appendices A1 through A8 for Refrigerators and Refrigerator-Freezers and appendices B1 through B3 for Freezers—for the new sub-categories and capacity groupings for these products.

3. New Product Sub-Categories for Dishwashers and Clothes Washers

Two comments suggested revised product sub-categories for dishwashers and clothes washers. Whirlpool suggested adding four new sub-categories (based on the water-heating feature) to the Rule's present "compact" and "standard" sub-categories for dishwashers, and four new sub-categories (based on tub capacity, door configuration and features) to the Rule's present "compact" and "standard" sub-categories for clothes washers.[64] AHAM suggested that the Commission consider some mechanism for incorporating future sub-categories that may be created by amendments to NAECA.[65]

The Commission proposes to retain the existing sub-categories ("Standard" and "Compact") for dishwashers and clothes washers. NAECA 87 did not create new sub-categories for these two products. This is because the minimum efficiency standard for the products involves only the mandatory inclusion of an energy-saving feature consisting of an option to dry without heat for dishwashers and an unheated wash option for clothes washers.[66] Moreover, the efficiency standards are the same for all models within the Rule's present sub-categories. So, no change appears appropriate. The Commission also does not propose amending the Rule to include a mechanism for automatically including future sub-categories. If future revisions to the DOE standards appear to warrant a change in the categories for these products, the Commission will consider the issue at that time.

F. Label Adhesion Strength; Labeling of Display Models Only

Section 305.11(a)(4)(i) of the Rule specifies the paper stock and minimum peel adhesion capacity of labels for covered products. In addition to requiring that adhesive labels be applied "so they can be easily removed without use of tools or liquids, other than water," this section requires that the label adhesive must have "a minimum peel adhesion capacity of 24 ounces per inch width." The NPR solicited

[56] *Freezers:*

Upright freezers with manual defrost; Upright freezers with automatic defrost; Chest freezers and all other freezers.

[57] While this information has come primarily from industry sources, especially AHAM, it has also been provided by consumer groups, such as the Consumer Energy Council of America, as well as other sources, such as those represented by CEEAL.

[58] As with the current labels, the proposed labels will identify the category in which the labeled product is grouped.

[59] The standards for these products are expressed as formulae that include the "adjusted volume" of the products as one element in the calculation. There is a different formula—and thus a different standard—for each of the ten subcategories. See 42 U.S.C. 6295(b)(1).

[60] D–16, 19–20. The DOE test procedure for refrigerators and refrigerator-freezers defines "all-refrigerator" as "an electric refrigerator which does not include a compartment for the freezing and long time storage of food at temperatures below 32 degrees F (0.0 degrees C). It may include a compartment of 0.50 cubic capacity (14.2 liters) or less for the freezing and storage of ice." 10 CFR part 430, subpart B, appendix A–1, 1.4 (1991).

[61] 53 FR 46798, 46809 (Dec. 2, 1988).

[62] 54 FR 6062 (Feb. 7, 1989).

[63] 53 FR 46798, 46809, Table 3–1, fn 1 (Dec. 2, 1988).

[64] D–16, 20–22.

[65] D–8, 11.

[66] See 54 FR 6062, 6077 (Feb. 7, 1989). Both standards were prescribed earlier in NAECA 87, however, and became effective on January 1, 1988.

comment on proposals to make the labels easier for consumers to remove.

AHAM and Whirlpool commented that an amendment would be desirable, noting that labels may be especially difficult to remove after products have been stored for an extended period in a hot warehouse.[67] Whirlpool suggested a performance standard alone, but noted that if a specific figure for adhesion capacity were needed, twelve ounces per square inch would be sufficient.[68]

The Commission agrees that the current standard results in excessive label tenacity. Whirlpool's performance standard suggestion appears reasonable. However, to provide the industry with guidance as to a minimum peel adhesion capacity that would be sufficient to meet a performance standard, the Commission proposes changing the figure in the Rule from 24 ounces per inch width to 12 ounces. See section, H, proposed § 305.11(a)(4)(i).

The NPR also requested comment on a proposal, previously urged by The Maytag Company, that the Rule be amended to permit manufacturers of covered products to label only display models in retail outlets, so as to reduce labeling cost while still providing information to the public. The Commission interprets EPCA to require that a label containing the statutorily required energy usage information be affixed to all models of covered products, and accordingly the Rule requires each unit to be labeled.[69] Accordingly, comment was solicited in an effort to determine whether the Commission should submit a special report to Congress, recommending a change in legislation.[70]

The six comments addressing this issue opposed it.[71] The reason most commonly given was that it would be difficult, if not impossible, for manufacturers to keep track of which products were slated for display and would therefore have to be labeled. This would lead either to problems with labeling by manufacturers or with shifting the labeling burden to dealers.[72] CEEAL and Edison noted that consumers would be deprived of the opportunity to preserve labels for future reference if only display models were labeled.[73] AHAM and CEEAL also noted that computerized labeling technology has considerably reduced the burden of labeling.[74] Finally, AHAM noted that Maytag, which had made the suggestion, no longer favors it.[75] Given the commenters' unanimous opposition, the Commission proposes no action on this issue.

G. Directory Option for Water Heaters

Currently water heaters bear product-specific labels. The NPR solicited comments on a proposal to repeal the label requirement for water heaters and to adopt a directory option for providing energy usage information.

Of the six comments regarding this suggestion, only GAMA favored it. GAMA recommended that the Commission accept listing in the GAMA Directory as a complete substitute for labeling the product, contending that labels do not assist consumers in most purchases of water heaters because they are usually bought either as an emergency replacement of a leaking heater or in connection with the purchase of a new home. GAMA further argued that the standards set by NAECA 87 will achieve the level of efficiency that the labeling program was designed to attain and compress the ranges for these products.[76]

Ferrellgas was not opposed to the listing of energy usage information in a trade association directory as long as this information continues to be required on labels too.[77] The other four comments opposed reduced information on labels or complete replacement of labels by listing in a directory.[78] Both the American Gas Association and the Atlanta Gas Light Company contended that consumers use energy labels on water heaters in making their purchasing decisions, especially consumers who purchase water heaters directly from home building supply firms or national retail outlets.[79]

After weighing these comments, the Commission concludes that the Directory Option, as a substitute for labels, may not be appropriate for water heaters. The current water heater labeling requirements are, therefore, unchanged in this regard. GAMA's Directory can, of course, be a useful voluntary supplement to the labels, for those consumers and industry members who use it.

H. Energy Usage Descriptor on Labels

For five categories of appliances, the Rule requires that labels reflect the estimated annual dollar cost of operation for the product and the applicable range of comparable products.[80] This cost information is calculated by using the National Average Representative Unit Costs ("NARUCs") for energy that DOE develops and publishes annually in the **Federal Register**.[81] The Commission publishes ranges for covered products (except fluorescent lamp ballasts) annually in the **Federal Register** if the upper or lower limits change by 15% or more from the previously published ranges. If the ranges do not change, a notice that the prior range is still applicable for the next year is published.

The NPR solicited comment on a proposal to shift to alternate energy descriptors, which would remain constant. It suggested that the labels could reflect kilowatt-hours for electrically fueled products, therms for natural gas products, and gallons for oil-fueled water heaters; in the alternative, an energy factor could be used, similar to the EER for furnaces, room air conditioners and central air conditioners. With a kilowatt-hour, therm or gallon disclosure, the cost of operating the specific product can be calculated when the per kilowatt-hour, therm or gallon cost is known. This information is already contained in the cost grid for products that presently disclose energy usage in the form of an EER.

This Commission's resolution of these issues is discussed below in the context of the affected product categories.

1. Refrigerators, Refrigerator-Freezers and Freezers

The majority of the comments stated that the energy usage descriptor for this appliance category should be changed from annual operating cost to kilowatt-hours used per year (Kwh/yr).[82] AHAM and Whirlpool noted that changes in

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[67] AHAM, D–5, 11–12, Whirlpool, D–16, 22–23.

[68] D–16, 22–23.

[69] Section 324(c)(1) (42 U.S.C. 6294(c)(1)) states that "* * * a rule prescribed under this section shall require that *each* covered product in the type or class of covered products to which the rule applies bear a label which discloses * * *." (emphasis added).

[70] This procedure is permitted under section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)).

[71] CEEAL, E–1, 7; Edison; E–2, 2; NRECA, E–3, 2; AHAM, D–5, 12; Peerless, D–15, 2–3; Whirlpool, D–16, 23; WTU, D–17, 1.

[72] CEEAL, E–1, 7; AHAM; D–5, 12; Whirlpool, D–16, 23; WTU, D–17, 1.

[73] E–1, 7; E–2, 2.

[74] D–5, 12; E–1, 7.

[75] D–5, 12.

[76] D–8, 9–11.

[77] D–7, 1.

[78] CEEAL, E–1, 7; Alagasco, D–9, 2; AGA, D–11, 6–8; Atlanta Gas, D–13, 1.

[79] AGA, D–11, 7, Exhibit 1; Atlanta Gas, D–13, 1.

[80] These are refrigerators and refrigerator-freezers, freezers, dishwashers, clothes washers and water heaters.

[81] See section 323(b)(2) of EPCA (42 U.S.C. 6293(b)(2)). These energy cost figures are incorporated into § 305.9 of the Commission's Rule.

[82] AHAM, D-5, 5-8, 5; Whirlpool, D-16, 10–15, 14; see also CEEAL, E-1, 5–6 and NRECA, E-3, 1, 2. Two comments (NPGA, D-14, 1–3; and Alagasco, D-9, 1, 2) opposed changing the energy usage descriptor because they believe that a dollar descriptor is still the most meaningful way for consumers to compare similar appliance products.

DOE's national average energy costs can trigger revisions in the operating costs shown on the labels of certain models when the energy consumption has not changed. This can result in identical appliances having labels showing different costs of operation solely because of when they were manufactured.[83] CEEAL supported a change to energy used per year because, in its view, labels do not always change when NARUCs change. According to CEEAL, "The current average annual cost is simply a bad indicator of efficiency. Prices of fuel always change. Labels rarely change. Therefore, the consumer always has outdated information with which to make choices."[84]

The Commission proposes using KWH per year as the primary energy usage descriptor on labels for refrigerators, refrigerator-freezers and freezers. See proposed § 305.11(a)(5)(i)(E). Pursuant to EPCA, labels may disclose an alternate energy use figure, determined in accordance with DOE tests, if the Commission determines that estimated annual operating cost is not likely to assist consumers in making purchasing decisions or is not economically feasible. EPCA section 324(c)(1)(A)(ii), 42 U.S.C. 6294(c)(1)(A)(ii). For the reasons discussed in the comments and in the NPR,[85] it now appears to the Commission that use of a dollar figure as the primary descriptor of energy usage is not likely to assist consumers in making purchasing decisions, and may adversely affect the value of the labeling program. Although a Kwh/yr energy usage descriptor is more technical, its use would minimize label changes. For those consumers who want to use a dollar cost figure, the labels would still show a cost grid to supplement the KWH energy usage descriptor, which could alone be used for comparing models.

2. Clothes Washers and Dishwashers

Labels for clothes washers and dishwashers currently must contain two energy descriptors—one to show the cost of operation for each water-heating method (electricity or gas).[86] The labels appear more complicated because of these two cost-of-operation figures.

Most comments supported changing the energy usage descriptor for this category of appliances.[87] As with refrigerators, the comments favored changing the descriptor from annual operating cost to kilowatt-hour usage, this time in terms of use per cycle.[88] Whirlpool noted that the energy consumption reflected by a kilowatt-hour per cycle descriptor will allow consumers to make fair energy usage comparisons with less probability for confusion about the accuracy of annual operating costs of the products.[89] AHAM suggested changing the labels to show only the energy usage with electrically heated water, with a footnote showing how to calculate the percentage reduction in operating cost with gas-heated water.[90]

Because use of dollar costs for this product requires two energy use disclosures, and for the reasons discussed in the NPR,[91] the Commission concludes today that use of a dollar cost disclosure for these products is unlikely to assist consumers in making purchase decisions. Moreover, consumers would benefit from simplified labels and the use of alternative energy usage descriptors. Unfortunately, using energy used per cycle would require two disclosures and two sets of ranges, one showing KWH per cycle (to run the machine and heat the water) when an electric water heater is used, and one showing KWH (to run the machine) and therms of gas (to heat the water) per cycle when the product is used with a gas water heater. This approach would require two sets of ranges, as well.

Instead, the Commission proposes using an energy factor[92] as the alternative descriptor because it results in a simpler label with only one energy usage descriptor and range disclosure. See section H, proposed §§ 305.11(a)(5)(i)(E) through (J). The DOE test procedures assume, for purposes of calculating the energy factor, that the water used by the appliances is electrically heated. Accordingly, the procedures yield a single energy factor for a dishwasher or clothes disclosure, instead of two.[93] Below the energy factor comparable product range disclosures, the two cost grids that are on the present labels would be retained: One showing annual cost of operation with electrically heated water, and one for gas-heated water. Thus, this scheme should permit simple comparisons between similar models, and, with the two cost grids, would enable consumers to calculate annual operating costs and compare models on the basis of how their water is heated. Sample dishwasher labels reflecting this change are being published today to solicit comment on their format, as discussed in section III, D, below.

3. Water Heaters

The DOE test procedure for water heaters provides that the alternative energy usage descriptor for this category is an energy factor. The comments relating to water heaters were divided between keeping the estimated annual dollar cost of operation and switching to the energy factor.

CEEAL recommended using the energy factor on the general grounds that average annual cost is a poor indicator of efficiency.[94] GAMA expressed no preference (except for complete elimination of labels for water heaters (see section G, above).[95] Alagasco favored retaining the estimated annual operating cost, because the energy factors for DOE's three product classes of water heaters (gas, electric and oil) are so different that heaters from one class cannot be compared meaningfully with those in another.[96]

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[83] AHAM, D-5, 4-8; Whirlpool, D-16, 10–15.

[84] E-1, 5.

[85] The NPR noted that most appliance models change about every three years, whereas the DOE energy costs (NARUCs) change annually because of fuel cost changes. If the change affects the upper or lower limits of the ranges by 15% or more, new labels are required. As a result, a floor model may show an operating cost that is different from the cost noted on a newer unit delivered to a consumer's home (although their features are identical). For the same reason, two identical floor models, manufactured in different years, may display different costs. And, models with different features can have labels based on different cost features, making it unlikely that average consumers can compare their energy usage. When the ranges have changed by less than 15%, consumers who are familiar with energy cost information may think the cost information on the label is inaccurate, and will be unlikely to use the information in making purchasing decisions. Some industry members and consumer groups have reported that consumers are reacting to "out-of-date" labels by not using the information in their purchasing information. NPR, 53 FR 22110.

[86] Although the motors that power clothes washers and dishwashers run on electricity, the source of the energy used to heat the water they use could be either natural gas or electricity. When these products use water heated with natural gas, heating the water accounts for fifty percent of the energy consumed during testing. When they use electrically heated water, eighty percent of the energy used by the product is consumed in heating the water.

[87] AHAM, D–5, 5–8, 5, 6; Whirlpool, D–16, 10–15, 15; see also CEEAL, E–1, 5–6 and NRECA, E–3, 1, 2. One comment, (Alagasco, D–9, 1, 2), suggested that the Commission continue to use the dollar descriptor for this category because of the desirability of continuity in labeling practices.

[88] AHAM, D–5, 4–8; and Whirlpool, D–16, 10–15.

[89] D–16, 15.

[90] D–5, 5–6.

[91] See n. 85 above.

[92] A measure of the useful output of an appliance's services divided by the energy input. See foot note 8.

[93] AHAM also favored a single disclosure, as noted above, although it recommended kilowatt-hours per cycle. D–5, 5–6.

[94] E–1, 5, 7.

[95] D–8, 2, 11–12.

[96] D–9, 2.

For the reasons discussed at length in the NPR,[97] the Commission no longer believes that dollar disclosures of energy cost are likely to assist consumers in making purchasing decisions. See EPCA section 324(c)(1)(A)(ii), 42 U.S.C. 6294(c)(1)(A)(ii). The Commission proposes that the Rule instead require disclosure of the energy factor. The energy factor is already in use within the industry in the GAMA Directory, and is easily converted to estimated annual cost of operation if required.[98] It is true, as Alagasco noted, that use of energy factor alone would make accurate cross-fuel comparisons difficult. The Commission notes, however, that those consumers who wish to make cross-fuel comparisons would be able to do so on the basis of cost information in the simplified cost grids at the bottom of the recommended labels. Similarly, to the extent building contractors cross-fuel compare, they should be familiar with the energy factor disclosures and conversion tables in the GAMA Directory.

I. Proposal To Exempt Certain Unvented Heaters

DOE has published a final test procedure for unvented heaters, or "space heaters," using natural gas, propane and kerosene,[99] and the Commission must consider labeling these products.[100] These products are 100% efficient because they are not vented to the outside and all the heat produced as the result of fuel utilization remains in the area being heated. In addition, they are not major users of energy, compared to the products presently covered by the Rule. Since it appeared that comparative information on energy usage would not be very useful, the Commission requested comment on its proposal to exempt them from labeling.

Two comments addressed this subject. CEEAL supported requiring labels, contending that, even though the efficiency of the products is the same, the actual operating cost is important, and should be disclosed on labels in the form of a cost grid.[101] CEEAL also urged that such labels be required on products in the sub-category of vented space heaters.[102] GAMA contended that unvented gas space heaters should be exempted for the same reasons that the Commission exempted unvented electric space heaters. GAMA stated that, because unvented gas space heaters are all 100% efficient and are not major users of energy, "there are no possible economic benefits from labeling these products that could justify the very significant cost of labeling them."[103]

The Commission may exempt unvented heaters from labeling only if labeling would not be technologically or economically feasible. EPCA sections 324(a)(1) and 324(b)(5), 42 U.S.C. 6294(a)(1) and 6294(b)(5). Because all models are 100% efficient, and because there is no significant difference in operating cost among similarly sized models, labels disclosing costs would not help consumers make purchasing decisions.[104] Without the cost of labeling being offset by any significant benefit to consumers, labeling these products would not be economically feasible. The Commission therefore proposes exempting unvented heaters fueled by natural gas, propane and kerosene from the Rule.

III. Issues Not Raised in the NPR

A. Disclosure Program for Central Air Conditioners

In the course of its comments on other issues, Carrier requested that the Commission repeal the recently adopted requirement for product-specific labels on central air conditioners. Carrier contended that the Commission's original rationale for not requiring product-specific labels on furnaces is still valid for both furnaces and central air conditioners.[105] The Commission's reasoning for requiring product-specific labels for central air conditioners is described in the Statement of Basis and Purpose for the central air conditioner amendments.[106] Carrier's submission does not contain any new information that justifies reconsidering the Rule's requirements in this regard.

B. Minor Revisions To Make the Rule Current

1. Descriptions of Covered Products

Section 305.3 of the Rule—Description of Covered Products to Which this Part Applies—lists the products covered by the Rule along with definitions for them that, with three exceptions, repeat the definitions that appeared in the applicable DOE test procedures at the time the Rule was published in 1979.[107] During the years since the Rule's promulgation, however, there have been numerous technical modifications to DOE's definitions. In addition, there have been substantive changes to the DOE rules due to approval of test procedures for new product categories and adoption of a minimum efficiency standards pursuant to NAECA 87.[108] Because the Commission's Rule and DOE's test procedures and standards work in tandem to regulate the products enumerated in EPCA, the Commission proposes to update the Rule's definitions to establish as much consistency as possible and to avoid confusion and misunderstanding.

DOE's test procedures are found in 10 CFR part 430. Definitions for covered products appear in two areas of part 430. Section 430.2 of subpart A (General Provisions) contains definitions for all products listed in EPCA section 322(a), 42 U.S.C. 6292(a), as well as definitions for other pertinent terms. Most of the amendments proposed today are taken from these subpart A definitions. However, additional definitions appear in the definitions sections in the texts of the test procedures themselves, which are in subpart B. Some of these test procedure definitions are helpful in describing products covered by the Rule, and the Commission has included pertinent ones in today's amendments to the descriptions of covered

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[97] See n. 85 above.

[98] See GAMA, D–8, 11–12.

[99] 49 FR 12148 (March 28, 1984).

[100] In the original rulemaking, the Commission considered labeling the sub-category of electric unvented space heaters, for which DOE test procedures were available, and exempted these products. The Commission found that, because they all operate with virtually the same efficiency, the cost incurred by industry to implement a label disclosure requirement could not be economically justified. The cost of testing and labeling was found to be substantial and would increase the products' cost by about 3%. The evidence also did not indicate that labeling would enable consumers to make more informed purchasing decisions, because these products are all essentially 100% efficient in producing heat and operate with little variation in energy costs. 44 FR 66466, at 66468 (Nov. 19, 1979)

[101] CEEAL, E–1, 8.

[102] *Id.* The Commission exempted the category of vented heaters (all fuel types) during the original rulemaking proceeding. The Commission finds that the present record does not contain sufficient justification for reversing that decision. 44 FR 66466, at 66468 (Nov. 19, 1979).

[103] GAMA, D–8, 13.

[104] The Commission assumes that consumers understand that models that provide more heat cost more to operate.

[105] D–10, 2, 3. See, also, the discussion at note 45

[106] 52 FR 46888, 46891–2 (Dec. 10, 1987).

[107] The exceptions are the definitions for central air conditioners, pulse combustion and condensing furnaces and fluorescent lamp ballasts, which were either added or updated in connection with the rulemakings that were held when those products were brought under coverage. Coverage of central air conditioners and pulse combustion and condensing furnaces was announced on December 10, 1987 (52 FR 46888), and coverage of fluorescent lamp ballasts was announced on July 5, 1989 (54 FR 28031).

[108] For example, DOE has developed a test procedure for a new product category added by NAECA 87—pool heaters—and has developed test procedures for two new types of water heaters—instantaneous water heaters and heat pump water heaters. Those products will be addressed in a separate proceeding.

products.[109] The proposed amended sections to the section of the Rule describing covered products are in section H—proposed §§ 305.3 (a), (b), and (e) through (i). The Commission seeks comment on this proposal.

2. Determinations of Energy Usage

Section 305.5 of the Rule establishes references to the appropriate DOE test procedure that manufacturers must follow in determining the energy usage figures to be used in complying with the required disclosures. Because the Commission is proposing that the primary disclosure of energy usage now be in terms of kilowatt-hour use per year or energy factor instead of estimated annual operating cost, the wording in § 305.5 must be changed to reflect this recommendation. To accomplish this, the Commission proposes minor amendments to § 305.5. See section H, proposed § 305.5.

3. Determinations of Capacity

Section 305.7 of the Rule establishes the methodology for determining the capacity, or size, of covered products. This is accomplished by a general definition of capacity for each product followed by a reference to the specific section of the DOE test that contains the procedure for determining the capacity of the product. Because the DOE tests have been modified since these references were published in the Rule, the references are virtually all incorrect. To bring the references in § 305.7 into conformance with the current DOE rule, the Commission proposes amending § 305.7 so that the references are correct. See section H, proposed § 305.7.

C. Energy Efficiency Descriptors

Six comments suggested unsolicited modifications of the Rule's nomenclature for energy efficiency descriptors.[110] Currently, the Rule uses the single term "Energy Efficiency Rating (EER)." This provision was initially adopted so consumers could learn to recognize and associate it with energy efficiency measurement without being confused by a multiplicity of terms. Industry, however, describes the same rating with the terms "Energy Efficiency Ratio (EER)" for room air conditioners, "Annual Fuel Utilization Efficiency (AFUE)" for furnaces, "Seasonal Energy Efficiency Ratio (SEER)" for central air conditioners and the cooling side of heat pumps, and "Heating Seasonal Performance Factor (HSPF)" for the heating side of heat pumps.[111] These terms also are found in the DOE test procedures.

With one exception, the comments proposed changing the Rule's use of a single term, "EER," to the specific terms for each relevant product category used by the industry. Although "EER" is used on labels, fact sheets and in catalogs, industry still uses the other terms extensively, too. Thus, there is a potential for confusion. Moreover, comments suggested that people understand that the terms "AFUE", as used for furnaces,[112] and "SEER" as used for central air conditioners.[113] GAMA and ARI, however, suggested using a new term, "Efficiency Rating (ER)," and noting on labels that it refers to the AFUE or SEER, as appropriate.[114]

Rather than creating a new term, as GAMA and ARI suggest, the Commission proposes permitting disclosure of the descriptors that are commonly used by the industry and referenced in the DOE tests. Thus, the proposed amendments to § 305.2(i) of the Rule allow the use of the product-specific terms.

D. New Energyguide Label Format

1. Background

As discussed in section II, D, 4, above, the NPR sought comment on possible alternatives to dollar energy usage figures on labels, such as kilowatt-hour, therm or gallon usage or energy factor. In preparing sample labels to display the recommended new descriptors, the Commission realized that more changes to the labels would be necessary than it had originally anticipated. For example, explanatory language would have to be included for such terms as "energy factor" and "kilowatt-hours per year." In addition, major adjustments in graphic design would have to be made to accommodate the proposal for a single energy factor descriptor for clothes washers and dishwashers, instead of two separate dollar descriptors (depending on whether a gas or electric water heater is used).

Because even the minimum number of changes that could result from these proposed amendments would require re-designing all current labels, the Commission is taking this opportunity to propose simplifying the presentation of the required information and making the labels more "user-friendly." This change is responsive to consumer research conducted by the Department of Energy in 1984 and 1985 that suggested that the current label format could benefit from simplification.[115]

In consultation with the Department of Energy's Office of Codes and Standards, the Commission enlisted a graphics design professional to prepare prototype labels. The prototypes use three different modes of presentation for the energy usage information required by the Rule—a bar graph, a vertical graph and the current horizontal graph configuration.

2. Consumer Research

The Commission conducted exploratory consumer research on the three alternative modes of energy use presentation for dishwasher labels, to obtain a preliminary indication of which communicated best to consumers. The research project involved 120 shopping mall consumers. The study showed consumers preferred the bar graph format over the other two (as well as over the current format), with the vertical format a fairly close second choice. The Commission has put the results of the study on the rulemaking record so commenters may read them before commenting on the proposed labels.

The study also showed that many consumers, when presented each of the labels, were not sure what the term "energy factor" meant. The labels explain that energy factor means a measure of energy use for dishwashers, and that higher means more efficient. This simple explanation seems sufficient for the labels. In addition, consumers have already become familiar with EER disclosures for climate control equipment, with respect to which "higher is better." However, after the consumer research, the prototype bar format label was revised slightly to make the definition more noticeable. Any further suggestions about how to communicate this information are welcome.

3. Issue Regarding Bar Graph Format

With the horizontal bar label format and the prototype vertical bar label format, the length of the bar that shows the range of comparability is the same on all the labels. With the prototype bar-graph label format (as shown to the consumers at the mall), each end of the range continuum is represented by a separate bar. These two bars are of different heights that are relative to each other and to the third bar representing

[109] See section H, proposed § 305.3(a)(2)—"All-refrigerator", § 305.3(c)—"Water Heating Dishwasher", and §§ 305.3(h) (4) and (5)—"Single package unit" and "Split system".

[110] CEEAL, E–1, 4; Edison, E–2, 1–2; NRECA, E–3, 2; GAMA, D–8, 7; WTU, D–17, 1; and ARI, D–12, 3.

[111] Section 305.2(i).

[112] CEEAL, E–1, 4; NRECA, E–3, 2; Edison, E–2, 1–2; and WTU, D–17, 1.

[113] Edison, E–2, 1–2; WTU, D–17, 1.

[114] GAMA, D–8, 7; ARI, D–12, 3.

[115] The DOE research has been placed on the rulemaking record.

the energy usage of the labeled model. But, the bars do not have a prescribed height. This format leaves room for labels with graphs that show bars of slightly different heights, which could affect the consistency of presentation among manufacturers.

To avoid confusing or misleading presentations, one possibility is to require that the three-bar graph be presented against a grid background, and to require that the high end consistently occupy the full height of the graph and the low end come up only to the first line in the grid. The fourth sample dishwasher label (Sample 4) reflects this proposal as well as the revised location of the energy factor definition. This label is also slightly larger than the presently required labels. The Commission also requests suggestions for other approaches to the bar graph issue and whether the Rule's dimension requirements for labels should be changed.

4. Issues on Which Comment Is Sought

The following four questions request comment on how consumers perceive, understand and use information on energy efficiency. The Commission is particularly interested in how well various formats actually help consumers determine the relative efficiency of particular products. Reports of consumer research studies will be especially helpful.

1. The Commission is proposing that the energy factor be used as the primary energy usage descriptor for dishwashers, clothes washers and water heaters. The Commission seeks comment on how the term "energy factor" would be perceived, understood and used by consumers.

a. Is the explanation of this term on the proposed labels adequate? What different language on the new labels could explain this term better?

b. Should a different term, like, for example, "energy efficiency rating (EER)" or "E-value" be used instead of "energy factor" on labels that disclose the energy factor?

2. The Commission is proposing that kilowatt-hour use per year be used as the primary energy usage descriptor for refrigerators, refrigerator-freezers and freezers. The Commission seeks comment on how the term "kilowatt-hour use per year" is perceived, understood and used by consumers. Should this term be defined or explained on the proposed labels, and, if so, how?

3. The Commission is proposing that labels for refrigerators, refrigerator-freezers and freezers, dishwashers, clothes washers, water heaters, and room air conditioners contain cost grids to enable consumers to determine the estimated annual operating cost of the product. One element of these cost grids would be a range of costs for the fuels used by the product (electricity, natural gas, etc.). The Commission seeks comment on what cost figures and what cost figure intervals would be appropriate for the labels for these various appliances. The Commission is particularly interested in how easy it is for consumers to use the cost grid to compare the relative costs of alternative products.

4. The Commission solicits comment on how well the proposed new labels communicate the required information, how consumers will actually use various formats, whether the cost to industry are justified by the improvement in communication, and any further suggestions for improving their design.

E. Past Effective Dates

Since the Rule was first published in 1979, the effective dates for its requirements have been codified in § 305.18. The effective dates for reporting requirements have also appeared separately in § 305.8(a). Because of various amendments to the Rule over the years, there are now many different effective dates recited in § 305.18 and, to a lesser extent, § 305.8(a). The Commission finds that their continued inclusion in the codified version of the Rule is of questionable value. Commission staff has been informed by legal staff at the offices of the Federal Register that inclusion of these effect dates in the Rule as codified in the Code of Federal Regulations is at the Commission's option, and that their deletion will have no substantive effect on the Rule. The actual effective dates, if of historical interest to anyone, could still be found in the **Federal Register** notices that were issued each time a provision was amended. The Commission proposes, therefore, to delete § 305.18 entirely and to eliminate the effective dates in § 305.8(a), to simplify and reduce printing costs. See section H, proposed §§ 305.8(a), 305.18 and 305.19 (which would be renumbered 305.18).

Section A: Invitation to Comment

All interested persons are hereby notified that they may comment on any issue of fact, law or policy that may have bearing upon the proposed amendments. As all matters discussed in part II previously have been subject to comment, the Commission requests that comments with regard to the matters there discussed be in the nature of rebuttal comments identifying analytical flaws or misunderstandings, rather than repetitions of earlier comments. Written comments should be addressed to Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, DC 20580; they will be accepted until April 19, 1993. To assure prompt consideration, comments should be identified as "Appliance Labeling" and furnished, when feasible and not burdensome, in five copies.

All comments should be referenced to either the Commission's questions or the section of the proposed rules being discussed. The Commission requests that commenters provide representative factual data, in lieu of anecdotal experiences. Individual firms' experiences are relevant to the extent they typify industry experience, in general, or that of similar-sized firms.

Comments opposing the proposed rules or specific provisions should, if possible, suggest a specific alternative. Proposals for alternative regulations should include reasons and data that indicate why the alternatives would better serve the purposes of the proposed rules. Comments should be supported by a full discussion of all relevant facts and/or be based directly on firsthand knowledge, personal experience or general understanding of the particular issues addressed by the proposed rules.

Before adopting these proposed rules as final rules, consideration will be given to any written comments timely submitted to the Presiding Officer and, if a hearing is held on the EnergyGuide label format issue discussed in III, D, above, on the record of that hearing, as well. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and Commission Regulations, on normal business days between the hours of 8:30 a.m. to 5 p.m. at the Public Reference Room 130, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, DC 20580.

Section B: Public Hearings

Persons desiring a public hearing on the proposed EnergyGuide label format amendments should notify the Presiding Officer by no later than March 25, 1993. If there is interest in a hearing, it will take place in room 532 of the Federal Trade Commission, Pennsylvania Avenue at Sixth Street, Northwest, Washington, DC., at a time and date that will be announced in a subsequent notice.

If a hearing is held, persons desiring to testify will be required to submit to the Presiding Officer a complete

statement in advance. This will be entered into the record in full. Proposed testimony should be limited to the EnergyGuide label format issue discussed in III, D, above. As a general rule, oral statements should not exceed ten minutes. There will be no opportunity for interested persons to cross-examine witnesses. Further instructions to witnesses will be contained in the notice announcing the hearing.

Section C: Motions or Petitions

Any motions or petitions in connection with this proceeding must be filed with Henry B. Cabell, the Presiding Officer, who is responsible for the orderly conduct of the proceeding and who shall have all powers necessary to that end, including the authority to rule on all motions or petitions filed. Applications for review of a ruling will not be entertained by the Commission prior to its review of the record unless the Presiding Officer certifies in writing to the Commission that a ruling involves a controlling question of law or policy as to which there is substantial ground for difference of opinion and that an intermediate review of the ruling may materially advance the ultimate termination of the proceeding or that subsequent review will be an inadequate remedy.

Section D: Post Comment Period or Hearing Procedures; Communications by Outside Parties to Commissioners or Their Advisors

Interested persons will be afforded 20 days after the close of the hearing, or the close of the comment period if no hearing is held, to file rebuttal submissions, which must be based only upon identified, properly cited matters already in the record. The Presiding Officer will reject all submissions that are essentially additional written comments, rather than rebuttal. If a hearing is held the 20-day rebuttal period will commence when the hearing transcript is placed on the public record by the Presiding Officer. After the rebuttal period, staff will analyze the evidence on the record and submit a recommendation for the final rule.

Pursuant to Commission Rule 1.26(b)(5), communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner advisor during the course of this rulemaking shall be subject to the following treatment. Written communications, including written communications from members of Congress, shall be forwarded promptly to the Secretary for placement on the public record. Oral communications, not including oral communications from members of Congress, are permitted only when such oral communications are transcribed verbatim or summarized at the discretion of the Commissioner or Commissioner advisor to whom such oral communications are made and are promptly placed on the public record, together with any written communications and summaries of any oral communications relating to such oral communications. Oral communications from members of Congress shall be transcribed or summarized at the discretion of the Commissioner or Commissioner advisor to whom such oral communications are made and promptly placed on the public record, together with any written communications and summaries of any oral communications relating to such oral communications.

Section E: Metric Usage

Section 205b of the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act,[116] expresses Congressional policy regarding measurement systems. This Act states that the metric measurement system is the preferred system of weights and measures in the United States. It also requires federal agencies to use the metric system of measurement in all procurements, grants and other business-related activities (which include rulemakings), except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms. These requirements are expressed in Executive Order 12770 of July 25, 1991.[117]

The Commission has identified three areas of the Rule with respect to which there is a potential for use of metric terms—either in place of or in addition to inch-pound measurements. One is exclusively a Commission requirement. The other two pertain to the Rule's requirements that are dependent on the DOE test procedures.

First, the Rule specifies dimensions for the EnergyGuide label in inches and picas. See § 305.11(a). The Commission solicits comment on whether the Rule should specify the dimensions in metric or dual terms, or remain unchanged.

Second, the required capacity descriptors for some products are currently in inch-pound measurement: Cubic feet for refrigerators, refrigerator-freezers and freezers, Btus for climate control products and first hour rating in gallons for water heaters. Manufacturers of these products are required to submit data annually to the Commission about the energy efficiency or usage of their products categorized in these capacity descriptors. The data reported to the Commission are based on tests conducted according to DOE requirements. These data then form the basis for the EnergyGuides that appear on each covered product. See §§ 305.7 and .8. The Commission solicits comment on whether to leave the present requirements unchanged, or to require these data to be reported to the Commission and/or disclosed on EnergyGuide in metric or in dual terms.

Third, the cost grids on EnergyGuides for clothes washers, dishwashers and water heaters, show, as one factor of the grid, a fuel cost expressed in terms of kilowatt-hours for electricity, therms for natural gas and gallons for heating oil. See appendices C, D and F The Commission solicits comment on whether to require metric or dual disclosures, or to leave the present requirements unchanged.

Specifically, are the companies that would be affected sophisticated enough in the use of measurement systems that requiring the metric only or dual disclosures discussed above would not be burdensome? Are consumers knowledgeable enough about metric measurement that metric only or dual disclosures would be appropriate or EnergyGuides? Would the use of dual disclosures on EnergyGuides serve an educational function by increasing consumers' knowledge of the metric system? Would the requirement of metric only or dual disclosures be impractical or likely to cause significant inefficiencies or loss of markets to United States firms? Are there other areas of the Rule that could be affected by this requirement?

Section F: Regulatory Flexibility Act

In the NPR, the Commission concluded preliminarily that the provisions of the Regulatory Flexibility Act relating to an initial regulatory analysis[118] were not applicable to the proposed amendments because the amendments, if promulgated, would not have a significant economic impact on a substantial number of small entities.[119] The Commission noted that its conclusion was based on information presently available and requested comment on the subject. No comments were received bearing directly on this issue. The Commission has no reason to believe, therefore, that the amendments proposed today would have a significant

[116] 15 U.S.C. 205b.

[117] 56 FR 35801 (July 29, 1991).

[118] 5 U.S.C. 603–604.

[119] 5 U.S.C. 605.

economic impact on a substantial number of small entities. In fact, the Commission believes, as discussed below, that the amendments would not have a significant economic impact.

The amendments relating to energy usage disclosures for furnaces would not have a significant impact because the two proposed changes are likely to offset each other in terms of cost and burden. To the extent that manufacturers would have to prepare the product-specific labels, instead of the labels presently required, they would incur somewhat greater administrative and printing expenses. This would be offset, to some extent, by the fact that they would be able to avail themselves of the option to disclose required information in an industry directly and not prepare fact sheets. Overall, the Commission expects that there would most likely be a reduction of expense to firms of all sizes, primarily because of lower printing costs.

The amendments relating to the creation of new range subcategories for furnaces, room air conditioners and refrigerators, refrigerator-freezers and freezers would not have a significant impact because the amendments impose few, if any, additional costs and would have the same impact on all affected industry members. In addition, the fact that these products would now be categorized in accordance with the subdivisions in DOE's minimum efficiency standards program would make it administratively easier for the affected organizations because they would not have to arrange compliance with two sets of similar, but inconsistent, regulations.

Finally, the amendments relating to the use of different label format and different energy usage descriptors on labels would not have a significant impact. Although there would be a small initial cost in changing current labels, the cost is likely to be offset in future years became fewer annual label changes are likely to be required with the use of the new descriptors which, unlike dollar descriptors, would not be subject to annual changes.

Because it appears, on the basis of evidence presently available, that these changes, if promulgated, would not be likely to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act and the rules implementing it, the Commission tentatively concludes that a regulatory analysis is unnecessary. In light of the above, the Commission certifies, under the provisions of section 5 of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that the proposed regulations, if promulgated, would not have a significant economic impact on a substantial number of small entities.

The Commission requests, however, information on whether the proposed amendments would have a significant impact on a substantial number of small entities. After reviewing any comments received on this subject, the Commission will decide whether the preparation of a final regulatory flexibility analysis is appropriate.

Section G: Paperwork Reduction Act

In the NPR, the Commission stated that the Rule contains disclosure and reporting requirements that constitute "information collection requirements" as defined by 5 CFR 1320.7(c), the rule implementing the Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501–3520. The Commission noted that, because of this, the Rule was reviewed in 1984 by the Office of Management and Budget ("OMB") and assigned OMB Control No. 3084–0069.

Because the changes proposed in the NPR would modify existing labeling requirements, they were submitted to OMB for review as required by § 1320.13 of the PRA rules. The Supporting Statement submitted to OMB estimated that the adoption of the proposed amendments would reduce the paperwork burden of the Rule by 6,500 burden hours, or approximately 5%. This reduction would have been due primarily to allowing furnace manufacturers to use the directory option instead of distributing fact sheets. The NPR solicited comment on the information collection aspects of the proposed amendments. No substantive comments were received on this subject.

Since the NPR was published, however, the Supreme Court issued a decision that limits the application of the concept of information collection in the PRA and rules. In *Dole v. Steelworkers*, the Court held that the scope of the terms "information collection request" and "collection of information" in the PRA and rules are limited to reporting and recordkeeping requirements and do not include disclosure requirements.[120] This is a narrower view that that heretofore held by OMB, which has interpreted the terms as including disclosure requirements.

Since the labeling provisions of the Commission's Rule are clearly disclosure requirements, those amendments that affect them will not require OMB review or clearance, as a result of the decision. Moreover, since there are no amendments that affect either the reporting or recordkeeping requirements of the Rule, there is no longer any need to make any submission to OMB in connection with this proceeding.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Section H: Proposed Amendments

1. The authority citation for part 305 continues to read as follows:

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619) (1978), the National Appliance Energy Conservation Act (Pub. L. 100–12) (1987), and the National Appliance Energy Conservation Amendments of 1988 (Pub. L. 100–357) 1988, 42 U.S.C. 6294; section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

PART 305—[AMENDED]

2. It is proposed that part 305 of 16 CFR be amended by revising § 305.1(a) to read as follows:

§ 305.1 Scope of the regulations in this part.

* * * * *

(a) Labeling the products with information indicating their operating cost or different useful measure of energy consumption, and related information, or their compliance with applicable standards under section 325 of the Energy Policy and Conservation Act, 42 U.S.C. 6295.

* * * * *

3. Further, it is proposed that § 305.2 (h) through (j) of 16 CFR be revised to read as follows:

§ 305.2 Definitions.

* * * * *

(h) *Energy factor* and *kilowatt-hour use per year.*

(1) *Energy factor* for dishwashers shall be expressed in terms of cycles per kilowatt-hour, as determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293). "Energy factor" for clothes washers shall be expressed in terms of the cubic foot capacity of the clothes container divided by the energy consumption per cycle, as determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293). "Energy factor" for

[120] 110 S. Ct. 929 (1990). "If 'reporting and recordkeeping requirement' is understood to be analogous to the examples surrounding it, the phrase would comprise only rules requiring information to be sent or made available to a federal agency, not disclosure rules." *Id.* at 935.

water heaters shall be expressed in terms of the incremental increase of the heat content of the water withdrawn divided by the energy consumed by the water heater, as determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293).

(2) *Kilowatt-hour use per year* means the energy consumed during a test cycle, expressed in kilowatt-hours, times the prescribed representative annual number of cycles, as determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293).

(i) *Energy efficiency rating*, in this part, means the following product-specific energy usage descriptors: "Annual fuel utilization efficiency" for furnaces; "energy efficiency ratio" for room air conditioners; "seasonal energy efficiency ratio" for the cooling function of central air conditioners and heat pumps; and, "heating seasonal performance factor" for the heating function of heat pumps, as all four descriptors are determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293). These product-specific energy usage descriptors may be used in satisfying all the requirements of this part.

(j) *Range of energy factors* or *range of kilowatt-hour uses per year* means the range of energy factors or kilowatt-hour uses per year of all models within a designated range of comparability.

* * * * *

4. Further, it is proposed that § 305.3(a) of 16 CFR be revised to read as follows:

§ 305.3 Description of covered products to which this part applies.

(a) Refrigerators and refrigerator-freezers.

(1) *Electric refrigerator* means a cabinet designed for the refrigerated storage of food at temperatures above 32 °F., and having a source of refrigeration requiring single phase, alternating current electric energy input only. An electric refrigerator may include a compartment for the freezing and storage of food at temperatures below 32 °F., but does not provide a separate low temperature compartment designed for the freezing storage of food at temperatures below 8 °F.

(2) *Electric refrigerator-freezer* means a cabinet which consists of two or more compartments with at least one of the compartments designed for the refrigerated storage of food at temperatures above 32 °F. and with at least one of the compartments designed for the freezing and storage of food at temperatures below 8 °F. which may be adjusted by the user to a temperature of 0 °F. or below. The source of refrigeration requires single phase, alternating current electric energy input only.

(2) *All-refrigerator* means an electric refrigerator which does not include a compartment for the freezing and long time storage of food at temperatures below 32 °F. (0.0 °C.). It may include a compartment of 0.50 cubic capacity (14.2 liters) or less for the freezing and storage of ice.

* * * * *

§ 305.3 [Amended]

5. Further, it is proposed that § 305.3(b) of 16 CFR be revised to read as follows:

* * * * *

(b) *Freezer* means a cabinet designed as a unit for the freezing and storage of food at temperatures of 0 °F. or below, and having a source of refrigeration requiring single phase, alternating current electric energy input only.

* * * * *

§ 305.3 [Amended]

6. Further, it is proposed that § 305.3 of 16 CFR be amended by adding of the following paragraph (c)(1), to read as follows:

* * * * *

(c) * * *

(1) *Water Heating Dishwasher* means a dishwasher which is designed for heating cold inlet water (nominal 50 °F.) or a dishwasher for which the manufacturer recommends operation with a nominal inlet water temperature of 120 °F. and may operate at either of these inlet water temperatures by providing internal water heating to above 120 °F. in at least one wash phase of the normal cycle.

(2) [Reserved]

* * * * *

§ 305.3 [Amended]

7. Further, it is proposed that § 305.3(e) of 16 CFR be revised to read as follows:

* * * * *

(e) *Room air conditioner* means a consumer product, other than a packaged terminal air conditioner, which is powered by a single phase electric current and which is an encased assembly designed as a unit for mounting in a window or through the wall for the purpose of providing delivery of conditioned air to an enclosed space. It includes a prime source of refrigeration and may include a means for ventilating and heating.

* * * * *

§ 305.3 [Amended]

8. Further, it is proposed that § 305.3(f) introductory text of 16 CFR be revised to read as follows:

* * * * *

(f) *Clothes washer* means a consumer product designed to clean clothes, utilizing a water solution of soap and/or detergent and mechanical agitation or other movement, and must be one of the following classes: Automatic clothes washers, semi-automatic clothes washers, and other clothes washers.

* * * * *

§ 305.3 [Amended]

9. Further, it is proposed that § 305.3(g) of 16 CFR be revised to read as follows:

* * * * *

(g) Furnaces.

(1) *Furnace* means a product which utilizes only single-phase electric current, or single-phase electric current or DC current in conjunction with natural gas, propane, or home heating oil, and which—

(i) Is designed to be the principal heating sources for the living space of a residence;

(ii) Is not contained within the same cabinet with a central air conditioner whose rated cooling capacity is above 65,000 Btu per hour;

(iii) Is an electric central furnace, electric boiler, forced-air central furnace, gravity central furnace, or low pressure steam or hot water boiler; and

(iv) Has a heat input rate of less than 300,000 Btu per hour for electric boilers and low pressure steam or hot water boilers and less than 225,000 Btu per hour for forced-air central furnaces, gravity central furnaces, and electric central furnaces.

(2) *Electric central furnace* means a furnace designed to supply heat through a system of ducts with air as the heating medium, in which heat is generated by one or more electric resistance heating elements and the heated air is circulated by means of a fan or blower.

(3) *Forced air central furnace* means a gas or oil burning furnace designed to supply heat through a system of ducts with air as the heating medium. The heat generated by combustion of gas or oil is transferred to the air within a casing by conduction through heat exchange surfaces and is circulated through the duct system by means of a fan or blower.

(4) *Gravity central furnace* means a gas fueled furnace which depends primarily on natural convection for circulation of heated air and which is designed to be used in conjunction with a system of ducts.

(5) *Electric boiler* means an electrically powered furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 pounds per square inch gauge (psig) steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250 °F. water temperature.

(6) *Low pressure steam or hot water boiler* means an electric, gas or oil burning furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 pounds psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250 °F. water temperature.

(7) *Outdoor furnace or boiler* is a furnace or boiler normally intended for installation out-of-doors or in an unheated space (such as an attic or a crawl space).

(8) *Weatherized warm air furnace or boiler* means a furnace or boiler designed for installation outdoors, approved for resistance to wind, rain, and snow, and supplied with its own venting system.

* * * * *

§ 305.3 [Amended]

10. Further, it is proposed that § 305.3(h) introductory text and paragraphs (b)(3) through (5) of 16 CFR be revised to read as follows:

* * * * *

(h) *Central air conditioner* means a product, other than a packaged terminal air conditioner, which is powered by single phase electric current, air cooled, rated below 65,000 Btu per hour, not contained within the same cabinet as a furnace, the rated capacity of which is above 225,000 Btu per hour, and is a heat pump or a cooling only unit.

* * * * *

(3) *Evaporator coil* means a component of a central air conditioner which is designed to absorb heat from an enclosed space and transfer the heat to a refrigerant.

(4) *Single package unit* means any central air conditioner in which all the major assemblies are enclosed in one cabinet.

(5) *Split system* means any central air conditioner in which one or more of the major assemblies are separate from the others.

* * * * *

§ 305.3 [Amended]

11. Further, it is proposed that § 305.3(i) of 16 CFR be revised to read as follows:

* * * * *

(i) *Heat pump* means a product, other than a packaged terminal heat pump, which consists of one or more assemblies, powered by single phase electric current, rated below 65,000 Btu per hour, utilizing an indoor conditioning coil, compressor, and refrigerant-to-outdoor air heat exchanger to provide air heating, and may also provide air cooling, dehumidifying, humidifying, circulating, and air cleaning.

* * * * *

12. Further, it is proposed that the introductory text by § 305.5 of 16 CFR be revised to read as follows:

§ 305.5 Determinations of estimated annual operating cost, kilowatt-hour use per year, energy factor, and energy efficiency rating.

Procedures for determining the estimated annual energy costs, the kilowatt-hour use per year, the energy factor, the energy efficiency rating and the power and efficacy factors of covered products are those found in 10 CFR part 430, subpart B, in the following sections:

* * * * *

13. Further, it is proposed that § 305.7 of 16 CFR be revised to read as follows:

§ 305.7 Determinations of capacity.

The capacity of covered products shall be determined as follows:

(a) Refrigerators and refrigerator-freezers. The capacity shall be the adjusted total volume in cubic feet, rounded to the nearest one-tenth of a cubic foot, as determined according to appendix A1 to 10 CFR part 430, subpart B.

(b) Freezers. The capacity shall be the adjusted total volume in cubic feet, rounded to the nearest one-tenth of a cubic foot, as determined according to appendix B1 to 10 CFR part 430, subpart B.

(c) Dishwashers. The capacity shall be the place-setting capacity, determined according to appendix C to 10 CFR part 430, subpart B.

(d) Water heaters. The capacity shall be the first hour rating, as determined according to appendix E to 10 CFR part 430, subpart B.

(e) Room air conditioners. The capacity shall be the cooling capacity in Btu's per hour, as determined according to appendix F to 10 CFR part 430, subpart B, but rounded to the nearest value ending in hundreds that will satisfy the relationship that the value of EER used in representations equals the rounded value of capacity divided by the value of input power in watts. If a value ending in hundreds will not satisfy this relationship, the capacity may be rounded to the nearest value ending in 50 that will.

(f) Clothes washers. The capacity shall be the tub capacity, rounded to the nearest gallon, as determined according to appendix J to 10 CFR part 430, subpart B, in the terms "standard" or "compact" as defined in appendix J.

(g) Furnaces. The capacity shall be the heating capacity in Btu's per hour, rounded to the nearest 1,000 Btu's per hour, as determined according to appendix N to 10 CFR part 430, subpart B.

(h) Central air conditioners, cooling. The capacity shall be the cooling capacity in Btu's per hour, as determined according to appendix M to 10 CFR part 430, subpart B, rounded to the nearest 100 Btu's per hour for capacities less than 20,000 Btu's per hour; to the nearest 200 Btu's per hour for capacities between 20,000 and 37,999 Btu's per hour; and to the nearest 500 Btu's per hour for capacities between 38,000 and 64,999 Btu's per hour.

(i) Central air conditioners, heating. The capacity shall be the heating capacity in Btu's per hour, as determined according to appendix M to 10 CFR part 430, subpart B, rounded to the nearest 100 Btu's per hour for capacities less than 20,000 Btu's per hour; to the nearest 200 Btu's per hour for capacities between 20,000 and 37,999 Btu's per hour; and to the nearest 500 Btu's per hour for capacities between 38,000 and 64,999 Btu's per hour.

(j) Fluorescent lamp ballasts. The capacity shall be the ballast input voltage, as determined according to appendix Q to 10 CFR part 430, subpart B.

14. Further, it is proposed that § 305.8(a) of 16 CFR be revised to read as follows:

§ 305.8 Submission of data.

(a) Each manufacturer of a covered product, except manufacturers of fluorescent lamp ballasts, shall submit annually to the Commission a report listing the kilowatt-hour use per year (for refrigerators, refrigerator-freezers and freezers), the energy factor (for clothes washers, dishwashers and water heaters) or the energy efficiency rating (for room air conditioners, central air conditioners, heat pumps and furnaces) for each basic model in current production, determined according to § 305.5 and statistically verified according to § 305.6. The report must also list, for each basic model in current production: the model numbers for each basic model; the total energy consumption, determined in accordance

with § 305.5, used to calculate the kilowatt-hour per year, energy factor, or energy efficiency rating; the number of tests performed; and, its capacity, determined in accordance with § 305.7. For those models that use more than one energy source or more than one cycle, each separate amount of energy consumption or energy cost, measured in accordance with § 305.5, shall be listed in the report. Appendix J illustrates a suggested reporting format. Starting serial numbers or other numbers identifying the date of manufacture of covered products shall be submitted whenever a new basic model is introduced on the market. Each manufacturer of a covered fluorescent lamp ballast shall submit annually to the Commission a report for each basic model of fluorescent lamp ballast in current production. The report shall contain the following information:

(1) Name and address of manufacturer;

(2) All trade names under which the fluorescent lamp ballast is marketed;

(3) Model number;

(4) Starting serial number, date code or other means of identifying the date of manufacture (date of manufacture information must be included with only the first submission for each basic model);

(5) Nominal input voltage and frequency;

(6) Ballast efficacy factor; and,

(7) Type (F40T12, F96T12 or F96T12HO) and number of lamp or lamps with which the fluorescent lamp ballast is designed to be used.

* * * * *

15. Further, it is proposed that § 305.9(b) of 16 CFR be amended by removing the second sentence.

16. Further, it is proposed that § 305.10 of 16 CFR be revised to read as follows:

§ 305.10 Ranges of energy factors, kilowatt-hour uses per year and energy efficiency ratings.

(a) The range of energy factors, kilowatt-hour uses per year or energy efficiency ratings for each covered product (except fluorescent lamp ballasts) shall be taken from the appropriate appendix to this rule in effect at the time the labels are affixed to the product. The Commission shall publish revised ranges annually in the **Federal Register**, if appropriate, or a statement that the specific prior ranges are still applicable for the new year. Ranges will be changed if the energy factors, kilowatt-hour uses per year or energy efficiency ratings of the products within the range change in a way that would alter the upper or lower energy factor, kilowatt-hour use per year or energy efficiency rating limits of the range by 15% or more from that previously published. When a range is revised, all information disseminated after 90 days following the publication of the revision shall conform to the revised range. Products that have been labeled prior to the effective date of a modification under this section need not be relabeled.

(b) When the energy factor, kilowatt-hour use per year or energy efficiency rating of a given model of a covered product falls outside the limits of the current range for that product, which could result from the introduction of a new or changed model, the manufacturer shall:

(1) Omit placement of such product on the scale, and

(2) Add one of the three sentences below, as appropriate, in the space just below the scale, as follows:

The energy factor of this model was not available at the time the range was published.

The kilowatt-hour use per year of this model was not available at the time the range was published.

The energy efficiency rating of this model was not available at the time the range was published.

17. Further, it is proposed that § 305.11(a)(2)(i) of 16 CFR be revised to read as follows:

§ 305.11 Labeling for covered products.

(a) * * *

(2) * * *

(i) Numerals indicating "highest" and "lowest" energy factor, kilowatt-hour use per year or energy efficiency rating.

* * * * *

§ 305.11 [Amended]

18. Further, it is proposed that § 305.11(a)(4)(i) of 16 CFR be revised to read as follows:

(a) * * *

(4) Paper stock—(i) *Adhesive labels.* All adhesive labels should be applied so they can be easily removed without the use of tools or liquids, other than water, but should be applied with an adhesive with an adhesion capacity sufficient to prevent their dislodgement during normal handling throughout the chain of distribution to the retailer or consumer. The paper stock for pressure-sensitive or other adhesive labels shall have a basic weight of not less than 58 pounds per 500 sheets (25" x 38") or equivalent, exclusive of the release liner and adhesive. A minimum peel adhesion capacity for the adhesive of 12 ounces per square inch is suggested, but not required, if the adhesive can otherwise meet the above standard. The pressure-sensitive adhesive shall be applied in no fewer than two strips not less than 0.5 inches wide. The strips shall be within 0.25 inches of the opposite edges of the label. For a "flap-tag" label, the pressure-sensitive adhesive shall be applied in one strip not less that 0.5 inches wide. The strip shall be within 0.25 inches of the top edge of the label.

* * * * *

§ 305.11 [Amended]

19. Further, it is proposed that the second sentence of § 305.11(a)(5)(i)(A) of 16 CFR be removed.

§ 305.11 [Amended]

20. Further, it is proposed that §§ 305.11(a)(5)(i)(E) through (H) and (J) of 16 CFR be revised to read as follows:

(a) * * *

(5) * * *

(i) * * *

(E) Energy factor for clothes washers, dishwashers and water heaters, kilowatt-hour use per year for refrigerators, refrigerator-freezers and freezers and energy efficiency ratio for room air conditioners are as determined in accordance with § 305.5.

(F) Ranges of comparability and of energy factors, kilowatt-hour uses per year and energy efficiency ratings, as applicable, are found in section 1 of the appropriate appendices accompanying this part.

(G) Placement of the labeled product on the scale shall be proportionate to the lowest and highest energy factors, kilowatt-hour uses per year or energy efficiency ratings forming the scale.

(H) Yearly Cost text and tables are found in section 2 of the appropriate appendices accompanying this part. Revised appendices will be published by the Commission whenever necessary.

* * * * *

(J) A statement that the energy factors, kilowatt-hour uses per year and energy efficiency ratings, as applicable, are based on U.S. Government standard tests is required on all labels, as indicated in Figures 1 and 2.

* * * * *

§ 305.11 [Amended]

21. Further, it is proposed that §§ 305.11(a)(5)(ii)(C) through (E) of 16 CFR be revised and that §§ 305.11(a)(5)(ii)(F) through (L) be added to read as follows:

(a) * * *

(5) * * *

(ii) * * *

(C) The annual fuel utilization efficiency for furnaces is determined in accordance with § 305.5.

(D) Each furnace label shall contain a generic range consisting of the lowest

and highest annual fuel utilization efficiencies for all furnaces that utilize the same energy source.

(E) Placement of the labeled product or the scale shall be proportionate to the lowest and highest annual fuel utilization efficiency ratings forming the scale.

(F) The following statement shall appear on the label beneath the range(s) in bold print:

Federal law requires the seller or installer of this appliance to make available a fact sheet or directory giving further information regarding the efficiency and operating cost of this equipment. Ask for this information.

(G) A statement that the annual fuel utilization efficiency ratings are based on U.S. Government standard tests is required on all labels.

(H) The following statement shall appear at the bottom of the label:

IMPORTANT: REMOVAL OF THIS LABEL BEFORE CONSUMER PURCHASE IS A VIOLATION OF FEDERAL LAW (42 U.S.C. 6302).

(I) No marks or information other than specified in this part shall appear on or directly adjoining this label except for a part or publication number identification, as desired by the manufacturer. The identification number shall be in the lower right-hand corner of the label, and characters shall be in 8 point type or smaller.

(J) Manufacturers of boilers that are shipped without jackets must label their products with hang-tags that also have adhesive backing on them that complies with the specifications contained in § 305.11(a)(4).

(K) Manufacturers of boilers shipped with more than one input nozzle to be installed in the field must label such boilers with the AFUE of the system when it is set up with the nozzle that results in the lowest annual fuel utilization efficiency rating.

(L) Manufacturers that ship out boilers that are not set up as either steam or hot water units must label the boilers with the AFUE rating derived by conducting the required test on the boiler as a hot water unit.

* * * * *

§ 305.11 [Amended]

22. Further, it is proposed that the first two sentences of § 305.11(a)(5)(iii)(C) of 16 CFR be revised to read as follows:

(a) * * *
(5) * * *
(iii) * * *

(C) The seasonal energy efficiency ratio for the cooling function of central air conditioners is determined in accordance with § 305.5. For the heating function, the heating seasonal performance factor shall be calculated for heating Region IV for the standardized design heating requirement nearest the capacity measured in the High Temperature Test in accordance with § 305.5. * * *

* * * * *

§ 305.11 [Amended]

23. Further, it is proposed that § 305.11(a)(5)(iii)(D) of 16 CFR be revised to read as follows:

(a) * * *
(5) * * *
(iii) * * *

(D)(*1*) Each cooling only central air conditioner label shall contain a generic range consisting of the lowest and highest seasonal energy efficiency ratios for all cooling only central air conditioners.

(*2*) Each heat pump label, except as noted in paragraph (a)(5)(iii)(D)(*3*) of this section, shall contain two generic ranges. The first range shall consist of the lowest and highest seasonal energy efficiency ratios for the cooling side of all heat pumps. The second range shall consist of the lowest and highest heating seasonal performance factors for the heating side of all heat pumps.

(*3*) Each heating only heat pump label shall contain a generic range consisting of the lowest and highest heating seasonal performance factors for all heating only heat pumps.

* * * * *

§ 305.11 [Amended]

24. Further, it is proposed that §§ 305.11(a)(5)(iii)(G)(*1*) through (*3*) of 16 CFR be revised to read as follows:

(a) * * *
(5) * * *
(iii) * * *
(G) * * *

(*1*) For labels disclosing the seasonal energy efficiency ratio for cooling, the statement should read:

This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating may vary slightly with different coils.

(*2*) For labels disclosing both the seasonal energy efficiency ratio for cooling and the heating seasonal performance factor for heating, the statement should read:

This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions.

(*3*) For labels disclosing the heating seasonal performance factor for heating, the statement should read:

This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions.

Central air conditioner labels disclosing the efficiency ratings for specific condenser/coil combinations do not have to contain any of the above three statements. They must contain only the general disclosure that the energy costs and efficiency ratings are based on U.S. Government tests.

* * * * *

§ 305.11 [Amended]

25. Further, it is proposed that § 305.11(b)(3)(vi) of 16 CFR be revised to read as follows:

* * * * *

(b) * * *
(3) * * *

(vi) Ranges of comparability and of energy efficiency ratings are found in Section 1 of the appropriate appendices accompanying this part. This information is required on fact sheets.

* * * * *

§ 305.11 [Amended]

26. Further, it is proposed that §§ 305.11(b)(3)(x) (A) through (C) of 16 CFR be revised to read as follows:

* * * * *

(b) * * *
(3) * * *
(x) * * *

(A) For fact sheets disclosing the seasonal energy efficiency ratio for cooling, the statement should read:

This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating may vary slightly with different coils.

(B) For fact sheets disclosing both the seasonal energy efficiency ratio for cooling and the heating seasonal performance factor for heating, the statement should read:

This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions.

(C) For fact sheets disclosing the heating seasonal performance factor for heating, the statement should read:

This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating will vary slightly with different coils and in different geographic regions.

* * * * *

§ 305.11 [Amended]

27. Further, it is proposed that § 305.11(c), introductory text, and (c)(1) of 16 CFR be revised and (c)(3)(vi) be added to read as follows:

(c) Manufacturers of furnaces and central air conditioners may elect to disseminate information regarding the efficiencies and costs of operation of their products by means of a directory, or similar publication, provided it meets the following criteria:

(1) *Distribution.*

(i) It must be distributed to substantially all retailers and assemblers of central air conditioners and furnaces selling or assembling models listed in the directory.

(ii) It must be made available at cost to all other interested parties.

* * * * *

(3) *Contents.* * * *

(vi) Ranges of comparability and of energy efficiency ratings are found in section 1 of the appropriate appendices accompanying this part.

* * * * *

28. Further, it is proposed that § 305.13(a) of 16 CFR be revised to read as follows:

§ 305.13 Promotional material displayed or distributed at point of sale.

(a) Any manufacturer, distributor, retailer or private labeler who prepares printed material for display or distribution at point of sale concerning a covered product (except fluorescent lamp ballasts) shall clearly and conspicuously include in such printed material the following required disclosure:

Before purchasing this appliance, read important information about its energy factor, kilowatt-hour use per year or energy efficiency rating that is available from your retailer.

* * * * *

29. Further, it is proposed that § 305.14(a) (2) and (4) of 16 CFR be revised to read as follows:

§ 305.14 Catalogs.

(a) * * *

(2) The energy factor for clothes washers, dishwashers and water heaters, and the kilowatt-hour use per year for refrigerators, refrigerator-freezers and freezers.

* * * * *

(4) The range of energy factors, kilowatt-hour uses per year or energy efficiency ratings, which shall be those that are current at the closing date for printing or the printing deadline of the catalog.

* * * * *

30. Further, it is proposed that § 305.15(b) of 16 CFR be revised to read as follows:

§ 305.15 Test data records.

* * * * *

(b) Upon notification by the Commission or its designated representative, a manufacturer or private labeler shall provide, within 30 days of the date of such request, the underlying test data from which the energy factor, kilowatt-hour use per year or energy efficiency rating for each basic model was derived.

31. Further, it is proposed that § 305.16 of 16 CFR be revised to read as follows:

§ 305.16 Required testing by designated laboratory.

Upon notification by the Commission or its designated representative, a manufacturer of a covered product shall supply, at the manufacturer's expense, no more than two of each model of each product to a laboratory, which will be identified by the Commission or its designated representative in the notice, for the purpose of ascertaining whether the energy factor, kilowatt-hour use per year or energy efficiency rating disclosed on the label or fact sheet, or as required by a § 305.14, or the representation made by the encircled "E" label that the product is in compliance with applicable standards in section 325 of the Act, 42 U.S.C. 6295, is accurate. Such a procedure will only be followed after the Commission or its staff has examined the underlying test data provided by the manufacturer as required by § 305.15(b) and after the manufacturer has been afforded the opportunity to reverify test results from which the energy factor, kilowatt-hour use per year or energy efficiency rating for each basic model was derived. A representative designated by the Commission shall be permitted to observe any reverification procedures required by this part, and to inspect the results of such reverification. Charges for testing by designated laboratories will be paid by the Commission.

32. Further, it is proposed that § 305.18 of 16 CFR be removed.

33. Further, it is proposed that § 305.19 of 16 CFR be redesignated as § 305.18.

34. Further, it is proposed that appendices A1 and A2 to 16 CFR be revised; appendices A3 through A8 be added; appendix B be removed; and appendices B1 through B3 be added, to read as follows:

Appendix A1 to Part 305—All Refrigerators With Automatic Defrost

1. Range Information

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of kilowatt-hour uses per year	
	Low	High
Less than 2.5		
2.5 to 6.4		
6.5 to 10.4		
10.5 to 14.4		
14.5 to 18.4		
18.5 to 22.4		
22.5 to 26.4		
26.5 and over		

2. Yearly Cost Information—Electricity

Cost per kilowatt hour	
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

Appendix A2 to Part 305—Refrigerators and Refrigerator-Freezers With Manual Defrost

1. Range Information

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of kilowatt-hour uses per year	
	Low	High
Less than 2.5		
2.5 to 6.4		
6.5 to 10.4		
10.5 to 14.4		
14.5 to 18.4		
18.5 to 22.4		
22.5 to 26.4		
26.5 and over		

2. Yearly Cost Information—Electricity

Cost per kilowatt hour	
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

Appendix A3 to Part 305—Refrigerator-Freezers With Partial Automatic Defrost

1. Range Information

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of kilowatt-hour uses per year	
	Low	High
Less than 10.5		
10.5 to 14.4		
14.5 to 18.4		
18.5 to 22.4		
22.5 to 26.4		
26.5 and over		

2. Yearly Cost Information—Electricity

Cost per kilowatt hour	
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

Appendix A4 to Part 305—Refrigerator-Freezers With Automatic Defrost With Top-Mounted Freezer Without Through-the-Door Ice Service

1. Range Information

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of kilowatt-hour uses per year	
	Low	High
Less than 10.5		
10.5 to 14.4		
14.5 to 18.4		
18.5 to 22.4		
22.5 to 26.4		
26.5 and over		

2. Yearly Cost Information—Electricity

Cost per kilowatt hour	
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

Appendix A5 to Part 305—Refrigerator-Freezers With Automatic Defrost With Side-Mounted Freezer Without Through-the-Door Ice Service

1. Range Information

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of kilowatt-hour uses per year	
	Low	High
Less than 10.5		
10.5 to 14.4		
14.5 to 18.4		
18.5 to 22.4		
22.5 to 26.4		
26.5 and over		

2. Yearly Cost Information—Electricity

Cost per kilowatt hour	
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

Appendix A6 to Part 305—Refrigerator-Freezers With Automatic Defrost With Bottom-Mounted Freezer Without Through-the-Door Ice Service

1. Range Information

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of kilowatt-hour uses per year	
	Low	High
Less than 10.5		
10.5 to 14.4		
14.5 to 18.4		
18.5 to 22.4		
22.5 to 26.4		
26.5 and over		

2. Yearly Cost Information—Electricity

Cost per kilowatt hour	
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

Appendix A7 to Part 305—Refrigerator-Freezers With Automatic Defrost With Top-Mounted Freezer With Through-The-Door Ice Service

1. Range Information

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of kilowatt-hour uses per year	
	Low	High
Less than 10.5		
10.5 to 14.4		
14.5 to 18.4		
18.5 to 22.4		
22.5 to 26.4		
26.5 and over		

2. Yearly Cost Information—Electricity

Cost per kilowatt hour	
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

Appendix A8 to Part 305—Refrigerator-Freezers With Automatic Defrost With Side-Mounted Freezer With Through-The-Door Ice Service

1. Range Information

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of kilowatt-hour uses per year	
	Low	High
Less than 10.5		
10.5 to 14.4		
14.5 to 18.4		
18.5 to 22.4		
22.5 to 26.4		
26.5 and over		

2. Yearly Cost Information—Electricity

Cost per kilowatt hour	
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

Appendix B1 to Part 305—Upright Freezers With Manual Defrost

1. Range Information

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of kilowatt-hour uses per year	
	Low	High
Less than 5.5		
5.5 to 9.4		
9.5 to 13.4		
13.5 to 17.4		
17.5 to 21.4		
21.5 to 25.4		
25.5 to 29.4		
29.5 and over		

2. Yearly Cost Information—Electricity

Cost per kilowatt hour	
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

Appendix B2 to Part 305—Upright Freezers With Automatic Defrost

1. Range Information

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of kilowatt-hour uses per year	
	Low	High
Less than 5.5		

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of kilowatt-hour uses per year	
	Low	High
5.5 to 9.4		
9.5 to 13.4		
13.5 to 17.4		
17.5 to 21.4		
21.5 to 25.4		
25.5 to 29.4		
29.5 and over		

2. Yearly Cost Information—Electricity:

Cost per kilowatt hour	
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

Appendix B3 to Part 305—Chest Freezers and All Other Freezers

1. Range Information

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of kilowatt-hour uses per year	
	Low	High
Less than 5.5		
5.5 to 9.4		
9.5 to 13.4		
13.5 to 17.4		
17.5 to 21.4		
21.5 to 25.4		
25.5 to 29.4		
29.5 and over		

2. Yearly Cost Information—Electricity

Cost per kilowatt hour	
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

35. Further, it is proposed that appendix E to 16 CFR be revised to read as follows:

Appendix E to Part 305—Room Air Conditioners

1. Range Information

Manufacturers' rated cooling capacity in Btu's/hr.	Ranges of energy efficiency ratings (electricity)	
	Low	High
Without Reverse Cycle and with Louvered Sides:		
Less than 6,000 Btu		
6,000 to 7,999 Btu		
8,000 to 13,999 Btu		
14,000 to 19,999 Btu		
20,000 and more Btu		
Without Reverse Cycle and without Louvered Sides:		
Less than 6,000 Btu		
6,000 to 7,999 Btu		
8,000 to 13,999 Btu		
14,000 to 19,999 Btu		
20,000 and more Btu		
With Reverse Cycle and with Louvered Sides		
With Reverse Cycle, without Louvered Sides		

2. Yearly Cost Information

Cost per kilowatt hour (cents)	Yearly hours of use				
	250	750	1,000	2,000	3,000
2					
4					
6					
8					
10					
12					

Below the appropriate number of yearly hours of use and beside each cost in the table, place the cost estimate for the model being labeled using the table costs and using the yearly hours of use.

36. Further, it is proposed that Appendices G1 through G5 of 16 CFR be revised, and that Appendices G6 through G9 be added to 16 CFR, to read as follows:

Appendix G1 to Part 305—Furnaces—Gas

1. Range Information

Manufacturers' rated heating capacities (Btu's/hr.)	Ranges of annual fuel utilization efficiencies (AFUE's) (Generic)	
	Low	High
All capacities		

2. Yearly Cost Information

COST GRID

Cost per kilowatt hour[1]	Btu heat loss of home (See chart below)
4¢	
6¢	
8¢	
10¢	

COST GRID—Continued

Cost per kilowatt hour[1]	Btu heat loss of home (See chart below)
12¢	
14¢	

[1] For charts on natural gas, oil and propane gas, substitute the following cost figures:
a. Cost per therm—10¢, 20¢, 30¢, 40¢, 50¢, 60¢.
b. Cost per gallon (oil)—76¢, 79¢, 82¢, 85¢, 88¢, 91¢, 94¢, 97¢, $1.00.
c. Cost per gallon (propane)—35¢, 40¢, 45¢,50¢,55¢,60¢.

The following table shows the heat loss values (in thousand Btu's/hr.) to be used in the cost grid:

HEAT LOSS TABLE

Manufacturers' rated heat output of model to be labeled (Btu's per hour)	Design heat loss of model to be labeled (1,000 Btu's per hour)	Heat loss values to be used on the grid (1,000 Btu's per hour)
5,000 to 10,000	5	5
11,000 to 16,000	10	5, 10
17,000 to 25,000	15	10, 15
26,000 to 42,000	20	15, 20, 25
43,000 to 59,000	30	25, 30, 35, 40
60,000 to 76,000	40	35, 40, 45, 50
77,000 to 93,000	50	40, 45, 50, 60
94,000 to 110,000	60	50, 60, 70, 80
111,000 to 127,000	70	60, 70, 80, 90
128,000 to 144,000	80	70, 80, 90, 100
145,000 to 161,000	90	80, 90, 100, 110, 120
162,000 to 178,000	100	90, 100, 110, 120, 130
179,000 to 195,000	110	100, 110, 120, 130, 140
196,000 and over	130	120, 130, 140, 150, 160

Beside each cost in the cost grid, and below the appropriate heat loss value taken from the heat loss table, place the cost estimate for the model being labeled using the table costs in place of the national average cost and using the heat loss values in place of the design heat loss used in the table with the national average cost.

Appendix G2 to Part 305—Small Furnaces—Gas (Under 45,000 Btu's/hr. Input)

1. Range Information

Manufacturers' rated heating capacities (Btu's/hr.)	Ranges of annual fuel utilization efficiencies (AFUE's) (Generic)	
	Low	High
All capacities		

2. Yearly Cost Information

COST GRID

Cost per kilowatt hour[1]	Btu heat loss of home (See chart below)
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

[1] For charts on natural gas, oil and propane gas, substitute the following cost figures:
a. Cost per therm—10¢, 20¢, 30¢, 40¢, 50¢, 60¢.
b. Cost per gallon (oil)—76¢, 79¢, 82¢, 85¢, 88¢, 91¢, 94¢, 97¢, $1.00.
c. Cost per gallon (propane)—35¢, 40¢, 45¢, 50¢, 55¢, 60¢.

The following table shows the heat loss values (in thousand Btu's/hr.) to be used in the cost grid:

HEAT LOSS TABLE

Manufacturers' rated heat output of model to be labeled (Btu's per hour)	Design heat loss of model to be labeled (1,000 Btu's per hour)	Heat loss values to be used on the grid (1,000 Btu's per hour)
5,000 to 10,000	5	5
11,000 to 16,000	10	5, 10

HEAT LOSS TABLE—Continued

Manufacturers' rated heat output of model to be labeled (Btu's per hour)	Design heat loss of model to be labeled (1,000 Btu's per hour)	Heat loss values to be used on the grid (1,000 Btu's per hour)
17,000 to 25,000	15	10, 15
26,000 to 42,000	20	15, 20, 25
43,000 to 59,000	30	25, 30, 35, 40
60,000 to 76,000	40	35, 40, 45, 50
77,000 to 93,000	50	40, 45, 50, 60
94,000 to 110,000	60	50, 60, 70, 80
111,000 to 127,000	70	60, 70, 80, 90
128,000 to 144,000	80	70, 80, 90, 100
145,000 to 161,000	90	80, 90, 100, 110, 120
162,000 to 178,000	100	90, 100, 110, 120, 130
179,000 to 195,000	110	100, 110, 120, 130, 140
196,000 and over	130	120, 130, 140, 150, 160

Beside each cost in the cost grid, and below the appropriate heat loss value taken from the heat loss table, place the cost estimate for the model being labeled using the table costs in place of the national average cost and using the heat loss values in place of the design heat loss used in the table with the national average cost.

Appendix G3 to Part 305—Furnances—Electric

1. Range Information

Manufacturers' rated heating capacities (Btu's/hr.)	Ranges of annual fuel utilization efficiencies (AFUE's) (Generic)	
	Low	High
All capacities		

2. Yearly Cost Information

COST GRID

Cost per kilowatt hour[1]	Btu heat loss of home (See chart below)
4¢	
5¢	
5¢	
10¢	
12¢	
14¢	

[1] For charts on natural gas, oil and propane gas, substitute the following cost figures:
a. Cost per therm—10¢, 20¢, 30¢, 40¢, 50¢, 60¢.
b. Cost per gallon (oil)—76¢, 79¢, 82¢, 85¢, 88¢, 91¢, 94¢, 97¢, $1.00.
c. Cost per gallon (propane)—35¢, 40¢, 45¢, 50¢, 55¢, 60¢.

The following table shows the heat loss values (in thousand Btu's/hr.) to be used in the cost grid:

HEAT LOSS TABLE

Manufacturers' rated heat output of model to be labeled (Btu's per hour)	Design heat loss of model to be labeled (1,000 Btu's per hour)	Heat loss values to be used on the grid (1,000 Btu's per hour)
5,000 to 10,000	5	5
11,000 to 16,000	10	5, 10
17,000 to 25,000	15	10, 15
26,000 to 42,000	20	15, 20, 25
43,000 to 59,000	30	25, 30, 35, 40
60,000 to 76,000	40	35, 40, 45, 50
77,000 to 93,000	50	40, 45, 50, 60
94,000 to 110,000	60	50, 60, 70, 80
111,000 to 127,000	70	60, 70, 80, 90
128,000 to 144,000	80	70, 80, 90, 100
145,000 to 161,000	90	80, 90, 100, 110, 120
162,000 to 178,000	100	90, 100, 110, 120, 130
179,000 to 195,000	110	100, 110, 120, 130, 140
196,000 and over	130	120, 130, 140, 150, 160

Beside each cost in the cost grid, and below the appropriate heat loss value taken from the heat loss table, place the cost estimate for the model being labeled using the table costs in place of the national average cost ande using the heat loss values in place of the design heat loss used in the table with the national average cost.

Appendix G4 to Part 305—Furnaces—Oil

1. Range Information

Manufacturers' rated heating capacities (Btu's/hr.)	Ranges of annual fuel utilization efficiencies (AFUE's) (generic)	
	Low	High
All capacities		

2. Yearly Cost Information

COST GRID

Cost per kilowatt hour[1]	Btu heat loss of home (see chart below)
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

[1] For charts on natural gas, oil and propane gas, substitute the following cost figures:
a. Cost per therm—10¢, 20¢, 30¢, 40¢, 50¢, 60¢.
b. Cost per gallon (oil)—76¢, 79¢, 82¢, 85¢, 88¢, 91¢, 94¢, 97¢, $1.00.
c. Cost per gallon (propane)—35¢, 40¢, 45¢, 50¢, 55¢, 60¢.

The following table shows the heat loss values (in thousand Btu's/hr.) to be used in the cost grid:

HEAT LOSS TABLE

Manufacturers' rated heat output of model to be labeled (Btu's per hour)	Design heat loss of model to be labeled (1,000 Btu's per hour)	Heat loss values to be used on the grid (1,000 Btu's per hour)
5,000 to 10,000	5	5
11,000 to 16,000	10	5, 10
17,000 to 25,000	15	10, 15
26,000 to 42,000	20	15, 20, 25
43,000 to 59,000	30	25, 30, 35, 40
60,000 to 76,000	40	35, 40, 45, 50
77,000 to 93,000	50	40, 45, 50, 60
94,000 to 110,000	60	50, 60, 70, 80
111,000 to 127,000	70	60, 70, 80, 90
128,000 to 144,000	80	70, 80, 90, 100
145,000 to 161,000	90	80, 90, 100, 110, 120
162,000 to 178,000	100	90, 100, 110, 120, 130
179,000 to 195,000	110	100, 110, 120, 130, 140
196,000 and over	130	120, 130, 140, 150, 160

Beside each cost in the cost grid, and below the appropriate heat loss value taken from the heat loss table, place the cost estimate for the model being labeled using the table costs in place of the national average cost and using the heat loss values in place of the design heat loss used in the table with the national average cost.

Appendix G5 to Part 305—Mobile Home Furnaces

1. Range Information

Manufacturers' rated heating capacities (Btu's/hr.)	Ranges of annual fuel utilization efficiencies (AFUE's) (Generic)	
	Low	High
All capacities		

2. Yearly Cost Information

COST GRID

Cost per kilowatt hour[1]	Btu heat loss of home (See chart below)
4¢	
6¢	
8¢	
10¢	

COST GRID—Continued

Cost per kilowatt hour[1]	Btu heat loss of home (See chart below)
12¢	
14¢	

[1] For charts on natural gas, oil and propane gas, substitute the following cost figures:
a. Cost per therm—10¢, 20¢, 30¢, 40¢, 50¢, 60¢.
b. Cost per gallon (oil)—76¢, 79¢, 82¢, 85¢, 88¢, 91¢, 94¢, 97¢, $1.00.
c. Cost per gallon (propane)—35¢, 40¢, 45¢, 50¢, 55¢, 60¢.

The following table shows the heat loss values (in thousand Btu's/hr.) to be used in the cost grid:

HEAT LOSS TABLE

Manufacturers' rated heat output of model to be labeled (Btu's per hour)	Design heat loss of model to be labeled (1,000 Btu's per hour)	Heat loss values to be used on the grid (1,000 Btu's per hour)
5,000 to 10,000	5	5
11,000 to 16,000	10	5, 10
17,000 to 25,000	15	10, 15
26,000 to 42,000	20	15, 20, 25
43,000 to 59,000	30	25, 30, 35, 40
60,000 to 76,000	40	35, 40, 45, 50
77,000 to 93,000	50	40, 45, 50, 60
94,000 to 110,000	60	50, 60, 70, 80
111,000 to 127,000	70	60, 70, 80, 90
128,000 to 144,000	80	70, 80, 90, 100
145,000 to 161,000	90	80, 90, 100, 110, 120
162,000 to 178,000	100	90, 100, 110, 120, 130
179,000 to 195,000	110	100, 110, 120, 130, 140
196,000 and over	130	120, 130, 140, 150, 160

Beside each cost in the cost grid, and below the appropriate heat loss value taken from the heat loss table, place the cost estimate for the model being labeled using the table costs in place of the national average cost and using the heat loss values in place of the design heat loss used in the table with the national average cost.

Appendix G6 to Part 305—Boilers—Gas (Except Gas/Steam)

1. Range Information

Manufacturers' rated heating capacities (Btu's/hr.)	Ranges of annual fuel utilization efficiencies (AFUE's) (generic)	
	Low	High
All capacities		

2. Yearly Cost Information

COST GRID

Cost per kilowatt hour[1]	Btu heat loss of home (See chart below)
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

[1] For charts on natural gas, oil and propane gas, substitute the following cost figures:
a. Cost per therm—10¢, 20¢, 30¢, 40¢, 50¢, 60¢.
b. Cost per gallon (oil—76¢, 79¢, 82¢, 85¢, 88¢, 91¢, 94¢, 97¢, $1.00.
c. Cost per gallon (propane)—35¢, 40¢, 45¢, 50¢, 55¢, 60¢.

The following table shows the heat loss values (in thousand Btu's/hr.) to be used in the cost grid:

HEAT LOSS TABLE

Manufacturers' rated heat output of model to be labeled (Btu's per hour)	Design heat loss of model to be labeled (1,000 Btu's per hour)	Heat loss values to be used on the grid (1,000 Btu's per hour)
5,000 to 10,000	5	5
11,000 to 16,000	10	5, 10

HEAT LOSS TABLE—Continued

Manufacturers' rated heat output of model to be labeled (Btu's per hour)	Design heat loss of model to be labeled (1,000 Btu's per hour)	Heat loss values to be used on the grid (1,000 Btu's per hour)
17,000 to 25,000	15	10, 15
26,000 to 42,000	20	15, 20, 25
43,000 to 59,000	30	25, 30, 35, 40
60,000 to 76,000	40	35, 40, 45, 50
77,000 to 93,000	50	40, 45, 50, 60
94,000 to 110,000	60	50, 60, 70, 80
111,000 to 127,000	70	60, 70, 80, 90
128,000 to 144,000	80	70, 80, 90, 100
145,000 to 161,000	90	80, 90, 100, 110, 120
162,000 to 178,000	100	90, 100, 110, 120, 130
179,000 to 195,000	110	100, 110, 120, 130, 140
196,000 and over	130	120, 130, 140, 150, 160

Beside each cost in the cost grid, and below the appropriate heat loss value taken from the heat loss table, place the cost estimate for the model being labeled using the table costs in place of the national average cost and using the heat loss values in place of the design heat loss used in the table with the national average cost.

Appendix G7 to Part 305—Boilers—Gas (Steam)

1. Range Information

Manufacturers' rated heating capacities (Btu's/hr.)	Ranges of annual fuel utilization efficiencies (AFUE's) (generic)	
	Low	High
All capacities	.....	.....

2. Yearly Cost Information

COST GRID

Cost per kilowatt hour[1]	Btu heat loss of home (see chart below)
4¢	.....
6¢	.....
8¢	.....
10¢	.....
12¢	.....
14¢	.....

[1] For charts on natural gas, oil and propane gas, substitute the following cost figures:
a. Cost per therm—10¢, 20¢, 30¢, 40¢, 50¢, 60¢.
b. Cost per gallon (oil)—76¢, 79¢, 82¢, 85¢, 88¢, 91¢, 94¢, 97¢, $1.00.
c. Cost per gallon (propoane)—35¢, 40¢, 45¢, 50¢, 55¢, 60¢.

The following table shows the heat loss values (in thousand Btu's/hr.) to be used in the cost grid:

HEAT LOSS TABLE

Manufacturers' rated heat output of model to be labeled (Btu's per hour)	Design heat loss of model to be labeled (1,000 Btu's per hour)	Heat loss values to be used on the grid (1,000 Btu's per hour)
5,000 to 10,000	5	5
11,000 to 16,000	10	5, 10
17,000 to 25,000	15	10, 15
26,000 to 42,000	20	15, 20, 25
43,000 to 59,000	30	25, 30, 35, 40
60,000 to 76,000	40	35, 40, 45, 50
77,000 to 93,000	50	40, 45, 50, 60
94,000 to 110,000	60	50, 60, 70, 80
111,000 to 127,000	70	60, 70, 80, 90
128,000 to 144,000	80	70, 80, 90, 100
145,000 to 161,000	90	80, 90, 100 110, 120
162,000 to 178,000	100	90, 100, 110, 120, 130
179,000 to 195,000	110	100, 110, 120, 130, 140
196,000 and over	130	120, 130, 140 150 160

Beside each cost in the cost grid, and below the appropriate heat loss value taken from the heat loss table, place the cost estimate for the model being labeled using the table costs in place of the national average cost and using the heat loss values in place of the design heat loss used in the table with the national average cost.

Appendix G8 to Part 305—Boilers—Oil

1. Range Information

Manufacturers' Rated Heating Capacities (Btu's/hr.)	Ranges of annual fuel utilization efficiencies (AFUE's) (generic)	
	Low	High
All capacities		

2. Yearly Cost Information

COST GRID

Cost per kilowatt hour[1]	Btu heat loss of home (see chart below)
4¢	
6¢	
8¢	
10¢	
12¢	
14¢	

[1] For charts on natural gas, oil and propane gas, substitute the following cost figures:
a. Cost per therm—10¢, 20¢, 30¢, 40¢, 50¢, 60¢.
b. Cost per gallon (oil)—76¢, 79¢, 82¢, 85¢, 88¢, 91¢, 94¢, 97¢, $1.00.
c. Cost per gallon (propane)—35¢, 40¢, 45¢, 50¢, 55¢, 60¢.

The following table shows the heat loss values (in thousand Btu's/hr.) to be used in the cost grid:

HEAT LOSS TABLE

Manufacturers' rated heat output of model to be labeled (Btu's per hour)	Design heat loss of model to be labeled (1,000 Btu's per hour)	Heat loss values to be used on the grid (1,000 Btu's per hour)
5,000 to 10,000	5	5
11,000 to 16,000	10	5, 10
17,000 to 25,000	15	10, 15
26,000 to 42,000	20	15, 20, 25
43,000 to 59,000	30	25, 30, 35, 40
60,000 to 76,000	40	35, 40, 45, 50
77,000 to 93,000	50	40, 45, 50, 60
94,000 to 110,000	60	50, 60, 70, 80
111,000 to 127,000	70	60, 70, 80, 90
128,000 to 144,000	80	70, 80, 90, 100
145,000 to 161,000	90	80, 90, 100, 110, 120
162,000 to 178,000	100	90, 100, 110, 120, 130
179,000 to 195,000	110	100, 110, 120, 130, 140
196,000 and over	130	120, 130, 140, 150, 160

Beside each cost in the cost grid, and below the appropriate heat loss value taken from the heat loss table, place the cost estimate for the model being labeled using the table costs in place of the national average cost and using the heat loss values in place of the design heat loss used in the table with the national average cost.

Appendix G9 to Part 305—Boilers—Electric

1. Range Information

Manufacturers' rated heating capacities (Btu's/hr.)	Ranges of annual fuel utilization efficiencies (AFUE's) (generic)	
	Low	High
All capacities		

2. Yearly Cost Information

COST GRID

Cost per kilowatt hour[1]	Btu heat loss of home (see chart below)
4¢	
6¢	
8¢	
10¢	

COST GRID—Continued

Cost per kilowatt hour[1]	Btu heat loss of home (see chart below)
12¢	
14¢	

[1] For charts on natural gas, oil and propane gas, substitute the following cost figures:
a. Cost per therm—10¢, 20¢, 30¢, 40¢, 50¢, 60¢.
b. Cost per gallon (oil)—76¢, 79¢, 82¢, 85¢, 88¢, 91¢, 94¢, 97¢, $1.00.
c. Cost per gallon (propane)—35¢, 40¢, 45¢, 50¢, 55¢, 60¢.

The following table shows the heat loss values (in thousand Btu's/hr.) to be used in the cost grid:

HEAT LOSS TABLE

Manufacturers' rated heat output of model to be labeled (Btu's per hour)	Design heat loss of model to be labeled (1,000 Btu's per hour)	Heat loss values to be used on the grid (1,000 Btu's per hour)
5,000 to 10,000	5	5
11,000 to 16,000	10	5, 10
17,000 to 25,000	15	10, 15
26,000 to 42,000	20	15, 20, 25
43,000 to 59,000	30	25, 30, 35, 40
60,000 to 76,000	40	35, 40, 45, 50
77,000 to 93,000	50	40, 45, 50, 60
94,000 to 110,000	60	50, 60, 70, 80
111,000 to 127,000	70	60, 70, 80, 90
128,000 to 144,000	80	70, 80, 90, 100
145,000 to 161,000	90	80, 90, 100, 110, 120
162,000 to 178,000	100	90, 100, 110, 120, 130
179,000 to 195,000	110	100, 110, 120, 130, 140
196,000 and over	130	120, 130, 140, 150, 160

Beside each cost in the cost grid, and below the appropriate heat loss value taken from the heat loss table, place the cost estimate for the model being labeled using the table costs in place of the national average cost and using the heat loss values in place of the design heat loss used in the table with the national average cost.

37. Further, it is proposed that a new appendix L be added to part 305 of 16 CFR to read as follows:

Appendix L to Part 305—Sample Labels

BILLING CODE 6750-01-M

SAMPLE 1

ENERGYGUIDE

Based on standard U.S. Government tests

How energy efficient is this dishwasher?

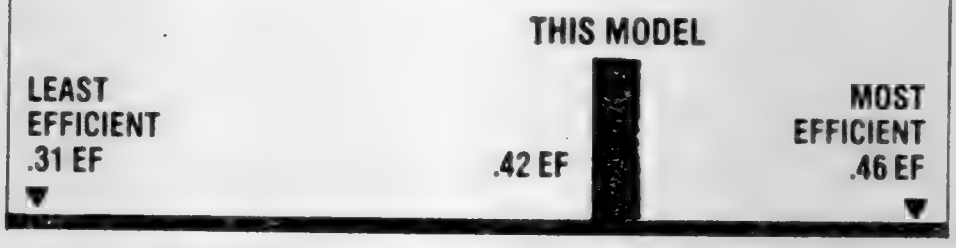

For ABC Dishwasher, Model 1234, Capacity: Standard

Use this **EnergyGuide** to compare the energy efficiency of this model with other similar models before you buy. **EF stands for "energy factor." Models with higher energy factors are more energy efficient and cost less to operate.** An energy factor is a measure of energy use. Only standard-sized dishwashers are compared on this scale.

How much will this model cost you to run yearly?

Your cost will vary depending on whether you have an electric or gas water heater, your local energy rate, and how many loads of dishes you do per week. Check your utility bill or ask your salesperson for the energy rate (cost per kilowatt hour or therm) in your area.

A kilowatt is a measure of electricity. A therm is a measure of natural gas. Your utility company uses these measurements to compute your bill. If you have a propane or oil water heater, ask for estimated costs.

Yearly Costs
(based on loads of dishes per week)

Using Gas Water Heater

	Cost per therm		
Loads	40¢	60¢	90¢
4	$15	$19	$24
7	$26	$33	$42

Using Electric Water Heater

	Cost per kilowatt hour		
Loads	4¢	6¢	10¢
4	$20	$30	$50
7	$35	$52	$87

Important Removal of this label before consumer purchase is a violation of Federal law (42 U.S.C. 6302).

SAMPLE 2

ENERGYGUIDE

Based on standard U.S. Government tests

ABC Dishwasher
Model 1234
Capacity: Standard

Use this **EnergyGuide** to compare the energy efficiency of this model with other similar models before you buy. **EF stands for "energy factor." Models with higher energy factors are more energy efficient and cost less to operate.** An energy factor is a measure of energy use. Only standard-sized dishwashers are compared on this scale.

ENERGY EFFICIENCY SCALE

◀ MOST EFFICIENT .46 EF

◀ THIS MODEL .42 EF

◀ LEAST EFFICIENT .31 EF

How much will this model cost you to run yearly?

Your cost will vary depending on whether you have an electric or gas water heater, your local energy rate, and how many loads of dishes you do per week. Check your utility bill or ask your salesperson for the energy rate (cost per kilowatt hour or therm) in your area.

A kilowatt is a measure of electricity. A therm is a measure of natural gas. Your utility company uses these measurements to compute your bill. If you have a propane or oil water heater, ask for estimated costs.

Yearly Costs
(based on loads of dishes per week)

Using Electric Water Heater

Cost per kilowatt hour

Loads	4¢	6¢	10¢
4	$20	$30	$50
7	$35	$52	$87

Using Gas Water Heater

Cost per therm

Loads	40¢	60¢	90¢
4	$15	$19	$24
7	$25	$33	$42

Important: Removal of this label before consumer purchase is a violation of Federal law (42 U.S.C. 6302)

SAMPLE 3

ENERGYGUIDE

Based on standard U.S. Government tests

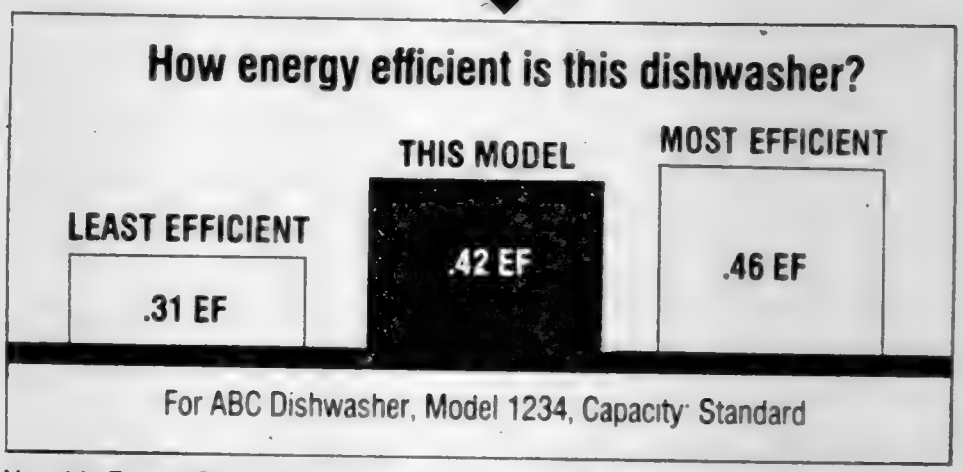

Use this **EnergyGuide** to compare the energy efficiency of this model with other similar models before you buy. **EF stands for "energy factor." Models with higher energy factors are more energy efficient and cost less to operate.** An energy factor is a measure of energy use. Only standard-sized dishwashers are compared on this scale.

How much will this model cost you to run yearly?

Your cost will vary depending on whether you have an electric or gas water heater, your local energy rate, and how many loads of dishes you do per week. Check your utility bill or ask your salesperson for the energy rate (cost per kilowatt hour or therm) in your area.

A kilowatt is a measure of electricity. A therm is a measure of natural gas. Your utility company uses these measurements to compute your bill. If you have a propane or oil water heater, ask for estimated costs.

Yearly Costs
(based on loads of dishes per week)

Using Gas Water Heater

Cost per therm

Loads	40¢	60¢	90¢
4	$15	$19	$24
7	$26	$33	$42

Using Electric Water Heater

Cost per kilowatt hour

Loads	4¢	6¢	10¢
4	$20	$30	$50
7	$35	$52	$87

Important: Removal of this label before consumer purchase is a violation of Federal law (42 U.S.C. 6302)

SAMPLE 4

ABC Dishwasher
Model 1234

Capacity: Standard

ENERGYGUIDE

Based on standard U.S. Government tests

How energy efficient is this dishwasher?

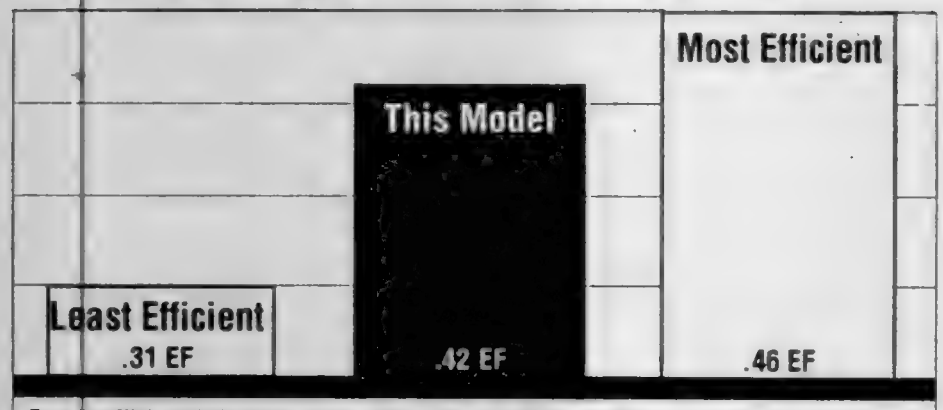

Energy efficient dishwashers have higher energy factors (EF) and cost less to operate.
An energy factor is a measure of energy use.

Use this **Energy Guide** to compare the energy efficiency of this dishwasher with other similar models before you buy. Only standard-sized dishwashers are compared on this scale.

How much will this model cost you to run yearly?

Your cost will vary depending on whether you have an electric or gas water heater, your local energy rate, and how many loads of dishes you do per week. Check your utility bill or ask your salesperson for the energy rate (cost per kilowatt hour or therm) in your area.

Important: Removal of this label before consumer purchase is a violation of Federal Law (42 U.S.C. 6302).

BILLING CODE 6750-01-C

A kilowatt is a measure of electricity
A therm is a measure of natural gas
Your utility company uses these measurements to compute your bill. If you have a propane or oil water heater, ask for estimated costs.

Yearly Costs
(based on loads of dishes per week)

Using Gas Water Heater

	Cost per therm		
Loads	40¢	60¢	90¢
4	$15	$19	$24
7	$26	$33	$42

Using Electric Water Heater

	Cost per kilowatt hour		
Loads	4¢	6¢	10¢
4	$20	$30	$50
7	$35	$52	$87

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 93–4651 Filed 3–4–93; 8:45 am]

BILLING CODE 6750–01–M

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federal register

Friday
March 5, 1993

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Delta Smelt and the Pacific Coast Population of the Western Snowy Plover; Final Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB66

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Delta Smelt

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines threatened status for the delta smelt (*Hypomesus transpacificus*), pursuant to the Endangered Species Act of 1973, as amended (Act). This osmerid fish species occurs only in Suisun Bay and the Sacramento-San Joaquin estuary (known as the Delta) near San Francisco Bay, California. The delta smelt has declined nearly 90 percent over the last 20 years, and is primarily threatened by large freshwater exports from the Sacramento River and San Joaquin River diversions for agriculture and urban use. The prolonged drought, introduced nonindigenous aquatic species, reduction in abundance of key food organisms, and agricultural and industrial chemicals also threaten this species. The final decision on the determination of critical habitat included in the proposed rule is postponed in accordance with section 4(b)(6)(C)(ii) of the Act. This rule implements the protection and recovery provisions afforded by the Act for the delta smelt.

EFFECTIVE DATE: April 5, 1993.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Sacramento Field Office, 2800 Cottage Way, E–1803, Sacramento, California 95825–1846.

FOR FURTHER INFORMATION CONTACT: Nadine R. Kanim (see **ADDRESSES** section) at 916/978–4866.

SUPPLEMENTARY INFORMATION:

Background

The delta smelt originally was classified as the same species as the pond smelt (*Hypomesus olidus*), but Hamada (1961) and Moyle (1976, 1980) recognized the delta smelt as a distinct species. Hamada retained the name *H. olidus* for the delta smelt and renamed the pond smelt *H. sakhalinus*. In 1963, McAllister renamed the delta smelt from *H. olidus* to *H. transpacificus*, with a Japanese subspecies (*H. t. nipponensis*) and a California subspecies (*H. t. transpacificus*). More recent taxonomic work has shown that these subspecies should be recognized as species, the delta smelt being *H. transpacificus* and the Japanese smelt being *H. nipponensis* (Moyle 1980).

The delta smelt was described as follows by Moyle *et al.* (1989): A slender-bodied fish typically 60–70 mm (2.36–2.76 in) in standard length (SL), although a few may attain 120 mm (4.73 in) SL. Live fish are nearly translucent and have a steely-blue sheen to their sides. Occasionally there may be one chromatophore between the mandibles, but usually none is present. Its mouth is small, with a maxilla that does not extend past the mid-point of the eye. The eyes are relatively large; the orbit width is contained about 3.5–4 times in the head length. Small, pointed teeth are present in the upper and lower jaws. The first gill arch has 27–33 gill rakers and there are 7 branchiostegal rays. There are 9–10 dorsal fin rays, 8 pelvic fin rays, 10–12 pectoral fin rays, and 15–17 anal fin rays. The lateral line is incomplete and has 53–60 scales along it. There are 4–5 pyloric caeca.

From the analysis of length-frequency data, scientists have determined that the delta smelt is primarily a species with a 1-year (annual) life span (Moyle *et al.* 1992). Juvenile delta smelt are 40–50 mm (1.58–1.97 in) fork length (FL) by early August. They become sexually mature adults when 55–70 mm (2.17–2.76 in) FL. Although the largest delta smelt on record is 126 mm (4.96 in) FL, this species rarely grows larger than 80 mm (3.15 in) FL (Stevens *et al.* 1990). By June, delta smelt longer than 50 mm (1.97 in) FL are rare throughout their range, indicating that adult delta smelt die after spawning.

Historically, the delta smelt occurred from Suisun Bay upstream to the city of Sacramento on the Sacramento River and Mossdale on the San Joaquin River (Moyle *et al.* 1992). It is the only smelt endemic to California and the only true native estuarine species found in the Delta (Moyle *et al.* 1989, Stevens *et al.* 1990, and Wang 1986). The delta smelt is a euryhaline species (species adapted to living in fresh and brackish water) that occupies estuarine areas with salinities below 2 grams per liter (parts per thousand, ppt), rarely occurring in estuarine waters with more than 10–12 ppt salinity, about one-third sea water (Ganssle 1966, in Moyle 1976).

Delta smelt historically congregated in upper Suisun Bay and Montezuma Slough (mainly during March to mid-June) when the Sacramento and San Joaquin river flows were high. During very high river outflows some smelt may be washed into San Pablo Bay, but the rapidly restored higher salinities do not allow permanent populations of delta smelt to become established. Because of sustantial human-caused changes in the relative ratios of seasonal freshwater outflows, the center of delta smelt abundance has shifted to the Sacramento River channel in the Delta in the years since 1981 (Moyle *et al.* 1992). Delta smelt are now rare in Suisun Bay, and virtually absent from Suisun Marsh where they once were seasonally common. Even though suitable spawning and nursery habitat conditions occur less frequently in Suisun Bay than previously, when these conditions are present, they provide for increased levels of delta smelt recruitment that augment overall population levels. These suitable conditions occur when the mixing zone between salt water and freshwater is located in Suisun Bay.

Delta smelt have a low fecundity, producing 1,247–2,590 eggs per female (Moyle *et al.* 1992), when compared to two other species of Osmeridae occurring in California that exhibit fecundities from 5,000–25,000 eggs per female (Moyle 1976). Delta smelt spawn in freshwater at temperatures from about 7–15 degrees Celsius (°C) between February and June. Most spawning occurs in the dead-end sloughs and shallow edge-waters of channels in the western Delta; spawning also has been recorded in Montezuma Slough near Suisun Bay and far upstream in the Sacramento River near Rio Vista (Radtke 1966, Wang 1986). The adhesive demersal eggs attach to hard substrates such as rocks, gravel, tree roots, and submerged branches. Based on data for a closely related species, delta smelt eggs probably hatch in 12–14 days. The planktonic larvae are transported downstream to the mixing zone. Within the mixing zone, the pelagic larvae are zooplanktivores and feed on copepods, cladocerans, and amphipods. The primary food for all life stages of the delta smelt are the nauplius, copepodite, copepodid, and adult stages of the euryhaline copepod *Eurytemora affinis*. Adult smelt consume *E. affinis* during all times of the year. The opossum shrimp (*Neomysis mercedis*) is secondarily important as food for adult smelt, and cladocerans (*Daphnia* sp., *Bosmina* sp.) are consumed seasonally by adult smelt.

The decline in the delta smelt population was concurrent with increased human changes to seasonal Delta hydrology, freshwater exports, and the accompanying changes in the temporal, spatial, and relative ratios of water diversions. These deleterious

hydrological effects, coupled with severe drought years, introduced nonindigenous aquatic species, and reduction in abundance of key food organisms, appear to have reduced the species' capacity to recover from natural seasonal fluctuations in hydrology.

Many introduced species adversely affect all life stages of the delta smelt. These introduced species compete for the zooplankton for food, or alter the species composition of the zooplankton community, thereby further decreasing the ability of the delta smelt population to recover.

In 1987, the Service funded an analysis of survey data (Moyle and Herbold 1989). These survey data were collected from Suisun Marsh and the Delta by the University of California, Davis, and the California Department of Fish and Game. The report concluded that: (1) Freshwater flows set an upper limit to delta smelt stock recruitment within the year, (2) other environmental factors (physical and/or biological) may further depress the smelt population; however, the proportion of time when water flows are reversed (upstream flow) in the lower San Joaquin River during the egg and larval stages probably is the major source of density-independent mortality to the delta smelt, and (3) a larger adult smelt population was associated with higher freshwater outflows because these flows produced higher plant and animal biomasses at all aquatic trophic levels.

Previous Service Action

The Service included the delta smelt as a category 1 candidate species in the January 6, 1989, Animal Notice of Review (50 FR 554). Category 1 lists species for which data in the Service's possession are sufficient to support proposals for listing.

On June 29, 1990, the Service received a petition dated June 26, 1990, from Dr. Don C. Erman, President-Elect of the California-Nevada Chapter of the American Fisheries Society, to list the delta smelt as an endangered species with critical habitat. The Service made a 90-day finding that substantial information had been presented indicating that the petitioned action may be warranted, and announced this decision in the **Federal Register** on December 24, 1990 (55 FR 52852). The Service initiated a status review at that time. During the status review, the Service examined the available data on the early life history and ecology of this species. Available data on physiological tolerances and estuarine factors were also examined in relation to actual or potential threats to the delta smelt. Primary sources of information describing the many human factors and projects that may affect the delta smelt are the voluminous expert testimonies presented to the California State Water Resources Control Board's 1987 Water Quality/Water Rights Proceeding on the San Francisco Bay and Sacramento-San Joaquin River Delta. This proceeding is also known as the Bay-Delta Proceeding, Evidentiary Hearing Record, July 7–December 29, 1987. The exhibits and transcripts spanned 54 days of hearings. Comments received by the Service on the petitioned action and the recommendations of an expert review panel were also considered during the status review.

On October 3, 1991, the Service published a proposal to list the delta smelt as a threatened species and requested public comment (56 FR 50075). This proposed rule constituted the 12-month finding that the petitioned action was warranted, in accordance with section 4(b)(3)(B) of the Act. Having considered all the information presented during the comment period, testimony given at the California State Water Resources Control Board's 1992 Water Right Phase of the Bay-Delta Estuary Proceedings, and other relevant information (CDWR 1992, Sweetnam 1992a) the Service now determines the delta smelt to be a threatened species.

Summary of Comments and Recommendations

In the October 3, 1991, proposed rule (56 FR 50075) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. On November 6, 1991, the Service received a written request for a public hearing from Mr. George R. Baumli of the State Water Contractors, Sacramento, California. Sixteen additional requests for public hearings were received within the allowed 45-day time period following publication of the proposed rule (Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 *et seq.*)). As a result, the Service published a notice of public hearing on December 19, 1991 (56 FR 65877). Newspaper notices of the public hearings were published in the Sacramento Bee, Visalia Times Delta, and Fresno Bee on December 16, 1991, and in the Los Angeles Times on December 17, 1992, all of which invited general public comment. Public hearings were conducted in California on January 9, 1991, in Sacramento; on January 14, 1992, in Santa Monica; and on January 16, 1992, in Visalia. At each meeting, testimony was taken from 1 p.m. to 4 p.m. and from 6 p.m. to 9 p.m. A total of 69 individuals testified at the hearings.

During the four-month comment period, the Service received 360 comments (i.e., letters and oral testimony) from 348 individuals. Of the 342 comments that stated a position on listing, 37 (11 percent) supported listing and 305 (89 percent) did not.

Support for the proposed listing was expressed by 1 Federal agency, 2 ichthyologists with expertise in California native fishes, 14 conservation organizations (or branches thereof), 3 sport and commercial fishing organizations and 15 other interested parties.

The California Department of Fish and Game was among 18 commenters that stated no opinion on the proposed listing. The California Department of Fish and Game submitted additional scientific information and expressed continuing concern that the delta smelt population has suffered a 90 percent decline in the past 20 years.

Opposition to the proposed listing was expressed by one elected official, one Federal agency, one State agency, and a number of local government entities. Many local government agencies, water districts, business and trade associations, other private interests, and one Federal agency submitted comments regarding the possible effects that listing, and particularly, designation of critical habitat, might have on planned activities and development.

Because of the complexity of the economic analysis that must accompany the final rule designating critical habitat, the Service has decided to make final only the listing portion of the proposed rule at this time so that immediate protection of the delta smelt will be possible and the likelihood that this species may become endangered or extinct will be reduced. Section 4(b)(6)(C)(ii) of the Act allows the Service to extend the deadline for designating critical habitat for up to 1 year (October 3, 1993, in this case), if critical habitat is not yet determinable and/or immediate protection is needed for the species through a final listing action. As discussed in the Critical Habitat section of this rule, both of these reasons apply in this instance; therefore, the Service is now going forward with this final listing rule. Hence, the comments pertaining to designation of critical habitat or the potential economic impacts of such designation will not be discussed here, but will be addressed when a final decision on

critical habitat is made. Comments addressing the issue of listing this species are responded to here.

Written comments and oral statements obtained during the public hearings and comment periods are combined into general issues and discussed below.

Comment 1: Many commenters requested that the Service delay or not list the delta smelt because the scientific data currently available are insufficient to support such a decision. For example, one population index (fall midwater trawl abundance index) indicated that the number of delta smelt have increased during the past 5 years and are more abundant today than they were 10 years ago. Many of these respondents suggested that the Service follow the recommendation of the California Fish and Game Commission and decline to list the species until additional studies on distribution and abundance have been completed. Conversely, many commenters claimed that the available scientific data (including six other population indices) clearly demonstrate a marked decrease in the abundance of the species over historic levels.

Service Response: Section 4(b)(1)(A) of the Act, requires that a listing determination be based on the best scientific and commercial data available. As discussed in the section of this rule entitled Summary of Factors Affecting the Species, the Service has reviewed the results of several monitoring studies conducted by the California Department of Fish and Game and the University of California, Davis (Moyle and Herbold 1989, Stevens *et al.* 1990, Moyle *et al.* 1992), which demonstrate that after 1981 the delta smelt population has remained at consistently low levels. Seven abundance indices used to record trends in the status of the delta smelt show that this species has not previously suffered as consistently low population levels as those experienced in the last 10 years (Stevens *et al.* 1990). These same indices also show a pronounced decline from historical levels of abundance. The summer tow net abundance index is thought to be one of the more representative indices since data has been collected over a wide geographic area (from San Pablo Bay upstream through most of the Delta) for the longest period of time (since 1959). The summer tow net abundance index measures the abundance and distribution of larval delta smelt and provides data on the recruitment potential of the species. This index declined after 1981 and, except for one year (1986) has remained at extremely low levels since 1982 (*Moyle et al.* 1992). New data for the summer tow net index indicates the 1992 population has not increased from the consistently low levels recorded since 1987 (Sweetnam 1992a).

Results of the second longest running study (since 1967), the fall midwater trawl abundance index, have shown upward movement in the three of the last four years. This index measures the abundance and distribution of adult delta smelt in a large geographic area (San Pablo Bay upstream to Rio Vista on the Sacramento River and Stockton on the San Joaquin River) and provides an indication of their survivorship to the later months of their 1-year life span. The cause of this seemingly anomalous increase in survival of adult delta smelt cannot be determined with any certainty. Because the total number of delta smelt captured in each trawl tow is low compared to previous years, Dr. Moyle (University of California at Davis, *in litt.*, 1992) attributes the recent higher index values to the fact that the entire delta smelt population has been confined to a restricted area in the Sacramento River, from Sherman Island to Rio Vista. The higher index values may be an artifact of the increased probability of capturing schools of fish that are concentrated in a relatively restricted area.

Because this listing determination is based on the results of up to 33 years of long-term monitoring studies, the Service does not agree that additional studies will greatly alter the present findings. Preliminary indices for the months of September and October 1992 indicate that this year's survival of adult delta smelt is consistent with the low levels of abundance recorded since 1987 (Sweetnam 1992a). The September index represents a total of 61 adult delta smelt caught during the month. Most of these fish were collected in the lower Sacramento River. The October index represents a total of two adult delta smelt caught in 80 trawl tows during the entire month (D. Sweetnam, CDFG, pers. comm.). Other than those cited above, the Service has received no new data on the abundance or distribution of the delta smelt. However, if additional data gathered as a result of the California Department of Fish and Game's ongoing studies show that the species should not be listed, the Service is afforded the ability to delist the species (50 CFR 424.11(d)(3)).

Comment 2: One respondent maintained that the best scientific data available indicate that the delta smelt population has been severely underestimated. In an experimental test, the California Department of Fish and Game demonstrated that more smelt could be caught when a midwater trawl with a finer mesh size was used.

Service Response: The findings of this rule are based primarily on the relative abundance of the delta smelt population today as it compares to its abundance throughout the period of record. The manner in which the long-term delta smelt abundance indices are calculated does not allow precise population estimates to be determined. These indices are used for population trend analysis. Any correction factor (as a result of a change in mesh size) applied to current population estimates would have to be applied to historical values as well. When the correction factor is applied to all years of data, the results still show a 90 percent population decline during the past 20 years.

Comment 3: Numerous commenters suggested that the current threats facing the species and the alarming decline in its abundance merit the designation of the delta smelt as an endangered species rather than a threatened species.

Service Response: The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the delta smelt in determining to list this species. The available data indicate a significant population decline over the last 20 years. The current population has remained relatively stable over the last 5 years, although it has done so at low levels. No apparent recovery is occurring. Based on the evaluation of all available information on population dynamics and threats to this species, the preferred action is to list the delta smelt as a threatened species.

Comment 4: Several individuals claimed that the designs of the population monitoring studies were inadequate, and by their nature, bias the interpretation of the data collected with regard to distribution and overall abundance of the species.

Service Response: In the proposed rule, and the discussion in this final rule, under *Summary of Factors Affecting the Species*, the Service recognizes that "* * * much of the available data on the population dynamics of the delta smelt were obtained from studies focused on other fish species, such as striped bass (*Morone saxatilis*) and chinook salmon (*Oncorhynchus tshawytscha*). Consequently, the collection methods used in these studies were not designed to estimate the delta smelt population." Nevertheless, the Service and other scientists contend that the sampling techniques provide a repeatable, consistent measure of delta smelt population trends and distribution over

the last 33 years. Furthermore, the Service is obliged to consider the best scientific and commercial data available in making its listing determination. The best available scientific data on the present and historical distribution and abundance of the delta smelt indicate that the species has experienced a significant decline in number and restriction in distribution in the past 20 years.

Comment 5: A few commenters asserted that no listing determination could be made for the delta smelt because the Service has not demonstrated any statistically significant correlation between the factors suggested in the proposed rule as having contributed to the species' decline and its distribution and abundance. For example, commenters remarked that there is no statistically significant correlation between the location where delta smelt are caught at any one time and areas of 2 ppt salinity. In addition, they contended that there is no statistically significant relationship between delta smelt abundance and the mixing zone location or with the number of days the San Joaquin River's flow is reversed. Because of this perceived lack of statistically significant data, one respondent claimed he was unclear about the source of the data that the Service relied upon to reach its conclusion that the species should be listed. Another commenter argued that the proposed rule was biased because the Service neglected to state that one of the conclusions reached by Stevens *et al.* (1990) was that no evidence exists to link directly the effects of delta water exports with the abundance of the delta smelt. The State Water Contractors suggested that for the reasons listed above, the analysis of factors affecting the species, upon which the Service bases its listing determination, is flawed. Conversely, Dr. Moyle (*in litt.* 1992) expressed his concern that the proposed rule understated the importance of the relationship of the effect of Delta water exports, agricultural diversion, and pumping to the decline in abundance of the species.

Service Response: The Endangered Species Act requires the Service to base listing determinations upon the best available scientific and commercial data. The Service is not required to show statistical significance between each of the causes of decline listed in this and the proposed rule, and the location or abundance of delta smelt collected; and a lack of such statistical significance does not invalidate the analysis of the five factors upon which this listing determination is based. The complexity of the Delta ecosystem and the numerous stated factors contributing in time and space to the species' decline make it highly unlikely that any one factor would show a direct correlation with its distribution or abundance. To show a direct causal link between any of these factors and a measurable or determinable effect on the species, a study would have to be designed such that all other factors besides the one being tested were ruled out. This type of study would have to be conducted under very controlled circumstances such as those found in the laboratory. Another difficulty with determining single factor cause and effect relationships is that the delta smelt is an annual species. Therefore, the effects of a single type of environmental perturbation on one life stage in a given year may not have a direct, measurable effect on other life stages in a subsequent year. The Service acknowledges that each of the conclusions reached by Stevens *et al.* (1990) was not listed in the proposed rule. The context of the subject conclusion was that the California Department of Fish and Game could not directly link Delta water exports to the decline of the delta smelt because the monitoring study has not been specifically designed to test this hypothesis and that sampling and environmental variables are likely to mask any such direct relationships. However, the precipitous decline in delta smelt abundance after 1981 coincides with a proportional increase in fresh water diversion by State and Federal water projects during the months when delta smelt are spawning (Moyle *et al.* 1992) Furthermore, the Service lists species because of threats to their continued existence, even though we may not precisely understand the exact causal relationships leading to the decline.

Comment 6: One respondent maintained that in its discussion of the existing regulatory mechanisms that are now in place to protect the delta smelt, the Service neglected to consider that the California Fish and Game Commission directed the California Department of Fish and Game to initiate a 3-year study designed to determine the status of the delta smelt and reasons for its decline. Furthermore, the California Fish and Game Commission requested that if the California Department of Fish and Game found that the status of the species continued to suffer, that this fact should be brought to the California Fish and Game Commission's attention. Because the California Fish and Game Commission has authority to emergency list a species, this commenter suggested that current regulatory mechanisms are adequate.

Service Response: As stated above, the Service may list a species even though the exact causes of decline are not known. Continuing studies may shed light on the causes of decline, and may lead to recovery or management actions that may be of benefit to the species. However such studies do not result in direct protection of the species. Furthermore, the delta smelt is not listed by the State at this time, and State listing would not provide protection from Federal actions. No legal mechanism exists that affords protection to the delta smelt, per se, or that provides protective measures to ensure the continued existence of the species.

Comment 7: According to one commenter, the proposed rule violates the Regulatory Flexibility Act (5 U.S.C. Section 603) as well as the obligations imposed by Executive Order 12291, and Executive Order 12630.

Service Response: The Department of the Interior has determined that the analyses required by the Regulatory Flexibility Act (5 U.S.C. 603) and Executive Order 12291 are not applicable to listing determinations. The Department has also determined that any analysis performed under Executive Order 12630 may not delay a listing determination. The Act requires that listing decisions be made solely on the basis of biological information. The legislative history to the 1982 amendments of the Act states:

> "The Committee of Conference * * * adopted the House language which requires the Secretary to base determinations regarding the listing or delisting of species "solely" on the basis of the best scientific and commercial data available to him. As noted in the House Report, economic considerations have no relevance to determinations regarding the status of species and the economic analysis requirements of Executive Order 12291, and such statutes as the Regulatory Flexibility Act and the Paperwork Reduction Act, will not apply to any phase of the listing process." H.R. Conf. Rep. No. 835, 97th Cong., 2d Sess. 20 (1982); *accord.* H.R. Rep. No. 567, 97th Cong., 2d Sess. 12, 19–20 (1982); S. Rep. No. 418, 97th Cong., 2d Sess. 4 (1982).

Comment 8: One respondent alleged that the review panel convened by the Service during the status review stage of the listing process was biased by the composition of members and the documents provided by the Service for review.

Service Response: All four biologists that were asked by the Service to review the status of the delta smelt have a long history of working with western endangered or threatened fishes, expertise in fish ecology, and are

knowledgeable about the Federal listing process. For these reasons, the Service determined that these experts were uniquely qualified to review the available information and make an informed finding regarding the current status of the delta smelt. All information maintained in the Service's files on this subject is available for public review.

Comment 9: A few commenters claimed that listing the delta smelt would have negative environmental effects. Specifically, if Central Valley farmers must depend to a greater extent on groundwater for agricultural production, further overdraft of the groundwater table is likely.

Service Response: Section 4(a)(1) of the Act requires that a decision to list a species as endangered or threatened be based on the five factors described in the section of this final rule entitled Summary of Factors Affecting the Species. These five factors pertain only to the biology and habitat requirements of the species in question. Nevertheless, the Service is aware that replenishment of groundwater overdraft is one of the many uses of water diverted from the Delta. The effects of Delta water diversions and exports on delta smelt habitat is discussed in Factor A of the Summary of Factors section.

Comment 10: Many commenters suggested that the delta smelt should not be listed because of the effect such an action would have on California's economy. Several commenters stated that the proposed rule did not fully address the economic impact incurred in California as a result of the proposed listing.

Service Response: Under section 4(b)(1)(A) of the Act, a listing determination must be based solely on the best scientific and commercial data available. The legislative history of this provision clearly states the intent of Congress to "ensure" that listing decisions are "* * * based solely on biological criteria and to prevent nonbiological considerations from affecting such decisions * * *" H.R. Rep. No. 97–835, 97th Cong., 2d Sess. 19 (1982). As further stated in the legislative history, "* * * economic considerations have no relevance to determinations regarding the status of species * * *" *Id.* at 20. As stated previously, the Service is required to address economic considerations within the context of designating critical habitat. The Service may exclude areas from critical habitat due to economic or other relevant impacts, provided that such exclusion would not lead to the extinction of the species.

Comment 11: One commenter requested a six-month extension of the **Federal Register** publication of this final rule because of substantial disagreement among scientists regarding the sufficiency or accuracy of the scientific data.

Service Response: The Act requires the Secretary of the Interior, within 1 year of publishing a proposed listing, to issue a final rule, withdraw the proposed listing, or publish a notice that the 1-year period is being extended for up to 6 months (16 U.S.C. 1533(b)(6)(A)). The 1-year period may be extended if the Secretary finds "* * * substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination or revision concerned." (16 U.S.C. 1533(b)(6)(B)(i)). This disagreement must be "* * * among scientists knowledgeable about the species * * *" (50 CFR 424.17(a)(1)(iv)). The Service did not find substantial disagreement among knowledgeable scientists during the review of materials pertaining to the status of the delta smelt. The Service received no information indicating that the delta smelt is more widespread or under lesser threats than was previously thought. Therefore, the Service has determined that the date of publication of this final rule cannot be extended.

Comment 12: The Service received a reply that maintained that since there were questions among the scientific community about the validity of the taxonomic classification of the delta smelt (*H. transpacificus*) as a distinct species from the Japanese smelt (*H. nipponensis*), federally listing would be a violation of the Act.

Service Response: There is no uncertainty among the scientific community regarding the validity of the taxonomic classification of the delta smelt. In the Background section of this final rule is a description of the taxonomic revisions that have led to the currently accepted scientific nomenclature for this species.

Comment 13: One respondent attested that recent California Department of Fish and Game fall midwater trawl surveys found the delta smelt to be the most abundant species of fish collected.

Service Response: Northern anchovy (*Engraulis mordax*) represent by far the greatest proportion of the fish species caught in midwater trawl tows in all but 3 years during the period of this monitoring program (Sweetnam 1992b). For those 3 years, longfin smelt (*Spirinchus thaleichthys*) and threadfin shad (*Dorosoma petenense*) were caught in the greatest numbers.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the delta smelt should be classified as a threatened species. Procedures set forth at section 4 of the Endangered Species Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened because of one or more of the five factors described in section 4(a)(1). These factors and their application to the delta smelt (*Hypomesus transpacificus*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range.

The delta smelt was one of the most common and abundant pelagic fish caught by California Department of Fish and Game trawl surveys in the Delta during the early 1970's (Stevens and Miller 1983, Moyle *et al.* 1989, Stevens *et al.* 1990). Its distribution once ranged from western Suisun Bay upstream to Sacramento on the Sacramento River and to Mossdale on the San Joaquin River (Radtke 1966, Moyle 1976, Moyle *et al.* 1992). Smelt populations fluctuated a great deal in the past, but after 1981 began a precipitous decline. Over the last 20 years, the population has experienced a ten-fold decline in numbers, and since 1982, has remained at extremely low levels. Recent population abundance indices confirm that the species has not shown any significant signs of recovery (Moyle and Herbold 1989, Moyle *et al.* 1989, Stevens *et al.* 1990, Moyle *et al.* 1992, Sweetnam 1992a). This species' pelagic life history, dependence on pelagic microzooplankton, 1-year life span, and low fecundity are characteristics of a fish species that is affected greatly by perturbations to its reproductive habitat or larval nursery areas. Under existing levels of water development, the delta smelt is especially vulnerable during protracted drought periods. Deleterious effects of the present drought period would be exacerbated if additional alterations in hydrology caused by reductions of freshwater inflows to the Delta alter the timing and/or duration of water exports. A weak stock-recruitment relationship (i.e., little evidence of the effect of parent population size on subsequent recruitment) strongly suggests that environmental or habitat factors are severely limiting delta smelt abundance, even during those years

when adults may be abundant (Moyle *et al.* 1992).

Moyle *et al.* (1989) reported multiple and synergistic causes of the delta smelt decline in the following order of importance: (1) Reduced river outflows, primarily in the Sacramento and San Joaquin Rivers, and their tributaries, (2) extremely high river outflows in years with unusually high rainfall, (3) entrainment mortality caused by water diversion, (4) human and natural perturbations to the smelt's food web, (5) presence of toxic substances in the aquatic habitat (e.g., agricultural and industrial chemicals, heavy metals, etc.), and (6) loss of genetic integrity because of a sharply curtailed delta smelt population. This small delta smelt population may become displaced by the wagasaki, or Japanese smelt (*Hypomesus nipponensis*), which was inadvertently introduced into reservoirs of the Sacramento River drainage by the California Department of Fish and Game (Moyle 1976).

Delta water diversions and exports presently total up to about nine million acre-feet per year. State and Federal projects presently export about six million acre-feet per year when there is sufficient water available, and in-Delta agricultural uses result in diversion of about three million additional acre-feet per year. Plans currently being prepared propose to greatly increase exports and diversions in the future. The Service is aware of 21 major Central Valley Project, State Water Project, or private organization proposals that will result in increased water exports from the Delta, reduce water inflow to the Delta, change the timing and volume of Delta inflow, or increase heavy metal contamination into the Delta. These proposed projects or actions include but are not limited to: Los Banos Grandes Reservoir, South Delta Water Management Program, South Delta Water Barriers Project, North Delta Water Management Project, West Delta Water Management Project, Coastal Aqueduct proposal, Delta Wetlands Corporation Water Storage Project, Central Valley Project contract renewals, Los Vaqueros Reservoir, the Central Valley Project and State Water Project wheeling purchase agreement, reactivation of the San Luis Drain, Stanislaus-Calaveras River Basin Water Use Program, Kern Water Bank, Arvin Edison water storage and exchange proposal, and State Water Project Pump additions.

A significant change in in-Delta diversions is unlikely; if anything, a slight decrease in in-Delta agricultural use is probable. The Federal pumping plant has been operated at capacity for many years except for a very few drought years, so increased exports at this plant appear unlikely. The State Water Project pumping plant and the capacity of the State Aqueduct have considerable unused capacity, however. A table of past and projected State Water Project deliveries from Delta sources during the years of 1962 to 2035 are listed in California Department of Water Resources (1992). In the 1980's, deliveries ranged from 1.5 million acre-feet to 2.8 million acre-feet. By 1993, if enough water is available, deliveries could increase to as much as 3.8 million acre-feet. By 2010, deliveries of up to 4.2 million acre-feet are possible.

Since 1983, the proportion of water exported from the Delta during October through March has been higher than in earlier years (Moyle *et al.* 1992). The timing of these proportionally higher exports have coincided with the delta smelt's spawning season. Federal and State water diversion projects in the southern Delta export, by absolute volume, mostly Sacramento River water with some San Joaquin River water. During periods of high export pumping and low to moderate river outflows, however, reaches of the San Joaquin River reverse direction and flow to the pumping plants located in the southern Delta. The State-operated pumping plant presently exports water at rates up to 6,400 cfs. The State is considering proposals to export an additional 3,900 cfs. The Federal pumping plant can export water at rates up to 4,600 cfs. In addition, local private diverters export up to 5,000 cfs from about 1,800 diversions scattered throughout the Delta.

When total diversion rates are high relative to Delta outflow and the lower San Joaquin River and other channels have a net upstream (i.e., reverse or negative) flow, out-migrating larval and juvenile fish of many species become disoriented. Large mortalities occur as a result of entrainment and predation by striped bass at the various pumping plants and other water diversion sites. Net positive riverine flows and estuarine outflows of sufficient magnitude are required for delta smelt larvae to be carried downstream into the upper end of the mixing zone of the estuary rather than upstream to the pumping plants.

In recent years, the number of days of reversed San Joaquin River flow have increased, particularly during the February-June spawning months for delta smelt (Moyle *et al.* 1992). All size classes of delta smelt suffer near total loss when they are entrained by the pumping plants and diversions in the south Delta. Very few are effectively salvaged at the State and Federal pumping plant screens. The few delta smelt that are transported into water project reservoirs or canals fail to reproduce. This species' embryonic, larval, and postlarval mortality rates also will become higher as reduced western Delta flows allow increases in the salinity level and relocation of the mixing zone.

The delta smelt is adapted for life in the mixing zone (brackish water/freshwater interface) of the Sacramento-San Joaquin estuary. The estuary is an ecosystem where the mixing zone and salinity levels are determined by the interaction of river outflow and tidal action. Moyle *et al.* (1992) reported that delta smelt were most abundant in shallow, low salinity water associated with the mixing zone, except when they spawned. Their analysis showed that smelt were collected from water with a mean salinity of 2 ppt with a mean temperature of 15 °C, but were found in salinities ranging from 0–14 ppt at temperatures ranging from 6–23 °C. The larvae require the high microzooplankton densities produced by the mixing zone environment. The best survival and growth of smelt larvae occurs when the mixing zone occupies a large geographic area, including extensive shoal regions that provide suitable spawning substrates within the euphotic zone (depths less than 4 m). Sixty-two percent of delta smelt collected in Suisun Bay occurred at 3 sampling stations with depths less than 4 m; the remaining 38 percent were caught at 6 deeper stations.

During periods of drought and increased water diversions, the mixing zone and associated smelt populations are shifted farther upstream in the Delta. During years prior to 1984, the mixing zone was located in Suisun Bay during October through March (except in months with exceptionally high outflows or during years of extreme drought). From April through September, the mixing zone usually was found upstream in the channels of the rivers. Since 1984, with the exception of the record flood outflows of 1986, the mixing zone has been located primarily in the river channels during the entire year because of increased water exports and diversions. When located upstream, the mixing zone becomes confined to the deep river channels, becomes smaller in total surface area, contains very few shoal areas of suitable spawning substrates, may have swifter, more turbulent water currents, and lacks high zooplankton productivity. Delta smelt reproduction very likely is adversely affected now that the mixing zone is located in the main channels of

the Delta, east of Suisun Bay (Moyle *et al.* 1992). In 1982, the decline of the delta smelt population in response to the shifted location of the mixing zone was significant. In all respects, the upstream river channels are much less favorable for the spawning and survival of the smelt. The decline of the delta smelt population since 1981 has been concurrent with an increasing amount and proportion of freshwater diversions that confine the mixing zone to the narrow, deep, and less productive channels in the lower rivers.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Not known to be applicable; however, the delta smelt may be harvested as a non-target by-catch in commercial bait fisheries for other baitfish species. Some scientific collecting is conducted for the delta smelt; however, these activities do not appear to be adversely affecting this species. Native Americans historically harvested delta smelt for food, but modern Native Americans are not known to be harvesting this fish. No recreational or educational uses of this animal are expected to affect the delta smelt population.

C. Disease or Predation

Not known to be applicable. However, the introduced striped bass may have caused an increase in predation on all size classes of the delta smelt. An effort by the California Department of Fish and Game is underway to compensate for striped bass population mortalities caused by water export projects. The 1991 striped bass stock was very low relative to the population in the 1960's. The striped bass compensation program annually releases 1–2 million juvenile hatchery-reared striped bass in the estuary in an effort to rebuild the population. This year the Director of the California Department of Fish and Game decided not to release striped bass because of the potential harm they would cause to the federally threatened Sacramento River winter-run chinook salmon.

D. The Inadequacy of Existing Regulatory Mechanisms

Regulatory mechanisms currently in effect do not provide adequate protection for the delta smelt or its habitat. This species is not listed by the State of California. The California Fish and Game Commission ruled on August 30, 1990, that a petition to the State to list the species was unwarranted, rejecting the California Department of Fish and Game's recommendation to list the delta smelt as a threatened species under State authority (Stevens *et al.* 1990). State listing would have provided some measure of protection to the species because State agencies would have been required to consult with the California Department to Fish and Game if any project they funded or carried out would adversely affect the delta smelt. However, even if the State of California had listed the delta smelt, the species would not have been protected from the adverse effects of Federal actions.

Suisun Bay is the best known nursery habitat for this species' reproduction and larval survival, but the habitat has been deleteriously altered because of higher salinities in spring. These higher salinities are caused by the large number of freshwater diversions that allow brackish seawater to intrude farther upstream. At present, there are relatively few periods when freshwater outflow volumes through the Delta and Suisun Bay of any significance are mandated for wildlife or fisheries. Federal and State agencies had planned to increase 1991 and probably 1992 water supplies for out-of-stream uses at the expense of environmental protection of estuarine fish and wildlife resources in the fifth and potentially sixth years of drought (Morat 1991). Because of significantly higher than normal precipitation and subsequent higher instream flows during March, 1991, a State agency request for relaxation of Delta water quality standards was withdrawn. It is likely, should the severe California drought continue, that this water quality relaxation action will be requested again in the near future to favor out-of-stream water use over the need to protect aquatic habitats for fish and wildlife.

Present regulatory processes do not ensure that water inflows to Suisun Bay and the western Sacramento-San Joaquin estuary will be adequate to maintain the mixing zone near or in Suisun Bay to benefit delta smelt and other fish and wildlife. The California State Water Resources Control Board (Board) has the authority to condition or require changes in the amount of water inflow and the amount of water exported or diverted from the Delta. At the Board's Water Quality/Water Rights Hearings in 1987, a Service biologist testified that the delta smelt had been recommended for addition to the Federal Animal Notice of Review as a category 1 candidate species (Lorentzen 1987). The Board has not taken regulatory or legal action to protect this animal or its habitat during the 4 years since the Service expressed its concern for several species native to Sacramento-San Joaquin estuary. On December 9, 1992, the Board released a copy of Water Rights Decision 1630 (D–1630), San Francisco Bay/Sacramento-San Joaquin Estuary (California State Water Resources Control Board 1992). A meeting to consider adoption of D–1630 is scheduled for January 25, 1993. In whatever form it is finally adopted by the Board, D–1630 will establish minimum levels of public trust uses of the delta for up to 5 years. Subsequently, long-term standards will be prepared and adopted.

Implementation of the draft decision as prepared would result in improved habitat conditions for the delta smelt. The Service is presently in the process of analyzing the draft terms and conditions to determine to what extent delta smelt will be benefited, if the decision is adopted and implemented. However, even assuming immediate adoption and implementation of these interim terms and conditions, their adequacy as a regulatory mechanism to protect the delta smelt remains in question. The Service is aware that the salinity standards currently in effect (D–1485) are inconsistently implemented and frequently violated due to operational constraints. Institutional guarantees of compliance have been lacking in the past and are needed in the future.

Similarly, the Service is currently analyzing the potential effects on the delta smelt and other fish and wildlife resources in California as a result of the recent enactment of the Central Valley Project Improvement Act (Pub. L. 102–575). Two of the stated purposes of this act are to: "protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley and Trinity River basins of California" and "to contribute to the State of California's interim and long-term efforts to protect the San Francisco Bay/Sacramento-San Joaquin Delta Estuary". Section 3406(b)(2) dedicates annually 800,000 acre-feet of Central Valley Project water for various purposes including the benefit of federally listed species. While the Service is reasonably certain that the delta smelt will realize some benefit from implementation of this Act, the magnitude and timeliness of these protections may be inadequate to prevent the endangerment of the delta smelt. For example, many analysts predict that provisions within the Act will take many years for the courts to resolve. Finally, neither adoption of the State Water Resources Control Board's Decision 1630 or the Central Valley Project Improvement Act protect the delta smelt *per se*, or provide mechanisms to ensure the continued existence of the species.

For the reasons stated above, the Service considers the existing regulatory mechanisms inadequate to assure the long-term existence of delta smelt in Suisun Bay and the Delta.

E. Other Natural or Manmade Factors Affecting its Continued Existence

The delta smelt is highly vulnerable to extinction because of its short life span, present small population size, and restricted distribution. The limited gene pool may result in depressed reproductive vigor and loss of genetic variation.

Poor water quality also may be a threat. All major rivers in this species' historic range are exposed to large volumes of agricultural and industrial chemicals that are applied in the California Central Valley watersheds (Nichols *et al.* 1986). Agricultural chemicals and their residues, and chemicals originating in urban runoff, find their way into the rivers and estuary. Toxicology studies of rice field irrigation drain water of the Colusa Basin Drainage Canal documented significant toxicity of drain water to striped bass embryos and larvae, medaka larvae, and the major food organism of the striped bass larvae and juveniles, the opposum shrimp (*Neomysis mercedis*). This drainage canal flows into the Sacramento River just north of the City of Sacramento. The majority of drain water samples collected during April and May 1990 were acutely toxic to striped bass larvae (96-hour exposures), the third consecutive year that the Colusa Basin rice irrigation drain water has been acutely toxic (Bailey *et al.* 1991). Delta smelt may be similarly affected by agricultural and industrial chemical run-off.

Some heavy metal contaminants have been released into the Delta from industrial and mining enterprises. Although the effects of these contaminating compounds on delta smelt larvae and their microzooplankton food resources are not well known, the compounds could potentially adversely affect delta smelt survival. In addition, increases in urban development in the Sacramento Valley will continue to result in concurrent increases in urban runoff. Finally, a proposal to reactivate the San Luis Drain would result in discharge of high levels of selenium from the San Joaquin Valley into the Delta. Selenium has been shown to cause developmental defects in and mortality of wildlife species.

In recent years, untreated discharges of ship ballast water introduced nonindigenous aquatic species to the Sacramento-San Joaquin estuary ecosystem (Carlton *et al.* 1990). Several introduced species adversely affect the delta smelt directly. An asian clam (*Potamocorbula amurensis*), introduced as veliger larvae at the beginning of the present drought, was first discovered in Suisun Bay during October 1986. By June 1987, the asian clam was nearly everywhere in Suisun, San Pablo, and San Francisco Bays irrespective of salinity, water depth, and sediment type at densities greater than 10,000 individuals per square meter. Asian clam densities declined to 4,000 individuals per square meter as the population aged during the year (Carlton *et al.* 1990). Persistently low river outflow and concomitant elevated salinity levels may have contributed to this species population explosion (Carlton *et al.* 1990). The asian clam could potentially play an important role in affecting the phytoplankton dynamics in the estuary. It may have an effect on higher tropic levels by decreasing phytoplankton biomass and by directly consuming *Eurytemora affinis* copepod nauplii, the primary food of delta smelt.

Three non-native species of euryhaline copepods (*Sinocalanus doerrii, Pseudodiaptomus forbesi,* and *Pseudodiaptomus marinus*) became established in the Delta between 1978 and 1987 (Carlton *et al.* 1990) while *Eurytemora affinis* populations, the native euryhaline copepod, have declined since 1980. It is not known if the introduced species have displaced *E. affinis* or whether changes in the estuarine ecosystem now favor *S. doerrii* and the two *Pseudodiaptomus* species (Moyle *et al.* 1989). These introduced copepod species are more efficient at avoiding the predation of larval delta smelt. The introduced copepods also exhibit a different swimming behavior that makes them less attractive to feeding delta smelt larvae. Because of reduced food availability or feeding efficiency causing decreased food ingestion rates, weakened delta smelt larvae are more vulnerable to starvation or predation.

The significantly altered microzooplankton food web now present in the Suisun Bay-Delta estuary may have decreased the gross growth efficiency of delta smelt larvae. Gross growth efficiency is the proportion of weight-specific food ingestion rate that goes to larval fish body growth. When food ingestion rates are low, gross growth efficiency is low. At low gross growth efficiencies, larval fish take much longer to metamorphose to juveniles. Long larval stage durations increase the likelihood that density-dependent mechanisms (e.g., predators, overgrazing of food resources, etc.) and density-dependent mechanisms (e.g., adverse salinities, temperature, absence of zooplankton, water diversion entrainment and impingement mortality, etc.) would develop to adversely affect survival and recruitment. In temperate latitudes, where spawning is temporally and spatially confined, as it is for the delta smelt, both mortality and growth rates tend to be low. Ingestion in temperate species is relatively low compared to tropical species, and larval stage duration is long and potentially highly variable. Under these circumstances, small changes in either mortality rates or growth rates can have significant adverse effects on recruitment potential (Shepherd and Cushing 1980, Houde 1989). Therefore, the timing of spawning and the availability of favorable spawning sites for adults are added critical elements in the recruitment success of the spawned cohort.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in this listing determination. The Service acknowledges that available data on the population dynamics of the delta smelt were collected incidental to other investigations and were not intended to provide a population estimate. The Service believes, however, that these data represent the best available information and support the listing of this species. The available data indicate a significant population decline over the last 20 years. Though the current population has remained relatively stable over the last 5 years, it has done so at very low levels. No apparent recovery is occurring. The delta smelt faces threats from a more frequent upstream shift of its aquatic estuarine habitat, and a reduction of available habitat due to drought, replenishment for groundwater overdraft, and water exports and diversions. The shift in location of the mixing zone, as well as the reduced area available to the smelt, is expected to continue in the future. These factors will continue to adversely affect all life stages of the delta smelt. Because the smelt population is at such low levels, this species' 1-year lifespan is also a factor that threatens the species. The failure of a single reproductive season could significantly affect the ability of this species to survive and recover. Based on the evaluation of all available information on population dynamics and threats to this species, the Service has determined that listing as threatened is appropriate at this time.

Critical Habitat

Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. Section 4(b)(6)(C) further indicates that a concurrent critical habitat determination is not required if the Service finds that determination of endangered or threatened status is essential to the conservation of the involved species, or that critical habitat is not then determinable. The Service finds that determination of threatened status for the delta smelt is essential. Without a listing determination, the protections conferred the species pursuant to section 7, through a limitation on the commitment of resources on the part of concerned Federal agencies or applicants for Federal permits, could not be applied. Therefore, to ensure that the full benefits of section 7 and other conservation measures under the Act will apply to the delta smelt, prompt determination of threatened status is essential.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service has contracted for an economic impacts analysis of designating critical habitat for the delta smelt. In addition, the Service is in the process of evaluating the information that was submitted during the comment period on the potential economic impacts of critical habitat designation. However, because of the complexities and extent of the activities being assessed, this evaluation will not be completed until later in 1993. Upon completion of this economic impact analysis, the Service will render a final determination. The decision on designation of critical habitat must be made by October 3, 1993, pursuant to section 4(b)(6)(C)(ii) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat, if any is designated. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service. Federal actions that may affect the delta smelt include U.S. Army Corps of Engineers funding or issuance of permits for water pumping facilities or structures, levee construction or repairs, and channel dredging and dredge spoil disposal projects. Other examples include U.S. Bureau of Reclamation or California Department of Water Resources water export or water management operations or projects, and U.S. Environmental Protection Agency actions pertaining to the water quality standards of Suisun Bay, Suisun Marsh, and the Delta. Measures to protect the listed winter-run chinook salmon, for which the National Marine Fisheries Service has jurisdiction under the Act, also may affect the delta smelt and may require consultation with the Service.

Under section 4 of the Act, listing the delta smelt would provide for the development of a recovery plan, which would bring together Federal, State, and private efforts to develop conservation strategies for the species. The recovery plan would develop a framework of recovery activities, priorities, and funding requirements to accomplish conservation objectives and ensure the survival and recovery of the delta smelt.

The Act and its implementing regulations found at 50 CFR part 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife not covered by a special rule. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt any such conduct), import or export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any such species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered or threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR part 17. Permits for threatened species are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available. For threatened species, permits are lawful for zoological exhibition, educational purposes, or special functions consistent with the purposes of the Act. Further information regarding regulations and requirements for permits may be obtained from the U.S. Fish and Wildlife Service, Office of Management Authority, Permits Branch, 4401 N. Fairfax Drive, room 432, Arlington, Virginia 22203–3507 (703/358–2104).

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

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Author

The authors of this rule are Nadine R. Kanim and A. Keith Taniguchi, Sacramento Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under FISHES, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
Smelt, delta	*Hypomesus transpacificus*	U.S.A. (CA)	Entire	T	492	NA	NA

Dated: January 19, 1993.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–5085 Filed 3–4–93; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB 73

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Pacific Coast Population of the Western Snowy Plover

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines threatened status for the Pacific coast population of the western snowy plover (*Charadrius alexandrinus nivosus*), pursuant to the Endangered Species Act of 1973, as amended (Act). The Pacific coast breeding population of the western snowy plover extends from the State of Washington to Baja California, Mexico, with the majority of breeding birds found in California. These plovers winter primarily in coastal California and Mexico. The coastal population of the western snowy plover is threatened throughout its range by loss and disturbance of nesting sites. The final decision on determination of critical habitat is postponed in accordance with section 4(b)(6)(C)(ii) of the Act. This rule implements the Federal protection and recovery provisions afforded by the Act for this species.

EFFECTIVE DATE: April 5, 1993.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 2800 Cottage Way, room E–1803, Sacramento, CA 95825–1846.

FOR FURTHER INFORMATION CONTACT: Karen J. Miller, at the above address (916–978–4866).

SUPPLEMENTARY INFORMATION:

Background

Taxonomy

The snowy plover is a small, pale colored shorebird with dark patches on either side of the upper breast. The species was first described in 1758 by Linnaeus (American Ornithologists' Union 1957). Twelve subspecies of the snowy plover occur worldwide (Rittinghaus 1961 *in* Jacobs 1986).

Two subspecies of the snowy plover are recognized in North America (American Ornithologists' Union 1957). Those are the western snowy plover (*Charadrius alexandrinus nivosus*) and the Cuban snowy plover (*C. a. tenuirostris*). According to the American Ornithologists' Union (1957), the western snowy plover breeds on the Pacific coast from southern Washington to southern Baja California, Mexico, and in interior areas of Oregon, California, Nevada, Utah, New Mexico, Colorado, Kansas, Oklahoma and north-central Texas, as well as coastal areas of extreme southern Texas, and possibly extreme northeastern Mexico. Although previously observed only as a migrant in Arizona, small numbers have bred there in recent years (Monson and Phillips 1981, Davis and Russell 1984 *in* Page *et al.* 1991). The Cuban snowy plover breeds along the Gulf coast from Louisiana to western Florida and south through the Caribbean. The subspecific status of populations breeding east of the Rocky Mountains has been questioned (Johnsgard 1981, Jacobs 1986). These populations are considered to belong more appropriately to the subspecies *tenuirostris*.

The Pacific coast population of the western snowy plover is defined as those individuals that nest adjacent to or near tidal waters, and includes all nesting colonies on the mainland coast, peninsulas, offshore islands, adjacent bays, and estuaries.

The Pacific coast population of the western snowy plover is genetically isolated from western snowy plovers breeding in the interior (Gary Page, Point Reyes Bird Observatory, pers. comm., 1990). Intensive banding and monitoring studies have documented only two instances of intermixing between coastal and interior populations. First, a single banded female hatched at Monterey Bay was observed nesting the following year at Mono Lake, California (Gary Page, *in litt.*, 1989). This one observation was among 1,730 plovers observed at the interior site. Second, a late summer nesting plover at Monterey was observed the following year nesting at a Central Valley site (Gary Page, pers. comm., 1992). Three snowy plovers banded as chicks on the California coast were observed at interior Oregon breeding sites during the breeding season in 1990 (Stern *et al.* 1991a). No nesting, however, was documented. Conversely, no plovers banded at interior sites in Oregon, California, and Utah (1,434 birds) have been observed breeding at any coastal site (Stern *et al.* 1990a; Gary Page, pers comm.). In addition, snowy plovers tend to be site faithful, with the majority of birds returning to the same nesting location in subsequent years (Warriner *et al.* 1986).

Life History

The Pacific coast population of the western snowy plover breeds primarily on coastal beaches from southern Washington to southern Baja California, Mexico. Nesting habitat is unstable and ephemeral as a result of unconsolidated soil characteristics influenced by high winds, storms, wave action, and colonization by plants. Other less common nesting habitat includes salt pans, coastal dredged spoil disposal sites, dry salt ponds, and salt pond levees (Widrig 1980, Wilson 1980, Page and Stenzel 1981). Sand spits, dune-backed beaches, unvegatated beach strands, open areas around estuaries, and beaches at river mouths are the preferred coastal habitats for nesting (Stenzel *et al.* 1981, Wilson 1980).

Based on the most recent surveys, a total of 28 snowy plover breeding sites or areas currently occur on the Pacific Coast of the United States. Two sites occur in southern Washington—one at Leadbetter Point, in Willapa Bay (Widrig 1980), and the other at Damon Point, in Grays Harbor (Anthony 1985). In Oregon, nesting birds were recorded in 6 locations in 1990 with 3 sites (Bayocean Spit, North Spit Coos Bay and spoils, and Bandon State Park-Floras Lake) supporting 81 percent of the total coastal nesting population (Oregon Department of Fish and Wildlife, unpubl. data, 1991). A total of 20 plover breeding areas currently occur in coastal California (Page *et al.* 1991). Eight areas support 78 percent of the California coastal breeding population: San Francisco Bay, Monterey Bay, Morro Bay, the Callendar-Mussel Rock Dunes area, the Point Sal to Point Conception area, the Oxnard lowland, Santa Rosa Island, and San Nicolas Island (Page *et al.* 1991).

Snowy plovers breed in loose colonies with the number of adults at coastal breeding sites ranging from 2 to 318 (Page and Stenzel 1981; Oregon Department of Fish and Wildlife 1990; Eric Cummins, Washington Department of Wildlife, pers. comm., 1991; James Atkinson, U.S. Fish and Wildlife Service, pers. comm., 1991). On the Pacific coast, larger concentrations of breeding birds occur in the south than in the north, suggesting that the center of the plovers' coastal distribution lies closer to the southern boundary of California (Page and Stenzel 1981). The Center of Scientific Investigation and

Higher Education in Ensenada, Baja California, Mexico, observed snowy plovers distributed across 28 sites in Baja California in May, 1991. A total of 314 pairs were counted. The birds were concentrated at six coastal lakes (Dra. Graciela De La Graza Garcia, Director General of Conservation Ecology and Natural Resources, United States of Mexico, *in litt.*, 1992). The Mexican government also reported a small number of sightings of snowy plovers on the mainland coast of Sinaloa in April 1992 (Dra. Graciela De La Graza Garcia, *in litt.*, 1992).

Nest sites typically occur in flat, open areas with sandy or saline substrates; vegetation and driftwood are usually sparse or absent (Widrig 1980, Wilson 1980, Stenzel *et al.* 1981). The majority of snowy plovers are site-faithful, returning to the same breeding site in subsequent breeding seasons. Birds often nest in exactly the same locations as the previous year (Warriner *et al.* 1986).

The breeding season of the coastal population of the western snowy plover extends from mid March through mid September. Nest initiation and egg laying occurs from mid March through mid July (Wilson 1980, Warriner *et al.* 1986). The usual clutch size is three eggs. Incubation averages 27 days (Warriner *et al.* 1986). Both sexes incubate the eggs.

Plover chicks are precocial, leaving the nest within hours after hatching to search for food. Fledging (reaching flying age) requires an average of 31 days (Warriner *et al.* 1986). Broods rarely remain in the nesting territory until fledging (Warriner *et al.* 1986, Stern *et al.* 1990b).

Snowy plovers will renest after loss of a clutch or brood (Wilson 1980, Warriner *et al.* 1986). Double brooding and polygamy (i.e., the female successfully hatches more than one brood in a nesting season with different mates) have been observed in coastal California (Warriner *et al.* 1986) and also may occur in Oregon (Jacobs 1986). After loss of a clutch or brood or successful hatching of a nest, plovers may renest in the same colony site or move, sometimes up to several hundred miles, to other colony sites to nest (Gary Page, pers. comm., 1991; Warriner *et al.* 1986).

Widely varying nest success (percentage of nests hatching at least one egg) and reproductive success (number of young fledged per female, pair, or nest) are reported in the literature. Nest success ranges from 0 to 80 percent for coastal snowy plovers (Widrig 1980, Wilson 1980, Saul 1982, Wilson-Jacobs and Dorsey 1985, Wickham unpubl. data *in* Jacobs 1986, Warriner *et al.* 1986). Instances of low nest success have been attributed to a variety of factors, including predation, human disturbance, and inclement weather conditions. Reproductive success ranges from 0.05 to 2.40 young fledged per female, pair, or nest (Page *et al.* 1977, Widrig 1980, Wilson 1980, Saul 1982, Warriner *et al.* 1986, Page 1988). Page *et al.* (1977) estimated that snowy plovers must fledge 0.8 young per female to maintain a stable population. Reproductive success falls far short of this threshold at many nesting sites (Widrig 1980, Wilson 1980, Warriner *et al.* 1986, Page 1988, Page 1990).

The coastal population of the western snowy plover consists of both resident and migratory birds. Some birds winter in the same areas used for breeding (Warriner *et al.* 1986, Wilson-Jacobs, pers. comm. *in* Page *et al.* 1986). Other birds migrate either north or south to wintering areas (Warriner *et al.* 1986). Plovers occasionally winter in southern coastal Washington (Brittell *et al.* 1976). An average of 68 plovers may winter in Oregon, primarily on 3 beach segments (Oregon Department of Fish and Wildlife 1990 and *in litt.*, 1992). The majority of birds, however, winter south of Bodega Bay, California (Page *et al.* 1986). Wintering plovers occur in widely scattered locations on both coasts of Baja California and significant numbers have been observed on the mainland coast of Mexico at least as far south as San Blas, Nayarit (Page *et al.* 1986). Many interior birds west of the Rocky Mountains winter on the Pacific coast (page *et al.* 1986, Stern *et al.* 1988). Birds winter in habitats similar to those used during the nesting season.

Snowy plovers forage on invertebrates in the wet sand and amongst surf-cast kelp within the intertidal zone; in dry, sandy areas above the high tide; on salt pans; spoil sites; and along the edges of salt marshes and salt ponds. Little quantitative information is available on food habits (Reeder 1951).

Poor reproductive success, resulting from human disturbance, predation, and inclement weather, combined with permanent or long-term loss of nesting habitat to encroachment of introduced European beachgrass (*Ammophila arenaria*) and urban development has led to a decline in active nesting colonies, as well as an overall decline in the breeding and wintering population of the western snowy plover along the Pacific coast of the United States.

Previous Service Action

On March 24, 1988, the Service received a petition from Dr. J.P. Myers of the National Audubon Society to list the Pacific coast population of the western snowy plover as a threatened species under the Act. On November 14, 1988, the Service published a 90-day petition finding (53 FR 45788) that substantial information had been presented indicating the requested action may be warranted. At that time, the Service acknowledged that questions pertaining to the demarcation of the subspecies and significance of interchange between coastal and interior stocks of the subspecies remained to be answered. Public comments were requested on the status of the coastal population of the western snowy plover. A status review of the entire subspecies had been in progress since the Service's December 30, 1982, Vertebrate Notice of Review (47 FR 58454). In that notice, as in subsequent notices of review (September 18, 1985 (50 FR 37958); January 6, 1989 (54 FR 554)), the western snowy plover was included as a category 2 candidate. Category 2 candidates are species for which information now in possession of the Service indicates that proposing to list as endangered or threatened is possibly appropriate, but for which conclusive data on biological vulnerability and threat are not currently available to support proposed rules. The public comment period on the petition was closed on July 11, 1989 (54 FR 26811, June 26, 1989). The Service completed a status report on the western snowy plover in September 1989. Based on the best scientific and commercial data available and other comments submitted during the status review, the Service made a 12-month petition finding on June 25, 1990, that the petitioned action was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. On January 14, 1992 (57 FR 1443), the Service published a proposal to list the coastal population of the western snowy plover as a threatened species. With publication of this final rule, the Service now determines the Pacific coast population of the western snowy plover to be a threatened species.

Summary of Comments and Recommendations

In the January 14, 1992, proposed rule (57 FR 1443) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to development of a final listing decision. Appropriate State agencies, county and city governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper

notices were published in the Register Guard, News Times, Daily Astorian, The Oregonian, The Courier, Seaside Signal, The World, Columbia Press, Statesman-Journal, and Headlight Herald on January 30, 1992, the San Francisco Chronicle and Sun Jose Mercury News on February 3, 1992, the Oakland Tribune and Times-Standard on February 4, 1992, the Willapa Harbor Herald on February 5, 1992, the Daily World and Fort Bragg Advocate-News on February 6, 1992, the Triplicate and Chinook Observer on February 11, 1992, and the North Coast News on February 12, 1992, all of which invited public comment.

On March 2, 1992, the Service received a written request for a public hearing from Mr. John Thomas, Jr., a private citizen residing in Monmouth, Oregon. As a result, the Service published a notice of public hearing on August 3, 1992 (57 FR 34100), and reopened the comment period until August 31, 1992. Newspaper notices of the public hearing were published in the Daily Olympian, The Oregonian, the San Francisco Chronicle, and the Los Angeles Times on August 3, 1992, all of which invited general public comment. A public hearing was conducted at the Hatfield Marine Science Center in Newport, Oregon on August 18, 1992. Testimony was taken from 6 p.m. to 7:25 p.m. Six individuals testified at the hearing.

During the comment periods, the Service received 96 comments (i.e., letters and oral testimony) from 80 individuals or agencies. Of the 58 commenters that stated a position, 45 (78 percent) supported listing and 13 (22 percent) did not.

Support for the listing was expressed by one Federal agency, five State agencies, two local agencies, and 37 other interested parties. Of the State agencies responding favorably, the Washington Department of Wildlife, Oregon Department of Fish and Wildlife, and California Department of Parks and Recreation indicated strong support for listing. The Oregon Parks and Recreation Department indicated support for the listing with protection of public access rights. The California Department of Fish and Game indicated a shared interest with the Service in protecting the western snowy plover. Fifteen respondents, including the Oregon Department of Fish and Wildlife, expressed their support for endangered rather than threatened status. The Service also received two informal petitions containing 62 signatures favoring listing of the Pacific coast population of the western snowy plover. The Mexican government expressed an interest in obtaining information that would aid protection of the species in Baja California, Mexico.

Opposition to the listing was expressed by one State assemblyman, three local agencies, and nine other interested parties. Of those respondents indicating no position on the listing, many expressed concern regarding the impact of listing.

Several commenters provided additional information on the threats facing the species. Some agencies provided information on existing actions that are currently underway to help protect the species. These comments have been incorporated into the final rule. A number of commenters suggested particular strategies to help recover the species, commented on the benefits and problems associated with various recovery techniques, made recommendations for the establishment of a recovery team, or generally provided comments on ways to manage the species. Many agencies and organizations requested participation in recovery actions. These comments will be useful to the Service during the recovery planning process and will be fully considered at that time.

Written comments and oral statements obtained during the public hearing and comment periods are combined in the following discussion. Opposing comments and other comments questioning the rule can be placed in 10 general groups based on content. These categories of comment, and the Service's response to each, are listed below.

Issue 1: Critical Habitat

Comment: Several commenters were concerned about the designation of critical habitat. Eight commenters were concerned that critical habitat would not be designated and urged the Service to move forward in this endeavor. One private landowner asked that her property be included as critical habitat. Several commenters felt that enough information is presently available to designate critical habitat. These commenters believed that by stating that critical habitat is not presently determinable, the Service is attempting to exempt itself from the designation of critical habitat. The California Department of Parks and Recreation supported designation of critical habitat and stated that this designation would enable the Department to more effectively control levels of recreation use and removal of exotic plants and animals. Other agencies supporting designation of critical habitat included the Oregon Department of Fish and Wildlife, Washington Department of Wildlife, and the Portland and Seattle Districts of the Corps of Engineers.

Conversely, two respondents recommended against designation of critical habitat, with one in favor of critical habitat designation only on Federal lands.

Service Response: Section 4(a)(3) of the Act requires, to the maximum extent prudent and determinable, that the Secretary designate critical habitat at the time a species is determined to be threatened or endangered. Critical habitat for the coastal population of the western snowy plover is not determinable at this time primarily because additional information is needed to analyze nesting habitat, wintering habitat, and the economic effects of a critical habitat designation. However, when a "not determinable" finding is made under section 4(b)(6)(C)(ii), the Service must to the maximum extent prudent within 2 years of the publication date of the proposed rule designate critical habitat. Any proposal to designate critical habitat would be published in the **Federal Register** including maps and legal descriptions of all areas included in the proposal, and would solicit public comments. The potential economic impacts of critical habitat designation would be evaluated during preparation of the required economic analysis.

While the Service continues to evaluate the appropriateness of designating critical habitat, it will use some of the information provided in response to the proposed rule regarding potential areas of critical habitat. The Service will solicit information from the public on any proposed designation of critical habitat.

Critical habitat, as defined by section 3 of the Act, includes all specific areas occupied by the species at the time of its listing that are essential to its conservation. Areas not presently occupied by the species also may be designated as critical habitat if such areas are essential for the conservation of the species. Substantial habitat for the coastal population of the western snowy plover occurs on State and private lands, particularly in California, where the majority of the nesting population exists. In addition to Federal lands, State, municipal and privately-owned land may be designated as critical habitat, if such designation would benefit the species.

Comment: Several commenters provided information on factors to consider in the designation of critical habitat, such as the spatial arrangement of areas to be designated, size of the areas, and target number of birds to be included in such areas.

Service Response: These comments have been noted and will be considered in the Service's determination on the designation of critical habitat for the species.

Comment: Several commenters provided predictions on the effect of critical habitat designation on the economy, including economic impacts to Coos Bay, Oregon, the San Francisco Bay area, and the activities of the Oregon Department of Transportation. In addition, specific areas were requested to be exempt from critical habitat designation.

Service Response: The Service will fully consider these comments in any designation of critical habitat and in preparation of the accompanying economic analysis.

Issue 2: National Environmental Policy Act

Comment: One commenter stated that the designation of critical habitat and the proposal to list the Pacific coast population of the western snowy plover may fall within the purview of the National Environmental Policy Act (NEPA). This commenter stated that if an environmental analysis had been conducted on the proposal to list the plover, much of the information necessary for the designation of critical habitat would have already been assembled.

Service Response: For the reasons set out in the NEPA section of this document, the Service takes the position that rules issued pursuant to section 4(a) of the Endangered Species Act do not require preparation of an Environmental Assessment or Environmental Impact Statement (EIS). The decision in *Pacific Legal Foundation* v. *Andrus*, 657 F.2d 829 (6th Circuit 1981) held that as a matter of law an EIS is not required for listings under the Act. The decision noted that preparing EISs on listing actions would not further the goals of NEPA or the Endangered Species Act.

Issue 3: Economic Effects of Listing

Comment: Several commenters expressed concern about an adverse effect on the economy of listing the Pacific coast population of the western snowy plover, including the effects of the listing on tourism and military training exercises. One commenter recommended that the Service do an economic analysis of the impact of listing the snowy plover as threatened. Several commenters expressed the opinion that people are more important than wildlife. One commenter stated that proposed solutions to protect the snowy plover should not include broad prescriptions against all industrial development. The Portland District of the Corps of Engineers stated that the costs to that agency of listing the species likely would be minimal unless the Corps was directed to develop and fund new nesting areas.

In contrast, one commenter stated that listing of the plover would have a positive effect on the economy. This commenter cited a proposed residential development in Oregon where the developers propose to preserve an area for snowy plovers. The developers have viewed formation of a plover habitat area as a purchasing incentive for homeowners.

Service Response: Under section 4(b)(1)(A) of the Act, a listing determination must be based solely on the best scientific and commercial data available. The legislative history of this provision clearly states the intent of Congress to "ensure' that listing decisions are "* * * based solely on biological criteria and to prevent nonbiological considerations from affecting such decisions * * *" H.R. Rep. No. 97–835, 97th Cong., 2d Sess. 19 (1982). As further stated in the legislative history, "* * * economic considerations have no relevance to determinations regarding the status of species * * *" *Id.* at 20. Because the Service is specifically precluded from considering economic impacts, either positive or negative, in a listing determination, the Service is not responding to comments concerning possible economic consequences of listing the Pacific coast population of the western snowy plover. The Service, however, would be required to prepare an economic analysis in association with designation of critical habitat.

The Service will consider all existing regulatory mechanisms during the recovery planning process, and will consider a range of options in the preparation of a recovery strategy for the species. Comments on the approaches to habitat and species protection will be evaluated at that time.

Comment: Several commenters expressed concern that listing of the coastal population of the western snowy plover would prevent the construction or implementation of various projects. One commenter stated that the listing would hinder the safe operation, maintenance, and development of new facilities at an international airport governed by State and Federal regulation. The commenter requested that the Service consider an exemption procedure for federally-regulated airports. Another commenter stated that Federal agencies should prepare section 7 consultations on actions that would inhibit the continued operation of spoil disposal operations and salt manufacturing because these activities support significant populations of the snowy plover.

Service Response: Section 7 of the Act requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service. If the Service determines, through formal consultation, that a Federal action is likely to jeopardize the continued existence of a listed species, reasonable and prudent alternatives are provided by the Service.

Under section 7(g) of the Act, an applicant for a Federal permit or license can apply to the Secretary of the Interior for an exemption for an agency action if, after consultation with the Service, it is determined that the agency's action would violate section 7(a)(2) of the Act. Exemption procedures are outlined in section 7(g) through 7(p) of the Act.

The airport in question has supported in recent years a nesting colony of the federally endangered California least tern (*Sterna antillarum browni*). Snowy plovers nest in the same area occupied by least terns. The airport has been successful in maintaining and safely operating its facilities despite the presence of an endangered species on the airport. If the Service determined, after consultation, that an action involving the subject airport would be likely to jeopardize the continued existence of the snowy plover and that there was no reasonable and prudent alternative to such action, the Federal agency responsible for regulating the airport's activities could apply for an exemption under section 7(g) of the Act.

Issue 4: Alternate Listing Status Recommended

Comment: Several commenters recommended that the coastal population of the western snowy plover be listed as endangered rather than threatened, primarily because of precipitous declines in the population on the Oregon coast.

Service Response: The Service recognizes that the nesting population of snowy plovers has declined severely on the Oregon and Washington coasts. The majority of the population, however, nests in California where the decline in number of nesting birds has been less dramatic. New data received from the Mexican government during the comment period indicate that a significant number of plovers (about 314

pairs] nest on the Pacific coast of Baja California, Mexico. In addition, the approximate 17 percent population decline documented for the United States coastal population between 1977 and 1989 (Page *et al.* 1991) indicates that the current rate of decline in this population does not suggest the likelihood of extinction within the foreseeable future. For these reasons, the Service maintains that threatened status is warranted for the Pacific coast population of the western snowy plover.

Issue 5: Insufficiency of Scientific Data

Comment: Several commenters stated that the evidence was insufficient to prove that the Pacific coast population of the western snowy plover is distinct from interior western snowy plovers. One commenter requested information on interior population numbers and questioned the Service's authority to designate populations as threatened or endangered species.

Service Response: As stated above in the "Background" section of this rule, evidence of intermixing of coastal and interior populations is limited to two documented instances of banded snowy plovers from the coastal population breeding at interior sites (Gary Page, *in litt.*, 1989, Gary Page, pers. comm., 1992). These observations were among over 1,700 birds observed at interior sites in California and Nevada. More importantly, no banded snowy plovers of the larger interior population have been recorded nesting on the coast (Stern *et al.* 1990a, Gary Page, pers. comm., 1992). Based on these data, the Service has determined that the Pacific coast population of the western snowy plover is distinct from interior populations.

The Service completed a status review on the western snowy plover in 1989. Based on this status report, the Service determined that listing of the interior population of the western snowy plover is possibly appropriate; however, conclusive data on biological vulnerability and threat are not currently available to support a proposed rule. The interior population was designated as a category 2 candidate in the November 21, 1991, Animal Notice of Review (56 FR 58804).

Under section 3 of the Act, a "species" is defined as "any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." Therefore, the Act allows for listing a population of a vertebrate species.

Comment: Several commenters stated that insufficient data were available to warrant listing the coastal population of the western snowy plover as a threatened species. Several commenters indicated that listing of the snowy plover was being done for political, rather than biological reasons.

Service Response: Section 4(b)(1)(A) of the Act, requires that a listing determination be based on the best scientific and commercial data available. The Service bases its determination on data collected over a period of 10 or more years by the Point Reyes Bird Observatory, the Oregon Department of Fish and Wildlife, the Washington Department of Wildlife, and other competent researchers. All data indicate a downward trend in the nesting population and number of nesting sites on the coast. The Service maintains that sufficient data are available to warrant listing the Pacific coast population of the western snowy plover as a threatened species.

Comment: One commenter stated that there is no scientific proof that European beachgrass or horseback riding has had any deleterious effect upon the coastal snowy plover population.

Service Response: European beachgrass, which is found at 50 percent of California snowy plover breeding sites and all of the Oregon and Washington breeding sites, eliminates potential snowy plover nesting habitat. The plant reduces the amount of unvegetated area above the surf line, the area where snowy plovers prefer to nest. As examples, at Willapa National Wildlife Refuge in Washington State, the Service documented between 1984 and 1990 invasion of European beachgrass into former snowy plover nesting areas (James Atkinson, pers. comm., 1992). A decline in the plover breeding population also occurred over this time period. In Oregon, at the Siuslaw National Forest, the U.S. Forest Service reports that European beachgrass has eliminated some of the historically open sand spits where snowy plovers formerly nested or wintered. Remaining birds are forced to use a greatly reduced habitat base (Robert D. Nelson, U.S. Forest Service, *in litt.*, 1992). At the Pajaro River mouth in California, an ongoing decline in the breeding population of snowy plovers coincides with expansion of European beachgrass at this site (David Dixon, California Department of Parks and Recreation *in litt.*, 1991). The Oregon Department of Fish and Wildlife (*in litt.*, 1992) considers European beachgrass to be the primary reason for the decline of snowy plovers on the Oregon coast, with human disturbance a secondary factor in remaining habitat.

Interactions between nesting snowy plovers and horseback riders have been documented at Baker Beach, Oregon, by Woolington (1985), at Salinas River State Beach, California, by Page (1988), and at Morro Bay and Calendar-Mussel Rock Dunes, California, by Philip Persons (Point Reyes Bird Observatory, *in litt.*, 1992). Continuous passage of horseback riders through nesting areas results in direct loss of nests or indirect loss from plovers repeatedly being flushed from their nests.

Issue 6: Species and Habitat Management

Comment: Two commenters stated that the Service should allow natural selection to take place and not interfere with nature's principle of survival of the fittest.

Service Response: The decline of the Pacific coast population of the snowy plover is largely due to unnatural events, such as the human-caused introduction of European beachgrass and the non-native red fox. Other successful predators are attracted to coastal beaches by trash left behind by recreationists. A species may not be able to adapt to modifications in its habitat caused by human-related activities. Adaptation is an evolutionary process requiring considerable time. To follow the principle of "survival of the fittest" and allow threatened or endangered species to go extinct would be contrary to the intent of Congress as stated in the purposes of the Act.

Comment: Several commenters stated that the snowy plover is opportunistic in finding breeding sites, and, therefore, there is no reason to believe that the population of the species will not move to better breeding sites as the environment changes from location to location.

Service Response: Data on the coastal population of the western snowy plover suggest that most birds are site faithful, returning to the same breeding site in subsequent years. In California, the lack of major storms during the recent five-year drought has resulted in an increase in potential dune-backed nesting habitat for plovers on several State beaches. This available habitat, however, has not been explored in all cases (Henry R. Agonia, California Department of Parks and Recreation, *in litt.*, 1991). These data contradict the assertion that coastal nesting birds are opportunistic in locating nesting sites. In addition, because of the constant increase in human-related activities on Pacific coast beaches and the unchecked advancement of European beachgrass on many beaches, it is unlikely that snowy plovers displaced from one breeding site

will be able to find suitable nesting sites at other locations.

Comment: One commenter advised that if predators prove to be the primary problem for plovers at Coos Bay, preservation efforts might be more wisely undertaken at nesting areas adjacent to less populated areas.

Service Response: The Coos Bay nesting colony on the North Spit is the largest remaining nesting colony in the State of Oregon. Predators are recognized as a significant factor in the reduced nesting success of plovers at this site. In response to this threat, the Oregon Department of Fish and Wildlife has been conducting nest enclosures experiments and has found these measures significantly increased nesting success. Because this nesting site is the largest in Oregon and is responding favorably to management, it would be inadvisable at this time to abandon this site in favor of applying management techniques only at nesting sites in less populated areas.

Comment: Many commenters provided advice on how snowy plover nesting areas should be managed, including prohibition or effective and enforceable regulation of foot, horseback, and vehicular traffic, control of cats and dogs, exclusion of researchers, creation of buffer areas adjacent to human activity centers, continuing education, use of nesting enclosures, predator control, beachgrass control and eradication using mechanical techniques and herbicides, removal of stabilization structures, careful placement of dredged spoils, garbage removal, and regular monitoring of bird numbers and distribution. Some of these comments suggested that the above management actions should be undertaken instead of listing the species. One commenter believed that barring vehicle traffic alone, as has been done at many beaches, is not enough to protect snowy plovers.

In contrast, one commenter was concerned that the above management actions were unnatural and did not follow proven science or the tenet of natural selection. Another commenter was concerned that other wildlife would be adversely impacted by management actions to protect snowy plovers.

Service Response: The Service will fully consider these as well as other possible management approaches when consultation and recovery actions are undertaken for the snowy plover. The Service considers the decline in the coastal population of the snowy plover to be primarily related to unnatured factors, including the introduction of non-native vegetation and predators. When a species declines to the point of threatened or endangered status as a result of man-made factors, intensified management is scientifically warranted to reverse this unnatural population decline. The Service recognizes that localized populations of more common wildlife species may decline to a minor degree as a result of actions taken to protect the snowy plover.

Comment: One commenter felt that implementation of a cooperative predator control program in the San Francisco Bay area would be more effective in protecting the snowy plover than listing the species as threatened or endangered. The commenter felt that listing the species would destroy this cooperative spirit and not protect the species.

Service Response: The San Francisco Bay area supports the largest remaining nesting population of snowy plovers in coastal California. Despite the importance of this nesting region, and despite the lack of legal status for the snowy plover, no cooperative predator control programs have been launched to protect this species. Conversely, a cooperative predator control program is currently underway to protect the federally listed endangered California clapper rail (*Rallus longirostris obsoletus*) in the San Francisco Bay area. Based on this experience, the Service's believes that listed species are more likely to be the recipients of cooperative protection ventures than species that are not listed.

Issue 7: Take Regulations

Comment: One commenter recommended that the Service concurrently developed and promulgate regulations are provided in the Act to define "take" of the species.

Service Response: The Service is considering the need to develop a precise definition of "take" for the Pacific coast population of the western snowy plover.

Comment: One commenter suggested that all the Federal land on the west coast be reserved for snowy plovers, and that State, local and privately-owned land be exempt.

Service Response: The Endangered Species Act applies to all people and all lands regardless of ownership. Under section 9 of the Act, the prohibition against "take" of listed species is not based on land ownership. The requirements for Federal agencies under section 7 of the Act are discussed under Issue 3 and under the Available Conservation Measures section of this rule. Under section 10(a) of the Act, private landowners may apply for an incidential take permit and develop a habitat conservation plan for projects that take listed species incidental to otherwise lawful activities. An incidental take permit constitutes an exception to the prohibition against taking. Details of the procedures involved in applying for a section 10(a) permit may be found in 50 CFR 17.32(b). Federal land comprises 34 percent of snowy plover habitat in California, and 50 percent of plover habitat in Oregon and Washington. Because the majority of the nesting plover population occurs in California, protection of only 34 percent of the species' nesting habitat would not provide adequate protection for the coastal population of the western snowy plover.

Issue 8: Sequence of Listing Actions

Comment: Three commenters questioned why the northern spotted owl (*Strix occidentalis caurina*) and the marbled murrelet (*Brachyramphus marmoratus marmoratus)* were listed prior to the western snowy plover when the plover population is smaller than either of these species.

Service Response: The Service was petitioned to list the northern spotted owl in January, 1987, and the marbled murrelet in January, 1988. Both petitions preceded the petition to list the Pacific coast population of the western snowy plover.

In summary, no information was received indicating that the species is more widespread or under lesser threat than was previously thought.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Pacific coast population of the western snowy plover should be classified as a threatened species. Procedures found at section 4 of the Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Pacific coast population of the western snowy plover (*Charadrius alexandrinus nivosus*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Historic records indicate that nesting western snowy plovers were once more widely distributed in coastal California, Oregon, and Washington than they are

currently. In coastal California, snowy plovers bred at 53 locations prior to 1970 (Page and Stenzel 1981). Since that time, no evidence of breeding birds has been found at 33 of these 53 sites, representing a 62 percent decline in breeding sites (Page and Stenzel 1981). The greatest losses of breeding habitat were in southern California, within the central portion of the snowy plover's coastal breeding range. In Oregon, snowy plovers historically nested at 29 locations on the coast (Charles Bruce, Oregon Department of Fish and Wildlife, pers. comm., 1991). In 1990, only six nesting colonies remained, representing a 79 percent decline in active breeding sites. In Washington, snowy plovers formerly nested in at least five sites on the coast (Eric Cummins, pers. comm., 1991). Today only two colony sites remain active, representing, at minimum, a 60 percent decline in breeding sites.

In addition to loss of nesting sites, the plover breeding population in California, Oregon, and Washington has declined 17 percent between 1977 and 1989 (Page *et al.* 1991). Declines in the breeding population have been specifically documented in Oregon and California. Breeding season surveys of the Oregon coast from 1978 to 1992 show that the number of adult snowy plovers has declined significantly at an average annual rate of about 5 percent (calculated from Oregon Department of Fish and Wildlife data). The number of adults has declined from a high of 139 adults in 1981 to a low of 30 adults in 1992 (Oregon Department of Fish and Wildlife 1990, Charles Bruce, pers. comm., 1991, Randy Fisher, Oregon Department of Fish and Wildlife, *in litt.*, 1992). If the current trend continues, breeding snowy plovers could disappear from coastal Oregon by 1999. In 1981, the coastal California breeding population of snowy plovers was estimated to be 1,565 adults (Page and Stenzel 1981). In 1989, surveys revealed 1,386 plovers (Page *et al.* 1991), an 11 percent decline in the breeding population. The population decline in California may be greater than indicated; the 1989 survey results are considered more reliable than the earlier estimates, which may have underestimated the overall population size (Gary Page, pers. comm., 1991).

Although there are no historic data for Washington, it is doubtful that the snowy plover breeding population in Washington was ever very large (Brittell *et al.* 1976). However, loss of nesting sites in this State probably has resulted in a reduction in overall population size. In recent years, fewer than 30 birds have nested on the southern coast of Washington (James Atkinson, pers. comm., 1990; Eric Cummins, pers. comm., 1991). In 1991, there was only one successful brood detected in the State (Tom Juelson, Washington Department of Wildlife, *in litt.*, 1992).

Survey data also indicate a decline in wintering snowy plovers, particularly in southern California. The number of snowy plovers observed during Christmas Bird Counts from 1962 to 1984 significantly decreased in southern California despite an increase in observer participation in the counts (Page *et al.* 1986). This observed decline was not accompanied by a significant loss of wintering habitat over the same time period (Page *et al.* 1986).

The most important form of habitat loss to coastal breeding snowy plovers has been encroachment of European beachgrass (*Ammophila arenaria*). This non-native plant was introduced to the west coast around 1898 to stabilize dunes (Wiedemann 1987). Since then it has spread up and down the coast and now is found from British Columbia to southern California (Ventura County). European beachgrass is currently a major dune plant at about 50 percent of California breeding sites and all of those in Oregon and Washington (J.P. Myers, National Audubon Society, *in litt.*, 1988). Stabilizing sand dunes with European beachgrass has reduced the amount of unvegetated area above the tideline, decreased the width of the beach, and increased its slope. These changes have reduced the amount of potential snowy plover nesting habitat on many beaches and may hamper brood movements. The beachgrass community also provides habitat for snowy plover predators which historically would have been largely precluded by the lack of cover in the dune community. In addition, the presence of beachgrass may adversely affect plover food supplies. The abundance and diversity of sand dune arthropods are markedly depressed in areas dominated by European beachgrass (Slobodchikoff and Doyen 1977).

Urban development also has contributed significantly to the loss of snowy plover breeding sites. The construction of residential and industrial developments, and recreational facilities, including placement of access roads, parking lots, summer homes, and supportive services, have permanently eliminated valuable nesting habitat on beaches in southern Washington (Brittell *et al.* 1976), Oregon (Oregon Department of Fish and Wildlife 1990), and California (Page and Stenzel 1981). Snowy plover use of man-made habitat, such as salt evaporators and dredged spoil sites, apparently has not compensated for loss or degradation of habitat in other areas (Page and Stenzel 1981).

Sand mining operations at numerous locations in California also may be eliminating potential snowy plover habitat by interrupting buildup of the sand profile (David Dixon, *in litt.*, 1991). Stabilization efforts also may interrupt this process, resulting in beach erosion and loss of plover nesting habitat.

In the habitat remaining for snowy plover nesting, human activity (e.g., walking, jogging, running pets, horseback riding, off-road vehicle use, and beach raking) is a key factor in the ongoing decline in snowy plover coastal breeding sites and breeding populations in California, Oregon, and Washington. Snowy plovers also are subjected to similar high levels of human disturbance at nesting sites in Baja California, Mexico (Barbara Massey, Proesteros, pers. comm., 1990; Daniel Anderson, University of California, Davis, pers. comm., 1990). With 81 percent of the Oregon snowy plover population supported at three of six remaining nesting sites and 78 percent of the California population breeding in eight areas, loss of just a few of these sites could dramatically reduce the coastal plover population.

In all of Los Angeles County and parts of Orange County, California, entire beaches are raked on a daily to weekly basis to remove trash and tidal debris. Even if human activity was low on these beaches, grooming activities completely preclude the possibility of successful nesting attempts (Stenzel *et al.* 1981). Plover food availability on raked beaches also may be depressed for both breeding and wintering birds, because surf-cast kelp and associated invertebrates are removed and the upper centimeter of the sand substrate is disturbed (J.P. Myers, *in litt.*, 1988).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Egg collecting has been observed at several California nesting colonies (Stenzel *et al.* 1981, Warriner *et al.* 1986). The significance of this factor on nesting success is unknown.

C. Disease or Predation

Western snowy plover eggs, chicks, and adults are taken by a variety of avian and mammalian predators. These losses, particularly to avian predators, are exacerbated by human disturbances. Of the many predators, American crows (*Corvus brachyrhynchos*), ravens (*C. corax*), and red fox (*Vulpes vulpes*) have had a significantly adverse effect on

reproductive success at several colony sites. Because crows and ravens, in particular, thrive in urban/agricultural areas, present day coastal populations of these species are probably greater than historic populations. Accumulations of trash at beaches attracts these as well as other predators, including striped skunks (*Mephitis mephitis*), gulls (*Larus* sp.), and raccoons (*Procyon lotor*) (Stern *et al.* 1990b, Hogan 1991). At nesting sites on the Oregon coast, nest losses of up to 68 percent have been attributed to crows and ravens (Wilson-Jacobs and Meslow 1984, Stern *et al.* 1991b). Ravens were also significant predators at a Point Reyes breeding site, destroying 67 to 69 percent of the clutches in 1988 to 1989 (Page 1988, 1990). In recent years, concern has increased regarding loss of snowy plover nests to the introduced eastern red fox. The fox apparently now occurs throughout a significant portion of coastal California, including the Monterey Bay area (John and Jane Warriner, point Reyes Bird Observatory, *in litt.*, 1989), San Francisco Bay (Leora Feeney, Biological Field Services, pers. comm., 1991), Orange County, (Gary Page, *in litt.*, 1988), and Ventura, Los Angeles, and Santa Barbara Counties (Ronald Jurek, California Department of Fish and Game, pers. comm., 1992). At the Marina breeding site in Monterey Bay, red fox destroyed 45 percent of the nests in 1988 (Page 1988). This predator was also the likely cause of nest failures at least three other breeding sites in Monterey Bay in 1989 to 1990 (Page 1990). In the Salinas River area, the number of chicks fledged between 1984 and 1989 was reduced by 75 percent as red fox expanded into the area (John and Jane Warriner, *in litt.*, 1989).

Although predation represents an important mortality factor at several colony sites, the significance of predation on the overall coastal population of the snowy plover is unknown. Nevertheless, this factor remains an issue of concern, particularly as it relates to the non-native red fox, which represents a severe and spreading threat to nesting snowy plovers.

D. The Inadequacy of Existing Regulatory Mechanisms

The western snowy plover is protected by the Federal Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*) and by State law as a nongame species. The plover's breeding habitat, however, receives only limited protection from these laws; e.g., Migratory Bird Treaty Act prohibition against taking "nests." 16 U.S.C. 703.

In the State of Washington, the western snowy plover was listed as an endangered species in 1981 by the Wildlife Commission. This designation, however, does not provide for consultation between the Department of Wildlife and other State agencies regarding impacts of proposed projects on the snowy plover. Preparation of a recovery plan for the snowy plover is required by 1995 under State law. A recovery plan for the snowy plover, however, has not yet been developed. There are also no penalties imposed under Washington law for take of endangered species habitat. At the Damon Point site, the Department of Wildlife has entered into an agreement with other agencies to provide some protection for nesting plovers.

In Oregon, the plover was listed as a threatened species in 1975. The Oregon Threatened and Endangered Species Act of 1987 requires other State agencies to consult with the Department of Fish and Wildlife. The State Act, however, does not provide adequate protection for either the birds or their habitat. A management and recovery plan for the snowy plover in Oregon is currently being developed (Oregon Department of Fish and Wildlife 1990, Martin Nugent, Oregon Department of Fish and Wildlife, pers. comm., 1992). Although protective measures are being implemented on an experimental basis at some nesting sites (Charles Bruce, pers. comm., 1990) and many beaches have been closed to vehicles, a comprehensive conservation program has yet to be implemented in this State. At Coos Bay, an estuary management plan requires no net loss of plover habitat in conjunction with industrial development of the North Spit. In 1993, the Oregon Fish and Wildlife Commission will consider upgrading the snowy plover to endangered status.

In California, where the majority of nesting occurs, the snowy plover is classified as a "Species of Special Concern" (Remsen 1978). This designation provides no special, legally mandated protection. Vehicle closures have been effective in protecting nesting snowy plovers on some State beaches (W. David Shuford, Point Reyes Bird Observatory, *in litt.*, 1989, Henry R. Agonia, California Department of Parks and Recreation, *in litt.*, 1991), but have been ineffective at other beaches because of a lack of enforcement (P. Persons, *in litt.*, 1992). Aside from the Migratory Bird Treaty Act, snowy plovers have no protection status in Mexico.

Section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act are the primary Federal laws that could provide some protection of nesting and wintering habitat of the western snowy plover that is determined by the U.S. Army Corps of Engineers (Corps) to be wetlands or historic navigable waters of the United States. These laws, however, would apply to only a small fraction of the nesting and wintering areas of the western snowy plover on the Pacific coast.

In 1985, the Nongame Program of the Service prepared management guidelines for the western snowy plover (Fish and Wildlife Service 1985), which included strategies to reduce human disturbance at nesting sites, and prevent structural alternation of breeding habitat. Some management actions have been carried out since publication of the guidelines, but major strategies have yet to be implemented.

E. Other Natural or Man-made Factors Affecting its Continued Existence

Human activity, as mentioned previously, is a key factor in the ongoing decline in snowy plover coastal breeding sites and breeding populations. The nesting season of the western snowy plover (mid-March to mid-September) coincides with the season of greatest human use on beaches of the west coast (Memorial Day through Labor Day). Human activities of particular detriment to nesting snowy plovers include unintentional disturbance and trampling of eggs and chicks by people (Stenzel *et al.* 1981, Warriner *et al.* 1986, P. Persons, *in litt.*, 1992); off-road vehicle use (Widrig 1980, Stenzel *et al.* 1981, Anthony 1985, Warriner *et al.* 1986, Page 1988, Philip Persons, *in litt.*, 1992); horse-back riding (Woolington 1985, Page 1988, Philip Persons, *in litt.*, 1992); and beach raking (Stenzel *et al.* 1981). Page *et al.* (1977) found that snowy plovers were disturbed more than twice as often by such human activities than all other natural causes combined.

Intensive beach use by humans results in abandonment of nesting sites or reductions in nesting density or nesting success. In southern California where human activity on beaches is extensive, plover nesting is restricted to managed preserves. The reduction in the number of nesting plovers at South Beach on the Oregon coast may have been related to opening of a new State park adjacent to the beach (Wilson 1980). Nipomo Dunes beach in southern California, which receives high human use, including significant off-road vehicle activity, supported one-fifth the density of plover nests as occurred at Point Purisima beach, within Vandenberg Air Force Base (closed to public use) (Stenzel *et*

al. 1981). This relationship held true even though nesting habitat at Nipomo Dunes was of higher quality than that at Point Purisima. Hatching success was found to be much lower on Zmudowski State Beach in Monterey County, California, than on an undisturbed salt pan just 1 kilometer (km) away (Warriners, unpubl. data *in* Page and Stenzel 1981).

In the few instances where human intrusion into snowy plover nesting areas has been precluded either through area closures or by natural events, nesting success has improved. The average number of young fledglings per nesting pair increased from 0.75 to 2.00 after the nesting site at Leadbetter Point, Washington, was closed to human activities (Saul 1982). Similarly, vehicle closure on a portion of Pismo Beach, California, led to an eight-fold increase in the nesting plover population (W. David Shuford, Point Reyes Bird Observatory, *in litt.*, 1989). Fledgling success increased 16 percent at Moss Landing Beach, California, after beach access was virtually eliminated by the 1989 earthquake (Page 1990).

When beach visitors travel through plover nesting areas, plovers flush repeatedly. Incubating plovers at Point Reyes left their nests in response to human activity 65 to 78 percent of the time when disturbances occurred within 100 meters (m) or less of nests (Page *et al.* 1977). Dogs intimidated plovers even more, with plovers flushing more frequently and remaining off their nests significantly longer when disturbed by people with dogs versus people without dogs (Page *et al.* 1977).

Prolonged absences from the nest and the subsequent longer incubation period increase the likelihood of nest failures by prolonging exposure of eggs and nesting birds to predators (Page *et al.* 1983) and other detrimental factors. Human disturbance also may increase exposure of eggs or chicks to inclement weather. In an attempt to avoid intruders, adult snowy plovers have been observed leaving chicks wet and unattended in the rain (Wilson 1980) and allowing wind blown sand to bury their eggs (Charles Bruce, pers. comm., 1991). Prolonged absences from the nest on sunny days may result in overheating of the eggs.

Researchers also have frequently observed chicks running long distances along beaches as they were unintentionally "herded" by people using the beach (Philip Persons, *in litt.*, 1992). High levels of human disturbance may increase chick mortality by altering chick behavior. Frequently disturbed piping plover chicks fed less often and at a reduced rate (Fleming *et al.* 1988). Fewer chicks survived to 17 days in areas heavily disturbed by humans.

In addition to indirect effects, direct losses of chicks and adults also result form human activities. In the Monterey Bay area, two mates were found run over on their nests (J.P. Myers, *in litt.*, 1988). Chicks and adults are particularly vulnerable because of their habit of crouching in depressions, such as tire tracks or footprints. Vehicle tracks have been noted in nesting areas at a number of beaches, including Damon Point (Anthony 1985) and Leadbetter point (Widrig 1980) in Washington; New River (Wickham 1981) and Coos Bay (Oregon Department of Fish and Wildlife 1990) in Oregon; and Point Reyes (Page 1988), the Pajaro River mouth (Warriner *et al.* 1986), Morro Bay and Calendar-Mussel Rock Dunes (Philip Persons, *in litt.*, 1992) in California. The Mexican government reported observing all terrain vehicle tracks in 15 of 28 breeding sites in Baja California, Mexico (Dra. Graciela De La Graza Garcia, *in litt.*, 1992). On military bases, such as Camp Pendleton in California, plovers are directly and indirectly affected by military training exercises on the beach (Loren Hays, U.S Fish and Wildlife Service, pers. comm., 1991).

Because the majority of snowy plover nesting sites occur in unstable sandy substrates, nest losses caused by weather-related natural phenomena commonly occur. Events such as extreme high tides (Wilson 1980, Stenzel *et al.* 1981, Warriner *et al.* 1986, Page 1988), river flooding (Stenzel *et al.* 1981), and heavy rain (Wilson 1980, Warriner *et al.* 1986, Page 1988) have been reported to destroy or wash away individual nests as well as entire colony sites. Wind driven sand contributes to nest failure by burying eggs (Wilson 1980, Stenzel *et al.* 1981, Warriner *et al.* 1986). The percentage of total nest losses attributed to weather-related phenomenon has varied from 15 to 38 percent (Wilson 1980, Warriner *et al.* 1986, Page 1988). Although natural phenomena contribute significantly to nest failures at some plover breeding sites, the significance of this factor on the overall coastal breeding population is unknown.

Artificial measures have been taken at several nesting sites to improve snowy plover nesting success. In 1991, the California Department of Parks and Recreation and the Service conducted plover nest enclosure studies on National Wildlife Refuge and State property in the Monterey area. Hatching success of plover nests in enclosures was 81 percent as compared to 28 percent for unprotected nests. (Richard G. Rayburn, California Department of Parks and Recreation, *in litt.*, 1992, Elaine Harding-Smith, U.S. Fish and Wildlife Service, pers. comm., 1992). Use of nest enclosures at Coos Bay North Spit resulted in up to 88 percent nesting success, compared to as low as 9 percent success for unprotected nests (Stern *et al.* 1991b, Randy Fisher, *in litt.*, 1992).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the Pacific coast population of the western snowy plover in determining to make this final rule. Based on this evaluation, the preferred action is to list the Pacific coast population of the western snowy plover (*Charadrius alexandrinus nivosus*) as threatened. This population of the western snowy plover is threatened by loss and modification of nesting habitat resulting from encroachment of European beachgrass, extensive human recreational use of nesting areas, and human development of the coast. Predation, which is often exacerbated by human disturbance, poses a significant threat to a number of nesting colonies. Although only two western snowy plover nesting sites remain in Washington, and population declines in Oregon have been dramatic in recent years, the Service has decided to list the Pacific coast population of the western snowy plover as threatened. This decision is based on the fact that the center of the breeding range of this population is in California where numbers of breeding birds are greater and have not declined as dramatically. However, numerous unchecked threats and an ongoing, rangewide population decline indicate that the coastal population of the western snowy plover is likely to become endangered within the foreseeable future throughout all or a significant portion of its range. Critical habitat is not determinable at this time for reasons discussed in the "Critical Habitat" section of this rule.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat concurrently with determining a species to be endangered or threatened. The Service finds that critical habitat is not presently determinable for the Pacific coast population of the western snowy plover. The Service's regulations (50 CFR 424.12(a)(2)) state that critical habitat is not determinable if information sufficient to perform required analyses of the impacts of the designation is lacking or if the biological

needs of the species are not sufficiently known to permit identification of an area of critical habitat. Critical habitat is defined as "specific areas within the geographical area currently occupied by a species * * * on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection * * *" (50 CFR 424.02(d)).

When prompt listing of a species is essential to its conservation, but sufficient information to perform required analyses of the impacts of the critical habitat designation is lacking, the Service may go forward with a final listing decision without designating critical habitat. In the case of the snowy plover, nesting birds (especially in Oregon and Washington) need immediate protection from take. A critical habitat determination, to the maximum extent prudent, must then be completed not later than 2 years from publication of the proposed rule. The Service is continuing to gather information to be used in these analyses.

The Service has received additional information specific to potential areas of snowy plover critical habitat. A study by Stern *et al.* (1990b) indicates that plover broods at several Oregon sites remain relatively close to nesting areas. Additional information is being sought from snowy plover experts, particularly in California, where many of the colony sites have not been studied as extensively.

The relative importance of specific wintering habitat sites to maintenance of the coastal population of the subspecies also may represent an additional consideration.

In addition, to analyze the economic impacts of a critical habitat designation, the Service must obtain information about the costs of such a designation over and above the costs associated with listing. The Service must have information on the possible increased costs associated with restrictions of public access to specific nesting or wintering areas, and associated secondary effects on recreational concessionaires, commercial fisheries, and industrial and residential development. Such information will be gathered by coordinating with the appropriate agencies and individuals.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal agencies that may be involved as a result of this listing are the Service, Bureau of Land Management, National Park Service, U.S. Forest Service, Federal Aviation Administration, and the Departments of the Army (including the Corps of Engineers (Corps)), Navy, and Air Force. In California, approximately 34 percent of the breeding plover population occurs on Federal lands (J.P. Myers, *in litt.*, 1988). At least 50 percent of breeding habitat is under Federal agency jurisdiction in Oregon (J.P. Myers, *in litt.*, 1988). In Washington, the breeding site at Leadbetter Point is within a National Wildlife Refuge.

On most Federal land containing active breeding sites, few measures have been implemented specifically to protect snowy plovers. In a few areas in California, including the Marine Corps Base at Camp Pendleton, plovers have benefitted somewhat from protective measures taken for the endangered California least tern (*Sterna antillarum brownii*). At Vandenberg Air Force Base in southern California, beaches are closed to all foot and vehicular traffic during the California least tern nesting season (Donna Brewer, U.S. Fish and Wildlife Service, pers. comm., 1991). Dogs and cattle have been restricted from some beaches at Point Reyes National Seashore (Gary Page, pers. comm., 1991), and some beaches on Federal land in Oregon have been closed to vehicles to protect plovers and other wildlife (Charles Bruce, pers. comm., 1991). Leadbetter Point in Washington (Fish and Wildlife Service), a 5-acre spoil disposal site in Coos Bay (Bureau of Land Management), and a 25-acre spoil disposal site in Coos Bay (Corps of Engineers) are the only nesting sites where human access is restricted specifically for plover nesting. At the Siuslaw National Forest, the Forest Service has established Forest-wide standards and guidelines for the snowy plover. These guidelines include area closures through signing, public education, prohibitions against loss or degradation of habitat, provisions for habitat enhancement, and monitoring. Most other nesting areas on Federal land, with the exception of military bases, have unrestricted human access all year. In Oregon, the Corps of Engineers is proposing two projects to create or improve plover nesting habitat using dredged spoils. Access improvements for recreational purposes are ongoing at several beaches on Federal land. At Coos Bay, Oregon, where the largest coastal Oregon plover colony occurs, several recreational facilities, including off-road vehicle access and campgrounds are proposed on Bureau of Land Management land (Bureau of Land Management 1989). The Bureau of Land Management at Coos Bay also is considering a proposed land exchange that would involve moving a snowy plover nesting site to a new location created with dredged spoils.

Because human disturbance is a primary factor affecting snowy plover reproductive success, any of the above mentioned Federal agencies would be required to consult with the Service if any action they fund, authorize, or carry out may affect the coastal population of the western snowy plover.

As discussed above, some western snowy plover nesting and wintering habitat may be regulated by the Corps of Engineers under section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act. If a proposed project may affect the western snowy plover, the Corps would be required to consult with the Service under section 7 of the Act.

The Act and implementing regulations found at 50 CFR 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife not covered by a special rule. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt any such conduct), import or

export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

The Service will review the Pacific coast population of the western snowy plover to determine whether it should be placed upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, which is implemented through section 8(A)(e) of the Act, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from the Field Supervisor, Sacramento Field Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–1803, Sacramento, California 95825–1846.

Authors

The primary author of this rule is Karen J. Miller, U.S. Fish and Wildlife Service, Ecological Services, Sacramento Field Office, 2800 Cottage Way, Room E–1803, Sacramento, California 95825–1846 (916/978–4866).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under Birds, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife

* * * * *

(h) * * *

Species			Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name							
BIRDS								
Plover, Western snowy	*Charadrius nivosus.*	*alexandrinus*	U.S.A. (CA, OR, WA, NV, AZ, UT, CO, NM, TX, OK, KS); Mexico.	U.S.A. (CA, OR, WA); Mexico (BC) (Within 50 miles of the Pacific coast).	T	493	NA	NA

Dated: February 26, 1993.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–5086 Filed 3–4–93; 8:45 am]

BILLING CODE 4310–55–M

federal register

Friday
March 5, 1993

Part V

Environmental Protection Agency

40 CFR Parts 302 and 355
Reporting Exemptions for Radionuclide Releases; Proposed Rule; Re-opening of Comment Period

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 302 and 355

[FRL–4601–7]

Administrative Reporting Exemptions for Certain Radionuclide Releases

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule; re-opening of comment period.

SUMMARY: On November 30, 1992 (57 FR 56726), the U.S. Environmental Protection Agency (EPA) proposed to establish certain administrative exemptions from the notification requirements under section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and section 304 of the Emergency Planning and Community Right-to-Know Act, also known as title III of the Superfund Amendments and Reauthorization Act. A correction to the proposed rule (58 FR 6056), was published on January 25, 1993. EPA requested that public comments on the Notice of Proposed Rulemaking (NPRM) be submitted by January 29, 1993. The Agency received two written requests for extension of the comment period dated January 26, 1993, and a third request for extension of the comment period dated January 27, 1993. The purpose of today's action is to re-open the public comment period to allow the public greater opportunity to evaluate the issues raised by the November 30, 1992, NPRM.

DATES: Comments on the November 30, 1992, NPRM must be received on or before May 4, 1993

ADDRESSES: *Comments:* Comments should be submitted in triplicate to Emergency Response Division, Attention: Superfund Docket Clerk, Docket Number 102RQ–RN–1, Superfund Docket Room M2427, U.S. Environmental Protection Agency, Mail Code OS–245, 401 M Street, SW., Washington, DC 20460.

Docket: Copies of materials relevant to the November 30, 1992, NPRM are contained in room M2427 at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (Docket Number 102RQ–RN–1). The docket is available for inspection between the hours of 9 a.m. and 4 p.m., Monday through Friday, excluding Federal holidays. Appointments to review the docket can be made by calling 202/260–3046. The public may copy up to 266 pages from any regulatory docket at no cost. For 267 pages or more, the first 100 copies are free and additional copies cost $.15 per page.

FOR FURTHER INFORMATION CONTACT: Ms. Gerain H. Perry, Response Regulations Development Section, Emergency Response Division (5202G), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; or the RCRA/Superfund Hotline at 800/424–9346 (in the Washington, DC metropolitan area, contact 703/412–9810). The Telecommunications Device for the Deaf (TDD) Hotline number is 800/553–7672 (in the Washington, DC metropolitan area, contact 703/486–3323).

SUPPLEMENTARY INFORMATION: The administrative reporting exemptions proposed to be granted in the November 30, 1992 NPRM were for: Releases of naturally occurring radionuclides from large generally undisturbed land holdings, such as golf courses and parks; releases of radionuclides naturally occurring from the disturbance of large areas of land for purposes other than mining, such as farming or building construction; releases of radionuclides from the dumping of coal and coal ash at utility and industrial facilities with coal-fired boilers; and radionuclide releases to all media from coal and coal ash piles at utility and industrial facilities with coal-fired boilers.

EPA had originally granted these administrative reporting exemptions in a final rule on May 24, 1989 (54 FR 22524) because EPA believed that reporting of radionuclide releases from these four source categories would serve no useful purpose. Subsequent to promulgation of that final rule, the United States Court of Appeals for the District of Columbia held in *The Fertilizer Institute* v. *United States Environmental Protection Agency* (935 F.2d 1303 (DC Cir. 1991)) that the administrative reporting exemptions were not properly promulgated because they were issued without sufficient notice and opportunity for public comment. The Court, however, allowed the exemptions to remain in place while EPA provides the public with notice of, and the opportunity to comment on, the exemptions.

Walter W. Kovalick, Jr.,

Acting Assistant Surgeon General, USPHS, Acting Assistant Administrator.

[FR Doc. 93–5130 Filed 3–4–93; 8:45 am]

BILLING CODE 6560–50–M

federal register

Friday
March 5, 1993

Part VI

Department of the Interior

Bureau of Land Management

43 CFR Parts 3730, et al.
Rental Fees, Mining Claim Recordation, and Assessment Work; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3730, 3820, 3830, and 3850

[WO-660-4191-02-24 1A]

RIN 1004-AC07

Rental Fees, Mining Claim Recordation, and Assessment Work

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement provisions of the Interior Department and Related Agencies Appropriations Act of 1993 (the Act) that require an annual rental fee of $100 for each mining claim and site located and held under the General Mining Law of 1872 primarily for fiscal years 1993 and 1994. The proposed rule would establish the procedures for paying and administering the required annual rental fee, put into regulation the statute's mandatory payment deadlines and the law's mandatory penalty of statutory abandonment of the mining claim or site for failure to pay the rental fee on time, amend the recording regulations and assessment work regulations to conform to the requirements of the Act, and establish procedures for obtaining the small miner exemption. The proposed rule would also make minor technical amendments to existing regulatory language to clarify procedure and to implement further the Federal Land Policy and Management Act of 1976, as amended (FLPMA).

DATES: Comments should be submitted by April 19, 1993. Comments received or postmarked after this date may not be considered in the decision making process on the issuance of the final rule.

ADDRESSES: Comments should be submitted to: Director (140), Bureau of Land Management, room 5555, Main Interior Building, 1849 C Street, NW., Washington, DC 20240. Comments will be available for public review in room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Roger Haskins, (702) 785–6576, or Frank Bruno, (202) 208–4147.

SUPPLEMENTARY INFORMATION: The Interior Department and Related Agencies Appropriations Act of 1993, Public Law 102–381 of October 5, 1992, 106 Stat. 1374, 1378–79 (the Act), established a mandatory annual rental fee of $100 for fiscal years 1993 and 1994 for each mining claim and site located and held under the General Mining Law of 1872. Beginning on October 5, 1992, the Act, with certain exceptions, suspended the requirements of section 314, paragraphs (a) and (c), of FLPMA, (43 U.S.C. 1744 (a) and (c)), for the annual filing of an affidavit of labor or a notice of intent to hold, and suspended the annual assessment work requirement of the General Mining Law of 1872 (30 U.S.C. 28–28e). The Department is guided in this rule by the language of the Act as well as its legislative history, which defines the intent of Congress in passing this legislation.

The Bureau of Land Management (BLM) proposes to amend the regulations at 43 CFR parts 3730, 3820, 3833, and 3850 to implement the mining rental fee requirements of the Act, which contains the following provisions:

1. An annual rental fee of $100 is required, with certain exceptions, for each mining claim or site located and held under the General Mining Law of 1872, as amended (30 U.S.C. 22–54).

2. The rental fee is in lieu of and replaces the assessment work requirement of the General Mining Law (30 U.S.C. 28–28e).

3. The filing requirements of section 314(a) of FLPMA are suspended for the period affected by the Act unless the claimant qualifies for an exemption.

4. That portion of section 314(c) of FLPMA, which makes failure to file an affidavit of labor or a notice of intent to hold a statutory abandonment of the mining claim, is suspended from October 5, 1992, and so long thereafter as the relevant provisions of the Act of October 5, 1992, are in effect, unless the claimant qualifies for a small miner exemption from paying rent in lieu of the affidavit requirement.

5. Unless the claimant qualifies for an exemption, failure to pay the required rental fee by the statutory deadline in the Act constitutes a statutory abandonment of the mining claim or site and it shall be void.

6. The assessment years described in the Act refer to the assessment years that begin on September 1, 1992, and September 1, 1993.

7. For each mining claim and site located on or before October 5, 1992, a $100.00 rental fee is required to be paid by August 31, 1993, for the assessment year beginning on September 1, 1992; and a second $100.00 rental fee is required to be paid by August 31, 1993, for the assessment year beginning on September 1, 1993.

The language of the rental fee provisions in the Appropriations Act is ambiguous concerning the rental fee requirements for claimants who completed their assessment work between September 1, 1992, and October 4, 1992, for the assessment year beginning September 1, 1992. It is not clear on the face of the statute whether or nor such claimants should be required to pay the rental fee. Consequently, this rule proposes two alternatives, labeled Alternative One and Alternative Two. The alternatives are outlined below, along with the reasoning favoring each alternative. The regulatory language also sets forth the two alternatives. Public comments are solicited on the merits of the two alternatives. The final rule will reflect the decision made by the Department of the Interior after thorough review of presentations made in the public comments.

The first alternative (Alternative One) would require these claimants to pay the rental fee for the assessment year beginning September 1, 1992, on or before August 31, 1993, unless they qualify for a small miner exemption. A number of arguments favor this alternative. First, the Act of October 5, 1992, does not contain an exemption provision for these claimants. Though earlier versions of the bill contained one, it was removed before enactment. Second, the language of the Act states that the rental fee is in lieu of assessment work "for the assessment year ending at noon on September 1, 1993." 106 Stat. 1378. The assessment year referred to began on September 1, 1992. Therefore, arguably, the rental fee requirement is in lieu of assessment work that was conducted or will be conducted during the period beginning on September 1, 1992, and ending on September 1, 1993. Third, the fee is in lieu of filings required by FLPMA that could not be filed for the assessment year beginning on September 1, 1992, until the period running from January 1, 1993, to December 30, 1993. As a result, it was impossible for any claimants to file the FLPMA filing before the enactment of the Act. No claimants, therefore, have fully completed both requirements that the rental fee is intended to replace. Fourth, despite the portion of the assessment year that elapsed before the effective date of the Act, the rental fee requirement can be seen as essentially prospective in nature because the fee is not due until the future date of August 31, 1993. Under such a reading, although the fee may be an additional requirement for some claimants, it is nevertheless due prospectively. Last, the legislative history of the statute only shows an express congressional intent to allow an

exemption from the rental fee requirement for qualified small miners. 135 Cong. Rec. S15849 (daily ed. September 30, 1992) and 135 Cong. Rec. S15970 (daily ed. October 1, 1992).

The second alternative (Alternative Two) is to exempt these claimants from the requirement to pay the rental fee and provide for a means of certifying that the assessment work was completed during the period between September 1, 1992, and October 4, 1992. The ambiguity of the statute provides a number of arguments in favor of this option as well. First, because the statute was not effective until October 5, 1992, and those claimants who completed the assessment work in this hiatus period were complying with the Mining Law requirements in place at the time, the application of the rental fee requirement to these claimants could be viewed as a retroactive application of the statutory requirement. If this would be a retroactive application, the courts have disfavored retroactivity in the law. Second, from the language of the statute, the rental fee is intended to be "in lieu of" the assessment work requirements of the Mining Law and the filing requirement of FLPMA. It follows that if the assessment work has already been completed, arguably, the rental fee cannot be charged in lieu of the assessment work. Third, such claimants, if required to pay the fee, are, arguably, being penalized for having complied with the assessment work requirement early in the assessment year. As a matter of equity, these claimants should not be required to pay an additional expenditure for a fee that is intended to replace the already-completed assessment work. Last, in the legislative history as it refers to deferment of assessment work, Senator Stevens stated that claimants who are not required to do the assessment work need not pay the rental fee. The reverse may also be true; that claimants who have already completed the assessment work need not pay the rental fee.

8. For mining claims and sites located on or after October 6, 1992, and on or before September 30, 1994, the rental fee for the year of location is paid at the time of recording. For claims located on or after October 6, 1992, and on or before December 31, 1992, the rental fee paid at the time of recording does not eliminate the requirement under FLPMA to file a notice of intent to hold on or before December 30, 1993. For claims located on or after September 1, 1993, and on or before December 31, 1993, the rental fee paid at the time of recording does not eliminate the requirement under FLPMA to file a notice of intent to hold on or before December 30, 1994.

9. For mining claims and sites located on or after October 6, 1992, and on or before August 31, 1993, the rental fee for the assessment year beginning on September 1, 1993, is required to be paid on or before August 31, 1993.

10. Several exemptions are allowed:

(a) Claimants (hereinafter called small miners) holding 10 or fewer claims (lode or placer, not mill or tunnel sites) on Federal land, and who have 10 acres or less of unreclaimed land from mining or exploration operations, and are currently under a valid Notice or Plan of Operations and are producing minerals or actively exploring for minerals, may, in lieu of paying the rental fee, do the assessment work and record it as in the past under 43 CFR 3833.2 by December 30th (1993 and 1994). In such cases a certified statement of exemption is required to be filed by August 31, 1993, for each year an exemption is claimed.

(b) Claimants currently granted a deferment of assessment work need not pay the rental fee while the deferment is in effect. Claimants with claims/sites located on lands within the National Park System, who have been issued a notice of taking, have had a plan of operations denied, or are litigating for compensation for claims/sites taken in the Federal Courts, are not subject to the rental provisions.

(c) Claimants who have been issued a mineral entry final certificate for a mineral patent application are not subject to the rental fee for claims or sites within the final certificate, unless the certificate is canceled.

(d) Oil shale claims are not subject to the $100 rental fee. Instead, a $550 fee is due per oil shale claim pursuant to section 2511(e)(2) of the Energy Policy Act of 1992 (Energy Policy Act), Public Law 102–486, 106 Stat. 2776.

11. The December 30, 1992, annual filing for the 1992 calendar year (1991–1992 assessment year) is still required.

The detailed requirements of the Act are further explained below in this preamble, section by section.

Section 3730.0–9 Information collection

This new section would be added to conform to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The section discloses to the public the current estimated burden hours needed to comply with the information collection requirements in this rule, why the information is being collected, and what the information will be used for by the BLM.

Subpart 3734—Location and Assessment Work

Section 3734.1 Owner of claim to file notice of location

Existing paragraph (a) would be amended to provide that mining claims, mill sites, or tunnel sites located in powersite withdrawals are required to be recorded and fees are required to be paid under 43 CFR subpart 3833, pursuant to Section 314 of FLPMA and the Acts of August 11, 1955, and October 5, 1992.

Existing paragraph 3734.1(d) would be removed because it is no longer applicable. Its filing requirements have been superseded by section 314 of FLPMA and the implementing regulation at 43 CFR subpart 3833.

Paragraph 3734.1(c) would be revised to advise the owner of a mining claim located in a powersite withdrawal of the new requirements of the Act and to refer to 43 CFR subpart 3833 for further requirements.

Subpart 3821—O and C Lands

Section 3821.2 Requirements for Filing Notices of Locations of Claims; Descriptions

Existing paragraph (a) has recordation and assessment work provisions applicable to certain timber lands in northern California and Oregon under the Act of April 8, 1948 (62 Stat 162). The section would be revised to reflect that mining claims, mill sites, or tunnel sites located on O and C lands are required to be recorded and fees paid pursuant to the requirements in Section 314 of FLPMA and the requirements of the Acts of April 8, 1948, and October 5, 1992, which are implemented in 43 CFR subpart 3833.

Existing § 3821.2 (b), (c), and (d) are removed because they are no longer necessary. Their requirements have been replaced by section 314 of FLPMA and 43 CFR subpart 3833.

Existing § 3821.3 would be amended to reflect the requirements of the Act, which are implemented in 43 CFR Subpart 3833.

PART 3830—LOCATION OF MINING CLAIMS

Subpart 3833—Recordation of Mining Claims, Mill Sites, and Tunnel Sites and Payment of Service Charges; Payment of Rental Fees

Section 3833.0–1 Purpose

This section would be amended by redesignating existing paragraphs (c) and (d) as (d) and (e), respectively, and adding a new paragraph (c) to include the requirement to pay an annual rental

fee in the same office where the location certificate is recorded. Independent recording requirements under State law are not affected by the Act of October 5, 1992.

Section 3833.0–3 Authority

Existing § 3833.0–3(a) would be amended to consolidate the existing section's references to the performance of assessment work and the filing of an affidavit of labor or a notice of intent to hold.

Existing § 3833.0–3(b) would be amended to add 43 U.S.C. 1212 and 1457 to the authorities listed. Section 1457 recites the specific responsibilities and authorities of the Secretary of the Interior, encompassing public lands and mines. Section 1212 makes it a crime to file false or fictitious documents with the Secretary.

A new paragraph (e) would be added for the Act of October 5, 1992, to include the requirement to pay an annual rental fee, state the general terms of the Act, and recite the Act's penalty for failure to pay the rental fee. It would also direct the claimant to § § 3833.1–5, 3833.1–6, and 3833.1–7 of the regulations, where the requirements and exemptions of the Act are enumerated by this rule.

A new paragraph (f) would be added to recognize the $550 annual fee requirement for oil shale claims of the Energy Policy Act, notwithstanding any other provisions of law, including the Act of October 5, 1992.

Section 3833.0–5 Definitions

This section would be amended by revising existing paragraph (a) to distinguish FLPMA from the Act of October 5, 1992.

Paragraph (m) would be amended to change the grace period for annual assessment filings. The grace period for receiving mailed filings, if postmarked on time, would be changed from 20 to 15 calendar days. This time change is proposed because BLM has observed that since 1983, when the postmark provision was first adopted in the regulations, all mailings arrived within 12 to 14 days of postmarking, even during holiday seasons.

Paragraph (o) would be amended to define the filing years for purposes of complying with the Act of October 5, 1992, and section 314 of FLPMA.

Paragraph (p) would be amended to state that amended location certificates cannot be used to effect a change in ownership interest to a mining claim or site. A change in ownership interest is required to be filed pursuant to § 3833.3. Section 314 of FLPMA requires the claimant/owner of a mining claim or site to maintain a record of current ownership interests with the BLM, pursuant to FLPMA.

A new paragraph (t) would be added to define the rental fee and its basic statutory provisions.

A new paragraph (u) would be added to define "small miner" for purposes of qualifying for an exemption from payment of the rental fee, in exchange for performing assessment work and annual filings.

A new paragraph (v) would be added to define the term "non-refundable" as it applies to fees.

Section 3833.0–9 Information Collection

This section has been added to inform the public that the requirements of the Information Collection statute (44 U.S.C. 3501 *et seq.*) have been complied with and approved by the Office of Management and Budget (OMB). The section also includes the BLM's latest estimate of the burden hours imposed by the information collection requirements in this rule, and lists the address and agency where the public may send comments or suggestions concerning the burden hours imposed by this subpart of the regulations.

Section 3833.1–1 Recordation of Mining Claims, Mill Sites, and Tunnel Sites Located on or After October 21, 1976

Paragraph (a) would be amended by replacing the word "Act" with the acronym "FLPMA" in order to avoid potential confusion as to which Act is being cited in the regulation, FLPMA or the Act of October 5, 1992.

Section 3833.1–3 Service Charges and Rental Fees

The section title would be amended to reflect the consolidation of payment of rental fees and service charges.

Existing section (a) would be amended to consolidate rental fee and service charge remittances into one category as to acceptable methods of payment, including the acceptance of currently valid credit cards. The BLM currently accepts Master Card and Visa. Other credit cards will be acceptable in the near future. New paragraph (b) would make unintentional failure to pay service fees (recording fee, transfer fee, or amendment fee) fully at the time of submission a curable defect, and complete failure to pay rental fees a noncurable defect. Claimants who make filings with insufficient service fees will be allowed 30 days from receipt of a deficiency notice to make the proper filing. However, the Act of October 5, 1992, requires that the rental fee for claims or sites located on or after October 6, 1992, be paid at the time of recordation. Failure to pay the rental fee within the 90-day recording period provided for in section 314(b) of FLPMA and 43 CFR 3833.1, statutorily results in the claim or site becoming abandoned and void.

Section 3833.1–4 Service Charges

This section would be revised to detail the service charges that apply.

Section 3833.1–5 Rental Fees

This section would be added to explain the requirements and filing deadlines relating to the date of location of a mining claim or site and payment of the rental fee payable under the Act of October 5, 1992. This section would also explain the requirements under the Act as applied to claimants who completed the assessment work between September 1, 1992, and October 4, 1992, for the assessment year beginning on September 1, 1992, which reflects Alternative One as described earlier. Finally, this section would recognize the impact of section 2511 of the Energy Policy Act, which establishes separate and distinct fee requirements for oil shale claims.

Section 3833.1–6 Rental Fee Exemption Qualifications

This new section would be added to explain the conditions a small miner is required to meet for performing assessment work in lieu of payment of the rental fee. This section would also explain the requirements under the Act as applied to claimants who completed the assessment work between September 1, 1992, and October 4, 1992, for the assessment year beginning on September 1, 1992, which reflects Alternative Two as described earlier.

Section 3833.1–7 Filing Requirements—Rental Fee Exemption

This new section would set forth the documentation required to be filed with the BLM State Office by December 30th of 1993 and 1994 and August 31, 1993, to justify the exemption sought and allow BLM to permit the exemption for the conditions documented. This section would explain the effect of deferment of assessment work on the rental fee requirement. The section would explain the effect on the rental fee requirement of exemption from assessment work for claimants who have received the first half of the mineral entry final certificate. It would also explain the documentation required to be filed in order to obtain an exemption from the rental fee requirement for having finished the

assessment work between September 1, 1992, and October 4, 1992, for the assessment year beginning on September 1, 1992, which reflects Alternative Two as described earlier.

Section 3833.2–1 National Park System lands, and Section 3833.2–2 Other Federal lands

These sections would be amended to include a reference to the Act.

Section 3833.2–3 Consistency between the Federal Land Policy and Management Act, the General Mining Law of May 10, 1872, and the Act of October 5, 1992

A new paragraph (d) would be added to explain the requirements for performing assessment work, and the FLPMA annual filings, for assessment year 1995.

Section 3833.2–6 When Evidence or Notice is Not Required

Existing § 3833.2–6 would become paragraph (f) of § 3833.1–7 and be amended to reflect that the rental fee need not be paid for mining claims and sites contained within a mineral patent application when the BLM has issued the first half of the mineral entry final certificate. This would then relieve the applicant of any further liability to perform assessment work under the General Mining Law of 1872. It also would provide that if a mineral entry final certificate is canceled, in whole or in part, the rental fee would be payable in the assessment year that the cancellation became effective, for those claims or sites covered by the cancellation.

Section 3833.3 Notice of Transfer of Interest

Existing section (a)(2) would be amended to clarify the type and nature of documentation required to effect a transfer of interest or ownership in a mining claim or site under section 314 of FLPMA.

Section 3833.4 Failure to File

Paragraph (a) would be divided into subparagraphs (a)(1) and (a)(2). New paragraph (a)(1) would explain that the failure to file a pre-Act FLPMA annual filing for calendar year 1992 is still a fatal defect and voids the mining claim. It also would state that after October 5, 1992, the provisions of § 3833.2 (and therefore section 314(a) of FLPMA) do not apply to the filing deadlines pertaining to assessment years 1993 and 1994, except for those claimants able to claim an exemption under §§ 3833.1–6 and 3833.1–7.

New paragraph (a)(2), pursuant to the Act, would designate several defects that would void the mining claim or site: failure to record a new claim within 90 days of its location (existing FLPMA requirement, or 60 days if located under section 3734 or 3821 of title 43); failure to submit the required rental fee during the 90 day recording period under section 314(b) of FLPMA (as required by the Act of October 5, 1992); or failure to file the certified statements for an exemption by August 31, 1993.

Paragraph (b) would be amended by including the failure to file a transfer of interest or filing an incomplete certified statement of exemption as a curable defect.

Section 3833.5 Effect of Recording and Filing

Paragraph (b) would be revised to clarify the relationship between the recording and filing requirements of subpart 3833 and other existing laws and regulations, both State and Federal.

Paragraph (d) would be amended by removing the requirement for searching for claimant ownership records outside of BLM's recordation files in each State Office for mineral contest actions. The claimant is required by section 314 of FLPMA and 43 CFR 3833.3 to record his ownership interest with BLM for all mining claims and sites recorded with BLM. Failure to file a transfer of interest would result in the BLM giving formal notice and legal service only upon those owners shown in our records. The BLM will no longer do courthouse searches for possible owners not of record with the agency before serving a contest complaint or formal notice of a proposed legal action concerning the claims/sites recorded with BLM. This change would implement the ruling of the United States Tenth Circuit Court of Appeals in *Topaz Beryllium Co.* v. *United States*, 649 F.2d 775, 778–779 (10th Circuit, 1979), regarding the FLPMA filing requirements.

PART 3850—ASSESSMENT WORK

Section 3851.0–1 Purpose

This new section would be added for information purposes.

Section 3851.0–9 Information Collection

This section would be added to inform the public that the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) have been complied with and approved by the Office of Management and Budget (OMB). The section would also include the BLM's latest estimate of the burden hours imposed by the information collection requirements in this rule, and list the address and agency where the public may send comments or suggestions concerning the burden hour estimate.

Section 3851.1 Assessment Work

This section would be amended to consolidate the requirements of the General Mining Law of 1872, as amended, as to the conditions under which assessment work is required to be performed. This section was last revised prior to World War II, and this revision will make it current with legislation and judicial decisions that have occurred since that time.

Section 3851.3 Effect of Failure to Perform Assessment Work

This section would be revised to separate and itemize the assessment work requirements of the General Mining Law of 1872, as amended, and the requirements of the Act. The itemization is deemed necessary to avoid confusion on the part of the claimant in determining which requirements apply to a specific situation.

Section 3851.4 Failure of a Co-owner to Contribute to Annual Assessment Work

This section would be amended to add failure to contribute to the payment of the rental fee as a ground for forfeiture of the delinquent co-owner's legal interest in the mining claim or site to the remaining co-owners, as provided by the Act.

Section 3851.5 Assessment Work or Rental Fee Not Required After Issuance of First Half of Mineral Entry Final Certificate

This section would be amended to state that, pursuant to long-standing Federal judicial rulings, once the first half of the mineral entry final certificate has been issued by the BLM for mining claims and sites in a mineral patent application, the applicant is relieved of any further requirement to perform assessment work, and therefore is not required to pay a rental fee in lieu thereof.

Section 3852.1 Conditions Under Which Deferment May Be Granted

This section would be amended to state the conditions under which a deferment may be granted.

The principal author of this proposed rule is Roger A. Haskins, Division of Mineral Resources, Nevada State Office, with assistance from Frank Bruno, Division of Solid Minerals, and from the Division of Legislation and Regulatory Management, BLM, Washington Office,

and the Office of the Solicitor, Department of the Interior.

It has been determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The BLM has determined that this rule is categorically excluded from further environmental review pursuant to 516 Departmental Manual, chapter 2, appendix 1, Item 1.10, and that the rule will not significantly affect the 10 criteria for exceptions listed in 516 DM 2, appendix 2. Pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and environmental policies and procedures of the Department of the Interior, "categorical exclusions" means a category of actions that do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291. A major rule is any regulation that is likely to result in an annual effect on the economy of $100 million or more, a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. It is likely that some percentage of mining claims will be abandoned because of the rental fee requirement, but it is very difficult to identify a number. The $100 rental fee would be paid on top of expenditures for mining activity. A large company with the capacity to pay the fee may be reluctant to do so if it holds many speculative claims. Deciding factors would be the marginality of the operations and the speculative value of the claims. Because it is currently very easy to hold a mining claim for speculative purposes, we may see claims in this category be abandoned, since it will no longer be as attractive to hold them. Claims with good production or exploration prospects would likely be held. Dropping the others should produce little negative economic effect. It is likely that the rental fee will result in a lower level of exploration activity, but it is not likely that this will have a significant economic effect, because the fee is nominal for a claim with good exploration prospects.

The Department also certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The fee may represent an economic consideration for a small, marginal operation that does not qualify for an exemption under the rule. However, most small operations would qualify. A small entity that holds a valuable mining claim will not be deterred by the annual fee, and many of them will qualify for an exemption.

As required by Executive Order 12630, the Department of the Interior has determined that the rule would not cause a taking of private property. The rule will have no effect on private property rights.

The Department has certified to the Office of Management and Budget that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778.

The provisions for collection of information contained at 43 CFR parts 3730, 3820, 3833 and 3850 have previously been approved by the Office of Management and Budget and assigned clearance numbers 1004–0114, 1004–0025, and 1004–0110.

Public reporting for this collection of information is estimated to average 8 minutes (0.125 hours) per response, including time for gathering and maintaining the data needed, and reviewing and completing the collection of information. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, should be sent to the Division of Information Resources Management, BLM (783), 1849 C Street NW., Washington, DC 20240; and the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1004–0114, 1004–0025, or 1004–0110), Washington, DC 20503.

List of Subjects

43 CFR Part 3730

Administrative practice and procedure, Mines, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3820

Mines, Monuments and memorials, National forests, National parks, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds, Wilderness areas.

43 CFR Part 3830

Mineral royalties, Mines, Public lands—mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3850

Mines, Public lands—mineral resources, Assessment work, Reporting and recordkeeping requirements.

Under the authority of the Act of October 5, 1992 (Pub. L. 102–381, 106 Stat. 1374, 1378–79); the Energy Policy Act of 1992 (Pub. L. 102–486, 106 Stat. 2776); sections 441 and 2478 of the Revised Statutes, as amended, (43 U.S.C. 1457 and 1201); Sections 2319, 2322, and 2324 of the Revised Statutes, as amended (30 U.S.C. 22, 26, and 28–28e), and section 310 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1740); parts 3730, 3820, 3830 and 3850, Groups 3700 and 3800, subchapter C, chapter II of title 43 of the Code of Federal Regulations are proposed to be amended as follows:

PART 3730—PUBLIC LAW 359; MINING IN POWERSITE WITHDRAWALS: GENERAL

1. The authority citation for part 3730 is added to read as follows:

Authority: 69 Stat. 681; 106 Stat. 1374, 1378–79.

Subpart 3730—Public Law 359; Mining in Power Site Withdrawals: General

2. Section 3730.0–9 is added to read:

§ 3730.0–9 Information collection.

(a) The collections of information contained in subpart 3730 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004–0110. The information will be used to allow the authorized officer to determine whether a mining claimant is qualified to hold a mining claim or site for the exploration, development, and utilization of minerals on all public lands that are withdrawn for power development. The information collected will be used to make this determination. A response is required to obtain a benefit in accordance with the Act of August 11, 1955 (Pub. L. 84–359, 30 U.S.C. 621–625), section 314 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1744), and the Act of October 5, 1992 (Pub. L. 102–381, 106 Stat. 1374, 1378–79).

(b) Public reporting burden for this information is estimated to average 8 minutes per response, including time for reviewing instructions, searching existing records, gathering and maintaining the data collected, and completing and reviewing the information collected. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden; to the Information Collection Clearance Officer (783), Bureau of Land Management, 1849 C St NW., Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project, 1004–0110, Washington, DC 20503.

Subpart 3734—Location and Assessment Work

3. Section 3734.1 is amended by removing paragraph (d) and revising paragraphs (a) and (c) to read as follows:

§ 3734.1 Owner of claim to file notice of location and assessment work.

(a) The owner of any unpatented mining claim, mill site, or tunnel site located on land described in the Act of August 11, 1955, shall record a notice of location with the proper office of the Bureau of Land Management pursuant to §§ 3833.1, 3833.4, and 3833.5 of this title, except that the notice of location shall be filed within 60 days of the location of the mining claim, mill site, or tunnel site, as required by the Act of August 11, 1955. The notice of location shall state that it is filed pursuant to Public Law 84–359 (30 U.S.C. 621–625). Failure to state that this is a notice of location for a placer claim will delay implementation of the procedures leading to permission to mine the placer claim under subpart 3736 of this title until the authorized officer of the Bureau of Land Management ascertains that the placer claim is located on lands subject to the Act.

* * * * *

(c) The owner of any unpatented mining claim, mill site, or tunnel site located on land described in section 2 of Public Law 84–359 shall perform and record annual assessment work or pay an annual rental fee of $100 per unpatented mining claim, mill site, or tunnel site in lieu of the annual assessment work, pursuant to subpart 3833 of this title.

PART 3820—AREAS SUBJECT TO SPECIAL MINING LAWS

4. The authority citation for part 3820 is added to read as follows:

Authority: 62 Stat. 162; 48 U.S.C. 364a–364c; 16 U.S.C. 482a; 25 U.S.C. 461–479; 16 U.S.C. 251–255; 16 U.S.C. 447; 49 Stat. 1817; 16 U.S.C. 450z; 50 Stat. 1827; 16 U.S.C. 460y; 42 U.S.C. 4332; 30 U.S.C. 22 *et seq*

Subpart 3821—O and C Lands

5. Section 3821.2 is revised to read as follows:

§ 3821.2 Requirements for filing notices of locations of claims; descriptions.

An owner of a mining claim, mill site, or tunnel site located prior to April 8, 1948, upon O. and C. lands, was required to file for record with the proper office of the Bureau of Land Management, a copy of the notice of such location on or before October 5, 1948. For all mining claims, mill sites, and tunnel sites located on O and C lands on or after April 8, 1948, the owner shall record a notice of location with the proper office of the Bureau of Land Management pursuant to §§ 3833.1 and 3833.5 of this title, except that the notice of location shall be filed within 60 days of the location of the mining claim, mill site, or tunnel site, as required by the Act of April 8, 1948 (62 Stat. 162).

6. Section 3821.3 is revised to read as follows:

§ 3821.3 Requirement for filing statements of assessment work.

The owner of an unpatented mining claim, mill site, or tunnel site located upon O and C lands shall perform and record the annual assessment work, or pay an annual rental fee of $100 per unpatented mining claim, mill site, or tunnel site in lieu of the annual assessment work, pursuant to subpart 3833 of this title.

PART 3830—LOCATION OF MINING CLAIMS

7. The authority citation for part 3830 is revised to read as follows:

Authority: 30 U.S.C. 22, secs. 2319 and 2478 R.S., as amended (43 U.S.C. 1201), 31 U.S.C. 9701, 16 U.S.C. 1901, 1907; 43 U.S.C. 1734, 1740, 1744, and 1782; 106 Stat. 1374, 1378–79.

8. Subpart 3833 is amended by revising the Subpart heading to read as follows:

Subpart 3833—Recordation of Mining Claims, Mill Sites, and Tunnel Sites and Payment of Service Charges; and Payment of Rental Fees

9. Section 3833.0–1 is amended by redesignating paragraphs (c) and (d) as paragraphs (d) and (e), respectively, and adding a new paragraph (c) to read as follows:

§ 3833.0–1 Purpose.

* * * * *

(c) The payment in the same office of an annual rental fee, if required, for each mining claim, mill site, or tunnel site held by the claimant;

* * * * *

10. Section 3833.0–3 is amended by adding after "43 U.S.C. 2" in paragraph (b) the citations ", 43 U.S.C. 1457, and 43 U.S.C. 1212,"; by revising paragraph (a); and adding paragraphs (e) and (f) to read as follows:

§ 3833.0–3 Authority.

(a) Sections 314 (a) and (b) of FLPMA (43 U.S.C. 1744) require the recordation of the notice or certificate of location of unpatented mining claims, mill sites, and tunnel sites, and the filing of affidavits of assessment work performed, notices of intent to hold, or detailed statements for each unpatented mining claim, mill site, and tunnel site, in the proper BLM office within specified time periods. Section 314(c) of FLPMA provides that a failure to record the required documents within the time limits imposed by the statute constitutes a conclusive abandonment of the mining claim, mill site, or tunnel site, which shall be void.

* * * * *

(e) The Act of October 5, 1992 (Pub. L. 102–381, 106 Stat. 1374, 1378–79), requires an annual rental fee of $100 to be paid to the proper office of the Bureau of Land Management for each non-exempt mining claim, mill site, or tunnel site located or held under section 314(b) of FLPMA for the assessment years ending in 1993 and 1994. With certain exceptions, this rental fee is in lieu of the requirement to perform and record annual assessment work under 30 U.S.C. 28–28e and section 314(a)(1) of FLPMA. Failure to pay the fee within the time limits prescribed by the Act of October 5, 1992, constitutes a statutory abandonment of the mining claim, mill site, or tunnel site, which shall thereupon be void. Provisions relating to rental fee and exceptions are contained in §§ 3833.0–3(f), 3833.1–5, 3833.1–6, and 3833.1–7.

(f) Section 2511(e)(2) of the Energy Policy Act of 1992 (Pub. L. 102–486, 106 Stat. 2776), requires oil shale claim holders to pay an annual fee of $550 per oil shale claim, notwithstanding any other provision of law, including the Act of October 5, 1992. This requirement supersedes the fee requirements of the Act of October 5, 1992, insofar as they relate to oil shale claims.

11. Section 3833.0–5 is amended by revising paragraphs (a), (m), and (o), adding two sentences to the end of the concluding text of paragraph (p), and

adding paragraphs (t), (u), and (v) to read as follows:

§ 3833.0–5 Definitions.

* * * * *

(a) *FLPMA* means the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*).

* * * * *

(m) *File* or *filed* means being received and date stamped by the proper BLM office. For the purposes of complying with § 3833.2, timely filing means that the required affidavit of assessment work or notice of intent to hold is received within the time period prescribed by law, or if mailed to the proper office of the BLM, is in an envelope clearly postmarked by the United States Postal Service within the period prescribed by law and received by the proper BLM office within 15 calendar days subsequent to such period.

* * * * *

(o) *Filing year* means the time period during which documents and fees are required to be provided to the proper BLM office. The time periods set forth in each statute are as follows:

(1) Except for filings by qualified and properly certified small miners, filings under FLPMA that would have been due on or before December 30, 1993, and December 30, 1994, are waived effective January 1, 1993, and so long thereafter as the Act of October 5, 1992, is in effect. The annual filing for each claim or site required for the assessment year ending on September 1, 1992, shall be filed with the proper office of the BLM on or before December 30, 1992.

(2) Filings under the Act of October 5, 1992, shall be made by August 31, 1993, except for claims located after August 31, 1993.

(p) * * *

* * * An amendment to a notice or certificate of location shall not be used to effect a transfer of ownership of interest or to add additional owners. Such transfers or additions shall only be filed with the proper office of the BLM pursuant to § 3833.3 of this title.

* * * * *

(t) *Rental fee* means the fee required by the Act of October 5, 1992 (Pub. L. 102–381, 106 Stat. 1374, 1378–79), which is paid to hold a mining claim, mill site, or tunnel site. The rental fee is in lieu of the requirements for performing assessment work under 30 U.S.C. 28–28e and for filing an annual affidavit of labor with the proper office of the Bureau of Land Management under section 314(a) and (c) of FLPMA and § 3833.2. Under certain conditions, a small miner may be exempt from the rental fee requirement, or a claimant may be granted a deferment of assessment work pursuant to subpart 3852 of this title. The rental fee requirements will expire on September 30, 1994. The rental fee requirements and exceptions are governed by §§ 3833.1–5, 3833.1–6, and 3833.1–7.

(u) *Small miner* means a claimant/owner of a mining claim(s), that meets the requirements of §§ 3833.1–6 and 3833.1–7.

(v) *Nonrefundable* means non-returnable and applies to fees that are submitted and for which the service expected to be provided under the appropriate section of this title was provided.

12. Section 3833.0–9 is added to read:

§ 3833.0–9 Information collection.

(a) The collections of information contained in subpart 3833 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004–0114. The information will be used to allow BLM to record mining claims, mill sites, and tunnel sites; to maintain ownership and title records to those claims and sites; to determine the geographic location of the claims and sites recorded for proper land management purposes; and to determine which claims and sites are being held and are not abandoned by their owner(s) under applicable Federal statute. A response is required to obtain a benefit in accordance with section 314 of FLPMA, as amended, and the Act of October 5, 1992 (Pub. L. 102–381, 106 Stat. 1374, 1378–79).

(b) Public reporting burden for this information is estimated to average 8 minutes per response, including time for reviewing instructions, searching existing records, gathering and maintaining the data collected, and completing and reviewing the information collected. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden; to the Information Collection Clearance Officer (783), Bureau of Land Management, 1849 C St NW., Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project, 1004–0114, Washington, DC 20503.

§ 3833.1–1 [Amended]

13. Section 3833.1–1 is amended by replacing the term "the Act" wherever it appears in paragraph (a) with the acronym "FLPMA."

14. Section 3833.1–3 is revised to read as follows:

§ 3833.1–3 Service charges and rental fees; form of remittance.

(a) All service charges and rental fees shall be payable by United States currency, postal money order, or negotiable instrument payable in United States currency and shall be made payable to the Department of the Interior-Bureau of Land Management, or by a currently valid credit card acceptable to the Bureau of Land Management.

(b) Filings submitted pursuant to § 3833.1–2 that are not accompanied by the rental fees required by § 3833.1–5 shall not be accepted and will be returned to the claimant/owner without further action. Filings submitted pursuant to §§ 3833.1–2, 3833.2, 3833.3, or 3833.1–7 that are not accompanied by the full payment of service charges set forth in § 3833.1–4 shall be curable. Such filings shall be noted as being recorded on the date received provided that the claimant submits the proper service charge within 30 days of receipt of a deficiency notice by the authorized officer. Failure to submit the proper service charge shall cause the filing to be rejected and returned to the claimant/owner.

15. Section 3833.1–4 is revised to read as follows:

§ 3833.1–4 Service charges.

(a) Each notice or certificate of location of a mining claim, mill site, or tunnel site filed for recordation shall be accompanied by a service charge of $10.00.

(b) Annual filings submitted pursuant to § 3833.2 or § 3833.1–7 shall be accompanied by a nonrefundable service charge of $5.00 for each mining claim, mill site, or tunnel site. A service charge is not required to accompany the rental fee submitted in lieu of assessment work as required by § 3833.1–5.

(c) Amendments to a previously recorded notice or certificate of location shall be accompanied by a nonrefundable service charge of $5.00 for each mining claim, mill site, or tunnel site.

(d) Each transfer of interest document filed pursuant to § 3833.3 shall be accompanied by a nonrefundable service charge of $5.00 for each mining claim, mill site, or tunnel site affected.

16. Section 3833.1–5 is added, with the introductory text set forth in two alternative forms, to read as follows:

§ 3833.1–5 Rental fees.

ALTERNATIVE ONE FOR INTRODUCTORY TEXT

Except as provided in §§ 3833.0–3(f) and 3833.1–6, each claimant shall pay a nonrefundable rental fee of $100.00 to the proper BLM office for each specified assessment year for which the claimant desires to hold the mining claim, mill site, or tunnel site. Claimants who completed assessment work during the period from September 1, 1992, through October 4, 1992, shall pay the rental fee for the year ending September 1, 1993. The assessment years specified in the Act of October 5, 1992, begin on September 1, 1992, and September 1, 1993. The $100 rental fee requirement does not apply to oil shale claims. Instead, oil shale claim holders shall pay an annual $550 fee for each oil shale claim as described in section 2511 of the Energy Policy Act of 1992 (Pub. L. 102–486, 106 Stat. 2776).

ALTERNATIVE TWO FOR INTRODUCTORY TEXT

Except as provided in § 3833.1–6, each claimant shall pay a nonrefundable rental fee of $100.00 to the proper BLM office for each specified assessment year for which the claimant desires to hold the mining claim, mill site, or tunnel site. The assessment years specified in the Act of October 5, 1992, begin on September 1, 1992, and September 1, 1993. The $100 rental fee requirement does not apply to oil shale claims. Instead, oil shale claim holders shall pay an annual $550 fee for each oil shale claim as described in section 2511 of the Energy Policy Act of 1992 (Pub. L. 102–486, 106 Stat. 2776).

(a) *Mining claim or site located on or after October 6, 1992, and on or before September 30, 1994.* The $100.00 nonrefundable rental fee for each mining claim, mill site, or tunnel site shall be paid at the time of recording of the mining claim, mill site, or tunnel site pursuant to section 314(b) of FLPMA and § 3833.1–2.

(1) For all mining claims, mill sites, or tunnel sites located on or before August 31, 1993, the $100 rental fee for the assessment year beginning on September 1, 1993, shall be paid on or before August 31, 1993.

(2) For all mining claims, mill sites, or tunnel sites located and recorded on or after September 1, 1993, the $100 rental fee for the assessment year beginning on September 1, 1993, shall be paid at the time of recording in addition to the service charge required by § 3833.1–4(a).

(3) If the mining claim, mill site, or tunnel site is located during the period beginning at noon on September 1, 1994, and ending on September 30, 1994, and is recorded in a timely manner pursuant to section 314(b) of FLPMA and § 3833.1–2, and the date of timely recording is on or after October 1, 1994, the rental fee is required at the time of recording.

(b) *Mining claim or site located on or before October 5, 1992.* A nonrefundable rental fee of $100.00 for each mining claim, mill site, or tunnel site, shall be paid on or before August 31, 1993, for each of the assessment years beginning on September 1, 1992, and September 1, 1993, or a combined rental fee of $200. At the time of payment, the claimant/owner shall submit a list of claim names and BLM serial numbers assigned to each mining claim or site for which the rental fee is being paid. The list shall state the assessment years to which the payment applies.

(c) There will be no proration of rental fees for partial years of holding of mining claims, mill sites, or tunnel sites.

(d) A small miner may, under certain conditions described in §§ 3833.1–6 and 3833.1–7, perform assessment work and file the affidavit of labor pursuant to § 3833.2 in lieu of paying the rental fee.

17. Section 3833.1–6 is added, with the introductory text set forth in two alternative forms, to read as follows:

§ 3833.1–6 Rental fee exemption qualifications.

ALTERNATIVE ONE FOR INTRODUCTORY TEXT

A small miner may, under certain conditions described in this section and in § 3833.1–7, perform the assessment work required under 30 U.S.C. 28–28e and record it pursuant to section 314(a) of FLPMA and § 3833.2 in lieu of paying the rental fee.

ALTERNATIVE TWO FOR INTRODUCTORY TEXT

Claimants who completed assessment work in the period from September 1, 1992, through October 4, 1992, are exempt from paying the rental fee for the year ending on September 1, 1993. These claimants may file an annual filing as provided in § 3833.1–7. A small miner may, under certain conditions described in this section and in § 3833.1–7, perform the assessment work required under 30 U.S.C. 28–28e and record it pursuant to section 314(a) of FLPMA and § 3833.2 in lieu of paying the rental fee.

(a) In order to qualify for an exemption from the rental fee requirements, a small miner shall meet all the following conditions:

(1) The mining claims shall be lode or placer claims. The exemption does not apply to mill sites and tunnel sites;

(2) The claimant shall hold 10 or fewer mining claims on Federal lands in the United States; for purposes of determining the small miner exemption, oil shale claims will not be counted toward the 10-claim limitation for the small miner exemption to the $100 rental fee;

(3) Mining claims held by a husband and wife, either jointly or individually, or their children under the age of discretion, shall be counted toward the 10 claim limit;

(4) Mining claims held in co-ownership, or by an association of locators, by a partnership, or by a corporation shall be counted toward the 10 claim limit for claimants that have an interest in these entities;

(5) The mining claims shall be under one or more Notices or approved Plans of Operations pursuant to subpart 3802 or 3809 of this title; or parts 9 and 228 of title 36 of the Code of Federal Regulations for National Park System lands and National Forest System lands respectively;

(6) The mining claims shall collectively have less than 10 acres of unreclaimed surface disturbance remaining that is caused by the mining or exploration operation; and

(7) The mining claims shall collectively either be producing or shall be under active exploration, as follows:

(i) The claimant shall be producing from the 10 or fewer collective mining claims no less than $1,500.00 and no more than $800,000.00 in gross revenues per year; or

(ii) The claimant shall be actively and diligently performing exploration work on the 10 or fewer claims to disclose, expose, or otherwise make known possible valuable mineralization.

(b) To qualify for the exploration exemption, the work shall be of a physical nature performed on the surface or below the surface of the claims, and of a nature that would normally lead directly to the development of the mineral property for mining purposes. Examples of qualifying exploration work include, but are not limited to, drilling, excavations, sampling (geochemical or bulk), road construction for development of the property, and ground geophysical work that requires a plan of operations or a notice by the BLM, U.S. Forest Service, or National Park Service.

18. Section 3833.1–7 is added, with paragraph (b)(1) set forth in two alternative forms, and paragraph (g) set

forth as part of Alternative Two only, to read as follows:

§ 3833.1–7 Filing requirements for rental fee exemptions.

(a) The affidavit of assessment work performed by a small miner claiming a rental fee exemption shall be filed with the proper BLM office pursuant to § 3833.2 and meet the requirements of § 3833.2–4.

(b) For mining claims located on or before October 5, 1992, to claim the small miner's exemption, the following requirements shall be met.

ALTERNATIVE ONE FOR PARAGRAPH (b)(1)

(b)(1) *For the assessment year beginning September 1, 1992.* The affidavit of assessment work for the period of September 1, 1992, through September 1, 1993, shall be filed on or before December 30, 1993, in the proper office of the BLM. The certified statement required by paragraph (d) of this section shall be filed on or before August 31, 1993, and shall contain all of the information required in paragraph (d) of this section.

ALTERNATIVE TWO FOR PARAGRAPH (b)(1)

(b)(1) *For the assessment year beginning September 1, 1992.* The affidavit of assessment work for the period of September 1, 1992, through September 1, 1993, shall be filed on or before December 30, 1993, in the proper office of the BLM. The certified statement required by paragraph (d) of this section shall be filed on or before August 31, 1993, and shall contain all of the information required in paragraph (d) of this section. The certified statement referred to in paragraph (g) of this section, which is required of claimants who both performed assessment work from September 1, 1992, through October 4, 1992, and choose to file the assessment affidavit rather than pay the rental fee, shall also be filed on or before August 31, 1993, and shall contain all of the information required in paragraph (g) of this section.

(b)(2) *For the assessment year beginning September 1, 1993.* The affidavit of assessment work for the period of September 1, 1993, through September 1, 1994, shall be filed on or before December 30, 1994, in the proper office of the BLM. The certified statement required by paragraph (d) of this section shall be filed on or before August 31, 1993, and shall contain all of the information required in paragraph (d) of this section.

(c) For mining claims located on or after October 6, 1992, to claim the small miner's exemption for the year beginning September 1, 1993, the affidavit of assessment work for the period of September 1, 1993, through September 1, 1994, shall be filed on or before December 30, 1994, in the proper office of the BLM. The certified statement required by paragraph (d) of this section shall be filed on or before August 31, 1993, and shall contain all of the information required in paragraph (d) of this section. For exempt mining claims located on or after October 6, 1992, and on or before December 31, 1992, the filing of the certified statement in paragraph (d) of this section shall meet the requirements for filing of notice of intent to hold pursuant to § 3833.2–5 due on or before December 30, 1993.

(d) The small miner shall file a separate statement on or before August 31, 1993, supporting the claimed exemption for each assessment year a small miner's exemption is claimed (for the year ending September 1, 1993, the assessment filing is due on December 30, 1993; and for the year ending September 1, 1994, the assessment filing is due on December 30, 1994), certified to under penalty of 18 U.S.C. 1001. The statement shall contain:

(1) The serial number(s) or other designation(s) assigned by the Federal land management agency to the Notice(s) or Plan(s) of Operations covering the mining claim or claims for which the exemption is sought.

(2) The claim names and BLM serial numbers assigned to the mining claims held by the small miner.

(3) A declaration that this is the only exemption for the given assessment year that has been or is being claimed by the claimant, claimant's spouse, or children of claimant under the age of discretion, or the association of locators, or the partnership of locators, or the corporation, for the given assessment year.

(4) A declaration that specifies the gross dollar revenues from the mineral commodities produced from the beginning of the assessment year by commodity, that were produced from the claimant's claims, which are by law required to be 10 or fewer in number, or describes in detail the level of exploration being performed to disclose, expose, or otherwise make known possible valuable mineralization.

(i) For the assessment year ending September 1, 1993, the gross dollar revenues shall be calculated for the period beginning on September 1, 1991, and ending on September 1, 1992.

(ii) For the assessment year ending September 1, 1994, the gross dollar revenues shall be calculated for the period beginning on September 1, 1992, and ending on August 31, 1993.

(5) A declaration that specifies that the assessment work requirements have been or will be completed as follows:

(i) For the assessment year ending September 1, 1993, the declaration shall state that the assessment work was completed in that year.

(ii) For the assessment year ending September 1, 1994, the declaration shall state that the assessment work will be completed in that year.

(6) A declaration that the mining claims collectively have less than a total of 10 acres of unreclaimed surface disturbance remaining that is caused by the mining or exploration operation covered by the Notice(s) or approved Plan(s) of Operations.

(e) Mining claims covered by a deferment of assessment work granted by the authorized officer pursuant to 30 U.S.C. 28(b)-(e) and subpart 3852 of this title are exempt from the payment of the rental fee for the assessment period(s) during which the deferment is granted. The rental fee will be required to be paid by August 31, 1993, if the deferment expires on or before that date. The rental fee will be required to be paid on the date the deferment expires if the expiration occurs on or after September 1, 1993, and on or before September 1, 1994. The claimant shall file evidence of a valid deferment on or before August 31, 1993, with the proper BLM office in the assessment year for which the deferment has been granted. The evidence shall include a list of claim or site names and serial numbers for which the deferment exemption is sought. Deferment exemptions are governed by the following conditions:

(1) If a petition for a deferment of assessment work, as required by § 3852.2 of this title, is filed with the proper BLM office on or before August 31, 1993, for the assessment year beginning on September 1, 1992, the rental fee need not be paid on the claims listed in the petition for deferment until the authorized officer has acted upon the petition.

(i) If the petition is granted, the claims are exempt from the rental fees for that assessment year. At the expiration of the deferment, if it occurs after September 30, 1994, all deferred assessment work shall be done as provided in § 3852.5 of this title.

(ii) If the petition for deferment is denied by the authorized officer, the rental fees that were due on August 31, 1993, must be paid within 30 days of receipt of the decision of the authorized

officer denying the petition for deferment. Failure to pay the rental fees owed shall cause the claims contained within the petition to be declared abandoned and void.

(f) Mining claims for which an application for a mineral patent has been filed, and the first half of the mineral entry final certificate has been issued by the authorized officer pursuant to 30 U.S.C. 29 and part 3860 of this title, are exempt from the payment of the rental fee for the assessment years or portions thereof during which assessment work is not required pursuant to § 3851.5 of this title.

ALTERNATIVE TWO FOR PARAGRAPH (g)

(g) Claimants who performed assessment work in the period from September 1, 1992, through October 4, 1992, and who choose to file an assessment affidavit rather than pay the rental fee, shall by August 31, 1993, file a statement supporting the claimed exemption, certified to under penalty of 18 U.S.C. 1001. The statement shall contain:

(1) The claim names and BLM serial numbers assigned to the mining claims.

(2) A declaration that the assessment work required under law was performed during the period from September 1, 1992, through October 4, 1992, and that the claimant will submit the assessment affidavit by December 30, 1993, rather than pay the rental fee for the year ending on September 1, 1993.

§ 3833.2–1 [Amended]

19. Section 3833.2–1 is amended by inserting in paragraph (a) after the date "1977," the phrase "except as provided under the Act of October 5, 1992,".

§ 3833.2–2 [Amended]

20. Section 3833.2–2 is amended by inserting in the introductory paragraph after the word "System" the phrase ", except as provided under the Act of October 5, 1992,".

21. Section 3833.2–3 is amended by revising the section heading and adding a new paragraph (d) to read as follows:

§ 3833.2–3 Consistency between the Federal Land Policy and Management Act, the General Mining Law of May 10, 1872, and the Act of October 5, 1992.

* * * * *

(d) The Act of October 5, 1992, will not affect the requirements to do assessment work in the assessment year beginning on September 1, 1994, and ending on September 1, 1995, or to make annual filings on or before December 30, 1995, pursuant to §§ 3833.2 and 3851.1.

22. Section 3833.3 is amended by adding paragraph (a)(3) to read as follows:

§ 3833.3 Notice of transfer of interest.

(a) * * *

(3) A copy of the legal instrument or document that operates under State law to transfer the interest in the claim being sold, assigned, or otherwise transferred.

* * * * *

23. Section 3833.4 is amended by revising the heading, paragraph (a) and the first sentence of paragraph (b) to read as follows:

§ 3833.4 Failure to file or pay rental fee.

(a)(1) The failure to make annual filings required by §§ 3833.2–1 and 3833.2–2 on or before December 30, 1992, shall conclusively constitute an abandonment of the mining claim, mill site, or tunnel site, which shall be void. Except for the filings required on or before December 30, 1992, effective October 5, 1992, the requirements of §§ 3833.2–1 through 3833.2–5 are modified by the requirements of the Act of October 5, 1992, and the Energy Policy Act, and administered through §§ 3833.1–5, 3833.1–6, and 3833.1–7.

(2) The failure to file the notice or certificate of location required by § 3833.1–2(a), § 3734.1(a), or § 3821.2 of this title, or to pay the rental fee required by § 3833.1–5 within the time periods prescribed therein, shall be deemed conclusively to constitute an abandonment of the mining claim, mill site, or tunnel site, which shall be void.

(b) The failure to file the information required in §§ 3833.1–2(b), 3833.1–7, 3833.2–5(c), and 3833.3 shall not be deemed conclusively to constitute an abandonment of the claim or site, but such information shall be filed within 30 days of receipt of a notice from the authorized officer calling for such information. * * *

* * * * *

24. Section 3833.5 is amended by revising paragraph (b) and the last sentence of paragraph (d) to read as follows:

§ 3833.5 Effect of recording and filing.

* * * * *

(b) Compliance with the requirements of this subpart shall be in addition to and not a substitute for compliance with the other requirements of Groups 3700 and 3800 of this title, and with laws and regulations issued by any State or other authority relating to locating, recording, and maintenance of mining claims, mill sites, and tunnel sites located, held, and maintained upon the public lands of the United States.

* * * * *

(d) * * * The provisions of this subpart shall not be applicable to procedures for public notice required under part 3860 of this title with respect to mineral patent applications.

* * * * *

PART 3850—ASSESSMENT WORK

25. The Authority Citation for Part 3850 is revised to read as follows:

Authority: 30 U.S.C. 22 *et seq.*; 30 U.S.C. 28–28(e); and 106 Stat. 1374, 1378–79.

26. Section 3851.0–1 is added to read as follows:

§ 3851.0–1 Purpose.

The purpose of this part is to recite the requirements of the General Mining Law of 1872, as amended, for the performance of assessment work; to identify the methods provided by statute for qualifying assessment work; to provide for the deferment or suspension of assessment work under certain conditions; and to advise the claimant of the consequences of failing to perform the work.

§ 3851.0–6 Information collection.

(a) The collections of information contained in part 3850 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004–0104. The information will be used to allow the BLM to process petitions for the deferment of assessment work, determine if the assessment work required by statute (30 U.S.C. 28–28(e)) was indeed performed, and to determine the ownership of a mining claim or site in cases of delinquency of co-owners under 30 U.S.C. 28. A response is required to obtain a benefit in accordance with section 2324 of the Revised Statutes, as amended (30 U.S.C. 28–28(e)) and 43 CFR part 3850.

(b) Public reporting burden for this information is estimated to average 8 minutes per response, including time for reviewing instructions, searching existing records, gathering and maintaining the data collected, and completing and reviewing the information collected. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden; to the Information Collection Clearance Officer (783), Bureau of Land Management, 1849 C St. NW., Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project, 1004–0104, Washington, DC 20503.

Subpart 3851—Assessment Work: General

28. Section 3851.1 is revised to read as follows:

§ 3851.1 Assessment work requirements.

(a) The assessment year begins at 12 o'clock noon on September 1st and ends at 11:59 a.m. on the following September 1st.

(b) All lode and placer mining claimants shall have performed, or caused to have been performed, not less than $100 of labor or improvements upon each lode or placer claim held by the claimant for each assessment year following the assessment year of the lode or placer claim's location.

(c) Where a group of lode or placer claims are held in common, and as a contiguous group, the assessment work may be performed on one or several claims of the group, as long as the aggregate expenditure totals not less than $100 per claim, and the work performed or improvements made will benefit the development of the claim block as a whole. Cornering locations are not contiguous.

§ 3851.1–1 [Removed]

29. Section 3851.1–1 is removed.

30. Section 3851.3 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 3851.3 Effect of failure to perform assessment work.

(a) * * *

(b) Except as provided in § 3851.5(c) and subpart 3852 of this title, failure to perform the assessment work required under § 3851.1 subjects the lode or placer mining claim to relocation by another claimant, if the required assessment work is not resumed prior to such relocation.

(c) The Act of October 5, 1992, with certain exceptions for small miners, temporarily suspends and supersedes the requirement to perform assessment work under § 3851.1, and requires the payment of a $100 rental fee per mining claim or site in lieu of the assessment work. For oil shale claims, the Energy Policy Act of 1992 suspends and supersedes the requirement to perform assessment work under § 3851.1, and requires the payment of a $550 fee per oil shale mining claim in lieu of the assessment work. The rental fee requirements and exemptions from payment of the rental fee are described in §§ 3833.0–3(f), 3833.1–5, 3833.1–6, and 3833.1–7 of this title.

32. Section 3851.4 is amended by revising the section heading and the first sentence of the section to read as follows:

§ 3851.4 Failure of a co-owner to contribute to annual assessment work or to the payment of rental fees.

Upon the failure of any one of several co-owners to contribute his proportion of the required expenditures, the co-owners, who have performed the labor, where required, paid the rental fee required under § 3833.1–5 of this title, or made the improvements as required, may, at the expiration of the year, give such delinquent co-owner personal notice in writing, or notice by publication in the newspaper published nearest the claim for at least once a week for 90 days; and if upon the expiration of 90 days after such notice in writing, or upon the expiration of 180 days after the first newspaper publication of notice, the delinquent co-owner shall have failed to contribute his proportion to meet such expenditures or improvements, his interest in the claim by law passes to his co-owners who have made the expenditures or improvements as aforesaid. * * *

33. Section 3851.5 is revised to read as follows:

§ 3851.5 Assessment work not required after issuance of first half of mineral entry certificate.

Performance of annual assessment work is not required after the date that the first half of the mineral entry final certificate has been issued by the authorized officer pursuant to 30 U.S.C. 29 and § 3862.5 of this title.

(a) The assessment year in which the first half of the mineral entry final certificate is issued is the assessment year for which the assessment work is no longer required, and every assessment year thereafter, until either a mineral patent issues or the mineral entry certificate is canceled by the authorized officer, either in whole or in part.

(b) If a mineral entry certificate is canceled in whole or in part, the mining claims and sites that are no longer covered by the mineral entry final certificate shall be subject to the assessment work requirement beginning in the assessment year that the mineral entry final certificate was canceled.

34. Section 3852.1 is amended by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 3852.1 Conditions under which deferment may be granted.

(a) * * *

(b) Under the following circumstances, assessment work is deferred for mining claims and sites located upon National Park System lands:

(1) The claimant has received a notice of taking or a notice of intent to take from the National Park Service pursuant to sections 6 and 7 of the Act of September 28, 1976, as amended (16 U.S.C. 1905 and 1906) or the Act of December 2, 1980, as amended (16 U.S.C. 3192).

(2) The claimant has applied for and been denied a Plan of Operations pursuant to 36 CFR part 9.

(3) The claimant is currently maintaining an action in a United States District Court or the United States Court of Claims, or Federal appellate courts, for compensation for the taking of his right, title, or interest in a mining claim or site located upon National Park System lands.

Dated: February 5, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93–5140 Filed 3–4–93; 8:45 am]

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federal register

Friday
March 5, 1993

Part VII

General Services Administration

41 CFR Part 301–7 and Chapter 301
Federal Travel Regulation; Maximum Per Diem Rates; Final Rule

GENERAL SERVICES ADMINISTRATION

41 CFR Part 301–7 and Chapter 301

[FTR Amendment 29]

RIN 3090–AE78

Federal Travel Regulation; Maximum Per Diem Rates

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: An analysis of lodging and meal cost survey data reveals that the listing of maximum per diem rates for locations within the continental United States (CONUS) should be updated to provide for the reimbursement of Federal employees' expenses covered by per diem. This final rule adjusts the maximum lodging amounts in certain existing per diem localities to reflect lodging and meal cost data. This final rule adds new per diem localities, reduces/increases lodging amounts in certain existing per diem localities, adds two additional meal and incidental expenses (M&IE) rates of $30 and $38 for certain per diem localities, and changes the table in section 301–7.12 to reflect the two additional M&IE rates for use when making deductions from per diem for meals furnished an employee without charge or at a nominal cost by the Federal Government.

EFFECTIVE DATE: This final rule is effective on March 12, 1993, and applies for travel (including travel incident to a change of official station) performed on or after March 12, 1993.

FOR FURTHER INFORMATION CONTACT: Donna Cooke or Karen Kinsella, Transportation Management Division (FBX), Washington, DC 20406, telephone FTS or commercial 703–305–5745.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 301–7

Government employees, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR chapter 301 is amended as follows:

PART 301–7—PER DIEM ALLOWANCES

1. The authority citation for part 301–7 continues to read as follows:

Authority: 5 U.S.C. 5701–5709; E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

2. Section 301–7.12 is amended by revising the table in paragraph (a)(2)(i) to read as follows:

§ 301–7.12 Reductions in maximum per diem rates when appropriate.

* * * * *

(a) ***

(2) ***

(i) ***

	M&IE RATES			
	$26	$30	$34	$38
Breakfast	$5	$6	$7	$8
Lunch	5	6	7	8
Dinner	14	16	18	20
Incidentals ..	2	2	2	2

* * * * *

CHAPTER 301—TRAVEL ALLOWANCES

3. Appendix A to chapter 301 is revised to read as follows:

APPENDIX A TO CHAPTER 301—PRESCRIBED MAXIMUM PER DIEM RATES FOR CONUS

The maximum rates listed below are prescribed under § 301–7.3(a) of this chapter for reimbursement of per diem expenses incurred during official travel within CONUS (the continental United States). The amount shown in column (a) is the maximum that will be reimbursed for lodging expenses including applicable taxes. The M&IE rate shown in column (b) is a fixed amount allowed for meals and incidental expenses covered by per diem. The per diem payment calculated in accordance with part 301–7 of this chapter for lodging expenses plus the M&IE rate may not exceed the maximum per diem rate shown in column (c).

Per diem locality		Maximum lodging amount (a)	+ M&IE rate (b)	= Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]			
CONUS, Standard rate	.....	$40	$26	$66
[Applies to all locations within CONUS not specifically listed below or encompassed by the boundary definition of a listed point. However, the standard CONUS rate applies to all locations within CONUS, including those defined below, for certain relocation subsistence allowances. See parts 302–2, 302–4, and 302–5 of this subtitle.)				
ALABAMA				
Anniston	Calhoun	41	26	67
Birmingham	Jefferson	52	30	82
Dothan	Houston	43	26	69
Florence	Lauderdale	41	26	67
Gulf Shores	Baldwin	76	26	102
Huntsville	Madison	55	30	85
Mobile	Mobile	55	30	85
Montgomery	Montgomery	51	26	77
Sheffield	Colbert	56	26	82
ARIZONA				
Casa Grande	Pinal	50	26	76
Chinle	Apache	68	26	94
Grand Canyon Nat'l Park/Flagstaff	Coconino	74	30	104
Kayenta	Navajo	62	26	88
Phoenix/Scottsdale	Maricopa	72	34	106
Prescott	Yavapai	48	30	78
Sierra Vista	Cochise	48	26	74

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]					
Tucson	Pima County; Davis-Monthan AFB	60		30		90
Yuma	Yuma	58		26		84
ARKANSAS						
Fayetteville	Washington	45		26		71
Fort Smith	Sebastian	42		26		68
Helena	Phillips	44		26		70
Hot Springs	Garland	50		30		80
Jonesboro	Craighead	41		26		67
Little Rock	Pulaski	52		30		82
CALIFORNIA						
Bridgeport	Mono	46		34		80
Chico	Butte	54		30		84
Death Valley	Inyo	89		38		127
El Centro	Imperial	49		30		79
Eureka	Humboldt	65		30		95
Fresno	Fresno	62		30		92
Gualala/Point Arena	Mendocino	85		34		119
Herlong	Lassen	45		26		71
Los Angeles	Los Angeles, Kern, Orange and Ventura Counties; Edwards AFB; Naval Weapons Center and Ordinance Test Station, China Lake.	102		38		140
Merced	Merced	46		30		76
Modesto	Stanislaus	54		34		88
Monterey	Monterey	77		34		111
Napa	Napa	67		34		101
Oakland	Alameda, Contra Costa and Marin	71		38		109
Ontario/Victorville/Barstow	San Bernardino	60		34		94
Palm Springs	Riverside	73		38		111
Redding	Shasta	60		30		90
Sacramento	Sacramento	67		34		101
San Diego	San Diego	77		38		115
San Francisco	San Francisco	96		38		134
San Jose	Santa Clara	65		38		103
San Luis Obispo	San Luis Obispo	54		34		88
San Mateo	San Mateo	67		38		105
Santa Barbara	Santa Barbara	77		34		111
Santa Cruz	Santa Cruz	77		34		111
Santa Rosa	Sonoma	55		34		89
South Lake Tahoe	El Dorado	66		34		100
Stockton	San Joaquin	56		30		86
Tahoe City	Placer	52		38		90
Vallejo	Solano	43		30		73
Visalia	Tulare	61		30		91
West Sacramento	Yolo	45		26		71
Yosemite Nat'l Park	Mariposa	68		38		106
Yuba City	Sutter	46		30		76
COLORADO						
Aspen	Pitkin	115		38		153
Boulder	Boulder	64		34		98
Colorado Springs	El Paso	51		26		77
Denver	Denver, Adams, Arapahoe and Jefferson	77		38		115
Durango	La Plata	65		34		99
Glenwood Springs	Garfield	53		30		83
Grand Junction	Mesa	41		26		67
Gunnison	Gunnison	48		26		74
Keystone/Silverthorne	Summit	107		38		145
Montrose	Montrose	43		26		69
Pagosa Springs	Archuleta	48		26		74
Pueblo	Pueblo	48		26		74
Steamboat Springs	Routt	75		30		105
Vail	Eagle	136		38		174
CONNECTICUT						
Bridgeport/Danbury	Fairfield	71		30		101
Hartford	Hartford and Middlesex	69		38		107
New Haven	New Haven	67		34		101
New London/Groton	New London	63		30		93
Putnam/Danielson	Windham	63		26		89
Salisbury	Litchfield	63		38		101
DELAWARE						
Dover	Kent	51		26		77
Lewes	Sussex	54		30		84
Wilmington	New Castle	78		34		112
DISTRICT OF COLUMBIA						
Washington, DC (also the cities of Alexandria, Falls Church, and Fairfax, and the counties of Arlington, Loudoun, and Fairfax in Virginia; and the counties of Montgomery and Prince Georges in Maryland) (See also Maryland and Virginia.)		110		38		148
FLORIDA						
Altamonte Springs	Seminole	62		26		88

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]					
Bradenton	Manatee	60		26		86
Clewiston	Hendry	54		26		80
Cocoa Beach	Brevard	63		30		93
Daytona Beach	Volusia	65		26		91
Fort Lauderdale	Broward	72		34		106
Fort Myers	Lee	77		30		107
Fort Pierce	Saint Lucie	57		30		87
Fort Walton Beach	Okaloosa	62		30		92
Gainesville	Alachua	52		30		82
Jacksonville	Duval County; Naval Station Mayport	50		30		80
Key West	Monroe	133		38		171
Kissimmee	Osceola	68		30		98
Lakeland	Polk	53		26		79
Miami	Dade	63		34		97
Naples	Collier	76		34		110
Orlando	Orange	68		26		94
Panama City	Bay	52		26		78
Pensacola	Escambia	54		26		80
Punta Gorda	Charlotte	62		30		92
Saint Augustine	Saint Johns	60		30		90
Sarasota	Sarasota	62		26		88
Stuart	Martin	63		30		93
Tallahassee	Leon	53		26		79
Tampa/St. Petersburg	Hillsborough and Pinellas	57		30		87
Vero Beach	Indian River	64		26		90
West Palm Beach	Palm Beach	69		34		103
GEORGIA						
Albany	Dougherty	51		26		77
Athens	Clarke	44		26		70
Atlanta	Clayton, De Kalb, Fulton and Cobb	81		38		119
Augusta	Richmond; Savannah River Plant	47		26		73
Brunswick	Glynn	41		26		67
Columbus	Muscogee	48		26		74
Macon	Bibb	44		26		70
Norcross/Lawrenceville	Gwinnett	56		30		86
Savannah	Chatham	49		30		79
Warner Robins	Houston	44		30		74
IDAHO						
Boise	Ada	49		30		79
Coeur d'Alene	Kootenai	58		26		84
Idaho Falls	Bonneville	43		26		69
Ketchum/Sun Valley	Blaine	67		38		105
Lewiston	Nez Perce	44		26		70
McCall	Valley	52		30		82
Pocatello	Bannock	47		26		73
Stanley	Custer	45		26		71
ILLINOIS						
Alton	Madison	48		26		74
Champaign/Urbana	Champaign	49		30		79
Chicago	Du Page, Cook and Lake	104		38		142
Danville	Vermilion	46		26		72
Decatur	Macon	48		26		74
Dixon	Lee	45		26		71
East St. Louis	St. Clair	46		26		72
Joliet	Will	54		26		80
Peoria	Peoria	62		30		92
Rock Island/Moline	Rock Island	64		26		90
Rockford	Winnebago	56		30		86
Springfield	Sangamon	53		30		83
INDIANA						
Anderson	Madison	54		26		80
Bloomington	Monroe	52		30		82
Burlington Beach/Valparaiso	Porter	52		26		78
Charlestown/Jeffersonville	Clark County; Indiana Army Ammunition Plant	42		26		68
Columbus	Bartholomew	44		30		74
Dale	Spencer	45		26		71
Elkhart	Elkhart	50		26		76
Evansville	Vanderburgh	53		30		83
Fort Wayne	Allen	57		26		83
Gary	Lake	52		30		82
Indianapolis	Marion County; Fort Benjamin Harrison	71		30		101
Jasper	Dubois	45		26		71
Lafayette	Tippecanoe	52		30		82
Logansport	Cass	47		26		73
Madison	Jefferson	50		26		76
Marion	Grant	44		26		70
Muncie	Delaware	55		26		81
Nashville	Brown	57		30		87
New Albany	Floyd	43		26		69

Per diem locality		Maximum lodging amount (a)	+ M&IE rate (b)	= Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]			
Richmond	Wayne	43	26	69
South Bend	St. Joseph	61	26	87
Terre Haute	Vigo	51	26	77
IOWA				
Bettendorf/Davenport	Scott	56	26	82
Cedar Rapids	Linn	48	26	74
Des Moines	Polk	55	26	81
Dubuque	Dubuque	43	26	69
Iowa City	Johnson	48	26	74
Sioux City	Woodbury	47	26	73
Waterloo	Black Hawk	47	26	73
KANSAS				
Hays	Ellis	42	26	68
Kansas City	Johnson and Wyandotte (See also Kansas City, MO.)	67	34	101
Manhattan	Riley	53	26	79
Topeka	Shawnee	48	26	74
Wichita	Sedgwick	62	30	92
KENTUCKY				
Ashland	Boyd	41	26	67
Bowling Green	Warren	44	26	70
Covington	Kenton	48	30	78
Florence	Boone	49	26	75
Lexington	Fayette	51	30	81
Louisville	Jefferson	60	34	94
Owensboro	Daviess	47	26	73
Paducah	McCracken	43	26	69
Pikeville	Pike	42	26	68
Prestonsburg	Floyd	44	26	70
LOUISIANA				
Alexandria	Rapides Parish	45	30	75
Baton Rouge	East Baton Rouge Parish	53	30	83
Bossier City	Bossier Parish	57	30	87
Lafayette	Lafayette Parish	52	30	82
Lake Charles	Calcasieu Parish	43	30	73
Monroe	Ouachita Parish	47	26	73
New Orleans	Parishes of Jefferson, Orleans, Plaquemines and St. Bernard.	66	34	100
Shreveport	Caddo Parish	54	30	84
Slidell	St. Tammany Parish	43	30	73
MAINE				
Auburn	Androscoggin	54	30	84
Augusta	Kennebec	53	26	79
Bangor	Penobscot	60	30	90
Bar Harbor	Hancock	61	34	95
Bath	Sagadahoc	64	26	90
Kennebunk/Sanford	York	54	30	84
Kittery	Portsmouth Naval Shipyard (See also Portsmouth, NH.)	66	30	96
Portland	Cumberland	67	30	97
Presque Isle	Aroostook	44	26	70
Rockport	Knox	68	30	98
Wiscasset	Lincoln	51	26	77
MARYLAND				
(For the counties of Montgomery and Prince Georges, see District of Columbia.)				
Annapolis	Anne Arundel	76	34	110
Baltimore	Baltimore and Harford	78	34	112
Columbia	Howard	87	34	121
Cumberland	Allegany	49	26	75
Easton	Talbot	52	26	78
Frederick	Frederick	55	34	89
Hagerstown	Washington	55	30	85
Lexington Park/St. Inigoes/Leonardtown	St. Marys	44	26	70
Lusby	Calvert	58	34	92
Ocean City	Worcester	92	34	126
Salisbury	Wicomico	53	26	79
Waldorf	Charles	44	26	70
MASSACHUSETTS				
Andover	Essex	80	30	110
Boston	Suffolk	101	38	139
Cambridge/Lowell	Middlesex	95	38	133
Hyannis	Barnstable	80	26	106
Martha's Vineyard/Nantucket	Dukes and Nantucket	119	38	157
Northampton	Hampshire	62	26	88
Pittsfield	Berkshire	52	30	82
Plymouth	Plymouth	92	26	118
Quincy	Norfolk	81	30	111
South Deerfield/Greenfield	Franklin	61	38	99
Springfield	Hampden	64	30	94
Taunton/New Bedford	Bristol	58	26	84

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2][3]					
Worcester	Worcester	61		30		91
MICHIGAN						
Adrian	Lenawee	46		26		72
Alpena	Alpena	42		26		68
Ann Arbor	Washtenaw	65		30		95
Battle Creek	Calhoun	43		26		69
Bay City	Bay	50		26		76
Bellaire	Antrim	51		26		77
Benton Harbor/St. Joseph/Niles	Berrien	49		30		79
Cadillac	Wexford	49		26		75
Detroit	Wayne	80		38		118
Drummond Island	Chippewa	52		26		78
Escanaba	Delta	44		26		70
Flint	Genesee	45		30		75
Frankfort	Benzie	41		26		67
Gaylord	Otsego	54		26		80
Grand Rapids	Kent	60		30		90
Grayling	Crawford	50		26		76
Hancock	Houghton	49		26		75
Holland	Ottawa	51		26		77
Houghton Lake	Roscommon	50		26		76
Jackson	Jackson	49		26		75
Kalamazoo	Kalamazoo	60		30		90
Lansing/East Lansing	Ingham	55		26		81
Leland	Leelanau	57		26		83
Ludington	Mason	57		26		83
Mackinac Island	Mackinac	76		34		110
Manistee	Manistee	51		26		77
Marquette	Marquette	42		26		68
Midland	Midland	54		26		80
Monroe	Monroe	41		26		67
Mount Pleasant	Isabella	43		26		69
Muskegon	Muskegon	49		26		75
Ontonagon	Ontonagon	49		26		75
Pontiac	Oakland	56		30		86
Port Huron	St. Clair	47		30		77
Saginaw	Saginaw	51		30		81
South Haven	Van Buren	52		26		78
Tawas City	Iosco	44		26		70
Traverse City	Grand Traverse	85		26		111
Warren	Macomb	47		26		73
MINNESOTA						
Albert Lea	Freeborn	44		26		70
Austin	Mower	42		26		68
Bemidji	Beltrami	42		26		68
Brainerd	Crow Wing	46		26		72
Duluth	St. Louis	52		34		86
Fergus Falls	Otter Tail	57		26		83
Grand Rapids	Itasca	47		26		73
Mendota Heights	Dakota	58		30		88
Minneapolis/St. Paul	Anoka, Hennepin, and Ramsey Counties; Fort Snelling Military Reservation and Navy Astronautics Group (Detachment BRAVO), Rosemount.	64		34		98
Rochester	Olmsted	56		26		82
St. Cloud	Stearns	44		30		74
Winona	Winona	41		26		67
MISSISSIPPI						
Gulfport/Pascagoula/Bay St. Louis	Harrison, Jackson, and Hancock	45		26		71
Jackson	Hinds	52		30		82
Natchez	Adams	47		26		73
Oxford	Lafayette	44		26		70
Vicksburg	Warren	45		30		75
MISSOURI						
Branson	Taney	57		26		83
Cape Girardeau	Cape Girardeau	45		26		71
Columbia	Boone	50		26		76
Hannibal	Marion	46		26		72
Jefferson City	Cole	49		26		75
Kansas City	Clay, Jackson and Platte (See also Kansas City, KS.)	67		34		101
Lake Ozark	Miller	57		34		91
Osage Beach	Camden	64		30		94
Springfield	Greene	56		26		82
St. Louis	St. Charles and St. Louis	74		34		108
MONTANA						
Billings	Yellowstone	48		26		74
Great Falls	Cascade	51		26		77
Helena	Lewis and Clark	45		26		71
NEBRASKA						
Kearney	Buffalo	43		26		69

Per diem locality		Maximum lodging amount (a)	+ MIE rate (b)	= Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2][3]			
Lincoln	Lancaster	47	26	73
North Platte	Lincoln	42	26	68
Omaha	Douglas	57	30	87
NEVADA				
Elko	Elko	51	30	81
Las Vegas	Clark County; Nellis AFB	69	38	107
Lovelock	Pershing	45	26	71
Reno	Washoe	52	30	82
Winnemucca	Humboldt	46	26	72
NEW HAMPSHIRE				
Concord	Merrimack	58	26	84
Conway	Carroll	78	30	108
Durham	Strafford	52	26	78
Laconia	Belknap	66	30	96
Manchester	Hillsborough	68	30	98
Plymouth	Grafton	41	26	67
Portsmouth/Newington	Rockingham County; Pease AFB (See also Kittery, ME.) ..	66	30	96
NEW JERSEY				
Atlantic City	Atlantic	107	38	145
Belle Mead	Somerset	57	34	91
Camden	Camden	63	34	97
Dover	Morris County; Picatinny Arsenal	61	26	87
Edison	Middlesex	65	38	103
Freehold/Eatontown	Monmouth County; Fort Monmouth	68	34	102
Millville	Cumberland	53	30	83
Moorestown	Burlington	71	34	105
Newark	Bergen, Essex, Hudson, Passaic and Union	87	38	125
Ocean City/Cape May	Cape May	96	38	134
Princeton/Trenton	Mercer	75	34	109
Salem	Salem	61	26	87
Tom's River	Ocean	79	30	109
NEW MEXICO				
Albuquerque	Bernalillo	60	34	94
Artesia	Eddy	44	26	70
Cloudcroft	Otero	67	26	93
Farmington	San Juan	54	30	84
Gallup	McKinley	49	26	75
Las Cruces/White Sands	Dona Ana	44	30	74
Los Alamos	Los Alamos	58	26	84
Raton	Colfax	54	26	80
Roswell	Chaves	41	26	67
Santa Fe	Santa Fe	80	34	114
Silver City	Grant	42	26	68
Taos	Taos	66	30	96
NEW YORK				
Albany	Albany	64	30	94
Auburn	Cayuga	43	26	69
Batavia	Genesee	60	26	86
Binghamton	Broom	58	30	88
Buffalo	Erie	72	34	106
Catskill	Greene	48	26	74
Corning	Steuben	62	30	92
Elmira	Chemung	56	26	82
Glens Falls	Warren	56	30	86
Ithaca	Tompkins	61	30	91
Jamestown	Chautauqua	43	26	69
Kingston	Ulster	53	30	83
Lake Placid	Essex	78	30	108
Monticello	Sullivan	55	30	85
New York City	The boroughs of the Bronx, Brooklyn, Manhattan, Queens and Staten Island; Nassau and Suffolk Counties.	140	38	178
Niagara Falls	Niagara	83	34	117
Owego	Tioga	44	26	70
Palisades	Rockland	58	34	92
Poughkeepsie	Dutchess	66	26	92
Rochester	Monroe	67	34	101
Romulus	Seneca	67	26	93
Saratoga Springs	Saratoga	64	38	102
Schenectady	Schenectady	62	30	92
Syracuse	Onondaga	64	30	94
Troy	Rensselaer	49	30	79
Utica	Oneida	60	30	90
Watertown	Jefferson	55	30	85
Watkins Glen	Schuyler	64	30	94
West Point	Orange	50	30	80
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NORTH CAROLINA				
Asheville	Buncombe	53	30	83

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2][3]					
Boone	Watauga	44		26		70
Charlotte	Mecklenburg	63		34		97
Duck	Dare	78		26		104
Elizabeth City	Pasquotank	48		26		74
Fayetteville	Cumberland	42		26		68
Greensboro/High Point	Guilford	54		30		84
Greenville	Pitt	54		26		80
Havelock	Craven	42		26		68
Jacksonville	Onslow	42		26		68
Kinston	Lenoir	48		26		74
Morehead City	Carteret	59		26		85
Raleigh/Durham/Chapel Hill	Wake, Durham and Orange	66		30		96
Wilmington	New Hanover	49		26		75
Winston-Salem	Forsyth	55		26		81
NORTH DAKOTA						
Bismarck/Mandan	Burleigh and Morton	45		30		75
Fargo	Cass	46		26		72
Grand Forks	Grand Forks	46		26		72
Minot	Ward	45		30		75
OHIO						
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Toledo	Lucas	56		30		86
Wapakoneta	Auglaize	42		26		68
OKLAHOMA						
Ada	Pontotoc	46		26		72
Lawton	Comanche	45		26		71
Muskogee	Muskogee	41		26		67
Norman	Cleveland	47		26		73
Oklahoma City	Oklahoma	51		26		77
Stillwater	Payne	44		26		70
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OREGON						
Beaverton	Washington	61		26		87
Bend	Deschutes	53		30		83
Clackamas	Clackamas	55		26		81
Coos Bay	Coos	56		26		82
Eugene	Lane	49		30		79
Gold Beach	Curry	52		26		78
Lincoln City/Newport	Lincoln	57		30		87
Portland	Multnomah	67		30		97
Salem	Marion	49		26		75
Seaside	Clatsop	75		26		101
PENNSYLVANIA						
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Altoona	Blair	47		26		73
Bloomsburg	Columbia	48		30		78
Chester/Radnor	Delaware	63		38		121
Du Bois	Clearfield	49		26		75
Easton	Northampton	50		30		80
Erie	Erie	56		26		82
Gettysburg	Adams	50		30		80
Harrisburg	Dauphin	76		34		110
Johnstown	Cambria	48		26		74
King of Prussia/Ft. Washington	Montgomery County, except Bala Cynwyd (See also Philadelphia, PA.).	83		34		117
Lancaster	Lancaster	64		30		94
Lebanon	Lebanon County; Indian Town Gap Military Reservation	51		26		77
Mechanicsburg	Cumberland	55		30		85
Mercer	Mercer	51		26		77

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2 3]					
Philadelphia	Philadelphia County; city of Bala Cynwyd in Montgomery County.	89		34		123
Pittsburgh	Allegheny	75		34		109
Reading	Berks	51		26		77
Scranton	Lackawanna	56		30		86
Shippingport	Beaver	47		30		77
Somerset	Somerset	56		25		84
State College	Centre	53		30		83
Stroudsburg	Monroe	43		30		73
Uniontown	Fayette	67		26		93
Valley Forge	Chester	83		34		117
Warminster	Bucks County; Naval Air Development Center	59		30		89
Wilkes-Barre	Luzerne	52		30		82
Williamsport	Lycoming	45		26		71
York	York	60		30		90
RHODE ISLAND						
East Greenwich	Kent County; Naval Construction Battalion Center, Davisville.	80		34		114
Newport	Newport	102		38		140
Providence	Providence	78		34		112
Quonset Point	Washington	47		26		73
SOUTH CAROLINA						
Aiken	Aiken	41		26		67
Charleston	Charleston and Berkeley	59		34		93
Columbia	Richland	53		30		83
Florence	Florence	41		26		67
Greenville	Greenville	43		26		69
Hilton Head	Beaufort	78		30		108
Myrtle Beach	Horry County; Myrtle Beach AFB	74		30		104
Rock Hill	York	46		26		72
Spartanburg	Spartanburg	49		26		75
SOUTH DAKOTA						
Custer	Custer	51		26		77
Hot Springs	Fall River	62		26		88
Rapid City	Pennington	64		26		90
Sioux Falls	Minnehaha	54		26		80
Spearfish	Lawrence	54		26		80
TENNESSEE						
Chattanooga	Hamilton	45		26		71
Clarksville	Montgomery	43		26		69
Columbia	Maury	49		26		75
Gatlinburg	Sevier	54		30		84
Johnson City	Washington	54		26		80
Kingsport/Bristol	Sullivan	45		30		75
Knoxville	Knox County; city of Oak Ridge	54		26		80
Memphis	Shelby	57		30		87
Murfreesboro	Rutherford	42		26		68
Nashville	Davidson	52		30		82
Shelbyville	Bedford	49		26		75
TEXAS						
Abilene	Taylor	47		26		73
Amarillo	Potter	51		30		81
Austin	Travis	65		30		95
Beaumont	Jefferson	44		26		70
Brownsville	Cameron	55		30		85
Brownwood	Brown	42		26		68
College Station/Bryan	Brazos	48		26		74
Corpus Christi	Nueces	64		30		94
Dallas/Fort Worth	Dallas and Tarrant	72		34		106
Denton	Denton	47		26		73
El Paso	El Paso	59		30		89
Fort Davis	Jeff Davis	52		26		78
Galveston	Galveston	64		34		98
Granbury	Hood	54		26		80
Houston	Harris County; L. B. Johnson Space Center and Ellington AFB.	78		34		112
Kingsville	Kleberg	41		26		67
Lajitas	Brewster	56		26		82
Laredo	Webb	55		30		85
Longview	Gregg	48		26		74
Lubbock	Lubbock	60		26		86
Lufkin	Angelina	42		26		68
McAllen	Hidalgo	57		26		83
Midland/Odessa	Ector and Midland	55		26		81
Nacogdoches	Nacogdoches	48		26		74
Plainview	Hale	42		26		68
Plano	Collin	72		30		102
San Angelo	Tom Green	45		26		71
San Antonio	Bexar	64		30		94

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2,3]					
Temple	Bell	50		26		76
Tyler	Smith	48		26		74
Victoria	Victoria	45		26		71
Waco	McLennan	52		26		78
Wichita Falls	Wichita	46		26		72
UTAH						
Bullfrog	Garfield	80		26		109
Cedar City	Iron	50		26		76
Moab	Grand	62		26		88
Provo	Utah	43		30		73
Salt Lake City/Ogden	Salt Lake, Weber, and Davis Counties; Dugway Proving Ground and Tooele Army Depot.	68		30		98
St. George	Washington	44		30		74
Vernal	Uintah	41		26		67
VERMONT						
Burlington	Chittenden	63		26		89
Middlebury	Addison	57		30		87
Montpelier	Washington	45		26		71
Rutland	Rutland	57		26		83
White River Junction	Windsor	58		30		88
VIRGINIA						
(For the cities of Alexandria, Fairfax, and Falls Church, and the counties of Arlington, Fairfax, and Loudoun, see District of Columbia.)						
Amissville	Rappahannock	51		30		81
Blacksburg	Montgomery	57		30		87
Bristol*		46		26		72
Charlottesville*		53		34		87
Covington*		42		26		68
Fredericksburg*		44		26		70
Lexington*		45		26		71
Lynchburg*		52		30		82
Manassas/Manassas Park*	Prince William	51		26		77
Norfolk* (also Virginia Beach, Portsmouth, Hampton, Newport News, and Chesapeake)*.	York County; Naval Weapons Station, Yorktown	68		34		102
Petersburg*	Fort Lee	44		26		70
Richmond*	Chesterfield and Henrico Counties; also Defense Supply Center.	59		30		89
Roanoke*	Roanoke	55		30		85
Staunton*		43		26		69
Wallops Island	Accomack	59		26		85
Warrenton	Fauquier	51		30		81
Williamsburg*		68		34		102
Wintergreen	Nelson	68		34		102
*Denotes independent cities.						
WASHINGTON						
Anacortes	Skagit	56		30		86
Bellingham	Whatcom	56		30		86
Bremerton	Kitsap	43		30		73
Kelso/Longview	Cowlitz	46		30		76
Lynnwood/Everett	Snohomish	60		30		90
Ocean Shores	Grays Harbor	51		26		77
Port Angeles	Clallam	60		30		90
Port Townsend	Jefferson	60		26		86
Richland	Benton	47		30		77
Seattle	King	79		34		113
Spokane	Spokane	55		30		85
Tacoma	Pierce	56		30		86
Tumwater/Olympia	Thurston	61		34		95
Vancouver	Clark	56		34		90
Whidbey Island	Island	48		30		78
Yakima	Yakima	44		34		78
WEST VIRGINIA						
Beckley	Raleigh	47		26		73
Berkeley Springs	Morgan	54		26		80
Charleston	Kanawha	55		30		85
Harpers Ferry	Jefferson	54		26		80
Huntington	Cabell	53		26		79
Martinsburg	Berkeley	49		26		75
Morgantown	Monongalia	49		30		79
Parkersburg	Wood	45		30		75
Wheeling	Ohio	44		26		70
WISCONSIN						
Brookfield	Waukesha	64		34		98
Cable	Bayfield	41		26		67
Eau Claire	Eau Claire	48		30		78
Green Bay	Brown	54		26		80
Kewaunee	Kewaunee	49		26		75

Per diem locality						
Key city[1]	County and/or other defined location[2 3]	Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
La Crosse	La Crosse	55		30		85
Lake Geneva	Walworth	71		30		101
Madison	Dane	59		30		89
Marinette	Marinette	44		26		70
Milwaukee	Milwaukee	67		30		97
Mishicot	Manitowoc	52		30		82
Oshkosh	Winnebago	55		30		85
Rhinelander/Minocqua	Oneida	52		26		78
Sheboygan	Sheboygan	43		26		69
Sturgeon Bay	Door	54		26		80
Wausau	Marathon	49		26		75
Wautoma	Waushara	43		26		69
Wisconsin Dells	Columbia	67		30		97
WYOMING						
Casper	Natrona	41		30		71
Cheyenne	Laramie	48		30		78
Cody	Park	52		26		78
Gillette	Campbell	42		26		68
Jackson	Teton	60		30		90
Rock Springs	Sweetwater	41		26		67
Thermopolis	Hot Springs	47		26		73

[1] Unless otherwise specified, the per diem locality is defined as "all locations within, or entirely surrounded by, the corporate limits of the key city, including independent entities located within those boundaries."

[2] Per diem localities with county definitions shall include "all locations within, or entirely surrounded by, the corporate limits of the key city as well as the boundaries of the listed counties, including independent entities located within the boundaries of the key city and the listed counties."

[3] Military installations or Government-related facilities (whether or not specifically named) that are located partially within the city or county boundary shall include "all locations that are geographically part of the military installation or Government-related facility, even though part(s) of such activities may be located outside the defined per diem locality."

[4] Federal agencies may submit a request to GSA for review of the costs covered by per diem in a particular city or area where the standard CONUS rate applies when travel to that location is repetitive or on a continuing basis and travelers' experiences indicate that the prescribed rate is inadequate. Other per diem localities listed in this appendix will be surveyed on an annual basis by GSA to determine whether rates are adequate. Requests for per diem rate adjustments shall be submitted by the agency headquarters office to the General Services Administration, Federal Supply Service, Attn: Transportation Management Division (FBX), Washington, DC 20406. Agencies should designate an individual responsible for reviewing, coordinating, and submitting to GSA any requests from bureaus or subagencies. Requests for rate adjustments shall include a city designation, a description of the surrounding location involved (county or other defined area), and a recommended rate supported by a statement explaining the circumstances that cause the existing rate to be inadequate. The request also must contain an estimate of the annual number of trips to the location, the average duration of such trips, and the primary purpose of travel to the locations. Agencies should submit their requests to GSA no later than May 1 in order for a city to be included in the annual survey.

Dated: January 7, 1993.

Richard G. Austin,

Administrator of General Services.

[FR Doc. 93–5258 Filed 3–4–93; 8:45 am]

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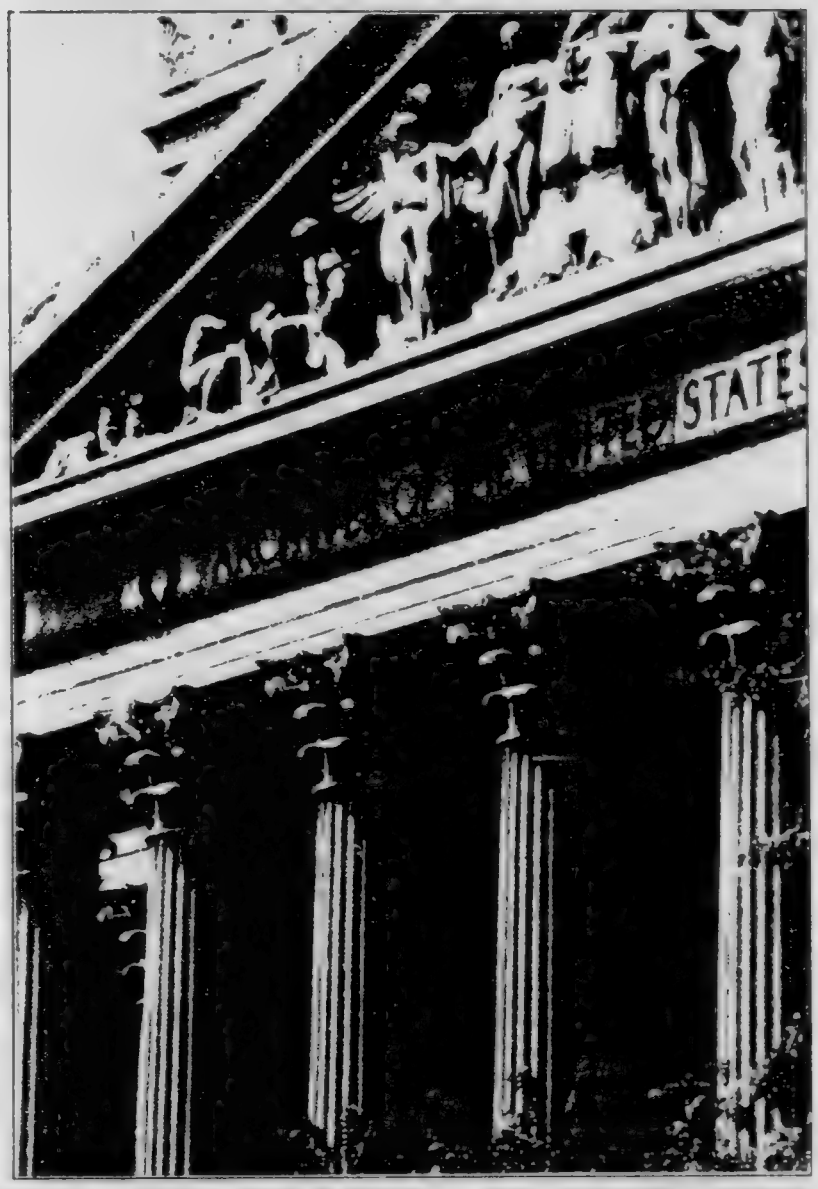

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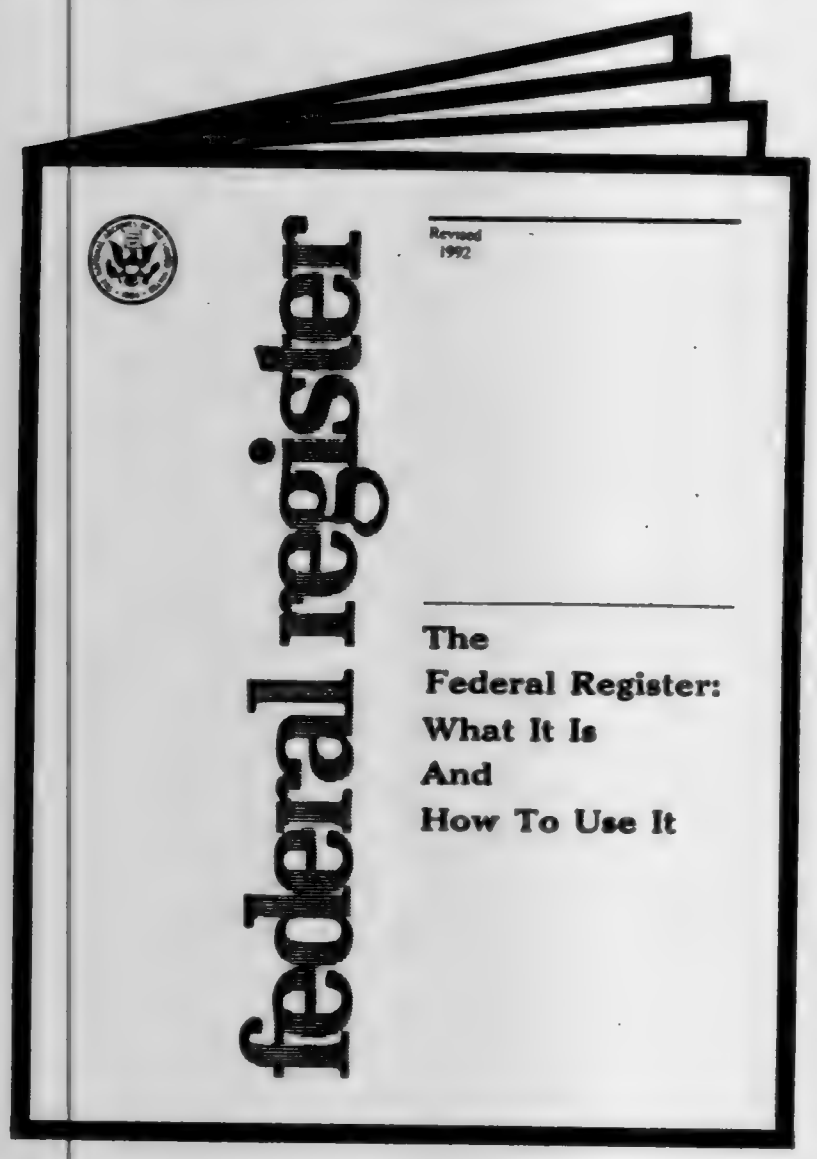

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Monday
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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 203 and 204

[Docket No. R–93–1582; FR–3131–F–02]

RIN 2502–AF61

Electronic Payment of Up-Front Mortgage Insurance Premiums

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule authorizes the FHA Commissioner to require that Up-front Mortgage Insurance Premium (MIP) collections be made by the Automated Clearing House (ACH) program. The purpose of the rule is to improve the efficiency of the FHA single family mortgage insurance program and reduce costs to HUD lenders.

EFFECTIVE DATE: April 7, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph McCloskey, Acting Director, Single Family Insurance Operations Division, room 2246, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone: voice, (202) 708–2438; (TDD) hearing-impaired, (202) 708–0113. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

In August 1985, the Department of Housing and Urban Development (HUD) implemented the Automated Clearing House (ACH) program for the remittance of Up-front Mortgage Insurance Premiums. The ACH program is designed to provide FHA approved lenders the opportunity to utilize their mainframe and personal computers to authorize electronically the payment of Up-front Mortgage Insurance Premiums, instead of sending checks and HUD–27001 forms by mail. Currently, more than 38 percent of HUD's up-front premiums are being collected through the ACH program.

The ACH system is designed to process Up-front premium collections from mortgagees and remit confirmations back to mortgagees, using remote terminals in lieu of sending checks and confirmations by mail. The mortgagee's terminal operator dials a number that ties the terminal or micro computer into the collection agent's telenet system. After keying the logon commands, the operator enters the day's transactions.

Because ACH provides mortgage lenders as well as the Department with numerous tangible benefits that reduce servicing costs, the Department proposed in the Federal Register on June 9, 1992 (57 FR 24424) that ACH become the sole method for collecting Up-front Mortgage Insurance Premiums. (A description of how the ACH program operates was contained in the Preamble of the proposed rule.)

Under this final rule, Up-front MIPS will be collected by the ACH program for mortgages insured under the Mutual Mortgage Insurance Fund, i.e., National Housing Act sections 203(b), 203(h), 203(i), and 203(n). (This includes mortgages insured under section 203(b) pursuant to sections 244 (single family coinsurance), 245 (graduated payment mortgages and growing equity mortgages) or 251 (adjustable rate mortgages).)

This rule does not affect the collection of monthly mortgage premiums. The Department plans however, to provide at a future date, for the collection of monthly premium payments by means of ACH.

Also excluded are any section 203(b) mortgages insured pursuant to section 223(e) (older declining areas), 238(c) (military impacted areas), 248 (Indian reservations) and 247 (Hawaiian home lands), since those mortgages are not obligations of the Mutual Mortgage Insurance Fund.

Public Comments on the Proposed Rule for Electronic Payment of Up-Front MIP

The Department received five comments from the public on this proposed rule. Two were from automated clearing house associations and were limited to expressing general approval of HUD's proposal. Two comments were from national trade associations—the American Bankers Association and the Mortgage Bankers Association of America (MBA); both were favorable to the proposal, although the MBA expressed a number of technical operational concerns and had one specific recommendation for a change in the rule. MBA commented that because of technical limitations of certain small lenders, a threshold of three hundred HUD-insured mortgages per year should be established, below which compliance with the rule would be optional.

The remaining comment was submitted by a small mortgage lending company. The comment objected to HUD's proposal, expressing a concern similar to that expressed by the MBA:

> To require us to spend money to be able to interface with the automated clearing house program would, we believe, be yet another example of government increasing the costs of doing business in this country. If this cost can be passed onto the consumer, it will increase the cost of obtaining a mortgage, when the expressed policy of the President of the United States is to make it easier for low and middle income home buyers to obtain mortgages. If this cost cannot be passed onto the consumer, then the result of this rule will be that small to middle sized mortgage lenders will incur yet another cost which will make it that much more difficult for such a lender to continue in business.

The Department believes that the commenters' concern with respect to small lenders is justified and will, for a period of no more than one year from the effective date of this final rule, in administrative instructions implementing this rule, allow for a provision in the process whereby institutions with activity of 300 or fewer new FHA single family loans per year may contact the HUD phone center to effect an ACH transaction. Specific administrative instructions implementing this rule will be transmitted to all HUD-approved mortgagees before the rule's effective date.

Other Matters

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order 12291 on Federal Regulations issued by the President on February 17, 1981. An

analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule implements a program that will enhance operations and be cost beneficial for all mortgage lenders. In addition, as noted in this Preamble, specific provision will be made in administrative instructions implementing this rule to assure that small organizations will not be put under undue burdens in adapting to it.

Under HUD regulations (24 CFR 50.20(k)) this rule is exempt from the requirements of the National Environmental Policy Act as set forth in 24 CFR part 50. The rule relates to internal administrative procedures whose content does not involve development decision nor affect the physical condition of project areas or building sites but only relates to the performance of accounting, auditory and fiscal functions.

This rule was listed as item number 1424 in the Department's Semiannual Agenda of Regulations published on November 3, 1992 (57 FR 51392, 51419) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule involves only technical and procedural specifications associated with the payment of premiums on FHA insured mortgages.

The Catalog of Federal Domestic Assistance program number(s) are 14.117, 14.112, 14.121, 14.122, 14.132, and 14.133.

List of Subjects

24 CFR Part 203

Hawaiian natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 204

Mortgage insurance.

Accordingly, 24 CFR parts 203 and 204 are amended as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b and 1715u; 42 U.S.C. 3535(d).

2. In § 203.259a, paragraph (b) is revised to read as follows:

§ 203.259a Scope.

* * * * *

(b) The Commissioner will charge an Up-front MIP pursuant to § 203.284 for mortgages, executed on or after July 1, 1991, that are obligations of the Mutual Mortgage Insurance Fund. In cases that the Commissioner deems appropriate, the Commissioner may require, by means of instructions communicated to all affected mortgagees, that Up-front MIP be remitted electronically.

* * * * *

PART 204—COINSURANCE

3. The authority citation for part 204 is revised to read as follows:

Authority: 12 U.S.C. 1715z–9, 1715b; 42 U.S.C. 3535(d).

4. Section 204.260 is revised to read as follows:

§ 204.260 Mortgage insurance premiums for coinsured mortgages.

The provisions of §§ 203.260 through 203.268, or the provisions of §§ 203.284 and 203.259a(b) of this chapter, as appropriate, concerning mortgage insurance premiums with respect to mortgages insured under section 203(b) of the National Housing Act, apply to mortgages covering one-to-four family dwellings to be insured under this part.

Dated: February 16, 1993.

James E. Schoenberger,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 93–5212 Filed 3–5–93; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92–281; RM–8118]

Radio Broadcasting Services; Columbia Falls, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 240C2 for Channel 240A at Columbia Falls, Montana, and modifies the construction permit for Station KCWX to specify operation on Channel 240C2 in response to petition filed by Frank Copsidas, Jr. See 57 FR 57410, December 4, 1992. Canadian concurrence has been obtained for this allotment at coordinates 48–27–35 and 114–20–25. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 15, 1993.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 92–281, adopted February 8, 1993, and released March 2, 1993, The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by removing Channel 240A and adding Channel 240C2 at Columbia Falls.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 02-5147 Filed 3-5-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-459; RM-7009, RM-7260, RM-7261, RM-7262, RM-7263, RM-7264]

Radio Broadcasting Services; Giddings, Cameron, Centerville, Edna, Hearne, Matagorda, Point Comfort, Rosenberg, Ganado, Harker Heights, Seadrift, New Ulm, Brenham, LaGrange, Rollingwood and Bay City, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 268C1 for Channel 268C2 at Giddings, Texas, and modifies the license of Station KOKE, Giddings, Texas, to specify operation on Channel 268C1. In order to accommodate this upgrade, this document substitutes Channel 232A for Channel 267A at Cameron, Texas, Channel 276A for Channel 232A at Hearne, Texas, and Channel 290A for Channel 276A at Centerville, Texas. This document also modifies the construction permit of Station KJKS, Cameron, Texas, to specify operation on Channel 232A, and the license of Station KHRN, Hearne, Texas, to specify operation on Channel 276A. This document also allots Channel 231C2 to Point Comfort, Texas, Channel 283C3 to Ganado, Texas, and Channel 286A to Seadrift, Texas. Finally, this document substitutes Channel 231C3 for Channel 231A at Brenham, Texas, and modifies the license of Station KULF, Brenham, Texas, to specify operation on Channel 231C3. *See* 54 FR 45773, published October 31, 1989, and Supplementary Information, *infra*. With this action, this proceeding is terminated.

EFFECTIVE DATES: April 15, 1993. The window period for filing applications for the Channel 283C3 allotment at Ganado, Texas, the Channel 286A allotment at Seadrift, Texas, and the Channel 231C2 allotment at Point Comfort, Texas, will open on April 16, 1993, and close on May 16, 1993.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-459, adopted February 3, 1993, and released March 2, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

The reference coordinates for the Channel 268C1 allotment at Giddings, Texas, are 29-55-00 and 97-20-00. The reference coordinates for the Channel 232A allotment at Cameron, Texas, are 30-57-00 and 96-54-07. The reference coordinates for the Channel 276A allotment at Hearne, Texas, are 30-51-07 and 96-34-04. The reference coordinates for the Channel 290A allotment at Centerville, Texas, are 31-15-36 and 95-58-42. The reference coordinates for the Channel 231C3 allotment at Brenham, Texas are 30-14-32 and 96-24-27. The reference coordinates for the Channel 231C2 allotment at Point Comfort, Texas are 28-38-44 and 96-21-17. The reference coordinates for the Channel 283C3 allotment at Ganado, Texas, are 28-57-50 and 96-22-52. The reference coordinates for the Channel 286A allotment at Seadrift, Texas, are 28-24-54 and 96-42-30.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing channel 268C2 and adding Channel 268C1 at Giddings, removing Channel 267A and adding Channel 232A at Cameron; removing Channel 232A and adding Channel 276A at Hearne; removing Channel 276A and adding Channel 290A at Centerville; removing Channel 231A and adding Channel 231C3 at Brenham; adding Channel 231C2, Point Comfort; adding Channel 283C3, Ganado; and adding Channel 286a, Seadrift.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-5148 Filed 3-5-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-243; RM-7700]

Television Broadcasting Services; Frederiksted, VI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Luis E. Rosa, allots UHF Channel 66 to Frederiksted, Virgin Islands, as the community's first local television broadcast service. *See* 57 FR 58769, December 11, 1992. Channel 66 can be allotted to Frederiksted in compliance with the Commission's minimum distance separation requirements. The coordinates for Channel 66 at Frederiksted are North Latitude 17-42-48 and West Longitude 64-53-00. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 15, 1993.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-243, adopted February 4, 1993, and released March 2, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television Broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of TV Allotments under Virgin Islands, is amended by adding Frederiksted, Channel 66.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-5149 Filed 3-5-93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173, 178 and 180

[Docket No. 183; Amdt. No. 173–212, 178–89, 180–2]

RIN 2137–AC37

Construction of Cargo Tank; Motor Vehicles; Extension of Compliance Date

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; extension of compliance date.

SUMMARY: RSPA is extending the time period, from August 31, 1993 to April 21, 1994, during which cargo tank motor vehicles may continue to be constructed to MC 306, MC 307, MC 312, MC 331, and MC 338 specifications. The extension is based on requests from the Cargo Tank Manufacturing Association, the Truck Trailer Manufacturers Association, the Heil Co., and members of the Compressed Gas Association. This action will allow additional time for RSPA and industry to resolve certain technical issues concerning the manufacture of cargo tank motor vehicles to the recently adopted DOT 406, DOT 407 and DOT 412 specifications and to resolve certain concerns on the structural integrity calculations in the MC 331 and MC 338 specifications.

EFFECTIVE DATE: April 7, 1993.

FOR FURTHER INFORMATION CONTACT: Ronald Kirkpatrick, telephone (202) 366–4545, Office of Hazardous Materials Technology, or Jennifer Karim, (202) 366–4488, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: The final rules published under Dockets Nos. HM–183/HM–183A (June 12, 1989, 54 FR 24982; May 22, 1990, 55 FR 21035; September 7, 1990, 55 FR 37028; June 17, 1991, 56 FR 27872) established three new cargo tank specifications designated as DOT 406, DOT 407 and DOT 412. Manufacture of cargo tanks to these new specifications was authorized beginning on December 31, 1990. The rules also provided alternative methods for calculating design stresses for MC 331 and MC 338 cargo tanks.

To allow manufacturers sufficient time to implement changes in their manufacturing operation, RSPA provided for the continued manufacture of cargo tanks to the MC 306, MC 307 and MC 312 specifications until August 31, 1993. However, as manufacturers began implementing the new requirements, certain technical issues were brought to RSPA's attention. Petitioners state that there is a need to postpone the compliance date because certain issues have not been resolved by DOT and a public meeting to discuss these issues will not be held until March 1993, thus, threatening the very existence of the industry. In addition, it has been brought to RSPA's attention that requirements for the structural integrity calculation found in §§ 178.337–3 and 178.338–3 may contain an error. Therefore, to allow time for resolving these issues, RSPA is extending the date that cargo tanks may no longer be constructed to the MC 306, MC 307, MC 312, MC 331 and MC 338 specifications from August 31, 1993 to April 21, 1994.

Rulemaking Analyses and Notices

Executive Order 12291 and DOT Regulatory Policies and Procedures

This final rule has been reviewed under the criteria specified in section 1(b) of Executive Order 12291 and is determined not to be a major rule. Although the June 12, 1989 final rule was significant under the regulatory procedures of the Department of Transportation (44 FR 11034), this document is not significant because it does not impose additional requirements and has the effect of extending a compliance date. This rule does not require a Regulatory Impact Analysis, or an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4231 *et seq.*) This final rule does not impose additional requirements and, in fact, would provide regulatory and economic relief in some areas. The original regulatory evaluation of the final rule was not modified because this final rule does not impose additional requirements and does not make substantive changes to the final rule.

Executive Order 12612

This action has been analyzed in accordance with the principles and criteria in Executive Order 12612 ("Federalism"). It has no substantial direct effect on the States, on the current Federal-State relationship, or the current distribution of power and responsibilities among levels of government. Thus, this final rule contains no policies that have Federalism implications, as defined in Executive Order 12612, and no Federalism Assessment is required.

Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. There are no direct or indirect adverse economic impacts for small units of government, businesses, or other organizations.

Paperwork Reduction Act

This amendment imposes no changes to the information collection and recordkeeping requirements contained in the June 12, 1989 final rule, which were approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and assigned control number 2137–0014.

Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 178

Hazardous materials transportation, Motor vehicles safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, title 49, chapter I of the Code of Federal Regulations, is amended as set forth below.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for part 173 would continue to read as follows:

Authority: 49 U.S.C. app. 1803, 1804, 1805, 1806, 1807, 1808, 1817; 49 CFR part 1, unless otherwise noted.

§ 173.33 [Amended]

2. In § 173.33, the following changes are made:

a. In paragraph (c)(4), the date "August 31, 1993" is revised to read "April 21, 1994".

b. In paragraph (d)(1), the date "August 31, 1993" is revised to read "April 21, 1994".

PART 178—SPECIFICATIONS FOR PACKAGINGS

3. The authority citation for part 178 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR part 1.

§ 178.337–6 [Amended]

4. In § 178.337–6, in paragraph (a), the date "August 31, 1993" is revised to read "April 21, 1994".

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

5. The authority citation for part 180 continues to read as follows:

Authority: 49 U.S.C. app. 1803; 49 CFR part 1.

§ 180.405 [Amended]

6. In § 180.405, the following changes are made:

a. In paragraph (b), the date "August 31, 1993" is revised to read "April 21, 1994".

b. In paragraph (c)(1) table, under column 2, the date "Sept. 1, 1993" is revised to read "April 22, 1994."

§ 180.413 [Amended]

7. In § 180.413, in paragraphs (d)(1)(i), (ii) and (iii), the date "August 31, 1993" is revised to read "April 21, 1994".

§ 180.417 [Amended]

8. In § 180.417, in paragraph (a)(3), the date "September 1, 1993" is revised to read "April 22, 1994".

Issued in Washington, DC on March 2, 1993, under authority delegated in 49 CFR part 1.

Alan I. Roberts,

Acting Administrator.

[FR Doc. 93–5146 Filed 3–5–93; 8:45 am]

BILLING CODE 4910–60–P

National Highway Traffic Safety Administration

49 CFR Part 591

RIN 2127–AD00

[Docket No. 89–5; Notice 12]

Importation of Motor Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends in two important respects the regulation governing importation of motor vehicles subject to requirements of the Department of Transportation. Under the first amendment, importers of motor vehicles who are required to furnish bonds to NHTSA upon importation of nonconforming vehicles will be permitted, as an alternative to furnishing sureties, to furnish cash deposits or obligations of the United States. The amendment is intended to facilitate the importation of nonconforming vehicles. The second amendment will allow the importation of vehicles less than 25 years old for purposes of studies, provided the vehicle is one of historical or technological interest, and that the importer is, and has been for 5 years before entry of the vehicle, either a tax-exempt corporation or private foundation as recognized by the Internal Revenue Service. Under this allowance, nonconforming vehicles can be imported by museums for static display.

EFFECTIVE DATE: The effective date of the final rule is April 7, 1993.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202–366–5263).

SUPPLEMENTARY INFORMATION: The following discussion is a recapitulation of the relevant remarks appearing in the preamble of the notice of proposed rulemaking that NHTSA published on this subject on January 17, 1992 (57 FR 2071).

A. Allowance of Surety Equivalents

Since the initial regulations governing importation of motor vehicles subject to the Federal motor vehicle safety standards became effective in January 1968, an importer of a noncomplying vehicle has been required to furnish an appropriate bond to ensure that the vehicle will be brought into conformity with all applicable Federal motor vehicle safety standards, and, it it is not, that it will be redelivered for export. Until January 31, 1990, the bond was furnished to the U.S. Customs Service as part of that agency's general importation bond for payment of duty and conformance with other Federal regulations.

Since the amendments made to be National Traffic and Motor Vehicle Safety Act by P.L. 100–562, the Imported Vehicle Safety Compliance Act of 1988 (herein "the 1988 Amendments), became effective at the end of January 1990, the bond to ensure conformance has become a separate instrument, no longer part of the general Customs bond, and is furnished directly to the Department of Transportation.

In implementation of the 1988 Amendments, NHTSA provided for importation compliance bonds in 49 CFR 591.5(f) in the form shown in appendix A of that regulation, and 591.5(g) in the form shown in appendix B. Initially, bonding companies were reluctant to serve as sureties because of their lack of familiarity with the DOT bonds, and prospective importers found it difficult to obtain them for the importation of their vehicles. Although the situation has improved in general, as sureties have become more familiar with bonding requirements, the situations tend to differ at the smaller ports of entries where importation of vehicles is infrequent. NHTSA on one occasion did accept a cash deposit from an importer in lieu of a bond, when the importer pointed out that Customs itself can accept cash or securities of the United States under bond, as an alternative to providing a surety.

The agency proposed that this alternative be formalized through an amendment to part 591, as it believed that it might relieve an unintended impediment to the importation of motor vehicles when an importer is unable to find a bonding agency willing to serve as surety on DOT bonds. The benefit to DOT is that it directly holds the security for a vehicle, and will not have to go to an outside entity to foreclose on the bond in the event the terms of entry are forfeited. The benefit to the importer is that it allows the importer to provide a bond directly to DOT, and, as surety, to submit United States money, bonds (except for savings bonds), certificates of indebtedness, and Treasury notes or bills in an amount equal to the amount of the bond. At the time of deposit of any obligation other than money, the importer will execute a power of attorney authorizing NHTSA, in the event of default, to sell the obligation and retain the proceeds. A form of power of attorney was proposed as Appendix C to part 591. NHTSA's

proposal was based upon the similar Customs regulation, 19 CFR 113.40.

Two comments were received on this proposal. The first was a joint comment filed by Christopher J. Oliver, Tara Schuette, and William L. Wheeler, Jr. ("the Oliver group"), and the second by Lawrence A. Beyer, on behalf of four Registered Importers ("R.I.s"), as well as himself. The Oliver group explicitly supported the proposal and its associated power of attorney document.

Beyer's comment "proposes an additional means of reducing the burden to importers," namely that "NHTSA should accept obligations consistent with their requirements from R.I.s or importers in the form of bank letters of credit or other instruments such as private insurance. Such instruments would provide the same obligation to conform to the regulations with monetary penalty for failure." Further, the obligation "would be provided in a block amount which would cover several vehicles" instead of "providing NHTSA with single obligations to cover each separate vehicle."

NHTSA's proposal was based upon a regulation of the U.S. Customs service, which limited surety equivalents to cash and securities of the United States. To expand the list to the private sector would be beyond the scope of the proposal. In the absence of a corresponding change by Customs in its regulation, NHTSA does not wish to create a regulatory assymetry between government agencies. To allow a "floating policy" with coverage of multiple numbers of vehicles would appear to increase the administrative burden on NHTSA by requiring a continuing determination as to the vehicles covered at any particular moment by the instrument, and whether the limits of the coverage were exceeded by the number of vehicles. Therefore, NHTSA has not adopted the equivalents suggested by Beyer.

Possible Expansion of Categories of Importation Under Section 108(j)

The 1988 Amendments have significantly restricted the importation of motor vehicles that were previously admissible for purposes other than general on-road use. Before January 31, 1990, NHTSA and the U.S. Customs Service had joint authority to allow the temporary admission into the United States of any motor vehicle in use (15 U.S.C. 1397(b)(4)). Pursuant to this authority, NHTSA and Customs allowed nonconforming motor vehicles to be imported "solely for the purpose of show, test, experiment, competition, repair or alteration." (19 CFR 12.80(b)(1)(vii)). However, section 1397(b)(4) was repealed by the 1988 Amendments, which added section 1397(j). This new section contains allowances comparable, but not identical, to those contained in 19 CFR 12.80. It permits the admission of nonconforming vehicles and equipment, without a time limitation, but only "upon such terms and conditions as [NHTSA] may find necessary solely for the purpose of research, investigation, studies, demonstrations or training, or competitive racing events." Congress did not include the category of "show," among the specific purposes for which a nonconforming vehicle could be entered, and the legislative history afforded no explanation. In enforcing the 1988 Amendments since January 31, 1990, the agency has found a continued desire in the public to import cars for purposes of show.

The agency has stated (54 FR at 17776 and 55 FR 40876) that § 591.5(j) does not preclude original vehicle manufacturers who import nonconforming vehicles for display at auto shows to gauge public reaction to new styling or engineering features from declaring that such importation is for "research" or "demonstrations." But in the absence of specific authority from Congress to allow importations for show or display, the agency has adopted and maintained a conservative attitude towards entities other than original vehicle or vehicle equipment manufacturers who wish to import nonconforming vehicles for display. In short, under the 1988 Amendments, it has refused to allow them.

In commenting on a previous notice of proposed rulemaking, the law firm of Pillsbury, Madison & Sutro requested that § 591.5(j) be expanded to allow importation for an additional purpose, display, in order to be consistent with EPA requirements. The law firm argued that the 1988 Amendments provide sufficient safeguards against abuse of a display-only exemption, and that NHTSA could provide that the vehicle not be sold until an appropriate certificate of conformity was received. The Oliver group agreed with this approach.

As NHTSA noted in the January proposal (57 FR 2072), since the new restrictions went into effect, efforts have been made to import examples of the East German Trabant as a historical vehicle for display purposes, either by individuals purporting to represent "museums" or who wish to donate the cars to museums. Efforts have also been made to import vehicles for "show" which are of current or recent production such as the Porsche 959, but whose manufacturers have chosen not to certify them for sale in the United States. Because these vehicles are not substantially similar to certified vehicles, may not be readily capable of being brought into compliance, and have not been the subject of petitions, they are not presently eligible for entry under § 591.5(f). Offers have been made to render such vehicles incapable of operation, and to display them under conditions of static display, in "museums" or in vehicle showrooms.

Section 108(i) indirectly addresses the display issue by permitting the entry without conformance of any vehicle whose age is 25 years or greater. This permits the unrestricted importation of vehicles that were not sold in the United States, and allows them to retain their original character without modification to U.S. requirements. However, the vehicles for which entry have been sought for display are less than 25 years old. Since no specific allowance has been provided for importation for show or display, the question is whether any of the five purposes added by the 1988 Amendments can, in the context of Congress' seemingly intentional omission of the term "show," be reasonably interpreted as allowing importation of nonconforming motor vehicles for the purpose of show or display. Certainly "competitive racing events" does not connote a static display. "Research" and "investigations" indicate that the purpose of importation is test or experiment.

With respect to the two remaining categories, NHTSA stated that it did not believe that it could fairly interpret "demonstrations or training" to encompass static display. A "demonstration" of a motor vehicle has traditionally involved exhibiting its operation or use, both in the showroom and on the road. Although agreeing that the definition "has traditionally involved operation or use", the Oliver Group disagreed with NHTSA's "narrow interpretation of 'demonstrations or training' as applied to non-conforming vehicles." It provided a definition from Webster's 3rd New International Dictionary (1976): "The act, process, or means of demonstrating to the intelligence: as exhibition of methods of manufacture by means of specimens, examples, or specific instances." The Oliver Group submits that "by this definition, one can see how a tangible static display of a car would qualify as a (sic) example or specimen of methods of manufacturing."

In advancing its definition of "demonstrations," the Oliver Group did

not suggest that NHTSA's preference for "studies" was in any way inadequate or improper. Indeed, NHTSA believes the very example cited by the Oliver Group, display as an exhibition of an example of a method of manufacturing, is consistent with the definition of "studies." As defined by The Random House Dictionary of the English Language (1967), "studies" means "a personal effort to gain knowledge." The primary meaning of the word "study" is "the application of the mind to the acquisition of knowledge." The static display of a vehicle or equipment item could form a basis for the acquisition of knowledge if that vehicle or equipment item were of historical or technological significance. Therefore, the agency has concluded that it is in the public interest to admit vehicles whose age is less than 25 years if their importation can be demonstrated to enhance the acquisition and application of knowledge, that is to say, that they merit admission because they are of historical or technological interest.

The agency believes that this interpretation of "studies" is in accordance with the purposes of both the National Traffic and Motor Vehicle Safety Act (the Act) and the 1988 Amendments. The stated purpose of the Act is to reduce accidents involving motor vehicles, and deaths and injuries to persons resulting from such accidents. However, section 108(j), added in 1988, represents a concession by Congress that the interests therein enumerated, which are not safety-related, might justify the importation and use of vehicles without requiring their conformance, and provides the Administrator with discretionary authority to allow importation under such terms and conditions as may be found necessary for the purpose of these interests. Thus, the importation of vehicles for static display by a category of importer other than original manufacturer does not *per se* undermine the purposes of Congress. These purposes can be undermined, however, by importations under subterfuge, where the hidden but real intent of the importer is to operate the vehicle on the public roads for his or her private enjoyment. This is NHTSA's primary concern. The agency has no power to seize a vehicle entered under false pretenses, and the maximum civil penalty it can impose on a private importer whose declaration is not confirmed by conduct subsequent to entry is limited to $1,000 per vehicle.

As NHTSA analyzes it, there are two components relevant to importation of a vehicle or equipment item for "studies": The vehicle or item, and the nature of the importer. Occasionally, NHTSA is approached by a prospective vehicle importer who offers to remove the engine if importation will be allowed. Aside from the problems of enforcement that this would present (and NHTSA has not allowed it), NHTSA believes that if a vehicle is of sufficient historical or technological interest to be admitted for "studies", its character must not be altered. Although such offers are well-meaning, NHTSA has no intention of requiring the alteration of a motor vehicle by removal of its engine or other parts.

The agency has considered what types of motor vehicles or equipment might be considered to have sufficient historical or technological interest to be admitted for "studies". Some examples come to mind. A vehicle less than 25 years of age and which is no longer in production may be said to have entered history. The admission and exhibition of the recently discontinued Trabant might be instructive as to comparative manufacturing sophistication between the more advanced industrial nations and the lesser developed ones. Prototypes or early production examples of radial tires, which originated in Europe, or experimental headlamps found on motor show cars, are examples of nonconforming equipment items that might be eligible for "studies".

As previously noted, these importation requirements do not apply to manufacturers of motor vehicles or equipment whose products are certified for sale in the United States. If importation was sought for "studies" by a person other than a certifying manufacturer, the written request already required before entry must be supplemented by additional information supporting the request, and the prospective importer will bear the burden of persuasion. The agency did not propose criteria as to what may qualify as "historical" or "technological interest", as it wishes to afford prospective importers flexibility in making their arguments. However, comments were solicited on whether criteria should be adopted and, if so, what those criteria should be. No comments were received on this issue.

The second component to be considered is the nature of the importer. NHTSA has decided that the purpose of "studies" is more likely to be achieved if the importer is an institution providing an opportunity for the acquisition of knowledge, such as a museum or educational institution. In general, these are businesses organized other than for profit. Therefore, the agency has concluded that in order to qualify as an importer for studies, an importer must be either a corporation or foundation that has been recognized, for at least 5 years before the date of entry of the vehicle, by the Internal Revenue Service under the Internal Revenue Code, as one qualifying for tax exempt status as a section 501(c)(3) corporation or foundation, or a section 509 private foundation. A section 501(c)(3) or section 509 entity is one that is "organized and operated exclusively for * * * scientific, testing for public safety, * * * or educational purposes, * * * no part of the net earnings of which inures to the benefit of any private shareholder or individual * * *." This includes universities and municipal museums. To discourage the creation of entities for the sole purpose of importing a vehicle under section 108(j), the final rule requires that importers of such vehicles demonstrate that they have been recognized as a tax-exempt entity under section 501(c)(3) or section 509 by the Internal Revenue Service for at least 5 years before the date of vehicle entry. A special exception is made if the importer is the National Museum of History and Technology of the Smithsonian Institution. Under the rule adopted today, an importer for studies cannot sell or otherwise dispose of the vehicle until it passes the age required for conformity of nonconforming vehicles, 25 years.

In summary, a prospective importer for studies, other than a certifying manufacturer, as with other such importers under § 591.5(j), must submit a written request to the Administrator, in advance of importation, presenting its views why the vehicle for which request is made is of historical or technological interest, and why its admission would be for the purpose of studies. The importer is also required to submit proof of its tax-exempt status, and that that status has existed for at least 5 years before the date of its letter. Finally, the importer will have to agree that it will not sell, lease, or transfer either title to, or possession of, the vehicle for a purpose other than "studies" until it is not less than 25 years terms of entry to be a violation of the Vehicle Safety Act for which a civil penalty could be imposed, and, if occurring immediately after entry, to constitute entry under a false declaration subject to the civil and criminal sanctions of 18 U.S.C. 1001.

This final rule does not have any retroactive effect.

Rulemaking Analyses

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has considered the economic impacts of this rule and has made a determination that it is not major within the meaning of E.O. 12291 nor significant under Department of Transportation policies and procedures. There is no substantial impact upon a major transportation safety program, and the action does not involve any substantial public interest or controversy. There will be no substantial effect on state and local governments who purchase new vehicles since the affected vehicles will not be imported for resale. Preparation of a full regulatory evaluation is not warranted because the rule would have minimal economic impacts.

Regulatory Flexibility Act

The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. Since the impact of this rule would be minimal, I certify that this rule would not have a significant economic impact upon a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared.

Executive Order 12612 (Federalism)

This agency has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

NHTSA has analyzed this rule for the purposes of the National Environmental Policy Act. The rule would not have a significant effect upon the environment.

Paperwork Reduction Act

The declaration requirements and submittal or written statements to NHTSA are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. However, they were previously approved by OMB for inclusion in section 591.6 in the final rule published on September 29, 1989 (OMB Approval Number 2127–0002).

List of Subjects in 49 CFR Part 591

Imports, motor vehicle safety, motor vehicles

In consideration of the foregoing, title 49 Code of Federal Regulations part 591 is amended as follows:

PART 591—[AMENDED]

1. The authority section continues to read:

Authority: Pub.L. 100–562, 15 U.S.C. 1401, 1407, 1912, 1916, 2022, 2027; delegations of authority at 49 CFR 1.50.

2. In § 591.6(g)(1), the introductory phrase of the fourth sentence, beginning "If use on the public roads" and ending with "is imported" is revised to read: "With respect to any vehicle or equipment item imported pursuant to sections 591.5(j)(1) (i), (ii), or (iv), if use on the public roads is an integral part of the purpose for which the vehicle or equipment item is imported,"

3. Section 591.6(g)(2) is redesignated 591.6(g)(3), and new section 591.6(g)(2) is adopted to read:

§ 591.6 Documents accompanying declarations.

* * * * *

(g) * * *

(2) A declaration made pursuant to § 591.5(j)(2)(i) and § 591.5(j)(1)(iii) shall be accompanied by a letter from the Administrator authorizing importation pursuant to those sections. In addition to the matters contained in paragraph (g)(1) of this section, the importer's written request shall explain why the vehicle or equipment item is of historical or technological interest, and describe the studies for which its importation is sought. The importer, if other than the National Museum of History and Technology, Smithsonian Institution, shall also provide a copy of the Determination Letter from the Internal Revenue Service approving the importer's status as a tax-exempt corporation or foundation, or private foundation, under section 501(c)(3) or section 509, respectively, of the Internal Revenue Code. The time between the date of the Letter and the date of the importer's written request to the Administrator shall be not less than 5 years. The importer shall also provide a statement that it shall not sell, or transfer possession or, or title to, the vehicle, or license it for use, or operate it on the public roads, until the vehicle is not less than 25 years old.

4. In § 591.7(c), the phrase "§ 591.5(j)(1)" is revised to read "§ 591.5(j)(1) (i), (ii), or (iv)".

5. New § 591.7(e) is added to read:

§ 591.7 Restrictions on importations.

* * * * *

(e) No vehicle or equipment item may be imported pursuant to § 591.5(j)(2)(i) and (j)(1)(iii) unless its importer has been recognized by the United States for not less than 5 years prior to the date of its written request under § 591.6(g)(2) as a tax-exempt corporation or foundation, or private foundation, under section 501(c)(3) or section 509, respectively, of the Internal Revenue Code, or unless the importer is the National Museum of History and Technology, Smithsonian Institution.

6. A new § 591.10 is added to read:

§ 591.10 Offer of cash deposits or obligations of the United States in lieu of sureties on bonds.

(a) In lieu of sureties on any bond required under § 591.6(c), an importer may offer United States money, United States bonds (except for savings bonds), United States certificates of indebtedness, Treasury notes, or Treasury bills in an amount equal to the amount of the bond.

(b) At the time the importer deposits any obligation of the United States, other than United States money, with the Administrator, (s)he shall deliver a duly executed power of attorney and agreement, in the form shown in Appendix C of this part, authorizing the Administrator or delegate of the Administrator, in case of any default in the performance of any of the conditions of the bond, to sell the obligation so deposited, and to apply the proceeds of sale, in whole or in part, to the satisfaction of any penalties for violations of 15 U.S.C. 1397, and 15 U.S.C. 1916 arising by reason of default.

(c) If the importer deposits money of the United States with the Administrator, the Administrator or delegate may apply the cash, in whole or in part, to the satisfaction of any penalties for violations of 15 U.S.C. 3197, and 15 U.S.C. 1916 arising by reason of default.

7. Appendix C is added to part 591 to read as follows:

Appendix C to Part 591—Power of Attorney and Agreement

_____does constitute and appoint the Administrator of the National Highway Traffic Safety Administration, United States Department of Transportation, or delegate, as attorney for the undersigned, for and in the name of the undersigned to collect or to sell, assign, and transfer the securities described below as follows:

Title
Maturns
Int. Rate
Denom.
Serial #
Coupon/registered

The securities having been deposited by it as security for the performance of the agreements undertaken in a bond with the United States, executed on the date of

_____, _____, the terms and conditions of which are incorporated by reference into this power of attorney and agreement and made a part hereof. The undersigned agrees that in case of any default in the performance of any of the agreements the attorney shall have full power to collect the securities or any part thereof, or to sell, assign, and transfer the securities or any part thereof, or to sell, assign, and transfer the securities of any part thereof at public or private sale, without notice, free from any equity of redemption and without appraisement or valuation, notice and right to redeem being waived and to apply the proceeds of the sale or collection in whole or in part to the satisfaction of any obligation arising by reason of default. The undersigned further agrees that the authority granted by this agreement is irrevocable. The undersigned ratifies and confirms whatever the attorney shall do by virtue of this agreement.

Witnessed and signed this _____day of _____, _____.

Before me, the undersigned, a notary public within and for the County of _____in the State of _____, personally appeared _____and acknowledged the execution of the foregoing power of attorney.

Witness my hand and notarial seal this _____day of _____, 199__.

[Notarial seal]

Notary Public _____

Issued on: March 2, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93–5126 Filed 3–5–93; 8:45 am]

BILLING CODE 4710-33-M

Proposed Rules

Federal Register
Vol. 58, No. 43
Monday, March 8, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

Management Official Interlocks

AGENCY: National Credit Union Administration.

ACTION: Proposed amendment.

SUMMARY: NCUA is proposing to amend its regulation governing management official interlocks to conform the regulation to changes made in the Depository Institution Management Interlocks Act. The changes implement statutorily mandated exceptions to the prohibitions on management interlocks. These exceptions relate to advisory directors, certain types of savings associations and savings and loan holding companies, interlocks involving diversified savings and loan holding companies, and the extension of the grandfather period under the statute. The amendments will affect credit unions only to the extent that they have interlocking relationships with another type of financial institution.

DATES: Comments must be received by May 7, 1993.

ADDRESSES: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Staff Attorney, Office of General Counsel, at the above address or telephone: (202) 682–9630.

SUPPLEMENTARY INFORMATION: Part 711 of NCUA's Rules and Regulations implements the provisions of the Depository Institution Management Interlocks Act ("Interlocks Act," 12 U.S.C. 3201 et seq.). The Interlocks Act, in general, prohibits unaffiliated depository institutions (including credit unions) and depository institution holding companies of a certain size and proximity to each other from sharing management officials. The Interlocks Act was amended with the passage of the Management Interlocks Revision Act of 1988 ("Revision Act") and again with the passage of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). As a result of the above enactments, it is necessary to amend NCUA's regulation. Although this regulation does not affect the daily operation of credit unions, the proposed amendments will affect interlocking relationships when an official serves a federally insured credit union and another type of financial institution.

On October 24, 1988, the NCUA Board published a request for comments concerning revisions to NCUA's Management Official Interlocks regulation (53 FR 41614). NCUA received four public comment letters in response to this request. In light of the significant revisions to the Interlocks Act and the lack of public support for further revisions to the regulation, NCUA is only proposing to amend the regulation to conform to statutory requirements.

The Revision Act amended the Interlocks Act in the following ways: (1) Changed the definition of affiliation by common ownership to allow for an affiliation where 25% (previously 50%) of the voting stock of a depository institution or depository holding company is beneficially owned by the same person or group of persons; (2) provided that the prohibitions of the Interlocks Act would not apply to an interlock that results from the acquisition of a depository institution or a depository institution holding company that is closed or in danger of closing for the five-year period beginning on the date of the acquisition; (3) extended the grandfather period for management interlocks in existence prior to November 10, 1978 for an additional five years; (4) provided that, notwithstanding the prohibitions of the Interlocks Act, a management official of a depository institution or depository institution holding company could become a director of an unaffiliated diversified savings and loan holding company or a nondepository subsidiary thereof (and vice versa) if the appropriate regulatory agencies are given 60 days advance notice and the proposed dual service is not disapproved on one of the three grounds for disapproval set forth in the statute (The dual service can be disapproved any time after the 60 days if a change of circumstances occurs that would have provided a basis for disapproval); and (5) excluded advisory and honorary directors of depository institutions with total assets of less than $100 million from the definition of the term "management official." Voluntary credit union directors are not honorary directors for purposes of this exclusion.

Furthermore, FIRREA amended the Interlocks Act to provide that the prohibitions thereof would not apply to an interlock involving a single management official of any savings association or any savings and loan holding company, or any subsidiary thereof, that has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of the Home Owner's Loan Act ("HOLA", 12 U.S.C. 1467a(q)) if the Director of the Office of Thrift Supervision determines that such service as a management official is consistent with the purposes of the Interlocks Act and HOLA.

The NCUA Board is proposing to amend part 711 in order to conform the regulation to the statutory changes described above. The proposed amendments to the regulation: (1) Revise the definition of the term "management official" in § 711.2(h)(1) to exclude advisory and honorary directors of depository institutions with total assets of less than $100 million; (2) add a new paragraph 711.2(o) to define the phrase "appropriate Federal depository institutions regulatory agency;" (3) add two new categories of "exempt organizations" to § 711.4(a) setting forth interlocks permitted without NCUA Board approval; (4) revise § 711.4(c) to allow director interlocks between a diversified savings and loan holding company or its nondepository organization subsidiaries and any unaffiliated depository organization with 60 days prior notice to the appropriate Federal depository institutions regulatory agency provided that the agency does not disapprove of the interlock; and (5) amend § 711.5 to reflect the extension of the grandfathered interlocking relationship period to November 10, 1993. In addition, the cross reference in the regulation to what had been the definition of the term "diversified savings and loan holding company" as found in the National Housing Act has been changed to refer to section 10 of the Home Owners' Loan Act. This proposed change was necessary as the

relevant definition was moved from the National Housing Act and placed into the Home Owners' Loan Act by FIRREA.

Paperwork Reduction Act

There has been no change in the paperwork requirements.

Regulatory Flexibility Analysis

This regulation does not impact the daily operation of credit unions. The NCUA Board hereby certifies that the proposed amendments do not have a significant impact on a substantial number of small credit unions. In addition, NCUA is required to amend this regulation to conform to changes in relevant statutes. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. Part 711 already applies to all federally insured credit unions (both federal and state-chartered). The proposed amendments simply implement statutorily mandated exceptions to the prohibitions on management interlocks. Again, the daily operation of credit unions is unaffected. Therefore, the NCUA Board has determined that the proposed amendments do not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 12 CFR Part 711

Credit Unions, Management Official Interlocks Act.

By the National Credit Union Administration Board on February 24, 1993.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend its regulations as follows:

PART 711—MANAGEMENT OFFICIAL INTERLOCKS

1. The authority citation for part 711 continues to read as follows:

Authority: 12 U.S.C. 3201 et seq.

2. Part 711 is amended in §§ 711.2(1) and 711.4(c) by removing the phrase "section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F))" and substituting therefor "section 10(a)(1)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(1)(F))".

3. Section 711.2 is amended by revising paragraph (h)(1) and adding paragraph (o) to read as follows:

§ 711.2 Definitions.

* * * * *

(h)(1) "Management official" means:

(i) an employee or officer with management functions (including branch manager);

(ii) a director (including an advisory or honorary director, except in the case of a depository institution with total assets of less than $100,000,000);

(iii) a trustee of a business organization under the control of trustees (e.g., a mutual savings bank); or

(iv) any person who has a representative or nominee serving in any such capacity.

* * * * *

(o) "Appropriate federal depository institutions regulatory agency" means, with respect to any depository institution or depository holding company, the agency referred to in section 209 of the Interlocks Act in connection with such institution or company.

4. Section 711.4 is amended by removing the word "or" at the end of paragraph (a)(5), removing the period at the end of paragraph (a)(6) and replacing it with a semicolon; adding new paragraphs (a) (7) and (8); and designating the text of paragraph (c) following the heading as paragraph (c)(1) and adding a new paragraph (c)(2) to read as follows:

§ 711.4 Permitted interlocking relationships.

(a) * * *

(7) a depository organization which is closed or is in danger of closing as determined by the appropriate federal depository institutions regulatory agency in accordance with its regulations, and which is acquired by another depository organization for the five-year period beginning on the date of the acquisition; or

(8) any savings association (as defined in section 10(a)(1)(A) of the Home Owners' Loan Act, 12 U.S.C. 1467a(1)(A)) or any savings and loan holding company (as defined in section 10(a)(1)(D) of such Act, 12 U.S.C. 1467a(1)(F)) which has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of the Home Owners' Loan Act (12 U.S.C. 1467(a)(q)) with respect to the service as a single management official of such savings association or savings and loan holding company or any subsidiary thereof by a single management official of the savings association or savings and loan holding company which purchased the stock, provided that the Director of the Office of Thrift Supervision determines that such dual service is consistent with the purposes of the Interlocks Act and the Home Owners' Loan Act.

* * * * *

(c) Diversified savings and loan holding company.

(2)(i) A director of an unaffiliated depository organization may serve as a director of a diversified savings and loan holding company (as defined in section 10(a)(1)(F) of the Home Owners' Loan Act, 12 U.S.C. 1467a(1)(F)) or any subsidiary of such holding company that is not a depository organization, provided that:

(A) notice of the proposed dual service is given to the appropriate federal depository institutions regulatory agency for such company, and for the unaffiliated depository organization for which the individual will also serve as a management official, not less than 60 days before the dual service begins, and;

(B) neither agency disapproves of the dual service prior to the expiration of the 60-day period.

(ii) The NCUA may disapprove the proposed dual service of a management official at a diversified savings and loan holding company of which the NCUA has been given notice as required by paragraph (c)(2)(i) of this section if NCUA finds that:

(A) the dual service cannot be structured or limited so as to preclude the service from resulting in a monopoly or the substantial lessening of competition in financial services in any part of the United States;

(B) the dual service would lead to substantial conflicts of interest or unsafe and unsound practices; or

(C) the diversified savings and loan holding company has neglected, failed, or refused to furnish all the information requested by the NCUA in connection with the notice.

(iii) NCUA may require that any dual service which was not disapproved prior to the expiration of the 60-day notice period be terminated if a change in circumstances occurs which would have provided a basis for disapproval of the dual service during the prior notice period.

§ 711.5 [Amended]

5. Section 711.5 is amended by removing "1988" and inserting in lieu thereof "1993."

[FR Doc. 93-5087 Filed 3-5-93; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 930220-3020]

RIN 0691-AA20

Direct Investment Surveys; Change in Reporting Requirements for Foreign-Owned U.S. Banks in Quarterly Survey of Foreign Direct Investment in the United States

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document sets forth proposed rules to amend 15 CFR part 806 to revise the requirements for reporting by foreign-owned U.S. banks in the Bureau of Economic Analysis' quarterly surveys of foreign direct investment in the United States. Currently, incorporated affiliates engaged in banking, together with both incorporated and unincorporated nonbank affiliates, are required to file quarterly Form BE-605, Transactions of U.S. Affiliate, Except An Unincorporated Bank, with Foreign Parent; unincorporated banking affiliates are required to file quarterly Form BE-606B, Transaction of U.S. Banking Branch or Agency with Foreign Parent. Under the proposed rule, all nonbanking affiliates will continue to report on revised Form BE-605, Transaction of U.S. Affiliate, Except A U.S. Banking Affiliate, with Foreign Parent. Both incorporated and unincorporated banking affiliates will report on new Form BE-605 Bank, Transactions of U.S. Banking Affiliates with Foreign Parent, which is tailored specifically for reporting by banking affiliates. Form BE-606B will be discontinued. Because all banking affiliates will report on the same form and because the new bank form has been tailored specifically to banks, reporting by these entities should be eased and clarified.

DATES: Comments on the proposed rules will receive consideration if submitted in writing on or before April 22, 1993.

ADDRESSES: Comments may be mailed to the Office of the Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, or hand delivered to room 1008, Tower Building, 1401 K Street, NW., Washington, DC 20005. Comments received will be available for public inspection in room 1008, Tower Building, between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Betty L. Barker, Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 523-0659.

SUPPLEMENTARY INFORMATION: The two surveys affected by these changes are part of the Bureau of Economic Analysis (BEA)'s regular data collection program for foreign direct investment in the United States. The surveys are mandatory and are conducted pursuant to the International Investment and Trade in Services Survey Act (22 U.S.C. 3101-3108, as amended).

The proposed changes will bring reporting by U.S. affiliates in banking on the quarterly survey into conformity with their reporting on the BE-12, Benchmark Survey of Foreign Direct Investment in the United States—1992. The BE-12 is BEA's quinquennial census of foreign direct investment in the United States; it collects annual data and is intended to cover the universe of U.S. affiliates. The BE-605 and BE-605 Bank are quarterly sample surveys covering only larger U.S. affiliates—those with assets, sales, or net income that exceed $20 million. The sample data reported in these surveys will be linked to data from the BE-12 benchmark survey in order to derive universe estimates by quarter for benchmark and nonbenchmark years.

Because the proposed new BE-605 Bank form has questions and definitions that are targeted specifically at banks, it should reduce the need for follow-up contact with reporters. It will also help avoid duplication in data on permanent invested capital reported to BEA and data on other banking claims and liabilities reported to the Treasury Department on Treasury International Capital report forms. The proposal will not change the public reporting burden for this collection.

The new rules will be effective with the BE-605 and BE-605 Bank reports covering the third quarter of 1993, which are due 30 days after the close of that quarter.

A copy of the proposed survey forms may be obtained from: Chief, Direct Investment in the United States Branch, International Investment Division, BE-50(IN), Bureau of Economic Analysis, U.S. Department of Commerce Washington, DC 20230; phone (202) 523-0547.

Paperwork Reduction Act

This proposed rule contains a collection of information requirement subject to the Paperwork Reduction Act. The collection of information is necessary for compiling the quarterly direct investment estimates included in the U.S. international transactions and national income and product accounts, and for estimates of the annual international investment position of the United States. The data are also needed to measure the economic significance of foreign direct investment in the United States, monitor changes in such investment, analyze its effect on the U.S. and foreign economies, and, based upon this assessment, make informed policy decisions regarding foreign direct investment in the United States. A request has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act.

Public reporting burden for this collection of information is estimated to be one hour per response (form). The burden on a U.S. affiliate will vary, however, depending on the number of foreign parents the U.S. affiliate has. The estimated burden of one hour includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing burden, may be sent to the Director, Bureau of Economic Analysis (BE-1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, Paperwork Reduction Project 0608-0009, Washington, DC 20503.

Executive Order 12291

BEA has determined that this proposed rule is not "major" as defined in E.O. 12291 because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12612

These proposed rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

Regulatory Flexibility Act

The General Counsel, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the proposed rules, if adopted, will not have a significant economic impact on a substantial number of small entities. Most small businesses are not foreign owned, and many that are will not be required to report in the survey because their assets, sales, and net income are each equal to or less than the $20 million exemption level below which reporting is not required. Therefore, a regulatory flexibility analysis was not prepared.

List of Subjects in 15 CFR Part 806

Balance of payments, Economic statistics, Foreign investment in the United States, Reporting requirements.

Carol S. Carson,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR part 806 as follows:

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR part 806 continues to read as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101–3108, and E.O. 11961, as amended.

§ 806.15 [Amended]

2. Section 806.15(h)(1) is amended by deleting "Except an Unincorporated Bank" and inserting in its place "Except a U.S. Banking Affiliate."

3. Section 806.15(h)(2) is amended by deleting "BE–606B" and inserting in its place "BE–605 Bank," and by deleting "U.S. Banking Branch or Agency" and inserting in its place "U.S. Banking Affiliate."

[FR Doc. 93–5162 Filed 3–5–93; 8:45 am]

BILLING CODE 3510–EA–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

RIN 1029–AB68

Abandoned Mine Reclamation Fund—Fee Collection and Coal Production Reporting, Reclamation Fee, Basis for Coal Weight Determination

AGENCY: Office and Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior (DOI) is reopening the public comment period on the proposed rule published in the December 29, 1992, **Federal Register** (57 FR 62116). The proposed rule would amend OSM's regulations governing how the weight of each ton of coal produced is determined for reclamation fee purposes when an operator sells run-of-mine coal to a person operating a coal preparation plant on an estimated clean coal basis for resale or use. The proposal would define the records required to be maintained to document the basis of the transaction. The proposed rule would also require a person operating a coal preparation plant to pay reclamation fees on coal sold in excess of coal purchased from other operators on an estimated clean coal basis.

DATES: *Written Comments:* OSM will accept written comments on the proposed rule until 5 p.m. Eastern time on April 7, 1993.

ADDRESSES: *Written Comments:* Hand deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, room 660, 800 North Capitol St. NW., Washington, DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, room 660 NC, 1951 Constitution Avenue, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Jane E. Robinson, Office of Surface Mining Reclamation and Enforcement, room 635 NC, 1951 Constitution Avenue, NW., Washington, DC 20240: Telephone: 202–343–2826 (Commercial or FTS).

SUPPLEMENTARY INFORMATION: OSM published a proposed rule on December 29, 1992 (57 FR 62116), that would amend its regulations governing how the weight of each ton of coal produced is determined for reclamation fee purposes. The existing regulations require an operator to pay Abandoned Mine Land (AML) fees on the actual gross weight of the coal at the time of the first transaction (sale, transfer of ownership, or use) involving the coal. Current regulations allow an operator to take a calculated weight reduction for excess moisture. All other impurities not removed before the first transaction must be included in the gross weight for AML fee computation purposes. This regulation has been in effect basically unchanged since 1977. The proposed rule would make the weight determination consistent with the normal business practice between a coal operator and a person operating a coal preparation plant when run-of-mine coal is purchased on an estimated clean coal basis and cleaned prior to resale or use. The proposal would define the records an operator and person operating a coal preparation plant must maintain to document the basis of coal sales and purchases. The proposed rule would also require a person operating a coal preparation plant that purchases coal for resale on the basis of clean coal tonnage, to pay reclamation fees on the actual weight of all processed coal sold, transferred or used by the coal preparation plant that is in excess of the estimated clean coal purchased from other operators.

A public hearing was held on this proposed rule on February 23, 1993, in Big Stone Gap, Virginia. The comment period for the proposed rule closed on March 1, 1993. However, in response to a request to provide more time for interested persons to comment on the proposed rule, OSM is reopening the comment period. Comments will now be accepted until 5 p.m. local time on April 7, 1993.

Dated: March 1, 1993.

Brent Wahlquist,

Assistant Director, Reclamation and Regulatory Policy.

[FR Doc. 93–5155 Filed 3–5–93; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL–12–25–5773; FRL–4602–4]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of public hearing; Reopening the public comment period.

SUMMARY: USEPA promulgated the Chicago Ozone Federal Implementation Plan (FIP) on June 29, 1990. The FIP requires that certain sources perform tests to demonstrate compliance and that they certify compliance to USEPA by July 1, 1991. Those sources complying by means of an add-on control device are required to test the capture efficiency of each control system. On November 3, 1992, (57 FR 49662) USEPA proposed to extend the date by which sources must certify efficiency of each control system from July 1, 1991, to July 1, 1993. That

proposed rule offered an opportunity for a public hearing on the proposed rule. A public hearing was requested on this proposed rule. This notice announces that a public hearing on the proposed rule is scheduled for April 19, 1993, and reopens the public comment period from March 8, 1993 until May 19, 1993.

DATES: A public hearing has been scheduled for Thursday, April 1, 1993, at 1:30 p.m. The public comment period reopened from March 8, 1993 until May 3, 1993.

ADDRESSES: The location of the public hearing is the Lake Huron Room on the 12th Floor of the Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois 60604. Written comments on this proposed rule should be addressed to J. Elmer Bortzer, Chief, Regulation Development Section (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Comments should be strictly limited to the subject matter of the November 3, 1992, (57 FR 49662) proposed rule.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Regulation Development Branch, 18th Floor Southwest, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6052.

Dated: February 22, 1993.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 93–5260 Filed 3–5–93; 8:45 am]

BILLING CODE 6560–60–M

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40 CFR Part 52

[CA12–4–5649; FRL–4601–8]

Approval and Promulgation of Implementation Plans California State Implementation Plan Revision; San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) adopted by the San Diego County Air Pollution Control District (APCD) on October 16, 1990. The California Air Resources Board (CARB) submitted the San Diego revisions to EPA on April 5, 1991. The revisions concern San Diego's Rules 61.2, Transfer of Organic Compounds into Mobile Transport Tanks, and 61.3, Transfer of Volatile Organic Compounds into Stationary Storage Tanks. These rules control volatile organic compound (VOC) emissions from the transfer of organic liquids, primarily gasoline. EPA has evaluated the revisions to San Diego's Rules 61.2 and 61.3 and is proposing to approve them under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the Clean Air Act, as amended in 1990 (CAA or the Act).

DATES: Comments must be received on or before April 7, 1993.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Rulemaking Section II (A–5–3); Air and Toxics Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1095.

FOR FURTHER INFORMATION CONTACT: William E. Davis, Jr., Rulemaking Section I (A–5–4), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1183.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act), that included the San Diego Air Basin. 43 FR 8964; 40 CFR 81.305. Because this area was unable to reach attainment by the statutory attainment date of December 31, 1982, California requested under section 172(a)(2) of the pre-amended Act, and EPA approved, an extension of the attainment date to December 31, 1987. 40 CFR 52.238. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the San Diego APCD's portion of the California State Implementation Plan (SIP) was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in EPA's pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. San Diego County is classified as a severe nonattainment area;[2] therefore, this area was subject the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules to EPA for incorporation into its SIP on April 5, 1991, including the rules being acted on in this notice. This notice addresses EPA's proposed action for two rules for the San Diego County APCD: Rules 61.2 and 61.3. These submitted rules were found to be complete on April 21, 1991 pursuant to EPA's completeness criteria adopted on February 16, 1990 (55 FR 5830) and set forth in 40 CFR part 51, appendix V.[3] Today, EPA is proposing approval of the rules into the federally enforceable SIP.

The San Diego rules control the emission of volatile organic compounds (VOCs) from the transfer of organic liquids into mobile transport tanks (Rule 61.2) and stationary storage tanks (Rule 61.3). VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of San Diego's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and have been revised in response to EPA's SIP-Call and the section

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[1] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice" (Blue Book) (notice of availability was published in the Federal Register on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] San Diego County retained its nonattainment designation and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[3] EPA has since adopted completeness criteria pursuant to section 110(k)(1)(A) of the amended Act. See 56 FR 42216 (August 26, 1991) to be codified at 40 CFR part 51, appendix V

182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for these rules.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTGs applicable to San Diego's Rules 61.2 and 61.3 are (1) "Control of Volatile Organic Emissions from Bulk Gasoline Plants", EPA document EPA–450/2–77–035, and (2) "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", EPA document EPA–450/2–78–051. The CTG document entitled "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals", EPA document EPA–450/2–77–026, is also applicable to San Diego Rule 61.2. Further interpretations of EPA policy are found in the Blue Book. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

San Diego's submitted Rule 61.2, Transfer of Organic compounds into Mobile Transport Tanks, includes the following revisions from the current SIP rule:

—Recordkeeping provisions have been added to verify several exemptions.
—A provision to limit VOC emissions to 0.29 pounds per 1000 gallons in facilities with an annual throughput of 5 million gallons or more has been added.
—Provisions for automatic shutoff in the event of overfilling have been added.
—Testing procedures have been added.
—A maintenance program provision has been added.

San Diego's submitted Rule 61.3, Transfer of Volatile Organic Compounds into Stationary Storage Tanks, includes the following revisions from the current SIP rule:

—The rule has been made applicable to both retail and non-retail facilities.
—California Air Resources Board certification requirements have been added.
—Recordkeeping provisions for low-throughput exemptions have been added.

EPA has evaluated San Diego's submitted Rules 61.2 and 61.3, and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, San Diego APCD Rule 61.2, Transfer of Organic Compounds into Mobile Transport Tanks, and Rule 61.3, Transfer of Volatile Organic Compounds into Stationary Storage Tanks, are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and Part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis for a SIP approval would constitute Federal inquiry into the economic reasonableness of the State actions. The CAA forbids EP to base its actions concerning SIPS on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 47 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 23, 1993.

Nora L. McGee,

Acting Regional Administrator.

[FR Doc. 93–5265 Filed 3–5–93; 8:45 am]

BILLING CODE [illegible]

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

MSS Above 1 GHz Negotiated Rulemaking Committee

AGENCY: Federal Communications Commission.

ACTION: Notice of cancellation of public meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the meeting of the MSS Above 1 GHz Negotiated Rulemaking Committee ("Committee") scheduled for Thursday, March 4, 1993 has been cancelled. This meeting was originally announced in Public Notice, DA 93–163 (58 FR 8927 (2/18/93)).

FOR FURTHER INFORMATION CONTACT: Kathleen Campbell, Administrative Assistant to the Committee, at (202) 634–1952.

SUPPLEMENTARY INFORMATION: Subsequent Full Committee meetings are currently scheduled for Tuesday, March 9; Thursday, March 18; Thursday, March 25; and Friday, April 2.

Federal Communications Commission.
Donna R. Searcyh,
Secretary.
[FR Doc. 93–5288 Filed 3–5–93; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–33, RM–8160]

Radio Broadcasting Services; Firebaugh and Oakhurst, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of California Sierra Corporation, licensee of Station KAAT(FM), Channel 296A, Oakhurst, California, requesting the substitution of Channel 276A for Channel 296A and modification of its license accordingly to enable Station KAAT(FM) to increase its effective radiated power to six kilowatts. Petitioner also requests the substitution of Channel 234A for Channel 276A at Firebaugh, California, a vacant allotment for which a petition for reconsideration seeking reinstatement of an application has been filed. Coordinates for Channel 276A at Oakhurst, California, are 37–25–08 and 119–44–04; and for Channel 234A at Firebaugh, California, 36–51–30 and 120–27–12.

DATES: Comments must be filed on or before April 22, 1993, and reply comments on or before May 7, 1993.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: A. Wray Fitch III, Esq., Gammon & Grange, P.C., 8280 Greensboro Drive, Seventh Floor, McLean, VA 22102.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–33, adopted February 8, 1993, and released March 2, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.
Michael C. Ruger,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 93–5150 Filed 3–5–93; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–34 RM–8100]

Radio Broadcasting Services; Glenwood Springs, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Gardiner Broadcast Partners, Ltd. requesting the allotment of FM Channel 224A to Glenwood Springs, Colorado, as that community's second local aural transmission service. Coordinates used for this proposal are 39–32–36 and 107–19–18.

DATES: Comments must be filed on or before April 22, 1993, and reply comments on or before May 7, 1993.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: David M. Silverman, Esq., Cole, Raywid & Braverman, 1919 Penn. Ave., NW., suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–34, adopted February 8, 1993, and released March 2, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.
Michael C. Ruger,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.
[FR Doc. 93–5151 Filed 3–5–93; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–32, RM–8174]

Radio Broadcasting Services; Tracy, Minnesota

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Plum Creek Broadcasting Company, Inc., proposing the substitution of Channel 286C3 for Channel 286A at Tracy, Minnesota, and modification of the construction permit for Station KARL to specify operation on Channel 286C3. The coordinates for Channel 286C3 are 44–13–46 and 95–44–36.

DATES: Comments must be filed on or before April 22, 1993, and reply comments on or before May 7, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: John S. Neely, Miller & Miller, P.C., P.O. Box 33003, Washington, DC 20033.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–32, adopted February 4, 1993, and released March 2, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–5152 Filed 3–5–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 76

[MM Docket No. 93–25, FCC 93–91]

Cable Television Services; Implementation of Section 25 of the Cable Television Act, Direct Broadcast Satellite Public Service Obligations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice of Proposed Rule Making (Notice) seeks to implement the Cable Television Consumer Protection and Competition Act of 1992 (1992 Cable Act). It solicits comment on applying the political programming requirements of the Communications Act of 1934, as amended, to DBS service providers. The Notice also requests comments on the reservation and availability of channels for noncommercial educational and informational programming at reasonable rates. Finally, the Notice solicits comment on the opportunities that DBS service provides for fulfilling the Commission's goal of service to local communities.

DATES: Comments are due by May 24, 1993, and reply comments are due by June 30, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 632–5414, or Rosalee Chiara, Common Carrier Bureau, (202) 634–1781.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making in MM Docket No. 93–25, adopted February 11, 1993 and released March 2, 1993. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M Street NW., room 239, Washington, DC, and also may be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street NW., Washington, DC 20037.

Synopsis of the Notice of Proposed Rule Making

1. In this proceeding, the Commission proposes to implement section 25 of the 1992 Cable Act, which requires the Commission to impose public service obligations on providers of direct broadcast satellite (DBS) service. Specifically, Section 25(a) mandates that, at a minimum, the Commission apply the political broadcast requirements of Sections 312(a)(7) and 315 of the Communications Act to DBS Service providers, and Section 25(b) requires the Commission to adopt rules governing the reservation and availability of channels for noncommercial educational and informational programming at reasonable rates.

Definition of Provider of DBS Service

2. As a threshold matter, the Notice seeks to identify the types of entities that will be subject to the public service obligations proposed in this proceeding. It recognizes that identifying these entities is a difficult task because different DBS services are regulated under either part 25 or part 100 of the Commission's Rules. Moreover, there can be several layers of entities involved in the actual delivery of video programming by satellite to viewers' homes through DBS systems. By way of background, the term "DBS service" originally referred narrowly to a radiocommunication service in which signals from earth are retransmitted in a portion of the Ku-band (12.2–12.7 GHz) by high power, geostationary satellites for direct reception by inexpensive earth terminals, as regulated by part 100 of the Commission's Rules. The term DBS service has more recently been used to refer to direct-to-home delivery of programming by fixed-satellite service (FSS) operators using low-powered satellites in the C-band (4/6 GHz) and low-powered and medium-powered satellites in portions of the Ku-band (11.7–12.2 GHz). These satellites are not as high-powered as the part 100 satellites and require larger antennas for reception of their signals.

3. The Notice next analyzes the statutory definition of DBS service provider contained in section 25(b). Under this definition, a DBS service provider is either a licensee of a Ku-band satellite system under part 100 of the Commission's Rules or a distributor who controls a minimum number of channels using the facilities of a fixed-satellite system in the Ku-band and licensed under part 25 of the Commission's Rules.

4. At the outset, the Notice notes that Congress intended to exclude C-band DBS operations from the obligations to be imposed by section 25 of the 1992 Cable Act, as the definition is expressly limited to entities operating in the Ku-band pursuant to parts 25 or 100 of Rules. As a result, the Notice tentatively concludes to limit the scope of section 25 to DBS services provided in the Ku-band. We seek comment on this interpretation.

5. *Licensees Under Part 100.* With respect to part 100 DBS licensees, the Notice explains that the Commission has taken a flexible regulatory approach under which part 100 licensees have the option of operating and being regulated in whole or in part as broadcasters, who are subject to Title III of the Communications Act. A part 100 DBS licensee that is not a broadcaster can lease satellite capacity to a customer-programmer who uses the leased channels to distribute programming by satellite directly to the homes of viewers. Regardless of the regulatory classification of these part 100 DBS licensees, the Notice tentatively concludes that they should be held ultimately responsible for ensuring that the obligations adopted pursuant to this section are met, although they may, as a practical matter, be forced to delegate the day-to-day functions of implementing these requirements to the entity that is actually controlling the

programming. The Notice solicits comment on this tentative view and on how the practical aspects of program delivery in this part 100 service should affect our treatment of the responsibilities imposed by section 25.

6. *Entities Under Part 25.* The definition of DBS service provider in section 25(b) also includes "any distributor who controls a minimum number of channels (as specified by Commission regulation) using a Ku-band fixed service satellite system for the provision of video programming directly to the home and licensed under part 25 of title 47 of the Code of Federal Regulations." The Notice solicits comments on the various components of this statutory definition. First, what should the terms "distributor" or "control" mean? Our initial view is that distributors would include parties that are engaged in various activities related to the delivery of video entertainment programming such as program packaging, program delivery, subscription billing and customer service. We also tentatively conclude that "control" of channels could mean control through lease, sale or other arrangement with a satellite operator.

7. Second, how should we define the term "channel?" With the advent of digital compression technology and the ability to transmit several video programs using a single transponder, we must determine whether "channel" should refer to a whole transponder or to a single one of the program services contained in a compressed signal. We are initially inclined to define channels in terms of an explicit number of specified 24 MHz wide channels for part 100 licensees and in terms of the number of transponders and/or some multiple of 30–36 MHz normally used for video programming by part 25 DBS providers.

8. Third, the distributor must use a Ku-band fixed satellite system to distribute programming. The Notice concludes that this requirement appears to require little interpretation. Fourth, there must be a license issued under part 25 of the Commission's Rules. However, since a part 25 satellite licensee may lease or sell its transponders to other entities, a question arises whether the distributor must hold the license or whether the satellite system used to distribute programming must be licensed under part 25. The Notice tentatively concludes that the statute does not appear to mandate that a distributor also be a part 25 licensee to be subject to its provisions. Comment is solicited on this view and what enforcement mechanisms can be applied to entities that are not Commission licensees.

9. Finally, the Notice recognizes that the above described definition of provider of DBS service states that it is given "for purposes of this subsection," which is subsection 25(b). In view of this wording, the Notice questions whether this definition is also intended to apply to the political broadcasting/public interest requirements of subsection (a). If not, then what definition of provider of DBS service should be used for subsection (a)?

Political Broadcasting Rules

10. Section 25(a) of the 1992 Cable Act mandates that the Commission apply the access to broadcast time requirement of section 312(a)(7) and the use of facilities requirements of section 315 of the Communications Act to providers of DBS service providing video programming. In compliance with this statutory directive, we propose to apply our existing rules implementing these statutory sections and to tailor these rules to account for differences between multichannel DBS systems and traditional broadcast stations.

11. *Reasonable Access to DBS Systems by Federal Candidates.* Section 312(a)(7) of the Communications Act and section 73.1944 of the Commission's Rules require stations to afford reasonable access for federal candidates to their facilities, or to permit federal candidates to purchase "reasonable amounts of time." The Notice proposes to apply section 73.1944 of the Rules and the policies codified in MM Docket 91–168 to DBS providers. However, since this appears to be the first time that the reasonable access requirements will be applied to multichannel video delivery systems, the Notice solicited comment as to what constitutes reasonable access in such a situation. Should a DBS provider that controls multiple channels be required to make all video channels available to federal candidates? Or, should DBS operators have the discretion to place all political advertisements on one channel or a limited number of specific channels? The Notice solicits comment on the extent to which DBS may be utilized for political advertising by federal candidates under these proposed provisions, and any specific burdens this may create for DBS operators.

12. *Equal Opportunities for All Candidates.* Section 315(a) of the Communications Act and section 73.1941 of the Commission's Rules provide that, if a broadcast licensee permits any legally qualified candidate to use its station, the licensee must afford equal opportunities to all other such candidates in the use of the station. Both the statute and the rule exempt bona fide newscasts, interviews, documentaries, and news events from these requirements. Section 73.1940 defines the term "legally qualified candidate."

13. The Notice proposes to apply these rules to providers of DBS service. In addition, the Notice solicits comment on whether DBS providers must air opposing candidates' advertisements on the same channels or take into account the specific demographics of different channels. Such an approach is not followed in cable television; rather, cable TV operators have been informally advised to ensure that the channels utilized have comparable audience size. Should such an approach be followed with respect to DBS?

14. *Lowest Unit Charge.* Section 315(b) of the Communications Act and section 73.1942 of the Commission's Rules provide that a broadcast station may not charge any legally qualified candidate for the use of a station more than the lowest unit charge (LUC) of the station during the 45 days preceding a primary or runoff election and the 60 days preceding a general or special election. The Notice proposes to apply section 73.1942, as well as the LUC policies codified in MM Docket 91–168, to providers of DBS service.

15. *Political File Requirements.* Section 73.1943 of the Commission's Rules requires broadcast stations to maintain and permit public inspection of a complete record of all requests for broadcast time made by or on behalf of candidates, the disposition made by the licensee of such requests, and the charges, if any, made for the time. The Notice proposes to apply this section to providers of DBS service. The Notice also solicits comment on where a provider of DBS service should keep its political file, and tentatively concludes that the political file should be maintained and accessible at the headquarters of the DBS service provider.

Other Public Interest Requirements

16. The Notice explains that the language of section 25(a) of the 1992 Cable Act appears to give the Commission authority to adopt other public interest requirements for DBS service providers beyond the political programming requirements discussed above and the reservation requirements for noncommercial, educational programming discussed below. However, the Notice tentatively concludes that, given the flexible regulatory approach taken for DBS and its early stage of development, no other

regulations should be considered at this time. However, commenters may address whether and what other types of regulations should be considered for DBS providers at this time.

Opportunities for Localism on DBS

17. Section 25(a) of the 1992 Cable Act also requires that we consider the opportunities that DBS provides for promoting the principle of localism under the Communications Act. Since DBS systems are essentially designed to serve the entire continental United States, the Notice interprets Congress' directive to be that we consider whether a national mode of programming service such as DBS can accomplish the long standing goal of service to individual communities.

18. Although the Commission has historically licensed terrestrial broadcast stations to serve specific local communities, DBS was authorized as a nonlocal service that would provide service on a national or regional basis. When the rules governing this service were adopted in 1982, it was not believed possible for a DBS system to "spot beam" programming to individual communities. However, over ten years have passed since these rules were adopted. Accordingly, the Notice solicits comment on the technical and economic feasibility of providing localized DBS service.

Carriage Obligations for Noncommercial, Educational, and Informational Programming

19. Section 25(b) of the 1992 Cable Act requires that DBS providers reserve four to seven percent of their channel capacity for noncommercial programming of an educational or informational nature and that this reserved channel capacity be made available to national educational programming suppliers upon reasonable prices, terms, and conditions as determined by the Commission.

20. *Reservation Requirement.* The Notice asked whether section 25(b) requires that discrete channels, or a percentage of cumulative time on multiple channels, be reserved for noncommercial use. If it is the former, how do we calculate the total channel capacity for a DBS system? Should we count the number of channels licensed or allotted to a DBS distributor? Or, should we count the number of channels supplied to customers, which would take into account the potential for expanding the number of channels by digital compression techniques?

21. The Notice also solicited comment on the percentage or number of channels that should be reserved. Should DBS systems with relatively large total channel capacity be subjected to a greater reservation requirement than systems with relatively less total channel capacity? Also, should the reservation requirement be cast in terms of a percentage or a discrete whole number of channels that would be reserved to avoid having to reserve parts of channels. The Notice suggests that a sliding scale could be used so that systems falling into various categories (such as having 20 to 30 channels) would be required to reserve a specific number of channels.

22. *Responsibility for Programming.* Since section 25(b) mandates that no editorial control should be exercised by the DBS provider over the noncommercial programming aired, the Notice solicits comment on who should be responsible for the programming in the event Commission Rules or federal statutes are violated. The Notice tentatively concludes that a DBS provider should not be liable for harm or violations caused by programming over which it has no control. The Notice also questions whether there may be limited circumstances in which a DBS provider can refuse carriage of programming or can restrict its dissemination such as in cases of indecency or obscenity.

23. *Definition of National Educational Programming Supplier.* Section 25(b)(3) requires that a DBS provider shall make its reserved channel capacity available to national educational programming suppliers, and section 25(b)(5)(B) states that "the term 'national educational programming supplier' includes any qualified noncommercial educational television station, other public telecommunications entities, and public or private educational institutions." The Notice solicits comment as to the scope of this term. The Notice states that it should encompass not only public television licensees but also entities such as the Public Broadcasting Service which disseminate programming on a national basis to television stations. What other entities should be included?

24. *Definition of Noncommercial, Educational and Informational Programming.* Although the reserved channel capacity is to be used for noncommercial, educational and informational programming, this term is not defined in Section 25(b). As a result, the Notice solicits comment on whether it is necessary for the Commission to define this term. If so, what should the term include? Or, should the Commission, after deciding the types of entities that may seek access to the reserved channel capacity, not enumerate the specific types of programming that may be aired?

25. *Use of Unused Channel Capacity.* Section 25(b)(2) of the 1992 Cable Act permits a DBS service provider to "* * * utilize for any purpose any unused channel capacity required to be reserved under this subsection pending the actual use of such channel capacity for noncommercial programming of an educational or informational nature." The Notice solicits comment on what constitutes a "use" of a reserved channel by a noncommercial program provider that would trigger an end to the DBS service provider's ability to utilize such reserved channels. For example, does the "use" commence with the signing of a written agreement? Or, should a DBS service provider be able to use the reserved channel capacity until the noncommercial program provider is ready to commence broadcasting its programming.

26. *Rates.* Section 25(b)(4) provides that the Commission shall not allow prices charged by DBS providers for the use of reserved channel capacity to exceed 50% of the direct costs of making the channel available. The Notice seeks comment on the appropriate percentage to use and the financial impact that this provision will have on DBS providers. The Notice also asks whether we should presume that charging noncommercial entities 50% of direct costs is reasonable.

27. The Notice also solicits comment as to the meaning of the term "direct costs." While section 25(b)(4) requires the Commission to exclude certain costs in its rate determination such as "marketing costs, general administrative costs, and similar overhead costs," the Notice questions whether costs such as a proportional share of the construction, launch, and insurance of the space station used could be considered. Likewise, the Notice requests comment on whether certain overhead or personnel costs that are directly related to making the channels available to nonprofit groups could also be considered "direct costs."

28. Section 25(b)(4) also states that the Commission shall take into account the nonprofit character of the programmer to whom the capacity is provided and any federal funds used to support the programming. The Notice asks whether this language means that such characteristics should entitle some individual programmers to an even lower rate than 50% of the direct costs of the provider.

29. Finally, while section 25(b) assumes that noncommercial program suppliers will lease reserved channels from DBS providers, the Notice observes

that this may not be the only way in which such channels are provided. If DBS providers enter into other types of contractual arrangements with program suppliers, under which programming comporting with the definitions of Section 25(b) is delivered, should this be counted toward fulfilling the DBS service provider's obligation under this section if mutually agreed upon?

Administrative Matters

Initial Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, the Commission finds:

30. Reason for action: This action is taken to implement section 25 of the Cable Television Consumer Protection and Competition Act of 1992 which requires the Commission to adopt public service obligations for providers of direct broadcast satellite (DBS) service providing video programming.

31. Objective of this Action: This action has three objectives. First, the Notice proposes to apply the political broadcasting requirements of sections 312(a)(7) and 315 of the Communications Act to DBS service providers and to consider whether any other public interest requirements should also be imposed. Second, the Notice seeks to compile a record on whether a national mode of broadcasting such as DBS can accomplish the Commission's long standing goal of service to individual communities by beaming programming to local or regional areas. Third, the Notice solicits comments on requiring DBS service providers to reserve between 4% and 7% of their total channel capacity for noncommercial, educational and informational programming and to make this channel capacity available to national educational programming suppliers upon reasonable prices, terms, and conditions as determined by the Commission.

32. Legal Basis: Authority for the actions proposed in this Notice may be found in sections 4(i) and (j) and 303 of the Communications Act of 1934, as amended, and the Cable Television Consumer Protection and Competition Act of 1992.

33. Reporting, Recordkeeping, and Other Compliance Requirements: Application of the political broadcasting requirements of section 312(a)(7) and 315 of the Communications Act would necessitate that DBS service providers maintain and permit public inspection of a complete record of all requests for broadcast time, the dispositions made of such requests, and the charges, if any, made for the time. With respect to the carriage obligations for noncommercial, educational and informational programming, DBS service providers would have to process and authorize requests for use of the reserved channel capacity at reasonable rates as determined in this rulemaking proceeding.

34. Federal Rules which Overlap, Duplicate, or Conflict with the Proposed Rule: None.

35. Description, Potential Impact and Number of Small Entities Involved: There are 9 entities that have construction permits for high-powered DBS satellite systems under part 100 of the Commission's Rules that would become subject to these public interest obligations when they commence broadcasting. Other DBS systems Under part 25 of the Commission's Rules may also be subject to these public interest requirements, but at the present time we are aware of only one company—which is a joint venture of various owners of multiple cable systems—that is providing direct-to-home programming by satellite in the Ku-band.

The potential impact of applying the political broadcasting requirements to these entities is that they would have to sell air time at their lowest unit charge to federal candidates and to other types of candidates that they permit on the air. The potential impact of the carriage obligations for noncommercial programming is that, under section 25(b) of the 1992 Cable Act, DBS service providers may not charge more than 50% of the "direct" costs of making a reserved channel available. This would presumably result in a loss on the use of these reserved channels. In addition, an unknown number of small entities such as public television stations and public or private educational institutions would have the opportunity to purchase time at reasonable rates for the broadcasting of noncommercial, educational and informational programming.

36. Any Significant Alternatives Minimizing the Impact on Small Entities and Consistent with the Stated Objectives: There are no alternatives with respect to the proposals to apply the political broadcasting rules or to establish carriage obligations for noncommercial, educational and informational programming that would minimize the impact on small entities. However, with respect to the possibility of adopting other public interest requirements or considering how DBS systems could promote localism, there is an additional option—that is, not to adopt regulations at this time but reserve the right to do so in the future if circumstances so warrant.

37. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an initial regulatory flexibility analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same deadlines as comments on the other sections of this Notice of Proposed Rule Making. However, such comments must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this Notice of Proposed Rule Making and regulatory flexibility analysis to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Ex Parte

38. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202, 1.203, and 1.206(a).

Comments

39. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before May 24, 1993, and reply comments on or before June 30, 1993. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, room 239, Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

Ordering Clauses

40. Authority for this Notice of Proposed Rule Making is contained in sections 4 (i) and (j), 303, 613, and 617 of the Communications Act of 1934, as amended.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 93-5288 Filed 3-5-93; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 76

[MM Docket No. 92-264, DA 93-233]

Cable Act of 1992; Cross-Ownership Limitations and Anti-Trafficking

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: Action taken herein extends the time for filing reply comments to the Notice of Proposed Rulemaking and Notice of Inquiry in MM Docket No. 92-264, 58 FR 3523 (January 11, 1993). The Notice seeks comment on the interpretation and implementation of the cross-ownership and anti-trafficking provisions of the Cable Act of 1992 as well as on the adoption of limits on horizontal concentration and vertical integration in the cable industry. The Commission agrees that it is appropriate to allow commenters additional time to address the vertical and horizontal ownership limits after the Commission has promulgated Program Access and Leased Access regulation, therefore, we leave the record open for reply comments addressing the establishment of vertical and horizontal ownership limits until May 12, 1993.

DATES: Reply comments are due on or before May 12, 1993.

FOR FURTHER INFORMATION CONTACT: Jackie Chorney, Policy and Rules Division, Mass Media Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Order

In the matter of Implementation of sections 11 and 13 of the Cable Television Consumer Protection and Competition Act of 1992, Horizontal and Vertical Ownership Limits, Cross-Ownership Limitations and Anti-trafficking Provisions.

Adopted: February 26, 1993.
Released: February 26, 1993
Comment Date: February 9, 1993.
Reply Comment Date: May 12, 1993.
By the Chief, Mass Media Bureau:

1. Turner Broadcasting System, Inc. ("TBS"), by its attorneys, and Consumer Federation of America each filed motions requesting an extension of time for submission of reply comments in the above referenced proceeding. TBS requests such an extension until after the Commission has adopted rules implementing the Section 19 program access provisions and the section 9 leased access provisions of the Cable Consumer Protection and Competition Act of 1992 ("1992 Act").[1] Pursuant to the 1992 Act, the Commission must adopt Program Access and Leased Access rules by April 5, 1993.

2. TBS submits that such an extension is necessary because the outcome of the Program Access and Leased Access Proceedings "will directly affect the views of interested parties with respect to the appropriate horizontal and vertical limits to be imposed pursuant to Sections 11 and 13."[2] TBS also notes that the grant of such an extension will not contravene congressional intent, since the 1992 Act contemplates the adoption of horizontal and vertical ownership limits by October 5, 1993.

3. In the Notice of Proposed Rule Making and Notice of Inquiry, MM Docket No. 92-264, released December 28, 1992, in this proceeding, the Commission recognized that the structural restraints of the vertical and horizontal ownership limits must be considered in conjunction with the behavioral restrictions adopted in the Program Access and Leased Access Proceedings. Therefore, we agree that it is appropriate to allow commenters additional time to address the vertical and horizontal ownership limits after the Commission has promulgated Program Access and Leased Access regulations. However, since other issues in this proceeding such as the interpretation and implementation of the anti-trafficking and cross-ownership restrictions are unrelated to the Program Access and Leased Access Proceedings, we decline to extend the date for reply comments on all issues contained in this proceeding. Instead, we will leave the record open for reply comments addressing the establishment of vertical and horizontal ownership limits until May 12, 1993. This should provide interested parties adequate time to review and consider the implication of the Program Access and Leased Access rules on the establishment of vertical and horizontal ownership limits.

4. *Accordingly, it is ordered,* That the Motions for Extension of Time filed by Turner Broadcasting Systems, Inc. and Consumer Federation of America are granted and the time for filing reply comments on the issues of vertical and horizontal ownership limits is extended until May 12, 1993.

5. This action is taken pursuant to authority granted in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and delegated in § 0.204 (b) and 0.283 and 1.46 of the Commissioner's Rules.

Federal Communications Commission.
Roy J. Stewart,
Chief, Mass Media Bureau.
[FR Doc. 93-5287 Field 3-5-93; 8:45 am]
BILLING CODE 6712-01-M

[1] See Notice of Proposed Rulemaking In the Matter of Implementation of Sections 12 and 19 of the Cable Television Consumer Protection and Competition Act of 1992, MM Docket No. 92-265, released December 24, 1992 ("Program Access Proceeding"); Notice of Proposed Rulemaking In the Matter of Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992, Rate Regulation, MM Docket No. 92-266, released December 24, 1992 ("Leased Access Proceeding").

[2] TBS Comments at 2.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 90-16; Notice 02]

RIN 2127-AD09

Federal Motor Vehicle Safety Standards, Seating Systems; Pedestal Seats

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: This notice proposes to amend Standard 207, Seating Systems, to establish more appropriate test procedures for pedestal seats. A previous notice of proposed rulemaking was issued in 1990. The main difference between today's supplemental proposal and the 1990 proposal concerns the definitions of a pedestal seat. The test procedure that today's notice proposes to add to the standard is virtually identical to the earlier proposal, except that today's notice would permit manufacturers the choice of using either the current procedure or the new one for testing most pedestal seats.

This notice also announces the availability of a test report on tests conducted using the proposed procedure. NHTSA conducted the tests in response to commenters on the earlier proposal. The report is available in NHTSA's docket section.

DATES: Comments on this notice must be received by the agency no later than May 7, 1993.

Proposed effective date: If adopted, this amendment would be effective 90 days after publication of the final rule in the **Federal Register**.

ADDRESSES: Comments should refer to the docket number and notice number and be submitted in writing to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-5267. Docket hours are 9:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. William J.J. Liu, Office of Vehicle Safety Standards, NRM-12, National

Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. Telephone: (202) 366–4923.

SUPPLEMENTARY INFORMATION: In August 1990, NHTSA published a notice of proposed rulemaking (NPRM) to establish in Standard 207, Seating Systems, a more appropriate test procedure for pedestal seats. (55 FR 33141; August 14, 1990.) Under the proposal, the pedestal and the seat portion of a pedestal seat would each be separately, but simultaneously, loaded. The NPRM proposed definitions for a "pedestal seat" and parts thereof to differentiate such seats from other seating systems.

The regulatory text in today's SNPRM replaces the text proposed by the 1990 NPRM. The main difference between the regulatory text in the two notices lies in the proposed definitions. Instead of attempting to define and differentiate different parts of a pedestal seat from one another as was done in the NPRM, this notice simply divides pedestal seats into the portion above the seat adjuster and that below the adjuster. The test procedure that today's notice proposes to add to the standard is virtually identical to the earlier proposal, except that today's notice would permit manufacturers the choice of using either the current procedure or the new one for testing most pedestal seats.

Background

Standard 207, Seating Systems, specifies requirements for seats and seat attachment assemblies to minimize the possibility of their failure when subjected to the forces imposed on them in a crash. The standard requires seats to withstand a force equal to 20 times the weight of the seat applied in a forward (S4.2(a)) and a rearward (S4.2(b)) direction. The seat must remain in its adjusted position during the successive application of the specified forces (S4.2.1).

The requisite forces are applied through the center of gravity (cg) of a seat if the seat's back and bench are attached to the vehicle by the same attachments (S5.1.1). (This notice uses the term "seat bench" rather than "seat pan" which was used in the NPRM, because "seat bench" is currently used in Standard 207. The terms are synonymous.)

Generally, for a seat configured as shown in Figure 1 of Standard 207, applying the force through the cg ensures a fair representation of the forces bearing on the seat adjuster and attachment structure in a crash. That is, the applied force does not include any force that the adjuster and attachment will not experience in a crash.

However, the application of the forces through the entire seat's cg can be a problem for pedestal seats. A pedestal seat consists of the seat bench, back and adjusters on top of a substantial supporting structure (i.e., the pedestal). The difficulties with testing pedestal seats appears to arise from the pedestal-to-seat weight ratio. In some seats, close to half of the weight of the pedestal seat is below the adjuster, i.e., in the pedestal. If the cg of the pedestal seat assembly lies at or above the level of the seat adjuster, applying a force of 20 times the weight of the entire assembly through the cg imposes a greater force on the adjuster and upper portion of the seat assembly than that experienced by those components in an actual crash.

Manufacturers of vehicles with pedestal seats have asked NHTSA to revise Standard 207's test procedure for their vehicles, particularly with regard to the standard's requirement in S4.2.1 that the seat must remain in its adjusted position when tested. Some manufacturers suggested that the standard's test procedure should be replaced by a two-step process. First, a force of 20 times the weight of the portion of the assembly above the adjuster would be applied to that portion. The test would determine if the upper portion of the assembly remains in its adjusted position during the load applications. Next, the entire seat assembly, as anchored to the vehicle floor, would be tested by applying 20 times the weight of the entire assembly at the cg of the assembly. During the second step, the manufacturers wanted the adjuster to be fixed, such as by welding or by other means. The second step would measure the integrity of the assembly as it is attached to the vehicle structure.

NHTSA concurred with the manufacturers that a seat adjuster on a pedestal seat tested to the standard's specifications is subjected to a greater load than that experienced by the component in a crash. The agency therefore deemed it appropriate to consider amending the procedure codified in the standard. (NHTSA did not concur with the suggestion to weld the seat during the second step of the test.)

The 1990 NPRM proposed that a force equal to 20 times the weight of the upper section of the seat assembly be applied to the cg of that section. The proposed procedure also specified that a force equal to 20 times the weight of the pedestal be applied through the cg of the pedestal, simultaneously with applying the load described above the seat's upper section. The agency believed that applying the loads simultaneously rather than sequentially would more nearly simulate real-world crash loading.

In order to determine whether a seat is a pedestal seat, NHTSA tentatively decided to define the terms "pedestal," "upper seat," and "pedestal seat." Under the proposal:

"Pedestal" meant "a structure which supports an upper seat and contributes 30 percent or more of a pedestal seat's total weight."

"Upper seat" meant "the seat back, the seat pan, and includes any horizontally movable portion of the occupant seat."

"Pedestal seat" meant "an assembly of an upper seat and a pedestal." (The NPRM also proposed to revise the standard's current definition of "occupant seat.") NHTSA specifically requested comments on the proposed definitions.

The Problem

Five commenters responding to the NPRM raised questions about the proposed definitions. After reviewing the comments, NHTSA determined that it would issue an SNPRM to revise the proposed definitions.

Some commenters expressed concerns that the proposed "pedestal" definition might be too restrictive. For example, Seats Incorporated said that the definition should not specify a minimum 30 percent value, but should be expanded to ensure that "pedestal seat" includes any seat that has weight below the adjusters that "significantly affects the center of gravity and the test load." Ford indicated that the 30 percent value in the pedestal definition is too precise and does not account for pedestal seats that may have features, such as a built-in child restraint system, that affect whether the pedestal meets the 30 percent criterion for a particular seat. Ford also believed that the definition should be expanded to include non-structural components attached to the pedestal, such as stowage bins, electronic modules and plastic trim.

Commenters were also concerned that the definitions were ambiguous. Progressive Engineering said that the proposed definitions did not clearly indicate whether standard or electric seat adjusters would be part of the pedestal or the upper seat. That commenter suggested that "by clarifying the adjuster as a third component of the pedestal seat there would be no doubt where to add the adjuster load or how it affects the center of gravity measurements." IMMI believed that the "upper seat" definition implies that the fore/aft seat adjuster would have to be

located between the top of the pedestal and the bottom of the seat pan, which could limit new seat designs. Bostrom Seating said that pedestals could be constructed of several modules, each with motion in a horizontal plane. That commenter stated that the standard should "consider all the modules as a single pedestal and test accordingly." Bostrom suggested the following definitions: "Pedestal means the structure of the occupant seat between the floor pan and the uppermost horizontal motion plane." "Upper seat means the portion of the occupant seat above the uppermost horizontal motion plane."

New Proposal

Unlike the NPRM, today's SNPRM does not define a pedestal seat or divide it into various parts and define each part (i.e., pedestal seat, pedestal, and upper seat section). The reason is two-fold. First, it is difficult to develop a definition broad enough to accommodate various pedestal seat designs yet not so broad so as to be ambiguous. Second, the multiple definitions appear to be unnecessary.

The issue to be resolved is whether the standard ensures that the adjuster is not subjected to a force representing, in part, the weight of the portion of the seat below the adjuster. NHTSA tentatively concludes that the standard can accomplish this goal if it defines "seat adjuster." If the term can be defined, the seat adjuster can demarcate which portion of the seat would be used as the basis for the various load applications.

"Seat adjuster" would be defined as "the part of the seat that allows the seat bench and back to move forward and rearward, and/or to rotate around a vertical axis, including any fixed portion, such as a seat track * * *" The purpose of the definition is to divide the entire seat weight appropriately for the purpose of determining how much weight to apply to the various portions of the seat. The definition accords with the suggestion of some commenters that the adjuster should be defined as a separate component from other parts of the pedestal seat. NHTSA requests comments on the proposed definition.

Test Procedure

The test procedure described in today's SNPRM is the same as the procedure proposed in the NPRM. The procedure requires the simultaneous application of the two loads. One load would be 20 times the weight of the portion of the seat which extends above the lowest surface of the seat adjuster. The second load would be 20 times the weight of the portion of the seat that extends below the lowest surface of the uppermost seat adjuster down to the floor pan. Lap and/or torso belt loads are also applied simultaneously if the seat belt assembly is attached to the seat.

The "uppermost" adjuster is specified in case of a seat with adjusters at two different levels, i.e., the seat has two different horizontal motion planes. Two manufacturers commented that their seats are so designed; the agency requests comments on how common it is for a seat to have two adjusters, one at a higher level than the other. The appropriate load for the uppermost seat adjuster is a force 20 times the weight of the adjuster and the portion of the seat above the adjuster. The lower adjuster would be subjected to a force 20 times the weight of the seat that extends from the lowest surface of the uppermost seat adjuster down to the floor pan. The agency requests comments on whether those lower adjusters should be subjected only to a force equal to 20 times the weight of the portion of the seat above the lower adjusters. Bostrom commented that it might be impractical to apply individual forces to each portion of the pedestal that is separated from the rest of the pedestal by an adjuster or adjusters.

Some commenters suggested that the test could not be conducted on some pedestal seats without excessive expense or difficulty. Mack Trucks expressed concern that a seat that is currently subject to three simultaneously-applied loads (to the seat, pelvis and upper torso body blocks) would be subject to four simultaneously-applied loads under the proposal. Mack believed that the four-load test would be difficult to conduct. Seats Incorporated said that the Standard 207 loads and the seat belt loads would be very difficult to apply simultaneously because two loads might have to be applied at or near the same location. That commenter suggested applying the loads separately.

The agency proposed simultaneously-applied loads instead of separately applied loads to simulate better the loads on the various portions of the seat assembly in a real-world crash. In response to the commenters, however, the agency tested a pedestal seat to evaluate the ease with which the test can be conducted. NHTSA selected an "air supplied low height suspension/low seat back" model produced by Bostrom. Since the seat had a cg location for the seat/horizontal adjuster in close proximity to the location of the pelvis bodyform, testing the seat necessitated the most complex test hardware set-up. The agency mounted the seat in a Ford F–150 pick-up cab shell that was fixed on a rigid fixture.

NHTSA followed the test procedure proposed in the NPRM. In the test, the agency simultaneously applied four loads (torso bodyform, pelvis bodyform, seat and adjusters, and pedestal). The agency ran the test without excessive expense. NHTSA estimates the additional costs for the procedure to be $50 per test, with a one-time set-up cost of about $2,500.

The test results are discussed in a report that has been placed in the rulemaking docket. The report also discusses results from tests of the Bostrom seat using the current Standard 207 procedure (simultaneous application of three loads (torso bodyform, pelvis bodyform, and complete seat assembly)), and the two-step procedure mentioned above in this notice, which was suggested in the past by manufacturers and by some commenters to the NPRM.

Today's SNPRM would permit manufacturers to choose between the current Standard 207 procedure (load applied at cg of entire seat) or the new procedure for certain seats. Those seats would be those whose cg, as measured from the top of the seat back to the floor, is located in or above the horizontal plane tangent to the lowest surface of the seat adjuster (the uppermost adjuster if there is more than one adjuster). Since the current procedure is more stringent than the proposed one, NHTSA believes that few manufacturers would choose to test seats in new models under the current procedure.

This notice also specifies that the current procedure would have to be used if it is not physically possible to conduct the proposed procedure. For example, the pedestal height might be too low to accommodate equipment such as winch cables that apply the test loads to the seat. NHTSA requests comments on the issue of allowing optional use of the new procedure.

Effective Date

NHTSA proposes that these amendments be effective 90 days after publication of the final rule. The agency has tentatively determined that an effective date of less than 180 days is in the public interest because the amendment would specify a more representative test for pedestal seats. Moreover, the proposed test procedure, which is less stringent, would be optional for most manufacturers. Manufacturers, if any, for whom the new test procedure would be more stringent can choose to test their pedestal seats under Standard 207's

current procedure. The proposed rule would thus have minimal effects on manufacturers.

The proposed rule would not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has determined that this proposed rule is not a major rule under Executive Order 12291 nor a significant rule within the meaning of the Department of Transportation's regulatory policies and procedures. A fully regulatory evaluation is not required because NHTSA anticipates that the rule, if adopted, would have no economic impacts other than a one-time cost related to the test fixture, for those manufacturers choosing the new procedure. In particular, they would have to add pneumatic or hydraulic rams to their test set-up. It is estimated that there would be a one-time set-up cost of $2,500. The proposed test procedure would not require any design, retooling, or assembly changes. The proposal is essentially a clarification of the test procedure.

Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. Based upon the agency's evaluation, I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. Vehicle manufacturers typically would not qualify as small entities. While some manufacturers of pedestal seats and seat belt attachments may be small entities, for the reasons stated above, NHTSA believes the proposed amendment would not significantly affect them. The proposed amendments should not affect the costs of pedestal seats, since the new procedure clarifies current requirements and does not make substantive changes. Because of this, small organizations and governmental units that purchase vehicles with pedestal seats should not be affected by the proposed rule.

Executive Order 12612

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and the agency has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Comments on the Proposal

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—[AMENDED]

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as set forth below.

1. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.207 [Amended]

2. S3, S4.2.1, and S5 through S5.1.1 would be revised to read as follows:

* * * * *

S3 *Definitions.*

Occupant seat means a seat that provides at least one designated seating position.

Seat adjuster means the part of the seat that allows the seat bench and back to move forward and rearward, and/or to rotate around a vertical axis, including any fixed portion, such as a seat track. The term also means the uppermost seat adjuster in the case of a seat equipped with seat adjusters at different levels.

* * * * *

S4.2.1 *Seat adjustment.* Except for vertical movement of nonlocking suspension type occupant seats in trucks or buses, each seat shall remain in its adjusted position when tested in accordance with the test procedures specified in S5.

* * * * *

S5. *Test procedures.*

S5.1 Apply the forces specified in S4.2(a) and S4.2(b) as follows:

S5.1.1 *For a seat whose seat back and seat bench are attached to the vehicle by the same attachments.*

(a) If the height of the seat is adjustable, the loads are applied when the seat is in its highest adjustment position.

(1) For a seat whose center of gravity (cg) of the seat, as measured above the floor pan, is located in or above the horizontal plane tangent to the lowest surface of the seat adjuster, and for which it is physically possible to follow

the procedure in S5.1.1(c), use at the manufacturer's option either S5.1.1(b) or S5.1.1(c).

(2) For a seat specified in paragraph (1) of this section for which it is not physically possible to follow the procedures in S5.1.1(c), use S5.1.1(b).

(3) For a seat whose cg is located below the horizontal plane tangent to the lowest surface of the uppermost seat adjuster, use S5.1.1(c).

(b) Secure a strut on each side of the seat from a point on the outside of the seat frame in the horizontal plane of the seat's cg to a point on the frame as far forward as possible of the seat anchorages. Between the upper ends of the struts attach a rigid cross-member, in front of the seat back frame for rearward loading and behind the seat back frame for forward loading. Apply the force specified by S4.2(a) or S4.2(b) horizontally through the rigid cross-member as shown in Figure 1.

(c) Find "cg^1," the cg of the seat measured from the top of the seat back to the horizontal plane tangent to the lowest surface of the seat adjuster. On each side of the seat, secure a strut from a point on the outside of the seat frame in the horizontal plane of cg^1 to a point on the frame as far forward as possible of the seat anchorages. Between the upper ends of the struts attach a rigid cross-member, in front of the seat back frame for rearward loading and behind the seat back frame for forward loading. Find "cg^2," the cg of the portion of the seat that is between the lowest surface of the seat adjuster and the floor pan. Apply a force horizontally through cg^1 equal to 20 times the weight of the seat from the top of the seat back to the lowest surface of the seat adjuster, and simultaneously apply a force horizontally through cg^2 equal to 20 times the weight of the seat from the lowest surface of the seat adjuster to the floor pan.

* * * * *

Issued on March 2, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–5127 Filed 3–5–93; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 58, No. 43
Monday, March 8, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Governmental Processes; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Governmental Processes of the Administrative Conference of the United States. The meeting will be held at 2 p.m., on Wednesday, March 31, 1992, at the Administrative Conference of the United States, suite 500, 2120 L Street, NW., Washington, DC (Library, 5th Floor).

The Committee will meet to discuss the draft recommendation and comments received on the Right to Counsel in Agency Investigations. The recommendation is based upon an underlying study by Professor Ronald F. Wright, Wake Forest University School of Law, on right to counsel issues arising in agency proceedings.

For further information concerning this meeting, contact Deborah S. Laufer, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC (Telephone: 202–254–7020).

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at lease one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available upon request.

Dated: March 1, 1993.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 93–5176 Filed 3–5–93; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Notice of Intent To Award a Grant to Coordination in Development, Inc.

AGENCY: Office of International Cooperation and Development (OICD).

ACTION: Notice of intent.

ACTIVITY: OICD intends to award a grant to Coordination in Development (CODEL), Inc., for a revision to the book, "Environmentally Sound Small-Scale Forestry Projects."

AUTHORITY: Section 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291), and the Food Security Act of 1985 (Pub. L. 99–198).

OICD anticipates the availability of funds in fiscal year 1993 (FY93) to support research expenses for potential revision of an existing book, "Environmentally Sound Small-Scale Forestry Projects." STEP 1 of the work will include survey and detailed analysis of survey results, and review of the existing book for potential revision based on the analysis.

Based on the above, this is not a formal request for application. An estimated $19,878 will be available in FY93 as partial funding support for STEP 1 of the project. Actual revision of the book may be covered by extension of this grant pending results of STEP 1, and availability of further funding.

Information on proposed Grant #59–319R–3–015 may be obtained from: USDA/OICD/Administrative Services, 0324—South Bldg., Washington, DC 20250–4300.

Dated: March 2, 1993.

Nancy J. Croft,

Contracting Officer.

[FR Doc. 93–5182 Filed 3–5–93; 8:45 am]

BILLING CODE 3410–OP–M

Notice of Intent To Enter Into an Agreement With the Midwest Universities Consortium for International Affairs

AGENCY: Office of International Cooperation and Development (OICD), USDA.

ACTION: Notice of intent.

ACTIVITY: OICD intends to enter into an agreement with the Midwest Universities Consortium for International Affairs (MUCIA) to provide partial funding support for the MUCIA Internship Program.

AUTHORITY: Section 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (17 U.S.C. 3291), and the Food Security Act of 1985 (Pub. L. 99–198).

OICD announces the availability of funds in fiscal year 1993 (FY1993) to enter into an agreement with MUCIA to provide partial funding support for two interns who will work with the OICD Food Industries Division. Funds will support the stipend and travel expenses of the interns.

Based on the above, this is not a formal request for application. An estimated $4,600 will be available in FY1993 to support this project.

Information on proposed Agreement 58–319R–3–044 may be obtained from: USDA/OICD/Admin Services, 0324 South Bldg, Washington DC 20250–4300.

Dated: March 2, 1993.

Nancy J. Croft,

Contracting Officer.

[FR Doc. 93–5183 Filed 3–5–93; 8:45 am]

BILLING CODE 3410–OP–M

Notice of Intent To Enter Into An Agreement With the World Resources Institute

AGENCY: Office of International Cooperation and Development (OICD).

ACTION: Notice of intent.

ACTIVITY: OICD intends to enter into an agreement with the World Resources Institute to provide funding support for a study on "USAID–NGO Collaboration in Environmental Policy Reform in Africa."

AUTHORITY: Section 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291), and the Food Security Act of 1985 (Pub. L. 99–198).

OICD announces the availability of funds in fiscal year 1993 (FY1993) to enter into an agreement with the World Resources Institute (Center for International Development and Environment) to provide partial funding support for a study on Environmental Policy Reform. The goal of this study is to help improve natural resources management in Africa through better USAID and NGO relationships and

increased collaboration in public policy reform.

Based on the above, this is not a formal request for application. An estimated $44,665 will be available in FY1993 to support this project.

Information on proposed Agreement 58–319R–3–045 may be obtained from: USDA/OICD/Admin Services, 0324 South Bldg, Washington DC 20250–4300.

Dated: March 2, 1993.

Nancy J. Croft,

Contracting Officer.

[FR Doc. 93–5184 Filed 3–5–93; 8:45 am]

BILLING CODE 3410–DF–M

Animal and Plant Health Inspection Service

[Docket No. 93–017–1]

Availability of Environmental Assessments and Findings of No Significant Impact Relative To Issuance of Permits To Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that seven environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect an application are encouraged to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612. For copies of the environmental assessments and findings of no significant impact, write to Mr. Clayton Givens at the same address. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test location
92–279–01	Monsanto Agricultural Company.	02–03–93	Tomato Plants genetically engineered to increase the solids content.	Florida.
92–322–01, renewal of permit 91–352–02, issued on 04–15–92.	Pioneer Hi-Bred International, Incorporated.	02–09–93	Alfalfa plants genetically engineered to express the coat protein gene of the alfalfa mosaic virus (AMV) for resistance to AMV.	Washington.
92–349–04, renewal of permit 91–303–01, issue on 03–03–92.	Frito-Lay, Incorporated .	02–09–93	Potato plants genetically engineered to express stress-alleviating enzymes, in order to obtain higher levels of stress tolerance in potato tubers.	Wisconsin.
92–349–02, renewal of permit 91–301–01, issued on 02–03–92.	Frito-Lay, Incorporated .	02–11–93	Potato plants genetically engineered to express metabolic enzymes in order to increase levels of dry matter in potato tubers.	Wisconsin.
92–363–02, renewal of permit 91–352–01, issued on 04–13–92.	Calgene, Incorporated ..	02–11–93	Rapeseed plants genetically engineered to express an anti-sense desaturase gene for modification of oil profiles.	Michigan.

Permit No.	Permittee	Date issued	Organisms	Field test location
92-301-01	DNA Plant Technology Corporation.	02-12-93	Tomato plants genetically engineered to express a sense transcript for aminocyclo-pro-pane-1-carboxylic acid (ACC) synthase to modify ripening.	California, Florida.
92-343-01, renewal of permit 92-022-04, issued on 05-21-92.	Calgene, Incorporated ..	02-12-93	Tomato plants genetically engineered to express an antisense poly-galacturonase (PG) gene, a cytokinin production gene, and ethylene regulation genes, all of which are involved in ripening.	California.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 3rd day of March 1993.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93-5255 Filed 3-5-93; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 93-018-1]

Receipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that 13 applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: Copies of the applications referenced in this notice, with any confidential business information deleted, are available for public inspection in room 1141, South Building, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect an application are encouraged to call ahead on (202) 690–2817 to facilitate entry into the reading room. You may obtain copies of the documents by writing to the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason To Believe Are Plant Pest," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) into the United States certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application No.	Applicant	Date received	Organisms	Field test location
93-032-01	Frito-Lay, Incorporated .	02-01-93	Potato plants genetically engineered to express genes for resistance to *Rhizoctonia solani*, *Erwinia spp.*, and potato virus X.	Wisconsin.
93-033-01	PetoSeed Research Center.	02-02-93	Tomato plants genetically engineered to express the enzyme invertase for increased soluble solids.	California.
93-033-02	Pioneer Hi-Bred International, Incorporated.	02-02-93	Sunflower plants genetically engineered to express a methionine-rich seed storage protein from Brazil nut.	North Dakota.
93-033-03	FFR Cooperative	02-02-93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Indiana, Tennessee.
93-033-04	Ciba Seeds Biotechnology Research.	02-02-93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Florida, Illinois.

Application No.	Applicant	Date received	Organisms	Field test location
93–034–01	Calgene, Incorporated	02–03–93	Cotton plants genetically engineered to express a nitrilase enzyme for tolerance to the herbicide bromoxynil.	Alabama, Arizona, Arkansas, Georgia, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Texas.
93–036–01	Land O'Lakes Research Farm.	02–04–93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Iowa.
93–039–01	DeKalb Plant Genetics Research.	02–08–93	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Connecticut, Hawaii, Illinois.
93–039–02	University of Wisconsin at Madison.	02–08–93	Spruce and Poplar trees genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *kurstaki* strain HD1 for resistance to lepidopteran insects.	Wisconsin.
93–040–01	Hoechst-Roussel Agri-Vet Company.	02–09–93	Corn plants genetically engineered to express the phosphinothricin N-acetyltransferase (PAT) gene, for tolerance to the herbicide glufosinate.	California, Illinois, Indiana, Iowa, Minnesota, Missouri, Nebraska, Ohio, South Dakota, Virginia, Wisconsin.
93–040–02	Ciba Seeds Biotechnology.	02–09–93	Tobacco plants genetically engineered to express a protein for resistance to fungal plant pathogens.	North Carolina.
93–040–03	Samuel Roberts Noble Foundation.	02–09–93	Tobacco plants genetically engineered to express a rice chitinase and/or an alfalfa glucanase gene for resistance to fungal plant pathogens.	Oklahoma.
93–041–01, renewal of permit 92–027–01, issued on 04–09–92.	Upjohn Company	02–10–93	Cantaloupe and squash plants genetically engineered to express the coat protein genes of cucumber mosaic virus, papaya ringspot virus, watermelon mosaic virus 2, and zucchini yellow mosaic virus for resistance to these viruses.	California, Georgia, Michigan.

Done in Washington, DC, this 3rd day of March 1993.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93–5256 Filed 3–5–93; 8:45 am]

BILLING CODE 3410–34–M

Forest Service

Lake Basin and Busch LP Timber Sales, Wenatchee National Forest, Chelan County, WA; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) to analyze and disclose the environmental impacts of a site-specific proposal for the Lake Basin and Busch LP Timber Sales. The project is located within the Slide Ridge Roadless Area in the Lake Creek Drainage on the Entiat Ranger District of the Wenatchee National Forest. The purpose of the EIS will be to develop and evaluate a range of alternatives for timber harvest and road construction levels. The alternatives will include a no action alternative, involving no harvest or construction, and additional alternatives to respond to issues generated during the scoping process. The proposed project will be in compliance with the direction in the Wenatchee National Forest Land and Resource Management Plan which provides the overall guidance for management of the area and the proposed projects for the next ten years. Lake Basin is scheduled for a fiscal year 1995 timber sale and Busch LP is scheduled for a fiscal year 1997 timer sale. The agency invites written comments on the scope of this project. In addition, the agency gives notice of this analysis so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope and implementation of this proposal must be received by March 31, 1993.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Karin Whitehall, District Ranger, Entiat Ranger District, P.O. Box 476, Entiat, WA 98822.

FOR FURTHER INFORMATION CONTACT: Questions and comments about this EIS should be directed to Jim Ogden, Presale Forester, Entiat Ranger District, P.O. Box 476, Entiat, WA 98822; phone (509) 784–1511.

SUPPLEMENTARY INFORMATION: The Lake Basin Timber Sale is displayed in Amendment 5 to the Wenatchee National Forest Land and Resource Management Plan, Corrected Schedule A, page 25. This timber sale will consist of harvest of approximately 2,000 MBF on 250 acres with approximately 3.0 miles of road construction. The Busch LP Timer Sale is scheduled for 1997 and is not displayed in Amendment 5. This timber sale will consist of harvest of approximately 2,000 MBF on about 250 acres with approximately 2.0 miles of road construction. In connection with these proposals an evaluation of the impacts of upgrading the service level of

the Shady Pass Road #5900 from Entiat Valley Road to South Shore Lake Chelan Highway will be made.

To date, the major issues that have been identified for these proposed actions are the following: Timber harvest, water quality, soil stability concerns, entry into unroaded area, encroachment of Pawn Lake RNA, effects on trail system, visual quality from trails and Shady Pass Road, spotted owl and lynx habitat, safety on Shady Pass Road and creation of additional blowdown. This proposed sale area is within the Slide Ridge Roadless Area. Approximately 500 acres are proposed for harvesting in a 10,500 acre planning area.

Some forested areas in the planning area are unoccupied spotted owl habitat outside of Habitat Conservation Areas (HCA). There is a small piece of an established HCA within the analysis area.

Public participation will be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from Federal, State, Tribes, and local agencies, and other individuals or organizations who may be interested in or affected by the proposed actions. This information will be used in preparation of the draft EIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental process.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by November 1993. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. EPA will publish a notice of availability of the draft EIS in the **Federal Register**.

The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register**. It is very important that those interested in the management of the Wenatchee National Forest participate at that time.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 f. 2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible.

The final EIS is scheduled to be completed by June 1994. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. Karin Whitehall, District Ranger, Entiat Ranger District, Wenatchee National Forest, is the responsible official. As the responsible official she will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR part 217).

Dated: February 24, 1993.

Karin Whitehall,

Entiat District Ranger.

[FR Doc. 93–5211 Filed 3–5–93; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: International Trade Administration.

Title: Watch Duty Exemption Program Forms.

Agency Form Numbers: ITA–321P, ITA–360P, and ITA–361P. Requirements are found at 15 CFR 303.6 through 303.12.

OMB Approval Number: 0625–0134.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 86 hours.

Number of Respondents: 6.

Avg Hours Per Response: Varies between 15 minutes to 1 hour.

Needs and Uses: Public Law 97–446 creates production incentives for the territorial watch industry, incentives needed to maintain viable operations against increasing competition from low wage countries such as Hong Kong. The law requires the Departments of Commerce and Interior to administer the distribution of duty exemptions and duty refunds to watch producers in U.S. territories. The primary consideration in collecting information is the enforcement of this law, and the information gathered is limited to that necessary to prevent abuse of the program and to permit a fair and equitable distribution of its benefits.

Affected Public: Businesses or other for profit institutions; small businesses or organizations.

Frequency: On occasion and annually.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Gary Waxman, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, room

3208, New Executive Office Building, Washington, DC 20503.

Dated: March 2, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR 93–5252 Filed 3–5–93; 8:45 am]

BILLING CODE 3510–CW–F

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders, findings and suspension agreements with January anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: March 8, 1993.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 482–2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with §§ 353.22(a) and 355.22(a) of the Department's regulations, from interested parties as defined in §§ 353.2(k) and 355.2(i) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements, with January anniversary dates.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings, and suspension agreements. We intend to issue the final results of these reviews not later than January 31, 1994.

	Period to be reviewed
Antidumping Duty Proceedings and Firms	
Canada: Brass Sheet and Strip, A–122–601: Wolverine Tube (Canada), Inc	1/1/92–12/31/92
France: Anhydrous Sodium Metasilicate, A–427–098: Rhone-Poulenc, S.A	1/1/92–12/31/92
The Republic of Korea: Stainless Steel Cooking Ware, A–580–601: Namil Metal Co., Ltd. and Daelim Trading Co., Ltd	1/1/92–12/31/92
Countervailing Duty Proceedings	
Spain: Stainless Steel Wire Rod, C–469–004	1/1/92–12/31/92
Thailand: Butt-Weld Pipe Fittings, C–549–804	1/1/92–12/31/92
Suspended Investigations	
Hungary: Truck Trailer Axle-and-Brake Assemblies, A–437–001: RABA Hungarian Railway Carriage and Machine Works	1/1/92–12/31/92

Interested parties must sumbit applications for administrative protective orders in accordance with §§ 353.34(b) and 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 353.22(c)(1) and 355.22(c)(1) (1992).

Dated: February 24, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–5165 Filed 3–5–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–401–004]

Carton Closing Staples and Stapling Machines From Sweden; Determination Not to Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Determination not to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty order on carton closing staples and stapling machines from Sweden.

EFFECTIVE DATE: March 8, 1993.

FOR FURTHER INFORMATION CONTACT: Barbara Victor or Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0090/3814.

SUPPLEMENTARY INFORMATION:

Background

On December 9, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 58180) its intent to revoke the antidumping duty order on carton closing staples and stapling machines from Sweden (48 FR 38250, December 20, 1983). The Department may revoke an order if the Secretary concludes that the order is no longer of interest to interested parties. We did not receive a request for administrative review of the order for the last four consecutive annual anniversary months and, therefore, published a notice of intent to revoke the order pursuant to 19 CFR 353.25(d)(4).

On December 21, 1992, International Staple and Machine Company, the petitioner, objected to our intent to revoke the order. Therefore, we no longer intend to revoke the order.

Dated: February 25, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–5163 Filed 3–5–93; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–475–801, A–401–801]

Notice of Redetermination of Final Margin of Sales at Less Than Fair Value, Pursuant to Court Remand: Ball Bearings and Parts Thereof From Italy and Sweden

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 8, 1993.

FOR FURTHER INFORMATION CONTACT: Lawrence P. Sullivan or Carole A. Showers, Investigations, Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0114 or 482–3217, respectively.

Background

On April 20, 1988, the Department of Commerce (the Department) initiated antidumping investigations of imported antifriction bearings from nine countries, including Italy and Sweden (Initiation of Antidumping Duty Investigations: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany *et al.*, 53 FR 15073 (April 20, 1988)). On May 3, 1989, the Department issued final affirmative antidumping duty determinations for all of the investigations (Final Determinations of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany *et al.*, 54 FR 18992 (May 3, 1989)). Following the issuance of final affirmative determinations by the International Trade Commission, the Department published antidumping duty orders covering the subject imports (Antidumping Duty Orders: Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings and Parts Thereof from the Federal Republic of Germany *et al.*, 54 FR 19125 (May 15, 1989)).

In June 1989, SKF and numerous other interested parties initiated actions in the United States Court of International Trade (CIT) contesting the Department's final determinations. Among other issues, SKF challenged the Department's decision that SKF's Italian and Swedish home markets did not form a viable basis for determining foreign market value for ball bearings. On April 8, 1991, the CIT remanded the home market viability issue to the Department for further consideration (Slip Op. 91–25). The final results of this first remand proceeding were reported to the CIT on June 20, 1991. On January 7, 1992, the CIT again remanded the proceeding to the Department, this time with specific instructions to recalculate the final dumping margins for ball bearings using home market data for Italy and Sweden (Slip Op. 92–1, January 7, 1992). On March 20, 1992, the Department reported its final results of the second remand proceeding to the CIT, indicating that the recalculation resulted in a new less than fair value (LTFV) margin for Italy and Sweden of 221.28 and 105.92 percent, respectively. On July 17, 1992, the CIT ordered the Department to correct its second remand determination by properly converting the Italian indirect export selling expenses from Italian lire to United States dollars (see SKF USA, Inc., *et al.*, v. United States, CIT No. 89–06–00330).

Final Determinations

In accordance with the CIT's instructions, we have corrected our remand determination by converting the Italian indirect export selling expenses from Italian lire to United States dollars and have redetermined the margins in the original LTFV investigation accordingly. Based on these recalculations, we determine the margins for SKF's Italian ball bearings to be 69.99 percent. Because the CIT did not require the Department to revise its previous redetermination for SKF Sweden, the margin for SKF Sweden remains at 105.92 percent.

This notice is published pursuant to section 735 of the Tariff Act of 1930, as amended.

Dated: February 24, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–5166 Filed 3–5–93; 8:45 am]

BILLING CODE 3510–DS–P

(A–427–806, A–427–807, A–427–809)

Notice of Preliminary Negative Determinations of Critical Circumstances: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From France

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

EFFECTIVE DATE: March 8, 1993.

FOR FURTHER INFORMATION CONTACT: Edward Easton or Stephen Alley, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1777 or 482–5288, respectively.

Preliminary Critical Circumstances Determinations

On January 26, 1993, petitioners alleged that critical circumstances exist with respect to imports of certain hot-rolled carbon steel flat products, certain cold-rolled carbon steel flat products, and certain cut-to-length carbon steel plate from France. The Department of Commerce (the Department) published its preliminary determinations of sales at less than fair value in these investigations on February 4, 1993, (58 FR 7091).

In accordance with 19 CFR 353.16(b)(2)(ii), since these allegations were filed later than 20 days before the scheduled date of the preliminary determinations, we must issue our preliminary critical circumstances determinations not later than 30 days after the allegations were filed.

Section 733(e)(1) of the Tariff Act of 1930, as amended, provides that the Department will preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist if:

(A) (i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

History of Dumping

With respect to whether there is a history of dumping in the United States of the classes or kinds of merchandise which are the subject of these investigations, the Department normally considers whether there have been antidumping orders on the merchandise. With regard to certain hot-rolled carbon steel sheet, cold-rolled carbon steel sheet, and carbon steel plate products from France, the Department initiated antidumping duty investigations in April 1980. In October 1980, however, petitioners withdrew the petitions for those investigations, and the Department terminated the investigations and instituted a modified formal program to monitor the prices of these and other carbon steel imports. No antidumping duty orders were issued with regard to the carbon steel products from France subject to those investigations.

The Department initiated antidumping duty investigations on certain hot-rolled carbon steel plates, hot-rolled carbon steel sheet and strip, and cold-rolled sheet and strip carbon steel products from France again in February 1982. In March 1982, the U.S. International Trade Commission (the Commission) made a negative preliminary determination with respect to the imports of hot-rolled carbon steel plate products imported from France. In October 1982, the United States and the European Economic Community (EEC) concluded agreements with respect to imports into the United States of certain carbon steel products from EEC member countries, including France. As a consequence of these agreements, the petitioning U.S. steel producers withdrew their antidumping duty petitions on carbon steel products from France and certain other EEC member countries and the Commission terminated its investigations of imports from these countries. Accordingly, no antidumping duty orders have been issued by the United States with regard to the carbon steel products from France subject to these investigations.

With regard to a history of dumping elsewhere than the United States, our review of the Semi-Annual Reports under Article 14:4, issued by the General Agreement of Tariffs and Trade (GATT), revealed the issuance of final affirmative Canadian antidumping determinations on carbon steel plate from France (ADP/41/Add.7 (April 7, 1989)). We did not find any foreign antidumping orders on either hot-rolled or cold-rolled carbon steel flat products in these GATT reports. On the basis of the Canadian dumping determinations on carbon steel plate, we have determined that there is a history of dumping from France of cut-to-length carbon steel plate.

Imputed Knowledge of Dumping

To determine whether the persons for whom or for whose account the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigations at less than their fair value, the Department's practice is to impute knowledge of dumping when the estimated margins are of such a magnitude that the importer should have reasonably known that dumping exists with regard to the subject merchandise. Normally we consider estimated margins of 25 percent or greater on sales to unrelated parties and margins of 15 percent or greater on sales to related parties to be sufficient to impute such knowledge. (See, Final Determination of Sales at Less Than Fair Value: Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy (52 FR 24196, June 29, 1987) and Final Determination of Sales at Less Than Fair Value: Certain Internal-Combustion, Industrial Forklift Trucks from Japan (53 FR 12522, April 15, 1988).) In the investigations of both hot-rolled carbon steel flat products and cold-rolled carbon steel flat products, we were unable to calculate preliminary dumping margins and, instead, relied upon an average of the margins calculated in the respective petitions as the best information available (BIA). These margins are 12.39 percent and 13.92 percent, respectively. Each is below the Department's lowest threshold margin for imputing a knowledge of dumping.

Because we have found a history of dumping with regard to certain cut-to-length steel plate from France, the Department does not need to determine whether the importers of this merchandise knew or should have known that it was being sold at less than fair value. We have performed that analysis nonetheless. In the preliminary determination for certain cut-to-length carbon steel plate, the Department calculated a preliminary margin rate for sales to unrelated U.S. customers and took the highest non-aberrational calculated margin from that exercise as BIA for sales to related U.S. customers. In cases where there are sales to both related and unrelated parties in the United States, the Department weight-averages the 25 percent and 15 percent benchmarks by volume of purchase price and ESP sales, respectively, to arrive at a weight-averaged benchmark percentage for imputing knowledge. (See, Final Determination of Sales at Less Than Fair Value: High-Tenacity Rayon Filament Yarn from Germany (57 FR 21,770, May 22, 1992).) In this investigation, the preliminary estimated weight-averaged dumping margin exceeds the weight-averaged benchmark. Accordingly, we found that importers either knew or should have known that the imports of cut-to-length carbon steel plate were being sold at less than fair value.

Massive Imports

Unless we find that there is a history of dumping the classes or kinds of merchandise subject to the investigations or that importers of the subject merchandise knew or should have known that such merchandise was being sold at less than fair value, we do not need to consider whether the imports of the merchandise have been massive. Consequently, we preliminarily determine that critical circumstances do not exist with respect to imports of hot-rolled carbon steel flat products and cold-rolled carbon steel flat products from France.

In the investigation of certain cut-to-length carbon steel plate from France, we have preliminarily found both a history of dumping and that importers knew or should have known that the merchandise was being sold at less than fair value. To determine whether there have been massive imports of this merchandise over a relatively short period, the Department generally considers whether the subject imports increased by at least 15 percent during the period immediately following the filing of a petition over imports of the same class or kind of merchandise during the comparable period immediately preceding the filing of the petition. If so, we consider them massive over a relatively short period (19 CFR 353.16(f), (g)). In the case of certain cut-to-length carbon steel plate, the respondent submitted shipment data on February 12, 1992. Our analysis of this data indicates that imports of steel plate from France were not massive over a relatively short period and, therefore, we preliminarily determine that critical circumstances do not exist for this class or kind of imports.

Final Critical Circumstances Determinations

We will make final determinations of critical circumstances when we make our final determinations in these investigations, *i.e.*, by June 21, 1993.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determinations.

Public Comment

Since these preliminary determinations are being made before the due date for public comment on our preliminary determinations of sales at less than fair value in these cases, we will accept written comments on these preliminary determinations of critical circumstances until the date on which case briefs are due. A schedule for case briefs, rebuttal briefs, and hearings will be published at a later date.

These determinations are published pursuant to section 733(f) of the Act.

Dated: February 26, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–5167 Filed 3–5–93; 8:45 am]

BILLING CODE 3510-DS-P

[A–570–805]

Sodium Thiosulfate From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On December 11, 1992, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on sodium thiosulfate from the People's Republic of China (57 FR 58792). This review covers China National Chemicals Import and Export Corporation (Sinochem), and Shanghai Chemicals Import and Export Corporation (Shanghai) and the period December 12, 1990 through January 31, 1992. We have not completed the review and determine the dumping margin for Sinochem to be 148.42 percent, which is based on the best information available. Because Shanghai had no shipments of this merchandise to the United States during the period of review and was not investigated previously, we will use the "all others" rate as the estimated cash deposit rate for this firm.

EFFECTIVE DATE: March 8, 1993.

FOR FURTHER INFORMATION: Joseph A. Fargo or Richard Rimlinger, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION: On December 11, 1992, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order (56 FR 6623, February 19, 1991) on sodium thiosulfate from the People's Republic of China covering the period December 12, 1990 (57 FR 58792) through January 31, 1992. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered in this review are shipments of all grades of sodium thiosulfate, in dry or liquid form. The chemical composition of sodium thiosulfate is $Na^2S^2O^3$. Sodium thiosulfate is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 2832.30.1000. The HTS subheading is provided for convenience and customs purposes. The written description remains dispositive.

The review covers two manufacturers/exporters, Sinochem and Shanghai, of sodium thiosulfate from the PRC and the period December 12, 1990, through January 31, 1992 (the POR).

Use of Best Information Available

We forwarded an antidumping questionnaire to Sinochem and Shanghai, two manufacturers/exporters of this merchandise to the United States. With respect to Sinochem, because the firm failed to respond to our questionnaire, the Department used the best information available (BIA) in accordance with section 776(c) of the Tariff Act. As explained in our preliminary results, we used revised price and cost information submitted by the petitioner for this review as BIA (See 57 FR 58792). The highest previous rate, also based on petitioner's price and cost information, was 25.57 percent. However, petitioner submitted information on the record in this review indicating that because costs and prices in the industry have changed substantially since the investigation, the previous rate was no longer sufficiently adverse to induce respondents to submit responses. We have revised the calculation from the final determination of sales at less than fair value accordingly, based on information submitted by petitioner for purposes of this review. Based upon the data furnished by petitioner, the margin is now 148.42 percent.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of the Review

As a result of this review, we determine the following dumping margin for the period December 12, 1990 through January 31, 1992.

Manufacturer/exporter	Margin (percent)
Sinochem	148.42

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be as outlined above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all others" rate established in these final results of this administrative review based on our analysis of Sinochem. Although the "all others" rate is normally based on the highest non-BIA rate from the current review (or from a prior review if there is no non-BIA rate in the current review), in this case there have been no non-BIA rates. Therefore, the current Sinochem rate of 148.42 percent is the "all others" rate. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to

file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: February 22, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–5164 Filed 3–5–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–100–004]

Postponement of Final Determinations, Notice of Public Hearing Schedule, Revision of Scope, and Termination of the Suspension of Liquidation: Countervailing Duty Investigations of Certain Steel Products From Austria, Belgium, Brazil, France, Germany, Italy, Republic of Korea, Mexico, New Zealand, Spain, Sweden, United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 8, 1993.

FOR FURTHER INFORMATION CONTACT: Lawrence P. Sullivan or Roy A. Malmrose, Office of Countervailing Investigations, U.S. Department of Commerce, room 3099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0114 or 482–5414, respectively.

Postponement of Final Determinations

In the preliminary determinations for these investigations, the final determinations were aligned with those of the companion antidumping duty investigations in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671d(a)(1)) (see, e.g., Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Certain Steel Products from Austria, 57 FR 57781, (December 7, 1992)). The final determinations for the antidumping duty investigations have been postponed to no later than June 21, 1993, thereby also extending the final countervailing duty determinations to the same date (see, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Carbon Steel Flat Products from Austria, 58 FR 7073 (February 4, 1993)).

Hearing Schedule

In its preliminary determinations, the Department of Commerce (the Department) stated that a briefing and hearing schedule would be published in the Federal Register after receipt of all requests for hearings in these investigations. We have received requests for hearings from various parties in all twelve cases and, therefore, have scheduled a hearing for each case in addition to a hearing for general issues. The general issues hearing will be limited to the following topics:

(1) Privatization,

(2) Company restructuring,

(3) The proper treatment of plant closure and redundancy payments,

(4) The standard for determining equityworthiness and the appropriate calculation methodology for equity infusions,

(5) The finding of specificity based on a showing of disproportionate use,

(6) The test for determining whether a program provides recurring or non-recurring grants or, more generally, when to expense benefits in the year of receipt or allocate them over time,

(7) The proper period of time for allocating benefits over time, and

(8) The appropriate "denominator" to use in countervailing duty calculations. Any comments by interested parties on this list of topics should be submitted within ten days of the publication date of this notice, for the general issues file, number C–100–004, located in Import Administration's Central Records Unit in room B–099 of the Main Commerce Building. Parties wishing to appear at the General Issues hearing should file a written request within ten days of the date of publication of this notice and specify which of the above-listed issues you intend to address.

We request that parties on these cases provide an executive summary of no more than ten pages on the major issues to be addressed (20 pages for the General Issues hearing). Further, briefs should contain a table of authorities. Citations to Commerce determinations and court decisions should include the page number where the cited information appears. In preparing the briefs, please begin each issue on a separate page.

The following is the list of hearing information along with due dates for case and rebuttal briefs.

Country	Date	Time	Room	Brief due dates	
				Case	Rebuttals
Austria	3/15	10 a.m	1851	3/8	3/12
Belgium	4/16	10 a.m	3708	4/9	4/14
Brazil	4/21	10 a.m	3407	4/14	4/19
France	4/23	10 a.m	3708	4/16	4/21
Germany	4/8	10 a.m	3407	4/1	4/6
Italy	3/26	10 a.m	1851	3/19	3/24
Korea	5/3	10 a.m	1851	4/26	4/30
Mexico	4/28	9:30 a.m	3708	4/21	4/26
New Zealand	3/31	10 a.m	1851	3/24	3/29
Spain	3/19	10 a.m	1851	3/12	3/17
Sweden	4/9	10 a.m	3708	4/2	4/7
United Kingdom	4/2	10 a.m	3407	3/26	3/31
General Issues	5/5–6	10 a.m	4830	4/26	5/3

Scope of the Investigations and Issues Since the Notices of Initiation

Since the initiation of these investigations on July 20, 1992, the Department has addressed the following scope issues. In the preliminary determinations, the scope inadvertently included X–70 plate and shadow-mask steel. In addition, since the publication of our preliminary determinations, several decisions have been made clarifying the scope of these investigations. All memoranda referred to below are available in Import Administration's Central Records Unit located in room B–099 of the Main Commerce Building.

A. Grade X–70 Plate

On July 20 and 22, 1992, petitioners requested that grade X–70 plate be excluded from the scope of the investigations regarding certain cut-to-length carbon steel plate. After analyzing all information submitted on the record regarding this issue, we excluded grade X–70 plate from the scope of those investigations. For further information on this issue, please refer to the August 21, 1992, decision memorandum from Holly Kuga, Director of the Office of Agreements Compliance, to Joseph Spetrini, Deputy Assistant Secretary for Compliance, and Frank Sailer, Deputy Assistant Secretary for Investigations (the August 21 memo).

B. Shadow Mask Steel

On August 6, 1992, petitioners requested that certain shadow mask steel be excluded from the scope of the investigations regarding certain cold-rolled carbon steel flat products. After analyzing all information submitted on the record regarding this issue, we excluded certain shadow mask steel from the scope of those investigations. For further information on this issue, please refer to the August 21 memo.

C. Coils and Narrow-Width Flat-Rolled Products

On August 21, 1992, the Department requested that petitioners clarify which types of coils, e.g., successively superimposed coils and/or otherwise coiled, such as spirally oscillated coils, they intended to include in the scope of the investigations regarding certain hot-rolled carbon steel flat products, certain cold-rolled carbon steel flat products, and certain corrosion-resistant carbon steel flat products. On October 28, 1992, petitioners informed the Department that they intended to include all types of coils in the scope of the above-mentioned investigations. After analyzing all information submitted on the record, we agreed that all types of coils should be covered by those investigations. However, recognizing petitioners' assertion in their petitions that flat-rolled products normally are manufactured in widths of 0.5 inch or greater, we modified the scope of the investigations regarding certain hot-rolled carbon steel flat products, certain cold-rolled carbon steel flat products, and certain corrosion-resistant carbon steel flat products so that only coils—and, for consistency, straight lengths—of a width of 0.5 inch or greater are included in the three above-mentioned classes or kinds. For further information on this issue, please refer to the January 25, 1993, decision memorandum from Roland MacDonald, Director of the Office of Agreements Compliance, to Joseph Spetrini, Deputy Assistant Secretary for Compliance, and Richard Moreland, Acting Deputy Assistant Secretary for Investigations (the January 25 memo).

D. Products of Nonrectangular Cross-Section

On November 25, 1992, petitioners requested that products of nonrectangular cross-section be included in the scope of the investigations regarding all four classes or kinds of merchandise. Petitioners noted that this was a clarification and not a broadening of the scope. After analyzing all information submitted on the record on this issue, we have included products of nonrectangular cross-section in the scope of all four classes or kinds. For further information on this issue, please refer to the January 25 memo.

E. Products of Nonrectangular Shape

On November 25, 1992, petitioners requested that products of nonrectangular shape be included in the scope of the investigations regarding all four classes or kinds of merchandise. After analyzing all information submitted on the record on this issue, we denied petitioners' request. For further information on this issue, please refer to the January 25 memo.

F. Certain Precision Steel Products

On November 18, 1992, Theis Precision Steel Corporation (Theis), an interested party in the investigations regarding certain hot-rolled carbon steel flat products from Germany and Japan, requested that five specific types of hot-rolled "precision steel products" be excluded from the scope of the above mentioned investigations. After analyzing all information submitted on the record on this issue, we denied Theis' request. For further information on this issue, please refer to the January 25 memo.

G. Certain Clad Products

On November 20, 1992, Regal Ware, Inc. (Regal), an interested party in the antidumping duty investigation regarding certain corrosion-resistant carbon steel flat products from Japan, requested that carbon steel sheet in coil that is clad on both sides with three layers of cold-rolled stainless steel and used in manufacturing cookware be excluded from the scope of the above mentioned investigation. After analyzing all information submitted on the record on this issue, we denied Regal's request. For further information on this issue, please refer to the January 25 memo.

The revised scope of these investigations is attached as an appendix to this notice. We will transmit this scope to the U.S. Customs Service and instruct them to release bonds or cash deposits for products for which liquidation was errantly suspended or for products which the Department has subsequently excluded from the scope. In addition, we will instruct Customs to suspend liquidation on those products which were formerly excluded but are now included in the scope.

Suspension of Liquidation

Under Article 5, paragraph 3 of the Subsidies Code, provisional measures cannot be imposed for more than 120 days without final affirmative determinations of subsidization and injury. Therefore, we will instruct the U.S. Customs Service to discontinue the suspension of liquidation on the subject merchandise entered on or after April 6, 1993, but to continue the suspension of liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise entered between December 7, 1992, and April 5, 1993. For each separate investigation, we will reinstate suspension of liquidation under section 703(d) of the Act if the Department issues a final affirmative countervailing duty determination and the International Trade Commission issues a final affirmative injury determination. If these conditions are met, we will require a cash deposit on all entries of the subject merchandise equal to the rate determined in the final affirmative countervailing duty determination.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: February 26, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

Appendix

Scope of These Investigations

The products covered by these investigations, certain steel products, constitute the following four separate "classes or kinds" of merchandise, as outlined below. Although the Harmonized Tariff Schedule of the United States (HTSUS) subheadings are provided for convenience and customs purposes, our written descriptions and the scope of these proceedings are dispositive.

Certain Hot-Rolled Carbon Steel Flat Products

These products include hot-rolled carbon steel flat products, of rectangular shape, of a width of 0.5 inch or greater, neither clad, plated nor coated with metal, whether or not painted, varnished or coated with plastics or other nonmetallic substances, in coils, or in straight lengths which are less than 4.75 millimeters in thickness and measuring at least 10 times the thickness, as currently classifiable in the HTSUS under item numbers 7208.11.0000, 7208.12.0000, 7208.13.1000, 7208.13.5000, 7208.14.1000, 7208.14.5000, 7208.21.1000, 7208.21.5000, 7208.22.1000, 7208.22.5000, 7208.23.1000, 7208.23.5030, 7208.23.5090, 7208.24.1000, 7208.24.5030, 7208.24.5090, 7208.34.1000, 7208.34.5000, 7208.35.1000, 7208.35.5000, 7208.44.0000, 7208.45.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.12.0000, 7211.19.1000, 7211.19.5000, 7211.22.0090, 7211.29.1000, 7211.29.3000, 7211.29.5000, 7211.29.7030, 7211.29.7060, 7211.29.7090, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.30.0000, 7214.40.0010, 7214.50.0010, 7214.60.0010, and 7215.90.5000.

Certain Cold-Rolled Carbon Steel Flat Products

These products include cold-rolled (cold-reduced) carbon steel flat products, of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished or coated with plastics or other nonmetallic substances, in coils and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTSUS under item numbers 7209.11.0000, 7209.12.0030, 7209.12.0090, 7209.13.0030, 7209.13.0090, 7209.14.0030, 7209.14.0090, 7209.21.0000, 7209.22.0000, 7209.23.0000, 7209.24.1000, 7209.24.5000, 7209.31.0000, 7209.32.0000, 7209.33.0000, 7209.34.0000, 7209.41.0000, 7209.42.0000, 7209.43.0000, 7209.44.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.30.1030, 7211.30.1090, 7211.30.3000, 7211.30.5000, 7211.41.1000, 7211.41.3030, 7211.41.3090, 7211.41.5000, 7211.41.7030, 7211.41.7060, 7211.41.7090, 7211.49.1030, 7211.49.1090, 7211.49.3000, 7211.49.5030, 7211.49.5060, 7211.49.5090, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7217.11.1000, 7217.11.2000, 7217.11.3000, 7217.19.1000, 7217.19.5000, 7217.21.1000, 7217.29.1000, 7217.29.5000, 7217.31.1000, 7217.39.1000, and 7217.39.5000. Excluded from these investigations is certain shadow mask steel, *i.e.*, aluminum-killed, cold-rolled steel coil that is open-coil annealed, has a carbon content of less than 0.002 percent, is of 0.003 to 0.012 inch in thickness, 15 to 30 inches in width, and has an ultra flat, isotropic surface.

Certain Corrosion-Resistant Carbon Steel Flat Products

These products include flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTSUS under item numbers 7210.31.0000, 7210.39.0000, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.60.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.21.0000, 7212.29.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.5000, 7217.12.1000, 7217.13.1000, 7217.19.1000, 7217.19.5000, 7217.22.5000, 7217.23.5000, 7217.29.1000, 7217.29.5000, 7217.32.5000, 7217.33.5000, 7217.39.1000, and 7217.39.5000. Excluded from these investigations are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin-free steel").

Certain Cut-to-Length Carbon Steel Plate

These products include hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTSUS under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Excluded from these investigations is grade X–70 plate.

[FR Doc. 93–5168 Filed 3–5–93; 8:45 am]

BILLING CODE 3510–DS–P

Exporters' Textile Advisory Committee; Notice of Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held on March 25, 1993. The meeting will be

from 2 p.m. to 4 p.m. in room 1412, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

The Committee advises Department of Commerce officials on textile and apparel export issues.

Agenda: The Administration's economic package, EC mark requirements and ISO 9000, conditions in the export market, Office of Textiles and Apparel export expansion activities, and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact William Dawson (202/482–5155).

Dated: March 2, 1993.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–5161 Filed 3–5–93; 8:45 am]

BILLING CODE 3510–DR–F

Colorado State University, et al.; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 92–111. *Applicant:* Colorado State University, Fort Collins, CO 80523. *Instrument:* Upgrade Package for Mass Spectrometer. *Manufacturer:* John Sandercock Ltd., Switzerland. *Intended Use:* See notice at 57 FR 44361, September 25, 1992.

Docket Number: 92–132. *Applicant:* Rutgers University, Piscataway, NJ 08855-0849. *Instrument:* Ion Source, Model ICS-3. *Manufacturer:* High Voltage Engineering, The Netherlands. *Intended Use:* See notice at 57 FR 44360, September 25, 1992.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments, for the purposes for which the instruments are intended to be used, is being manufactured in the United States. *Reasons:* These are compatible accessories for instruments previously imported for the use of the applicants. In each case, the instrument and accessory were made by the same manufacturer.

We know of no domestic accessories which can be readily adapted to the previously imported instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93–5169 Filed 3–5–93; 8:45 am]

BILLING CODE 3510–DS–F

Pennsylvania State University, et al.; Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 92–112. *Applicant:* Pennsylvania State University, University Park, PA 16802. *Instrument:* Grating Tuned CO_2 Laser, Model PL6. *Manufacturer:* Edinburg Instruments, United Kingdom. *Intended Use:* See notice at 57 FR 44361, September 25, 1992. *Reasons:* The foreign instrument provides: (1) Maximum power of 180W for 4 bands (9–11 μm), (2) amplitude stability to ± 2% and (3) frequency stability to 2 MHz/minute. *Advice Received From:* National Institute of Standards and Technology, November 5, 1992.

Docket Number: 92–126. *Applicant:* Texas A&M Research Foundation, College Station, TX 77843. *Instrument:* Water Current Meter, Model SD-12. *Manufacturer:* Sensordata, Norway. *Intended Use:* See notice at 57 FR 44362, September 25, 1992. *Reasons:* The foreign instrument provides: (1) Triaxial flow measurement, (2) flow field intrusion of only 23.6 x 3.6 inches, and (3) time resolution to 30 Hz. *Advice Submitted By:* National Oceanic and Atmospheric Administration, November 20, 1992.

The National Institute of Standards and Technology and National Oceanic and Atmospheric Administration advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93–5170 Filed 3–5–93; 8:45 am]

BILLING CODE 3510–DS–F

National Oceanic and Atmospheric Administration

July 1990 Galveston Bay Oil Spill: Availability and Request for Comments on an Amendment to the Draft Damage Assessment Plan

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of 30-day public comment period on an amendment to the Draft Damage Assessment Plan.

SUMMARY: On March 17, 1992 (57 FR 9245), NOAA provided notice that the draft document entitled, "The Galveston Bay Oil Spill July 28, 1990, Assessment Plan for the Measurement of Natural Resource Damages," was available for public review and comment until May 18, 1992. On May 18, 1992 (57 FR 21074), NOAA extended the public comment period until June 3, 1992.

Through today's notice, NOAA is announcing an amendment to the plan which provides for the assessment of natural resource damages for the lost use of access to surface waters closed as a result of the oil spill, and provision of a 30-day period for public comment on the amendment.

DATES: Comments in writing concerning the valuation of lost surface water access must be received no later than April 7, 1993.

ADDRESSES: Requests for a copy of the lost use valuation component of the Damage Assessment Plan should be sent to Brian Julius of the National Oceanic and Atmospheric Administration (NOAA) Damage Assessment Center, 6001 Executive Blvd., room 425, Rockville, MD. 20852.

Written comments on the valuation methodology should be sent to Brian Julius of the NOAA Damage Assessment Center.

FOR FURTHER INFORMATION CONTACT: Brian Julius of the NOAA Damage Assessment Center, (301) 443–8865.

SUPPLEMENTARY INFORMATION: On July 28, 1990, at approximately 2:30 p.m., the outbound tanker M/V SHINOUSSA, after passing the M/T HELLESPONT FAITH in the Houston Ship Channel in

Galveston Bay, collided with inbound petroleum barges being pushed by the tug CHANDY N. The collision occurred south of Red Fish Island off of Eagle Point, about 15 miles north of Galveston, Texas. As a result of the collision, approximately 700,000 gallons of a catalytic feedstock oil were discharged into Galveston Bay from two barges.

The incident is subject to the authority of the Federal Water Pollution Control Act, 33 U.S.C. 1321 *et seq.* (FWPCA).

NOAA, the Department of the Interior (DOI), the Texas Water Commission, the Texas Parks and Wildlife Department, and the Texas General Land Office are trustees for natural resources pursuant to the FWPCA, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, the Oil Pollution Act of 1990, subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR parts 300.72–300.74, and, in the case of the federal trustees, Executive Order 12580.

The state and federal trustee agencies (the cotrustees) are proceeding with an assessment of the natural resource damages resulting from this oil spill. The cotrustees previously provided notice of and received comment on a Draft Damage Assessment Plan. That Plan proposes to utilize the Type A procedure for assessing damages to natural resources resulting from the oil spill in Galveston Bay, Texas on July 28, 1990. Subsequent to the announcement of that Plan, the cotrustees have determined to seek compensation for an additional element of natural resource damages, lost access to surface waters closed as a result of the oil spill. This category of damages is not assessed by the Type A model identified in the DOI natural resource damage assessment regulations, 43 CFR parts 11.40–11.41, that is being used to determine damages for injuries to biological resources resulting from this oil spill. The methodology described in the plan amendment announced here represents a parallel Type B assessment as authorized in the regulations at 43 CFR part 11.15.

During the additional comment period, NOAA is only accepting comments on the new section of the Draft Damage Assessment Plan, concerning valuation of lost access to surface water resources.

Dated: March 3, 1993.

James W. Brennan,

Acting General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 93–5281 Filed 3–5–93; 8:45 am]

BILLING CODE 3510–12–M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Coastal Pelagic Species Plan Development Team will hold a public meeting on March 24, 1993 beginning at 10 a.m. The meeting will be held in the small conference room at the National Marine Fisheries Service, Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, La Jolla, CA.

The purpose of this meeting is to review the Council's recommendations on and continue preparation of the coastal pelagic species fishery management plan.

For more information contact Patricia Wolf from the California Department of Fish and Game at (213) 590–5117 or Larry Jacobson from the National Marine Fisheries Service at (619) 546–7117.

Dated: March 1, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–5153 Filed 3–5–93; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council will hold a meeting of its Bottomfish and Seamount Groundfish Plan Team (Team) on March 16–17, 1993, at the National Marine Fisheries Service, Honolulu Laboratory, 2570 Dole Street, Honolulu, HI. The meeting will begin at 8:30 a.m. on each day.

The Team will discuss, and possibly make recommendations to the Council regarding the following: (1) Development of an amendment to the Bottomfish and Seamount Groundfish Fishery Management Plan that would establish a Federal minimum size for opakapaka of 17 inches and require all bottomfish to be landed with heads and tails on; (2) management needs and options for other bottomfish species; (3) preparation of data summaries for the 1992 annual report; (4) strategies for acquiring data from non-commercial fishery sectors; (5) problems of fishery interactions (e.g., with porpoises, taape, kahala, etc.); (6) priorities for bottomfish research; (7) species identification guidelines; (8) proposed revisions of the Northwestern Hawaiian Islands limited entry program; and (9) other topics as necessary.

For further information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: March 1, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–5154 Filed 3–5–93; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Pelagics Plan Team (Team) will hold a public meeting on March 22–23, 1993, at the National Marine Fisheries Service, Honolulu Laboratory, 2570 Dole Street, Honolulu, HI. The meeting will begin at 8:30 a.m., on each day.

The Team will discuss, and possibly make recommendations to the Council regarding the following: (1) Draft Amendment #7 to the Pelagics Fishery Management Plan, which will establish management measures to replace the longline entry moratorium when it expires in April 1994; (2) preparation of the 1992 annual report; (3) summary of data analyses and public comment regarding possible restrictions in the Hawaii pelagic handline fishery; and (4) other topics as necessary.

For further information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: March 2, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–5270 Filed 3–5–93; 8:45 am]

BILLING CODE 3510–22–M

[Docket No. 930239–3039]

Information Relating to Bowhead Whales; U.S. Implementation of Bowhead Whale Strike Quota for 1993

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of information and request for public comment.

SUMMARY: Information is published by NOAA for use in the development of the U.S. position before the International Whaling Commission (IWC) on the aboriginal/subsistence take of bowhead whales and in the domestic allocation of the existing IWC quotas for bowhead whales to U.S. natives. NOAA is soliciting public comment on the proposed allocation of the IWC bowhead whale catch limit in 1993.

DATES: Comments must be submitted on or before April 7, 1993.

ADDRESSES: Written comments may be mailed to the Office of International Affairs, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910. A list of documents reviewed for this action may be obtained on request, and the documents examined during business hours (9 a.m. to 5 p.m.) at this address.

FOR FURTHER INFORMATION CONTACT: Kevin Chu, (301) 713-2276.

SUPPLEMENTARY INFORMATION: NOAA is responsible for implementation and enforcement of the Marine Mammal Protection Act (16 U.S.C. 1361–1407), the Endangered Species Act (16 U.S.C. 1531–1543) and the Whaling Convention Act (16 U.S.C. 916–916l). In addition, it provides staff support to the U.S. Commissioner to the IWC and to the Interagency Committee. Consistent with these responsibilities, NOAA develops positions for implementation of the aboriginal/subsistence harvest of bowhead whales under Paragraph 13 of the Schedule to the International Convention on the Regulation of Whaling, December 2, 1946, 62 Stat. 1716, T.I.A.S. No. 1849 (entered into force, November 10, 1948). In order to provide for review and comment by the public of the data upon which the U.S. positions are based, the following information is provided: (1) The IWC catch level available for the U.S. aboriginal/subsistence bowhead whale harvest for 1992–1994; (2) a summary of available bowhead scientific information, including estimates of current population level and annual recruitment rates; (3) a summary of information on the nature and extent of aboriginal/subsistence need; (4) the level of aboriginal/subsistence harvest limits which could be implemented domestically; and (5) notice of the availability of those documents reviewed by NOAA and relied on by the Under Secretary for Oceans and Atmosphere in making his finding on the range of harvest limits. NOAA is soliciting public comment on the proposed domestic implementation of the IWC bowhead whale catch limit for 1993.

1. Catch Level

At the 43rd Annual Meeting of the IWC, Reykjavik, Iceland, May 27–31, 1991, the following catch limit was established for aboriginal/subsistence whaling:

> The taking of bowhead whales from the Bering-Chukchi-Beaufort Seas stock by aborigines is permitted, but only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines and further provided that: For each of the years 1992, 1993, and 1994 combined, the total number of whales struck shall not exceed 141, except that: (A) any unused strikes up to ten percent of the total strikes allowed in the years 1989, 1990, and 1991 combined shall be carried forward from those years and added to the combined total of strikes for the years 1992, 1993, and 1994; and (B) in any one year no more than 54 whales shall be struck and no more than 41 shall be landed. (Schedule to the Convention, Paragraph 13(b)(1)(i).)

2. Scientific Information

At the 1991 IWC meeting, the Scientific Committee agreed that the Bering-Chuckchi-Beaufort Sea population of bowhead whales is between 6,400 and 9,200 animals, with a most likely estimate of 7,500 whales. A minimum estimate of the replacement yield (RY) was calculated to be 92 whales per year, and the most likely replacement yield for the population size of 7,500 is 254 whales per year. The replacement yield defines the number of new whales annually joining the adult population, and it is assumed that, all other things being constant, up to this number could be taken from the population without causing it to decline.

3. Aboriginal/Subsistence Need

The Department of the Interior (DOI) conducted its analysis of the nature and extent of aboriginal/subsistence need for bowhead whales and whaling in 1983, and the IWC adopted this method for quantifying need in 1986. DOI contracted for a new study on the quantification of subsistence and cultural need for bowhead whales in 1987, which was presented at the 1988 meeting. The new study presented the cultural and subsistence need of the nine Alaska Eskimo whaling villages to take 41 landed bowhead whales. This quantification of need used the same method of calculation accepted by the IWC in 1986. This method derives the mean annual number of bowhead whales landed per capita during a specified historical period and multiplies this mean by the current Eskimo population of nine Alaska Eskimo whaling villages. The result of this calculation is the total number of bowhead whales the nine Eskimo whaling villages need to land each year in order to meet their cultural and subsistence need.

When the IWC adopted this method of quantifying need, members of the IWC Aboriginal Subsistence Subcommittee noted that the quantification was based on a large but incomplete series of data on historical bowhead landings. It was also noted that the quantification used an inconsistent data base period. The DOI study was initiated to correct these deficiencies. To complete the series of data on historical bowhead whale landings to the extent possible, the study undertook a comprehensive review of available published and unpublished sources of bowhead landings. Remaining gaps are unlikely to be significantly reduced with further searches for historic data on bowhead landings. The data resulting from this study also permitted the use of a consistent historical base period for the calculation of need. In the prior analysis, the base periods varied from 1940 to 1970 and 1950 to 1970. The base period now begins in 1910, the year following the cessation of commercial whaling in the Arctic, and ends in 1969, prior to the period of unusually high bowhead harvests in the unique economic circumstances of the 1970s. Therefore, applying the additional landed bowhead data and the longer period to the accepted method of quantifying need, results in a current cultural and subsistence need of 41 landed whales.

4. Domestic Harvest Range

The IWC management scheme for aboriginal/subsistence whaling provides (in Schedule paragraph 13(e) (2)): "For stocks below the maximum sustainable yield (MSY) level but above a certain minimum level, aboriginal/subsistence catches shall be permitted so long as they are set at levels which allow whale stocks to move to the MSY level." Given the above-stated estimates of replacement yields of 92 (lower bound) to 254 whales for the point estimate recruited into the population annually, an aboriginal/subsistence catch can be permitted in 1993.

The catch limit for bowhead whales for the years 1992–1994, established by the IWC, is 141 strikes plus 13 strikes carried over from the previous block quota with no more than 54 whales struck and no more than 41 landed in any one year. Of the 154 total strikes for 1992–1994, 50 bowhead whales were struck and 38 were landed in 1992. Therefore, the number under consideration for allocation to the Alaska Eskimo Whaling Commission for the 1993 catch limit is 54 strikes or 41 landed whales.

5. Documents Reviewed

A list of the documents reviewed for this action may be obtained on request (see "ADDRESSES"). The documents are available for public inspection during the 30-day public comment period at the same address.

Authority: 16 U.S.C. 916, 1361–1407, 1531–43.

Dated: March 1, 1993.

Diana H. Josephson,

Deputy Under Secretary for Oceans and Atmosphere.

[FR Doc. 93–5246 Filed 3–5–93; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in Sri Lanka

March 2, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: March 3, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6708. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, carryover, carryforward and carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 29290, published on July 1, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 2, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on June 25, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on July 1, 1992 and extends through June 30, 1993.

Effective on March 3, 1993, you are directed to amend the directive dated June 25, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Sri Lanka:

Category	Adjusted twelve-month limit [1]
237	184,430 dozen.
331/631	2,214,885 dozen pairs.
333/633	44,844 dozen.
334/634	547,927 dozen.
335/835	240,928 dozen.
336/636/836	346,134 dozen.
338/339	959,542 dozen.
340/640	1,065,152 dozen of which not more than 328,392 dozen shall be in Categories 340–Y/640–Y [2].
341/641	1,745,033 dozen of which not more than 1,180,000 dozen shall be in Category 341 and not more than 1,070,000 dozen shall be in Category 641.
342/642/842	546,526 dozen.
345/845	141,537 dozen.
347/348/847	1,037,683 dozen of which not more than 656,054 dozen shall be in Categories 347–T/348–T/847–T [3].
350/650	98,094 dozen.
351/651	252,364 dozen.
359–C/659–C [4]	837,916 kilograms.
352/652	1,058,545 dozen.
369–D [5]	278,037 kilograms.
635	313,852 dozen.
638/639/838	721,940 dozen.
644	117,658 numbers.
645/646	119,914 dozen.
647/648	869,132 dozen.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1992.

[2] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[3] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.4020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.3010, 6112.11.0050, 6113.00.0038, 6203.19.1020, 6203.19.4020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.3020, 6210.40.2035, 6211.20.1520, 6211.20.3010 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.2030, 6104.22.0040, 6104.29.2034, 6104.62.2010, 6104.62.2025, 6104.69.3022, 6112.11.0060, 6113.00.0042, 6117.90.0042, 6204.12.0030, 6204.19.3030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.3010, 6204.69.9010, 6210.50.2035, 6211.20.1550, 6211.20.6010, 6211.42.0030 and 6217.90.0050; Category 847–T: only HTS numbers 6103.29.2044, 6103.49.3017, 6103.49.3024, 6104.29.2041, 6104.29.2045, 6104.69.3034, 6104.69.3038, 6112.19.2080, 6112.19.2090, 6117.90.0051, 6203.29.3046, 6203.49.3040, 6203.49.3045, 6204.29.4041, 6204.29.4047, 6204.69.3052, 6204.69.9044, 6211.20.3040, 6211.20.6040, 6211.39.0040, 6211.49.0040 and 6217.90.0070.

[4] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[5] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[6] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–5160 Filed 3–5–93; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Office of the Secretary

Determination; Excess Defense Articles (12 Landing Craft)

Pursuant to the reporting requirements of section 517 of the Foreign Assistance Act of 1961 (FAA)

and of the International Narcotics Control Act of 1992, this document provides notification that during Fiscal Year 1993 the United States Government will transfer to the Government of Colombia excess landing craft. The total value of the items is estimated to be $80,000. The original acquisition value of the items was $1,050,712.

The landing craft will provide urgently needed support for the Colombian Navy, Marine Corps, and Coast Guard riverine and coastal narcotics interdiction programs.

In accordance with section 517(c) FAA, the recipient country will agree in the associated Letter of Offer and Acceptance that it will ensure that these items will be used primarily in support of counternarcotics activities.

The Deputy Director, Defense Security Assistance Agency, Glenn A. Rudd, certifies that the items are needed by Colombia and determines that there will be no adverse impact on U.S. military readiness as a result of these transfers.

Dated: March 2, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–5156 Filed 3–5–93; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

Defense Science Board Task Force on Joint Precision Interdiction (JPI)

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Joint Precision Interdiction (JPI) will meet in closed session on April 14–15, 1993 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Director, Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review acquisition strategies needed for an optimum family of surveillance, reconnaissance, and target acquisition systems, C3I systems and weapon systems required to perform the JPI mission.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: March 2, 1993.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–5157 Filed 3–5–93; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Community College of the Air Force Board of Visitors; Meeting

The Community College of the Air Force (CCAF) Board of Visitors will hold a meeting on Thursday, April 22, 1993, at 8:30 a.m., in the Simler Hall (Bldg 836) Conference Room, Maxwell AFB, Alabama. The meeting will be open to the public.

Agenda items include a state of the College briefing and a briefing outlining CCAF's process for self-study towards reaffirmation.

For further information contact Captain Lynmari Tereyla, (205) 953–7937, Community College of the Air Force, 130 W Maxwell Blvd, Maxwell Air Force Base, Montgomery, Alabama 36112–6655.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–5235 Filed 3–5–93; 8:45 am]

BILLING CODE 3810–01–M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Mission Analysis Panel will meet on 24–26 Mar 1993 from 8 a.m. to 5 p.m. at Elmendorf AFB, AK.

The purpose of this meeting is to receive briefings, hold discussions and begin report writing on projects related to Mission Analysis. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–5282 Filed 3–5–93; 8:45 am]

BILLING CODE 3901–21–M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board of the Current State of the Air Force Panel will meet on 29–30 March 1993 from 8 a.m. to 5 p.m. at Hurlbert Field, FL.

The purpose of this meeting is to receive briefings, hold discussions and begin report writing on projects related to Current State of the Air Force. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–5283 Filed 3–5–93; 8:45 am]

BILLING CODE 3810–01–M

Privacy Act of 1974; Delete and Amend Systems of Records Notices

AGENCY: Department of the Air Force, DOD.

ACTION: Delete and amend systems of records notices.

SUMMARY: The Department of the Air Force proposes to delete three existing systems of records and amend two in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The deletions will be effective March 8, 1993.

The amended systems will be effective April 7, 1993, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Access Programs Manager, SAF/AAIA, 1610 Air Force Pentagon, Washington, DC 20330–1610.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Gibson at (703) 697–3491 or DSN 227–3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The deleted and amended systems are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which requires the submission of an altered system report. The specific changes to the systems of records being amended are set forth below, followed by the systems of records notices published in their entirety, as amended.

Dated: February 26, 1993.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETIONS

F010 DAS A

SYSTEM NAME:

Unusual and Incoherent Translation Material, (50 FR 22336, May 29 1985).

REASON:

System is no longer needed. There are no plans to reinstate this system in the future. The records will be destroyed.

F011 DAS A

SYSTEM NAME:

Operational Reference File, (50 FR 22343, May 29, 1985).

REASON:

System is no longer needed. There are no plans to reinstate this system in the future. The records will be destroyed.

F900 DAY A

SYSTEM NAME:

Annual Outstanding Air Force Administration and Executive Support Awards , (50 FR 22561, May 29, 1985).

REASON:

System is no longer needed. There are no plans to reinstate this system in the future. The records will be destroyed.

AMENDMENTS

F035 AF MP A

SYSTEM NAME:

Effectiveness/Performance Reporting Systems, (56 FR 63719, December 5, 1991).

CHANGES:

* * * * *

STORAGE:

Add to end of entry "in computers and on computer output products."

* * * * *

SAFEGUARDS:

Add as last sentence "Those in computer storage devices are protected by computer system software."

* * * * *

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete entry and replace with "The portions of this system that have completed AF Forms 705, Lieutenant Colonel Promotion Recommendation Report and AF Forms 706, Colonel Promotion Recommendation Report, may be exempt under the provisions of 5 U.S.C. 552a(k)(7), as applicable, but only to the extent that disclosure would reveal the identity of a confidential source.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 806b. For additional information contact the system manager."

F035 AF MP A

SYSTEM NAME:

Effectiveness/Performance Reporting Systems.

SYSTEM LOCATION:

Headquarters, United States Air Force, Washington DC 20330–5060;

Headquarters, Air Force Military Personnel Center, Randolph Air Force Base, TX 78150–6001;

National Military Personnel Records Center, 9700 Page Boulevard, St. Louis, MO 63132–2001;

Air Reserve Personnel Center, Denver, CO 80280–5000; and

Human Resources Laboratory, Brooks Air Force Base, TX 78235–5000.

Headquarters of major commands and separate operating agencies; consolidated base personnel offices; each State Adjutant General Office, and Air Force Reserve and Air National Guard units. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military Personnel Only.

Officers: Applies to Active Duty/Air National Guard/Air Force Reserve personnel serving in grades Warrant Officer (W–1) through Colonel (0–6).

Enlisted: Applies to active duty personnel in grades Airman Basic (E–1) through Chief Master Sergeant (E–9), and to Air Force Reserve personnel in grades Staff Sergeant (E–5) through Chief Master Sergeant (E–9).

CATEGORIES OF RECORDS IN THE SYSTEM:

Officer Effectiveness Reports; Education/Training Reports; Colonels and Lieutenant Colonels Promotion Recommendation Reports; Enlisted Performance Reports for Airman Basic (E–1) through Chief Master Sergeant (E–9); Description of data contained therein: Name; Social Security Number; active and permanent grades; specialty data; organization location and Personnel Accounting Symbol; period of report; number of days of supervision; performance evaluation scales; assessment of potential, and comments regarding ratings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; as implemented by Air Force Regulation 36–9, General Officer Promotions and Evaluations; Air Force Regulation 36–10, Officer Evaluation System; Air Force Regulation 39–62, Enlisted Evaluation System, and E.O. 9397.

PURPOSE(S):

Used to document effectiveness/duty performance history; promotion selection; school selection; assignment selection; reduction-in-force; control roster; reenlistment; separation; research and statistical analyses, and other appropriate personnel actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Copies of effectiveness reports are retained until separation or retirement. At separation or retirement, data subject is presented with field and command record copies of his or her reports. The Headquarters Air Force (HAF) copy is a permanent record that is forwarded to the National Personnel Records Center, St. Louis, MO 63132–2001. In the event the member has a Reserve commitment, the HAF copy is sent to the Air Reserve Personnel Center, Denver, CO 80280–5000.

The following exceptions apply:

Officers Field Record: Removed and given to individual when promoted to Colonel, when separated or retired, or destroy when voided by action of the Officer Personnel Records Review Board. When voided by action of the Air Force Board for Correction of Military

Records, forward all copies of report to Headquarters United States Air Force (HQ USAF) when directed.

Command Record: The command custodian will destroy the reports when voided by action of Officer Personnel Records Review Board. When voided by action of the Air Force Board for Correction of Military Records, forward all copies of report to HQ USAF when directed.

HAF Record: Remove reports voided by action of the Officer Personnel Records Review Board from the selection folder and file in the board recorder's office until destruction. Remove reports voided by action of the Air Force Board for Correction of Military Records from selection folder and submit to Board's Secretariat with duplicate and triplicate copies for custody and disposition. Promotion Recommendation Reports are temporary documents maintained only at HQ Air Force level and are destroyed after their purpose has been served.

Active duty Enlisted:

Grades E–3 through E–6: On separation or retirement, Enlisted Performance Reports (EPRs) are forwarded to the National Personnel Records Center, St Louis, MO unless data subject holds a reserve obligation, in which case they are forwarded to Air Reserve Personnel Center.

Grades E–7 through E–9: On separation or retirement, original copies, those retained in Senior NCO selection folders and those in field record closing before January 1, 1967, are forwarded to the National Personnel Records Center, or to Air Reserve Personnel Center if data subject holds a reserve obligation. Duplicate copies closing January 1, 1967 or later (field record) are returned to the member at separation or retirement.

Non-Active Duty Reserve Enlisted: Air Force Reserve Forces Noncommissioned Officers Performance Report; upon separation, retirement or assignment to a non-participating reserve status, they are forwarded to Air Reserve Personnel Center for file in the master personnel record and disposed of as a part of that record. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Personnel, Headquarters United States Air Force, Washington DC 20330–5060; Chief of Air Force Reserve, Headquarters United States Air Force, Washington, DC 20330–1000, and Director, Air National Guard, Washington, DC 20310–2500.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the System Manager or directly to agency officials at the respective system location. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address written inquiries to the System Manager or directly to agency officials at the respective system location. Official mailing addresses are published as an appendix to the Air Force's compilation of record system notices.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The basis of the ratings is observed on-the-job performance or by the education/training progression of the individual. Further, effectiveness reports may have as an additional source of information from Letters of Evaluation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The portions of this system that have completed AF Forms 705, Lieutenant Colonel Promotion Recommendation Report and AF Forms 706, Colonel Promotion Recommendation Report, may be exempt under the provisions of 5 U.S.C. 552a(k)(7), as applicable, but only to the extent that disclosure would reveal the identity of a confidential source.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 806b. For additional information contact the system manager.

F900 AF MP A

SYSTEM NAME:

Military Decorations, (56 FR 63728, December 5, 1991).

CHANGES:

SYSTEM NAME:

Change system name to "Awards and Decorations."

SYSTEM LOCATION:

Delete entry and replace with "Headquarters, United States Air Force, Washington DC 20330–1670.

Directorate of Personnel Program Actions, Headquarters Air Force Military Personnel Center, Randolph AFB TX 78150–6001. Headquarters of major commands and at all levels down to and including Air Force installations. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add as last sentence "Civilian personnel employed by the Department of the Air Force who are recommended for awards."

* * * * *

PURPOSE(S):

Delete entry and replace with "Used by award approval authorities to determine qualification for recognition of individuals through an award or a military decoration."

* * * * *

F900 AF MP A

SYSTEM NAME:

Awards and Decorations.

SYSTEM LOCATION:

Headquarters, United States Air Force, Washington DC 20330–1670.

Directorate of Personnel Program Actions, Headquarters Air Force Military Personnel Center, Randolph AFB, TX 78150–6001. Headquarters of major commands and at all levels down to and including Air Force installations. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel. Air Force Reserve personnel. Air National Guard personnel. Civilian personnel employed by the Department of the Air Force who are recommended for awards.

CATEGORIES OF RECORDS IN THE SYSTEM:

Supervisory evaluation of duty performance with comments by commanders at intermediate levels.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 857, Decorations and Awards; as implemented by Air Force Regulation 900–48, Individual and Unit Awards and Decorations, and E.O. 9397.

PURPOSE(S):

Used by award approval authorities to determine qualification for recognition of individuals through an award or a military decoration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Destroyed 1 year after completion by tearing into pieces shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Personnel, Headquarters, Air Force Military Personnel Center, Randolph AFB, TX 78150–6001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address written inquiries to the System Manager or to agency officials at location of assignment.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address written requests to the Assistant Deputy Chief of Staff/ Personnel, Headquarters, Air Force Military Personnel Center, Randolph AFB, TX 78150–6001 or to the agency officials at location of assignment.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Supervisors' evaluations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 93–5158 Filed 3–5–93; 8:45 am]

BILLING CODE 3810–01–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0070]

Clearance Request for Payments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0070).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Payments.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

Firms performing under Federal contracts must provide adequate documentation to support requests for payment under these contracts. The documentation may range from a simple invoice to detailed cost data. The information is usually submitted once, at the end of the contract period or upon delivery of the supplies, but could be submitted more often depending on the payment schedule established under the contract (see FAR 52.232–1 through 52.232–11). The information is used to determine the proper amount of payments to Federal contractors.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows: *Respondents,* 80,000; *responses per respondent,* 120; *total annual responses,* 9,600,000; *preparation hours per response,* .025; and *total response burden hours,* 240,000.

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0070, Payments, in all correspondence.

Dated: February 23, 1993.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 93–5179 Filed 3–5–93; 8:45 am]

BILLING CODE 6820–34–M

[OMB Control No. 9000–0073]

Clearance Request for Advance Payments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0073).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Advance Payments.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

Advance payments may be authorized under Federal contracts and subcontracts. Advance payments are the least preferred method of contract financing and require special determinations by the agency head or designee. Specific financial information about the contractor is required before

determinations by the agency head or designee. Specific financial information about the contractor is required before such payments can be authorized (see FAR 32.4 and 52.232–12). The information is used to determine if advance payments should be provided to the contractor.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, *500*; responses per respondent, *1*; total annual responses, *500*; preparation hours per response, *1*; and total response burden hours, *500*.

Obtaining Copies of Proposals: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0073, Advance Payments, in all correspondence.

Dated: February 23, 1993.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 93–5177 Filed 3–5–93; 8:45 am]

BILLING CODE 6820–34–M

[OMB Control No. 9000–0072]

Clearance Request for Contract Cost Principles and Procedures—Automatic Data Processing Equipment Leasing Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0072).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Contract Cost Principles and Procedures (Automatic Data Processing Equipment Leasing Costs).

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR part 31, Contract Cost Principles and Procedures, contains cost principles and procedures for: (1) The pricing of contracts, subcontracts, and modifications to contracts and subcontracts whenever cost analysis is performed; and (2) the determination, negotiation, or allowance of costs when required by a contract clause. However, certain cost elements that are reviewed pursuant to this part require supporting documentation. One of these involves a justification of automatic data processing equipment leasing costs under FAR 31.205–2. The information is used by the contracting officer to determine the allowability of a cost element.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, *3,172*; responses per respondent, *1*; total annual responses, *3,172*; preparation hours per response, *.5*; and total response burden hours, *1,586*.

Obtaining Copies of Proposals: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0072, Contract Cost Principles and Procedures (Automatic Data Processing Equipment Leasing Costs), in all correspondence.

Dated: February 23, 1993.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 93–5178 Filed 3–5–93; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF ENERGY

Golden Field Office; Notice of Federal Assistance Award to BP Research

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7, is announcing its intention to renew a grant to BP Research (BPR) for development of a hybrid membrane, distillation system for separation of olefins.

ADDRESSES: Questions regarding this announcement may be addressed to the U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, Colorado 80401, Attention: M.A. Barron, Contract Specialist. The Contracting Officer is Dr. Paul K. Kearns.

SUPPLEMENTARY INFORMATION: DOE provided financial assistance to BPR under Grant No. DE–FG07–92ID13138 to determine the feasibility and economic potential for olefin separation using a hybrid membrane, distillation system. Major goals were to improve the sulfur resistance of the system and evaluate system operability in a refinery. The feasibility and economic potential proved to be very attractive.

DOE intends to restrict eligibility to BPR for continuation of this research through commercial demonstration plant scale in accordance with 10 CFR part 600.7(b)(2)(i) (A) and (D). DOE has performed a review in accordance with 10 CFR 600.7 and has determined that the activity to be funded is a continuation of an activity presently being funded by DOE and for which competition for support would have a significant adverse effect on continuity of the activity. Furthermore, the applicant has exclusive domestic capability to perform the activity successfully based upon unique equipment, proprietary data, and technical expertise.

DOE funding for the proposed activity is estimated to be $1,400,000 and BPR's share is estimated to be $2,900,000 for a total of $4,300,000 over a two year project period.

Issued in Chicago, Illinois, on February 24, 1993.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 93–5276 Filed 3–5–93; 8:45 am]

BILLING CODE 6450–01–M

Report on the Emergency Response Training and Equipment Activities Through Fiscal Year 1992 for the Transportation of Transuranic Waste to the Waste Isolation Pilot Plant

AGENCY: Department of Energy

ACTION: Notice of availability of emergency response training report.

SUMMARY: The Department of Energy (DOE) has issued a report describing emergency response training efforts as of September 30, 1992, in preparation for shipment of transuranic waste to the Waste Isolation Pilot Plant (WIPP). The report provides background on the training program, an overview of the course curricula, a summary of emergency response exercises, an overview of cooperative agreements between DOE and state and tribal governments, and a description of the New Mexico WIPP Medical Working Group. The report is available upon

request and will be updated annually to document the continuing WIPP emergency response training and equipment activities.

ADDRESSES: The report is available at the Public Reading Room (room 1E190), U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, Monday-Friday, excluding Federal holidays. Copies of the report have also been placed in the following WIPP reading rooms: WIPP Public Reading Room, National Atomic Museum, U.S. Department of Energy, Albuquerque Field Office, P.O. Box 5400, Albuquerque, New Mexico 87115; Thomas Brannigan Memorial Library, 200 E. Picacho, Las Cruces, New Mexico 88005; New Mexico State Library, 325 Don Gaspar, Santa Fe, New Mexico 87503; Pannell Library, New Mexico Junior College, 5317 Lovington Highway, Hobbs, New Mexico 88240; Carlsbad Public Library, 101 S. Halagueno, Carlsbad, New Mexico 88220; Zimmerman Library, Government Publications Department, University of New Mexico, Albuquerque, New Mexico 87138; and Martin Speare Memorial Library, New Mexico Tech, Campus Station, Socorro, New Mexico 87801.

Specific requests for copies of the report should be addressed to: Ms. Tracy Loughead, Waste Isolation Pilot Plant Project Integration Office, U.S. Department of Energy, One Park Square, suite 903, 6501 Americas Parkway NE., Albuquerque, New Mexico 87110, at (505) 845–5977.

SUPPLEMENTARY INFORMATION: WIPP is a research and development facility located in Southeastern New Mexico with a mission of demonstrating the safe shipment and disposal of radioactive wastes resulting from defense activities and programs of the United States. Since 1988, DOE has provided training and equipment to emergency responders along proposed WIPP transportation routes. Through September 30, 1992, 8,690 emergency responders in 12 states have received training on the proper procedures to employ in the unlikely event of a WIPP transportation accident. The training is designed to supplement the basic hazardous materials training of those individuals asked to respond to a WIPP transportation accident. Courses include: First responder, first responder refresher training, kit (anti-contamination clothing and respiratory protection equipment), command and control, mitigation, medical management, and a train-the-trainer course. The course content has been reviewed by the affected States and other agencies, including the Federal Radiological Preparedness Coordinating Committee.

In addition, since 1989, DOE has trained 826 medical professionals in 6 States through the Radiation Emergency Assistance Center/Training Site. Working through the WIPP Medical Working Group established by the State of New Mexico, DOE assists hospitals in New Mexico in developing plans, conducting additional training, providing radiation detection equipment, and conducting WIPP-related exercises.

Consistent with provision of section 16(c)(1)(A) of the Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102–579), the document entitled Report on the Emergency Response Training and Equipment Activities through Fiscal Year 1992 for the Transportation of Transuranic Waste to the Waste Isolation Pilot Plant, DOE/WIPP 92–055, was issued by DOE on November 25, 1992, to the Congress and state and tribal governments along proposed WIPP transportation corridors.

Paul D. Grimm,

Acting Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 93–5277 Filed 3–5–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 2362–002 Minnesota]

Blandin Paper Co.; Availability of Environmental Assessment

February 26, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new major license for the existing Blandin Hydroelectric Project, located on the Mississippi River in Itasca County, Minnesota, in the city of Grand Rapids, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the existing and potential future environmental impacts of the project and has concluded that approval of the project would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5186 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11219–000 North Carolina]

Mayo Hydro; Availability of Environmental Assessment

March 2, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a minor license for the proposed Mayo Project located at the existing dam on the Mayo River, near Rockingham County, North Carolina, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the environmental impacts of the proposed project and has concluded that approval of the project, with appropriate mitigation measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5221 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11090–000 Vermont]

Tunbridge Mill Corp.; Availability of Environmental Assessment

March 2, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the proposed Tunbridge Mill Hydroelectric Project located on the First Branch of the White River in Orange County, near the Town of Tunbridge, Vermont, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff analyzed the environmental impacts of the project and concluded that approval of the project, with appropriate mitigative

measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5222 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–05002T, New Mexico-38]

NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

March 2, 1993.

Take notice that on February 25, the United States Department of the Interior's Bureau of Land Management (BLM) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Morrow Formation in Eddy County, New Mexico, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application covers approximately 3,840 acres described as follows:

Township 23 South, Range 31 East
Sections 17–18: All
Sections 20–21: All
Sections 28–29: All

The notice of determination also contains BLM's findings that the referenced portion of the Morrow Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5223 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–2–1–000]

Alabama-Tennessee Natural Gas Co.; Proposed Change in the FERC Gas Tariff

March 2, 1993.

Take notice that Alabama-Tennessee Natural Gas Company ("Alabama-Tennessee"), Post Office Box 918, Florence, Alabama 35631, on February 26, 1993 tendered for filing the following revision to its FERC Gas Tariff, First Revised Volume No. 1:

8th Rev. Sheet No. 4A

Alabama-Tennessee proposes that this tariff sheet be made effective March 1, 1993. In this regard, Alabama-Tennessee requests that the Commission grant a waiver of § 154.22 of its Regulations so that this tariff sheet might be made effective on less than thirty days notice.

Alabama-Tennessee states that the purpose of this filing is to adjust the take-or-pay charges applicable to each of its jurisdictional sales and transportation customers pursuant to the reconciliation procedures established under Article I, Section A.3 of the settlement approved by the Commission in this docket on October 17, 1991. Alabama-Tennessee states that this reconciliation has resulted in a reduction in both the Direct Billed Obligation and the Volumetric Surcharge (as those terms are defined under the settlement) that Alabama-Tennessee is authorized to collect from its jurisdictional sales and transportation customers. Alabama-Tennessee has requested that the Commission accept its filing and that it be permitted to become effective on less than thirty days notice in order that its customers might realize the benefits of these reductions as soon as possible.

In addition to the waiver of § 154.22, Alabama-Tennessee requests such other waivers of the Commission's Regulations as will be necessary to permit the tariff sheet to become effective as proposed in its filing.

Alabama-Tennessee states that copies of its filing were served upon its customers and interested public bodies, and all persons on the Commission's official service list in the captioned docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214. All such motions or protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5188 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–3–1–000]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

March 2, 1993.

Take notice that on February 26, 1993, Alabama-Tennessee Natural Gas Company ("Alabama-Tennessee"), Post Office Box 918, Florence, Alabama 35631, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet with a proposed effective date of April 1, 1993:

39th Revised Sheet No. 4

Alabama-Tennessee states that this filing is a quarterly PGA filing which is designed to reflect the cost of gas purchased by Alabama-Tennessee from its suppliers. In addition, Alabama-Tennessee states this filing reflects Alabama-Tennessee's use of the demand cost allocation ratio, for computing the rates for jurisdictional sales customers, that was agreed upon in the settlement filed on December 29, 1992 in Docket No. TQ92–5–1, et al., which the Commission approved by letter order, dated February 24, 1993.

Alabama-Tennessee advises the Commission that these rates will need to be adjusted in order to reflect the impact of Alabama-Tennessee's motion rates which will become effective on April 1, 1993 in its general rate case proceeding in Docket No. RP92–237. Because certain issues which will affect the RP92–237 rates are pending before the Commission on rehearing, the precise adjustments are unknown at this time.

Alabama-Tennessee has requested any waivers of the Commission's Regulations that may be necessary to permit the tariff sheet to become effective as proposed.

Alabama-Tennessee states that copies of the tariff filing have been mailed to its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214. All such motions or protests should be filed on or before March 9, 1993. Protests will be

considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5187 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–65–010]

Arkla Energy Resources, a Division of Arkla, Inc.; Refund Report

March 2, 1993.

Take notice that on November 4, 1992, Arkla Energy Resources (AER), a division of Arkla, Inc., filed its report of refunds that were made to its jurisdictional customers.

AER states that on October 5, 1992, it made refunds to its jurisdictional customers pursuant to the Commission's order issued August 6, 1992, in Docket Nos. RP91–65–000 and CP89–2107–000. AER states that it had refunded to each of its jurisdictional customers a lump sum amount, including interest, equal to the difference between: (1) The total payments actually made by each jurisdictional customers for gas sold to it or for service rendered to it during the period July 1, 1991 thru August 31, 1992; and (2) the total payments that each customer would have made for such gas and service if the rates paid by the customer during this period had equalled the maximum rates under the prior settlement approved by the Commission in Docket Nos. RP88–45–000, et al.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5189 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–3–002]

Arkla Energy Resources, a Division of Arkla Inc.; Compliance Filing

March 2, 1993.

Take notice that on February 26, 1993, Arkla Energy Resources, a division of Arkla Inc. (AER) filed revised rate sheets and accompanying workpapers in compliance with the Commission's October 29, 1992 order in Docket No. RP93–3–000. *Arkla Energy Resources, a division of Arkla Inc.*, 61 FERC ¶ 61,127.

AER states that a copy of this filing has been served on all jurisdictional customers and interested state commissions, and on all parties on the Commission's official service list in Docket No. RP93–3–002.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5190 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG93–28–000]

Blue Mountain Power, L.P.; Notice of Application for Commission Determination of Exempt Wholesale Generator Status

March 2, 1993.

On February 24, 1993, Blue Mountain Power, L.P. (c/o Michael J. Zimmer, Esq., Reid & Priest, 701 Pennsylvania Avenue, NW., Washington, DC 20004) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act, as amended.

Blue Mountain states that it is a Pennsylvania limited partnership formed to own and operate a proposed natural gas fired turbine, combined cycle power plant in Bucks County, Pennsylvania.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before March 19, 1993 and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5224 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–5–63–000, TM93–5–63–000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

March 2, 1993.

Take notice that on February 25, 1993, Carnegie Natural Gas Company ("Carnegie") tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, with a proposed effective date of March 1, 1993:

Forty-First Revised Sheet No. 8
Forty-First Revised Sheet No. 9

Carnegie states that pursuant to section 154.308 of the Commission's regulations and sections 23 and 26 of the General Terms and Conditions of its FERC Gas Tariff, it is filing a combine Out-of-Cycle Purchased Gas Adjustment ("PGA") and Transportation Cost Adjustment ("TCA") to reflect updated projections affecting the average commodity cost of purchased gas to be incurred by Carnegie on and after March 1, 1993, as well as to track a revision in the effective demand sales rate proposed by Carnegie's pipeline supplier, Texas Eastern Transmission Corporation ("Texas Eastern"). Carnegie states that this filing was necessitated by a substantial and unanticipated increase in the price of spot gas supplies available on and after March 1, 1993, as compared to the projected costs of gas supplies reflected in Carnegie's last scheduled PGA filed in Docket No. TQ93–4–63–000 on January 29, 1993.

The above tariff sheets reflect the following changes from Carnegie's last scheduled PGA filing in Docket No. TQ93–4–63–000: a $0.0912 per Dth decrease in the demand rate, a $0.1765 per Dth increase in the commodity rate, and a 0.0030 per Dth increase in the

DCA rate of its CDS and LVWS rate schedules; a $0.1736 per Dth increase in the maximum commodity rate and a $0.1765 per Dth increase in the minimum commodity rate under Rate Schedule SEGSS. The revised tariff sheets also reflect a decrease in the TCA charge of $0.0081 per Dth, from $0.1716 per Dth to $0.1635 per Dth of $0.0198 per Dth.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5191 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. FA91–54–000]

Central Vermont Public Service Corp.; Order Establishing Hearing Procedures

March 2, 1993.

On December 7, 1992, the Chief Accountant issued a contested audit report [1] under delegated authority noting Central Vermont Public Service Corporation's (Central Vermont) disagreement with the recommendations of the Division of Audits as described in part I of the audit report regarding the administration of the fuel adjustment clause contained in its FERC Tariff No. 1. Central Vermont was requested to advise whether it would agree to the disposition of the contested matters under the shortened procedures provided for by part 41 of the Commission's Regulations. 18 CFR part 41.

On January 4, 1993, Central Vermont responded that it did not consent to the shortened procedures. Section 41.7 of the Commission's Regulations provides that in case consent to the shortened procedures is not given, the proceeding will be assigned for hearing. Accordingly, the Secretary, under authority delegated by the Commission, will set these matters for hearing.

Any interested person seeking to participate in this docket shall file a protest or motion to intervene pursuant to Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) no later than 15 days after the date of publication of this order in the **Federal Register**.

It is ordered:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act, the provisions of the Federal Power Act, particularly sections 205, 206, and 301 thereof, and pursuant to the Commission's Rules of Practice and Procedures (18 CFR chapter I), a public hearing shall be held concerning the appropriateness of Central Vermont's practices as discussed above.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within 45 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426. The Presiding Judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(C) This order shall be published in the **Federal Register**.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5192 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG93–29–000]

Century Power Corp.; Notice of Application for Commission Determination of Exempt Wholesale Generator Status

March 2, 1993.

On February 25, 1993, Century Power Corporation ("Applicant") filed with the Federal Energy Regulatory Commission an application under section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended, seeking a determination by the Commission that it is an exempt wholesale generator.

Applicant states that it is a privately held corporation organized under Arizona law with its principal offices located at 3567 East Sunrise Drive, suite 235, Tucson, Arizona 85718. Applicant states that it engages exclusively in the business of owning a 50 percent undivided interest in Unit 3 of a project known as the San Juan Project, and related equipment and properties, and in selling electricity to wholesale customers. Applicant states that San Juan Unit 3 is a coal-fueled electric generating unit located near Farmington, New Mexico.

Any person desiring to be heard or objecting to the requested determination should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211, 385.214. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments must be filed on or before March 19, 1993 and must be served on Applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5225 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ93–2–21–000, TM93–2–21–000, TQ92–5–21–000, and TM92–12–21–000]

Columbia Gas Transmission Corp.; Conference

March 3, 1993.

Take notice that on March 11, 1993, a meeting is scheduled among the staff of the Federal Energy Regulatory Commission (FERC), the staff of the Internal Revenue Service (IRS), and representatives of the Columbia Gas Systems, Inc. and its subsidiary, Columbia Gas Transmission Corporation (Columbia). The meeting will take place at the offices of the Commission in Washington, DC at 10 a.m. in a room to be designated on the day of the meeting.

Columbia has indicated that the IRS and Columbia are developing certain facts and positions regarding the income tax effects of the 1989 Global Settlement among Columbia, its customers, and its suppliers. In particular, the IRS and Columbia are focusing on the facts surrounding the treatment in Columbia's rates of transportation costs

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[1] 61 FERC ¶ 62,195 (1992).

under Account No. 858, both before and after the so-called transportation cost tracker in the 1989 Global Settlement was implemented.

The purpose of the March 11, 1993 meeting is to determine whether Columbia's understanding of the rights and obligations of the parties involved wit the Account No. 858 transportation cost tracker comports with the understanding of the FERC staff.

Attendance at the meeting is limited to IRS and FERC staff, the Columbia representatives, and the existing parties to the above-captioned proceedings.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5228 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER92–754–000]

Consumers Power Co., Filing

March 2, 1993.

Take notice that on February 25, 1993, Consumers Power Company tendered for filing an amendment to its earlier filing in this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5193 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–3–2–000]

East Tennessee Natural Gas Co.; Rate Filing

March 2, 1993.

Take notice that on February 26, 1993, East Tennessee Natural Gas Company ("East Tennessee"), submitted for filing ten copies each of Thirty-third Revised Nos. 4 and 5 to First Revised Volume No. 1 of its FERC Gas Tariff to be effective April 1, 1993.

East Tennessee states that purpose of the filing is to implement a Quarterly Gas Rate Adjustment to be effective for the period April 1 through June 30, 1993, pursuant to section 21.(b) of the General Terms and Conditions of East Tennessee's FERC Gas Tariff.

East Tennessee states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20425, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining appropriate action but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who had previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5195 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–4–23–000]

Eastern Shore Natural Gas Co; Proposed Changes in FERC Gas Tariff

March 2, 1993.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on February 26, 1993 certain revised tariff sheets included in appendix A attached to the filing. Such sheets are proposed to be effective March 1, 1993.

ESNG states that the above referenced tariff sheets are being filed pursuant to § 154.308 of the Commission's regulations and §§ 21.2 and 21.4 of the General Terms and Conditions of ESNG's FERC Gas Tariff to reflect changes in ESNG's jurisdictional rates. The increased gas costs in this instant filing result from: (1) Higher prices being paid to producers/suppliers under ESNG's market-responsive gas supply contracts, (2) updating ESNG's pipeline supplier demand rates payable to Transcontinental Gas Pipe Line Corporation and Columbia Gas Transmission, and (3) updating CFSS storage demand rate payable to Columbia Gas Transmission Corporation.

The sales rates set forth in the above referenced tariff sheets reflect an increase of $.0708 per dt in the commodity rate and an increase of $.0734 per dt in the demand rate.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5194 Filed 3–5–93; 8:45 a.m.]

BILLING CODE 6717–01–M

[Docket No. EG93–26–000]

Enron Milford Operating Corp.; Notice of Application for Commission Determination of Exempt Wholesale Generator Status

March 2, 1993.

On February 19, 1993, Enron Milford Operating Corp. (Applicant), 3 Allen Center, suite 400, 333 Clay Street, Houston, TX 77002, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act, as amended. Applicant states that it will provide operating and maintenance services to a 149 megawatt, natural gas fueled, dispatchable, combined independent cycle power project (the "Facility") being built in Milford, Massachusetts. Applicant states that it will be exclusively engaged in the business of operating the Facility.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 825 North Capitol Street,

NE., Washington, DC 20426, in accordance with 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments must be filed on or before March 15, 1993 and must be served on the Applicant. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5226 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER92–533–001]

Louisville Gas and Electric Co.; Filing

March 2, 1993.

Take notice that on February 12, 1993, Louisville Gas and Electric Company tendered for filing its compliance filing in response to the Commission's earlier order of January 14, 1993 in this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5196 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–8–25–000]

Mississippi River Transmission Corp.; Rate Change Filing

March 2, 1993.

Take notice that on February 25, 1993, Mississippi River Transmission Corporation (MTR) tendered for filing Eighth Revised Eighty-Third Revised Sheet No. 4 and Eighth Revised Forty-Second Revised Sheet No. 4.1 to its FERC Gas Tariff, Second Revised Volume No. 1 to be effective March 1, 1993. MRT states that the purpose of the instant filing is to reflect an out-of-cycle purchase gas cost adjustment (PGA).

MRT states that Eighth Revised Eighty-Third Revised Sheet No. 4 and Eighth Revised Forty-Second Revised Sheet No. 4.1 reflect an increase of 13.80 cents per MMBtu in the commodity cost of purchased gas from PGA rates filed on January 29, 1993 to be effective March 1, 1993, in Docket No. TQ93–7–25–000. MRT also states that since the January 29, 1993 filing date, MRT has experienced changes in purchase and transportation costs for its system supply that could not have been reflected in that filing under current Commission regulations.

MRT states that a copy of this filing has been served on all of MRT's jurisdictional sales customers and to the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214. All such motions or protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5197 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG93–27–000]

Milford Power Limited Partnership; Notice of Application for Commission Determination of Exempt Wholesale Generator Status

March 2, 1993.

On February 19, 1993, Milford Power Limited Partnership (Applicant), 3 Allen Center, suite 400, 333 Clay Street, Houston, TX 77002, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act, as amended. Applicant states that it is a Massachusetts limited partnership which is constructing and will own a 149 megawatt, natural gas fueled, dispatchable, combined independent cycle power project (the "Facility") in Milford, Massachusetts. Applicant states that the Facility will sell electric power exclusively at wholesale. Applicant states that it will be exclusively engaged in the business of owning or operating the Facility.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments must be filed on or before March 15, 1993 and must be served on the Applicant. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5227 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–4–16–000]

National Fuel Gas Supply Corp., Proposed Changes in FERC Gas Tariff

March 2, 1993.

Take notice that on February 26, 1993, National Fuel Gas Supply Corporation ("National") tendered for filing the following revised tariff sheet as part of its FERC Gas Tariff, Second Revised Volume No. 1, to become effective on April 1, 1993:

Thirty-First Revised Sheet No. 5

National states that the filing is made to implement quarterly (a) Purchased Gas Adjustment ("PGA") rate change, and (b) Transportation and Compression Cost Adjustment ("TCCA") rate change. National's revised demand and commodity rates are $9.72 per Dt and 215.34 cents per Dt respectively.

National further states that copies of this filing were served upon the Company's jurisdictional customers and the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such motions to intervene or protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5198 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–87–000]

Natural Gas Pipeline Co. of America; Proposed Changes in FERC Gas Tariff and Filing of Reconciliation Report

March 2, 1993.

Take notice that on February 26, 1993, Natural Gas Pipeline Company of America (Natural) tendered for filing First Revised Sheet Nos. 156 and 170 through 173 to be part of its FERC Gas Tariff, Fourth Revised Volume No. 1, to be effective April 1, 1993.

Natural states the filing is being made pursuant to the Revised Procedure for Recoupment of Take-or-Pay Settlement Costs (Section 34) of the General Terms and Conditions of its tariff. The filing is intended to: (1) Recover approximately $.8 million of additional net transition costs not included in previous filings; (2) reflect accrued interest for the period June 1, 1992 through March 31, 1993; (3) submit the Reconciliation Report required by section 34.6; and (4) cancel Sheet Nos. 156 through 161 for administrative purposes.

Natural states that customers with overrecovered balances were refunded the amounts due on February 26th concurrently with the filing. Natural requested waiver of the Commission's Regulations and its tariff to the extent necessary to make lump-sum billing on April 1st to customers with underrecovered balances.

Natural states a copy of the filing is being mailed to Natural's jurisdictional sales customers, interested state regulatory agencies and all parties set out on the official service list at Docket Nos. RP91–22, RP91–31 and CP89–1281, *et al.*

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5199 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP91–2392–002]

Northwest Pipeline Corp.; Petition to Amend

March 1, 1993.

Take notice that on February 22, 1993, Northwest Pipeline Corporation (Northwest), P.O. Box 58900, Salt Lake City, Utah 84158–0900, filed in Docket No. CP91–2392–002 a petition to amend the authorization issued by order issued on May 1, 1992, in Docket No. CP91–2392–000, to reflect Northwest's December 31, 1992, conveyance to Williams Gas Processing Company (WGP) of two certificated meter stations, all as more set forth in the petition which is on file with the Commission and open to public inspection.

Northwest states that it originally intended to retain ownership of the Grand Gas and Grand Valley Meter Stations on the erroneous assumption that they were located adjacent to Northwest's mainline receipt points from the Grand Gas and Grand Valley gathering systems, respectively, after the conveyance of those systems to WGP as authorized in Docket No. CP91–2392–000. Northwest then states that subsequent review indicated that the subject meter stations are in fact each located several miles upstream on the gathering trunk lines of the respective Grand Gas and Grand Valley Gathering Systems.

Northwest states that although the subject meter stations were identified as transmission rather than gathering facilities in its previously authorized application to abandon all gathering facilities, the meter stations were conveyed to WGP on December 31, 1992, as part of the gathering systems on which they are located. Northwest requests issuance of a conforming amendment to the abandonment order in Docket No. CP91–2392–000 to reflect the conveyance of these two meter stations to WGP.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 22, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5229 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–6–005]

Paiute Pipeline Co.; Compliance Filing

March 2, 1993.

Take notice that on February 24, 1993, Paiute Pipeline Company (Paiute) tendered for filing and acceptance the following tariff sheet to be a part of its FERC Gas Tariff, First Revised Volume No. 1–A:

Second Sub Third Revised Sheet No. 10

Paiute states that this filing is made to comply with the Commission's Letter Order issued February 9, 1993 in Docket No. RP93–6–002, wherein the Commission rejected for noncompliance Substitute Third Revised Sheet No. 10 which Paiute submitted on November 27, 1992 in compliance with the Commission's October 30, 1992 Suspension Order in Docket No. RP93–6.

In response to the February 9, 1993 Letter Order, Paiute has submitted proposed Second Sub Third Revised Sheet No. 10, along with workpapers and a further explanation to support its projected level of interruptible transportation service. Paiute proposes no change to either the interruptible transportation volume projection or the proposed rates which were reflected in its November 27, 1992 filing. Paiute has requested an effective date of April 1, 1993 for the tendered sheet.

Paiute states that copies of its filing have been mailed to all parties on the official service list in Docket No. RP93–6.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5200 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–85–000]

Southern Natural Gas Co. and South Georgia Natural Gas Co.; Joint Petition for Limited Waiver of Storage Provisions

March 2, 1993.

Take notice that on February 24, 1993, Southern Natural Gas Company (Southern) and South Georgia Natural Gas Company (South Georgia) tendered for filing a petition for a limited waiver of certain storage tariff provisions which provide that the gas to be injected is to be purchased from Southern and South Georgia.

Southern requests a limited waiver of the requirement contained in section 2.1 of Exhibit B to Rate Schedule STS–1 that a customer make volumes available for delivery to storage under Rate Schedules CSS–1 and CSS–2 by purchasing such volumes from Southern. In conjunction therewith, Southern requests a limited waiver of the requirement contained in section 3.1 of Exhibit B of Rate Schedules CSS–1 and CSS–2 that storage gas shall be provided pursuant to Rate Schedule STS–1. South Georgia requests a limited waiver of the same provisions set out in section 2.1 of Exhibit B of its ST–1 and ST–2 Rate Schedules and in section 3.1 of Exhibit B of its SS–1 and SS–2 Rate Schedules.

Southern and South Georgia states that such waivers will permit the storage services customers to purchase gas from any source to meet their storage requirements under these services. Southern and South Georgia request that such waivers remain in effect to October 31, 1993, which will extend the waiver through the entire upcoming injection season for deliveries of the third party gas into storage.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5201 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP86–119–032]

Tennessee Gas Pipeline Co., Report of Refunds

March 2, 1993.

Take notice that Tennessee Gas Pipeline Company (Tennessee) on January 25, 1993, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Refund Report made in accordance with the Commission's orders issued April 10, 1992 and June 25, 1992, in Docket No. RP86–119, which accepted a settlement filed June 25, 1991 and as modified on May 7, 1992.

On January 25, 1993, Tennessee states that it refunded $51,392,120 to the customers listed on the schedules attached to the filing, inclusive of interest calculated in accordance with 18 CFR 154.67(c), to its customers. Tennessee also states that the refunds represent the accumulated value of the take-or-pay payments received under prior recovery formulas in excess of allocated take-or-pay demand costs, pursuant to the settlement.

Tennessee states that refunds in excess of $10 million are being made in three equal semi-annual payments as provided by the settlement.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5202 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–6–28–000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

March 2, 1993.

Take notice that on February 24, 1993 Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing with the Federal Energy Regulatory Commission (Commission) First Revised Second Revised Sheet No. 23 to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheet is attached thereto. The proposed effective date of the enclosed tariff sheet is April 1, 1993.

On June 19, 1991, the Commission issued its "Order Approving Settlements As Modified And Issuing Certificates" in Docket Nos. CP88–391–004 *et al.* (June 19 Order), which approved with certain modifications TGPL's June 22, 1990 Settlement filed in Docket Nos. RP87–7–000 *et al.* (Rate Settlement) and TGPL's September 17, 1990 Settlement filed in Docket Nos. CP88–391 *et al.* (GIC Settlement). Pursuant to Article III of the GIC Settlement, during Phase II (April 1, 1991 through March 31, 1994), there shall be generally applicable fixed monthly Firm Service Fees. Specifically, commencing April 1, 1993, the monthly Firm Service Fee shall be $5.80 per Mcf of daily sales entitlement. Such Firm Service Fee is set forth in Exhibit A, section 3(c) of the FS Service Agreement. The purpose of this filing is to set forth in TGPL's Volume No. 1 Tariff the Firm Service Fee under Rate Schedule FS of $5.80 commencing April 1, 1993.

TGPL states that copies of the instant filing are being mailed to customers, State Commissions and other interested parties. In accordance with provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at TGPL's main offices

at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protest should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5203 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–9–29–000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

March 2, 1993.

Take notice that Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing on February 26, 1993 Fifth Revised Fourth Revised Sheet No. 50 to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheet is proposed to be effective February 1, 1993.

TGPL states that the purpose of the instant filing is to track a rate change attributable to the transportation service purchased from Texas Gas Transmission Corporation (Texas Gas) under its Rate Schedule FT the costs of which are included in the rates and charges payable under TGPL's Rate Schedule FT–NT. The tracking filing is being made pursuant to section 4 of TGPL's Rate Schedule FT–NT.

Included in appendix A attached to the filing is the explanation of the rate change and details regarding the computation of the revised FT–NT rates.

TGPL states that copies of the filing are being mailed to each of its FT–NT customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Streets, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5204 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–6–29–001]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

March 2, 1993.

Take notice that Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing on February 26, 1993 Second Substitute First Revised Sixth Revised Sheet No. 28 and Substitute Second Revised Sixth Revised Sheet No. 28 to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are proposed to be effective October 1, 1992 and December 1, 1992, respectively.

TGPL states that the purpose of the instant filing is to correct a typographical error in the SS–1 Demand charge reflected in TGPL's filing of December 22, 1992 in Docket No. TM93–6–29–000 (December 22 Filing). Included in such filing was a rate change attributable to the storage service purchased from North Penn Gas Company (North Penn) under its Storage Service rate schedule, the cost of which are included in the rates and charges payable under TGPL's Rate Schedule SS–1. Appendix B, Schedule 3 of the December 22 Filing reflected the correct SS–1 Demand charge of $8.1726 effective October 1, 1992. However, the rate was incorrectly transcribed as $8.176 on Substitute First Revised Sixth Revised Sheet No. 28 and Second Revised Sixth Revised Sheet No. 28 effective October 1, 1992 and December 1, 1992 respectively.

TGPL states that copies of the filing are being mailed to each of its SS–1 customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be on filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5205 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–86–000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

(March 2, 1993)

Take notice that, on February 26, 1993, Transwestern Pipeline Company (Transwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Tariff Sheet

Effective April 1, 1993:

2nd Revised Sheet No. 5A.05
Substitute 4th Revised Sheet No. 5B

Tariff Sheets

Effective April 1, 1993:

101st Revised Sheet No. 5
7th Revised Sheet No. 5A
3rd Revised Sheet No. 5A.01
3rd Revised Sheet No. 5A.05
5th Revised Sheet No. 5B
1st Revised Sheet No. 5E(v)
8th Revised Sheet No. 87
14th Revised Sheet No. 89
3rd Revised Sheet No. 89A

The above referenced tariff sheets are being filed by Transwestern to modify its take-or-pay, buy-out and buy-down mechanism ("Transition Cost Recovery" or "TCR" mechanism) in order to recover certain take-or-pay settlement, buy-out, buy-down, and contract reformation costs ("Transition Costs") which amounts it paid subsequent to the implementation date of its Gas Inventory Charge ("GIC"), October 1, 1989, and which do not qualify under the Litigation Exception provision of its tariff.

Further, Transwestern seeks to modify this exit point surcharge to provide a separate TCR C rate for its FTS–2 Rate Schedule customers. The previously filed exit point volumetric surcharges for FTS–1 and ITS–1 Rate Schedule customers are not altered by this minor change.

In addition, the above referenced tariff sheets include additional carrying charges associate with two previous Transition Cost Recovery filings, as permitted by the Commission in its

Order dated July 23, 1992 in Docket Nos. RP91–215–002 and RP92–8–002.

Transwestern has paid an additional $393,182.26 in Transition Costs ("TCR Amount Twelve") and is revising certain tariff sheets and requesting authority to begin recovery of such amounts under the tariff sheets.

Under the tariff sheets, Transwestern proposes to absorb twenty-five percent (25%) of the additional Transition Costs it has incurred and to recover the remaining seventy-five percent (75%) through an exit point, volumetric surcharge which includes a reconciliation or "true-up" mechanism.

Transwestern respectfully requests that the Commission grant any and all waivers of its rules, regulations, and orders as may be necessary so as to permit the above listed tariff sheets to become effective April 1, 1993.

Transwestern states that copies of the filing have been mailed to each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests must be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5206 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

Union Electric Co.; Filing

[Docket No. ER92–842–001]

February 25, 1993.

Take notice that on January 29, 1993, Union Electric Company tendered for filing a Second Amendment to the Wholesale Power Agreement between Union Electric Company (UE) and Central Illinois Public Service Company.

The purpose of this amendment is to comply with the Commission's letter of December 30, 1992 accepting UE's submittal for filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5231 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER92–537–001]

Union Electric Co.; Filing

February 25, 1993.

Take notice that on January 29, 1993, Union Electric Company tendered for filing a Second Amendment to the 60 Hertz Wholesale Power Agreement, a Third Amendment to the 25 Hertz Wholesale Power Agreement, and a Third Amendment to the Interchange Agreement, all between Union Electric Company and Iowa Electric Light and Power Company.

The purpose of these amendments is to comply with the Commission's letter of December 30, 1992 accepting Union Electric Company's submittal for filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5230 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EF93–5091–000]

Western Area Power Administration; Further Extension of Time

February 25, 1993.

On February 22, 1993, the Department of Water and Power for the City of Los Angeles (the City) and Southern California Edison Company (Edison) filed a motion for a further extension of time to file motions to intervene or protests in response to the Commission's Notice of Filing issued December 23, 1992, in the above-docketed proceeding. In the motion, the City and Edison state that the Western Area Power Administration (WAPA) and the Bureau of Reclamation have accepted a proposal of the City that the two government agencies and the Boulder Canyon Project Power contractors agree on a time table for negotiations with respect to issues that are a part of pending proceedings in the Commission with respect to Rate Order No. WAPA–58. The City and Edison state that additional time is needed to complete preparation of their intervention pending the outcome of these negotiations. The City and Edison also state that these issues also relate to a case which is pending in the U.S. District Court involving Rate Order No. WAPA–49.

Upon consideration, notice is hereby given that a further extension of time for filing motions to intervene and protests is granted to and including March 15, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5207 Filed 3–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–197–009]

Williston Basin Interstate Pipeline Co.; Report of Refunds

March 2, 1993.

Take notice that Williston Basin Interstate Pipeline Company (Williston Basin) on November 5, 1992, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Refund Report made in compliance with the Commission's "Order Denying Rehearing" issued September 21, 1992, in Docket Nos. RP88–197–007 and RP88–236–002.

Williston Basin states that on November 5, 1992, it refunded $6,406,817.63 inclusive of interest calculated in accordance with 18 CFR 154.67(c), to its customers. The refunds are for the period September 24, 1988 through May 31, 1989. Williston Basin states that the refunds were calculated

by comparing the rates billed for the refund period and the rates in the Compliance Filing submitted to the Commission on October 21, 1992.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-5208 Filed 3-5-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP93-220-000]

Williams Natural Gas Co.; Request Under Blanket Authorization

February 26, 1993.

Take notice that on February 19, 1993, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93-220-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install a tap, measuring, regulating and appurtenant facilities for the delivery of interruptible transportation gas to the City of Girard (Girard) in Crawford County, Kansas, under WNG's blanket certificate issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG states that it proposes to install the facilities in order to provide standby service to the Girard power plant during the summer months. It is further stated that the projected volume of delivery is estimated to be approximately 2,760 Dth per day. WNG states that the estimated cost of construction is $59,490, of which $54, 340 would be reimbursed by Girard.

WNG states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-5232 Filed 3-5-93; 8:45 am]

BILLING CODE 6717-01-M

Williams Natural Gas Co.

[Docket No. CP93-221-000]

February 26, 1993.

Take notice that on February 22, 1993, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93-221-000, a request pursuant to §§ 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act, to abandon the sale of gas to Peoples Gas Company (Peoples) for resale to the Town of Pershing in Osage County, Oklahoma, under Williams' blanket certificate authorization issued in Docket No. CP82-479-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams sold gas to Freedom under a resale sales agreement designated as Rate Schedule F. However, Peoples' successor, LeAnn Gas Company (LeAnn) [1] has requested that Williams cancel the sales agreement with Peoples as LeAnn has a firm transportation agreement in place which would take the place of Peoples's resale sales agreement.

No abandonment of facilities is requested in this proposal, as Williams indicates the facilities will remain in place and be available for the delivery of transportation gas. Williams also indicates that no construction or reclaim of facilities is involved with this proposal.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-5233 Filed 3-5-93; 8:45 am]

BILLING CODE 6717-01-M

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[1] LeAnn acquired the assets of Peoples on December 1, 1992.

Office of Hearing and Appeals

Notice of Cases Filed During the Week of February 12 Through February 19, 1993

During the Week of February 12 through February 19, 1993, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: March 2, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Feb. 12 through Feb. 19, 1993]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 16, 1993	Eugene Maples, Hopkins, SC	LFA–0271	Appeal of an Information request denial. If granted: The February 2, 1993 Freedom of Information Request Denial issued by the Atlanta Support Office would be rescinded, and Eugene Maples would receive access to correspondence relating to GAO audit report ER–B–92–06.
Feb. 17, 1993	Chevron USA, Inc., San Francisco, CA	LRJ–0003	Request for protective order. If granted: Chevron USA, Inc. would enter into a Protective Order regarding the release of proprietary information to James F. Flug of Lobel, Novins, Lamont & Flug in connection with Chevron USA, Inc. (Case No. LRO–0004).

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/ name of refund application	Case No.
2/12/93 thru 2/19/93.	Gulf Oil Refund Applications Received.	RF300–20932 thru RF300–21090.
2/12/93 thru 2/19/93.	Crude Oil Refund Applications Received.	RF272–94132 thru RF272–94243.
2/12/93 thru 2/19/93.	Texaco Oil Refund Applications Received.	RF321–19600 thru RF321–19614.
2/16/93	Refiners Distributing Corp.	RF 304–13604.
2/16/93	Gene S. Bula.	RC272–169.
2/17/93	Bill's Arco	RF304–13605.
2/17/93	W.W. Muffett Arco.	RF304–13606.
2/17/93	J&H Fuel Service.	RF304–13607.
2/17/93	Evett Oil Company.	RF304–13608.
2/17/93	Frank's Arco.	RF304–13609.
2/17/93	Maverick Arco.	RF304–13610.
2/17/93	Bowers Oil Company, Inc.	RF304–13611.
2/17/93	Fodi Atlantic Service.	RF304–13612.
2/17/93	Vallino's Arco.	RF304–13613.
2/17/93	Cooper Canal Station.	RF346–31.
2/17/93	Jeff Davis Canal.	RF346–32.
2/17/93	Richard Canal Station.	RF346–33.
2/17/93	Elton Canal Center.	RF346–34.

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/ name of refund application	Case No.
2/18/93	Morton Grove Service, Inc.	RF304–13614.
2/19/93	Atlas Arco	RF304–13615.

[FR Doc. 93–5278 Filed 3–5–93; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of February 8 Through February 12, 1993

During the week of February 8 through February 12, 1993, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Citizens' Action Committee of Pike County Citizens, 2/10/93, LFA–0262

The Citizens' Action Committee of Pike County Citizens filed an Appeal from a determination issued to it by the Oak Ridge Field Office of the Department of Energy (DOE) in response to a Request for Information submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that there are no records concerning post-1979 shipments of contaminated waste to the Portsmouth Gaseous Diffusion Plant in Piketon, Ohio from either the Fernald Environmental Management Project site near Cincinnati, Ohio or the Miamisburg, Ohio Mound Facility. No responsive documents exist because, to the best knowledge of those concerned, no such shipments have occurred. The DOE, therefore, determined that the search for documents in the classified and unclassified records of the DOE and its contractor was adequate. Accordingly, the Appeal was denied.

Glen Milner, 2/8/93, KFA–0183, KFA–0230, KFA–0273

On April 25, 1988, and November 25, 1988, Glen Milner filed Appeals from determinations issued by the Albuquerque Operations Office of the DOE in response to a request that he submitted under the Freedom of Information Act (FOIA). In these determinations, Albuquerque withheld, except the Title and Signature pages, Technical Manual TP 45–51A, claiming that the Manual was exempt from disclosure under Exemptions 1, 2, and 3 of the FOIA. On Appeal, the DOE determined that all of the material within the Technical Manual must continue to be withheld as properly classified Restricted Data (RD) or Unclassified Controlled Nuclear Information (UCNI), protected under the Atomic Energy Act of 1954 and exempt from disclosure under Exemption 3, or National Security Information (NSI), exempt from disclosure under Exemption 1. In addition, because the Technical Manual is a joint DOE/Department of Defense (DOD) publication, DOD was asked to perform a supplementary review. The DOD agreed with DOE findings and also determined that the document contained Exemption 2 information, i.e., unclassified information on internal matters, the disclosure of which would allow circumvention of a rule or regulation, thereby impeding the government's ability to perform its assigned roles and functions. Therefore, the Appeal was denied in part and granted in part so that a copy of the new

Title and Signature pages could be sent to Mr. Milner.

Harbert Corporation, 2/10/93, LFA–0264

The Harbert Corporation filed an Appeal from a determination issued to the firm by the Director of the Office of Placement and Administration in response to a Freedom of Information Request. The applicant sought records pertaining to the financing and construction of the Agrifuels alcohol fuels plant located in New Iberia, Louisiana. In his determination, the Director withheld 20 documents on the ground that they fell within the scope of FOIA Exemption 5. In considering the Appeal, the DOE found that the Director's determination was deficient because (1) it did not adequately describe the withheld documents or explain the reasons why they fell within the scope of Exemption 5, (2) it did not explain why documents originating with DOE contractors should be considered intra-agency documents that are withholdable under Exemption 5, and (3) it did not consider whether the withheld documents should be released in the public interest. Under these circumstances, the Appeal was granted in part, and the matter was remanded to the Director for a new determination.

Implementation of Special Refund Procedures

Automatic Comfort Corporation, 2/8/93, LEF–0005

A Decision and Order was issued implementing a plan for the distribution of funds received pursuant to a consent order entered into between Automatic Comfort Corporation (Automatic) (now d/b/a Connecticut Petroleum Marketers) and the DOE. The DOE determined that the Automatic funds should be distributed pursuant to subpart V. The specific information to be included in Applications for Refund is set forth in the Decision.

Refund Applications

Apex Oil Co., Clark Oil & Refining Corp./Halron Oil Co., Inc., 2/11/93, RF342–78

The DOE issued a Decision and Order denying an Application for Refund filed by Halron Oil Co., Inc. (Halron), in the Apex/Clark special refund proceeding. In response to the DOE's initial conclusion that Halron was a spot purchaser, Halron argued that because it regularly supplied its customer base with isolated purchases from a variety of suppliers, it was a "regular" customer of Clark petroleum products. The DOE determined that because Halron had discretionary ability to purchase product only when it was economically advantageous to do so, it was not a regular customer of Clark for the purposes of the Apex/Clark proceeding. In addition, although Halron argued that it was economically disadvantaged because Clark charged higher prices to Halron than to its jobbers, the mere fact that Halron may have purchased product at higher prices did not establish that it was unable to pass through the increased costs to its customers. Accordingly, Halron's Application for Refund was denied.

Good Hope Refineries/Howard Oil Company, Inc., Exxon Company, USA, 2/12/93, RF339–5, RF339–7

Howard Oil Company, Inc. and Exxon Company, USA filed Applications for Refund Seeking portions of a $9 million fund which the successor to Good Hope Refineries remitted to the DOE under the terms of a July 31, 1979 Consent Order. Under the refund procedures established in *Good Hope Refineries*, 21 DOE ¶ 85,309 (1991) (*Good Hope II*), Howard Oil and Exxon were eligible to receive certain shares of the Good Hope fund that were specified by the Department's Economic Regulatory Administration in an Appendix to *Good Hope II*, subject to a presumption of injury for mid-range reseller and refiner claimants. Accordingly, each firm received a refund of $50,000 plus interest, under the mid-range presumption of injury.

Gulf Oil Corporation/Munford, Inc. 2/9/93, RR300–198

The DOE issued a Decision and Order concerning a Motion for Reconsideration submitted in the Gulf Oil Corporation special refund proceeding by Munford, Inc., a reseller of petroleum products that is currently a Chapter 11 debtor. Munford, Inc. was granted a refund for purchases of 184,068,767 gallons of Gulf petroleum products under the 40 percent presumption of injury. The total refund granted to Munford, Inc. was $79,518. In addition, the DOE ruled that it will continue to send refund checks directly to the applicant in cases where the applicant is represented by Resource Refunds, Inc., a private filing service.

Murphy Oil Corporation, Williams Energy Company et. al., 2/8/93, RF309–649 et al.

The DOE issued a Decision and Order granting four and denying three Applications for Refund filed in the Murphy Oil Corporation special refund proceeding on behalf of Williams Energy Company (WEC) and four of its affiliates. The DOE determined that the original owner of Best Gas & Oil Co., Inc. (Best), retained the right to a refund for Best's Murphy purchases when it sold the assets of the firm to WEC in 1979. Therefore, the DOE granted the applicant a refund for purchases made prior to the sale. The DOE denied three applications filed by David Petroleum (Davis) on behalf of WEC, Buckeye Gas Products Company (Buckeye), WEC successor-in-name, and Davis Oil, a company whose business WEC acquired in 1976. Because Davis purchased only the Minnesota operations of Buckeye in a sale of assets only, the DOE determined that Davis had not purchased the right to a refund for the three firms and therefore denied Davis' applications. Finally, the DOE determined that Ferrellgas, Inc. (Ferrellgas), purchased the right to a refund for purchases made by WEC, Best, Davis Oil, and Agasie Oil Co. (Agasie) when it purchased all of the assets of Buckeye, the successor to WEC and parent of Best, Davis Oil, and Agasie. Ferrellgas acquired all of Buckeye's assets when it purchased 100% of the partnership interest in Buckeye Gas Products Company, L.P. (Buckeye L.P.), a newly-created limited partnership to which Buckeye had implicitly transferred the right to a refund. The DOE initially identified Agasie as a spot purchaser, and Ferrellgas declined to challenge our conclusion. Therefore, the DOE granted Ferrellgas' Applications for Refund filed on behalf of WEC, Best, and Davis Oil and denied the Application filed on behalf of Agasie. The total amount of the refunds granted in this Decision and order is $4,603 (comprised of $2,135 principal and $1,028 interest).

Shell Oil Company/Day Oil Co., 2/8/93, RF315–7437

The DOE issued a Decision and Order granting an Application for Refund filed in the Shell Oil Company special refund proceeding on behalf of Day Oil Co. (DOC). The applicants, Dorence and Janet Noteboom, claimed a refund on the Shell products purchased by DOC during the consent order period. Mr. and Mrs. Noteboom had sold the right to the DOC refund, along with all issued and outstanding stock in DOC, to Cummings Transfer Co. (Cummings) in 1987. Subsequently, however, Cummings assigned the right to the DOC refund to Mr. and Mrs. Noteboom. This assignment indicated that Cummings did not intend to acquire the right to the refund when it purchased all stock in the firm. Accordingly, the DOC refund was granted to Mr. and Mrs. Noteboom.

Texaco Inc./Blackie's Texaco Service, Blackie's Texaco, 2/9/93, RF321–16870, RF321–18933

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Texaco Inc. subpart V special refund proceeding on behalf of Blackie's Texaco, a retail outlet located in Fort Worth, Texas. These applicants both claimed the right to receive the refund for the outlet's Texaco purchases made during the refund period. In this instance, in which a change of ownership took place after the refund period, the DOE examined the Sale and Purchase Agreement and found that the right to the refund was not transferred when the ownership changed. Therefore, the refund of $8,165 ($6,062 in principal and $2,103 in interest) was granted to the widow of the owner of the outlet during the refund period, Mrs. Mary L. Wardlow (RF321–16870).

Texaco Inc./Bob Spaulding Texaco, 2/11/93, RF321–19584, RF321–19586

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Texaco Inc. subpart V special refund proceeding on behalf of Bob Spaulding Texaco, a retail outlet located in Tucson, Arizona. Robert W. Spaulding (Case No. RF321–19586) claimed the right to the full refund while his former wife, Jeanine Spaulding (Case No. RF321–19584), claimed the right to one-half of the refund. The applicants were married throughout the refund period and the outlet was purchased and sold during the course of the marriage. The DOE examined the parties' divorce decree and the applicable Arizona community property law and found that the applicants were each eligible for one-half of the refund. Therefore, the refund of $1,548 ($1,150 in principal and $398 in interest) was divided between the Jeanine Spaulding and Robert W. Spaulding as co-owners of the retail outlet during the refund period.

Texaco Inc./Boston Edison Company, 2/12/93, RF321–16983

The DOE issued a Decision and Order granting an Application for Refund filed by Boston Edison Company in the Texaco Inc. subpart V special refund proceeding. Boston Edison, a public utility whose prices for services are regulated by a governmental agency, claimed a refund equal to its full allocable share based on the presumption of injury for regulated firms and cooperatives. Boston Edison also certified that it will pass through to its customers the entire refund amount it receives and that it will notify its State regulatory agency of receipt of the refund. Accordingly, Boston Edison was granted a refund of $1,620,494 ($1,203,129 principal plus $417,365 interest) based on Texaco purchases of 1,093,753,830 gallons of residual fuel oils.

Texaco, Inc./White Lane Texaco, White Lane Texaco, 2/10/93, RF321–13737, RF321–17159

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Texaco Inc. special refund proceeding. These applications were filed by Jack and Nelma Hammons, who purchased and operated White Lane Texaco during the course of their marriage. Their marriage was dissolved by a divorce decree issued in 1982. In his application (Case No. RF321–17159) Jack Hammons claimed that he was entitled to the entire refund based on the purchases of petroleum products by White Lane Texaco during the period March 1973 through January 1981. Nelma Hammons claimed she was entitled to one-half the refund. In support of her position that she should receive one-half of the refund, she submitted a 1984 Judgment of the Superior Court of California and other documents concerning the division of marital assets which indicated that the service station was community property. In considering the applications, the DOE determined that as husband and wife in a community property state, both parties bore the burden of Texaco's alleged overcharges during the refund period. The DOE also determined that since all of the couple's property disposed of by the Judgment, except that which was expressly excluded, was considered to be community in nature, so too should be the refund for the purchases made by White Lane Texaco. Accordingly, the DOE concluded that Jack Hammons and Nelma Hammons were entitled to equal shares of the refund based on the outlet's purchases. Therefore, the Hammons were each awarded one-half of the refund of $5,160 ($3,800 plus $1,306 interest).

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Dave Grant's Arco et al	RF304–13373	02/12/93
Atlantic Richfield Company/Lowell O. Volden et al	RF304–13537	02/09/93
Atlantic Richfield Company/Terry's Arco	RF304–13510	02/11/93
Gerry's Atlantic Service	RF304–13511	
Jones Arco	RF304–13515	
Jones Arco	RF304–13560	
Atlantic Richfield Company/Tom Moore's Arco et al	RF304–13371	02/11/93
Bangor & Aroostook Railroad Co	RF272–93385	02/11/93
City of York, Pennsylvania et al	RF272–88010	02/10/93
Enron Corp./Midwest Products Supply Co., Inc	RF340–36	02/11/93
Milton Propane, Inc	RF340–122	
Grand Trunk Western Railroad	RF272–82308	02/09/93
The Great Lakes Towing Co	RF272–90022	
Gulf Oil Corporation/Agrico Chemical Company	RF300–15174	02/11/93
Gulf Oil Corporation/Cumbee Oil Co	RF300–14233	02/10/93
Gulf Oil Corporation/Fusco Motors	RF300–16884	02/12/93
Gulf Oil Corporation/Mineral Springs Gulf et al	RF300–13197	02/09/93
Gulf Oil Corporation/Page's Convenience Store et al	RF300–17022	02/10/93
Gulf Oil Corporation/R&R Gulf et al	RF300–14047	02/12/93
Gulf Oil Corporation/Truckman Service Corp. et al	RF300–16526	02/12/93
Johnson Controls Battery Group	RF272–92816	02/12/93
Newark Valley Central School et al	RF272–82408	02/08/93
Phelps Dodge Corporation	RF272–92658	02/11/93
Rising Star Independent School District et al	RF272–80717	02/10/93
Shell Oil Company/Arrow Gas Realty Corp	RF315–1780	02/12/93

Shell Oil Company/Bayfront Shell et al	RF315–8330	02/09/93
South Kingstown School Dept. et al	RF272–82629	02/09/93
Spentonbush Transportation Service	RF272–76901	02/11/93
Tesoro Petroleum Corp./Koch Refining Company	RF326–260	02/10/93
Wood River Oil & Refining Co	RF326–328	
Texaco Inc./Charter Oak Texaco et al	RF321–10310	02/09/93
Texaco Inc./Kenneth Stanley Texaco Distributor et al	RF321–16803	02/08/93
Texaco Inc./M.D. Geer Texaco et al	RF321–17418	02/12/93
Texaco Inc./Max's Texaco	RF321–19587	02/12/93
Max's Texaco	RF321–19588	
Texaco Inc./Mickey's Sales & Service et al	RF321–10536	02/08/93
Texaco Inc./Mordale Texaco et al	RF321–10675	02/09/93
Texaco Inc./Wildwood Texaco et al	RF321–13022	02/12/93

Dismissals

The following submissions were dismissed:

Name	Case No.
Acme Oil Company	RF300–17639
Arvin Rooks Gulf	RF300–15099
Attala Lumber Company	RF300–17945
Bennett Gardens	RF300–14296
C.T. Kersey and Son Farm.	RF300–17132
Cesaro & Gatter, Inc	RF304–12932
Cousins Arco	RF304–12901
Delnero's Gulf	RF300–15095
J.H. Lout Grocery	RF300–17227
Mountain Manor, Inc	RF300–14297
Olympian Oil Company	RF304–12716
Pittsburg Independent School District.	RF272–63725
Preston Gates Ellis & Rouvelas Meeds.	LFA–0250
Robert E. Reedy & Sons Company.	RF304–13489
Robert Marshall Gulf Service.	RF300–16464

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: March 2, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 93–5279 Filed 3–5–93; 8:45 am]

BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of $340,000, plus accrued interest, in alleged crude oil overcharges obtained by the DOE under the terms of a Consent Order and Settlement Agreements entered into with Walter J. Scott & Benjamin J. Agajanian Oil Producers, William J. Scott, and Walter J. Scott d/b/a Scott Oil Company, Case No. LEF–0053. The OHA has determined that the funds obtained from these three firms, plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges.

DATES AND ADDRESSES: Applications for Refund must be filed in duplicate, addressed to "Subpart V Crude Oil Overcharge Refunds," and sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Applications must be postmarked by June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–2094 (Mann); 586–2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute to eligible claimants $340,000, plus accrued interest, obtained by the DOE under the terms of a Consent Order and Settlement Agreements entered into with Walter J. Scott & Benjamin J. Agajanian Oil Producers, Walter J. Scott d/b/a Scott Oil Company, and William J. Scott on December 17, 1986, July 27, 1991, and December 2, 1991. The funds were paid by these three firms towards the settlements of common violations of the Federal petroleum price and allocation regulations that were in effect from August 19, 1973 through January 28, 1981.

The OHA will distribute the Scott Settlement fund in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge monies are divided between the Federal government, the states, and injured purchasers of refined petroleum products. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers will be based on the number of gallons of petroleum products which they purchased and the degree to which they can demonstrate injury.

Applications for Refund must be postmarked by June 30, 1994. Any claimant which has already filed a subpart V crude oil refund application should not file another application, as the prior application will be deemed to be filed in this crude oil refund proceeding. Instructions for the completion of crude oil refund applications are set forth in the Decision that immediately follows this notice. Refund claims should be sent to the address listed at the beginning of this notice.

Unless labelled as "confidential," all submissions must be made available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E–234, 100 Independence Avenue, SW., Washington, DC 20585.

Dated: February 25, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Name of Firm: Walter J. Scott & Benjamin J. Agajanian, Oil Producers. William J. Scott, Walter J. Scott d/b/a Scott Oil Company.

Date of Filing: December 11, 1992.

Case Number: LEF–0053.

On December 11, 1992, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition for the Implementation of Special Refund

Procedures with the Office of Hearings and Appeals (OHA), to distribute the funds which Walter J. Scott & Benjamin J. Agajanian Oil Producers, Walter J. Scott d/b/a Scott Oil Company, and William J. Scott remitted to the DOE pursuant to a December 17, 1986 Consent Order, a July 27, 1991 Settlement Agreement and General Agreement, and a December 2, 1991 Settlement Agreement and General Release. These three firms have remitted $340,000 pursuant to their respective Consent Order and Settlement Agreements, to which $59,226 has accrued as of January 31, 1993. In accordance with the procedural regulations codified at 10 CFR part 205, subpart V (subpart V), the ERA requests in its Petition that the OHA establish special procedures to make refunds in order to remedy the effects of alleged regulatory violations which were resolved by the above mentioned Consent Order and Settlement Agreements. This Decision and Order sets forth the OHA's plan to distribute these funds.

I. Background

The ERA issued Proposed Remedial Orders (PROs) to the above mentioned firms on June 4, 1982, alleging that they had violated the DOE price regulations. In the PROs, the ERA found that the three firms had sold crude oil from various leases during the respective audit periods at prices in excess of the lower-tier ceiling price specified in 10 CFR 212.73. On March 21, 1984, the DOE issued a Remedial Order that consolidated the Proposed Remedial Orders issued to the three firms for common violations of the Federal petroleum price and allocation regulations that were in effect from August 19, 1973 through January 28, 1981. The DOE and Benjamin J. Agajanian entered into a December 17, 1986 Consent Order, whereby Agajanian was directed to pay the sum of $105,000, plus interest, to the DOE. The DOJ and William J. Scott entered into a July 27, 1991 Settlement Agreement and General Agreement, whereby Scott was directed to pay the sum of $125,000, plus interest, to the DOJ to settle all claims. In addition, the DOJ and Walter J. Scott entered into a December 2, 1991 Settlement Agreement and General Release, whereby Scott was directed to pay the sum of $110,000, plus interest to the DOJ to settle all claims. The three firms in total have remitted $340,000, to which $59,226 in interest has accrued as of January 31, 1993, making available a total of $399,226 (the Scott Settlement fund) for distribution through subpart V. These funds are being held in an interest-bearing escrow account maintained at the Department of the Treasury pending a determination regarding their proper distribution.

II. Jurisdiction and Authority

The subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the subpart V process to distribute such funds. For a more detailed discussion of subpart V and the authority of OHA to fashion procedures to distribute refunds, see Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. 4501–07, Office of Enforcement, 9 DOE ¶ 82,508 (1981), and Office of Enforcement, 8 DOE ¶ 82,597 (1981).

We have considered the ERA's petition that we implement a subpart V proceeding with respect to the Scott Settlement fund and have determined that such a proceeding is appropriate. This Decision and Order sets forth the OHA's plan to distribute this fund.

III. Refund Procedures

On January 7, 1993, OHA issued a Proposed Decision and Order (PD&O) establishing tentative procedures to distribute the Scott Settlement fund. That PD&O was published in the **Federal Register**, and a 30-day period was provided for the submission of comments regarding our proposed refund plan. See 58 FR 4430 (January 14, 1993). More than 30 days have elapsed and the OHA has received no comments concerning the proposed procedures for the distribution of the Scott Settlement fund. Consequently, the procedures will be adopted as proposed.

A. Crude Oil Refund Policy

The funds obtained pursuant to the above mentioned Consent Order and Settlement Agreements will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986) (the MSRP). The MSRP was issued as a result of a court-approved Settlement Agreement In re: The Department of Energy Stripper Well Exemption Litigation, 653 F. Supp. 108 (D. Kan.), 6 Fed. Energy Guidelines ¶ 90,509 (1986) (the Stripper Well Settlement Agreement). The MSRP establishes that 40 percent of the crude oil overcharge funds will be remitted to the federal government, another 40 percent to the states, and up to 20 percent may be initially reserved for the payment of claims by injured parties. The MSRP also specifies that any monies remaining after all valid claims by injured purchasers are paid be disbursed to the federal government and the states in equal amounts.

The OHA has utilized the MSRP in all Subpart V proceedings involving alleged crude oil violations. See Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). This Order provided a period of 30 days for the filing of comments or objections to our proposed use of the MSRP as the groundwork for evaluating claims in crude oil refund proceedings. Following this period, the OHA issued a Notice evaluating the numerous comments which it received pursuant to the Order Implementing the MSRP. This Notice was published at 52 FR 11737 (April 10, 1987) (the April 10 Notice).

The April 10 Notice contained guidance to assist potential claimants wishing to file refund applications for crude oil monies under the subpart V regulations. Generally, all claimants would be required to (1) document their purchase volumes of petroleum products during the August 19, 1973 through January 27, 1981 crude oil price control period, and (2) prove that they were injured by the alleged crude oil overcharges. We also specified that end-users of petroleum products whose businesses are unrelated to the petroleum industry will be presumed to have been injured by the alleged crude oil overcharges and need not submit any additional proof of injury beyond documentation of their purchase volumes. See City of Columbus, Georgia, 16 DOE ¶ 85,550 (1987). Additionally, we stated that crude oil refunds would be calculated on the basis of a per gallon (or "volumetric") refund amount, which is obtained by dividing the crude oil refund pool by the total consumption of petroleum products in the United States during the crude oil price control period. The OHA has adopted the refund procedures outlined in the April 10 Notice in numerous cases. See e.g., Shell Oil Co., 17 DOE ¶ 85,204 (1988) (Shell); Mountain Fuel Supply Co., 14 DOE ¶ 85,475 (1986) (Mountain Fuel).

B. Refund Claims

We will adopt the DOE's standard crude oil refund procedures to distribute the monies in the Scott Settlement fund. We have chosen to initially reserve 20 percent of the fund, plus accrued interest, for direct refunds to claimants in order to ensure that sufficient funds will be available for injured parties. This reserve figure may later be reduced if circumstances warrant.

The OHA will evaluate crude oil refund claims in a manner similar to that used in subpart V proceedings to evaluate claims based on alleged refined product overcharges. See Mountain Fuel, DOE at 88,869. Under these procedures, claimants will be required to document their purchase volumes of petroleum products and prove that they were injured as a result of the alleged violations.

We will adopt a presumption that the crude oil overcharges were absorbed, rather than passed on, by applicants which were (1) end-users of petroleum products, (2) unrelated to the petroleum industry, and (3) not subject to the regulations promulgated under the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. 751–160h. In order to receive a refund, end-user claimants need not submit any evidence of injury beyond documentation of their purchase volumes. See Shell, 17 DOE at 88,406.

Petroleum retailer, reseller, and refiner applicants must submit detailed evidence of injury, and they may not rely upon the injury presumptions utilized in some refined product refund cases. *Id.* These applicants may, however, use econometric evidence of the type found in the OHA Report on Stripper Well Overcharges, 6 Fed. Energy Guidelines ¶ 90,507 (1985). See also Petroleum Overcharge Distribution and Restitution Act 3003(b)(2), 15 U.S.C. 4502(b)(2). If a claimant has executed and submitted a valid waiver pursuant to one of the escrows established by the Stripper Well Settlement Agreement, it has waived its rights to file an application for subpart V crude oil refund monies. See *Mid-America Dairymen* v. *Herrington*, 878 F.2d 1448 (Temp. Emer. Ct. App.), 3 Fed. Energy Guidelines ¶ 26,617 (1989); In re: Department of Energy Stripper Well Exemption Litigation, 707 F. Supp. 1267 (D. Kan.), 3 Fed. Energy Guidelines ¶ 26,613 (1987).

As has been stated in prior Decisions, a crude oil refund applicant will only be required to submit one application for its share of all available crude oil overcharge funds. See e.g., A. Tarricone, Inc., 15 DOE ¶ 85,495 (1987). A party that has already submitted a claim in any other crude oil refund proceeding implemented by the DOE need not file another claim. The prior application will be deemed to be filed in all crude oil refund proceedings finalized to date. The DOE has established June 30, 1994 as the current deadline for filing an Application for Refund from the crude oil funds. Quintana Energy Corp., 21 DOE ¶ 85,032 (1991). It is the policy of the DOE to pay all crude oil refund claims at the rate of $.0008 per gallon. While we anticipate that applicants that filed their claims before June 30, 1988 will receive a supplemental refund payment, we will decide in the future whether claimants that filed later applications should received additional refunds. See e.g., Seneca Oil Co., 21 DOE ¶ 85,327 (1991). Notice of any additional amounts available in the future will be published in the **Federal Register**.

C. Crude Oil Application Requirements

To apply for a crude oil refund, a claimant should submit an Application for Refund containing all of the following information:

(1) Identifying information including the claimant's name, current business address, business address during the refund period, taxpayer identification number, a statement indicating whether the claimant is a corporation, partnership, sole proprietorship, or other business entity, the name, title, and telephone number of a person to contact for any additional information, and the name and address of the person who should receive any refund check.[1] If the applicant operated under more than one name or under a different name during the price control period, the applicant should specify these names;

(2) If the applicant's firm is owned by another company, or owns other companies, a list of those companies' names, addresses, and descriptions of their relationship to the applicant's firm;

(3) A brief description of the claimant's business and the manner in which it used the petroleum products listed on its application;

(4) A statement identifying the petroleum products which the applicant purchased during the period August 19, 1973 through January 27, 1981, an annual schedule displaying the number of gallons of each petroleum product purchased during this refund period, and the total number of gallons of all petroleum products claimed on the refund application;

(5) An explanation as to how the applicant obtained the above mentioned purchase volumes, and, if estimates were used, a description of its method of estimation;

(6) A statement that neither the claimant, its parent firm, affiliates, subsidiaries, successors, nor assigns has waived any right it may have to receive a crude oil refund (e.g., by having executed and submitted a valid waiver accompanying a claim to any of the escrow accounts established pursuant to the Stripper Well Settlement Agreement);

(7) A statement that the applicant has not filed any other refund application in the subpart V crude oil refund proceeding;

(8) If the applicant is not an end-user, was covered by the DOE price regulations, or is related to the petroleum industry, a showing that the applicant was injured by the alleged crude oil overcharges;

(9) If the Applicant is a regulated utility or a cooperative, certifications that it will pass on the entirety of any refund received to its customers, will notify its state utility commission, other regulatory agency, or membership body of the receipt of any refund, and a brief description as to how the refund will be passed along;

(10) The statement listed below signed by the individual applicant or a responsible official of the company filing the refund application:

I swear (or affirm) that the information contained in this application and its attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application which will be placed in the OHA Public Reference Room.

All applications should be either typed or printed and clearly labeled "Application for Crude Oil Refund." Each applicant must submit an original and one copy of the application. If the applicant believes that any of the information in its application is confidential and does not wish for this information to be publicly disclosed, it must submit an original application, clearly designated "confidential," containing the confidential information, and two copies of the application with the confidential information deleted. All refund applications should be sent to: Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW. Washington, DC 20585.

The filing deadline is June 30, 1994. Even though an applicant is not required to use any specific form for its crude oil refund application, a suggested form has been prepared by the OHA and may be obtained by sending a written request to the address listed above.

D. Payments to the Federal Government and the States

Under the terms of the MSRP, the remaining eighty percent of the alleged crude oil overcharge amounts subject to this Decision, plus accrued interest, will be disbursed in equal shares to the states and federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Settlement Agreement, 6 Fed. Energy Guidelines ¶90,509 at 90,687. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Settlement Agreement.

It is therefore ordered that

(1) Applications for Refund from the alleged crude oil overcharges remitted to the Department of Energy by Walter J. Scott & Benjamin J. Agajanian Oil Producers, William J. Scott, and Walter J. Scott d/b/a Scott Oil Company, pursuant to the Consent Order and Settlement Agreements entered into on December 17, 1986, July 27, 1991, and December 2, 1991, may now be filed.

(2) All crude oil refund applications submitted pursuant to Paragraph (1) above must be postmarked no later than June 30, 1994.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Controller's Office, Department of Energy, shall transfer a total of $136,000, plus accrued interest, from the subaccounts denominated "Scott & Agajanian" (Consent Order No. 940C00115W, $64,000), "Scott Oil Company" (Consent Order No. 940C00107W. $22,000), and "William J Scott" (Consent Order No. 940C00177W, $50,000) into the subaccount denominated "Crude Tracking-States," Account No. 999DOE003W.

(4) The Director of Special Accounts and Payroll shall transfer a total of $136,000, plus accrued interest, from the subaccounts denominated "Scott & Agajanian" ($64,000), "Scott Oil Company" ($22,000), and "William J Scott" ($50,000) into the subaccount denominated "Crude Tracking-Federal," Account No. 999ZDOE002W.

(5) The Director of Special Accounts and Payroll shall transfer a total of $68,000, plus accrued interest, from the subaccounts denominated "Scott & Agajanian" ($32,000), "Scott Oil Company" ($11,000), and "William J Scott" ($25,000) into the subaccount denominated "Crude Tracking-Claimants 4," Account No. 999DOE010Z.

Dated: February 25, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 93-5280 Filed 3-5-93; 8:45 am]

BILLING CODE 6450-01-M

[1] Under the Privacy Act of 1974, the submission of a social security number by an individual applicant is voluntary. An applicant that does not with to submit a social security number must submit an employer identification number if one exists. This information will be used in processing refund applications, and is requested pursuant to our authority under the Petroleum Overcharge Distribution and Restitution Act of 1986 and the regulations codified at 10 CFR part 205, subpart V. The information may be shared with other Federal agencies for statistical, auditing or archiving purposes, and with law enforcement agencies when they are investigating a potential violation of civil or criminal law. Unless an applicant claims confidentiality, this information will be available to the public in the Public Reference Room of the Office of Hearings and Appeals.

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4601-4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 7, 1993.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THIS ICR, CONTACT: Ms. Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Federal Implementation Plan for Ozone in the Chicago Area-Information Requirements (EPA ICR No. 1565.02; OMB No. 2060-0203). This is a request for reinstatement of a previously approved information collection, for which there is no change in the substance or method of collection.

Abstract: Sources in the Chicago area which emit or use volatile organic materials must keep sufficient records to determine their compliance with the requirements to which they are subject under the Federal Implementation Plan (FIP) for the Chicago, Illinois, ozone nonattainment area. The FIP includes corrections to the existing Illinois stationary source control strategy to reflect Reasonably Available Control Technology. The records and reports required by the FIP are necessary to enable EPA to identify sources subject to the regulations, ensure that the sources comply with the standards and limitations of the regulations, and evaluate reasonable further progress toward achieving the National Ambient Air Quality Standard for ozone.

Burden Statement: The public reporting burden for this collection of information is estimated to average 3 hours per response for reporting, and 80 hours per recordkeeper annually. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Sources in Cook, DuPage, Kane, Lake, McHenry, and Will Counties in Illinois that emit or use volatile organic materials.

Estimated Number of Respondents: 4,093.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 341,222 hours.

Frequency of Collection: One time notifications.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC, 20460.

and

Mr. Chris Wolz, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW.,Washington, DC, 20503.

Dated: March 2, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93-5264 Filed 3-5-93; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-59299G; FRL-4575-1]

Certain Chemicals, Extension of Test Marketing Period for Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of extension to the test marketing period for test marketing exemptions (TMEs) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA designated the original test marketing applications as TME-91-19 and TME-91-20. Therefore, this extension is a modification of the previously granted TMEs. The test marketing conditions are described below.

EFFECTIVE DATES: March 1, 1993.

FOR FURTHER INFORMATION CONTACT: David Glamporcaro, Biotechnology Program, Section Chief, Chemical Control Division (TS-794), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-613, 401 M St. SW., Washington, DC 20460, (202) 260-6362.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves the extension of the test marketing period for TME-91-19 and TME-91-20. EPA has determined that test marketing of the pesticide intermediates described below, under the conditions set out in the TME applications and modification requests, and for the modified time periods specified below, will not present an unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the original application. All other conditions and restrictions described in the original Notice of Approval of Test Marketing Application must be met.

T-91-19 and T-91-20

Notice of Approval of Original Application: July 8, 1991 (56 FR 30923).

Further extension of Modified Test Marketing Period: May 1, 1993, representing a 61-day extension from the previous expiration date of March 1, 1993.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

Dated: March 1, 1993.

Paul J. Campanella,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93-5257 Filed 3-5-93; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4602-3]

Rhode Island Marine Sanitation Device Standard; Receipt of Petition

Notice is hereby given that a petition has been received from the State of Rhode Island requesting a determination by the Regional Administrator, Environmental Protection Agency,

pursuant to section 312(f)(3) of Public Law 92–500 as amended by Public Law 95–217 and Public Law 100–4, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for Great Salt Pond, in the Town of New Shoreham, County of Washington, within the State of Rhode Island. The Town of New Shoreham is located on Block Island, in the Atlantic Ocean, approximately 11 nautical miles south-southwest of Point Judith, Rhode Island, and 12 nautical miles east of Montauk Point on Long Island, New York. Block Island is shaped like a teardrop, approximately six miles long and varying in width from one mile at its northern end to three-and-a-half miles at its southern end. The total land area is approximately 6,000 acres.

Great Salt Pond dominates the center of Block Island, nearly separating its northern and southern halves. The Pond is entirely land-locked except for a single entrance channel at its northwest corner, which at its narrowest point is slightly less than 300 feet wide and 15 feet deep. Great Salt Pond has a surface area of approximately 770 acres, and its maximum depth is 55 feet at mean low water.

The State of Rhode Island has certified that there are four pumpout facilities available to service vessels in Great Salt Pond.

Pumpout facility No. 1 is a mobile, vessel-mounted unit owned by the Town of New Shoreham and operated by the Block Island Harbors Department. The pumpout unit is mounted on a 23-foot Ocean Scout motor launch and connected to a 300 gallon holding tank built into the hull. Pumpout service is provided from 7 to 11 a.m. and from 1 to 4 p.m. daily. Pumpout service is free for boats on Town-owned moorings, and costs $10 for boats on private moorings, at anchor, or alongside private docks.

Pumpout facility No. 2 is located at Champlin's Marina, on the southwestern shore of Great Salt Pond, and will accommodate vessels with a draft of 15 feet. This facility is open from 7 a.m. to 8 p.m., seven days a week. Pumpout service is free for marina patrons, and costs $15 for others.

Pumpout facility No. 3 is located at the Block Island Boat Basin, on the southern shore of Great Salt Pond, and will accommodate vessels with a draft of ten feet. This facility is open from 7 a.m. to 8 p.m., seven days a week. Pumpout service is free for customers, and costs $12.50 for others.

Pumpout facility No. 4 is located at Payne's Dock, in the southeastern corner of Great Salt Pond, and will accommodate vessels with a draft of 14 feet. This facility is open from 7 a.m. to 8 p.m., seven days a week. Pumpout service is available only to marina patrons, and is free of charge.

The three privately-operated pumpout facilities are connected to the municipal sewage system, and the pumpout boat discharges to the Block Island Boat Basin pumpout facility. The New Shoreham Water Pollution Control Facility is located on Spring Street, just south of Old Harbor, and discharges to the Atlantic Ocean. The facility was commissioned in 1977, and an upgrade to increase its capacity was completed in 1990. The facility provides secondary treatment utilizing activated sludge and extended aeration, and has consistently met EPA and Rhode Island Department of Environmental Management effluent discharge standards.

While there are only approximately 130 boats registered with the Town of New Shoreham, boat counts on weekends during the summer season (which extends from Memorial Day through Columbus Day) regularly exceed 1,000, and have approached 1,500 on some holiday weekends. The Block Island Harbors Department estimates that the live-aboard population on such weekends is on the order of 4,000. None of these vessels will be excluded from using one or more of the existing pumpout facilities.

Comments and views regarding this request for action may be filed on or before April 15, 1993. Such communications, or requests for information or a copy of the applicant's petition, should be addressed to Phil Colarusso, U.S. Environmental Protection Agency-Region I, Marine and Estuarine Protection Section (WQE), JFK Federal Building, Boston, MA 02203. Telephone: 617/565–4428.

Dated: March 1, 1993.

Paul G. Keough,

Acting Regional Administrator.

PUMPOUT FACILITY TABLE

Marina/locations	No. Pump-out units	Hours	Draft limitations	Fee
Block Island Harbors Department, Office of the Harbormaster, P.O. Box 220, Block Island, RI 02807, (401) 466–3204, Channels 12/73 VHF–FM.	1 Mobile vessel-mounted units.	7 am to 11 am, and 1 pm to 4 pm Daily.	None	Free for town-owned moorings; $10 others.
Champlin's Marina, New Harbor, P.O. Box J, Block Island, RI 02807, (401) 466–2641, Channel 68 VHF–FM.	1 Stationary at head of dock.	7 am to 8 pm Daily	15' MLW at station	Free for patrons; $15 others.
Block Island Boat Basin, Job's Hill, P.O. Box 369, Block Island, RI 02807, (401) 466–2631, Channel 09 VHF–FM.	1 Stationary at head of dock.	7 am to 8 pm Daily	10' MLW at station	Free for patrons; $12.50 others.
Paynes New Harbor Dock, Foot of Ocean Ave., P.O. Box 112, Block Island, RI 02807, (401) 466–5572, Channel 09 VHF–FM.	1 Portable with 40 gallon holding tank.	7 am to 8 pm Daily	14" MLW at head of dock.	Free for patrons.

[FR Doc. 93–5261 Filed 3–5–93; 8:45 am]

BILLING CODE [illegible]

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 632–6934.

Federal Communications Commission

OMB Control No.: 3060–0402.

Title: Application for a New or Modified Microwave Radio Station License Under Part 21, FCC Form 494.

Expiration Date: 12/31/95.

Description: FCC Form 494 is used by Commission staff in carrying out its duties as set forth in sections 308 and 309 of the Communications Act, 47 U.S.C. sections 308 and 309, to determine the technical, legal and other qualifications of the applicant to operate stations in the Domestic Public Fixed Radio Services. In addition to the requirements specified in the form, applicants must submit exhibits and other showings as required by 47 CFR part 21, which contains the technical and legal requirements for radio stations in the Domestic Public Fixed Radio Services. FCC Form 494 will be updated to display the 12/31/95 expiration date. A Public Notice will be issued to announce the availability of the updated edition of the FCC Form 494 and the deadline for filing the current 1991 edition of the form.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–5216 Filed 3–5–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

Clearinghouse on Election Administration; Meeting

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. app. I) and Office of Management and Budget Circular A–63, as revised, the Federal Election Commission announces the following Advisory Panel meeting

Name: Federal Election Commission Clearinghouse Advisory Panel.

Date: 24–26 March 1993.

Place: Hyatt Hotel, Two Bay St, Savannah, GA.

Time: 1500–1730 on 24 March 1993, 0830–1200; 1330–1700 on 25 March 1993, 0830–1200; 1400–1700 on 26 March 1993.

Proposed Agenda: Innovative Management Techniques; International Elections; 21st Century Election Office Technology; Texas and Colorado Experience Early Voting; National Voter Registration Act of 1993; Disaster Planning; Confidential Voter Registration; Election Materials Retention.

Purpose of the Meeting: The Panel will present their views on problems in the administration of Federal elections, and formulate recommendations to the Federal Election Commission Clearinghouse for its future program development.

The Advisory Panel meeting is open to the public, dependent on available space. There is an $85.00 registration fee for food functions. Any member of the public may file a written statement with the Panel before, during or after the meeting. To the extent that time permits, the Panel Chairman may allow public presentation or oral statements at the meeting.

All communications regarding the Advisory Panel should be addressed to Penelope Bonsall, National Clearinghouse on Election Administration, Federal Election Commission, 999 E Street NW., Washington DC 20463.

Dated: February 24, 1993.

Marjorie W. Emmons,

Secretary to the Commission.

[FR Doc. 93–5220 Filed 3–5–93; 8:45 am]

BILLING CODE 6715–01–M

[Notice 1993–10]

Filing Dates for the Wisconsin Special Elections

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special elections.

SUMMARY: Wisconsin has scheduled special elections on April 6, 1993, and May 4, 1993, in the First Congressional District to fill the seat vacated by Representative Les Aspin.

Committees required to file reports in connection with the Special Primary Election should file a 12-day Pre-Primary Report on March 25, 1993. Committees required to file reports in connection with both the Special Primary and Special General Election to be held on May 4, 1993, must file a 12-day Pre-Primary Report, a 12-day Pre-General Report on April 22, 1993, and a Post-General Report on June 3, 1993.

FOR FURTHER INFORMATION CONTACT:

Ms. Bobby Werfel, Information Division, 999 E Street, NW., Washington, DC 20463, Telephone: (202) 219–3420; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION: All principal campaign committees of candidates in the Special Primary and Special General Elections and all other political committees not filing monthly which support candidates in these elections shall file a 12-day Pre-Primary Report on March 25, 1993, with coverage dates from the close of the last report filed, or the date of the committee's first activity, whichever is later, through March 17, 1993, and a 12-day Pre-General Election Report on April 22, 1993, with coverage dates from March 18, 1993, through April 14, 1993, a 30-day Post-General Election Report on June 3, 1993, with coverage dates from April 15, 1993, through May 24, 1993 and a Mid-Year Report on July 31, 1993, with coverage dates from May 25, 1993, through June 30, 1993.

All principal campaign committees of candidates in the Special Primary Election only and all other political committees not filing monthly which support candidates in the Special Primary Election shall file a 12-day Pre-Primary Report on March 25, 1993, with coverage dates from the close of the last report filed, or the date of the committee's first activity, whichever is later, through March 17, 1993, and a Mid-Year Report on July 31, 1993, with coverage dates from March 18, 1993, through June 30, 1993.

All political committees not filing monthly which support candidates in the Special General only shall file a 12-day Pre-General Election Report on April 22, 1993, with coverage dates from the last report filed or the date of the committee's first activity, whichever is later, through April 14, 1993, and a 30-day Post-General Election Report on June 3, 1993, with coverage dates from April 15, 1993, through May 24, 1993. Such committees must also file a Mid-Year Report on July 31, 1993, with coverage dates from May 25, 1993, through June 30, 1993.

CALENDAR OF REPORTING DATES FOR WISCONSIN SPECIAL ELECTIONS

Report	Period Covered	Reg./Cert. Mailing Date [1]	Filing date
I. All Committees involved in the special primary (04/06) and special general (05/04) must file:			
Pre-Primary	[2] 01/01/93–03/17/93	03/22/93	03/25/93
Pre-General	03/18/93–04/14/93	04/19/93	04/22/93

CALENDAR OF REPORTING DATES FOR WISCONSIN SPECIAL ELECTIONS—Continued

Report	Period Covered	Reg./Cert. Mailing Date [1]	Filing date
Post-General	04/15/93–05/24/93	06/03/93	06/03/93
Mid-Year	05/25/93–06/30/93	07/31/93	07/31/93
II. All Committees involved in the special primary (04/06) only must file:			
Pre-Primary	[2] 01/01/93–03/17/93	03/22/93	03/25/93
Mid-Year	03/18/93–06/30/93	07/31/93	07/31/93
III. All Committees involved in the special general (05/04) only must file:			
Pre-General	[2] 01/01/93–04/14/93	04/19/93	04/22/93
Post-General	04/15/93–05/24/93	06/03/93	06/03/93
Mid-Year	05/25/93–06/30/93	07/31/93	07/31/93

[1] Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.
[2] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

Dated: March 2, 1993.
Scott E. Thomas,
Chairman, Federal Election Commission.
[FR Doc. 93–5175 Filed 3–5–93; 8:45 am]
BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Tampa Port Authority et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200753.

Title: Tampa/Apollo Stevedoring Terminal Agreement.

Parties: Tampa Port Authority ("Port"); Apollo Stevedoring Company, Inc. ("Apollo").

Synopsis: The Agreement is an electrical service incentive agreement for refrigerated containers which provides that Apollo will pay the Port $21.75 per day per container based on a minimum of 30 containers per month utilizing the electrical service.

By Order of the Federal Maritime Commission.

Dated: March 2, 1993.
Joseph C. Polking,
Secretary.
[FR Doc. 93–5210 Filed 3–5–93; 8:45 am]
BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N–0420]

Charles Y. Chang; Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under section 306(a)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355a(a)(2)) permanently debarring Mr. Charles Y. Chang, 4514 Westbrook Ln., Kensington, MD 20895, from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Mr. Chang was convicted of a felony under Federal law for conduct (1) relating to the development and approval, including the process for development and approval, of a drug product; and (2) relating to the regulation of a drug product under the act. Mr. Chang has failed to request a hearing and, therefore, has waived his opportunity for a hearing concerning this action.

EFFECTIVE DATE: March 8, 1993.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Megan L. Foster, Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8041.

SUPPLEMENTARY INFORMATION:

I. Background

On October 3, 1992, the United States District Court for the District of Maryland entered judgment against Mr. Charles Y. Chang for one count of interstate travel in aid of racketeering, and one count of aiding and abetting interstate travel in aid of racketeering, Federal felony offenses under 18 U.S.C. 1952 and 18 U.S.C. 2.

As a result of these convictions, FDA served Mr. Chang by certified mail on November 21, 1992, a notice proposing to permanently debar him from providing services in any capacity to a person that has an approved or pending drug product application and offered him an opportunity for a hearing on the proposal. The proposal was based on a finding, under section 306(a)(2)(A) and (a)(2)(B) of the act, that he was convicted of felonies under Federal law for conduct (1) relating to the development and approval, including the process for development and approval, of a drug product; and (2) relating to the regulation of a drug product under the act. Mr. Chang did not request a hearing. His failure to request a hearing constitutes a waiver of his opportunity for a hearing and a waiver of any contentions concerning his debarment.

II. Findings and Order

Therefore, the Deputy Commissioner for Operations, under section 306(a) of the act, and under authority delegated to her (21 CFR 5.20), finds that Mr. Charles Y. Chang has been convicted of felonies under Federal law for conduct (1) relating to the development and approval, including the process for development and approval, of a drug

product (21 U.S.C. 335a(a)(2)(A)); and (2) relating to the regulation of a drug product (21 U.S.C. 335a(a)(2)(B)).

As a result of the foregoing findings, Mr. Charles Y. Chang is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under section 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective March 8, 1993 (21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(ii) and 21 U.S.C. 321(ee)). Any person with an approved or pending drug product application who knowingly uses the services of Mr. Chang in any capacity, during his period of debarment, will be subject to civil money penalties. If Mr. Chang, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties. In addition, FDA will not accept or review any abbreviated new drug application or abbreviated antibiotic drug application from Mr. Chang during his period of debarment.

Any application by Mr. Chang for termination of debarment under section 306(d)(4) of the act should be identified with Docket No. 92N–0420 and sent to the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 22, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–5247 Filed 3–5–93; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92–463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress:

Advisory Council on Nurses Education

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC. Copies may be obtained from: Dr. Mary S. Hill, Executive Secretary, Advisory Council on Nurses Education, room 9–36, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6193.

Dated: March 2, 1993.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 92–5172 Filed 3–5–93; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Privacy Act of 1974; Altered System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of altered system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of a proposal to alter the system of records 09–15–0037, "Public Health Service (PHS) and National Health Service Corps (NHSC) Scholarship/Loan Repayment Participants Records System, HHS/HRSA/BPHC." The PHS staff office that is responsible for this system is the Division of Scholarships and Loan Repayments (DSLR), Bureau of Primary Health Care (BPHC), Health Resources and Services Administration (HRSA). The main purposes of the major alteration are the addition of new programs, the name change to reflect the added programs, and the extension of time that records are maintained prior to destruction.

DATES: The PHS invites interested parties to submit comments on the proposed internal uses on or before April 7, 1993. The PHS has sent a Report of Altered System to the Congress and to the Office of Management and Budget (OMB) on February 23, 1993. The alteration of this system of records will be effective 60 days from the date submitted to the OMB, unless PHS receives comments which would result in a contrary determination.

ADDRESSES: Please address comments to the HRSA Privacy Act Coordinator, Department of Health and Human Services, Room 14A–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–3780. This is not a toll-free number. We will make comments received available for public inspection at the above address during normal business hours, 8:30 a.m. through 5 p.m.

FOR FURTHER INFORMATION CONTACT: Carolyn Beth Lee, R.N., Deputy Director, DSLR, BPHC, HRSA, Room 7–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–3744. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The BPHC, HRSA, is recommending this proposed major alteration because of the addition of three (3) new programs. Specifically, the Nursing Education Loan Repayment Agreement Program, the Nursing Student Education Direct Loan Program, and the Native Hawaiian Health Scholarship Program.

First, we are proposing to change the name of this system of records to "Public Health Service (PHS) and National Health Service Corps (NHSC) Scholarship/Loan Repayment Participants Records System, HHS/HRSA/BPHC" to reflect the addition of the records of the NHSC Loan Repayment Program authorized by Section 338B of the Public Health Service Act (42 United States Code 2541–1), as amended November 15, 1990, by Public Law 101–597. Second, we are proposing to expand the "Categories of Individuals Covered by the System" to include participants in the Nursing Education Loan Repayment Agreement Program, the Nursing Student Education Direct Loan Program, and the Native Hawaiian Health Scholarship Program. Third, we are proposing to change the "Categories of Records in the System" to include "financial loan data." Fourth, we propose to change the "Retention and disposal" section from a 7-year retention period to a 25-year retention period. Last, we propose to revise the purpose section of the system as follows:

1. The PHS/NHSC and Native Hawaiian Health Scholarship Programs

To monitor scholarship-related activities; to select and match award recipients, volunteers, and others for assignment to health professional shortage areas; to monitor services provided by scholarship recipients; to maintain necessary records on scholarship recipients for management of the programs.

2. The NHSC and Nursing Education Loan Repayment Agreement Program

To monitor loan-repayment-related activities; to select and match loan repayment recipients to health professional shortage areas; to monitor services provided by loan repayment

recipients; to maintain necessary records on loan repayment recipients for management of the programs.

Only authorized users will have access to the records contained in the system. Authorized users include: System managers and their staffs, NHSC headquarters and regional office officials, financial and fiscal management personnel, computer personnel, and NHSC contractors, all of whom are responsible for administering the PHS and NHSC Scholarship Programs. Access to records is strictly limited to those staff members trained in accordance with Privacy Act procedures. Contractors will be required to maintain, and will also be required to ensure that subcontractors maintain, confidentiality safeguards with respect to the records.

We do not propose any new routine uses at this time.

The 09–15–0037 system notice was last published in the **Federal Register** on June 8, 1987. We are republishing the system notice in its entirety below to incorporate the proposed changes. The following notice is written in the present, rather than future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the alterations have become effective.

Dated: February 26, 1993.

Wilford J. Forbush,

Director, Office of Management.

09–15–0037

SYSTEM NAME:

Public Health Service (PHS) and National Health Service Corps (NHSC) Scholarship/Loan Repayment Participants Records System, HHS/HRSA/BPHC

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Scholarships and Loan Repayments, Bureau of Primary Health Care, Health Resources and Services Administration, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Division of National Health Service Corps, Bureau of Primary Health Care, Health Resources and Services Administration, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Parklawn Computer Center, Food and Drug Administration, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Washington National Records Center, 4205 Suitland Road, Suitland, Maryland 20409.

PHS Health Data Center, Gillis W. Long Hansen's Disease Center, Carville, Louisiana 70721.

Records are also located at contractor sites. A list of contractor sites where individually identifiable data are currently located is available upon request to the Policy-Coordinating Official, at that individual's address shown in the "System Manager(s) and Address" section of this notice.

Partial records are also located at Department of Health and Human Services (HHS) Regional Offices. A list of Regional Offices where individually identifiable data are currently located is available upon request to the Policy-Coordinating Official.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for, who have been approved to receive, who are receiving, and who have received funds under the PHS/NHSC and Native Hawaiian Health Scholarship Programs, NHSC Loan Repayment Program, the Nursing Education Loan Repayment Agreement Program, and the Nursing Student Education Direct Loan Program; individuals who have volunteered for service in the NHSC; scholarship recipients who are fulfilling their PHS/NHSC and/or Native Hawaiian Health scholarship obligations; loan repayment recipients; and individuals who include an interest in employment in or an assignment to a medical facility located in a health professional shortage area or a medically underserved population area, including public and Federal medical facilities, such as community health centers, Indian Health Service (IHS) medical facilities, and other federally sponsored public health centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, Social Security number, scholarship and loan repayment application and associated forms, employment data, professional performance and credentialing history of licensed health professionals; preference for site-selection; personal, professional, and demographic background information; progress reports (which include related data, correspondence, and professional performance information consisting of continuing education, performance awards, and adverse or disciplinary actions); financial loan data, payroll forms, deferment and placement data; and repayment/delinquent/default status information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 333 of the Public Health Service Act, as amended (42 U.S.C. 254f), Assignment of Corps Personnel;

Section 338 of the Public Health Service Act, as amended (42 U.S.C. 254), Scholarship Program and Loan Repayment Program;

Section 836(h) of the Public Health Service Act, as amended (42 U.S.C. 297b) Nursing Education Loan Repayment Agreements for Registered Nurses entering employment at certain health facilities.

Section 847 of the Public Health Service Act, as amended (42 U.S.C. 297n) Nursing Student Education Direct Loan Program with respect to service in certain health care facilities in underserved areas.

Section 338K of the Public Health Service Act (42 U.S. Code 254s) Native Hawaiian Health Scholarship Program.

Section 202 of Title II of Public Law 92–157 (42 U.S.C. 3505d), National Health Manpower Clearinghouse;

Debt Collection Act of 1982, Public Law 97–365 (5 U.S.C. 5514note);

Section 4 of the Debt Collection Act of 1982, Public Law 97–365 (5 U.S.C. 5514 note), Requirement That Applicant Furnish Taxpayer Identifying Number; and

Section 215(a) of the Public Health Service Act, as amended (42 U.S.C. 216(a)), for PHS commissioned officers, and 5 U.S.C. 3301 for civil service employees, both of which authorize verification of an individual's suitability for employment.

PURPOSE(S):

The purposes of this system of records are as follows:

1. The PHS/NHSC and Native Hawaiian Health Scholarship Programs

(a) To monitor scholarship-related activities, such as payment tracking, deferment of service obligation, default, placement, and claims determination;

(b) To select and match PHS/NHSC and Native Hawaiian Health scholarship recipients, NHSC volunteers, and other individuals for assignment to or employment with a health care facility serving a health professional shortage area, including other public and federally sponsored health care delivery programs, such as community health centers;

(c) To monitor services provided by PHS/NHSC and Native Hawaiian health providers;

(d) To maintain records on and to verify individuals' credentials and

educational background, previous and current professional employment data and performance history information to verify that all claimed background and employment data are valid and all claimed credentials are current and in good standing; and

(e) To assist BPHC officials in the collection of overdue debts owed under PHS/NHSC and Native Hawaiian Health scholarship programs.

2. The NHSC and Nursing Education Loan Repayment Agreement Programs, and the Nursing Student Education Direct Loan Program

(a) To monitor loan repayment related activities, such as service obligations, default and claims determinations;

(b) To assure PHS/NHSC loan repayment recipients match to a health care facility serving high priority health professional shortage areas or populations, including other public and federally sponsored health care delivery programs, such as community health centers;

(c) To monitor services provided by NHSC health providers;

(d) To maintain records on and to verify individuals' credentials and educational background;

(e) To assist BPHC officials in the collection of overdue debts owed under the NHSC and Nursing Education Loan Repayment Agreement Programs, and the Nursing Student Education Direct Loan Program.

Records in this system are also used by HHS regional offices and the IHS for the purpose of negotiating site assignment, and by the PHS for the purpose of recruiting health professionals for PHS programs.

Records may be transferred to System No. 09–15–0045, "Health Resources and Service Administration Loan Repayment/Debt Management Records System, HHS/HRSA/OA," for debt collection purposes when BPHC officials are unable to collect overdue debts owed under the PHS and NHSC scholarship programs, the NHSC Loan Repayment Program, the Nursing Education Loan Repayment Agreement Program, and the Nursing Student Education Direct Loan Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The HRSA may disclose to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

2. The Department may disclose information from this system of records to the Department of Justice, or to a court or other tribunal when:

(a) HHS, or any component thereof, or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, or local, charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

4. The HRSA may disclose records consisting of names, disciplines, current mailing addresses, and dates of graduation of scholarship recipients to designated coordinators at each school of medicine, osteopathy, and dentistry participating in the scholarship program for the purpose of guiding and informing these recipients about the nature of their forthcoming professional service obligation in health professional shortage areas or populations.

5. The HRSA may disclose records consisting of name of scholarship or loan repayment recipient, professional school he/she is attending, and the date of graduation to health professions associations and other interested health professions groups which have responsibility for coordinating funds paid to students from Federal and other sources.

6. The HRSA may disclose records to Department contractors and subcontractors for the purpose of collecting, compiling, aggregating, analyzing, or refining records in the system. Contractors maintain, and are also required to ensure that subcontractors maintain, Privacy Act safeguards with respect to such records.

7. The HRSA may disclose records to Department contractors and subcontractors for the purpose of recruiting, screening, and matching health professionals for assignment to our employment in a health care facility serving health professional shortage areas or populations, including other federally sponsored programs, such as IHS medical facility sites and community health centers. In addition, Department contractors and subcontractors: (1) May disclose biographic data and information supplied by potential applicants (a) to reference listed on application and associated forms for the purpose of evaluating the applicant's professional qualifications, experience, and suitability, and (b) to a State or local government medical licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity for the purpose of verifying that all claimed background and employment data are valid and all claimed credentials are current and in good standing; (2) may disclose biographic data and information supplied by references listed on application and associated forms to other references for the purpose of inquiring into the applicant's professional qualifications and suitability; and (3) may disclose professional suitability evaluation information to NHSC officials; prospective employers, or to site representatives, for the purpose of appraising the applicant's professional qualifications and suitability for site assignment or employment. Contractors maintain, and are also required to ensure that subcontractors maintain, Privacy Act safeguards with respect to such records.

8. The HRSA may disclose records consisting of name, Social Security number, employment history, educational data, accreditation, licensing, and professional qualification data to a State or local government medical licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning an individual's employment history or concerning the issuance, retention or revocation of licenses or registrations necessary to practice a health professional occupation or speciality. The purposes of this disclosure are: (1) To enable HRSA to obtain information relevant to a decision concerning a health professional's accomplishments, professional and personal background qualifications, and experience to

determine the individual's suitability for employment, retention, or termination as a health services provider in a health care facility serving a health professional shortage area or a population, and (2) to inform medical licensing boards or the appropriate nongovernment entities about the health care practices of a practicing, terminated, resigned, or retired health services provider whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of private sector patients.

9. The HRSA may disclose information from this system of records to private parties, such as present and former employers, references listed on application and associated forms, other references, and educational institutions. The purpose of such disclosures is to evaluate an individual's professional accomplishments, performance, and credentials and educational background, and to determine if an applicant is suitable for employment in/assignment to a health care facility serving health professional shortage areas or populations.

10. The HRSA may disclose information from this system of records to a consumer reporting agency (credit bureau) to obtain a commercial credit report for the following purposes:

(a) To establish creditworthiness of a scholarship applicant; and

(b) To assess and verify ability of a debtor to repay debts owed to the Federal Government.

Disclosures are limited to the individual's name, address, Social Security number and other information necessary to identify him/her; the funding being sought or amount and status of the debt; and the program under which the application or claim is being processed.

11. The HRSA will disclose from this system of records a delinquent debtor's name, address, Social Security number, and other information necessary to identify him/her; the amount, status, and history of the claim, and the agency or program under which the claim arose, as follows:

(a) To another Federal agency so that agency can effect a salary offset for debts owed by Federal employees; if the claim arose under the Social Security Act, the employee must have agreed in writing to the salary offset.

(b) To another Federal agency so that agency can effect an authorized administrative offset; i.e., withhold money, other than Federal salaries, payable to or held on behalf of debtors.

(c) To the Treasury Department, Internal Revenue Service (IRS), to request a debtor's current mailing address to locate him/her for purposes of either collecting or compromising a debt, or to have a commercial credit report prepared.

12. The HRSA may disclose information from this system of records to another agency that has asked the Department to effect a salary or administrative offset to help collect a debt owed to the United States. Disclosure is limited to the individual's name, address, Social Security number, and other information necessary to identify the individual, to information about the money payable to or held for the individual, and to other information concerning the offset.

13. The HRSA may disclose to the Treasury Department, IRS, information about an individual applying for a loan under any loan program authorized by the Public Health Service Act to find out whether the loan applicant has a delinquent tax account. This disclosure is for the sole purpose of determining the applicant's creditworthiness and is limited to the individual's name, address, Social Security number, other information necessary to identify him/her, and the program for which the information is being obtained.

14. The HRSA will report to the Treasury Department, IRS, as taxable income, the written-off amount of a debt owed by an individual to the Federal Government when a debt becomes partly or wholly uncollectible—either because the time period for collection under the statute of limitations has expired, or because the Government agrees with the individual to forgive or compromise the debt.

15. The HRSA will disclose to debt collection agents, other Federal agencies, and other third parties who are authorized to collect a Federal debt, information necessary to identify a delinquent debtor. Disclosure will be limited to the debtor's name, address, Social Security number, and other information necessary to identify him/her; the amount, status, and history of the claim, and the agency or program under which the claim arose.

16. The HRSA will disclose information from this system of records to any third party that may have information about a delinquent debtor's current address, such as a U.S. Post Office, a State motor vehicle administration, a professional organization, an alumni association, etc., for the purpose of obtaining the debtor's current address. This disclosure will be strictly limited to information necessary to identify the individual, without any reference to the reason for the agency's need for obtaining the current address.

17. The HRSA may disclose information from this system of records to other Federal agencies that also provide scholarship funding at the request of these Federal agencies in conjunction with a matching program conducted by these Federal agencies to detect or curtail fraud and abuse in Federal scholarship programs, and to collect delinquent loans or benefit payments owed to the Federal Government.

18. The HRSA will disclose from this system of records to the Department of Treasury, IRS: (1) A delinquent debtor's name, address, Social Security number, and other information necessary to identify the debtor; (2) the amount of the debt; and (3) the program under which the debt arose, so that the IRS can offset against the debt any income tax refunds which may be due to the debtor.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 158a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purposes of these disclosures are: (1) To provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records, and (2) to enable HRSA to improve the quality of loan and scholarship decisions by taking into account the financial reliability of applicants. Disclosure of records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, computer tape, and discs.

RETRIEVABILITY:

Name, Social Security numbers, or other identifying numbers or characteristics.

SAFEGUARDS:

1. Authorized Users: Access is limited to authorized personnel in the performance of their duties. Authorized personnel include: System managers and their staff, NHSC headquarters and

Regional Office officials, financial and fiscal management personnel, computer personnel, and NHSC contractors—all of whom are responsible for administering the scholarship and loan repayment programs.

2. Physical Safeguards: Magnetic tapes, discs, other computer equipment, and other forms of personal data are stored in areas where fire and life safety codes are strictly enforced. All automated and nonautomated documents are protected during lunch hours and nonworking hours in locked file cabinets or locked storage areas. The ADP remote stations are locked during nonstandard working hours. Twenty-four hour, seven-day security guards perform random checks on the physical security of the data and the storage areas. Backup files are maintained in an off-site facility with controlled entrances and exists.

3. Procedural Safeguards: A password is required to access the terminal and a data set name controls the release of data to authorized users only. All users of personal information in connection with the performance of their jobs (see Authorized Users, above) protect information from public view and from unauthorized personnel entering an unsupervised office. Codes by which automated files may be accessed are changed periodically. This procedure also includes deletion of access codes when employees leave. New employees are briefed and the guard office is notified of all staff members authorized to be in secured areas during nonstandard working hours. This list is revised as employees are increased or leave.

Access to records is strictly limited to those staff members trained in accordance with the Privacy Act and ADP security procedures. Contractors are required to maintain, and are also required to ensure that subcontractors maintain, confidentiality safeguards with respect to these records. Contractors and subcontractors are instructed to make no further disclosure of the records except as authorized by the System Manager and permitted by the Privacy Act. All individuals who have access to these records receive the appropriate ADP security clearances. The BPHC personnel make site visits to ADP facilities for the purpose of ensuring that ADP security procedures continue to be met. Privacy Act and ADP system security requirements are specifically included in contracts. System Managers oversee compliance with these requirements.

RETENTION AND DISPOSAL:

Applications of individuals not selected for participation in a scholarship program are retained for 6 months, then destroyed by shredding. Applications, contracts, and other records of NHSC scholarship recipients are retained through the completion or other disposition of the scholarship service obligation, then sent to the Federal Records Center for an additional 25-year retention period and destroyed in accordance with Federal Records Center disposal standards. Automated historical tapes are sent to a Federal Records Center and the initial records are destroyed in accordance with the HRSA Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Policy-Coordinating Official: Director, Bureau of Primary Health Care, HRSA, 5600 Fishers Lane, Rockville, Maryland 20857.

Scholarship Applicants/Recipients: Director, Division of Scholarships and Loan Repayments, Bureau of Primary Health Care, HRSA, 5600 Fishers Lane, Rockville, Maryland 20857.

Placement/Assignment: Director, Division of National Health Service Corps, Bureau of Primary Health Care, HRSA, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURES:

To find out if the system contains records about you, contact the Policy-Coordinating Official. The Policy-Coordinating Official will then refer the requester to the appropriate System Manager or Regional Office.

Requests in person: A subject individual who appears in person at a specific location seeking access to or disclosure of records relating to him/her shall provide his/her name, current address, Social Security number or other identifying numbers, dates of enrollment in the scholarship program, and at least one piece of tangible identification, such as driver's license, passport, or voter registration card. Identification papers with current photographs are preferred but not required. If a subject individual has no identification but is personally known to an agency employee, such employee shall make a written record verifying the subject individual's identity. Where the subject individual has no identification papers, the responsible agency official shall require that the subject individual certify in writing that he/she is the individual who he/she claims to be and that he/she understands that the knowing and willful request or acquisition of a record concerning an individual under false pretenses is a criminal offense subject to a $5,000 fine.

Requests by mail: A written request must contain the name and address of the requester, Social Security number or other identifying numbers, and his/her signature which is either notarized to verify his/her identity or includes a written certification that the requester is the person he/she claims to be and that he/she understands that the knowing and willful request or acquisition of records pertaining to an individual under false pretenses is a criminal offense subject to a $5,000 fine. In addition, the following information is needed: Dates of enrollment in the scholarship program and current enrollment status, such as pending application approval, deferment of service obligation, or shortage area placement.

Requests by telephone: Since positive identification of the caller cannot be established, telephone requests are not honored.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also provide a reasonable description of the record being sought.

Requesters may also request an accounting of disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the Policy-Coordinating Official, provide a reasonable description of the record, specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Individuals whose records are contained in the system; educational institutions attended; internship and/or residency training progress reports; NHSC Professional Training Information Questionnaires; NHSC Private Practice Option Agreements; Bureau of Health Professions Area Resources File tapes; PHS Division of Commissioned Personnel and U.S. Office of Personnel Management personnel records; health professional associations; DHHS contractors/subcontractors; consumer reporting agencies/credit bureaus; other Federal agencies, including but not limited to the Department of the Treasury, IRS, and the U.S. Postal Service; State or local government medical licensing boards and/or the Federation of State Medical Boards or a similar nongovernment entity; and third

parties who provide references concerning the subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 93–5171 Filed 3–5–93; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–060–84–6332–02; GP3–116]

Notice of Availability, for a Wild and Scenic River Management Plan and Final Corridor Boundary; Oregon

SUMMARY: In compliance with the Wild and Scenic Rivers Act, this notice announces the availability of the Final Management Plan and Corridor Boundary for the designated segment of Quartzville Creek, a component of the National Wild and Scenic Rivers System.

The final corridor boundary for the designated segment of Quartzville Creek lies entirely within the general legal description below:

Willamette Meridian

T. 11 S., R. 3 E.
Portions of Sections: 24, 25, 26, 35, 36
T. 11 S., R. 4 E.
Portions of Sections: 19, 20, 21, 28, 29, 30
T. 12 S., R. 3 E.
Portions of Sections: 2, 3, 10

A more detailed legal description is available upon request.

FOR FURTHER INFORMATION CONTACT: Paul Jeske, Area Manager, Santiam Resource Area, BLM, Salem District Office, 1717 Fabry Road SE., Salem, Oregon 97306, (503) 375–5644.

Paul Jeske,

Area Manager, Santiam Resource Area.

[FR Doc. 93–5209 Filed 3–5–93; 8:45 am]

BILLING CODE 4310–33–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–641–642 (Preliminary)]

Ferrosilicon From Brazil and Egypt; Determinations

Determinations

On the basis of the record[1] developed in the subject investigations, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil and Egypt of ferrosilicon,[3] provided for in subheadings 7202.21.10, 7202.21.50, 7202.21.75, 7202.21.90, and 7202.29.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On January 12, 1993, a petition was filed with the Commission and the Department of Commerce by AIMCOR, Pittsburgh, PA; Alabama Silicon, Inc., Bessemer, AL; American Alloys, Inc., Pittsburgh, PA; Globe Metallurgical, Inc., Cleveland, OH; Silicon Metaltech, Inc., Seattle, WA; Oil, Chemical & Atomic Workers Union (local 389); United Autoworkers of America Union (locals 523 and 12646); and United Steelworkers of America Union (locals 2528, 3081, and 5171), alleging that an industry in the United States is materially injured by reason of LTFV imports of ferrosilicon from Brazil and Egypt. Accordingly, effective January 12, 1993, the Commission instituted antidumping investigations Nos. 731–TA–641–642 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 21, 1993 (58 FR 5413). The conference was held in Washington, DC, on February 3, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on February 26, 1993. The views of the Commission are contained in USITC Publication 2605 (February 1993), entitled "Ferrosilicon from Brazil and Egypt: Determinations of the Commission in Investigations Nos. 641–642 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Issued: March 3, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–5244 Filed 3–5–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigation 337–TA–340]

Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

In the Matter of Certain Specimen Container Systems and Components Including Alignment Indicator Labels, and Method of Use.

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above captioned investigation terminating the following respondent on the basis of a consent order agreement: Starplex Scientific, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on March 2, 1993.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Vice Chairman Watson and Commissioners Brunsdale and Crawford dissent with respect to Egypt.

[3] For purposes of these investigations, the subject product is ferrosilicon, a ferroalloy generally containing, by weight, not less than four percent iron, more than 8 percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than three percent phosphorus, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element.

person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

Issued: March 2, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–5245 Filed 3–5–93; 8:45 am]

BILLING CODE 7020–02–M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the 6th floor conference room, Public Ledger Building, 6th and Chestnut Streets, Philadelphia, Pennsylvania, on March 31, 1993, beginning at 8:30 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in title 29 U.S. Code, section 1242(a)(1)(B).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that the subject of the meeting falls within the exception to the open meeting requirement set forth in title 5 U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: March 1, 1993.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 93–5159 Filed 3–5–93; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; Janssen, Inc.

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on December 23, 1992, Janssen, Inc., HC02 Box 19250, Gurabo, Puerto Rico 00658–9629, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Alfentanil (9737)	II
Sufentanil (9740)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than 30 days from publication.

Dated: February 24, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–5248 Filed 3–5–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application; Knoll Pharmaceuticals

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on January 25, 1993, Knoll Pharmaceuticals, 30 North Jefferson Road, Whippany, New Jersey 07981, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Hydromorphone (9150).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 7, 1993.

Dated: March 1, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–5249 Filed 3–5–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application; Mallinckrodt Specialty Chemicals Co.

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on January 25, 1993, Mallinckrodt Specialty Chemicals Company, Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Etorphine Hydrochloride (9059)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium, powdered (9639)	II
Opium, granulated (9640)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the

issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than 30 days from publication.

Dated: February 24, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–5250 Filed 3–5–93; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Application; Sanofi Winthrop Pharmaceutical

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 26, 1993, Sanofi Winthrop LP, DBA Sanofi Winthrop Pharmaceutical, 200 East Oakton Street, Des Plaines, Illinois 60018, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below: The firm plans to import small quantities for research purposes only.

Drug	Schedule
Codeine (9050)	II
Hydromorphone (9150)	II
Meperidine (9230)	II
Morphine (9300)	II
Fentanyl (9801)	II

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 7, 1993.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: February 24, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–5251 Filed 3–5–93; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Public Partnership Office Advisory Board; Amended Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice of a meeting of the Office of Public Partnership Advisory Panel (Local Arts Agencies Section) which was to have been held on March 16, 1993 from 9:15 a.m.–5 p.m., March 17 from 9:15 a.m.–5:30 p.m., and March 18 from 9:15 a.m.–12 p.m. will be held on March 16, 1993 from 3 p.m.–4:30 p.m., March 17 from 9 a.m.–6 p.m., and March 18 from 9 a.m.–3 p.m.

This meeting will be open to the public on a space available basis. The topics will include opening remarks, application review, and policy discussion.

Any person may attend meetings, or portions thereof, which are open to the public, and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated March 2, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–5174 Filed 3–5–93; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

GPU Nuclear Corp., Oyster Creek Nuclear Generating Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a one-time exemption from 10 CFR 55.59 (a)(1) and (c)(1) to the GPU Nuclear Corporation (GPUN or the licensee) for Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant a one-time exemption to the requirements of 10 CFR 55.59 (a)(1) and (c)(1), which require a licensed operator requalification program to be conducted for a continuous period not to exceed 24 months in duration. GPUN is requesting an extension of the current program duration from 24 to 32 months.

The Need for the Proposed Action

By letter dated January 4, 1993, the licensee requested an exemption under 10 CFR 55.11 from the requirements of 10 CFR 55.59 (a)(1) and (c)(1). By letter dated January 20, 1993, GPUN provided additional information to the NRC staff to support the exemption request. The schedular exemption requested will allow extending the current Oyster Creek Nuclear Generating Station requalification program duration from 24 to 32 months to allow the comprehensive written examination required by 10 CFR 55.59(a)(2) to be conducted by the NRC during August 1993. The requested exemption would constitute a one-time extension of the requalification program duration for those licensed operators whose last comprehensive written examination was administered on March 5, 1991. The

NRC staff has determined, however, that an extension to 30 months is adequate to allow the comprehensive written exam required by 10 CFR 55.59(a)(2) to be administered by the NRC during August 1993 as requested by the licensee.

Environmental Impacts of the Proposed Action

The NRC staff has reviewed the proposed action with regard to environmental impacts. The NRC staff concludes that there will be no change in the competence of any licensed operator, subject to the proposed action. Accordingly, there will be no increases in routine or accidental radioactive releases resulting from the proposed action; thus, there will be no environmental impacts associated with potential radioactive releases. In addition, since the proposed action does not affect land use or plant operation, other previously considered environmental impacts described in the Final Environmental Statement for Oyster Creek, dated December 1974, will not be more significant.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the exemption would be to deny the exemption requested. Such action would not enhance the protection of the environment.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for the Oyster Creek Nuclear Generating Station.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this proposed action, see the licensee's letter dated January 4, 1993, as supplemented by letter dated January 20, 1993, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Ocean County Library Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland this 1st day of March 1993.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–5236 Filed 3–5–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–213]

Connecticut Yankee Atomic Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License No. DPR–61 and issued to Connecticut Yankee Atomic Power Company (CYAPCO/licensee) for operation of the Haddam Neck Plant located in Middlesex County, Connecticut.

During the upcoming 1993 refueling outage, CYAPCO will modernize the feedwater control system, by making advanced technology, hardware changes. These changes will improve feedwater control system reliability and redundancy. The proposed amendment would change the Technical Specifications to reflect modifications to be made to upgrade the feedwater control system.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By April 7, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public

Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–248–5100 (in Missouri 1–800–342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103–3499 (attorney for licensee).

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated January 29, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Dated at Rockville, Maryland, this 1st day of March 1993.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–5237 Filed 3–5–93; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (National Environmental Group, Inc., 14% Cumulative Convertible, Preferred Stock, $.10 Par Value) File No. 1–8038

March 2, 1993.

Key Energy Group, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

An order dated December 4, 1992 (the "Confirmation Order") of the United States Bankruptcy Court for the District of New Jersey (the "Bankruptcy Court"), was entered by the Bankruptcy Court on December 7, 1992. The Confirmation Order was entered pursuant to the Joint Plan of Reorganization dated as of October 20, 1992 (the "Plan") of the Debtors National Environmental Group Inc., ESKEY Inc. and YFC International, N.V. The Confirmation Order was submitted in Jointly Administered Case No. 92–36657 and was confirmed pursuant to section 1129 of the United States Bankruptcy Code, 11 U.S.C. §§ 101–1330 (the "Bankruptcy Code").

The Bankruptcy Court, in addition to other actions, approved the merger (the "Recapitalization Merger") of Key Energy Group, Inc. ("KEGI") into National Environmental Group, Inc. and the merger (the "ESKEY Merger") of ESKEY Inc. ("ESKEY") into National Environmental Group, Inc.; Key Energy Group, Inc. ("KEGI"). National Environmental Group, Inc. ("NEGI") changed its name to Key Energy Group, Inc.

According to the Company, the Recapitalization Merger and the ESKEY Merger were authorized pursuant to the Confirmation Order by the Bankruptcy Court acting under federal law, the Bankruptcy Code. Pursuant to the Confirmation Order no actions or resolutions of the Boards of Directors of KEGI, NEGI or ESKEY were required in order to consummate the Recaptilization Merger and the ESKEY Merger in accordance with applicable state law. The Preferred Stock and the Senior Debentures were converted into rights to receive shares of the New Common Stock of Key Energy Group, Inc., pursuant to the Confirmation Order, the ESKEY Merger and the Recapitalization Merger. The New Common Stock of KEGI is currently listed and traded on the American Stock Exchange.

According to the Company, the Boston Stock Exchange has no objection to the delisting of the Preferred Stock and the Senior Debentures.

Any interested person may, on or before March 23, 1993 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–5238 Filed 3–5–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice No. 93–11]

Aircraft Accessibility Federal Advisory Committee; Meeting

AGENCY: Office of the Secretary, Department of Transportation (DOT).

ACTION: Notice; schedule of committee meeting.

SUMMARY: The Department of Transportation gives notice, as required by the Federal Advisory Committee Act (Pub. L. 92–463), of the time and location of the fourth meeting of the Aircraft Accessibility Federal Advisory Committee.

DATES: The fourth meeting of this Committee is scheduled for Wednesday, March 31, and Thursday, April 1, 1993, in Conference Room 10234 of the Department of Transportation (Nassif Building), 400 7th Street SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Nancy Ebersole, Senior Program Analyst, Department of Transportation, Office of Transportation Regulatory Affairs, 400

7th Street SW., Washington, DC 20590, Telephone (202) 366–4864

or

Ira Laster, Jr., Executive Director, Aircraft Accessibility Federal Advisory Committee, Department of Transportation, Office of Transportation Regulatory Affairs, 400 7th Street SW., Washington, DC 20590, Telephone (202) 366–4859.

SUPPLEMENTARY INFORMATION: The purpose of the Aircraft Accessibility Federal Advisory Committee is to advise the Secretary of Transportation on issues necessary for further rulemaking to implement the Air Carrier Access Act of 1986. The Committee will advise the Department on matters such as:

1. The degree to which it is possible to design for placement in a narrow-body aircraft a toilet that will accommodate persons with disabilities, including those who use wheelchairs;

2. For the various cabin configurations of different aircraft types under 200 seats, what physical layouts are possible to offer passengers at least visual privacy, and the ability to manouver in the lavatories?

3. What physical layouts are possible which would provide disabled passengers using an on-board chair full maneuvering room inside the lavatory? What layouts would provide partial accessibility (e.g., a privacy area curtain outside the lavatory)?

4. Which designs can be accomplished without the loss of revenue seats? Which designs can be accomplished with only a minimal loss of revenue seats?

5. How would such arrangements affect passenger traffic within the cabin, flight attendant duties in galleys, and the passenger ease of access to the remaining lavatories?

6. How might such arrangements impair safety, if at all?

7. In small planes, where can the on-board chairs be stored?

8. Down to what size airplanes and for what types can accessible lavatory requirements reasonably be imposed?

9. Should any requirements for accessible lavatories be made a function of stage length (i.e., range of distances the aircraft usually covers during a flight segment) instead of airplane size, and, if so, for what stage lengths should such requirements be imposed? How would this approach alter air carriers' operational flexibility?

Background

Concurrent with the March 1990 publication of DOT's Air Carrier Access Act rule, the Department issued an Advance Notice of Proposed Rulemaking (ANPRM) seeking comments on specifications for accessible lavatories in narrow-body aircraft. The ANPRM stated that if sufficient information was not received, the Department would bring together aircraft manufacturers, disabled consumers, air carriers, and flight duty personnel to exchange information from which to frame a regulatory requirement.

Comments to the Docket in response to the 1990 ANPRM revealed little agreement among commenters concerning the degree of accessibility that can be achieved in lavatories on narrow-body aircraft. This is a complex, controversial question best answered through structured dialogue between aircraft manufacturers, air carriers, consumers with disabilities, and flight duty personnel.

The Department will use advise provided by the Committee to develop a notice of proposed rulemaking and a final rule.

Issued on March 3, 1993.

Patrick V. Murphy,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 93–5271 Filed 3–5–93; 8:45 am]

BILLING CODE 4910–62–M

Coast Guard

[CGD 93–013]

New York Harbor Traffic Management Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. I), notice is hereby given of a meeting of the New York Harbor Traffic Management Advisory Committee to be held on April 14, 1993, in the South Conference Room "B", 34th floor, One World Trade Center, New York, New York, beginning at 10 a.m.

The agenda for this meeting of the New York Harbor Traffic Management Advisory Committee is as follows:

1. Introductions.
2. Update of Marine Events.
3. Update of dredging operations in New York harbor.
4. Update on Vessel Traffic Service.
5. Update on Coast Guard regulatory initiatives.
6. 40 foot channel through the Kill Van Kull and Newark Bay.
7. "P.O.R.T.S." update.
8. Charter renewal update.
9 Topics from the floor.
10. Review of agenda topics and selection of date for next meeting.

The New York Harbor Traffic Management Advisory Committee has been established by Commander, First Coast Guard District to provide information, consultation, and advice with regard to port development, maritime trade, port traffic, and other maritime interests in the harbor. Members of the Committee serve voluntarily without compensation from the Federal Government.

Attendance is open to the interested public. With advance notice to the Chairperson, members of the public may make oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director no later than one day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander J.P. Benvenuto, USCG, Executive Secretary, NY Harbor Traffic Management Advisory Committee, Vessel Traffic Service, Building 108, Governors Island, New York, NY 10004–5070; or by calling (212) 668–7429.

Dated: March 3, 1993.

R.M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port New York, NYHTMAC Executive Director.

[FR Doc. 93–5243 Filed 3–5–93; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Air Carrier Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss air carrier operations issues.

DATES: The meeting will be held on March 30, 1993, at 9 a.m.

ADDRESSES: The meeting will be held at FAA Headquarters (FOB 10A), room 9A, 800 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Marlene Vermillion, Flight Standards Service, Air Transportation Division (AFS–200), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on March 30, 1993, at FAA Headquarters (FOB 10A), 800 Independence Ave., SW., Washington, DC. The agenda for this meeting will include progress reports from the Fuel Requirements Working Group, Autopilot Engagement Working Group, and Flight Crewmember Flight/Duty/Rest Requirements Working Group. Each working group Chair will report on the progress of the working group. Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on March 2, 1993.

David S. Potter,

Assistant Executive Director for Air Carrier Operations, Aviation Rulemaking Advisory Committee.

[FR Doc. 93–5217 Filed 3–5–93; 8:45 am]

BILLING CODE 4910–13–M

Flight Service Station at Cut Bank, MT, Notice of Closing

Notice is hereby given that on or about March 31, 1993, the flight service station at Cut Bank, Montana, will be closed. Services to the aviation public formerly provided by this facility will be provided by the automated flight service station in Great Falls, Montana. This information will be reflected in the FAA Organization Statement the next time it is issued. Section 313(a) of Federal Aviation Act of 1958, as amended, 72 Stat. 752; 49 U.S.C. App. 1354(a).

Issued in Seattle, Washington, on February 25, 1993.

Frederick M. Isaac,

Regional Administrator, Northwest Mountain Region.

[FR Doc. 93–5218 Filed 3–5–93; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 93–08; Notice 1]

Notice of Receipt of Petition for Determination That Nonconforming 1975 Laverda 1000 Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that . . . nonconforming 1975 Laverda 1000 motorcycles are eligible for importation.

SUMMARY: This notice requests comments on a petition submitted to the National Highway Traffic Safety Administration (NHTSA) for a determination that a 1975 Laverda 1000 motorcycle that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is April 7, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

J.K. Motors, Inc., of Kingsville, Maryland ("J.K.") (Registered Importer No. R–90–006) has petitioned NHTSA to determine whether 1975 Laverda 1000 motorcycles are eligible for importation into the United States. The vehicle that J.K. believes is substantially similar is the 1975 Laverda 1000 that was manufactured for importation into and sale in the United States and that was certified by its manufacturer, Laverda Motorcycles of Italy, as complying with all applicable Federal motor vehicle safety standards.

The petitioner stated that it examined the non-U.S. certified 1975 Laverda 1000, and determined that it is substantially similar to its U.S. certified counterpart. Based on this examination, the petitioner contends that the non-U.S. certified 1975 Laverda 1000, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the two models are identical with respect to compliance with Standards Nos. 106 *Brake Hoses*, 108 *Lamps, Reflective Devices and Associated Equipment*, 111 *Rearview Mirrors*, 116 *Brake Fluid*, 119 *New Pneumatic Tires for Vehicles other than Passenger Cars*, 120 *Tire Selection and Rims for Motor Vehicles other than Passenger Cars*, 122 *Motorcycle Brake Systems*, 123 *Motorcycles Controls and Displays*, and 205 *Glazing Materials*.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: April 17, 1993.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 1, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93-5272 Filed 3-5-93; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 93-13; Notice 1]

Notice of Receipt of Petition for Determination That Nonconforming 1970 Mercedes-Benz 300SEL Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1970 Mercedes-Benz 300SEL passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1970 Mercedes-Benz 300SEL that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is April 7, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Champagne Imports Inc. of Lansdale, Pennsylvania (Registered Importer No. R-90-009) has petitioned NHTSA to determine whether 1970 Mercedes-Benz 300SEL (Model ID 109.056) passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1970 Mercedes-Benz 300SEL that was manufactured for importation into, and sale in the United States, and certified by its manufacturer, Daimler Benz A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner contends that it carefully compared the non-U.S. certified 300SEL to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S. certified 1970 model 300SEL, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1970 model 300SEL is identical to its U.S. certified counterpart with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 111 *Rearview Mirrors*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 207 *Seating Systems*, 208 *Occupant Crash Protection*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, and 301 *Fuel System Integrity*.

Petitioner also contends that the non-U.S. certified 1970 model 300SEL is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 114 *Theft Protection:* installation of a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power-Operated Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is turned off.

Standard No. 206 *Door Locks and Door Retention Components:* replacement of the rear door locks and the rear door locking buttons with U.S. model parts.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted

to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 3, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–5273 Filed 3–5–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–14; Notice 1]

Notice of Receipt of Petition for Determination That Nonconforming 1980 BMW 628 CSI Passenger Cars Are Eligible for Importation; Correction

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Correction to notice of receipt of petition for determination that nonconforming 1980 BMW 628 CSi passenger cars are eligible for importation.

SUMMARY: This document corrects a notice published Tuesday, February 23, 1993 (58 FR 11085), announcing receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1980 BMW 628 CSi that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States. The docket number included with that notice was "92–18." Because this docket number had previously been assigned to another petition, any comments submitted on the petition at issue would be misfiled if this docket number were to be used. A new docket number, 93–14, has accordingly been assigned to this petition. This docket number should be referenced in any comments submitted on this petition.

DATES: The closing date for comments on the petition is March 25, 1993.

ADDRESSES: Comments should refer to the new docket number and notice number (93–14; Notice 1) and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4 p.m.

Issued on: March 3, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–5274 Filed 3–5–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service

AGENCY: Department Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date of the next meeting and the agenda for consideration by the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service.

DATE: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on March 24, 1993 at 8 a.m. in the Pancho Villa Room of the Camino Real Paso del Norte (formerly the Westin), El Paso, Texas; Tel.: (915) 534–3000.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Director, Office of Tariff and Trade Affairs, Office of the Assistant Secretary (Enforcement), room 4004, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Tel.: (202) 622–0220.

SUPPLEMENTARY INFORMATION: The preliminary agenda to be considered at the meeting is as follows:

1. The Customs Modernization Act and Informed Compliance Legislation.
2. Status of the North American Free Trade Agreement.
3. Customs Trade Enforcement Strategic Plan.
4. Customs budget, staffing and resources.
5. Automated commercial system redesign.
6. Customs Valuation Center.

The agenda may be supplemented or otherwise amended prior to the meeting date.

The meeting is open to the public; however it is necessary for any person other than an Advisory Committee member who wishes to attend the meeting to give advance notice. In order to be admitted to the meeting, contact Ms. Theresa Manning at (202) 622–0220 no later than March 17, 1993.

Dated: March 2, 1993.

John P. Simpson,

Acting Assistant Secretary (Enforcement).

[FR Doc. 93–5253 Filed 3–5–93; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information;

(1) The title of the information collection, and the Department form number(s), if applicable;

(2) A description of the need and its use;

(3) Who will be required or asked to respond;

(4) An estimate of the total annual reporting hours, and recordkeeping burden, if applicable;

(5) The estimated average burden hours per respondent;

(6) The frequency of response; and

(7) An estimated number of respondents.

ADDRESSES: Copies of the proposed information collections and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: March 1, 1993.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Revision

1. Loan Guaranty Funding Fee Transmittal, VA Forms 26–8986 and 26–8986–1
2. Use of these forms will allow lending institutions to transmit funding fees

required for VA-guaranteed home loans to a lockbox depository
3. Individuals or households—businesses or other for-profit
4. 58,333 hours
5. 10 minutes
6. On occasion
7. 350,000 respondents

Extension

1. Verification of Pursuit of Course Leading to a College Degree, VA Form 22–6553
2. Use of this form will allow for the verification of continued enrollment and the reporting of change in enrollment status to determine if VA education benefits are affected
3. State or local governments—non-profit institutions—small businesses or organizations
4. 38,922 hours
5. 10 minutes
6. On occasion
7. 233,533 respondents

Extension

1. Report of Income from Property or Business, VA Form 21–4185
2. The form is used by veterans and survivors to report business and/or property income and expenses. The information is used to determine eligibility for VA benefits and, if eligibility exists, it is used to determine the rate payable
3. Individuals or households
4. 29,750 hours
5. 30 minutes
6. On occasion
7. 59,500 respondents

Reinstatement

1. Certification of School Attendance or Termination, VA Form 21–8960
2. The form is used to verify continued school attendance in those cases where benefits are paid for dependent children based on school attendance. The information is used to determine continued eligibility based upon school attendance
3. Individuals or households
4. 11,667 hours
5. 10 minutes
6. On occasion; annually
7. 70,000 respondents

Reinstatement

1. Certificate as to Securities, VA Form 27–4709
2. The form is used to verify investment in bonds or other securities assets that are reported in a fiduciary's accounting as being part of an incompetent VA beneficiary's estate. Respondents are fiduciaries acting on behalf of VA beneficiaries
3. Individuals or households—State or local governments—Non-profit institutions—Small businesses or organizations
4. 2,100 hours (1,517 annual reporting hours and 583 annual recordkeeping hours)
5. 13 minutes
6. On occasion—annually—biennially—per State Law
7. 7,000 respondents

Reinstatement

1. Compliance Report of Proprietary Institutions, VA Form 27–4274
2. The form is used to collect statistical information from proprietary schools which receive Federal assistance from VA and Department of Education to determine compliance with applicable civil rights statutes and regulations
3. Non-profit institutions—small businesses or organizations
4. 124 hours
5. 1 hour
6. On occasion
7. 124 respondents.

[FR Doc. 93–5267 Filed 3–5–93; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, Records Management Service (723), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233–3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by April 7, 1993.

Dated: March 1, 1993.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Existing Collection in Use Without an OMB Control Number

1. Authorization for Direct Deposit, VA Form 10051 (Test)
2. The form is used to gather the necessary information required to enroll VA Compensation and Pension beneficiaries in the direct deposit of recurring benefits payments. The information will be used to process the payment data from VA to the beneficiary's designated financial institution.
3. Individuals or households
4. 140 hours
5. 2 minutes
6. One-time
7. 4,200 respondents

[FR Doc. 93–5268 Filed 3–5–93; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copiers of the proposed information collection and supporting documents may be obtained from Ann Bickoff, Veterans Health Administration (161B3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 535–7407.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by April 7, 1993.

Dated: March 1, 1993.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Reinstatement

1. Dental Record, Authorization and Invoice for Outpatient Services, VA Form 10–2570d
2. The form is used to authorize veterans to seek private dentists for dental examination and treatment plan. The information is used by VA to authorize treatment and to determine customary fees for the services from the private fee dentist whom the veteran selected
3. Individuals or households—Businesses or other for-profit—Federal agencies or employees—Small businesses or organizations
4. 14,333 hours
5. 20 minutes
6. Non-recurring
7. 43,000 respondents

[FR Doc. 93–5269 Filed 3–5–93; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 43
Monday, March 8, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, March 30, 1993.

PLACE: 2033 K St., N.W., Washington, D.C., Lower Lobby Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

—Protection of Commodity Customers; Risk Disclosure by Futures Commission Merchants and Introducing Brokers to Customers; Bankruptcy Disclosure, Final rule 1.55

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–5334 Filed 3–4–93; 11:34 a.m.]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, March 30, 1993.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–5335 Filed 3–4–93; 11:34 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Tuesday, March 30, 1993.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–5336 Filed 3–4–93; 11:34 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, April 6, 1993.

PLACE: 2033 K St., NW., Washington, DC, Lower Lobby Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

—Registration of Floor Traders, Mandatory Ethics Training for Registrants; Suspension of Registrants Charged with Felonies, final rules

—Exemption for Certain Contracts Involving Energy Products, final order

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–5337 Filed 3–4–93; 11:34 am]

BILLING CODE 6351–01–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Amendment to Sunshine Act Meeting

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on February 24, 1993 (58 FR 11289) of the special meeting concerning Farm Credit System Building Association matters scheduled for February 18, 1993. This notice is to amend the agenda to remove the closed portion of that meeting.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting was open to the public (limited space available). The agenda for February 18, 1993, is amended to read as follows:

Open Session

A. Report

1. Farm Credit System Building Association

Dated: March 3, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–5318 Filed 3–3–93; 5:08 pm]

BILLING CODE 6705–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the April 8, 1993 regular meeting of the Farm Credit Administration Board (Board) will not be held and that a special meeting of the Board is scheduled for Thursday, April 15, 1993. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: March 3, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–5319 Filed 3–3–93; 5:09 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting Thursday, March 11, 1993

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, March 11, 1993, which is scheduled to commence at 9:30 a.m., in room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, and Subject

1—Common Carrier—Title: Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation (CC Docket No. 91–35). Summary: The Commission will consider adoption of an *Order on Further Reconsideration and Further Notice of Proposed Rulemaking* which reaffirms the requirement that international blocking services be federally tariffed and requests comments on several issues, including whether screening services should be federally tariffed.

2—Common Carrier—Title: Amendment of Part 22 of the Commission's Rules Relating to License Renewals in the Domestic Public Cellular Radio Telecommunications Service (CC Docket No. 90–358). Summary: The Commission will consider adoption of a *Memorandum Opinion and Order on Reconsideration* regarding petitions for reconsideration of its Report and Order concerning hearing procedures for comparative cellular radio renewal proceeding.

3—Private Radio—Title: Co-channel Protection Criteria for Part 90, Subpart S, Stations Operating Above 800 MHz (RM–8028). Summary: The Commission will consider adoption of a *Notice of Proposed Rulemaking* concerning interference protection criteria and co-channel station spacing for Specialized Mobile Radio Service (SMR) and non-SMR systems operating above 800 MHz.

4—Private Radio—Title: Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems (RM–8013). Summary: The Commission will consider adoption of a *Notice of Proposed Rulemaking* concerning rules for licensing Automatic Vehicle Monitoring Systems.

5—Office of Engineering and Technology—Title: Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation. Summary: The Commission will consider adoption of a *Notice of Proposed Rulemaking* concerning the use of revised guidelines for evaluation of human exposure to radiofrequency radiation for purposes of environmental analysis.

6—Mass Media—Title: Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992—Buy-through Prohibition (MM Docket No. 92–262). Summary: The Commission will consider adoption of a *Report and Order*.

7—Mass Media—Title: Implementation of the Cable Television Consumer Protection and Competition Act of 1992—Broadcast Signal Carriage Issues (MM Docket No. 92–259). Summary: The Commission will consider adoption of a *Report and Order* regarding the mandatory signal carriage and retransmission consent provisions of the 1992 Cable Act.

8—Mass Media—Title: Implementation of Section 8 of the Cable Television Consumer Protection and Competition Act of 1992—Consumer Protection and Customer Service. Summary: The Commission will consider adoption of a *Report and Order* regarding standards governing cable customer service.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632–5050.

Federal Communications Commission.

Issued: March 4, 1993.

Donna R. Searcy,

Secretary.

[FR Doc. 93–5402 Filed 3–4–93; 3:31 pm]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 93–5173.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, March 11, 1993, 10:00 a.m., Meeting Open to the Public.

THE FOLLOWING ITEMS WERE ADDED TO THE AGENDA:

1. Transfers of funds from State to Federal campaigns; revised implementation plan.
2. Public Hearings on Best Efforts and Ex Parte Communications Rulemakings.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 93–5348 Filed 3–4–93; 12:42 pm

BILLING CODE 6715–01–M

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), U.S.C. 552b:

DATE AND TIME: March 10, 1993, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 975th Meeting—March 10, 1993, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 2523–003, Wisconsin Electric Power Company

CAH–2.
Project No. 9885–034, Marysville Hydro Partners

CAH–3.
Project No. 2827–004, City of Redding, California

CAH–4.
Project Nos. 9175–002 and 013, River Electric Company, Inc.

CAH–5.
Project Nos. 8835–016, 017 and 020, Dewey B. Smith

CAH–6.
Project No. 11050–002, North Side Canal Company, Limited

CAH–7.
Project No. 7045–012, R.L. Garry Corporation

CAH–8.
Omitted

CAH–9.
Project No. 6167–016, Ronald E. Rulofson

CAH–10.
Docket No. RM93–5–000, Revision of the Billing Procedures for Annual Charges for Administering Part I of the Federal Power Act

Consent Agenda—Electric

CAE–1.
Docket No. ER93–91–000 Detroit Edison Company

CAE–2.
Omitted

CAE–3.
Docket Nos. ER92–595–002 and ER92–596–002, Pacific Gas and Electric Company

CAE–4.
Docket Nos. ER93–150–001 and EL93–10–001, Boston Edison Company

CAE–5.
Docket No. ER92–280–001, Public Service Electric and Gas Company

CAE–6.
Docket Nos. EC92–21–001 and ER92–806–001, Entergy Services, Inc. and Gulf States Utilities Company

CAE–7.
Docket No. EL–92–22–001, City of Lebanon, Ohio v. Cincinnati Gas & Electric Company

CAE–8.
Docket No. ER93–17–001, Maine Public Service Company

CAE–9.
Omitted

CAE–10.
Omitted

CAE–11.
Omitted

CAE–12.
Docket No. EG93–13–000, InterAmerican Energy Leasing Company

CAE–13.
Docket No. EG93–14–000, Louis Dreyfus Electric Power Inc.

CAE–14.
Docket No. EG93–15–000, NW Energy (Williams Lake) Limited Partnership

CAE–15.
Docket No. QF92–179–000, Arroyo Energy, Limited Partnership

CAE–16.
Docket Nos. ER92–436–000, 001, 002, EL92–29–000, 001, 002, EL92–30–000, ER93–299–000 and EL93–18–000, Florida Power Corporation

CAE–17.
Docket No. ER92–592–002, Yankee Atomic Electric Company
Docket Nos. ER90–525–009 and ER90–526–005, New England Power Company

CAE–18.
Docket No. EC88–2–010, Utah Power and Light Company, PacifiCorp and PC/UP&L Merging Corporation

CAE–19.
Docket No. ER92–297–000, Ohio Edison Company

Consent Agenda—Oil and Gas

CAG–1.
Docket No. RP93–62–002, Equitrans, Inc.

CAG–2.
Docket Nos. RP86–119–028, 031, *et al.*, RP92–220–002 and 000, Tennessee Gas Pipeline Company

CAG–3.
Docket Nos. RP93–5–003, 005 and RS92–69–002, Northwest Pipeline Corporation

CAG–4.

Docket No. RP93–75–000, Florida Gas Transmission Company
CAG–5.
Docket No. CP92–552–002, Granite State Gas Transmission, Inc.
CAG–6.
Docket No. RP93–72–000, CNG Transmission Corporation
CAG–7.
Docket Nos. GT93–10–000, GT93–11–000, GT93–12–000, GT93–13–000, GT93–14–000, GT93–21–000, GT93–22–000, GT93–23–000, GT93–24–000, GT93–25–000, GT93–26–000 and GT93–28–000, El Paso Natural Gas Company
CAG–8.
Docket No. CI85–513–014, El Paso Natural Gas Company
CAG–9.
Docket Nos. TM93–2–24–000, 001, 002 and 003, Equitrans, Inc.
CAG–10.
Docket No. RP92–137–013, Transcontinental Gas Pipe Line Corporation
CAG–11.
Docket No. MT88–3–009, Transcontinental Gas Pipe Line Corporation
CAG–12.
Docket No. RP93–42–002, Colorado Interstate Gas Company
CAG–13.
Docket Nos. RP91–41–011, 002, RP91–90–004 and 001, Columbia Gas Transmission Corporation
CAG–14.
Docket No. RP88–262–024, Panhandle Eastern Pipe Line Company
CAG–15.
Docket Nos. RP88–259–062, 063, 064, CP89–1227–016, 017, CP89–1951–001, RP89–136–027, RP90–124–012, 013, RP90–161–008, 009, RP92–228–001, 002, RP91–1–012 and 014, Northern Natural Gas Company
CAG–16.
Docket Nos. TQ92–5–1–002, 006 and TQ93–1–1–001, Alabama-Tennessee Natural Gas Company
CAG–17.
Docket No. PR93–2–000, Transok, Inc.
CAG–18.
Docket Nos. RP92–157–000 and 002, Pacific Offshore Pipeline Company
CAG–19.
Docket Nos. RP80–97–059, RP82–12–022 and RP91–203–022, Tennessee Gas Pipeline Company
CAG–20.
Omitted
CAG–21.
Docket Nos. RP93–62–001 and RS92–15–000, Equitrans, Inc.
CAG–22.
Docket Nos. RP93–6–001 and RS92–75–001, Paiute Pipeline Company
CAG–23.
Docket No. CP92–190–001, Panhandle Eastern Pipe Line Company
Docket No. CP92–203–001, KN Wattenburg Transmission Limited Liability Company
Docket No. CP92–208–001, KN Front Range Gathering Company
CAG–24.
Docket No. CP92–182–003, Florida Gas Transmission Company
Docket No. CP92–415–001, Transcontinental Gas Pipe Line Corporation and Florida Gas Transmission Company
CAG–25.
Docket No. CP92–184–002, Texas Eastern Transmission Corporation
Docket No. CP92–185–002, Algonquin Gas Transmission Company
CAG–26.
Docket No. CP92–441–003, National Fuel Gas Supply Corporation and Tennessee Gas Pipeline Company
CAG–27.
Docket No. CP92–598–001, Transcontinental Gas Pipe Line Corporation
CAG–28.
Docket No. CP92–6–007, Southern Natural Gas Company and South Georgia Natural Gas Company
Docket No. CP92–311–003, Southern Natural Gas Company
CAG–29.
Docket Nos. CP89–460–008, 009, CP90–1–002 and 003, Pacific Gas Transmission Company
CAG–30.
Docket No. CP89–2035–001, Meridian Oil Gathering Inc.
CAG–31.
Docket No. RM92–9–001, Regulations Governing Blanket Marketer Sales Certificates
CAG–32.
Docket No. CP92–445–000, Southern Natural Gas Company
CAG–33.
Docket No. CP92–611–000, Natural Gas Pipeline Company of America
CAG–34.
Docket No. CP92–687–000, Columbia Gas Transmission Corporation
CAG–35.
Docket No. CP93–98–000, Gas Company of New Mexico
CAG–36.
Docket No. CP93–185–000, Portal Municipal Gas
CAG–37.
Docket Nos. RP89–183–045, RP89–40–000, RP89–195–000, RP89–233–000, RP90–123–000, RP91–107–000, RP89–140–000, RP90–71–001, RP91–152–000, 008, RP89–152–009, RP91–185–000, TM91–6–43–000, TM92–3–43–000, TC89–8–000, RP91–43–000, TM91–3–43–000 and RS92–12–000, Williams Natural Gas Company
CAG–38.
Docket No. IS93–13–001, Amerada Hess Pipeline Corporation
Docket No. IS93–14–001, ARCO Transportation Alaska, Inc.
Docket No. IS93–15–001, BP Pipelines (Alaska) Inc.
Docket No. IS93–16–001, Exxon Pipeline Company
Docket No. IS93–17–001, Mobil Alaska Pipeline Company
Docket No. IS93–18–001, Phillips Alaska Pipeline
Docket No. IS93–19–001, Unocal Pipeline Company

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Docket No. RM93–11–000, Oil Pipeline Regulatory Reform Pursuant to the Energy Policy Act of 1992. Notice requesting comments.
PR–2.
Docket No. RP92–133–000 (Phase I), Gas Research Institute. Order on settlement.

II. Restructuring Matters

RS–1.
Docket Nos. RS92–12–000, RP89–183–000, 002, TC89–8–000, RP91–43–000, TM91–3–43–000 and RP91–152–000, Williams Natural Gas Company. Order on compliance filing.
RS–2.
Docket No. RS92–36–000, Gateway Pipeline Company. Order on compliance filing.
RS–3.
Docket No. RS92–73–000, Pacific Interstate Offshore Company. Order on compliance filing.
RS–4.
Docket Nos. RS92–23–005, RP91–203–026 and RP92–132–028 (Consolidated in Part), Tennessee Gas Pipeline Company. Order on compliance filing.
RS–5.
Docket Nos. RS92–22–003 and 004, Panhandle Eastern Pipe Line Company. Order on second compliance filing and on requests for rehearing and clarification.

III. Pipeline Certificate Matters

PC–1.
Reserved

Dated: March 3, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5412 Filed 3–4–93; 4:00 pm]

BILLING CODE 6717–01–M

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 7–93

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Mon., March 22, 1993 at 2:30 p.m.

Consideration of Proposed Decisions on claims against Iran.

Hearings on the record on objections to Proposed Decisions in the following claims against Iran:

IR–1737—Thomas J. Temple
IR–2202—Billie C. Castleman
IR–0746—Langston (Div. of Molins Machine Company, Inc.)

Tues., March 23, 1993 at—

Oral Hearings on objections to Proposed Decisions in the following claims against Iran:

10:30 a.m.—IR–1429—Ocean-Air Cargo, Inc.
10:30 a.m.—IR–1102—Ocean-Air Cargo, Inc.
2:00 p.m.—IR–3160—Joe J. Amaro
2:30 p.m.—IR–1360—Estate of Thomas N. O'Neill, Dec'd

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 601 D Street, NW., Room 10000, Washington, DC 20579. Telephone: (202) 208–7727.

Dated at Washington, DC on March 3, 1993.

Judith H. Lock,

Administrative Officer.

[FR Doc. 93–5315 Filed 3–3–93; 5:07 pm]

BILLING CODE 4410–01–M

NATIONAL SCIENCE FOUNDATION / NATIONAL SCIENCE BOARD

DATE AND TIME:

March 18, 1993—1:30 p.m. Open Session
March 19, 1993—9:00 a.m. Closed Session
March 19, 1993—9:30 a.m. Open Session

PLACE: National Science Foundation, 1800 G Street, NW., Rm. 540, Washington, DC 20550.

STATUS: Part of this meeting will be open to the public. Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Thursday, March 18, 1993.

Open Session (1:30 p.m.–3:00 p.m.)

NSB Commission Report

Friday, March 19, 1993.

Closed Session (9:00 a.m.–9:30 a.m.)

1. Minutes—February 1993 Meeting.
2. Alan T. Waterman Award.
3. NSF Budget.
4. Grants and Contracts.

Open Session (9:30 a.m.–10:30 a.m.)

4. Chairman's Report.
5. Minutes—February 1993 Meeting.
6. Director's Report.
7. NSF International Activities.
8. Other business/Adjourn.

Marta Cehelsky,

Executive Officer.

[FR Doc. 93–5320 Filed 3–4–93; 8:47 am]

BILLING CODE 7555–01–M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1456]

TIME AND DATE: 10 a.m. (EST), March 10, 1993.

PLACE: Bull Run Fossil Plant, Clinton, Tennessee.

STATUS: Open.

AGENDA: Approval of minutes of meeting held on January 20, 1993.

DISCUSSION ITEMS:

1. New TVA Flag.
2. TVA Honor Guard.

ACTION ITEMS:

New Business

B—Purchase Awards

B1. Indefinite Quantity Term Agreement for Line Crews, Miscellaneous Crafts People, and Equipment for Work on Transmission Lines and Substations.

C—Energy

C1. Reactivation of Completion Activities—Bellefonte Nuclear Plant.

C2. Personal Services Contract with B&W Nuclear Services Company, Subject to Satisfactory Negotiations and Final Review Prior to Execution.

C3. Personal Services Contract with Stone & Webster Engineering Corporation, Subject to Satisfactory Negotiations and Final Review Prior to Execution.

C4. Changes in Dispersed Power Production Guidelines.

C5. Realignment of Hydro Benefit to Residential Consumers.

E—Real Property Transactions

E1. Sale of Permanent Easement Affecting Approximately 0.25 Acre of Hendersonville 161–kV Substation Property, Sumner County, Tennessee, to the Hendersonville, Tennessee, Utility District.

E2. Sale of Permanent and Construction Easements Affecting Approximately 0.48 Acre of Harrison Bay 161–kV Substation Property, Hamilton County, Tennessee, to the State of Tennessee.

E3. Sale of Permanent Easement Affecting Approximately 12 Acres of Wilson Dam Reservation, Lauderdale County, Alabama, to the City of Florence, Alabama.

E4. Procedures for Assessment of Civil Penalties Under the Archaeological Resources Protection Act of 1979.

INFORMATION ITEMS:

1. Lost Fork Coal License Agreement with Ikerd-Bandy, Inc.—Clay County, Kentucky—Red Bird Coal Reserves.

2. Supplement to Personal Services Contract No. TV–82909V with B&W Nuclear Services Company—Bellefonte Nuclear Plant.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Vice President, Governmental Relations, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 479–4412.

Dated: March 3, 1993.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 93–5325 Filed 3–4–93; 9:15 am]

BILLING CODE 8120–08–M

Corrections

Federal Register
Vol. 58, No. 43
Monday, March 8, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Financial Reporting by Introducing Brokers; Valuation of Investments of Customer Funds by Futures Commission Merchants

Correction

In rule document 93–4019 beginning on page 10949 in the issue of Tuesday, February 23, 1993 make the following corrections:

1. On page 10949, in the first column, in the first paragraph, under SUMMARY, in the third line, "amended" should read "amending".

2. On page 10951, in the 1st column, in the 1st full paragraph, in the 19th line, "IBIs" should read "IBI".

§ 1.10 [Corrected]

3. On page 10952, in the third column, in § 1.10(b)(2)(ii)(B), in the third line from the bottom, insert "the" after "following".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

48 CFR Chapter 20

RIN 3150-AC01

Acquisition Regulation (NRCAR)

Correction

In rule document 92-30419 beginning on page 61152 in the issue of Wednesday, December 23, 1992, make the following correction:

On page 61169, in the second column, in the subchapter heading above part 2027, "Subchapter 3" should read "Subchapter E".

BILLING CODE 1505-01-D

federal register

Monday
March 8, 1993

Part II

Commission on National and Community Service

Availability of Funds for Summer of Service Youth Corps Programs; Notices

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

Availability of Funds for Summer of Service

AGENCY: Commission on National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Commission on National and Community Service announces the availability of a $15 million program, subject to congressional appropriation, to support summer community service initiatives. These funds will enable more than a thousand young people to serve their communities and participate in leadership development training activities, through Summer of Service programs operating in four to ten areas across the country.

In addition to supporting the Summer of Service program, some funds will go to expanding community service activities this summer through the following:

(1) Incentive funding to encourage summer youth corps programs with a proven track record of success to increase the number of funded summer corps participants;

(2) Funding for a summer training program for public and private elementary and secondary school teachers to integrate service-learning in our primary and secondary school curricula; and

(3) A transfer of funds to ACTION to support VISTA summer associate positions this year.

The funds are provided under the authority of the National and Community Service Act of 1990 (Pub. L. 101–610), as amended. This notice will describe the process for applying for the Summer of Service program funds. A subsequent notice will cover the summer youth corps program. No awards of grants will be made until such time as funds are appropriated by Congress.

DATES: Proposals must arrive by 6 p.m. e.s.t. on Thursday, April 1, 1993.

ADDRESSES: Applications should be submitted to the Commission on National and Community Service, 529 14th Street, suite 452, Washington, DC 20045.

FOR FURTHER INFORMATION CONTACT: The Commission on National and Community Service, (202) 724–0600.

SUPPLEMENTARY INFORMATION: Approximately ten million dollars in funding will support Summer of Service programs that will engage up to 1800 youth (ages 17 to 25) in serving the health, educational, environmental and public safety needs of at risk children in four to ten sites across the country. The Summer of Service will be nine and a half weeks long and will include national service and leadership training for staff and participants, at least eight weeks of service, and a closing summit conference with the President.

The goals of the Summer of Service are: To demonstrate immediately, through a summer initiative, the potential of national service; to provide tangible and measurable community benefits; to develop leaders for national and community service; and to unleash the talents and energies of young Americans in tackling the nation's urgent needs.

Summer of Service programs will be run by partnerships between higher education institutions and public organizations including youth corps, health and social service providers, local nonprofits and community-based organizations, public and private schools, and governmental agencies. Each Summer of Service program will recruit and select 50 or more young people preferably from diverse racial, economic and educational backgrounds to participate in service activities for the summer. Summer of Service programs will be funded by the Commission and will provide participants with federal minimum wage stipends and a $1,000 post-service benefit.

The Summer of Service initiative will fund programs in no less than 4 and no more than 10 areas. An area is defined as a metropolitan statistical area (MSA), a city, or a rural area which may include up to three counties. It is anticipated that approximately 200–500 young people will serve in each larger Summer of Service area which may include several Summer of Service programs. Rural and small urban areas may not have as many participants. Any given area may have one or more operating programs. For example, six programs of 50 participants each could be funded in an area for a total of 300 participants serving. Likewise, one program of 300 could be funded in an area.

The Commission will provide placement assistance to help participants who wish to continue serving after the summer fund year-round full-time service placements. In addition, the Commission may award up to 25 Service Entrepreneurial Awards for Change to participants who wish to develop innovative year-round service projects during the summer. Additional information on both of these aspects of the program will be provided to those programs that are selected.

I. Eligibility to Apply

Only partnerships between higher education institution(s) and one or more public or private nonprofit organizations are eligible to apply for funds. Examples of organizations that can be partners with higher education institutions include community-based nonprofits, schools, governmental entities, health and social service providers, and youth corps. Although an eligible partnership must include at least one institution of higher education, one of the other organizations in the partnership can serve as the fiduciary agent and be responsible for program management.

II. Program Description and Proposal Guidelines

Summer of Service applicants will be expected to submit program proposals that meet the criteria listed below under Program Narrative and that contain the following sections. There is no other proposal form.

A. Title Page

(1) Name, address and type of organization of applicant with management and fiduciary responsibility. (2) Names and types of organizations in partnership. (3) Signatures of legal applicant and principal partners. (4) Total amount requested, number of stipended participants, and number of other non-stipended volunteers. (5) Brief (not more than one paragraph) description of project service activities and community to be served.

B. Program Narrative (See Description Below)

C. Institutional and Personnel Information

The quality of project leadership and management is of critical importance in the selection process. Attach descriptions of the experience and major accomplishments of the project director and other key personnel. Also indicate whether these personnel are already committed to the project or are to be recruited. This section should describe the applicant's institutional capacity to administer the program and the organization's experience in running community service programs. Each individual resume or curriculum vitae may not be more than two pages in length. If available, applicants should attach annual reports describing their organization's activities.

D. Budget (Complete the Attached Budget Form)

Program Narrative Description

The program narrative should cover the following program criteria in no more than 10 single-spaced pages. The primary focus of the narrative should be on sections 1, 2, and 3.

1. Demonstrated Needs and Impacts

Most important, programs must define community needs and demonstrate tangible and measurable community benefits for children at risk. Examples of measurable outcomes could include the number of children tutored or immunized, or the number of playgrounds refurbished.

2. Program Participants

(a) Programs must provide meaningful service opportunities, stipends and post-service benefits for at least 50 participants. Depending upon the number of areas selected and the number of programs at any given area, programs could enroll up to 500 participants.

(b) Stipended participants in the program must be 17 to 25 years old and preferably be from diverse racial, economic, and educational backgrounds. All applicants must describe the recruitment and selection process they will use to attract a qualified and preferably diverse pool of participants in whom they see leadership potential. Any given program should seek to enroll current college students, recent graduates, entering college students, and non-college bound youth.

(c) In addition, programs will also be judged on their plans to involve other volunteers, particularly middle school children, in service activities. These volunteers may participate in all or part of the service activities, but unlike program participants, they will not receive stipends and post-service benefits.

3. Service Activities

(a) Programs must include a minimum of 8 weeks of service which will include necessary on-site training and leadership development activities. Participant activities must focus on delivering services that directly improve the lives of children at risk. Program design must include proper orientation, supervision and service-learning opportunities for participants. Programs should also describe any leadership development activities.

(b) Applicants must specify the service projects to be undertaken, including specific information on which community agencies will be assisting. Service must be targeted on the needs of at risk children. Service projects must specifically focus on one or more of the following tasks: meeting the health care needs of at risk children (e.g., immunizations, eye examinations, health education outreach); bettering the environment of children at risk (e.g., identifying toxins that threaten the children's environment, building playgrounds); providing educational enrichment activities for at risk children (e.g., tutoring, literacy activities, summer classes); and improving their public safety (e.g., crime prevention activities).

Applicants must demonstrate an ability to implement their proposed projects expeditiously.

4. Service Entrepreneurial Awards for Change (SEA Change Awards)

The Commission may grant up to 25 SEA Change Awards to encourage participants in the Summer of Service programs to develop year-round innovative national and community service projects to involve the nation's youth in addressing urgent national needs. Interested participants may submit a plan during the summer detailing their intention to create a service project that they would implement during the nine months following the Summer of Service.

Programs may nominate up to 5 participants to submit to the Commission for the national selection process. Programs should briefly describe the process and criteria that they would like to use in selecting their nominees. Further information and guidelines will be provided by the Commission once programs are selected.

5. Organizational Capacity, Leadership and Experience

(a) Applicants must demonstrate that they have in place the infrastructure, including the leadership and organizational capacity, to manage the proposed summer program. In addition, programs should show a measure of broad-based community support for the summer program. Those programs that are able to raise private funds and in-kind matches to support Summer of Service activities will be looked favorably upon in the selection process. Programs will also be judged in part on their success in connecting their activities to other federally funded programs, including summer jobs and summer Chapter 1 school programs, in their communities.

(b) Applicants must have demonstrable experience in operating community service programs and involving youth in leadership roles. All programs must have appropriate liability arrangements for participants. Programs should indicate what these arrangements are.

6. Stipends and Post-Service Benefits

Applicants must include in their budget request to the Commission federal minimum wage stipends for all participants and a $1,000 post-service benefit to be used for education and training for all participants who successfully complete the Summer of Service. Programs must have the capacity to assure appropriate payment of post-service benefits and to ensure that they are used only for education and training purposes.

7. National Leadership Training

Applicants must make a commitment to attend national training activities and present a budget for traveling to them. Current plans for national training activities include:

4-day training for the project directors and mid-level supervisors of the summer programs, tentatively scheduled for May 21–24, on the west coast.

5-day training for participants. Program leaders and mid-level supervisors will also be expected to participate. The 5-day training will tentatively take place from June 21–25 on the west coast.

Closing weekend summit at or near the end of the Summer of Service programs. The closing summit will most likely take place during the second or third weekend in August in the Washington, DC area.

8. Evaluation Plan

The Commission will hire a national evaluator to assess the impact of the Summer of Service programs on (a) the communities being served and (b) the participants. Local programs will be required to cooperate with this national evaluation effort.

In the proposal, programs should list the criteria by which they believe their program should be evaluated. Programs should include the quantifiable benefits that they hope to achieve for the community and participants through the Summer of Service.

III. Proposal Selection Criteria

The following criteria will be used to judge and select applicants for award.

Important Consideration: In addition to selecting programs for funding based on the evaluation criteria described below, the Commission will have to weigh area considerations in the program selection process.

The Summer of Service initiative will fund programs at 4 to 10 areas across the country. Areas are defined as metropolitan statistical areas (MSA), cities, or rural areas which may include up to three counties. The participant target for each Summer of Service area will be approximately 200 to 500 participants, except in rural and smaller urban areas where there may be fewer and smaller programs. Any given area may have one or more operating programs. For example, six programs of 50 participants each could be funded in an area for a total of 300 participants serving. Likewise, one program of 300 could be funded in an area.

For this reason, programs may receive preference in the selection process if they are located in an urban or rural area where a number of programs are clustered. The "clustering" of programs in an area is intended to demonstrate the impact of a significant number of participants serving in a reasonably concentrated area. Geographic distribution will also influence program and area selection.

1. Quality of the Program (40%)

A. The proposed program addresses important needs of the community focusing on children-at-risk.
B. There are clearly defined, measurable outcomes.
C. The program is well-designed and effective with feasible plans for implementation. The program design includes service-learning and leadership development components.
D. The program has a recruitment and selection process that will attract a qualified and diverse pool of potential community service leaders.
E. The operating programs have a proven track record running, monitoring and evaluating community service programs.
F. The program presents a sound evaluation plan.
G. The program has the ability to pay and monitor the use of post-service benefits for educational and training purposes.
H. Those programs that demonstrate a "multiplier effect" by engaging additional non-stipended participants, especially middle school children, in service activities may receive a preference in the selection process.

2. Quality of the Leadership and Management (30%)

The program director(s) and supervisors are well-qualified for their responsibilities. They have previous experience recruiting, selecting and supervising youth participants in community service programs. Experience in managing or cooperating in a partnership will also be important.

3. Innovation (10%)

The project demonstrates innovation in its partnerships, service delivery and community involvement. Those programs that develop innovative partnerships with other federally funded programs may be favorably judged.

4. Replicability (5%)

The program is a good model adaptable in other locations and circumstances.

5. Sustainability (5%)

The degree to which an applicant can continue the best aspects of the program next summer without Commission funding.

6. Cost Effectiveness (10%)

The budget is reasonable and the program is cost-effective in addressing community needs.

Matching funds from nonfederal sources will also be a consideration evidencing local community support with financial or in-kind participation from the private sector, nonprofits, public agencies or participating partnerships in the application. Other Federal funds that may be used to support this activity would also be considered.

The amount of Administration Costs (including any indirect costs) will also be a consideration in judging cost effectiveness.

IV. Summer of Service Program Examples

The following are illustrative of the types of programs envisioned for the Summer of Service initiative. Applicants should note that they only are examples and do not represent the totality of organizations that should or could be involved nor the only types of services that could be delivered.

Example A

A local nonprofit youth corps forms a partnership with an inner city community college to provide tutoring, mentoring and child care/summer camp services for 200 6 to 12 year old children in a summer lunch program. The program involves 160 young service providers who during the week operate a structured program of math and English lessons using service-learning techniques as well as arts, crafts and recreational activities for the children. The youth corps manages the program.

Example B

A group of community health centers collaborate with an urban university, a youth service corps and a middle school. The program places teams of young people composed of middle school students, summer youth corps members, and college students in the community to work on meeting the health needs of children at risk. Teams work with community health centers to assist in the immunization of preschool children by providing support services, contacting parents, following up to make sure children are immunized, and organizing educational presentations at the local community centers on the need to immunize children.

One hundred youth corps members and college student participants are involved in the program and receive stipends. In addition, the partnership is able to attract another 75 volunteers, including the middle school children (who are especially effective in organizing presentations for their parents and neighbors on the importance of early childhood immunization). The program is managed by the consortium of community health centers and the university's urban extension office.

Example C

A consortium of colleges and universities form a partnership with city homeless shelters in a large urban area. A team of participants is placed in each shelter to organize a school readiness program which includes tutoring, vision checks, immunizations, and visits to the doctor and dentist for the children in that shelter. The consortium manages the program. Two hundred young people provide service in this summer program.

Example D

A state government in cooperation with its cooperative extension service, local 4-H Clubs, and the state land-grant university organizes an environmental assessment and improvement project. Service teams consist of university students, 4-H Club members, recent high school and college graduates, out of school youth, and senior volunteers. These teams conduct environmental audits and pollution prevention programs to identify and reduce health risks for young children throughout a tri-county region in the state. One hundred stipended young people along with 30 senior volunteers serve in this program. The state coordinates the program activities.

Example E

The mayor's office coordinates this city-wide project aimed at crime prevention. The partners in this program include two institutions of higher education, the mayor's office, and a nonprofit organization. College students, and former offenders implement projects that range from providing mentoring and peer support to juvenile offenders, to working with the Police Department to organize crime prevention presentations at youth centers in the city, to setting up summer activities for youth in city housing developments to keep them "off the streets." The mayor's office manages this Summer of Service program involving over 300 participants.

V. Definitions

Metropolitan Statistical Area:

A. A city of 50,000 or more population; or

B. A Census Bureau defined urbanized area of at least 50,000 population, provided that the component county/counties of the metropolitan statistical area have a total population of at least 100,000 (55 CFR 12154, March 30, 1990).

Rural Area:

A. Open country which is not part of or associated with an urban area;

B. Any town, village, city or place, including the immediately adjacent densely settled area, which is not part of or associated with an urban area and which:

a. Has a population not in excess of 10,000 if it is rural in character; or

b. Has a population in excess of 10,000 but not in excess of 20,000 and is not contained within a Metropolitan Statistical Area.

Service-Learning

A method by which participants learn and develop through active participation in thoughtfully organized service experiences that meet actual community needs and that are coordinated in collaboration with the community. Service-learning can occur through structured time for a participant to reflect or write about what he or she did and saw during the actual service activity. Service-learning programs provide participants with opportunities to use newly acquired skills and knowledge in real-life situations in their own communities, enhance what is taught in schools by extending learning beyond the classroom and into the community, and help to foster the development of a sense of caring for others.

For further assistance please contact the Commission at (202) 724–0600.

Authority: 42 U.S.C. 12501 *et seq.*

Dated: March 4, 1993.

Catherine Milton,

Executive Director.

BILLING CODE 6820-BA-M

Budget

For *each* program (minimum of 50 participants) in the application, provide the following cost information and supporting explanations:

1.	**Participant Costs**						
	_____ # of participants	x	_____ Federal min. wage	x	_____ # of weeks (minimum 9.5)[1]	=	$ _____
2.	**Project Leaders' Salaries**						$ _____
3.	**Other Supervisors'/Leaders' Salaries**						_____
					_____		
					_____		$ _____
4.	**Other Expenses**[2]				_____		
					_____		
					_____		$ _____
5.	**National Training & Travel**[3]		Participants		_____		
			Leaders/Supervisors	_____ (#)	_____		$ _____
	TOTAL FUNDS REQUESTED FROM THE COMMISSION						$ _____
6.	Matching Funds						$ _____
7.	In-Kind Contributions						$ _____
8.	Other Federal Funds						$ _____
	Total Project Costs						$ _____

1 There must be a minimum of 8 weeks of service plus one week of national training and 2-1/2 days for conclusion summit.
2 Any other expenses should be included and briefly explained.
3 The travel for participants and project leaders/supervisors. Should be based on one trip to the West Coast and one summit trip to the East Coast (Washington, DC., area). Cost of travel should include airline or other transportation and per diem, calculated at $75 per day per participants or leader, the number of leaders/supervisors should be cited.

[FR Doc. 93-5429 Filed 3-5-93; 10:19 am]
BILLING CODE 8830-BA-C

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

Notice of Summer of Service Youth Corps Program

AGENCY: Commission on National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Commission on National and Community Service announces a $1 million program, subject to Congressional appropriation, to encourage conservation and youth service corps to expand opportunities for a summer of service for 2,000 youths.

DATES: Proposals must arrive by 6 p.m. e.s.t. on Thursday, April 1, 1993.

ADDRESSES: Proposals should be submitted to the Commission on National and Community Service, 529 14th Street, suite 452, Washington, DC 20045.

FOR FURTHER INFORMATION CONTACT: The Commission on National and Community Service, (202) 724–0600.

SUPPLEMENTARY INFORMATION: The Commission will make grants on a competitive basis to existing public or private nonprofit youth corps programs to engage youth in meaningful service projects that address unmet needs. The term "youth corps program" means a program, such as a conservation corps or youth service corps program, that offers full-time productive work (to be financed through living allowances) with visible community benefits in a natural resource or human service setting and that gives participants a mix of work experience, basic and life skills, education, training, and support services.

Summer of Service Youth Corps Program Requirements

Applicants will be expected to submit program proposals that meet the following requirements:

1. The Commission will provide funding of $500 per participant to be used only for participant stipends. This money may be used to leverage additional funds from Federal, State, local and private sources. In no case can the total Federal share of funding exceed 75 percent of program costs.

2. The applicant must detail the type of activities the participants will be engaged in. In the case of conservation corps those activities may include programs that focus on:

A. Conservation, rehabilitation, and the improvement of wildlife habitat, rangelands, parks, and recreational areas;

B. Urban and rural revitalization, historical and cultural site preservation, and reforestation of both urban and rural areas;

C. Fish culture, wildlife habitat maintenance and improvement, and other fishery assistance;

D. Road and trail maintenance and improvement;

E. Erosion, flood, drought, and storm damage assistance and controls;

F. Stream, lake, waterfront harbor, and port improvement;

G. Wetlands protection and pollution control;

H. Insect, disease, rodent, and fire prevention and control;

I. The improvement of abandoned railroad beds and rights-of-way;

J. Energy conservation projects, renewable resource enhancement, and recovery of biomass;

K. Reclamation and improvement of strip-mined land;

L. Forestry, nursery, and cultural operations; and

M. Making public facilities accessible to individuals with disabilities.

In the case of youth service corps programs, those activities may include participant service in:

A. State, local, and regional governmental agencies;

B. nursing homes, hospices, senior centers, hospitals, local libraries, parks, recreational facilities, child and adult day care centers, programs serving individuals with disabilities, and schools;

C. law enforcement agencies, and penal and probation systems;

D. private nonprofit organizations that primarily focus on social service such as community action agencies;

E. activities that focus on the rehabilitation or improvement of public facilities, neighborhood improvements, literacy training that benefits educationally disadvantaged individuals, weatherization of and basic repairs to low-income housing including housing occupied by older adults, energy conservation (including solar energy techniques), removal of architectural barriers to access by individuals with disabilities to public facilities, activities that focus on drug and alcohol abuse education, prevention and treatment, and conservation, maintenance, or restoration of natural resources on publicly held lands; and

F. any other nonpartisan civic activities and services that the Commission determines to be of a substantial social benefit in meeting unmet human, educational, or environmental needs (particularly needs relating to poverty), or in the community where service is to be performed.

3. The applicant must also detail the type of education and training provided to the participants, including the incorporation of service learning methods. While Commission funds are to be used exclusively for stipends, at least 10 percent of the total resources devoted to the program must be for training and educational services and materials for the participants.

4. Eligible participants may not be younger than 14 years of age nor older than 21 years of age.

5. The applicant must describe the total number of participants and crew leaders and the qualifications of and manner of appointment and training of supervisory personnel.

6. Collaborative arrangements between the youth corps and other public or private organizations which will enhance the service impact on the community or the participants are encouraged.

7. The programs must ensure that educationally and economically disadvantaged youth are offered opportunities to enroll.

8. Participants shall receive a living allowance of not more than an amount equal to 100 percent of the poverty line for a family of two (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

9. Participants may receive a post-service education and training benefit in an amount that is not in excess of $100 per week of service.

10. The summer program must operate for a period between May 1 and October 1.

11. Applicants must comply with all applicable OMB circulars and Federal laws including the supplementation, nonduplication, and nondisplacement provisions set forth in 45 CFR 2506.2

Program Evaluation

The programs will be given preference based on:

1. The amount of resources leveraged by Commission funds—particularly non-Federal resources.

2. The long term benefits to the public.

3. The degree to which it can instill the sense of civic responsibility, work ethic, and sense of public service in the participants.

4. The quality of the program proposed.

5. The degree to which it will enhance the skills and educational level and opportunities for the participants.

Geographic diversity will also be a factor in the selection of programs.

Proposals should be limited to no more than five pages in length and be submitted with a signed cover page

which indicates the total number of participants and the amount of funding requested.

For further assistance please contact the Commission at (202) 724–0600.

Authority: 42 U.S.C. 12501 et seq.

Dated March 4, 1993.

Catherine Milton,

Executive Director.

[FR Doc. 93–5430 Filed 3–5–93; 10:19 am]

BILLING CODE 6820-SA-M

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Monday, March 8, 1993

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ELECTRONIC BULLETIN BOARD

Free Electronic Bulletin Board Service for Public Law numbers, Federal Register finding aids, and a list of Clinton Administration officials is available on 202-275-1538 or 275-0920.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $775.00 domestic, $193.75 additional for foreign mailing.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–017–00001–9)	$13.00	Jan. 1, 1992
3 (1991 Compilation and Parts 100 and 101)	(869–017–00002–7)	17.00	[1] Jan. 1, 1992
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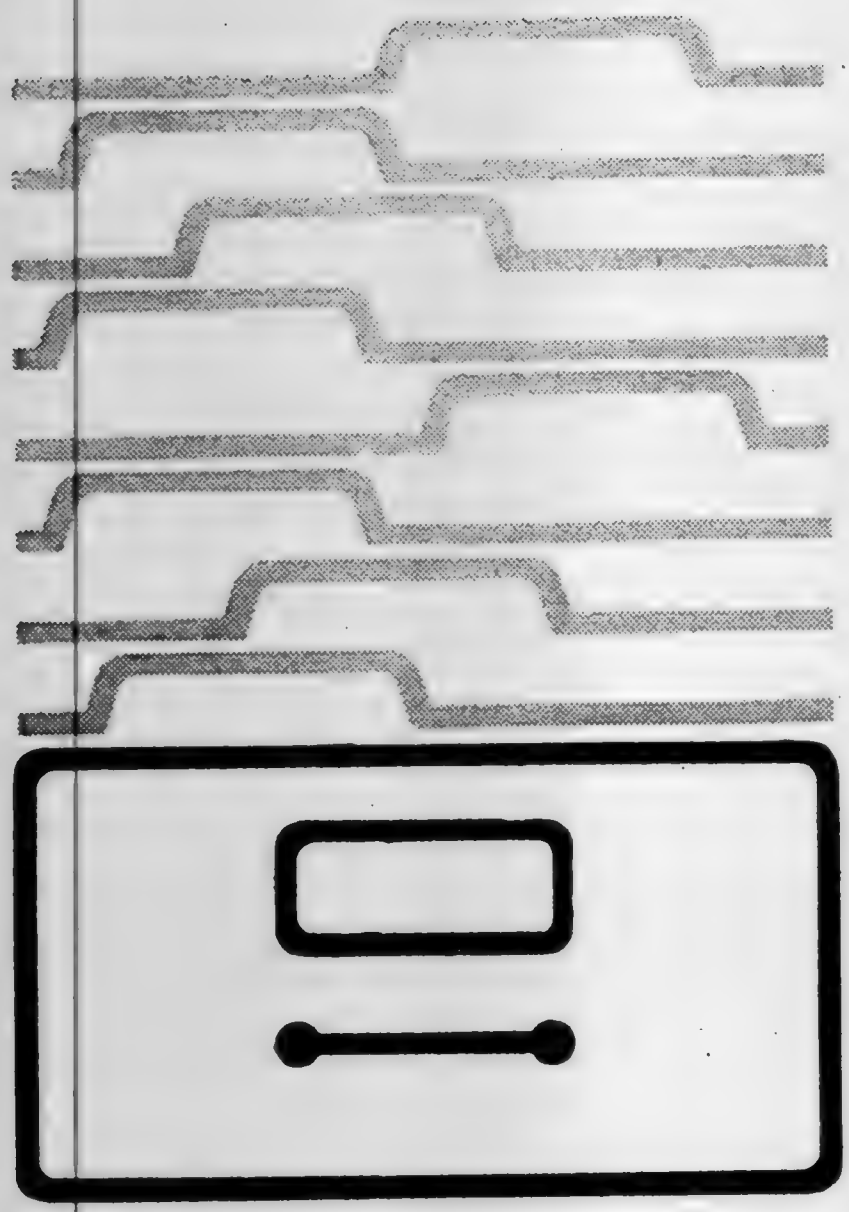

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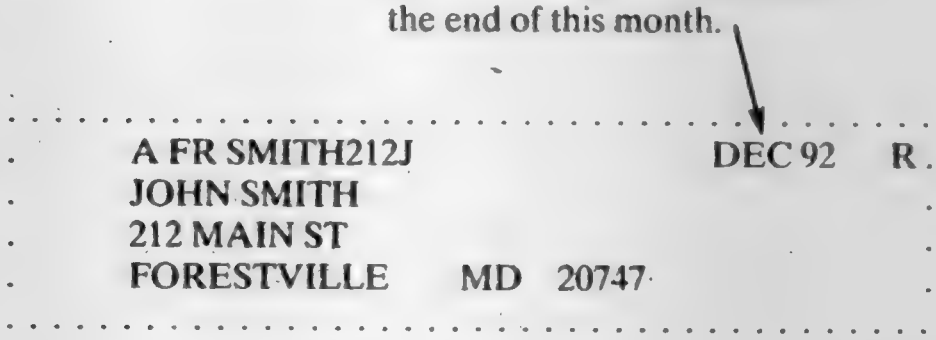

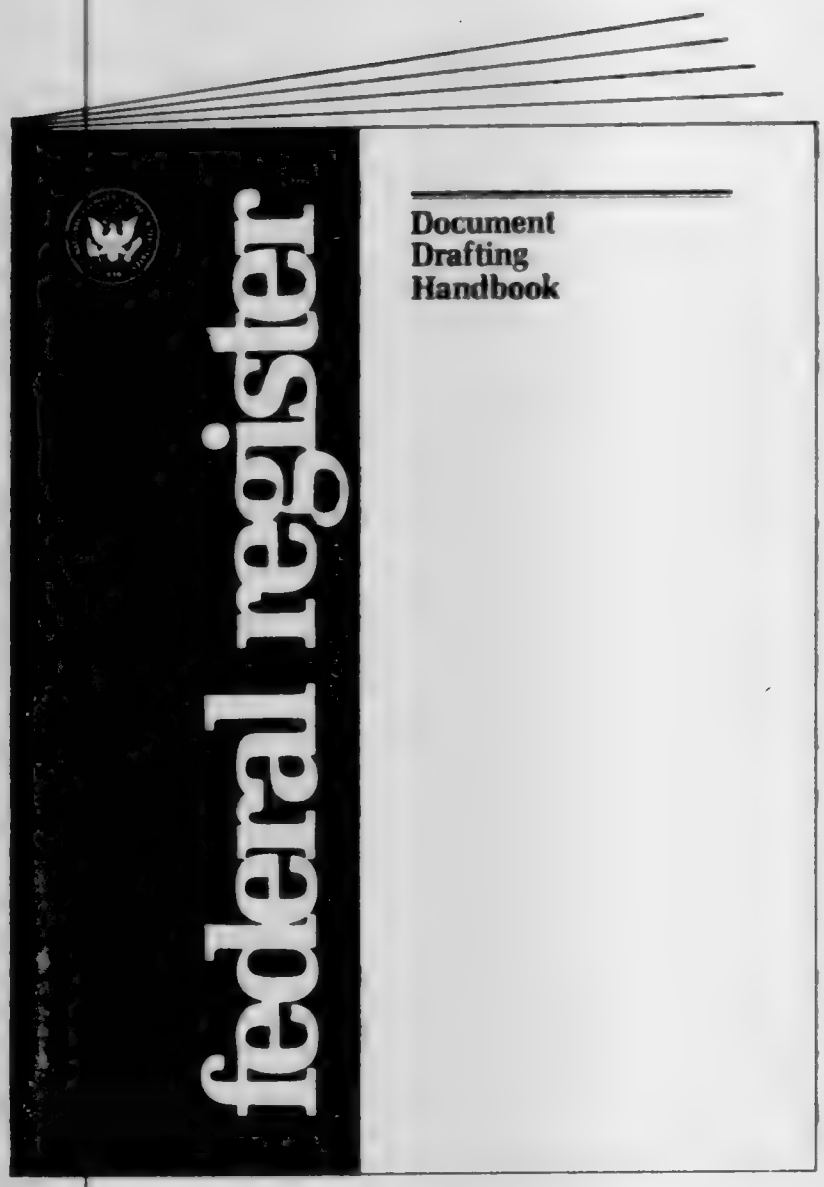

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

RIN 0581–AA76

[No. LS–92–007]

Beef Promotion and Research; Reapportionment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule will adjust representation on the Cattlemen's Beef Promotion and Research Board (Board), established under the Beef Promotion and Research Act (ACT) of 1985, to reflect changes in cattle inventories and cattle and beef imports which have occurred since the Board was reapportioned in 1990. Such adjustments are required by the Beef Promotion and Research Order (Order) and will result in a decline in Board membership from 111 to 107, effective with the Secretary's 1993 appointments. Georgia, Missouri, South Dakota, and Texas each will lose one Board member while Kentucky will gain one member. Another Board position will be lost in the current mid-Atlantic unit. Since this unit does not have sufficient cattle inventory to qualify for a position on the Board, the unit will be divided, and Maryland and the District of Columbia will be combined with West Virginia to form a new mid-Atlantic unit. The States of Delaware, New Jersey, Connecticut, and Rhode Island will join with Massachusetts, Vermont, New Hampshire, and Maine to form a new Northeast unit.

EFFECTIVE DATE: This rule will become effective on April 8, 1993.

ADDRESSES: Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division; Agricultural Marketing Service, USDA, Room 2624–S; P.O. Box 96456; Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, at 202/720–1115.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order No. 12291 and Departmental Regulations 1512–1 and has been designated as a "nonmajor" rule under the criteria contained therein.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. Section 11 of the Act provides that nothing in the Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State. There are no administrative proceedings which must be exhausted prior to any judicial challenge to the provisions of this rule.

This action was also reviewed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601, et seq.). The Administrator of the Agricultural Marketing Service has determined that this final action will not have a significant impact on a substantial number of small entities as defined by the RFA since it only adjusts representation on the Board to reflect changes in domestic cattle inventory and imports.

The Board was initially appointed August 4, 1986, pursuant to the provisions of the Act (7 U.S.C. 2901, et seq.) and the Order issued thereunder (7 CFR 1260.101, et seq.). Domestic representation on the Board is based on cattle inventory numbers, and importer representation is based on the conversion of the volume of imported cattle, beef, or beef products into live animal equivalencies.

Section 1260.141(b) of the Order provides that the Board shall be composed of cattle producers and importers appointed by the Secretary from nominations submitted by certified producer organizations. A producer may only be nominated to represent the unit in which that producer is a resident.

Section 1260.141(c) of the Order provides that, at least every 3 years, and not more than every 2 years, the Board shall review the geographic distribution of cattle inventories throughout the United States and the volume of imported cattle, beef, and beef products and, if warranted, reapportion units and/or modify the number of Board members from units in order to best reflect the geographic distribution of cattle production volume in the United States and the volume of cattle, beef, or beef products imported into the United States.

Section 1260.141(d) of the Order authorizes the Board to recommend to the Secretary modifications in the number of cattle per unit necessary for representation on the Board.

Section 1260.141(e)(1) provides that each geographic unit or State that includes a total cattle inventory equal to or greater than 500,000 head of cattle shall be entitled to one representative on the Board. Section 1260.141(e)(2) provides that States which do not have total cattle inventories equal to or greater than 500,000 head shall be grouped, to the extent practicable, into geographically contiguous units, each of which have a combined total inventory of not less than 500,000 head. Such grouped units are entitled to at least one representative on the Board. Each unit which has an additional one million head of cattle within a unit qualifies for additional representation on the Board as provided in § 1260.141(e)(4). As provided in § 1260.141(e)(3), importers are represented by a single unit with the number of Board members based upon a conversion of the total volume of imported cattle, beef, or beef products into live animal equivalencies.

The initial Board appointed in 1986 was composed of 113 members. Reapportionment in 1990, utilizing a 3-year average of cattle inventory numbers and import data, reduced the Board to 111 members.

The current Board representation by States or units has been based on an average of the January 1, 1987, 1988, and 1989 inventory of cattle in the various States as reported by the National Agricultural Statistics Service of the USDA. Importer representation has been based on a combined total average of the 1986, 1987, and 1988 live cattle imports as published by the Foreign Agricultural Service of USDA and the average of the 1986, 1987, and 1988 live animal equivalents for imported beef products.

Recommendations concerning Board reapportionment were approved by the Board at its June 26–29, 1992 meeting. In considering reapportionment, the

Board reviewed cattle inventories as well as cattle, beef, and beef product import data for the period January 1, 1989, to January 1, 1992. The Board recommended that a 3-year average of cattle inventories and import numbers should be continued. The Board determined that an average of the January 1, 1990, 1991, and 1992 USDA cattle inventory numbers would best reflect a representative number of cattle in each State or unit since the 1990 reapportionment.

The Board reviewed the March 1992 Foreign Agricultural Service circular, "U.S. Trade and Prospects, Dairy, Livestock, and Poultry," to determine proper importer representation. The Board recommended the use of a combined total of the average of the 1989, 1990, and 1991 cattle import data and the average of the 1989, 1990, and 1991 live animal equivalents for imported beef products. The method used to calculate the total number of live cattle equivalents was the same as that used in the previous reapportionment of the Board. The recommendation for importer representation is based on the most recent 3-year average of data available to the Board at its June 26–29, 1992, meeting to be consistent with the procedures used for domestic representation.

One October 19, 1992, the Agricultural Marketing Service (AMS) published in the **Federal Register** (57 FR 47576) a proposed rule providing for the adjustment in Board membership based on data reviewed by the Board. The proposed rule was published with a request for comments to be submitted to the Department by November 18, 1992.

The Department of Agriculture received nine written comments concerning the proposed rule for Board reapportionment. The commenters included industry organizations, individuals, and the Board. The Board comment registered support for the reapportionment plan as published.

Eight comments were received from organizations and individuals in two States which would lose representation under the proposal. Each of these commenters offered suggestions designed to retain the current representation for their particular State. Some commenters indicated that drought during 1989 and 1990 impacted the number of cattle in their State and suggested that if the USDA January 1 inventory number for 1993 were incorporated, the results would not only be more current but more representative of the cattle inventory in the State. The recommendation called for the use of 1991, 1992, and 1993 data rather than 1990, 1991, and 1992 data as specified in the proposed rule.

Commenters from another State pointed out that USDA's estimated number of cattle in their State was subject to substantial statistical error. Commenters further indicated that the number of cattle required to retain the current Board membership in that State was within the standard error encompassed in the estimating procedures.

Another commenter indicated that the cattle inventory data published by an industry organization was high enough to permit the retention of the current Board representation. Commenters also indicated that livestock analysts' estimates of future inventory levels were large enough to merit retention of current Board representation. In summary, it was suggested that due to the various factors enumerated above, it would be logical to permit this State to retain its current Board membership because the USDA 3-year average of cattle inventories in the State was only slightly below the level required by the Order for that number of members.

The Act and Order specify that a cattle inventory of 500,000 head is required for initial Board representation with an additional member authorized for each additional million head of cattle within the State or unit.

The USDA numbers are derived through statistical sampling procedures and are widely used and accepted. The numbers are objectively derived and are fair and equitable between States with valid statistical sampling procedures used across all States. Further the USDA numbers have served as the basis for the original Board representation and for the 1990 reapportionment of the Board. In addition, utilizing the 3-year average of inventory numbers provides an improved measure of equity versus a single year inventory and tends to mitigate the impact of drought and other year-to-year fluctuations in the cattle inventory numbers.

The Order provides for the Board to review Board representation every 2 to 3 years. The Board has determined that it will review representation every 3 years. Following the Board's inception in 1986, the first review was in 1989. At that time, in the interest of equity, the 3-year average of USDA January 1 numbers was established by the Board as the basis for future representation. The January 1, 1987, 1988, and 1989 numbers—the latest available at the time of the Board's action in July 1989—were used. Similarly, the Board's review in June of 1992 reaffirmed the Board's desire to utilize the most recent 3-year average of January 1 cattle inventory numbers available at the time of Board action. Thus, the January 1, 1990, 1991, and 1992 USDA inventory data are the basis for the current reapportionment.

The Board's decisions form the basis for the reapportionment. To incorporate 1993 data in the analysis at this point would potentially result in a variety of new reapportionment considerations without the opportunity for Board input or time to provide opportunity for public comment prior to initiation of the 1993 nomination and appointment process. For example, this would deny the Board the opportunity to act on situations such as the need to realign the mid-Atlantic region which the Board considered in mid-1992.

Therefore, it has been determined that the suggestions to retain current Board membership in the two States cannot be adopted for the reasons outlined above.

Thus, the reapportionment of the Board in this final rule is unchanged from the proposed rule. It reduces the number of representatives on the Board from 111 to 107. Four States—Georgia, Missouri, South Dakota, and Texas—lose one member each; and one State, Kentucky, gains one member. The importer unit would not be affected. However, the current mid-Atlantic unit loses its member. Since the unit does not have sufficient cattle inventory to qualify for a position on the Board, this unit will be divided with Maryland and the District of Columbia joining with West Virginia to form a new mid-Atlantic unit while the States of Delaware, New Jersey, Connecticut, and Rhode Island join with Massachusetts, Vermont, New Hampshire, and Maine to form a new Northeast unit. The States and units affected by the reapportionment plan and the current and revised member representation per unit are as follows. (Units are listed with the revised State makeup. Current mid-Atlantic States are denoted by (*) and current Northeast States are denoted by (#). West Virginia is the only State not currently in a unit which will become part of a unit.)

States	Current representation	Revised representation
1. Georgia	2	1
2. Kentucky	2	3
3. Missouri	5	4
4. South Dakota	4	3
5. Texas	14	13
6. Mid-Atlantic	1	1
*Maryland		
*District of Columbia		
West Virginia	1	
7. Northeast	1	1

States	Current representation	Revised representation
*Delaware		
*Connecticut		
#Maine		
#Massachusetts		
#New Hampshire		
*New Jersey		
*Rhode Island		
#Vermont		

New Board representation for the entire 41 units is shown in the revised § 1260.141(e) contained herein. The new Board reapportionment will become effective with 1993 nominations and appointments.

This action makes final the provisions of the proposed rule published at 57 FR 47578 on October 19, 1992.

List of Subjects in 7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural research, Imports, Marketing agreement, Meat and meat products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, 7 CFR part 1260 is amended as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

1. The authority citation for 7 CFR part 1260 continues to read as follows:

Authority: 7 U.S.C. 2901 et seq.

2. Section 1260.141 is amended by revising paragraph (a) to read as follows:

§ 1260.141 Membership of Board.

(a) For Board nominations and appointments beginning with those in 1993, the United States shall be divided into 40 geographical units and one unit representing importers, and the number of Board members from each unit shall be as follows:

CATTLE AND CALVES [1]

State/unit	(1,000 head)	Directors
1. Alabama	1,783	2
2. Arizona	857	1
3. Arkansas	1,700	2
4. California	4,633	5
5. Colorado	2,867	3
6. Florida	1,922	2
7. Georgia	1,430	1
8. Idaho	1,720	2
9. Illinois	1,977	2
10. Indiana	1,252	1
11. Iowa	4,550	5
12. Kansas	5,683	6
13. Kentucky	2,500	3
14. Louisiana	1,023	1
15. Michigan	1,208	1
16. Minnesota	2,720	3
17. Mississippi	1,337	1
18. Missouri	4,450	4
19. Montana	2,393	2
20. Nebraska	5,867	6
21. Nevada	560	1
22. New Mexico	1,367	1
23. New York	1,550	2
24. North Caroline	950	1
25. North Dakota	1,750	2
26. Ohio	1,810	2
27. Oklahoma	5,433	5
28. Oregon	1,433	1
29. Pennsylvania	1,850	2
30. South Carolina	590	1
31. South Dakota	3,443	3
32. Tennessee	2,280	2
33. Texas	13,367	13
34. Utah	797	1
35. Virginia	1,727	2
36. Wisconsin	4,113	4
37. Wyoming	1,243	1
38. Northwest		2
Washington	1,373	
Alaska	8.2	
Hawaii	206	
Total	1,588	
39. Northeast		1
Delaware	30	
Connecticut	74	
Maine	116	
Massachusetts	70	
New Hampshire	46	
New Jersey	70	
Rhode Island	7	
Vermont	264	
Total	667	
40. Mid-Atlantic		1
Maryland	317	
District of Columbia	0	
West Virginia	518	
Total	835	
41. Importer	6,389	6

[1] 1990, 1991, and 1992 average.

Dated: March 3, 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93-5367 Filed 3-8-93; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150—AD64

Export and Import of Nuclear Equipment and Material; Clarifying Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to the export and import of nuclear equipment and material. The revisions clarify the Commission's licensing requirements governing the export and import of nuclear equipment and material. The final rule makes NRC's regulations consistent with the physical security guidelines in IAEA INFCIRC/225, and conforms NRC's regulations for export and import to the Solar, Wind, Water, and Geothermal Power Production Incentives Act of 1990, and U. S. Government foreign relations commitments and changing circumstances.

EFFECTIVE DATE: March 9, 1993. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 9, 1993.

FOR FURTHER INFORMATION CONTACT: Elaine O. Hemby, Office of International Programs, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–2341, or Joanne M. Becker, Office of the General Counsel, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–1740.

SUPPLEMENTARY INFORMATION:

Introduction

The NRC is amending its regulations for the export and import of nuclear equipment and material in 10 CFR part 110. Some sections are restructured and simplified to clarify the NRC's export and import licensing regulations. Some sections are amended to bring them into conformance with U.S. Government foreign relations commitments and changing circumstances, to make necessary editorial changes, and to provide additional information to aid exporters and importers. The following summary of the changes, presented in the order in which they appear, include the reasons for the changes.

Section 110.1 is clarified and expanded to provide the exporter with a better understanding of the scope of part 110 and the jurisdictional lines between the NRC and the Department of Commerce. To correct inconsistent references, the first sentence in § 110.1(a) is amended by adding the words "and § 110.9" after "§ 110.8", as the sections that set out the nuclear equipment and material whose export is regulated by NRC, and by changing the reference "§ 110.9" to "§ 110.9a", as the section that sets out the regulations for the import of nuclear equipment and

material. Paragraph (b)(1) is amended by changing "65" to "64" to correct an erroneous reference to the Atomic Energy Act.

In § 110.1, paragraph (b)(3) is redesignated as paragraph (b)(4) and amended by adding the sentence "A uranium enrichment facility is not a production facility." In § 110.2, the definition of "production facility" is revised by adding ", other than a uranium enrichment facility," after the words "the separation of isotopes". In § 110.9a, which covers nuclear equipment and material under NRC import licensing authority, paragraph (e), "Uranium enrichment facilities", is removed. Thus, the import of a uranium enrichment facility into the United States will not require an NRC license. This conforms NRC's import licensing regulations under part 110 to the "Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990", Public Law 101–575, signed by the President on November 15, 1990. Section 5 of that law amends the Atomic Energy Act to remove a uranium enrichment facility from the definition of a "production facility" for the purposes of chapter 10, "Atomic Energy Licenses," and chapter 16, "Judicial Review and Administrative Procedure" of the Act, except with respect to the export of a uranium enrichment facility.

Footnote 1 in paragraph 110.1(b)(2) is removed and incorporated in the text as paragraph (b)(3).

In § 110.2, definitions of "nuclear referral list" and "individual shipment" are added. Also, the definition of "export" is revised to clarify its meaning. After consultation with the Executive Branch, the NRC concluded that it would be appropriate to modify the definition of a utilization facility by changing the term "control rods" to "complete reactor control rod system" as one of the major components constituting a utilization facility. The purpose of the change is to reflect more clearly the requirements of the Atomic Energy Act. Exports of individual control rods are more appropriately treated as exports of nuclear components under section 109b of the Atomic Energy Act of 1954, as amended, rather than exports of utilization facilities. Editorial changes also are made in the "utilization facility" definition. The reference to the Topaz II reactor system in the definition of a utilization facility is deleted because it is no longer necessary, as is the reference to the definition of utilization facility in § 110.5.

Section 110.4 is clarified and updated to reflect organizational changes within the NRC and current addressees for NRC contacts. Section 110.6 is updated to reflect the current addressee for the Department of Energy contact. Section 110.7, covering information collection requirements, is amended to include § 110.20 because the section contains an information collection requirement.

The list of nuclear equipment under the NRC export licensing authority in § 110.8 is restructured for clarity. For technical clarity, plants for the separation of the isotopes of lithium and lithium processing equipment are removed from paragraph (b), which covers plants for the separation of the isotopes of source material or special nuclear material, because the two technologies are different. A new paragraph is added to cover plants for the separation of the isotopes of lithium and lithium processing equipment. A new paragraph also is added to alert an exporter that some nuclear-related commodities are under the licensing authority of the Department of Commerce.

Subpart C, regarding general licenses, and subpart D, regarding specific licenses, have been combined for clarification and to emphasize the distinction between general and specific licenses. The introductory titles of subparts C and D are incorporated. A new § 110.19 is added to explain the distinction between general and specific licenses. Section 110.20 is clarified and restructured, and the section headings for §§ 110.21–110.27, covering general licenses, are revised for clarification. Section 110.25, concerning the export of graphite under general license, is amended to alert the exporter that some exports of graphite are under the licensing authority of the Department of Commerce. Section 110.26(a) is amended to permit a person to export under general license nuclear reactor components in semifabricated form to any country listed in § 110.26(a) for the purpose of undergoing final fabrication or repair for subsequent return to the United States for use in United States reactors. For simplification, footnote 2 in § 110.26(a) is removed and the countries listed in footnote 2 are added to the countries listed in § 110.26(a). Portugal, which is now a EURATOM member, is added to the list of countries in § 110.26(a). Section 110.27(c) is amended to direct the exporter to the definition of the term "formula quantities of strategic special nuclear material."

The list of embargoed destinations in § 110.28 is amended to indicate that Kampuchea is now known as Cambodia and to add Iran, Iraq and Libya. Iran, Iraq and Libya are removed from the restricted destination list in § 110.29. Albania, Bahrain, Kuwait, Malawi, Mozambique, Qatar, Saudi Arabia, South Africa, Tanzania, Zambia, and Zimbabwe are deleted from the list of restricted destinations in § 110.29 because these countries are adherents to the Non-Proliferation Treaty (NPT). A new footnote is added to § 110.29 to indicate that Argentina and Brazil will be removed from the restricted destination list following implementation of the Argentina/Brazil/IAEA full scope safeguards agreement.

Because subparts C and D are combined under a revised subpart C, the heading of subpart D is removed, and the headings of subparts E, F, G, H, I, J, K, and L are redesignated.

In § 110.30, the section heading is revised for clarity and a new paragraph is added to indicate that a fee is assessed under 10 CFR part 170 for filing an application with the NRC for a specific license for export or import. The fee was added to 10 CFR part 170 in an earlier rulemaking (56 FR 31472; July 10, 1991). The July 10, 1991 final rule implements the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), which was signed into law on November 5, 1990. The Act mandates that the NRC recover approximately 100 percent of its budget authority in Fiscal Year 1991 (FY91) and the next four years (FY1992–1995) by assessing fees for licensing services requested by applicants and through annual fees on licenses. There is no annual fee for a general or specific export or import license. In § 110.31, the section heading is changed for clarification.

The NRC has reviewed its processing of nuclear export license applications under the Atomic Energy Act of 1954, as amended, and has determined that certain classes of export license applications do not raise issues which require review by the Commissioners. Therefore, paragraphs 110.40(b)(3) and (b)(4) are amended to delegate additional authority to the NRC staff to act upon certain classes of applications without prior consultation with the Commissioners. Under the amended paragraphs, the Commissioners will no longer review a license application for an export to Canada involving heavy water or for the export to EURATOM or Japan of source material or low-enriched uranium for enrichment up to 5 percent in the isotope uranium-235. The Executive Branch has also determined that these classes of export license applications do not raise issues which require review by the Executive Branch. Therefore, paragraphs 110.41(a)(3) and (a)(5) are amended to indicate that the NRC staff will act upon these classes of applications without prior consultation

with the Executive Branch. Section 110.40(a), which states that the Commission will start the review of a license application immediately after receipt, is amended to add a phrase "pursuant to the regulations in this part" indicating that the required license application fee must be received before review of the application begins.

In § 110.42(a), footnote 3 is redesignated as footnote 2 and is revised to clarify those items under the licensing jurisdiction of the NRC, including the reference to "control rods" which is changed to "complete reactor control rod system", as one of the major components constituting a utilization facility.

Section 110.43 concerning physical security standards is amended for clarification and simplification and to incorporate the update and recommendations contained in the IAEA document INFCIRC/225/Rev.2, December 1989.

In § 110.50, the name of the NRC contact referenced in paragraph (b)(3) is updated to reflect organizational changes.

In § 110.70, the NRC contact and address, concerning obtaining periodic lists of applications received, are updated in paragraph (c).

In Appendix A, paragraph (3) is amended by changing the words "reactor control rods" to "complete reactor control rod system" and by adding the phrase ", including the neutron absorbing part and the support or suspension structures therefor;" after the words "reaction rate in a nuclear reactor". This is being done to be consistent with the revised definition of "utilization facility".

Corrections are made to Appendix B, which covers gas centrifuge enrichment plant components under NRC's export licensing authority, and Appendix D, which covers reprocessing plant components under NRC's export licensing authority.

Appendix E is redesignated as appendix G, and a new appendix E is added for clarification of the coverage of specially designed or prepared equipment for use in a plant for the production of heavy water, deuterium, and deuterium compounds, which are subject to NRC's licensing regulations under 10 CFR 110.8. This action will conform NRC's licensing regulations to the export control guidelines of the International Nuclear Exporters Group (the Zangger Committee), in which the United States participates. The list in appendix E is intended to clarify administration of export controls over those items.

A new appendix F is added that lists the byproduct materials under the licensing jurisdiction of the NRC. This is being done to assist exporters, importers, and customs officials in determining whether a particular isotope is under the licensing authority of the NRC.

Because this rulemaking involves a foreign affairs function of the United States, the prior notice and comment provisions of the Administrative Procedure Act do not apply, pursuant to 5 U.S.C. 553(a)(1), and good cause exists to make the amendments effective upon publication in the Federal Register, pursuant to 5 U.S.C. 553(d) of that Act.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described as a categorical exclusion under 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0036 and 3150–0027.

Regulatory Analysis

The Commission has considered alternatives to as well as the costs and benefits of the final rule. There is no alternative to amending the regulations for the export and import of nuclear equipment and materials. The final rule would not result in any increase or cost to the public and is intended to clarify the current regulations to assist exporters, importers, and customs officials and to encourage the expanded use of general licences. The foregoing constitutes the regulatory analysis for this final rule.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this final rule does not have a significant economic impact on a substantial number of small entities. The effect of the final rule will be to clarify Part 110 to encourage expanded use of general licenses and to provide greater understanding of other provisions. This action will assist licensees and applicants in understanding and complying with the licensing procedures in Part 110 without increasing the economic impact on licensees and applicants.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule because 10 CFR Part 110 applies only to export and import of nuclear facilities, materials, and equipment. Therefore, a backfit analysis is not required for this final rule.

List of Subjects in 10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalty, Export, Import, Incorporation by reference, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC has adopted the following amendments to 10 CFR Part 110.

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

1. The authority citation for part 110 is revised to read:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 5, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243).

Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d., 88 Stat. 473, 475, (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553.

2. In § 110.1, paragraphs (a), (b)(1), (2), and (3) are revised and paragraph (b)(4) is added to read as follows:

§ 110.1 Purpose and scope.

(a) The regulations in this part prescribe licensing, enforcement, and rulemaking procedures and criteria,

under the Atomic Energy Act, for the export of nuclear equipment and material, as set out in § 110.8 and § 110.9, and the import of nuclear equipment and material, as set out in § 110.9a. This part also gives notice to all persons who knowingly provide to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 110.7b.

(b) * * *

(1) The Departments of Defense and Energy for activities authorized by sections 54, 64, 82, and 91 of the Atomic Energy Act, except when the Department of Energy seeks an export license under section 111 of the Atomic Energy Act;

(2) Persons who export uranium depleted in the isotope 235 and incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics. These persons are subject to the controls of the Department of State and the Department of Commerce under the Arms Export Control Act and the Export Administration Act, as authorized by section 110 of the International Security and Development Cooperation Act of 1980;

(3) Persons who export nuclear referral list commodities subject to the licensing authority of the Department of Commerce pursuant to 15 CFR part 799, such as bulk zirconium, plants for the conversion of uranium hexafluoride, rotor and bellows equipment, maraging steel, nuclear reactor related equipment, including process control systems and simulators; and

(4) Persons who import deuterium, nuclear grade graphite, or nuclear equipment other than production or utilization facilities. A uranium enrichment facility is not a production facility.

3. In § 110.2, definitions for *Individual shipment* and *Nuclear referral list* are added, and the definitions for *Export*, *Production facility*, and *Utilization facility* are revised to read as follows:

§ 110.2 Definitions.

* * * * *

Export means to physically transfer nuclear equipment or material to a person or an international organization in a foreign country, except DOE distributions as authorized in Section 111 of the Atomic Energy Act or Section 110 of the International Security and Development Cooperation Act of 1980.

* * * * *

Individual shipment means a shipment consisting of one lot of freight tendered to a carrier by one consignor at one place at one time for delivery to one consignee on one bill of lading. This lot may consist of:

(1) Only one item or

(2) A number of containers all listed on the same set of shipping documents. This one lot of freight or "distinct" shipment can be transported on the same carrier with other distinct shipments containing the same items as long as each shipment is covered by separate sets of shipping documents.

* * * * *

Nuclear Referral List (NRL) means the nuclear-related, dual-use commodities on the Commerce Control List that are subject to the nuclear non-proliferation export licensing controls of the Department of Commerce. They are contained in Supplement No. 1 to 15 CFR part 799 of the Department of Commerce's Export Administration Regulations and are designated by the symbol (NP) as the reason for control.

* * * * *

Production facility means any nuclear reactor or plant specially designed or used to produce special nuclear material through the irradiation of source material or special nuclear material, the chemical reprocessing of irradiated source or special nuclear material, or the separation of isotopes, other than a uranium enrichment facility.

* * * * *

Utilization facility means:

(1) Any nuclear reactor, other than one that is a production facility and

(2) Any of the following major components of a nuclear reactor:

(i) Reactor pressure vessel (designed to contain the core of a nuclear reactor);

(ii) Reactor primary coolant pump;

(iii) "On-line" reactor fuel charging and discharging machine; and

(iv) Complete reactor control rod system.

(3) A utilization facility does not include the steam turbine generator portion of a nuclear power plant.

4. Section 110.4 is revised to read as follows:

§ 110.4 Communications.

Except where otherwise specified in this part, all communications and reports concerning the regulations in this part should be addressed to the Assistant Director for Exports, Security, and Safety Cooperation, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–2344. Communications and reports may be delivered in person at the Commission's offices at 11555 Rockville Pike, Rockville, Maryland 20852 or at 2120 L Street NW. (Lower Level), Washington, DC 20037.

§ 110.5 [Amended]

5. In § 110.5, remove the words "and the definition of utilization facility in § 110.2 of this part".

§ 110.6 [Amended]

6. In § 110.6, paragraph (b), the phrase "Office of International Nuclear and Non-Proliferation Policy" is revised to read "Office of Arms Control and Nonproliferation Technology Support".

§ 110.7 [Amended]

7. In § 110.7 second sentence, add "110.20," between "§§ " and "110.26".

8. Section 110.8 is revised to read as follows:

§ 110.8 List of nuclear facilities and equipment under NRC export licensing authority.

(a) Nuclear reactors and specially designed or prepared equipment and components for nuclear reactors. (See appendix A to this part).

(b) Plants for the separation of the isotopes of uranium (source material or special nuclear material) including gas centrifuge plants, gaseous diffusion plants, jet nozzle plants, vortex plants, laser isotope separation plants, chemical separation plants, and specially designed or prepared assemblies and components for these plants. (See appendix B to this part for gas centrifuge equipment and appendix C to this part for gaseous diffusion equipment).

(c) Plants for the separation of the isotopes of lithium and specially designed or prepared assemblies and components for these plants.

(d) Plants for the reprocessing of irradiated nuclear reactor fuel elements and specially designed or prepared assemblies and components for these plants. (See appendix D to this part).

(e) Plants for the fabrication of nuclear reactor fuel elements and specially designed or prepared assemblies and components for these plants.

(f) Plants for the production, separation, or purification of heavy water, deuterium, and deuterium compounds and specially designed or prepared assemblies and components for these plants. (See appendix E to this part).

(g) Other nuclear-related commodities are under the export licensing authority of the Department of Commerce. (See 15 CFR part 799).

§ 110.9a [Amended]

9. In § 110.9a, remove paragraph (e) "Uranium enrichment facilities."

§ 110.10 [Amended]

10. In § 110.10 paragraph (b), the reference to Subpart "L" is revised to read Subpart "K of this part".

11. The heading of Subpart C is revised to read as follows:

Subpart C—Licenses

12. A new § 110.19 is added to subpart C to read as follows:

§ 110.19 Types of licenses.

Licenses for the export and import of nuclear equipment and material in this part consist of two types: General and Specific. A general license is effective without the filing of an application with the Commission or the issuance of licensing documents to a particular person. A specific license is issued to a named person upon application filed pursuant to the regulations in this part.

13. In § 110.20, the section heading and paragraphs (a), (b), and (e) are revised and a new paragraph (f) is added to read as follows:

§ 110.20 General license information.

(a) A person may use an NRC general license as the authority to export or import nuclear equipment or material if the equipment or material to be exported or imported is covered by the NRC general licenses described in §§ 110.21–110.29. If an export is not covered by these sections, a person must file an application with the Commission for a specific NRC license in accordance with §§ 110.30–110.31.

(b) In response to a petition or on its own initiative, the Commission may issue a general license for export or import if it determines that any exports or imports made under the general license will not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety and otherwise meet applicable statutory requirements. A general license is issued as a regulation after a rulemaking proceeding under subpart K of this part. Issuance of a general license is coordinated with the Executive Branch.

* * * * *

(e) A person who uses an NRC general license as the authority to export or import may cite on the shipping documents the section of this part which authorizes the described export or import under general license, as a means of expediting U.S. Customs Service's processing of the shipment.

(f) As specified in §§ 110.21 through 110.26, 110.28, and 110.29, only certain countries are eligible recipients of equipment or material under NRC general licenses to export. The Commission will closely monitor these countries and may at any time remove a country from a general license in response to significant adverse developments in the country involved. A key factor in this regard is the nonproliferation credentials of the importing country.

14. In § 110.21, the section heading is revised to read as follows:

§ 110.21 General license for the export of special nuclear material.

15. In § 110.22, the section heading is revised to read as follows:

§ 110.22 General license for the export of source material.

16. In § 110.23, the section heading is revised to read as follows:

§ 110.23 General license for the export of byproduct material.

17. In § 110.24, the section heading is revised to read as follows:

§ 110.24 General license for the export of deuterium.

18. In § 110.25, the section heading and paragraph (b) are revised to read as follows:

§ 110.25 General license for the export of nuclear grade graphite.

* * * * *

(b) Unless licensed by the Department of Commerce, a general license is issued to any person to export nuclear grade graphite in fabricated, nonnuclear-related commercial products to any country not listed in § 110.28, except that graphite electrodes weighing more than 1 kilogram per electrode may not be exported to any country listed in § 110.29 under this general license. (Fabricated products are products in final manufactured form except for detailed machining and other final steps necessary for the intended end use of the product.)

19. In § 110.26, the section heading and paragraph (a) are revised to read as follows:

§ 110.26 General license for the export of nuclear reactor components.

(a) A general license is issued to any person to export to the following countries any nuclear reactor component described in paragraphs (5) through (9) of appendix A to this part if—

(1) The component will be used in a light or heavy water-moderated power or research reactor in those countries, or

(2) The component is in semifabricated form and will be undergoing final fabrication or repair in those countries for subsequent return to the United States for use in a nuclear power or research reactor in the United States:

Belgium	Luxembourg
Canada	Netherlands
Denmark	Philippines
France	Portugal
Germany	South Korea
Greece	Spain
Indonesia	Sweden
Ireland	Switzerland
Italy	Taiwan
Japan	United Kingdom

* * * * *

20. In § 110.27, the section heading and paragraph (c) are revised to read as follows:

§ 110.27 General license for imports.

* * * * *

(c) A person importing formula quantities of strategic special nuclear material (as defined in § 73.2 of this chapter) under this general license shall provide advance notification of the imports as specified in § 73.27 and § 73.72 of this chapter.

21. Section 110.28 is revised to read as follows:

§ 110.28 Embargoed destinations.

Cambodia, Cuba, Iran, Iraq, Libya, North Korea, Vietnam.

22. Section 110.29 is revised to read as follows:

§ 110.29 Restricted destinations.

Afghanistan	India
Algeria	Israel
Andorra	Mauritania
Angola	Niger
Argentina [1]	Oman
Brazil [1]	Pakistan
Burma (Myanmar)	St. Kitts
Chile	Syria
Comoros	United Arab Emirates
Djibouti	Vanuatu
Guyana	Yemen Arab Republic

23. Section 110.30 to subpart D is redesignated as § 110.30 to subpart C and revised to read as follows:

§ 110.30 Application for a specific license.

(a) A person shall file an application for a specific license to export or import with the Assistant Director for Exports, Security, and Safety Cooperation, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The application may be delivered to the Commission's offices at 11555 Rockville Pike, Rockville, Maryland 20852 or at 2120 L Street, NW. (Lower Level), Washington, DC 20037.

[1] Argentina and Brazil will be removed from the list of restricted destinations following implementation of the Argentina/Brazil/IAEA full-scope safeguards agreement.

(b) An application for a specific license to export or import must be accompanied by the appropriate fee in accordance with the fee schedule in § 170.21 and § 170.31 of this chapter. A license application will not be processed unless the specified fee is received.

(c) A license application should be filed on NRC Form 7, except that an import license application and a production or utilization facility export license application should be filed by letter.

(d) Each person shall provide in the license application, as appropriate, the information specified in § 110.31. The Commission also may require the submission of additional information if necessary to complete its review.

(e) An application may cover multiple shipments and destinations.

(f) The applicant shall withdraw an application when it is no longer needed. The Commission's official files retain all documents related to a withdrawn application.

24. Section 110.31 to subpart D is redesignated as § 110.31 to subpart C and the section heading is revised to read as follows:

§ 110.31 Information Required in an Application for a Specific License.

Subpart D—[Removed]

25. Subpart D is removed.

Subparts E, F, G, H, I, J, K, and L—[Redesignated]

26. Subparts E, F, G, H, I, J, K, and L are redesignated as subparts D, E, F, G, H, I, J, and K respectively.

27. In § 110.40, paragraphs (a), (b)(3), and (b)(4) are revised to read as follows:

§ 110.40 Commission review.

(a) Immediately after receipt of a license application filed under the regulations in this part, the Commission will initiate its licensing review and, to the maximum extent feasible, will expeditiously process the application concurrently with review by the Executive Branch.

(b) * * *

(3) 1,000 kilograms or more of nuclear grade graphite or deuterium oxide (heavy water), other than exports of heavy water to Canada.

(4) An export involving assistance to end uses related to isotope separation, chemical reprocessing, heavy water production, advanced reactors, or the fabrication of nuclear fuel containing plutonium, except for exports of source material or low-enriched uranium to EURATOM or Japan for enrichment up to 5 percent in the isotope uranium-235, and those categories of exports which the Commission has approved in advance as constituting permitted incidental assistance.

* * * * *

28. In § 110.41, the introductory text of paragraph (a) and paragraphs (a)(3) and (a)(5) are revised to read as follows:

§ 110.41 Executive Branch review.

(a) An application for a license to export the following will be promptly forwarded to the Executive Branch for review:

* * * * *

(3) Nuclear grade graphite, more than 100 curies of tritium, and deuterium oxide (heavy water), other than exports of heavy water to Canada.

* * * * *

(5) An export involving assistance to end uses related to isotope separation, chemical reprocessing, heavy water production, advanced reactors, or the fabrication of nuclear fuel containing plutonium, except for exports of source material or low-enriched uranium to EURATOM and Japan for enrichment up to 5 percent in the isotope uranium-235, and those categories of exports approved in advance by the Executive Branch as constituting permitted incidental assistance.

* * * * *

29. In § 110.42, footnote 3 is redesignated as footnote 2 and the text of the footnote is revised to read as follows:

§ 110.42 Export licensing criteria.

* * * * *

[2] Exports of nuclear reactors, reactor pressure vessels, reactor primary coolant pumps, "on-line" reactor fuel charging and discharging machines, and complete reactor control rod systems, as specified in paragraphs (1) through (4) of appendix A to this part, are subject to the export licensing criteria in § 110.42(a). Exports of nuclear reactor components, as specified in paragraphs (5) through (9) of appendix A to this part, when exported separately from the items described in paragraphs (1) through (4) of appendix A, are subject to the export licensing criteria in § 110.42(b).

30. Section 110.43 is revised to read as follows:

§ 110.43 Physical security standards.

(a) Physical security measures in recipient countries must provide protection at least comparable to the recommendations in the current version of IAEA publication INFCIRC/225/Rev.2, December 1989, "The Physical Protection of Nuclear Material," and is incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Notice of any changes made to the material incorporated by reference will be published in the **Federal Register**. Copies of INFCIRC/225/Rev.2 may be obtained from the Assistant Director for Exports, Security, and Safety Cooperation, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and are available for inspection at the NRC library, 7920 Norfolk Avenue, Bethesda, Maryland 20814. A copy is on file at the library of the Office of the Federal Register, 800 N. Capitol Street, NW., suite 700, Washington, DC.

(b) Commission determinations on the adequacy of physical security measures are based on—

(1) Receipt of written assurances from recipient countries that physical security measures providing protection at least comparable to the recommendations set forth in INFCIRC/225/Rev.2 will be maintained; and

(2) Information obtained through country visits, information exchanges, or other sources. Determinations are made on a country-wide basis and are subject to continuing review. Appendix G to this part describes the different categories of nuclear material to which physical security measures are applied.

§ 110.50 [Amended]

31. In § 110.50(b)(3), "Assistant Director for International Security" which appears in the first, second, and third sentences is revised to read "Assistant Director for Exports, Security, and Safety Cooperation".

§ 110.70 [Amended]

32. In § 110.70 paragraph (c), "Assistant Director for International Security, Office of Government and Public Affairs," is revised to read "the Public Document Room,".

Appendix A to Part 110 [Amended]

33. In appendix A to part 110, paragraph (3) is revised to read as follows:

Appendix A to Part 110—Illustrative List of Nuclear Reactor Equipment Under NRC Export Licensing Authority

* * * * *

(3) Complete reactor control rod system, i.e., rods specially designed or prepared for the control of the reaction rate in a nuclear reactor, including the neutron absorbing part and the support or suspension structures therefor;

* * * * *

Appendix B to Part 110 [Amended]

34. In the title of appendix B to part 110, the word "Illustrative" is added before the word "List". In section 1, in sentence four of paragraph 1.2(a), the number "1.6.1" is revised to read "1.6:1" and in sentence five, the phrase "or a remanence of 98.5 percent or more," is added after the phrase "0.15 Henry/meter (120,000 in CGS units) or more,". In section 2, paragraph (a)1, "100 Kg/m² (15 lb/in.²)" is revised to read "100 kN/m² (15 psi) and at a rate of 1 kg/h or more." and in paragraph (a)2 "3 Kg/m²" is revised to read "3 kN/m²".

Appendix D to Part 110 [Amended]

35. In appendix D to part 110, in sentence one of paragraph (3), "contractors" is revised to read "contactors".

36. Appendix E to part 110 is redesignated as appendix G to part 110 and a new appendix E to part 110 is added to read as follows:

Appendix E to Part 110—Illustrative List of Equipment and Components Under NRC Export Licensing Authority for Use in a Plant for the Production of Heavy Water, Deuterium and Deuterium Compounds

Note: Heavy water can be produced by a variety of processes. However, two processes have proven to be commercially viable: the water-hydrogen sulphide exchange process (GS process) and the ammonia-hydrogen exchange process.

A. The water-hydrogen sulphide exchange process (GS process) is based upon the exchange of hydrogen and deuterium between water and hydrogen sulphide within a series of towers which are operated with the top section cold and the bottom section hot. Water flows down the towers while the hydrogen sulphide gas circulates from the bottom to the top of the towers. A series of perforated trays are used to promote mixing between the gas and the water. Deuterium migrates to the water at low temperatures and to the hydrogen sulphide at high temperatures. Gas or water, enriched in deuterium, is removed from the first stage towers at the junction of the hot and cold sections and the process is repeated in subsequent stage towers. The product of the last stage, water enriched up to 30 percent in deuterium, is sent to a distillation unit to produce reactor grade heavy water; i.e., 99.75 percent deuterium oxide.

B. The ammonia-hydrogen exchange process can extract deuterium from synthesis gas through contact with liquid ammonia in the presence of a catalyst. The synthesis gas is fed into exchange towers and then to an ammonia converter. Inside the towers the gas flows from the bottom to the top while the liquid ammonia flows from the top to the bottom. The deuterium is stripped from the hydrogen in the systhesis gas and concentrated in the ammonia. The ammonia then flows into an ammonia cracker at the bottom of the tower while the gas flows into an ammonia converter at the top. Further enrichment takes place in subsequent stages and reactor-grade heavy water is produced through final distillation. The synthesis gas feed can be provided by an ammonia plant that can be constructed in association with a heavy water ammonia-hydrogen exchange plant. The ammonia-hydrogen exchange process can also use ordinary water as a feed source of deuterium.

C.1. Much of the key equipment for heavy water production plants using either the water-hydrogen sulphide exchange process (GS process) or the ammonia-hydrogen exchange process are common to several segments of the chemical and petroleum industries; particularly in small plants using the GS process. However, few items are available "off-the-shelf." Both processes require the handling of large quantities of flammable, corrosive and toxic fluids at elevated pressures. Thus, in establishing the design and operating standards for plants and equipment using these processes, careful attention to materials selection and specifications is required to ensure long service life with high safety and reliability factors. The choice is primarily a function of economics and need. Most equipment, therefore, is prepared to customer requirements.

In both processes, equipment which individually is not especially designed or prepared for heavy water production can be assembled into especially designed or prepared systems for producing heavy water. Examples of such systems are the catalyst production system used in the ammonia-hydrogen exchange process and the water distillation systems used for the final concentration of heavy water to reactor-grade in either process.

C.2. Equipment especially designed or prepared for the production of heavy water utilizing either the water-hydrogen sulphide exchange process or the ammonia-hydrogen exchange process:

(i) Water-hydrogen Sulphide Exchange Towers

Exchange towers fabricated from carbon steel (such as ASTM A516) with diameters of 6 m (20 ft) to 9 m (30 ft), capable of operating at pressures greater than or equal to 2 MPa (300 psi) and with a corrosion allowance of 6mm or greater.

(ii) Blowers and Compressors

Single stage, low head (i.e., 0.2 MPa or 30 psi) centrifugal blowers or compressors for hydrogen-sulphide gas circulation (i.e., gas containing more than 70 percent H_2S). The blowers or compressors have a throughput capacity greater than or equal to 56 m³/second (120,000 SCFM) while operating at pressures greater than or equal to 1.8 MPa (260 psi) suction and have seals designed for wet H_2S service.

(iii) Ammonia-Hydrogen Exchange Towers

Ammonia-hydrogen exchange towers greater than or equal to 35 m (114.3 ft) in height with diameters of 1.5 m (4.9 ft) to 2.5 m (8.2 ft) capable of operating at pressures greater than 15 MPa (2225 psi). The towers have at least one flanged, axial opening of the same diameter as the cylindrical part through which the tower internals can be inserted or withdrawn.

(iv) Tower Internals and Stage Pumps Used in the Ammonia-hydrogen Exchange Process.

Tower internals include especially designed stage contactors which promote intimate gas/liquid contact. Stage pumps include especially designed submersible pumps for circulation of liquid ammonia within a contacting stage internal to the stage towers.

(v) Ammonia Crackers Utilizing the Ammonia-hydrogen Exchange Process.

Ammonia crackers with operating pressures greater than or equal to 3 MPa (450 psi).

(vi) Infrared Absorption Analyzers

Infrared absorption analyzers capable of "on-line" hydrogen/deuterium ratio analysis where deuterium concentrations are equal to or greater than 90 percent.

(vii) Catalytic Burners Used in the Ammonia-hydrogen Exchange Process.

Catalytic burners for the conversion of enriched deuterium gas into heavy water.

37. A new appendix F to part 110 is added to read as follows:

Appendix F to Part 110—Illustrative List of Byproduct Materials Under NRC Export/Import Licensing Authority

Actinium 225 (Ac 225)
Actinium 227 (Ac 227)
Actinium 228 (Ac 228)
Americium 241 (Am 241)

Americium 242m (Am 242m)
Americium 242 (Am 242)
Americium 243 (Am 243)
Antimony 124 (Sb 124)
Antimony 125 (Sb 125)
Antimony 126 (Sb 126)
Arsenic 73 (As 73)
Arsenic 74 (As 74)
Arsenic 76 (As 76)
Arsenic 77 (As 77)
Barium 131 (Ba 131)
Barium 133 (Ba 133)
Barium 140 (Ba 140)
Bismuth 207 (Bi 207)
Bismuth 210 (Bi 210)
Bromine 82 (Br 82)
Cadmium 109 (Cd 109)
Cadmium 113 (Cd 113)
Cadmium 115m (Cd 115m)
Cadmium 115 (Cd 115)
Calcium 45 (Ca 45)
Calcium 47 (Ca 47)
Californium 248 (Cf 248)
Californium 249 (Cf 249)
Californium 250 (Cf 250)
Californium 251 (Cf 251)
Californium 252 (Cf 252)
Carbon 14 (C 14)
Cerium 141 (Ce 141)
Cerium 143 (Ce 143)
Cerium 144 (Ce 144)
Cesium 131 (Cs 131)
Cesium 134m (Cs 134m)
Cesium 134 (Cs 134)
Cesium 135 (Cs 135)
Cesium 136 (Cs 136)
Cesium 137 (Cs 137)
Chlorine 36 (Cl 36)
Chlorine 38 (Cl 38)
Chromium 51 (Cr 51)
Cobalt 58m (Co 58m)
Cobalt 58 (Co 58)
Cobalt 60 (Co 60)
Copper 64 (Cu 64)
Curium 242 (Cm 242)
Curium 243 (Cm 243)
Curium 244 (Cm 244)
Curium 245 (Cm 245)
Curium 247 (Cm 247)
Dysprosium 165 (Dy 165)
Dysprosium 166 (Dy 166)
Erbium 169 (Er 169)
Erbium 171 (Er 171)
Europium 152 (Eu 152)
Europium 152 9.2 h (Eu 152 9.2 h)
Europium 152 13 yr (Eu 152 13 yr)
Europium 154 (Eu 154)
Europium 155 (Eu 155)
Fluorine 18 (F 18)
Gadolinium 153 (Gd 153)
Gadolinium 159 (Gd 159)
Gallium 72 (Ga 72)
Germanium 68 (Ge 68)
Germanium 71 (Ge 71)
Gold 198 (Au 198)
Gold 199 (Au 199)
Hafnium 172 (Hf 172)
Hafnium 181 (Hf 181)
Holmium 166m (Ho 166m)
Holmium 166 (Ho 166)
Hydrogen 3 (H 3)
Indium 113m (In 113m)
Indium 114m (In 114m)
Indium 115m (In 115m)
Indium 115 (In 115)
Iodine 125 (I 125)
Iodine 126 (I 126)
Iodine 129 (I 129)
Iodine 131 (I 131)
Iodine 132 (I 132)
Iodine 133 (I 133)
Iodine 134 (I 134)
Iodine 135 (I 135)
Iridium 192 (Ir 192)
Iridium 194 (Ir 194)
Iron 55 (Fe 55)
Iron 59 (Fe 59)
Krypton 85 (Kr 85)
Krypton 87 (Kr 87)
Lanthanum 140 (La 140)
Lead 210 (Pb 210)
Lutetium 177 (Lu 177)
Manganese 52 (Mn 52)
Manganese 54 (Mn 54)
Manganese 56 (Mn 56)
Mercury 197m (Hg 197m)
Mercury 197 (Hg 197)
Mercury 203 (Hg 203)
Molybdenum 99 (Mo 99)
Neodymium 147 (Nd 147)
Neodymium 149 (Nd 149)
Neptunium 237 (Np 237)
Nickel 59 (Ni 59)
Nickel 63 (Ni 63)
Nickel 65 (Ni 65)
Niobium 93m (Nb 93m)
Niobium 94 (Nb 94)
Niobium 95 (Nb 95)
Niobium 97 (Nb 97)
Osmium 185 (Os 185)
Osmium 191m (Os 191m)
Osmium 191 (Os 191)
Osmium 193 (Os 193)
Palladium 103 (Pd 103)
Palladium 109 (Pd 109)
Phosphorus 32 (P 32)
Phosphorus 33 (P 33)
Platinum 191 (Pt 191)
Platinum 193m (Pt 193m)
Platinum 193 (Pt 193)
Platinum 197m (Pt 197m)
Platinum 197 (Pt 197)
Polonium 208 (Po 208)
Polonium 209 (Po 209)
Polonium 210 (Po 210)
Potassium 42 (K 42)
Praseodymium 142 (Pr 142)
Praseodymium 143 (Pr 143)
Promethium 145 (Pm 145)
Promethium 147 (Pm 147)
Promethium 149 (Pm 149)
Radium 223 (Ra 223)
Rhenium 186 (Re 186)
Rhenium 188 (Re 188)
Rhodium 103m (Rh 103m)
Rhodium 105 (Rh 105)
Rubidium 86 (Rb 86)
Rubidium 87 (Rb 87)
Ruthenium 97 (Ru 97)
Ruthenium 103 (Ru 103)
Ruthenium 105 (Ru 105)
Ruthenium 106 (Ru 106)
Samarium 151 (Sm 151)
Samarium 153 (Sm 153)
Scandium 46 (Sc 46)
Scandium 47 (Sc 47)
Scandium 48 (Sc 48)
Selenium 75 (Se 75)
Silicon 31 (Si 31)
Silver 105 (Ag 105)
Silver 110m (Ag 110m)
Silver 111 (Ag 111)
Sodium 22 (Na 22)
Sodium 24 (Na 24)
Strontium 85 (Sr 85)
Strontium 89 (Sr 89)
Strontium 90 (Sr 90)
Strontium 91 (Sr 91)
Strontium 92 (Sr 92)
Sulphur 35 (S 35)
Tantalum 182 (Ta 182)
Technetium 96 (Tc 96)
Technetium 97m (Tc 97m)
Technetium 97 (Tc 97)
Technetium 99m (Tc 99m)
Technetium 99 (Tc 99)
Tellurium 125m (Te 125m)
Tellurium 127m (Te 127m)
Tellurium 127 (Te 127)
Tellurium 129m (Te 129m)
Tellurium 129 (Te 129)
Tellurium 131m (Te 131m)
Tellurium 132 (Te 132)
Terbium 160 (Tb 160)
Thallium 200 (Tl 200)
Thallium 201 (Tl 201)
Thallium 202 (Tl 202)
Thallium 204 (Tl 204)
Thulium 170 (Tm 170)
Thulium 171 (Tm 171)
Tin 113 (Sn 113)
Tin 123 (Sn 123)
Tin 125 (Sn 125)
Tin 126 (Sn 126)
Titanium 44 (Ti 44)
Tritium (H3)
Tungsten 181 (W 181)
Tungsten 185 (W 85)
Tungsten 187 (W 187)
Vanadium 48 (V 48)
Xenon 131m (Xe 131m)
Xenon 133 (Xe 133)
Xenon 135 (Xe 135)
Ytterbium 175 (Yb 175)
Yttrium 90 (Y 90)
Yttrium 91 (Y 91)
Yttrium 92 (Y 92)
Yttrium 93 (Y 93)
Zinc 65 (Zn 65)
Zinc 69m (Zn 69m)
Zinc 69 (Zn 69)
Zirconium 93 (Zr 93)
Zirconium 95 (Zr 95)
Zirconium 97 (Zr 97)

Dated in Rockville, Maryland, this 22nd day of February, 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 93–5066 Filed 3–8–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 91–ANE–62]

Amendment to Control Zone; Limestone, ME

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This action amends the Limestone, Maine (ME) Control Zone. This action is prompted by a re-evaluation of the United States Standards for Terminal Instrument Procedures (TERPS) as applied to the airspace surrounding Northern Maine Regional Airport, Presque Isle, ME; Caribou Municipal Airport, Caribou, ME; and Loring Air Force Base, Limestone, ME. This action will keep the description of the Limestone, ME Control Zone operationally current.

EFFECTIVE DATE: May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Charles M. Taylor, Airspace Specialist, System Management Branch, ANE–530, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 270–2428; fax (617) 272–0395.

SUPPLEMENTARY INFORMATION:

History

On April 7, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Limestone, Maine (ME) Control Zone. (57 FR 11700). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The FAA received no comments to the proposed rule. Except for the following minor changes, this amendment is the same as the proposed rule. The longitude and latitude coordinates used in the proposed rule were based on North American Datum 27. These coordinates have been updated to North American Datum 83. In addition, since the FAA issued the proposed rule, the Limestone, ME Control Zone was modified by the Terminal Airspace Reconfiguration rule (57 FR 38962), which converted the lateral unit of measurement from statute to nautical miles and redesignated the area intended to contain aircraft operations under instrument flight rules (IFR). Lastly, this final rule contains editorial changes from the proposed rule that do not change the scope or intent of the rule. Control Zone areas are published in section 71.171 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The Limestone, ME control zone will be amended subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations is prompted by a re-evaluation of the requirements of the United States Standards for Terminal Instrument Procedures (TERPS) as applied to the airspace surrounding Northern Maine Regional Airport at Presque Isle, ME; Caribou Municipal Airport, Caribou, ME; and Loring Air Force Base, Limestone, ME. This action is intended to contain aircraft operating under instrument flight rules (IFR) within controlled airspace while transitioning between the terminal and en route environments.

The FAA has determined that this regulation involves only an established body of technical regulations for which frequent and routine amendments are necessary to keep these regulations operationally current. It, therefore—(1)

is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated economic cost will be so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Incorporation by reference.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; Executive Order 10854, 24 FR 9565, 3 CFR, 1959–1963, Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.171 Designation of Control Zones

* * * * *

ANE ME CZ Limestone, ME

Loring Air Force Base, Limestone, ME
(lat. 46°57'01"N, long. 67°53'10"W)
Loring TACAN
(lat. 46°55'30"N, long. 67°52'34"W)

That airspace extending upward from the surface to and including 3,200 MSL within a 5.5-mile radius of the center of Loring Air Force Base, excluding the airspace outside of the United States; and that airspace extending upward from the surface within 2 miles of each side of the Loring TACAN 168° radial extending from the 5.5-mile radius area to 5.6 miles south of the Loring TACAN.

* * * * *

Issued in Burlington, Massachusetts, on February 25, 1993.

Francis J. Johns,

Manager, Air Traffic Division, New England Region.

[FR Doc. 93–5370 Filed 3–8–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 236

[Docket No. R–93–1385; FR–2450–F–05]

RIN 2502–AE34

Prepayment of a HUD-Insured Mortgage by an Owner of Low Income Housing; Technical Amendment

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; technical amendment.

SUMMARY: The purpose of this technical amendment is to clarify 24 CFR 236.60, that pertains to excess rental charges. It has been recently discovered that an incorrect regulatory amendment instruction caused § 236.60 to be erroneously codified in title 24 of the Code of Federal Regulations. This technical amendment should prevent further confusion with that section.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Kevin J. East, Office of Multifamily Housing Management, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone (202) 708–2300. TDD Number (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On September 21, 1990 (55 FR 38944), the Department published in the **Federal Register**, a final rule that set forth HUD's procedures governing the prepayment of a multifamily mortgage by an owner (mortgagor) of eligible low income housing, in cases where, but for the provisions of the Housing and Community Development Act of 1987 (the "1987 Act"), Public Law 100–242, enacted February 5, 1988, the owner would be free to prepay its mortgage without HUD's approval or would, within one year, become eligible to prepay without HUD's approval. That final rule contained multiple amendments to title 24 of the Code of Federal Regulations, and included a revision to § 236.60.

The amendatory instruction for § 236.60 of the September 21, 1990 published final rule stated that, "Section 236.60 is revised to read as follows:". It should have stated that, "Section 236.60 is being amended by revising the beginning of the sentence, to read as follows:". Therefore, to avoid further confusion, this technical amendment will revise and restate § 236.60 in its entirety.

List of Subjects in 24 CFR Part 236

Grant programs—housing and community development, Low and moderate income housing, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, part 236 of title 24 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 236 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715z–1; 42 U.S.C. 3535(d).

2. Section 236.60 is revised to read as follows:

§ 236.60 Excess rental charges.

Except as agreed to by the Commissioner pursuant to a plan of action approved under part 248 of this chapter or in connection with an adjustment of contract rents under section 8(c)(10) of the United States Housing Act of 1937, the mortgagor shall agree to pay monthly to the Secretary the total of all rental charges collected in excess of the Basic Rent in accordance with instructions prescribed by the Secretary.

Dated: March 3, 1993.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 93–5340 Filed 3–8–93; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 988

Weather Modification

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending title 32, chapter VII of the CFR by removing part 988, Weather Modification. This rule is removed because it has limited applicability to the general public. This action is the result of departmental review. The intended effect is to ensure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: April 8, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Patsy J. Conner, Air Force Federal Register Liaison Officer, SAF/AAIA, 1610 Air Force Pentagon, Washington, DC 20330–1610, telephone (703) 614–3431.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 988

Weather modification.

Authority: 10 U.S.C. 8013.

PART 988—[REMOVED]

Accordingly, 32 CFR, chapter VII, is amended by removing part 988.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93-5293 Filed 3-8-93; 8:45 am]

BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[AD-FDL-4601-6]

National Ambient Air Quality Standards for Ozone—Final Decision

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final decision.

SUMMARY: In accordance with sections 108 and 109 of the Clean Air Act (Act), the EPA announced on August 10, 1992 its proposed decision under section 109(d)(1) that revisions of the national ambient air quality standards (NAAQS) for ozone (O_3) are not appropriate at this time. The level of the existing primary and secondary standards for O_3 is 0.12 parts per million (ppm). The standards are attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm is equal to or less than 1, as determined by the Interpretation of the National Ambient Air Quality Standards for Ozone (appendix H). In the same notice, the EPA also announced its plans, in view of the large number of recent scientific papers and ongoing research on the health and welfare effects of O_3, to proceed as rapidly as possible with the next review of the air quality criteria and standards for O_3.

This document announces the EPA's final decision under section 109(d)(1) that revisions of the primary and secondary standards are not appropriate at this time. Since publication of the August 10 1992 notice, the EPA has initiated action to update the air quality criteria upon which this decision is based so that the recent information on health and welfare effects of O_3 can be considered as rapidly as possible in the next criteria and standards review.

EFFECTIVE DATE: This action is effective April 8, 1993.

ADDRESSES: A docket containing information relating to the EPA's review of the O_3 primary and secondary standards (Docket No. A-92-17) is available for public inspection in the Central Docket Section of the U.S. Environmental Protection Agency, South Conference Center, room 4, 401 M Street SW., Washington, DC. The docket may be inspected between 8 a.m. and 3 p.m. on weekdays, and a reasonable fee may be charged for copying. The information in the docket constitutes the complete basis for the decision announced in this notice. For the availability of related information, see **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Mr. John H. Haines, Air Quality Management Division (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, NC, 27711, telephone (919) 541-5533.

SUPPLEMENTARY INFORMATION:

Availability of Related Information

Certain documents are available from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. Available documents include: the revised criteria document, Air Quality Criteria for Ozone and Other Photochemical Oxidants (five volumes, EPA-600/8-84-020aF-eF, August 1986; NTIS # PB-87142949, $168.00 paper copy), and the 1989 staff paper, Review of the National Ambient Air Quality Standards for Ozone: Assessment of Scientific and Technical Information-OAQPS Staff Paper (EPA-450/2-92-001, June 1989; NTIS # PB-92-190446, $43.00 paper copy and $17.00 microfiche). (Add $3.00 handling charge per order.) The criteria document supplement, Summary of Selected New Information on Effects of Ozone and Other Photochemical Oxidants (EPA-600/8-88-105F) is available at no cost from the Center for Environmental Research Information (CERI), telephone (513) 569-7562. A limited number of copies of other documents generated in connection with this standard review can be obtained from: U.S. Environmental Protection Agency Library (MD-35), Research Triangle Park, NC, 27711, telephone (919) 541-2777. These and other related documents are also available in the EPA docket identified above.

The contents of this notice are listed in the following outline:

I. Background
  A. Legislative Requirements Affecting This Rule
  1. Primary and Secondary Standards
  2. Related Control Requirements
  B. Existing Standards for Ozone
  C. Review of Air Quality Criteria and Standards for Ozone and Other Photochemical Oxidants; Development of the Staff Paper
  D. Decision Docket
  E. Litigation
II. Summary of the 1992 Proposed Decision
  A. The Primary Standard
  B. The Secondary Standard
III. Summary of Public Comments on the Proposed Decision
IV. Rationale for Final Decision
  A. The Primary Standard
  B. The Secondary Standard
  C. Final Decision
V. Regulatory Impacts
  A. Regulatory Impact Analysis
  B. Impact on Small Entities
VI. Other Reviews
References
Appendix I
Appendix II

I. Background

A. Legislative Requirements Affecting This Rule

1. Primary and Secondary Standards

Two sections of the Act govern the establishment and revision of NAAQS. Section 108 (42 U.S.C. 7408) directs the Administrator to identify pollutants which "may reasonably be anticipated to endanger public health and welfare" and to issue air quality criteria for them. These air quality criteria are to accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of a pollutant in the ambient air.

Section 109 (42 U.S.C. 7409) directs the Administrator to propose and promulgate "primary" and "secondary" NAAQS for pollutants identified under section 108. Section 109(b)(1) defines a primary standard as one "the attainment and maintenance of which, in the judgment of the Administrator, based on the criteria and allowing an adequate margin of safety, is requisite to protect the public health." A secondary standard, as defined in section 109(b)(2), must "specify a level of air quality the attainment and maintenance of which, in the judgment of the Administrator, based on the criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of the pollutant in the ambient air." Welfare effects as defined in section 302(h) (42 U.S.C. 7602(h)) include, but are not limited to, "effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on

economic values and on personal comfort and well-being."

The U.S. Court of Appeals for the District of Columbia Circuit has held that the requirement for an adequate margin of safety for primary standards was intended to address uncertainties associated with inconclusive scientific and technical information available at the time of standard setting. It was also intended to provide a reasonable degree of protection against hazards that research has not yet identified. [*Lead Industries Association* v. *EPA*, 647 F.2d 1130, 1154 (DC Cir. 1980), *cert. denied*, 101 S.Ct. 621 (1980); *American Petroleum Institute* v. *Costle*, 665 F.2d 1176, 1177 (DC Cir. 1981), *cert. denied*, 102 S.Ct. 1737 (1982)]. Both kinds of uncertainties are components of the risk associated with pollution at levels below those at which human health effects can be said to occur with reasonable scientific certainty. Thus, by selecting primary standards that provide an adequate margin of safety, the Administrator is seeking not only to prevent pollution levels that have been demonstrated to be harmful but also to prevent lower pollutant levels that she finds may pose an unacceptable risk of harm, even if the risk is not precisely identified as to nature or degree.

In selecting a margin of safety, the EPA considers such factors as the nature and severity of the health effects involved, the size of the sensitive population(s) at risk, and the kind and degree of the uncertainties that must be addressed. Given that the "margin of safety" requirement by definition only comes into play where no conclusive showing of adverse effects exists, such factors, which involve unknown or only partially quantified risks, have their inherent limits as guides to action. The selection of any particular approach to providing an adequate margin of safety is a policy choice left specifically to the Administrator's judgment. *Lead Industries Association* v. *EPA*, *supra*, 647 F.2d at 1161–62.

Section 109(d)(1) of the Act requires that not later than December 31, 1980, and at 5-year intervals thereafter, the Administrator shall complete a thorough review of the criteria published under section 108 and the national ambient air quality standards and shall make such revisions in such criteria and standards as may be appropriate. Section 109(d)(2) (A) and (B) require that a scientific review committee be appointed and provide that the committee "shall complete a review of the criteria and the national primary and secondary ambient air quality standards and shall recommend to the Administrator any revisions of existing criteria and standards as may be appropriate."

The process by which the EPA has reviewed the existing air quality criteria and standards for O_3 under section 109(d) is described in a later section of this notice.

2. Related Control Requirements

States are primarily responsible for ensuring attainment and maintenance of ambient air quality standards once the EPA has established them. Under title I of the Act (42 U.S.C. 7410), States are to submit, for EPA approval, State implementation plans (SIP's) that provide for the attainment and maintenance of such standards through control programs directed to sources of the pollutants involved. The States, in conjunction with the EPA, also administer the prevention of significant deterioration program (42 U.S.C. 7470–7479) and the visibility protection program (42 U.S.C. 7491–7492) for these and other air pollutants. In addition, Federal programs provide for nationwide reductions in emissions of air pollutants through the Federal motor vehicle control program under title II of the Act (42 U.S.C. 7521–7574), which involves controls for automobile, truck, bus, motorcycle, and aircraft emissions; the new source performance standards under section 111 (42 U.S.C. 7411); and the national emission standards for hazardous air pollutants under section 112 (42 U.S.C. 7412).

B. Existing Standards for Ozone

The principal focus of this standard review is on the health and welfare effects of O_3. Ozone produced in the ambient air is commonly referred to as tropospheric O_3. It is chemically identical to stratospheric O_3, which is concentrated miles above the earth's surface and provides a protective shield from excess ultraviolet radiation. In contrast, tropospheric O_3 produces harmful effects due to its oxidative properties and its proximity to humans, plants, and materials. Ozone is not emitted directly from mobile or stationary sources but, like other photochemical oxidants, commonly exists in the ambient air as an atmospheric transformation product. Ozone formation is the result of chemical reactions of volatile organic compounds (VOC's), nitrogen oxides (NO_x), and oxygen (O_2) in the presence of sunlight and generally at elevated temperatures.

Ozone is a highly reactive gas which at sufficient concentrations can produce a wide variety of harmful effects. At elevated concentrations, O_3 can adversely affect human health, vegetation, materials, economic values, and personal comfort and well-being. Hourly average ambient O_3 levels range from 0.03 ppm in the most remote rural areas to 0.30 ppm and higher in the most polluted urban areas. A detailed discussion of formation, concentrations, and effects of O_3 can be found in the 1986 Air Quality Criteria Document (U.S. EPA, 1986), the Criteria Document Supplement (U.S. EPA, 1992), and the Staff Paper (U.S. EPA, 1989).

On April 30, 1971, the EPA promulgated primary and secondary NAAQS for photochemical oxidants under section 109 of the Act (36 FR 8186). These were set at an hourly average of 0.08 ppm total photochemical oxidants not to be exceeded more than 1 hour per year. On April 20, 1977, the EPA announced (42 FR 20493) the first review and updating of the 1970 Air Quality Criteria Document for Photochemical Oxidants in accordance with section 109(d)(1) of the Act. In preparing the Air Quality Criteria Document, the EPA provided a number of opportunities for external review and comment. The EPA made two drafts of the document available for public comment, and these drafts were peer reviewed by the Subcommittee on Scientific Criteria for Photochemical Oxidants of the EPA Science Advisory Board. The EPA published the final revised Air Quality Criteria for Ozone and Other Photochemical Oxidants on June 22, 1978.

Based on the 1978 revised Air Quality Criteria Document (U.S. EPA, 1978) and taking into account the advice and recommendations of the Subcommittee, on June 22, 1978, the EPA proposed (43 FR 16962) revisions to the then-current primary and secondary NAAQS for photochemical oxidants. The proposed changes included raising the primary standard to 0.10 ppm, retaining the 0.08 ppm secondary standard, changing the chemical designation of the standards from photochemical oxidants to O_3, and changing to standards with a statistical form (i.e., expected exceedances) rather than a deterministic form (i.e., not to be exceeded more than *x* number of times per year).

After taking into account public comments, the EPA announced its final decision on the proposed revisions to the 1971 standards (44 FR 8202, February 8, 1979). The final rulemaking revised the level of the primary standard from 0.08 ppm to 0.12 ppm, set the secondary standard identical to the primary standard, changed the chemical designation of the standards from photochemical oxidants to O_3, and revised the definition of the point at which the standard is attained to when

the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm is equal to or less than one as determined by appendix H.

C. Review of Air Quality Criteria and Standards for Ozone and Other Photochemical Oxidants; Development of the Staff Paper

On March 17, 1982 (47 FR 11561), the EPA announced that it was undertaking plans to revise the existing 1978 Air Quality Criteria Document for Ozone and Other Photochemical Oxidants and on August 22, 1983, announced (48 FR 38009) that review of primary and secondary standards for O_3 had been initiated. A detailed summary of the review and revision process was presented in the August 10, 1992 proposal notice (57 FR 35542).

The EPA subsequently provided a number of opportunities for public review and comment, including making available two drafts of the revised criteria document (49 FR 29845; 51 FR 11339), prepared by the EPA's Environmental Criteria and Assessment Office (ECAO), and holding two public meetings of the Clean Air Scientific Advisory Committee (CASAC) (March 4–6, 1985 and April 21–22, 1986). The EPA placed transcripts of the CASAC meetings in the docket (ECAO–CD–81–1) for the 1986 Air Quality Criteria Document. The EPA considered the numerous and often extensive comments received from the public and the CASAC members in preparing the final document. On October 22, 1986, the CASAC sent the Administrator a "closure letter," outlining key issues and recommendations and indicating that it was satisfied with the final draft of the 1986 Air Quality Criteria Document. Following closure, a number of scientific articles were published or accepted for publication and appeared to be of sufficient importance concerning potential health and welfare effects of O_3 to warrant preparation of a supplement to the criteria document. In early 1988, the ECAO began preparation of the Supplement and made draft copies available to the CASAC and the public in November 1988.

After the CASAC meeting on March 4–6, 1985, the EPA's Office of Air Quality Planning and Standards (OAQPS) began work on the first draft of the Staff Paper (Review of the National Ambient Air Quality Standards for Ozone:

Assessment of Scientific and Technical Information—OAQPS Staff Paper). The CASAC reviewed first and second drafts of the Staff Paper at public meetings of the CASAC held on April 21–22, 1986 and December 14–15, 1987, and transcripts of these meetings have been placed in the docket. Numerous written and oral comments were received on the drafts from the CASAC, representatives of organizations, individual scientists, and other interested members of the public. The CASAC concluded that sufficient new information existed to recommend incorporation of relevant new information into a third draft of the Staff Paper. In early 1988, the EPA began working on a third draft of the Staff Paper and made available copies to the CASAC and the public in November 1988.

The CASAC held a public meeting on December 14–15, 1988 to review the draft Supplement and draft Staff Paper. Major issues included: The definition of adverse health effects of O_3, the significance of health studies suggesting that exercising individuals exposed for 6 to 8 hours to O_3 levels at or below 0.12 ppm may experience inflammation and transient decreases in pulmonary function, the possibility that chronic irreversible effects may result from long-term exposures to elevated levels of O_3, and the importance of analyses which indicate agricultural crop damage may be better defined by a cumulative seasonal average than by a 1-hour peak level of O_3. In its "closure letter" of May 1, 1989, (reprinted as appendix I of this notice) the CASAC indicated that the draft Supplement and draft Staff Paper "provide an adequate scientific basis for the EPA to retain or revise primary and secondary standards for ozone" (CASAC, 1989).

D. Decision Docket

On March 17, 1992, the EPA created a docket (Docket No. A–92–17) for this decision. The docket incorporated the standard review docket (Docket No. OAQPS A–83–04), created in 1983, and the separate docket established for criteria document revision (Docket No. ECAO–CD–81–1), created in 1981.

E. Litigation

On October 22, 1991, the American Lung Association and other plaintiffs filed suit under section 304 of the Act to compel the EPA to complete its review of the criteria and standards for O_3 under section 109(d)(1) of the Act [*American Lung Association* v. *Reilly*, No. 91–CV–4114 (JRB) (E.D.N.Y.)]. The U.S. District Court for the Eastern District of New York subsequently issued an order requiring the EPA to sign a **Federal Register** notice announcing its proposed decision on whether to revise the standards for O_3 by August 1, 1992 and to sign a **Federal Register** notice announcing its final decision by March 1, 1993.

II. Summary of the 1992 Proposed Decision

On August 10, 1992 (57 FR 35542), the EPA published its proposed decision under section 109(d)(1) that revisions to existing 1-hour primary and secondary standards are not appropriate at this time. (Consistent with the order in the American Lung Association case, the Administrator signed the proposed decision on August 1, 1992.) The notice explained in some detail (see 57 FR 35546) that the proposed decision would complete the EPA's review of information on health and welfare effects of O_3 assembled over a 7-year period and contained in the 1986 Air Quality Criteria Document and its Supplement. The review included an evaluation of key studies published through early 1989, the 1989 Staff Paper assessment of the most relevant information in these documents, and the advice and recommendations of the CASAC as presented both in the discussion of these documents at public meetings and in the CASAC's 1986 and 1989 "closure letters."

Under section 109(b) of the Act, primary and secondary NAAQS are to be based on the air quality criteria issued under section 108. Additionally, under section 109(d), the EPA must periodically conduct a "thorough review" of the criteria taking into account the advice and recommendations of the CASAC as the basis for periodic decisions on whether revisions of NAAQS are appropriate. When Congress enacted the latter requirement in 1977, it was well aware that implementation of the NAAQS can have profound economic and social, as well as environmental, consequences. Understandably, it required that the EPA's periodic decisions on whether to revise the NAAQS be based on scientific studies that had been rigorously assessed and incorporated into air quality criteria and whose implications for public health and welfare had been carefully considered by both the EPA and the CASAC. In view of this, the August 10, 1992 notice made clear that the Administrator did not take into account recent studies on the health and welfare effects of O_3 because these studies had not been assessed in the 1986 Air Quality Criteria Document nor its Supplement, nor had they undergone the rigorous review process (including CASAC review) required to incorporate them into a new criteria document.

Because of the scientific and technical complexity of such assessments, the EPA estimated that 2 to 3 years would

be necessary to rigorously assess the over 1,000 new studies and incorporate key information into a revised criteria document, to evaluate the significance of the key information for decision-making purposes, to develop staff recommendations for the Administrator, and to provide appropriate opportunities for the CASAC review and public comment. Given the importance of these new studies and concern about the health and welfare effects of O_3, the August 10, 1992 notice also outlined the EPA's plans to proceed as rapidly as possible with the next review of the criteria and standards for O_3.

A. The Primary Standard

In reaching his August 10, 1992 proposed decision that revisions of the existing O_3 primary standard were not appropriate, the Administrator considered the health effects information assessed in the 1986 Air Quality Criteria Document, the Supplement that updated that information, the 1989 Staff Paper, and the advice and recommendations of the CASAC in its 1989 "closure letter." Based on his review of this information, the Administrator concurred with the staff and the CASAC conclusions that the preliminary information on effects of prolonged exposures to O_3 was not sufficient to support the establishment of a new 6- to 8-hour standard to protect against prolonged exposures, or a seasonal or other long-term standard to protect against chronic effects. In reaching this proposed determination, the EPA recognized that a number of new studies, particularly on 6- to 8-hour exposures to O_3, had been published in the scientific literature since early 1989. Mindful of this, as well as research in progress on the chronic effects of O_3, the EPA made clear in the proposal that it intended to proceed with the next periodic review of the air quality criteria as rapidly as possible. The notice added that when this new information had been incorporated into the air quality criteria, a more informed decision could be made as to whether adding a new 6- to 8-hour standard and/or a seasonal or other long-term standard would be appropriate.

The EPA also carefully considered the health effects information on 1- to 3-hour exposures to O_3 contained in the air quality criteria. Based on these assessments and taking into account the advice and recommendations of the CASAC in its 1989 "closure letter," the Administrator in August 1992 reached the proposed determination that revisions of the existing 1-hour primary standard were not appropriate to provide increased protection against 1- to 3-hour exposures to O_3. The standard level is below the levels where controlled human 1- to 3-hour exposure studies found substantial changes in pulmonary function and symptoms. In reaching this conclusion, the Administrator was mindful that the mean group response observed in the controlled human studies up to 0.15 ppm O_3 would at most be characterized as mild, and that most of the responders within this population of normal healthy individuals reportedly experienced only mild to moderate responses under very heavy exercise (U.S. EPA, 1989, pp. VII–53 to VII–56). Although there was a difference of opinion among the EPA's scientific advisors as to the significance of decrements in lung function in the range of 10 to 20 percent when accompanied by symptoms (CASAC, 1989), it was the Administrator's judgment that the lesser effects associated with exposure to O_3 in the range of 0.12 ppm to 0.15 ppm observed in the controlled human studies did not constitute adverse effects for purposes of section 109 of the Act.

The EPA also considered other sensitive population groups whose response to O_3 had not been fully characterized. Although some epidemiology studies considered in the 1986 Air Quality Criteria Document and its Supplement suggested that exposure to O_3 at ambient concentrations may result in the aggravation of asthma and preexisting respiratory disease, the Administrator concurred with the staff's view that the direct use of these studies was limited by uncertainties about individual exposure levels and the role of other pollutants. In addition, although individuals with preexisting lung disease are not more responsive to O_3 than healthy persons in controlled human exposure studies, the same small change in pulmonary function may have more impact on people whose lung function is already compromised. While certain others (field/epidemiology studies) suggested that these sensitive groups may be at somewhat greater risk at levels of 0.12 ppm O_3 and higher, compared to normal healthy individuals in controlled human exposure studies, the Administrator concluded these studies did not provide a sufficient basis for lowering the existing standard. The Administrator also considered and concurred with the staff recommendations that O_3 should remain as the surrogate for controlling ambient concentrations of photochemical oxidants and that the existing form of the standard should not be revised.

B. The Secondary Standard

In reaching the proposed decision that revision of the existing 1-hour O_3 secondary NAAQS was not appropriate, the EPA carefully considered the welfare effects information assessed in the 1986 Air Quality Criteria Document and its Supplement, the 1989 Staff Paper assessment, and the advice and recommendations of the CASAC in its 1989 "closure letter." A principal reason for the proposed decision was the Administrator's judgment that there was insufficient information in the air quality criteria to specify a new form, averaging period, and level of a secondary standard that would be more protective of forest tree species as well as agricultural crops. The notice added that when information had become available from research currently under way on key aspects of O_3 exposure dynamics that are important for assessing the effects of O_3 on forest tree species and had been incorporated into the air quality criteria during the next review, a more informed judgment could be made as to whether revision of the secondary standard is appropriate.

The EPA also carefully considered the available information on the effects of O_3 on agricultural crops alone. Although the National Crop Loss Assessment Network (NCLAN) studies have provided extensive data on the effects of O_3 on crops, the appropriateness of the seasonal mean exposure indicator used in these studies had been subject to much criticism during the development of revised air quality criteria. Because of this and other shortcomings of this exposure index that are discussed more fully in the August 10, 1992 proposal notice, the EPA concluded that the use of the 7-hour seasonal mean derived from NCLAN data for standard-setting purposes would be inappropriate. The CASAC also recognized this and recommended that retrospective analyses be undertaken in order to identify a more appropriate exposure index that would offer protection from both repeated O_3 peaks of concern and long-term O_3 exposures. While these analyses had identified several indicators that showed promise, the Administrator concurred with the staff's view that it would be premature to base a change in the form and averaging time of the secondary standard on the preliminary results presented in the Supplement to the 1986 Air Quality Criteria Document and the Staff Paper.

The Administrator also considered tightening the current secondary standard as an interim measure. He noted that, throughout the review of the air quality criteria and staff assessment,

no consensus had been reached on an appropriate range of alternative 1-hour standards. The staff had great difficulty throughout the review in developing and justifying alternative levels below that of the current standard due to the lack of data (U.S. EPA, 1989, p. XI–13). In the end, while the staff relied on the preliminary results of the Lee *et al.* (1988) study to conclude that the upper-end of the proposed range (0.12 ppm) offered little protection for vegetation (U.S. EPA, 1989, pp. XI–16 to XI–18), the staff also determined that the study was too preliminary to serve as a basis for recommending changes in the form and averaging time of the standard. Even if the results of the Lee *et al.* (1988) study provided a sufficient basis for revising the standard downward from 0.12 ppm to 0.10 ppm, as some had suggested, it was the Administrator's judgment that such a change would provide only marginal improvement because a 1-hour averaging period was not the most appropriate exposure indicator for the full range of exposures, as discussed in the August 10, 1992 proposal, and would be seriously reconsidered during the next standard review. In the interim, it would have imposed a disproportionate and largely meaningless burden on States to review and make appropriate revisions in applicable SIP's.

Given the above information, it was the Administrator's judgment that the most prudent course of action was to retain the current secondary standard until a more informed decision could be made during the next standard review.

III. Summary of Public Comments on the Proposed Decision

A limited number of comments were received on the August 10, 1992 proposed decision. Of 27 written submissions, 10 were provided by individual industrial companies or industry associations, eight by Federal and State government agencies and other entities, seven by environmental and public interest groups, one by the CASAC Chairman, and one by an interested individual. In addition, three persons presented testimony at the September 1, 1992 public hearing. Of the three presentations, one individual was highly critical of the EPA's proposed decision and presented basically the same arguments as those made in the written comments submitted by his organization; the second maintained that newly published studies supported the need for a revised standard; and the third individual supported the proposed decision and his testimony closely paralleled his organization's written comments. The public hearing transcript and a more detailed summary of the comments received and the EPA's responses have been placed in Docket No. A–92–17.

Of the 27 comments received, 11 concurred in general with the Administrator's proposed decision that revision of the primary and secondary standards is inappropriate at this time. Some of these commenters also maintained that any new studies published after closure on the air quality criteria should undergo rigorous evaluation, be reviewed by the CASAC and the public, and be incorporated into a revised criteria document before being considered for standard setting.

In contrast, 14 comments disagreed with the proposed decision that revision of the primary and secondary standards is inappropriate at this time. With respect to the primary standard, most of these commenters maintained that a new 6- to 8-hour standard should be established to protect against health effects associated with multihour or prolonged exposures to O_3. In support of their position, these commenters, for the most part, relied on recent studies that have not undergone the rigorous review in a criteria document, including the CASAC and public review, necessary before incorporation into the air quality criteria. Apparently in recognition of this, these commenters typically were critical of the EPA for not updating the criteria document before announcing its proposed decision, and some also maintained that the Act does not preclude the EPA and the CASAC from considering information not in the criteria document in setting standards. Several of these commenters also expressed the view that CASAC review was not required before such studies could be used. Many of the same commenters maintained that the recent studies should, at a minimum, be considered in determining whether the existing 1-hour standard provides an adequate margin of safety.

Another commenter in this group argued that the preliminary studies on prolonged exposures that were considered by the EPA strongly suggest and, in the judgment of the commenter, provide a sufficient basis for a new 6- to 8-hour standard. This commenter recognized, however, that newer studies (published after early 1989) that support these preliminary findings are not part of the air quality criteria that serve as the basis for the proposed decision. In view of this, the commenter urged the EPA not to wait the 2 to 3 years needed to fully evaluate these new studies, update the criteria document and staff paper and submit them to the CASAC and public review, but instead to develop an alternative primary standard more expeditiously.

Several commenters questioned the adequacy of the existing 1-hour primary standard, particularly with respect to protection it affords the elderly and children, and recommended that the standard be revised downward. One commenter noted that his State's advisory committee, with responsibilities similar to those of the CASAC, had recommended a more stringent 1-hour standard based on many of the same studies, including the preliminary studies on prolonged exposure, considered in this review.

Of the 14 comments that did not support the proposed decision, only four provided specific comments on the secondary standard. Of these four comments, two were highly critical of the EPA for not considering recently published information in reaching the proposed decision. As in the case of the primary standard, these commenters maintained that the EPA was not precluded from considering newly published peer-reviewed studies when reaching a decision on whether revisions to the secondary standard are appropriate. One of these commenters cited a number of newly published studies, as well as some in press, to support the position that the existing 1-hour secondary standard should be revised downward to a maximum of 0.10 ppm or be augmented by a new exposure index expressed as a cumulative seasonal standard of 14.2 ppm-hours. The same commenter was also critical of the EPA for not accepting staff and CASAC recommendations for revising the existing 1-hour standard.

A third commenter also urged the EPA to consider lowering the existing 1-hour secondary standard as an interim measure until such time as a new and more appropriate exposure index could be developed that would be protective of crops and forest tree species, and ultimately forest ecosystems. In support of this position, the commenter cited a series of newly published studies and some that are still in press or manuscript form on effects of O_3 on forest tree species. The fourth comment on the secondary standard expressed the view that a lower 1-hour primary standard would also substantially reduce the impact of O_3 on agricultural crops.

The final two comments on the August 10, 1992 proposal did not take an explicit position on the merits of the proposed decision. In the first of these, the commenter, a past Chairman of the CASAC, submitted a manuscript that

critically reviewed health effects information on O_3, with particular emphasis on studies published after the CASAC completed its review of the air quality criteria that served as the basis for the August 10, 1992 proposal, as well as other O_3 health effects information that is just emerging. Based on this review, the author concluded that the CASAC, after having the opportunity to review this new information, would be unlikely to reach the same conclusions as it did in 1989.

The second of these comments is an August 31, 1992 letter from the then-Chairman of the CASAC to the Administrator. In his letter (reprinted as appendix II of this notice) the Chairman noted with interest the EPA's plans not to revise the O_3 standards and to initiate a new assessment of the health and environmental effects of O_3. He added that the purpose of his letter was to express the Committee's willingness to assist the EPA in carrying out this new assessment in an expeditious manner. The Chairman also noted that a carefully planned strategy for preparation of the criteria document and staff paper would be essential in view of the magnitude and complexity of the task, particularly with respect to the review, integration, and interpretation of old and new scientific information.

IV. Rationale for Final Decision

A. The Primary Standard

The August 10, 1992 proposal discussed in some detail the underlying health effects information and the rationale for the EPA's proposed determination under section 109(d)(1) that revisions to the existing primary standard were not appropriate. After taking into account the public comments and for the reasons discussed below, the EPA again concludes, based on the rationale presented in the August 10, 1992 proposal notice, that revisions to the existing primary standard are not appropriate at this time.

For the most part, the commenters that objected to the proposed decision on the primary standard did not dispute the EPA's assessment of the health effects information that served as the basis for the proposed decision, nor did they maintain that the EPA erred in concluding that this information did not provide a sufficient basis for establishing a new 6- to 8-hour primary standard. Instead, they argued that the EPA improperly excluded from consideration studies that were published in the peer-reviewed literature after early 1989 and that as a result the proposed decision was based on "stale" data. In their view, the EPA should have updated the criteria document prior to reaching the proposed decision. Absent that, some maintained that the Act does not preclude the use of peer-reviewed studies in standard setting even though they have not been incorporated into the air quality criteria.

As discussed more fully in the proposal notice (57 FR 35546, 35554), the EPA was fully aware of the new studies on the health effects of O_3 and acknowledged that they had not been taken into account. Based on applicable statutory requirements and the volume of material requiring careful evaluation, the EPA estimated that it would take 2 to 3 years to incorporate these new health studies, as well as new studies on welfare effects, into a revised criteria document; to evaluate the significance of key information for decision-making purposes; to develop staff recommendations for the Administrator; and to provide for CASAC review and public comment. Given various legal constraints and the fact that the EPA had already missed both the 1985 and 1990 deadlines for completion of review cycles under section 109(d), the Administrator concluded that the best course of action was to complete the current review based on the existing air quality criteria and at the same time to proceed as rapidly as possible with the next review of the criteria and standards for O_3.

Having considered the comments on this issue, the EPA adheres to that conclusion. A number of commenters noted the complexity of the issues that the EPA would have to address when updating the air quality criteria document and staff paper, including the large volume of new material that would have to be evaluated, incorporated into the revised documents, and submitted for CASAC review and public comment (e.g., Docket No. IV–D–20). The CASAC also recognized that the preparation of a revised criteria document and staff paper would not be an easy undertaking. In his August 31, 1992 letter to the Administrator, the Chairman of the CASAC noted that "a carefully planned strategy for preparation of the criteria document and staff position is essential in view of the magnitude and complexity of the task." He added that "the review, integration and interpretation of the old and new information will be a substantial undertaking. In addition, it will be imperative that the next staff position paper carefully consider alternative forms of the ozone standard, both in terms of averaging times, such as daily (6–24 hour), as well as frequency of occurrence, and seasonal standards, in addition to the traditional one-hour standard. This too, will require substantial preparation effort and, I suspect, ample time for debate" (McClellan, 1992).

The EPA has considered the view urged by some commenters that health and welfare effects studies published in the peer-reviewed literature after early 1989 should be considered even though not incorporated into the air quality criteria. The language of section 109(b)(1) and 109(b)(2) makes clear that primary and secondary standards are to be based on scientific information assessed in air quality criteria issued under section 108 of the Act. Furthermore, under section 109(d), which was added to section 109 in 1977, the EPA must periodically conduct "a thorough review" of the air quality criteria taking into account the advice and recommendations of the scientific review committee known as the CASAC. Taking these provisions together, it is clear that the Act contemplates that the EPA base its NAAQS decisions on scientific studies that have been reviewed by the CASAC and incorporated into air quality criteria.[1]

The EPA's interpretation not only is the most straightforward reading of the statutory scheme, but it makes good sense in the context of this decision. As discussed in the August 10, 1992 proposal notice (57 FR 35546), implementation of the NAAQS can have profound economic and social as well as environmental consequences, and it is understandable that Congress would require them to be based on scientific studies that had been rigorously assessed not only by the EPA but also by an independent advisory committee (i.e., CASAC). Under the statute, the process for performing this assessment is preparation or revision of a criteria document [see *Lead Industries Association* v. *EPA*, 647 F.2d 1130, 1136–37 (DC Cir. 1980), *cert. denied*, 101 S. Ct. 621 (1980)]. During that process, a large number of studies, though published in peer-reviewed journals, are typically judged unsuitable for use in standard setting. In other

[1] Since the 1970 amendments, the EPA has taken the view that NAAQS decisions are to be based on scientific studies that have been assessed in air quality criteria [see, e.g. 36 FR 8186 (April 30, 1971) (the EPA based promulgation of original NAAQS for six pollutants on scientific studies discussed in the air quality criteria and limited consideration of comments to those concerning validity of scientific basis); 38 FR 25678, 25679–80 (September 14, 1973) (the EPA revised air quality criteria for sulfur oxides to provide basis for reevaluation of secondary NAAQS)]. This longstanding interpretation has been strengthened by the addition of the 1977 amendment that provides for CASAC review of air quality criteria.

words, publication in a peer-reviewed journal does not in itself establish the validity or usefulness of a given study. As Administrator Reilly noted, "it would be premature to draw conclusions on either the scientific merit or the ultimate implications of particular studies prior to a rigorous and comprehensive assessment * * * by the EPA and CASAC" (57 FR 35546).

For these reasons, the EPA concludes that it may not consider studies not incorporated into air quality criteria and reviewed by the CASAC when setting or revising NAAQS.[2] Given the extraordinary importance of the NAAQS for O_3, the EPA further concludes that consideration of such studies in this instance would be inappropriate even if permitted under section 109.

At times, the EPA has found it appropriate to supplement a criteria document before completing its review of the corresponding NAAQS. For example, the EPA in 1986 prepared addenda to the criteria document for particulate matter and sulfur oxides so that newly published studies could be incorporated and, thus, serve as part of the basis for determining whether revisions to the air quality standards were appropriate. Similarly, the EPA prepared the O_3 Supplement that is part of the basis for today's decision so that newly published studies could be properly considered. The EPA's discretion to delay completion of its periodic reviews under section 109(d) for such purposes is not unlimited, however, and at some point the process of incorporating new studies must end so that decisions can be made. The Chairman of the CASAC emphasized this in his August 31, 1992 letter when he noted "it is crucial that at a particular point in time, that is understood by all parties, the knowledge base on ozone be summarized and used for regulatory purposes" (McClellan, 1992).

The EPA also considered the comments that specifically address the protection afforded by the existing 1-hour standard against 1- to 3-hour exposures to O_3. Several commenters maintained that the EPA erred in reaching its proposed decision because potentially sensitive population groups such as children, the elderly, and women had not been properly considered. While age has been suggested as a factor which could modify responsiveness to O_3 exposure, controlled-exposure studies conducted on human subjects do not show children or the elderly to have greater changes in lung function than other subjects. In one study by McDonnell et al. (1985), changes in lung spirometry in children were similar to those found in adults exposed under similar conditions, except that no significant increases in symptoms were found in children (U.S. EPA, 1986, p. 12–35). With regard to the elderly, subjects 50 years of age or older were found by Bedi et al. (1988) and Bedi and Horvath (1987) to have smaller changes in lung function than younger subjects when exposed to similar O_3 levels, thus leading to the suggestion that a possible drop-off in responsiveness to O_3-induced pulmonary function changes occurs sometime in middle age (U.S. EPA, 1992, p. 3–61). As for gender differences, there were no significant differences in pulmonary function [forced expiratory volume (FEV_1) and forced vital capacity (FVC)] between men and women exposed to O_3 (Drechsler-Parks et al., 1987; Reisenauer et al., 1988), although the data suggest women may be somewhat more responsive to O_3 than men because women had slightly lower mean exercise rates during the studies (U.S. EPA, 1992, p. 3–61). For these reasons, the EPA concludes that the characterization of the sensitive populations most affected by short-term exposure to O_3 presented in the August 10, 1992 proposal notice (57 FR 35549) is in accordance with the air quality criteria.

Several commenters questioned the adequacy of the margin of safety provided by the existing 1-hour standard. In general, these commenters argued that the standard should be tightened to provide increased protection against effects of prolonged (6- to 8-hour) exposures. One commenter also referred to short-term exposures; he noted that his State's advisory committee, with responsibilities similar to those of the CASAC, had identified a lowest observed effects level of 0.12 ppm for exposures of 1 to 2 hours based on its assessment of McDonnell et al. (1983) and Gong et al. (1986). This commenter added that after considering an additional study indicating that multihour exposures at 0.12 ppm and below produced decrements in lung function (Lioy et al., 1985), as well as mounting evidence of cumulative effects from chronic exposure to O_3, his State agency had adopted a 1-hour O_3 standard of 0.09 ppm in 1987, citing the need to provide an adequate margin of safety to "prevent substantial risk of harm to human health as a result of short-term exposures and to provide protection against probable effects of long-term exposures." This commenter added that evidence for a more protective margin of safety is more compelling now because of multihour studies (Spektor *et al.*, 1988a,b) and controlled human exposure studies (Folinsbee et al., 1989; Horstman et al., 1989) reporting decrements in pulmonary function at 0.12 ppm and lower as well as multihour studies reporting biochemical indicators of inflammation (Koren et al., 1988a,b). This commenter concluded by noting that adoption of a 1-hour standard more stringent than the current one would provide a greater degree of protection against multihour exposures.

With respect to short-term exposures, the EPA also considered McDonnell *et al.* (1983) and Gong *et al.* (1986) in conjunction with other studies discussed in the air quality criteria and reached a quite different conclusion as to the significance of effects reported at 0.12 ppm O_3. As discussed in the proposal notice (57 FR 35547, 35548), controlled-exposure studies of human subjects (McDonnell et al. 1983; Gong et al. 1986) reported small but statistically significant, transient declines in pulmonary function (e.g., reductions in lung volume and air flow), which in some cases were accompanied by symptoms (e.g., cough, chest pain, throat irritation, shortness of breath) during exposure to O_3 in the range of 0.12 to 0.15 ppm. These effects, however, were reported only when subjects were engaged in very heavy exercise (V_e=68–89 liters per minute). Without heavy exercise, even the most sensitive subjects did not experience statistically-significant decrements in lung function ($FEV_{1.0}$) at low-level O_3 exposures (around 0.12 ppm after 1 to 3 hours). As discussed in the staff paper, the magnitude of effects which can be measured at these exposure levels, even with heavy exercise, is not generally considered to be adverse to health (U.S. EPA, 1989, pp. VII–53 to VII–56).

As discussed in the proposal notice, another key point that emerged during the review of these and other studies

[2] This conclusion does not vitiate the role of public comment in the standard-setting process, as several commenters have suggested. Broadly speaking, the EPA believes Congress intended the Administrator to consider comments that address such issues as the scientific merit, the implications, and the proper use of studies discussed in criteria documents, just as the Administrator might consider staff opinions or recommendations on such matters in a staff paper or other analytical document. By contrast, the EPA does not believe Congress intended to allow interested parties to add new studies to the basis for decision, circumventing the rigorous scrutiny they would otherwise undergo, by the simple expedient of attaching them to public comments. Of course, if new studies that appear to be important are brought to the EPA's attention in public comments or otherwise, it may be appropriate to supplement a criteria document as discussed below.

was the high degree of variability in responsiveness between individuals exposed to similar O_3 levels. This was evident from the number of studies (Gibbons and Adams, 1984; Linn et al., 1986; Avol et al., 1984; Schelegle and Adams, 1986) that found no statistically-significant response at exposures (0.12 to 0.15 ppm O_3) and exercise levels (V_e = 55 to 86 liters per minute) similar to those in McDonnell et al. (1983) and Gong *et al.* (1986). In two of these studies (Avol et al., 1984; Linn et al., 1986), statistically-significant changes in FEV_1 began to appear at 0.16 ppm O_3.

Recognizing that between 5 and 20 percent of otherwise healthy individuals may be more responsive to O_3 during exercise and, therefore, might be at higher risk, the EPA also examined the intersubject variability reported by McDonnell *et al.* (1983) and Kulle *et al.* (1985). For these studies, the effects experienced by even the most sensitive individuals exposed to 0.12–0.15 ppm O_3 for 1 to 3 hours ranged from −9 to −16 percent decline in $FEV_{1.0}$ with few, if any, symptoms. These effects have been characterized as only mild to moderate (U.S. EPA, 1989, pp. VII–53 to VII–56).

The EPA's assessment of these and other controlled-exposure studies of human subjects led Administrator Reilly to conclude, taking into account the differences of opinion among CASAC members on this point, that the lesser effects associated with 1- to 3-hour exposures to O_3 in the range of 0.12 to 0.15 ppm did not constitute adverse effects for purposes of section 109 of the Act. The EPA adheres to that judgment.

With respect to prolonged exposures, the EPA also evaluated Lioy *et al.* (1985) as part of its assessment of the emerging research in this area. Lioy *et al.* (1985) conducted a summer camp field study of children engaged in outdoor activities for periods of several days to weeks, during which they were exposed to ambient O_3 for several hours per day. This study reported that statistically-significant, short-term pulmonary function decrements, compared to initial baseline values, could be measured even when the O_3 NAAQS were not exceeded. The effects increased with exposure to increasing levels of O_3. The pulmonary function decrements reported, however, could be attributed in part to factors such as other pollutants or heat. Moreover, the health significance of pulmonary function decrements of the duration and magnitude reported in this study is unclear (U.S. EPA, 1989, pp. VII–53 to VII–56).

Based on the its assessment of McDonnell *et al.* (1983), Gong *et al.* (1986); and Lioy *et al.* (1985), the EPA does not agree that these three studies warrant revision of the 1-hour O_3 NAAQS, either to provide greater protection against short-term (1- to 3-hour) effects or to provide a margin of safety against the effects of multihour exposures. As noted above, the EPA adheres to Administrator Reilly's judgment that effects associated with 1- to 3-hour exposures in the range of 0.12 ppm to 0.15 ppm do not constitute adverse effects. The EPA also believes that tightening the 1-hour standard to provide "surrogate" protection against multihour exposures would be inappropriate for reasons discussed below. Under section 116 of the Act, of course, the States are free to establish ambient air quality standards that are more stringent than the NAAQS. Because decisions on such questions as whether detectable responses to air pollution are significant enough to be regarded as adverse health effects, whether a given margin of safety is adequate, or whether it is appropriate to use a short-term standard to provide surrogate protection against the effects of multihour exposures are inescapably judgmental (see, e.g., *Lead Industries Association v. EPA, supra*, 647 F.2d at 1144, 1160, 1161–62), different decision-makers may well come to different conclusions.

The preliminary information on multihour exposures cited by this commenter and others was considered by the CASAC in its assessment of the adequacy of the existing 1-hour standard (CASAC Transcript, 1988). The CASAC was divided on whether it would be appropriate to set a lower 1-hour standard as a surrogate to protect against multihour exposures. In any event, the CASAC could not reach a consensus on an appropriate range for such a standard. The CASAC noted in its "closure letter" that "this lack of consensus is reflective of major deficiencies in our knowledge base regarding health and welfare effects of long-term exposure (beyond a few hours) to ozone. The data base is very large and adequate for knowledgeable individuals to reach agreement on the effects of acute exposure to ozone in the range appropriate for setting a 1-hour standard. However, there is not an adequate data base on the effects of multiple hour or seasonal exposures to ozone * * *." (CASAC, 1989).

Administrator Reilly was very aware of the views of the CASAC on these points. Taking those views into account, he determined that the appropriateness of revising the existing 1-hour primary standard should be judged in terms of the large body of information on acute (1- to 3-hour) exposures to O_3, and that the preliminary information on multihour or prolonged exposures should be evaluated in terms of whether it provided a sufficient basis for setting a new multihour standard. This was the approach adopted in the proposal notice, and the EPA continues to believe it is the proper one. Tightening the 1-hour standard to a degree appropriate for surrogate protection against prolonged or multihour exposures would require many if not all of the same determinations that would be needed to establish a multihour standard. At a minimum, only after an appropriate multihour averaging period and concentration level of concern had been established, would it be possible to compute, based on O_3 air quality relationships, a 1-hour value that would generally (but not always) provide the same approximate level of protection. Given the preliminary nature of the information available, making such determinations now would be premature. As discussed above, the CASAC in essence undertook such an assessment in its deliberations and could not reach a consensus due to the lack of an adequate data base.

Based on its review of the record, the EPA concludes that there is insufficient information on prolonged or multihour exposures to provide a reasoned basis for lowering the existing 1-hour primary standard to serve as a surrogate for a longer-term standard. Even if there were sufficient information available, the adoption of a tighter 1-hour standard as a surrogate for a longer-term standard would be a poor policy choice. When establishing a new or revised standard, the averaging time selected should match to the extent practicable the exposure period associated with the health effects of concern. While 1-hour peak O_3 levels correlate well with longer-term O_3 levels in many areas of the country, the variability of air quality relationships means that the adoption of a 1-hour standard as a surrogate would not assure uniform protection for the entire country. As a result, some areas would have to over-control to meet the lower 1-hour value while others, even though they attained the lower 1-hour standard, would not necessarily receive the desired level of protection against prolonged or multihour exposures. For these reasons, the EPA concludes that the more reasoned approach is to proceed as rapidly as possible with the next review of the air quality criteria so that recently published studies can be appropriately considered. Being aware

of many of these new studies, the EPA believes they will provide important new information so that a more informed decision can be made with respect to the need for and specification of a new standard to address the public health concerns associated with prolonged or multihour exposures to O_3.

In the proposal notice, the Agency estimated that it would take 2 to 3 years to update the air quality criteria for ozone and develop staff recommendations for the Administrator, following the relatively complex process outlined in Section III of the notice. As previously noted, a number of commenters, including the immediate past Chairman of the CASAC, have stressed the magnitude and complexity of the task. Others have argued that the newer studies raise serious concerns about the adequacy of the existing standards. The Agency continues to believe that a rigorous assessment of the new studies is necessary to assure a sound decision. Because of the extraordinary importance of this public health issue, however, the Administrator intends to move the process ahead as quickly as possible and, if appropriate, to propose revisions of the standards at the earliest possible date. To that end, the Administrator has directed the Agency staff to examine all possible ways of accelerating the process consistent with assuring a sound decision.

B. The Secondary Standard

The rationale for the proposed determination under section 109(d)(1) that revisions to the existing secondary standard are not appropriate at this time was presented in some detail in the August 10, 1992 proposal (57 FR 35550). Based on this information, Administrator Reilly concluded that the most prudent course of action was to retain the current standard until a more informed decision could be made during the next standard review. After taking into account the public comments on the secondary standard and for the reasons discussed below, the EPA again concludes, based on the rationale presented in the August 10, 1992 proposal notice, that revisions to the existing secondary standard are not appropriate at this time. As discussed in the summary of public comments above, only four commenters opposed the proposed decision on the secondary standard. Several of these commenters argued that the EPA should have considered studies published in the peer-reviewed literature after completion of the air quality criteria and staff paper that served as the basis for the proposed decision. As in the case of the primary standard, and for the same reasons, the EPA concludes that secondary NAAQS must and should be based on information contained in the air quality criteria. Again, the EPA believes the proper course of action is to proceed as rapidly as possible with the next review of the air quality criteria so that the more recent studies can be fully evaluated. In this regard, the EPA notes the number of new studies, some of which are still in press, cited by one of the commenters (see Docket Number IV–D–27) on the effects of O_3 on forests. As discussed in the August 10, 1992 proposal, this is precisely the type of information that, once it has been incorporated into the air quality criteria, will assist the EPA in reaching a more informed decision on a new form, averaging period, and level of a secondary standard that would be more protective of forest tree species and agricultural crops. As in the case of the primary standard, once the review process is completed, the EPA will reach a determination as to whether revisions are appropriate and announce its proposed decision as quickly as possible thereafter.

Two commenters also argued that the EPA should give further consideration to the staff's and the CASAC's recommendations on tightening the existing 1-hour secondary standard. As discussed in the August 10, 1992 proposal, Administrator Reilly was aware that both the staff and the CASAC had great difficulty throughout their review of the air quality criteria and standards for O_3 in determining an appropriate range for a 1-hour secondary standard (U.S. EPA, 1989, p. XI–15). In the end, the staff had to rely on the preliminary results of the Lee *et al.* (1988) study to develop and specify a range of alternative levels below that of the current standard. Even after considering the staff's new assessment based on the Lee study, the CASAC could not reach a consensus (CASAC, 1989). As noted in the proposal notice, the staff found this study too preliminary to serve as the basis for recommending changes in the form and averaging time of the standard. Given the preliminary status of data that provided the basis for staff recommendations and the CASAC's clearly expressed view that a 1-hour averaging period was not the most appropriate exposure indicator, Administrator Reilly was initially inclined not to consider any revisions because of the absence of sufficient information to specify a new form, averaging time, and level for the secondary standard.

Being mindful of the opinion expressed by the CASAC in its "closure letter" Administrator Reilly did, however, consider lowering the 1-hour standard as an interim measure. As discussed in the August 10, 1992 proposal, even if the results of the Lee *et al.* (1988) study provided a sufficient basis for revising the standard downward from 0.12 to 0.10 ppm, as an interim measure, it was Administrator Reilly's judgment that such a change would provide only marginal improvement because a 1-hour averaging period is not the most appropriate exposure indicator for the full range of exposures that affect crops and forest tree species and will have to be reconsidered during the next review. Administrator Reilly also concluded that, in the interim, such a change would have imposed a disproportionate and largely meaningless burden on States to review and make appropriate revisions in applicable SIP's. Having considered the public comments on the issue, the EPA adheres to these judgments.

C. Final Decision

For the reasons discussed above and in the August 10, 1992 proposal notice (57 FR 35542), it is the Administrator's judgment under section 109(d)(1) that revisions to the existing primary and secondary NAAQS are not appropriate at this time. Because a large body of new information on the health and welfare effects of O_3 has been published in the scientific literature since completion of the air quality criteria upon which this decision is based, the EPA has already initiated action to update the air quality criteria (57 FR 38832, August 27, 1992). As discussed above, the EPA will proceed with the next review of the criteria and standards for O_3 and announce its proposed decision on revisions of the standards as rapidly as possible.

V. Regulatory Impacts

A. Regulatory Impact Analysis

Under Executive Order 12291, the EPA must judge whether an action is a "major" regulation for which a Regulatory Impact Analysis (RIA) is required. For reasons set forth in the proposal notice, the EPA has judged that today's decision on the primary and secondary NAAQS is not a major action. The EPA, therefore, has deemed unnecessary the preparation of either a final RIA or a final Environmental Impact Statement.

B. Impact on Small Entities

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., the EPA must prepare initial and final regulatory flexibility analyses assessing the impact of certain rules on small entities. For reasons set forth in the proposal notice, the EPA has determined that the impact assessment requirements of the RFA are inapplicable to this final decision.

VI. Other Reviews

This decision was submitted to the Office of Management and Budget (OMB) for review. Written comments from the OMB and the EPA written responses to these comments are available for public inspection at the EPA's Central Docket Section (Docket No. A–92–17), South Conference Center, room 4, Waterside Mall, 401 M Street SW., Washington, DC.

Dated: March 1, 1993.

Carol M. Browner,

Administrator.

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Appendix I

May 1, 1989

The Honorable William K. Reilly,
Administrator, U.S. Environmental Protection Agency,401 M Street SW., Washington, DC 20460

Dear Mr. Reilly: I am pleased to transmit via this letter the advice of the Clean Air Scientific Advisory Committee (CASAC) concerning the National Ambient Air Quality Standards for Ozone. CASAC has reviewed and offered comments directly to EPA staff on the EPA criteria document "Air Quality Criteria for Ozone and Other Photochemical Oxidants (1986)," the draft "Criteria Document Supplement (1988)," and the Office of Air Quality Planning and Standards staff position paper "Review of the National Ambient Air Quality Standards for Ozone Assessment of Scientific and Technical Information (1988)" and related support documents.

CASAC previously reached closure on the 1986 Criteria Document. At a meeting held on December 14–15, 1988, CASAC came to closure on the "Criteria Document Supplement (1988)" and the 1988 Staff Position Paper and concluded that they provide an adequate scientific basis for EPA to retain or revise primary and secondary standards for ozone. While reaching closure at this time, the Committee did note an emerging data base on the acute health effects resulting from 6-plus hours of ozone exposure, providing evidence of the possible need for a standard with a 6–8 hour averaging time. However, it was the Committee's view that it would be some time before enough of this developing information would be published in scientific journals to receive full peer review and, thus, be suitable for inclusion in a criteria document. CASAC concluded such information can better be considered in the next review of the ozone standards.

CASAC did not reach a consensus opinion on endorsement of the staff position paper recommendation that "the range of 1-hour average ozone levels of concern for standard setting purposes is 0.08–0.12 ppm for a primary standard." The opinion of the CASAC Ozone Review Committee was divided with regard to the upper range of the standard with eight individuals favoring a range with an upper value of 0.12 ppm, three individuals favored an upper bound in the range of 0.10–0.12 ppm, four individuals favored an upper bound value no higher than 0.10 ppm, and one individual abstained from offering an opinion. Several individuals who supported an upper value of 0.12 ppm as well as all of the other individuals who favored a lower value for the upper end of the range expressed the view that at 0.12 ppm there was little or no margin of safety. As you are aware, the margin of safety is intended to provide protection against adverse effects which have not yet been uncovered by research and effects whose medical significance is a matter of disagreement. Finally, several members of the subcommittee favored development of a standard with a more statistically robust upper bound on the annual distribution of ozone concentrations rather than reliance on the current expected exceedance form of the standard. While the Committee offers no further advice on what form the Agency should consider, we would caution you against any form which alters the degree of health protection afforded by the current standard.

CASAC had substantial discussion of the issue of what are or are not adverse health effects. This discussion was aided by the presentation of this issue in the staff position paper. Within CASAC there was diversity of opinion; some members felt that healthy individuals experience adverse effects when ozone exposure induced any of the responses categorized as moderate (i.e., >10% decrement in FEV_1 or mild to moderate respiratory symptoms) in the staff position paper, while a few members believed that adverse effects would not be experienced until ozone induced more severe effects (i.e., >20% decrement in FEV_1 and moderate to severe respiratory symptoms). The view of some individuals on this matter was influenced by recognition that resolution of the adverse health effect issue represents a blending of scientific and policy judgments and, thus, we feel it appropriate to inform you of the range of our views on this matter.

Of particular concern to CASAC is the potential for effects arising from exposures to ozone with daily peak concentrations at or near 0.12 ppm for periods of 6–8 hours and with co-exposure to other pollutants. This concern is due to air quality analyses which have shown that even in areas which do not repeatedly exceed the ozone standard, ozone concentrations can remain close to 0.12 ppm for several hours per day for extended periods of time in summer. There was concern based on recent controlled human exposure, epidemiology and toxicology studies, that such prolonged exposures could result in increased respiratory impairment. Further, for people exposed to these ozone concentrations over a lifetime, the possibility that chronic irreversible effects may result is of concern, although such changes have not been demonstrated.

The Committee noted that the Criteria Document Supplement failed to cite and discuss a group of "ecological" epidemiological studies of the effects of ozone on various measures of human health such as hospitalizations for respiratory illnesses or exacerbation of chronic respiratory problems. Although these studies have obvious limitations in establishing cause and effect relationships, they have certain strengths which can aid in regulatory decision-making. Studies of this type should be discussed and evaluated in future criteria documents as a complementary source of information.

While reaching closure on the staff position paper recommending a 1-hour standard, CASAC urged that the Agency provide increased support for research that will prove an improved scientific basis for evaluating the need for standards with multi-hour or seasonal averaging times. Clearly, the obvious, research on this critical environmental health issue must be supported now in order for results to be available for consideration in the next 5-year review cycle. CASAC has enumerated these research needs in some detail in a September 1987 submission to the Agency. The Committee feels these research recommendations are still valid and should be incorporated as expeditiously as possible into the Agency research program.

CASAC did not reach a consensus opinion on endorsement of the staff position paper recommendation of "a 1-hour averaging time standard in the range of 0.06–0.12 ppm" for a secondary standard. The CASAC Ozone Welfare Effects Subcommittee that considered this matter reached a divided opinion; two favored a range with an upper value of 0.12 ppm, three favored an upper value of less than 0.12 ppm, and five favored an upper value of 0.10 ppm. The Committee noted that the form of the standard was of critical importance in protecting against ozone effects on vegetation. The Committee was of the opinion that a cumulative seasonal standard would be more appropriate than a 1-hour standard and felt that such a standard could be developed. CASAC favored issuance of a cumulative seasonal standard form assuming its development would not further delay the standard setting process. If this form of standard cannot be developed in time for the current review, the Committee is of the opinion that you should give serious consideration to setting a 1-hour secondary standard with a maximum of 0.10 ppm. The Committee took note of the lack of information on the effects of ozone on forest ecosystems and urged support for research to remedy this deficiency.

In closing, I would like to briefly comment on CASAC's failure to reach a consensus as to the appropriate range for setting the ozone standards. This lack of consensus is reflective of major deficiencies in our knowledge regarding health and welfare effects of long-term exposure (beyond a few hours) to ozone. The data base is very large and adequate for knowledgeable individuals to reach agreement on the effects of acute exposure to ozone in the range appropriate for setting a 1-hour standard. However, there is not an adequate data base on the effects of multiple hour or seasonal exposures to ozone, especially as regards whether such exposures may produce chronic health effects. This is especially troubling since such long-term exposures to ozone occur in many parts of the United States and involve many millions of people and thousands of acres of crop and forest lands. As a result, there continues to be concern for the public health and welfare threat which may be posed by chronic exposure to ozone. It is critical that the data base on health and welfare effects related to multiple hour, seasonal and lifetime exposures of ozone be increased through an accelerated and expanded research effort. This must be done so that future considerations of ozone standards will derive from a stronger scientific base.

CASAC recognizes that your statutory responsibility to set standards requires public health policy judgments in addition to determinations of a strictly scientific nature. While the Committee is willing to further advise you on the ozone standards, we see no need, in view of the already extensive comments provided, to review the proposed ozone standards prior to their publication in the **Federal Register**. In this instance, the public comment period will provide

sufficient opportunity for the Committee to provide any additional comments or review that may be necessary.

CASAC would appreciate being kept informed of progress on establishing revised or new ozone standards and plans for research on ozone effects. Please do not hesitate to contact me if CASAC can be of further assistance on this matter.

Sincerely,

Roger O. McClellan, D.V.M.

Chairman, Clean Air Scientific Advisory Committee.

Appendix II

August 31, 1992

Hon. William K. Reilly,
Administrator, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Dear Mr. Reilly: The members of the Clean Air Scientific Advisory Committee (CASAC) have noted with interest the announcement that the Agency is not revising the national air quality standard for ground-level ozone at this time and is initiating a new assessment of the health and environmental effects of ozone. The purpose of this letter is to indicate the willingness of the CASAC to assist the Agency in carrying out a review of the new assessment in an expeditious manner. To facilitate CASAC involvement, it would be useful for the Committee to be briefed at an early date on the Agency's plans for development of the new criteria document on the health and environmental effects of ozone and the subsequent development of a staff position paper on the ozone standard(s).

A briefing for CASAC would provide the opportunity for both CASAC and other interested persons to comment on the Agency's plan for carrying out the important task of preparing new documents. With this as background, CASAC can plan its associated review of the criteria document and staff position paper in a timely manner. The briefing would also provide an opportunity for the Agency and other scientists to describe the state of research now in progress on ozone that will potentially be completed and subjected to peer-review in time for its inclusion in a new assessment. This is especially important since research on ozone is, and should be, ongoing because of the importance of ozone as a pollutant. Nonetheless, it is crucial that at a particular point in time, that is understood by all parties, the knowledge base on ozone be summarized and used for regulatory purposes. A side benefit of the summarization process is that it can also serve to identify information needs which in turn provides input for establishing the research agenda for the future.

The CASAC members are of the opinion that a carefully planned strategy for preparation of the criteria document and staff position paper is essential in view of the magnitude and complexity of the task. As you and your staff are aware, substantial new information has been published since the last criteria document and supplement and staff position paper were prepared. Other studies which may yield significant new information include the National Toxicology Program chronic bioassay with rodents exposed to ozone and new human exposure assessment models are nearing completion. The review, integration and interpretation of the old and new information will be a substantial undertaking. In addition, it will be imperative that the next staff position paper carefully consider alternative forms of the ozone standard, both in terms of averaging time, such as daily (6–24 hour), as well as frequency of occurrence, and seasonal standards, in addition to the traditional one hour standard. This, too, will require substantial preparation effort and, I suspect, ample time for debate.

The CASAC is anxious to assist in these important activities and looks forward to hearing from you as to when the Agency will be ready to brief CASAC on the proposed plans for preparation and review of the ozone criteria document and staff paper.

Sincerely,

Roger O. McClellan, D.V.M.,

Chairman, Clean Air Scientific Advisory Committee.

[FR Doc. 93–5266 Filed 3–8–93; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1303

RIN: 0970–AB00

Head Start Program; Technical Correction

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF).

ACTION: Technical correction to final rule.

SUMMARY: This document contains a technical correction that adds the Office of Management and Budget approval number for information collection requirements in the Head Start final rule on appeals, published December 14, 1992 (57 FR 59260).

DATES: This correction is effective March 9, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph A. Mottolo, Acting Commissioner, Administration on Children, Youth and Families, P.O. Box 1182, Washington, DC 20013, (202) 205–8347.

SUPPLEMENTARY INFORMATION:

Background

The Administration on Children, Youth and Families published a final rule on December 14, 1992 (57 FR 59260) which revises and clarifies for Head Start grantees and delegate agencies the requirements concerning appeals by grantees from termination and denial of refunding actions. The final rule also includes provisions on appeals by current or prospective delegate agencies of grantee's rejections of, or failures to act on, applications, or grantee's terminations of grants or contracts.

Need for Correction

As published, §§ 1303.10 through 1303.23 contained information collection requirements for which an OMB approval number was required. OMB approved and assigned a number to those sections on January 22, 1993, which this correction will show in a section added at the end of the rule, specifically for the OMB number.

Correction of Publication

Accordingly, the publication of the Head Start Program final rule on appeals (57 FR 59260) is corrected as follows: On page 59271, at the end of § 1303.23, add:

§ 1303.24 OMB control number.

The collection of information requirements in sections 1303.10 through 1303.23 of this part were approved on January 22, 1993, by the Office of Management and Budget and assigned OMB control number 0980–0242.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 93–5301 Filed 3–8–93; 8:45 am]

BILLING CODE 4130–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 1

[DA 92–1115]

Reorganization of the Field Operations and Private Radio Bureaus

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the Commission's Rules To incorporate the reorganization between the Private Radio Bureau and the Field Operations Bureau. The reorganization was necessary in order to promote a more efficient and effective organizational structure.

EFFECTIVE DATE: October 1, 1992.

FOR FURTHER INFORMATION CONTACT: Tom Sullivan, Office of Managing Director, (202) 632–0923.

SUPPLEMENTARY INFORMATION:

Order

In the matter of Amendment of Parts 0 and 1 of the Commission's Rules To Reflect a Reorganization of the Private Radio Bureau and the Field Operations Bureau.

Adopted: May 12, 1992.

Released: February 5, 1993.

By the Managing Director:

1. The Commission has before it for consideration proposed changes in the organizations of the Private Radio and Field Operations Bureaus. Implementation of the proposed changes requires amendments to parts 0 and 1 of the Commission's Rules and Regulations.

2. In order to provide faster and higher quality service in the Commission's enforcement and licensing programs, the Commission is hereby approving the transfer of commercial radio operator licensing and antenna marking and lighting clearance from the Field Operations Bureau to the Private Radio Bureau and the transfer of enforcement functions from the Private Radio Bureau's Compliance Branch to the Field Operations Bureau.

3. The amendments adopted herein pertain to agency organization. The prior notice procedure and effective date provisions of Section 4 of the Administrative Procedures Act are therefore inapplicable. Authority for the amendments adopted herein is contained in Sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

4. *It is ordered,* Effective October 1, 1992 that parts 0 and 1 of the Rules and Regulations are amended as set forth in the Final Rules hereto.

Federal Communications Commission.

Alan R. McKie,

Deputy Managing Director.

List of Subjects

47 CFR Part 0

Authority delegated, Location of commission offices, Inspection of records, Organization and functions.

47 CFR Part 1

Administrative practice and procedure, Operator licenses.

Final Rules

Part 0 and part 1 of chapter I of title 47 of the Code of Federal Regulations are amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.111 is amended by revising the introductory text to the section and paragraph (a); redesignating paragraphs (b) through (l) as paragraphs (d) through (n); adding new paragraphs (b) and (c); and revising newly redesignated (d) to read as follows:

§ 0.111 Functions of the Bureau

Responsible for all Commission engineering and enforcement activities performed by the Bureau in the field relating to all services including sanction, inspection, investigation and monitoring activities, interference suppression, communications user liaison and administration of the Emergency Broadcast System.

(a) Enforce the Commission's rules and regulations; monitor, inspect and investigate all non-government communications matters; issue sanctions.

(b) Formulate the Commission's Enforcement Plan in collaboration with other Bureaus and Offices and execute the portions of the plan for which the Bureau is responsible.

(c) Participate in the development of the Commission's User Information Services Plan in conjunction with other Bureaus and Offices and execute the portions of the plan for which the Bureau is responsible.

(d) Advise the Commission and act in matters regarding field liaison with the user public and local and federal government agencies (Part 0).

* * * * *

3. Section 0.131 is amended by adding paragraph (j) to read as follows:

§ 0.131 Functions of the Bureau

* * * * *

(j) Administers the Commission's commercial radio operator program (part 13) and the Commission's program for construction, marking and lighting of antenna structures (part 17).

4. Section 0.311 is amended by revising paragraph (a)(1) to read as follows:

§ 0.311 Authority delegated

* * * * *

(a) * * *

(1) Notices of proposed rulemaking and of inquiry and final orders in rulemaking and inquiry proceedings.

* * * * *

5. Section 0.314 is amended by removing paragraphs (a), (d), (f), (p), (q), (r), (v) and (w).

6. Section 0.331 is amended by revising paragraph (a)(1); and adding a new paragraph (c) to read as follows:

§ 0.331 Authority delegated

* * * * *

(a) * * *

(1) Notices of proposed rulemaking and of inquiry, final orders in rulemaking proceedings and inquiry proceedings, and reports arising from any of the foregoing except such orders involving non-substantive revisions to the rules, or orders involving changes clarifying a rule based on established Commission precedent, or conforming one rule within part 1, subpart F, part 13, part 17 and parts 80 through 97 with another rule or conforming any of these rules to formally adopted international convention or agreement where novel questions of policy or law are not involved. Also, the addition of new Marine VHF frequency coordinating committee(s) to § 80.514 of the Rules need not be referred to the Commission if they do not involve novel questions of policy or law.

* * * * *

(c) The Chief, Private Radio Bureau is delegated authority to:

(1) Act on requests for a waiver of the English language provisions of §§ 13.22 and 13.23 of this chapter in the case of Spanish-speaking applicants in and around Puerto Rico and Miami, Fla., and to issue licenses bearing appropriate restrictions to those applicants found qualified.

(2) Act on requests for waiver of the written examination requirements of §§ 13.21, 13.22 and 13.23 of this chapter and to authorize oral examinations in lieu thereof.

(3) Act on requests by blind applicants to appear at the appropriate field office for a radiotelephone license examination. (See §§ 13.11 and 13.23 of this chapter.)

7. Section 0.401 is amended by revising paragraphs (a)(3)(i) and (b)(1) to read as follows:

§ 0.401 Location of Commission Offices.

* * * * *

(a) * * *

(3) * * *

(i) The mailing address of the Private Radio Bureau Licensing Division is: Federal Communications Commission, 1270 Fairfield Road, Gettysburg, PA 17325–7245.

* * * * *

(b) * * *

(1) Applications and filings submitted by mail shall be addressed to the Mellon Bank in Pittsburgh, Pennsylvania. The bank maintains separate post office boxes for the receipt of different types of applications. It will also establish special post office boxes to receive responses to special filings such as

applications filed in response to "filing windows" established by the Commission. The address for the submission of filings will be established in the Public Notice announcing the filing dates. In all other cases, applications and filings submitted by mail should be sent to the addresses listed in the appropriate fee rules: Section 1.1102 for Private Radio Services and Radio Operator Examinations; § 1.1103 for Equipment Approvals, Experimental Radio Applications and Ship Inspections; § 1.104 for Mass Media Services; and § 1.105 for Common Carrier Services.

* * * * *

8. Section 0.406 is amended by revising the first four sentences of paragraph (b) introductory to read as follows:

0.406 The rules and regulations.

* * * * *

(b) *Contents.* Parts 0–19 of the rules have been reserved for provisions of a general nature. Parts 20–69 of this chapter have been reserved for provisions pertaining to common carriers. Parts 70–79 have been reserved for provisions pertaining to broadcasting and cable television. Parts 80–99 of this chapter have been reserved for provisions pertaining to the Private Radio Services. * * *

* * * * *

9. Section 0.453 is amended by revising paragraph (l) to read as follows:

§ 0.453 Public reference rooms.

* * * * *

(l) *The Private Radio Bureau Reference Room.* Commercial radio operator application files and all authorizations in the Private Radio Services and files relating thereto, which includes Land Mobile, Microwave, Aviation, Ground and Marine Coast applications. All of these materials are available in the Commission's offices in Gettysburg, Pennsylvania. See § 0.457(f)(3) of this chapter.

10. Section 0.455 is amended by removing paragraph (d).

11. Section 0.484 is revised to read as follows:

§ 0.484 Amateur radio operator examinations.

Generally, examinations for amateur radio operation licenses shall be administered at locations and times specified by volunteer examiners. (See § 97.509). When the FCC conducts examinations for amateur radio operator licenses, they shall take place at locations and times designated by the FCC.

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

2. Section 1.61 is amended by revising paragraphs (a), (b), (c) and (f) to read as follows:

§ 1.61 Procedures for handling applications requiring special aeronautical study.

(a) Antenna surveys are conducted by the Licensing Division of the Private Radio Bureau.

(b) Each operating bureau or office examines the applications for which it is responsible to ascertain whether or not antenna consideration is required. If such consideration is required, the antenna data is furnished to the Licensing Division.

(c) The Licensing Division then ascertains whether the applicant is required to submit a "Notice of Proposed Construction or Alteration" (FAA Form 7460–1) to the Federal Aviation Administration.

* * * * *

(f) Upon receipt from the Federal Aviation Administration approving a proposed antenna, the Licensing Division prescribes antenna tower painting and lighting specifications or other conditions in accordance with the provisions of part 17 of this chapter and forwards this information to the originating bureau or office. If the proposed tower is disapproved, a report of the disapproval is forwarded to the originating bureau or office.

* * * * *

3. Section 1.83 is amended by revising paragraph (b) to read as follows:

§ 1.83 Applications for radio operator licenses.

* * * * *

(b) Application filing procedures for commercial radio operator licenses are set forth in part 13 of this chapter. Detailed information about application forms, filing procedures, and where to file applications for commercial radio operator licenses is contained in the bulletin "Commercial Radio Operator Licenses and Permits." This bulletin is available from the Private Radio Bureau, Licensing Division, Consumer Assistance Branch, 1270 Fairfield Road, Gettysburg, PA 17325–7245.

4. Section 1.85 is amended by revising the first five sentences to read as follows:

§ 1.85 Suspension of operator licenses.

Whenever grounds exist for suspension of an operator license, as provided in section 303(m) of the Communications Act, the Chief of the Private Radio Bureau, with respect to amateur and commercial radio operator licenses, may issue an order suspending the operator license. No order of suspension of any operator's license shall take effect until 15 days' notice in writing of the cause for the proposed suspension has been given to the operator licensee, who may make written application to the Commission at any time within the said 15 days for a hearing upon such order. The notice to the operator licensee shall not be effective until actually received by him, and from that time he shall have 15 days in which to mail the said application. In the event that physical conditions prevent mailing of the application before the expiration of the 15-day period, the application shall then be mailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay. Upon receipt by the Commission of such application for hearing, said order of suspension shall be designated for hearing by the Chief, Private Radio Bureau and said suspension shall be held in abeyance until the conclusion of the hearing.

* * *

5. Section 1.901 is revised to read as follows:

§ 1.901 Scope.

In the case of any conflict between the rules set forth in this subpart and the rules set forth in part 13 or the rules set forth for specific services in parts 80 through 99, the rules in this subpart shall govern.

[FR Doc. 93–5285 Filed 3–8–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91–39; Notice 2]

RIN 2127–AE11

Federal Motor Vehicle Safety Standards; Windshield Wiping and Washing Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends Standard No. 104, *Windshield Wiping*

and Washing Systems, to substitute the term "seating reference point" for the term "manikin H point with seat in rearmost position" wherever that term appears in any SAE Standard or Recommended Practice as those SAE documents are incorporated by reference in the standard. As currently written, the Standard already substitutes the term "seating reference point" for the terms "manikin H point" and "H point."

DATES: *Effective Date:* The amendments become effective April 8, 1993.

Petitions for reconsideration: Any petitions for reconsideration of this rule must be received by NHTSA no later than April 8, 1993.

ADDRESSES: Any petition for reconsideration should refer to the docket and notice number set forth in the heading of this notice and be submitted to: Administrator, NHTSA, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Jere Medlin, Crash Avoidance Division, NRM–11, room 5307, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590 (202–366–5276).

SUPPLEMENTARY INFORMATION: Standard No. 104, *Windshield Wiping and Washing Systems*, specifies requirements for windshield wiping and washing systems. Standard No. 104 references several SAE Recommended Practices and Standards. In particular, the standard references Figure 1 of SAE J903a to establish the minimum windshield area(s) which must be wiped or washed to meet the standard's requirements. Standard No. 103, *Windshield Defrosting and Defogging Systems*, references this section of Standard No. 104 in establishing the minimum windshield area(s) which must be defrosted or defogged. These minimum areas are determined using the location of the "seating reference point."

A final rule published concurrently with this proposal amended the definition of "seating reference point" (SgRP). (56 FR 38084, August 12, 1991) "Seating reference point" identifies a single adjustment point for each seating position. The seating reference point for a particular seating position in a vehicle is used to determine whether that vehicle complies with requirements set forth in several of the safety standards. The final rule made it clear in the definition that SgRP is not necessarily the absolute rearmost point to which a seat can be adjusted.

In response to a comment by General Motors to the rulemaking about seating reference points, NHTSA issued a notice of proposed rulemaking to amend the definition for seating reference point in Standard No. 104. (56 FR 38099, August 12, 1991). The agency believed that the proposal was necessary to eliminate potentially contradictory references relative to the definition for seating reference point in Standard No. 104, and by reference Standard No. 103. To avoid confusion, the agency proposed amending Standard No. 104 so that "seating reference point" would be substituted for the terms "manikin H point," "manikin H point with seat in rearmost position" and "H point." The agency believed that this amendment would prevent the change in the SgRP definition from changing the areas of a vehicle subject to Standards No. 103 and 104. The agency believed that the amendment would not affect the safety benefits provided by either standard. The agency further believed that the proposal would not result in any change in cost for manufacturers since it is consistent with industry practice.

In response to the NPRM, the agency received comments from General Motors, Ford, and Chrysler. The commenters supported the proposal, stating that the amendments would clarify the provision and eliminate potentially contradictory phrases in the referenced SAE standards.

Based on the reasons set forth in the NPRM and the comments which agreed with the proposal, NHTSA has decided to amend Standard No. 104, as proposed. Specifically, Standard No. 104 is amended by substituting the term "seating reference point" for the terms "manikin H point," "maintain H point with seat in rearmost position," and "H point."

This final rule will not have any retroactive effect. Under section 103(d) of The National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Effective Date

Because the amendment clarifies a term and imposes no additional burden on any party, it is hereby found that good cause is shown for an effective date earlier than 180 days after issuance of the final rule, and the final rule is effective 30 days after its publication in the Federal Register.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has examined the impact of this rulemaking action and determined that it is neither major within the meaning of Executive Order 12291, nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The agency believes that this amendment prevents the change in the SgRP definition from changing the areas of a vehicle subject to Standards No. 103 and 104. The agency further believes that the amendment will not result in any increased or decreased cost for manufacturers, since it is consistent with industry practice.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this rulemaking under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. To the extent that any vehicle manufacturers qualify as small entities, their number would not be substantial. In any event, the agency does not anticipate any economic impacts from this rule, as explained above. Accordingly, this new definition will not affect the purchase price of new motor vehicles purchased by small organizations and small governmental units.

National Environmental Policy Act

NHTSA has also analyzed this rulemaking under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

Finally, NHTSA has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this rule would not have significant Federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, part 571 of title 49 of the Code of Federal Regulations is amended as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50 and 501.4.

§ 571.104 [Amended]

2. In S3, § 571.104, the definition for "seating reference point" is revised to read as follows:

§ 571.104 Standard No. 104; Windshield wiping and washing systems.

* * * * *

S3. *Definitions.* The term *seating reference point* is substituted for the terms *manikin H point, manikin H point with seat in rearmost position* and *H point* wherever any of these terms appear in any SAE Standard or SAE Recommended Practice referred to in this standard.

* * * * *

Issued on: March 2, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93-5125 Filed 3-8-93; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

RIN 2127-AE35

[Docket No. 92-15; Notice 2]

Federal Motor Vehicle Safety Standards Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration, NHTSA (DOT).

ACTION: Final rule.

SUMMARY: This notice amends Federal Motor Vehicle Safety Standard No. 108 to delete the requirement for a minimum 4-inch edge to edge separation distance between amber motorcycle turn signals and stop or taillamps.

This action is taken pursuant to a petition from the Motorcycle Industry Council. It will allow the use of designs permissible elsewhere.

EFFECTIVE DATE: The effective date of the rule is April 18, 1993.

ADDRESSES: Petitions for reconsideration of the final rule must be received not later than 30 days after publication of this notice. Petitions should refer to Docket 92-15; Notice 2, be addressed to the Administrator, and be submitted to: Docket Section, room 5109, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Kenneth Hardie, Office of Rulemaking, 202-366-6987.

SUPPLEMENTARY INFORMATION: This notice amends the motorcycle turn signal lamp spacing requirements of Federal Motor Vehicle Safety Standard No. 108 *Lamps, Reflective Devices, and Associated Equipment* to adopt Alternative 1 proposed on April 28, 1992 (57 FR 17871).

Table III of Standard No. 108 requires a motorcycle to be equipped with at least one stop lamp and one taillamp. Table IV requires that if a single lamp is used, it must be mounted on the motorcycle's vertical centerline. Table IV also requires that there be a minimum edge to edge separation distance of 4 inches between motorcycle turn signal lamps and a single tail or stop lamp. However, the agency has interpreted the minimum separation requirement as inapplicable when two stop lamps and/or taillamps are used, symmetrically disposed around the vertical centerline.

The Motorcycle Industry Council (MIC) petitioned "to remove the requirement for a (4) inch minimum edge to edge separation distance * * *." MIC argued that the present requirement is, in effect, design restrictive, prohibiting use of lamp designs employed elsewhere in the world. MIC stated that these interpretations preclude the installation of a modular unit such as a center mounted tail/stop lamp with adjacent turn signals, or integration of the rear lamps into the body panel design. The 4-inch requirement also limits the practical size of the tail/stop lamp, with the effect of limiting nighttime rear conspicuity. MIC noted that these configurations are allowed worldwide, except in the U.S. and Canada. It stated that in Canada, rulemaking has been initiated to eliminate the 4-inch spacing requirement. Canada's rationale for its approval is that the current 4-inch spacing limitation effectively prevents the use of integrated rear lamp assemblies which would contain larger tail and stop lamps, thereby improving the rear conspicuity of the motorcycle. Canada also commented that experience with passenger cars had shown that adjacent turn signals and tail/stop lamps are easily perceptible.

NHTSA granted MIC's petition, noting that an amendment of the nature requested would allow the use of designs in use elsewhere, thus no longer requiring a specialized design, at extra cost, for the U.S. MIC also commented that, for harmonization purposes, current motorcycles are equipped with amber rear turn signal lamps. Further, a motorcycle fitted with amber rear turn signal lamps adjacent to a single centered red lamp would remain subject to the 9-inch spacing requirement. Thus, a final rule would not reduce the existing level of safety.

NHTSA tentatively agreed that the signals from a motorcycle fitted with amber rear turn signal lamps adjacent to a single, centered red tail/stop lamp would be easily interpreted by following vehicles. The agency agreed further that such a configuration would not likely degrade the existing safety of the vehicle. The agency viewed such an amendment as consistent with its policy to remove design restrictions not needed for safety, and with the policy of international harmonization.

However, MIC's request and comment left NHTSA unsure whether MIC was requesting the limitation of the requirement as it applies to amber turn signal lamps only, or the total elimination of the requirement, regardless of the color. NHTSA therefore decided to evaluate each alternative, and tentatively concluded that the deletion of the 4-inch spacing requirement for amber turn signal lamps ought not to have a negative effect upon safety. However, NHTSA also tentatively concluded that the 4-inch spacing requirement should be maintained for red turn signal lamps when the stop/taillamp are mounted on the vertical centerline. Maintaining the existing requirement of more than 20 years standing would ensure that there is no masking of the light from one red lamp by the light from another, impairing the information that each seeks to impart.

However, there was an alternative that interested NHTSA: Eliminating both the 4-inch spacing requirement and the use of red as a permissible alternative to amber for rear motorcycle turn signal lamps. It appeared that none of the MIC member companies manufactured motorcycles with red rear turn signal lamps. Nor does Harley-Davidson, a non-MIC company. The use of amber is mandated in Europe. Therefore, as Alternative 2, NHTSA proposed an amendment of Table III to specify only amber, and of Table IV to specify only amber and to remove the 4-inch limit.

There were four commenters on the proposal: MIC, American Honda Motor Co., Inc., American Suzuki Motor Corp., and Yamaha Motor Corp. USA. All commenters supported Alternative 1: The elimination of the 4-inch spacing requirement when amber turn signal lamps are used, and continuation of the requirement when red turn signal lamps are used with a single centered stop/

taillamp. Suzuki commented that there was a possibility that there could be future regulatory changes elsewhere in the world which would make red turn signal lamps a desirable option. Accordingly, it saw no benefit in eliminating the option, as proposed in Alternative 2.

NHTSA concurs in this recommendation. Although there is no apparent use of red rear motorcycle turn signals at present, maintaining the option affords greater design freedom to manufacturers. Accordingly, NHTSA is adopting Alternative 1 as proposed.

This final rule does not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Effective Date

Because the amendment relieves a restriction and creates no additional burden upon any regulated party, it is found that good cause is shown for an effective date earlier than 180 days after issuance of the final rule. Accordingly, the effective date is 30 days after publication of the final rule in the **Federal Register.**

Rulemaking Analyses

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has considered the impacts of this rulemaking action and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation", or significant under Department of Transportation regulatory policies and procedures. Providing manufacturers with the option of locating amber turn signal lamps closer to stop/taillamps mounted on the vertical centerline permits either modular units equipped with stop, tail and turn signal lamps, or integration of the rear lamps into the body panel. Because of uncertainties regarding the designs, savings per vehicle, and the number of vehicles that will be manufactured to take advantage of the relaxation, NHTSA is unable to quantify the potential cost reduction associated with this rulemaking action. However, the design flexibility that the amendment affords should yield some slight manufacturing cost savings which could be passed on to consumers. Tooling costs can be reduced for modular and integrated rear lighting systems. Also, fewer and simpler steps in the vehicle assembly process will result in reduced labor costs. Finally, greater production economies of scale can be achieved since regulatory requirements will be internationally harmonized.

Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking action in relation to the Regulatory Flexibility Act. For the reasons noted above, I certify that this rulemaking action will not have a significant economic effect upon a substantial number of small entities. Motorcycle manufacturers are generally not small businesses within the meaning of Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions will not be significantly affected as the price of new motorcycles will be no more than minimally impacted. Accordingly, no Regulatory Flexibility Analysis has been prepared.

Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 "Federalism". It has been determined that the rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for purposes of the National Environmental Policy Act. The rule will not have a significant effect upon the environment, as it will not change the equipment currently required for motorcycles.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.108 [Amended]

2. Section 571.108 is amended as follows:

In Table IV, in the entry "Turn signal lamps", the second sentence in the second paragraph under the column headed "Motorcycles" is revised to read: "Minimum edge to edge separation distance between lamp and tail or stop lamp is 4-inches, when a single stop and taillamp is installed on the vertical centerline and the turn signal lamps are red."

Issued on March 3, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93–5219 Filed 3–8–93; 8:45 am]

BILLING CODE 4910–59–M

Proposed Rules

Federal Register
Vol. 58, No. 44
Tuesday, March 9, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 155

Proposed Regulation Prohibiting Dual Trading by Floor Brokers

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing § 155.5, which would prohibit dual trading in contract markets with average daily trading volume equal to or in excess of 8000 contracts, except to the extent permitted by contract market rules made effective under section 5a(a)(12) of the Commodity Exchange Act ("Act") and § 1.41. The proposed regulation would permit a contract market to petition the Commission for an exemption from the dual trading prohibition. The contract market would be required to demonstrate in its petition that its trade monitoring system satisfies specified standards, or that there is a substantial likelihood that a dual trading prohibition would harm the public interest in hedging or price basing at the contract market and that it will implement corrective actions to achieve compliance with the specified standards. Each contract market that meets the average daily volume threshold and that is not exempted would be required to adopt rules pursuant to section 5a(a)(12) of the Act and § 1.41 to prohibit dual trading in accordance with the provisions of proposed § 155.5. These provisions are intended to implement the mandate in section 4j(a) of the Act as amended by section 101 of the Futures Trading Practices Act of 1992 ("Futures Trading Act").[1]

[1] Pub. L. No. 102–546, 101,106 Stat. 3590 (1992). The Futures Trading Act was enacted on October 28, 1992.

DATES: Comments on proposed § 155.5 must be received on or before [insert date *60 days after publication*].

ADDRESSES: Comments should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: De'Ana H. Dow, Special Counsel, or Linda Kurjan, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION

I. Background

A. Dual Trading Studies

Dual trading and its effects have been studied extensively by the Commission, its staff, the futures industry and academics for nearly 20 years. The Commission's first extensive study of dual trading was completed by the Advisory Committee on the Regulation of Contract Markets and Self-Regulatory Associations ("Advisory Committee"). The Advisory Committee's report, issued on December 23, 1976, while recommending that the Commission continue to permit dual trading because the practice provided liquidity and promoted expertise among floor brokers, concluded that more information was needed on the effect of dual trading on liquidity.[2] The Advisory Committee also recommended that all contract markets be required to promulgate rules to protect customers from potential trading abuses that may result from dual trading.

Similarly, in the Commission's 1984 report entitled A Study of the Nature, Extent and Effects of Futures Trading by Persons Possessing Material Nonpublic Information ("Insider Trading Study"), the Commission concluded that to the extent dual trading by floor brokers was to be permitted, an improved audit trail was needed to ensure that surveillance of potential trade practice abuses was more effective.[3] In implementing the Insider Trading Study's recommendation, the Commission amended its regulations, effective October 1, 1986, to require that exchange audit trails include one-minute execution times.[4] By July 1988, each exchange had implemented a one-minute timing system. The Commission staff reviewed each exchange's audit trail system as of November 1989. Based on its review, the Commission stated that it believed that the then-current one-minute trade timing systems were not capable of detecting all abuses related to dual trading.[5]

A separate study conducted by the Division of Economic Analysis ("EA"), Economic Analysis of Dual Trading on Commodity Exchanges (November 1989) ("Dual Trading Study"), examined an extensive record of trading activity in U.S. futures and option markets.[6] EA analyzed, among other things, whether there was statistical support for the assertion that dual trading is necessary for adequate market liquidity. In this regard, EA found that dual traders' performance in providing market liquidity is not superior to that of exclusive traders and that dual trading is not a critical ingredient in providing liquidity.

EA also concluded in that study that floor members tend to be highly specialized and as such are primarily engaged in either customer trading or personal trading, *i.e.*, for dual traders whose primary business is trading for their own accounts, their secondary trading (for customers) is relatively small. EA further concluded that the incidence of dual trading is not higher in low volume markets or more distant trading months. In this regard, EA found that dual traders are more likely to trade in markets which already have considerable trading volume.

Finally, EA concluded that dual traders do not, on average, secure better trade execution prices for their customer orders than do exclusive brokers. EA's analysis indicated that personal trading—both dual and non-dual—

[2] Advisory Committee, Report of the Chairman of the Commodity Futures Trading Commission Advisory Committee on Market Regulation at 6–18 (December 23, 1976).

[3] Commodity Futures Trading Commission, A Study of the Nature, Extent and Effects of Futures Trading by Persons Possessing Material Nonpublic Information at 85–106 (September 1984).

[4] 51 FR 2684 (January 21, 1986). Prior to this time, the Commission had required that trades be timed within 30-minute brackets.

[5] 55 FR 1049 (January 11, 1990).

[6] EA reviewed all transactions for 15 complete trading days during the fourth quarter of 1988 for all commodity exchanges, with the exception of one small exchange that could not provide the records in machine-readable form. The data set consisted of approximately 4.2 million futures transactions and 400,000 option transactions.

facilitates low-cost trade executions for customers.[7]

In 1987, the Chicago Mercantile Exchange ("CME") effectively restricted dual trading in its S&P 500 futures contract pursuant to its Rule 541 ("Top Step Rule").[8] CME's Special Committee to Review Trading Practices subsequently reviewed the impact of the Top Step Rule and, according to a report issued in April 1989, found that the rule had no appreciable impact on the S&P 500 futures contract's average daily price range, average daily volume or liquidity despite the fact that the percentage of dual trading volume fell from over 50 percent to approximately 10 percent under the Top Step Rule.[9]

B. Trading Abuses Facilitated by Dual Trading

Commission enforcement actions, federal indictments, and plea agreements resulting from the joint Commission and Federal Bureau of Investigation undercover investigation of floor trading practices at the CME and the Chicago Board of Trade ("CBT") also raised concerns about dual trading and highlighted the broad scope of dual trading-related abuses. Although dual traders might abuse customer orders directly by trading ahead of committing other violations of contract market rules required under § 155.2, Trading Standards for Floor Brokers, the indictments and plea agreements resulting from that investigation described a number of instances in which floor brokers committed trading abuses that were facilitated by the ability to trade in a dual capacity. These particular cases include examples of indirect abuse by brokers using their personal accounts to receive profits passed back to the broker through the noncompetitive execution of customer trades opposite an accommodating trader.

1. Indirect Trading Against Customer Orders

The most common trading abuse reflected in the indictments was indirect trading against a customer order. In one type of such abuse, the dual-trading broker buys (or sells) for the customer account opposite the accommodating trader, then sells (or buys) the same number of contracts for his own account opposite the same accommodating trader. Such a transaction results in the broker taking the opposite side of his customer's order and the accommodating trader with no position. Profits may be passed back to the dual trading broker through other illegal trades.[10]

2. Offsetting Customer Orders Illegally

In this violation, a dual-trading floor broker crosses customer orders by matching or "offsetting" a customer buy with a separate customer sell and executing them noncompetitively opposite an accommodating trader. These trades can be arranged to facilitate a money pass, such that the profits can be passed back to the broker through other illegal trades for the broker's personal account.[11]

3. Misallocating Customer Orders

The indictments and plea agreements also describe trades in which dual traders misallocated customer orders or changed the price on customer orders already executed in order to benefit an accommodating trader. The accommodating trader then passes a portion of the profit back to the broker through trades for the broker's personal account.[12]

4. Withholding Customer Orders

Dual traders also withheld customer stop orders in order to execute those orders noncompetitively with accommodating traders often after the close of trading. The brokers executed the orders at prices calculated to provide a profit for accommodating traders, part of which again was passed back to the broker's personal account through other illegal trades.[13]

5. Disclosing Customer Orders

The plea agreements do not describe specific customer orders disclosed illegally. However, they describe the practice of "secretly advising a local of various customer orders held by the broker, thereby enabling the local to assume a market position that becomes profitable when traded against the secretly disclosed customer orders * * *."[14] The plea agreements indicate that dual trading permits the broker who disclosed the orders to receive a portion of the profits resulting from conversion of customer fair market opportunities through later trades for the broker's personal trading account.

C. Commission's Prior Dual Trading Proposal

On January 11, 1990, the Commission published proposed § 155.5, Restriction on Dual Trading by Floor Brokers, in the **Federal Register** for public comment.[15]

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[7] The Commission is aware of other studies that reveal the costs of restricting dual trading. See, e.g., Grossman, An Economic Analysis of Dual Trading, mimeo, Wharton School of Business, University of Pennsylvania (1989) (presenting arguments supporting dual trading as a flexible system providing increased liquidity and lower order execution costs); Fishman and Longstaff, Dual Trading in Futures Markets, Journal of Finance 47 (1992) (intending to show theoretically how dual trading may enhance price discovery in futures markets by finding that dual traders in Chicago Board of Trade ("CBT") soybeans tend to receive better prices for customers and appear to be superior in their personal trading, as well); Chang, Locke and Mann, Dual Trader Business Choices and the Effect of CME Rule 552, Commission Working Paper 92-16 (1992) (finding that dual traders in currency futures at the Chicago Mercantile Exchange appeared to suffer significant income losses related to the dual traders' apparent inability to increase their customer business or to migrate to other trading pits when the dual trading restriction in CME Rule 552 was imposed in May 1991 (see part I.D. infra)); and Walsh and Dinehart, Dual Trading and Futures Market Liquidity: An Analysis of Three Chicago Board of Trade Contract Markets, Journal of Futures Markets 11 (1991) (finding that the activity of dual traders appears to increase liquidity in CBT's soybean futures contract market).

[8] CME's Top Step Rule limits access to the top step of the CME S&P 500 futures pit to brokers who do not trade for their own accounts or an account in which such brokers have an interest. Since the majority of brokerage in the most active month occurs at the top step, dual trading effectively is prohibited in the most active month of the S&P 500 futures contract.

[9] See CME Special Committee to Review Trading Practices Report to the Board of Governors at 8 (April 19, 1989). The Commission also is aware of another study that found that the CME's Top Step Rule has led to decreased liquidity in the S&P 500 index futures market. Smith and Whaley, Assessing the Costs of Regulation: The Case of Dual Trading, mimeo, Fuqua School of Business, Duke University (1991).

[10] *See* "Plea Agreement," *United States* v. *Eggum*, 89 CR 666–7 (N.D. Ill. Oct. 2, 1989). *See also* "Plea Agreement," *United States* v. *Kosar*, 89 CR 667–2 (N.D. Ill. Dec. 1, 1989); "Plea Agreement," *United States* v. *Patten*, 89 CR 656–10 (N.D. Ill. Sept. 7, 1989); "Plea Agreement," *United States* v. *Skrodzki*, 89 CR 666–12 (N.E. Ill. Aug. 25, 1989); *United States* v. *Ashman*, No. 91–2390, slip op. at 6–8, 13–14 (7th Cir. Oct. 30, 1992). Similar abuses have been found to have been committed in New York contract markets. *See* Transcript of Plea Allocution, *United States* v. *City*, No. 91 Cr. 605, at 10–16 (S.D.N.Y. Sept. 4, 1991); Transcript of Plea Allocution, *United States* v. *Renner*, No. 91 Cr. 475, at 11–17 (S.D.N.Y. Dec. 4, 1991).

[11] For example, a broker purchases for a customer two Japanese yen contracts from a local at a designated price of 6874 and simultaneously sells two contracts for a customer to the local at a designated price of 6872. *See* "Plea Agreement," *United States* v. *Braniff*, 89 CR 668 at 3 (N.D. Ill. Aug. 8, 1989).

[12] *See* "Plea Agreement," *United States* v. *Fuhrman*, 89 CR 669 at 2. (N.D. Ill. Aug. 10, 1989). *See also* "Plea Agreement," *United States* v. *Callahan*, 89 CR 668–5 at 2 (N.D. Ill. Aug. 25, 1989). Similar abuses have been found to have been committed in New York contract markets. *See* Transcript of Plea Allocution, *United States* v. *Federbush*, No. 91 Cr. 475 (PKL), at 13–17 (S.D.N.Y. Sept. 26, 1991); Transcript of Plea Allocution, *United States* v. *Semel*, No. 91 Cr. 475 (PKL), at 13–19 (S.D.N.Y. Oct. 18, 1991).

[13] *See, e.g.*, "Plea Agreement," *United States* v. *Braniff*, 89 CR 668 at 2 (N.D. Ill. Aug. 8, 1989) "Plea Agreement," *United States* v. *Skrodzki*, 89 CR 666–12 at 2–3 (N.D. Ill. Aug. 25, 1989)

[14] *See*, "Plea Agreement," *United States* v. *Callahan*, 89 CR 668–5 at 3 (N.D. Ill. Aug. 25, 1989) "Plea Agreement," *United States* v. *Skrodzki*, 89 CR 666–12 at 4 (N.D. Ill. Aug. 25, 1989); "Plea Agreement," *United States* v. *Eggum*, 89 CR 666–7 at 4 (N.D. Ill. Oct. 2, 1989).

[15] 55 FR 1047 (January 11, 1990).

Regulation 155.5, as then proposed, would have prohibited a floor broker from trading or placing an order for a futures or option contract for an account interest[16] and holding or executing an order for a futures or option contract in the same commodity for a customer, during the same trading session.

A contract market would have been permitted to adopt rules providing exceptions to the dual trading restriction, subject to section 5a(a)(12) of the Act and § 1.41. The proposed regulation specified several exceptions considered appropriate by the Commission. An exception for member customers was deemed permissible provided that the contract market could identify member customers on its trade register. This exception recognized that the purpose of the proposed regulation was to protect public customers and that, generally, members are better able than public customers to assure the proper handling of their orders. An exception for customer consent would have been permitted provided that the consent was the result of individual decision-making. To this end, the customer consent would have been required to be in writing, identify the broker by name, and be executed within the previous 12-month period. An exception for correction of errors would have been permitted so that a floor broker could place trades executed to fill customer orders that resulted in errors into his personal error account.

The Commission proposed to implement the dual trading restriction in accordance with a 12-month phase-in plan with the restriction applying to one or two of the most actively traded commodities on each of the then seven largest exchanges. The implementation plan was intended to permit the Commission to collect and analyze data on the effect of the dual trading restriction and to permit an adequate assessment of the advantages and disadvantages of the proposed restriction.

The Commission's request for comment on proposed regulation 155.5 elicited 314 comment letters. Three hundred commenters opposed the regulation, ten supported, and four were neutral. Most of the commenters opposed any restriction on dual trading noting that the dual trading restriction could have numerous potential negative effects, most notably reduced market liquidity.[17] Commenters supporting the dual trading restriction generally noted that dual trading presents the greatest potential for a variety of abuses and benefits no one except the brokers permitted to dual trade. Other supporters noted the loss of public confidence in the markets resulting from dual trading and the information advantage that dual trading brokers have over locals.

At a public meeting on November 5, 1992, the Commission announced it had terminated its original rulemaking as superseded by recent legislation that includes specific provisions governing the prohibition of dual trading. As noted earlier, that legislation, the Futures Trading Act, was enacted into law on October 28, 1992.[18] Consequently, the Commission has developed a new proposed regulation 155.5 that responds to the mandate of the Futures Trading Act.

D. CME's Dual Trading Prohibition

In 1991, in light of Congressional attention to dual trading practices and of the Commission's originally proposed rulemaking, the CME adopted Rule 552, Dual Trading Restrictions, to expand its restriction on dual trading beyond the S&P 500 pit to all of its "mature and liquid" contract months, with certain exceptions. CME Rule 552 defines dual trading as "trading or placing an order for one's own account, an account in which one has a direct or indirect financial interest or an account which one controls, in any contract month in which such person previously executed, received or processed a customer order on the Exchange floor during the same Regular Trading Hours session."[19] Generally, exceptions are provided for instances in which customer permission has been granted, for member-customers, for correction of errors and for certain spread brokers.

A "mature and liquid" contract month is defined as one which has had an average daily volume of 10,000 contracts during the prior six calendar months. By applying the dual trading restriction to mature and liquid contract months, the CME intended to limit the potential for customer abuse in the most active contract months without risking the viability of the less active months. In this regard, CME staff has reported to Commission staff that is has observed no significant impact on liquidity in the contract months subject to restriction.

The CME's dual trading rule differs from the Commission's originally proposed rule in several significant respects. Most notably, the Commission's proposed rule would have applied a broader definition of dual trading, which classifies as dual traders those persons who on the same day trade for themselves and customers in the same commodity. This definition proposed by the Commission would have encompassed brokerage and trading activity in all expiration months of both futures and option contracts in a restricted commodity. In contrast, the CME's rule applies a narrower definition of dual trading, which pertains to trading by a broker for himself and customers on the same day in the same contract month. The narrow definition does not prevent a broker from trading for himself and for a customer in a different contract month of the same commodity. It also does not preclude trading and brokerage across futures and options in the same commodity.[20]

II. Statutory Mandate

A. Overview

Section 101 of the Futures Trading Act amends section 4j of the Act (7 U.S.C. 6j) to require the Commission to issue regulations to prohibit dual trading on each contract market which has not been exempted. The amendments to section 4j of the Act are not intended to override the Commission's existing authority granted under section 4j(1), which was retained in new section 4j(b), to determine whether or not to permit dual trading by floor brokers and, if so, under what

[16] "Account interest" was defined as the floor broker's own account, an account: (1) for which the floor broker by power of attorney or otherwise actually directs trading; (2) from which the floor broker is entitled to receive ten percent or more of the profits resulting from such account's trading; (3) of a partnership if the floor broker is a general partner of the partnership; (4) of a corporation or an association if the floor broker owns ten percent or more of the capital stock, or has contributed ten percent or more of the capital of the corporation or association; or (5) owned by a spouse or minor dependent of the floor broker living in the same household.

[17] Some of the other comments opposing the restriction included: (1) Brokers would switch to trading strictly as locals or leave the futures business; (2) futures commission merchants would withdraw their commitment to financially guarantee trading by certain brokers; (3) there would be fewer and less experienced brokers to execute customer orders; (4) the quality of order fills could decline; (5) brokerage rates could increase with fewer brokers competing for customer orders; (6) a broker's profit-making capability but not his risk exposure would be limited which might result in an increase in commission rates; (7) certain orders including spread orders could become more difficult to execute; and (8) reduced market liquidity would prompt customers to shift their orders to overseas markets.

[18] *See* n. 1 *supra*.

[19] "Regular Trading Hours" are the hours designated by the CME Board of Governors for pit trading on the CME for particular contracts.

[20] In response to a membership movement to repeal the dual trading prohibition by the CME's membership, the CME submitted Rule 552 to a referendum of its membership to determine whether to retain the restriction. Seventy percent of the membership (1344) voted to retain the dual trading restriction, and 30 percent (574) voted against the restriction.

conditions.[21] New section 4j(a), however, includes specific directives to the Commission regarding the primary means by which the Commission is to address adequate monitoring for prevention of violations attributable to dual trading.

Section 4j(a) of the Act, as amended, reflects an intent to balance the recognition that the practice of dual trading facilitates floor brokers defrauding their futures customers by engaging in illegal practices at the customers' expense with the belief that dual trading provides market liquidity necessary for the efficient operation of the markets. Accordingly, the amendments require the Commission initially to impose the dual trading prohibition only in contract markets with an average daily trading volume of 8000 contracts or more. Furthermore, it is intended to foster improvements by contract markets to their trade monitoring systems, including audit trails, by allowing the Commission, in accordance with specific statutory standards, to exempt those contract markets that have trade monitoring systems capable of detecting and deterring trading abuses attributable to dual trading.[22] The Commission's regulation prohibiting dual trading is required to be placed into effect within 270 days after enactment of the Futures Trading Act. The 270-day period ends on July 25, 1993.

B. Dual Trading Prohibition

Section 4j(a) of the Act, as amended, generally requires the Commission to prohibit dual trading in each contract market with an average daily trading volume equal to or in excess of 8000 contracts[23] and to specify the methodology for determining the contract market's average daily trading volume based on a moving daily average of either six or 12 months.[24] "Dual trading" is defined by the statute as the execution of customer orders by a floor broker during any trading session in which the floor broker executes any trade in the same contract market for: (1) The account of such floor broker; (2) an account for which such floor broker has trading discretion; or (3) an account controlled by a person with whom the floor broker is subject to trading restrictions under section 4j(d) of the Act, as amended (Restrictions on Trading Among Members of Broker Associations).

The statutory definition restricts dual trading on a contract market basis and, therefore, would not prohibit trading and brokerage activity in futures and options in the same commodity, unless both the futures and option contracts were restricted markets. The statutory restriction, therefore, is narrower than the Commission's originally proposed commodity-based restriction, which would have applied to dual trading in all expiration months of both futures and options in a restricted commodity. However, the statutory definition is not as narrow as the CME's contract month-based restriction, which permits a broker to trade for himself in one contract month and for a customer in a different contract month of the same commodity.

C. Exceptions to Dual Trading Prohibition

Section 4j(a)(1)(B) requires that the Commission provide for exceptions to the dual trading prohibition as it determines are necessary and appropriate to ensure fairness and orderly trading in affected contract markets.[25] The exceptions set forth in the statute include: (1) Transition measures and a reasonable phase-in period; (2) spread transactions and the correction of trading errors; (3) allowance for a customer to designate in writing not less than once annually a named floor broker to execute orders for such customer; and (4) other measures reasonably designed to accommodate unique or special characteristics of individual boards of trade or contract markets, to address emergency or unusual market conditions, or otherwise to further the public interest.

D. Exemption Procedures

A contract market could be granted an exemption from the dual trading prohibition, in accordance with section 4j(a)(3), based on the sufficiency of its trade monitoring system. Section 4j(a)(1)(C) requires the Commission to establish procedures for a contract market to petition for an exemption from the dual trading prohibition and to specify the relevant data to be submitted by the contract market with each petition. Pursuant to section 4j(a)(8)(A), the Commission may not apply the prohibition against dual trading to a contract market that submits such a petition for exemption prior to the effective date of the prohibition under the Commission's regulations until a decision is rendered on the petition.

For an exemption to be granted, the petition must demonstrate, and the Commission must find, that the contract market's trade monitoring system is capable of and is used for detecting and deterring violations attributable to dual trading. The trade monitoring system must include: (1) Physical observation of trading area; (2) audit trail and recordkeeping systems able to capture essential data on the terms, participants, and sequence of transactions (including relevant data on unmatched trades and outtrades);[26] (3) systems capable of reviewing and used to review data on trades effectively on a regular basis to detect violations attributable to dual trading; (4) the use of information gathered through such systems on a consistent basis to bring appropriate disciplinary actions against violators; (5) the commitment of necessary resources for such systems to be effective in detecting and deterring violations attributable to dual trading, including adequate staff to develop and prosecute disciplinary actions; and (6) the assessment of meaningful penalties against violators and the referral of appropriate cases to the Commission.[27]

Section 4j(a)(3)(B) provides an alternative means of obtaining an

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[21] H.R. Rep. No. 978, 102d Cong., 2d Sess., at 49 (1992).

[22] *Id.* at 50.

[23] Section 4j(a)(e). The statute authorizes the Commission to increase the 8000 volume threshold or, at any time following the date three years after enactment of the relevant paragraph, to decrease the threshold level for specific contract markets after taking into consideration the actual or potential effects of a dual trading ban on the public interest in hedging or price basing at the affected contract market.

[24] Section 4j(a)(1)(D).

[25] In general, exceptions could apply to trading in a contract market that is subject to the dual trading prohibition and is not otherwise exempted under Commission procedures required by section 4j(a)(1)(C). *See* part II.D. *infra*.

[26] Within three years of enactment of the Futures Trading Act, each contract market, in order to qualify for an exemption from the dual trading prohibition, will be required to meet stricter audit trail standards, except to the extent the Commission makes exemptions by rule or order or determines that circumstances beyond the control of the contract market prevent compliance despite the contract market's affirmative good faith efforts to comply. Specifically, each contract market will be required to record accurately and promptly the essential data for all trades on terms, participants, and times through a means that: (1) Records such data in a form that cannot be altered except in a manner that will leave a complete and independent record of such alteration; (2) continually provides such data to the contract market; (3) identifies such time, to the extent practicable as determined by the Commission, independently of the person making the trade, through a mechanism that records the time automatically when entered by the person making the trade or through such means that will capture a similarly reliable time; and (4) is adequately precise to determine, to the extent practicable as determined by the Commission by rule or order, the sequence of all trades by each floor trader and floor broker. In addition, to the extent practicable as determined by Commission rule or order, the contract market's audit trail system will have to meet comparable requirements concerning the receipt, execution and reporting of customer orders. See section 5a(b)(3) of the Act, 7 U.S.C. 7a(b)(3), as amended by section 201 of the Futures Trading Act.

[27] Section 5a(b)(1) of the Act, 7 U.S.C. 7a(b)(1), as amended by section 201 of the Futures Trading Act.

exemption for a contract market that does not meet the specified trade monitoring standards. In that case, a contract market must demonstrate in its exemption petition, and the Commission must find, that there is a substantial likelihood that a dual trading prohibition would harm the public interest in hedging or price basing at the contract market and that other corrective actions are sufficient and appropriate to bring the contract market into compliance with the required trade monitoring system standards.

Before the Commission may deny a contract market's exemption application or grant an exemption subject to conditions, section 4j(a)(5) requires that the Commission provide the affected contract market with notice of the reason that the exemption petition was not approved as submitted. Such notice must state the reason that the Commission believes that the contract market's trade monitoring system does not satisfy the stated standards, any corrective action that the Commission believes the contract market must take to satisfy the standards with an acceptable timetable for such action, and any conditions or limitations that the Commission proposes to attach to the exemption.

Section 4j(a)(5) also requires the Commission to provide the contract market with an opportunity for a hearing through submission of written data, views or arguments before denying an exemption or granting a conditional exemption. At the request of the contract market, under terms set by the Commission, the contract market may make an oral presentation of views and comments to the Commission. Finally, the Commission must make findings based on the information, views and arguments placed before it in connection with the application as to whether any standard for exemption set forth in section 4j(a)(3) applies and whether any conditions or limitations attached to any exemption are appropriate.

Section 4j(a)(8)(B) requires the Commission to approve or deny any petition for an exemption within 75 days after receipt of the petition, or as soon as practicable. Further, under section 4j(a)(5), any Commission order denying a petition or conditionally exempting a contract market is not permitted to take effect for at least 20 days following its issuance, unless the Commission determines that more immediate action is appropriate in the public interest.

In addition, section 4j(a)(1)(E) directs the Commission to establish an expeditious procedure for revoking exemptions. Such procedure must provide sufficient notice, opportunity for hearing, and findings to assure fundamental fairness. Finally, section 4j(a)(7) states that a board of trade may seek judicial review of the denial or conditional grant of an exemption or the revocation of an exemption by the U.S. Court of Appeals for the District of Columbia circuit or the circuit in which the board of trade has its principal place of business.

III. Proposed New Regulation 155.5: Prohibition of Dual Trading by Floor Brokers

Proposed new § 155.5 would implement the statutory mandate of section 4j(a) of the Act, as amended by section 101 of the Futures Trading Act. The Commission's proposal incorporates those provisions expressly mandated by the statute, and where appropriate, the Commission has exercised its discretion to achieve the purposes of the statute.

The Commission proposes that the provisions setting forth the dual trading prohibition become effective 90 days after publication of the final regulation. This is intended to provide a reasonable phase-in period to enable contract markets to adopt the required rules to prohibit dual trading and provide for permissible exceptions and to implement the necessary surveillance programs to monitor compliance with these rules.

The Commission further intends, however, that the exemption procedures of the proposed regulation become effective immediately upon publication of the final rule. Thus, a contract market could submit a petition for an exemption from the prohibition any time following publication of the final rule. In accordance with section 4j(a)(8)(A) of the Act, if a contract market submits a petition for exemption prior to the effective date of the dual trading prohibition, application of the prohibition to the contract market would be suspended unless and until the Commission denied the petition.

A. Definitions

1. Dual Trading

Proposed § 155.5(a)(4) would define dual trading as the execution of customer orders by a floor broker during the same trading session in which the floor broker executes directly or indirectly a transaction in the same contract market for: (1) The floor broker's own account; (2) any account in which the floor broker's ownership interest or share of trading profits is ten percent or more; (3) an account for which the floor broker has trading discretion; (4) or an account controlled by a person with whom such floor broker is subject to trading restrictions under section 4j(d) of the Act, as amended, to the extent section 4j(d) has been applied by Commission rule or order.[28]

The statutory definition of dual trading refers to the "execution" of orders by the floor broker. The Commission's proposed definition would include trades executed directly by the broker for any of the accounts listed in proposed § 155.5(a)(4) discussed above, as well as trades executed indirectly for such accounts with other members. The Commission believes that this construction is necessary to ensure that trading activity that is in fact dual trading would be encompassed by the proposed regulation's definition and, therefore, potentially subject to the dual trading prohibition.

The proposed definition is intended to encompass accounts that are similar to the floor broker's own account in terms of his interest or control over the accounts. Toward that end, the Commission has included within the dual trading definition accounts in which the floor broker has an ownership interest or share of trading profits of 10 percent or more.[29] By including these accounts, the Commission intends to prevent a floor broker from abusing a customer order by circumventing the dual trading prohibition through the use of other accounts in which he has a significant financial interest. For example, a broker would not be permitted to execute in the same trading session a customer order and an order for a partnership account in which he has a ten percent or greater interest,

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[28] Section 4j(d) of the Act, as amended, pertains to restrictions on trading among members of broker associations. The Commission recently published proposed regulation 156.1 in the **Federal Register** to define "broker association" and to require such entities to register with their respective contract markets pursuant to contract market rules. 57 FR 57116 (December 3, 1992). The Commission's proposal would define "broker association" to include "two or more contract market members with floor trading privileges who: (a) Are employees of the same employer, (b) are employer and employee, (c) share profits and losses associated with their brokerage or trading activity, or (d) regularly share a deck of orders." 57 FR 57116, 57123 (December 3, 1992). That proposed regulation, however, would not restrict the activities of broker associations. Consequently, the dual trading definition as proposed would not apply to broker associations unless the Commission determined to restrict the trading activities of broker associations.

[29] This 10 percent threshold is consistent with the ownership level currently used in the Commission's definition of proprietary account (Commission regulation 1.3(y)).

regardless of whether the broker participates in any trading decisions concerning that account.

2. *Customer*

"Customer" would be defined in proposed regulation 155.5 as an account owner for which a trade is designated with the customer type indicator ("CTI") prescribed under § 1.35(e)(4).[30] The proposed definition of customer would make clear that only those trades required by Commission regulation to be identified as CTI 4 trades would be considered customer trades. Therefore, for purposes of this proposed regulation, "customer" would not include accounts of other exchange members present on the floor (CTI 3 trades) or the house account of the broker's clearing member (CTI 2 trades). Orders for such accounts could be executed during the same trading session in the same contract market in which the broker was acting as a principal. The Commission believes that such member-customers and clearing members are in a better position to protect themselves against potential abuse of their orders by brokers. The Commission, however, invites comment as to whether the definition of "customer" should include trades for the house account of the broker's clearing member (CTI 2 trades).

3. *Trading Session*

The statute prohibits dual trading during a trading session. The Commission proposes to define "trading session" as the hours during which a contract market is scheduled to trade continuously[31] during a trading day, as set forth in contract market rules, including any related post-settlement trading session.[32] A contract market may have more than one trading session during a trading day, for example a regular session and an evening session. The same broker could trade for a customer and an account in which he has an interest in the same contract market during different trading sessions.[33]

Although dual trading-related abuses could occur over more than one trading session, the Commission believes that a dual trading restriction based on a single trading session should render dual trading-related abuses more difficult to commit.[34] Further, to the extent that dual trading has been regulated in the securities and option markets, the period of the restriction generally has been limited to a single trading session.[35] The trading session-based restriction has been considered sufficient to address abusive trading activity in those markets.

4. Contract Market

Proposed regulation 155.5 would define "contract market" as any contract separately designated by the Commission, provided that two or more contracts trading concurrently pursuant to a single designation order on other than a transitory basis and for which the contract terms differ significantly other than as to delivery or expiration months would each be considered a contract market. The proviso clarifies that in the situation in which there is more than one contract pursuant to one designation order, the contracts would be identified as separate contract markets. For example, the Commission recently designated the CBT to trade futures on catastrophic insurance indices. The Commission issued four designation orders. Pursuant to each designation order, three separate indices contracts—quarterly, semi-annual, and annual—can trade. These three indices contracts would be treated as three separate contract markets despite the single designation order.[36] The Commission requests that boards of trade identify in their comments any such contracts that they believe would constitute separate markets under the proposed definition.

B. Computation to Determine Affected Contract Markets

Each contract market that may be subject to a dual trading prohibition would be required to compute on a quarterly basis its average daily trading volume for each of four quarters during the most recent volume year to determine whether it was an "affected contract market."[37] An "affected contract market" would be a contract market in which the average daily trading volume equalled or exceeded the threshold level of 8000 contracts, as specified in section 4j(a)(4) of the Act, for each of four quarters during the most recent volume year.[38] Dual trading would be prohibited in affected contract markets, unless exempted under the proposed regulation. The Commission expects that approximately 25 contract markets on five boards of trade would meet the definition initially.[39]

"Daily trading volume" would mean the total number of sells (buys) executed in any contract market during a trading day for all trading sessions. Ex-pit transactions would be excluded from the computation of daily trading volume, as described in the discussion on the dual trading prohibition, below. "Average daily trading volume" would mean an arithmetic average of daily trading volume in a contract market over the specified time period on any day when any option expiration or futures delivery month was listed for trading. "Volume year" would be defined as a continuous 12-month period that includes the last calendar

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[30] The CTI is a numerical code required by Commission regulation 1.35(e) that is used to identify the source of a trade. CTI 1 designates a trade by a broker for his personal account; CTI 2, a trade for his clearing member's house account; CTI 3, a trade for another member present on the floor or an account controlled by such other member; and CTI 4, a trade for any other type of customer.

[31] The use of "continuously" in this definition does not mean that a trading session would change as a result of an emergency shut-down during the course of regularly scheduled trading hours.

[32] Seven contract markets (CBT; CME; Commodity Exchange, Inc.; New York Futures Exchange, Inc.; Kansas City Board of Trade; Minneapolis Grain Exchange; and MidAmerica Commodity Exchange) have adopted post-settlement trading session rules that permit trading to resume for a limited time after the close of regular trading hours. The post-settlement trading session allows floor brokers to execute "unable" or partially filled orders that were executable but not filled during the close, and locals to "even-up" their positions for the day. For purposes of proposed regulation 155.5, the post-settlement session would be considered a part of the same trading session that it follows.

[33] Under proposed § 155.5, with certain exceptions, a broker could not trade and do brokerage in the same trading session. In contrast, the CME dual trading rule permits a broker to switch from trading to brokerage upon receipt of a customer order during the trading session; however, a broker may not switch from brokerage to trading.

[34] The trading session-based restriction also appeared in the prior proposed dual trading regulation. In its **Federal Register** notice, the Commission specifically inquired as to whether any improvement in customer protection that might be obtained from extending the prohibition beyond an individual trading session would warrant requiring a broker to make an election as to his status for a more extended period of time. No commenters believed that the duration of the restriction should be extended.

[35] *See, e.g.*, New York Stock Exchange Rule 112; Chicago Board Options Exchange Rule 8.8.

[36] Other examples of multiple contracts pursuant to a single designation order include the New York Mercantile Exchange New York Harbor and Rotterdam heating oil contracts, and the Coffee, Sugar & Cocoa Exchange sugar #11 and sugar #14 contracts.

[37] EA also would compute the average daily trading volume for each contract market on a routine basis for Commission surveillance and oversight purposes.

[38] This proposed method for defining "affected contract market" is designated to reflect section 4j(a)(1)(D) of the Act, which requires that the Commission "specify the methodology" for determining the average daily trading volume on a contract market based on either six or 12 months, and section 4j(a)(3)(B), which requires that the threshold trading level "be set initially at 8000 contracts."

[39] Currently, there are approximately 166 contract markets actively trading on 11 boards of trade. The five boards of trade expected to have affected contract markets are CBT, CME, New York Mercantile Exchange, Commodity Exchange, Inc., and Coffee, Sugar & Cocoa, Inc.

month-end date prior to the computation date.[40]

The proposed computation formula responds to the statutory requirement that the regulation provide transition measures for when a contract market's volume increases to or above, or decreases below, the threshold trading level. The use of a 12-month period would identify more fully than a six-month period those contract markets that can be expected to continue at the threshold trading level on a relatively permanent basis. Further, the specification that the average trading volume meet the threshold in each quarter of a 12-month period will distinguish affected markets from those that may reach the threshold level based on only seasonal phenomena or as a result of other temporary surges in trading volume, rather than on a more long-term basis. In addition, for those affected markets where the trading volume falls below the threshold trading level, the quarterly requirement would result in a more prompt removal from affected contract market status. For example, if the average trading volume in an affected contract market dropped below the threshold during the most recent quarter, the contract market would be removed from the dual trading prohibition during the next quarter. In comparison, the prohibition would take effect on a newly affected contract market (*i.e.*, a contract market that becomes affected on a current computation date after not having been affected on the immediately preceding computation date) no later than 30 days following the current computation date for that contract market.

At least five days before the effective date of the dual trading prohibition under this section or under a Commission order denying an exemption petition or revoking an exemption, and thereafter within at least two business days of each computation date, each contract market would be required to publish, in a manner sufficient to reach all members, a list of the affected contract markets. Such publication also must include the effective date of the dual trading prohibition. Further, the contract market would be required to provide that information in writing to the Director of the Division of Trading and Markets or an employee of the Commission designated by the Director.

[40] "Computation date" would mean the date on which a contract market computes its average daily trading volume for the most recent volume year prior to the computation date.

C. Dual Trading Prohibition

Proposed § 155.5(b) would provide that no floor broker shall dual trade in an affected contract market, except as provided in contract market rules, unless that contract market is exempted. This prohibition would not affect ex-pit transactions such as exchange of futures for physicals, transfer trades and office trades. This is because the dual trading prohibition is intended to curb trading abuses on the trading floor that result from the ability of an executing broker to trade in a dual capacity.

The Commission requests comments on whether any Commission-approved electronic trading system also should be excluded from the prohibition and the definition of daily trading volume. The Commission notes that trading conducted through a competitive auction process pursuant to an algorithm applying non-discretionary rules of priority for an electronic trading system, such as GLOBEX (the CME's and CBT's screen-based trading system) and NYMEX ACCESS, which independently matches orders, may substantially decrease the possibility of engaging in some abuses tied to dual trading and should provide a superior audit trail to detect other forms of abuse.

Regulation 155.5(c) would require each affected contract market, unless exempted, to adopt rules pursuant to section 5a(a)(12) of the Act and Commission regulation 1.41 to prohibit dual trading in accordance with the proposed regulation. The contract market would be required to adopt such rules prior to the effective date of the dual trading prohibition or the effective date set forth in a Commission order denying a contract market's exemption petition or revoking an exemption. Absent such contract market rules, Commission regulations 155.5 (a) and (b) would be deemed to be the contract markets's rules upon the effective date of the dual trading prohibition.

1. *Exceptions*

As discussed above, section 4j(a)(1)(B) of the Act requires that the Commission's regulations provide for exceptions to the dual trading prohibition as the Commission determines are necessary and appropriate to ensure fair and orderly trading in affected contract markets. A list of potential exceptions is set forth in the statute. Proposed § 155.5(c)(4) sets forth the exceptions to the prohibition, including those specified in the statute, that would be permitted pursuant to contract market rules. To provide for any of the exceptions, a contract market would submit proposed rules to the Commission. Any permissible exception set forth in a contract market's rules also would limit the Commission's restriction on dual trading with respect to that contract market's floor brokers.

a. Correction of Errors. Consistent with the exceptions set forth in the statute, proposed § 155.5 would permit a floor broker to offset trading errors by placing trades executed to fill customer orders that resulted in errors into his personal error account.[41] A floor broker would be required to liquidate the position in his personal error account resulting from that error as soon as practicable, but not later than the close of business on the business day following the discovery of the error. In the event that the daily price fluctuation limit is reached and a floor broker is unable to offset the error trade, however, the floor broker would be required to liquidate the position as soon as practicable thereafter.

The Commission proposes to limit the period of time for which a broker could hold a position in an error account in order to reduce the potential use of that account for personal trading.[42] In this regard, the Commission would expect each contract market that adopts the error correction exception to maintain an effective audit trail for error trades, including identification of such accounts, to ensure that error accounts are not being used to accomplish abuses.[43]

b. Customer Consent. A contract market could adopt rules pursuant to which a customer could consent to receiving brokerage services from a dual-trading broker. The customer would be required to designate in writing not less than once annually a specifically identified floor broker who would be authorized to dual trade while executing orders for such customer's account.[44] These proposed requirements

[41] As a matter of practice, floor brokers maintain personal accounts designated as error accounts into which they place positions resulting from errors committed in the execution of customer orders. A floor broker who does not maintain such a designated error account could not avail himself of a contract market exception for correction of errors.

[42] This time restriction for liquidation of positions in error accounts is consistent with Commission regulation 1.46(d)(8), which was amended effective December 24, 1992. 57 FR 55082 (November 24, 1992).

[43] The Commission previously published an interpretation requiring contract markets to have audit trail and surveillance programs for errors, unmatched trades and outtrades. 54 FR 37004 (September 6, 1989).

[44] The statute expressly refers to "named" floor brokers. The Commission requested comment on this exception in its prior dual trading proposal. Most of the commenters favored the exception but believed that the requirement that a broker be identified by name was unduly burdensome and

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are intended to ensure that the customer's consent resulted from individual decision-making. In this regard, each contract market that would adopt rules to effectuate this exception should establish procedures for monitoring compliance. The Commission contemplates that the floor brokers or others, as designated under contract market rules, would be responsible for filing customer consent forms with the contract market.

Congress provided this exception "[i]n order that the dual trading prohibition will not disrupt relationships established between a customer and a broker."[45] The Commission believes that any customer who is aware, and willing to accept the risk, of the potential conflicts associated with dual trading should be free to maintain business relationships with dual-trading brokers.

Under the proposed exception, the consent would come from the ultimate customer. In some contractual agreements, however, a customer may give his account controller (*e.g.*, a commodity trading advisor) discretionary authority to trade his account pursuant to a power of attorney. In such instances, it may be appropriate for consent to come from the account controller, particularly if the customer does not know the floor broker selected by his account controller to trade his account. The Commission invites comment as to whether a controller of an account by virtue of a power of attorney should be permitted to provide consent on behalf of his customer for a floor broker to dual trade while executing orders for such customer's account. In this regard, consideration should be given as to whether the agreement with the account controller must specify the controller's authority to permit a broker to dual trade while trading such customer's account. Commenters also should address the extent to which an account controller might provide such consent on the basis of the potential benefits to himself as distinguished from his fiduciary duty to the ultimate customer.

c. Spread Transactions. The statute also directs the Commission to provide an exception for spread transactions. The Commission, relying on its experience and considering the purpose of the prohibition, proposes to except those spread transactions that are necessary to preserve market efficiency. The Commission has identified two limited circumstances in which it believes that an exception for spread transactions would be necessary and appropriate. First, dual trading would be permitted so that a broker who unsuccessfully attempts to leg into a spread transaction for a customer could take the executed leg into his personal account and offset the resulting position. Second, dual trading would be permitted so that a broker could execute for his personal account a spread transaction recognized by a contract market if at least one leg of the spread is in a non-affected contract market. The Commission proposes to allow exceptions in these two instances based on its determination that the facilitation of customer order execution appears to outweigh the threat of possible customer abuse.

The proposed exception for "legged in" spreads is intended to address the situation in which a broker is unable to fill a customer spread order, as requested, as a single transaction and attempts to leg into the position. If, for example, the market shifts after one leg of the spread is executed such that the broker is unable to leg into the remaining position at a price permissible under the terms of the customer order, the proposed exception would permit the broker to take the executed leg into his personal account and offset the position. The Commission believes that brokers should be allowed to continue engaging in this practice in filling their customers' orders.

For surveillance purposes and to ensure that this exception is not abused, a record should be prepared and maintained to demonstrate that the customer order specified a spread trade. In addition, the broker should be required by the contract market to identify such a trade on both his trading card and the customer order that gave rise to the excepted position. This would enable the contract market and the Commission in its oversight role to verify the legitimacy of the transaction by reviewing the customer order and analyzing trading activity at the time.

The second prong of the proposed spread exception would permit a broker to execute a spread transaction for his personal account where one leg is in an affected market and the other leg in a non-affected market. As a result, the member would be permitted to do brokerage in an affected market and still participate in, and provide additional liquidity to, non-affected contract markets. The proposed exception would be limited to exchange-recognized spreads.[46]

d. Member Customers. The Commission's proposal also would allow an exception for transactions for members of the contract market not present on the floor. This exception recognizes that, in general, members are better able than public customers to assure the proper handling of their orders.

Under § 1.35(e), a transaction executed for the account of any type of customer, including a member customer not present on the floor, is required to be designated as a CTI 4 trade. Previously, it has not been necessary to differentiate between a floor broker's activity for member customers off the exchange floor and for public customers. Without differentiating these two categories of customers, however, it would be difficult to monitor an exception for member customers under the proposed rule. Accordingly, in order to facilitate surveillance, a contract market adopting this exception would be required, on the trade register required under § 1.35(e), specifically to identify such excepted transactions through account numbers, a separate customer type indicator, or otherwise for surveillance purposes.

e. Low Volume Months. The Commission also proposes to permit an exception to the dual trading prohibition for futures delivery months or option expirations in affected contract markets that reasonably can be expected to have an average daily trading volume of less than 500 contracts.[47] The volume in such potentially excepted months, however, would be counted for purposes of computing the contract market's average daily trading volume to determine affected contract market status.

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unnecessary. The commenters noted that the vast majority of customers do not know who their floor brokers are and that it is unlikely that most floor brokers have direct dealings with the underlying customer.

[45] H.R. Rep. No. 707, 102d Cong., 1st Sess. 20 (1991).

[46] An exchange-recognized spread is a spread for which exchanges have established lower margin rates because such positions carry less risk that outright futures positions, *e.g.*, T–Bills/Eurodollars, wheat/corn, hogs/pork bellies, and soybean futures/option spreads.

[47] The Commission intends that this exception could apply either to specific futures delivery months or option expirations (*e.g.*, December delivery in commodity X) or more generically to designated delivery months or expirations specified in proximity to the nearby month (*e.g.*, "the fourth month out"). In the first case, historical data may indicate that the daily trading volume of certain specific delivery months or option expirations typically are less than the level specified throughout their lifetime. A likely example would be "serial trading months," which are listed near maturity and are positioned between more actively traded months. In the second case, a contract market, having established that the Xth month out from expiration or delivery (*e.g.*, the third "position month") trades at average levels below 500 contracts, could seek an exception for this and more distant options expirations and futures delivery months.

Determination of these exceptions would be based on historical data and an analysis thereof provided by the contract market and other factors identified by the contract market. The contract market would be required to keep full and systematic records supporting these determinations and, as part of its trade surveillance program, to establish special procedures including appropriate reports to monitor dual trading activity in the relevant futures delivery months and option expirations.

In addition, the Commission would expect any contract market rule providing for the exception to address related transition and other issues. Further, the contract market would have to publish a list of any excepted low volume months, in conjunction with the quarterly publication of affected contract markets, in a manner sufficient to reach all members.

Preliminary analysis by the Commission staff indicates that among those contract markets that equal or exceed the overall threshold volume level of 8000 contracts, approximately 55 percent of the individual contract months exhibited average trading volume of less than 500 contracts. This represents approximately 150 contract months, but less than one and a half percent of the total trading volume in such potentially affected contract markets. This level also is compatible with an earlier Commission determination establishing 3000 futures contracts per week as the threshold volume level for the test of liquidity of the underlying futures contract before designation of its option.[48]

This provision is intended to eliminate the effect of a dual trading prohibition in those contract months where additional liquidity of any origin may be most significant. In those months, the Commission believes that the limited amount of trading activity should facilitate surveillance. The Commission nonetheless requests comment as to the extent to which such exception might dilute the effectiveness of the prohibition.

f. Market Emergencies. A contract market would be permitted to suspend the dual trading prohibition in the event of a market emergency that required the contract market to take a temporary emergency action under § 1.41(f).[49] The Commission believes that a contract market should be able to suspend the dual trading prohibition through emergency action to maintain an orderly market in the event of emergency conditions, such as a precipitous drop in volume or extreme price volatility. For example, when economic news or other developments cause unexpected and extreme price volatility in a futures market, the ability of speculative traders providing liquidity to the marketplace often diminishes.[50] During such times, the suspension of the dual trading prohibition could allow brokers the opportunity to trade and potentially to provide needed liquidity.

Temporary emergency actions taken pursuant to § 1.41(f) would be subject to Commission review and various new requirements mandated by the Futures Trading Act.[51] Consequently, the Commission would have the opportunity to review the circumstances surrounding any suspension of the dual trading prohibition by a contract market pursuant to its emergency authority.

D. Exemptions

A contract market could petition the Commission for an exemption from the dual trading prohibition under proposed § 155.5(d)(1). To obtain an exemption, the contract market would be required to demonstrate that its trading monitoring system is capable of detecting and deterring, and is used on a regular basis to detect and deter, all types of violations attributable to dual trading. The contract market's trade monitoring system also must be capable to generating an audit trail that satisfies the requirements of § 1.35. Thus, the exemption process is designed to encourage contract markets to continue to improve their trade monitoring systems in order to qualify for an exemption from the dual trading prohibition.

Each individual contract market would be required to satisfy the specified trade monitoring standards in order to be granted an exemption. For convenience and to the extent that the demonstration relative to each contract market's trade monitoring system would not be impaired, however, an exemption petition could include data that describe collectively the trade monitoring systems for each of the contract markets seeking an exemption. Different contract markets covered in a single petition nevertheless could be addressed separately by the Commission.

1. Exemption Petition Content Requirements

To determine the sufficiency of each component of a contract market's system, proposed § 155.5(d)(2) would require that each exemption petition be in writing, be signed by the contract market's chief operating officer, and include a full description of each component of the trade monitoring system including the systems in place, rules, policies and procedures in effect, standards applied, types of trading violations targeted, and the results achieved. In order to facilitate the Commission's review of exemption petitions, the Commission would request that a contract market address in its petition each of the components of the contract market's trade monitoring system in the order listed in the proposed regulation.

The text of an exemption petition should include all facts and reasoning on which the contract market intends to rely. The petition should include performance statistics covering the 12-month period ending with the month preceding the petition date. If such statistics are not available, specific, representative performance examples should be provided. A contract market may further support its petition with other attached materials, such as excerpts from recent rule enforcement reviews, and information regarding any programs adopted independently by the contract market to monitor certain trading activity, such as the activities of broker associations.

The proposed regulation also would require that the contract market set forth in its petition the program or plan and projected implementation timetable for its intended compliance with the audit trail requirements of section 5a(b)(3) of the Act, as amended. Generally, section 5a(b)(3) sets forth heightened audit trail standards that would take effect in three

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[48] 51 FR 17464, 17467–68 (May 13, 1986) (adopting the threshold in Commission regulation 33.4(a)(5)(iii)). See also 56 FR 43694 (Sept. 4, 1991) (removing Commission regulation 33.4(a)(5)(iii) and the liquidity test for options designation).

[49] Proposed amendments to regulation 1.41(f) that would establish new procedures for contract market temporary emergency actions, as directed by section 5a(a)(12)(B) of the Act, as amended by section 213 of the Futures Trading Act, were published in the **Federal Register** on February 4, 1993. 58 FR 7056. among other things, the proposed amendments would add suspension of the dual trading prohibition to the list of permissible actions to address market emergencies (proposed regulation 1.41(f)(8)(x)). *Id.* at 7059, 7061.

[50] The capacity of such individuals to trade is primarily due to three factors: (1) Increased risk of trading losses during the volatile price swings; (2) increased risk of large monetary losses from outtrades because of the wider trading ranges; and (3) insistence of clearing firms that locals restrict their trading or not trade during such times because of the increased risks.

[51] The proposed amendments to § 1.41(f) also would require contract markets to make every effort practicable to give the Commission notice of its intention to implement, modify, or terminate a temporary emergency rule before taking action. A temporary emergency rule would remain in effect unless the Commission suspended the effect of the rule pending review under section 5a(a)(12)(A) based upon a determination that the emergency action was arbitrary, capricious, or an abuse of discretion; lacking reasonable basis in fact; or taken in bad faith by the contract market or its officials. 58 FR 7056 (February 4, 1993).

years and would be applied in the context of the dual trading exemption standard.[52]

2. Standards for Exemption

Section 4j(a)(3)(A) of the Act states that the Commission shall exempt a contract market from the dual trading prohibition upon a finding that the contract market's trade monitoring system satisfies the requirements of section 5a(b) of the Act with regard to violations attributable to dual trading. Section 5a(b)(1) of the Act requires that a contract market's trade monitoring system include the following components: (1) Physical observation of trading area; (2) audit trail and recordkeeping systems able to capture essential data on the terms, participants, and sequence of transactions (including relevant data on unmatched trades and outtrades); (3) surveillance system to detect violations committed in making trades and executing customer orders on the floor or subject to the rules of the contract market, including dual trading-related abuses; (4) use of information gathered through such system to bring appropriate disciplinary actions; (5) commitment of resources necessary for such system to be effective in detecting and deterring such violations, including adequate staff to develop and prosecute disciplinary actions; and (6) assessment of meaningful penalties against violators and the referral of appropriate cases to the Commission.

The requirements for contract market surveillance and compliance programs set forth in the Futures Trading Act, although consistent with standards applied in practice previously, constitute a more comprehensive and particularized statutory statement with respect to trade monitoring systems, with an emphasis on improved audit trails and other compliance procedures and systems to detect trading abuses.[53] Given the requirement that the Commission exempt from the dual trading prohibition those contract markets that have met the specified trade monitoring system standards insofar as they may relate to dual trading, the Commission intends to give content to the new statutory framework to facilitate consistent disposition of contract market exemption petitions and to ensure that the trade monitoring systems are capable of detecting and deterring dual trading related abuses.

The Commission proposes to establish guidelines as to what would be required for a contract market to demonstrate successfully that its trade monitoring system components are sufficient to detect and deter violations attributable to dual trading. The proposed guidelines, which appear as appendix A to the proposed regulation and are described below, would set forth minimum standards with respect to each component of the contract market's trade monitoring system. The Commission intends to apply these guidelines in determining whether a particular contract market's trade monitoring system satisfies the exemption requirements. The Commission in its discretion, however, would consider the contract market's trade monitoring system as a whole in determining whether to grant a conditional or unconditional exemption. Nevertheless, the guidelines would establish objective criteria pursuant to which each contract market could evaluate the efficacy of its trade monitoring system in determining how to address the proposed regulation and, to the extent possible, would facilitate consistency by the Commission in its evaluation of the exemption petitions received and its assessment of the various trade monitoring programs notwithstanding differences among the petitioning contract markets. The Commission invites comments on the proposed guidelines for the trade monitoring system components.

a. Physical Observation of Trading Areas. A contract market would be required to demonstrate that its trade monitoring system includes adequate floor surveillance. The compliance staff should perform floor surveillance, to the extent practicable, on each open and close, randomly at other times during each trading session, and otherwise as required by unusual market conditions. A contract market could demonstrate the adequacy of its floor surveillance program, for example, by maintaining a daily floor surveillance log on which the compliance staff would record for each visit to the floor the investigator's name, date, time, contract market, and, if appropriate, observations. The contract market would have to demonstrate further that information developed through such floor surveillance is integrated into other compliance activities as appropriate.

b. Audit Trail System. The contract market would be required to provide a detailed description of the methodology and procedures followed to verify the accuracy of recorded trade execution times. Further, the contract market would be required to demonstrate that its one-minute trade execution times, as required under § 1.35(g), were accurate to the highest degree practicable (but in no event less than 90 percent accurate) during four consecutive months within the 12-month period ending with the month preceding the petition date. This standard as well as others would be subject to change as, for example, new statutory standards become effective and exchange systems evolve.[54]

If trade execution times are recorded manually at the contract market, the contract market would be required to demonstrate its accuracy rate through, at a minimum, a comparison of times recorded for both the executing and opposite sides of the trade to the times reported in the time and sales register. If trade execution times are imputed at the contract market, the contract market would be required to demonstrate its accuracy rate through, at a minimum, the accuracy of the date inputted and a description of the contract market's trade imputation algorithm program. Such description should include information as to how and why the program based on input data reliably establishes the accuracy of the imputed trade execution times.

c. Recordkeeping System. The contract market would be required to demonstrate that a "representative sample" of documentation required to be prepared and maintained by each floor member and member firm regarding the execution of customer orders and other trading is reviewed for compliance with § 1.35 at least once each year. A contract market should provide a checklist used in the annual reviews to evidence the performance of its floor members over the review period, as well as the contract market's completion of the reviews as required. A contract market would have to demonstrate also that information developed regarding inadequate or violative recordkeeping is incorporated into other compliance activities as appropriate.

d. Surveillance Systems. The exemption petition would be required to include a description of the contract market's surveillance system and procedures to detect the dual trading-related abuses enumerated in the proposed regulation.[55] The contract market also would be required to provide evidence that the surveillance system is used on a daily basis for the intended purpose and regarding the extent to which available trade data, including account numbers, are reviewed. Such evidence should

[52] *See* n. 26 for a summary of the requirements of section 5a(b)(3) of the Act, as amended.

[53] H.R. Rep. No. 707, 102d Cong., 1st Sess. 21 (1991).

[54] *See* n. 26.

[55] The Commission, in particular, would take into account any existing restrictions on dual trading and related surveillance programs.

include logs that reflect daily reviews of trade registers and computerized surveillance reports to detect dual trading-related abuses. In that regard, the contract market would need to include a description of the cycle and generic content of such computerized reports. In addition, the contract market should indicate the number of investigations and disciplinary proceedings generated as a result of its daily reviews during the 12-month period ending with the month preceding the petition date.

e. Dual Trading-Related Disciplinary Actions. A contract market's exemption petition would be required to demonstrate use, on a consistent basis, of surveillance information to bring dual trading-related disciplinary actions. For this showing, a contract market should submit a list of each investigation and disciplinary proceeding involving one or more dual trading-related abuses. The list should include investigations and disciplinary proceedings closed or in an open status at any time during the 12-month period ending with the month preceding the petition date. Further, the list should indicate the source of the investigation, the type of dual trading abuse alleged or found, and the disposition at each level of the process. For each settlement or adjudication, the list should state any penalties assessed.

f. Commitment of Resources. The contract market would be required to demonstrate that it has committed the necessary resources for its trade monitoring system to be effective in detecting and deterring violations attributable to dual trading. In particular, the contract market should show that it has committed sufficient resources to maintain an adequate staff to investigate and prosecute disciplinary actions. In this regard, the contract market, among other things, could demonstrate the adequacy of its staff by including statistics regarding the timeliness of the completion of investigations and the initiation of disciplinary proceedings.

The Commission also would consider whether the contract market has committed sufficient resources to ensure that any computerized surveillance programs in use at the contract market are effective. If deficiencies in such programs have been identified previously (*e.g.*, in recommendations contained in rule enforcement reviews of the contract market), the contract market should provide information to show that necessary resources were allocated to correct identified problems. The contract market also should provide information reflecting the allocation of resources to implement other improvements independent of any Commission recommendations.

3. Alternative Requirements for Exemption

Section 4j(a)(3)(B) of the Act sets forth alternative requirements for a contract market to obtain an exemption. It requires that the Commission exempt a contract market from the dual trading prohibition upon a finding that there is a substantial likelihood that a dual trading suspension would harm the public interest in hedging or price basing at the contract market, and that other corrective actions are sufficient to bring the contract market into compliance with the trade monitoring standards.

Accordingly, proposed § 155.5(d)(3) would provide that if a contract market believed that its trade monitoring system would not meet the standards set forth in the proposed regulation (including the standards in the guidelines of appendix A), the contract market's petition must include the following: (a) A full description of each component of the contract market's trade monitoring system, as enumerated above; (2) a specific description of the corrective actions the contract market will take that it believes to be sufficient and appropriate to bring the contract market into compliance with the trade monitoring system standards in the regulation; and (3) data and an economic analysis of that data to demonstrate any adverse impact of the dual trading prohibition on hedging and price basing at the contract market. With respect to corrective actions, the petition also would have to include an explanation of the sufficiency and appropriateness of such actions, including specific implementation dates and related changes in systems, operations, staffing policies, rules, procedures, and budget allocations.

4. Remittal of Exemption Petition

The proposed regulation would authorize the Director of the Division of Trading and Markets (or a designee) to remit to the contract market and not to accept any petition for exemption that does not comply with the content requirements set forth in the regulation. The remittal letter would provide, where practicable, an appropriate explanation of the remittal and would identify the content deficiencies. The contract market would have 20 days following receipt of the remittal letter in which to resubmit the exemption petition with the deficiencies corrected. If the corrected petition is not resubmitted within this timeframe, the Commission could exercise its discretion to permit the dual trading prohibition to become effective as to the affected contract market. The Commission believes that a time period for resubmission of the petition is necessary to ensure that a contract market's petition does not remain in remitted status for an extended period of time without the affected market being subject to the dual trading prohibition. The Commission's review period would be calculated from the date of resubmission.

5. Procedures for Issuance or Denial of Exemptions

In accordance with section 4j(a)(5) of the Act, the proposed regulation would provide that a notice of the submission of each exemption petition deemed complete under the content requirements would be published in the **Federal Register** by the Commission or the Director of the Division of Trading and Markets (or a designee). Upon publication of the notice, copies of the petition (except for any information or materials determined by the Commission to be subject to confidential treatment) would be available to the public through the Office of the Secretariat in accordance with the provisions of part 145 of the Commission's regulations ("Commission Records and Information").[56]

The proposed regulation sets forth procedures governing Commission action on exemption petitions. The Commission would make its determination based on the information, views and arguments placed before it by the contract market in writing in the petition and any attachments and supplements thereto and orally in any presentation made in accordance with the regulation, as well as any other relevant information identified by the Commission in its final order. The three possible actions are granting an exemption without conditions, granting an exemption with conditions, and denying an exemption.

Consistent with the requirement of section 4j(a)(3) of the Act, the proposed regulation states that, in order to grant an unconditional exemption, the Commission would have to find that the contract market has demonstrated compliance with the trade monitoring standards set forth in the regulation. An unconditional exemption would take effect upon issuance of a Commission order stating the findings. The order would be published promptly in the **Federal Register** for public notice, in

[56] 17 CFR Part 145.

accordance with section 4j(a)(5) of the Act.

As required by section 4j(a)(5), the proposed regulation sets forth procedures to ensure notice and opportunity for hearing before the Commission denies a petition or conditionally exempts a contract market. Specifically, the Commission would notify the contract market in writing that the Commission intends to deny or condition the exemption and state: Specific deficiencies in the contract market's trade monitoring system; any corrective actions to the trade monitoring system that the Commission believes the affected contract market must take to satisfy the trade monitoring standards of paragraph (d)(1) of the proposed regulation, together with a timetable for such actions; and any conditions or limitations that the Commission proposes to attach to an exemption. Unless the Commission were to inform the contract market otherwise, the contract market would have 20 days from its receipt of the notice to submit any supplemental written data, views or arguments to the Commission. A request for an oral presentation would have to be submitted by the contract market in writing within five days of receipt of the Commission's notice. The Commission would establish the date and terms under which the contract market would make its oral presentation. In addition, a notice of the Commission's proposed action would be published promptly in the **Federal Register** in accordance with section 4j(a)(5) of the Act.

The Commission could grant an exemption with conditions or deny an exemption following notice to the contract market of the Commission's intent to condition or deny the exemption and opportunity for the contract market to make a written submission and oral presentation. To grant a conditional exemption, the Commission would have to find, consistent with the requirements of sections 4j(a) (3) and (5)(C) of the Act, that there is a substantial likelihood that a dual trading prohibition would harm the public interest in hedging or price basing at the contract market and, although the contract market has not demonstrated that its trade monitoring system satisfies the standards in paragraph (d)(1), other corrective actions by the contract market are sufficient and appropriate to bring the contract market into compliance with those standards. In addition, as required by section 4j(a)(5)(C)(ii), the Commission would have to find that the conditions being attached to the exemption by the Commission are appropriate. The conditions and the Commission's findings would be set forth in an order, which would be provided to the contract market and published promptly in the **Federal Register**. A conditional exemption order would be effective 20 days after issuance, unless the Commission determines that more immediate action is appropriate in the public interest.

The Commission could deny an exemption petition following notice to the contract market of the Commission's intent to deny the petition and opportunity for the contract market to make a written submission and oral presentation. The proposed procedures, intended to be consistent with section 4j(a)(5)(C) of the Act, state that an exemption petition would be denied by the Commission upon finding that:

(A) The contract market has not demonstrated that its trade monitoring system satisfies the standards set forth in the proposed regulation, and there is not a substantial likelihood that a dual trading prohibition would harm the public interest in hedging or price basing at the contract market; or

(B) The contract market has demonstrated that there is a substantial likelihood that a dual trading prohibition may harm the public interest in hedging or price basing at the contract market, but has not demonstrated that any corrective actions are sufficient or appropriate to bring the contract market's deficient trade monitoring system into compliance with the standards in paragraph (d)(1).

The Commission's order denying the exemption would state the Commission's findings and the date that the dual trading prohibition would be imposed upon the contract market. As required by section 4j(a)(5)(C) of the Act, the order would take effect at least 20 days after issuance to the contract market unless the Commission determines that more immediate action is appropriate in the public interest. The order also would be published promptly in the **Federal Register**.

6. Exemption Revocation

As required by section 4j(a)(1)(E) of the Act, the proposed regulation would establish an expeditious procedure for the Commission to revoke an unconditional or conditional exemption. The proposed revocation procedure would provide for reasonable written notice to the exempted contract market, opportunity for written submission and oral presentation, and findings to assure fundamental fairness. The Commission would be authorized to revoke an exemption if, after considering information relevant to the proposed revocation, the Commission finds that the contract market is not in compliance with the standards in the regulation for granting exemptions or if any condition of the exemption has not been met.[57] A Commission order revoking an exemption would be effective at least 20 days after issuance, unless the Commission determines that more immediate action is appropriate in the public interest, and would state findings in support of the revocation and the date that the dual trading prohibition would be imposed upon the contract market.

IV. Conclusion

The Commission believes that proposed regulation 155.5 satisfies the statutory directives of section 4j(a) of the Act as amended by the Futures Trading Act. The proposed regulation would prohibit dual trading by contract market members and require the affected contract markets to adopt rules to prohibit dual trading. To preserve market efficiency, contract markets would be permitted to adopt exceptions to the prohibition, as implemented by contract market rules made effective pursuant to section 5a(a)(12) of the Act and Commission regulation 1.41. The proposed exemption process, consistent with the statutory mandate, would permit a contract market to petition the Commission for an exemption to the prohibition by demonstrating that its trade monitoring system satisfies the specified standards. Finally, the proposed regulation includes the procedural due process safeguards required by the statute in the event the Commission determines to deny an exemption, grant a conditional exemption, or revoke an exemption.

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA") requires that federal agencies (including the Commission), in proposing rules, consider the impact of those rules on small businesses.[58] Proposed regulation 155.5 would implement the statutory mandate in section 4j(a) of the Act, as amended by the Futures Trading Act. To do so, the proposed regulation necessarily would affect contract markets and floor brokers directly. The Commission previously

[57] Alternative mechanisms that the Commission may use to address such contract market noncompliance include deficiency orders which may be issued under section 8e of the Act, as amended by the Futures Trading Act, and enforcement proceedings as authorized by sections 6b and 8 of the Act, as amended by the Futures Trading Act.

[58] 5 U.S.C. 601 *et seq.* (1988).

has established that contract markets are not "small entities" for purposes of the RFA.[59] The Commission also stated that it would determine on a case-by-case basis whether floor brokers should be considered small entities in connection with particular rule proposals.[60]

Although certain floor brokers might be considered small entities for purposes of the RFA in the present context, [61] the Commission believes that the proposed regulation is designed so that it can be implemented without imposing a significant economic burden on a substantial number of floor brokers. The proposed regulation would apply only to floor brokers who trade for accounts in which they have an interest and for customers during the same trading session. Moreover, the regulation would not restrict dual trading in all futures and option contracts traded on all exchanges. Only floor brokers who trade in contract markets with average daily trading volume of 8000 contracts or more during each of four recent, consecutive calendar quarters might be affected by the dual trading prohibition.[62] Such floor brokers, however, would not be prohibited from dual trading if the affected contract market in which they trade receives an exemption from the Commission, as permitted under the proposal. The prohibition also would not apply while the Commission reviews a contract market's exemption petition, so long as the petition is submitted prior to the effective date of the prohibition. Furthermore, any affected contract market that does not receive an exemption would be permitted to adopt exceptions into its rules as specified by the proposed regulation, so that floor brokers who trade in that contract market would not be restricted from trading in a dual capacity under circumstances covered by such exceptions.[63]

Any economic burden imposed on floor brokers otherwise subject to the dual trading prohibition might not be otherwise subject to the dual trading prohibition might not be significant because, as noted in EA's 1989 Dual Trading Study, dual-trading floor brokers already generally exhibit a high degree of specialization in their trading activity.[64] Thus, in general, floor brokers may be required to forego only a small portion of their trading activity (*i.e.*, their secondary business).

Moreover, as noted above, the proposed prohibition would be trading session- and contract market-specific. Accordingly, a floor broker subject to the prohibition could trade for his own account and for customers in different contract markets during the same trading session. Similarly, a floor broker could trade for his own account and for customers in the same affected, non-exempt contract market during different trading sessions. Accordingly, based on an initial review of available information, the Acting Chairman, on behalf of the Commission, certifies pursuant to 5 U.S.C. 605(b) that § 155.5, if adopted, would not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 ("PRA") imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA.[65] In compliance with the PRA, the Commission has submitted the proposed regulation and its associated information collection requirements of the Office of Management and Budget ("OMB"). The burden associated with the entire collection, including this proposed regulation, is as follows:

Average burden hours per response.	611.26
Number of respondents	4201
Frequency of response	on occasion

The burden associated with the proposed regulation is as follows:

Average burden hours per response.	528.00
Number of respondents	2813
Frequency of response	on occasion

Persons wishing to comment on the information that would be required by the proposed regulation should contact Gary Waxman, Office of Management and Budget, room 3228, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K Street, NW., Washington, DC 20581, (202) 254–9735.

List of Subjects in 17 CFR Part 155

Commodity futures, Commodity options, Contract markets, Customers, Dual trading, Floor brokers, Futures commission merchants, Members of contract markets.

For the reasons set out in the preamble and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4, 4b, 4c, 4e, 4g, 4j, 5, 5a, 8 and 8a thereof, 7 U.S.C. 6, 6b, 6c, 6e, 6g, 6j, 7, 7a, 12 and 12a, the Commission proposes to amend Part 155 of title 17 of the Code of Federal Regulations as follows:

PART 155—TRADING STANDARDS

1. The authority citation for part 155 continues to read as follows:

Authority: 7 U.S.C. 6b, 6g, 6j and 12a, unless otherwise noted.

2. Section 155.5 is proposed to be added to read as follows:

§ 155.5 Prohibition of Dual Trading by Floor Brokers.

(a) *Definitions.* For purposes of this section:

(1) *Trading session* means the hours during which a contract market is scheduled to trade continuously during a trading day, as set forth in contract market rules, including any related post settlement trading session. A contract market may have more than one trading session during a trading day.

(2) *Customer* means an account owner for which a trade is designated with the customer type indicator prescribed under Commission regulation 1.35(e)(4).

(3) *Contract market* means any contract separately designated by the Commission provided that two or more contracts trading concurrently pursuant to a single designation order on other than a transitory basis and for which the contract terms differ significantly other than as to delivery or expiration months shall each be considered a contract market for purposes of this section.

(4) *Dual trading* means the execution of customer orders by a floor broker during the same trading session in which the floor broker executes directly or indirectly a transaction in the same contract market for:

(i) The floor broker's own account;

(ii) Any account in which the floor broker's ownership interest or share of trading profits is ten percent or more;

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[59] 47 FR 18618, 18619 (April 30, 1982).

[60] *Id.*

[61] Any floor broker employed by a futures commission merchant ("FCM"), however, is part of the FCM's business and, therefore, generally would not be considered a separate business entity for purposes of the RFA. The Commission previously determined that FCMs are not "small entities" under the RFA. *Id.*

[62] Based on the trading volume of the various contract markets during 1992, the Commission estimates that approximately 25 contract markets at five boards of trade, reflecting approximately 85 percent of the total volume, would be subject to the dual trading prohibition absent any exemptions granted by the Commission or exceptions authorized by contract market rules.

[63] For example, if an affected, non-exempt contract market adopted the proposed "consenting customer" exception, a floor broker could trade in that contract market for his own account and for any consenting customers during the same trading session. A customer with an established business relationship with a specific floor broker might decide to maintain that relationship, in which case the floor broker's ability to trade for his personal benefit as well as for the customer would be unaffected by the proposed regulation.

[64] The Dual Trading Study at 3.

[65] 44 U.S.C. 3501 *et seq.* (1988).

(iii) An account for which the floor broker has trading discretion; or

(iv) Any other account controlled by a person with whom such floor broker is subject to trading restrictions under section 4j(d) to the extent section 4j(d) has been applied by Commission rule or order.

(5) *Daily trading volume* means the total number of sells (or buys) executed in any contract market during a trading day, excluding from the computation ex-pit transactions as permitted under contract market rules that have been made effective under the Act.

(6) *Average daily trading volume* means an arithmetic average of daily trading volume in a contract market over a specified time period on any day when any expiration or delivery month was listed for trading.

(7) *Volume year* means a continuous 12-month period that includes the last calendar month-end date prior to the computation date.

(8) *Computation Date* means the date on which a contract market computes its average daily trading volume for the most recent volume year.

(9) *Affected contract market* means a contract market in which the average daily trading volume equals or exceeds the threshold level of 8000 contracts for each of four quarters during the most recent volume year.

(b) *Dual Trading Prohibition.* No floor broker shall dual trade in an affected contract market, except as provided in contract market rules that have been made effective pursuant to section 5a(a)(12) of the Act and § 1.41, unless that contract market is exempted under paragraph (d) of this section. This prohibition shall not affect ex-pit transactions as described in paragraph (a)(5) of this section.

(c) *Contract markets.* (1) Contract market rules. Prior to the effective date of the dual trading prohibition under this section or under a Commission order denying an exemption petition filed pursuant to paragraph (d) of this section or revoking an exemption pursuant to paragraph (e) of this section, each affected contract market, unless exempted under paragraph (d) of this section, shall adopt rules that have been made effective pursuant to section 5a(a)(12) of the Act and § 1.41 to prohibit dual trading in accordance with the provisions of this section. In the absence of such contract market rules, upon the effective date of the dual trading prohibition as implemented either under this section or by Commission order, paragraphs (a) and (b) of this section shall be deemed to be rules of the contract market.

(2) Volume computation. Each contract market that may be subject to a dual trading prohibition shall determine whether it is an affected contract market by computing at least quarterly its average daily trading volume for each of four quarters during the most recent volume year. In addition, the contract market shall:

(i) At least five days before the effective date of the dual trading prohibition under this section or under a Commission order denying an exemption petition or revoking an exemption, and thereafter within at least two business days of each computation date, publish, in a manner sufficient to reach all members, a list of the affected contract markets and the effective date of the dual trading prohibition and, on the same date, provide that information in writing to the Director of the Division of Trading and Markets, or an employee of the Commission under the supervision of such Director, as may be designated by the Director; and

(ii) Maintain a record of its average daily trading volume computations required hereunder. Such record shall include the computation date, the beginning and ending dates for the volume year under consideration, the beginning and ending dates for each quarter in the volume year and the average daily trading volume for each quarter.

(3) Newly affected contract market. If a contract market that was not affected on the immediately preceding computation date becomes affected as of the current computation date, the effective date of a dual trading prohibition for that contract market shall be no more than 30 calendar days after the current computation date for that contract market.

(4) Permitted exceptions. Notwithstanding the applicability of a dual trading prohibition under this section, dual trading shall be permitted in affected contract markets in accordance with rules that have been submitted to the Commission pursuant to section 5a(a)(12) of the Act and § 1.41 as follows:

(i) Correction of errors. To offset trading errors resulting from the execution of customer orders, *Provided, that* the floor broker must liquidate the position in his personal error account resulting from that error by open and competitive means as soon as practicable, but not later than the close of business on the business day following the discovery of the error. In the event that the daily price fluctuation limit is reached and a floor broker is unable to offset the error trade, however, the floor broker must liquidate the position in his personal error account resulting from that error as soon as practicable thereafter.

(ii) Customer consent. To permit a customer to designate in writing not less than once annually a specifically identified floor broker to dual trade while executing orders for such customer's account.

(iii) Spread transactions. To permit a broker who unsuccessfully attempts to leg into a spread transaction for a customer to take the executed leg into his personal account and to offset such position, and to permit a broker to execute for his personal account a spread transaction recognized by a contract market if at least one leg of the spread is in a non-affected market, *Provided, that* a record is prepared and maintained to demonstrate that the customer order was for a spread trade.

(iv) Member-customers. To permit transactions for members of the contract market not present on the floor, *Provided, that* the contract market, within the single record required by § 1.35(e), specifically identifies such transactions through account numbers, a separate customer type indicator, or otherwise for surveillance purposes.

(v) Low volume months. To recognize any expiration or delivery month which, on the basis of historical data and an analysis thereof and other factors identified by the contract market, reasonably can be expected to have an average daily trading volume of less than 500 contracts during the period beginning with the current computation date and ending with the next computation date, *Provided, that* the contract market keeps full and systematic records supporting these determinations and, as part of its trade surveillance program, establishes special procedures including appropriate reports to monitor dual trading activity in the relevant low volume contract months.

(vi) Market emergencies. To address emergency market conditions resulting in a temporary emergency action under § 1.41(f).

(d) *Exemption Petitions.* (1) Standards. A contract market may apply for an exemption from the dual trading prohibition of paragraph (b) of this section by filing a written petition, signed by the contract market's chief operating officer, which states facts sufficient to demonstrate that its trade monitoring system, consistent with the standards articulated in guidelines set forth in Appendix A to this section, is capable of detecting and deterring, and is used on a regular basis to detect and deter, all types of violations attributable to dual trading, and is capable of

generating an audit trail that satisfies the requirements of § 1.35. The petition shall be directed to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, with a copy to the Director of the Division of Trading and Markets.

(2) Content requirements. An exemption petition must identify each contract market that is, or is projected to be, affected. The petition must include a full description of each component of the contract market's trade monitoring system including the systems in place, rules, policies and procedures in effect, standards applied, trading violations targeted, and the results achieved. To the extent practicable, the petition shall include performance statistics covering the 12-month period ending with the month preceding the petition date. Where such statistics are not available, specific, representative performance examples should be provided. The petition also must set forth the contract market's program or plan and projected implementation timetable for its intended compliance with the requirements of section 5a(b)(3) of the Act. An exemption petition must address, in the order listed below, the following components of a contract market's trade monitoring system:

(i) Physical observation of trading areas;

(ii) Audit trail and recordkeeping systems able to, and which are used to, capture essential data on the terms, participants, and sequence of transactions (including relevant data on unmatched trades and outtrades) and otherwise satisfy the requirements of § 1.35 and section 5a(b)(3) of the Act, as implemented by Commission regulations and orders;

(iii) Systems capable of reviewing, and used to review, trading data effectively on a regular basis to detect rule violations attributable to dual trading committed in the execution of trades and customer orders on the floor or subject to the rules of the contract market, including:

(A) Trading ahead of customer orders directly or indirectly;

(B) Trading against customer orders directly or indirectly in violation of contract market rules;

(C) Disclosing, misallocating or withholding customer orders;

(D) Failing to resolve errors, unmatched trades or outtrades properly and promptly; and

(E) Crossing customer orders by matching or "offsetting" customer orders directly or indirectly in violation of contract market rules;

(iv) The use of information gathered through such systems on a consistent basis to bring appropriate disciplinary actions against violators;

(v) The commitment of resources necessary for such systems to be effective in detecting and deterring violations attributable to dual trading, including adequate staff to investigate and prosecute disciplinary actions; and

(vi) The assessment of meaningful penalties against violators and the referral of appropriate cases to the Commission.

(3) Alternative requirements. If a contract market believes that its trade monitoring system does not meet the standards set forth in paragraph (d)(1) of this section, the contract market's petition must include, in addition to the information required to be provided under paragraph (d)(2) of this section:

(i) A specific description of the corrective actions the contract market will take that it believes to be sufficient and appropriate to bring the contract market into compliance together with an explanation of the sufficiency and appropriateness of such actions, including specific implementation dates, any related changes in systems, operations, staffing, policies, rules, procedures, and budget allocations; and

(ii) Data and an economic analysis of that data to demonstrate any adverse impact of a dual trading prohibition on hedging and price basing at the contract market.

(4) Remittal. The Director of the Division of Trading and Markets (or an employee of the Commission under the supervision of such Director as may be designated by the Director) may remit to the contract market, with an appropriate explanation where practicable, and not accept pursuant to paragraph (d) of this section, any petition for exemption that does not comply with the content requirements of paragraphs (d)(2) and (3) of this section, as identified in the remittal letter. The affected contract market must resubmit its exemption petition with deficiencies corrected no more than 20 days after receipt of the remittal notice. If the exemption petition is not resubmitted within the prescribed 20-day period, the Commission, at its discretion, may permit the dual trading prohibition provided for in paragraph (b) of this section to become effective as to any such affected contract market. The Commission's review period shall be calculated from the date of resubmission.

(5) Deferred application of the prohibition. If a contract market submits a petition for exemption that satisfies the content requirements of paragraphs (d)(2) and (3) of this section prior to the effective date of the dual trading prohibition, the Commission will suspend application of the prohibition against the contract market unless and until the petition is denied, pursuant to the effective date set forth in the denial order.

(6) Publication. A notice of the submission of each exemption petition deemed complete under paragraphs (d)(2) and (3) of this section will be published promptly by the Commission or the Director of the Division of Trading and Markets (or by an employee of the Commission under the supervision of the Director, as may be designated by the Director) in the **Federal Register**. Upon publication of such notice, copies of each petition, with the exception of any information or materials determined by the Commission to be subject to confidential treatment, will be publicly available through the Office of the Secretariat in accordance with the provisions of part 145 of this chapter.

(7) Grant of Exemption without Conditions. (i) Findings and Order. A contract market's exemption petition will be granted without conditions by Commission order if the Commission finds that, based on the information, views and arguments placed before it by the contract market in writing in its petition and any attachments or supplements thereto, and orally in any presentation pursuant to paragraph (d)(8)(c)(iii) of this section, and other relevant information identified by the Commission, the contract market has demonstrated compliance with the standards contained in paragraph (d)(1) of this section. The Commission's order will state the Commission's findings.

(ii) Publication. A Commission order granting an exemption pursuant to this paragraph (d)(7) of this section will be published promptly in the **Federal Register**.

(iii) Effective Date. A Commission order granting an exemption without conditions pursuant to this paragraph (d)(7) shall be effective upon issuance.

(8) Proposed Conditional Exemption or Petition Denial. (i) Notice. If the Commission intends to deny an exemption petition or to exempt a contract market subject to conditions, the Commission will notify the contract market in writing that it intends to deny or condition the petition and state:

(A) Specific deficiencies in the contract market's trade monitoring system;

(B) Any corrective actions to the trade monitoring system that the Commission believes the affected contract market must take to satisfy the standards of

paragraph (d)(1) of this section, and a timetable for such corrective actions; and

(C) Any conditions or limitations that the Commission proposes to attach to an exemption under paragraph (d) of this section.

(ii) Publication. A notice issued to a contract market under this paragraph (d)(8) will be published promptly in the **Federal Register**.

(iii) Opportunity for Written Submission and Oral Presentation. Within five days of receipt of the notice from the Commission, the contract market may request in writing the opportunity to make an oral presentation to the Commission. The contract market will be notified promptly by the Commission of the date and the terms under which the contract market may make an oral presentation. The contract market must submit any written supplemental data, views, or arguments within 20 days of receipt of the Commission's notice, unless the Commission notifies the contract market otherwise.

(9) Grant of Conditional Exemption.

(i) Findings and Order. A contract market's exemption petition will be granted subject to conditions by Commission order if the Commission determines, based on the information, views and arguments placed before it by the contract market in writing in its petition and any attachments or supplements thereto, and orally in any presentation pursuant to paragraph (d)(8)(c)(iii) of this section and other relevant information identified by the Commission, that:

(A) The contract market's trade monitoring system does not satisfy the standards set forth in paragraph (d)(1) of this section, but other corrective actions are sufficient and appropriate to bring the contract market into compliance with the standards in paragraph (d)(1) of this section;

(B) There is a substantial likelihood that a dual trading prohibition would harm the public interest in hedging or price basing at the contract market; and

(C) The conditions or limitations being attached to the grant of exemption by the Commission are appropriate in light of the purposes of this section.

The Commission's order will state the Commission's findings and the conditions or limitations placed upon the contract market.

(ii) Publication. A Commission order granting a conditional exemption pursuant to this paragraph (d)(9) will be published promptly in the **Federal Register**.

(iii) Effective Date. A Commission order granting a conditional exemption pursuant to this paragraph (d)(9) shall become effective 20 days after issuance, unless the Commission determines that more immediate action is appropriate in the public interest and states an earlier effective date in the order.

(10) Denial of Petition. (i) Findings and Order. A contract market's exemption petition will be denied by Commission order if the Commission determines, based on the information, views and arguments placed before it in connection with the petition and other relevant information, that:

(A) The contract market has not demonstrated that its trade monitoring system satisfies the standards set forth in paragraph (d)(1) of this section, and there is not a substantial likelihood that a dual trading prohibition would harm the public interest in hedging or price basing at the contract market; or

(B) The contract market has demonstrated that there is a substantial likelihood that a dual trading prohibition may harm the public interest in hedging or price basing at the contract market, but has not demonstrated that other corrective actions are sufficient or appropriate to bring the contract market into compliance with the standards in paragraph (d)(1) of this section.

The Commission's order denying the exemption will state the Commission's findings and the date on which the dual trading prohibition will take effect on the contract market.

(ii) Publication. A Commission order denying an exemption pursuant to this paragraph (d)(10) will be published promptly by the Commission in the **Federal Register**.

(iii) Effective Date. A Commission order denying a contract market's petition for an exemption pursuant to this paragraph (d)(10) of this section shall become effective at least 20 days after issuance, unless the Commission determines that more immediate action is appropriate in the public interest.

(e) *Exemption revocation.* An exemption may be revoked if the Commission determines that a contract market is not in compliance with the standards in paragraph (d)(1) of this section or if any condition of the exemption has not been met. The Commission shall notify the contract market in writing of its intent to issue an order to revoke the contract market's exemption. Such notice shall include the reasons for the proposed revocation and the procedures under which the contract market shall have the opportunity to be heard. After considering information relevant to the proposed revocation, the Commission shall determine whether to revoke the exemption. Any Commission revocation order shall state findings in support of the revocation and be effective at least 20 days after issuance unless the Commission determines that more immediate action is appropriate in the public interest. Such order shall state the date on which the dual trading prohibition shall take effect.

Appendix A to § 155.5—Guidelines Regarding Contract Market Petition for Exemption From Dual Trading Prohibition Based on Sufficiency of the Trade Monitoring System

Regulation 155.5 permits a contract market to petition the Commission for exemption from the dual trading prohibition on the basis that its trade monitoring system satisfies certain standards. Appendix A is intended to provide additional guidance to a contract market as to what is necessary to demonstrate that the components of a contract market's trade monitoring system, as enumerated in the regulation, are sufficient to detect and deter violations attributable to dual trading. Although these guidelines include certain standards that the Commission intends to apply in determining whether a particular contract market's trade monitoring system meets the exemption standards in § 155.5, the Commission may, in its discretion, consider a contract market's trade monitoring system as a whole.

I. Physical Observation of Trading Areas

Demonstrate (*e.g.*, by daily floor surveillance log) that compliance staff performs floor surveillance:

(1) To the extent practicable, on each open and close;

(2) Randomly at other times during each trading session; and

Demonstrate further that information developed through such surveillance is integrated into other compliance activities as appropriate.

(3) When special market conditions warrant.

II. Audit Trail System

Provide a detailed description of the methodology and procedures followed to generate and assure the accuracy of recorded trade execution times. Demonstrate the highest degree of accuracy practicable (but in no event less than 90% accuracy) of trade execution times required under regulation 1.35(g) (within one minute, plus or minus, of execution) during four consecutive months within the 12-month period ending with the month preceding the submission of the exemption petition.

If trade execution times are recorded manually at the contract market, demonstrate accuracy rate through, at a minimum, a comparison of the times recorded for both the executing and opposite sides of each trade to the times reported in the time and sales register.

If trade execution times are imputed for recordation at the contract market, demonstrate accuracy rate through, at a minimum, accuracy of the data inputted and a description of the contract market's trade

imputation algorithm, including how and why it reliably establishes the accuracy of the imputed trade execution times.

III. Recordkeeping System

Demonstrate that a "representative sample" of documentation required to be prepared and maintained by each floor member and member firm regarding the execution of customer orders and other trading is reviewed for § 1.35 compliance at least once each year. Provide checklist used in the review of the documentation. Demonstrate that information developed regarding inadequate or violative recordkeeping is incorporated into other compliance activities as appropriate.

IV. Surveillance Systems to Detect Dual Trading-Related Abuses

Demonstrate (*e.g.*, by description of procedures and by logs) that the contract market, on a daily basis, reviews trade registers and computerized surveillance reports to detect dual trading-related abuses. The contract market also must describe:

A. The extent to which available trade data, including account numbers, are reviewed; and

B. The cycle and generic content of such computerized reports.

V. Use, on Consistent Basis, of Information to Bring Dual Trading-Related Disciplinary Actions and Assessment of Meaningful Penalties

Provide a list of each investigation and disciplinary proceeding involving one or more dual trading-related abuses, which investigation or disciplinary proceeding was in an open status at any time during the 12-month period ending with the month preceding the submission of the exemption petition. Include in list:

A. Source of investigations (*e.g.*, customer compliant or inquiry; automated report; manual review; floor surveillance);

B. Type of abuse alleged or found; and

C. Disposition at each level of the process. For each settlement or adjudication, state any penalties (monetary or other) assessed.

VI. Commitment of Resources

Include statistics regarding the timeliness of the completion of investigations and the initiation of disciplinary proceedings.

Issued in Washington, DC, on March 2, 1993, by the Commission.

Jean A. Webb,

Secretary.

[FR Doc. 93–5239 Filed 3–8–93; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 103, 129, 165 and 184

[Docket No. 88P–0030]

Beverages; Bottled Water; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment period for a proposed rule to amend its regulations for bottled water that published in the **Federal Register** of January 5, 1993 (58 FR 393). This proposal would establish a standard of identity for bottled water; recodify the standard of quality for bottled water; include "mineral water" in the definition of bottled water; and define "artesian water," "distilled water," "mineral water," "purified water," "spring water," and "well water." FDA is taking this action in response to several requests to allow additional time for public comment.

DATES: Written comments by April 7, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Kim, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5229.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 5, 1993 (58 FR 393), FDA proposed to amend its regulations for bottled water, in part, to respond to a petition submitted by the International Bottled Water Association. FDA believes that the proposed regulations will promote honesty and fair dealing in the interest of both consumers and the regulated industry. Interested persons were given until March 8, 1993, to comment on this proposed rule.

In response to the proposal, the agency received several requests for an additional 60 days for public comment to allow for sufficient time to collect information from industry consultants, state agencies, and the Environmental Protection Agency, and sufficient time to complete a spring water consumer survey. The agency also received comments that urged the agency not to grant an extension because it would cause unnecessary delay in this rulemaking.

After careful consideration of these requests, the agency has decided to allow additional time for interested persons to submit comments to enable interested persons to collect data, to conclude the pending survey and to prepare comments. However, given that the agency has already provided 60 days for comments, the nature of the activities pointed to, in the request for extension, and the public interest in resolving the issues in this rulemaking in a timely manner, FDA is extending the comment period until April 7, 1993.

Interested persons may, on or before April 7, 1993, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m. Monday through Friday.

Dated: March 4, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–5436 Filed 3–5–93; 11:15 am]

BILLING CODE 4160–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

MSS Above 1 GHz Negotiated Rulemaking Committee

AGENCY: Federal Communications Commission.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons of additional meetings of the MSS Above 1 GHz Negotiated Rulemaking Committee ("Committee").

DATES: Wednesday, March 24, 1993 at 9:30 a.m.; Tuesday, March 30, 1993 at 9:30 a.m.; Wednesday, March 31, 1993 at 9:30 a.m.; Friday, April 2, 1993 at 9:30 a.m.; Monday, April 5, 1993 at 9:30 a.m.

ADDRESSES: The meetings scheduled on March 24 and 30 and April 2 and 5 will be held at the Federal Communications Commission, Rm. 856, 1919 M Street NW., Washington, DC 20554. The meeting scheduled for March 31 will be held at 1330 Connecticut Avenue NW.,

Concourse Level Conference Room, Washington, DC.

FOR ADDITIONAL INFORMATION CONTACT: Kathleen Campbell, Administrative Assistant to the Committee, at (202) 634–1952.

SUPPLEMENTARY INFORMATION: The agenda for each meeting of the MSS Above 1 GHz Negotiated Rulemaking Committee is as follows:

1. Opening Remarks/Comments
2. Adoption of Agenda
3. Minutes/Records of Previous Meeting
4. Introduction of Documents
5. Informal Working Group Reports—Issues
6. Acceptance/Approval of Recommended Rules
7. Acceptance/Approval of Report Text
8. Agenda for future meetings—Schedule for future meetings
9. Other Business

Members of the general public may attend this meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. However, admittance will be limited to available seating. There will be no public oral participation, but the public may submit written comments to Fern J. Jarmulnek, the Committee's Designated Federal Officer, before the meeting.

Other meetings of the Committee have previously been announced. (See Public Notice, DA 93–163 (58 FR 8927 (February 18, 1993)).

All of the meetings begin at 9:30 a.m. The complete schedule of full Committee meetings is as follows:

Day and date	Location
Tuesday, March 9, 1993	856.
Thursday, March 18, 1993	856.
Wednesday, March 24, 1993	856.
Thursday, March 25, 1993	856.
Tuesday, March 30, 1993	856.
Wednesday, March 31, 1993	1330 Connecticut Ave., NW. Concourse Level Conference Room
Friday, April 2, 1993	856.
Monday, April 5, 1993	856.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–5284 Filed 3–8–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 93–15; Notice 1]

RIN 2127–AE38

Federal Motor Vehicle Safety Standards Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes that the requirement that plastic materials used in lenses show no haze after a 3-year outdoor exposure test be changed to specify not more than 7 percent haze, the level at which haze becomes discernable to the naked eye. This amendment would not change the stringency of the standard as it has been applied, but it would increase the objectivity of the standard.

DATES: The comment closing date for the proposal is April 23, 1993. The proposed effective date for the final rule is 12 months after its publication in the **Federal Register**. Any request for an extension of time to comment must be received not later than 10 days before the published expiration date of the comment period.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, 400 Seventh Street, SW., Washington, DC 20590 (Docket hours are from 9:30 a.m. to 4:00 p.m.).

FOR FURTHER INFORMATION CONTACT: Patrick Boyd, Office of Rulemaking (202–366–6346).

SUPPLEMENTARY INFORMATION: Sierra Products of Livermore, California ("Sierra"), in response to a compliance investigation initiated by NHTSA, filed a "Petition to Amend FMVSS 108 Updating Weather & Heat Testing of Vehicle Lights & Reflectors." Three principal issues and several lesser issues merit public consideration and comment. Thus, the agency has granted the petition and seeks comment about those issues in this notice. One issue raised by the petition regarding the permissibility of a minimum amount of haze has been determined to merit the issuance now of a proposal to amend Standard No. 108. Should any of the other issues merit the initiation of rulemaking, NHTSA will issue a supplemental notice of proposed rulemaking.

1. Haze Limit for Reflex Reflectors

S5.1.2 of Standard No. 108 establishes requirements for plastic materials used for optical parts such as lenses and reflectors. One of the requirements (subsection (c)) is that plastic materials used for reflex reflectors shall meet the appearance requirements of paragraph 4.2.2 of SAE Recommended Practice J576c, May 1970, after the 3-year exposure test specified in the Recommended Practice. Paragraph 4.2.2 states in pertinent part that "The exposed samples, when compared with the unexposed control samples, shall not show * * * haze * * *." Whether a sample shows haze has traditionally been determined by whether haze is visible to the naked eye. However, all plastics will develop an amount of haze during the weathering test that is not visible to the naked eye, but which is measurable by instrumentation.

General Electric, the manufacturer of "Lexan," a polycarbonate plastic resin used in reflex reflectors, has stated that its plastics will not pass the weathering test unless the fabricator of the product in which the plastic is used coats it. According to the SAE, the eye is not sensitive to haze less than roughly 7 percent. Coated polycarbonates develop about 6 percent haze, and acrylics develop about 3 percent haze. Since the haze is not visible to the naked eye, the plastics are considered to pass the weathering test.

Sierra does not coat the "Lexan" polycarbonate plastic that it uses in its reflex reflectors, raising the possibility, under investigation by the agency, that its reflectors will not meet the 3-year weathering test. It has petitioned to be excluded from the "coating requirement," either through establishment of a less demanding standard for trucks and trailers, allowing compliance instead with a requirement for larger reflectors to compensate for degradation, or with a requirement for providing vehicle owners with instructions for haze removal.

Neither Standard No. 108 nor SAE J576c "requires" coating, although that process may, in fact, be the most practicable way to meet the requirements of both. Sierra believes that the prescribed outdoor exposure test is inappropriate for truck and trailer lamps because their service life is alleged to be too short for haze formation. Sierra did not document the service life of trucks and trailers. However, NHTSA used the figure of 14 years as the average life of a heavy trailer in its cost/benefit analysis of proposed conspicuity requirements.

There is no reason to believe that vehicles in occasional use, such as boat trailers and utility trailers, have a shorter life. Since the average service life of an automobile is about 11 years, a reduced weathering requirement for trailer reflectors does not appear justifiable.

Sierra's second suggestion, the allowance of larger reflectors of uncoated polycarbonate, does not appear practicable. To compensate for expected loss of reflectivity, NHTSA estimates that the reflectors would have to be six times larger than at present. The agency deems insufficient Sierra's suggestion that cleaning instructions be furnished with the vehicle. These instructions do not compensate for the provision of inadequate materials in the first instance, nor do they take into account the likelihood that haze will develop during the possession of the trailer by its second and subsequent owners.

However, Sierra's petition does illustrate that an absolute requirement of zero haze is inappropriate. Industry studies used by the SAE Lighting Committee have demonstrated that degradation of reflex reflector performance can be limited to less than 17% by preventing haze in excess of 7%, but that degradation increases rapidly with further haze to a loss of over 80% of initial performance at 21% haze. To control reflex reflector degradation and to make the haze test more objective, the SAE Lighting Committee has concluded that the SAE Recommended Practice should be amended to establish a maximum allowable limit of 7 percent for plastics used for reflex refectors.

The SAE Recommended Practice also would be applied to plastic material for headlamp lenses (which the SAE added to J576 in 1986). NHTSA notes that in Standard No. 108, plastic lenses of replaceable bulb headlamps are subject to an abrasion resistance test, and that most, if not all, lenses must be coated to meet it. This coating also prevents excessive haze. Standard No. 108 does not require the abrasion test for plastic sealed beam headlamps, but NHTSA believes that it is industry practice to coat plastic sealed beam lamps.

NHTSA has been urged by the SAE Lighting Committee to harmonize its requirements for haze with the SAE specifications. In this notice, the agency is proposing the 7 percent haze limitation for reflex reflector material under consideration by the SAE. However, to pursue the subject of haze limitations for headlamp lens material, NHTSA requests that commenters address the following issues:

(1) Whether there are any replaceable bulb headlamps with plastic lenses that do not use a hard coating to achieve abrasion resistance.

(2) Whether all abrasion resistant coatings also prevent the formation of more than 7 percent haze on samples of plastics used in headlamp lenses which are subjected to the 3-year test.

(3) Whether there are any sealed beam headlamps with plastic lenses that do not use a hard coating for either haze or abrasion resistance.

(4) Whether the adoption of a 7 percent haze limit for plastic headlamp lenses would create a burden on industry, and if so, the nature and severity of the burden.

(5) Whether the industry favors harmonization of Standard No. 108 with SAE J576 for haze resistance of plastic headlamp lens materials.

2. Thermal Degradation of Acrylic Reflex Reflectors

Sierra also claimed that current weathering tests do not address the loss of reflector performance for causes other than haze. It criticized the agency for deleting the lens warpage test in 1973 which regulated distortion from heat. Before then, Standard No. 108 incorporated the heat test of SAE Standard J575d which consisted of operating a lamp for one hour in a chamber heated to 120 degrees F. The lamp would reach a temperature higher than that from the heat of the filament. At the conclusion of the test, no warpage could result that would "affect the proper functioning of the device." Since the requirement was ambiguous, NHTSA eliminated it. However, in light of Sierra's complaint, NHTSA has reviewed the matter. When the heat test was deleted, the principal concern of the test seemed to be gross distortions of through-optic lenses. It appears that the heat damage to a lens with an integral reflex reflector was not considered.

There are limited data indicating that acrylic reflex reflectors may suffer from heat degradation. The General Electric Company (GE) has reported (NHTSA Docket No. 108–PRM–000015–01) a weathering test in Florida in which amber and yellow acrylic reflex reflectors decreased in specific intensity by 18 to 32 percent after an exposure of one year, regardless of the angle of exposure. GE attributed the decrease in photometric performance to minute distortions of the reflex lens (which the industry calls "creep") which occurred when the plastics were exposed to direct sunlight (temperatures of 150 to 160 degrees F).

In view of this test, NHTSA seeks comments on the potential problem of heat degradation of acrylic plastic reflex reflectors. NHTSA requests commenters to address the following:

(1) Whether the commenter has test or other data relating to the performance of acrylic reflectors after exposure to heat.

(2) The threshold temperatures for creep and stress relaxation for acrylic plastics used for lamp lenses.

(3) Whether creep will stabilize or continue indefinitely.

(4) The maximum temperature acrylic lenses may endure without experiencing visible deformation.

(5) The length of exposure required for stability at slightly over the threshold temperature and at the maximum temperature stated in response to (4).

(6) The maximum loss of photometric performance to be expected if the creep and stress relaxation eventually stabilize.

(7) The maximum operating temperature of multiple function rear lamps on passenger cars, trucks, and trailers under realistic extreme conditions.

(8) Whether integral reflex reflectors would degrade under the conditions stated in response to (7).

(9) The test procedures that would be effective and practicable for testing reflectors and lamps with integral reflectors for the purpose of detecting which devices would degrade significantly in service.

3. Dye Loss of Acrylic Reflectors and Lenses

Sierra claims that the weathering test of Standard No. 108 is inadequate because complying red and amber acrylic lenses lose their color in use. NHTSA believes that the breakdown of the dye may not be a property of the plastic but of the dye itself. Dyes with higher temperature tolerance are frequently used in polycarbonate products because they may be designed for higher temperature applications than acrylic products, but there is no property of acrylic plastic which contributes to fading. NHTSA understands, however, that the SAE adopted the three-year test when plastic began to replace glass because of some concern that plastic would not be as fade resistant as glass.

NHTSA requests that commenters provide information on the following:

(1) Whether the commenter has test or other data relating to fading or loss of dye color in acrylic or polycarbonate lenses through exposure to heat or weathering.

(2) Whether any data exist indicating that acrylic or polycarbonate lenses fade or do not fade under realistic operating conditions.

(3) The conditions under which fading could be expected.

(4) Whether there is any reason to believe that acrylic lenses are more subject to this type of degradation than polycarbonate lenses.

(5) Whether the commenter has observed faded lenses in service and, if so, what views the commenter has about the cause of the fading.

(6) Whether the three-year test of SAE J576, conducted in Florida and Arizona, is sufficient to identify plastic materials prone to fade in color.

(7) The kind of test procedure that would be effective and practicable for testing lenses or plastic materials used in lenses to detect any propensity to fade significantly in service.

4. Other Issues

Sierra raised several other issues as well. The first of these was the opinion that "Accelerated Methods of Testing should be allowed in lieu or until Long Term 'Real Life' Testing Data on the Final Product (or components) can be gathered." However, Sierra provided no information on how such an accelerated method might be developed. The three year weathering test, representing more than three years of use, is the best accelerated test that the industry has been able to devise to date. When a reliable test of shorter duration becomes feasible, NHTSA will consider it.

Sierra also suggested that "Weather and 'Accumulated Heat' testing should be required on the final products themselves when at all possible and under as close to 'Real Life' conditions as possible." Lastly, it suggested that "the material should be tested in its final molded shape and checked for warpage and dye loss effects afterward." This does not appear to be practicable. Because the standard specifies a three year exposure test, the design of many lamps or reflectors with plastic lenses may not be completed three years in advance of their introduction. The current test procedure may, in fact, be more rigorous. Test samples of flat discs of material may be uniformly exposed to the sun while a lamp or a reflector mounted vertically to simulate its location on a vehicle would be only obliquely exposed to sun rays, and those of wrap-around designs, not uniformly exposed. There is no reason to believe that samples are not representative of the finished product in their ability to retain dye integrity or to conform to haze requirements.

Finally, Sierra asks for a system of in-use testing under which a manufacturer could sell uncertified products and determine their safety performance from the experience of motorists. This approach runs counter to the purpose of the Federal motor vehicle safety standards. They assure at the time of manufacture a minimum level of safety in advance of the use of a motor vehicle or motor vehicle equipment.

For the reasons explained above, the agency does not intend to take further action with respect to the additional issues raised by Sierra.

This proposed rule would not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Rulemaking Analyses

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has considered the impacts of this rulemaking action and has determined that it is neither major within the meaning of Executive Order 12291 "Federal Regulation", nor significant under Department of Transportation regulatory policies and procedures. The stringency of the haze requirement would not be changed. Further, according to data indicating that haze of less than 7% is not detectable by the human eye, conformance of a reflector with the haze requirement could still be judged with the naked eye. Impacts of the proposal would, therefore, be so minimal as not to warrant preparation of a full regulatory evaluation.

Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking action in relation to the Regulatory Flexibility Act. I certify that this rulemaking action would not have a significant economic effect upon a substantial number of small entities. Motor vehicle manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions would not be significantly affected as the price of new motor vehicles should not be impacted. Accordingly, no Regulatory Flexibility Analysis has been prepared.

Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 on "Federalism." It has been determined that the rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for purposes of the National Environmental Policy Act. The rulemaking action would not have a significant effect upon the environment.

Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. NHTSA will continue to

file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, it is proposed that 49 CFR part 571 be amended as follows:

1. The authority section would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. In § 571.108, S5.1.2(c) would be revised to read:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S5.1.2 * * *

(c) After the outdoor exposure test, plastic materials used for reflex reflectors shall not show surface deterioration, crazing, dimensional changes, color bleeding, delamination, loss of surface luster, or haze that exceeds 7 percent as measured under ASTM–1003–61. When a plastic reflex reflector is installed behind a plastic outer lens and not exposed directly to sunlight, the outdoor exposure test shall be conducted with the outer lens material covering the reflex reflector material in close proximity, and the cumulative haze of both materials shall not exceed 7 percent.

* * * * *

Issued on: March 3, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–5275 Filed 3–8–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of 90-Day Finding on Petition To List the Cactus Ferruginous Pygmy Owl as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to amend the List of Endangered and Threatened Wildlife and Plants. The petition presents substantial scientific or commercial information indicating that listing the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) as an endangered species may be warranted. A status review is initiated.

DATES: The finding announced in this notice was made on February 26, 1993. To be incorporated into the Service's one-year finding on this petition, comments and/or information must be submitted by June 7, 1993. The Service will accept information on the status of the cactus ferruginous pygmy-owl at any time.

ADDRESSES: Information, comments, or questions concerning the cactus ferruginous pygmy-owl petition may be submitted to the Field Supervisor, Arizona Ecological Services Field Office, U.S. Fish and Wildlife Service, 3616 West Thomas Road, Suite 6, Phoenix, Arizona 85019. The petition, finding, supporting data, and comments will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Sam F. Spiller, Field Supervisor at the above address (telephone 602/379–4720 or FTS 261–4720).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973 as amended (Act) (16 U.S.C. 531 *et seq.*), requires that the Service evaluate whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating the petitioned action may be warranted. To the maximum extent practicable, this finding should be made within 90 days of receipt of the petition, and the finding is to be promptly published in the **Federal Register**. If the finding is positive, the Service is also required to promptly commence a status review of the species.

On May 25, 1992, Peter Galvin submitted a letter co-sponsored by the Greater Gila Biodiversity Project, Friends of the Owls, Robin Silver, and the Biodiversity Legal Foundation (petitioners) to the Service, requesting the Service to list the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) as an endangered species. The petitioners also requested that critical habitat be designated concurrent with listing. On June 2, 1992 the Service informed the petitioners their correspondence had been accepted as a petition.

This finding is based on various documents, including published and unpublished studies, agency documents, and field survey records. All documents on which this finding is based are on file in the Service Field Office in Phoenix, Arizona (See **ADDRESSES** above).

A species in danger of extinction throughout all or a significant portion of its range may be designated an endangered species under the Act. A species likely to become endangered in the foreseeable future throughout all or a significant portion of its range may be designated a threatened species under the Act. Section 3(15) of the Act includes under the term species "* * * any subspecies * * * and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature."

In November 1991, the Service elevated the cactus ferruginous pygmy-owl (hereafter "owl" unless otherwise noted) to Category 1 candidate species status (56 FR 58804). Category 1 status indicates that the Service has sufficient information to propose listing a species as threatened or endangered, but that a proposed rule has not been issued because of higher listing priorities at the time. The Service has information on population declines and loss of habitat for the owl, primarily in southern Texas and southern Arizona. Information from Mexico is unavailable at this time. However, the historic range of the owl in the United States constitutes a significant portion of its entire range.

The cactus ferruginous pygmy-owl is one of 3 subspecies of the ferruginous pygmy-owl recognized in North, Central, and South America. *G. b. cactorum* occurs from central Arizona south to the states of Colima and Michoacan in western Mexico, and from southern Texas south to Tamaulipas and Nuevo Leon in eastern Mexico (van Rossem 1945, Blake 1953, Peterson 1960, Peterson and Chalif 1973, Phillips

et al. 1964, Oberholser 1974). South of these regions and through Central America, *G. b. ridgewayi* replaces *G. b. cactorum* (Friedmann *et al.* 1950, Blake 1953, Hunter 1988). Throughout South America, *G. b. brasilianum* is the resident subspecies (de Schauensee 1966, Hunter 1988).

The cactus ferruginous pygmy-owl was first described by van Rossem (1937), and is recognized as a valid subspecies (Friedmann *et al.* 1950, Blake 1953, Phillips *et al.* 1964, Monson and Phillips 1981, Hunter 1988, and Millsap and Johnson 1988). The Service has previously recognized *G. b. cactorum* (56 FR 58804). The American Ornithologists' Union (AOU) did not list subspecies in the most recent Checklist of North American Birds (AOU 1983). The above information, presented by the petitioners or otherwise available to the Service, indicates that the cactus ferruginous pygmy-owl may be listed under the Act, as "* * * any subspecies * * * and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature" [Section 3(15)].

The cactus ferruginous pygmy-owl primarily occurs in tropical and subtropical woodland thickets and thornscrub communities. In the northern portion of its range, the owl occurs along watercourses in dense woodlands of cottonwood, mesquite, hackberry, oak, and Texas-ebony (Gilman 1909 *in* Bent 1938, Peterson 1960, 1973, Phillips *et al.* 1964, Oberholser 1974, Tewes 1992). This owl also occurs in dense desert associations of mesquite, paloverde, acacia, ironwood, and saguaro cactus (van Rossem 1945, Johnson-Duncan *et al.* 1988, Millsap and Johnson 1988, Hunter 1988). Farther south in Mexico, the owl appears to be less closely tied to watercourses. In Mexico, it occurs in lowland thickets, thornscrub communities, and second growth forest (van Rossem 1945, Peterson 1973, AOU 1983).

The petition contended that listing the cactus ferruginous pygmy-owl as endangered is warranted because populations have declined, essential habitat is subject to widespread present and threatened destruction, existing regulatory mechanisms for protection are inadequate, and overuse for commercial/recreational purposes is occurring. The petition presented information on these factors.

Section 4(a)1 of the Act lists five factors to be considered in determining whether a species may be threatened or endangered. These five factors are discussed below, with summaries of information presented in the petition, and otherwise available to the Service.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The petition contended that extensive loss of owl habitat has taken place, and that remaining habitat continues to face threats of destruction, modification, and fragmentation. The petition contended that this destruction and modification of habitat has resulted in corresponding reductions in owl numbers.

Widescale loss and modification of riparian habitats in the Southwest are well-described (Phillips *et al.* 1964, Bulmer and Thornburg 1988, General Accounting Office 1988, Szaro 1989, Dahl 1990, State of Arizona 1990). Dahl (1990) reviewed losses of wetlands between 1780 and the 1980s in the southwestern states: California 91%; Nevada 52%; Utah 30%; Arizona 36%; New Mexico 33%; and Texas 52%. Bulmer and Thornburg (1988) estimated that as much as 90% of lowland riparian habitat in Arizona has been lost. These losses have been attributed to urban encroachment, water diversion, channelization, livestock grazing, and hydrological changes resulting from land use practices. With these impacts, availability of riparian woodland habitat for the owl has greatly diminished. Habitat loss and population declines are summarized below, for Arizona, Texas, and Mexico.

Arizona

The cactus ferruginous pygmy owl was once a common resident of lowland central and southern Arizona, inhabiting mesquite-cottonwood woodlands along the lower Salt, Verde, and Gila Rivers, and their major tributaries (Swarth 1914, Breninger 1898 *in* Bent 1938, Bendire 1892 *in* Bent 1938, Friedmann *et al.* 1950, Phillips *et al.* 1964, Monson and Phillips 1981, Hunter 1988, Millsap and Johnson 1988). The owl has declined throughout this region, to the degree that it is considered nearly extirpated (Monson and Phillips 1981, Arizona Game and Fish Department 1988, Johnson-Duncan *et al.* 1988, and Millsap and Johnson 1988). Hunter (1988) found fewer than 20 verified records between 1971 and 1988. In 1992, surveys located three single owls in Arizona (U.S. Fish and Wildlife Service and National Park Service, unpublished data). In recent decades, the owl's riparian habitat has been extensively modified and destroyed by agricultural development, urban expansion and general watershed degradation (Phillips *et al.* 1964, Bulmer and Thornburg 1988, State or Arizona 1990). The State of Arizona lists the owl as endangered (Arizona Game and Fish Department 1988).

Texas

The cactus ferruginous pygmy-owl's historic range in Texas was the lower Rio Grande valley, where it was considered a common resident of mesquite-cottonwood-Texas-ebony woodlands and coastal oak mottes (Bent 1938, Friedmann *et al.* 1950, Peterson 1960, Oberholser 1974, Millsap and Johnson 1988, Tewes 1992).

There is evidence that while the overall range of the owl has not changed significantly in Texas, its numbers have declined. Habitat has, and continues to be, lost and modified along the lower Rio Grande valley, chiefly through agricultural development and urban expansion. Owls have been seen less frequently in recent years and in smaller numbers (Oberholser 1974, Hunter 1988). Tewes (1992) found no owls in a 1991 survey of the lower Rio Grande valley. One significant population does persist in coastal oak motte habitat, perhaps consisting of up to 1000 individuals (R. Wauer, unpubl. data).

Mexico

The owl occurs in the northern half of Mexico, in lowland (below 4500 feet elevation) communities of thornscrub and large cacti. The owl is absent or rare in the highlands of Mexico's central plateau, which does not provide suitable habitat (Friedmann 1950, Blake 1953, Peterson 1973). The subspecies is distributed in two disjunct regions: the lower elevations of the Pacific slope in the west, and the gulf coastal region in the east.

In the middle 20th century, the owl was generally described as having been common in both regions (van Rossem 1945, Friedmann *et al.* 1950, Blake 1953). We lack current information on the status of the owl and its habitat in Mexico. It is possible that the factors causing declines in Texas and Arizona are also having effects in Mexico (Hunter 1988). In 1991, Tewes (1992) located owls at 13 of 27 survey sites in northeastern Mexico. Tewes (1992) believed expansion of the human population could reduce available habitat in the region surveyed. Population trends and habitat changes in Mexico will be evaluated during the Service's status review.

B. Overutilization for Commercial, Recreational, Scientific or Educational Purposes

The petitioners contended that the owl may be subject to harassment by birdwatchers, who concentrate at the

few remaining known locations of owls in the United States. Oberholser (1974) and Tewes (1992) considered this a potential threat. The potential for these factors constituting a significant threat will be evaluated during the Service's status review.

C. Disease or Predation

The petition presented no information that disease or predation constituted significant threats to the owl. The potential for these factors constituting additional threats will be evaluated during the Service's status review.

D. The Inadequacy of Existing Regulatory Mechanisms

The petitioners contended that existing regulatory mechanisms are inadequate to protect the owl and its habitat. They contended that no conservation plans or management guidelines exist for the owl or its habitat, for lands managed by the Arizona State Land Department, U.S. Forest Service, U.S. Bureau of Land Management, National Park Service, Bureau of Reclamation, U.S. Fish and Wildlife Service, or Indian Nations, State of Texas, or private parties. However, taking of the owl, or destruction of its habitat on lands administered by many of the above agencies is often prohibited, by regulations that may not specifically cite the owl. The owl is currently protected under the Migratory Bird Treaty Act (16 U.S.C. 703–712). The adequacy of existing regulatory mechanisms for protecting the cactus ferruginous pygmy-owl and its habitat will be evaluated during the Service's status review.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

This owl nests in cavities excavated by woodpeckers, in trees or large cacti. Some authorities (Arizona Game and Fish Department 1988) believe that increasing competition for nest cavities with the exotic European starling may be a threat to cavity nesters. The potential for other natural or manmade factors constituting threats to the owl and its habitat will be evaluated during the Service's status review.

After a review of the petition, the references cited, and information otherwise available, the Service finds that the petition presented substantial information indicating that listing the cactus ferruginous pygmy-owl as an endangered species may be warranted. The available information indicates that loss and modification of habitat have resulted in reductions in the range and overall numbers of the owl over a significant portion of its historical range. Lack of existing regulatory mechanisms, and other factors yet to be defined, may have contributed to this decline.

This finding initiates a status review for the cactus ferruginous pygmy-owl as required under section (4)(b)(3)(A) of the Act. Within one year of receiving the petition, the Service is required under section 4(b)(3)(B) of the Act to make a finding as to whether the petitioned action is warranted. The Service would appreciate any additional data, information or comments from the public, government agencies, the scientific community, industry, or any other interested party, concerning the status of the cactus ferruginous pygmy-owl or its habitat throughout its range.

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Author

This primary author of this notice was Timothy Tibbitts of the Phoenix, Arizona Fish and Wildlife Service Ecological Services Field Office (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: February 26, 1993.

Richard N. Smith,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 93-5372 Filed 3-8-93; 8:45 am]

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AGENCY: I
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Notices

Federal Register
Vol. 58, No. 44
Tuesday, March 9, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

South Dakota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will be held from 1:00 p.m. until 3:30 p.m. on Friday, April 2, 1993, at the Holiday Inn, 100 W. 8th Street, in Sioux Falls. The purpose of this meeting is to review the Committee's current project in employment discrimination against women in South Dakota and plan future projects.

Persons desiring additional information should contact Committee Chairperson, Rae Burnette, or William F. Muldrow, Director of the Rocky Mountain Regional Division, (303) 866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 1, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–5299 Filed 3–8–93; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis, (BEA)

[Docket No. 930241–3041]

Intent to Revise the Boundaries of the BEA Economic Areas

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Advance notice and request for comments.

SUMMARY: BEA has begun the process of revising the boundaries of the BEA Economic Areas. The boundaries of the current areas were established in 1977, primarily on the basis of commuting and metropolitan area data from the 1970 Census of Population. In order to maintain the analytical usefulness of the Economic Areas, their boundaries must be revised when there are substantial changes in the county-level relationships on which they are founded. Reviews of the Economic Area boundaries following the 1980 Census indicated little need for revision at that time. However, current revisions to the boundaries for the metropolitan statistical areas—issued by OMB following the 1990 Census—cross the existing Economic Area boundaries in nine cases (creating need for changes in 18 or more Economic Areas), and preliminary reviews of commuting trends suggest that there may be numerous additional cases where the existing BEA Economic Areas are no longer consistent with current patterns of commuting. The objective of these revisions is to modify the existing boundaries as needed to define analytical areas that are more reflective of current regional relationships. Proposed changes to Economic Area boundaries will be published for comment in a later issue of the **Federal Register**, and an additional period for comments will be provided.

DATES: Persons who wish to provide comments regarding methodology for the Economic Area definitions should submit them in writing no later than April 30, 1993.

ADDRESSES: Written comments should be submitted to Kenneth Johnson, U.S. Department of Commerce, Bureau of Economic Analysis BE–61, Regional Economic Analysis Division, Washington, DC 20230, or Fax (202) 523–7508.

FOR FURTHER INFORMATION CONTACT: Kenneth Johnson, (202) 523–0960; Fax (202) 523–7508.

SUPPLEMENTARY INFORMATION:

Background

Under authority granted in 15 U.S.C. 175 *et seq.*, the Bureau of Economic Analysis (BEA) first developed and presented a complete set of functional economic areas, along with projections to 1990, in "Area Economic Projections 1990," an October, 1974 supplement to the "Survey of Current Business." These 173 multi-county areas covered the entire United States and were known as the BEA Economic Areas. The development of the Economic Areas was part of BEA's obligation to provide a meaningful framework for small-area economic projections.

In 1977, BEA last revised the boundaries for its set of functional economic areas. In addition to their use in the BEA regional estimates and projections programs, the resulting 183 economic areas are used to provide a geographic grid for analytical studies by governmental agencies, academic researchers, and market analysts in the private sector.

The methods used in defining the economic areas and the list of counties that each economic area comprised were presented in "BEA ECONOMIC AREAS (Revised 1977)." Because the 1977 document is out of print, its brief text is presented below to provide background for this notice.

The Bureau of Economic Analysis (BEA) Economic areas are nodal functional areas delineated to facilitate regional economic analysis. Each area consists of an economic node—a standard metropolitan statistical area (SMSA), or similar area, that serves as a center of economic activity—and the surrounding counties that are economically related to the center. To the extent possible, each area includes the place-of-work and place-of-residence of its labor force. The areas cover the entire United States.

BEA economic areas were first delineated in 1969, based on data from the early 1960's. During the past decade, the regional distribution of economic activity changed. Some new centers developed and at the same time, some centers—particularly those in areas where agriculture was the basic industry—declined and were absorbed into other areas. Expanded transportation networks, by affecting patterns of travel, also led to changes in area boundaries. The Interstate Highway System was a major factor of this kind.

The 1977 delineation resulted in 183 areas—ten more than in 1969—and was based primarily on three sets of data: (1) Journey-to-work data from the 1970 Census of Population; (2) newspaper

circulation data for 1972; and (3) 1975 county commuting data developed from Social Security Administration and Internal Revenue Service Records.

Delineation of Boundaries

Delineation procedures were essentially the same as those used in 1969. As a first step, the SMSA containing the largest percentage of employment in an area identified as a potential economic area was usually chosen as the principal center. In some economic areas, smaller SMSA's were added as secondary centers. Where an SMSA was an integral part of a larger metropolitan complex, a multi-SMSA center was chosen. For example, the Jersey City, Newark, Paterson-Clinton-Passaic, Stamford, Norwalk, Bridgeport, and Nassau-Suffolk SMSA's are all part of the New York City Metropolitan area complex, which constitutes the center of the New York economic area. In sections of the country with no SMSA's, cities with populations of 25,000, and functioning as economic nodes, were identified as area centers.

After the centers were identified, each of the approximately 2,600 counties that did not fall within a center was examined to determine the center to which it was most closely related. For the bulk of these counties, the primary data source used was journey-to-work information from the 1970 Census of Population. These data showed the gross commuting of workers from each county of residence to as many as 13 counties of work.

Counties were assigned to centers in accordance with commuting patterns.

In many instances, the association between a county and a particular area was not based on direct commuting ties to the central city or county, but rather on commuting ties to a noncentral county, which, in turn, was tied to the center. The assignment of counties to centers was more difficult in urban areas of the United States because of the insufficiency of commuting data. This problem was overcome through the use of supplemental data, such as metropolitan newspaper circulation figures in rural areas, and the advice of people such as State planning agents, who were familiar with the geography and economies of the areas.

The 1970 journey-to-work data were compared with the 1975 county commuting data developed from the Social Security Administration's 10-Percent Continuous Work History Sample and from place-of-residence data from Internal Revenue Service records. This comparison, however, did not result in substantial changes in the delineations. Preliminary delineations of economic areas were circulated for review and comment to the above-mentioned people and to other authorities in State planning offices, university bureaus of business and economic research, and field offices of Federal agencies involved in water resources planning. Final delineations took these comments into account.

Area Listings

The publication presents a revised map and two county listings which identify the geographic composition of BEA economic areas. The first listing presents the economic areas in numerical order, identified by name. For each economic area, component SMSA's are identified by name and FIPS number, and each component county is designated according to whether it is or is not in an SMSA. The second listing is organized by State; component economic areas, or parts of economic areas, are shown, as well as those States containing remaining parts of economic areas.

If detailed county definitions of the current economic areas are needed, BEA has a small supply of "BEA ECONOMIC AREAS (Revised 1977)." Written requests for single copies of the document should be sent to Kenneth Johnson at the above address, and will be handled while supplies permit.

A series of three **Federal Register** notices is planned on this subject. Comments on the current notice should address issues related to the data and/or the procedures used to determine the areas. A summary of these comments and a set of proposed boundary changes will be published for comment in a second **Federal Register** notice. A summary of comments on the proposed boundary changes and final boundary changes will be published in the third notice.

Carol S. Carson,

Director.

[FR Doc. 93–5317 Filed 3–8–93; 8:45 am]

BILLING CODE 3510-06-M

International Trade Administration

[A–834–804, A–821–804, A–823–804]

Final Determinations of Sales at Less Than Fair Value: Ferrosilicon From Kazakhstan and Ukraine; and Postponement of Final Determination; Ferrosilicon From the Russian Federation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

EFFECTIVE DATE: March 9, 1993.

FOR FURTHER INFORMATION CONTACT: Kimberly Hardin, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0371.

Final Determinations and Postponement of Final Determination

The Department of Commerce ("the Department") determines that ferrosilicon from Kazakhstan and Ukraine is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1673d). The Department also determines that critical circumstances exist with respect to imports of ferrosilicon from Kazakhstan and Ukraine. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

The Department is postponing the deadline for the final determination in the investigation of ferrosilicon from the Russian Federation until May 13, 1993.

Case History

Since the publication of our affirmative preliminary determinations on December 29, 1992 (57 FR 61876), the following events have occurred.

On December 24, 1992 (57 FR 79, January 4, 1993), we preliminarily found affirmative critical circumstances with respect to imports of ferrosilicon from Kazakhstan, the Russian Federation, and Ukraine. Accordingly, we instructed the Customs Service to suspend liquidation of all entries of ferrosilicon from Kazakhstan, the Russian Federation, and Ukraine from September 30, 1992, a date 90 days prior to the date of publication of the notice of preliminary determinations in the **Federal Register.**

On January 8, 1993, we received a letter stating that petitioners do not request a hearing in these investigations unless another interested party submits such a request. On January 8, 1993, we received a request on behalf of Minerais U.S. Inc., an interested party to the investigation involving Kazakhstan and Russia, for a public hearing in the Kazakh investigation.

We received case and rebuttal briefs from petitioners and Minerais on February 5, and February 12, 1993, respectively.

On February 12, 1993, we received a letter from Minerais withdrawing its request for a public hearing. As petitioner's request for a hearing was conditional upon another party

requesting a hearing, no public hearing was held.

On March 1, 1993, we received a request from the Government of the Russian Federation to extend the deadline for the final determination in the investigation involving the Russian Federation in order to allow the Department sufficient time to consider additional information on the record of the investigation. On March 3, 1993, we received a letter from petitioners opposing the extension request filed on behalf of the Government of the Russian Federation. See Postponement section of this notice.

Period of Investigation

The period of investigation (POI) is December 1, 1991, through May 31, 1992.

Scope of Investigations

The product covered by these investigations is ferrosilicon, a ferroalloy generally containing, by weight, not less than four percent iron, more than eight percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than three percent phosphorous, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element.

Ferrosilicon is a ferroalloy produced by combining silicon and iron through smelting in a submerged-arc furnace. Ferrosilicon is used primarily as an alloying agent in the production of steel and cast iron. It is also used in the steel industry as a deoxidizer and a reducing agent, and by cast iron producers as an inoculant.

Ferrosilicon is differentiated by size and by grade. The sizes express the maximum and minimum dimensions of the lumps of ferrosilicon found in a given shipment. Ferrosilicon grades are defined by the percentages by weight of contained silicon and other minor elements. Ferroscilicon is most commonly sold to the iron and steel industries in standard grades of 75 percent and 50 percent ferrosilicon.

Calcium silicon, ferrocalcium silicon, and magnesium ferrosilicon are specifically excluded from the scope of these investigations. Calcium silicon is an alloy containing, by weight, not more than five percent iron, 60 to 65 percent silicon and 28 to 32 percent calcium. Ferrocalcium silicon is a ferroalloy containing, by weight, not less than four percent iron, 60 to 65 percent silicon, and more than 10 percent calcium. Magnesium ferrosilicon is a ferroalloy containing, by weight, not less than four percent iron, not more than 55 percent silicon, and not less than 2.75 percent magnesium.

Ferrosilicon is classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of these investigations is dispositive.

Class or Kind Allegation

We received a request from Minerais that the Department identify two separate classes or kinds of merchandise: (1) Ferrosilicon with a silicon content of 55 percent silicon or less (FeSi 50) and (2) ferrosilicon containing more than 55 percent silicon (FeSi 75). Minerais alleged that if two classes or kinds of merchandise were identified, petitioners would not have standing with respect to low silicon content ferrosilicon. Petitioners submitted comments in opposition to Minerais' request. We determined that the merchandise subject to this investigation constitutes one class or kind of merchandise. See *Comment 2*.

Postponement

On March 1, 1993, we received a request from the Government of the Russian Federation to postpone the final determination of the investigation of ferrosilicon from the Russian Federation pursuant to 19 CFR 353.20(b), in order to allow the Department sufficient time to consider additional information on the record of this investigation. On March 3, 1993, we received a letter from petitioners opposing the extension request filed on behalf of the Government of the Russian Federation.

In accordance with 19 CFR 353.20(b), the Department will postpone the final determination upon receipt of such a request from a producer or reseller of a significant portion of the merchandise unless we find compelling reasons to deny the request. Although petitioners objected to the reason given for the postponement request, we find that petitioners' objections do not provide compelling reasons to deny the request. Accordingly, we are postponing the date of the final determination of the investigation of ferrosilicon from the Russian Federation until May 13, 1993, which is 135 days from the date of publication of the preliminary determination in the **Federal Register**.

Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the use of best information available (BIA) is appropriate for sales of the subject merchandise in the Kazakh and Ukraine investigations. In deciding to use BIA, section 776(c) provides that the Department may take into account whether the respondent was able to produce information requested in a timely manner and in the form required. As detailed below, exporters of ferrosilicon from Kazakhstan and Ukraine did not adequately respond to the Department's requests for information.

We determine that Kazakhstan and Ukraine are non-market economy (NME) countries in accordance with section 773(c) of the Act for purposes of these investigations. Therefore, we require that the Governments of Kazakhstan and Ukraine provide information to the Department on behalf of all producers and exporters within each of these countries.

Kazakhstan

As detailed in the preliminary determination, the Department made numerous attempts to obtain questionnaire responses from the Government Kazakhstan. We have granted every possible extension of time to give the Government of Kazakhstan sufficient time to provide the information requested. The information we received is inadequate on its face in that it was not certified by Ermak (the producer), Promsyrioimport (the trading company) or the Government of Kazakhstan. The response was sent to the Department of Shearman and Sterling, counsel for Minerais, apparently at Minerais' request. Moreover, we never received a complete response to sections A, C and D, of the questionnaire.

Consequently, because the Government of Kazakhstan did not produce the information requested, we based our determination in this investigation on BIA. As BIA, we used the highest margin listed in the notice of initiation for this investigation, which was based on the petition.

Ukraine

As detailed in the preliminary determination, the Department made numerous attempts to obtain adequate questionnaire responses from the Government of Ukraine but was unable to obtain anything more than an inadequate response to the Antidumping Survey which requested summary data on sales to the United States during the POI. We have granted every possible extension of time to give the Government of Ukraine sufficient time to produce the information

requested in all sections of our questionnaire. We solicited factors of production information both as part of the original questionnaire (section D) and in a cost of production (COP) questionnaire. We did not receive factors of production information from any party in Ukraine. Nor did we receive a response to any section of the original questionnaire.

Consequently, because the Government of Ukraine did not produce the information requested, we based our determination in this investigation on BIA. As BIA, we used the highest margin listed in the notice of initiation for this investigation, which was based on the petition.

Minerais

As detailed in the preliminary determinations, Minerais submitted timely questionnaire responses in the Kazakh investigation and also entered those responses onto the record of the Russian investigation. Minerais purchased ferrosilicon from Promsyrioimport, the primary exporter of the subject merchandise from Kazakhstan to the United States during the period of investigation, then exported the merchandise to its U.S. affiliate. Minerais claimed that because it acted as an independent reseller in an intermediate country, foreign market value (FMV) should be based on Minerais' sales in third-country markets, not on a factors of production analysis. Minerais claims that it should be treated as the respondent in the Kazakh investigation and that the failure of the Government of Kazakhstan to respond to requests for information should not affect the analysis of Minerais' sales.

We determine that Minerais does not qualify as a reseller under section 773(f) of the Act, and hence, is not a respondent in this case. We have received insufficient information about the production, sales, and export of ferrosilicon in Kazakhstan. In particular, we received no information regarding whether producers had knowledge of destination. Therefore, Minerais cannot be considered either an intermediate country reseller or a "trading company" for purposes of calculating less than fair value (LTFV) margins for exports from Kazakhstan to the United States. See Comment 4.

Fair Value Comparisons

To determine whether sales of ferrosilicon from Kazakhstan and Ukraine were made at less than fair value, we compared the United States price (USP) to the FMV, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We based USP on BIA, which was information supplied by petitioners. Petitioners based their estimate of USP on the average U.S. f.o.b. import value of ferrosilicon from the former Union of Soviet Socialist Republics (U.S.S.R.) for the period September 1991 to February 1992. The available import statistics did not differentiate imports from the former republics of the U.S.S.R.

Ferrosilicon is sold through the same centralized exporting company. All ferrosilicon exported from Kazakhstan and Ukraine is priced for export by Promsyrioimport. Thus, the Customs value shown for imports from these countries reflects the prices actually paid for ferrosilicon sold for exportation. Petitioners made no adjustments to the estimated USP because they stated that they were unable to obtain information regarding foreign transportation costs.

Foreign Market Value

We based FMV on BIA, which was information provided by the petitioner. Petitioners contend that the FMV of Kazakh- and Ukrainian-produced imports subject to this investigation must be determined in accordance with section 773(c) of the Act, which concerns NME countries. In accordance with section 771(18)(C) of the Act, any determination that a foreign country has at one time been considered an NME shall remain in effect until revoked. This presumption covers the geographic area of the former U.S.S.R., each part of which retains the previous NME status of the former U.S.S.R. Therefore, Kazakhstan and Ukraine will continue to be treated as NMEs until this presumption is overcome (see Preliminary Determinations of Sales at Less Than Fair Value: Uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine and Uzbekistan, 57 FR 23380 (June 3, 1992)) (final determinations have not been reached in these investigations because they have been suspended based upon suspension agreements).

Petitioners calculated FMV on the basis of the valuation of the factors of production for AIMCOR, a U.S. producer of ferrosilicon. In valuing the factors of production, petitioners used Mexico as a surrogate country. For purposes of the initiation, we accepted Mexico as having a comparable economy and being a significant producer of comparable merchandise, pursuant to section 773(c)(4) of the Act.

Petitioners used AIMCOR's factors for raw material and processing material inputs, electricity, and labor. The raw material, energy and labor factors for producing ferrosilicon are based on AIMCOR's actual experience from October 1990 through September 1991. Overhead expenses are expressed as a percentage of the cost of manufacture as experienced by AIMCOR.

Petitioners based labor and electricity values on 1990 wage rates and 1991 energy rates in Mexico. Petitioners based the value of raw material costs for steel scrap, quartzite, coke, bituminous coal and charcoal on 1991 f.a.s. export values from the United States to Mexico. Petitioners added an amount for foreign inland freight expense to Mexico for these raw materials. Petitioners based the value of raw material costs of electrode paste on a delivered import price from Brazil to Mexico. Petitioners based raw material costs for diesel oil, woodchips, water and other processing materials on its own average costs from October 1990 through September 1991.

Pursuant to section 773(e) of the Act, petitioners added the statutory minima of 10 percent for general expenses and eight percent for profit, and an amount for shipment preparation.

Critical Circumstances

Petitioners alleged that critical circumstances exist with respect to imports of ferrosilicon from Kazakhstan and Ukraine. Section 735(a)(3) of the Act provides that critical circumstances exist when:

(A) (i) There is a history of dumping in the United States or elsewhere of the class or kind or merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Regarding criterion (A)(i), above, we normally consider whether there has been an antidumping order in the United States or elsewhere on the subject merchandise in determining whether there is a history of dumping. Regarding criterion (A)(ii) above, we normally consider margins of 25 percent or more in the case of purchase price, and 15 percent or more in the case of exporter sales price, comparisons sufficient to impute knowledge of dumping. Since the dumping margins for all exporters of ferrosilicon from Kazakhstan and Ukraine, are in excess of 25 percent, we can impute knowledge under section 735(a)(3)(A)(ii) of the Act.

Pursuant to 19 CFR 353.16(f), we generally consider the following factors in determining whether imports have been massive over a short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Regarding criterion (B) above, because we did not receive adequate questionnaire responses from any party in Kazakhstan or Ukraine, we determine that imports were massive over a relatively short period of time based on BIA. Accordingly, we determine that critical circumstances exist in these investigations.

Standing Allegation

We received a letter from Keokuk Ferro-Sil, Inc. (Keokuk), an Iowa-producer of 50 percent ferrosilicon, stating opposition to the antidumping investigations of ferrosilicon from Kazakhstan and Ukraine. We have considered all of the information provided, and the written comments filed by, Keokuk, petitioners and Minerais. We have determined that Keokuk has provided insufficient evidence to demonstrate that petitioners are not filing on behalf of the domestic industry. For further discussion, see Comment 1.

Interested Party Comments

Comment 1

Petitioners claim that because producer petitioners account for an absolute majority of both production and shipments and union petitioners represent workers at production facilities that account for a majority of ferrosilicon produced in the United States, they unquestionably have standing to file these petitions. Petitioners state that the opponent of the petition, Keokuk, should not be considered part of the domestic industry for the purposes of standing because it is related to Minerais. Petitioners state that Keokuk's close financial and marketing relationship with Minerais demonstrates that its interests run counter to the imposition of antidumping duties.

Minerais argues that since Keokuk, the largest U.S. producer of FeSi 50, opposed the petition, and that the two next largest producers of FeSi 50 (Elkem Metals and SKW) are not among the petitioners, the petition was not brought "on behalf of" the majority of U.S. industry producing FeSi 50. Minerais alleges that in order to satisfy the standing requirement of the antidumping statute, petitioners must demonstrate that the petition is supported by the majority of the domestic industry, which is defined as domestic producers who account for a majority of production. Minerais states that while union members may qualify as an "interested party" under the statute they are not domestic producers and therefore do not constitute part of the "domestic industry." Minerais concludes that whether or not labor unions support the petition has no bearing on the question of standing.

Minerais also argues that there is no evidence in the record of this case to support petitioners' assertion that it is related to Keokuk. Minerais states that one of its divisions acted as the world-wide marketing agent for Keokuk and that Minerais pre-financed Keokuk's sales in exchange for a security interest in Keokuk's inventories. However, Minerais states that there is no evidence to suggest that Minerais has any capital, corporate, or ownership interest in Keokuk, or any ability to exert control over that company.

DOC Position

We agree with petitioners. Based on the information on the record we determine that Keokuk only accounts for approximately 20 percent of the production of FeSi 50 and does not produce any FeSi 75. Thus, Keokuk has not demonstrated that petitioners do not represent the majority of domestic producers. Accordingly, we find Keokuk's standing challenge to be without merit. A petitioner is not required to establish affirmatively that it has the support of a majority of the domestic industry. *Suramerica de Aleaciones Laminada C.A.* v. *United States*, 966 F.2d 660, 666–67 (Fed. Cir. 1992); *Minebea Company, Ltd.* v. *United States*, Court of Appeals, Fed. Cir. Slip. Op. 92–1289 (January 26, 1993).

As petitioners have standing, we do not need to address the question of whether Keokuk is related to Minerais.

Comment 2

Minerais claims that the merchandise under investigation constitutes two separate classes or kinds of ferrosilicon: Low-silicon content and high-silicon content ferrosilicon. Minerais claims the division is justified because of the "substantial physical, commercial, and cost differences between the two basic ferrosilicon products, FeSi 50 and FeSi 75." Minerais cites to (1) criteria utilized by the Customs Service, (2) the testimony of a technical expert, and (3) the criteria set forth in *Diversified Products* v. *United States*, 6 CIT 155, 572 F. Supp. 883 (1983) ("*Diversified Products*"), to support this claim.

Minerais argues that the fact that there are different HTSUS numbers for FeSi 50 and FeSi 75 supports a finding of two separate classes or kinds of merchandise.

Minerais argues that the expert testimony of one of the world's leading experts on the metallurgy of steel alloys explains that the different metallurgical properties and physical characteristics of FeSi 50 and FeSi 75 render the product suitable for different uses and customers specifically desire one product or the other. Thus, his opinion supports a finding that regarding physical characteristics, end use, and customer expectations, FeSi 50 and FeSi 75 are two classes or kinds of merchandise. Moreover, petitioners' assertion that certain characteristics are commercially insignificant in most applications is without support in the record.

Further, regarding the end uses of the product, Minerais asserts that the physical differences between 50 and 75 percent ferrosilicon have significant commercial consequences that lead customers to use one or the other depending on their production needs. Minerais states that FeSi 50 and FeSi 75 have different uses in the production of steel and iron.

Regarding customer expectations, Minerais states that insofar as the different characteristics of FeSi 50 and FeSi 75 make them appropriate for different uses, customers have different expectations for the two products.

Regarding channels of trade, Minerais claims that FeSi 50 and FeSi 75 differ substantially. FeSi 50 is subject to hazardous product regulation and, accordingly, is restricted in the way it can be shipped. FeSi 75, on the other hand, is not subject to such regulations.

Finally, regarding cost, Minerais outlines numerous differences in production processes between FeSi 50 and FeSi 75 which it claims result in different costs.

Accordingly, Minerais concludes that these products cannot fairly be considered a single "class or kind" of merchandise.

Petitioners claim that ferrosilicon constitutes a single class or kind of merchandise. Petitioners also examine the *Diversified Products* criteria in support of their argument.

Regarding physical characteristics, (citing Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, 54 FR 18992 (May 3, 1989)) ("AFB's from the FRG"), petitioners note that the key question is not any physical difference

between the various products themselves, but whether the physical differences are so material as to alter the essential nature of the product, and therefore, rise to the level of class or kind distinctions. Petitioners claim that the differences are not so material and, accordingly, ferrosilicon constitutes a single class or kind of merchandise. Petitioners state that the physical characteristics of all grades of ferrosilicon are more similar than they are different, as is demonstrated by the fact that ferrosilicon of all grades is used for the same purposes.

Regarding uses of the product, petitioners state that Minerais relies heavily on the testimony of a ferronickel producer, whose testimony cannot support Minerais' assertions with respect to the uses of ferrosilicon in the steel industry. Because the vast majority of ferrosilicon is sold to the iron and steel industries for applications for which either grade can be used, the purported limitations on the use of 75 percent ferrosilicon in the manufacture of ferronickel are marginally relevant, at best, according to petitioners.

Regarding customer expectations, petitioners respond that the fact that some customers prefer one grade over another in some applications does not require a finding of two or more classes of merchandise. Petitioners argue that the characteristics which may make one grade more or less attractive to some buyers do not rise to the level of distinguishing characteristics. Petitioners state that customers' expectations of the various grade are largely the same, reflecting the fact that customers are purchasing silicon units.

Regarding channels of trade, petitioners claim that the various grades move through similar and common channels of trade. Petitioner argues that Minerais' comments regarding the fact that FeSi 50 is subject to hazardous product regulation when shipped by water, is irrelevant—the fact that one product is subject to different shipping regulations does not justify creating two classes or kinds of merchandise.

Regarding the manner of display or advertising, petitioners state that given that the manner of advertising is the same for both FeSi 50 and FeSi 75 percent ferrosilicon, this criterion supports a finding of one class or kind of merchandise.

Lastly, regarding cost, petitioners state that there is no appreciable difference in the unit cost of producing FeSi 50 and FeSi 75 percent and, accordingly, Minerais' argument again does not support the creation of two separate classes or kinds of merchandise.

DOC Position

In past cases where the Department has been called upon to determine the number of classes or kinds of merchandise under investigation, we have based our analysis on the criteria set forth by the Court of International Trade in *Diversified Products*. According to *Diversified Products*, the Department may rely upon the following factors in determining whether products belong to the same class or kind of merchandise: (1) The general physical characteristics of the merchandise; (2) the ultimate use of the merchandise; (3) the expectations of the ultimate purchaser; (4) the channels of trade in which the product is sold; and (5) the manner in which the product is advertised and displayed. (See AFB's from the FRG).

Minerais has not demonstrated that the differences it outlined constitute a clear dividing line between FeSi 50 and FeSi 75. While we acknowledge that there are numerous differences between FeSi 50 and FeSi 75 in terms of the *Diversified Products* criteria, we nonetheless agree with petitioners that these differences are not so material as to merit a finding of two classes or kinds of merchandise.

Regarding general physical characteristics and ultimate use of the merchandise, we note that FeSi 50 and FeSi 75 are similar in that they are used in many of the same applications requiring FeSi. The fact that certain applications are purportedly better served by FeSi 50 or FeSi 75 does not demonstrate they are different classes or kinds. Rather, FeSi 50 and FeSi 75 are different grades of the same product. In other similar cases, we have found different grades of the same product to be of the same class or kind. See, e.g., Final Determination of Sales at Less than Fair Value: Sulfanilic Acid from the People's Republic of China, (57 FR 29705, July 6, 1992). Moreover, as petitioners have pointed out, the most important physical characteristic of ferrosilicon is that it contains silicon and at least four percent iron which both FeSi 50 and FeSi 75 have. Thus, general physical characteristics and ultimate use do not support a finding of two separate classes or kinds.

Regarding customer expectations, we agree with Minerais that these are based primarily on the physical differences. Some customers with specific applications may purchase FeSi 50 or FeSi 75 to meet their applications. However, as petitioners have pointed out, the majority of ferrosilicon is purchased by iron and steel producers for which either grade is useable. Moreover, the fact that ferrosilicon is often priced in terms of dollars per kilogram of contained silicon indicates that purchasers are buying units of silicon content. Thus, FeSi 50 and FeSi 75 are largely fungible. Accordingly, customer expectations do not support a finding of two separate classes or kinds.

Regarding channels of trade in which the product is sold, we disagree with Minerais. While Minerais has shown that there are differences in the method of distribution, which involves movement of goods, between FeSi 50 and FeSi 75, Minerais has not shown that these differences result in different channels of trade, which involves the sale of goods.

Regarding the manner of advertising and display, Minerais does not specifically address this topic while petitioners claim that FeSi 50 and FeSi 75 are advertised in the same manner. As no further information has been provided, we have no basis on which to find whether this criterion supports a claim of one or two classes or kinds.

Finally, regarding cost, although not a criterion of *Diversified Products* but addressed by both parties, Minerais has argued that there are differences in production processes between FeSi 50 and FeSi 75. They have not argued, however, or demonstrated that the actual costs are different. Thus, their argument is unsupported.

When taken as a whole, the *Diversified Products* criteria do not support a finding that FeSi 50 and FeSi 75 are two classes or kinds of merchandise. Accordingly, we find FeSi 50 and FeSi 75 to be of the same class or kind.

Finally, although not part of our analysis of the *Diversified Products* criterion, as Minerais has acknowledged, Customs classifications are not binding on the Department for purposes of class or kind distinctions under the antidumping law. Moreover, Commerce routinely finds merchandise with different HTSUS numbers to be within the same class or kind.

Comment 3

Petitioners claim that the Department properly based its preliminary dumping determinations for all exporters and manufacturers on BIA because the governments of those NME countries did not adequately respond to the Department's information requests. Petitioners maintain that the Department must rely on the petition as BIA regardless of Minerais' submission of questionnaire responses in the Kazakh investigation.

Minerais claims to have shown that questionnaire responses from the

Governments of Kazakhstan and Ukraine were unnecessary in these investigations as Minerais is an independent reseller of ferrosilicon from those countries, and thus, Minerais' sales should be used to determine whether, and by what margin, the material was sold at less than fair value in the United States. Accordingly, Minerais claims that USP and FMV should be based not on BIA, but on Minerais' U.S. and third-country sales.

DOC Position

We agree with petitioners. See "Foreign Market Value" and "United States Price" sections of this notice and Comment 4.

Comment 4

Petitioners argue that Minerais does not meet the criteria to qualify as an independent reseller in an intermediate country under section 773(f) of the Act.

Regarding the requirement that the reseller purchase from the manufacturer, petitioners claim that Minerais has stated that all of the Kazakh- and Ukrainian-produced ferrosilicon it resold in the United States during the POI was directly purchased from Promsyrioimport, not from the manufacturer or producer as required by section 773(f)(1) of the Act.

Regarding knowledge of destination, petitioners assert that the Department must use BIA on this issue because the governments of Kazakhstan and Ukraine did not adequately respond in these investigations. Since Minerais cannot certify that the producers did not know the ultimate destination of the merchandise, the Department may adversely assume that the producers knew that Minerais was re-exporting some of their ferrosilicon to the United States. Thus, section 773(f)(2) of the Act has also not been met.

Regarding entry into the commerce of the intermediate country, according to petitioners, the pattern of sale and distribution of ferrosilicon exported to the United States constitutes transshipment through Finland, rather than entry into the commerce of Finland, as required by section 773(f)(4) of the Act. Accordingly, petitioners state that Minerais has not satisfied the criteria of section 773(f).

Minerais argues that USP must be based on Minerais' price to the U.S. customer and FMV must be based on Minerais' home market or third country sales. Minerais argues that the Department's "trading house" rule dictates that if the reseller's supplier did not know the merchandise was destined for the United States, then the reseller's U.S. and home market, or, if appropriate, third country, sales must be used for LTFV comparisons. Minerais argues that the only difference section 773(f) of the Act makes is whether Finland or Kazakhstan is used as Minerais' home market. Thus, even if the Department determines that Minerais does not qualify under section 773(f), which it believes it has, the Department should use Kazakhstan as Minerais' home market. Minerais asserts that it is irrelevant whether Finland or Kazakhstan is used as neither are viable and hence third country sales must be used.

Minerais claims that it is an independent reseller of ferrosilicon from Kazakhstan and Ukraine. Minerais cites decisions of the Customs Service to show that even though ferrosilicon was shipped from a bonded warehouse in Finland, it nonetheless has achieved "entry into the commerce" of that country for purposes of section 773(f)(4).

Minerais states because Minerais itself did not know the ultimate destination at the time of purchase from Kazakhstan and Ukraine, there is no way the suppliers could have known the ultimate destination at the time of their sales to Minerais. The fact that this information was not certified is irrelevant, according to Minerais. What Minerais has certified is that the ultimate destination of each lot of ferrosilicon exported from the former Soviet Union to Finland was decided only after the material was stored in the warehouse in Finland. Minerais states that this fact obviates the necessity of any certification from the producers on this issue.

DOC Position

We agree with petitioner. We determine that Minerais does not qualify as a reseller under section 773(f), and hence, is not an independent respondent in this case. We have received insufficient information about the production, sale, and export of ferrosilicon in Kazakhstan. In particular, we received no information regarding whether producers had knowledge of destination. Therefore, Minerais cannot be considered either an intermediate country reseller or a "trading company" for purposes of calculating LTFV margins for exports from Kazakhstan to the United States.

Comment 5

Petitioners argue that even if Minerais qualified as an independent reseller in an intermediate country, FMV could not be based on its below COP sales to Japan.

Minerais argues that the Department did not have a reasonable basis for suspecting that Minerais' third-country sales were made at below COP because petitioner's allegation was untimely and should not have been considered; in the alternative, Minerais argues it was inadequate to justify a COP investigation, in that petitioners' allegation did not make an adjustment for known differences in production costs between petitioners' costs and those of the Kazakh producer.

DOC Position

As detailed in the preliminary determination, we determined that the COP investigations and comments thereon are irrelevant, and a COP investigation is therefore unnecessary.

Comment 6

Petitioners state that the Department properly found critical circumstances in these investigations as Minerais has imported massive amounts of ferrosilicon in an attempt to evade antidumping duties.

DOC Position

We agree with petitioners. See "Critical Circumstances" section of this notice.

Comment 7

Minerais states that if the Department accepts Minerais' argument that U.S. price and FMV should be based on Minerais' sales as an independent reseller, rather than BIA, then the Department should reexamine its determination on critical circumstances.

DOC Position

As we have not accepted Minerais' argument that it qualifies as an independent reseller, this point is moot.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(4)(A) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of ferrosilicon from Kazakhstan, the Russian Federation, and Ukraine, as defined in the "Scope of Investigations" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after September 30, 1992, which is 90 days prior to December 29, 1992, the date of publication of the preliminary determinations. The Customs Service shall require a cash deposit or posting of a bond equal to the amount by which the foreign market value of the subject merchandise exceeds the United States price as shown below for Kazakhstan

and Ukraine. For the Russian Federation, the Customs Service shall continue to suspend liquidation of all entries of ferrosilicon at the rate published in the preliminary determination. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin	Critical circumstances
All manufacturers/producers/exporters.	104.18%	Yes.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determinations.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) in the Kazakh and Ukraine investigations of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4) and 353.20(b)(2).

Dated: March 3, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–5386 Filed 3–8–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–423–803, A–423–804]

Amendment of Preliminary Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products and Certain Cold-Rolled Carbon Steel Flat Products From Belgium

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 9, 1993.

FOR FURTHER INFORMATION CONTACT: Mike Ready, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2613.

SUMMARY: We are amending our preliminarily determinations for the above-mentioned investigations to correct for significant ministerial errors. The amended estimated weighted-average margins for the above-mentioned investigations are shown in the "Suspension of Liquidation" section of this notice.

Amended Preliminary Determinations

In accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act), on January 26, 1993, the Department made its preliminary determinations that certain hot-rolled carbon steel flat products (hot-rolled steel) and certain cold-rolled carbon steel flat products (cold-rolled steel) from Belgium are being sold in the United States at less than fair value (58 FR 7075, February 4, 1993).

After publication of our preliminary determinations, petitioners and one respondent, Sidmar N.V., alleged that the Department committed certain ministerial errors in calculating the preliminary margins. We have reviewed these allegations and have found that errors having a significant effect on the margins were committed. In addition, as a result of the correction of a ministerial error, we have determined that critical circumstances do not exist with respect to Sidmar's and Cockerill Sambre's exports of hot-rolled steel. The specific analyses of the ministerial error allegations and the critical circumstances determination are included in the memorandum which is contained in the case file located in the Central Records Unit, room B–099, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Suspension of Liquidation

The estimated margins and the All Others rate have changed as indicated below. In accordance with section 733(d)(2) of the Tariff Act of 1930, as amended, the Department will direct customs to continue to require a cash deposit or posting of a bond on all entries equal to the corrected estimated amounts by which the foreign market value of the subject merchandise exceeds the United States price as shown below. Since our corrections have led us to determine that critical circumstances do not exist for imports of hot-rolled steel, suspension of liquidation for those imports should begin on the date of publication of the preliminary determination, February 4, 1993, rather than 90 days prior to that date, as previously stated. The corrected margins are as follows:

Producer/manufacturer/exporter	Weighted-average margin percentage	Critical circumstances
Hot-Rolled Steel:		
Cockerill Sambre ..	4.87	No.
Sidmar	4.87	No.
All others	4.87	No.
Cold-rolled steel:		
Sidmar	27.10	Yes.
All others	27.10	Yes.

Dated: March 2, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–5387 Filed 3–8–93; 8:45 am]

BILLING CODE 3510–DS–P

[A–100–003]

Notice of Public Hearing Schedule: Antidumping Duty Investigations of Certain Steel Products From Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Republic of Korea, Mexico, Netherlands, Poland, Romania, Spain, Sweden, and the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 9, 1993.

FOR FURTHER INFORMATION CONTACT: Ed Yang (Australia, Canada, Japan, Mexico); Richard Weible (Argentina, Brazil); Bernard Carreau (Korea); or Gary Taverman (European countries), Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0406, (202) 482–1103, (202) 482–2104, or (202) 482–0161, respectively.

Hearing Schedule

In its preliminary determinations, the Department of Commerce (the Department) stated that a briefing and hearing schedule would be published in the **Federal Register** after receipt of all requests for hearings in these investigations. We have received requests for hearings from various parties in investigations involving 18 countries. Accordingly, we have scheduled public hearings for each country in addition to a hearing covering general scope issues. We request that parties in these cases provide an executive summary in conjunction with case briefs of no more than ten pages on the major issues to be addressed (5 pages for the scope hearing). Further, briefs should contain a table of authorities. Citations to

Commerce determinations and court decisions should include the page number where the cited information appears. In preparing the briefs, please begin each issue on a separate page. Finally, the Scope Hearing scheduled for May 27, 1993, will cover scope issues in both the antidumping and countervailing duty investigations of flat-rolled steel products.

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary no later than the dates specified for each particular country in the table below. Parties should confirm by telephone the time, date, and place of the hearings 48 hours before the scheduled time.

Following is the hearing schedule along with due dates for case and rebuttal briefs:

Country	Date	Time	Room	Brief Due Dates	
				Case	Rebuttal
Argentina	5/14	2:00 p.m.	4830	5/7	5/12
Australia	5/11	9:00 a.m.	1851	5/4	5/7
Austria	5/7	1:30 p.m.	1412	4/30	5/5
Belgium	5/13	9:00 a.m.	4830	5/6	5/11
Brazil	5/6	9:00 a.m.	1414	4/29	5/4
Canada	5/25	9:00 a.m.	1412	5/18	5/21
Finland	5/4	9:00 a.m.	1412	4/27	4/30
France	5/7	9:00 a.m.	1412	4/30	5/5
Germany	5/12	9:00 a.m.	1412	5/5	5/10
Japan	5/26	9:00 a.m.	1414	5/19	5/24
Korea	5/24	9:00 a.m.	1851	5/17	5/20
Mexico	5/24	2:00 p.m.	1851	5/17	5/20
Netherlands	5/11	1:30 p.m.	4830	5/4	5/7
Poland	5/10	9:00 a.m.	1412	5/3	5/6
Romania	4/30	1:30 p.m.	1412	4/23	4/28
Spain	4/30	9:00 a.m.	1412	4/23	4/28
Sweden	5/10	1:30 p.m.	1412	5/3	5/6
United Kingdom	5/4	1:30 p.m.	1412	4/27	4/30
Scope Hearing	5/27	9:00 a.m.	1414	5/20	5/25

This notice is published pursuant to section 703(f) of the Tariff Act of 1930, as amended (19 U.S.C. 1671b(f)).

Dated: March 3, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–5386 Filed 3–8–93; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Bilateral Textile Consultations with the Government of Argentina on Certain Cotton Textile Products

March 4, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on categories for which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On February 26, 1993, under the terms of Article 3 of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, as further extended on December 9, 1992, the Government of the United States requested consultations with the Government of Argentina with respect to cotton poplin and broadcloth in Category 314, produced or manufactured in Argentina.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of Argentina, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of cotton poplin and broadcloth in Category 314, produced or manufactured in Argentina and exported during the twelve-month period which began on February 26, 1993 and extends through February 25, 1994, at a level of not less than 2,815,159 square meters.

A summary market statement concerning Category 314 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 314, or to comment on domestic production or availability of products included in Category 314, is invited to submit 10 copies of such comments or information to J. Hayden Boyd, Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of Argentina.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating

to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Category 314. Should such a solution be reached in consultations with the Government of Argentina, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992).

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Argentina

Category 314—Cotton Poplin and Broadcloth

February 1993

Import Situation and Conclusion

U.S. imports of cotton poplin and broadcloth fabric, Category 314, from Argentina surged to 4,207,454 square meters in 1992, one thousand times the 4,407 square meters imported in 1991 and 150 times the 28,306 square meters imported in 1990. Argentina became the tenth largest supplier of cotton poplin and broadcloth fabric to the U.S., accounting for two percent of total Category 314 imports in 1992. In 1991, Argentina was ranked 40th among the major suppliers, accounting for less than one tenth of one percent of total imports.

The sharp and substantial increase of Category 314 imports from Argentina is disrupting the U.S. market for cotton poplin and broadcloth fabric.

U.S. Production, Import Penetration and Market Share

U.S. production of cotton poplin and broadcloth fabric declined every year since 1988, falling to 60,458,000 square meters in 1991, 38 percent below the 1990 level, and 60 percent below the 1988 level. Production continued downward in 1992, falling to 32,841,000 square meters during January-September 1992, 29 percent below the January-September 1991 level. In contrast, U.S. imports of Category 314 increased from 160,727,000 square meters in 1988 to 202,472,000 square meters in 1991, a 26 percent increase. Category 314 imports surged in 1992 reaching 265,174,000 square meters, 31 percent above the 1991 level.

The ratio of imports to domestic production tripled, increasing from 106 percent in 1988 to 335 percent in 1991. The ratio of imports to domestic production doubled in 1992, increasing to 630 percent for the first three quarters of 1992, from the 313 percent recorded in January-September 1991. The domestic producers' share of the U.S. cotton poplin and broadcloth fabric market fell from 49 percent in 1988 to 23 percent in 1991. The decline continued in 1992, with the domestic producers' share of the market falling to 14 percent during the first three quarters of 1992.

Duty-Paid Value and U.S. Producers' Price

Nearly all of Category 314 imports from Argentina during 1992 entered the U.S. under HTSUSA number 5208.32.4020—dyed poplin or broadcloth fabric containing more than 85 percent by weight cotton, of yarn numbers 43–68, and weighing more than 100 grams per square meter but less than 200 grams per square meter. These fabrics entered the U.S. at landed duty paid values below U.S. producers' prices for comparable fabrics.

[FR Doc. 93–5380 Filed 3–8–93; 8:45 am]

BILLING CODE 3510–DR–F

Request for Public Comments on Bilateral Textile Consultations with Colombia on Certain Wool Textile Products

March 4, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on categories for which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On February 26, 1993, under the terms of section 204 of the Agricultural Act of 1956, as amended, the Government of the United States requested consultations with the Government of Colombia with respect to wool textile products in Category 443, produced or manufactured in Colombia.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of Colombia, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of wool textile products in Category 443, produced or manufactured in Colombia and exported during the twelve-month period which began on February 26, 1993 and extends through February 25, 1994, at a level of not less than 89,255 numbers for Category 443.

A summary market statement concerning Category 443 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 443, or to comment on domestic production or availability of products included in Category 443, is invited to submit 10 copies of such comments or information to J. Hayden Boyd, Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of Colombia.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Category 443. Should such a solution be reached in consultations with the Government of Colombia, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see

Federal Register notice 57 FR 54976, published on November 23, 1992).

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Colombia

Category 443—Men's and Boys' Wool Suits

February 1993

Import Situation and Conclusion

U.S. imports of men's and boys' wool suits, Category 443, from Colombia reached 92,080 units (7,673 dozen) during 1992, nine times the 9,932 units (828 dozen) imported during 1991 and two and a half times the 37,756 units (3,146 dozen) imported during 1990. Colombia became the tenth largest supplier of Category 443 imports to the U.S., accounting for 2.8 percent of U.S. imports of men's and boys' wool suits, Category 443, in 1992. In 1991, Colombia was the 25th largest supplier accounting for 0.4 percent of total Category 443 imports. In 1990, Colombia was the 17th largest supplier accounting for 1.6 percent of total Category imports.

The sharp and substantial increase of Category 443 imports from Colombia is disrupting the U.S. market for men's and boys' wool suits.

U.S. Production, Import Penetration and Market Share

U.S. production of men's and boys' wool suits, Category 443, declined in every year since 1988, falling from 482,000 dozen in 1988 to 315,000 dozen 1991, a 35 percent decline. U.S. production continued downward in 1992, falling to 231,000 dozen in the first three quarters of 1992 period, 2 percent below the 236,000 dozen produced in the January-September 1991 period. U.S. imports increased from 167,000 dozen in 1988 to 214,000 dozen in 1991, a 28 percent increase. U.S. imports surged in 1992, reaching a record level 277,580 dozen in 1992, 30 percent above the 1991 level.

The ratio of imports to domestic production in Category 443 increased from 35 percent in 1988 to 68 percent in 1991. The ratio of imports to domestic production jumped to 91 percent during the first three quarters of 1992. The domestic manufacturers' share of the market for men's and boys' wool suits declined from 74 percent in 1988 to 60 percent in 1991, a decline of 14 percentage points. This decline continued in 1992 with the domestic manufacturers' share of the market falling to 52 percent in the January-September 1992 period.

Duty-Paid Value and U.S. Producers' Price

Approximately 94 percent of Category 443 imports from Colombia during 1992 entered the U.S. under HTSUSA number 6203.11.2000—men's and boys' wool suits, other than those containing 30 percent or more by weight of silk. These suits entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable wool suits.

[FR Doc. 93-5381 Filed 3-8-93; 8:45 am]

BILLING CODE 3510-DR-F

Request for Public Comments on Bilateral Textile Consultations with the Government of Costa Rica on Certain Wool Textile Products

March 4, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on categories for which consultations have been requested, call (202) 482-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On February 25, 1993, under the terms of Section 204 of the Agricultural Act of 1956, as amended, the Government of the United States requested consultations with the Government of Costa Rica with respect to wool trousers, breeches and shorts in Category 447, produced or manufactured in Costa Rica.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of Costa Rica, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of wool textile products in Category 447, produced or manufactured in Costa Rica and exported during the twelve-month period which began on February 25, 1993 and extends through February 24, 1994, at a level of not less than 7,971 dozen.

A summary market statement concerning Category 447 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 447, or to comment on domestic production or availability of products included in Category 447, is invited to submit 10 copies of such comments or information to J. Hayden Boyd, Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of Costa Rica.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Category 447. Should such a solution be reached in consultations with the Government of Costa Rica, further notice will be published in the Federal Register.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 57 FR 54976, published on November 23, 1992).

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Costa Rica

Category 447—Men's and Boys' Wool Trousers, Slacks and Shorts

February 1993

Import Situation and Conclusion

U.S. imports of men's and boys' wool trousers, slacks and shorts, Category 447, from Costa Rica reached 8,704 dozen in 1992, more than double the 4,064 dozen imported during 1991. Costa Rica became the tenth largest supplier of men's and boys' wool trousers, slacks and shorts to the U.S. market, accounting for 2.6 percent of total Category 447 imports in 1992. In 1991, Costa Rica ranked thirteenth among the major suppliers accounting for 1.5 percent of total category imports.

The sharp and substantial increase in Category 447 imports from Costa Rica is disrupting the U.S. market for men's and boys' wool trousers, slacks and shorts.

U.S. Production, Import Penetration, and Market Share

U.S. production and U.S. imports of men's and boys' wool trousers, slacks and shorts, Category 447, followed the same trend between 1987 and 1989, increasing in 1988 and decreasing in 1989. The percent changes during this period were approximately the same for production and imports. During 1987–1989, the import to production ratio remained relatively constant averaging 52 percent. The U.S. producers' share of the market remained constant at 66 percent during 1987–1989.

Since 1990, U.S. production of men's and boys' wool trousers slacks and shorts, Category 447, continued the decline begun in 1988, falling 35 percent in 1991 from the 1990 level and four percent in the first three quarters of 1992 from the January-September 1991 level. U.S. imports on the other hand have increased since 1990, increasing 12 percent in 1991 over the 1990 level and surging in 1992, up 20 percent over the 1991 level.

The ratio of imports to domestic production doubled between 1990 and 1992 increasing from 47 percent in 1990 to 80 percent in 1991 to 97 percent during January-September 1992. The domestic manufacturers' share of the U.S. market for men's and boys' wool trousers, slacks and shorts fell from 68 percent in 1990 to 56 percent in 1991 to 51 percent during January-September 1992, a decline of 17 percentage points.

Duty-Paid Value and U.S. Producers' Price

Approximately 85 percent of Category 447 imports from Costa Rica during 1992 entered the U.S. under HTSUSA number 6203.41.1010—men's wool trousers and breeches. These men's wool trousers and breeches entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable men's wool trousers and breeches.

[FR Doc. 93–5382 Filed 3–8–93; 8:45 am]

BILLING CODE 3510-DR-F

Extension of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in the United Arab Emirates

March 4, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs extending a limit.

EFFECTIVE DATE: March 11, 1993.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The United States Government has decided to continue the restraint on Category 313 for an additional twelve-month period, beginning on March 1, 1993 and extending through February 28, 1994.

The United States remains committed to finding a solution concerning Category 313. Should such a solution be reached in consultations with the Government of the United Arab Emirates, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 22463, published on May 28, 1992.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 4, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 11, 1993, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 313, produced or manufactured in the United Arab Emirates and exported during the period beginning on March 1, 1993 and extending through February 28, 1994, in excess of 2,539,652 square meters [1].

Imports charged to this category limit for the period February 29, 1992 through February 28, 1993 shall be charged against the level of restraint to the extent of any unfilled balance. Goods in excess of that limit shall be subject to the limit established in this directive.

For the import period February 29, 1992 through May 30, 1992, you are directed to charge 426,841 square meters to Category 313 for the restraint period which began on February 29, 1992 and extended through February 28, 1993. These charges are in addition to those previously submitted for this import period.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–5379 Filed 3–8–93; 8:45 am]

BILLING CODE 3510-DR-F

[1] The limit has not been adjusted to account for any imports exported after February 28, 1993.

DEPARTMENT OF DEFENSE

Advisory Council on Dependents' Education; Meeting

AGENCY: Department of Defense Dependents Schools (DoDDS), Office of the Secretary of Defense.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Dependents' Education (ACDE). It also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act. Although the meeting is open to the public, because of space constraints, anyone wishing to attend the meeting should contact the point of contact listed below.

DATES: April 2, 1993, 9 a.m. to 4:30 p.m. and April 3, 1993, 9 a.m. to 2 p.m.

ADDRESSES: April 2, The Pentagon, room 3E869, Washington, DC; April 3, Embassy Suites Hotel, Adams Morgan Room, 1402 Eads Street, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Ms. Marilyn Witcher, Public Affairs Officer, DoD Dependents Schools, 1225 Jefferson Davis Highway, Crystal

Gateway #2, suite 1500, Arlington, Virginia 22202; Telephone number: 703–746–7846.

SUPPLEMENTARY INFORMATION: The Advisory Council on Dependents' Education is established under title XIV, section 1411, of Public Law 95–561, Defense Dependents' Education Act of 1978, as amended by title XII, section 1204(b)(3)–(5), of Public Law 99–145, Department of Defense Authorization Act of 1986 (20 U.S.C., chapter 25A, section 929, Advisory Council on Dependents' Education). The Council is cochaired by designees of the Secretary of Defense and the Secretary of Education. In addition to a representative of each of the Secretaries, 12 members are appointed jointly by the Secretaries. Members include representatives of educational institutions and agencies, professional employee organizations, unified military commands, school administrators, parents of DoDDS students, and one DoDDS student. The Director, DoDDS, serves as the Executive Secretary of the Council. The purpose of the Council is to advise the Secretary of Defense and the DoDDS Director about effective educational programs and practices that should be considered by DoDDS and to perform other tasks as may be required by the Secretary of Defense. The agenda includes discussions about the national goals for education, academic achievement encouragement, education of handicapped dependents, communications throughout the system, increased parental involvement, drawdown planning, educational technologies, and responses to the recommendations made by the Council during its October 1992 meeting.

Dated: March 2, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–5291 Filed 3–8–93; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing; Meeting

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 8:30 a.m. to 4:30 p.m. on March 24, 1993, and from 8:30 a.m. to 4:30 p.m. on March 25, 1993. The meeting will be held at the Hawthorn Suites Hotel, 181 Church Street, Charleston, S.C. The purpose of the meeting is to review planned changes in the Department of Defense's Student Testing Program and progress in developing paper-and-pencil and computerized enlistment tests.

Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. Jane M. Arabian, Assistant Director, Accession Policy, Office of the Assistant Secretary of Defense (Force Management and Personnel), room 2B271, The Pentagon, Washington, DC 20301–4000, telephone (703) 695–5525, no later than March 15, 1993.

Dated: March 3, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–5290 Filed 3–8–93; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The Mid Course Panel of the USAF Scientific Advisory Board's Committee on Options for Theater Air Defense will meet 30–31 March 1993, at the ANSER Corporation, 1215 Jefferson Davis Highway, Arlington, VA from 8 a.m. to 5 p.m.

The purpose of this meeting will be to receive briefings and gather information on issues related to theater air defense.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–5294 Filed 3–8–93; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

March 2, 1993.

The USAF Scientific Advisory Board (SAB) will hold its Spring General Board Meeting on 13–14 April 1993 from 8 a.m. to 5 p.m. at Human Systems Center (HSC), Brooks AFB, San Antonio, Texas.

The purpose of this meeting is to receive briefings on Information Technologies in Support of Operational Intelligence and Human Systems Development, and to discuss the status of the 1993 SAB Summary Studies on Information Architectures and Options for Theater Air Defense.

This meeting will involve discussions of classified defense and contractor proprietary matters listed in section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof, and accordingly will be closed to the public.

For further information, contact the USAF Scientific Advisory Board Secretariat at (703) 697–8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–5292 Filed 3–8–93; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[Fe Docket No. 93–05–NG]

The Lenape Resources Corp.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting The Lenape Resources Corporation authorization to import up to 50 billion cubic feet of natural gas from Canada over a two-year period beginning on the date of the first delivery.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4.30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 3, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–5376 Filed 3–8–93; 8:45 am]

BILLING CODE 6450–01–M

[Fe Docket No. 93–14–NG]

Mock Resources, Inc.; Order Granting Blanket Authorization To Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Mock Resources, Inc. (MRI) authorization to import and export up to

a combined total of 50 billion cubic feet of natural gas from and to Canada over a two-year period beginning on the date of the first delivery after March 31, 1993, the date MRI's current authorization expires.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 3, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–5375 Filed 3–8–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER93–392–000, et al.]

Sho-Me Power Corp., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

February 26, 1993.

Take notice that the following filings have been made with the Commission:

1. Sho-Me Power Corp.

[Docket No. ER93–392–000]

Take notice that on February 24, 1993, Sho-Me Power Corporation tendered for filing a notice of cancellation of service.

Comment date: March 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Idaho Power Co.

[Docket No. ER93–370–000]

Take notice that on February 12, 1992, Idaho Power Company (Idaho) tendered for filing Exhibit Revisions to Idaho's FERC Rate Schedule No. 77.

Comment date: March 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Portland General Electric Co.

[Docket No. ER93–383–000]

Take notice that on February 19, 1993, Portland General Electric Company (PGE) tendered for filing a Notice of Cancellation of Rate Schedule No. 81.

Comment date: March 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Northern States Power Co. (Minnesota)

[Docket No. ER93–259–000]

Take notice that on February 23, 1993, Northern States Power Company (Minnesota) (NSP) tendered for filing an Amendment to its initial filing in Docket No. ER93–259–000. The Amendment provides certain additional information requested by Commission Staff supporting NSP's request for market based pricing for certain sales services to be provided under the Municipal Interconnection and Interchange Agreements (Agreements) submitted in the initial filing. NSP states that the Amendment does not propose to revise the rates or terms and conditions of the Agreements.

NSP again requests that the nine Agreements be accepted for filing effective January 1, 1993, and requests waiver of the Commission's notice requirements in order for the Agreements to be accepted for filing on the date proposed.

Comment date: March 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Co. (Minnesota)

[Docket No. ER93–385–000]

Take notice that Northern States Power Company (Minnesota) (NSP) on February 19, 1993, tendered for filing proposed changes in its Federal Energy Regulatory Commission wholesale sales rates. The proposed changes are submitted pursuant to the part 35 of the Commission's Rules and Regulations.

The affected wholesale customers and the current FERC rate schedule designations of their contract are as follows:

Customer	FERC rate schedule No.
City of Arlington, Minnesota	421
City of Brownton, Minnesota	422
City of North St. Paul, Minnesota	429
City of Shakopee, Minnesota	431
City of Winthrop, Minnesota	433
City of Anoka, Minnesota	420
City of Chaska, Minnesota	424
City of Le Sueur, Minnesota	392
City of Olivia, Minnesota	388

NSP seeks a total increase of $2.32 million, or 8.7%, above the rates currently in effect based on a calendar year 1993 test year. NSP states that the proposed rate increases are needed because of increased costs, including costs associated with (i) three new long-term base-load and peaking power supply contracts; (ii) emergency backup generation installed at NSP's Prairie Island nuclear power plant in 1992 to meet Nuclear Regulatory Commission requirements; (iii) accounting changes for post-retirement benefits other than pensions (SFAS 106 costs); (iv) property taxes; and (v) other labor costs.

Comment date: March 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. The United Illuminating Co.

[Docket No. ER93–387–000]

Take notice that on February 22, 1993, The United Illuminating Company (UI) tendered for filing a rate schedule for a short-term, coordination transaction involving the sale of capacity entitlements to Green Mountain Power Corporation (GMP). The rate schedule corresponds to a letter agreement, dated February 3, 1993, between UI and GMP. The commencement date for service under the agreement is May 1, 1993. UI proposes that the rate schedule commence on this date.

The service provided under the agreement is the provision of capacity entitlements and associated energy from UI's New Haven Harbor Station.

Copies of the filing were mailed to GMP.

Comment date: March 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Central Vermont Public Service Corp.

[Docket No. ER93–386–000]

Take notice that on February 22, 1993, Central Vermont Public Service Corporation tendered for filing a Service Agreement which provides for service pursuant to Central Vermont's FERC Electric Tariff No. 5.

To the extent necessary to allow for the sale of power pursuant to the Service Agreement commencing April 9, 1993, Central Vermont requests that the Commission waive its notice requirements. In support of its requests Central Vermont states that allowing the Service Agreements to become effective as provided will enable the Company and its customers to achieve mutual benefits.

Comment date: March 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Louisville Gas and Electric Co.

[Docket No. ER93–368–000]

Take notice that on February 10, 1993, Louisville Gas and Electric Company (LG&E), tendered for filing modifications to its Interconnection Agreements with Big Rivers Electric Corporation, Illinois Municipal Electric Agency, PSI Energy, and Wabash Valley

Power Associations, Inc. Said modifications were requested by the Commission Staff in a review of the above-referenced docket concerning the Interchange Agreement between LG&E and Oglethorpe Power Corporation.

In the filing, the rate schedules associated with LG&E's interconnection agreements or interchange agreements named above were modified to contain the same language proposed in the Oglethorpe Agreement which limits the revenue collected during any week pursuant to the application of an hourly or daily demand charge to the product of the weekly demand charge times the highest amount in kilowatts reserved during any hour during the week.

A copy of the filing was served upon the Kentucky Public Service Commission and the Indiana Utility Regulatory Commission.

Comment date: March 12, 1993, in accordance with Standard Paragraph E end of this notice.

9. Idaho Power Co.

[Docket No. ER93–371–000]

Take notice that on February 12, 1993, Idaho Power Company (Idaho) tendered for filing revisions to Idaho's FERC Rate Schedule No. 83.

Comment date: March 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Montaup Electric Co.

[Docket No. ER93–380–000]

Take notice that on February 16, 1993, Montaup Electric Company (Montaup) tendered for filing a report of refunds and revised rate schedules implementing a pass-through of a reduction in Connecticut Sales and Use Taxes levied on charges by Northeast Utilities (NU) to Montaup for services performed by NU in connection with the Millstone No. 3 generating unit, in which Montaup has a 4.009% joint ownership interest. The filing is made in accordance with the terms of an adjustment clause contained in Montaup's rate schedules as a result of a Settlement Agreement in the M–13 rate proceeding in Docket No. ER91–300–000. The filing reports refunds of $173,870 and provides for a reduction in charges from $13,333 to $3,459 per month, effective July 1, 1992. Montaup requests waiver of the notice requirement to place the reduction in effect as of that date.

Comment date: March 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Safe Harbor Water Power Corp.

[Docket No. ER93–377–000]

Take notice that on February 12, 1993, Safe Harbor Water Power Corporation (Safe Harbor) tendered for filing a Notice of Cancellation of Supplement No. 3 to Rate Schedule No. 7, which was replaced by Supplement No. 6 and Supplement No. 4 to FERC Rate Schedule No. 7.

Comment date: March 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Safe Harbor Water Power Corp.

[Docket No. ER93–369–000]

Take notice that on February 12, 1993, Safe Harbor Water Power Corporation (Safe Harbor) tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 3 and 4.

Comment date: March 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. Florida Power Corp.

[Docket No. ER93–252–000]

Take notice that on February 12, 1993, Florida Power Corporation filed a supplement to its original filing correcting an error in the language of the service agreement as tendered for filing. As originally filed the service agreement incorporated Second Revised Volume No. 1 by reference. The filing made today incorporates First Revised Volume No. 1 by reference in order to correspond to the requested effective date for the filing of June 1, 1987. The service agreement automatically incorporates by reference any later changes to the tariff.

Comment date: March 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5362 Filed 3–8–93; 8:45 am]

BILLING CODE 6717–01–M

Potlatch Corp.; Availability of Environmental Assessment

[Project No. 2533–006 Minnesota]

March 3, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new major license for the existing Brainerd Hydroelectric Project, located on the Mississippi River in Crow Wing County, Minnesota, in the city of Brainerd, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the existing and potential future environmental impacts of the project and has concluded that approval of the project would not constitute a major federal action that would significantly affect quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5355 Filed 3–8–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–88–000]

Arkla Energy Resources, a Division of Arkla, Inc.; Filing

March 3, 1993.

Take notice that on March 1, 1993, Arkla Energy Resources, a division of Arkla, Inc. ("AER") tendered for filing six copies of the following revised tariff sheets to become effective April 1, 1993:

Second Revised Volume No. 1

Eighteenth Revised Sheet No. 11
Eighteenth Revised Sheet No. 16

First Revised Volume No. 1–A

Sixth Revised Sheet No. 5

These revised tariff sheets are filed in compliance with the Stipulation and Agreement ("Stipulation") approved by Commission order in Docket No. RP91–49–000 on March 31, 1992. 58 FERC ¶61,359 (1992).

Pursuant to the Stipulation, the proposed tariff sheets reflect a revised CSC Charge and CSC Rate Credit of an equal amount. AER has also performed an Annual Recovery Reconciliation pursuant to the Stipulation.

Any person desiring to be heard or protest the proposed tariff sheets should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before March 10, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5361 Filed 3–8–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–4–24–000]

Equitrans, Inc.; Proposed Changes in FERC Gas Tariff

March 3, 1993.

Take notice that Equitrans, Inc. (Equitrans) on February 26, 1993, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective March 1, 1993:

Third Revised Sub Forty-Second Revised Sheet No. 10
Fourth Revised Thirtieth Revised Sheet No. 34

Equitrans states that the filing implements an Out-of-Cycle Purchased Gas Cost Adjustment to reflect (1) an increase in Equitrans' pipeline supplier rates under Kentucky West Virginia's Rate Schedule PLS–1 filed in Docket No. TQ93–5–46–000 on February 26, 1993; and (2) increases in the purchased gas costs of spot market purchases and Southwest supply purchases. Equitrans states that the filing is necessary in order to have the rates charged to Equitrans' jurisdictional customers more closely reflect the experienced cost of gas being incurred by the Applicant.

Equitrans also states that the changes proposed in the filing to the purchased gas cost adjustment under Rate Schedule PLS is an increase in the demand cost of $0.3832 per dekatherm (Dth) and an increase in the commodity cost of $0.5305 per Dth. The purchased gas cost adjustment to Rate Schedule ISS is an increase of $0.1054 per Dth.

Pursuant to § 154.51 of the Commission's Regulations, Equitrans requests that the Commission grant any waivers necessary to permit the tariff sheets contained herein to become effective on March 1, 1993.

Equitrans states that a copy of its filing has been served upon each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 10, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5358 Filed 3–8–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–187–008]

Florida Gas Transmission Co.; Compliance Filing

March 3, 1993.

Take notice that on February 26, 1993, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume I, the tariff sheets listed in Appendices A and B attached to the filing, pursuant to the November 2, 1992 Stipulation and Agreement (Settlement) in the above-referenced docket and the Commission's January 15, 1993 order approving the settlement.

On January 15, 1993 the Commission issued an order approving the settlement in Docket No. RP91–187 *et al.* Pursuant to Article VIII, the settlement is to be effective upon the first date of the first month following issuance of a final Commission order. FGT states that because no party has requested rehearing as of February 15, 1993, the settlement will become effective March 1, 1993.

FGT states that a copy of its filing has been mailed to all customers affected by this filing and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 10, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5360 Filed 3–8–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–5–46–000]

Kentucky West Virginia Gas Co.; Proposed Change in FERC Gas Tariff

March 3, 1993.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on February 26, 1993, tendered for filing with the Federal Energy Regulatory Commission (Commission) an Out-of-Cycle PGA filing, which includes Forty-Seventh Revised Sheet No. 41 to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective March 1, 1993. Kentucky West states that the revised tariff sheets reflects a current increase of $0.1930 per Dth in the average cost of purchased gas resulting in a Weighted Average Cost of Gas of $2.1714 per Dth.

Kentucky West states that effective March 1, 1993, pursuant to its obligations under various gas purchase contracts, it has specified a total price of $2.1850 per Dth, inclusive of all taxes and any other production-related cost add-ons, that it would pay under these contracts.

Pursuant to § 154.51 of the Commission's regulations, Kentucky West requests waiver of the thirty day notice requirement to permit the tariff sheet attached to the filing to become effective on March 1, 1993. In addition, Kentucky West requests waiver of § 154.304 of the Commission's regulations and any other provisions of the Commission's regulations necessary to permit the tariff sheets to become effective March 1, 1993.

Kentucky West states that, by its filing, or any request or statement made

therein, it does not waive any rights to collect amounts, nor the right to collect carrying charges applicable thereto, to which it is entitled pursuant to the mandate of the United States Court of Appeals for the Fifth Circuit issued March 6, 1986, in *Kentucky West Virginia Gas Co.* v. *FERC.*, 780 F.2d 1231 (5th Cir. 1986), or to which it is or becomes entitled pursuant to any other judicial and/or administrative decisions.

Kentucky West states that a copy of its filing has been served upon each of its jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 10, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5359 Filed 3–8–93; 8:45 am]

BILLING CODE 6717–01–M

Public Service Company of Colorado; Filing

[Docket No. ER92–317–001]

March 3, 1993.

Take notice that on February 1, 1993, Public Service Company of Colorado tendered for filing its compliance filing in response to the Commission's order issued in this docket on January 13, 1993.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 17, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5356 Filed 3–8–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ES93–22–000]

Rayburn Country Electric Cooperative, Inc.; Application

March 3, 1993.

Take notice that on March 1, 1993, Rayburn Country Electric Cooperative, Inc. filed an application with the Federal Energy Regulatory Commission under § 204 of the Federal Power Act requesting authorization to issue promissory notes under two loan agreements, one loan agreement in the amount of not more than $4,048,065 million of promissory notes and one loan agreement in the amount of not more than $22,939,032 million of promissory notes.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5357 Filed 3–8–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4602–7]

Science Advisory Board, Clean Air Act Compliance Analysis Council; Meeting

Under Public Law 92–463, notice is hereby given that the Clean Air Act Compliance Analysis Council (CAACAC) of the Science Advisory Board will meet on March 25, 1993 at the Marriott Suites Hotel, 1999 Jefferson Davis Highway, Arlington VA 22202. The hotel telephone number is (703) 413–5500.

The meeting, which is open to the public, will start at 9 a.m. and adjourn no later than 5:30 p.m. Its main purpose is to continue the discussion and review of issues related to retrospective and prospective studies of the impacts of the Clean Air Act (and its subsequent amendments) in progress by the Environmental Protection Agency. The Council will address macro-modeling issues, including the development of economic surplus estimates, the sensitivity of macroeconomic model results to endogenous technological change specifications, and the sensitivity to alternative foreign sector specifications. Agency staff will also brief the Council on approaches for estimating the benefits of controlling air toxics, and on the analytical framework for the forthcoming prospective analysis of the impacts of the Clean Air Act.

Requests for copies of the documents to be reviewed by the Council and questions concerning their content should be addressed to Ms. Anne Grambsch, Office of Policy, Planning, and Evaluation (PM223X), U.S. Environmental Protection Agency, 401 M Street, SW., Washington DC 20460. Ms. Grambsch may be called at 202–260–2782; these documents are not available from the Science Advisory Board. An agenda for the meeting is available from the Science Advisory Board (A101F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington DC 20460 (202–260–6552). Members of the public desiring additional information about the conduct of the meeting should contact Mr. Samuel Rondberg, Designated Federal Official, Clean Air Act Compliance Analysis Council, by telephone at the number noted above of by mail to the address noted above. Anyone wishing to make a presentation at the meeting should forward a written statement (35 copies) to Mr. Rondberg by March 19, 1993. The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes.

Dated: February 23, 1993.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 93–5366 Filed 3–8–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted To OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or method of collection
Title: Deregistration Form for Registered Transfer Agents
Form Number: Unnumbered
OMB Number: 3064–0027
Expiration Date of OMB Clearance: May 31, 1993
Respondents: Insured state nonmember banks
Frequency of Response: On occasion
Number of Respondents: 22
Number of Responses Per Respondent: 1
Total Annual Responses: 22
Average Number of Hours Per Response: 0.42
Total Annual Burden Hours: 9
OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0027, Washington, D.C. 20503
FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429
Comments: Comments on this collection of information are welcome and should be submitted before [insert 60 days after date of publication in the **Federal Register**]

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: An insured state nonmember bank that functions as a transfer agent may withdraw from registration as a transfer agent by filing a written notice of withdrawal with the FDIC as provided for by 12 CFR 341.5.

Dated: March 3, 1993.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 93–5309 Filed 3–8–93; 8:45 am]
BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability: BEECAVE2, Austin, Travis County, TX

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as the "BEECAVE2" located in Travis County, Texas is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written Notices of Serious Interest to purchase or effect other transfer of the property may be mailed or faxed to the Federal Deposit Insurance Corporation in care of AMRESCO Management, Inc. until June 7, 1993.

ADDRESSES: Copies of detailed descriptions of the property can be obtained by contacting the following person: John Lynass, AMRESCO Management, Inc., P.O. Box 830106, 32nd Floor, Dallas, Texas 75283–0106, Telephone: (214) 508–7724, Facsimile (214) 508–4439.

SUPPLEMENTARY INFORMATION: BEECAVE2 is located in southwest Austin, Travis County, Texas. The property is legally described as 546.344 acres out of the H.T. & B Railroad Co. Survey No. 1, Abstract No. 413, W.P. Moore Survey No. 525, Abstract No. 557, J. Swisher Survey No. 152, Abstract No. 691, the H.C. Bohls Survey No. 1, Abstract No. 2770, Travis County, Texas. It comprises two non-contiguous tracts of land, one with 464.190 acres and the other with 82.154 acres.

Both tracts are irregularly shaped and typical hill county terrain characterized by steep canyons and an abundance of native vegetation. The property adjoins Lake Austin, managed by the Lower Colorado River Authority.

Written notice of serious interest to purchase the property must be received on or before June 7, 1993 by John Lynass, at the address above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the federal government.

2. Agencies or entities of state or local government, and

3. "Qualified organizations" pursuant to section 170(h) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(s)).

Form of Notice

Notices of serious interest should be in the following form:

Notice of Serious Interest re: BEECAVE2, Travis County, Texas.

1. Name of eligible entity.

2. Declaration of eligibility to submit notice under criteria set forth in Public Law 101–591, section 10(b)(2).

3. Brief description of proposed terms of purchase or other offer (e.g. price and method of financing).

4. Declaration of entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural or natural resource conservation purposes.

Dated: March 3, 1993.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 93–5308 Filed 3–8–93; 8:45 am]
BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability: Lakline, Williamson County, TX

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as the "Lakline Property" located in Austin, Texas is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written Notices of Serious Interest to purchase or effect other transfer of the property may be mailed or faxed to the Federal Deposit Insurance Corporation in care of AMRESCO Management, Inc. until June 7, 1993.

ADDRESSES: Copies of detailed descriptions of the property can be obtained by contacting the following person: Don Bordelon, AMRESCO Management, Inc., P.O. Box 830106, 32nd Floor, Dallas, Texas 75283–0106, Telephone: (214) 508–4218, Facsimile (214) 508–6649.

SUPPLEMENTARY INFORMATION: This 69.68 acre tract in Austin, Williamson County, Texas is located near the northwest corner of RR 620 and U.S. Highway Southwest. The property is undeveloped in a primarily retail/residential area and adjoins a 10.45 acre City of Austin tract dedicated for park, recreational, drainage and utility purposes. Bordered on the south by RR 620, it is located adjacent to the proposed Lake Line Mall site.

Written notice of serious interest to purchase the property must be received

on or before June 7, 1993 by Don Bordelon, at the address above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the federal government,

2. Agencies or entities of state or local government, and

3. "Qualified organizations" pursuant to section 170(h) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(s)).

Form of Notice

Notices of serious interest should be in the following form:

Notice of Serious Interest re: LAKLINE, WILLIAMSON COUNTY, TEXAS.

1. Name of eligible entity.

2. Declaration of eligibility to submit notice under criteria set forth in Public Law 101–591, section 10(b)(2).

3. Brief description of proposed terms of purchase or other offer (e.g. price and method of financing).

4. Declaration of entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural or natural resource conservation purposes.

Dated: March 3, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–5307 Filed 3–8–93; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Port of Oakland/Maersk Pacific, Ltd. Marine Terminal Agreement; Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200087–006

Title: Port of Oakland/Maersk Pacific, Ltd Marine Terminal Agreement

Parties: The Port of Oakland, Maersk Pacific, Ltd.

Synopsis: The Agreement deletes approximately two acres from the Truck Parking Area at the Container Freight Station ("CFS"), and sets forth a restated monthly rental for the CFS due to the deletion.

By Order of the Federal Maritime Commission.

Dated: March 3, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–5323 Filed 3–8–93; 8:45 am]

BILLING CODE 6730–01–M

North Atlantic Conference of Port Authorities; Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.602 and/or 572.602 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200611–002

Title: North Atlantic Conference of Port Authorities

Parties: Massachusetts Port Authority Port Authority of New York and New Jersey South Jersey Port Corporation Delaware River Port Authority Maryland Port Administration New Hampshire State Port Authority

Filing Party: Hugh H. Welsh Deputy General Counsel Port Authority of New York and New Jersey One World Trade Center New York, New York 10048

Synopsis: The amendment adds the City of New York as a party to the Agreement.

By Order of the Federal Maritime Commission.

Dated: March 3, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–5324 Filed 3–8–93; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health; Meeting on Impact Noise Effects on Hearing

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Impact Noise Effects on Hearing.

Time and Date: 9 a.m.–4 p.m., March 24, 1993.

Place: Robert A. Taft Laboratories, Main Auditorium, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Status: Open to the public, limited only by the space available.

Purpose: The purpose of this meeting is to discuss the scientific and technical dimensions of and identify and address any deficiencies in the experimental study design of the NIOSH project protocol entitled, "Impact Noise Effects on Hearing." Viewpoints and suggestions from industry, labor, academia, other government agencies, and the public are invited.

Contact Person for Additional Information: Rickie R. Davis, Ph.D., NIOSH, CDC, 4676 Columbia Parkway, Mailstop C–27, Cincinnati, Ohio 45226, telephone 513/533–8142.

Dated: March 3, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–5326 Filed 3–8–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

Advisory Committees; Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the renewal of the Antiviral Drugs Advisory Committee by the Commissioner of Food and Drugs. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463 (5 U.S.C. App.2)).

DATES: Authority for this committee will expire on February 15, 1995, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Donna Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: March 2, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–5332 Filed 3–8–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration

Advisory Committee Meeting; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the agenda of a meeting of the Blood Products Advisory Committee which is scheduled for March 25 and 26, 1993. This meeting was announced in the **Federal Register** of February 16, 1993 (58 FR 8598). The change is being made to expand an item for discussion. There are no other changes. This amendment will be announced at the beginning of the open portion of the meeting.

FOR FURTHER INFORMATION CONTACT: Linda A. Smallwood, Center for Biologics Evaluation and Research (HFM–300), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–227–6700.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 16, 1993, FDA announced that a meeting of the Blood Products Advisory Committee would be held March 25 and 26, 1993. On page 8599, column 2, the open committee discussion portion of the agenda is amended to read as follows:

Agenda—Open committee discussion: On March 25, 1993, the committee will review and discuss labeling for the product license application submitted by Cambridge Bioscience Corp., relative to donor screening criteria for Human T–Lymphocyte Virus Type II (HTLV–II), and in the afternoon review the product license application for a peptide based assay for antibody to Hepatitis C Virus (Anti-HCV), United Biomedical, Inc. (UBI). On March 26, 1993, the committee will discuss and provide comments on draft memoranda entitled: (1) "Revised Recommendations for Testing for Antibody to Hepatitis C Virus Encoded Antigen (Anti-HCV)" and (2) "License Amendments and Procedures for Irradiation of Blood Products." The Committee will also review and discuss a request by Miles, Inc., to extend the indication for intravenous immune globulin (IVIG) to include prophylaxis for bone marrow transplant patients.

Dated: March 2, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–5333 Filed 3–8–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No.'s N–93–3243, FR–3145–N–03; N–93–3439, FR–3289–N–04; N–93–3480, FR–3296–N–02]

Announcement of Funding Awards for Fair Housing Initiatives Program—Fiscal Year 1992

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of FY 1992 funding awards made under the Fair Housing Initiatives Program (FHIP). The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing.

FOR FURTHER INFORMATION CONTACT: Jacquelyn J. Shelton, Director, Office of Fair Housing Assistance and Voluntary Programs, room 5234, 451 Seventh Street, SW., Washington, DC 20410–2000. Telephone number (202) 708–0800. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708–3216. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601–19 (The Fair Housing Act), charges the Secretary of Housing and Urban Development with responsibility accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Fair Housing Act directs the Secretary to coordinate with State and local agencies administering fair housing laws and to cooperate with and render technical assistance to public or private entities carrying out programs to prevent and eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987, 42 U.S.C. 3616 note, established the FHIP to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing. This program assists projects and activities designed to enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. Implementing regulations are found at 24 CFR part 125.

The FHIP has three funding categories: The Administrative Enforcement Initiative, the Education and Outreach Initiative, and the Private Enforcement Initiative.

Fiscal Year 1992 funding for FHIP activities was made available in three separate Notices of Funding Availability (NOFAs). In a NOFA published in the **Federal Register** on May 29, 1992 (57 FR 22872), the Department announced the availability of approximately $6.9 million in funds for FHIP. On May 18, 1992 (57 FR 21127), HUD published a NOFA that made up to $1 million in funding available to conduct a major testing project on mortgage lending practices under the Private Enforcement Initiative of the FHIP. The third NOFA, published on August 19, 1992 (57 FR 37646), announced the availability of $300,00 to fund activities related to the case of *Young* v. *Kemp* (Civil Action No. P–80–8–CA, U.S.D.C., E.D. Tex.) in the 36 East Texas counties involved in this class action suit. Of this amount, $200,000 was made available from FHIP funds. The additional $100,000 was reserved from the Housing Counseling Program.

The Department reviewed, evaluated and scored the applications received based on the criteria in the NOFAs. As a result, HUD has funded the applications announced below, and in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing details concerning the recipients of funding awards, as follows:

FY 92 FAIR HOUSING INITIATIVES PROGRAM, ADMINISTRATIVE ENFORCEMENT INITIATIVE GRANT RECIPIENTS

Agency	Contact person/telephone No.	Address	Region	Maximum amount of award
Connecticut Commission on Human Rights and Opportunities.	Louis Martin (203) 566–4895	90 Washington Street, Hartford, CT 06106.	1	$579,002
Massachusetts Commission Against Discrimination.	Michael T. Duffy (617) 727–5990	One Ashburton Place, Room 601, Boston, MA 02108.	1	76,376
North Carolina Human Relations Commission.	Jim Stowe (919) 733–7996	121 W. Jones Street, Raleigh, NC 27603.	4	170,010
Indiana Civil Rights Commission	Karen M. Freeman-Wilson (317) 232–2614.	100 North Senate Avenue, Room N103, Indianapolis, IN 46204.	5	82,387
Ohio Civil Rights Commission	Joseph T. Carmichael (614) 466–2785.	220 Parsons Avenue, Columbus, OH 43266–0543.	5	308,646
Texas Commission on Human Rights	William Hale (512) 837–8534	8100 Cameron Road, Bldg. B, Suite 525—P.O. Box 13493, Austin, TX 78711.	6	241,244
Nebraska Equal Opportunity Commission.	Lawrence R. Myers (402) 471–2024	P.O. Box 94934, Lincoln, NE 68509–4934.	7	182,849
Montana Human Rights Commission	Anne L. McIntyre (406) 444–2884	P.O. Box 1728, Helena, MT 59624	8	149,216
Arizona Attorney General's Office	Richard Martinez (602) 628–6500	Human Services Division, 1275 W. Washington, Phoenix, AZ 85007.	8	256,506
King County Office of Civil Rights and Compliance.	Manfert M. Lee (206) 296–7592	King County Courthouse, 516 Third Avenue, Room E–224, Seattle, WA 98104–2312.	10	55,340

FY 92 FAIR HOUSING INITIATIVES PROGRAM, EDUCATION AND OUTREACH INITIATIVE (REGIONAL/STATE/LOCAL) GRANT RECIPIENTS

Agency name	Contact person/telephone No.	City and state	Region	Project area (R, S, or L)	Maximum amount for award
Portland West Neighborhood Planning Council.	James Oliver (207) 775–0105	155 Bracket Street, Portland, ME 04103.	1	L	$73,098
The Commonwealth of Massachusetts Housing Finance Agency.	Roger C. McLeod (617) 451–3480 ext. 432.	50 Milk Street, Boston, MA 02109.	1	S	53,043
Lawyer's Committee for Civil Rights Under Law of the Boston Bar Association.	Ozell Hudson, Jr. (617) 482–1145.	294 Washington Street, Boston, MA 02108.	1	S	121,431
Housing Discrimination Project, Inc.	Margaret Maisel (413) 539–9796	380 High Street, Ste 302, Holyoke, MA 01040.	1	R	88,706
Massachusetts Association for Retarded Citizens.	Leo Sarkissian (617) 891–6270	217 South Street, Waltham, MA 02154.	1	R	180,169
Gloucester County Community Housing Resource Board.	Floyd McLean (609) 881–5932	181 Delsea Manor Drive, Glassboro, NJ 08028.	2	L/R	62,845
Long Island Housing Services, Inc	David Beranbaum (516) 582–2727.	1747 Veteran's Memorial Highway—Suite 42A, Islandia, NY 11722.	2	L	166,300
New Jersey Department of Public Advocates.	Dorienne Silva (609) 984–3131	Hughes Justice Complex, CN 850, Trenton, NJ 08525.	2	S	148,151
The Legal Aid Society of New York City.	Susan B. Lindenaver (212) 577–3349.	15 Park Row—22nd Floor, New York, NY 10038.	2	L	92,491
The Greater Baltimore Board of Realtors, Inc.	Fletcher Hall (410) 462–2500	1501 West Mt. Royal Ave., Baltimore, MD 21217.	3	R	50,000
Fair Housing Council of Greater Washington, DC.	Susan Weiss (301) 530–0600	1400 I Street, NW., Suite 530, Washington, DC 20005.	3	R	109,585
City of Lynchburg	Richard Jacques (804) 847–1435	P.O. Box 60, Lynchburg, VA 24505.	3	L	44,000
City of Petersburg	Doris L. Edward (804) 861–2132	400 Farmer Street—Rm. 119, Petersburg, VA 23803.	3	L	103,887
Housing Opportunities Made Equal.	Constance K. Chamberlain (804) 354–0641.	1216 West Cary Street, Richmond, VA 23220.	3	R	107,747
Greater Birmingham Fair Housing Center.	Bobby M. Wilson (205) 934–9679	115 Yorkshire Drive, Birmingham, AL 35209.	4	R	79,376
Latinos United	Carlos R. DeJesus (312) 663–3503.	228 South Wabash, Suite 600, Chicago, IL 60604.	5	R/L	91,881
Housing Coalition of the Southern Suburbs.	Michael D. Roche (708) 201–7769.	14200 Chicago Road, Suite 201, Dolton, IL 60419.	5	L	63,000
Leadership Council for Metropolitan Open Communities.	John Lucheart (312) 341–5678	401 South State Street, Suite 860, Chicago, IL 60605.	5	R	50,000
Interfaith Housing Center of the Northern Suburbs.	Barbara Boyts (708) 501–5760	620 Lincoln Avenue, Winnetka, IL 60093.	5	R	80,642

FY 92 FAIR HOUSING INITIATIVES PROGRAM, EDUCATION AND OUTREACH INITIATIVE (REGIONAL/STATE/LOCAL) GRANT RECIPIENTS—Continued

Agency name	Contact person/telephone No.	City and state	Region	Project area (R, S, or L)	Maximum amount for award
The Cuyahoga Plan of Ohio, Inc. (Metropolitan Strategy Group).	Eleanore Ramsay Dees (216) 621–4525.	1101 Euclid Avenue, Suite 402, Cleveland, OH 44115.	5	S	118,115
Madison Equal Opportunities Commission.	Cynthia Wick (608) 267–4900	210 Martin Luther King, Jr. Blvd., Madison, WI 53710.	5	L	57,310
The Austin Tenants' Council, Inc .	Katherine Stark (512) 474–0197 .	1619 East First Street, Austin, TX 78702.	6	L	50,000
Access Resources of Missouri	Chris Krehneyer (314) 426–7948	P.O. Box 9114, St. Louis, MO 63117.	7	R	37,300
Kansas Human Relations Association.	Kaye Crawford (913) 826–7330 ..	300 West Ash, Salina, KS 67401	7	S	56,230
The Iowa Civil Rights Commission	Don Grove (515) 281–7121	211 East Maple Street, Des Moines, IA 50319.	7	S	75,745
Concerned Citizens Coalition	Toni M. Austad (406) 727–9136 .	825 Third Avenue South, Great Falls, MT 59405–2102.	8	R	74,327
Project Sentinel	Ann Marquart (415) 321–6291	430 Sherman Avenue, Suite 308, Palo Alto, CA 94306.	9	R	78,417
Independent Housing Services	Walter Park (415) 928–HOME	25 Taylor Street, San Francisco, CA 94102.	9	R	55,442

FY 92 FAIR HOUSING INITIATIVES PROGRAM, EDUCATION AND OUTREACH INITIATIVE (NATIONAL) GRANT RECIPIENTS

Agency	Contact person/telephone No.	City and state	Region	Maximum amount of award
North Carolina State University, Office of Sponsored Programs.	Linda Jackson (919) 515–2444	Box 7003, Raleigh, NC 27695–7003 ..	4	$189,218
The John Marshall School of Law Fair Housing Center.	Michael P. Seng (312) 987–1446	315 South Plymouth Court, Chicago, IL 60604.	5	200,418
Howard University, School of Social Work.	Jean A. McRae (202) 806–8770	2400 Sixth Street, NW, P.O. Box 1071, Washington, DC 20059.	3	116,788

FY 92 HOUSING INITIATIVES PROGRAM, PRIVATE ENFORCEMENT INITIATIVE GRANT RECIPIENTS

Agency	Contact person/telephone No.	City and state	Region	Maximum amount of award
Housing Discrimination Project, Inc	Margaret Maisel (413) 539–9796	380 High Street, Suite 302, Holyoke, MA 01040.	1	$136,631
Housing Opportunities Made Equal	Scott W. Gehl (716) 854–1400	700 Main Street, Buffalo, NY 14202 ...	2	50,420
Fair Housing Council of Northern New Jersey.	Lee Porter (201) 489–3552	131 Main Street, Hackensack, NJ 07601.	2	195,606
Westchester Residential Opportunities, Inc.	Blossom Blum (914) 428–4507	470 Mamaroneck Avenue, White Plains, NY 10805.	2	89,494
Open Housing Center, Inc	Phyllis Spiro (212) 941–6101	594 Broadway, Suite 608, New York, NY 10012.	2	282,401
Fair Housing Council of Greater Washington, Inc.	Susan Weiss (202) 289–5360	1400 I Street, NW., Suite 520, Washington, DC 20005.	3	187,812
Housing Opportunities Project for Excellence, Inc.	William Thompson, Jr. (305) 374–3660.	19 West Flagler Street, Suite 803, Miami, FL 33130.	4	90,812
Kentucky Fair Housing Center	Galen Martin (502) 583–3247	835 W. Jefferson—Room 108, Louisville, KY 40202.	4	49,923
Leadership Council for Metro Open Communities.	Mary Davis (312) 341–5678	401 South State Street, Room 860, Chicago, IL 60605.	5	110,777
South Suburban Housing Center	George Cole (708) 957–4674	2057 Ridge Road, Homewood, IL 60430.	5	55,000
HOPE Fair Housing Center	Bernard J. Kleina (708) 495–4846	154 South Main Street, Lombard, IL 60148.	5	67,000
Fair Housing Center of Metropolitan Detroit.	Clifford C. Shrupp (313) 963–1274	1249 Washington Boulevard, Room 1340, Detroit, MI 48226.	5	157,000
Toledo Community Housing Resource Board, Inc.	Lisa C. Rice (419) 243–6163	1900 Monroe Street, Suite A, Toledo, OH 43624.	5	128,531
Metropolitan Milwaukee Fair Housing Council.	William Tisdale (414) 278–1240	600 East Mason Street, Suite 200, Milwaukee, WI 53202.	5	147,029
Housing for All-Metro Denver Fair Housing Center.	Kathie Cheaver (303) 296–6949	3800 York Street, Unit D, Denver, CO 80205.	8	95,000

FY 92 HOUSING INITIATIVES PROGRAM, PRIVATE ENFORCEMENT INITIATIVE GRANT RECIPIENTS—Continued

Agency	Contact person/telephone No.	City and state	Region	Maximum amount of award
Concerned Citizens Coalition	Toni M. Austad (406) 727–9136	825 Third Avenue South, Great Falls, MT 59405–2102.	8	99,627
Housing Rights, Inc	Marianne Lawless (510) 658–8766	354 Adeline Street, Berkeley, CA 94703.	9	14,000
Fair Housing Council of Oregon	Donna T. Butler (503) 230–0239	4421 SE 17th Ave., Suite 204, Portland, OR 97202.	10	104,098

FY 92 FAIR HOUSING INITIATIVES PROGRAM, PRIVATE ENFORCEMENT INITIATIVE (TESTING PROJECT ON MORTGAGE LENDING PRACTICES) GRANT RECIPIENT

Agency	Contact person/telephone No.	Address	Region	Maximum amount of award
National Fair Housing Alliance	Shanna Smith (202) 898–1661	1400 I St., NW–Suite 530, Washington, DC 20005.	3	$692,172

FY 92 FAIR HOUSING INITIATIVES PROGRAM, EDUCATION AND OUTREACH INITIATIVE (YOUNG V. KEMP PROJECT) GRANT RECIPIENT

Agency	Contact person telephone No.	Address	Region	Maximum amount of award
Texas Commission for Human Rights	William Hale (512) 837–8534	8100 Cameron Road, Austin, Texas 78753.	6	$306,237

Dated: February 23, 1993.

Leonora L. Guarraia,

General Deputy Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 93–5347 Filed 3–8–93; 8:45 am]

BILLING CODE 4210–28–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–93–3586; FR–3643–N–01]

Updated Listing of HUD-Approved Housing Counseling Agencies

AGENCY: Office of the Assistant Secretary of Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice provides a listing of all HUD-Approved Housing Counseling Agencies.

FOR FURTHER INFORMATION CONTACT: David Dwyer, Office of Insured Single Family Servicing, room 9180, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone: voice, (202) 708–3664, TDD (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: In past years, the Department has issued periodic communications to all approved HUD mortgagees, advising them of the names and addresses of HUD-approved counseling agencies available to assist mortgagors who are confronting the need for homeownership counseling.

In addition, this listing represents the housing counseling agencies which can be identified using the Department's toll-free housing counseling telephone number. A caller, through the use of his/her zip code, can identify the nearest HUD-approved housing counseling agency. The Department's toll-free housing counseling number is 800–733–3238.

The Department has determined that **Federal Register** publication of the update list of approved counseling agencies would afford more comprehensive notice to the public of these agencies.

Accordingly, appended to this notice is a listing, alphabetically by state, of the currently approved Housing Counseling Agencies.

James E. Schoenberger,

Associate General Deputy Assistant Secretary for Housing.

HUD-Approved Housing Counseling Agencies

Alaska

Anchorage Neighborhood Housing Services, 3700 Woodland Drive, Suite 500, Anchorage, AK 99517

Consumer Credit Counseling Service of Alaska, 208 East Fourth Avenue, Anchorage, AK 99501

Alabama

Birmingham Urban League, 1717 4th Avenue North, Post Office Box 11269, Birmingham, AL 35202

C.A.A. of Calhoun, Cleburne, & Cherokee Cntys, PO Box 2223, 1702 Noble St., Suite 110, Anniston, AL 36202

Community Action Agency of Northwest Alabama, Inc., 502 East College Street, Florence, AL 35630–5797

C.A.A. of Huntsville, Madison and Limestone Counties, 4015 Stringfield Rd., NW, Huntsville, AL 35810–0975

Community Service Programs of West Alabama, Inc., 601 17th Street, Tuscaloosa, AL 35401

Human Resource Development Corporation (HRDC), Route 5 Box 139, Suite A, Enterprise, AL 36331

Housing Authority of the City of Auburn, 931 Booker Street, Auburn, AL 36830

Housing Authority of City of Montgomery, 1020 Bell Street, Montgomery, AL 36104

Housing Authority of Birmingham District, 1826 3rd Avenue South, Birmingham, AL 35233

Mobile Housing Board Comprehensive Housing Counseling Services, 151 S. Claiborne Street, Mobile, AL 36633
Community Action Agency of North Central Alabama, 107 Second Avenue, NE, PO Box 1788, Decatur, AL 35602
City of Tuscaloosa, Alabama Community Planning and Development Dept., PO Box 2089, Tuscaloosa, AL 35403
Tuscaloosa Housing Counseling Program, 4302 21st Street—West, Westgage Office, Tuscaloosa, AL 35401

Arizona

City of Phoenix Neighborhood Improvement & Housing Department, 830 East Jefferson Street, Phoenix, AZ 85034
Chicanos Por La Causa, 1112 East Buckeye Road, Phoenix, AZ 85034
Consumer Credit Counseling Service of Arizona, 6135 E. Grant Road, Tucson, AZ 85712
Consumer Credit Counseling Service of Arizona, 2535 Camelback Road, Phoenix, AZ 85017
Chicanos Por La Causa, Inc., 1525 N. Oracle, Suite 105, Tucson, AZ 85705
Catholic Social Services, 150 West Helen Street, Tuscon, AZ 85705
City of Phoenix, Human Resources Center, Phoenix, AZ 85007
City of Phoenix, Neighborhood Improvement & Housing Dept., 920 East Madison, Suite B, Phoenix, AZ 85034

Arkansas

Crawford-Sebastian Community Development Council, Inc., 4831 Armour Ave., PO Box 4069, Fort Smith, AR 72914
White River Regional Housing, Authority Post Office Box 650, Melbourne, AR 72556
Family Service Agency of Central Arkansas, P.O. Box 500, 2700 North Willow, North Little Rock, AR 72115
Urban League of Arkansas, Inc., 2200 Main Street, P.O. Box 164039, Little Rock, AR 72206
Family Support Services, Inc., 111 West Central, Bentonville, AR 72712
Universal Housing Development, P.O. Box 846, 301 East Third Street, Russellville, AR 72801

California

Better Valley Services, 8000 Laurel Canyon, North Hollywood, CA 91605
Consumer Credit Counselors, 1308 West 8th Street, Los Angeles, CA 90015
Westminister Neighborhood Association, Inc., 1776 East Century Boulevard, Los Angeles, CA 90002
Housing Authority of the County of Santa Barbara, 815 W. Ocean Avenue, Post Office Box 397, Lompoc, CA 93436
City of Richmond, 2600 Barrett Avenue, Richmond, CA 94804
Housing Authority of the County of Santa Cruz, 298 Harvey West Blvd., Santa Cruz, CA 95060
City of Oakland, Office of Community Development, 300 Lakeside Drive, 15th Floor, Oakland, CA 94612–3537
Eden Council for Hope & Opportunity, Echo Housing Assistant Cntr, 770 A Street, Room 402, Hayward, CA 94541
Project Sentinel, 10 Dempsey Road, Milpitas, CA 95035
Pacific Community Services, 184 East Leland Road, Pittsburgh, CA 94565
Inland Mediation Board, 420 North Lemon Avenue, Ontario, CA 91764
Fair Housing Council of Orange County, 1222 North Broadway, Santa Ana, CA 92701
Neighborhood House Association, 841 South 41st Street, San Diego, CA 92113
Housing Authority of the County of Stanislaus, 1701 Robertson Road, Modesto, CA 95356
Catholic Charities, 150 East Olive Street, Colton, CA 92324, 221 Turner Street, Guasti, CA 91743, 4137 Almond Street, Riverside, CA 92501, 850 S. Palm Canyon Drive, Palm Springs, CA 92264, 45149 Smurr Street, Indio, CA 92201, 209 N. First Ave., Barstow, CA 92311, 13510 Perris Blvd., Moreno Valley, CA 92388
Human Investment Project, Inc., 364 South Railroad Avenue, San Mateo, CA 94401
Project Match, Inc., 1671 Park Avenue, Room 21, San Jose, CA 95126
Independent Living Resource Center, 70–10th Street, San Francisco, CA 94103
Council on Aging of Sonoma County, 730 Bennett Valley Road, Santa Rosa, CA 95404
Home Loan Counseling Service, 1115 West Adams Blvd., Los Angeles, CA 90007
Inland Mediation Board, 420 North Lemon Ave., Ontario, CA 91764

Colorado

Adams County Housing Authority, 7190 Colorado Boulevard, 6th Floor, Commerce City, CO 80022
Boulder County Housing Authority, Post Office Box 471, 14th and Spruce Street, Boulder, CO 80306
Brothers Redevelopment, Inc., 1111 Osage Street, Suite 210, Denver, CO 80204
Catholic Social Services, 302 Jefferson Street, Pueblo, CO 81004
Neighbor-to-Neighbor, 424 Pine Street, Suite 203, Fort Collins, CO 80524
Northeast Denver Housing Center, 1735 Gaylord Street, Denver, CO 80206
Consumer Credit Counseling Service of Southern Colorado, Inc., 1233 Lake Plaza Dr., Colorado Springs, CO 80906
City of Aurora Home Ownership Assistance Program, 9801 East Colfax, Aurora, CO 80010
Consumer Credit Counseling Service of Northern Colorado, 1136 East Stuart, Suite 4201, Ft. Collins, CO 80525

Connecticut

Northeastern Connecticut Community Development, Post Office Box 156, Route 6, Danielson, CT 06329
Urban League of Greater New Haven, 1184 Chapel Street, New Haven, CT 06510
Urban League of Greater Hartford, 1229 Albany Avenue, Hartford, CT 06112
Consumer Credit Counseling Service of Connecticut, Inc., 151 New Park Avenue, Hartford, CT 06106, Locations in Hamden, Norwalk, and Waterbury.

Delaware

Neighborhood House, Inc., Henrietta Johnson Community Center, 601 New Castle Avenue, Wilmington, DE 19801
Middletown, Odessa and Townsend Community Action Agency, Inc., 23 West Main Street, Middletown, DE 19709
Sussex County Community Action Agency, P.O. Box 431, Georgetown, DE 19947
Community Housing, Inc., 613 Washington Street, Wilmington, DE 19801

District of Columbia

Far SE Community Organization (FSECO), 2041 Martin Luther King Ave., SE., Suite M3, Washington, DC 20020
Housing Counseling Services, Inc., 2430 Ontario Road, NW., Washington, DC 20009
Near Northeast Community Improvement Corp. (CIC), 1326 Florida Avenue, NE., Washington, DC 20002
Peoples Involvement Corp. (PIC), 2146 Georgia Avenue, NW., Washington, DC 20001
University Legal Services, 300 I Street, NE., Suite 202, Washington, DC 20002
District of Columbia Housing Finance Agency, 1275 K Street, NW., Suite 600, Washington, DC 20005
Marshall Heights Community Development Organization, Inc., 3917 Minnesota Ave., NE., Washington, DC 20019

Florida

Consumer Credit Counseling Service of Tampa Bay Area, Inc., 1 East Jefferson Street, Brooksville, FL 34601

City of Tampa Community Redevelopment Agency, 1310 9th Avenue, Tampa, FL 33605
Hillsborough County Housing Assistance Department, 9620 Bay Plaza Boulevard, Suite 510, Tampa, FL 33619
Consumer Credit Counseling Service of Tampa Bay Area, Inc., 4265 Henderson Blvd., Tampa, FL 33629
Consumer Credit Counseling Service of the Tampa Bay Area, Inc., 1410 W. 14th Street, Bradenton, FL 34601
Manatee Opportunity Council, Inc., 2639 9th Avenue West, Bradenton, FL 34205
The Agriculture & Labor Program, Inc., Administrative Headquarters, P.O. Box 3126, Winter Haven, FL 33881–3126
CCCS of Central Florida, Central Office, Coral Gables Fed. Bldg., 455 S. Orange Ave., 4th Flr., Orlando, FL 32801, Orlando East, 3075 Alafaya Trail, Suite 130, Orlando, FL 32826
Naval Training Center, Family Servicing Center, Orlando, FL 32813
Consumer Credit Counseling Service of Central Florida, Inc., 4823 Silver Star Road, Suite 110, Orlando, FL 32808
Urban League, Inc., 2512 West Colonial Drive, P.O. Box 547816, Orlando, FL 32854
Dept. of Community Affairs, 2314 N. Orange Blossom Tr., Fair Villas Plaza, P.O. Box 561457, Orlando, FL 32856
Consumer Credit Counseling Service of Central Florida, 1110 Pelican Bay Drive, Daytona Beach, FL 32119
Consumer Credit Counseling Service, First Federal Savings Bank Bldg., 1404 South Ridgewood, Edgewater, FL 32132
Consumer Credit Counseling Service, 815 South Volusia Avenue, Suite No. 1, Orange City, FL 32763
Consumer Credit Counseling Service, 377 Maitland Avenue, Suite 203, Altamonte Springs, FL 32701
Consumer Credit Counseling Service, 1400 West Oak Street, Suite A, Kissimmee, FL 34741
Consumer Credit Counseling Service, Sun Bank Building, 1205 Indiana Avenue, St. Cloud, FL 34769
Lake Community Development, Inc., 927 9th Alfred Street, Post Office Box 884, Tavares, FL 32778
Consumer Credit Counseling Service, 1330 Citizens Blvd., Suite 401, Leesburg, FL 34748
Consumer Credit Counseling Serv. of Palm Beach County, 2330 S. Congress Ave., Suite A, W. Palm Beach, FL 33406
Consumer Credit Counseling Services of South Florida, Inc., 13014 N.E. 8th Avenue, North Miami, FL 33161
Consumer Credit Counseling Services of South Florida, Inc., 10720 Caribbean Blvd., Suite 345, Miami, FL 33161
West Perrine Community Development Corporation, 17356 South Dixie Highway, Miami, FL 33157
Consumer Credit Counseling Services of S. Florida, Inc., 500 S.E. 17th Street, Suite 222, Ft. Lauderdale, FL 33316
Broward County Housing Authority, 1773 North State Road #7, Lauderhill, FL 33313
Broward County Housing Authority, 3100 N. 24th Ave., Hollywood, FL 333020
Broward County Housing Authority, 3801 N.E. 8 Avenue., Pompano, FL 33064, Ehrlinger Site, 7481 NW 33rd Street, Davie, FL 33024
Consumer Credit Counseling of Southwest Florida, 2654 Tamiami Trail East, Gulf Gate Plaza, Naples, FL 33940
Urban League of Palm Beach County Inc., 1700 North Australian Avenue, West Palm Beach, FL 33407
Jacksonville Urban League, 223 West Duval Street, 14th Floor, Jacksonville, FL 32202
Consumer Credit Counseling Services, 551 SE 8th Street, Delray Beach, FL 33444
Urban League of Palm Beach County, Inc., 1700 North Australian Avenue, West Palm Beach, FL 33407
Council of Palm Beach, 600 SW 15th Ave., Catherine Strong Center, Boynton Beach, FL 33444
Urban League South County Office, 85 NW 5th Avenue, Delray Beach, FL 33432
Consumer Credit Counseling Service, 2330 S. Congress Avenue, Suite 1A, West Palm Beach, FL 33408–7665
Consumer Credit Counseling Services of Tampa Bay Area, Inc., 7181 College Parkway, Unit 4, Ft. Myers, FL 33907
Consumer Credit Counseling Services, 507 N. Harbor City Blvd., Melbourne, FL 32935
United Way of Martin County, 851 Johnston Avenue, Stuart, FL 34995
Housing Development Corp. of Tallahassee & Leon County, Inc., 515–B John Knox Road, Tallahassee, FL 32312

Georgia

The Atlanta Urban League, Inc., 100 Edgewood Ave., Suite 600, Atlanta, GA 30303
Dekalb/Fulton Housing Couns. Cntr., Kensington Office Park, 4151 Memorial Dr., Suite 107E, Decatur, GA 30303
Metro Fair Housing Services, Inc., 1083 Austin Avenue, N.E., Atlanta, GA 30307
Consumer Credit Counseling of Atlanta, 100 Edgewood Ave., Suite 520, Atlanta, GA 30303
Dekalb/Fulton Housing Counseling Center, 233 Mitchell Street, Atlanta, GA 30303
Metro Columbus Urban League, Inc., 802 First Avenue, Columbus, GA 33901
Coastal Georgia Area Community Action Authority, 2801 Fourth Street, Brunswick, GA 31520
Savannah-Chatham County EOA, Inc., 618 West Anderson Street, P.O. Box 1353, Savannah, GA 31402
Heart of Georgia Community Actien Council, Post Office Box 398, Eastman, GA 31203
Athens-Clarke County, Human & Econ. Development 155 E Washington St., PO Box 1868, Athens, GA 30613–4199
Middle Georgia Community Action Agency, Inc., P.O. Box 2286, 708 Elberta Road, Warner Robins, GA 31099
Greater Macon Housing Corporation, 1212 Gray Highway, Macon, GA 31211
Overview Inc., 120 South Jefferson Street, P.O. Box 693, Milledgeville, GA 31061
Community Development Division, 230 South Jackson Street, Suite 315, Albany, GA 31701–2816
Coastal Plain Area Economic Opportunity, Inc. 1126 Gordon Street, P.O. Box 1645, Valdosta, GA 31603

Hawaii

Hale Mahaolu, Inc., 200 Hina Avenue, Kahului, HI 96732
Hawaii Credit Counseling Service, 2153 North King Street #306, Honolulu, HI 96819

Idaho

No HUD-Approved Housing Counseling Agencies Located within the State of Idaho

Illinois

Chicago Urban League, 4510 Michigan Avenue, Chicago, IL 60653
City of Chicago, Department of Housing, 318 South Michigan Avenue, Chicago, IL 60604
Community and Economic Devel. Assoc. (CEDA) of Cook County, 224 N. Des Plaines Ave., Chicago, IL 60606
Evanston Neighbors at Work, 1229 Emerson, Evanston, IL 60201
CEDA Northwest Self-Help Center Inc., 120 W. Eastman St., Suite 105, Arlington Heights, IL 60004
Proviso-Leyden Council for Community Action, 1108 West Madison Street, Maywood, IL 60153
Southwest Development Association, 5818 South Archer Road, Summit, IL 60501

Harvey Area Community Development Center, 53 East 154th Street
CEDA Bloom-Rich Community Development Association
Ford Heights Community Service Center, 1647 Cottage Grove Avenue, Ford Heights, IL 60411
Southwest CEDA, 3518 West 139th Street, Robbins, IL 60472
Chicago Heights Community Service Center, 1203 West End Avenue, Chicago Heights, IL 60411
Housing Authority of the County Lake, Illinois, 3928 North Route 45, Grayslake, IL 60030–1700
New Cities Community Development Corporation, 1912 West 170th Street, Hazel Crest, IL 60429
Lake County Community Action Project, 106 South Sheridan Road, Waukegan, IL 60085
Consumer Credit Counseling Service of East Central, IL Inc., 363 S. Main Street, Suite 505, Decator, IL 62523
Consumer Credit Counseling Service, #8 Harrison, Danville, IL 61832
Consumer Credit Counseling Service, 44 Main Street, Champaign, IL 61820
Spanish Coalition For Housing, 3439 West North Avenue, Chicago, IL 60647
Springfield Human Relations Commission, 227 S. 7th Street, Suite 204, Springfield, IL 62701
Community Service Council of Northern Will County, 719 Parkwood Avenue, Romeoville, IL 60441
Chicago Roseland Coalition for Community Control, 11015 South Michigan Avenue, Chicago, IL 60628
Urban League of Metropolitan St. Louis/St. Clair County Operations, 3500 State Street, East St. Louis, IL 62205
Economic Opportunity Corporation (CEFS), 101 N. Fourth, 4th Floor, Box 928, Effingham, IL 62401
Economic Community Corporation (CEFS), Clay County Outreach, 832 West North Street, Flora, IL 62839, Effingham Cnty. Outreach, 204 W. Washington, Effingham, IL 62401, Fayette County Outreach, City Hall, Box 44, Vandalia, IL 62471, Shelby County Outreach, County Courthouse, Shelbyville, IL 62565, Moultrie County Outreach, County Courthouse, Sullivan, IL 61951, Christian Cnty. Outreach, 1104 W. Spresser St., Taylorville, IL 62568, West Pana Township Bldg., Raymond & Route 16, Pana, IL 62557, Montgomery Cnty. Outreach, S. Route 27, Taylor Springs, IL 62089.

Indiana

City of Bloomington, Department of Redevelopment, P.O. Box 100, Municipal Building, Bloomington, IN 47402, 1396 Benham Avenue, Elkhart, IN 46516–2505
HOPE of Evansville, Inc., 100 Washington Avenue, Evansville, IN 47713
Fort Wayne Housing Authority, 2013 S. Anthony Blvd., P.O. Box 13489, Ft. Wayne, IN 46869–3489
Community Action of Indianapolis, Inc., 2445 N. Meridian Street, Indianapolis, IN 46208
Lake County Community Economic Department, 2293 N. Main Street, Crown Point, IN 46307
Urban League of Northwest Indiana, Inc., 3101 Broadway, Gary, IN 46409
Hammond Housing Authority, 7329 Columbia Circle W., 4923 Hohman Avenue (Branch), Hammond, IN 46320
Granger and Roseland, Housing Assistance Office, Inc., 1047 Lincolnway West, PO Box 1558, South Bend, IN 46634
Knox County Housing Authority, Rural Route 1, Box 512–C–5, Bicknell, IN 47512
Hoosier Uplands Economic Development Corporation, 521 West Main Street, Mitchell, IN 47446
Dept. of Metropolitan Devel. Division Economic & Housing Devel., 148 East Market Street, Indianapolis, IN 46204
Real Services of St. Joseph County, Inc., 622 N. Michigan Street, South Bend, IN 46634
Housing Authority of the City of South Bend, P.O. Box 11057, 501 South Scott, South Bend, IN 46634

Iowa

Craig Stanley Agency, 1667 Summit Avenue, New Albany, IA 47150
Hawkeye Area Community Action Program, Inc., 5560 6th Street, SW., Cedar Rapids, IA 52406
Hawkeye Area Community Action Program, Inc., 1300 South Gilbert Street, Iowa City, IA 52240
Assisted, Information and Direction (A.I.D. Center), 206 6th Street, Sioux City, IA 51101
Department of Community Development, Housing Services Division, 226 4th Street, Davenport, IA 52801
Neighborhood Place, Inc., 809 W. 6th Street, Davenport, IA 52805–0367
SHARP Division, Armory Building, E. 1st and Des Moines Streets, Des Moines, IA 50307

Kansas

Economic Opportunity Foundation, 1542 Minnesota Avenue, Kansas City, KS 66102
Urban League of Wichita, Inc., 1405 N. Minneapolis Street, Wichita, KS 67214
Housing and Credit Counseling, Inc., 1195 S.W. Buchanan, Suite 203, Topeka, KS 66604–1183
Consumer Credit Counseling Service, Inc., 742 Duvall, Salina, KS 67402
United Methodist Urban Ministry of Wichita, 1611 North Mosley, Wichita, KS 67214–1399

Kentucky

ACCEPT, Inc. (Red Cross), 510 East Chestnut Street, Louisville, KY 40202
Audubon Area Community Services, Inc., 900 Walnut Street, Owensboro, KY 42302
Brighton Center, Inc., P.O. Box 325, Newport, KY 41072
Campbellsville Housing and Redevelopment Authority, 400 Ingram Avenue, P.O. Box 459, Campbellsville, KY 42718
Tenant Services and Housing Counseling, Inc., 200 East Main Street, Lexington, KY 40507
Appalachian Foothills Housing Agency, Inc., 1448 Diedrich Boulevard, Russell, KY 41169
Craig Stanley Agency, 1667 Summit Avenue, New Albany, IN 47150
Louisville Urban League, 1535 W. Broadway, Louisville, KY 40203–3515
Northern Kentucky Community Center, 824 Greenup Street, P.O. Box 2030, Covington, KY 41011
Pennyrile Allied Community Services, Inc., 708 South Liberty Street, Post Office Box 582, Hopkinsville, KY 42240
Housing Authority of Jefferson County Urban County Government Center, 810 Barrett Ave., Louisville, KY 40204
City of Bowling Green Dept. of Housing and Community Development, P.O. Box 430, Bowling Green, KY 42101

Louisiana

Central City Housing Development Corporation, 2020 Jackson Avenue, New Orleans, LA 70113
St. Bernard Parishes, Desire Community Housing Corp., 3251 St. Ferdinand Street, New Orleans, LA 70126
St. Charles Parishes, Jefferson Community Action, 1221 Elmwood Park Blvd., 4th Flr., Harahan, LA 70123
Marrero-Multi Service Center, 2001 Lincolnshire Drive, Marrero, LA 70072
*Dorothy B. Watson Memorial Center, 1300 Myrtle Street, Metarie, LA 70003
*Webco Neighborhood Service Center, 3rd Street, Bridge City, LA 70094
*Jefferson Community Action, Shrewco Neighborhood Service, 1121 S. Causeway Blvd., Jefferson, LA 70121
St. Landry Community Action Agency, P.O. Drawer 1510, Opelousas, LA 70570
S.M.I.L.E. Community Action Agency, 501 St. John Street, Lafayette, LA 70501

Housing Authority of the City of Slidell, Post Office Box 1392, (Claude St. Apts. I & J), Slidell, LA 70459
St. Mary Community Action Agency Inc., 1407 Barrow Street, P.O. Box 271, Franklin, LA 70538
Consumer Credit Counseling, 615 Chevelle Court, Baton Rouge, LA 70806
City of Lafayette, 705 West University, Lafayette, LA 70506
St. James Parish Council, Department of Human Resources, P.O. Box 87, Convent, LA 70723
Ouachita Multi-Purpose Community Action Agency, 315 Plum, P.O. Box 3086, Monroe, LA 71210–3086
CADDO Community Action Agency, Inc., 1530 Arlington Street, Shreveport, LA 71103
Cenla Community Action Committee, Inc. 230 Bolton Avenue, Alexandria, LA 71301
Housing Authority of the City of Marshall, P.O. Box 609, 406 Poplar, Marshall, TX 75671
Neighborhood Housing Service of Shreveport, Inc., 3034 Lakeshore Drive, Shreveport, LA 71133
Consumer Credit Counseling Agency, Main Office, 600 Bres Avenue, Monroe, LA 71202, 2800 Youree Drive, Suite 369–A, Shreveport, LA 71104, 3917 Independence Drive, Alexandria, LA 71303

Maine

Credit Counseling Centers, Inc., 160 Fox Street, P.O. Box 1021, Portland, ME 04104
Senior Spectrum, P.O. Box 248, Gardiner, ME 04345
Bureau of Elder and Adult Service, State House Station, Augusta, ME 04333

Maryland

Anne Arundel County Economic Opportunity Committee, Inc., 251 West Street, Annapolis, MD 21401
Anne Arundel Department of Aging, 101 Old Solomons Island Road, Annapolis, MD 21401
Baltimore Urban League, 1150 Mondawmin Concourse, Baltimore, MD 21215
Home Ownership Institute, 417 E. Fayette Street, Suite 1125, Baltimore, MD 21202
St. Ambrose Housing Aid Center, 321 East 25th Street, Baltimore, MD 21218
Community Organized to Improve Life, 11 South Carrollton Ave., Baltimore, MD 21223
Neighborhood Service Center, Inc., 126 Port Street, Easton, MD 21601
Community Assistance Network, 7701 Dunmanway, Baltimore, MD 21222, 1504 Riverside Drive, Salisbury, MD 21801
Dorchester Community Development Corporation, 435 High Street, P.O. Box 549, Cambridge, MD 21613
Garrett County Community Action Committee, Inc., 360 West Liberty Street, P.O. Box 449, Oakland, MD 21550
Harford County Public Housing Agency, 15 South main Street, Suite 106, Bel Air, MD 21014
Housing Opportunities Comm. Of Montgomery County, 10400 Detrick Avenue, Kensington, MD 20895
Howard County, Housing and Community Development, 10650 Hickory Ridge Rd., Suite 200, Columbia, MD 21044
Maryland Rural Development Corp., 322 Market Street, P.O. Box 587, Denton, MD 21629
United Communities Against Poverty (UCAP), 1400 Doewood Lane Capitol Heights, MD 20743
Housing Oppor. Commission, Housing Inform. Center, 10400 Detrick Ave., Kensington, MD 20895
Shore Up, Inc., 520 Snowhill Road, P.O. Box 430, Salisbury, MD 21801
MAC Incorporated Area Agency on Aging, 1504 Riverside Drive, Salisbury, MD 21801

Massachusetts

Consumer Credit Counseling Services of Eastern Massachusetts, 8 Winter Street, Room 1210, Boston, MA 02108
Housing Allowance Project, Inc., 322 Main Street, Springfield, MA 01103
Lynn Department of Community Development, City Hall, Lynn, MA 01901
Rural Housing Improvement, Inc., Post Office Box 429, 218 Central Street, Winchendon, MA 01475
Construct, Inc., P.O. Box 582, 144 Main Street, Great Barrington, MA 01220
Roxbury Multi-Service Center, Inc., 317 Blue Hill Avenue, Roxbury, MA 02121

Michigan

Michigan Housing Counselors, G–1173 Balenger Road, Flint, MI 48504
Burton Neighborhood Housing Services, Inc., 1335 Kenneth Street, Burton, MI 48529
Detroit Non-Profit Housing, Inc., 1200 Sixth Street, Room 404, Detroit, MI 48226
Michigan Housing Counselors, 237 South Gratiot, Mt. Clemens, MI 48943
Oakland County Real Estate Section Corporation Counsel, 1200 North Telegraph Road, Suite 3, Pontiac, MI 48053
TULC Non-Profit Housing Corporation 3901 Grand River Avenue, Detroit, MI 48208
Credit Counseling Centers, Main Office 27780 Novi Road, Suite 250, Novi, MI 48050, Southfield, 503 Northland Towers W., 15565 Northland Dr., Southfield, MI 48075, Taylor, 8750 Telegraph Road, Suite 306, Taylor, MI 48180, Novi, 27780 Novi Road, Suite 105, Novi, MI 48377, Battle Creek, 131 E. Columbia Ave., Suite 207, Battle Creek, MI 49015, Saginaw, 5090 State Street, Suite 121A, Saginaw, MI 480603, Portage, 576 Romence Road, Suite 227, Portage, MI 49002, Flint, G–3310 Miller Road, Suite I, Flint, MI 48507, Lansing, 111 S. Waverly Rd., Lansing, MI 48917, Ypsilanti, Suite 606, 124 Pearl Street, Ypsilanti, MI 48917, Grand Rapids, 2922 Fuller NE, Suite 203B, Grand Rapids, MI 49505, Grand Rapids, 2417 Eastern, S.E., Suite 206, Grand Rapids, MI 49505, Detroit, 65 Cadillace Square, Suite 2701, Detroit, MI 48226, Mount Clemons, 37060 Garfield, Suite T–4, Mt. Clemens, MI 48043, Jackson, 211 West Ganson, Jackson, MI 49202, Troy, 675E W. Big Beaver Road, Suite 101, Troy, MI 48083, Farmington Hills, 28275 Orchard Lake Rd., Suite 115, Farmington Hills, MI 48334, Muskegon, 880 First Street, Suite 403, Muskegon, MI 49440, East Lansing, 411 Lake Lansing Road, Suite C105, East Lansing, MI 48823, Monroe, 25 S. Monroe Street, Suite 307, Monroe, MI 48161, Port Huron, Professional Cntr., 1530 Pine Grove Ave, #7, Port Huron, MI 48160
Credit Counseling Centers, Administrative Office, 27780 Novi Road, Suite 250, Novi, MI 48377–3427, 131 E. Columbia Ave, Suite 120, Battle Creek, MI 49015–3761, 2417 Eastern SE, Suite 206, Grand Rapids, MI 49507–3640, 2922 Fuller Avenue NE, Room 203B, Grand Rapids, MI 49505–3459, 211 W. Ganson, Jackson, MI 49201–1241, 576 Romence Road, Suite 220, Portage, MI 49002–3445, 612 S. Creyts Road, Suite C, Lansing, MI 48917–9201, 411 Lake Lansing Road, Suite C105, East Lansing, MI 48823–1439, The Bayview Building, 620 S. Lake Street, Suite 7, Marquette, MI 49855–5505, Plaza Central, 415 Stephenson Avenue, Iron Mountain, MI 49801–3400, 880 First Street, Suite 403, Muskegon, MI 49440
Housing Resource Center, 300 N. Washington Square, Suite 302 Lansing, MI 48933
Grand Rapids Urban League, 745 Eastern, S.E., Grand Rapids, MI 49503
Northwest Michigan Human Services Agency, Inc., 1640 Marty Paul, Cadillac, MI 49601, 441 Bay Street, Petoskey, MI 49684, 3963 Three Mile Road, Travers City, MI 49684
Nelson Neighborhood Improvement Association, Inc., 290 Monroe, Muskegon, MI 49441

Minnesota

Consumer Credit Counseling Service of Minnesota, 1111 Third Avenue South, Suite 336, Minneapolis, MN 55404
Pilot City Regional Center, 1315 Penn Ave. North, Minneapolis, MN 55411
Family Service of Winona, 157 Lafayette Street, 2nd Floor, Winona, MN 55987
Southern Minnesota Regional Legal Services, Inc., 300 Minnesota Building, 46 East 4th Street, St. Paul, MN 55101, 16174 Main Avenue, Prior Lake, MN 55372
Senior Housing Inc., 1885 University Ave. West, St. Paul, MN 55104
St. Paul Housing Information Office, 21 West Fourth Street, St. Paul, MN 55102
St. Paul Urban League, 401 Selby Avenue, St. Paul, MN 55107

Mississippi

Housing Education and Economic Development (HEED), 3405 Medgar Evers Boulevard, Jackson, MS 39213
Gulf Coast Community Action Agency, 500 24th Street, Gulfport, MS 39501
Division of Aging and Adult Services, 421 West Pascagoula, Jackson, MS 39203
Jackson County Civic Action Committee, 5343 Jefferson Street, Moss Point, MS 39562–8723

Missouri

St. Louis Urban League, City Office, 3701 Grandel Square, St. Louis, MO 63108
St. Louis Urban League, County Office, #72 Northland, Jennings, MO 63136
North East Community Action Corp., 16 N. Count, P.O. Box 470, Bowling Green, MO 63334
North Area Community Forum, 1005 Dunn Road, Florissant, MO 63031
Housing Options Provided for the Elderly (Elderly Only), 4265 Shaw, St. Louis, MO 63110
CMC Human Development Corp., P.O. Box 1038, Providence & 4th Avenue, Columbia, MO 65201
Housing Information Center, 3810 Paseo, Kansas City, MO 64109
Metropolitan Lutheran Ministry, 3031 Holmes, Kansas City, MO 64109
West Central Missouri Rural Development Corp., 1010 East Fourth Street, P.O. Box 125, Appleton City, MO 64724
Missouri Valley Human Resource Devel. Corp., 1415 South O'dell Avenue, P.O. Box 550, Marshall, MO 65340–0550
Northside Residential Housing, 5647 Delmar Boulevard, St. Louis, MO 63112
Consumer Credit Counseling Services, 1425 Hampton Avenue, St. Louis, MO 63139

Montana

North West Montana Human Resources, P.O. Box 1058, #8—1st and Main Building, Kalispell, MT 59903
Human Resources Development Counsel, 17 North 31st Street, P.O. Box 2016, Billings, MT 59103

Nebraska

Family Housing Advisory Services, Inc., 2416 Lake Street, Omaha, NE 68111
Lincoln Action Program, Inc., 2202 South 11th Street, Lincoln, NE 68502
Holy Name Housing Corporation, 3014 North 45th Street, Omaha, NE 68104
Nebraska Department of Aging, 101 Centennial Mall South, Lincoln, NE 68509
Goodwill Center for Independent Living, 1804 South Eddy Street, Grand Island, NE 68802

Nevada

Operation Life Community Development Corporation, P.O. Box 4397, Las Vegas, NV 89127
Poor People Pulling Together, 1801 North J Street, Las Vegas, NV 89106
Consumer Credit Counseling Service of Las Vegas, 3560 South Decatur, Suite 18, Las Vegas, NV 89103

New Hampshire

Consumer Credit Counseling Service of New Hampshire & Vermont, P.O. Box 676, Concord, NH 03302–0676

New Jersey

Bayonne Economic Opportunity Foundation, 555 Kennedy Boulevard, Bayonne, NJ 07002
Middlesex County Economic Opportunities Corporation, 841 Georges Road, 2nd Floor, North Brunswick, NJ 08902
A.I.M.S., 334 Stockton Street, #113, Perth Amboy, NJ 08861
County of Essex, Division on Aging, 15 S. Munn Avenue, E. Orange, NJ 07018
Housing Coalition of Middlesex County, 9 Elm Row, New Brunswick, NJ 08901
County of Bergen, Dept. of Human Services, Division of Aging, 21 Main Street, Hackensack, NJ 07601
Enterprise Community Development Corporation, 89 Orient Avenue, Jersey City, NJ 07305
Somerset County Office of Aging, N. Bridge and High Streets, Fair Housing Council of Northern New Jersey, 131 Main Street, Hackensack, NJ 07604
Check Mate Incorporated, 550 Cookman Avenue, Asbury Park, NJ 07712
Monmouth County Board of Social Services, Burlington & Kozlosik Road, P.O. Box 3000, Freehold, NJ 07728
Morris County Fair Housing Council, 19 Market Street, Post Office Box 773–M, Morristown, NJ 07960
Urban League of Union County, 272 North Broad Street, Elizabeth, NJ 07208
City of East Orange, Housing Consumer Counseling, 122 Brighton Avenue, East Orange, NJ 07107
Paterson Task Force, Community Action Inc., 155 Ellison Street, Paterson, NJ 07505
Urban League of Bergen County, 106 West Palisade Avenue, Englewood, NJ 07631
Urban League of Essex County, 3 Williams Street, Suite 300, Newark, NJ 07102
Atlantic Human Resources, Inc., 10 S. Tennessee Avenue, Atlantic City, NJ 08401
Ocean Community Economic Action Now, Inc., 40 Washington Street, Toms River, NJ 08753
Jersey Counseling & Housing Development Inc., 1840 S. Broadway, Camden, NJ 08104
Camden County Office, Gloucester Township Office, 29 S. Blackhorse Pike, Blackwood, NJ 08012
Senior Citizens United, 146 Blackhorse Pike, Mt. Ephriam, NJ 08059
Tri-Country Community Action Agency, Inc., 143 West Broad, Bridgeton, NJ 08302, 10 Washington Street, Bridgeton, NJ 08302, 319 Landis Avenue, Vineland, NJ 08360, 189 East Broadway, Salem, NJ 08079
Atlantic County Department of Social Services, 1333 Atlantic Avenue, Atlantic City, NJ 08401
Fair Housing Council of Northern New Jersey, 131 Main Street, Hackensack, NJ 07604
Monmouth County Office of Aging, Hall of Records, Freehold, NJ 07728
The New City of New Brunswick, 390 George Street, New Brunswick, NJ 08901
Somerset County Office of Aging, P.O. Box 3000, Somervilee, NJ 08876–1262
The Home Partnership Inc., 450–7th Street, Hoboken, NJ 07030
Catholic Charities Diocese of Metuchen, 540–550 Route 22 East, Bridgewater, NJ 08807

New Mexico

Consumer Credit Counseling Service of New Mexico, 2727 San Pedro, NE, Albuquerque, NM 87110
Guadalupe Economic Service Corporation, 200 "A" Barcelona, El Paso, TX 79905
Consumer Credit Counseling of Albuquerque, Sequoia Sq., 3320 Coors, NW, Suite 2, Albuquerque, NM 87120–1230
Consumer Credit Counseling of New Mexico, Inc., 4 Corners Branch Off., 300 W. Arrington, Farmington, NM 87401

New York

L.E.S. Coalition Housing Development, 187–89 Avenue B, New York, NY 10009
New York Hispanic Housing Coalition, 209 East 3rd Street, P.O. Box 880, Stuyvesant Station, New York, NY 10009
Brooklyn Neighborhood Improvement Association, 648 Washington Avenue, Brooklyn, NY 11238
Commission on Human Rights, Neighborhood Stabilization Program, 1368 Fulton St., 3rd Flr., Brooklyn, NY 11216
Renaissance Development Corp., P.S. 332, Christopher Avenue, Room 129, Brooklyn, NY 11212
Commission on Human Rights, 3442 Fulton Street, Brooklyn, NY 11208
Westchester Residential Opportunities, Inc., 470 Mamaroneck Avenue, White Plains, NY 10605
South Bronx Action Group, Inc., 384 East 149th Street, Suite 220, Bronx, NY 10455
Neighborhood Stabilization Program, Commission on Human Rights, 4101 White Plains Road, Bronx, NY 10460
Bellport, Hagerman, East Patchogue, Alliance, 1731 Montauk Highway, Bellport NY 11713
Family Service League of Suffolk County, Inc., 642 New York Avenue, Huntington, NY 11953
Wyandanch Community Development Corporation, 1527 B. Straight Path, Wyandanch, NY 11798
New Rochelle CAP, 95 Lincoln Avenue, New Rochelle, NY 10801
Suffolk County Services, 550 Smithtown-by Pass, Room 220, Hauppauge, NY 11787
Suffolk County Department for the Aging, 395 Oser Avenue, Hauppauge, NY 11788–3631
Family Service Association, of Nassau County, Inc., 129 Jackson Street, Hempstead, NY 11550
Elmcor Youth and Adult Activities, 107–20 Northern Boulevard, Corona, NY 11368
Commission of Human Rights, Neighborhood Stabiliz. Program, 89–31 161st Street, Room 210, Jamaica, NY 11432
Baisley Park Neighbors, 114–02 Guy Brewer Boulevard, Jamaica, NY 11433
Margaret Community Corporation, 1920 New Haven Avenue, Far Rockaway, NY 11691
Orange County Rural Development, Advisory Corporation, 223 Greenich Avenue, Goshen, NY 10924
Consumer Credit Counseling Services of Central New York, Inc., 321 Genesee Street, Utica, NY 13501
Cornell Cooperative Extention, 50 West High Street, Ballston Spa, NY 12020
Capitol Hill Improvement Corp., 260 Lark Street, Albany, NY 12210
SHARP Committee, Inc., P.O. Box 362, Phoenicia, NY 12464
Metro-Interfaith Services, Inc., 21 New Street, Binghamton, NY 13903
Cayuga County Homesite Development Corporation, 60 Clark Street, Auburn, NY 13021
Chenango Home Improvement Program, Inc., 2 Merrill Street, Norwich, NY 13815
CCCS of Central New York, Inc., 120 East Washington Street, 1006 University Building, Syracuse, NY 13202–4093
Consumer Credit Counseling Services of Central New York, Inc., 321 Genesee Street, Utica, NY 13502
Chautauqua Opportunities, Inc, 188 South Erie Street, Mayville, NY 14701, 5th Floor, Municipal Bldg., 200 East 3rd Street, Jamestown, NY 14701, 341 Central Avenue, Dunkirk, NY 14048
Buffalo Urban League, 25 Genessee Street, Buffalo, NY 14203
Fillmore Leroy Area Residents, Inc., (FLARE), 307 Leroy Avenue, Buffalo, NY 14214
Housing Council in Monroe County Area, Inc., 111 East Avenue, Suite 200, Rochester, NY 14604
Rural-Sullivan County Housing Opportunities, Inc., 375 Broadway, Monticello, NY 12701
United Tenants of Albany, Inc., 33 Clinton Street, Albany, NY 12207
Housing Assistance Program of Essex County, Inc., Church Street, P.O. Box 157, Elizabethtown, NY 12932
Stoneleigh Housing, Inc., 120 E. Center Street, Canastota, NY 13032
Lewis County Opportunities, Inc., P.O. Box 111, New Bremen, NY 13367
Albany County Rural Housing Alliance, Inc., P.O. Box 407, 34 South Main Street, Voorheesville, NY 12186
Albany Housing Coalition, Inc., 151 Clinton Ave., Albany, NY 12210
Cortland Housing Assistance Council, Inc., 10.5 Main Street, Cortland, NY 13045
Urban League of Onondage County, Inc., 505 E. Fayette Street, Syracuse, NY 13202
Rensselaer County Community Housing Resource Board, Inc., 85 S. Main Street, Castle on the Hudson, NY 12033
Troy Neighborhood Council, Inc., 415 River Street, 3rd Floor, Troy, NY 12180
Better Neighborhoods, Inc., 986 Albany Street, Schenectady, NY 12307–1513
Housing Assistance Center, 1233 Main Street, Buffalo, NY 14209, (Tues & Thu), Maryvale Comm. Cntr., 3409 Genesee St., Cheektowaga, NY 14225, (Monday) Lower Level—City Hall, 200 Niagara St., Tonawanda, NY 14150, (Tuesday), Lackawanna City Hall, Room 309, Lackawanna, NY 14218
Housing Development Council of Orleans County, 53 North Main Street, Albion, NY 14411
Community Action in Self Help, Inc., 9 Broad Street, Lyons, NY 14489
Troy Rehabilitation and Improvement Program, Incorporated, 415 River Street, 3rd Floor, Troy, NY 12181

North Carolina

Family Housing Services, Alexander Street Center, 910 N. Alexander Street, Charlotte, NC 28205
Cumberland County Community Action Program, Inc., 328 Gillespie Street, Fayetteville, NC 28302
Johnston Lee Community Action, Inc., 1102 Massey Street, Smithfield, NC 27577
Joint Orange-Chatham Community Action, Inc., P.O. Box 27, Pittsboro, NC 27312
Consumer Credit Counseling of Western North Carolina, 50 S. French Broad Ave., Suite 236, Asheville, NC 28802
Consumer Credit Counseling Services of Forsyth County, 926 Brookstown Ave., Winston Salem, NC 27101–3644
Northwestern Regional Housing Authority, P.O. Box 2510, Boone, NC 28607
North Carolina Client Councils, 216 Church Street, Smithfield, NC 27577
Raleigh Housing Authority, 618 Tucker Street, Raleigh, NC 27603
Isothermal Planning & Development Commission, P.O. Box 841, Rutherfordton, NC 28139
Mid-East Commission, One Harding Square, Washington, NC 27889
Northwest Piedmont Council of Government, 280 South Liberty Street, Winston-Salem, NC 27101
Sandhills Community Action Program, Inc, 103 Saunders Street, Carthage, NC 28327
Council on Aging of Wake County, 1001 Navaho Drive, Suite 213, Raleigh NC 27609

North Dakota

Community Action Opportunity, Inc., 420 3rd Street, S.W., Post Office Box 1057, Minot, ND 58702–1057
Community Action and Development Program, 652 West Villard, Dickinson, ND 58601
Community Action Program, Region VII, Inc., 2105 Lee Avenue, Bismarck, ND 58504
Community Action, Region VI, Inc., Highway 281 North, Post Office Box 507, Jamestown, ND 58402

Quad County Community Action Agency, 27½ South 3rd Street, Grand Forks, ND 58201
Southeastern North Dakota, Community Action Agency, 3233 South University Drive, Fargo, ND 58104

Ohio

Better Housing League/Greater Cincinnati, 2400 Reading Rd., Community Chest Bldg., RM 404, Cincinnati, OH 45202
Montgomery County Community Action Agency (MCCAA), 318 S. Main Street, P.O. Box 4008, Dayton, OH 45401
Luthern Housing Corporation Buckeye-Woodland Office, 12205 Forest Avenue, Cleveland, OH 44120
Luthern Housing Corporation, West Side Office, 1967 West 45th Street, Cleveland, OH 44102
Luthern Housing Corporation, 4208 Prospect Avenue, Cleveland, OH 44103
Urban League of Greater Cleveland, 1255 Shaker Boulevard, Cleveland, OH 44115
West Side Multi-Service Corporation, 4115 Bridge Avenue, Cleveland, OH 44113
Youngstown Area Urban League, 123 East Rayen Avenue, Youngstown, OH 44503
Children's and Family Service Consumer Credit Counseling, 535 Marmion Avenue, Youngstown, OH 44502
Catholic Service League, Inc., 5385 Market Street, Boardman, OH 44512
Family & Community Serv., Catholic Charities/Columbiana Cnty., Box 413, 996½ N. Market St., Lisbon, OH 44432
Fair Housing Contact Service, 333 South Main Street, Akron, OH 44308
Family & Community Services of Catholic Charities, Inc., 302 North Depeyster Street, Kent, OH 44240
Housing Directions of Greater Toledo, 442 Floyd at Collingwood, Toledo, OH 43620
CONSOC Consultants, 1889 East Livingston Avenue, Columbus, OH 43209
Consumer Credit Counseling of Columbus, 697 East Broad Street, Columbus, OH 43215
Ironton-Lawrence County Area Community Action Organization, 305 N. Fifth Street, Ironton, OH 45638
Marion-Crawford Community Action Commission, 531 N. State St., P.O. Box 779, Marion, OH 43302
Portsmouth-Inner City Corporation, Post Office Box 847, 1206 Waller Street, Portsmouth, OH 45662
Regional Housing Center, 595 East Broad Street, Post Office Box 7050, Columbus, OH 43205
Consumer Protection Association, 3101 Euclid Avenue—Room 603, Cleveland, OH 44115
Family Service Associations, 1704 North Road S.E., Heaton Square, Suite 2, Warren, OH 44484
Catholic Service League, Inc., 4436 Main Avenue, P.O. Drawer 1338, Ashtabula, OH 44004–1863
The Catholic Community League of Canton, Inc., 625 Cleveland Avenue, N.W., Canton, OH 44702
The Catholic Service League of Western Stark County, Inc., 1807 Lincoln Way East, Massillon, OH 44646
Catholic Community Services, Inc. of Trumbull County, 2932 Youngstown Road, S.E., Warren, OH 44484

Oklahoma

Deep Fork Community Action Foundation, Inc., 320 Northwood Drive, P.O. Box 670, Omulgee, OK 74447
Housing Authority of the City of Hugo, 300 13th Place, P.O. Box 727, Hugo, OK 74743
Tulsa Urban League, 240 East Apache, Tulsa, OK 74105
Washington-Nowata County, Community Action Foundation, 414 Sequoia, Dewey, OK 74029
Credit Counseling Centers of Oklahoma, Inc., 2140 South Harvard, P.O. Box 4450, Tulsa, OK 74159
Wa-Ro-Ma Tri-County Community Action Foundation, 209 S. Broadway, Coweta, OK 74429, 316 S. Cherokee, Claremore, OK 74017, 405 NE 1st, Pryor, OK 74361
Housing Auth. of the Seneca-Cayuga Tribe of Oklahoma, 3606 Sencay Avenue, P.O. Box 1304, Miami, OK 74354
Housing Authority of Oklahoma, Cherokee Nation, 1500 Hansley Dr., P.O. Box 1007, Tahlequah, OK 74465
United Community Action Program, P.O. Box 384, 5th & Granite, Pawnee, OK 74058
Housing Auth. of Osage Tribe of Indians, 3 Miles North of Homing, Highway 99D, PO Box 517, Hominy, OK 74035
Choctaw Housing Authority, 1005 South 5th, P.O. Box G, Hugo, OK 74743
Association of South Central Oklahoma Governments, 802 Main Street, P.O. Box 1647, Duncan, OK 73534
Consumer Credit Counseling Service, 3230 North Rockwell Street, P.O. Box 1789, Bethany, OK 73008–1789
Consumer Credit Counseling Service, Building 461, Room 109, P.O. Box 75405, Tinker Air Force Base, OK 73147
Consumer Credit Counseling Service, 501 C Ave., Suite 3081, Lawton, OK 73502
Consumer Credit Counseling Service, 601 N. Porter, Norman, OK 73071
Consumer Credit Counseling Service, 614 NE 4th Street, Suite 203, Oklahoma, OK 73104
Consumer Credit Counseling Service, 317A W. Cherokee, Enid, OK 73701
Consumer Credit Counseling Service, 123 West 7th Street, Stillwater, OK 74074
Elk City Housing Authority, 1510 West 9th Street, Elk City, OK 73648
Sac and Fox Tribe of Oklahoma Housing Authority, 5 North Kimberly, Shawnee, OK 74802
Housing Authority of the Chickasaw Nation, 401 Country Club, Ada, OK 74821
Housing Authority Absentee-Shawnee Tribe of Indians, 107 North Kimberly, Shawnee, OK 74802

Oregon

Human Solutions, Inc., 2900 S.E. 122nd Avenue, Portland, OR 97236
Oregon Housing and Associated Services, Inc., 525 Glen Creek Road, NW, Suite 210, Salem, OR 97304
Housing Services of Oregon, 34420 SW Tualatin Valley Highway, Hillsboro, OR 97123
Umpqua Community Action Network, 2448 West Harvard Blvd., Roseburg, OR 97470
Access, 510 E. Main Street, Patty Claeys, Executive Director, Medord, OR 97504

Pennsylvania

Delaware County H.O.P.E., Philadelphia Council for Community Advancement, 511 Welsh St., Chester, PA 19013
Urban League of Metropolitan Harrisburg, Inc., 28 North Second Street, Harrisburg, PA 17101
Tabor Community Services, Inc., 439 East King Street, Lancaster, PA 17602
Consumer Credit Counseling Service of Lehigh Valley, Inc., 3671 Crescent Court East, Whitehall, PA 18052
Consumer Credit Counseling Service of Western Pennsylvania, Inc., 309 Smithfield Street, Pittsburgh, PA 15222
Elder-ado, 320 Brownsville Road, Pittsburgh, PA 15210
Northwest Counseling Service, Inc., 5601 N. Broad Street, Suite 209, Philadelphia, PA 19141
Housing Association of Delaware Valley, Information Program, 1314 Chestnut St., Suite 900, Philadelphia, PA 19107
Housing Council of York, 116 North George Street, York, PA 17401
Housing and Neighborhood Development Services, Inc., (H.A.N.D.S.), 139 East 12th Street, Erie, PA 16501

Warren Forest Counties Economic Opportunities Council, P.O. Box 547, Warren, PA 16365
Commission of Economic Opportunity of Luzerne County, 211–213 South Main Street, Wilkes-Barre, PA 18701
Berks Community Action Program, 227–229 North Fourth Street, Reading, PA 19601
Philadelphia Council For Community Advancement, 100 N. 17th Street, Suite 600, Philadelphia, PA 19103
Philadelphia Housing Development Corporation, 1234 Market Street—10th Floor, Philadelphia, PA 19107
Urban League of Philadelphia Education Foundation, 4601 Market Street, Suite 2, South Philadelphia, PA 19139
Tenants' Action Group of Philadelphia, 311 S. Juniper Street, Room 1000, Philadelphia, PA 19107
Greater Erie Community Action Committee, 18 West 9th Street, Erie, PA 16501
Washington/Greene Community Action Corporation, 22 West High Street, Waynesburg, PA 15370
Bayfront NATO, Inc., Martin Luther King Center, 312 Chestnut Street, Erie, PA 16507
Booker T. Washington, Inc., 1720 Holland Street, Erie, PA 16503
Urban League Housing Counseling Service, Inc., 304 Ross Street, Pittsburgh, PA 15219
Council of Three Rivers American Indian Center, Inc., 200 Charles Street, Pittsburgh, PA 15238
Fayette County Community Action Agency, 92 N. Beeson Blvd., Uniontown, PA 15401
Tri-County Partnership for Independent Living, 120 E. Hallan Avenue, Washington, PA 15301
Community Resources for Independents, Inc., 2222 Filmore Avenue, Erie, PA 16506–2954
H.A.N.D.S., Inc., 139 East 12th Street, Erie, PA 16501
Allied Human Services Association, 44 S. Beaver Street, New Castle, PA 16101
Mercer County Community Action Agency, 309 Ohio Street, Sharon, PA 16146
Shenago Valley Urban League, 39 Chestnut Street, Sharon, PA 16146
Center for Independent Living of SW PA, 7110 Penn Avenue, Pittsburgh, PA 15208
Housing Opportunities, Inc., 133 7th Street, Post Office Box 9, McKeesport, PA 15134
Center of Independent Living of South Central PA, 1501–11th Avenue—Mezzanine, Altoona, PA 16601
Garfield Jubilee Association, 5138 Penn Avenue, Pittsburgh, PA 15224

Puerto Rico

Instituto Ponceno del Hogar, Calle Sol Esq. Capitan Correa, Ponce, Puerto Rico 00733
Ceiba Housing & Economic Development Corporation, Ave. Lauro Pinero 252 (altos), Ceiba, Puerto Rico 00636
Congresso de Trabajadores y Consumidores de Puerto Rico, Calle Los Angeles 707, Santurce, Puerto Rico 00910

Rhode Island

Blackstone Valley Community Action Program, Inc., 129 School Street, Pawtucket, RI 02860
Urban League of Rhode Island, 246 Prarie Avenue, Providence, RI 02905
Blackstone Valley Community Action Program, Inc., 129 School Street, Pawtucket, RI 02860
Urban League of Rhode Island, 246 Prairie Avenue, Providence, RI 02905

South Carolina

Aiken County Community Action—Aiken Office, PO Box 2066, 291 Beaufort Street, Aiken, SC 29801
Cayce Office, 650 Knox Abbott Drive, Cayce, SC 29003
Barnwell Office, 2229A Allen Street, Barnwell, SC 29003
Carolina Regional Legal Services Corporation, Post Office Box 479, 279 West Evans Street, Florence, SC 29501
Chesterfield-Marlboro Economic Opportunity Council, Inc., PO Box 866, 71 Second Street, Cheraw, SC 29520
Consumer Credit Counseling Service, 2700 Middleburg Drive, Suite 201, Columbia, SC 29204
Greenville Urban League, Post Office Box 10161, 15 Rigency Hill Drive, Greenville, SC 29603
Palmetto Legal Services, Columbia Office, Post Office Box 2267, 2109 Bull Street, Columbia, SC 29202
Orangeburg Office, PO Box 1646, 304 St. John Street, Orangeburg, SC 29116
Sumter Office, PO Box 1136, 35 East Calhoun Street, Sumter, SC 29151
Lexington Office, 401 W. Main Street, Lexington, SC 29072
Pee Dee Community Actions, Inc., Post Office Drawer 12670, 411 South Jarrott, Florence, SC 29501
Administrative Services Office, 2685 S. Irby Street, Florence, SC 29504
Piedmont Legal Services, Inc., 148 East Main Street, Spartanburg, SC 29504
Spectrum Institute, 1108 Woodrow, Post Office Box 12615, Columbia, SC 29211–2615
Trident United Way, Post Office Box 20696, 32 Ann Street, Charleston, SC 29413–0696
Wateree Community Action Agency, Post Office Box 1838, 13 South Main Street, Sumter, SC 29150

South Dakota

Consumer Credit Counseling Service of the Black Hills, Post Office Box 14, 621 6th St., #201, Rapid City, SD 57709
Luthern Social Services Consumer Credit Counseling, 617 West 11th Street, Sioux Falls, SD 57104

Tennessee

Memphis Urban League, Inc., 2279 Lamar Avenue, Memphis, TN 38114
Housing Opportunities Corporation, 147 Jefferson Avenue, Suite 800, Memphis, TN 38103
Memphis Area Legal Services, 109 N. Mid America Mall, Memphis, TN 38103
West Tennessee Legal Service, Inc., 210 West Main Street, Jackson, TN 38302–2066
Knoxville Area Urban League, P.O. Box 1911, 2416 Magnolia Avenue, Knoxville, TN 37901
Metropolitan Action Commission, 1624 Fifth Avenue North, Nashville, TN 37208
Metropolitan Social Services, 25 Middleton Street, Nashville, TN 37210
Nashville Urban League, 1219 9th Avenue North, Nashville, TN 37208
Target Community Association, P.O. Box 52, Pucaski, TN 38478
Hope, Incorporated, 1501 Herman Street, Suite "S", Nashville, TN 37208
Metropolitan Development and Housing Agency (MDHA), 172 2nd Avenue North, Suite 102, Nashville, TN 37201
Citizens for Affordable Housing, 1719 West End Ave., Suite 607, Nashville, TN
Department of Human Services, City of Chattanooga, 501 11th Street, West Chattanooga, TN 37402
Douglas-Cherokee Economic Authority, Inc., P.O. Box 1218, 525 East North First Street, Morristown, TN 37814
Consumer Credit Counseling Service of Greater Knoxville, Inc., 1012 Heiskell Avenue, Knoxville, TN 37921
East Tenn. Human Resource Agency, 408 North Cedar Bluff Road, Suite 150, Knoxville, TN 37923
Upper East Tennessee Human Development Agency, 301 Louis Street, Kingsport, TN 37662

Texas

Consumer Credit Counseling Service of Greater Dallas, 1949 Stemmons Freeway, Suite 200, Dallas, TX 75207–3104
Consumer Credit Counseling of Fort Worth, 807 Texas Street, Suite 100, Forth Worth, TX 76102

Consumer Credit Counseling Service of North Texas, 1006 West University, McKinney, TX 75069
Housing Authority of the City Of Marshall, Box 609, 406 Poplar Street, Marshall, TX 75670
Housing Opportunities of Ft. Worth, 1305 West Magnolia Street, Ft. Worth, TX 76104
Dallas Urban League, Inc., 3625 North Hall Street, Suite 700, Dallas, TX 75219–5106
Consumer Credit Counsel Of Arlington, 201 E. Abram, Suite 730, Arlington, TX 76011
Consumer Credit Counseling Of Carrollton, 1525 N. I–35 #206, Carrollton, TX 75006
Consumer Credit Counseling of Irving, Parks Oak Plaza, 2621 W. Airport Frwy., Suite 108, Irving, TX 75062
Consumer Credit Counseling Of Longview, Bank of Longview Office Center, 1800 N.W. Loop 281, Suite 204
Consumer Credit Counseling Of Mesquite, 18601 LBJ Frwy, Town E. Tower #500, Mesquite, TX 75150
Consumer Credit Counseling Of Redbird, 7125 Marvin D. Love Frwy. #102, Dallas, TX 709–3000
Consumer Credit Counsel. Of Richardson, First City Bank Ctr., 100 N. Central Expwy., #400, Richardson, TX 75081
Consumer Credit Counseling Of Tyler, 11 American Center, 821 Loop 323 E.S.E., Suite 375, Tyler, TX 75701
Consumer Credit Counseling Of Wichita Falls, 2301 Midwestern Pkwy., Suite 201, Wichita Falls, TX 76308
Consumer Credit Counseling Of Athens, 228 North Prairie Ville, Athend, TX 75751
Consumer Credit Counseling Of Corsicana, 200 North 13th Street, Suite 208, Corsicana, TX 75110
Consumer Credit Counseling Of DeSoto, 1229 Pleasant Run, Suite 122, DeSoto, TX 75115
Consumer Credit Counseling Of Garland, 705 West Avenue B, Suite 601, Garland, TX 75040
Consumer Credit Counseling Of Grand Prairie, 801 West Freeway, Nations Bank Bldg., Grand Prairie, TX 75051
Consumer Credit Counseling Of Marshall, Travis Terrace Bldg., 505 E. Travis Street, Suite 111, Marshall, TX 75670
Consumer Credit Counseling Of Mesquite, 18601 LBJ Freeway, Town E. Tower #500, Mesquite, TX 75150
Consumer Credit Counseling Of Rockwall, Ridge Point Center, 113 Kensway, Suite 201–4, Rockwall, TX 75087
Consumer Credit Counseling Of Waxahachie, 800 Ferris Avenue, Suite 225, Waxahachie, TX 75165
Consumer Credit Counseling Of White Rock, 10440 East N W Hwy., Suite 302, White Rock, TX 75238
Central Texas Council of Governments, P.O. Box 729, 302 East Central, Belton, TX 76513
Dallas County Community Action Committee, Inc., 2121 Main Street, Suite 100, Dallas, TX 75201
Greater El Paso S.E.R., 4838 Montana Avenue, El Paso, TX 79903
Guadalupe Economic Services Corporation, 200 (A) Barcelona, El Paso, TX 79905
Guadalupe Economic Services Corporation (GESC), 1416 First Street, Lubbock, TX 79401
Wesley Community Center, 1605 S. Roberts, Amarillo, TX 79101
West Texas Opportunities, Inc., 908 S. Colorado Street, Midland, TX 79701
West Texas Opportunities, Inc., 500 W. 10th Street, Odessa, TX 70760
Austin Housing Authority Social Services Division, 1640 E. 2nd Street, P.O. Box 6159, Austin, TX 78702
Child and Family Service, Consumer Credit Counsel. Div., 1221 W. Ben White Blvd., #112–B, Austin, TX 78704
Community Action Division, Housing Counseling Program, 115 Plaza de Armas, Suite 200, San Antonio, TX 78207
Consumer Credit Counseling Service Of San Antonio, 4203 Woodcock Drive, Suite 251, San Antonio, TX 78228
Colonias De Valle, 1203 East Ferguson, P.O. Box 764, Pharr, TX 78577
Community Development Corporation of Brownsville, 1150 E. Adams Street, 2nd Floor, Brownsville, TX 78520
Consumer Credit Counseling Service of South Texas, 5842 South Staples, Corpus Christi, TX 78413
L'Anmar Communications, Inc., 301 South Frio, San Antonio, TX 78207
Community Care Housing Development Corp. of Houston, 4625 North Freeway, Suite 260, Houston, TX 77091
Consumer Credit Counseling Services, 4203 Fannin, Houston, TX 77004
Organization of Christians Assisting People, 600 Faley, Port Arthur, TX 77640
Houston Area Urban League, 3215 Fannin, Houston, TX 77004
Housing Opportunities Incorporated, 2900 Woodbridge, Suite 302, Houston, TX 77087
Gulf Coast Community Service Association, 6300 Bowling Green, P.O. Box 14107, Houston, TX 77021

Utah

Community Action Program, 764 South 200 West, Salt Lake City, UT 84101
Mountainland Community Action, 257 East Center, Suite #201A, Provo, UT 84601
Weber State College, 3750 Harrison Boulevard, Ogden, UT 84408–4025

Vermont

No HUD-Approved Housing Counseling Agencies Located within the State of Vermont

Virginia

Monticello Area Community Action Agency, 215 East High Street, Suite No. 7, Charlottesville, VA 22901
Hampton Redevelopment and Housing Authority, 22 Lincoln Street, P.O. Box 280, Hampton, VA 23669
Newport News Office of Human Affairs, 2410 Wickham Avenue, P.O. Box 37, Newport News, VA 23607
Housing and Rehabilitation City of Hampton, City Hall, 22 Lincoln Street, Hampton, VA 23669
Prince William Cooperative Extension Service, 8805 Sudley Road, Suite 200, Manassas, VA 22110–4796
Southeastern Tidewater Opportunities Project (STOP), 415 St. Paul's Boulevard, P.O. Box 1078, Norfolk, VA 23501
Portsmouth Redevelopment and Housing Authority, 339 High Street, Portsmouth, VA 23705–1098
People Incorporated, 918 West Main Street, Abingdon, VA 24210
Housing Opportunity Made Equal (HOME), 1218 W. Cary Street, Richmond, VA 23219
Richmond Urban League, 101 East Clay Street, Richmond, VA 23219
Total Action Against Poverty (TAP), 702 Shenandoah Avenue, N.W., P.O. Box 2868, Roanoke, VA 24001–2868
City of Roanoke Redevelopment and Housing Authority, 2624 Salem Turnpike, N.W., Roanoke, VA 24017
Fairfax County Finance Education Center, 12000 Gov't Center Parkway, Suite 318, Fairfax, VA 22035–0071
Senior Citizens Employment & Services Inc., 121 North St. Asaph Street, Alexandria, VA 22314
Arlington Agency on Agency, 1801 N. George Mason Drive, Arlington, VA 22207–1999

Washington

Aberdeen Neighborhood Housing Services, 703 East First, Aberdeen, WA 98520
Fremont Public Association, Post Office Box 31151, 3601 Fremont Avenue North, Seattle, WA 98103
The Urban League of Metropolitan Seattle, 105–14th Avenue, Seattle, WA 98122
Pierce County Community Action Agency, 8811 South Tacoma Way,

Bldg. 2, Room 108, Tacoma, WA 98409
Spokane Neighborhood Action Programs, Spokane Housing Resources, South 500 Stone, Spokane, WA 99202

West Virginia

Consumer Credit Counseling Service, 51 11th Street, Wheeling, WV 26003
Consumer Credit Counseling Service, Inc., Family Services, Inc., 1304 Fifth Avenue, Huntington, WV 25701
Criss Cross, Inc., 166 Washington Avenue, P.O. Box 1831, Clarksburg, WV 26301
Consumers Credit Counseling Service of Mid-Ohio Valley, 2715 Murdoch Avenue, R–4, Parkersburg, WV 26101
Consumer Credit Counseling Service of the Kanawha Valley, P.O. Box 3720, Charleston, WV 25301
Consumer Credit Counseling Service of Bluefield, Inc., P.O. Box 6282, Bluefield, WV 24701
Coordinating Council for Independent Living, 1000 Elmer W. Prince Drive, Morgantown, WV 26505
Consumer Credit Counseling of S. WV, Inc., P.O. Box 2129, Beckley, WV 25802
Consumer Credit Counseling, 219 Walnut Street, Morgantown, WV 26505

Wisconsin

Lake Superior Self-Help Homes, Inc., 514½ West Second Street, Ashland, WI 58409
Community Advocates, 4906 West Fond du Lac Avenue, Milwaukee, WI 53216
Milwaukee United for Better Housing, Inc., 4011 West Capitol Drive, Milwaukee, WI 53216
Westside Home Buyer's Clinic, 3209 W. Highland Boulevard, Milwaukee, WI 53208
The Racine/Kenosha Community Action Agency, Inc., 72 Seventh Street, Racine, WI 53403
Neighborhood Housing Services of Kenosha, Inc., 5605 16th Avenue, Kenosha, WI 53140
Community Action, Inc., 1013 Burbank Avenue, Janesville, WI 53546
Community Action, Inc., 503 East Walworth Ave., Delavan, WI 53115
Dane County Housing Authority, 2825 University Avenue, Madison, WI 53705
Coalition of Wisconsin Aging Groups, Inc., 1245 East Washington Avenue, Madison, WI 53703–3040
Tenant Resource Center, 14 West Mifflin Street, Madison, WI 53703

Wyoming

No HUD-Approved Housing Counseling Agencies Located within the State of Wyoming.

[FR Doc. 93–5341 Filed 3–8–93; 8:45 am]
BILLING CODE 4210–27–M

Office of Administration

[Docket No. N–93–3581]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 22, 1993.

Kay Weaver,

Acting Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Part 890—Supportive Housing for Persons with Disabilities Section 890.310—Duration of Section 811 Fund Reservations (FR–2974)
Office: Housing
Description of the Need for the Information and Its Proposed Use: When a HUD Field Office Manager determines that an owner under the Section 811 Capital Advance Program is not making satisfactory progress toward initial closing, a Notice of Intent to Cancel the Section 811 Fund Reservation is issued. The owner will have 30 days in which to appeal the decision.
Form Number: None
Respondents: Non-Profit Institutions
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	32		1		.5		16

Total Estimated Burden Hours: 16
Status: New
Contact: Evelyn R. Berry, HUD, (202) 708–2866; Angela Antonelli, OMB, (202) 395–6880

Dated: February 22, 1993.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Part 889—Supportive Housing for Elderly Section 889.310—Duration of Section 202 Fund Reservation (FR–2956)
Office: Housing
Description of the Need for the Information and its Proposed Use: When a HUD Field Office Manager determines that a borrower under the Section 202 Capital Advance Program is not making satisfactory progress toward initial closing, a Notice of Intent to Cancel the fund reservation is issued to the owner. The owner will have 30 days in which to appeal the decision.
Form Number: None
Respondents: Non-Profit Institutions
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	30		1		.5		15

Total Estimated Burden Hours: 15
Status: Extension
Contact: Evelyn R. Berry, HUD, (202) 708–2866; Angela Antonelli, OMB, (202) 395–6880

Dated: February 22, 1993.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Local Appeals to Single-Family Mortgage Limits
Office: Housing
Description of the Need for the Information and its Proposed Use: The FHA single-family maximum mortgage limit is $67,500, but may be increased up to $124,875 in high-cost areas. HUD will raise the limits above $67,500 if housing sales data is received from interested parties (primarily homebuilders, mortgage lenders and realtors) which justifies increase.
Form Number: None
Respondents: Businesses or Other For-Profit
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	800		1		40		3,200

Total Estimated Burden Hours: 3,200
Status: Extension
Contact: Maynard Curry, HUD, (202) 708–2676; Angela Antonelli, OMB, (202) 395–6880

Dated: February 22, 1993.

[FR Doc. 93–5342 Filed 3–8–93; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–93–3582]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of responses, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone

numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 18, 1993.

Kay Weaver,

Acting Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Section 202 Supportive Housing for the Elderly—Application Submission Requirements (FR–3407)
Office: Housing
Description of the Need for the Information and Its Proposed Use: This collection is necessary to assist HUD in determining applicant eligibility and capacity to develop housing for the elderly within statutory and problem criteria. A thorough evaluation of the applicants' qualifications and capabilities is critical to protect the government's financial interest and to mitigate any possibility of fraud, waste or mismanagement of public funds.
Form Number: HUD–92015–CA
Respondents: Non-Profit Institutions
Frequency of Submission: Annually
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–92015–CA	750		1		38.3		28,725
Applicants	38		1		4.0		152

Total Estimated Burden Hours: 28,877
Status: Reinstatement
Contact: Evelyn Berry, HUD, (202) 708–2866; Angela Antonelli, OMB, (202) 395–6880

Dated: February 18, 1993.

Notice of Submission of Proposed Information Collection to OMB

Proposal: (1). Schedule of Subscribers and GNMA II Contractual Agreement. (2). Schedule of Subscribers Addendum for Construction Loan Certification.
Office: Government National Mortgage Association
Description of the Need for the Information and Its Proposed Use: The forms are used to provide GNMA with a listing of subscribers and other information needed to prepare mortgage-backed securities; and to provide the contractual agreement between the issuer and GNMA under the GNMA II program.
Form Number: HUD–11705 and 1735
Respondents: Businesses or Other For-Profit
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–11705	1,250		18.6		.17		3,954
HUD–1735	100		5.64		.17		100

Total Estimated Burden Hours: 4,054
Status: Reinstatement
Contact: Brenda Countee, HUD, (202) 708–2234; Charles Clark, HUD, (202) 708–2234; Angela Antonelli, OMB, (202) 395–6880

Dated: February 18, 1993.

[FR Doc. 93–5343 Filed 3–8–93; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–93–3583]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its

proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 2, 1993.

Kay Weaver,

Acting Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Construction Complaint/ Request for Financial Assistance
Office: Housing
Description of the Need for the Information and Its Proposed Use: Form HUD–92556 will provide orderly processing of homeowner complaint items that the builder is responsible to correct and will determine eligibility for financial assistance. It will also identify builders who are not conforming to applicable standards.
Form Number: HUD–92556
Respondents: Individuals or Households
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–92556	4,600		1		.5		2,300

Total Estimated Burden Hours: 2,300
Status: Extension
Contact: Kenneth L. Crandall, HUD, (202) 708–2720; Angela Antonelli, OMB, (202) 395–6880

Dated: March 2, 1993.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Title I Property Improvement and Manufactured Home Loans (24 CFR part 201)
Office: Housing
Description of the Need for the Information and Its Proposed Use: Title I loans are made by private lenders and HUD insures the lender against loss from borrower defaults. The information collections are needed by HUD to evaluate program and individual lender performance and to determine whether claims are eligible for payment.
Form Number: HUD–637, 27029, 27030, 55013, 55014, 56001, 56001–MH, 56004, 92802
Respondents: Individuals or Households, Businesses or Other For-Profit and Small Businesses or Organizations
Frequency of Submission: On Occasion and Recordkeeping
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	404,995		varies		Varies		262,202
Recordkeeping	30		1		54		1,620

Total Estimated Burden Hours: 263,822
Status: Reinstatement
Contact: Robert Coyle, HUD, (202) 708–2880; Lana McKee, HUD, (202) 708–2880; Angela Antonelli, OMB, (202) 395–6880

Dated: March 2, 1993.

[FR Doc. 93–5344 Filed 3–8–93; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–93–3584]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its

proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 12, 1993.

John T. Murphy,

Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Public Housing Affirmative Compliance Actions Program (PHACA) Title VI Self-Assessment Instrument for PHAs

Office: Fair Housing and Equal Opportunity

Description of the Need for the Information and Its Proposed Use: The Title VI Self-Assessment Instrument is used by Public Housing Agencies to document their performance related to Title VI of the 1964 Civil Rights Act. The results are used by HUD to provide a formal compliance determination for PHAs participating in this voluntary program.

Form Number: HUD–956

Respondents: State or Local Governments and Non-Profit Institutions

Frequency of Submission: One-time

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	80		1		120		9,600

Total Estimated Burden Hours: 9,600

Status: Extension

Contact: Carolyn Ray, HUD, (202) 708–1992; Nannette Locke, HUD, (202) 708–1992; Angela Antonelli, OMB, (202) 395–6880

Dated: February 12, 1993.

[FR Doc. 93–5345 Filed 3–8–93; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–93–3585]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 19, 1993.

John T. Murphy,

Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Summary of Guaranty Agreements

Office: Government National Mortgage Association

Description of the Need for the Information and Its Proposed Use: The information furnished on the forms incorporates the terms and conditions of the Guaranty Agreements for each type of mortgage pool. Execution by the issuers indicates compliance with the terms and conditions of the Guaranty Agreement.

Form Number: HUD–11716, 1723, 11727, 1730 and 11733

Respondents: Businesses or Other For-Profit

Frequency of Submission: On Occasion

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	1,250		18.7		.25		5,845

Total Estimated Burden Hours: 5,845

Status: Reinstatement

Contact: Brenda Countee, HUD, (202) 708–2234; Charles Clark, HUD, (202) 708–2234; Angela Antonelli, OMB, (202) 395–6880

Dated: February 19, 1993.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Section 811 Supportive Housing for Persons with Disabilities—Application Submission Requirements (FR–3406)
Office: Housing
Description of the Need for the Information and its Proposed Use: This information collection is necessary to assist HUD in determining applicant eligibility and capacity to develop housing for disabled within statutory and program criteria. A thorough evaluation of an applicant's financial interest is conducted to mitigate any possibility of fraud, waste or mismanagement of public funds.
Form Number: HUD–92016–CA
Respondents: Non-Profit Institutions
Frequency of Submission: On Occasion
Reporting Burden:

	Number of Respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	350		1		39.2		13,720
Proposals	10		1		2.0		20
Applicants	15		1		4.0		60

Total Estimated Burden Hours: 13,800
Status: Reinstatement
Contact: Evelyn Berry, HUD, (202) 708–2866; Angela Antonelli, OMB, (202) 395–6880

Dated: February 19, 1993.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Quality Control Plan for Approved Mortgagees
Office: Housing
Description of the Need for the Information and its Proposed Use: The Mortgagee Letter establishes minimum requirements for an acceptable Quality Control Plan for HUD–FHA approved mortgagees with respect to loan origination and servicing. The requirements are intended to improve the quality of loan origination and servicing by approved mortgagees and to reduce losses to HUD's insurance fund.
Form Number: None
Respondents: State or Local Governments, Businesses or Other For-Profit, Non-Profit Institutions and Small Businesses or Organizations
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	1,800		1		40		72,000
Recordkeeping	1,800		1		12		21,600

Total Estimated Burden Hours: 93,600
Status: Extension
Contact: D. Jackson Kinkaid, HUD, (202) 708–1824; Angela Antonelli, OMB, (202) 395–6880

Dated: February 19, 1993.

[FR Doc. 93–5346 Filed 3–8–93; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–020–93–4210–04, U–68277]

Salt Lake District; Exchange of Public Lands in Tooele County, UT; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, exchange of public lands in Tooele County, Utah.

SUMMARY: The Bureau of Land Management proposes to exchange 478.16 acres of land in Tooele County to Douglas Larson for 480.00 acres. This notice provides a public comment period and segregates the lands described from entry and mining under the public land laws and the United States mining laws.

DATES: Comments must be received by May 10, 1993.

ADDRESSES: Comments should be sent to the District Manager, Salt Lake District BLM, 2370 South 2300 West, Salt Lake City, Utah 84119.

FOR FURTHER INFORMATION CONTACT: Sharon Knowlton, BLM Salt Lake District Office, (801) 977–4300.

SUPPLEMENTARY INFORMATION: The following described lands have been found suitable for disposal by exchange

pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756, 43 U.S.C. 1716):

Salt Lake Meridian, Utah

T. 8 S., R. 5 W.,
Section 18, lots 3, 4, E½SW¼;
Section 19, lots 1–4 except the E½NE¼ of lot 3, E½W½.

In exchange for the above described lands, the BLM will acquire the following described lands:

Salt Lake Meridian, Utah

T. 8 S., R. 6 W.,
Section 9, E½E½;
Section 12, E½W½;
Section 15, E½W½.

The lands described above are hereby segregated from entry and mining under the public land laws and the United States mining laws. The segregative effect will terminate upon notice in the **Federal Register** or two years from the date of this publication, whichever occurs first.

Notice is hereby given that an opportunity for the public to comment is given within the comment period identified above. Any adverse comments will be evaluated by the District Manager who may modify or vacate this realty action and issue a final determination.

In the absence of any action by the State Director, this notice of realty action will become the final determination of the Department of the Interior.

Dated: March 1, 1993.

Deane H. Zeller,

District Manager.

[FR Doc. 93–5363 Filed 3–8–93; 8:45 am]

BILLING CODE 4310–DQ–M

[UT–040–03–4212–14]

Cedar/Beaver/Garfield/Antimony (CBGA) Resource Management Plan, Iron County, Utah; Notice of Intent

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: This notice of intent is to advise the public that the Bureau of Land Management (BLM) is proposing to do a Plan Amendment for the Cedar/Beaver/Garfield/Antimony (CBGA) Resource Management Plan (RMP) located in Iron County, Utah.

DATES: The comment period for this proposed plan amendment will commence with the date of publication of this notice. Comments must be submitted on or before April 8, 1993.

FOR FURTHER INFORMATION CONTACT: Arthur L. Tait, Area Manager, Beaver River Resource Area Office, 365 South Main, Cedar City, Utah 84720. Existing planning documents and information are available at the above address or telephone (801) 586–2458. Comments on this proposed plan amendment should be sent to the above address.

SUPPLEMENTARY INFORMATION: The BLM is proposing to amend the CBGA RMP approved October 1, 1986, which includes public land in Iron County, Utah. The purpose of the amendment would be to make certain public lands available for exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976.

The public land being considered for exchange, comprising 422.96 acres, is described as follows:

T. 33 S., R. 8 W.,
Sec. 1, lot 4, SW¼NW¼, NW¼SW¼, W½SW¼SW¼;
Sec. 3, lots 1, 5 and 11, SE¼NE¼;
Sec. 11, E½NE¼, SW¼NE¼, NW¼SE¼, Salt Lake Meridian, Utah.

The existing plan does not identify these lands as suitable for exchange. However, because of resource values, public values, and objectives involved, the public interest may be well served by offering these lands for exchange. An environmental assessment will be prepared to analyze the impacts of this proposal and alternatives.

James M. Parker,

State Director.

[FR Doc. 93–5373 Filed 3–8–93; 8:45 am]

BILLING CODE 4310–DQ–M

[UT–050–03–4210–05]

Mountain Valley Management Framework Plan, Sevier County, Utah; Notice of Intent

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) is proposing to amend the Mountain Valley Management Framework Plan, which includes public lands in Sevier County, Utah. The purpose of the amendment would be to identify certain lands as suitable for sale to Sevier County for the purpose of a regional sanitary landfill.

DATES: The comment period for this proposed plan amendment will commence with the date of publication of this notice. Comments must be submitted on or before April 8, 1993.

FOR FURTHER INFORMATION CONTACT: J. Roderick Lister, Sevier River Resource Area Manager, 150 East 900 North, Richfield, Utah 84701. Existing planning documents and information are available at the above address or telephone (801) 896–8221. Comments on this proposed plan amendment should be sent to Alan Partridge, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701.

SUPPLEMENTARY INFORMATION: The lands identified for sale comprise 481.94 acres described as follows:

T. 28 S., R. 1 W.,
Sec. 3, Lots 3 through 6, Lot 12, and W½SW¼;
Sec. 4, Lots 1, 9, 10, and E½SE¼;
Sec. 9, NE¼NE¼;
Sec. 10, NW¼NW¼, Salt Lake Meridian, Utah.

The existing plan does not identify these lands for disposal. However, Sevier County has made a proposal to purchase the described public lands and this proposal appears to have merit and may be in the public interest, so it will be considered through the plan amendment process.

James M. Parker,

State Director.

[FR Doc. 93–5374 Filed 3–8–93; 8:45 am]

BILLING CODE 4310–DQ–M

National Park Service

Gauley River National Recreation Area Advisory Committee

AGENCY: National Park Service; Gauley River National Recreation Area Advisory Committee.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Gauley River National Recreation Area Advisory Committee. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: April 1, 1993, 7 p.m.

ADDRESSES: Summersville Municipal Building, 400 North Broad St., Summersville, WV (downtown Summersville).

FOR FURTHER INFORMATION CONTACT: Joe L. Kennedy, Superintendent, New River Gorge National River, P.O. Box 246, Glen Jean, WV 25846; (304) 465–0508.

SUPPLEMENTARY INFORMATION: The Advisory Committee was established under section 206(a) of the "WV National Interest Act of 1987, "Public Law 100–534, to consult with the Secretary of the Interior, or his designee," * * * on matters relating to development of a management plan for the recreation area and on implementation of such plan."

The agenda for this meeting will focus on the presentation of a written report

from the Advisory Committee to the NPS on recommendations for the Draft General Management Plan (GMP) for the NRA. The final report will be included in the draft and final versions of the GMP, which is scheduled to go on public review in June, 1993. Copies of the committee's report will be available to the public at this meeting. Copies of the draft GMP will not be available to the public until the formal public review process begins in June, 1993.

The meeting will be open to the public. Any member of the public may file with the Committee a written statement concerning agenda items. The statement should be addressed to the Gauley River National Recreation Area Advisory Committee, P.O. Box 57, Glen Jean, WV 25846–0057. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the New River Gorge National River, 104 Main Street, P.O. Box 246, Glen Jean, WV 25846–0246.

Charles P. Clapper, Jr.,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 93–5327 Filed 3–8–93; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 27, 1993. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by April 8, 1993.

Antoinette J. Lee,

Acting Chief of Registration, National Register.

CALIFORNIA

Orange County

Young Men's Christian Association—Santa Ana-Tustin Chapter, 205 W. Civic Center Dr., Santa Ana, 93000237

COLORADO

Alamosa County

Zapata Ranch Headquarters, 5303 TX 150, Mosca vicinity, 93000199

Clear Creek County

Peck House, 83 Sunny Ave., Empire, 93000201

Mesa County

IOOF Hall, Jct. of 4th St. and Curtis Ave., De Beque, 93000200

CONNECTICUT

Hartford County

Belden, Horace, School and Central Grammar School, 933 Hopmeadow St. and 29 Massaco St., Simsbury 93000211

Eno Memorial Hall, 754 Hopmeadow St., Simsbury, 93000210

Simsbury Townhouse, 695 Hopmeadow St., Simsbury, 93000209

GEORGIA

Baldwin County

Devereux—Coleman House, 167 Kenan Dr., Milledgeville, 93000214

Hancock County

Pearson—Boyer Plantation, Pearson Chapel Rd., Sparta vicinity, 93000236

MAINE

Androscoggin County

Robinson, William A., House, 11 Forest Ave., Auburn, 93000204

Aroostook County

Smith Bridge, Lowery Rd. at jct. with Foxcroft Rd., across the Meduxnekeag R., Houlton vicinity, 93000202

Knox County

Murch Family House, Calderwood Neck SE side, 2 mi. NE of North Haven Rd., Vinalhaven vicinity, 93000205

Waldo County

Belfast Historic District (Boundary Increase), 59–63 Anderson St., Belfast, 93000195

Union School, Mt. Ephraim Rd. E side, 0.2 mi. N of jct. with US 1, Searsport, 93000203

MASSACHUSETTS

Plymouth County

Thomas—Webster Estate, 238 Webster St., Marshfield, 93000206

MINNESOTA

Pipestone County

Pipestone Indian School Superintendent's House, Off N. Hiawatha Ave., Pipestone, 93000232

MISSISSIPPI

Copiah County

Hargrave House, MS 28 W of Hazlehurst, Hazlehurst vicinity, 93000208

Yazoo County

Oakes, Augustus J., House, 308 Monroe St., Yazoo City, 93000207

MISSOURI

Boone County

Columbia National Guard Armory, 701 E. Ash St., Columbia, 93000197

NEW JERSEY

Union County

The Clearing, 165 Hobart Ave., Summit, 93000233

NEW YORK

Suffolk County

Southampton Village Historic District (Boundary Increase) (Southampton Village MRA), Roughly, along Rogers St., Lewis St. and Meeting House Ln. on E side of existing district, Southampton, 93000239

Westchester County

Grainger, Percy, Home and Studio, 7 Cromwell Pl., White Plains, 93000234

NORTH CAROLINA

Rockingham County

Chinqua—Penn Plantation, NC 1998 N side, 0.2 mi. W of jct. with NC 1987, Reidsville vicinity, 93000235

TENNESSEE

Dyer County

Newbern Illinois Central Depot, Jct. of Main and Jefferson Sts., Newbern, 93000213

White County

Sparta Electric Building (Pre-TVA Hydroelectric Power Development in Tennessee MPS), S. Main St., Sparta, 93000238

Wilson County

Rest Hill Cemetery, TN 141 E of jct. with TN 24 Bypass, Lebanon, 93000212

TEXAS

Starr County

Fort Ringgold Historic District, Rio Grande City School grounds, ¼ mi. SE of jct. of US 83 and TX 755, Rio Grande City, 93000196

WEST VIRGINIA

Doddridge County

Charter, Lathrop Russell, House, 109 High St., West Union, 93000219

Stuart, W. Scott, House, 104 Chancery St., West Union, 93000220

Kanawha County

Kanawha State Forest Historic District, Co. Rd. 42/43 2.6 mi. S. of Charleston, Loundendale vicinity, 93000228

Lewis County

Weston Colored School, 345 Center St., Weston, 93000224

McDowell County

World War Memorial, US 52, Kimball, 93000227

Marion County

Masonic Temple, 320 Jefferson St., Fairmount, 93000218

Monongalia County

Kern's Fort, 305 Dewey St., Morgantown, 93000225

Monroe County

Reed's Mill, Co. Rd. 219/1, Second Creek, 93000226

Ohio County

Highland Park Historic District, Highland Park, jct. of Lincoln Dr. and National Rd., Wheeling, 93000222

Tiernan, William Miles, House, 5 Kenwood Pl., Wheeling, 93000223

WISCONSIN

Bayfield County

SEVONA (Bulk Carrier) Shipwreck Site (Great Lakes Shipwrecks of Wisconsin MPS), Address Restricted, Bayfield vicinity, 93000229

Dane County

Bram Mound Group (Late Woodland Stage in Archeological Region 8 MPS), Address Restricted, Dunn, 93000216

Halvorson Mound Group (Late Woodland Stage in Archeological Region 8 MPS), Address Restricted, Madison, 93000215

Oneida County

Little St. Germain Creek Site, Address Restricted, Newbold, 93000217

WYOMING

Hot Springs County

Callaghan Apartments, 116 E. Park St., Thermopolis, 93000231

Johnson County

TA Ranch Historic District, E of Wy 196 on N. Fork, Crazy Woman Cr., Buffalo vicinity, 93000198

Sublette County

Log Cabin Motel, 49 E. Magnolia St., Pinedale, 93000230

[FR Doc. 93–5328 Filed 3–8–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[No. MC–C–30210]

Towing and Recovery Association of America—Petition for Declaratory Order—Emergency Towing

AGENCY: Interstate Commerce Commission.

ACTION: Institution of declaratory order proceeding.

SUMMARY: In response to a joint request by the Towing and Recovery Association of America and the American Automobile Association, the Commission has instituted this declaratory order proceeding under 5 U.S.C. 554(e) to determine whether the emergency towing exemption at 49 U.S.C. 10526(b)(3), should be extended to include towing wrecked or disabled vehicles on flatbed platforms. The Commission is providing interested persons an opportunity to participate in this proceeding and is inviting their comments.

DATES: Any person interested in participating in this proceeding as a party of record by filing and receiving written comments must file a notice of intent to do so by March 24, 1993. (A copy of the notice should be sent to petitioners' representatives). Following receipt of the notices, the Commission will issue a service list of the parties. Petitioners will have 10 days after service of this list to provide each party with a copy of the petition and any additional material which they may file with the Commission in support of their position. Initial written comments (an original and 10 copies) must be filed within 30 days after the service of the list. All parties will have 50 days after service of the list to reply. All parties must send a copy of all comments and replies to each other party of record.

ADDRESSES: Send written notices of intent to participate to:

Office of the Secretary, Case Control Branch, Attn: No. MC–C–30210, Interstate Commerce Commission, Washington, DC 20423

and

Michael P. McGovern, P.O. Box 916430, Longwood, FL 32791–6430

Richard D. Rinner, General Counsel, James G. Brehm, Corporate Counsel, 1000 AAA Drive, Heathrow, FL 32746.

FOR FURTHER INFORMATION CONTACT:

Jasneth C. Metz, (202) 927–6294

or

Richard Felder, (202) 927–5610 [TDD for hearing impaired (202) 927–5721]

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 10526(b)(3) the emergency towing of accidentally wrecked or disabled vehicles is exempt from Commission regulation. The Commission has held that this activity is exempt only when the towing is done by use of conventional or wheelift wrecker equipment. The transportation of wrecked and disabled vehicles on platform wrecker-carrier trucks as been held to be a regulated activity requiring ICC operating authority.

The Towing and Recovery Association of America and the American Automobile Association have petitioned the Commission for a declaratory order finding the towing of wrecked and disabled vehicles on platform carriers also to be exempt.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 927–7428. [Assistance for the hearing impaired is available through TDD services: (202) 927–5721.]

Decided: March 2, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5338 Filed 3–8–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32255]

Texas Northeastern Division, Mid-Michigan Railroad, Inc.—Trackage Rights Exemption—Burlington Northern Railroad Co.

Burlington Northern Railroad Company (BN) has agreed to grant local trackage rights to Texas Northeastern Division, Mid-Michigan Railroad Company, Inc., over approximately 9.76 miles of BN's line between milepost 646.39 at Sherman, TX, and milepost 636.63 at Denison, TX. The exemption became effective on February 26, 1993, and the parties intended to consummate the transaction immediately thereafter.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Kelvin J. Dowd, 1224 17th St., NW., Washington, DC 20036.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: March 3, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5339 Filed 3–8–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

March 3, 1993.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;
(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;
(3) How often the form must be filled out or the information is collected;
(4) Who will be asked or required to respond, as well as a brief abstract;
(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
(6) An estimate of the total public burden (in hours) associated with the collection; and,
(7) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the items(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jefferson B. Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Don Wolfrey, on (202) 514–4115 or facsimile: (202) 514–1534. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Don Wolfrey, DOJ Clearance Officer, SPS/JMD/850 WCTR, Department of Justice, Washington, DC 20503.

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Application for Certificate of Citizenship in Behalf of an Adopted Child.
(2) Form N–643. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This form is filed by U.S. citizen parent(s) in behalf of an adopted alien child to become a U.S. citizen and receive a Certificate of Citizenship.
(5) 8,000 annual responses at .5 hours per response.
(6) 4,000 annual burden hours.
(7) Not applicable under 3504(h).

(1) Hate Crimes Incident Report. Quarterly Hate Crime Report.
(2) Form 11–1. Form 11–2. Federal Bureau of Investigation.
(3) Monthly. Quarterly.
(4) State or local governments. These forms will be used to collect bias motivation of selected offenses. Resulting statistics are published annually.
(5) 64,000 annual responses at .17 hours per response.
(6) 10,880 annual burden hours.
(7) Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: March 3, 1993.

Don Wolfrey,

Department Clearance Officer, Department of Justice.

[FR Doc. 93–5322 Filed 3–8–93; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Morrison-Quirk Grain Corporation,* Civil Action No. CV–88–L–720, was lodged on March 1, 1993 with the United States District Court for the District of Nebraska. The proposed consent decree resolves the United States claims under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") for past response costs, as defined in the consent decree, through December 31, 1990 incurred by the United States in connection with the Far-Mar-Co subsite of the Hastings Ground Water Contamination Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Morrison-Quirk Grain Corporation,* Civil Action No. CV–88–L–720, DOJ Ref. No. 90–11–3–431.

The proposed consent decree may be examined at the Office of the United States Attorney, District of Nebraska, 520 Federal Building, 100 Centennial Mall North Lincoln, Nebraska 68508; Office of the Environmental Protection Agency, Region 7, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $6.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Myles E. Flint,

Acting Assistant Attorney General, Environmental and Natural Resources Division.

[FR Doc. 93–5306 Filed 3–8–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Proposed Termination of Final Judgment; Reno Merchant Plumbing and Heating Contractors, Inc., et al.

Notice is hereby given that defendant, Savage & Son, Inc., has filed with the United States District Court for the District of Nevada a motion to terminate the Final Judgment in *United States* v. *Reno Merchant Plumbing and Heating Contractors, Inc., et al.,* CV–N–868–ECR; and that the Department of Justice ("Department"), in a stipulation also filed with the Court, has consented to termination of the Judgment but has reserved the right to withdraw its consent for at least seventy (70) days after the publication of the notice. The complaint in this case (filed June 5, 1950) alleged, that the defendant and other master plumbers in the Reno area had formed a bid depository and published various trade practice rules which had the effect of increasing prices charged for the sale and installation of plumbing and heating supplies and depriving general contractors and homeowners of competitive bids.

The Judgment (entered November 14, 1952) enjoined the defendants from entering into, adhering to, maintaining or furthering, directly or indirectly, any contract, agreement, understanding, plan or program to fix, establish, maintain or adhere to prices, discounts, interest rates or other terms or conditions for the sale, installation or repair of plumbing supplies to third persons. The operation of the bid depository was narrowly circumscribed to enjoin defendants from disclosing their bids to competitors, from agreeing not to revise bids after the original bids had been opened by the awarding authority, forcing other master plumbers to joint any bid depository plan and from interfering with the receipt and acceptance of bids by an awarding authority.

There is no longer any bid depository for plumbing contractors in Reno and, of the original defendants, only Savage & Son, Inc. is in business today.

The Department has filed with the court a memorandum setting forth the reasons why the Government believes that termination of the Final Judgment would serve the public interest. Copies of the Complaint and Final Judgment, Savage & Son's motion papers, the stipulation containing the Government's consent, the Government's memorandum and all further papers with the court in connection with this motion will be available for inspection at Room 3233, Antitrust Division, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530, (202) 514–2481, and at the Office of the Clerk of the United States District Court for the District of Nevada, 300 Booth Street, Reno, Nevada 89509. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Government. Such comments must be received within sixty (60) days and will be filed with the court by the Government. Comments should be addressed to Gary R. Spratling, Chief, San Francisco Office, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102 (Telephone: (415) 556–6300).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–5305 Filed 3–8–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—Bell Communications Research, Inc.

Notice is hereby given that, on February 2, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") filed a written notification on behalf of Bellcore and Digital Equipment Corporation ("DEC") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Bellcore, Livingston, NJ; and DEC, Maynard, MA. Bellcore and DEC entered into an agreement effective as of November 18, 1992 to engage in cooperative research of personal communications services to better understand the feasibility and application of these technologies for exchange and exchange access services, including experimental prototype fabrication for the demonstration of such technologies.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–5304 Filed 3–8–93; 8:45 am]

BILLING CODE 4410–01–M

"Underwater Welding Research and Development Program"; National Cooperative Research Notifications

Notice is hereby given that, on January 25, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), Global Industries, Ltd. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general area of planned activities are given below. The project is entitled "Underwater Welding Research and Development Program."

The current parties to the project identified by this notice are: Amoco Corporation Research Center, Naperville, IL; Colorado School of Mines, Golden, CO; Global Divers and Contractors, Inc., Lafayette, LA; Marathon Oil Company, Houston, TX; Mobil Research and Development Corporation, Dallas, TX; Shell Development Company, Houston, TX; and U.S. Navy Naval Sea Systems Command, Washington, DC.

The purpose of the project is to develop wet welding procedures that conform, to the greatest extent possible, to the requirements for dry welds (Type A) as defined in the AWS "Specifications For Underwater Welding," D3.6–89.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–5303 Filed 3–8–93; 8:45 am]

BILLING CODE 4410–01–M

Network Management Forum; National Cooperative Research Notification

Notice is hereby given that, on January 7, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Network Management Forum ("the Forum") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions to its membership. The additional notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the additional parties to the venture are as follows: Cray Communications, Ltd., Frimley, Surrey, ENGLAND; Novidigm, Inc., Saddle Brook, NJ; Pirelli Data Networks, Eastleigh, Hampshire, ENGLAND; and PTT Telecom Switzerland, Bern, SWITZERLAND are Associate Members; and Industrial Technology Research Institute, Chutung, Hsinchu, Taiwan, REPUBLIC OF CHINA, is an Affiliate Member.

No other changes have been made, since the last notification filed with the Department, in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Forum intends to file additional written notifications disclosing all changes in membership.

On October 21, 1988, the Forum filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 8, 1988 (53 FR 49615).

The last notification was filed with the Department on October 27, 1992. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 17, 1992 (57 FR 60005).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–5302 Filed 3–8–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–27,610 Houston, Texas TA–W–27,610A Odessa, Texas]

Baker Oil Tools; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 23, 1992, applicable to the workers at the subject firm.

At the request of the Texas State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show that the claimants' wages for Baker Oil Tools are being reported under the Unemployment Insurance (UI) tax account of Baker Hughes Production Tools, Inc., Houston, Texas.

Accordingly, the Department is amending the certification to properly reflect the correct worker group.

The amended notice applicable to TA–W–27,610 and TA–W–27,610A is hereby issued as follows:

All workers of Baker Oil Tools, also known as Baker Hughes Production Tools, Inc., Houston and Odessa, Texas who became totally or partially separated from employment on or after July 22, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 25th day of February 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–5389 Filed 3–8–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,997]

Texaco Exploration & Production, Inc., Eastern E & P Region, New Orleans, LA; Negative Determination Regarding Application for Reconsideration

By an application dated February 12, 1993, Counsel for the workers requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on January 15, 1993 and was published in the **Federal Register** on February 2, 1993 (58 FR 6810).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Counsel argues that the workers' petition was intended to cover all employees of TEPI throughout the United States and the Department did not consider the trend of increasing crude oil imports. Counsel also states that public opinion, environmental issues and unfavorable government policies are driving capital investment for oil and gas exploration overseas.

A review of the petition, especially Question II, shows that the petition was filed for the Eastern E & P Region of TEPI in New Orleans, Louisiana.

The Department's investigation found that Texaco's imports of crude oil had decreased despite increased imports in the aggregate for the industry. Since Texaco was the dominant customer of TEPI and the layoffs occurred during the period Texaco's imports were declining, it could not be determined that increased imports contributed importantly to the workers separations and to the production and sales decline.

Further, the shift of capital outlays to overseas may, in fact, result in increased imports by Texaco in the future. But such prospective imports is not a basis for certification.

The Department's denial of adjustment assistance for workers of the Eastern E & P Region of TEPI was based on the fact that the petition did not meet the "contributed importantly" criterion of the Group Eligibility Requirements of the Trade Act.

The investigation findings show that the preponderant portion of crude oil and natural gas produced by the Eastern E & P Region of Texaco was used internally by Texaco. Other findings show that company imports of crude oil declined in the first ten months of 1992 compared to the same period in 1991. Texaco did not import natural gas in the period relevant to the petition. A projected trend of increasing imports would not form a basis for a worker group certification.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 23rd day of February 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93–5390 Filed 3–8–93; 8:45 am]

BILLING CODE 4510–30–M

Job Corps: Finding of No Significant Impact for the Construction of the Charleston Job Corps Center in Charleston, WV

Pursuant to the Council on Environmental Quality Regulations (40 CFR parts 1500 to 1508), implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Employment and Training Administration, Office of Job Corps, in accordance with 29 CFR 11.11(d), gives notice that an Environmental Assessment (EA) has been prepared and that proposed plans for constructing the Charleston Job Corps Center (Center) in Charleston, West Virginia, will have no significant environmental impact.

The existing facilities for the Charleston Job Corps Center are in leased space in downtown Charleston. Job Corps proposes to build a new center on a 20-acre undeveloped tract (River Site), approximately 2.5 miles from downtown Charleston.

The purpose of this proposed action is to construct facilities for the Charleston Job Corps Center serving 320 resident, 35 non-resident students, and 75 off-site students on college campuses. This will provide the necessary facilities for the Job Corps program to provide basic education, vocational skills training, work experience, counseling, health care, and related support services.

Establishing a Job Corps Center at this location will require constructing 10 new buildings to meet the needs of the Job Corps. The new Center will provide dormitories; recreational, medical/dental, and administrative services; educational and vocational training; and storage space; consistent with Job Corps guidelines and Center needs.

A summary of the EA follows:

The site is located in a suburban setting with surrounding land use predominantly residential or undeveloped. Noise levels from the proposed facility will be within allowable levels. Some additional noise will be generated during construction activities. However, this noise is expected to remain within allowable limits and is not expected to adversely impact neighboring properties. In

addition, the remote location of the site will lessen the impact of any noise on the environment.

Site and security lighting will consist of facility owned and maintained, building-mounted, photocell-controlled HID luminaries, as well as utility company owned and maintained, pole-mounted, photocell-controlled HID luminaries located throughout the roadway and parking areas. They will provide good levels of illumination for all areas on-site.

The Charleston Job Corps Center is not located within an area that has been designated as "historically significant". The site was previously graded to construct an automobile race track. No areas of archeological significance were found during that grading. Therefore, it is unlikely that any such areas are present.

The municipal services necessary to support the proposed action will not be adversely affected. There are enough existing utilities to service the new Center. Water and sewer are of sufficient capacity to handle the new demand and solid waste management will not be adversely impacted. Also, the proposed project will not adversely impact the City of Charleston police, fire, and/or emergency services.

Based upon the information gathered during the preparation of the EA, the Department of Labor, Employment and Training Administration, Office of Job Corps finds that the construction of the Charleston Job Corps Center will not cause any significant impact on the environment. Copies of the EA and additional information are available to interested parties by contacting Mr. James A. Bodnar, Acting Director, Region III, Office of Job Corps, at (215) 596–6301 (this is not a toll free number).

Dated at Washington, DC, this 23d day of February 1993.

Peter E. Rell,

Director of Job Corps.

[FR Doc. 93–5391 Filed 3–8–93; 8:45 am]

BILLING CODE 4510–30–M

Job Corps: Finding of No Significant Impact for the Purchase and Future Improvement of the Connecticut Job Corps Center in New Haven, CT

Pursuant to the Council on Environmental Quality regulations (40 CFR parts 1500 to 1508), implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Employment and Training Administration, Office of Job Corps, in accordance with 29 CFR 11.11(d), gives notice that an Environmental Assessment (EA) has been prepared and that the proposed plans for converting the New Haven Area Rehabilitation Center to the Connecticut Job Corps Center (Center) in New Haven, Connecticut, will have no significant environmental impact.

The New Haven Area Rehabilitation Center was constructed in the mid-1960's. The Center has been a public (State) building, used as a rehabilitation center for the local area. This 15-acre site presently includes five buildings, a small swimming pool and parking areas. Job Corps intends to convert the existing facilities to the Connecticut Job Corps Center serving 150 resident and 50 non-resident students. This will provide the necessary facilities for the Job Corps program to provide basic education, vocational skills training, work experience, counseling, health care, and related support services. The State of Connecticut supports these plans.

Establishing a Job Corps Center at this location will require refurbishing the existing five buildings and constructing one new building to meet the needs of the Job Corps. The new Center will ultimately provide dormitories, recreational, medical/dental, and administrative services, educational and vocational training, and storage space consistent with Job Corps guidelines and Center needs.

A summary of the EA follows: The site is located in a suburban setting. Adjacent land use includes: A State park; an elementary school; residential housing; a convalescent home and health care facility; and, a small shopping center. Some noise will be generated during construction activities and from the proposed, completed facility. However, building materials designed to alleviate noise will be used and noise levels are expected to remain within allowable limits as determined under the City of New Haven's noise regulations. No adverse noise impact on neighboring properties is expected.

Site and security lighting consists of facility-owned and maintained, building-mounted, photocell-controlled HID luminaries, as well as utility company-owned and maintained, pole-mounted, photocell-controlled HID luminaries located throughout the roadway and parking areas. They provide an adequate level of illumination for all areas on-site.

The New Haven Rehabilitation Center is not located within an area that has been designated as "historically significant". Based on the amount of cutting and filling that was performed to "terrace" the existing facility on the 9-percent grade, no areas of archaeological significance are likely to be present.

A small portion of the site is designated as inland wetlands. The proposed activity will not be conducted within the wetlands or disturb them in any way.

On-site and surrounding facilities such as West Rock Ridge State Park and West Rock Nature Center provide adequate recreational opportunities for the students.

Therefore, the Job Corps students will not need to use the neighboring residential area for recreational purposes.

The existing infrastructure is adequate for the proposed activities. Utilities are of adequate supply, water and sewer are of sufficient capacity, and solid waste management will not be adversely impacted. The proposed project will not adversely impact the City of New Haven police, fire and/or emergency services.

Asbestos is present at the site and will be properly managed during construction activities. Procedures for the containment and removal of asbestos will be prepared by a qualified asbestos abatement contractor.

Therefore, based upon the information gathered during the preparation of the EA, the Department of Labor, Employment and Training Administration, Office of Job Corps finds that the conversion of the New Haven Area Rehabilitation Center to the Connecticut Job Corps Center will not cause any significant impact on the environment. Copies of the EA and additional information are available to interested parties by contacting Mr. Donald Scott, Deputy Director, Region I, Office of Job Corps, at (617) 565–2175 (this is not a toll free number).

Dated at Washington, DC, this 23d day of February 1993.

Peter E. Rell,

Director of Job Corps.

[FR Doc. 93–5392 Filed 3–8–93; 8:45 am]

BILLING CODE 4510–30–M

Job Corps: Finding of No Significant Impact for the Future Improvement of the New Orleans Job Corps Center in New Orleans, LA

Pursuant to the Council on Environmental Quality regulations (40 CFR parts 1500 to 1508), implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Employment and Training Administration, Office of Job Corps, in accordance with 29 CFR 11.11(d), gives notice that an Environmental Assessment (EA) has been prepared and that the future improvement of the New Orleans Job Corps Center (Center) in New Orleans,

Louisiana, will have no significant environmental impact.

The New Orleans Job Corps Center provides educational and vocational training, administrative and medical services, food service and recreational facilities for 225 non-resident students. The Center is located at 8825 Airline Highway, approximately three miles northwest of downtown New Orleans, Louisiana, and is owned by the Federal Government. The New Orleans Job Corps Center operates its non-resident program under a Conditional Use Permit issued by the City of New Orleans.

The Center presently occupies two buildings of the four-building facility. The space currently occupied is fully utilized, but its present utilization is less than satisfactory due to building configuration. For example, some activities have no interior egress, necessitating an outside walk to access other center areas. Job Corps proposes to improve and update the facility in order to provide sufficient education and training facilities for the Center's optimal operation.

The municipal services necessary to support the proposed action will not be adversely affected. Utilities are of adequate supply, water and sewer are of sufficient capacity, and solid waste disposal capacity is available. The future improvements will not have a net adverse impact on the police, fire, and/or emergency services of the City of New Orleans. An on-site security program is part of normal Job Corps Center operations.

Based upon the information gathered during the preparation of the EA, the Department of Labor, Employment and Training Administration, Office of Job Corps, finds that the proposed future improvement of the New Orleans Job Corps Center at the existing building facility site in New Orleans, Louisiana, will not cause any significant impact on the environment. Copies of the EA and additional information are available to interested parties by contacting Mr. T. James Walker, Director, Region VI, Office of Job Corps, at (214) 767–2567 (this is not a toll free number).

Dated at Washington, DC, this 23d day of February 1993.

Peter E. Rell,

Director of Job Corps.

[FR Doc. 93–5393 Filed 3–8–93; 8:45 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 93–12; Exemption Application No. D–9057; et al.]

Grant of Individual Exemptions; Massachusetts Mutual Life Insurance (MassMutual), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendence before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Massachusetts Mutual Life Insurance Company (MassMutual) Located in Springfield, MA

[Prohibited Transaction Exemption 93–12; Exemption Application No. D–9057]

Exemption

The restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to the arrangement, over a five year period, whereby MassMutual's general account (the General Account) will extend credit to unrelated third parties who purchase one or more parcels of real property (the Properties) from the MassMutual Real Estate Pooled Separate Account, SIA–R (the Separate Account), a separate account maintained by MassMutual on behalf of employee benefit plans (the Plans); provided that the following conditions are satisfied:

(A) All conditions of the transactions are no less favorable to the Separate Account than those which the Separate Account could obtain in arm's-length transactions not involving the General Account;

(B) The Separate Account receives a purchase price for each Property which is not less than the fair market value of that Property on the date of sale;

(C) The transactions do not involve sales of any of the Properties to any parties in interest with respect to the Plans participating in the Separate Account;

(D) No commissions, fees, or expenses in connection with the transaction are paid to MassMutual or any of its affiliates, other than loan origination fees of no more than .25 percent per transaction;

(E) The General Account does not charge or receive interest in excess of the fair market rate of interest;

(F) The interests of the Separate Account in the transactions are represented by one of the following fiduciaries (the Fiduciaries): Joseph J. Blake Associates of Los Angeles, California; Realty Advisory Group of Virginia Beach, Virginia; Realty Consultants, Ltd. of Chicago, Illinois; Trahan Partners of Houston, Texas; or American Appraisal Associates of Boston, Massachusetts;

(G) No transaction involving General Account financing of a Property sale shall occur until the appropriate Fiduciary has approved the transaction and completed a written report relating

its findings with respect to the transaction (the Report); and

(H) The Report is made available for inspection by any duly authorized representative of the Department, the Internal Revenue Service, and any fiduciary of a Plan participating in the Separate Account, for a period of no less than six years from the date of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on December 17, 1992 at 57 FR 60008.

Temporary Nature of the Exemption

This exemption will expire five years from the date on which it is published in the **Federal Register**.

Effective Date: This exemption is effective as of May 7, 1992.

Written Comments

The Department received one written comment and no requests for a hearing. The comment was submitted by the applicant, MassMutual, in correction and supplementation of the summary of facts and representations in the Notice of Proposed Exemption, as follows:

(1) The location of MassMutual is Springfield, Massachusetts.

(2) MassMutual had over $29.3 billion in assets as of December 31, 1991.

(3) Subsequent to the filing of the exemption application, the Separate Account sold one of the Properties, the Hycor Biomedical property, in a transaction involving General Account financing, under circumstances which MassMutual represents to have satisfied the conditions of the proposed exemption. The Notice of Proposed Exemption did not include a proposed effective date. Accordingly, the applicant requests that the exemption have an effective date of May 7, 1992, the date of the consummation of the Hycor Biomedical sale transaction.

(4) Subsequent to the filing of the exemption application, two other Properties, the Perimeter Center and Kennicott Industrial, were sold by the Separate Account in transactions which did not involve General Account financing and MassMutual requests that such transactions be excluded from the scope of the exemption.

(5) As of January 1, 1993, following the disbursement of available cash to the invested Plans, the Separate Account had total assets valued at $29,006,405.

(6) MassMutual wishes to clarify that the General Account will not necessarily finance the sale of each Property. However, each buyer of a Property will have the opportunity to obtain such financing.

(7) MassMutual further represents that in the event any of the named Fiduciaries is unable to perform an evaluation of the designated Property, MassMutual may substitute a qualified fiduciary with the prior consent of the Department. After consideration of the entire record, the Department has determined to grant the exemption, with an effective date of May 7, 1992.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. Retirement Program Master Trust (the Trust) Located in Boston, Massachusetts

[Prohibited Transaction Exemption 93–13; Application Nos. D–9138 through D–9141]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective December 5, 1991, to (1) the past extension of credit (the Loan) to the Trust by Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., the sponsor of employee benefit plans participating in the Trust, with respect to the Trust's proportionate interest in guaranteed investment contract number CG 0128203A (the GIC) issued by Executive Life Insurance Company of California (Executive Life); and (2) the potential repayment of the Loan (the Repayments) by the Trust; provided that the following conditions are satisfied:

(A) All terms of such transactions are no less favorable to the Trust than those which the Trust could obtain in arm's-length transactions with an unrelated party;

(B) No interest and/or expenses are paid by the Trust;

(C) The Repayments shall not exceed the principal amount of the Loan;

(D) The Repayments shall not exceed the proceeds actually received by the Trust from Executive Life and any other responsible payors with respect to the GIC (the GIC Proceeds); and

(E) Repayment of the Loan shall be waived to the extent that the principal amount of the Loan exceeds the GIC Proceeds.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on December 29, 1992 at 57 FR 61931.

Effective date: This exemption is effective as of December 5, 1991.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Ultronix, Inc., Employee Defined Contribution Profit Sharing Plan (the Plan) Located in Grand Junction, Colorado

[Prohibited Transaction Exemption 93–14; Exemption Application No. D–9185]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plan of its interest in a Guaranteed Income Contract (the GIC) of Pacific Standard Life Insurance Company to Ultronix, Inc., a party in interest with respect to the Plan, provided the following conditions are satisfied: (1) The sale is a one-time transaction for cash; (2) the Plan receives no less than the fair market value of the GIC at the time of the transaction; (3) the Plan's actuary, Robert W. Jones, Jr., acting as independent fiduciary for the Plan, has determined that the sales price is not less than the current fair market value of the GIC; and (4) Mr. Jones has determined that the transaction is appropriate for the Plan and in the best interests of the Plan and its participants and beneficiaries.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on December 29, 1992 at 57 FR 61930.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Albert E. Suter Directed IRA Rollover Account (the IRA) Located in St. Louis, Missouri

[Prohibited Transaction Exemption 93–15; Exemption Application No. D–9223]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the purchase on November 5, 1991 by the IRA of certain shares of Boatmen's Bancshares, Inc. common stock (the Stock) from Bradley J. Suter, a disqualified person with respect to the IRA, provided that the following conditions were met:

(a) The IRA purchased the Stock for cash at a price which was no more than the fair market value of the Stock at the time of the transaction;

(b) The IRA paid no commissions or other expenses in connection with the transaction; and

(c) The assets of the IRA involved in the transaction represented less than 25% of the total assets of the IRA at the time of the transaction.

Effective Date: The effective date of this exemption is November 5, 1991.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on January 19, 1993 at 58 FR 5032.

For Further Information Contact: Mr. E.F. Williams of the Department at (202) 219–8883. (This is not a toll-free number.)

Toledo Roofers Local No. 134 Pension Plan and Trust; Cement Masons Local No. 886/404 Pension Plan and Trust; Millwrights, Machinery Erectors & Pile Drivers Local 1393 Retirement Plan and Trust; Sheet Metal Workers Local No. 6 Pension Plan and Trust; Toledo Painters and Allied Trades Pension Plan and Trust; Toledo Plumbers & Pipefitters Pension Plan and Trust; and Toledo Plumbers & Pipefitters Retirement Plan and Trust (collectively, the Plans) Located in Toledo, Ohio

[Prohibited Transaction Exemption 93–16; Exemption Application Nos. D–8502, D–8588, D–8589, D–8591, D–8592, D–8594 and D–8595]

Exemption

The restrictions of section 406(a)(1)(D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(D) of the Code, shall not apply to the making by certain banks in the northwestern Ohio area (the Banks) of residential mortgage or home construction loans (the loans) to individuals who are participants of the Plans and parties in interest with respect to such Plans (the Participants) pursuant to an arrangement in which the Plans will purchase certificates of deposit (CDs) from the Banks, provided that the following conditions are met;

(a) The Trust Company of Toledo, N.A. (the Trust Company), an investment manager which is independent of the Banks, the Plans' trustees, and their affiliates, acts on behalf of the Plans for the assets involved in the proposed purchases of CDs, pursuant to the terms of separate written investment management agreements with each of the Plans, to independently determine whether each Plan should make a particular CD purchase;

(b) Callister, Duncan & Nebraska, P.C. (CDN), an independent fiduciary for the Plans, determines on an annual basis that the relevant Plan fiduciaries have discharged their fiduciary duties to the Plans in accordance with the requirements of the Act with respect to any decisions made by the Plans to adopt, implement, or continue participation in the proposed arrangement involving the purchase of CDs by the Plans and the making of the Loans by the Banks to the Participants (the Loan Program), and suspends a Plan's involvement in the Loan Program if such a determination cannot be made;

(c) Such CD purchases by a Plan comply with the conditions of section 408(b)(4) of the Act in instances where the Bank is a fiduciary or other party in interest with respect to the Plan (see 29 CFR 2550.408b–4);

(d) Each CD purchased by a Plan has a maturity not to exceed 36 months from the date of issuance, and pays the maximum rate of interest provided by the Bank for CDs of the same size and maturity being purchased at the time of the transaction by any customer of the Bank who is not eligible to participate in the Loan Program;

(e) Each CD offered to the Plans pursuant to this exemption is sold by the Bank in transactions with unrelated parties in the ordinary course of its business with customers other than the Plans;

(f) The interest rates on all CDs purchased by the Plans under the Loan Program, and the total net rate of return to the Plans taking into consideration all expenses associated with the transaction, are at least comparable to, or better than, the interest rates and total net rate of return that could be obtained by the Plans on other fixed income investments of similar risk and term at the time of each CD purchase;

(g) Each Bank which sells CDs to the Plans under the Loan Program is a solvent financial institution, as determined by the Trust Company at least annually based on an analysis of all relevant information involving the Bank's financial status;

(h) The CDs purchased by a Plan from any one Bank participating in the Loan Program do not exceed 4.99% of the fair market value of the Plan's total assets at the time of the transaction;

(i) The CDs purchased by a Plan from all of the Banks participating in the Loan Program do not exceed 8.49% of the fair market value of the Plan's total assets at the time of the transaction;

(j) No Plan trustee, or other Plan fiduciary, who may be involved in any decision regarding a Plan's participation in the Loan Program, received a Loan under the Loan Program;

(k) As of October 5, 1992, a Plan trustee involved in decisions regarding the Loan Program, or an entity in which such Plan trustee has a 50% or more ownership interest, may not engage in any additional personal or business transactions with a Bank during a Plan's participation in the Loan Program with such Bank, as attested to in each instance by appropriate Bank officials on an annual basis and monitored by CDN as the Plan's independent fiduciary;

(l) The investment of the Plans' assets by the Trust Company in CDs of a Bank which participates in the Loan Program is not part of an agreement, arrangement or understanding designed to benefit the Trust Company; and

(m) In the event any Participant defaults on a Loan from a Bank, the Bank has no claim against, or recourse to, the CDs or any other assets of the Plans.

Temporary Nature of Exemption

The exemption will be effective only for those Loans made by the Banks to the Participants pursuant to the Loan Program within five years of the date on which this exemption is published in the **Federal Register**. However, the applicant may, if desired, apply for an extension of the exemption at the end of the five-year period. The application for extension should describe: (i) Whether and how compliance with the exemption has been achieved; (ii) the number of transactions engaged in under the exemption; and (iii) the particular decisions made by the Plans' fiduciaries regarding the Loan Program.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) published on October 5, 1992 at 57 FR 45828.

Notice to Interested Persons

The applicant represents that it was unable to notify interested persons within the time period specified in the Notice. However, copies of the Notice were mailed by first class mail to all the local unions and contributing employers for the Plans by November 11, 1992. In addition, the Notice was published in the November 13, 1992 issue of The Voice of the Building Trades, the official newspaper of all the local unions affiliated with the Northwestern Ohio Building and Construction Trades

Council (the Council) and its constituent local unions. The Voice of the Building Trades is mailed to the homes of all members of all organizations affiliated with the Council and is made available at all union offices and halls, employer association offices, etc. The applicant states that all participants in the Plans received the Notice through the official newspaper by November 30, 1992. Interested persons were advised that they had until January 4, 1993 to comment on the Notice. The Department did not receive any written comments from such interested persons.

Written Comments

The applicant's representative submitted two written comments regarding condition (k) of the Notice. Condition (k) requires, in pertinent part, that as of October 5, 1992, the date of the publication of the Notice, a Plan trustee involved in decisions regarding the Loan Program (and certain entities owned by the trustee) may not engage in any additional personal or business transactions with a Bank during a Plan's participation in the Loan Program with such Bank.

By letter dated November 24, 1992, the applicant proposed that the Department consider a modification to condition (k) in order to allow a Plan trustee to engage in or continue personal or business transactions with a Bank that has offered a proposal to see a CD to the Plan. The modification proposed by the applicant would allow personal or business transactions between a Plan trustee and a Bank provided the Plan trustee would: "* * * make full disclosure of the business relationship * * * prior to the action being taken; recuse himself from the discussion and vote on the matter; not vote on the purchase; and not use the authority, control or responsibility the possessed as a trustee to affect the issue in any way."

The Department notes that condition (a) of the Notice requires that the Trust Company of Toledo, N.A., an investment manager which is independent of the Banks involved and the Plan trustees and their affiliates, act on behalf of the Plans for the assets involved in the proposed purchase of CDs to independently determine whether each Plan should make a particular CD purchase.

This understanding of the role of the Trust Company under the exemption is echoed in representations of the applicant summarized in the Notice. Paragraph 6 of the Notice states that the Trust Company, as the Plan's investment manager for the proposed CD purchases, will determine whether each Plan should make a particular CD purchase from any of the Banks. In the Department's view, the applicant's proposed modification is based upon a presumption that the Plan trustees would be directly involved in decisions regarding the purchase of a particular CD from a particular Bank. However, it has not been suggested, otherwise, in the applicant's comment that the role of the Trust Company should be changed from that described in the application. As a result, the Department believes that the proposed modification is inconsistent with the prior representations of the applicant and the Notice is proposed and is therefore rejected.

By letter dated January 5, 1993, the applicant requested an expression of confirmation by the Department of its interpretation of the language of condition (k). In that letter the applicant stated that "* * * it is our opinion that if the Plan trustees designate the Trust Company of Toledo (or another qualified entity) as independent investment manager and the independent investment manager makes all of the decisions regarding participation in the Program and the purchase of a CD or CDs from a Bank, then the Plan Trustee has not been involved in decisions regarding the Loan Program and is not bound by [condition] k."

The Department disagrees with the applicant's interpretation of condition (k) of the Notice. The duty of the Trust Company as described in the Notice is to act only as a CD investment manager within the guidelines set by the Plan trustees for the fixed income investment portfolio of the Plans. The Trust Company is not authorized to invest assets of the Plans other than in CDs. In this regard, as described in paragraph 6 of the Notice, among their duties with respect to the Loan Program, the Plan trustees will allocate a certain percentage of the Plan's assets to the Trust Company for CD investment; will monitor the Trust Company's purchases of CDs to ensure that such purchases are consistent with the Plan trustees' asset allocation and investment policy guidelines; will monitor the performance of the Trust Company; will determine whether fixed income investments of comparable risk and term other than CDs become attractive for the Plan; and will instruct the Trust Company to return the net proceeds of the Plan's redemption of the CDs to the Plan trustees who will reallocate the assets involved to other fixed income investments managed by other investment managers. It has not been suggested in the applicant's comment that the Trust Company will assume these duties of the Plan trustees or that it become investment manager for assets other than the CDs. Accordingly, it is the belief of the Department that the duties of the Plan trustees as represented by the applicant involve the trustees in decisions with respect to the Plans' participation in the Loan Program.

As stated in paragraph 4 of the Notice, condition (k) is designed to assure that the Plan trustees and certain related entities will not derive any financial benefit, such as banking services at a reduced cost or business or personal loans under more favorable conditions than available to other customers of the Banks, as a result of a Plan's participation in the Loan Program. Therefore, for a Plan trustee to engage in or continue personal or business transactions with a Bank involved in the Loan Program, condition (k) requires that a Plan trustee must either: (1) Remove himself from any considerations or decisions made by the Plan's trustees regarding the Plan's participation in the Loan Program while the Bank is involved; or (ii) not engage in any additional transactions with the Bank during the Plan's participation in the Loan Program with such Bank.

Therefore, the Department has determined upon review of the entire record to grant the exemption as proposed.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Ophthalmic Associates, P.A. Employees' Money Purchase Pension Plan (the Ophthalmic Money Purchase Plan) Located in Lansdale, PA

[Prohibited Transaction Exemption 93–17; Application No. D–9205]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) shall not apply to the proposed sale by the Ophthalmic Money Purchase Plan to TJS Realty, a party in interest, for the total cash consideration of $552,500, of a fee simple interest in one of two office condominiums (the Condominium Interest) that will be partitioned from certain improved real property, provided (1) the sale is a one-time transaction for cash, (2) the Ophthalmic Money Purchase Plan is not required to pay any real estate fees or commissions in connection therewith, (3) the fair

market value of the Condominium Interest is determined by a qualified, independent appraiser; and (4) the designated independent fiduciary approves of the subject transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published in the **Federal Register** on January 19, 1993 at 58 FR 5030.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 4th day of March 1993.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 93–5395 Filed 3–8–93; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–9239, et al.]

Proposed Exemptions; Nomura Securities International, Inc.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).[1] Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Nomura Securities International, Inc. (Nomura)

Located in New York, New York

[Application No. D–9239]

Proposed Exemption

I. Transactions

A. Effective October 27, 1992, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer or certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A. (1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan

by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[1]

B. Effective October 27, 1992, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct of indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[2] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1) (i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B. (1) or (2).

C. Effective October 27, 1992, the restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[3]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of sections 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in section III.S.

D. Effective October 27, 1992, the restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975 (a) and (b) of the Code by reason of sections 4975(c)(1) (A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14) (F), (G), (H) or (I) of the Act or section 4975(e)(2) (F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under Part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Corporation (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps Inc. (D&P) or Fitch Investors Service, Inc. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision

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[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[3] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. "Certificate" means:

(1) A certificate-

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument-

(a) That represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) That is issued by and is an obligation of a trust;

with respect to certificates defined in (1) and (2) above for which Nomura or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. "Trust" means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either

(a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T);

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property (including obligations secured by leasehold interests on commercial real property);

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U);

(e) "Guaranteed governmental mortgage pool certificates," as defined in 29 CFR 2510.3–101(i)(2);

(f) Fractional undivided interests in any of the obligations described in clauses (a)-(e) of this section B.(1);

(2) Property which had secured any of the obligations described in subsection B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to made to certificateholders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any obligations described in subsection B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless:

(i) The investment pool consists only of assets of the type which have been included in other investment pools,

(ii) Certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's D & P, or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and

(iii) Certificates evidencing interest in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. "Underwriter" means:

(1) Nomura;

(2) Any person directly or indirectly, through one of more intermediaries, controlling, controlled by or under common control with Nomura; or

(3) Any member of an underwriting syndicate or selling group of which Nomura or a person described in (2) is a manager or co-manager with respect to the certificates.

D. "Sponsor" means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. "Master Servicer" means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. "Subservicer" means an entity which, under the supervision of and on behalf of the master servicer, services loans contained in the trust, but is not a party to the pooling and servicing agreement.

G. "Servicer" means any entity which services loans contained in the trust, including the master servicer and any subservicer.

H. "Trustee" means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. "Insurer" means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. "Obligor" means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, "obligor" shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. "Excluded Plan" means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. "Restricted Group" with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial insurance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. "Affiliate" of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under

common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. "Control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be "independent" of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. "Sale" includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. "Forward delivery commitment" means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificate from, the other party).

R. "Reasonable compensation" has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. "Qualified Administrative Fee" means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. "Qualified Equipment Note Secured By A Lease" means an equipment note:

(a) Which is secured by equipment which is leased;

(b) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(c) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as the trust would have if the equipment note were secured only by the equipment and not the lease.

U. "Qualified Motor Vehicle Lease" means a lease of a motor vehicle where:

(a) The trust holds a security interest in the lease;

(b) The trust holds a security interest in the leased motor vehicle; and

(c) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as the trust would receive under a motor vehicle installment loan contract.

V. "Pooling and Servicing Agreement" means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

EFFECTIVE DATE: This exemption, if granted, will be effective for transactions occurring on or after October 27, 1992.

Summary of Facts and Representations

1. Nomura is incorporated in the State of New York, and is a direct wholly-owned subsidiary of Nomura Holding America Inc. Nomura Holding America Inc. is a direct wholly-owned subsidiary of the Nomura Securities Company, Ltd., a Japanese corporation. Nomura is an international financial services company involved in securities and commodities brokerage, investment banking, and investment advisory services. Nomura also is a broker-dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934. The applicant represents that Nomura has extensive experience in underwriting and trading mortgage-backed and asset-backed securities.

Trust Assets

2. Nomura seeks exemptive relief to permit plans to invest in pass-through certificates representing undivided interests in the following categories of trusts:

(1) Single and multi-family residential or commercial mortgage investment trusts;[4]

(2) Motor vehicle receivable investment trusts;

(3) Consumer or commercial receivables investment trusts; and

(4) Guaranteed governmental mortgage pool certificate investment trusts.[5]

3. Commercial mortgage investment trusts may include mortgages on ground leases of real property. Commercial mortgages are frequently secured by ground leases on the underlying property, rather than by fee simple interests. The separation of the fee simple interest and the ground lease interest is generally done for tax reasons. Properly structured, the pledge of the ground lease to secure a mortgage provides a lender with the same level of security as would be provided by a pledge of the related fee simple interest. The terms of the ground leases pledged to secure leasehold mortgages will in all cases be at least ten years longer than the term of such mortgages.[6]

Trust Structure

4. Each trust is established under a pooling and servicing agreement between a sponsor, a servicer and a trustee. The sponsor or servicer of a trust selects assets to be included in the trust. These assets are receivables which may have been originated by a sponsor

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[4] The Department notes that PTE 83–1 (48 FR 895, January 7, 1983), a class exemption for mortgage pool investment trusts, would generally apply to trusts containing single-family residential mortgages, provided that the applicable conditions of PTE 83–1 are met. Nomura requests relief for single-family residential mortgages in this exemption because it would prefer one exemption for all trusts of similar structure. However, Nomura has stated that it may still avail itself of the exemptive relief provided by PTE 83–1.

[5] Guaranteed governmental mortgage pool certificates are mortgage-backed securities with respect to which interest and principal payable is guaranteed by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA). The Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(i)) provides that where a plan acquires a guaranteed governmental mortgage pool certificate, the plan's assets include the certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate. The applicant is requesting exemptive relief for trusts containing guaranteed governmental mortgage pool certificates because the certificates in the trusts may be plan assets.

[6] Trust assets may also include obligations that are secured by leasehold interests on residential real property. See PTE 90–32 involving Prudential-Bache Securities, Inc. (55 FR 23147, June 6, 1990 at 23150).

or servicer of the trust, an affiliate of the sponsor or servicer, or by an unrelated lender and subsequently acquired by the trust sponsor or servicer.

On or prior to the closing date, the sponsor acquires legal title to all assets selected for the trust, establishes the trust and designates an independent entity as trustee. On the closing date, the sponsor conveys to the trust legal title to the assets, and the trustee issues certificates representing fractional undivided interests in the trust assets. Nomura, alone or together with other broker-dealers, acts as underwriter or placement agent with respect to the sale of the certificates. All of the public offerings of certificates made to date and all of the public offerings of certificates presently contemplated have been or are to be underwritten on a firm commitment basis. In addition, Nomura has privately placed certificates on both a firm commitment and an agency basis. Nomura may also act as the lead underwriter for a syndicate of securities underwriters.

Certificateholders are entitled to receive monthly, quarterly or semi-annually installments of principal and/or interest, or lease payments due on the receivables, adjusted, in the case of payments of interest, to a specified rate—the pass-through rate—which may be fixed or variable.

When installments or payments are made on a semi-annual basis, funds are not permitted to be commingled with the servicer's assets for longer than would be permitted for a monthly-pay security. A segregated account is established in the name of the trustee (on behalf of certificateholders) to hold funds received between distribution dates. The account is under the sole control of the trustee, who invests the account's assets in short-term securities which have received a rating comparable to the rating assigned to the certificates. In some cases, the servicer may be permitted to make a single deposit into the account once a month. When the servicer makes such monthly deposits, payments received from obligors by the servicer may be commingled with the servicer's assets during the month prior to deposit. In no event will the period of time between receipt of funds by the servicer and deposit of these funds in a segregated account exceed 45 days. Furthermore, in those cases where distributions are made semi-annually, the servicer will furnish a report on the operation of the trust to the trustee on a monthly basis. At or about the time this report is delivered to the trustee, it will be made available to certificateholders and delivered to or made available to each rating agency that has rated the certificates.

5. Some of the certificates will be multi-class certificates. Nomura requests exemptive relief for two types of multi-class certificates: "Strip" certificates and "fast-pay/slow-pay" certificates. Strip certificates are a type of security in which the stream of interest payments on receivables is split from the flow of principal payments and separate classes of certificates are established, each representing rights to disproportionate payments of principal and interest.[7]

"Fast-pay/slow-pay" certificates involve the issuance of classes of certificates having different stated maturities or the same maturities with different payment schedules. In certain transactions of this type, interest and/or principal payments received on the underlying receivables are distributed first to the class of certificates having the earliest stated maturity of principal, and/or earlier payment schedule, and only when that class of certificates have been paid in full (or has received a specified amount) will distributions be made with respect to the second class of certificates. Distributions on certificates having later stated maturities will proceed in like manner until all the certificateholders have been paid in full. The only difference between this multi-class pass-through arrangement and a single-class pass-through arrangement is the order in which distributions are made to certificateholders. In each case, certificateholders will have a beneficial ownership interest in the underlying assets. In neither case will the rights of a plan purchasing a certificate be subordinated to the rights of another certificateholder in the event of default on any of the underlying obligations. In particular, if the amount available for distribution to certificateholders is less than the amount required to be so distributed, all senior certificateholders then entitled to receive distributions will share in the amount distributed on a pro rata basis.[8]

6. For tax reasons, the trust must be maintained as an essentially passive entity. Therefore, both the sponsor's discretion and the servicer's discretion with respect to assets included in a trust are severely limited. Pooling and servicing agreements provide for the substitution of receivables by the sponsor only in the event of defects in documentation discovered within a short time after the issuance of trust certificates. Any receivable so substituted is required to have characteristics substantially similar to the replaced receivable and will be at least as creditworthy as the replaced receivable.

In some cases, the affected receivable would be repurchased, with the purchase price applied as a payment on the affected receivable and passed through to certificateholders.

Parties to Transactions

7. The *originator* of a receivable is the entity that initially lends money to a borrower (obligor), such as a homeowner or automobile purchaser, or leases property to the lessee. The originator may either retain a receivable in its portfolio or sell it to a purchaser, such as a trust sponsor.

Originators of receivables included in the trusts will be entities that originate receivables in the ordinary course of their business, including finance companies for whom such origination constitutes the bulk of their operations, financial institutions for whom such origination constitutes a substantial part of their operations, and any kind of manufacturer, merchant, or service enterprise for whom such origination is an incidental part of its operations. Each trust may contain assets of one or more originators. The originator of the receivables may also function as the trust sponsor or servicer.

8. The *sponsor* will be one of three entities:

(i) A special-purpose corporation unaffiliated with the servicer,

(ii) A special-purpose or other corporation affiliated with the servicer, or

(iii) The servicer itself. Where the sponsor is not also the servicer, the sponsor's role will generally be limited to acquiring the receivables to be included in the trust, establishing the trust, designating the trustee, and assigning the receivables to the trust.

9. The *trustee* of a trust is the legal owner of the obligations in the trust. The trustee is also a party to or beneficiary of all the documents and

[7] It is the Department's understanding that where a plan invests in REMIC "residual" interest certificates to which this exemption applies, some of the income received by the plan as a result of such investment may be considered unrelated business taxable income to the plan, which is subject to income tax under the Code. The Department emphasizes that the prudence requirement of section 404(a)(1)(B) of the Act would require plan fiduciaries to carefully consider this and other tax consequences prior to causing plan assets to be invested in certificates pursuant to this exemption.

[8] If a trust issues subordinated certificates, holders of such subordinated certificates may not share in the amount distributed on a pro rata basis with the senior certificateholders. The Department notes that the exemption does not provide relief for plan investment in such subordinated certificates.

instruments deposited in the trust, and as such is responsible for enforcing all the rights created thereby in favor of certificateholders.

The trustee will be an independent entity, and therefore will be unrelated to Nomura, the trust sponsor or the servicer. Nomura represents that the trustee will be a substantial financial institution or trust company experienced in trust activities. The trustee receives a fee for its services, which will be paid by the servicer, sponsor or the trust as specified in the pooling and servicing agreement. The method of compensating the trustee which is specified in the pooling and servicing agreement will be disclosed in the prospectus or private placement memorandum relating to the offering of the certificates.

10. The *servicer* of a trust administers the receivables on behalf of the certificateholders. The servicer's functions typically involve, among other things, notifying borrowers of amounts due on receivables, maintaining records of payments received on receivables and instituting foreclosure or similar proceedings in the event of default. In cases where a pool of receivables has been purchased from a number of different originators and deposited in a trust, it is common for the receivables to be "subserviced" by their respective originators and for a single entity to "master service" the pool of receivables on behalf of the owners of the related series of certificates. Where this arrangement is adopted, a receivable continues to be serviced from the perspective of the borrower by the local subservicer, while the investor's perspective is that the entire pool of receivables is serviced by a single, central master servicer who collects payments from the local subservicers and passes them through to certificateholders.

In some cases, the originator and servicer of receivables to be included in a trust and the sponsor of the trust (though they themselves may be related) will be unrelated to Nomura. In other cases, however, affiliates of Normura may originate or service receivables included in a trust, or may sponsor a trust.

11. Where the sponsor of a trust is not the originator of receivables included in a trust, the sponsor generally purchases the receivables in the secondary market, either directly from the originator or from another secondary market participant. The price the sponsor pays for a receivable is determined by competitive market forces, taking into account payment terms, interest rate, quality, and forecasts as to future interest rates.

As compensation for the receivables transferred to the trust, the sponsor receives certificates representing the entire beneficial interest in the trust, or the cash proceeds of the sale of such certificates. If the sponsor receives certificates from the trust, the sponsor sells all or a portion of these certificates for cash to investors or securities underwriters. In some transactions, the sponsor or an affiliate may retain a portion of the certificates for its own account. In addition, in some transactions the originator may sell receivables to a trust for cash. At the time of the sale, the trustee would sell certificates to the public or to underwriters and use the cash proceeds of the sale to pay the originator for receivables sold to the trust. The transfer of the receivables to the trust by the sponsor, the sale of certificates to investors, and the receipt of the cash proceeds by the sponsor generally take place simultaneously.

12. The price of the certificates, both in the initial offering and in the secondary market, is affected by market forces, including investor demand, the pass-through interest rate on the certificates in relation to the rate payable on investments of similar types and quality, expectations as to the effect on yield resulting from prepayment of underlying receivables, and expectations as to the likelihood of timely payments.

The pass-through rate for certificates is equal to the interest rate on receivables included in the trust minus a specified servicing fee.[9] This rate is generally determined by the same market forces that determine the price of a certificate. The price of a certificate and its pass-through, or coupon, rate together determine the yield to investors. If an investor purchases a certificate at less than par, that discount augments the stated pass-through rate; conversely, a certificate purchased at a premium yields less than the stated coupon.

13. As compensation for performing its servicing duties, the servicer (who may also be the sponsor, and receive fees for acting in that capacity) will retain the difference between payments received on the receivables in the trust and payments payable (at the pass-through rate) to certificateholders, except that in some cases a portion of the payments on receivables may be paid to a third party, such as a fee paid to a provider of credit support or deposited into a reserve fund. Any funds on deposit in a reserve fund after the certificateholders (and the credit enhancement provider, if any) have been paid in full are generally paid to the sponsor or the servicer. The servicer may receive additional compensation by having the use of the amounts paid on the receivables between the time they are received by the servicer and the time they are due to the trust (which time is set forth in the pooling and servicing agreement). The servicer will be required to pay the administrative expenses of servicing the trust, including, in some cases, the trustee's fee, out of its servicing compensation.

The servicer is also compensated to the extent it may provide credit enhancement to the trust or otherwise arrange to obtain credit support from another party. This "credit support fee" may be aggregated with other servicing fees, and is either paid out of the interest income received on the receivables in excess of the pass-through rate or paid in a lump sum at the time the trust is established.

14. The servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor. These administrative fees fall into three categories:

(a) Prepayment fees;

(b) Late payment and payment extension fees and fees related to the modification of the terms of an obligation as permitted by the provisions of the pooling and servicing agreement (including the partial release of collateral to the extent provided therein); and

(c) Fees and charges associated with foreclosure or repossession, or other conversion of a secured position into cash proceeds, upon default of an obligation.

Compensation payable to the servicer will be set forth or referred to in the pooling and servicing agreement and described in reasonable detail in the prospectus or private placement memorandum relating to the certificates.

15. Payments on receivables may be made by obligors to the servicer at various times during the period preceding any date on which pass-through payments to the trust are due. In some cases, the pooling and servicing agreement may permit the servicer to place these payments in non-interest bearing accounts in itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the servicer would be entitled to the benefit derived from the use of the funds between the date of

[9] The pass-through rate on certificates representing interests in trusts holding leases is determined by breaking down lease payments into "principal" and "interest" components based on an implicit interest rate.

payment on a receivable and the pass-through date. Commingled payments may not be protected from the creditors of the servicer in the event of the servicer's bankruptcy or receivership. In those instances when payments on receivables are held in non-interest bearing accounts or are commingled with the servicer's own funds, the servicer is required to deposit these payments by a date specified in the pooling and servicing agreement into an account from which the trustee makes payments to certificateholders.

16. Nomura will receive a fee in connection with the securities underwriting or private placement of certificates. In a securities underwriting, this fee would normally consist of the difference between what Nomura receives for the certificates that it distributes and what it pays the sponsor for those certificates. In some public offerings, however, Nomura may sell certificates on an agency basis in a best efforts underwriting. In those cases, Nomura would receive an agency commission paid by the sponsor plus reimbursement for out-of-pocket expenses. In a private placement, the fee normally takes the form of an agency commission paid by the sponsor.

Purchase of Receivables by the Servicer

17. The applicant represents that as the principal amount of the receivables in a trust is reduced by payment, the cost of administering the trust generally increases, making the servicing of the trust prohibitively expensive at some point. Consequently, the pooling and servicing agreement generally provides that the servicer may purchase the receivables remaining in the trust when the aggregate unpaid balance payable on the receivables is reduced to a specified percentage (usually 5 to 10 percent) of the initial aggregate unpaid balance.

The purchase price of a receivable is specified in the pooling and servicing agreement and will be at least equal to: (1) The unpaid principal balance on the receivable plus accrued interest, less any unreimbursed advances of principal made by the servicer; or (2) the greater of (a) the amount in (1) or (b) the fair market value of such obligations in the case of a REMIC, or the fair market value of the certificates in the case of a trust that is not a REMIC.

Certificate Ratings

18. The certificates will have received one of the three highest ratings available from either S&P's, Moody's, D&P or Fitch. Insurance or other credit support (such as surety bonds. letters of credit, guarantees, or the creation of a class of certificates with subordinated cash flow) will be obtained by the trust sponsor to the extent necessary for the certificates to attain the desired rating. The amount of this credit support is set by the rating agencies at a level that is a multiple of the worst historical net credit loss experience for the type of obligations included in the issuing trust.

Provision of Credit Support

19. In some cases, the master servicer, or an affiliate of the master servicer, may provide credit support to the trust (i.e. act as an insurer). In these cases, the master servicer, in its capacity as servicer, will first advance funds to the full extent that it determines that such advances will be recoverable (a) out of late payments by the obligors, (b) from the credit support provider (which may be itself) or, (c) in the case of a trust that issues subordinated certificates, from amounts otherwise distributable to holders of subordinated certificates, and the master servicer will advance such funds in a timely manner. When the servicer is the provider of the credit support and provides its own funds to cover defaulted payments, it will do so either on the initiative of the trustee, or on its own initiative on behalf of the trustee, but in either event it will provide such funds to cover payments to the full extent of its obligations under the credit support mechanism. In some cases, however, the master servicer may not be obligated to advance funds but instead would be called upon to provide funds to cover defaulted payments to the full extent of its obligations as insurer. However, a master servicer typically can recover advances either from the provider of credit support or from future payments on the affected assets.

If the master servicer fails to advance funds, fails to call upon the credit support mechanism to provide funds to cover delinquent payments, or otherwise fails in its duties, the trustee would be required and would be able to enforce the certificateholders' rights, as both a party to the pooling and servicing agreement and the owner of the trust estate, including rights under the credit support mechanism. Therefore, the trustee, who is independent of the servicer, will have the ultimate right to enforce the credit support arrangement.

When a master servicer advances funds, the amount so advanced is recoverable by the servicer out of future payments on receivables held by the trust to the extent not covered by credit support. However, where the master servicer provides credit support to the trust, there are protections in place to guard against a delay in calling upon the credit support to take advantage of the fact that the credit support declines proportionally with the decrease in the principal amount of the obligations in the trust as payments on receivables are passed through to investors. These safeguards include:

(a) There is often a disincentive to postponing credit losses because the sooner repossession or foreclosure activities are commenced, the more value that can be realized on the security for the obligation;

(b) The master servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which an obligation ordinarily will be deemed uncollectible. The pooling and servicing agreement will require the master servicer to follow its normal servicing guidelines and will set forth the master servicer's general policy as to the period of time after which delinquent obligations ordinarily will be considered uncollectible;

(c) As frequently as payments are due on the receivables included in the trust (monthly, quarterly or semi-annually as set forth in the pooling and servicing agreement), the master servicer is required to report to the independent trustee the amount of all past-due payments and the amount of all servicer advances, along with other current information as to collections on the receivables and draws upon the credit support. Further, the master servicer is required to deliver to the trustee annually a certificate of an executive officer of the master servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the master servicer has fulfilled all of its obligations under the pooling and servicing agreement or, if the master servicer has defaulted under any of its obligations, specifying any such default. The master servicer's reports are reviewed at least annually by independent accountants to ensure that the master servicer is following its normal servicing standards and that the master servicer's reports conform to the master servicer's internal accounting records. The results of the independent accountants' review are delivered to the trustee; and

(d) The credit support has a "floor" dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the trust, whether due to servicer advances or any other cause. Once the floor amount has been reached, the servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount becomes a fixed dollar amount,

subject to reduction only for actual draws. From the time that the floor amount is effective until the end of the life of the trust, there are no proportionate reductions in the credit support amount caused by reductions in the pool principal balance. Indeed, since the floor is a fixed dollar amount, the amount of credit support ordinarily increases as a percentage of the pool principal balance during the period that the floor is in effect.

Disclosure

20. In connection with the original issuance of certificates, the prospectus or private placement memorandum will be furnished to investing plans. The prospectus or private placement memorandum will contain information material to a fiduciary's decision to invest in the certificates, including:

(a) Information concerning the payment terms of the certificates, the rating of the certificates, and any material risk factors with respect to the certificates;

(b) A description of the trust as a legal entity and a description of how the trust was formed by the seller/servicer or other sponsor of the transaction;

(c) Identification of the independent trustee for the trust;

(d) A description of the receivables contained in the trust, including the types of receivables, the diversification of the receivables, their principal terms, and their material legal aspects;

(e) A description of the sponsor and servicer;

(f) A description of the pooling and servicing agreement, including a description of the seller's principal representations and warranties as to the trust assets and the trustee's remedy for any breach thereof; a description of the procedures for collection of payments on receivables and for making distributions to investors, and a description of the accounts into which such payments are deposited and from which such distributions are made; identification of the servicing compensation and any fees for credit enhancement that are deducted from payments on receivables before distributions are made to investors; a description of periodic statements provided to the trustee, and provided to or made available to investors by the trustee; and a description of the events that constitute events of default under the pooling and servicing contract and a description of the trustee's and the investors' remedies incident thereto;

(g) A description of the credit support;

(h) A general discussion of the principal federal income tax consequences of the purchase, ownership and disposition of the pass-through securities by a typical investor;

(i) A description of the underwriters' plan for distributing the pass-through securities to investors; and

(j) Information about the scope and nature of the secondary market, if any, for the certificates.

21. Reports indicating the amount of payments of principal and interest are provided to certificateholders at least as frequently as distributions are made to certificateholders. Certificateholders will also be provided with periodic information statements setting forth material information concerning the underlying assets, including, where applicable, information as to the amount and number of delinquent and defaulted loans or receivables.

22. In the case of a trust that offers and sells certificates in a registered public offering, the trustee, the servicer or the sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934. Although some trusts that offer certificates in a public offering will file quarterly reports on Form 10–Q and Annual Reports on Form 10–K, many trusts obtain, by application to the Securities and Exchange Commission, a complete exemption from the requirement to file quarterly reports on Form 10–Q and a modification of the disclosure requirements for annual reports on Form 10–K. If such an exemption is obtained, these trusts normally would continue to have the obligation to file current reports on Form 8–K to report material developments concerning the trust and the certificates. While the Securities and Exchange Commission's interpretation of the periodic reporting requirements is subject to change, periodic reports concerning a trust will be filed to the extent required under the Securities Exchange Act of 1934.

23. At or about the time distributions are made to certificateholders, a report will be delivered to the trustee as to the status of the trust and its assets, including underlying obligations. Such report will typically contain information regarding the trust's assets, payments received or collected by the servicer, the amount of prepayments, delinquencies, servicer advances, defaults and foreclosures, the amount of any payments made pursuant to any credit support, and the amount of compensation payable to the servicer. Such report also will be delivered to or made available to the rating agency or agencies that have rated the trust's certificates.

In addition, promptly after each distribution date, certificateholders will receive a statement prepared by the trustee summarizing information regarding the trust and its assets. Such statement will include information regarding the trust and its assets, including underlying receivables. Such statement will typically contain information regarding payments and prepayments, delinquencies, the remaining amount of the guaranty or other credit support and a breakdown of payments between principal and interest.

Secondary Market Transactions

24. It is Nomura's normal policy to attempt to make a market for securities for which it is lead or co-managing underwriter, and it is Nomura's intention to attempt to make a market for any certificates for which Nomura is lead or co-managing underwriter.

Retroactive Relief

25. Nomura represents that it has engaged in transactions related to mortgage-backed and asset-backed securities based on the assumption that retroactive relief would not be granted. However, it is possible that some transactions may have occurred that would be prohibited. For example, because many certificates are held in street or nominee name, it is not always possible to identify whether the percentage interest of plans in a trust is or is not "significant" for purposes of the Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(f)). These problems are compounded as transactions occur in the secondary market. In addition, with respect to the "publicly-offered security" exception contained in that regulation (29 CFR 2510.3–101(b)), it is difficult to determine whether each purchaser of a certificate is independent of all other purchasers.

Therefore, Nomura requests relief retroactive for transactions which have occurred on or after October 27, 1992, the date Nomura originally filed its exemption application with the Department.

Summary

26. In summary, the applicant represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The trusts contain "fixed pools" of assets. There is little discretion on the part of the trust sponsor to substitute receivables contained in the trust once the trust has been formed;

(b) Certificates in which plans invest will have been rated in one of the three highest rating categories by S&P's,

Moody's D&P or Fitch. Credit support will be obtained to the extent necessary to attain the desired rating;

(c) All transactions for which Nomura seeks exemptive relief will be governed by the pooling and servicing agreement, which is made available to plan fiduciaries for their review prior to the plan's investment in certificates;

(d) Exemptive relief from sections 406(b) and 407 for sales to plans is substantially limited; and

(e) Nomura has made, and anticipates that it will continue to make, a secondary market in certificates.

Discussion of Proposed Exemption

I. Differences between Proposed Exemption and Class Exemption PTE 83–1

The exemptive relief proposed herein is similar to that provided in PTE 81–7 [46 FR 7520, January 23, 1981], Class Exemption for Certain Transactions Involving Mortgage Pool Investment Trusts, amended and restated as PTE 83–1 [48 FR 895, January 7, 1983].

PTE 83–1 applies to mortgage pool investment trusts consisting of interest-bearing obligations secured by first or second mortgages or deeds of trust on single-family residential property. The exemption provides relief from sections 406(a) and 407 for the sale, exchange or transfer in the initial issuance of mortgage pool certificates between the trust sponsor and a plan, when the sponsor, trustee or insurer of the trust is a party-in-interest with respect to the plan, and the continued holding of such certificates, provided that the conditions set forth in the exemption are met. PTE 83–1 also provides exemptive relief from section 406(b)(1) and (b)(2) of the Act for the above-described transactions when the sponsor, trustee or insurer of the trust is a fiduciary with respect to the plan assets invested in such certificates, provided that additional conditions set forth in the exemption are met. In particular, section 406(b) relief is conditioned upon the approval of the transaction by an independent fiduciary. Moreover, the total value of certificates purchased by a plan must not exceed 25 percent of the amount of the issue, and at least 50 percent of the aggregate amount of the issue must be acquired by persons independent of the trust sponsor, trustee or insurer. Finally, PTE 83–1 provides conditional exemptive relief from section 406(a) and (b) of the Act for transactions in connection with the servicing and operation of the mortgage trust.

Under PTE 83–1, exemptive relief for the above transactions is conditioned upon the sponsor and the trustee of the mortgage trust maintaining a system for insuring or otherwise protecting the pooled mortgage loans and the property securing such loans, and for indemnifying certificateholders against reductions in pass-through payments due to defaults in loan payments or property damage. This system must provide such protection and indemnification up to an amount not less than the greater of one percent of the aggregate principal balance of all trust mortgages or the principal balance of the largest mortgage.

The exemptive relief proposed herein differs from that provided by PTE 83–1 in the following major respects:

(1) The proposed exemption provides individual exemptive relief rather than class relief;

(2) The proposed exemption covers transactions involving trusts containing a broader range of assets than single-family residential mortgages;

(3) Instead of requiring a system for insuring the pooled receivables, the proposed exemption conditions relief upon the certificates having received one of the three highest ratings available from S&P's, Moody's, D&P or Fitch (insurance or other credit support would be obtained only to the extent necessary for the certificates to attain the desired rating); and

(4) The proposed exemption provides more limited section 406(b) and section 407 relief for sales transactions.

II. Ratings of Certificates

After consideration of the representations of the applicant and information provided by S&P's, Moody's, D&P or Fitch, the Department has decided to condition exemptive relief upon the certificates having attained a rating in one of the three highest generic rating categories from S&P's, Moody's, D&P or Fitch. The Department believes that the rating condition will permit the applicant flexibility in structuring trusts containing a variety of mortgages and other receivables while ensuring that the interests of plans investing in certificates are protected. The Department also believes that the ratings are indicative of the relative safety of investments in trusts containing secured receivables. The Department is conditioning the proposed exemptive relief upon each particular type of asset-backed security having been rated in one of the three highest rating categories for at least one year and having been sold to investors other than plans for at least one year.[10]

III. Limited Section 406(b) and Section 407(a) Relief for Sales

Nomura represents that in some cases a trust sponsor, trustee, servicer, insurer, and obligor with respect to receivables contained in a trust, or an underwriter of certificates may be a pre-existing party in interest with respect to an investing plan.[11] In these cases, a direct or indirect sale of certificates by that party in interest to the plan would be a prohibited sale or exchange of property under section 406(a)(1)(A) of the Act.[12] Likewise, issues are raised under section 406(a)(1)(D) of the Act where a plan fiduciary causes a plan to purchase certificates where trust funds will be used to benefit a party in interest.

Additionally, Nomura represents that a trust sponsor, servicer, trustee, insurer, and obligor with respect to receivables contained in a trust, or an underwriter of certificates representing an interest in a trust may be a fiduciary with respect to an investing plan. Nomura represents that the exercise of fiduciary authority by any of these parties to cause the plan to invest certificates representing an interest in the trust would violate section 406(b)(1), and in some cases section 406(b)(2), of the Act.

Moreover, Nomura represents that to the extent there is a plan asset "look through" to the underlying assets of a trust, the investment in certificates by a plan covering employees of an obligor under receivables contained in a trust may be prohibited by section 406(a) and 407(a) of the Act.

After consideration of the issues involved, the Department has

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[10] In referring to different "types" of asset-backed securities, the Department means certificates representing interests in trusts containing different "types" of receivables, such as single family residential mortgages, multi-family residential mortgages, commercial mortgages, home equity loans, auto loan receivables, installment obligations for consumer durables secured by purchase money security interests, etc. The Department intends this condition to require that certificates in which a plan invests are of the type that have been rated (in one of the three highest generic rating categories by S&P's, D&P, Fitch or Moody's) and purchased by investors other than plans for at least one year prior to the plan's investment pursuant to the proposed exemption. In this regard, the Department does not intend to require that the particular assets contained in a trust must have been "seasoned" (e.g., originated at least one year prior to the plan's investment in the trust).

[11] In this regard, we note that the exemptive relief proposed herein is limited to certificates with respect to which Nomura or any of its affiliates is either (a) the sole underwriter or manager or comanager of the underwriting syndicate, or (b) a selling or placement agent.

[12] The applicant represents that where a trust sponsor is an affiliate of Nomura, sales to plans by the sponsor may be exempt under PTE 75–1, Part II (relating to purchases and sales of securities by broker-dealers and their affiliates), if Nomura is not a fiduciary with respect to plan assets to be invested in certificates.

determined to provide the limited sections 406(b) and 407(a) relief as specified in the proposed exemption.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Junaluska Animal Hospital, P.A. Profit Sharing Plan (the Plan) Located in Waynesville, North Carolina

[Application No. D–9092]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990.) If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale of a parcel of unimproved real property (the Property) by the Plan to a Veterinary Partnership (the Partnership), a party in interest with respect to the Plan; provided the following conditions are satisfied:

(a) The proposed sale will be a one-time cash transaction;

(b) The price paid to the Plan will be the greater of: (1) $18,500, which was the fair market value of the Property as of February 7, 1992 as established by an independent qualified appraiser; or (2) the fair market value at the time of the sale as determined by an independent qualified appraiser;

(c) The Plan will pay no expenses associated with the sale; and

(d) The terms of the sale will be at least as favorable to the plan as an arm's length transaction between unrelated parties.

Summary of Facts and Representations

1. The Plan is a defined contribution profit sharing plan with seven participants and $266,298 in total assets as of December 31, 1991. The trustees of the Plan are Paul F. Bevilacqua, Sam H. Mitchell and William T. Snyder, II (the Trustees). The Trustees are equal owners of Junaluska Animal Hospital, P.A. (the Employer), which is the Plan sponsor. The Employer is a veterinary clinic located in North Carolina. The Trustees are equal owners of the Partnership which owns the land and the building (the Partnership Property). The Partnership leases the Partnership Property to the Employer.

2. The February 1982, the Plan purchased the Property for $13,000 in cash from Frank Enloe (Mr. Enloe), who was one of the original owners of the Employer. However, it is represented that at the time of the purchase, Mr Enloe had ceased his relationship with the Plan and the Employer. Earlier in 1992 it was discovered that at the time of the original acquisition, the Property was not properly deeded to the Plan, and that this error was corrected on July 30, 1992, when a deed naming the Plan as the owner of the Property was recorded. The Property consists of an undivided ⅓ interest in an unimproved parcel of which the remaining undivided ⅔ interest is owned by Mack Setser (Mr. Setser), who was also one of the original owners of the Employer. However, Mr. Setser has been retired for approximately seven years, and has ceased his relationship with the Employer. The Property is also adjacent to the Partnership Property, however, it is represented that the Property has not been used by any parties in interest since original acquisition by the Plan.[13] The Property consists of .716 acres of unimproved land and is located in Waynesville, North Carolina, and was originally purchased for investment purposes. The Property is not encumbered by any debt. It is further represented that the Employer has paid all holding costs for the Property since the original acquisition in 1982.

3. It is proposed that the Plan sell the Property to the Partnership in a cash transaction. The Plan will bear no expenses with respect to the sale transaction. An appraisal of the Property was prepared on February 7, 1992, by Fred R. Spencer (Mr. Spencer), an independent qualified appraiser with Spencer Auction and Appraisal Services. Mr Spencer relied on the sales comparison approach and determined that the fair market value of the Property as of February 7, 1992, was $18,500. In a letter of January 21, 1993, Mr. Spencer stated that the adjacency of the Property to the Partnership Property does not merit a premium above the fair market value of $18,500 to unrelated buyers in a sale of the Property to the Partnership. It is Mr. Spencer's opinion that a plottage value did not apply to the Property as of the date of evaluation.[14] As such, Mr. Spencer concludes that the payment of $18,500 to the Plan as a result of this transaction reflects fair market value

4. It is represented that the transaction is desirable for the Plan as the sale will increase the liquidity of the Plan's investment portfolio. The transaction is protective of the Plan because the Plan will receive the fair market value of the Property as determined by an independent qualified appraiser at the time of the sale.

5. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The proposed sale will be a one-time cash transaction;

(b) The price paid to the Plan will be the greater of:

(1) $18,500, which has fair market value as of February 7, 1992, as established by an independent qualified appraiser; or (2) the fair market value at the time of the sale, as determined by an independent qualified appraiser;

(c) The Plan will pay no expenses associated with the sale;

(d) The terms of the sale will be at least as favorable to the Plan as an arm's length transaction between unrelated parties;

(e) The sale will allow the Plan to liquidate its investment portfolio; and

(f) The applicant understands that the effectiveness of the exemption, if granted, is dependent on compliance with the terms as set forth herein, including any limitations, restrictions, or other conditions imposed on such exemption.

For Further Information Contact: Ekaterina A. Uzlyan of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

United Security Bancshares, Inc., Employee Stock Ownership Plan (the Plan) Located in Thomasville, Alabama

[Application No. D–9317]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) an interest-free loan to the Plan (the Loan) by United Security Bancshares, Inc. (the Employer), the sponsor of the Plan, with respect to

[13] The Department expresses no opinion herein as to whether the Plan's acquisition or holding of the Property violated any provision of part 4 of title I of the Act.

[14] In this regard, Mr. Spencer maintains that plottage is defined as an increment of value that results when extra utility is created by combining two or more sites under a single ownership.

guaranteed investment contract number PY–C90043 (the GIC) issued by Inter-American Insurance Company of Illinois (Inter-American); and (2) the Plan's potential repayment of the Loan (the Repayment); provided that the following conditions are satisfied:

(A) No interest and/or expenses are paid by the Plan;

(B) The Loan is made in lieu of payments due from Inter-American under the terms of the GIC;

(C) The Repayment is restricted to cash proceeds paid to the Plan (the GIC Proceeds) by Inter-American and/or any other responsible third party with respect to the GIC, and no other Plan assets are used to make the Repayments; and

(D) The Repayments will be waived to the extent the Loan exceeds the GIC Proceeds.

Summary of Facts and Representations

1. The Plan is an employee stock ownership plan, originally established April 12, 1985, and most recently restated, with section 401(k) features, as of January 1, 1991. As of December 31, 1991 the Plan had approximately 113 participants and total assets of approximately $899,906.23. The trustees of the Plan are Jack M. Wainwright, III and Larry M. Sellers (the Trustees), each of whom is an officer and employee of the Employer. The Employer is a commercial bank operating primarily in Clarke County, Alabama. Participants in the Plan are employees of the Employer and its affiliates, and contributions to the Plan are made by the participants and by the Employer and its affiliates. Investment decisions with respect to Plan assets are made by the Trustees.

2. Among the assets of the Plan is the GIC, a guaranteed investment contract purchased by the Trustees from Inter-American on September 25, 1985. The Plan made principal deposits under the GIC in the amounts of $28,216.11 on December 31, 1985 and $96,894.55 on December 31, 1986. The GIC terms provide for the accrual of interest on principal (the Contract Interest) at the rate of 11 percent per annum over an initial three-year guarantee period, and thereafter at the rate of 9 percent per annum through the GIC's maturity on September 25, 1991 (the Maturity Date). The GIC terms authorize withdrawals by the Plan under certain circumstances, but the Trustees represent that no withdrawals have been made from the GIC. Upon the Maturity Date, Inter-American was obligated to make a final maturity payment (the Maturity Payment) in the amount of total principal deposits plus Contract Interest through maturity. As of the Maturity Date, the accumulated book value of the GIC was $210,637.18, representing the Plan's total principal deposits under the GIC, plus accrued interest at the Contract Rate. The Employer represents that the GIC constituted approximately 23.4 percent of the Plan's assets as of December 31, 1991.

4. In January 1992, Inter-American was placed into conservatorship by the Illinois Insurance Commissioner, and a moratorium was imposed on payments on Inter-American contracts, including the GIC.[15] Since the commencement of the moratorium, the Plan has received no payments under the GIC for Withdrawal Events, and the Maturity Payment due on the Maturity Date has not been paid.[16] The Employer represents that it is uncertain whether, or to what extent, holders of Inter-American contracts will recover the full amounts of principal and interest due under the contracts currently outstanding. The Employer desires to alleviate the Plan's participants of risks associated with continued investment in the GIC, to prevent any losses of Account investments in the GIC, and to provide the Plan with the cash which otherwise would have been provided by the Maturity Payment. Accordingly, the Employer proposes to make the Loan to the Plan in the amount due the Plan under the GIC, plus interest through the date of the Loan, and is requesting an exemption for the Loan, and for its potential Repayment by the Plan, under the terms and conditions described herein.

5. The Loan will be made pursuant to a written agreement between the Employer and the Plan (the Agreement) embodying all terms of the extension of credit and its repayment. The Agreement provides for the Employer to make the Loan in one lump-sum payment in the total amount of the Maturity Payment which was due September 25, 1991, consisting of total principal deposits plus accrued Contract Interest, through the Maturity Date, plus interest thereon from the Maturity Date through the date of the Loan at the highest rate allowed by the Internal Revenue Service (the Service) pursuant to a closing agreement between the Service and the Employer pursuant to Revenue Procedure. 92–16. The Loan will not bear interest, and the Employer shall not charge any fees, commissions or other charges for the Loan.

Repayment of the Loan under the Agreement is limited to payments made to the Plan pursuant to the GIC by Inter-American, by any conservator, trustee or other person performing similar functions with respect to Inter-American, or by any state guaranty fund or other person or entity, other than the Employer, acting as a surety or insurer with respect to Inter-American (collectively, the GIC Payors). No other Plan assets will be available for repayment of the Loan. If payments from the GIC Payors are not sufficient to repay fully the Loan, the Agreement provides that the Employer will have no recourse against the Plan, or against any participants or beneficiaries of the Plan, for the unpaid amount. To the extent the Plan receives amounts with respect to the GIC from the GIC Payors in excess of the total amount of the Loan, such additional amounts will be retained by the Plan and allocated among the accounts of participants in the Plan.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act for the following reasons:

(1) The Loan will enable the Plan to recover the full Maturity Payment which was due on the Maturity Date, plus interest thereon at the highest rate allowed by the Service;

(2) The Plan will pay no interest or incur any expenses with respect to the Loan;

(3) Repayment of the Loan will be restricted to payments by the GIC Payors and no other Plan assets will be involved in the transactions; and

(4) Repayment of the Loan will be waived to the extent the Plan recoups less from the GIC Payors than the total amount of the Loan.

For Further Information Contact: Ronald Willett of the Department (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of

[15] The Department notes that the decision to acquire and hold the GIC is governed by the fiduciary responsibility requirements of part 4, subtitle B, title I of the Act. In this proposed exemption, the Department is not proposing relief for any violations of part 4 which may have arisen as a result of the acquisition and holding of the GIC.

[16] The Employer represents that the Plan's investment in the GIC had been recommended by a third party, Business Planning, Inc. (BPI), which also provided administrative services to the Plan. The Employer represents that BPI was responsible for redeeming the GIC upon its Maturity Date and collecting from Inter-American the amount of cash due the plan as the Maturity Payment. However, upon the GIC's maturity on September 25, 1991, and subsequently, the Employer states that BPI failed to submit the GIC for redemption and that BPI has been sued in connection with its failure to collect the Maturity Payment on behalf of the Plan.

disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 4th day of March, 1993.

Ivan Strasfeld,

Director of Exemption Determinations.

[FR Doc. 93–5394 Filed 3–8–93; 8:45 am]

BILLING CODE 4510–29–M

LEGAL SERVICES CORPORATION

Availability of Funds and Requests for Migrant Alternative Dispute Resolution Proposals

AGENCY: Legal Services Corporation.

ACTION: Announcement of funding.

SUMMARY: The Legal Services Corporation (LSC or Corporation) announces that up to $100,000 is available for pilot projects using dispute resolution (ADR) to address labor and work-related disputes between U.S. migrant farmworkers and their employers. The Corporation solicits grant proposals from its existing grantees and other non-profit organizations. Each grant will be on a one-time, non-recurring basis, with a grant term of up to 12 months, and in an amount no greater than $75,000 per grant. All grants will be awarded pursuant to the authority conferred by section 1006(a)(1)(B) of the Legal Services Corporation Act of 1974, as amended.

DATES: Applications, including technical guidelines for proposals, and criteria to be used in evaluating proposals, will be available after March 9, 1993. Grant proposals will be reviewed in early May 1993. Consequently, proposals must be received by the Office of Field Services no later than 5 p.m., April 12, 1993.

ADDRESSES: Office of Field Services, Legal Services Corporation, 750 First Street NE., 11th Floor, Washington, DC, 20002–4250.

FOR FURTHER INFORMATION CONTACT: Ressie Walker, Grants Specialist, Office of Field Services, (202) 336–8826.

SUPPLEMENTARY INFORMATION: LSC is authorized to fund organizations that provide legal assistance to eligible clients. As such, LSC seeks to fund a project whereby attorneys or attorney-supervised personnel, such as paralegals, provide alternative dispute resolution on behalf of LSC-eligible clients.

Dated: March 4, 1993.

Ellen J. Smead,

Director, Office of Field Services.

[FR Doc. 93–5377 Filed 3–8–93; 8:45 am]

BILLING CODE 7050–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Challenge/Advancement Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Challenge/Advancement Advisory Panel (Advancement Phase I Review Committee Section) to the National Council on the Arts will be held on March 29, 1993 from 9:30 a.m.–5:30 p.m. in room M–07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 9:30 a.m.–10:15 a.m. and 4:30 p.m.–5:30 p.m. The topics will be opening remarks and policy discussion.

The remaining portion of this meeting from 10:15 a.m.–4:30 p.m. is for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, this session will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: March 2, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–5296 Filed 3–8–93; 8:45 am]

BILLING CODE 7537–01–M

Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Film/Video Production Section) to the National Council on the Arts will be held on March 31, 1993 from 9 a.m.–6:30 p.m. and April 1 from 9 a.m.–5:30 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on March 31 from 9 a.m.–9:30 a.m. and April 1 from 5 p.m.–5:30 p.m. for introductory remarks and policy discussion.

The remaining portions of this meeting on March 31 from 9:30 a.m.–6:30 p.m. and April 1 from 9 a.m.–5

p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: March 2, 2993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–5297 Filed 3–8–93; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Amended Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice of a meeting of the Music Advisory Panel (Composers Fellowships Prescreening #2 Section) which was to have been held on March 26–27, 1993 from 9 a.m.–5:30 p.m. will be held on March 25–26, 1993 from 9 a.m.–5:30 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

This meeting is for the purpose of application evaluation, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, this session will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: March 4, 1993.

Yvonne M. Sabine,

Director, Panel Operations National Endowment for the Arts.

[FR Doc. 93–5378 Filed 3–8–93; 8:45 am]

BILLING CODE 7537–01–M

Theater Advisory Panel; Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Professional Theater Companies B Section) to the National Council on the Arts will be held on March 29, 1993 from 9:30 a.m.–8:30 p.m., March 30–April 1 from 9:30 a.m.–9:30 p.m. and April 2 from 9:30 a.m.–5.30 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on March 29 from 9:30 a.m.–10:30 a.m. and April 2 from 4:00 p.m.–5:30 p.m. The topics will be opening remarks, policy discussion, and guidelines review.

The remaining portions of this meeting on March 29 from 10:30 a.m.–8:30 p.m., March 30–April 1 from 9:30 a.m.–9:30 p.m. and April 2 from 9:30 a.m.–4:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: March 2, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–5295 Filed 3–8–93; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Regional Programs

The ACRS Subcommittee on Regional Programs will hold a meeting on March 23, 1993, at the Region II Office, 101 Marietta Street, NW., suite 2900, Atlanta, GA.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss privileged and/or proprietary information (5 U.S.C. 552b(c)(4)).

The agency for the subject meeting shall be as follows:

Tuesday, March 23, 1993—8:30 a.m. until the conclusion of business

The Subcommittee will discuss the activities of the NRC Region II Office. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be

considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Region II Office, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Paul Boehnert (telephone 301/492–8558), between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised or any changes in schedule, etc., that may have occurred.

Dated: March 1, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–5329 Filed 3–8–93; 8:45 am]

BILLING CODE 7590–01–M

[Facility Operating License Nos. DPR–58 and DPR–74; Docket Nos. 50–315 and 316]

Indiana Michigan Power Co., Donald C. Cook Nuclear Plant, Units 1 and 2; Notice of Withdrawal of Application for Amendments to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted a request by Indiana Michigan Power Company (the licensee) to withdraw its February 25, 1991, application, as supplemented February 13, 1992, for amendments to Facility Operating License Nos. DPR–58 and DPR–74, issued to the licensee for operation of the Donald C. Cook Nuclear Plant, Units 1 and 2, located in Berrien County, Michigan. Notice of Consideration of Issuance and the amendments was published in the **Federal Register** on May 15, 1991 (56 FR 22470).

The purpose of the licensee's amendments request was to modify Technical Specification (TS) 4.0.3 such that the Action Requirements of the TS may be delayed for up to 24 hours to permit completion of a missed surveillance when the allowable outage time limits for the Action Requirements are less than 24 hours. The 24-hour delay was addressed by the staff in Generic Letter 87–09, dated June 4, 1987.

Subsequently, the licensee informed the staff that the amendments are no longer requested. Thus, the amendments application is considered to be withdrawn by the licensee.

For further details with respect to this action, see (1) the application for amendments dated February 25, 1991, and additional information provided in a letter dated February 13, 1992.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Rockville, Maryland this 26th day of February 1993.

For the Nuclear Regulatory Commission.

William M. Dean, Sr. Project Manager,

Project Directorate III–1, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–5330 Filed 3–8–93; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Docket No. A93–12; Order No. 965]

McAdams, Mississippi 39107 (Jimmy Kettleman, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued March 3, 1993.

Docket Number: A93–12.

Name of Affected Post Office: McAdams, Mississippi 39107.

Name(s) of Petitioner(s): Jimmy Kettleman.

Type of Determination: Consolidation.

Date of Filing of Appeal Papers: March 1, 1993.

Categories of Issues Apparently Raised:

1. Effect on the community (39 U.S.C. 404(b)(2)(A));

2. Effect on postal services (39 U.S.C. 404(b)(2)(C)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before March 16, 1993.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

March 1, 1993—Filing of Petition.

March 3, 1993—Notice and Order of Filing of Appeal.

March 26, 1993—Last day of filing of petitions to intervene [see 39 CFR 3001.111(b)].

April 5, 1993—Petitioner's Participant Statement or Initial Brief [see 39 CFR 3001.115 (a) and (b)].

April 26, 1993—Postal Service Answering Brief [see 39 CFR 3001.115(c)].

May 11, 1993—Petitioner's Reply Brief should Petitioner choose to file one [see 39 CFR 3001.115(d)].

May 18, 1993—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116].

June 29, 1993—Expiration of 120-day decisional schedule [see 39 U.S.C. 404(b)(5)].

[FR Doc. 93–5313 Filed 3–8–93; 8:45 am]

BILLING CODE 7710–FW–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning April 1, 1993, shall be at the rate of 31 cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning April 1, 1993, 33.3 percent of the taxes collected under sections 3211(b) and 3221(c) of the

Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 66.7 percent of the taxes collected under such sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

By Authority of the Board.

Dated: March 2, 1993.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 93–5331 Filed 3–8–93; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Requests Under Review by Office of Management and Budget

Agency Clearance Officer: John J. Lane, (202) 272–2142.

Upon written request copies available from: Securities and Exchange Commission, Office of Filings, Information and Consumer Services, 450 Fifth Street NW., Washington, DC 20549

New

Form TH File No. 270–377

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for OMB approval creation of new Form TH, Notification of Reliance on Temporary Hardship, for use in the EDGAR system. Filers may obtain a temporary hardship exemption from electronic filing when they experience unanticipated technical difficulties preventing the preparation and submission of an electronic filing by filing the subject document in paper under cover of Form TH.

It is estimated that approximately 2,000 respondents will file Form TH annually at an estimated .33 burden hours per response. The estimated average burden hours are made solely for proposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules or forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with Securities and Exchange Commission rules and forms to John J. Lane, Associate Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: February 20, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5352 Filed 3–8–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19305; 812–8130]

Great American Reserve Insurance Co., et al.; Application

March 2, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or the "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Great American Reserve Insurance Company ("GARCO"), Great American Reserve Variable Annuity Fund (the "Annuity Fund"), Great American Reserve Variable Annuity Account C ("Account C"), Great American Reserve Variable Annuity Account D ("Account D", collectively with Annuity Fund and Account C, the "GARCO Accounts"), GARCO Equity Sales, Inc. ("Equity Sales") and Conseco Series Trust (the "Trust").

RELEVANT 1940 ACT SECTIONS AND RULE: Order requested under sections 6(c) and 17(b) for exemption from Sections 17(a), 26(a)(2)(C) and 27(c)(2).

SUMMARY OF APPLICATION: Applicants seek an order to permit: (1) The combination of the assets of Annuity Fund and Account D with and into Account C (the "Continuing Account"); (2) the simultaneous restructuring of the Continuing Account from a management investment company into a unit investment trust investing in shares of portfolios of the Trust; (3) the simultaneous issuance of shares of the portfolios of the Trust to newly created sub-accounts of the Continuing Account in exchange for all of the assets and related liabilities of Account C (the transactions described in (1), (2) and (3) are collectively referred to herein as the "Reorganization"); and (4) the deduction of a mortality and expense risk charge from the assets of the Continuing Account.

FILING DATE: The application was filed on October 22, 1992. The first amendment and restatement of the application was filed on January 29, 1993 and the second amendment and restatement of the application was filed on February 22, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on the application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m., on March 29, 1993 and should be accompanied by proof of service on Applicants in the form of an affidavit, or for lawyers, by certificate. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of the hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants: c/o Michael L. Sapir, Esq., Jorden Schulte & Burchette, suite 400–E, 1025 Thomas Jefferson Street, NW., , Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Barbara J. Whisler, Attorney, or Wendell M. Faria, Deputy Chief, at (202) 272–2060, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. GARCO, a stock life insurance company organized under the laws of Texas, is a wholly-owned subsidiary of a subsidiary of CCP Insurance, Inc. ("CCP"). Conseco, Inc. ("Conseco"), a publicly owned financial services holding company, owns approximately 36% of the outstanding stock of CCP and manages the daily operations of CCP. Conseco also has the right to elect one half of the directors of CCP.

2. Annuity Fund, Account C and Account D were created by Voyager Life Insurance Company ("Voyager") pursuant to the insurance laws of Texas. GARCO acquired the GARCO Accounts on May 15, 1986 when GARCO acquired all of Voyager's variable annuity business. Each GARCO Account is organized as a "separate account" and is registered with the Commission as an open-end diversified management investment company under the 1940 Act. The GARCO Accounts fund benefits under certain group and individual variable annuity contracts (the "GARCO Contracts").

3. Equity Sales, a wholly-owned subsidiary of GARCO, is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member

of the National Association of Securities Dealers, Inc. Equity Sales acts as a principal underwriter for the GARCO Contracts, which are sold by licensed insurance agents and insurance brokers of GARCO. The licensed agents and brokers are also registered representatives of Equity Sales.

4. Conseco Capital Management, Inc. ("CCM") acts as the investment adviser to the GARCO Accounts. CCM has entered into an investment sub-advisory agreement with John McStay Investment Counsel ("McStay") pursuant to which McStay acts as the sub-adviser to the Annuity Fund. CCM and McStay are both registered as investment advisers under the Investment Advisers Act of 1940, as amended.

5. GARCO Contracts are issued in two types: Individual Variable Retirement Annuity Contracts ("IVRACS") and Group Variable Retirement Contracts for Deferred Compensation Plans ("DC Contracts"). The Group Variable Retirement Annuity Contracts ("GVRACS"), the third type of GARCO Contracts, are no longer offered by GARCO, although previously issued GVRACS remain outstanding.

6. IVRACS are offered as both flexible installment purchase payment contracts and single payment contracts. An annual administrative fee of $20 for installment purchase contracts and $25 for single premium contracts is imposed. When the account value is surrendered or applied to an annuity option, an administrative fee is deducted from the proceeds at the lesser of $25 or 2% of the aggregate proceeds. Withdrawal of up to 10% of the purchase payment without a withdrawal penalty is permitted under specified circumstances. Withdrawals in excess of this amount are subject to a contingent deferred sales charge as follows:

Contract year	Stipulated single payment annuity contract (Percent)
1	7
2	6
3	5
4	4
5	3
6–8	0

Contract year	Flexible payment deferred annuity contract (Percent)
1	8
2	7
3	6
4	5
5	4
6	3
7	2
8	1

Contingent sales charges may also be deducted upon selection of certain annuity options; however, the application states that cumulative deductions from IVRACS will not exceed 8.5% of cumulative purchase payments made.

7. An annual administrative fee of $15 is imposed on DC Contracts. When the account value is surrendered or applied to an annuity option, an administrative fee is deducted from the proceeds at the lesser of $15 or 2% of the aggregate proceeds.

8. Upon partial or full surrender of a DC Contract during the accumulation period, a contingent deferred sales charge is made from the amount surrendered as follows:

Completed annual contribution periods	Contingent deferred sales charge (Percent)
Less than 5	5
5 or more but less than 10	3
10 or more but less than 15	2
15 or more	0

Contingent sales charges may also be deducted upon selection of certain annuity options; however, the application states that cumulative deductions from DC Contracts will not exceed 8.5% of cumulative purchase payments made.

9. There are no contingent deferred sales charges assessed against GVRACS; however, GARCO makes deductions from purchase payments (*i.e.*, renewal premiums on outstanding GVRACS) for the following items: Sales expenses; administrative expenses; and, minimum death benefits. Total deductions from premium payments range from 1% to 6% of total premium payments made and decrease as the amount of premium payments increases.

10. Applicants represent that the amount of the administrative charge for each of the three types of GARCO Contracts is guaranteed and cannot be increased.

11. GARCO makes daily deductions from the variable portion of all of the GARCO Contracts at an annual rate of 1.44%. Of the 1.44% charge, .44% is paid to CCM pursuant to an investment advisory agreement for investment management services and 1.00% is for the mortality and expense risks assumed by GARCO. Of the 1.00% charge for mortality and expense risks, .50% is attributable to mortality risks and .50% is attributable to the expense risks assumed by GARCO. The application states that the mortality risk assumed by GARCO is that annuitants may live longer than estimated. If annuitants live longer than the life expectancy by GARCO, GARCO will make annuity payments from its general account; however, if annuitants do not reach the life expectancy determined by GARCO, GARCO will realize a gain. The application states that the expense risk assumed by GARCO is the risk that expenses of administering the GARCO Contracts will exceed the proceeds of the administrative and expense charges.

12. Any premium tax due is deducted from purchase payments or from individual account values at the annuity commencement date or at such other time as the tax becomes due. The current range of premium taxes in jurisdictions in which the GARCO Contracts are made available ranges from 0% to 4%. Certain other expenses and deductions are made by GARCO with respect to each form of GARCO Contract and these expenses and deductions are described more fully in the application.

13. The Trust is an open-end diversified management investment company registered under the 1940 Act. Shares of the Trust are offered in connection with certain individual flexible purchase payment deferred variable annuity contracts (the "Bankers Contracts") issued by Bankers National Life Insurance Company ("Bankers Life"), a subsidiary of Conseco. The Bankers Contracts are funded through Bankers National Variable Account B (the "Bankers Account"), a unit investment trust registered under the 1940 Act. Bankers Life and the Bankers Account currently own all of the outstanding shares of the Trust. Responsibility for managing the affairs of the Trust and overseeing its investment adviser rests with the trustees of the Trust ("Trustees"). The Trust is a series fund consisting of a Money Market Portfolio, a Government

Securities Portfolio, a Common Stock Portfolio and an Asset Allocation Portfolio (individually, a "Portfolio", collectively, the "Portfolios"). Pursuant to a resolution of the Trustees, the Trust will amend its registration statement to add a Corporate Bond Portfolio. The Corporate Bond Portfolio has no assets and will not be operational until the Effective Date of the Reorganization.[1]

14. Pursuant to an investment advisory agreement, and subject to the authority of the Trustees, CCM serves as the Trust's investment adviser and conducts the daily operations of the Trust. For serving as investment adviser, the Trust currently pays CCM a monthly fee based upon each Portfolio's average monthly net asset value at the following annual rates: .50% of the daily net asset value of the Money Market Portfolio and the Government Securities Portfolio; .55% of the daily net asset value of the Corporate Bond Portfolio; .60% of the daily net asset value of the Common Stock Portfolio and .65% of the daily net asset value of the Asset Allocation Portfolio.

15. The GARCO Contracts ("Contract Owners"), the GARCO Accounts will be combined into Account C with the Continuing Account simultaneously restructured as a unit investment trust investing exclusively in shares of the Trust. All of the Trust's Portfolios are expected to be available under the GARCO Contracts as of the Effective Date of the Reorganization except that the Government Securities and the Asset Allocation Portfolios may not be made available until approximately 30 days after the Reorganization. All of the portfolios assets of Annuity Fund and Account D will be sold, assigned and transferred to the Continuing Account and GARCO, on behalf of the Continuing Account, will simultaneously transfer all of the Continuing Account's combined assets to the Trust in exchange for shares of certain Portfolios which will be issued to newly-created corresponding sub-accounts of the Continuing Account. The Continuing Account will retain its existing name of Account C, and the separate registrations of Annuity Fund and Account D with the Commission under the 1940 Act will be terminated.

16. GARCO will bear all expenses incurred in effecting the Reorganization. In exchange for the assets of the GARCO Accounts, the Trust will issue shares of beneficial interest to the Continuing Account. Shares of the Common Stock Portfolio of the Trust will be issued in return for the assets of the Annuity Fund, shares of the Corporate Bond Portfolio (to be created upon the Reoganization) of the Trust will be issued in return for the assets of Account C and shares of the Money Market Portfolio of the Trust will be issued in return for the assets of Account D.

17. The number of shares of each Portfolio to be issued in connection with the Reorganization to the respective corresponding sub-account of the Continuing Account shall be determined by dividing the value of the portfolio assets of each GARCO Account to be transferred (as of the close of trading on the business day next preceding the Effective Date of the Reorganization) by the per share net asset value of shares of the corresponding Portfolio (as of the close of trading on the business day next preceding the Effective Date). Applicants state that as a result, each Portfolio share that is issued in the Reorganization will be issued for consideration equal to the net asset value of the share. The Trust will issue full and fractional shares of each Portfolio receiving assets in the reorganization. Applicants represent that they intend to comply with section 22(c) of the 1940 Act and Rule 22c–1 thereunder in effecting the transfers of shares of the Reorganization.

18. As of the Effective Date, the investment management agreements between CCM and each of the GARCO Accounts and the investment sub-advisory agreement between CCM and McStay with respect to the Annuity Fund will terminate. CCM will continue as investment adviser under its present investment advisory arrangements with the Trust, except that CCM will also manage the Corporate Bond Portfolio.

19. With respect to existing GARCO Contracts outstanding immediately prior to the Effective Date, GARCO will issue an endorsement guaranteeing that the total of the advisory fees charged against any of the Trust's Portfolios the shares of which are purchased by the Continuing Account, plus the mortality and expense risk, administrative and any other charges upon the assets of the corresponding sub-accounts of the Continuing Account, will never exceed an amount that is equal to the total amount of the same charges that would have been imposed under such GARCO Contracts absent the Reorganization. With respect to such GARCO Contracts, GARCO will reimburse to the appropriate sub-account of the Continuing Account an amount that represents the difference between the current investment advisory fee of .44% per annum charged the GARCO Accounts and the amount of the advisory fee charged to the corresponding Portfolio of the Trust. The mortality and expense risk and administrative charges will not change, or will be reimbursed, and any other charges imposed on the assets of the Continuing Account are not expected to exceed the amount of such charges prior to the Reorganization or they will be reimbursed.

20. The application states that GARCO will not assume extraordinary or non-recurring expenses of the Trust, no does the reimbursement apply to any federal income tax if the Trust or any Portfolio fails to qualify as a "registered investment company" under applicable provisions of the Internal Revenue Code, as amended.

21. The Continuing Account has filed with the Commission a post-effective amendment on Form N–4 to its current registration statement on Form N–3. The application states that such registration statement is expected to be effective as of the Effective Date.

22. On matters upon which Contract Owners currently have a voting privilege, the application represents that, following the Reorganization, Contract Owners will have the opportunity to instruct GARCO as to the voting of the Trust's shares attributable to the Contract Owners' respective account values. GARCO will then vote the shares of each Portfolio of the Trust held by the Continuing Account and attributable to the GARCO Contracts in accordance with instructions received from Contract Owners. Shares of the Trust held by the Continuing Account that are not attributable to Contract Owners or for which instructions have not been received will be voted by GARCO in the same proportion as the shares for which instructions have been received.

23. The Application states that proxy materials were provided to Contract Owners. These materials included a proxy statement/prospectus filed with the Commission on Form N–14 and incorporated by reference into the application. On December 14, 1992, special meetings of the Contract Owners of each GARCO Account were held. At these meetings, the application represents that, with respect to each

[1] The application defines the Effective Date as the date specified in the Agreement and Plan of Reorganization by and among GARCO, each of the GARCO Accounts and the Trust (the "Agreement") or, such other date as may be mutually agreed upon by all parties to the Agreement, when "all of the cash, securities and other investments held or in transit, receivables for investments sold, dividends, interest receivables and any other assets, and all investment related liabilities of Annuity Fund and Account D will be transferred into the Continuing Account." Concurrently therewith, GARCO, on behalf of the Continuing Account, will sell, assign and transfer all of the Continuing Account's assets to the Trust.

GARCO Account, the Reorganization was approved by a vote of the Contract Owners which fulfills the requirements of the 1940 Act.

Applicants' Legal Analysis

Affiliated Transactions

1. Applicants request that the Commission, pursuant to sections 6(c) and 17(b) of the 1940 Act, grant the exemptions set forth in the application in connection with the Reorganization.

2. Section 17(a)(1) of the 1940 Act prohibits an affiliated person of a registered investment company, or an affiliated person of such an affiliated person, acting as principal, from knowingly selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits any of the persons described in section 17(a)(1) from purchasing any security or other property from a registered investment company.

3. Each GARCO Account and the Trust may be deemed to be an affiliated person of one another or an affiliated person of an affiliated person under section 2(a)(3) of the 1940 Act, and the Reorganization may be deemed to involve one or more purchase or sales of securities or property among the GARCO Accounts and the Trust.

4. Section 6(c) of the 1940 Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision of or any rule or regulation under the 1940 Act if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

5. Section 17(b) of the 1940 Act provides that the Commission may grant an order exempting transactions prohibited by section 17(a) of the 1940 Act, upon application, if evidence establishes that:

(a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

(b) The proposed transaction is consistent with the policy of each registered investment company concerned, as recited in such company's registration statement and reports filed under the 1940 Act; and

(c) The proposed transaction is consistent with the general purposes of the 1940 Act.

6. Applicants represent that the terms of the Reorganization, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. Applicants further represent that the terms of the Reorganization are consistent with the investment policies of each of the GARCO Accounts and the Portfolios of the Trust, and are consistent with the general purposes of the 1940 Act. Applicants submit that the proposed transactions will be effected in a manner consistent with the public interest and the protection of investors.

7. The application notes that the governing bodies of the GARCO Accounts and of the Trust have separately determined that the transactions contemplated by the Agreement are in the best interest of the Contract Owners and of the shareholders of the Trust. The Board of Trustees of the Trust concluded that the overall level of fees and charges borne, directly or indirectly, by the present shareholders of the Trust will be no greater immediately after the Reorganization than immediately prior to the Reorganization. Applicants argue that certain fees and expenses may be reduced by virtue of the economies of scale that could result from the larger asset base after the Reorganization.

8. Applicants argue that the Reorganization will benefit Contract Owners by making investments in each of the Portfolios of the Trust available. A Contract Owner may direct GARCO to allocate purchase payments or effect transfers among any one of the sub-accounts of the Continuing Account which will invest in shares of a corresponding Portfolio of the Trust. Applicants note that because of the guaranteed limitation on expenses that will be applicable under the existing GARCO Contracts, the current Contract Owners will be able to invest in any one of the Portfolios at no increase in cost even though the investment advisory fees to be paid by each of the Portfolios are higher than the advisory fees now charged to the GARCO Accounts.

9. Applicants state that the Reorganization is expected to benefit the GARCO Accounts, as well as GARCO, by reducing costs through administrative efficiencies, economies of scale and less complex record keeping. Moreover, existing and future Contract Owners with interests in the Trust are expected to benefit to the extent that, as a result of the transactions, common management of a larger asset base will tend: To facilitate maximum investment flexibility; to increase the possibility that additional investment portfolios may be added to the Trust in the future; and, to enhance liquidity.

10. GARCO will obtain an opinion of tax counsel indicating that the transfer of assets and the combination of the GARCO Accounts in the Reorganization will be "tax-free events". No gain or loss will be realized on the transfers or combinations contemplated by the Reorganization.

11. Applicants state that GARCO has obtained Contract Owner approval of the Reorganization by at least the vote required under the 1940 Act. Applicants represent that Contract Owners were informed fully of the terms of the Reorganization through the proxy materials and had an opportunity to approve or disapprove the Reorganization at special meetings of the Contract Owners called for that purpose.

12. Applicants represent that the terms of the Agreement and of the Reorganization meet all of the requirements of sections 6(c) and 17(b) of the 1940 Act and that an order should therefore be granted exempting, to the extent requested, the proposed Reorganization from the provisions of section 17(a).

13. Applicants state that they do not request an order under Rule 17d–1 in reliance upon an opinion of counsel concluding that the Reorganization is not a joint transaction or joint arrangement as contemplated by section 17(d) or Rule 17d–1 thereunder.[2]

Mortality and Expense Risk

1. Applicants[3] request that the Commission, pursuant to section 6(c) of the 1940 Act, grant the exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act in connection with Applicants' assessment of the daily charge for mortality and expense risks. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in pertinent part, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and held under agreements which prohibit any payment to the depositor or principal underwriter for such trust except a fee, not exceeding such reasonable amount as the Commission may prescribe for

[2] Applicants represent that the application will be amended during the notice period to reflect this representation.

[3] With respect to the exemptive request in connection with the assessment of mortality and expense risk charges, "Applicants" refers only to GARCO, the Continuing Account and Equity Sales.

bookkeeping and other administrative duties, of a character normally performed by the bank.

2. Applicants represent that the level of the mortality and expense risk that will be charged is within the range of industry practice for comparable variable annuity contracts. Applicants state that they have reviewed publicly available information regarding products of other companies taking into consideration, in addition to the mortality and expense risk charges of the other companies, such factors as: Guaranteed minimum death benefits; guaranteed annuity purchase rates; minimum initial and subsequent purchase payments; other contract charges; the manner in which charges are imposed; market sector; investment options under contracts; and availability to individual qualified and non-tax-qualified plans. Based upon this review, Applicants conclude that the mortality and expense risk to be charged is within the range of charges determined by industry practice. Applicants represent that they will, from the Effective Date, maintain at GARCO's principal executive office, and make available to the Commission or its staff upon request, a memorandum setting forth in detail the variable annuity products analyzed and the methodology, and results of, GARCO's comparative review.

3. Applicants recognize that the sales loads under the GARCO Contracts may not cover all costs relating to the distribution of the GARCO Contracts and that, if a profit is realized from the mortality and expense risk charge, the profit may be offset by distribution expenses not reimbursed by sales loads. The application states that GARCO has concluded that there is a reasonable likelihood that the distribution financing arrangement will benefit the Continuing Account and Contract Owners. The basis for such conclusion is set forth in a memorandum which will be maintained, from the Effective Date, at GARCO's principal executive office and will be available to the Commission.

4. GARCO represents that the Continuing Account will invest only in the Trust which undertakes, in the event the Trust should adopt any plan under Rule 12b–1 under the 1940 Act to finance distribution expenses, to have such plan formulated and approved by the Trustees, including at least a majority of the members of which are not "interested persons" of the Trust within the meaning of section 2(a)(19) of the 1940 Act.

5. The application states that, for all of the reasons stated therein, the requests for exemption from sections 26(a)(2)(C) and 27(c)(2) meet the standards set forth in section 6(c) and are, therefore, necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5353 Filed 3–8–93; 8:45 am]

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[Release No. IC–19306; 812–7992]

Ivy Fund, et al.; Notice of Application

March 2, 1993.

AGENCY: Notice of Application for Exemption Under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Ivy Fund, The Mackenzie Funds Inc. ("Mackenzie"), Mackenzie Investment Management Inc. ("MIMI") and Ivy Management, Inc. ("Ivy Management").

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 18(f)(1), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order that will permit certain open-end management investment companies to (a) issue multiple classes of shares representing interests in the same portfolio of securities and (b) assess and, under certain circumstances, waive a contingent deferred sales load ("CDSC") on certain redemptions of shares.

FILING DATE: The application was filed on July 21, 1992 and amendments were filed on October 22, 1992, December 23, 1992, and February 10, 1993. In letters dated February 25, 1993 and March 2, 1993, applicant's counsel has stated that an additional amendment, the substance of which is incorporated herein, will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 29, 1993 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 700 North Federal Highway, Suite 300, Boca Raton, Florida 33432.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Barry D. Miller, Senior Special Counsel, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Ivy Fund and Mackenzie are both registered diversified, open-end management investment companies of the series type. Ivy Fund is a Massachusetts business trust and Mackenzie is a Maryland corporation.

2. Ivy Fund currently has four separate portfolios: Ivy Growth with Income Fund ("IGIF"), Ivy Growth Fund ("IGF"), Ivy International Fund ("IIF"), and Ivy Money Market Fund. Currently IGF, IIF, and IGIF (the "Equity Portfolios") charge a front-end sales load of 5.75% for purchases of less than $50,000, scaling down in steps to no front-end sales load for purchases of $1 million or more. In addition, the Equity Portfolios have adopted a plan pursuant to rule 12b–1 under the Act ("12b–1 Plan").

3. Mackenzie currently has four portfolios: Mackenzie Canada Fund, Mackenzie Growth and Income Fund (the "Mackenzie Fund"), Mackenzie Global Fund, and Mackenzie Adjustable U.S. Government Securities Trust.[1] The Mackenzie Fund currently charges a front-end sales load of 2.75% for purchases of less than $100,000, scaling down in steps to no front-end sales load for purchases of $1 million or more. It also has a 12b–1 Plan.

4. MIMI, a majority-owned subsidiary of Mackenzie Financial Corporation ("MFC"), is a Delaware corporation that is a registered investment adviser and a registered broker-dealer. MIMI currently acts as the business manager and principal underwriter for Mackenize, and as investment adviser for the

[1] Mackenzie Canada Fund, Mackenzie Global Fund, and The Mackenzie Adjustable U.S. Government Securities Trust do not currently intend to rely on the order.

Mackenzie Global Fund, Mackenzie Adjustable U.S. Government Securities Trust, and the Mackenzie Fund. MFC serves as investment adviser to Mackenzie Canada Fund. MIMI also acts as distributor of the shares of the Ivy Fund.

5. Ivy Management, a wholly-owned subsidiary of MIMI, is a Massachusetts corporation that is a registered investment adviser. Ivy Management serves as manager of and investment adviser to Ivy Fund.

6. Mackenzie and Ivy Fund have entered into an administrative services agreement (the "Mackenzie Services Plan") with MIMI under which each portfolio pays MIMI a monthly fee based on the average daily value of the portfolio's net assets during the preceding month at an annual rate of 0.10%. In addition, Ivy Management serves as transfer agent and dividend paying agent for the Mackenzie Fund and the Ivy Fund portfolios and provides certain shareholder and shareholder-related services under a transfer agency and shareholder services agreement ("Transfer Agency Agreement") with the portfolios.

7. On October 9, 1991, the Commission issued an order under section 6(c) of the Act exempting MIMI and Mackenzie from the provisions of sections 18(f)(1), 18(g), and 18(i) of the Act to permit the issuance and sale of two separate classes of securities representing interests in the same portfolio (Investment Company Act Release No. 18357, Oct. 9, 1991). The dual distribution system has not yet been implemented. The requested order would supersede the prior order.

8. Applicants request that relief extend to any future investment portfolio of Ivy Fund, Mackenize, or any registered open-end investment companies (or series thereof) (a) whose investment adviser is MIMI, MFC, Ivy Management, or an investment adviser that is under common control with MIMI (collectively, the "Adviser"), or (b) whose principal underwriter is MIMI, or a principal underwriter that is under common control with MIMI (collectively, the "Distributor"). (Collectively, Ivy Fund, Mackenzie, and all such investment companies are referred to as the "Funds." Series of the Funds are referred to as the "Portfolios.") Any existing or future open-end investment company and any existing or future Portfolio relying upon the requested order will comply with each of the conditions and the representations as set forth in the application. No money market portfolio will rely on the order requested.

A. The Multiple Class Distribution System

9. Applicants propose to establish a multiple class distribution system to enable each Portfolio to select among an array of different loads, distribution, service and administration fees, and CDSCs (the "Multiple Class Distribution System"). Options offered will be limited to combinations of those described in the application. Initially, the applicants anticipate that only the Equity Portfolios would implement the Multiple Class Distribution System, and it is expected that IGF and IIF would establish two classes, while IGIF would establish three classes. In the future other Portfolios may want to implement the Multiple Class Distribution System.

10. If the relief requested in the application is granted, a Portfolio utilizing the Multiple Class Distribution System would adopt a policy of making a daily distribution declaration on shares of the various classes in a manner that would result in all classes having the same net asset value. The board of trustees would have authority to declare distributions on the classes of shares of a Portfolio at its discretion, including distributions made to comply with the distribution requirements under federal tax law. Any such distributions, other than amounts needed to equalize the net asset of the shares of the classes of a Portfolio, will be declared equally on all classes.

11. While the Equity Portfolios currently pay distributions on shares on an annual basis, certain Portfolios of other Funds currently pay distributions more frequently, such as quarterly. If such Portfolios adopt the Multiple Class Distribution System, it is anticipated that the distribution policies for such Portfolios would provide for the payment of distributions more frequently. Applicants' current intent, however, is to pay daily dividend declarations on Class A shares (as described below) of the Equity Portfolios monthly.

12. Applicants expect that the daily distribution declarations generally would be comprised of net investment income and net realized short-term capital gains, although the source of these distributions for purposes of the Act would not be determined until the time of the payment. If, for any daily declaration of distributions of a class of shares of a Portfolio, it is determined that, at the time of payment, net investment income and short-term capital gains are less than the amount of the declaration, the difference would be treated as a distribution from the Portfolio's capital attributable to such shares for purposes of the Act. Applicants represent that they will comply with the requirements of section 19(a) of the Act and rules 19a–1 and 19b–1 thereunder.

13. Ivy Fund proposes to divide its shares of beneficial interest of IGF and IIF into two classes, each with its own distribution financing method. The outstanding shares of IGF and IIF would be classified as Class A shares. New Class A shares would be offered to the public with a front-end sales load, although certain classes of shareholders would be entitled to purchase without a front-end sales load. Ivy Fund's current 12b–1 Plan would continue for the Class A shares of IGF and IIF. Class A shares of IGF and IIF would be subject to a 12b–1 fee, which is expected to be at a rate equal on an annual basis of up to 0.25% of the average daily net asset value of outstanding shares issued after December 31, 1991 for which a broker-dealer is designated as nominee or the dealer of record for the shareholder account.

14. IGF and IIF would adopt a policy of making a daily distribution declaration on their Class A shares at a rate of 0.75% of the net assets attributable to such shares, plus any amount needed to equalize the net asset value of Class A shares with Class B shares. The daily distribution declarations on the Class A shares of IGF and IIF, when added to the 12b–1 fees attributable to the Class A shares of these Portfolios, will decrease the net asset value per share of the Class A shares so that it equals that of the Class B shares.

15. IGF and IIF would create a new class of shares, designated Class B shares. As currently contemplated, the Class B shares would be sold without a front-end sales load, subject to a 12b–1 fee of 1.0% (0.25% of such fee would be designated a service fee) of the average daily net assets attributable to such shares and, during the first year following the date of purchase, a 1.0% CDSC. A portion of these fees will be paid to securities dealers and the balance of the 12b–1 fee would be retained by MIMI.

16. Applicants anticipate that Mackenzie Fund will be reorganized into IGIF (the "Reorganization"). After the Reorganization, IGIF would create three classes of shares. IGIF Class A shares would have all the same features as the Class A shares of IGF and IIF, except that IGIF would adopt a policy of making a daily distribution declaration on Class A shares at a rate of 0.95% of the net assets attributable to such shares, plus any amount needed to equalize the net asset value of Class A

shares with Class B and Class C shares. The daily distribution declaration on IGIF Class A shares and the daily distribution declaration on IGIF Class B shares, respectively, when added to the 12b–1 fees attributable to IGIF Class A and Class B shares will decrease the net asset value per share of IGIF Class A and Class B shares in equal amounts.

17. IGIF Class C shares will have all the same features as the Class B shares of IGF and IIF, except that IGIF would adopt a distribution policy that would provide for a daily distribution declaration on its Class B shares at a rate of 0.20% per annum of the net assets attributable to such shares.

18. IGIF Class C shares would be shares of IGIF which are issued to Mackenzie Fund shareholders in connection with the Reorganization. There would be no specific policy for IGIF Class C on the declaration of distribution except to make sufficient distributions to relieve it of federal income tax on its earnings.

19. IGIF Class C shares would be subject to a 12b–1 fee of 1.20% (0.25% of the fee to be designated a service fee) of the average net assets attributable to such shares. On or before July 7, 1993, the aggregate 12b–1 fee for IGIF Class C shares would be reduced to 1.0% in accordance with article III, section 26 of the National Association of Securities Dealers, Inc., as amended, when it becomes effective on July 7, 1993 (the "NASD Rule"). When the 12b–1 fee on the IGIF Class C shares is reduced to 1.0% to comply with the NASD Rule there will be a reduction in the distribution policies for the IGIF Class A and Class B shares of 0.20%. Accordingly, the net asset value per share of IGIF Class A, Class B, and Class C shares will remain identical. No sales load would be charged for the exchange of Mackenzie Fund shares for IGIF Class shares.

20. IGIF Class C shares would convert to Class A shares after specified holding periods from 2 to 8 years. The conversion of IGIF Class C shares to IGIF Class A shares may be suspended if either a tax ruling, if obtained, is revoked by the Internal Revenue Service, an opinion of counsel is withdrawn, or IGIF's board of trustees determines that continuing such conversions would have adverse tax consequences for IGIF or its shareholders. In the event that conversions of IGIF Class C shares do not occur, such shares might continue to be subject to a 12b–1 fee for an indefinite period which may extend beyond the period prescribed by the proposed Multiple Class Distribution System.

21. The purpose of the third class of IGIF, Class C, is to compensate MIMI for expenses incurred in the sale of shares of Mackenzie Fund shares and relieve the holders of Mackenzie Fund shares that have been outstanding for more than the prescribed period of the burden of a portion of the distribution fee.

22. Class C shares will not be offered to the public. The Mackenzie Fund shareholders will receive disclosure required in form N–14 regarding the IGIF Class C shares as part of the proxy materials soliciting their approval of the Reorganization. IGIF Class A and Class B shareholders will not be able to purchase IGIF Class C shares. After all IGIF Class C shares have converted to IGIF Class A shares, IGIF Class C will be terminated. For the period of time that IGIF Class C is in existence, the prospectus for IGIF Class A and Class B will identify its existence.

23. It is currently contemplated that only IGIF Class C shares will have conversion rights. Applicants also desire to have the ability to convert shares of a future class or classes of a Portfolio to those of another subject to terms fully disclosed in a Portfolio's then current registration statement, including the following: (a) All conversions will be done at net asset value without the imposition of any sales load, fee, or other charge, so that the value of each shareholder's account immediately before conversion will be the same as the value of the account immediately after conversion; (b) any conversion feature adopted by a Portfolio will be fully disclosed in the Portfolio's then-current prospectus; (c) the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in article III, section 26 of the NASD Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversions; (d) any conversion feature will be subject to the availability of a ruling of the Internal Revenue Service or an opinion of counsel, as may be appropriate, that the conversion of shares does not constitute a taxable event under federal tax law; and (e) shares purchased through the reinvestment of dividends and other distributions paid in respect of the class subject to conversion ("target class shares") will either be paid in shares of the class in which they are to be converted ("purchase class shares") or will be considered to be held in a separate sub-account and would convert to purchase class shares in the same proportion as the ratio that the shareholder's target class shares converting to purchase class shares bears to the shareholder's total target class shares not acquired through dividends and distributions. A Portfolio would elect one of these two methods and would treat the reinvestment of dividends and distributions of a target class uniformly. In addition, different breakpoints and holding periods, within 2 and 8 years limits, may be adopted for new classes of shares of a Portfolio that determines to implement the Multiple Class Distribution System.

24. If a shareholder holds more than one class of shares in a Portfolio, or any combination of classes, the Portfolio will redeem the shares having the highest 12b–1 fees first; provided that shares subject to a CDSC will always be redeemed last, unless the shareholder specifically elects otherwise. Broker-dealers redeeming shares of a Portfolio will be provided guidelines on advising shareholder redemptions when a shareholder holds more than one class of shares in a Portfolio. In the case of IGIF Class C shares, redemption will occur in the order that will result in the shortest holding period before conversion for the remaining IGIF Class C shares (if any) after redemption.

25. Under the Multiple Class Distribution System, each share in a particular Portfolio, regardless of class, would represent an equal *pro rata* interest in the Portfolio, and would have identical voting, dividend, liquidation and other rights, preferences, powers, restrictions, limitations, qualifications, designations and terms and conditions, except for: (a) The impact of the differing 12b–1 fees, service and administration fees paid with respect to classes of shares; (b) the different distribution declarations on different classes to equalize the net asset value of all classes of shares; (c) the voting rights on matters which pertain to the 12b–1 Plan of a particular class; (d) the conversion feature applicable only to the Class C shares or future equivalent shares; (e) classes that impose a rule 12b–1 fee may convert to another class; (f) the option to sell shares subject to no load, a front-end load or a CDSC; (g) the designation of each class of shares; and (h) the different exchange privileges for each class.

26. It is contemplated that one or more of the Funds or Portfolios may enter agreements for administrative and transfer agency services for the Fund, Portfolio or one or more of its classes (the "Service Agreements"). Only the class or classes that receive the services as a result of such Service Agreements will bear the fees for such services. To the extent the service fees are not shared *pro rata* among the classes of a Fund or

Portfolio, the distribution policies of the classes will be structured to account for this and the net asset value of the classes will remain the same.

27. The net asset value of all outstanding shares of a Portfolio will be computed on the same days and at the same time by adding the value of all Portfolio securities and other assets belonging to the Portfolio involved, subtracting the liabilities charged to the Portfolio, and dividing the result by the number of such outstanding shares. Further, the gross income of a Portfolio will be allocated on a pro rata basis to each outstanding share in the Portfolio regardless of class.

28. Expenses of a Fund that cannot be attributed directly to any one Portfolio will be allocated to each Portfolio based on the relative net assets of each Portfolio. Certain expenses attributable to a particular Portfolio, but not to a particular class will be borne pro rata by the outstanding shares of the Portfolio regardless of class.

29. It is contemplated that those Portfolios that implement a Multiple Class Distribution System may have a class of shares that is exchangeable for the same or similar class of another Portfolio. In the case of the Equity Portfolios, the following exchange privileges are contemplated. Class A shares may be exchanged for shares of any of the Mackenzie funds on payment of any differential in sales load in compliance with rule 11a–3. As currently contemplated, the additional sales charge will be waived on an exchange of shares which have been held for one year or longer. There would be no sales charge for exchanges into the Ivy Money Market Fund. Also, there would be no sales charge on exchanges of shares acquired through dividends reinvested, except for shares purchased through dividend reinvestment in the Mackenzie Fund, Mackenzie Adjustable U.S. Government Securities Trust, or Mackenzie Limited Term Municipal Fund and exchanged into a Mackenzie load fund. Class B shares may be exchanged for shares of any of the Mackenzie group of funds on payment of any differential in sales load in compliance with rule 11a–3. The sales load differential, expressed as a percentage, will be reduced 1.0% per year for each full year for which the exchanged shares have been outstanding. Class C shares may be exchanged in the same manner as Class A shares.

B. The CDSC

30. Applicants also propose assessing a CDSC on certain redemptions of shares. Each Portfolio's particular CDSC schedule may vary, but the CDSC will comply with the NASD sales load limitations and the provisions of proposed rule 6c–10.

31. The CDSC will not be imposed on redemptions of shares which were purchased more than eight years prior to redemption (the "CDSC Period") or shares derived from the reinvestment of dividends. Furthermore, no CDSC will be imposed on an amount which represents an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for shares purchased during the CDSC Period. In determining whether a CDSC is applicable, it will be assumed that a redemption is made first of shares representing capital appreciation, second of shares derived from reinvestment of dividends and capital gains distributions, and finally, of other shares held by the shareholder for the longest period of time. No CDSC will be imposed on any class of shares purchased before the date applicants receive an order of the Commission or the adoption of rule 6c–10, whichever comes first.

32. The applicants are requesting the ability to waive the CDSC (a) on redemptions following the death or disability, as defined in section 72(m)(7) of the Code, of a shareholder if redemption is made within one year of death or disability of a shareholder, as relevant; (b) on redemptions made in connection with a lump sum or other distribution following retirement, or in the case of an IRA, Keogh Plan, or a custodial account established pursuant to section 403(b)(7) of the Internal Revenue Code of 1986, as amended (the "Code"), after attaining age 59½; (c) in connection with any redemption which results from a tax-free return of an excess contribution pursuant to section 408(d)(4) or (5) of the Code; (d) in connection with redemptions of shares purchased by active or retired officers, directors or trustees, partners and employees of the Funds, the distributor or affiliated companies, by members of the immediate families of such persons and by dealers having a sales agreement with the distributor or any trust, pension or profit sharing plan for the benefit of such persons; (e) in connection with redemptions by any state, county, or city, or any instrumentality, department, authority or agency thereof and by trust companies and bank trust departments where law prohibits or limits these entities from paying a sales-related charge; (f) in connection with redemptions of shares made pursuant to a shareholder's participation in any systematic withdrawal plan adopted by a Portfolio; (g) in connection with redemptions by accounts established with an initial purchase order of $1 million or more; (h) in connection with redemptions the proceeds of which are reinvested in shares of the same Portfolio within a set number of days after such redemption, not to exceed 365 days, as set forth in the prospectus;[2] (i) in connection with redemptions effected by advisory accounts managed by MIMI, Ivy Management, MFC or by a company affiliated with any of them; (j) in connection with redemptions by tax-exempt employee benefit plans as a result of the enactment or promulgation of any law or regulation pursuant to which continuation of the investment would be improper; (k) in connection with redemptions effected by registered investment companies in connection with the combination of the investment company with another Fund or Portfolio by merger, acquisition of assets, or by any other transaction; and (l) on redemptions made for the purpose of funding a loan to a participant in a tax-qualified retirement plan permitted to make such loans.

33. If the directors/trustees of a Portfolio determine to discontinue the waiver or reduction of the CDSC, the disclosure in the Portfolio's prospectus will be appropriately revised. Any class of shares subject to a CDSC purchased prior to the termination of such waiver or reduction would be able to have the CDSC waived or reduced as provided in a Portfolio's prospectus at the time of the purchase of such shares.

Applicants' Legal Analysis

1. Applicants believe that the issuance and sale of different classes of shares of a Portfolio that combine different options such as no-load, front-end load and CDSC with varying 12b–1 Plans and Service Agreements will facilitate meeting competitive demands of today's financial services industry. The proposed arrangement would both enable the Funds to facilitate the distribution of their shares and to tailor services and expenses without assuming excessive accounting and bookkeeping costs or unnecessary investment risks.

2. Applicants believe that the proposed allocation of expenses and voting rights relating to the 12b–1 Plans in the manner described above is equitable and would not discriminate against any group of shareholders.

3. The proposed arrangement does not involve borrowings, and does not affect

[2] The proposed CDSC waiver allows investors who redeemed to reinvest the proceeds plus the amount of any CDSC previously paid. The credit will be paid for by the distributor, not the Funds.

a Portfolio's assets and reserves or increase the speculative character of the shares of a Portfolio. All shares will participate pro rata in all of a Portfolio's income and all of its expenses. Mutuality of risk will be preserved with respect to the classes of a Portfolio; each class will represent, on a per share basis, an equal pro rata interest in the same investment Portfolio and will be subject to the same investment risk as the other classes of shares of the Portfolio. Since all classes of shares will be redeemable at all times, neither class will have any preferences or priority over the other classes of the Portfolio in the usual sense. The concern that complex capital structures may facilitate control without equity or other investment and may make it difficult for investors to value the securities of a Portfolio is not present under the proposed arrangement. The classes of securities that were present in the capital structures that prompted the Commission to recommend the adoption of section 18 of the Act (i.e., funded debt, preference stocks and convertible securities) are not present in the proposed arrangement.

4. Applicants submit that the requested exemption to permit the Portfolios to implement the proposed CDSC arrangement is appropriate, in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. The proposed CDSC arrangement will provide shareholders with the option of having their full payment invested for them at the time of their purchase of shares of the Portfolios with no deduction of a sales charge.

Applicants' Conditions [3]

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each class of shares will represent interests in the same Portfolio of investments of the Portfolio, and be identical in all respects, except as set forth below. The only differences between the classes of shares of a Portfolio will relate solely to: (a) Differences in policies with respect to the payment of distributions; (b) the impact the disproportionate payments made under the rule 12b–1 distribution plan of the Portfolio or under any Service Agreement or Transfer Agent Agreement and any incremental expenses subsequently identified that should be properly allocated to one class which shall be approved by the Commission pursuant to an amended order; (c) the conversion feature applicable only to the Class C shares or future equivalent shares; (d) the fact that the classes will vote separately with respect to the Portfolio's rule 12b–1 distribution plan, except as provided in condition 4; (e) the different exchange privileges of the classes of shares; and (f) the designation of each class of shares of a Portfolio.

2. The Directors of the Portfolio, including a majority of the independent Directors, will approve the Multiple Class Distribution System. The minutes of the meetings of the Directors of the Portfolio regarding the deliberations of the Directors with respect to the approvals necessary to implement the Multiple Class Distribution System will reflect in detail the reasons for the Directors' determination that the proposed Multiple Class Distribution System is in the best interests of both the Portfolio and its shareholders.

3. On an ongoing basis, the Directors of the Portfolio pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor Portfolios for the existence of any material conflicts between the interests of the classes of shares. The Directors, including a majority of the independent Directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Adviser and the Distributor will be responsible for reporting any potential or existing conflicts to the Directors. If a conflict arises, the Adviser and the Distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. If IGIF or another Portfolio implements any amendments to its rule 12b–1 plan (or, if presented to shareholders, adopts or implements any amendment of a non-rule 12b–1 shareholder services plan) that would increase materially the amount that may be borne by the Class A shares of IGIF or equivalent shares of another Portfolio ("target class" shares) under the plan, IGIF Class C shares or equivalent shares of another Portfolio ("purchase class" shares) will stop converting into the target class unless the purchase class shareholders, voting separately as a class, approve the proposal. The Directors shall take such action as is necessary to ensure that existing purchase class shares are exchanged or converted into a new class of shares ("new target class"), identical in all material respects to the target class as it existed prior to the implementation of the proposal, no later than such shares previously were scheduled to convert into the target class. If deemed advisable by the Directors to implement the foregoing, such action may include the exchange of all existing purchase class shares for a new class ("new purchase class"), identical to existing purchase class shares in all material respects except that new purchase class will convert to new target class. New target class or new purchase class may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in any manner that the Directors reasonably believe will not be subject to federal taxation. In accordance with condition 3, any additional cost associated with the creation, exchange, or conversion of new target class or new purchase class shall be borne solely by the Adviser and the Distributor. Purchase class shares sold after the implementation of the proposal may convert into target class shares subject to a higher maximum payment, provided that the material features of the target class plan and the relationship of such plan to the purchase class shares are disclosed in an effective registration statement.

5. Any Shareholder Services Agreement and Transfer Agent Agreements ("Agreements") will be adopted and operated in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders will not enjoy the voting rights specified in rule 12b–1. In evaluating the Agreements, the Directors will specifically consider whether (a) the Agreements are in the best interest of the applicable classes and their respective shareholders; (b) the services to be performed pursuant to the Agreements are required for the operation of the applicable classes; (c) the service organizations can provide services at least equal, in nature and quality, to those provided by others, including the Portfolio, providing similar services; and (d) the fees for such services are fair and reasonable in light of the usual and customary charges made by other entities, especially non-affiliated entities, for services of the same nature and quality.

6. Each Agreement entered into pursuant to the shareholder services plan will contain a representation by the service provider that any compensation payable to the service provider in connection with the investment of its customers' assets in the Portfolio (a) will be disclosed by it to its customers, (b) will be authorized by its customers, and

[3] Matters specifically related to IGIF are identified separately where appropriate. "Directors" includes both the members of a board of directors of a portfolio or of a board of trustees.

(c) will not result in an excessive fee to the service provider.

Stuart, W. Scott, House, 109 High St., West Union, 9300219

7. Each Agreement entered into pursuant to the shareholder services plan will provide that, in the event an issue pertaining to the shareholder services plan is submitted for shareholder approval, the service provider will vote any shares held for its own account in the same proportions as the vote of those shares held for its' customers' accounts.

8. The Directors of the Portfolio will receive quarterly and annual statements concerning distribution and shareholder servicing expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the Directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent Directors in the exercise of their fiduciary duties.

9. Dividends paid by the Portfolio with respect to each class of its shares, to the extent that dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except for distributions made to maintain an equal net asset value among the classes. Distribution and shareholder services payments relating to each respective class of shares will be borne exclusively by that class and any incremental transfer agency costs relating to a particular class of shares will be borne exclusively by that class.

10. The methodology and procedures for calculating the net asset value and dividends and distributions of the classes and the proper allocation of expenses between the classes has been reviewed by an expert (the "Expert") who has rendered a report to the applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Portfolio(s) that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by a Portfolio (which the Portfolios agree to provide), will be available for inspection by the SEC staff upon the written request to a Portfolio for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.[4]

11. The applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and distributions of the classes of shares and the proper allocation of expenses among the classes of shares and this representation will be concurred with by the Expert in the initial report referred to in condition (10) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (10) above. Applicants will take immediate corrective action if this representation is not concurred in by the Expert, or appropriate substitute Expert.

12. The prospectus of a Portfolio will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing Portfolio shares may receive different compensation will respect to one particular class of shares over another in a Portfolio.

13. The Distributor will adopt compliance standards, as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the Portfolio to agree to conform to such standards.

14. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Directors of the Portfolio with respect to the Multiple Class Distribution System will be set forth in guidelines which will be furnished to the Directors.

15. The Portfolio will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares of the Portfolio, other than IGIF Class C shares, in every prospectus, regardless of whether all classes of shares are offered through each prospectus. The Portfolio will disclose the respective expenses and performance data applicable to all classes of shares of the Portfolio in every shareholder report. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of a Portfolio other than Class C of IGIF, it will disclose the respective expenses and/or performance data applicable to all classes of the Portfolio other than Class C of IGIF. Advertising materials reflecting the expenses or performance data for Class C shares of IGIF will be available only to Class C investors. The information provided by applicants for publication in any newspaper or similar listing of the Portfolio's net asset values and public offering prices will separately present all classes of the Portfolio, except the Portfolio may omit data regarding IGIF Class C shares.

16. The applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization or acquiescence in any particular level of payments that a Portfolio may make pursuant to its 12b–1 Plan or the Agreements in reliance on the exemptive order.

17. Any purchase class shares will convert into target class shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in article III, section 26 of the NASD Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

18. The applicants will comply with the representations in the application concerning the CDSC and the provisions of rule 6c–10 under the Act, as such rule is currently proposed and as it may be reproposed, adopted, or amended.

[4] The staff notes that SAS No. 44 of the AICPA has been superseded by SAS No. 70, which is effective for all auditors' reports dated after March 31, 1993.

For the Commission by the Division of Investment Management under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5354 Filed 3–8–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Rule on Application To Impose and Use a Passenger Facility Charge (PFC) at William R. Fairchild International Airport, Port Angeles, WA; Correction

SUMMARY: This correction incorporates information from the public agency's application.

In notice document 93–3619 beginning on page 8812 in the issue of Wednesday, February 17, 1993 make the following correction:

In the second column: Air carriers and foreign air carriers may submit copies of written comments previously provided to Spokane Airport Board under § 158.23 of part 158. Should read "Air carriers and foreign air carriers may submit copies of written comments previously provided to Port of Port Angeles under § 158.23 of part 158."

Issued in Renton, Washington on March 2, 1993.

Edward G. Tatum,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 93–5371 Filed 3–8–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Intelligent Vehicle-Highway Systems (IVHS); Early Deployment Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for information.

SUMMARY: The FHWA is announcing its procedures for implementing the IVHS Early Deployment Program. This Program is intended to provide assistance to State and local transportation agencies and Metropolitan Planning Organizations (MPO) for the development of a multi-year strategic deployment plan for IVHS in major metropolitan areas and on major Interstate intercity corridors. The assistance will take the form of grants which provide funding for planning studies, and development and documentation of strategic deployment plans. It is anticipated that up to 15 studies may be funded in fiscal year (FY) 1993.

DATES: Information regarding an area's plans for implementing traffic management systems and interest in requesting Early Deployment Program grants should be submitted by May 7, 1993.

ADDRESSES: Division Office in the appropriate State. See Appendix A for a listing of Division office addresses.

FOR FURTHER INFORMATION CONTACT: Shelley R. Lynch, Traffic Management Systems Division, Federal Highway Administration, HTV–31, 400 7th Street, SW., Washington, DC 20590, 202–366–2184.

SUPPLEMENTARY INFORMATION: The Intelligent Vehicle-Highway Systems Act of 1991, part B of title VI of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), established and provided funding, including planning grants, for IVHS activities. Sections 6055(b) and 6058(b), Public Law 102–240, 105 Stat. 1914, 2192, 2194 (1991). Section 6055(b) provides for grants to State and local governments for feasibility and planning studies to develop and implement intelligent vehicle-highway systems. The Early Deployment Program implements the planning grants section of the ISTEA.

The Early Deployment Program is designed to accelerate the application of IVHS technologies in metropolitan areas and along intercity corridors that have demonstrated a readiness to seriously pursue deployment of IVHS applications. Those areas that are ready to participate in the Early Deployment Program will typically have the following general characteristics:

(a) An understanding of local needs,

(b) A demonstrated commitment to good transportation management,

(c) A cooperative relationship between agencies, and

(d) A general understanding of the type of IVHS user services which will address local needs.

The Early Deployment Program is intended to provide assistance to these metropolitan areas and major corridors to develop a strategic deployment plan for IVHS that would (a) identify and document applicable IVHS user services, (b) establish system performance criteria, (c) assess the functions and requirements of the system, (d) identify and evaluate potential technologies on the basis of performance, compatibility, flexibility, and cost, (e) assess potential funding and implementation options, including use of private sector resources, and (f) identify time frames for implementation.

The Early Deployment Program will initially target the 75 largest metropolitan areas (listed in Appendix B) and 30 of the major intercity corridors linking metropolitan areas. Metropolitan and corridor areas that demonstrate their readiness and are selected for funding will be contacted for development of a grant proposal. Funds will be obligated through the State Transportation Agency, in cooperation with the MPO, by execution of the grant. Early Deployment funds are available at a maximum Federal share of 80 percent with a 20 percent match from non-Federal sources. Funds for approved projects in the amount of the IVHS contribution will be added to the State's obligational limitation. It is anticipated that approximately 15 studies will be funded in FY 93.

Recipients of Early Deployment Program grants will be selected based on results from the following:

A. Information Requested

States and metropolitan areas that are ready to pursue IVHS technologies for area wide or intercity corridor applications should respond to this announcement by notifying their local FHWA division office. The expressions of interest should include the following information:

1. A brief description of the current traffic and transit management systems and their capabilities, including operations and maintenance commitments, and staffing;

2. Organizational structure and assignments of responsibility, and any ongoing or planned interagency coordination activities;

3. A brief description of any ongoing or planned studies or infrastructure improvements relating to traffic/transit management and IVHS; and

4. A description of the types of IVHS services that the area or corridor envisions for its future transportation system (in the next ten years).

Information provided in the expression of interest will be used by the FHWA and the Federal Transit Administration personnel to determine the area's current state of readiness, its current capabilities, and appropriateness for participation in the IVHS Early Deployment Program.

B. General Selection Procedures

Based on the expressions of interest and review of all information available, region offices will arrange in priority order the areas that they have determined to be ready. Initial selection will be made by a national team

(composed of headquarters and field personnel) based on available funds. When initial selections are made, selected parties will be asked to prepare a more detailed proposal, which will form the basis for the commitment of funding through execution of a grant. Approved planning grants will include a requirement to produce a report which may be given wide distribution in order to assist others who are interested in deployment of IVHS technologies. Implementation of recommendations from the report will be monitored and evaluated.

Assistance Provided by FHWA

Technical assistance is available from the FHWA and other sources regardless of the status of an individual metropolitan area or corridor relative to IVHS deployment. Even though an individual metropolitan area or corridor may not be ready for funding in FY 93, technical assistance can be provided as needed to prepare the area for future participation in the Early Deployment Program. The local division offices will be able to identify specific areas where technical assistance is available.

Appendix A—List of FHWA Division Office Addresses

Alabama (HDA–AL)
Mr. Joe D. Wilkerson
Administrator
500 Eastern Blvd., suite 200
Montgomery, AL 36117–2018

Alaska (HDA–AK)
Mr. Robert E. Ruby
Administrator
709 W. Ninth Street, room 443
Juneau, AK 99802–1648

Arizona (HDA–AZ)
Mr. Edward A. Wueste
Administrator
234 N. Central Ave., suite 330
Phoenix, AZ 8504

Arkansas (HDA–AR)
Mr. William D. Richardson
Administrator
Federal Office Bldg., room 3128
700 West Capitol Avenue
Little Rock, AR 72201

California (HDA–CA)
Mr. Roger E. Borg
Administrator
Federal Building, 2d Floor
801 I Street
Sacramento, CA 95814

Colorado (HDA–CO)
Mr. George H. Osborne
Administrator
555 Zang Street, room 250
Lakewood, CO 80228

Connecticut (HDA–CT)
Mr. Gary Hamby
Administrator
450 Main Street, room 635
Hartford, CT 06103

Delaware (HDA–DE)
Mr. John J. Gilbert
Administrator
300 South New Street, room 2101
Dover, DE 19901–6726

District of Columbia (HDA–DC)
Mr. Arthur J. Hill
Administrator
Union Center Plaza, suite 750
820 First Street, NE.
Washington, DC 20002

Florida (HDA–FL)
Mr. Jennings R. Skinner
Administrator
227 N. Bronough St., room 2015
Tallahassee, FL 32301

Georgia (HDA–GA)
Mr. Larry Dreihaup
Administrator
1720 Peachtree Road NW., suite 300
Atlanta, GA 30367

Hawaii (HDA–HI)
Mr. William R. Lake, Jr.
Administrator
Prince Jonah Kuhio Kalanianaole Federal Building
300 Ala Moana Blvd., room 3202
Honolulu, HI 96850

Idaho (HDA–ID)
Mr. Jack T. Coe
Administrator
3050 Lakeharbor Lane, suite 126
Boise, ID 83703

Illinois IL (HDA–IL)
Mr. Lyle P. Renz
Administrator
3250 Executive Park Drive
Springfield, IL 62705

Indiana (HDA–IN)
Mr. Arthur A. Fendrick
Administrator
575 N. Pennsylvania Street, room 254
Indianapolis, IN 46204

Iowa (HDA–IA)
Mr. Hubert A. Willard
Administrator
105 Sixth Street
Ames, IA 50010

Kansas (HDA–KS)
Mr. Robert J. Deatrick
Administrator
3300 South Topeka Boulevard, suite 1
Topeka, KS 66611–2237

Kentucky (HDA–KY)
Mr. Paul E. Toussaint
Administrator
John C. Watts Federal Building and U.S. Courthouse
330 W. Broadway
Frankfort, KY 40602

Louisiana (HDA–LA)
Mr. William A. Sussman
Administrator
Federal Building, room 255
750 Florida Street
Baton Rouge, LA 70801

Maine (HDA–ME)
Mr. Paul Lariviere
Administrator
Edmund S. Muskie Federal Building
40 Western Avenue, room 614
Augusta, ME 04330

Maryland (HDA–MD)
Mr. A. Porter Barrows
Administrator
The Rotunda, suite 220
711 West 40th Street
Baltimore, MD 21211

Massachusetts (HDA–MA)
Mr. Donald E. Hammer
Administrator
55 Broadway—10th Floor
Cambridge, MA 02142

Michigan (HDA–MI)
Mr. A. George Ostensen
Administrator
Federal Building, room 211
315 West Allegan Street
Lansing, MI 48933

Minnesota (HDA–MN)
Mr. Charles E. Foslien
Administrator
Metro Square Bldg., suite 490
Seventh & Robert Streets
St. Paul, MN 55101

Mississippi (HDA–MS)
Mr. John F. Sullivan, Jr.
Administrator
666 North Street, suite 105
Jackson, MS 39202–3199

Missouri (HDA–MO)
Mr. Gerald J. Reihsen
Administrator
209 Adams Street
Jefferson City, MO 65101

Montana (HDA–MT)
Mr. Henry D. Honeywell
Administrator
Federal Office Building
301 S. Park, Drawer 10056
Helena, MT 59626–0056

Nebraska (HDA–NE)
Mr. Charles A. Culp
Administrator
Federal Building, room 220
100 Centennial Mall North
Lincoln, NE 68508–3851

Nevada (HDA–NV)
Mr. Frederick G. Wright, Jr.
Administrator
1535 Hot Springs Rd., suite 100
Carson City, NV 89701–0602

New Hampshire (HDA–NH)
Mr. Gerald L. Eller
Administrator
Federal Building, room 204
279 Pleasant Street
Concord, NH 03301

New Jersey (HDA–NJ)
Mr. Charles J. Nemmers

Administrator
Suburban Square Building
25 Scotch Road, 2d Floor
Trenton, NJ 08628–2595

New Mexico (HDA–NM)
Mr. Reuben S. Thomas
117 U. S. Courthouse
S. Federal Place
Santa Fe, NM 87501

New York (HDA–NY)
Mr. Harold J. Brown
Administrator
Leo W. O'Brien Federal Building, 9th Floor
Clinton Avenue & North Pearl St.
Albany, NY 12207

North Carolina (HDA–NC)
Mr. Nicholas L. Graf
Administrator
310 New Bern Avenue, suite 410
Raleigh, NC 27611

North Dakota (HDA–ND)
Mr. George A. Ensen
Administrator
1471 Interstate Loop
Bismarck, ND 58501–0567

Ohio (HDA–OH)
Mr. Fred J. Hempel
Administrator
200 North High Street, room 328
Columbus, OH 43215

Oklahoma (HDA–OK)
Mr. Gary E. Larsen
Federal Office Bldg., room 454
200 NW. Fifth Street
Oklahoma City, OK 73102

Oregon (HDA–OR)
Mr. Robert G. Clour
Administrator
The Equitable Center, ste. 100
530 Center Street, NE.
Salem, OR 97301

Pennsylvania (HDA–PA)
Mr. Manuel A. Marks
Administrator
228 Walnut Street
Harrisburg, PA 17108

Puerto Rico (HDA–PR)
Mr. Juan O. Cruz
Administrator
Frederico Degetau Federal Building & U.S. Courthouse
Carlos Chardon Street, room 329
Hato Rey, PR 00918

Rhode Island (HDA–RI)
Mr. Gordon G. Hoxie
Administrator
380 Westminster Mall, 5th Floor
Providence, RI 02903

South Carolina (HDA–SC)
Mr. Robert J. Probst
Administrator
Strom Thurmond Federal Building
1835 Assembly Street, suite 758
Columbia, SC 29201

South Dakota (HDA–SD)
Mr. Donald F. Kammikar
Administrator
Federal Building, room 337
225 South Pierre Street
P.O. Box 700
Pierre, SD 57501

Tennessee (HDA–TN)
Mr. Dennis C. Cook
Administrator
249 Cumberland Bend Drive
Nashville, TN 37228

Texas (HDA–TX)
Mr. Frank M. Mayer
Administrator
Federal Office Building
300 East Eighth St., room 826
Austin, TX 78701

Utah (HDA–UT)
Mr. Donald P. Steinke
Administrator
2520 West 4700 South, suite 9A
Salt Lake City, UT 84118

Vermont (HDA–VT)
Mr. Don West
Administrator
Federal Building
87 State Street
Montpelier, VT 05602

Virginia (HDA–VA)
Mr. James M. Tumlin
Administrator
Federal Building, 10th Floor
400 N. 8th Street
Richmond, VA 23240

Virgin Islands (HVI–01)
Ms. Charlotte Amalie
U.S. Federal Building & Courthouse, room 281
St. Thomas, VI 00801

Washington (HDA–WA)
Mr. Barry F. Morehead
Administrator
Suite 501, Evergreen Plaza
711 South Capitol Way
Olympia, WA 98501

West Virginia (HDA–WV)
Mr. Billy R. Higginbotham
Administrator
550 Eagan Street, suite 300
Charleston, WV 253014

Wisconsin (HDA–WI)
Mr. James E. St. John
Administrator
4502 Vernon Boulevard
Madison, WI 53705–4905

Wyoming (HDA–WY)
Mr. Frederick A. Behrens
Administrator
1916 Evans Avenue
Cheyenne, WY 82001–3764

Appendix B—75 Largest Metropolitan Areas by Population

New York, Northern New Jersey, Long Island, NY–NJ
Los Angeles, Anaheim, Riverside, CA
Chicago, Gary, Lake County, IL–IN–WI
San Francisco, Oakland, San Jose, CA
Philadelphia, Wilmington, Trenton, PA–NJ
Detroit, Ann Arbor, MI [1]
Boston, Lawrence, Salem, MA–NH [1]
Washington, D.C.
Dallas, Forth Worth, TX [1]
Houston, Galveston, Brazoria, TX
Miami, Fort Lauderdale, FL
Atlanta, GA
Cleveland, Akron, Lorain, OH
Seattle, Tacoma, WA
San Diego, CA
Minneapolis, St. Paul, MN–WI
St. Louis, MO–IL [1]
Baltimore, MD
Pittsburgh, Beaver Valley, PA [1]
Phoenix, AZ
Tampa, St. Petersburg, Clearwater, FL [1]
Denver, Boulder, CO [1]
Cincinnati, Hamilton, OH–KY–IN
Milwaukee, Racine, WI
Kansas City, MO–KS
Sacramento, CA
Portland, Vancouver, OR–WA [1]
Norfolk, Virginia Beach, Newport, VA
Columbus, OH
San Antonio, TX
Indianapolis, IN
New Orleans, LA
Buffalo, Niagara Falls, NY
Charlotte, Gastonia, Rock Hill, NC [1]
Providence, Pawtucket, Fall River, RI
Hartford, New Britain, Middletown, CT
Orlando, FL
Salt Lake City, Odgon, UT
Rochester, NY [1]
Nashville, TN
Memphis, TN
Oklahoma City, OK
Lousiville, KY–IN [1]
Dayton, Springfield, OH
Greensboro, Winston-Salem, High Point, NC
Birmingham, AL
Jacksonville, FL
Albany, Schenectady, Troy, NY
Richmond, Petersburg, VA
West Palm Beach, Boca Raton, Delray, FL
Honolulu, HI
Austin, TX
Las Vegas, NV
Raleigh-Durham, NC
Scranton, Wilkes-Barre, PA
Tulsa, OK
Grand Rapids, MI
Allentown, Bethlehem, Easton, PA–NJ
Fresno, CA
Tucson, AZ
Syracuse, NY
Greenville, Spartanburg, SC [1]
Omaha, NE–IA
Toledo, OH
Knoxville, TN
El Paso, TX

[1] Metropolitan areas that have received IVHS Early Deployment funding in prior years.

Harrisburg, Lebanon, Carlisle, PA
Bakersfield, CA
New Haven, Meriden, CT
Springfield, MA
Baton Rouge, LA
Little Rock, North Little Rock, AR
Charleston, SC[1]
Youngstown, Warren, OH–PA
Wichita, KS

(Secs. 6055(b) and 6058(b), Pub. L. 102–240, 105 Stat. 1914, 2192, 2194, 23 U.S.C.; 49 CFR 1.48)

Issued on: March 3, 1993.

E. Dean Carlson,

Executive Director.

[FR Doc. 93–5314 Filed 3–8–93; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

[Directive Number: 16–01]

Order of Succession of Officials Authorized To Act as Fiscal Assistant Secretary

March 2, 1993.

1. *Delegation.* This directive authorizes and directs the following officials to act as Fiscal Assistant Secretary in the order set forth and to perform all the functions of that official during the absence or disability of the Fiscal Assistant Secretary or when there is a vacancy in that office.

a. Deputy Fiscal Assistant Secretary.

b. Assistant Fiscal Assistant Secretary.

c. Director, Office of Cash and Debt Management.

2. *Cancellation.* Treasury Directive 16–01, "Order of Succession of Officials Authorized To Act as Fiscal Assistant Secretary of the Treasury," dated October 3, 1986, is superseded.

3. *Authority.* 31 U.S.C. 306(d).

4. *Office of Primary Interest.* Office of the Fiscal Assistant Secretary.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 93–5316 Filed 3–8–93; 8:45 am]

BILLING CODE 4810–25–M

Internal Revenue Service

Art Advisory Panel of the Commissioner of Internal Revenue; Availability of Report of Closed Meetings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Availability of Report on Closed Meetings of the Art Advisory Panel.

SUMMARY: The report is now available.

Pursuant to 5 U.S.C. app. I section 10(d), of the Federal Advisory Committee Act; and 5 U.S.C. 552b, the Government in the Sunshine Act; and Treasury Directive 21–03 section 8 (1–29–87): A report summarizing the closed meeting activities of the Art Advisory Panel during 1992, has been prepared. A copy of this report has been filed with the Assistant Secretary of the Treasury for Management and is now available for public inspection at: Internal Revenue Service, Freedom of Information Reading Room, room 1565, 1111 Constitution Avenue, NW., Washington, DC 20224.

Requests for copies should be addressed to: Director, Disclosure Operations Division, Attn: FOI Reading Room, Box 388, Benjamin Franklin Station, Washington, DC 20224. Telephone (202) 622–5164 (not a toll free telephone number).

The Commissioner of Internal Revenue has determined that this document is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

For further information contact: Karen Carolan, CC:AP:AS:4, 901 D Street SW., room 224, Washington, DC 20024. Telephone (202) 401–4128 (not a toll free telephone number).

Michael P. Dolan,

Acting Commissioner.

[FR Doc. 93–5289 Filed 3–8–93; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 44
Tuesday, March 9, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

TIME AND DATE: 2:00 pm, Wednesday, March 31, 1993.

PLACE: SD–116, Dirksen Senate Office Building, Washington, DC 20510.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Report on financial status of the Foundation fund
   A. Review of investment policy and current portfolio
1. Report on results of Scholarship Review Panel.
   A. Discussion and consideration of scholarship candidates
   B. Selection of Goldwater Scholars

CONTACT PERSON FOR MORE INFORMATION: Gerald J. Smith, Executive Secretary, Telephone: (202) 755–2312.

Gerald J. Smith,

Executive Secretary.

[FR Doc. 93–5534 Filed 3–5–93; 3:53 pm]

BILLING CODE 4734–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

DATE AND TIME: March 16, 1993 at 2:30 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

1. Agenda for future meetings.
2. Minutes.
3. Ratification List.
4. Invs. Nos. 731–TA–566, 568–569 (Final) (Ferrosilicon from Kazakhstan, Russia, and Ukraine)—briefing and vote.
5. Outstanding action jacket requests none.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Paul R. Bardos, Acting Secretary, (202) 205–2000.

Issued: March 4, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–5532 Filed 3–5–93; 3:39 pm]

BILLING CODE 7020–02–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

DATE AND TIME: March 18, 1993 at 2:00 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

1. Agenda for future meetings.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–559 (Final) (New Steel Rails from the United Kingdom)—briefing and vote.
5. Outstanding action jacket requests none.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Paul R. Bardos, Acting Secretary, (202) 205–2000.

Issued: March 4, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–5533 Filed 3–5–93; 3:39 pm]

BILLING CODE 7020–02–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:30 a.m., Monday, March 15, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: March 5, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–5504 Filed 3–5–93; 2:33 pm]

BILLING CODE 6210–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of March 8, 15, 22, and 29, 1993.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of March 8

Monday, March 8

10:00 a.m.
Briefing on NRC Financial Management Matters (Public Meeting) (Contact: Ron Scroggins, 301–492–4750)

2:30 p.m.
Discussion of NRC Policy Options Concerning Nuclear Safety Issues in Eastern Europe and Former Soviet Union (Public Meeting) (Contact: Michael Congdon, 301–504–2744)

Tuesday, March 9

10:00 a.m.
Briefing on Activities of the Center for Nuclear Waste Regulatory Analysis (CNWRA) (Public Meeting) (Contact: Malcolm Knapp, 301–504–3324)

11:00 a.m.
Affirmation/Discussion and Vote (Public Meeting) a. Amendments to 10 CFR Parts 50 and 52 on Training and Qualification of Nuclear Power Plant Personnel (Tentative) (Contact: R. Auluck, 301–492–3794)

2:00 p.m.
Briefing on Proposed Rulemaking for Preparation and Use of Radiopharmaceuticals (Public Meeting) (Contact: Anthony Tse, 301–492–3797)

Week of March 15—Tentative

Monday, March 15

10:00 a.m.
Discussion on Full Power Operating License for Comanche Peak (Unit 2) (Public Meeting) (Tentative) (Contact: Suzanne Black, 301–504–1318)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

2:00 p.m.
Briefing on License Renewal Issues (Public Meeting) (Contact: William Travers, 301–504–1117)

Week of March 22—Tentative

Friday, March 26

10:00 a.m.
Briefing on Progress of NRC Regulatory Review (Public Meeting) (Contact: Frank Gillespie, 301–504–1275)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of March 29—Tentative

Tuesday, March 30

10:00 a.m.
Briefing on Status of Technical Specification Improvement Program (Public Meeting) (Contact: Chris Grimes, 301–504–1161)

ADDITIONAL INFORMATION: "Continuation of 2/26 Discussion of Internal Management Issues" (Closed—Ex. 2) was held on March 4.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93–5502 Filed 3–5–93; 2:24 pm]

BILLING CODE 7590–01–M

FEDERAL HOUSING FINANCE BOARD

TIME AND DATE: 10:00 a.m.–12:00 p.m., Wednesday, March 10, 1993.

PLACE: Park Hyatt Hotel, 24th and M Street, NW., Washington, DC.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The Finance Board will meet with the Federal Home Loan Banks' Directors. Matters to be considered are the following:

1. Strategic Plan—"System 2000"
2. FHLBank System Congressional Outreach Plan

The above matters are exempt under one or more of sections 552b(c)(9) (A) and (B) of title 5 of the United States Code.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Executive Secretary to the Board, (202) 408–2837.

Philip L. Conover,

Managing Director.

[FR Doc. 93–5454 Filed 3–5–93; 12:15 pm]

BILLING CODE 6725–01–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on March 11, 1993, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. The matters to be considered at the meeting are:

Open Session

A. *Approval of Minutes*
B. *New Business*
   1. *Regulations*
   a. Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations—Capital (Proposed)

Closed Session*

A. *Reports*
   1. OSMO Quarterly Report

Dated: March 4, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

* Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c)(8).

[FR Doc. 93–5435 Filed 3–5–93; 10:16 am]

BILLING CODE 6705–01–P

Corrections

Federal Register
Vol. 58, No. 44
Tuesday, March 9, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPPTS-62122; FRL 4174-9]

RIN 2070-AC01

Polychlorinated Biphenyls (PCBs); Storage for Disposal of PCBs

Correction

In proposed rule document 92-1875 beginning on page 6184 in the issue of Tuesday, January 26, 1993, in the first column, under **DATES**, "[insert date 45 days after date of publication in the **Federal Register**]" should read "March 12, 1993."

For an agency related correction, see the issue of Thursday, March 4, 1993, page 12352

BILLING CODE 1505-01-D

Tuesday
March 9, 1993

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 29 et al.

Agency Reorganization of Analytical Testing Services; Proposed Rule

federal register

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 29, 52, 55, 58, 59, 61, 70, 90–159, 180

[CS–91–009]

RIN 0581–AA51

Agency Reorganization of Analytical Testing Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise Agricultural Marketing Services's (AMS) regulations by establishing a new subchapter E, Commodity Laboratory Testing Programs, designating the rules and regulations under the Plant Variety Protection Act and consolidating and transferring functions related to analytical testing services to AMS Science Division. The proposed regulations provide for uniform laboratory test fees for different commodity products and include revised analytical service fees.

DATES: Comments must be received by April 8, 1993.

ADDRESSES: Interested parties are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Director, Science Division, Agricultural Marketing Service, United States Department of Agriculture (USDA), room 3507 South Agriculture Building, P.O. Box 96456, Washington, DC 20090–6456.

Comments should make reference to the docket number found in brackets in the heading of this document along with the date and page numbers of this issue of the **Federal Register**. All written submissions pursuant to this proposed rule will be made available for public inspection in the above office, between the hours of 9 a.m., and 3 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Craig A. Reed, Director, Science Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, room 3507 South Agriculture Building, Washington, DC 20090–6456, Telephone (202) 720–5231.

SUPPLEMENTARY INFORMATION:

I. Executive Order 12291 and Secretary's Memorandum No. 1512–1; Executive Order 12778

This proposed rule has been reviewed under Executive Order 12291 and the USDA procedures established in Departmental Regulation 1512–1. The Agency has determined that this action is non-major and will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; significant adverse affects on competition, employment, investment, productivity, innovation; or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Further, the proposed fee increases only reflect an increase in costs to the applicants that utilize certain laboratory services.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

II. Effect on Small Entities

The Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612). The proposed fees provided for in this document merely reflect a minimal increase in the costs currently borne by those entities which utilize certain laboratory services. In addition to reorganizing AMS analytical testing services under the new Science Division, this proposed rule would provide for uniform laboratory test fees for the same type of analysis performed in different commodities and their related products.

III. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) the reporting and recordkeeping included in 7 CFR part 96 have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0581–0008. The forms included in 7 CFR part 97 have been approved by the Office of Management and Budget and have been assigned OMB control number 0581–0055.

IV. Background Information

AMS provides voluntary and mandatory analytical laboratory testing, licensure of chemists and analysts, and quality assurance oversight services to private and government applicants in accordance with applicable authorities. Prior to January 15, 1989, laboratory services and technical support were provided by various AMS Divisions—Cotton, Poultry, Fruit and Vegetable, Tobacco, Dairy, and Livestock and Seed. The laboratory testing programs operated independently under the divisions according to the respective division's rules published in title 7 of the Code of Federal Regulations.

In August 1987, the AMS Administrator established a task force composed of members from the various divisions. The task force reviewed and evaluated existing AMS laboratory and technical support programs to identify organizational alternatives that could improve the quality, efficiency, and cost-effectiveness of services.

Based on task force findings and recommendations, the AMS Administrator proposed to reorganize and consolidate the field laboratory structure under the Science Division (formerly the Commodities Scientific Support Division). On October 28, 1988, the Assistant Secretary for Administration approved the proposal. On January 15, 1989, the Administrator announced the transfer of functions to the Science Division (SD).

Presently, regulations pertaining to analytical testing programs appear in chapter I, subchapters A and C of the regulations under the former divisions' sections. Due to the reorganization and consolidation of the field laboratory structure of AMS, and the transfer of functions and responsibilities to Science Division, a new subchapter E, Commodity Laboratory Testing Programs, would be established to implement the changes. Proposed subchapter E would amend the present regulations and would redesignate parts 29, 52, 55, 58, 59, 61, 70 and 180 of title 7 of the Code of Federal Regulations as parts 92–98. In addition, laboratory testing fees and hourly rates currently specified in parts 52, 55, 58, and 70 would be revised, consolidated, and published in a new part 91. Fees pertaining to cottonseed grading and certification in current part 61 would remain in proposed new part 96 pertaining to cottonseed because cottonseed grade determination is a direct result of laboratory analysis performed by USDA licensed chemists in their individual laboratories. Fees charged under the Plant Variety Protection program in current part 180 would remain in proposed new part 97 which pertains to nonlaboratory services under the Plant Variety Protection program. Since the hourly rate for the laboratory services provided

herein may change from time to time, by consolidating the majority of these fees in proposed part 91, the Agency would only need to amend one part instead of several different parts of the CFR each time the rate for such laboratory test services is revised. This proposed consolidation would also result in greater fee uniformity for identical tests and would ease the administration of laboratory services and oversight.

Proposed new part 90 would contain the introduction to subchapter E and would provide an overview of the functions and responsibilities of the Science Division. In addition, part 90 would contain the good laboratory practice and general quality assurance requirements for laboratory service programs of laboratories certified and approved by the Science Division. Part 91, in addition to laboratory testing fees, would contain general administrative provisions and definitions.

Part 92 pertaining to tobacco would contain definitions, the location of the Science Division laboratory, specific pesticide residues tests, and other types of laboratory testing services. Part 93 would contain definitions, locations of Science Division laboratories, references for analytical methods, and available laboratory tests, and special analyses performed on processed fruits and vegetables. Part 93 would be divided into three subparts in order to separate the analytical testing and laboratory services for fruits and vegetables performed at the multidisciplinary Science Division Midwestern laboratory in Chicago, Illinois, and the specialty Science Division laboratories located throughout the southern United States. Subpart A of part 93 would describe the analytical services performed at Science Division's Citrus Laboratory in Winterhaven, Florida. Laboratory analyses are conducted at this specialty laboratory primarily to determine if citrus products produced in Florida satisfy quality and grade standards set forth in the Florida Citrus Code. Analyses of citrus juice and citrus products from other countries and other locations within the United States are also available. Subpart B of part 93 would describe the laboratory analyses available for different types of food products, including processed fruits and vegetables and beverage products. The Midwestern Laboratory in Chicago conducts the majority of analyses for these food products to derive their grade and quality, and to determine compliance of the product with applicable government specifications. Subpart C of part 93 would describe the analytical services and the quality control sample programs conducted at Science Division's nine aflatoxin laboratories located in Georgia, Virginia, North Carolina, Alabama, and Oklahoma. These specialty laboratories primarily determine the aflatoxin content for peanuts, peanut products and tree nuts. In addition, some of the laboratories offer physical and chemical composition analyses for oilseeds or oilseed products.

Part 94 would contain definitions, locations of the Science Division laboratories, references for the majority of analytical methods, available laboratory analyses that are applicable to assure food safety, and the identity and quality of egg products or poultry products. Subpart A of this part would describe the mandatory egg product samples that are analyzed for the Poultry Division by appropriated and annually designated funds. Subpart B of this part would describe the voluntary egg product samples that are analyzed for a fee at a previously ascertained analysis time, and the current hourly rate. Subpart C of this part would be reserved for the Salmonella Laboratory Recognition Program.

Part 95, Processed Dairy Products, would contain definitions, the location of the Science Division laboratory, references for analytical testing methods, and available laboratory analyses to determine the United States grade standards, wholesomeness and quality of processed dairy products. Laboratory analyses that are applicable to determine compliance with government specifications and tolerances for residues would also be specified. In addition, part 95 would outline the laboratory quality assurance programs for dairy products that are administered by the Science Division. These programs would involve annual on-site laboratory reviews to assess continued conformance with method and equipment requirements of USDA approved procedures, and to assess the analysts' current proficiency in performing analyses of dairy products with quality control check samples.

Part 96 would contain definitions, regulations regarding the issuance of licenses, and the conditions for renewal of licenses for chemists in analyzing and performing official grade determination of cottonseed. Part 96 would include user fees for grading, the official certification for cottonseed, the cottonseed chemist license examination fee, and the annual chemist license renewal fee. In addition, part 96 would include procedure for issuance of the certificates and recordkeeping responsibilities of cottonseed chemists, grounds for suspension of chemists' licenses, and the procedures for official cottonseed grade determinations using individually determined composition factors.

Part 97 would contain all the regulations of the Plant Variety Protection (PVP) Office in Beltsville, Maryland. Part 97 results from the AMS transferral of the PVP Office from the Livestock and Seeds Division to the Science Division. The existing PVP regulations in part 180 of former subchapter H would be removed in their entirety and would be redesignated and moved to part 97 of new subchapter E. Except for changes in applicable words from the masculine to neuter gender, no text nor fee schedule changes would be made.

Part 98 would contain definitions, locations of the Science Division laboratories, references for the majority of analytical methods, quality assurance programs and the available laboratory analyses for meats and meat products, that are often specified by purchase contracts, to be performed for the Department of Defense (DOD), Defense Personnel Support Center (DPSC), or for city or state government parties through the inspection service of the AMS Livestock and Seed Division. Part 98 would be divided into two subparts: Subpart A of this part would pertain to meat and meat product procurement testing for school lunch, defense, prison and other feeding programs, and subpart B of this part would describe the Science Division's certification program for private United States Laboratories, conducting the examination of horsemeat for trichinae parasites in exported products to the European Community.

Part 99 would contain statistical terms and provisions pertaining to the Statistical Science Program within the AMS Science Division. The Statistical Science staff, comprised of specialists in Washington, DC and Kansas City, Missouri, would provide technical consulting and advising services for the AMS commodity divisions, and data processing and statistical support for applied research, for the standardization of inspection equipment. This branch would also render advice and answers concerning sampling problems through the application of mathematical statistics and computing. Together with other divisions of AMS, the branch would establish uniform testing procedures and develop rapid identification methods for hazardous substances which present an environmental and human health risk.

Part 100 would contain administrative details of the Science Division's National Laboratory Accreditation Program once it is implemented.

Laboratories would be required to meet established criteria for accreditation in chemical residue testing of agricultural products and minimum requirements for facility, equipment, methodology and quality controls. In addition, analysts in such laboratories would be required to demonstrate sustained acceptable performance through regular testing of interlaboratory proficiency check samples at different chemical residue levels. Part 100 would also include fees for laboratory accreditation to offset the costs of the National Laboratory Accreditation Program (NLAP).

Part 101 would be reserved for regulations pertaining to Science Division's Pesticide Data Program (PDP). The Program is currently staffed by Science Division employees in Washington, DC and Manassas, Virginia.

Part 110 would be reserved for Science Division's recordkeeping program for restricted use pesticides by certified applicators. Parts 102–109 and parts 111–159 would be reserved for the future SD programs.

V. Basis for Proposed Fee and Hourly Analysis Rate Changes

Fees and hourly analysis rates which are presently in effect are inadequate to recover the current cost of providing the laboratory services and technical support to the AMS Divisions—Poultry, Fruit and Vegetable, Dairy, and Livestock and Seed and to other applicants of the services. The Agricultural Marketing Act of 1946, 7 U.S.C. 1621–1627, provides that reasonable fees be collected from the user of program services to cover as nearly as practicable the costs of services rendered. This proposal would amend the current hourly analytical testing rates to a consolidated and single rate of $34.20 per hour for the users of the laboratory services to cover costs associated with improvements in operation of the programs, replacements of outdated essential laboratory equipment, and increases in those costs due to raises in salaries of Federal employees as well as other increases affecting Federal employees, such as costs for travel and benefits.

Cost analysis studies have revealed that since the last fee change on October 19, 1992, as published in the **Federal Register** at 57 FR 47566, the current hourly rate of $32.11 for the voluntary laboratory testing of eggs and poultry products is inadequate to cover expenses. Analysis of costs have shown that since the last fee change on April 17, 1989, as published in the **Federal Register** at 54 FR 15167, the current hourly rate of $28.00 for the laboratory testing of dairy and meat products is also inadequate to cover expenses. In addition, the current hourly rate of $25.00 for analysis and testing of fruits and vegetables, as published on November 19, 1990, in the **Federal Register** at 55 FR 48102, is insufficient to recover this program's costs. The major increase in expenses is the result of salary increases effective each January for Federal employees that have increased General Schedule (GS) salaries by 11.9 percent since Fiscal Year 1989. Furthermore, the program's cost for the retirement system and health insurance of Federal employees has increased by over 13 percent. There have also been expenditures for new laboratory equipment and facilities. The Agency has determined that due to the aforementioned increases in operating costs of the programs, the two Science Division regional laboratories (Eastern and Midwestern) will incur a $304,900 loss in fiscal year 1992. Therefore, the Agency is proposing that the above mentioned hourly rates be revised to an hourly rate of $34.20. This hourly fee for laboratory service was established by distributing the annual operating expenditures for the laboratories over the total bench hours of service required to perform the analytical tests. The laboratory program costs do not include premium pay or service performed in the laboratories on Federal legal holidays. Hence, the proposed rate for appeal, Federal holidays, and overtime laboratory service shall be 1½ times the proposed base, or $51.30 per hour. The proposed fees would meet the expenses of the Science Division laboratory service programs.

VI. Programs Without Consolidated Fees and Charges

Certain programs administered by Science Division would not have a consolidated fee schedule because the laboratory fees and charges are set by agreement, the scientific programs are not a laboratory based service, or the costs are covered by allocated funds. The analysis for citrus juices and certain citrus products (part 93, subpart C) are performed in the Science Division laboratory in Winter Haven, Florida, for the State of Florida. The costs of analytical testing are covered by a Florida State Cooperative Agreement. The fees for imported tobacco pesticide residue determinations (part 92) are set annually and covered by a Memorandum of Understanding with the AMS Tobacco Division. The Science Division costs for the mandatory analyses of egg product samples (part 94, subpart A) are covered by designated funds of the Poultry Division which are appropriated annually. The cost of administering the USDA licensing program for cottonseed oil chemists would be covered by license application and annual license renewal fees, as well as a unit fee assessed on each official certificate for cottonseed quality analyses and grade determination. These fees would be specified in part 96. The Plant Variety Protection (PVP) schedule of fees would remain with the PVP regulations in proposed part 97. The PVP fees are assessed to certify the novelty and distinctiveness of sexually reproduced plant varieties. The costs of scheduled laboratory analyses and nonscheduled laboratory analyses for meats and related meat food products, that are listed in subpart A of part 98, are paid to the Science Division by a reimbursable agreement with the Livestock and Meat Standardization Branch of the Livestock and Seed Division. The fee charged to certify or to renew certification for each laboratory or analyst performing trichina testing on horsemeat for export to European Community countries is set annually by agreement between the Science Division and the United States Horsemeat Association in Fort Worth, Texas. Since the fee is based on actual costs that are part of the agreement, it does not appear in subpart B of part 98. The costs of the Science Division Statistical Science support services for AMS commodity divisions are covered by the Agency's administrative overhead funds. The fees and charges for statistical science service to applicants outside AMS would not appear in part 99 because they are set by agreement with the applicant on an individual project and on a cost reimbursement basis. The fees and charges associated with the National Laboratory Accreditation Program would appear in part 100 and would be aligned with the actual costs of administering this program when available. The costs for the Pesticide Data Program (PDP) in part 101 and the Recordkeeping Program for Restricted Use by Certified Applicators (part 110) would be covered by appropriated and annually designated funds.

VII. Basis for Proposed Fee Changes Related to Cottonseed Grading and Quality Certification

Cottonseed inspection, grading, and certification is conducted pursuant to authority in the Agricultural Marketing Act of 1946. The regulations concerning cottonseed may be found in 7 CFR part 61. The Act provides that reasonable fees be collected from users of the program services to cover, as nearly as practicable, the cost of services rendered. Since the last fee change on

September 18, 1987, program operating costs have increased but revenues from assessed user fees for cottonseed grading have substantially declined.

The major amount of funds under the cottonseed grading program is obtained from fees assessed for official grade certificates. A portion of the certificate fees is used to recover the expenses of official cottonseed sampling and the remainder is used to meet the costs of supervision of the licensed chemists. There has been a reduction in the number of official certificates issued during recent years from 32,000 in Fiscal Year (FY) 1988, to 24,600 and 25,400 in FY 1990 and FY 1991. In addition, the future volume of official cottonseed to be graded is anticipated to decline further with the closing of cottonseed oil mills. This warrants a unit cost increase per certificate to provide sufficient revenue to balance the expenses of the service. The cost of administering the cottonseed chemist licensing examination, including the travel costs, and the cost of preparing and fumigating check samples for proficiency testing have increased. The Federal General Schedule salaries have increased by 18 percent since the last increase in cottonseed grading user fees. The Agency has determined that due to the aforementioned increases in program operating costs, the program will incur a $49,600 loss in FY 1992. Therefore, the Agency is proposing to revise the certificate fee charged for official analysis and cottonseed grade determination from $1.35 per certificate, issued by the chemist, to $3.00. It is proposed that the application fee for a chemist's license be raised from $360.00 to $1,100.00 for the examination, while the fee for renewal of the license be increased from $125.00 to $275.00. These substantial increases in licensing fees are also necessary, in part, because of the additional costs associated with the relocation of the supervisor of the licensed chemists from the vicinity of the cottonseed laboratories. The proposed fees serve to meet the financial obligations of keeping the licensed cottonseed chemist program active.

VIII. Proposed Amendments

This proposal would amend parts 29, 52, 55, 58, 59, 61, and 70 to conform with the changes resulting from the AMS reorganization and reassignment of functions in January 1989. Accordingly, subchapter H, part 180, Plant Variety Protection would be deleted in its entirety.

IX. Discussion of Proposed Changes of Regulations

It is proposed that § 29.500 of part 29 for subchapter A be revised. It is proposed the following sections of part 52, part 55, part 58, part 59, part 61 and part 70 of the regulations for subchapter C either be revised or be removed: §§ 52.2, 52.47, 55.20 (b), (d), 55.510(d), 55.550, 58.44, 58.101, 58.126, 59.580, 61.2, 61.6, 61.8, 61.10 to 61.24, 61.44, 61.45, 61.46, 61.101, 61.102, 61.103, 61.104, 70.72 and 70.73. All sections of part 180 for subchapter H should be removed. It is proposed that the following parts either be added or be reserved in the new subchapter E, chapter I of title 7 of the CFR: 90 (in part reserved), 91, 92, 93, 94 (includes reserved section 94.200), 95, 96, 97, 98 (in part reserved), 99 (reserved except § 99.3), 100 (reserved except for § 100.3), 101 (reserved except for § 101.3), 102 to 109 (reserved), 110 (reserved for separate rulemaking except § 110.9), and 111 to 159 (reserved).

To identify those sections of the current regulations that are redesignated without amending into the new subchapter E, chapter I of this title, the following redistribution table is provided as a reference aid:

REDISTRIBUTION TABLE

Current section(s)	Redesignated section(s)
61.22	96.18
61.101	96.25
180.24	97.24
180.122	97.122
180.131	97.131
180.142	97.142
180.144	97.144
180.155 to 180.158	97.155 to 97.158
180.176	97.176
180.206	97.206
180.208	97.208
180.222	97.222
180.800	97.800

To identify those sections of the current regulations that are proposed to be amended or repealed for subchapters A or C, chapter I of this title, the following revision table is provided as a reference aid:

REVISION TABLE

Section(s)	Proposed action
29.500	Amend heading and text.
52.2	Amend; remove terms.
52.47	Remove in its entirety.
55.20(b)	Amend text.
55.20(d)	Remove in its entirety.
55.510(d)	Amend text.
55.550	Remove in its entirety.
58.44	Remove in its entirety.
58.101	Amend text.
58.126	Amend: remove paragraph (5)(ii) and redesignate paragraph (5)(iii) as (5)(ii).
59.580	Amend wording.
61.2	Amend wording.
61.6	Amend wording.
61.8	Amend wording.
61.104	Amend wording.
70.72	Amend wording.
70.73	Remove in its entirety.

REVISION TABLE—Continued

REVISION TABLE—Continued

To identify those sections of the current regulations that are proposed to be amended and transferred into the new subchapter E, chapter I of this title, the following distribution table is provided as a reference aid:

DISTRIBUTION TABLE

Current section(s)	Amended and redesignated section(s)
61.10 to 61.13	96.3 to 96.6.
61.14 to 61.16	96.9 to 96.11.
61.17 to 61.19	96.13 to 96.15.
61.20	96.7 (a), (b), (c), and 96.16.
61.21	96.7(d) and 96.17.
61.23	96.12.
61.24	96.19.
61.44 to 61.46	96.20 to 96.22.
61.102 to 61.103	96.26 to 96.27.
180.1 to 180.23	97.2 to 97.23.
180.100 to 180.121.	97.100 to 97.121.
180.130	97.130.
180.132 to 180.141.	97.132 to 97.141.
180.143	97.143.
180.150 to 180.154.	97.150 to 97.154.
180.175	97.175.
180.177 to 180.205.	97.177 to 97.205.
180.207	97.207.
180.209 to 180.221.	97.209 to 97.221.
180.300 to 180.700.	97.300 to 97.700.

To identify those sections that are proposed to be reserved or added as regulations in the new subchapter E, chapter I of title 7 of the Code of Federal Regulations, the following table, noting the proposed actions, is provided as a reference aid:

TABLE OF PROPOSED NEW REGULATIONS

Added section(s)	Proposed action
90.1 to 90.3; 90.101 to 90.103.	New additions.
90.4 to 90.100; 90.104 to 90.200.	Reserved.
91.1 to 91.45; 92.1 to 92.6	New additions.
93.1 to 93.5; 93.10 to 93.14.	New additions.
93.100 to 93.105; 94.1 to 94.5.	New additions.
94.100 to 94.104; 94.300 to 94.304.	New additions.
94.200	Reserved
95.1 to 95.6; 96.1; 96.2; 96.8.	New additions.
96.23; 96.24; 96.28; 96.29	New additions.
97.1; 98.1 to 98.5; 98.100 to 98.101.	New additions.
98.102 to 98.600; 99.1 to 99.2.	Reserved
99.4 to 99.999	Reserved
99.3; 100.3; 101.3; 110.9	New additions.
100.1 to 100.2; 100.4 to 100.999.	Reserved
101.1. to 101.2; 101.4 to 101.999.	Reserved.
110.1 to 110.8	Addition under separate rulemaking.
Parts 111 to 159	Reserved parts.

X. Comments Invited

Comments and recommendations from the public, other governmental agencies, the scientific community, industry, or any other interested party concerning this proposal are invited. Comments must be filed within 30 days of the date of this proposal. Such comments must be made in writing and must be sent in triplicate to the Science Division Director's office [address above]. Comments are to be identified with the docket number found in brackets in the heading of this document along with the date and applicable page numbers of this issue of the **Federal Register**. All written comments submitted in response to this proposal will be available for public inspection in the Director's office between 9 a.m. and 3 p.m., Monday through Friday. We expect to publish a final rule as soon as practicable after the close of the comment period. The final rule will take into consideration the comments and any additional information received by AMS.

List of Subjects

7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

7 CFR Part 55

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 58

Food grades and standards, Dairy products, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 59

Eggs and egg products, Exports, Food grades and standards, Food labeling, Imports, Polychlorinated biphenyls (PCB's), Reporting and recordkeeping requirements.

7 CFR Part 61

Cottonseed, Inspection, Samplers, Grades.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

7 CFR Part 90

Introduction, Functions and responsibilities of Science Division, Good Laboratory Practice (GLP) for commodity laboratory, Quality assurance.

7 CFR Part 91

Administrative practice and procedure, Science Division Laboratories, Fees and charges.

7 CFR Part 92

Laboratories, Pesticides and pests, Tobacco.

7 CFR Part 93

Citrus fruits, Fruit juices, Fruits, Laboratories, Nuts, Vegetables.

7 CFR Part 94

Eggs, Laboratories, Poultry.

7 CFR Part 95

Dairy products, Laboratories, Milk.

7 CFR Part 96

Cottonseeds, Chemist's licensure, Cottonseed quality analysis, Official grade.

7 CFR Part 97

Plant variety and protection, Novel seed variety certification.

7 CFR Part 98

Meals, Ready-to-Eat (MRE's), Ground beef, Pork, Meats, Meat products, Laboratories, Horsemeat Trichinae, European Community.

7 CFR Part 99

Statistical model, Scatter plot, Econometrics, Sampling plan.

7 CFR Part 100

National laboratory accreditation, Certification, Raw agricultural product, Pesticide residue.

7 CFR Part 101

Commodity and pesticide pairs, Risk assessment, Human exposure estimates, Pesticide residue levels.

7 CFR Part 110

Recordkeeping on restricted use pesticides by certified applicators, Access to records, Enforcement, Surveys and reports.

7 CFR Part 180

Administrative practice and procedure, Labeling, Plants.

For the reasons set out in the preamble, AMS proposes to amend title 7, chapter I, Code of Federal Regulations as follows:

PART 29—TOBACCO INSPECTION

Subpart B—Regulations

1. The authority citation for subpart B of part 29 continues to read as follows:

Authority: 7 U.S.C. 511m and 511r.

§ 29.500 [Amended]

2. Section 29.500 is amended as follows:

a. The heading for § 29.500 is revised to read as follows:

§ 29.500 Fees and charges for inspection and acceptance of imported tobacco.

b. In § 29.500, paragraphs (b) and (c) are amended by removing (both times that it appears) the word "testing" and replacing with the word "accepting."

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

1. The authority citation for part 52 continues to read as follows:

Authority: 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

§ 52.2 [Amended]

2. Section 52.2 is amended by removing the definition of the term "Commodities Scientific Support Division (CSSD)."

§ 52.47 [Removed]

3. Section 52.47 is removed.

PART 55—VOLUNTARY INSPECTION OF EGG PRODUCTS AND GRADING

1. The authority citation for part 55 continues to read as follows:

Authority: 60 Stat. 1087 -1091; 7 U.S.C. 1621–1627

§ 55.20 [Amended]

2. Section 55.20 is amended by removing in paragraph (b) the phrase "and laboratory analysis" and paragraph (d) is removed.

§ 55.510 [Amended]

3. In § 55.510, paragraph (d) is amended by removing (both times that it appears) the phrase "laboratory analysis,"

§ 55.550 [Removed]

4. Section 55.550 is removed.

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

1. The authority citation for part 58 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627, unless otherwise noted.

§ 58.44 [Removed]

2. Section 58.44 is removed.

§ 58.101 [Amended]

3. In § 58.101, paragraph (c) is amended by removing (the first time it appears) the phrase "the Administrator" and replacing with the phrase "the AMS Science Division Director".

§ 58.126 [Amended]

4. Section 58.126 is amended by removing paragraph (e)(5)(ii) and redesignating paragraph (e)(5)(iii) as paragraph (e)(5)(ii).

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

1. The authority citation for part 59 continues to read as follows:

Authority: 84 Stat. 1620–1635; 21 U.S.C. 1031–1056.

§ 59.580 [Amended]

2. In § 59.580, paragraph (b) is amended by changing the phrase "the Administrator" to "the AMS Science Division Director", and paragraph (d) is amended by changing the phrase "USDA laboratory" to "AMS Science Division laboratory".

PART 61—COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES (INSPECTION, SAMPLING AND CERTIFICATION)

Subpart A—Regulations

1. The authority citation for subpart A of part 61 continues to read as follows:

Authority: Sec. 205, 60 Stat. 1090, as amended (7 U.S.C. 1624).

§ 61.2 [Amended]

2. In § 61.2, paragraph (n) is amended by removing the phrase "the Director" and replacing with the phrase "the Science Division Director of the Agricultural Marketing Service".

§ 61.6 [Amended]

3. The paragraph of § 61.6 is amended by removing the phrase "and licensed cottonseed chemists".

§ 61.8 [Amended]

4. In § 61.8, first sentence is amended by changing the phrase "any sample of cottonseed" to "any official sample of cottonseed".

§ 61.10 to 61.24 [Removed]

5. Subpart A of part 61 is amended by removing the undesignated center heading "Licensed Cottonseed Chemists" and §§ 61.10 through 61.24

§ 61.44 to 61.46 [Removed]

6. Subpart A of part 61 is amended by removing §§ 61.44 through 61.46.

Subpart B—Standards for Grades of Cottonseed Sold or Offered for Sale for Crushing Purposes Within the United States

1. The authority citation for subpart B of part 61 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624.

§ 61.101 [Amended]

2. In § 61.101, introductory text, after the word "samples" the phrase "by licensed chemists" is added.

§ 61.104 [Amended]

3. Section 61.104 is amended as follows:

a. The heading for § 61.104 is revised to read as follows:

§ 61.104 Sampling and certification of samples and grades.

b. Section 61.104 is amended by removing the words "and the analysis" in the paragraph.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS AND U.S. CLASSES, STANDARDS, AND GRADES

1. The authority citation for part 70 continues to read as follows:

Authority: 60 Stat. 1087–1091; U.S.C. 1621–1627.

§ 70.72 [Amended]

2. Section 70.72 is amended as follows:

a. The heading for § 70.72 is revised to read as follows:

§ 70.72 Fees for appeal grading or examination or review of a grader's decision.

b. Section 70.72 is amended by removing in the paragraph (both times that it appears) the words "laboratory analysis,".

§ 70.73 [Removed]

3. Section 70.73 is removed

Subchapter H and Part 180 [Removed]

1. Subchapter H consisting of part 180 is removed in its entireties.

Subchapter E [Added]

2. Subchapter E, consisting of parts 90 through 159, is proposed to be added to read as set forth below:

SUBCHAPTER E—COMMODITY LABORATORY TESTING PROGRAMS

Part
90—Introduction
91—Services and General Information
92—Tobacco
93—Processed Fruits and Vegetables
94—Poultry and Egg Products
95—Processed Dairy Products
96—Cottonseed Sold or Offered for Sale for Crushing Purposes (Chemical Analysis and United States Official Grade Certification)
97—Plant Variety and Protection
98—Meals, Ready-to-Eat (MRE's), Meats, and Meat Products
99—Statistical Science Program
100—National Laboratory Accreditation Program
101—Pesticide Data Program
102–109—[Reserved]
110—Recordkeeping on Restricted Use Pesticides by Certified Applicators; Surveys and Reports
111–159—[Reserved]

PART 90—INTRODUCTION

Subpart A—Scope of Subchapter

Sec.
90.1 General

Subpart B—Subchapter Definitions

90.2 General terms defined

Subpart C—Good Laboratory Practices for Commodity Laboratory Analyses

90.3 General
90.4–90.100 [Reserved]

Subpart D—Quality Assurance

90.101 General
90.102 Quality assurance review
90.103 Maintenance of quality control records
90.104–90.200 [Reserved]

Authority: Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7. U.S.C. 1622, 1624).

Subpart A—Scope of Subchapter

§ 90.1 General.

This subchapter sets forth the functions and responsibilities of the Science Division (SD) of the Agricultural Marketing Service (AMS) relating to:

(a) The performance of comprehensive analytical tests and laboratory determinations of agricultural commodities and processed products.

(b) The conduct of experiments and collaborative studies to validate new analytical procedures and improved methodologies in order to promote faster, more precise, or safer laboratory testing for agricultural commodities and processed products.

(c) The supervised issuance of external quality control or proficiency check samples to laboratories under the Science Division's direction or performance review in order to regularly spot check and assess that analytical or test data produced by each laboratory is reproducible, precise, and reliable for a specific test program.

(d) The granting of laboratory program accreditation or certification or approval for specialty testing of agricultural commodities and products.

(e) The licensing of chemists to analyze cottonseed in order to certify its quality and grade.

(f) The granting of certification to non-federal laboratories for testing for trichinae in horsemeat for export to the European Community (EC).

(g) The granting of acceptance of standardized methodology or new procedures for commodity testing.

(h) The auditing of the facilities, equipment, quality control procedures, standard methodologies, and good laboratory practices for a commodity testing program of a laboratory.

(i) The furnishing of consultation and centralized technical and statistical science support for marketing programs.

(j) The recommendation of statistical sampling plans.

(k) The examination of plants for novelty and distinctiveness in order to grant certificates of protection for new varieties of sexually reproduced plants, and the provision of other fee based services authorized by the Plant Variety Protection Act.

(l) The extension or coordination of research for the determination of a new chemical analyte or microorganism in a commodity product or food.

(m) The management of a pesticide residue monitoring program for agricultural commodities (especially fresh fruits and vegetables), currently referred to as the Pesticide Data Program.

(n) The analysis of imported flue-cured and burley tobacco for pesticide residues.

(o) The supervision and implementation of the State enforcement of the recordkeeping requirements for private applicators of restricted-use pesticides for agricultural production.

Subpart B—Subchapter Definitions

§ 90.2 General terms defined.

Words used in the regulations in this subchapter in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this subchapter and unless the context requires otherwise, the following terms will be construed to mean:

Act. The Agricultural Marketing Act of 1946 (Title II of the act of Congress approved August 14, 1946, 60 Stat. 1087–1091, as amended; 7 U.S.C. 1621–1627).

Administrator. The Administrator of the Agricultural Marketing Service, or any officer or employee of the Service, to whom authority has been delegated, or to whom authority may be delegated, to act in his or her stead.

Cooperative agreement. An agreement between the Agricultural Marketing Service and another Federal agency or a State agency, or other agency, organization or person that defines in the general terms the basis on which the parties concerned will cooperate to serve a mutual interest on an agricultural service project. The responsibilities for AMS and each cooperator are stated in the document along with the conditions as applicable.

Department. The United States Department of Agriculture.

Director. The Director of the Science Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his or her stead.

Division. The Science Division (SD) of the Agricultural Marketing Service (AMS), which performs analytical testing services, issues licenses for cottonseed chemists, conducts quality assurance reviews and grants accreditation or certification for commodity testing programs of laboratories.

Laboratories. Division laboratories performing the analyses described in this subchapter.

Quality assurance. The assurance that there is accuracy of analytical data using proficiency check sample or analyte recovery techniques. In addition, the certainty that there is strict adherence by the analysts in following the quality control details in the recommended or official methods for reagents, laboratory apparatus and procedures. The overall objective of quality assurance, as a comprehensive program, is to ensure that all analytical data produced by the laboratory meets certain quality criteria and that all data produced is reproducible, precise, and accurate.

Quality control. The system of close examination of the critical details of an analytical procedure in order to have the proper equipment parameters, techniques, supplies and reagents to achieve a predetermined level of quality data, with the performance of a particular laboratory analysis.

Secretary. The Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may

hereafter be delegated, to act in his or her stead.

Service. The Agricultural Marketing Service of the United States Department of Agriculture.

Subpart C—Good Laboratory Practices for Commodity Laboratory Analyses

§ 90.3 General.

Laboratory service programs of laboratories certified and approved by the Science Division shall have good laboratory practice (GLP) requirements that are generalized in this subpart.

§§ 90.4–90.100 [Reserved]

Subpart D—Quality Assurance

§ 90.101 General.

Laboratory service programs of laboratories certified and approved by the Science Division shall have quality assurance requirements that are generalized in this subpart.

§ 90.102 Quality assurance review.

(a) Each laboratory performing tests and analysis under this subchapter will be subject to a quality assurance program evaluation at least annually, and more often if deemed necessary by the Director. Such evaluation will include:

(1) A review of the adequacy of quality control measures taken by the laboratory for the standardized method of analysis for a commodity and its related products;

(2) A review of the laboratory methodologies and procedures;

(3) A review of records for the calibration and maintenance of equipment;

(4) A review of records documenting sample handling;

(5) The evidence of quality control records;

(6) The evidence of correct reporting and determination of analytical data.

(b) A laboratory will receive a quality assurance report following the review. This evaluation will address any necessary improvements to the laboratory program(s) being examined.

§ 90.103 Maintenance of quality control records.

Quality control records pertaining, but not limited to the following areas, shall be retained by the laboratory for at least the 3 most recent years:

(a) Prepared solution standardizations

(b) Recovery studies by known analyte additions

(c) The purity checks of reagents and test materials

(d) Apparatus and equipment calibrations

(e) The quality examination and testing of materials

(f) The mandatory participation in proficiency check sample testing or collaborative studies

(g) Daily critical parameter checks of equipment, such as temperature readings

(h) The equivalency tests of new procedures with standard methodologies.

§§ 90.104–90.200 [Reserved]

Part 91—Services and General Information

Subpart A—Administration

Sec.

91.1 General
91.2 Definitions
91.3 Authority

Subpart B—General Services

91.4 Kinds of services
91.5 Where services are offered
91.6 Availability of services

Subpart C—Application for Services

91.7 Nondiscrimination
91.8 Who may apply
91.9 How to make an application
91.10 Information required in connection with an application
91.11 Filing of an application
91.12 Record of filing time and laboratory tests
91.13 When an application may be rejected
91.14 When an application may be withdrawn

Subpart D—Laboratory Service

91.15 Basis of a laboratory service
91.16 Order of a laboratory service
91.17 Postponing a laboratory service
91.18 Financial interest of a scientist

Subpart E—Samples

91.19 General requirements of suitable samples
91.20 Shipping
91.21 Protecting samples
91.22 Disposition of analyzed sample

Subpart F—Method Manuals

91.23 Analytical methods

Subpart G—Reporting

91.24 Reports of test results
91.25 Certificate requirements
91.26 Issuance of certificates
91.27 Corrections to certificates prior to issuance
91.28 Issuance of corrected certificates or amendments for analysis reports
91.29 Issuance of duplicate certificates or reissuance of an analysis report
91.30 Maintenance and retention of copies of certificates or analysis reports

Subpart H—Appeal of Laboratory Services

91.31 When an appeal of a laboratory service may be requested
91.32 Where to file for an appeal of a laboratory service and information required
91.33 When an application for an appeal of a laboratory service may be withdrawn
91.34 When an appeal of a laboratory service may be refused
91.35 Who shall perform an appealed laboratory service
91.36 Appeal laboratory certificate

Subpart I—Fees and Charges

91.37 Fees for laboratory testing, analysis, and other services (general schedules)
91.38 Additional fees for appeals of analysis
91.39 Special request fees for overtime and legal holiday service
91.40 Fees for courier service and facsimile of the analysis report
91.41 Charges for demonstrations and courses of instruction
91.42 Billing
91.43 Payment of fees and charges
91.44 Charges on overdue accounts and issuance of delinquency notices
91.45 Charges for laboratory services on a contract basis.

Authority: Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624)

SUBPART A—ADMINISTRATION

§ 91.1 General.

This part consolidates the procedural and administrative rules of the Science Division of the Agricultural Marketing Service for conducting the analytical testing and laboratory audits with quality assurance reviews. It also contains the fees, charges and laboratories applicable to such services.

§ 91.2 Definitions.

Words used in the regulations in this part in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this part, unless the context requires otherwise, the following terms will be construed to mean:

Analyses. Microbiological, chemical, or physical tests performed on a commodity.

Applicant. Any person who requests services provided by the Division.

Legal holidays. Those days designated as legal public holidays specified by Congress in paragraph (a) of section 6103, Title 5 of the United States Code and any other day declared to be a holiday by Federal Statute or Executive Order. Under section 6103 and Executive Order 10357, as amended, if the specified legal public holiday falls on a Saturday, the preceding Friday shall be considered the holiday, or if the specified legal holiday falls on a Sunday, the following Monday shall be considered to be the holiday.

§ 91.3 Authority.

The Division Director is charged with the administration of this subchapter.

Subpart B—General Services

§ 91.4 Kinds of services.

(a) *Analytical tests.* Analytical laboratory testing services under the regulations consist of microbiological, chemical, and certain other analyses, requested by the applicant and performed on tobacco, seed, dairy, egg, fruit and vegetable, meat and poultry, and related processed products. Analyses are performed to determine if products meet Federal specifications or specifications defined in purchase contracts and cooperative agreements. Analyses are also performed on egg products as part of the mandatory Egg Products Inspection Program.

(b) *Examination and licensure.* The Division administers examinations and issues licenses to chemists to certify the grade of cottonseed.

(c) *Quality assurance reviews.* The Division performs on-site laboratory quality assurance reviews (both required and voluntary) to ensure that appropriate technical methods, equipment maintenance, and quality control procedures are being observed.

(d) *Consultation.* Technical advice, statistical science consultation, and quality assurance program assistance are provided by the Division for domestic and foreign laboratories.

§ 91.5 Where services are offered.

(a) Services are offered to applicants at the Science Division laboratories and facilities as listed below.

(1) *Science Division regional laboratories.* A variety of tests and laboratory analyses are available in two regional multi-disciplinary Science Division (SD) laboratories, and are located as follows:

(i) USDA, AMS, SD, Midwestern Laboratory, 3570 North Avondale Avenue, Chicago, IL 60618

(ii) USDA, AMS, SD, Eastern Laboratory, 645 Cox Road, Gastonia, NC 28054.

(2) *Science Division aflatoxin laboratories.* The specialty laboratories performing aflatoxin testing on peanuts, peanut products, tree nuts and other commodities are located as follows:

(i) USDA, AMS, SD, 1411 Reeves Street, Mail: P.O. Box 1368, Dothan, AL 36302

(ii) USDA, AMS, SD, 200 West Washington Street, Mail: P.O. Box 488, Ashburn, GA 31714

(iii) USDA, AMS, SD, 2705 Taft Street, Albany, GA 31707

(iv) USDA, AMS, SD, 301 West Pearl Street, Mail: P.O. Box 279, Aulander, NC 27805

(v) USDA, AMS, SD, 610 North Main Street, Blakely, GA 31723

(vi) USDA, AMS, SD, 42 North Ellis Street, Mail: P.O. Box 548, Camilla, GA 31730

(vii) USDA, AMS, SD, 107 South Fourth Street, Madill, OK 73446

(viii) USDA, AMS, SD, 715 North Main Street, Mail: P.O. Box 272, Dawson, GA 31742

(ix) USDA, AMS, SD, 308 Culloden Street, Mail: P.O. Box 1130, Suffolk, VA 23434

(3) *Citrus laboratory.* The Science Division Citrus Laboratory specializes in testing citrus juices and other citrus products and is located as follows: Science Division Citrus Laboratory, 111 Third Street, SW, Suite 211, Winter Haven, FL 33880.

(4) *Divisional laboratories.* Laboratory services are available in all areas covered by cooperative agreements providing for this laboratory work and entered on behalf of the Department with cooperating Federal or State laboratory agencies pursuant to authority contained in Act(s) of Congress. Also, services may be provided in other areas not covered by a cooperative agreement if the Administrator determines that it is possible to provide laboratory services.

(5) *Other alternative laboratories.* Laboratory analyses may be conducted at alternative Science Division laboratories and can be reached from any commodity market in which a laboratory facility is located to the extent laboratory personnel is available.

(6) *The Plant Variety Protection (PVP) Office.* The PVP office and plant examination facility of the Science Division issues certificates of protection to developers of novel varieties of plants which reproduce sexually and is located as follows: USDA, AMS, Science Division, Plant Variety Protection Office, Room 500 National Agricultural Library Building, Beltsville, MD 20705.

(7) *Science Division headquarters offices.* The examination, licensure, quality assurance reviews, and consultation services are provided by headquarters staff located in Washington, DC.

(8) *Statistical Branch offices.* Statistical Science services are provided by Science Division (SD) offices located as follows:

(i) USDA, AMS, Science Division, Statistical Branch, Kansas City Technical Center, 10383 No. Executive Hills Blvd., Kansas City, MO 64153.

(ii) USDA, AMS, SD, Statistical Branch, 0611 So. Agriculture Bldg., 14th & Independence Ave., S.W., Washington, DC 20250.

(9) *Residue Branch offices.* Services afforded by the Recordkeeping Program for restricted use pesticides by certified applicators and services afforded by the Pesticide Data Program are provided by offices located as follows:

(i) USDA, AMS, Science Division, 8700 Centreville Rd., Suite 200, Manassas, VA 22110.

(ii) USDA, AMS, Science Division, Office of Director, 3507 So. Agriculture Bldg., Washington, DC 20250.

(b) The addresses of the various laboratories and offices appear in the pertinent parts of this subchapter. A prospective applicant may obtain a current listing of addresses and telephone numbers of Science Division laboratories, offices, and facilities by addressing an inquiry to the Director, Science Division, Agricultural Marketing Service, United States Department of Agriculture (USDA), P.O. Box 96456, Washington, DC. 20090–6456.

§ 91.6 Availability of services.

(a) Services may be furnished whenever a Science Division staff is available and the facilities and conditions are satisfactory for the conduct of such service.

(b) Laboratories may provide limited service on Saturdays and Sundays at a premium fee. Weekend service may be obtained by contacting the laboratory director or supervisor.

(c) Holiday and overtime laboratory service may be obtained with a minimum 24 hour advance notice, at a premium fee, by any prospective applicant through the laboratory director or supervisor.

Subpart C—Application for Services

§ 91.7 Nondiscrimination.

All services under these regulations are provided to applicants without discrimination as to race, color, handicapped or disabled condition, religion, sex, age, or national origin.

§ 91.8 Who may apply.

An application for service may be made by any individual or interested party including, but not limited to, the United States and any instrumentality or agency thereof, any State, county, municipality, or common carrier, and any authorized agent on behalf of the foregoing.

§ 91.9 How to make an application.

(a) *Voluntary.* An application for analysis and testing may be made by contacting the director or supervisor of the Science Division laboratory where the service is provided, or by contacting either the Laboratory Operations Coordination branch chief, or the Technical Services branch chief at Science Division Headquarters, Washington, DC. A list of the Science Division laboratories is included in § 91.5.

(b) *Mandatory.* In the case of mandatory analyses, such as those required to be performed on eggs and egg products, application for services may be submitted to the office or division which administers the program, or by contacting an inspector who is involved with the program.

§ 91.10 Information required in connection with an application.

(a) An application for laboratory service shall be made in the English language and may be made orally (in person or by telephone), in writing, or by facsimile. If an application for laboratory service is made orally, written confirmation may be required by the laboratory involved.

(b) In connection with each application for a laboratory service, information that may be necessary to perform analyses on the processed product(s) shall also be furnished. The information shall include, but is not limited to, the name of the product, name and address of the packer or plant where such product was packed, the location of the product, its lot or load number, codes or other identification marks, the number of containers, the type and size of the containers, the analytical test requested, and the size of the sample. In addition, information regarding analysis of the lot by any federal agency previous to the application and the purpose of the desired laboratory service may be requested.

§ 91.11 Filing of an application.

An application for a laboratory service shall be regarded as filed only when made in accordance with the regulations in this part.

§ 91.12 Record of filing time and laboratory tests.

A record showing the date of receipt for each application for a laboratory service or an appeal of a laboratory service shall be maintained. In addition, the requested laboratory analyses shall be recorded at the time of sample receipt.

§ 91.13 When an application may be rejected.

(a) An application for a laboratory service may be rejected by the Administrator when deemed appropriate as follows:

(1) For non-compliance by the applicant with the regulations in this part,

(2) For non-payment of previous laboratory services rendered,

(3) When the sample is not properly identified by a code or other marks,

(4) When the samples are received in an unsatisfactory condition and are rejected for analysis,

(5) When there is evidence or knowledge of tampering with the sample,

(6) When it appears that to perform the analytical testing or laboratory service specified in this part would not be to the best interests of the public welfare or of the Government, or

(7) When it appears to the Administrator that prior commitments of the Department necessitate rejection of the application.

(b) Each such applicant shall be promptly notified by registered mail of the reasons for the rejection.

(c) A written petition for reconsideration of such rejection may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after the receipt of notice of the rejection. Such petition shall state specifically the errors alleged to have been made by the Administrator in rejecting the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant by registered mail of the reasons for the rejection thereof.

§ 91.14 When an application may be withdrawn.

An application for a laboratory service may be withdrawn by the applicant at any time before the analytical testing is performed: *Provided*, that, the applicant shall pay, at the hourly rate prescribed in § 91.37, for the time incurred by the scientist or laboratory technician, in connection with such application and any travel expenses, telephone, facsimile, mailing, telegraph or other expenses, which have been incurred by the laboratory servicing office, in connection with such application.

Subpart D—Laboratory Service

§ 91.15 Basis of a laboratory service.

Analytical testing and laboratory determination for analyte or quality constituent shall be based upon the appropriate standards promulgated by the U.S. Department of Agriculture, applicable standards prescribed by the laws of the State where the particular product was produced, specifications of any governmental agency, written buyer and seller contract specifications, or any written specifications by an applicant which is approved by the Administrator: *Provided*, that, if such product is regulated pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), or the comparable laws of any State, such testing and determination shall be on the basis of the standards, if any, prescribed in, or pursuant to, the marketing order and/or agreement effective thereunder.

§ 91.16 Order of a laboratory service.

Laboratory service shall be performed, insofar as possible, in the order in which applications are made except that precedence may be given to any such applications which are made by the United States (including, but not being limited to, any instrumentality or agency thereof) and to any application for an appeal inspection.

§ 91.17 Postponing a laboratory service.

If the scientist determines that it is not possible to accurately analyze or make a laboratory determination of a sample immediately after receipt because standard materials, laboratory equipment and supplies need replacement, or for any other substantial reason, the scientist may postpone laboratory service for such period as may be necessary.

§ 91.18 Financial interest of a scientist.

No scientist shall perform a laboratory analysis on any product in which he is directly or indirectly financially interested.

Subpart E—Samples

§ 91.19 General requirements of suitable samples.

(a) Samples must be representative of the product tested and provided in sufficient quantity for the analyses requested.

(b) Each sample must be identified with the following information:

(1) Product type (specific description);

(2) Lot number or production date;

(3) Analyses desired;

(4) Date/time collected;

(5) Storage conditions prior to shipping;

(6) Name of applicant;

(7) Name of sampler;

(8) Any other information which is required by the specific program under which analysis or test is performed.

§ 91.20 Shipping.

(a) Samples must be submitted to the laboratory in a condition (including temperature) that does not comprise the quality and validity or analytical results.

(b) All samples must be submitted in sealed, leakproof containers.

(c) Containers for perishable refrigerated samples should contain ice or ice packs to maintain temperatures of 0° to 5° C, unless a different temperature is required for the sample to be tested.

(d) Containers for frozen samples should contain dry ice or other effective methods of maintaining samples in a frozen state.

(e) The applicant is responsible for providing shipping containers and paying shipping costs for fee basis tests.

(f) A courier charge may apply for the shipment of some samples.

§ 91.21 Protecting samples.

Laboratory personnel shall protect each sample from manipulation, substitution, and improper or careless handling which would deprive the sample of its representative character from the time of receipt in the laboratory until the analysis is completed and the sample has been discarded.

§ 91.22 Disposition of analyzed sample.

(a) Excess samples not used in analyses will be placed in proper storage for a maximum period of 30 days after reporting results of tests.

(b) Any sample of a processed commodity that has been used for a laboratory service may be returned to the applicant at his or her request and expense; otherwise, it shall be destroyed or disposed of to a charitable institution.

Subpart F—Method Manuals

§ 91.23 Analytical methods.

Most analyses are performed according to approved procedures described in manuals of standardized methodology. These standardized methods are the specific methods used. Alternatively, equivalent methods prescribed in cooperative agreements are used. The manuals of standard methods most often used by the Science Division laboratories are listed as follows:

(a) Edwards, P.R. and W.H. Ewing, Edwards and Ewing's Identification of Enterobacteriaceae, Elsevier Science Publishing Co., Inc., 52 Vanderbilt Avenue, New York, NY 10017.

(b) Manual of Analytical Methods for the Analysis of Pesticide Residues in Human and Environmental Samples, U.S. Environmental Protection Agency (EPA), Environmental Toxicology Division, Health Effects Research Laboratory (HERL), Alexander Drive and Highway 54, Mail Drop 51, Research Triangle Park, NC 27711.

(c) Official Analytical Methods of the American Spice Trade Association (ASTA), American Spice Trade Association, 580 Sylvan Avenue, P.O. Box 1267, Englewood Cliffs, NJ 07632.

(d) Approved Methods of the American Association of Cereal Chemists, American Association of Cereal Chemists, 3340 Pilot Knob Road, St. Paul, MN 55121–2097.

(e) Official Methods and Recommended Practices of the American Oil Chemists' Society (AOCS), American Oil Chemists' Society, 1608 Broadmoor Drive, P.O. Box 3489, Champaign, IL 61826–3489.

(f) Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC), Association of Official Analytical Chemists, Suite 400, 2200 Wilson Boulevard, Arlington, VA 22201–3301.

(g) Standard Analytical Methods of the Member Companies of Corn Industries Research Foundation, Corn Refiners Association (CRA), Suite 1120, 1100 Connecticut Avenue, NW, Washington, DC 20036.

(h) Standard Methods for the Examination of Dairy Products, American Public Health Association, 1015 Eighteenth Street, NW, Washington, DC 20036.

(i) Standard Methods for the Examination of Water and Wastewater, American Public Health Association (APHA), the American Water Works Association and the Water Pollution Control Federation, APHA, 1015 Eighteenth Street, NW, Washington, DC 20036.

(j) U.S. Army Individual Protection Directorate's Military Specifications, approved analytical test methods noted therein, U.S. Army Natick Research, Development and Engineering Center, Kansas Street, Natick, MA 01760–5017.

(k) U.S. Food and Drug Administration Bacteriological Analytical Manual (BAM), Association of Official Analytical Chemists, Suite 400, 2200 Wilson Boulevard, Arlington, VA 22201–3301.

(l) U.S. Food and Drug Administration Pesticide Analytical Manuals (PAM), Volumes I and II, Food and Drug Administration, U.S. Department of Health and Human Services, 200 C Street, SW, Washington, DC 20204 (available from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161).

Subpart G—Reporting

§ 91.24 Reports of test results.

(a) Results of analyses are provided, in writing, by facsimile or other electronic means to the applicant.

(b) Applicants may call the appropriate Science Division laboratory for interim or final results prior to issuance of the formal report. The advance results may be telegraphed, telephoned, or sent by facsimile to the applicant. Any additional expense for advance information shall be borne by the requesting party.

(c) A letter report in lieu of a certificate of analysis may be issued by a laboratory representative when such action appears to be more suitable than a certificate: *Provided*, that, issuance of such report is approved by the Division Director.

§ 91.25 Certificate requirements.

Certificates of analysis and other memoranda concerning laboratory service and the reporting of results should have the following requirements:

(a) Certificates of analysis shall be on standard printed forms approved by the Division Director;

(b) Shall be printed in English;

(c) Shall have results typewritten, computer generated, or handwritten in ink and shall be clearly legible;

(d) Shall show the results of laboratory tests in a uniform, accurate, and concise manner with abbreviations identified on the form;

(e) Shall show the information required by §§ 91.25–91.29; and

(f) Show only such other information and statements of fact as are provided in the instructions authorized by the Division Director.

§ 91.26 Issuance of certificates.

(a) The person signing and issuing the certificate of analysis shall be one of the following:

(1) The scientist who performed the analysis;

(2) Another technician of the laboratory facility, who has been given power of attorney by the scientist who performed the analytical testing and been authorized by the Division Director to affix the scientist's signature to a certificate. The power of attorney shall be on file with the employing office or laboratory of the Division;

(3) A person designated as the "laboratory director in charge," when the certificate represents composite analyses by several technicians.

(b) The laboratory certificate shall be prepared in accordance with the facts set forth in the official memoranda made by the scientist or technicians in connection with the analysis.

(c) Whenever a certificate is signed by a person under a power of attorney, the certificate should so indicate. The signature of the holder of power shall appear under the name of the scientist who personally analyzed the sample, and whenever a certificate issued is signed by a scientist in charge, that title must appear in connection with the signature.

§ 91.27 Corrections to certificates prior to issuance.

(a) The accuracy of the statements and information shown on certificates of analysis must be verified by the individual whose name or signature, or both, is shown on the certificate or by the authorized agent who affixed the name or signature, or both. When a name or signature, or both, is affixed by an authorized agent, the initials of the agent shall appear directly below or following the name, or signature of the person. Errors found during this process shall be corrected according to this section.

(b) Only official personnel or their authorized agents may make corrections, additions, or other changes to certificates.

(c) No corrections, additions, or other changes shall be made which involve identification, quality, or quantity. If such errors are found, a new certificate shall be prepared and issued and the incorrect certificate marked "Void." Otherwise, errors may be corrected, provided there is evidence of satisfactory correction procedures as follows:

(1) The corrections are neat and legible;

(2) Each correction is initialed by the individual who corrects the certificate; and

(3) The corrections and initials are shown on the original and all copies.

§ 91.28 Issuance of corrected certificates or amendments for analysis reports.

(a) A corrected certificate of analysis or an amended letter report may be issued by the laboratory representative who issued the original certificate or report after distribution of the form if errors, such as incorrect dates, analytical results, or test determination statements, lot numbers, or errors in any other pertinent information require the issuance of a corrected certificate or an amended report.

(b) Whenever a corrected certificate or amended report is issued, such certificate or report shall supersede the original form which was issued in error. The superseded certificate or incorrect report shall become null and void after the issuance of the corrected certificate or the amended analysis report.

(c) The corrected certificates or amended reports shall show the following:

(1) The terms "Corrected Original" and "Corrected Copy;"

(2) A statement identifying the superseded certificate or incorrect letter report and the corrections;

(3) A new serial number or new date of issuance; and

(4) The same statements and information, including permissive statements, that were shown on the incorrect certificate or the incorrect report, along with the correct statement or information, shall be shown on the corrected form.

(d) If all copies of the incorrect certificate or incorrect report can be obtained, then the superseded form shall be marked "Void" when submitted.

(e) Corrected certificates or amended letter reports cannot be issued for a certificate that has been superseded by another certificate, or superseded on the basis of a subsequent analysis or an additional laboratory test determination.

§ 91.29 Issuance of duplicate certificates or reissuance of an analysis report.

(a) Upon request by an applicant, a duplicate certificate or an additional report may be issued for a lost, destroyed, or otherwise not obtainable original form.

(b) The duplicate certificate or the reissuance of an analysis report shall be at the expense of the applicant.

(c) Requests for duplicate certificates or additional analysis reports shall be filed as follows:

(1) In writing;

(2) By the applicant who requested the service covered by the lost, destroyed, or otherwise not obtainable original form; and

(3) With the office that issued the initial certificate or original laboratory analysis report.

(d) The duplicate certificates or reissued analysis reports shall show the following:

(1) The terms "Duplicate Original," and the copies shall show "Duplicate Copy,"

(2) A statement that the certificate or letter report was issued in lieu of a lost or destroyed or otherwise not obtainable certificate or laboratory analysis report; and

(3) The same statements and information, including permissive statements, that were shown on the original certificate or the initial analysis report shall be shown on the duplicate form.

(e) Duplicate certificates or duplicate analysis reports shall be issued as promptly as possible and distributed as the original certificates or original analysis reports and their copies.

(f) Duplicate certificates shall not be issued for certificates that have been superseded.

§ 91.30 Maintenance and retention of copies of certificates or analysis reports.

(a) At least one copy of each certificate or analysis report shall be filed in the laboratory for a period of not less than 3 years either from the date of issuance of the document, from the date of voiding a certificate, or from the date last payment is made by applicant for a reported laboratory determination, whichever is later.

(b) Whenever any document, because of its condition, becomes unsuitable for its intended or continued use, the laboratory personnel shall make a copy of the original document.

(c) True copies shall be retained as photocopies, microfilm, microfiche, or other accurate reproductions and durable forms of the original document. Where reduction techniques, such as microfilming are used, suitable reader and photocopying equipment shall be readily available. Such reproductions shall be treated and considered for all purposes as though they were the original documents.

(d) All documents required to be maintained under this part shall be kept confidential and shall be disclosed only to the applicants or other persons with the applicants' knowledge and permission. Only such information as the Administrator deems relevant shall be disclosed to the public without the applicants' permission, and then, only in a suit or administrative hearing brought at the direction, or on the request, of the Administrator, or to which the Administrator or any other officer of the United States is a party.

Subpart H—Appeal of Laboratory Services

§ 91.31 When an appeal of a laboratory service may be requested.

(a) An application for an appeal of a laboratory service may be made by any interested party who is dissatisfied with the results of an analysis as stated in a certificate or laboratory report, if the lot of the commodity can be positively identified by the laboratory service as the lot from which originally drawn samples were previously analyzed.

(b) An application for an appeal of a laboratory service shall be made within thirty (30) days following the day on which the previous analysis was performed. However, upon approval by the Division Director, the filing time for an appeal application may be extended.

§ 91.32 Where to file for an appeal of a laboratory service and information required.

(a) Application for an appeal of a laboratory service may be filed with the supervisor in the office or laboratory facility that issued the certificate or laboratory report on which the appeal analysis covering the commodity product is requested.

(b) The application for an appeal of a laboratory service shall state the location of the lot of the commodity product and the reasons for the appeal; and date and serial number of the certificate covering the laboratory service of the commodity product on which the appeal is requested. In addition, such application shall be accompanied by the original and all available copies of the certificate or laboratory report.

(c) Application for an appeal of a laboratory service may be made orally (in person or by telephone), in writing, by facsimile, or by telegraph. If made orally, written confirmation shall be made promptly.

§ 91.33 When an application for an appeal of a laboratory service may be withdrawn.

An application for an appeal of a laboratory service may be withdrawn by the applicant at any time before the appealed laboratory service is performed: Provided, that, the applicant shall pay, at the hourly rate prescribed in § 91.37, for the time incurred by the laboratory personnel, any travel, telephone, telegraph, or other expenses which have been incurred by the laboratory service in connection with such application.

§ 91.34 When an appeal of a laboratory service may be refused.

An application for an appeal of a laboratory service may be refused if:

(a) The reasons for the appealed laboratory service are frivolous or not substantial;

(b) The quality or condition of the commodity product has undergone a material change since the laboratory service covering the commodity product on which the appealed laboratory service is requested;

(c) The lot in question is not, or cannot be made accessible for sampling;

(d) The lot relative to which the appealed laboratory service is requested cannot be positively identified as the lot from which samples were previously drawn and originally analyzed; or

(e) There is noncompliance with the regulations in this part. Such applicant shall be notified promptly of the reason for such refusal.

§ 91.35 Who shall perform an appealed laboratory service.

An appealed laboratory service shall be performed, whenever possible, by another individual or other individuals than the scientist(s) or the technician(s) that performed the original analytical determination.

§ 91.36 Appeal laboratory certificate.

(a) An appeal laboratory certificate shall be issued showing the results of such appealed analysis. This certificate shall supersede the laboratory certificate previously issued for the commodity product involved.

(b) Each appeal laboratory certificate shall clearly identify the number and date of the laboratory certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appealed laboratory certificate and shall no longer represent the analytical results of the commodity product.

(c) The individual issuing an appeal laboratory certificate shall forward notice of such issuance to such persons as he or she considers necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the individual issuing the appeal certificate.

(d) The provisions in the regulations in this part concerning forms and certificates, issuance of certificates, and retention and disposition of certificates shall apply to appeal laboratory certificates, except that copies of such appeal certificates shall be furnished to all interested parties who received copies of the superseded certificate.

Subpart I—Fees and Charges

§ 91.37 Fees for laboratory testing, analysis, and other services (general schedules).

(a) The fees listed in the general schedules in this section for the individual laboratory analyses cover the costs of Science Division laboratory services, including issuance of certificates and personnel and overhead costs other than the commodity inspection fees referred to in §§ 52.42 through 52.46, 52.48 through 52.51, 55.510 through 55.530, 55.560 through 55.570, 58.38 through 58.43, 58.45 through 58.47, 70.71 through 70.72, and 70.75 through 70.78. The fees apply to all processed commodity products, except flue-cured and burley tobacco, citrus juices and certain citrus products. The laboratory fees are listed for single test analysis (unless specified) for processed fruits and vegetables (part 93), poultry and egg products (part 94), processed dairy products (part 95), and meat and meat products (part 98). The fees for chemical analysis of cottonseed associated with grading and novel variety seed certification under the Plant Variety Protection Act are specified in parts 96 and 97, respectively. Except as otherwise provided in this section, charges will be made for laboratory analysis at the hourly rate of $34.20 for the time required to perform the service. A minimum charge of one-half hour will be made for service pursuant to each request or certificate issued. The following times per single test on each schedule will apply:

General Schedules of Fees for Official Laboratory Test Services Performed at the AMS Science Division Laboratories for Processed Commodity Products

TABLE 1.—SINGLE TEST TIMES AND LABORATORY FEES FOR PROXIMATE ANALYSES

Type of analysis	Hours for single test	List fee
Ammonia, Ion Selective Electrode	2.25	$76.95
Ash, Total	1	34.20
Ash, Acid Insoluble	1.5	51.30
Fat, Acid Hydrolysis	1	34.20
Fat, Ether Extraction	1	34.20
Fat, Microwave—Solvent Extraction	1	34.20
Fat, Specific Gravity	1	34.20
Fiber, Crude	2	68.40
Moisture, Distillation	1	34.20
Moisture, Karl Fischer	1.5	51.30
Moisture, Oven	0.5	17.10

TABLE 1.—SINGLE TEST TIMES AND LABORATORY FEES FOR PROXIMATE ANALYSES—Continued

Type of analysis	Hours for single test	List fee
Protein, Kjeldahl	2	68.40
Salt, Back Titration	0.75	25.65
Salt, Potentiometric	0.5	17.10

TABLE 2.—SINGLE TEST TIMES AND LABORATORY FEES FOR LIPID RELATED ANALYSES

Type of analysis	Hours for single test	List fee
Acid Degree Value (Dairy)	1	$34.20
Acidity, Titratable	0.5	17.10
Carotene, Spectrophotometric	2.5	85.50
Catalase Test	0.5	17.10
Cholesterol	5	171.00
Moisture and fat analyses are required to be analyzed at an additional cost as prerequisites to the cholesterol test.		
Color (Honey)	0.5	17.10
Color, NEPA (Eggs)	1	34.20
Consistency, Bostwick (Cooked)	0.5	17.10
Consistency, Bostwick (Uncooked)	0.5	17.10
Density (Specific Gravity)	0.5	17.10
Dispersibility (Moats-Dabbah Method)	0.5	17.10
Fat Stability, AOM	1	34.20
Peroxide value analysis is required as a prerequisite to the fat stability test at the additional fee.		
Fatty Acid Profile (AOAC-GC method)	4	136.80
Flash Point Test only	2	68.40
Free fatty acids	0.75	25.65
Meltability (Process Cheese)	0.5	17.10
Peroxidase Test	0.5	17.10
Peroxide Value	1.5	51.30
Smoke Point Test only	2	68.40
Smoke Point and Flash Point	3.5	119.70
Solids, Total (Oven Drying)	0.5	17.10
Soluble Solids, Refractometer	0.5	17.10

TABLE 3.—SINGLE TEST TIMES AND LABORATORY FEES FOR FOOD ADDITIVES

[Direct and Indirect]

Type of analysis	Hours for single test	List fee
Aflatoxin, (Dairy, Eggs)	3.5	$119.70
Alar or Daminozide Residue	6	205.20
Amitraz Residue, GLC	6	205.20
Alcohol (Qualitative)	2	68.40
Alkalinity of Ash	4	136.80
Antibiotic (Dry Milk)	4	136.80
Ascorbates (Qualitative—Meats)	0.5	17.10
Ascorbic Acid, Titration	1.0	34.20
Ascorbic Acid, Spectrophotometric	1.0	34.20
Benzene, Residual	2	68.40
Brix, Direct Percent Sucrose	0.5	17.10
Brix, Dilution	0.5	17.10
Butylated Hydroxyanisole (BHA)	1.5	51.30
Butylated Hydroxytoluene (BHT)	1.5	51.30
Caffeine, Micro Bailey-Andrew	1.5	51.30
Caffeine, Spectrophotometric	1	34.20
Calcium	1.5	51.30
Citric Acid, GLC or HPLC	1.5	51.30
Chlorinated Hydrocarbons:		
Pesticides and Industrial Chemicals—		
Initial Screen	4	136.80
Second Column Confirmation of Analyte	1	34.20
Confirmation on Mass Spectrometer	2	68.40
Dextrin (Qualitative)	0.5	17.10
Dextrin (Quantitative)	3	102.60
Filth, Heavy (Dairy)	2.5	85.50
Filth, Heavy (Eggs)	4	136.80
Filth, Light (Eggs)	2.5	85.50
Filth, Light and Heavy (Eggs Extraneous)	6	205.20

TABLE 3.—SINGLE TEST TIMES AND LABORATORY FEES FOR FOOD ADDITIVES—Continued

[Direct and indirect]

Type of analysis	Hours for single test	List fee
Flavor	0.75	25.65
Fumigants:		
Initial Screen—		
Dibromochloropropane (DBCP)	1	34.20
Ethylene Dibromide	1	34.20
Methyl Bromide	1	34.20
Confirmation on Mass Spectrometer—		
Each individual fumigant residue	2	68.40
Glucose (Qualitative)	0.75	25.65
Glucose (Quantitative)	1.75	59.85
Glycerol (Quantitative)	3	102.60
Gums	3	102.60
High Sucrose Content or Avasucrol—		
Percent Sucrose (Holland Eggs)	4	136.80
Hydrogen Ion Activity, pH	0.5	17.10
Mercury, Cold Vapor AA	2.5	85.50
Metals—Other Than Mercury, Each Metal	2	68.40
Monosodium Dihydrogen Phosphate	4	136.80
Monosodium Glutamate	4	136.80
Nitrites (Qualitative)	0.5	17.10
Nitrites (Quantitative)	3	102.60
Oxygen	0.5	17.10
Palatability and Odor:		
First Sample	0.75	25.65
Each Additional Sample	0.5	17.10
Phosphatase, Residual	1	34.20
Phosphorus	2	68.40
Propylene Glycol, Codistillation:		
(Qualitative)	2	68.40
Pyrethrin Residue (Dairy)	4	136.80
Scorched Particles	0.5	17.10
Sodium, Potentiometric	1	34.20
Sodium Benzoate, HPLC	1.5	51.30
Sodium Lauryl Sulfate (SLS)	8	273.60
Sodium Silicoaluminate (Zeolex)	2	68.40
Solubility Index	0.75	25.65
Starch, Direct Acid Hydrolysis	3	102.60
Sugar, Polarimetric Methods	1	34.20
Sugar Profile, HPLC—		
This profile includes the following components: Dextrose, Fructose, Lactose, Maltose and Sucrose		
One type sugar from HPLC profile	3	102.60
Each additional type sugar	0.5	17.10
Sugars, Non-Reducing	3	102.60
Sugars, Total as Invert	2	68.40
Sulfites (Qualitative)	0.75	25.65
Sulfur Dioxide, Monier-Williams	1.5	51.30
Sulfur Dioxide, Direct Titration	1	34.20
Toluene, Residual	2	68.40
Triethyl Citrate, GC (Quantitative)	1	34.20
Vitamin A	5	171.00
Vitamin D, HPLC (Vitamins D_2 and D_3	8.5	290.70
Whey Protein Nitrogen	2.5	85.50
Xanthydrol Test for Urea	1.5	51.30
This is an optional test to the extraneous materials isolation test		

TABLE 4.—SINGLE TEST TIMES AND LABORATORY FEES FOR OTHER CHEMICAL AND PHYSICAL COMPONENT ANALYSES

Type of analysis	Hours for single test	List fee
Available Carbon Dioxide (Baking Powers)	4	$136.80
Complete Kohman Analysis (Dairy)	3	102.60
Jelly Strength (Bloom)	2.5	85.50
Methyl Anthranilate	1	34.20
Grape Juice Absorbancy Ratio	0.5	17.10
Net Weight (Per Can)	0.5	17.10
Non-Volatile Methylene Chloride Extract	2.5	85.50
Particle Size (Ether Wash)	0.5	17.10

TABLE 4.—SINGLE TEST TIMES AND LABORATORY FEES FOR OTHER CHEMICAL AND PHYSICAL COMPONENT ANALYSES—Continued

Type of analysis	Hours for single test	List fee
Potassium Iodide (Table Salt)	1.5	51.30
Quinic Acid (Cranberry Juice)	1.75	59.85
Sieve or Particle Size	0.5	17.10
Water Activity (Canned Vegetables)	6	205.20
Water Insoluble Inorganic Residues (WIIR)	2	68.40
Yellow Onion Test	0.75	25.65

TABLE 5.—SINGLE TEST TIMES AND LABORATORY FEES FOR MICROBIOLOGICAL ANALYSES

Type of analysis	Hours for single test	List fee
Aerobic (Standard) Plate Count	0.5	$17.10
Anaerobic Bacterial Plate Count	0.75	25.65
Bacterial Direct Microscopic Count	1	34.20
Campylobacter jejuni	4	136.80
Coliform Plate Count, Violet Red Bile Agar:		
(Presumptive Coliform Plate Count)	0.75	25.65
Coliforms, Most Probable Number (MPN): [1]		
Step 1	0.75	25.65
Step 2	0.75	25.65
E. coli, Presumptive MPN (Additional Fee) [2]	1.5	51.30
Enterococci Count	3	102.60
Listeria monocytogenes confirmation analysis: [3]		
Step 1	1.5	51.30
Step 2	1.5	51.30
Step 3 (Confirmation)	2.5	85.50
Proteolytic Count	1	34.20
Psychrotrophic Bacterial Plate Count	0.75	25.65
Salmonella (USDA Culture Method): [4]		
Step 1	1.5	51.30
Step 2	0.75	25.65
Step 3 (Confirmation)	1.5	51.30
Serological Typing (Optional)	2.5	85.50
Salmonella (Rapid Methods): [5]		
Step 1	2.0	68.40
Step 2	0.75	25.65
Step 3 (Confirmation)	1.5	51.30
Staphylococcus aureus, MPN:		
With Coagulase Positive Confirmation	1.75	59.85
Thermoduric Bacterial Plate Count	0.75	25.65
Yeast and Mold Count	0.5	17.10
Yeast and Mold Differential Plate Count	0.75	25.65

[1] Coliform MPN analysis may be in two steps as follows: Step 1—presumptive test through lauryl sulfate tryptose broth; Step 2—confirmatory test through brilliant green lactose bile broth.

[2] Step 1 of the coliform MPN analysis is a prerequisite for the performance of the presumptive *E.* coli test. Prior enrichment in lauryl sulfate tryptose broth is required for optimal recovery of *E.* coli from inoculated and incubated EC broth (*Escherichia* coli broth). The *E.* coli test is performed through growth on eosin methylene blue agar. The fee stated for *E.* coli analysis is a supplementary charge to step 1 of coliform test.

[3] *Listeria* monocytogenes test using the USDA method may be in three steps as follows: Step 1—isolation by University of Vermont modified (UVM) broth and Fraser's broth enrichments and selective plating with Modified Oxford (MOX) agar; Presumptive Step 2—typical colonies inoculated from Horse Blood into brain heart infusion (BHI) broth and check for characteristic motility; Confirmatory Step 3—culture from BHI broth with typical motility is inoculated into the seven biochemical medias, BHI agar for oxidase and catalase tests, Motility test medium, and Christie-Atkins-Munch-Peterson (CAMP) test.

Listeria monocytogenes test using the FDA method may be in three steps as follows: Step 1—isolation by trypticase soy broth with 0.6% yeast extract (TSB–YE) broth enrichment and selective plating with Modified McBrides agar and Lithium chloride Phenylethanol Moxalactam (LPM) agar; Presumptive Step 2—typical colonies inoculated to trypticase soy agar with yeast extract (TSA–YE) with sheep blood plates to check for hemolysis followed by inoculations to BHI broth and TSA–YE plates to check for characteristic motility, gram stain and catalase test; Confirmatory Step 3—culture from BHI broth with typical motility for wet mount is inoculated into the required 10 biochemical medias, Sulfide-Indole-Motility (SIM) medium, and the CAMP test. Serology is checked using growth from TSA–YE plates.

Both methods for *Listeria* determination have the equivalent time needed for each step.

[4] *Salmonella* test may be in three steps as follows: Step 1—growth through differential agars; Step 2—growth and testing through triple sugar iron and lysine iron agars; Step 3—confirmatory test through biochemicals, and polyvalent serological testing with Poly "O" and Poly "H" antiserums. The serological typing of *Salmonella* is requested on occasion.

[5] *Salmonella* test may be in three steps as follows: Step 1—growth in enrichment broths and Elisa test or DNA hybridization system assay: Step 2—growth and testing through triple sugar iron and lysine iron agars; Step 3—confirmatory test through biochemicals, and polyvalent serological testing with Poly "O" and Poly "H" antiserums.

TABLE 6.—SINGLE TEST TIMES AND LABORATORY FEES FOR AFLATOXIN ANALYSES

Aflatoxin test by commodity	Hours for single test	Fee per single analysis	Fee per pair analyses[1]
Peanut Butter (TLC-CB)	1	$34.20	[2] NA
Corn (TLC-CB)	1	34.20	NA
Roasted Peanuts (TLC-BF)	1	34.20	NA
Brazil Nuts (TLC-BF)	2	68.40	NA
Pistachio Nuts (TLC-BF)	2	68.40	NA
Shelled Peanuts (TLC-BF)	NA	14.00	28.00
Shelled Peanuts (Aflatest)	NA	20.00	40.00
Shelled Peanuts (HPLC)	NA	50.00	100.00
Tree Nuts (TLC)	1	34.20	NA
Oilseed Meals (TLC)	1	34.20	NA
Edible Seeds (TLC)	1	34.20	NA
Dried Fruit (TLC)	1	34.20	NA
Small Grains (TLC)	1	34.20	NA
In-Shell Peanuts (TLC)	NA	14.00	28.00
Silage; Other Grains (TLC)	1	34.20	NA

[1] Aflatoxin testing of raw peanuts under Peanut Marketing Agreement for subsamples 1–AB, 2–AB, 3–AB, and 1–CD is $28.00 per pair of analyses using Thin-Layer Chromatography (TLC) and Best Foods (BF) extraction method. The BF method has been modified to incorporate a water slurry extraction procedure. The Contaminants Branch (CB) method is used on occasion as an alternative method for peanuts and peanut meal when doubt exists as to the effectiveness of the BF method in extracting aflatoxin from the sample or when background interferences exist that might mask TLC quantitation of aflatoxin. The cost per pair of analyses using Aflatest and High Pressure Liquid Chromatography (HPLC) is $40.00 and $100.00, respecctively. Other aflatoxin analyses for fruits and vegetables are listed at Science Division's current hourly rate of $34.20.

[2] NA denotes not applicable.

TABLE 7.—MISCELLANEOUS CHARGES SUPPLEMENTAL TO THE SCIENCE DIVISION'S LABORATORY ANALYSIS FEES

Laboratory service description	Hours for single sample	List fee
Sample Grinding (Raw Peanuts)	0.25	$8.55
Sample Grinding (Canned Boned Poultry)	1	34.20
Sample Grinding (Meats, Meat Products, Meals, Ready-to-Eat):		
Per pouch or raw sample	0.25	8.55
Per tray pack	0.5	17.10
Compositing Multiple Subsamples for an Individual Test Sample Unit per subsample	0.25	8.55

TABLE 8.—ADDITIONAL CHARGES APPLICABLE TO THE SAMPLE RECEIPT AND ANALYSIS REPORT

Service description	List charge
Established Courier Expense at Albany, Georgia Laboratory	$2.00.
Courier Expense at Other AMS Laboratories: Mileage Charge Set at $0.30 Per Mile Roundtrip from Laboratory to Delivery Site.	Varies.
Facsimile Charge (Per Analysis Report)	$3.00 minimum up to first 3 pages, then $1.00 per page.
Additional Analysis Report or Extra Certificate (½ hour charge)	$17.10 per report or certificate reissued.

(b) The fee charge for any laboratory analysis not listed in paragraph (a) of this section, or for any other applicable services rendered in the laboratory, shall be based on the time required to perform such analysis or render such service. The standard hourly rate shall be $34.20.

(c) When a laboratory test service is provided for AMS by a commercial or State government laboratory, the applicant will be assessed a fee which covers the costs to AMS for the service provided.

§ 91.38 Additional fees for appeal of analysis.

(a) The appellant will be charged an additional fee at a rate of 1.5 times the standard rate stated in paragraph (a) of section 91.37 if, as a result of an authorized appeal analysis, it is determined that the original test results are correct. The appeal laboratory rate is $51.30 per analysis hour.

(b) The appeal fee will be waived if the appeal laboratory test discloses that an error was made in the original analysis.

§ 91.39 Special request fees for overtime and legal holiday service.

(a) Laboratory analyses initiated at the special request of the applicant to be rendered on Saturdays, Sundays, Federal holidays, and on an overtime basis will be charged at a rate of 1.5 times the standard rate stated in paragraph (a) of § 91.37. The premium laboratory rate for holiday and overtime service will be $51.30 per analysis hour.

(b) Information on legal holidays or what constitutes overtime service at a particular AMS laboratory is available from the laboratory supervisor.

§ 91.40 Fees for courier service and facsimile of the analysis report.

(a) The AMS peanut aflatoxin laboratory at Albany, Georgia, has a set courier charge of $2.00 per trip to retrieve the sample package. The mileage charge specified in table 8 of this part for courier service at other AMS laboratories is based on the shortest roundtrip route from laboratory to sample retrieval site.

(b) The faxing of laboratory analysis reports or certificates is an optional service offered at the fee specified in table 8 of this part.

§ 91.41 Charges for demonstrations and courses of instruction.

Charges, not in excess of the cost thereof and as approved by the Division Director, may be made for demonstrations, samples, or courses of instruction when such are furnished upon request.

§ 91.42 Billing.

(a) Each billing cycle will end on the 25th of the month. The applicant will be billed by the National Finance Center on the 1st day, following the end of the billing cycle in which voluntary laboratory services and other services were rendered at a particular Science Division laboratory.

(b) The total charge shall normally be stated directly on the analysis report or on a standardized certificate form for the laboratory analyses of a specific agricultural commodity and related commodity products.

(c) The actual bill for collection will be issued by the National Finance Center, Program Billings and Collection Section, P.O. Box 60950, New Orleans, Louisiana 70160.

§ 91.43 Payment of fees and charges.

(a) Fees and charges for services shall be paid by the applicant, by check or money order payable, to the "Agricultural Marketing Service, USDA" and sent to the office indicated on the bill.

(b) Fees and charges for services under a cooperative agreement with a State or other AMS Division will be paid in accordance with the terms of the cooperative agreement.

(c) As necessary, the Division Director may require that fees shall be paid in advance of the performance of the requested service. Any fees paid in excess of the amount due shall be used to offset future billings, unless a request for a refund is made by applicant.

§ 91.44 Charges on overdue accounts and issuance of delinquency notices.

(a) Accounts are considered overdue if payment is late with the National Finance Center (NFC). The timeliness of a payment will be based on the postmark date of the payment or the date of receipt by the NFC if no postmark date is present or legible. Bills are payable upon receipt and become delinquent 30 days from date of billing.

(b) Any amount due not paid by the due date will be increased by a late payment charge. The actual assessed rate applied to overdue accounts is set quarterly by the Department of the Treasury. This amount is one-twelfth of one year's late penalty interest rate computed at the prescribed rate.

(c) Overtime or holiday laboratory service will not be performed for any applicant with a notice of delinquency.

(d) Applicants with three notices of delinquency will be reviewed for possible termination of services. A deposit in advance sufficient to cover the fees and expenses for any subsequent service may be required of any person failing to pay in claim after issuance of such notice of delinquency.

(e) The Division Director will take such action as may be necessary to collect any delinquent amounts due.

§ 91.45 Charges for laboratory services on a contract basis.

(a) Irrespective of fees and charges prescribed in section 91.37, or in other sections of Subchapter E, the Division Director may enter into contracts with applicants to perform continuous laboratory services or other types of laboratory services pursuant to the regulations in this part and other requirements, as prescribed by the Division Director in such contract. In addition, the charges for such laboratory services, provided in such contracts, shall be on such basis as will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such laboratory services, including an appropriate overhead charge to cover administrative overhead expenses as may be determined by the Administrator.

(b) Irrespective of fees and charges prescribed in § 91.37, or in other sections of Subchapter E, the Division Director may enter into a written Memorandum of Understanding (MOU) or agreement with any administrative agency or governing party for the performance of laboratory services pursuant to said agreement or order on a basis that will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such laboratory service, including an appropriate overhead administrative overhead charge.

(c) The conditions and terms for renewal of such Memorandum of Understanding or agreement shall be specified in the contract.

PART 92—TOBACCO

Sec.

91.1 General
92.2 Definitions
92.3 Location for laboratory testing and kind of services available
92.4 Approved forms for reporting analytical results
92.5 Analytical methods
92.6 Cost for pesticide analysis set by cooperative agreement

Authority: 7 U.S.C. 511m and 7 U.S.C. 511r.

§ 92.1 General.

Analytical testing of imported flue-cured and burley tobacco is performed for maximum allowable pesticide residue levels. Domestic grown tobacco may also be analyzed for pesticide residues at the Science Division's Eastern Laboratory facility.

§ 92.2 Definitions

Words used in the regulations in this part in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this part, unless the context requires otherwise, the following terms will be construed to mean:

Air-cured. Tobacco cured under natural atmospheric conditions. Artificial heat is sometimes used to control excess humidity during the curing period to prevent house-burn, barn-burn, and pole-burn in damp weather. Air-cured tobacco should not carry the odor of smoke or fumes resulting from the application of artificial heat.

Burley. A thin- to medium-bodied tobacco, usually a light tan to reddish-brown in color.

Burley, Type 93. That type of air-cured tobacco commonly known as foreign-grown Burley, produced in countries other than the United States.

Certificate of Analysis (Form CSSD–3). A legal document on which the test results for official samples will be certified by a Division chemist in charge of testing.

Cured. Tobacco dried of its sap by either natural or artificial processes.

2,4-D. The common abbreviation for the acid herbicide 2,4-Dichlorophenoxyacetic acid.

DBCP. The common abbreviation for the volatile fumigant pesticide 1,2-Dibromo-3-chloropropane.

DDE. The common abbreviation for the chlorinated pesticide Dichlorodiphenyldichloroethylene. Degradation product of DDT by loss of one molecule of hydrochloric acid or

referred to as a dehydrohalogeneration process.

DDT. The common abbreviation for Dicholoro diphenyl trichloroethane or the common name for the chlorinated insecticide or contact poison 1,1-Bis(p-chlorophenyl)-2,2,2-trichloroethane.

Dicamba. The common name for the acid herbicide 2-Methoxy-3,6-ichlorobenzoic acid.

EDB. The common abbreviation for Ethylene dibromide or the common name for the volatile fumigant pesticide 1,2-Dibromoethane.

Flue-cured. Tobacco cured under artificial atmospheric conditions by a process of regulating the heat and ventilation without allowing smoke or fumes from the fuel to come in contact with the tobacco; or tobacco cured by some other process which accomplishes the same results.

Flue-cured, Type 92. That type of flue-cured tobacco commonly known as Foreign-grown Flue-cured, produced in countries other than the United States.

Formothion. The common name for the organophosphorus pesticide S-(2-(Formylmethylamino)-2-oxoethyl) O-O-dimethyl phosphorodithioate.

HCB. The common abbreviation for the organochlorine pesticide Hexachlorobenzene.

Lot. A unit of shipment of tobacco encompassed by a single invoice. The lot may represent a pile, basket, bulk, hack, burden, or more than one bale, case, hogshead, tierce, package, or other definite package unit.

Maximum pesticide residue level. The maximum concentration of residue allowable for a specific pesticide or combination of pesticides, as set forth in section 29.427 by the Director of the Tobacco Division.

Pesticide. Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Pesticide certification. A document issued by the Tobacco Division in a form approved by its Director, containing a certification by the importer that flue-cured and burley tobacco offered for importation does not exceed the maximum allowable residue levels of any pesticide that has been canceled, suspended, revoked, or otherwise prohibited under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Pesticide test sample. An official sample or samples, collected from a lot of tobacco by the AMS Tobacco Division inspector for analysis by a certified chemist to ascertain the residue levels of pesticides that have been canceled, suspended, revoked, of otherwise prohibited under the FIFRA.

Sample Identification Form (Form TB–89). A document approved by the Director of the Tobacco Division that identifies and accompanies the sample to the testing facility.

2,4,5-T. The common abbreviation for the acid herbicide 2,4,5-Trichlorophenoxyacetic acid.

TDE. The common abbreviation for the chlorinated insecticide 1,1-Dichloro-2,2-bis(p-chlorophenyl)ethane.

Testing. The chemical analysis of a pesticide test sample to determine the presence and levels of pesticide residues.

Tobacco. Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, in whole leaf or strip form, and the time it enters into the different manufacturing processes. Conditioning, sweating, stemming, and threshing are not regarded as manufacturing processes. Tobacco, as used in this part does not include manufactured or semimanufactured products, stems, cuttings, clippings, trimmings, siftings, or dust.

§ 92.3 Location for laboratory testing and kind of services available.

(a) The analytical testing of imported Type 92 flue-cured tobacco samples and imported Type 93 burley tobacco samples for maximum pesticide residue level determinations is performed at the Science Division's Eastern Laboratory, and is located at: USDA, AMS, Science Division, Eastern Laboratory, 645 Cox Road, Gastonia, NC 28054.

(b) Domestic-grown tobacco and tobacco products may be analyzed for acid herbicides, chlorinated hydrocarbons, fumigants, and organophosphates at the Science Division facility in this section.

(c) The Division performs for the Tobacco Division the quantitative and confirmatory chemical residue analyses on pesticide test samples of imported tobacco for the following specific pesticides:

(1) Organochlorine pesticides such as Dichlorodiphenyldichloroethylene (DDE), Dichloro Diphenyl Trichloroethane (DDT), 1,1-Dichloro-2,2-bis (p-chlorophenyl)ethane (TDE), Toxaphene, Endrin, Aldrin, Dieldrin, Heptachlor, Methoxychlor, Chlordane, Heptachlor Epoxide, Hexachlorobenzene (HCB), Cypermethrin, and Permethrin.

(2) Organophosphorus pesticides such as Formothion.

(3) Fumigants such as Ethylene Dibromide (EDB) and Dibromochloropropane (DBCP).

(4) Acid herbicides such as 2,1-D, 2,4,5-T, and Dicamba.

§ 92.4 Approved forms for reporting analytical results.

(a) Form TB–89, "Imported Tobacco Pesticide Residue Analysis" certificate, is enclosed with and identifies the sample submitted to the laboratory.

(b) Test results of the pesticide analyses for tobacco shall be recorded on "Certificate of Analysis For Official Samples," Form CSSD–3, and shall be expressed in total parts per million, per gram sample for each particular pesticide residue found in the lot of tobacco. Form CSSD–3 is attached to Form TB–89 that is returned to the Tobacco Division. The analytical data on Form CSSD–3 substantiates the information placed on Form TB–89.

§ 92.5 Analytical methods.

Every chemist certified to analyze tobacco samples for pesticide residue contamination shall follow precisely the USDA developed analytical test methods and all successive official method updates, as approved by the Director, Science Division.

§ 92.6 Cost for pesticide analysis set by cooperative agreement.

The fee for the pesticide analysis of tobacco is set by the Tobacco Division, in conjunction with the Science Division, and appears at § 29.500 as part of Tobacco Division's fees for sampling and certification of imported flue-cured and burley tobacco. A Memorandum of Understanding (MOU) exists between the Tobacco Division and the Science Division for the testing of imported tobacco samples for pesticide residue contamination, and the corresponding agreement on the cost of analyses is specified in this document.

PART 93—PROCESSED FRUITS AND VEGETABLES

Subpart A—Citrus Juices and Certain Citrus Products

Section

93.1 General
93.2 Definitions
93.3 Analyses available and location of laboratory
93.4 Analytical methods
93.5 Fees for citrus product analyses set by cooperative agreement

Subpart B—Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products

93.10 General
93.11 Definitions
93.12 Location of the laboratory for processed food products

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Subpart C—Peanuts, Tree Nuts, Corn and Other Oilseeds

93.100 General
93.101 Definitions
93.102 Analyses available and location of laboratory
93.103 Analytical methods
93.104 Fees for aflatoxin testing
93.105 Fees for analytical testing of oilseeds

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624)

Subpart A—Citrus Juices and Certain Citrus Products

§ 93.1 General.

Domestic and imported citrus products are tested to determine whether quality and grade standards are satisfied as set forth in the Florida Citrus Code.

§ 93.2 Definitions.

Words used in the regulations in this subpart in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this subpart, unless the context requires otherwise, the following terms will be construed to mean:

Acid. The grams of total acidity, calculated as anhydrous citric acid, per 100 grams of juice or citrus product. Total acidity is determined by titration with standard sodium hydroxide solution, using phenolphthalein as indicator.

Brix or degrees Brix. The percent by weight total soluble solids of the juice or citrus product when tested with a Brix hydrometer calibrated at 20 °C (68 °F) and to which any applicable temperature correction has been made. The Brix or degrees Brix may be determined by any other method which gives equivalent results.

Brix value. The refractometric sucrose value of the juice or citrus product determined in accordance with the "International Scale of Refractive Indices of Sucrose Solutions" and to which the applicable correction for acid is added. The Brix value is determined in accordance with the refractometric method outlined in the Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC), Association of Official Analytical Chemists, suite 400, 2200 Wilson Boulevard, Arlington, VA 22201–3301.

Brix value/acid ratio. The ratio of the Brix value of the juice or citrus product, in degrees Brix, to the grams of anhydrous citric acid per 100 grams of juice or citrus product.

Brix/acid ratio. The ratio of the degrees Brix of the juice to the grams of anhydrous citric acid per 100 grams of the juice.

Citrus. All plants, edible parts and commodity products thereof, including pulp and juice of any orange, lemon, lime, grapefruit, mandarin, tangerine, kumquat or other tree or shrub in the genera *Citrus, Fortunella,* or *Poncirus* of the plant family Rutaceae.

Recoverable oil. The percent of oil by volume, determined by the Bromate titration method as described in the current edition of the AOAC.

§ 93.3 Analyses available and location of laboratory.

(a) Laboratory analyses of citrus juice and other citrus products are being performed at the following Science Division location: Science Division Citrus Laboratory, 111 Third Street, SW, suite 211, Winter Haven, FL 33880.

(b) Laboratory analyses of citrus fruit and products in Florida are available in order to determine if such commodities satisfy the quality and grade standards set forth in the Florida Citrus Code (Florida Statutes Pursuant to Chapter 601). Such analyses include tests for acid as anhydrous citrus acid, Brix, Brix-acid ratio, recoverable oil, and artificial coloring matter additive, as turmeric. The Florida Division of Fruit and Vegetable Inspection may also request analyses for arsenic metal, pulp wash (ultraviolet and fluorescence), standard plate count, yeast with mold count, and nutritive sweetening ingredients as sugars.

(c) Additional laboratory tests are available upon request at the Science Division Citrus Laboratory at Winter Haven, Florida. Such analyses include tests for vitamins, naringin, sodium benzoate, *Salmonella,* protein, salt, pesticide residues, sodium metal, ash, potassium metal, and coliforms for citrus products.

§ 93.4 Analytical methods.

(a) The majority of analytical methods for citrus products are found in the Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC).

(b) Other analytical methods for citrus products may be used as approved by the Director, Science Division.

§ 93.5 Fees for citrus product analyses set by cooperative agreement.

The fees for the analyses of fresh citrus juices and other citrus products shall be set by mutual agreement between the applicant, the State of Florida, and the Director, Science Division. A Memorandum of Understanding (MOU) or cooperative agreement exists presently with the AMS Science Division and the State of Florida, regarding the set hourly rate and the costs to perform individual tests on Florida citrus products, for the State.

Subpart B—Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products

§ 93.10 General.

Analytical testing is performed for certain types of food products, including processed fruits and vegetables, as part of the determination of their grade or conformance of the product with applicable analytical requirements.

§ 93.11 Definitions.

Words used in the regulations in this subpart in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this subpart, unless the context requires otherwise, the following terms will be construed to mean:

Processed product. Any fruit, vegetable, or other food product covered under the regulations in this subpart which has been preserved by any recognized commercial process, including, but not limited to, canning, freezing, dehydrating, drying, the addition of chemical substances, or by fermentation.

Quality. The inherent properties of any processed product which determine the relative degree of excellence or desirability of such product. This includes the effects of preparation and processing, and may or may not include the effects of packing media, or added ingredients.

§ 93.12 Location of the laboratory for processed food products.

(a) The Science Division Midwestern Laboratory conducts the majority of laboratory analyses for processed food products to assure uniformity of analytical requirements and conformance with applicable military, Federal, or State government specifications. The wide array of analyses for processed food products are performed at the following location: USDA, AMS, Science Division, Midwestern Laboratory, 3570 North Avondale Ave., Chicago, IL 60618.

(b) The analyses available for processed fruits and vegetables and related products include ash, oil or fat, crude fiber, moisture, protein, specific gravity, daminozide and amitraz

residues, ascorbic acid, quinic acid, methyl anthranilate, caffeine, calcium, brix, citric acid, and chlorinated hydrocarbon residues. In addition, chemical and physical analyses include extraneous materials, fumigants, pH, heavy metals and minerals, color, sodium, sugar profile, sulfur dioxide, vitamin A, bloom, non-volatile methylene chloride extract, sieve or particle size, water activity, Water Insoluble Inorganic Residues (WIIR) test, yellow onion test, and carbohydrates. Microbiological analyses for fruits and vegetables include standard plate counts, anaerobic bacterial plate counts, direct microscopic counts, coliforms, presumptive *Escherichia* coli, *Staphylococcus* aureus, *Salmonella*, Enterococci, psychrotrophic bacteria, *Bacillus*, and yeast with mold differential counts.

§ 93.13 Analytical methods.

The majority of analytical methods used for performing official analyses for processed food products are found in the following manuals:

(a) Official Analytical Methods of the American Spice Trade Association (ASTA), American Spice Trade Association, 580 Sylvan Avenue, P.O. Box 1267, Englewood Cliffs, NJ 07632.

(b) Official Methods and Recommended Practices of the American Oil Chemists' Society (AOCS), American Oil Chemists' Society, 1608 Broadmoor Drive, P.O. Box 3489, Champaign, IL 61826–3489.

(c) Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC), Association of Official Analytical Chemists, suite 400, 2200 Wilson Boulevard, Arlington, VA 22201–3301.

(d) U.S. Army Individual Protection Directorate's Military Specifications, approved analytical test methods noted therein, U.S. Army Natick Research, Development and Engineering Center, Kansas Street, Natick, MA 01760–5017.

§ 93.14 Fees for processed fruits and vegetables and related products.

(a) The fee charged for any single laboratory analysis for processed fruits and vegetables is specified in the schedules of charges in paragraph (a) of section 91.37.

(b) The hourly rate for any requested laboratory analysis not listed shall be the standard rate specified in section 91.37, paragraph (b).

Subpart C—Peanuts, Tree Nuts, Corn and Other Oilseeds

§ 93.100 General.

Chemical analyses are performed to detect the presence of aflatoxin in lots of shelled peanuts and peanut products, as well as in other nuts and agricultural products. In addition, proximate chemical analyses for quality determination are performed on oilseeds.

§ 93.101 Definitions.

Words used in the regulations in this subpart in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this subpart, unless the context requires otherwise, the following terms will be construed to mean:

Aflatoxin. A toxic metabolite produced by the molds *Aspergillus* flavus and *Aspergillus* parasiticus. The aflatoxin compounds fluoresce when viewed under UV light as follows: aflatoxin B_1, and derivatives with a blue fluorescence, aflatoxin B_2 with a blue-violet fluorescence, aflatoxin G_1 with a green fluorescence, aflatoxin G_2 with a green-blue fluorescence, aflotoxin M_1 with a blue-violet fluorescence, and aflatoxin M_2 with a violet fluorescence. These closely related molecular structures are referred to as aflatoxin B_1, B_2, G_1, G_2, M_1, M_2, GM_1, B_{2a}, G_{2a}, R_0, B_3, 1–OCH_3B_2, and 1–CH_{32}.

Peanut Administrative Committee (PAC). The committee established under the U.S. Department of Agriculture Marketing Agreement for Peanuts, 7 CFR part 998, which administers the terms and provisions of this Agreement, including the aflatoxin control program for domestically produced raw peanuts, for peanut shellers.

Peanut Marketing Agreement. The agreement concerning the regulations and instructions set forth since July 12, 1965, by the Peanut Administrative Committee (30 FR 9402), for the marketing of peanuts entered into by handlers of domestically produced peanuts under the authority of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Peanuts. The seeds of the legume *Arachis* hypogaea, and includes both inshell and shelled nuts.

Seed. Any vegetable or other agricultural plant ovule having an embryo that is capable of germinating to produce a plant.

§ 93.102 Analyses available and locations of laboratories.

(a) Aflatoxin testing services. The aflatoxin analyses for peanuts, other nuts, corn, and other oilseed products are performed at the following 9 locations for Science Division (SD) Aflatoxin Laboratories:

(1) USDA, AMS, SD
1411 Reeves Street
Mail: P.O. Box 1368
Dothan, AL 36302

(2) USDA, AMS, SD
2705 Taft Street
Albany, GA 31707

(3)USDA, AMS, SD
610 North Main Street
Blakely, GA 31723

(4) USDA, AMS, SD
107 South Fourth Street
Medill, OK 73446

(5) USDA, AMS, SD
308 Culloden Street
Mail: P.O, Box 1130
Suffolk, VA 23434

(6) USDA, AMS, SD
200 West Washington Street
Mail: P.O. Box 488
Ashburn, GA 31714

(7) USDA, AMS, SD
301 West Pearl Street
Mail: P.O. Box 279
Aulander, NC 27805

(8) USDA, AMS, SD
42 North Ellis Street
Mail: P.O. Box 548
Camilla, GA 31730

(9) USDA, AMS, SD
715 North Main Street
Mail: P.O. Box 272
Dawson, GA 31742

(b) Peanuts, peanut products, and oilseed testing services.

(1) The Science Division Aflatoxin Laboratories at Dothan, Alabama and Albany and Blakely, Georgia will perform other analyses for peanuts, peanut products, and a variety of oilseeds. The analyses for oilseeds include testing for free fatty acids, ammonia, nitrogen or protein, moisture and volatile matter, foreign matter, and oil (fat) content.

(2) All of the analyses described in subparagraph (1) performed on a single seed sample are billed at the rate of one hour per sample. Any single seed analysis performed on a single sample is billed at the rate of one-half hour per sample. The standard hourly rate shall be as specified in § 91.37, paragraph (b).

(c) Vegetable oil testing services. The analyses for vegetable oils are performed at the Science Division Midwestern Laboratory, as indicated in § 93.12, paragraph (a). The analyses of vegetable oils will include the flash point test, smoke point test, acid value, peroxide value, phosphorus in oil, and specific gravity. The fee charged for any single laboratory analysis for vegetable oils shall be obtained from the schedules of charges in paragraph (a) of § 91.37.

§ 93.103 Analytical methods.

Official analyses for peanuts, nuts, corn, oilseeds, and related vegetable oils are found in the following manuals and forthcoming revisions:

(a) Analyst's Instruction for Aflatoxin (November 1991), SD Instruction No. 1, USDA, Agricultural Marketing Service, Science Division, South Agriculture Building, 14th & Independence Avenue, SW, P.O. Box 96456, Washington, DC 20090–6456.

(b) Official Methods and Recommended Practices of the American Oil Chemists' Society (AOCS), American Oil Chemists' Society, 1608 Broadmoor Drive, P.O. Box 3489, Champaign, IL 61826–3489.

(c) Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC), Association of Official Analytical Chemists, suite 400, 2200 Wilson Boulevard, Arlington, VA 22201–3301.

(d) Standard Analytical Methods of the Member Companies of Corn Industries Research Foundation, Corn Refiners Association (CRA), suite 1120, 1100 Connecticut Avenue, NW, Washington, DC 20036.

§ 93.104 Fees for aflatoxin testing.

(a) The fee charged for any single laboratory analysis for aflatoxins shall be obtained from the schedules of charges in paragraph (a) of § 91.37.

(b) The charge for the aflatoxin testing of raw peanuts under the Peanut Marketing Agreement for subsamples 1–AB, 2–AB, 3–AB, and 1–CD is a set cost per pair of analyses and shall be set by cooperative agreement between the Peanut Administrative Committee and AMS Science Division.

(c) The charge for any requested laboratory analysis for aflatoxins not listed shall be based on the standard hourly rate specified in § 91.37, paragraph (b).

§ 93.105 Fees for analytical testing of oilseeds.

(a) The fee charged for any single laboratory analysis for oilseeds shall be obtained from the schedules of charges in paragraph (a) of § 91.37.

(b) The charge for any requested laboratory analysis for oilseeds not listed shall be based on the standard hourly rate specified in § 91.37, paragraph (b).

PART 94—POULTRY AND EGG PRODUCTS

Subpart A—Mandatory Analyses of Egg Products

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Subpart B—Voluntary Analyses of Egg Products

94.100 General
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Subpart C—Salmonella Laboratory Recognition Program

94.200 [Reserved]

Subpart D—Processed Poultry Products

94.300 General
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94.302 Analyses available and location of laboratories
94.303 Analytical methods
94.304 Fees and charges

Authority: Secs. 2–28 of the Egg Products Inspection Act (84 Stat. 1620–1635; 21 U.S.C. 1031–1056), Agricultural Marketing Act of 1946, Secs. 202–208 as amended (60 Stat. 1087–1091; 7 U.S.C. 1621–1627).

Subpart A—Mandatory Analyses of Egg Products

§ 94.1 General.

Microbiological, chemical, and physical analysis of liquid, frozen, and dried egg products is performed under authority of the Egg Products Inspection Act (21 U.S.C. 1031–1056).

§ 94.2 Definitions.

Words used in the regulations in this subpart in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this subpart, unless the context requires otherwise, the following terms will be construed to mean:

Egg. The shell egg of the domesticated chicken, turkey, duck, goose, or guinea. Some of the terms applicable to shell eggs are defined by the Poultry Division in § 59.5.

Egg product. Any dried, frozen, or liquid eggs, with or without added ingredients. However, products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry may be exempted by the Secretary under such conditions as may be prescribed to assure that the egg ingredients are not adulterated and such products are not represented as egg products. Some of the products exempted as not being egg products are specified by the Poultry Division in § 59.5.

Mandatory sample. An official sample of egg product(s) taken for testing under authority of the Egg Products Inspection Act (21 U.S.C. 1031–1056) for analysis by a U.S. Department of Agriculture, Agricultural Marketing Service, Science Division laboratory at government expense. A mandatory sample shall include an egg product sample to be analyzed for microbiological, chemical, or physical attributes.

Official plant. Any plant, as determined by the Secretary, at which the U.S. Department of Agriculture maintains inspection of the processing of egg products under the authority of the Egg Products Inspection Act.

Pasteurize. The subjecting of each particle of egg products to heat or other treatments to destroy harmful viable microorganisms by such processes as may be prescribed by the regulations in the EPIA.

Pesticide chemical, food additive, color additive, and raw agricultural commodity. These terms shall have the same meaning for purposes of this subpart as under sections 408, 409, and 706 of the Federal Food, Drug, and Cosmetic Act.

Plant. Any place of business where egg products are processed.

Processing. Manufacturing of egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products at official plants.

§ 94.3 Analyses performed and locations of laboratories.

(a) Samples drawn by a USDA egg products inspector will be analyzed by Science Division personnel for microbiological, chemical, and physical attributes. The analytical results of these samples will be reported to the resident egg products inspector at the applicable plant on the official certificate.

(b) Mandatory egg product samples for Samonella are required and are analyzed in Division laboratories to spot check and confirm the adequacy of Division approved and recognized laboratories for analyzing routine egg product samples for Salmonella.

(c) Mandatory egg product samples for chlorinated hydrocarbons are required and are submitted by the plant inspectors on a random basis. These samples screen for pesticide residues and industrial chemical contaminants in egg products.

(d) Samples are drawn by a USDA egg products inspector to determine potential adulteration. These egg product samples may be analyzed for extraneous material, color, color additive, pesticide, heavy metal,

microorganism, dextrin, or other substance.

(e) The Science Division's Eastern laboratory shall conduct the majority or laboratory analyses for egg products. The analyses for mandatory egg product samples are performed at the following USDA location: USDA, AMS, Science Division, Eastern Laboratory, 645 Cox Road, Gastonia, NC 28054.

§ 94.4 Analytical methods.

The majority of analytical methods used by the USDA laboratories to perform mandatory analyses for egg products are listed as follows:

(a) Edwards, P.R. and W.H. Ewing, Edwards and Ewing's Identification of Enterbacteriaceae, Elsevier Science Publishing Co., Inc., 53 Vanderbilt Avenue, New York, NY 10017.

(b) Manual of Analytical Methods for the Analysis of Pesticide Residues in Human and Environmental Samples, U.S. Environmental Protection Agency (EPA), Environmental Toxicology Division, Health Effects Research Laboratory (HERL), Alexander Drive and Highway 54, Mail Drop 51, Research Triangle Park, NC 27711.

(c) Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC), Association of Official Analytical Chemists, suite 400, 2200 Wilson Boulevard, Arlington, VA 22201–3301.

(d) Standard Methods for the Examination of Dairy Products, American Public Health Association, 1015 Eighteenth Street, NW, Washington, DC 20036.

(e) Standard Methods for the Examination of Water and Wastewater, American Public Health Association (APHA), the American Water Works Association and the Water Pollution Control Federation, APHA, 1015 Eighteenth Street, NW, Washington, DC 20036.

(f) U.S. Food and Drug Administration Bacteriological Analytical Manual (BAM), Association of Official Analytical Chemists, suite 400, 2200 Wilson Boulevard, Arlington, VA 22201–3301.

(g) U.S. Food and Drug Administration Pesticide Analytical Manuals (PAM), Volumes I and II, Food and Drug Administration, U.S. Department of Health and Human Services, 200 C Street, SW, Washington, DC 20204 (available from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161).

§ 94.5 Charges for laboratory service.

The costs for analysis of mandatory egg product samples at Science Division laboratories shall be paid by annually appropriated and designated funds allocated to the egg products inspection program. The costs for any other mandatory laboratory analyses and testing of an egg product's identity and condition, necessitated by the Egg Products Inspection Act, shall also be paid by such program funding.

Subpart B—Voluntary Analyses of Egg Products

§ 94.10 General.

Analyses for voluntary egg product samples may be requested to certify that specifications regarding stated identity, quality, and wholesomeness are met; to test routinely for the presence of *Salmonella;* and to ensure laboratory quality control with testing activities.

§ 94.101 Definitions.

Words used in the regulations in this subpart in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this part, unless the context requires otherwise, the following terms will be construed to mean:

Certification sample. An egg product sample submitted by an applicant for chemical, physical, or microbiological analyses and tests at a Science Division laboratory. This voluntary sample is analyzed or tested by the Division's analyst or scientist to certify that an egg product lot meets applicable specifications for identity, quality, and wholesomeness.

Surveillance sample. This is a 100 gram sample for *Salmonella* analysis that is drawn by the USDA egg product inspector from each lot of egg product processed at an official plant. This sample may be analyzed by a Science Division laboratory, or by a laboratory approved and recognized by the Division to analyze for *Salmonella* in egg products.

Unofficial sample. These samples of egg products are drawn by plant personnel upon the request of plant management. Analyses of these samples are usually conducted for the plant's refractometer correlation, bacteriological evaluation of production techniques, or quality control of procedures. Official plant or Science Division laboratories can analyze these samples.

§ 94.102 Analyses available.

A wide array of analyses for voluntary egg product samples is available. Voluntary egg product samples include surveillance, certification, and unofficial samples. The physical and chemical tests for voluntary egg products include analyses for total ash, fat by acid hydrolysis, moisture, salt, protein, beta-carotene, catalase, cholesterol, NEPA color, density, total solids, aflatoxin, daminozide and amitraz residues, BHA, BHT, alcohol, chlorinated hydrocarbon and fumigant residues, dextrin, heavy and light filth, glucose, glycerol and gums. In addition, egg products can be analyzed for high sucrose content, pH, heavy metals and minerals, monosodium dihydrogen phosphate, monosodium glutamate, nitrites, oxygen, palatability and odor, phosphorus, propylene glycol, SLS, and zeolex. There are also tests for starch, total sugars, sugar profile, whey, standard plate count, direct microscopic count, *Campylobacter,* coliforms, presumptive *Escherichia* coli, *Listeria* monocytogenes, proteolytic count, psychrotrophic bacteria, *Salmonella, Staphylococcus,* thermoduric bacteria, and yeast with mold count.

§ 94.103 Analytical methods.

The analytical methods used by the Science Division laboratories to perform voluntary analyses for egg products shall be the same as listed in § 94.4.

§ 94.104 Fees and charges.

(a) The fee charged for any single laboratory analysis of voluntary egg product samples shall be obtained from the schedules of charges in paragraphs (a) of § 91.37.

(b) The charge for any requested laboratory analysis not listed shall be based on the standard hourly rate specified in § 91.37, paragraph (b).

Subpart C—Salmonella Laboratory Recognition Program § 94.200 [Reserved]

Subpart D—Processed Poultry Products

§ 94.300 General.

Laboratory services of processed poultry products are conducted to derive their analytical attributes used to determine the compliance of the product with applicable specifications.

§ 94.301 Definitions.

Words used in the regulations in this subpart in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this subpart, unless the context requires otherwise, the following terms will be construed to mean:

Dark meat. Refers to the skinless and deboned drumstick, thigh, and back portions of poultry.

Light meat. Refers to the skinless and deboned breast and wing portions of poultry.

Poultry. Any kind of domesticated bird, including, but not limited to, chicken, turkey, duck, goose, pigeon, and guinea.

Poultry product. Any ready-to-cook poultry carcass or part therefrom or any specified poultry food product.

§ 94.302 Analyses available and locations of laboratories.

(a) The Science Division laboratories will analyze processed poultry products for moisture, fat, salt, protein, nitrites, and added citric acid.

(b) Deboned poultry for roasting will have the individual dark meat, light meat, and skin portions tumbled separately in the natural juices prior to grinding. The skin, light meat, and dark meat portion weight percentages of the total product are determined. The ground skin, ground dark meat, and ground light meat portions will be analyzed separately for moisture, protein, salt, and fat. Moisture to protein ratios will be reported also for the individual portions of poultry.

(c) Canned boned poultry for a variety of USDA programs will be tested as a total can composite of the canned product for moisture, fat, salt, and protein analyses. Additional poultry commodities and related products for specific USDA sponsored programs will be tested for different chemical and physical attributes.

(d) Microbiological analyses, as the *Salmonella* determination, are available for poultry products.

(e) The majority of analyses for processed poultry products shall be performed at the Science Division Eastern Laboratory, as indicated in paragraph (e) of § 94.3.

§ 94.303 Analytical methods.

The analytical methods used by the USDA laboratories to perform analyses for processed poultry products are found in the latest edition of the Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC), Association of Official Analytical Chemists, suite 400, 2200 Wilson Boulevard, Arlington, VA 22201–3301.

§ 94.304 Fees and charges.

(a) The fee charged for any single laboratory analysis of processed poultry products shall be obtained from the schedules of charges in paragraph (a) of § 91.37.

(b) The laboratory analyses for processed poultry products shall result in an additional fee, found in table 7 of section 91.37, for sample preparation or grinding

(c) The charge for any requested laboratory analysis of processed poultry products not listed shall be based on the standard hourly rate specified in § 91.37, paragraph (b).

PART 95—PROCESSED DAIRY PRODUCTS

Sec.
95.1 General
95.2 Definitions
95.3 Analyses available and location of laboratory
95.4 Analytical methods
95.5 Quality assurance programs
95.6 Fees and charges

Authority: Agricultural Marketing Act of 1946, Secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627.

§ 95.1 General.

Analytical services of processed dairy products are conducted to derive their grade and quality, and to determine the compliance of the product with applicable specifications.

§ 95.2 Definitions.

Words used in the regulations in this part in the singular form will be deemed to import the plural, and vice versa, as the case may demand. As used throughout the regulations in this part, unless the context requires otherwise, the following terms will be construed, respectively to mean:

Approved laboratory. A laboratory in which the facilities and equipment used for official testing have been approved by the Science Division Director as being adequate to perform the necessary official tests in accordance with this part, or the Milk Marketing Administrator laboratories and Resident Grader Dairy laboratories granted approval by the Dairy Division Director.

Butter. The food product usually known as butter, as defined in the Butter Act of 1923 (Pub. L. 519 of the 67th Congress).

Cheese. The fresh or matured product obtained by draining after coagulation of milk, cream, skimmed or partly skimmed milk, or a combination of some or all these products.

Complete Kohman analysis. Analysis used for moisture, fat, and salt determinations in butter and margarine. A weighed portion is heated to drive off the moisture and then reweighed to determine the moisture content. The fat is extracted using ether, and the remaining solids are weighed to determine fat content. The solids are then dissolved, and the salt content is determined by titration with standard silver nitrate solution.

Concentrated milk, plain condensed milk or evaporated milk. The liquid food obtained by removing water partially from milk.

Corn-soya-milk. A blended and formulated food consisting of corn meal, soybean flour, and nonfat dry milk that is enriched with vitamins and minerals.

Curd. The coagulated portion of milk, used in making cheese, or one of the components of butter.

Cusum control chart. The cusum chart is a graphical presentation of a cusum value representing variability or cumulative deviation, of individual test results with the means of the analytical data, from all participating and approved laboratories in the quality control study. It can detect a subtle trend and bias with a reported result as it is occurring for a particular analysis of an individual laboratory.

Dairy products. Butter, cheese (whether natural or processed), skim milk, cream, whey or buttermilk (whether dry, evaporated, stabilized or condensed), frozen desserts and any other food product which is prepared or manufactured in whole or in part or fractions from any of the aforesaid products, as the Administrator may hereafter designate.

Dry milk. The pasteurized product resulting from the removal of water from milk which contains lactose, milk proteins, milk fat, and milk minerals in the same relative proportions as in the fresh milk from which it is made.

Percent curd. The percentage for the proteinaceous substance, referred to as curd, is obtained in butter by difference. The sum of the percentages for moisture, fat, and salt is subtracted from 100, giving the percent of curd.

Process cheese. The cheese made by comminuting and mixing, with the aid of heat, one or more cheeses of the same or two or more varieties, with the addition of an emulsifying agent.

Salt. Refined sodium chloride meeting the requirements of the Food Chemical Codex.

Sweetened condensed milk. The liquid or semi-liquid food made by evaporating a mixture of milk and refined sugar (sucrose) or any combination of refined sugar (sucrose) and refined corn sugar (dextrose).

§ 95.3 Analyses available and location of laboratory.

(a) Some of the wide array of analyses for each product available are listed by the category of processed dairy product as follows:

(1) *Dry Milk and Related Products:* Aflatoxin M_1, alkalinity of ash, antibiotic, ash, bacterial direct microscopic count, coliform count, density, dispersibility, fat, flavor, fortified Vitamin A, *Listeria*

monocytogenes, moisture, oxygen, phosphatase, protein, *Salmonella*, scorched particles, solubility index, *Staphylococcus*, titratable acidity, and whey protein nitrogen.

(2) *Condensed Milk and Related Products:* Aflatoxins M_1 and M_2, chlordane residue, extraneous material, fat, *Listeria* monocytogenes, sugar (sucrose), and total solids.

(3) *Cheese and Related Products:* Aflatoxin M_1, ash, calcium, extraneous material, fat, meltability (process cheese), moisture, nitrite, pH, phosphatase, pyrethrin residue, *Salmonella*, salt, and *Staphylococcus* aureus.

(4) *Butter and Related Products:* Acid degree value, coliform count, complete Kohman analysis, copper content, curd, enterococci count, fat, free fatty acid, iron content, moisture, peroxide value, pH, phosphatase, presumptive *Escherichia* coli, proteolytic count, salt, and yeast and mold.

(5) *Corn-Soya-Milk:* Bostwick (cooked), Bostwick (uncooked), crude fiber, density, fat, flavor, moisture, protein, and sieve test.

(b) The Science Division Midwestern Laboratory conducts the majority of laboratory analyses for processed dairy products to derive their analytical requirements used to determine the compliance of the product with applicable Federal or State government specifications. The location of this laboratory is as follows: USDA, AMS, Science Division, Midwestern Laboratory, 3570 North Avondale Avenue, Chicago, IL 60618.

§ 95.4 Analytical methods.

The three analytical manuals used by the USDA laboratory to perform the majority of analyses for processed dairy products are listed as follows:

(a) Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC), Association of Official Analytical Chemists, suite 400, 2200 Wilson Boulevard, Arlington, VA 22201–3301.

(b) Standard Methods for the Examination of Dairy Products, American Public Health Association, 1015 Eighteenth Street, NW., Washington, DC 20036.

(c) U.S. Department of Agriculture's Instructions for Resident Grading Quality Control Service Programs and Laboratory Analysis, DA Instruction 918–RL, AMS, Dairy Division, Dairy Grading Section, P.O. Box 96456, Washington, DC 20090–6456.

§ 95.5 Quality assurance programs.

(a) Each month two different quality assurance (QA) check samples of nonfat dry milk will be sent by the Science Division (SD) to each applicable Dairy Division resident grader laboratory, as listed in the current edition of "Dairy Plants Surveyed and Approved for USDA Grading Service", USDA, AMS, Dairy Division, Washington, DC. Each month these approved resident grader laboratories will also receive a QA sample of butter from the SD Midwestern Laboratory. These QA dairy product samples shall be identified as proficiency check samples to the participants.

(b) The butter QA proficiency sample will be analyzed for fat, pH, salt, curd, and moisture. Both nonfat dry milk QA proficiency samples will be analyzed and evaluated for fat, moisture, titratable acidity, solubility index, scorched particles, Vitamin A, coliform, Standard Plate Count (SPC), Direct Microscopic Clump Count (DMCC), penicillin, whey protein nitrogen, flavor and grade.

(c) Each participating analyst will receive a monthly comparison of laboratory results in a report prepared by the director of the SD Midwestern Laboratory. All reported data will be statistically analyzed and individual laboratory outlier data will be highlighted in the report. The standard deviation and mean value of each statistically analyzed test result shall be included in the report. Copies of the report will be sent to the Dairy Division National Field Office and the Dairy Division in Washington, DC.

(d) On-site laboratory reviews of the Dairy Division's resident grader laboratories shall be conducted. The purpose of the reviews by the Science Division is to assess continued conformance of each laboratory with method and equipment requirements of the USDA-approved procedures for testing of processed dairy products. During the visit, the reviewer completes a checklist on the procedures used, physical facilities, equipment, materials used, records kept, and quality assurance, as well as other areas of a laboratory's operation.

§ 95.6 Fees and charges.

(a) The fee charged for any single laboratory analysis of processed dairy products shall be obtained from the schedules of charges in paragraph (a) of § 91.37.

(b) The charge for any requested laboratory analysis of processed dairy products not listed shall be based on the standard hourly rate specified in § 91.37, paragraph (b).

PART 96—COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES (CHEMICAL ANALYSIS AND UNITED STATES OFFICIAL GRADE CERTIFICATION)

Subpart A—Cottonseed Chemists—Licensing Regulations

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Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, 1090, as amended, (7 U.S.C. 1622, 1624).

Subpart A—Cottonseed Chemists—Licensing Regulations

Scope

§ 96.1 General

Licenses are issued to chemists of laboratories involved in the grading of cottonseed. A chemist that has passed examinations for analyst proficiency

and for official standards used for grading shall be issued a license to perform quality analyses for grade determinations of cottonseed.

Definitions

§ 96.2 Terms defined.

Words used in the regulations in this subpart in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this subpart, unless the context requires otherwise, the following terms will be construed to mean:

Blind check sample. A sample designated to check the routine analytical testing performance of the licensed USDA cottonseed chemist. The cottonseed is originally mixed in bulk quantities at a Division laboratory and packaged so that it is a representative portion for the samples forwarded to all chemists in a region under a certain number code. An oil mill representative and official cottonseed sampler repackage and identify the cottonseed as an official sample so that it would be blind or unknown as a check sample to the analyst.

Commercial laboratory. A chemical laboratory operated by an individual, firm, or corporation in which one or more persons are engaged in the chemical analysis of materials for the public.

Cotton gin. The machine or device used to separate the cotton fiber from the cottonseed.

Cottonseed. The word "cottonseed" as used in this part means the seed, after having been put through the usual and customary process known as cotton ginning, of any cotton produced within the continental United States.

Dispute. A disagreement between parties as to the true grade of a sample of cottonseed analyzed and graded by a licensed chemist.

License. A license issued under the Act by the Secretary.

Licensed cottonseed chemist. A person licensed under the Act by the Secretary to make quantitative and qualitative chemical analyses of official samples of cottonseed, according to the methods prescribed by the Director of the Division, and to certify the grade according to the official cottonseed standards of the United States.

Licensed cottonseed sampler. A person licensed by the Secretary to draw and to certify the authenticity of samples of cottonseed in accordance with the regulations in this subpart.

Lot. That parcel or quantity of cottonseed, offered for sale or tendered for delivery, or delivered on a sale or contract of sale, in freight cars, trucks, wagons, or otherwise in the quantities and within the time limits, prescribed from time to time by the Director of the AMS Cotton Division, for the drawing and preparation of official samples by licensed cottonseed samplers.

Official cottonseed standards. The official standards of the United States for the grading, sampling, and analyzing of cottonseed sold or offered for sale for crushing purposes, established May 23, 1932, and amendments thereto.

Official sample. A specimen of not less than 2 pounds of cottonseed, drawn and prepared by a licensed cottonseed sampler and certified as representative of a certain identified lot, in accordance with the regulations in this subpart.

Owner. A person who through financial interest owns or controls, or has the disposition of either cottonseed or of samples of cottonseed.

Society. The American Oil Chemists' Society (AOCS), P.O. Box 3489, 1608 Broadmoor Drive, Champaign, IL 61826–3489.

Supervisor of cottonseed chemists. An officer of the Science Division designated as such by the Director.

Licensed Cottonseed Chemists

§ 96.3 Application for license as cottonseed chemist; form.

(a) Application for a license to analyze and grade cottonseed shall be made to the Director on a form furnished for the purpose by the Science Division.

(b) Each application shall be in English, shall be signed by the applicant, and shall contain or be accompanied by satisfactory evidence:

(1) That the applicant is at least 25 years of age and that the applicant is an actual resident of the continental United States;

(2) That the applicant holds a degree in chemistry or chemical engineering from a recognized college or university, and has had not less than 3 years practical experience in laboratory work, in which the applicant shall have analyzed quantitatively and qualitatively samples of cottonseed; or in the absence of a degree from a recognized college or university, that the applicant has had at least 5 years practical laboratory experience, 3 years of which shall have been devoted chiefly to the analysis of samples of cottonseed;

(3) That the applicant has no financial interest, or is in the employ of anyone having a financial interest in any cottonseed oil mill or cotton ginning establishment;

(4) That the applicant agrees to comply with and abide by the terms of the Act and these regulations so far as they may relate to him or her;

(5) That the applicant is an independent analytical chemist or an employee of a commercial analytical laboratory; and

(6) That the applicant owns or will have the use of all of the apparatus specified in the regulations, established hereunder for the analysis and grading of cottonseed.

(c) Every chemist licensed hereunder to analyze cottonseed and to certify the grade thereof shall comply with the Society's official analytical test methods and other methods of analysis approved by the Director.

(d) The applicant shall furnish such additional information, as the Director shall at any time find to be necessary, to the consideration of the submitted application.

(e) Upon receipt of an incomplete or improperly executed application, the applicant will be notified of the deficiency in the application. If the application is not corrected and returned within 30 days following the date of notification, the application will be considered as having been abandoned.

§ 96.4 Examination of applicant.

Each applicant for a license as a chemist and each licensed chemist shall, when requested, submit to a practical examination and written test, to show an ability to analyze and grade cottonseed. These examinations can only be administered by the supervisor of cottonseed chemists. The chemist's failure to pass such tests may be considered sufficient ground for withholding the issuance of a license or of a renewal of a license.

§ 96.5 Period of license; renewals.

The period for which a license may be issued shall be from the first day of August, until, and including the 31st day of July, following. Renewals shall be for not more than 1 year beginning with the first day of August of each year, provided that licenses issued on and after June 1 of any year shall be for the period ending on July 31 of the following year.

§ 96.6 Conditions in licensing.

(a) It shall be a condition of the licensing of any person and of the retention by him or her of a license, that during the active cotton season each year, the licensee shall be engaged in or in connection with the grading of cottonseed; that each cottonseed sample offered for grading shall be analyzed and grade certified by the licensee, in accordance with the official cottonseed

standards of the United States; and that the USDA license of the cottonseed chemist shall not be used or be allowed to be used for any improper purpose.

(b) A USDA licensed cottonseed chemist shall be required to participate in each quality assurance program and each collaborative study for the analytical testing of cottonseed as follows:

(1) The licensed chemist must participate in the American Oil Chemists' Society (AOCS) cottonseed series which requires the testing of 10 known cottonseed samples per year for foreign matter, moisture, free fatty acids, oil, and ammonia.

(2) The licensed chemist must analyze and issue a grade for 10 blind cottonseed check samples per year from the Science Division. These blind check samples will be submitted as "official" samples.

(3) The chemist shall participate in all collaborative cottonseed analytical method validation studies, initiated by the Division Director.

(c) Each licensed chemist shall keep his or her license conspicuously posted at the place where he or she functions as a chemist, or in such other place as may be approved by the Division Director.

(d) Each licensed chemist must pay in a timely manner an annual licensing renewal fee and other charges and fees assessed by the Division, as listed in sections 96.20 and 96.21. In the event the chemist fails to pay the annual license renewal fee by the 31st day of August, the chemist will be sent a written notice of a 7-day review by the Director for the suspension of his or her license.

§ 96.7 Sustained proficiency; suspension of license of cottonseed chemist.

(a) Sustained proficiency in the analysis of the two check sample series is required to maintain a license. If a licensed chemist fails to perform satisfactorily during a 1 year period on either the AOCS or the USDA check cottonseed series, the chemist shall be placed on probation for 1 year, providing that the person achieves a passing score (90 or higher) on a retake of the proficiency examination. In the event that the chemist fails the examination, he or she may be subject to an immediate suspension of the license.

(b) Failure to perform satisfactorily with either quality assurance program during a 1 year probationary period may also result in suspension of the license.

(c) Pending final action by the Director to suspend a license of a cottonseed chemist, a written notice of such suspension shall be given to the respective licensee, accompanied by a statement of the reasons therefore. Within 7 days after receipt of notice and statement of reasons by a licensee, an appeal may be filed in writing with the Director supported by any argument or evidence as to why the license should not be suspended. After expiration of the 7-day period and consideration of such argument and evidence, the Director shall take such action, as deemed appropriate, with respect to a suspension.

(d) Upon termination of service as a cottonseed chemist or suspension of such license, such licensee shall surrender the license immediately to the supervisor of the cottonseed chemists.

(e) The minimum period of license suspension for a cottonseed chemist shall be 1 year, after which the chemist may reapply and be reexamined for a USDA license.

(f) At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the dates of the suspension period shall be endorsed thereon and returned to the licensed chemist to whom it was originally issued.

§ 96.8 Annual review of licensed chemist.

Each licensed chemist shall be subject to an annual on-site review, by the supervisor of the cottonseed chemists, to assess the chemist's continued conformance with procedure and equipment requirements of official analytical test methods.

§ 96.9 Fees for grading and certification.

Whenever any licensed chemist shall grade and/or certify any cottonseed or samples for a fee, the fee charged shall be reasonable, unconditional, nondiscriminatory, and shall be in accordance with a schedule previously submitted to and approved by the Division. The schedule shall include the certificate fee provided for in section 96.21.

§ 96.10 Records of analyses; inspection of certificate recordkeeping.

(a) Certificate recordkeeping responsibilities. The laboratory shall have an adequate system for the numbering and accounting of issued official cottonseed certificates. Provisions shall be made for consecutively numbering all cottonseed grade certificates issued and listing in a separate journal certificate numbers with the sample identification for accurate billing.

(b) Retention of records for inspection. Each licensed chemist shall keep, or shall cause to be kept for him or her, for a period of at least 3 years after date of analysis, a record of the analysis of each individual sample of cottonseed graded by the licensee.

(c) Each licensed chemist shall permit any authorized officer or agent of the Department to inspect or examine, on any business day during normal business hours, books and records relating to analyses of cottonseed samples and issuance of cottonseed grade certificates under the Act and the regulations in this subpart.

§ 96.11 Official and unofficial samples; analyses; certificate.

(a) Each licensed cottonseed chemist shall designate a certificate number from a series of assigned numbers to each official sample of cottonseed as received and shall analyze and certify over his or her signature the grade of each sample or lot of cottonseed in the order of its receipt.

(b) Each such sample which is in proper condition for analysis under these regulations and which is accompanied by the certificate or a licensed cottonseed sampler certifying it to be an official sample that represents an identified lot of cottonseed shall be considered an official sample. In any case where the original sample is lost or destroyed before analysis, the duplicate thereof, retained by the licensed cottonseed sampler, as provided in § 61.34, shall become the official sample. Each licensed chemist shall retain for at least 2 weeks a portion of each official sample first analyzed; and in any case where a review is requested under § 61.8, such retained portion shall be considered an official sample for purposes of review analysis.

(c) Each such sample which is:

(1) Not sufficient for proper analysis as an official sample under these regulations, or

(2) Not accompanied by a certificate of a licensed cottonseed sampler, or

(3) Not believed to be samples of the same seed represented by an official sample (except duplicates or lost or destroyed official samples) shall be considered an unofficial sample and the licensed cottonseed chemist's certificate of the grade thereof shall be plainly marked: "Sample not official; grade applies to sample only." This paragraph shall not apply to mill control or crush samples.

§ 96.12 Unlicensed persons shall not analyze and certify the grade of official samples.

(a) No person shall in any way represent that he or she is a chemist licensed under the Act, unless that person holds a license issued under the

Act. Title 18 U.S.C. 1001, Crimes and Criminal Procedures, makes it a criminal offense to knowingly and willfully make such false representations.

(b) Only licensed chemists shall analyze and certify the grade of official cottonseed samples.

§ 96.13 Grade certificate; form.

Each grade certificate issued under the Act by a licensed chemist shall be in a form, approved for the purpose by the Director and shall embody within its written or printed terms:

(a) The caption "Cottonseed Grade Certificate."

(b) The serial number assigned to it.

(c) The date and place of issuance.

(d) A statement certifying that the analysis of the cottonseed sample was made according to the methods approved by the Director of the Division and that the grade given is according to the official standards of the United States.

(e) A statement of the condition of the lot of cottonseed as reported by the sampler, and in cases where the sample was submitted by a licensed sampler, the name and license number of the sampler.

(f) The identification of each lot of cottonseed by the marks and notations by which the seed was identified at the time the sample was taken, and the origin of the cottonseed by county and State.

(g) All analytical data required by the Director.

(h) The signature and license number of the chemist. In addition, the grade certificate may include any other matter consistent with the Act or the regulations in this part. Two copies of the grade certificate form shall be submitted to and approved by the Division, before use by a licensed chemist. A copy of each certificate shall be mailed to a designated office of the Division within 36 hours after its issuance.

§ 96.14 Reports of licensed chemists.

Each licensed chemist shall periodically, when requested by the Director, make reports on forms furnished for the purpose by the Division, concerning the activities as such licensed chemist.

§ 96.15 Information of violations.

Whenever any person licensed under this Part becomes aware of information relating to the violation of the Act or these regulations, such person shall inform the Director of the Division of the alleged violations.

§ 96.16 Licensed chemists; suspension or revocation of license.

The Director may, without a hearing, suspend or revoke the license issued to a licensed chemist upon written request and a satisfactory statement of reasons submitted by such licensed chemist. Pending final action by the Secretary, the Director may, whenever such action is deemed necessary, suspend or revoke the license of any licensed chemist when such licensed chemist:

(a) Has ceased to perform services as such chemist;

(b) Has knowingly or carelessly analyzed cottonseed improperly;

(c) Has violated or evaded any provision of the Act or the regulations so far as they relate to the licensee;

(d) Has used the license or allowed it to be used for any fraudulent or improper purposes; or

(e) Has in any manner become incompetent or incapacitated to perform the duties of a licensed chemist.

In such cases the Director shall give written notice of the suspension or revocation to the licensed chemist, accompanied by a statement of the reasons therefor. Within 10 days after the receipt of the aforesaid notice and statement of reasons by such licensee, the individual may file an appeal, in writing, with the Secretary, supported by any argument or evidence that the licensee may wish to offer, as to why the license should not be suspended or revoked. After the expiration of the aforesaid 10-day period and consideration of such argument and evidence, the Secretary will take such action as is deemed appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 10 days, the license shall be automatically suspended or revoked.

§ 96.17 Revoked license to be returned to Division.

If the license issued to a licensed chemist is revoked, such license shall be returned to the Division.

§ 96.18 Duplicate license.

Upon satisfactory proof of the loss or destruction of a license issued to a licensed chemist, a duplicate thereof may be issued under the same or a new number.

§ 96.19 Information on grading to be kept confidential.

Every person licensed under the Act as a licensed chemist shall keep confidential all information secured by the licensee, relative to cottonseed analyzed and graded by the licensee. The licensee shall not disclose such information to any person, except to the owner or custodian of the seed in question, or to an authorized agent of the Department.

Fees and Charges

§ 96.20 Fee for chemist's license.

(a) The fee for the examination of an applicant for a license as a chemist to analyze and certify the grade of cottonseed shall be $1100.00.

(b) The examination fee shall be paid at the time the application is filed or at a time prior to the administration of the examinations. This fee shall be paid regardless of the outcome of the licensing examinations. The examination fee shall be nonrefundable to the applicant; however, in the evident of death of the applicant prior to the examination, full payment of the fee may be returned to the applicant's beneficiary. If an application is filed with an insufficient fee, the application and fee submitted will be returned to the applicant.

(c) For each renewal of a chemist's license, the fee shall be $275.00.

§ 96.21 Fee for certificates to be paid by licensee to Service.

(a) To cover the cost of administering the regulations in this part, each licensed cottonseed chemist shall pay to the Service $3.00 for each certificate of the grade of cottonseed issued by the licensee.

(b) Upon receipt of a statement from the Service each month, showing the number of certificates issued by the licensee, such licensee will forward the appropriate remittance in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA."

§ 96.22 Fees for the review of grading of cottonseed.

For the review of the grading of any lot of cottonseed, the fee shall be $60.00. Remittance to cover such fee, in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA" shall accompany each application for review. For each such fee collected, $20.00 shall be disbursed to each of the two licensed chemists designated to make reanalysis of such seed.

Subpart B—Official Cottonseed Grade Calculations

§ 96.23 General.

Using methods prescribed by the Science Division, the licensed cottonseed chemist makes quantitative and qualitative chemical analyses, certificating the grade according to the

official cottonseed standards of the United States.

§ 96.24 Definitions, cottonseed quality analysis terms.

Words used in the regulations in this subpart in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this subpart, unless the context requires otherwise, the following terms will be construed to mean:

Cottonseed quality analysis. In determining the quality of cottonseed, testing is performed by licensed chemists for total composition of oil, ammonia, moisture, free fatty acids, and foreign matter. These individual analytical factors of cottonseed samples are combined to form indexes of quantity and quality, which in turn are used to determine the official grade of cottonseed, in accordance with the United States Official Standards for Grades.

Foreign matter. The foreign matter in cottonseed includes boll portions, sand, dirt, stones or gravel, hulls, leaves, stems, unginned locks of cotton, lint cotton, immature seeds, and any noncotton extraneous material.

Official grade. The official grade is the product of the quantity index times the quality index, and it is determined by a representative official sample of cottonseed, graded by a licensed chemist under the supervision of the United States Department of Agriculture. The base grade for cottonseed is 100.0.

Quality index. The quality index measures the deterioration of cottonseed in oil and meal and takes into account the excesses of moisture, foreign matter and free fatty acids.

Quantity index. The quantity index measures the oil and cake or meal in the cottonseed and takes into account variations in the quantity of oil and ammonia.

§ 96.25 Determination of grade.

The grade of cottonseed shall be determined from the analysis of samples, and it shall be the result, stated in the nearest whole or half numbers, obtained by multiplying a quantity index by a quality index and dividing the result by 100. The quantity index and the quality index shall be determined as hereinafter provided.

(a) The basis grade of cottonseed shall be grade 100.

(b) High grades of cottonseed shall be those grades above 100.

(c) Low grades of cottonseed shall be those grades below 100.

(d) Grades for American Pima cottonseed shall be suffixed by the designation "American Pima" or by the symbol "AP."

§ 96.26 Determination of quantity index.

The quantity index of cottonseed shall be determined as follows:

(a) For Upland cottonseed, the quantity index shall equal four times the percentage of oil, plus six times the percentage of ammonia, plus five.

(b) For American Pima cottonseed, the quantity index shall equal four times the percentage of oil, plus six times the percentage of ammonia, minus ten.

§ 96.27 Determination of quality index.

The quality index of cottonseed shall be an index of purity and soundness, and shall be determined as follows:

(a) *Prime quality cottonseed.* Cottonseed, that by analysis, contains not more than 1.0 percent of foreign matter, not more than 12.0 percent of moisture, and not more than 1.8 percent of free fatty acids in the oil in the seed, shall be known as prime quality cottonseed and shall have a quality index of 100.

(b) *Below prime quality cottonseed.* The quality index of cottonseed that, by analysis, contains foreign matter, moisture, or free fatty acids in the oil in the seed, in excess of the percentages prescribed in paragraph (a) of this section, shall be found by reducing the quality index of prime quality cottonseed as follows:

(1) Four-tenths of a unit for each 0.1 percent of free fatty acids in the oil, in the seed, in excess of 1.8 percent.

(2) One-tenth of a unit for each 0.1 percent of foreign matter in excess of 1.0 percent.

(3) One-tenth of a unit for each 0.1 percent of moisture in excess of 12.0 percent.

(c) *Off quality cottonseed.* Cottonseed that has been treated by either mechanical or chemical process other than the usual cleaning, drying, and ginning (except sterilization required by the United States Department of Agriculture for quarantine purposes) or that are fermented or hot, or that upon analysis are found to contain 12.5 percent or more of free fatty acids, in the oil, in the seed, or more than 10.0 percent of foreign matter, or more than 20.0 percent of moisture, or more than 25.0 percent of moisture and foreign matter combined, shall be designated as "off quality cottonseed."

(d) *Below grade cottonseed.* Cottonseed, the grade of which, when calculated according to section 96.25 is below grade 40.0, shall be designated as "below grade cottonseed," and a numerical grade shall not be indicated.

§ 96.28 Calculation of grades of official samples.

(a) Data on certificates of official cottonseed analyses shall be expressed as follows:

	Percent
Foreign Matter to	0.1
Oil to	0.1
Ammonia to	0.01
Free Fatty Acid, when 5% or under, to	0.1
Free Fatty Acid, when over 5%, to	0.5
Quantity Index to	0.01
Quality Index to	0.1

(b) Grade to whole or half units, whichever actual calculation is nearest shall be determined as follows:

(1) The calculation of grades shall be made by the method of disregarding the figures to the right of the second decimal place.

(2) Calculated grades ending with .2500 through .7499 will be considered to be in the .25 through .74 range, and will be reported to the nearest half grade.

(3) Calculated grades ending with .7500 through .2499 will be considered to be in the .75 through .24 range, and will be reported to the nearest whole grade.

§ 96.29 Analysis and certification of samples and grades.

The certification of samples of cottonseed, and the analysis and certification of grades of cottonseed shall be performed in accordance with methods, approved from time to time for the purposes by the Director, or a designated representative.

PART 97—PLANT VARIETY AND PROTECTION

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Authority: Secs. 6, 22, 23, 26, 31, 42(b), 43, 56, 57, 91(c), Plant Variety Protection Act, 84 Stat. 1542; 7 U.S.C. 2321, 2326, 2352, 2353, 2356, 2371, 2402b, 2403, 2426, 2427, 2501(c); 29 FR 16210, as amended, 37 FR 6327, 6505; U.S.C. 2371.

Scope

§ 97.1 General.

Certificates of protection are issued by the Plant Variety Protection office for novel varieties of sexually reproduced plants. Each certificate of plant variety protection certifies that the breeder has the right, during the term of the protection, to prevent others from selling the variety, offering it for sale, reproducing it, importing or exporting it, or using it in producing a hybrid or different variety from it, as provided by the Act.

Definitions

§ 97.2 Meaning of words.

Words used in the regulations in this part in the singular form will import the plural, and vice versa, as the case may demand. The definitions of terms contained in the Act shall apply to such terms when used in this part. As used throughout the regulations in this part, unless the context requires otherwise, the following terms will be construed to mean:

Abandoned application. An application which has not been pursued to completion within the time allowed by the Office or has been voluntarily abandoned.

Act. The Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

Administrator. The Administrator of the Agricultural Marketing Service of the U.S. Department of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his or her stead.

Applicant. The person who applied for a certificate of plant variety protection.

Application. An application for plant variety protection under the Act.

Assignee. A person to whom an owner assigns his/her rights in whole or in part.

Board. The Plant Variety Protection Board appointed by the Secretary.

Certificate. A certificate of plant variety protection issued under the Act by the Office.

Certified seed. Seed which has been determined by an official seed certifying agency to conform to standards of genetic purity and identity as to variety, which standards have been approved by the Secretary.

Commissioner. The Examiner in Chief of the Office.

Decision and order. Includes the Secretary's findings of fact; conclusions with respect to all material issues of fact and law, as well as the reasons or basis therefor; and order.

Examiner. An employer of the Plant Variety Protection Office who determines whether a certificate is entitled to be issued. The term shall, in all cases, include the Commissioner.

Foreign application. An application for plan variety protection filed in a foreign country.

Hearing Clerk. The Hearing Clerk, U.S. Department of Agriculture, Washington, DC.

Hearing Officer. An Administrative Law Judge, U.S. Department of Agriculture, or other officer or employee of the Department of Agriculture, duly

assigned to preside at a hearing held pursuant to the rules of this part.

Hybrid. It shall be defined as set forth in the regulations under the Federal Seed Act (Secs. 201.2(y) of this chapter).

Office or Plant Variety Protection Office. The Plant Variety Protection Office, Science Division, AMS, USDA.

Official Journal. The "Official Journal of the Plant Variety Protection Office."

Owner. A breeder who developed or discovered a variety for which plant variety protection may be applied for under the Act, or a person to whom the rights to such variety have been assigned or transferred.

Person. An individual, partnership, corporation, association, government agency, or other business or governmental entity.

Secretary. The Secretary of Agriculture of the United States or any other officer or employee of the U.S. Department of Agriculture, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his or her stead.

Seed certifying agency. It shall be defined as set forth in the Federal Seed Act (53 Stat. 1275).

Sale for other than seed purposes. The transfer of title to and possession of the seed by the owner to a grower or other person, for reproduction for the owner, for testing, or for experimental use, and not for commercial sale of the seed or the reproduced seed for planting purposes.

Administration

§ 97.3 Plant Variety Protection Board.

(a) The Plant Variety Protection Board shall consist of 14 members appointed for a 2-year term. The Board shall be appointed every 2 years and shall consist of individuals who are experts in various areas of varietal development. The membership of the Board, which shall include farmer representation, shall be drawn approximately equally from the private or seed industry sector and from the government or public sector. No member shall be eligible to act on any matter involving any appeal or questions under section 44 of the Act, in which the member or his or her employer has a direct financial interest.

(b) The functions of the Board are to:

(1) Advise the Secretary concerning adoption of rules and regulations to facilitate the proper administration of the Act;

(2) Make advisory decisions on all appeals from the examiner or Commissioner;

(3) Advise the Secretary on the declaration of a protected variety open to use in the public interest; and

(4) Advise the Secretary on any other matters under the regulations in this part.

(c) The proceedings of the Board shall be conducted in accordance with the Federal Advisory Committee Act (Pub. L. 92–463), Administrative Regulations of the U.S. Department of Agriculture (7 CFR part 25), and such additional operating procedures as are adopted by members of the Board.

The Application

§ 97.5 General requirements.

(a) Protection under the Act shall be afforded only as follows:

(1) Nationals and residents of the United States shall be eligible to receive all of the protection under the Act.

(2) Nationals and residents of Member States of the International Union for the Protection of New Varieties of Plants shall be eligible to receive the same protection under the Act as is provided to nationals of the United States.

(3) Persons who are not entitled to protection under paragraph (a) (1) or (2) of this section, and who are nationals of a foreign state which is not a member of the International Union for the Protection of New Varieties of Plants, shall be entitled to only so much of the protection provided under the Act, as is afforded by such foreign state to nationals of the United States, for the same genus and species under the laws of such foreign state in effect at the time that the application for protection under the Act is filed, except where further protection under the Act must be provided in order to avoid the violation of a treaty to which the United States is a party.

(b) Applications for certificates shall be made to the Plant Variety Protection Office. An application shall consist of:

(1) A completed application form, except that the section specifying that seed of the variety shall be sold by variety name only, as a class of certified seed, need not be completed at the time of application.

(2) A completed set of the exhibits, as specified in the application form, unless the examiner waives submission of certain exhibits as unnecessary, based on other claims and evidence presented in connection with the application.

(3) Language and legibility:

(i) Applications and exhibits must be in the English language and legibly written, typed or printed.

(ii) Any interlineation, erasure, cancellation, or other alteration must be made in permanent ink before the application is signed and shall be clearly initialed and dated by the applicant to indicate knowledge of such fact at the time of signing.

(4) To determine the extent of reciprocity of the protection to be provided under the Act, persons filing an application for plant variety protection in the United States under the provisions of paragraph (a)(3) of this section shall, upon request,[1] furnish the Plant Variety Protection Office with a copy of the current plant variety protection laws and regulations for the country of which the applicant is a national, and an accurate English translation of such laws and regulations.

(c) Application and exhibit forms shall be issued by the Commissioner. (Copies of the forms may be obtained from the Plant Variety Protection Office, Science Division, AMS, USDA, room 500 National Agricultural Library Building, Beltsville, Maryland 20705.)

(d) Effective the date of these regulations and rules of practice, the signature of the applicant, or his or her agent or attorney on any affidavit or other statement filed pursuant to these regulations and rules constitutes a certification by the applicant. The signature certifies that all information relied on in any affidavit or statement filed in the course of the proceeding is knowingly correct and false claims have not been made to mislead.

§ 97.6 Application for certificate.

(a) An application for a plant variety protection certificate shall be signed by, or on behalf, of the applicant.

(b) The application shall state the full name, including the full first name and the middle initial or name, if any, and the capacity of the person executing it.

(c) The fees for filing an application, and search or examination, shall be submitted with the application in accordance with §§ 97.175 through 97.178.

(d) The applicant shall submit with the application at least 2,500 seeds of the viable basic seed required to reproduce the variety.

§ 97.7 Statement of an applicant.

(a) The applicant, by signing a completed application, states in accordance with section 42 of the Plant Variety Protection Act that:

(1) The applicant believes himself or herself, or his or her privies, to be the original and first breeder or discoverer of the variety for which a certificate is solicited;

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[1] Copies and translations of foreign laws and regulations will be requested only if they are not in the files of the Plant Variety Protection Office. Applicants may learn whether such a request will be made by writing to the address given in paragraph (c) of this section or by calling (301) 344–2518.

(2) The applicant, or his or her privies, has sexually reproduced the variety;

(3) The applicant does not know and does not believe that the variety was ever a public variety before the date of determination;

(4) The applicant is a sole or joint owner of the variety;

(5) The variety was not a public variety more than 1 year prior to the effective filing date of the application;

(6) Before the date of determination of the variety by the owner, or his or her privies, or more than 1 year before the effective filing date of the application, the variety was not effectively available to workers in this country and adequately described by a publication reasonably deemed a part of the public technical knowledge in this country, which description must include a disclosure of the principal characteristics by which the variety is distinguished; and

(7) The applicant, or his or her privies, have not offered for sale or marketed the variety, with the agreement of the breeder, in a foreign state for longer than 6 years in the case of vines, forest trees, fruit trees, and ornamental trees, including, in each case, their rootstocks, or for longer than 4 years, in the case of all other plants.

(b) If the same variety has been marketed with the agreement of either the applicant or his or her privies, the applicant shall state the names of the countries in which the variety was marketed, and give the day, month, and year of first marketing in each country.

(c) When an applicant files an application, cross-references to other related applications may be made, when appropriate.

§ 97.8 Specimen requirements.

(a) The applicant may be required by the examiner to furnish representative specimens of the variety, or its flower, fruit, or seeds, in a quantity and at a specified stage of growth, as may be necessary to verify the statements in the application. Such specimens shall be packed and forwarded in conformity with instructions furnished by the examiner. If the applicant requests the examiner to inspect plants in the field before a final decision is made, all such inspection costs shall be borne by the applicant by payment of fees sufficient to reimburse the Office for all costs, including travel, per diem or subsistence, and salary.

(b) Plant specimens submitted in support of an application shall not be removed from the Office except by an employee of the Office or other person authorized by the Secretary.

(c) Plant specimens submitted to the Office shall, except as provided below, and upon request, be returned to the applicant at his or her expense after the specimens have served their intended purpose. The Commissioner, upon a finding of good cause, may require that certain specimens be retained in the Office for indefinite periods of time. Specimens which are not returned or not retained as provided above shall be destroyed.

§ 97.9 Drawings and photographs.

(a) Drawings or photographs submitted with an application shall disclose the distinctive characteristics of the variety.

(b) Drawings or photographs shall be in color when color is a distinguishing characteristic of the variety, and the color shall be described by use of Nickerson's or other recognized color chart.

(c) Drawings should be sent flat, or may be sent in a suitable mailing tube, in accordance with instructions furnished by the Commissioner.

(d) Drawings or photographs submitted with an application shall be retained by the Office as part of the application file.

§ 97.10 Parts of an application to be filed together.

All parts of an application, including exhibits, should be submitted to the Office together, otherwise, each part shall be accurately and clearly referenced to the application.

§ 97.11 Application accepted and filed when received.

(a) An application, if materially complete when initially submitted, shall be accepted and filed to await examination.

(b) If any part of an application is so incomplete, or so defective that it cannot be handled as a completed application for examination, as determined by the Commissioner, the applicant will be notified. The application will be held a maximum of 6 months for completion. Applications not completed at the end of the prescribed period will be considered abandoned. The application fee in such cases will not be refunded.

§ 97.12 Number and filing date of an application.

(a) Applications shall be numbered and dated in sequence in the order received in the Office. Applicants will be informed in writing as soon as practicable of the number and effective filing date of the application.

(b) An applicant may claim the benefit of the filing date of a prior foreign application in accordance with section 55 of the Act. A certified copy of the foreign application shall be filed upon request made by the examiner. If a foreign application is not in the English language, an English translation, certified as accurate by a sworn or official translator, shall be submitted with the application.

§ 97.13 When the owner is deceased or legally incapacitated.

In case of the death of the owner or if the owner is legally incapacitated, the legal representative (executor, administrator, or guardian) or heir or assignee of the deceased owner may sign as the applicant. If an applicant dies between the filing of his or her application and the granting of a certificate thereon, the certificate may be issued to the legal representative, heir, or assignee, upon proper intervention.

§ 97.14 Joint applicants.

(a) Joint owners shall file a joint application by signing as joint applicants.

(b) If an application for certificate is made by two or more persons as joint owners, when they were not in fact joint owners, the application shall be amended prior to issuance of a certificate by filing a corrected application, together with a written explanation signed by the original applicants. Such statement shall also be signed by the assignee, if any.

(c) If an application has been made by less than all the actual joint owners, the application shall be amended by filing a corrected application, together with a written explanation, signed by all of the joint owners. Such statement shall also be signed by the assignee, if any.

(d) If a joint owner refuses to join in an application or cannot be found after diligent effort, the remaining owner may file an application on behalf of him or herself and the missing owner. Such application shall be accompanied by a written explanation and shall state the last known address of the missing owner. Notice of the filing of the application shall be forwarded by the Office to the missing owner at the last known address. If such notice is returned to the Office undelivered, or if the address of the missing owner is unknown, notice of the filing of the application shall be published once in the Official Journal. Prior to the issuance of the certificate, a missing owner may join in an application by filing a written explanation. A certificate obtained by less than all of the joint owners under this paragraph conveys the same rights and privileges

to said owners as though all of the original owners had joined in an application.

§ 97.15 Assigned novel varieties and certificates.

In case the whole or a part interest in a variety is assigned, the application shall be made by the owner or one of the persons identified in section 97.13. However, the certificate may be issued to the assignee, or jointly to the owner and the assignee, when a part interest in a variety is assigned.

§ 97.16 Amendment by applicant.

An application may be amended before or after the first examination and action by the Office, after the second or subsequent examination or reconsideration as specified in § 97.107, or when and as specifically required by the examiner. Such amendment may include a specification that seed of the variety be sold by variety name only as a class of certified seed, if not previously specified or if previously declined. Once an affirmative specification is made, no amendment to reverse such a specification will be permitted unless the variety has not been sold and labeled or publication made in any manner that the variety is to be sold by variety name, only as a class of certified seed.

§ 97.17 Papers of completed application to be retained.

The papers submitted with a completed application shall be retained by the Office except as provided in § 97.23(c). After issuance of a certificate of protection the Office will furnish copies of the application and related papers to any person upon payment of the specified fee.

§ 97.18 Applications handled in confidence.

(a) Pending applications shall be handled in confidence. Except as provided below, no information may be given by the Office respecting the filing of an application, the pendency of any particular application, or the subject matter of any particular application. Also, nor will access be given to or copies furnished of any pending application or papers relating thereto, without written authority of the applicant, or his or her assignee or attorney or agent. Exceptions to the above may be made by the Commissioner in accordance with 5 U.S.C. 552 and § 1.4 of this title, and upon a finding that such action is necessary to the proper conduct of the affairs of the Office, or to carry out the provisions of any Act of Congress, or as provided in sections 56 or 57 of the Act and § 97.19.

(b) Abandoned applications shall not be open to public inspection. However, if an abandoned application is directly referred to in an issued certificate and is available, it may be inspected or copies obtained by any person on written request, and with written authority received from the applicant. Abandoned applications shall not be returned.

(c) Decisions of the Commissioner on abandoned applications not otherwise open to public inspection (see paragraph (b) of this section) may be published or made available for publication at the Commissioner's discretion. When it is proposed to release such a decision, the applicant shall be notified directly or through the attorney or agent of record, and a time, not less than 30 days, shall be set for presenting objections.

§ 97.19 Publication of pending applications.

Information relating to pending applications shall be published in the Official Journal periodically as determined by the Commissioner to be necessary in the public interest. With respect to each application, the Official Journal shall show the:

(a) application number and date of filing;

(b) the name of the variety or temporary designation;

(c) the name of the kind of seed; and

(d) whether the applicant specified that the variety is to be sold by variety name only as a class of certified seed, together with a limitation in the number of generations that it can be certified.

Additional information, such as the name and address of the applicant or a brief description of the novel features of the variety, may be published only upon request or approval received from the applicant, at the time the application is filed or at any time before the notice of allowance of a certificate is issued.

§ 97.20 Abandonment for failure to respond within the time limit.

(a) Except as otherwise provided in § 97.104, if an applicant fails to advance actively his or her application within 6 months after the date when the last request for action was mailed to the applicant by the Office, or within such longer time as may be fixed by the Commissioner, the application shall be deemed abandoned. The application fee in such cases will not be refunded.

(b) The submission of an amendment to the application, not responsive to the last request by the Office for action, and any proceedings relative thereto, shall not operate to save the application from abandonment.

(c) When the applicant makes a bona fide attempt to advance the application, and is in substantial compliance with the request for action, but has inadvertently failed to comply with some procedural requirement, opportunity to comply with the procedural requirement shall be given to the applicant before the application shall be deemed abandoned. The Commissioner may set a shortened period, not less than 30 days, to correct any deficiency in the application.

§ 97.21 Extension of time for reply.

The time for reply by an applicant to a request by the Office for certain action, shall be extended by the Commissioner only for good and sufficient cause, and for a specified reasonable time. A request for extension shall be filed on or before the specified time for reply. In no case shall the mere filing of a request for extension require the granting of an extension or state the time for reply.

§ 97.22 Revival of an application abandoned for failure to reply.

An application abandoned for failure on the part of the applicant to advance actively his or her application to its completion, in accordance with the regulations in this part, may be revived as a pending application within 3 months of such abandonment, upon a finding by the Commissioner that the failure was inadvertent or unavoidable and without fraudulent intent. A request to revive an abandoned application shall be accompanied by a written statement showing the cause of the failure to respond, a response to the last request for action, and by the specified fee.

§ 97.23 Voluntary withdrawal and abandonment of an application.

(a) An application may be voluntarily withdrawn or abandoned by submitting to the Office a written request for withdrawal or abandonment, signed by the applicant or his or her attorney or agent of record, if any, or the assignee of record, if any.

(b) An application which has been voluntarily abandoned may be revived within 3 months of such abandonment by the payment of the prescribed fee and a showing that the abandonment occurred without fraudulent intent.

(c) An original application which has been voluntarily withdrawn shall be returned to the applicant and may be reconsidered only by refiling and payment of a new application fee.

§ 97.24 Assignee.

The assignee of record of the entire interest in an application is entitled to advance actively or abandon the application to the exclusion of the applicant.

Examinations, Allowances, and Denials

§ 97.100 Examination of applications.

(a) [Reserved]

(b) Examinations of applications shall include a review of all available documents, publications, or other material relating to varieties of the species involved in the application, except that if there are fundamental defects in the application, as determined by the examiner, the examination may be limited to an identification of such defects and notification to the applicant of needed corrective action. However, matters of form or procedure need not, but may, be raised by an examiner until a variety is found to be novel and entitled to protection.

§ 97.101 Notice of allowance.

If, on examination, it shall appear that the applicant is entitled to a certificate, a notice of allowance shall be sent to the applicant or his or her attorney or agent of record, if any, calling for the payment of the prescribed fee, which fee shall be paid within 1 month from the date of the notice of allowance. Thereafter, a fee for delayed payment shall be made as required under § 97.175.

§ 97.102 Amendments after allowance.

Amendments to the application, after the notice of allowance is issued, may be made, if the certificate has not been issued.

§ 97.103 Issuance of a certificate.

(a) After the notice of allowance has been issued, the prescribed fee is received by the Office, and the applicant has clearly specified whether or not the variety shall be sold by variety name only as a class of certified seed, the certificate shall be promptly issued. Once an election is made and a certificate issued specifying that seed of the variety shall be sold by variety name only as a class of certified seed, no waiver of such rights shall be permitted by amendment of the certificate.

(b) The certificate shall be delivered or mailed to the owner.

§ 97.104 Application or certificate abandoned.

(a) Except as provided in paragraph (c) of this section, if the fee specified in the notice of allowance is not paid within 1 month from the date of the notice, the application shall be considered abandoned.

(b) Upon request by the Office, the owner shall replenish the viable basic seed sample of the novel variety. Upon request, the sample of seed which has been replaced shall be returned to the owner, otherwise it shall be destroyed. Failure to replenish viable basic seed within 3 months from the date of request shall result in the certificate being regarded as abandoned. No sooner than 1 year after the date of such request, notices of abandoned certificates shall be published in the Official Journal, indicating that the variety has become open for use by the public and, if previously specified to be sold by variety name as "certified seed only," that such restriction no longer applies.

(c) If the allowance fee, the viable basic seed sample or the fee for delayed payment are submitted within 9 months of the final due date, it may be accepted by the Commissioner as though no abandonment had occurred. For good cause, the Commissioner may extend for a reasonable time the period for submitting a viable basic seed sample before declaring the certificate abandoned.

(d) A certificate may be voluntarily abandoned by the applicant or his or her attorney or agent of record or the assignee of record by notifying the Commissioner in writing. Upon receipt of such notice, the Commissioner shall publish a notice in the Official Journal that the variety has become open for use by the public, and if previously specified to be sold by variety name as "certified seed only," that such restriction no longer applies.

§ 97.105 Denial of an application.

(a) If the variety is found by the examiner to be not novel, the application shall be denied.

(b) In denying an application for want of novelty, the examiner shall cite the reasons the application was denied. When a reason involves the citation of certain material which is complex, the particular part of the material relied on shall be designated as nearly as practicable. The pertinence of each reason, if not obvious, shall be clearly explained.

(c) If prior domestic certificates are cited as a reason for denial, their numbers and dates and the names of the owners shall be stated. If prior foreign certificates or rights are cited, as a reason for denial, their nationality or country, numbers and dates, and the names of the owners shall be stated, and such other data shall be furnished, as may be necessary to enable the applicant to identify the cited certificates or rights.

(d) If printed publications are cited as a reason for denial, the author (if any), title, date, pages or plates, and places of publication, or place where a copy can be found shall be given.

(e) When a denial is based on facts known to the examiner, and upon request by the applicant, the denial shall be supported by the affidavit of the examiner. Such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

(f) Abandoned applications may not be cited as reasons for denial.

§ 97.106 Reply by applicant; request for reconsideration.

(a) After an adverse action by the examiner, the applicant may respond to the denial and may request a reconsideration, with or without amendment of his or her application. Any amendment shall be responsive to the reason or reasons for denial specified by the examiner.

(b) To obtain a reconsideration, the applicant shall submit a request for reconsideration in writing and shall specifically point out the alleged errors in the examiner's action. The applicant shall respond to each reason cited by the examiner as the basis for the adverse action. A request for reconsideration of a denial based on a faulty form or procedure may be held in abeyance by the Commissioner until the question of novelty is settled.

(c) An applicant's request for a reconsideration must be a bona fide attempt to advance the case to final action. A general allegation by the applicant that certain language which he or she cites in the application or amendment thereto establishes novelty without specifically explaining how the language distinguishes the alleged novel variety from the material cited by the examiner shall not be grounds for a reconsideration.

§ 97.107 Reconsideration and final action.

If, upon reconsideration, the application is denied by the Commissioner, the applicant shall be notified by the Commissioner of the reason or reasons for denial in the same manner as after the first examination. Any such denial shall be final unless appealed by the applicant to the Secretary within 60 days from the date of denial, in accordance with sections 97.300–97.303. If the denial is sustained by the Secretary on appeal, the denial shall be final subject to appeal to the courts, as provided in section 97.500.

§ 97.108 Amendments after final action.

(a) After a final denial by the Commissioner, amendments to the application may be made to overcome the reason or reasons for denial. The acceptance or refusal of any such amendment by the Office and any proceedings relative thereto shall not relieve the applicant from the time limit set for an appeal or an abandonment for failure to reply.

(b) No amendment of the application can be made in an appeal proceeding. After decision on appeal, amendments can only be made to carry into effect a recommendation under section 97.302(b).

Correction of Errors in Certificate

§ 97.120 Corrected certificate—office mistake.

When a certificate is incorrect because of a mistake in the Office, the Commissioner may issue a corrected certificate stating the fact and nature of such mistake, under seal, without charge, to be issued to the owner and recorded in the records at the Office.

§ 97.121 Correctd certificate—applicant's mistake.

When a certificate is incorrect because of a mistake by the applicant of a clerical or typographical nature, or of minor character, or in the description of the variety (including, but not limited to, the use of a misleading variety name or a name assigned to a different variety of the same species), and the mistake is found by the Commissioner to have occurred in good faith and does not require a further examination, the Commissioner may, upon payment of the required fee and return of the original certificate, correct the certificate by issuing a corrected certificate, in accordance with section 85 of the Act. If the mistake requires a reexamination, a correction of the certificate shall be dependent on the results of the reexamination.

Reissuance of Certificate

§ 97.122 Certified seed only election.

When an owner elects after a certificate is issued to sell the protected variety by variety name only as a class of certified seed, a new certificate may be issued upon return of the original certificate to the Office and payment of the appropriate fee.

Assignments and Recording

§ 97.130 Recording of assignments.

(a) Any assignment of an application for a certificate, or of a certificate of plant variety protection, or of any interest in a variety, or any license or grant and conveyance of any right to use of the variety, may be submitted for recording in the Office in accordance with section 101 of the Act (7 U.S.C. 2531).

(b) No instrument shall be recorded which is not in the English language or which does not identify the certificate or application to which it relates.

(c) An instrument relating to title of a certificate shall identify the certificate by number and date, the name of the owner, and the name of the novel variety as stated in the certificate. An instrument relating to title of an application shall identify an application by number and date of filing, the name of the owner, and the name of the novel variety as stated in the application.

(d) If an assignment is executed concurrently or subsequent to the filing of an application, but before its number and filing date are ascertained, the assignment shall identify the application by the date of the application, the name of the owner, and the name of the novel variety.

§ 97.131 Conditional assignments.

Assignments recorded in the Office are regarded as absolute assignments for Office purposes until canceled in writing by both parties to the assignment or by a decree of a court of competent jurisdiction. The Office shall not determine whether conditions precedent to the assignment, such as the payment of money, have been fulfilled.

§ 97.132 Assignment records open to public inspection.

(a) Assignment records relating to original or amended certificates shall be open to public inspection and copies of any recorded document may be obtained upon payment of the prescribed fee.

(b) Assignment records relating to any pending or abandoned application shall not be available for inspection except to the extent that pending applications are published as provided in section 57 of the Act and § 97.19, or where necessary to carry out the provisions of any Act of Congress. Copies of assignment records and information on pending or abandoned applications shall be obtainable only upon written authority of the applicant or his or her assignee, or attorney or agent of record, or where necessary to carry out the provisions of any Act of Congress. An order for a copy of an assignment shall give the proper identification of the assignment.

Marking or Labeling Provisions

§ 97.140 After filing.

Upon filing an application for protection of a novel variety and payment of the prescribed fee, the owner, or his or her designee, may label the variety or containers of the seed of the variety or plants produced from such seed, substantially as follows: "Unauthorized Propagation Prohibited—(Unauthorized Seed Multiplication Prohibited)—U.S. Variety Protection Applied For."

§ 97.141 After issuance.

Upon issuance of a certificate, the owner of the novel variety, or his or her designee, may label the variety or containers of the seed of the variety or plants produced from such seed substantially as follows: "Unauthorized Propagation Prohibited—(Unauthorized Seed Multiplication Prohibited)—U.S. Protected Variety."

§ 97.142 For testing or increase.

An owner who contemplates filing an application and releases for testing or increase, seed of the variety or other sexually reproducible plant material produced from seed of the variety, may label such plant material or containers of the seed or plant substantially as follows: "Unauthorized Propagation Prohibited—For Testing (or Increase) Only."

§ 97.143 Certified seed only.

(a) Upon filing an application, or amendment thereto, specifying seed of the variety is to be sold by variety name only as a class of certified seed, the owner, or his or her designee, may label containers of seed of the variety substantially as follows: "Unauthorized Propagation Prohibited—U.S. Variety Protection Applied for Specifying That Seed of This Variety Is To Be Sold By Variety Name Only as a Class of Certified Seed."

(b) An owner who has received a certificate specifying that a variety is to be sold by variety name only, as a class of certified seed, may label containers of the seed of the variety substantially as follows: "Unauthorized Propagation Prohibited—To Be Sold By Variety Name Only as a Class of Certified Seed—U.S. Protected Variety."

§ 97.144 Additional marking or labeling.

Additional clarifying information that is not false or misleading may be used by the owner, in addition to the above markings or labeling.

Attorneys and Agents

§ 97.150 Right to be represented.

An applicant may actively advance an application or may be represented by an attorney or agent authorized in writing.

§ 97.151 Authorization.

Only attorneys or agents specified by the applicant shall be allowed to inspect papers or take action of any kind, on behalf of the applicant, in any pending application or proceedings.

§ 97.152 Revocation of authorization; withdrawal.

An authorization of an attorney or agent may be revoked by an applicant at any time, and an attorney or agent may withdraw, upon application to the Commissioner. When the authorization is so revoked, or the attorney or agent has so withdrawn, the Office shall inform the interested parties and shall thereafter communicate directly with the applicant, or with such other attorney or agent as the applicant may appoint. An assignment will not of itself operate as a revocation of authorization previously given, but the assignee of the entire interest may revoked previous authorizations and be represented by an attorney or agent of his or her own selection.

§ 97.153 Persons recognized.

Unless specifically authorized as provided in section 97.151, no person shall be permitted to file or advance applications before the Office on behalf of another person.

§ 97.154 Government employees.

Officers and employees of the United States who are disqualified by statute (18 U.S.C. 203 and 205) from practicing as attorneys or agents in proceedings or other matters before government departments or agencies, shall not be eligible to represent applicants, except officers and employees whose official duties require the preparation and prosecution of applications for certificates of variety protection.

§ 97.155 Signatures.

Every document filed by an attorney or agent representing an applicant or party to a proceeding in the Office shall bear the signature of such attorney or agent, except documents which are required to be signed by the applicant or party.

§ 97.156 Addresses.

Attorneys and agents practicing before the Plant Variety Protection Office shall notify the Office in writing of any change of address. The Office shall address letters to any person at the last address received.

§ 97.157 Professional conduct.

Attorneys and agents appearing before the Office shall conform to the standards of ethical and professional conduct, generally applicable to attorneys appearing before the courts of the United States.

§ 97.158 Advertising.

(a) The use of advertising, circulars, letters, cards, and similar material to solicit plant variety protection business, directly or indirectly, is forbidden as unprofessional conduct, and any person engaging in such solicitation, or associated with or employed by others who so solicit, shall be refused recognition to practice before the Office or may be suspended, excluded, or disbarred from further practice before the Office.

(b) The use of simple professional letterheads, calling cards, or office signs, simple announcements necessitated by opening an office, change of association, or change of address, distributed to clients and friends and insertion of listings in common form (not display) in a classified telephone or city directory, and listings and professional cards with biographical data in standard professional directories, shall not be considered a violation of this section.

Fees and Charges

§ 97.175 Fees and charges.

The following fees and charges apply to the services and actions specified below:

	Fee
(a) Filing the application and notifying the public of filing	$275
(b) Search or examination	2,050
(c) Allowance and issuance of certificate and notifying public of issuance	275
(d) Revive an abandoned application	275
(e) Reproduction of records, drawings, certificates, exhibits, or printed material (copy per page of material)	1
(f) Authentication (each page)	1
(g) Correcting or reissuance of a certificate	275
(h) Recording assignments (per certificate/application)	25
(i) Copies of 8 x 10 photographs in color	25
(j) Additional fee for reconsideration	275
(k) Additional fee for late payment	25
(l) Additional fee for late replenishment of seed	25
(m) Appeal to Secretary (refundable if appeal overturns the Commissioner's decision)	2,600
(n) Field inspections by a representative of the Plant Variety Protection Office made at the request of the applicant shall be reimbursable in full (including travel, per diem or subsistence, and salary) in accordance with Standardized Government Travel Regulations	.....
(o) Any other service not covered above will be charged for at rates prescribed by the Commissioner, but in no event shall they exceed $40 per employee-hour	.....

§ 97.176 Fees payable in advance.

Fees and charges shall be paid at the time of making application or at the time of submitting a request for any action by the Office for which a fee or charge is payable and established in this part.

§ 97.177 Method of payment.

Checks or money orders shall be made payable to the Treasurer of the United States. Remittances from foreign countries must be payable and immediately negotiable in the United States for the full amount of the prescribed fee. Money sent by mail to the Office shall be sent at the sender's risk.

§ 97.178 Refunds.

Money paid by mistake or excess payments shall be refunded, but a mere change of plans after the payment of money, as when a party decides to withdraw an application or to withdraw an appeal, shall not entitle a party to a refund. However, the examination or search fee shall be refunded if an application is voluntarily abandoned pursuant to § 97.23(a) before a search or examination has begun. Amounts of $1 or less shall not be refunded unless specifically demanded.

§ 97.179 Copies and certified copies.

(a) Upon request, copies of applications, certificates, or of any records, books, papers, drawings, or photographs in the custody of the Office and which are open to the public, will be furnished to persons entitled thereto, upon payment of the prescribed fee.

(b) Upon request, copies will be authenticated by imprint of the seal of the Office and certified by the official, authorized by the Commissioner upon payment of the prescribed fee.

Availability of Office Records

§ 97.190 When open records are available.

Copies of records, which are open to the public and in the custody of the

Office, may be examined in the Office during regular business hours upon approval by the Commissioner.

Protest Proceedings

§ 97.200 Protests to the grant of a certificate.

Opposition on the part of any person to the granting of a certificate shall be permitted while an application is pending and for a period not to exceed 5 years following the issuance of a certificate.

§ 97.201 Protest proceedings.

(a) Opposition shall be made by submitting in writing a petition for protest proceedings, which petition shall be supported by affidavits and shall show the reason or reasons for opposing the application or certificate. The petition and accompanying papers shall be filed in duplicate. If it appears to an examiner that a variety involved in a pending application or covered by a certificate may not be or may not have been entitled to protection under the Act, a protest proceeding may be permitted by the Commissioner.

(b) One copy of the petition and accompanying papers shall be served by the Office upon the applicant or owner, or his or her attorney or agent of record.

(c) An answer, by the applicant or owner of the certificate, or his or her assignee, in response to the petition, may be filed with the Commissioner within 60 days after service of the petition, upon such person. If no answer is filed within said period, the Commissioner shall decide the matter on the basis of the allegations set forth in the petition.

(d) If the petition and answer raise any issue of fact needing proof, the Commissioner shall afford each of the parties a period of 60 days in which to file sworn statements or affidavits in support of their respective positions.

(e) As soon as practicable after the petition or the petition and answer are filed, or after the expiration of any period for filing sworn statements or affidavits, the Commissioner shall issue a decision as to whether the protests are upheld or denied. The Commissioner may, following the protest proceeding, cancel any certificate issued and may grant another certificate for the same novel variety to a person who proves to the satisfaction of the Commissioner, that he or she is the breeder or discoverer. The decision shall be served upon the parties in the manner provided in § 97.403.

Priority Contest

§ 97.205 Definition; when declared.

A priority contest may be instituted by the Secretary, on his or her own motion, or upon the request of any person who has applied for protection on the same variety, for which an adverse certificate has been issued, for the purpose of determining the question of priority between two or more parties claiming development or discovery of the same novel variety: *Provided, however,* that any person shall have forfeited his or her right to assert priority when an adverse certificate has been issued, if he or she fails to make a request for the institution of a priority contest within 1 year of the publication in the Official Journal of issuance of the adverse certificate by the Secretary, or if he or she fails to make the request within the period for taking action after refusal of the application on the basis of the adverse certificate.

§ 97.206 Preparation for priority contest between applicants.

(a) Before a priority contest will be handled by the Office, an examiner must determine that the same novel variety is involved in separate applications filed by two or more parties and apparently certifiable to each of the parties, subject to the determination of the question of priority.

(b) The fact that a certificate has been issued will not prevent a priority contest.

§ 97.207 Preparation of priority papers and declaration of priority contest.

(a) When a priority question is found to exist, the examiner shall forward the pertinent files to the Commissioner, together with a written statement showing the reason for the contest.

(b) The Commissioner shall institute and declare the priority contest by forwarding a notice to each of the applicants involved. Each notice shall include the name and residence of each of the other applicants or those of his or her attorney or agent, if any, and of any assignee, and will identify the application of each opposing party by number and filing date, or in the case of a certificate, by the number and date of the certificate. The notice shall specify the basis of the priority contest. The notice shall specify a time, not to exceed 2 months, for filing preliminary statements.

(c) When a notice is returned to the Office undelivered, or when one of the parties resides abroad and his or her agent in the United States is unknown, notice may be given once by publication in the Official Journal.

§ 97.208 Burden of proof.

The parties to a priority contest will be presumed to have developed their varieties in the chronological order of the filing dates of their applications for certificates involved in the priority contest, and the burden of proof will rest upon the party who last filed an application.

§ 97.209 Preliminary statement on novel variety developed in the United States.

(a) Each party to the priority contest is required to file on or before a date fixed by the Office, a concise preliminary statement giving the facts and dates relating to the development of his or her alleged novel variety. The preliminary statement must be signed by the owner: *Provided, however,* that in appropriate circumstances, as when the owner is dead or legally incapacitated, or a showing is made of inability to obtain a statement from the owner, the preliminary statement may be made by the assignee or by someone authorized or entitled to make the statement, having knowledge of the facts.

(b) Preliminary statements shall be filed with the Office in duplicate. A copy shall be forwarded to each opposing party by the Office as soon as practicable after both parties have filed their statements within the requisite period.

(c) In filing a preliminary statement each party must show the following information:

(1) The date upon which the first determination of the novel variety was made.

(2) The date upon which the first written description of the novel variety was made. If a written description of the novel variety has not been made prior to the filing date of the application, it must be so stated.

(3) The date of the first act or acts susceptible of proof (other than making a written description or disclosing the novel variety to another person), which, if proven, would establish determination of the novel variety, and a brief description of such act or acts. If there have been no such acts, it must be so stated.

(4) The date of the actual production of the novel variety. If the novel variety had not been actually produced before the filing date of the application, it must be so stated.

(d) When an allegation as to the first written description (paragraph (c)(2) of this section) is made, a copy of such written description shall be attached to the statement.

(e) If a party intends to rely on a prior application, domestic or foreign, the preliminary statement shall clearly

identify such prior application. Copies of the cited application and related documents will be served by the Office, upon all interested parties to the contest. In the case of an application filed in a foreign country, English translations shall be served to all interested parties by the party relying on the application filed in the foreign country.

§ 97.210 Preliminary statement on novel variety developed in a foreign country.

When the novel variety was developed in a foreign country, the preliminary statement must show (a) the information specified in § 97.209 (c) through (e) and (b) whether , and if so, when and under what circumstances the novel variety was introduced into the United States by or on behalf of the party.

§ 97.211 Statements sealed before filing.

The preliminary statement shall be submitted in a sealed envelope bearing the name of the party filing it and the number and title of the priority contest as shown on the notice issued by the Office. The envelope should be enclosed in an outer mailing envelope marked "To Be Opened Only by the Commissioner."

§ 97.212 Correction of a statement on motion.

In case of material error arising through inadvertence or mistake, a preliminary statement may be corrected upon a satisfactory showing to the Commissioner that the correction is of material significance. Correction of the statement must be made as soon as practicable after the discovery of the error.

§ 97.213 Failure to file statements.

If any party to a priority contest fails to file a preliminary statement, he or she shall be restricted to his or her earliest effective filing date.

§ 97.214 Access to preliminary statements.

The preliminary statements shall be open to the inspection of any party after the date set for the filing of preliminary statements (§ 97.207(b)), but shall not be open to inspection prior to that time.

§ 97.215 Dissolution at the request of the Commissioner.

If during a priority contest, information is submitted or found which, in the opinion of the Commissioner, may render the variety ineligible for a certificate, the priority contest may be suspended by the Commissioner and referred to an examiner for consideration of the matter. The parties will be notified of the reason for the suspension. Arguments of the parties regarding the suspension will be considered, if filed within 60 days of the notification. The suspension will then be continued, modified, or dismissed, in accordance with the determination by the Commissioner.

§ 97.216 Concession; abandonment.

(a) An applicant or a certificate holder involved in a priority contest may, at any time, file a written concession of priority, or abandonment of the certificate, signed by him or her. Upon the filing of such an instrument by any party, the decision shall be rendered against the interested party by the Commissioner.

(b) A concession of priority may not be made by an assignee of a part interest.

§ 97.217 Affidavits and exhibits.

Affidavits and exhibits, including official records and any special matter contained in a printed publication, pertinent to the issue involved in the contest, may be introduced as evidence in a priority contest by any party to the contest. In the case of official records and printed publications, the party introducing the evidence shall specify the record or the printed publication, the page or pages to be used, indicate generally its relevancy, and submit to the Commissioner the record or authenticated copy, or the printed publication, or a copy. Copies of affidavits and exhibits, including any record or publication, shall be served by the Commissioner on each of the other interested parties.

§ 97.218 Matters considered in determining a priority.

In determining priority, the Commissioner will consider only priority of development based on the evidence submitted. Questions of novelty generally will not be considered in the decision on priority. The Commissioner may refer proposed findings of fact, conclusions, and notice of priority to the Board for an advisory decision.

§ 97.219 Recommendation by the Commissioner.

The Commissioner may, either before or concurrently with a decision on the question of priority, but independently of such decision, direct the attention of the examiner to any matter not relating to priority which may come to the Commissioner's attention, and which in his or her opinion establishes the fact that there has been an irregularity which amounts to a bar to the granting of a certificate to either of the parties. The Commissioner may suspend the priority contest and remand the case to the examiner for further consideration of the matters, to which attention has been directed.

§ 97.220 Decision by the Commissioner.

(a) When a priority contest is concluded on the basis of preliminary statements, or proposed findings of fact, conclusions and notice of priority shall be issued by the Commissioner to the interested parties, giving them a specified period, not less than 30 days, to show cause why such proposed findings of fact, conclusions, and notice of priority should not be made final. Any response made during the specified period will be considered by the Commissioner. Additional affidavits or exhibits will not be considered, unless accompanied by a showing of good cause acceptable to the Commissioner. Thereafter, final findings of fact, conclusions, and notice of priority shall be issued by the Commissioner.

(b) The decision shall be entered by the Commissioner against a party whose preliminary statement alleges a date of determination later than the filing date of the other party's application.

§ 97.221 Status of claims of defeated applicant.

Whenever a final notice of priority has been issued by the Commissioner in a priority proceeding, and the time limit for an appeal from such decision has expired, the claim or claims constituting the issue of the priority stand finally disposed of without further action by the Commissioner.

§ 97.222 Second priority contest.

A second priority contest between the same parties shall not be entertained by the Commissioner for the same novel variety.

Appeal to the Secretary

§ 97.300 Petition to the Secretary.

(a) Petition may be made to the Secretary from any final action of the Commissioner denying an application or refusing to allow a certificate to be issued, or from any adverse decision of the Commissioner made under §§ 97.18(c), 97.107, 97.201(e), and 97.220.

(b) Any such petition shall contain a statement of the facts involved and the point or points to be reviewed, and the actions requested.

(c) A petition to the Secretary shall be filed in duplicate and accompanied by the prescribed fee (see § 97.175).

(d) Upon request, an opportunity to present data, views, and arguments orally, in an informal manner or in a

formal hearing, shall be given to interested persons. If a formal hearing is requested, the proceeding shall be conducted in accordance with §§ 50.28 and 50.30 through 50.33 (§§ 50.28, 50.30 through 50.33 of this chapter) of the rules of practice under the Agriculture Marketing Act of 1946, as amended (7 U.S.C. 1621, et seq.).

(e) Except as otherwise provided in the rules in this part, any such petition not filed within 60 days from the action complained of shall be dismissed as untimely.

§ 97.301 Commissioner's answer.

(a) The Commissioner may, within such time as may be directed by the Secretary, furnish a written statement to the Secretary in answer to the appellant's petition, including such explanation of the reasons for the action as may be necessary and supplying a copy to the appellant.

(b) Within 20 days from the date of such answer, the appellant may file a reply statement directed only to such new points of argument as may be raised in the Commissioner's answer.

§ 97.302 Decision by the Secretary.

(a) The Secretary, after receiving the advice of the Board, may affirm or reverse the decision of the Commissioner, in whole or in part.

(b) Should the decision of the Secretary include an explicit statement that a certificate be allowed, based on an amended application, the applicant shall have the right to amend his or her application in conformity with such statement and such decision shall be binding on the Commissioner.

§ 97.303 Action following the decision.

(a) Copies of the decision of the Secretary shall be served upon the appellant and the Commissioner in the manner provided in § 97.403.

(b) When an appeal petition is dismissed, or when the time for appeal to the courts pursuant to the Act has expired and no such appeal or civil action has been filed, proceedings in the appeal shall be considered terminated as of the dismissal or expiration date, except in those cases in which the nature of the decision requires further action by the Commissioner. If the decision of the Secretary is appealed or a civil action has been filed pursuant to sections 71, 72, or 73 of the Act, the decision of the Secretary will be stayed pending the outcome of the court appeal or civil action.

General Procedures in Priority, Protest, or Appeal Proceedings

§ 97.400 Extensions of time.

Upon a showing of good cause, extensions of time not otherwise provided for may be granted by the Commissioner or, if an appeal has been filed by the Secretary for taking any action required in any priority, protest, or appeal proceeding.

§ 97.401 Miscellaneous provisions.

(a) Petitions for reconsideration or modification of the decision of the Commissioner in priority or protest proceedings shall be filed within 20 days after the date of the decision.

(b) The Commissioner may consider on petition any matter involving abuse of discretion in the exercise of an examiner's authority, or such matters as may be deemed proper to consider. Any such petition, if not filed within 20 days from the decision complained of, may be dismissed as untimely.

§ 97.402 Service of papers.

(a) Every paper required to be served on opposing parties and filed in the Office in any priority, protest, or appeal proceeding, must be served by the Secretary in the manner provided in § 97.403.

(b) The requirement in certain sections that a specified paper shall be served includes a requirement that all related supporting papers shall also be served. Proof of such service upon other parties to the proceeding must be made before the supporting papers will be considered by the Commissioner or Secretary.

§ 97.403 Manner of service.

Service of any paper under this part must be on the attorney or agent of the party if there be such, or on the party if there is no attorney or agent, and may be made in any of the following ways:

(a) By mailing a copy of the paper to the person served by certified mail, with the date of the return receipt controlling the date of service;

(b) By leaving a copy at the usual place of business of the person served with someone in his or her employ;

(c) When the person served has no usual place of business, by leaving a copy at his or her home with a member of the family over 14 years of age and of discretion; and

(d) Whenever it shall be found by the Commissioner or Secretary that none of the above modes of serving the paper is practicable, service may be by notice, published once in the Office Journal.

Review of Decisions by Court

§ 97.500 Appeal to U.S. Courts.

Any applicant dissatisfied with the decision of the Secretary on appeal may appeal to the U.S. Court of Customs and Patent Appeals or the U.S. Courts of Appeals, or institute a civil action in the U.S. District Court as set forth in sections 71, 72, and 73 of the Act. In such cases, the appellant or plaintiff shall give notice to the Secretary, state the reasons for appeal or civil action, and obtain a certified copy of the record. The certified copy of the record shall be forwarded to the Court by the Plant Variety Protection Office on order of, and at the expense of the appellant or plaintiff.

Cease and Desist Proceedings

§ 97.600 Rules of practice.

Any proceedings instituted under section 128 of the Act for false marking shall be conducted in accordance with §§ 202.10 through 202.29 of this chapter (rules of practice under the Federal Seed Act) (7 U.S.C. 1551 et seq.), except that all references in those rules and regulations to "Examiner" shall be construed to be an Administrative Law Judge, U.S. Department of Agriculture, and not an "Examiner" as defined in the regulations under the Plant Variety Protection Act.

Public Use Declaration

§ 97.700 Public interest in wide usage.

(a) If the Secretary has reason to believe that a protected variety should be declared open to use by the public in accordance with section 44 of the Act, the Secretary shall give the owner of the variety appropriate notice and an opportunity to present views orally or in writing, with regard to the necessity for such action to be taken in the public interest.

(b) Upon the expiration of the period for the presentation of views by the owner, as provided in paragraph (a) of this section, the Secretary shall refer the matter to the Plant Variety Protection Board for advice, including advice on any limitations or rate of remuneration.

(c) Upon receiving the advice of the Plant Variety Protection Board, the Secretary shall advise the owner of the variety, the members of the Plant Variety Protection Board, and the public, by issuance of a press release, of any decision based on the provisions of section 44 of the Act to declare a variety open to use by the public. Any decision not to declare a variety open to use by the public will be transmitted only to the owner of the variety and the

members of the Plant Variety Protection Board.

Publication

§ 97.800 Publication of public variety descriptions.

Voluntary submissions of varietal descriptions of "public varieties" on forms obtainable from the Office will be accepted for publication in the Official Journal. Such publication shall not constitute recognition that the variety is, in fact, novel.

PART 98—MEALS, READY-TO-EAT (MRE's), MEATS, AND MEAT PRODUCTS

Subpart A—MRE's, Meats, and Related Meat Food Products

Sec.
98.1 General
98.2 Definitions
98.3 Analyses performed and locations of laboratories
98.4 Analytical methods
98.5 Fees and charges

Subpart B—USDA Certification of Laboratories for the Testing of Trichinae in Horsemeat

Sec.
98.100 General
98.101 Definitions
98.102–98.600 [Reserved]

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, as amended; 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622 and 1624).

Subpart A—MRE's, Meats, and Related Meat Food Products

§ 98.1 General.

Analytical services of meat and meat food products are performed for fat, moisture, salt, protein, and other content specifications.

§ 98.2 Definitions.

Words used in the regulations in this subpart in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this subpart, unless the context requires otherwise, the following terms will be construed to mean:

Lard (Edible). The fat rendered from clean and sound edible tissues from swine.

Meals, Ready-To-Eat (MRE). Meals, Ready-To-Eat are complete portions of one meal for one military person and are processed and packaged to destroy or retard the growth of spoilage-type microorganisms in order to extend product shelf life for 7 years. Composition analyses for MRE's are covered by the reimbursable agreement in the Memorandums of Understanding (MOU's) between AMS, USDA and the Defense Personnel Support Center, Department of Defense (DOD). These DOD, Defense Personnel Support Center (DPSC) contracts state certain military specifications for an acceptable one meal serving, retorted pouched or 18–24 serving hermetically-sealed tray packed meat, or meal product regarding satisfactory analyses for fat, salt, protein, moisture content, added stabilizer ingredient, and sometimes microbiological composition. MRE's are for use by the DOD, DPSC as a component of operational food rations, and as an item of general issue by the military.

Meat. This includes the edible part of the muscle of any cattle, sheep, swine, or goats, which is skeletal or which is found in the tongue, in the diaphragm, in the heart, or in the esophagus, and which is intended for human food, with or without the accompanying and overlying fat, and the portions of bone, skin, tendon, nerve, and blood vessels which normally accompany the muscle tissue, and which are not separated from it in the process of dressing. It does not include the muscle found in the lips, snout, or ears. This term, as applied to products of equines, shall have a meaning comparable to that provided in this paragraph with respect to cattle, sheep, swine, and goats.

Meat food product. Any article capable for use as human food (other than meat, prepared meat, or a meat by-product), which is derived or prepared wholly or in substantial part from meat or other portion of the carcass of any cattle, sheep, swine, or goats. An article exempted from definition as a meat food product by the Administrator, such as an organotherapeutic substance, meat juice, meat extract, and the like, which is used only for medicinal purposes and is advertised solely to the medical profession is not included.

Ready-to-eat. The term means consumers are likely to apply little or no additional heat to the fully-cooked and the fully-prepared food product before consumption.

Specifications. Descriptions with respect to the class, grade, other quality, quantity or condition of products, approved by the Administrator, and available for use by the industry regardless of the origin of the descriptions.

Tallow (Edible). The hard fat derived from USDA inspected and passed cattle, sheep, or goats.

Titer. The measure of the hardness or softness of the tested material as determined by the solidification point of fatty acids and expressed in degrees centigrade (°C).

§ 98.3 Analyses performed and locations of laboratories.

(a) Tables 1 through 4 list the special laboratory analyses rendered by the Science Division as a result of an agreement with the Livestock and Seed Division. The payment for such laboratory services rendered at the request of an individual or third party served shall be reimbursed pursuant to the terms as specified in the cooperative agreement.

TABLE 1.—SCHEDULE ANALYSIS

Identity	Analyses	Samples tested
Schedule BC (Beef chunks, canned)	fat, salt	1
Schedule BJ (Beef with natural juices, canned)	fat	1
Schedule CS (Canned meatball stew)	fat	3
Schedule GP (Frozen ground pork)	fat	4
Schedule PJ (Pork with natural juices, canned)	fat	1
Schedule RB (Beef for reprocessing)	fat	4
Schedule RG (Beef roasts and ground beef)	fat	4
Schedule SB (Slab or sliced bacon)	moisture, fat, salt	1
Schedule WS (Beef or wafer steaks)	fat	1

TABLE 2.—MICROBIOLOGICAL ANALYSIS

Type of analysis	Number of samples tested
Psychrotrophic bacterial plate count	1

TABLE 3.—NONSCHEDULE ANALYSIS

Identity	Analyses	Samples tested
Fed Specification PP–B–2120B (Ground Beef Products)	fat	4
Fed Specification PP–B–81J (Sliced Bacon)	fat, salt, moisture	1
Fed Specification PP–L–800E (Luncheon Meat, Canned)	fat, salt	1
Ground Beef or Ground Pork	fat	4
Ground Beef or Ground Pork	fat	1
Pork Sausage	fat, salt	4
Pork Sausage	fat, moisture	4
Pork Sausage	fat	4
Mil–P–44131A (Pork Steaks, Flaked, Formed, Breaded)	fat	4
Milwaukee Public Schools (Breaded/Unbreaded Meat)	fat	4
Chili Con Carne Without Beans	fat	1
A–A–20047–B	fat, protein	3
A–A–20136	salt	3
A–A–20148	fat, salt	3
Mil–B–44133 (GL)	fat, salt	3
Mil–B–44158A	water activity	5
Mil–C–44253	fat, salt	3
Mil–H–44159B (GL)	fat, salt	1
PP–F–02154 (Army GL)	fat, salt, moisture	1

TABLE 4.—LARD AND TALLOW ANALYSIS

Type of analysis	Number of samples tested
Fat analysis committee (FAC) color	1
Free fatty acids	1
Insoluble impurities	1
Moisture and volatile matter	1
Specific gravity	4–6
Titer test	1
Unsaponifiable material	1

(b) Meats, such as ground beef or ground pork, meat food products, and MRE's, not covered by an agreement with Livestock and Seed Division, are analyzed for fat, moisture, salt, sulfur dioxide, nitrites, sulfites, ascorbates, citric acid, protein, standard plate counts, and coliform counts, among other analyses. These food product analyses are performed at any one of the Science Division (SD) field laboratories as follows:

(1) USDA, AMS, Science Division, Midwestern Laboratory, 3570 North Avondale Avenue, Chicago, IL 60618
(2) USDA, AMS, SD Aflatoxin Laboratory, 107 South 4th Street, Madill, OK 73446
(3) USDA, AMS, SD, Eastern Laboratory, 645 Cox Road, Gastonia, NC 28054

§ 98.4 Analytical methods.

(a) The majority of analytical methods used by the USDA laboratories to perform analyses of meat, meat food products and MRE's are listed as follows:

(1) Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC), Association of Official Analytical Chemists, suite 400, 2200 Wilson Boulevard, Arlington, VA 22201–3301.

(2) U.S. Army Individual Protection Directorate's Military Specifications, approved analytical test methods noted therein, U.S. Army Natick Research, Development and Engineering Center, Kansas Street, Natick, MA 01760–5017.

(b) Additional analytical methods for these foods will be used, from time to time, as approved by the Director.

§ 98.5 Fees and charges.

(a) The fee charged for any single laboratory analysis of meat, meat food products, and MRE's, not covered by an agreement with Livestock and Seed Division, is specified in the schedules of charges in paragraph (a) of § 91.37.

(b) The laboratory analyses of meat, meat food products, and MRE's not covered by a cooperative agreement, shall result in an additional fee, found in table 7 of § 91.37, for sample preparation or grinding.

(c) The charge for any requested laboratory analysis of meat, meat food products, and MRE's not listed shall be based on the standard hourly rate specified in § 91.37, paragraph (b).

Subpart B—USDA Certification of Laboratories for the Testing of Trichinae in Horsemeat

§ 98.100 General.

A laboratory that has met the requirements for certification specified in this subpart shall receive an AMS Science Division certificate to approve its analysis for *trichinella* spiralis in horsemeat. Certification would be granted to a qualified analyst or a laboratory based on having the proper

training, facilities, and equipment. This AMS laboratory certification program will enable horsemeat exporters to comply with trichinae testing requirements of the European Community.

§ 98.101 Definitions.

Words used in the regulations in this part in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this part, unless the context requires otherwise, the following terms will be construed to mean:

European Community. The European Community (EC) consists of the initial 12 European countries and the updated and expanded membership of nations. The original EC members are Belgium, Britain, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal and Spain.

Horsemeat. That U.S. inspected and passed clean, wholesome muscle tissue of horses, which is skeletal or which is found in the tongue, in the diaphragm, in the heart, or in the esophagus, with or without the accompanying and overlying fat and the portions of sinews, nerves, and blood vessels, which normally accompany the muscle tissue and which are not separated from it in the process of dressing.

Trichinae. Round worms or nematodes of the genus *Trichinella,* which live as parasites in man, horses, rats, and other animals.

Trichinella spiralis. A small parasitic nematode worm which lives in the flesh of various animals, including the horse. When such infected meat is inadequately cooked and eaten by man, the live worm multiplies within the body and the larvae burrow their way into the muscles, causing a disease referred to as trichinosis.

§§ 98.102–98.600 [Reserved]

PART 99—STATISTICAL SCIENCE PROGRAM

Sec.
99.1 General [Reserved]
99.2 Definitions [Reserved]
99.3 Locations for statistical science services
99.4–99.999 [Reserved]

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, 1090, as amended, (7 U.S.C. 1622, 1624); 104 Stat. 3562–3565 (7 U.S.C. 138, 138(a), 138(b), 138(c), 138(d), 138(e), 138(f), 138(g), 138(h), 138(i)).

§ 99.1 General [Reserved].

§ 99.2 Definitions [Reserved].

§ 99.3 Locations for statistical science services.

The Science Division (SD) statistical science services are performed at any one of the offices as follows:
(a) USDA, AMS, Science Division, Statistical Branch, Kansas City Technical Center, 10383 No. Executive Hills Blvd., Kansas City, MO 64153
(b) USDA, AMS, SD, Statistical Branch, 0611 So. Agriculture Bldg., 14th & Independence Ave., SW, Washington, DC 20250

§§ 99.4–99.999 [Reserved]

Part 100—NATIONAL LABORATORY ACCREDITATION PROGRAM

Sec.
100.1 General [Reserved]
100.2 Definitions [Reserved]
100.3 Location of administrative office
100.4–100.999 [Reserved]

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, 1090, as amended, (7 U.S.C. 1622, 1624); 104 Stat. 3562–3565 (7 U.S.C. 138, 138(a), 138(b), 138(c), 138(d), 138(e), 138(f), 138(g), 138(h), 138(i)).

§ 100.1 General [Reserved].

§ 100.2 Definitions [Reserved].

§ 100.3 Location of administrative office.

The Science Division (SD) office that administers the National Laboratory Accreditation Program is located as follows:

USDA, AMS, Science Division, Office of Chief, Technical Services Branch, 3521 South Agriculture Bldg., Washington, DC 20250.

§§ 100.4–100.999 [Reserved]

Part 101—PESTICIDE DATA PROGRAM

Sec.
101.1 General [Reserved]
101.2 Definitions [Reserved]
101.3 Locations of administrative offices
101.4–101.999 [Reserved]

Authority: Public Law 101–624, Sections 1321–1330.

§ 101.1 General [Reserved].

§ 101.2 Definitions [Reserved].

§ 101.3 Locations of administrative offices.

The Science Division (SD) offices that administer the Pesticide Data Program are located as follows:
(a) USDA, AMS, Science Division, 8700 Centreville Rd., suite 200, Manassas, Virginia 22110
(b) USDA, AMS, Science Division, Office of Director, 3507 So. Agriculture Bldg., Washington, DC 20250

§§ 101.4–101.999 [Reserved]

Parts 102–109—[RESERVED]

Part 110—RECORDKEEPING ON RESTRICTED USE PESTICIDES BY CERTIFIED APPLICATORS; SURVEYS AND REPORTS

Sec.
110.1 Scope [Reserved]
110.2 Definitions [Reserved]
110.3 Records, retention, and access to records [Reserved]
110.4 Demonstration of compliance [Reserved]
110.5 Availability of records to facilitate medical treatment [Reserved]
110.6 Federal cooperation with States [Reserved]
110.7 Penalties [Reserved]
110.8 Rules of practice [Reserved]
110.9 Locations of administrative offices

Authority: 7 U.S.C. 136i–1; 7 U.S.C. 1624.

§ 110.1 Scope [Reserved].

§ 110.2 Definitions [Reserved].

§ 110.3 Records, retention, and access to records [Reserved].

§ 110.4 Demonstration of compliance [Reserved].

§ 110.5 Availability of records to facilitate medical treatment [Reserved].

§ 110.6 Federal cooperation with States [Reserved].

§ 110.7 Penalties [Reserved].

§ 110.8 Rules of practice [Reserved].

§ 110.9 Locations of administrative offices.

The Science Division (SD) offices that administer the Recordkeeping Program are located as follows:

(a) USDA, AMS, Science Division, 8700 Centreville Rd., suite 200, Manassas, Virginia 22110
(b) USDA, AMS, Science Division, Office of Director, 3507 So. Agriculture Bldg., Washington, DC 20250

PARTS 111–159—[RESERVED]

Dated: February 23, 1993.

L.P. Massaro,

Acting Administrator.

[FR Doc. 93–4750 Filed 3–8–93; 8:45 am]

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federal register

Tuesday
March 9, 1993

Part III

Environmental Protection Agency

40 CFR Part 68

List of Regulated Substances and Thresholds for Accidental Release Prevention; Requirements for Petitions; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 68

[A–91–74; FRL–4601–9]

List of Regulated Substances and Thresholds for Accidental Release Prevention; Requirements for Petitions Under Section 112(r) of the Clean Air Act as Amended

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period and notice of public hearing.

SUMMARY: On January 19, 1993 the Environmental Protection Agency proposed a list of regulated substances and threshold quantities as required under section 112(r) of the Clean Air Act as amended. EPA also proposed the requirements for the petition process that will be used to add or delete substances from the final list. The list and threshold quantities will determine the need for owners and operators of facilities to comply with future regulations under 112(r) of the Clean Air Act as amended, addressing the prevention and detection of accidental releases. This notice extends the public comment period for the proposed rule and schedules a public hearing.

DATES: The comment period for the proposed rule will be extended from the original closing date of March 22, 1993 to May 14, 1993.

EPA will hold a public hearing on this proposed rule on April 12, 1993, from 9:30 a.m. to 3:30 p.m. Individuals who wish to participate in the public hearing must register as participants and must submit their written statements in full on or before April 2, 1993.

ADDRESSES: Comments on the proposed rule may be mailed or submitted to: Environmental Protection Agency, Air Docket (LE–131), Attn: Docket No. A–91–74, Waterside Mall, 401 M St., SW., Washington, DC 20460.

The public hearing will be held at the EPA Headquarters Auditorium, 401 M St., SW., Washington, DC 20460. Written statements for the public hearing should be mailed to Vanessa Rodriguez, Chemical Emergency Preparedness and Prevention Office, OS–120, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Those wishing to present statements at the public hearing must call (703) 218–2570 to register. Statements for the public hearing as well as comments on the proposed rule must be submitted in duplicate.

FOR FURTHER INFORMATION CONTACT: Vanessa Rodriguez, (202) 260–7913, Chemical Emergency Preparedness and Prevention Office, OS–120, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, or the Emergency Planning and Community Right-to-Know Hot Line at 1–800–535–0202.

Dated: March 1, 1993.

Richard J. Guimond,

Assistant Surgeon General, USPHS.

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 93–5263 Filed 3–8–93; 8:45 am]

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federal register

Tuesday
March 9, 1993

Part IV

Department of Education

34 CFR Part 230 et al.
Drug-Free Schools and Communities; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Parts 230, 231, 236, and 238

RIN 1810–AA66

Drug-Free Schools and Communities

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends title 34 of the Code of Federal Regulations (CFR) to add a new part 238 containing regulations for the Drug-Free Schools and Communities Counselor Training Grants Program, which is authorized by the Drug-Free Schools and Communities Act of 1986 (Act), as amended by the Crime Control Act of 1990 (1990 Amendments) (Pub. L. 101–647). The Secretary also makes technical amendments to 34 CFR parts 230, 231, and 236.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bill Mattocks, U.S. Department of Education, 400 Maryland Avenue SW., Washington DC 20202–6439. Telephone (202) 401–1258. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The 1990 Amendments to Part C of the Drug-Free Schools and Communities Act—Training of Teachers, Counselors, and School Personnel—established the Counselor Training Grants Program (Section 5129 of the Act).

Grants under the Counselor Training Grants Program are awarded to provide additional financial assistance to State educational agencies (SEAs), local educational agencies (LEAs), institutions of higher education (IHEs), and consortia of these organizations to establish, expand, and enhance programs and activities for the training of counselors, social workers, psychologists, or nurses who are providing, or will provide, drug abuse prevention, counseling, or referral services in elementary and secondary schools. Grants also may be awarded to private nonprofit agencies that have an agreement with an LEA to provide training in drug abuse counseling for individuals who will provide the counseling in the schools of that LEA.

The regulations describe the personnel eligible to receive training under the program in terms of professional training and certification, as well as employment status. In addition to counselors, social workers, nurses, and psychologists, who are currently serving students in elementary and secondary schools, these regulations also include, as eligible personnel, counselors, social workers, nurses, and psychologists with evidence that they will be employed to serve students in elementary and secondary schools. The key factor in designating personnel eligible to receive training is the assurance that the results of the training will be of immediate benefit to students in elementary and secondary schools. The regulations also identify the organizations eligible as grantees; clarify application requirements and allowable activities; authorize funding priorities; and establish the selection criteria to be used in the review of grant applications by adopting the criteria currently used in 34 CFR 231.22.

The Counselor Training Grants Program provides resources directly applicable to the accomplishment of National Education Goal six: safe and drug-free schools.

Public Comment

On September 23, 1992 the Secretary published a notice of proposed rulemaking (NPRM) for this program in the **Federal Register** (57 FR 44046).

In the NPRM the Secretary invited comments on the proposed regulations. The Secretary did not receive any comments, and except for the addition of technical amendments to 34 CFR parts 230 and 236, there are no differences between the NPRM and these final regulations.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. Most of the changes in these final regulations were published for public comment on September 23, 1992. However, some of the changes are technical amendments needed to conform the regulations to statutory changes and previous amendments to the Education Department General Administrative Regulations. Public comment would have no effect on the content of these changes. Therefore, the Secretary has determined that publication of a proposed rule is unnecessary and contrary to public interest under 5 U.S.C. 553(b)(B).

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the NPRM, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 230

Drug abuse, Drug-Free schools and communities, Education, Elementary and secondary education, Grant programs—Education, Local educational agencies, Reporting and recordkeeping.

34 CFR Part 231

Drug abuse, Drug-Free schools and communities, Education, Elementary and secondary education, Grant programs—Education, Local educational agencies, Reporting and recordkeeping.

34 CFR Part 236

Drug abuse, Drug-Free schools and communities, Education, Elementary and secondary education, Grant programs—Education, Local educational agencies, Reporting and recordkeeping.

34 CFR Part 238

Drug abuse, Drug-Free schools and communities, Education, Elementary and secondary education, Grant programs—Education, Local educational agencies, Reporting and recordkeeping.

Dated: February 10, 1993.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: 84.199 Drug-Free Schools and Communities Hawaiian Natives Program; 84.188 Drug-Free Schools and Communities Regional Centers Program; Drug-Free Schools and Communities Counselor Training Program Catalog of Federal Domestic Assistance Number has not been assigned)

The Secretary amends title 34 of the Code of Federal Regulations by revising parts 230, 231, and 236, and adding a new part 238 as follows:

PART 230—DRUG-FREE SCHOOLS AND COMMUNITIES—HAWAIIAN NATIVES PROGRAM

1. The authority citation for part 230 is revised to read as follows:

Authority: 20 U.S.C. 3214, unless otherwise noted.

2. The authority citation following each section of Part 230 except § 230.30 is revised to read as follows:

(Authority: 20 U.S.C. 3214)

3. Section 230.4 is amended by revising paragraph (a), redesignating paragraph (b) as paragraph (d), and adding new paragraphs (b) and (c) to read as follows:

§ 230.4 What regulations apply?

* * * * *

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement)

(7) 34 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations for Student Rights in Research, Experimental Programs, and Testing in 34 CFR part 98.

(c) The regulations for Family Educational Rights and Privacy in 34 CFR part 99.

* * * * *

4. Section 230.5 is amended by removing "4134(b)" in paragraph (a), and adding, in its place, "5134(b)", and removing "4141(b)(1)" in the authority citation following paragraph (a) and adding, in its place "5141(b)(1)".

5. Section 230.30 is amended by correcting the section designation in the text and revising the authority citation to read as follows:

(Authority: 20 U.S.C. 3214, 3224)

PART 231—DRUG-FREE SCHOOLS AND COMMUNITIES—GENERAL PROVISIONS

6. The authority citation for part 231 is revised to read as follows:

Authority: 20 U.S.C. 3201, 3202, 3203, 3211, 3212, 3216, unless otherwise noted.

7. The authority citation following each section of part 231 except § 231.30 is revised to read as follows:

(Authority: 20 U.S.C. 3201, 3202, 3203, 3211, 3212, 3216)

8. Section 231.1 is revised to read as follows:

§ 231.1 What are the Drug-Free Schools and Communities Programs?

The programs described in 34 CFR parts 232, 233, 234, 235, and 238 provide assistance for drug and alcohol abuse education and prevention projects.

(Authority: 20 U.S.C. 3201, 3202, 3203, 3211, 3212, 3216)

9. Section 231.3 is amended by revising paragraphs (a) and (d) to read as follows:

§ 231.3 What regulations apply to these programs?

* * * * *

(a) The Education Department General Administrative Regulations (EDGAR) are as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR part 86 (Drug-Free Schools and Campuses).

* * * * *

(d) The regulations in 34 CFR parts 231, 232, 233, 234, 235, and 238.

10. In § 231.4, paragraphs (a), (b), and (c) are amended by adding ", and 238" following "parts 232–235".

PART 236—[AMENDED]

11. The title of part 236 is revised to read as follows:

PART 236—DRUG-FREE SCHOOLS AND COMMUNITIES—REGIONAL CENTERS PROGRAM

12. The authority citation for part 236 continues to read as follows:

(Authority: 20 U.S.C. 3215, unless otherwise noted)

13. The authority citation following each section of part 236 except § 236.41 is revised and an authority citation is added following § 236.2 to read as follows:

(Authority: 20 U.S.C. 3215)

14. Section 236.9 is amended by revising paragraph (a), redesignating paragraph (b) as paragraph (d), and adding new paragraphs (b) and (c) to read as follows:

§ 236.9 What regulations apply?

* * * * *

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement)

(7) 34 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations for Student Rights in Research, Experimental Programs, and Testing in 34 CFR part 98.

(c) The regulations for Family Educational Rights and Privacy in 34 CFR part 99.

* * * * *

15. Section 236.10 is amended by removing "4141" in paragraph (a), and adding, in its place, "5141".

16. The authority citation following § 236.41 is revised to read as follows:

(Authority: 20 U.S.C. 3224)

17. A new part 238 is added to read as follows:

PART 238—DRUG-FREE SCHOOLS AND COMMUNITIES COUNSELOR TRAINING GRANTS PROGRAM

Sec.

238.1 What is the Drug-Free Schools and Communities Counselor Training Grants Program?
238.2 What parties are eligible for a grant under this program?
238.3 What parties may grantees train under this program?
238.4 What must an application include?
238.5 What types of projects may the Secretary assist under this program?
238.6 How does the Secretary establish priorities for this program?
238.7 What regulations apply to this program?

Authority: 20 U.S.C. 3202, 3203, unless otherwise noted.

§ 238.1 What is the Drug-Free Schools and Communities Counselor Training Grants Program?

The Drug-Free Schools and Communities Counselor Training Grants Program provides assistance to establish, expand, or enhance programs and activities for the training of counselors, social workers, psychologists, or nurses, who are providing, or will provide, drug abuse prevention, counseling, or referral services in elementary and secondary schools.

(Authority: 20 U.S.C. 3202)

§ 238.2 What parties are eligible for a grant under this program?

The Secretary may award grants under this program to SEAs, LEAs, IHEs, consortia of these organizations, and any private nonprofit agency that has entered into a written agreement with an LEA to provide training in drug abuse counseling to individuals who will provide counseling in the schools of that LEA.

(Authority: 20 U.S.C. 3202, 3203)

§ 238.3 What parties may grantees train under this program?

Under this program, grantees may train counselors, social workers, psychologists, or nurses who—

(a) Possess a currently valid State license, credential, or certificate entitling them to practice as a counselor, social worker, psychologist, or nurse; and

(b) Are currently employed by, or under contract with, or can provide evidence that they will be employed by, one of the eligible parties listed in § 238.2 to provide drug abuse prevention, counseling, or referral services in an elementary or secondary school.

(Authority: 20 U.S.C. 3202)

§ 238.4 What must an application include?

Each application must—

(a) Describe the activities and programs to be carried out with the funds made available;

(b) Contain an estimate of the cost for the establishment and operation of the activities and programs;

(c) Provide assurances that the Federal funds made available will be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of those Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant these funds;

(d) Provide assurances of compliance with the provisions of this part, including—

(1) Assurances that all persons trained under this grant possess a currently valid State license, credential, or certificate entitling them to practice as a counselor, social worker, psychologist, or nurse; and

(2) Assurances that all persons trained under the grant are currently employed, or under contract, or can provide evidence that they will be employed to provide drug abuse prevention, counseling, or referral services in an elementary or secondary school;

(e) Discuss how the training to be provided under the grant will assist the applicant to—

(1) Increase the number of school personnel who are trained to provide drug abuse counseling services; and

(2) Improve the quality of drug abuse counseling services offered by the applicant or the LEA concerned; and

(f) Provide, in the case of an application from a private nonprofit agency, a copy of the written agreement between the agency and an LEA, under which the agency will provide training in drug abuse counseling to individuals who will provide counseling in the schools of the LEA.

(Approved by the Office of Management and Budget under control number 1810–0552.)

(Authority: 20 U.S.C. 3202, 3203)

§ 238.5 What types of projects may the Secretary assist under this program?

The Secretary may fund projects that—

(a) Establish, expand, or enhance programs and activities for the training of school counselors, social workers, psychologists, or nurses in the recognition of signs and symptoms of the use of alcohol, steroids, and other illegal drugs, and in the pharmacology of drugs;

(b) Train school counselors, social workers, psychologists, or nurses, who work with high-risk youth, in the area of drug and alcohol abuse education and prevention;

(c) Train school counselors, social workers, psychologists, or nurses in the implementation of drug prevention and education programs, including programs that involve family members and focus on children of alcoholics, children from families that are dysfunctional because of problems related to alcohol and drugs, and children with social problems that stem from addiction; or

(d) Train school counselors, social workers, psychologists, or nurses on how to prevent and eliminate the use of alcohol and other drugs among our Nation's youth by expanding and improving drug abuse education and prevention through intervention, counseling, and referral services, and on methods of providing positive alternative activities to alcohol and other drug use.

(Authority: 20 U.S.C. 3202, 3203)

§ 238.6 How does the Secretary establish priorities for this program?

(a) The Secretary selects priorities by taking into consideration unmet national needs for drug and alcohol abuse education and prevention.

(b) The Secretary may select as a priority one or more, or a combination, of the types of projects listed in § 238.5. The Secretary may limit any priority to a particular educational level, type of substance abuse, or type of personnel to be trained, including counselors, social workers, psychologists, or nurses.

(Authority: 20 U.S.C. 3202, 3203)

§ 238.7 What regulations apply to this program?

The following regulations apply to the Drug-Free Schools and Communities Counselor Training Grants Program:

(a) The regulations in 34 CFR part 231.

(b) The regulations in this part 238.

(Authority: 20 U.S.C. 3202, 3203)

[FR Doc. 93–5321 Filed 3–8–93; 8:45 am]

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federal register

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March 9, 1993

Part V

The President

Presidential Determination No. 93–15—Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Proclamation 6532—Save Your Vision Week, 1993

Proclamation 6533—Irish-American Heritage Month, 1993

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Title 3—

The President

Presidential Determination No. 93–15 of February 27, 1993

Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that up to $5,000,000 be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of Haitian refugee applicants. These funds may be contributed on a multilateral or bilateral basis, as appropriate, to international organizations, private voluntary organizations and other non-governmental organizations engaged in this relief effort, as well as to cover Department of State refugee-related administrative support costs.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority, and to publish this determination in the **Federal Register**.

William J. Clinton

[FR Doc. 93–5601
Filed 3–8–93; 11:18 am]
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Presidential Documents

Proclamation 6532 of March 5, 1993

Save Your Vision Week, 1993

By the President of the United States of America

A Proclamation

Vision is a remarkable gift. Providing nearly 40 percent of all sensory input to the brain, our eyes allow us to read, drive, and experience many of life's greatest pleasures. Vision, however, is an extremely fragile gift, one that can dim with injury or the onset of disease. Moreover, it is a gift that, with few exceptions, cannot be restored once it is lost.

Thus, given the important but delicate nature of good vision in our lives, it is tragic that each year thousands of Americans suffer vision loss that might have been prevented.

Having a periodic eye examination is an effective and simple way for most of us to prevent this tragedy from occurring in our lives. A comprehensive eye examination can provide an early warning of developing eye disease and allow an eye care professional the opportunity to initiate appropriate treatment.

Both glaucoma and diabetes are potentially blinding diseases that can be controlled and treated effectively, if detected early. However, each remains a leading cause of blindness in the United States. People at high risk for glaucoma, African Americans over the age of 40 and everyone over the age of 60, should receive an eye examination at least every two years to reduce the risk of blindness.

For people with diabetes, a regular eye examination is an absolute necessity. People with diabetes who have their eyes examined through dilated pupils at least once a year take a responsible preventive measure in protecting their vision.

Children also need early and regular eye examination. Even the seemingly healthiest child may have an unsuspected visual problem that needs prompt attention. A routine checkup can identify such disorders in time for effective treatment, sparing the child a lifetime of visual impairment.

Guarding against eye injuries is important for all members of our society. Both in the home and workplace, people should wear appropriate face masks, goggles, or safety glasses when working with chemicals or machinery that might be dangerous to the eyes. If possible, athletes should also wear protective eye wear, and children should be taught the basic principles of eye safety from an early age.

To encourage Americans to cherish and protect their vision, the Congress, by a joint resolution approved December 30, 1963 (77 Stat. 629; 36 U.S.C. 169a), has authorized and requested the President to proclaim the first week in March of each year as "Save Your Vision Week."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby designate the week beginning March 7, 1993, as Save Your Vision Week. I urge all Americans to participate in the observance by making eye care and eye safety an important part of their lives. Also, I invite eye care professionals, the communications media, and all public and private organizations committed to the goal of sight conservation to

join in activities that will make Americans more aware of the steps they can take to protect their vision.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of March, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93-5609
Filed 3-8-93; 11:33 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 6533 of March 6, 1993

Irish-American Heritage Month, 1993

By the President of the United States of America

A Proclamation

The story of the Irish in America, of those millions of Americans who trace their ancestry back to the Emerald Isle, is typical of so many American immigrants, yet is also uniquely influenced by the rich culture of Ireland. Like so many of our forebears, they came to this land seeking a better future. In the process of becoming Americans, they changed themselves, changed America, and changed the world.

By 1776, 300,000 natives of Ireland had already emigrated to the Colonies. They fought bravely in the American Revolution and helped to establish a new Nation. Eight signatories of the Declaration of Independence were of Irish origin. In the early years of the young Republic, as workers on the canals and railroads, they played a major role in the settlement of the West.

However, it was not until the great potato famine of the late 1840s that the trickle of Irish immigration became a flood. More than one million Irish men and women came to the United States during that period. They moved primarily into our great cities, which they quickly transformed into the bustling beehives of activity that they have been ever since.

Confronted by prejudice and sign after sign proclaiming "No Irish Need Apply," the new immigrants immersed themselves in the politics of such cities as New York, Boston, and Chicago. In fact, the political legacy of the Irish-American community may well be the most important of all its contributions to our Nation. Presidents John F. Kennedy and Ronald Reagan, as well as 16 other Presidents, have proudly proclaimed their Irish-American heritage. America has been blessed by the leadership of other Irish Americans as well, including Mike Mansfield, Tip O'Neill, and Tom Foley in the Congress, and Al Smith, Ray Flynn, and Richard Daley at the State and local levels.

However, the contributions of Irish Americans go well beyond politics. In Washington, D.C., alone, James Hoban designed and supervised the construction of the White House and assisted in the construction of the Capitol; Colonel Thomas Lincoln Casey completed the construction of the Washington Monument after it had been abandoned during the Civil War; and William Wilson Corcoran founded the gallery that now bears his name.

Irish Americans have also enriched the culture of their adopted land. Whether we think of Finley Peter Dunne, who satirized politics in the early 20th century; Jimmy Breslin, who has done much the same more recently; or Eugene O'Neill, one of the great playwrights of all time, the Irish contribution to American literature is broad and deep. In the performing arts, composer George M. Cohan, dancer Gene Kelly, and actress Grace Kelly have come to symbolize America to the world.

In tribute to all Irish Americans, the Congress, by House Joint Resolution 500, has designated March 1993 as "Irish-American Heritage Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 1993 as Irish-American Heritage Month. I urge all Americans to observe this month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of March, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93-5610
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federal register

Wednesday
March 10, 1993

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Presidential Documents

Title 3—

The President

Proclamation 6534 of March 6, 1993

To Revoke Proclamation No. 6491 of October 14, 1992

By the President of the United States of America

A Proclamation

WHEREAS, the provisions of the Davis-Bacon Act of March 3, 1931 (46 Stat. 1494, as amended), and the provisions of all other acts, Executive orders, proclamations, rules, regulations, or other directives providing for the payment of locally prevailing wages, which provisions are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act, were suspended by Proclamation No. 6491 of October 14, 1992, within specified geographic areas affected by Hurricanes Andrew and Iniki until otherwise provided;

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, do by this Proclamation revoke Proclamation No. 6491 of October 14, 1992, as to all construction contracts for which bids are opened or negotiations concluded on or after fifteen (15) days after the date of this Proclamation, whether direct Federal construction or federally assisted construction subject to Proclamation No. 6491.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of March, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93–5680
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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 432 and 752

RIN 3206–AE96

Performance Based Reduction in Grade and Removal Actions Adverse Actions

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting interim rules as final regulations under parts 432 and 752 to implement the Civil Service Due Process Amendments (DPA), granting procedural and appeal rights to certain nonpreference eligible employees in the excepted service. These regulations clarify which employees the act covers and which it does not. They also reflect the later enactment of a separate personnel system for employees of the Administrative Office of the United States Courts.

EFFECTIVE DATE: April 9, 1993.

FOR FURTHER INFORMATION CONTACT: Sharon C. Snellings on part 432; Cynthia L. Field on part 752. They may be reached on (202) 606–2920.

SUPPLEMENTARY INFORMATION: On May 11, 1992, OPM published for comment in the **Federal Register** (57 FR 20041) interim regulations reflecting passage of the Civil Service Due Process Amendments (DPA), Public Law 101–376, effective August 17, 1990. We received two formal written comments from agencies and one from an employee organization. None suggested any changes.

Subsequent to the publication of the interim regulations, Congress passed in 1992 a technical amendment to correct the unintended exclusion by the 1990 Due Process Amendments of 155,000 employees of the Department of Veterans Affairs working in the Veterans Health Administration from the coverage of chapter 75 of title 5, United States Code, (and by implication, from chapter 43). Before passage of the DPA, these employees were covered under chapter 43 and chapter 75 of title 5, United States Code, either because they were in the competitive service or because title 38, United States Code, gave them such rights as if they were in the competitive service. The technical amendments in Public Law 102–378 of October 2, 1992, included them retroactively under chapter 75 of title 5, United States Code, (and thus brought them under chapter 43). The final regulations reflect this retroactive change.

The regulations amend the coverage statements in parts 432 (Performance Based Reduction in Grade and Removal Actions) and 752 (Adverse Actions) to reflect the procedural and appellate rights which the statute provides for nonpreference eligible employees in the excepted service who meet certain conditions.

1. Completion of 2 Years of Service for Nonpreference Eligibles in the Excepted Service

For the purposes of determining the completion of the 2 years of service, employment in the competitive service, the excepted service, the Senior Executive Service, or in more than one agency during the period is counted as long as the service was current, continuous, in the same or similar positions in an executive agency, and not in a temporary appointment limited to 2 years or less. Thus, the determination of the completion of this 2 years differs in significant respects from the completion of the probationary period as discussed in Federal Personnel Manual Chapter 315. In contrast to the provisions governing the completion of the probationary period, the statute allows employees credit for service from more than one agency, and the definition of "similar" positions is somewhat less restrictive than that of "same line of work." Further, the service must be continuous (i.e., no breaks of a workday), and the law does not permit "tacking on" of past service in a temporary appointment to current service in a nontemporary appointment.

2. Statutory Exceptions From Coverage Under the DPA

Incorrect Exclusion of Certain Positions in the Department of Veterans Affairs

The interim regulations showed all positions in the Veterans Health Services and Research Administration (VHSRA) as excluded. While some positions in this organization (since renamed the Veterans Health Administration (VHA)) are properly excluded, the majority of positions were always covered under chapter 43 and chapter 75 of title 5, United States Code, and were incorrectly excluded by the 1990 DPA. We delayed issuance of final regulations in order to incorporate the planned retroactive legislative correction, which has now been enacted. The statutory and regulatory language reflect the correct exclusion.

Positions Which Are Excluded Under Agency Statutory Authority

As the supplementary information on the interim regulations pointed out, the DPA specifically lists certain agencies and groups of employees as excluded entirely from coverage under chapters 43 and 75 of title 5, United States Code. These agencies and positions (for example, the Foreign Service and the Central Intelligence Agency) were previously excluded by their own separate statutory authority from appointing requirements of title 5, United States Code. Furthermore, Public Law 101–474 later excluded all positions in the Administrative Office of the Courts from such requirements. In addition to these agencies and positions which the DPA or subsequent law specify as excluded, OPM is aware of the existence of other groups of positions which are also excluded from appointing requirements of title 5, United States Code. Consequently, if positions were previously effectively excluded by an agency's statutory authorities from adverse action protections whether the incumbents were preference eligibles or nonpreference eligibles, they continue to be excluded, in the absence of any provisions to include them. This is true whether or not they are specifically listed as excluded in the DPA.

Discussion with agencies has suggested to OPM that some minor changes would clarify the meaning of § 752.401(d)(12) pertaining to these employees whose positions have been

excluded by statute from the appointing provisions of title 5, United States Code, and in some cases, other provisions as well. The problem with trying to characterize the groups of positions that are excluded by statute from the coverage of chapter 75 of title 5, United States Code, but not specified in the DPA exclusions, is that Congress has used variable language to describe these exclusions, ranging from exceptions to the appointing requirements of the competitive service to exclusions from all provisions of title 5. The most commonly used language, however, provides appointing authority for the agency head "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service" or in some cases "without regard to the civil-service laws." Under long-established legal interpretations (currently set out in FPM Chapter 212, *Framework of the Federal Civilian Service*), "the authority to separate, suspend, or furlough an employee or to reduce the employee's grade or pay is inherent in the power to appoint." In other words, when agencies have the power to appoint without regard to the usual competitive or civil service laws, including veterans' preference, this broad authority carries with it the authority to remove (and take adverse actions) without regard to those same laws. In most of these statutory provisions, there is no specific exclusion from the provisions of chapter 75 of title 5, United States Code. Therefore, we are making clarifying changes to § 752.401(d)(12) to indicate that all that is required for a statutory exclusion from chapter 75 is a legislative exclusion from the appointing requirements of title 5, United States Code, in the absence of any provision to place the employee within the coverage of chapter 75 of title 5.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it applies only to Federal employees.

List of Subjects in 5 CFR Parts 432 and 752

Administrative practice and procedure; Government employees.

U.S. Office of Personnel Management.
Patricia W. Lattimore,
Acting Director.

Accordingly, OPM's interim rule amending 5 CFR part 432 and part 752, published at 57 FR 20041 on May 11, 1992, is adopted as a final rule with the following changes:

PART 432—PERFORMANCE BASED REDUCTION IN GRADE AND REMOVAL ACTIONS

1. The authority citation for part 432 continues to read as follows:

Authority: 5 U.S.C. 4302a, 4303, and 4305.

2. In § 432.102, paragraph (f)(6) is revised to read as follows:

§ 432.102 Coverage.

* * * * *

(f) * * *

(6) An employee who holds a position with the Veterans Health Administration which has been excluded from the competitive service by or under a provision of title 38, United States Code, unless such employee was appointed to such a position under section 7401(3) of title 38;

* * * * *

3. In § 432.108, paragraphs (a)(2) and (b)(1)(ii) are revised to read as follows:

§ 432.108 Appeal and grievance rights.

(a) * * *

(2) In the competitive service serving in an appointment which is not subject to a probationary or trial period, and has completed 1 year of current continuous employment in the same or similar position(s) under other than a temporary appointment limited to 1 year or less;

* * * * *

(b) * * *

(1) * * *

(ii) In the competitive service, serving in an appointment which is not subject to a probationary or trial period, and has completed 1 year of current continuous employment in the same or similar position(s) under other than a temporary appointment limited to 1 year or less;

* * * * *

PART 752—ADVERSE ACTIONS

4. The authority citation for part 752 is revised to read as follows:

Authority: 5 U.S.C. 7504, 7514, and 7543.

5. In § 752.201, paragraph (b)(5) is revised to read as follows:

§ 752.201 Coverage.

* * * * *

(b) * * *

(5) An employee of the Department of Veterans Affairs appointed under section 7401(3) of title 38, United States Code; and

* * * * *

6. In § 752.301, paragraphs (b)(7) through (b)(9) of statutory § 7511 are revised and paragraph (b)(10) is added to read as follows:

§ 752.301 Principal statutory requirements.

* * * * *

§ 7511. Definitions; Application

* * * * *

(b) * * *

(7) Whose position is within the Central Intelligence Agency or the General Accounting Office;

(8) Whose position is within the United States Postal Service, the Postal Rate Commission, the Panama Canal Commission, the Tennessee Valley Authority, the Federal Bureau of Investigation, the National Security Agency, the Defense Intelligence, Agency, or an intelligence activity of a military department covered under section 1590 of title 10, unless subsection (a)(1)(B) of this section or section 1005(a) of title 39 is the basis for this subchapter's applicability;

(9) Who is described in section 5102(c)(11) of this title; or

(10) Who holds a position with the Veterans Health Administration which has been excluded from the competitive service by or under a provision of title 38, unless such employee was appointed to such position under section 7401(3) of such title.

* * * * *

7. In § 752.401, paragraphs (c) and (d) are revised to read as follows:

§ 752.401 Coverage.

* * * * *

(c) *Employees covered.* This subpart covers:

(1) An employee in the competitive service who has completed a probationary or trial period;

(2) An employee in the competitive service serving in an appointment that requires no probationary or trial period, and who has completed 1 year of current continuous service in the same or similar positions under other than a temporary appointment limited to 1 year or less;

(3) An employee in the excepted service who is a preference eligible in an executive agency as defined at section 105 of title 5, United States Code, the U.S. Postal Service, or the Postal Rate Commission and who has completed 1 year of current continuous service in the same or similar positions;

(4) A Postal Service employee covered by Public Law 100–90 who has completed 1 year of current continuous service in the same or similar positions and who is either a supervisory or management employee or an employee engaged in personnel work in other than a purely nonconfidential clerical capacity;

(5) An employee in the excepted service who is a nonpreference eligible in an Executive agency as defined at section 105 of title, 5, United States Code, and who has completed 2 years of current continuous service in the same or similar positions under other than a temporary appointment limited to 2 years or less;

(6) An employee with competitive status who occupies a position in Schedule B of part 213 of this chapter;

(7) An employee who was in the competitive service at the time his or her position was first listed under Schedule A, B, or C of the excepted service and who still occupies that position;

(8) An employee of the Department of Veterans Affairs appointed under section 7401(3) of title 38, United States Code; and

(9) An employee of the Government Printing Office.

(d) *Employees excluded.* This subpart does not apply to:

(1) An employee whose appointment is made by and with the advice and consent of the Senate;

(2) An employee whose position has been determined to be of a confidential, policy-determining, policy-making, or policy-advocating character by: the President for a position that the President has excepted from the competitive service; the Office of Personnel Management for a position that the Office has excepted from the competitive service (Schedule C); or the President or the head of an agency for a position excepted from the competitive service by statute;

(3) A Presidential appointee;

(4) A reemployed annuitant;

(5) A technician in the National Guard described in section 8337(h)(1) of title 5, United States Code, who is employed under section 709(b) of title 32, United States Code;

(6) A Foreign Service member as described in section 103 of the Foreign Service Act of 1980;

(7) An employee of the Central Intelligence Agency or the General Accounting Office;

(8) An employee of the Veterans Health Administration (Department of Veterans Affairs) in a position which has been excluded from the competitive service by or under a provision of title 38, United States Code, unless the employee was appointed to the position under section 7401(3) of title 5, United States Code;

(9) A nonpreference eligible employee with the U.S. Postal Service, the Postal Rate Commission, the Panama Canal Commission, the Tennessee Valley Authority, the Federal Bureau of Investigation, the National Security Agency, the Defense Intelligence Agency, or an intelligence activity of a military department covered under section 1590 of title 10, United States Code;

(10) An employee described in section 5102(c)(11) of title 5, United States Code, who is an alien or noncitizen occupying a position outside the United States;

(11) A nonpreference eligible employee serving a probationary or trial period under an initial appointment in the excepted service pending conversion to the competitive service; and

(12) An employee whose agency or position has been excluded from the appointing provisions of title 5, United States Code, by separate statutory authority in the absence of any provision to place the employee within the coverage of chapter 75 of title 5, United States Code.

[FR Doc. 93–5351 Filed 3–9–93; 8:45 am]
BILLING CODE 6325–01–M

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5 CFR Part 532

RIN 3206–AF16

Prevailing Rate Systems

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to authorize a special schedule practice for U.S. civil service prevailing rate (wage) employees in the Commonwealth of the Northern Mariana Islands (CNMI)—a practice consistent with the special schedules authorized in the other U.S. insular areas of Gram, Midway, American Samoa, and the U.S. Virgin Islands. No change in pay rates is involved, since this special schedule practice authorizes rates identical to those on the foreign area schedule from which the employees are currently paid. The Department of the Interior, which has four authorized wage positions at the American Memorial Park on Saipan, CNMI, is assigned lead agency responsibility for establishing and issuing this schedule. This change is necessary because the pay of wage employees in CNMI is based on the foreign area wage schedule—a schedule no longer applicable since the change in status of CNMI from territory to commonwealth (part of the United States).

EFFECTIVE DATE: April 9, 1993.

FOR FURTHER INFORMATION CONTACT: Paul Shields, (202) 606–2848.

SUPPLEMENTARY INFORMATION: On September 30, 1992, OPM published a proposed rule (57 FR 45004) to authorize a special schedule practice for U.S. civil service prevailing rate employees in the Commonwealth of the Northern Mariana Islands. The use of the foreign area schedule to set the wages for these employees dates back to the period when the Northern Mariana Islands were part of the Trust Territory of the Pacific Islands (TTPI), a United Nations Trusteeship administered by the United States. With implementation of the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States," the trusteeship agreement was terminated, and in December 1990, the United Nations terminated the TTPI. Under the Covenant, U.S. Federal law applies to CNMI.

This final rule also puts in regulation the entitlement to post differentials for wage employees recruited from outside of the insular area where employed—an entitlement previously described in Federal Personnel Manual Supplement 532–1.

A number of administrative changes in the regulatory descriptions of foreign and insular area special schedules are also included. Specifically, the amended regulations (1) split treatment of the foreign area schedule and the related special schedules into separate sections, (2) adopt the term "insular areas" to cover U.S. territories, possessions, and associated commonwealths (not otherwise surveyed—e.g., Puerto Rico), (3) change "will" to "shall" in § 532.255, (4) delete the production facilitating chart in § 532.255 because that chart is now shown in § 532.263 (production facilitating special schedules), and (5) remove the reference in § 532.259 to the U.S. Virgin Islands transition that ended in fiscal year 1990.

No comments were received during the 60-day comment period. The proposed rule, therefore, is being adopted as a final rule without any changes.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.
Patricia W. Lattimore,
Acting Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92–502.

2. Section 532.255 is amended by revising the heading and paragraph (a), removing the word "will" where it appears in the introductory text to paragraph (b) and in paragraphs (c) and (d) and inserting in its place the word "shall", and by revising paragraph (e) to read as follows:

§ 532.255 Regular appropriated fund wage schedules in foreign areas.

(a) The Department of Defense shall establish and issue regular appropriated fund wage schedules for U.S. citizens who are employees in foreign areas. These wage schedules shall provide rates of pay for nonsupervisory, leader, supervisory, and production facilitating employees.

* * * * *

(e) Pay schedules for production facilitating positions shall be established in accordance with the table in § 532.263(c) of this subpart.

3. Section 532.259 is revised to read as follows:

§ 532.259 Special appropriated fund wage schedules for U.S. insular areas.

(a) Lead agencies shall establish and issue special wage schedules for U.S. civil service wage employees in certain U.S. insular areas. The Department of Defense is the lead agency for Guam, Midway, and the U.S. Virgin Islands. The Department of Transportation is the lead agency for American Samoa. The Department of the Interior is the lead agency for the Commonwealth of the Northern Mariana Islands. These schedules shall provide rates of pay for nonsupervisory, leader, supervisory, and production facilitating employees.

(b) Special schedules shall be established at the same time and with rates identical to the foreign area appropriated fund wage schedules established under § 532.255 of this subpart.

(c) Wage employees recruited from outside the insular area where employed, who meet the same eligibility requirements as those specified for General Schedule employees in § 591.209 of subpart B of part 591, are also paid as a part of basic pay a differential for recruitment and retention purposes. The differential rate shall be that established for General Schedule employees in appendix B of subpart B of part 591 and shall be adjusted effective concurrently with the special schedules.

[FR Doc. 93–5350 Filed 3–9–93; 8:45 am]
BILLING CODE 6325–01–M

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5 CFR Part 532

RIN 3206–AE84

Prevailing Rate Systems

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to add Wayne Country, West Virginia, as an area of application to the Franklin, Ohio, Nonappropriated Fund (NAF) wage area. The Department of Veterans Affairs Medical Center in Huntington, West Virginia, previously had been misidentified as being located in Cabell County, West Virginia, for pay-setting purposes, although its actual location is within adjacent Wayne County, West Virginia. The intent of this action is to correct the discrepancy in our regulation.

EFFECTIVE DATE: April 9, 1993.

FOR FURTHER INFORMATION CONTACT: Brenda Roberts, (202) 606–2848.

SUPPLEMENTARY INFORMATION: On July 27, 1992, OPM published a proposed rule to add Wayne County, West Virginia, to the Franklin, Ohio, wage area as an area of application (57 FR 33130). No comments were received during the 30-day comment period. The proposed rule, therefore, is being adopted as a final rule without any changes.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.
Patricia W. Lattimore,
Acting Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92–502.

2. Appendix D to subpart B is amended by revising the West Virginia wage area listing under Franklin, Ohio, to read as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

* * * * *

Ohio

FRANKLIN

Survey Area

* * * * *

Area of Application. Survey area plus:

* * * * *

West Virginia:
Cabell
Raleigh
Wayne

* * * * *

[FR Doc. 93–5349 Filed 3–9–93; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1703

Distance Learning and Medical Link Grant Program

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Extension of Grant Application Deadline for First Selection Period.

SUMMARY: The Rural Electrification Administration (REA) is hereby giving notice to interested parties that an extension has been given to submit applications under the first selection period of the Distance Learning and Medical Link Grant Program.

DATES: Applications to be considered for the first selection period must be postmarked no later than April 30, 1993.

ADDRESSES: Applications may be submitted to the Administrator, Rural Electrification Administration, U.S. Department of Agriculture, 14th and Independence Ave., SW., Washington, DC 20250–1500. Applications should be marked "Attention: Assistant Administrator, Economic Development and Technical Services."

FOR FURTHER INFORMATION CONTACT: Larry Bryant, Chief, Planning Branch, Rural Development Assistance Staff, room 2237-S, U.S. Department of Agriculture, Rural Electrification Administration, at the above address. Telephone: (202) 690–3594.

SUPPLEMENTARY INFORMATION: The final rule implementing the Distance Learning and Medical Link Grant Program was published in the **Federal Register** on February 26, 1993 and the rule becomes effective March 29, 1993. This filing deadline extension affects 7 CFR part 1703, subpart D, section 1703.113, Application filing dates and location. All other terms and conditions remain as in 7 CFR part 1703, subpart D. This is a one time extension. This action is necessary to allow interested parties wishing to make application for grants under this program sufficient time to file applications. Potential applicants should call the Rural Development Assistance Staff *first* in order to obtain the application and application processing guide.

Dated: March 5, 1993.

James B. Huff, Sr.,

Administrator.

[FR Doc 93–5545 Filed 3–9–93; 8:45 am]

BILLING CODE 3410–15–F

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 93–12]

Conforming Amendments to the Customs Regulations

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: In accordance with Customs policy of periodically reviewing its Regulations to ensure that they are current, this document makes certain conforming changes to the Customs Regulations dealing with vessels in foreign and domestic trades, which are necessary because of various legislative and administrative actions.

EFFECTIVE DATE: March 10, 1993.

FOR FURTHER INFORMATION CONTACT: Larry Burton, Carrier Rulings Branch, (202) 482–6940.

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to keep its Regulations current, the Customs Service has determined that various legislative and administrative actions require conforming amendments to Part 4 of the Customs Regulations (19 CFR part 4). Following is a summary of these changes.

Discussion of Changes

1. Section 4.20(a) generally provides for the payment of regular tonnage tax on vessels entering from a foreign port or place. Section 4.20(a) is revised to reflect changes in the amount of regular tonnage tax applicable in such circumstances, and to include among those vessels which are subject to the tax certain vessels which depart a U.S. port or place and return to the same port or place without being entered in the U.S. from another port or place (voyages to nowhere). These changes are necessitated by Public Law 101–508, which amended 46 U.S.C. app. 121 to this effect on November 5, 1990. Pursuant to this, footnotes 36 and 38 are deleted from part 4, given Customs policy of deleting footnotes at the time the regulatory provisions to which they relate are amended and ensuring that the relevant contents of such footnotes are included in the provisions themselves.

2. Section 4.20(b) is amended to add a sentence revising and incorporating the substance of footnote 37 which is also deleted from Part 4.

3. Section 4.20(c) generally provides for the payment of special tonnage tax and light money on vessels entering from a foreign port or place. The present table in this section listing the vessel tonnage and light money rates payable under various conditions is unclear regarding the treatment of vessels of foreign nations if they enter from a foreign port or place where vessels of the U.S. are not ordinarily permitted to enter and trade. Such foreign vessels are subject to special tonnage tax and light money of $2.50 per net ton if they are not of a nation listed in § 4.22, Customs Regulations (19 CFR 4.22). However, if of a nation so listed, such vessels are not subject to that $2.50 per net ton special tonnage tax and light money. The table in § 4.20(c) is thus revised to clarify this. Also in this connection, footnote 39 is deleted from part 4.

4. Section 4.21(b) lists the vessels which are exempt from the payment of tonnage tax and light money. This section is amended by revising its introductory language to clarify this purpose, and by revising the exemption contained in paragraph (b)(13) to make clear that it applies only to vessels arriving in the United States on a voyage otherwise than by sea from a port in the province of Ontario, Canada. As a result, footnote 44 is deleted from part 4.

Furthermore, § 4.21(b) is also amended by adding to the list of exemptions an exemption for coastwise-qualified vessels solely engaged in the coastwise trade, which arrive from a foreign port or place transporting cargo in a movement for which coastwise trade vessel documentation is required. The statutory authority for this additional exemption is 46 U.S.C. App. 122.

Prior to 1931, the Customs Regulations exempted vessels engaged in the coastwise trade from the payment of tonnage tax. In the 1931 Customs Regulations, the provisions on tonnage tax and light money (Articles 129–136) were substantially revised and the provisions exempting vessels of the U.S. engaged in the coastwise trade from tonnage tax were omitted, without explanation. Customs has held that a coastwise-qualified vessel arriving in the United States from a foreign port or place transporting merchandise in the coastwise trade is not subject to tonnage tax (Customs Ruling 108700/109303, dated April 1, 1988). This ruling was published as C.S.D. (Customs Service Decision) 88–8, 22 Cust. Bull. 335 (1988). The additional listing reflects this Customs ruling and the underlying law.

5. Section 4.64 provides that clearance shall not be granted to any documented vessel bound to a foreign port or place unless it has a Certificate of Documentation with a registry or, if departing for Canada, a Great Lakes license endorsement. The authority for this regulation is R.S. 4337 (1878 edition), as amended, 46 U.S.C. App. 278. Section 127 of the Vessel Documentation Act of 1980, Public Law 96–594, 94 Stat. 3453, 3459, repealed § 4337, and there is now no authority for denying clearance to a vessel which is engaged or will engage in the coastwise trade and which is documented with a Certificate of Documentation with a coastwise endorsement only, when that vessel is bound to a foreign port or place. Customs so concluded in Ruling 108700, dated May 22, 1987, which was published as C.S.D. 87–16, 21 Cust. Bull. 386 (1987). Accordingly, § 4.64 is deleted from the regulations.

6. Section 4.92 provides for the enforcement of the restrictions on coastwise towing in 46 U.S.C. App.

316(a), the coastwise towing statute. This statute was amended by § 10, Act of May 19, 1986, Public Law 99–307, 100 Stat. 447. The amended provisions at § 316(a) are incorporated into § 4.92, and footnote 124 is deleted from part 4.

7. Section 4.96 relates to U.S. and foreign vessels engaged in the U.S. fisheries. The primary statutory authorities for this provision are R.S. 4311, as amended, codified as 46 U.S.C. App. 251, 46 U.S.C. 12101(a)(1) and 12108, and they are added to the authority listing. Paragraph (c) of § 4.96, which contains the definition of the term "fisheries" formerly set forth in 46 U.S.C. 12101(6), is now revised in conformance with the definition thereof set forth in 46 U.S.C. 12101(a)(1).

Inapplicability of Public Notice and Comment and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12291

Inasmuch as these amendments merely conform the Customs Regulations to existing law or practice as noted above, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary and pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required. Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). These amendments do not meet the criteria for a "major rule" as defined in E.O. 12291; therefore, a regulatory impact analysis is not required thereunder.

Drafting Information

The principal author of this document was Russell Berger, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 4

Cargo vessels, Coastal zone, Customs duties and inspection, Fishing vessels, Freight, Harbors, Imports, Maritime carriers, Reporting and recordkeeping requirements, Seamen, Vessels, and Yachts.

Amendments to the Regulations

Part 4, Customs Regulations (19 CFR part 4), is amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 continues to read as follows, the specific sectional authority citations for §§ 4.3, 4.7, 4.7a, 4.9, 4.15, 4.20, 4.21, 4.36, 4.65a, 4.66, 4.66a, 4.68, 4.74, 4.75, 4.80, 4.81, 4.81a, 4.82, 4.83, and 4.84 are revised to read as follows, and specific sectional authority citations for §§ 4.92 and 4.96 are added in appropriate numerical order to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. App. 3;

* * * * *

§ 4.3 also issued under 19 U.S.C. 288, 1434, 1435, 1441, 46 U.S.C. App. 111;

* * * * *

§ 4.7 also issued under 19 U.S.C. 1431, 1439, 1465, 1581(a), 1583, 46 U.S.C. App. 883a, 883b;

§ 4.7a also issued under 19 U.S.C. 1431, 1432, 1439, 1465, 1498, 1584, 46 U.S.C. App. 674;

* * * * *

§ 4.9 also issued under 19 U.S.C. 1434, 1435, 42 U.S.C. 269, 46 U.S.C. App. 677;

* * * * *

§ 4.15 also issued under 46 U.S.C. U.S.C. App. 310;

* * * * *

§ 4.20 also issued under 46 U.S.C. 2107(b), 8103, 14306, 14502, 14511, 14512, 14513, 14701, 14702, 46 U.S.C. App. 121, 128;

§ 4.21 also issued under 19 U.S.C. 1441, 46 U.S.C. App. 121–125, 128, 129, 132, 135;

* * * * *

§ 4.36 also issued under 19 U.S.C. 1431, 1457, 1458, 46 U.S.C. App. 100;

* * * * *

§ 4.65a also issued under 46 U.S.C. 5101–5102, 5106–5109, 5112–5114, 5116;

§ 4.66 also issued under 46 U.S.C. App. 91;

§ 4.66a also issued under 33 U.S.C. 1321, 46 U.S.C. App. 91;

* * * * *

§ 4.68 also issued under 46 U.S.C. App. 674, 817d, 817e;

§ 4.74 also issued under 46 U.S.C. App. 91;

§ 4.75 also issued under 46 U.S.C. App. 91;

§ 4.80 also issued under 46 U.S.C. App. 251, 289, 319, 802, 808, 883, 883–1;

§ 4.81 also issued under 19 U.S.C. 1433, 1439, 1442, 1443, 1444, 1486, 46 U.S.C. App. 251, 313, 314, 883;

§ 4.81a also issued under 46 U.S.C. App. 883;

§ 4.82 also issued under 19 U.S.C. 293, 294, 46 U.S.C. App. 123;

§ 4.83 also issued under 46 U.S.C. App. 91, 111, 123;

§ 4.84 also issued under 19 U.S.C. 1433, 1435, 1437, 46 U.S.C. App. 91, 313, 314, 883–1;

* * * * *

§ 4.92 also issued under 46 U.S.C. App. 316(a);

* * * * *

§ 4.96 also issued under 46 U.S.C. 12101(a)(1), 12108, 46 U.S.C. App. 251;

* * * * *

2. Section 4.20 is amended by revising the first sentence of the introductory text of paragraph (a), revising paragraphs (a)(1), (a)(2), and (a)(3), adding a sentence at the end of paragraph (b), and by revising the table set forth in paragraph (c), to read as follows:

§ 4.20 Tonnage taxes.

(a) Except as specified in § 4.21, a regular tonnage tax or duty of 9 cents per net ton, not to exceed in the aggregate 45 cents per net ton in any 1 year, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West Indies, the Bahama Islands, the Bermuda Islands, the coast of South America bordering on the Caribbean Sea (considered to include the mouth of the Orinoco River), or the high seas adjacent to the U.S. or the above listed foreign locations, and on all vessels (except vessels of the U.S., recreational vessels, and barges, as defined in § 2101 of Title 46) that depart a U.S. port or place and return to the same port or place without being entered in the United States from another port or place, and regular tonnage tax of 27 cents per net ton, not to exceed $1.35 cents per net ton per annum, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port. * * *

(1) When the vessel has proceeded in ballast from a port to which the 27-cent rate is applicable to a port to which the 9-cent rate applies and there has laden cargo or taken passengers, tonnage tax upon entry in the United States shall be assessed at the 9-cent rate.

(2) The same rate shall be applied in a case in which the vessel has transported cargo or passengers from a 27-cent port to a 9-cent port when all such cargo or passengers have been unladen or discharged at the 9-cent port, without regard to whether the vessel thereafter has proceeded to the United States in ballast or with cargo or passengers laden or taken on board at the 9-cent port.

(3) The 27-cent rate shall be applied when the vessel proceeds from a 9-cent port to a 27-cent port en route to the United States under circumstances similar to paragraph (a) (1) or (2) of this section.

* * * * *

(b) * * * There may be 5 payments at the maximum (27 cent) and 5 at the minimum (9-cent) rate during a tonnage year, so that the maximum assessment of tonnage duty may amount to $1.80 per net ton for the tonnage year of a vessel engaged in alternating trade.

(c) * * *

Classes of vessels	Rate per net ton		
	Regular tax	Special tax	Light money
Vessels of the United States:			
1. Under provisional register, without regard to citizenship of officers	$0.09 or $0.27		
2. All others:			
(i) If all the officers are citizens	.09 or .27		
(ii) If any officer is not a citizen	.09 or .27	[1] 0.50	[1] .50
Undocumented vessels which are owned by citizens[2]	.09 or .27	.50	[3] .05
Foreign vessels:			
1. Of nations whose vessels are exempted from special tax or light money	.09 or .27		
2. All others:			
(i) Built in the U.S	.09 or .27	.30	.50
(ii) Not built in the U.S	.09 or .27	.50	.50
(iii) In addition to (i) or (ii) of 2., Foreign Vessels, when entering from a foreign port or place where vessels of the U.S. are not ordinarily permitted to enter and trade[3a].	.09 or .27	[4] 2.00	[4] .50

[1] This does not apply on the first arrival of a vessel in a port of the United States from a foreign or intercoastal voyage if all the officers who are not citizens are below the grade of master and are filling vacancies which occurred on the voyage.
[2] This special tax and light money do not apply if the vessel is documented as a vessel of the United States before leaving the port.
[3] This does not apply if the vessel is under a certificate of protection and the owner or master files with the district director the oath required by 46 U.S.C. App. 129. An unrecorded bill of sale is not such a document as will exempt a vessel from the payment of light money under 46 U.S.C. App. 128, and the recording of such bill of sale after the arrival of the vessel is not sufficient to relieve it from the payment of the tax.
[3a] The following countries ordinarily do not permit vessels of the United States to enter and trade: Democratic Kampuchea (Cambodia); Democratic People's Republic of Korea (North Korea); and, the Socialist Republic of Vietnam.
[4] This is to be collected on each entry of a vessel from such a port or place.

* * * * *

3. Footnotes 36 through 39 are removed from part 4 and reserved.

4. Section 4.21 is amended by revising the introductory text of paragraph (b), by revising paragraph (b)(13), and by adding paragraph (b)(14) to read as follows:

§ 4.21 Exemptions from tonnage tax.

* * * * *

(b) The following vessels, or vessels arriving in the circumstances as defined below, shall be exempt from tonnage tax and light money:

* * * * *

(13) It enters otherwise than by sea from a foreign port at which tonnage or lighthouse duties or equivalent taxes are not imposed on vessels of the United States (applicable only where the vessel arrives from a port in the province of Ontario, Canada).

(14) It is a coastwise-qualified vessel solely engaged in the coastwise trade (although arriving from a foreign port or place, it is engaged in the transportation of merchandise or passengers, or the towing of a vessel other than a vessel in distress, between points in the U.S. via a foreign point) (see §§ 4.80, 4.80a, 4.80b, and 4.92).

* * * * *

5. Footnote 44 is removed from part 4 and reserved.

§ 4.64 [Removed]

6. Section 4.64 is removed and reserved.

7. Footnote 124 is removed from part 4 and reserved.

8. Section 4.92 is revised to read as follows:

§ 4.92 Towing.

No vessel other than a vessel documented for the coastwise or Great Lakes trade, or which would be entitled to be so documented except for its tonnage (see § 4.80), may tow a vessel other than a vessel in distress between points in the U.S. embraced within the coastwise laws, or for any part of such towing (46 U.S.C. App. 316(a)). The penalties for violation of this prohibition are a fine of from $250 to $1000 against the owner or master of the towing vessel and a further penalty against the towing vessel of $50 per ton of the towed vessel.

9. Section 4.96 is amended by revising the second sentence of paragraph (c) to read as follows:

§ 4.96 Fisheries.

* * * * *

(c) * * * "Fisheries" includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or the exclusive economic zone.

* * * * *

Approved: January 21, 1992.

Carol Hallett,

Commissioner of Customs.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 93-5310 Filed 3-9-93; 8:45 am]

BILLING CODE 4820-02-M

Office of Foreign Assets Control

31 CFR Part 505

Transaction Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Transaction Control Regulations to generally license transactions authorized by certain countries designated by the U.S. Commerce Department as fully cooperating with the Coordinating Committee for Multilateral Export Controls ("COCOM"), to add Cambodia and delete Hungary and Tibet from the schedule of proscribed countries, and to update the names of certain countries in the schedule. This amendment serves to bring the Transaction Control Regulations into conformity with changes in the Export Administration Regulations.

EFFECTIVE DATE: March 5, 1993.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing (tel.: 202/622-2480), or William B. Hoffman, Chief Counsel (tel.: 202/622-2410).

SUPPLEMENTARY INFORMATION: The Transaction Control Regulations, 31 CFR part 505 (the "TCR"), supplement the national security export controls administered by the Commerce Department by restricting involvement of "persons within the United States" in the exportation of strategic goods from third countries to certain countries designated under the TCR. The designated countries now controlled

under the TCR are: Albania, Bulgaria, Cambodia, the Czech Republic, Estonia, Latvia, Lithuania, North Korea, Mongolia, the People's Republic of China, Poland, Romania, the Slovak Republic, the geographic area formerly known as the Union of Soviet Socialist Republics, and Vietnam. Hungary is deleted from the list in accordance with its removal from the list of "controlled countries" under the EAR on May 8, 1992 (57 FR 19805). Cambodia is no longer an embargoed country, although it remains a COCOM-proscribed destination. Tibet is removed from the list, since it is not recognized as a country.

The term "person within the United States" is defined by reference to 31 CFR 500.330 to include: Any individual, wherever located, who is a resident of the United States; any person within the United States; any corporation organized under the laws of the United States; and any domestic or foreign entity owned or controlled by any of the foregoing. Any such person who sells or purchases, or arranges the purchase or sale or financing of strategic exports from third countries to a designated country, must apply to the Office of Foreign Assets Control for a license authorizing the transaction, unless the strategic goods are being exported from a COCOM-participating or fully-cooperating country that has already authorized the exportation. This rule augments the list of COCOM-participating countries currently set forth in the TCR to add countries determined to be fully cooperating in the multilateral export control regime. This rule allows involvement by "persons within the United States" in exports of multilaterally-controlled ("A" level) commodities from COCOM participating and fully cooperating countries to destinations in designated countries other than North Korea and Vietnam.

Since the Regulations involve a foreign affairs function, Executive Order 12291 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

List of Subjects in 31 CFR Part 505

Administrative practice and procedure, Austria, Banking, Cambodia, Communist countries, Exports, Finland, Foreign Trade, Hong Kong, Ireland, New Zealand, Sweden, Switzerland.

For the reasons set forth in the preamble, 31 CFR part 505 is amended as set forth below:

PART 505—TRANSACTION CONTROL REGULATIONS

1. The authority citation for part 505 continues to read as follows:

Authority: 50 U.S.C. app. 5(b), as amended; E.O. 9193, 7 FR 5205, 3 CFR 1938–1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR 1943–1948 Comp, p. 748.

2. The schedule to paragraph (b) of § 505.10 is revised to read as follows:

§ 505.10 Prohibitions.

(b) * * *

Schedule

Albania
Bulgaria
Cambodia
The Czech Republic
Estonia
Latvia
Lithuania
North Korea
Mongolia
People's Republic of China
Poland
Romania
The Slovak Republic
The geographic area formerly known as the Union of Soviet Socialist Republics
Vietnam

3. Paragraphs (a) (1) and (2) of § 505.31 are revised to read as follows:

§ 505.31 General license for offshore transactions from certain countries.

(a) * * *

(1) Shipment is to a country listed in the schedule to § 505.10, other than North Korea and Vietnam.

(2) Shipment is made from and licensed by one of the following foreign countries: Australia, Austria, Belgium, Canada, Denmark, France, Finland, Germany, Greece, Hong Kong, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, or the United Kingdom.

* * * * *

Dated: February 22, 1993.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: February 26, 1993.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 93–5446 Filed 3–5–93; 12:44 pm]

BILLING CODE 4810-25-M

31 CFR Part 550

Libya Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: The Office of Foreign Assets Control ("FAC") is amending the Libyan Sanctions Regulations by adding a section providing FAC's interpretation of the prohibition on the exportation of services to Libya, and a section setting forth licensing policy with regard to the provision of certain legal services to the Government of Libya ("GOL") and persons in Libya.

EFFECTIVE DATE: March 10, 1993.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing, tel.: (202) 622–2490, or William B. Hoffman, Chief Counsel, tel.: (202) 622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: The Libyan Sanctions Regulations, 31 CFR part 550 (the "LSR"), are amended by adding § 550.422, further interpreting the prohibition in § 550.202 of the LSR against the exportation of "goods, technology (including technical data or other information) or services" to Libya from the United States. This prohibition includes the provision of services performed in the United States (including legal services), the benefit of which is received in Libya. The benefit of services performed on behalf of the GOL is presumed to be received in Libya, whether rendered in the United States, in Libya, or in a third country on behalf of the GOL or a Libyan government entity located in a third country by a person located in or ordinarily resident in the United States.

This final rule also adds § 550.517, generally authorizing the exportation of certain legal services and containing a statement of licensing policy stating that the receipt of payment for such legal services exported to Libya will normally be authorized by specific license. Such circumstances are limited to cases involving (1) the provision of legal advice and counselling to the GOL on requirements of and compliance with U.S. law; (2) representation of the GOL or a person in Libya when named as a defendant in domestic U.S. legal or administrative proceedings; and (3) initiation of domestic legal or administrative proceedings in defense of the GOL's property interests in existence prior to the blocking of GOL property on January 8, 1986, or of a person in Libya. Furthermore, the

enforcement of any judgment, decree, attachment, or lien through execution, garnishment or other judicial process purporting to transfer or otherwise alter or affect a GOL property interest must be specifically licensed in accordance with § 550.210(e).

Legal services performed by U.S. persons outside the United States with respect to property interests of the GOL are prohibited pursuant to § 550.209, which prohibits U.S. persons from dealing in any property (including contracts) in which the GOL has an interest. Section 550.205, which prohibits performance of a contract by U.S. persons in support of an industrial or other commercial or governmental project in Libya, may also be applicable in these instances. For example, it continues to be prohibited pursuant to § 550.205 and/or § 550.209 of the LSR for U.S. persons to represent a foreign entity in contract negotiations, contract performance, arbitration or other dealings with the GOL. Such representation may only be authorized by specific license.

Because the Regulations involve a foreign affairs function, Executive Order 12291 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

List of Subjects in 31 CFR Part 550

Exports, Libya, Services.

For the reasons set forth in the preamble, 31 CFR part 550 is amended as set forth below:

PART 550—LIBYAN SANCTIONS REGULATIONS

1. The authority citation for part 550 continues to read as follows:

Authority: 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c; 49 U.S.C. App. 1514; 22 U.S.C. 2349aa–8 and 9; E.O. 12543, 3 CFR, 1986 Comp., pp. 181–2; E.O. 12544, 3 CFR, 1986 Comp., p. 183; E.O. 12801, 57 FR 14319, April 17, 1992.

Subpart D—Interpretations

2. Section 550.422 is added to subpart D to read as follows:

§ 550.422 Exportation of services; performance of service contracts; legal services.

(a) The prohibition on the exportation of services contained in § 550.202 applies to services performed:

(1) In the United States;

(2) By an entity located in the United States, including its overseas branches; or

(3) Outside the United States by an individual U.S. person ordinarily resident in the United States; on behalf of the Government of Libya, or where the benefit of such services is otherwise received in Libya. The benefit of services performed anywhere in the world on behalf of the Government of Libya, including services performed for a controlled entity or specially designated national of the Government of Libya, is presumed to be received in Libya.

(b) The prohibitions contained in §§ 550.205 and 550. 209 apply to services performed by U.S. persons, wherever located:

(1) On behalf of the Government of Libya;

(2) With respect to property interests of the Government of Libya; or

(3) In support of an industrial or other commercial or governmental project in Libya.

(c) *Example:* U.S. persons may not, without specific authorization from the Office of Foreign Assets Control, represent an individual or entity with respect to contract negotiations, contract performance, commercial arbitration, or other business dealings with the Government of Libya. See § 550.517 on licensing policy with regard to the provision of certain legal services.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

3. Section 550.517 is added to subpart E to read as follows:

§ 550.517 Exportation of certain legal services to the Government of, or persons in, Libya

(a) The provision to the Government of Libya, or to a person in Libya, of the legal services set forth in paragraph (b) of this section is authorized, provided that all receipt of payment therefor must be specifically licensed. The provision of any other legal services as interpreted in § 550.422 requires the issuance of a specific license.

(b) Specific licenses are issued, on a case-by-case basis, authorizing receipt, from unblocked sources, of payment of professional fees and reimbursement of incurred expenses for the following legal services by U.S. persons to the Government of Libya or to a person in Libya:

(1) Provision of legal advice and counselling to the Government of Libya or to a person in Libya on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counselling is not provided to facilitate transactions in violation of subpart B of this part;

(2) Representation of the Government of Libya or of a person in Libya when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction of the Government of Libya that were in existence prior to January 8, 1986, or of a person in Libya;

(4) Representation of the Government of Libya or a person in Libya before any federal agency with respect to the imposition, administration, or enforcement of U.S. sanctions against Libya; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(c) Enforcement of any lien, judgment, arbitral award, decree or other order through execution, garnishment or other judicial process purporting to transfer or otherwise alter or affect a property interest of the Government of Libya is prohibited unless specifically licensed in accordance with § 550.210(e).

Dated: January 13, 1993.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: January 13, 1993.

John P. Simpson,

Acting Assistant Secretary (Enforcement).

[FR Doc. 93–1616 Filed 3–5–93; 12:44 pm]

BILLING CODE 4810-25-M

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31 CFR Part 585

Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Treasury Department is issuing the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations to implement the President's declaration of national emergency and imposition of sanctions against the former Yugoslav republics of Serbia and Montenegro.

EFFECTIVE DATE: March 10, 1993, except as follows: §§ 585.201 through 585.202 & 585.214, 11:59 p.m. EDT, May 30, 1992; §§ 585.204 through 585.213, with the exception of §§ 585.206(c) and 585.207(b)(3), 12:20 p.m. EDT, June 5,

1992; § 585.203, July 15, 1992; § 585.206(c) and § 585.207(b)(3), January 15, 1993.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing, Tel.: 202/622–2480, or William B. Hoffman, Chief, Counsel, Tel.: 202/622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: On May 30, 1992, the President issued Executive Order 12808, declaring a national emergency with respect to Serbia and Montenegro, and invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). The order blocks all property and interests in property of the Governments of Serbia and Montenegro, as well as all property and interests in property held in the name of the former Government of Socialist Federal Republic of Yugoslavia or the Government of the Federal Republic of Yugoslavia. The order also authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as might be necessary to carry out the purposes of the order.

Pursuant to this declaration, and pursuant to his authority under the United Nations Participation Act of 1945 (22 U.S.C. 287c), the President, issued Executive Orders 12810 of June 5, 1992 and 12831 of January 15, 1993, continuing the blocking under Executive Order 12808 and imposing additional sanctions on the unrecognized Federal Republic of Yugoslavia (Serbia and Montenegro) (hereinafter referred to as the "FRY (S&M)"), consistent with United Nations Security Council Resolutions 757, dated May 30, 1992, and 787, dated November 16, 1992. In implementation of these orders, the Treasury Department is issuing the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations (the "Regulations").

The Regulations block all property and interests in property of the FRY (S&M), as well as property and interests in property in the name of the former Government of the Socialist Federal Republic of Yugoslavia, or any person purporting to be the FRY (S&M), its agencies, instrumentalities, and controlled entities, including the National Bank of Yugoslavia, the Yugoslav National Army, the Yugoslav Chamber of Economy, the National Bank of Serbia, the Serbian Chamber of Economy, the National Bank of Montenegro, and Montenegrin Chamber of Economy, that are in the United States, that hereinafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches. Section 2(g)of Executive Order 12810 also prohibits any transfer of funds by U.S. persons to or for the benefit of the Government of the FRY (S&M) or any person in the FRY (S&M). General License No. 4, however, issued on July 15, 1992, authorizes transfers for the benefit of individuals located in Serbia and Montenegro, provided that no funds are transferred into Serbia or Montenegro or for the benefit of the Government of the FRY (S&M).

The Regulations also generally prohibit:

(a) Imports into the United States of goods or services exported from the FRY (S&M) after May 30, 1992;

(b) Exports from the United States of goods, technology, or services to the FRY (S&M) or entities operated from the FRY (S&M) or owned or controlled by the Government of the FRY (S&M);

(c) Any dealing by any U.S. person in property originating in the FRY (S&M) and exported therefrom after May 10, 1992, or any other property intended for importation or exportation between the FRY (S&M) and any country or being transhipped through the FRY (S&M), or activities that promote or are intended to promote such dealings;

(d) Transactions by U.S. persons, or involving the use of U.S.-registered vessels and aircraft, relating to transportation to or from the FRY (S&M) and transportation services to or from the United States by any person or vessel or aircraft registered in the FRY (S&M), or any transaction relating to a vessel owned or controlled by persons or entities in or operating from the FRY (S&M), regardless of registration, or the sale in the United States by any person holding authority under the Federal Aviation Act of any transportation by air which includes any stop in the FRY (S&M);

(e) The granting of permission to any aircraft to take off from, land in, or overfly the United States en route to or from the FRY (S&M);

(f) Performance by U.S. persons of contracts in support of industrial, commercial, public utility, or governmental projects in the FRY (S&M);

(g) Any commitment or transfer, direct or indirect, of funds, or other financial or economic resources by any U.S. person to or for the benefit of the Government of the FRY (S&M) or to any other person in the FRY (S&M);

(h) Any transaction related to participation in sporting events in the United States by persons or groups representing the FRY (S&M); and

(i) Any transaction related to scientific and technical cooperation and cultural exchanges and other visits involving persons officially sponsored by or representing the FRY (S&M). The Regulations are not applicable to activities related to the United Nations Protection Force (UNPROFOR), the Conference on Yugoslavia, or the European Community Monitor Mission.

All General Licenses issued by the Office of Foreign Assets Control prior to March 10, 1993, may continue to be relied on to validate actions prior to this date during the period of their validity. Specific licenses issued prior to this date continue in effect according to their terms unless modified by the Office of Foreign Assets Control. Authorizations contained in General Licenses issued prior to publication of the Regulations can now be found in the following sections:

Issuance date	General license No.	Regulation section
06/30/92	1	585.514
06/30/92	2	585.513
06/30/92	3	585.507 & .519
07/15/92	4	585.203/.503/.520/.523 & .603
07/16/92	5	585.507 & .508
07/24/92	6	585.512
07/27/92	7	585.509

Transactions otherwise prohibited under this part may be authorized by a general license contained in subpart E or by a specific license issued pursuant to the procedures described in § 585.801 of subpart H.

Since the Regulations involve a foreign affairs function, Executive Order 12291 and the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply.

The Regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act. For this reason, the collections of information contained in the Regulations are being submitted to the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Comments concerning the collection of information and the accuracy of estimated average

annual burden, and suggestions for reducing this burden should be directed to OMB, Paperwork Reduction Project (1505-****), Washington, DC 20503, with copies to the Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220. Any such comments should be submitted not later than May 10, 1993. Notice of OMB action on these requests will be published in the **Federal Register**.

The collections of information in the Regulations are contained in §§ 585.503, 585.506, 585.509, 585.510, 585.511, 585.515–585.518, 585.520, 585.521, subpart F, and §§ 585.703 and 585.801. This information is required by the Office of Foreign Assets Control for licensing, compliance, civil penalty and enforcement purposes. This information will be used to determine the eligibility of applicants for the benefits provided through specific licenses, to determine whether persons subject to the Regulations are in compliance with applicable requirements, and to determine whether and to what extent civil penalty or other enforcement action is appropriate. The likely respondents and recordkeepers are individuals and business organizations.

Estimated total annual reporting and/or recordkeeping burden: 1000 hours.

The estimated annual burden per respondent/recordkeeper varies from 30 minutes to 10 hours, depending on individual circumstances, with an estimated average of 2 hours.

Estimated number of respondents and/or recordkeepers: 500.

Estimated annual frequency of responses: 1–12.

List of Subjects in 31 CFR Part 585

Administrative practice and procedure, Banking and finance, Blocking of assets, Exports, Federal Republic of Yugoslavia (Serbia and Montenegro), Foreign trade, Imports, Intellectual property, Loans, Penalties, Reporting and recordkeeping requirements, Securities, Services, Shipping, Telecommunications, Transfer of assets, Vessels.

For the reasons set forth in the preamble, 31 CFR part 585 is added as follows:

PART 585—FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO) SANCTIONS REGULATIONS

Authority: 50 U.S.C. 1701 *et seq.*; 50 U.S.C. 1601 *et seq.*; 22 U.S.C. 287c; 49 U.S.C. App. 1514; 3 U.S.C. 301; E.O. 12808, 57 FR 23299 (May 30, 1992); E.O. 12810, 57 FR 24347 (June 9, 1992); E.O. 12831, 58 FR 5253 (January 21, 1993).

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.

585.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

585.201 Prohibited transactions involving blocked property; transactions with respect to securities.
585.202 Effect of transfers violating the provisions of this part.
585.203 Holding of certain types of blocked property in interest-bearing accounts.
585.204 Prohibited importation of goods or services from the FRY (S&M).
585.205 Prohibited exportation and reexportation of goods, technology, or services to the FRY (S&M).
585.206 Prohibited dealing in property.
585.207 Prohibited transportation-related transactions involving the FRY (S&M).
585.208 Prohibited overflights, takeoffs and landings of aircraft en route to or from the FRY (S&M).
585.209 Prohibited performance of contracts.
585.210 Prohibited transfers of funds to or for the benefit of the Government of the FRY (S&M) or any person in the FRY (S&M).
585.211 Prohibited transactions related to participation in sporting events.
585.212 Prohibited transactions related to scientific and technical cooperation, cultural exchanges, and other official visits.
585.213 Exemption of activities related to certain international entities.
585.214 Evasions; attempts; conspiracies.

Subpart C—General Definitions

585.301 Effective date.
585.302 Blocked account; blocked property.
585.303 Interest.
585.304 Property; property interest.
585.305 Transfer.
585.306 License.
585.307 General license.
585.308 Specific license.
585.309 Person.
585.310 Entity.
585.311 Government of the FRY (S&M).
585.312 Govenment of the Socialist Federal Republic of Yugoslavia.
585.313 Federal Republic of Yugoslavia (Serbia and Montenegro); FRY (S&M).
585.314 Goods and services origination in the FRY (S&M).
585.315 Persons in the FRY (S&M).
585.316 United States.
585.317 United States person; U.S. person.
585.318 U.S. financial institution.
585.319 UNSC Resolution 757.

Subpart D—Interpretations

585.401 Reference to amended sections.
585.402 Effect of amendment.
585.403 Termination and acquisition of an interest in blocked property.
585.404 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.
585.405 Acquisition of instruments including bankers acceptances.
585.406 Extensions of credits or loans.
585.407 Payments in connection with certain authorized transactions.
585.408 Offshore transactions.
585.409 Transshipments through the United States prohibited.
585.410 Imports of goods from third countries originating in the FRY (S&M); transshipments.
585.411 Exports to third countries; transshipments.
585.412 Release of goods originating in the FRY (S&M) from a bonded warehouse or foreign trade zone.
585.413 Importations and purchases of goods from the FRY (S&M).
585.414 Services performed in the FRY (S&M) or by the Government of the FRY (S&M).
585.415 Setoffs prohibited.
585.416 Exportation of services; performance of service contracts; legal services.
585.417 Transactions incidental to a licensed transaction.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

585.501 Effect of license or authorization.
585.502 Exclusion from licenses and authorizations.
585.503 Payments and transfers to blocked accounts in U.S. financial institutions.
585.504 Investment and reinvestment of certain funds.
585.505 Completion of certain transactions related to bankers acceptances authorized.
585.506 Payment by the Government of the FRY (S&M) of obligations to persons within the United States authorized.
585.507 Certain exports to the FRY (S&M) authorized.
585.508 Import of household and personal effects from the FRY (S&M) authorized.
585.509 Trading in certain pre-sanction obligations authorized.
585.510 Payment and transfers authorized for goods and services exported to the FRY (S&M) prior to the effective date.
585.511 Extensions or renewals of letters of credit authorized.
585.512 Transactions relating to travel to or within the FRY (S&M).
585.513 Transactions related to telecommunications authorized.
585.514 Transactions related to mail and informational materials authorized.
585.515 Certain transactions related to patents, trademarks and copyrights authorized.
585.516 Procedures established for export transactions initiated prior to the effective date.
585.517 Exportation of certain legal services to the Government of, or persons in, the FRY (S&M).
585.518 Certain standby letters of credit and performance bonds.
585.519 Certain imports for diplomatic or official personnel authorized.
585.520 Entries in certain accounts for normal service charges authorized.

585.521 Donations of food to relieve human suffering authorized.
585.522 Donations of medical supplies authorized.
585.523 Certain transactions for the benefit of individuals in the FRY (S&M) authorized.

Subpart F—Reports

585.601 Required records.
585.602 Reports to be furnished on demand.
585.603 Registration of persons holding blocked property subject to § 585.201.

Subpart G—Penalties

585.701 Penalties.
585.702 Prepenalty notice.
585.703 Presentation responding to prepenalty notice.
585.704 Penalty notice.
585.705 Referral to United States Department of Justice.

Subpart H—Procedures

585.801 Licensing.
585.802 Decisions.
585.803 Amendment, modification, or revocation.
585.804 Rulemaking.
585.805 Delegation by the Secretary of the Treasury.
585.806 Rules governing availability of information.

Subpart I—Paperwork Reduction Act

585.901 [Reserved].

Subpart A—Relation of This Part to Other Laws and Regulations

§ 585.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter. Differing foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 585.201 Prohibited transactions involving blocked property; transactions with respect to securities.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted before 11:59 p.m. Eastern Daylight Time ("EDT"), May 30, 1992, no property or interest in property of the Government of the FRY (S&M), or that are held in the name of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, may be transferred, paid, exported, withdrawn or otherwise dealt in.

(b) Unless otherwise authorized by this part or by a specific license expressly referring to this section, the transfer (including the transfer on the books of any issuer or agent thereof), the endorsement or guaranty of signatures on, or any other dealing in any security (or evidence thereof) registered or inscribed in the name of the Government of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia and held within the possession or control of a U.S. person is prohibited, irrespective of the fact that at any time either at or subsequent to the effective date the registered or inscribed owner thereof may have, or appears to have, assigned, transferred, or otherwise disposed of any such security.

§ 585.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date, which is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization hereunder and involves any property held in the name of the Government of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia, or in which the Government of the FRY (S&M) has or has had an interest since such date, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property in which the Government of the FRY (S&M) has an interest, or has had an interest since such date, or which is held in the name of the Government of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia, unless the person with whom such property is held or maintained, prior to such date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, the United Nations Participation Act, this part, and any regulation, order, directive, ruling, instruction, or license issued hereunder.

(d) Transfers of property which otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization by or pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained; and

(3) Promptly upon discovery that

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization hereunder, or

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control, or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained; the person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the

circumstances relating to such transfer. The filing of a report in accordance with the provisions of this paragraph shall not be deemed evidence that the terms of paragraphs (d) (1) and (2) of this section have been satisfied.

(e) Unless licensed or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of the Government of the FRY (S&M) or that was held in the name of the Government of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia.

§ 585.203 Holding of certain types of blocked property in interest-bearing accounts.

(a)(1) Any person, including a U.S. financial institution, currently holding property subject to § 585.201, which, as of July 15, 1992, or the date of receipt if subsequent to July 15, 1992, is not being held in an interest-bearing account or otherwise invested in a manner authorized by the Office of Foreign Assets Control, shall transfer such property to, or hold such property or cause such property to be held in, an interest-bearing account or interest-bearing status in a U.S. financial institution as of July 15, 1992, or the date of receipt if subsequent to July 15, 1992, unless otherwise authorized or directed by the Office of Foreign Assets Control.

(2) The requirement set forth in paragraph (a)(1) of this section shall apply to currency, bank deposits, accounts, obligations, and any other financial or economic resources or assets, and any proceeds resulting from the sale of tangible or intangible property. If interest is credited to an account separate from that in which the interest-bearing asset is held, the name of the account party on both accounts must be the same and must clearly indicate the entity of the FRY (S&M) having an interest in the accounts. If the account is held in the name of the Government of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia, the name of the account to which interest is credited must be the same.

(b) For purposes of this section, the term "interest-bearing account" means a blocked account in a U.S. financial institution earning interest at rates that are commercially reasonable for the amount of funds in the account, *i.e.*, a rate similar to that currently offered other depositors on deposits of comparable size and maturity. Overnight investment of blocked funds is authorized, provided that the funds remain within the possession and control of the U.S. person holding the funds and that the funds remain in a blocked status at all times. Except as otherwise authorized, the funds may not be re-invested or held in instruments the maturity of which exceeds 90 days.

(c) U.S. financial institutions receiving instructions to execute a payment or transfer of funds they hold in which the Government of the FRY (S&M) has an interest, or which are held in the name of the Government of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia, or to persons located in the FRY (S&M), shall block the funds and provide written notification to the Compliance Programs Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—2131 Annex, Washington, DC 20220, within 10 business days from the value date of the payment or transfer. The notification shall include a photocopy of the payment or transfer instructions received, shall confirm that the payment or transfer has been deposited into an existing or newly-established blocked account, and shall provide the account number, the name of the account, the location of the account, the name and address of the transferor and transferee financial institutions, the date of the deposit and the amount of the payment or transfer.

(d) This section does not apply to blocked tangible property, such as chattels, nor does it create an affirmative obligation on the part of the holder of such blocked tangible property to sell or liquidate the property and put the proceeds in a blocked account. However, the Office of Foreign Assets Control may issue licenses permitting or directing sales of tangible property in appropriate cases.

§ 585.204 Prohibited importation of goods or services from the FRY (S&M).

Except as otherwise authorized, no goods originating in, or services performed in, the FRY (S&M), exported from the FRY (S&M) after May 30, 1992, may be imported into the United States, nor may any U.S. person engage in any activity that promotes or is intended to promote such importation.

§ 585.205 Prohibited exportation and reexportation of goods, technology, or services to the FRY (S&M).

Except as otherwise authorized, no goods, technology (including technical data or other information controlled for export pursuant to the Export Administration Regulations, 15 CFR parts 768–799), or services, either (a) from the United States, (b) requiring the issuance of a license by a Federal agency, or (c) involving the use of U.S.-registered vessels or aircraft, may be exported, directly or indirectly, to the FRY (S&M), or to any entity operated from the FRY (S&M), or owned or controlled by the Government of the FRY (S&M), nor may any U.S. person engage in any activity that promotes or is intended to promote such exportation.

§ 585.206 Prohibited dealing in property.

Except as otherwise authorized, no U.S. person may deal in:

(a) Property originating in the FRY (S&M) and exported from the FRY (S&M) after May 30, 1992, or

(b) Property intended for exportation from the FRY (S&M) to any country, or for exportation to the FRY (S&M) from any country, or

(c) Property being transshipped through the FRY (S&M), or in any activity of any kind that promotes or is intended to promote such dealing.

§ 585.207 Prohibited transportation-related transactions involving the FRY (S&M).

Except as otherwise authorized, the following are prohibited:

(a) Any transaction by a U.S. person, or involving the use of U.S. registered vessels and aircraft, relating to transportation to or from the FRY (S&M);

(b) The provision of transportation to or from the United States by:

(1) Any person in the FRY (S&M) or

(2) Any vessel or aircraft registered in the FRY (S&M), or

(3) Any vessel in which a majority or controlling interest is held by a person or entity in or operating from the FRY (S&M), regardless of registry; or

(c) The sale in the United States by any person holding authority under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 *et seq.*) of any transportation by air that includes any stop in the FRY (S&M).

(d) *Example:* Unless licensed or exempted, no U.S. person may insure, or provide ticketing, ground, port, refueling, bunkering, clearance, or freight forwarding services with respect to, (i) any sea or air transportation the destination of which is the FRY (S&M), or which is intended to make a stop in the FRY (S&M), or (ii) any vessel in which a majority or controlling interest is held by a person or entity in or operating from the FRY (S&M).

§ 585.208 Prohibited overflights, takeoffs and landings of aircraft enroute to or from the FRY (S&M).

Except as otherwise authorized, no aircraft, regardless of registry, may take off from, land in, or overfly the United States, if the aircraft, as part of the same flight or as a continuation of that flight, is destined to land in or has taken off from the territory of the FRY (S&M). See also: Special Federal Aviation Regulation (SFAR) No. 66, 14 CFR part 91.

§ 585.209 Prohibited performance of contracts.

Except as otherwise authorized, no U.S. person may perform any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in the FRY (S&M).

§ 585.210 Prohibited transfer of funds to or for the benefit of the Government of the FRY (S&M) or any person in the FRY (S&M).

Except as otherwise authorized, no U.S. person may commit or transfer, directly or indirectly, funds or other financial or economic resources to or for the benefit of the Government of the FRY (S&M) or any person in the FRY (S&M).

§ 585.211 Prohibited transactions related to participation in sporting events.

Except as otherwise authorized, transactions in the United States or by a U.S. person related to participation in sporting events in the United States by persons or groups representing the FRY (S&M) are prohibited.

§ 585.212 Prohibited transactions related to scientific and technical cooperation, cultural exchanges, and other official visits.

Except as otherwise authorized, transactions in the United States or by a U.S. person related to scientific and technical cooperation and cultural exchanges involving persons or groups officially sponsored by or representing the FRY (S&M), or related to visits to the United States by such persons or groups other than as authorized for the purpose of participation at the United Nations, are prohibited.

§ 585.213 Exemption of activities related to certain international organizations.

Any activities related to the United Nations Protection Force (UNPROFOR), the Conference on Yugoslavia, or the European Community Monitor Mission are exempt from the prohibitions and regulations of this part.

§ 585.214 Evasions; attempts; conspiracies.

Any transaction for the purpose of, or which has the effect of, evading or avoiding, or which facilitates the evasion or avoidance of, any of the prohibitions set forth in this subpart, is hereby prohibited. Any attempt to violate the prohibitions set forth in this part is hereby prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is hereby prohibited.

Subpart C—General Definitions

§ 585.301 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in subpart B as follows:

(a) With respect to §§ 585.201, 585.202, and 585.214, 11:59 p.m. EDT, May 30, 1992;

(b) With respect to §§ 585.204, 585.205, 585.206, 585.207, 585.208, 585.209, 585.210, 585.211, 585.212, and 585.213, 12:20 p.m. EDT, June 5, 1992, except as provided in paragraph (d) of this section;

(c) With respect to § 585.203, July 15, 1992; and

(d) With respect to § 585.206(c) and § 585.207(b)(3), January 15, 1993.

§ 585.302 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibition in § 585.201 in which the Government of the FRY (S&M) has an interest, or that is held in the name of the Government of the FRY (S&M) or the former Government of the Socialist Federal Republic of Yugoslavia, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control authorizing such action.

§ 585.303 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (*e.g., an interest in property*) means an interest of any nature whatsoever, direct or indirect.

§ 585.304 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 585.305 Transfer.

The term *transfer* means any actual or purported act of transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property, including funds, and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or the levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 585.306 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 585.307 General license.

The term *general license* means any license or authorization the terms of which are set forth in this subpart E.

§ 585.308 Specific license.

The term *specific license* means any license or authorization not set forth in subpart E but issued pursuant to this part in response to an application.

§ 585.309 Person.

The term *person* means an individual, partnership, association, corporation, or other organization.

§ 585.310 Entity.

The term *entity* includes a corporation, partnership, association, or other organization.

§ 585.311 Government of the FRY (S&M).

The term *Government of the FRY (S&M)* includes:

(a) The state and the Government of the FRY (S&M), the Government of Serbia, and the Government of Montenegro, including any subdivisions thereof or local governments therein, their respective agencies or instrumentalities, including the National Bank of Yugoslavia, the Yugoslav National Army, the Yugoslav Chamber of Economy, the National Bank of Serbia, the Serbian Chamber of Economy, the National Bank of Montenegro, and the Montenegrin Chamber of Economy;

(b) Any entity owned or controlled by the foregoing. For purposes of the prohibitions of this part, all entities located in or organized under the laws of any jurisdiction within the FRY (S&M) are presumed to be controlled by the Government of the FRY (S&M), unless proven otherwise;

(c) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date, acting or purporting to act, directly or indirectly, on behalf of any of the foregoing; and

(d) Any person or organization determined by the Director of the Office of Foreign Assets Control to be included within this section, or owned or controlled by such a person or organization.

[Note: On July 6, 1992, the Office of Foreign Assets Control issued a list of "Blocked Yugoslav Entities Currently Identified," containing the names of entities owned or deemed to be controlled by the Government of the FRY (S&M). Property interests of these entities in the United States or in the possession or control of U.S. persons is thus blocked under § 585.201. Section 585.210 further prohibits the transfer of funds or other financial or economic resources by U.S. persons to or for the benefit of entities appearing on the list. This list may be updated periodically as further information becomes available. A copy of the list may be obtained from the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220.]

§ 585.312 Government of the Socialist Federal Republic of Yugoslavia.

The term *Government of the Socialist Federal Republic of Yugoslavia* is used in this part only in reference to property held in the name of the former Government of the Socialist Federal Republic of Yugoslavia. Property and property interests held solely in the name of the Government of Slovenia, Croatia, Bosnia-Hercegovina or Macedonia, or in the name of any political subdivision, agency, or instrumentality thereof, do not constitute property held in the name of the former Government of the Socialist Federal Republic of Yugoslavia.

§ 585.313 Federal Republic of Yugoslavia (Serbia and Montenegro); FRY (S&M).

The term *Federal Republic of Yugoslavia (Serbia and Montenegro)* or *FRY (S&M)* means the territory of Serbia and Montenegro.

§ 585.314 Goods and services originating in the FRY (S&M).

The term *goods or services originating in the FRY (S&M)* includes:

(a) Goods produced, manufactured, grown, or processed within the FRY (S&M);

(b) Goods which have entered into the commerce of the FRY (S&M);

(c) Services performed in the FRY (S&M), or by a national thereof, wherever located, who is acting as an agent, employee, or contractor of the Government of the FRY (S&M) or of a business entity located in the FRY (S&M). Such services are not considered imported into the United States when such services are provided in the United States by a national of the FRY (S&M) employed in the United States who is not acting on behalf of the Government of the FRY (S&M).

§ 585.315 Person in the FRY (S&M).

The term *person in the FRY (S&M)* includes any individual, partnership, association, corporation, or other organization or entity located in or organized under the laws of any jurisdiction in the FRY (S&M).

§ 585.316 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 585.317 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen; permanent resident alien; juridical person organized under the laws of the United States or any jurisdiction within the United States, including foreign branches; or any person in the United States, and vessels and aircraft of U.S. registration.

§ 585.318 U.S. financial institution.

The term *U.S. financial institution* means any U.S. person (including foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including, but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions which are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 585.319 UNSC Resolution 757.

The term *UNSC Resolution 757* means United Nations Security Council Resolution No. 757, adopted May 30, 1992, prohibiting certain transactions with respect to the FRY (S&M).

Subpart D—Interpretations

§ 585.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended.

§ 585.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control shall not, unless otherwise specifically provided, be deemed to affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such

amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 585.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) from the Government of the FRY (S&M) or the former Government of the Socialist Federal Republic of Yugoslavia, such property shall no longer be deemed to be property in which the Government of the FRY (S&M) has or has had an interest, or which is held in the name of the Government of the FRY (S&M) or the former Government of the Socialist Federal Republic of Yugoslavia, respectively, unless there exists in the property another interest of the Government of the FRY (S&M), or an interest held in the name of the Government of the FRY (S&M) or the former Government of the Socialist Federal Republic of Yugoslavia, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to the Government of the FRY (S&M), such property shall be deemed to be property in which there exists an interest of the Government of the FRY (S&M).

§ 585.404 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.

No debits may be made to a blocked account to pay obligations to U.S. persons or other persons, including payment for goods, technology or services exported prior to the effective date, except as authorized pursuant to this part.

§ 585.405 Acquisition of instruments including bankers acceptances.

No U.S. person may acquire or deal in any obligation, including bankers acceptances and debt of or guaranteed by the Government of the FRY (S&M) or the former Government of the Social Federal Republic of Yugoslavia, where the documents evidencing the obligation indicate, or the U.S. person has actual knowledge, that the underlying transaction is in violation of § 585.201 and §§ 585.204–585.212. This interpretation does not apply to obligations arising from an underlying transaction licensed or otherwise authorized pursuant to this part.

§ 585.406 Extensions of credits or loans.

(a) The prohibition in § 585.210 applies to the unlicensed renewal of credits or loans held in the name of the Government of the FRY (S&M) or has had an interest since the effective date, or that is held in the name of Government of the FRY (S&M) or the former Government of the Socialist Federal Republic of Yugoslavia, or in which the Government of the FRY (S&M) has an interest, that were in existence on the effective date, whether by affirmative action or operation of law.

(b) The prohibition in § 585.210 applies to credits or loans extended in any currency.

§ 585.407 Payments in connection with certain authorized transactions.

Except as otherwise specified, payments are authorized in connection with transactions authorized in or pursuant to subpart E.

§ 585.408 Offshore transactions.

(a) The prohibitions contained in §§ 585.201 and 585.206 apply to transactions by U.S. persons in locations outside the United States with respect to property in which the U.S. person knows, or has reason to know, the Government of the FRY (S&M) has or has had an interest since the effective date, or that is held in the name of Government of the FRY (S&M) or the former Government of the Socialist Federal Republic of Yugoslavia.

(b) Prohibited transactions include, but are not limited to, importation into locations outside the United States of, or dealings within such locations in, goods or services originating in the FRY (S&M).

(c) *Examples:* (1) A U.S. person may not, within the United States or abroad, purchase, sell, finance, insure, transport, act as a broker for the sale or transport of, or otherwise deal in, shoes made in the FRY (S&M).

(2) A U.S. person may not, within the United States or abroad, conduct transactions of any nature whatsoever with an entity that the U.S. person knows or has reason to know is operated from the FRY (S&M) or owned or controlled by the Government of the FRY (S&M).

§ 585.409 Transshipments through the United States prohibited.

(a) The prohibitions in § 585.205 apply to the importation into the United States, for transshipment or transit, of goods which are intended or destined for the FRY (S&M), or an entity operated from the FRY (S&M), or to the Government of the FRY (S&M) in any country.

(b) The prohibitions in § 585.204 apply to the importation into the United States, for transshipment or transit, of goods originating in the FRY (S&M) which are intended or destined for third countries.

(c) Goods in which the Government of the FRY (S&M) has an interest that are imported into or transshipped through the United States are blocked pursuant to § 585.201.

§ 585.410 Imports from third countries of goods originating in the FRY (S&M); transshipments.

Importation into the United States from third countries of goods containing raw materials or components originating in the FRY (S&M) is prohibited. In light of the universal prohibition in UNSC Resolution 757 on the importation of goods exported from the FRY (S&M) after May 30, 1992, substantial transformation or incorporation of such goods in a third country does not exempt the third-country products from the prohibitions contained in this part.

§ 585.411 Exports to third countries; transshipments.

Exportation of goods or technology (including technical data and other information) from the United States to third countries is prohibited if the exporter knows, or has reason to know, that the goods or technology are intended for reexportation or transshipment to the FRY (S&M), including passage through, or storage in, intermediate destinations. The exportation of goods and technology intended specifically for incorporation or substantial transformation into a third-country product is also prohibited if the particular product is to be used in the FRY (S&M), is being specifically manufactured to fill an order from the FRY (S&M), or if the manufacturer's sales of the particular product are predominantly to the FRY (S&M).

§ 585.412 Release of goods originating in the FRY (S&M) from a bonded warehouse or foreign trade zone.

Section 585.204 does not prohibit the release from a bonded warehouse or foreign trade zone of goods originating in the FRY (S&M) imported into a bonded warehouse or a foreign trade zone either prior to the effective date or in a transaction authorized pursuant to this part after the effective date.

(Note: Pursuant to § 585.201, property in which the Government of the FRY (S&M) has an interest may not be released unless

authorized or licensed by the Office of Foreign Assets Control.)

§ 585.413 Imports of goods originating in the FRY (S&M), and purchases of goods from the FRY (S&M).

Goods originating in the FRY (S&M) imported into the United States pursuant to an authorization or license are not blocked by the provisions of § 585.201. However, any payment in connection with such importation are subject to the prohibitions contained in §§ 585.201 and 585.210, prohibiting transfers to the FRY (S&M) or in which the Government of the FRY (S&M) has an interest.

§ 585.414 Services performed in the Federal Republic of Yugoslavia (Serbia and Montenegro) or by the Government of the FRY (S&M).

Services performed in the FRY (S&M), or by the Government of the FRY (S&M), as defined in § 585.312, are imported into the United States when the benefit of such services is received in the United States. Services performed in the FRY (S&M) or by the Government of the FRY (S&M) for the benefit of a U.S. person outside the United States are prohibited pursuant to §§ 585.201 and 585.206. Services provided in the United States by a national of the FRY (S&M) resident in the United States and not acting on behalf of the Government of the FRY (S&M) are not imported into the United States.

§ 585.415 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 585.201 if effected after May 30, 1992.

§ 585.416 Exportation of services; performance of service contracts; legal services.

(a) The prohibition on the exportation of services contained in § 585.205 applies to services performed:

(1) In the United States;

(2) Outside the United States by an entity located in the United States, including its overseas branches; or

(3) Outside the United States by an individual U.S. person ordinarily resident in the United States; on behalf of the Government of the FRY (S&M), or where the benefit of such services is otherwise received in the FRY (S&M). The benefit of services performed anywhere in the world on behalf of the Government of the FRY (S&M), including services performed for a controlled entity or specially designated national of the Government of the FRY (S&M), is presumed to be received in the FRY (S&M).

(b) The prohibitions contained in §§ 585.201 and 585.209 apply to services performed by U.S. persons, wherever located:

(1) On behalf of the Government of the FRY (S&M);

(2) With respect to property interests of the Government of the FRY (S&M); or

(3) In support of an industrial or other commercial or governmental project in the FRY (S&M).

(c) *Example:* U.S. persons may not, without specific authorization from the Office of Foreign Assets Control, represent an individual or entity with respect to contract negotiations, contract performance, commercial arbitration, or other business dealings with the Government of the FRY (S&M). *See* § 585.517 on licensing policy with regard to the provision of certain legal services.

§ 585.417 Transactions incidental to a licensed transaction.

(a) Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except a transaction by an unlicensed, blocked person or involving an unlicensed debit to a blocked account.

(b) *Example:* A license authorizing an exportation of goods to the FRY (S&M) also authorizes all activities by other parties required to complete the sale, including transactions by the buyer, brokers, transfer agents, banks, etc.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 585.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, shall be deemed to authorize or validate any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in subpart B from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 585.502 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action shall be binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§ 585.503 Payments and transfers to blocked accounts in U.S. financial institutions.

(a) Any payment of funds or transfer of credit or other financial or economic resources or assets into a blocked account in a U.S. financial institution is authorized, provided that a transfer from a blocked account may only be made to another blocked account held in the same name on the books of the same U.S. financial institution. A U.S. financial institution must provide written notification of any transfer into a blocked account to the Compliance Programs Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Avenue, NW.—2131 Annex, Washington, DC 20220, within 10 days from the value date of the payment or transfer.

(b) This section does not authorize any transfer from a blocked account within the United States to an account held outside the United States.

§ 585.504 Investment and reinvestment of certain funds.

U.S. financial institutions are hereby authorized to invest and reinvest blocked assets in which the Government of the FRY (S&M) has an interest, or that are held in blocked accounts in the name of the Government of the FRY (S&M) or the former Government of the Socialist Federal Republic of Yugoslavia, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or

subaccount which is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but in no case may funds be transferred outside the United States for this purpose; and

(b) The proceeds of such investments and reinvestments are not credited to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to the Government of the FRY (S&M).

§ 585.505 Completion of certain transactions related to bankers acceptances authorized.

(a) Persons other than the Government of the FRY (S&M) are authorized to buy, sell, and satisfy obligations with respect to bankers acceptances, and to pay under deferred payment undertakings, involving an interest of the Government of the FRY (S&M) as long as the bankers acceptances were created or the deferred payment undertakings were incurred prior to the effective date.

(b) Persons other than the Government of the FRY (S&M) are authorized to buy, sell, and satisfy obligations with respect to bankers acceptances, and to pay under deferred payment undertakings, involving the importation or exportation of goods to or from the FRY (S&M) that do not involve an interest of the Government of the FRY (S&M) as long as the bankers acceptances or the deferred payment undertakings were accepted prior to the effective date.

(c) Nothing in this section shall authorize or permit a debit to a blocked account. Specific licenses for the debiting of a blocked account may be issued on a case-by-case basis.

§ 585.506 Payment by the Government of the FRY (S&M) of obligations to persons within the United States authorized.

(a) The transfer of funds after the effective date by, through, or to any U.S. financial institution or other U.S. person solely for the purpose of payment of obligations of the Government of the FRY (S&M) to persons or accounts within the United States is authorized, provided that the obligation arose prior to the effective date, and the payment requires no debit to a blocked account. Property is not blocked by virtue of being transferred or received pursuant to this section.

(b) A person receiving payment under this section may distribute all or part of that payment to any person, provided that any such payment to the Government of the FRY (S&M) must be to a blocked account in a U.S. financial institution.

(c) The authorization in this section is subject to the condition that written notification from the U.S. financial institution or U.S. person transferring or receiving funds is furnished to the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, within 10 business days from the date of transfer or receipt. The notification shall provide the account number, name and address of the transferor and/or transferee U.S. financial institution or person, and the account number, name and address of the person into whose account payment is made.

§ 585.507 Certain exportations to the FRY (S&M) authorized.

(a) All transactions ordinarily incident to the exportation of any item, commodity, or product from the United States to or destined for the FRY (S&M) are authorized if:

(1) Such exports would ordinarily be authorized under one of the following regulations administered by the Department of Commerce: 15 CFR 771.6—General license BAGGAGE (accompanied and unaccompanied baggage); 15 CFR 771.13—General license GUS (shipments to personnel and agencies of the U.S. Government); or,

(2) Such exports are for the official use of the United Nations, its personnel and agencies (excluding its relief or development agencies).

(b) All transactions related to exportation or reexportation not otherwise authorized in this part are prohibited unless licensed by the Office of Foreign Assets Control pursuant to the procedures described in § 585.801.

§ 585.508 Importation of household and personal effects from the FRY (S&M) authorized.

The importation of household and personal effects originating in the FRY (S&M), including baggage and articles for family use, of persons arriving in the United States directly or indirectly from the FRY (S&M) is authorized. Articles included in such effects may be imported without limitation provided they were actually used by such persons or their family members abroad, are not intended for any other person or for sale, and are not otherwise prohibited from importation.

§ 585.509 Trading in certain pre-sanctions obligations authorized.

(a) All transactions by U.S. persons involving secondary market trading in debt obligations, or portions thereof, originally incurred by banks ("Original Borrowers") organized and headquartered in the Republics of Slovenia, Croatia, Bosnia-Hercegovina, and Macedonia, and rescheduled pursuant to the "New Financing Agreement" of September 20, 1988 (the "NFA"), are authorized, notwithstanding the joint and several liability undertaken by the National Bank of Yugoslavia and/or of banks located in the FRY (S&M), for repayment of such obligations.

(b) Nothing in this section shall authorize trading in debt obligations, or portions thereof, subject to the NFA for which the Original Borrower was the National Bank of Yugoslavia or an entity organized or headquartered in Serbia or Montenegro.

(c) No transfer of debt obligations, or portions thereof, for which the National Bank of Yugoslavia or a bank located in the FRY (S&M) has joint or several liability may be completed unless the transferee undertakes in writing that the debt obligations will not be further transferred to or for the benefit of the Government of the FRY (S&M), including the National Bank of Yugoslavia, or any person in the FRY (S&M), until permitted by U.S. law.

(d) A U.S. person involved in the transfer of any debt obligation for which the National Bank of Yugoslavia or an entity located in the FRY (S&M) has joint or several liability must file a report with the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, within 10 days of the transfer, providing:

(1) The names and addresses of the transferor, transferee and the U.S. person involved if neither of the foregoing;

(2) (i) A copy of the "Refinancing Loan Notice" required pursuant to the NFA concerning the debt obligation transferred, and

(ii) If an Original Borrower located or headquartered in Serbia or Montenegro, including the National Bank of Yugoslavia, is included in a consortium of obligors identified in a "Refinancing Loan Notice" for the debt obligation transferred, a copy of the transferor's confirmation(s) that each portion of the debt obligation transferred is that of an Original Borrower organized and headquartered in the Republic of Slovenia, Croatia, Bosnia-Hercegovina, or Macedonia; and

(3) A certification that the transfer documents include the transferee's undertaking required in paragraph (c) of this section.

§ 585.510 Payments and transfers authorized for goods and services exported to the FRY (S&M) prior to the effective date.

(a) Specific licenses may be issued on a case-by-case basis to permit payment involving an irrevocable letter of credit issued or confirmed by a U.S. bank, or a letter of credit reimbursement confirmed by a U.S. bank, from a blocked account or otherwise, of amounts owed to or for the benefit of a person with respect to goods or services exported prior to May 30, 1992, directly or indirectly to the FRY (S&M), or to third countries for an entity operated from the FRY (S&M), or for the benefit of the Government of the FRY (S&M), where the license application presents evidence satisfactory to the Office of Foreign Assets Control that the exportation occurred prior to the effective date (such evidence may include, for example, the bill of lading, the air waybill, the purchaser's written confirmation of completed services, customs documents, and insurance documents).

(b) This section does not authorize exportation or the performance of services after the effective date pursuant to a contract entered into or partially performed prior to the effective date.

(c) Separate criteria may be applied to the issuance of licenses authorizing payment from an account of or held by a blocked U.S. bank owned or controlled by the Government of the FRY (S&M).

§ 585.511 Extensions or renewals of letters of credit authorized.

(a) The extension or renewal, at the request of the account party, of a letter of credit or a standby letter of credit issued or confirmed by a U.S. financial institution is authorized, provided no transfer of funds is made except to a blocked account.

(b) Transactions conducted pursuant to this section must be reported to the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, within 10 days after completion of the transaction.

§ 585.512 Transactions relating to travel to or within the FRY (S&M).

(a) All transactions by U.S. persons related to nonbusiness travel to, from, and within the FRY (S&M) are authorized, including the booking of travel arrangements, the payment of living expenses, and the acquisition of goods for personal consumption within the FRY (S&M), provided that no such transactions may involve transportation by air into or out of the FRY (S&M).

(b) All transactions by U.S. persons related to travel to, from, and within, and to activities within, the FRY (S&M) for the conduct of the official business of the United States Government or the United Nations and journalistic activity by persons regularly employed in such capacity by a newsgathering organization, are authorized, provided that no such transactions may involve transportation by air into or out of the FRY (S&M).

(c) This section does not authorize U.S. persons to utilize charge cards, including, but not limited to, debit cards, credit cards or other credit facilities, or to engage in transactions, while traveling in the FRY (S&M). This section also does not authorize payments to be sent into the FRY (S&M) from the United States or by a U.S. person located outside the FRY (S&M).

§ 585.513 Transactions related to telecommunications authorized.

(a) All transactions of U.S. common carriers with respect to the receipt and transmission of telecommunications involving the FRY (S&M) are authorized, provided any payment owed to the Government of the FRY (S&M) or to any other person in the FRY (S&M) is paid into a blocked account in a U.S. financial institution. This section does not authorize the exportation of equipment to upgrade telecommunications facilities.

(b) The term "telecommunications" shall mean telephone, telex and telegraph transmissions, and transmissions for the gathering or broadcast of news.

§ 585.514 Transactions related to mail authorized.

All transactions by U.S. persons, including payment and transfers to common carriers, incident to the receipt or transmission of mail between the United States and the FRY (S&M) are authorized. For purposes of this authorization, mail is limited to personal communications not involving a transfer of anything of value, and publications and other informational materials, subject to a maximum weight limitation of 12 ounces.

§ 585.515 Certain transactions related to patents, trademarks and copyrights authorized.

(a) All of the following transactions in connection with patent, trademark, copyright, or other intellectual property protection in the United States or the FRY (S&M) are authorized.

(1) The filing and prosecution of any application for a patent, trademark or copyright, or for the renewal thereof;

(2) The receipt of any patent, trademark or copyright; and

(3) The filing and prosecution of opposition or infringement proceedings with respect to any patent, trademark, or copyright, and the prosecution of a defense to any such proceeding.

(b) The payment of reasonable and customary fees currently due to the United States Government or to attorneys or representatives within the United States in connection with any transaction authorized by paragraphs (a)(1)–(3) of this section may be made from a blocked account held in the name of the entity in the FRY (S&M) holding the patent, trademark or copyright.

(c) The payment of fees currently due to the Government of the FRY (S&M) directly or through an attorney or representative, in connection with any of the transactions authorized by paragraphs (a)(1)–(3) of this section, or for the maintenance of any patent, trademark, or copyright, must be made into a blocked account in a domestic U.S. financial institution in the name of the appropriate governmental entity. In addition, fees currently due to individual attorneys or representatives in the FRY (S&M) in connection with any of the transactions authorized by paragraphs (a)(1)–(3) of this section may not be transferred to the FRY (S&M), but may otherwise be transferred as authorized in § 585.523.

(d) Payments of amounts due into a blocked account in the name of the Government of the FRY (S&M) must be reported to the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220. The report shall include the date and amount deposited, the account title, the account number, and the name and address of the U.S. financial institution.

§ 585.516 Procedures established for export transactions initiated prior to effective date.

Goods awaiting exportation to the FRY (S&M) on the effective date and seized or detained by the U.S. Customs Service on the effective date or thereafter may be released to the exporter, provided the following documents are filed with Customs officials at the port where such goods are located:

(a) A copy of the contract governing the exportation (sale or other transfer) of the goods to the FRY (S&M) or, if no contract exists, a written explanation of the circumstances of exportation,

including in either case a description of the manner and terms of payment received or to be received by the exporter (or other person) for, or by reason of, the exportation of the goods;

(b) An invoice, bill of lading, or other documentation fully describing the goods; and

(c) A statement by the exporter substantially in the following form:

Any amount received from or on behalf of the Government of the FRY (S&M) by reason of the attempted exportation of the goods released to [name of exporter] by the U.S. Customs Service on [date], and fully described in the attached documents, has been or will be placed into a blocked account in a U.S. bank and the Office of Foreign Assets Control, Blocked Assets Section, will be immediately notified. [Name of exporter] agrees to fully indemnify the U.. Government for any amount ultimately determined by a court of competent jurisdiction to be due or payable to or for the benefit of any person by reason of the failure of [name of exporter] to properly pay into a blocked account any amount received for the goods from or on behalf of the Government of the FRY (S&M). [Name of exporter] also agrees to waive all claims (1) against any payments received and placed into a blocked account, except as may be later authorized by law, regulations, or license, and (2) against the U.S. Government with regard to the disposition of the amounts placed into a blocked account.

The statement should be dated and signed by the exporter or by a person authorized to sign on the exporter's behalf. The Customs Service may release the goods to the exporter upon receipt of the documentation and statement described above, provided it is satisfied that all customs laws and regulations have been complied with, including the execution of such hold harmless assurances as it shall determine to be appropriate. The documentation and statement received by Customs will be forwarded to the Office of Foreign Assets Control for review and appropriate action.

§ 585.517 Exportation of certain legal services to the Government of, or persons in, the FRY (S&M).

(a) The provision to the Government of the FRY (S&M), or to a person in the FRY (S&M), of the legal services set forth in paragraph (b) of this section is authorized, provided that all receipt of payment therefor must be specifically licensed. The provision of any other legal services as interpreted in § 585.416 requires the issuance of a specific license.

(b) Specific licenses are issued, on a case-by-case basis, authorizing receipt, from unblocked sources, of payment of professional fees and reimbursement of incurred expenses for the following legal services by U.S. persons to the Government of the FRY (S&M) or to a person in the FRY (S&M):

(1) Provision of legal advice and counselling to the Government of the FRY (S&M) or to a person in the FRY (S&M) on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counselling is not provided to facilitate transactions in violation of subpart B of this part;

(2) Representation of the Government of the FRY (S&M) or of a person in the FRY (S&M) when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction of the Government of the FRY (S&M) that were in existence prior to May 30, 1992, or of a person in the FRY (S&M);

(4) Representation of the Government of the FRY (S&M) or a person in the FRY (S&M) before any federal agency with respect to the imposition, administration, or enforcement of U.S. sanctions against the FRY (S&M); and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(c) Enforcement of any domestic lien, judgment, arbitral award, decree, or other order through execution, garnishment or other judicial process purporting to transfer or otherwise alter or affect a property interest of the Government of the FRY (S&M) is prohibited unless specially licensed in accordance with § 585.202(e).

§ 585.518 Certain standby letters of credit and performance bonds.

(a) Notwithstanding any other provision of law, payment into a blocked account in a U.S. financial institution by an issuing or confirming bank under a standby letter of credit in favor of a beneficiary that is the Government of the FRY (S&M) or a person in the FRY (S&M) is prohibited by § 585.201 and not authorized, notwithstanding the provisions of § 585.503, if

(1) The account party is a U.S. person; and

(2)(i) A specific license has been issued pursuant to the provisions of paragraph (b) of this section, or (ii) 10 business days have not expired after notice to the account party pursuant to paragraph (b) of this section.

(b) Whenever an issuing or confirming bank shall receive such demand for payment under such a standby letter of credit, it shall promptly notify the account party. The account party may then apply within 5 business days for a specific license authorizing the account party to establish a blocked account on its books in the name of the FRY (S&M) beneficiary in the amount payable under the credit, in lieu of payment by the issuing or confirming bank into a blocked account and reimbursement therefor by the account party. Nothing in this section relieves any such bank or such account party from giving any notice of defense against payment or reimbursement that is required by applicable law.

(c) Where there is outstanding a demand for payment under a standby letter of credit, and the issuing or confirming bank has been enjoined from making payment, upon removal of the injunction, the account party may apply for a specific license for the same purpose and in the same manner as that set forth in paragraph (b) of this section. The issuing or confirming bank shall not make payment under the standby letter of credit unless:

(1) 10 business days have expired since the bank has received notice of the removal of the injunction, and

(2) A specific license issued to the account party pursuant to the provisions of this paragraph has not been presented to the bank.

(d) If necessary to assure the availability of the funds blocked, the Director of the Office of Foreign Assets Control may at any time require the payment of the amounts due under any letter of credit described in paragraph (a) of this section into a blocked account in a U.S. financial institution or the supplying of any form of security deemed necessary.

(e) Nothing in this section precludes the account party on any standby letter or credit or any other person from at any time contesting the legality of the demand from a beneficiary in the FRY (S&M) or from raising any other legal defense to payment under the standby letter of credit.

(f) This section does not affect the obligation of the various parties to the instruments covered by this section if the instruments and payments thereunder are subsequently unblocked.

(g) This section does not authorize any U.S. person to reimburse a non-U.S. bank for payment to an FRY (S&M) beneficiary under a standby letter of credit, except by payments into a blocked account in accordance with § 585.503 or paragraph (b) or (c) of this section.

(h) A person receiving a specific license under paragraph (b) or (c) of this section shall certify to the Office of

Foreign Assets Control within 5 business days after receipt of that license that it has established the blocked account on its books as provided in those paragraphs. However, in appropriate cases, this time period may be extended upon application to the Office of Foreign Assets Control when the account party has filed a petition with an appropriate court seeking a judicial order barring payment by the issuing or confirming bank.

(i) For the purposes of this section:

(1) The term *standby letter of credit* shall mean a letter of credit securing performance of a contract, or repayment of any advance payments or deposits under a contract, or any similar obligation in the nature of a performance bond;

(2) The term *account party* shall mean the person for whose account the standby letter of credit was opened; and

(3) The term *FRY (S&M) beneficiary* shall mean a beneficiary that is (i) a person in the FRY (S&M), (ii) an entity operated from the FRY (S&M), or (iii) the Government of the FRY (S&M).

§ 585.519 Certain imports for diplomatic or official personnel authorized.

All transactions ordinarily incident to the importation of any goods or services into the United States, which are not for resale, and which are destined for official or personal use by personnel employed by the diplomatic missions of the Government of the FRY (S&M) to the United States and to international organizations located in the United States are authorized, unless the importation is otherwise prohibited by law.

§ 585.520 Entries in certain accounts for normal service charges authorized.

(a) U.S. financial institutions are hereby authorized to:

(1) Debit any blocked account on their books in payment or reimbursement for normal service charges owed to such U.S. financial institution by the owner of such blocked account; and

(2) Make book entries against any foreign currency account maintained by it with a financial institution in the FRY (S&M) for the purpose of responding to debits to such account for normal service charges in connection therewith.

(b) As used in this section, the term *normal service charge* shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail insurance, stationery and supplies, check books, and other similar items.

§ 585.521 Donations of food to relieve human suffering authorized.

(a) Specific licenses may be issued on a case-by-case basis to permit exportation to the FRY (S&M) of donated food intended to relieve human suffering.

(b) In general, specific licenses will only be granted for donations of food to be provided through the United Nations in accordance with UNSC Resolution 757 and in cooperation with the International Committee of the Red Cross or other appropriate humanitarian agencies for distribution by them or under their supervision, or in such other manner as may be approved under UNSC Resolution 757 and any other applicable Security Council resolutions, in order to ensure that such donations reach the intended beneficiaries.

(c) Applications for specific licenses pursuant to paragraph (a) of this section shall be made in advance of the proposed exportation, and provide the following information:

(1) The nature, quantity, value, and intended use of the donated food; and

(2) The terms and conditions of distribution, including the intended method of compliance with such terms and conditions of distribution as may have been adopted by the United Nations Security Council or a duly authorized body subordinate thereto to govern the shipment of foodstuffs under applicable United Nations Security Council resolutions, including UNSC Resolution 757.

§ 585.522 Donations of medical supplies authorized.

(a) Specific licenses may be issued on a case-by-case basis to permit exportation to the FRY (S&M) of donated supplies intended strictly for medical purposes, in accordance with the provisions of UNSC Resolution 757 and other applicable Security Council resolutions.

(b) In general, specific licenses will only be granted for the exportation of medical supplies through the International Committee of the Red Cross or other appropriate humanitarian agencies for distribution by them or under their supervision, or in such other manner as may be approved under applicable Security Council resolutions, in order to ensure that such supplies reach the intended recipient.

(c) Applications for specific licenses pursuant to paragraph (a) of this section shall be made in advance of the proposed exportation, and provide the following information:

(1) The nature, quantity, value, and intended use of the medical supplies;

(2) The terms and conditions of distribution, including the intended method of compliance with such terms and conditions of distribution as may have been adopted by the United Nations Security Council or a duly authorized body subordinate thereto to govern the shipment of medical supplies under applicable Security Council resolutions.

§ 585.523 Certain transactions for the benefit of individuals in the FRY (S&M) authorized.

All transactions are authorized by U.S. financial institutions that are not blocked, including their foreign branches, for the benefit of individuals located in the FRY (S&M) provided that such transactions do not result in the transfer of funds to or for the benefit of the Government of the FRY (S&M) or to persons in the FRY (S&M).

Subpart F—Reports

§ 585.601 Required records.

(a) Except as otherwise provided, every person engaging in any transaction subject to the provisions of this part shall keep a full and accurate record of each transaction engaged in, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least 5 years after the date of such transaction. Except as otherwise provided, every person holding property subject to § 585.201 shall keep a full and accurate record of such property, and such record shall be available for examination for the period of time that such property is blocked and for at least 5 years after the date such property is unblocked.

(b) Any person, other than individual, required to maintain records pursuant to this section, must designate an individual to be responsible for providing information concerning such records to the Office of Foreign Assets Control when so requested.

§ 585.602 Reports to be furnished on demand.

Every person is required to furnish under oath, in the form of reports or otherwise, from time to time and at any time as may be required, complete information relative to any transaction, regardless of whether such transaction is effected pursuant to license or otherwise, subject to the provisions of this part. Such reports may be required to include the production of any books

of account, contracts, letters or other papers, connected with any such transaction or property, in the custody or control of the person required to make such reports. Reports with respect to transactions may be required either before or after such transactions are completed. The Director of Foreign Assets Control may, through any person or agency, conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation, regardless of whether any report has been required or filed in connection therewith.

§ 585.603 Registration of persons holding blocked property subject to § 585.201.

(a) Any individual holding property subject to § 585.201 must register with the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, by the latter of July 31, 1992, or within 10 days after the date such property is received or becomes subject to § 585.201.

(b) Any person, other than an individual, holding property subject to § 585.201 must register an individual designated under § 585.601(b) with the Blocked Assets Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, by the latter of July 31, 1992, or 10 days after the date such property is received and becomes subject to § 585.201.

Subpart G—Penalties

§ 585.701 Penalties.

(a) Attention is directed to § 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705), which provides that a civil penalty of not to exceed $10,000 may be imposed on any person who violates any license, order, or regulation issued under the International Emergency Economic Powers Act, and whoever willfully violates any license, order, or regulation issued under the International Emergency Economic Powers Act, shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. Section 206 of the International Emergency Economic Powers Act is applicable to violations of any provision of this part and to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act.

(b) Attention is directed to the United Nations Participation Act (22 U.S.C. 287c(b)), which provides that any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to the authority granted in this section shall, upon conviction, be fined not more than $10,000 or, if a natural person, be imprisoned for not more than 10 years, or both; and the officer, director or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a similar fine, imprisonment or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with tackle, apparel, furniture, and equipment, or vehicle, or aircraft, concerned in such violation shall be forfeited to the United States.

(c) Attention is directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both.

(d) Violations of this part may also be subject to relevant provisions of the Customs laws and other applicable laws.

§ 585.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, he shall issue to the person concerned a notice of his intent to impose a monetary penalty. The prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to make presentations.* The prepenalty notice also shall inform the person of his right to make a written presentation within 30 days of mailing of the notice as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

§ 585.703 Presentation responding to prepenalty notice.

(a) *Time within which to respond.* The named person shall have 30 days from the date of mailing of the prepenalty notice to make a written presentation to the Director.

(b) *Form and contents of written presentation.* The written presentation need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should contain responses to the allegations in the prepenalty notice and set forth the reasons why the person believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

§ 585.704 Penalty notice.

(a) *No violation.* If, after considering any presentations made in response to the prepenalty notice and any relevant facts, the Director determines that there was no violation by the person named in the prepenalty notice, he promptly shall notify the person in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation.* If, after considering any presentations made in response to the prepenalty notice, the Director determines that there was a violation by the person named in the prepenalty notice, he promptly shall issue a written notice of the imposition of the monetary penalty to that person.

§ 585.705 Referral to United States Department of Justice.

In the event that the person named does not pay the penalty imposed pursuant to this subpart or make payment arrangements acceptable to the Director within 30 days of the mailing of the written notice of the imposition of the penalty, the matter shall be referred for administrative collection measures or to the United States

Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 585.801 Licensing.

(a) *General licenses.* General licenses have been issued authorizing under appropriate terms and conditions certain types of transactions which are subject to the prohibitions contained in subpart B of this part. All such licenses in effect on the date of publication are set forth in subpart E of this part. It is the policy of the Office of Foreign Assets Control not to grant applications for specific licenses authorizing transactions to which the provisions of an outstanding general license are applicable. Persons availing themselves of certain general licenses may be required to file reports and statements in accordance with the instructions specified in those licenses. Failure to file such reports or statements will nullify the authority of the general license.

(b) *Specific licenses*—(1) *General course of procedure.* Transactions subject to the prohibitions contained in subpart B of this part which are not authorized by general license may be effected only under specific licenses.

(2) *Applications for specific licenses.* Applications for specific licenses to engage in any transactions prohibited by or pursuant to this part may be filed by letter with the Office of Foreign Assets Control. Any person having an interest in a transaction or proposed transaction may file an application for a license authorizing such transaction, but the applicant for a specific license is required to make full disclosure of all parties in interest to the transaction so that a decision on the application may be made with full knowledge of all relevant facts and so that the identity and location of the persons who know about the transaction may be easily ascertained in the event of inquiry.

(3) *Information to be supplied.* The applicant must supply all information specified by relevant instructions and/or forms, and must fully disclose the names of all the parties who are concerned with or interested in the proposed transaction. If the application is filed by an agent, the agent must disclose the name of the principal(s). Such documents as may be relevant shall be attached to each application as a part of such application except that documents previously filed with the Office of Foreign Assets Control may, where appropriate, be incorporated by reference. Applicants may be required to furnish such further information as is deemed necessary to a proper determination by the Office of Foreign Assets Control. Any applicant or other party in interest desiring to present additional information or discuss or argue the application may do so at any time before or after decision. Arrangements for oral presentation should be made with the Office of Foreign Assets Control.

(4) *Effect of denial.* The denial of a license does not preclude the reopening of an application or the filing of a further application. The applicant or any other party in interest may at any time request explanation of the reasons for a denial by correspondence or personal interview.

(5) *Reports under specific licenses.* As a condition for the issuance of any license, the licensee may be required to file reports with respect to the transaction covered by the license, in such form and at such times and places as may be prescribed in the license or otherwise.

(6) *Issuance of license.* Licenses will be issued by the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury or licenses may be issued by the Secretary of the Treasury acting directly or through any specifically designated person, agency, or instrumentality.

(7) *Address.* License applications, reports, and inquiries should be addressed to the appropriate section or individual within the Office of Foreign Assets Control, or to the Director, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220.

§ 585.802 Decisions.

The Office of Foreign Assets Control will advise each applicant of the decision respecting filed applications. The decision of the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury with respect to an application shall constitute final agency action.

§ 585.803 Amendment, modification, or revocation.

The provisions of this part and any rulings, licenses, whether general or specific, authorizations, instructions, orders, or forms issued hereunder may be amended, modified, or revoked at any time.

§ 585.804 Rulemaking.

(a) All rules and other public documents are issued by the Secretary of the Treasury upon recommendation of the Director of the Office of Foreign Assets Control. In general, rulemaking by the Office of Foreign Assets Control involves foreign affairs functions of the United States, and for that reason is exempt from the requirements under the Administrative Procedure Act (5 U.S.C. 553) for notice of proposed rulemaking, opportunity for public comment, and delay in effective date. Wherever possible, however, it is the practice of the Office of Foreign Assets Control to receive written submissions or hold informal consultations with interested parties before the issuance of any rule or other public document.

(b) Any interested person may petition the Director of the Office of Foreign Assets Control in writing for the issuance, amendment, or repeal of any rule.

§ 585.805 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to Executive Orders 12808, 12810, 12831, and any further Executive orders relating to the national emergency declared in Executive Order 12808 may be taken by the Director, Office of Foreign Assets Control.

§ 585.806 Rules governing availability of information.

(a) The records of the Office of Foreign Assets Control which are required by 5 U.S.C. 552 to be made available to the public shall be made available in accordance with the definitions, procedures, payment of fees, and other provisions of the regulations on the Disclosure of Records of the Office of the Secretary and of other bureaus and offices of the Treasury Department issued pursuant to 5 U.S.C. 552 and published at 31 CFR part 1.

(b) Any form issued for use in connection with the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations may be obtained in person or by writing to the Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, or by calling 202/622–2480.

Subpart I—Paperwork Reduction Act

§ 585.901 [Reserved]

Dated: January 13, 1993.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: January 14, 1993.

John P. Simpson,

Acting Assistant Secretary (Enforcement).

[FR Doc. 93–1668 Filed 3–5–93; 12:44 pm]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD7 93-06]

Special Local Regulations; City of Augusta, GA

AGENCY: Coast Guard, DOT.
ACTION: Temporary rule.

SUMMARY: Special local regulations are being adopted for the Augusta Port Authority Invitational Rowing Regatta. The event will be held from 7 a.m. EST (Eastern Standard Time) to 5 p.m. EST on March 25–28, 1993 on the Savannah River at Augusta, Georgia. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations will become effective from 7 a.m. on March 25, 1993 to 5 p.m. March 28, 1993.

FOR FURTHER INFORMATION CONTACT: CDR A. A. Sarra, Coast Guard Group Charleston, at (803) 724–7619.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The updated information to hold the event was not received until January 15, 1993, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of these regulations are LTJG J. M. Sicard, Assistant Operations Officer, Coast Guard Group Charleston, project officer, and LT J. M. Losego, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulations

There will be 1,000 participants racing 4 and 8 man racing shells on a fixed course. The event will take place on that portion of the Savannah River at Augusta, Georgia between U.S. Highway 1/78/278 Bridge, at mile marker 199.45, and mile marker 197. These regulations are required to promote the safety of life and property on the navigable waters during the running of the Invitational Rowing Regatta.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2.08 of Commandant Instruction M16475.1B, and this proposal has been determined to be categorically excluded. Specifically, the Coast Guard has consulted with the Georgia Department of Natural Resources, the Army Corps of Engineers, and the National Marine Fisheries Services regarding the environmental impact of this event, and it was determined that the event does not threaten protected species.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35–T0706 is added to read as follows:

§ 100.35–T0706 Augusta Port Authority Invitational Rowing Regatta.

(a) *Regulated Area.* A regulated area is established on that portion of the Savannah River at Augusta, Georgia between U.S. Highway 1/78/278 Bridge, at mile marker 199.45, and mile marker 197. The regulated area encompasses the width of the Savannah River between these two points.

(b) *Special Local Regulations.* (1) Entry into the regulated area is prohibited unless authorized by the Patrol Commander. After termination of the Augusta Invitational Regatta on March 28, 1993, all vessels may resume normal operation.

(2) Four temporary overhead cables will be used to delineate the course's racing lanes, and floats will be used on the surface of the river to mark lane separations.

(c) *Effective dates:* These regulations become effective each day from 7 a.m. EST to 5 p.m. EST on March 25, 26, 27, and 28, 1993.

Dated: February 23, 1993.

William P. Leahy,
Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 93–5242 Filed 3–9–93; 8:45 am]
BILLING CODE 4910–14–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 921107–2307]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.
ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific cod by the inshore component in the Western Regulatory area of the Gulf of Alaska (GOA), statistical area 61. This action is necessary to prevent exceeding the allowance of the interim specification of Pacific cod total allowable catch (TAC) for the inshore component in this area.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), March 9, 1993, through 12 midnight, A.l.t., December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the exclusive economic zone within the GOA is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii)(A), the allowance of the interim specification of Pacific cod TAC for the inshore component in the statistical area 61 was established by the proposed specifications (57 FR 57982, December 8, 1992) as 4,208 metric tons (mt).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the allowance of the 1993 interim specification of Pacific cod TAC for the inshore component in the statistical area 61 soon will be

reached. Therefore, the Regional Director has established a directed fishing allowance of 3,788 mt, with consideration that 420 mt will be taken as incidental catch in directed fishing for other species in the statistical area 61. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by the inshore component in statistical area 61, effective from 12 noon A.l.t., March 9, 1993, through 12 noon A.l.t., December 31, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20 and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 5, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–5449 Filed 3–5–93; 1:12 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 45
Wednesday, March 10, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. NM–79, Notice No. SC–93–2–NM]

Special Conditions; Boeing Model 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Boeing Model 777 airplane. This airplane will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards of part 25 of the Federal Aviation Regulations (FAR). This notice contains the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards of part 25 of the Federal Aviation Regulations.

DATES: Comments must be received on or before April 26, 1993.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–79, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM–79. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Bob McCracken, FAA, Flight Test and Systems Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2118.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before further rulemaking action on this proposal is taken. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested parties. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM–79." The postcard will be date stamped and returned to the commenter.

Background

On June 18, 1990, the Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207, applied for a type certificate for their new Model 777 airplane. The Model 777 is a long range, transport category airplane powered by two Pratt & Whitney 4073A, Rolls-Royce RB211-Trent 870, or General Electric GE90–B3 engines with 73,500, 71,200, and 74,500 lb. thrust ratings, respectively. The overall length of the Model 777 is 209 feet, the height is 61 feet, and the wingspan is 198 feet. The airplane has a seating capacity in a typical three class configuration of 305 to 328 passengers, or 375 to 400 passengers in a two class configuration. The Model 777 has a maximum takeoff weight of 535,000 lbs., a maximum landing weight of 445,000 lbs., a maximum operating altitude of 43,100 ft., and a range of 4,200 nautical miles in a two class configuration or 6,600 nautical miles in a three class configuration.

Type Certification Basis

Under the provisions of § 21.17, Boeing must show that the Model 777 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–71. Boeing has also elected to comply with certain aspects of Amendment 25–72, and all of Amendments 25–73 through 25–77. The amendment levels of the applicable Federal Aviation Regulations (FAR) are: Part 25 through Amendment 25–77, except for § 25.571(e)(1), which remains at Amendment 25–71 level; part 36, as amended at the time of certification; and part 34, as amended through Amendment 34–1. In addition, the certification basis will be upgraded to include any subsequent amendments to part 25 that are required for operation under part 121, and the special conditions proposed in this notice.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25 as amended) do not contain adequate or appropriate safety standards for the Model 777 airplane because of novel or unusual design features, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and become part of the type certification basis in accordance with § 21.17(a)(2).

Model 777 Design Features

The structure of the Model 777 is generally of conventional design and construction, but with considerable use of composite materials. Elements of the primary structure (the fin and horizontal tail) are constructed of composites, as are some elements of secondary structure, including the elevators, rudders, flaps, spoilers, ailerons, engine cowls, and main deck floor beams.

The Model 777 utilizes a combination of multiple computer channels and redundant sensors which channel command signals to various control surface actuators in response to programmed control laws. This control architecture, referred to as fly-by-wire (FBW), provides closed loop command to move servo-actuators for the elevators, ailerons, rudder, spoilers, horizontal stabilizer, slats and flaps, and engine power levers. In the unlikely event of simultaneous failure of all digital primary and analog backup

computers, mechanical control is available to control the airplane's attitude until computer control is restored. This mechanical backup is not designed for controlling the airplane to a landing.

Hydraulic power for the flight control system is provided by three independent hydraulic systems. Functions are shared among these systems to ensure airplane control in the event of loss of one or two systems. The left and right systems are pressurized by variable displacement pumps driven from the engine accessory gearboxes. In addition, the left and right systems each have one electrically-driven demand pump. The center system can be pressurized by two electrically-driven hydraulic pumps. This system also has two air-driven demand pumps that use air from the airplane pneumatic system.

Normal electrical power is supplied by two integrated drive generators, one on each engine. An electrical generator powered by an auxiliary power unit (APU) is also available. Backup electrical power is available to selected airplane alternating current (AC) busses from two variable speed constant frequency generators, one of which is mounted on each engine. The main direct current (DC) system can also receive power from the backup generators. Primary power for the FBW system is provided by dedicated permanent magnet generators in each of the two backup generator units. The FBW system can alternately receive power from the main DC system or the standby DC system. The standby DC system is powered by a ram air turbine (RAT) driven AC generator, which can provide a source of standby electrical power that is not time limited. The RAT is deployed automatically upon loss of all normal and backup AC power sources. A manual deploy feature is available to the flightcrew should the RAT fail to deploy automatically.

The engine control system consists of dual channel, full authority, digital engine controls (FADEC) mounted on the fan cases of each engine. The FADEC's are interfaced with the various airplane systems to provide redundant control of the engines through a "hard-wired" throttle angle resolver system. In addition, the throttles move in proportion to commanded changes in engine power, and in the event of a total failure of the engine indicating and crew alerting system (EICAS), analog rotor speeds are available to determine engine power levels. Each FADEC provides gas generator control, engine limit protection, power management, input to the thrust reverser system, and engine parameter inputs for the flight deck displays.

Control inputs are made through conventional flight deck control wheels, columns, and rudder pedals. The flight instruments are displayed on six liquid crystal flat panel displays. Two flat panel displays are mounted directly in front of both the pilot and copilot and display primary flight instruments and navigational information. The other two flat panel displays are located in the center of the instrument panel and display engine parameters, warnings, and system diagnostics.

The proposed type design of the Model 777 contains novel or unusual design features not envisioned by the applicable part 25 airworthiness standards and therefore special conditions are considered necessary in the following areas:

Systems

1. Operation Without Normal Electrical Power

The Model 777 fly-by-wire control system requires a continuous source of electrical power. Section 25.1351(d), "Operation without normal electrical power," requires safe operation in VFR conditions for at least five minutes with inoperative normal power. This rule was structured around a traditional design utilizing mechanical control cables for flight control, while the crew took time to sort out the electrical failure, start engine(s) if necessary, and re-establish some of the electrical power generation capability.

In order to maintain the same level of safety associated with traditional designs, the Model 777 design must not be time limited in its operation, including being without the normal source of electrical power generated by the engine or auxiliary power unit (APU). It should be noted that service experience has shown that the loss of all electrical power generated by the airplane's engines or APU is not extremely improbable. Thus, it must be demonstrated that the airplane can continue through safe flight and landing with inoperative normal engine and auxiliary power unit generator electrical power (electrical power sources excluding the battery and any other standby electrical sources). Therefore, Special Condition No. 1 is proposed.

2. Command Signal Integrity

The Model 777 airplane will be using fly-by-wire technology as a means of sending command and control signals to the Primary Flight Computers (PFC). The PFC's send signals to the Actuator Control Electronics (ACE) which, in turn, send analog command and control signals to the Power Control Units (PCU). The PCU's move the elevator, aileron, flaperon, rudder, spoiler, feel actuator, rudder trim, horizontal stabilizer, and autospeed-brake actuators. In the Model 777 fly-by-wire design being presented, command and control of the airplane's aerodynamic control surfaces will be achieved by electronic interfaces depending on AC and DC signals and digital data buses. These interfaces involve not only direct commands to the PCU, but all the necessary feedback sensor signals, including some that are transmitted on new ARINC 629 buses. These signal paths, as well as the digital electronics that manage them, can be susceptible to outside interferences from electromagnetic and electrostatic sources, as well as internal causes that could modify the command and control signals. Internal causes may include, but are not restricted to, the loss of data bits, unwanted transients in the power supply source, capacity saturation inside a computer, processing of signals by parallel asynchronous computers, and adverse effects caused by transport lag and any other cause that may alter the command and control signals. For these reasons, special design measures, and laboratory tests intended to validate these designs, will be required to demonstrate the integrity of the fly-by-wire flight control system, to a level of safety equivalent to that which is achieved with traditional hydro-mechanical designs. In addition, similar to the conventional steel cable controls, wire routing and electronic box location must provide separation and redundancy to ensure protection from common cause damage. In order to maintain the Model 777 airplane's systems at a level of safety that is equivalent to that intended by the regulations, Special Condition No. 2 is proposed.

3. Protection From Lightning and Unwanted Effects of High Intensity Radiated Fields (HIRF)

The Model 777 airplane will utilize electrical and electronic systems that perform critical and essential functions. These systems include electronic displays, electronic engine controls, fly-by-wire flight controls, and others.

The existing lightning protection airworthiness certification requirements are insufficient to provide an acceptable level of safety with new technology avionic systems. There are two regulations that specifically pertain to lightning protection; one for the airframe in general (§ 25.581), and the other for fuel system protection

(§ 25.954). There are, however, no regulations that deal specifically with protection of electrical and electronic systems from lightning. The loss of a critical function of these systems due to lightning could prevent continued safe flight and landing of the airplane. Although the loss of an essential function would not prevent continued safe flight and landing, it could significantly impact the safety level of the airplane.

There is also no specific regulation that addresses protection requirements for electrical and electronic systems from high-intensity radiated fields (HIRF). Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

The existing airworthiness regulations do not contain adequate or appropriate safety standards for protection of the Model 777 electrical and electronic systems from the effects of lightning and HIRF external to the airplane. Therefore, Special Condition No. 3 is proposed.

Airframe

4. Effect of Flight Control Systems on Structures

The Model 777, when in normal operation, incorporates a three-axis digital fly-by-wire (FBW) electronic flight control system (EFCS), with an alternate pilot selectable direct analog system. The FBW is used for all primary, secondary and high lift control surfaces. Under normal operation, the systems significant to loads development include a longitudinal stability augmentation system, yaw damper, rudder limiter, elevator limiter, flap load relief system, and wheel-rudder crosstie. The certification rules for transport airplanes did not envision this relationship between systems and structure. To provide comprehensive criteria in which the structural design safety margins are dependent on systems reliability, Special Condition No. 4 is proposed.

5. Design Maneuver Requirements

The Model 777 is equipped with electronic flight controls that provide control of the airplane through pilot inputs to the flight computer. The flight computer uses airplane flight data to adjust and limit pilot commands. The certification rules for transport airplanes did not envision this relationship between the pilot inputs and the control surfaces. To provide criteria in which the design maneuver requirements of airplane may be addressed, Special Condition No. 5 is proposed.

6. Limit Engine Torque Loads for Sudden Engine Stoppage

The limit engine torque load imposed by sudden engine stoppage due to malfunction or structural failure (such as compressor jamming) has been a specific requirement for transport category airplanes since 1957. The size, configuration, and failure modes of jet engines have changed considerably from what was envisioned when the engine seizure requirement, § 25.361(b), was first adopted. The latest generation of jet engines, as used in the Model 777, are much larger and are capable of producing engine seizure torque loads that are significantly higher than previous generations of engines. The FAA is developing a new regulation and a new advisory circular that will provide more comprehensive criteria for treating engine torque loads resulting from sudden engine stoppage.

The proposed criteria distinguish between the more common seizure events and those rare seizure events resulting from structural failures. For the more rare but severe seizure events, the proposed criteria would allow some deformation in the engine supporting structure (ultimate load design) in order to absorb the higher energy associated with the high bypass engines, while at the same time protecting the adjacent primary structure in the wing and fuselage by providing a higher factor of safety for those structures. To provide appropriate structural design criteria for the engine torque on the Model 777, Special Condition No. 6 is proposed.

Flight Characteristics

7. Flight Characteristics Compliance via Handling Qualities Rating Method

The Model 777 design incorporates an Electronic Flight Control System (EFCS). This system will provide an electronic interface between the pilot's flight controls and the flight control surfaces (for both normal and failure states), generating the actual surface commands that provide for stability augmentation and control about all three airplane axes. Because EFCS technology has out-paced existing regulations (written essentially for unaugmented airplanes, with provision for limited ON/OFF augmentation), Special Condition No. 7 is proposed to aid in the certification of flight characteristics.

8. Electronic Flight Control System: Control Surface Awareness

With an electronic flight control system and no direct coupling from cockpit controller to control surface, the pilot may not be aware of the actual surface position utilized to fulfill the requested demand. Some unusual flight condition, arising from atmospheric conditions and/or airplane or engine failures, may result in full, or near-full, surface deflection. Unless the flightcrew is made aware of excessive deflection or impending control surface limiting, piloted or Auto-Flight System control of the airplane might be inadvertently continued in such a manner as to cause airplane loss-of-control or other unsafe stability or performance characteristic. To provide criteria in which this feature may be addressed, Special Condition No. 8 is proposed.

In the event additional novel or unusual design features are identified at a later date, appropriate additional special conditions will be proposed for the Model 777.

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these proposed special conditions is as follows:

Authority: 49 U.S.C. app 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2); 42 U.S.C. 1857f–10, 4321 *et seq.*; E.O. 11514; and 49 U.S.C. 106(g).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Boeing Model 777 series airplanes.

1. Operation Without Normal Electrical Power

In lieu of compliance with § 25.1351(d), it must be demonstrated by test, or combination of test and analysis, that the airplane can continue safe flight and landing with inoperative normal engine and APU generator electrical power (electrical power sources excluding the battery and any other standby electrical sources). The airplane operation should be considered at the critical phase of flight and include the ability to restart the engines and maintain flight for the

maximum diversion time capability being certified.

The emergency electrical power system must be designed to supply:

1. Electrical power required for immediate safety, which must continue to operate without the need for crew action following the loss of the normal engine (which includes APU power) generator electrical power system.

2. Electrical power required for continued safe flight and landing.

3. Electrical power required to restart the engines.

2. Command Signal Integrity

In addition to compliance with § 25.671 of the FAR:

(a) It must be shown that the Primary Flight Control System (PFCS) signals cannot be altered unintentionally, or that the altered signal characteristics are such that:

(1) Stable gain and phase margins must be maintained for all aerodynamically closed loop systems, excluding pilot in the loop control.

(2) Sufficient pitch, roll, and yaw control power must be available to provide control for continued safe flight and landing, considering all the malfunctions that are not extremely improbable.

(3) The effect of spurious signals on the systems which are included in the aerodynamic loop must not result in unacceptable transients or degradation of the airplane's performance. Specifically, signals that would cause a significant uncommanded motion of a control surface actuator must be readily detected and deactivated or the surface motion must be arrested by other means in a satisfactory manner. Small amplitude residual system oscillations may be acceptable.

(4) The change of mode in one of the flight critical control systems must not be greater than 10^{-5}/flt. hr. This applies to the primary flight control systems. A change of mode can be caused by an automatic switching from the normal (i.e., full-up system) to the secondary mode. The effects of latent failures must be considered in demonstrating compliance with this special condition.

(b) It must be demonstrated that uncommanded sustained oscillations, the result of coupling between electronic or electrical command signals, and the motion of the mechanical actuator drive system together with the interfacing structural components, do not occur over the spectrum of operating frequencies. The effects of minor instabilities may be acceptable provided they are thoroughly investigated, documented, and understood.

3. Protection from Lightning and Unwanted Effects of High-Intensity Radiated Fields (HIRF)

(a) Lightning Protection

(1) Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to lightning.

(2) Each essential function of electrical or electronic systems or installations must be protected to ensure that the function can be recovered in a timely manner after the airplane has been exposed to lightning.

(b) Protection From Unwanted Effects of High-Intensity Radiated Fields (HIRF)

Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields external to the airplane.

(c) The following definitions apply with respect to these special conditions:

Critical Functions. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure would contribute to or cause a failure condition that would significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

Discussion: To provide a means of compliance with these proposed special conditions, clarification of the threat definition for lightning is needed. The following "threat definition," based on FAA Advisory Circular 20–136, Protection of Aircraft Electrical/Electronic Systems Against the Indirect Effects of Lightning, dated March 5, 1990, is proposed as a basis to use in demonstrating compliance with the lightning protection special condition.

The lightning current waveforms (Components A, D, and H) defined below, along with the voltage waveforms in Advisory Circular (AC) 20–53A, will provide a consistent and reasonable standard which is acceptable for use in evaluating the effects of lightning on the airplane. These waveforms depict threats that are external to the airplane. How these threats affect the airplane and its systems depends upon their installation configuration, materials, shielding, airplane geometry, etc. Therefore, tests (including tests on the completed airplane or an adequate simulation) and/or verified analyses need to be conducted in order to obtain the resultant internal threat to the installed systems. The electronic systems may then be evaluated with this internal threat in order to determine their susceptibility to upset and/or malfunction.

To evaluate the induced effects to these systems, three considerations are required:

1. *First Return Stroke:* (Severe Strike—Component A, or Restrike—Component D). This external threat needs to be evaluated to obtain the resultant internal threat and to verify that the level of the induced currents and voltages is sufficiently below the equipment "hardness" level; then

2. *Multiple Stroke Flash:* (½ Component D). A lightning strike is often composed of a number of successive strokes, referred to as multiple strokes. Although multiple strokes are not necessarily a salient factor in damage assessment, they can be the primary factor in a system upset analysis. Multiple strokes can induce a sequence of transients over an extended period of time. While a single event upset of input/output signals may not affect system performance, multiple signal upsets over an extended period of time (2 seconds) may affect the systems under consideration. Repetitive pulse testing and/or analysis needs to be carried out in response to the multiple stroke environment to demonstrate that the system response meets the safety objective. This external multiple stroke environment consists of 24 pulses and is described as a single Component A followed by 23 randomly spaced restrikes of ½ magnitude of Component D (peak amplitude of 50,000 amps). The 23 restrikes are distributed over a period of up to 2 seconds according to the following constraints: (1) The minimum time between subsequent strokes is 10 ms, and (2) the maximum time between subsequent strokes is 200 ms. An analysis or test needs to be accomplished in order to obtain the resultant internal threat environment for the system under evaluation.

3. *Multiple Burst:* (Component H). In-flight data-gathering projects have shown bursts of multiple, low amplitude, fast rates of rise, short duration pulses accompanying the airplane lightning strike process. While insufficient energy exists in these pulses to cause physical damage, it is possible that transients resulting from this environment may cause upset to some digital processing systems.

The representation of this interference environment is a repetition of short duration, low amplitude, high peak rate of rise, double exponential pulses which represent the multiple bursts of current pulses observed in these flight data gathering projects. This component is intended for an analytical (or test) assessment of functional upset of the system. Again, it is necessary that this component be translated into an internal environmental threat in order to be used. This "Multiple Burst" consists of 24 random sets of 20 strokes each, distributed over a period of 2 seconds. Each set of 20 strokes is made up of 20 repetitive Component H waveforms distributed within a period of one millisecond. The minimum time between individual Component H pulses within a burst is 10μs, the maximum is 50μs. The 24 bursts are distributed over a period of up to 2 seconds according to the following constraints: (1) The minimum time between subsequent strokes is 10 ms, and (2) the maximum time between subsequent strokes is 200 ms. The individual "Multiple Burst" Component H waveform is defined below.

The following current waveforms constitute the "Severe Strike" (Component A) "Restrike" (Component D), "Multiple Stroke" (½ Component D), and the "Multiple Burst" (Component H). These components are defined by the following double exponential equation: $i(t)=I_o\,(e^{-at}-e^{-bt})$ where:

t=time in seconds,

i=current in amperes, and

		Severe strike (component A)	Restrike (component D)	Multiple stroke (½ component D)	Multiple burst (component H)
I_o, amp	=	218,810	109,405	54,703	10,572
a, sec^{-1}	=	11,354	22,708	22,708	187,191
b, sec^{-1}	=	647,265	1,294,530	1,294,530	19,105,100
This equation produces the following characteristics:					
i_{peak}	=	200 KA	100 KA	50 KA	10 KA
and,					
$(di/dt)_{max}$ (amp/sec)	=	1.4×10^{11} @ t=0+sec	1.4×10^{11} @ t=0+sec	0.7×10^{11} @ t=0+sec	2.0×10^{11} @ t=0+sec
di/dt, (amp/sec)	=	1.0×10^{11} @ t=.5μs	1.0×10^{11} @ t=.25μs	0.5×10^{11} @ t=.25μs	.....
Action Integral (amp^2 sec)	=	2.0×10^6	0.25×10^6	0.625×10^6	.....

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communication, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems (such as the EFIS, ADC, and AHRS) to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 –100 KHz	50	50
100–500	60	60
500–2000	70	70
2 –30 MHz	200	200
30 –70	30	30
70 –100	30	30
100–200	150	33
200–400	70	70
400–700	4020	935
700–1000	1700	170
1 –2 GHz	5000	990
2 –4	6680	840
4 –6	6850	310
6 –8	3600	670
8 –12	3500	1270
12 –18	3500	360
18 –40	2100	750

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S.

4. Effect of Flight Control Systems on Structures

(a) General

For airplanes equipped with flight control systems, autopilots, stability augmentation systems, and load alleviation systems that directly, or as a result of a failure, affect its structural performance, the influence of these systems and their failure conditions shall be taken into account in showing compliance with subparts C and D of part 25 of the Federal Aviation Regulations (FAR).

(b) System fully operative

With the system fully operative, the following apply:

(1) Limit loads must be derived for all normal operating configurations of the systems from all the deterministic limit conditions specified in subpart C of part 25, taking into account any special behavior of such systems, associated functions or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant non linearity (rate of displacement of control surface, thresholds, or any other system non-linearities) must be accounted for in a realistic and conservative way when deriving limit loads from limit conditions.

(2) The airplane must meet the strength requirements of part 25 (Static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of non-linearities must be investigated beyond limit conditions to ensure that the behavior of the systems present no anomalies compared to the system behavior below limit conditions.

(3) The airplane must meet the aeroelastic stability requirements of § 25.629.

(c) System in a Failure Condition

For any system failure condition not shown to be extremely improbable, the following apply:

(1) *At the time of occurrence.* Starting from lg level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure, and immediately after failure, until the airplane is stabilized. The airplane must be able to withstand these loads, multiplied by an appropriate factor of safety, related to the probability of occurrence of the failure. These loads should be considered ultimate loads for this evaluation. The factor of safety is defined as follows:

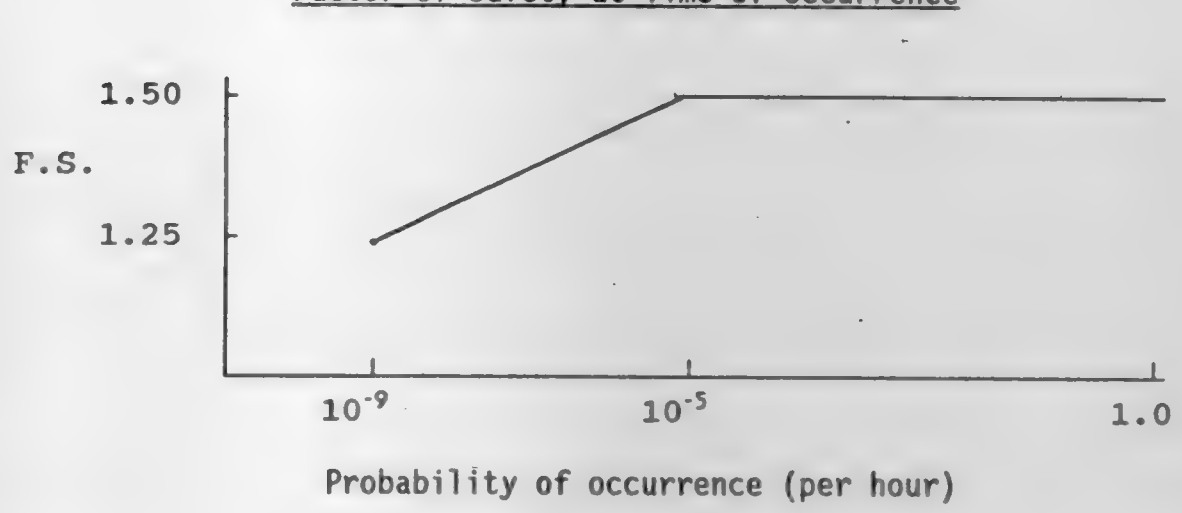

(i) The loads must also be used in the damage tolerance evaluation required by § 25.571(b), if the failure condition is probable. The loads should be considered as ultimate loads for the damage tolerant evaluation.

(ii) Freedom from flutter and divergence must be shown at speeds up to V_D or 1.15 V_C, whichever is greater. However, at altitudes where the speed is limited by Mach number, compliance need be shown only up to M_D, as defined by § 25.335(b). For failure conditions that result in speed increases beyond V_C/M_C, freedom from flutter and divergence must be shown to increased speeds so that the above margins are maintained.

(iii) Notwithstanding subparagraph (1) of this paragraph, failures of the system that result in forced structural vibrations (oscillatory failures) must not produce peak loads that could result in permanent deformation of primary structure.

(2) *For the continuation of the flight.* For the airplane in the failed configuration and considering any appropriate flight limitations, the following apply:

(i) Static and residual strength must be determined for loads induced by the failure condition if the loads could continue to the end of the flight. These loads must be combined with the deterministic limit load conditions specified in subpart C of part 25.

(ii) For static strength substantiation, each part of the structure must be able to withstand the loads in subparagraph (2)(i) of this paragraph multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety (F.S.) is defined as follows:

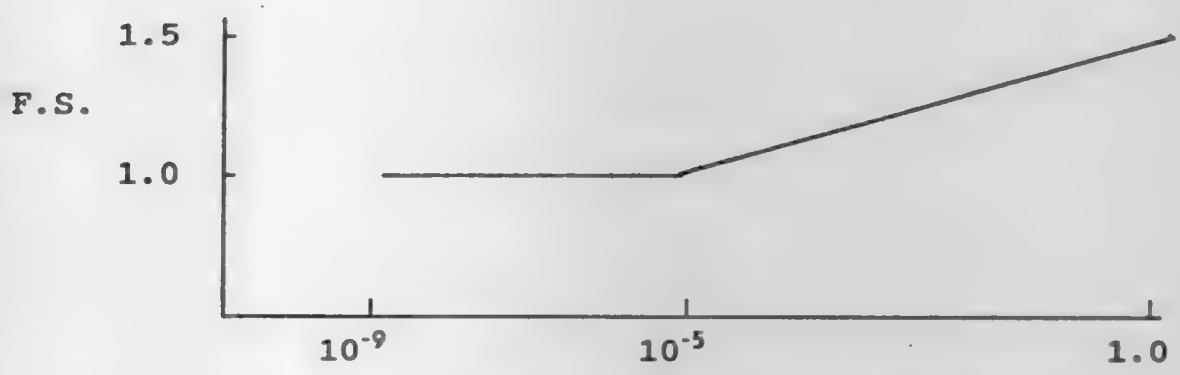

Q_j — Probability of being in failure state j

$Q_j = T_j * P_j$ where:
T_j = Average time spent in failure condition
P_j = Probability of occurrence of failure mode

Note: If P_j is greater than 10^{-3} per flight hour, then a safety factor of 1.5 must be used.

(iii) For residual strength substantiation as defined in § 25.571(b), structures affected by failure of the system, and with damage in combination with the system failure, a reduction factor may be applied to the residual strength loads of § 25.571(b). However, the residual strength level must not be less than the 1-g flight load combined with the loads introduced by the failure condition, plus two-thirds of the load increments of the conditions specified in § 25.571(b) applied in both positive and negative directions (if appropriate). The reduction factor (R.F.) is defined as follows:

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Residual Strength Reduction Factor

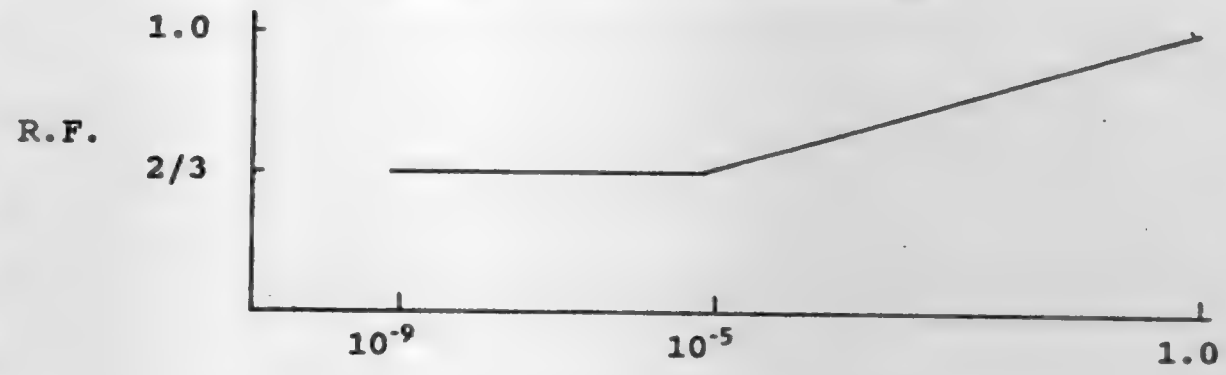

Q_j - Probability of being in failure state j
$Q_j = T_j * P_j$ where:
T_j = Average time spent in failure condition
P_j = Probability of occurrence of failure mode

Note: If P_j is greater than 10^{-3}, per flight hour then a safety factor of 1.0 must be used.

(iv) Freedom from flutter and divergence must be shown up to a speed determined by the following figure:

Flutter Clearance Speed

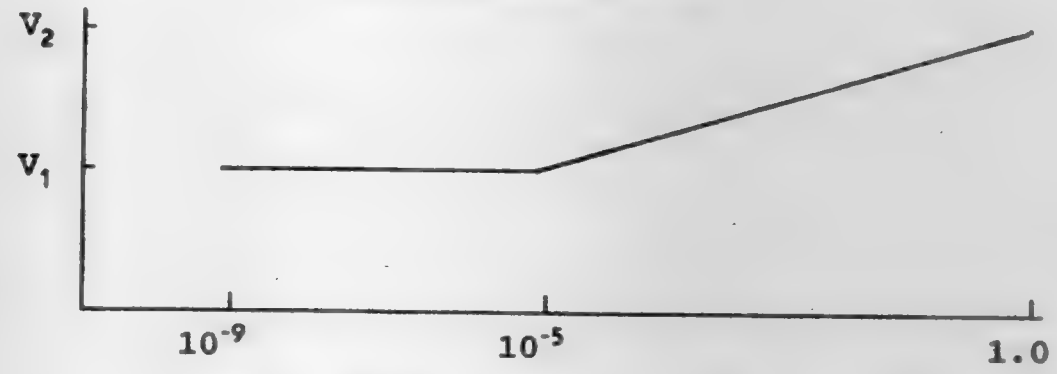

Q_j - Probability of being in failure state j

$V_1 = V_0$ or 1.15 V_c whichever is greater.
V_2 = Flutter clearance speed required for normal (unfailed) conditions by § 25.629.
$Q_j = T_j * P_j$ where:
T_j = Average time spent in failure condition
P_j = Probability of occurrence of failure mode

Note: If P_j is greater than 10^{-3}, then the flutter clearance speed must not be less than V_2.

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(v) Freedom from flutter and divergence must also be shown up to V_1, as depicted in the above figure, for any probable system failure condition, combined with any damage required or selected for investigation by § 25.571(b).

(vi) If the time likely to be spent in the failure condition is not small compared to the damage propagation period, or if the loads induced by the failure condition may have a significant influence on the damage propagation, then the effects of the particular failure condition must be addressed and the corresponding inspection intervals adjusted to adequately cover this situation.

(vii) If the mission analysis method is used to account for continuous turbulence, all the systems failure conditions associated with their probability must be accounted for in a rational or conservative manner in order to ensure that the probability of exceeding the limit load is not higher than the prescribed value of the current requirement.

(d) Warning considerations

For system failure detection and warning, the following apply:

(1) Before flight, the system must be checked for failure conditions, not shown to be extremely improbable, that would degrade the structural capability below the level specified in paragraph (b) of this special condition. The crew must be made aware of these failures, if they exist, before flight.

(2) The existence of any failure condition during flight that could significantly affect the structural capability of the airplane, and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the crew in accordance with § 25.1322.

(3) During flight, any failure condition not shown to be extremely improbable, in which the safety factor existing between the airplane strength capability and loads induced by the deterministic limit conditions of subpart C of part 25 is reduced to 1.3 or less, must be signaled to the crew if appropriate procedures and limitations can be provided so that the crew can take action to minimize the associated reduction in airworthiness during the remainder of the flight.

(e) Dispatch with failure conditions

If the airplane is to be dispatched with a failed system that would reduce the structural performance, then operational limitations must be provided whose effects combined with those of the failure condition allow the airplane to meet the structural requirements as described in paragraph (b) of this special condition. Subsequent system failures must also be considered.

The following definitions are applicable to this special condition.

Structural performance: Capability of the airplane to meet the requirements of part 25.

Flight limitations: Limitations that can be applied to the airplane flight conditions following an in-flight failure and that are included in the flight manual (e.g., speed limitations, avoidance of severe weather conditions, etc.).

Operational limitations: Limitations, including flight limitations, that can be applied to the airplane operating conditions before dispatch (e.g., payload limitations).

Probabilistic terms: The probabilistic terms (probable, improbable, extremely improbable) used in this special condition should be understood as defined in AC 25.1309–1A.

Failure condition: The term failure condition is defined in AC 25.1309–1A; however, this special condition applies only to system failure conditions that have a direct impact on the structural performance of the airplane (e.g., failure conditions that induce loads or change the response of the airplane to inputs such as gusts or pilot actions).

5. Design Maneuver Requirements

(a) Pitch maneuvering loads

In addition to the requirements of § 25.331(c), it must be established that pitch maneuver loads induced by the system itself (e.g., abrupt changes in orders made possible by electrical rather than mechanical combination of different inputs) are acceptably accounted for.

(b) Roll maneuver loads

In lieu of compliance with § 25.349(a), the following conditions, speeds, spoiler and aileron deflections (except as the deflections may be limited by pilot effort) must be considered in combination with an airplane load factor of zero, and two-thirds of the positive maneuvering factor used in design. In determining the required aileron and spoiler deflections, the torsional flexibility of the wing must be considered in accordance with § 25.301(b).

(1) Conditions corresponding to steady rolling velocities must be investigated. In addition, conditions corresponding to maximum angular acceleration must be investigated. The investigation must include the maximum possible aileron and spoiler deflections commanded by the electronic flight control system, using the most adverse system tolerances. For the angular acceleration conditions, zero rolling velocity may be assumed in the absence of a rational time history investigation of the maneuver.

(2) At V_A, sudden full deflection of the cockpit roll control up to the limit is assumed. The position of the cockpit roll control must be maintained until a steady roll rate is achieved and then must be returned suddenly to the neutral position.

(3) At V_C, the cockpit roll control must be moved suddenly and maintained so as to achieve a rate of roll not less than that obtained in paragraph (2), above.

(4) At V_D, the cockpit roll control must be moved suddenly and maintained so as to achieve a rate of roll not less than one third of that obtained in paragraph (2), above.

(5) It must be established that roll maneuver loads induced by the system itself (e.g. abrupt changes in orders made possible by electrical rather than mechanical combination of different inputs) are acceptably accounted for.

(c) Yaw maneuver loads

In lieu of compliance with § 25.351(a), the airplane must be designed for loads resulting from the conditions specified in subparagraphs (a) and (b) of this paragraph. Unbalanced aerodynamic moments about the center of gravity must be reacted in a rational and conservative manner considering the principal masses furnishing the reacting inertial forces. Physical limitations of the aircraft from the cockpit yaw control device to the control surface deflection, such as control stop position, maximum power and displacement rate of the servo controls, or control law limiters, may be taken into account.

(1) Maneuvering. At speeds from V_{MC} to V_D, the following maneuvers must be considered. In computing the tail loads, the yawing velocity may be assumed to be zero.

(i) With the airplane in unaccelerated flight at zero yaw, it is assumed that the cockpit yaw control device (pedal) is suddenly displaced to the maximum deflection, up to the limit, or by a 300 pound rudder pedal force, whichever is less.

(ii) With the cockpit yaw control device (pedal) deflected as specified in subparagraph (i) of this paragraph, it is assumed that the airplane yaws to the resulting side slip angle (beyond the static side slip angle).

(iii) With the airplane yawed to the static sideslip angle with the cockpit yaw control deflected as in subparagraph (i) of this paragraph, it is assumed that the cockpit yaw control device is returned to neutral.

(iv) It must be established that yaw maneuver loads induced by the system itself (e.g., abrupt changes in orders made possible by electrical rather than mechanical combination of different inputs) are acceptably accounted for.

6. Limit Engine Torque Loads for Sudden Engine Stoppage

In lieu of § 25.361(b) the following special condition is proposed:

(b) For turbine engine installations, the mounts and local supporting structure must be designed to withstand each of the following:

(1) The maximum torque load, considered as limit, imposed by;

(i) sudden deceleration due to a malfunction which could result in a temporary loss of power or thrust capability, and could cause a shut down due to vibrations, and

(ii) the maximum acceleration of the engine.

(2) The maximum torque load, considered as ultimate, imposed by sudden engine stoppage due to a structural failure including fan blade failure.

(3) The load condition defined in paragraph (b)(2) of this section is also assumed to act on adjacent airframe structure, such as the wing and fuselage. This load condition is multiplied by a factor of 1.25 to obtain ultimate loads when the load is applied to the wing and fuselage structure.

7. Flight Characteristics Compliance via Handling Qualities Rating Method

In lieu of compliance with § 25.672(c), a handling qualities rating system will be used for evaluation of electronic flight control system (EFCS) configurations resulting from single and multiple failures not shown to be

extremely improbable. The handling qualities ratings are:

Satisfactory: Full performance criteria can be met with routine pilot effort and attention.

Adequate: Adequate for continued safe flight and landing; full or specified reduced performance can be met, but with heightened pilot effort and attention.

Controllable: Inadequate for continued safe flight and landing, but controllable for return to a safe flight condition, safe flight envelope and/or reconfiguration so that the handling qualities are at least Adequate.

Handling qualities will be allowed to progressively degrade with failure state, atmospheric disturbance level, and flight envelope. Specifically within the normal flight envelope, the pilot-rated handling qualities must be satisfactory/adequate in moderate atmospheric disturbance for probable failures, and must not be less than adequate in light atmospheric disturbance for improbable failures.

8. Electronic Flight Control System: Control Surface Awareness

In addition to compliance with §§ 25.143, 25.671, and 25.672, when a flight condition exists where, without being commanded by the crew, control surfaces are coming so close to their limits that return to the normal flight envelope and (or) continuation of safe flight requires a specific crew action, a suitable flight control position annunciation shall be provided to the crew, unless other existing indications are found adequate or sufficient to prompt that action.

Note: The term suitable also indicates an appropriate balance between nuisance and necessary operation.

Issued in Renton, Washington, on February 26, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–5453 Filed 3–9–93; 8:45 am]

BILLING CODE 4910–13–M

RAILROAD RETIREMENT BOARD

20 CFR Part 266

[RIN 3220–AA83]

Representative Payment

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) proposes to revise part 266 in order to provide more detailed guidelines regarding the selection, payment, responsibilities, and monitoring of representative payees. The title of part 266 is also proposed to be changed from "Incompetence" to "Representative Payment" which better describes the contents of part 266. This proposal is being made to improve the administration of the Board's representative payee program.

DATES: Comments must be received by April 9, 1993.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 (312) 751–4513; TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: The Railroad Retirement Act of 1974 (45 U.S.C. 231 *et seq.*) provides a system of retirement and disability benefits for railroad employees, their spouses, children, and survivors who meet certain eligibility requirements under that Act. Section 12 of the Act (45 U.S.C. 231k) contains the same provisions as section 19 of the Railroad Retirement Act of 1937, the predecessor of the present Act, regarding the competence of an annuitant and the Board's authority in cases where an annuitant is incompetent. Under these provisions, any claimant or annuitant is presumed to be competent until the Board receives written notice to the contrary. If a claimant or annuitant is incompetent, the Board may make payments to, or conduct transactions with, any legally appointed guardian on behalf of the claimant or annuitant. Furthermore, section 12(a) expressly authorizes the Board to make payments, or conduct transactions, directly with the claimant or annuitant, or with any other person on his or her behalf, even though he or she is an incompetent for whom a guardian is acting. The provisions of section 12 are applicable to benefits claimed or paid under any Act administered in whole or in part by the Board, including any claim for or payment of social security benefits administered by the Board pursuant to section 7(b)(2) of the Railroad Retirement Act (45 U.S.C. 231f(b)(2)).

There has been growing concern in the Congress to assure that surrogate decision making services, including representative payee services, are provided in a uniform, high quality manner which maximizes the potential of every individual for self-reliance and independence.

Since the Board is currently in the process of a comprehensive review, revision, and amendment of its regulations, part 266 is proposed to be revised at this time to address concerns that adequate safeguards be provided where payment of an annuity under the Railroad Retirement Act is made to a representative payee rather than directly to the annuitant. Thus, the proposed new part 266 expands, as well as revises, the present regulation.

A brief summary of the disposition of the various sections of the present part 266 under the proposed regulation is set forth below.

The present § 266.1 simply sets forth the statutory provisions of section 12 of the Railroad Retirement Act (RRA) (45 U.S.C. 231k), and because of this redundancy, is proposed to be removed.

The present § 266.2 has been incorporated into § 266.1(b) of the proposed regulation. The proposed § 266.1 sets forth an introduction, consisting of an explanation of representative payment and the law and policy used to determine whether to make representative payment.

The present § 266.3 has been incorporated into § 266.3(a) of the proposed regulation. The proposed § 266.3 sets forth information which the Board will consider in determining whether to make representative payment.

The present § 266.4 has been redesignated as § 266.12. Proposed § 266.4 sets forth what information the Board will use in selecting a representative payee.

Paragraphs (a) and (b) of the present § 266.5 have been redesignated as § 266.2, and the term "beneficiary" has been removed and the term "annuitant" has been added in its place throughout the proposed part 266. Proposed § 266.5 describes the order of preference the Board will generally use in selecting representative payees.

The present § 266.6 has been incorporated into the proposed § 266.9(a). The proposed § 266.9 sets forth general responsibilities of a representative payee.

The present §§ 266.7, 266.9, 266.10, and 266.11 have been revised and incorporated into a single section, § 266.10, which details how a representative payee is to use benefit payments.

The present § 266.8, "Conservation and investment of benefit payments," has been revised and incorporated into the proposed § 266.11.

Proposed §§ 266.6, 266.7, and 266.8 are new. Section 266.6 provides that a representative payee applicant must provide the Board with the information listed in proposed § 266.4 and will generally be required to undergo a face-to-face interview with a field representative of the Board.

Proposed § 266.7 provides that the representative payee make an accounting to the Board for the use of benefits he or she receives as payee and

sets forth what information will satisfy the requirement of an accounting.

Proposed § 266.8 provides that an annuitant may challenge the appointment or selection of a representative payee. However, an individual who requests to be made a representative payee for an annuitant has no standing to challenge the Board's refusal to make the appointment.

The present § 266.12 has been revised and incorporated into the new § 266.7(c) described above. Proposed § 266.12, as noted earlier, is the redesignated § 266.4.

The present § 266.13 has been redesignated as the proposed § 266.15. Proposed §§ 266.13 and 266.14 are new. The former section describes when the Board will terminate an individual's status as a representative payee and appoint a new one. The latter section describes what evidence an annuitant must provide to the Board to terminate representative payments and thereby receive benefits directly.

The Board has determined that this is not a major rule under Executive Order 12291; therefore, no regulatory impact analysis is required. Information collection has been approved by the Office of Management and Budget under control numbers 3220–0151 and 3220–0052.

A distribution table is provided to show the distribution of the old part 266.

Old section	New section
266.1	Removed
266.2	266.1(b)
266.3	266.3(a)
266.4	266.12
266.5	266.2 and 266.5
266.6	266.9(a)
266.7	266.10 (a) and (b)
266.8	266.11
266.9	266.10(b)
266.10	266.10(c)
266.11	266.10(d)
266.12	266.7
266.13	266.15

A derivation table is provided to show the sources of the revised part 266.

New section	Old section
266.1	266.2
266.2	266.5
266.3	266.3
266.4	none
266.5	266.5
266.6	none
266.7	266.12
266.8	none
266.9	266.8
266.10	266.7, 266.9, 266.10, 266.11
266.11	266.8
266.12	266.4
266.13	none
266.14	none
266.15	266.13

List of Subjects in 20 CFR Part 266

Railroad employees, Railroad retirement.

For the reasons set out in the preamble, title 20, chapter II Part 266 of the Code of Federal Regulations is proposed to be revised as follows:

PART 266—REPRESENTATIVE PAYMENT

Sec.

266.1 Introduction.
266.2 Recognition by the Board of a person to act in behalf of another.
266.3 Information considered in determining whether to make representative payments.
266.4 Information considered in selecting a representative payee.
266.5 Order of preference in selecting a representative payee.
266.6 Information to be submitted by a representative payee applicant; face-to-face interview.
266.7 Accountability of a representative payee.
266.8 Advance notice of the determination to make representative payment.
266.9 Responsibilities of a representative payee.
266.10 Use of benefit payments.
266.11 Conservation and investment of benefit payments.
266.12 Effect of matters or actions submitted or taken by legal guardian, etc.
266.13 When a new representative payee will be selected.
266.14 When representative payment will be stopped.
266.15 Transfer of accumulated benefit payments.

Authority: 45 U.S.C. 231k and 231f.

§ 266.1 Introduction.

(a) *Explanation of representative payment.* This subpart explains the principles and procedures that the Board follows in determining whether to make representative payment and in selecting a representative payee. It also explains the responsibilities that a representative payee has concerning the use of the funds which he or she receives on behalf of an annuitant. A representative payee may be either a person or an organization selected by the Board to receive benefits on behalf of an annuitant. A representative payee will be selected if the Board believes that the interest of an annuitant will be served by representative payment rather than direct payment of benefits. Generally, the Board will appoint a representative payee if it determines that the annuitant is not able to manage or direct the management of benefit payments in his or her interest.

(b) *Statutory authority.* Section 12 of the Railroad Retirement Act provides that every annuitant and claimant shall be conclusively presumed to have been competent until the date on which the Board receives a notice in writing that a legal guardian or other person legally vested with the care of the person or estate of an incompetent or a minor has been appointed: *Provided, however,* That despite receiving such notice, the Board may, if it finds the interests of such annuitant or claimant to be served thereby, recognize actions by, conduct transactions with, and make payments to such annuitant or claimant.

(c) *Policy used to determine whether to make representative payment.* (1) In accordance with section 12 of the Railroad Retirement Act, the Board's policy is that every annuitant has the right to manage his or her own benefits. However, some annuitants due to mental or physical condition or due to their youth may be unable to do so. If the Board determines that the interests of an annuitant would be better served if benefit payments were certified to another person as representative payee, the Board will appoint a representative payee in accordance with the procedures set forth in this subpart. The Board may appoint a representative payee even if the annuitant is a legally competent individual. If the annuitant is a legally incompetent individual, the Board may appoint the legal guardian or some other person as a representative payee.

(2) If payment is being made directly to an annuitant and a question arises concerning his or her ability to manage or direct the management of benefit payments, the Board may, if the annuitant is 18 years old or older and has not been adjudged legally incompetent, continue to pay the annuitant until the Board makes a determination about his or her ability to manage or direct the management of benefit payments and the selection of a representative payee.

§ 266.2 Recognition by the Board of a person to act in behalf of another.

(a) Regardless of the receipt of written notice of the appointment of a guardian or other person legally vested with the care of the person or estate of an incompetent or a minor who is receiving or claiming benefits or to whom any right or privilege is extended under the law, the Board may, in its discretion, validly recognize actions by and conduct transactions with others acting on behalf of the individual found by the

Board to be a minor or to be unable to manage his or her affairs, if the Board finds such actions or transactions to be in the best interest of such individual.

(b) In the absence of a written notice of the appointment of a guardian or other person legally vested with the care of the person or estate of an incompetent or minor, the Board shall, except where special circumstances appear, recognize a person to act on behalf of an individual under the following circumstances:

(1) When the individual has been adjudged mentally incompetent by a court having jurisdiction to do so;

(2) When the individual has been committed to a mental institution by a court having jurisdiction to do so;

(3) When the individual is an inmate of a mental institution;

(4) When the individual is less than 16 years of age; or

(5) When the individual is between 16 and 18 years of age and is in the care of another person and does not have the capacity to act on his or her own behalf.

§ 266.3 Information considered in determining whether to make representative payments.

In determining whether to make representative payment, the Board may consider the following information:

(a) *Evidence of legal guardianship.* Evidence of the appointment of a legal guardian or other person legally vested with the care of the person or estate of an incompetent or a minor shall be a certified copy of the court's determination.

(b) *Medical evidence.* The Board may use medical evidence, when such is available, to help determine whether an annuitant is capable of managing or directing the management of benefit payments. For example, a statement by a physician or other medical professional based upon his or her recent examination of the annuitant and his or her knowledge of the annuitant's present condition will be used in the Board's determination, if it includes information concerning the nature of the annuitant's illness, the annuitant's chances for recovery and the opinion of the physician or other medical professional as to whether the annuitant is able to manage or direct the management of benefit payments.

(c) *Other evidence.* The Board may also consider statements of relatives, friends, and other people in a position to know and observe the annuitant, which contain information helpful to the Board in deciding whether the annuitant is able to manage or direct the management of benefit payments.

§ 266.4 Information considered in selecting a representative payee.

In selecting a representative payee, the Board tries to select the person, agency, organization or institution that will best serve the interest of the annuitant. In making this selection, the Board may consider such factors as the following:

(a) The relationship of the person to the annuitant, including the type of relationship, e.g., family or legal guardianship; degree of relationship, if the person is a family member; and the length of association, if a non-family member;

(b) The amount of interest that the person shows in the annuitant, including the contributions the person makes to the welfare of the annuitant and the contacts and frequency of such contacts with the annuitant;

(c) Any legal authority the person, agency, organization or institution has to act on behalf of the annuitant;

(d) Whether the potential payee has custody of the annuitant;

(e) Whether the potential payee is in a position to know of and look after the needs of the annuitant;

(f) Verification of the social security account number, name, address, telephone number, place of employment, and main source of income if applicable, accepted as part of any person's application for designation as a representative payee, unless such person's identification has already been established to the satisfaction of the Board;

(g) Whether an applicant for designation as a representative payee has ever been convicted of a felony or misdemeanor under the statutes administered by the Board or the Social Security Act; or convicted of a felony under any other Federal or State law; and

(h) Whether the services of such person as representative payee have previously been terminated, suspended, or declined by the Board or the Social Security Administration for:

(1) Misuse of the benefits of the annuitant for whom they were intended;

(2) Failure to comply with any provision of or regulation under the Railroad Retirement Act or the Social Security Act; or

(3) Failure to meet the requirements of this part.

§ 266.5 Order of preference in selecting a representative payee.

As a guide in selecting a representative payee, categories of preferred payees have been established. These preferences are flexible. The primary concern of the Board is to select the payee who will best serve the annuitant's interest. The preferences are:

(a) For annuitants 18 years old or older, the preference is:

(1) A legal guardian, spouse, or other relative who has custody of the annuitant or who demonstrates strong concern for the personal welfare of the annuitant;

(2) A friend who has custody of the annuitant or demonstrates strong concern for the personal welfare of the annuitant;

(3) A public or nonprofit agency or institution having custody of the annuitant;

(4) A private institution operated for profit and licensed under State law, which has custody of the annuitant; and

(5) Persons other than those listed above who are qualified to carry out the responsibilities of a representative payee and who are able and willing to serve as a payee for an annuitant; *e.g.*, members of community groups or organizations who volunteer to serve as representative payee for an annuitant.

(b) For annuitants under age 18, the preference is:

(1) A natural or adoptive parent who has custody of the annuitant, or a legal guardian;

(2) A natural or adoptive parent who does not have custody of the annuitant, but is contributing toward the annuitant's support and is demonstrating strong concern for the annuitant's well-being;

(3) A relative or stepparent who has custody of the annuitant;

(4) A natural or adoptive parent who does not have custody of the annuitant and is not contributing toward his or her support but is demonstrating strong concern for the annuitant's well-being;

(5) A relative who does not have custody of the annuitant but is contributing toward the annuitant's support and is demonstrating concern for the annuitant's well-being;

(6) A relative or close friend who does not have custody of the annuitant but is demonstrating concern for the annuitant's well-being; and

(7) An authorized social agency or custodial institution.

§ 266.6 Information to be submitted by a representative payee applicant; face-to-face interview.

Before the Board selects a representative payee, the Board may request the payee applicant to provide information concerning the factors listed in § 266.4 of this part. An employee of the Board may also conduct a face-to-face interview with the payee applicant.

(Approved by the Office of Management and Budget under control number 3220–0052.)

§ 266.7 Accountability of a representative payee.

(a) A representative payee is accountable for the use of benefits. The Board will require periodic written reports from representative payees. The Board may also, at the Board's option, verify how a representative payee used benefit payments. A representative payee must keep records of what was done with all benefit payments in order to make accounting reports. The Board may ask the following questions:

(1) The amount of benefit payments on hand at the beginning of the accounting period;

(2) How the benefit payments were used;

(3) How much of the benefit payments were saved and how the savings were invested;

(4) Where the annuitant lived during the accounting period;

(5) The amount of the annuitant's income from other sources during the accounting period. The Board may ask for information about other funds to enable the Board to evaluate the use of benefit payments; and

(6) Whether the representative payee has been convicted of a felony or misdemeanor offense under the statutes administered by the Board or by the Social Security Administration within the past 15 years or whether any such charges are pending.

(b) An individual to whom payments are certified as representative payee on behalf of an annuitant shall submit a written report in such form and at such times as the Board may require, accounting for the payments certified to him or her on behalf of the annuitant. If, however, such payee is a court-appointed fiduciary and, as such, is required to make an annual accounting to the court, a true copy of each such account filed with the court may be submitted in lieu of the accounting form prescribed by the Board. If any representative payee fails to submit the required accounting within a reasonable period of time after it is requested, no further payments shall be made to him or her on behalf of the annuitant unless for good cause shown, the default of the representative payee is excused by the Board, and the required accounting is thereafter submitted.

(c) At any time after the Board has selected a representative payee, the Board may ask such payee to submit information showing a continuing relationship to the annuitant and a continuing responsibility for the care of the annuitant. If the representative payee does not give the Board the requested information within a reasonable period of time, the Board may stop paying such payee unless the Board determines that the payee had a good reason for not complying with the Board's request, and the Board receives the information requested.

(Approved by the Office of Management and Budget under control numbers 3220–0052 and 3220–0151.)

§ 266.8 Advance notice of the determination to make representative payment.

(a) As a general rule, whenever the Board intends to make representative payment and to name a representative payee, the Board will notify the annuitant or, in the case of an unemancipated minor under age 18, or an individual who is legally incompetent, the individual acting on his or her behalf of the Board's proposed actions. Such notice will tell the person that the Board plans to name a representative payee and who that payee will be. The notice will also ask the person to contact the Board within 15 days of the date of the notice if he or she objects to either proposed action. If he or she objects to either proposed action, the objecting party may—

(1) Review the evidence upon which the proposed actions will be based; and

(2) Submit any additional evidence regarding the proposed actions.

(b) If the objecting party objects to the proposed actions, the Board will review its proposed determinations and consider any additional information provided. The Board will then issue a decision on whether to appoint a representative payee and who that payee will be. If the objecting party is dissatisfied with either determination, he or she may request a reconsideration under part 260 of this chapter.

(c) If the objecting party does not file a timely objection to the proposed actions, the Board will issue a decision on whether to appoint a representative payee and who that payee will be. If the objecting party is dissatisfied with either determination, he or she may request a reconsideration as authorized by § 260.3 of this chapter.

(d) A request for reconsideration or an appeal from a determination under this section under part 260 of this chapter shall not prevent the Board from making payments to a representative payee during the pendency of such reconsideration or appeal.

(e) The Board's failure or refusal to select an individual as representative payee or the Board's termination of representative payee status with respect to an individual is not subject to a request for reconsideration or an appeal under part 260 of this chapter by such individual.

§ 266.9 Responsibilities of a representative payee.

(a) A representative payee shall, subject to review by the Board and to such requirements as it may from time to time prescribe, apply the payments made to him or her on behalf of the annuitant only for the use and benefit of such annuitant, and in a manner and for purposes which are in the annuitant's best interests.

(b) A representative payee shall notify the Board of any event that will affect the amount of benefits the annuitant receives or the right of the annuitant to receive benefits.

(c) A representative payee shall notify the Board of any change in his or her circumstances that would affect performance of the payee responsibilities.

§ 266.10 Use of benefit payments.

(a) *Current maintenance.* Payments made to an individual as representative payee on behalf of an annuitant shall be considered as having been applied for the use and benefit of the annuitant when they are used for the annuitant's current maintenance. Current maintenance includes costs incurred in obtaining food, shelter, clothing, medical care, and personal comfort items.

Example: An aged annuitant is entitled to a monthly railroad retirement benefit of $800. His son, who is his representative payee, disburses his benefits in the following manner:

Rent and utilities	$500
Medical	50
Food	80
Clothing (coat)	90
Savings	60
Miscellaneous	20

The above expenditures would represent proper disbursements on behalf of the beneficiary.

(b) *Institutional care.* If an annuitant is receiving care in a Federal, state, or private institution because of mental or physical incapacity, current maintenance includes the customary charges made by the institution in providing care and maintenance, as well as expenditures for those items which will aid in the annuitant's recovery or release from the institution or expenses for personal needs which will improve the annuitant's conditions while in the institution.

(c) *Support of legal dependents.* If the current maintenance needs of the annuitant are met, the representative payee may use part of the payments for

the support of the annuitant's legally dependent spouse, child, and/or parent.

(d) *Claims of creditors.* Where a debt arose prior to the first month for which benefits are certified to a representative payee, the representative payee may satisfy such debt out of present benefit payments only if the current and reasonably foreseeable needs of the annuitant are met.

Example: A retroactive railroad retirement annuity check in the amount of $2,100, representing benefits due for November 1989 through January 1990, was issued on behalf of the annuitant to the annuitant's daughter, who is the representative payee. The check was certified in February 1990. The nursing home, where the annuitant resides, is owed money for maintenance expenses the annuitant incurred prior to February 1990.

If the accrual is not required for the annuitant's current maintenance and the annuitant had no foreseeable needs which would require large disbursements, the expenditure of the accrual or part thereof for the past due maintenance charges would be consistent with the Board's guidelines.

§ 266.11 Conservation and investment of benefit payments.

(a) *General.* If benefit payments made to a representative payee are not needed for the annuitant's current maintenance or reasonably foreseeable needs or the support of legal dependents or to pay creditors in accordance with § 266.10, they shall be conserved or invested on behalf of the annuitant. Such funds must be invested in accordance with the rules applicable to investment of trust estates by trustees. Any investment must show clearly that the representative payee holds the property in trust for the annuitant.

(b) *Preferred investments.* Preferred investments for excess funds are deposits in an interest or dividend paying account in a bank, trust company, credit union, or savings and loan association which is insured under either Federal or State law, direct obligations of the United States Government or obligations for which both principal and interest are guaranteed unconditionally by the United States Government. The account must be in a form which shows clearly that the representative payee has only a fiduciary, and not a personal, interest in the funds. If the payee is the legally appointed guardian or fiduciary of the annuitant, the account may be established to indicate this relationship. If the payee is not the legally appointed guardian or fiduciary, the accounts may be established as follows:

(1) For U.S. Savings Bonds—

_____(Name of annuitant)
_____(Social Security Number),
for whom _____(Name of payee)
is representative payee for Railroad Retirement benefits;

(2) For interest or dividend paying accounts—

_____(Name of annuitant) by
_____(Name of payee),
representative payee.

(c) *Interest and dividend payments.* The interest and dividends which result from an investment are the property of the annuitant and may not be considered to be the property of the representative payee.

(d) *Prohibition against commingling.* The representative payee shall not commingle his or her personal funds with the representative payments. A representative payee may consolidate and maintain an annuitant's funds in an account with other annuitants if he or she maintains a separate, accurate and complete accounting of each annuitant's funds under his or her control.

§ 266.12 Effect of matters or actions submitted or taken by legal guardian, etc.

All matters and actions in connection with an annuity submitted or taken by the guardian or other person legally vested with the care of the person or estate of an incompetent or a minor shall be considered by the Board in the same manner and with the same effect as though such matters or actions had been submitted or taken by the ward, if the ward had capacity to act in his or her own behalf; *Provided, however,* That the Board may, if it deems it necessary, require the guardian or other person legally vested with the care of the person or estate of an incompetent or a minor to submit a certified copy of an order from the court of appointment authorizing some particular action which the guardian or other person legally vested with the care of the person or estate desires to take in connection with the application.

§ 266.13 When a new representative payee will be selected.

When the Board learns that the interests of the annuitant are not served by continuing payment to the present representative payee or that the present representative payee is no longer able to carry out the payee responsibilities, the Board will undertake to find a new representative payee. The Board will select a new representative payee if the Board finds a preferred payee or if the present payee—

(a) Has not used the benefit payments on the annuitant's behalf in accordance with the guidelines in this subpart;

(b) Has not carried out the other responsibilities described in this part;

(c) Dies;

(d) No longer wishes to be representative payee;

(e) Is unable to manage the benefit payments; or

(f) Fails to cooperate, within a reasonable time, in providing evidence, accounting, or other information which the Board requests.

§ 266.14 When representative payment will be stopped.

If an annuitant receiving representative payment shows the Board that he or she is mentally and physically able to manage or direct the management of benefit payments, the Board will make direct payment to the annuitant. Information which the annuitant may give to the Board to support his or her request for direct payment include the following:

(a) A physician's statement regarding the annuitant's condition, or a statement by a medical officer of the institution where the annuitant is or was confined, showing that the annuitant is able to manage or direct the management of his or her funds;

(b) A certified copy of a court order restoring the annuitant's rights in a case where an annuitant was adjudged legally incompetent; or

(c) Other evidence which establishes the annuitant's ability to manage or direct the management of benefits.

§ 266.15 Transfer of accumulated benefit payments.

A representative payee who has conserved or invested funds from railroad retirement payments made to him or her on behalf of an annuitant shall, upon direction of the Board, transfer any such funds (including interest or dividends earned from investment of such funds) to a successor representative payee appointed by the Board, or, at the option of the Board, shall transfer such funds, including interest, to the Board for payment to a successor payee or to the annuitant.

Dated: March 2, 1993.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 93–5414 Filed 3–9–93; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 878

[Docket No. 91N-0281]

General and Plastic Surgery Devices; Effective Date of Requirement for Premarket Approval of Silicone Inflatable Breast Prosthesis; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to April 8, 1993, the comment period on the proposed rule to amend its regulations to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the silicone inflatable breast prosthesis, a medical device. The proposed rule was published in the **Federal Register** of January 8, 1993 (58 FR 3436). FDA is taking this action in response to a request for an extension of the comment period.

DATES: Written comments by April 8, 1993.

ADDRESSES: Submit written comments to the Docket Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thomas J. Callahan, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1036.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 8, 1993 (58 FR 3436), FDA issued a proposed rule to amend its regulations to require the filing of a PMA or a notice of completion of a PDP for the silicone inflatable breast prosthesis, a medical device. Interested persons were given until March 9, 1993, to respond to the proposed rule. FDA received one request for an extension of the comment period for 120 days. The request stated that additional time was needed to review all of the clinical issues, medical literature, clinical endpoint, and safety criteria in order to adequately address them.

FDA agrees with the request in part and is granting a 30-day extension. Accordingly, the comment period is extended to April 8, 1993.

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 4, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-5437 Filed 3-9-93; 8:45 am]

BILLING CODE 4160-01-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR12-1-5464; AD-FRL-4603-1]

Approval and Promulgation of State Implementation Plans: Oregon

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The EPA proposes approval of the state implementation plan (SIP) submitted by the State of Oregon for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10). The implementation plan was submitted by the State to satisfy certain Federal Clean Air Act requirements for an approvable moderate PM-10 nonattainment area SIP for Grants Pass, Oregon. The rationale for the approval is set out both in this notice and in supporting technical information which is available at the address indicated below. The final action to approve this plan would have the effect of making requirements adopted by the State of Oregon, federally enforceable by EPA.

DATES: Comments on this proposed action must be received in writing by April 9, 1993.

ADDRESSES: Comments should be addressed to: Rindy Ramos, Environmental Protection Agency, Air and Radiation Branch, Docket No. OR12-1-5464, 1200 Sixth Avenue, AT-082 Seattle, Washington, 98101.

Copies of the State's submittal and other information are available for inspection during the following business hours at the following location: Environmental Protection Agency, Air and Radiation Branch (OR12-1-5464), 1200 Sixth Avenue, AT-082, Seattle, Washington, 98101.

State of Oregon Department of Environmental Quality, 811 SW., Sixth Avenue, Portland, Oregon, 97204.

FOR FURTHER INFORMATION CONTACT: Rindy Ramos, Environmental Protection Agency, 1200 Sixth Avenue, AT-082, Seattle, Washington, 98101. Telephone (206) 553-6510.

SUPPLEMENTARY INFORMATION:

I. Background

The Grants Pass, Oregon, area was designated nonattainment for PM-10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.[1] See 56 FR 56694 (November 6, 1991). The air quality planning requirements for moderate PM-10 nonattainment areas are set out in subparts 1 and 4 of part D, title I of the Act.[2] The EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under title I of the Act, including those State submittals containing moderate PM-10 nonattainment area SIP requirements. See generally 57 FR 13498 (April 16, 1992); see also 57 FR 18070 (April 28, 1992). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of title I advanced in today's proposal and the supporting rationale. In today's rulemaking action on the State of Oregon's moderate PM-10 SIP for the Grants Pass nonattainment area, EPA is proposing to apply its interpretations taking into consideration the specific factual issues presented. Additional information supporting EPA's action on this particular area is available for inspection at the address indicated above. EPA will consider any timely submitted comments before taking final action on today's proposal.

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101-549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. sections 7401, *et seq.*

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM-10 nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the "General Preamble" and, as appropriate, in today's notice and supporting information.

Those States containing initial moderate PM–10 nonattainment areas (those areas designated nonattainment under section 107(d)(4)(B)) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Additional provisions are due at a later date. States with initial moderate PM–10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992 (see section 189(a)). Such States also must submit contingency measures by November 15, 1993, which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline (see section 172(c)(9) and 57 FR 13543–44).

II. Today's Action

Section 110(k) of the Act sets out provisions governing EPA's review and processing of SIP submittals (see 57 FR 13565–66). In today's action, EPA is proposing to approve the plan submitted to EPA on November 21, 1990, as revised by addenda submitted on November 15, 1991 (examined together herein as a comprehensive submittal for the area). EPA has determined that the submittal meets all of the applicable requirements of the Act.

A. Analysis of State Submission

1. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[3] Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing. EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

The State of Oregon Department of Environmental Quality (ODEQ) adopted a Grants Pass PM–10 plan at a public hearing held on November 2, 1990, and submitted the plan to EPA for approval on November 21, 1990. ODEQ subsequently adopted an addendum to the plan on November 8, 1991, and submitted the addendum to EPA for approval on November 15, 1991. ODEQ held a public hearing on September 27, 1991, to entertain public comment on the plan.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness the criteria set out at 40 CFR part 51, appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). A letter dated February 24, 1991, was forwarded to the Director of the ODEQ indicating the completeness of the submittal and the next steps to be taken in the review process. In today's action EPA proposes to approve the State of Oregon Department of Environmental Quality's PM–10 SIP submittal for the Grants Pass PM–10 nonattainment area and invites public comment on the action.

[3] Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

2. Accurate Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Because the submission of the emissions inventory is a necessary adjunct to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventory must be received with the demonstration submission (see 57 FR 13539).

The emission inventory developed for the Grants Pass Urban Growth Boundary (UGB) identified that the sources of PM–10 concentrations during 24-hour worst case winter periods are the following: residential wood combustion (54%), industrial emissions (25%), fugitive dust (13%), and transportation (7%). The emission inventory was qualitatively confirmed through receptor modeling techniques apportioning source contributions on the basis of their chemical "fingerprints."

ODEQ made an assumption in determining residential wood combustion emissions in Grants Pass. ODEQ assumed that wood heating characteristics in the Medford-Ashland nonattainment area were representative of Grants Pass and therefore could be substituted for an actual residential wood combustion emissions inventory for the Grants Pass nonattainment area. Data from a 1987 wood users survey conducted in Medford-Ashland was used to estimate wood smoke emissions. This assumption was used because: (1) A wood users survey for Grants Pass did not exist, (2) Grants Pass is located only twenty-nine miles to the west of Medford and (3) Oregon Department of Environment Quality (ODEQ) believed that the woodstove mix, percent of homes that burned wood, number of cords of wood burned per year, and percent of homes that used wood as their main source of heat would be very similar between the two areas.

To assess this assumption, ODEQ received funding from EPA to conduct a survey specific to Grants Pass during the 1991/1992 wood heating season. This study has been conducted. Preliminary results from the study indicate that the wood user characteristics, wood consumption, and stove mix are very similar between the two areas once the change in wood heating habits (due to public education and awareness) between 1987 and 1992 are taken into consideration.

EPA is proposing to approve the emissions inventory because it appears to be accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area.[4] For further details the reader is referred to the Technical Support Document (TSD) corresponding with this action, which is available at the address indicated above.

3. RACM (Including RACT)

As noted, the initial moderate PM–10 nonattainment areas must submit provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993 (see sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–45 and 13560–61). Attainment of the PM–10 standard in Grants Pass, Oregon is based on three control strategies: industrial controls, woodstove certification, and a voluntary wood-burning curtailment program. The available control measures to be implemented in the Grants Pass nonattainment area will include the following:

a. Industrial Controls

On September 7, 1989, the Environmental Quality Commission adopted changes to the Industrial Rules (OAR 340–30–005 through 111), for, among other areas, Grants Pass. These rules became effective upon adoption and were submitted to EPA for approval on October 13, 1989. On November 13, 1989, EPA determined that the SIP revision was not approvable due to enforceability issues. In response to EPA's concerns, ODEQ corrected the deficiencies, added new provisions and the EQC adopted the revised rules on November 8, 1991. The corrected rules were submitted to EPA on November 15, 1991. Among other limits, these rules impose new emission limits for existing veneer dryers and existing large, wood-fired boilers (heat-input capacity of greater than 35 million BTU/Hr). EPA proposed to approve these rules in a separate notice published on November 9, 1992 (57 FR 53394) and plans to take final action in the near future.

ODEQ projects a 55 percent reduction in PM–10 emissions between 1986 and 1992 due to implementation of its industrial control limitations. However, since the state's rules became effective, one of the two large wood-fired boilers in the area permanently shut down and did not bank its emissions (July 28, 1989). In addition, another source has switched from hog fuel for its boiler and veneer drier to natural gas. The operating permit for this source will be modified to reflect the usage of natural gas. These additional reductions will further reduce PM–10 emissions in the nonattainment area to a projected 64 percent reduction in total point source emissions between 1986 and 1992.

EPA believes that the emission limits imposed on the board products industries, supported by their enforceability, will achieve the estimated emission reductions of 1,147 lbs/day. Therefore, EPA proposes to accept the 55 percent credit requested by the ODEQ.

b. Woodstove Certification

In 1983, the Oregon Legislature directed ODEQ to require that all new woodstoves sold in the state be certified through laboratory testing. As a result, stoves sold after July 1986, were required to emit particles at a rate of 50 percent less than conventional woodstoves. After July 1988, new woodstoves were required to emit 70 percent less.

The EQC adopted on March 2, 1990, and submitted to EPA on March 15, 1990, revisions to Oregon's Woodstove Certification Program making it consistent with EPA's New Source Performance Standard 40 CFR part 60, subpart AAA. Currently, all woodstoves sold in the State of Oregon must be both ODEQ and EPA certified. This SIP revision was approved by EPA as part of the Oregon SIP on June 9, 1992 (57 FR 24373).

ODEQ estimates that the woodstove certification program provides a 10.2 percent credit against baseline 1986 woodstove emissions by 1992.[5] The 10.2 percent emission reduction credit requested equals 506 pounds per day by 1994. The projected emission reductions, in conjunction with a statewide ban (OAR 340–20–010(2)) on the sale of used uncertified stoves, and a ban on the installation of used uncertified stoves, supports EPA's proposed acceptance of Oregon's woodstove certification credit claim.

c. Voluntary Woodburning Curtailment Program

The Grants Pass voluntary curtailment program includes a public education program that describes the need for the public's cooperation, the health, safety, energy, economic benefits to individuals and the community, and steps individuals can take to help reduce emissions.

Key elements of the voluntary program and public information program include: home weatherization, firewood seasoning, cleaner burning practices, proper stove installation and sizing, maintenance of woodburning systems, and curtailment of woodburning during poor ventilation episodes.

Woodburning forecasts are made after 9 a.m. but before 11 a.m. The forecasts are made before 11 a.m. so that a curtailment announcement can appear in the local daily newspaper. The advisory level is based upon expected meteorological conditions and the prior 24-hour ambient levels.

Woodburning curtailment advisories are issued at three levels: (1) a green advisory is made when the ambient concentration is expected to be 80 μg/m^3 or less, (2) a yellow advisory is made when the concentration is expected to be between 80 μg/m^3 and 120 μg/m^3, (3) a red advisory is made when the ambient concentration is expected to be greater than 120 μg/m^3.

Compliance with the advisories will be determined through surveys of woodburning activity. Data from the surveys are used to direct the public education program, evaluate progress toward achieving program goals, and in evaluating trends in PM–10 concentrations.

ODEQ requests a 25 percent emission reduction credit for its voluntary woodburning curtailment program. The 25 percent credit is greater than the 10 percent generally suggested by EPA. The recommended 10 percent credit is viewed by EPA as a "starting point in assessing the effectiveness of residential wood combustion control programs". However, final judgment of the amount of credit to be granted, is determined by EPA's regional offices, based on the program elements outlined in EPA's *Guidance Document for Residential Wood Combustion Emission Control Measures*. EPA has reviewed the ODEQ curtailment program elements, considering public education and participation, and ODEQ's experience in developing and managing curtailment programs. EPA proposes to accept the

[4] The EPA issued guidance on PM–10 emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 *PM–10 SIP Development Guideline*. The guidance provided in this document appears to be consistent with the Act.

[5] This estimate uses a 1986 baseline inventory and assumes or relies on: (1) a 1% annual growth in firewood consumed by woodstoves, (2) a 2% annual decline in firewood consumed by fireplaces, (3) a useful stove life of 20 years, (4) a building permit survey conducted in Klamath Falls, Oregon indicating that 90% of permitted installations are certified stoves, (5) an annual growth in population of 1.7%, and (6) the fact that the typical certified woodstove emits 50% less than a conventional stove.

25 percent credit claimed for this control measure. Further description of this program and justification for EPA's proposed action is set out in the TSD.

d. Other Sources

Where sources of PM–10 contribute insignificantly to the PM–10 problem in the area, EPA's policy is that it would be unreasonable (and would not constitute RACM) to require the sources to implement potentially available control measures. (57 FR 13540)

ODEQ has determined that fugitive dust is not a significant source of PM–10 emissions in the area. Nevertheless, various control measures addressing sources of fugitive dust are currently required by ODEQ. While the implementation of all available fugitive dust measures would not expedite attainment in the area, these measures currently required by ODEQ should help to ensure on-going maintenance of the PM–10 NAAQS in the area. These rules are enforced under OAR 340–21–060 and are currently a part of Oregon's state adopted, federally approved SIP. EPA views these rules as strengthening the PM–10 SIP.

A similar situation exists for sources of prescribed burning. Therefore, EPA is proposing to approve a year-round ban on open burning within the city limits of Grants Pass as strengthening the SIP. A ban on open burning within the Rogue Basin Open Burning Special Control Area when the ventilation index is less than 400, was approved by EPA on June 6, 1992 (57 FR 24373) as a SIP strengthening measure.

A more detailed discussion of the control measures (including available control technology) contained in the SIP and an explanation as to why certain available control measures were not implemented, can be found in ODEQ's submittals and in the TSD. EPA has reviewed ODEQ's submittals and associated documentation and concluded that they adequately justify the control measures to be implemented. The implementation of Grants Pass, Oregon's PM–10 nonattainment plan control strategy will result in the attainment of the PM–10 NAAQS as expeditiously as practicable—by December 31, 1994. By this notice, EPA is proposing to approve ODEQ's control strategy as satisfying the RACM (including RACT) requirement.

4. Demonstration

As noted, the initial moderate PM–10 nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see section 189(a)(1)(B) of the Act). The General Preamble sets out EPA's guidance on the use of modeling for moderate area attainment demonstrations (57 FR 13539). Alternatively, the state must show that attainment by December 31, 1994, is impracticable.

ODEQ conducted an attainment demonstration based upon a roll-forward and roll-back modeling analysis in the Grants Pass nonattainment area. In addition, a roll-back approach was applied to the results of a receptor modeling analysis (Chemical Mass Balance version 7.0). Both approaches were in very close agreement as to the amount of reductions needed to attain the standard (e.g. 17 percent vs 20 percent).

This demonstration indicates that the NAAQS for PM–10 will be attained by December 31, 1994, in Grants Pass, with an ambient concentration of 150 micrograms/cubic meter ($\mu g/m^3$), and will be maintained in future years. The 24-hour PM–10 NAAQS is 150 $\mu g/m^3$, and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$ is equal to or less than one (see 40 CFR section 50.6). The annual PM–10 NAAQS is 50 $\mu g/m^3$, and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50 $\mu g/m^3$(id.).

The demonstration predicted that the 24-hour design concentration in the attainment year of 1994 will be 150 $\mu g/m^3$, thus demonstrating attainment of the 24-hour PM–10 NAAQS.[6] The demonstration also showed that the PM–10 NAAQS will be maintained in future years by predicting a 24-hour "worst day" design concentration of 135 $\mu g/m^3$ for the year 2000. The control strategy used to achieve these design concentrations is summarized in the section titled "RACM (including RACT)." More detailed description of the attainment demonstration is contained in the TSD accompanying this notice.

5. PM–10 Precursors

The control requirements which are applicable to major stationary sources of PM–10, also apply to major stationary sources of PM–10 precursors unless EPA determines such sources do not contribute significantly to PM–10 levels in excess of the NAAQS in that area (see section 189(e) of the Act). The General Preamble contains guidance addressing how EPA intends to implement section 189(e) (see 57 FR 13539–40 and 13541–42).

The filter analyses (chemical mass balance) indicated that on average, only 3 percent of the mass was comprised of secondary particulate. EPA believes that this is an insignificant portion and is therefore proposing to grant the exclusion from control requirements authorized under section 189(e) for major stationary sources of PM–10 precursors.

6. Enforceability Issues

All measures and other elements in the SIP must be enforceable by ODEQ and EPA (see sections 172(c)(6) and 110(a)(2)(A), and 57 FR 13556). EPA criteria addressing the enforceability of SIP's and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C)).

The particular control measures contained in the SIP are addressed above under the section headed "RACM (including RACT)." These control measures apply to the types of activities identified in that discussion including, for example, veneer dryers; existing large, wood-fired boilers with a heat input capacity of greater than 35 million BTU/Hr; and woodstoves and other woodburning activities. The SIP provides that the control measures for the affected activities apply throughout the entire nonattainment area.

Consistent with the attainment demonstration described above, the SIP requires that all affected activities must be in full compliance with the applicable SIP provisions by December 10, 1993. In addition to the applicable control measures, this includes the applicable recordkeeping requirements which are addressed in supporting technical information.

ODEQ's submittals and TSD contain further information on enforceability requirements including enforceable emission limitations; a description of the rules contained in the SIP and the source types subject to them; test methods and compliance schedules; averaging times for compliance test methods; correctly cited references of

[6] EPA believes that an attainment demonstration for the annual PM–10 NAAQS is unnecessary. Ambient data for the four years between December 1985 and November 1989 yields an annual average of 42 $\mu g/m^3$, which is below the 50 $\mu g/m^3$ annual standard. Note also that because the implementation of RACM (including RACT) will reduce the worst case 24-hour design value below the 24-hour NAAQS, this should also serve to further maintain air quality below the annual NAAQS.

incorporated methods/rules; and reporting and recordkeeping requirements.

ODEQ also has a program that will ensure that the control measures contained in the Grants Pass PM–10 SIP are adequately enforced. The TSD contains a discussion of the personnel and funding intended to support effective implementation of the control measures.

7. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIP's that demonstrate attainment must include contingency measures (see generally 57 FR 13543–13544). These measures must be submitted by November 15, 1993, for the initial moderate nonattainment areas. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures must take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve reasonable further progress (RFP) or attain the PM–10 NAAQS by the applicable statutory deadline. The Grants Pass nonattainment area SIP contains the following contingency measures:

a. A mandatory woodsmoke curtailment program that is to take effect if the EPA determines that the area fails to achieve RFP or to attain the NAAQS by December 31, 1994. ODEQ has the authority to implement and enforce a mandatory curtailment program, upon notification by EPA that the area has failed to attain the NAAQS, should the City of Grants Pass or the County of Josephine fail to implement one. EPA approved these rules (OAR 340–34–150 through 175) as part of the Oregon SIP on June 9, 1992 (57 FR 24373).

b. Removal of uncertified woodstoves upon home sale for any area that fails to meet the PM–10 attainment date of December 31, 1994. These stoves would have to be removed and destroyed prior to sale of the home. EPA approved these rules (OAR 340–34–200 through 215) as part of the Oregon SIP on June 9, 1992 (57 FR 24373).

c. Reduction in industrial emissions (including source-specific emission limits) should the area fail to attain by December 31, 1994. EPA approved these rules (OAR 340–21–200 through 245) as part of the SIP on August 19, 1992 (57 FR 37468).

d. The banning of all open burning in the Rogue Basin Open Burning Control Area during November, December, January, and February of each year, should the area fail to attain by December 31, 1994. EPA approved this rule (OAR 340–23–090) as part of the SIP on June 9, 1992 (57 FR 24373).

The expected emission reductions to be achieved by implementation of the contingency measures is estimated at more than 82 tons per year. This represents at least a 30 percent reduction when compared with the 275 tons per year emission reduction in the attainment plan.

The SIP provides that each of these measures can take affect without further action by the state or EPA, should EPA determine that the Grants Pass nonattainment area has failed to achieve RFP or to attain the PM–10 standard by the statutory attainment date of December 31, 1994.

EPA is proposing to approve the Grants Pass nonattainment area contingency measures.

III. Implications of Today's Action

EPA is proposing to approve the plan revision submitted to EPA for the Grants Pass, Oregon nonattainment area on November 21, 1990, as revised by addenda submitted on November 15, 1991. Among other things, ODEQ has demonstrated that the Grants Pass moderate PM–10 nonattainment area will attain the PM–10 NAAQS by December 31, 1994. Note that EPA's proposed action includes proposed approval of the contingency measures for the Grants Pass nonattainment area.

IV. Request for Public Comments

EPA is requesting comments on all aspects of today's proposal. As indicated at the outset of this notice, EPA will consider any comments received by April 9, 1993.

V. Administrative Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, hydrocarbons, intergovernmental relations, nitrogen dioxide, particulate matter, reporting and recordkeeping requirements, sulfur dioxide, and volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 9, 1993.

Dana A. Rasmussen,

Regional Administrator.

[FR Doc. 93–5468 Filed 3–9–93; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 180

[PP 2E4056/P554; FRL–4188–3]

RIN No. 2070–AB78

Pesticide Tolerance for Paraquat

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the pesticide paraquat in or on the raw agricultural commodity cacao beans. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP 2E4056/P554], must be received on or before April 9, 1993.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resource Branch, Field Operations Division (H7506C), Office of

Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Emergency Response and Minor Use Section (H7505C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition (PP) 2E4056 to EPA on behalf of the Agricultural Experiment Station of Hawaii. This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), propose to establish a tolerance for residues of the herbicide paraquat (1,1'-dimethyl-4,4'bipyridinium-ion) derived from application of either the bis(methyl sulfate) or the dichloride salt (both calculated as the cation) in or on the raw agricultural commodity cacao beans at 0.05 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include:

1. A 1-year feeding study in dogs fed diets containing 0, 0.45, 0.93, and 1.51 milligrams/kilogram (mg/kg) of body weight (bwt) day with a no-observed-effect level (NOEL) of 0.45 mg/kg/day based on increased severity and extent of chronic pneumonitis in both sexes, especially males, at 0.93 mg/kg/day.

2. A 23-month chronic feeding/carcinogenicity study in mice fed diets containing 12.5, 37.5, and 100/125 ppm paraquat ion (the highest dose tested (HDT) was increased from 100 to 125 ppm at week 36) with a systemic NOEL of 12.5 ppm (equivalent to 1.87 mg/kg/day) based on renal tubular degeneration in the male, and weight loss and decreased food intake in female mice. There were no carcinogenic effects observed under the conditions of the study.

3. A 2-year chronic feeding/carcinogenicity study in Fischer rats fed diets containing 0, 1.25, 3.75, and 7.5 mg/kg/day with equivocal (uncertain) evidence of carcinogenicity (squamous cell carcinomas) in the head region (ear, nasal cavity, oral cavity, and skin) of male rats of the highest dose level group, and an approximate systemic NOEL of 1.25 mg/kg/day based on incidence of opacities, cataracts, and nonneoplastic lung lesions (alveolar macrophages and epithelialization and slight peribronchiolar lymphoid hyperplasia). The squamous cell carcinomas were not associated with oral exposure; they were the result of topical exposure (through powdered diet).

4. A 2-year chronic feeding/carcinogenicity study in Wistar rats fed diets containing 6, 30, 100 and 300 ppm (paraquat dichloride) with a systemic NOEL of 100 ppm (equivalent to 5 mg/kg/day) based on increased mortality in males and females; decreased erythrocytes, hemoglobin, and serum protein in males and females; decreased hematocrit, glucose and corpuscular cholinesterase activity in males; decreased leukocytes, albumin to globulin ration and alkaline phosphatase; increased polymorphonucleocytes in males; increased potassium and glucose in females; decreased absolute and/or relative weights of heart (males and females), liver and brain (females); and increased absolute weights of kidneys (males and females) at the highest dose tested (HDT) (equivalent to 15 mg/kg/day). There was no evidence of carcinogenicity observed under the conditions of the study.

5. A developmental toxicity study in rats given gavage dosages of 1, 5, and 10 mg paraquat ion/kg bwt from day 6 through day 15 of pregnancy with a NOEL for fetotoxic effects of 1.0 mg/kg/day based on weight reduction and slight retardation in ossification at 5.0 mg/kg/day, and a maternal NOEL of 1.0 mg/kg/day based on piloerection, hunched appearance, and weight loss at 5.0 mg/kg/day. There was no evidence of developmental toxicity observed under the conditions of the study.

6. A developmental toxicity study in mice given gavage dosages of 1, 5, and 10 mg/kg/day with no developmental toxicity observed under the conditions of the study at any dosage level tested.

7. A three-generation reproduction study with rats fed diets containing 25, 75, and 150 ppm with a systemic NOEL of 25 ppm (equivalent to 1.25 mg/kg/day) based on an increased incidence of alveolar histiocytosis in the lungs of male and female parents. There were no reproductive effects observed under the conditions of the study.

8. Paraquat was negative in 10 mutagenicity studies (mostly gene mutation and chromosome aberration studies and one DNA damage/repair assay); weakly positive in four studies (two gene mutation, one chromosome aberration, and one DNA damage/repair assay); and positive in four studies (all DNA damage/repair assays).

The Agency (Peer Review Committee) initially classified paraquat as a category "C" carcinogen based on the significant increase of squamous cell carcinomas in the head region of the high-dose males in the Fisher rat chronic feeding/carcinogenicity study. Review of the study by an independent laboratory concluded that those tumor sites should not be combined; without the combination, there were no statistically significant tumor increases for any particular tumor type. Discussion and review by the Agency (Peer Review Committee) concluded that these tumor sites normally should not be combined when the exposure to the chemical is by the oral route and that these tumors are likely the result of topical exposure to paraquat contained in the powdered diet (paraquat is a topical irritant), not the result of exposure through the gastrointestinal tract.

The Agency considered two additional studies (rat and mouse carcinogenicity studies done by the Japanese) and further evaluated the tumors in the male rats.

Based on all the information, the Agency concluded that there is no evidence of carcinogenicity in male Wistar rats at 12 mg/kg/day (HDT) and female Wistar rats at 15 mg/kg/day. The Agency concluded that there was at best equivocal evidence of carcinogenicity in male Fisher rats at 7.5 mg/kg/day and that this equivocal evidence was associated with irritation due to topical exposure, and not with oral exposure. Paraquat was, therefore, placed in Category E (not a human carcinogen). Because paraquat is a restricted-use pesticide and precautionary measures are required to protect applicators from

the acute toxicity of the chemical, the potential for carcinogenic effects by excessive (irritating) topical exposure is not a concern for applicators.

The reference dose (RfD) is established at 0.0045 mg/kg bwt/day based on a NOEL of 0.45 mg/kg/day from the 1-year dog study and an uncertainty factor of 100. The theoretical maximum residue contribution (TMRC) from existing uses of paraquat is estimated at 42 percent of the RfD for the general U.S. population. Existing uses and the proposed use of paraquat utilize less than 100 percent of the RfD for all population subgroups. The proposed tolerance for cocoa beans would utilize a maximum of 0.13 percent of the RfD.

The nature of the residue is adequately understood and an adequate analytical method, colorimetry, is available for enforcement purposes. An analytical method for enforcing this tolerance has been published in the Pesticide Analytical Manual (PAM), Vol. II.

No secondary residues in meat, milk, poultry, or eggs are expected since cacao beans are not considered a livestock feed commodity. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency the tolerance established by amending 40 CFR 180.205 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 2E4056/P554]. All written comments filed in response to this petition will be available in the Public Response and Program Resource Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 24, 1993.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.205, by amending paragraph (a) in the table therein by adding and alphabetically inserting the commodity, to read as follows:

§ 180.205 Paraquat; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Cacao beans	0.05
* * * * *	

* * * * *

[FR Doc. 93–5102 Filed 3–9–93; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 8E3574/P552; FRL–4175–2]
RIN 2070–AC18

Pesticide Tolerance for Terbufos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish a 2-year time-limited import tolerance for the combined residues of the insecticide/nematicide terbufos and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity (RAC) coffee beans. This proposal to establish a maximum permissible level for residues of the insecticide/nematicide was requested by the American Cyanamid Co.

DATES: Comments, identified by the document control number [PP 8E3574/P552], must be received on or before April 9, 1993.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Robert A. Forrest, Product Manager (PM) 14, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 219, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-305-6600.

SUPPLEMENTARY INFORMATION: The American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, has submitted pesticide petition (PP) 8E3574 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)) propose the establishment of a tolerance for the combined residues of the insecticide/nematicide terbufos and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity coffee beans at 0.05 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A 1-year dog feeding study with a lowest-observable-effect level (LOEL) of 0.015 milligram/kilogram/day (mg/kg/day) based on the inhibition of plasma cholinesterase activity.

2. A 4-week dog plasma cholinesterase study with a no-observable-effect level (NOEL) of 0.0013 mg/kg/day based on the inhibition of plasma cholinesterase activity.

3. A 1-year rat feeding study with a no-observable-effect level (NOEL) of 0.5 ppm (0.025 mg/kg) based on the inhibition of plasma and brain cholinesterase activity.

4. An 18-month mouse carcinogenicity study with no carcinogenic effects observed at dosage levels up to and including 12.0 ppm (1.7 mg/kg/day), which was the highest level tested.

5. A 2-year rat carcinogenicity study with no carcinogenic effects observed at doses up to and including 2.0 ppm (0.10 mg/kg/day).

6. A three-generation rat reproduction study with a NOEL of 0.25 ppm (0.0125 mg/kg) for reproductive effects.

7. A rat teratology study with a NOEL of 0.1 mg/kg/day for developmental toxicity.

8. A rabbit teratology study with a NOEL of 0.25 mg/kg/day for developmental toxicity.

9. An acute delayed neurotoxicity study in chickens, which was negative for neurotoxic effects under the conditions of the study (highest dose tested was 40 mg/kg).

10. Several mutagenicity tests which were all negative. These include a dominant lethal study in rats; an acute *in vivo* cytogenetic assay in rats; an Ames test including metabolic activation; a DNA repair chromosomal aberration (CHO cells); CHO/HGPRT mutation assay; and a rat hepatocyte primary culture/DNA repair test.

The reference dose (RfD), based on the plasma cholinesterase inhibition (ChE) NOEL as defined in a 4-week dog study (0.0013 mg/kg/day) and using a safety factor of 10, is calculated to be 0.00013 mg/kg of body weight (bwt)/day. The theoretical maximum residue contribution (TMRC) is 0.000052 mg/kg/bwt/day for existing tolerances for the overall U.S. population. The current action will increase the TMRC by 0.000003 mg/kg/bwt/day (2 percent of the RfD). These tolerances and previously established tolerances utilize a total of 42.1 percent of the RfD for the overall U.S. population.

The nature of the residues is adequately understood for the use of terbufos on coffee beans imported from Central America. The nature of the residues in plants is adequately defined, and there are no animal feed items involved with this use. Therefore, it is expected that no secondary residues in meat, milk, poultry, and eggs will result from the use of the pesticide on coffee beans.

An adequate analytical method, gas chromatography with a flame photometric detector, is available in the Pesticide Analytical Manual, Vol. II, for enforcement purposes.

The available rat metabolism study was found to only partially satisfy current guideline requirements (85-1). Because of the lack of an acceptable guideline rat metabolism study, the Agency is limiting the period of time that the proposed regulation is to be in effect. A new rat metabolism study has been received and is currently under evaluation. Should the Agency find that the new metabolism study is acceptable, it will reassess the tolerance for coffee beans and, if appropriate, will establish a permanent tolerance for this commodity. There are currently no actions pending against the continued registration of this chemical.

Residues not in excess of 0.05 part per million in or on coffee beans after expiration of the tolerance will not be considered actionable if the insecticide-nematicide is legally applied during the term of, and in accordance with, provisions of the time-limited tolerance.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.352 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 8E3574/P552]. All written comments filed in response to this petition will be available in the Public Information Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 24, 1993.

Frank Sanders,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.352, by adding new paragraph (b), to read as follows:

§ 180.352 Terbufos; tolerances for residues.

* * * * *

(b) A time-limited tolerance to expire (*insert date 24 months after effective date of final rule*) is established for combined residues of the insecticide/nematicide terbufos (*S*-[[1,1-dimethyl)thio]methyl] *0,0*-diethyl phosphorodithioate and its cholinesterase-inhibiting metabolites in or on the following raw agricultural commodity:

Commodity	Parts per million
Coffee beans	0.05

There are no U.S. registrations as of March 10, 1993 for coffee beans.

[FR Doc. 93–5103 Filed 3–9–93; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[OPP–300278; FRL–4572–8]

Fumaric Acid-Isophthalic Acid Styrene-Ethylene/Propylene Glycol Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of fumaric acid-isophthalic acid styrene-ethylene/propylene glycol copolymer when used as an inert ingredient (encapsulating agent) in pesticide formulations applied to growing crops only. This proposed regulation was requested by Sandoz Agro, Inc.

DATES: Comments, identified by the document control number [OPP-300278], must be received on or before April 9, 1993.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1132, Crystal Mall Bldg. #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Support Branch, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 711I, Crystal Mall Bldg. #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7252.

SUPPLEMENTARY INFORMATION: At the request of DowElanco, P.O. Box 1706, Midland, MI 48641-1706, the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), proposes to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for residues of fumaric acid-isophthalic acid-styrene-ethylene/propylene glycol copolymer when used as an inert ingredient (encapsulating agent) in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk. The Agency has decided that the data normally required to support the proposed tolerance exemption for fumaric acid-isophthalic acid-styrene-ethylene/propylene glycol copolymer will not need to be submitted. The rationale for this decision is described below.

In the case of certain chemical substances which are defined as "polymers," the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Fumaric acid-isophthalic acid-styrene-ethylene/propylene glycol copolymer conforms to the definition of a polymer given in 40 CFR 723.250(b)(11) and meets the following criteria which are used to identify low-risk polymers:

1. The minimum average molecular weight of the above-mentioned copolymer is 1 X 10^{18}. Substances with molecular weights greater than 400 are generally not readily absorbed through the intact skin, and substances with molecular weights greater than 1,000 are generally not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract are generally incapable of eliciting a toxic response.

2. The above-mentioned copolymer is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

3. The above-mentioned copolymer does not contain less than 32.0 percent by weight of the atomic element carbon.

4. The above-mentioned copolymer contains as an integral part of its composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. The above-mentioned copolymer does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(3)(ii).

6. The above-mentioned copolymer is not a biopolymer, a synthetic equivalent of a biopolymer, or a derivative or modification of a biopolymer that is substantially intact.

7. The above-mentioned copolymer is not manufactured from reactants containing, other than as impurities, halogen atoms or cyano groups.

8. The above-mentioned copolymer does not contain reactive functional groups that are intended or reasonably anticipated to undergo further reaction.

9. The above-mentioned copolymer is not designed or reasonably anticipated to substantially degrade, decompose, or depolymerize.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking

proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300278]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic effect on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: February 23, 1993.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) is amended by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Fumaric acid-isophthalic acid-styrene-ethylene/propylene glycol copolymer (minimum average molecular weight 1 X 10^{15}).		Encapsulating agent
* * * * * * *		

* * * * *

[FR Doc. 93-5101 Filed 3-9-93; 8:45 am]

BILLING CODE 6560-50-F

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40 CFR Part 180

[OPP-300279; FRL-4574-6]

RIN 2070-AC18

2-[Methyl [(Perfluoroalkyl) Sulfonyl] Amino]alkyl (C_2-C_8) Acrylate-Alkyl (C_2-C_8) Methacrylates-N-Methylolacrylamide Copolymer and Titanium Dioxide; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that exemptions from the requirement of a tolerance be established for residues of 2-[methyl[(perfluoroalkyl) sulfonyl]amino]alkyl (C_2-C_8) acrylate-alkyl (C_2-C_8) methacrylates-*N*-methylolacrylamide copolymer when used as an inert ingredient (water repellant agent) in pesticide formulations applied to animals and for residues of titanium dioxide (CAS Reg. No. 13463-67-7) when used as an inert ingredient (colorant on seed) in pesticide formulations applied to seeds for planting. These proposed regulations were requested by SmithKline Beecham Animal Health and Becker-Underwood, Inc., respectively.

DATES: Comments, identified by the document control number [OPP-300279], must be received on or before April 9, 1993.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by the EPA without prior notice. The public docket is available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Rosalind L. Gross, Registration Support Branch, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-5971.

SUPPLEMENTARY INFORMATION: SmithKline Beecham Animal Health, 1600 Paoli Pike, P.O. Box 2650, West Chester, PA, 19380-6014, submitted pesticide petition (PP) 2E4147 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(e) by establishing an exemption from the requirement of a tolerance for residues of 2-[methyl [(perfluoroalkyl)sulfonyl]amino]alkyl (C_2-C_8) acrylate-alkyl (C_2-C_8) methacrylates-*N*-methylolacrylamide copolymer when used as an inert ingredient (water repellant agent) in pesticide formulations applied to animals.

Becker-Underwood, Inc., 801 Dayton Ave., Ames, IA 50010, submitted pesticide petition (PP) 2E4128 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(d) to expand an existing exemption from the requirement of a

tolerance for residues of titanium dioxide (CAS Reg. No. 13463-67-7) when used as an inert ingredient (pigment/coloring agent in plastic bags used to wrap growing bananas (preharvest)) to include the additional use as a colorant on seeds for planting.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk.

The Agency has decided that the data normally required to support the proposed tolerance exemptions for the above-mentioned copolymer and titanium dioxide will not need to be submitted. The rationale for this decision is described below.

Copolymer Exemption Data

2-[Methyl[(perfluoroalkyl)sulfonyl] aminolalkyl (C_2-C_8) acrylate-alkyl (C_2-C_8) methacrylates-*N*-methylolacrylamide copolymer does not meet all the criteria (described in 40 CFR 723.250) established by the Agency to identify categories of polymers that present low risk and that are, therefore, exempt from certain premanufacture notice requirements (PMNR) of the Toxic Substances Control Act. Nonetheless, the Agency recognizes that several characteristics of this polymer would limit the risks to human health and the environment. These characteristics, some of which are similar to the PMNR exemption criteria for polymers, are as follows:

1. 2-[Methyl[(perfluoroalkyl)sulfonyl] aminolalkyl (C_2-C_8) acrylate-alkyl (C_2-C_8) methacrylates-*N*-methylolacrylamide copolymer conforms to the definition of a polymer given in 40 CFR 723.250(b)(11).

2. The average molecular weight of the copolymer is 50,000. Substances with molecular weights greater than 400 are generally not readily absorbed through the intact skin, and substances with molecular weights greater than 1,000 are generally not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract are generally incapable of eliciting a toxic response.

3. The copolymer is not cationic, nor is it reasonably anticipated to become such.

4. The copolymer contains more than 32.0 percent by weight of the atomic element carbon.

5. The copolymer contains as an integral part of its composition the atomic elements carbon, hydrogen, nitrogen, oxygen, and sulfur.

6. The copolymer is not a biopolymer, a synthetic equivalent of a biopolymer, or derivative or modification of a biopolymer that is substantially intact.

7. The copolymer is not designed or reasonably anticipated to substantially degrade, decompose, or depolymerize.

2-[Methyl[(perfluoroalkyl)sulfonyl] aminolalkyl (C_2-C_8) acrylate-alkyl (C_2-C_8) methacrylates-N-methylolacrylamide copolymer deviates in two areas from the set of criteria described in 40 CFR 723.250 to identify low-risk categories of polymers that are exempt from some PMNR requirements. A description of these deviations follows, along with an explanation of why the Agency does not consider them to be obstacles to an exemption from data in this case:

A. The copolymer is manufactured from reactants containing halogen atoms. However, the Agency's concern is minimal with larger fluorinated polymer molecules such as this one, which are considered unreactive.

B. The copolymer may contain a potentially reactive functional group that is intended or reasonably anticipated to undergo further reaction. However, the weight of the copolymer that is equivalent to 1 gram-formula weight of potentially reactive functional group is greater than 5,000 grams. Therefore, the potentially reactive functional group is less than 2.0 weight percent of the copolymer and as such is of minimal concern.

Titanium Dioxide Exemption Data

1. Titanium dioxide is exempt from the requirement of a tolerance under 40 CFR 180.1001(d) when used as an inert ingredient (pigment/coloring agent in plastic bags used to wrap growing bananas (preharvest)) in pesticide formulations applied to growing crops only.

2. Titanium dioxide is exempt from the requirement of a tolerance under 40 CFR 180.1001(e) when used as an inert ingredient (pigment/colorant agent in pesticide formulations for animal tags) in pesticide formulations applied to animals.

3. Titanium dioxide is considered safe for use in coloring drugs under 21 CFR 73.575.

4. Titanium dioxide is considered safe for use in coloring drugs under 21 CFR 73.1575.

5. Titanium dioxide is considered safe for use as a color additive in cosmetics under 21 CFR 73.2575.

6. Titanium dioxide is considered safe for use as a color additive in contact lenses under 21 CFR 73.3126.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, these ingredients are useful and tolerances are not needed to protect the public health. Therefore, EPA proposes that the exemptions from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulations. Comments must bear a notation indicating the document control number, [OPP-300279]. All written comments filed in response to these petitions will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays. The Office of Management and Budget has exempted these rules from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial

number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: March 2, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.1001, paragraph (d) table is amended by revising the entry for titanium dioxide and paragraph (e) table is amended by adding and alphabetically inserting the following inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
Titanium dioxide (CAS Reg. No. 13463-67-7)		Pigment/coloring agent in plastic bags used to wrap growing bananas (preharvest), colorant on seeds for planting

(e) * * *

Inert ingredients	Limits	Uses
2-[Methyl[(perfluoroalkyl)sulfonyl]amino]alkyl (C_2-C_8) acrylate-alkyl (C_2-C_8) methacrylates-*N*-methylolacrylamide copolymer, average molecular weight 50,000..		Water repellant agent

[FR Doc. 93–5364 Filed 3–9–93; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Parts 180, 185, and 186

[PP 6F3362, FAP 6H5493/P556; FRL–4573-4]

RIN 2070–AC18

Pesticide Tolerances for Metalaxyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish a tolerance for residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethyl-aniline moiety, and *N*-(2-hydroxymethyl-6-methyl)-*N*-(methoxyacetyl) alanine methyl ester in or on grapes at 2.0 parts per million (ppm), wet and dry grape pomace at 10.0 ppm, raisins at 6.0 ppm and raisin waste at 10.0 ppm. This regulation to establish the maximum permissible levels for residues of metalaxyl in or on the commodities was requested in petitions submitted by the Ciba-Geigy Corp.

DATES: Comments, identified by the document control number, [PP 6F3362 and FAP 6H5493/P556], must be received on or before April 9, 1993.

ADDRESSES: By mail, submit written comments to: Public Document and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6900.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1128C at the address given below, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Susan T. Lewis, Product Manager (PM) 21, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7382.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of March 19, 1986 (51 FR 9513), which announced that Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, had submitted a pesticide tolerance petition, PP 6F3362, and a food/feed additive petition, FAP 6H5493, to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)), propose the establishment of tolerances for the fungicide metalaxyl [*N*-(2,6-dimethyl-phenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methyl)-*N*-(methoxyacetyl) alanine methyl ester in or on grapes at 2.0 ppm, and in or on the processed commodities wet grape pomace at 3.0 ppm, dry grape pomace at 6.0 ppm, grape juice at 2.0 ppm, grape wine at 2.0 ppm, raisins at 6.0 ppm, and raisin waste at 9.0 ppm. Since then Ciba-Geigy Corp. has petitioned the Agency to amend the proposed tolerances for use in or on

grapes at 2.0 ppm, wet and dry grape pomace at 10.0 ppm, raisins at 6.0 ppm, and raisin waste at 10.0 ppm.

There were no comments received in response to the notice of filing.

The data submitted in support of the petition and other relevant material have been evaluated. The pesticide is considered useful for the purposes for which the tolerances and food additive regulation are being sought and capable of achieving the intended physical or technical effect.

The toxicological data considered in support of the tolerance include the following:

1. A 3-month dietary study in rats with a no-observed-effect level (NOEL) at 12.5 milligrams per kilogram (mg/kg) body weight (bwt)/day (250 parts per million (ppm)).

2. A developmental toxicity study in rats with a NOEL of 400 mg/kg bwt (highest dose tested [HDT]). Metalaxyl did not cause developmental toxicity, even in the presence of maternal toxicity.

3. A developmental toxicity study in rabbits with a NOEL of 300 mg/kg bwt (HDT). Metalaxyl did not cause developmental toxicity, even in the presence of maternal toxicity.

4. Metalaxyl did not induce gene mutations in bacteria, yeast, and lymphoma cells *in vitro* with or without metabolic activation. The fungicide also caused no structural or numerical chromosomal aberrations in yeast, hamsters (*in vivo* nucleus anomaly assay), or mice (a dominant lethal assay). No DNA damage was observed in bacteria, and no unscheduled DNA synthesis was noted in rat primary hepatocytes or human fibroblasts *in vitro* as the result of exposure to metalaxyl. These results suggest that metalaxyl is not genotoxic.

5. A mouse dominant-lethal study that was negative for mutagenicity.

6. A three-generation rat reproduction study with a NOEL of 62.5 mg/kg bwt/day (1,250 ppm).

7. A 6-month dog feeding study with a NOEL of 6.25 mg/kg bwt/day (250 ppm). Effects found at 25 mg/kg were increased serum alkaline phosphatase activity and increased liver weight and liver-to-brain weight ratios without histological changes.

8. A 2-year rat chronic feeding/carcinogenicity study with no compound-related carcinogenic effects under the conditions of the study at dietary levels up to 1,250 ppm. The NOEL is 6.25 mg/kg bwt/day (250 ppm). The LOEL is 1,250 ppm based upon slight increases in liver weight to body weight ratios and periacinar vacuolation of hepatocytes.

9. A 2-year mouse oncogenic study with no compound-related carcinogenic effects under the conditions of the study at dietary levels up to 1,250 ppm. The NOEL is 1,250 ppm.

Because of concerns raised over some equivocal increases in tumor incidences in the male mouse liver and the male rat adrenal medulla, and the female rat thyroid, the two chronic feeding studies were submitted to the Environmental Pathology Laboratories (EPL) for an independent reading of the microscopic slides. The new pathological evaluation by EPL and the original reports of the rat and mouse oncogenicity studies were then both submitted for review to EPA's Carcinogen Assessment Group (CAG). A final review of the carcinogenicity studies and related material was performed by the Peer Review Committee of the Toxicology Branch (TB) of the Office of Pesticide Programs (OPP).

The four major issues evaluated by CAG and the peer review group included: (1) Perifollicular cell adenomas in the thyroid of female rats; (2) adrenal medullary tumors (pheochromocytomas) in male rats; (3) liver tumors in male mice; and (4) whether the HDT (1,250 ppm) in the rat and mouse oncogenicity studies represented a maximum-tolerated dose (MTD).

Regarding the thyroid tumors in female rats, the peer review group concluded that the increased incidences of thyroid tumors in females of treated groups were not compound related. This conclusion was based on the following: (1) There was no progression of benign tumors (adenomas) to malignancy (carcinomas); (2) there was no increase in hyperplastic changes; (3) there was no dose-response relationship; and (4) the two reevaluations of the microscopic slides by the pathologists at EPL and TB in OPP further did not confirm any apparent effects observed in the original report.

The issue of a possible treatment-related increase of adrenal medullary gland tumors, namely, pheochromocytomas, in the male rat was also reassessed by both CAG and the Peer Review Committee. Both concluded that the data, especially in view of the reevaluation of the microscopic slides performed by EPL, did not support a compound-related increase of adrenal medullary tumors; the incidence of pheochromocytomas more accurately represented spontaneous variations of a commonly occurring tumor in the aged rat.

The analysis of the significance of the equivocal increase in the incidence of liver tumors in male mice was very similar to that performed for the rat thyroid and adrenal gland tumors. The original pathological reading of the tissue slides reported an elevated increase of tumors in some treatment groups; however, these increases were not evident after a reevaluation of the microscopic slides was performed by an independent pathologist at EPL and by the reading of a CAG pathologist. The Peer Review Committee concurred that the reevaluation of the slides is reliable and does not show any compound-related increase in the incidence of liver tumors in the mouse.

The Agency believes that the data from the rat and mouse long-term studies are sufficient to support the conclusion that metalaxyl does not show a carcinogenic potential in laboratory animals. This conclusion is supported by the following: (1) The doses tested in both the rat and mouse long-term studies approached an MTD based upon compound-related changes in liver weight and/or liver histology; (2) extensive available mutagenic evidence indicates no potential genotoxic activity which correlates with the negative carcinogenic potential demonstrated in long-term testing; (3) metalaxyl is not structurally related to known carcinogens; and (4) under the conditions of the rat and mouse tests, no indication of compound-related carcinogenic effects was noted at any of the treatment doses, sexes, or species.

The reference dose (RfD) based on the 6-month dog feeding (NOEL 6.25 mg/kg bwt/day), and using a hundredfold safety factor, is calculated to be 0.060 mg/kg bwt/day. The theoretical maximum residue contribution from previously established tolerances and food additive regulations and the tolerances and food additive regulations established here are 0.011815 mg/kg bwt/day and utilize 19.69 percent of the RfD.

The nature of the residue is adequately understood, and adequate analytical methods (capillary N/P GLC) are available for enforcement purposes. Because of the long lead time from establishing these tolerances and food/feed additive regulations to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (H7506C), 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1128C, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5232.

The pesticide is considered useful for the purpose for which the tolerances and food/feed additive regulations are sought, and the pesticide is capable of achieving the intended physical or technical effect. Existing meat and milk tolerances are adequate to cover any secondary residues from the feed use of metalaxyl in conjunction with proposed tolerances. Based on the information and data considered, the Agency concludes that the establishment of the tolerance for grapes, wet and dry grape pomace, raisins and raisin waste will protect the public health, and use of the pesticide in accordance with the terms of the prepared food additive regulation will be safe. Therefore, the tolerance and food/feed additive regulations are established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that the rulemaking proposal for a tolerance on grapes be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulations. Comments must bear a notation indicating the document control number, [PP 6F3362 and FAP 6H5493]. All written comments filed in response to this petition will be available in the Public Docket and Freedom of Information Section, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or food additive regulations or raising tolerance levels or food additive regulations or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (40 FR 24950).

The Office of Management and Budget has exempted this rule from the requirement of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Parts 180, 185, and 186

Administrative practice and procedures, Agriculture commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements

Dated: March 3, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that chapter I of title 40 of the Code of Federal Regulations be amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. Section 180.408(a) is amended in the table therein by adding and alphabetically inserting a new entry for grapes, to read as follows:

§ 180.408 Metalaxyl; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Grapes	2.0
* * * * *	

* * * * *

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 348.

b. Section 185.4000(a) is amended in the table therein by adding and alphabetically inserting the food additive raisins, to read as follows:

§ 185.4000 Metalaxyl.

(a) * * *

Food	Parts per million
* * * * *	
Raisins	6.0
* * * * *	

* * * * *

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. Section 186.4000(a) is amended in the table therein by adding and alphabetically inserting the feed commodities grape pomace (dry and wet) and raisin waste, to read as follows:

§ 186.4000 Metalaxyl.

(a) * * *

Food	Parts per million
* * * * *	
Grape pomace (dry)	10.0
Grape pomace (wet)	10.0
* * * * *	
Raisin waste	10.0
* * * * *	

* * * * *

[FR Doc. 93-5498 Filed 3-9-93; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket 92-35; Notice 2 and Docket 93-11; Notice 1]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA); DOT.

ACTION: Termination of rulemaking; notice of designation of docket.

SUMMARY: This notice terminates rulemaking to amend Standard No. 108 to adopt the European H7 replaceable light source, which NHTSA proposed as Type HB6 in July 1992. With the adoption of 49 CFR part 564 in January 1993 establishing a replaceable light source informational docket, rulemaking is no longer required in order for new light sources to be used in motor vehicles subject to the Federal motor vehicle safety standards. It is now permissible for manufacturers to use new light sources after submitting all required information to the agency for inclusion in the docket. Since the agency has placed information on the H7 light source in the docket, further rulemaking regarding it is unnecessary. This notice also designates the replaceable light source informational docket as Docket No. 93-08.

FOR FURTHER INFORMATION CONTACT: Kenneth O. Hardie, Office of Rulemaking, NHTSA, 202-366-6987.

ADDRESSES: Docket No. 93-08, Replaceable Light Source Dimensional

Information is located in the Docket Section, NHTSA, room 5109, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: On July 24, 1992, NHTSA issued a proposal to amend 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment (57 FR 32942). The notice granted a petition for rulemaking submitted by the G.T.B. Brussels Working Party, and proposed an additional type of replaceable light source to be used in replaceable bulb headlighting systems on motor vehicles. The light source, which incorporates a single filament, is known in Europe as H7, and, under NHTSA's proposal, would be called Type HB6.

Six comments were received on the petition. Five of the six commenters supported the petition. They were Robert Bosch GmbH, Ford Motor Company, Chrysler Corporation, Mercedes Benz of North America, Inc., and BMW of North America, Inc. The sixth commenter, Advocates for Highway and Auto Safety (Advocates), expressed concern because it believes that the H7 can be used for lower beam headlamps that produce virtually no illumination above the horizontal. Advocates stated that this would be at odds with NHTSA's concurrent rulemaking proposal (Docket No. 85–15; Notice 10) to ensure that the photometry of lower beam headlamps provide sufficient illumination of high-mounted signs. However, NHTSA points out that the rulemaking to which Advocates refer is addressed to the performance of headlighting systems, and not Types of replaceable light sources. Notice 10 would require compliance of headlamps with its requirements without respect to the type of bulb employed. Thus, NHTSA concluded that the concern of Advocates is unfounded.

NHTSA was prepared, therefore, to amend Standard No. 108 as proposed to add the H7. However, the completion of another rulemaking proceeding has made it possible to allow the H7 without amending the standard. NHTSA had noted in the proposal regarding H7 (p. 32943) that there was a pending rulemaking proceeding which, if carried forward to a final rule, would obviate the need for the amendment requested by the petitioner. The agency stated that if part 564, Replaceable Light Source Dimensional Information, were adopted as proposed, placing the information presented in the G.T.B. petition in an informational docket and publishing a notice in the **Federal Register** announcing that action would be sufficient to permit use of the H7 in a headlamp. No amendment of Standard No. 108 would be required.

NHTSA has recently completed the rulemaking proceeding on part 564. On January 12, 1993, NHTSA published a final rule adopting part 564 (58 FR 3856), effective February 11, 1993. The information submitted by the petitioner has been placed in the new docket, which, by this notice, is designated Docket No. 93–08 Replaceable Light Source Dimensional Information. Future submissions by interested persons should identify the docket by number and be sent to the address indicated above, where they will be available for inspection by the public. No further action is required by either the petitioner or the agency in order for the H7 replaceable light source to be used in motor vehicles subject to the Federal motor vehicle safety standards.

Since this action moots the petition by G.T.B., the agency is therefore terminating the rulemaking proceeding to amend Standard No. 108.

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 4, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–5418 Filed 3–9–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB66

Endangered and Threatened Wildlife and Plants; Proposed Rule To Reclassify the Plant Pediocactus sileri From Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to reclassify *Pediocactus sileri* (Siler pincushion cactus) from endangered to threatened. This rule is proposed under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), and is based on a thorough review of all information currently available for the species. The proposed change in classification reflects an improved understanding of the species' status and the fulfillment of reclassification criteria stated in the Siler Pincushion Cactus Recovery Plan (U.S. Fish and Wildlife Service 1986). The action will not significantly alter the protection of this species under the Act. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by May 10, 1993. Public hearing requests must be received by April 26, 1993.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 3616 West Thomas Road, suite 6, Phoenix, Arizona 85019. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Sue Rutman, at the above address (Telephone 602/379–4720).

SUPPLEMENTARY INFORMATION:

Background

Pediocactus sileri (Siler pincushion cactus) grows on gypsum soils in a scenic area of southwestern Utah and northwestern Arizona. When mature, this globose or cylindrical cactus is about 4–5 inches (10–13 centimeters) tall and has spines that almost match the gray soil where it commonly occurs. The central spines, which are usually less than 1.25 inches (3.18 centimeters) long, have a purplish or black tip when young, and point upwards. The flowers are yellow and appear in the spring. Plants may be single stemmed or clustered.

Pediocactus sileri is found on gypsiferous clay to sandy soils apparently high in soluble salts (Hughes 1991). Plants occur on soils derived from the Moenkopi Formation. About 90 percent of known plants occur on the Shnabkaib Member of the formation (Gierisch 1989). The grayish Shnabkaib Member is composed of 65 percent siltstone, 25 percent gypsum, and 10 percent limestone and dolomite (Stewart, et al. 1972). Most of the remaining plants are found on the Middle Red Member of the formation, which is a reddish siltstone with thin to thick layers of gypsum. Plants can be found growing on soil that ranges from shallow to 22 inches (56 centimeters) deep (Gierisch 1981).

Pediocactus sileri populations occur in a variety of plant communities. Most commonly, the species is found in the Great Basin Desert Shrub Biotic Community. At one low elevation site, the surrounding vegetation is Mohave Desert Scrub. The higher elevation sites are located within the Great Basin

Conifer Woodland and Plains, and the Great Basin Grassland (Hughes 1991). The species is found at elevations of 2,800–5,400 feet (850–1,650 meters).

When the species was listed as endangered in 1979 (44 FR 61786), the amount of habitat was unknown but presumed to be small. The total amount of occupied habitat remains unknown but extensive surveys conducted by the Bureau of Land Management (BLM), Arizona Strip District (Hughes 1991) have documented the species on 42,100 acres (17,000 hectares) of habitat. The species will likely be found outside this area. The Moenkopi Formation covers approximately 330,000 acres (134,000 hectares) in this area of the Arizona Strip; some unknown fraction of this substrate type is potential habitat for *P. sileri*.

At the time the plant was proposed for listing, fewer than 1,000 individuals were thought to exist (Phillips, *et al.* 1979). Since that time many more plants have been discovered. *Pediocactus sileri* has a distribution typical of many plant species, a high density in some areas (Hughes 1991, Gierisch 1981) and a low density in others (Gierisch 1981, L. Hughes, BLM, St. George, Utah, pers. comm., 1988). Low density areas may support approximately 10–30 *P. sileri* plants per square mile (26–78 plants per square kilometer) (L. Hughes, pers. comm., 1992). By contrast, the high density population at Warner Ridge contains 15–23 plants per acre (4–12 plants per hectare) (Gierisch 1989). A map prepared by BLM in 1988 shows three high-density areas, widely scattered across the Arizona Strip. These areas ranged in number of plants from 2,691 to 3,775, an underestimate because all plants were not counted. The three dense populations occupy an area of about 4,100 acres (1,700 hectares).

The majority of *P. sileri* habitat is managed by the Arizona Strip and Cedar City Districts of BLM. Some habitat occurs on the Kaibab-Paiute Indian Reservation, but no surveys have occurred there. A small amount of habitat is privately owned.

The 1979 final rule to list *Pediocactus sileri* as endangered identified gypsum mining, off-road vehicle use, road construction, illegal collection, livestock grazing, construction of the proposed Warner Valley Power Plant and associated structures, and the inadequacy of regulatory mechanisms as threats to the species. The Service believed that the specialized soil type, small numbers of individuals, population disjunction, and possibly a restricted gene pool could have intensified adverse effects to *P. sileri* and its habitat. Since the species was listed, a number of recovery activities have occurred, including the completion of some management documents.

In 1985, the BLM established permanent *P. sileri* monitoring plots to collect demographic and phenologic data and determine the status of the monitored populations. The BLM has reported these data annually to the Service and has most recently summarized them in Hughes (1991). Some data analysis has occurred, but more sophisticated methods should be employed to determine the long term viability of the monitored populations.

The Siler Pincushion Cactus Recovery Plan was finalized in 1986 (U.S. Fish and Wildlife Service 1986). The plan set forth the following five reclassification criteria: (1) Known populations should be censused and mapped; (2) the BLM should establish monitoring plots that can be relocated and census these at least annually; (3) the BLM should develop an approved Habitat Management Plan (HMP), which includes steps to ensure the protection of the species; (4) the BLM should develop a Mineral Feasibility Report assessing the present and potential value of the habitat for mining of gypsum, selenites, and uranium; and, (5) the BLM should administer mining claims within known populations, mitigate adverse effects, and initiate section 7 consultations when necessary. The necessary criteria for delisting are: (1) Demonstration of long-term population stability; (2) demonstration that reclassification criteria are suitable; (3) continued assurance of no mining or new claims in known habitat; and, (4) implementation of actions identified in the HMP.

The Arizona Strip and Cedar City Districts of the BLM finalized the *P. sileri* Habitat Management Plan (HMP) in 1987. Planned actions of the HMP included continuation of monitoring studies, closing and signing the Warner Ridge/Beehive Dome area to off-highway vehicles (OHVs), building an exclosure fence around a specific dense population, evaluating all surface disturbing activities through the NEPA process, and placing raptor roost poles where small mammal herbivory is a problem.

In 1990, the Arizona Strip District and the Dixie Resource Area of the BLM completed their Resource Management Plans (RMPs) and Final Environmental Impact Statements (U.S. Department of the Interior 1990a and 1990b). The RMPs guide the management of *P. sileri* habitat at a programmatic level. Both documents designate Areas of Critical Environmental Concern (ACECs), which have management prescriptions designed for conservation of *P. sileri* and other resource values. Other resource management decisions made in the RMPs include OHV management areas, livestock management goals, and locatable and mineral materials management. The specific management direction given by the RMPs and its affect on *P. sileri* is discussed below where appropriate.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set for the procedures for reclassifying species on the Federal lists. A species may be listed or reclassified as threatened or endangered due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Pediocactus sileri* (Engelm. ex Coult.) L. Benson (Siler pincushion cactus) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The habitat of *Pediocactus sileri* occurs in an area called the Arizona Strip, a remote and essentially uninhabited area. Commercial uses of *P. sileri* habitat include recreation, livestock grazing, and mining. Habitat loss and degradation due to road building, housing and commercial development, off-highway traffic, and other sources is likely to increase as human populations in the nearby towns of St. George and Kanab, Utah, and Fredonia, Arizona, increase.

Off-highway traffic is adversely affecting *P. sileri* and its habitat at a few localities, including Atkin Well, the Warner Ridge/Fort Pierce area near St. George, Utah, and the area near Fredonia, Arizona, and Kanab, Utah. The convenient location of the latter two areas, the gently rolling hills, and sparse vegetation make these localities attractive sites for OHV users. Observations and data from monitoring plots indicate that few *P. sileri* deaths were directly caused by OHVs, but that the OHV traffic is fairly frequent. Gierisch (1980) found that 8 out of 1,153 cacti were killed by OHV activity on Warner Ridge. In 1985, one plant was killed and six plants were run over by OHVs out of 7,000 plants counted (Bureau of Land Management 1985). Although Gierisch (1989) found no *P. sileri* mortality due to OHVs in plots on Warner Ridge, he observed 5–10 injured

or destroyed plants outside the plots. He also noted that 33 of 60 plots contained single tracks of OHVs, and five of the 60 plots contained OHV trails that had been used repeatedly. A site near Kanab/Fredonia is heavily impacted by OHVs and other recreational uses but no data are available on their direct or indirect effects on the cactus.

The BLM Arizona Strip District Resource Management Plan and Final Environmental Impact Statement (U.S. Department of the Interior 1990a) and the Dixie Resource Management Plan and Environmental Impact Statement (U.S. Department of Interior the 1990b) contain OHV designations for the District and Resource Area. Off-highway traffic is permitted to varying levels throughout the range of *P. sileri*. The Warner Ridge area is closed to OHV traffic. The area, which also contains another endangered plant, is not fenced to exclude OHVs, but signs have been placed every 0.25 miles. Nearby, in the Fort Pierce area, where a dense population of *P. sileri* occurs, the BLM permits OHV traffic on designated roads and trails. On 800 acres (320 hectares) east of Kanab and Fredonia, in a dense population of *P. sileri*, off-road vehicle traffic is unrestricted. The Rhino Rally, an OHV event, takes place within the central habitat of *P. sileri*, in an area designated as an "OHV event area" in the Arizona Strip District RMP. The BLM limits the Rhino Rally to 300 entrants and restricts the event primarily to roads and washes.

Livestock grazing occurs throughout the habitat of Siler pincushion cactus. The Service presumes that the BLM has not changed term permits, stocking rates, or grazing systems since the species was listed, because no formal or informal section 7 consultations regarding existing range management or a change in management have occurred. In addition, livestock waters have not been moved away from dense *P. sileri* populations. The Service can not assess the affects of livestock on *P. sileri* on the Kaibab-Paiute Indian Reservation due to a lack of information.

Livestock use appears to be light or moderate in areas relatively distant from water sources because forage is very sparse on the soils preferred by *P. sileri*. In these areas, little trampling occurs and *P. sileri* plants can be found in open, unprotected microsites (Gierisch and Anderson 1980). Gierisch (1989) states that no *Pediocactus sileri* plants were destroyed due to livestock trampling on Warner Ridge. In earlier studies, he found 6 plants out of 1,153 were killed by livestock (Gierisch 1980). Gierisch (1989) found livestock tracks in 90 percent of the plots on Warner Ridge, indicating that cattle do travel through the area.

Hughes (1991) also found that livestock rarely trampled mature plants in monitoring plots. He speculated (pers. comm., 1992) that mature cacti are large enough that cattle walk around them rather than step on them. However, seedlings and juvenile plants may be too small to be seen and avoided.

At watering areas where livestock concentrate, damage or destruction of *P. sileri* is "undoubtedly severe" (Gierisch and Anderson 1980). At Atkin Well, where livestock are severely affecting the habitat, *P. sileri* plants grow in the shrub understory or along drainage slopes, areas protected from the trampling of cattle moving to and from this water source (Gierisch and Anderson 1980). Several years later, Atkin Well and Lytle Spring populations showed a size class distribution with a small number of short cacti and a large number of tall cacti, which was judged to be of "special concern" (Bureau of Land Management 1985).

Erosion has been identified as a source of mortality for *Pediocactus sileri* (Gierisch 1981, Hughes 1991). Because the substrate is erodible, a low rate of mortality due to erosion is not unexpected and probably natural. However, OHV traffic, roads, overgrazed habitat, or livestock concentration areas may cause increased erosion, resulting in increased cactus mortality rates and loss of habitat.

In 1989, the Arizona Department of Agriculture, U.S. Department of Agriculture Animal and Plant Health Inspection Service (APHIS), and local ranchers proposed a large-scale (approximately 125 square miles, or 323 square kilometers) application of a general pesticide to control a grasshopper infestation. Although the BLM did not approve the project, the Service anticipates that rangeland pesticide applications will be proposed in the future.

Through funding from the APHIS, the U.S. Department of Agriculture Bee Biology Lab in Logan, Utah, has conducted research to understand the potential effects of rangeland pesticides on endangered and threatened plants. This research has improved our understanding of the pollination and reproductive ecology of *P. sileri*. Tepedino (1990) reported that the species is pollinated by small native bees, two of them undescribed and one very rare in collections.

Mineral exploration and development, and oil and gas leasing may contribute to Siler pinchusion cactus habitat loss and degradation. Currently, adverse effects appear to be occurring at a slow rate and affecting small amounts of habitat or number of plants. One Mineral Feasibility Report (Swapp 1985) addressed the threat of uranium mining within high density *P. sileri* habitat and concluded that uranium exploration was extremely unlikely there. Another Mineral Feasibility Report (Cormier 1985) for the Warner Ridge area did not specifically address uranium mining feasibility. However, in a survey of 246 Mining Plans of Operation (MPO) for uranium mining filed between 1980 and 1985, the BLM found that 165 occurred outside potential habitat of *P. sileri* (Bureau of Land Management 1985). Of the remaining 81 MPOs occurring within potential habitat, 51 were surveyed and did not contain *P. sileri*. The remaining 30 sites within potential habitat were surveyed, contained *P. sileri*, and projects were modified to avoid directly affecting the plants. About 5 acres were disturbed at each of the 30 sites within potential habitat. Activity has taken place within low density *P. sileri* habitat, except for one core drilling in high density habitat. Wenrich and Sutphin (1988) identify low density *P. sileri* habitat as having potential for economically important uranium deposits.

Gypsum mining or exploration is unlikely to occur in the Warner Ridge or the Lost Spring Mountain habitats of *P. sileri* (Swapp 1985, Cormier 1985). The BLM believes mining gypsum is economically feasible if the gypsum (calcium sulfate) content exceeds 90 percent (Swapp 1985, Cormier 1985). The gypsum content of the Shnabkaib and Middle Red Members of the Moenkopi Formation has been variously estimated at 3–5 percent (Swapp 1985) or up to 25 percent (Stewart *et al.* 1972). Either estimate is well below the 90 percent level needed to sustain an economically viable operation.

Mineral exploration and development is permitted to occur within the five ACECs designated to provide special management prescriptions for *P. sileri* (U.S. Department of the Interior 1990a and 1990b). If mineral exploration and development is proposed within ACECs, the BLM requires a plan of operation and special mitigation. These requirements do not necessarily apply outside of ACECs. Therefore, not all habitat or populations are covered by this protection.

Oil and gas exploration or drilling is another potential threat to *Pediocactus sileri*, although currently the threat is minor. Essentially all areas within the Moenkopi Formation are under oil and

gas leases (Bureau of Land Management 1985). As recently as 1990, the BLM offered at least one tract containing *P. sileri* for a competitive oil and gas lease sale (BLM Minerals Staff, Arizona Strip District, St. George, Utah, pers. comm., 1990). However, there are no producing oil wells nor any history of wells in the Arizona Strip District or southwestern Utah (Bureau of Land Management 1985).

In summary, mining and mineral exploration and oil and gas leases are currently a minor threat to *P. sileri*. The probability of gypsum mining and active oil and gas pumping appears to be small. Uranium exploration is occurring and has already taken some habitat. Although the current economic situation seems to have slowed uranium exploration, the future is uncertain.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Despite the legal protections offered by the Act and the Arizona Native Plant Law (Arizona Revised Statutes Chapter 7, Title 3, Article 1), *P. sileri* is collected by cactus enthusiasts for commercial purposes and private interest. Steve Brack, who is familiar with the worldwide cactus trade, believes cultivated and wild-collected plants are rare in the cactus trade because the species has a reputation for being hard to grow (S. Brack, Mesa Gardens, Belen, New Mexico, pers. comm., 1992). He estimates that 99 percent of transplanted plants will die within two years. Seeds germinate readily, but, due to a narrow tolerance for soil type and environmental conditions, the plants mature only with great effort and skillful technique. Grafting, a technique commonly used to commercially propagate the endangered *Pediocactus bradyi*, is not commonly used with *P. sileri* because the latter species is too large and slow growing.

Brack (pers. comm., 1992) noted that the seeds of *P. sileri* are readily available in the commercial trade and he assumed the seeds are taken from wild populations. He estimated that a collector could take 5,000 seeds from a dense population in one afternoon. The Service does not have the information needed to assess the degree to which seed collecting is affecting populations.

Although serious hobbyists and professional collectors apparently avoid taking living plants from the wild, other collectors, such as the occasional tourist, resident, or unscrupulous seller could be collecting some plants. The effects of this are very difficult to quantify but are probably minor.

C. Disease or Predation

Various botanists have noted mortality of *P. sileri* due to disease, insects, and rodents. Within study plots, Gierisch (1989) noted that 28–32 percent of all stems were dead and he believed mortality was due to disease and predation. Hughes (1991) reported that the most common source of *P. sileri* mortality was herbivory. Rodents and rabbits apparently find the plants palatable, particularly during years of below-average rainfall when other food and water sources are scarce. Small mammals may attack from the top or from underground and consume the whole plant (Gierisch 1981).

In at least one case, data indicate that *P. sileri* mortality from small mammal populations may be affected by management practices. Plants inside a fenced area excluding cattle were more likely to die from small mammal herbivory than plants outside the exclosure (Hughes 1991). Hughes (pers. comm., 1988) speculated that small mammals preferred the habitat inside the exclosure because it had greater plant cover and food.

Brack (1983) noted heavy insect damage to a *P. sileri* population. Insects had eaten the cortical tissues and roots of about 80 percent of the plants. He believed that the damaged plants would die.

Although insects, disease, and small mammal herbivory may appear to be natural causes of mortality, we do not know if the current disease or predation rates are at natural levels or are imbalanced for some reason. Analysis of data from long-term monitoring should be able to determine if recruitment rates in populations with disease or predation are sufficient to maintain viable populations.

D. The Inadequacy of Existing Regulatory Mechanisms

Pediocactus sileri is currently protected by the Act and is contained in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (16 U.S.A. § 1538(c)). It is also protected from commercial use by the Arizona Native Plant Law (A.R.S. §§ 3–901 *et seq.*). If the proposed reclassification to threatened status becomes final, there will be no substantive change in the protection afforded this species under these regulatory mechanisms. Existing regulatory mechanisms determined necessary to protect this species and its habitat will remain in effect.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The long-term viability of populations of this species is still uncertain. Since 1985, the BLM Arizona Strip District has been collecting demographic data in four dense population areas across the range of this species. A population viability analysis could probably determine if the dense population areas are reproducing sufficiently to maintain population size.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to reclassify *Pediocactus sileri* from endangered to threatened. New information gathered by the BLM, as well as recovery efforts for the species have changed our understanding of the range, abundance, and magnitude and relative importance of threats to *P. sileri*. Although the species is more abundant than originally believed in 1979, only three large populations are known. We do not know if the species is able to maintain stable populations given current habitat conditions, but the BLM is accumulating data that will assist in that determination. The remaining manageable threats to the species include livestock grazing and associated developments, off-highway vehicle traffic, pesticide applications, and mineral exploration. With more plants known to exist, we now believe the magnitude of threats to be less important than when the species was listed.

Critical habitat for Siler pincushion cactus was not designated in 1979 when the species was listed because the Service believed the action was not prudent. The Service continues to believe that designating critical habitat is not prudent. As discussed under Factor B in the Summary of Factors Affecting the Species, Siler pincushion cactus is threatened by taking, an activity difficult to enforce against and only regulated by the Act with respect to plants in cases of (1) removal and reduction to possession of listed plants from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging up, or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law. Such provisions are difficult to enforce, and publication of critical habitat descriptions and maps would make Siler pincushion cactus more vulnerable and increase

enforcement problems. Therefore, it remains not prudent to determine critical habitat for Siler pincushion cactus.

Effects of Rule

This rule, if made final, would change the status of *Pediocactus sileri* from endangered to threatened. The final rule would formally recognize that *P. sileri* is no longer considered to be in danger of extinction throughout all or a significant portion of its range. Reclassifying the species will have little effect on regulations regarding protection and recovery of the species. Protection given to threatened species under sections 7 and 9 of the Act is essentially the same as that given to endangered species, except seeds from cultivated specimens of threatened plants are exempt from the trade prohibitions of section 9(a)(2) of the Act, provided that a statement of "cultivated origin" appears on their containers. Recovery provisions are the same for threatened species as for endangered species.

This action will not be an irreversible commitment on the part of the Service. The action is reversible and reclassifying *P. sileri* to endangered would be possible should changes occur in management, habitat, or other factors that alter the present threats to the species' survival and recovery.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor (see **ADDRESSES**).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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U.S. Department of the Interior. 1990b. Dixie Resource Management Plan and Environmental Impact Statement. Bureau of Land Management, Cedar City District, Cedar City, Utah. 242 pp.

U.S. Fish and Wildlife Service. 1986. Siler Pincushion Cactus Recovery Plan. U.S. Fish and Wildlife Service, Albuquerque, New Mexico. 57 pp.

Wenrich, K.J., and H.B. Sutphin. 1988. Recognition of breccia pipes in northern Arizona. Arizona Bureau of Geology and Mineral Technology 18:1–5.

Author

The primary author of this proposed rule is Sue Rutman (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.12(h) by revising the entry for *Pediocactus sileri* under the family Cactaceae to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
•	•	•	•	•	•	•
Cactaceae—Cactus family:						
•	•	•	•	•	•	•
Pediocactus sileri (=*Echinocactus s.*, *Utahia s.*).	Siler pincushion cactus	U.S.A. (AZ, UT)	T	64,_____	NA	NA
•	•	•	•	•	•	•

Dated: February 25, 1993.

Richard N. Smith,

Acting Deputy Director, Fish and Wildlife Service.

[FR Doc. 93–5494 Filed 3–9–93; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 58, No. 45
Wednesday, March 10, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Continental Divide National Scenic Trail (CDNST) Formal Designation and Construction; Medicine Bow National Forest (NF), Wyoming; Routt, Arapaho/Roosevelt, White River, Pike/San Isabel, Grand Mesa/Uncompahgre/Gunnison, San Juan, and Rio Grande National Forests, Colorado

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement (EIS).

SUMMARY: The Forest Service will analyze and disclose the environmental impacts of a proposal to designate approximately 805 miles of trail corridor adjacent to the Continental Divide from southern Wyoming to southern Colorado as part of the National Scenic Trail System, and to construct up to 64 miles of new trail within the trail corridor. An EIS will be prepared which will document the analysis. This EIS will tier to the Medicine Bow, Routt, Arapaho/Roosevelt, White River, Pike/San Isabel, Grand Mesa/Uncompahgre/Gunnison, San Juan, and Rio Grande National Forests' Land and Resource Management Plan Final EIS's. This EIS will also tier to the National Scenic Trail System Act of 1968 as amended and the USDI Bureau of Outdoor Recreation (BOR) Study Report and Legislative FEIS, May 3, 1977, and the National Parks and Recreation Act of 1978 (Pub. L. 95–625). The purpose of this proposal is to formally designate and construct the Continental Divide National Scenic Trail within Region 2 of the Forest Service. A decision based on this EIS will identify the selected route for the CDNST on Federal lands along the geographic Continental Divide from Wyoming's Medicine Bow NF (Hayden Ranger District) to the Colorado/New Mexico border on the Rio Grande NF (Conejos Peak Ranger District).

The CDNST project area is located in the proximity of the Continental Divide and extends from the Medicine Bow NF west of Saratoga, Wyoming to the Colorado/New Mexico border west of Antonito, Colorado. Principle populations centers within the Project Area include: Saratoga and Hayden, Wyoming; and Steamboat Springs, Dillon/Silverthorne, Breckenridge, Leadville, Buena Vista, Gunnison, and Pagosa Springs, Colorado.

The project area covers a distance of 805 linear miles and averages 1 mile in width. The Trail is located primarily on National Forest System Lands with segments proposed to cross parcels of private property. Rights-of-way will have to be acquired for segments crossing private property. The project area includes nine wilderness areas and two proposed wilderness areas. Trail mileage within these areas varies from 149 miles to 200 miles depending upon alternative.

DATES: The Draft Environmental Impact Statement (DEIS) is expected to be filed with the Environmental Protection Agency in May, 1993. The Final EIS and Record of Decision (ROD) are expected to be completed in July, 1993.

ADDRESSES: Send written comments to James B. Webb, Forest Supervisor, Rio Grande NF, 1803 West Highway 160, Monte Vista, CO 81144.

FOR FURTHER INFORMATION CONTACT: Specific questions about the proposed action, analysis, and EIS should be directed to Gary D. Snell, Environmental Coordinator, Rio Grande NF, 1803 West Highway 160, Monte Vista, CO 81144. Phone (719) 852–5941.

SUPPLEMENTARY INFORMATION: In most cases the management activities are consistent with the Forest Land and Resource Management Plans (LRMP) for the involved National Forests. Some of the alternatives are not consistent with the LRMP's. The FEIS and ROD for the CDNST Planning Area will be used to amend, if necessary, the individual forest plans of the following National Forests—Routt, White River, Arapaho/Roosevelt and Grand Mesa/Uncompahgre, and Gunnison.

The designation of the CDNST, will not change current management of National Forest lands along the Trail corridor. In order to maintain the Trail's character, individual Forests will be required to address the Trail in all future management decisions.

The initial public scoping to this analysis has been completed. Comments were requested during a public comment period and open houses which ended in July of 1992. All comments received to date will be considered. The next opportunity for public comment on this analysis will be the formal review period of the DEIS. Preliminary issues and concerns identified as a result of internal and external scoping include:

1. The effects of the Trail and its users on native wildlife and plants within the Trail corridor.
2. The effects of the Trail and its users on Threatened, Endangered and Sensitive plant and animal species within the Trail corridor.
3. Cultural Resources.
4. Impacts of motorized/nonmotorized vehicles on wetlands riparian areas and tundra.
5. Water quality along the Trail route.
6. Trail user safety.
7. The need to utilize existing trails where possible and to use minimum trail standards.
8. Proximity to the Geographic Continental Divide. The information gathered during public scoping is being used to prepare a DEIS. This process includes:
   1. Determination of significant issues.
   2. Determination of cooperating agencies.
   3. Identification and elimination from detailed study nonsignificant issues or issues that have been covered by previous environmental review.
   4. Identification of reasonable alternatives to the proposed action.
   5. Identification of potential environmental effects of the alternatives.

A range of alternatives is being developed from the key issues. One of these in the "No-Action Alternative", in which designation and construction will be deferred. Other alternatives consider various trail locations in response to issues raised during the scoping process.

The FEIS is expected to be released in July, 1993. The Regional Forester for Region 2, who is the responsible official for the EIS will make a decision regarding this proposal considering the comments, responses, and

environmental consequences discussed in the FEIS, and applicable laws, regulations and policies. The reasons for the decision will be documented in a Record of Decision.

The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Services believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS stage but that are not raised until after completion of the FEIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).

Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the DEIS. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: February 25, 1993.

Tom L. Thompson,

Deputy Regional Forester.

[FR Doc. 93–5438 Filed 3–9–93; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Florida Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 12 pm and adjourn at 5 p.m. on Tuesday, March 23, 1993, at the City Council Chambers, 175 Fifth Street, North, Second Floor, in St. Petersburg. The purpose of the meeting is to discuss the status of the Commission and SAC; discuss problems and progress in civil rights throughout the State; and to update and discuss the current project. In addition, the committee will receive information from the community on racial and ethnic tensions in Florida (St. Petersburg).

Persons desiring additional information, or planning a presentation to the Committee should contact Florida Chairperson Bradford Brown 305/361–4991 or Bobby D. Doctor, Regional Director, Southern Regional Office of the U.S. Commission on Civil Rights at (404/730–2476, TDD 404/730–2481). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Southern Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 1, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–5439 Filed 3–9–93; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Business and Professional Classification Report.

Form Number(s): B–625.

Agency Approval Number: 0607–0189.

Type of Request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Burden: 12,000 hours.

Number of Respondents: 48,000.

Avg Hours Per Response: 15 minutes.

Needs and Uses: The Bureau of the Census uses the quarterly Business and Professional Classification Report to collect sales and other information from a sample of retail, wholesale, service, and unclassified businesses recently assigned Federal Employer Identification numbers. We get information that these new businesses exist from lists provided by the Internal Revenue Service and the Social Security Administration. From the information we collect in this survey, we determine an appropriate measure of size, company organization and establishment information, taxable or tax–exempt status, wholesale inventories, type of operation, and assign a new or more refined kind–of–business classification. We use this information to include these businesses in our retail, wholesale, and service surveys. This keeps the sampling frames for our current business surveys up–to–date with the business universe.

Affected Public: Businesses or other for–profit organizations, Small businesses or organizations.

Frequency: One–time per respondent.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: March 4, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–5383 Filed 3–9–93; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Living Situation Survey.

Form Number(s): LSS–1 through LSS–10.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 2,475 hours.

Number of Respondents: 2,450.

Avg Hours Per Response: 1 hour.

Needs and Uses: The Census Bureau will sponsor the Living Situation Survey as part of a research program designed to examine the concerns of undercoverage. This research is intended to improve coverage, particularly for minority and renter households in future censuses and surveys. The Living Situation Survey examines patterns of movement, multiple attachments to households, and conceptualizations of household membership primarily in populations at high risk of undercounting, including Blacks, Hispanics, Asians, renters, and others.

In each household sampled in this survey, a knowledgeable household respondent will provide a roster of persons who have been present at that address during the past three months. The roster will be built using both traditional census probes and new ones which are based on other forms of attachment, such as having space or a room reserved, contributing money to a household, receiving mail or phone messages, having a key, and eating frequently in the household. Additionally, we will collect individual information from the persons rostered concerning their places of residence for the past three months and their assessment of which place, if any, they consider to be their primary place of attachment.

We will use data gathered in this survey to construct a topology of residence categories for measurement purposes, develop national estimates (given sample limitations) of the frequency of various residence patterns, simulate (through data analysis) the effects of alternative residence rules, and recommend changes in procedures to improve the application of residence rules, as well as new roster questions and methods for future research.

Affected Public: Individuals or households.

Frequency: One–time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue NW., Washington, DC 20230

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: March 4, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–5384 Filed 3–9–93; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Monthly Retail and Services Area Survey (Current Business Report––Interviewer Record).

Form Number(s): B–645, B–646, B–647.

Agency Approval Number: 0607–0067.

Type of Request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Burden: 6,324 hours.

Number of Respondents: 39,054.

Avg Hours Per Response: 10 minutes.

Needs and Uses: The Bureau of the Census publishes monthly and annual estimates of current retail sales and annual estimates of selected service trade statistics. We get a large portion of the data for deriving these estimates from our "list–" based surveys; these are surveys that have their samples drawn from the Census Bureau's Standard Statistical Establishment List. However, firms without paid employees, newly established firms, and firms erroneously omitted from the list–based surveys are not represented and must be surveyed through other means. We use the Monthly Retail and Services Area Survey to gather sales and inventory data from an "area" sample of retail and service firms. In the area sampling strategy, we have field representatives cover defined geographic areas each month to gather sales and inventory data from owners at each retail and service establishment in that area. We then determine which are not included in the list–based surveys and incorporate data from these firms into our monthly retail and service estimates.

Affected Public: Businesses or other for–profit organizations, Small businesses or organizations.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: March 4, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–5385 Filed 3–9–93; 8:45 am]

BILLING CODE 3510–07–F

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

[OMB Control No. 9000–0090]

Clearance Request for Rights in Data and Copyrights

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0090).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Rights in Data and Copyrights.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

Rights in Data is a regulation which concerns the rights of the Government and organizations with which the Government contracts to information developed under such contracts. The delineation of such rights is necessary in order to protect the contractor's rights to not disclose proprietary data and to insure that data developed with public funds is available to the public.

The information collection burdens and recordkeeping requirements included in this regulation fall into four categories.

(a) A provision which is to be included in the solicitations where the proposer would identify any proprietary data he would use during contract performance in order that the contracting officer might ascertain if such proprietary data should be delivered.

(b) Contract provisions which, in unusual circumstances, would be included in a contract and require a contractor to deliver proprietary data to the Government for use in evaluation of work results, or is software to be used in a Government computer. These situations would arise only when the very nature of the contractor's work is comprised of limited rights data or restricted computer software, and given, that the Government would need to see that data in order to determine the extent of the work.

(c) A technical data certification for major systems, which requires the contractor to certify that the data delivered under the contract is complete, accurate and complies with the requirements of the contract. As this provision is for major systems only, and few civilian agencies have such major systems, only about 30 contracts will involve this certification.

(d) The Additional Data Requirements clause, which is to be included in all contracts for experimental, developmental, research, or demonstration work (other than basic or applied research to be performed solely by a university or college where the contract amount will be $500,000 or less). The clause requires that the contractor keep all data first produced in the performance of the contract for a period of three years from the final acceptance of all items delivered under the contract. Much of this data will be in the form of the deliverables provided to the Government under the contract (final report, drawings, specifications, etc.). Some data, however, will be in the form of computations, preliminary data, records of experiments, etc., and these will be the data that will be required to be kept over and above the deliverables. The purpose of such recordkeeping requirements is to insure that the Government can fully evaluate the research in order to ascertain future activities and to insure that the research was completed and fully reported, as well as to give the public an opportunity to assess the research results and secure any additional information. All data covered by this clause is unlimited rights data, for which the Government paid.

Paragraph (d) of the Rights in Data—General clause outlines a procedure whereby a contracting officer can challenge restrictive markings on data delivered. Under civilian agency contracts, limited rights data or restricted computer software is rarely, if ever, delivered to the Government. Therefore, there will rarely be any challenges. Thus, there is no burden on the public.

Under the procedures established for development of the FAR, agency and public comments were solicited and each comment was addressed before finalization of the text. The comments which were received were for the most part from educational institutions, which stated that requiring their investigators to keep records of unlimited rights data for three years after acceptance of deliverables was unreasonable, in that such investigators in reality do not segregate their research by contract, but rather combine it with other data in order to continue their research. In light of this, the proposed rule was changed to state that the Additional Data Requirements clause would not be placed in contracts for basic or applied research with educational institutions—where the value was $500,000 or less. The $500,000 threshold was adopted after surveying the major civilian R&D agencies, whose data suggested that an average R&D contract was $250,000 to $300,000; in order to be commensurate with other clause thresholds (*e.g.*, small business subcontracting), the $500,000 threshold was chosen. Thus, for most R&D contracts with universities, no recordkeeping is required.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows:

Respondents, 1,100; *responses per respondent*, 1; *total annual responses*, 1,100; *preparation hours per response*, 2.7; and *total response burden hours*, 2,970.

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows:

Recordkeepers, 9,000; *hours per recordkeeper*, 3; and *total recordkeeping burden hours*, 27,000.

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0090, Rights in Data and Copyrights, in all correspondence.

Dated: March 3, 1993.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 93–5442 Filed 3–9–93; 8:45 am]

BILLING CODE 6820–34–M

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Corrections to the CHAMPUS Diagnosis Related Group (DRG) Payment System Rates and Weights

AGENCY: Office of the Secretary, DoD.

ACTION: Corrections to notice of revised rates.

SUMMARY: This document corrects an error that appeared in the notice of revised rates which was published on January 27, 1993, (58 FR 6254) and which revised the rates and weights to be used in the CHAMPUS DRG-based payment system effective for admissions occurring on or after October 1, 1992. It also clarifies the rates and weights to be used for two DRGs for which no rates and weights were calculated.

FOR FURTHER INFORMATION CONTACT: Stephen E. Isaacson, Program Development Branch, OCHAMPUS, Aurora, Colorado 80045, telephone (303) 361–1172.

SUPPLEMENTARY INFORMATION: The following corrections are to be made to the notice of revised rates published on January 27, 1993 (58 FR 6254):

1. The labor portion of the national large urban adjusted standardized amount is corrected to be $2,354.67.
2. DRGs 610 and 633 have zeroes, because there were no claims for these two DRGs in the database used to calculate the FY 1993 rates and weights. For these two DRGs we will use last year's weights, lengths-of-stay, and outlier thresholds.

Dated: March 4, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–5397 Filed 3–9–93; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Preparation of a Draft Environmental Impact Statement for Proposed Expansion of the Western Army National Guard Aviation Training Site (WAATS) Complex

AGENCY: Department of Defense, National Guard Bureau.

ACTION: Notice of intent.

SUMMARY: This Notice of Intent is for the preparation of a Draft Environmental Impact Statement (DEIS) for the WAATS proposed expansion. The proposed action covers three main areas: An aerial gunnery range and restricted airspace, development of training areas, and continuation of the projects covered in the WAATS Master Construction Plan (MCP). A summary of impact analysis of previously completed Environmental Assessments (EAs) will be incorporated into the DEIS.

Lead Agencies are: The Arizona Army National Guard (ARNG), the Western ARNG Aviation Training Site (WAATS), and the National Guard Bureau (NGB).

Cooperating Agencies are: Bureau of Land Management (BLM) and the U.S. Air Force (Luke AFB).

Alternatives to these Proposed Actions to be analyzed:

Aerial Gunnery Range and Restricted Airspace.

* Restricted airspace and gunnery range development on a 90,000-acre portion of the USAF Barry M. Goldwater Range Complex (BMGRC).
* Increasing the size of the Florence Military Reservation (FMR) and Restricted Airspace R–2310 to between 50,000 and 90,000 acres.
* Selection of a 50,000 to 90,000-acre site closer to the WAATS to establish a helicopter aerial gunnery range and Restricted Airspace.
* No Action: Continued use of existing BMGRC ranges which do not meet present WAATS requirements.

Training Area Development Plans:

* Expanison to approximately 3,600 square miles of low level flight training area north of Tucson, Arizona.
* Adjustment to size and location of the proposed low level flight training area.
* No Action: Continued use of aerial corridors described in the WAATS 1982 Environmental Assessment.

Master Construction Plan Projects:

* Completion of all MCP projects at the WAATS.
* MCP construction at the WAATS with some MCP construction offsite.
* No Action: No additional construction beyond present National Environmental Policy Act (NEPA) approved projects. (Only construction which has been identified in currently prepared EAs will be accomplished; beyond that no additional construction will take place.)

SCOPING: The ARNG and WAATS will conduct public scoping meetings to discuss public concerns and identify issues relating to the proposed actions. Resource categories that will be analyzed include: physical environment, water quality, groundwater, air quality, biological resources, land use (agriculture, recreation, other), socioeconomic, noise, health and safety, airspace, cultural resources. Public participation in the EIS process is essential to assist the decision maker in defining the scope of analysis considered in the EIS. Participation by Native Americans, concerned interest groups, individuals, and Federal, State and local resource agencies are sought and encouraged in the public scoping process.

Pubic scoping meetings will be held at several sites adjacent to the proposed project areas. These locations include Marana, Tucson, Florence, Gila Bend, and Phoenix, AZ. Dates, times, and locations for the meetings will be announced through letters, public notices, display advertisements, legal advertisements and released to newspapers of general circulation a minimum of 15 days prior to the meeting. Those wishing to provide information or data relevant to the environmental analysis of the proposed actions or alternatives are encouraged to do so at the actions or alternatives are encouraged to do so at the public scoping meetings.

ADDRESSES: Interested parties can also furnish written comments or materials to the Project Officer, Lieutenant Colonel Richard O. Murphy, Western ARNG Aviation Training Site, Silver Bell Army Heliport, Marana, Arizona 85653–9598.

Dated: March 5, 1993.

Lewis D. Walker,

Deputy Assistant Secretary of the Army; (Environment, Safety and Occupational Health OASA (I, L&E).

[FR Doc. 93–5503 Filed 3–9–93; 8:45 am]

BILLING CODE 3710–08–M

Department of the Army, Army Corps of Engineers

Notice of Termination of the Preparation of a Draft Environmental Impact Statement for the Proposed Water Supply Improvement Project in Alameda, Contra Costa, Sacramento, Solano, San Joaquin, Amador, Calaveras, Alpine, and Yolo Counties, CA (East Bay Municipal Utilities District Water Supply Management Plan)

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of termination to prepare a Draft Environmental Impact Statement.

SUMMARY: In 1989, the Corps of Engineers (San Francisco District) initiated preparation of a Draft EIS for the proposed water supply improvement project. In accordance with the Council on Environmental Quality's Final Regulations for the Implementation of Procedural Provisions of the National Environmental Policy Act (40 CFR parts 1500–1508), a Notice of Intent was published in the **Federal Register**, 54 FR 46712. Due to project modifications, the San Francisco District transferred preparation of the above referenced EIS to the Sacramento District. Further examination of the modified alternatives led to the determination by the Sacramento District that the preparation of an EIS with the Corps as the lead agency is no longer required pursuant to the National Environmental Policy Act. The preparation of this EIS, therefore, has been terminated.

FOR FURTHER INFORMATION CONTACT: Questions regarding this project or termination of the EIS should be directed to Larry Vinzant at the Corps of Engineers, 211 Main Street, San Francisco, CA 94105–1905, telephone 916–557–5263.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–5440 Filed 3–9–93; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Emerging Technology Task Force will meet March 17-18, 1993, from 8 a.m. to 4:30 p.m., at 4401 Ford Avenue, Alexandria,

Virginia. This session will be closed to the public.

The purpose of this meeting is to address naval technological response to changes in military warfare. The entire agenda for the meeting will consist of discussion of key issues regarding direction of technology and technologies necessary for Naval Forces in the role envisioned for them by ... From the Sea. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Kevin Mattonen, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: March 1, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-5441 Filed 3-9-93; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF EDUCATION

National Education Commission on Time and Learning; Meeting

AGENCY: National Education Commission on Time and Learning, Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming partially closed meeting of the National Education Commission on Time and Learning. This notice also describes the functions of the Commission. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: March 25, 1993 from 3:30 p.m. to 4:30 p.m.

ADDRESSES: Santa Monica Malibu Unified School District, Board Room, 1651 16th Street, Santa Monica, California, Telephone: Barbara Campitelli, (310) 576-1400.

FOR FURTHER INFORMATION CONTACT: Julia Anna Anderson, Deputy Executive Director, 1255 22nd Street NW., suite 502, Washington, DC 20202-7591. Telephone: (202) 653-5063.

SUPPLEMENTARY INFORMATION: The National Education Commission on Time and Learning is established under section 102 of the Education Council Act of 1991 (20 U.S.C. 1221-1). The Commission is established to examine the quality and adequacy of the study and learning time of elementary and secondary students in the United States, including issues regarding the length of the school day and year, how time is being used for academic subjects, the use of incentives, how time is used outside of school, the extent and role of homework, year-round professional opportunities for teachers, the use of school facilities for extended learning programs, a model for adopting a longer day or year (if appropriate), suggested changes for state laws and regulations, and an analysis and estimate of the additional costs.

On March 25, from 3:30 p.m. to 4:30 p.m. the Commission meeting will be closed to the general public. The Commissioners will examine personnel needs and discuss current staff levels. This closed session is authorized by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix 2) and under exemptions (2) and (6) of Section 552b(c) of the Government in the Sunshine Act (Pub. L. 94-409; 5 U.S.C. 552b). This discussion of personnel matters relates solely to the internal personnel rules and practices of an agency and would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of section 552b(c) of title 5 U.S.C.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of title 5 U.S.C. 552b(c) will be available to the public within fourteen days of the meeting.

Records are kept of all Commission proceedings at the Office of the National Education Commission on Time and Learning, 1255 22nd Street NW., suite 502, Washington, DC 20202-7591 from the hours of 9 a.m. to 5:30 p.m.

Dated: March 5, 1993.

John Hodge Jones,

Chairman, National Education Commission on Time and Learning.

[FR Doc. 93-5497 Filed 3-9-93; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award: South Carolina Research Authority

AGENCY: Department of Energy, Albuquerque Field Office.

ACTION: Notice of intent to award financial assistance based on unsolicited application from South Carolina Research Authority.

SUMMARY: The Department of Energy (DOE), Albuquerque Field Office, in accordance with 10 CFR 600.14(f) gives notice of its plans to award a cooperative agreement to the South Carolina Research Authority (SCRA), North Charleston, South Carolina, for the research and development (R&D), at about a 1.5 MW scale of the feasibility and commercial viability of an open-furnace operating with a single, hollow electrode, direct current, submerged arc for smelting silicon and silicon alloys. The R&D will be under the direction of SCRA in cooperation with member firms of The Ferroalloys Association, and with active participation of the Massachusetts Institute of Technology, The EPRI Center for Materials Production, and the Carnegie Mellon Research Institute. DOE and SCRA have agreed to a fifteen month period of performance.

FOR FURTHER INFORMATION CONTACT: Susan L. Connor, U.S. Department of Energy, Albuquerque Field Office, Contracts and Procurement Division, P.O. Box 5400, Albuquerque, NM 87185-5400, Telephone: (505) 845-4345.

SUPPLEMENTARY INFORMATION: The determination to make this award is based on the following information:

A general evaluation of the proposal was performed pursuant to 10 CFR 600.14. It was determined that the proposed project was meritorious and that the probability of achieving the anticipated objectives was high. The facilities and capabilities that will be made available are appropriate, and the qualifications of the key personnel are exceptional.

R&D activities are being pursued by SCRA using its own resources and those of key industry third parties. SCRA is joined in this undertaking by the Massachusetts Institute of Technology, The EPRI Center for Materials Production, Carnegie Mellon Research Institute and by key industry parties, Applied Industrial Materials Corporation, American Alloys, Inc., Elkem Metals Company, Globe Metallurgical Inc., Macalloy Corporation, SKW Alloys, Inc., and SiMETCO, Inc. DOE support of this

activity will enhance the public benefit by increased energy savings, increased product yield, reduced thermal losses, and reduced emissions. The technology will be used to retrofit existing furnaces in the U. S. and enhance the market share for silicon metal products by domestic firms.

The proposed open-furnace configuration has not been demonstrated before and is not being developed elsewhere. The configuration proposed has the potential to advance the process technology of ferrosilicon and silicon. This strategically important ferroalloy industry would be maintained and competition would be enhanced with the infusion of this new technology. The proposal represents an innovative approach which would not be eligible for financial assistance under a recent, current, or planned solicitation, and, as determined by DOE, a competitive solicitation would be inappropriate.

The total estimated cost of the project for this fifteen month award is $1,999,947, of which the anticipated cost to the Government is $999,947. The cost share for SCRA, EPRI, and The Ferroalloys Association is estimated at $1 million. The distribution and availability of government funds are subject to budget limitations and the results of research under the cooperative agreement, and may deviate from the above projection.

Issued in Albuquerque, NM, March 1, 1993.

Richard A. Marquez,

Assistant Manager for Management and Administration.

[FR Doc. 93–5426 Filed 3–9–93; 8:45 am]

BILLING CODE 6450–01–P

Bonneville Power Administration

Notice of Date Change for Public Comment on Tenaska Washington II, Generation Competitive Acquisition

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Change of date for submitting Participant Comments. BPA File No. TEN–6(c).

SUMMARY: On December 8, 1992, BPA published a Notice of Hearing and Opportunity for Public Review and Comment with respect to the proposed acquisition of firm energy from Tenaska Washington II, Generation Competitive Acquisition. 57 FR 58017. The Notice provided that persons need not petition for party status or attend the hearing in order to have their views included in the record. Participants' comments would become a part of the hearing record and their issues addressed in the Record of Decision if received by March 25, 1993.

The date for participants' comments has been changed to March 17, 1993. Written comments should be submitted to the Public Involvement Manager—ALP, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. Comments should be submitted to the Public Involvement Office at the following numbers, 1–800–622–4519 toll-free nationwide, or 503–230–3478 in Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Ms. Julie Pipher, BPA Public Involvement Office—ALP, P.O. Box 12999, Portland, Oregon 97212, 503–230–5039. Telephone numbers, voice/TTY, for the Public Involvement Office are 503–230–3478 in Portland, or toll-free 800–622–4519.

Issued in Portland, Oregon, on March 2, 1993.

Randall W. Hardy,

Administrator.

[FR Doc. 93–5492 Filed 3–9–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. JD93–05064T Texas–117]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

March 4, 1993.

Take notice that on March 1, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Strawn Sand Formation, underlying a portion of Schleicher County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area contains approximately 1,496 acres in Railroad Commission District No. 7C and consists of portions of the following tracts:

1. 968 acres in the Tom Green County School Land Survey No. 3, A–540.

2. 528 acres in the Tom Green County School Land Survey No. 5, A–541.

The notice of determination also contains Texas' findings that the referenced portions of the Strawn Sand Formation, meet the requirements of the Commission's regulations set forth in 18 CFR Part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date of this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5477 Filed 3–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–05063T Texas–116]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

March 4, 1993.

Take notice that on March 1, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that portions of the Travis Peak Formation (Black Fork Creek) underlying portions of Smith County, Texas, qualify as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is in Railroad Commission District No. 6 and is more fully described on the attached appendix.

The notice of determination also contain Texas' findings that the referenced portions of the Travis Peak Formation (Black Fork Creek) meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

Appendix

JD93–05063T
Texas–116

The designated area lies within Railroad Commission District No. 6 and consists of all or part of the following surveys:

Lewis Jones	A–501	Portion.
Geo. A. Bass	A–66	Portion.
J.F. McClure	A–659	Portion.
W.M. Schofield	A–916	Portion.
L.E. Verner	A–1164	All.
Thos. Lowrey	A–1102	Portion.
I. Matthews	A–703	Portion.
B. Kuykendall	A–532	All.

S.A. & M.G. R.R.	A–964	Portion.
Phillip Lively	A–578	All.
W.H. Adams	A–28	All.
W.H. Adams	A–29	Portion.
J. Adams	A–65	All.
M.A. Love	A–595	All.
Joseph Del	A–297	Portion.
Abraham Boothe	A–148	Portion.
Benj. Kuykendall	A–531	Portion.

[FR Doc. 93–5476 Filed 3–9–93; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RS92–3–000]

Arkla Energy Resources; Notice of Conference

March 4, 1993.

Take notice that on Thursday, March 11 and, if necessary, Friday, March 12, 1993, a conference will be convened in the above-captioned restructuring docket. The conference will be held at the Entex Building, room 423, 1600 Smith Street, Houston, Texas. The conference will begin at 10 a.m. on March 11, 1993.

The purpose of the conference is to address restructuring issues with the Staff of the Federal Energy Regulatory Commission and the intervenors in this proceeding in order to facilitate AERCo's revised compliance filing.

All interested parties are invited to attend. Attendance at the conference will not confer party status. For additional information, interested persons can call Richard White at (202) 208–0491 or Robert Steinberg at (202) 208–1032.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5478 Filed 3–9–93; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. TA93–1–21–000 and TM93–9–21–000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

March 4, 1993.

Take notice that Columbia Gas Transmission Corporation (Columbia) on March 1, 1993, tendered for filing the following proposed changes to its FERC Gas Tariff, First Revised Volume No. 1, to be effective May 1, 1993.

Thirty-fifth Revised Sheet No. 26
Twenty-eighth Revised Sheet No. 26.1
Thirty-third Revised Sheet No. 26A
Twenty-eighth Revised Sheet No. 26A.1
Twenty-seventh Revised Sheet No. 26B
Twenty-third Revised Sheet No. 26B.1
Twenty-ninth Revised Sheet No. 26C
Seventeenth Revised Sheet No. 26C.1
Twenty-fourth Revised Sheet No. 26D
Thirty-first Revised Sheet No. 163.

Columbia states that the sale rates set forth on Twenty-Eighth Revised Sheet No. 26.1 reflect an overall decrease of 27.82¢ per Dth in the commodity rate and an increase of $0.037 per Dth in the demand rate. In addition, the transportation rates set forth on Seventeenth Revised Sheet No. 26C.1 and Twenty-Fourth Revised Sheet No. 26D reflect a increase in the Fuel Charge component of 0.48¢ per Dth.

The purpose of the subject tariff sheets is to reflect the following:

(1) A Current Purchased Gas Cost Adjustment applicable to Sales Rate Schedules;

(2) Unrecovered Purchase Gas Cost Surcharges to be effective during the 12-month period commencing May 1, 1993;

(3) Current Transportation Cost Rate Adjustments;

(4) Unrecovered Transportation Fuel Charge Adjustments;

(5) A surcharge adjustment to provide for the recovery, over the 12-month period commencing May 1, 1993, of carrying charges related to take-or-pay reimbursements paid by Columbia to Panhandle Eastern Pipe Line Company (Panhandle) pursuant to the terms of a Commission approved settlement in Docket No. RP83–5–000; and

(6) A Transportation Fuel Charge Adjustment.

Columbia states that copies of the filing have been served upon Columbia's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 19, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5479 Filed 3–9–93; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP93–90–000]

CNG Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

March 4, 1993.

Take notice that CNG Transmission Corporation ("CNG") on March 1, 1993, filed the following revised tariff sheets to the First Revised Volume No. 1 of its FERC Gas Tariff:

First Revised Sheet No. 233
First Revised Sheet No. 234
Original Sheet No. 235
Original Sheet No. 236

CNG requests an April 1, 1993, effective date.

CNG states that the purpose of its filing is to permit CNG to flow through transition costs from its upstream pipeline suppliers. The proposed language is substantively identical to GT&C § 18.4 of the *pro forma* tariff filed as part of CNG's November 2, 1992, compliance filing in Docket No. RS92–14–000.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All motions or protests should be filed on or before March 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5480 Filed 3–9–93; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP93–89–000]

MIGC, Inc.; Proposed Changes in FERC Gas Tariff

March 4, 1993

Take notice that MIGC, Inc. (MIGC), on March 1, 1993, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. The proposed changes are designed to increase MIGC's jurisdictional revenues by $3.391.358 based on the twelve months ending December 31, 1992, as adjusted for known and measurable changes for the period ending September 30, 1993. MIGC has proposed that the increased rates and tariff sheets become effective April 1, 1993.

MIGC states that the requested change in rates is to recover deficiencies experienced in its annual jurisdictional cost of service. MIGC notes that the principal reasons for the proposed rate changes are increased costs of labor, operation and maintenance expenses, working capital requirements, and taxes as well as the decline in volumes connected to the MIGC system.

MIGC states that copies of this filing were served upon all of MIGC's jurisdictional customers, as well as interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before March 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5481 Filed 3–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–229–016]

Panhandle Eastern Pipe Line Co.; Compliance Filing

March 4, 1993.

Take notice that on March 1, 1993 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing revised tariff sheets in the above-mentioned proceeding.

Panhandle requests an effective date of April 1, 1993.

On October 30, 1992, the Commission issued an Order Issuing Certificates, Approving Abandonments, Approving Settlement and Accepting Tariff Sheets for Filing in the above-referenced proceeding (October 30, 1992 Order). The October 30, 1992 Order approved a Stipulation and Agreement (Settlement) dated October 2, 1992 which reflected rate reductions associated with Panhandle Eastern Pipe Line Company's (Panhandle) Canadian supplies and related transportation agreements.

Pursuant to Article IV, section 3(a) of the Settlement, Panhandle was permitted to include a Canadian-related service component in its base rates which became effective November 1, 1992 in Docket No. RP92–166–000. The Canadian-related service component would remain in effect for the period November 1, 1992 until March 31, 1993. Effective April 1, 1993, the Settlement provides for the implementation of surcharges which will remain in effect for a 65 month period. Article IV, Sections 3 (b) and (c) of the October 2, 1992 Settlement provides for the implementation of the Canadian Resolution surcharges and the revised tariff sheets included in Appendix B of the Settlement. The purpose of this filing is to implement the above-referenced surcharge and to remove the Canadian-related service component from base rates.

Panhandle states that copies of the revised tariff sheets are being served on all jurisdictional customers, interested state commissions and all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5483 Filed 3–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–166–009]

Panhandle Eastern Pipe Line Co.; Compliance Filing

March 4, 1993.

Take notice that on March 1, 1993, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing revised tariff sheets in the above-mentioned proceeding.

Panhandle requests effective dates of November 1, 1992, December 1, 1992, January 1, 1993 and March 1, 1993.

Panhandle states that the filing is necessary to comply with Ordering Paragraph (D) of the Commission's February 17, 1993 Order Accepting and Rejecting Tariff Sheets. The rates in Panhandle's filing reflect the functionalization of facilities as originally filed in this docket.

In its February 17, 1993 Order, the Commission accepted all of the components of Panhandle's December 8, 1992 revised motion rate and compliance filing, except for Panhandle's treatment of the functionalization of facilities. In Ordering Paragraph (D) of that order, the Commission rejected that portion of Panhandle's December 8, 1992 filing which reflected the functionalization of facilities which was set forth in the November 18, 1992 amendment to Docket No. CP90–1050 and directed Panhandle to refile its rates to reflect the functionalization of facilities originally filed in these proceedings.

Panhandle further states that the revised tariff sheets submitted herewith also reflect changes associated with Panhandle's PGA filing in Docket No. TQ93–1–28–000, Panhandle's GRI filings in Docket No. TM93–2–28–000 and –001, and Panhandle's Annual PGA filing in Docket Nos. TA93–1–28–000 and TM93–3–28–000. These latter filings became effective December 1, 1992, January 1, 1993 and March 1, 1993, respectively.

This filing is without prejudice to Panhandle's rights on rehearing or judicial review in connection with the various Commission orders affecting this filing.

Panhandle states that copies of the revised tariff sheets are being served on all jurisdictional customers, interested state commissions and all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5482 Filed 3–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–2–6–000]

Sea Robin Pipeline Co.; Proposed Changes in FERC Gas Tariff

March 4, 1993.

Take notice that on February 26, 1993, Sea Robin Pipeline Company (Sea

Robin), tendered for filing the following proposed tariff sheets to Original Volume No. 1 of its FERC Gas Tariff, with proposed effective date of April 1, 1993:

Third Revised Sheet No. 4D

Sea Robin states that its filing has been made pursuant to the Commission's orders dated April 28, 1989 and October 7, 1991 in Docket No. RP89–141–000 in which Sea Robin is required to make an Annual Reconciliation Filing, effective April 1 of each year for unused transportation credits given to settling producers. Sea Robin's tariff sheet reflects a reconciliation of the transportation credits allocated to Southern Natural Gas Company and United Gas Pipe Line Company by Sea Robin under its direct bill and the customer's share of the credits actually utilized at the time in which they expired. Said adjustment also reconciles interest payable annually on its transportation credit balance in accordance with § 154.67 of the Commission's Regulations to account for the actual balance of utilized transportation credits as of March 31, 1993.

Sea Robin states that it has filed the supporting data to this filing under the terms of the privileged provisions of § 388.112 of the Commission's Regulations and the Protective Order issued in this proceeding on October 23, 1989. Sea Robin states that nonprivileged copies of the filing have been served on all parties to this proceeding and that upon request, it will send complete copies to reviewing parties eligible under the terms of the Protective Order.

Any person desiring to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protest should be filed on or before March 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5484 Filed 3–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RS92–86–000, et al.

Transcontinental Gas Pipe Line Corp.; Revised Order No. 636 Compliance Filing

March 4, 1993.

Take notice that Transcontinental Gas Pipe Line Corporation (TGPL) filed on March 3, 1993, a revised Order No. 636 compliance filing in the captioned dockets.[1] Parties should file comments on TGPL's revised Order No. 636 compliance on or before March 24, 1993.

In view of the comprehensive changes reflected in TGPL's revised Order No. 636 compliance filing, the Commission's review of parties' comments thereon will be facilitated if parties do not incorporate by reference their comments on TGPL's previous Order No. 636 compliance filing. Therefore, if a party does request incorporation by reference, the party should specifically identify those portions of its earlier comments that are material to TGPL's Order No. 636 compliance filing, as revised.

TGPL states that copies of its revised Order No. 636 compliance filing are being mailed to customers, state commissions, and all parties listed on the official service list for Docket No. RS92–86–000, et al. Also, copies of TGPL's revised Order No. 636 compliance filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5485 Filed 3–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–2–82–001]

Viking Gas Transmission Co.; Compliance Filing

March 4, 1993.

Take notice that on March 1, 1993, Viking Gas Transmission Company ("Viking") submitted a filing in compliance with an order issued by the Commission on December 31, 1992 in the referenced docket.

The Commission's December 31, 1992 order directed Viking to file no later than March 1, 1993 a plan for the disposition of its outstanding Account No. 191 balance. Viking states that this filing is submitted in satisfaction of that requirement.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5486 Filed 3–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA93–1–43–000; TM93–3–43–000]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

March 4, 1993.

Take notice that Williams Natural Gas Company (WNG) on March 1, 1993 tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Fifteenth Revised Sheet No. 6
Sixteenth Revised Sheet No. 6A
Fifteenth Revised Sheet No. 9

WNG states that pursuant to the Purchased Gas Adjustment in Article 18 of its FERC Gas Tariff, it proposes to increase its rates effective May 1, 1993 to reflect:

(1) An increase of $.0395 in the Cumulative Adjustment.

(2) A $.7026 per Dth increase in the Surcharge Adjustment (to a positive $.8803 per Dth from a positive $.1777 per Dth) to amortize the Deferred Purchased Gas Cost Subaccount Balance.

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 19, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on

[1] TGPL previously filed an Order No. 636 compliance filing in these dockets on December 31, 1992.

file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5487 Filed 3–9–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Conservation and Renewable Energy

Financial Assistance Award; U.S. Export Council for Renewable Energy

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: Pursuant to 10 CFR 600.7, the Department of Energy, Chicago Operations, through the Boston Support Office intends to award a grant to the U.S. Export Council for Renewable Energy (ECRE). The grant will provide funding in the amount of $250,000 with additional funding possible for up to five years, for a specific portion of a larger program supporting renewable energy development and commercialization including both Sandia National Lab and Pacific Northwest Lab. $125,000 of this funding will be provided to support project facilitating technical assistance activities of the Mexico-U.S. Renewable Energy Cooperative Program (PROCER) by U.S. industry and to help develop local infrastructure. $125,000 will support costs for ECRE and U.S. industry participation in training and information outreach activities to assist in developing the local infrastructure necessary to support sustained renewable energy development.

DOE knows of no other entity that is conducting or planning to conduct such an effort. This project is suitable for noncompetitive financial assistance and would not be eligible for financial assistance under a recent, current, or planned solicitation.

The budget period of this grant shall be twelve (12) months from the effective date of award, and the project period will be for a term of five years from the effective date of award.

FOR FURTHER INFORMATION CONTACT:

U.S. Department of Energy, Boston, Office; Attn: Mr. Hugh Saussy, Jr.; One Congress Street, Boston, MA 02114–2021

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 93–5493 Filed 3–9–93; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

The Directory of U.S. Coal & Technology Export Resources

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Upcoming Publication of The Directory of U.S. Coal & Technology Export Resources.

SUMMARY: The Department of Energy (DOE) is issuing a notice that an updated edition of The Directory of U.S. Coal & Technology Export Resources will be published in October 1993. Interested U.S. businesses are invited to participate in this directory by contacting DOE at the address listed below. The purpose of the directory is to provide a listing of available U.S. coal and coal related resources to potential purchasers of those resources. The directory lists business entities within the United States which offer coal related resources, products and services for sale on the international market. Each listing is intended to describe the product or services offered by a particular company in four areas: (1) Coal Resources; (2) Technology Resources; (3) Support Services; and (4) Financing and Resource Packaging.

DATES: Company information must be received on or before April 30, 1993.

ADDRESSES/FOR FURTHER INFORMATION CONTACT: Annette C. DuPont-Ewing, Office of Planning and Environment, Department of Energy, Mail Stop 4G–067, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–7735.

SUPPLEMENTARY INFORMATION:

I. Background
II. Opportunity for U.S. Businesses

I. Background

The Department of Energy first published The Directory of U.S. Coal & Technology Export Resources in October 1989. The first directory profiled domestic U.S. corporations, associations and public entities nationwide, which offered products or services suitable for export, relating to coal and its utilization.

A second edition was published in 1990 and, in October 1991, DOE published the Biennial Supplement to the directory which updated and expanded the information in the earlier publications to include legal services, export insurance and banking. The Supplement provided corporate biographies and product/service listings for over 115 U.S. private sector entities offering coal and coal technology products available for export. When combined with those companies participating in the companion 1990 edition, the total number of entities listed in the two Directories totaled more than 425.

The Directory, currently funded at a level of $47K of federal funds, consists of one publication for which a **Federal Register** Notice is being used as the vehicle to select additional U.S. participants and update information on current participants. Over 5000 copies will be distributed to participants, industry representatives, US Embassies, FCS offices, foreign embassies, US consulates, Congress, Federal and international financing organizations, non-governmental organizations, potential customers abroad and others considered appropriate or as required by section 1331(e)(2) of the Energy Policy Act of 1992 (Pub. L. 102–486, October 24, 1992).

The goal of the upcoming publication is to continue ongoing government efforts to promote closer cooperation with U.S. coal and fossil energy technology industries in identifying international trade opportunities. DOE will continue to develop its list of firms and organizations as industry awareness increases within the U.S. and as new products and technologies come to market.

II. Opportunity for U.S. Businesses

Interested U.S. businesses are invited to participate in this directory by contacting DOE at the address listed in the **ADDRESSES** section of this notice. Interested companies should provide the company name, logo, addresses, telephone numbers, telex/fax number, and the names of individuals within the company who will act as points of contact for international trade. Those companies already appearing in previous editions of the directory will be required to update information and will be contacted by DOE.

Jack S. Siegel,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 93–5489 Filed 3–9–93; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92–161–NG]

Aquila Southwest Marketing Corp.; Order Granting Blanket Authorization To Import and Export Natural Gas From and to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice

that it has issued an order granting Aquila Southwest Marketing Corporation (Aquila) blanket authorization to import and export a cumulative maximum of 360 Bcf of natural gas from and to Mexico over a two-year term beginning on the date of the first import or export after March 1, 1993, the date that Aquila's current blanket authorization expires.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m, Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 2, 1993.

Clifford Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–5490 Filed 3–9–93; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 93–07–NG]

New York State Electric & Gas Corp.; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting New York State Electric & Gas Corporation authorization to import near Grand Island, New York up to 10,000 Mcf of Canadian natural gas per day plus transportation fuel for a term of ten years beginning about November 1, 1993. The total volume to be imported over the term of the authorization shall not exceed 40 Bcf.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 3, 1993.

Clifford Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–5491 Filed 3–9–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[PF–573; FRL–4574–5]

Ciba-Geigy Corp.; Amended Pesticide Petitions for Cyromazine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from the Ciba-Geigy Corp. the filing of amendments to pesticide petitions (PP) 6F3333 and 6F3342 proposing to establish regulations for combined residues of the insecticide cyromazine plus its major metabolite, melamine, in or on peppers and tomatoes.

ADDRESSES: By mail, submit written comments, identified by the document control number [PF-573], to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Phillip O. Hutton, Product Manager (PM 18), Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 213, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7690.

SUPPLEMENTARY INFORMATION: EPA has received from the Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, amendments to the notice of filing under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for pesticide petitions (PP) 6F3333 and 6F3342, which appeared in the **Federal Register** of March 19, 1986 (51 FR 9511) and proposed to amend 40 CFR 180.414 for the insecticide cyromazine (*N*-cyclopropyl-1-3,5-triazine-2,4,6-triamine) plus its major metabolite melamine (1,3,5-triazine-2,4-6-triamine), calculated as cyromazine, in or on the raw agricultural commodity tomatoes at 1.0 part per million (ppm) (PP 6F3333) and in or on the raw agricultural commodity peppers at 2.0 ppm (PP 6F3342). Ciba-Geigy has submitted amendments to the petitions that would raise the tolerance for peppers from 2.0 ppm to 4.0 ppm and would lower the tolerance for tomatoes from 1.0 ppm to 0.5 ppm. The analytical method is high-pressure liquid chromatography using ultraviolet detection.

Authority: 7 U.S.C. 346a and 371.

Dated: March 3, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–5469; Filed 3–9–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–34040; FRL 4570–1]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on June 8, 1993.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (H7502C), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 220, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, 703–305–5761.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the

request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the four pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before June 8, 1993 to discuss withdrawal of the applications for amendment. This 90-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Registration No.	Product Name	Delete From Label
002935-00363	Methyl Parathion 5 Spray	Peppers, grapes, tomatoes
003125-00283	NEMACUR 3	Non-bearing deciduous fruit and nut trees, commercial tree and vine nurseries
062719-00019	N-Serve 24E Nitrogen Stabilizer	Cotton, strawberries
062719-00020	N-Serve 24 Nitrogen Stabilizer	Cotton, strawberries

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
002935	Wilbur Ellis Co., 191 W. Shaw Ave., Fresno, CA 93704.
003125	Miles Inc., P.O. Box 4913, 8400 Hawthorn Road, Kansas City, MO 64120.
062719	DowElanco, Quad IV 9002 Purdue Rd., Indianapolis, IN 46268.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

Dated: March 3, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 93-5470 Filed 3-9-93; 8:45 am]

BILLING CODE 6560-50-F

[PF-571; FRL-4185-6]

Pesticide Tolerance Petitions; Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces amendments to pesticide petitions (PP) and to food and feed additive petitions (FAP) proposing the establishment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, contact the PM named in each petition at the following office location/ telephone number:

Product Manager	Office location/telephone number	Address
George LaRocca (PM 15)	Rm. 204, CM #2, 703-557-2400	1921 Jefferson Davis Hwy., Arlington, VA.
Dennis Edwards (PM 19)	Rm. 207, CM #2, 703-305-6386	Do.
Susan Lewis (PM 21)	Rm. 227, CM #2, 703-557-1900	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions and food/ feed additive petitions as follows proposing the amendment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

Pesticide Petition Amendments

1. *PP 1F3949.* In a notice published in the **Federal Register** of December 9, 1992 (57 FR 58211), it was announced that Valent U.S.A. Corp., 1333 North

California Blvd., Suite 600, P.O. Box 8025, Walnut Creek, CA 94596-8025, had submitted PP 1F3949 proposing that 40 CFR part 180 be amended to establish a tolerance for fenpropathrin (*alpha*-cyano-3-phenoxybenzyl 2,2,3,3-tetramethylcyclopropanecarboxylate) in or on grapes at 5 parts per million (ppm) and in or on oranges at 2 ppm. Valent has submitted an amended petition proposing to establish tolerances for fenpropathrin in or on grapes at 5 ppm and in or on citrus fruits group (*Citrus* spp., *Fortunella* spp.) at 2 ppm. (PM 15)

2. *PP 4F3008.* DowElanco, Quad IV, 9002 Purdue Rd., Indianapolis, IN 46268-1189, has submitted an amendment to PP 4F3008 that proposes amending 40 CFR 180.342 by establishing a regulation permitting residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) in or on the commodities tomatoes at 1 part per million (ppm), pea hay at 0.1 ppm, bean hay at 0.1 ppm, and soybean hay at 0.1 ppm. The initial notice of filing of PP 4F3008 appeared in the **Federal Register** of February 8, 1984 (49 FR 4838). (PM 19)

3. *PP 6F3372.* In a notice issued in the **Federal Register** of March 19, 1986 (51 FR 9514), it was announced that Uniroyal Chemical Co., Inc., 76 Amity Rd., Bethany, CT 06525, had proposed amending 40 CFR part 180 by establishing tolerances for the combined residues of the fungicide triflumizole (1-(1-((4-chloro-2-(trifluoromethyl)phenyl)imino)-2-propoxyethyl)-1*H*-imidazole) and its aniline-containing metabolites 4-chloro-2-trifluoromethylaniline and *N*-(4-chloro-2-trifluoromethylphenyl)-propoxyacetamide in or on certain agricultural commodities as follows: apples at 0.1 part per million (ppm); cattle, fat, meat, and meat byproducts (mbyp) at 0.05 ppm; grapes at 0.3 ppm; hogs, fat, meat, and mbyp at 0.05 ppm; milk at 0.05 ppm; pears at 0.1 ppm; and poultry, eggs, fat, meat, and mbyp at 0.05 ppm. Uniroyal has submitted an amended notice of filing that proposes amending 40 CFR part 180 by establishing tolerances for triflumizole and its metabolites containing the 4-chloro-2-trifluoromethylaniline moiety (calculated as triflumizole) in or on apples at 0.5 ppm; grapes at 2.5 ppm; pears at 0.5 ppm; meat of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm; milk and eggs at 0.05 ppm; meat byproducts of poultry at 0.1 ppm; and meat byproducts and fats of cattle, goats, hogs, horses, and sheep at 0.5 ppm. The proposed analytical method for determining residues is chromatography and mass spectroscopy. (PM 21)

Food/Feed Additive Petition Amendments

4. *FAP 1H5295.* DowElanco, Quad IV, 9002 Purdue Rd., Indianapolis, IN 46268-1189, has submitted an amendment to feed additive petition (FAP) 1H5295 that proposes amending 40 CFR 186.1000 by establishing a regulation permitting residues of insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) in or on the commodity tomatoe pomace at 65 parts per million. Previous notices regarding FAP 1H5295 have appeared in the **Federal Register** of June 10, 1981 (46 FR 30629) and February 8, 1984 (49 FR 4838). (PM 19)

5. *FAP 2H5639.* In a notice published in the **Federal Register** of December 9, 1992 (57 FR 58211), it was announced that Valent U.S.A. Corp. had submitted food additive petition (FAP) 2H5639 proposing that 40 CFR part 185 be amended to establish a tolerance of 15 ppm for raisins and 160 ppm for orange oil and to establish under 40 CFR part 186 a tolerance of 45 ppm for raisin waste, 35 ppm for grape pomace, wet and dry, and 8 ppm for orange pulp, dry. The notice of the petition superseded the notice of the petition that had appeared in the **Federal Register** of June 10, 1992 (57 FR 24647). Valent has submitted a further amendment to the petition, proposing to establish tolerances for fenpropathrin in or on the following food and feed commodities: in 40 CFR part 185 (food additives) by establishing a tolerance of 15 ppm for raisins and a tolerance of 160 ppm for citrus oil; and in 40 CFR part 186 (feed additives) by establishing a tolerance of 45 ppm for raisin waste; 35 ppm for grape pomace, wet and dried; and 8 ppm for citrus pulp, dried. (PM 15)

6. *FAP 6H5497.* In a notice issued in the **Federal Register** of March 19, 1986 (51 FR 9514), it was announced that Uniroyal Chemical Co., Inc., 74 Amity Rd., Bethany, CT, 06524-3402, proposed amending 21 CFR part 193 (now 40 CFR part 185 after redesignation in the **Federal Register** of June 29, 1988 (53 FR 24666)) by establishing a regulation permitting the combined residues of the fungicide triflumizole and its metabolites in or on certain agricultural commodities as follows: apples, dried at 3.0 ppm; apple pomace, dry at 1.0 ppm; apple pomace, wet at 3.0 ppm; grape juice at 1.0 ppm; grape pomace, dry at 1.0 ppm; grape pomace, wet at 4.0 ppm; raisins at 1.0 ppm; and raisin waste at 2.0 ppm. Uniroyal has submitted an amended notice of filing that proposes amending 40 CFR part 185 by establishing tolerances for triflumizole and its metabolites in or on apple pomace at 2.0 ppm; grape pomace at 15.0 ppm; and raisin waste at 10.0 ppm. (PM 21)

Authority: 7 U.S.C. 136a.

Dated: March 2, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–5365; Filed 3–9–93; 8:45 am]

BILLING CODE 6560–50–F

[PP 1G3964/T634; FRL 4571–1]

Consep Membranes Inc.; Extension of an Exemption from Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended the temporary exemption from the requirement of a tolerance for the combined residues of the pheromone codlure, (*E,E*)-8,10-Dodecadien-1-ol, in or on all raw agricultural commodities when applied to the branches of trees via a membrane-type dispenser.

DATES: This temporary exemption from the requirement of a tolerance expires December 30, 1993.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 18, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 213, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–305–7690).

SUPPLEMENTARY INFORMATION: EPA issued a notice that was published in the **Federal Register** of July 10, 1991 (56 FR 31402) that a temporary exemption from the requirement of a tolerance had been established for the combined residues of the pheromone codlure, (*E,E*)-8,10-Dodecadien-1-ol, in or on all raw agricultural commodities when applied to the branches of trees via membrane-type dispenser. This exemption from the requirement of a tolerance was established in response to a pesticide petition (PP) 1G3964, submitted by Consep Membranes, Inc., c/o Gary Clark, Manager of Regulatory Affairs, 213 SW., Columbia St., Bend, Oregon 97702–1013.

The company has requested a 1–year extension of the temporary tolerance to permit the continued marketing of the above raw agricultural commodities

when treated in accordance with the provisions of experimental use permit 56336-EUP-2, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the exemption from the requirement of a tolerance will protect the public health. Therefore, the temporary exemption from the requirement of a tolerance has been extended on the condition that the pesticides be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredients to be use must not exceed the quantity authorized by the experimental use permit.

2. Consep Membranes, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary exemption from the requirement of a tolerance expires December 30, 1993. Residues remaining in or on all the raw agricultural commodities after this expiration date will not be considered actionable if the pesticides are legally applied during the term of, and in accordance with, the provisions of the experimental use premit and temporary exemption from the requirement of a tolerance. This temporary exemption from the requirement of a tolerance may be revoked if the experimental use premit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirement of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: February 24, 1993.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93-4929; Filed 3-9-93; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

March 3, 1993.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, suite 140, Washington, DC 20037, (202) 857-3800. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0167.
Title: Section 43.42, Reports on Pensions and Benefits.
Action: Extension of a currently approved collection.
Respondents: Businesses or other for-profit.
Frequency of Response: On occasion reporting.
Estimated Annual Burden: 23 responses; 80 hours average burden per response; 1,840 hours total annual burden.
Needs and Uses: Section 43.42 requires dominant common carriers with annual operating revenue of $100 million or more to file with the Commission the text of their pension and other employee benefit plan(s), and supporting data, as well as any subsequent changes that occur. The information filed is used by the FCC to ascertain the reasonableness of pension costs as far as they enter into the determination of rates. Benefit plans represent a sizeable investment by the companies. Without this information, the agency would have no way to determine the reasonableness of the annual accruals, and the accounting methods utilized and also, the adequacy of the funding levels maintained.
OMB Number: 3060-0388.
Title: Section 80.227, Special Requirements for Protection from RF Radiation.
Action: Extension of a currently approved collection.
Respondents: Individuals or households and businesses or other for-profit (including small businesses).
Frequency of Response: On occasion reporting.
Estimated Annual Burden: 35 responses; 10 hours average burden per response; 350 hours total annual burden.
Needs and Uses: This information collection requirement is a result of responsibilities placed on the FCC by the National Environmental Policy Act (NEPA) of 1969. NEPA requires that each federal agency evaluate the impact of "major actions significantly affecting the quality of the human environment." It is the FCC's opinion that this is the most efficient and reasonable method of complying with NEPA with regard to the environmental issue of radio-frequency radiation from ship earth and radar stations. The data is supplied by manufacturers of ship earth and radar stations and is provided to users of these devices. The data supplied advises users how to avoid potentially environmentally significant RF levels, i.e., those in excess of the safety guidelines identified in Section 1.1307(b) of the Rules. If such data were not provided, it would be more difficult to ensure that environmental impact is avoided.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-5405 Filed 3-9-93; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Notice of Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Thursday, March 25. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The meeting is expected to begin at 9 a.m. and to continue until 5 p.m., with a lunch break from 1 until 2 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, DC.

The Council's function is to advise the Board on the exercise of the Board's

responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

Issues Related to the Community Reinvestment Act (CRA). Discussion led by the Bank Regulation Committee of CRA issues, which may include the desirability of revising the current rating system, the possibility of different regulatory approaches to CRA (one for smaller banks and another for larger institutions), the idea of an exemption for the smallest institutions, and the concept of a "safe harbor" from protest-delays for satisfactorily rated institutions.

Burdens and Benefits of Consumer Protection Rules. Discussion led by the Bank Regulation Committee on the merits of possible actions that could be taken to reduce the regulatory burden associated with the Board's consumer protection rules.

Impediments to the Availability of Small Business Credit. Discussion led by the Consumer Credit Committee on possible reasons why small businesses experience difficulty in securing credit and suggestions for possible solutions.

Electronic Benefit Transfer Programs. Discussion led by the Depository and Delivery Systems Committee on a Board proposal that applies Regulation E (Electronic Fund Transfers) to electronic benefit transfer programs for recipients of government benefits.

Members Forum. Presentation of individual Council members' views on whether there are visible signs of an economic upturn present within their industries or local economies and whether it is getting easier to obtain a loan.

Council Member Perspectives. Remarks by Council members identifying special areas of importance and concern to their organizations in the provision of financial services to consumers and communities.

Committee Reports. Reports from Council committees on their work and plans for 1993.

Governor's Report. Report by Federal Reserve Board Member Lawrence B. Lindsey on economic conditions, recent Board initiatives, and issues of concern, with an opportunity for questions from Council members.

Other matters previously considered by the Council or initiated by Council members may also be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ann Marie Bray, Secretary, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551. Comments must be received no later than close of business Friday, March 19, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Bedelia Calhoun, Staff Specialist, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–2412. Telecommunications Device for the Deaf (TDD) users may contact Dorothea Thompson, (202) 452–3544.

Board of Governors of the Federal Reserve System, March 2, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–5407 Filed 3–9–93; 8:45 am]

BILLING CODE 6210–01–M

Bank of Boston Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 2, 1993.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Bank of Boston Corporation, Boston, Massachusetts; to acquire Multibank Financial Corp., Dedham, Massachusetts, and thereby indirectly acquire South Shore Bank, Quincy, Massachusetts; Mechanics Bank, Worchester, Massachusetts; and Multibank West, Pittsfield, Massachusetts.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Community Bankshares, Inc., Orangeburg, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Orangeburg National Bank, Orangeburg, South Carolina.

C. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Central Bankshares, Inc., Cordele, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Central Bank & Trust, Cordele, Georgia, a *de novo* bank.

D. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Dearborn Bancorp, Inc., Dearborn, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Dearborn, Dearborn, Michigan, a *de novo* bank.

2. Midlothian State Bank Employee Stock Ownership Trust, Midlothian, Illinois; to acquire 12.0 percent of the voting shares of Midlothian State Bank, Midlothian, Illinois.

E. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Union Planters Corporation, Memphis, Tennessee; to acquire 100 percent of the voting shares of Garrett Bancshares, Inc., Goodlettsville, Tennessee, and thereby indirectly acquire Bank of Goodlettsville, Goodlettsville, Tennessee.

F. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Community First Bankshares, Inc., Fargo, North Dakota; to merge with F&M Bank Holding Company, Coopertown, North Dakota, and thereby indirectly acquire Farmers and Merchants Bank in Coopertown, Coopertown, North Dakota.

G. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Kansas City, Kansas; to acquire 47.5

percent of the voting shares of Brotherhood Bancshares, Inc., Kansas City, Kansas, and thereby indirectly acquire The Brotherhood Bank and Trust Co., Kansas City, Kansas.

2. BOK Financial Corporation, Tulsa, Oklahoma; to acquire 100 percent of the voting shares of Sand Springs Banoshares, Inc., Tulsa, Oklahoma, and thereby indirectly acquire Sand Springs State Bank, Sand Springs, Oklahoma; and to acquire Brookside Bancshares, Inc., Tulsa, Oklahoma, and thereby indirectly acquire Brookside State Bank, Tulsa, Oklahoma.

3. Stuart Kansas City Limited Partnership, Lincoln, Nebraska; to become a bank holding company by acquiring 33 percent of the voting shares of Standard Bancorporation, Inc., Independence, Missouri, and thereby indirectly acquire Standard Bank & Trust, Independence, Missouri.

Board of Governors of the Federal Reserve System, March 4, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–5424 Filed 3–9–93; 8:45 am]

BILLING CODE 6210–01–F

T R Financial Corp.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Correction

This notice corrects a previous notice (FR Doc. 93–4733) published at page 12039 of the issue for Tuesday, March 2, 1993.

Under the Federal Reserve Bank of New York heading, the entry for T R Financial Corp. is revised to read as follows:

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. T R Financial Corp., Garden City, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Roosevelt Savings Bank, Garden City, New York. Roosevelt Savings Bank also offers Savings Bank Life Insurance.

Comments on this application must be received by March 25, 1993.

Board of Governors of the Federal Reserve System, March 4, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–5425 Filed 3–9–93; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 021693 AND 022693

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Kuhlman Corporation, Coltec Industries Inc., Central Moloney Transformer Division	93–0332	02/16/93
United Insurance Companies, Inc., Southern Educators Life Insurance Company, Southern Educators Life Insurance Company	93–0616	02/18/93
Sophus Berendsen A/S, Lucas Industries plc, Rucker Fluid Power Inc	93–0628	02/18/93
Dennis R. Washington, Kasler Corporation, Kasler Corporation	93–0584	02/19/93
Continental Cablevision, Inc., Cox Enterprises, Inc., Teleport Communications Group Inc	93–0619	02/22/93
Charles Schusterman, Exxon Corporation, Exxon Corporation	93–0621	02/22/93
Walbco Corporation, Cooper and Brass Sales, Inc., FitzSimons Manufacturing Company	93–0624	02/22/93
Morgan Stanley Leveraged Equity Fund II, L.P., Sullivan Holdings, Inc., Sullivan Holdings, Inc	93–0625	02/22/93
Code, Hennessy & Simmons Limited Partnership, Fiat S.p.A. (an Italian corporation), Woods Division of Fiatallis North America, Inc	93–0630	02/22/93
Masco Industries, Inc., Emco Limited, Emco Limited	93–0634	02/22/93
Interpool, Inc., Sequa Corporation, Sequa Capital Corporation; TRAC Lease, Inc	93–0642	02/22/93
Morgan Stanley Leveraged Equity Fund II, L.P., Newco, Newco	93–0644	02/22/93
Mercury Finance Company, Independent Insurance Group, Inc., Gulfco Investment, Inc	93–0651	02/22/93
Warburg, Pincus Investors, L.P., SHL Systemhouse Inc., SHL Systemhouse Inc	93–0660	02/22/93
General Motors Corp., National Auto/Truckstops Holdings Corporation, National Auto/Truckstops Holdings Corporation	93–0595	02/23/93
Ralph J. Roberts, Cox Enterprises, Inc., Teleport Communications Group Inc	93–0620	02/23/93
Sutter Health, Gould Medical Foundation, Gould Medical Foundation	93–0632	02/23/93
Wausau Paper Mills Company, James River Corporation of Virginia, Groveton NH Mill Facility	93–0649	02/23/93
Fincopper S.C.a.R.L., Allied-Lyons PLC, Frederick Wildman & Sons, Limited	93–0655	02/23/93
Marshall S. Cogan, John Rallis, Great Western Carpet Cushion Company, Inc	93–0605	02/25/93
Willcox & Gibbs, Inc., Harry Lebensfeld, Sacks Electric Supply Company	93–0643	02/26/93
Citicorp, New Cort Holdings Corporation, Cort Furniture Rental Corporation	93–0663	02/26/93
International Business Machines Corporation, General Growth Properties, Inc., General Growth Properties, Inc	93–0669	02/26/93
Honmachi Central Industry Corp., Midohsuji General Industrial Corporation, Summitpointe Golf Club Corp	93–0676	02/26/93
Arvin Industries, Inc., Space Industries International, Inc., Space Industries International, Inc	93–0678	02/26/93
Showa Manufacturing Co., Ltd., Honda Motor Co., Ltd., Seiki Giken Kogyo Co., Ltd	93–0684	02/26/93

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office; Bureau of Competition; room 303; Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 93–5433 Filed 3–9–93; 8:45 am]

BILLING CODE 6750–01–M

[File No. 882 3133]

Fleetwood Manufacturing, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, an Arizona-based company and its officer from representing that use, in a manner requiring little or no effort, of their continuous passive motion ("CPM") exercise tables would: Reduce or help reduce body fat; result in or contribute to weight-loss or inch loss; tone or firm human tissue; remove or eliminate cellulite; or provide health or physical fitness benefits similar or superior to those provided by rigorous exercise. In addition, respondents would be prohibited from making similar representations, with respect to any passive exercise machine, or fitness or diet program, unless they possess competent and reliable scientific evidence to substantiate such claims.

DATES: Comments must be received on or before May 10, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: C. Steven Baker or Theresa McGrew, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., suite 1437, Chicago, IL 60603. (312) 353–8156.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

File No. 882 3133

In the Matter of Fleetwood Manufacturing, Inc., a corporation, and Thomas A. Fleetwood, individually, and as an officer of the corporation.

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Fleetwood Manufacturing, Inc., and Thomas A. Fleetwood, individually and as an officer of Fleetwood Manufacturing, Inc., and it now appearing that Fleetwood Manufacturing, Inc., and Thomas A. Fleetwood, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Fleetwood Manufacturing, Inc., and Thomas A. Fleetwood, individually and as an officer of Fleetwood Manufacturing, Inc., and counsel for Federal Trade Commission that:

1. Proposed respondent Fleetwood Manufacturing, Inc., hereinafter referred to as the corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its principal office and place of business at 1854 South McDonald Mesa, Arizona.

2. Proposed respondent Thomas A. Fleetwood is an officer of the corporate respondent named herein. He has formulated, directed and controlled the acts and practices of the corporation, including all the acts and practices set forth in the complaint accompanying this agreement. His address is the same as that of the corporation respondent.

3. Proposes respondents admit all the jurisdictional facts set forth in the draft of the complaint here attached.

4. Proposed respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of the findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. All rights under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in deposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they fully complied with the order. Proposed

respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definition

For the purpose of this Order, the following definition shall apply:

Passive Exercise Machine means any motorized table, equipment or device that supports body weight, and is capable of continuously moving isolated groups of muscles through a range of motion in a manner requiring little or no effort by the user. For purposes of this order a passive exercise machine shall include such devices known or referred to as toning tables, motorized calisthenics tables or any other device of substantially the same construction, design or operation.

I

It is ordered that respondents Fleetwood Manufacturing, Inc., a corporation, its successors and assigns, and Thomas A. Fleetwood, individually and as an officer and director of Fleetwood Manufacturing, Inc., and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, offering for sale, selling or distributing of any passive exercise machine in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that use of any such machine in a manner requiring little or no effort by the user:

a. Reduces or helps to reduce overall body fat or body fat in any particular areas of the human body.

b. Results in or contributes to inch loss or weight loss or the reduction of any particular part of the human body.

c. Tones or firms human tissue including muscle in a normal healthy individual.

d. Removes or eliminates cellulite or any other form of subcutaneous body fat from the human body.

e. Provides health or physical fitness benefits similar or superior to those provided by rigorous forms of exercise for normal healthy individuals.

II

It is further ordered that respondents Fleetwood Manufacturing, Inc., a corporation, and Thomas A. Fleetwood, individually and as an officer of the corporation, their successors and assigns, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, offering for sale, selling or distributing of any passive exercise machine or any fitness or diet program in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that use of any such machine or program:

1. Reduces or helps to reduce overall body fat or body fat in particular areas of the human body.

2. Results in or contributes to inch loss or weight loss or the reduction of any particular part of the human body.

3. Tones or firms human tissue including muscle.

4. Removes or eliminates cellulite or any other form of subcutaneous body fat.

5. Provides health or physical fitness benefits for normal healthy individuals similar or superior to those provided by rigorous forms of exercise.

unless at the time of making such representation, they possess and rely upon competent and reliable scientific evidence that substantiates the representation. For purposes of the Order, for any test, analysis, research, study or other evidence to be "competent and reliable," the test, analysis, research, study, or other evidence shall be conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the relevant profession to yield accurate and reliable results.

B. Representing, directly or by implication, that any consumer endorsement or testimonial in favor of any such machine or program represents the typical or ordinary experience of members of the public who use the machine or program unless such is the case.

III

It is further ordered that respondents shall for at least three (3) years after the date the representation is last disseminated, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials relied upon to substantiate any representation covered by this Order.

B. All tests, reports, studies, surveys, demonstrations or other evidence, including consumer complaints, in their possession or control that contradict, qualify or call into question any representation covered by this Order.

C. A copy of each non-identical form of promotional material disseminated by respondents.

IV

It is further ordered that respondents shall for at least three (3) years after the date of service of this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying records of the name and last known address of each dealer, distributor, purchaser or lessee for commercial use of respondent's passive exercise machine, along with a copy of any training manuals or other training material disseminated to such persons.

V

It is further ordered that respondents shall:

A. Within sixty (60) days after the date of service of this Order send via Certified mail with return receipt, a copy of this Order to each person or firm that is a current or former Fleetwood salon operator, or dealer, and to each distributor, purchaser, or lessee for commercial use of Fleetwood equipment, and that respondents shall maintain for three (3) years and upon request make available to the Federal Trade Commission for inspection and copying each such return mail receipt, as well as a list of the names, addresses and phone numbers of those parties to whom respondents distributed a copy of this Order.

B. Distribute a copy of this Order to each of respondent's current officers, agents, representatives or employees who are engaged in the preparation of advertisements or other promotional materials, or any training or instructional materials, for passive exercise machines.

VI

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

VII

It is further ordered that the individual respondent named herein shall for a period of 5 years from the date of service of this Order, promptly

notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment whose activities include the manufacture, advertising, promotion, offering for sale, sale or distribution of passive exercise machines and of his affiliation with any new business or employment in which his own duties and responsibilities involve the manufacture, advertising, promotion, offering for sale, sale or distribution of passive exercise machines, with each such notice to include the respondent's new business address and a statement of the nature of the business or employment in which respondent is newly engaged, as well as a description of respondent's duties and responsibilities in connection with the business or employment.

VIII

It is further ordered that respondents shall, within sixty (60) days after the date of service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondents Fleetwood Manufacturing, Inc., and Thomas A. Fleetwood.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns advertising for a passive exercise device commonly referred to as continuous passive motion (CPM) tables or toning tables. The Commission's complaint charges that the respondents' advertisements contained false, misleading, and unsubstantiated representations concerning the ability of CPM tables to provide normal healthy individuals with weight loss and physical fitness benefits similar or superior to those provided by rigorous forms of exercise. The complaint also alleges that the respondents represented that consumers could achieve weight loss, inch loss, cellulite removal, and physical fitness benefits with little or no physical exertion by the user or as a result of the passive exercise provided by CPM tables. In addition, the complaint alleges that the respondents represented that they possessed and relied upon a reasonable basis for the representations made in their advertisements. Finally, the complaint alleges that respondents represented that various consumer testimonials and endorsements reflected typical or ordinary experiences of consumers in terms of weight loss and inch loss after using the machines.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future. The proposed order also extends to any other representations made by the respondents and to all passive exercise machines and devices, including CPM tables, and to any diet or fitness programs.

Part I of the proposed consent order prohibits the respondents from making certain false and misleading representations regarding the ability of passive exercise machines to provide weight loss and physical fitness benefits. Part II of the proposed order requires the respondents to have competent and reliable scientific evidence to substantiate any weight loss or physical fitness claims at the time they are disseminated. In addition, part II prohibits the respondents from using consumer endorsements and testimonials to represent that the experience characterized in an endorsement or testimonial is the typical or ordinary experience that members of the public would have when using any passive exercise machine or any fitness or diet program when such is not the case.

The remaining parts of the proposed consent order require the respondents to maintain materials relied upon to substantiate claims covered by the order, to distribute copies of the order to certain company officials and employees and to current or former salon operators, distributors, or purchasers, to notify the Commission of changes in corporate structure that might affect compliance with the order, and file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

Public Statement of Commissioner Deborah K. Owen in the Matter of Fleetwood Manufacturing, Inc.

Although I have reason to believe that the law was violated in this matter, I voted against accepting the consent agreement for public comment, for procedural reasons.

[FR Doc. 93–5434 Filed 3–9–93; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: March meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, notice is hereby given that the monthly meeting the Federal Accounting Standards Advisory Board will be held on Thursday, March 25, 1993 from 9 a.m. to 4 p.m. in room 7313 of the General Accounting Office, 441 G St., NW., Washington, DC.

The agenda for the meeting includes discussions of issues in the Exposure Draft on Accounting for Direct Loans and Loan Guarantees, and the projects on Accounting for Liabilities, and Investments.

Other items may be added to the agenda; interested parties should contact the Staff Director for more specific information and to confirm the date of the meeting.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT:

Ronald S. Young, Staff Director, 750 First St., NE., suite 1001, Washington, DC 20002, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: March 4, 1993.

Jimmie D. Brown,

Deputy Director.

[FR Doc. 93–5406 Filed 3–9–93; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Veterinary Medicine Advisory Committee

Date, time, and place. March 31, 1993, 8:30 a.m., Holiday Inn, Goshen conference room, Two Montgomery Village Ave., Gaithersburg, MD.

Type of meeting and contact person. Open committee discussion, 8:30 a.m. to 9:30 a.m; open public hearing, 9:30 a.m. to 3 p.m., unless public participation does not last that long; open committee discussion, 3 p.m. to 5 p.m.; Gary E. Stefan, Center for Veterinary Medicine (HFV–244), 7500 Standish Pl., Rockville, MD 20855, 301–295–8769.

General function of the committee. The committee reviews and evaluates available data concerning safety and effectiveness of marketed and investigational new animal drugs, feeds, and devices for use in the treatment and prevention of animal disease and increased animal production.

Agenda–Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before March 24, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss whether the increased incidence of mastitis in dairy cows treated with Monsanto Co.'s bovine somatotropin product (Sometribove-zinc complex (Sometribove)) as an aid in increasing milk production, and the potential concomitant increase in antibiotic use, represents a risk to human health. Data in the new animal drug application for Sometribove and in the published literature show that the increase in mastitis for Sometribove-treated cows is much less than the normal variation in mastitis incidence related to physiological and environmental changes; nevertheless, any increase in mastitis could still result in an overall increase of antibiotic use that could pose a risk to human health if it raised beyond lawful levels the amount of antibiotics found in milk or meat. In this particular case, however, the Center for Veterinary Medicine has reached an initial conclusion that concern regarding potential additional risk to humans resulting from an increased incidence of mastitis due to Sometribove is not warranted. The basis for the Center's conclusion will be discussed with the advisory committee.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: March 2, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–5518 Filed 3–5–93; 3:45 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Community Planning and Development

[Docket No. N–93–3589]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, Assistant Branch Chief, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, rm. 3001, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone: (202) 708–0050. This is not a toll free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. chapter 35; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 12, 1993.

David M. Cohen,

Director, Office of Affordable Housing Programs.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Comprehensive Housing Affordability Strategy (CHAS).

Office: Community Planning and Development.

Description of the Need for the Proposed Information and its Proposed Use: Title I of the National Affordable Housing Act (the Act) of 1990 requires that jurisdictions develop and implement a Comprehensive Housing Affordability Strategy as a condition for receiving funds under a variety of Federal housing assistance programs. The Act's conference language states that the CHAS will serve as a "working guide for each jurisdiction's use of Federal and other housing resources". They emphasized that the CHAS, as a single, action-oriented housing strategy, will serve as an efficient and productive management vehicle for States and units of general local government.

The Housing and Community Development Act (HCDA) of 1992 amends the Act of 1990, and produces an additional reporting burden. Changes contained herein are statutory based on the HCDA of 1992. This revised submittal accompanies a new CHAS final rule that reflects the HCDA of 1992 changes in CHAS requirements.

Form Number: HUD–40090–A REV. and HUD–40091–A REV.

Respondents: States, units of general local government, consortia and other "consolidated" jurisdictions.

Frequency of Submission: Year 1: Five-Year Strategy; Year 2: Annual Plan.

Reporting Burden: See next page.

Total Estimated Burden Hours: 665,050.

Status: Revision.

Contact: Mary Kolesar, HUD, (202) 708–2470; Angela Antonelli, OMB, (202) 395–6880.

Date: February 4, 1993.

Reporting Burden:

	Number of respondents	Frequency of response	Base hours per response	Adjusted hours per response	=	Burden hours
Five-year CHAS:						
Localities	800	1 (year 1)	391	516		412,800
States	50	1 (year 1)	469	719		35,950
Annual plan: [1]						
Localities	800	1 (year 2)	158	238		190,400
States	50	1 (year 2)	158	318		15,900
Abbreviated strategy	100	1	100	(4)		10,000
Annual recordkeeping	[2] 850	1	12	(4)		(5)
	[3] 100	1	4.5	(4)		
Total burden						665,050

[1] Submitted in each of the four years following submission of the Five-Year Strategy.
[2] For full CHASs.
[3] For abbreviated strategies.
[4] No change.
[5] Included in above figures.

Justification

Under a previous submission (OMB approval #25060117), the burden of meeting the requirements of title I of the National Affordable Housing Act of 1990 were assessed. This submission amends that previous submission to account for addition burden resulting from the Housing and Community Development Act of 1992.

The additional burden lies in providing information in both the five-year strategy and the annual plan for States and localities. The additional burden pertains to providing information on: Homelessness, linkage to funding priorities, lead-based paint, anti-poverty plans, antidisplacement requirements and coordination efforts.

1. *The following circumstances make the collection of information necessary:*

Title I of the National Affordable Housing Act of 1990, as amended, requires that jurisdictions develop and implement a Comprehensive Housing Affordability Strategy (CHAS), containing 20 elements, as a condition for receiving funds made available under title II of this Act (HOME), specific programs under the United States Housing Act of 1937, the Housing and Community Development Act of 1974, and the Stewart B. McKinney Homeless Assistance Act. For the purposes of title I, a jurisdiction may be a State, including the District of Columbia and the Commonwealth of Puerto Rico, a unit of general local government or an authorized consortium of geographically contiguous units of general local governments.

This submittal revises a previous submission (OMB approval #25060117) to reflect the changes made by the HCDA of 1992. For example, in the list of 20 elements below, items 8, 17, 18, and 20 are additional requirements; and item 15 has been revised to reflect statutory intent. The impact of these changes is an increase in the total annual cost and burden hours to respondents. Such increases are illustrated in the cost estimate tables provided for sections 12a, 12b, 13a, and 13b; and in the changes in burden section (14).

In meeting this title I requirement, the jurisdiction must provide in its CHAS the following information for review by HUD:

1. Housing needs projected over a five year period and the jurisdiction's need for assistance for various income groups and categories of residents;

2. The nature and extent of homelessness and the jurisdiction's strategy for assisting the homeless and those threatened with homelessness;

3. The characteristics of the housing market;

4. The effect of public policies on the availability of affordable housing and the jurisdiction's strategy to counter the negative effects of such policies;

5. The institutional structure through which the housing strategy will be carried out and the jurisdiction's plan for overcoming gaps in that system;

6. The private and non-Federal resources available to carry out the purposes of the Act;

7. The plan for investment or other use of housing funds made available under the HOME Investment Partnership Act, the United States Housing Act of 1937, the Housing and Community Development Housing Act of 1974, and the Stewart B. McKinney Homeless Assistance Act;

8. The manner in which the jurisdiction's plan will address the housing needs, the reasons for allocation priorities, and a list of any obstacles to addressing underserved housing needs;

9. The means of cooperation among the State and any units of general local government;

10. (In the case of a unit of local government) The number, condition, and revitalization needs of public housing units and the jurisdiction's strategy for improving their management, operation and living environment;

11. (In the case of a State) The strategy to coordinate use of the Low-Income Housing Tax Credit with the development of affordable housing;

12. The activities to encourage public housing residents to become involved in management and participate in homeownership;

13. The standards and procedures for monitoring activities;

14. A certification that it will affirmatively further fair housing;

15. A certification that the jurisdiction has in effect and is following a residential antidisplacement and relocation assistance plan;

16. The number of families to whom the jurisdiction will provide affordable housing;

17. An estimate of the number of housing units that are occupied by low- or very low-income families and that contain lead-based paint hazards;

18. A description of the jurisdiction's goals, programs, and policies for reducing the number of households with incomes below the poverty line;

19. A description of jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health, and service agencies, and;

20. A description of the jurisdiction's evaluation and reduction procedures of lead-based paint hazards.

All jurisdictions are expected to address each of the above elements in their five-year strategy except for elements #10, which applies only to units of general local government, and #11, which applies only to States. The annual plans submitted to HUD in the years 2 through 5 covered by the five-year strategy will address elements as called for, and then, only as appropriate. Provision has been made for non-entitlement CDBG jurisdictions and those not participating in the HOME Program to submit an "abbreviated" strategy to HUD to include only that information which is relevant to the specific program for which assistance is being sought.

Title I, as amended requires jurisdictions to submit for HUD review an annual performance report on the progress they have made in carrying out their housing strategy and in meeting the goals identified under element #16. The statutory requirements of this report will necessitate additional information gathering and record keeping. For example, the statute calls for jurisdictions to provide an estimate of the number of housing units that are occupied by low- or very low-income families and that contain lead-based paint hazards.

Title I, as amended mandates that jurisdictions meet certain pre-submission requirements involving citizen participation. Jurisdictions are statutorily directed to hold at least one public hearing in order to obtain the views of citizens on the jurisdiction's housing needs, and to publish their proposed CHAS to afford citizens, public agencies, and other interested parties the opportunity for comment.

2. *Purpose and Use of Information:* (Unchanged from previous submission).

The Act's conference language states that the CHAS will serve as a "working guide for each jurisdiction's use of Federal and other housing resources". The conferees express the concern that in the past, housing assistance plans and other planning documents required of recipients as a condition of receiving

HUD funds, were often burdensome exercises that did not further efficient management or the effective achievement of key housing goals. They emphasize that in replacing these plans, the CHAS as a single, action-oriented housing strategy will serve not only as an effective monitoring tool for HUD but also as an efficient and productive management vehicle for States and units of general local government.

The CHAS annual performance report provides a jurisdiction with the format necessary to measure accomplishments and progress in carrying out its housing strategy, and enables that jurisdiction to identify and then address areas of deficiency. Such self-scrutiny serves to assist a jurisdiction in avoiding possible HUD findings.

Information on the comments and views received from citizens and other interested groups during the citizen participation process must be considered by the jurisdiction and, to the extent possible, incorporated into their housing strategy. Title I requires that a jurisdiction attach a summary of such comments and views as part of their CHAS submission to HUD.

3. *Use of Improved Information Technology to Reduce Burden:* (Unchanged from previous submission).

Development of computer software to be used by jurisdictions would not be cost effective at this time. The information needed to complete the needs and housing inventory tables in the CHAS are based on Census data, local surveys and data collection relating exclusively to each jurisdiction. The information needed to complete the remaining CHAS elements would be provided through narratives and, like the data elements, would be unique to the housing needs and conditions of each jurisdiction. However, existing computer software applications will be reprogrammed to provide jurisdictions with the data needed to complete needs and housing inventory tables. This data will be assembled in special report forms which parallel the tabular formats.

4. *Describe the Efforts to Identify Duplication:* (Unchanged from previous submission).

The duplication that would have resulted from the new CHAS requirements has been avoided by eliminating the need for a Housing Assistance Plan (HAP) and a Comprehensive Homeless Assistance Plan (CHAP). These plans were previously required as a condition of funding under the Community Development Block Grant (CDBG) Program and the McKinney Homeless Assistance Programs. The jurisdictions required to submit a CHAS are, with few exceptions, recipients of assistance under CDBG or McKinney Act programs.

Furthermore, in developing the format for the annual performance report, HUD took into consideration the other performance reports required under various HUD programs in order to reduce duplication of effort in the collection and reporting of information.

5. *Why Similar Information Already Available Cannot be Used or Modified:* (Unchanged from previous submission).

The information collected for the CHAS, particularly the statistical data, is unique to each jurisdiction and changes over time. In recognition of the importance of having the most up to date information when preparing a CHAS, HUD is requiring that a new five-year strategy be prepared by all jurisdictions for FY94 since that will be the first opportunity to have fully incorporated complete 1990 Census data as the basis for strategy development.

6. *Small Business Involvement:* Not applicable.

7. *Consequence of Less Frequent Information Collection:* (Unchanged from previous submission).

Title I precludes a less frequent information collection. Importantly, the information being collected is the minimum necessary to implement the statute and achieve its stated purposes and objectives.

8. *Inconsistency with 5 CFR 1320.6:* Not applicable.

9. Not applicable. See previous submission (OMB approval #25060117).

10. Not applicable.

11. Not applicable.

12a. *Annual Cost Estimates for Five-Year Strategy Submission and Annual Performance Report* (Respondents are States, units of general local government, consortia and other consolidated submissions.):

	Number of respondents	×	Original estimate of hours	Adjusted estimate of hours	×	Average hourly rate	=	Adjusted cost
CHAS preparation:								
Localities	800		295	420		$15		$5,040,000
States	50		354	604		15		453,000
Citizen participation: [1]								
Localities	800		16	([3])		15		192,000
States	50		19	([3])		15		14,250
Publication costs: [2]								
Localities	800		([3])			1,250		1,000,000
States	50			([3])		5,000		250,000
Annual performance report:								
Localities	800		80	([3])		15		960,000
States	50		96	([3])		15		72,000
Total annual cost to respondents								7,981,250

[1] It is anticipated that many jurisdictions that are CDBG recipients will hold their CHAS public hearings in conjunction with their CDBG public hearings.

[2] Includes five publications: notice of public hearing (CHAS), summary of CHAS and request for comment, Annual Performance Report request for comment, and, if appropriate, substantial amendment request for comment, and notice of minor amendment, if any.

[3] No change.

12b. *Annual Cost Estimates for Annual Plan Submission (Years 2 through 5) and Annual Performance Report* (Respondents are States, units of general local government, consortia and other consolidated submissions):

	Number of respondents	×	Estimated hours	Adjusted estimated hours	×	Average hourly rate	=	Cost
Annual plan preparation:								
Localities	600		68	148		$15		$1,776,000
States	50		68	228		15		171,000
Citizen participation [4] 127,500	850		10	(*)		15		
Publication costs: [5]								
Localities	600			(*)		750		500,000
States	50			(*)		3,000		150,000
Annual performance report	850		80	(*)		15		1,020,000
Total annual cost to respondents								3,844,500

[4] See footnote #1.
[5] Includes three publications: notice of public hearing (CHAS), summary of CHAS and request for comment, Annual Performance Report request for comment.
[6] No change.

12c. *Cost Estimates for Abbreviated Strategy Submission and Annual Performance Report* (Respondents are Non-CDBG entitlement units of general coal government.)

Unchanged from previous submission.

	Number of respondents	×	Estimated hours	×	Average hourly rate	=	Cost
Abbreviated strategy preparation	100		60		$15		$90,000
Citizen participation	100		10		15		15,000
Publication costs [3]	100				(at 750)		75,000
Annual performance report	100		30		15		45,000
Total annual cost to respondents							225,000

[3] See footnote #5.

13a. *Estimate of Burden of Information Collection for Five-Year Strategy and Annual Performance Report*

Respondents: States, units of general local government, consortia and other consolidated submissions.

	Section rule affected	Number of respondents	Response per respondents	Total annual responses	Hours per response	Adjusted hours per response	Total hours
CHAS prep	§§ 91.17, .42, & .70.						
Localities		800	1	800	295	420	336,000
States		50	1	50	354	604	30,200
Citizen part	§§ 91.60, .62, & .65.						
Localities		800	1	800	16	(*)	12,800
States		50	1	50	19	(*)	950
Annual performance report [8]	§§ 91.82, & .85.						
Localities		800	1	800	80	(*)	64,000
States		50	1	50	96	(*)	4,800
Total annual burden hours							491,950

[8] Included in the burden hours is the time that respondents will need to provide substantive responses to HUD recommendations on the annual performance report.
[9] No change.

13b. *Estimate of Burden of Information Collection for Annual Plan (Years 2 through 5) and Annual Performance Report.*

Respondents: States, units of general local government, consortia and other consolidated submissions.

	Section rule affected	Number of respondents	Response per respondent	Total annual responses	Hours per response	Adjusted hours per response	Total hours
Annual plan preparation	§§ 91.21,46,70.						
Localities		600	1	800	68	148	118,400
States		50	1	50	68	228	11,400
Citizen participation	§§ 91.60,62,65	850	1	850	10	(11)	6,500
Annual performance report [10].	§§ 91.82,85	850	1	850	80	(11)	68,000
Total annual burden hours.							206,300

[10] Included in the burden hours is the time that respondents will need to provide substantive responses to HUD recommendations on the annual performance report.
[11] No change.

13c. *Estimate of Burden of Information Collection for Abbreviated Strategy and Annual Performance Report* (Respondents are Non-CDBG entitlement units of general local government):

Unchanged from previous submission.

	Section rule affected	Number of respondents	Response per respondent	Total annual responses	Hours per response	Total hours
Abbreviated strategy:						
Preparation	91.25	100	1	100	60	6,000
Citizen participation	91.60, 62, 65	100	1	100	10	1,000
Annual performance report [12]	91.82, 85	100	1	100	30	3,000
Total annual burden hours						10,000

[12] See footnote #9.

14. *Changes in Burden*

As previously stated in the justification section, the CHAS is a requirement authorized under title I of the National Affordable Housing Act of 1990. The HCDA of 1992 creates additional burden in preparing a CHAS under sections 220, 622, 681, 1012, and 1206. These additional burden hours are illustrated in tables 12a-c and 13a-c and represent only the statutory requirements of the HCDA of 1992.

The additional information required by the HDCA of 1992 increase the burden hours for localities and States when preparing their five-year strategy, annual plans, and annual performance reports. For example, the inclusion of information pertaining to homelessness (section 220), linkage to funding priorities (section 220), anti-poverty planning (section 220), antidisplacement certification (section 220), lead-based paint hazard analyses (section 1014), and coordination efforts (section 681) has increased the total hours to prepare a five-year strategy for localities and States by 125 and 250 hours respectively. The table below illustrates the increase in hours for localities and States.

	Five-year strategy and annual performance report	Annual plan	Abbreviated strategy
Localities	125	80	No change.
States	250	160	No change.

15. The results of this collection of information are not planned for statistical use.

[FR Doc. 93-5431 Filed 3-9-93; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-120-03-4210-04; G3-030; OR-45444]

Exchange of Public Land, Coos County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—Land Exchange.

SUMMARY: The following described public domain lands, including mineral rights, located on the North Spit of Coos Bay, Oregon, have been determined to be suitable for disposal out of Federal ownership, by exchange, pursuant to section 206 of the Federal Land Policy and Management Act of 1976, (43 U.S.C. 1716):

Willamette Meridian, Oregon

T. 25 S., R. 13 W.
Sec. 7, Lots 5, 6, 8, SE¼SE¼SW¼,S½SE¼SE¼NE¼;
Sec. 18, Lot 7, E½E½NW¼.
Comprising 140.91 acres, more or less.

The patent, when issued, will be subject to a reservation of a right-of-way thereon for ditches and canals constructed by the authority of the United States of America, Act of August, 1890 (43 U.S.C. 945) and a reservation thereon for a road for public access to be constructed by the authority of the United States of America Act of October 21, 1976 (43 U.S.C. 1761). The patent will also be issued subject to the following existing rights-of-way grants and reservations:

1. OR 36509—U.S. Corps of Engineers
2. OR 38912—Federal Aviation Administration
3. OR 44459—Pacific Power & Light
4. OR 44460—Coos Bay North Bend Waterboard
5. OR 47060—Weyerhaeuser Company
6. OR 37075—Coos County
7. OR 49196—Bureau of Land Management

all granted pursuant to the Act of October 21, 1976.

In exchange for all or a portion of these lands, the United States of America will acquire all or a portion of the following described lands from the exchange proponent:

Willamette Meridian, Oregon

T. 25 S., R. 13 W.,
Sec. 18, Lot 4, NE¼SW¼ and accreted lands adjacent to and abutting Lot 4;
Sec. 19, accreted lands adjacent to and abutting Lot 4.
T. 25 S., R. 14 W.,
Sec. 25, Lot 1 and adjoining tidelands.
Comprising 157.4 acres, more or less.

The value of the lands to be exchanged has been established by fair market value appraisals and is approximately equal, the acreage may be adjusted or a cash payment may be made to the United States of America to equalize values at the time of consummation of the exchange transaction.

The exchange proponent, the Oregon International Port of Coos Bay, has submitted a written proposal concerning the lands noted above indicating that the purpose of this exchange is to fulfill

a public need which requires the acquisition of Federal lands to facilitate the orderly development of a Marine Industrial Park to assure that the shoreline is available for water dependent uses while accommodating non-water dependent uses on the inland portion of the existing industrial park. The private lands being considered for acquisition by the United States of America would add important scenic quality, recreational opportunities and wildlife habitat values to adjoining Federal lands.

This exchange proposal is consistent with the management objectives of the Coos Bay Management Framework Plan (MFP) and the Federal lands have been identified for disposal in the MFP. This exchange proposal has been discussed with Coos County and various State of Oregon agencies who have indicated that the proposal is consistent with local government plans. The public interest will be well served by making this exchange.

The publication of this notice in the **Federal Register** segregates the Federal lands described herein from all forms of appropriation and entry under the public land laws, including the mining laws, for a period of two years from the date of publication. The exchange is expected to be completed before the end of that period.

ADDRESSES: Detailed information concerning the exchange, including the environmental analysis, is available for review at the Bureau of Land Management's Coos Bay District Office, 1300 Airport Lane, North Bend, Oregon 97459.

DATES: On or before April 26, 1993, interested parties may submit protests to the Coos Bay District Manager at the above address (Please reference exchange number OR 45444). Objections will be evaluated by the Oregon State Director of the Bureau of Land Management who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Daryl Albiston or Thom Green, Coos Bay District Office, (503) 756–0100.

Dated: February 22, 1993.

Melvin E. Chase,

District Manager.

[FR Doc. 93–4760 Filed 3–9–93; 8:45 am]

BILLING CODE 4310–33–M

Bureau of Reclamation

Implementation of the Reclamation Reform Act of 1982 in the Central Valley Project, California

AGENCY: Bureau of Reclamation (Interior).

ACTION: Notice of availability and notice of public hearings on draft environmental impact statement (DEIS); INT–DES–93–9.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, and in accordance with a Federal court order, the Bureau of Reclamation (Reclamation) has prepared a draft environmental impact statement (DEIS) on proposed rules to implement the Reclamation Reform Act of 1982 (RRA) in the Central Valley Project (CVP) in California. The DEIS evaluates three alternatives, including no action, and analyzes each with respect to several key RRA provisions. Four public hearings will be held to receive comments from interested organizations and individuals on the environmental impacts of the proposal.

DATES: A 45-day public review period begins with the Environmental Protection Agency's publication of DEIS availability in the **Federal Register**.

Public hearings on the DEIS will be held on the following dates at the locations indicated.

April 6—4 p.m. to 7:30 p.m., Franco's Restaurant, 610 South Tehama, Willows, California.

April 7—1 p.m. to 4 p.m., Red Lion Hotel, 1401 Arden Way (at Business 80) (Donner or Cedar Room), Sacramento, California.

April 8—1 p.m. to 4 p.m., Merced County Spring Fair (Germino Building), 4th and 5th Streets, Los Banos, California.

April 8—6:30 p.m. to 9:30 p.m., Holiday Inn—Airport (Raisin Room), 5090 East Clinton, Fresno, California.

ADDRESSES: Written comments on the DEIS may be submitted to: J. William McDonald, Assistant Commissioner—Resources Management, Bureau of Reclamation, Attention: D–5640, PO Box 25007, Denver, CO 80225.

Copies of the DEIS may be requested from the following:

- Assistant Commissioner—Resources Management, Bureau of Reclamation, Attention: D–5640, PO Box 25007, Denver, CO 80225; telephone: (303) 236–8530.
- Regional Director, Bureau of Reclamation, Mid-Pacific Regional Office, Attention: MP–750, 2800 Cottage Way, Sacramento, CA 95825; telephone: (916) 978–5487.

Copies of the DEIS are available for inspection at the addresses above and also at the following locations:

- Office of the Commissioner, Bureau of Reclamation, Technical Liaison Division, 1849 C Street, NW., Washington, DC 20240; telephone: (202) 208–4662.
- Denver Office, Bureau of Reclamation, Library, room 167, Building 67, Denver Federal Center, Denver, CO 80225; telephone: (303) 236–6963.
- Central Valley Project—Fresno Office, 2666 North Grove Industrial Drive, suite 106, Fresno, CA 93727; telephone: (209) 487–5041.
- Central Valley Project—Willows Office, 1140 West Wood Street, Willows, CA 94988; telephone: (916) 934–7361.
- Central Valley Project—Shasta Office, Shasta Dam, Redding, CA 96003; telephone: (916) 275–1554.
- Central Valley Project—Tracy Office, Mountain House and Kelso Roads, 10 miles west of Tracy, CA; telephone: (209) 836–6279.

Libraries

Bakersfield Library, 701 Truxtun Avenue, Bakersfield, California
Concord Library, 2900 Salvio, Concord, California
Fresno County Library, 2420 Mariposa Street, Fresno, California
Los Banos City Library, 1312 7th Street, Los Banos, California
Merced Library, 2100 O Street, Merced, California
Modesto City Library, 1500 I Street, Modesto, California
Red Bluff City Library, 645 Madison Street, Red Bluff, California
Sacramento County Library, 536 Downtown Plaza, Sacramento, California
Shasta County Library, 1855 Shasta Street, Redding, California
Stockton City Library, 605 North El Dorado, Stockton, California

FOR FURTHER INFORMATION CONTACT: Gary Anderson, Chief, Reclamation Law Administration Branch, Bureau of Reclamation, Attention: D–5640, PO Box 25007, Denver, CO 80225; telephone: (303) 236–8064.

SUPPLEMENTARY INFORMATION: In 1988, Reclamation was sued by the Natural Resources Defense Council (NRDC), which alleged, among other things, that Reclamation had not adequately complied with the National Environmental Policy Act (NEPA) in promulgating 1987 and 1988 rules to implement the RRA (43 CFR part 426).

On July 26, 1991, the United States District Court for the Eastern District of California ruled in favor of NRDC on the issue of NEPA compliance. After being briefed on the issue of relief, the court issued an order on March 10, 1992, declaring that:

1. The issuance of the 1987 and 1988 rules was a major act affecting the quality of the environment, thus requiring the preparation of an environmental impact statement (EIS).

2. Within 15 months (by June 10, 1993), Reclamation must issue interim rules to implement the RRA in the CVP of California, including the preparation of an EIS.

3. Within 30½ months (by September 25, 1994), Reclamation must issue final rules, including the preparation of an EIS that would apply to all Reclamation projects.

4. The existing regulations will remain in effect on an interim basis until new rules are prepared.

In accordance with the court order, Reclamation has prepared a DEIS evaluating the effects of implementing RRA rules for the CVP. Three alternatives, including no action, are evaluated in the draft statement. Under the no action alternative, regulations essentially identical to the 1987 and 1988 RRA regulations (43 CFR part 426), as amended, would be issued for the CVP. The preferred alternative is the no action alternative. One of the action alternatives would provide for rules identical to the draft acreage limitation rules Reclamation proposed on November 7, 1986 (51 FR 40749). The other action alternative would provide for a more restrictive application of the RRA and would require new legislation before it could be implemented.

Each alternative was analyzed with respect to four key RRA issues: (1) implementation of section 203(b) of the RRA which requires that, as of April 13, 1987, parties remaining subject to Reclamation law in effect prior to the enactment of the RRA must pay the full-cost rate for Reclamation irrigation water delivered to land leased in a landholding exceeding 160 acres; (2) definition of "lease"; (3) water conservation requirements for districts in Reclamation projects; and (4) the acreage threshold below which landholders on Reclamation projects are exempt from the information requirements of the RRA.

Dated: February 17, 1993.

James O. Malila,

Assistant Commissioner—Administration.

[FR Doc. 93–5499 Filed 3–9–93; 8:45 am]

BILLING CODE 4310-09-M

Office of Surface Mining Reclamation and Enforcement

Cancellation of a Notice of Intent

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Cancellation of a notice of intent to prepare an environmental impact statement.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement is canceling the notice of intent to prepare a new or supplemental environmental impact statement for the approval of State and Tribal reclamation program grants under title IV of the Surface Mining Control and Reclamation Act of 1977.

DATES: Effective March 10, 1993.

FOR FURTHER INFORMATION CONTACT: David S. Hamilton, Office of Surface Mining, Third Floor, suite 3C, Harrisburg Transportation Center, 4th and Market Streets, Harrisburg, PA 17101; telephone: (717) 782–4036 (commercial) or (FTS).

SUPPLEMENTARY INFORMATION: On February 27, 1992 (57 FR 6737), the Office of Surface Mining Reclamation and Enforcement (OSM) published a notice of intent to prepare a new or supplemental environmental impact statement (EIS) for the approval of State and Tribal reclamation program grants under title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Title IV of SMCRA authorizes OSM to distribute grants from the Abandoned Mine Land (AML) Reclamation Fund to States and Tribes with approved coal mining regulatory programs and abandoned mine reclamation plans so that the States and Tribes can reclaim AML. The EIS was in the scoping stage.

After further consideration, OSM has decided not to prepare a new or supplemental EIS for approval of State and Tribal reclamation program grants because of the volume of site specific data that would be required in a single document for a nationwide program. Instead, OSM will continue to prepare site specific NEPA documentation for individual AML projects as necessary. Certain types of actions in the AML program have been determined by the Department of the Interior to be categorically excluded from the requirement to prepare either an EIS or an environmental assessment. The Department has recently approved certain additions to the list of such actions that are categorically excluded. The notice approving those additions is being published in this edition of the **Federal Register**.

Dated: March 1, 1993.

Brent Wahlquist,

Assistant Director, Reclamation and Regulatory Policy.

[FR Doc. 93–5428 Filed 3–9–93; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–347]

Certain Anti-Theft Deactivatable Resonant Tags and Components Thereof; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 2, 1993, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Checkpoint Systems, Inc., 550 Grove Road, Thorofare, New Jersey 08086. An amended complaint was filed on February 23, 1993. The complaint, as amended, alleges a violation of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain anti-theft deactivatable resonant tags and components thereof by reason of alleged infringement of claims 1, 2, 4, 6, 9, 10, 20, 21, 23 and 25 of U.S. Letters Patent 4,498,076 and claims 1, 2, 4, 6, 9, 10, 19, 20, 22, 24, 25, 26 and 27 of U.S. Letters Patent 4,567,473, and that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., room 112, Washington, DC 20536, telephone 202–205–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

FOR FURTHER INFORMATION CONTACT: Alesia M. Woodworth, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2571.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.12 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.12.

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on March 3, 1993, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain anti-theft deactivatable resonant tags and components thereof by reason of alleged infringement of claims 1, 2, 4, 6, 9, 10, 20, 21, 23 or 25 of U.S. Letters Patent 4,498,076 or claims 1, 2, 4, 6, 9, 10, 19, 20, 21, 24, 25, 26 or 27 of U.S. Letters Patent 4,567,473; and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Checkpoint System, Inc., 550 Grove Road, Thorofare, New Jersey 08086.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Actron AG, Lettenstrasse 8, CH–6343 Rotkreuz, Switzerland.
ADT Limited, Cedar House, 41 Cedar Avenue, Hamilton, Bermuda.
Tokai Denshi Co., Ltd., 1071 Yabata, Chigasaki-shi, Kamagawa Prefecture, Japan.
All Tags Security AG, Industrie Strasse 11, CH–6343 Rotkreuz, Switzerland.
Toyo Aluminum K.K., Midosuji Daiwa Building, 3–6–8 Kyutarocho, Chuo-ku, Osaka-City, Osaka, Japan.
Custom Security Industries Inc., 19 Ruggles Avenue, Unit 5, Thorn Hill, Ontario, L3T 3S4, Canada.

(c) Alesia M. Woodworth, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., room 401–O, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with sections 210.21 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.21. Pursuant to §§ 201.16(d) and 210.21(a) of the Commission's Rules, 19 CFR 201.16(d) and 210.21(a), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure to a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondents, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: March 4, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–5463 Filed 3–9–93; 8:45 am]

BILLING CODE 7020–20–M

[Investigation No. 731–TA–621 (Final)]

Certain Compact Ductile Iron Waterworks Fittings and Accessories Thereof From the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby give notice of the institution of final antidumping investigation No. 731–TA–621 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of certain compact ductile iron waterworks fittings and accessories thereof,[1] provided for in subheadings 7307.19.30, 7318.15.20, 7318.16.00, and 7325.99.10 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: February 9, 1993.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202–205–3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain compact ductile iron waterworks fittings and accessories thereof from the People's Republic of China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on July 8, 1992, on behalf of the U.S. Waterworks Fittings Producers Council, which is comprised of the following firms: Clow Water Systems Company (Coshocton, OH); Tyler Pipe

[1] The products covered by this investigation are (1) certain compact ductile iron waterworks (CDIW) fittings of 3 to 16 inches nominal diameter regardless of shape, including bends, tees, crosses, wyes, reducers, adapters, and other shapes, whether or not cement line, and whether or not covered with bitumen or similar substance, conforming to American Water Works Association/American National Standards Institute (AWWA/ANSI) specifications C153/A21.53, and rated for water working pressure of 350 PSI; and (2) certain CDIW fittings accessories which typically consist of a standard ductile iron gland, a styrene butadiene rubber (SBR) gasket, the requisite number of Cor-Ten steel or ductile iron T-head bolts, and hexagonal nuts, for fittings in sizes 3 to 16 inches, conforming to AWWA/ANSI specification C111/A21.11, and rated for water working pressure of 350 PSI. Gaskets, bolts and nuts are only included if they are imported as an accessory pack with a gland. However, glands imported separately are included in the scope of the investigation. Compact ductile iron waterworks fittings with nominal diameters greater than 16 inches and accessories used with such fittings, nonmalleable cast iron or gray iron fittings, and full-bodies ductile fittings all are excluded from the scope of this investigation.

Industries, Inc. (Tyler, TX); and Union Foundry Company (Anniston, AL).

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on June 24, 1993, and a public version will be issued thereafter pursuant to section 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on July 8, 1993, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 30, 1993. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 2, 1993, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is July 1, 1993. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is July 16, 1993; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 16, 1993. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

Issued: March 5, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–5466 Filed 3–9–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 22–53]

Certain Dairy Products; Institution of Investigation and Scheduling of a Public Hearing

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of a public hearing.

SUMMARY: Following receipt on January 19, 1993, of a request from the President for an investigation under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), the Commission instituted investigation No. 22–53 under section 22(d) of the act for the purpose of determining whether the Harmonized Tariff Schedule of the United States (HTS) should be modified with respect to the following proposed actions:

(a) The exclusion of cajeta not made from cow's milk from the quota on malted milk and articles of milk or cream (HTS subheading 9904.10.60);

(b) The exclusion of inedible dried milk powders used for calibrating infrared milk analyzers from the quota on malted milk and articles of milk or cream (HTS subheading 9904.10.60);

(c) The exclusion of margarine cheese from Sweden from the quota on malted milk and articles of milk or cream (HTS subheading 9904.10.60), and the inclusion of margarine cheese from Sweden under the quota for lowfat cheese (HTS subheading 9904.10.57);

(d) The elimination of the import quota licensing requirement with respect to dried cream (HTS subheading 9904.10.15) and malted milk and articles of milk of cream (HTS subheading 9904.10.60); and

(e) The clarification of U.S. note (3)(a)(iii) to subchapter IV of chapter 99 to provide that, to the extent the Secretary of Agriculture determines that the specified country quota quantity is not likely to be entered in a calendar year, such country quota for a particular dairy product may be reallocated among all countries having quota allocations, including countries falling in the "other" category (unless it is specified that no quantity of such product should be entered from "other" countries).

The President asked that the Commission report its findings and recommendations at the earliest practicable date. The Commission anticipates submitting its report to the President by June 30, 1993.

EFFECTIVE DATE: January 19, 1993.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202–205–3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION: For further information concerning the conduct of

this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E, and part 204 (19 CFR parts 201, 204).

Participation in the Investigation

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on April 29, 1993, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on April 14, 1993. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on April 21, 1993, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2) and 201.13(f) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Testimony at the public hearing should be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs. The deadline for filing prehearing briefs is the close of business on April 22, 1993. Posthearing briefs must be submitted not later than the close of business on May 6, 1993. In addition, the presiding official may permit persons to file answers to requests made by the Commission at the hearing within a specified time. The Secretary will not accept for filing posthearing briefs or answers which do not comply with the provisions contained in this notice.

Written Submissions

As stated above, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 6, 1993. A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain confidential business information must also conform with the requirements of § 201.6 of the Commission's rules.

All written submissions except for confidential business information will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which confidential business treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

This notice is published pursuant to § 204.4 of the Commission's rules (19 CFR 204.4).

Issued: March 5, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–5465 Filed 3–9–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–625 (Final)]

Certain Helical Spring Lockwashers From Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–625 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Taiwan of certain helical spring lockwashers,[1] provided for in subheading 7318.21.00 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: February 22, 1992.

FOR FURTHER INFORMATION CONTACT: Douglas Corkran (202–205–3177), Office of Investigation, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

[1] For purposes of this investigation, certain helical spring lockwashers are circular washers of carbon steel, of carbon alloy steel, or of stainless steel, heat-treated or non heat-treated, plated or non plated, with ends that are off-line. Such helical spring lockwashers are designed to: (1) Function as a spring to compensate for developed looseness between the component parts of a fastened assembly; (2) distribute the load over a larger area for screw or bolts; and (3) provide a hardened bearing surface. The scope does not include internal or external tooth washers, nor does it include spring lock washers made of other metals, such as copper.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain helical spring lockwashers from Taiwan are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on September 8, 1992, by the Shakeproof Industrial Products Division, Illinois Tool Works, Milwaukee, WI.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on April 30, 1993, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on May 13, 1993, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 5, 1993. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 10, 1993, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is May 7, 1993. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is May 21, 1993; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 21, 1993. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under the authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

Issued: March 3, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–5462 Filed 3–9–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–550 (Final)]

Sulfur Dyes from India

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202–205–3184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION: On October 23, 1992, the Commission instituted the subject investigation and established a schedule for its conduct (57 FR 53779). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from January 4, 1993, to February 19, 1993. The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's final schedule.

The Commission's new schedule for the subject investigation is as follows: A supplemental brief addressing only the final antidumping duty determination of the Department of Commerce is due no later than March 25, 1993. The brief may not exceed five (5) pages in length.

For further information concerning this investigation, see the Commission's notice of institution cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

Issued: March 4, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–5464 Filed 3–9–93; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Ex. Parte No. MC–95 (Sub-No. 8)]

Adequacy of Intercity Motor Common Carrier Passenger Service

By this notice, interested parties are requested to comment on several topics related to the adequacy of service in the motor carrier passenger industry and certain carrier practices.

In enacting the Bus Regulatory Reform Act of 1982 (Pub. L. 97–261) (Bus Act), Congress sought to free the intercity bus industry from unnecessary regulatory restrictions to enhance the industry's financial viability and increase its competitive opportunities. Since 1982, bus companies have taken advantage of many of the reforms included in the Bus Act to streamline their route networks, eliminate unprofitable service, and raise intrastate fares to levels similar to those for comparable interstate travel. While these reforms have helped the bus industry, the industry's share of the intercity passenger travel market remains small, and some companies are experiencing financial difficulties.

As a result, the structure of the intercity bus industry has changed in recent years. Most notably, in 1988, the Commission authorized the purchase of Trailways Lines, Inc., by GLI Acquisition Company [1] (hereafter GLI or Greyhound). Since that time, there have been extensive modifications in bus industry services, operations, and practices. The most significant developments have been GLI's filing for bankruptcy on June 4, 1990, and its subsequent emergence under a reorganization plan approved by the Bankruptcy Court.[2] Efforts by GLI to explore methods to improve its viability subsequent to bankruptcy have raised issues of concern to many regional carriers. Several of these issues have recently been the subject of Commission proceedings.[3] The Commission has viewed the issues raised in most of these cases as matters that should be subject to negotiation and settlement between the parties. We did state in our 1988 decision authorizing GLI's purchase of Trailways, however, that we would monitor the results of the purchase to assure the protection of the public.

Accordingly, we are issuing this notice in an effort to expand our understanding of the industry's operations and practices. Specifically, we seek to obtain information on the nature and scope of the intercity bus industry as it now exists. We are concerned not only with how the Bus Act's reforms have affected the intercity bus industry, but also how the industry has responded to more recent developments, particularly the Greyhound-Trailways merger.

This notice is part of a multifaceted and detailed study of the bus industry being undertaken by the Commission. The Commission intends, based on the information received through the efforts of our headquarters and field staff, as well as in response to this notice, to examine such issues as adequacy of service, reservations and scheduling, terminal access and service, and the financial condition of major carriers in the industry. We intend to focus on regular-route operations, although an examination of charter and special operations may be appropriate in certain areas. When the study is complete, the Commission will use the information to determine whether we should take any further actions.

For this reason, comments are requested on, but not limited to, the following topics:

1. Adequacy of Regular-Route Service

—Significant changes in levels and scope of service since 1982 and, particularly, since 1988
—Changes in ridership levels
—Availability and usage of alternative modes of transportation
—Level and scope of "feeder" service to fill the gaps of discontinued regular-route service
—Availability and scope of competing services that do not use Greyhound facilities
—The role of Greyhound and "competing" and "complementary" smaller carriers in providing the public with adequate service

2. Regular-Route Reservations and Schedules

—Changes in traffic flow, levels of service, and adequacy of service since Greyhound began publication of an independent routing guide
—Specific improvements that have resulted from Greyhound's publication of an independent routing guide
—Changes in traffic flow, levels of service, and adequacy of service caused by schedule changes by Greyhound or other regular-route carriers on less than 30 days notice

3. Terminal Access

—Problems associated with negotiating terminal access
—Specific interline difficulties at terminals
—Whether the access granted is sufficient to conduct operations in an efficient manner—if not, identify the problems
—Trends in municipal ownership of terminals, including intermodal terminals
—Whether shared terminals are necessary for adequate service

4. Terminal Service

—Problems in the following areas with respect to operations conducted in terminals:
1. ticket sales
2. honoring tickets
3. arrival and departure announcements
4. schedule postings
5. bay assignments
6. other difficulties
—Changes in regular-route traffic flow and levels of service with respect to terminal service problems

5. Financial Health

—Financial impacts from the practices described above on operating revenues, ridership, load factors, operating ratios, and profitability
—Data on any other relevant financial implications of these practices
—Overall bus industry profitability for regular-route and charter operations
—The importance of revenues from charter and special operations in maintaining the viability of regular-route bus services for individual bus companies
—Scope of regular-route and charter bus service and usage vis-a-vis other passenger transportation modes

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[1] GLI Acquisition Company—Purchase—Trailways Lines, Inc. 4 I.C.C.2d 591 (1988), affirmed by unprinted decision served October 6, 1988, *aff'd sub nom. Peter Pan Bus Lines, Inc., et al.* v. *Interstate Commerce Commission*, Nos. 88–1556 and 88–1567 (D.C. Cir. May 8, 1989) (per curiam).

[2] In re Eagle Bus Manufacturing, Inc., et al., Nos. 90–00985–B–11 to 90–00990–B–11 (Bankr. S.D. Tex.).

[3] No. MC–F–18505, GLI Acquisition Company—Purchase—Trailways, Inc.: Peter Pan Bus Lines, Inc.—Petition to Reopen (not printed), served March 19, 1991; Blue Ridge Lines, Ltd., d/b/a Blue Ridge Trailways—Petition to Reopen (not printed), served December 12, 1990, *stay denied, Greyhound Lines* v. *Interstate Commerce Commission*, No. 4920 (5th Cir. December 17, 1990); Petition for Clarification or Modification (not printed), served February 8, 1991; American Coach Lines, Inc.—Petition to Reopen (not printed), served June 26, 1991; Peter Pan Bus Lines, Inc.—Petition to Reopen—Ticket Sales Arrangements at New York, NY, (filed June 11, 1992), served March 4, 1993; Peter Pan Bus Lines, Inc.—Petition to Reopen—Mutual Honoring of Tickets, (filed June 25, 1992), served March 4, 1993; Bremerton Tacoma Stages, Inc., d/b/a Cascade Trailways—Petition to Reopen (not printed), served August 14, 1992, as corrected by decision August 31, 1992; Petition to Reopen for Reconsideration, (filed September 3, 1992), pending; Adirondack Trailways, et al.—Petition to Reopen and for Emergency Relief (not printed), served October 22, 1992. Ex Parte No. MC–95 (Sub-No. 7), Petition to Amend 49 CFR part 1063, Adequacy of Intercity Motor Common Carrier Passenger Service (filed January 14, 1993), served March 4, 1993.

Comments are due by April 9, 1993. Send an original and 10 copies of comments referring to Ex Parte No. MC–95 (Sub-No. 8) to: Office of the Secretary, Case Control Branch, Room 1324, Interstate Commerce Commission, Washington, DC 20423.

For further information, contact Richard Felder, at (202) 927–5610 [Assistance for the hearing impaired is available through TDD service 927–5721].

Decided: March 3, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden. Commissioner Philbin and Commissioner Walden dissented with separate expressions.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5447 Filed 3–9–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Notice of Joint Motion to Modify Consent Decree Under the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on February 1, 1993, a Joint Motion to Modify Consent Decree was filed with the United States District Court for the District of Massachusetts in *United States* v. *City of Gloucester*, Civil Action No. 89–2206–Y. The motion was filed by the plaintiff-intervenor the Commonwealth of Massachusetts and the defendant City of Gloucester, and the United States proposes to join the motion. The motion seeks to modify the Consent Decree entered by the court in 1992 by replacing paragraph 59 of the Consent Decree with new provisions which would allow the City to use alternative water pollution abatement systems, instead of conventional sewer collection facilities, in certain areas of North Gloucester where the use of such alternative systems is determined to be appropriate.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed modification to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Gloucester*, D.J. Ref. 90–5–1–1–3388.

The joint Motion to Modify Consent Decree may be examined at the office of the United States Attorney, District of Massachusetts, 1107 J.W. McCormack P.O. & Courthouse, Boston, MA 02109, c/o George B. Henderson, II, Assistant U.S. Attorney, and at the Region 1 Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts. Copies of the joint motion may also be examined at the Environmental Enforcement Section Document Center, 1120 G Street, NW., 4th floor, Washington, DC 20005, (202) 624–0892. A copy of the joint motion may be obtained in person or by mail from the Document Center. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $5.25 (25 cents per page reproduction cost) made payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–5444 Filed 3–9–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984; "Ultra-Low Emission Engine Program"; Correction

In notice document 93–1569 appearing on page 6015 in the issue of Monday, January 25, 1993, in the second column, in the first paragraph, in the sixteenth (16th) line, "MT" should read "MI".

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–5409 Filed 3–9–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–28,153]

Coltec Industries, Inc., Pittsburgh, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Coltec Industries, Incorporated, Pittsburgh, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–28,153; Coltec Industries, Incorporated, Pittsburgh, Pennsylvania (March 1, 1993)

Signed at Washington, DC, this 3rd day of March, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–5458 Filed 3–9–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28,014]

CAS Refining, Inc., Lafayette, LA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at CAS Refining, Incorporated, Lafayette, Louisiana. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–28,014; CAS Refining, Incorporated Lafayette, Louisiana (February 26, 1993)

Signed at Washington, DC this 3rd day of March, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–5460 Filed 3–9–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,997]

Texaco Exploration & Production, Inc., Eastern E&P Region, New Orleans, LA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Texaco Exploration & Production, Inc., Eastern E&P Region, New Orleans, Louisiana. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–27,997; Texaco Exploration & Production, Inc., Eastern E&P Region, New Orleans, Louisiana (February 26, 1993)

Signed at Washington, DC, this 3rd day of March, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–5459 Filed 3–9–93; 8:45 am]

BILLING CODE 4510–30–M

Notice of Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities which plan on employing nonimmigrant alien nurses. These organizations have attestations on file with DOL for that purpose.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the Immigration Nursing Relief Act Public Disclosure Room, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N4456, 200 Constitution Avenue, NW., Washington, DC 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, U.S. Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, room S3502, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT:

Regarding the Attestation Process

Chief, Division of Foreign Labor Certifications, U.S. Employment Service. Telephone: 202–219–5263 (this is not a toll-free number).

Regarding the Complaint Process

Questions regarding the complaint process for the H–1A nurse attestation program shall made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202–219–7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H–1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR part 655 and 29 CFR part 504, 55 FR 50500 (December 6, 1990). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staffs. If U.S. registered nurses or other persons wish to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities' chief executive officers also are listed, to aid public inquiries. In addition, attestations and supporting short explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the **ADDRESSES** section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under that attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the **ADDRESSES** section of this notice.

Signed at Washington, DC, this 2nd day of March 1993.

Robert A. Schaerfl,

Director, United States Employment Service.

DIVISION OF FOREIGN LABOR CERTIFICATIONS, APPROVED ATTESTATIONS

[02/01/93 to 02/28/93]

CEO-name/facility name/address	State	Approval date
Mr. Bob S. Edwards, Jr., Nevada County Hospital, Hwy 67 North, Prescott 71857, 501–887–2681	AR	02/19/93
Ms. Gerry Garcia, Beaumont Conval. Hospital, David Kleis, Inc., Beaumont 92223, 714–845–1166	CA	02/04/93
Ms. Iluminada Castillo Palacio, US Nurses Connection, 5907 Bataan Circle, San Diego 92139, 619–470–0313	CA	02/04/93
Ms. Bernice Schraebeck, Westgate Gardens, 4525 W. Tulare Avenue, Visalia 93277, 209–733–0901	CA	02/04/93
Mr. John Adams, Care West Anza, Care Enterprises West, El Cajon 92020, 714–544–4443	CA	02/11/93
Mr. John Adams, Care West Huntington Valley, Care Enterprises West, Huntington 92647, 714–544–4443	CA	02/11/93
Mr. John Adams, Care West Park Central, Care Enterprises West, Fremont 94536, 714–544–4443	CA	02/11/93
Mr. John Adams, Care West Burlingame, Care Enterprises West, Burlingame 94010, 714–544–4443	CA	02/11/93
Mr. John Adams, Care West Garfield, Care Enterprises West, Huntington Beach 92648, 714–544–4443	CA	02/11/93
Mr. John Adams, Care West Washington Manor, Care Enterprises West, San Leandro 94578, 714–544–4443	CA	02/11/93
Ms. Geraldine G. Villaluz, Hacienda Convalescent Hosp. Hacienda Care Ctr., Inc., Porterville 93257, 209–784–7375.	CA	02/11/93
Ms. Ellen L. Kuykendall, Roseville Conval. Hosp., 1161 Cirby Way, Roseville 95661, 916–782–1238	CA	02/11/93
Mr. David Bigelow, Goleta Valley Community Hospital, Santa Barbara 93111, 805–967–3411	CA	02/19/93
Mr. William W. Daniel, Pioneers Mem. Hosp. Dist., 207 West Legion Road, Brawley 92227, 619–344–2120	CA	02/19/93
Ms. Carol K. Lucas, Needles-Desert Communities Hospital, Needles 92363, 619–326–4531	CA	02/19/93
Mr. Stephen W. Hooker, Live Oak Living Center, Regenerative Health System, Inc., Richmond 94803, 510–222–1242.	CA	02/19/93
M.D. Anderson, Olive View Med. Ctr., 14445 Olive View Drive, Sylmar 91342, 818–364–1555	CA	02/24/93
Sr Marianna Bauder, Saint Joseph Hospital, 2005 Franklin Street, Denver 80205, 303–764–2255	CO	02/24/93
Mr. John J. Meehan, Hartford Hospital, 80 Seymour Street, Hartford 06115, 203–524–3011	CT	02/19/93
Sister Carol Keehan, Providence Hospital, 1150 Varnum Street, NE., Washington 20017, 202–269–7000	DC	02/04/93
Mr. Douglas Shepherd, National Rehab. Hospital, 102 Irving Street, NW., G–050, Washington 20010, 202–877–1680.	DC	02/04/93

DIVISION OF FOREIGN LABOR CERTIFICATIONS, APPROVED ATTESTATIONS—Continued

[02/01/93 to 02/28/93]

CEO-name/facility name/address	State	Approval date
Mr. Thomas J. Stone, Desoto Memorial Hosp., Inc., P.O. Box 2180, Arcadia 33821, 613–494–8405	FL	02/02/93
Mr. Edward J. Rosasco, Jr., Mercy Hospital, 3663 South Miami Avenue, Miami 33133, 305–285–2100	FL	02/04/93
Mr. Fred D. Hirt, Mount Sinai Med. Ctr., 4300 Alton Road, Miami 33140, 305–674–2517	FL	02/04/93
Dr. Kantilal K. Daya, Nurses International USA, Inc., Pompano Beach 33062, 305–783–9243	FL	02/11/93
Ms. Ira Clark, Jackson Memorial Hospital, 1611 N.W. 12th Avenue, Miami 33136, 305–585–3745	FL	02/11/93
Mr. Thomas F. Jones, Miami Children's Hospital, 6125 S.W. 31st Street, Miami 33155, 305–666–6511	FL	02/19/93
Mr. Joseph A. Barrick, Helen Wilkes Healthcare Ctr., Renaissance—Helen Wilkes, Inc., Lake Park 33403, 407–842–2705.	FL	02/19/93
Mr. Joseph A. Barrick, Palmetto Health Ctr., Renaissance—Palmetto, Inc., Hialeah 33016, 305–823–3119	FL	02/19/93
Mr. Joseph A. Barrick, Drew Village Rehab. & Nur. Ctr., Drew Village Nur. Home, Inc., Clearwater 34619, 813–797–6535.	FL	02/19/93
Mr. Marcus E. Drews, Methodist Medical Ctr., 580 W. 8th Street, Jacksonville 32209, 904–798–8188	FL	02/24/93
Mr. Thomas G. Culbreth, Cedars Medical Center, 1400 N.W. 12th Avenue, Miami 33136, 305–325–5511	FL	02/25/93
Mr. Walter M. Lawson III, Georgia Reg'l Hosp. at Savannah, P.O. Box 13607, Savannah 31416, 912–356–2011	GA	02/19/93
Sister Beatrice Tom, St. Francis Medical Ctr., 2230 Liliha Street, Honolulu 96817, 808–547–6011	HI	02/11/93
Mr. Kenneth C. Owens, Valley Rehab. & Living Ctr., Beverly Enterprises, Inc., Lewiston 83330, 208–696–3914	ID	02/25/93
Mr. Eugene Caldwell, St. Agnes Health Care Ctr., 60 E. 18th Street, Chicago 60616, 312–922–2777	IL	02/04/93
Ms. Faye Nazon, Cojenunaze Nursing Ctr., 3311 S. Michigan, Chicago 60616, 312–326–5700	IL	02/11/93
Mr. Filipinas Madriaga, Nursing Resource Group, 7256 W. Olive, Chicago 60631, 312–763–4134	IL	02/11/93
Mr. Stephen Weinstein, Doctors Hosp. of Hyde Park, 5800 South Stony Island Ave., Chicago 60637, 312–643–9200.	IL	02/17/93
Mr. Dov Solomon, Lincoln Park Terrace, Inc., 2732 North Hampden Court , Chicago 60614, 312–248–6000	IL	02/24/93
Ms. Sheila Bogen, Warren Park Nursing Pavilion, 6700 N. Damen, Chicago 60645, 312–465–5000	IL	02/25/93
Mr. Keith LeBlanc, Humana Hospital New Orleans, 6000 Bullard Avenue, New Orleans 70189, 504–241–6335	LA	02/19/93
Mr. Joseph A. Barrick, Chestnut Hill Rehab. & Nur. Ctr., Hampden Nursing Homes, Inc., East Longmeadow 01028, 413–525–1893.	MA	02/19/93
Mr. Joseph A. Barrick, Chapel Hill Nursing Home, Renaissance Chapel Hill, Inc., Holyoke 01040, 413–536–3435	MA	02/19/93
Mr. Joseph A. Barrick, Riverdale Gardens Nursing Home, Hampden Nursing Homes, Inc., West Springfield 01089, 413–733–3151.	MA	02/19/93
Mr. Joseph A. Barrick, Mary Lyon Nursing Home, Hampden Nursing Homes, Inc., Hampden 01036, 413–566–5511.	MA	02/19/93
Mr. Joseph A. Barrick, Chase Rehab. and Nursing Ctr., Renaissance—Fox Chase, Inc., Silver Spring 20910, 301–587–2400.	MD	02/19/93
Mr. Joseph A. Barrick, Fairland Nursing and Retirement Home, Silver Spring 20904, 301–384–6161	MD	02/19/93
Ms. Darlene Grover, International Nurses Alliance, Brunswick 04011, 207–729–5895	ME	02/04/93
Mr. Ronald A. Ommen, Trinity Lutheran Hospital, 3030 Baltimore, Kansas City 64108, 816–753–4600	MO	02/11/93
Mr. Don Gray Angell, Jr., Meadowbrook Manor of Rockingham, 804 Long Drive, Rockingham 28379, 919–997–4493.	NC	02/24/93
Mr. Gray Angell, Jr., Meadowbrook Manor of Durham, 5935 Mt. Sinah Road, Durham 27705, 919–489–2361	NC	02/24/93
Ms. Margaret K. Degnan, Morris Hills Multicare Ctr., 77 Madison Avenue, Morristown 07960, 201–540–9800	NJ	02/04/93
Mr. Irv. J. Diamond, South Amboy Memorial Hospital, 540 Bordentown Avenue, So. Amboy 08879, 908–721–1000.	NJ	02/11/93
Mr. Joseph A. Barrick, Hamilton Plaza Nursing Ctr., Renaissance—Hamilton Plaza, Passaic 07055, 201–773–7070.	NJ	02/19/93
Mr. Joseph A. Barrick, Oakridge Manor Nursing Ctr., Oakridge Nursing Home, Inc., Wayne 07470, 201–835–3871	NJ	02/19/93
Mr. Michael J. Sniffen, Overlook Hospital, P.O. Box 220, Summit 07902, 908–522–2238	NJ	02/19/93
Mr. Joseph A. Barrick, Park Manor Nursing Home, Renaissance—Park Manor, Inc., Bloomfield 07003, 201–743–7772.	NJ	02/19/93
Mr. Frank L. Muddle, Irvington General Hospital, 832 Chancellor Avenue, Irvington 07111, 201–399–6131	NJ	02/19/93
Ms. Dolores Turco, Andover Nursing Center, P.O. Box 1279, Andover 07821, 201–383–6200	NJ	02/19/93
Sister Jane Frances Brady, St. Joseph's Hosp. & Med. Ctr., 703 Main Street, Paterson 07503, 201–977–2000	NJ	02/19/93
Fred Lang, Barnert Hospital, 680 Broadway, Paterson 07514, 201–977–6600	NJ	02/24/93
Mr. David Fletcher, Elizabeth General Med. Ctr., 925 East Jersey Street, Elizabeth 07201, 908–558–8153	NJ	02/24/93
Mr. Mark D. Pilla, Community Medical Ctr., 99 Highway 37 West, Toms River 08755, 908–240–8007	NJ	02/24/93
Mr. Claus Eggers, Valley Hospital Med. Ctr., 620 Shadow Lane, Las Vegas 89106, 702–388–4560	NV	02/19/93
Mr. Havva S. Idriss, United Hospital Med. Ctr., 406 Boston Post Road, Port Chester 10573, 914–939–7000	NY	02/04/93
Mr. Thomas G. Doherty, Coney Island Hospital, NYCH & Hosps. Corp., New York 10013, 212–566–7322	NY	02/04/93
Mr. Thomas G. Doherty, Bronx Municipal Hospital, NYCH & Hosps. Corp., New York 10013, 212–566–7322	NY	02/04/93
Mr. Thomas G. Doherty, Elmhurst Hospital—NYCH & Hosps., Corp., New York 10013, 212–566–7322	NY	02/04/93
Ronald Gade, M.D., St. Barnabas Hospital, E. 183rd Street & 3rd Ave., Bronx 10457, 718–960–6198	NY	02/04/93
Mr. James Cameron, Kateri Residence, 150 Riverside Drive, New York 10024, 212–769–0744	NY	02/04/93
Mr. Jodee Berkowitz, Haym Salomon Home for the Aged, Brooklyn 11214, 718–373–1700	NY	02/11/93
Mr. Paul Svensson, The Parkway Hospital, 70–35 113th Street, Forest Hills 11375, 718–990–4100	NY	02/11/93
Mr. John R. Ahearn, The Hospital for Special Surg., 535 East 70th Street, New York 10021, 212–606–1000	NY	02/11/93
Mr. Alan Kopman, Westchester Square Med. Ctr., 2475 St. Raymond Avenue, Bronx 10461, 212–430–7300	NY	02/18/93
Mr. Nick Sialo, International Recruiters of America, Inc., New York 10001, 212–213–0473	NY	02/19/93
Robert K. Match, M.D., Long Island Jewish Med. Ctr., 269–01 76th Avenue, New Hyde Park 11042, 718–470–7000.	NY	02/19/93
Mr. Charles J. Pendola, Wyckoff Heights Med. Ctr., 374 Stockholm Street, Brooklyn 11237, 718–963–7272	NY	02/19/93
Mr. David P. Rosen, The Jamaica Hospital, 89th Avenue & Van Wyck Expwy., Jamaica 11418, 718–262–6802	NY	02/19/93
Mark J. Mundy, The Methodist Hospital, 506 Sixth Street, Brooklyn 11215, 718–780–3000	NY	02/19/93

DIVISION OF FOREIGN LABOR CERTIFICATIONS, APPROVED ATTESTATIONS—Continued

[02/01/93 to 02/28/93]

CEO-name/facility name/address	State	Approval date
Ms. Irene Kaye, Kent Nursing Home, Ludingtonville Road, Holmes 12531, 914–878–3241	NY	02/19/93
Mr. William Frohlich, Beth Abraham Hospital, 612 Allerton Avenue, Bronx 10467, 212–920–6021	NY	02/19/93
Mr. Mayer Rosenbrum, American Geri-Care Inc., 40 Hayward Street, Brooklyn 11211, 718–858–6200	NY	02/19/93
Mr. Michael G. Guley, Our Lady of Lourdes Memorial Hospital, Inc., Binghamton 13905, 607–798–5111	NY	02/24/93
David B. Skinner, M.D., The Society of the New York Hospital, New York 10021, 212–746–4085	NY	02/25/93
Ms. Betty S. Leake, Your Home Visiting Nurse Service, Inc., Knoxville 37918, 615–688–1159	TN	02/24/93
Ms. Thalia H. Munoz, Starr County Memorial Hosp. dba Starr County Mem. Hosp., Rio Grande City 78582, 512–487–5561.	TX	02/04/93
Ms. Lois Jean Moore, Harris County Hosp. Dist., 2525 Holly Hall, Houston 77054, 713–746–5435	TX	02/04/93
Mr. Douglas Langley, Memorial Hospital, Gonzales County Hosp. Dist., Gonzales 78629, 210–672–7581	TX	02/04/93
Charles A. LeMaistre, M.D., M.D. Anderson Cancer Center, The University of Texas, Houston 77030, 713–794–1922.	TX	02/04/93
Mr. Michael C. Waters, Hendrick Medical Ctr., 1242 North 19th Street, Abilene 79601, 915–670–2000	TX	02/19/93
Mr. Eddie A. George, HCA Spring Branch Med. Ctr., 8850 Long Point Road, Houston 77055, 713–984–3644	TX	02/19/93
Mr. Michael K. Jhin, St. Luke's Episcopal Hosp., 6720 Bertner Street, Houston 77030, 713–794–6339	TX	02/19/93
Mr. Lex Guinn, The Heights Hospital, 1917 Ashland, Houston 77008, 713–802–8252	TX	02/19/93
Ms. Florita Tolentino, Omni Health Services, Omni Consortium, Inc., Houston 77080, 713–690–1971	TX	02/25/93
John N. Bogart, M.D., South Texas Hospital, 1301 Rangerville Road, Harlingen 78551, 512–423–3420	TX	02/25/93
Mr. Joseph A. Barrick, Iliff Nursing Home, Renaissance—Iliff, Inc., Dunn Loring 22027, 703–560–1000	VA	02/19/93
Mr. Rodger H. Baker, Fauquier Hospital, 500 Hospital Drive, Warrenton 22186, 703–347–2550	VA	02/25/93
Total Attestations 98		

[FR Doc. 93–5461 Filed 3–9–93; 8:45 am]

BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste Working Group on Low-Level Radioactive Waste Disposal; Facility Source-Term; Meeting

The ACNW Working Group on Low-Level Radioactive Waste Disposal Facility Source-Term will hold a meeting on March 23, 1993, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, March 23, 1993—8:30 a.m. Until the Conclusion of Business

The Working Group will meet with various groups including States, commercial operators, industry groups, federal agencies and other interested parties to obtain information on the sources, quantities, and characteristics of low-level waste being generated. The Working Group will review what percent of the waste is stored onsite by the generator vs. that sent to disposal facilities. As time permits the Working Group will discuss methods for waste volume reduction and site performance assessment techniques, including methods to ensure groundwater protection. Accounting methods for the amounts of waste being disposed will be reviewed, as well as methods to monitor trends and indicators of performance in low-level waste management and disposal facilities.

Oral statements may be presented by members of the public with the concurrence of the ACNW Working Group Chairman; written statements will be accepted and made available to the Group. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Working Group, its consultants, and staff. Persons desiring to make oral statements should notify the ACNW staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the ACNW Working Group, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The ACNW Working Group will hear presentations by and hold discussions with the NRC staff and their consultants, national laboratories, the DOE, DOE consultants, and other interested parties, as appropriate.

Further information regarding the agenda for this meeting, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACNW staff member, Mr. Howard Larson (telephone 301/492–7707) between 8:15 a.m. and 6 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: March 3, 1993.

R. K. Major,

Chief, Nuclear Waste Branch.

[FR Doc. 93–5471 Filed 3–9–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 52nd meeting on Wednesday and Thursday, March 24 and 25, 1993, 8:30 a.m. until 6 p.m., room P–110, 7920 Norfolk Avenue, Bethesda, MD. Notice of this meeting was published in the **Federal Register** on Wednesday, February 24, 1993 (58 FR 11258).

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

A. The Committee will meet with representatives of the Electric Power Research Institute (EPRI) and possibly other interested parties to discuss studies EPRI has conducted on the volumes of LLW that may require interim storage, the applicable regulatory requirements, and the associated guidelines for waste generators.

B. The Committee will hear a report from its Low-Level Radioactive Waste Disposal Facility Source-Term Working Group Chairman on a recent meeting.

The Working Group will have obtained information on the source, quantities, and characteristics of low-level waste being generated and other related information.

C. The Committee will be briefed on proposed LLW disposal sites rejected by LLW host States. Representatives from host States, NMSS, and the Office of State Programs will participate.

D. The NRC staff will brief the Committee on staff comments on proposed EPA Standards for TRU and HLW disposal at sites other than Yucca Mountain.

E. The Committee will discuss reviews of various States' radiation control programs. Reviews conducted by the NRC staff and the Conference of Radiation Control Program Directors will be highlighted. The relationship between these two reviews will be a focus.

F. The Committee will review a rulemaking-clarification of assessment requirements for the siting criteria and performance objectives of a high-level radioactive waste geologic repository [10 CFR 60.122/112–113, siting criteria for a geologic repository (122), overall system performance objective for the geologic repository after permanent closure (112), performance of particular barriers after permanent closure (113)].

G. Discuss anticipated and proposed Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. The Office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the Office of the ACNW/ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the Office of the ACNW/ACRS (telephone 301/492–4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACNW/ACRS Executive Director or call the recording (301/492–4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated: March 4, 1993.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93–5472 Filed 3–9–93; 8:45 am]

BILLING CODE 7590-01-M

ACNW Working Group/ACRS Subcommittee on Occupational and Environmental Protection Systems; Meeting

The ACNW Working Group and ACRS Subcommittee on Occupational and Environmental Protection Systems will hold a joint meeting on March 26, 1993, room P–110, 7920 Norfolk Avenue, Bethesda, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, March 26, 1993—8:30 a.m. Until the Conclusion of Business

The Working Group/Subcommittee will review the following proposed final regulatory guides implementing 10 CFR part 20, "Standards for Protection Against Radiation":

(1) DG–8006, "Control of Access to High and Very High Radiation Areas in Nuclear Power Plants,"

(2) DG–8009, "Interpretation of Bioassay Measurements," and

(3) DG–8013, "ALARA Radiation Program for Effluents from Materials Facilities."

The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the ACNW Working Group/ACRS Subcommittee Chairmen; written statements will be accepted and made available to the Group. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Working Group, ACRS Subcommittee, their consultants, and staff. Persons desiring to make oral statements should notify the ACNW/ACRS staff members named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the ACNW Working Group/ACRS Subcommittee, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The ACNW Working Group/ACRS Subcommittee will hear presentations by and hold discussions with the NRC staff and the nuclear industry, as appropriate.

Further information regarding the agenda for this meeting, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACNW staff member, Mr. Giorgio Gnugnoli (telephone 301/492–9851) or cognizant ACRS staff member, Mr. Elpidio Igne (telephone 301/492–8192) between 8:30 a.m. and 5:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individuals one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: March 3, 1993.

R. K. Major,

Chief, Nuclear Waste Branch.

[FR Doc. 93–5474 Filed 3–9–93; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Meeting of the Subcommittee on Severe Accidents; Revised

The joint meeting of the ACRS Subcommittees on Severe Accidents and Probabilistic Risk Assessment scheduled to be held on March 18, 1993, in room P–110, 7920 Norfolk Avenue, Bethesda, Maryland, has been changed to a meeting of the Severe Accidents Subcommittee only. The PRA issues for the ABWR design scheduled for discussion previously will not be discussed during this meeting. Notice of the joint meeting was published in the **Federal Register** on Monday, March 1, 1993 (58 FR 11874).

The entire meeting will be open to public attendance.

The revised agenda for the subject meeting shal be as follows:

Thursday, March 18, 1993—8:30 a.m. Until the Conclusion of Business

The Subcommittee will begin the discussion of severe accident issues in regard to the Advanced Boiling Water Reactor (ABWR) Certification Review (chapter 19 of the ABWR Standard Safety Analysis Report.) The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

All other items pertaining to this meeting remain the same as previously published.

Further information contact: Mr. Dean Houston, cognizant ACRS staff engineer (telephone 301/492–9521) between 7:30 a.m. and 4:15 p.m. (EST).

Dated: March 4, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–5473 Filed 3–9–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Panel for the Decontamination of Three Mile Island, Unit 2; Renewal

The Nuclear Regulatory Commission announces the renewal of the Advisory Panel for the Decontamination of Three Mile Island, Unit 2. It has been determined that renewal of this Advisory Panel through September 30, 1993 is required in order to continue to receive public input and enhance public understanding of the major activities required to decontaminate and safely clean up the damaged facility (Unit 2) at Three Mile Island Nuclear Power Station.

Dated at Rockville, Maryland, this 4th day of March, 1993.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93–5475 Filed 3–9–93; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Computer Matching and Privacy Protection Act of 1988; Records Used in Computer Matching Programs

AGENCY: Railroad Retirement Board (RRB).

ACTION: Notice of Records Used in Computer Matching Programs Notification to individuals who are receiving benefits under the Railroad Retirement Act.

SUMMARY: As required by the Computer Matching and Privacy Protection Act of 1988, the RRB is issuing a public notice of its use and intent to use, in a computer matching program, certain information obtained from the Social Security Administration with respect to individuals who received benefits under the Railroad Retirement Act. The information from the Social Security Administration will consist of Social Security Number, full name, and date of birth. The purpose of this notice is to advise individuals applying for or receiving benefits under the Railroad Retirement Act of the use made by the RRB of this information obtained from the Social Security Administration by means of a computer match.

DATES: Comments should be received on or before April 9, 1993.

ADDRESSES: Send comments to Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Richard J. Erickson, Office of Inspector General, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092, telephone number (312) 751–4338.

SUPPLEMENTARY INFORMATION: Under certain circumstances, the Computer Matching and Privacy Protection Act of 1988, Pub. L. 100–503, requires a Federal agency participating in a computer matching program to publish a notice in the **Federal Register** regarding the establishment of that matching program. Such a notice must include information in the following first five categories:

Name of Participating Agencies

The Railroad Retirement Board and the Social Security Administration.

Purpose of the Match

To identify certain individuals receiving benefits under the Railroad Retirement Act who may have married and failed to notify the RRB of their marriage. For certain beneficiaries marriage may terminate entitlement to benefits or affect the amount of benefits paid.

Authority for Conducting the Match

45 U.S.C. 231f(b) and 362(f); 42 U.S.C. section 503(c)(1); 5 U.S.C. App. 3, section 4(a)(4) of the Inspector General Act of 1978.

Categories of Records and Individuals Covered

All recipients of spouse, widow, and child benefits under the Railroad Retirement Act. Records furnished the Social Security Administration are covered under Privacy Act system of records RRB–22, Railroad Retirement, Survivor, and Pensioner Benefit System.

Inclusive Dates of the Matching Program

The agreement with the Social Security Administration will run for 18 months or until the one match is conducted, whichever is earlier.

Procedure

The RRB will furnish the Social Security Administration a tape file. The data elements will consist solely of the surname and the Social Security Number (SSN). The Social Security Administration will match on SSN and surname. For each record where there is a SSN match but a surname difference, the Social Security Administration will furnish the following information on its records: SSN, full name, and date of birth. The RRB will then write each such beneficiary requesting that he or she explain the reason for the change in surname and furnish a copy of the legal document that accounts for the surname change. Only if the beneficiary advises that the reason for the surname change is marriage or fails to timely respond to the letter will the RRB give notice that benefits will be terminated or adjusted.

Other Information

The notice we are giving here is in addition to any individual notice.

A copy of this notice will be furnished to both Houses of Congress and the Office of Management and Budget.

Dated: March 2, 1993.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 93–5410 Filed 3–9–93; 8:45 am]

BILLING CODE 7905–01

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–31943; International Series Release No. 522]

Exemption Regarding Application of Cooling-Off Periods Under Rule 10b–6 to Distributions of Foreign Securities

March 4, 1993.

Pursuant to delegated authority, the Division of Market Regulation sent the following letter to Marc E. Lackritz, President of the Securities Industry Association, clarifying the application of the "cooling-off" periods in Rule 10b–6 under the Securities Exchange Act of 1934 ("Exchange Act") to

distributions of foreign securities in the United States, and granting a class exemption from Rule 10b–6. Subject to certain conditions, the exemption permits distribution participants and their affiliated purchasers engaged in a distribution of foreign securities in the United States to effect solicited brokerage and principal transactions until two or nine business days before offers or sales are made in the United States. This exemption has been issued in the context of a continuing review of Rule 10b–6 and related provisions under the Exchange Act, and is published to provide notice of the availability of the exemption.

Margaret H. McFarland,

Deputy Secretary.

March 4, 1993.

Marc E. Lackritz, President, Securities Industry Association, 120 Broadway, New York, New York 10271–0080.

Re: *Application of Cooling-Off Periods under Rule 10b–6 to Distributions of Foreign Securities File No. TP 93–1*

Dear Mr. Lackritz: To facilitate multinational distributions of foreign securities, the Commission has determined to grant an exemption from Rule 10b–6 ("Rule 10b–6" or "Rule")[1] under the Securities Exchange Act of 1934 ("Exchange Act") that clarifies the application of the Rule's cooling-off periods to foreign securities.[2] The exemption permits participants in a distribution ("distribution participants") of foreign securities in the United States and their "affiliated purchasers,"[3] to bid for and purchase such securities, any securities of the same class and series, or any right to purchase such securities (collectively, "related securities") in solicited brokerage and principal transactions until two or nine business days prior to the commencement of offers or sales of the foreign security being distributed in the United States, subject to certain conditions as more fully described below.[4]

I. Rule 10b–6

Rule 10b–6 is an anti-manipulation rule that is intended to prevent participants in a distribution of securities from artificially conditioning the market for the securities in order to facilitate the distribution, and to protect the integrity of the securities trading market as an independent pricing mechanism. The Rule prohibits issuers, underwriters, prospective underwriters, dealers, brokers, and other persons who have agreed to participate or are participating in the distribution and their affiliated purchasers from bidding for or purchasing, or inducing others to purchase, the securities being distributed, or any related security, until they have completed their participation in the distribution.

Rule 10b–6 contains exceptions to its general prohibitions that are intended to permit an orderly distribution of securities or to limit disruptions in the market for the securities being distributed. The exceptions to the Rule contained in paragraphs (a)(4)(v), (a)(4)(xi), and (a)(4)(xii) permit distribution participants to bid for or purchase the distribution securities and related securities in principal transactions until two or nine business days[5] before the commencement of offers or sales of such securities (*e.g.*, the effective date of the registration statement in the case of public offerings). Whether the security qualifies for the use of the two or nine business day cooling-off period contained in the exceptions depends upon the price and public float of the subject security. For stock with a minimum share price[6] of US$5.00 and a public float[7] of at least 400,000 shares, the cooling-off period is two business days. For other securities, the cooling-off period is nine business days.

II. Application of the Rule to Multinational Offerings

Since shortly after the Commission adopted Rule 10b–6 in 1955, the Commission has taken the position that, with respect to multinational distributions occurring in whole or in part in the United States, Rule 10b–6 applies to all distribution participants and their affiliated purchasers, wherever they are located or effect transactions.[8] Thus, when a distribution occurs in the United States, the restrictions of Rule 10b–6 apply to the activities of non-U.S. distribution participants conducted outside the United States.

While the fundamental restrictions of the Rule apply to all distributions in the United States, the availability of the cooling-off periods contained in paragraphs (a)(4)(v), (a)(4)(xi), and (a)(4)(xii) of the Rule with respect to foreign securities is not clear because not all of the terms and the assumptions underlying Rule 10b–6 made concerning domestic securities appear to be valid with respect to foreign securities. For example, based on its experience with the U.S. markets, the Commission determined that it was appropriate to provide a shorter cooling-off period for securities trading at US$5.00 or more per share (and having a minimum public float). This may not be an appropriate price level for foreign securities because the shares of many substantial foreign issuers trade at prices below the equivalent of US$5.00 per share. Foreign securities, moreover, rarely (if ever) trade in U.S. dollars. Accordingly, the US$5.00 price requirement literally cannot be satisfied for such securities.[9] Also, the Rule's method for determining a security's price incorporates U.S. market features that do not apply to foreign securities transactions.[10]

Moreover, unlike the case with transactions effected by U.S. distribution participants,[11] the Commission does not have a comparable ability to obtain records of transactions in foreign securities markets by non-U.S. participants. This can hamper the Commission's ability to determine whether

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[1] 17 CFR 240.10b–6.

[2] For purposes of this exemption, the term foreign security means a security issued by a "foreign government" or a "foreign private issuer," as those terms are defined under Rule 3b–4 under the Exchange Act, 17 CFR 240.3b–4. *Cf.* Proposed Rule 3b–10(d), Securities Exchange Act Release No. 28733 (January 3, 1991), 56 FR 820, 822 ("Rule 3b–10 Release").

[3] "Affiliated purchaser" is defined in 17 CFR 240.10b–6(c)(6). Generally, an affiliated purchaser includes any person acting in concert with the issuer or other person making the distribution; any affiliate who directly or indirectly controls purchases by the issuer or other person, or whose purchases are controlled by or under common control with the issuer or other person; a broker-dealer affiliate; and a non-broker-dealer affiliate that regularly purchases securities for its own account or for another's account or recommends or exercises investment discretion with respect to the purchase or sale of securities.

[4] In Letter regarding Rule 10b–6: Interpretation of "Business Day" (June 29, 1991), [1991] Fed. Sec. L. Rep. (CCH) ¶ 79,751 [hereinafter "Business Day Letter"], the Division of Market Regulation ("Division") took the interpretive position that the exceptions to the Rule contained in paragraphs (a)(4)(v), (a)(4)(xi), and (a)(4)(xii) were available to "specified foreign securities markets," as defined in Proposed Rule 3b–10(f), Rule 3b–10 Release, 56 FR at 822. Business Day Letter at p. 78,394 n.3. The exemption granted herein replaces that interpretive position of the Division.

[5] The two business day cooling-off period has been interpreted as a period of not less than 48 hours immediately prior to the commencement of offers or sales of the securities being distributed where such period includes two complete trading days (*i.e.*, including same day opening and closing) in the principal market for the security. The nine business day cooling-off period is calculated in a similar manner. See Business Day Letter.

[6] In general, the share price is the average price over a two-week period. See 17 CFR 240.10b–6(c)(7).

[7] The public float is calculated by subtracting from the total number of shares of stock outstanding the number of shares held by officers, directors, and any persons who, directly or indirectly, are the owners of 10% or more of the stock in distribution. 17 CFR 240.10b–6(c)(7).

[8] See, *e.g.*, Letters regarding Royal Dutch Petroleum Company (December 23, 1957); Philips N.V. (May 15, 1962); Standard Oil Company (New Jersey) (February 6, 1970); S.S. Kresge & Co. (April 14, 1972). For purposes of Rule 10b–6, the term "distribution" means an offering of securities, whether or not subject to registration under the Securities Act of 1933, that is distinguished from ordinary trading transactions by the magnitude of the offering and the presence of special selling efforts and selling methods. 17 CFR 240.10b–6(c)(5).

[9] Foreign securities trading in the form of ordinary shares qualify for the exception providing for a two business day cooling-off period if the foreign security has a minimum share price of US$5.00 and a public float of at least 400,000 shares in the United States. Depositary shares also qualify for the two business day cooling-off period where such shares satisfy these criteria in the United States. Where foreign securities or depositary shares trading in the United States do not satisfy the US$5.00/400,000 share criteria, the Rule's two business day cooling-off period is not available for transactions effected during the U.S. distribution of such securities. Transactions in foreign securities or depositary shares may qualify, however, for the exemption granted herein.

[10] For example, paragraph (c)(7) of Rule 10b–6 references the last sale reporting mechanism for securities trading in the U.S. securities markets.

[11] In particular, Rule 17a–3 under the Exchange Act, 17 CFR 240.17a–3, requires that broker-dealers make records of, *inter alia*, each securities transaction effected for customer or proprietary accounts. Moreover, Rule 17a–4 under the Exchange Act, 17 CFR 240.17a–4, requires that such records be maintained for specified periods, and that the records be promptly furnished to the Commission upon request.

foreign distribution participants have observed the restrictions of the Rule, or have otherwise engaged in manipulative activity during the distribution period. Particularly in the context of the short time-frames contained in the cooling-off periods, it is essential that the Commission be able to obtain prompt access to transaction information where manipulative activity appears to have been, or to be, taking place during a distribution to U.S. investors. As a result of these uncertainties, the Commission has taken the position that the cooling-off periods contained in paragraphs (a)(4)(v), (a)(4)(xi), and (a)(4)(xii) are not automatically available with respect to distributions of foreign securities made in whole or in part in the United States.[12]

The Commission has granted exemptions, however, from Rule 10b–6 which provide two or nine business day cooling-off periods for participants in a distribution of foreign securities in the Untied States. The exemptions have been issued in connection with distributions of foreign securities possessing certain qualities comparable to those of domestic securities that would quality for use of the exceptions. Those qualities have included, *inter alia*, a large U.S. dollar value of total market capitalization, a significant U.S. dollar value of public float, and a significant trading volume. In general, these exemptions have not turned on whether the securities traded at the equivalent of US$5.00 per share.[13] In addition, the transactions permitted by these exemptions were subject to, among other things, the commitment of persons relying on the exemptions to maintain and provide the Commission with access to trading records upon request.[14]

III. Exemption

To clarify the application of the Rule's cooling-off periods to foreign securities and thus reduce the burdens and costs to issuers and underwriters who otherwise must seek exemptions from the Commission on a case-by-case basis, the Commission hereby grants an exemption from Rule 10b–6 pursuant to paragraph (h) of the Rule[15] to permit participants in a distribution of foreign securities in the United States and their affiliated purchasers to bid for and purchase the securities being distributed and related securities in solicited brokerage and principal transactions until two or nine business days prior to the commencement of offers or sales of the foreign security being distributed in the United States, subject to: The condition that the distribution participants and their affiliated purchasers shall not, from the time each becomes a distribution participant until the completion of the distribution, effect any transactions in the security being distributed or related securities that are made for the purpose of creating actual, or apparent, active trading in or raising the price of such securities; and the additional conditions described below.

A. Notice Requirement

A participant in a distribution of foreign securities relying on the exemption granted herein is required to provide a written notice to the Commission ("Notice"). The Notice must: (1) State that the distribution participant and its affiliated purchasers are aware of the terms and conditions of the exemption; (2) state which cooling-off period (*i.e.*, two or nine business days) is claimed; and (3) contain the applicable representations relating to transaction recordkeeping and record production discussed below. The Notice may be provided by the person relying on the exemption directly or through an agent.[16] Where an agent provides the Notice, the names of the persons for whom the Notice is provided must be included.

B. Nine Business Day Cooling-Off Period

A nine business day cooling-off period is available for a security of any foreign issuer, provided that: (1) Transaction records are kept by distribution participants and their affiliated purchasers; and (2) the records are available to the Commission upon request.

1. Record Maintenance

Distribution participants and their affiliated purchasers are required to make records of transactions in the securities being distributed or any related securities during the period commencing on the later of the date one month prior to the commencement of the offers or sales in the distribution in the United States or the date on which the person becomes a participant in the distribution, and ending when the distribution in the United States is either completed or abandoned.[17] The records must be maintained for at least two years from the date thereof. The required transaction information is that generally recorded by a broker-dealer in the ordinary course of its business, *i.e.*: (a) The name of the security that is the subject of the transaction; (b) the date of the transaction; (c) the price and size of the transaction; (d) the securities market where the transaction was effected; (e) whether the transaction was effected for a customer or a proprietary account; (f) whether the transaction was a purchase or a sale; and (g) the identity of the account on whose behalf the transaction was effected.

If local law does not require the creation and maintenance of such records, however, then the Notice provided to the Commission by the distribution participant must include a commitment to maintain such records and a statement that the distribution participant has advised its affiliated purchasers of the requirement to maintain transaction records and that they have agreed to maintain such records.

2. Record Production

Distribution participants are required to make the transaction information available to the Commission or its staff, upon request, through either: (a) A comprehensive information sharing and enforcement assistance agreement or understanding with a foreign securities authority ("FSA")[18] that provides the Commission with the ability to obtain transaction information when securities prices appear to have been manipulated during a U.S. distribution ("Information Sharing Agreement");[19] or (b) a specific written commitment by the distribution participants to be included in the Notice provided to the Commission. This commitment would contain the following: (1) A statement that the required information will be provided to the Commission or its staff upon request;[20] (2) the names(s) of the

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[12] See, *e.g.*, Letters regarding Banco de Santander, S.A. (October 23, 1987), [1987–88] Fed. Sec. L. Rep. (CCH) ¶78,532; Societe Nationale Elf Aquitaine (June 7, 1991), [1991] Fed. Sec. L. Rep. (CCH) ¶79,734; and The International Stock Exchange of the United Kingdom and the Republic of Ireland Limited (September 29, 1987), [1987] Fed. Sec. L. Rep. (CCH) ¶78,713, as modified in Letters regarding The International Stock Exchange of the United Kingdom and the Republic of Ireland (October 14, 1988) (available on LEXIS) and Distributions of Certain SEAQ Securities (December 1, 1992) (available on LEXIS) (hereinafter "LSE Letters"); Business Day Letter.

[13] See, *e.g.*, LSE Letters; China Steel Corporation (May 15, 1992), [1992] Fed. Sec. L. Rep. (CCH) ¶76,274; Teleforos de Mexico, S.A. de C.V. (May 10, 1991), [1991] Fed. Sec. L. Rep. (CCH) ¶79,731; Orbital Engine Corporation Limited (November 21, 1991), [1991–92] Fed. Sec. L. Rep. (CCH) ¶76,058.

[14] See National Australia Bank Limited (July 31, 1989) (available on LEXIS; C.H. Beazer (Holdings) PLC (May 27, 1987), [1987–88] Fed. Sec. L. Rep. (CCH) ¶78,664.

[15] See 17 CFR 240.10b–6(h). The staff is currently engaged in a review of Rule 10b–6 and related provisions under the Exchange Act. The Commission has determined to proceed by exemption as described herein since, following the staff's review, the Commission may determine to modify this exemption or amend the provisions of the Rule with regard to the application of the Rule's cooling-off periods to foreign securities.

[16] For example, the managing underwriter of an underwriting syndicate may provide notice on behalf of other members of the syndicate.

[17] The one month period will enable the Commission to obtain information regarding trading during the distribution period taking place prior to the cooling-off period. This information is relevant to the condition to the exemption that manipulative transactions undertaken prior to the cooling-off period would make the exemption unavailable.

[18] FSA is defined in section 3(a)(50) of the Exchange Act as "any foreign government, or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters." 15 U.S.C. 78c(a)(50).

[19] Currently, the following Information Sharing Agreements with the following jurisdictions qualify under this standard: Argentina, International Series Release No. 354 (December 18, 1991), 50 SEC Docket 878; Brazil, International Series Release No. 7 (July 1, 1988), 43 SEC Docket 206; Ontario, Quebec, and British Columbia, International Series Release No. 6 (January 7, 1988), 43 SEC Docket 186; France, International Series Release No. 117 (January 12, 1990), 45 SEC Docket 726; Japan, International Series Release No. 5 (May 23, 1988), 43 SEC Docket 184; Mexico, International Series Release No. 181 (October 22, 1990), 47 SEC Docket 1128; the Netherlands, International Series Release No. 115 (January 12, 1990), 45 SEC Docket 715; Norway, International Series Release No. 321 (September 30, 1991), 49 SEC Docket 1747; Spain, International Series Release No. 429 (July 30, 1992), 51 SEC Docket 2838; and the United Kingdom, International Series Release No. 323 (September 30, 1991), 49 SEC Docket 1767. When effective, the Information Sharing Agreement the Commission has negotiated with Italy also will qualify.

[20] The transaction information would be made available at the principal office of such distribution participant for inspection and copying by an authorized representative of the Commission. If it is not feasible for the Commission to examine such

person(s) on whose behalf such notice is being provided; and (3) a statement that the distribution participants have examined the laws of the countries in which the relevant information is maintained and persons with knowledge of that information are located, and have determined that they are in a position to provide the relevant information to the Commission upon the Commission's request.

A distribution participant would be required to produce, upon request, transaction records of its affiliated purchasers if such records are in the possession or control of the distribution participant or if the distribution participant otherwise has access to the records. Affiliated purchasers would be expected to provide the required information to their affiliated distribution participant and would be expected not to take any actions that would impede Commission access. Any person who fails to comply with the conditions of the exemption, including a failure to provide requested information, would not be permitted to rely on the exemption in future distributions.[21]

C. Two Business Day Cooling-off Period

A two business day cooling-off period is available where: (1) The conditions described above in paragraphs B.1. and B.2. relating to recordkeeping and production are satisfied; (2) the average daily trading volume in the security during any 20 consecutive business day period within 60 consecutive calendar days prior to the commencement of the applicable cooling-off period equals or exceeds the equivalent of US$250,000 as calculated from transactions reported to an FSA and published by an FSA or a newspaper, news magazine, or business or financial publication of general and regular circulation that publishes volume information regarding securities;[22] and (3) the market in which such exempted transactions are effected requires, at a minimum, contemporaneous trade reporting to an FSA.

The foregoing exemption from Rule 10b–6 is strictly limited to the application of the Rule to the class of transactions described herein, and is subject to compliance with the conditions set forth above and the Commission's continuing ability to obtain investigatory information regarding trading in the relevant foreign market with respect to the exemption set forth herein. In addition, distribution participants and affiliated purchasers relying on this exemption are directed to the antifraud and anti-manipulation provisions of the Exchange Act, particularly Sections 9(a)(2) and 10(b) and Rule 10b–5 thereunder. This exemption is subject to modification or revocation if the Commission determines that such action is necessary or appropriate.

Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with each individual distribution participant and its affiliated purchasers. The Division expresses no view with respect to any other questions the class of transactions covered by the exemption might raise, including but not limited to, the applicability of any other federal or state laws to, such transactions.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

William H. Heyman,

Director.

[FR Doc. 93–5450 Filed 3–9–93; 8:45 am]

BILLING CODE 8010–01–M

records at such principal office and if the expense of doing so is not unreasonable, a copy of the records must be furnished to the Commission at its office in Washington, DC and representatives of such distribution participant would be made available (in person or by telephone) to respond to inquiries of the Division prompted by such records.

[21] Upon a showing of good cause, however, the Commission or the Division may determine that it is not necessary under the circumstances that the exemption be denied. *Cf.* Letter regarding Application of Rules 10b–6, 10b–7 and 10b–8 to Rights Offerings and Rule 144A Transactions Involving Foreign Securities (April 25, 1991), [1991] Fed. Sec. L. Rep. (CCH) ¶ 84,918, as modified in Letter regarding Application of Rules 10b–6, 10b–7 and 10b–8 to Rights Offerings and Rule 144A Transactions Involving Foreign Securities (January 15, 1993), General Condition A.5.

[22] In order to calculate the U.S. dollar value, distribution participants would either: (1) Obtain the average of the trading value in U.S. dollars of the 20 consecutive business day reference period ("reference period"); or (2) obtain an average trading value in local currency for the reference period and apply a current exchange rate to obtain the dollar value of the average trading volume. The exchange rate would be the current rate of exchange between the currency in which the security trades and the U.S. dollar, as obtained from at least one bank that regularly conducts currency exchange operations. See, *e.g.*, Proposed Rule 3b–10(a), Rule 3b–10 Release, 56 FR at 822.

[Release No. 34–31941; File No. SR–DTC–92–15]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change Relating to Clarifications in the FAST Program Balance Certificate Agreement

March 3, 1993.

On September 23, 1992, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–DTC–92–15) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] The proposed rule change clarifies provisions of the Balance Certificate Agreement ("Agreement") used in DTC's Fast Automated Securities Transfer ("FAST") program, as well as analogous provisions of the Commercial Paper program. The Commission published notice of the proposed rule change in the **Federal Register** on November 27, 1992.[2] No comments were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change consists of clarifications of provisions in the Balance Certificate Agreement used in DTC's FAST program to the effect that (1) FAST transfer agent confirmations of the identity of securities issues covered by the Agreement as well as the amount of securities evidenced by each balance certificate retained by the FAST transfer agent may be effected using DTC's Participant Terminal System ("PTS") rather than requiring the submission of hardcopy (*i.e.*, paper) forms[3] and (2) certification to DTC of insurance maintained by the FAST transfer agent to cover losses of securities held under the Agreement may be provided by the FAST transfer agent's insurance broker or agent upon DTC's request. The proposed rule change also clarifies analogous provisions of the Commercial Paper Certificate Agreement used in DTC's Commercial Paper program.[4]

PTS was permanently approved by the Commission on December 30, 1983.[5] The system permits direct communications between participants and DTC, enabling the participants to effect book entry movements and other account related activity via a remote terminal linked with DTC. Participants that have full access to the system must have a direct link via a dedicated telephone line from the participant terminal to DTC.[6] DTC allows dial up communication linkages for some purposes, but limits the use of this linkage to an inquiry function. PTS, however, does not accept any

The US$250,000 average daily trading volume calculation takes into account trading on any market for the security where daily trading volume information is published by an FSA or a newspaper, new magazine, or business or financial publication of general and regular circulation that publishes volume information regarding securities.

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 31476 (November 18, 1992), 57 FR 56390.

[3] Under the Agreement, when a FAST transfer agent uses PTS to transmit information to DTC, the FAST transfer agent will have the same obligations and liabilities as it currently has when it uses hardcopy (*i.e.*, paper) forms. Telephone conversation between Richard B. Nesson, General Counsel and Senior Vice President, DTC, and Ari Burstein, Attorney, Division of Market Regulation, Commission (February 5, 1993).

[4] For further details concerning the Commercial Paper program, see Securities Exchange Act Release No. 30986 (July 31, 1992), 57 FR 35836.

[5] Securities Exchange Act Release No. 20519 (December 30, 1983), 49 FR 966.

[6] A dedicated telephone line is a telephone line connecting the participant's terminal directly to the clearing agency on a continuous basis and allows participants to easily access information from or send information to the clearing agency without having to dial up the clearing agency to establish the telephone connection.

instruction or input data except through a dedicated line. PTS use has been authorized in a number of other situations to expand DTC's services and improve the efficiency and reduce the cost associated with the transfer of securities.[7]

Under the FAST program, DTC leaves securities in the custody of the issuer's transfer agent in the form of balance certificates, typically in one or more large denomination jumbo certificates, registered in Cede & Co., DTC's nominee name. As additional securities are deposited or withdrawn from the depository, DTC instructs the transfer agent to increase or decrease the size of the certificate. The obligations of the FAST transfer agent to DTC are set forth in the Agreement that is executed by the FAST transfer agent and DTC. The form of the Agreement in use since the FAST program was first approved by the Commission in 1977[8] provides, in part, that the Agreement relates to the custody of balance certificates evidencing the record ownership by Cede & Co. of each issue for which the FAST transfer agent act as transfer agent and the Agreement may be amended in writing from time to time by mutual agreement of the parties. The Agreement further provides that the FAST transfer agent shall confirm to DTC in writing the number of shares or units or the amount of obligations evidenced by each balance certificate, on a daily basis or other periodic basis, as DTC may reasonably request.

The Agreement also states in pertinent part that the FAST transfer agent must hold an insurance policy in the form of a Bankers Blanket Bond Standard Form 24, or similar coverage, in a specified amount sufficient to cover the loss of any securities received from DTC or held by the transfer agent on behalf of DTC, and must arrange each year for its insurance underwriter to certify to DTC the amount of such insurance. The proposed rule change will clarify provisions of the Balance Certificate Agreement to provide that the certification to DTC of insurance maintained by the FAST transfer agent to cover losses of securities held under the Agreement may be provided by the FAST transfer agent's insurance broker or agent upon DTC' request.[9]

II. Discussion

The Commission believes that DTC's proposed rule change is consistent with Section 17A of the Act and, specifically, with Sections 17A(b)(3) (A) and (F) thereunder.[10] Sections 17A(b)(3) (A) and (F) of the Act require that a clearing agency be organized and its rules be designed to enable it to facilitate the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible. In addition, section 17A(a)(1) encourages the adoption of efficient and effective procedures for the clearance and settlement of securities transactions. Specifically, section 17A(a)(1)(C) of the Act sets forth Congress' finding that "[n]ew data processing and communications techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement."[11]

DTC's proposal will eliminate certain costs and inefficiencies associated with DTC's arrangements with FAST transfer agents. By enabling the FAST transfer agent and DTC to confirm the identity of the issues covered by the Agreement and the amount of securities evidenced by each balance certificate by means of electronic communications through PTS rather than by the submission of hardcopy (*i.e.*, paper) forms, communication between DTC and the FAST transfer agent should be faster and more efficient. In addition, costs related to preparing and delivering routine instructions and other documents should be substantially reduced. The change, therefore, will promote the prompt and efficient clearance and settlement of securities transactions.

The proposed rule change also will relieve FAST transfer agents of certain administrative burdens associated with the maintenance of insurance to cover losses of securities held under the Agreement and the accompanying certification to DTC. DTC understands that the transfer agent can obtain the required certification more easily and promptly from its own insurance broker rather than from the insurer. In addition, by requiring submission of the certification only in response to DTC's request, FAST transfer agents can avoid establishing internal procedures for assuring that such certifications are automatically obtained and sent out. DTC intends to make such requests annually. The Commission believes this proposal is consistent with the requirement of section 17A(b)(3)(F) of the Act requiring the rules of a clearing agency to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

There are multiple layers of safeguards that are employed by DTC under PTS to protect the integrity of the system. DTC routinely monitors and polls terminals that are in use to ensure that access originates from the participant's authorized terminal. The participant terminals are also monitored to ensure that only functions authorized by the participant for the particular terminal are performed on that terminal. DTC also assigns confidential and unique passwords to each authorized participant-user of PTS. A hard copy of every terminal transaction is produced at both the participants terminal station and at DTC to ensure accurate and complete records for audit purposes. In addition the use of a dedicated telephone line prevents access to the system from locations other than the participant's office as opposed to the use of a dial up communication linkage which allows a participant to connect to the system over any telephone line. Accordingly, the Commission believes that the safeguards and controls DTC has established in connection with PTS are consistent with the requirements of section 17A(b)(3)(F) of the Act, which requires that DTC's rules be designed to assure the safeguarding of funds and securities which are in DTC's custody or control or for which it is responsible.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act, and in particular with section 17A of the Act, and with the rules and regulations thereunder.

Is is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (File No. SR–

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[7] See Securities Exchange Act Release No. 22409 (September 16, 1985), 50 FR 38601 (adoption of procedure allowing DTC participants to pledge securities to the Options Clearing Corporation through PTS as an alternative to submitting pledge data in paper form); Securities Exchange Act Release No. 27297 (September 27, 1989), 54 FR 41191 (rule change enabling pledgee banks in DTC's Collateral Loan Program to make electronic demands for collateral from its pledgors via PTS rather than having the demands submitted to DTC in paper form); and Securities Exchange Act Release No. 31304 (October 16, 1992), 57 FR 47499 (implementation of procedures permitting agents for mortgage backed put securities to utilize PTS in order to receive instructions initiated by participants instead of through hardcopy forms).

[8] Securities Exchange Act Release No. 13342 (March 16, 1977), 42 FR 14792.

[9] For further details concerning the FAST program, see Securities Exchange Act Release No. 12353 April 20, 1977.

As noted above, the proposed rule change also clarifies analogous provisions of the Commercial Paper Certificate Agreement used in DTC's Commercial Paper program.

[10] 15 U.S.C. 78q–1(b)(3) (A) and (F).

[11] 15 U.S.C. 78–1(a)(1)(C).

[12] 15 U.S.C. 78s(b)(2).

DTC–92–15) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5416 Filed 3–9 -93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19311; 811–4697]

Kidder, Peabody MarketGuard Appreciation Fund; Notice of Application

March 4, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: Kidder, Peabody MarketGuard Appreciation Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on September 8, 1992 and amended on November 2, 1992 and February 10, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 29, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, 60 Broad Street, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: James E. Anderson, Staff Attorney, at (202) 272–7027, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Massachusetts business trust, is an open-end, non-diversified management investment company. On November 12, 1986, applicant filed a notification of registration pursuant to section 8(a) of the Act and a registration statement pursuant to the Securities Act of 1933. Applicant's registration statement was declared effective on March 2, 1987 and its initial public offering commenced on March 9, 1987.

2. On June 27, 1990, applicant's trustees approved a proposal to liquidate applicant. Applicant had engaged in a hedging strategy utilizing computer generated options and futures programs in order to achieve its investment objective. Applicant's management determined that, based on various circumstances relating to its hedging strategies, it would be appropriate to adopt a defensive investment strategy. Thus, on June 28, 1990, the termination date of applicant's hedging position, applicant sold all its portfolio securities, paying $15,686 is brokerage commissions. The proceeds of the sale were then re-invested in U.S. Government securities and repurchase agreements secured by U.S. Government securities. Shareholder approval of this sale was not required because applicant was permitted to invest for defensive purposes, as disclosed in its prospectus.

3. Applicant's securityholders approved the liquidation proposal at a special meeting held on November 2, 1990. The meeting had been adjourned from October 1, 1990 because the number of shares necessary to obtain a quorum were not represented at the meeting on October 1.

4. On November 9, 1990, applicant sold its U.S. Government securities, receiving a price based on the best competitive bid, and its repurchase agreement matured, causing applicant to receive in each case the amount specified in accordance with the terms of each agreement. On November 13, 1990, applicant distributed substantially all of its assets, totaling $14,506,051, to its shareholders on a *pro rata* basis. Approximately $14,596 was reserved for payment of accrued operating expenses. All liquidation expenses were paid by Kidder, Peabody & Co. Incorporated, applicant's principal underwriter.[1]

5. Applicant has no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5451 Filed 3–9–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19312; File No. 811–3771]

New York Life VLI Series Fund, Inc.

March 4, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: New York Life VLI Series Fund, Inc. (the "Applicant").

RELEVANT 1940 ACT SECTION: Order requested under section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on January 25, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 29, 1993, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Anne F. Pollack, President, New York Life VLI Series Fund, Inc., 372 Park Avenue South, New York, NY 10016.

FOR FURTHER INFORMATION CONTACT: Kathleen Ujvari, Accountant, or Wendell M. Faria, Deputy Chief, on (202) 272–2060, Office of Insurance

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[12] 17 CFR 200.30–3(a)(12).

[1] By letter dated February 26, 1993, applicant represents that unamortized organizational costs, in the amount of $28,085, were paid by Kidder Peabody Asset Management, Inc., applicant's investment adviser.

Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application, the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. On June 16, 1983, Applicant filed a notification of registration as an investment company on Form N–8A and a registration statement under the 1940 Act (File No. 811–3771) and the Securities Act of 1933 (the "1933 Act") (File No. 2–84496) on Form N–1. The registration statement was declared effective on February 17, 1984. (The current registration statement is on Form N–1A.) Applicant was incorporated under Maryland law on June 3, 1983.

2. Applicant is registered as a diversified, open-end management company under the 1940 Act. Applicant has three portfolios (the "Funds"): Common Stock; Bond; and Money Market. New York Life Insurance Company serves as investment adviser to the Funds.

3. The New York Life Insurance and Annuity Corporation VLI Separate Account (the "Account"), a unit investment trust registered under the 1940 Act, has served as a vehicle for investment in the Applicant.

4. Pursuant to an Agreement and Plan of Reorganization ("Reogranization") approved by the Board of Trustees on August 4, 1992, all of the assets of the Applicant were acquired by the New York Life MFA Series Fund, Inc. (the "MFA Fund") in exchange for shares of MFA Fund's stock having an aggregate net asset value equal to the aggregate value of the net assets of the Applicant. After the close of trading on October 30, 1992, Applicant then distributed the MFA Fund shares to the Account (*i.e.*, New York Life Insurance and Annuity Corporation ("NYLIAC"), the sole securityholder of the Applicant) in exchange for the Applicant's shares, in complete liquidation and dissolution of the Applicant. No brokerage commissions were paid in connection with the Reorganization.

5. Effective after the close of trading on October 30, 1992, Applicant ceased conducting any business except for business related to the dissolution process.

6. Since the distribution of shares of the MFA Fund to NYLIAC, all of the issued and outstanding shares of the Applicant are retired, canceled, and no longer outstanding, and NYLIAC has ceased to be a shareholder with respect to such shares.

7. No securityholders remained in the funds as of January 21, 1993.

8. As of January 21, 1993, there were no assets in the Funds.

9. All legal, accounting, and other expenses incurred in connection with the reorganization have been or will be borne by the Applicant's investment adviser, New York Life Insurance Company.

10. Applicant has no debts or other liabilities which remain outstanding.

11. Applicant is not a party to any pending litigation or administrative proceedings.

12. As of June 1, 1992, Applicant has not, for any reason, transferred any of its assets to a separate trust.

13. Applicant is not engaged, nor does it propose to engage, in any business activities other than those necessary to conclude its affairs.

14. Applicant requests an order pursuant to section 8(f) of the 1940 Act declaring that it has ceased to be an investment company.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5452 Filed 3–9–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Criteria for Designation of Four Additional Current or Former Military Airports for Participation in the Military Airport Program

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Criteria for designation and opportunity to participate.

SUMMARY: This notice announces the criteria to be applied by the Secretary of Transportation in designating four additional current or former military airfields for participation in the Military Airport Program. This notice also invites expressions of interest from qualified entities desiring an opportunity to participate in the program. This action responds to section 9109 of the Aviation Safety and Capacity Expansion Act of 1990 (Pub. L. 101–508), establishing the Military Airport Program, and section 107 of the Airport and Airway Safety, Capacity, Noise Improvement and International Transportation Act of 1992, and is intended to improve the capacity of the national air transportation system.

DATES: Written notification expressing an interest in being designated to participate in the Military Airport Program should be addressed to the Secretary of Transportation and must be received by the Federal Aviation Administration (FAA) on or before April 15, 1993.

ADDRESSES: Send notification of interest in being designated to participate in the Military Airport Program to: Federal Aviation Administration, Military Airport Program, Office of Airport Planning and Programming, APP–1, 800 Independence Avenue, SW., room 600 East, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. James V. Mottley, Military Airport Program, APP–4, Office of Airport Planning and Programming, Federal Aviation Administration (FAA), 800 Independence Avenue SW., Washington, DC 20591, (202) 267–8780.

SUPPLEMENTARY INFORMATION: This notice announces the criteria to be applied by the Secretary of Transportation (Administrator for the Federal Aviation Administration) in designating four additional current or former military airports for participation in the military airport grant program established under section 9109 of the Aviation Safety and Capacity Expansion Act of 1990. Section 107 of the Airport and Airway Safety Capacity, Noise Improvement and Intermodal Transportation Act of 1992 amends Section 508(d) of the Airport and Airway Improvement Act of 1982 to require the Secretary to distribute not less than 2.25 percent of the funds made available in fiscal year 1993 and not less than 2.5 percent in fiscal years 1994 and 1995 for airport development and planning to sponsors of current or former military airports designated by the Secretary for the purpose of developing those airports to improve the capacity of the national air transportation system. Section 107 requires the designation of four such airports in addition to the existing eight designated locations.

Under the military airport grant program, the Secretary shall consider the extent to which conversion of the current or former military airport in whole or in part to a civilian commercial or reliever airport as part of the national air transportation system would enhance airport and air traffic control system capacity in major metropolitan areas and would reduce current and projected flight delays. Only airports whose conversion will, in the opinion of the Secretary, produce such enhancements and reductions will be

considered further for program participation.

In making designations, the Secretary may consider any or all of the following criteria, as applicable:

(a) The proximity of a current or former military airport to air carrier airports in a major metropolitan area experiencing high levels of air carrier delay or projected to experience levels of such delay (20,000 hours annually) (Footnote: Based upon the 1991–92 Aviation System Capacity Plan (DOT/FAA/ASC–91–1):

(b) The existing airspace capacity and compatibility with airspace and air traffic flow patterns in the metropolitan areas in or near which a current or former military airport is located.

(c) The availability of local sponsorship for the civil development of a current or former military airport.

(d) Exiting and potential levels of operations at a current or former military airport.

(e) Existing facilities (terminals, runways, taxiways, etc.) of a current or former military airport.

(f) Capital development needs of the air carrier airports in the metropolitan area in which a current or former military airport is located and the capital development needs of the current and former military airport.

(g) Accomplishment of the required environmental review process for civil or joint-use airfields prior to such fields being designated.

(h) The availability of transportation networks (road, rail, high-speed rail, maritime facilities) to provide intermodal connections; and,

(i) Type and level of aviation and community interest in the civil use of a current or former military airport.

Specific Criteria

For an airport to be designated for participation in the grant program established under the Military Airport Program, the airport must meet the following criteria:

(a) In the case of a former military airport, the airport must meet the definition of a "public airport" as defined in section 503(a)(17) of the Airport and Airway Improvement Act of 1982.

(b) In the case of a current military airport, the airport must be subject to an existing joint-use agreement with the military department of the Department of Defense having jurisdiction over the airport and meet the definition of a "public airport" as defined in section 503(a)(17) of the Airport and Airway Improvement Act of 1982.

(c) The airport must meet the definition of a "commercial service airport" or a "reliever airport" as defined in sections 503(a)(5) and 503(a)(19) of the Airport and Airway Improvement Act of 1982, respectively and be included in the current National Plan of Integrated Airport System.

(d) The airport must have an identified "sponsor" as that term is defined in section 503(a)(22) of the Airport and Airway Improvement Act of 1982.

(e) The airport must be located in or near a major metropolitan area presently experiencing or projected to experience high levels of annual air carrier delay (exceeding 20,000 hours) at the existing air carrier airport(s) or, in or near a location where, in the opinion of the Secretary, the development of the airport would result in an increase in overall airport system capacity.

(f) The airport must have an approved airport layout plan (ALP) and identified capital development needs eligible for grants under this program all or part of which reasonably can be expected to be funded during fiscal year 1993.

(g) Written notification to the Secretary by or on behalf of the sponsor expressing the sponsor's interest in being designated for participation in the Military Airport Program must be received on or before April 15, 1993.

This notice is issued pursuant to section 508(d) of the Airport and Airway Safety, Capacity, Noise Improvement and Intermodal Transportation Act of 1992 (Pub. L. 102–581), October 31, 1992, and Section 307 of the Federal Aviation Act, as amended, "Use of Airspace," 49 U.S.C. App. 1348.

Issued in Washington, DC, on March 3, 1993.

Paul L. Galis,

Director, Office of Airport Planning and Programming.

[FR Doc. 93–5467 Filed 3–9–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Santa Barbara County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: FHWA, in cooperation with the California Department of Transportation, is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Santa Barbara County, California. FHWA intended to publish the Notice of Intent for this project in August 1990. However, FHWA has been unable to verify that a Notice of Intent was ever previously published, therefore this Notice will serve as an updated version.

FOR FURTHER INFORMATION CONTACT: John R. Schultz, Chief, District Operations-A, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95812–1915, Telephone: (916) 551–1314.

SUPPLEMENTARY INFORMATION: To increase capacity and correct operational deficiencies, the four-phased project revises interchanges, replaces bridges and overhead structures and widens Route 101 from four to six lanes between the Milpas Street Interchange in the City of Santa Barbara (Post Mile 12.8) and 1.1 miles north of Ventura County Line (Post Mile 1.1) in the City of Carpinteria. Alternates under consideration include widening along the existing alignment in the median, adding lanes to the outside shoulders and the No Project Alternative. Potential beneficial impacts include the alleviation of traffic congestion, a decrease in local air quality emissions (CO) and the correction of structural deficiencies. Potential unavoidable adverse impacts include an increase in local air quality emissions (NO_X) and noise levels, a decrease in visual quality, and construction impacts. As part of the scoping process for this project, a series of community involvement meetings have taken place from 1989 to the present. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments of questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: March 1, 1993.

John R. Schultz,

Chief District Operations, "A".

[FR Doc. 93–5445 Filed 3–9–93; 8:45 am]

BILLING CODE [illegible]

National Highway Traffic Safety Administration

[Docket No. 93–16–Notice 1]

General Tire, Inc.; Receipt of Petition for Determination of Inconsequential Noncompliance

General Tire, Inc. (General), of Akron, Ohio, has determined that some of its tires fail to comply with 49 CFR 571.119, "New Pneumatic Tires for Vehicles Other Than Passenger Cars" (Federal Motor Vehicle Safety Standard (FMVSS) No. 119), and has filed an appropriate report pursuant to 49 CFR part 573. General has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

During the week of January 26 to February 1, 1992, General manufactured approximately 300 Premium Rib truck tires that bear incorrect serial numbers. These tires were produced with the GTY plant code for Toyo 3C and the brand name owner code for Toyo, 9M2. These tires should have been produced with the GTY plant code for Yokohama, 6B, and the brand name owner code for Yokohama, 9M3. The size code, 37, is correct for either serial number and the date of manufacture is also correct for both serial numbers. The full serial number on the tires was labeled as 3C379M2042. Instead, the serial number should have been 6B379M3042.

Section S6.5 of FMVSS No. 119 specfies that each tire be labeled with the name of the manufacturer or brand name, and number assigned to the manufacturer in the manner specified in part 574. In addition, if the tire is manufactured for a brand name owner, a code must be included for this brand name owner.

General supports its petition for inconsequential noncompliance with the following:

Although the plant code for Toyo (3C) was put on the tires instead of the plant code for Yokohama (6B), both the 3C and 6B plant codes allow the tires to be traced back to General Tire, Inc. in Mt. Vernon, Illinois if a recall was required. In addition, General has not received any reports of accidents, injuries, or warranty claims with regard to these tires.

Interested persons are invited to submit written data, views, and arguments on the petition of General, described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street SW., Washington DC, 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: April 9, 1993.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: March 4, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–5419 Filed 3–9–93; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

March 3, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557–0081
Form Number: FFIEC 031–034
Type of Review: Revision
Title: (MA)—Reports of Condition and Income, Interagency Call Report
Description: National banks file reports pursuant to 12 U.S.C. 161 and other statutes. Data are used to evaluate and monitor the financial condition and earnings performance of individual banks as well as the entire banking industry.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Recordkeepers: 3,750
Estimated Burden Hours Per Respondent: 35 hours, 27 minutes
Frequency of Response: Quarterly
Estimated Total Reporting Burden: 524,660 hours
Clearance Officer: John Ference, (202) 874–4697, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.
OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–5420 Filed 3–9–93; 8:45 am]

BILLING CODE 4810-35-M

Public Information Collection Requirements Submitted to OMB for Review

March 3, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0145
Form Number: None
Type of Review: Reinstatement
Title: Cargo Container and Road Vehicle Certification for Transport Under Customs Seal
Description: This information is used in a voluntary program to receive internationally-recognized Customs certification that intermodal container/road vehicles meet construction requirements of international Customs conventions. Such certification facilitates International Trade by reducing intermediate international controls.
Respondents: Businesses or other for-profit
Estimated Number of Respondents/ Recordkeepers: 22

Estimated Burden Hours Per Respondent/Recordkeeper: 3 hrs., 30 min.
Frequency of Response: Other
Estimated Total Reporting/ Recordkeeping Burden: 3,124 hours
OMB Number: 1515–0186
Form Number: None
Type of Review: Reinstatement
Title: Use of Air Waybill as In-Bond Document
Description: This allows the Air Waybill to be used as an in-bond document in place of the CF–7512 and CF–7512C. A successful test program was conducted earlier and current collection activities are meeting all expectations.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 60
Estimated Burden Hours Per Respondent: 2 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 1,030 hours
OMB Number: 1515–0187
Form Number: None
Type of Review: Reinstatement
Title: Proposed Customs Regulations Amendments Relating to Assessment of Liquidated Damages for Failure to Deposit Estimate Duties, Texas and Charges, or to Remit Passenger Processing Fees to Customs
Description: This information collection will amend regulations to provide principally for the assessment of liquidated damages for failure to deposit estimated duties, taxes and charges timely on imported merchandise entered for consumption.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 25
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: On occasion
Estimated Total Reporting Burden: 100 hours
Clearance Officer: Ralph Meyer, (202 927–1552, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 93–5423 Filed 3–9–93; 8:45 am]
BILLING CODE 4820–02–M

Public Information Collection Requirements Submitted to OMB for Review

March 3, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Financial Management Service

OMB Number: 1510–0047.
Form Number: TFS 2211.
Type of Review: Extension.
Title: List of Data.
Description: Information is collected from insurance companies to provide Treasury with a basis for determining acceptability of insurance companies applying for a Certificate of Authority to write or reinsure Federal surety bonds.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 25
Estimated Burden Hours Per Response: 18 hours
Frequency of Response: On occasion
Estimated Total Reporting Burden: 450 hours
Clearance Officer: Jacqueline R. Perry, (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Officer of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 93–5421 Filed 3–9–93; 8:45 am]
BILLING CODE 4810–35–M

Public Information Collection Requirements Submitted to OMB for Review

March 3, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0575
Form Number: IRS Form 5330
Type of Review: Revision
Title: Return of Excise Taxes Related to Employee Benefit Plans
Description: Internal Revenue Code (IRC) sections 4971, 4972, 4973(a), 4975, 4976, 4977, 4978, 4978A, 4978B, 4979, 4979A, and 4980 impose various excise taxes in connection with employee benefit plans. Form 5330 is used to compute and collect these taxes.
Respondents: Individuals or households, Businesses or other for-profit
Estimated Number of Respondents/ Recordkeepers: 8,403
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—16 hours, 59 minutes
Leearning about the law or the form—7 hours, 56 minutes
Preparing and sending the form to the IRS—8 hours, 34 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 281,416 hours
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 93–5422 Filed 3–9–93; 8:45 am]
BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

March 4, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be

addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0927
Form Number: IRS Form 8390
Type of Review: Revision
Title: Information Return for Determination of Life Insurance Company Earnings Rate Under Section 809
Description: Life insurance companies are required to provide data so the Secretary of the Treasury can compute the: (1) Stock earnings rate of the 50 largest stock companies; and (2) average mutual earnings rate. These factors are used to compute the differential earnings rate which will determine the tax liability for mutual life insurance companies.
Respondents: Businesses or other for-profit
Estimated Number of Respondents/Recordkeepers: 150
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—57 hours, 52 minutes
Learning about the law or the form—3 hours, 28 minutes.
Preparing and sending the form to the IRS—4 hours, 35 minutes
Frequency of Response: Annually
Estimated Total Reporting Burden: 9,888 hours
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 93–5455 Filed 3–9–93; 8:45 am]
BILLING CODE 4830–01–M

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 9–93]

Treasury Notes, Series K–1998

Washington, February 25, 1993.

The Secretary announced on February 24, 1993, that the interest rate on the notes designated Series K–1998, described in Department Circular—Public Debt Series—No. 9–93 dated February 17, 1993, will be 5⅛ percent. Interest on the notes will be payable at the rate of 5⅛ percent per annum.

Gerald Murphy,
Fiscal Assistant Secretary.
[FR Doc. 93–5457 Filed 3–9–93; 8:45 am]
BILLING CODE 4810–40–M

[Supplement to Department Circular—Public Debt Series—No. 8–93]

Treasury Notes, Series T–1995

Washington, February 24, 1993.

The Secretary announced on February 23, 1993, that the interest rate on the notes designated Series T–1995, described in Department Circular—Public Debt Series—No. 8–93 dated February 17, 1993, will be 3⅞ percent. Interest on the notes will be payable at the rate of 3⅞ ercent per annum.

Gerald Murphy,
Fiscal Assistat Secreary.
[FR Doc. 93–5456 Filed 3–9–93; 8:45 am]
BILLING CODE 4810–40–M

Sunshine Act Meetings

Federal Register

Vol. 58, No. 45

Wednesday, March 10, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., March 15, 1993.

PLACE: 1st Floor Hearing Room, Federal Maritime Commission, 800 North Capitol St., N.W., Washington, D.C. 20573–0001.

STATUS: Closed.

MATTER(S) TO BE CONSIDERED:

1. Docket No. 91–06—*Burlington Northern Railroad Company v. M.C. Terminals, Inc.*—Consideration of the Record.

2. TransPacific Trades Malpractice Program.

3. Docket No. 90–16—*Seacon Terminals v. The Port of Seattle*—Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,

Secretary.

[FR Doc. 93–5547 Filed 3–5–93; 4:32 pm]

BILLING CODE

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 12631, March 5, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, March 10, 1993.

CHANGES IN THE MEETING: The open meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: March 8, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–5579 Filed 3–8–93; 10:48 am]

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federal register

Wednesday
March 10, 1993

Part II

Department of Education

Office of Special Education and Rehabilitative Services

National Institute on Disability and Rehabilitation Research; Final Funding Priorities for Fiscal Years and Inviting Applications for Certain New Awards Under the Rehabilitation Research and Training Centers for Fiscal Year 1993; Notices

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Final Funding Priorities for Fiscal Years 1993 and 1994

AGENCY: Department of Education.

ACTION: Notice of Final Funding Priorities for Fiscal Years 1993 and 1994 for Certain Rehabilitation Research and Training Centers.

SUMMARY: The Secretary announces final priorities for several Rehabilitation Research and Training Centers (RRTCs) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1993–1994. The Secretary takes this action to focus research attention on areas of national need identified through NIDRR's long-range planning process. These priorities are intended to improve rehabilitation services and outcomes for individuals with disabilities.

EFFECTIVE DATE: These priorities take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: David Esquith, U.S. Department of Education, 400 Maryland Avenue, SW., room 3424, Switzer Building, Washington, DC 20202–2601. Telephone: (202) 205–8801. Deaf and hearing-impaired individuals may call (202) 205–5516 for TDD services.

SUPPLEMENTARY INFORMATION: This notice contains 14 final priorities under the RRTC program. Ten of the priorities are in areas related to employment and vocational rehabilitation; two of the priorities are for research related to individuals with mental retardation; and two of the priorities are for research on issues related to families in which one or more members have a disability. NIDRR has published other final priorities for other RRTCs and other programs for fiscal years 1993–1994.

Authority for the RRTC program of NIDRR is contained in section 204(b) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762).

Under this program, the Secretary makes awards to public agencies and to nonprofit and for-profit private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations. The statute provides that RRTCs must be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services.

The Secretary may make awards for up to 60 months through grants or cooperative agreements. The purpose of the awards is for planning and conducting research, training, demonstrations, and related activities leading to the development of methods, procedures, and devices that will benefit individuals with disabilities, especially those with the most severe disabilities.

The final priorities support the National Education Goals. National Education Goal 5 calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. These priorities would address Goal 5 by helping individuals with disabilities to develop the skills necessary to live and work successfully in the world as it is today.

Under the regulations for this program (see 34 CFR 352.32) the Secretary may establish research priorities by reserving funds to support particular research activities. On September 17, 1992, the Secretary published a notice of proposed priorities in the **Federal Register** (57 FR 43108). The Department of Education received 160 letters commenting on the proposed priorities. Most of the comments suggested an additional priority for an RRTC on Mental Health and Deafness. In addition, a few of the commenters suggested substantive changes that would improve the priorities, and changes were made to the priorities as a result of those comments. The comments, and the Secretary's responses to them, are discussed in an appendix to this notice

Note: This notice of final priorities does not solicit applications. A notice inviting applications is published in a separate notice in this issue of the **Federal Register**.

Description of the Rehabilitation Research and Training Center Program

RRTCs are operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services. They serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

RRTCs conduct coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities. RRTCs provide training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services. RRTCs also provide training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel. RRTCs serve as informational and technical assistance resources to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals through conferences, workshops, public education programs, in-service training programs, and similar activities.

RRTCs conduct research on designated rehabilitation problem areas and provide training to researchers, service providers, and consumers. They conduct an interdisciplinary program of training in rehabilitation research, including training in research methodology and applied research experience, that will contribute to the number of qualified researchers working in the area of rehabilitation research. Each Center disseminates and encourages the use of new rehabilitation knowledge and publishes all materials for dissemination or training in alternate formats to make them accessible to individuals with a range of disabling conditions. Each Center must involve individuals with disabilities and, if appropriate, their family members, as well as rehabilitation service providers—including vocational rehabilitation service providers—in planning and implementing the research and training programs, in interpreting and disseminating the research findings, and in evaluating the Center.

NIDRR encourages all Centers to involve individuals with disabilities and minorities as recipients of clinical and research training. In addition, NIDRR encourages all Centers to make their research relevant to all minority populations with disabilities to the maximum extent appropriate.

To achieve the goals specified in the priority, the Secretary expects each RRTC to conduct a multifaceted program of research to develop solutions to problems confronted by individuals with disabilities. Applicants have considerable latitude in proposing the specific research and related projects they will undertake to achieve the designated outcomes. However, the regulatory selection criteria for the program (34 CFR 352.31) require that

applicants justify their choice of research projects in terms of the relevance to the priority and to the needs of individuals with disabilities. The regulations also require applicants to present a scientific methodology that includes reasonable hypotheses, methods of data collection and analysis, and a means to evaluate the extent to which project objectives have been achieved.

The Department of Education is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

NIDRR is in the process of developing a revised long-range plan focused on achieving six goals for individuals with disabilities: (1) Full integration into the community; (2) full employment; (3) independence and empowerment; (4) maximum human functioning and health; (5) improved vocational rehabilitation services; and (6) the translation of new knowledge and technology into practice. The priorities proposed in this notice are derived from the long-range planning process and are intended to achieve one or more of these six outcomes.

The publication of these final funding priorities does not obligate the Department of Education to fund projects in any or all of these areas. Funding of particular projects depends on the availability of funds and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: The Background section for some of the priorities may contain substantive requirements that must be followed by each applicant for these priorities.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet one of the following priorities. The Secretary will fund under this competition only applications that meet one of these absolute priorities:

Ten Priorities on Vocational Rehabilitation and Employment

The NIDRR long-range goals include facilitating increased employment and improved vocational rehabilitation services for individuals with disabilities. Achievement of these goals affects other NIDRR long-range goals of promoting community integration, independence, empowerment, and improved functioning. Testimony and deliberations of the NIDRR long-range planning process emphasized the need: (1) To make meaningful work and rewarding careers accessible to all Americans with disabilities; and (2) to assist the State-Federal vocational rehabilitation (VR) system to provide more effective services to individuals who are members of previously underserved groups, including minorities, persons with severe disabilities, rural residents, persons with substance abuse disabilities, and persons with long-term mental illness or specific learning disabilities. NIDRR proposes an intensive and extensive program of 10 Rehabilitation Research and Training Centers to enhance the vocational rehabilitation service delivery system in order to improve the employment outcomes of persons with disabilities.

NIDRR requires that each Center conducting research in the areas of employment and vocational rehabilitation cooperate and coordinate with the relevant State VR agencies.

Priority 1—Enhancing Employability

Background

The employment status of persons with disabilities is well-documented—only about one-third of persons with disabilities of working age are employed, and only about one-fourth are employed full-time (Kraus and Stoddard, 1991). This priority focuses on improving the vocational skills and work behaviors that will enable individuals to obtain and retain suitable and satisfying employment in an increasingly demanding economy if they are: (1) unemployed; (2) employed only part-time or part of the year when they seek full-time, year-round employment; or (3) employed below their skill level because they cannot obtain more suitable employment.

The International Center for the Disabled sponsored a survey of employers (Louis Harris and Associates, 1987) that revealed the importance of improving the vocational skills of persons with disabilities. The report on the survey concluded that the pool of qualified applicants with disabilities must be increased through improved education and appropriate job training. The report also indicated that employers generally do not have the in-service training capacity to assist employees in developing the skills needed for promotion. The report further suggested that current skills training programs are not meeting the needs of persons with disabilities who seek employment and, further, are not meeting their needs when they seek job advancement after initial employment has been achieved.

Persons with clear career goals are more likely to benefit from rehabilitation services than are clients without those goals (Sanderson, 1978). Career aspirations represent ambitions and motivations that are a central force in the attainment of educational and occupational achievements (Otto and Haller, 1979). Career exploration activities occur during adolescence or early adulthood. The limited research available suggests that youth with disabilities lag behind their non-disabled peers in the growth of career awareness and development of vocational interests (Chubon and Black, 1985; Simpson, 1986).

While there is a paucity of research on the career development of individuals with disabilities, there is even less information available on strategies that State vocational rehabilitation and educational agencies might use to place and maintain individuals with disabilities in jobs with opportunities for skill and salary advancement.

Overcoming barriers to opportunity and capitalizing on the increased access to employment provided by the Americans with Disabilities Act (ADA) require improvements in service delivery systems to increase the employability of individuals with disabilities.

An RRTC funded under this priority shall coordinate its efforts with the RRTCs that will be funded under Priority 2—Promoting Placement and Priority 3—Career Development and Advancement.

Priority

An RRTC on enhancing employability shall—

- Develop and evaluate model programs, involving collaborative efforts of multiple service delivery systems—including private and State rehabilitation agencies, independent living programs, and community facilities—to promote employment readiness, vocational skills, and positive work habits that will enhance the employability of individuals with disabilities;
- Identify, develop, and evaluate techniques to promote career awareness

and career exploration in young persons with disabilities, using strategies that involve special education, secondary education, vocational education, transition programs, and youth manpower programs;

• Identify, develop, and evaluate the best practices for enhancing employability, involving special education, adult and vocational education, secondary education, transition programs, and other manpower training programs, and develop and test community-based employment planning and advancement strategies for all persons with disabilities, with emphasis placed on those individuals with various severe disabilities;

• Identify skills and knowledge required to empower consumers of employment-related services, and develop and demonstrate model services emphasizing consumer choice and self-advocacy in planning for and gaining access to education and training programs that can improve their employment status;

• Evaluate the effectiveness of new and emerging technology in improving vocational rehabilitation eligibility determinations, vocational assessment, job preparation, and job placement; and

• Collect and maintain research that has been conducted on issues related to the employability of all individuals with disabilities.

Priority 2—Promoting Placement

Background

In the past decade the population served by rehabilitation agencies has included more individuals who have severe cognitive, emotional, and physical disabilities. Accompanying this increase in the number of individuals with severe disabilities has been an increase in the technical and interpersonal complexities of jobs, a decrease in the supply of entry level jobs available to individuals with disabilities, and higher unemployment rates in those occupations in which individuals with disabilities traditionally have found work. Placement specialists have responded to these circumstances with training in marketing methods and job clubs (Greenwood and Johnson, 1985, 1987; Schriner, Johnson, and Greenwood, 1988, 1991).

Rehabilitation counselors are being asked to place a larger number of persons with more severe disabilities in a more demanding and complex labor market. New placement techniques are needed to increase the number of placements. Providing rehabilitation counselors with training on these techniques will enable them to match the skills of their clients with the demands of the market.

An RRTC funded under this priority shall coordinate its efforts with the RRTCS that will be funded under Priority 1—Enhancing Employability and Priority 3—Career Development and Advancement.

Priority

An RRTC on promoting placement shall—

• Develop and evaluate placement models, with emphasis placed on persons with severe disabilities, using general marketing strategies and involving multiple service delivery systems, including private and State rehabilitation agencies, independent living programs, and community facilities;

• Develop methodologies to document best practices in placement and follow-up services for individuals, with emphasis placed on persons with severe disabilities;

• Identify and analyze concerns and practices of employers regarding their expectations and the contributions they are prepared to make in integrating individuals with disabilities into the workplace, with emphasis placed on persons with severe disabilities;

• Develop strategies to enhance VR agencies' use of technology and other job accommodation techniques to increase the number of appropriate placements into competitive employment, with emphasis placed on persons with severe disabilities, and to assist in matching client skills with market demands;

• Develop and maintain a national database on the number and type of placements made by VR agencies; and

• Provide technical assistance to VR agencies and rehabilitation educators in promoting job placement for persons with severe disabilities.

Priority 3—Career Development and Advancement

Background

Assisting individuals with disabilities to achieve vocational goals is the objective of vocational rehabilitation. However, the pressure to place individuals can compromise efforts of counselors to assist persons with disabilities to pursue vocations that offer opportunities for promotion and career development.

There has not been sufficient emphasis on career development and advancement for individuals with disabilities (Bagley, 1985). While there is a paucity of research on the career development of individuals with disabilities, there is even less information available on strategies that State vocational rehabilitation and educational agencies might use to place and maintain individuals with disabilities in jobs with opportunities for skill and salary advancement.

An RRTC funded under this priority shall coordinate its efforts with the RRTCs that will be funded under Priority 1— Enhancing Employability and Priority 2—Promoting Placement.

Priority

An RRTC on career development and advancement shall—

• Identify and analyze state-of-the-art career development practices for non-disabled individuals and develop and test, for individuals with disabilities, modifications that incorporate the latest knowledge on job training and job accommodations;

• Develop and evaluate career counseling techniques to assist clients with disabilities in identifying careers that most appropriately fit their individual interests and abilities;

• Develop research-based criteria to document best practices in aiding individuals with various disabilities to enter the careers they choose;

• Identify and analyze expectations, concerns, and practices of employers related to promoting the careers of individuals with disabilities;

• Develop standards and performance indicators that enable VR agencies, educational agencies, independent living centers, and individuals with disabilities and their families to assess the effectiveness of career development activities;

• Develop and maintain a national database on research on the career experiences of individuals with disabilities; and

• Provide technical assistance to VR agencies and to employers on expanding career options and professional development for persons with disabilities.

Priority 4—Supported Employment

Background

Since its inception in 1985, supported employment has evolved into an integral component of the State-Federal vocational rehabilitation program. The Survey of Supported Employment Implementation (Virginia Commonwealth University, 1991) indicated that approximately 70,000 individuals were receiving services through local supported employment programs in FY 1990. An estimated one-

third of these individuals had never worked before, and those who had worked experienced 400-to-500 percent increases in their earnings after participation in supported employment (Virginia Commonwealth University, 1991). In addition to enhancing economic self-sufficiency, supported employment has also had a tremendous impact on the personal and social lives of individuals with severe disabilities.

There remains a considerable unmet need for supported employment services. In FY 1989 State VR agencies reported data on 51,992 consumers with severe disabilities who had been served in supported employment programs (Rehabilitation Services Administration, 1991). This represents a 600 percent increase from 9,876 served in fiscal year 1986 (OSERS News in Print, 1990). These agencies estimated that more than two million other clients need supported employment services.

Research on supported employment can expand the knowledge base about effective practices in order to maximize the usefulness of the resources that are available. In order to serve more persons, new supported employment techniques must be developed, evaluated, and disseminated.

Priority

An RRTC on supported employment shall—

- Develop and evaluate service delivery strategies and interventions that will enhance the capacity of supported employment programs to meet the employment needs of those who could benefit from these programs;
- Develop and evaluate strategies to leverage VR funds to attract additional resources from other sources for long-term support;
- Develop guidelines and provide technical assistance for the involvement of individuals with severe disabilities and their families in determining supported employment objectives and evaluating outcomes;
- Determine the most effective methods to augment existing resources in order to increase the number and diversity of individuals with severe disabilities in supported employment programs;
- Develop models to facilitate assessment of the effectiveness of supported employment programs;
- Develop strategies for tracking individuals in supported employment programs longitudinally, beyond the 18-month period of VR agency support;
- Examine operational costs and consumer benefits of supported employment in relation to those obtainable through other service alternatives in order to address unmet needs;
- Develop and maintain a national database on research involving supported employment, particularly that which relates to innovative practices and the creative use of resources to address unmet needs; and
- Provide technical assistance to VR agencies and to employers on expanding supported employment options for persons with disabilities through the creative use of resources.

Priority 5—Vocational Rehabilitation for Individuals Who are Substance Abusers

The implications of substance abuse for employment and vocational rehabilitation require more intensive study. Vocational rehabilitation agencies provide services to two major categories of individuals who are substance abusers: (1) Those who have a work disability as a result of their substance abuse; and (2) those who have some other disability that qualifies them for vocational rehabilitation services and whose substance abuse interferes with their ability to benefit from vocational rehabilitation services. The National Institute on Drug Abuse (NIDA) 1988 National Household Survey indicates that 70 percent of the people who use illegal substances are in the workforce. According to NIDA (June, 1990) this suggests that over 10 million employed people are current users of illicit drugs. Studies have shown that substance abuse impairs employee performance and productivity and also causes substantial increases in accident rates, absenteeism, and health care costs. State vocational rehabilitation agencies reported that substance abuse comprised the third leading secondary disability (3.2 percent) after mental illness and orthopedic disabilities (Benshoff, Janikowski, Taricone, and Brenner, 1990).

One major question facing service providers is whether substance rehabilitation techniques or traditional vocational rehabilitation methods provide the most effective approach to serving individuals with substance abuse disabilities or individuals with disabilities who are substance abusers. In addition, little is known about the relationship between disabilities and substance abuse.

For the purpose of this priority, substance abuse is limited to substances other than alcohol, although alcohol abuse may be present, as well. Any RRTC to be funded under this priority shall address the needs of individuals: (1) Whose substance abuse has resulted in a work disability; and (2) who have some other disability that qualifies them for vocational rehabilitation services and whose substance abuse interferes with their ability to benefit from vocational rehabilitation services.

Regarding the former category of individuals, the RRTC shall distinguish between those individuals with substance abuse disabilities who are skilled and employed from those who are unskilled, unemployed, have a history of long-term drug abuse and may need more comprehensive treatment and rehabilitation services. Regarding the latter category of individuals, the RRTC shall address the needs of those whose substance abuse would constitute a secondary disability (which would qualify an individual for vocational rehabilitation services), as well as those individuals whose substance abuse is not severe enough to constitute a secondary disability.

Any RRTC to be funded under this priority shall coordinate its efforts with any other drug-related center funded by NIDRR and with those of the National Institute on Drug Abuse and the Rehabilitation Services Administration.

Priority

An RRTC on vocational rehabilitation for individuals who are substance abusers shall—

- Conduct epidemiological studies of the relationship between substance abuse and disability among individuals who need vocational rehabilitation services;
- Identify, develop, and evaluate effective models of vocational rehabilitation services;
- Develop and evaluate models of long-term support services as needed for persons placed in employment; and
- Provide training and technical assistance in the delivery of vocational rehabilitation services to these populations.

Priority 6—Vocational Rehabilitation and Specific Learning Disabilities

Background

Specific learning disability (SLD) is an "invisible" disability, affecting an individual's ability to learn and process knowledge through traditional channels It is a condition that may have severe manifestations that are often mistaken for lack of motivation and interest, psychological dysfunction, or mental retardation. Frequently, the functional and vocational limitations connected with SLD are masked by the traditional assessment approaches used by rehabilitation agencies (paper and pencil tests, psychometrics, vocational evaluations, or review of academic records).

In summarizing rehabilitation statistics in State VR programs, the Rehabilitation Services Administration reports that the percentage of clients with SLD as the primary disability rose from 1.3 percent in 1983 to an estimated 5 percent in 1990. During this same period, the percentage of persons with SLD as a secondary disability rose from 0.2 percent to 0.5 percent, making individuals with SLD the fastest growing disability population served in the State-Federal VR program (Carney, 1991). This may be due to new developments in identifying and reporting learning disabilities rather than to an increase in the actual incidence of the impairment. Adults, including young adults, did not necessarily have the opportunity to receive special education, and particularly not the enhanced special education services guaranteed by the Individuals with Disabilities Education Act, and therefore require special interventions to enhance their employability.

Although State VR agencies have been serving this challenging population with limited success, the varied approaches to training and service and the limited research activities that they have generated have not been integrated into a cohesive service model (Berkeley Planning Associates, 1989). There is a serious gap in applied research on SLD rehabilitation issues.

Priority

An RRTC on vocational rehabilitation and specific learning disabilities shall—

- Improve techniques for vocational rehabilitation professionals to assess the functional and work limitations, rehabilitation needs, and vocational potential of individuals with SLD, with a special emphasis on adults;
- Develop and evaluate rehabilitation intervention strategies that will lead to better employment outcomes for individuals with SLD;
- Develop, demonstrate, and evaluate service delivery models that coordinate the services of secondary education—including special education—postsecondary education, and other human resource service providers—including community-based facilities—in order to optimize employment and career outcomes for individuals with SLD served or having the potential to be served by vocational rehabilitation agencies; and
- Develop techniques for staff development and training to increase the availability of rehabilitation service professionals trained to identify and meet the special vocational needs of individuals with SLD.

Priority 7—Improving Vocational Rehabilitation for Minority Populations

Background

Research on the prevalence of disabilities in minority populations (Anderson, 1988; Bowe, 1985; Hopkins, 1988) and the employment status of minority individuals with disabilities (Asbury, Walker, Malhomes, Rackley, and White, 1991) indicates the importance of the vocational rehabilitation system in serving minority individuals with disabilities. In the early and mid-1980s, some researchers concluded that African-Americans were faring worse than their white counterparts in the rehabilitation process (Atkins and Wright, 1980; Johnson, 1983; Baldwin and Smith, 1984). While these studies raise serious issues concerning the status of African-Americans, their implications for the current vocational rehabilitation system are uncertain due to their limited size and scope, as well as the fact that the vocational rehabilitation system has undergone considerable change in the ensuing years (e.g., the growth of supported employment activities and the increasing utilization of assistive technology). In addition, the literature contains virtually no empirically-based research on the status of other minority populations such as Hispanic-Americans or Asian-Americans with disabilities in the vocational rehabilitation system.

While little quantitative current research exists regarding the status of minority populations with disabilities in vocational rehabilitation services as a whole, there is a substantial body of data that is largely unanalyzed about minority individuals who are eligible for services from the State-Federal vocational rehabilitation system. For example, the Rehabilitation Services Administration's Case Service Report contains considerable information on minority individuals served by the State vocational rehabilitation service system. Other databases such as the U.S. Current Population survey, the National Health Interview Survey, and the Survey of Income and Program Participation also include information about minority individuals with disabilities that may have significant implications for the future direction of vocational rehabilitation services to individuals with disabilities who are members of minority groups.

The RRTC funded under this priority will use the most recent databases on the status of minority individuals with disabilities as a starting point in order to conduct research that is national in scope and which addresses the common, as well as unique, vocational rehabilitation issues that may pertain to African-Americans, Hispanic-Americans, and Asian-Americans with disabilities. The RRTC funded under this priority may not include American Indians with disabilities because Priority 8—Rehabilitation of American Indians with Disabilities—will conduct research in this area.

Priority

An RRTC on the vocational rehabilitation of minority populations shall be carried out in two phases. In the first phase this RRTC shall—

- Analyze existing disability data to determine the relative prevalence of various disabling conditions among African-Americans, Hispanic-Americans, and Asian-Americans with disabilities;
- Analyze existing disability data, including data from the Rehabilitation Services Administration's Case Service Report, to compare the experiences within the vocational rehabilitation system of African-Americans, Hispanic-Americans, and Asian-Americans with disabilities to their white counterparts at major junctures in the vocational rehabilitation process, including analyses of data on acceptances, case closures, services provided and employment outcomes;
- Analyze existing disability data to determine the extent to which African-Americans, Hispanic-Americans, and Asian-Americans with disabilities are recruited for positions as vocational rehabilitation practitioners and are appropriately trained for these positions;
- Based on the needs identified by the above analyses, in the second phase an RRTC on the vocational rehabilitation of minority populations shall—
- Design interventions to improve outreach and participation rates for African-Americans, Hispanic-Americans, and Asian-Americans with disabilities;
- Develop and test service delivery models for the most underserved minority populations that result in higher rates of services and better employment outcomes; and
- Identify those vocational rehabilitation policies, programs or practices that contribute to improved employment outcomes for African-Americans.

Priority 8—Rehabilitation of American Indians With Disabilities

Background

The prevalence of disability is unusually high among American

Indians. There is evidence that some disabling conditions are disproportionately represented in this population (Northern Arizona University; University of Arizona, 1987). Testimony presented to the NIDRR public hearings for long-range planning emphasized concern with the prevalence of fetal alcohol syndrome, spinal cord and traumatic brain injuries, substance abuse, and diabetes.

American Indian tribes have had discrete formal vocational rehabilitation service programs for a relatively short period of time. Traditionally, the needs of individuals with disabilities were considered the responsibility of the reservation governance, the rehabilitation programs within State agencies, the Indian Health Service, and the Bureau of Indian Affairs. In recent years individual tribes have become directly involved in the provision of vocational rehabilitation services to their members.

A report on the special problems and needs of American Indians with disabilities, both on and off the reservation, recommended the following action steps in improving the rehabilitation of American Indians with disabilities: (1) Address the cultural influences on rehabilitation service delivery; (2) provide rehabilitation services to young American Indians with disabilities; (3) address the variability in the distribution of disabling conditions; (4) facilitate Vocational Rehabilitation-Tribal relationships to improve service delivery to American Indians; (5) increase efforts to conduct cooperative interagency activities; (6) increase rehabilitation efforts for American Indians who are disproportionately represented in certain disability-related conditions; (7) improve the employment status of American Indians with disabilities; and (8) improve the database on American Indians with disabilities (Northern Arizona University; University of Arizona, 1987).

Priority

An RRTC on rehabilitation of American Indians with disabilities who reside on or off a reservation, including urban areas, shall—

- Develop, demonstrate, and evaluate culturally relevant vocational rehabilitation techniques for use in the development of more effective services to American Indians;
- Develop, demonstrate, and evaluate specialized interventions that effectively address disabilities of high prevalence among American Indians;
- Develop strategies to improve employment opportunities and outcomes for American Indian clients of the VR service system, including higher rates of employment and more promising occupational placements;
- Develop strategies to increase the number of qualified American Indian professionals providing VR services through State and tribal agencies; and
- Develop models to improve rehabilitation and independent living services for American Indians in their communities.

Priority 9—Community-Based Rehabilitation Programs

Background

The nearly 7,000 rehabilitation community-based rehabilitation programs are faced with significant challenges, including the increased complexity and severity of the disabilities of individuals they serve, the increasingly diverse cultural backgrounds of their clients, and the potential of new technology for enabling clients to achieve many of their objectives. The changing nature of the client population, which numbers 800,000 on average per day, creates different expectations of these community-based service providers and their role in the rehabilitation process by individuals, families, and employers (Botterbusch, 1990; Menz, 1985, 1988, 1990; Thomas and Menz, 1990).

Nearly 90 percent of the individuals with disabilities who receive vocational rehabilitation services from community-based rehabilitation service providers are sponsored in part by public funds, and one-third are clients of the State-Federal vocational rehabilitation program, accounting for approximately 40 percent of vocational rehabilitation case service dollars. The primary focus in these programs continues to be on the independence, community integration, and vocational development of the individual.

Priority

An RRTC on improving community-based rehabilitation programs shall—

- Identify, evaluate, adapt, and demonstrate model community-based rehabilitation programs that reflect advances in rehabilitation practice, adapt to local labor market conditions, emphasize consumer self-direction in identifying effective rehabilitation and placement strategies, and promote community integration and quality employment;
- Develop techniques for community-based rehabilitation providers to access a variety of community resources, including non-traditional funding sources, to support ongoing rehabilitation services in the community;
- Develop training and technical assistance materials to increase the expertise of personnel of these programs in obtaining community-based employment for, and providing a wide range of services to, complex and diverse populations; and
- Develop and demonstrate methods to increase participation by individuals with disabilities in the management and operation of rehabilitation programs.

Priority 10—Management of Information and Information Systems in State VR Agencies

Background

Information systems can be useful to VR agencies in financial and program management, client tracking, job development and placement, and measuring performance and outcomes. Contemporary VR information systems may be difficult to use and may be inadequate for the purposes of managers, counselors, individuals with disabilities and their families, and policy makers in the public and private sectors (President's Committee on Employment of Persons with Disabilities, 1990).

Measuring progress, overcoming existing barriers to opportunity, and capitalizing on promising social and policy initiatives require a modern rehabilitation information system that, at a minimum: (1) Addresses well-defined objectives and serves the needs of specific users; (2) is both comprehensive and versatile; (3) is kept current through frequent updates, enabling it to document patterns and trends; (4) is user friendly to the extent that development, maintenance, and updating of the information system can be handled by existing staff; (5) is readily accessible to researchers, service providers, consumers, and others; and (6) provides timely response to requests from Federal policy-makers.

The RRTC funded under this priority shall coordinate its efforts with the Rehabilitation Services Administration's study "Assessment of Client Information Systems" and the longitudinal evaluation of the VR system.

Priority

An RRTC on management of information and information systems in State VR agencies shall—

- Develop systems to provide VR agencies with access to both private-sector and public-sector data—regarding

economic trends and identification or prediction of long-term job and career opportunities—that can be used for aiding individuals with disabilities;

• Expedite the transfer of policy, program, and training information and maintain special outreach and dissemination efforts, including an electronic bulletin board to reach professionals in State VR agencies, other Federal agencies, NIDRR grantees, independent living programs, and consumers;

• Evaluate all existing State Vocational Rehabilitation agencies' management information systems and identify exemplary practices; and

• Provide training on the establishment and operation of information systems to State-Federal VR personnel and other rehabilitation service providers.

Two Priorities Related to Mental Retardation

The deinstitutionalization of individuals with mental retardation, together with rising expectations for productive and rewarding lives among individuals with mental retardation and their families, creates demands for new and improved services in the community to meet the needs of this population. The service system must develop the capacity to assist and empower individuals with mental retardation and their families to choose from a range of options in work, living arrangements, education, and recreation. For the first time, a significant and growing number of individuals with mental retardation are aging in community-based settings and experiencing a wider range of the typical problems of aging: Exacerbated manifestations of their disability, new health impairments, and loss or aging of parents and other family members.

The following two priorities address the need for new service models to address the emerging problems related to community integration and aging with mental retardation.

Priority 11—Aging With Mental Retardation

Background

The process of aging is often accelerated among individuals with various forms of mental retardation. Some of the phenomena that have been observed include decline in physical strength and endurance and general health earlier than in the general population, earlier onset of dementia, and accelerated decline in cognitive functions and behavior. These additional functional losses may compromise the individual's ability to compensate or use other adaptive strategies to cope with the original functional loss.

Advances in medical technology and lifetime medical care have resulted in increased longevity for individuals with mental retardation. While data indicate that life expectancy is still somewhat shorter in individuals with mental retardation as a whole than in the general population, it is not unusual for individuals with mental retardation to outlive their parents. Thus, the need for planning and provision of future services has become an important issue for parents and other family members. In addition, as a result of the deinstitutionalization of substantial numbers of individuals with mental retardation, many of these individuals will age in community living situations.

Although mental retardation is the single largest category of life-long disability in developed nations, most research and service attention has been concentrated on infants, children, and youth with mental retardation. There has been little study of older individuals with mental retardation, resulting in a need for research focused on the increasing number of these aging individuals who live and work in the community and who have expectations and needs for support services to enable them to remain in the least restrictive environments.

In recent years, service providers, families, and individuals with disabilities have recognized the need for age-appropriate services for mentally retarded adults. Research is needed on how a new and expanded service continuum, including innovative technology, and enhanced self-determination skills can enable members of this population to achieve and maintain independence, productivity, community integration, and full citizenship.

Priority

An RRTC on aging with mental retardation shall—

• Develop models and assess techniques for empowering individuals aging with mental retardation to participate in decision-making processes of their future service plans, housing, life-planning, health care, and community participation;

• Acquire data on the medical conditions associated with aging with mental retardation;

• Increase the understanding of their families and service providers about the changing physical, psychological, vocational, and life-planning needs of this aging population;

• Demonstrate successful techniques, including assistive technologies, that enable individuals aging with mental retardation to cope with and compensate for deteriorating physical and psychological functional capacities;

• Develop and evaluate counseling and other techniques to assist aging individuals with mental retardation to cope with and adjust to the death or incapacity of their parents or other caregivers; and

• Evaluate strategies and interventions to improve the retirement, financial security, health care, and independent living status of this aging population.

Priority 12—Community Integration for Persons With Mental Retardation

Background

Nearly four million Americans have mental retardation and other developmental disabilities of diverse levels and types, and with varied individual capabilities (U.S. Department of Health and Human Services, 1989). Of these four million persons, approximately one million may require an extensive array of services (Gettings, 1990). The number of individuals with mental retardation and other developmental disabilities in State institutions decreased by more than 50 percent, or more than 100,000 persons, during the two decades from 1967 to 1988 (Braddock and Hemp, 1990), thus leading to increased demands on community resources.

Consequently, individuals with mental retardation need to have opportunities and support to achieve full integration into the community, productive employment, and self-direction. Three areas of research have demonstrated particularly promising approaches to enhancing community integration: development of appropriate technologies; model services to cope with transitions and family support issues; and strategies to increase empowerment and self-advocacy for individuals with developmental disabilities.

During the past decade there has been an increase in assistive technology to aid individuals with disabilities to become more independent. There is a need to identify: (1) The variables that contribute to the successful use of technology by individuals with mental retardation; and (2) the types of technology that will contribute to their community integration. Individuals with mental retardation and their families, service providers, vocational rehabilitation counselors, employers, and others need training in the benefits

and uses of assistive technology that can promote maximum independence and community integration.

Successful community integration of persons with disabilities is dependent, in part, on the skills of family members. Moroney (1979) has stated that the limited options and minimal support currently provided to families of persons with mental retardation and other developmental disabilities is the result of public policies emphasizing substitution for the family rather than its enhancement. Very little research has been undertaken to determine how best to help families of persons with mental retardation, particularly those from minority, poor, rural, and non-traditional backgrounds (Testimony of the Arc, formerly the Association for Retarded Citizens, NIDRR Long-Range Plan Hearing, 1990).

Priority

An RRTC on community integration for persons with mental retardation shall—

- Demonstrate and evaluate models to improve the use of technology for communication, self-management, employment, and home management by individuals with mental retardation;
- Develop and evaluate models to increase physical and social integration of individuals with mental retardation in their communities and in the workplace;
- Demonstrate and evaluate the effect of enhanced family participation and increased involvement of friends and other significant persons in the community integration of persons with mental retardation;
- Demonstrate and evaluate models that result in more effective self-direction and self-representation by persons with mental retardation; and
- Develop and evaluate models to improve the recruitment, training and retention of direct service personnel to provide high quality community services to people with mental retardation.

Two Priorities on Families of Individuals With Disabilities

Families that have members with disabilities can contribute significantly to an enhanced quality of life for those members. Throughout the long-range planning process, NIDRR was reminded of the importance of the family in attaining successful outcomes for both children and adults with disabilities. Because of the need for a significant volume of research on families, and because of some basic differences in the issues confronting families in which the disabled members are adults versus those in which disabled members are children, NIDRR has chosen to establish priorities for two Centers to focus separately on strategies to meet the needs of each of these two family configurations.

Priority 13—Families of Children With Disabilities

Background

The major goals of family support programs are to "deter out-of-home placements; enhance the care-giving capacities of the families; and enable persons to return to their families if they have been living in institutions" (Agosta and Bradley, 1985). There are several specific areas in which research and training could contribute to the achievement of these family-centered goals. These include: (1) The use of technology to enhance functioning and meet needs for care; (2) strategies to improve the service systems; (3) strategies to serve minority groups; (4) strategies to reduce the incidence of neglect and abuse; and (5) strategies to serve as effective advocates for themselves and their children in reforming policy and gaining access to appropriate services.

As many as 17,000 children rely on medical technology to perform vital life functions, and many thousands more could benefit from assistive technology for communications, adaptive seating, mobility, and interactions with the environment. Families need information on the potential and uses of technology and on resources to obtain technology. Public policy and financing practices may either facilitate or impede access to technology, and these effects must be better understood.

The existing service systems for families of children with disabilities have been developed with an imperfect understanding of or lack of focus on family needs. Many service delivery systems are still tied to the concepts of "family dysfunction or incapacity, with the child and family as the target for change" (Franke, 1988). There is a need to investigate the ways in which families can identify accurately their strengths, resources, and needs and a concomitant need to identify effective family-centered service delivery systems. Parents and service providers, as well as children with disabilities themselves, need training and technical assistance in effective self-representation and validated strategies to access family supports.

There is evidence that certain children may be at a higher risk for abuse and neglect than others. "Children who are difficult to manage and exacerbate already high stress levels in the family, or who are perceived as 'different' are more likely to become victims of maltreatment from high risk caretakers" (Ammerman, 1988). Indeed, a number of studies have found an over-representation of physically and mentally disabled children among samples of maltreated children (Kurland and Burgess, 1982). Researchers need to identify the factors that contribute to and are predictive of maltreatment of children with disabilities and develop appropriate interventions.

Priority

An RRTC on families of children with disabilities shall—

- Demonstrate and evaluate appropriate use of technology to facilitate in-home care and community integration for children with disabilities;
- Develop, demonstrate, and evaluate service delivery models that identify critical family needs and develop interventions to meet those needs;
- Develop, demonstrate, and evaluate an array of service delivery models that encourage families to serve as effective advocates for themselves and their children in reforming policy and gaining access to appropriate services;
- Develop, demonstrate, and evaluate service delivery models that meet the needs of all parents, regardless of their individual circumstances, for effectively parenting children with disabilities; and
- Develop, demonstrate, and evaluate service delivery models that reduce the incidence of neglect and abuse of children with disabilities.

Priority 14—Families of Adults With Disabilities

Background

Whether families are formed through marriage, birth, adoption, or other commitments, they are basic units in which the individuals have a commitment and shared responsibility to provide emotional, physical, and financial supports to maintain each member's well-being. While there is a growing body of literature on families with children with disabilities, less is known about families in which the disabled member is an adult. The challenges a family might face when an adult has a disability will vary greatly depending on the type of disability, the time of life in which it occurs, and the impact of the disability on need for care, ability to earn income, and life expectancy.

Problems of family function that may confront adults with disabilities and their families include, but are not

limited to: (1) Establishing appropriate independence from parents; (2) creating and maintaining a marital relationship; (3) reproducing or adopting children or becoming foster parents; (4) parenting children; (5) caring for aging parents; (6) providing economic well-being and security for the family; (7) providing for personal care and assistance; and (8) planning for future economic and care needs in light of anticipated future diminution in functional capacity or reduced life expectancy. These problems may be common to all families, but individuals who have disabilities frequently need additional supports and technologies to enable them to solve these problems.

Priority

An RRTC on families of adults with disabilities shall—

- Identify and assess current options and develop new options for individuals with disabilities to become parents; and develop strategies to help them effectively parent their children, including increased access to support services;
- Identify and assess current techniques, and develop new techniques to provide tangible and intangible supports to spouses and other members of families of adults with disabilities, particularly during crises caused by the onset of a disability or its significant exacerbation;
- Develop strategies that promote the ability of adults with disabilities to provide long-term financial support, insurance, health benefits, education, and other benefits for their families; and
- Promote appropriate assistive technology to enhance parenting, self-care, care by and of others, independence in the family, community integration, and work.

Applicable Program Regulations: 34 CFR parts 350 and 352.

Program Authority: 29 U.S.C. 760–762.

(Catalog of Federal Domestic Assistance Number 84.133B, Rehabilitation Research and Training Centers)

Dated: March 4, 1993.

Richard W. Riley,

Secretary of Education.

Appendix—Analysis of Comments and Changes

The Department received 160 comments in response to the proposed priorities. One hundred and twenty-two letters were devoted exclusively to advocating the continuance of an RRTC in the area of mental health and deafness. Of the remaining 38 letters, 16 supported the priorities as published, 18 requested additions or revisions to specific priorities, and 4 provided comments that applied to all of the published priorities. This appendix contains a synopsis of those comments, except for those that supported the priorities as published, as well as the Secretary's responses. The general comments and the comments regarding a mental health and deafness priority are discussed at the end of the appendix.

Priority 3—Career Development and Advancement

Comment: One commenter urged NIDRR to include an emphasis on postsecondary education in the priority.

Discussion: The Secretary believes that an applicant may emphasize postsecondary education within the scope of the priority, as written. The merit of such an emphasis will be determined on a case-by-case basis in the application review process.

Changes: None.

Priority 5—Vocational Rehabilitation for Individuals With Substance Addiction Disabilities

Comment: Two commenters urged NIDRR to expand the priority to include persons who have a disability and are also substance abusers. One commenter stated that recently completed studies within the Michigan Rehabilitation Services Agency indicated that the group of individuals who have a disability and are also substance abusers is larger than the group whose only disability is substance abuse. The commenter also suggested that NIDRR expand the priority to include "basic epidemiology into the correlations between other disabilities and chemical dependency."

Discussion: After consulting with representatives from the Rehabilitation Services Administration and the National Institute on Drug Abuse, the Secretary believes that expanding the proposed priority as suggested by the commenters will lead to a better understanding and treatment of substance abuse problems. The Secretary agrees that epidemiological research is also important.

Changes: The priority has been expanded to include research on individuals who have a disability and are substance abusers, and includes epidemiological research. The title and background of the priority have been changed to be consistent with the expansion of the priority. In addition, as a technical matter, the first and second activities have been combined into one activity.

Priority 6—Vocational Rehabilitation and Specific Learning Disabilities

Comment: One commenter urged NIDRR to add the development of a more accurate, computer-based diagnostic instrument to the priority.

Discussion: The Secretary believes that an applicant may propose to develop a more accurate, computer-based diagnostic instrument within the scope of the priority as written. The merit of such a proposal will be determined on a case-by-case basis in the application review process.

Changes: None.

Comment: One commenter urged NIDRR to expand the priority to include ADA issues, such as program access and accommodation strategies, and to emphasize the differing needs and circumstances of individuals from urban or rural areas.

Discussion: The Secretary believes that an applicant may propose to expand the priority to include ADA issues and emphasize the differing needs and circumstances of individuals from urban or rural areas within the scope of the priority, as written. The merit of such proposals will be determined on a case-by-case basis in the application review process.

Changes: None.

Priority 7—Improving Vocational Rehabilitation for Minority Populations

Comment: One commenter urged NIDRR to add financial training (e.g., initiating a small business, negotiating loans) for minority persons with disabilities to the training activities of the proposed RRTC.

Discussion: The Secretary believes that an applicant may propose to include financial training within the scope of the priority, as written, if it serves the purpose of disseminating and encouraging the utilization of new rehabilitation knowledge, findings, and techniques resulting from an RRTC's research activities (see 34 CFR 352.10(c)). The merit of such a proposal will be determined on a case-by-case basis during the application review process.

Changes: None.

Comment: One commenter was concerned that the RRTC address the interaction between service providers, persons with disabilities and the families of persons with disabilities. The commenter urged NIDRR to ensure that the research conducted by the RRTC utilize a participatory action research model involving persons with disabilities, service providers and their families.

Discussion: The Secretary believes that the preamble to the proposed

priorities provides sufficient guidance on this matter. The preamble states: "Each Center must involve individuals with disabilities and, if appropriate, their family members, as well as rehabilitation service providers—including vocational rehabilitation service providers—in planning and implementing the research and training programs, in interpreting and disseminating the research findings, and in evaluating the Center."

Changes: None.

Priority 8—Rehabilitation of American Indians With Disabilities

Comment: One commenter urged NIDRR to expand the third activity of the proposed priority to include the development of innovative and realistic strategies to improve employment opportunities for disabled American Indians residing in reservation areas.

Discussion: The Secretary agrees that strategies are also needed to improve employment opportunities.

Changes: The third activity of the priority has been expanded to include the development of strategies to improve employment opportunities.

Comment: The same commenter was concerned that the proposed priority seemed to exclude Indians who do not reside on reservations. The commenter suggested that the first activity of the proposed priority be revised to include disabled American Indians residing in urban as well as on reservation areas. In addition, the commenter suggested the addition of a priority calling for a needs assessment of American Indians with disabilities living in urban areas.

Discussion: The Secretary agrees that clarification in the priority is necessary to ensure that the RRTC will address the rehabilitation needs of American Indians with disabilities who reside on or off the reservation, including urban areas.

In regard to the addition of an activity involving a needs assessment of American Indians with disabilities living in urban areas, the Secretary also believes that in order to carry out its required activities, the RRTC will have to assess the needs of the target populations, including those living in urban areas. Therefore, adding a needs assessment activity is unnecessary.

Changes: The priority has been changed to clarify that the RRTC will address the rehabilitation needs of American Indians with disabilities who reside on or off a reservation, including urban areas.

Comment: The same commenter was concerned that the research activities of the proposed RRTC were too limited and should be broadened beyond the vocational rehabilitation process.

Discussion: The Secretary disagrees. Improving the vocational rehabilitation of American Indians is a complex undertaking that raises an imposing set of research questions. The Secretary believes that broadening the proposed priority beyond the vocational rehabilitation process would detract from the purpose of the proposed RRTC.

Changes: None.

Comment: The same commenter suggested that the priority emphasize prevention of primary or secondary disabilities for persons who are "at high risk."

Discussion: The Secretary recognizes the importance of prevention activities. However, those activities are too far outside the scope of the RRTC and would detract from its purpose.

Changes: None.

Comment: The same commenter was concerned that the specific disabling conditions delineated in the background statement (i.e., fetal alcohol syndrome, spinal cord and traumatic brain injuries, substance abuse and diabetes) were not addressed specifically in the priority.

Discussion: The disabling conditions mentioned in the background statement are not definitive. The second activity of the priority requires the RRTC to "Develop, demonstrate, and evaluate specialized interventions that effectively address *disabilities of high prevalence among American Indians*" (emphasis added). The Secretary believes that applicants should be given the discretion to specify which disabilities are considered of high prevalence. The merit of each applicant's specification of high prevalence disabilities will be determined on a case-by-case basis during the application review process.

Changes: None.

Priority 11—Aging With Mental Retardation

Comment: One commenter suggested that the first activity of the priority regarding decision-making emphasize the role of the independent living concept.

Discussion: The Secretary believes that an applicant may propose to emphasize the concept of independent living within the scope of the first activity of the priority, as written. The merit of such an emphasis will be determined on a case-by-case basis during the application review process.

Changes: None.

Comment: The same commenter suggested that the proposed RRTC activity regarding the acquisition of data on medical conditions associated with aging with mental retardation be expanded to include investigating the role of medical data as a correlate of psychosocial well-being.

Discussion: The Secretary believes that an applicant may propose to investigate the role of medical data as a correlate of psychosocial well-being within the scope of the second activity of the priority, as written. The merit of such a proposal will be determined on a case-by-case basis during the application review process.

Changes: None.

Comment: The same commenter urged NIDRR to include further investigatory procedures and a dissemination component in the proposed activity of the RRTC addressing the understanding of their families and service providers about the changing physical, psychological, vocational, and life-planning needs of this aging population.

Discussion: The Secretary believes that the number of and specific kind of investigatory procedures required to carry out the activities of the RRTC should be left to the discretion of each applicant. In regard to adding a dissemination component, all RRTCs are required to engage in dissemination activities.

Changes: None.

Comment: The same commenter urged NIDRR to specify that preventive counseling techniques should be developed in conjunction with the activity to develop and evaluate counseling and other techniques.

Discussion: The Secretary believes that an applicant may propose to develop preventive counseling techniques within the scope of the fifth activity of the priority, as written. The merit of such a proposal will be determined on a case-by-case basis during the application review process.

Changes: None.

Comment: The same commenter suggested adding an activity addressing drug dependency, including all potential iatrogenic reactions from prescriptions, over-the-counter and illicit drugs.

Discussion: The Secretary believes that an applicant may propose to address drug dependency within the scope of the priority, as written. The merit of such a proposal will be determined on a case-by-case basis during the application review process.

Changes: None.

Priority 12—Community Integration for Persons With Mental Retardation

Comment: A number of commenters suggested that the third activity of the RRTC to demonstrate and evaluate the effect of enhanced family participation

be expanded to include persons outside the immediate family who may play a comparable role in the life of a person with mental retardation.

Discussion: The Secretary agrees with the commenters that persons outside the immediate family of persons with disabilities may play a significant role in the life of a person with mental retardation.

Changes: The priority has been changed by adding the increased involvement of friends and other significant persons to the activity of the RRTC addressing enhanced family participation.

Comment: A number of commenters urged NIDRR to revise the first activity of the RRTC relating to technology to clarify that technology could be defined to include a number of instructional techniques and was not limited to the application of assistive devices. The commenters also suggested that social and independent living skills be added to the list of areas that technology would improve.

Discussion: The first activity requires the RRTC to "Demonstrate and evaluate models to improve the use of technology for communication, self-management, employment, and home management by individuals with mental retardation." The Secretary believes that an applicant may define technology to include instructional techniques (in addition to assistive devices and services) within the scope of the priority, as written. In regard to adding independent living skills to the list of areas that technology would improve, the Secretary believes that an applicant may propose that independent living skills be addressed within the scope of the first activity of the priority. The merit of such a definition and proposal will be determined on a case-by-case basis during the application review process.

Changes: None.

Comment: A number of commenters urged NIDRR to add an activity to the priority to develop and evaluate models and programs to improve the recruitment, training, and retention of direct service personnel to provide high quality community services to people with mental retardation.

Discussion: The Secretary agrees with the commenters that the recruitment, training, and retention of direct service personnel is a pivotal step in contributing to the community integration of persons with mental retardation. As a number of commenters pointed out, this topic was emphasized during NIDRR's long-range planning process, and the turnover rate of direct service personnel is alarmingly high.

Changes: An activity has been added to the priority to develop and evaluate models to improve the recruitment, training, and retention of direct service personnel to provide high quality community services to people with mental retardation.

Comment: One commenter urged NIDRR to delineate a more formal link between the community integration and employment in the priority.

Discussion: The Secretary believes that employment is a cornerstone of community integration for all persons with disabilities. The first two activities of the proposed priority reference employment and the workplace, respectively. The Secretary also believes that an applicant may emphasize the relationship between community integration and employment within the scope of the priority, as written. The merit of such an emphasis will be determined on a case-by-case basis during the application review process.

Changes: None.

Comment: One commenter suggested that an activity be added to the priority that would develop and evaluate models of professional services that are less oriented to clinical services and more oriented to developing and maintaining community supports and activities.

Discussion: The Secretary believes that an applicant may propose the development and evaluation of models of professional services within the scope of the new activity that has been added to the priority regarding direct service personnel. The merit of such a proposal will be determined on a case-by-case basis during the application review process.

Changes: None.

Comment: One commenter urged NIDRR to expand the priority to include an emphasis on the problems faced by adolescents, especially in their transition to adult life.

Discussion: The Secretary believes that an applicant may propose to emphasize the problems faced by adolescents within the scope of the priority, as written. The merit of such an emphasis will be determined on a case-by-case basis during the application review process.

Changes: None.

Mental Health and Deafness

Comment: The Secretary received 122 letters urging a continuation of an RRTC on mental health and deafness. Those letters presented three basic arguments why the Secretary should continue an RRTC on mental health and deafness: (1) New methods for treatment, intervention and prevention are needed in order to maintain and improve the quality of direct services, and resolve emerging treatment issues (e.g., substance abuse, sexual abuse); (2) the RRTC plays a vital role by linking local agencies through the sharing of information and informal networking; and (3) demands for equal access to the mental health field from persons who are deaf will increase as a result of the Americans with Disabilities Act.

Discussion: The Secretary appreciates the arguments of the commenters. NIDRR has supported an RRTC on mental health and deafness for 15 years. The Secretary believes that further evaluation and consideration of the future direction of the field is necessary. The Department plans on convening a group of nationally-recognized experts in the field of mental health and deafness in order to assist NIDRR in reviewing the state of the science and determining the agency's future activities on the subject.

Changes: None.

General Comments:

Comment: One commenter suggested a rank ordering of the proposed priorities.

Discussion: The proposed priorities were organized according to topical areas. The Secretary does not consider rank ordering to be appropriate.

Changes: None.

Comment: One commenter expressed support for the two proposed priorities addressing selected minorities and American Indians, and urged NIDRR to encourage all of the RRTCs to make their research and training relevant to minority populations with disabilities.

Discussion: The Secretary believes that research conducted by all the RRTCs should be relevant to all minority populations with disabilities to the maximum extent appropriate. The Secretary also believes that adding an encouragement to the preamble will contribute to improving the relevance of RRTC research to all minority populations with disabilities.

Changes: A sentence has been added to the preamble encouraging all the RRTCs to make their research relevant to all minority populations with disabilities to the maximum extent appropriate.

Comment: One commenter suggested that each RRTC be required to undertake at least one task that is geared towards examining and changing public policies that affect its area. In addition, the commenter suggested that the RRTCs should be encouraged to work with mainstream service providers to ensure that they are adapting their services to meet the needs of people with disabilities.

Discussion: The Secretary believes that the decision of whether to require an RRTC to undertake policy research should be decided on a case-by-case basis. In regard to encouraging the RRTCs to work with mainstream service providers, the preamble includes the following directive: "Each Center must involve individuals with disabilities and, if appropriate, their family members, *as well as rehabilitation service providers—including vocational rehabilitation service providers*—in planning and implementing the research and training programs, in interpreting and disseminating the research findings, and in evaluating the Center" (emphasis added). The Secretary also believes that this provision encourages RRTCs to work with service providers.

Changes: None.

Comment: One commenter indicated that it was important for the RRTCs on enhancing employability, promoting placement, career development and advancement, and supported employment to look broadly at all disability groups and do not inadvertently dismiss investigating how their research can apply to people with psychiatric disabilities.

Discussion: The Secretary does not wish to single out any specific disability group. The Secretary believes that all disability groups should be considered by RRTCs that are not disability-specific.

Changes: None.

[FR Doc. 93–5398 Filed 3–9–93; 8:45 am]
BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

[CFDA NO: 84.133B]

National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for Certain New Awards Under the Rehabilitation Research and Training Centers (RRTC) for Fiscal Year (FY) 1993

Note to Applicants: This notice is a complete application package. The notice contains information, application forms, and instructions needed to apply for a grant under these competitions. The final priorities for the Rehabilitation Research and Training Centers (RRTC) program are published in this issue of the **Federal Register**. This consolidated application package includes the closing dates, estimated funding, and application forms necessary to apply for awards under any of this program's competitions. Potential applicants should consult the statement of the final priorities published in this issue to ascertain the substantive requirements for their applications.

The estimates of funding levels in this notice do not bind the Department of Education to make awards in any of these categories, or to any specific number of awards or funding levels.

Note: The Rehabilitation Act Amendments of 1992 require that each applicant for a project under this competition must demonstrate in its application how it will address the needs of individuals with disabilities from minority backgrounds. Before your application can be reviewed, it must include this description. Applications for which this information is not received will not be reviewed.

In addition, the 1992 Amendments also require that each grantee that provides services to individuals with disabilities must advise these individuals, or as appropriate, the parents, family guardians, advocates, or authorized representatives of these individuals, of the availability and purposes of the State Client Assistance Program (CAP), including information on means of seeking assistance under such programs. A list of State CAPs may be obtained by calling (202) 205–9343.

If you need further information about these requirements, please contact David Esquith at (202) 205–8801.

APPLICATION NOTICES FOR FISCAL YEAR 1993 REHABILITATION RESEARCH AND TRAINING CENTERS CFDA NO. 84.133B

Funding Priority	Deadline for transmittal of applications	Estimated number of awards	Estimated project period (months)	Estimated funds available
Enhancing Employability	May 10, 1993	1	60	$650,000
Promoting Placement	May 10, 1993	1	48	400,000
Career Development and Advancement	May 10, 1993	1	36	400,000
Supported Employment	May 10, 1993	1	60	650,000
Vocational Rehabilitation for Individuals with Substance Addiction Disabilities	May 10, 1993	1	36	400,000
Vocational Rehabilitation and Specific Learning Disabilities	May 10, 1993	1	36	400,000
Improving Vocational Rehabilitation for Minority Populations	May 10, 1993	1	60	500,000
Rehabilitation of American Indians with Disabilities	May 10, 1993	1	60	600,000
Community-Based Rehabilitation Programs	May 10, 1993	1	60	600,000
Management of Information and Information Systems in State Vocational Rehabilitation Agencies.	May 10, 1993	1	60	600,000
Aging with Mental Retardation	May 10, 1993	1	60	550,000
Community Integration for Persons with Mental Retardation	May 10, 1993	1	60	575,000
Families of Children with Disabilities	May 10, 1993	1	60	650,000
Families of Adults with Disabilities	May 10, 1993	1	48	400,000

Invitational Priority

Within absolute priority 2—Promoting Placement—specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1), an application that meets this invitational priority does not receive competitive or absolute preference over other applications.

The Secretary recognizes that assistive technology can be of major significance in helping persons with disabilities overcome the barriers that often lead to underemployment. The Secretary also considers assistive technology essential to achieving the goals of the Americans with Disabilities Act because the effective use of such technology provides persons with disabilities the services and devices they need to enable them to participate fully and appropriately in the workplace and the community. As a result, the Secretary is particularly interested in the development and evaluation models that demonstrate how the provision of

appropriate assistive technology devices and services during the rehabilitation process as well as job modifications and changes in the workplace design can improve placement options.

This notice of final priorities supports the National Education Goals. National Education Goal 5 calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. This notice would address Goal 5 by helping individuals with disabilities to develop the skills necessary to live and work successfully in the world as it is today.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 78, 80, 81, 82, 85, 86; (b) the regulations for this program in 34 CFR parts 350 and 352; and (c) the Notice of final priorities for this program, as published elsewhere in this issue of the **Federal Register**.

Purpose of Program: Rehabilitation Research and Training Centers conduct coordinated and advanced programs of rehabilitation research, provide training—including undergraduate, graduate, and in-service training—to research and other rehabilitation personnel, and assist individuals to more effectively provide rehabilitation services.

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications under this program.

(a) *Relevance and importance of the research program.* (20 points). The Secretary reviews each application to determine to what degree—

(1) The proposed activities are responsive to a priority established by the Secretary and address a significant need of a disabled target population and rehabilitation service providers;

(2) The overall research program of the Center includes appropriate interdisciplinary and collaborative research activities, is likely to lead to new and useful knowledge in the priority area, and is likely to become a nationally recognized source of scientific knowledge; and

(3) The applicant demonstrates that all component activities of the Center are related to the overall objective of the Center, and will build upon and complement each other to enhance the likelihood of solving significant rehabilitation problems.

(b) *Quality of the research design.* (35 points). The Secretary reviews each application to determine to what degree—

(1) The applicant proposes a comprehensive research program for the entire project period, including at least three interrelated research projects;

(2) The research design and methodology of each proposed activity are meritorious in that—

(i) The literature review is appropriate and indicates familiarity with current research in the field;

(ii) The research hypotheses are important and scientifically relevant;

(iii) The sample populations are appropriate and significant;

(iv) The data collection and measurement techniques are appropriate and likely to be effective;

(v) The data analysis methods are appropriate; and

(vi) The applicant assures that human subjects, animals, and the environment are adequately protected; and

(3) The application discusses the anticipated research results and demonstrates how those results would satisfy the original hypotheses and could be used for planning future research, including generation of new hypotheses where applicable.

(c) *Quality of the training and dissemination program.* (25 points). The Secretary reviews each application to determine the degree to which—

(1) The proposed plan for training and dissemination provides evidence that research results will be effectively disseminated and utilized based on the identification of appropriate and accessible target groups; the proposed training materials and methods are appropriate; the proposed activities are relevant to the regional and national needs of the rehabilitation field; and the training materials and dissemination packages will be developed in alternate media that are usable by people with various types of disabilities.

(2) The proposed plan for training and dissemination provides for—

(i) Advanced training in rehabilitation research;

(ii) Training rehabilitation service personnel and other appropriate individuals to improve practitioner skills based on new knowledge derived from research;

(iii) Training packages that make research results available to service providers, researchers, educators, disabled individuals, parents, and others;

(iv) Technical assistance or consultation that is responsive to the concerns of service providers and consumers; and

(v) Dissemination of research findings through publication in professional journals, textbooks, and consumer and other publications, and through other appropriate media such as audiovisual materials and telecommunications.

(d) *Quality of the organization and management.* (20 points). The Secretary reviews each application to determine the degree to which—

(1) The staffing plan for the Center provides evidence that the project director, research director, training director, principal investigators, and other personnel have appropriate training and experience in disciplines required to conduct the proposed activities; the commitment of staff time is adequate to conduct all proposed activities; and the Center, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping conditions;

(2) The budgets for the Center and for each component project are reasonable, adequate, and cost-effective for the proposed activities;

(3) The facilities, equipment, and other resources are adequate and are appropriately accessible to persons with disabilities;

(4) The plan of operations is adequate to accomplish the Center's objectives and to ensure proper and efficient management of the Center;

(5) The proposed relationships with Federal, State, and local rehabilitation service providers and consumer organizations are likely to ensure that the Center program is relevant and applicable to the needs of consumers and service providers;

(6) The past performance and accomplishments of the applicant indicate an ability to complete successfully the proposed scope of work;

(7) The application demonstrates appropriate commitment and support by the host institution and opportunities for interdisciplinary activities and collaboration with other institutions and organizations; and

(8) The plan for evaluation of the Center provides for an annual assessment of the outcomes of the research, the impact of the training and dissemination activities on the target populations, and the extent to which the overall objectives have been accomplished.

Eligible Applicants: Those eligible for assistance under this program are as follows: (a) State and public agencies or organizations, (b) private agencies or organizations, (c) institutions of higher education, and (d) Indian tribes and tribal organizations.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Washington, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. [Washington, DC time] on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Forms and Instructions

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Form—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Additional Materials

Public Reporting Burden Estimate Assurances—Non-Construction Programs (Standard Form 424B).

Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014) and instructions.

Note: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

Disclosure of Lobbying Activities (Standard Form LLL (if applicable)) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).)

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances and certification form must each have an original signature. No grant may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT: William Whalen, The National Institute on Disability and Rehabilitation Research, 400 Maryland Avenue, SW., Room 3417 Switzer Building, Washington, DC 20202–2704. Telephone: (202) 205–9141; deaf and hearing impaired individuals may call (202) 205–5474 for TDD services.

Program Authority: 29 U.S.C. 760–762.

Dated: March 4, 1993.

William L. Smith,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

Frequent Questions

1. Can I Get an Extension of the Due Date?

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the **Federal Register.** However, there are no extensions or exceptions to the due date made for individual applicants.

2. What Should be Included in the Application?

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms and Certifications included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is not useful to include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that are not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers. It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

3. What Format Should Be Used for the Application?

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program, and are contained in this Consolidated Application Package.

4. May I Submit Applications to More Than One Program Competition NIDRR or More Than One Application to a Program?

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

5. What is the Allowable Indirect Cost Rate?

The limits on indirect costs vary according to the program and the type of application.

Applications for Rehabilitation Research and Training Centers must, by statute, limit their indirect charges to 15 percent of total costs.

6. Can Profitmaking Businesses Apply for Grants?

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs may be required to share in the costs of the project.

7. Can Individuals Apply for Grants?

No. Only State, public or private agencies or organizations, institutions of higher education and Indian tribes and tribal organizations are eligible to apply for grants under this program.

8. Can NIDRR Staff Advise Me Whether My Project is of Interest to NIDRR or Likely To Be Funded?

No. NIDRR staff cannot advise you of whether your subject area or proposed approach is likely to receive approval. However, NIDRR staff can advise you of the requirements of the program for which you propose to submit your application.

9. How Do I Assure That My Application Will Be Referred to the Most Appropriate Panel for Review?

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424.

10. How Soon After Submitting My Application Can I Find Out if It Will Be Funded?

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date. Unsuccessful applicants generally will be notified within that time frame, as well.

For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

11. Can I Call NIDRR To Find Out If My Application is Being Funded?

No! When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

12. If My Application Is Successful, Can I Assume I Will Get the Requested Budget Amount in Subsequent Years?

No. Those budget projections are necessary and helpful for planning purposes. However, a complete budget and budget justification must be submitted each year of the project. Additionally, there will be negotiations on the budget each year.

13. Will All Approved Applications Be Funded?

No. It often happens that the peer review panels approve more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

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OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name	Organizational Unit
Address (give city, county, state, and zip code)	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State — H. Independent School Dist.
B. County — I. State Controlled Institution of Higher Learning
C. Municipal — J. Private University
D. Township — K. Indian Tribe
E. Interstate — L. Individual
F. Intermunicipal — M. Profit Organization
G. Special District — N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify)

_____

9. NAME OF FEDERAL AGENCY

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐☐ ☐☐☐

TITLE

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT

12. AREAS AFFECTED BY PROJECT (Cities, counties, states, etc.)

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. Federal	$ .00	a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____
b. Applicant	$ .00	b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372
c. State	$ .00	☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
d. Local	$ .00	
e. Other	$ .00	
f. Program Income	$ .00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
g. TOTAL	$ .00	☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV. 4-88)
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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided. — "New" means a new assistance award. — "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. — "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION
(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column (a)* and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Line 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Line 16–19—Enter in Column (a) the same grant program titles shown in Column (a). Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Column (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Instructions for Part III—Application Narrative

Before preparing the Application Narrative an applicant should read carefully the description of the program, the information regarding the priorities, and the selection criteria the Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an Abstract; that is, a summary of the proposed project;

2. Describe the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this application package; and

3. Include any other pertinent information that might assist the Secretary in reviewing the application.

4. The Secretary strongly requests the applicant to limit the Application Narrative to no more than *100* double-spaced, typed pages (on one side only).

Instructions for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 20 hours per response, including the time for reviewing instruction, searching existing data sources, gathering, maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820–0027, Washington, 20503.

(Information collection approved under OMB control number 1820–0027. Expiration date: July 31, 1995.)

BILLING CODE 4000–01–U

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse, (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about –

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will –

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90, which are obsolete)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known:* Congressional District, *if known:*	Congressional District, *if known:*
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable:* _____
8. Federal Action Number, *if known:*	9. Award Amount, *if known:* $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI):*	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI):*

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply):*	13. Type of Payment *(check all that apply):*
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply):* ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

[FR Doc. 93–5399 Filed 3–9–93; 8:45 am]
BILLING CODE 4000-01-C

Authorized for Local Reproduction
Standard Form - LLL-A

Federal Register

Wednesday
March 10, 1993

Part III

Department of Agriculture

Cooperative State Research Service

Rangeland Research Grants Program for Fiscal Year 1993; Notice of Solicitation of Applications

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Rangeland Research Grants Program for Fiscal Year 1993; Solicitation of Applications

Notice is hereby given that under the authority in section 1480 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3333), the Cooperative State Research Service (CSRS) of the United States Department of Agriculture (USDA) anticipates awarding standard grants for basic studies in certain areas of rangeland research. No more than $80,000 will be awarded for the support of any one project, regardless of the amount requested. The total amount of funds available for grants under the Rangeland Research Grants Program (program) during fiscal year 1993 is $452,869

Under this program, the Secretary may award grants to land-grant colleges and universities, State agricultural experiment stations, and to colleges, universities, and Federal laboratories having a demonstrable capacity in rangeland research, as determined by the Secretary. Except in the case of Federal laboratories, each grant recipient shall match the Federal funds expended on a research project based on a formula of 50 percent Federal and 50 percent non-Federal funding. Proposals received from scientists at non-United States organizations or institutions will not be considered for support.

Applicable Regulations

This program is subject to the provisions found in 7 CFR part 3401 (51 FR 16152, April 30, 1986), in which reference is made to 7 CFR part 3400. The rules regarding incorporation by reference are contained in 1 CFR part 51. In pertinent part, 1 CFR 51.1(f) provides: "[I]ncorporation by reference of a publication is limited to the edition of the publication that is approved. Future amendments or revisions of the publication are not included." Accordingly, amendments to 7 CFR part 3400 promulgated after April 30, 1986, (53 FR 49640–49642, December 8, 1988, and 56 FR 58146–58152, November 15, 1991) do not apply to the fiscal year 1993 Rangeland Research Grants Program. The provisions in 7 CFR part 3401 set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals, processes regarding the awarding of grants, and regulations relating to the post-award administration of grant projects. Pursuant to section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3319), funds made available under this program to recipients other than Federal laboratories shall not be subject to reduction for indirect costs or for tuition remission costs. Since these costs are not allowable costs for purposes of this program, such costs incurred by a grant recipient may not be used to meet the matching funds requirement. In addition, the USDA Uniform Federal Assistance Regulations, 7 CFR part 3015, as amended, the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 7 CFR part 3016, as amended, the regulations governing Governmentwide Debarment and Suspension (Nonprocurement) and the Governmentwide Requirements for Drug-Free Workplace (Grants), 7 CFR part 3017, as amended, the New Restrictions on Lobbying, 7 CFR part 3018, and the CSRS regulations implementing the National Environmental Policy Act of 1969, 7 CFR part 3407, apply to this program

How to Obtain Application Materials

Copies of this solicitation, the Application Kit, and the Administrative Provisions for this program (7 CFR part 3401) may be obtained by writing to the address or calling the telephone number which follows: Proposal Services Branch, Awards Management Division, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, room 303, Aerospace Center, Washington, DC 20250–2200, Telephone: (202) 401–5048.

What to Submit

Each applicant shall include an original and nine copies of each proposal submitted under this program. This number of copies is necessary to permit thorough, objective merit evaluation of all proposals received before funding decisions are made. Each copy of each proposal must include a Form CSRS–661, "Application for Funding." Applicants should note that one copy of this form, preferably the original, must contain pen-and-ink signatures of the principal investigator(s) and the authorized organizational representative. (Form CSRS–661 and the other required forms and certifications are contained in the Application Kit).

Members of review committees and CSRS staff expect each project description to be complete in itself. Grant proposals shall be limited to 10 pages (single-spaced), exclusive of required forms, bibliography and vitae of the principal investigator(s), senior associate(s), and other professional personnel. Attachment of appendices is discouraged and should be included only if pertinent to an understanding of the proposal.

Compliance with the National Environmental Policy Act (NEPA)

As outlined in 7 CFR part 3407 (the CSRS regulations implementing the National Environmental Policy Act of 1969), environmental data for any proposed project is to be provided to CSRS so that CSRS may determine whether any further action is needed. The applicant shall review the following categorical exclusions and determine if the proposed project may fall within one of the categories.

(1) Department of Agriculture Categorical Exclusions (7 CFR 1b.3)

(i) Policy development, planning and implementation which are related to routine activities such as personnel, organizational changes, or similar administrative functions;

(ii) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(iii) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(iv) Educational and informational programs and activities;

(v) Civil and criminal law enforcement and investigative activities;

(vi) Activities which are advisory and consultative to other agencies and public and private entities; and

(vii) Activities related to trade representation and market development activities abroad.

(2) CSRS Categorical Exclusions. (7 CFR 3407.6)

Based on previous experience, the following categories of CSRS actions are excluded because they have been found to have limited scope and intensity and to have no significant individual or cumulative impacts on the quality of the human environment:

(i) The following categories of research programs or projects of limited size and magnitude or with only short-term effects on the environment;

(A) Research conducted within any laboratory, greenhouse, or other contained facility where research practices and safeguards prevent environmental impacts;

(B) Surveys, inventories, and similar studies that have limited context and

minimal intensity in terms of changes in the environment; and

(C) Testing outside of the laboratory, such as in small isolated field plots, which involves the routine use of familiar chemicals or biological materials.

(ii) Routine renovation, rehabilitation, or revitalization of physical facilities, including the acquisition and installation of equipment, where such activity is limited in scope and intensity.

In order for CSRS to determine whether any further action is needed with respect to NEPA, pertinent information regarding the possible environmental impacts of a particular project is necessary; therefore, a separate statement must be included in the proposal indicating whether the applicant is of the opinion that the project falls within a categorical exclusion and the reasons therefor. If it is the applicant's opinion that the project proposed falls within the categorical exclusion, the specific exclusions must be identified. The information submitted shall be identified in the Table of Contents as "NEPA Considerations" and the narrative statement shall be placed after the coversheet of the proposal.

Even though a project may fall within the categorical exclusions, CSRS may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for an activity, if substantial controversy on environmental grounds exist or if other extraordinary conditions or circumstances are present which may cause such activity to have a significant environmental effect.

All copies of each proposal shall be mailed in one package. Please make sure that each copy of each proposal is stapled securely in the upper left-hand corner. Do not bind. Information should be typed on one side of the page only.

Every effort should be made to ensure that the proposal contains all pertinent information when submitted. Prior to mailing, compare your proposal with the guidelines contained in the Administrative Provisions which govern the Rangeland Research Grants Program, 7 CFR Part 3401. Proposals submitted by organizations other than Federal laboratories shall state that the 50 percent non-Federal funding requirement will be met.

Where and When To Submit Applications for Funding

Each research application for funding shall be submitted to: Proposal Services Branch, Awards Management Division, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, room 303, Aerospace Center, Washington, DC 20250–2200.

Please Note. Hand-delivered proposals or those delivered by overnight express services shall be brought to: Room 303, Aerospace Center, 901 D Street SW., Washington, DC 20024.

To be considered for funding during fiscal year 1993, proposals must be received in the Proposal Services Branch by close of business on April 2, 1993.

One copy of each proposal not selected for funding will be retained for a period of one year. The remaining copies will be destroyed.

Specific Areas of Research To Be Supported in Fiscal Year 1993

Standard grants will be awarded to support basic research in certain areas of rangeland research. Proposals will be considered in the following specific areas: (1) Management of rangelands and agricultural land as integrated systems for more efficient utilization of crops and waste products in the production of food and fiber; (2) methods of managing rangeland watersheds to maximize efficient use of water and improve water yield, water quality, and water conservation, to protect against onsite and offsite damage to rangeland resources from floods, erosion, and other detrimental influences, and to remedy unsatisfactory and unstable rangeland conditions; and (3) revegetation and rehabilitation of rangelands including the control of undesirable species of plants.

If necessary, further information may be obtained by calling Dr. Wayne K. Murphey, CSRS-USDA; telephone: (202) 401-4089.

Supplementary Information

The Rangeland Research Grants Program is listed in the Catalog of Federal Domestic Assistance under No. 10.200. For reasons set forth in the Final Rule-related Notice to 7 CFR Part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this notice have been approved under OMB Document No. 0524–0022.

Done at Washington, DC, the 2d day of March 1993.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 93–5413 Filed 3–9–93; 8:45 am]

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federal register

Wednesday
March 10, 1993

Part IV

Department of Education

34 CFR Parts 600 and 668

Institutional Eligibility Under the Higher Education Act of 1965, as Amended; Student Assistance General Provisions; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 600 and 668

RIN 1840–AB38

Institutional Eligibility Under the Higher Education Act of 1965, as Amended; Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing Institutional Eligibility under the Higher Education Act of 1965, as amended (HEA), and the Student Assistance General Provisions regulations regarding administrative actions to terminate the eligibility of an institution and to impose emergency sanctions on an institution.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Ann S. Clough, Division of Eligibility and Certification, U.S. Department of Education, 400 Maryland Avenue SW. (Regional Office Building 3, room 3030), Washington, DC 20202-5242. Telephone: (202) 708-4906. Deaf and hearing impaired individuals may call (202) 708-8248 for TDD services.

SUPPLEMENTARY INFORMATION: The purpose of these regulations is to improve the efficiency of Federal postsecondary education programs and, by so doing, to improve their capacity to enhance opportunities for postsecondary education. Encouraging students to graduate from high school and to pursue high quality postsecondary education are important elements of the National Education Goals.

These regulations modify three features or elements of the Department of Education's (Department's) procedures regarding administrative actions taken to enforce program requirements. First, the regulations permit parties to file certain documents in administrative proceedings by facsimile. Second, the regulations clarify and explain the administrative actions the Secretary may take when an institution or part of an institution ceases to satisfy applicable eligibility requirements. Third, the regulations clarify and explain the manner in which the Secretary uses the emergency action authority available under section 487 of the HEA.

Filing Documents by Facsimile

In recognition of the increasing reliability and convenience of facsimile technology, these regulations reflect the Department's effort to accommodate the public by revising the existing regulations to permit the submission of certain filings in Department administrative proceedings by facsimile. The regulations change the existing regulations only regarding filings that the Department reasonably can accept by facsimile, given its existing facsimile technology and resources.

Specifically, the Department's existing regulations governing administrative proceedings pursuant to 34 CFR 600.41 and subparts B, G, and H of part 668 of title 34 of the Code of Federal Regulations are amended to permit hearing requests and certain other documents required in administrative proceedings to be filed by facsimile, as well as by hand-delivery or mail. Where a filing may be permitted by facsimile, the Department will give the affected party timely written notice of the name and facsimile telephone number of the department official to whom a facsimile filing must be transmitted. The existing regulations also are amended to provide that documents submitted by facsimile are filed on the date the facsimile transmission is sent, that parties who file documents by facsimile are responsible for confirming that a complete and legible document is received by the Department, and that the hearing officer or other designated department official may require a follow-up hard copy of documents filed by facsimile. Finally, these final regulations state that the Secretary discourages facsimile transmission of documents longer than five pages.

Loss of Eligibility and Emergency Action

On August 7, 1990, the Secretary promulgated final regulations amending 34 CFR parts 600 and 668. 55 FR 32180. Those amendments made two principal changes to those parts: They added 34 CFR 600.41, which provides an opportunity for an administrative appeal under section 487(c) of the HEA for an institution that the Department of Education (ED) considers no longer to qualify as an eligible institution under the HEA, and revised 34 CFR 668.83 to conform to the statutory amendments to the HEA that expressly authorized ED to take emergency action against an institution. The Secretary concurrently issued a notice of proposed rulemaking (NPRM) on these same regulations, inviting public comment on the provisions published that day as final regulations. 55 FR 32186. Based on a careful consideration of both the public comments received in response to the NPRM and ED's experience in proceedings conducted under the final regulations, the Secretary is making in these final regulations a number of significant revisions to the August 7, 1990 regulations.

Consequences of Loss of Eligibility

A number of clarifying and conforming changes are made here to those provisions, including § 600.41, that explain the actions an institution may take after a loss of eligibility occurs or an emergency action is imposed. On July 19, 1991, the Secretary amended 34 CFR 668.25 to prescribe the actions to disburse Title IV, HEA program funds that an institution may take after it loses eligibility. 56 FR 33341. Under the amended § 668.25, an institution that loses its eligibility to participate in Title IV, HEA programs during a payment period, but continues to provide educational instruction until the scheduled completion of the payment period or period of enrollment, may make payments of Title IV, HEA student financial assistance to a student who is enrolled on the date of the institution's loss of eligibility in the following manner: For a Pell Grant or campus-based program aid, the institution may disburse funds for the payment period during which the loss of eligibility occurred if the institution made a commitment to the student for that aid prior to the date on which the loss of eligibility occurred. 34 CFR 668.25(c)(1). The institution may release to the student all proceeds of a Federal Family Education Loan Program loan (including a Federal Stafford Loan, Federal PLUS loan or Federal SLS program loan) made for an enrollment period that began prior to the loss of eligibility if the institution had released at least one disbursement of that loan to the student before the date of loss of eligibility. 34 CFR 668.25(c)(2).

The Secretary may require an institution to meet its closeout obligations regarding audits, disposition of records, transfer of Perkins Loans, and satisfaction of refund obligations before it may make, or receive additional funds for, these final disbursements. If the loss of eligibility affects only a location or educational program of the institution, the Secretary may limit the eligibility of the institution by requiring the institution to follow a particular procedure to ensure that title IV, HEA program funds

are not thereafter used for the ineligible location or program.

The same standards are meant to be applied in terminations of eligibility under both 34 CFR part 668 and part 600; the specific provisions previously contained in 34 CFR 668.25(c) governing these disbursements of Title IV, HEA program funds also were included in 34 CFR 668.94, which, in turn, was referenced in § 600.41(d). To clarify that the same rule applies in terminations based on loss of eligibility and terminations for violation of participation requirements, both §§ 600.41(d) and 668.94(b) are being revised here to refer to § 668.25.

Loss of Institutional Eligibility; Consequences With Respect to Obligations Under the Federal Family Education Loan Program.

ED's recent experience applying regulations that address the consequences of loss of institutional eligibility for FFELP loan transactions suggests the need to clarify the effect of § 600.40 (and § 668.25) on the obligations of both institutions and borrowers. Both regulations address the institution's responsibility to ED with respect to a loss of eligibility. They permit the institution to deliver loan proceeds to students after the effective date of the loss of eligibility, but the regulations are not intended to create any other rights for student borrowers or to suggest that borrowers are excused from repaying loans received to attend that institution.

Section 668.25(c) requires an institution that loses eligibility to return to the lender the proceeds of FFELP loans it receives other than proceeds of loans that were partially disbursed to the borrower prior to the date of the loss of eligibility. This direction in § 668.25(c) refers to loan proceeds received from the lender by check or electronic funds transfer and held by the institution for delivery to the borrower, not loan proceeds that have already been delivered to the borrower and applied to educational expenses.

The institution becomes subject to § 668.25 after the termination becomes final with respect to loan proceeds it still holds for delivery or thereafter receives from the lender. However, under § 600.40(a) as currently in effect and as amended in these regulations, the effective date of the loss of eligibility is the date on which the institution ceased or failed to meet an element of the standards for eligibility. In proceedings under § 600.41, that date will ordinarily be well before the date on which the termination action becomes final. The institution may have delivered loan proceeds and disbursed other Title IV, HEA program assistance after the effective date, and the Secretary holds the institution liable for the full costs to the government of that aid provided after the effective date of the loss of eligibility.

For Title IV, HEA program assistance provided from Federal funds ED advanced to the institution, the cost of that assistance is clearly the actual amount of Federal funds the institution provided to students after that effective date. However, under the FFELP, ED provides no Federal funds to the institution itself. The financial loss to the government caused by guaranteed loans made after the effective date of the loss of eligibility is not the amount of funds advanced on guaranteed loans received for its students, because those funds are advanced by lenders, not ED. Rather, the loss to the government is the cost of the subsidies paid to holders of those loans and the costs of defaults on those loans for which the government is contingently liable under its reinsurance agreements with guarantee agencies.

To recoup the loss to the government for the FFELP loans received by borrowers after the effective date of the loss of eligibility, therefore, ED holds the institution liable for the actual cost of the subsidies paid to lenders and the cost of defaults on those loans. ED passes the cost of defaults on to the institution either by requiring the institution to pay ED the actual amount of reinsurance payments already paid and the estimated amount of reinsurance payments that will be paid on those loans, or by requiring the institution to assume the risk of loss on those loans by purchasing those loans from the lender or guarantee agencies that now hold them.

Where ED chooses to require an institution to purchase from their respective holders those FFELP loans made after the effective date of the institution's loss of eligibility, ED does no more than remedy the unauthorized imposition on the government of contingent liability for defaults on those loans. If the institution in fact purchases those loans from the holders, the loans no longer qualify for Federal reinsurance or subsidies. Further, it is unlikely that the guarantee agency will continue to insure the loans. However, the loans would be enforceable by the institution, according to their terms, as its own receivables.

Because ED regulations have permitted the lender to rely in good faith (absent an origination relationship) on representations made in FFELP loan applications by both the borrower and the institution, ED generally holds the lender harmless from the consequences of a lapse of institutional eligibility. To hold the lender harmless in these situations, ED must continue to subsidize and reinsure those loans that the ineligible institution does not purchase. Whether these loans are assigned to the institution or, as is more likely, the loans remain with the lender or guarantee agency, ED considers the loss of institutional eligibility to affect directly only the liability of the institution for Federal subsidies and reinsurance paid on those loans. In either case, the borrower retains all the rights with respect to loan repayment that are contained in the terms of the loan agreements, and ED does not suggest that these loans, whether held by the institution or the lender, are legally unenforceable merely because they were made after the effective date of the loss of institutional eligibility.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, six parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Major issues are grouped according to subject, and appropriate sections of the regulations are referenced. Other substantive issues are discussed under the section of the regulations to which they pertain. Among the minor changes made to current regulations on which no comments were received and which are not otherwise addressed in this part are the inclusion of certain definitions in part 668 previously found in other parts; among these is the definition the student aid report, or "SAR." Because of changes made by the Higher Education Amendments of 1992, the definition of that term will be amplified in the future to explain more fully the consequences of loss of eligibility or emergency action on the awarding and delivery of Pell Grant funds.

Section 668.81—Scope and Special Definitions

Comments: One commenter asked whether the Secretary had eliminated paragraphs (c)(3), (d), (e), and (f) of this section. These paragraphs provided that the procedures contained in Subpart G do not apply to decisions by the Secretary to refuse initially to certify an institution for participation in the title IV, HEA programs, to decisions to provide title IV, HEA program funds to an institution by reimbursement, and to administrative actions to enforce various anti-discrimination laws. Paragraph (f) contains definitions of

terms used in subpart G. The same commenter believed that the subpart G procedures should be available for an institution whose funding method was changed from advance funding to reimbursement funding.

Discussion: The omission of paragraphs (d), (e), and (f) from the proposed rule as published reflects only that no changes were to be made to those paragraphs, which remain in effect. On the other hand, the commenter is correct that paragraph (c) was revised to eliminate former paragraph (c)(3) and to modify former paragraphs (c) (1) and (2).

The revisions to 34 CFR 668.81(c) do more than merely combine in paragraph (c)(1) the previous references to eligibility determinations and in paragraph (c)(2) the previous reference to initial certification determinations. Both parts of revised paragraph (c) contain a number of significant changes. New paragraph (c) reflects the increased focus of ED's eligibility and certification review, and respective appeal procedures, on the qualifications that must be shown by the institution as a whole, and by each affected *location* (such as a branch), for the institution or that location to participate in the title IV, HEA programs.

In both the eligibility review process described in part 600 and the certification process described in subpart B of part 668, ED scrutinizes an initial applicant as it is constituted at the time of application; 34 CFR 668.81(c) consistently has barred an institution initially applying for eligibility and certification or one of its parts from using the formal administrative appeal procedure under subpart G to challenge an ED determination that the institution does not meet factors of financial responsibility or standards of administrative capability under subpart B of part 668, or that the institution or a part of that institution does not qualify as an eligible institution or location under part 600 or as an eligible program under part 668.

The revisions to part 600 made on August 7, 1990, establishing the appeal procedures regarding a determination that an institution as a whole no longer meets eligibility standards, gave the institution the same appeal rights with regard to a determination that a location or program that was previously included within ED's designation of eligibility no longer meets eligibility standards. No comparable provision was needed in Subpart G of part 668, because a determination that the institution lacks the administrative or financial capability to administer properly the title IV, HEA programs at a location previously included within the scope of the institution's certification is, with respect to the institution itself, not a termination, but only a limitation of its ability to participate, for which appeal procedures already exist. 34 CFR 668.86.

When an institution adds a location, it must submit an application to ED demonstrating that the location meets the eligibility standards in part 600 if the new location is to be included within the designation of eligibility for the institution. 34 CFR 600.10(b)(3). At that time, ED may require the institution to demonstrate that it has the administrative and financial capability needed to manage properly the title IV, HEA programs at that additional location. The August 7, 1990 revision to paragraph (c)(2) was significant in that the regulation as revised provides that the institution receives no administrative appeal from ED under subpart G if ED decides that the institution lacks the resources needed to manage title IV, HEA program funds for that new location and, for that reason, refuses to extend the certification previously given to the institution to include that location. If, on the other hand, ED determines that the institution lacks the resources to manage title IV, HEA program administration at a location that previously was included within ED's certification of that institution, the institution may appeal that limitation action under existing appeal procedures in Subpart G.

The manner in which ED provides funding to an institution consistently has been viewed by the Secretary as a matter completely distinct from the institution's eligibility to participate in the title IV, HEA programs. ED never has regarded the change from advance funding to reimbursement funding as a limitation on eligibility that requires or warrants a formal administrative hearing. Unlike a limitation action, which bars reimbursement for awards of title IV, HEA program aid made by an eligible institution in violation of the terms of the limitation, a change in funding method has no effect on the legal right of the institution to obligate title IV, HEA program funds and receive full reimbursement from ED. ED's authority to pay title IV, HEA program funds by reimbursement is expressly recognized in the statute, 20 U.S.C. 1226a–1, and has been fully supported by the case law. See, *e.g., Bowling Green Jr. College* v. *U.S. Department of Education*, 687 F. Supp. 293 (W.D. Ky. 1988).

When ED proposes to change the funding method for an institution from advance to reimbursement, ED regularly gives the institution an informal opportunity to present objections to the change in funding and have the objections considered. Based on ED's experience with the informal procedure, the Secretary has determined that there is no need to formalize the opportunity by including it in the procedures addressed in these parts of the regulations that govern eligibility matters.

Changes: Changes are made to clarify current law; § 668.81(c)(2) is revised by the addition of new paragraph (c)(2)(ii) to clarify that ED's determination of whether to include a new location within the scope of participation of a previously-certified institution is not subject to formal administrative appeal by the institution under subpart G. Paragraph (a) of § 668.81 is also revised to include technical changes to conform to the changes in paragraph (c) and the addition of termination procedures under part 600. Thus, the procedures established under subpart G of part 668 apply by their own force to adverse action regarding the participation of an institution that meets the requirements of part 600 and has been certified to participate; ED follows those subpart G procedures for administrative actions to limit or terminate the eligibility of an institution conducted under authority of part 600.

Section 668.83—Emergency Action

Comments: One commenter believed that the use of emergency action in instances in which an institution was thought no longer to be an eligible institution because of a loss of accreditation or State licensure would result in a summary revocation of eligibility. The commenter opined that ED's use of emergency action in cases of loss of license or accreditation would contradict its announced intention to adopt, in § 600.41, the interpretation of the Court of Appeals in *Continental Training Services* v. *Covazos*, 893 F.2d 877 (7th Cir. 1990), that the procedural protections found in section 487(c) of the HEA applied to revocations of eligibility based on loss of license or accreditation. 20 U.S.C. 1094(c). The commenter believed that by adopting such an interpretation ED would provide the institution no predeprivation process at all, in derogation of the institution's rights under the Fifth Amendment.

Discussion: An emergency action is, by its very terms, a temporary deprivation of the benefits of eligibility; no permanent deprivation of eligibility takes place under ED regulations before the institution has an opportunity to

dispute the proposed permanent deprivation in a formal administrative proceeding. Even the temporary deprivation, as will be discussed shortly, is accompanied by a prompt opportunity for an informal hearing to dispute that action. Because Congress plainly and expressly authorized this temporary deprivation of eligibility without requiring an opportunity for a formal administrative hearing, the argument that ED violates an institution's procedural due process rights under other provisions of the statute or under the Constitution by taking emergency action has no merit. Moreover, for the reasons explained here, a revocation (termination) action under § 600.41, even when preceded by an emergency action, is not a summary proceeding, and does not violate the institution's right under section 487(c)(1)(F) of the HEA, as redesignated by section 490(d)(2) of Pub. L. 102–325, to a hearing prior to termination.

In § 600.41, ED guarantees an institution an opportunity for a formal administrative proceeding conducted in accordance with subpart G of part 668. In that proceeding, the institution may challenge a termination of eligibility based on loss of accreditation or license. This is clearly a change in ED's longstanding interpretation of section 487 of the HEA; it was made to adopt the interpretation of that section of the HEA statute reached by the 1990 *Continental* court ruling. Subpart G provides for an opportunity for a full administrative proceeding to contest a proposed termination action, and contains no provision for summary termination proceedings.

Use of emergency action in conjunction with a termination or revocation of eligibility under § 600.41 does not make the revocation proceeding a summary proceeding. As another commenter observed, an emergency action is an administrative version of a temporary restraining order (TRO). An emergency action, like a TRO or preliminary injunction, is a temporary remedy; a court that issues a TRO or preliminary injunction still conducts a full trial on the merits in the case, and similarly, ED makes available a full administrative proceeding to dispute a proposed termination to an institution against which it has taken emergency action. The use of emergency action in connection with a termination case does not make the termination proceeding a summary proceeding any more than the issuance of a preliminary injunction would reduce the subsequent trial to a summary proceeding.

Changes: No change has been made.

Comments: A commenter stated that the opportunity for a show-cause proceeding for emergency actions when licensure or accreditation is lost that is provided under this section is meaningless because, the commenter believed, the Secretary intends to continue any emergency action commenced in such instances no matter what the institution demonstrated in the course of the show-cause proceeding.

Discussion: The Secretary expects to act promptly through emergency action in reaction to a loss of licensure or accreditation for an institution, while at the same time commencing a termination action on the basis of that loss. The mere fact that a loss of licensure or accreditation presents ED with a very narrow factual question does not make a show-cause proceeding provided in § 668.83(e) after an emergency action has been taken a meaningless exercise. For example, it is possible that the Department might begin a termination and issue an emergency action on the basis of an erroneous report that an institution had lost its license or accreditation. The institution immediately can correct such a mistake through the show-cause proceeding. The proceeding gives the institution an effective means of correcting the kind of simple factual misunderstanding that ED has the authority to correct.

The Secretary recognizes that an institution that loses its license or accreditation may face imminent and serious economic loss as a result of the ensuing loss of title IV, HEA program eligibility, even if the latter loss is temporary; however, the possibility of economic loss should not cause the Secretary to defer action until the completion or expiration of the appeal period. The Secretary must consider the legal consequences of that loss under the statutory scheme, as well as the statutory responsibility to prevent funds being received by an institution that may not lawfully receive them. Section 487(c)(1)(G), as redesignated by section 490(d)(2) of Pub. L. 102–325, 20 U.S.C. 1094(c)(1)(G), directs the Secretary to consider whether the likelihood of loss from misuse of Federal funds outweighs the value to the institution of deferring action until completion of formal termination proceedings. That balancing test, in the case of a loss of license or accreditation, in most cases will dictate that the Secretary take emergency action against an institution. The unlicensed or unaccredited institution does not qualify to continue receiving student assistance funds (with the limited exceptions in § 668.25), and it has no legitimate basis for seeking to delay ED's recognition of its loss of authorization and for the resulting consequences to be put in place.

Changes: No change has been made.

Comment: One commenter objected that by making the show-cause proceeding under § 668.83 available only after the emergency action is taken, the regulation violated the institution's due process rights and rendered the appeal opportunity meaningless.

Discussion: The statute plainly does not require the Secretary to provide the institution an opportunity to be heard prior to placing an emergency action in effect. To the contrary, the statute directs that the emergency action takes effect on the date that the notice of emergency action is mailed to the institution. The statute does not provide that the emergency action will be stayed pending a show cause proceeding, and such a result would be inconsistent with the goal of emergency action as stated in the statute itself. The Secretary notes that other parts of section 487(c), unlike section 487(c)(1)(G), expressly mandate an opportunity for a prior hearing for other enforcement actions. In the immediately preceding and succeeding provisions of section 487(c)(1), for example, Congress authorizes the Secretary to limit, suspend, or terminate eligibility and fine an institution, 20 U.S.C. 1094 (c)(1)(F) and (c)(2), or to take similar action against a student aid contractor, 20 U.S.C. 1094(c)(1)(H), as also redesignated by section 490(d)(2) of Pub. L. 102-325, only "after reasonable notice and an opportunity for a hearing." Not only is the text of the statute clear that Congress intended ED to provide the institution an opportunity to show cause *after* the commencement of the emergency action, but the background of its enactment makes clear that Congress understood and intended to approve that practice, followed by ED for some fifteen years. 45 CFR 177.76(c), 40 FR 7598, February 20, 1975. The enactment of section 487(c)(i)(E) after the decision in *Ross University School of Medicine* v. *Cavazos*, 716 F.Supp. 638 (D.D.C. 1989), adopting, almost verbatim, the language of the same regulations viewed by the court as contrary to congressional intent in the prior decade, shows that Congress approved, and intended ED to continue, its practice of providing a show-cause hearing only *after* an emergency action has been taken.

Congress' decision in section 487(c)(1)(G) to approve ED's practice of affording an opportunity to be heard after, rather than before, the emergency action takes effect not only is consistent with legislative intent as inferred from the circumstances of its enactment, but

comports with constitutional requirements regarding the extent to which a party has a right to a predeprivation hearing. The constitutional right to a hearing prior to deprivation of a protected interest is not an unqualified right; in limited circumstances the government properly may postpone the opportunity to be heard until after the initial deprivation. *FDIC* v. *Mallen*, 486 U.S. 230, 239 (1988); *Boddie* v. *Connecticut*, 401 U.S. 371, 379 (1971). The regulatory assurance of an opportunity for a show-cause meeting, upon request, promptly after the emergency action takes effect, with an official authorized to grant relief from the action, falls well within the time limits found acceptable in the case law.

Changes: No change has been made.

Comment: Several commenters suggested that ED should authorize guarantee agencies to take emergency action of the kind provided for in this section.

Discussion: The same statutory amendments that codified ED's right to take emergency action also revised corresponding provisions in section 428(b)(1)(T) and (U) of the HEA regarding enforcement actions by guarantee agencies to include recognition of the agencies' right to take emergency action. See 20 U.S.C. 1078(b)(1)(T),(U), as amended by section 2006(b) of P.L. 101-239. As discussed earlier, these statutory changes, which adopted almost verbatim ED regulations for emergency action, represent congressional affirmation of ED's practice during the past decade of taking emergency action under regulatory authority. See 45 CFR 177.76(c), adopted February 20, 1975. Some guarantee agencies similarly have adopted emergency action in their programs as an enforcement measure during that period.

The Secretary fully agrees with the commenters that guarantee agencies should be able to adopt and use emergency action procedures. However, the Secretary does not authorize guarantee agencies to take emergency action; agencies derive that right, like the right to take other adverse action, not from either the HEA or ED regulations, but from their own charters or authorizing statutes or resolutions. Guarantors therefore have no need for regulatory authorization from ED to continue or to commence the use of emergency action they otherwise are empowered to take. Similarly, to the extent that section 428(b)(1)(T) and (U) measures the propriety of guarantor emergency action procedures against Federal procedures, the Secretary regards the congressional affirmation of Federal emergency action authority (exercised previously solely under ED regulatory power) to represent an affirmation of the propriety of comparable guarantor emergency actions taken prior to these statutory amendments. 20 U.S.C. 1078(b)(1)(T),(U).

Changes: No changes have been made.

Comment: One commenter believed that the regulations should provide the institution with an opportunity for an immediate show-cause meeting and decision from the show-cause official.

Discussion: The Secretary has exercised the emergency action authority in a flexible manner to permit an institution to seek and obtain a show-cause meeting as soon as the institution was prepared to present its case, which it could do either in writing or in person. In practice, institutions usually have not requested that meeting immediately upon receipt of the notice, but have taken several days, or even longer, to prepare their responses. If an institution were to request an immediate meeting, ED cannot guarantee that it will always have a show-cause official available to conduct a show-cause meeting on the very day requested by the institution; nevertheless, ED treats the need for a prompt meeting as deserving high priority. Although ED does not consider it to be feasible in every case to commit to meet on the very date requested by the institution, ED has made, and intends to continue to make, every reasonable effort to accommodate a request for a show-cause meeting on the date the institution wishes to make its in-person presentation and to issue a written decision as soon after the meeting as possible. The Secretary intends to have a decision issued by the show-cause official ordinarily within ten days of the close of the meeting or receipt of a written presentation.

Changes: The regulations are revised to include a provision that the show-cause proceeding is available, upon request by the institution, as soon as practicable, and that a decision will be issued promptly after completion of the meeting or receipt of the institution's written presentation.

Comment: The same commenter objected that the regulations appear to provide improperly that the same official who initiated the emergency action would conduct the show-cause proceeding. The commenter believed that an independent official or administrative law judge (ALJ) should conduct the show-cause meeting.

Discussion: The Secretary agrees that the same official who initiates an emergency action should not serve as the show-cause official for that action; in practice, ED arranges for an official other than the official initiating the emergency action to conduct the show-cause meeting. The officials who have conducted show-cause meetings for institutions typically have been officials who have authority over enforcement actions, but who have had no prior involvement in the decision to commence emergency action with regard to that institution. Neither the statute nor constitutional due process considerations dictate that the show-cause proceeding be conducted by officials completely separated from the administration of the title IV, HEA programs. The statute states that the Secretary is to provide the show cause opportunity, not an official independent of his authority. Due process is satisfied if the individual conducting the meeting has the authority to grant the relief requested and has not been involved in the prior decisions regarding the adverse action at issue against the institution. See *Morrissey* v. *Brewer*, 408 U.S. 471, 486 (1972).

Changes: The regulations are revised to clarify that the official who conducts the show-cause proceeding is not the same individual who initiated the emergency action, that the show-cause official is an official who has authority to modify or withdraw the emergency action, and that the show-cause official issues a written decision promptly after the institution has completed presenting the material it wishes to have considered in support of its petition.

Comment: A commenter objected that the regulations do not guarantee the institution a right to present evidence and argument at a show-cause meeting, do not allocate the burden of proof between the institution and ED, do not articulate the standards an institution must meet to show that an emergency action was unwarranted, and do not prescribe the standard of proof that applies in determining whether the emergency action should be withdrawn.

Discussion: The emergency action itself is a preliminary and provisional remedy, and the statute plainly does not require that the show-cause meeting be conducted as a formal administrative hearing. There is therefore no need to follow requirements that attend formal proceedings. The only thing specified by the statute is that the school bears the ultimate burden of proof—that is, of showing cause why the emergency action is unwarranted. In all other respects, it is up to the show-cause official to set these rules on a case-by-case basis. ED has, in practice, permitted an institution to include in its

show-cause presentation whatever evidence and argument the institution wished to produce, subject only to the relative informality and brevity with which ED conducts the proceeding, as connoted by the term "show-cause meeting." Consistent with that relative informality, these meetings can be, but are not always, transcribed, and the show-cause official may require individuals who want to present oral statements to do so under oath. In the notice of emergency action sent to an institution, the initiating official describes the grounds for the action in a manner designed to provide, at the very least, sufficient detail to allow the institution to respond meaningfully to the charges. The standards an institution must meet are those described in the notice and taken from the statute: that the acts or omissions described in the notice on which emergency action was premised did not occur, or that the particular restrictions imposed by emergency action are not necessary to prevent misuse of title IV, HEA program funds.

Changes: The regulations have been revised to state that the institution has the right at a show-cause meeting to present evidence and argument to support its challenge to the emergency action; this is, however, subject to the authority of the show-cause official to restrict or exclude material he or she considers irrelevant. The regulations have been revised further to provide particular examples of conduct that, in addition to obvious examples of misconduct (such as theft, embezzlement, and false determination of student eligibility), will be considered to cause misuse and loss of title IV, HEA program funds, and to provide that the institution bears the burden of persuading the show-cause official that the violations of HEA requirements and expected loss of funds on which the action was premised did not occur, are no longer occurring, and will not recur, or can be prevented reliably by an alternative restriction or procedure.

Comment: One commenter urged that the use of emergency action in conjunction with termination for loss of licensure or accreditation would make it nearly impossible for an institution to complete teaching the courses in which students were then enrolled or to make responsible teachout arrangements, and to that extent the operation of emergency action under § 668.83 conflicts with 34 CFR 668.25.

Discussion: In using emergency action in cases of loss of eligibility, the Secretary does not intend to thwart legitimate efforts by the institution to complete its educational responsibilities. On the other hand, ED repeatedly has found that institutions that lose their eligibility due to loss of license or accreditation and thereafter close make no effort to meet their closeout responsibilities to currently enrolled students, to former students to whom refunds are owed, or to ED and to the public, to which the institutions have a duty to account for the funds they already received. 34 CFR 668.25(a). Further, it should be noted that under many State laws, an institution may not operate lawfully without a license; in those States, an institution that loses its State license thus may not be authorized to complete its educational responsibilities.

ED's general practice under the current regulations has been to impose an emergency action initially but to agree, upon request, to modify the emergency action if an institution presents a credible proposal to prevent the misuse charged in the notice. The emergency action thereafter remains in place, but rather than operating as a temporary suspension or termination, the action is then more in the nature of a temporary limitation on the institution's eligibility. In the case of a loss of eligibility under part 600, for example, an emergency action might be modified upon a request to permit the institution to meet all its closeout obligations described in 34 CFR 668.25, subject, in particular cases, to the further condition that the institution first make adequate provision for a final audit, for record retention, and for satisfying outstanding refund and other claims by students and by ED.

Moreover, in addition to close-out situations, there may be other instances in which ED could conclude that it is unnecessary to impose the emergency action in the full measure authorized in the statute, and that to do so might cause needless disruption to students. Upon a credible presentation by an institution that a lesser restriction suffices to prevent the misuse charged in the notice, ED may agree to modify an emergency action temporarily to limit, rather than suspend, the eligibility of the institution.

For these reasons, the Secretary agrees that the current regulations should be modified to incorporate more flexibility into the scope of the emergency action as initiated. In cases that do not involve close-out situations, for example, emergency action could be used to impose an immediate limitation, such as a requirement that the institution engage a responsible third party to monitor and control the institution's access to title IV, HEA program funds. Rather than withdrawing completely the authority of the institution to disburse title IV, HEA program funds, the Secretary in such a case would use emergency action to require the institution to deposit all title IV, HEA program funds into an escrow account administered by an accounting firm or other professional, to be released only upon proof by the institution that each proposed student recipient qualifies for the aid, and, if title IV, HEA program funds are to be used to meet tuition expenses, that the institution already had provided the portion of the training for which the payment is being sought.

Similarly, in the case of a loss of eligibility under part 600, emergency action could be used to permit the institution only to make "closeout" disbursements for its students, subject, in particular cases, to the condition that the institution first make adequate provision for a final audit, for record retention, and for satisfying outstanding refund and other claims by students and by ED.

Changes: The Secretary is revising § 668.83 to provide, in paragraph (a)(2), that ED, by emergency action, may either withdraw the authority of the institution to use or permit the obligation of title IV, HEA program funds, or withdraw the authority of the institution to use title IV, HEA program funds, except in accordance with a specified procedure.

Comment: One commenter objected that the regulations convert emergency action, a sanction intended for interim use, into one that is indefinite in duration. The commenter stated that in a case in which a termination action results in a decision favorable to the institution and the case then is appealed to the Secretary by ED's Student Financial Assistance Programs, the regulations permit the emergency action to remain in effect throughout the appeal. The commenter viewed the continuance of emergency action as being unjustified, because the facts on which the emergency action was premised in such cases would have been decided already at the administrative hearing in a manner contrary to that asserted by the official who initiated the emergency action. The commenter believed that this unfairly and unduly prolongs the emergency action in a manner contrary to the statutory requirements.

Discussion: The comment poses two separate concerns: (1) the consistency with the governing statute of a rule under which an emergency action may persist through appeal proceedings and (2) the duration of an emergency action. The statute is clear that the authority to

initiate and continue an emergency action is distinct from, although designed to attend to the outcome of, limitation, suspension, or termination proceedings. In taking emergency action, the statute directs the Secretary to consider whether the likelihood of loss outweighs the importance of the procedures prescribed for terminating eligibility. 20 U.S.C. 1094(c)(1)(G)(iii).

This language refers to balancing the need for immediate action against the desirability of deferring action until the *completion* of those procedures. Section 487 of the HEA and ED regulations have always regarded the crucial and effective component or step in those administrative proceedings to be the decision of the Secretary, not that of the hearing official; the regulations consistently have characterized the decision of the hearing official as the *initial* decision, which then becomes the decision of the Secretary *only if neither party lodges a timely appeal.* 34 CFR 668.90(c)(1). Until that *initial* decision becomes the Secretary's decision, neither party is bound by the findings of fact of the hearing official. Therefore, it is not inconsistent with the statute that vests termination decision-making power in the Secretary for the Secretary to permit the emergency action to continue until his own review of the evidence regarding the underlying facts, whether or not the hearing official credited that evidence.

On the other hand, the Secretary believes that different kinds of changed circumstances could justify revisiting the emergency action prior to the end of the formal termination proceedings. For example, the immediate problems that gave rise to the need for emergency action may be resolved during that period to ED's satisfaction. On the other hand, the Secretary also believes that if the institution were permitted repeated opportunities to challenge the emergency action, the institution would have much less incentive to present during the show-cause proceeding either a well-considered rebuttal or a responsible proposal to cure the problem, and ED officials would be required to waste considerable amounts of their time sifting through frequent, unsubstantiated demands to reopen initial show-cause determinations.

After an emergency action has been in effect for a specified period of time, it can be useful to provide a single opportunity for an institution to demonstrate that it has cured the problem that caused the imposition of the emergency action. To provide this opportunity accommodates the need to relieve a sanction that is no longer warranted, the need to retain a credible incentive for serious initial presentations and negotiations, and the need to avoid wasted administrative reviews. For several reasons, the Secretary considers six months to be long enough after imposition of an emergency action to meet these competing considerations. This length of time, one-half of an award year, should provide a sufficiently long period for the institution to demonstrate that it actually has put in place correct procedures for properly calculating student need and qualification for aid; for tracking attendance, withdrawals, and other matters that require adjustment of student awards; and for honoring its refund obligations.

Changes: Section 668.83 is revised to provide that if an emergency action remains in effect for six months, an institution may present and have considered written evidence and argument demonstrating that because of actions occurring after the show-cause meeting the imposed emergency action is no longer warranted or should be modified.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, because the changes made in these regulations to §§ 668.15 and 668.91 regarding the filing of documents in administrative proceedings, including the provisions permitting filing by fascimile, are amendments to rules of agency procedure, no public comment is required under 5 U.S.C. 553(b)(A) for those provisions. Therefore, the Secretary has determined that publication of a proposed rule for those particular provisions is not required. This waiver applies exclusively to the provisions related to filing requirements; the other provisions of these regulations were previously published as a proposed rule.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in that order.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, ED has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 600

Administrative practice and procedure, Colleges and universities, Education, Reporting and recordkeeping requirements.

34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Student aid.

Dated: February 22, 1993.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: Supplemental Educational Opportunity Grant Program, 84.007; Stafford Loan Program, 84.032; PLUS Program, 84.032; Supplemental Loans for Students Program, 84.032; Consolidation Loan Program, 84.032; College Work-Study Program, 84.033; Perkins Loan Program, 84.038; Pell Grant Program, 84.063; State Student Incentive Grant Program, 84.069; Income Contingent Loan Program, 84.226.)

The Secretary amends parts 600 and 668 of title 34 of the Code of Federal Regulations as follows:

PART 600—INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED

1. The authority citation for part 600 is revised to read as follows:

Authority: 20 U.S.C. 1082, 1085, 1088, 1094, and 1141, unless otherwise noted.

2. Section 600.40 is amended by revising paragraph (a) to read as follows:

§ 600.40 Loss of eligibility.

(a)(1) An institution, or a location or educational program of an institution, ceases to be eligible to participate in programs authorized under the HEA on the date on which the institution,

or ceases to meet an applicable eligibility requirement of this part.

(2) An institution or location ceases to be eligible to participate in programs authorized under the HEA on the date on which the institution ceases offering educational programs, or, with respect to a location, ceases offering educational programs at that location, except for normal vacation periods.

* * * * *

3. Section 600.41 is amended by revising paragraphs (a),(b),(c),(d), and (e) to read as follows:

§ 600.41 Termination and emergency action proceedings.

(a) If the Secretary believes that an institution as a whole, or at one or more of its locations, that was previously designated by the Secretary as an eligible institution under the HEA does not satisfy the statutory or regulatory requirements that define that institution as an eligible institution, the Secretary may, in accordance with the procedural provisions in 34 CFR 668.81, 668.83, 668.86, 668.87, 668.88, 668.89, 668.90(a)(1), (4) and (c) through (f), and 668.91—

(1) Terminate the eligibility of the institution as a whole or as to a location to participate in one or more title IV, HEA programs;

(2) Limit the authority of the institution to disburse, deliver, or cause the disbursement or delivery of funds under one or more title IV, HEA programs as otherwise provided under 34 CFR 668.25 for the benefit of students enrolled at the ineligible institution or location prior to the loss of eligibility of that institution or location; and

(3) Initiate an emergency action with regard to the institution's participation in one or more title IV, HEA programs.

(b) If the Secretary believes that an educational program offered by an institution that was previously designated by the Secretary as an eligible institution under the HEA does not satisfy relevant statutory or regulatory requirements that define that educational program as part of an eligible institution, the Secretary may, in accordance with the procedural provisions described in paragraph (a) of this section—

(1) Terminate the eligibility under one or more title IV, HEA programs of the institution as to that educational program, and limit the institution's authority to deliver, disburse, or cause the delivery or disbursement of funds provided under that title IV, HEA program to students enrolled in that educational program, as otherwise provided in 34 CFR 668.25; and

(2) Initiate an emergency action with regard to the institution's participation in one or more title IV, HEA programs with respect to students enrolled in that educational program.

(c)(1) An action to terminate and limit the eligibility of an institution as a whole or as to any of its locations or educational programs is initiated in accordance with 34 CFR 668.86(b) and becomes final 20 days after the Secretary notifies the institution of the proposed action, unless the designated department official receives by that date a request for a hearing or written material that demonstrates that the termination and limitation should not take place.

(2) Once a termination under this section becomes final, the termination is effective with respect to any commitment, delivery, or disbursement of funds provided under the applicable title IV, HEA program by the institution—

(i) Made to students enrolled in the ineligible institution, location, or educational program; and

(ii) Made on or after the date of the act or omission that caused the loss of eligibility as to the institution, location, or educational program.

(3) Once a limitation under this section becomes final, the limitation is effective with regard to any commitment, delivery, or disbursement of funds under the applicable title IV, HEA program by the institution—

(i) Made after the date on which the limitation became final; and

(ii) Made to students enrolled in the ineligible institution, location, or educational program.

(d) After a termination under this section of the eligibility of an institution as a whole or as to a location or educational program becomes final, the institution shall not certify applications for, make awards of or commitments for, deliver, or disburse funds under the applicable title IV, HEA program, except—

(1) In accordance with the requirements of 34 CFR 668.25(c) with respect to students enrolled in the ineligible institution, location, or educational program; and

(2) After satisfaction of any additional requirements, imposed pursuant to a limitation under paragraph (a)(2) of this section, which may include the following:

(i) Completion of the actions required by 34 CFR 668.25 (a) and (b).

(ii) Demonstration that the institution has made satisfactory arrangements for the completion of actions required by 34 CFR 668.25 (a) and (b).

(iii) Securing the confirmation of a third party selected by the Secretary that the proposed disbursements or delivery of title IV, HEA program funds meet the requirements of the applicable program.

(iv) Using institutional funds to make disbursements permitted under this paragraph and seeking reimbursement from the Secretary for those disbursements.

(e) For purposes of this section, the title IV, HEA programs are those listed at 34 CFR 668.1(c).

* * * * *

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

4. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1141, unless otherwise noted.

5. Section 668.2 is amended by adding definitions of "Payment period" and "Student Aid Report (SAR)" in alphabetical order to paragraph (b) to read as follows:

§ 668.2 General definitions.

* * * * *

(b) * * *

Payment period: (1) With respect to the Pell Grant Program, a payment period as defined in 34 CFR 690.3.

(2) With respect to the campus-based programs, a payment period as defined in 34 CFR 674.2, 675.2, and 676.2.

* * * * *

Student Aid Report (SAR): A report provided to an applicant for a Pell Grant showing the amount of his or her expected family contribution.

* * * * *

6. Section 668.15 is amended by removing the words "in writing to the Secretary's designated Departmental official that is postmarked" in paragraph (g)(1), and adding, in their place, "to the Secretary's designated Department official, filed in accordance with the requirements in paragraph (j) of this section" and adding a new paragraph (j) to read as follows:

§ 668.15 Additional factors for evaluating administrative capability.

* * * * *

(j)(1) An appeal by an institution under paragraph (g) of this section or a notice of intent to appeal under paragraph (f)(7)(i) of this section must be filed with the designated Department official by hand-delivery, mail, or facsimile transmission.

(2) The filing date of an appeal under paragraph (g) of this section is the date the document is—

(i) Hand-delivered;

(ii) If mailed, received by the designated Department official; or

(iii) Sent by facsimile transmission.

(3) Documents filed by facsimile transmission must be transmitted to the designated Departmental official in accordance with instructions provided by the Secretary in the notice of default rate provided under this section. An institution filing by facsimile transmission is responsible for confirming that a complete and legible copy of the document was received by the designated Departmental official, and may be required by that official to provide a hard copy of the document filed by facsimile.

(4) The Secretary discourages the use of facsimile transmission for documents longer than five pages. (Authority: 20 U.S.C. 1082, 1094)

7. Section 668.81 is amended by revising paragraphs (a), (c)(2), and (f) to read as follows:

§ 668.81 Scope and special definitions.

(a) (1) This subpart establishes regulations for the following actions with respect to a participating institution:

(i) An emergency action.

(ii) The imposition of a fine.

(iii) The limitation, suspension, or termination of the participation of the institution in a title IV, HEA program.

(2) A "participating institution" is an institution that the Secretary has—

(i) Determined meets the applicable requirements of 34 CFR part 600; and

(ii) Certified to satisfy initially the factors of financial responsibility and standards of administrative capability contained in subpart B of this part.

* * * * *

(c) * * *

(2)(i) An institution fails to qualify for initial certification to participate in any title IV, HEA program because the institution does not meet the factors of financial responsibility or standards of administrative capability contained in subpart B of this part; or

(ii) A participating institution that seeks to have included within its certification an additional location fails to meet those factors or standards with respect to that additional location.

* * * * *

(f) The following definitions apply to this subpart:

Designated department official: An ED official to whom the Secretary has delegated responsibilities indicated in this subpart.

Initiating official: The designated Department of Education official authorized to begin an emergency action under § 668.83.

Show-cause official: The designated Department of Education official authorized to conduct a show-cause proceeding for an emergency action under § 668.83.

(Authority: 20 U.S.C. 1094)

8. Section 668.83 is revised to read as follows:

§ 668.83 Emergency action.

(a) Under an emergency action, the Secretary may—

(1) Withhold title IV, HEA program funds from an institution or its students; and

(2)(i) Withdraw the authority of the institution to commit, disburse, deliver, or cause the commitment, delivery, or disbursement of title IV, HEA program funds; or

(ii) Withdraw the authority of the institution to commit, disburse, deliver, or cause the commitment, delivery, or disbursement of title IV, HEA program funds except in accordance with a particular procedure.

(b)(1) The initiating official begins an emergency action against an institution by sending the institution a notice by registered mail, return receipt requested. The initiating official also may transmit the notice by other, more expeditious means if practical.

(2) The emergency action takes effect on the date the initiating official mails the notice to the institution.

(3) The notice states the grounds on which the emergency action is based, the consequences of the emergency action to the institution, and that the institution may request an opportunity to show cause why the emergency action is unwarranted.

(c)(1) The initiating official takes emergency action against an institution only if that official—

(i) Receives information, determined by the official to be reliable, that the institution is violating any statutory provision of or applicable to title IV of the HEA, any regulatory provision prescribed under that statutory authority, or any applicable special arrangement, agreement, or limitation;

(ii) Determines that immediate action is necessary to prevent misuse of title IV, HEA program funds; and

(iii) Determines that the likelihood of loss from that misuse outweighs the importance of awaiting completion of any proceeding that may be initiated to limit, suspend, or terminate the participation of the institution in one or more title IV, HEA programs.

(2) Examples of violations of a title IV, HEA program requirement that cause misuse and the likely loss of title IV, HEA program funds include—

(i) Causing the commitment, delivery, or disbursement by any party of title IV, HEA program funds in an amount that exceeds—

(A) The amount for which students are eligible; or

(B) The amount of principal, interest, or special allowance payments that would have been payable to the holder of a Stafford Loan, PLUS, and SLS program loan if the institution had made a refund allocable to that loan in the amount and at the time required;

(ii) Using or offering to make available title IV, HEA funds for educational services if—

(A) The institution or its agents have made a substantial misrepresentation as described in 34 CFR 668.72, 668.73 or 668.74 related to those services; or

(B) The institution lacks the administrative or financial ability to provide those services in full, or to compensate by appropriate refund for any portion of the educational program not completed by the student.

(d)(1) Except as provided in paragraph (d)(2) of this section, after an emergency action against an institution's participation in a title IV, HEA program becomes effective, an institution may not—

(i) Make or increase awards or make other commitments of aid to students under the applicable title IV, HEA program;

(ii) Disburse either program funds or institutional funds as assistance to a student under that title IV, HEA program; or

(iii) (A) Certify an application for a loan under the Stafford Loan, PLUS, or SLS Loan programs;

(B) Deliver loan proceeds to a student under that program; or

(C) Retain the proceeds of a loan made under that program that are received after the emergency action takes effect.

(2) If the initiating official withdraws, by an emergency action, the authority of the institution to commit, deliver, or disburse title IV, HEA program funds except in accordance with a particular procedure specified in the notice of emergency action, the institution may not take any action described in paragraph (d)(1) (i), (ii), or (iii) of this section except in accordance with the procedure specified in the notice.

(e)(1) Upon request by the institution, the Secretary provides the institution, as soon as practicable, with an opportunity to show cause that the emergency action is unwarranted or should be modified.

(2) An opportunity to show cause consists of an opportunity to present evidence and argument to a show-cause official. The initiating official does not act as the show-cause official for any

emergency action that the initiating official has begun. The show-cause official is authorized to grant relief from the emergency action. The institution may make its presentation in writing or, upon its request, at an informal meeting with the show-cause official.

(3) The show-cause official may limit the time and manner in which argument and evidence may be presented in order to avoid unnecessary delay or the presentation of immaterial, irrelevant, or repetitious matter.

(4) The institution has the burden of persuading the show-cause official that the emergency action imposed by the notice is unwarranted or should be modified because—

(i) The grounds stated in the notice did not, or no longer, exist;

(ii) The grounds stated in the notice will not cause loss or misuse of title IV, HEA program funds; or

(iii) The institution will use procedures that will reliably eliminate the risk of loss from the misuse described in the notice.

(5) The show-cause official continues, modifies, or revokes the emergency action promptly after consideration of any argument and evidence presented by the institution and the initiating official.

(6) The show-cause official notifies the institution of that official's determination promptly after the completion of the show-cause meeting or, if no meeting is requested, after the official receives all the material submitted by the institution in opposition to the emergency action submitted by the institution. The show-cause official may explain that determination by adopting or modifying the statement of reasons provided in the notice of emergency action.

(f)(1) An emergency action does not extend more than 30 days after initiated unless the Secretary initiates a limitation, suspension, or termination proceeding under this part or under 34 CFR part 600 against the institution within that 30-day period, in which case the emergency action continues until a final decision is issued in that proceeding, as provided in § 668.90(c) or (f), as applicable.

(2) Until a final decision is issued by the Secretary in a proceeding described in paragraph (f)(1) of this section, the continuation, modification, or revocation of the emergency action is at the sole discretion of the initiating official, or, if a show-cause proceeding is conducted, the show-cause official.

(3) If an emergency action extends beyond 180 days by virtue of paragraph (f)(1) of this section, the institution may then submit written material to the show-cause official to demonstrate that because of facts occurring after the later of the notice by the initiating official or the show-cause meeting, continuation of the emergency action is unwarranted and the emergency action should be modified or ended. The show-cause official considers any written material submitted and issues a determination that continues, modifies, or revokes the emergency action.

(g) The expiration, modification, or revocation of an emergency action against an institution does not bar subsequent emergency action against that institution on grounds other than those specifically identified in the notice imposing the prior emergency action. Separate grounds may include violation by an institution of an agreement or limitation imposed or resulting from the prior emergency action.

(Authority: 20 U.S.C. 1094)

9. Section 668.91 is amended by revising paragraph (a), by redesignating paragraph (a) and (b) as paragraphs (b) and (c), respectively, by revising the heading and adding a new paragraph (a), to read as follows:

§ 668.91 Filing of requests for hearings and appeals; verification of mailing and receipt dates.

(a) *Filing of request for hearing, show-cause opportunity, or appeal.*

(1) A request by an institution for a hearing or show-cause opportunity, other material submitted by an institution in response to a notice of proposed action under this subpart, or an appeal to the Secretary under this subpart must be filed with the designated department official by hand-delivery, mail, or facsimile transmission.

(2) Documents filed by facsimile transmission must be transmitted to the Department official identified, either in the notice initiating the action, or, for an appeal, in instructions provided by the hearing official, as the individual responsible to receive them. A party filing by facsimile transmission must confirm that a complete and legible copy of the document was received by the Department, and may be required by that official to provide a hard copy of the documents filed by facsimile.

(3) The Secretary discourages the use of facsimile transmission for documents longer than five pages.

(4) If agreed upon by the parties, service of a document required to be served on another party may be made upon the other party by facsimile transmission.

(b) *Verification of mailing and receipt dates.* (1) The date on which a notice from a designated department official initiating an action under this subpart is regarded as mailed is the date of mailing evidenced on the original receipt of mailing from the U.S. Postal Service.

(2) The date on which a request for a show-cause opportunity, a request for a hearing, other material submitted in response to a notice of action under this subpart, a decision by a hearing official, or a notice of appeal is regarded as received is, as applicable—

(i) The date of receipt evidenced on the original receipt for a document sent by certified mail.

(ii) The date following the date recorded by the delivery service as the date material was sent for a document sent by next-day delivery service.

(iii) The date a document sent by regular mail is recorded, according to the regular business practice of the office receiving the document, as received.

(iv) The date a document sent by facsimile transmission is recorded as received by the facsimile equipment that receives the transmission.

* * * * *

10. Section 668.94 is amended by removing paragraph (c) and revising paragraph (b) to read as follows:

§ 668.94 Termination.

* * * * *

(b) After its participation in a title IV, HEA program has been terminated, an institution may disburse or deliver funds under that Title IV, HEA program to students enrolled at the institution only in accordance with § 668.25 and with any additional requirements imposed under this part.

(Authority: 20 U.S.C. 1094)

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Wednesday
March 10, 1993

Part V

Department of the Interior

Office of the Secretary

National Environmental Policy Act Implementing Procedures; Notice

DEPARTMENT OF THE INTERIOR

Office of the Secretary

National Environmental Policy Act: Implementing Procedures (516 DM 6, Appendix 8)

AGENCY: Department of the Interior.

ACTION: Final notice of an addition to the Department of the Interior's Categorical Exclusions for the Office of Surface Mining Reclamation and Enforcement.

SUMMARY: This notice announces an addition to the categorical exclusions included in the Department Manual 516 DM 6, appendix 8, that lists actions excluded from the National Environmental Policy Act of 1969 (NEPA) procedures for the Office of Surface Mining Reclamation and Enforcement (OSM). The additional categorical exclusion pertains to certain projects carried out in the Abandoned Mine Lands (AML) program under title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Department issued a notice of the proposed categorical exclusion on August 19, 1992 for public comment. Based on analysis of the comments received, one change has been made in the language of the categorical exclusion. This change is to clarify that placement of material into underground mine voids through drilled holes, to address a single structure subsidence problem, is eligible for exclusion if the other criteria are met. This clarification is more thoroughly explained under the subsidence section later in the text.

EFFECTIVE DATE: April 9, 1993.

FOR FURTHER INFORMATION CONTACT: Dr. Jonathan P. Deason, Director, Office of Environmental Affairs, MS 2340–MIB, Department of the Interior, 1849 C Street, NW., Washington, DC 20240 or telephone (202) 208–3891; for OSM, David Hamilton, Chief, Operations Branch, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Harrisburg Transportation Center, suite 3C, 4th and Market Streets, Harrisburg, PA 17101 or telephone (717) 782–4036.

SUPPLEMENTARY INFORMATION: SMCRA authorizes OSM to collect a fee on each ton of coal produced from mining. The fee collected from coal producers is placed in the AML Reclamation Fund (Fund). States and Tribes with approved coal mining regulatory programs and abandoned mine reclamation plans receive grants annually from OSM to reclaim specific abandoned mine land projects. Since 1981, OSM has been awarding grants to 23 States and 3 Tribes for the construction and administration of AML reclamation projects. Through Fiscal Year 1991 approximately 1.2 billion dollars have been awarded from the Fund for reclamation of over sixty thousand acres of eligible abandoned mine lands and waters.

States, Tribes, and Federal reclamation activities reclaim and restore land and water resources damaged by coal mining, including abandoned surface coal mines, abandoned coal processing areas, sealing and filling abandoned deep coal mine entries and voids, vegetation of land adversely affected by past coal mining to prevent erosion and sedimentation, and control of water pollution created by coal mine drainage (section 401(c)(1) of SMCRA). These reclamation projects may also be conducted where the damage was a result of non-coal mining if certain conditions are met (section 409(a) of SMCRA). Projects vary considerably in size, from those affecting only a few square feet to those affecting hundreds of acres, and vary in costs from a few thousand dollars to several million.

AML problems are exhibited in several broad categories including highwalls, surface and underground burning coal and coal refuse, subsidence, mine openings (shafts and portals), sediment clogged streams, landslides, piles and embankments, structures, impoundments, mine discharges, and barren or poorly vegetated lands. AML sites present public health and safety and environmental hazards. In order to facilitate compliance with the requirements of the NEPA in the AML program, OSM prepared OSM–EIS–2 in March of 1980 and OSM–EIS–11 in November of 1983.

These environmental impact statements address programmatic aspects of AML and the impacts of reclamation. However, the preparation of site specific environmental assessments has still been required for each project.

NEPA requires that when a major Federal action may have significant impacts on the quality of the human environment, a detailed statement (EIS) be prepared (section 102(2)(C)). When it is known in advance that a certain category of actions will not have a significant effect on the human environment, that category of actions may be excluded from further NEPA requirements (40 CFR 1508.1). The Department previously reviewed the activities authorized under title IV and excluded certain decisions relative to the approval of grants under the AML program.

Review of 649 environmental assessments related to AML projects located in 27 States and 3 Tribal lands across the country from July 1989 to the present has led OSM to conclude that the majority of AML projects have virtually the same reclamation descriptions, reclamation design techniques, environmental impacts, and mitigating measures. These projects are implemented consistent with State and Federal laws, and generally have only local, negligible to moderate short- or long-term impacts which are effectively mitigated through common construction practices.

The Department has created an additional categorical exclusion as subparagraph 8.4.B(33) in appendix 8 in the Department of the Interior's Manual (516 DM 6). The excluded activities would include a majority of typical AML projects, although the excluded projects would be limited in size and scope, as described below. The exclusion is for a category of actions that does not individually or cumulatively have a significant effect on the quality of the human environment. If any proposed AML project involves any of the following, an environmental assessment and/or environmental impact statement will be prepared in accordance with OSM's NEPA Handbook.

1. If the project involves any of the Departmental exceptions to the categorical exclusions listed in Department Manual 516 DM 2, appendix 2.

2. If the project area is more than 100 acres or involves hazardous wastes; explosives; hazardous or explosive gases; dangerous impoundments; mine fires and refuse fires; undisturbed, non-commercial borrow or disposal sites; dangerous slides where abatement has the potential for damaging inhabited property; or subsidence control involving the placement of material into underground mine voids through drilled holes to stabilize more than one structure.

3. If the project impacts resources requiring specialized mitigation or poses unresolved issues concerning topography, land use, soils, vegetation, hydrology, fish and wildlife, historic and cultural resources, recreation, air quality, noise, or other socioeconomic concerns. Unresolved issues would include general controversy expressed by the public.

Appendix 8 must be interpreted in conjunction with the Department's NEPA procedures (516 DM 1–6) and the Council on Environmental Quality

(CEQ) regulations implementing the procedural provisions of NEPA (40 CFR parts 1500–1508). The Department's procedures were published in the Federal Register on April 29, 1980 (45 FR 27541) and revised on May 21, 1984 (49 FR 21437). Appendix 8 for OSM was published on January 23, 1981 (46 FR 7487) and revised on February 28, 1990 (55 FR 7038). The Department's notice of the proposed addition to categorical exclusions included in the Department Manual 516 DM 6, appendix 8 was published in the August 19, 1992 Federal Register (57 FR 37550).

Categorical Exclusion 33 reads as follows: AML reclamation projects involving: No more than 100 acres; no hazardous wastes; no explosives; no hazardous or explosive gases; no dangerous impoundments; no mine fires and refuse fires; no undisturbed, non-commercial borrow or disposal sites; no dangerous slides where abatement has the potential for damaging inhabited property; no subsidences involving the placement of material into underground mine voids through drilled holes to address more than one structure; and no unresolved issues with agencies, persons, or groups or adverse effects requiring specialized mitigation. Departmental exceptions in 516 DM 2, appendix 2 apply to this exclusion. All sites considered in this categorical exclusion would have to first meet the eligibility test in sections 404, 409 and 411 of SMCRA. Also, projects that have been declared an emergency pursuant to section 410 of SMCRA, may be candidates for this exclusion.

Eligibility for this categorical exclusion would be determined by OSM based on the results of on-site inspection(s), survey(s), and other methods of evaluation and documentation prepared by the States or Tribes or OSM to determine the presence or absence of the criteria. States or Tribes will submit environmental information for a site to OSM. OSM will then determine the applicability of the categorical exclusion. Details of this determination process will be added to OSM's NEPA Handbook and the chapter on environmental compliance in the Federal Assistance Manual, which applies to projects funded by grants under title IV. Projects that do not fully meet all of these criteria will not qualify for this categorical exclusion.

Discussion of Categorical Exclusion and Disposition of Comments

In addition to the Federal Register notice, the Department sent supplemental mailings, soliciting comments, to over 100 Federal, and State agencies, interest groups and private citizens. Comments were received from the U.S. Environmental Protection Agency; U.S. Bureau of Mines; States of Arkansas, Colorado, Illinois, Kansas, Missouri, Ohio, Pennsylvania, and Virginia; and the Navajo Tribe.

General Comments

Comment: One commenter suggested that the Proposed Categorical Exclusion not apply to: (1) All sites where mineral resources are present; (2) all sites where subsidence is addressed by placement of material into underground mine voids through tunnels, shafts, adits or entryways; (3) all sites where the AML projects impact surface or underground hydrology. No explanation was given why the exclusion should not apply to these project types.

Response: Almost all AML projects meet one of these three criteria, and their adoption would nullify the exclusion. However, even though mineral and hydrologic resources may be involved, the structure of the categorical exclusion will eliminate application to any proposal that will have significant or long term environmental impacts. Use of the categorical exclusion will not relieve the agency of the need to follow proper project planning and development, implementation actions, and required consultation and coordination procedures. Further, the exclusion will not be allowed when certain site criteria regarding floodplains and wetlands are not met, or when there are unresolved issues, or specialized mitigation is needed to protect sensitive resources, including hydrology. The Department believes there are sufficient controls on the exclusion to assure it is applied judiciously.

The placement of materials into underground mine voids through tunnels, shafts, adits or entryways was found to have no significant effects, and pose no serious threat to the environment. If the specific criteria are met, there is no reason to except this activity from the exclusion. Therefore, the suggested limitation is not accepted.

Comment: One commenter stated that SMCRA regulates only surface coal mining and therefore does not pertain to the surface management and reclamation of lands mined for hardrock and other non-coal minerals. Clarification was requested.

Response: While it is true that SMCRA only regulates the environmental impacts from the mining of coal, non-coal AML sites are eligible for reclamation funds through title IV of SMCRA when certain requirements are met. It is the intent of this exclusion to apply to AML coal and non-coal sites that meet the qualifying criteria.

Comment: One commenter suggested that the U.S. Bureau of Mines be furnished mineral information prior to any actions, specifically those involving backfilling, blasting or permanently sealing non-coal AML sites to insure that mineral data are not lost.

Response: This categorical exclusion action does not pertain to the collection of mineral resource data. The Department believes that such questions can best be addressed during direct discussions between OSM and the Bureau of Mines.

Comment: One commenter suggested that non-coal AML projects with insignificant impacts on health and safety, and the environment should not fall under the hazardous classification by EPA. By the same token, AML projects involving radioactive and other toxic and hazardous materials must be controlled by appropriate health, safety and environmental rules and regulations. Currently the non-coal AML projects are handled in the same manner as the coal projects, without any governing regulations for specific problems like exposure to radiation, etc.

Response: It is the intent of this rulemaking to cover both coal and non-coal projects with the exclusion. However, the proposed exclusion does not apply to projects involving toxic or hazardous wastes as defined by EPA because of the potential for serious health and safety hazards to workers, residents, and the environment. Also, Departmental Manual 516 DM 2 appendix 2 excepts any activity that threatens to violate a Federal, State, Tribal or local law or requirement imposed for the protection of the environment. It is not the intent of the Department to use this exclusion to modify EPA's definition of toxic or hazardous wastes. The presence of State or Federal laws governing the handling and disposal of toxic and hazardous wastes indicates the need for a more thorough NEPA review including evaluation of alternatives.

The State or Tribe or Federal entity conducting the reclamation must always abide by any appropriate State or Federal laws relating to toxic or hazardous substances, regardless of whether or not the project is covered under the categorical exclusion.

Comment: Most commenters supported the categorical exclusion. While one commenter stated that the anticipated time saving was small and that only minor projects would be eligible, another commenter stated that the exclusion would expedite the

planning and grant application process for a majority of the projects.

Response: The Department believes that the categorical exclusion will expedite the NEPA process on many of the less complex AML projects. Projects must still be evaluated for conflicts with sensitive resources such as wetlands and endangered species and they must still be made available for comment by government agencies and interested citizens and private organizations. The exclusion was not designed to capture a specified percentage of AML actions. Rather, the exclusion is structured to simplify the NEPA process or relatively straightforward AML projects that will not adversely affect important resources, have no more than negligible to moderate short or long-term environmental impacts, and have no unresolved issues or controversy associated with the proposed action. The Department recognizes that the exclusion will vary in applicability from State to State.

Comment: One commenter stated that the notice did not contain adequate supporting information to demonstrate that, as a class, AML projects do not have significant impacts on the environment. The commenter recommended expanding the supplementary information discussion in the notice to include information from the OSM review of the 649 environmental assessments that showed that the reclamation descriptions, reclamation design techniques, environmental impacts, and mitigating measures were virtually the same.

Response: OSM–EIS–11, prepared in November 1983, discusses a majority of the reclamation project types, techniques and impacts associated with the AML program. For the purposes of the categorical exclusion evaluation, the 649 projects varied in the composition of AML features being addressed during reclamation.

Projects may address up to five or more AML features at one location. In the 649 projects reviewed, 310 contained abandoned mine openings, 156 contained dangerous highwalls, 78 contained hazardous equipment, and 54 contained dangerous landslides. In addition, 47 projects addressed mine subsidence, 65 addressed dangerous piles or embankments, and 50 contained actions to abate the problems associated with flooding from sediment-clogged streams. Techniques used to address each problem type are described in OSM–EIS–11.

The Department is not proposing to exclude all AML projects from further compliance with NEPA. To the contrary, the Department has identified specific types of projects, reclamation actions, resource impacts, and consultation results that will necessitate the preparation of an environmental assessment. Even though the environmental assessments analyzed in preparation of the categorical exclusion identified no potentially significant environmental impacts, the Department recognizes that certain project types or actions may not yield such predictable results. In addition, the population of projects analyzed for the exclusion did not contain sufficient numbers of certain projects that the Department believes may have a higher probability of producing significant adverse impacts.

To be eligible for the exclusion, an AML project must still be subjected to the same consultation/coordination procedures required for all AML projects. In addition, the project must comply with public involvement requirements contained in approved State AML Reclamation Plans, and complete intergovernmental review requirements specified in Executive Order 12372. Consequently, and even though the project may meet all the conditions required for the exclusion, State, Federal, and local agencies/officials will have an opportunity to review the proposed action and to raise issues that, if left unresolved, would require the preparation of an environmental assessment.

For these reasons, the Department is not providing supplementary information in a revised notice concerning the reclamation descriptions, design techniques, environmental impacts or mitigating measures of AML projects.

Comment: One commenter requested that a discussion be provided on the common construction practices that provide effective mitigation and how their implementation would be assured absent an environmental assessment and a finding of no significant impact.

Response: Common construction practices that provide mitigation range from silt fences to protect against erosion and sediment, and watering roads to suppress dust, to the control of traffic at or near the site to facilitate mobilization and demobilization. Such practices vary from State to State, and are incorporated on site in response to State, Tribal, and local laws, and are not usually the result of a specific impact identified during a NEPA review. Further, preparation of an environmental assessment does not assure that common construction mitigation practices are actually implemented. For these reasons, the Department is not providing additional supplementary information in a revised notice regarding common construction practices that provide mitigation.

The Department also points out that eligibility for this exclusion does not require that projects utilize common construction mitigation practices. Rather, it eliminates projects from categorical exclusion where specialized mitigation techniques are needed to protect resources. Consequently, if project development processes identify an adverse impact that can only be addressed through specialized mitigation techniques, the Department is requiring that an environmental assessment be prepared. This will ensure that other reasonable alternatives are considered when completing the Federal action.

Comment: One commenter stated that the amount of information required to support a categorical exclusion, and the amount of time needed would still be significant and approximate that needed for an environmental assessment. The commenter further speculated that if OSM did not approve a categorical exclusion, the project would not stay on schedule.

Response: Application of a categorical exclusion does not relieve a State or Tribe from the required State and Federal consultation and coordination requirements, nor is it a substitute for project planning and development activities. At completion of these actions, the responsible official should readily be able to determine whether the exclusion applies. Completion of any exclusion documentation should take only a short period of time. By contrast, completion of an environmental assessment could take substantially longer, depending on the project. Further, if the exclusion is properly applied, and any documentation is properly completed, OSM can easily issue a determination. The rationale for a State or Tribal decision regarding whether to pursue a categorical exclusion or an environmental assessment should be clear prior to submittal of the appropriate document. Consultation with OSM in areas of uncertainty will help eliminate disagreements over the applicability of the exclusion to a particular site.

Comment: Another commenter suggested that as long as proper coordination occurs and permits are obtained the categorical exclusion should be allowed.

Response: Extending categorical exclusion status to sites based upon the completion of consultation and permitting activities is not appropriate. Even though proper coordination may have occurred, unresolved issues may

still exist with respect to resource use, alternative selection, or the appropriateness of mitigation efforts. In addition, the issuance of a permit by authorities regulating specific resources does not necessarily indicate that less than significant project impacts are anticipated. In the cases where unresolved issues exist or where project impacts require specialized mitigation, the preparation of an environmental assessment will assist project planners in the development of other reasonable alternatives and will ensure that final decisions are subject to public involvement.

Comment: Another commenter speculated that the majority of the AML projects would not be eligible for the exclusion.

Response: OSM believes that the number of projects eligible for this exclusion will be large, and that availability of the exclusion will make a meaningful reduction in the amount of time expended on NEPA documentation. Applicability of the exclusion will vary depending on the types of AML problems in a State or Tribe, and the projects being worked on from year to year.

Comment: Another commenter stated that many problems were being eliminated from the categorical exclusion because of health and safety issues and not environmental concerns.

Response: A project's potential impacts to the quality of the human environment is an integral part of the analysis under NEPA. Some problem types are eliminated from eligibility under the categorical exclusion because experience has shown that potential adverse impacts to people and property are more likely, and it is more difficult to construct a reclamation project while minimizing or eliminating the risks.

Comment: One commenter wondered if the categorical exclusion would add another step to the grant application process.

Response: The AML grant process would require submission of a categorical exclusion certification or an environmental assessment, but not both. States and Tribes are not required to complete the certification checklist if the exclusion is not applicable. However, use of the checklist may be desired by some as a planning tool. With proper coordination, and training, there should be few instances where a State or Tribal exclusion certification is not accepted by OSM.

Comment: One commenter states that subsidences, mine and refuse fires, and dangerous impoundments should not be ineligible for the categorical exclusion because projects involving these mine problems have been successfully carried out in the past 15 years with few noted problems. The commenter went on to suggest that a sample of these types of projects be reviewed to determine specific impacts and whether they should be included in the categorical exclusion.

Response: The Department's decision to except these types of projects from the categorical exclusion was based on very few environmental assessments available for analysis, agency experience with reclamation, and the higher potential for health and safety problems arising during reclamation. As additional data become available, the Department may revisit these problem types to see if an expansion of the categorical exclusion is supportable. Also see "subsidence" discussion for clarification of eligible actions.

Comment: One commenter suggested that the language of undisturbed non-commercial borrow and disposal sites be changed to borrow or disposal sites.

Response: The suggestion is accepted and all references to borrow and disposal sites have been changed to borrow or disposal sites.

Emergencies

Comment: A number of comments were received concerning the applicability of the exclusion to projects conducted under Federal and State-administered emergency reclamation programs. The comments ranged from general statements requesting that all or additional categories of AML projects declared emergencies pursuant to section 410 of the SMCRA be excluded from the NEPA process, to concerns that requiring preparation of an environmental assessment on emergency projects would result in delays during a time period when the regulatory authority must react quickly to abate health and safety threats.

Response: The Department understands the concern expressed by program officials that the preparation of an environmental assessment may result in delays associated with projects authorized under section 410 of the SMCRA. Under CEQ Regulations (40 CFR 1506.11), emergency actions with significant environmental impacts may be undertaken immediately. However, the Federal agency responsible for the action must limit the action being taken to that necessary to control the immediate impacts of the emergency and must consult with CEQ about alternative arrangements for NEPA compliance. Other actions remain subject to NEPA review.

It is important to note that actions eligible for categorical exclusion are eligible because they do not have significant environmental effects, not because those actions are taken under emergency circumstances. Actions taken in response to an emergency can have significant environmental effects. Actions that have significant environmental effects but that must be taken to respond to an emergency should be brought to the immediate attention of CEQ under 40 CFR 1506.11

The Department of the Interior (DOI) Manual (516 DM 5.8, Emergencies) addresses emergency situations by allowing Federal agencies to abate public health and safety problems when followed by consultation with the DOI Assistant Secretary, Solicitor, and Office of Environmental Affairs. The Federal agency and the Office of Environmental Affairs are responsible for consulting with CEQ.

The Department believes that the subject exclusion will be applicable to the majority of actions which qualify as "emergencies" under SMCRA section 410. For instance, assuming the additional limiting criteria are met, surface-filled pothole subsidences, single structure bore hole injection subsidences, certain qualified landslides, mine openings and shafts, and mine drainage problems all could be eligible for the exclusion. It may be possible to make arrangements with the appropriate State and Federal review agencies for specialized consultation to address emergency situations. Emergency actions not covered by the exclusion will require environmental assessments. Where the urgency of the situation does not allow time needed for determination of a categorical exclusion or preparation of an environmental assessment, procedures discussed in CEQ regulation 40 CFR 1506.11 and DOI Manual 516 DM 5.8 can be utilized.

OSM will continue to collect environmental impact information for grant and emergency projects and may be able to seek future expansions of the categorical exclusion with the proper supporting data.

Small Projects

Comment: One commenter suggested that the Department's previously proposed categorical exclusion for "small projects" which cost less than $10,000, have less than 1 acre of impact, and take less than 2 days to complete, be incorporated into the subject exclusion.

Response: The Department will not incorporate the specific language of the previously proposed "small project" exclusion. The language of the subject exclusion encompasses all "small project" types with the exceptions of

refuse and mine fires. The exclusion excepts mine and refuse fires because of the risk to workers and residents during reclamation, and the small number of mine and refuse fires in the data base available for analysis. In addition, stratification of the proposed exclusion for cost, acres, and duration would unduly complicate decisions made regarding its application in comparison to the limited additional coverage that would be provided.

Mine and Refuse Fires

Comment: One commenter suggested that mine and refuse fires be allowed in the exclusion because the purpose of their reclamation under the emergency program is to remove these threats as soon as possible. It was also stated that workers are required to wear breathing apparatus, and occupants of nearby buildings are evacuated if necessary.

Response: The Department will not modify the categorical exclusion to include mine and refuse fires. Imminent harm to public health or safety is not a standard for developing a categorical exclusion. A categorical exclusion is justified when it can be demonstrated that actions will have no significant impact on the environment. The practice of using breathing devices and evacuations is evidence of the uncertain nature of these types of reclamation projects, and the desirability of more detailed environmental analysis. Also see response under "Emergencies."

Comment: Another commenter pointed out that a refuse pile fire had been abated in a rural area, and therefore was not a threat to residences or businesses. It was suggested that States and Tribes be given the chance to prove there will be no impact from a mine or refuse fire reclamation project (thus qualifying for a categorical exclusion) before determining that an environmental assessment is needed. This same comment was also applied to mine void grouting, explosive gases, and impoundments.

Response: The Department will not modify the proposed exclusion language. Mine and refuse fires were excepted from the exclusion not only because of potential hazards to nearby residents; they were also excepted because of hazards to workers attempting to extinguish fires. Also, there was a small number of EAs available for analysis of potential impacts. Projects that fall within the parameters of the categorical exclusion have already been shown not to have significant impacts on the environment and thus are exempted from a detailed analysis of impacts.

Dangerous Slides

Comment: Two commenters suggested that dangerous slides should be eligible for the categorical exclusion to expedite the remedial action in the case of imminent danger. One commenter stated that abatement of dangerous slides removes the threat of damage, and that occupants will be evacuated, and structural damage caused by the abatement will be repaired if necessary.

Response: No change has been made in response to the comment regarding treatment of landslides in the categorical exclusion. Imminent harm to public health or safety is not an appropriate standard for seeking a categorical exclusion. The commenter's statement regarding relocation of residents, and repairs of damage caused by the abatement is evidence of the reclamation uncertainties exhibited in landslides involving structures. Also see "Emergencies" discussion.

100 Acre Project Limit

Comment: Two commenters questioned the 100 acre project size limit for the categorical exclusion. One stated that project areas often exceeded 100 acres, even though the impacted area is less. Another supposed that projects would be broken into segments of less than 100 acres to avoid preparing an EA. Another asked why 100 acres was selected.

Response: Analysis of the data shows only 4 percent of the projects exceeding 100 acres in size. Further, states and Tribes are not required to include more area within a project boundary than needed to accomplish the reclamation objectives. The Department does not believe it would benefit a State or Tribe to redraw a project's logical boundary from a planning, design and contracting standpoint, just so that it would fit the acreage limitation. Also, such actions are prohibited by NEPA and CEQ rules. Further, 100 acres was selected as the limit because data on projects in excess of this size was insufficient for analysis. The Department can revisit the size limitation in the future if additional data is developed, but will not modify the exclusion language at this time.

Use of Explosives

Comment: One commenter asked that the use of explosives in remote locations be allowed under the exclusion when blasting studies ensure minimum impact on health and safety and the environment. The commenter added that storage and handling of explosives, and blasting activities would have to be in accordance with current laws and regulations.

Response: The Department will not modify the categorical exclusion regarding the use of explosives. The fact that there are specific regulations governing the use of explosives and special studies to evaluate the impacts is indicative of the hazards associated with their use and the need for a full environmental analysis, including discussion of alternatives. Also, defining a range of parameters for explosives would unduly complicate the determination.

Dangerous Impoundments

Comment: One commenter stated that OSM should make an effort to allow some dangerous impoundments to be categorically excluded. The commenter said it does not seem fair to eliminate all dangerous impoundments. Another commenter said that pumping water from underground mine pools for use on other AML reclamation sites should not be automatically excluded.

Response: The Department will not modify the categorical exclusion, but does offer the following clarification. Dangerous impoundments were excepted from the categorical exclusion because of the high degree of uncertainty and risk associated with dewatering projects, which have led to property damage from flooding. However, it should be noted that all impoundments do not meet the definition of "dangerous impoundment" found in OSM Directive AML–1. AML water bodies not meeting the definition could still be eligible for categorical exclusion if the other criteria are met. The use of impounded surface and underground water on other AML projects could also be eligible for categorical exclusion if the activity meets the other criteria.

Definitions

Comment: Three comments were received indicating that the terms "specialized mitigation" and "unresolved issues" should be defined.

Response: The Department is not providing specific definitions of these terms, but does offer the following discussion to help establish some parameters for use in interpreting and applying the criteria. Specialized mitigation practices have generally been identified as those actions that are developed to address impacts that cannot be mitigated through standardized construction practices. Erosion and sediment control fencing and the watering of construction site roads to address dust problems are examples of practices that are generally required on all reclamation sites. The development of specialized mitigation

plans is for the most part determined by the severity of the potential impact and the requirements of State, Tribal, and Federal contracting practices. The determination that an action requires a specialized mitigation plan should be made on a project specific basis.

The existence of unresolved issues is an indication that the scope, chosen alternative, or anticipated impacts have not been accepted by persons, agencies, or groups potentially affected by the project. The preparation of an environmental assessment, in such cases, ensures that project developers consider the full range of alternatives and that the final decision is made with the appropriate level of public involvement pursuant to CEQ regulations (40 CFR 1506.6). The determination that an unresolved issue exists, and the severity of the issue, should be decided on a case by case basis.

Comment: One commenter was concerned that the lack of a definition could result in the interpretation that a section 404 permit (Clean Water Act) review process would constitute specialized mitigation.

Response: The Department finds that the lack of a detailed definition does not affect the categorical exclusion decision when a section 404 permit is required. In accordance with exceptions established by the Department (516 DM 2, appendix 2), sites involving wetlands will not be eligible for the categorical exclusion.

It is the responsibility of project managers to assure compliance with section 404 permitting requirements. Once a project site has been identified and State and Federal wetlands delineation criteria have been applied, project managers will know whether a section 404 permit will be required to proceed with the Federal action.

Comment: One commenter requested that the term "uncertainty" be defined. The commenter was concerned that the lack of a definition would give OSM broad powers to require an environmental assessment.

Response: The Department is not providing a definition for the term "uncertainty". Departmental requirements provide that actions having highly uncertain and potentially significant environmental effects will not be eligible for a categorical exclusion. This exception (516 DM 2 appendix 2, 2.4) ensures that Federal agencies consider the full range of alternatives and impacts in the cases where the proposed action's effects are "highly uncertain and potentially significant". The term will have to be applied on a site by site basis using the best judgment of the responsible State or Federal official. Training will be provided to assist proper application of the categorical exclusion. Federal agencies are responsible for the final decision relative to the impacts of a proposed action, and the Department expects OSM to require preparation of an EA or an EIS where there is disagreement concerning the environmental effects of a proposed project. Consequently, and in accordance with 40 CFR 1508.4, even though the action may fall within the criteria of an existing categorical exclusion, a Federal agency would prepare an environmental assessment if the action appears to have potentially significant or uncertain impacts.

Wetlands

Comment: One commenter suggested that projects with wetlands or floodplains that are considered under the issuance of a Corps of Engineers nationwide permit should be candidates for a categorical exclusion.

Response: The Department did not accept this suggestion. In accordance with DOI Manual 516 DM 2 appendix 2, actions that have adverse effects on wetlands or floodplains are not eligible for the categorical exclusion.

Wildlife

Comment: One commenter questioned the role of critical habitats of endangered species in application of the categorical exclusion. The commenter specifically asked if an environmental assessment would have to be prepared for a project that was to contain critical habitats after State or Federal agencies provided clearance on endangered species.

Response: In accordance with DOI exceptions to categorical exclusion (516 DM, appendix 2), projects involving impacts to critical habitats of endangered species will not be excluded from the preparation of an environmental assessment. Critical habitats are formally designated areas that are afforded protection under the Endangered Species Act. Consultation with the U.S. Fish and Wildlife Service for project impacts on endangered species should also yield information on potentially affected critical habitats. However, in the event that critical habitats are identified after clearance is provided by other State and Federal agencies, those habitats would prohibit the implementation of the categorical exclusion.

Comment: One commenter questioned the implementation of the categorical exclusion with respect to the conservation of bat species in North America. Of primary concern to the commenter was the ability for wildlife agencies to address the issue of bats and abandoned mines on a project by project basis. In addition, the commenter suggested that State-listed species or species of special concern that are currently lacking Federal threatened or endangered status be considered in the implementation of the exclusion.

Response: No changes are necessary to the proposed categorical exclusion. The exclusion is structured to ensure that actions adversely affecting threatened or endangered species, or designated critical habitat, would not be eligible for the categorical exclusion. In addition, if the proposed action results in wildlife impacts that require specialized mitigation procedures, or wildlife issues that remain unresolved, the preparation of an environmental assessment will be required. Finally, Departmental exceptions to categorical exclusions include those actions that adversely affect parks, recreation areas, wilderness areas, ecologically sensitive areas, wild and scenic rivers, and those actions that threaten to violate Federal, Tribal, State, and local laws or requirements imposed for the protection of the environment. Since the eligibility for a categorical exclusion will be determined in part upon the results of required consultation/coordination efforts, issued concerning wildlife resource agencies will be incorporated into the decision on each proposed action.

Subsidence

Comment: Two comments were received concerning restrictions on the exclusion's applicability to subsidence abatement projects. One commenter suggested that small subsidence projects that drill and grout beneath dwellings to a very limited extent should be excluded if they are declared to be emergencies. The suggestion was based upon the need to immediately address the potential for further structural damage and the commenter's belief that such projects were of limited impact. The other commenter proposed a similar suggestion that small, low-pressure stowing/flushing projects in remote areas and low pressure grouting projects should be eligible for the exclusion.

Response: The Department is modifying the exclusion criteria to clarify that subsidence abatement projects that address single structures are eligible for the exclusion. For the reasons cited under the discussion of comments relative to emergency reclamation projects, subsidence events cannot be excluded based solely upon

the existence of an emergency declaration. The subsidence abatement activities analyzed during the development of this exclusion varied from less than one-tenth (0.1) acre to more than 60 acres in size. These activities ranged from backfilling surface subsidence features to project area-wide grouting of multi-property/multi-structure sites to prevent the occurrence of future problems. All subsidence events, regardless of size or abatement technique, were identified as having no more than short or long-term negligible to moderate environmental impacts. The Department limited the eligibility of subsidence projects to essentially surface reclamation activities. This proposed limitation resulted from the small number of area-wide grouting projects reviewed that exceeded one acre in size (57 FR 37551) and OSM's understanding that the environmental impacts of such activities were less predictable than those of smaller pothole or single-structure subsidence projects. The Department maintains that such large area-wide grouting projects are complicated, involve the interests of multiple property owners, and require a considerable amount of time to develop. In reviewing the suggestions made by the commenters relative to small subsidence projects, the Department noted that the exception language prohibited the use of the exclusion on small grouting projects for single structure problems. Recognizing that the exception for area-wide projects was written so as to place these small grouting projects outside the overall exclusion, the Department has modified the language of the categorical exclusion accordingly. The Department intends to extend the categorical exclusion to projects that address only the surface expressions of subsidence (pothole subsidence), and to those projects that address the impacts to a single structure through surface filling or placement of fill in subsurface voids through drilled holes.

Outline: Chapter 6 (516 DM 6) Managing the NEPA Process, appendix 8—Office of Surface Mining Reclamation and Enforcement, 8.4 Categorical Exclusions.

Dated: February 17, 1993.

Jonathan P. Deason,

Director, Office of Environmental Affairs.

516 DM 6, Appendix 8

Office of Surface Mining Reclamation and Enforcement

8.4 Categorical Exclusions

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B. * * *

(33) AML reclamation projects involving: No more than 100 acres; no hazardous wastes; no explosives; no hazardous or explosive gases; no dangerous impoundments; no mine fires and refuse fires; no undisturbed, non-commercial borrow or disposal sites; no dangerous slides where abatement has the potential for damaging inhabited property; no subsidences involving the placement of material into underground mine voids through drilled holes to address more than one structure, and no unresolved issues with agencies, persons, or groups or adverse effects requiring specialized mitigation. Departmental exceptions in 516 DM 2, appendix 2 apply to this exclusion. All sites considered in this categorical exclusion would have to first meet the eligibility test in sections 404, 409 and 411 of SMCRA. Also, projects that have been declared an emergency pursuant to section 410 of SMCRA, may be candidates for this exclusion.

[FR Doc. 93-5427 Filed 3-9-93; 8:45 am]

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Part VI

Department of Education

34 CFR Part 674 et al.
Federal Perkins Loan Program and Federal Family Education Loan Programs; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 674 and 682

RIN: 1840-AB50

Federal Perkins Loan Program and Federal Family Education Loan Programs

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations for the Federal Perkins Loan Program and the Federal Family Education Loan (FFEL) Programs. The Secretary takes this action to put in place provisions of the Office of Management and Budget (OMB) Circular A–129 (Revised), "Managing Federal Credit Programs." This circular prescribes policies and procedures for managing Federal credit programs and sets standards for extending credit. As part of this program, OMB requires that all applicants for Federal loan programs certify whether they are delinquent on any Federal debts and, as appropriate, that applicants who are delinquent be denied loans.

DATES: Comments must be received on or before April 26, 1993.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Harold McCullough, Chief, Campus-Based Programs Section, Grants Branch, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4018, ROB–3), Washington, DC 20202–5447. Telephone (202) 708–4690.

A copy of any comments that concern information-collection requirements also should be sent to OMB at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Nancy Adams, U.S. Department of Education, 400 Maryland Avenue, SW. room 4018, Washington, DC 20202–5541; the telephone number is (202) 708–4690. Deaf and hearing-impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC., 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: These proposed amendments revise the existing regulations for the Federal Perkins Loan Program and the Federal Family Education Loan Programs. In response to a growing concern about the Federal deficit and the management of Federal credit programs, OMB has instituted a governmentwide initiative for managing Federal credit programs. This initiative is described in OMB Circular A–129 (Revised), entitled "Managing Federal Credit Programs." For additional information concerning Circular A–129 (Revised), contact the Office of Management and Budget, EOP Publication, 725 17th Street, NW., New Executive Office Building, room 2200, Washington, DC 20503. The circular prescribes policies and procedures for managing Federal credit programs and sets standards for extending credit. As part of this initiative, OMB requires Federal agencies to modify loan-application forms to include a certification as to the applicant's delinquency status on any Federal debts. As a result, the Secretary is proposing to obtain information from applicants in the Federal Perkins Loan Program and the Federal Family Education Loan Programs about the status of any Federal debts that they owe.

The purpose of these regulations is to improve the efficiency of Federal student aid programs and, by so doing, to improve their capacity to enhance opportunities for postsecondary education. Encouraging students to graduate from high school and to pursue high quality postsecondary educations are important elements of the National Education Goals.

For the Federal Perkins Loan Program, the Secretary proposes to revise the description of an eligible student, found in 34 CFR 674.9, to require an applicant to certify, in order to be eligible to obtain a Federal Perkins Loan or Direct Loan, whether he or she is delinquent on any Federal debts. The Secretary further proposes to add a new provision in 34 CFR 674.11 to require an educational institution to deny a Federal Perkins Loan or Direct Loan to an applicant who fails to complete a certification regarding his or her delinquency status on any Federal debts. The Secretary also proposes to require an institution to deny a Federal Perkins Loan or Direct Loan to an applicant who certifies that he or she is delinquent in repayment of any Federal debts unless the institution determines and documents that the student is willing to repay that loan.

For the Federal Family Education Loan Programs, the Higher Education Amendments of 1992 require the Secretary, in cooperation with representatives of guaranty agencies, eligible lenders, and organizations involved in student financial assistance, to develop a common application form. Accordingly, 34 CFR 682.401(d)(3) requires guaranty agencies to use a common loan application approved by the Secretary. The Secretary will ensure that the form contains the certification requirement as well as the definition of delinquency on other Federal debt (as described in Circular A–129 (Rev.)). This certification must be collected for use by lenders in implementing the proposed provisions of 34 CFR 682.406(a)(1). The Secretary proposes to modify the conditions of reinsurance coverage in 34 CFR 682.406 to require a lender to maintain documentation in the borrower's file as to why an applicant received a loan despite delinquency on a Federal debt.

The lender's discretion to make a loan regardless of the delinquency status on other Federal debts does not supersede any other eligibility requirements for a Federal Perkins Loan, Direct Loan, or Federal Family Education Loan Programs borrower.

Under 28 U.S.C. 3201(e), an individual whose property is subject to a judgment lien for a debt to the United States generally is not eligible to receive any grant or loan made, insured, guaranteed, or financed by the United States, or to receive funds directly from the Government in any program (except funds to which the debtor is entitled as a beneficiary), until the judgment is paid in full or otherwise satisfied. However, any agency that makes such grants or loans may promulgate regulations to allow for waiver of that eligibility restriction. Although that topic is beyond the scope of this document, which is designed merely to implement OMB Circular A–129 (Revised) with respect to two specific credit programs, the Secretary intends to include regulations of more general applicability in a separate document implementing the provisions of § 3201(e).

Federal Perkins Loan Program

Student Eligibility (§ 674.9(f))

The Secretary proposes that to be eligible to receive a Federal Perkins Loan or Direct Loan a student must file with the institution a completed certification as to delinquency about any Federal debts. The certification completed by the student will be used by the institution to determine whether the student is willing to repay that loan.

Certification as to Delinquency (§ 674.11)

Under the current regulations (34 CFR 674.9(e)), a student must be "willing to repay the loan" to be eligible to receive a Federal Perkins Loan or Direct Loan. The regulations further state that "[f]ailure to meet payment obligations on a previous loan * * * is evidence that the student is unwilling to repay the loan." As one means of determining

if a student is willing to repay a Federal Perkins Loan or Direct Loan, the Secretary proposes to require an institution to obtain a signed certification as to delinquency from each student applying for a loan. The certification statement would respond to this question: "Are you delinquent in repayment of any Federal debts?" The institution may obtain this signed certification from a student by a number of methods. For example, an institution may amend its financial aid application to include the certification or it may create a separate document. The Secretary proposes that the certification must be filed with the institution once for each award year.

The Secretary proposes that institutions must provide instructions for completing the certification that include examples of Federal debts that might be owed by the loan applicant. Examples of such debts include: delinquent taxes, audit disallowances, guaranteed and direct loans (housing, farm, business, and student loans), benefit overpayments, and other miscellaneous administrative debts. Also, the Secretary proposes that the institution must include the following definitions of "delinquency" in the certification instructions:

—For *direct and guaranteed loans:* A status in which the applicant is more than 30 days past due on a scheduled payment.

—For *grants:* A status in which the applicant has received a "Notice of Grants Cost Disallowance" but has not repaid the disallowed amount and has not resolved the disallowance within 30 days from the date of the notice.

—For *contracts and administrative debts:* A status in which the applicant's contract overpayments, fines, penalties, or other debts have not been repaid or resolved within 30 days after the day notification of the debt was mailed to the debtor or within 30 days of the payment due date in the case of contractual agreements.

The Secretary proposes that an institution must deny a loan if the student does not complete the certification as to delinquency. However, the institution should deny a loan on this basis only after reminding the student that the certification is required and affording the student another opportunity to complete it. If the student indicates that he or she is delinquent in the repayment of any Federal debts, the institution must deny a loan unless the institution determines and documents in the student's file that the student is willing to repay that loan. In making this determination, an institution may request that the student provide information regarding the delinquency.

Federal Family Education Loan Programs

Conditions of reinsurance coverage (§ 682.406(a)(1))

The Secretary proposes that when an applicant for a loan indicates that he or she is delinquent on a Federal debt, and the lender makes the loan, the lender must place in the applicant's file a satisfactory explanation as to why the delinquency did not make the applicant an unacceptable credit risk. The creation and maintenance of this documentation is required for the loan to be eligible for reinsurance.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic effect on a substantial number of small entities. The small entities affected by the regulations would be small higher education institutions participating in the Federal Perkins Loan and the Federal Family Education Loan Programs. The proposed regulations modify a definition used to determine the eligibility of applicants for Federal Perkins/Direct Loans and require the institution to add a certification to the Federal Perkins/Direct Loan application process. The proposed regulations also modify the conditions of reinsurance coverage in the Federal Family Education Loan Programs. The administrative costs associated with these changes would not be significant.

Paperwork Reduction Act of 1980

Section 674.11 of the Federal Perkins Loan regulations contains information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to OMB for its review (44 U.S.C. 3504(h)).

Annual public reporting burden for this collection of information is estimated to average .25 hours per response for 3,000 respondents. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information-collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Inivtation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 4018, ROB–3, 7th and D Streets, SW., Washington, D.C. 20202–5447, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. To assist the Department in complying with the specific requirements of Executive Order 12291, the Paperwork Reduction Act of 1980, and the overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comment on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 674

Education loan programs—education, Student aid, Reporting and recordkeeping requirements.

34 CFR Part 682

Administrative practice or procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: February 12, 1993.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: 84.038 Federal Perkins Loan Program; 84.032 Stafford Loan Program; and 84.032 PLUS Program)

The Secretary proposes to amend Parts 674 and 682 of Title 34 of the Code of Federal Regulations as follows:

PART 674—FEDERAL PERKINS LOAN PROGRAM

1. The authority citation for Part 674 continues to read as follows:

Authority: 20 U.S.C. 1087aa–1087hh and 20 U.S.C. 421–429, unless otherwise noted.

2. Section 674.9 is amended by removing "and" at the end of paragraph (d), removing the period at the end of paragraph (e), and adding in its place "; and ", and adding a new paragraph (f) to read as follows:

§ 674.9 Student eligibility.

* * * * *

(f) Has filed a certification as to delinquency and has otherwise met the requirements in § 674.11.

* * * * *

3. A new § 674.11 is added to read as follows:

§ 674.11 Certification as to delinquency.

(a) To receive a loan under the Federal Perkins Loan program for an award year, a student must first file with the institution a certification as to delinquency. In this certification, the student shall indicate whether he or she is delinquent in repaying any Federal debts.

(b) The Secretary considers the following certification to satisfy this requirement:

Certification as to Delinquency

Are you delinquent in repaying any Federal debt?

Yes_____No_____

Signature:_____

Date:_____

Social Security Number:_____

(c) The institution shall provide the student with instructions for completing the certification that include—

(1) The following examples of Federal debts that might be owed by the student:

(i) delinquent taxes;

(ii) audit disallowances;

(iii) guaranteed and direct loans (housing, farm, business, and student loans);

(iv) benefit overpayments; and

(v) other miscellaneous administrative debts.

(2) The following definitions of "delinquent":

(i) For *direct and guaranteed loans:* a status in which the applicant is more than 30 days past due on a scheduled payment;

(ii) For *grants:* a status in which the applicant has received a "Notice of Grants Cost Disallowance" but has not repaid the disallowed amount and has not resolved the disallowance within 30 days from the date of the notice; and

(iii) For *contracts and administrative debts:* a status in which the applicant's contract overpayments, fines, penalties, or other debts have not been repaid or resolved within 30 days after the day notification of the debt was mailed to the debtor or within 30 days of the payment due date in the case of contractual agreements.

(d) The institution shall deny a loan to a student who indicates that he or she is delinquent in repayment of any Federal debts unless:

(1) The debt is subject to the provisions of 34 CFR § 668.7 (d), (e), or (f); or

(2) The institution determines that the student is willing to repay that loan and documents the basis for that determination in the student's file.

(Authority: 20 U.S.C. 1087dd and 1091.)

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

1. The authority citation for Part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

2. Section 682.406 is amended by republishing paragraph (a) introductory text by revising paragraph (a)(1) to read as follows:

§ 682.406 Conditions of reinsurance coverage.

(a) A guaranty agency is entitled to reinsurance payments on a loan only if—

(1)(i) The lender exercised due diligence in making, disbursing, and servicing the loan as prescribed by the rules of the agency; and

(ii) If the borrower indicated a delinquency on a Federal debt on the loan application form, and the borrower was not otherwise ineligible under the provisions of § 668.7, the lender created and maintained satisfactory documentation in the borrower's file as to why the delinquency did not make the borrower an unacceptable credit risk;

* * * * *

[FR Doc. 93–5401 Filed 3–9–93; 8:45 am]

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Federal Register

Wednesday
March 10, 1993

Part VII

Department of Transportation

Coast Guard

46 CFR Part 15
Prince William Sound Pilotage; Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 15

[CGD 91-218]

RIN 2115-AE24

Prince William Sound Pilotage

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Section 4116(a) of the Oil Pollution Act of 1990 (OPA 90) amends 46 U.S.C. 8502(g) to give the Coast Guard discretion to designate certain sections of Prince William Sound, Alaska, on which a coastwise seagoing vessel is not required to be under the direction and control of a Federal pilot. This rule allows coastwise seagoing vessels to navigate in certain sections of Prince William Sound with two licensed officers instead of a Federal pilot. The Coast Guard is also amending its pilotage regulations in 46 CFR part 15 to reflect the amendment to 46 U.S.C. 8502(g) that imposes special pilotage requirements on vessels operating near the Port of Valdez on Prince William Sound. The Coast Guard expects that this rule will reduce the risk of oil spills in the waters of Prince William Sound and ensure the safety of pilots boarding and disembarking vessels in Prince William Sound.

EFFECTIVE DATE: April 9, 1993.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Paul Jewell, Project Manager, Oil Pollution Act (OPA 90) Staff, (202) 267-6746, between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Lieutenant Commander Paul Jewell, Project Manager, and Joan Tilghman, Project Counsel, OPA 90 Staff.

Regulatory History

On October 26, 1992 the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (57 FR 48554). The Coast Guard received three letters commenting on the proposal. A public hearing was not requested, and one was not held.

Background and Purpose

Under the Federal pilotage statute (46 U.S.C. 8502), inspected coastwise seagoing vessels, not sailing under register, when underway and not on the high seas, must be under the direction and control of a Federal pilot while navigating the pilotage waters of Prince William Sound and its approaches. Section 4116(a) of OPA 90 amends 46 U.S.C. 8502 by allowing the Secretary to designate areas in Prince William Sound where this pilotage requirement does not apply. OPA 90 also amended Federal pilotage law by stating that pilots of vessels in the waters between 60° 49′ North latitude and the Port of Valdez must:

(1) Not be a member of the crew of that vessel; (2) be licensed by the State of Alaska; and (3) be operating under a Federal license.

Sea and weather conditions pose significant dangers to pilots during boarding operations at the entrance to Prince William Sound. Consequently, the local Captain of the Port (COTP) allows a vessel to navigate in certain sections of Prince William Sound without a pilot abroad as long as there are two licensed deck officers on the bridge. The legislative history states Congress' intent to codify existing practice, balancing pilot safety and environmental protection.

Discussion of Comments and Changes

Of the three comments received, two comments supported the proposed rule because the rule recognizes the value of bridge teamwork and represents a good navigation practice.

The third comment raised several issues and suggested changes to the rule. First, the comment stated that the Coast Guard should focus on improving the Vessel Traffic Service (VTS) in Prince William Sound because that system was proven lacking in the Exxon Valdez casualty. This concern was discussed in the NPRM, which noted a number of measures that the Coast Guard is taking to improve the safety of navigation in Prince William Sound. Some of these actions are directed specifically at improving the quality of the Prince William Sound VTS. These actions are in addition to the action being taken in this rulemaking.

The comment also suggested that the rule should clearly specify that two licensed deck officers must be on the bridge, rather than simply two licensed officers. The Coast Guard agrees and has substituted the term "licensed deck officers" for "licensed officers" in the final rule.

Further, the comment stated that the eastern boundary in Prince William Sound should be 146° 30′ West, rather than 146° West, longitude to prevent vessels from using the more restricted waters near Middle Ground Shoal. The Coast Guard does not agree. The Alaska State pilot station for Cordova is near 146° West longitude and using that longitude as the eastern boundary will allow a vessel to remain in deep, unrestricted water and embark a pilot at the pilot station for Cordova.

The comment also questioned the conclusion in the Federalism assessment that this rulemaking does not conflict with State law, arguing that the proposed rule conflicts with an Alaska State law requiring a State-licensed pilot for oil tankers over 50,000 deadweight tons. The Federal pilotage law applies to U.S.-flag tankers in coastwise trade only. Under 46 U.S.C. 8501, State pilotage jurisdiction does not extend to vessels in coastwise trade. Since the rulemaking applies only to U.S. vessels in coastwise trade, the Federal requirement does not conflict with State law.

Finally, the comment stated that two officers on the bridge are not better than one officer. The comment argued that a single bridge officer is appropriate, as long as the sole officer is well-rested and competent. The comment further noted that there is no guarantee that the Coast Guard would improve safety by applying any new rule governing the manning of foreign tankers in Prince William Sound. The comment stated that the Coast Guard lacks the means to ensure the competency of the foreign officers, nor does the Coast Guard enforce the limits on work hours for crew on foreign flag tankers as required by OPA 90.

This rule applies only to some U.S. flag tankers. For foreign tankers, the manning, training, qualification, and watchkeeping standards for the crew are generally regulated by the flag State or determined by international agreement. Therefore, addressing those issues is beyond the scope of this rulemaking. However, section 4106(a) of OPA 90 requires the Secretary to evaluate those standards. That project has been initiated.

This rule ensures that if there is no Federal pilot aboard a U.S. coastwise seagoing vessel in a specified section of Prince William Sound, then there would be at least two licensed officers on the bridge to navigate. The Coast Guard also has published another NPRM under the requirements of OPA 90 that proposes to require at least two officers on the bridge of tankers over 1,600 gross tons. If that proposal is adopted, all tankers over 1,600 gross tons in certain U.S. waters will be required to navigate with at least two licensed deck officers on the bridge. In pilotage waters, at least one officer should devote undivided attention to the navigation of the tanker while another assists and deals with other necessary functions of the watch.

In fact, navigating with two licensed officers on the bridge when in pilotage waters is already a common maritime practice on most existing tankers. If the Second Officer on the Bridge rule becomes final, only non-tankers would be permitted to operate with a single licensed deck officer on the bridge when in Prince William Sound.

Regulatory Evaluation

This rule is not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures for Simplification, Analysis, and Review of Regulations (44 FR 11040; February 26, 1979).

Because the rule codifies existing practice, the Coast Guard expects no new costs to be associated with this rule. The Coast Guard expects the economic impact of this rule to be so minimal that a Regulatory Evaluation is not necessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). "Small entities" also include small not-for-profit organizations and small governmental jurisdictions. Because it expects the impact of this rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that the rule does not have sufficient federalism implications to warrant the preparation of the Federalism Assessment. This rule clarifies when and where a Federal pilot is required on coastwise seagoing vessels underway in Prince William Sound. This rule does not apply to vessels that the State of Alaska requires to carry a State licensed pilot. It also does not require a State licensed pilot to procure a Federal license, nor does it affect Alaska's authority to require a State licensed pilot. Therefore, this rule will not preempt any State of Alaska statute or regulation.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation because the rule is administrative in nature. This rule codifies existing practice in Prince William Sound by allowing coastwise seagoing vessels to navigate in certain sections of the Sound with two licensed officers in lieu of a Federal pilot. The Coast Guard has determined that the rule will not have any significant environmental impact. A categorical exclusion determination is available in the docket for inspection where indicated under "ADDRESSES."

List of Subjects in 46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR part 15 as follows:

PART 15—[AMENDED]

1. The authority citation for part 15 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3703, 8502; 49 CFR 1.45, 1.46.

2. In § 15.812, the introductory text of paragraph (a) is revised and paragraph (f) is added to read as follows:

§ 15.812 Pilots.

(a) Except as specified in paragraph (f) of this section, the following vessels, when underway and not sailing on register, must be under the direction and control of a pilot:

* * * * *

(f) In Prince William Sound, Alaska:

(1) Vessels subject to this section operating from 60° 49′ North latitude to the Port of Valdez must be under the direction and control of a Federally licensed pilot who—

(i) Is operating under the Federal license;

(ii) Holds a license issued by the State of Alaska; and

(iii) Is not a member of the crew of the vessel.

(2) Vessels subject to this section must navigate with either two licensed deck officers on the bridge or a Federally licensed pilot when operating South of 60° 49′ North latitude and in the approaches through Hinchinbrook Entrance and in the area bounded—

(i) On the West by a line one mile west of the western boundary of the Traffic Separation Scheme;

(ii) On the East by 146° 00′ West longitude;

(iii) On the North by 60° 49′ North latitude; and

(iv) On the South by that area of Hinchinbrook Entrance within the territorial sea bounded by 60° 07′ North latitude and 146° 31.5′ West longitude.

* * * * *

Dated: March 2, 1993.

A.E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–5240 Filed 3–9–93; 8:45 am]

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Wednesday
March 10, 1993

Part VIII

Department of Transportation

Coast Guard

46 CFR Part 25

Emergency Position Indicating Radio Beacons; Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 25

[CGD 87-016a]

RIN 2115-AC69

Emergency Position Indicating Radio Beacons for Uninspected Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The "EPIRB's On Uninspected Vessels Requirements Act" amended the shipping laws of the United States by requiring uninspected commercial vessels to have the number and type of alerting and locating equipment, including emergency position indicating radio beacons (EPIRBs), prescribed by regulation. As a result, the Coast Guard is amending the uninspected vessel regulations by requiring EPIRBs to be carried on all uninspected commercial vessels, except uninspected passenger vessels, operating on the high seas and on the Great Lakes beyond three miles from the coastline. By implementing this law, the regulations will improve Coast Guard search and rescue activities during emergency situations. Some editorial revisions to the regulations are also being made.

EFFECTIVE DATE: April 26, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Survival Systems Branch, (202) 267-1444. Normal office hours are from 8 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting these regulations are Mr. Robert Markle, Office of Merchant Marine Safety, Security and Environmental Protection, and Mr. Nicholas E. Grasselli, Project Counsel, Office of Chief Counsel.

Regulatory History

On April 19, 1990, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Emergency Position Indicating Radio Beacons for Uninspected Vessels" (CGD 87-016a) in the **Federal Register** (55 FR 14922). The Coast Guard received 125 letters commenting on the proposal. A public hearing was not requested and one was not held.

Background and Purpose

On August 17, 1988 the Coast Guard published a final rule in the **Federal Register** (53 FR 31004) revising 46 CFR 25.26 to require the carriage of EPIRBs on uninspected fishing, fish processing, and fish tender vessels operating on the high seas. That rule was published under the authority of section 16 of the "Coast Guard Authorization Act of 1986" (Pub. L. 99-640, 100 Stat. 3545). Under that rule, the affected vessels are required to have a Category 1 406 MHz Satellite EPIRB on board after May 17, 1990. On April 19, 1990, the Coast Guard published a notice in the **Federal Register** (55 FR 14920) indefinitely suspending the compliance date for this EPIRB requirement only for uninspected fishing vessels which did not have installed berthing or galley spaces. The suspension was to remain in effect until a rule for a manually operated, manually launched 406 MHz Satellite EPIRB could be developed and published.

Public Law 100-540, known as the "EPIRB's On Uninspected Vessels Requirements Act" (102 Stat. 2719, October 28, 1988), amended 46 U.S.C. 4102 by revising paragraph (e) to require uninspected commercial vessels operating on the high seas and on the Great Lakes beyond three miles from the coastline to carry the number and type of alerting and locating equipment, including EPIRBs, prescribed by regulation.

This final rule applies to all uninspected commercial vessels, but excludes commercial fishing industry vessels with galleys and berthing facilities and uninspected passenger vessels which remain subject to the requirements of 46 CFR 25.26-1. EPIRB requirements for uninspected passenger vessels, as well as visual distress signal requirements for uninspected vessels not already required to carry them, will be proposed in a future supplemental notice of proposed rulemaking (SNPRM) under docket number CGD 87-016b. Commercial fishing industry vessels with galleys and berthing facilities are already required to carry EPIRBs as a result of the final rule published on April 19, 1990.

Discussion of Comments and Changes

General Comments

In response to the NPRM, the Coast Guard received 89 comments during the open comment period and received 36 comments after the comment period had closed. The comments received after the closing date did not raise any additional issues. Except as discussed below, all comments received in response to the NPRM are addressed in this preamble.

Comments were received from an association representing the tug and barge industry, a maritime hull and cargo surveyors corporation, and interested parties that did not identify their affiliation. Comments were received from the Radio Technical Commission for Maritime Services (RTCM) and the National Transportation Safety Board (NTSB). Additionally, twenty-four individual commercial fishermen and four commercial fishing associations submitted comments to this docket. These commercial fishermen represented themselves as small "day boats" operating between 3 to 10 miles from shore and rarely beyond 20 miles from shore.

The RTCM, one manufacturer of 406 MHz Satellite EPIRBs, one supplier of marine electronics, and the NTSB made comments in support of the proposed rule as written. The NTSB also stated that the 406 MHz Satellite EPIRB "* * * will not only increase safety of uninspected commercial operations significantly, but will reduce search and rescue costs."

As discussed previously, alternative proposals for uninspected passenger vessels will be made in a future SNPRM to be published under docket CGD 87-016b. The SNPRM will address the seventy-two comments received from the charterboat industry which expressed opposition to the proposed rule requiring 406 MHz Satellite EPIRBs on uninspected vessels under 100 gross tons carrying six or less passengers for hire. In general, these comments questioned the need for EPIRBs on charter boats due to the limited nature of their operations (primarily day trips in good weather) and the safety record of these vessels. The Coast Guard remains concerned that vessels carrying passengers for hire have the best feasible safety equipment; however, the comments raise issues of whether a blanket requirement for these vessels to carry EPIRBs is appropriate. In order to proceed with a final rule establishing EPIRB requirements for other vessels, uninspected passenger vessels have been excluded from the final rule and will be addressed separately.

Specific Comments

Many comments raised a concern about the high cost of purchasing the 406 MHz Satellite EPIRB. The cost of this EPIRB has dropped steadily since its introduction. To help keep costs down, several commercial fishing associations have made arrangements with major distributors of EPIRBs to make large volume purchases. The Coast Guard anticipates that bulk purchase orders through associations and a competitive market will operate to further reduce the cost of the EPIRBs.

The phase-in period allowed before all affected vessels will be required to have the 406 MHz Satellite EPIRB on board should also serve to reduce costs, at least in the near term. The Coast Guard expects the cost of the required EPIRB to be less than the cost cited in some of the comments. Additionally, vessels which already have a 121.5/243.0 MHz EPIRB aboard will be able to continue to use that EPIRB to temporarily satisfy this requirement for an extended period, provided that the EPIRB is self-buoyant and is capable of transmitting a signal while floating. The EPIRB will also have to be one manufactured on or after October 1, 1988, in order to meet the Federal Communications Commission (FCC) regulatory requirement at 47 CFR 80.1053(a)(8). The current cost of an EPIRB meeting this requirement is approximately $250. The current cost of a 406 MHz Satellite EPIRB is about $1350.

One comment stated that a manufacturer's lobby exists which supports the expensive 406 MHz Satellite EPIRB requirement. In fact, the 406 MHz Satellite EPIRB is part of the Global Maritime Distress Safety System (GMDSS), a new international radiocommunications system which is being introduced worldwide during the 1990s. The creation and introduction of the GMDSS has been actively supported by the United States in several international forums. The satellite EPIRB system itself has been in development since 1972 as part of a U.S./U.S.S.R. treaty to use satellites to improve alerting of search and rescue forces. (The government of the Russian Federation, as the successor state to the U.S.S.R., continues to honor this treaty). This system was intended to reduce the number of false alarms and give near-pinpoint location of distress alerts.

The comment also stated that the required Coast Guard approved safety equipment does not work and will not hold up in a marine environment. The comment blames the manufacturers' lobby for the laws that require the purchase of inferior products at inflated prices. The Coast Guard and FCC recognize that exposure of electronic equipment to the marine environment can be extremely detrimental. With this in mind, the RTCM developed a standard for the manufacture of the 406 MHz Satellite EPIRB. This standard incorporates rigorous environmental tests that include long term exposure to salt fog, extreme vibrations, and long term drift. These tests were developed to ensure that the 406 MHz Satellite EPIRB will provide successful service throughout its life expectancy. The FCC requires U.S. type accepted 406 MHz satellite EPIRBs to meet the RTCM standard.

One comment requested to continue using the Class A 121.5/243.0 MHz EPIRB until the 406 MHz Satellite EPIRB became more readily available. The requirement to have a 406 MHz Satellite EPIRB will become effective one year after the date of publication of this final rule. However, those vessels with a 121.5/243.0 MHz EPIRB manufactured after October 1, 1988 and installed on board before April 26, 1993 will not be required to have the new 406 MHz Satellite EPIRB on board until February 1, 1998. The NPRM proposed a phase-in period of six years after publication of the final rule. This final rule was originally expected to be published about June 1991 (55 FR 44781, October 29, 1990), resulting in a deadline date for carriage of 406 MHz Satellite EPIRBs of June 1997. The February 1, 1998, date provides an additional seven months beyond the originally projected deadline date. Complete implementation of the GMDSS is scheduled for February 1, 1999.

One comment was in the form of a request for a variance of the rule to allow the carriage of a Category 2 406 MHz Satellite EPIRB for a boat manufactured in accordance with the level flotation requirements of 33 CFR part 183. The Category 1 406 MHz Satellite EPIRB is a fully automatic, float-free device that is mounted on the outside of a vessel in a manner so that if the vessel sinks quickly or unexpectedly, the device will float free, activate, and alert authorities to the distress. In contrast, the Category 2 406 MHz Satellite EPIRB is manually operated, manually launched, and depends upon a person on the vessel to launch the device.

The Coast Guard requirement for level flotation construction in 33 CFR part 183 applies only to recreational vessels 20 feet in length and under. However, the Coast Guard agrees with the comment, and therefore is incorporating revisions in the rule which would allow a boat with sufficient inherently buoyant material to keep the flooded boat afloat to carry either a Category 1 or Category 2 406 MHz Satellite EPIRB to meet the requirement. To qualify, the vessel must be manufactured with and certified as having sufficient flotation material to keep the boat afloat. This requirement must be substantiated by a certification by the manufacturer that the construction of the vessel includes inherently buoyant material which will prevent the boat from sinking. The only mounting restriction for the Category 2 406 MHz Satellite EPIRB is that it be mounted at or near the principal steering station of the vessel.

Comments received from the owners of commercial fishing vessels requested clarification of what constitutes an installed galley and berthing facility. The Coast Guard suspended compliance with the EPIRB requirement for vessels without installed galley and berthing facilities so that the Coast Guard could consider a less expensive alternative for these vessels. The suspension was intended to remove the requirement for smaller vessels involved in day fishing operations. During the suspension period, reports indicated that there were inconsistent interpretations of the suspension guidelines and vessel outfitting. Coast Guard Boarding Officers especially encountered difficulty in making determinations as to whether or not a vessel had a galley and installed berthing on smaller vessels equipped with a day couch, ice box, and a small alcohol stove. In order to reduce this problem, this final rule simply requires vessels under 11 meters (36 feet) in length to carry either a Category 1 or Category 2 406 MHz Satellite EPIRB. Vessels 11 meters or more in length are required to carry a Category 1 406 MHz satellite EPIRB. Some vessels over 11 meters in length do not have a galley or installed berthing, and have not been required to carry 406 MHz satellite EPIRBs until now. This final rule also allows these vessels to continue to use an existing, qualified 121.5/243 MHz EPIRB until February 1, 1998.

For purposes of this regulation, length is defined as the length listed on a vessel's Certificate of Documentation or Certificate of Number. Clarification of the definition of berthing space and galley has been added to the final rule to reduce inconsistent interpretations for vessels 11 meters or more in length. A berthing space is a space that is intended to be used for sleeping. Generally, a berthing space has installed bunks and mattresses. This does not include day couches, sleeping bags, blankets, or convertible tables. A galley is a space that provides for the extended storage and preparation of food. This does not include small alcohol or propane stoves with limited cooking capability, or ice chests or similar devices that are intended for the keeping of small quantities of food for short durations. In no case should a galley determination be made solely on the quantity of food and beverage available (e.g., 10 sandwiches and two six-packs of soda). This change in the final rule will reduce the confusion over this issue and provide the kind of regulatory certainty needed by industry

and the Coast Guard. After February 1, 1998, there will no longer be any need for these definitions, and they can then be removed.

Many comments addressed a need to exempt vessels from the EPIRB requirement for various reasons (i.e., high density fisheries, geographic location, safety record, etc.). Title 46 U.S.C. 4103 provides the Secretary of the department under which the Coast Guard operates the authority to exempt vessels, including uninspected commercial vessels, from safety equipment requirements. This authority has been delegated in 49 CFR 1.46 to the Commandant of the Coast Guard who, in turn, redelegated that authority to District Commanders. Exemption provisions have been added to this final rule providing for case-by-case exemptions upon application to the cognizant Coast Guard District Commander.

The term "high seas" is used in the statute and in the final rule. This term is not defined by the statute. The Coast Guard has defined high seas by regulation in 33 CFR 2.05–1(a); that is, waters which are neither territorial seas nor internal waters of the U.S. or of another country. Territorial seas, with respect to the U.S., are defined in 33 CFR 2.05–5(a) as those waters within the belt, three nautical miles wide, that is adjacent to its coast and seaward of the territorial sea baseline. The baseline generally follows the coastline. The President's Proclamation 5928 of December 27, 1988 (54 FR 777, January 9, 1989) extended the territorial sea to twelve nautical miles from the baseline for the purposes of international law; however, that proclamation did not affect domestic law. Accordingly, the meaning of high seas as used in the final rule is not altered and remains as those waters beyond a line three nautical miles seaward of the Territorial Sea Baseline as defined in 33 CFR 2.05–10.

In order to accommodate the various changes and to ensure the regulations are easily understood, subpart 25.26 was reorganized and revised.

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation was prepared and placed in the rulemaking docket.

The final evaluation uses a cost estimate of $1350 for each of the approximately 20,000 uninspected vessels that are affected by this rule. This revised cost estimate is based on currently advertised prices of Category 1 406 MHz Satellite EPIRBs in the United States and is believed to be higher than the actual cost to vessel owners since prices for these EPIRBs are continuing to drop. In addition, many of the vessels will be able to comply with this rule by purchasing Category 2 EPIRBs, reducing costs even further. Approximately 7,500 of the affected vessels will have to install Category 1 or Category 2 406 MHz Satellite EPIRBs within a year at a total cost of $10 million. The remainder will replace their existing EPIRBs over a six-year period at a cost adjusted to 1993 dollars of about $11 million. Over a 10-year period, the total present-value adjusted cost of the regulation, including maintenance and replacement costs, is estimated to be about $26 million.

Although the number of lives that may be saved through mandatory EPIRB requirements cannot be predicted, economic research indicates that $2.5 million per statistical life saved is a reasonable estimate of peoples willingness to pay for safety. The saving of only one or two lives per year for the next 10 years justifies the cost of these rules.

However, more tangible benefits can be identified in the reduction of search and rescue costs. Many unsuccessful searches for overdue vessels are conducted annually that cost millions of dollars before being abandoned. As an example of an extreme case, the unsuccessful search for the fishing vessel AMAZING GRACE took several weeks and cost the Coast Guard and other federal agencies over $12 million. The vessel was never located. In contrast, a number of searches for pleasure, charter, and fishing vessels were expedited as a result of these vessels carrying EPIRBs voluntarily. The savings to the government as a result of elimination or significant reduction of only three or four large-scale searches would justify the cost of these rules alone, even without considering the lives that may be saved by more timely location of vessels in distress.

Small Entities

Generally, uninspected vessel operators are considered to be small entities in that they are typically not part of large diversified corporations, and generally own no more than one or two vessels. The $1350 cost is not considered significant by comparison to the cost of most vessels, or any of the associated equipment necessary to properly and safely operate most of these vessels. Furthermore, this cost is one-half of the $2700 estimate used in the NPRM, reflecting price reductions which have occurred since the publication of the NPRM. As recognized by the phaseout period for existing EPIRBs in this final rule, EPIRBs have a long useful life when properly maintained. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612, and determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism assessment. In this final rule the Coast Guard is amending the uninspected vessel regulations by requiring emergency position indicating radio beacons (EPIRBs) to be carried on all uninspected commercial vessels, except uninspected passenger vessels, operating on the high seas and on the Great Lakes beyond three miles from the coastline. Since this rule affects specific vessels outside of State waters, the Coast Guard intends to preempt State action addressing the same subject matter.

Environment

The Coast Guard considered the environmental impact of this rulemaking and concluded that under section 2.B.2. of Commandant Instruction M16475.1B, this rulemaking is categorically excluded from further environmental documentation. These regulations have been developed to enhance the safety of personnel at sea and clearly do not have an environmental impact. A Categorical Exclusion Determination is available for inspection or copying in the rulemaking docket where indicated under "ADDRESSES."

The Coast Guard environmental assessment (EA) for this rulemaking was prepared in accordance with Commandant Instruction M16475.1B, the National Environmental Policy Act of 1969 (NEPA) (Pub. L. 91–190), and the Council of Environmental Quality Regulations of July 1, 1986 (40 CFR parts 1500–1508). This rulemaking is intended primarily to reduce search and rescue efforts and is expected to have no environmental impact. Therefore, the Coast Guard has placed a Finding of No

Significant Impact (FONSI) in the public docket.

List of Subjects in 46 CFR Part 25

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR part 25 as follows:

PART 25—REQUIREMENTS

1. The authority citation for part 25 continues to read as follows:

Authority: 33 U.S.C. 1903(b); 46 U.S.C. 3306, 4104, and 4302; 49 CFR 1.46.

2. Subpart 25.26 is revised to read as follows:

Subpart 25.26—Emergency Position Indicating Radio Beacons

Sec.

25.26–1 Definitions.
25.26–5 Commercial fishing industry vessels.
25.26–10 Uninspected passenger vessels.
25.26–20 Other manned uninspected commercial vessels.
25.26–30 121.5/243.0 MHz EPIRBs.
25.26–50 Servicing of EPIRBs.
25.26–60 Exemptions.

Subpart 25.26—Emergency Position Indicating Radio Beacons (EPIRB)

§ 25.26–1 Definitions.

As used in this subpart:

Berthing space means a space that is intended to be used for sleeping and is provided with installed bunks and mattresses.

EPIRB means an Emergency Position Indicating Radiobeacon which is Type Accepted by the Federal Communications Commission under requirements in 47 CFR parts 2 and 80.

Galley means a space that provides for the preparation and extended storage of food. This does not include small alcohol or propane stoves with limited cooking capability, or ice chests or similar devices that are intended for keeping small quantities of food for short durations.

High seas means the waters beyond a line three nautical miles seaward of the Territorial Sea Baseline as defined in 33 CFR 2.05–10.

Length means the length listed on a vessel's Certificate of Documentation or Certificate of Number.

Uninspected passenger vessel means a vessel which, when used for commercial service, is used solely to carry passengers for hire or to provide non-emergency assistance to boaters (assistance towing), and which is not inspected by the Coast Guard under any other 46 CFR subchapter.

Note: As an example, a vessel on a voyage involving catching fish which are to be sold, is a commercial fishing industry vessel for the purposes of the EPIRB regulations in this section, even if there are passengers on board during the voyage.

§ 25.26–5 Commercial fishing industry vessels.

(a) The owner of a fishing vessel, a fish processing vessel, or a fish tender vessel, 11 meters (36 feet) or more in length, except for vessels described in paragraph (b) or (c) of this section, shall ensure that the vessel does not operate on the high seas or beyond three miles from the coastline of the Great Lakes unless it has on board a float-free, automatically activated Category 1 406 MHz EPIRB stowed in a manner so that it will float-free if the vessel sinks.

(b) After March 10, 1994, the owner of a fishing vessel, fish processing vessel, or a fish tender vessel less than 11 meters (36 feet) in length, or 11 meters or more in length which has a builder's certification that the vessel is constructed with sufficient inherently buoyant material to keep the flooded vessel afloat, shall ensure that the vessel does not operate on the high seas or beyond three miles from the coastline of the Great Lakes, unless it has installed in a readily accessible location at or near the principal steering station—

(1) A manually activated Category 2 406 MHz EPIRB; or

(2) A float-free, automatically activated Category 1 406 MHz EPIRB; or

(3) Until February 1, 1998, a 121.5/243.0 MHz EPIRB meeting § 25.26–30(a).

(c) After March 10, 1994, the owner of a fishing vessel, fish processing vessel, or a fish tender vessel 11 meters (36 feet) or more in length that does not have installed galley and berthing facilities, shall ensure that the vessel does not operate on the high seas or beyond three miles from the coastline of the Great Lakes unless it has on board—

(1) A float-free, automatically activated Category 1 406 MHz EPIRB stowed in a manner so that it will float free if the vessel sinks; or

(2) Until February 1, 1998, a 121.5/243.0 MHz EPIRB meeting § 25.26–30(a).

§ 25.26–10 Uninspected passenger vessels.

An uninspected passenger vessel is not required to carry an EPIRB.

§ 25.26–20 Other manned uninspected commercial vessels.

(a) After March 10, 1994, the owner of a manned uninspected commercial vessel 11 meters (36 feet) or more in length, other than a vessel under § 25.26–5 or § 25.26–10 or under paragraph (b) of this section, shall ensure that the vessel does not operate on the high seas or beyond three miles from the coastline of the Great Lakes, unless it has on board—

(1) A float-free, automatically activated Category 1 406 MHz EPIRB stowed in a manner so that it will float free if the vessel sinks; or

(2) Until February 1, 1998, a 121.5/243.0 MHz EPIRB meeting § 25.26–30(a).

(b) After March 10, 1994, the owner of a manned uninspected commercial vessel less than 11 meters (36 feet) in length, or 11 meters or more in length which has a builder's certification that the vessel is constructed with sufficient inherently buoyant material to keep the flooded vessel afloat, shall ensure that the vessel does not operate on the high seas or beyond three miles from the coastline of the Great Lakes, unless it has installed in a readily accessible location at or near the principal steering station—

(1) A manually activated Category 2 406 MHz EPIRB; or

(2) A float-free, automatically activated Category 1 406 MHz EPIRB; or

(3) Until February 1, 1998, a 121.5/243.0 MHz EPIRB meeting § 25.26–30(a).

§ 25.26–30 121.5/243.0 MHz EPIRBs.

A 121.5/243.0 MHz EPIRB manufactured after October 1, 1988, may be used to meet certain requirements of § 25.26–5 and § 25.26–20, if the EPIRB is operable and was installed on the vessel on or before April 26, 1993. The EPIRB must be a Class A EPIRB, or a Class B EPIRB which is watertight, self-buoyant, and stable in a floating position to properly transmit a distress signal.

§ 25.26–50 Servicing of EPIRBs.

(a) The owner of each vessel required to have an EPIRB under this subpart shall ensure that each EPIRB on board is tested and serviced as required by this section.

(b) The EPIRB must be tested immediately after installation and at least once each month thereafter, unless it is an EPIRB installed in a Coast Guard approved inflatable liferaft that is tested annually during the servicing of the liferaft by an approved servicing facility. The test shall be conducted in accordance with the manufacturer's instructions, using the visual or audio indicator on the EPIRB. If the EPIRB is not operating, it must be repaired or replaced with an operating EPIRB.

(c) The battery of the EPIRB must be replaced—

(1) Immediately after the EPIRB is used for any purpose other than being tested; and

(2) Before the expiration date that is marked on the battery.

§ 25.26–60 Exemptions.

(a) A skiff or work boat is not required to carry an EPIRB if—

(1) Its "mother ship" is required to carry an EPIRB under this subpart; and

(2) When not in use, the skiff or work boat is carried on board the mother ship.

(b) Each Coast Guard District Commander may, on a case-by-case basis, grant exemptions from the carriage requirements of EPIRBs in this subpart for certain geographic areas within the boundaries of his or her own district if the District Commander determines that an EPIRB will not significantly enhance the overall safety of the vessel and crew. Exemptions may be limited to specific time periods. Exemptions granted under this paragraph must be:

(1) Issued in writing by the cognizant Coast Guard District Commander for each individual application and

(2) For geographic locations and may be limited to specific time periods.

Dated: January 28, 1993.

R. C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

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March 10, 1993

Part IX

Federal Trade Commission

16 CFR Part 308

Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992; Proposed Rule

FEDERAL TRADE COMMISSION

16 CFR Part 308

Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On October 28, 1992, the President signed into law the Telephone Disclosure and Dispute Resolution Act of 1992 ("Telephone Disclosure Act" or "the Act"). Title I of the Telephone Disclosure Act directs the Federal Communications Commission (FCC) to prescribe regulations, within 270 days of enactment, establishing requirements for common carriers offering pay-per-call services. Titles II and III of the Telephone Disclosure Act direct the Federal Trade Commission (FTC or Commission) to prescribe regulations, within 270 days of enactment, governing the advertising and operation of pay-per-call services, as well as billing and collection procedures for such services. This notice announces the proposed rule drafted by the Federal Trade Commission pursuant to the Telephone Disclosure Act.

All persons are hereby given notice of the opportunity to submit written data, views, and arguments concerning this proposal. In addition, following the period for written comments, Commission staff plans to conduct a Public Workshop-Conference to afford Commission staff and interested parties an opportunity to explore and discuss issues raised during the comment period.

DATES: Written comments must be submitted on or before April 9, 1993. Due to the time constraints of this rulemaking proceeding, the Commission does not contemplate any extensions to this comment period or any additional periods for written comment or rebuttal comment.

Notification of interest in representing an affected, interested party at the Public Workshop-Conference must be submitted on or before March 25, 1993. A list of affected interests appears in Section D of this Notice.

The Public Workshop-Conference will be held on April 22 and 23, 1993, 9 a.m. until 5 p.m.

ADDRESSES: Written comments should be submitted in 20 copies to the Office of the Secretary, room 159, Federal Trade Commission, Washington, DC 20580. (However, individuals filing comments need not submit multiple copies.) Submissions should be captioned: "Proposed Telephone Disclosure Rule," FTC File No. R311001.

Notifications of interest in the Public Workshop-Conference should be submitted in writing to Heather McDowell, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580.

The Public Workshop-Conference will be held in the Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: David Torok, (202) 326–3140, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Section A. Background

Congress based its enactment of the Telephone Disclosure Act, Public Law No. 102–556, upon a number of findings concerning the development of the pay-per-call services industry. Specifically, Congress made the following findings, set forth in section 1 of the Act:

(1) The use of pay-per-call services, most commonly through the use of 900 telephone numbers, has grown exponentially in the past few years into a national, billion-dollar industry as a result of recent technological innovations. Such services are convenient to consumers, cost-effective to vendors, and profitable to communications common carriers.

(2) Many pay-per-call businesses provide valuable information, increase consumer choices, and stimulate innovative and responsive services that benefit the public.

(3) The interstate nature of the pay-per-call industry means that its activities are beyond the reach of individual States and therefore requires Federal regulatory treatment to protect the public interest.

(4) The lack of nationally uniform regulatory guidelines has led to confusion for callers, subscribers, industry participants, and regulatory agencies as to the rights of callers and the oversight responsibilities of regulatory authorities, and has allowed some pay-per-call businesses to engage in practices that abuse the rights of consumers.

(5) Some interstate pay-per-call businesses have engaged in practices which are misleading to the consumer, harmful to the public interest, or contrary to accepted standards of business practices and thus cause harm to the many reputable businesses that are serving the public.

(6) Because the consumer most often incurs a financial obligation as soon as a pay-per-call transaction is completed, the accuracy and descriptiveness of vendor advertisements become crucial in avoiding consumer abuse. The obligation for accuracy should include price-per-call and duration-of-call information, odds disclosure for lotteries, games, and sweepstakes, and obligations for obtaining parental consent from callers under 18.

(7) The continued growth of the legitimate pay-per-call industry is dependent upon consumer confidence that unfair and deceptive behavior will be effectively curtailed and that consumers will have adequate rights of redress.

(8) Vendors of telephone-billed goods and services must also feel confident in their rights and obligations for resolving billing disputes if they are to use this new marketplace for the sale of products of more than nominal value.

Based upon the above findings, Congress directed both the FCC and the FTC to issue regulations governing different aspects of this industry. Regulations to be enacted by the FCC will define the obligations of common carriers with respect to the provision of pay-per-call services. Pay-per-call services can be offered only through the use of certain telephone number prefixes and area codes designated by the FCC for that purpose. Common carriers that assign the designated numbers to providers of pay-per-call services must require by contract or tariff that each such provider comply with regulations prescribed by the FTC pursuant to titles II and III of the Telephone Disclosure Act and terminate the contract of any provider that the common carrier knows (or reasonably should know) to be in violation of the FTC rule.

The Telephone Disclosure Act prohibits common carriers from disconnecting a telephone subscriber's local or long distance telephone service because of nonpayment of charges for any pay-per-call service. In addition, they must offer telephone subscribers the option of blocking access from their telephone numbers to all, or certain specific, prefixes or area codes used by pay-per-call services. Common carriers that assign prefixes or area codes designated for pay-per-call services to those engaged in soliciting charitable contributions must obtain proof of the tax-exempt status of any organization for which contributions are solicited.

Pursuant to the Act, common carriers must prohibit the use of 800 telephone numbers (or any other telephone number advertised or widely understood to be toll free) in a manner that results in any of the following: the

calling party being assessed a charge for the call; the calling party being connected to a pay-per-call service; the calling party being charged for information conveyed during the call (in the absence of a pre-existing agreement or disclosure of a credit card number during the call); or the calling party being called back collect for the provision of audio information or voice conversation services.

Common carriers that offer billing and collection services to a provider of pay-per-call services must ensure that a subscriber is not billed for pay-per-call services that the carrier knows (or reasonably should know) were provided in violation of the FTC regulations issued pursuant to title II of the Telephone Disclosure Act. In addition, the common carrier must establish a local or toll-free telephone number to answer questions and provide information on telephone subscribers' rights and obligations with regard to their use of pay-per-call services and to provide callers the name and mailing address of any provider of pay-per-call services offered by the common carrier. Furthermore, a written disclosure statement must be provided to all telephone subscribers within 60 days of the issuance of final regulations by the FCC. This statement will set forth the rights and obligations of the subscriber and the carrier with respect to the use of and payment for pay-per-call services, including the right of a subscriber not to be billed and the applicable blocking option.

In the telephone bill itself, the common carrier that provides billing must display charges for pay-per-call services in a part of the bill that is identified as not related to local and long distance telephone charges. For each pay-per-call service charge, the bill must show the type of service, the amount of the charge, and the date, time and duration of the call. In addition, the bill must show the toll-free number established to answer consumers' questions with regard to pay-per-call services. Finally, the FCC rule must establish procedures to ensure that common carriers afford refunds to subscribers who have been billed for pay-per-call services found to have violated any of the rules promulgated pursuant to the Telephone Disclosure Act or any other Federal law.

Title II of the Telephone Disclosure Act directs the FTC to prescribe regulations governing the conduct of the providers of pay-per-call services with respect to advertising and the actual operation of such services. The statute requires that disclosure of the cost of a pay-per-call service be made both in advertising and in an introductory disclosure message (or preamble) that must be played before the caller incurs any charge for the call. Advertisements for pay-per-call services that offer a prize or award must disclose the odds of receiving the prize or award. In the case of a pay-per-call service that provides information about a Federal program, both the preamble and any advertisement must disclose that the service is not authorized, endorsed, or approved by any Federal agency.

Pay-per-call services, and advertisements for such services, cannot be directed to children under 12, unless the service is a bona fide educational service. Advertisements directed to individuals under the age of 18, and the preambles to all pay-per-call services, are required to state that persons under 18 must have the consent of a parent or guardian to use such services. Broadcast advertisements may not emit electronic tones that can automatically dial a pay-per-call number. Moreover, pay-per-call services cannot be provided through an 800 telephone number, or any other number widely understood to be toll free.

Requirements for billing statements that are imposed upon the common carriers are also imposed upon the providers of pay-per-call services. Moreover, such providers are liable for refunds to consumers who have been billed for pay-per-call services found to have violated the regulations prescribed pursuant to the Telephone Disclosure Act or any other Federal law. In addition, the Commission is authorized to prescribe other regulations it deems necessary to prevent abusive practices in this industry or to prevent evasion of these requirements.

Title II of the Telephone Disclosure Act gives the FTC limited jurisdiction over common carriers for purposes of this title.[1] Specifically, common carriers will be required to make available to the Commission certain records and financial information relating to the arrangements between the carrier and providers of pay-per-call services.

Enforcement actions for violations of the rule prescribed pursuant to title II will be handled by the FTC in the same manner as for other rules with respect to unfair or deceptive acts or practices under section 5 of the FTC Act.[2] In addition, however, title II authorizes the attorneys general of the States to enforce compliance with the FTC rule by instituting Federal court enforcement actions, after serving prior written notice upon the Commission when feasible.

Title III of the Telephone Disclosure Act directs the FTC to prescribe rules establishing procedures for the correction of billing errors with respect to telephone-billed purchases. These requirements will be similar to those imposed for the resolution of credit disputes under the Truth in Lending Act and the Fair Credit Billing Act.[3] Unlike title II of the Telephone Disclosure Act, title III does not set forth specific provisions to be incorporated into the required regulations. However, with respect to telephone-billed purchases, the Commission has been directed to consider the following:

(1) The initiation of a billing review by a customer.

(2) Responses by billing entities and providing carriers to the initiation of a billing review.

(3) Investigations concerning delivery of telephone-billed purchases.

(4) Limitations upon providing carrier responsibilities, including limitations on a carrier's responsibility to verify delivery of audio information or entertainment.

(5) Requirements on actions by billing entities to set aside charges from a customer's billing statement.

(6) Limitations on collection actions by billing entities and vendors.

(7) The regulation of credit reports on billing disputes.

(8) The prompt notification of credit to an account.

(9) Rights of customers and telephone common carriers regarding claims and defenses.

(10) The extent to which the regulations should diverge from requirements under the Truth in Lending and Fair Credit Billing Acts in order to protect customers, and in order to be cost effective to billing entities.

The Commission will treat the rule promulgated pursuant to title III as a rule issued under Section 18(a)(1)(B) of the FTC Act [15 U.S.C. 57a(a)(1)(B)) and enforced pursuant to Section 5 of the FTC Act (15 U.S.C. 45). For purposes of title III, communications common carriers will be subject to the jurisdiction of the Federal Trade Commission.

Section B of this notice discusses the proposed rule that the Commission has drafted pursuant to the Telephone Disclosure Act.

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[1] In general, common carriers are not subject to the jurisdiction of the FTC Act, 15 U.S.C. 45(a)(2).

[2] 15 U.S.C. 45. The Telephone Disclosure Act provides that the rule issued under title II shall be treated as a rule issued under § 18(a)(1)(B) of the FTC Act (15 U.S.C. 57a(a)(1)(B)).

[3] 15 U.S.C. 1601 *et seq.*

Section B. Discussion of the Proposed Rule

Section 308.1 Scope of Proposed Rule

Section 308.1 sets forth the scope of the proposed regulations. They are proposed in implementation of titles II and III of the Telephone Disclosure and Dispute Resolution Act of 1992.

Section 308.2 Definitions

Section 308.2 defines the following terms used in the proposed regulations: bona fide educational service, Commission, pay-per-call services, person, presubscription or comparable arrangement, program-length commercial, provider of pay-per-call services, reasonably understandable volume, slow and deliberate manner, and sweepstakes.

The proposed rule defines the term "pay-per-call services" as it is defined in the Telephone Disclosure Act—by reference to section 228 of the Communications Act of 1934.[4] The service provided may be audio information, audio entertainment, conversation with another person, or any other service for which the charges are assessed on the basis of the completion of the call. The caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call. The call is accessed through use of a 900 telephone number or other prefix or area code designated by the FCC for such services. However, the term does not include directory services provided by a common carrier or local exchange carrier; and service for which the charge is tariffed; or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of the service. The proposed rule defines "provider of pay-per-call services" as the individual or entity that is selling the service provided through the pay-per-call service.

The term "presubscription or comparable arrangement" has not been defined by statute or by the FCC. The definition proposed in this rule would limit such arrangements to a contractual agreement established prior to the initiation of pay-per-call services between the consumer and the provider. It makes clear that no action taken during the course of a call to a pay-per-call service can be construed as creating such a contractual agreement. The definition of this term is important to the effectiveness of the proposed rule, since any telephone transaction pursuant to a "presubscription or comparable arrangement" is not afforded the protection of these regulations.

The term "bona fide educational service" describes the one permitted exception to the prohibition against pay-per-call services, and advertisements for such services, directed to children under the age of 12. The proposed definition is narrowly drawn, defining such services in terms of the content of the educational or instructional service itself. The exception to the prohibition is intended to be limited to those programs serving a truly educational or instructional purpose.

The terms "reasonably understandable volume" and "slow and deliberate manner" apply to oral disclosures that must be made either in broadcast advertising or in telephone preambles. They are defined so as to insure that such disclosures will be intelligible to the receiving audience and, at a minimum, are spoken at the same audible level and no faster than the primary message of the advertisement or the pay-per-call service.

Section 308.3 Advertising of Pay-Per-Call Services

Section 308.3 of the proposed rule sets forth the requirements for advertising pay-per-call services. Sections 308.3 (a) through (h) are each based on requirements of the Telephone Disclosure Act.

Each section that mandates a disclosure requires that the disclosure be presented clearly and conspicuously. While there are certain minimum standards that are applicable to all disclosures in advertisements, the definition of "clear and conspicuous" in some sections provides further requirements for those specific disclosures. All audio disclosures, in broadcast advertising or telephone solicitations, must be delivered in a "slow and deliberate manner" and a "reasonably understandable volume," as those terms are defined in § 308.2 (h) and (i). Unless a more stringent standard is specified, the visual portion of television disclosures must appear on the screen for sufficient time to allow consumers to read it. Disclosures in television advertisements must always appear at least once simultaneously in both the audio and video portions of the advertisement. The proposed rule, however, contains an exception for advertisements that are 15 seconds or shorter, and would not require an audio disclosure only if the pay-per-call number is not stated in the audio portion. Print and video disclosures must be of a color or shade that readily contrasts with the background of the advertisement. In print advertisements, disclosures must always be parallel with the base of the advertisement and in at least 12-point type. In addition, required disclosures must always appear in the same language as that principally used in the advertisement. Finally, the proposed rule provides that with respect to each disclosure, nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be made in any advertisement, nor shall any audio or video technique be used that is likely to detract significantly from the communication of the disclosure. This provision is intended to ensure that advertisers do not attempt to circumvent the "clear and conspicuous" requirements, either through the conveyance of other information or through the manner in which the disclosures are made.

Over and above these minimum standards, there are specific additional size and placement requirements that vary according to the type of information being disclosed. This approach represents an effort to display most prominently the information that has the greatest importance for consumers, while at the same time reducing the potential cost burdens on the pay-per-call service providers.

1. Cost of the Call

Section 308.3(a) describes the requirements for disclosing the costs of a call to a pay-per-call number. These requirements are the same as those for disclosure of costs in the preamble to the pay-per-call service itself. Advertisers must disclose the total cost of a call if there is a flat fee charged. If the call is billed on a time-sensitive basis, the advertisement must disclose the cost per minute and any minimum charges. If the duration of the program can be determined in advance, the advertisement must state the total cost for the complete program. If the duration of the program cannot be determined in advance, because it involves a live conservation or is dependent upon options selected by the caller, the advertisement must disclose that the length of the call if subject to the caller's discretion, unless it is otherwise clear from the advertisement that such is the case.

If the call is billed on a variable rate basis, that is, if the rate will change depending on options chosen by the caller, the advertisement must state the cost of the initial portion of the call, any minimum charges, and the range of rates that may be charged depending on the options chosen by the caller.

[4] 47 U.S.C. 228. This section was added by title I of the Telephone Disclosure Act.

The advertisement must disclose any other fees that will be charged for the service (for instance, computer time charges). If the caller may be transferred to another pay-per-call number, the advertisement must also disclose the cost of the other call, in accordance with the above.

In television advertising, the cost must be disclosed in both the audio and video portions of the advertisement. The video portion must appear on the screen simultaneously with and for the same duration as the video display of the pay-per-call number. Each letter and numeral of the video portion of the cost disclosure must be at least as large as each letter and numeral of the pay-per-call number to which it is adjacent.

In print advertisements, the disclosure must be placed adjacent to each presentation of the pay-per-call telephone number. As in televisions advertisements, each letter and numeral of the disclosure must be at least as large as each letter and numeral of the pay-per-call number.

In radio advertisements, the cost disclosure must be made at least once, and must be delivered immediately following the first presentation of the pay-per-call number. In any program-length radio commercial, the cost must be disclosed each time the pay-per-call number is given.

2. Sweepstakes; Games of Chance

Section 308.3(b) addresses pay-per-call services that advertise sweepstakes, including games of chance. The proposed rule incorporates the requirements of the Telephone Disclosure Act that such advertisements clearly and conspicuously disclose the odds of winning a prize, award, service, or product at no cost or at reduced cost, or the factors that will determine the odds, if the odds are not calculable in advance (*e.g.*, if the odds depend on how many times the game is played). The proposed rule limits the application of the odds disclosure requirement to those situations where the prize, etc., is offered through a sweepstakes or game of chance. In addition, the proposed rule requires a disclosure that no purchase (*i.e.*, no call to the pay-per-call service) is required to participate, along with a disclosure of a free alternative method of entry and instructions on how to enter.[5] The proposed rule also requires that the advertisement disclosure the scheduled termination date of the game.

In television advertisements, each line of the video disclosure must occupy at least one-tenth of the vertical field of the television screen. There are no additional requirements for print or radio disclosures, beyond the minimum standards described above.

3. Federal Programs

Section 308.3(c) treats advertisements for pay-per-call services that provide information on Federal programs,[6] but that are not sponsored or endorsed by any Federal agency. The proposed rule requires that the advertisement clearly and conspicuously disclose, at the beginning, that the pay-per-call service is not authorized, endorsed, or approved by any federal agency.

In television advertisements, each line of the video disclosure must occupy at least one-tenth of the vertical field of the television screen. In both television and radio advertisements, the disclosure must begin within the first fifteen (15) seconds of the advertisement.

In print advertisements, the disclosure must appear within the top one-third of the advertisement.

4. Prohibition on Advertising to Children

Section 308.3(d) tracks the language contained in the Telephone Disclosure Act by prohibiting a provider of pay-per-call services from directing advertisements for such services at children under the age of 12, unless the service is a bona fide educational service (as defined in § 308.2(a)).

For purposes of the proposed rule, advertisements directed to children under 12 are defined, in § 308.3(d)(2), both by the type of medium in which they appear, as well as by the nature and content of the advertisement. Advertisements directed to children under 12 are presumed to include the following: Advertisements appearing in publications directed to children (*e.g.*, children's books, magazines and comic books); advertisements appearing during or immediately adjacent to television programs directed to children (*e.g.*, children's programming as defined by the FCC,[7] animated programs, and after-school specials directed to children); advertisements broadcast during or immediately adjacent to radio programs directed to children; advertisements appearing on a commercially prepared video directed to children; and advertisements or promotions appearing on product packaging directed to children. In addition, any advertisement, regardless of placement, that is directed to children under 12 in light of its subject matter, visual content, age of models, language, characters, tone, message, or the like, will also be presumed directed to children under the age of 12. However, § 308.3(d)(3) provides that the presumption contained in § 308.3(d)(2) may be rebutted with competent and reliable evidence demonstrating that the receiving audience is composed predominantly of individuals aged 12 or older.

5. Advertising to Individuals Under 18

Section 308.3(e) requires a clear and conspicuous parental permission disclosure in all pay-per-call advertisements directed primarily to individuals under the age of 18, and describes the requirements for such a disclosure. For purposes of the proposed rule, advertisements directed to individuals under 18 are defined, in § 308.3(e)(5), in terms of a presumption based on the medium in which the advertisement is placed, as well as by the nature and content of the advertisement itself.

Advertisements directed primarily to individuals under 18 include the following: Advertisements appearing in publications directed primarily to individuals under 18 (*e.g.*, certain books, magazines and comic books); advertisements appearing during or immediately adjacent to television programs directed primarily to individuals under 18 (*e.g.*, mid-afternoon weekday television shows); advertisements broadcast on radio stations directed primarily to individuals under 18; and advertisements appearing on a commercially-prepared video directed primarily to individuals under 18. Finally, any advertisement, regardless of placement, that is directed primarily to individuals under 18 in light of its subject matter, visual content, age of models, language, characters, tone, message, or the like will be presumed to

[5] Offering a free method of entering a sweepstakes or game of chance is necessary to avoid violation of the Federal law prohibiting commercial lotteries, 18 U.S.C. 1301.

[6] An example would be a service providing on-line computer access to the Federal Register or the Congressional Record.

[7] The FCC defines "children's programming" as "programs originally produced and broadcast for an audience of children 12 years old and under." (Policy and Rules Concerning Children's Television Programming, Report and Order, April 9, 1991, Docket No. 90-570.) Thus, the FCC definition relates to children 12 years old and under, while this rule prohibits pay-per-call services and advertisements for such services directed to children under the age of 12. Nevertheless, the FCC's definition should provide a useful benchmark. Moreover, to the extent that the FCC's definition includes individuals not covered by the Telephone Disclosure Act, an advertiser may submit competent and reliable evidence, such as audience composition data, to show that the audience is predominantly composed of children aged 12 and older.

be directed primarily to individuals under the age of 18. However, § 308.3(e)(6) provides that the presumption contained in § 308.3(e)(5) may be rebutted with competent and reliable evidence demonstrating that the receiving audience is composed primarily of individuals aged 18 or older.

The standard required to demonstrate that the receiving audience is composed primarily of individuals aged 18 or older is different from the standard required to demonstrate that the receiving audience is composed predominantly of individuals aged 12 or older (as described in section 4, above). These different standards ("primarily" versus "predominantly") are based on the specific language differences in the Telephone Disclosure Act. While the Act prohibits advertisements for pay-per-call services "directed" at children under 12, it provides that advertising "directed primarily" to individuals under 18 must have a parental permission disclosure. Thus, the Commission contemplates that in order to rebut the presumption that an advertisement is directed primarily to individuals under 18, the advertiser would need only to show that more than half of the receiving audience is 18 or older. At that point, the advertisement would not appear to be "directed primarily" to those under 18. In contrast, the Commission contemplates that in order to rebut the presumption that an advertisement is directed to children under the age of 12, the advertiser would have to show that something more than two-thirds to three-quarters of the audience is 12 years of age or older. The Commission recognizes the potential difficulties raised by these provisions, and accordingly has framed specific questions for comment on them.

In television or videotape advertisements, the video disclosure concerning parental permission must be adjacent to the largest presentation of the pay-per-call number, and each line of the video portion of the disclosure must occupy at least one-tenth of the vertical field of the television screen. In any program-length commercial (*i.e.*, 15 minutes or longer), the video disclosure must appear simultaneously with and for the same duration as each presentation of the pay-per-call number.

In print advertisements, the disclosure must be adjacent to the largest presentation of the pay-per-call number. In any program-length radio commercial, the disclosure must be delivered immediately preceding each delivery of the pay-per-call number.

6. Prohibition Against Electronic Tones in Advertising

Section 308.3(f) reiterates the language of the Telephone Disclosure Act by prohibiting providers of pay-per-call services from using advertisements that emit electronic tones that can automatically dial a pay-per-call telephone number.

7. Telephone Solicitations

Section 308.3(g) addresses telephone messages that solicit calls to pay-per-call services. Such messages might be accessed through an 800 telephone number, for example,[8] or through any regular long distance or local telephone exchange.[9] The proposed rule requires that the message disclose the cost of the pay-per-call service in accordance with the requirements for cost disclosures set out in § 308.3(a)(1).

8. Toll-free Telephone Numbers

Section 308.3(h) prohibits advertisements for pay-per-call services from referring to an 800 telephone number, or any other telephone number advertised or widely understood to be toll free, if callers to that number may be connected to an access number for, or transferred to, a pay-per-call service.

Section 308.4 Special Rule for Infrequent Publications

As provided in the Telephone Disclosure Act, § 308.4 allows an exemption from the cost disclosure requirements of § 308.3(a) for advertisements for pay-per-call services that appear in certain publications that are printed once a year, or less frequently, such as a yellow pages directory. Instead of the cost disclosures required by § 308.3(a), advertisements for pay-per-call services in this type of publication can include a clear and conspicuous disclosure that a call to the pay-per-call service may result in a substantial charge above the long-distance charge. In order to qualify for this exemption, the publication must be: (1) widely distributed; (2) printed annually or less frequently; and (3) one that has an established and written policy of not publishing specific prices in advertisements.

Section 308.5 Pay-Per-Call Service Standards

Section 308.5 sets forth the various requirements and prohibitions that apply to the actual operation of pay-per-call services. As required by the Telephone Disclosure Act, each pay-per-call telephone message must be preceded by an introduction or preamble, for which the caller is not charged, that discloses various facts relevant to the consumer's decision whether to complete the call and incur the charge for the service. These disclosures are set forth in § 308.5(a).

First, the preamble must identify the name of the provider of the pay-per-call service and describe the service that is offered.[10] Thus, the consumer will have some idea of what he or she will receive for the charge, and some minimal identifying information about the entity he or she is calling.

Second, the preamble must disclose the cost of the call, in the same specific manner and detail required for this information in advertisements.

Third, the preamble must state that charges for the call will begin at the end of the preamble, after a clearly discernible signal or tone, and that the caller may avoid any charge for the call by hanging up at or before the sound of the tone.

Fourth, the preamble must state that anyone under the age of 18 must have parental permission to make the call. Finally, if the pay-per-call service provides information about a Federal program, but is not operated or authorized by any Federal agency, the preamble must state that the service is not authorized, endorsed, or approved by any Federal agency.

The caller must be able to hang up at or before the end of the introductory message without incurring any charge. Therefore, § 308.5(b) states that the provider is prohibited from charging a caller any amount whatsoever if the caller hangs up within five seconds after the conclusion of the preamble. This gives the consumer sufficient time, after hearing the complete preamble message and the signal or tone indicating the end of the preamble, to make the decision to

[8] The proposed rule prohibits the providing of pay-per-call services through 800 telephone numbers. Thus the caller could not be connected or transferred to a pay-per-call service after calling an 800 telephone number. However, there would be no prohibition against using an 800 telephone number to advertise a pay-per-call service so long as no direct connection or transfer to the service could be made.

[9] The Telephone Consumer Protection Act of 1991, 47 U.S.C. 227, would ban all computer-generated calls to homes unless such a call is made for emergency purposes or the subscriber consents in advance to it. The Act became effective December 20, 1992. However, the United States District Court for the District of Oregon granted a preliminary injunction against enforcement. *Moser v. FCC*, No. 92–1406–AS (D. Or. Dec. 22, 1992). If the statute is sustained against challenge, computer-generated calls to homes could not be used to solicit calls to a pay-per-call service.

[10] The statute requires description of the service, but not identification of the pay-per-call provider. However, requiring identification of the provider is consistent with current FCC regulations that govern the interstate transmission of pay-per-call services by common carriers. 47 CFR 64.711(b)

disconnect and to do so without incurring any charge for the call.

The Telephone Disclosure Act gives the Commission discretion to exempt from the preamble requirement pay-per-call services provided at "nominal" charges, as defined by the Commission. This exemption provision recognizes that below a certain minimal level, it may not be cost effective for the provider to offer the service if all of the disclosures required by § 308.5(a) must be included in a preamble for which the caller cannot be charged. Therefore, § 308.5(c) creates an exemption to the preamble requirement when the total cost of the pay-per-cost service (whether billed as a flat rate or on a time-sensitive basis) is $2.00 or less.[11]

In addition, the Act gives the Commission discretion to allow pay-per-call providers to create a mechanism whereby frequent callers to a particular service can bypass the preamble during subsequent calls. However, the Act further states that any such bypass mechanism must be disabled following a price increase, and remain disabled for a period of time sufficient to give frequent callers adequate notice of the price change. Therefore, § 308.5(d) states that pay-per-call service providers that offer frequent callers the option of activating a bypass mechanism to avoid the preamble will not be in violation of § 308.5(a), provided that any such bypass mechanism is disabled for no less than 30 days after the institution of a price increase or a change in the nature of the service offered.

In addition to the preamble message, the Telephone Disclosure Act imposes various other requirements and prohibitions upon the providers of pay-per-call services, and these also have been incorporated into § 308.5 of the proposed rule. Section 308.5(e) prohibits pay-per-call service providers from billing consumers any amount in excess of the amount described in the preamble and from billing for any services provided in violation of the Commission's rule.[12]

Section 308.5(f) requires that providers of pay-per-call services stop the assessment of time-based charges immediately upon disconnection by the caller. However, the Commission recognizes that time-sensitive billing is accomplished in one-minute increments, and that any portion of a minute will be billed as a full minute.

Section 308.5(g) imposes a ban on pay-per-call services directed to children under the age of 12, similar to the ban on advertisements for such services that are directed to children under 12. Pay-per-call services that are produced or designed for children under 12, in light of the subject matter, content, language, featured personality, characters, tone, or message, are presumed to be covered by the prohibition, regardless of when or where they are advertised. Moreover, any service advertised in the manner described in § 308.3(d)(2) (which defines those advertisements presumed to be directed to children under 12) is presumed to be a pay-per-call service itself directed to children under 12. Both presumptions may be rebutted, however, with evidence that recipients of the service are predominantly individuals aged 12 or older.

Section 308.5(h) of the proposed rule prohibits the use of an 800 telephone number (or any other telephone number advertised or widely understood to be toll free) for pay-per-call services. Thus, for example, callers to an 800 number cannot be connected to an access number for, transferred to, or otherwise billed for a pay-per-call service. The provision is a companion to § 308.3(h), which prohibits providers of pay-per-call services from referring in advertisements to an 800 telephone number, if callers to that number are connected or transferred to a pay-per-call service.[13] It should be noted, however, that any service for which charges are assessed pursuant to a "presubscription or comparable arrangement," as defined in § 308.2(e), would still be permitted in connection with a call to an 800 telephone number, since this category of service has been removed from the definition of "pay-per-call services" contained in § 308.2(c).

Under § 308.5(i) of the proposed rule, pay-per-call service providers are obligated to ensure that any billing statement for their charges displays the pay-per-call service charges in a part of the bill identified as not being related to the consumer's local and long distance telephone charges. For each pay-per-call service charge, the bill must specify the type of service, the amount of the charge, and the date, time, and duration of the call.[14]

Finally, § 308.5(j) of the proposed rule makes pay-per-call service providers liable for refunds to consumers who have been billed and have paid for services pursuant to programs found to have violated the regulations prescribed by the FTC or any other Federal rule or law. This provision will facilitate the redress of consumers who have been injured by charges from pay-per-call service providers that have engaged in illegal practices.

Section 308.6 Access to Information

The Telephone Disclosure Act gives the Commission authority to require that common carriers that provide telephone services to providers of pay-per-call services make available to the Commission any records and financial information maintained by the carrier relating to the arrangements (other than for the provision of local exchange service) between the carrier and any provider of pay-per-call services. Section 308.6 of the proposed rule incorporates this requirement as set forth in the statute.[15]

Section 308.7 Billing and Collection for Pay-Per-Call Services

Section 308.7 of the proposed rule sets forth the requirements for billing and collection of pay-per-call services, including procedures for correcting billing errors with respect to telephone-billed purchases. The Telephone Disclosure Act mandates that these requirements be substantially similar to those prescribed under the Truth in Lending Act and the Fair Credit Billing Act, 15 U.S.C. 1601, *et seq.*, to resolve credit billing disputes. Thus, many of the requirements in § 308.7 are

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[11] Current FCC regulations for common carriers contain an exemption for programs with a flat-rate charge of $2.00 or less. 47 CFR 64.711(a).

[12] Title I of the Act imposes a similar requirement upon common carriers that bill for pay-per-call services. The carrier must ensure that a telephone subscriber is not billed for any services that the carrier knows, or reasonably should know, were provided in violation of regulations issued by the FTC pursuant to title II of the Act.

[13] A similar provision in title I of the Act, 47 U.S.C. 228(c)(6), requires common carriers to prohibit by tariff or contract the use of an 800 telephone number (or any other number advertised or widely understood to be toll free) for the provision of pay-per-call services. This provision appears to prohibit any use of an 800 or other toll-free number that results in the calling party being charged for the call in the absence of a preexisting agreement or disclosure of a credit or charge card number during the call.

[14] Title I of the Telephone Disclosure Act imposes the same requirements upon common carriers that offer billing and collection services to pay-per-call service providers. In addition, the common carrier must disclose on the billing statement a toll-free telephone number that the subscriber can call for further information, including the name and mailing address of any provider of pay-per-call services offered by that carrier.

[15] In addition, title I of the Act lists certain categories of information that common carriers must make available on request to Federal and State agencies and other interested persons. These include: (A) a list of the telephone numbers for each of the pay-per-call services carried; (B) a short description of each such service; (C) a statement of the total cost or the cost per minute and any other fees for each such service, (D) a statement of the pay-per-call service's name, business address, and business telephone number; and (E) such other information as the FCC considers necessary for the enforcement of its regulations and other applicable Federal statutes and regulations.

reformulations of provisions in Regulation Z, 12 CFR part 226, the implementing regulation of the Truth in Lending Act, or of comments in the Official Staff Commentary on Regulation Z, issued by the Board of Governors of the Federal Reserve System. 12 CFR part 226, Supplement I.

1. Definitions

Section 308.7(a) defines the terms applicable to billing and collection: billing entity, billing error, customer, preexisting agreement, providing carrier, telephone-billed purchase, and vendor.

The term "telephone-billed purchase" is defined as it is in the Telephone Disclosure Act. It applies to any purchase involving the use of a telephone that is consummated solely as a result of the completion of the call or the subsequent entry of a number or access code using a rotary or touch tone telephone, or by comparable action. The term does not apply to any purchase by a caller pursuant to a preexisting agreement (such as presubscription) with the vendor, nor to any service that the FCC determines by rule is closely related to the provision of telephone service and is subject to billing dispute resolution procedures required by Federal or State law. Also exempt are sales transactions that are otherwise subject to billing dispute resolution procedures required by Federal law (*e.g.*, credit card purchases under the Fair Credit Billing Act).

The term "preexisting agreement" is used in the Telephone Disclosure Act but is not defined. The proposed definition would equate the term with a "presubscription or comparable arrangement," defined in § 308.2(e) of these regulations.

The term "billing entity" also is used in the statute but is not defined. The proposed rule defines the term to apply to any person—whether a common carrier, vendor, third-party biller, or other person—who sends a billing statement to a customer for a telephone-billed purchase. The term would also apply to any person who assumes responsibility for receiving and responding to billing error complaints or inquiries, even if that person does not send billing statements to customers.

The Telephone Disclosure Act's definition of "customer" is broadened to cover any person who is billed for a telephone-billed purchase, whether or not that person placed the call or received the goods or services in question. This would give these persons the billing error rights accorded to other "customers" under the statute.

The proposed definition of "providing carrier" is virtually identical to the definition in the Telephone Disclosure Act. It applies to any common carrier whose telephone lines are used to transmit a telephone-billed purchase, regardless of whether the common carrier has a contractual arrangement with the vendor.

"Vendor" is defined as it is in the statute. The term applies to the person who sells the goods or services that are the subject of the telephone-billed purchase.

"Billing error" is defined by the Telephone Disclosure Act to encompass a number of situations that result in the reflection of a mistake or inaccuracy on a billing statement for a telephone-billed purchase about which a customer might complain or seek clarification. The billing errors described in the Act closely resemble those described in the Fair Credit Billing Act's definition of "billing error." 15 U.S.C. 1666(b). The proposed rule expands upon the Act's definition of "billing error" in the following two provisions.

First, § 308.7(a)(2)(i) of the proposed rule includes in the definition of billing error "a reflection on a billing statement of a telephone-billed purchase that was not made by the customer nor made from the telephone of the customer *who was billed for the purchase*" (emphasis added). The clause "who was billed for the purchase" is added to the definition to make clear that the "customer" who has the right to assert this billing error is the customer who was billed for the purchase, not the customer who attempted to acquire the goods or services.[16]

Second, § 308.7(a)(2)(viii) of the proposed rule adds a section to the definition of "billing error." In this section, a billing error is defined to include the failure to display charges for a telephone-billed purchase on a billing statement in the manner prescribed by § 308.5(i) of the proposed rule, *i.e.*, by segregating them from other telephone charges and specifying the type of service, the amount of the charge, and the date, time, and duration of the call.

[16] The Telephone Disclosure Act defines a "customer" to mean "any person who acquires or attempts to acquire goods or services in a telephone-billed purchase," whether or not that person is the one billed for the purchase. In some cases, the person who is billed for the purchase is not the person who made or attempted to make the telephone-billed purchase. This can occur, for example, when a telephone number has been reassigned, and the new recipient is billed for pay-per-call transactions attributable to the previous subscriber who held that telephone number.

2. Initiation of a Billing Review

Section 308.7(b) sets forth the steps a customer must take to properly notify a billing entity of a billing error. The customer must give notice of the error within 60 days after the sending of the first billing statement that disclosed the charge for the telephone-billed purchase. The procedure is patterned after the Fair Credit Billing Act process used to correct credit billing errors. However, unlike the procedure with credit billing errors, the rule as proposed would not require written notice to initiate review of a telephone-billed purchase.

Section 308.7(c) of the proposed rule requires the billing entity to disclose on or with the billing statement whether the customer may provide oral or written notice of the billing error. If the billing entity permits oral notice, the proposed rule establishes a presumption that a customer who orally communicates any notice of a billing error to a billing entity properly initiated a billing review in accordance with the prescribed procedures. This presumption would not apply if the billing entity required its customers to provide written notice to initiate a billing review, and the billing entity disclosed this requirement on or with the billing statement.

3. Responding to a Billing Error Notice

Section 308.7(d) explains the procedure a billing entity must follow to respond to a customer's billing error notice. The billing entity must first acknowledge the customer's notice in writing within 30 days after receiving it. Written notice may consist of a single sentence on the customer's billing statement (*e.g.*, "Your dispute is acknowledged."). An acknowledgment need not be sent if the billing entity resolves the billing error within the 30-day period. In order to resolve a billing error, the billing entity must either correct the problem and credit the customer's account for the amount alleged to be in error, or send an explanation to the customer, after conducting a reasonable investigation, stating by the billing entity believes that no billing error occurred or that a different billing error occurred from the one asserted by the customer.

The billing entity has the option of correcting a billing error without conducting an investigation. If it chooses this option, the billing entity must inform the customer, either orally or in writing, that the error has been corrected and that removal of the disputed charge from the customer's account does not prevent a vendor or

providing carrier who might have a financial interest in the disputed charge from attempting to collect it. The billing entity must provide the customer with the name, address, and telephone number of any such vendor or carrier.

If the billing entity elects to investigate the customer's allegation of a billing error, it must contact any persons who might have documents or other information to support or refute the customer's assertions. If the customer's alleged billing error was that goods or services ordered were never received, the billing entity would not be permitted to deny the validity of the billing error unless its investigation confirmed that the goods or services were actually delivered. There will be a presumption that goods or services were in fact delivered where a vendor or providing carrier can produce business documents showing the date and place of delivery. After conducting the investigation, the billing entity must provide the customer with an explanation if it does not agree that a billing error occurred as alleged by the customer. The billing entity must give the customer a written explanation of its determination, and any supporting documents, if the customer request such documentation.

The billing entity is required to complete all of the actions outlined above, in responding to a customer's billing error complaint, within 90 days from its receipt of the billing error notice. After it has completed its actions, the billing entity must notify the appropriate vendor or providing carrier of its decision if it is determined that any disputed amount is in error. If the billing entity determines that a disputed amount is not in error, it must notify the customer in writing of the time when payment of the disputed amount is due. The customer must be given at least 20 days from the date of this notice to pay the disputed amount. Additionally, the customer must be told in writing that continued failure to pay the disputed amount might subject the customer to collection action or being reported to a credit reporting agency.

Section 308.7(e) excuses the billing entity from following the prescribed response to a billing error notice if the customer agrees that there is no error and withdraws the complaint before the time limit expires for the billing entity to have completed its course of action.

Section 308.7(f) limits the billing entity's obligation to respond to a customer's billing error complaint to the procedures set forth in § 308.7(d). Once the billing entity follows the prescribed procedures, it will not have to continue to respond in the same manner to subsequent assertions by the customer of the same billing error.

4. Restrictions on Collection Action During Billing Review

Section 308.7(g) sets forth the customer's right to withhold payment of any disputed amount after having provided notice of a billing error. No one may try to collect this amount from the customer until the billing entity has completed its billing review and given the customer 20 days thereafter to pay any disputed amount found not to be in error. The billing entity may continue to display the disputed charge on the customer's billing statement during the billing review, so long as the statement discloses that payment of the disputed amount is not required. There is no restriction on the billing entity's right to collect any undisputed charges on the customer's bill.

5. Limitations on Charges for Conducting a Billing Review

A customer may not be assessed any charge for initiating a billing review if a billing error is found to have occurred or if the billing entity elects to credit the customer's account for the alleged error without conducting an investigation. Section 308.7(h) does not prohibit a billing entity, providing carrier, or vendor from imposing a charge when no billing error has occurred, but it does limit the amount of such a charge. Inasmuch as the Telephone Disclosure Act grants the customer billing-error rights with respect to telephone-billed purchases, any such charges may be considered unreasonable, and therefore impermissible, to the extent that they are found to have a chilling effect on customers' good faith assertions of their rights under this section.

6. Restrictions on Credit Reporting

Section 308.7(i) of the proposed rule sets forth restrictions on the reporting of pay-per-call delinquencies to third parties, *e.g.*, credit bureaus. It forbids anyone from reporting or threatening to report adverse information to a third party concerning the customer's withholding payment of any disputed amount until the billing entity has completed its billing review and given the customer an additional 20 days in which to pay any disputed amount found not to be in error. Reporting that the customer's account is delinquent or overdue is prohibited, but a simple statement that the amount or account is in dispute is not considered adverse information.

If the customer reasserts the billing error within 20 days after receiving word of the billing entity's disposition of the matter, a billing entity, providing carrier, vendor, or other agent may not report the customer's account as being delinquent unless that person also reports that the matter is in dispute. In addition, any such person making the report must inform the customer in writing of the name and address of each person to whom it reported the delinquency. Once the dispute has been settled, any person who reported adverse information concerning the customer's account must provide the recipients of that information with written notice of the settlement.

Section 308.7(i) does not prohibit the reporting of adverse information concerning any undisputed portion of the customer's account that remains unpaid.

7. Forfeiture Penalty

Section 308.7(j) imposes a forfeiture sanction upon any billing entity, providing carrier, vendor or other agent that fails to comply with the billing dispute requirements of the proposed rule. Any such person who fails to comply with its responsibilities under the proposed rule with respect to any billing error properly asserted by the customer forfeits the right to collect from the customer the amount alleged to be in error, regardless of whether a billing error has in fact occurred. The amount required to be forfeited under this provision may not exceed $50 per transaction. Any attempt by any person to collect an amount that the person should forfeit under this subsection may be considered to undermine the rights provided to customers under these regulations and, hence, to be a violation of the FTC Act, as provided by the Telephone Disclosure Act.

8. Notification of Returns and Crediting of Refunds

Section 308.7(k) sets forth requirements that any vendor who is not the billing entity must follow to give the customer a prompt credit or refund for returned goods or a forgiven debt. If the customer is to be given a cash refund, the vendor must mail or deliver it to the customer within seven business days after acknowledging that a refund is due. If a credit is to be applied to the customer's account, the vendor must transmit a credit statement to the billing entity within seven days after acknowledging that a credit is due. The vendor must transmit the credit statement to the billing entity through its normal channels for processing telephone-billed purchases. The billing entity is given three business days after receiving the credit statement to credit the customer's account, and the credit

shall be reflected on the customer's next billing statement.

9. Customer's Right to Assert Claims or Defenses

Section 308.7(l) makes any billing entity or providing carrier who attempts to collect charges from a customer for a disputed telephone-billed purchase subject to any claims or defenses that the customer may lawfully assert against the vendor with respect to that purchase. The customer's rights under this provision are not dependent on the customer's assertion of a billing error pursuant to § 308.7(b). However, the customer must first have made a good faith attempt to settle the dispute with the vendor, or the providing carrier (other than the billing entity) if the vendor is not readily accessible. Any determination of what claims or defenses are valid as to the vendor must be made under state or other applicable law. The billing entity or providing carrier cannot be liable under this provision for any amount greater than the amount of the telephone-billed purchase, plus any related charges for which the customer has been billed.

10. Prohibition on Retaliatory Actions

Section 308.7(m) makes it unlawful to accelerate the customer's debt or to restrict or terminate the customer's access to pay-per-call services to penalize the customer for exercising in good faith any billing error rights accorded by these regulations. This does not constitute an absolute prohibition on all actions that might effectively limit a customer's access to pay-per-call services. For example, if a vendor or providing carrier regularly suspends a customer's access to pay-per-call services when that customer's outstanding debt exceeds a certain dollar amount, that vendor or providing carrier would not be prohibited from applying any disputed amount towards that outstanding debt. The determining factor is whether the action was motivated, or reasonably appears to have been motivated, by a desire to retaliate against the customer for asserting his or her billing error rights.

11. Notice of Billing Error Rights

Section 308.7(n) requires a billing entity to provide its customers with written notice of their pay-per-call billing rights at least once per calendar year. If the billing entity is not a common carrier, it must send the notice to each customer (whether that customer is an old, current, or new customer) with the first billing statement for a telephone-billed purchase mailed or delivered to that customer after the effective date of the regulations. Thereafter, the billing entity must ensure that the customer receives the notice at least once during each subsequent calendar year in which that customer receives a bill for a telephone-billed purchase.

Billing entities that are common carriers have the option of sending the annual statement to only those customers whom they have billed for a telephone-billed purchase, or they may elect to send the annual statement to all of their customers who receive telephone service of any kind. If they choose the former approach, they must follow the procedure set forth in § 308.7(n)(1)(i). If they opt for the latter, they must comply with § 308.7(n)(1)(ii), which requires the billing entity to send the annual statement to all of its customers within 60 days after the effective date of the regulations. The billing entity must then send the notice at least once each following year to all of its customers at intervals of not less than six months nor more than 18 months.

The annual statement would inform the customer how to initiate a billing review and would explain the presumption that applies if the customer is permitted to provide oral notice. The annual statement would also describe the procedure the billing entity must follow to respond to a billing error notice and to investigate the alleged billing error. Additionally, the annual statement would disclose the customer's right to withhold payment of any disputed amount and the restrictions placed on collection and adverse reporting of the disputed amount. Finally, this statement would tell the customer about the forfeiture penalty.

Instead of sending the annual statement, the billing entity may choose to send an abridged pay-per-call billing rights summary to its customers with each billing statement. Like the annual statement, the alternative summary statement informs the customer how to initiate a billing review, including the presumption applying to oral notice, but it does not explain the procedure the billing entity must follow to respond to and investigate a billing error complaint. Also, the alternative summary contains an abbreviated statement of the customer's rights with respect to the collection and adverse reporting of any disputed amount, and does not mention the forfeiture penalty.

12. Multiple Billing Entities

A telephone-billed purchase may involve more than one billing entity if the person responsible for responding to and investigating billing error complaints and inquiries is someone other than the person who sends the billing statements to customers. In this event, the billing entities must decide who between or among them will be responsible for making any required disclosures and for complying with the other requirements of these regulations. Where a particular disclosure is required, a single complete disclosure must be made by a single billing entity, rather than partial disclosure from several billing entities.

If the customer sends notice of a billing error to a billing entity other than the one designated to receive such notice, that billing entity must either transmit that notice to the appropriate billing entity within 15 days or promptly provide the customer with the name, address, and telephone number of the appropriate billing entity.

13. Multiple Customers

Under § 308.7(p), disclosures may be made to any customer primarily liable on a joint account. Disclosure responsibilities are not satisfied by giving disclosures only to an authorized user of the account who is not a principal obligor.

Section 308.8 Severability

This section provides that if any rule provision is stayed or held invalid, the other provisions will remain in effect.

Section C. Invitation to Comment

Before adopting this proposed rule as final, consideration will be given to any written comments submitted to the Secretary of the Commission on or before April 9, 1993. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and Commission regulations, on normal business days between the hours of 8:30 a.m. and 5 p.m. at the Public Reference Section, room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

Section D. Public Workshop-Conference

The FTC staff will conduct a Public Workshop-Conference to discuss written comments received in response to the Notice of Proposed Rulemaking. The purpose of the conference is to afford Commission staff and interested parties a further opportunity to openly discuss and explore issues raised in the rulemaking proceeding, and, in particular, to examine publicly areas of significant controversy or divergent opinions that are raised in the written comments. The conference is not intended to achieve a consensus of

opinion among participants or between participants and Commission staff with respect to any issue raised in the rulemaking proceeding. Commission staff will consider the views and suggestions made during the conference, in conjunction with its consideration of the written comments, in formulating its final recommendation to the Commission concerning the proposed rule.

Commission staff will select a limited number of parties, from among those who submit written comments, to represent the significant interests affected by the proposed regulations. These parties will participate in an open discussion of the issues. It is contemplated that the selected parties might ask and answer questions based on their respective comments.

In addition, the conference will be open to the general public. Members of the general public who attend the conference may have an opportunity to make a brief oral statement presenting their views on issues raised in the rulemaking proceeding. Oral statements of views by members of the general public will be limited to a few minutes in length. The time allotted for these statements will be determined on the basis of the time allotted for discussion of the issues by the selected parties, as well as by the number of persons who wish to make statements.

Written submissions of views will not be accepted during the conference. The discussion will be transcribed and the transcription placed on public record.

To the extent possible, Commission staff will select parties to represent the following affected interests: advertisers, alternative billing and collection providers, local exchange carriers, interexchange (long distance) carriers, consumers, providers of pay-per-call services, service bureaus, state law enforcement and regulatory authorities, and any other interests that may be identified and deemed appropriate.

Parties to represent the above-referenced interests will be selected on the basis of the following criteria:

1. The party submits a written comment during the 30-day comment period.
2. The party notifies Commission staff of its interest and authorization to represent an affected interest within fifteen days of publication of the Notice of Proposed Rulemaking.
3. The party's attendance would promote a balance of interests being represented at the conference.
4. The party's attendance would promote the consideration and discussion of a variety of issues raised in the rulemaking proceeding.
5. The party has expertise in activities affected by the proposed regulations.
6. The party adequately reflects the views of the affected interest(s) which it purports to represent.
7. The number of parties selected will not be so large as to inhibit effective discussion among them.

A neutral, third-party facilitator will be retained for the conference. It will be held over the course of two consecutive days, on April 22 and 23, 1993. Parties interested in participating and authorized to represent an affected interest at the conference must notify Commission staff within 15 days of publication of the Notice of Proposed Rulemaking. Prior to the conference, parties selected to represent an affected interest will be provided with copies of written comments received in response to this notice.

Section E. Communications by Outside Parties to Commissioners or Their Advisors

Pursuant to Commission Rule 1.26(b)(5), communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner advisor during the course of this rulemaking shall be subject to the following treatment. Written communications, including written communications from members of Congress, shall be forwarded promptly to the Secretary for placement on the public record. Oral communications, not including oral communications from members of Congress, are permitted only when such oral communications are transcribed verbatim or summarized at the discretion of the Commissioner or Commissioner advisor to whom such oral communications are made and are promptly placed on the public record, together with any written communications and summaries of any oral communications relating to such oral communications. Oral communications from members of Congress shall be transcribed or summarized at the discretion of the Commissioner or Commissioner advisor to whom such oral communications are made and promptly placed on the public record, together with any written communications and summaries of any oral communications relating to such oral communications.

Section F. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory analysis (5 U.S.C. 603, 604) are not applicable to this document because it is believed that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605).

The Telephone Disclosure Act requires the Commission to issue regulations, not later than 270 days after the date of enactment, relating to the operation of, advertising for, and billing and collection for pay-per-call services. Any economic costs imposed on small entities are, in many instances, specifically imposed by statute. Where they are not, efforts have been made to make the proposed rule's requirements flexible, in part to minimize any unforeseen burden on small entities, as described elsewhere in this notice. In any event, based on information currently available to the Commission staff, it is anticipated that the proposed regulations, as a whole, will result in few, if any, independent additional costs. To ensure, however, that no substantial economic impact is being overlooked, public comment is requested on the effect of the proposed regulations on costs, profitability, competitiveness, and employment in small entities. Subsequent to the receipt of public comments, it will be decided whether the preparation of a final regulatory flexibility analysis is warranted. Accordingly, based on available information, the Commission hereby certifies under the Regulatory Flexibility Act (at 5 U.S.C. 605(b)) that the proposed regulations will not have a significant economic impact on a substantial number of small entities. This notice serves as certification to that effect for the purposes of the Small Business Administration.

Section G. Paperwork Reduction Act

Questions 32 and 37 solicit comments on the need for and scope of possible recordkeeping requirements that, if adopted, would constitute "collections of information" as defined under the Paperwork Reduction Act, 44 U.S.C. 3501–3520. See 44 U.S.C. 3502 and 5 CFR 1320.7. Such requirements would entail the maintenance of certain records under the sections of the proposed rule regarding Commission access to such information (§ 308.6) and billing and collection for pay-per-call services (§ 308.7). If, on the basis of comments received, it is determined that such recordkeeping requirements may be appropriate, OMB review will be sought pursuant to the provisions of that Act.

Section H. Effective Date

The Telephone Disclosure Act directs the Commission to "prescribe" the regulations required under the Act within 270 days of enactment. An

effective date for these rules will be announced by the Commission when it publishes these regulations in final form.

Section I. Questions on the Proposed Rule

The Commission is seeking comments on various aspects of the proposed rule. Without limiting the scope of issues it is seeking comment on, the Commission is particularly interested in receiving comments on the questions that follow. Responses to these questions should be itemized according to the numbered questions in this Notice.

Section 308.2 Definitions

1. Are the definitions of the following terms, included in the proposed rule in § 308.2, clear, meaningful, and appropriate:

a. "Presubscription or comparable arrangement;"
b. "Program-length commercial;"
c. "Provider of pay-per-call services;"
d. "Reasonably understandable volume;"
e. "Slow and deliberate manner;" and
f. "Sweepstakes"?

2. The proposed rule defines the statutory term "bona fide educational service," which delimits the only pay-per-call services and related advertising that may be directed to children under the age of 12, in terms of the content of the service offered.

a. Is this definition clear, meaningful, and appropriate? What are the advantages and disadvantages of defining the term in this manner? Is the definition as drafted sufficiently narrow so as not to allow the exception to swallow the rule?

b. Would it be useful for the definition to include, as an additional standard for determining whether a program is a "bona fide educational service," the nature of the party offering the service? If so, what are the indicia of a bona fide educational organization? How should an organization or individual who offered such services be described so that it: (1) would include only those having a legitimate connection to education; and (2) would not be overly restrictive?

c. Are there other approaches to defining the term "bona fide educational service" that would be more useful?

Section 308.3 Advertising of Pay-Per-Call Services

3. Section 308.3(a) of the proposed rule requires that the disclosure of the cost of the call occur in conjunction with every display of the pay-per-call number in television advertisements and print advertisements. Would such a requirement be appropriate for radio advertisements also? Does the proposed rule provide adequately for disclosing to consumers the charges for the call, before they make the call? This section requires that every letter and numeral of the cost of the call be in the same type as the pay-per-call number. What are the advantages and disadvantages of this requirement? Does this specification result in disclosures that are larger than necessary to be "clear and conspicuous"? Is there a more appropriate measure for ensuring that the disclosure is "clear and conspicuous"? What costs, if any, are likely to arise from requiring cost disclosures of this, as opposed to some other, definite size?

4. Section 308.3(a)(ii) of the proposed rule requires that if a call is billed on a time-sensitive basis (*i.e.*, per minute charges instead of a flat fee), the advertisement must state the cost per minute and the total charge if the caller stays on the line for the full period of a fixed-length program (*i.e.*, a program whose duration can be determined in advance). If the duration of the program cannot be determined in advance (*e.g.*, calls involving a live conversation, or dependent upon options selected by the caller), the advertisement must disclose that the length of the call is subject to the caller's discretion, unless it is otherwise clear from the context that such is the case. Is it necessary and appropriate to require advertisers to disclose, if it is not clear from the context, that the length of the call is subject to the caller's discretion? Absent such a disclosure, will consumers know that there is no set time in which a complete program may be heard? Is further guidance required as to when it will be clear from the context that the caller determines the length of the call? Are there preferable, alternative ways to alert consumers that there is no set time in which a complete program may be heard and, consequently, that there is no maximum charge?

5. Sections 308.3 and 308.5 require, in the case of calls billed on a time-sensitive basis, that both pay-per-call service advertisements and preambles disclose either the maximum charge for the call in the case of programs whose duration can be determined in advance, or disclose that the length of the call is subject to the caller's discretion in the case of programs where it is not clear from the context that the duration cannot be determined in advance. To what extent is it unnecessarily duplicative or costly to require these disclosures in both advertisements and preambles?

6. Under §§ 308.3 (a) through (c), (e) of the proposed rule, in the case of television advertisements that are 15 seconds or less in length, if the pay-per-call number is presented only in the video portion, the disclosures are required to be made only in the video portion of the advertisement, instead of in both the audio and video portions. Does this requirement provide for adequate disclosures to consumers?

7. Section 308.3(b)(1) of the proposed rule requires that pay-per-call services that advertise prizes, awards, services, or products at no cost, or for a reduced cost, disclose the odds of winning the prize, award, service or product. In addition, if the odds are not calculable in advance, the factors used in determining the odds must be disclosed. The proposed rule limits the application of this provision to sweepstakes, including games of chance. Are there other types of promotions, such as lotteries, or games of skill, that should be subject to this provision? Is the proposed rule sufficiently clear as to the types of promotions subject to the rule? In addition to the required disclosures, what would be the advantages and disadvantages of additionally requiring that:

a. Advertisements for games of chance disclose limitations on the game-of-chance program's availability, such as geographical restrictions, time-of-day availability, or touch-tone phone requirements?

b. Advertisements for games of chance disclose the name, city, state, and customer service phone number of the promoter or provider of the pay-per-call service?

c. Advertisements for games of chance disclose the value of the prize? If such a disclosure were required, should "value" be based on the cost of the prize to the promoter, on the retail value of the prize, or on some other measure?

d. Promoters of games of chance have a "reasonable basis" for the disclosed odds of winning?

8. Section 308.3(b) requires disclosure of a free alternative method of entry and instructions on how to enter a game of chance in all advertisements. Absent a free method of entry, the game might be an illegal lottery. To the extent that criminal penalties would already attach for violation of the lottery laws, is this provision necessary and appropriate? If so, what would be the advantages and disadvantages of allowing pay-per-call service providers the option of disclosing the alternative method of entry and the instructions on how to enter in the pay-per-call service preamble instead of in the television or radio advertisement. Would informing

consumers of the free method of entry only during the preamble provide adequate notice to consumers of that option?

9. Section 308.3(b) requires that the odds of winning in games of chance be disclosed in all advertisements, including radio and television advertisements. Are the required disclosures of the odds of winning sometimes too complex or lengthy (for instance, where many different prizes are to be awarded) to be practical in television and radio advertisements? If so, what would be the costs and benefits of limiting the required disclosures of the odds of winning for television and radio advertisements to apply to those prizes exceeding a specified value, such as $25.00 , $50,00, $75.00, or $100.00? What would be the advantages and disadvantages of allowing game promoters to aggregate prizes having a value of less than $5.00, $25.00, $50.00, or some other value, into one category for the purposes of disclosing odds of winning? What would be the advantages and disadvantages of allowing pay-per-call service providers the option of disclosing the odds in the pay-per-call service preamble instead of in the television or radio advertisements?

10. The proposed rule sets forth detailed requirements for disclosures in television, radio and print advertising with respect to placement, size, length and timing of the disclosures. What are the advantages and disadvantages of each particular requirement? Are there any modes of advertising in which the requirements would not be feasible? In addition, please comment on the following:

a. Are the size requirements, in particular those requiring disclosures to be one-tenth of the vertical field of the television screen, feasible for television advertisements?

b. Would it be useful for the rule to be more specific with respect to certain disclosures? For instance, is the requirement that disclosures be at least 12-point type sufficiently specific, or should the rule require a certain type style as well?

c. Are there any modes of print advertisements in which use of 12-point type for the cost or other disclosure would not be feasible or adequate (*e.g.*, a matchbook or a billboard)? If so, how should the rule implement the statute's disclosure requirement in such advertisements?

d. Are particularized specifications for the placement, size, length and timing of disclosures necessary to ensure clarity of the disclosures, or would a more general standard (*e.g.*, clear and conspicuous) be equally or more effective?

11. The statue bans directing advertisements for pay-per-call services (except those qualifying as "bona fide educational services") to children under the age of 12. To implement this requirement, the proposed rule, in § 308.3(d)(2), defines the phrase "advertisements directed to children under 12" in terms of a rebuttable presumption.

a. Is this definition clear, meaningful, and appropriate?

b. Is it useful for the definition to be in the form of a rebuttable presumption? What are the advantages and disadvantages of defining the phrase in this manner?

c. Does the definition provide sufficient guidance as to the standard and type of evidence required to rebut the presumption?

d. Is the rebuttable presumption defined too narrowly? Should pay-per-call providers be permitted to use forms of evidence other than evidence relating to audience composition to demonstrate that an advertisement is not directed to children under 12? For example, should evidence such as subject matter, visual content, age of models, language, characters, tone, or message be permitted to rebut the presumption that an advertisement is directed to children under the age of 12? What are the advantages and disadvantages of allowing reliance on such evidence to rebut the presumption? Would this standard provide sufficient guidance as to the type of evidence required to rebut the presumption?

12. The statute bans directing advertisements "primarily to individuals under the age of 18" unless they disclose that before calling the service the caller must obtain permission from a parent or guardian. To implement this requirement, the proposed rule, in § 308.3(e)(5), defines the phrase "advertisements directed primarily to individuals under 18" in terms of a rebuttable presumption.

a. Is this definition clear, meaningful, and appropriate?

b. Is it useful for the definition to be in the form of a rebuttable presumption? What are the advantages and disadvantages of defining the phrase in this manner?

c. Does the definition provide sufficient guidance as to the standard and type of evidence required to rebut the presumption?

13. The proposed rule contains two rebuttable presumptions. To rebut the presumption that an advertisement is directed to children under 12, an advertiser must show that the audience is predominantly composed of individuals 12 or older, while to rebut the presumption that an advertisement is directed primarily to individuals under 18, an advertiser must show that the audience is primarily composed of individuals 18 or older. The Commission contemplates that in order to rebut the presumption that an advertisement is directed primarily to individuals under 18, an advertiser would need only to show that more than half of the receiving audience is 18 or older. At that point, the advertisement would not appear to be "directed primarily" to those under 18. In contrast, the Commission contemplates that in order to rebut the presumption that an advertisement is directed to children under the age of 12, an advertiser would have to show that significantly more than half—perhaps two-thirds to three-quarters—of the audience is 12 years of age or older.

a. Is the use of the words "predominantly" and "primarily" clear, meaningful and appropriate to implement the statutory requirements? If not, are there other words or phrases that would more accurately describe those percentages? Is the rule's reliance on percentage of audience composition appropriate? If not, are there measures that could be used more effectively?

b. Is it appropriate to interpret the statutory ban on advertisements of non-excepted pay-per-call services to children under the age of 12 as prohibiting pay-per-call service advertisements if one-quarter to one-third of the receiving audience is composed of children under 12? Is this cut-off too low? Is it too high? If the percentages chosen are believed not to be appropriate, please submit any data, including data on audience composition and demography, on how often such a requirement would affect advertisements on television, cable, radio and in magazines. Based on available data (either cited or submitted), is there a percentage of audience composition that would reflect accurately a "children's audience?"

14. The proposed rule also bases its definitions of "advertisements directed to children under 12" and "advertisements directed primarily to individuals under 18" on the medium in which the pay-per-call advertisements appear and the nature and content of the advertisements themselves. In relying, in part, on content to define advertisements directed to a particular age group, does the definition sweep too broadly? If the definition were not based on advertising content, would the rule provide sufficient guidance as to the type of

advertisement that would be presumed to be directed to a particular age group?

15. The proposed rule sets forth detailed requirements for disclosures in television, radio and print advertising with respect to placement, size, length and timing of the disclosures. What are the advantages and disadvantages of this type of disclosure requirement? Are the specifications appropriate across-the-board, or are there instances in which they are unnecessarily overboard or, alternatively, not stringent enough? Should the proposed rule set forth a performance standard instead? For example, should providers of pay-per-call services be given the option of demonstrating, through tests, market surveys, or other evidence, that the required disclosures are reasonably understood by the receiving audience? What are the advantages and disadvantages of a performance standard? What performance standard should be applied to demonstrate that the disclosures are reasonably understood? Would it be preferable to set forth a performance standard while offering a safe harbor [17] to firms that choose to comply with detailed requirements such as those contained in the proposed rule? Alternatively, would it be preferable to require simply that the disclosures be "clear and conspicuous" and to structure the detailed requirements for placement, size, length, and timing as safe harbors?

16. Section 201(a)(2)(J) of the Telephone Disclosure Act states that the Commission may prescribe additional standards to prevent abusive practices.

a. A number of abusive practices have come to the Commission's attention in the course of its investigations of 900-number services. What would be the advantages and disadvantages, including the costs to pay-per-call service providers, if the rule required providers of pay-per-call services that advertise a service or product through a pay-per-call number to disclose in the advertisement all of the material terms, conditions, and obligations upon which receipt or retention of the service or product is contingent? These conditions could include the number of calls necessary to receive the service or product, if more than one; a clear and accurate description of the service or product; the full cost of obtaining or using the service or product; any requirement that the caller disclose personal information, such as the caller's Social Security number or income level; and any other information material to the caller's ability to take advantage of the offer of the service or product by calling the pay-per-call number.

b. Is a provision requiring disclosure of some or all of these conditions needed to prevent deceptive practices in the advertising of pay-per-call services, particularly in light of the Commission's ability to seek injunctive relief and consumer redress for such practices under § 13(b) of the Federal Trade Commission Act? If so, are there other material terms, conditions, or obligations that are imposed upon consumers by some pay-per-call providers that should specifically be named in a disclosure requirement? If such disclosure requirements are necessary, what are the relative costs and benefits of allowing the disclosures to be made in the preamble rather than in advertising?

c. Does the fact that the statute provides for enforcement by state law enforcement agencies as well as by the Federal Trade Commission render use of a nonspecific term such as "all material terms" without further definition so vague as to risk generating confusion over what terms should be included? Are there any particular advantages or disadvantages to including such a provision in the rule?

Section 308.4 Special Rule for Infrequent Publications

17. The proposed rule, in § 308.4, provides an exemption, with respect to cost disclosures, for advertisements that appear in "infrequent publications."

a. Is the definition of "infrequent publications" contained in § 308.4(b) clear, meaningful and appropriate? What are the advantages and disadvantages of such an exemption? Is it an appropriate exemption?

b. The proposed rule requires that the publication must have a written policy of not publishing specific prices in advertisements in order to qualify as an "infrequent publication." Is this a necessary requirement, or would it be sufficient if a publication has an established, but unwritten, policy of not publishing prices?

c. If any additional material terms (such as those described in question 16 above) are required by the rule, should infrequent publications be exempted from disclosure of any of those terms?

Section 308.5 Pay-Per-Call Service Standards

18. Under the preamble requirements set forth in § 308.5(a) of the proposed rule, a provider of pay-per-call services must disclose certain information in a preamble to the pay-per-call service.

a. Is it useful and appropriate to require a provider of pay-per-call services to identify its name during the preamble? Is it necessary to include this information in the preamble given the fact that common carriers providing billing and collection services for pay-per-call service providers will be required, pursuant to proposed FCC regulations, to establish a local or toll-free telephone number to provide to callers the name and mailing address of any provider of pay-per-call services offered by that carrier?

b. Should a provider of pay-per-call services also be required to identify its address, or city and state, in the preamble? Should this identifying information also be required in the billing statements, discussed in § 308.5(i) of the proposed rule?

19. Are the preamble cost disclosure requirements for calls billed on a time-sensitive and variable rate basis, set forth in §§ 308.5(a)(2) (ii) and (iii) of the proposed rule, sufficient and appropriate?

20. Section 308.5(a)(4) of the proposed rule requires that the preamble to each pay-per-call service inform the caller that anyone under the age of 18 must have the permission of a parent or legal guardian in order to complete the call. Should the rule mandate specific language, or provide safe harbor language, for this portion of the message? If yes, what language might effectively communicate to individuals under the age of 18 that they must have permission prior to calling a pay-per-call service.

21. The proposed rule, in § 308.5(b), prohibits the provider of pay-per-call services from charging a caller for the pay-per-call service if the caller hangs up at any time prior to five seconds after the end of the preamble.

A. Is this prohibition useful and appropriate?

B. What are the costs and benefits of this requirement, and to whom would they accrue?

C. Is five seconds a sufficient length of time to assure that consumers who hang up at the end of the preamble will not be billed for the call?

d. The proposed rule does not preclude the pay-per-call service from beginning its program immediately following the signal or tone that indicates the conclusion of the preamble, even though billing to the caller cannot begin until five seconds after that signal or tone. Should the rule require 2 or 3 seconds of silence between the preamble and the program to indicate to consumers that this is the appropriate time to exercise their discretion to hang up if they so choose?

[17] A "safe harbor" provides an example of a disclosure that satisfies the requirements of the rule.

22. Section 308.5(c) of the proposed rule exempts from the preamble requirements pay-per-call services with a nominal charge of $2.00 or less, whether billed on a flat rate or on a time-sensitive basis. What are the advantages and disadvantages of such an exemption? Is such an exemption useful and appropriate? Is a $2.00 fee level appropriate for this exemption? Should the exemption amount be adjusted periodically to reflect inflation? To assist the Commission in its evaluation of the suitability of setting the nominal charge at the $2.00 level, information is requested in the following areas:

a. Currently, what is the cost of including a preamble in a pay-per-call service program? How will the proposed rule affected this cost?

b. In 1992, for the industry as a whole, what were the total number of calls placed to pay-per-call services? In what proportion of these calls did the callers hang up during the preamble? Has this proportion increased or decreased over time, and why?

c. Is there a relationship between the cost of the call and the proportion of callers who hang up during the preamble? Are callers more likely to hang up during the preamble of more expensive calls?

d. Is information available on the reasons callers hang up during the preamble? If so, do the reasons differ according to the cost of the call? That is, are the reasons for hanging up during the preamble of a nominally-priced call different from the reasons for hanging up during an expensive call? Please explain.

e. Is information available on the proportion of callers who hang up during the preamble because they discover that the cost of the call exceeds what they had initially anticipated?

f. In what proportion of calls are charges contested? Is there a relationship between the cost of a call and the likelihood that its charges will be contested? Why do callers contest charges? Do the reasons differ according to the cost of the call? If the call is more expensive, are callers more likely to contest charges?

g. What is the relationship between the demand for pay-per-call services and the price of those services? To what extent can increases in the cost of the preamble be passed on to consumers, in the form of higher charges?

h. What is the current distribution of pay-per-call services in terms of the cost of the call? For example, what proportion of calls cost less than $1.00; $1.00 to $1.99; $2.00 to $2.99; $3.00 to $3.99; $4.00 to $4.99; $5.00 to $5.99; and $6.00 or more?

23. Section 308.5(d) of the proposed rule exempts from the preamble requirements pay-per-call services that offer frequent callers or regular subscribers the option of activating a bypass mechanism.

a. What are the advantages and disadvantages of such an exemption? Is such an exemption useful and appropriate?

b. The proposed rule requires this bypass mechanism to be disabled for a 30-day period after the institution of a price increase or a change in the nature of the service offered. Is this period of time sufficient? Is it too long? What other possible changes to the preamble should trigger disabling of the bypass mechanism? Is there a more efficient mechanism to ensure that frequent callers are informed of such material changes in the preamble?

c. Is it possible for common carriers to rate calls differentially when the preamble has been bypassed, so that billing to the caller can begin once the bypass has been triggered?

24. Should the rule exempt from the preamble requirements of § 308.5(a) data services, *i.e.*, pay-per-call services that transmit data from one computer to another, with no individual present to receive the information in the preamble? What would be the advantages and disadvantages of such an exemption? What is an appropriate and useful definition of such "data services?"

25. Should the provider of pay-per-call services be required to disconnect automatically a call after one full cycle of the pay-per-call program?

26. Should a provider of pay-per-call services be required to include a beep tone or other appropriate signal during a live interactive group program so that callers will be altered to the passage of time or accrued charges?

27. In order to address the potential problem of the billing of pay-per-call services through the use of fraudulent billing tapes, should the rule include a requirement that all billing for pay-per-call services be based on the call detail records provided by the certified carrier of the call?

28. Are there other ways in which the requirements of the proposed rule might be circumvented by providers of pay-per-call services? If so, what additional provisions might the Commission adopt in order to prevent such circumvention?

29. Should service bureaus be required to monitor all pay-per-call services that operate on their equipment to assure that such pay-per-call services comply with the provisions of this rule? Should service bureaus be held liable for violations of some or all of the provisions of the rule by pay-per-call services which operate on their equipment? What costs would arise from such requirements?

30. Should the rule include protection against the unauthorized use of a consumer's telephone to call pay-per-call services? Is it technically feasible to require all consumers to have an access code or PIN number which they must dial before being able to access any pay-per-call service? What are the advantages and disadvantages or costs to requiring such an access code? Is such a requirement useful and appropriate?

31. The Commission has been authorized to prescribe additional standards deemed necessary to prevent abusive practices or to prevent evasion of the rule. What specific additional standards might be desirable, or necessary, to prevent such practices, or to prevent evasion of the requirements and prohibitions set forth in this rule? What are the costs and benefits of these additional standards?

Section 308.6 Access to Information

32. Section 308.6 of the proposed rule requires common carriers that provide telephone services to any provider of pay-per-call services to make available to the Commission, upon written request, certain records and financial information concerning the arrangements between such carrier and the provider of pay-per-call services. Should the rule include a list of the types of records which common carriers must maintain for this purpose? If so, what information should be included in this listing? Should the final rule indicate the length of time such records must be maintained?

Section 308.7 Billing and Collection for Pay-Per-Call Services

33. Is the term "preexisting agreement" as used in § 304(1)(A) of the Telephone Disclosure Act synonymous with "presubscription or comparable arrangement" as defined in § 308.2(d) of the proposed rule?

34. To be considered a "billing error" under § 308.7(a)(2)(i), a telephone-billed purchase must not have been "made by the customer nor made from the telephone of the customer who was billed for the purchase."

a. Should a customer be permitted to assert as a "billing error" a telephone-billed purchase that was not made by that customer but made by another resident of the customer's household using the customer's telephone?

b. Should the answer differ depending on whether the person making the purchase is a minor?

c. What if the purchase was made from the customer's telephone by someone other than a member of the customer's household?

d. What if the purchase was made from outside of the customer's residence by someone other than a member of the customer's household who charged the call to the customer's telephone?

35. a. Section 308.7(b) of the proposed rule would not require the customer to provide written notice of a billing error. Any method of notification would be acceptable. Should written notification be specifically required? What are the advantages and disadvantages of requiring written notification?

b. Section 308.7(d)(1) of the proposed rule would require a billing entity to acknowledge the customer's billing error notice in writing. What are the advantages and disadvantages of requiring written acknowledgement? If written notification were not required how would compliance be verified?

c. Section 308.7(d)(3)(ii) of the proposed rule would require the billing entity to notify the customer in writing of the time when payment is due and to warn the customer in writing that a failure to pay might be reported to a credit reporting agency or subject the customer to a collection action. What is the economic impact on providing carriers and billing entities of requiring written notification?

36. Section 308.7(h) of the proposed rule allows a billing entity, providing carrier, or vendor to charge its customers for investigating billing errors. Should the rule provide an absolute prohibition on charges related to billing errors? How might such a prohibition affect the incidence of frivolous billing error complaints?

37. Section 308.7 of the proposed rule does not require billing entities, providing carriers, or vendors to maintain records with respect to the billing and collection of pay-per-call services.

a. Should the rule include a record retention provision?

b. Are there reasons why billing entities, providing carriers, or vendors should not be subject to record retention requirements similar to those imposed upon creditors under the Truth in Lending Act and Fair Credit Billing Act? (12 CFR 226.25).

c. What are the current record retention policies and practices of billing entities, providing carriers, and vendors with respect to billing, customer complaints and inquiries, collection activity, and related actions?

d. Are records currently retained for a sufficient period of time to demonstrate compliance with § 308.7? What would be the costs and benefits of any additional requirements that might be needed? What would be the economic impact on billing entities, providing carriers, and vendors of such additional record retention requirements?

e. If record retention is not required, how could compliance be verified?

f. What has been the experience of state and local law enforcement agencies with respect to record retention requirements? Have such requirements been useful? If yes, how? If no, why not? What types of enforcement issues could arise if record keeping were not required?

38. Should there be a provision limiting customer liability for unauthorized calls to pay-per-call services? If "yes," how could one determine whether a call to a pay-per-call service was "unauthorized"? Would use of an access code or PIN number assist in such a process?

39. The use of third-party billers is increasing in the pay-per-call industry. The practices of some of those third party billers may not offer the same billing protection to consumers that are currently offered by the common carriers. Identify any protections now offered to consumers by the common carrier that are neither presently offered by third-party billers, nor required by the proposed rule. Should the proposed rule be modified to include such additional protections? What costs might arise from doing so?

Other

40. Are there new types of services, other than 900 number line services, that may fall within the statutory definition of "pay-per-call services" and hence fall under these regulations? Will the proposed disclosure requirements be appropriate and/or feasible for such new types of services?

41. What kinds of technological changes may be anticipated in the near future in the area of pay-per-call services? Will the proposed disclosure requirements be appropriate and/or feasible after these technological changes are implemented?

42. As already noted in section F, comment is also invited on the effect of the proposed rule with regard to costs, profitability, competitiveness, and employment of small business entities.

43. What will be the impact of the proposed rule on non-profit organizations?

44. In addition, to the extent not otherwise addressed by the questions above, are there any regulatory alternatives that would reduce any adverse economic impact of the proposed rule, yet fully implement the Telephone Disclosure Act?

45. What are the aggregate costs and benefits of the proposed rule? Are there any provisions in the proposed rule that are not necessary to implement the statute or that impose costs not outweighed by benefits? Who will benefit and who will bear the cost? Can we expect either the costs or benefits of the rule to dissipate over time?

List of Subjects in 16 CFR Part 308

900 telephone numbers, Pay-per-call services, Trade practices.

Accordingly, it is proposed that chapter I of 16 CFR be amended by adding a new part 308 to read as follows:

PART 308—REGULATIONS UNDER THE TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT OF 1992

Sec.

308.1 Scope of regulations in this part.
308.2 Definitions.
308.3 Advertising of pay-per-call services.
308.4 Special rule for infrequent publications.
308.5 Pay-per-call service standards.
308.6 Access to information.
308.7 Billing and collection for pay-per-call services.
308.8 Severability.

Authority: 15 U.S.C. 5711–14, 5721–24.

§ 308.1 Scope of regulations in this part.

This rule implements Titles II and III of the Telephone Disclosure and Dispute Resolution Act of 1992, to be codified in relevant part at 15 U.S.C. 5711–14, 5721–24.

§ 308.2 Definitions.

(a) *Bona fide educational service* means any pay-per-call service that provides information or instruction relating to education, subjects of academic study, or other related areas of school study.

(b) *Commission* means the Federal Trade Commission.

(c) *Pay-per-call services* has the meaning provided in § 228 of the Communications Act of 1934, 47 U.S.C. 228.[1]

[1] Section 228 of the Communications Act of 1934 states that:

(1) The term "pay-per-call services" means any service—(A) in which any person provides or purports to provide—

(i) audio information or audio entertainment produced or packaged by such person;

(ii) access to simultaneous voice conversation services; or

(iii) any service, including the provision of a product, the charges for which are assessed on the basis of the completion of the call;

(d) *Person* means any individual, partnership, corporation, association, government or governmental subdivision or agency, or other entity.

(e) *Presubscription or comparable arrangement* means a contractual agreement established prior to the initiation of a pay-per-call service between a provider of pay-per-call services and a consumer. No action taken by the consumer during the course of a call to a pay-per-call service can be construed as creating such a contractual agreement.

(f) *Program-length commercial* means any commercial or other advertisement fifteen (15) minutes in length or longer or intended to fill a television or radio broadcasting or cablecasting time slot of fifteen (15) minutes in length or longer.

(g) *Provider of pay-per-call services* means any person who sells a pay-per-call service.

(h) *Reasonably understandable volume* means at an audible level that renders the message intelligible to the receiving audience, and, in any event, at least the same audible level as that principally used in the advertisement or the pay-per-call service.

(i) *Slow and deliberate manner* means at a rate that renders the message intelligible to the receiving audience, and, in any event, at a cadence or rate no faster than that principally used in the advertisement or the pay-per-call service.

(j) *Sweepstakes,* including games of chance, means a game or promotional mechanism that involves the elements of a prize and chance and does not require consideration.

§ 308.3 Advertising of pay-per-call services.

(a) *Cost of the call.* (1) The provider of pay-per-call services shall clearly and conspicuously disclose the cost of the call, in Arabic numerals, in any advertisement for the pay-per-call service, as follows:

(i) If there is a flat fee for the call, the advertisement shall state the total cost of the call.

(ii) If the call is billed on a time-sensitive basis, the advertisement shall state the cost per minute and any minimum charges. If the duration of the program can be determined in advance, the advertisement shall also state the total cost for the complete program. If the duration of the program cannot be determined in advance (because it involves a live conversation or is dependent upon options selected by the caller), the advertisement shall state that the length of the call is subject to caller discretion, unless it is otherwise clear from the context that such is the case.

(iii) If the call is billed on a variable rate basis, the advertisement shall state, in accordance with §§ 308.3(a)(1) (i) and (ii), the cost of the initial portion of the call, any minimum charges, and the range of rates that may be charged depending on the options chosen by the caller.

(iv) The advertisement shall disclose any other fees that will be charged for the service.

(v) If the caller may be transferred to another pay-per-call service, the advertisement shall disclose the cost of the other call, in accordance with §§ 308.3(a)(1) (i), (ii), (iii), and (iv).

(2) The disclosures in § 308.3(a)(1) shall be made in the same language as that principally used in the advertisement.

(3) For purposes of § 308.3(a), disclosures shall be made "clearly and conspicuously" as follows:

(i) In a television or videotape advertisement, the disclosures shall be presented simultaneously in both the audio and video portions of the advertisement, except that in an advertisement fifteen (15) seconds or less in length in which the pay-per-call number is not presented in the audio portion, no audio presentation of the disclosure is required. When required, the audio disclosure shall be made at least once, and shall be delivered in a slow and deliberate manner and in a reasonably understandable volume. The video disclosure shall appear adjacent to each video presentation of the pay-per-call number. Each letter or numeral of the video disclosure shall be at least as large as each letter or numeral of the pay-per-call number to which it is adjacent, shall be of a color or shade that readily contrasts with the background, and shall appear on the screen for the duration of the presentation of the pay-per-call number.

(ii) In a print advertisement, the disclosure shall be parallel with the base of the advertisement and shall be placed adjacent to each presentation of the pay-per-call number. Each letter or numeral of the disclosure shall be at least as large as each letter or numeral of the pay-per-call number to which it is adjacent. The disclosure shall be of a color or shade that readily contrasts with the background of the advertisement.

(iii) In a radio advertisement, the disclosure shall be made at least once, and shall be delivered immediately following the first delivery of the pay-per-call number. In any program-length commercial, the disclosure shall be delivered immediately following each delivery of the pay-per-call number. The disclosure shall be delivered in a slow and deliberate manner and in a reasonably understandable volume.

(4) Nothing contrary to, inconsistent with, or in mitigation of, the above-required disclosures shall be used in any advertisement in any medium; nor shall any audio or video technique be used that is likely to detract significantly from the communication of the disclosures.

(b) *Sweepstakes; games of chance.* (1) The provider of pay-per-call services that advertises a prize or award or a service or product at no cost or for a reduced cost, in connection with the offering of any sweepstakes, including games of chance, shall clearly and conspicuously disclose in the advertisement the odds of being able to receive the prize, award, service, or product at no cost or reduced cost. If the odds are not calculable in advance, the advertisement shall disclose the factors used in calculating the odds. The advertisement shall clearly and conspicuously disclose that no purchase (i.e., no call to the pay-per-call service) is required to participate, and shall also disclose a free alternative method of entry and instructions on how to enter. The advertisement shall also disclose the scheduled termination date of the offer of the prize, award, service, or product.

(2) The disclosures in § 308.3(b)(1) shall be made in the same language as that principally used in the advertisement.

(3) For purposes of § 308.3(b), disclosures shall be made "clearly and conspicuously" as follows:

(i) In a television or videotape advertisement, the disclosures shall be presented simultaneously in both the audio and video portions of the advertisement, except that in an advertisement fifteen (15) seconds or less in length in which the pay-per-call number is not presented in the audio portion, no audio presentation of the disclosure is required. When required, the audio disclosure shall be made at least once, and shall be delivered in a slow and deliberate manner and in a

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(B) for which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call; and

(C) which is accessed through the use of a 900 telephone number or other prefix or area code designated by the [Federal Communications] Commission in accordance with subsection (b)(5) [47 U.S.C. 228(b)(5)].

(2) Such term does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliates, or any service the charge for which is tariffed, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service

reasonably understandable volume. Each line of the video disclosure shall occupy at least one-tenth of the vertical field of the television screen, shall be of a color or shade that readily contrasts with the background, and shall appear on the screen for sufficient time to allow consumers to read the disclosure.

(ii) In a print advertisement, the disclosure shall be parallel with the base of the advertisement, in at least 12-point type, and of a color or shade that readily contrasts with the background of the advertisement.

(iii) In a radio advertisement, the disclosure shall be delivered in a slow and deliberate manner and in a reasonably understandable volume.

(4) Nothing contrary to, inconsistent with, or in mitigation of, the above-required disclosures shall be used in any advertisement in any medium; nor shall any audio or video technique be used that is likely to detract significantly from the communication of the disclosures.

(c) *Federal programs.* (1) The provider of pay-per-call services that advertises a pay-per-call service that is not operated or expressly authorized by a Federal agency, but that provides information on a Federal program, shall clearly and conspicuously disclose in the advertisement that the pay-per-call service is not authorized, endorsed, or approved by any Federal agency.

(2) The disclosures in § 308.3(c)(1) shall be made in the same language as that principally used in the advertisement.

(3) For purposes of § 308.3(c), disclosures shall be made "clearly and conspicuously" as follows:

(i) In a television or videotape advertisement, the disclosures shall be presented simultaneously in both the audio and video portions of the advertisement, except that in an advertisement fifteen (15) seconds or less in length in which the pay-per-call number is not presented in the audio portion, no audio presentation of the disclosure is required. When required, the audio disclosure shall be made at least once, and shall be delivered in a slow and deliberate manner and in a reasonably understandable volume. The disclosure shall begin within the first fifteen (15) seconds of the advertisement. Each line of the video disclosure shall occupy at least one-tenth of the vertical field of the television screen, shall be of a color or shade that readily contrasts with the background, and shall appear on the screen for sufficient time to allow consumers to read the disclosure.

(ii) In a print advertisement, the disclosure shall be parallel with the base of the advertisement and shall appear in the top one-third of the advertisement. Each letter of the disclosure shall be in at least 12-point type. The disclosure shall be of a color or shade that readily contrasts with the background of the advertisement.

(iii) In a radio advertisement, the disclosure shall begin within the first fifteen (15) seconds of the advertisement, and shall be delivered in a slow and deliberate manner and in a reasonably understandable volume.

(4) Nothing contrary to, inconsistent with, or in mitigation of, the above-required disclosures shall be used in any advertisement in any medium; nor shall any audio or video technique be used that is likely to detract significantly from the communication of the disclosures.

(d) *Prohibition on advertising to children.* (1) The provider of pay-per-call services shall not direct advertisements for such pay-per-call services to children under the age of 12, unless the service is a bona fide educational service.

(2) For the purposes of this regulation, advertisements directed to children under 12 shall be presumed to include the following:

(i) Advertisements appearing in publications, including, but not limited to, books, magazines and comic books, that are directed to children under 12;

(ii) Advertisements appearing during or immediately adjacent to television programs, including, but not limited to, children's programming as defined by the Federal Communications Commission, animated programs, and after-school specials, that are directed to children under 12;

(iii) Advertisements broadcast during or immediately adjacent to radio programs directed to children under 12;

(iv) Advertisements appearing on the same video as a commercially-prepared video directed to children under 12;

(v) Advertisements or promotions appearing on product packaging directed to children under 12; and

(vi) Any advertisement, regardless of when or where it appears, that is directed to children under 12 in light of its subject matter, visual content, age of models, language, characters, tone, message, or the like.

(3) The presumption contained in § 308.3(d)(2) may be rebutted with competent and reliable audience composition data or other competent and reliable evidence demonstrating that the receiving audience is composed predominantly of individuals aged 12 or older.

(e) *Advertising to individuals under the age of 18.* (1) The provider of pay-per-call services shall ensure that any pay-per-call advertisement directed primarily to individuals under the age of 18 shall contain a clear and conspicuous disclosure that all individuals under the age of 18 must have the permission of such individual's parent or legal guardian prior to calling such pay-per-call service.

(2) The disclosure in § 308.3(e)(1) shall be made in the same language as that principally used in the advertisement.

(3) For purposes of § 308.3(e), clear and conspicuous shall mean the following:

(i) In a television or videotape advertisement, the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement, except that in an advertisement fifteen (15) seconds or less in length in which the pay-per-call number is not presented in the audio portion, no audio presentation of the disclosure is required. When required, the audio disclosure shall be made at least once, and shall be delivered in a slow and deliberate manner and in a reasonably understandable volume. The video disclosure shall appear adjacent to the largest presentation of the pay-per-call number. Each line of the video disclosure shall occupy at least one-tenth of the vertical field of the television screen, shall be of a color or shade that readily contrasts with the background, and shall appear on the screen for sufficient time to allow consumers to read the disclosure. In any program-length commercial, the video disclosure shall appear simultaneously with and for the duration of each presentation of the pay-per-call number.

(ii) In a print advertisement, the disclosure shall be parallel with the base of the advertisement and shall be placed adjacent to the largest presentation of the pay-per-call number. Each letter of the disclosure shall be in at least 12-point type. The disclosure shall be of a color or shade that readily contrasts with the background of the advertisement.

(iii) In a radio advertisement, the disclosure shall be delivered in a slow and deliberate manner and in a reasonably understandable volume. In any program-length commercial, the disclosure shall be delivered immediately preceding each delivery of the pay-per-call number.

(4) Nothing contrary to, inconsistent with, or in mitigation of, the above-required disclosures shall be used in any advertisement in any medium; nor shall any audio or video technique be used that is likely to detract

significantly from the communication of the disclosures.

(5) For the purposes of this regulation, advertisements directed primarily to individuals under 18 shall be presumed to include the following:

(i) Advertisements appearing in publications, including, but not limited to, books, magazines and comic books, that are directed primarily to individuals under 18;

(ii) Advertisements appearing during or immediately adjacent to television programs, including, but not limited to, mid-afternoon weekday television shows, that are directed primarily to individuals under 18;

(iii) Advertisements broadcast on radio stations that are directed primarily to individuals under 18;

(iv) Advertisements appearing on the same video as a commercially-prepared video directed primarily to individuals under 18; and

(v) Any advertisement, regardless of when or where it appears, that is directed primarily to individuals under 18 in light of its subject matter, visual content, age of models, language, characters, tone, message, or the like.

(6) The presumption contained in § 308.3(e)(5) may be rebutted with competent and reliable audience composition data or other competent and reliable evidence demonstrating that the receiving audience is composed primarily of individuals aged 18 or older.

(f) *Electronic tones in advertisements.* The provider of pay-per-call services is prohibited from using advertisements that emit electronic tones that can automatically dial a pay-per-call service.

(g) *Telephone solicitations.* The provider of pay-per-call services shall ensure that any telephone message that solicits calls to the pay-per-call service discloses the cost of the call in a slow and deliberate manner and in a reasonably understandable volume, in accordance with §§ 308.3(a)(1) (i) through (v).

(h) *Referral to toll free telephone numbers.* The provider of pay-per-call services is prohibited from referring in advertisements to an 800 telephone number, or any other telephone number advertised as or widely understood to be toll free, if callers to that number may be connected to an access number for, or may otherwise be transferred to, a pay-per-call service.

§ 308.4 Special rule for infrequent publications.

(a) In lieu of the cost disclosures required by § 308.3(a), the provider of any pay-per-call service that advertises in a publication that meets the requirements set forth in § 308.4(b) may include in any advertisement in such publication for such pay-per-call service, a clear and conspicuous disclosure that a call to the advertised pay-per-call service may result in a substantial charge above the long-distance charge.

(b) The publication referred to in § 308.4(a) must be:

(1) Widely distributed;

(2) Printed annually or less frequently; and

(3) One that has an established and written policy of not publishing specific prices in advertisements.

§ 308.5 Pay-per-call service standards.

(a) *Preamble message.* The provider of pay-per-call services shall include, in each pay-per-call message, an introductory disclosure message ("preamble") in the same language as that principally used in the pay-per-call message, that clearly, in a slow and deliberate manner and in a reasonably understandable volume:

(1) Identifies the name of the provider of the pay-per-call service and describes the service being provided;

(2) Specifies the cost of the service as follows:

(i) If there is a flat fee for the call, the preamble shall state the total cost of the call;

(ii) If the call is billed on a time-sensitive basis, the preamble shall state the cost per minute and any minimum charges; if the duration of the program can be determined in advance, the preamble shall also state the total cost for the complete program; if the duration of the program cannot be determined in advance (because it involves a live conversation or is dependent upon options selected by the caller), the preamble shall state that the length of the call is subject to caller discretion, unless it is otherwise clear from the context that such is the case;

(iii) If the call is billed on a variable rate basis, the preamble shall state, in accordance with §§ 308.5(a)(2) (i) and (ii), the cost of the initial portion of the call, any minimum charges, and the range of rates that may be charged depending on the options chosen by the caller;

(iv) Any other fees that will be charged for the service shall be disclosed, as well as fees for any other pay-per-call service to which the caller may be transferred;

(3) Informs the caller that charges for the call begin at the end of the preamble, after a clearly discernible signal or tone, and that the caller may avoid any charge for the call by hanging up at or before the sound of the tone;

(4) Informs the caller that anyone under the age of 18 must have the permission of a parent or legal guardian in order to complete the call; and

(5) Informs the caller, in the case of a pay-per-call service that is not operated or expressly authorized by a Federal agency but that provides information on a Federal program, that the pay-per-call service is not authorized, endorsed, or approved by any Federal agency.

(b) *No charge to caller for preamble message.* The provider of pay-per-call services is prohibited from charging a caller any amount whatsoever for such a service if the caller hangs up at any time prior to five seconds after the signal or tone indicating the end of the preamble described in § 308.5(a).

(c) *Nominal cost calls.* The preamble described in § 308.5(a) is not required when the entire cost of the pay-per-call service, whether billed as a flat rate or on a time sensitive basis, is $2.00 or less.

(d) *Bypass mechanism.* The provider of pay-per-call services that offers to frequent callers or regular subscribers to such services the option of activating a bypass mechanism to avoid listening to the preamble during subsequent calls shall not be deemed to be in violation of § 308.5(a), *provided that* any such bypass mechanism shall be disabled for a period of no less than 30 days immediately after the institution of an increase in the price for the service or a change in the nature of the service offered.

(e) *Billing limitations.* The provider of pay-per-call services is prohibited from billing consumers in excess of the amount described in the preamble for those services and from billing for any services provided in violation of any section of this rule.

(f) *Stopping the assessment of time-based charges.* The provider of pay-per-call services shall stop the assessment of time-based charges immediately upon disconnection by the caller.

(g) *Prohibition on services to children.* The provider of pay-per-call services shall not direct such services to children under the age of 12, unless such service is a bona fide educational service. A pay-per-call service directed to children under the age of 12 shall be presumed to include the following:

(1) Any pay-per-call service, regardless of when or where it is advertised, which is produced or designed for children under the age of 12, in light of its subject matter, content, language, featured personality, characters, tone, message, or the like. This presumption may be rebutted with competent and reliable evidence that

recipients of the service are predominantly individuals aged 12 or older.

(2) Any pay-per-call service that is advertised in the manner set forth in § 308.3(d)(2), unless that presumption is rebutted in accordance with § 308.3(d)(3).

(h) *Prohibition concerning toll free numbers.* The provider of pay-per-call services is prohibited from providing such services through an 800 number or other telephone number advertised as or widely understood to be toll free.

(i) *Disclosure requirements for billing statements.* The provider of pay-per-call services shall ensure that any billing statement for such provider's charges shall:

(1) Display any charges for pay-per-call services in a portion of the consumer's bill that is identified as not being related to local and long distance telephone charges; and

(2) For each charge so displayed, specify the type of service, the amount of the charge, and the date, time, and duration of the call.

(j) *Refunds to consumers.* The provider of pay-per-call services shall be liable for refunds to consumers who have been billed for pay-per-call services, and who have paid the charges for such services, pursuant to pay-per-call programs that have been found to have violated any provision of this rule or any other Federal rule or law.

§ 308.6 Access to information.

Any common carrier that provides telephone services to any provider of pay-per-call services shall make available to the Commission, upon written request, any records and financial information maintained by such carrier relating to the arrangements (other than for the provision of local exchange service) between such carrier and any provider of pay-per-call services.

§ 308.7 Billing and collection for pay-per-call services.

(a) *Definitions.* For the purposes of this section, the following definitions shall apply:

(1) *Billing entity* means any person who transmits a billing statement to a customer for a telephone-billed purchase, or any person who assumes responsibility for receiving and responding to billing error complaints or inquiries.

(2) *Billing error* means any of the following:

(i) A reflection on a billing statement of a telephone-billed purchase that was not made by the customer nor made from the telephone of the customer who was billed for the purchase or, if made, was not in the amount reflected on such statement.

(ii) A reflection on a billing statement of a telephone-billed purchase for which the customer requests additional clarification, including documentary evidence thereof.

(iii) A reflection on a billing statement of a telephone-billed purchase that was not accepted by the customer or not provided to the customer in accordance with the stated terms of the transaction.

(iv) A reflection on a billing statement of a telephone-billed purchase for a call made to an 800 or other toll free telephone number.

(v) The failure to reflect properly on a billing statement a payment made by the customer or a credit issued to the customer with respect to a telephone-billed purchase.

(vi) A computation error or similar error of an accounting nature on a billing statement of a telephone-billed purchase.

(vii) Failure to transmit a billing statement for a telephone-billed purchase to a customer's last known address if that address was furnished by the customer at least twenty days before the end of the billing cycle for which the statement was required.

(viii) A reflection on a billing statement of a telephone-billed purchase that is not identified in accordance with the requirements of § 308.5(i).

(3) *Customer* means any person who acquires or attempts to acquire goods or services in a telephone-billed purchase, or who receives a billing statement for a telephone-billed purchase charged to a telephone number assigned to that person by a providing carrier.

(4) *Preexisting agreement* means a "presubscription or comparable arrangement," as that term is defined in § 308.2(e).

(5) *Providing carrier* means a local exchange or interexchange common carrier providing telephone services (other than local exchange services) to a vendor for a telephone-billed purchase that is the subject of a billing error.

(6) *Telephone-billed purchase* means any purchase that is completed solely as a consequence of the completion of the call or a subsequent dialing, touch tone entry, or comparable action of the caller. Such term does not include:

(i) A purchase by a caller pursuant to a preexisting agreement with a vendor;

(ii) Local exchange telephone services or interexchange telephone services or any service that the Federal Communications Commission determines by rule—

(A) Is closely related to the provision of local exchange telephone services or interexchange telephone services; and

(B) Is subject to billing dispute resolution procedures required by Federal or state statute or regulation; or

(iii) The purchase of goods or services that is otherwise subject to billing dispute resolution procedures required by Federal statute or regulation.

(7) *Vendor* means any person who, through the use of the telephone, offers goods or services for a telephone-billed purchase.

(b) *Initiation of billing review.* A customer may initiate a billing review with respect to a telephone-billed purchase by providing, no later than 60 days after the billing entity transmitted the first billing statement that contains a charge for such telephone-billed purchase,[2] notice to that billing entity in which the customer:

(1) Sets forth or otherwise enables the billing entity to identify the customer's name and the telephone number to which the charge was billed;

(2) Indicates the customer's belief that the statement contains a billing error and the type, date, and amount of such error; and

(3) Sets forth the reasons for the customer's belief, to the extent possible, that the statement contains a billing error.

(c) *Disclosure of method of providing notice; presumption if oral notice is permitted.* A billing entity shall clearly and conspicuously[3] disclose on each billing statement or on other material accompanying the billing statement the method (oral or written) by which the customer may provide notice to initiate review of a billing error in the manner set forth in § 308.7(b). If oral notice is permitted, any customer who orally communicates an allegation of a billing error to a billing entity shall be presumed to have properly initiated a billing review in accordance with the requirements of § 308.7(b).

(d) *Response to customer notice.* A billing entity that receives notice of a billing error as described in § 308.7(b) shall:

[2] If the billing error is the reflection on a billing statement of a telephone-billed purchase not provided to the customer in accordance with the stated terms of the transaction, the 60-day period begins to run from the time the goods or services are delivered or, if not delivered, should have been delivered, if such time is later than the time the billing statement was transmitted.

[3] The standard for "clear and conspicuous" as used in this section shall be the standard enunciated by the Board of Governors of the Federal Reserve System in its Official Staff Commentary on Regulation Z, which requires simply that the disclosures be in a reasonably understandable form. See 12 CFR part 226, Supplement I, Comment 226.5(a)(1)–1.

(1) Send a written acknowledgement to the customer including a statement that any disputed amount need not be paid pending investigation of the billing error. This shall be done no later than thirty (30) days after receiving the notice, unless the action required by § 308.7(d)(2) is taken within such 30-day period; and

(2)(i) Correct the billing error and credit the customer's account for any disputed amount and any related charges, notify the customer of the correction and that removal of the charge does not prevent the vendor, its agent, or the providing carrier, as applicable, from electing to pursue collection of the charge, and provide the names, mailing addresses, and business telephone numbers of the vendor and providing carrier, as applicable, that are the subject of the telephone-billed purchase; or

(ii) Transmit an explanation to the customer, after conducting a reasonable investigation (including, where appropriate, contacting the vendor or providing carrier),[4] setting forth the reasons why it has determined that no billing error occurred or that a different billing error occurred from that asserted, make any appropriate adjustments to the customer's account, and, if the customer so requests, provide a written explanation and copies of documentary evidence of the customer's indebtedness.

(3) The action required by § 308.7(d)(2) shall be taken no later than two complete billing cycles of the billing entity (in no event later than ninety (90) days) after receiving the notice of the billing error and before taking any action to collect the disputed amount, or any part thereof. After complying with § 308.7(d)(2), the billing entity shall:

(i) If it is determined that any disputed amount is in error, promptly notify the appropriate providing carrier or vendor, as applicable, of its disposition of the customer's billing error and the reasons therefor; and

(ii) Promptly notify the customer in writing of the time when payment is due of any portion of the disputed amount determined not to be in error, which time shall be at least twenty (20) days after the date of such notification, and promptly notify the customer in writing that failure to pay such amount may be reported to a credit reporting agency or subject the customer to a collection action.

(e) *Withdrawal of billing error notice.* A billing entity need not comply with the requirements of § 308.7(d) if the customer has, after giving notice of a billing error and before the expiration of the time limits specified therein, agreed that the billing statement was correct.

(f) *Limitation on responsibility for billing error.* After complying with the provisions of § 308.7(d), a billing entity has no further responsibility under that section if the customer continues to make substantially the same allegation with respect to a billing error.

(g) *Customer's right to withhold disputed amount; limitation on collection action.* Once the customer has submitted notice of a billing error to a billing entity, the customer need not pay, and the billing entity, providing carrier, or vendor may not try to collect, any portion of any required payment that the customer reasonably believes is related to the disputed amount until the billing entity receiving the notice has complied with the requirements of § 308.7(d). The billing entity, providing carrier, or vendor are not prohibited from taking any action to collect any undisputed portion of the bill, or from reflecting a disputed amount and related charges on a billing statement, provided that the billing statement clearly states that payment of any disputed amount or related charges is not required pending the billing entity's compliance with § 308.7(d).

(h) *Charges for initiating billing review.* If a billing error occurred, whether as alleged or in a different amount or manner, the billing entity, providing carrier, or vendor may not impose on the customer any charge related to the billing review (including charges for documentation or investigation). If it is determined that no billing error occurred, any charges imposed must be reasonable in light of the costs involved in conducting the billing review and must not be of such an amount as to discourage customers from asserting their rights under this section.

(i) *Restrictions on credit reporting.*—(1) *Adverse credit reports prohibited.* Once the customer has submitted notice of a billing error to a billing entity, a billing entity, providing carrier, vendor, or other agent may not report or threaten directly or indirectly to report adverse information to any person because of the customer's withholding payment of the disputed amount or related charges, until the billing entity has met the requirements of § 308.7(d) and allowed the customer twenty (20) days thereafter to make payment.

(2) *Reports on continuing disputes.* If a billing entity receives further notice from a customer within the time allowed for payment under § 308.7(i)(1) that any portion of the billing error is still in dispute, a billing entity, providing carrier, vendor, or other agent may not report to any person that the customer's account is delinquent because of the customer's failure to pay that disputed amount unless the billing entity, providing carrier, vendor, or other agent also reports that the amount is in dispute and notifies the customer in writing of the name and address of each person to whom the vendor, billing entity, providing carrier, or other agent has reported the account as delinquent.

(3) *Reporting of dispute resolutions required.* A billing entity, providing carrier, vendor, or other agent shall report in writing any subsequent resolution of any matter reported pursuant to § 308.7(i)(2) to all persons to whom such matter was initially reported.

(j) *Forfeiture of right to collect disputed money.* Any billing entity, providing carrier, vendor, or other agent who fails to comply with the requirements of §§ 308.7 (c), (d), (g), (h), or (i) forfeits any right to collect from the customer the amount indicated by the customer, under § 308.7(b)(2), to be in error, and any late charges or other related charges thereon, up to $50 per transaction.

(k) *Prompt notification of returns and crediting of refunds.* When a vendor other than the billing entity accepts the return of property or forgives a debt for services in connection with a telephone-billed purchase, the vendor shall, within seven (7) business days from accepting the return or forgiving the debt, either:

(1) Mail or deliver a cash refund directly to the customer's address, or

(2) Transmit a credit statement to the billing entity through the vendor's normal channels for billing telephone-billed purchases. The billing entity shall, within three (3) business days after receiving a credit statement, credit the customer's account with the amount of the refund.

(l) *Right of customer to assert claims or defenses.* Any billing entity or providing carrier who seeks to collect charges from a customer for a telephone-billed purchase that is the subject of a dispute between the customer and the vendor shall be subject to all claims

[4] If a customer submits a billing error notice alleging either the nondelivery of goods or services or that information appearing on a billing statement has been reported incorrectly to the billing entity, the billing entity shall not deny the assertion unless it conducts a reasonable investigation and determines that the goods or services were actually delivered as agreed or that the information was correct. There shall be a rebuttable presumption that goods or services were actually delivered to the extent that a vendor or providing carrier produces documents prepared and maintained in the ordinary course of business showing the date on, and the place to, which the goods or services were transmitted or delivered.

(other than tort claims) and defenses arising out of the transaction and relating to the failure to resolve the dispute that the customer could assert against the vendor, if the customer has made a good faith attempt to resolve the dispute with the vendor or providing carrier (other than the billing entity). The billing entity or providing carrier shall not be liable under this paragraph for any amount greater than the amount billed to the customer for the purchase (including any related charges).

(m) *Retaliatory actions prohibited.* A billing entity, providing carrier, vendor, or other agent may not accelerate any part of the customer's indebtedness or restrict or terminate the customer's access to pay-per-call services solely because the customer has exercised in good faith rights provided by this section.

(n) *Notice of billing error rights.*—(1) *Annual statement.* (i) A billing entity shall mail or deliver the billing rights statement set forth below with the first billing statement for a telephone-billed purchase mailed or delivered to a customer after the effective date of these regulations. Thereafter, the billing entity shall mail or deliver the billing rights statement at least once per calendar year to each customer to whom it has mailed or delivered a billing statement for a telephone-billed purchase during the previous twelve months.

(ii) A billing entity that is a common carrier may comply with § 308.7(n)(1)(i) by, within 60 days after the effective date of these regulations, mailing or delivering the billing rights statement set forth below to all of its customers and, thereafter, mailing or delivering the billing rights statement at least once per calendar year, at intervals of not less than 6 months nor more than 18 months, to all of its customers.

Your Pay-Per-Call Billing Rights

Keep This Notice For Future Use

This notice contains important information about your rights and our responsibilities under the Telephone Disclosure and Dispute Resolution Act.

Notify Us in Case of Errors or Questions About Your Bill:

If you think you have been incorrectly billed for a 900 [or other pay-per-call] number telephone call, or if you need more information about a 900 [or other pay-per-call] number transaction appearing on your bill, let us know as soon as possible. We must hear from you no later than 60 days after we sent you the first bill on which the error or problem appeared. You must call us at the telephone number [or write us at the address] listed on your bill and give us the following information:

Your name and telephone number.
The dollar amount of the suspected error.
Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are not sure about.

If we specify that you must notify us in writing, and you do not, we are not obligated to respond to your complaint or inquiry. If we permit you to call in your billing error and a question arises about whether you properly notified us, we will assume you did, unless we can show you did not.

Your Rights and Our Responsibilities After We Receive Your Notice

We must acknowledge your notice within 30 days, unless we have corrected the error or notified you of the results of our investigation by then. Within 90 days, we must either correct the error or explain why we believe the bill was correct. You have the right to request a written explanation if we find that the bill was correct.

After we receive your notice, you do not have to pay any questioned amount, and no one may try to collect it, until we are finished investigating. We can continue to bill you for the amount you question, and you are still obligated to pay the parts of your bill that are not in question.

If we find that we made a mistake on your bill, you will not have to pay any charges related to any questioned amount. If we didn't make a mistake, you may have to pay late charges, and you will have to make up any missed payments on the questioned amount. In any case, we will send you a statement of the amount you owe and the date it is due.

After we have completed our investigation, if you fail to pay the amount that we think you owe, we may report you as delinquent. However, if you do not agree with our explanation and let us know within 20 days, we must tell anyone we report you to that you still dispute your bill. We must tell you the name of anyone we reported you to. We must also tell anyone we report you to that the matter has been settled between us when it finally is.

If we don't follow these rules, we can't collect the first $50 of the questioned amount, even if your bill was correct.

(2) *Alternative summary statement.* As an alternative to § 308.7(n)(1), a billing entity may mail or deliver, on or with each billing statement, a statement substantially similar to the following:

Pay-Per-Call Billing Rights Summary

In Case of Errors or Questions About Your Bill

If you think your 900 [or other pay-per-call] number telephone bill is wrong, or if you need more information about a 900 [or other pay-per-call] number call billed to your account, let us know as soon as possible. We must hear from you no later than 60 days after we sent you the first bill on which the error or problem appeared. Call us at the telephone number [or write us at the address] listed on your bill and give us the following information:

Your name and telephone number.
The dollar amount of the suspected error.
Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are unsure about.

Unless we tell you to notify us in writing, you may call in your billing error. Should any question arise about whether you properly notified us, we will assume you did, unless we can show you did not.

You do not have to pay any amount in question while we are investigating, but you are still obligated to pay the parts of your bill that are not in question. While we investigate your question, no one can report you as delinquent of take any action to collect the amount you question.

(o) *Multiple billing entities.* If a telephone-billed purchase involves more than one billing entity, only one set of disclosures need be given, and the billing entities shall agree among themselves which billing entity must comply with the requirements that this regulation imposes on any or all of them. The billing entity designated to receive and respond to billing errors shall remain the only billing entity responsible for complying with the terms of § 308.7(d). If a billing entity other than the one designated to receive and respond to billing errors receives notice of a billing error as described in § 308.7(b), that billing entity shall either: (1) promptly transmit to the customer the name, mailing address, and business telephone number of the billing entity designated to receive and respond to billing errors; or (2) transmit the billing error notice within fifteen (15) days to the billing entity designated to receive and respond to billing errors. The time requirements in § 308.7(d) shall not begin to run until the billing entity designated to receive and respond to billing errors receives notice of the billing error, either from the customer or from the billing entity to whom the customer transmitted the notice.

(p) *Multiple customers.* If there is more than one customer involved in a telephone-billed purchase, the disclosures may be made to any customer who is primarily liable on the account.

§ 308.8 Severability.

The provisions of this rule are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

By direction of the Commission.

Donald S. Clark,

Secretary.

Statement of Commissioner Deborah K. Owen in the Matter of Telephone Disclosure and Dispute Resolution Rulemaking

File No. R311001

March 3, 1993

I have voted to issue the proposed rule in this matter for public comment, even though I am particularly troubled by the fact that the proposed rule would impose a size requirement for cost disclosures that may be larger than necessary to meet the "clear and conspicuous" standard of the statute. According to the proposed rule, each letter or numeral of the disclosure must be at least as large as each letter or numeral of the pay-per-call number. This is twice the size of the disclosures mandated by our orders concerning pay-per-call numbers directed at children. There, each line must be half the size of the number, a requirement which, presumably, also meets a "clear and conspicuous" standard. Although I agreed to some provisions of the proposed rule for purposes of public comment, and although other provisions may be the best we can do with what we currently know, I do not believe that the size specifications for cost disclosures were appropriate, based on available evidence. However, I am hopeful that the public comment will provide more enlightenment on this (and other subjects) so that any necessary modifications can be made.

[FR Doc. 93–5432 Filed 3–9–93; 8:45 am]

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federal register

Wednesday
March 10, 1993

Part X

Department of Labor

Wage and Hour Division

29 CFR Part 825
Implementation of the Family and Medical Leave Act of 1993; Proposed Rule

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 825

RIN 1215–AA85

Implementation of the Family and Medical Leave Act of 1993

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Department of Labor is publishing this notice to obtain early public comment on issues to be addressed in regulations implementing the Family and Medical Leave Act of 1993, Public Law 103–3 (107 Stat. 6; February 5, 1993). A subsequent notice will be published as an interim final rule inviting comment on the regulatory provisions to implement the Act. As soon as possible after review of the comments received, a final rule will be published.

DATES: Comments must be submitted by March 31, 1993. Commenters are encouraged to submit comments before that date, and as soon as possible. Any comments received after that date will be made part of the rulemaking record and fully considered in the subsequent rulemaking, but may not be fully considered in interim implementing regulations that must be published by the date set forth in the Act.

ADDRESSES: Submit written comments to the Acting Administrator, Wage and Hour Division, U.S. Department of Labor, room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. As a convenience to commenters, comments may be transmitted by facsimile ("FAX") machine to (202) 219–5122. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: J. Dean Speer, Division of Policy and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S–3506, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 219–8412. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Family and Medical Leave Act (the Act or FMLA) was enacted into law on February 5, 1993. Title I of the Act, which establishes entitlements and responsibilities of non-Federal and certain Federal employees and employers relating to the granting of unpaid leave for certain family and medical reasons, will be administered and enforced by the Wage and Hour Division of the Department of Labor's Employment Standards Administration.

Similar provisions in title II of the Act affecting most Federal employees are to be administered by the U.S. Office of Personnel Management (OPM). Certain Federal employees and some entities, such as the U.S. Postal Service and Postal Rate Commission, are covered by title I of the Act, administered by the Department of Labor. Separate regulations implementing title II of the Act will be published by OPM. FMLA requires OPM to model its regulations implementing title II after the DOL regulations implementing title I, to the extent appropriate. The Department has been working with OPM to coordinate our respective rulemaking efforts. DOL will make available to OPM public comments received by DOL relevant to issues arising under title II for OPM's use in its rulemaking, to ensure consistency in implementing the law. As OPM is planning to issue its implementing regulations on an interim basis with provision for comment, those commenters with an interest in issues particular to title II of the FMLA are also encouraged to comment upon the OPM regulation upon its publication in the **Federal Register**.

The Act requires the Department of Labor to prescribe regulations implementing title I and title IV not later than 120 days after the date of enactment, by June 4, 1993. The leave provisions of title I are effective six months after the date of enactment, on August 5, 1993, except where a collective bargaining agreement (CBA) is in effect on that date, in which event the leave provisions take effect on the date of termination of such CBA or 12 months after the date of enactment, whichever is earlier. The Department of Labor's implementing regulations will address a variety of issues arising from the law, clarifying rights and responsibilities as warranted.

The Department of Labor fully expects to meet its obligations to publish implementing regulations in accord with the statutory timeframe and, in this context, is fully committed to taking every possible step to encourage and obtain public input to the rulemaking process. The purpose of this notice is, therefore, to solicit comments from all interested individuals and groups as early as possible in the development of the regulations.

There will, of course, be additional opportunity for public comment in conjunction with further rulemaking action by the Department. However, to guide the rulemaking process as it is undertaken and to maximize opportunity for the public to participate, we strongly encourage the early submission of any ideas, comments, or concerns which should be considered in the course of developing the regulations. Commenters are specifically encouraged to identify any issues which they believe need to be addressed in the implementing regulations and, as appropriate, offer their views, with supporting rationale, as to how such issues should be addressed by the regulations.

Commenters are also invited to submit any data relating to the economic impact of the Act. The Department intends to treat the interim final rule as a major rule for purposes of the Regulatory Impact Analysis requirements of Executive Order 12291, and will undertake to implement the statute so as to maximize benefits and minimize burdens on both employees and employers consistent with the purposes of the Act.

Summary of the Act and Regulatory Issues

Titles I and IV of the Act are summarized below. Where appropriate, regulatory issues will be guided by the Congressional Committee reports and legislative history of the FMLA. However, additional guidance is needed on a number of issues. Key issues which have arisen to date, and on which public comment is particularly solicited, are listed below, after the discussion of the pertinent statutory provision. Commenters are also specifically encouraged to identify any and all other issues which they believe need to be addressed in the implementing regulations and, as appropriate, offer their views, with supporting rationale, as to how such issues should be addressed by the regulations.

Section 101 Definitions

1. Section 101(2) of the Act defines "eligible employee" as an employee who has been employed by the employer for at least 12 months and for at least 1,250 hours of service, defined in accordance with "hours worked" principles under the Fair Labor Standards Act, within the preceding 12-month period.

Eligible employees do not include employees at a worksite where the employer employs fewer than 50 employees, provided the total number of employees within a 75-mile radius of the worksite is less than 50. The legislative history makes it clear that

"worksite" is to be defined in accordance with regulations under the Worker Adjustment and Retraining Notification Act (WARN), 20 CFR part 639. The term "worksite" is intended to be construed in the same manner as a "single site of employment," the term used in the WARN regulations. These regulatory provisions address questions concerning employees at temporary worksites, such as many construction workers or workers employed by temporary help agencies, as well as workers such as truck drivers and airline employees who have no fixed worksite.

How should the 75-mile radius be measured?

It should be noted that eligible employees covered by title I do not include Federal employees covered by title II of the Act, administered by OPM. Although most Federal employees are covered by title II, certain employees such as employees of the U.S. Postal Service and the Postal Rate Commission are covered by title I. The scope of title I as applied to these Federal employees will be set forth in the implementing regulations.

2. Section 101(4) of the Act defines "employer" as: "* * * any person engaged in commerce or in an industry or activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year * * *."

The terms "commerce" and "industry or activity affecting commerce" are broadly defined in accordance with the Labor Management Relations Act. The remainder of the definition is based on title VII of the Civil Rights Act of 1964, which has been construed to refer to the number of employees on the employer's payroll at a given point in time, including part-time employees and employees on leave. Further, issues have arisen regarding how leased employees, employees of franchises, and other loosely related business operations, e.g., related but separate corporate entities, should be counted for this purpose.

Is any distinction required between full-time employees and part-time or shift-work employees when determining if the employer meets the 50-employee threshold in 20 weeks each year?

Questions arise both under this provision and the definition of eligible employee regarding the point at which the 50-employee threshold must be met—e.g., when an employee gives notice to the employer of a request to take leave, or when the employee begins to take the leave.

Should the same procedures for counting employees be used in determining covered employers and eligible employees? When do FMLA's obligations and leave entitlements begin to apply to an employer that reaches a workforce of 50 employees? At what point would an employer that drops below the 50-employee threshold no longer be covered?

What is the effect of the number of employees going below the threshold if an employee has requested FMLA leave or the leave has commenced? How, if at all, should the regulations address the effect of an employer manipulating employment levels for the purpose of avoiding FMLA obligations, e.g., lay-offs or employee transfers to avoid coverage under the Act?

The term employer also includes: "(I) Any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and (II) any successor in interest of an employer; and (III) includes any 'public agency' as defined in section 3(x) of the Fair Labor Standards Act * * *."

The definition of "public agency," as cited above, does not include a 50-employee coverage limitation. Yet it appears that the 50-employee/75 mile limit must be met for employees of public agencies to be "eligible."

Should individual "public agencies" of a State or local government be considered separate employers for purposes of determining whether an employee meets the 50 employees/75 miles test required to be an eligible employee?

In this regard, it should be noted that public employers are so considered under the Fair Labor Standards Act regulations, at 29 CFR 553.102, governing determination of whether volunteers are performing services "for the same public agency" that employs them.

Does the 50 employee count apply to local educational agencies as defined in section 108?

3. Section 101(6) of the Act defines "health care provider" as: "* * * (A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; (B) or any other person determined by the Secretary to be capable of providing health care services." The Department is researching other potentially relevant regulations and consulting with Federal health-care agencies regarding these statutory terms.

Should the term health care provider encompass any and all health care specialties licensed under State law to practice (e.g., doctors of dental surgery, optometry, podiatric medicine, etc.)? How should the Department's regulations define and/or delimit others "capable" of providing health care services, particularly for non-traditional providers of health-related services? Should, for example, registered or practical nurses, chiropractors, acupuncture practitioners, etc., be included? Should there be a limitation to those licensed by the State or certified by a national organization? Should those who give care to persons who obtain treatment for a serious medical condition through faith alone, such as certified Christian Science practitioners, be included?

4. Section 101(9) of the Act defines "Reduced Leave Schedule" as "* * * a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee."

How should "workweek" or "workday" be defined as these terms relate to part time employees and their "usual number of hours" or to employees whose work schedules vary significantly from week to week?

5. Section 101(11) of the Act defines "serious health condition" as: "* * * an illness, injury, impairment, or physical or mental condition that involves: (A) Inpatient care in a hospital, hospice, or residential medical care facility; or (B) continuing treatment by a health care provider." The statutory language does not define "serious health condition" in terms of the duration of an illness.

Should there be a minimum duration of an illness for it to be considered a "serious health condition"? Should the Department's regulations define "continuing treatment by a health care provider" in (B) above? If so, how? Should, for example, substance abuse programs, psychotherapy, etc., be included?

6. Section 101(12)(B) defines "Son or Daughter" as one who is 18 years of age or older and incapable of self-care because of physical or mental disability.

What meaning, if any, should the regulations give to the term "incapable of self-care because of mental or physical disability"?

Section 102 Leave Requirement

1. An eligible employee is entitled to up to 12 workweeks of leave during "any 12-month period" for: the birth of a son or daughter, and to care for the son or daughter; placement of a son or daughter for adoption or foster care; to care for a spouse, son, daughter, or parent of the employee with a serious health condition; or because of the employee's own serious health

condition "that makes the employee unable to perform the functions of the position of such employee." Entitlement to leave for birth or placement for adoption expires one year after the date of birth or placement.

How should "any 12-month period" be defined? Should it be based on the 12 months preceding the request for or commencement of the leave, the calendar year, a future leave year chosen by the employee or employer, or should the employer have the discretion to designate the "12-month period" for the particular employee, for an entire worksite, or for all of its employees? In the case of leave for birth or adoption, is it necessary that the leave be concluded by the one-year expiration date, or only that the leave commence by that date? Are there other possibilities?

2. Leave can be taken "intermittently or on a reduced leave schedule" in certain circumstances. If it is for birth or adoption, the employer and employee must both agree. If it is to care for one's ill family member or because of one's own serious health condition, such leave may be taken "when medically necessary."

Should the question of whether such leave is "medically necessary" be left solely to the determination of the health care provider, or should the term be defined in the regulations?

An employee who must be absent from time to time in order to receive medical treatment is considered temporarily "unable to perform the functions of his or her position," and is therefore eligible for leave, on an intermittent basis, for the time necessary to receive the treatments. Where such leave is foreseable based on planned medical treatment, the employer may require the employee to transfer temporarily to an alternative position with equivalent pay and benefits that better accommodates the recurring periods of leave. The term "reduced leave schedule" is defined in section 101(9) of the Act, whereas "leave taken intermittently" is not.

Is there a need to separately define "intermittent" leave? If so, how should it be defined? If an employee is "unable to perform the functions of his or her position" due to a medical condition, but could perform some aspects of his or her job, or another job consistent with the medical limitations, may the employer reassign the employee to a different or differently-structured position with equal pay and benefits, thereby eliminating the need for such leave? Would the employee continue to be entitled to FMLA leave in such circumstances?

Section 102(b)(1) further provides that leave taken intermittently or on a reduced schedule basis shall not reduce the amount of leave available beyond the amount of leave actually taken.

What does the entitlement of "up to 12 weeks" of leave mean for employees who work part-time or schedules that vary or fluctuate and who take leave "intermittently or on a reduced leave schedule"?

3. Section 102(c) of the Act, in part, provides: "Except as provided in subsection (d) [discussed below], leave granted under subsection (a) may consist of unpaid leave. Where an employee is otherwise exempt under [the Department of Labor's regulations, at 29 CFR part 541, governing eligibility for exemption as a bona fide executive, administrative, or professional employee under section 13(a)(1) of the Fair Labor Standards Act], the compliance of an employer with this title by providing unpaid leave shall not affect the exempt status of the employee * * *."

Under 29 CFR part 541, to be exempt under FLSA section 13(a)(1) an employee must (among other things) be paid "on a salary basis." Deductions from the salary for partial day absences are not allowed under most circumstances. This subsection of the FMLA provides that where an employee is otherwise exempt under FLSA—i.e., meets the duties and salary amount requirements and is otherwise paid "on a salary basis"—the provision of unpaid leave for partial day absences (i.e., intermittent leave or leave on a reduced leave schedule) will not affect the employee's exempt status under FLSA section 13(a)(1).

Further, title IV of FMLA, sections 401 and 402 provide, in part, that nothing in FMLA shall be construed to supersede or diminish any State or local law, any collective bargaining agreement, or any employment benefit program or plan that provides greater rights or benefits than the rights established under FMLA. Section 403 states that nothing in FMLA shall be construed to discourage employers from adopting or retaining leave policies more generous than policies that comply with the requirements of the Act.

In light of these provisions, is there sufficient basis in the statute and its legislative history, and—if so—would it be appropriate to interpret section 102(c) of the FMLA to provide that granting unpaid leave intermittently or on a reduced leave schedule for family or medical reasons shall not affect the 541-exempt status of employees in situations which are not strictly required by FMLA, such as:

(A) An employee is provided unpaid leave, but is *not* an "eligible employee" as defined by FMLA—e.g., an employee of a large (covered) employer with multiple locations which applies the same leave policies at all its facilities, where the employee in question is employed at a worksite at which fewer than 50 employees are employed within 75 miles?

(B) The employer is not a covered employer as defined by FMLA?

(C) The employer provides unpaid leave on more generous terms or for other reasons than FMLA requires, in order to comply with State or local laws with higher standards?

(D) The employer voluntarily provides unpaid leave on more generous terms than required by FMLA in localities where no other State or local law has been enacted concerning family or medical leave?

4. The Act specifies circumstances for the substitution of certain types of paid leave. Thus, an employee may elect or an employer may require an employee to substitute accrued paid vacation leave, personal leave, or family leave for FMLA leave taken because of birth, adoption, or to care for an ill family member. Similarly, an employee may elect or an employer may require an employee to substitute accrued paid vacation leave, personal leave, or medical or sick leave for FMLA leave to care for an ill family member or because of the employee's own serious health condition, except that: "Nothing in this title shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave." It should be noted that certain kinds of paid leave can be substituted for certain types of family and medical leave while others cannot. For example, an employer might have a policy to grant paid sick leave to an employee who must care for a child with a contagious disease. Absent the contagious condition, however, the employer does not authorize paid sick leave to be used for the care of a sick child.

What is the relationship between paid and unpaid leave for FMLA purposes when an employee does not elect and the employer does not require full substitution of other paid leave? For example, where an employer provides paid sick leave, an employee fully uses 12 weeks of unpaid FMLA leave without substitution of paid leave, could the employee then take paid sick leave immediately after the FMLA leave?

A number of questions arise concerning these provisions, including:

(A) Does the proviso concern situations or illnesses, for example, for which the employer would not otherwise provide paid leave? Would an employer, for example, be permitted to deny the substitution of paid sick leave to care for an ill family member because that is not provided under the sick leave plan? How would such an interpretation affect the explicit provision permitting substitution of such leave?

(B) What is the relationship between sick or disability leave, and leave for the birth of a child? The provision does not mention substitution of sick leave in such a situation, yet clearly there is a period of disability following birth.

(C) If an employee requests paid leave for a planned absence (or, conversely, if the employer desires the employee to use accrued leave benefits), and the employee has accrued sufficient leave to cover the time off, should the employee or the employer determine whether the leave is FMLA leave? Should the employee or the employer, or either, determine whether the leave to be taken is FMLA leave for which accrued paid leave may be substituted?

(D) It has become the practice of some employers to eliminate distinctions on types of leave taken by employees (e.g., vacation, sick, personal, etc.,) and simply provide one category of paid leave designated as "paid time off," which may be used for any purpose permitted by the employer's paid leave policies. How should "paid time off" be treated under sections 102(d)(2) (A) and (B)?

5. Where leave is foreseeable based on birth or adoption, an employee must provide the employer with at least 30 days' notice before the leave begins, unless it is not possible because the birth or adoption affords less notice, in which case the employee must provide notice "as is practicable." When leave is foreseeable based on planned medical treatment (of a family member or for the employee's own treatment), the employee is also required to give 30 days' notice, where possible, or notice as is "practicable," and is required to: "Make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider * * *".

What, if any, regulatory guidance should be issued to clarify "notice as is practicable"? What form, if any, should the notice to the employer of need for leave take? What is the effect on the eligibility for unpaid leave if an employee fails to provide notice of intent to take leave that is "foreseeable" under section 102(e)(1)? In this regard, in more general terms, what are the consequences when an employee fails to meet any of his/her statutory obligations under the Act? What if the failure is not material or willful, or is due to an employee's lack of knowledge of his or her obligations or to circumstances beyond the employee's control?

6. If a husband and wife are employed by the same employer, they are together entitled to only a total of 12 workweeks of leave if the leave is taken because of birth or adoption, or to care for a sick parent. Under section 102(f), this limitation would not apply to leave taken by an employee for the employee's own serious health condition.

Would the same limitation apply to spouses employed by the same employer but at different locations, either: (a) Within a 75-mile radius? or, (b) beyond a 75-mile radius?

Section 103 Certification

1. An employer may require a certificate from the health care provider to justify leave to care for an ill family member or because of one's own serious health condition. The employee is required to provide such certification to the employer in a timely manner. If the employer has reason to doubt the validity of the certification, the employer may require a second opinion by a health care provider designated or approved by the employer (but not employed by the employer) and at the employer's expense. In the case of conflicting opinions, the employer may require a third and binding opinion from a health care provider jointly approved by the employer and employee, and at the expense of the employer.

How should "in a timely manner" in providing requested certification be defined? Should a regulatory process be developed to resolve any disputes between an employer and an employee over who should provide the third, binding medical opinion should one be necessary? If so, what type of process should be used?

2. An employer may require recertification "on a reasonable basis."

Should "reasonable basis" be defined? Under what circumstances can such recertifications be required by an employer, and who pays for any costs which may be associated with such recertification?

Section 104 Employment and Benefits Protection

1. Except as provided below, an employee who takes covered leave is entitled on return from leave to be restored to the same position the employee held when the leave commenced, or: "To be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment." A number of questions arise concerning the meaning of "equivalent position."

For example, does the position have to be "equivalent" geographically, i.e., at the same worksite or within the same commuting area? To what extent must the duties of the position be equivalent, as stated in the legislative history?

The Department expects to obtain guidance on these issues from case law under title VII, the Equal Pay Act, and the Veterans Reemployment Rights Act, and include such guidance in the FMLA regulations.

2. Section 104(a)(2) of the Act provides that the taking of leave under FMLA "shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced." However, a restored employee is not, by virtue of this section, entitled to: "(A) The accrual of any seniority or employment benefits during any period of leave; or (B) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave."

The legislative history explains that this latter provision is intended to make clear that if, for example, an employee would otherwise be laid off during the leave period, there is no more entitlement to restoration than if the employee had been working at the time of the lay-off. (The Department will be examining experiences under similar provisions in State laws and will look to ongoing relationships typically maintained at the workplace between employers and employees during similar leaves of absence.)

What, if any, regulatory guidance is required to interpret or implement this provision? Under this provision, if an employer has, for example, a group life insurance plan which requires all or a portion of the premiums to be paid by the employees, must coverage be continued during FMLA-required leave and, if so, who must pay the premiums? Can employers be required to afford employees the opportunity to continue life insurance (paying both employer and employee premiums) during the leave? (This question is especially significant because of the possibility of an individual dying during medical leave.) If the employee and/or employer portion of the premiums must continue to be paid by the employee to maintain coverage, how should this be done—

through advance payment or reimbursement to the employer, directly to the insurance provider, or through some other means? If the employee fails to make such payments, when and under what circumstances could coverage be terminated by the employer or the insurance carrier?

On the other hand, if all or a portion of the life insurance premiums were paid by the employer, would coverage have to be continued during FMLA leave? Would it be permissible for a plan to provide that an employee's benefits terminate upon non-payment of premiums, and that an employee cannot resume participation in the plan upon return to work? Could a life insurance plan require a new physical? Could an employer recover any premiums paid for group life insurance during FMLA leave when an employee is restored after leave? Would the answers to the above questions differ for other similar employer-provided benefits (e.g., profit-sharing and stock option plans, etc.)?

What obligations does an employer have to provide benefits to employees on unpaid FMLA leave when new benefit plans or programs are initiated or implemented during the period of leave? Who must pay the premiums for any benefit plans other than "group health plans," and can employer-paid premiums for benefits other than health insurance be recovered from employees? If an employer grants a pay increase to all employees during the leave, is an employee on FMLA leave at the time of the pay increase entitled to that pay increase immediately on return from FMLA leave?

3. An employer is permitted to have a uniformly applied policy of requiring employees to obtain certification of their ability to resume work, provided that this provision cannot supersede valid State or local law or a collective bargaining agreement provision. In addition, an employer is permitted to require an employee to "report periodically" as to his or her status and intention to return to work.

What regulatory guidance should be included to interpret "periodically" in this context? What is the effect, if any, of an employee working for another employer while on FMLA leave in order to mitigate the loss of wages—for example, an employee on leave in a distant city to care for a parent takes a part-time job; an employee ordinarily maintains two jobs but takes FMLA leave from only one?

4. Section 104(b) of the Act contains a narrow exception from the restoration requirements, allowing an employer to deny restoration to certain highly compensated employees. Such an employee must be both salaried and among the highest paid 10 percent of employees (salaried and unsalaried) employed by the employer within 75 miles of the worksite where the employee is employed.

What, if any, regulatory guidance should be included on the implementation of this exemption?

In defining those employees who are "salaried," should the Department of Labor use its regulations at 29 CFR 541.118, defining payment "on a salary basis" for purposes of exemption from the FLSA for bona fide executive, administrative and professional employees; its regulations at 29 CFR 778.114 concerning determination of the regular rate of pay for overtime purposes with respect to non-exempt employees who are paid on a salary basis; or, some other definition?

Restoration for such employees may be denied only if: "such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer * * *."

Furthermore, an employer is required to notify the employee of its intent to deny restoration as soon as the employer determines that such injury would occur.

An employer is required to notify the employee after the leave is requested but before leave is taken if the economic injury is foreseen at that time. Then, if the employee is on leave when notice is given, the employee must be given an opportunity to return to work—in a reasonable amount of time, according to the legislative history.

Thus, an employer may deny restoration for the specified reasons to certain employees, but may not deny the opportunity to take leave. The legislative history makes clear that if the employee takes, or continues leave, after notification, the employee continues to be entitled to maintenance of health benefits, and the cost of those benefits cannot be recovered from the employee if at the end of the leave period the employee seeks reinstatement and reinstatement is denied.

What obligation, if any, should an employer have to provide advance notification to an employee that the employee is a key employee to whom reinstatement would be denied if leave were requested? When should an employer designate "key employees" who would be subject to being denied restoration under this provision?

Should the Department's regulations establish criteria or standards defining "substantial and grievous economic injury to the operations of the employer" and, if so, how?

The literal language of the provision is that it is the denial of restoration which is necessary to prevent the grievous injury.

Should standards be specified to implement this test and, if so, what should they be? Is an employer's "reasonable belief" sufficient? If the employer reasonably believes the requisite injury will occur, but circumstances do not occur as envisioned, must the employee be restored? What are the employer's obligations if the employee's position has been filled (for example, because grievous economic injury would occur if a permanent replacement were not found), but an equivalent position is available? Must the employee be restored to the equivalent position?

5. Employers are required to maintain coverage under any group health plan that may apply to the employees during the period of the leave "under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave."

In other words, an employer is only required to pay the employer's share of any contributions to the health plan. The employer may recover the premiums paid, however, if the employee fails to return from leave for reasons other than the continuation or onset of a serious health condition, or other circumstances beyond the control of the employee. The employer may require a claim that an employee is unable to return to work for medical reasons be supported by certification by the health care provider.

As discussed above, questions arise concerning the method under which employees would make their share of contributions to the health plan, and whether coverage legally could be terminated under FMLA for late or nonpayment.

Section 105 Prohibited Acts

Section 105 makes it unlawful for an employer to interfere with, restrain or deny an employee's exercise of rights under FMLA, or to discriminate against an employee for filing charges, giving information, or testifying in a proceeding under the Act. In addition, it is unlawful for an employer to discharge or discriminate against an individual "for opposing any practice made unlawful by this title."

The legislative history links these provisions with title VII of the Civil Rights Act. For example, an employee need only have a reasonable belief that a practice is unlawful under FMLA.

Section 106 Investigative Authority

Section 106 is modeled on the FLSA, and gives the Secretary authority to conduct investigations, require an employer to keep records, and subpoena documents and witnesses. In this connection, comments are specifically sought on the nature of the records which should be required under this Act.

In addition, the Secretary cannot require an employer or a plan to submit records to the Secretary more than once during any 12-month period unless the Secretary has reason to believe a violation exists, or is investigating complaint of violations.

Section 107 Enforcement

1. Section 107 is also modeled on the enforcement structure of the FLSA. A violating employer is liable for: (1) Damages equal to the wages and benefits lost; (2) interest thereon; (3) liquidated damages equal to the wages and benefits lost; and, (4) appropriate equitable relief, including employment, reinstatement and promotion. Like section 16 of the FLSA, liquidated damages can be reduced in the discretion of the court if an employer establishes that it acted in good faith and with reasonable grounds for believing the act or omission was not a violation of the Act. Where wages and benefits have not been lost, such as where an employer denies leave to which an employee is entitled, damages may include actual monetary losses sustained as a direct result of the violation, such as the cost of providing care for a family member, up to an amount equal to 12 weeks of wages.

Employees have the right to file suit in any Federal or State court on their own behalf, or on behalf of themselves and other similarly situated employees. However, an employee's right to file suit, like under the FLSA, is terminated upon the filing of a complaint by the Secretary in which the Secretary seeks monetary relief with respect to the employee. Costs and fees are to be paid by the defendant in any successful action.

2. As under the FLSA, the Secretary has the authority to investigate and attempt to resolve complaints, to file suit for damages, or to file suit for injunctive relief. The statute of limitations for filing suit, also modeled on the FLSA, is two years after the last event constituting the alleged violation, or three years in the case of a willful violation. The Department solicits comments and suggestions for streamlined investigative processes that could be applied under the Act, particularly when resolving complaints in cases where the need for denied leave is urgent because of medical necessity.

Section 108 Special Rules Concerning Employees of Local Educational Agencies

1. Special provisions address the circumstances of employees of local educational agencies (public boards of education or other public authorities administering public elementary and secondary schools) or of private elementary or secondary schools. If an eligible employee is employed principally in an instructional capacity and takes intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment which would total more than 20 percent of the working days in the period over which the leave extends, the agency may require the employee to elect either to take leave for a specific block of time (not to exceed the period of the medical treatment), or to transfer temporarily to an alternative position. In addition, an employer may require an employee employed principally in an instructional capacity to continue leave until the end of the term if the employee begins leave more than five weeks prior to the end of the academic term, the leave is of at least three weeks duration, and the return to employment would occur during the last three weeks in the term. The legislative history explains that the term "employed principally in an instructional capacity" includes teachers and others "whose principal function is directly providing educational services," as distinguished from teacher assistants, cafeteria workers, and bus drivers.

2. For purposes of restoration to an equivalent position under section 104, section 108 provides that: "Such determination shall be made on the basis of established school board policies and practices, private school policies and practices, and collective bargaining agreements."

Comments are invited on the relationship between sections 108 and 104.

Section 109 Notice

Employers are required to post notices of the pertinent provisions of the Act which have been prepared or approved by the Secretary.

What, if any, obligation does an employer have to advise employees or respond to requests for information about their rights and responsibilities under FMLA, for example, after leave has been requested?

Civil money penalties of up to $100 for each separate offense may be assessed for willful violations of this posting of notices provision. Procedural regulations regarding such assessments will be prepared. The Department will prepare and make posters available to employers and will also set forth the text of the required notices to employees in the regulations for employers' use.

Title IV—Miscellaneous Provisions

Section 401 Effect on Other Laws

Nothing in FMLA shall modify or affect any Federal or State law prohibiting discrimination, nor shall the Act supersede any provision of State or local law providing greater family or medical leave rights than those under FMLA. Thus, the FMLA does not override Federal laws such as the Pregnancy Disability Act, the Rehabilitation Act, or the Americans with Disabilities Act. In this regard, the Department is reviewing these statutes as well as provisions of Title VII of the Civil Rights Act of 1964, the Employee Retirement Income Security Act (ERISA), and the Consolidated Omnibus Budget Reconciliation Act (COBRA), to determine potential relationships with FMLA, and solicits comments in this area. Questions arise concerning the relationship between FMLA and State or local laws, especially where some provisions are more generous and some provisions are more restrictive.

Should the regulations define or interpret these statutory terms? For example, if a State law requires *paid* leave to be used first, would this provision be *more* or *less* generous? If a State law limits the types or amount of medical information that can be requested from an employee because of privacy interests or the confidentiality of the doctor-patient relationship, would FMLA's certification provisions be subject to the same limitations (see sections 103, 104(a)(4), and 104(c)(3))?

Section 402 Effect on Existing Employment Benefits

Nothing in FMLA shall diminish the obligation of an employer to comply with a collective bargaining agreement or benefit program providing greater family or medical leave rights than those established under FMLA. On the other hand, the rights under FMLA cannot be diminished by a collective bargaining agreement or employment benefits program.

Section 403 Encouragement of More Generous Leave Policies

Nothing in FMLA shall be construed to discourage the adoption of more generous leave policies than those required under FMLA.

Section 405 Effective Dates

Title I of the FMLA is effective six months after the date of enactment, or on August 5, 1993, except where a collective bargaining agreement (CBA) is in effect on that date, in which event the leave provisions take effect on the date of termination of such CBA or 12 months after the date of enactment, whichever is earlier.

How should leave which has commenced when the law becomes effective be treated?

The questions set forth above are by no means intended to be an exhaustive list of issues arising from the FMLA that may need to be addressed in the Department's implementing regulations, nor are they intended to limit public comments regarding such other matters. Commenters are strongly encouraged to submit any ideas, comments, or concerns which they believe should be considered in the course of the Department's subsequent rulemaking, and identify any other issues which they perceive need to be addressed in the implementing regulations and, as appropriate, offer their views, with supporting rationale, as to how such issues should be addressed by the regulations.

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Employee benefit plans, Health, Health insurance, Hours of work, Labor, Labor management relations, Maternal and child health, Teachers.

Signed in Washington, DC, this 5th day of March, 1993.

Robert B. Reich,

Secretary of Labor.

John R. Fraser,

Acting Assistant Secretary for Employment Standards.

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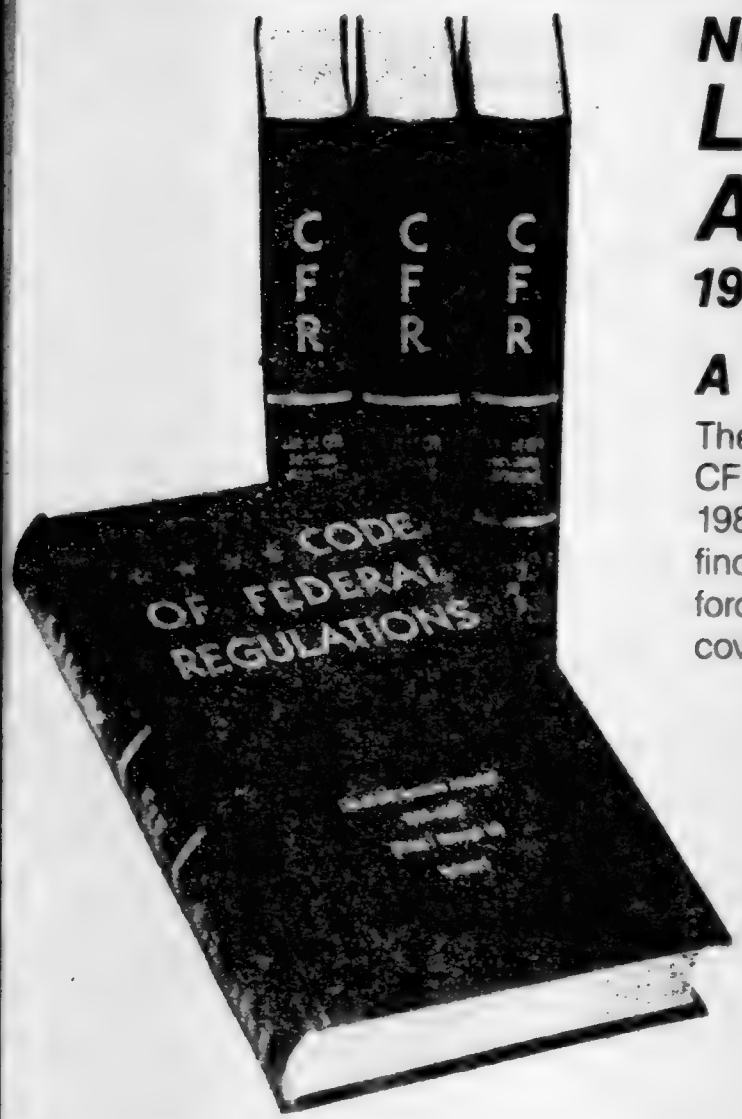

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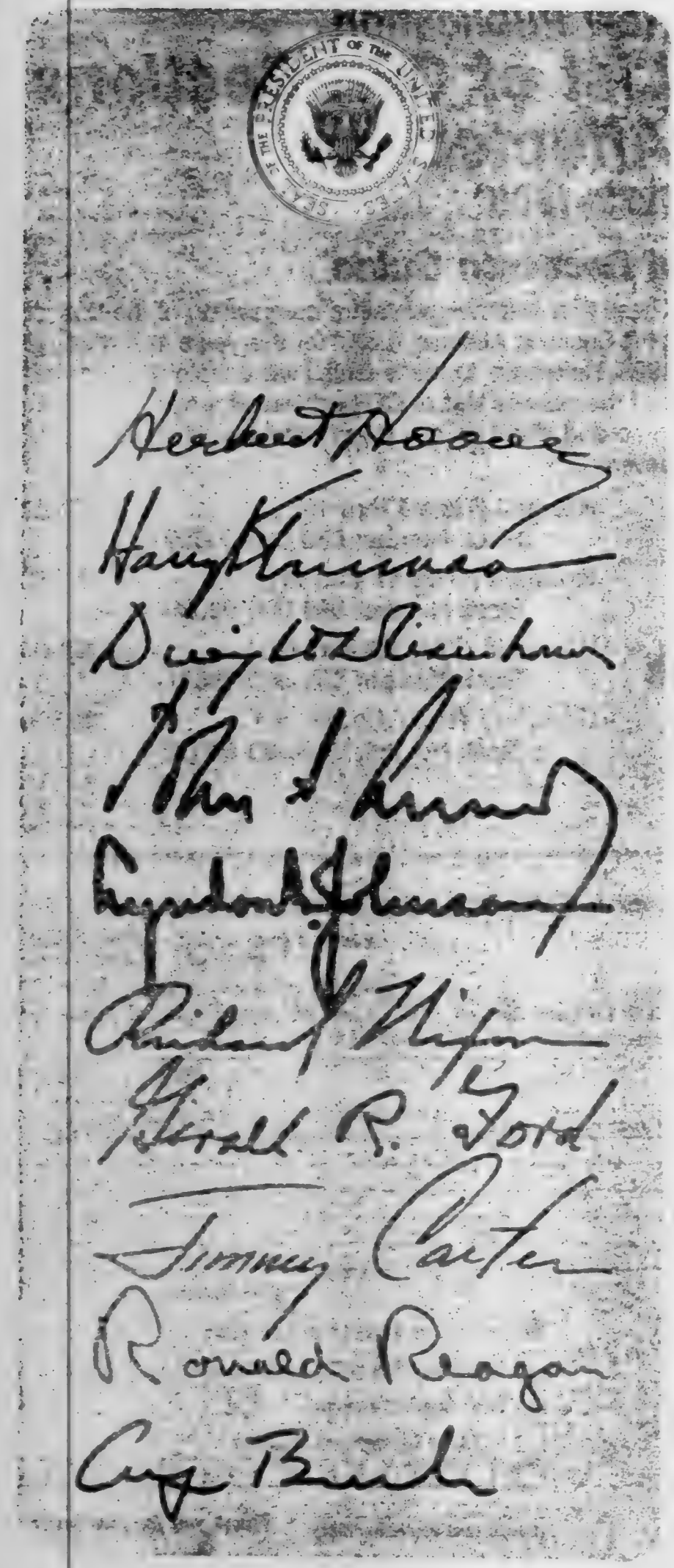

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Presidential Documents

Title 3—

The President

Executive Order 12840 of March 9, 1993

Nuclear Cooperation With EURATOM

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 126a(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(a)(2)), and having determined that, upon the expiration of the period specified in the first proviso to section 126a(2) of such Act and extended for 12-month periods by Executive Orders Nos. 12193, 12295, 12351, 12409, 12463, 12506, 12554, 12587, 12629, 12670, 12706, 12753, and 12791, failure to continue peaceful nuclear cooperation with the European Atomic Energy Community would be seriously prejudicial to the achievement of United States non-proliferation objectives and would otherwise jeopardize the common defense and security of the United States, and having notified the Congress of this determination, I hereby extend the duration of that period to March 10, 1994. Executive Order No. 12791 shall be superseded on the effective date of this Executive order.

William J. Clinton

THE WHITE HOUSE,
March 9, 1993.

[FR Doc. 93–5803
Filed 3–10–93; 8:45 am]
Billing code 3195–01–M

Editorial note: For the President's letter to Congressional leaders on the continuation of the United States' cooperation with EURATOM, see issue 10 of the *Weekly Compilation of Presidential Documents*.

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FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R-0789]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing a final rule to amend Regulation C, which implements the Home Mortgage Disclosure Act (HMDA), to incorporate new statutory provisions. The Housing and Community Development Act of 1992 contains amendments to HMDA that require financial institutions to make their loan application register data available to the public beginning March 31, 1993; the register must be modified in accordance with Board regulations before release to the public. The act also requires institutions to make their disclosure statement—as compiled by the Federal Financial Institutions Examination Council later in the year—available to the public within three business days of receiving it from the Examination Council; they currently have 30 days to do so.

EFFECTIVE DATE: March 1, 1993. The revised rules apply to the disclosure of the loan and application data collected for calendar year 1992.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell or W. Kurt Schumacher, Staff Attorneys, or John C. Wood, Senior Attorney (202/452-2412 or 202/452-3667), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

(1) Background

The Home Mortgage Disclosure Act (HMDA) requires certain depository and nondepository mortgage lenders that have offices in metropolitan areas to disclose their housing-related lending activity each year. The Housing and Community Development Act of 1992 (Pub. L. 102-550, 106 Stat. 3672) amended HMDA in several respects.

The statutory amendments require institutions to make a modified version of their loan application register, modified in accordance with Board regulations, available in response to requests from the public. The requirement applies beginning with data submitted for the 1992 calendar year. Institutions will have a 30-day period in which to respond. The modified registers for 1992 must be available by March 31 for requests received on or before March 1, 1993, and within 30 days for requests made after March 1. The amendments direct the Board to specify deletions or modifications from institutions' registers to protect the privacy interests of applicants and borrowers, and to protect institutions from liability under federal or state privacy laws.

The statutory revisions also amend HMDA to require institutions to make their mortgage loan disclosure statements publicly available, upon request, within three business days after receiving them from the Federal Financial Institutions Examination Council (FFIEC) later this year. Regulation C previously required financial institutions to make their disclosure statements publicly available no later than 30 calendar days after they received them from the FFIEC.

The statutory provisions also address the time periods within which the federal supervisory agencies must complete processing the HMDA data for 1993 and subsequent years so that disclosure statements and aggregate tables can be made available to the public. For HMDA data collected in 1993, disclosure statements must be available before September 1, 1994. The aggregate data that are compiled by the FFIEC for each metropolitan area are to be available (in central data depositories) before December 1, 1994. For data collected in 1994 and subsequent years, the statute directs the federal supervisory agencies to make every effort to ensure that disclosure statements are available before July 1 (and that aggregate disclosure reports before September 1) following the year for which the data are compiled.

In January 1993 the Board published a proposal to implement these amendments (58 FR 31, January 4, 1993). The Board received 85 comment letters on its proposal. After review of these comments and upon further analysis, the Board has adopted a final rule.

(2) Summary of Regulatory Amendments

The following material discusses the amendments to Regulation C section by section.

Section 203.5 Disclosure and Reporting

Section 203.5(a) Reporting to Agency

As revised, this section requires institutions to retain copies of their complete loan application register for a minimum of three years, instead of two years. This change is consistent with the statute.

Section 203.5(b) Public Disclosure of Statement

The amended statute requires an institution to make its disclosure statement publicly available, upon request, no later than three business days after its receipt from the FFIEC. Although many commenters believed that three business days is not sufficient time in which to ensure public availability, the statutory language requires the adoption of this rule in lieu of the 30 calendar days previously allowed. The Board proposed applying this three-business-day rule only to disclosures made available at an institution's *home office*. Lenders also must make statements available in at least one branch office in each additional MSA where they have physical offices, regarding loan activity for that MSA. However, because institutions receive only one set of disclosures and must produce copies for public release and for their own use, the Board proposed allowing 10 business days for availability at branch offices.

Based on review of the comments and its own analysis, the Board believes that it is reasonable to allow the longer time period for availability of disclosure statements at branch offices. Commenters representing several large institutions (with disclosure statements

between 6,000 and 8,000 pages long) stated that applying a three-business day rule to availability at branch offices would be extremely difficult, because of the number of pages to be duplicated and distributed. Smaller institutions also voiced concerns with a three-business day requirement, due to limited staff and resources. Moreover, community organizations and other members of the public are likely to want an institution's full disclosure statements, which lenders may but are not required to make available at branch offices. For this reason, most requests may in any event be directed to the home office.

Section 203.5(c) Public Disclosure of Loan Application Register

The statutory revisions require institutions to make their loan application registers available to the public upon request, modified to protect the privacy interests of applicants and borrowers and to protect institutions from liability under federal or state privacy laws. The statute specifies three items to be deleted—application or loan number, date application received, and date of action taken. The Board's rule conforms to this provision.

Under the final rule, an institution must make its modified register available to the public at its home office beginning March 31, 1993. They will have the option of preparing a modified loan application register for public disclosure prior to receiving a request for the data. Alternatively, they may wait until they actually receive a request, as long as they are able to make necessary modifications in time to meet the 30-calendar-day requirement.

Section 203.5(d) Availability of Data

In keeping with the statutory changes, this section requires institutions to retain modified loan application register information and to make it publicly available for a period of three years.

The Board has incorporated statutory language regarding the imposition of fees by an institution. The final rule makes clear that institutions may impose a reasonable fee for any cost incurred in providing or reproducing the modified loan application register or the disclosure statement.

Section 203.5(e) Notice of availability

Given the fact that there is no required or model language for the lobby notice that institutions must display at home and branch offices, the Board has not modified this section. However, if they so desire, institutions are free to modify the notice to reflect the fact that the modified loan application register data will be available to the public.

Appendix A to Part 203—Form and Instructions for Completion of HMDA Loan/Application Register

III. Submission of HMDA-LAR and Public Release of Data

D. *Availability of disclosure statement.* The instructions incorporate the new rule that an institution must make its disclosure statement available at its home office within three business days of receiving it from the FFIEC. The Board has also specified that disclosure statements must be made available in at least one branch office in each additional MSA within ten business days after receipt from the FFIEC. In the proposal, the Board solicited comment on whether the rule could state that copies of disclosure statements must be made available at a branch office within ten business days or within a "reasonable time". The majority of commenters who addressed the issue stated that they would need additional time to ensure availability at branch offices and favored a precise rule to provide certainty.

Most commenters believed that ten business days was an insufficient time for delivery at the branch offices. Many requested that the Board retain the previous 30-calendar-day rule, and a few believed that no fewer than 15 business days would be necessary for them to reproduce and deliver the required copies. Other commenters, however, objected to allowing longer than three business days for disclosure at branch offices. The Board considered all of these views. Given the clear Congressional intent to require availability without undue delay, but at the same time seeking to minimize costs and burdens associated with disclosure, the Board has retained the ten-business-day rule for the disclosure statements at an institution's branch offices. Finally, in the interest of certainty the Board has defined "business day."

E. *Availability of modified loan application register.* Paragraph 1 specifies the deletions that an institution must make to its register to protect the privacy interests of applicants and borrowers. These deletions conform to the amended statute, and correspond to those that the FFIEC removes in creating the public tapes of the edited raw data that it makes available.

F. *Location and format of disclosed data.* The statutory amendments strongly encourage institutions to make their modified register data available in census tract order. They allow the public release of this information (and of disclosure statements) in any media—including hard copy or in automated form—that is not prohibited by the Board. The statute makes clear that aside from the specified deletions, institutions are not required to change the format of the data from that used by institutions to internally maintain this information. However, the Board strongly encourages institutions, when feasible, to provide these data in the format requested by the public and in census tract order.

The agencies make free software available to covered institutions for collecting and maintaining their data. To facilitate compliance with the disclosure requirement in future years, the software for use in collecting and reporting 1993 data allows institutions to produce modified loan application registers suitable for public release; it deletes the applicable fields to protect the privacy interests of applicants and borrowers. The software does not sort the data by census tract, however. Plans are under way to add this sorting feature to the software version that will be available for data collection in 1994. (Software developed by some private vendors may already offer this capability.)

The revisions to HMDA require a clear and conspicuous notice on disclosure statements that they are subject to final review and revision, if necessary. Given that the FFIEC compiles the disclosure statements of financial institutions for public release by the institutions, the FFIEC plans to add this notice to the disclosure statements, thus eliminating the need for financial institutions to supply the notice.

Several commenters suggested that a similar notice should be provided on the modified loan application registers released by financial institutions, which too are subject to review and revision. Institutions may provide such a notice on the modified registers, if they wish.

(3) Regulatory Flexibility Act Analysis

HMDA does not cover small depository institutions (those with assets of $10 million or less), or small nondepository mortgage lenders (those with fewer than 100 home purchase loan originations and assets of $10 million or less). HMDA also exempts from coverage institutions that have neither a home nor a branch office in an MSA. Covered institutions must provide their loan/application registers to their supervisory agencies by March 1 for the preceding calendar year. Under this final rule, they are now also required to make a modified version of their register available to the public in the manner

specified by the Board. Additionally, institutions must now make their disclosure statements available at home offices within 3 business days of their receipt (and at branch offices, within 10 business day of receipt). Any incremental burdens associated with this final rule result from these statutory requirements. Small financial institutions will likely have fewer modifications to make to their registers, and less lengthy registers and disclosure statements to make publicly available (based on their fewer numbers of reportable transactions). This rule is therefore not expected to have a significant impact on the costs of small institutions.

(4) Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. ch. 35; 5 CFR 1320.13), these revisions have been reviewed by the Board, under the authority delegated to the Board by the Office of Management and Budget, after consideration of the comments received during the public comment period. The final rule's requirements do not exceed those of the statute. Where appropriate, steps have been taken to minimize any increase in burden caused by the implementation of the statute.

List of Subjects in 12 CFR Part 203

Banks, banking, Mortgages, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board is amending 12 CFR part 203 as follows.

PART 203—HOME MORTGAGE DISCLOSURE

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 2801-2810.

2. Section 203.5 is revised to read as follows:

§203.5 Disclosure and reporting.

(a) *Reporting to agency.* By March 1 following the calendar year for which the loan data are compiled, a financial institution shall send two copies of its complete loan application register (if submitted in paper form) to the agency office specified in appendix A of this regulation, and shall retain a copy for its records for a period of not less than three years. A financial institution need only submit one copy when the submission is on computer tape or diskette.

(b) *Public disclosure of statement.* A financial institution shall make its mortgage loan disclosure statement (to be prepared by the Federal Financial Institutions Examination Council) available to the public at its home office no later than three business days after receiving it from the Examination Council. A financial institution shall also make its disclosure statement available to the public within ten business days in at least one branch office in each additional MSA where it has offices. The disclosure statement at a branch office need only contain data relating to properties in the MSA where the branch office is located.

(c) *Public disclosure of loan application register.* A financial institution shall make its loan application register available to the public after modifying it in accordance with appendix A. An institution shall make its modified register available following the calendar year for which the data are compiled, by March 31 for a request received on or before March 1, and within 30 days for a request received after March 1. The modified register made available at a branch office need only contain data relating to properties in the MSA where the branch office is located.

(d) *Availability of data.* A financial institution shall make its modified register available to the public for a period of three years and its disclosure statement available for a period of five years. An institution shall make the data available for inspection and copying during the hours the office is normally open to the public for business. It may impose a reasonable fee for any cost incurred in providing or reproducing the data.

(e) *Notice of availability.* A financial institution shall post a general notice about the availability of its disclosure statement in the lobbies of its home office and any physical branch offices located in an MSA. Upon request, it shall promptly provide the location of the institution's offices where the statement is available. At its option, an institution may include the location in its notice.

3. Appendix A to part 203 is amended by revising the heading of section III., by revising section III.D., and by adding new sections III.E., F., and G., to read as follows:

Appendix A to Part 203—Form and Instructions for Completion of HMDA Loan/Application Register

* * * * *

III. Submission of HMDA-LAR and Public Release of Data

* * * * *

D. *Availability of disclosure statement.* The Federal Financial Institutions Examination Council (FFIEC) will prepare a disclosure statement from the data you submit. Your disclosure statement will be returned to the name and address indicated on the transmittal sheet. Within three business days of receiving the disclosure statement, you must make a copy available at your home office for inspection by the public. You also must make the disclosure statement available, within ten business days after receiving it from the FFIEC, in at least one branch office in each additional MSA where you have physical offices. For these purposes, a business day is any calendar day other than a Saturday, Sunday, or legal public holiday.

E. *Availability of modified loan application register.*

1. To protect the privacy of applicants and borrowers, an institution must modify its loan application register by removing the following information before releasing it to the public: the application or loan number, date application received, and date of action taken.

2. A financial institution must make its modified register available following the calendar year for which the data are compiled, by March 31 for a request received on or before March 1, and within 30 days for a request received after March 1.

F. *Location and format of disclosed data.* A financial institution must make a complete copy of its disclosure statement and modified register available to the public at its home office. Institutions may make these data available in hard copy or in automated form (such as by floppy disk or computer tape). Although you are not required to make the modified loan application register available in census-tract order, you are strongly encouraged to do so in order to enhance its utility to users. If you have physical branch offices in other MSAs, you must make available, in at least one branch office in each of those MSAs, either a complete copy of the disclosure statement or the portion of it that relates to properties in that MSA. Similarly, a modified register at a branch office need only reflect data concerning properties within the MSA where the branch is located.

You are not required to prepare a modified loan application register in advance of receiving a request from the public for this information, but must be able to respond to a request within 30 days.

G. *Posters.* Your agency can provide you with HMDA posters that you can use to inform the public of the availability of your disclosure statement, or you may print your own posters.

■

By order of the Board of Governors of the Federal Reserve System, March 3, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-5408 Filed 3-10-93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-CE-19-AD; Amendment 39-8508; AD 93-05-03]

Airworthiness Directives; Cessna Aircraft Company Models T303, 402C, 404, 414A, and 421C Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 92-27-20, Amendment 39-8497, which applies to certain Cessna Aircraft Company (Cessna) Model 402C airplanes. This AD currently requires fabricating and installing new fuel level placards, and another placard specifying that rolling and turning takeoffs are prohibited; and incorporating the AD into the Limitations section of the Pilots Operating Handbook and FAA-approved Airplane Flight Manual. A fatal accident involving a Model 402C airplane where a fuel inlet float valve failed while the valve was in the open position prompted the issuance of AD 92-27-20. Procedures for repetitively inspecting these fuel inlet float valves have now been developed, and these inspections, and valve replacements as necessary, should replace the fuel limitations imposed by the current AD. In addition, certain Cessna Models T303, 404, 414A, and 421C airplanes will also be affected by this AD. The actions specified by this AD are intended to prevent possible loss of engine power caused by failure of a fuel inlet float valve.

DATES: Effective March 30, 1993. Comments for inclusion in the Rules Docket must be received on or before May 28, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 93-CE-19-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Information that relates to this AD may be examined at the Rules Docket at the address above. Replacement parts required by this AD may be obtained from the Cessna Aircraft Company, P.O. Box 7706, Wichita, Kansas 67277.

FOR FURTHER INFORMATION CONTACT: Mr. Charles D. Riddle, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4144; Facsimile (316) 946-4407.

SUPPLEMENTARY INFORMATION: AD 92-27-20, Amendment 39-8497 (58 FR 7862, February 10, 1993), currently requires the following on certain Cessna Model 402C airplanes: (1) fabricating and installing new placards that specify new unusable fuel levels and new fuel levels at takeoff; (2) fabricating and installing a new placard specifying that rolling and turning takeoffs are prohibited; and (3) incorporating the AD into the Limitations Section of the Pilots Operating Handbook (POH) and FAA-approved Airplane Flight Manual (AFM).

A fatal accident involving a Cessna Model 402C airplane prompted this action. The FAA's continuing investigation of this accident revealed that a fuel inlet float valve, located in the right wing fuel tank on the affected airplane, failed while the valve was in the open position. This may have permitted air to enter the fuel system, which could have caused the power loss resulting in the accident.

Since issuance of AD 92-27-20, the FAA has received several reports of other fuel inlet float valve failures, and has examined the referenced accident failed valve, Cessna part number (P/N) 9910242-5, which was worn excessively in the area of the poppet valve. Based on the examination of this valve and others of similar configuration, the FAA has determined that the Cessna P/N 9910242 (all dash numbers) fuel inlet float valves could fail in the open position, which could allow air to enter the fuel line to the engine and result in loss of engine power. These P/N 9910242 valves consist of dash numbers -1, -4, -5, -6, -7, -8, -205, -206, -207, and -208; and are utilized in certain Cessna Models 404, 414A, 421C, and T303 airplanes, as well as the Cessna Model 402C airplanes. All these models utilize three valves per wing (6 per airplane), except for the Model T303 airplanes, which utilize two per wing (4 per airplane).

The FAA has developed valve test procedures that, if followed routinely, would detect faulty fuel inlet float valves.

After examining the circumstances and reviewing all available information related to the accident and incidents described above including the referenced inspection procedures, the FAA has determined that (1) a fuel inlet float valve on certain Cessna Models 402C, 404, 414A, 421C, and T303 airplanes could fail in the open position; and (2) AD action should be taken in order to prevent possible loss of engine power caused by such failure.

Since an unsafe condition has been identified that is likely to exist or develop in other Cessna Models 402C, 404, 414A, 421C, and T303 airplanes of the same type design, this action supersedes AD 92-27-20, with a new AD that requires repetitively inspecting each fuel inlet float valve in accordance with the valve test procedure included in this AD, and replacing any valve that does not pass this test. In addition, the action includes provisions for establishing a new minimum for takeoff fuel quantity and unusable fuel amounts if parts are required and not available.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments

submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 93–CE–19–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR Part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 92–27–20, Amendment 39–8497 (58 FR 7862, February 10, 1993), and by adding the following new airworthiness directive:

93–05–03. Cessna Aircraft Company: Amendment 39–8508; Docket 93–CE–19–AD. Supersedes AD 92–27–20, Amendment 39–8497.

Applicability: The following Model and serial number airplanes, certificated in any category:

Model	Serial numbers
T303	T30300001 through T30300315
402C	402C0001 through 402C1020
404	404–0001 through 404–0859
414A	414A0001 through 414A1212
421C	421C0001 through 421C1807

Compliance: Required within the next 10 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 200 hours TIS.

To prevent possible loss of engine power caused by failure of a fuel inlet float valve, accomplish the following:

(a) Inspect each fuel inlet float valve for proper operation in accordance with the valve test procedure outlined below:

(1) Defuel the airplane and gain access to the fuel tank as necessary (Refer to applicable Maintenance Manual, Chapter 28, Fuel).

(2) Disconnect the fuel supply hose to the engine from the fuel tank outlet adapter, located at the inboard rib of the fuel tank.

(3) Connect vacuum test equipment to the tank outlet adapter fitting using a hose or tube. Test equipment is to consist of a dry vacuum pump capable of producing 6.0 inches mercury (HG), a vacuum regulator that ranges from 3.0 to 6.0 inches HG, and a vacuum gage with an indicating range of zero (0) to at least 6 inches HG vacuum (See Figure 1 for schematic).

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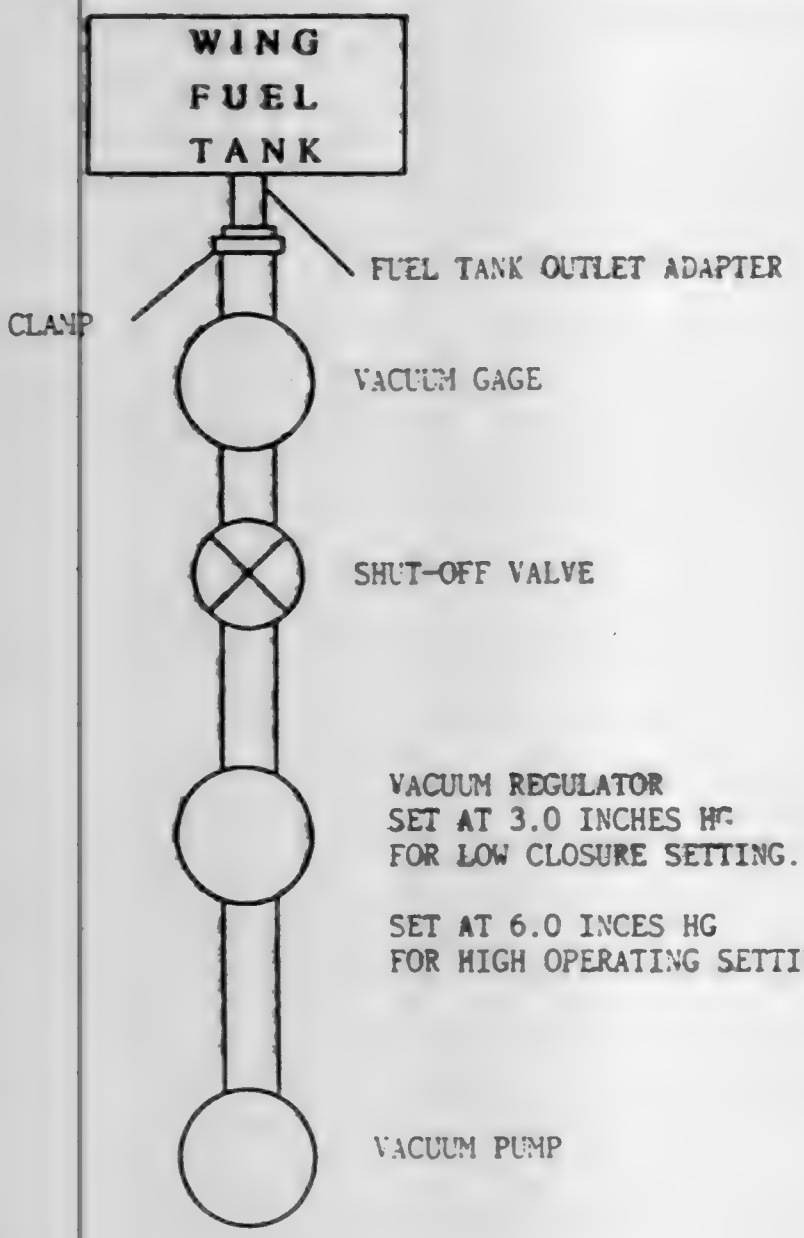

Figure 1

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(4) Set the vacuum regulator to 3.0 inches of HG vacuum. Operate the vacuum pump until the vacuum regulator achieves 3.0 inches HG. Close the shut-off valve and stop the vacuum pump.

(i) Verify that the system maintains 3.0 inches HG vacuum for 1 minute.

(ii) If the system does not maintain 3.0 inches HG vacuum for 1 minute, check the system to ensure all fittings are tight and float travel is not restricted (Refer to applicable Maintenance Manual, Removal/Installation of the Inlet Float Valve).

(5) Open the shut-off valve and set the vacuum regulator to 6.0 inches HG. Operate the vacuum pump for 1 minute and verify that the vacuum does not exceed 5.0 inches HG.

Note 1: If the system does not exceed 5.0 inches HG, the valves are functioning properly.

(6) Apply a regulated air pressure of 2.0 pounds per square inch gage (PSIG) to the fuel tank outlet adapter. Verify that the system maintains 2.0 PSIG for 1 minute.

(7) Replace any valve that did not pass all tests required by paragraphs (a)(4), (a)(5), and (a)(6) of this AD. Replacement parts may be obtained from the manufacturer at the address specified in paragraph (e) of this AD. The corresponding Cessna part numbers are as follows: 9910242–1, 9910242–4, 9910242–5, 9910242–6, 9910242–7, 9910242–8, 9910242–205, 9910242–206, 9910242–207, and 9910242–208.

Note 2: Paragraph (b) of this AD specifies actions that may be taken if replacement parts are unavailable.

(8) Remove the test equipment and reconnect the hose to the fuel tank outlet adapter.

(9) Purge the fuel system to eliminate contamination (Refer to applicable Maintenance Manual, Flushing Fuel System).

(b) If any fuel valve replacement is necessary and the replacement parts are not available, accomplish the following provided the parts have been ordered from the manufacturer and are installed upon availability:

(1) Incorporate the following into the Limitations Section of the Pilots Operating Handbook (POH) and FAA-approved Airplane Flight Manual (AFM):

(i) For the Model T303 airplanes:

Unusable fuel: Indicated fuel quantity below 36 pounds (6 gallons) in each main tank is unusable.

(ii) For the Models 402C, 404, 414A, and 421C airplanes:

Unusable fuel: Indicated fuel quantity below 90 pounds (15 gallons) in each main tank is unusable.

(iii) For the Model 404 airplanes:

Fuel Quantity: Minimum indicated fuel quantity for takeoff is 228 pounds (38 gallons) in each main tank.

(iv) For the Models 402C, 414A, and 421C airplanes:

Fuel Quantity: Minimum indicated fuel quantity for takeoff is 210 pounds (35 gallons) in each main tank.

(2) Fabricate placards, as applicable, with the following words in letters at least 0.10-inch in height and install these placards within the pilot's clear view on the instrument panel in close proximity to the fuel quantity gage:

(i) For Models 402C, 404, 414A, and 421C airplanes: "UNUSABLE FUEL—INDICATED FUEL QUANTITY BELOW 90 POUNDS (15 GALLONS) IN EACH MAIN TANK IS UNUSABLE".

(ii) For Model T303 airplanes: "UNUSABLE FUEL—INDICATED FUEL QUANTITY BELOW 36 POUNDS (6 GALLONS) IN EACH MAIN TANK IS UNUSABLE".

(3) For the Model 404 airplanes, fabricate four placards with the following in letters at least 0.10-inch in height: "157 GAL". Install these placards covering the four existing "172 GAL" markings on the existing placard around the engine fuel selector handles.

(4) For the Models 402C, 414A, and 421C airplanes, fabricate four placards with the following in letters at least 0.10-inch in height: "88 GAL". Install these placards covering the four existing "103 GAL" markings on the existing placard around the engine fuel selector handles.

(5) For the Model T303 airplanes, fabricate the following placards in letters at least 0.10-inch in height:

(i) "423 LBS" (2 placards). Install these placards covering the two existing "459 LBS" markings on the existing placard around the engine fuel selector handles.

(ii) "363 LBS" (1 placard). Install this placard covering the existing "399 LBS" marking on the existing placard around the engine fuel selector handles.

(6) For all affected Model airplanes, fabricate a placard with the following words in letters at least 0.10-inch in height and install this placard within the pilot's clear view on the instrument panel: "ROLLING, TURNING TAKEOFFS ARE PROHIBITED."

Note 3: For the Model 402C airplanes, these placard requirements may already be accomplished in accordance with AD 92–27–20, which is superseded by this action.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may concur or comment and then send it to the Manager, Wichita Aircraft Certification Office.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(e) Information that relates to this AD may be examined at the Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Replacement parts required by this AD may be obtained from the Cessna Aircraft Company, P.O. Box 7706, Wichita, Kansas 67277.

(f) This amendment (39–8508) supersedes AD 92–27–20, Amendment 39–8497.

(g) This amendment (39–8508) becomes effective on March 30, 1993.

Issued in Kansas City, Missouri, on March 4, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–5559 Filed 3–10–93; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8478]

RIN 1545–AO44

Consolidated Return Regulations—Deferred Gain or Loss

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations relating to deferred intercompany transactions and distributions of property among members of a consolidated group. The final regulations provide rules concerning the creation and restoration of deferred gain or loss and assure that intragroup transfers generally do not affect the overall income of the group.

EFFECTIVE DATE: March 9, 1993.

FOR FURTHER INFORMATION CONTACT: Roy A. Hirschhorn or Sharon Bomgardner at (202) 622–7770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–1161. The estimated annual burden per respondent varies from 1½ to 2½ hours, depending on individual circumstances, with an estimated average of 2 hours.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, ATTN: IRS Reports Clearance Officer T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

1. Introduction

Sections 1.1502–13T and 1.1502–14T, which modify certain consolidated return deferred gain or loss rules, were amended by regulations filed with the Office of the Federal Register on March 9, 1990 (T.D. 8295; see 55 FR 9420; 1990–1 C.B. 165) and March 13, 1992 (T.D. 8402; see 57 FR 9384; 1992–1 C.B. 302). Corresponding proposed regulations were filed with the Office of the Federal Register on March 9, 1990 (see 55 FR 9462; 1990–1 C.B. 559) and July 24, 1991 (see 56 FR 34044; 1991–2 C.B. 906), respectively.

This document contains final regulations under §§ 1.1502–13 and 1.1502–14. The final regulations retain the general approach and the effective dates of the temporary regulations.

2. The Deferral System

Under §§ 1.1502–13, 1.1502–13T, 1.1502–14, and 1.1502–14T, gain or loss recognized on a transfer of property from one member of a consolidated group (the selling member) to another member (the purchasing member) is deferred and taken into account by the selling member when, for example, the property is depreciated or disposed of outside the group. The deferral system is intended to prevent intercompany transactions from affecting the timing of consolidated taxable income, and to fix the location, character, and source of the deferred gain or loss, generally with reference to the selling member. The temporary and final regulations assure that the deferral provisions operate as they were intended so that the group's overall income or loss generally is not affected by transactions between members.

3. Comments

Treasury and the Service received several comments regarding the regulations.

a. The Bump-and-Strip Transaction

Some comments criticized § 1.1502–14T(c)(1)(i) as it applies to a transaction commonly known as the bump-and-strip transaction. In a typical bump-and-strip transaction, the consolidated group indirectly sells the appreciated stock of a subsidiary (the target) by having the owning member distribute the target stock to another member, the target distribute cash (or other property) to the distributee member, and the target then issue enough new target stock to disaffiliate. Some taxpayers argued that, under the consolidated return regulations as they existed before the temporary regulations, the transaction permitted the group to indefinitely defer income that otherwise would result from the cash distribution and the disaffiliation.

The comments did not suggest that the position taken in the regulation was substantively incorrect but did argue that taxpayers had not been given adequate notice of the position adopted by the temporary regulations. The temporary regulations are effective for any taxable year for which the due date (without extensions) of the return is after March 14, 1990.

The effective date of the temporary regulations is consistent with section 1503(a), which specifically provides that the tax liability of corporations that file consolidated returns "shall be determined * * * in accordance with the regulations * * * prescribed before the last day prescribed by law for the filing of [the consolidated] return." The effective date was chosen because the bump-and-strip transaction was determined to be abusive. In effect, the transaction resulted in the realization of gain on a sale of stock outside of the consolidated group; this gain should not go untaxed because of intragroup transfers of stock preceding the sale. It is inconsistent with the purposes of the deferral systems in the consolidated return regulations that intragroup transactions generally would affect the overall tax liability of the group. Thus, the final regulations retain the effective date of the temporary regulations.

The final regulations do not limit the application, to transactions occurring before or after the effective date of the regulations, of other sections of the Code or general principles of tax law, including sections 337(d) and 482, the substance-over-form doctrine (e.g., application of *Commissioner* v. *Waterman Steamship Corp.*, 430 F.2d 1185 (5th Cir. 1970), *cert. denied*, 401 U.S. 939 (1971)), and the tax benefit rule.

b. Example 2 of § 1.1502–14T(c)(2)

Some comments argued that Example 2 of § 1.1502–14T(c)(2) reached an incorrect result under the consolidated return regulations. In the example, P, S, and T are members of a consolidated group. P owns all of the S stock, and S owns all of the T stock. T distributes cash to S, resulting in S having an excessive loss account (ELA) in the T stock, and S then distributes the T stock to P. The example provides that, following the distribution, the ELA is treated as deferred gain to S. The comments argued that the correct result in Example 2 should be that P succeeds to the ELA and that the ELA is not treated as S's deferred gain.

Section 1.1502–14T(c) deals with bump-and-strip and similar transactions, no matter how constructed. Treasury and the Service continue to believe that the result in Example 2 is consistent with the general approach to bump-and-strip transactions and intend to revise other parts of the consolidated return regulations consistent with Example 2.

c. Other Comments

Several comments also objected to § 1.1502–14T(c)(1)(ii). Under this paragraph, deferred gain with respect to stock of a target is taken into account following the disaffiliation of the target to the extent that post-disaffiliation distributions with respect to target stock, in the aggregate, exceed the owning member's basis in the stock, reduced by the deferred gain with respect to the stock, at the time of the disaffiliation. Under the temporary regulations, the deferred gain is taken into account even if the distributions occur several years after the disaffiliation. Comments suggested that post-disaffiliation distributions taken into account be limited, for example, to

those within two years of the disaffiliation.

Under the final regulations, distributions taken into account are limited to those to which the owning member becomes entitled (e.g., as of the record date) before two years after the disposition. However, in computing its consolidated taxable income with respect to distributions to which a member becomes entitled before March 9, 1993, a group may apply the temporary regulations (i.e., choose to take gain into account earlier).

The Service received a number of other comments dealing more generally with the regulations. These comments generally concern issues beyond the substantive provisions of §§ 1.1502–13T and 1.1502–14T and are being considered as part of a comprehensive project to revise §§ 1.1502–13 and 1.1502–14.

4. Effective Dates

The regulations are generally effective for any taxable year for which the due date (without extensions) of the income tax return is after March 14, 1990. Transition rules §§ 1.1502–13(m)(4)(ii) and 1.1502–14(g)(3)(ii)(A) apply to certain dispositions outside the group occurring before March 9, 1990. Further, § 1.1502–13(n) applies only to deferred intercompany transactions attributable to long term contracts entered into after June 20, 1988. Finally, § 1.1502–13(o) applies to acquisitions of stock of a subsidiary in an intercompany transaction occurring on or after July 24, 1991.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It also has been determined that these regulations do not have a significant impact on a substantial number of small entities and, therefore, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply to these regulations and a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notices of proposed rulemaking were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the rules on small business.

List of Subjects

26 CFR 1.1501–1 through 1.1502–27

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority citation for part 1 is amended in part by adding the following citations:

Authority: 26 U.S.C. 7805 * * *

Section 1.1502–13 also issued under 26 U.S.C. 1502 * * *

Section 1.1502–14 also issued under 26 U.S.C. 1502 * * *

§ 1.1502–13 [Amended]

Par. 2. Section 1.1502–13 is amended by:

1. Removing the reference "paragraphs (d), (e), and (f)" and adding "paragraphs (d), (e), (f), (l), (m), (n), and (o)" in its place in paragraph (c)(1)(iii).

2. Removing the last sentence of paragraph (c)(1)(iii).

3. Adding and reserving paragraph (k).

Par. 3. Paragraphs (l) through (o) of § 1.1502–13T are redesignated as paragraphs (l) through (o) of § 1.1502–13, respectively; and, adding new paragraphs (l) through (o) to § 1.1502–13T to read as follows:

§ 1.1502–13T Temporary regulations for certain intercompany transactions.

* * * * *

(l) through (o) [Reserved] For further guidance see § 1.1502–13 (l) through (o).

* * * * *

Par. 4. Newly designated paragraph (o) of § 1.1502–13, is revised to read as follows:

§ 1.1502–13 Intercompany transactions.

* * * * *

(o) *Additional restoration of gain deferred on the sale of stock of a member*—(1) *Restoration rule.* For purposes of this section, deferred gain with respect to an acquisition of stock of a subsidiary in an intercompany transaction shall be taken into account—

(i) Upon a disposition (as defined in § 1.1502–19(b)(2)) of the stock of the subsidiary in an amount equal to the amount that would have created or increased the excess loss account if the adjustment to basis (or excess loss account) of the stock of the subsidiary resulting from the acquisition had not occurred; or

(ii) Following a disposition (as defined in § 1.1502–19(b)(2)) of the stock of the subsidiary, to the extent distributions with respect to the stock to which a member becomes entitled (e.g., as of the record date) no later than 24 months after the disposition would exceed the basis of the stock if the adjustment to the basis of the stock resulting from the acquisition had not occurred.

(2) *Example.* This paragraph (o) may be illustrated by the following example:

Example. (i) Corporations P, S1, S2, and S3 file consolidated returns on a calendar year basis. P owns all of the outstanding stock of S1 and S2. S1 owns all 100 shares of the outstanding stock of S3. The S3 shares have an adjusted basis of $1,000 and value of $10,000. S1 sells all 100 shares of the S3 stock to S2 for $10,000 and recognizes $9,000 of gain. The gain is deferred under § 1.1502–13(c). S2 takes a $10,000 basis in the S3 stock under § 1.1502–31(a).

(ii) S3 borrows $5,000 in 1992 and distributes the $5,000 to S2 in the same year. S3 has no current earnings and profits, and the distribution reduces S2's basis in the S3 stock from $10,000 to $5,000.

(iii) In 1993, S3 has no current earnings and profits. At the end of 1993, S3 issues 100 shares of stock to X, an unrelated third party. As a result, S2 no longer owns 80 percent or more of the S3 stock and S3 ceases to be a member of the group. S3's ceasing to be a member of the group is a disposition of the S3 stock under § 1.1502–19(b)(2)(i). If the basis of the S3 stock had not been adjusted as a result of the sale of the S3 stock by S1 to S2, the $5,000 distribution would have resulted in a $4,000 excess loss account with respect to the S3 stock. Accordingly, S1 is required to take into account $4,000 of the deferred gain (the amount that would have been in the excess loss account but for the adjustment to the basis of the S3 stock resulting from its sale).

(iv) In 1994, S2 sells its 100 shares of S3 stock to X for $6,000. S2 recognizes gain of $1,000 on the sale. Further, under § 1.1502–13(f)(1)(i), because the S3 stock is disposed of outside the group, S1 must take into account the remaining $5,000 of deferred gain on the S3 stock.

(3) *Effective date.* This paragraph (o) applies to acquisitions of stock of a subsidiary in an intercompany transaction occurring on or after July 24, 1991.

Par. 5. Paragraph (c) of § 1.1502–14T is redesignated as paragraph (g) of § 1.1502–14; and, new paragraph (c) is added to § 1.1402–14T to read as follows:

§ 1.1502–14T Treatment of distributing corporation (temporary).

* * * * *

(c) [Reserved] For further guidance see § 1.1502–14(g).

* * * * *

Par. 6. Newly designated paragraph (g) of § 1.1502–14 is revised to read as follows:

§ 1.1502–14 Stocks, bonds, and other obligations of members.

* * * * *

(g) *Additional restoration of gain deferred on distributions of stock of a member*—(1) *In general.* For purposes of this section and § 1.1502–13, gain deferred with respect to a distribution of stock of a subsidiary from one member to another member shall be taken into account—

(i) Upon a disposition (as defined in § 1.1502–19(b)(2)) of the stock of the subsidiary in an amount equal to the amount that would have created or increased the excess loss account if the adjustment to the basis (or the excess loss account) of the stock of the subsidiary resulting from the distribution had not occurred; or

(ii) Following a disposition (as defined in § 1.1502–19(b)(2)) of stock of the subsidiary, to the extent distributions with respect to the stock to which a member becomes entitled (e.g., as of the record date) no later than 24 months after the disposition would exceed the basis of the stock if the adjustment to the basis of the stock resulting from the distribution had not occurred.

(2) *Examples.* This paragraph (g) is illustrated by the following examples.

Example 1. (i) Corporations P, S, and T file consolidated returns on a calendar year basis. P owns all 100 shares of the outstanding stock of S. S owns all 200 shares of the outstanding stock of T. The T shares have an adjusted basis of $1,000 and a value of $10,000. S distributes all of its T stock to P. As a result of the distribution, S recognizes $9,000 of gain under section 311(b) and the gain is deferred under § 1.1502–14T(a). P receives a $10,000 basis in the T stock.

(ii) T borrows $9,000 in 1989 and distributes the $9,000 to P in the same year. T has no current earnings and profits, and the distribution reduces P's basis in the T stock from $10,000 to $1,000. In 1990, T has $1,000 of earnings and profits which are not distributed. At the end of 1990, T issues 100 shares of stock to X, an unrelated third party. As a result P no longer owns 80 percent or more of the stock of T and T ceases to be a member of the group. T's ceasing to be a member of the group constitutes a disposition of the T stock under § 1.1502–19(b)(2)(i). If the basis of the T stock had not been adjusted as a result of S's distribution of the T stock to P, the $9,000 distribution to P would have resulted in a $7,000 excess loss account with respect to the T stock. Accordingly, S is required to take into account $7,000 of deferred gain (the amount that would have been in the excess loss account but for the adjustment to the basis of the T stock resulting from its distribution).

(iii) At the end of 1991, P sells its 200 shares of T stock to Y for $2,000. P recognizes no gain or loss on the sale. Under § 1.1502–13(f)(1)(i), because the T Stock is disposed of outside the group, S must take into account the remaining $2,000 of deferred gain on the T stock.

Example 2. The facts are the same as in *Example 1* except that T borrows and distributes the $9,000 to S before S distributes the T stock to P. The results are the same as in *Example 1* because P would have had an excess loss account of $7,000 with respect to the T stock at the time T ceased to be a member of the P group but for the adjustment to the excess loss account resulting from S's distribution of the T stock to P.

(3) *Effective dates*—(i) *General rule.* Except as provided in paragraph (g)(3)(ii) of this section, this paragraph (g) applies to dispositions (as defined in this paragraph (g)) of stock of a subsidiary in taxable years for which the due date (without extensions) of the income tax return is after March 14, 1990.

(ii) *Exceptions.* Notwithstanding paragraph (g)(3)(i) of this section—

(A) This paragraph (g) does not apply to gain deferred with respect to a distribution of stock of a subsidiary from one member to another member before January 1, 1989, if the disposition (as defined in this paragraph (g)) of the stock of the subsidiary occurs before Mach 9, 1990.

(B) In computing its consolidated taxable income with respect to post-disposition distributions to which a member becomes entitled (e.g., as of the record date) before March 9, 1993, a group may apply § 1.1502–14T(c)(1)(ii) (as contained in 26 CFR part 1 edition revised as of April 1, 1992).

§ 1.1502–14T [Amended]

Par. 7. Section 1.1502–14T(a) is amended by removing the reference "§ 1.1502–13T(l) and (m)" and adding "§ 1.1502–13(l) and (m)" in its place.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 8. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 9. Section 602.101(c) is amended by removing the entry for "1.1502–13T" and revising the entry for "1.1502–13" to read as follows:

§ 602.101 OMB Control Numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.1502–13	1545–0123 1545–0885 1545–1161
* * * * *	

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

Approved:

Jim Fields,

Acting Assistant Secretary of the Treasury.

[FR Doc. 93–5516 Filed 3–9–93; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 1

[T.D. 8434]

RIN 1545–AM16

Treatment of Dual Consolidated Losses; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to the final regulations (T.D. 8434), which were published in the **Federal Register** for Wednesday, September 9, 1992 (57 FR 41079). The final regulations provide that a dual consolidated loss of a dual resident corporation may not be used to offset the taxable income of any domestic corporate affiliate.

EFFECTIVE DATE: October 1, 1992.

FOR FURTHER INFORMATION CONTACT: Sim Seo (202) 622–3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction implements section 1503(d) of the Internal Revenue Code of 1986. Section 1503(d) was added to the Code by section 1249 of the Tax Reform Act of 1986 (Pub L. 99–514) and was amended by section 1012(u) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647).

Need for Correction

As published, T.D. 8434 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (T.D. 8434), which was the subject of FR Doc. 92–21539, is corrected as follows:

On page 41087, column 1, § 1.1503–2(d)(2)(ii), third line from the bottom of the column, the language "limitations of § 1.502–21(c), as if the" is corrected to read "limitations of § 1.1502–21(c), as if the".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–5520 Filed 3–10–93; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 1 and 602

[T.D. 8404]

RIN 1545–AQ35

Election by Shareholders of Certain Passive Foreign Investment Companies; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to temporary regulations (T.D.8404), which was published in the **Federal Register** for Wednesday, April 1, 1992 (57 FR 10992). The temporary regulations provide guidance to shareholders of certain passive foreign investment companies that are qualified electing funds about the time, manner, and other requirements for making the deemed dividend election.

EFFECTIVE DATE: April 1, 1992.

FOR FURTHER INFORMATION CONTACT: Gayle E. Novig, (202) 622–3880 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of these corrections are issued under section 1291(d)(2)(B) of the Internal Revenue Code of 1986, and provide amendments to § 1.1291–10T.

Need for Correction

As published, T.D. 8404 contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of temporary regulations (T.D. 8404), which was subject to FR Doc. 92–6704 is corrected as follows:

1. On page 10992, column 2, in the preamble under the heading **SUMMARY**, third line from the top of the column, the language "enacted by the Technical Corrections" is corrected to read "enacted by the Technical and Miscellaneous Revenue".

2. On page 10994, column 1, in the preamble under the heading "Drafting Information", line 2, the language "proposed regulations is Gayle E. Novig" is corrected to read "temporary regulations is Gayle E. Novig".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–5521 Filed 3–10–93; 8:45 am]

BILLING CODE 4830–01–M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Parts 301 and 311

[Docket No. 92–3–DART]

Digital Audio Recording Technology Act; Implementation

AGENCY: Copyright Royalty Tribunal.

ACTION: Interim regulation; reply comments.

SUMMARY: This document is issued to advise the public that the Copyright Royalty Tribunal will entertain reply comments on the interim regulations implementing the Digital Audio Recording Technology Act.

DATES: Reply comments are due on March 19, 1993.

ADDRESSES: An original and five copies of all reply comments shall be addressed to Chairman, Copyright Royalty Tribunal, 1825 Connecticut Avenue, NW., suite 918, Washington, DC 20009.

FOR FURTHER INFORMATION CONTACT: Linda R. Bocchi, General Counsel, Copyright Royalty Tribunal, 1825 Connecticut Avenue, NW., suite 918, Washington, DC 20009, (202) 606–4400.

SUPPLEMENTARY INFORMATION: This document is issued to advise the public that the Copyright Royalty Tribunal will entertain reply comments in the above-referenced proceeding. Comments on the Tribunal's interim regulations were filed on March 1, 1993.

On January 29, 1993 (58 FR 6441), the Tribunal adopted interim regulations to implement section 1007 of the Audio Home Recording Act of 1992 (Act). These interim regulations prescribe the manner for filing claims, with the Tribunal, to royalties on the sales of each digital recording device, and blank disc or tape. The interim regulations prescribe the content and filing time of such claims and the procedure for distribution of the royalties.

The regulations were issued on an interim basis in order to allow interested copyright owners to file claims during January and February of 1993, as required by the Act, while permitting full public comment before the issuance of final regulations.

Reply comments should be filed no later than March 19, 1993.

Dated: March 5, 1993.

Cindy Daub,

Chairman.

[FR Doc. 93–5517 Filed 3–10–93; 8:45 am]

BILLING CODE 1410–09–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 80 and 86

[FRL–4602–2]

Public Meeting on Enforcement of Diesel Desulfurization Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of a public meeting.

SUMMARY: EPA will hold a public meeting to inform regulated parties of EPA's strategy for enforcing its diesel desulfurization regulations which were published in the **Federal Register** on May 7, 1992.

DATES: Public meeting, May 20, 1993, 10 a.m. until 4 p.m. Written questions should be submitted on or before April 15, 1993.

ADDRESSES: The meeting will be held at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, Virginia. Written questions should be directed to David J. Gottfried, Attorney, Investigations and Enforcement Branch, Field Operations and Support Division, Environmental Protection Agency (6406J) 401 M Street, SW., Washington, DC, 20460.

FOR FURTHER INFORMATION CONTACT: David J. Gottfried, (202) 233–9019, or (fax)—(202) 233–9557.

SUPPLEMENTARY INFORMATION: On May 7, 1992 (57 FR 19535), EPA published a notice of final rulemaking promulgating regulations to reduce the sulfur content on on-highway diesel fuel (to be codified within 40 CFR parts 80, 86). Since many issues have been raised concerning the enforcement of these regulations, EPA will hold a public meeting to inform regulated and other interested parties of its enforcement strategy and to receive feedback on its proposed enforcement actions.

Please submit written questions on or before April 15, 1993. At the meeting, EPA will discuss the questions that are submitted in writing by the deadline. If time permits, written questions submitted at the meeting may also be

addressed. Either at the meeting, or shortly thereafter, EPA will distribute a written question and answer document formally responding to questions submitted. To aid in planning, EPA would appreciate advance notice from parties wishing to attend the meeting. Parties may contact David J. Gottfried at (202) 233–9019 to notify EPA of their plans to attend.

Dated: March 2, 1993.

Michael H. Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93–5262 Filed 3–10–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

46 CFR Part 552

[Docket No. 91–51]

Financial Reports of Common Carriers by Water in the Domestic Offshore Trades

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is amending its rules governing financial reports of common carriers by water in the domestic offshore trades. The amendments expand the eligibility for waivers of detailed reporting requirements to carriers achieving gross revenues of $25 million or less under FMC-regulated rates, and delete the trade percentage criterion currently applicable to such waivers.

EFFECTIVE DATE: April 12, 1993.

FOR FURTHER INFORMATION CONTACT: Seymour Glanzer, Director, Bureau of Hearing Counsel, Federal Maritime Commission, 800 North Capitol St., NW., Washington, DC 20573–0001, (202) 523–5783 (Phone), (202) 523–5785 (Fax).

SUPPLEMENTARY INFORMATION: On November 8, 1991, the Federal Maritime Commission ("Commission" or "FMC") published an Advance Notice of Proposed Rulemaking ("ANPR") in the **Federal Register**, 56 FR 57298, soliciting comments and information from the public on issues which could be addressed in a proposed rule concerning substantive guidelines for determining what constitutes a just and reasonable rate of return or profit for common carriers by water in the domestic offshore trades. After reviewing comments and replies in response to the ANPR, the Commission decided to defer consideration of substantive changes to the applicable financial reporting and methodology rules, 46 CFR part 552, and to proceed immediately with a proposal to broaden the provisions of 46 CFR 552.2(e) under which waivers of financial reporting requirements may be obtained by common carriers by water in the domestic offshore trades. A proposed rule was published in the **Federal Register** on October 28, 1992, 57 FR 48770–75. This rule would expand the eligibility for waivers of complete reports to carriers earning $50 million or less in a particular trade, and would eliminate the trade percentage requirement currently applicable to such waivers.

Eight comments were received in response to the proposed rule. Supporting comments were filed by American President Lines Ltd. ("APL"); Crowley Maritime Corporation ("Crowley"); The State of Hawaii ("Hawaii"); Sea-Land Service, Inc. ("Sea-Land"); Totem Ocean Trailer Express, Inc. ("TOTE"); and Tropical Shipping & Construction Co., Ltd. ("Tropical").

Opposing comments were filed by the Government of Guam ("Guam"); and Puerto Rico Maritime Shipping Authority ("PRMSA").

Five of the six parties filing supporting comments urge adoption of the rule as proposed. The sixth, TOTE, suggests that the waiver limit be clarified to assure that the $50 million revenue requirement refers only to the FMC-regulated portion of a carrier's domestic offshore service. The Commission believes that this clarification is unnecessary because the language of the proposed rule specifies that the revenues must be earned in a particular trade. The "Trade" is defined in 46 CFR 552.5(c) as "that part of the Service subject to the Commission's regulation * * *" Thus, TOTE, or any other carrier earning less than the minimum revenue figure under its FMC tariffs, would be eligible for a waiver of complete financial reports under the proposed rule.

In addition, two of the supporting comments urge the Commission to revisit (Sea-Land) or reconsider (TOTE) its position, articulated in the supplementary information to the proposed rule, that creating a Zone of Reasonableness for carriers in the domestic offshore trades is beyond its statutory authority. The Commission continues to believe that the type of zone proposed by the carriers is contrary to the plain language and legislative history of the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 843 *et seq.*, and does not intend to revisit or reconsider that issue in this proceeding. However, this position is not intended to foreclose consideration of any other suggestions for regulatory flexibility, consistent with our statutory mandate, that may be made by carriers or others in further stages of this proceeding.

In opposing the rule, PRMSA states that it has no objection to raising the waiver level by an amount necessary to account for inflation that has occurred since the current $10 million level was established in 1981, but argues that there appears to be no rational basis for raising it to $50 million. PRMSA asserts that the rationale offered for the proposed rule—focusing regulation on price leaders—does not support the $50 million level because carriers earning less than $50 million may function as price leaders. While PRMSA has not performed its own calculations to determine an appropriate waiver level to account for inflation, it cites Crowley's figure of $14.5 million, which was tendered in Crowley's comments in response to the ANPR in this proceeding.[1]

Guam strongly opposes the proposed rule and argues that:

A. The Commission lacks statutory authority to divest itself of regulation of the majority of domestic offshore carriers;

B. The Guam trade requires strict regulatory oversight;

C. The cost and burden of filing financial reports has been reduced, and not increased, over time;

D. Raising the waiver level to $50 million is entirely inconsistent with inflation and price increases during the last ten years; and

E. Dropping the 25% Trade percentage requirement is inconsistent with prior Commission action.

In a supplement to its comments, Guam also submitted an excerpt from the **Federal Register** of September 28, 1984, 49 FR 38317–38318, which contains much of the Commission's rationale for denying a 1983 petition by Sea-Land seeking to exempt all carriers in the domestic offshore trades from financial reporting requirements and from 60-day advance notice requirements from general rate increases and decreases. However, Guam makes no attempt to explain how this rationale is applicable to the instant proposal.

Upon consideration of these comments, the Commission has decided to establish the new waiver level at $25 million and to delete the trade

[1] In its earlier comments, at 4, Crowley states, "Since the present waiver was adopted in mid-1981, merely maintaining the exemption level at a producer price, inflation-adjusted amount would result in an increase in the exemption to approximately 14.5 million."

percentage criterion, as proposed. For the reasons discussed hereinafter, the Commission believes that this rule properly focuses regulation on those carriers which exercise price leadership in the FMC-regulated portion of the domestic offshore trades, while relieving the majority of carriers from the burden of filing complete financial reports.

As the Commission explained in issuing the proposed rule, significant changes have taken place in the domestic offshore trades since the waiver provisions of 46 CFR part 552 were established over a decade ago. Not the least of these changes has been the demonstrated willingness of carriers to shift significant, but unquantifiable portions of their domestic offshore services to the jurisdiction of the Interstate Commerce Commission ("ICC")[2] and the consequent erosion of rate control by the FMC. Despite this jurisdictional schism and the resulting loss of influence over rate levels, the Commission concluded that it could not administratively eliminate rate-of-return regulation required by statute and sought a balance by limiting the burden of filing complete financial reports to the handful of carriers which represent price leadership in the FMC-regulated portion of these trades. The Commission proposed to strike this balance by expanding the waiver to carriers achieving less than $50 million in FMC-regulated revenues, regardless of trade percentage.

PRMSA's comments challenge the factual underpinning for selecting a new waiver level of $50 million, arguing that, "carriers earning less than $50 million, however, specifically including Crowley, also sometimes function as price leader." PRMSA comments at 2.

In the proposed rule, the Commission did not attempt to define price leadership, but implied that carriers with the highest revenues establish price levels for the relevant trades. The clearest example of this type of price leadership may be in the Hawaii trade, where Matson historically has enjoyed a majority share of the market and has been the pacesetter for general rate changes. However, in the Puerto Rico trade, there are three large carriers; viz: PRMSA, Sea-Land, and Crowley,[3] each of which has a significant market share. The Commission's experience over many years indicates that these carriers often file identical (or very similar) general or across-the-board rate changes at approximately the same time. No particular carrier would appear to have taken a consistent position as the initiator of those changes.

There are various forms of price leadership, and the three carriers in the Puerto Rico trade may be exercising a form of leadership where price initiatives by any one carrier very likely could reflect the wishes of, and be followed by the others. According to David R. Pearce, The Dictionary of Modern Economics 343 (1st MIT Press Edition, 1981), this form of price leadership can be found in an oligopolistic market, where the leading firms have "similar market shares as well as demand and cost conditions." In view of this definition of price leadership, and the Commission's experience with rate changes in the Puerto Rico trade, it is difficult to dismiss PRMSA's argument that Crowley may sometimes function as a price leader, and should be governed by the same reporting requirements as its two major competitors in that trade.

Guam's objections to the proposed rule, as outlined above, are more extensive and diverse than those of PRMSA, and are discussed seriatim below.

A. The Commission's Authority To Establish the Subject Rule

Guam argues that the Commission's statutory mandate is to regulate every carrier in the domestic offshore trades, and, in order to regulate, the Commission must have meaningful financial data from "any trade's major carriers." (Guam comments at 2). According to Guam, expansion of the waiver would effectively deregulate the Guam trade and is therefore said to be beyond the Commission's authority.

Guam does not argue that every carrier must file financial reports. Indeed, it agrees that it is proper to keep the waiver at its present level, or to raise the level to no more than $12.5 million. (Guam comments at 5, 9). Thus, by acknowledging that carriers earning lower revenues may be exempted from filing financial reports (as long as those carriers are not major carriers in a particular trade), Guam appears to have undermined its own argument.

In apparent recognition of the weakness of the major premise of its argument, Guam next attempts to invoke the rationale stated by the Commission for not adopting a zone of reasonableness as the foundation of its position that the Commission does not have the authority to expand the waiver rule. Guam's efforts in this regard fail for the same reason that its major premise fails. With respect to the suggested zone of reasonableness, the Commission concluded that any such zone would be contrary to explicit Congressional direction and, therefore, beyond its statutory authority. Here, Guam has conceded that some waivers of financial reports are within the Commission's authority to grant. Clearly, the Commission has the authority to exempt some carriers from the burden of filing financial reports.

B. The Need for Financial Reports in the Guam Trade

The nature of the Guam trade was acknowledged by the Commission in the SUPPLEMENTARY INFORMATION to the proposed rule. Specifically, in note 23, at 19 of that document, the Commission discussed Guam's earlier comments in this proceeding, to the effect that competition in the Guam trade is completely foreclosed by a combination of the Jones Act[4] and geography. In such trade, Guam argues, regulation is a necessary alternative to unfettered competition.

While it is difficult to argue with Guam's description of the trade as small and isolated from normal competitive forces, or with its conclusion that regulation is necessary where competition is thwarted, it does not follow that the proposed rule will have an impact on this trade as it exists today. As noted in the supplementary information to the proposed rule, *id*, both carriers in the Guam trade, Sea-Land and APL, have shifted their operations to ICC jurisdiction. Sea-Land has had no FMC tariffs on file since 1989, and APL canceled all of its FMC tariffs, except for breakbulk tariffs, in 1991. Thus, neither carrier currently files complete Guam trade financial reports with the Commission.[5]

Guam counters that, "this is an inappropriate rationale on which to base a decision which has the impact of deregulating the Guam trade if any carrier chooses to serve Guam." (Guam comments at 1, 2, note 2). Moreover,

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[2] This shift followed two decisions by the U.S. Court of Appeals for the District of Columbia Circuit which affirmed the exclusive jurisdiction of the ICC over joint, intermodal services in the Puerto Rico trade. *Puerto Rico Maritime Shipping Authority* v. *ICC*, 645 F. 2d 1102 (DC Cir. 1981); *Trailer Marine Transport Corp.* v. *FMC* 602 F. 2d 370 (DC Cir. 1979).

[3] Since August, 1992, Crowley has operated in the Puerto Rico trade through a subsidiary, Crowley American Transport Inc. For many years prior to that date, Crowley's operations in this trade were conducted through its subsidiary, Trailer Marine Transport Corp.

[4] Section 27 of the Merchant Marine Act, 1920, 46 U.S.C. app. 883, which reserves transportation between points in the United States, including Districts, Territories and possessions thereof, to vessels built in and documented under the laws of the United States and owned by citizens of the United States.

[5] APL filed alternative data for 1991.

Guam points out that, in Docket No. 89–26,[6] it is challenging the appropriateness of Sea-Land's operations on the ground that they are, in reality, port-to-port services subject to FMC jurisdiction. Guam also asserts that it intends to challenge APL's current operations on similar grounds. *Id.*

It is unrealistic to believe that Sea-Land and APL could be forced to file complete financial reports for future years with the FMC even if some of their prior operations can be shown to be truly port-to-port service. Those carriers certainly can structure proper joint, intermodal services if they so choose, and the FMC would have no authority to regulate such services.

However, should APL or Sea-Land choose to conduct most or all of their operations under FMC jurisdiction, Guam's argument would have greater validity, in that the proposed changes in the waiver provisions might then impact on the Guam trade. If most or all of their cargo moved under FMC tariffs, and if the minimum revenue is raised from $10 million to $50 million then APL and Sea-Land obviously are more likely to be eligible for waivers than if the waiver level were raised only to $12.5 million as suggested by Guam.

C. The Cost And Burden Of Filing Financial Reports

Guam argues that modern computers simplify the preparation of a multitude of financial reports and concludes that, "A minimal effort by almost any computer programmer is all that would be required to create a program which would produce accurate and meaningful data for FMC reporting requirements." (Guam comments at 7). Therefore, Guam suggests that the conclusions reached by the Commission in 1980 concerning the burden of filing financial reports are largely irrelevant today.

Whether the burden of filing these reports is greater or less today than in prior years is immaterial to this aspect of the Commission's rationale for the proposed rule. The Commission focused not on the level of the burden, but on the fact that the purpose for imposing any such burden has been greatly eroded by the demonstrated ability of carriers to shift from port-to-port to joint, intermodal service at will. Clearly, there is some burden involved in collecting the particular data and producing a report with all of the various schedules and workpapers required by 46 CFR part 552. Most of the carriers take the position that not only is this burden substantial, but that much of the information is gathered for no purpose other than the FMC's reporting requirement. Whatever the extent of the burden, there is good reason to exempt the carriers from any burden if the reports are unnecessary to carry out the Commission's regulatory responsibilities.

D. Reasonableness Of Raising The Dollar Threshold To $50 Million Given Inflation Rates and Price Increase Levels

Guam argues that the proposed increase to $50 million "is arbitrary and capricious and without any rational foundation other than apparently to exempt Guam trade carriers who might return to the FMC." (Guam comments at 7, 8). Based on inflation as reflected in the Producer Price Index, Guam concludes that it would be reasonable to raise the threshold from $10 million only to $12.5 million.

In issuing the proposed rule, the Commission did not attempt to justify an increase to $50 million on the basis of inflation. Rather, the Commission sought to limit full financial reports to those carriers exercising price leadership in the FMC-regulated portion of the domestic offshore trades. Because the FMC regulates only a small portion of one of the two carriers' services in the Guam trade, the Commission took the position that the proposed rule would have no impact on that trade. Whether the waiver limit is $10 million or $50 million, neither carrier in the Guam trade will be required to file complete reports under current conditions.

The Commission did not select the waiver limit arbitrarily. At the $50 million level, the dominant carrier in the Hawaii trade, and two of the three major carriers in the Puerto Rico trade would be required to file full financial reports. The carriers, and not the FMC, have placed the Guam trade beyond the reach of Part 552.

Nevertheless, the Commission is persuaded by these comments, in addition to those of PRMSA, above, that establishing the waiver level at $25 million, rather than $50 million, is more consistent with our stated rationale. At that level, both carriers in the Guam trade are more likely to be required to file complete financial reports, should they choose to carry most or all of their cargo under FMC tariffs. Conversely, even in this small trade, the Commission could have little influence on rate levels by focusing regulation on a carrier earning less than $25 million in FMC-regulated revenues.

E. The 25% Trade Percentage Requirement

Guam quotes language from a final rule published at 45 FR 3290 (Jan. 17, 1980),[7] in which the 25% trade percentage criterion was considered and retained as a separate and independent standard for determining whether an application for waiver should be granted. At that time, the Commission believed the standard useful in measuring a carrier's significance in a particular trade.

Since 1980, the domestic offshore trades have changed dramatically, as the Commission discussed at length in its proposed rule. The major change has been the shift of significant portions of these trades to ICC jurisdiction. This shift is precisely the reason why the Commission proposed to delete the 25% trade percentage criterion.

The trade percentage requirement contained in 46 CFR 552.2(e) is based on the FMC-regulated portion of the particular domestic offshore trade. As discussed in the supplementary information to the proposed rule, a carrier generating 25 percent of FMC-regulated revenues in a particular trade may represent only a tiny fraction of the overall service. A trade percentage criterion based on the overall service would be more meaningful, but data from which to calculate such a percentage is beyond the jurisdictional grasp of the Commission. Guam's alternative suggestion of raising the trade percentage criterion from 25% to 33% suffers from the same flaws as those affecting Guam's basic proposal to retain the current criterion.

Guam also argues that the trade percentage cutoff ensures that the Commission will be able to monitor at least one carrier in a trade served by carriers operating under FMC tariffs. Obviously, this argument can be valid only if one carrier (as in the Guam trade) generates 25%, or 33%, of the FMC-regulated trade. Moreover, such carrier's FMC-regulated share may be insignificant in the combined FMC/ICC service and have no impact on establishing the level of rates. In the Alaska trade, for example, retention of a 25% or even 33% trade percentage requirement may result in one of the numerous tug and barge operators filing complete financial reports, while TOTE and Sea-Land, two of the largest carriers in the combined FMC/ICC service, would not be required to file such reports.

[6] *The Government of the Territory of Guam et al., v. Sea-Land Service, Inc. and American President Lines, Ltd.*

[7] Docket No. 78–46, Financial Reports of Common Carriers by Water in the Domestic Offshore Trades, 19 SRR 1283, 1313 (1980).

Finally, Guam urges the Commission not to adopt the proposed rule without a "demonstrably adequate alternative for G.O. 11-type filing requirements." (Guam comments at 10). The Commission's rules at 46 CFR 552.2(e) currently provide that an application for waiver must be accompanied by a company-wide balance sheet and income statement. Apparently, Guam believes that something more than this alternative financial data is required in order for the Commission to carry out its oversight responsibility.

By proposing the subject changes to the waiver provisions of 46 CFR part 552, the Commission is attempting to balance its obligations to regulate rates in the domestic offshore trades against the industry's burden of collecting and submitting detailed financial data. In view of the jurisdictional split between this agency and the ICC, and because no carrier other than Matson has been the subject of a Commission-instituted rate investigation since 1981, the proposed rule attempts to strike this balance by focusing the Commission's regulatory oversight on carriers who are price leaders in the FMC-regulated trades. As discussed above, there is room for disagreement over the definition and identity of price leaders, but the concept of focusing on price leaders has not been challenged and, in fact, is supported by most of the comments.

In this context, to construct and require an alternative report for those carriers which apply for waivers from complete financial reports is an option that would appear to have far more disadvantages than advantages. Such reports would be required from those carriers which have little or no impact on the level of FMC-regulated rates in a trade. Moreover, the ability to determine the reasonableness of a carrier's rates, and to prescribe reasonable rates for the future requires extensive financial information and cannot be satisfied with a "short-form" report. Thus, an alternative report would create a burden without any foreseeable benefit. In any event, the suggested alternative report would require another rulemaking proceeding.

For all of the foregoing reasons, the Commission is raising the waiver level from $10 million to $25 million and deleting the trade percentage criterion of 46 CFR 552.2(e). Having resolved the waiver issue, the Commission now intends to turn its attention, separately, to the numerous other substantive changes to 46 CFR part 552 that have been suggested in this proceeding.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it nonetheless has reviewed the rule in terms of this Order and has determined that this rule is not a "major rule" as defined in Executive Order 12291 because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(n), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions. Its only impact will be to relieve some vessel-operating common carriers in the domestic offshore trades from filing certain financial reports with the FMC.

This rule does not impose any reporting or recordkeeping requirements in addition to those already approved by the Office of Management and Budget.

List of Subjects in 46 CFR Part 552

Maritime carriers, Reporting and recordkeeping requirements, Uniform system of accounts.

Therefore, pursuant to 5 U.S.C. 553, sections 18 and 43 of the Shipping Act, 1916, 46 U.S.C. app. 817 and 841a, and sections 2 and 3 of the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 844 and 845, part 552 of title 46, Code of Federal Regulations, is amended as follows:

PART 552—FINANCIAL REPORTS OF VESSEL OPERATING COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

1. The authority citation for part 552 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 817(a), 820, 841a, 843, 844, 845, 845a and 847.

2. In § 552.2, paragraph (e) is revised to read as follows:

§ 552.2 General requirements.

* * * * *

(e) Upon application, the Commission shall grant a waiver of the detailed reporting requirements to carriers which have earned gross revenues of $25 million or less for the reporting period in a particular Trade. The application for waiver (Exhibit D) must be accompanied by a company-wide balance sheet and income statement. This waiver provision is applicable to annual reporting requirements and to filings of proposed rate changes in accordance with § 552.2(f).

* * * * *

By the Commission.*

Joseph C. Polking,

Secretary.

Concurrence of Commissioner Ming Chen Heu

My approval of the $25 million waiver limit reflects not an endorsement of that increased limit as optimal so much as my agreement that it is a significant improvement over the present limit, which was set 12 years ago. By reducing the burden on smaller carriers of maintaining and reporting the required trade data, we have taken a step consistent with our recent agenda of moving to minimize governmental interference. It is a step in the right direction. However, our ability to effectively regulate PRMSA, Sea-land and Crowley—whether they be described as "dominant" or as "price leaders"—is doubtful given the small percentage of their FMC-regulated revenues to total trade revenues. It seems to me that the accepted rationale for deleting the existing trade percentage criterion would likewise support an even greater increase in the waiver limit. I hope our minds will be open to revisiting the question before 12 more years go by.

[FR Doc. 93-5512 Filed 3-10-93; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[CC Docket No. 86-496; FCC No. 93-38]

Reduction of Allen Carrier Interference Between Fixed-Satellites at Reduced Orbital Spacings and To Revise Application Processing Procedures for Satellite Communication Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By a Notice of Proposed Rule Making (NPRM) in the above-referenced docket, we proposed to amend part 25 of the Commission's rules governing the construction, licensing and operation of satellite service facilities. This Second Report and Order adopts as final rules many of the technical proposals

*Chairman Christopher L. Koch not participating; Commissioner Ming Chen Heu's separate concurrence attached.

proposed in the NPRM. Our primary purpose in adopting these rules is to implement recommendations made by the joint industry-government Advisory Committee on Implementation of Reduced Orbital Spacing Between Domestic Fixed-Satellites (Advisory Committee), 102 FCC 2d 390 (1985), which was established to advise the Commission on efficient means of implementing 2° orbital spacing between domestic satellites in the 4/6 GHz and 12/14 GHz frequency bands. In addition, we intend to make our licensing procedure as efficient as possible for the satellite carriers and the Commission staff while eliminating regulations that had become unnecessary.

EFFECTIVE DATE: May 10, 1993.

FOR FURTHER INFORMATION CONTACT:

Wilbert E. Nixon, Jr. or Harry Ng at (202) 634–1624.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order in the Matter of the Amendment of Part 25 of the Commission's Rules and Regulations to Reduce Alien Carrier Interference Between Fixed-Satellites at Reduced Orbital Spacings and to Revise Application Processing Procedures for Satellite Communication Services, Common Carrier Docket No. 86–496, FCC No. 93–38, adopted January 14, 1993 and released March 4, 1993. The full text of this document is available for inspection and copying during normal business hours at the Public Reference Room at its headquarters, room 239, 1919 M Street NW., Washington, DC 20554. The complete text of this decision may also be purchased from the FCC's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Public reporting burden for the collections of information is estimated to average 120 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of Managing Director, Paperwork Reduction Project (3060–0447), Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project (3060–0447), Washington, DC 20503.

Regulatory Flexibility Act—Final Analysis for Rules Adopted in the Second Report and Order

Need for Rules and Objective. We have codified standing Commission technical policy, Advisory Committee recommendations and standard industry practice in an effort to promote efficiency and innovation in the allocation, licensing and use of the electromagnetic spectrum. Our objective has been to encourage the development of a competitive and innovative communications system. Finally, we have acted to promote effective and adaptive regulation for communications, while eliminating unnecessary regulations.

Issues Raised by the Public in Response to the Initial Analysis. No comments were received specifically in response to the initial Regulatory Flexibility Analysis. The bulk of the public comment in response to the initial analysis of the NPRM was addressed in the First Report and Order. We have taken into account those remaining issues raised by the public concerning the proposed technical rules. As a result of these comments we have modified our proposals as appropriate.

Alternatives that would lessen impact. We have reduced burdens whenever possible.[1] The regulatory burdens we have retained are necessary in order to carry out our duties under the Communications Act of 1934 as amended. We will continue to examine alternatives in the future with the objectives of eliminating unnecessary regulations and minimizing any significant economic impact on small entities.

Summary of the Second Report and Order

1. This Second Report and Order codifies technical and operational rules for the Fixed-Satellite Service that were proposed by the Commission in the Notice of Proposed Rulemaking (NPRM) in this docket. The new rules include space station technical standards, video and SCPC transmission standards, earth station technical standards, transportable earth station technical standards and inter-system coordination procedures.

2. Due to the FCC's recent affirmation of 2° spacing, (*see* Amendment of C-Band Satellite Orbital Spacing Policies to Increase Satellite Video Service to the Home, 7 FCC Rcd 456 (1992)), this action is necessary to ensure that the rules and policies adopted in *Reduced Orbital Spacing*, 54 Rad. Reg. 2d (P&F) 577 (1983), can be codified.

3. The intended effect of this action is to allow for the continued transition to two degree orbital spacing for U.S. domestic satellites. For this to occur, space station and earth station operators must be guided by a universal set of standards and operational procedures. Successful implementation of two degree spacing will allow for the expansion of satellite capacity in the orbit serving the U.S. market, thus affording expansion opportunities to the U.S. domestic satellite industry.

Conclusion and Ordering Clauses

4. In this Second Report and Order we codify most of the technical rules proposed for earth station and satellite facilities contained in the NPRM, with the modifications as discussed.

5. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new and modified information collection requirements on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

6. Accordingly, *it is ordered* that part 25 of the Commission's Rules and Regulations is amended as specified below, effective 60 days after publication in the **Federal Register**.

7. *It is further ordered* that operators of non-conforming antennas are required to bring their station operations into conformance with Section 25.209 of the Commission's rules, 47 CFR 25.209, within one year after publication in the **Federal Register**.

List of Subjects in 47 CFR Part 25

Communication common carrier, Communication equipment, Radio, Reporting & recordkeeping requirements, Satellite

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

Part 25 of the Commission's Rules and Regulations (Chapter I of Title 47 of the Code of Federal Regulations) is amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for Part 25 is revised to read as follows:

[1] See e.g., § 25.210(j)(3) where we relaxed the policy of requiring space station operators to submit "carrier" specific transponder utilization reports. Also, in § 25.204(e), we relaxed our policy regarding uplink power control for 12/14 GHz earth station operators.

Authority: §§ 25.101 to 25.531 issued under Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101–104, 76 Stat. 419–427; 47 U.S.C. 701–744.

2. A new § 25.132 is added to read as follows:

§ 25.132 Verification of earth station antenna performance standards.

(a) All applications for transmitting earth stations in the C and Ku-bands must be accompanied by a certificate pursuant to § 2.902 of the chapter from the manufacturer of each antenna that the results of a series of radiation pattern tests performed on representative equipment in representative configurations by the manufacturer which demonstrates that the equipment complies with the performance standards set forth in § 25.209. The licensee must be prepared to demonstrate the measurements to the Commission on request in the course of an investigation of a harmful interference incident.

(b)(1) In order to demonstrate compliance with § 25.209 (a) and (b), the following measurements on a production antenna performed on calibrated antenna range, as a minimum, shall be made at the bottom, middle and top of each allocated frequency band and submitted to the Commission:

(i) Co-polarized patterns for each of two orthogonal senses of polarizations in two orthogonal cuts of the antenna.

(A) In the azimuth plane, plus and minus 7 degrees and plus and minus 180 degrees.

(B) In the elevation plane, zero to forty-five degrees.

(ii) Cross-polarization patterns in the E- and H-planes, plus and minus 9 degrees.

(iii) Main beam gain.

(2) The FCC envelope specified in § 25.209 shall be superimposed on each pattern. The minimum tests specified above are recognized as representative of the performance of the antenna in most planes although some increase in sidelobe levels should be expected in the spar planes and orthogonal spar planes.

(c) The tests specified in paragraph (b) of this section are normally performed at the manufacturer's facility; but for those antennas that are very large and only assembled on-site, on-site measurements may be used for product qualification data. If on-site data is to be used for qualification, the test frequencies and number of patterns should follow, where possible, the recommendations in paragraph (b) of this section, and the test data is to be submitted in the same manner as described in paragraph (a) of this section.

(d) For each new or modified transmitting antenna over 3 meters in diameter, the following on-site verification measurements must be completed at one frequency on an available transponder in each frequency band of interest and submitted to the Commission.

(1) Co-polarized patterns in the elevation plane, plus and minus 7 degrees, in the transmit band.

(2) Co-polarized patterns in the azimuth and elevation planes, plus and minus 7 degrees, in the receive band.

(3) *System cross-polarization discrimination on-axis.* The FCC envelope specified in § 25.209 shall be superimposed on each pattern: The transmit patterns are to be measured with the aid of a co-operating earth station in coordination with the satellite system control center under the provisions of § 25.272.§

(e) Certification that the tests required by paragraph (c) of this section have been satisfactorily performed shall be provided to the Commission in notification that construction of the facilities has been completed as required by § 25.133.

(f) Antennas less than 3 meters in diameter and antennas on simple (manual) drive mounts that are operated at a fixed site are exempt from the requirements of paragraphs (c) and (d) of this section provided that a detailed technical showing is made that confirms proper installation, pointing procedures, and polarization alignment and manufacturing quality control. These showing must also include a plan for periodic testing and field installation procedures and precautions.

(g) Records of the results of the tests required by this section must be maintained at the antenna site or the earth station operator's control center and be available for inspection.

3. In § 25.202, a new paragraph (g) is added to read as follows:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

* * * * *

(h) Telemetry, tracking and telecommand functions for U.S. domestic satellites shall be conducted at either or both edges of the allocated band(s). Frequencies, polarization and coding shall be selected to minimize interference into other satellite networks and within their own satellite system.

4. In § 25.203, paragraphs (b) and (c)(5) are revised to read as follows:

§ 25.203 Choice of sites and frequencies.

* * * * *

(b) An applicant for an earth station authorization in a frequency band shared with equal rights with terrestrial microwave services shall compute the great circle coordination distance contour(s) for the proposed station in accordance with the procedures set forth in § § 25.251 through 25.253 and the rain scatter coordination distance contour(s) for the proposed station in accordance with the procedures set forth in § 25.254. The applicant shall submit with the application a map or maps drawn to appropriate scale and in a form suitable for reproduction indicating the location of the proposed station and these contours. These maps, together with the pertinent data on which the computation of these contours is based, including all relevant transmitting and/or receiving parameters of the proposed station that might be useful in assessing the likelihood of interference, an appropriately scaled plot of the elevation of the local horizon as a function of azimuth, and the electrical characteristics of the earth station antenna(s), shall be submitted by the applicant in a single exhibit to the application. The coordination distance contour plot(s), horizon elevation plot, and antenna horizon gain plot(s) required by this section may also be submitted in tabular numerical format at 5° azimuthal increments instead of graphical format. At a minimum, this exhibit shall include the information listed in paragraph (c)(2) of this section. An earth station applicant shall also include in the application relevant technical details (both theoretical calculations and/or actual measurements) of any special techniques, such as the use of artificial site shielding, or operating procedures or restrictions at the proposed earth station which are to be employed to reduce the likelihood of interference, or of any particular characteristics of the earth station site which could have an effect on the calculation of the coordination distance.

(c) * * *

(5) The Commission may, in the course of examining any application, require the submission of additional showings, complete with pertinent data and calculations in accordance with § § 251.251 through 25.256, showing that harmful interference is not likely to result from the proposed operation.

* * * * *

§ 25.203 [Amended]

5. and 6. Section 25.203(e) is removed, and paragraphs (f) through (h) are redesignated as (e) through (g) respectively.

7. Sections 25.204 (d) and (e) are added to read as follows:

§ 25.204 Power Limits.

* * * * *

(d) Notwithstanding the e.i.r.p. and e.i.r.p. density limits specified in the station authorization, each earth station transmission shall be conducted at the lowest power level that will provide the required signal quality as indicated in the application and further amended by coordination agreements.

(e) For operations at frequencies above 10 GHz, earth station operators may exceed the uplink e.i.r.p. and e.i.r.p. density limits specified in the station authorization under the conditions of uplink fading due to precipitation by an amount not to exceed 1 dB above the actual amount of monitored excess attenuation over clear sky propagation conditions. The e.i.r.p. levels shall be returned to normal as soon as the attenuating weather pattern subsides. The maximum power level for power control purposes shall be coordinated between and among adjacent satellite operators.

8. Sections § 25.209 (a), (b), (c), and (d) are revised and paragraph (g) is added to read as follows:

§ 25.209 Antenna performance standards.

(a) The gain of any antenna to be employed in transmission from an earth station in the fixed-satellite service shall lie below the envelope defined below:

(1) In the plane of the geostationary satellite orbit as it appears at the particular earth station location:

29–25 $\log_{10}$ (Theta) dBi	1° </= Theta </=7°
+8 dBi	7° < Theta </=9.2°
32–25 $\log_{10}$ (Theta) dBi	9.2° < Theta </=48°
−10 dBi	48° < Theta </=180°

where Theta is the angle in degrees from the axis of the main lobe, and dBi refers to dB relative to an isotropic radiator. For the purposes of this section, the peak gain of an individual sidelobe may not exceed the envelope defined above for Theta between 1.0 and 7.0 degrees. For Theta greater than 7.0 degrees, the envelope may be exceeded by no more than 10% of the sidelobes, provided no individual sidelobe exceeds the gain envelope given above by more than 3 dB.

(2) In all other directions, or in the plane of the horizon including any out-of-plane potential terrestrial interference paths:

Outside the main beam, the gain of the antenna shall lie below the envelope defined by:

32–25 $\log_{10}$ (Theta) dBi	1° </= Theta </=48°
−10 dBi	48° < Theta </=180°

where Theta and dBi are defined above. For the purposes of this section, the envelope may be exceeded by no more than 10% of the sidelobes provided no individual sidelobe exceeds the gain envelope given above by more than 6 dB. The region of the main reflector spillover energy is to be interpreted as a single lobe and shall not exceed the envelope by more than 6 dB.

(b) The off-axis cross-polarization gain of any antenna to be employed in transmission from an earth station to a space station in the domestic fixed-satellite service shall be defined by:

19–25 log10 (Theta) dBi	1.8° < Theta </= 7°
−2 dBi	7 °<Theta </= 9.2°

(c) Earth station antennas licensed for reception of radio transmissions from a space station in the fixed-satellite service are protected from radio interference caused by other space stations only to the degree to which harmful interference would not be expected to be caused to an earth station employing an antenna conforming to the referenced patterns defined in paragraphs (a) and (b) of this section, and protected from radio interference caused by terrestrial radio transmitters identified by the frequency coordination process only to the degree to which harmful interference would not be expected to be caused to an earth station conforming to the reference pattern defined in paragraph (a)(2) of this section.

(d) The patterns specified in paragraphs (a) and (b) of this section shall apply to all new earth station antennas initially authorized after February 15, 1985 and shall apply to all earth station antennas after March 11, 1994.

* * * * *

(g) The antenna performance standards of small antennas operating in the 12/14 GHz band with diameters as small as 1.2 meters starts at 1.25° instead of 1° as stipulated in paragraph (a) of this section.

8. A new § 25.210 is added to read as follows:

§ 25.210 Technical requirements for space stations in the Fixed-Satellite Service.

(a) All space stations in the Fixed-Satellite Service used for domestic service in the 4/6 GHz frequency band shall:

(1) Use orthogonal linear polarization with one of the planes defined by the equatorial plane;

(2) Be designed so that the polarization sense of uplink transmissions is opposite to that of downlink transmissions on the same transponder; and

(3) Shall be capable of switching polarization sense upon ground command.

(b) All space stations in the Fixed-Satellite Service shall have a minimum capability to change transponder saturation flux densities by ground command in 4 dB steps over a range of 12 dB.

(c) All space stations in the Fixed-Satellite Service shall be designed to derive the maximum capacity feasible from the assigned orbital location. In particular, space stations in the Fixed-Satellite Service are required to employ state-of-the-art full frequency re-use using both horizontal and vertical polarization.

(d) For fixed-satellite space stations providing domestic service, full frequency re-use is defined as re-use of the frequency bands by polarization discrimination in both the uplink and downlink directions using state-of-the-art equipment and techniques.

(e) For international fixed-satellite space stations, full frequency re-use is defined as follows:

(1) Satellites must employ polarization discrimination so that, through the use of dual polarization, they shall be able to reuse both the uplink and downlink frequency band assignments.

(2) Satellites must be configured so that all assigned frequencies (in both polarizations) could be reused in beams serving widely separate areas.

(f) Exceptions to the requirements of paragraph (d) will only be made in accordance with Establishing of Satellite Systems Providing International Communications, 101 FCC 2d 1201 (1985).

(g) Space station antennas in the Fixed-Satellite Service must be designed to provide a cross-polarization isolation such that the ratio of the on axis co-polar gain to the cross-polar gain of the antenna in the assigned frequency band shall be at least 30 dB within its primary coverage area.

(h) Space stations to be operated in the geostationary satellite orbit must be:

(1) Designed with the capability of being maintained in orbit within 0.05° of their assigned orbital longitude,

(2) Maintained in orbit at their assigned orbital longitude within the longitudinal tolerance specified by the Commission, and

(3) The Commission may authorize operations at assigned orbital longitudes offset by 0.05° or multiples thereof from the nominal orbital location specified in the station authorizations.

(i) Antenna measurements of both co-polarized and cross-polarized performance must be made on all antennas employed by space stations both within the primary coverage area to facilitate coordination with other Commission space station licensees and outside the primary coverage area to facilitate international frequency coordination with other Administrations. The results of such measurements shall be submitted to the Commission within thirty days after preliminary in-orbit testing is completed.

(j) All operators of space stations shall file a semi-annual report with the Common Carrier Bureau and the Commission's Laurel, Maryland field office containing the following information:

(1) Status of satellite construction and anticipated launch dates, including any major problems or delays encountered;

(2) A listing of any non-scheduled transponder outages for more than thirty minutes and the cause(s) of such outages;

(3) A detailed description of the utilization made or anticipated to be made of each transponder on each of the in-orbit satellites. That description should identify the total capacity or the percentage of time each transponder is actually used for transmission, the amount of capacity (if any) sold but not in service and the amount of unused capacity in the transponder. If the transponder is reserved as a spare, the operating transponder being protected should be identified. If the transponder is used for preemptible or occasional services, the nature of these services and amount of time preemptible or occasional services that are provided over the transponder should also be identified; and

(4) Identification of any transponders not available for service or otherwise not performing to specifications, the cause of these difficulties, and the date any transponder was taken out of service or the malfunction identified.

9. A new § 25.211 is added to read as follows:

§ 25.211 Video Transmissions in the Domestic Fixed—Satellite Service.

(a) Downlink analog video transmissions in the band 3700–4200 MHz shall be transmitted only on a center frequency of 3700+20N MHz, where N=1 to 24. The corresponding uplink frequency shall be 2225 MHz higher.

(b) All 4/6 GHz analog video transmissions shall contain an energy dispersal signal at all times with a minimum peak-to-peak bandwidth set at whatever value is necessary to meet the power flux density limits specified in § 25.208(a) and successfully coordinated internationally and accepted by domestic adjacent satellite operators based on the use of state of the art space and earth station facilities. Further, all transmissions operating in frequency bands described in §§ 25.208 (b) and (c) shall also contain an energy dispersal signal at all times with a minimum peak-to-peak bandwidth set at whatever value is necessary to meet the power flux density limits specified in §§ 25.208 (b) and (c) and successfully coordinated internationally and accepted by domestic adjacent satellite operators based on the use of state of the art space and earth station facilities. The transmission of an unmodulated carrier at a power level sufficient to saturate transponder is prohibited, except by the space station licensee to determine transponder performance characteristics. All 12/14 GHz video transmissions for TV/FM shall identify the particular carrier frequencies for necessary coordination with adjacent domestic satellite systems and affected satellite systems of other administrations.

(c) All initial analog video transmissions shall be preceded by a video test transmission at an uplink e.i.r.p. at least 10 dB below the normal operating level. The earth station operator shall not increase power until receiving notification from the satellite network control center that the frequency and polarization alignment are satisfactory pursuant to the procedures specified in § 25.272. The stationary earth station operator that has successfully transmitted an initial video test signal to a satellite pursuant to this paragraph is not required to make subsequent video test transmissions if subsequent transmissions are conducted using exactly the same parameters as the initial transmission.

10. A new § 25.212 is added to read as follows:

§ 25.212 Narrowband transmissions in the Fixed-Satellite Service.

(a) Except as otherwise provided by this part, criteria for unacceptable levels of interference caused by other satellite networks shall be established on the basis of nominal operating conditions and with the objective of minimizing orbital separations between satellites.

(b) Emissions with an occupied bandwidth of less than 2 MHz are not protected from interference from wider bandwidth transmissions if the r.f. carrier frequency of the narrowband signal is within ±1 MHz of one of the frequencies specified in § 25.211(a).

11. Section 25.256 is added to read as follows:

§ 25.256 Guidelines for performing interference analyses for precipitation scatter modes.

(a) Once rain scatter coordination distance contours have been determined, it is necessary to determine the likelihood of impermissible levels of interference between the proposed earth station and each existing or proposed terrestrial station located within the rain scatter coordination distance.

(b) It may be presumed that any interference caused by precipitation scatter propagation mechanisms will be acceptable and that the interference paths may be eliminated from interference if the interference margin Pmar (p) defined in § 25.255(b) is greater than zero when the received interference power Prec (p) is computed on the basis of the available transmission loss between the earth station and terrestrial station due to scattering from precipitation.

(c) Additional information is provided by the reports and recommendations of the CCIR which serve as useful references. In particular, applicants and operators should be aware of the latest revisions of reports 382, 388, 448 and 569, XVIIth Plenary Assembly, Dusseldorf, 1990.

12. A new subpart D is added to part 25 to read as follows:

Subpart D—Technical Operations

25.271 Control of transmitting stations.
25.272 General inter-system coordination procedures.
25.273 Duties regarding space communications transmissions.
25.274 Procedures to be followed in the event of harmful interference.
25.275 Particulars of operation.
25.276 Points of communication.
25.277 Temporary fixed earth station operations.

Subpart D—Technical Operations

§ 25.271 Control of transmitting stations.

(a) The licensee of a facility licensed under this part is responsible for the proper operation and maintenance of the station.

(b) The licensee of a transmitting earth station licensed under this part shall ensure that a trained operator is present on the earth station site, or at a designated remote control point for the earth station, at all times that transmissions are being conducted. No operator's license is required for a person to operate or perform maintenance on facilities authorized under this part.

(c) Authority will be granted to operate a transmitting earth station by remote control only on the conditions that:

(1) The parameters of the transmissions of the remote station monitored at the control point, and the operational functions of the remote earth stations that can be controlled by the operator at the control point, are sufficient to insure that the operations of the remote station(s) are at times in full compliance with the remote station authorization(s);

(2) The earth station facilities are protected by appropriate security measures to prevent unauthorized entry or operations;

(3) Upon detection by the license, or upon notification from the Commission of a deviation or upon notification by another licensee of harmful interference, the operation of the remote station shall be immediately suspended by the operator at the control point until the deviation or interference is corrected, except that transmissions concerning the immediate safety of life or property may be conducted for the duration of the emergency; and

(4) The licensee shall have available at all times the technical personnel necessary to perform expeditiously the technical servicing and maintenance of the remote stations.

(d) The licensee shall insure that the licensed facilities are properly secured against unauthorized access or use whenever an operator is not present at the transmitter.

§ 25.272 General inter-system coordination procedures.

(a) Each space station licensee in the Fixed-Satellite Service shall establish a satellite network control center which will have the responsibility to monitor space-to-Earth transmissions in its system. This would indirectly monitor uplink earth station transmissions in its system and to coordinate transmissions in its satellite system with those of other systems to prevent harmful interference incidents or, in the event of a harmful interference incident, to identify the source of the interference and correct the problem promptly.

(b) Each space station licensee shall maintain on file with the Commission and with its Laurel, Maryland field office a current listing of the names, titles, addresses and telephone numbers of the points of contact for resolution of interference problems. Contact personnel should include those responsible for resolution of short term, immediate interference problems at the system control center, and those responsible for long term engineering and technical design issues.

(c) The transmitting earth station licensee shall provide the operator(s) of the satellites, on which the licensee is authorized to transmit, contact telephone numbers for the control center of the earth station and emergency telephone numbers for key personnel; a current file of these contacts shall be maintained at each satellite system control center.

(d) An earth station licensee shall ensure that each of its authorized earth stations complies with the following:

(1) The earth station licensee shall ensure that there is continuously available means of communications between the satellite network control center and the earth station operator or its remote control point as designated by the licensee.

(2) The earth station operator shall notify the satellite network control center and receive permission from the control center before transmitting to the satellite or changing the basic characteristics of a transmission.

(3) The earth station operator shall keep the space station licensee informed of all actual and planned usage.

(4) Upon approval of the satellite network control center, the earth station operator may radiate an RF carrier into the designated transponder. Should improper illumination of the transponder or undue adjacent transponder interference be observed by the satellite network control center, the earth station operator shall immediately take whatever measures are needed to eliminate the problem.

(5) The space station licensee may delegate the responsibility and duties of the satellite network control center to a technically qualified user or group of users, but the space station licensee shall remain ultimately responsible for the performance of those duties.

§ 25.273 Duties regarding space communications transmissions.

(a) No person shall:

(1) Transmit to a satellite unless the specific transmission is first authorized by the satellite network control center;

(2) Conduct transmissions over a transponder unless the operator is authorized by the satellite licensee or the satellite licensee's successor in interest to transmit at that time; or

(3) Transmit in any manner that causes unacceptable interference to the authorized transmission of another licensee.

(b) Satellite operators shall provide upon request by the Commission and by earth station licensees authorized to transmit on their satellites relevant information needed to avoid unacceptable interference to other users, including the polarization angles for proper illumination of a given transponder.

(c) Space station licensees are responsible for maintaining complete and accurate technical details of current and planned transmissions over their satellites, and shall require that authorized users of transponders on their satellites, whether by tariff or contract, provide any necessary technical information in this regard including that required by § 25.272. Based on this information, space station licensees shall exchange among themselves general technical information concerning current and planned transmission parameters as needed to identify and promptly resolve any potential cases of unacceptable interference between their satellite systems.

(d) Space stations authorized after May 10, 1993 which do not satisfy the requirements of § 25.210 may be required to accept greater constraints in resolving interference problems than complying ones. The extent of these constraints shall be determined on a case-by-case basis.

§ 25.274 Procedures to be followed in the event of harmful interference.

(a) The earth station operator whose transmission is suffering harmful interference shall first check the earth station equipment to ensure that the equipment is functioning properly.

(b) The earth station operator shall then check all other earth stations in the licensee's network that could be causing the harmful interference to ensure that none of the licensee's earth stations are the source of the interference and to verify that the source of interference is not from a local terrestrial source.

(c) After the earth station operator has determined that the source of the interference is not another earth station operating in the same network or from a terrestrial source, the earth station operator shall contact the satellite system control center and advise the satellite operator of the problem. The control center operator shall observe the interference incident and make reasonable efforts to determine the source of the problem. A record shall be maintained by the control center operator and the earth station operator of all harmful interference incidents and their resolution. These records shall be made available to an FCC representative on request.

(d) Where the suspected source of the interference incident is the operation of an earth station licensed to operate on

one or more of the satellites in the satellite operator's system, the control center operator shall advise the offending earth station of the harmful interference incident and assist in the resolution of the problem where reasonably possible.

(e) The earth station licensee whose operations are suspected of causing harmful interference to the operations of another earth station shall take reasonable measures to determine whether its operations are the source of the harmful interference problem. Where the operations of the suspect earth station are the source of the interference, the licensee of that earth station shall take all measures necessary to eliminate the interference.

(f) At any point, the system control center operator may contact the Commission's Laurel, Maryland office to assist in resolving the matter. This office specializes in the resolution of satellite interference problems. All licensees are required to cooperate fully with the Commission in any investigation of interference problems.

(g) Where the earth station suspected of causing interference to the operations of another earth station cannot be identified or is identified as an earth station operating on a satellite system other than the one on which the earth station suffering undue interference is operating, it is the responsibility of a representative of the earth station suffering harmful interference to contact the control center of other satellite systems.

§ 25.275 Particulars of operation.

(a) Radio station authorizations issued under this part will normally specify only the frequency bands authorized for transmission and/or reception of the station.

(b) When authorized frequency bands are specified in the station authorization, the licensee is authorized to transmit any number of r.f. carriers on any discrete frequencies within an authorized frequency band in accordance with the other terms and conditions of the authorization and the requirements of this part. Specific r.f. carrier frequencies within the authorized frequency band shall be selected by the licensee to avoid unacceptable levels of interference being caused to other earth, space or terrestrial stations. Any coordination agreements, both domestic and international, concerning specific frequency usage constraints, including non-use of any particular frequencies within the frequency bands listed in the station authorization, are considered to be conditions of the station authorization.

(c) A license for a transmitting earth station will normally specify only the r.f. carriers having the highest e.i.r.p. density, the narrowest bandwidth, and the largest bandwidth authorized for transmission from that station. Unless otherwise specified in the station authorization, the licensee is authorized to transmit any other type of carrier not specifically listed which does not exceed the highest e.i.r.p., e.i.r.p. density and bandwidth prescribed for any listed emission.

(d) Only the most sensitive emission(s) for which protection is being afforded from interference in the authorized receive frequency band(s) will be specified in the station authorization.

§ 25.276 Points of communication.

(a) Unless otherwise specified in the station authorization, an earth station is authorized to transmit to any space station in the same radio service provided that permission has been received from the space station operator to access that space station.

(b) Space stations licensed under this part are authorized to provide service to earth stations located within the specified service area. Coastal waters within the outer continental shelf shall be considered to be included within the service area specified by the named land mass.

(c) Transmission to or from foreign points over space stations in the Fixed-Satellite Service, other than those operated by the International Telecommunications Satellite Organization and Inmarsat, are subject to the policies established in Transborder Satellite Video Services, 88 FCC 2d 258 (1981) and Establishing of Satellite Systems Providing International Communications, 101 FCC 2d 1201 (1985), and the procedures promulgated thereunder.

§ 25.277 Temporary fixed earth station operations.

(a) When an earth station in the Fixed-Satellite Service is to remain at a single location for fewer than 6 months, the location may be considered to be temporary fixed. Services provided at a single location which are initially known to be of longer than six months' duration shall not be provided under a temporary fixed authorization.

(b) When a station, authorized as a temporary fixed earth station, is to remain at a single location for more than six months, application for a regular station authorization at that location shall be filed at least 30 days prior to the expiration of the six-month period.

(c) The licensee of an earth station which is authorized to conduct temporary fixed operations in bands shared co-equally with terrestrial fixed stations shall provide the following information to the licensees of all terrestrial facilities lying within the coordination contour of the proposed temporary fixed earth station site before beginning transmissions:

(1) The name of the person operating the station and the telephone number at which the operator can be reached directly;

(2) The exact frequency or frequencies used and the type of emissions and power levels to be transmitted; and

(3) The commencement and anticipated termination dates of operation from each location.

(d) Transmissions may not be commenced until all affected terrestrial licensees have been notified and the earth station operator has confirmed that unacceptable interference will not be caused to such terrestrial stations.

(e) Operations of temporary fixed earth stations shall cease immediately upon notice of harmful interference from the Commission or the affected licensee.

[FR Doc. 93–5403 Filed 3–10–93; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91–193; RM–7717, RM–7822]

Radio Broadcasting Services; Corpus Christi and Three Rivers, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Three Rivers Communications, allots Channel 233C2 to Three Rivers, Texas, as the community's first local aural transmission service (RM–7822). See 56 FR 32371, July 16, 1991. Channel 233C2 can be allotted to Three Rivers in compliance with the Commission's minimum distance separation requirements with a site restriction of 22.0 kilometers (13.7 miles) southwest to avoid short-spacings to Station KFGI, Channel 234C, Luling, Texas, and to the construction permit for Station KBSO(FM), Channel 234A, Corpus Christi, Texas. The coordinates for

Channel 233C2 at Three Rivers are North Latitude 28–24–30 and West Longitude 98–23–40. Mexican concurrence has been obtained since Three Rivers is located within 320 kilometers (199 miles) of the U.S.-Mexican border. See SUPPLEMENTARY INFORMATION, *infra*.

DATES: Effective April 19, 1993. The window period for filing applications will open on April 20, 1993, and close on May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91–193, adopted February 10, 1993, and released March 5, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

The mutually exclusive proposal of Reina Broadcasting, Inc., to substitute Channel 234C2 for Channel 234A at Corpus Christi, Texas, is denied (RM–7717). With this action, this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Three Rivers, Channel 233C2.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–5505 Filed 3–10–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 92–279; RM–8111]

Radio Broadcasting Services; Hempstead, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Farmers Communications, permittee of Station KEZB–FM, Channel 287A, Hempstead, Texas, substitutes Channel 287C3 for Channel 287A at Hempstead and modifies Station KEZB–FM's construction permit to specify operation on the higher powered channel. See 57 FR 57411, December 4, 1992. Channel 287C3 can be allotted to Hempstead in compliance with the Commission's minimum distance separation requirements with a site restriction of 18.3 kilometers (11.3 miles) north to accommodate Farmers' desired site. The coordinates for Channel 287C3 are 30–15–39 and 96–05–29. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 19, 1993.

FOR FURTHER INFORMATION CONTACT:

Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92–279, adopted February 10, 1993, and released March 5, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 287A and adding Channel 287C3 at Hempstead.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–5506 Filed 3–10–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91–55; Notice 2]

RIN 2127–AE09

Federal Motor Vehicle Safety Standards; Tire Selection and Rims for Motor Vehicles Other than Passenger Cars

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends Standard No. 120, Tire Selection and Rims for Motor Vehicles other than Passenger Cars, to clarify the requirement about tire information labels on multipurpose passenger vehicles, trucks, buses, and trailers. Specifically, this amendment requires the label to specify a recommended tire inflation pressure that reflects a reduction in load carrying capacity for a given inflation pressure when such vehicles are equipped with passenger car tires. The notice also deletes outdated language in Standard No. 120.

DATES: Effective Date: The amendments become effective on June 9, 1993.

Petitions for Reconsideration: Any petitions for reconsideration of this rule must be received by NHTSA no later than April 12, 1993.

ADDRESSES: Petitions for reconsideration of this rule should refer to Docket 91–55; Notice 2 and should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Cook, NRM–11, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, Telephone: (202) 366–4803.

SUPPLEMENTARY INFORMATION:

Background

Federal Motor Vehicle Safety Standard No. 120, Tire Selection and Rims for Motor Vehicles Other than Passenger Cars, specifies tire and rim selection requirements and rim marking requirements to ensure that multipurpose passenger vehicles (MPVs), trucks, buses, trailers and motorcycles are equipped with adequate tires and rims to support the fully-loaded vehicles under contemplated operating conditions. Section S5.3.2 of Standard No. 120 requires

manufacturers to affix a permanent label to each vehicle with information about rims, tires and corresponding inflation pressures appropriate for the vehicle's gross axle weight rating (GAWR).

Section S5.3.3 of Standard No. 120 references section S5.1.2 which explains how to determine whether a recommended tire size is appropriate for a vehicle's GAWR. Section S5.1.2 states that the sum of the maximum load ratings of the tires fitted to an axle shall not be less than the GAWR. In the event that passenger car tires are installed on an MPV, truck, bus, or trailer, this section specifies that each tire's load rating must be reduced by dividing by 1.10 before determining whether the tires on an axle are adequate for the GAWR.

The 1.10 reduction in load rating is intended to account for the generally harsher treatment, such as heavier loading and possible off-road use, that passenger car tires receive when installed on an MPV, truck, bus or trailer rather than on a passenger car. The reduction provides a safety margin for those other types of vehicles when they are equipped with passenger car tires.

Among the items of tire information that S5.3 requires to be labeled on a vehicle, S5.3.5 requires the manufacturer to recommend appropriate cold inflation pressures for tires specified for the vehicle, as well as suitable rims. During recent enforcement actions, a few manufacturers have argued that the 1.10 reduction in load rating for passenger car tires need not be reflected in the recommended inflation pressure labeled on the vehicle. They contended that the reduction applies only for the purpose of determining whether the tires actually installed on a vehicle have adequate load carrying capacity compared to the GAWR of each axle. In support of their argument, these manufacturers stated that the section containing the 1.10 reduction factor for passenger car tires is only expressly referenced in S5.3.3, dealing with tire sizes. Accordingly, they have questioned whether the reduction must be taken into account when recommending inflation pressures.

In a letter to one of these manufacturers, NHTSA stated that a Standard No. 120 tire information label recommending the use of a passenger car tire on a vehicle subject to Standard No. 120 must specify a recommended cold tire inflation pressure sufficient such that when the tire's load carrying capacity at that pressure is reduced by dividing by 1.10, the capacity is appropriate for the GAWR of each axle. In other words, the combined capacity of the tires on that axle must equal or exceed that GAWR. (See March 15, 1990 letter from Acting Chief Counsel Mr. Wood to Mr. Nishibori, Nissan Research & Development, Inc.)

The agency published a notice proposing to amend Standard No. 120 to reflect this interpretation by adding to the labeling provision regarding inflation pressure recommendations, a requirement that the pressure for a recommended passenger car tire be appropriate for the GAWR. (56 FR 55650, October 29, 1991) By appropriate, the agency meant that the pressure should be selected so as to reflect the reduction of the load carrying capacity for any given cold inflation pressure. The agency tentatively concluded that the change would facilitate agency efforts to ensure compliance with the Standard's intended guarantee of a safety margin when passenger car tires are recommended for use on MPVs, trucks, buses, and trailers.

Comments and Agency's Determination

NHTSA received comments from Atlas Supply Company, the Rubber Manufacturers Association (RMA), Chrysler, Ford, Toyota, and General Motors (GM). The commenters generally supported the proposal to clarify the requirements for tire load capacity and inflation pressures when passenger car tires are used on MPVs and trucks. Chrysler, Ford, and GM stated that the proposed amendment was consistent with how they have interpreted Standard No. 120. After reviewing the comments and other available information, the agency has decided to adopt the proposal, with a few minor modifications that are explained below.

RMA, Ford, and GM stated that the sections referenced in S5.3.2 of the proposed amendment were erroneously cited. After reviewing the proposal, NHTSA agrees with these comments and is modifying the regulatory text to include the correct references.

Toyota was concerned that adding the information would require a label that was larger than one that would fit within the available vehicle body dimensions in the locations currently employed in accordance with Standard No. 120. This led Toyota to recommend that the agency allow the label to be placed in the same location as the passenger car tire placard.

NHTSA believes that Toyota misinterpreted the proposal. There is no need to change the labels' size or placement since no information will have to be added to this existing Standard No. 120 label. The agency believes that Toyota may have been referring to the proposed requirements under Docket 91–16 Notice 1 for vehicle capacity weight which would have added information to the existing tire information label. (56 FR 15315, April 16, 1991)

Atlas recommended that the agency clarify the terminology concerning the 1.10 correction factor to include additional wording stating that the manufacturer must specify a recommended cold inflation pressure sufficient such that when the tire's load carrying capacity at that pressure is reduced by dividing by 1.10, the capacity is appropriate for the GAWR of each axle (i.e., the combined capacity of the tires on that axle must equal or exceed that GAWR).

After reviewing the comment, NHTSA agrees that additional wording to clarify the meaning of the relationship between the recommended tire cold inflation pressure and the 1.10 tire load reduction factor will help clarify the provision. Section S5.1.2 has been amended accordingly.

RMA recommended that S5.1.2 be amended to delete reference to appendix A of Standard No. 109, stating that appendix A was deleted from Standard No. 109 several years ago. NHTSA agrees with the comment that the wording in S5.1.2 should be modified to delete reference to old appendix A. Nevertheless, the agency notes that Standard No. 109 now contains a different appendix A which deals with the tire pressures used in current performance testing.

RMA commented that the tire label example belongs after S5.3.5 instead of S5.3.6. The agency agrees with this comment. The example has been moved to a location just after the requirements for tires and rims. The agency notes that the final rule adopts different section numbers. In addition, NHTSA agrees with RMA that the tire size in the second example should be changed since the 7.00—20(E) tire size is obsolete. Instead, the example now uses a tire size of 10.00—20(F).

In Docket 91–16 relating to vehicle capacity weight, the agency had proposed deleting some outdated language in Standard No. 120. (56 FR 15315, April 16, 1991). The agency is deleting the outdated language in this final rule because the agency terminated rulemaking about that proposal's substantive portions. (57 FR 7712, March 4, 1992)

This final rule does not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety

standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has examined the impact of this rulemaking action and determined that it is not major within the meaning of Executive Order 12291 or significant within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has also determined that the economic and other impacts of this rulemaking action are so minimal that a full regulatory evaluation is not required. The amendment regarding load carrying capacity will not change the requirements of Standard No. 120 and is consistent with past agency interpretations of the Standard. The amendment merely incorporates the agency's existing interpretation that Standard No. 120 requires manufacturers to take into account the 1.10 reduction in load carrying capacity when recommending inflation pressures for passenger car tires that may be installed on MPVs, trucks, buses and trailers. Thus, the amendment will not impose any new requirements on manufacturers.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that this amendment will not have a significant impact on a substantial number of small entities. Few, if any, vehicle manufacturers qualify as small entities. Further, the amendment will not affect the purchase price of new vehicles because it merely clarifies an existing requirement in Standard No. 120. Thus, the amendment will not significantly affect small organizations and governmental units. Accordingly, the agency has not prepared a preliminary regulatory flexibility analysis.

National Environmental Policy Act

NHTSA has also analyzed this rulemaking action with regard to the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612. The agency has determined that this rulemaking does not have significant federalism implications and therefore does not warrant the preparation of a Federal Assessment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor Vehicles.

In consideration of the foregoing, 49 CFR 571.120 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.120 [Amended]

2. S5.1.2 is revised to read as follows:

S5.1.2 Except in the case of a vehicle which has a speed attainable in 2 miles of 50 mph or less, the sum of the maximum load ratings of the tires fitted to an axle shall be not less than the gross axle weight rating (GAWR) of the axle system as specified on the vehicle's certification label required by 49 CFR part 567. If the certification label shows more than one GAWR for the axle system, the sum shall be not less than the GAWR corresponding to the size designation of the tires fitted to the axle. If the size designation of the tires fitted to the axle does not appear on the certification label, the sum shall be not less than the lowest GAWR appearing on the label. When a tire subject to FMVSS No. 109 is installed on a multipurpose passenger vehicle, truck, bus, or trailer, the tire's load rating shall be reduced by dividing by 1.10 before calculating the sum (i.e., the sum of the load ratings of the tires on each axle, when the tires' load carrying capacity at the recommended tire cold inflation pressure is reduced by dividing by 1.10, must be appropriate for the GAWR).

3. S5.3 is revised to read as follows:

S5.3 *Label information.*

Each vehicle manufactured on or after December 1, 1984, shall show the information specified in S5.3.1 and S5.3.2, and in the case of a vehicle equipped with a non-pneumatic spare tire, the information specified in S5.3.3, in the English language, lettered in block capitals and numerals not less than three thirty-seconds of an inch high and in the format set forth following this section. This information shall appear either—

(a) After each GAWR listed on the certification label required by § 567.4 or § 567.5 of this chapter; or, at the option of the manufacturer,

(b) On the tire information label affixed to the vehicle in the manner, location and form described in § 567.4 (b) through (f) of this chapter, as appropriate for each GVWR–GAWR combination listed on the certification label.

S5.3.1 *Tires.* The size designation (not necessarily for the tires on the vehicle) and the recommended cold inflation pressure for those tires such that the sum of the load ratings of the tires on each axle (when the tires' load carrying capacity at the specified pressure is reduced by dividing by 1.10, in the case of a tire subject to FMVSS No. 109) is appropriate for the GAWR as calculated in accordance with S5.1.2.

S5.3.2 *Rims.* The size designation and, if applicable, the type designation of Rims (not necessarily those on the vehicle) appropriate for those tires.

Truck Example

Suitable Tire-Rim Choice

GVWR: 17280

GAWR: Front—6280 with 7.50—20 (D) tires, 20 x 6.00 rims, at 75 psi cold single.

GAWR: Rear—11000 with 7.50—20 (D) tires, 20 x 6.00 rims, at 65 psi cold dual.

GVWR 29279

GAWR: Front—10640 with 10.00—20 (F) tires, 20 x 7.50 rims, at 90 psi cold single.

GAWR: Rear—18639 with 10.00—20 (F) tires, 20 x 7.50 rims, at 80 psi cold dual.

S5.3.3 The non-pneumatic tire identification code, with which that assembly is labeled pursuant to S4.3(a) of § 571.129.

4. Standard No. 120 is amended by deleting section S6 in its entirety.

5. In Standard No. 120, sections S7, S8, S9, and S10 are renumbered as S6, S7, S8, and S9 respectively.

Issued on March 5, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93–5577 Filed 3–10–93; 8:45 am]

BILLING CODE 4910–59–M

Proposed Rules

Federal Register
Vol. 58, No. 46
Thursday, March 11, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

10 CFR Part 810

Assistance to Foreign Atomic Energy Activities

AGENCY: Office of Arms Control and Nonproliferation, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) proposes to amend its regulations at 10 CFR part 810 concerning unclassified assistance to foreign atomic energy activities.

The amendments are designed to: Establish a general authorization for assistance that would enhance the operational safety of existing civilian nuclear power reactors in countries listed in § 810.8; add to § 810.3 a definition of "operational safety" as this concept relates to nuclear power reactors; update the § 810.8 list of countries requiring specific authorization for nuclear power reactor-related assistance by deleting certain countries and adding others; establish a requirement for specific authorization for assistance relating to certain research, prototype, and test reactors; require that any materials, equipment, or technology transferred under certain general authorizations not be retransferred to a country listed in section 810.8 without prior U.S. Government consent; and substitute current addresses for submitting reports and requests.

DATES: Comments are requested and must be received no later that April 12, 1993.

ADDRESSES: Written comments should be sent to: Director, Export Control Operations Division, Office of Export Control and International Safeguards, AN–30, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20586. Telephone (202) 586–2112.

FOR FURTHER INFORMATION CONTACT: Mr. Zander Hollander, Export Control Specialist, Export Control Operations Division, Office of Export Control and International Safeguards, An–30, U.S. Department of Energy. Telephone (202) 586–2125.

SUPPLEMENTARY INFORMATION:

1. Background

10 CFR part 810 implements section 57b(2) of the Atomic Energy Act of 1954, as amended by section 302 of the Nuclear Non-Proliferation Act of 1978 (NNPA) (42 U.S.C. 2077). These sections require that U.S. persons who engage directly or indirectly in the production of special nuclear material outside the United States be authorized to do so by the Secretary of Energy. According to the part 810 regulations, assistance by U.S. persons to nuclear power reactor-related activities outside the United States is generally authorized for countries not listed in § 810.8, which deals with activities requiring specific authorization. A main purpose of this revision is to establish a general authorization for assistance that would enhance the operational safety of existing civilian nuclear power reactors in countries listed in § 810.8, eliminating the need for specific authorization by the Secretary of Energy for such assistance. In this regard, the new general authorization can be viewed as building on to current authority in § 810.7(b), which generally authorizes assistance to prevent or correct a current or imminent radiological emergency posing a significant danger to public health and safety. However, unlike other general authorizations, applicants will have to obtain the written permission of the Department of Energy in order to use the new general authorization. It is expected that in most cases this permission will be given within 30 days. DOE will review applications to confirm that proposed activities meet the criteria for use of the authorization and are consistent with the objectives of U.S. national security, national disclosure, and nuclear nonproliferation policy. To this end, DOE will provide each application received to the Departments of State, Commerce, and Defense, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission. If it appears that review is required beyond the 30-day period, DOE will notify the applicant not to proceed until DOE informs the applicant otherwise.

The intent of the new general authorization is to:

- Expedite safety-related assistance to civilian nuclear power plants, particularly in the former Soviet Union, and support the U.S. Government's efforts to improve the operational safety of nuclear power reactors worldwide.
- Enable U.S. firms to compete more effectively against foreign competitors for safety-related nuclear business.
- Eliminate unnecessary paperwork and time-consuming bureaucratic delays.

A definition of "operational safety" is being added to § 810.3 "Definitions" to assist applicants in determining whether assistance they propose to furnish might qualify for the new general authorization. The authorization also would apply to "continuing programs" of safety enhancement, in which a U.S. supplier undertakes a variety of informational and assistance activities intended to upgrade and maintain safety over a long period; this would obviate the need for specific authorization of each or several of the activities periodically.

In § 810.8, the list of countries requiring specific authorization even for nuclear power-reactor related activities is being updated to reflect the vast changes in the world since the list was published in 1986. Deleted from the list are countries that no longer exist, some countries that have become party to the Nuclear Non-Proliferation Treaty (NPT) and completed full-scope safeguards agreements with the International Atomic Energy Agency, and East European countries that were listed solely for national security reasons that vanished with the disintegration of the Warsaw Pact. Added to the list are the republics of the former Soviet Union.

2. Proposed Regulatory Changes

The following changes are proposed to be made to part 810:

A. Section 810.3 Definitions. A definition of "operational safety" would be added.

B. Section 810.4 Communications. A new addressee for communications would be given.

C. Section 810.5 Interpretations. The title of the office providing advice would be changed.

D. Section 810.7 Generally authorized activities. A new general authorization

for assistance that would enhance the operational safety of existing civilian nuclear power reactors would be added.

E. Section 810.8 Grant of specific authorization. The list of countries in subsection 810.8(a) would be revised, with some countries deleted and others added. Section 810.8 would also be amended by adding requirements for specific authorization for assistance relating to research, prototype, and test reactors greater than 5 Megawatts Thermal and training in related activities.

F. Section 810.10 Grant of specific authorization. The addressee for proposals to provide assistance would be changed.

G. Section 810.13 Reports. Reporting requirements would include an assurance that a vendor has an agreement with the recipient requiring U.S. Government consent before the vendor can allow the recipient to retransfer to a country listed in § 810.8 materials, equipment, and technology transferred under a general authorization. Also, the addressee for reports would be changed.

The Department considered, but at this time does not propose, two variants on this requirement. Under one variant, the vendor would have to provide the assurance that the vendor has an agreement with the recipient requiring U.S. Government consent before the vendor can allow the recipient to retransfer to a country listed in § 810.8 assistance transferred under a general authorization, and that these U.S. Government consent rights must follow the assistance in perpetuity through any further retransfers to listed countries. Under the other variant, the vendor would have to provide the assurance that the vendor has an agreement with the recipient requiring U.S. Government consent before the vendor can allow the recipient to retransfer to any country assistance provided under a general authorization.

The Department invites public comment on these variants as well as on the proposed amendment.

H. Section 810.16 Effective date and savings clause. The savings clause would state that the revision will not affect previously granted specific authorizations or generally authorized activities for which the contracts, purchase orders, or licensing arrangements are already in effect on the date of publication of the final rule; also, that persons engaging in activities generally authorized under the present regulations but requiring specific authorization under the revision must request such specific authorization within 90 days but may continue their activities until DOE acts on the request.

3. Statutory Requirements

Pursuant to section 57b of the Atomic Energy Act as amended by the NNPA, with the concurrence of the Department of State and after consultations with the Departments of Defense and Commerce, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission, the Secretary of Energy has determined that to authorize this proposed revision of 10 CFR part 810 will not be inimical to the interests of the United States.

4. Opportunity for Public Comment

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposals set forth in this notice. Comments should be submitted to the Director of the Export Control Operations Division at the address set forth in the **ADDRESSES** section of this notice. The envelope and written comments submitted should be identified with the designation "Notice of Proposed Rulemaking." Ten (10) copies of the comments should be submitted.

All comments received on or before the date specified in the beginning of this notice and all other relevant information will be considered by DOE before taking final action.

Any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy marked confidential, as well as ten (10) copies from which the information claimed to be confidential has been deleted. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination. This procedure is set forth in 10 CFR 1004.11.

B. Public Hearing

This notice of proposed rulemaking does not involve any significant issues of law or fact and the rule would be unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Accordingly, pursuant to 42 U.S.C. 7191(c) and 5 U.S.C 553, DOE is not scheduling a public hearing.

5. Procedural Matters

A. Review Under Executive Order 12291

The proposed rule has been reviewed under Executive Order 12291. DOE has concluded that the rule would not be a "major rule" since it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or

(3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete in domestic export markets. In accordance with the requirements of the Executive Order, this notice of proposed rulemaking has been reviewed by the Office of Management and Budget.

B. Review Under the Regulatory Flexibility Act

The proposed rule has been reviewed under the Regulatory Flexibility Act, Public Law 96–354 (42 U.S.C. 601–612) which requires preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities, i.e., small businesses and small government jurisdictions. This action would amend certain regulations in a manner to expedite the current process of providing approval for U.S. persons to conduct certain activities in other countries; thus it would impose no economic burden upon small entities subject to those regulations. DOE accordingly certifies that there will not be a significant economic impact on a substantial number of small entities and that preparation of regulatory flexibility analysis is not warranted.

C. Review Under the National Environmental Policy Act

The proposed rule has been reviewed under the National Environmental Policy Act of 1969, Public Law 91–190 (42 U.S.C. 5321 *et seq.*), Council on Environmental Quality Regulations (40 CFR parts 1500–08), and the Department of Energy environmental regulations (10 CFR part 1021) and has been determined not to constitute a major Federal action significantly affecting the quality of the human environment. Accordingly, no environmental impact statement is required.

D. Review Under Executive Order 12612

Executive Order 12612 requires that regulations be reviewed for any substantial direct effects on States, on the relationship between the national Government and the States, or in the distribution of power among various levels of government. If there are sufficient substantial direct effects, the Executive Order requires the

preparation of a Federalism assessment to be used in decisions by senior policymakers in promulgating or implementing the regulation. The proposed rule will not have a substantial direct effect on the traditional rights and prerogatives of States in relationship to the Federal Government. Preparation of a Federalism assessment is therefore unnecessary.

E. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency subject to Executive Order 12291 to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: Specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's proposal meets the requirements of sections 2(a) and (b) of Executive Order 12778.

F. Paperwork Reduction Act

The information collections in this proposed rule are exempt from review by the Office of Management and Budget and from public comment for reasons of national security as provided for in Executive Orders 12035 and 12333 issued under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

List of Subjects in 10 CFR Part 810

Foreign relations, Nuclear energy, Reporting and recordkeeping requirements.

Issued in Washington, DC, February 26, 1993.

Victor E. Alessi,

Director, Office of Arms Control and Nonproliferation, Office of the Secretary.

For the reasons set out in the preamble, part 810 of title 10 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 810—ASSISTANCE TO FOREIGN ATOMIC ENERGY ACTIVITIES

1. The authority citation for part 810 continues to read as follows:

Authority: Sections 57, 127, 128, 129, 161, and 223, Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 955–242, 68. Stat. 932, 948, 950, 958, 92 Stat. 126, 136, 137, 138 (42 U.S.C. 2077, 2156, 2157, 2158, 2201, 2273); Sec. 104 of the Energy Reorganization Act of 1974, Pub. L. 93–438; Sec. 301 Department of Energy Organization Act, Pub. L. 95–91 (41 U.S.C. 7101).

2. Section 810.3 is amended by adding in alphabetical order the definition for the term "Operational safety" to read as follows:

§ 810.3 Definitions.

* * * * *

Operational safety means the capability of a reactor to be operated in a manner that prevents uncontrolled or inadvertent criticality, prevents or mitigates uncontrolled release of radioactivity to the environment, monitors and limits staff exposure to radiation and radioactivity, and protects the public for exposure to radiation or radioactivity. Operational safety may be enhanced by providing expert advice, equipment, instrumentation, technology, software, services, analyses, procedures, training, or other assistance that improves the capability of the reactor to be operated in such a manner.

* * * * *

3. Section 810.4 is amended by designating the first paragraph as (a) and revising it and designating the second paragraph as (b) to read as set forth below:

§ 810.4 Communications.

(a) All communications concerning these regulations should be addressed to: U.S. Department of Energy, Washington, DC 20585. Attention: Director, Export Control Operations Division, AN–30, Office of Export Control and International Safeguards. Telephone (202) 586–2112.

* * * * *

§ 810.5 [Amended]

4. Section 810.5 is amended by removing the phrase "Division of Politico-Military Security Affairs (PMSA)" in the first sentence and adding in its place "Export Control Operations Division (AN–30)". Section 810.5 is further amended by removing the acronym "PMSA" in the second sentence and adding in its place "Director, Export Control Operations Division".

* * * * *

5. Section 810.7 is amended by redesignating paragraphs (c) through (g) as (d) through (h) and adding a new paragraph (c) to read as follows:

§ 810.7 Generally authorized activities.

* * * * *

(c) Furnishing information or assistance, including through continuing programs, to enhance the operational safety of an existing civilian nuclear power plant or to prevent, reduce, or correct a danger to public health and safety posed by a civilian nuclear power plant provided the Department of Energy is notified in advance by certified mail, return receipt requested, and approves the use of the authorization in writing; the Department will notify the applicant of the status of the request within 30 days from the date of receipt of the notification.

* * * * *

6. Section 810.8 is amended by revising paragraphs (a) and (c)(5) and adding paragraph (c)(6) to read as follows:

§ 810.8 Activities requiring specific authorization.

* * * * *

(a) Engaging directly or indirectly in the production of special nuclear material in any of the countries listed below:

Afghanistan	Kuwait
Albania	Kyrgyzstan
Algeria	Laos
Andorra	Latvia
Angola	Libya
Argentina	Mauritania
Armenia	Moldova
Azerbaijan	Monaco
Bahrain	Mongolian People's Democratic Republic
Belarus	Mozambique
Brazil	Niger
Burma (Myanmar)	Oman
Cambodia	Pakistan
Chile	Qatar
China, People's Republic of	Russia
Comoros	Saudi Arabia
Cuba	South Africa
Djibouti	Syria
Estonia	Tajikistan
Georgia	Turkmenistan
Guyana	Ukraine
India	United Arab Emirates
Iran	Uzbekistan
Iraq	Vanuatu
Israel	Vietnam
Kazakhstan	Zambia
Korea, People's Democratic Republic of	Zimbabwe

Countries may be removed from or added to this list by amendments published in the **Federal Register**.

* * * * *

(c) * * *

(5) Designing, constructing, fabricating, operating, or maintaining research, prototype, or test reactors

capable of continuous operation above 5 Megawatts Thermal.

(6) Training in the activities of paragraphs (c)(1) through (5) of this section.

§ 810.10 [Amended]

7. Paragraph 810.10(a) is amended by removing the phrase "Director, Division of Politico-Military Security Affairs (DP–332), Office of International Security Affairs" and adding in its place "Director, Export Control Operations Division, AN–30, Office of Export Control and International Safeguards".

8. Section 810.13 is amended by revising the introductory text of paragraph (d), adding a new paragraph (d)(4), and revising paragraphs (f) and (g) to read as follows:

§ 810.13 Reports.

* * * * *

(d) Any person, within 30 days after beginning any generally authorized activity under sections 810.7(b), (c), or (h), shall provide to the Department of Energy:

* * * * *

(4) An assurance that the U.S. vendor has an agreement with the recipient that the vendor must obtain U.S. Government consent before the recipient may retransfer to a country listed in section 810.8 any technology, equipment, or materials transferred under general authorization.

* * * * *

(f) Persons engaging in activities generally authorized under section 810.7(a), (d), (e), (f), and (g) are not subject to reporting requirements under this section.

(g) All reports should be sent to: U.S. Department of Energy, Washington, DC 20585. Attention: Director, Export Control Operations Division, AN–30, Office of Export Control and International Safeguards.

9. Section 810.16 is revised to read as follows:

§ 810.16 Effective date and savings clause.

These regulations are effective on (date of publication of the final rule). Except for actions taken by DOE pursuant to § 810.11, this revision does not affect specific authorizations granted under the previous regulations or generally authorized activities under the previous regulations for which the contracts, purchase orders, or licensing arrangements are already in effect on (the date of publication of the final rule). Persons engaging in activities generally authorized under the previous regulations but requiring specific authorization under the revised regulations must request such specific authorization within 90 days but can continue their activities until DOE acts on the request.

[FR Doc. 93–5488 Filed 3–10–93; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–195–AD]

Airworthiness Directives; Fokker Model F27 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F27 series airplanes. This proposal would require a one-time high frequency eddy current inspection to detect cracks in the outer flap center hinge fitting, and repair of the outer flap center hinge. This proposal is prompted by a recent analysis of loading spectra, which revealed that the actual loads of the outer flap center hinge on these airplanes is heavier than originally calculated, resulting in a fatigue life of less than 90,000 landings for certain center hinges. The actions specified by the proposed AD are intended to prevent premature failure of the flap center hinge due to fatigue and reduced structural integrity of the outer flap.

DATES: Comments must be received by May 4, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–195–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–195–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–195–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion: The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for The Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F27 series airplanes. The RLD advises that a recent analysis of loading spectra revealed that the actual loads of the outer flap center hinge on these airplanes is heavier than originally calculated, resulting in a fatigue life of less than 90,000 landings for certain center hinges. This condition, if not corrected, could result in premature failure of the flap center hinge due to fatigue and reduced structural integrity of the outer flap.

Fokker has issued Service Bulletin F27/57–66, dated October 11, 1991,

which describes procedures for a one-time high frequency eddy current inspection to detect cracks in the outer flap center hinge fitting, and repair of the outer flap center hinge. This repair includes replacement of the life-limited hinge fittings. The service bulletin recommends that the repair be accomplished before the retirement life of the hinge fittings is exceeded, or if cracks are found that exceed the specified limitations. This service bulletin specifies that flight with a crack is allowed, provided that (1) the crack is not part of multi-site damage, (2) the crack growth is easily detectable, and (3) the established inspection procedures would detect cracked structure at intervals that would permit repairs to be accomplished before the structure's strength falls below ultimate load carrying capability.

The Fokker service bulletin also distinguishes between airplanes based on the following modifications of the outer flap center hinge:

1. Airplanes on which Fokker Service Bulletin F27/57–22 (B–109) has not been accomplished. The original thickness of the hinge fitting is 10 mm and the bearing is secured by center punches. This hinge was installed at the factory on airplanes up to serial number 10220.

2. Airplanes on which Fokker Service Bulletin F27/57–22 (B–109) has been accomplished. A retainer ring, locking ring, and grease nipple are installed, and the bearing is secured by center punches in the locking ring. This modification was installed at the factory on airplane serial numbers 10221 through 10240, inclusive.

3. Airplanes on which a new center hinge, part number 3809–039–401, has been installed at the factory. The thickness of the hinge fitting was increased to 12 mm, and the fatigue life of this hinge exceeds 90,000 landings. This hinge was installed at the factory on airplane serial numbers 10241 and subsequent.

Fokker Service Bulletin F27/57–66 also specifies that the one-time inspection described in that service bulletin must be accomplished on airplanes in the pre- or post-service bulletin F27/57–22 (B–109) configuration that have accumulated more landings as of the issuance date of the service bulletin than the number of landings defined in item 57–50–02 of Fokker Structural Integrity Program (SIP) Document No. 27438, including revisions up through November 1, 1991. Replacement of the hinge fittings is specified at 72,000 landings [for Model F27 series airplanes in the pre-service bulletin F27/57–22 (B–109) configuration] or 55,000 landings [for Model F27 series airplanes in the post-service bulletin F27/57–22 (B–109) configuration] by AD 92–19–07 (57 FR 42693, September 16, 1992). Replacement of hinge fittings installed on airplanes that have exceeded the number of landings specified in that AD would be addressed by this rulemaking action.

The RLD classified Fokker Service Bulletin F27/57–66 as mandatory and issued Netherlands Airworthiness Directive BLA No. 91–129 in order to assure the continued airworthiness of these airplanes in The Netherlands.

This airplane model is manufactured in The Netherlands and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a one-time high frequency eddy current inspection to detect cracks inside the bearing bore of the outer flap center hinge, and repair of the outer flap center hinge. The actions would be required to be accomplished in accordance with Fokker Service Bulletin F27/57–66, described previously.

The FAA estimates that 25 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 74 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $7,082 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $278,800, or $11,152 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 92–NM–195–AD

Applicability: Model F27 series airplanes (except Model F27 Mark 050 series airplanes); serial numbers 10102 and 10105 through 10240, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent premature failure of the flap center hinge due to fatigue and reduced structural integrity of the outer flap, accomplish the following:

(a) For airplanes on which Fokker Service Bulletin SBF27/57–22 has not been accomplished and that have accumulated 72,000 or more landings as of the effective date of this AD: Within 1,000 landings or 6 months after the effective date of this AD, whichever occurs first, perform a high frequency eddy current inspection of the outer flap center hinge fittings to detect cracks, in accordance with Part I of Fokker Service Bulletin F27/57–66, dated October 11, 1991.

(1) If no crack is found, repair the outer flap center hinge within 2,800 landings or 2 calendar years following the inspection required by paragraph (a) of this AD, whichever occurs first, in accordance with Part 2 of Fokker Service Bulletin F27/57–66, dated October 11, 1991.

(2) If any crack is found, repair the outer flap center hinge, in accordance with Part 2 of Fokker Service Bulletin F27/57–66, dated October 11, 1991, at the times specified in paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) If the crack length inside the bore is less than 5 mm, and if no crack is found on one of the faces around the bore: Repair within 300 landings following the inspection required by paragraph (a) of this AD.

(ii) If the crack length inside the bore is equal to or more than 5 mm; or if the crack length inside the bore is less than 5 mm, and the crack is also present in one of the faces around the bore: Repair prior to further flight.

(b) For airplanes on which Fokker Service Bulletin SBF27/57–22 has been accomplished and that have accumulated 55,000 or more landings as of the effective date of this AD: Within 1,000 landings or 6 months after the effective date of this AD, whichever occurs first, perform a high frequency eddy current inspection of the outer flap center hinge fittings to detect cracks, in accordance with Part I of Fokker Service Bulletin F27/57–66, dated October 11, 1991.

(1) If no crack is found, repair the outer flap center hinge within 2,800 landings or 2 calendar years following the inspection required by paragraph (b) of this AD, whichever occurs first, in accordance with Part 2 of Fokker Service Bulletin F27/57–66, dated October 11, 1991.

(2) If any crack is found, repair the outer flap center hinge in accordance with Part 2 of Fokker Service Bulletin F27/57–66, dated October 11, 1991, at the times specified in paragraph (b)(2)(i) or (b)(2)(ii) of this AD.

(i) If the crack length inside the bore is less than 5 mm, and if no crack is found on one of the faces around the bore: Repair within 300 landings following the inspection required by paragraph (b) of this AD.

(ii) If a crack inside the bore is located on the grease nipple bore half of the hinge; or if the crack length inside the bore is equal to or more than 5 mm; or if the crack length inside the bore is less than 5 mm and the crack is also present in one of the faces around the bore: Repair prior to further flight.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 5, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–5590 Filed 3–10–93; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[CC Docket No. 86–496; FCC No. 93–38]

Reduction of Alien Carrier Interference Between Fixed-Satellites at Reduced Orbital Spacings and To Revise Application Processing Procedures for Satellite Communication Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: By a Notice of Proposed Rule Making (NPRM) in the above-referenced docket, we proposed to amend part 25 of the Commission's rules governing the construction, licensing and operation of satellite service facilities. This Further Notice of Proposed Rulemaking addresses the issue of temporary-fixed (transportable) earth station testing. Our primary purpose in commencing this rulemaking was to implement recommendations made by the joint industry-government Advisory Committee on Implementation of Reduced Orbital Spacing Between Domestic Fixed-Satellites (Advisory Committee), 102 FCC 2d 390 (1985), which was established to advise the Commission on efficient means of implementing 2° orbital spacing between domestic satellites in the 4/6 GHz and 12/14 GHz frequency bands.

DATES: Comments are to be filed on or before May 7, 1993 and replies on or before June 22, 1993.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Wilbert E. Nixon Jr. or Harry Ng at (202) 634–1624.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking in the Matter of the Amendment of part 25 of the Commission's Rules and Regulations to Reduce Alien Carrier Interference between Fixed-Satellites at Reduced Orbital Spacings and to Revise Application Processing Procedures for Satellite Communication Services, Common Carrier Docket No. 86–496, FCC No. 93–38, adopted January 14, 1993 and released March 4, 1993. The full text of this document is available for inspection and copying during normal business hours at the Public Reference Room at its headquarters, room 239, 1919 M Street NW., Washington, DC 20554. The complete text of this decision may also be purchased from the FCC's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Public reporting burden for the collections of information is estimated to average 120 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of Managing Director, Paperwork Reduction Project (3060–0447), Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project (3060–0447), Washington, DC 20503.

Initial Regulatory Flexibility Analysis

I. Reason for Action

In this proceeding the Commission seeks to develop a record and to solicit comments on the proposed rule. These proposed rules are designed to implement recommendations made by the joint industry/government Advisory Committee on 2° satellite spacing and Conus Communications Company Limited Partnership.

II. Objective

This proceeding will elicit comments on the public interest benefits and costs of the proposed rule in accordance with the Commission's obligations under the mandate of title III of the Communications Act of 1934.

III. Legal Basis

The legal basis of this action is found in sections 4(i) and 303 of the Communications Act, 47 U.S.C. 4(i) and 303.

IV. Description, Potential Impact and Number of Small Facilities Affected

The proposed rule would apply to all transportable earth station operators including small satellite newsgathering operators. The proposed rule would establish operational and technical procedures designed to alleviate adjacent satellite interference and may

increase the reporting and cost burden on all satellite licensees.

V. Reporting, Recordkeeping and Other Compliance Requirements

The proposed rules will, in some instances, create additional burdens, but are necessary in order to reduce interference incidents.

VI. Federal Rules Which Overlap, Duplicate or Conflict with the Proposed Rules

There is no overlap, duplication or conflict.

VII. Any Significant Alternative Minimizing Impact on Small Entities and Consistent With Stated Objectives

In order to be effective, these rules must apply to all licensees and thus there is no significant alternative.

Summary of Report and Order

1. The Further Notice of Proposed Rulemaking proposes rules regarding transportable earth station testing standards. Due to the FCC's recent affirmation of 2° spacing, (see Amendment of C-Band Satellite Orbital Spacing Policies to Increase Satellite Video Service to the Home, 7 FCC Rcd 456 (1992)), this action is necessary to ensure that the rules and policies adopted in Reduced Orbital Spacing, 54 Rad. Reg. 2d (P&F) 577 (1983), can be codified.

2. The intended effect of this action is to allow for the continued transition to two degree orbital spacing for U.S. domestic satellites. For this to occur, space station and earth station operators must be guided by a universal set of standards and operational procedures. Successful implementation of two degree spacing will allow for the expansion of satellite capacity in the orbit serving the U.S. market, thus affording expansion opportunities to the U.S. domestic satellite industry.

Conclusion and Ordering Clauses

3. In the Second Report and Order attached to this Further Notice of Proposed Rulemaking, we codify most of the technical rules proposed for earth station and satellite facilities contained in the NPRM, with the modifications as discussed. We will not adopt rules on annual and on-site testing of transportable earth stations at this time, however. Instead, we propose in this Further Notice of Proposed Rulemaking a new rule, § 25.277(f), to govern transportable earth station testing.

4. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new and modified information collection requirements on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

5. *It is further ordered*, That pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 303, further notice of proposed rulemaking is hereby provided to amend § 25.277 of the Commission's rules, 47 CFR 25.277, set forth below.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

List of Subjects in 47 CFR Part 25

Communication common carrier, Communication equipment, Radio, Reporting and recordkeeping requirements, Satellite.

Proposed Rule Change

Part 25 of the Commission's Rules and Regulations (chapter I of title 47 of the Code of Federal Regulations) is proposed to be amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for part 25 continues to read as follows:

Authority: §§25.101 25.531 issued under sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101–104, 76 Stat. 419–427; 47 U.S.C. 701–744.

2. A new Section 25.277(f) is added to read as follows:

§ 25.277 Temporary fixed earth station operations.

* * * * *

(f)(1) Single or multi-piece antennas less than 3 meters in diameter intended for use on a transportable basis should be qualified by the manufacturer as a transportable antenna. Samples of these antennas should be tested for compliance periodically during the manufacturing process (just as any other small antenna would be), and then subject to environmental tests simulating the transportable environment. These antennas would then be put back on the range to see that they are still compliant.

(2) These antennas would be annually tested using a receive signal provided by a cooperating earth station pursuant to § 25.132(b). If these results indicate a variance by more than 2dB from the manufacturer's published data, then the antenna would be sent out for repair and range test, or replacement.

(3) Damage to the antenna that could cause a change in the shape of the reflector or is visually apparent shall be taken out of service immediately and tested pursuant to § 25.132(b).

(4) Any other damage to the antenna shall be cause for replacement of the damaged parts and readjustment of those parameters such as feed centering and focal length that can successfuliy be done in the field. An antenna thus repaired shall then go through the annual qualification procedure in paragraph (f)(2) of this section.

[FR Doc. 93–5404 Filed 3–10–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 25

[CC Docket No. 93–23, FCC 93–89]

Satellite Communications; Filing Requirements for International Receive-Only Earth Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to eliminate the licensing requirement for most international receive-only earth stations in the fixed-satellite service. Earth stations excluded from this proposal are those operationally connected to a domestic common carrier system and used to exchange the carrier's common carrier traffic with the INTELSAT satellite system. A voluntary registration program is proposed to afford frequency protection to those who desire it. This change should open new markets and services for international communication transmissions and make international direct-to-home services, such as television programming, more feasible for U.S. consumers.

DATES: Comments must be submitted on or before May 12, 1993. Reply comments must be submitted on or before May 27, 1993.

ADDRESSES: All comments and reply comments concerning these proposals should be addressed to: Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (room 239) of the Federal Communications Commission, 1919 M St., NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Michael J. Pollak, Senior Engineer, Common Carrier Bureau, (202) 632–7834 and Troy F. Tanner, Attorney, Common Carrier Bureau, (202) 632–7265.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted on February 11, 1993. The full text of this Notice is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this Notice also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Paperwork Reduction Act

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037. Persons wishing to comment on this collection of information should direct their comments to Jonas Neihardt, (202) 395–4814, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503. A copy of any comments filed with the Office of Management and Budget should also be sent to the following address at the Commission: Federal Communications Commission, Records Management Division, room 234, Paperwork Reduction Project, Washington, DC 20554. For further information contact Judy Boley, (202) 632–7513.

Title: Amendment of Section 25.131 of the Commission's Rules and Regulations to Eliminate the Licensing Requirement for Certain International Receive-Only Earth Stations.

OMB Number: None.

Action: Proposed New Collection.

Respondents: Business or other for profit, including small businesses.

Frequency of Response: On occasion.

Estimated Annual Burden: 200 responses; 2 hours per response; 400 hours total.

Needs and Uses: The Notice of Proposed Rulemaking solicits public comment to eliminate the licensing requirement for most international receive-only earth stations and to establish a voluntary registration program for international receive-only earth stations seeking interference protection, similar to that used for domestic receive-only earth stations. The information filed will be used to consider approval of the application.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980, the FCC's initial analysis is as follows:

Need and Purpose of this Notice: This rulemaking proceeding is initiated to obtain comment regarding proposed elimination of the Commission's licensing requirement for most international receive-only earth stations. The Commission seeks to remove unnecessary regulations, and thereby stimulate growth in the international satellite market.

Legal Basis: The proposed action is authorized under sections 4 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303(r), and section 201 of the Communications Satellite Act of 1962, 47 U.S.C. 721.

Reporting, Recordkeeping and Other Compliance Requirements: The proposed registration program is voluntary, and less burdensome than the current licensing procedures. Therefore, the new reporting or recordkeeping requirements of the proposed rules will not create additional burdens on the public.

Federal Rules That Overlap, Duplicate or Conflict With These Rules: None.

Description, Potential Impact, and Number of Small Entities Involved: The proposals discussed in this Notice primarily will reduce regulatory requirements on the small businesses and the public at large who utilize receive-only earth stations for their own use. The licensing requirement will remain the same for those earth station owners that plan on operationally connecting their earth stations with a domestic common carrier network and using it to exchange the carrier's common carrier traffic with the INTELSAT satellite system.

Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives: The Notice solicits comment on a variety of alternatives to achieve Commission objectives.

Summary of Notice of Proposed Rulemaking

The Notice of Proposed Rulemaking proposes to eliminate the licensing requirement for most international receive-only earth stations in the fixed-satellite service. This Notice is in response to a petition filed by Comsat to repeal the licensing requirement for receive-only earth stations operating with satellites of the INTELSAT system. This Notice also proposes to eliminate the licensing requirement for international receive-only earth stations operating with non-INTELSAT satellites.

The Commission already has removed the licensing requirement for domestic receive-only earth stations. Many of the same factors which prompted the Commission to eliminate the licensing requirements for domestic receive-only earth stations are now prevalent in the international satellite marketplace. For example, the introduction of new, high-powered international satellites, and the increasing competition among international satellite operators, means that U.S. consumers could soon have available to them a variety of affordable services such as international news and entertainment programming provided via their backyard receive-only satellite dish. However, the Commission believes it is unreasonable to expect potential U.S. customers of these services to undergo the burdensome process of individually licensing receive-only earth stations, especially if such licensing serves no legitimate purpose. Moreover, the administration of such a licensing program would place unnecessary strain on the Commission's already scarce resources. Therefore, modifying the Commission's licensing requirements should encourage new services, reduce customer cost, and free up Commission resources for other purposes.

The Commission believes deregulation of international receive-only earth stations would be consistent with U.S. law and treaty obligations. In the past, the Commission has declined to eliminate the licensing requirement for international receive-only earth stations because of concerns about U.S. obligations to INTELSAT. However, due to changes in the international satellite arena, as confirmed by the record generated by Comsat's petition, the Commission now believes there is no longer a basis for these concerns. In addition, the Commission tentatively concludes that neither the Satellite Act nor the Communications Act precludes deregulation, except in the few instances when receive-only earth stations are "satellite terminal stations," that is they are connected to a domestic common carrier network and used to provide U.S. common carrier services over the INTELSAT system. The Notice proposes that earth stations falling within this narrow category would still be required to obtain appropriate authorization.

Finally, to provide frequency protection to those international receive-only earth station operators who desire it, the Commission proposes to establish a streamlined registration

program, similar to that used for domestic receive-only earth stations. However, the Notice invites commenters to propose alternative methods of giving receive-only earth station owners interference protection.

List of Subjects in 47 CFR Part 25

Communications common carriers, Communications equipment, Satellites.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-5583 Filed 3-10-93; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 61, 64, and 69

[CC Docket Nos. 91-141 and 91-213; DA 93-227]

Expanded Interconnection With Local Telephone Company Facilities; Transport Rate Structure and Pricing

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time.

SUMMARY: The Commission grants in part and denies in part (DA 93-227) a Motion for Modification of Schedule by the Competitive Telecommunications Association. The revised comment dates spread the burden of the comments and other pleadings in these dockets over a more manageable time frame, while ensuring that all of these proceedings move forward in a timely manner.

DATES: Reply comments on Transport Rate Structure and Pricing (CC Docket No. 91-213) are due on March 19, 1993. Comments on Expended Interconnection—Transport—Phase II (CC Docket No. 91-141) are due on April 2, 1993, and reply comments are due on April 30, 1993.

ADDRESSES: Parties should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition, parties should file two copies of any such pleadings with the Policy and Program Planning Division, Common Carrier Bureau, room 544, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: David L. Sieradzki, Policy & Program Planning Division, Common Carrier Bureau, 202-632-1304.

SUPPLEMENTARY INFORMATION: These Proposed Rules originally appeared in the **Federal Register** at 57 FR 54205 (Nov. 17, 1992) (Transport Rate Structure and Pricing, 7 FCC Rcd 7006) and 57 FR 56888 (Dec. 1, 1992) (Expanded Interconnection With Local Telephone Company Facilities, 7 FCC Rcd 7740). The comment dates were modified in a Proposed Rule that appeared in the **Federal Register** at 57 FR 58767 (Dec. 11, 1992) (Expanded Interconnection with Local Telephone Company Facilities, 7 FCC Rcd 7936).

1. The Competitive Telecommunications Association (CompTel) has requested that the pleading cycles in the above-captioned proceedings be modified. CompTel requests an extension of the comment dates in the Transport Rate Structure and Pricing proceeding (reply comments are due on March 9, 1993) and in Phase II of the Expanded Interconnection proceeding (comments are due on March 3, 1993 and reply comments are due on April 2, 1993). Under CompTel's request, comments in Phase II of the Expended Interconnection proceeding would be due on March 24, 1993, and replies would be due on April 23, 1993; and reply comments in the Transport proceeding would be due on April 9, 1993.

2. In support of its request, CompTel states that both proceedings have been saturated with numerous, lengthy, and sometimes complex pleadings. CompTel notes that pleading cycles for comments on petitions for reconsideration did not close until this week, and that parties have filed various petitions for waivers resulting in additional pleading cycles. Beyond that, CompTel points out that numerous local exchange carriers filed collocation tariffs, petitions for exemption, and density zone pricing plans on February 16, 1993. CompTel requests that the Commission grant parties additional time to review and analyze the materials that have already been filed before preparing the further submissions currently scheduled for filing in early March. CompTel argues that a modest extension will ensure that the pleadings are more comprehensive and responsive on the issues in dispute. CompTel submits that the short extension requested should not delay the staff's development of recommendations or the Commission's decisionmaking timetable in either proceeding. WilTel, Inc., Sprint Communications Co., and MFS Communications Company, Inc. support CompTel's motion.

3. We do not routinely grant extensions of time. 47 CFR 1.46(a). We intended to ease the burden on the parties with our earlier modification of the pleading schedules in these proceedings. We did not, however, foresee the additional pleadings filed due to parties' petitions for waivers in the Expanded Interconnection proceeding, nor the relatively late schedules for comments on petitions for reconsideration in both proceedings. Accordingly, we conclude that CompTel has shown good cause for a limited extension of time. CompTel's proposed reply date for the Transport proceeding, however, would result in undue delay. Instead, we restructure the pleading cycle in a manner that ensures that both the Expanded Interconnection and Transport proceedings move forward in a timely manner.

4. We therefore adopt the following schedule:

March 19, 1993: Reply comments on Transport Rate Structure and Pricing (CC Docket No. 91-213)

April 2, 1993: Comments on Expanded Interconnection—Competitive Switched Access Networks (Phase II) (CC Docket No. 91-141)

April 30, 1993: Reply comments on Expanded Interconnection—Competitive Switched Access Networks (Phase II) (CC Docket No. 91-141)

5. *Accordingly, it is ordered,* That CompTel's Motion for Modification of Scheduled is granted to the extent provided herein, and otherwise is denied. This action is taken pursuant to sections 4(j) and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. 154(j) and 155(c), and authority delegated thereunder pursuant to §§ 0.91 and 0.291 of the Commission's Rules, 47 CFR 0.91 and 0.291.

List of Subjects in 47 CFR Parts 61, 64, and 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

James D. Schlichting,

Chief, Policy and Program Planning Division, Common Carrier Bureau.

[FR Doc. 93-5608 Filed 3-10-93; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 93-27, RM-8170]

Radio Broadcasting Services; Bentonville, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by JEM Broadcasting Company, Incorporated, seeking the allotment of Channel 239A to Bentonville, Arkansas, as that community's second local FM service. Coordinates for Channel 239A

at Bentonville are 36–20–09 and 94–13–36.

DATES: Comments must be filed on or before April 26, 1993, and replay comments on or before May 11, 1993.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: JEM Broadcasting, Company, Incorporated, 216 North Main Street, Bentonville, AR 72712.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–27, adopted February 10, 1993, and released March 5, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–5507 Filed 3–10–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–31, RM–8162]

Radio Broadcasting Services; Crescent North, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of William E. Stamps, Sr. and Patricia R. Stamps, d/b/a Let's Talk Radio, licensee of Station KPOD–FM, Channel 250C3, Crescent North, California, seeking the substitution of Channel 250C2 for Channel 250C3 and modification of its license accordingly to specify operation on the higher powered channel. Coordinates for this proposal are 41–48–25 and 124–10–16.

Petitoner's modification proposal complies with the provisions of § 1.420(g) of the Commission's Rules. Therefore, we will not accept competing expressions of interest in the use of Channel 250C2 at Crescent North, California, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before April 26, 1993, and reply comments on or before May 5, 1993.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Richard A. Helmick, Esq., Cohn and Marks, 1333 New Hampshire Ave., NW., suite 600, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–31, adopted February 9, 1993, and released March 5, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–5508 Filed 3–10–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–29, RM–8157]

Radio Broadcasting Services; Temple TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Progressive Communications, Inc., permittee of Channel 269A, Temple, Texas, proposing the substitution of Channel 269C3 for Channel 269A at Temple and modification of its authorization to specify operation on the higher powered channel. Channel 269C3 can be allotted to Temple in compliance with the Commission's minimum distance separation requirements with a site restriction of 20.1 kilometers (12.5 miles) northwest in order to avoid a short-spacing to vacant but applied for Channel 270A, Lometa, Texas. The coordinates for Channel 269C3 are 31–16–24 and 97–23–33. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest for use of Channel 269C3 at Temple or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before April 26, 1993, and reply comments on or before May 11, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: M. Anne Swanson, Esq., Koteen & Naftalin, 1150 Connecticut Avenue, NW., suite 1000, Washington, DC 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–29, adopted February 9, 1993, and released March 5, 1993. The full text of this Commission decision is available for inspection and copying during

normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1990 M Street, NW., suite 640 Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–5509 Filed 3–10–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–30, RM–8171]

Radio Broadcasting Services; South Hill, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Old Belt Broadcasting Corporation, licensee of Station WSHV–FM, Channel 255A, South Hill, Virginia, proposing the substitution of Channel 255C3 for Channel 255A and modification of Old Belt's license to specify operation on the higher powered channel. Channel 255C3 can be allotted to South Hill in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.6 kilometers (5.3 miles) north to accommodate Old Belt's desired site. The coordinates for Channel 255C3 are 36–48–11 and 78–08–45. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 255C3 at South Hill or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before April 26, 1993, and reply comments on or before May 11, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Earl R. Stanley, Esq., Wilkinson, Barker, Knauer & Quinn, 1735 New York Avenue, NW., Washington, DC 20006 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–30, adopted February 9, 1993, and released March 5, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–5510 Filed 3–10–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 93–17; Notice 1]

RIN 2127–AE77

Federal Motor Vehicle Safety Standards; Air Brake Systems; Air Applied, Mechanically Held Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In response to concerns raised by International Transquip Industries (ITI) about Standard No. 121, *Air Brake Systems*, this notice proposes to amend that standard with respect to air-applied, mechanically held parking brakes. Specifically, this notice proposes to amend the requirements related to the application and holding of parking brake systems and the requirements related to the supply line pressure retention for trailer brakes. If adopted, these amendments would provide regulatory relief by removing unnecessary restrictions, without adversely affecting safety, thus facilitating the use of alternative brake systems.

DATES: *Comments.* Comments must be received on or before April 26, 1993.

Proposed Effective Date. The proposed amendments in this notice would become effective 30 days after publication of a final rule in the **Federal Register**.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Carter, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–5274).

SUPPLEMENTARY INFORMATION:

I. Introduction

It is NHTSA's policy to ensure that Federal motor vehicle safety standards are not unnecessarily design-restrictive. In light of this policy, the agency has conducted a number of rulemakings

related to Standard No. 121, *Air Brake Systems*, to ensure that the standard does not unnecessarily prevent the use of air-applied, mechanically held parking brake systems. See 44 FR 46850 August 9, 1979; 51 FR 10641, March 28, 1986; 56 FR 26927, June 12, 1991.

Last year, International Transquip Industries, Inc. (ITI), a manufacturer of an air-applied, mechanically held parking brake system, informed NHTSA that it believes two of Standard No. 121's current requirements are unnecessarily design restrictive or otherwise inappropriate for its brake system design. One of these requirements specifies that a vehicle must meet parking brake grade holding requirements on a 20 percent grade (or other equivalent requirements), with "any single leakage-type failure" of certain parts, including a failed diaphragm. (See S5.6). ITI argued that this requirement is unnecessarily restrictive with respect to its air-applied mechanically held single diaphragm brake system. That company argued that its brake system is designed so that the diaphragm will never experience a major failure, and that vehicles equipped with its brake system can be parked on a 20 percent grade in the presence of the types of diaphragm failures that typically occur.

The other requirement that ITI believes is inappropriate for its brake design is the supply line pressure requirement for trailers. (See S5.8.2.). According to ITI, this requirement, which addresses brake drag, is inappropriate for ITI's brake system which is designed so that its brakes are either fully applied or fully released.

As discussed below, after considering ITI's arguments, NHTSA has decided to propose certain changes to Standard No. 121. The agency has tentatively determined that these amendments would remove unnecessary restrictions, thus facilitating the use of air-applied, mechanically held parking brake systems. The agency believes that there would be no adverse effects as a result of these proposed changes.

II. Grade Holding

Standard No. 121 currently requires an air-braked vehicle to have a parking brake system that enables it to meet certain grade holding requirements. Manufacturers have the option of complying with either a 20 percent grade holding test or an equivalent static drawbar pull test. The purpose of the parking brake requirement is to ensure that an air-braked vehicle has adequate parking brake performance on a grade.

The standard provides that the parking brake grade holding requirements must be met with any single leakage-type failure of certain parts, including service brake diaphragms. The purpose of this provision is to ensure that a driver can safely park his or her vehicle in the event of a leakage-type failure in the service brake system. The standard specifies "any" failure because leakage-type failures of many types and sizes can occur in vehicle brake systems. To ensure that a vehicle has adequate grade holding performance regardless of the specific nature or extent of a leakage-type failure, the agency intentionally did not limit the size or location of such failures.

Most brake systems are designed with two diaphragms, one for the service brake function and one for the parking brake function. Further, most brake systems incorporate a spring brake for parking. Air pressure holds the spring in the released position when a vehicle is being driven. Upon parking, the air pressure is vented, allowing the springs to apply the parking brakes. These brake systems can easily meet the parking brake holding requirements with a failure in the service brake diaphragm, because a failure in that diaphragm does not adversely affect parking brake performance.

In contrast, the ITI air-applied, mechanically held brake system has only one diaphragm which provides both the parking brake and service brake functions. A hole in that diaphragm can therefore affect both parking brake and service brake performance.

ITI contends that it is inappropriate to require vehicles to meet grade holding requirements with "any" failure in the common diaphragm of its brake system, because it contends that, during real-world use, a hole in its diaphragm will not get any larger than ⅛ inch. According to ITI, a vehicle equipped with its brake system would hold on a 20 percent grade and could never be driven with a failure larger than ⅛ inch. This is because, according to ITI, diaphragm failures begin as very small holes, develop very slowly, and its brakes will not release once the hole gets as large as ⅛ inch. Thus, once a hole gets that large and the driver parks the vehicle at the end of the day, it will not be possible to drive the vehicle without repairing the brakes.

Through its Vehicle Research and Test Center (VRTC), NHTSA evaluated the issues raised by ITI. As part of its evaluation, the agency conducted a number of tests of the ITI brake system. The evaluation report, which is entitled, Evaluation of Mini-Max Parking Forces with Chamber Diaphragm Failures, (December 17, 1992) has been placed in the docket for public review. In its testing of ITI's brake system, VRTC introduced a leakage-type failure in the air chamber containing the common diaphragm by removing a metal plug. VRTC then inserted a metering device to allow for progressively increasing levels of leakage representing those that would result from leakage type failures of a common diaphragm until reaching the minimum level of failure at which the parking brake could no longer be released.

In evaluating the issues raised by ITI, the agency first considered that company's contention that the current requirement is inappropriate for its system since a vehicle equipped with ITI brakes would not be driven with a failure in its diaphragm larger than 1/8 inch. Based on the procedure described above, agency evaluations confirmed that vehicles equipped with the ITI system would not likely experience major failures given that the vehicle could not be unparked in the presence of a relatively small failure. Accordingly, these vehicles would not be drivable with larger failures until the diaphragm was replaced. This assumes that diaphragm failures begin small and develop very slowly. The agency believes that this is a reasonable assumption, given the fabric-reinforced design of brake diaphragms.

Second, NHTSA considered whether it was possible to develop a test procedure that will identify the "worst case" diaphragm failure that might be experienced in the real world, for brake systems with common diaphragms that are designed to prevent major diaphragm failures by preventing release of the parking brakes in the presence of small diaphragm failures. To the extent that such a procedure could be developed, NHTSA believed that it would be appropriate to specify that vehicles equipped with such brake systems should be required to meet grade holding requirements at that condition, rather than being required to meet grade holding requirements for failure conditions beyond those that will occur in the real world.

Based on its research at VRTC, NHTSA has decided to propose a test procedure that it has tentatively concluded identifies the "worst case" diaphragm leakage-type failure that is likely to occur with these types of brake systems. A vehicle would be required to meet grade holding requirements with such a failure but not with larger failures.

Under the proposed procedure, the threshold level of diaphragm leakage-type failure (or equivalent level of leakage from the air chamber containing

that diaphragm) at which the vehicle's parking brakes become unreleasable is first determined. A measurement is then taken of the threshold maximum reservoir leakage rate associated with that level of failure. The threshold maximum reservoir leakage rate is the rate of reservoir air pressure decrease, for whichever of the vehicle's reservoirs whose pressure level is decreasing most rapidly, that results at that threshold level of leakage. In order to cover the possibility that a small diaphragm failure would grow larger between parking brake applications, a vehicle would be required to meet grade holding requirements with the level of diaphragm leakage-type failure (or equivalent level of leakage from the air chamber containing the diaphragm) that is associated with a maximum reservoir leakage rate that is three times the threshold maximum reservoir leakage rate.

The agency notes that in the VRTC testing, a leakage was introduced in the air chamber containing the common diaphragm, rather than a failure in the diaphragm itself, to facilitate the testing. By using a metering device, the agency was able to easily establish progressively larger leakages.

NHTSA believes that this amendment would facilitate the use of air-applied mechanically held parking brake systems. The agency believes that the proposal is necessary since some provisions in Standard No. 121 appear to be unnecessarily restrictive for air-applied, mechanically held brakes. The agency believes that the Standard should not unnecessarily prevent parking brake systems that are different than conventional spring brake systems. NHTSA has tentatively concluded that this proposal would provide regulatory relief by removing a restriction affecting the wide-spread use of non-spring brake systems, while continuing to ensure appropriate grade holding performance of air braked heavy vehicles.

The agency observes that its limited testing of the ITI brake system should not be misunderstood as a conclusion that the ITI system necessarily complies with Standard No. 121, including the amendment proposed in this notice. The agency notes that, as with any brake system, the vehicle manufacturer is required to certify that the vehicle complies with all applicable Standards.

III. Supply Line Pressure Requirements for Trailers

Section S5.8.2 of Standard No. 121 currently requires that any single leakage type failure in the service brake system must not result in the pressure in the supply line falling below 70 p.s.i., measured at the forward trailer supply coupling. (See 56 FR 50666, October 8, 1991) The purpose of this provision is to prevent brake drag caused by the automatic application of trailer parking brakes while the minimum trailer supply line pressure is maintained.

In a June 5, 1992 letter to the agency, ITI argued that this provision relates to problems caused by brake drag, a situation that is not applicable to ITI's brake system, which, by design, can only be in the fully applied or fully released positions. Accordingly, ITI requested that the agency "exempt" its brake system from S5.8.2.

After considering ITI's arguments, NHTSA has tentatively concluded that it serves no safety purpose to apply this provision to non-towing trailers using air applied, mechanically held parking brakes that use a common diaphragm. The agency notes that these vehicles do not use spring brakes and thus are not subject to the safety problem (i.e., brake drag) that the requirement addresses. Accordingly, the agency is proposing to amend section S5.8.2 to clarify that this provision would not apply to non-towing trailers equipped with air-applied mechanically held parking brakes that use a common diaphragm.

NHTSA emphasizes that section S5.8.2 will continue to apply to towing trailers. The agency notes that it is possible to mix trailers with many types of systems in two and three trailer trains. Since the 70 psi requirements may be necessary for other vehicles in the train, NHTSA has determined that the provision should apply to towing trailers.

IV. Leadtime

Section 103(c) of the Vehicle Safety Act requires that each order shall take effect no sooner than 180 days from the date the order is issued unless "good cause" is shown that an earlier effective date is in the public interest. NHTSA has tentatively concluded that there would be "good cause" not to provide the 180 day lead-in period given that this amendment would not impose any mandatory requirements on manufacturers. The public interest would also be served by not delaying the introduction of the proposed requirement. Based on the above, the agency has tentatively determined that there is good cause to propose an effective date 30 days after publication in the final rule.

This proposed rule would not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Rulemaking Analyses and Notices

1. Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has analyzed this proposal and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. A full regulatory evaluation is not required because the rule, if adopted, would have no mandatory effects. Rather, the proposal would provide regulatory relief to facilitate the introduction of alternative brake systems. Therefore, the agency does not believe that this rulemaking would result in significant additional costs or cost savings.

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the proposed amendments would not have a significant economic impact on a substantial number of small entities. Vehicle and brake manufacturers typically would not qualify as small entities. This amendment would also affect small businesses, small organizations, and small governmental units to the extent that these entities purchase air-braked vehicles. As discussed above, the agency's assessment is that this amendment would have no significant cost impact to the industry. For these reasons, vehicle manufacturers, small businesses, small organizations, and small governmental units which purchase motor vehicles would not be significantly affected by the proposed requirements. Accordingly, no regulatory flexibility analysis has been prepared.

3. Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that

the proposed rule would not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No State laws would be affected.

4. National Environmental Policy Act

Finally, the agency has considered the environmental implications of this proposed rule in accordance with the National Environmental Policy Act of 1969 and determined that the proposed rule would not significantly affect the human environment.

Public Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the agency proposes to amend Standard No. 121, *Air Brake Systems*, in title 49 of the Code of Federal Regulations at part 571 as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. In § 571.121, S4 would be amended by adding the following definition in alphabetical order.

§ 571.121 Standard No. 121; Air brake systems.

* * * * *

S4 * * *

Common diaphragm means a single brake chamber diaphragm which is a component of the parking, emergency, and service brake systems.

* * * * *

3. In § 571.121, S5.6 would be revised to read as follows:

§ 571.121 Standard No. 121; Air brake systems.

* * * * *

S5.6 *Parking brake system.*

(a) Except as provided in S5.6(b) and S5.6(c), each vehicle other than a trailer converter dolly shall have a parking brake system that under the conditions of S6.1 meets the requirements of:

(1) S5.6.1 or S5.6.2, at the manufacturer's option, and

(2) S5.6.3, S5.6.4, S5.6.5, and S5.6.6.

(b) At the option of the manufacturer, for vehicles equipped with brake systems which incorporate a common diaphragm, and which do not permit release of the parking brakes once the magnitude of a common diaphragm failure reaches a certain level, the performance requirements specified in S5.6(a) which must be met with any single leakage-type failure in a common diaphragm may instead be met with the level of common diaphragm leakage-type failure, or the equivalent level of leakage from the air chamber containing that diaphragm, determined under S5.6.7. The election of this option does not affect the performance requirements specified in S5.6(a) which apply with single leakage-type failures other than ones in a common diaphragm.

(c) At the option of the manufacturer, the trailer portion of any agricultural commodity trailer, heavy hauler trailer, or pulpwood trailer may meet the requirements of § 393.43 of this title instead of the requirements of S5.6(a).

4. In § 471.121, S5.6.3.5 would be deleted.

5. In § 571.121, S5.6 would be amended by adding a new section, S5.6.7, to read as follows:

§ 571.121 Standard No. 121; Air Brake Systems.

* * * * *

S5.6.7 *Maximum level of common diaphragm leakage-type failure/ Equivalent level of leakage from the air chamber containing that diaphragm.* In the case of vehicles for which the option in S5.6(b) has been elected, determine the maximum level of common diaphragm leakage-type failure (or equivalent level of leakage from the air chamber containing that diaphragm) according to the procedures set forth in S5.6.7.1 through S5.6.7.2.3.

S5.6.7.1 *Trucks and buses.*

S5.6.7.1.1 According to the following procedure, determine the threshold level of common diaphragm leakage-type failure (or equivalent level of leakage from the air chamber containing that diaphragm) at which the vehicle's parking brakes become unreleasable. With an initial reservoir system pressure of 100 psi, the engine turned off, no application of any of the vehicle's brakes, and, if the vehicle is designed to tow a vehicle equipped with air brakes, a 50 cubic inch test reservoir connected to the supply line coupling, introduce a leakage-type failure of the common diaphragm (or equivalent leakage from the air chamber containing that diaphragm). Apply the parking brakes by making an application actuation of the parking brake control. Reduce the pressures in all of the vehicle's reservoirs to zero, turn on the engine and allow it to idle, and allow the pressures in the vehicle's reservoirs to rise until they stabilize or until the compressor shut-off point is reached. At that time, make a release actuation of the parking brake control, and determine whether the parking brakes are released. Repeat this procedure with progressively decreasing or increasing levels (whichever is applicable) of leakage-type diaphragm failures or equivalent leakages, until the minimum level of common diaphragm leakage-type failures (or equivalent level of leakage from the air chamber containing that diaphragm) at which the vehicle's parking brakes become unreleasable is found.

S5.6.7.1.2 At the level of common diaphragm leakage-type failure (or equivalent level of leakage from the air

chamber containing that diaphragm) determined in S5.6.7.1.1, with an initial reservoir system pressure of 100 psi, the engine turned off, no application of any of the vehicle's brakes and, if the vehicle is designed to tow a vehicle equipped with air brakes, a 50 cubic inch test reservoir connected to the supply line coupling, make an application actuation of the parking brake control. Determine the threshold maximum reservoir leakage rate (in psi per minute), which is the maximum rate of decrease in air pressure of any of the vehicle's reservoirs that results after that parking brake application.

S5.6.7.1.3 Beginning with the threshold level of common diaphragm leakage-type failure (or equivalent level of leakage from the air chamber containing that diaphragm) determined in S5.6.7.1.1, and using the procedure set forth in S5.6.7.1.2, progressively increase (or if necessary, decrease) the level of leakage-type failure or equivalent leakage until the maximum reservoir leakage rate is three times the threshold maximum reservoir leakage rate determined in S5.6.7.1.2. The level of common diaphragm leakage-type failure (or equivalent level of leakage from the air chamber containing that diaphragm) associated with this reservoir leakage rate is the maximum level that is to be used under the option set forth in S5.6(b).

S5.6.7.2 *Trailers.*

S5.6.7.2.1 According to the following procedure, determine the threshold level of common diaphragm leakage-type failure (or equivalent level of leakage from the air chamber containing that diaphragm) at which the vehicle's parking brakes become unreleasable. With an initial reservoir system and supply line pressure of 100 psi, no application of any of the vehicle's brakes, and, if the vehicle is designed to tow a vehicle equipped with air brakes, a 50 cubic inch test reservoir connected to the supply line coupling, introduce a leakage-type failure of the common diaphragm (or equivalent leakage from the air chamber containing that diaphragm). Make a parking brake application by venting the front supply line coupling to the atmosphere, and reduce the pressures in all of the vehicle's reservoirs to zero. Pressurize the supply line by connecting the trailer's front supply line coupling to the supply line portion of the trailer test rig (Figure 1) with the regulator of the trailer test rig set at 100 psi, and determine whether the parking brakes are released. Repeat this procedure with progressively decreasing or increasing levels (whichever is applicable) of leakage-type diaphragm failures or equivalent leakages, until the minimum level of common diaphragm leakage-type failure (or equivalent level of leakage from the air chamber containing that diaphragm) at which the vehicle's parking brakes become unreleasable is found.

S5.6.7.2.2 At the level of common diaphragm leakage-type failure (or equivalent level of leakage from the air chamber containing that diaphragm) determined in S5.6.7.2.1, with an initial reservoir system and supply line pressure of 100 psi, no application of any of the vehicle's brakes and, if the vehicle is designed to tow a vehicle equipped with air brakes, a 50 cubic inch test reservoir connected to the supply line coupling, make a parking brake application by venting the front supply line coupling to the atmosphere. Determine the threshold maximum reservoir leakage rate (in psi per minute), which is the maximum rate of decrease in air pressure of any of the vehicle's reservoirs that results after that parking brake application.

S5.6.7.2.3 Beginning with the threshold level of common diaphragm leakage-type failure (or equivalent level of leakage from the air chamber containing that diaphragm) determined in S5.6.7.2.1, and using the procedure set forth in S5.6.7.2.2, progressively increase (or if necessary, decrease) the level of leakage-type failure or equivalent leakage until the maximum reservoir leakage rate is three times the threshold maximum reservoir leakage rate determined in S5.6.7.2.2. The level of common diaphragm leakage-type failure (or equivalent level of leakage from the air chamber containing that diaphragm) associated with this reservoir leakage rate is the maximum level that is to be used under the option set forth in S5.6(b).

* * * * *

6. In § 571.121, S5.8.2 would be revised to read as follows:

§ 571.121 Standard No. 121, Air brake systems.

S5.8.2 *Supply Line Pressure Retention.* Any single leakage type failure in the service brake system (except for a failure of the supply line, a valve directly connected to the supply line or a component of a brake chamber housing) shall not result in the pressure in the supply line falling below 70 p.s.i., measured at the forward trailer supply coupling. A trailer shall meet the above supply line pressure retention requirement with its brake system connected to the trailer test rig shown in Figure 1, with the reservoirs of the trailer and test rig initially pressurized to 100 p.s.i. and the regulator of the trailer test rig set at 100 p.s.i.; except that a trailer equipped with an air-applied, mechanically-held parking brake system and not designed to tow a vehicle equipped with air brakes, at the manufacturer's option, may meet the requirements of S5.8.4 rather than those of S5.8.2 and S5.8.3.

* * * * *

7. In § 71.121, S5.8.4 would be added to read as follows:

§ 571.121 Standard No. 121; Air brake systems.

* * * * *

S5.8.4 *Automatic Application of Air-Applied, Mechanically Held Paring Brakes.* With its brake system connected to the supply line portion of the trailer test rig (Figure 1) and the regulator of the trailer test rig set at 100 psi, and with any single leakage type failure in the service brake system (except for a failure of the supply line, a valve directly connected to the supply line or a component of a brake chamber, but including failure of any common diaphragm), the parking brakes shall not provide any brake retardation as a result of complete or partial automatic application of the parking brakes.

* * * * *

8. In § 571.121, Figure 1 would be revised to appear as follows:

§ 571.121 Standard No. 121; Air brake systems.

* * * * *

BILLING CODE 4910-59-M

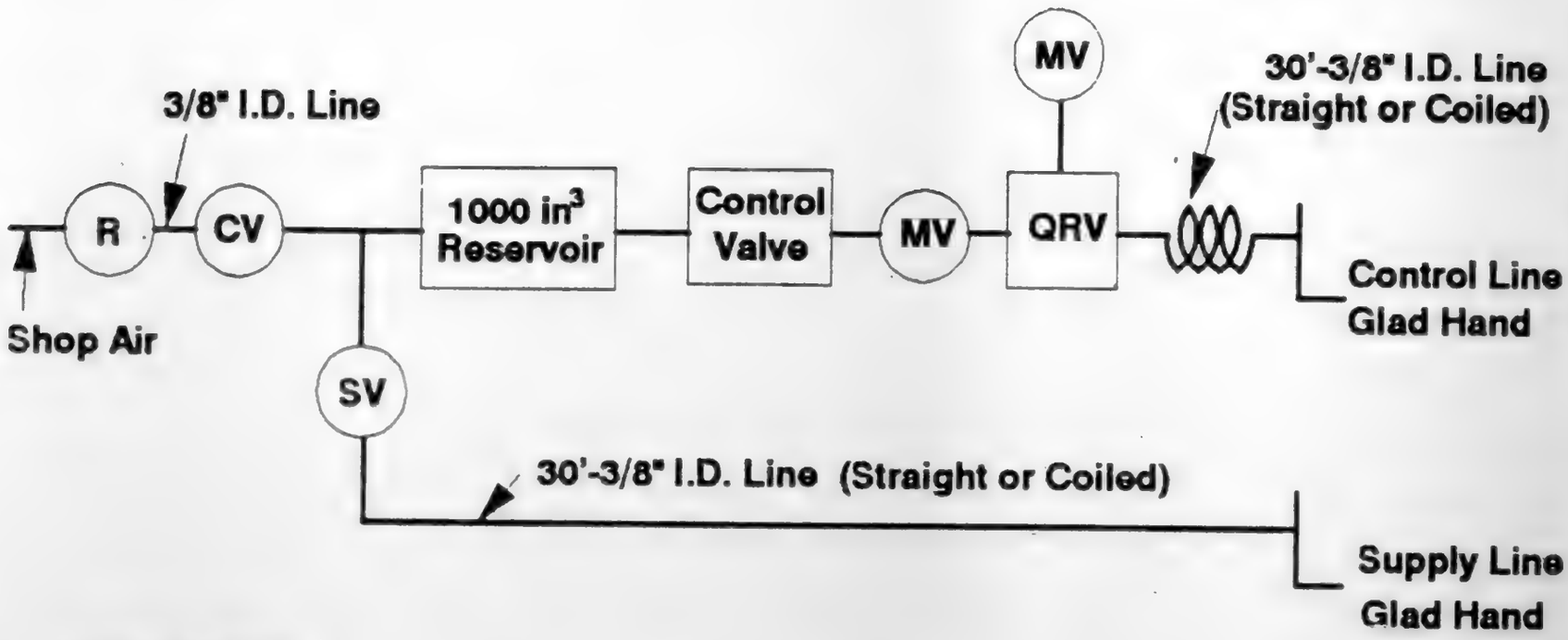

SV - Shut-off Valve

R - Regulator (set at 100 psi for service brake actuation tests;
95 psi for service brake release tests;
100 psi for parking brake tests in S5.6.3.3, S5.6.3.4, S5.6.5.4, S5.6.6.5, and S5.6.7.2.1, for the supply line pressure renterntion test in S5.8.2; and for the automatic application of air applied, mechanically-held parking brakes test in S5.8.3; and any pressure above 70 psi for parking brake test in S5.6.5.3.)

CV - Check Valve

MV - Metering Valve (Variable or Fixed)

QRV - Quick Release Valve

Figure 1. Trailer Test Rig.

BILLING CODE 4910-59-C

* * * * *

Issued on: March 5, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–5500 Filed 3–10–93; 8:45 am]

BILLING CODE 4910–53–M

Notices

Federal Register
Vol. 58, No. 46
Thursday, March 11, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

March 5, 1993.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Reinstatement

- *Economic Research Service*

Cost of Producing Sugarcane and Processing Sugarcane and Sugarbeets for the 1991 Crop
4 to 6 years
Farms, Businesses or other for-profit; 59 responses; 83 hours Fred L. Hoff, (202) 219–0883

New Collection

- *Agricultural Stabilization and Conservation Service*

7 CFR parts 792 and 1403, Debt Settlement Policies and Procedures
CCC–279
On occasion
Individuals or households; farms; small businesses or organizations; 900 responses; 200 hours
Paula Roney (7 CFR 792); Annette Race (7 CFR 1403), (703) 305–1424

Donald E. Hulcher,

Deputy Department Clearance Officer.

[FR Doc. 93–5616 Filed 3–10–93; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Stabilization and Conservation Service

List of Warehouses and Availability of List of Cancellations and/or Terminations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of publication of list of warehouses licensed under the U.S. Warehouse Act and availability of list of cancellations and/or terminations occurring during calendar year 1992.

SUMMARY: Notice is hereby given that the Agricultural Stabilization and Conservation Service has published a list of warehouses licensed under the U.S. Warehouse Act (7 U.S.C. 241 *et seq.*) as of December 31, 1992, as required by section 26 of that Act (7 U.S.C. 266). Also available is a list of cancellations and/or terminations that occurred during calendar year 1992. A copy of the list of warehouses as of December 31, 1992, will be distributed to all licensed warehousemen. Other interested parties may obtain a copy of either list from the person listed below.

FOR FURTHER INFORMATION CONTACT:

Mrs. Judy Fry, Agricultural Stabilization and Conservation Service, Licensing Authority Division, U.S. Department of Agriculture, P.O. Box 2415, room 5962, South Agriculture Bldg., Washington, DC 20013–2415, telephone: 202–720–3822.

Signed at Washington, DC, March 3, 1993.

Bruce R. Weber,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 93–5411 Filed 3–10–93; 8:45 am]

BILLING CODE 3410–05–M

Commodity Credit Corporation

Feed Grain Donations; Colville Indian Reservation of Washington

AGENCY: Agricultural Stabilization and Conservation Service, and Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Executive Vice-President, Commodity Credit Corporation (CCC) and the Administrator, Agricultural Stabilization and Conservation Service, is announcing that the reservation and grazing land of the Colville Indian Reservation of Washington is an acute distress area and that CCC-owned feed grain will be donated to needy livestock owners on the reservation.

FOR FURTHER INFORMATION CONTACT: Margie L. Hartman, Livestock Programs Branch, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Washington, DC 20013–2415, 202–720–6235.

SUPPLEMENTARY INFORMATION: Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), Executive Order 11336, and the delegation of authority in 7 CFR 2.65(a)(21), notice is being given that I have determined that:

1. The chronic economic distress of the needy members of the Colville Tribes (the Tribes) of the Colville Indian Reservation of Washington has been materially increased and become acute because of severe and prolonged drought and late spring freeze, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Tribes for grazing purposes.

2. The use of feed grain or products thereof made available by CCC for livestock feed for such needy members of the Tribes will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing land of the Tribes to be an acute distress area and authorize the donation of feed grain owned by the CCC to livestock owners who are determined by the Bureau of Indian Affairs, United States Department of the Interior, to be needy members of the Tribes utilizing such lands. These donations by the CCC may commence upon February 16, 1993, and shall be made available through

April 30, 1993, or such other date as may be stated in a notice issued by the Administrator, Agricultural Stabilization and Conservation Service.

Signed at Washington, DC on March 3, 1993.

Thomas A. Von Garlem,

Acting Administrator, Agricultural Stabilization and Conservation Service, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93–5368 Filed 3–10–93; 8:45 am]

BILLING CODE 3410–05–M

Feed Grain Donations; Spokane Indian Reservation of Washington

AGENCY: Agricultural Stabilization and Conservation Service, and Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Executive Vice-President, Commodity Credit Corporation (CCC) and the Administrator, Agricultural Stabilization and Conservation Service, is announcing that the reservation and grazing land of the Spokane Indian Reservation of Washington is an acute distress area and that CCC-owned feed grain will be donated to needy livestock owners on the reservation.

FOR FURTHER INFORMATION CONTACT: Margie L. Hartman, Livestock Programs Branch, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Washington, DC 20013–2415, 202–720–6235.

SUPPLEMENTARY INFORMATION: Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), Executive Order 11336, and the delegation of authority in 7 CFR 2.65(a)(21), notice is being given that I have determined that:

1. The chronic economic distress of the needy members of the Spokane Tribe of the Spokane Indian Reservation of Washington has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by CCC for livestock feed for such needy members of the Tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing land of the Tribe to be an acute distress area and authorize the donation of feed grain owned by the CCC to livestock owners who are determined by the Bureau of Indian Affairs, United States Department of the Interior, to be needy members of the Tribes utilizing such lands. These donations by the CCC may commence upon February 16, 1993, and shall be made available through April 30, 1993, or such other date as may be stated in a notice issued by the Administrator, Agricultural Stabilization and Conservation Service.

Signed at Washington, DC on March 1, 1993.

Bruce R. Weber,

Acting Administrator, Agricultural Stabilization and Conservation Service, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93–5369 Filed 3–10–93; 8:45 am]

BILLING CODE 3410–05–M

Forest Service

Exempt Decision for Green Olive Salvage From Appeal, Umatilla National Forest, OR

AGENCY: Forest Service, USDA.

ACTION: Notice to exempt decisions from administrative appeal.

SUMMARY: This is a notification that the decision to implement the Green Olive Salvage Project, located on the North Fork John Day Ranger District, Umatilla National Forest, is exempted from appeal. This is in conformance with provisions of 36 CFR 217.4(a)(11) as published in the **Federal Register** on January 23, 1989 (54 FR 3342).

EFFECTIVE DATE: March 11, 1993.

FOR FURTHER INFORMATION CONTACT: Craig Smith-Dixon, District Ranger, North Fork John Day Ranger District, P.O. Box 158, Ukiah, Oregon 97880, phone (503) 427–3231.

SUPPLEMENTARY INFORMATION: In 1986 a large wildfire burned approximately 3,200 acres in the Green Olive Planning Area. In 1989 the Rusty Salvage Timber Sale harvested approximately 550 acres of fire-damaged trees. In March of 1993, the District will advertise for sale an additional 107 acres of fire-damaged trees as part of the Black Olive Salvage Timber Sale. The Green Olive Salvage is the third salvage project located in the same general area. All are a result of the same catastrophic fire event.

In the Summer of 1991, a District interdisciplinary team (IDT) surveyed much of the remaining burn to assess what could be salvaged and the effects on wildlife, riparian, and in-stream habitat. The IDT identified the need to salvage dead trees while they were still merchantable. The IDT also identified the desirability to complete the salvage quickly so that establishment of new forest stands could take place promptly.

The analysis of the proposed action for the Green Olive area began in early 1992. Scoping included individuals, groups, State and other Federal agencies, and the Confederated Tribes of the Umatilla Indian Reservation.

The proposed action will salvage harvest 700,000 board feet on approximately 80 acres. Only dead trees will be harvested. No road construction or reconstruction will be required. The harvest method would be ground based. Reforestation, with seral species, will occur where post harvest surveys indicate that natural regeneration will not be adequate. All main skid trails and landings will be sub-soiled to relieve soil compaction and grass seeded to minimize sedimentation.

This salvage fits within a category of action that may be categorically excluded from documentation in an environmental impact statement or an environmental assessment (Forest Service Handbook 1909.15, section 31.2).

Biological evaluations have been completed for all plant, wildlife, and fish Proposed, Endangered, Threatened and Sensitive (PETS) species within the project area. There will be no effect on any PETS species or their critical habitat. Cultural resource surveys indicate that this project will have no effect on native American religious sites, archaeological sites, or historic properties or areas.

The Green Olive Salvage and accompanying work are designed to accomplish the objectives as quickly as possible and minimize the amount of salvage volume lost and resource damage. To expedite this salvage, this project is exempted from appeal (36 CFR part 217). Under this Regulation, the following are exempt from appeal:

> Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena, such as wildfires * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

After publication of this notice in the **Federal Register**, the Decision Memo for the Green Olive Salvage may be signed by the North Fork John Day District Ranger. Therefore, this project will not be subject to review under 36 CFR part 217.

Dated: March 3, 1993.
Robert T. Jacobs,
Acting Regional Forester.
[FR Doc. 93–5585 Filed 3–10–93; 8:45 am]
BILLING CODE 3410–11–M

Exempt Decisions for Beardown and Bearchips Salvage Timber Sales From Appeal, Willamette National Forest, OR

AGENCY: Forest Service, USDA.

ACTION: Notice to exempt decisions from administrative appeal.

SUMMARY: This is a notification that the decisions to implement the Beardown and Bearchips Salvage Timber Sales on the Willamette National Forest are exempted from appeal. This is in conformance with provisions of 36 CFR 217.4(a)(11) as published in the Federal Register on January 23, 1989, (54 FR 3342).

EFFECTIVE DATE: March 11, 1993.

FOR FURTHER INFORMATION CONTACT: Herbert Wick, District Ranger, Rigdon Ranger District, 49098 Salmon Creek Road, Oakridge, Oregon 97463, phone (503) 782–2283.

SUPPLEMENTARY INFORMATION: In 1990, an intense, localized windstorm caused extensive wind-throw in this area. This area is now unsuitable as habitat for the Northern Spotted Owl and therefore not under injunction. Exemption from appeal of Beardown Salvage is needed to facilitate the rapid removal of the wood to reduce the deterioration of timber value. These trees have been on the ground for three years and include high elevation true firs that decay faster than lower elevation Douglas-fir. Rapid removal of this material would reduce further commercial loss of wood products. Included in the Beardown Salvage analysis is about twenty log truck loads of old firewood and right-a-way piles. This material will be sold separately from the wind-thrown trees as Bearchips Salvage Timber Sale.

The interdisciplinary team (IDT) began the analysis of impacts of these projects in October of 1992. A public scoping meeting occurred in November of 1992. As a result, the following concerns were identified: Salvage of dead, down, root-sprung trees on 24.5 acres; reforestation on 24.5 acres; and removal of twenty-five piles of woody material suitable for chips (old firewood piles).

Volume estimate for these sales are 800,000 board feet for the wind-thrown trees, and about twenty truck loads of woody material from old firewood piles (chips). These activities will be analyzed together but sold separately as Beardown Salvage and Bearchips Salvage.

The wind-thrown trees in Beardown Salvage have been on the ground since 1990. Although some value loss has already occurred, the material is still merchantable as sawlogs. If prompt action is not taken to remove this material now, it may deteriorate to the point past using it as sawlogs. The Bearchip Salvage portion is being sold as material that can not be used as sawlogs. The amount of decay in this material limits the options for its use. If prompt action does not occur this material may deteriorate beyond the ability to use it for wood chips.

Beardown and Bearchip Salvage Timber Sales are designed to facilitate the rapid sale of material to reduce further commercial value loss of the wood products (sawlogs and wood chips). To expedite these two salvage projects, they have been exempted from appeal (36 CFR part 217). Under this Regulation, the following are exempt from appeal:

> Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena, such as wildfires * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

After publication of this notice in the **Federal Register**, the Decision Memo for the Beardown Salvage Timber Sale and Bearchips Salvage Timber Sale may be signed by the Rigdon District Ranger. Therefore, this project will not be subject to review under 36 CFR part 217.

Dated: March 3, 1993.
Robert T. Jacobs,
Acting Regional Forester.
[FR Doc. 93–5586 Filed 3–10–93; 8:45 am]
BILLING CODE 3410–11–M

Exempt Decision for Underdog Timber Sale Modification From Appeal, Ochoco National Forest, OR

AGENCY: Forest Service, USDA.

ACTION: Notice to exempt decision from administrative appeal.

SUMMARY: This is a notification that the decision to implement the Underdog Timber Sale Modification on the Prineville Ranger District of the Ochoco National Forest is exempted from appeal. This is in conformance with provisions of 36 CFR 217.4(a)(11) as published in the **Federal Register** on January 23, 1989 (54 FR 3342).

EFFECTIVE DATE: March 11, 1993.

FOR FURTHER INFORMATION CONTACT: Thomas A. Schmidt, Forest Supervisor, Ochoco National Forest, P.O. Box 690, Prineville, Oregon 97754, phone (503) 447–6247.

SUPPLEMENTARY INFORMATION: During the last decade, the defoliation and mortality caused by the western spruce budworm on the Douglas-fir and white fir stands of the Ochoco National Forest have become epidemic and forest wide. One of the hardest hit areas is in and around the Underdog Timber Sale on the Prineville Ranger District. In some stands the mortality was nearly total. No stand with white fir was left unaffected.

The outbreak of the western spruce budworm occurred in 1982 and lasted until 1987. Although the infestation was widespread, there was little if any mortality. Later, between the years 1987 to 1989, the infestation subsided and new needle growth signaled an end to the attack. However, in 1990 a resurgence of the infestation was even more widespread and resulted in the mortality indicated above.

During the time the infestation was subsiding, in 1989, Underdog Timber Sale was marked and prepared for sale. With the idea that the situation was returning to normal, the emphasis of the sale was a more traditional type of preparation, a green sale with pine volume. The following year the sale was sold. In 1991, road construction was completed. No further activities continued.

Early in 1991, the Prineville Ranger District, with the agreement of the purchaser, suspended logging activities after defining the situation as catastrophic. In November of 1991, an interdisciplinary team (IDT) was formed to assess the current damage caused by the infestation in relation to activities planned in the Underdog Timber Sale. The IDT identified the need to modify the current sale to salvage the dead and dying timber in the shortest time possible. Timber value was, and still is, being lost due to the effects of time and natural activities such as damage from other insects and diseases, weather, and checking. Salvaging will reduce the loss of timber value and reduce the susceptibility of further attacks within the framework of a Forest Health strategy.

The proposed change in harvest strategy amounted to the withdrawal of the majority of larger and economically more favorable ponderosa pine from the sale volume. Replacing the pine, except those pine at risk of dying in five years, would be the dead and dying fir of less size and value.

The proposed action, offered by the Prineville Ranger District, would

harvest dead, dying, and at risk timber. An Underdog Timber Sale Modification environmental analysis was begun in November of 1991. The IDT began scoping in November of 1991 by meeting with the Underdog Timber Sale purchaser, DAW Forest Products Company of Bend, Oregon, and the public at large.

After meetings, press releases, and contacts with individuals and State and Federal agencies, the following three major issues were identified:

1. Providing revenue to the Federal and county treasuries.

2. Appraising an alternative that indicated a negative value, a deficit sale.

3. Loss of employment provided from the harvest of timber.

The IDT developed four alternatives to analyze, including the No-Action Alternative. The effects of these alternatives are disclosed in the Cougar Butte environmental assessment which was prepared for the proposal. The Pine Alternative would harvest about 989 acres of area of the most infestation concern and harvest about 9.0 million board feet (mmbf), 5.0 mmbf of Douglas-fir and white fir and 4.0 mmbf of salvageable ponderosa pine. Approximately .75 mile of roads would be constructed. This alternative is the most effective in regard to the purpose and need and the issues.

The Underdog Timber Sale Modification and accompanying work is designed to accomplish the Forest Health objectives as quickly as possible and minimize the amount of salvage volume lost. To expedite this timber sale, this project is exempted from appeal (36 CFR part 217). Under this Regulation, the following are exempt from appeal:

> Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena, such as wildfires. * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

Upon publication of this notice in the **Federal Register**, the Cougar Butte Decision Notice may be signed by the Forest Supervisor. Therefore, the Underdog Timber Sale Modification within the Cougar Butte Decision Notice will not be subject to review under 36 CFR part 217.

Dated: March 4, 1993.

Robert T. Jacobs,

Acting Regional Forester.

[FR Doc. 93–5584 Filed 3–10–93; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an Export Trade Certificate of Review, Application No. 92–00013.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to the General Aviation Manufacturers Association, Inc. ("GAMA"). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (1992) (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

Export Trade Facilitation Services

Export trade promotion and facilitation activities including: consulting, coordination and negotiation of the terms and conditions of participation in air shows, trade shows, expositions, exhibitions, conferences, or similar events conducted in the Export Markets.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Members (in Addition to Applicant)

Advanced Industries, Inc., Wichita, KS; Aircraft Technical Publishers, Brisbane, CA; Aire-Sciences, Inc., Fairfield, NJ; Airtechnics, Inc., Wichita, KS; Bendix-King General Aviation Avionics, Olathe, KS (listed as Allied-Signal General Aviation Avionics, Olathe, KS, in the Notice of Application published in the **Federal Register** on December 18, 1992 (57 FR 60171)); Garrett General Aviation Services, Phoenix, AZ; Allison Gas Turbine Division, Indianapolis, IN; American General Aircraft Corp., Greenville, MS; Ametek, Inc. US Gauge Div., Sellersville, PA; Aviation Simulation Technology, Inc., Bedford, MA; B & D Instruments and Avionics, Inc., Valley Center, KS; Beech Aircraft Corporation, Wichita, KS; BFGoodrich Aerospace, Akron, OH; Century Flight Systems, Inc., Mineral Wells, TX; Cessna Aircraft Company, Wichita, KS; Collins Commercial Avionics, Cedar Rapids, IA; Hydro-Aire Division, Burbank, CA; The Dee Howard Company, San Antonio, TX; Dukes, Inc., Northridge, CA; Elano Corporation, Dayton, OH; ERDA, Inc., Peshtigo, WI; Fairchild Aircraft Incorporated, San Antonio, TX; FlightSafety International, Inc., New York, NY; Global-Wulfsberg Systems, Irvine, CA; Gulfstream Aerospace Corp, Savannah, GA; Hartzell Propeller, Inc., Piqua, OH; Honeywell, Inc., Phoenix, AZ; Jeppesen, Inc., Englewood, CO (listed as Jeppesen Sanderson, Inc., Englewood, CO., in the Notice of Application published in the **Federal Register** on December 18, 1992 (57 FR 60171)); Learjet, Inc., Wichita, KS; Lucas Aerospace Power Equip. Company, Aurora, OH; Marathon Power Technologies, Waco, TX; Mooney Aircraft Corp., Kerrville, TX; Parker Bertea Aerospace Group, Irvine, CA; Piper Aircraft Corp., Vero Beach, FL; Precision Airmotive Corporation, Everett, WA; Sabreliner Corporation, Chesterfield, MO; SimuFlite Training International, Dallas/Fort Worth, TX; Teledyne Continental Motors, Mobile, AL; Textron Lycoming Turbine Engine Div., Stratford, CT; Textron Lycoming Reciprocating Engine Div., Williamsport, PA; Unison Industries, Inc., Jacksonville, FL; United Technologies Corporation, Longueuil, Quebec, Canada; Universal Navigation Corporation, Tucson, AZ; Whittaker Controls, Inc., North Hollywood, CA; Williams International, Walled Lake, MI; and Woodward Governor Company, Rockford, IL.

Export Trade Activities and Methods of Operation

1. GAMA and/or one or more of its Members may:

a. Agree on which air shows, trade shows, expositions, exhibitions, conferences, or similar events conducted in the Export Markets to attend, duration of attendance, level of participation, and size or content of displays;

b. Agree to refuse to attend any specific air shows, trade shows, expositions, exhibitions, conferences, or similar events conducted in the Export Markets;

c. Jointly negotiate with sponsors or hosts of air shows, trade shows, expositions, exhibitions, conferences, or similar events conducted in the Export Markets on frequency, duration, costs, and all other terms and conditions of participation in such events;

d. Jointly negotiate with providers of transportation services, intermodal shipments, insurance, or documentation for airframes, engines, and other equipment used at air shows, trade shows, expositions, exhibitions, conferences, or similar events conducted in the Export Markets;

e. Jointly negotiate with providers of ancillary services, such as hotels, local transportation companies, and caterers, in connection with participation in air shows, trade shows, expositions, exhibitions, conferences, or similar events conducted in the Export Markets; and

f. Exchange and discuss information only about the conduct identified in subparagraphs (a)—(e) above.

2. GAMA and one or more of its Members may refuse to provide the export trade promotion and facilitation services identified in paragraph one under Export Trade Activities and Methods of Operation above to companies who are not members of GAMA.

Definitions

1. "Non-Member" means any person other than GAMA and the Members listed in this Certificate.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: March 5, 1993.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 93–5673 Filed 3–10–93; 8:45 am]

BILLING CODE 3510-DR-M

[A–570–819]

Antidumping Duty Order: Ferrosilicon From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 11, 1993.

FOR FURTHER INFORMATION CONTACT: Kimberly Hardin, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230: (202) 482–0371.

Scope of Order

The merchandise subject to this antidumping duty order is ferrosilicon, a ferroalloy generally containing, by weight, not less than four percent iron, more than eight percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than three percent phosphorous, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element.

Ferrosilicon is a ferroalloy produced by combining silicon and iron through smelting in a submerged-arc furnace. Ferrosilicon is used primarily as an alloying agent in the production of steel and cast iron. It is also used in the steel industry as a deoxidizer and a reducing agent, and by cast iron producers as an inoculant.

Ferrosilicon is differentiated by size and by grade. The sizes express the maximum and minimum dimensions of the lumps of ferrosilicon found in a given shipment. Ferrosilicon grades are defined by the percentages by weight of contained silicon and other minor elements. Ferrosilicon is most commonly sold to the iron and steel industries in standard grades of 75 percent and 50 percent ferrosilicon.

Calcium silicon, ferrocalcium silicon, and magnesium ferrosilicon are specifically excluded from the scope of this investigation. Calcium silicon is an alloy containing, by weight, not more than five percent iron, 60 to 65 percent silicon and 28 to 32 percent calcium. Ferrocalcium silicon is a ferroalloy containing, by weight, not less than four percent iron, 60 to 65 percent silicon, and more than 10 percent calcium. Magnesium ferrosilicon is a ferroalloy containing, by weight, not less than four percent iron, not more than 55 percent silicon, and not less than 2.75 percent magnesium.

Ferrosilicon is classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this investigation is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), on January 12, 1993, the Department of Commerce (Department) made its final determination that ferrosilicon from the People's Republic of China (PRC) is being sold at less than fair value (58 FR 5356 January 21, 1993). On March 4, 1993, in accordance with section 735(d) of the Act, the U.S. International Trade Commission notified the Department that such imports materially injure a U.S. industry.

Suspension of Liquidation

Therefore, in accordance with section 736 of the Act, the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of ferrosilicon from the PRC. These antidumping duties will be assessed on all unliquidated entries of ferrosilicon from the PRC entered, or withdrawn from warehouse, for consumption on or after January 21, 1993, the date on which the Department published its preliminary determination notice in the **Federal Register** (58 FR 5356). On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties, the following cash deposit for the subject merchandise.

Manufacturer/producer/exporter	Margin percentage
All manufacturers/producers/exporters	137.73

This notice constitutes the antidumping duty order with respect to ferrosilicon from the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: March 4, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–5529 Filed 3–10–93; 8:45 am]

BILLING CODE 3510–DS–M

Kansas State University et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 92–156. *Applicant:* Kansas State University, Manhattan, KS 66506–2604. *Instrument:* Electron Cyclotron Resonance Ion Source. *Manufacturer:* Institut für Kernphysik, Germany. *Intended Use:* See notice at 57 FR 54972, November 23, 1992. *Reasons:* The foreign instrument provides a 5.0 GHz ion source with beam currents of 200, 100 and 60 μA, respectively, for Ar, Ne and C. *Advice Received From:* Oak Ridge National Laboratory, December 23, 1992.

Docket Number: 92–039R. *Applicant:* University of Pittsburgh, Pittsburgh, PA 15238. *Instrument:* Mass Spectrometer, Model API I. *Manufacturer:* Perkin-Elmer Sciex Instruments, Canada. *Intended Use:* See notice at 57 FR 21394, May 20, 1992. *Reasons:* The foreign instrument provides liquid sample flow rates of 0.2 to 2.0 ml/minute for compatibility with HPLC and proper polarity, current and temperature of the ion spray. *Advice Received From:* National Institutes of Health, November 19, 1992.

Docket Number: 92–102. *Applicant:* U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Galveston, TX 77551–5997. *Instrument:* (3) Electronic Digital Fish Measuring Boards, Model FMB IV. *Manufacturer:* Limnoterra Atlantic, Inc., Canada. *Intended Use:* See notice at 57 FR 39394, August 31, 1992. *Reasons:* The foreign instrument provides in situ, digitized logging of fish dimensions with simultaneous entry of ancillary data which can be down-loaded to a PC on return from the field. *Advice Received From:* National Institutes of Health, November 19, 1992.

Docket Number: 92–107. *Applicant:* Utah State University, Logan UT 84322–5230. *Instrument:* Portable Pulse-modulated Chlorophyll Fluorometer, Model PAM 2000. *Manufacturer:* Walz Mess- und Regeltechnik, Germany. *Intended Use:* See notice at 57 FR 39395, August 31, 1992. *Reasons:* The foreign instrument provides quenching coefficients from pulse-modulated operation with 100 μs time resolution. *Advice Received From:* National Institutes of Health, November 19, 1992.

Docket Number: 92–109. *Applicant:* Stanford University, Stanford, CA 94305. *Instrument:* Cryostream Nitrogen Gas Cooler System. *Manufacturer:* Stoe Diffraction Systems, United Kingdom. *Intended Use:* See notice at 57 FR 39395, August 31, 1992. *Reasons:* The foreign instrument provides an operating temperature range of 80°K to 320°K and stability to ±0.5°K. *Advice Received From:* National Institutes of Health, November 19, 1992.

Docket Number: 92–110. *Applicant:* University of California, Los Angeles, Los Angeles, CA 90024–1759. *Instrument:* Mass Spectrometer, Model API III–R. *Manufacturer:* Perkin–Elmer Sciex Instruments, Canada. *Intended Use:* See notice at 57 FR 44361, September 25, 1992. *Reasons:* The foreign instrument provides sample flow rates to 200 μl/minute and sensitivity (with low noise) to produce complete daughter ion spectra. *Advice Received From:* National Institutes of Health, November 19, 1992.

Docket Number: 92–113. *Applicant:* New York University, New York, NY 10003. *Instrument:* (3) Glass Bead Sterilizers, Model STERI 350. *Manufacturer:* Simon Keller AG, Switzerland. *Intended Use:* See notice at 57 FR 44361, September 25, 1992. *Reasons:* The foreign instrument provides a large well (14 cm deep) for rapid sterilization (5–10 seconds) and is suitable for use in laminar flow hoods. *Advice Received From:* National Institutes of Health, November 19, 1992.

Docket Number: 92–116. *Applicant:* Albert Einstein College of Medicine, Bronx, NY 10461. *Instrument:* High Intensity Xenon Flashlamp System, Model XF–10. *Manufacturer:* Dr. Gert Rapp, Germany. *Intended Use:* See notice at 57 FR 44361, September 25, 1992. *Reasons:* The foreign instrument provides focusing optics and flash pulse shaping features optimized to deliver controlled energy to a small photolysis area. *Advice Received From:* National Institutes of Health, November 19, 1992.

Docket Number: 92–120. *Applicant:* University of Virginia, Charlottesville, VA 22908. *Instrument:* Automatic Karyotyping System, Model Cytoscan 3. *Manufacturer:* Applied Imaging International, United Kingdom. *Intended Use:* See notice at 57 FR 44362, September 25, 1992. *Reasons:* The foreign instrument provides computer based metaphase location and karyotyping with a spatial image resolution of 788 x 575 pixels. *Advice Received From:* National Institutes of Health, November 19, 1992.

Oak Ridge National Laboratory and the National Institutes of Health advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93–5530 Filed 3–10–93; 8:45 am]

BILLING CODE 3510–DS–F

State University of New York, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 92–161. *Applicant:* State University of New York, Stony Brook, NY 11794. *Instrument:* Moire Interferometry U-V Set and Accessories. *Manufacturer:* Shanghai Machinery and Equipment Import and Export Corporation, China. *Intended Use:* See notice at 57 FR 54972, November 23, 1992. *Reasons:* The foreign instrument

provides 2–D holographic interferometric measurements of stress and strain in materials and structures for instructing students in this technique and for use in their laboratory research projects.

Docket Number: 92–142. *Applicant:* University of Hawaii at Manoa, Honolulu, HI 96822. *Instrument:* Gas Source Isotope Ratio Mass Spectrometer, Model Delta S. *Manufacturer:* Finnigan, Germany. *Intended Use:* See notice at 57 FR 49456, November 2, 1992. *Reasons:* The foreign instrument provides: (1) an internal reproducibility of 0.006 per mil for 100 bar μl samples of CO_2, (2) a gas chromatograph-combustion interface and (3) continuous flow operation at remote locations (e.g., aboard ship).

Docket Number: 92–149. *Applicant:* University of Georgia, Athens, GA 30602. *Instrument:* Gas Source Isotope Ratio Mass Spectrometer, Model MAT 252. *Manufacturer:* Finnigan, Germany. *Intended Use:* See notice at 57 FR 54971, November 23, 1992. *Reasons:* The foreign instrument provides an internal precision of 0.005 per mil for 3 bar μl samples of CO_2 and a 6 Faraday cup multicollector array for the simultaneous collection of up to 3 ion beams.

Docket Number: 92–162. *Applicant:* University of California, Los Alamos National Laboratory, Los Alamos, NM 87545. *Instrument:* Glow Discharge Mass Spectrometer System, Model CONCEPT. *Manufacturer:* Kratos Analytical Incorporated, United Kingdom. *Intended Use:* See notice at 57 FR 54973, November 23, 1992. *Reasons:* The foreign instrument provides both a Faraday cup collector for large sample measurements and a Daly scintillation detector with an ion counting system and a resolution of 20 000 with a glow discharge source.

Docket Number: 92–152. *Applicant:* U.S. Department of Energy, Argonne National Laboratory, Argonne, IL 60439. *Instrument:* Inductively Coupled Plasma Mass Spectrometer, Model VG PlasmaQuad. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* See notice at 57 FR 54972, November 23, 1992. *Reasons:* The foreign instrument provides (1) a sensitivity of 8.0 x 10^6 counts per second per μg/ml for ^{59}Co, ^{115}In and ^{238}U and (2) detection limits of 0.01 ng/ml using 3 second integrations.

The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93–5531 Filed 3–10–93; 8:45 am]

BILLING CODE 3510–DS–F

Minority Business Development Agency

Business Development Center Applications: Greenville/Spartanburg, SC

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the U.S. Department of Commerce's Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance, and the availability of funds. The cost of performance for the first budget period (12 months) is $169,125 in Federal funds and a minimum of $29,846 in non-Federal (cost-sharing) contributions. This federal amount includes $4,125 for an annual audit. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The period of performance will be from August 1, 1993 to July 31, 1994. The MBDC will operate in the Greenville/Spartanburg, South Carolina geographic service area.

The award number for this MBDC will be 04–10–93008–01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, State and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority businesses.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000. False information on the application can be grounds for denying or terminating funding.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities. If an application is selected for funding, DOC has no obligation to provide any additional future funding in

connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards. If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Applicants also should be notified that notwithstanding any verbal assurance that they may have received, there is no obligation on the part of DOC to cover pre-award costs.

In accordance with OMB Circular A–129 "Managing Federal Credit Programs," no award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either: the delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to DOC are made.

Applicants are subject to Governmental Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

Notification must be provided that all non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a pre-condition for receiving Federal grant or cooperative agreement awards.

15 CFR, part 28, is applicable and prohibits recipients of Federal contracts, grants, and cooperative agreements from using appropriated funds influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a specific contract, grant or cooperative agreement. Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" and, when applicable, the SF–LLL, "Disclosure of Lobbying Activities," are required. Recipients shall require applicants/bidders for subgrants, contracts, or other lower tier covered transactions Form CD–512, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient of subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

CLOSING DATE: The closing date for submitting an application is April 16, 1993. Applications must be postmarked on or before April 16, 1993. Proposals will be reviewed by the Atlanta Regional Office. The mailing address for submission of RFA responses is: U.S. Department of Commerce, Atlanta Regional Office, Minority Business Development Agency, 401 West Peachtree Street, NW., suite 1715, Atlanta, Georgia 30308–3516.

A pre-application conference to assist all interested applicants will be held on March 31, 1993, 9 a.m. at the following address: U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, NW., room 1715, Atlanta, Georgia 30308–3516.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. To order a Request for Application (RFA) and to receive additional information, contact: Carlton L. Eccles, Regional Director of the Atlanta Regional Office on (404) 730–3300 or U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, NW., room 1715, Atlanta, Georgia 30308–3516.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: March 3, 1993.

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

[FR Doc. 93–5592 Filed 3–10–93; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Ad Hoc Observer Committee (Committee) will meet on March 16, 1993, at the Alaska Fishery Science Center, in room 2143, Seattle, WA. The meeting will begin at 9 a.m.

The Committee will overview the data collected in the observer program, its use, and its accessibility through the Freedom of Information Act. This Committee is separate from the Council's Observer Oversight Committee which has been established under the North Pacific Fisheries Research Plan.

For more information contact Brent Paine, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809.

Dated: March 5, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–5562 Filed 3–10–93; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of receipt of application for a scientific research permit to take marine mammals (P250D).

Notice is hereby given that the Washington Department of Wildlife Marine Mammal Investigations, 7801 Phillips Road, S.W., Tacoma, WA 98498, the National Marine Fisheries Service, National Marine Mammal Laboratory, 7600 Sand Point Way, NE., BIN C15700—Building 4, Seattle, WA 98115–0070, and the Oregon Department of Fish and Wildlife, Marine Region, Marine Science Drive, Building 3, Newport, OR 97365, have applied in due form for a joint permit

to take marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), §§ 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act (16 U.S.C. 1531–1543) and the regulations governing endangered fish and wildlife (50 CFR parts 217–222).

The applicants seek authorization to conduct scientific research on pinniped populations along the coasts of Oregon and Washington. This research would entail the incidental harassment of up to 40,000 harbor seals (*Phoca vitulina*), 5,000 California sea lions (*Zalophus Californianus*), 6,000 Steller sea lions (*Eumetopias jubatus*), and 100 elephant seals (*Mirounga angustirostris*) multiple times annually over a five-year period while carrying out aerial, ground, and boat censuses and during collection of fecal samples. The applicants also propose to capture, flipper tag, weigh, measure, and blood sample up to 500 harbor seals annually. Some of these would be hot branded, pelage marked, and/or have identification patches applied, instrumented with time/depth recorders (TDRs), and/or VHF radio tags, tissue sampled for genetic analysis, and biopsied for blubber samples. Animals tagged with TDRs and/or VHF radio tags may be recaptured to retrieve the instruments. Biopsied animals would be recaptured after three to five years to monitor long-term effects of contaminants.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data, views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Highway, room 7234, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicants and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, suite 7324, Silver Spring, MD 20910 (310/713–2289); and

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NE., BIN C15700—Building 1, Seattle, WA 98115–0070 (206/526–6150).

Dated: March 5, 1993.

Nancy Foster,

Director of Protected Resources.

[FR Doc. 93–5607 Filed 3–10–93; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Marine Mammals; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of receipt of application for a Scientific Research Permit to Take Marine Mammals (P771#65).

Notice is hereby given that the Alaska Fisheries Science Center, NMFS, NOAA, National Marine Mammal Laboratory, 7600 Sand Point Way, NE., Bldg. 4, Seattle, WA 98115, has applied in due form for a Permit to take marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act (16 U.S.C. 1531–1543) and the regulations governing endangered fish and wildlife (50 CFR parts 217–222).

The Applicant seeks authorization to conduct aerial surveys for spotted seals (*Phoca Largha*) in waters off Alaska and in the Bering Sea over a three-year period. This research would involve the potential harassment of unspecified numbers of spotted seals while carrying out the surveys; as well as incidental harassment of unspecified numbers of other marine mammals that may be encountered during these flights, such as Pacific harbor seals (*Phoca vitulina*), walrus (*Odobenus rosmarus*), ribbon seals *Phoca fasciata*), bearded seals (*Erignathus barbatus*), and ringed seals (*Phoca hispida*). Steller sea lions (*Eumetopias jubatus*), harbor porpoise (*Phocoena phocoena*), Dall's porpoise (*Phocenoides dalli*), killer whales (*Orcinus orca*), humpback whales (Megaptera novaeangliae), grey whales (*Eschrichtius robustus*), belugas (*Delphinapterus leucas*), and bowheads (*Balaena mysticetus*) might also be sighted in small numbers.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7234, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 (301/713–2289);

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NE., BIN C15700-Building 1, Seattle, WA 98115–0070, (206/526–6150);

Director, Alaska Region, National Marine Fisheries Service, Federal Annex, 9109 Mendenhall Mall Rd., suite 6, Juneau, AK 99802 (907/586–7221); and

U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Arlington, Virginia 22203 (703/358–2104).

Dated: February 11, 1993.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

Dated: March 5, 1993.

I. Teiko Saito,

Chief, Permit Branch, Office of Management Authority, Fish and Wildlife Service.

[FR Doc. 93–5561 Filed 3–10–93; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board Meeting

The Pre-Launch Panel of the USAF Scientific Advisory Board's Committee on Options for Theater Air Defense will meet on March 31, 1993, at The Pentagon, Room 5D982, Washington, DC, from 8 a.m. to 5 p.m.

The purpose of this meeting will be to gather information on issues related to theater air defense.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–5535 Filed 3–10–93; 8:45 am]

BILLING CODE 3910-01-M

Privacy Act of 1974: Delete and Amend Systems of Records

AGENCY: Department of the Air Force, (DOD).

ACTION: Delete and amend systems of records.

SUMMARY: The Department of the Air Force proposes to delete two and amend nine existing systems of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The deletions are effective March 11, 1993.

The amended systems will be effective April 12, 1993, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Access Programs Manager, SAF/AAIA, The Pentagon, Washington, DC 20330–1000.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Gibson at (703) 697–3491 or DSN 227–3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force record systems notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The deleted and amended systems are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which requires the submission of an altered system report. The specific changes to the systems of records are set forth below, followed by the systems of records notices published in their entirety, as amended.

Dated: March 5, 1993.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETIONS

F050 ESC A

SYSTEM NAME:

Voice Processor Student History, (February 22, 1993, 58 FR 10402).

Reason: System is no longer needed. There are no plans to reinstate this system in the future. The records will be destroyed.

F210 ESC A

SYSTEM NAME:

Historical Research and Retrieval System (HORRS), (February 22, 1993, 58 FR 10508).

Reason: System is no longer needed. There are no plans to reinstate this system in the future. These records will be destroyed.

AMENDMENTS

F050 AFIC B

SYSTEM NAME:

Training Progress, (February 22, 1993, 58 FR 10392).

CHANGES:

SYSTEM IDENTIFIER:

Change system identifier to "F050 AFIC A."

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Headquarters, Air Force Intelligence Command, Noncommissioned Officer Professional Military Education Center, Goodfellow Air Force Base, TX 76908–5000."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Air Force active duty enlisted personnel assigned to the Intelligence Command Noncommissioned Officer Professional Education Center."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "In-processing forms, containing personal data such as name, Social Security Number, grade, home address and home phone."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Air Force Intelligence Command Noncommissioned Officer Professional Military Education Center, Goodfellow Air Force Base, TX 76908–5000."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Air Force Intelligence Command Noncommissioned Officer Professional Military Education Center, Goodfellow Air Force Base, TX 76908–5000."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Air Force Intelligence Command Noncommissioned Officer Professional Military Education Center, Goodfellow Air Force Base, TX 76908–5000."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Air Force rules for accessing records, and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F050 AFIC A

SYSTEM NAME:

Training Progress.

SYSTEM LOCATION:

Headquarters, Air Force Intelligence Command, Noncommissioned Officer Professional Military Education Center, Goodfellow Air Force Base, TX 76908–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty enlisted personnel assigned to the Intelligence

Command Noncommissioned Officer Professional Education Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

In-processing forms, containing personal data such as name, Social Security Number, grade, home address and home phone.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

Used by military training instructors to evaluate student progress.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Destroy 10 years after student completes training by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Intelligence Command Noncommissioned Officer Professional Military Education Center, Goodfellow Air Force Base, TX 76908–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Air Force Intelligence Command Noncommissioned Officer Professional Military Education Center, Goodfellow Air Force Base, TX 76908–5000.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Air Force Intelligence Command Noncommissioned Officer Professional Military Education Center, Goodfellow Air Force Base, TX 76908–5000.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for accessing records, and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F050 ACC B

SYSTEM NAME:

Instructional Systems Development (ISD) Evaluation, (February 22, 1993, 58 FR 10384).

CHANGES:

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SYSTEM LOCATION:

Delete entry and replace with "693 Operational Support Squadron, Instructional Systems Development Division, Castle Air Force Base, CA 95342–5000."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Air Combat Command and Air Mobility Command aircrew members (B–1B and B–52G/H) pilots, copilots, navigators, radar navigators, electronic warfare officers, aerial defense gunners; KC–135 pilots, copilots, navigators, inflight refueling operators who are attending, or have attended, a course of instruction conducted by the 693 Operational Support Squadron, Castle Air Force Base, CA 95342– 5000."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 8013, Secretary of the Air Force; powers and duties; delegation by; as implemented by Air Force Regulations 50–8, Policy and Guidance for Instructional System Development (ISD); and 50–38, Field Evaluation of Education and Training Programs; and E.O. 9397."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Education Specialist or ISD System Manager, 693 Operational Support Squadron, Scientific Advisory Branch (DO5S), Castle Air Force Base, CA 95342–5000."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Education Specialist or Instructional System Development System Manager, 693 Operational Support Squadron, Scientific Advisory Branch (DO5S), Castle Air Force Base, CA 95342–5000.

Requests to determine existence of record should include full name, and grade, Social Security Number and approximate dates individual attended a course of instruction."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Education Specialist or Instructional System Development System Manager, 693 Operational Support Squadron, Scientific Advisory Branch (DO5S), Castle Air Force Base, CA 95342–5000."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Air Force rules for accessing records, and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Information is obtained from questionnaires completed by students, graduates or Flight Instructors, and current combat crew training instructors."

* * * * *

F050 ACC B

SYSTEM NAME:

Instructional Systems Development (ISD) Evaluation.

SYSTEM LOCATION:

693 Operational Support Squadron, Instructional Systems Development Division, Castle Air Force Base, CA 95342–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Combat Command and Air Mobility Command aircrew members (B–1B and B–52G/H) pilots, copilots, navigators, radar navigators, electronic warfare officers, aerial defense gunners; KC–135 pilots, copilots, navigators, inflight refueling operators who are attending, or have attended, a course of instruction conducted by the 693 Operational Support Squadron, Castle Air Force Base, CA 95342–5000.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized information file compiled from questionnaires about training accomplished while attending a course of instruction, the responder's base of assignment and subjective assessment of the training conducted.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; powers and duties; delegation by; as implemented by Air Force Regulations 50–8, Policy and Guidance for Instructional System Development (ISD); and 50–38, Field Evaluation of Education and Training Programs; and E.O. 9397.

PURPOSE(S):

Used to tabulate and compare data; and to identify strengths and weaknesses of the training programs. Will also be used to score trainee within-course test performances. Identification of specific responders in the records will only be used by the custodian to evaluate and assess quality of Air Force Training Programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' set forth at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, and in computers and on computer products.

RETRIEVABILITY:

Retrieved by Social Security Number. Information may also be retrieved by groupings of data from such elements as type airframe, course attended, crew position, or base of assignment.

SAFEGUARDS:

Records are accessed by custodian of the record system and personnel responsible for servicing the record system in performance of their official duties. Records are stored on diskettes kept in a locked room whenever office is not manned. Original questionnaire responses will be maintained in a locked container when the office is not manned.

RETENTION AND DISPOSAL:

Paper records are destroyed by tearing into pieces, shredding, burning, macerating, or pulping, and diskettes will be destroyed by degaussing, when superseded or when the individual is reassigned from Air Combat Command.

SYSTEM MANAGER(S) AND ADDRESS:

Education Specialist or Instructional System Development System Manager, 693 Operational Support Squadron, Scientific Advisory Branch (DO5S), Castle Air Force Base, CA 95342–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Education Specialist or Instructional System Development System Manager, 693 Operational Support Squadron, Scientific Advisory Branch (DO5S), Castle Air Force Base, CA 95342–5000.

Requests to determine existence of record should include full name, and grade, Social Security Number and approximate dates individual attended a course of instruction.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Education Specialist or Instructional System Development System Manager, 693 Operational Support Squadron, Scientific Advisory Branch (DO5S), Castle Air Force Base, CA 95342–5000.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from questionnaires completed by students, graduates or Flight Instructors, and current combat crew training instructors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F050 ACC A

SYSTEM NAME:

Student Record File, (February 22, 1993, 58 FR 10384).

CHANGES:

SYSTEM LOCATION:

Delete entry and replace with "67 Support Group, Noncommissioned Officer Academy West, Bergstrom Air Force Base, TX 78743–5000, and 325 Support Group, Noncommissioned Officer Academy East, Tyndall Air Force Base, FL 32403–5000."

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to end of entry "containing name, grade, Social Security Number and evaluation data regarding training progress/status."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Change last sentence to read "Computer records are destroyed by erasing, deleting or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Director of Education, 67 Support Group, Noncommissioned Officer Academy West, Bergstrom Air Force Base TX 78743–5000 and Director of Education, 325 Support Group, Noncommissioned Officer Academy East, Tyndall Air Force Base, FL 32403–5000."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Commandant, 67 Support Group, Noncommissioned Officer Academy West, Bergstrom Air Force Base TX 78743–5000 or Commandant, 325 Support Group, Noncommissioned Officer Academy East, Tyndall Air Force Base, FL 32403–5000."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system should address requests to the Commandant, 67 Support Group, Noncommissioned Officer Academy West, Bergstrom Air Force Base TX 78743–5000 or Commandant, 325 Support Group, Noncommissioned Officer Academy East, Tyndall Air Force Base, FL 32403–5000."

* * * * *

F050 ACC A

SYSTEM NAME:

Student Record File.

SYSTEM LOCATION:

67 Support Group, Noncommissioned Officer Academy West, Bergstrom Air Force Base, TX 78743–5000, and 325 Support Group, Noncommissioned

Officer Academy East, Tyndall Air Force Base, FL 32403–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty enlisted military personnel assigned to the Academies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual student evaluation record, containing name, grade, Social Security Number and evaluation data regarding training progress/status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; Powers and Duties, delegation by.

PURPOSE(S):

Used to monitor the academic progress of academy students and as a history file.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files and in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name and class number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Records are retained for 10 years after individual completes or discontinues a training course. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Education, 67 Support Group, Noncommissioned Officer Academy West, Bergstrom Air Force Base TX 78743–5000 and Director of Education, 325 Support Group, Noncommissioned Officer Academy East, Tyndall Air Force Base, FL 32403–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Commandant, 67 Support Group, Noncommissioned Officer Academy West, Bergstrom Air Force Base TX 78743–5000 or Commandant, 325 Support Group, Noncommissioned Officer Academy East, Tyndall Air Force Base, FL 32403–5000.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address requests to the Commandant, 67 Support Group, Noncommissioned Officer Academy West, Bergstrom Air Force Base TX 78743–5000 or Commandant, 325 Support Group, Noncommissioned Officer Academy East, Tyndall Air Force Base, FL 32403–5000.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information for this system is obtained from automated system interfaces and from student performance evaluations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F053 AFA A

SYSTEM NAME:

Educational Research Data Base, (February 22, 1993, 158 FR 10407).

CHANGES:

SYSTEM LOCATION:

Delete entry and replace with "Headquarters, United States Air Force Academy, 2304 Cadet Drive, Suite 357, USAF Academy, CO 80840–5002."

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CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "High school, college and USAF career information. Including active duty, reserve, and national guard military performance, academic performance, certain medical, disciplinary and personal facts, and test data from interest/personality profiles."

* * * * *

PURPOSE(S):

Insert the word "attitudes," in front of the word "retention."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with "The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

Information may be furnished to congressional nominating source for the purpose of enhancing the nomination selection process.

Information may also be furnished to other DOD components, Library of Congress, U.S. Coast Guard, General Accounting Office and Congressional Committees for assessment of Academy programs.

The Association of Graduates may receive information to foster graduates' fellowship and professional development, as well as promote institutional development."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Delete last sentence and replace with "Computer records are destroyed by erasing, deleting or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Deputy Chief of Staff/Plans and Programs, Headquarters, USAF Academy/XPPG, 2304 Cadet Drive, Suite 357, USAF Academy, CO 80840–5002."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Deputy Chief of Staff/Plans and Programs, Headquarters, USAF Academy/XPPG, 2304 Cadet Drive, Suite 357, USAF Academy, CO 80840–5002."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Deputy Chief of Staff/Plans and Programs, HQ USAFA/XPPG, 2304 Cadet Drive, Suite 357, USAF Academy, CO 80840–5002."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Air Force rules for accessing records, and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

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F053 AFA A

SYSTEM NAME:

Educational Research Data Base.

SYSTEM LOCATION:

Headquarters, United States Air Force Academy, 2304 Cadet Drive, Suite 357, USAF Academy, CO 80840–5002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USAF Academy cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

High school, college and USAF career information. Including active duty, reserve, and national guard military performance, academic performance, certain medical, disciplinary and personal facts, and test data from interest/personality profiles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 9331, Establishment; Superintendent; faculty; and E.O. 9397.

PURPOSE(S):

Used by USAF Academy faculty and staff in conducting studies and analysis relating to attitudes, retention, graduate professional performance, and career pattern.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

Information may be furnished to congressional nominating source for the purpose of enhancing the nomination selection process.

Information may also be furnished to other DOD components, Library of Congress, U.S. Coast Guard, General Accounting Office and Congressional Committees for assessment of Academy programs.

The Association of Graduates may receive information to foster graduates' fellowship and professional development, as well as promote institutional development.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in computers and on computer output products.

RETRIEVABILITY:

Retrieved by Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Records are retained until superseded, obsolete, no longer needed for reference, or upon inactivation. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Plans and Programs, Headquarters, USAF Academy/XPPG, 2304 Cadet Drive, Suite 357, USAF Academy, CO 80840–5002.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Deputy Chief of Staff/Plans and Programs, Headquarters, USAF Academy/XPPG, 2304 Cadet Drive, Suite 357, USAF Academy, CO 80840–5002.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Deputy Chief of Staff/Plans and Programs, Headquarters, USAF Academy/XPPG, 2304 Cadet Drive, Suite 357, USAF Academy, CO 80840–5002.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, medical institutions, automated system interfaces, Association of Graduates, and source documents (such as reports).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F060 AF B

SYSTEM NAME:

Contractor Flight Operations, (February 22, 1993, 58 FR 10412).

CHANGES:

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CATEGORIES OF RECORDS IN THE SYSTEM:

Delete "and, similar data" from end of entry.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Headquarters, Air Force Materiel Command/DOO, Wright Patterson Air Force Base, OH 45433–5001."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to Headquarters, Air Force Materiel Command/DOO, Wright Patterson Air Force Base, OH 45433–5001, or to the system location where the flight certification is recorded. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

For personal visits, the individual may be asked to show a valid identification card or a driver's license as proof of identity."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to Headquarters, Air Force Materiel Command/DOO, Wright Patterson Air Force Base, OH 45433–5001, or to the system location where the flight certification is recorded. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

For personal visits, the individual may be asked to show a valid identification card or a driver's license as proof of identity."

* * * * *

F060 AF B

SYSTEM NAME:

Contractor Flight Operations.

SYSTEM LOCATION:

All Air Force activities that approve contractor aircraft flight and ground

operations procedures or utilize contractor personnel who operate aircraft for the government.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All contractor personnel who operate aircraft for the Air Force, for which the government assumes some risk of loss or damage. It covers both flight crewmember and non-crewmember personnel designated by a contractor to conduct flights, perform functions while the aircraft is in flight, or perform ground operations in support of such flights.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; Social Security Number; home address and telephone number; date of birth; security clearance data; education; military service data; flight qualification, proficiency, training, and experience records; standardization and evaluation data; safety and mishap records, and medical and physiological data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; Powers and duties; Air Force Regulation 55–22, Contractor's Flight and Ground Operations, and E.O. 9397.

PURPOSE(S):

Used to monitor and manage individual contractor flight and ground personnel records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, notebooks, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Records are maintained in the system until contract termination, at which time they will be destroyed when no longer needed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters, Air Force Materiel Command/DOO, Wright Patterson Air Force Base, OH 45433–5001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to Headquarters, Air Force Materiel Command/DOO, Wright Patterson Air Force Base, OH 45433–5001, or to the system location where the flight certification is recorded. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

For personal visits, the individual may be asked to show a valid identification card or a driver's license as proof of identity.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to Headquarters, Air Force Materiel Command/DOO, Wright Patterson Air Force Base, OH 45433–5001, or to the system location where the flight certification is recorded. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

For personal visits, the individual may be asked to show a valid identification card or a driver's license as proof of identity.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is provided by the individual or from training, evaluation, and examination records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F100 AFCC A

SYSTEM NAME:

Military Affiliate Radio System (MARS) Member Records, (February 22, 1993, 58 FR 10424).

CHANGES:

SYSTEM LOCATION:

Delete entry and replace with "At Technology Integration Center. Subordinate headquarters, Air Force installations, and at Military Affiliate Radio System member stations. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Delete entry and replace with "At Technology Integration Center, retained until termination of membership or alteration of information. At Military Affiliate Radio System stations, retained in office files until reassignment or termination of membership. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Chief, USAF Military Affiliate Radio System (DLTX), Technology Integration Center, Scott Air Force Base, IL 62225–6341, and Director of Operations at all other levels. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Chief, USAF Military Affiliate Radio System (DLTX), Technology Integration Center, Scott Air Force Base, IL 62225–6341, or Director of Operations at all other levels. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Chief, USAF Military Affiliate Radio System (DLTX), Technology Integration Center, Scott Air Force Base, IL 62225–6341, or Director of Operations at all other levels. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F100 AFCC A

SYSTEM NAME:

Military Affiliate Radio System (MARS) Member Records.

SYSTEM LOCATION:

At Technology Integration Center. Subordinate headquarters, Air Force installations, and at Military Affiliate Radio System member stations. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Amateur Radio Operators licensed by United States Air Force (USAF) Military Affiliate Radio System.

CATEGORIES OF RECORDS IN THE SYSTEM:

Military Affiliate Radio System Personnel Action Notification and Registration; Military Affiliate Radio System Station Questionnaire; Application for Membership in Military Affiliate Radio System. Information includes individuals name, Military Affiliate Radio System call sign, amateur call sign, mailing address, Federal Communications Commission license class, Military Affiliate Radio System assignment, communications capability, Military Affiliate Radio System position, military status, and telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of Air Force, powers and duties; delegation by; as implemented by Air Force Regulation 700–17, Military Affiliate Radio System (MARS).

PURPOSE(S):

To identify Military Affiliate Radio System members, to describe and update information concerning members, station capability, Military Affiliate Radio System assignment and position status, to assign call signs and designators, to specify operational parameters and constraints, mailing address, amateur license, telephone number, and responsibilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name, by call sign or designator and geographic location.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

At Technology Integration Center, retained until termination of membership or alteration of information. At Military Affiliate Radio System stations, retained in office files until reassignment or termination of membership. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, USAF Military Affiliate Radio System (DLTX), Technology Integration Center, Scott Air Force Base, IL 62225–6341, and Director of Operations at all other levels. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Chief, USAF Military Affiliate Radio System (DLTX), Technology Integration Center, Scott Air Force Base, IL 62225–6341, or Director of Operations at all other levels. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Chief, USAF Military Affiliate Radio System (DLTX), Technology Integration Center, Scott Air Force Base, IL 62225–6341, or Director of Operations at all other levels. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual members and Military Affiliate Radio System officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F125 AF SP B

SYSTEM NAME:

Complaint/Incident Reports, (February 22, 1993, 58 FR 10444).

CHANGES:

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RETENTION AND DISPOSAL:

Delete entry and replace with "Individual incident records are retained in the office of the Chief of Security Police and destroyed three years after close of year in which last entry was made. Information copies at other activities are destroyed when no longer needed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Air Force Office of Security Police, Kirtland Air Force Base, NM 87117, or the installation Chief of Security Police. Official mailing

addresses are published as an appendix to the Air Force's compilation of record systems notices.

When requesting information in writing, individual should include full name, Social Security Number, military status, and home address. For a personal visit, individual must have a military ID, if applicable, a valid drivers license, or other appropriate proof of identity."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Air Force Office of Security Police, Kirtland Air Force Base, NM 87117, or the installation Chief of Security Police. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

* * * * *

F125 AF SP B

SYSTEM NAME:

Complaint/Incident Reports.

SYSTEM LOCATION:

Kept by the Chief of Security Police at the installation where an individual becomes involved in an incident or complaint, and by the Chief of Security Police at the installation where an individual is assigned if the incident occurs at a different location. Information copies of a report are kept at the individual's organization and other organizations which have an interest in a particular incident. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who become involved in complaints or incidents on Air Force installations or Air Force active duty personnel who become involved in incidents regardless of the location.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes the incident or complaint report, statements by the subject or witness, information on seized or acquired property, if applicable, copies of forms referring cases to other agencies for final disposition, and other forms or reports required to complete basic report. Also includes an individual incident reference record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

Used to record information on individual involvement in incidents or criminal activity. Reports are used to provide information to the appropriate individual within an organization who ensures corrective action is taken.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and card files.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Individual incident records are retained in the office of the Chief of Security Police and destroyed three years after close of year in which last entry was made. Information copies at other activities are destroyed when no longer needed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Air Force Office of Security Police, Kirtland Air Force Base, NM 87117. Chief of Security Police at Air Force installations. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Air Force Office of Security Police, Kirtland Air Force Base, NM 87117, or the installation Chief of Security Police. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

When requesting information in writing, individual should include full name, Social Security Number, military status, and home address. For a personal visit, individual must have a military ID, if applicable, a valid drivers license, or other appropriate proof of identity.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Air Force Office of Security Police, Kirtland Air Force Base, NM 87117, or the installation Chief of Security Police. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from police and investigating officers, witnesses and from persons registering complaints or who become victims of a crime.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F168 ACC A

SYSTEM NAME:

Physician Retention Program, (February 22, 1993, 58 FR 10464).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Headquarters, Air Combat Command, Langley Air Force Base, VA 23665–5578, and at all Air Combat Command medical facilities. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete "Tactical Air Command" and replace with "Air Combat Command."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Physician Retention Officer, HQ ACC, Director of Professional Services, Langley Air Force Base, VA 23665–5578."

* * * * *

F168 ACC A

SYSTEM NAME:

Physician Retention Program.

SYSTEM LOCATION:

Headquarters, Air Combat Command, Langley Air Force Base, VA 23665–

5578, and at all Air Combat Command medical facilities. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Practitioners who are members of the United States Air Force Medical Service or civil service employees who are assigned to, employed by, or practice in any Air Combat Command (ACC) medical facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Social Security Number, duty title, specialty and Air Force Specialty Code, information on service commitment, educational background, personal goals, career goals, and future plans. Date entered Air Force, past duty assignments, reasons for entering and remaining, and future assignment desires. Deterrents to making the Air Force a career. Will also contain spouse's name, spouse's occupation, children's names and ages.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; powers and duties, delegation by; as implemented by Air Force Regulation 168–4, Air Combat Command Supplement 1, Administration of Medical Activities, and E.O. 9397.

PURPOSE(S):

To assist in retaining qualified physicians beyond their initial service commitments.

To identify and reduce or eliminate irritants to each physician. Information is solicited to make future career assignments and reassess irritants and reasons for dissatisfaction. Information is summarized and presented to a retention committee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the agency's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and visible file binders/cabinets and in computers and on computer products.

RETRIEVABILITY:

Retrieved by name, Social Security Number, and location.

SAFEGUARDS:

Records are accessed by custodian of the record system; by person(s) responsible for servicing the record system in performance of their official duties; by commanders of Air Combat Command medical facilities, and Headquarters Air Combat Command Surgeon General personnel with a need to know. Computers and disks will be stored in locked cabinets or locked rooms.

RETENTION AND DISPOSAL:

Records are transferred to the gaining Air Combat Command medical facility if reassigned within Air Combat Command. If separated or reassigned outside of Air Combat Command, records will be retained for one year then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Electronic data will be erased upon separation or reassignment to a non-Air Combat Command medical facility.

SYSTEM MANAGER(S) AND ADDRESS:

Physician Retention Officer, HQ Air Combat Command, Director of Professional Services, Langley Air Force Base, VA 23665–5578.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the medical facility Physician Retention Officer where assigned. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

For records maintained at HQ Air Combat Command, contact the Physician Retention Officer, HQ Air Combat Command, Director of Professional Services, Langley Air Force Base, VA 23665–5578.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address requests to the medical facility Physician Retention Officer where assigned. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

For records maintained at HQ Air Combat Command, contact the Physician Retention Officer, HQ Air Combat Command, Director of Professional Services, Langley Air Force Base, VA 23665–5578.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from subject of the record.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F900 TAC A

SYSTEM NAME:

Special Awards File, (February 22, 1993, 58 FR 10516).

CHANGES:

* * * * *

SYSTEM LOCATION:

Change "Tactical Air Command" to "Air Combat Command."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete "Tactical Air Command" and replace with "Air Combat Command (ACC), formerly Tactical Air Command."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete "TAC" and insert "ACC."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Change "Tactical Air Command" to "Air Combat Command."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Deputy Chief of Staff, Personnel, Air Combat Command, Langley Air Force Base, VA 23665–5001."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Deputy Chief of Staff, Personnel, Air Combat Command, Langley Air Force Base, VA 23665–5001."

* * * * *

F900 ACC A

SYSTEM NAME:

Special Awards File.

SYSTEM LOCATION:

Headquarters Air Combat Command, Langley Air Force Base, VA 23665–5001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel, civilian employees and retired Air Force officers who are or were formerly assigned to Air Combat Command (ACC), formerly Tactical Air Command.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetical file containing limited award and biographical data on command personnel where awards have been approved and may be used for reference in future. File is informational in nature and action does not result therefrom.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by and 8074, Commands: Territorial organization, and Air Force Regulation 900–48, Individual and Unit Awards and Decorations, Air Combat Command Sup 1, and Air Force Regulation 900–29, Special Trophies and Awards, Air Combat Command Sup 1.

PURPOSE(S):

Used by Command Awards Branch for reference.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Personnel, Air Combat Command, Langley Air Force Base, VA 23665–5001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Deputy Chief of Staff, Personnel, Air Combat Command, Langley Air Force Base, VA 23665–5001.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Deputy Chief of Staff, Personnel, Air Combat Command, Langley Air Force Base, VA 23665–5001.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers and source documents such as reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 93–5591 Filed 03–10–93; 8:45 am]

BILLING CODE 3810–01–F

Department of the Army

Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 8 April 1993.

Time of Meeting: 0900–1700, each day.

Place: Waterways Experiment Station, Vicksburg, Mississippi.

Agenda: The Army Science Board Ad Hoc Panel on "Space Systems and Future Army Operations" will meet in executive session for discussions focused on current and future operational concepts, and associated technologies. This meeting will be closed to the public in accordance with section 552b. (c) of title 5, U.S.C., specifically subparagraph (1) thereof and title 5, U.S.C. appendix 2, subsection 10(d). The classified and unclassified information to be discussed will be so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 93–5593 Filed 3–10–93; 8:45 am]

BILLING CODE 3710–08–M

Defense Logistics Agency

Privacy Act of 1974; Amend Record System.

AGENCY: Defense Logistics Agency, DOD.

ACTION: Amend record system.

SUMMARY: The Defense Logistics Agency proposes to amend an existing system of records in the DLA inventory of systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on April 12, 1993, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Administrative Management Branch, Planning and Resource Management Division, Defense Logistics Agency, Room 5A120, Cameron Station, Alexandria, VA 11304–6100.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 617–7583.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Logistics Agency record system notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, can be obtained from the address listed above.

The amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which requires the submission of an altered system report. The specific changes to the record system being amended are set forth below followed by the system notice as amended, in its entirety.

Dated: February 9, 1993.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.50 DLA-LZ

SYSTEM NAME:

Defense Enrollment/Eligibility Reporting System, (DEERS) (53 FR 9966, March 28, 1992).

CHANGES:

SYSTEM IDENTIFIER:

Change to read 'S322.50 DMDC'.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with 'To the Department of Health and Human Services; Department of Veterans Affairs; Department of Commerce; Department of Transportation for the conduct of health care studies, for the planning and allocation of medical facilities and providers, for support of the DEERS enrollment process, and to identify individuals not entitled to health care. The data provided includes Social Security Number, name, age, sex, residence and demographic parameters of each Department's enrollees and dependents.

To the Social Security Administration (SSA) to perform computer data matching against the SSA Wage and Earnings Record file for the purpose of identifying employers of Department of Defense (DOD) beneficiaries eligible for health care. This employer data will in turn be used to identify those employed beneficiaries who have employment related group health insurance, to coordinate insurance benefits provided by DOD with those provided by the other insurance. This information will also be used to perform computer data matching against the SSA Master Beneficiary Record file for the purpose of identifying DOD beneficiaries eligible for health care who are enrolled in the Medicare Program, to coordinate insurance benefits provided by DOD with those provided by Medicare.

To other Federal agencies and State, local and territorial governments to identify fraud and abuse of the Federal agency's programs and to identify debtors and collect debts and overpayment in the DOD health care programs.

To each of the fifty states and the District of Columbia for the purpose of conducting an on going computer matching program with state Medicaid agencies to determine the extent to which state Medicaid beneficiaries may be eligible for Uniformed Services health care benefits, including CHAMPUS and to recover Medicaid monies from the CHAMPUS program.

To private dental care providers to assure treatment eligibility.

The 'Blanket Routine Uses' published at the beginning of DLA's compilation of systems of records notices apply to this system.

* * * * *

S322.50 DMDC

SYSTEM NAME:

Defense Enrollment/Eligibility Reporting System (DEERS).

SYSTEM LOCATION:

Primary location: W.R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93920-5000.

Decentralized segments: A support center and an eligibility center are maintained and operated by a contractor in Monterey, CA and Alexandria, VA; two data processing centers in Sacramento, CA and Camp Hill, PA and the Processing Center for Automation of DOD Forms 1171 in Monterey, CA.

Back-up files are maintained at the Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Armed Forces and reserve personnel and their dependents, retired Armed Forces personnel and their dependents; surviving dependents of deceased active duty or retired personnel; active duty and retired Coast Guard personnel; active duty and retired Public Health Service personnel (Commissioned Corps) and their dependents; and active duty and retired National Oceanic and Atmospheric Administration employees (Commissioned Corps) and their dependents; and State Department employees employed in a foreign country and their dependents and any other individuals entitled to care under the health care program; providers and potential providers of health care; and any individual who submits a health care claim.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer files containing beneficiary's name, Service or Social Security Number of sponsor, enrollment number, relationship of beneficiary to sponsor, residence address of beneficiary or sponsor, date of birth of beneficiary, sex of beneficiary, branch of service of sponsor, dates of beginning and ending eligibility, number of dependents of sponsor, primary unit duty location of sponsor, race and ethnic origin of beneficiary, occupation of beneficiary, rank/pay grade of sponsor, and claim records of CHAMPUS claims containing enrolled, patient and provider data such as cause of treatment, amount of payment, name and Social Security or tax ID number of providers of care. Information on individual records may extend to blood test results, dental care premium codes and dental x-rays.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136; 1969 Pub. L. 91–121, Section 404(A)(2), Establishment of the Assistant Secretary of Defense for Health Affairs; the Presidentially Commissioned Department of Defense, Department of Health, Education and Welfare, Office of Management and Budget Report of the Health Care Study (completed December 1975): DOD Directive 1341.1, Defense Enrollment/ Eligibility Reporting System, October 14, 1981; DOD Instruction 1341.2, DEERS Procedures; E.O. 9397.

PURPOSE(S):

The purpose of the system is to provide a data base for determining eligibility to receive health care benefits under the Uniformed Health Services Delivery System and CHAMPUS, to support DOD health care management programs, to provide identification of deceased members, to monitor the accuracy of payments and to identify and collect overpaid amounts and to detect fraud and abuse of the benefit program by claimants and providers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Department of Health and Human Services; Department of Veterans Affairs; Department of Commerce; Department of Transportation for the conduct of health care studies, for the planning and allocation of medical facilities and providers, for support of the DEERS enrollment process, and to identify individuals not entitled to health care. The data provided includes Social Security Number, name, age, sex, residence and demographic parameters of each Department's enrollees and dependents.

To the Social Security Administration (SSA) to perform computer data matching against the SSA Wage and Earnings Record file for the purpose of identifying employers of Department of Defense (DOD) beneficiaries eligible for health care. This employer data will in turn be used to identify those employed beneficiaries who have employment related group health insurance, to coordinate insurance benefits provided by DOD with those provided by the other insurance. This information will also be used to perform computer data matching against the SSA Master Beneficiary Record file for the purpose of identifying DOD beneficiaries eligible for health care who are enrolled in the Medicare Program, to coordinate insurance benefits provided by DOD with those provided by Medicare.

To other Federal agencies and State, local and territorial governments to identify fraud and abuse of the Federal agency's programs and to identify debtors and collect debts and overpayment in the DOD health care programs.

To each of the fifty states and the District of Columbia for the purpose of conducting an on going computer matching program with state Medicaid agencies to determine the extent to which state Medicaid beneficiaries may be eligible for Uniformed Services health care benefits, including CHAMPUS and to recover Medicaid monies from the CHAMPUS program.

To private dental care providers to assure treatment eligibility.

The 'Blanket Routine Uses' published at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tapes and disks are housed in a controlled computer media library.

RETRIEVABILITY:

Records about individuals are retrieved by an algorithm determined by contractor which uses name, enrollment number, Social Security Number, date of birth, rank and duty location as possible inputs. Retrievals are made on a summary basis by geographic characteristics and location and demographic characteristics. Information about individuals will not be distinguishable in such summary retrievals. Retrievals for the purposes of generating address lists for direct mail distribution of health care information may be made using selection criteria based on geographic and demographic keys.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, guards, administrative procedures (e.g., fire protection regulations). Exits used solely for emergency situations is secured to prevent unauthorized intrusion.

Personal data stored at a separate location for backup purposes is protected at least comparably to the protection provided at the primary location.

Requirements for protection of information are binding on contractors or their representative and are subject to the following minimum standards:

Access to personal information is restricted to those who require the records in the performance of their official duties, and to the individuals who are the subjects of the record or their authorized representatives. Access to personal information is further restricted by the use of passwords which are changed periodically.

All those officials whose duties require access to, or processing and maintenance of personal information are trained in the proper safeguarding and use of the information.

RETENTION AND DISPOSAL:

Computerized records on an individual are maintained as long as the individual is legally eligible to receive health care benefits from the Uniformed Health Sciences Delivery System. The records are maintained for two (2) years after termination of eligibility.

Records may be disposed of or destroyed in accordance with DOD Component record management regulations which conform to the controlling disposition of such material as set forth in 44 U.S.C. 3301–3314. Non-record material containing personal information and other material of similar temporary nature is destroyed as soon as its intended purpose has been served under procedures established by the Head of the DOD Component consistent with the following requirement. Such material shall be destroyed by tearing, burning, melting, chemical deposition, pulping, pulverizing, shredding, or mutilation sufficient to preclude recognition or reconstruction of the information.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

Written requests for the information should contain full name of individual and sponsor, if applicable, and other attributes required by previously mentioned search algorithm.

For personal visits the individual should be able to provide a data element required to satisfy the previously mentioned algorithm. Identification should be corroborated with a driver's license or other positive identification.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DLA Regulation 5400.21; 32 CFR part 323; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Personnel and financial pay systems of the Military Departments, the Coast Guard, the Public Health Service, the National Oceanic and Atmospheric Administration, other Federal agencies having employees eligible for military medical care.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 93–4108 Filed 03–10–93; 8:45 am]

BILLING CODE 3810–01–F

Department of the Navy

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Stealth and Stealth Countermeasures Task Force will meet March 25, 1993, from 2 pm to 3 pm, in the Pentagon, Room 4E630. This session will be closed to the public.

The purpose of this meeting is to do the final out-brief for the Task Force on Stealth and Stealth Countermeasures. Matters to be considered will consist of discussions of key issues related to stealth, stealth countermeasures, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Kevin Mattonen,

Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: March 3, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-5594 Filed 3-10-93; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF EDUCATION

[CFDA No. 84.031A]

Strengthening Institutions Program, Title III, Part A of the Higher Education Act of 1965, as Amended; Notice Inviting Applications for New Awards for Fiscal Year 1993

Purpose of Program: Provide grants to eligible institutions of higher education to improve their academic quality, institutional management, and fiscal stability to enable institutions to become self-sufficient.

This grant program should be seen as an opportunity for those institutions to support those elements of the National Education Goals that are relevant to their unique missions.

Deadline for Transmittal of Applications: April 26, 1993.

Deadline for Transmittal of Intergovernmental Review: June 25, 1993.

Applications Available: Applications will be mailed by March 15, 1993 to the Office of the President of all institutions that are designated eligible to apply for a grant under the Strengthening Institutions Program.

Available Funds: $20,000,000.

Estimated Range of Awards: $25,000 to $35,000 for planning grants; $300,000 to $350,000 per year for development grants.

Estimated Average Size of Awards: $30,000 for planning grants; $325,000 per year for five-year development grants.

Estimated Number of Awards: 12 planning grants and 60 development grants.

Project Period: Up to 12 months for planning grants; 60 months for development grants.

Note: The Department is not bound by any estimates in this notice.

Special Funding Considerations: In tie-breaking situations described in § 607.23 of the Strengthening Institutions Programs regulations, 34 CFR 607.23, the Secretary awards additional points under § 607.21 and § 607.22 to an application from an institution which has an endowment fund of which the current market value, per FTE student, is less than the average, per FTE student, at similar type institutions; or which has expenditures for library materials, per FTE student, which are less than the average, per FTE student, at similar type institutions. For the purposes of these funding considerations, an applicant must be able to demonstrate that the current market value of its endowment fund, per FTE student, or expenditures for library materials, per FTE student, is less than the following national averages for base year 1988–89.

	Average market value of endowment fund, per FTE	Average library expenditures for materials, per FTE
Two-year public institutions	$117	$39
Two-year nonprofit, private institutions	4,048	61
Four-year public institutions	2,379	137
Four-year nonprofit, private institutions	26,264	200

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) the Strengthening Institutions Program Regulations, 34 CFR part 607.

Supplementary Information: The Secretary plans to publish a Notice of Proposed Rulemaking for the Strengthening Institutions Program based on the reauthorization of the Higher Education Act of 1965 (HEA), as amended by Public Law 102–325.

So that fiscal year 1993 funds may be awarded on a timely basis, the Secretary will use the current 34 CFR part 607, as modified by the new statutory requirements of Public Law 102–325.

Under section 313(a) of the HEA, the Secretary awards Strengthening Institutions Program development grants for a five year period. Under section 313(b) of the HEA, the Secretary gives priority to grant applicants who are not the recipients of Strengthening Institutions Program grants.

As a result of these statutory amendments, § 607.9(a)(3) and § 607.9(b) (2), (3), and (4) have been superseded and are no longer in effect.

For Further Information Contact: Louis J. Venuto, U.S. Department of Education, 400 Maryland Avenue, SW., room 3042, ROB–3, Washington, DC 20202–5335. Telephone: (202) 708–8840. Individuals who are hearing impaired may call the Federal Dual Party Relay Services at 1–800–877–8339 (in the Washington, DC, 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1057.

Dated: March 5, 1993.

Maureen A. McLaughlin,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 93–5552 Filed 3–10–93; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Research Opportunity Announcement Applied Research and Development

AGENCY: U.S. Department of Energy (DOE), Morgantown Energy Technology Center.

ACTION: Issue of a research opportunity announcement.

SUMMARY: The objective of this program is to support the U.S. Department of Energy's (DOE's) Office of Technology Development's applied research efforts for the development of technologies having potential applications in the Environmental Restoration and Waste Management (EM) program. Technologies which: do not duplicate existing work; complement or enhance existing or planned work; and best serve the needs of the EM program are desired. A proposed technology may be a device, process, material or method that improves DOE's capabilities in the following areas: In situ remediation of contaminated sites; characterization, sensors and monitoring; low-level mixed waste processing; efficient separations technology for radioactive wastes; robotics; materials disposition technologies; improved engineered barriers for waste storage and disposal; and waste forms.

For the purpose of this program, "applied research" is the systematic application of knowledge toward the production of useful devices, materials or methods, including design, development, and improvement of prototypes and processes to meet specific requirements. Proposals for basic research are not desired under this ROA.

It is not the purpose of this solicitation to support, and no proposal will be selected to conduct, support service activities, conference or training activities, or projects which do not conduct research (e.g. paper studies).

DATES: Proposals may be submitted at any time after the issuance date of this ROA up to and including one year after the issue date. Proposals must state an acceptance period of at least 180 days.

ADDRESSES/FOR FURTHER INFORMATION CONTACT:

ADDITIONAL INFORMATION, FORMS, AND DOE POINT OF CONTACT:

A. Requests for information concerning the ROA as well as the information package should be submitted in writing to the following address: U.S. Department of Energy, Attn: Thomas L. Martin, M.S. 107, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, WV 26507–0880, (304) 291–4087 FAX (304) 291–4469

B. Additional information concerning DOE's requirements is available. The information package includes a summary, more complete description of the research areas identified in the areas of research section, above, and the following documents: a proposal cover sheet; DOE Representations, Certifications, and Other Statements of Bidders/Offerors; a Certificate of Environmental Safety and Health Program; a Statement of Work format; Standard Form 1411; a cost proposal preparation format; sample reporting requirements; information regarding patent and data clauses and rights; and a set of standard contract clauses.

SUPPLEMENTARY INFORMATION:

Identification number and authority for issuance:

A. DE–RO21–93MC30140.

B. The use of broad agency announcements is authorized by the Competition in Contracting Act of 1984 (CICA) (41 U.S.C. 259(b)(2)) and the Federal Acquisition Regulation at part 6.102(d)(2) as supplemented by the Department of Energy Acquisition Regulation.

Title of Research Opportunity Announcement: Applied Research and Development of Technologies For Environmental Restoration and Waste Management

Areas of research in which contracts may be awarded:

A. In situ Remediation

There is a need for innovative and improved in situ remediation methods for the cleanup of contaminated soils and groundwater. In situ remediation technologies include both treatment and containment technologies. In situ treatment refers to treatment of contaminated material with minimal, or no, excavation, as well as any enhancement of contaminant removal from the subsurface. In situ remediation includes on-site treatment of groundwater and soils. In situ containment refers to technologies which retard or eliminate contaminant migration to the surrounding environment. The EM program has focused on three areas in which to develop in situ remediation technologies. They are: (1) In situ containment, (2) in situ biological treatment and (3) physical/chemical in situ treatment.

B. Characterization, Sensors and Monitoring

Technologies for characterization and monitoring are required for site clean-up and waste processing applications. There is a need for greater use of field-deployable methods and devices including real-time monitoring of process streams to reduce dependency on laboratory analyses which are costly and time consuming. In addition, techniques, including information management systems, are required that can better elucidate the physical, hydrogeological and chemical properties of the subsurface while minimizing or optimizing the use of boreholes. Finally, improved sensors are needed to better measure contaminants in varied, hazardous environments.

C. Low-level Mixed Waste Processing

DOE has identified the need for the development of new technologies for reducing current mixed (hazardous and radioactive) waste inventories. Low-level mixed waste is categorized into the following generic descriptions: Aqueous liquid wastes, organic liquid wastes containing organic chemicals, wet solid wastes, and dry solid wastes.

Six treatment technology areas, ranging from front-end waste handling through the generation of a final waste form, are identified for focusing applied research and development efforts. The treatment technology areas are: (1) Front-end waste handling and feed preparation, (2) non-thermal waste treatment, including decontamination, recycling and separation of suspended and dissolved materials, (3) mercury control, (4) waste destruction and stabilization, (5) secondary destruction and off-gas treatment and (6) final waste forms. Processing low-level mixed wastes will emphasize, where appropriate, use of methods to treat and/or separate the hazardous component to simplify the handling and disposal of materials in subsequent steps.

D. Efficient Separations Technology for Radioactive Wastes

Separations technologies are required to process a wide spectrum of highly radioactive defense wastes. These wastes may include high-level wastes, low-level wastes, transuranic wastes, and mixed wastes in all three categories. Highly radioactive defense wastes are anticipated to be processed into waste forms suitable for disposal in deep geologic repositories. Innovative applications of appropriate separation technologies will substantially decrease the volume of waste to be disposed of in repositories resulting in significant cost savings.

E. Robotics

Five areas have been identified within the EM program for development and application of advanced robotics and automation technologies. These are: (1) The characterization and remediation of waste storage tanks, (2) the characterization and remediation of buried waste sites, (3) the automation of contaminant analysis, (4) the decontamination and decommissioning of inactive nuclear facilities, and (5) operations for waste handling. Advancements in the development of robotics and automation technologies are needed in the areas of mechanical, control, and sensor systems.

F. Material Disposition Technology

Decontamination and decommissioning of surplus DOE facilities will result in the need to dispose of concrete, metals, sludges, contaminated soil, chemicals, and hazardous and mixed wastes. The implementation of recycling and reuse technologies is desired due to the great volumes and potential value of the material that is present at these facilities. Volume reduction technologies are also needed to minimize the costs associated with storage and disposal.

G. Improved Engineered Barriers for Waste Storage and Disposal

There is a need for improved engineered barriers, i.e., any man-made structures, devices or practices that enhance the performance of a waste storage or disposal facility. Engineered barriers are required to contain wastes which might otherwise release contaminants along air, surface water and/or groundwater pathways. Technology is needed for the design, construction and performance assessment of improved engineered barriers relative to low-level radioactive waste disposal and the interim storage of high-level radioactive wastes.

H. Improved Waste Forms

Technologies producing improved waste forms for hazardous, radioactive and mixed wastes are desired. Waste forms must meet certain performance requirements, including durability and resistance to leaching. Waste types for which improved waste forms are desired are: Low-level mixed wastes, incinerator ash and various special

radioactive wastes including spent nuclear fuels, calcine waste, cesium and strontium halides, and transuranic waste. In addition, DOE is seeking performance assessment methodologies to rapidly and reliably determine the leachability and durability of waste forms.

Submission and withdrawal of proposals:

A. Unsuccessful offerors will be given an opportunity for a debriefing which will describe the evaluation process and discuss the major strengths and weaknesses found in their proposal.

Unsuccessful proposals will be retained by the receiving office and will not be returned to unsuccessful offerors.

Proposals received subsequent to the close of the submission deadline may be considered and evaluated under a succeeding ROA if one is issued by METC, provided that the offeror so affirms, in writing, and provides METC, as part of its affirmation, any needed updated information relating to its proposal and the proposed research is consistent with the objectives of the succeeding ROA.

B. Proposals may be withdrawn by the offeror at any time prior to award of a contract by written notice to the cognizant program office (the individual identified above as the point of contact).

Funding availability: The amount of money which is available for first year funding of potential contract awards is approximately $6,000,000.

Evaluation factors and proposal preparation instructions:

A. Technical Evaluation Factors

The following factors will be used for the evaluation of proposals submitted under this solicitation:

1. Technical Approach and Understanding

Proposals will be evaluated considering the offeror's understanding of the need(s) or problem(s) the technology will address and the soundness and likelihood of success of the proposed research effort in meeting the research objective(s).

2. Merit of the Technology

Proposals will be evaluated considering the offeror's discussion on the technology's merit in terms of anticipated performance and cost savings over existing technology and how the technology is an improvement over existing technology.

3. Personnel Qualifications, Project Organization and Experience

Proposals will be evaluated considering the offeror's technical and managerial experience, qualifications, and availability of personnel who are proposed to work on the project; project organization and management structure; and prior experience in managing projects similar in type, technology, size and complexity.

4. Facilities and Equipment

Proposals will be evaluated considering the quality, availability, and appropriateness of the offeror's proposed facilities and equipment.

B. Relative Importance of the Evaluation Criteria

The Technical Proposal Evaluation Criteria, as listed above, are in descending order of importance. Criteria 1 and 2 are of equal importance. Criterion 3 is twice as important as criterion 4. Criteria 1 and 2 are each more than three times as important as criterion 4.

C. Cost Evaluation

Proposed cost will be evaluated for reasonableness, appropriateness, and probable cost to the Government.

D. Proposal Preparation Instructions

1. Offerors who include in their proposal data that they do not want disclosed to the public for any purpose or used by the Government except for evaluation purposes shall:

a. Mark the title page with the following legend:

"This proposal or quotation includes data that shall not be disclosed outside of the Government and shall not be duplicated, used, or disclosed—in whole or in part—for any purpose other than to evaluate this proposal or quotation. If, however, a contract is awarded to this offeror or quoter as a result of—or in connection with—the submission of this data, the government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets (insert number or other identification of sheets)"; and

b. Mark each sheet of data it wishes to restrict with the following legend: "Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal or quotation."

2. Each proposal will be submitted in the quantities specified below to the address given in the summary section, above, designated as the delivery point for proposals. Each proposal will be comprised of three separate volumes, numbered and submitted in the number of copies as follows:

Volume	Number of copies
Volume I Offer and other document	2
Volume II Technical proposal	7
Volume III Cost proposal	7

Brief, but complete, proposals are desired. The Technical Proposal shall be as brief as possible while addressing all of the technical evaluation criteria and preparation instructions. The technical proposal shall not, in any case, exceed 50 pages in length including figures and tables but excluding resumes of proposed personnel. The statement of work may be included in an appendix to the technical proposal. The statement of work shall not exceed 10 pages and is not included in the technical proposal's 50 page limit. There is no limitation on the length of the two other volumes of the proposal.

The volumes of the proposal must contain the following:

1. Volume I—Offeror Information: (Original and 1 copy)
   a. Name and address of the offeror.
   b. The ROA solicitation number.
   c. The date of submission of the proposal and the offer acceptance period (minimum of 180 days).
   d. The names and addresses of any other Federal, State, or local government entity who has in the past, or is currently, or expects in the future, to provide funds for the same or similar research activities of the offeror.
   e. A proposal cover sheet signed by an individual authorized to contractually obligate the offeror (See Article 9).
   f. DOE Representations, Certifications, and Other Statements of Bidders/Offerors.
   g. Certificate of Environmental Safety and Health.
2. Volume II—Technical Proposal: (Original and 6 copies)

The offeror shall identify the specific area(s) of research the proposed project addresses. These areas are defined in the Article 4. "Areas of Research in Which Contracts May be Awarded".

A. Technical Approach and Understanding

This section shall describe the offeror's technical approach to accomplish the work.

The offeror shall provide a description of the technology, its

intended use(s), and the need(s) or problem(s) the technology will address. The offeror shall provide a clear description of the project objective(s) and deliverables (e.g. reports, device(s)).

The offeror shall provide a statement of work (SOW) which shall be divided into logical tasks and subtasks necessary to accomplish the project objective(s). The SOW shall include, where applicable, key go/no-go decision points (it is understood that because of the nature of the work proposed that some, though few, will not lend themselves to go/no-go decision points) which will be used to evaluate project success. These decision points may be identified as options in any resulting contract. The offeror shall identify specific success criteria which must be satisfied to demonstrate success for each key go/no-go decision point.

Note: The statement of work will contain Task 1 which will require the preparation of documentation and submission of information necessary for DOE to comply with the National Environmental Policy Act requirements if the project does not qualify as a categorical exclusion. Offerors may receive the Statement of Work format, which includes Task 1, from the individual identified in Article 9, as part of the information package.

Where applicable the offer should provide a preliminary test plan which shall include, but not be limited to, objectives of the test, description of test equipment and experimental setup, test procedures, test conditions, number of tests, duration of tests, data to be collected, and criteria to determine success of a test. Also where applicable, the offeror shall provide a preliminary process flow diagram and material balance for the proposed technology.

The proposer shall provide a PERT (Program Evaluation and Review Technique) chart or equivalent depicting the project schedule, milestones, and interrelationship of the project tasks. The offeror shall identify the critical path which identifies the sequential tasks which, if not completed on time, will result in a delay in the overall project schedule.

The offeror shall provide a table listing the estimated labor hours and labor categories (e.g., management, engineering, scientific, technician, analytical, clerical) required for each task. The offeror shall include a table showing labor hours and labor categories for any proposed subcontracting or consulting effort for each task, including Task 1. The offeror shall discuss the rationale used to develop estimates for labor hours, labor categories, subcontracting effort, consulting effort, and travel. Cost information is not to be included in the technical proposal volume.

The offeror shall describe the proposed travel. The purpose of the trip, number of trips, the origin and destination, trip duration, and the number of personnel shall be included in the explanation.

B. Merit of the Technology

The offeror shall describe the merit of the proposed technology in terms of anticipated performance and/or cost savings over existing technologies and how the technology is an improvement, where applicable, in the following areas:

- Reducing public and occupational health risks
- Reducing environmental impacts
- Improving clean-up and waste management/processing operations
- Cost reduction
- Reducing the time required for remediation and or waste management/processing
- Minimizing generated or secondary wastes
- Ability to meet regulatory requirements
- Feasibility in implementing the technology
- Breadth of application

C. Personnel Qualifications, Project Organization and Experience

The offeror shall describe relevant technical and managerial experience, qualifications, and availability of the proposed project personnel including subcontractors and consultants. Resumes of key project personnel (e.g. project manager, principal investigator) shall be included in an appendix to the proposal.

The offeror shall provide a description of the project organization structure and the lines of authority, both technical and administrative, and the relationship to the proposed research effort.

The offeror shall discuss any prior experience in managing project that were similar in type, size, and complexity. The offeror shall discuss experience in developing the proposed or similar technologies.

D. Facilities and Equipment

The offeror shall provide a discussion of the type, quality, availability and appropriateness of the proposed facilities and equipment, including a description of any facilities and/or non-monetary resources requested to be furnished by the Government for use by the offeror in performance of the proposed research.

The offeror shall discuss any special existing permits and licenses for handling, treating, storing and disposing of hazardous and radioactive waste at their facilities.

3. Volume III—Cost Proposal: (Original and 6 copies)

a. A fully executed Standard Form (SF) 1411.

b. Supporting cost exhibits for the total project, by task, and between go/no-go decision points to include labor hours, rates and costs; equipment and supplies lists and costs; subcontracted costs in the same level of detail; indirect costs and all other costs proposed. The same level of detail shall be provided for shared costs, if proposed.

DOE obligation for proposal preparation:

DOE is under no obligation to reimburse the offeror for any costs associated with the preparation or submission of proposals; however, bid and proposal preparation costs which are a portion of an established indirect cost rate will be paid to successful offerors to the extent that such costs have been reviewed and approved by the appropriate auditing agency.

Funding of proposals:

DOE reserves the right to fund, in whole or in part (including any options that may be negotiated), any, all or none of the proposals submitted.

Return of unsuccessful proposals:

DOE is not required to, and will not, return to the offeror a proposal which is not selected.

Proposal review and selection:

A. Each proposal will be objectively reviewed on its own merit against the evaluation criteria stated in the ROA using scientific and/or peer reviewers, some of whom may be DOE contractors. Offerors who object to review of their proposal by persons other than Government employees shall so state in Volume I of their proposal. Offerors are cautioned that DOE may be unable to give full consideration to proposals which indicate that only Government evaluation is authorized.

B. Proposals will be reviewed individually, or in groups which will be assembled as often as practical considering the number of proposals received and the availability of competent reviewers.

C. Selection of proposal(s) will be made in consideration of the evaluation, the importance of the proposed research to the program objectives, and the availability of funds.

Proposal evaluation and award:

DOE is not obligated to award a contract to an offeror merely because the offeror's proposal was accepted by DOE for evaluation.

Set-aside information, standard industrial classification, and qualified offerors:

A. *Set Aside Information:* A minimum of twenty percent (20%) of the number of awards made as a result of this solicitation are set aside for small businesses.

B. *Standard industrial classification:* The standard industrial classification (SIC) code for this acquisition is 8731. The small business size standard is 500. The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

C. *Qualified Offerors:* Individuals, educational institutions, large and small businesses, and all other organizations, with the exceptions noted below, may submit proposals under this ROA.

Proposals are not solicited from and contracts will not be awarded to any specific entity which operates a Government-owned or Government-controlled research, development, special production, or testing establishment, such as DOE's management and operating contractors facilities, or Federally Funded Research and Development Centers chartered by other agencies. For further information see DEAR 935.016–2(b)(2).

Issued: March 2, 1993.

Thomas F. Bechtel,

Director, Morgantown Energy Technology Center.

[FR Doc. 93–5643 Filed 3–10–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. QF87–93–005]

Cambria CoGen Co.; Application for Commission Recertification of Qualifying Status of a Small Power Production Facility

March 5, 1993.

On February 24, 1993, Cambria CoGen Company of 7201 Hamilton Boulevard, Allentown, Pennsylvania 18195, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the small power production facility is located near Ebensburg, in Cambria Township Pennsylvania. The Commission previously certified the facility as an 85 MW bituminous coal refuse small power production facility. The instant request for recertification is due to a change in the facility's power production capacity and a change in ownership structure.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed within 30 days after the date of publication of this notice in the **Federal Register** and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5619 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF86–1061–004]

Eagle Point Cogeneration Partnership; Application for Commission Recertification of Qualifying Status of a Cogeneration Facility

March 5, 1993.

On February 26, 1993, Eagle Point Cogeneration Partnership, c/o ANR Venture Eagle Point Company, 310 First Street, Fifth Floor, Roanoke, Virginia 24011, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207(b) of the Commission's Regulations. According to the applicant, the instant request for recertification is due to changes in the ownership and configuration of the facility. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located in Westville, New Jersey. The Commission previously certified the facility as a qualifying cogeneration facility, Eagle Point Cogeneration Partnership, 37 FERC ¶62,135 (1986). Notices of self-recertification were filed on March 1, 1989, June 28, 1989 and December 15, 1992.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed within 30 days after the date of publication of this notice in the **Federal Register** and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5620 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. QF91–38–001, et al.]

Nissequoque Cogen Partners, et al.; Electric rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Nissequoque Cogen Partners

[Docket No. QF91–38–001]

March 1, 1993.

On February 22, 1993, Nissequoque Cogen Partners c/o CEA USA, Inc., 1200 E. Rigewood, New Jersey 07450–3939, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207(b) of the Commission's Regulations. The instant request for recertification is due to changes in the ownership structure of the facility and the commence of operation date from December 1993 to June 1994. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the topping-cycle cogeneration facility to be located in the Town of Brookheaven, in Suffolk, County, New York was previously certified by the Commission as a qualifying cogeneration facility, *Nissequoque Cogen Partners*, 54 FERC ¶62,147 (1991).

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

2. Kamine/Besicorp Allegany L.P.

[Docket No. QF88–292–002]

March 1, 1993.

On February 18, 1993, Kamine/Besicorp Allegany L.P., of 1620 Route 22 East, Union, New Jersey 07083, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the topping-cycle cogeneration facility is located in the Town of Hume, Allegany County, New York, and will consist of one combustion turbine generator, one heat recovery boiler (HRB), and one extraction/condensing steam turbine generator. Steam recovered from the HRB will be used by Stewart & Stevenson Services, Inc. to produce ultra-high purity water for its distillation plant. The net electric power production capacity of the facility will be 56.7 MW. The Primary energy source will be natural gas. Construction of the facility will commence in October 1994.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

3. Oxbow Power of North Tonawanda, New York, Inc.

[Docket No. QF89–111–003]

March 1, 1993.

On February 18, 1993, Oxbow Power of North Tonawanda, New York, Inc., filed a petition with the Federal Energy Regulatory Commission for a temporary waiver of the efficiency standard for the year 1993 pursuant to § 292.205(c) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the 55 MW topping-cycle cogeneration facility which is located in North Tonawanda, New York, Inc. consists of a combustion turbine generator, a heat recovery boiler and a steam turbine generator. Thermal energy recovered from the facility will be used in the space heating of an affiliated greenhouse complex. The facility will use natural gas as its primary energy source. The Commission recently granted Oxbow's petition for waiver of the operating standard for calendar year 1993 (Oxbow Power of North Tonawanda, New York, Inc.), 62 FERC ¶ 62,037 (1993).

Applicant states that the temporary waiver of the efficiency standard is requested due to the limited generation of power without concurrent use of thermal output because of the nature of the host's thermal requirements.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

4. Ocean State Power

[Docket No. ER93–397–000]

March 4, 1993.

Take notice that on February 26, 1993, Ocean State Power (Ocean State) tendered for filing the following supplements (the Supplements) to its rate schedules with the Federal Energy Regulatory Commission (FERC or the Commission):

Supplements No. 14 to Rate Schedule FERC No. 1
Supplements No. 11 to Rate Schedule FERC No. 2
Supplements No. 10 to Rate Schedule FERC No. 3
Supplements No. 11 to Rate Schedule FERC No. 4

The Supplements to the rate schedules request approval of Ocean State's proposed rate of return on equity for the period beginning on April 27, 1993, the requested effective date of the Supplements, and ending on the effective date of Ocean State's updated rate of return on equity to be filed in February 1994. Ocean State is filing the Supplements pursuant to section 7.5 of each of Ocean State's unit power agreements with Boston Edison Company, New England Power Company, Montaup Electric Company, and Newport Electric Corporation, respectively, and the Commission's order in Ocean State Power II, 59 FERC ¶61,360 (1992). The Supplements constitute a rate decrease.

Copies of the Supplements have been served upon Boston Edison Company, New England Power Company, Montaup Electric Company, Newport Electric Corporation, the Massachusetts Department of Public Utilities, the Rhode Island Public Utilities Commission and TransCanada Pipe Lines Limited.

Comment date: March 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Electric Power Company

[Docket No. ER92–812–002]

March 4, 1993.

Take notice that on February 8, 1993, as further supplemented on February 9, 1993, Wisconsin Electric Power Company tendered for filing its compliance filing in response to Commission's order of January 8, 1993 in this docket.

Comment date: March 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Pacific Gas and Electric Company

[Docket No. ER93–413–000]

March 4, 1993.

Take notice that on March 2, 1993 Pacific Gas and Electric Company tendered for filing a change in the rate schedule for Midway Transmission Service to the Transmission Agency of Northern California. This change consists of changes to the rates and related terms and conditions for Midway Transmission Service. This transmission service is provided under Pacific Gas and Electric Company Rate Schedule FERC No. 143, as supplemented.

Comment date: March 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Jackson Valley Energy Partners, L.P.

[Docket Nos. QF82–208–006 and QF82–208–007]

March 4, 1993.

On February 25, 1993, Jackson Valley Energy Partners, L.P. tendered for filing supplemental information in this docket.

The supplemental information revises the January 15, 1993, filing pertaining to the stream of benefits. No determination has been made that the submittal constitutes a complete filing.

Comment date: March 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Ocean State Power II

[Docket No. ER93–398–000]

March 4, 1993.

Take notice that on February 26, 1993, Ocean State Power II (Ocean State II) tendered for filing the following supplements (the Supplements) to its rate schedules with the Federal Energy Regulatory Commission (FERC or the Commission):

Supplements No. 12 to Rate Schedule FERC No. 5
Supplements No. 12 to Rate Schedule FERC No. 6
Supplements No. 11 to Rate Schedule FERC No. 7
Supplements No. 11 to Rate Schedule FERC No. 8

The Supplements to the rate schedules request approval of Ocean State II's proposed rate of return on equity for the period beginning on April 27, 1993, the requested effective date of the Supplements, and ending on the effective date of Ocean State II's updated rate of return on equity to be filed in February of 1994. Ocean State

II is filing the Supplements pursuant to section 7.5 of each of Ocean State II's unit power agreements with Boston Edison Company, New England Power Company, Montaup Electric Company, Newport Electric Corporation, respectively, and the Commission's order in Ocean State Power II, 59 FERC ¶61,360 (1992). The Supplements constitute a rate decrease.

Copies of the Supplements have been served upon Boston Edison Company, New England Power Company, Montaup Electric Company, Newport Electric Corporation, the Massachusetts Department of Public Utilities, the Rhode Island Public Utilities Commission and TransCanada PipeLines Limited.

Comment date: March 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. John B. Keane

[Docket No. ID–2767–000]

March 4, 1993.

Take notice that on February 26, 1993, John B. Keane (Applicant) tendered for filing a supplemental application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Vice President and General Counsel-Corporate—The Connecticut Light and Power Company
Director, Vice President and General Counsel-Corporate—Western Massachusetts Electric Company
Director, Vice President, General Counsel-Corporate—Holyoke Water Power Company
Vice President and General Counsel-Corporate—Connecticut Yankee Atomic Power Company
Vice President and General Counsel-Corporate—Public Service Company of New Hampshire

Comment date: March 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Robert P. Wax

[Docket No. ID–2766–000]

March 4, 1993.

Take notice that on February 26, 1993, Robert P. Wax (Applicant) tendered for filing a supplemental application under section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Secretary and General Counsel—The Connecticut Light and Power Company
Vice President, Secretary, Assistant Clerk and General Counsel—Western Massachusetts Electric Company
Vice President, Secretary, Assistant Clerk and General Counsel—Holyoke Water Power Company
Vice President, Secretary, Assistant Clerk and General Counsel—Holyoke Power and Electric Company
Vice President, Secretary and General Counsel—Connecticut Yankee Atomic Power Company
Director, Vice President, Assistant Secretary and General Counsel—Public Service Company of New Hampshire

Comment date: March 17, 1993, in accordance with Standard Paragraph E end of this notice.

11. Western Resources, Inc.

[Docket No. ER93–396–000]

March 4, 1993.

Take notice that on February 26, 1993, Western Resources, Inc., formerly the Kansas Power and Light Company, tendered for filing a notice of cancellation for Rate Schedule FPC Nos. 14, 16, 54 and 161 and Rate Schedule FERC Nos. 213 and 239.

Notice of the proposed cancellation has been served upon the customers and the Kansas Corporation Commission.

Comment date: March 18, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5538 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 2454–018, et al.]

Hydroelectric Applications [Minnesota Power & Light Company, et al.]; Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1. a. *Type of Application:* New Major License (Less than 5 MW).
b. *Project No.:* 2454–018.
c. *Date filed:* December 10, 1991.
d. *Applicant:* Minnesota Power & Light Company.
e. *Name of Project:* Sylvan Hydroelectric Project.
f. *Location:* On the Crow Wing River in Cass, Crow Wing, and Morrison Counties, Minnesota.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. *Applicant Contact:* Mr. Stephen A. Kopish, Hydro Operations Manager, Minnesota Power & Light Company, 30 West Superior Street, Duluth, Minnesota 55802, (218) 722–2641.
i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.
j. *Comment Date:* Initial Comments—April 12, 1993; Reply Comments—May 25, 1993.
k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D6.
l. *Description of Project:* The run-of-river project consists of : (1) A 35-foot-high, 1,249-foot-long dam; (2) a 1,275-acre impoundment with a surface elevation of 1170 feet; (3) a powerhouse containing three generating units with a total installed capacity of 1,800 kW; (4) step-up transformers; and (5) appurtenant facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant estimates the average annual generation from this project to be 9,745 MWh.

m. *Purpose of Project:* All project energy generated would be put into the applicant's electrical grid and distributed to its customers.

n. This notice also consists of the following standard paragraphs: B1 and D6.

o. Available Locations of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the Minnesota Power & Light Company, located at 30 West Superior Street, Duluth, Minnesota 55802, or by calling Mr. Stephen A. Kopish at (218) 722–2641.

2 a. *Type of Application:* New License.
b. *Project No:* 2474–004.
c. *Date Filed:* December 6, 1991.
d. *Applicant:* Niagara Mohawk Power Corporation.

e. *Name of Project:* Oswego River Project.

f. *Location:* On the Oswego River in Oswego County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Jerry L. Sabattis, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202, (315) 428–6215.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Comment Date:* April 12, 1993.

k. *Status of Environmental Analysis:* This application is accepted for filing but is not ready for environmental analysis at this time—see attached standard paragraph E1.

l. *Description of Project:* The proposed project consists of the following three developments:

Fulton Development

(1) A concrete buttress dam, totaling about 509 feet long, with a maximum height of 15 feet at a crest elevation of 334.0 feet msl, topped with about 6-inch-high flashboards, consisting of a gated concrete intake section, about 35 feet high by 41 feet long by 14 feet wide, having (a) three steel gates, measuring 8 feet high by 6.5 feet wide; (b) a forebay measuring 10 feet long by 40 feet wide; (c) perpendicular trashracks with ⅜-inch steel bars at 2½ inch openings for a total gross area of 538 square feet; and (d) an existing bypass reach about 1,850 feet long;

(2) A concrete-steel with brick masonry powerhouse, about 55 feet high by 25 feet wide by 43 feet long, equipped with two vertical fixed-propeller turbine and synchronous generator combinations having (a) a total rated capacity of 1,250 kilowatts (kW); (b) an operating hydraulic capacity of 1,010 cubic feet per second (cfs); (c) a rated head of 17 feet; and (d) an average annual generation of 7,380 MWh;

(3) A switchgear building, about 24 feet by 32 feet, housing the main controls for the units;

(4) An impoundment having (a) a surface area of about 33 AC; (b) 620 AF gross storage capacity; (c) a usable storage capacity of 30 AF; and (d) a normal pool headwater elevation of 334.5 feet msl; and

(5) Appurtenant facilities.

Minetto Development

(1) A concrete gravity dam, totaling about 500 feet long, with a maximum height of 22.5 feet at a crest elevation of 307.0 feet msl, topped with proposed 10-inch-high pneumatic flashboards, consisting of a gated concrete intake section, about 40 feet high by 190 feet long, having (a) nine steel gates, measuring 9 feet high by 11 feet wide; and (b) perpendicular trashracks with ½-inch steel bars at 2½ inch openings for a total gross area of 2,891 square feet;

(2) A concrete-steel with brick masonry powerhouse, about 77 feet high by 88 feet wide by 230 feet long, equipped with five vertical Francis turbine and General Electric generator combinations having (a) an existing total rated capacity of 8,000 kW, a total hydraulic capacity of 7,000 cfs, and an average annual generation of 31,800 MWH; (b) a proposed total rated capacity of 10,500 kW, a total hydraulic capacity of 8,000 cfs, and an average annual generation of 47,300 MWh; and (c) a rated head of 17.5 feet;

(3) An impoundment having (a) a surface area of about 350 AC; (b) a gross storage capacity of 4,730 AF; (c) a useable storage capacity of 290 AF; and (d) a normal pool headwater elevation of 307.8 msl; and

(4) Appurtenant facilities.

Varick Development

(1) A masonry gravity dam, totaling about 730 feet long with a maximum height of 13 feet, consisting of: (a) a curved section, measuring 480 feet long with a crest elevation of 267.5 feet msl, topped with a proposed 2.5-foot-high rubber dam, replacing the existing "stepped" flashboards, which varies from the west to east in heights at each quarter of the section: 30 inches, 32 inches, 34 inches, and 36 inches; (b) a straight section, measuring 250 feet long with a crest elevation of 268.5 feet msl, also topped with a proposed 2.5-foot-high rubber dam, replacing the existing "stepped" flashboards, varying in heights of 10 inches; and (c) a gated section, about 189 feet long by 28 feet wide, with (i) twenty-four steel gates measuring 11 feet high by 6.25 feet wide, (ii) an unused minimum flow gate, (iii) a forebay measuring 950 feet long by 150 feet wide; (iv) perpendicular trashracks with 3/8-inch steel bars at 4-inch openings for a total gross area of 3,083 square feet; and (v) an existing bypass reach about 1,940 feet long;

(2) A concrete and brick powerhouse, about 78 feet high by 66 feet wide by 271 feet long, equipped with four vertical fixed-blade turbine and synchronous generator combinations having (a) an existing total rated capacity of 8,800 kW, a total hydraulic capacity of 5,600 cfs, and an average annual generation of 35,000 MWh; (b) a proposed total rated capacity of 10,000 kW, a total hydraulic capacity of 6,400 cfs, and an average annual generation of 43,300 MWh; and (c) a rated head of 19.6 feet;

(3) An impoundment having (a) a surface area of about 32 AC; (b) a 435 AF of gross storage capacity; (c) a useable storage capacity of 80 AF; and (d) a normal pool headwater elevation of 270.0 feet msl;

(4) And appurtenant facilities. The existing project would also be subject to Federal takeover under Sections 14 and 15 of the Federal Power Act. Based on the expiration of December 31, 1993, the Applicant's estimated net investment in the project would amount to $6,260,659.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202 or by calling (315) 428–6215.

3 a. *Type of Application:* New License.

b. *Project No.:* 2482–014.

c. *Date Filed:* December 19, 1991.

d. *Applicant:* Niagara Mohawk Power Corporation.

e. *Name of Project:* Hudson River Project.

f. *Location:* On the Hudson River in Saratoga and Warren Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Jerry L. Sabattis, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202, (315) 428–6215.

i. *FERC Contact:* Robert Bell (202) 219–2806.

j. *Comment Date:* April 12, 1993.

k. *Status of Environmental Analysis:* This application is accepted for filing but is not ready for environmental analysis at this time—see attached standard paragraph E1.

l. *Description of Project:* The proposed project consists of the following two developments:

Spier Falls Development:

1. A 638-acre impoundment (normal maximum surface area), with a normal maximum surface elevation of 436.8 feet

NGVD, located in a narrow valley, is approximately 4.5 miles long with an average depth of 800 feet. The impoundment has continuously wooded, mountainous shorelines with limited road contact due to forested buffer zones. Gross storage at normal maximum surface elevation is 28,926 acre-feet and usable storage at four feet of drawdown is 2,526 acre-feet.

2. A dam consisting of one spillway section 810.25 feet long by 70 feet high containing eleven 27-foot-long by 8-foot-high needle beam bays, 15, 27 feet long by 8 feet high taintor gate bays and one 12-foot-long by 8-foot-high taintor gate bay.

3. A forebay canal 540 feet long by 120 feet average width and 40 feet average depth.

4. An intake structure for Unit No. 8 which is 70 feet long and is a maximum of 55 feet high containing trash racks and two 12 feet diameter penstock openings controlled by 14-foot-wide and 15-foot-high electric motor operated steel gates. The intake structure for Unit 9 is 156 feet long and is a maximum of 80 feet high containing trash racks, a trash rake and eight penstock openings. Four of the penstock openings are sealed with a bulkhead for a future generating unit and the remaining four are controlled by 12-foot-wide by 17.5 feet high electric motor operated steel gates.

5. Water conduits consisting of two sections of 12-foot-diameter steel penstock combined into one steel penstock 132 feet long to supply water to Unit No. 8.

6. Two powerhouses, one 73.5 feet wide by 241.83 feet long with an average height of 50.5 feet contains Unit No. 8, and the other is 73.25 feet wide by 79 feet long and 64 feet high and contains Unit No. 9. Generating Unit No. 8 consists of a vertical Francis turbine (I.P. Morris manufactured) and a GE Generator which is rated at 7,380 kW for maximum power at 1,380 cfs. Generating Unit No. 9 consists of a Newport News manufactured Vertical Francis turbine and a GE Generator which is rated at 43,280 kW for maximum power at 7,590 cfs.

7. A tailrace created in the original river bottom to increase flow capability away from the powerhouse.

8. Appurtenant equipment.

Sherman Island Development

1. A 305-acre impoundment at normal maximum surface area, at elevation 353.3 feet NGVD. Gross storage at that elevation is 6,960 acre-feet, and usable storage at 3.7 feet drawdown is 1,060 acre-feet. It is located in a narrow valley, and approximately 3.5 miles long with an average width of 650 feet. The impoundment has continuously wooded, mountainous shorelines with limited road contact due to forested buffer zones.

2. A buttressed (and partial gravity) dam consisting of a spillway, 949 feet long with a maximum height of 38 feet and a major portion of the crest at an elevation of 349.6 feet (NGVD). The spillway section of the dam will be modified to contain two rubber dam sections starting at the right abutment and having a total length of approximately 277 feet and a sill elevation of 347.6 feet NGVD.

3. A forebay 340 feet long with a maximum bottom width of 100 feet, a minimum width of 32 feet and a depth of 39 feet.

4. An intake structure consisting of a 3,100-foot-long power canal and fifteen 10 feet wide by 13-foot-high penstock openings. Three of these openings are sealed by bulkheads for a possible future generating unit.

5. There are three penstocks per unit with three additional penstocks for a possible future unit. Each penstock is 200 feet long, 10.67 feet wide and 10 feet high.

6. A powerhouse, 228.1 feet long by 51.67 feet wide by 48 feet average height, holds the four existing generating units. The generating units each consist of a Vertical Francis I.P. Morris turbine and a General Electric generator which is rated at 7,200 kW for maximum power at 1,650 cfs.

7. After receipt of a new license, the gate structure of the power canal will be completely replaced with four electric hoist-operated steel gates approximately 18 feet by 26 feet to control the flow.

8. A new concrete powerhouse will be constructed to have the new Kaplan tube type minimum flow unit. The powerhouse will be approximately 24 feet by 50 feet. One 7-foot diameter penstock approximately 100 feet long will have a butterfly valve to shut off the flow of water for the new unit.

9. A tailrace was created to increase flow away from the powerhouse. A concrete apron 209 feet long extends from the channel that otherwise could cause undermining of the powerhouse.

10. Appurtenant equipment. The existing project would also be subject to Federal takeover under Sections 14 and 15 of the Federal Power Act. Based on the expiration of December 31, 1993, the Applicant's estimated net investment in the project would amount to $34,581,604.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC, 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202 or by calling (315) 428–6215.

4 a. *Type of Application:* New Major License.

b. *Project No.:* 2496–006.

c. *Date filed:* December 26, 1991.

d. *Applicant:* Eugene Water and Electric Board.

e. *Name of Project:* Leaburg-Walterville Hydroelectric Project.

f. *Location:* On the McKenzie River in Lane County, near Eugene, Oregon.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Randy L. Berggren, General Manager, Eugene Water & Electric Board, 500 East 4th Avenue, P.O. Box 10148, Eugene, Oregon 97440, (503) 484–2411.

i. *FERC Contact:* Mr. Surender M. Yepuri, P.E., (202) 219–2847.

j. *Deadline Date:* April 15, 1993.

k. *Status of Environmental Analysis:* The application is not ready for environmental analysis at this time—see attached paragraph E1.

l. *Description of Project:* The project as proposed for licensing combines two separately licensed developments into one licensed facility.

(A) Leaburg Development: This development as proposed for licensing consists of: (1) The 22-foot-high, 400-foot-long concrete diversion dam impounding the 68-acre reservoir at elevation 743.5 msl; (2) the 15-foot-deep, 5-mile-long canal; (3) the forebay with two 260-foot-long, 12-foot-diameter concrete penstocks; (4) the concrete powerhouse containing two 7.5-MW turbine-generator units; (5) the fishways; (6) the 1,100 foot-long tailrace; and (7) other appurtenant structures. The average annual generation is 97.3 GWh.

(B) Walterville Development: This development as proposed for licensing consists of: (1) The 15-foot-deep, 4-mile-long canal; (2) the pumped storage pond; (3) the forebay with a 100-foot-long, 16.5-foot-square concrete penstock; (4) the structural steel powerhouse containing a 8-MW turbine-generator unit;

(5) the 2-mile-long tailrace; and (6) other appurtenant structures. The average annual generation is 66.6 GWh.

The Leaburg-Walterville project also includes the two 14.2-mile-long, 69-kV transmission lines.

m. This notice also consists of the following standard paragraphs: B1 and E1.

n. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the applicant's office (see item (h) above).

5 a. *Type of Application:* New License.

b. *Project No.:* 2539–003.

c. *Date Filed:* December 23, 1991.

d. *Applicant:* Niagara Mohawk Power Corporation.

e. *Name of Project:* School Street Project.

f. *Location:* On the Mohawk River in Albany and Saratoga Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Jerry L. Sabattis, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202, (315) 428–6215.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Comment Date:* April 12, 1993.

k. *Status of Environmental Analysis:* This application is accepted for filing but is not ready for environmental analysis at this time—see attached standard paragraph E1.

1. *Description of Project:* The proposed project consists of:

(1) A 100-acre surface area reservoir is impounded behind a gravity-type masonry dam. The normal maximum reservoir surface elevation is at 156.1 feet (USGS), and usable storage capacity is 270 acre-feet and gross storage at maximum surface elevation of the impoundment is 788 acre-feet. The existing masonry dam measures 1,280 feet long and 16 feet high. Existing normal fluctuation limits (drawdown) are 3 feet.

(2) The existing ice fender and skimmer is located adjacent to the western abutment of the dam (about 375 feet long by an average of 18 feet high). The fender consists of a series of concrete beams spanning about 29 feet.

(3) The existing upper gatehouse consists of two integrated portions measuring about 206 feet long. Gatehouse portions incorporate nine timber slide gates and three steel tainter gates. The existing lower gatehouse measures about 152 feet long by 48.5 feet wide by 57.5 feet high and incorporates five steel headgates at the end of the power canal.

(4) The existing power canal is about 4,400 feet long, averaging 150 feet wide and carrying a water depth of 14 feet under normal operating conditions.

(5) The existing by-passed reach is 4,500 feet in length.

(6) There are five existing steel penstocks. Each penstock feeds one generating unit; 11 feet (four units) and 13 feet in diameter, averaging 190 feet long.

(7) The Powerhouse measures approximately 170 feet long by 78 feet wide by 87 feet high and encloses five vertical Francis turbine-generator units and associated controls and equipment. The total existing nameplate capacity rating of the units is:

Unit 1—7.2 MW at 92 feet net head
Unit 2—7.2 MW at 92 feet net head
Unit 3—7.2 MW at 92 feet net head
Unit 4—7.2 MW at 92 feet net head
Unit 5—10.0 MW at 92 feet net head

The capacity of the proposed new Unit 6 addition, a 3,000 cfs vertical Kaplan unit, is 21.0 MW at 92 feet net head. The total proposed project capacity is 59.8 MW.

(8) Existing maximum (total) discharge is 5,910 cfs, existing base flow is 0 cfs, and powerhouse gross head is 94 feet.

Other ancillary equipment at the School Street Project include trashracks, and ice sluice. Power generated at the School Street Project enters Niagara Mohawk's integrated transmission system at the project site.

(9) There is no transmission lines included in the project.

(10) The applicant has proposed to:

(a) Upgrade two of the existing five School Street generating units;

(b) Install a new 3,000 cfs, 21.0 MW vertical Kaplan unit adjacent to the existing powerhouse. The new proposed reinforced concrete and steel powerhouse addition will measure 110 feet long by 50 feet wide by 110 feet high.

(c) To service the new proposed unit, a new 17.5 feet diameter steel penstock, approximately 190 feet long will be constructed.

(d) To allow for the increased hydraulic capacity, the canal will be excavated to varying depths along its length. The proposed maximum discharge is 8,850 cfs, with proposed normal fluctuation limits of 1 foot. The proposed by-passed reach minimum flow is 60 cfs derived from a sluice release.

(11) Appurtenant equipment at the facility include governor systems and powerhouse crane.

The existing project would also be subject to Federal takeover under Sections 14 and 15 of the Federal Power Act. Based on the expiration of December 31, 1993, the Applicant's estimated net investment in the project would amount to $3,925,242.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC, 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202 or by calling (315) 428–6215.

6a. *Type of Application:* New License.

b. *Project No.:* 2569–004.

c. *Date Filed:* November 29, 1991.

d. *Applicant:* Niagara Mohawk Power Corporation.

e. *Name of Project:* Black River Project.

f. *Location:* On the Black River in Jefferson County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Jerry L. Sabattis, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202, (315) 428–6215.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Comment Date:* April 12, 1993.

k. *Status of Environmental Analysis:* This application is accepted for filing but is not ready for environmental analysis at this time—see attached standard paragraph E1.

l. *Description of Project:* The proposed project consists of the following five developments:

Herrings Hydroelectric Development

(1) A 140-acre reservoir, at normal maximum surface elevation of 680.1 feet (USGS), with a gross storage capacity of 669.4 acre-feet and a useable storage capacity of 70 acre-feet;

(2) A dam consisting of (a) a 512-foot-long by 25-foot-high "L"-shaped

concrete gravity dam, with a permanent crest elevation of 679.1 feet (USGS), topped with existing 1-foot-high wooden flashboards;

(3) An intake structure, integral with the powerhouse, consisting of (a) a stop-log waste sluice upstream of the existing perpendicular trash racks measuring 101-foot-wide by 31-foot-high with 3.5 inches of clear spacing, (b) an 11-foot-wide stop-log waste sluice downstream of the trash racks, and (c) nine, 9-foot-wide, 12.5-foot-high motor operated slide gates;

(4) A 137-foot-wide, 33-foot-long brick/masonry powerhouse containing three vertical Allis-Chalmers generating units, each rated at 1,800 kilowatts (kW), with a design head of 19.5 feet and a hydraulic capacity of 1,203 cubic feet per second (cfs);

(5) A 110-foot-wide by 127-foot-long excavated rock tailrace discharging directly into the Black River;

(6) Transmission lines consisting of (a) 30, 70, and 108-foot-long leads connecting to a 2.4-kilovolt (kV) powerhouse bus, and (b) three 97-foot-long 2.4-kV lines connected to a 2.4/23-kV step-up transformer; and

(7) Appurtenant facilities.

Deferiet Hydroelectric Development

(1) A 70-acre reservoir, at normal maximum surface elevation of 659.0 feet (USGS), with a gross storage capacity of 405 acre-feet and a useable storage capacity of 35 acre-feet;

(2) A dam consisting of (a) a 503-foot-long by 18-foot-high ambursen dam section, with a permanent crest elevation of 656 feet (USGS), topped with existing 3-foot-high wooden flashboards, proposed to be replaced with 3-foot-high pneumatic flashboards, and (b) a 192-foot-long sluice gate section that houses eleven 14-foot-wide stop-log bays;

(3) A headworks structure consisting of (a) a 180-foot-wide concrete power canal headworks section housing twenty 5-foot-wide by 12.5-foot-high hand operated timber slide gates;

(4) An approximately 4,200-foot-long canal which connects the power canal headworks and existing powerhouse;

(5) An intake structure consisting of (a) a 108-foot-wide by 27-foot-high perpendicular trash rack with 3.5 inches of clear spacing, (b) three steel slide gates, and (c) an 11-foot-wide ice sluice controlled by stop logs;

(6) A 145.5-foot-wide by 92.5-foot-long brick/masonry powerhouse equipped with three vertical Francis generating units, each rated at 3,600 kW, with a design head of 46 feet, and a hydraulic capacity of 1,147 cfs;

(7) A 1,400-foot-long excavated rock tailrace;

(8) Transmission lines consisting of (a) 65, 45, and 65-foot-long leads connecting to a 2.4 kV powerhouse bus, (b) 67, 69, and 73-foot-long (2.4 kV) underground lines connecting to a 2.4/23-kV step-up transformer; and

(9) Appurtenant facilities.

Kamargo Hydroelectric Development

(1) A 40-acre reservoir, at normal maximum surface elevation of 563.8 feet (USGS), with a gross storage capacity of 359.5 acre-feet and a useable storage capacity of 20 acre-feet;

(2) A dam consisting of (a) a 647-foot-long by 12-foot-high concrete gravity spillway dam, with a permanent crest elevation of 561.8 feet (USGS), topped with existing 2-foot-high wooden flashboards, proposed to be replaced with 2-foot-high pneumatic flashboards; and (b) a 150-foot-long non-overflow section;

(3) A headworks structure consisting of (a) a 131-foot-long power canal headworks structure, with fourteen 8-foot-wide by 11-foot-high wooden headgates, leading to (b) a 3,850-foot-long unlined power canal, and (c) a 143-foot-long bulkhead section;

(4) A 580-foot-long concrete forebay channel consisting of (a) a 190-foot-long concrete gravity overflow section, (b) a 230-foot-long concrete gravity section topped with 1-foot-high flashboards, and (c) a 160-foot-long side channel spillway section equipped with twelve stop-log bays;

(5) An intake structure consisting of (a) a 66-foot-wide by 28.5-foot-high perpendicular trashrack, with 3.5-inch clear spacing, (b) a waste sluice, and (c) nine timber gates with stop-log slots;

(6) A 97.5-foot-wide by 37-foot-long brick/masonry powerhouse equipped with three vertical S. Morgan Smith Francis generating units, each rated at 1,800 kW, a design head of 25 feet, and a hydraulic capacity of 1,100 cfs;

(7) A short excavated rock tailrace discharging directly into the Black River;

(8) Transmission lines consisting of (a) three 25-foot-long leads connecting to a 2.4-kV powerhouse bus, and (b) three 89-foot-long, 2.4-kV underground leads; and

(9) Appurtenant facilities.

Black River Hydroelectric Development

(1) A 25-acre reservoir, at normal maximum surface elevation of 536 feet (USGS), with a gross storage capacity of 124 acre-feet and a useable storage capacity of 12 acre-feet;

(2) A dam consisting of (a) a 327-foot-long by 16-foot-high horseshoe-shaped concrete retaining wall, (b) a 36.5-foot-long gated section housing, two sluice gates, (c) an abandoned substructure powerhouse, and (d) a 291-foot-long by 25-foot-high concrete gravity spillway, with a permanent crest of 534 feet (USGS), topped with 2-foot-high flashboards, proposed to be replaced with 2-foot-high pneumatic flashboards;

(3) A headworks structure consisting of (a) an 80-foot-long concrete power canal upper bulkhead structure housing twelve 6-foot-wide by 11-foot-high timber slide gates, (b) a 2,250-foot-long power canal composed of a 1,270-foot-long unlined section, containing a 250-foot-long side concrete waste weir, and (c) a 980-foot-long concrete-lined section containing a 134-foot-long side concrete waste and low level sluice gate;

(4) A 580-foot-long concrete forebay channel consisting of (a) a 190-foot-long concrete gravity overflow section, (b) a 230-foot-long concrete gravity section topped with 1-foot-high flashboards, and (c) a 160-foot-long side channel spillway section equipped with twelve stop-log bays;

(5) An intake structure consisting of (a) a 80-foot-wide by 29-foot-high perpendicular trashrack, with 3.5-inch clear spacing, and (b) nine timber slide gates;

(6) A 118-foot-wide by 66-foot-long powerhouse equipped with three vertical S. Morgan Smith vertical Francis generating units, each rated at 2,000 kW, with a design head of 33 feet, and a hydraulic capacity of 1,067 cfs;

(7) A short excavated rock tailrace discharging directly into the Black River;

(8) Transmission lines consisting of (a) 36, 65, and 95-foot-long leads connecting to a 2.4-kV powerhouse bus, and (b) three 88-foot-long, 2.4/23-kV underground leads; and

(9) Appurtenant facilities.

Sewalls Hydroelectric Development

The Sewalls development consists of two facilities along Sewalls Island; one on the north channel and one on the south channel. Existing power generation is obtained from the powerhouse on the south channel. The north channel facility is proposed to be reconditioned for additional power generation.

South Channel Facility

(1) A 4-acre reservoir, at normal maximum surface elevation of 463.9 feet (USGS), has a gross storage capacity of 48 acre-feet and a useable storage capacity of 2 acre-feet;

(2) A dam consisting of (a) a 243-foot-long by 15.5-foot-high concrete gravity dam, with a permanent crest elevation

of 463.9 feet (USGS), with no flashboards;

(3) A headworks structure consisting of (a) a 65.5-foot-long power canal headworks structure housing two stop-log bays and two 15-foot-wide by 12-foot-high automated steel slide gates, leading to (b) a 400-foot-long by 33 to 35-foot-wide concrete-lined power canal, with a wall adjacent to the Black River with a permanent crest elevation of 463 feet (USGS) and equipped with 2-foot flashboards for its entire length;

(4) An intake structure consisting of (a) a 69-foot-wide by 21-foot-high perpendicular trash rack with 3.5-inch clear spacing, (b) a waste sluice low-level drain, and (c) four gate openings for steel slide gates;

(5) An 81-foot-wide by 32-foot-long powerhouse equipped with two vertical Allis Chalmers propeller-type generating units, each rated at 1,100 kW, a design head of 15.5 feet, and a hydraulic capacity of 900 cfs;

(7) A short excavated rock tailrace discharging directly into the Black River;

(8) Transmission lines consisting of (a) 12 and 47-foot leads connecting to a 2.4-kV powerhouse bus, and (b) two 180-foot-long, 2.4-kV underground lines connecting to a 2.4/23-kV step/up transformer; and

(9) Appurtenant facilities.

North Channel Facility

Existing Facilities

(1) A 90-foot-long by 18.5-foot-high concrete dam with no flashboards with a permanent crest of 463.9 feet (USGS);

(2) An abandoned 37-foot-long forebay canal headworks structure housing two steel slide gates, and a 78-foot-long concrete forebay canal with two draft-tubes encased in the floor; and

(3) A 68-foot-wide by 34-foot-long abandoned masonry/concrete block powerhouse.

Proposed Changes

Niagara Mohawk proposes to make changes only to the existing north channel facilities. Proposed changes include a re-conditioning of the intake and powerhouse, repair of the trash rack structure, powerhouse brickwork and generator floor. The existing flume will be reconditioned and a superstructure constructed providing shelter as well as housing an overhead crane rail system. Two submersible turbine/generator units are proposed to be installed in the existing draft tubes. Additionally, the northern channel would need to be excavated between the rehabilitated powerhouse and an existing bridge (Pearl Street). A currently abandoned dam (Black Clawson), located at the downstream end of the north channel will be removed to realize an additional 5.5 feet of head. Proposed transmission lines from the proposed generator equipment include: (a) leads connecting to a 2.4-kV powerhouse bus; and (b) two 2.4-kV lines connecting to a 2.4/23-kV step/up transformer.

The existing project would also be subject to Federal takeover under Sections 14 and 15 of the Federal Power Act. Based on the expiration of December 31, 1993, the Applicant's estimated net investment in the project would amount to $14,685,481.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 208-1371. A copy is also available for inspection and reproduction at Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202 or by calling (315) 428–6215.

7 a. *Type of Application:* Amendment of License.

b. *Project No.:* 2614–021.

c. *Date Filed:* 07/31/92.

d. *Applicant:* City of Hamilton, Ohio.

e. *Name of Project:* Greenup Project.

f. *Location:* Ohio River in Scioto County, Ohio.

g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act.

h. *Applicant Contact:* Mr. Leon Daggett, Director of Utilities, City of Hamilton, 20 High Street, Hamilton, OH 45011, (513) 868–5907.

i. *FERC Contact:* Jon E. Cofrancesco, (202) 219–2650.

j. *Comment Date:* April 12, 1993.

k. *Description of Project:* The licensee is requesting approval of revised Exhibit G drawings (project boundary drawings) showing a change made to the project's approved transmission line and right-of-way. The filing includes specific information on the change made to the transmission line.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

Standard Paragraphs

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. *Protests or Motions to Intervene*—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D6. *Filing and Service of Responsive Documents*—The application is ready

for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (April 12, 1993 for Project No. 2454–018). All reply comments must be filed with the Commission within 105 days from the date of this notice. (May 25, 1993 for Project No. 2454–018).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

E1. *Filing and Service of Responsive Documents*—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: March 5, 1993, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5539 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

Hydroelectric Applications [Niagara Mohawk Power Corp., et al.]; Applications

[Project Nos. 2645–029, et al.]

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. *Type of Application:* New License.

b. *Project No.:* 2645–029.

c. *Date Filed:* November 29, 1991.

d. *Applicant:* Niagara Mohawk Power Corporation.

e. *Name of Project:* Beaver River Project.

f. *Location:* On the Beaver River in Herkimer and Lewis Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Jerry L. Sabattis, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202, (315) 428–6215.

i. *FERC Contact:* Robert Bell (202) 219–2806.

j. *Comment Date:* April 12, 1993.

k. *Status of Environmental Analysis:* This application is accepted for filing but is not ready for environmental analysis at this time—see attached standard paragraph E1.

l. *Description of Project:* The proposed project consists of the following eight developments:

Moshier

(1) A 920-foot-long by 93-foot-high earth embankment dam consisting of a 200-foot-long concrete spillway topped with 2-foot-high flashboards;

(2) An impoundment, at the normal maximum surface elevation of 1,641 ft (NGVD), has a surface area of 340 acres, a gross storage capacity of 7,339 acre-feet, and a usable capacity of 2,876 acre-feet;

(3) A 28-foot-wide by 51-foot-high concrete intake structure containing two 11-foot-wide by 51.5-foot-high trashracks and two 10-foot-wide by 12-foot-high steel slides gates;

(4) A 3,740-foot-long by 10-foot-diameter steel penstock connected to a 5,620-foot-long by 10-foot-diameter fiberglass reinforced plastic penstock for a total penstock length of 9,360 feet;

(5) An excavated tailrace channel;

(6) A 30-foot-diameter steel surge tank;

(7) A bifurcation downstream of the penstock into two 70-foot-long by 7-foot-diameter steel penstocks;

(8) A 34-foot-wide by 70-foot-long concrete/masonry powerhouse containing two vertical Francis turbines connected to direct-drive sycronous generators, each with a rated capacity of 4,000 kW, a hydraulic capacity of 330 cfs, and a design head of 196 feet;

(9) An 11-mile-long, 115 kilovolt (kv) transmission line; and

(10) Appurtenant equipment.

Eagle

(1) A 365-foot-long by 21-foot-high concrete gravity dam containing a 185-foot-long ogee spillway topped with 1-foot-flashboards and an 85-foot-long, non-overflow concrete abutment;

(2) An impoundment, at the normal maximum surface elevation of 1,426.2 ft (NGVD), has a surface area of 138 acres, a gross storage capacity of 668 acre-feet, and a useable capacity of 545 acre-feet;

(3) A 20-foot-wide gated log sluice.

(4) A 50-foot-long headgate with four 9.5-foot-wide stop log slots and four 9.5-foot by 9.5-foot trashracks,

(5) An 18-foot-wide by 16-foot-deep by 540-foot-long forebay canal.

(6) A concrete intake structure containing three 10-foot-wide by 7-foot-high timber slide gates.

(7) A 2,725-foot-long by 9-foot-diameter steel penstock.

(8) A 63-foot-wide by 87-foot-long concrete masonry powerhouse containing four horizontal Francis turbines connected to direct-drive sycronous generators, with rated capacities of 1,350 kW (Units 1 through 3) and 2,000 kW (Unit 4), hydraulic capacities of 150 cfs (units 1 through 3) and 200 cfs (unit 4), and design heads of 135 feet (units 1 through 3) and 125 feet (unit 4);

(9) A 5-foot-wide aluminum slide gate which currently supplies minimum flow to the bypass will be replaced with a new powerhouse located 1000 feet downstream of the existing intake and containing a 210 kW turbine,

(10) A 160-foot-long, 115 kilovolt (kv) transmission line; and

(11) Appurtenant equipment.

Soft Maple

(1) Five earth embankment dams.

(2) A 910-foot-long by 115-foot-high earth embankment diversion dam.

(3) A 720-foot-long by 100-foot-high earth embankment terminal dam.

(4) An impoundment, at the normal maximum surface elevation of 1,289.9 ft (NGVD), has a surface area of 400 acres, a gross storage capacity of 2,678 acre-feet, and a useable capacity of 1,528 acre-feet;

(5) A 144-foot-long concrete ogee spillway with 1.5-foot-high flashboards.

(6) Two 10-foot-wide aluminum sluice gates.

(7) A 600-foot-long forebay.

(8) An 81.5-foot-wide concrete intake structure containing three 26-foot-wide by 33.5-foot-high trashracks.

(9) Two 530-foot-long by 11.5-foot-diameter steel penstocks.

(10) Intake facilities for an additional penstock.

(11) An 82-foot-wide by 50-foot-long concrete/masonry powerhouse containing two identical vertical Francis turbines connected to direct-drive sychronous generators, each with a rated capacity of 7,500 kW, a hydraulic capacity of 860 cfs, and a design head at 121.5 feet;

(12) A 20-foot-long, 115 kilovolt (kv) transmission line; and

(13) Appurtenant equipment.

Effley

(1) 1,647-foot-long by 30-foot-high concrete gravity dam containing a 430-foot-long by 30-foot-high concrete ogee spillway.

(2) A gated 29-foot-long log chute.

(3) An impoundment, at the normal maximum surface elevation of 1,163 ft (NGVD), has a surface area of 340 acres, a gross storage capacity of 3,140 acre-feet, and a useable capacity of 1,720 acre-feet;

(4) A 100-foot-long forebay.

(5) A 38.5-foot-wide intake structure containing a 22-foot-wide by 22-foot-high trashrack and three 8-foot-wide by 8-foot-high timber slide gates.

(6) A concrete intake structure containing a 20-foot-wide by 27-foot-high trashrack and a 11-foot by 11-foot slide gate.

(7) Three 87-foot-long by 5-foot-diameter steel penstocks, on 148-foot-long by 8-foot-diameter steel penstock.

(8) Two concrete/masonry powerhouses, one 58-feet-wide by 53-foot-long containing three horizontal Francis turbines and generators with total rated capacity of 1,360-kW and the other 42.5-feet-wide by 44-feet-long containing a single vertical Francis turbine connected to a direct-drive sychronous generator rated at 1,600 kW, with a hydraulic capacity of 450 cfs and a design head of 52.6 feet;

(9) A 2.3-mile-long, 23 kilovolt (kv) transmission line; and

(10) Appurtenant equipment.

Elmer

(1) A 238-foot-long by 23-foot-high concrete gravity spillway.

(2) A 25-foot-wide sluice gate with needle beams.

(3) An impoundment, at the normal maximum surface elevation of 1,108 ft (NGVD), has a surface area of 34 acres, a gross storage capacity of 345 acre-feet, and a useable capacity of 207 acre-feet;

(4) A forebay.

(5) A 39-foot-wide concrete intake structure containing two 16.5-foot-wide by 21.5-foot-high trashracks and four 6-foot-wide by 11-foot-high timber slide gates.

(6) A 78-foot-wide by 34-foot-long concrete/masonry powerhouse containing two vertical Francis turbines connected to direct-drive sychronous generators, each with a rated capacity of 750 kW, a hydraulic capacity of 290 cfs, and a design of 37 feet;

(7) A 2,270-foot-long, 23 kilovolt (kv) transmission line; and

(8) Appurtenant equipment

Taylorville

(1) A 1,003-foot-long by 23-foot-high concrete gravity dam.

(2) An impoundment, at the normal maximum surface elevation of 1,076.6 ft (NGVD), has a surface area of 170 acres, a gross storage capacity of 1,091 acre-feet, and a useable capacity of 685 acre-feet;

(3) A 33-foot-wide concrete intake structure containing a 25-foot-wide by 20-foot-high trashrack and three 5.5-foot-wide by 13-foot-high timber slide gates.

(4) A 2,725-foot-long by 9.5-foot-diameter steel penstock.

(5) An 18-foot-diameter surge tank located about 40 feet upstream of the powerhouse.

(6) A 93-foot-wide by 62.5-foot-long concrete/masonry powerhouse containing four horizontal Francis turbines connected to direct-drive sychronous generators, with rated capacities of 1,100 kW (units 1 and 2), 1,372 kW (unit 3) and 1,200 kW (unit 4), each with hydraulic capacity of 180 cfs, and a design head of 96.6 feet;

(7) A 400-foot-long, 23 kilovolt (kv) transmission line; and

(8) Appurtenant equipment.

Belfort

(1) A 206-foot-long by 19-foot-high concrete gravity dam consisting of a 161-foot-long by 17-foot-high concrete ogee spillway equipped with 2-foot-high flashboards.

(2) An impoundment, at the normal maximum surface elevation of 966 ft (NGVD), has a surface area of 50 acres, a gross storage capacity of 120 acre-feet, and a useable capacity of 47 acre-feet;

(3) A 120-foot-long forebay.

(4) A 62-foot-wide concrete intake structure containing one 12-foot-wide by 17-foot-high trashrack, one 12-foot-wide by 23-foot-high trashrack, and two 11-foot by 11-foot timber slide gates to be replaced with a new 40-foot-wide by 20-foot-high concrete intake structure containing 30-foot-wide by 10-foot-high trashracks and one 10-foot-wide by 10-foot-long vertical slide gate.

(5) One 52-foot-long by 7-foot-diameter steel penstock and one 52-foot-long by 7.5-foot-diameter steel penstock to be replaced with a new 70-foot-long by 9-foot-diameter steel penstock.

(6) A 78-foot-wide by 39-foot-long concrete masonry powerhouse containing three horizontal Francis turbines connected to direct-drive sychronous generators, with a rated capacity of 400 kW (unit 1), 640 kW (unit 2), and 1,000 kW (unit 3), with hydraulic capacities of 200 cfs (units 1 and 2) and 310 cfs (unit 3), each with a design head of 48 feet to be replaced with a new 42-foot-long by 25-foot wide concrete powerhouse containing a single Kaplan turbine connected to a direct-drive sychronous generator rated at 3,150 kW, with a hydraulic capacity of 880 cfs, and a design head of 47 feet;

(7) A 400-foot-long tailrace channel and.

(8) An existing 3,540-foot-long, 23 kilovolt (kv) transmission line; and

(9) Appurtenant equipment.

High Falls

(1) A 1,233-foot-long concrete gravity dam containing a 470-foot-long non-overflow concrete gravity section and a 650-foot-long concrete ogee spillway.

(2) An impoundment, at the normal maximum surface elevation of 915 ft (NGVD), has a surface area of 145 acres, a gross storage capacity of 1,058 acre-feet, and a useable capacity of 923 acre-feet;

(3) A 64-foot-wide by 29-foot-high concrete intake structure containing four 12-foot-wide by 20.5-foot-high trashracks and four steel slide gates.

(4) A 49-foot-wide log sluice that has been sealed.

(5) A 605-foot-long by 12-foot-diameter riveted steel penstock.

(6) A 34-foot-wide by 99-foot-long concrete/masonry powerhouse containing three vertical Francis turbines connected to direct-drive sychronous generators, each with a rated capacity of 1,600 kW, a hydraulic capacity of 300 cfs, and a design head of 100 feet;

(7) A spare turbine bay for future expansion;

(8) A 3.7-mile-long, 23 kilovolt (kv) transmission line; and

(9) Appurtenant equipment.

The existing project would also be subject to Federal takeover under Sections 14 and 15 of the Federal Power Act. Based on the expiration of December 31, 1993, the Applicant's estimated net investment in the project would amount to $20,667,644.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC, 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202 or by calling (315) 428–6215.

2 a. *Type of Application:* Surrender of Exemption.

b. *Project No:* 6123–002.

c *Date Filed:* January 11, 1993.

d. *Applicant:* Scott Luff.

3. *Name of Project:* Viola Church Camp.

f. *Location:* On the Armstrong Ditch off Bailey Creek in Shasta County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Scott Luff, 8071 Mineral Road, Viola, CA 96088, (916) 474–3160.

i. *FERC Contact:* Donald Wilt, (202) 219–2676.

j. *Comment Date:* April 12, 1993.

k. *Description of Project:* The facilities of the constructed project include: (1) The 5-foot-high, 20-foot-long Bailey Creek Diversion Dam; (2) a 2-foot-high, 8-foot-long diversion weir; (3) a 150-foot-long steel penstock; (4) a powerhouse with an installed capacity of 50 kW; (5) a 12–kV, 200-foot-long transmission line; and (6) appurtenant facilities.

The exemptee states that it is no longer economically feasible to operate the project. The exemption was issued April 20, 1982.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

3 a. *Type of Application:* Surrender of License.

b. *Project No.:* 9086–024.

c. *Date Filed:* December 21, 1992.

d. *Applicant:* Northwest Power Company.

e. *Name of Project:* Excelsior.

f. *Location:* On the South Fork Yuba River in Nevada County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* James Doolittle, Northwest Power Company, P.O. Box 565, Coloma, CA 95613.

i. *FERC Contact:* Donald Wilt, (202) 219–2676.

j. *Comment Date:* April 8, 1993.

k. *Description of application:* The licensee states that it was unable to start construction of the project by the November 16, 1992, due date. The licensee had already received the one time maximum 2-year extension of time as allowed by section 13 of the Federal Power Act. The license was issued on April 20, 1988, and would have expired March 31, 2035. The licensee states that no construction has occurred and the proposed site remains unaltered.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

4 a. *Type of Application:* Surrender of Exemption (5MW or Less).

b. *Project No.:* 9140–006.

c. *Date filed:* November 25, 1992.

d. *Applicant:* Charles F. Heimerdinger.

e. *Name of Project:* Elizabethtown Project.

f. *Location:* Beach Stream in Essex County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Richard G. Leland, Rosenman & Colin, 575 Madison Avenue, New York, NY 10022–2858, (212) 940–8700.

i. *FERC Contact:* Hank Ecton, (202) 219–2678.

j. *Comment Date:* April 12, 1993.

k. *Description of Proposed Action:* The existing project, for which the exemption is being surrendered, consists of: (1) A 4-foot-wide, 5-foot-high, 40-foot-long intake structure; (2) a 20-inch-diameter, 500-foot-long penstock at water surface elevation 740 feet m.s.l.; (3) a powerhouse containing a generating unit with a rated capacity of 100 kilowatts; (4) a 100-foot-long transmission line tying into the existing New York State Electric and Gas Corporation System; and (5) related facilities.

The exemptee is requesting surrender of the exemption because the project is economically unfeasible.

l. This notice also consists of the following standard paragraphs: B, C.

5 a. *Type of Application:* Surrender of License.

b. *Project No:* 9765–007.

c. *Date Filed:* January 26, 1993.

d. *Applicant:* Ramah Energy, Inc.

e. *Name of Project:* Big Sand Wash.

f. *Location:* Big Sand Wash in Duchesne County, Utah.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* James F. Smith, President, Ramah Energy, Inc., Route 1, Box 1011, Roosevelt, UT 84066, (801) 722–3165.

i. *FERC Contact:* Mark R. Hooper, (202) 219–2680.

j. *Comment Date:* April 8, 1993.

k. *Description of Project:* The project is unconstructed. The licensee states personal and financial reasons for the surrender request.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

6 a. *Type of Application:* Surrender of License.

b. *Project No:* 9952–006.

c. *Date Filed:* December 28, 1992.

d. *Applicant:* Warren Osborn.

e. *Name of Project:* Sixmile Creek Hydropower Project.

f. *Location:* Sixmile Creek, Adams County, near New Meadows, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* John Crockett, Myers Engineering Company, P.A., 750

Warm Springs Avenue, Boise, ID 83712, (208) 336–1425.

i. *FERC Contact:* Patricia Massie, (202) 219–2681.

j. *Comment Date:* April 12, 1993.

k. *Description of Project:* The licensee states that the project is infeasible to construct at this time.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

7 a. *Type of Application:* Surrender of Exemption.

b. *Project No:* 10200–006.

c. *Date Filed:* January 15, 1993.

d. *Applicant:* Gary Whipple.

e. *Name of Project:* Congdon Dam Project.

f. *Location:* Oxoboxo Brook, New London County, Connecticut.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Gary Whipple, 311 Sandy Hollow Road, Mystic, CT 06355, (203) 572–9496.

i. *FERC Contact:* Patricia Massie, (202) 219–2681.

j. *Comment Date:* April 12, 1993.

k. *Description of Project:* The project consists of: a 35-foot-high, 170-foot-long dam with flashboards, owned by the applicant; a 6.5-acre reservoir; a powerhouse containing one turbine/generator with an installed capacity of 60 kW; and other appurtenant facilities.

The applicant states that the U.S. Fish and Wildlife Service wants him to close the low water gate, and this is infeasible.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

8 a. *Type of Application:* Major License (less than 5 MW).

b. *Project No.: 10461–002.*

c. *Date Filed:* May 31, 1990.

d. *Applicant:* Niagara Mohawk Power Corporation.

e. *Name of Project:* Parishville.

f. *Location:* On the West Branch of the St. Regis River, St. Lawrence County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Michael W. Murphy, System Law Department, C–3, Niagara Mohawk Power Corp., 300 Erie Boulevard West, Syracuse, New York 13202, (315) 428–6941.

i. *FERC Contact:* Michael Dees (202) 219–2807.

j. *Deadline Date:* Initial Comments—April 12, 1993, Reply Comments—May 25, 1993.

k. *Status of Environmental Analysis:* This application has been accepted for filing and is ready for environmental analysis at this time—see attached standard paragraph D9.

l. *Description of Project:* The proposed project would consist of: (1) An existing dam composed of an earthen dike and various concrete structures; (2) an existing intake structure; (3) an existing penstock 2,561 feet long and six to 10 feet in diameter; (4) an existing powerhouse housing a 2,400–kW hydropower unit; (5) an existing tailrace 400 feet long; (6) an existing 4.8–kV transmission line; and (7) appurtenant facilities. The estimated annual energy production is 12.5 GWh.

m. *Purpose of Project:* The purpose of the project is to generate energy that would be used by the applicant to satisfy its customers needs.

n. This notice also consists of the following standard paragraphs: A4 and D9.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC, 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Niagara Mohawk Power Corp., 300 Erie Boulevard West, Syracuse, New York, 13202.

9 a. *Type of Application:* Minor License.

b. *Project No.:* 11124–000.

c. *Date Filed:* July 10, 1985; see paragraph n below.

d. *Applicant:* Lawrence E. and Veronica P. Smith.

e. *Name of Project:* Kezar Falls Upper Development.

f. *Location:* On the Ossippee River in York and Oxford Counties, Maine.

g. *Filed Pursuant to:* Federal Power Act, 6 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Andrew E. Sims, Kleinschmidt Associates, 75 Main Street, P.O. Box 576, Pittsfield, ME 04967, (207) 487–3328.

i. *FERC Contact:* Michael Dees (202) 219–2807.

j. *Deadline Date:* Initial Comments April 12, 1993 Reply Comments May 25, 1993.

k. *Status of Environmental Analysis:* This application has been accepted for filing and is ready for environmental analysis at this time—see standard paragraph D10.

l. *Description of Project:* The existing project consists of: (1) A rock-filled timber crib dam about 8 feet high by 270 feet long surmounted by flashboards approximately 1.8 feet high; (2) a concrete gravity dam with an ogee crest about 11 feet high by 196 feet long surmounted by 1.8-foot-high flashboards, and containing two 6-foot by 6-foot waste gates adjacent to its island abutment; (3) an impoundment with a normal water surface elevation of 366.7 feet National Geodetic Vertical Datum (NGVD) and a surface area of about 10 acres; (4) a power canal about 700 feet long with an average width of about 100 feet; (5) stoplog slots at a single lane bridge crossing the power canal; (6) a concrete flume about 132 feet long with an average width of 33 feet, extending from the power canal, under State Route 25, to the powerhouse; (7) a concrete and brick powerhouse with approximate dimensions of 23 feet by 37 feet, containing one vertical turbine and generator unit rated at 350 kilowatts (kW); (8) a tailrace about 60 feet long that passes beneath a non-project mill building; (9) a 40-foot-long underground transmission line; and (10) appurtenant facilities.

m. *Purpose of Project:* The purpose of the project is to generate energy for sale to Central Maine Power Company.

n. The application for license for this project was originally filed as part of Project No. 9340, which originally included both the upper and lower Kezar Falls developments. On May 3, 1991, in response to a petition for rehearing of the licensing order for Project No. 9340 (which licensed both developments), the Commission modified the license by removing the upper development, created Project No. 11124 for the upper development, and directed the applicants to conduct certain flow studies. The flow studies have been completed and filed.

o. This notice also consists of the following standard paragraphs: A4 and D10.

p. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC, 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Kleinschmidt Associates, 75 Main Street, Pittsfield, ME 04967.

10 a. *Type of Application:* Minor License.

b. *Project No.:* 11132–000.

c. *Date filed:* April 26, 1991.

d. *Applicant:* Consolidated Hydro Maine, Inc.

e. *Name of Project:* Eustis Dam.

f. *Location:* On the North Branch of the Dead River near Eustis in Franklin County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Wayne E. Nelson, RR 2, Box 690 H Industrial Ave., Sanford, ME 04073, (207) 490–1980.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Comment Date:* Initial Comments—April 12, 1993. Reply Comments—May 25, 1993.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D9.

l. *Description of Project:* The proposed project would consist of: (1) An existing 15-foot-high concrete gravity dam having; (2) a 178-foot-long ogee type spillway; (3) an existing reservoir with a surface area of 73.5 acres at surface elevation 1,161 feet m.s.l. and a storage capacity of 570 acre-feet; (4) an existing powerhouse containing one generating unit with a rated capacity of 250 kw; (5) a bedrock tailrace; and (6) appurtenant facilities. The average annual energy generation is estimated to be 1,600 MWh. There is no new construction; therefore, there are no project costs.

m. *Purpose of Project:* Power produced would be sold to a local power company.

n. This notice also consists of the following standard paragraphs: A4 and D9.

o. *Available Location of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Consolidated Hydro Maine, Inc., RR 2, Box 690 H Industrial Avenue, Sanford, ME 04073, or by calling (207) 490–1980.

11 a. *Type of Application:* Minor License.

b. *Project No.:* 11163–000.

c. *Date filed:* June 28, 1991.

d. *Applicant:* Consolidated Hydro Maine, Inc.

e. *Name of Project:* South Berwick Dam.

f. *Location:* On the Salmon Falls River in South Berwick Township, in York County, Maine, and Strafford County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Wayne E. Nelson, RR 2, Box 690 H Industrial Ave., Sanford, ME 04073, (207) 490–1980.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Comment Date:* Initial Comments—April 12, 1993, Reply Comments—May 25, 1993.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D9.

l. *Description of Project:* The proposed project would consist of: (1) An existing 18-foot-high concrete gravity dam owned by the applicant; (2) an existing reservoir with a surface area of 58 acres at surface elevation 24.95 feet m.s.l. and a storage capacity of 116 acre-feet; (3) an intake structure at the left east abutment of the dam; (4) an existing powerhouse containing three generating units with a total rated capacity of 1,200 kW; and (5) appurtenant facilities. The average annual energy generation is estimated to be 4,500 MWh. There is no new construction; therefore, there are no project costs.

m. *Purpose of Project:* Power produced would be sold to a local power company.

n. This notice also consists of the following standard paragraphs: A4 and D9.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the offices of Consolidated Hydro Maine, Inc., RR 2, Box 690 H Industrial Avenue, Sanford, ME 04073, or by calling (207) 490–1980.

12 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11372–000.

c. *Date filed:* December 29, 1992.

d. *Applicant:* Thomas J. Collins and Andrew R. Blystra.

e. *Name of Project:* Oregon Hydropower Project.

f. *Location:* On the Rock River, in Ogle County, Illinois.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Thomas J. Collins and Andrew R. Blystra, Suite 975, 165 North Canal Street, Chicago, Illinois 60606, (312) 454–1060.

i. *FERC Contact:* Mary C. Golato (202) 219–2804.

j. *Comment Date:* April 11, 1993.

k. *Description of Project:* The proposed project consists of the following features: (1) An existing dam 12 feet high and 867.5 feet long; (2) an existing reservoir with a surface area of 900 acres and a storage capacity of 3,500 acre-feet; (3) a powerhouse containing three 400-kilowatt (kW) turbine-generating units for a total installed capacity of 1,200 kW; (4) a 600-foot-long, 12,000-volt transmission line; and (5) appurtenant facilities. The applicant estimates that the total average annual generation would be 11,000,000 kilowatthours. The dam and powerhouse foundation are owned jointly by the Illinois Department of Conservation and the City of Oregon.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

13 a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 11315–001.

c. *Date filed:* September 8, 1992.

d. *Applicant:* BMB Enterprises, Inc.

e. *Name of Project:* Granite Creek.

f. *Location:* Within Granite Ranch, on the ranch's irrigation system which draws water from Granite Creek, in Juab County, Utah, T. 12., R. 17 W., Section 17.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Brad F. Hutchings, 282 North Pheasant Ridge Circle, Bountiful, UT 84010, (801) 298–4450.

i. *FERC Contact:* Hector M. Pérez at (202) 219–2843.

j. *Comment Date:* April 16, 1993.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D–4.

l. *Description of Project:* The proposed project would consist of a powerhouse with a 350-kilowatt generating unit at the end of the existing pipeline that discharges into the storage reservoir at the ranch. The project would have an estimated average annual generation of 1,485,000 megawatthours.

m. This notice also consists of the following standard paragraphs: A2, A9, B1, and D4.

n. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the address shown in item h above.

Standard Paragraphs

A4. *Development Application*—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No

competing applications or notices of intent may be filed in response to this notice.

A5. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit will be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. *Protests or Motions to Intervene*—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D4. *Filing and Service of Responsive Documents*—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (April 16, 1993 for Project No. 11315–001). All reply comments must be filed with the Commission within 105 days from the date of this notice. (June 1, 1993 for Project No. 11315–001).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in

accordance with 18 CFR 4.34(b) and 385.2010.

D9. *Filing and Service of Responsive Documents*—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (April 12, 1993 for Project Nos. 10461–002, 11132–000 and 11163–000). All reply comments must be filed with the Commission within 105 days from the date of this notice. (May 25, 1993 for Project Nos. 10461–002, 11132–000 and 11163–000).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

D10. *Filing and Service of Responsive Documents*—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (April 12, 1993 for Project No. 11124–000). All reply comments must be filed with the Commission within 105 days from the date of this notice. (May 25, 1993 for Project No. 11124–000).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

E1. *Filing and Service of Responsive Documents*—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: March 5, 1993, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5540 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–05065T; Texas–118]

State of Texas NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

March 5, 1993.

Take notice that on March 1, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Massive Upper Wilcox Formation (T9 Sand Interval, Fandango Field), underlying a portion of Zapata County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is in Railroad Commission District No. 4 and consists of approximately 300 acres in the L.F. Rumsey Survey No. 156, A–516 and the G.B. & C.N.G. RR. Co. Survey No. 153, A–117.

The notice of determination also contains Texas' findings that the referenced portions of the Massive

Upper Wilcox Formation, meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93-5621 Filed 3-10-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD93-05065T; Texas-119]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

March 5, 1993.

Take notice that on March 1, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Vicksburg Formation (Encinitas (V-19-A) Field), underlying a portion of Brooks County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is in Railroad Commission District No. 4 and consists of approximately 515 acres in the J.M. & L. Luciano Survey, A-97 and 981 acres of the Guadalupe Sanchez La Rucia Survey, A-481.

The notice of determination also contains Texas' findings that the referenced portions of the Vicksburg Formation, meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93-5622 Filed 3-10-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD93-05067T; Texas-120]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

March 5, 1993.

Take notice that on March 1, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Vicksburg Formation, Texan Gardens (S, West) Field, underlying a portion of Hidalgo County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is in Railroad Commission District No. 4 and consists of approximately 333 acres in the P. Flores, Porcion 77 (A-577) as highlighted on Exhibit 6.

The notice of determination also contains Texas' findings that the referenced portion of the Vicksburg Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93-5623 Filed 3-10-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-5-1-008]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

March 5, 1993.

Take notice that on March 2, 1993, Alabama-Tennessee Natural Gas Company ("Alabama-Tennessee"), Post Office Box 918, Florence, Alabama 35631, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, various revised tariff sheets with a proposed effective date of April 1, 1993.

Alabama-Tennessee states that this filing is being submitted pursuant to articles V and VI of the "Joint Stipulation and Agreement in Settlement of Proceedings" ("Settlement") submitted in the above-captioned dockets on December 29, 1992, and in compliance with the Commission's February 24, 1993 Letter Order approving this Settlement ("Letter Order"). Alabama-Tennessee states it is under no obligation to make this filing at this juncture. Alabama-Tennessee further states it is nonetheless undertaking an early implementation of the Settlement in order to provide its customers with the Settlement benefits as of April 1, 1993. However, according to Alabama-Tennessee, its filing is expressly being made contingent upon the Commission's Letter Order becoming "final" as that term is defined under Article V of the Settlement. In the event that a request for rehearing of the Letter Order is filed under rule 713 of the Commission's Rules of Practice and Procedure, 18 CFR 385.713 (1992), or the Letter Order is modified, for whatever reason, Alabama-Tennessee states that its filing is to be deemed null and void, unless it notifies the Commission to the contrary within five (5) days of any such request for rehearing or modification.

In this regard, Alabama-Tennessee notes that the quarterly PGA filing that it submitted on February 26, 1993 in Docket No. TQ93-3-1, in which Alabama-Tennessee has also proposed an April 1, 1993 effective date, reflects certain calculations (in particular, involving the demand cost allocation ratio) which were made in accordance with the Settlement and the revised tariff sheets being submitted in the above-referenced dockets. Alabama-Tennessee states that in the event that the aforementioned contingency comes about, it reserves its rights to modify its quarterly PGA filing as may be necessary.

Alabama-Tennessee requests such waivers of the Commission's Regulations as may be necessary in order to accept and approve its filing as submitted.

Alabama-Tennessee states that copies of the tariff filing have been mailed to its customers and affected state regulatory commissions as well as to all customers on the Commission's official service lists established in the above-referenced dockets.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 12, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are

on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5624 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–4–33–000]

El Paso Natural Gas Co.; Tariff Filing

March 5, 1993.

Take notice that on March 1, 1993, El Paso Natural Gas Company ("El Paso"), tendered for filing, pursuant to part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, a notice of:

(i) A revision to El Paso's Take-or-Pay Buyout and Buydown Cost Recovery mechanism for interest in accordance with sections 22 and 21, Take-or-Pay Buyout and Buydown Cost Recovery, of its First Revised Volume No. 1–A and Second Revised Volume No. 1 FERC Gas Tariffs, respectively; and

(ii) A credit reflected in the calculation of the throughput surcharge for the removal of certain dollars identified in the report filed by El Paso on December 22, 1992 in compliance with the October 23, 1992 Commission order at Docket Nos. RP91–26–000, et al., RP91–162–000 and RP92–18–000.

El Paso states that the filing reflects that no additions have been made to the amount presently being amortized under El Paso's Take-or-Pay Cost Recovery mechanism as set forth in El Paso's filing made July 1, 1992 at Docket No. RP92–195–000. The only adjustments proposed by the filing are being made pursuant to §§ 21.4(d)(iii) and 21.5(c)(iii) contained in its Second Revised Volume No. 1 Tariff which provides for adjustments to El Paso's Monthly Direct Charge and Throughput Surcharge for interest calculated on the unrecovered balance of El Paso's buyout and buydown costs.

The principal amortization period for the Monthly Direct Charge ended on February 28, 1993; therefore, in accordance with El Paso's Second Revised Volume No. 1 Tariff, § 21.4(d)(iv), El Paso has revised Sheet Nos. 102 and 103 to reflect the difference between the previously estimated and the actual interest and any actual interest for February and March 1993 in order to calculate the interest applicable to the Monthly Direct Charge. El Paso states that interest is permitted to accrue, with respect to its buyout and buydown costs, commencing on the effective date of the rates including such costs or the date El Paso makes the take-or-pay payment, whichever is later. As a result, the Throughput Surcharge has been changed from a Maximum Rate of $0.0397 per dth to $0.0415 per dth.

El Paso requested waiver of that portion of § 21.4(d)(iv), which provides for a three (3) month adjustment process; and in lieu thereof, to allow a one-time adjustment to the Monthly Direct Charge for the interest true-up effective April 1, 1993 due to the *de minimis* amount involved.

El Paso respectfully requested that the tendered tariff sheets be accepted and permitted to become effective on April 1, 1993, which is not less than thirty (30) days after the date of filing.

El Paso states that copies of the filing were served upon all interstate pipeline system transportation and sales customers of El Paso and interested regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Regulations. All such motions or protests should be filed on or before March 12, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public conference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5625 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA93–1–34–000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

March 5, 1993.

Take notice that on March 1, 1993 Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective May 1, 1993:

Thirty-Eighth Revised Sheet No. 8
Seventh Revised Sheet No. 160
Ninth Revised Sheet No. 223
Ninth Revised Sheet No. 228

FGT states that pursuant to § 154.305 of the Federal Energy Regulatory Commission's ("Commission") Regulations, 18 CFR 154.305, and section 15 of the General Terms and Conditions of FGT's FERC Gas Tariff, FGT has submitted the above-referenced tariff sheets as part of its annual PGA filing to be effective May 1, 1993.

The current adjustment reflects FGT's projected cost of gas for the period May 1, 1993 through July 31, 1993. As shown in detail on Schedule A1, FGT anticipates a decrease from the $2.8014 per MMBtu saturated reflected in FGT's last scheduled filing in Docket No. TQ93–3–34 effective February 1, 1993 to $2.6469 per MMBtu saturated in the instant filing.

FGT also states that the surcharge adjustments set forth on the tariff sheet reflect the amortization of the current deferral balance accumulated during the period January 1, 1992 through December 31, 1992.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 12, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5626 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RS92–18–000]

Kentucky West Virginia Gas Co.; Technical Conference

March 5, 1993.

Take notice that a technical conference will be convened in this proceeding on Thursday, March 18, 1993 at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC, for the purpose of discussing the tariff compliance issues identified in the Commission's March 2, 1993 order on Kentucky West Virginia Gas Company's Order No. 636 compliance filing.

All interested parties are invited to attend; however, attendance at the conference will not confer party status.

For additional information, contact J. Carmen Gastilo at (202) 208–2182.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5627 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–226–001]

Kern River Gas Transmission Co.; Proposed Changes in the FERC Gas Tariff

March 5, 1993.

Take notice that on March 1, 1993, Kern River Gas Transmission Company ("Kern River") filed the following revised tariff sheets to its FERC Gas Tariff to be effective March 1, 1993:

Original Volume No. 1

Substitute First Revised Sheet No. 5
Substitute First Revised Sheet No. 6

Kern River states that the revised tariff sheets reflect the transportation rate approved by the Commission on September 30, 1992, and suspended for five months, as well as the currently applicable Gas Research Institute Charge. In addition, the FERC Annual Charge Surcharge has been deleted from Tariff Sheet Nos. 5 and 6 as required by FERC Letter Order dated October 20, 1992.

Kern River states that a copy of its filing was served on each of its customers and affected state commissions pursuant to § 154.16(b) of the Commission's Regulations.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 12, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5628 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–189–006]

Midwestern Gas Transmission Co.; Report of Refunds

March 5, 1993.

Take notice that Midwestern Gas Transmission Company (Midwestern) on January 29, 1993, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Refund Report made in accordance with the Commission's order issued December 21, 1992, in Docket No. RP91–189. Midwestern states that the refunds were made pursuant to the Stipulation and Agreement filed September 14, 1992.

As of January 25, 1993, Midwestern calculated the total refund including interest calculated in accordance with 18 CFR 154.67(c), to be $3,201,349.77. On the same date, Midwestern states that it disbursed refunds to customers for refunds amounts in excess of $1.00. Refunds of $1.00 or less will be made upon customer request.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 12, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5629 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–1–27–000]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

March 5, 1993.

Take notice that North Penn Gas Company (North Penn) on March 2, 1993 tendered for filing Fourteenth Revised Sheet No. 3A to its FERC Gas Tariff First Revised Volume No. 1.

This filing is North Penn's Annual take-or-pay (TOP) surcharge rate adjustment filing proposed to become effective April 1, 1993. North Penn's computed second annual TOP surcharge is a refund rate of $0.0125 per Mcf, which represents a decrease of $0.0364 per Mcf.

North Penn respectfully requests waiver of any of the Commission's Rules and Regulations as well as North Penn's tariff as may be required to permit this filing to become effective April 1, 1993, as proposed.

North Penn states that copies of this letter of transmittal and all enclosures are being mailed to each of North Penn's affected customers and State Commissions shown on the attached service list.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 12, 1993. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5630 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–400–000]

Northern States Power Co. (Wisconsin); Filing

March 5, 1993.

Take notice that on February 26, 1993, Northern States Power Company (Wisconsin) (NSPW) filed revised tariff sheets constituting a rate increase of $600,000 on an annual basis based on Period II (calendar year 1993). NSPW states that it had originally intended to file a rate increase of $1,092,946 on an annual basis but that as a result of settlement discussions involving all of its customers a Settlement Agreement has been executed. Under the terms of the Settlement Agreement, which was also filed with the Commission, NSPW filed its tariff changes effecting a $600,000 rate increase on an annual basis for Period II.

NSPW requests an effective date of sixty (60) days from the filing but states that it expects the Commission to approve the Settlement Agreement and, in accordance with the terms of the Settlement Agreement, allow an effective date of September 1, 1993.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 17, 1993. Protests will be

considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5631 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–2–37–000]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

March 5, 1993.

Take notice that on March 2, 1993, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheets:

Second Revised Volume No. 1

Fourth Revised Twentieth Revised Sheet No. 10
Fourth Revised Nineteenth Revised Sheet No. 11
Fourth Revised Fourteenth Revised Sheet No. 13

First Revised Volume No. 1–A

Third Revised Fifteenth Revised Sheet No. 201

Original Volume No. 2

First Revised Twenty-Ninth Revised Sheet No. 2.3

Northwest states that the purpose of this filing is to update its Commodity SSP Surcharge effective April 1, 1993, to reflect (1) interest applicable to January, February and March 1993, (2) the amortization of principal and interest, and (3) the calculation of the Commodity SSP Surcharge using Docket No. RP93–5 billing determinants. The proposed Commodity SSP Charge contained in this instant filing is 4.15¢ per MMBtu for the three months commencing April 1, 1993.

Northwest states that a copy of this filing has been served upon all jurisdictional customers and state regulatory commissions in its market area.

Any person desiring to be heard or protest said filing should file a motion to intervene of protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 12, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5632 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–5–006]

Northwest Pipeline Corp.; Proposed Changes in FERC Gas Tariff

March 5, 1993.

Take notice that on March 2, 1993, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheets:

Second Revised Volume No. 1:

Second Sub Twenty-First Rev Sheet No. 10
Second Sub Twentieth Rev Sheet No. 11
Third Sub Fifteenth Rev Sheet No. 13
Substitute Original Sheet No. 16
Substitute First Revised Sheet No. 20
Substitute First Revised Sheet No. 22
Substitute Second Revised Sheet No. 25
Substitute Second Revised Sheet No. 37
Substitute First Revised Sheet No. 45
Substitute First Revised Sheet No. 66
Substitute First Revised Sheet No. 85
Substitute First Revised Sheet No. 95
Substitute Second Revised Sheet No. 100
Substitute First Revised Sheet No. 120
Substitute First Revised Sheet No. 122
Substitute First Revised Sheet No. 123
Second Revised Sheet No. 125
Second Revised Sheet No. 128
Substitute Original Sheet No. 153–A
Substitute Fifth Revised Sheet No. 300
Substitute Fourth Revised Sheet No. 301
Substitute Fourth Revised Sheet No. 302

First Revised Volume No. 1–A

Second Sub Sixteenth Rev Sheet No. 201
Substitute Fourteenth Revised Sheet No. 202
Substitute First Revised Sheet No. 400
Substitute Second Revised Sheet No. 422
First Revised Sheet No. 422–A
Substitute Fifth Revised Sheet No. 601
Substitute Fifth Revised Sheet No. 602

Original Volume No. 2:

Substitute Sixteenth Revised Sheet No. 2
Substitute Eighth Revised Sheet No. 2.1
Substitute Thirteenth Revised Sheet No. 2.3
Substitute Fourteenth Revised Sheet No. 2–A
Substitute Eighth Revised Sheet No. 2–A.1

The tariff sheets listed above have not previously been filed with the Commission. Northwest also moves to place into effect certain tariff sheets listed in appendix A to its filing that are unchanged from Northwest's original October 1, 1992 filing in Docket No. RP93–5–000.

Northwest states that the purpose of this filing is to (1) move to place into effect, on April 1, 1993, tariff sheets accepted and suspended by the Commission's Order in the captioned proceeding, rejecting tariff sheets, accepting and suspending tariff sheets, subject to refund and conditions, and establishing procedures (61 FERC ¶ 61,165 (1992), reh'g denied, 62 FERC ¶ 61,047 (1993) ("October 30 Order")) as modified by Northwest's November 30, 1992 filing in compliance with the October 30 Order, and (2) satisfy the Commission's directive to provide *pro forma* SFV rates and tariff sheets implementing cost mitigation where the change to SFV rate design causes cost impacts on an individual customer basis of more than ten percent.

This filing has been served upon the parties appearing on the Commission's official service list in the referenced proceeding which includes Northwest's affected jurisdictional customers and the state regulatory Commissions in Northwest's service area interested in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 12, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5633 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ES92–36–002]

Old Dominion Electric Cooperative; Application

March 5, 1993.

Take notice that on March 3, 1993, Old Dominion Electric Cooperative (Old Dominion) filed an amendment to its application in Docket Nos. ES92–36–000 and ES92–36–001 under section 204 of the Federal Power Act. Old Dominion is requesting that the issuance of $350 million of its Series B Bonds be exempt from negotiated requirements of 18 CFR 34.2(b)(2)(i)(B) of the Commission's regulations. The requested authorization is in addition to the exemption from the competitive bidding requirements of 18

CFR 34.2(a)(1) granted in Docket Nos. ES92–36–000 and ES92–36–001 issued April 30, 1992.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before April 2, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5634 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ES93–22–001]

Rayburn Country Electric Cooperative, Inc.; Amended Application

March 5, 1993.

Take notice that on March 3, 1993, Rayburn Country Electric Cooperative, Inc. (Rayburn) filed an amendment to its application in Docket No. ES93–22–000 under § 204 of the Federal Power Act. Rayburn requests that the Commission retroactively approve the following:

1. A revolving line of credit entered into on August 18, 1992, in the amount of $5 million through August 17, 1993. As of January 31, 1993, $1,853,029 had been drawn down under the credit agreement,

2. Two long term loan agreements entered into on August 20, 1992:

A. One loan agreement (9002 Notes) in the amount of not more than $4,048,065 for a term of seven years. On January 12, 1993, Rayburn Electric received an advance of the entire loan amount and,

B. One loan agreement (9001 Notes) in the amount of not more than $22,939,032 for term of 32 years. No funds have been advanced under this loan agreement.

3. Notes issued by Rayburn to each of its Members aggregating $4,048,065 (Member Notes).

Alternatively, if the Commission is not willing to grant the requests, Rayburn requests that the Commission approve the issuance of Notes under the 9001 agreement and the issuance of new notes in substitution for the Credit Line Note, the 9002 Note and the Member Notes, all having the same terms as the Credit Line Note, the 9002 Note and the Member Notes.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 11, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5541 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RS92–24–000]

Texas Gas Transmission; Conference

March 5, 1993.

Take notice that on Tuesday, March 23 and, if necessary, Wednesday, March 24, 1993, a conference will be convened in the above-captioned restructuring docket to discuss Texas Gas Transmission Company's proposed plan for implementation of Order No. 636.

The conference will be held in a hearing or conference room of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426. The conference will begin at 1 p.m. on March 23, 1993. All interested parties are invited to attend. Attendance at the conference will not confer party status. For additional information, interested persons can call Mary Benge at (202) 208–1214 or Yvonne Owens at (202) 208–2152.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5635 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–228–000]

Texas Eastern Transmission Corp.; Request Under Blanket Authorization

March 4, 1993.

Take notice that on March 2, 1993, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP93–228–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to modify an existing receipt point from Three Rivers Pipeline Company (Three Rivers), a subsidiary of Graham Energy Marketing Corporation (Graham), under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Texas Eastern proposes to modify an existing receipt point from Three Rivers, located in Indiana County, Pennsylvania, in order to make it a bidirectional delivery point to enable Texas Eastern to make deliveries of natural gas to Three Rivers. Texas Eastern states that Graham has requested this modification of the receipt point. Texas Eastern further states that the peak and average day deliveries will be 40,000 Dth per day.

Texas Eastern states that the modification of the receipt point will have no effect on Texas Eastern's peak day or annual deliveries and will be accomplished without detriment or disadvantage to Texas Eastern's other customers. Texas Eastern further state that its existing tariff does not prohibit the additional volumes.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5542 Filed 3–10–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92-137-000 (Phase II)]

Transcontinental Gas Pipe Line Corp.; Informal Settlement Conference

March 5, 1993.

Take notice that an informal settlement conference will be convened in this proceeding on March 16, 1993, at 10 a.m., at the offices of the Federal Regulatory Commission, 810 First Street NE., Washington, DC.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Donald A. Heydt at (202) 208-0740 or Joanne Leveque at (202) 208-5705.

Lois D. Cashell,

Secretary.

[FR Doc. 93-5636 Filed 3-10-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM93-10-29-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

(March 5, 1993.)

Take notice that Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing on March 2, 1993 certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, which tariff sheets are enumerated in appendix A to the filing. The proposed effective date of the revised tariff sheets is April 1, 1993.

The purpose of the instant filing is to revise the Transmission Electric Power (TEP) Rates effective April 1, 1993 pursuant to Section 41 of the General Terms and Conditions of TGPL's FERC Gas Tariff. TGPL states that the revised TEP Rates included in the instant filing have been calculated in a manner consistent with the Commission's "Order on Rehearing" issued February 18, 1993 in Docket No. RP92-137-010 directing TGPL to file revised tariff sheets which provide that TGPL will only track electric power costs related to electric compressor use.

Attached in appendices B through D to the filing are workpapers supporting the calculation of the revised TEP Rates reflected on the tariff sheets include therein.

TGPL states that copies of the instant filing were mailed to each of its customers, State Commissions and other interested parties. In accordance with provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at TGPL's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 12, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-5637 Filed 3-10-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM93-11-29-000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

March 5, 1993.

Take notice that Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing on March 2, 1993, certain revised tariff sheets to Third Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff enumerated in appendix A to the filing. The proposed effective date of the tariff sheets is April 1, 1993.

TGPL states that the instant filing is being submitted pursuant to Section 38 of the General Terms and Conditions which provides that TGPL will file, to be effective April 1, a redetermination of its fuel retention percentages applicable to storage and transportation rate schedules. However, due to the fact that recent activity in TGPL's Deferred GRO Account indicates that the recovery of fuel under the existing fuel retention factors approximates the level of fuel actually burned, TGPL requests that the Commission grant a waiver of § 38.2 of the General Terms and Conditions to allow TGPL's currently effective fuel retention factors to remain in effect in lieu of making effective the revised fuel retention factors submitted herein.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 12, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-5638 Filed 3-10-93; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals During the Issuance of Decisions and Orders

Week of December 14 Through December 18, 1992

During the week of December 14 through December 18, 1992, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: March 5, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appeals

OXY USA Inc., 12/14/92, LFA-0248

OXY USA Inc. (OXY) filed an Appeal from a partial denial by the Economic Regulatory Administration (ERA) of a request for information submitted under the Freedom of Information Act (FOIA). In response to OXY's request, the ERA had released certain responsive documents, but withheld 136 documents in their entirety pursuant to 5 U.S.C. 552(b)(5) (FOIA Exemption 5). These documents related primarily to a DOE enforcement action brought against

Cities Services Corporation (Cities), now OXY USA Inc., and settlement negotiations with Cities' parent company, Occidental Petroleum Corporation. In considering the Appeal, the DOE found that: (i) The drafts and other intra-agency documents withheld by the ERA were exempt from disclosure under the Exemption 5 deliberative process privilege; and (ii) the ERA properly determined that 121 of the documents were within the scope of the attorney work-product privilege of Exemption 5. However, three of the documents withheld under the deliberative process privilege and one of the attorney work-product documents contained reasonably segregable material that was not released to the appellant. Accordingly, the matter was remanded to the ERA with instructions to issue a new determination regarding these four documents, either releasing additional material or explaining in detail the reasons for its withholding. In all other respects, the Appeal was denied.

Public Utility District No. 2 of Grant County, Washington, 12/15/92, LFA–0249

Public Utility District No. 2 of Grant County, Washington (District) filed an Appeal from a determination issued to it on November 5, 1992 by the Office of Communications (OC) of the Department of Energy Field Office, Richland. In that determination, the OC denied in part the District's request for information under the Freedom of Information Act (FOIA). In response to the District's request, the OC granted access to an entire file related to the Hanford Reach of the Columbia River Draft Comprehensive River Study and Environmental Impact Statement (DEIS) (June 1992) prepared by the Departments of Interior and Energy, but concluded that one document, the "Comments" file, was exempt from mandatory disclosure pursuant to Exemption 5 of the FOIA. The District questioned whether an adequate search for records responsive to its request was conducted and whether the "Comments" file was properly withheld under the FOIA. In considering the Appeal, the DOE found that the OC conducted an adequate search for responsive documents and that the OC properly withheld the "Comments" file pursuant to Exemption 5. Therefore, the District's Appeal was denied.

Remedial Order

Gear Petroleum Company, Inc.; Economic Regulatory Administration, 12/18/92, HRO–0144; KRD–0034; KRZ–0089; KRZ–0090

Gear Petroleum Company, Inc. (Gear Petroleum) filed a Statement of Objections to a Proposed Remedial Order (PRO) issued to it by the Economic Regulatory Administration (ERA) on March 4, 1983. The PRO alleged that during the audit period, June 1979 through October 1980, Gear Petroleum violated the Mandatory Petroleum Price Rules set forth at 10 CFR Part 212, subpart D, by misclassifying, and by selling at prices in excess of the applicable ceiling level prices, crude oil produced from the Finnup A–1 unit property in Gray County, Kansas.

Before considering the PRO, the Department of Energy (DOE) disposed of three pending motions. First, the DOE denied the ERA's Motion for Discovery as not greatly beneficial to resolution of the case and as impermissibly late. Second, the DOE denied Gear Petroleum's Motion to Strike from the Administrative Record the unsworn letter of Michael Lennen, former chairman of the Kansas Corporation Commission (KCC), which purported to explain the legal effect of a 1976 KCC well-spacing order for the Ingalls-Mississippi crude oil pool in Gray County, Kansas. The DOE found that there would be no prejudice to Gear Petroleum from retention of the letter in the record, but stated that it would refrain from referring to the letter in adjudication of the PRO. Third, the DOE denied Gear Petroleum's Motion to Strike from the Administrative Record an affidavit submitted by Kishore Parekh, an ERA petroleum engineer. The DOE determined that there would be no prejudice to Gear Petroleum from retaining the affidavit in the record because the factual affidavit was submitted by the ERA to support, rather than to change, the legal theory of the PRO.

In considering Gear Petroleum's objections to the PRO, the DOE found that Gear Petroleum had misclassified, and sold above applicable ceiling price levels, crude oil produced from the Finnup A–1 unit property. In its Statement of Objections, Gear Petroleum claimed that production from the Finnup A–1 unit property could be sold at market prices because it qualified under the "newly discovered crude oil ceiling price rule" found in 10 CFR 212.79. That rule, *inter alia*, allowed sales at market prices for crude oil produced from properties with no 1978 production. Specifically, Gear Petroleum asserted that the Finnup A–1 unit property was created as a necessary response to the 1976 KCC well-spacing order in either 1976 or 1978 by the aggregation of portions of three pre-existing properties. Therefore, the firm claimed that, although the Finnup A–1 unit property was made up in part of premises that had been part of a property with 1978 production, the Finnup A–1 unit property had become a separate entity that did not have 1978 production.

The DOE rejected Gear Petroleum's assertions, and noted that Ruling 1980–3 determined that rearranged rights to produce in changed well-spacing situations do not necessarily create new properties for the purposes of § 212.79. Rather, under that Ruling, the property should be judged on the physical status of the premises in calendar year 1978. The DOE found that the 1976 KCC well-spacing order by itself had not created the Finnup A–1 unit property because it did not delineate sufficiently specific parameters of the property as required by the uniform interpretation of the property concept. In addition, the DOE determined that during at least part of 1978, portions of the Finnup A–1 unit property, including that part of the property containing the Finnup A–1 unit well, had been part of a property with 1978 crude oil production. Thus, the DOE found that production from the Finnup A–1 unit property was ineligible for market prices under section 212.79.

In addition, the DOE rejected Gear Petroleum's attacks on the legal validity of the PRO, § 212.79, and ruling 1980–3. The DOE also found no merit in Gear Petroleum's claims regarding the operation of state statutes of limitation, or the PRO's assessment on the firm of liability for all overcharges plus interest. In addition, the DOE determined that any refunds recovered from Gear Petroleum shall be distributed in accordance with the procedures set forth in 10 CFR part 205, subpart V. Accordingly, the DOE issued the PRO, as modified, as a final Remedial Order.

Implementation of Special Refund Procedures

Texas International Co.; Texas International Petroleum Corp., 12/14/92, LEF–0045

The Department of Energy (DOE) issued a Decision setting forth the procedures for distributing $1,786,696.83 plus interest in crude oil overcharges obtained from a settlement with Texas International Company and its affiliate, Texas International Petroleum Corporation. Under the plan, the DOE will distribute these funds in accordance with the procedure set forth in the Modified Statement of Restitutionary Policy for Crude Oil

Overcharges and the Notice published at 52 FR 11737 (April 10, 1987).

Refund Application

Shell Oil Company/Eastman Kodak Co., 12/18/92, RF315–9586

The DOE issued a Decision and Order concerning an Application for Refund filed in the Shell Oil Company special refund proceeding by Eastman Kodak Company. The Applicant was an end-user of para-xylene during the consent order period. The DOE determined that para-xylene was a covered product under the Mandatory Petroleum Price and Allocation Regulations. Accordingly, the DOE granted Eastman Kodak Co. a principal refund of $7,674.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/A. Townsend & Son *et al.*	RF304–13310.	12/17/92
Atlantic Richfield Company/ ABCO Oil Corporation.	RF304–30	12/14/92
Atlantic Richfield Company/Dennis M. Sikorski *et al.*	RF304–13209.	12/15/92
Atlantic Richfield Company/Frank P. Nunes.	RF304–12670.	12/15/92
Atlantic Richfield Company/Fuel Distributors, Inc.	RF304–29	12/14/92
Atlantic Richfield Company/Kelly Company.	RF304–13326.	12/14/92
Baxter Community School District.	RF272–81436.	12/15/92
Blue Mountain School District *et al.*	RF272–81403.	12/18/92
Botetourt County Public Schools.	RF272–81361.	12/15/92
Boyne City Public Schools *et al.*	RF272–83373.	12/17/92
Brocton Central School.	RF272–82483.	12/17/92
City of Albertville, Alabama.	RF272–82704.	12/17/92
City of Seminole *et al.*	RF272–83314.	12/16/92
Clark Oil & Refining Corp./Tom's Clark Super 100 *et al.*	RF342–81	12/16/92
Empire Lines, Inc	RF272–89213.	12/18/92
Allied Supermarkets.	RF272–89066.	
FFE Transportation Svcs., Inc.	RF272–78290.	
Willers Truck Service.	RF272–78110.	
Enron Corp./Leon Gas Company.	RF340–66	12/16/92
Enron Corp./ Sooner Corporation.	RF340–127 ..	12/17/92
Gulf Oil Corporation/Ed's 44 Gulf *et al.*	RF300–17094.	12/17/92
Gulf Oil Corporation/H.W. Jenkins Lumber Co. *et al.*	RF300–13317.	12/18/92
Gulf Oil Corporation/Herman Burke's Gulf *et al.*	RF300–17244.	12/18/92
Gulf Oil Corporation/Thurston Motor Lines, Inc.	RF300–13115.	12/17/92
Indiana Area School District.	RF272–82478.	12/17/92
Lac Du Flambeau Public School.	RF272–82437.	12/17/92
McGraw Central School District.	RF272–82462.	12/18/92
Mosinee School District.	RF272–81262.	12/15/92
Murphy Oil Corp./ Triangle Oil Co. *et al.*	RF309–1324	12/14/92
Oologah School District *et al.*	RF272–80809.	12/14/92
Orangeburg School District Four.	RF272–82401.	12/17/92
Pines Plains Central School District.	RF272–81396.	12/15/92
Pleasant Hill School District #1.	RF272–81031.	12/15/92
Richburg Central School.	RF272–82457.	12/18/92
Shell Oil Company/Angelo's Shell Service.	RF315–1643	12/17/92
Shell Oil Company/Campbell Oil Company.	RF315–103 ..	12/18/92
Shell Oil Company/Eastern Air Lines, Inc.	RF315–5538	12/16/92
Shell Oil Company/Ericson Oil Corporation *et al.*	RF315–120 ..	12/18/92
Shell Oil Company/Sahara Oil Company, Inc.	RF315–8198	12/16/92
Texaco Inc./Ames Sand and Gravel *et al.*	RF321–17600.	12/17/92
Texaco Inc./Bob Spaulding Texaco.	RF321–19499.	12/14/92
Texaco Inc./Catalina Texaco *et al.*	RF321–2220	12/16/92
Texaco Inc./ Crump's Texaco *et al.*	RF321–9079	12/16/92
Texaco Inc./ George W. Tinnin, Inc. *et al.*	RF321–15405.	12/17/92
Texaco Inc./Imperial Fuel Company *et al.*	RF321–17403.	12/16/92
Texaco Inc./J.E. & R.E. Potter *et al.*	RF321–15149.	12/18/92
Texaco Inc./Maurice Edward Bomar *et al.*	RF321–2342	12/15/92
Texaco Inc./Mid-Way Texaco *et al.*	RF321–703 ..	12/14/92
Texaco Inc./R & L Texaco.	RF321–14729.	12/16/92
R & L Texaco	RF321–19400.	
Turner County Board of Commissioners.	RC272–166 .	12/16/92
United Refining Company/Defense Fuel Supply Center.	RF333–31	12/16/92
Wayne-Finger Lakes Board of Coop. Educational Services.	RF272–81417.	12/16/92
West Mifflin Area School District.	RC272–167 .	12/16/92
Whitehall Central School District.	RF272–82455.	12/18/92
Winona R–III Schools.	RF272–81535.	12/18/92

Dismissals

The following submissions were dismissed:

Name	Case No.
Air Conditioning Services, Inc.	RF309–1126
Bill's Texaco	RF321–17867
C&H Gas Company	RF309–1096
Chuck Hansen	LFA–0251
Claremont Public School, ISD #2125.	RF272–79341
Contractors Heating & Cooling	RF309–1120
Dave's Arco	RF304–12485
J.R. White's Grocery	RF300–17121
Leemon Oil Company, Inc.	RF342–195
Nelson Public School District .	RF272–81321
Parrish Texaco	RF321–12730
Service Corp. International	RD272–17474
Service Corp. International	RF272–17474
Shiver Oil Co.	RF321–13903

Name	Case No.
Suburban Service, Inc.	RF321–16594
Sweetwater City School District.	RF272–B3642
TBA, Inc.	RF309–1161
Tom Gatlie Arco Service	RF304–13405
Valley Gas Company	RF300–14063
Wilhelm Company	RF321–16294
Wold's Service	RF309–1288

[FR Doc. 93–5644 Filed 3–10–93; 8:45 am]
BILLING CODE 6450–01–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

March 5, 1993.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street NW., suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: None.
Title: Section 13.217, Records.
Action: New collection.
Respondents: Businesses or other for-profit.
Frequency of Response: Recordkeeping requirement.
Estimated Annual Burden: 15 recordkeepers; 1 hour average burden per recordkeeper; 15 hours total annual burden.
Needs and Uses: The recordkeeping requirement contained in section 13.217 is necessary to assure records of expenditures and revenues for administering commercial operator examinations are available if needed. Records must be kept so that the FCC can detect any wrongdoing in the program. The records are journal entries showing revenues collected and expenses incurred. The records may be inspected by FCC field investigators. The records will provide a vehicle for the FCC to cancel the designation of a person or organization as an examination manager. If the information were not collected, it is conceivable that fraud and abuse could occur in the commercial radio examination program.

Federal Communications Commission.
William F. Caton,
Acting Secretary.
[FR Doc. 93–5511 Filed 3–10–93; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–979–DR]

California; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).
ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA–979–DR), dated February 3, 1993, and related determinations.

EFFECTIVE DATE: March 4, 1993.
FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.
SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is amended to be January 5, 1993, and continuing.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,
Deputy Associate Director, State and Local Programs and Support.
[FR Doc. 93–5578 Filed 3–10–93; 8:45 am]
BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Port of Palm Beach, et al.; Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200086–002.
Title: Port of Palm Beach/MSAS Terminal Lease Agreement.
Parties: Port of Palm Beach, MSAS Customs Logistics, Inc.
Synopsis: This modification extends the current lease of office space until February 22, 1994.

Dated: March 5, 1993.

By Order of the Federal Maritime Commission.
Joseph C. Polking,
Secretary.
[FR Doc. 93–5513 Filed 3–10–93; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

AMBANC Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than April 5, 1993.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. AMBANC Corp., Vincennes, Indiana; to acquire 100 percent of the voting shares of Farmers' State Bank of Palestine, Palestine, Illinois.

Board of Governors of the Federal Reserve System, March 5, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–5554 Filed 3–10–93; 8:45 am]

BILLING CODE 6210–01–F

AMCORE Financial, Inc.; Acquisition of Company Engaged in Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) or (f) of the Board's Regulation Y (12 CFR 225.23(a) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 31, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. AMCORE Financial, Inc., Rockford, Illinois; to engage *de novo* through AMCORE Investment Banking, Inc., Rockford, Illinois, in providing advice with respect to and arranging for the private placement of debt and equity securities as agent for issuers, under the same terms as *Bankers Trust*, 75 Federal Reserve Bulletin 829 (1989); and *J.P. Morgan*, 76 Federal Reserve Bulletin 26 (1990); and in financial advisory services pursuant to § 225.25(b)(4)(vi) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 5, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–5555 Filed 3–10–93; 8:45 am]

BILLING CODE 6210–01–F

Margaret Ann Speight Mixon, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 31, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Margaret Ann Speight Mixon, Unadilla, Georgia; Charles Gordon Speight, Jr., Unadilla, Georgia; David Mark Speight, Atlanta, Georgia; Joseph Daniel Speight, Jr., Pinehurst, Georgia; Michael Clark Speight, Unadilla, Georgia; and Patti Speight Taylor, Unadilla, Georgia, as members of a committee that will control the subject stock, to acquire 52 percent of the voting shares of Middle Georgia Bankshares, Inc., Unadilla, Georgia, and thereby indirectly acquire Citizens Bank, Vienna, Georgia.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. William T. Graham to acquire an additional 12.73 percent, for a total of 15 percent, of the voting shares of First Business Bancshares, Inc., Madison, Wisconsin, and thereby indirectly acquire First Business Bank, Kingston, Wisconsin.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. William J. Cavanagh, Trustee for William J. Cavanagh Revocable Trust; Robert J. Cavanagh, Trustee for Robert J. Cavanagh Revocable Trust; and Charles L. Cavanagh, Trustee for Charles L. Cavanagh Revocable Trust; to each acquire 26.66 percent of the voting shares of Perham State Bancshares, Inc., Perham, Minnesota.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Joseph H. Geisel, Jr., Kansas City, Missouri; Terrence J. Lillis, Kansas City, Missouri; and Edward P. O'Connor, Prairie Village, Kansas; as Trustees for the Francis H. Giblin Trust Number 1, Beloit, Kansas, to acquire 61.16 percent of the voting shares of First National Bankshares of Beloit, Inc., Beloit, Kansas, and thereby indirectly acquire First National Bank of Beloit, Beloit, Kansas.

Board of Governors of the Federal Reserve System, March 5, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–5556 Filed 3–10–93; 8:45 am]

BILLING CODE 6210–01–F

Panhandle Bancshares, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the

proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 31, 1993.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Panhandle Bancshares, Inc., Panhandle, Texas; to engage *de novo* through its subsidiary, Panhandle Financial Services, Inc., Amarillo, Texas, in providing management consulting advice to nonaffiliated bank and nonbank depository institutions pursuant to § 225.25(b)(11); and tax planning and preparation services pursuant to § 225.25(b)(21) of the Board's Regulation Y. The management consulting services will be conducted in Texas, Oklahoma, and New Mexico. The tax planning and preparation services will be conducted in Potter County, Swisher County, Carson County, and all adjacent counties in the Texas Panhandle.

Board of Governors of the Federal Reserve System, March 5, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–5557 Filed 3–10–93; 8:45 am]

BILLING CODE 6210–01–F

RNYC Holdings; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 5, 1993.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. RNYC Holdings, Marina Bay, Gibraltar; to become a bank holding company by acquiring 100 percent of the voting shares of Republic New York Corporation, New York, New York, and thereby indirectly acquire Republic National Bank of New York, New York, New York, and The Manhattan Savings Bank, New York, New York.

In connection with this application, RNYC Holdings Limited, Marina Bay, Gibraltar, has applied to engage through its subsidiaries, Republic New York Corporation, New York, New York; Republic Clearing Corporation, New York, New York, in futures commission merchant activities with respect to foreign exchange, government securities, certificates of deposits, other money market instrument, and bullion contracts pursuant to § 225.25(b)(18) of the Board's Regulation Y; Republic Factors Corporation, New York, New York, in factoring, including old line maturity factoring of accounts receivable (purchase of accounts receivable) and lending against accounts receivable collateral, pursuant to § 225.25(b)(1)(v) of the Board's Regulation Y; Republic Information and Communications Services, Inc., New York, New York, in providing processing, systems, programming, communications, technical support and related services to RNYC Group members, and provide equipment and technical support regarding such equipment to non-RNYC Group members for disaster recovery actions by them, pursuant to §§ 225.22(a)(2)(iii) and 225.25(b)(7) of the Board's Regulation Y; Republic New York Trust Company of Florida, National Association, North Miami, Florida, limited to trust and other fiduciary services, pursuant to § 225.25(b)(3) of the Board's Regulation Y; Republic New York Mortgage Corporation, Pompano Beach, Florida, in originating and servicing mortgage loans for members of the RNYC Group, pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y; Republic New York Securities Corporation, New York, New York, in (1) providing investment advisory services and financial advisory services, including advice regarding mergers, acquisitions, and capital raising proposals by institutional customers, pursuant to §§ 225.25(b)(4) and (15) of the Board's Regulation Y; (2) providing securities brokerage services on an individual basis as well as in combination with investment advisory services (full-service brokerage), including exercising limited investment discretion on behalf of institutional customers, (*Saban, S.A.*, 78 Federal Reserve Bulletin 955 (1992)); (3) purchasing and selling all types of securities on the order of institutional and retail customers as a "riskless principal," *Saban, S.A.*, 78 Federal Reserve Bulletin 955 (1992)); and (4) engaging in securities credit activities under the Board's Regulation T, pursuant to § 225.25(b)(15) of the Board's Regulation Y, including acting as a "conduit" or "intermediary" in securities borrowing and lending, pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 5, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-5558 Filed 3-10-93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0391]

Analysis of Adverse Reactions to Monosodium Glutamate; Announcement of Rescheduled Dates for Public Submission of Written Materials and Public Meeting; Tentative Report; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announcing the availability of a tentative report entitled, "Tentative Report: Adequacy of Existing Scientific Information on Possible Adverse Reactions to Monosodium Glutamate." The tentative report was prepared by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (LSRO/FASEB). In a previous notice, FDA announced the closing date for requests to make oral presentations at an open meeting, the closing date for submission of written materials, and the tentative dates and time of a public meeting on the tentative report. This document announces the rescheduled dates for the aforementioned events.

DATES: LSRO/FASEB will hold a public meeting on April 7, 1993, at 1:30 p.m. If necessary, the public meeting will reconvene on April 8, 1993, at 8:30 a.m. Requests to make oral presentations at the open meeting must be submitted in writing and received by March 19, 1993. Written materials to be considered at the public meeting should be submitted on or before April 5, 1993.

ADDRESSES: Submit written requests for single copies of the tentative report to the Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814-3998. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written requests to make oral presentations of scientific data, information, and views at the public meeting to both LSRO/FASEB (address above) and the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Requests should be identified with the docket number found in brackets in the heading of this document. Two copies of the scientific data, information, and views should be submitted to each office. A copy of the tentative report is available for public examination in LSRO/FASEB and in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. The public meeting will be held in the Chen Auditorium, Lee Bldg., FASEB (address above).

FOR FURTHER INFORMATION CONTACT: Kenneth D. Fisher or Daniel J. Raiten, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814-3998, 301-530-7030; or David G. Hattan, Office of Pre-Market Approval (HFS-225), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-3912.

SUPPLEMENTARY INFORMATION: FDA has a contract (223-92-2185) with LSRO/FASEB concerning the analysis of scientific issues that bear on the safety of foods and cosmetics. The objective of this contract is to provide information to FDA on general and specific issues of scientific fact associated with the analysis of human nutrition.

Current food use of MSG as a generally recognized as safe (GRAS) ingredient is described in 21 CFR 182.1 as an example of common safe food ingredients. GRAS uses of glutamic acid, glutamic acid hydrochloride, monoammonium glutamate, and monopotassium glutamate are codified in 21 CFR 182.1045, 182.1047, 182.1500, and 182.1516, respectively.

The Select Committee on GRAS Substances (SCOGS) of LSRO/FASEB, as part of FDA's update of GRAS safety assessments, independently reviewed health aspects of MSG in 1978 and 1980, and glutamate-containing protein hydrolysates in 1980. Protein hydrolysates are not listed as GRAS food ingredients, but are considered GRAS by a number of FDA opinion letters. Since the publication of the SCOGS reports, additional information about the physiological effects of glutamic acid and its salts has accumulated from scientific investigations. Moreover, there are continuing concerns raised by the public about the use of these substances as food ingredients.

In the **Federal Register** of December 4, 1992 (57 FR 57467), FDA announced that it had asked FASEB, as a task within contract 223-92-2185, to provide FDA's Center for Food Safety and Applied Nutrition with an up-to-date scientific safety review of the effects of the use of MSG and hydrolyzed protein products as food ingredients. Responding to that request, FASEB directed its LSRO to obtain state-of-the-art scientific information about the safety of MSG and related products as currently used. LSRO/FASEB has initiated the study and will prepare a documented scientific report that summarizes information pertaining to MSG and glutamate-containing food ingredients currently approved for GRAS use.

Details of the objectives for the scientific review requested by FDA are contained in the December 4, 1992, notice announcing the start of the study. The project is divided into two phases. In Phase I, which has been completed, LSRO/FASEB reviewed the existing scientific literature as well as government-furnished materials to determine whether information and data were available to address 18 core questions on the safety of MSG that are listed in the notice. That notice also stated that Phase I would culminate with the public availability of a tentative report addressing the adequacy of extant information with respect to the 18 questions and would further define a concise set of issues raised by the Phase I review. The tentative report is on display at the Dockets Management Branch (address above) and is also on display at, and available from, LSRO/FASEB (address above).

LSRO is now proceeding with Phase II of the study. In Phase II, LSRO is conducting a comprehensive evaluation of the safety of MSG using the Phase I tentative report as the focus of the indepth review. Phase II will be complete with the preparation of a publicly available final report.

In the notice (57 FR 57467), FDA and FASEB announced that LSRO/FASEB anticipated holding a public meeting on the topic of MSG safety during the period of February 9, 1993, to February 27, 1993. Due to scheduling difficulties, however, that meeting was not held. FDA and FASEB are now announcing that LSRO/FASEB has rescheduled the public meeting to be held on April 7, 1993, beginning at 1:30 p.m. Depending on the number of requests to make oral presentations, the public meeting will reconvene at 8:30 a.m. on April 8, 1993, if necessary. Written requests to make oral presentations of scientific data, information, and views at the open meeting must be submitted in writing to LSRO/FASEB (address above) and to the Dockets Management Branch (address above) and received by March 19, 1993. The open meeting will be held in the

Chen Auditorium, Lee Bldg., FASEB (address above).

FDA and FASEB are also inviting submission of written presentations of scientific data, information, and views. These materials should be submitted on or before April 5, 1993. Two copies of the written material to be considered at the open meeting must be submitted to each office.

Pursuant to its contract with FDA, FASEB will provide the agency with a scientific report on the Phase II review and evaluation on or before March 1, 1994.

Dated: March 2, 1993.

Gary Dykstra,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 93–5519 Filed 3–10–93; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Institute of Dental Research; Meeting of Dental Research Programs Advisory Committee

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Dental Research Programs Advisory Committee, National Institute of Dental Research, on April 13–14, 1993, in Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland, from 9 a.m. to recess on April 13 and from 9 a.m. to adjournment at 1 p.m. on April 14. The entire meeting will be open to the public to discuss NIDR extramural research—Research Opportunities in Periodontal Research: Juvenile and Refractory Adult Periodontitis. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. John D. Townsley (301/496–7807) in advance of the meeting.

Dr. John D. Townsley, Associate Director for Policy and Coordination, Extramural Program, NIDR, NIH, Westwood Building, room 506, Bethesda, MD 20892 (telephone 301/496–7807) will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: March 1, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–5563 Filed 3–10–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Meeting of the National Deafness and Other Communication Disorders Advisory Board

Pursuant to Public Law 92–473, notice is hereby given of the meeting of the National Deafness and Other Communication Disorders Advisory Board on April 30, 1993. The meeting will take place from 8:30 a.m. to 4:30 p.m. in Conference Room 6, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting, which will be open to the public, is being held to discuss the Board's activities and to present special reports. Attendance by the public will be limited to the space available.

Summaries of the Board's meeting and a roster of members may be obtained from Ms. Mirene Boerner, Acting Executive Director, National Deafness and Other Communication Disorders Advisory Board, Building 31, room 3C08, National Institutes of Health, Bethesda, Maryland 20892, (301) 402–1129, upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Acting Executive Director in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173, Biological Research Related to Deafness and Communication Disorders)

Dated: March 1, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–5564 Filed 3–10–93; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Administration

[Docket No. D–93–1020; FR–3439–D–01]

Amendment of Redelegation of Procurement Authority

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice of amendment of redelegation of procurement authority.

SUMMARY: The redelegation of authority published in the **Federal Register** on December 7, 1992 at 57 FR 57841 (Docket No. D–92–984; FR–3341–D–01) is amended to add language to redelegate procurement authority to the Director, Office of Procurement and Contracts.

EFFECTIVE DATE: March 3, 1993.

FOR FURTHER INFORMATION CONTACT: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Office of Procurement and Contracts, room 5262, 451 Seventh Street, SW., Washington, DC 21410, (202) 708–0294. (This is not a toll-free number.).

SUPPLEMENTARY INFORMATION: A redelegation of procurement authority is being amended to update and consolidate existing authority and eliminate obsolete authority concerning the Director, Office of Procurement and Contracts.

Accordingly, the redelegation of authority published in the **Federal Register** on December 7, 1992 at 57 FR 57841 (Docket No. D–92–984; FR–3341–D–01) is amended to add a new paragraph 2 to Section A, Authority Redelegated, as follows:

Section A. Amendment of Redelegation of Authority

A new paragraph 2 is inserted into section A of the redelegation of authority published in the **Federal Register** on December 7, 1992 at 57 FR 57841 (Docket No. D–92–984; FR–3341–D–01), to read as follows:

2. The Director, Office of Procurement and Contracts, is designated the Department's principal Contracting Officer and may:

a. Enter into and administer all procurement contracts and interagency agreements for property and services required by the Department (including the publication in newspapers of advertisements, notices, or proposals);

b. Enter into and administer grants and cooperative agreements in support of the Department's discretionary assistance programs; and,

c. Make determinations and findings regarding the use of advance payments under FAR Subpart 32.4 with the concurrence of the Director, Office of Finance and Accounting.

d. Redelegate the authority:

(1) In a. and b. above to qualified Office of Procurement and Contracts employees;

(2) Respecting the following simplified purchasing procedures to qualified Departmental employees:

(i) Use of SF–44, Purchase Order-Invoice-Voucher (FAR 13.505–3);

(ii) Issuance of call orders under established Blanket Purchase Agreements (FAR subpart 13.2);

(iii) Use of the Government-wide Commercial Credit Card system to place open market small purchases (FAR subpart 13.5), delivery orders under

GSA Federal Supply Schedules (FAR subpart 8.4), and delivery orders under established Departmental indefinite-delivery contracts.

Section A, paragraph 2 of the redelegation of authority published in the **Federal Register** on December 7, 1992 at 57 FR 57841 (Docket No. D–92–984; FR–3341–D–01) is redesignated as paragraph 3, and the reference cited in the final subparagraph thereunder is redesignated as "3b(3)(ii)".

Section B. Redelegations Revoked

All redelegations of procurement authority to the Director, Office of Procurement and Contracts, prior to this redelegation of authority, are revoked in their entirety.

Authority: 41 U.S.C. 414(2); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: March 3, 1993.

Michael F. Hill,

Acting Assistant Secretary for Administration.

[FR Doc. 93–5551 Filed 3–10–93; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–702631

Applicant: U.S. Fish and Wildlife Service, Region 1, Portland, OR.

The applicant requests an amendment to their current permit to authorize take activities with the following aquatic snails: Idaho springsnail (*Pyrgulopsis idahoensis*), Bruneau Hot Springsnail (*Pyrgulopsis bruneauensis*), Utah valvata (*Valvata utahensis*), Snake River physa (*Physa natricina*), Banbury Springs lanx (undescribed *Lanx*) and underscribed species: Bliss Rapids snail, for scientific purposes and the enhancement of propagation or survival in accordance with approved recovery activities.

PRT–776114

Applicant: Joel Morrow, Richmond, Texas.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive-herd maintained by Mr. J.C. Troskie, "Welkom", Somerset East, South Africa, for the purpose of enhancement of survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: March 5, 1993.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 93–5560 Filed 3–10–93; 8:45 am]

BILLING CODE 4310–55–M

Zebra Mussel Coordination Committee Meeting

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Zebra Mussel Coordination Committee (Committee), a committee of the Aquatic Nuisance Species Task Force. A number of subjects will be discussed, including updates on agency activities, status of research inventory database, public outreach and education, and research needs. The meeting is open to the public. Interested persons may make oral statements to the Committee or may file written statements for consideration.

DATES: The Zebra Mussel Coordination Committee will meet from 1 p.m. to 5 p.m. on Monday, March 29, 1993.

ADDRESSES: The meeting will be held at the Drake Hotel, 140 East Walton Place, Chicago, Illinois 60611, (312) 787–2200.

FOR FURTHER INFORMATION CONTACT: Dr. Alfred Beeton, National Oceanic and Atmospheric Administration, Great Lakes Environmental Research Laboratory, 2205 Commonwealth Blvd., Ann Arbor, MI 48105 at (313) 668–2235 or Dr. Edwin Theriot, U.S. Army Engineer Waterways Experiment Station, CEWES–ER–A, 3909 Halls Ferry Road, Vicksburg, Mississippi 39180 at (601) 634–2678.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. I), this notice announces a meeting of the Zebra Mussel Coordination Committee established under the authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Pub. L. 101–646, 104 Stat. 4761, 16 U.S.C. 4701 *et seq.*, November 29, 1990). Minutes of meeting will be maintained by Coordinator, Aquatic Nuisance Species Task Force, room 840, 4401 North Fairfax Drive, Arlington, Virginia 22203 and the Zebra Mussel Coordination Committee Chairman, National Oceanic and Atmospheric Administration, Great Lakes Environmental Research Laboratory, 2205 Commonwealth Blvd., Ann Arbor, MI 48105 and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: March 5, 1993.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 93–5649 Filed 3–10–93; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[CO–920–03–4120–03; COC 53560]

Public Hearing and Request for Comments on Environmental Assessment, Maximum Economic Recovery Report, and Fair Market Value; Application for Competitive Coal Lease COC 53560; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public hearing.

SUMMARY: Bureau of Land Management, Colorado State Office, Lakewood, Colorado, hereby gives notice that a public hearing will be held to receive comments on the environmental assessment, maximum economic recovery, and fair market value of federal coal to be offered. An application for coal lease was filed by Cyprus Western Coal Company requesting the Bureau of Land Management offer for competitive lease 544.08 acres of Federal coal in Routt County, Colorado.

DATES: The public hearing will be held at 7 p.m., April 9, 1993. Written comments should be received no later than April 15, 1993.

ADDRESSES: The public hearing will be held in the Yampa Valley Electric Association Building, 32 10th Street, Steamboat Springs, Colorado. Written

comments should be addressed to the Bureau of Land Management, Little Snake Resource Area Office, 1280 Industrial Avenue, Craig, Colorado 81625.

FOR FURTHER INFORMATION CONTACT: John Husband, Area Manager, Little Snake Resource Area Office at the address above, or by telephone at (303) 824–4441.

SUPPLEMENTARY INFORMATION: Bureau of Land Management, Colorado State Office, Lakewood, Colorado, hereby gives notice that a public hearing will be held on April 9, 1993, at 7 p.m., in the Yampa Valley Electric Association Building, 32 10th Street, Steamboat Springs, Colorado.

An application for coal lease was filed by Cyprus Western Coal Company requesting the Bureau of Land Management offer for competitive lease Federal coal in the lands outside established coal production regions described as:

T. 5 N., R. 86 W., 6th P.M.
Sec. 31, lots 1, 2, W½NE¼, and E½NW¼.
T. 5 N., R. 87 W., 6th P.M.
Sec. 36, lots 1, 2, W½NE¼, and NW¼.
Containing 544.08 acres.

The coal resource to be offered is limited to coal recoverable by underground mining methods.

The purpose of the hearing is to obtain public comments on the environmental assessment and on the following items:

(1) The method of mining to be employed to obtain maximum economic recovery of the coal,

(2) The impact that mining the coal in the proposed leasehold may have on the area, and

(3) The methods of determining the fair market value of the coal to be offered.

Written requests to testify orally at the April 9, 1993, public hearing should be received at the Little Snake Resource Area Office prior to the close of business April 9, 1993. Those who indicate they wish to testify when they register at the hearing may have an opportunity if time is available.

In addition, the public is invited to submit written comments concerning the fair market value and maximum economic recovery of the coal resource. Public comments will be utilized in establishing fair market value for the coal resource in the described lands. Comments should address specific factors related to fair market value including, but not limited to:

1. The quality and quantity of the coal resource.

2. The price that the mined coal would bring in the market place.

3. The cost of producing the coal.

4. The interest rate at which anticipated income streams would be discounted.

5. Depreciation and other accounting factors.

6. The mining method or methods which would achieve maximum economic recovery of the coal.

7. Documented information on the terms and conditions of recent and similar coal land transactions in the lease sale area, and

8. Any comparable sales data of similar coal lands.

Should any information submitted as comments be considered to be proprietary by the commenter, the information should be labeled as such and stated in the first page of the submission. Written comments on the environmental assessment, maximum economic recovery, and fair market value should be sent to the Little Snake Resource Area Office at the above address prior to close of business on April 15, 1993.

Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

The Draft Environmental Assessment and Maximum Economic Recovery Report are available from the Little Snake Resource Area office upon request.

A copy of the Draft Environmental Assessment, the Maximum Economic Recovery Report, the case file, and the comments submitted by the public, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado.

Dated: March 5, 1993.

Richard D. Tate,

Chief, Mining Law and Solid, Minerals Adjudication Section.

[FR Doc. 93–5587 Filed 3–10–93; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–03–4410–04]

Green River RMP Draft Environmental Impact Statement; Extension of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Due to the complexity and length of the Green River RMP Draft EIS, the public comment period is hereby extended until April 19, 1993. This is to allow sufficient time for interested parties to complete their reviews of the document and to submit their comments to the BLM.

DATES: Comments will be accepted until April 19, 1993. Other public involvement activities during the planning process will be announced through the **Federal Register**, local news media, and public mailings.

ADDRESSES: Written comments should be sent to the Bureau of Land Management, Rock Springs District Office, P.O. Box 1869, Rock Springs, Wyoming 82902–1869, Attention: Green River RMP Team Leader.

FOR FURTHER INFORMATION CONTACT: Bill LeBarron, Green River Resource Area Manager, 1993 Dewar Drive, Rock Springs, Wyoming 82901, phone: (307) 362–6422, or Renée Dana, Team Leader at the District Office address above, phone: (307) 382–5350.

SUPPLEMENTARY INFORMATION: The Draft Green River RMP Draft EIS evaluates four resource management plan alternatives, including BLM's preferred alternative, for managing the Green River planning area. Each alternative analyzed in detail represents a complete and reasonable land use plan that could be used to guide the management of the planning area. The planning area includes about 3.6 million acres of public land surface and 3.7 million acres of Federal mineral estate administered by the BLM within the Green River Resource Area. The planning area is located in southwestern Wyoming, in Sweetwater, Uinta, Lincoln, Sublette, and Fremont counties.

Included in the draft RMP EIS is documentation of the coal screening process, including the Application of the Coal Unsuitability Criteria, conducted on the Federal coal lands in the planning area. About 12,600 acres of BLM-administered public land were found to be unsuitable for further consideration for Federal coal leasing under five of the criteria: (1) Federal Land Systems, (2) Rights-of-Way and Easements, (3) Wilderness Study Areas, (16) Floodplains, and (17) Municipal Watersheds.

Copies of the Green River RMP Draft EIS are available at the Green River Resource Area Office at the address listed above.

Dated: March 5, 1993.

Ray Brubaker,

State Director, Wyoming.

[FR Doc. 93–5589 Filed 3–10–93 8:45 am]

BILLING CODE 4310–33–M

Bureau of Land Management

[CA-058-4210-02]

Intent To Prepare an Environmental Impact Statement; Clear Lake Resource Area, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) on an effluent pipeline from various Lake County Communities to The Geysers Geothermal Field and notice of scoping meetings.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management, Clear Lake Resource Area, will be directing the preparation of an EIS to be prepared by a third party contractor on the impacts of a proposed pipeline carrying treated wastewater from various Lake County locations to The Geysers Geothermal Field for injection. The pipeline will affect Federal and non-Federal land; therefore, a joint EIS/EIR will be prepared in cooperation with the County of Lake.

DATES: Public scoping meetings will be held to solicit public input on issues or concerns to be assessed in the development of the Draft EIR/EIS, and to identify affected or interested parties. Public scoping meetings will be held beginning at 10 a.m. on March 26, 1993 at the Lake County Courthouse in the Board of Supervisors chambers located at 255 North Forbes Street, Lakeport, and at 1:30 p.m. on March 25, 1993 on the 20th floor of the Renaissance Building located at 801 K Street in Sacramento. Written comments on the proposed project and scope of the EIR/EIS will be accepted until April 16, 1993.

ADDRESSES: Comments should be sent to the Bureau of Land Management, 555 Leslie St., Ukiah, CA 95482, ATTN: Rich Estabrook.

FOR FURTHER INFORMATION CONTACT: Rich Estabrook, Bureau of Land Management, (707) 462-3873; Mark Dellinger, Lake County Planning Dept., (707) 263-2221.

SUPPLEMENTARY INFORMATION: The primary focus of this EIS/EIR is the Southeast Geysers Effluent Pipeline and Injection Project. A consortium of a municipal joint powers agency (Northern California Power Agency, NCPA) and two private geothermal companies (Calpine Corporation and the Pacific Gas & Electricity Company, PG&E) would participate in the project with Lake County Sanitation District (LACOSAN). A 26 mile pipeline would be constructed and operated by LACOSAN while the distribution piping and injection operations would be the responsibility of NCPA and Calpine. In the event that The Geysers could not receive the treated effluent, a back-up disposal well on NCPA's leasehold would be utilized by LACOSAN. There are two purposes for this project: LACOSAN would use this as a wastewater disposal method and the geothermal industry participants would use the treated effluent as a means of geothermal reservoir enhancement and to reduce steam pressure decline.

The proposal includes construction of a 20"-24" steel pipeline which would carry up to 5800 gallons per minute (GPM) of secondarily treated wastewater. The approximately 26 mile long pipeline would begin at the Southeast Regional Wastewater Treatment Plant (SRWTP) north of the City of Clear Lake and end in the southeast portion of The Geysers Geothermal Field, between PG&E's Unit 13 and NCPA's powerplants in southern Lake County. The project would also include a water intake and piping from Clear Lake to the SRWTP treated effluent reservoir. Steel tanks would be located near Childers Peak and PG&E Unit 13 in The Geysers to be used for balancing pressure and volume of the effluent. The pipeline would also be connected to the Middletown Wastewater Treatment Plant and will receive effluent from this LACOSAN-operated facility. Most of the main pipeline would be buried, although some pipe will be above ground, especially pumping and regulating stations. Electrical supply to the pumping stations would be brought in through tap lines from existing transmission lines. In The Geysers steamfield, significant portions of the main pipeline and all of the distribution system would be above ground. Much of the distribution piping and all of the injection wells are already in existence.

Treated effluent would come from the City of Clearlake and surrounding areas, the Community of Lower Lake, and the Community of Middletown. In the early years of operation, make-up water would come from Clear Lake. As the volume of effluent increases in the pipeline, the volume of lake water would decrease.

In The Geysers, several leaseholds and powerplants would be involved. Treated effluent would be distributed to about 12 injection wells located in NCPA's leasehold and Calpine's leaseholds which supply steam to PG&E's Units 13 and 16. A small amount of effluent would go to the Bear Canyon Creek leasehold operated by Calpine. A back-up disposal well located in NCPA's leasehold on the "M" Pad is also included in the proposed project.

Of the proposed 26 mile course of the pipeline, approximately 2 miles (8%) will cross public land. Between 50% to 80% of the effluent will be injected into federal leases at The Geysers.

Robert Menendez,

Acting Clear Lake Resource Area Manager.

[FR Doc. 93-5588 Filed 3-10-93; 8:45 am]

BILLING CODE 4310-40-M

[ID-010-03-4320-01-ADVB]

Rescheduling of meeting.

AGENCY: Boise District, Bureau of Land Management, ID.

SUMMARY: The Boise District Grazing Advisory Board Meeting originally scheduled for February 23, 1993 was postponed due to the weather. The meeting has been rescheduled for Wednesday, April 14, 1993. The following items will be discussed:

Expenditure of FY93 Grazing Advisory Board Funds
Expenditure of Range Improvement Funds for FY93
Expenditure of Range Improvement Funds for Wildlife Habitat Improvement Projects FY91 & 92
Animal Damage Control

The meeting is open to the public and a comment period will be held at 2 p.m.

DATES: The meeting will begin at 9 a.m. Wednesday, April 14, 1993, in the district office conference room.

ADDRESSES: The Boise District Office is located at 3948 Development Avenue, Boise, Idaho, 83705.

FOR FURTHER INFORMATION CONTACT: Fred Schley, Boise District, BLM, (208) 384-3300.

Rodger E. Schmitt,

Associate District Manager.

[FR Doc. 93-6595 Filed 3-10-93; 8:45 am]

BILLING CODE 4310-GG-M

[CO-070-0-4410-13-241A]

Grand Junction District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice meeting.

SUMMARY: The Grand Junction District Advisory Council will meet on Tuesday, April 13, 1992. The meeting will convene at 9 a.m. in the County Commissioners Room (301) in the County Courthouse in Glenwood Springs, Colorado.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include (1) Opening Remarks, (2) Update on Ruby Canyon, (3) Update on Hawxhurst land exchange, (4) King Mountain Update, (5) Landfill Update, (6) Briefing on Upper Colorado River Alliance, (7) Discussion of Glenwood Springs Travel Management Planning and public comment.

The meeting is open to the public. Interested persons may make oral statements to the Council between 1:30 and 2:45 p.m. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 2815 H Road, Grand Junction, Colorado, 81506 by April 5, 1992. Depending on the number of persons wishing to make oral statements, a per person may be established by the District Manager.

Minutes of the Council will be available for public inspection in the District Office thirty (30) days following the meeting.

FOR FURTHER INFORMATION CONTACT: Tim Hartzell, District Manager, Grand Junction District Office, Bureau of Land Management, 2815 H Road, Grand Junction, Colorado 81506, phone (303) 244–3000.

Lynda L. Boody,

Assistant District Manager for Administrative Services.

[FR Doc. 93–5546 Filed 3–10–93; 8:45 am]

BILLING CODE 4310–84–M

[OR–020–03–4210–02; G3–121]

Temporary Road Closure; Harney County, OR

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: A portion of the Skull Creek Road in Harney County, Oregon is being temporarily closed to all motorized vehicular traffic, except as noted below, under the provisions of 43 CFR 8364.1.

SUPPLEMENTARY INFORMATION: The Skull Creek Road from its junction with the Radar County Road No. 806 in the SW¼NE¼, sec. 3, T. 23 S., R. 30 E., Willamette Meridian, approximately 9.9 miles north to its junction with a secondary road in the E½SW¼, sec. 2, T. 22 S., R. 29 E. is being closed to all motorized vehicular traffic with the following exceptions:

1. Snowmobiles.
2. Private landowners who would normally access their property by use of the segment of Skull Creek Road being closed.
3. BLM grazing permittees during their permitted season of use who would normally access their allotments by use of the segment of Skull Creek Road being closed.
4. Law enforcement and other emergency personnel while engaged in official duties.
5. Other individuals who can demonstrate a need to travel the road by the types of vehicles being prohibited.
6. BLM employees while engaged in official duties.

Individuals who meet one of these criteria and who desire to utilize the road shall possess, while traveling the road, a written waiver issued by the Authorized Officer. Snowmobile operators, land management, law enforcement and emergency personnel need not have a written waiver.

Failure to comply with this temporary closure may result in a fine of not more than $1,000 or imprisonment not to exceed 12 months, or both, in accordance with 43 CFR 8360.0–7.

The closure is necessary to prevent needless damage to the road surface, road base, and adjacent resources due to extremely wet soil conditions resulting from excessive snow pack this winter. Unnecessary traffic on the road will also cause harassment and disturbance to stressed wildlife populations in the area. An analysis of the closure is available for inspection at the address listed below.

EFFECTIVE DATES: The temporary closure will be effective upon posting and closure of the road by the Authorized Officer. It will remain in effect until, as determined by the Authorized Officer, road and soil conditions have dried sufficiently to prevent damage to the road and adjacent resources.

FOR FURTHER INFORMATION CONTACT: Craig M. Hansen, Area Manager, or Skip Renchler, Realty Specialist, Three Rivers Resource Area, HC 74, 12533 HWY 20 West, Hines, Oregon 97738, telephone (503) 573–5241.

Dated: March 4, 1993.

Craig M. Hansen,

Three Rivers Resource Area Manager.

[FR Doc. 93–5645 Filed 3–10–93; 8:45 am]

BILLING CODE 4310–33–M

[CA–068–4333–05 and 7122–08–1016; CACA 28304]

Notice of Issuance of Land Conveyance Document and Order Opening Lands Acquired in Exchange; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this exchange was to acquire 986.64 acres of non-Federal lands within the Black Mountain Cultural Area/Area of Critical Environmental Concern, Western Mojave Land Tenure Adjustment Project Consolidation Zone; East Mojave National Scenic Area; and Rasor Off-Highway Vehicle Area. This exchange will consolidate the public lands within the above areas. The public interest was well served through completion of this exchange. This action will open 320 acres to surface entry, mining, and mineral leasing. The remaining 666.64 acres will be closed to surface entry, mining, and mineral leasing.

EFFECTIVE DATE: April 12, 1993.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, 916–978–4820.

SUPPLEMENTARY INFORMATION: A cash payment in the amount of $144,600 has been paid to the United States by John R. Cooley and Evelyn J. Cooley to equalize the values between the non-Federal lands and the public lands.

1. The United States conveyed the following described lands to John R. Cooley and Evelyn J. Cooley under section 206 of the Act of October 21, 1976, 43 U.S.C. 1716 (1988):

San Bernardino Meridian

T. 5 N., R. 3 W.,
Sec. 6, lots 13 and 14.
T. 6 N., R. 3 W.,
Sec. 31, W½NE¼NW¼SE¼, E½NW¼NW¼SE¼, NE¼SW¼NW¼SE¼, SE¼SW¼NW¼SE¼, NW¼SE¼NW¼SE¼, SW¼SE¼NW¼SE¼, W½NE¼SW¼SE¼, NE¼NW¼SW¼SE¼, S½NE¼SW¼SE¼, E½SW¼SW¼SE¼, and W½SE¼SW¼SE¼.
T. 8 N., R. 4 W.,
Sec. 19, lot 1 of NW¼ and W½NE¼.

The areas described aggregate 214.41 acres of public land in San Bernardino County.

2. In exchange for these lands, the United States acquired the following described lands from John R. Cooley and Evelyn J. Cooley:

Mount Diablo Meridian

T. 31 S., R. 45 E.,
Sec. 31, lots 1 to 4, inclusive, E½W½, and E½.

San Bernardino Meridian

T. 11 N., R. 7 E.
Sec. 2, E½SE¼;
Sec. 11, N½NE¼.
T. 12 N., R. 8 E.,
Sec. 26, SW¼SW¼;
Sec. 27, SE¼SE¼;
Sec. 34, NE¼NE¼;
Sec. 35, NW¼NW¼.

The areas described aggregate 986.64 acres of non-Federal lands in San Bernardino County.

3. The following described land will be closed to the operation of the public land laws, including the mining and mineral leasing laws, pending completion of the West Mojave Coordinated Management Plan:

Mount Diablo Meridian

T. 31 S., R. 45 E.,
Sec. 31, lots 1 to 4, inclusive, E½W½, and E½.
The area described contains 666.64 acres in San Bernardino County.

At 10 a.m. on April 12, 1993, the lands described in paragraph 2, except for that described in paragraph 3, will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on April 12, 1993, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on April 12, 1993, the lands described in paragraph 2, except for that described in paragraph 3, will be opened to location and entry under the United States mining laws and to the operation of the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: March 3, 1993.

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 93–5596 Filed 3–10–93; 8:45 am]

BILLING CODE 4310–86–M

[NV–930–4210–05; Nev–063922]

Termination of Recreation and Public Purposes Classification and Opening Order, NV

March 4, 1993.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates a Recreation and Public Purposes Classification in its entirety and provides for opening the land to appropriation under the public land laws and the general mining laws.

EFFECTIVE DATE: April 12, 1993.

FOR FURTHER INFORMATION CONTACT: Mary Clark, Nevada State Office, Bureau of Land Management, 850 Harvard Way, Reno, NV 89520, (702) 785–6530.

SUMMARY: On September 28, 1961, Classification No. 62–3 was issued which classified the following described land in Esmeralda County, Nevada, for disposal under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, 896–1 to 869–4):

Mount Diablo Meridian, Nevada

T. 3 S., R. 35 E.,
Sec. 36, lot 3.
Comprising 34.95 acres.

The land was segregated from all forms of appropriation, including location under the mining laws, except as to applications under the Recreation and Public Purposes Act and the mineral leasing laws.

No application was filed within 18 months after issuance of the aforementioned classification order. Therefore, pursuant to section 7 of the Taylor Grazing Act (48 Stat. 1272) and the authority delegated by appendix 1 of Bureau of Land Management Manual 1203, the aforementioned Recreation and Public Purposes classification is hereby terminated in its entirety. At 10 a.m. on April 12, 1993, the above described land will become open to the operation of the public land laws generally, subject to existing rights, the provisions of existing withdrawals, and the requirements of applicable laws, rules, and regulations.

At 10 a.m. on April 12, 1993, the above described land will become open to location under the United States mining laws. Appropriation of the land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The land has been and will remain open to the operation of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, 869–1 to 869–4), and to leasing under the mineral leasing laws.

Billy R. Templeton,

State Director, Nevada.

[FR Doc. 93–5598 Filed 3–10–93; 8:45 am]

BILLING CODE 4310–HC–M

[AZ–920–03–4212–13; AZA–25355]

Arizona; Exchange of Public and Private Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of exchange documents.

SUMMARY: Notice is hereby given of the completion of an exchange between the United States and ASARCO Incorporated. The United States transferred 4943.66 acres located in Pinal and Pima County, Arizona, and ASARCO Incorporated transferred 548.64 acres of land situated in Pima County, Arizona.

FOR FURTHER INFORMATION CONTACT: Evelyn Stob, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 640–5534.

SUPPLEMENTARY INFORMATION: On March 20, 1992, and December 23, 1992, the Bureau of Land Management transferred the following described lands (all in the Gila and Salt River Meridian, Arizona) to ASARCO, Incorporated, pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Deed No. AZ–92–002) (4.89 acres):

T. 14 S., R. 16 E.,
Sec. 7, N½SE¼NE¼;

except therefrom the East 30 ft. lying in the right-of-way of Freeman Extension as shown on the road map recorded in Book 2 of Road Maps, page 156.

Patent No. 02–92–0012 (3,804.54 acres):

T. 11 S., R. 8 E.,
Sec. 28, S½N½N½S½N½N½, S½N½S½N½N½, S½S½N½N½, S½N½, S½;
Sec. 29, all;
Sec. 32, lots 2, 5, 9, 10, 11, 12, SE¼SW¼, SW¼SE¼;
Sec. 33, lots 1, 9–20, incl., N½NE¼;

Sec. 34, lots 2, 3, W½E½NE¼, W½NE¼, NW¼, E½SW¼, W½E½E½SE¼, W½E½SE¼, W½SE¼.
T. 12 S., R. 8 E.,
Sec. 3, lots 16, 17 and 20;
Sec. 4, lots 13 to 23, incl.;
Sec. 5, lots 4 to 7 incl., 14 to 20 incl., SW¼, W½SE¼;
Sec. 10, lots 13 and 14;
Sec. 14, lot 3;
Sec. 15, lot 5.
T. 12 S., R. 9 E.,
Sec. 17, all;
Sec. 20, N½NE¼, NE¼NW¼.

Patent No. 02–92–0013 (100.76 acres):

T. 16 S., R. 12 E.,
Sec. 35, lots 6 to 8 incl.;
T. 17 S., R. 12 E.,
Sec. 2, lots 19 to 26 incl.

Patent No. 02–92–0014 (864.26 acres):

T. 3 S., R. 13 E.,
Sec. 24, E½NE¼, NE¼SE¼.
T. 3 S., R. 14 E.,
Sec. 19, lots 2, 3 and 4, E½SW¼;
Sec. 29, W½, S½SE¼;
Sec. 30, N½NE¼, SE¼NE¼, NE¼NW¼.

Patent No. 02–93–0002 (169.21 acres):

T. 17 S., R. 12 E.,
Sec. 11, lots 2, 3, 4, 8, 9, 10.

In exchange, ASARCO Incorporated conveyed the following described lands, containing 548.64 acres, to the United States by General Warranty Deed:

Gila and Salt River Meridian, Arizona

T. 14 S., R. 16 E.,
Sec. 8, SE¼SE¼, EXCEPT the south 40 ft. within East Broadway Boulevard, as conveyed to Pima County by instrument recorded in Docket 4447, Page 98; EXCEPT the East 30 ft. within Wentworth Road, as shown on the map recorded in Book 2 of Maps and Plats, Page 98.
T. 17 S., R. 17E.,
Sec. 28 E½NW¼.
T. 17 S., R. 18 E.,
Sec. 17, the East 1560 feet of said section;
Sec. 20, NE¼NW¼, SW¼SW¼;
Sec. 29, NW¼NW¼.
T. 18 S., R. 18 E.,
Sec. 6, SE¼SW¼;
Sec. 11, NE¼SE¼.
T. 12 S., R. 9 E.,
Sec. 32, Iron Cap No. 1 and Iron Cap No. 2, lode mining claims, designated as Mineral Survey No. 3885.

The total value of the Federal land was $1,460,010; the value of the private land was $1,738,000. ASARCO waived the equalization payment due from the United States.

The lands received in this exchange have become public land. They will not be available for location under the mining laws of application for sale, entry or mineral leasing until such availability is published in the **Federal Register**.

Mary Jo Yoas,
Chief, Branch of Lands Operations.
[FR Doc. 93–5599 Filed 3–10–93; 8:45 am]
BILLING CODE 4310–32–M

[NV–930–4210–05; N–41567–04]

Partial Termination of Recreation and Public Purposes Classification and Opening Order, NV

March 4, 1993

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates a Recreation and Public Purposes Classification in part and provides for opening the affected land to appropriation under the public land laws and the general mining laws.

EFFECTIVE DATE: April 12, 1993.

FOR FURTHER INFORMATION CONTACT: Mary Clark, Nevada State Office, Bureau of Land Management, 850 Harvard Way, Reno, NV 89520, (702) 785–6530.

SUMMARY: On March 12, 1992, a Notice of Realty Action (NORA) was published in the **Federal Register** (57 FR 8777) identifying several parcels of public land that the Clark County School District had applied for pursuant to the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, 869–1 to 869–4). Upon publication of the NORA in the **Federal Register**, the land became segregated from appropriation under the public land laws and the general mining laws; the classification became effective 60 days thereafter.

A right-of-way for a drainage channel bisects the land requested in application No. N–41567–04. Since a school site is not compatible with a drainage channel, the School District has withdrawn that application, which effects the following described land comprising 10 acres:

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
Sec. 5, S½NE¼NW¼SE¼, N½SE¼NW¼SE¼.

Pursuant to section 7 of the Taylor Grazing Act (48 Stat. 1272) and the authority delegated by Appendix 1 of Bureau of Land Management Manual 1203, the aforementioned Recreation and Public Purposes classification is hereby terminated as it affects the above described land.

At 10 a.m. on April 12, 1993, the above described land will become open to the operation of the public land laws generally, subject to existing rights, the provisions of existing withdrawals, and the requirements of applicable laws, rules, and regulations.

At 10 a.m. on April 12, 1993, the above described land will become open to location under the United States mining laws. Appropriation of the land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The land has been and will remain open to the operation of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, 869–1 to 869–4), and to leasing under the mineral leasing laws.

Billy R. Templeton,
State Director, Nevada.
[FR Doc. 93–5597 Filed 3–10–93; 8:45 am]
BILLING CODE 4310–HC–M

[CA–940–4210–06; CACA 27744]

Cancellation of Proposed Withdrawal; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, has canceled its application to withdraw 825.92 acres of National Forest System lands for the Bower Cave Historical Area. The temporary 2-year segregation of the proposed withdrawal expired on December 27, 1992. The land is included in a new application for withdrawal and remains closed to location and entry under the United States mining laws (30 U.S.C. ch. 2).

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State office, 2800 Cottage Way, room E–2845, Sacramento, California 95825, 916–978–4820.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Withdrawal was published in the **Federal Register**, 55 FR 53364, December 28, 1990, which segregated the land described therein from location and entry under the mining laws, subject to valid existing rights. The Forest Service has canceled this application and filed a new application to withdraw additional land to expand Bower Cave Historical Area so as to

conform with the Stanislaus National Forest Land and Resource Management Plan approved October 28, 1991. The land is described as follows:

Mount Diablo Meridan

Stanislaus National Forest

T. 2 S., R. 17 E.,
Sec. 13, S½SW¼SW¼, SW¼SE¼SW¼, S½NE¼, and N½,SE¼;
Sec. 14, N½SW¼, W½SE¼, and SE¼,SE¼;
Sec. 15, SE¼NE¼ and NE¼SE¼;
Sec. 23, N¼ lot 1;
Sec. 24, lot 1, N½NE¼, and NE¼NW¼.
T. 2 S., R. 18 E.,
Sec. 19, lots 1, 2, and 3, NE¼SW¼, and NW¼SE¼.

The areas described aggregate 825.92 acres in Mariposa County.

Dated: March 3, 1993.

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 93–5602 Filed 3–10–93; 8:45 am]

BILLING CODE 4310–40–M

National Park Service

Final General Management Plan, Development Concept Plans and Environmental Impact Statement, Great Basin National Park; Record of Decision

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190, and specifically to the regulations promulgated by the Council on Environmental Quality at 40 CFR 1505.2, the Department of the Interior, National Park Service (NPS) has prepared a Record of Decision on the Final General Management Plan, Development Concept Plans/ Environmental Impact Statement for Great Basin National Park.

The NPS will implement the General Management Plan and related development concept plans in accordance with the proposal set forth in the Final General Management Plan, Development Concept Plans/ Environmental Impact Statement (GMP/ EIS) issued in January, 1993 (58 FR 3042). The Draft GMP/EIS was issued in October, 1991 (56 FR 50924).

Copies of the Record of Decision may be obtained either from the Superintendent, Great Basin National Park, Baker, Nevada 89311, or the National Park Service, Western Regional Office, Division of Planning, Grants and Environmental Quality, 600 Harrison Street, suite 600, San Francisco, California 94107–1372.

Dated: March 2, 1993.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 93–5544 Filed 3–10–93; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–567 (Final)]

Ferrosilicon From the People's Republic of China

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of ferrosilicon,[3] provided for in subheadings 7202.21.10, 7202.21.50, 7202.21.75, 7202.21.90, and 7202.29.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective November 5, 1992, following a preliminary determination by the Department of Commerce that imports of ferrosilicon from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of December 2, 1992 (57 FR 57076). The hearing was held in Washington, DC, on January 22, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on March 4, 1993. The views of the Commission are contained in USITC Publication 2606 (March 1993), entitled "Ferrosilicon from the People's Republic of China: Determination of the Commission in Investigation No. 731–TA–567 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: March 5, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–5536 Filed 3–10–93; 8:45 am]

BILLING CODE 7020–02–M

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioners Brunsdale and Crawford dissent.

[3] For purposes of this investigation, the subject product is ferrosilicon, a ferroalloy generally containing, by weight, not less than four percent iron, more than 8 percent but not more than 96 percent silicon, not more than 10 percent chromium, not more than 30 percent manganese, not more than 3 percent phosphorus, less than 2.75 percent magnesium, and not more than 10 percent calcium or any other element.

INTERSTATE COMMERCE COMMISSION

Burlington Northern Railroad Co.;

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Johnnie Davis or Ms. Tawanna Glover-Sanders, Interstate Commerce Commission, Section of Energy and Environment, Room 3219, Washington, DC 20423, (202) 927–5750 or (202) 927–6245.

Comments on the following assessment are due 15 days after the date of availability:

Comments on the following assessment are due 30 days after the date of availability:

AB–6 (Sub-No. 346X), Burlington Northern Railroad Company—Abandonment—Between Lyle and Klickitat, In Klickitat County, Washington. EA available 3/1/93.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5641 Filed 3–10–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32229]

Burlington Northern Railroad Company—Construction and Operation Exemption—Macon and Randolph Counties, MO

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission conditionally exempts from the prior approval requirements of 49 U.S.C. 10901 Burlington Northern Railroad Company's (BN) construction and operation of about 17 miles of track in Macon and Randolph Counties, MO. BN will acquire from Associated Electric Cooperative (AECI) and rehabilitate about 6.85 miles of line between milepost 9.87, near Binkley, and milepost 16.72, at the Thomas Hill Power Plant near Moberly. BN will construct and operate about 10.15 miles of new line between milepost 9.87 and BN's main line at milepost 76.18, near Bevier. The exemption is subject to the Commission's subsequent approval of the environmental aspects of the proposal.

DATES: The Commission's decision to exempt the proposed transaction will become effective upon completion of its environmental review process and issuance of a subsequent decision. Petitions for reconsideration must be filed by March 31, 1993.

ADDRESSES: Send pleadings referring to Finance Docket No. 32229 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: Michael E. Roper, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102–5384.

FOR FURTHER INFORMATION CONTACT:

Richard B. Felder (202) 927–5610, [TDD for hearing impaired: (202) 927–5721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person, from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: March 2, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5639 Filed 3–10–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32251]

CSX Transportation, Inc.—Trackage Rights Exemption—Carey Short Line Corp.

Carey Short Line Corporation (CSLC) has agreed to grant local trackage rights to CSX Transportation, Inc. (CSXT) over the approximately 1.0-mile Carey Industrial Track, including sidings and industrial sidetracks, between the connection between CSLC and CSXT at milepost ±49.50 and the end of the segment at milepost ±48.50, at Carey, in Wyandot County, OH.[1] CSLC also has agreed that, if it later acquires all interest and ownership in CSXT's track connecting Conrail's Carey Industrial Track with CSXT's Columbus Subdivision sidetrack, at Carey, OH, it will grant CSXT trackage rights over such connecting track.[2] The trackage rights became effective on February 26, 1993.[3]

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Charles M. Rosenberger, 500 Water Street J150, Jacksonville, FL 32202.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected pursuant to Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Decided: March 5, 1993.

[1] On January 19, 1993, CSLC filed a notice of exemption under 49 CFR 1150.31 for its acquisition of the Carey Industrial Track from Consolidated Rail Corporation. See Finance Docket No. 32236, Carey Short Line Corp.—Acquisition and Operation Exemption—Consolidated Rail Corp. Line in Wyandot County, OH. The parties intended to consummate the acquisition transaction after January 26, 1993, the effective date of that notice.

[2] The parties' agreement describes the segment as follows: "all 500 feet approximately of Owner's sidetrack #156 between the aforesaid Milepost 49.50, and connection with User's sidetrackage at User's Milepost 74.00 approximately." In this description, the term "owner" refers to CSLC and "user" refers to CSXT.

[3] To qualify for an exemption under 49 CFR 1180.2(d), a railroad must file a verified notice of the transaction at least a week before the transaction is to be consummated. See 49 CFR 1180.4(g). The notice filed by CSXT in this proceeding stated that the trackage rights would become effective approximately February 23, 1993. However, because it had been filed only 4 days earlier, on February 19, 1993, the trackage rights did not become effective until February 26, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5640 Filed 3–10–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—National Center for Manufacturing Sciences, Inc.

Notice is hereby given that, on February 3, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the National Center for Manufacturing Sciences, Inc. ("NCMS") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following companies were recently accepted as active members of NCMS: Allied-Signal Inc., Morristown, NJ; Angle Incorporated, Springfield, VA; CogniSense, Inc., San Jose, CA; Cybernet Systems Corporation, Ann Arbor, MI; Eastman Kodak Company, Rochester, NY; Littleford Bros. Inc., Florence, KY; Manufacturing Laboratories Inc., Gainesville, FL; Productivity Action Associates, Inc., Livonia, MI; Progressive Tool & Industries Company, Novi, MI; Research Technologies, Inc., Edmonds, WA; and View Engineering, Inc., Simi Valley, CA. In addition, the following organizations were recently accepted as affiliate members of NCMS: The Ohio State University, Columbus, OH; and The Robert C. Byrd Institute for Advanced Flexible Manufacturing Systems, Huntington, WV. Moreover, the following companies recently resigned from active membership in NCMS: Advanced Temperature Devices, Inc., Cypress, TX; Apeiron, Inc., Vadnais Heights, MN; Ascent Logic Corporation, San Jose, CA; Dynetics Corporation, Woburn, MA; Electronics Incorporated, Mishawaka, IN; Fabreeka International, Inc., Stoughton, MA; Master Chemical Corporation, Perrysburg, OH; The Bodine Corporation, Bridgeport, CN; and The National Machinery Company, Tiffin, OH. Lastly, the following organizations recently resigned from affiliate membership in NCMS:

American Machine Tool Distributors' Association, Rockville, MD; and Northeastern Illinois University, Chicago, IL.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NCMS intends to file additional written notification disclosing all changes in membership.

On February 20, 1987, NCMS filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 17, 1987, (52 FR 8375).

The last notification was filed with the Department on November 2, 1992. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 12, 1993, (58 FR 8429).

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 93–5603 Filed 3–10–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—Petroleum Environmental Research Forum

Notice is hereby given that, on February 9, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), the participants in the Petroleum Environmental Research Forum ("PERF") Project No. 92–08, titled "Biodegradation of VOCs in Vapor Bioprocesses," have filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing (1) the identities of the parties participating in PERF Project No. 92–08 and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties participating in PERF Project No. 92–08, together with the nature and objectives of the research program, are Amoco Oil Company, Naperville, IL; BP America, Inc., Cleveland, OH; Chevron Research & Technology Co., Richmond, CA; Exxon Research & Engineering Company, Florham Park, NJ; Mobil Oil Corporation, Princeton, NJ; Phillips Petroleum Co., Bartlesville, OK; and Texaco Inc., Port Arthur, TX.

Research and Development work required in furtherance of PERF Project No. 92–08 is to be carried out by EG&G Rotron, Inc., Saugerties, NY; Envirogen, Inc., Lawrenceville, NJ; and Mr. Gero Leson, Santa Monica, CA, under contract with the above participants. The nature and objective of the research program to be carried out in accordance with this Project is to conduct an assessment of biofiltration technology to treat vapor phase contaminants of importance to petrochemical operations and petroleum-related site remediation activities.

Participation in this Project will remain open to interested persons and organizations until issuance of the final Project Report, which is presently expected to occur approximately twelve (12) months after the Project commences. The Participants intend to file additional written notifications disclosing all changes in membership of parties involved in this Project.

Information regarding participation in the Project may be obtained from Barbara J. Smith, Chevron Research and Technology Company, 100 Chevron Way, P.O. Box 1627, Richmond, CA 94802–0627.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–5604 Filed 3–10–93; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated January 19, 1993, and published in the **Federal Register** on January 27, 1993, (58 FR 6313), Minn-Dak Growers Limited, Highway 81 North, P.O. Box 1276, Grand Forks, North Dakota 58206–1276, made application to the Drug Enforcement Administration to be registered as an importer of marihuana (7360), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with title 21 Code of Federal Regulations § 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: March 4, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–5618 Filed 3–10–93; 8:45 am]

BILLING CODE 4410–09–M

Immigration and Naturalization Service

[INS No. 1394–92]

Mailing Addresses for Filing Asylum and Asylum-Related Applications and New Addresses for the Los Angeles and Chicago Asylum Offices

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: The notice provides mailing addresses for filing applications for asylum in the United States under section 208 of the Immigration and Nationality Act. This notice is necessary to streamline the processing of applications in the asylum offices. In addition, this notice provides the new mailing address for the Los Angeles Asylum Office and the Chicago Asylum Office.

FOR FURTHER INFORMATION CONTACT: Christine Davidson, Senior Policy Analyst, Office of International Affairs, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Attn: ULLICO, Third Floor; Telephone (202) 633–4389.

EFFECTIVE DATE: March 11, 1993.

SUPPLEMENTARY INFORMATION: On June 17, 1992, the Immigration and Naturalization Service published a notice in the **Federal Register** at 57 FR 27068 concerning the filing of asylum applications for the Los Angeles, Miami, Newark, and San Francisco asylum offices. This notice concerns the filing of asylum applications for the remaining three asylum offices. These offices are located in Arlington, VA; Chicago, IL; and Houston, TX, as delineated below. Beginning November 30, 1992, Form I–589, Request for Asylum in the United States, and related Forms G–325A, Biographic Information, FD–258, Applicant Chart, G–28, Notice of Entry of Appearance as Attorney or Representative, and Form I–765, Application for Employment Authorization (when accompanying the I–589), must be mailed to the respective Service Center that has jurisdiction over the alien's place of residence. The asylum applications and supporting documents must be filed in quadruplicate. A complete asylum application includes all the required forms and must include two photographs (according to ADIT specifications) for each individual included in the asylum application.

Arlington

Asylum applicants within the jurisdiction of the Arlington Asylum Office shall mail their applications to

the USINS Southern Service Center, P.O. Box 152122, Department A, Irving, TX 75015–2122. The Asylum Office in Arlington has jurisdiction over the District of Columbia, the western portion of the state of Pennsylvania currently within the jurisdiction of the Pittsburgh suboffice, and the states of Maryland, Virginia, West Virginia, North Carolina, Georgia, Alabama, and South Carolina.

Chicago

Asylum applicants within the jurisdiction of the Chicago Asylum Office shall mail their applications to the USINS Northern Service Center, room B–26, 100 Centennial Mall North, Lincoln, NE 68508. The Asylum Office in Chicago has jurisdiction over the states of Illinois, Indiana, Michigan, Wisconsin, Minnesota, North Dakota, South Dakota, Kansas, Missouri, Ohio, Iowa, Nebraska, Montana, Idaho, and Kentucky.

Houston

Asylum applicants within the jurisdiction of the Houston Asylum Office shall mail their applications to the USINS Southern Service Center, P.O. Box 152122, Department A, Irving, TX 75015–2122. The Asylum Office in Houston has jurisdiction over the states of Louisiana, Arkansas, Mississippi, Tennessee, Texas, Oklahoma, Utah, New Mexico, Colorado, and Wyoming.

Los Angeles

On October 9, 1991, the Immigration and Naturalization Service published an interim rule in the **Federal Register** at 56 FR 50810–50812 concerning mailing and street addresses for the seven asylum offices. Since that time, the Los Angeles Asylum Office has moved to 290 S. Anaheim Boulevard, Anaheim, CA 92805. The new phone number for the general public is 714–635–0126. The new mailing address for the Los Angeles Asylum Office is P.O. Box 65015, Anaheim, CA 92815–5015.

Asylum applicants within the jurisdiction of the Los Angeles Asylum Office will continue to mail their asylum and related applications to the USINS Western Service Center, P.O. Box 10589, Laguna Niguel, CA 92607–0589.

Chicago

Since the publication of the above mentioned interim rule, the Chicago Asylum Office has moved to 209 S. LaSalle Street, suite 625, Chicago, IL 60604.

Dated: March 4, 1993.

Chris Sale,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 93–5576 Filed 3–10–93; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of February 1993.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absoluiely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–28,016; Wayne Corp., Richmond, IN

TA–W–28,054; IGI Adhesives, Lyndhurst, NJ

TA–W–27,948; The Gates Rubber Co., Denver, CO

TA–W–27,991; Reggio Fashions, Inc., Shenandoah, PA

TA–W–28,006; Arcadia Fashions, Paterson, NJ

TA–W–28,034; GEHL Co., West Bend, WI

TA–W–28,117; Oil Dynamics, Inc., Tulsa, OK

TA–W–28,034; Advanced Machine Works, Inc., Houma, LA

TA–W–27,845; Intel Corp., OEM Products Div., Hillsboro, OR

TA–W–28,030; Nitrogen Products, Helena, AR

TA–W–27,863; U-Brand Corp., Ashland, OH

TA–W–27,864; U-Brand Corp., Shelby, OH

TA–W–28,079; Hallmark Fishery's, Charleston, OR

TA–W–27,928; K-W Battery Co., Skokie, IL

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA–W–28,045; Conca D'Oro, Paterson, NJ

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–28,011; Oil Industry Engineering, Inc., Tomball, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–28,062; CTC International, Mandeville, LA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–28,237; Andrews Savings & Loan Association, Andrews, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–28,252; Jackie's Quality Catering, Orem, UT

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–27,923; Western Steel Group, Elyria, OH

U.S. imports of cold finished steel bars declined absolutely and relative to domestic shipments in 1990 compared to 1989 and in the twelve month period of November to October 1991–1992 compared to the same period of November to October 1990–1991.

TA–W–28,088; Northwest Shingle Co., Bogachiel Falls, WA

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

TA–W–27,937; Amerada Hess, Houston, TX

The investigation revealed that criterion (2) and criterion (3) have not

been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

TA–W–227,981; Northwest Airlines, St. Paul, MN

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–27,897; Paterson Pellets Co., Inc., Paterson, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–28,144; Lucas Aerospace Power Transmission Corp., Utica, NY

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

TA–W–28,173; Texaco Exploration & Production, Inc., Midland, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–28,091; TRW Vehicle Safety Systems, Inc., Washington, MI

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–27,903, TA–W–27,903A; Welchem, Inc., Worland, WY and Gillette, WY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–28,099; IBM Corp., Media Dept., San Jose, CA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–28,114; General Motors Corp., Inland Fisher Guide Div., Syracuse, NY

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–27,946; John L. Cox, Oklahoma City, OK

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–28,095; Nerco Oil and Gas, Inc., Portland, OR

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–28,174; Transamerican Natural Gas Corp., Houston, TX

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification.

TA–W–27,982; Northwest Marine, Inc., Portland, OR

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA–W–27,867; Circuitech, Inc., Eatontown, NJ

A certification was issued covering all workers separated on or after September 15, 1991.

TA–W–28,060; Shape, Inc., Segoma Div., Biddeford, ME

A certification was issued covering all workers separated on or after November 9, 1991.

TA–W–28,308; Evergreen Mfg., Vancouver, WA

A certification was issued covering all workers separated on or after January 29, 1992.

TA–W–27,777; Aircraft Engines, Rutland, VT

A certification was issued covering all workers separated on or after August 23, 1991.

TA–W–27,972; Yankee Atomic Electric Co., Rowe, MA

A certification was issued covering all workers separated on or after July 9, 1991.

TA–W–27,930; Stanley G. Flagg & Co., Stowe, PA

A certification was issued covering all workers separated on or after October 15, 1991.

TA–W–27,900; Vesuvius Lava, Zelienople, PA

A certification was issued covering all workers separated on or after September 28, 1991.

TA–W–27,911; Zelienople, Greenhouse, CO

A certification was issued covering all workers separated on or after October 2, 1991.

TA–W–28,028; Orenstein Fashions, Garfield, NJ

A certification was issued covering all workers separated on or after November 28, 1991.

TA–W–27,944; Comptec, Inc., Custer, WA

A certification was issued covering all workers separated on or after August 30, 1992.

TA–W–27,994; J&R Drilling Co., Inc., Corpus Christi, TX and Operating at Various Other Locations in the State of Texas

A certification was issued covering all workers separated on or after November 5, 1991.

TA–W–27,701; Lumber System, Inc., Vancouver, WA

A certification was issued covering all workers separated on or after August 9, 1991.

TA–W–28,008; Dabri Fashions, Passaic, NJ

A certification was issued covering all workers separated on or after November 29, 1991.

TA–W–28,024; Joseph Frank, Inc., Passaic, NJ

A certification was issued covering all workers separated on or after October 29, 1991.

TA–W–28,007; N&R Fashions, Paterson, NJ

A certification was issued covering all workers separated on or after October 29, 1991.

TA–W–28,067; Mary Ann Casuals, Inc., Garfield, NJ

A certification was issued covering all workers separated on or after November 10, 1991.

TA–W–28,065; Mario & Son, Passaic, NJ

A certification was issued covering all workers separated on or after November 10, 1991.

TA–W–28,183; Midessa Drilling Co., Midland, TX

A certification was issued covering all workers separated on or after December 28, 1991.

TA–W–28,084; Sutton Shirt Corp., Sparta, TN

A certification was issued covering all workers separated on or after November 25, 1991.

TA–W–27,983; S&H Fabricating & Engineering, Inc., Valdosta, GA

A certification was issued covering all workers separated on or after November 5, 1991.

TA–W–27,999; Medford Corp., Medford, OR

A certification was issued covering all workers separated on or after November 5, 1991.

TA–W–27,985; Champion Int'l Corp., Roseburg Operation, Roseburg, OR

A certification was issued covering all workers separated on or after October 26, 1991.

TA-W-27,921; Pitts Oil Co., Dallas, TX

A certification was issued covering all workers engaged in the production and exploration of crude oil and natural gas separated on or after September 29, 1991.

I hereby certify that the aforementioned determinations were issued during the month of February 1993. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: March 5, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-5574 Filed 3-10-93; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

Meeting Notice

AGENCY: The National Commission on American Indian, Alaska Native, and Native Hawaiian Housing.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing announces the forthcoming meeting of the Commission.

DATES: March 22, 1993, 9 a.m. to 5 p.m.

ADDRESSES: Sheraton Palace Hotel, 2 New Montgomery Street, San Francisco, CA 94105, (415) 392-8600.

FOR FURTHER INFORMATION CONTACT: Lois V. Toliver, Administrative Officer, (202) 275-0045.

SUPPLEMENTARY INFORMATION:

Type of Meeting

Open.

Agenda

Call to Order,
Roll Call,
Chairman's Message,
Update of Commission Activities,
Committee Reports,
Housing Summit,
Commission Strategy Session.

Lois V. Toliver,

Administrative Officer.

[FR Doc. 92-5613 Filed 3-10-93; 8:45 am]

BILLING CODE 6820-07-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological and Critical Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Date and Time: April 7, 1993; 8:30 a.m.-5 p.m.

Place: National Science Foundation, 1800 G Street NW., room 1133, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Karen Mudry, Program Director, Division of Biological and Critical Systems, room 1132, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Telephone: (202) 357-7217.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate NSF Young Investigator proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4), and (6) of the Government in the Sunshine Act.

Dated: March 8, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-5565 Filed 3-10-93; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Chemistry; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463 as amended), the National Science Foundation announces the following meeting.

Dates and Times: April 8, 1993, 9 a.m.-5 p.m., April 9, 1993, 9 a.m.-3 p.m.

Place: Room 540, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Kenneth G. Hancock, Director, Division of Chemistry, room 340, National Science Foundation, 1800 G Street, NW., Washington, DC 20550. Telephone: (202) 357-7947.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research and education in chemistry.

Agenda: Long range planning for the Division of Chemistry, review of current activities, and discussion of new programs and procedures.

Dated: March 8, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-5566 Filed 3-10-93; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Economics; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Dates and Times: April 1-3, 1993, 9 a.m. to 6 p.m.

Place: Rooms 543 & 523, 1800 G Street NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Daniel Newlon, Program Director for Economics, Division of Social, Behavioral, and Economics Research, room 336, National Science Foundation, 1800 G Street NW., Washington, DC 20550, Telephone: (202) 357-9675.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 8, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-5567 Filed 3-10-93; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Engineering Education and Centers; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Dates and Times: April 5, 1993, 2 p.m.-4:30 p.m.; April 6, 1993, 8:30 a.m.-4:30 p.m.

Place: 1110 Vermont Avenue, NW., Washington, DC, room 500C.

Type of Meeting: Closed.

Contact Person: Dr. Alexander Schwarzkopf, Program Director, Division of Engineering Education and Centers, rm. 1121, National Science Foundation, 1800 G Street, NW., Washington, DC 20550. Telephone: (202) 357-9707.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Self-Sufficient Partnership and Research Program and Evaluator proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 8, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–5568 Filed 3–10–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Human Resource Development; Meeting

In accordance with the Federal Advisory Committee Act [Pub. L. 92–463, as amended], the National Science Foundation announces the following meeting.

Dates and Times: April 1–2, 1993; 8:30 a.m.–5 p.m.

Place: 1110 Vermont Avenue NW., room 500–A, Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Arturo Bronson, Program Director, Research Improvement In Minority Institutions, Human Resource Development, room 1225, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Telephone: (202) 357–7350.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Research Improvement In Minority Institutions proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 8, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–5569 Filed 3–10–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings:

Name: Special Emphasis Panel in Materials Research (DMR) on Metals, Ceramics & Electronic Materials (MCEM) Program.

Dates and Times: April 8, 1993, 8 a.m.–5 p.m.

Place: NSF Conference & Training Center, 1110 Vermont Avenue NW., Rooms 500 A, B & C, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. LaVerne Hess, Program Director, Electronic Materials Program, Division of Materials Research, room 408, National Science Foundation, Washington, DC 20550. Telephone (202) 357–9789.

Purpose of Meetings: To provide advice and recommendations concerning support for DMR 1993 Young Investigator Awards Program Proposals.

Agenda: Evaluation of proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 8, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–5570 Filed 3–10–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Physics; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: Monday, March 29, 1993; 8:30 a.m. to 5 p.m.

Place: Room 523, National Science Foundation, 1800 G Street, NW., Washington, DC

Type of Meeting: Closed.

Contact Person: Dr. Rolf M. Sinclair, Program Director for Cross Directorate Activities, National Science Foundation, 1800 G Street, NW., Washington, DC 20550. Telephone: (202) 357–7996.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate NSF Young Investigator proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 8, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–5571 Filed 3–10–93; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Physiology and Behavior; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: April 8 and 9, 1992, 8:30 a.m. to 5 p.m.

Place: Room 1242, National Science Foundation, 1800 G St. NW., Washington, DC 20550.

Type of Meeting: Part-Open.

Contact Person: Dr. Machi F. Dilworth, Program Director, Integrative Plant Biology, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Telephone: (202) 357–7987.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Integrative Plant Biology proposals as part of the selection process for awards. Open Session: April 8, 1993, noon to 1 pm—To discuss research trends and opportunities in Integrative Plant Biology.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 8, 1993.

M, Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–5572 Filed 3–10–93; 8:45 am]

BILLING CODE 7555–01–M

Committee of Visitors of the Office of Polar Programs; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Dates and Times: April 5–6, 1993; 8:30 a.m. to 5 p.m.

Place: Room 523, 1800 G Street NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Jane Dionne, Program Manager, Polar Coordinated Science Projects, OPP, Rm. 620, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Telephone: (202) 357–7894.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the OPP, Polar Science Section.

Reason for Closing: The meeting is closed to the public because the Committee is

reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: March 8, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–5573 Filed 3–10–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Final Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission and the State of Maryland

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: This notice is to advise the public of the issuance of a Final Memorandum of Understanding (MOU) between the U.S. Nuclear Regulatory Commission (NRC) and the State of Maryland. The MOU provides the basis for mutually agreeable procedures whereby the State of Maryland may utilize the NRC Emergency Response Data System (ERDS) to receive data during an emergency at a commercial nuclear power plant in Maryland. Public comments were addressed in conjunction with the MOU with the State of Michigan published in the **Federal Register** Vol. 57, No. 28, February 11, 1992.

EFFECTIVE DATE: This MOU is effective January 27, 1993.

ADDRESSES: Copies of all NRC documents are available for public inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: John R. Jolicoeur or Eric Weinstein, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492–4155 or (301) 492–7836.

This attached MOU is intended to formalize and define the manner in which the NRC will cooperate with the State of Maryland to provide data related to plant conditions during emergencies at commercial nuclear power plants in Maryland.

Dated at Rockville, Maryland, this 1st day of March, 1993.

For the U.S. Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

Agreement Pertaining to the Emergency Response Data System Between the State of Maryland and the U.S. Nuclear Regulatory Commission

I. Authority

The U.S. Nuclear Regulatory Commission (NRC) and the State of Maryland enter into this Agreement under the authority of section 274i of the Atomic Energy Act of 1954, as amended.

Maryland recognizes the Federal Government, primarily the NRC, as having the exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of nuclear production or utilization facilities, except for certain authority over air emissions granted to States by the Clean Air Act.

II. Background

A. The Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, authorize the Nuclear Regulatory Commission (NRC) to license and regulate, among other activities, the manufacture, construction, and operation of utilization facilities (nuclear power plants) in order to assure common defense and security and to protect the public health and safety. Under these statutes, the NRC is the responsible agency regulating nuclear power plant safety.

B. NRC believes that its mission to protect the public health and safety can be served by a policy of cooperation with State governments and has formally adopted a policy statement on "Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities" (54 FR 7530, February 22, 1989). The policy statement provides that NRC will consider State proposals to enter into instruments of cooperation for certain programs when these programs have provisions to ensure close cooperation with NRC. This agreement is intended to be consistent with, and implement the provisions of the NRC's policy statement.

C. NRC fulfills its statutory mandate to regulate nuclear power plant safety by, among other things, responding to emergencies at licensee's facilities, monitoring the status and adequacy of the licensee's responses to emergency situations.

D. Maryland fulfills its statutory mandate to provide for preparedness, response, mitigation, and recovery in the event of an accident at a nuclear power plant through the Maryland Emergency Management Agency and the Maryland Department of Environment, Radiological Health Program, as described in the Maryland Emergency Management Agency Act and the Maryland Radiation Act.

III. Scope

A. This Agreement defines the way in which NRC and Maryland will cooperate in planning and maintaining the capability to transfer reactor plant data via the Emergency Response Data System during emergencies at nuclear power plants, in the State of Maryland.

B. It is understood by the NRC and the State of Maryland that ERDS data will only be transmitted by a licensee during emergencies classified at the Alert level or above, during scheduled tests, or during exercises when available.

C. Nothing in this Agreement is intended to restrict or expand the statutory authority of NRC, the State of Maryland, or to affect or otherwise alter the terms of any agreement in effect under the authority of Section 274b of the Atomic Energy Act of 1954, as amended; nor is anything in this Agreement intended to restrict or expand the authority of the State of Maryland on matters not within the scope of this Agreement.

D. Nothing in this Agreement confers upon the State of Maryland with regards to nuclear power production or nuclear utilization facilities, authority to (1) interpret or modify NRC regulations and NRC requirements imposed on the licensee; (2) take enforcement actions; (3) issue confirmatory letters; (4) amend, modify, or revoke a license issued by NRC; or (5) direct or recommend nuclear power plant employees to take or not to take any action. Authority for all such actions is reserved exclusively to the NRC.

IV. NRC's General Responsibilities

Under this agreement, NRC is responsible for maintaining the Emergency Response Data System (ERDS). ERDS is a system designed to receive, store, and retransmit data from in-plant data systems at nuclear power plants during emergencies. The NRC will provide user access to ERDS data to one user terminal for the State of Maryland during emergencies at nuclear power plants which have implemented an ERDS interface and for which any portion of the plant's 10 mile Emergency Planning Zone (EPZ) lies within the State of Maryland. The NRC agrees to provide unique software already available to NRC (not commercially available) that was developed under NRC contract for configuring an ERDS workstation.

V. Maryland's General Responsibilities

A. Maryland will, in cooperation with the NRC, establish a capability to receive ERDS data. To this end, Maryland will provide the necessary computer hardware and commercially licensed software required for ERDS data transfer to users.

B. Maryland agrees not to use ERDS to access data from nuclear power plants for which a portion of the 10 mile Emergency Planning Zone does not fall within its State boundary.

C. For the purpose of minimizing the impact on plant operators, clarification of ERDS data will be pursued through the NRC.

VI. Implementation

Maryland and the NRC agree to work in concert to assure that the following communications and information exchange protocol regarding the NRC ERDS are followed.

A. Maryland and the NRC agree in good faith to make available to each other

information within the intent and scope of this Agreement.

B. NRC and Maryland agree to meet as necessary to exchange information on matters of common concern pertinent to this Agreement. Unless otherwise agreed, such meetings will be held in the NRC Operations Center. The affected utilities will be kept informed of pertinent information covered by this Agreement.

C. To preclude the premature public release of sensitive information, NRC and Maryland will protect sensitive information to the extent permitted by the Federal Freedom of Information Act, the Maryland Public Information Act, 10 CFR 2.790, and other applicable authority.

D. NRC will conduct periodic tests of licensee ERDS data links. A copy of the test schedule will be provided to Maryland by the NRC. Maryland may test its ability to access ERDS data during these scheduled tests, or may schedule independent tests of the State link with the NRC.

E. NRC will provide access to ERDS for emergency exercises with reactor units capable of transmitting exercise data to ERDS. For exercises in which the NRC is not participating, Maryland will coordinate with NRC in advance to ensure ERDS availability. NRC reserves the right to preempt ERDS use for any exercise in progress in the event of an actual event at any licensed nuclear power plant.

VII. Contacts

A. The principal senior management contacts for this Agreement will be the Director, Division of Operational Assessment, Office for Analysis and Evaluation of Operational Data, and the Director, Radiological Health Program, Maryland Department of Environment (MDE). These individuals may designate appropriate staff representatives for the purpose of administering this Agreement.

B. Identification of these contacts is not intended to restrict communication between NRC and Maryland staff members on technical and other day-to-day activities.

VIII. Resolution of Disagreements

A. If disagreements arise about matters within the scope of this Agreement, NRC and Maryland will work together to resolve these differences.

B. Resolution of differences between the State and NRC staff over issues arising out of this Agreement will be the initial responsibility of the NRC Division of Operational Assessment management.

C. Differences which cannot be resolved in accordance with Sections VIII.A and VIII.B will be reviewed and resolved by the Director, Office for Analysis and Evaluation of Operational Data.

D. The NRC's General Counsel has the final authority to provide legal interpretation of the Commission's regulations.

IX. Effective Date

This Agreement will take effect after it has been signed by both parties.

X. Duration

A formal review, not less than 1 year after the effective date, will be performed by the NRC to evaluate implementation of the Agreement and resolve any problems identified. This agreement will be subject to periodic reviews and may be amended or modified upon written agreement by both parties, and may be terminated upon 30 days written notice by either party.

XI. Separability

If any provision(s) of this agreement, or the application of any provision(s) to any person or circumstances is held invalid, the remainder of this Agreement and the application of such provisions to other persons or circumstances will not be affected.

For the U.S. Nuclear Regulatory Commission.

Dated: January 6, 1993.

James M. Taylor,

Executive Director for Operations.

For the State of Maryland,

Dated: January 27, 1993.

Robert Perciasepe,

Secretary, Maryland Department of the Environment.

Dated: January 22, 1993.

Merrylin Zaw-Mon,

Director, Air and Radiation Management Administration.

Dated: January 13, 1993.

Roland G. Fletcher,

Administrator, Radiological Health Program, Maryland Department of Environment.

Approved as to form and legal sufficiency this 13th day of January, 1993.

Neil F. Quinter,

Assistant Attorney General.

[FR Doc. 93–5648 Filed 3–10–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–440]

The Cleveland Electric Illuminating Co., et al., Perry Nuclear Power Plant, Unit No. 1; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed no Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–58 issued to the Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, and Toledo Edison Company for operation of the Perry Nuclear Power Plant (PNPP), Unit No. 1, located in Lake County, Ohio.

The proposed amendment would revise the Technical Specifications (TSs) to allow a one-time exception to the requirements of TS 6.3.1, to permit a specific individual to assume the active duties of Manager, Perry Operations Section, without currently holding a Senior Reactor Operator License on PNPP Unit 1.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed amendment has been reviewed with respect to these three factors and it has been determined that the proposed change does not involve a significant hazard because:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS change is an administrative change consisting of an exception to a single unit staff qualification requirement for one unit staff position on a case specific basis for a limited period of time beyond which the requirement will be met. The individual who is intended to succeed the current Manager, Perry Operations Section, has held an SRO license at two other generating units and satisfies all other ANSI N18.1–1971 qualification requirements for the equivalent position. Therefore, the change does not result in a significant reduction in overall unit staff qualifications or expertise.

The ANSI N18.1–1971 qualification requirements for all other unit staff management positions continue to be met. The proposed change will have no significant adverse impact on accident probability or consequences. Therefore, the proposed TS change does not increase the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS change is an administrative change to allow an exception to a single staff qualification requirement for a single unit staff position on a case-specific basis for a limited period of time beyond which the qualification requirement will be met. The lack of a current PNPP Unit 1 SRO

license on the part of the Manager, Perry Operations Section, unlike a procedure or design change, is not a potential new accident precursor.

The ANSI N18.1–1971 qualification requirements for all other unit staff management positions remain unchanged. Additionally, the proposed TS change does not affect plant design, hardware, system operation, or procedures. Therefore, the proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed TS change is an administrative change to allow an exception to a single unit staff qualification requirement contained in the Administrative Controls Section of PNPP Technical Specifications for a single unit staff position on a case-specific basis for a limited period of time beyond which the qualification requirement will be met. The candidate's education and previous experience adequately compensate for the present lack of an SRO license.

The ANSI N18.1–1971 qualification requirements for all other unit staff management positions continue to be met. The licensed operator qualifications and training programs will continue to comply with the requirements of 10 CFR and ANSI N18.1–1971. The proposed change does not involve a relaxation in the criteria used to establish safety limits, nor does it involve a change in the bases for limited safety system settings or limiting conditions for operation. Therefore, the proposed TS change does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules Review & Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 12, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to reply in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that

failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John N. Hannon: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 26, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland, this 4th day of March 1993.

For the Nuclear Regulatory Commission.

Jon B. Hopkins, Sr.,

Project Manager, Project Directorate III–3, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–5647 Filed 3–10–93; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Small Business Administration; Interim Policy Directive, Small Business Competitiveness Demonstration Program

AGENCY: Office of Federal Procurement Policy (OFPP); Small Business Administration (SBA).

ACTION: Interim policy directive with request for comments.

SUMMARY: The OFPP and SBA are amending the final policy directive and test plan, dated August 31, 1989, which implement the Small Business Competitiveness Demonstration Program Act of 1988, title VII, Public Law 100–656. Section 201 of the Small Business Credit and Business Opportunity Enhancement Act of 1992 (Pub. L. 102–366) extends the Small Business Competitiveness Demonstration Program through September 30, 1996; section 202 contains several other amendments to the Program. These amendments are being implemented in this interim policy directive.

EFFECTIVE DATE: March 11, 1993.

COMMENT DATE: Comments on the interim policy directive should be submitted to the addresses shown below on or before May 10, 1993, to be considered for formulation of the final policy directive.

ADDRESSES: Comments on the policy directive should be submitted to: Allan V. Burman, Administrator, Office of Federal Procurement Policy, 725 17th Street, NW, room 9001, Washington, DC 20503.

Comments on the information collection requirements contained in Attachment A of the policy directive should be submitted both to the OFPP Administrator at the above address and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503—Attention: Desk Officer for the Federal Acquisition Regulation.

FOR FURTHER INFORMATION CONTACT: Karen Maris, Deputy Associate Administrator (202) 395–4955; or Robert Neal, Deputy Associate Administrator (202) 395–6168.

SUPPLEMENTARY INFORMATION:

A. Background

The Small Business Competitiveness Demonstration Program was established to test the effectiveness of eliminating small business set-asides in certain industries. The program has two primary objectives: (1) To demonstrate whether small businesses in certain industry groups can compete successfully on an unrestricted basis for Federal contracts, and (2) to demonstrate whether targeted goaling and management techniques can expand Federal contract opportunities for small businesses in industry categories where such opportunities historically have been low despite adequate numbers of small business contractors in the economy.

Section 201 of the Small Business Credit and Business Opportunity Enhancement Act of 1992 (the Act) extends the Program, which was originally scheduled to expire on December 31, 1992, through September 30, 1996. The Act also makes several other amendments to the Program which are being implemented in this interim policy directive.

Section 202(b)(1) requires that when a participating agency misses its small business participation goal, restricted competition shall be reinstituted only at those buying activities that failed to attain the goal. Section 202(g) limits coverage of architectural and engineering (A&E) services to contracts awarded under the qualification-based procedures required by 40 U.S.C. 541 *et seq.* (the "Brooks A–E Act"). Section 202(h) reduces the small business participation goal for A&E services from 40 percent to 35 percent until OFPP implements certain data collection improvements required by the Act, including the limitation of A&E coverage to contracts awarded under the Brooks A–E Act.

OFPP also is required to develop and implement a simplified system to collect data on the participation of small business concerns, including small disadvantaged business concerns, as other than prime contractors. This system will apply only to the Environmental Protection Agency, the National Aeronautics and Space Administration, the Army Corps of Engineers (Civil Works), and the

Department of Energy. A separate proposed rule to implement this requirement is being issued by OFFP.

Other changes being made to the policy directive and test plan include the following. Language has been added to more specifically provide that the 40 percent small business goal for construction applies individually to each of the major groups that comprise the industry. Participating agencies are instructed that any combination of Federal Procurement Data System and Standard Industrial Classification codes for A&E Services may be counted toward their small business goal. A requirement for public notice in the **Federal Register**, when participating agencies reinstitute restricted or full and open competition, has been added. The reporting format (Attachment B to the test plan) has been modified to require dollars to be reported in thousands and percentages to be stated in whole numbers.

B. Regulatory Flexibility Act and Executive Order 12291

The program may have a significant economic impact on a substantial number of small businesses, within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and a Regulatory Flexibility Analysis is necessary. In addition, for the purposes of E.O. 12291, OFPP and SBA have determined that this interim policy directive is a major rule because it will have an annual effect on the economy of $100 million or more.

However, since this is a test program, which has been extended by statute through September 30, 1996, an evaluation of the consequences of the test program at this time would be inappropriate and premature. The economic impact of this test program will be determined at its conclusion.

C. Paperwork Reduction Act

The information collection requirements contained in the policy directive and test plan were previously approved by OMB and assigned OMB control number 9000–0100. Public Law 101–37, however, expanded the universe of contracts requiring this data submission. A revised information collection request has been submitted to OMB for approval under the Paperwork Reduction Act (44 U.S.C. 35).

Allan V. Burman,

Administrator, Office of Federal Procurement Policy.

Robert J. Moffitt,

Associate Administrator for Procurement Assistance, Small Business Administration.

[FR Doc. 93–5515 Filed 3–10–93; 8:45 am]

BILLING CODE 3110–01–M

Subcontract Reporting System Test Plan Rand Reporting Plan

AGENCY: Executive Office of the President, Office of Management and Budget (OMB), Office of Federal Procurement Policy.

ACTION: The Office of Federal Procurement Policy (OFPP) is requesting comments on a proposed subcontract reporting system test plan and reporting form that provide guidance on reporting subcontracting activity under the Small Business Competitiveness Demonstration Program.

SUMMARY: The proposed Subcontract Reporting System Test Plan and Reporting Form are being issued to implement Section 202(d) of the Small Business Credit and Business Opportunity Enhancement Act of 1992, (Pub. L. 102–366). Section 202(d) requires the Administrator for Federal Procurement Policy to develop and implement a simplified system to collect data on the participation of small business concerns (including small business concerns owned and controlled by socially and economically disadvantaged individuals) as other than prime contractors. The system shall collect subcontract data regarding prime contracts for architectural and engineering (A&E) services (including surveying and mapping) that are procured under 40 U.S.C. 541 *et seq* (the Brooks A–E Act). The system is applicable to the Environmental Protection Agency, the National Aeronautics and Space and Administration, the United States Army Corps of Engineers (Civil Works), and the Department of Energy.

The primary purpose of this proposed new simplified reporting system is to demonstrate that the actual rate of small business participation on A&E prime contracts is substantially higher than is now being reflected in data captured by the Government's existing procurement data system. Also, this new system is intended to collect subcontracting data under a broader range of A&E contract awards than are covered by the existing reporting requirements of Public Law 95–507.

COMMENT DATE: Comments must be received on or before April 12, 1993.

ADDRESSES: Comments should be sent to Dr. Allan V. Burman, Administrator, Office of Federal Procurement Policy, Office of Management and Budget, 725 17th Street NW., room 9001, Washington, DC 20503.

COMMENTS ON THE INFORMATION COLLECTION REQUIREMENTS: The test reporting system requires Federal prime contractors (other than small business and small disadvantaged business firms) to collect and report subcontract activity in support of Federal prime contracts for A&E services (including surveying and mapping). This information collection may place a substantial reporting burden on the Federal prime contractors participating in the reporting system. Comments are solicited on the impact of this reporting requirement on existing industry subcontract data collection systems.

Comments on the information collection requirements contained in the Subcontract Reporting System Test Plan and Reporting Form should be submitted both to the OFPP Administrator at the above address and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Peter Weiss, Desk Officer for the Federal Acquisition Regulation.

FOR FURTHER INFORMATION CONTACT: Linda G. Williams, Deputy Associate Administrator, (202) 395–3302.

SUPPLEMENTARY INFORMATION:

A. Background

Pursuant to the Small Business Act, prime contractors and subcontractors (except small business firms) that receive one or more contracts over $500,000 ($1 million for construction) are required to submit a subcontracting plan with goals for using small business and small disadvantaged business concerns as subcontractors under Federal prime contracts, and to report accomplishments against the goals. Concerns have been expressed that small business firms actually receive more subcontracting opportunities than are being reported under the existing reporting system. As part of the Small Business Competitiveness Demonstration Program, OFPP is required to develop and implement a simplified reporting system to test the rate of small business and small disadvantaged business participation at the subcontract level under Federal prime contracts for A&E services (including surveying and mapping).

B. Regulatory Flexibility Act

This reporting system will not have a significant impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and, therefore, no Regulatory Impact analysis has been prepared.

The system seeks to measure the amount of small business participation in subcontracts. The reporting

requirements of the system will be imposed on large businesses and, as such, there is no cost to small businesses.

C. Executive Order No. 12291

This reporting system has been reviewed in accordance with the objectives and criteria of Executive Order No. 12291. The system will not result in any of the economic or regulatory impacts associated with a major rule. The system will not have an annual effect on the economy of $100 million or more and will not result in a major increase in cost for consumers, individual industries, State and local government agencies, or geographic regions and would not have an adverse effect on competition, employment, investment, productivity, innovation, and the ability of United States based industries to compete with foreign-based enterprises in domestic or export markets.

D. Paperwork Reduction Act

This information collection requirements for this reporting system have been submitted to the Office of Management and Budget for approval.

List of Subjects

Government procurement, Small business procurement.

Allan V. Burman,

Administrator.

Dated: January 13, 1993.

[FR Doc. 93–5514 Filed 3–10–93; 8:45 am]

BILLING CODE 3110–01–M

PEACE CORPS

Agency Information Collection Activities Under OMB Review

AGENCY: Peace Corps.

ACTION: Notice of submission of public use form review request to the Office of Management and Budget.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C. chapter 35) the Peace Corps has submitted to the Office of Management and Budget, a request to approve the use of the National Agency Check Questionnaire for Peace Corps Volunteer Background Investigation through March 31, 1996. Section 22 of the Peace Corps Act (22 U.S.C. 2501 et seq.) mandates that "all persons employed or assigned to duties under the Act shall be investigated to insure that employment or assignment is consistent with national interest in accordance with standards and procedures established by the President."

For information about the collection:

Agency Address: Peace Corps, 1990 K St., NW., Washington, DC 20526.

Title: National Agency Check Questionnaire for Peace Corps Volunteer Background Investigation.

Request: Approval of Use.

Frequency of Collection: Recurring—Voluntary.

General Description of Respondents: Individuals who have applied for Peace Corps service and have been invited to a specific project.

Estimated Number of Respondents: 10,000.

Estimated Hours of Respondents to Complete Form: 2,500.

Respondent's Obligation to Reply: Voluntary.

Comments: Telephone comments on this proposal should be directed to Lin Liu, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC. A copy of the form may be obtained from Christopher Kent, Office of Placement, Peace Corps, 1990 K St., NW., room 9202, Washington, DC 20526. Mr. Kent may be called at (202) 606–3994. This is not a request to which 44 U.S.C. 3504 (h) applies. This notice is issued in Washington, DC on March 2, 1992.

Joan Ambre,

Acting Associate Director of Management.

[FR Doc. 93–5582 Filed 3–10–93; 8:45 am]

BILLING CODE 9051–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

March 5, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Salomon Brothers High Income Fund, Inc.
Common Stock, $.001 Par Value (File No. 7–10326)

Wackenhut Corp.
Series B Common Stock, $.01 Par Value (File No. 7–10327)

Dean Witter/Discover & Co.
Common Stock, $.01 Par Value (File No. 7–10329)

Emerging Mexico Fund, Inc.
Rights to Subscribe (File No. 7–10330)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 26, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–5543 Filed 3–10–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19314; 811–5119]

Harvest Funds, Inc.; Notice of Application

March 5, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Harvest Funds, Inc.

RELEVANT ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on December 31, 1992 and was amended on February 16, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 30, 1993, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested.

Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 4000 Park Road, Charlotte, North Carolina 28209.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Staff Attorney, at (202) 272–7648, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a diversified open-end management investment company incorporated under the laws of the State of Maryland. On April 16, 1987, applicant registered under the Act by filing a notification of registration pursuant to section 8(a). On that same date, applicant filed a registration statement on Form N–1A under the Securities Act of 1933 and section 8(b) of the Act. Applicant's registration statement was declared effective, and its initial public offering commenced, on July 7, 1987.

2. On March 27, 1992, applicant's board of directors approved a resolution to close the Income Portfolio of applicant because of declining assets. On April 7, 1992, notice was sent to shareholders that the shares of the Income Portfolio would be redeemed on April 27, 1992. On that date, the Income Portfolio had an aggregate net asset value of $154,382.33, which was distributed *pro rata* to the remaining shareholders based on the net asset value per share, which was $9.73.

3. On October 15, 1992, applicant's board of directors approved a resolution to close its remaining portfolio, the Growth Portfolio, and, thereafter, dissolve applicant. Applicant's board of directors concluded at that meeting that the Growth Portfolio should be closed due to the amount of total assets and the lack of sales of portfolio shares. The board of directors determined that without additional sales of Growth Portfolio shares, the portfolio's expense ratios would continue to increase, resulting in a decrease in net asset value without regard to performance. On October 28, 1992, notice was sent to shareholders that the shares of the Growth Portfolio of applicant would be redeemed on December 15, 1992. On that date, the Growth Portfolio had an aggregate net asset value of $367,507.15, which was distributed *pro rata* to the remaining shareholders based on the net asset value per share, which was $8.15.

4. On December 21, 1992, after all of the outstanding shares of common stock of applicant had been redeemed, the board of directors approved a resolution to dissolve applicant.

5. Applicant has incurred approximately $5,096 in expenses in connection with the closing of the Income and Growth Portfolios and the dissolution of applicant. At the time of the filing of the application, applicant had retained $18,514.75 to cover remaining expenses equal to that amount, consisting primarily of legal, accounting, custodian and transfer agent fees.

6. Upon receipt of tax clearance certificates, applicant intends to file articles of dissolution with the State of Maryland.

7. As of the time of filing the application, applicant had no securityholders and is not a party to any litigation or administrative proceedings. Applicant is not presently engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5611 Filed 3–10–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–19315; 812–8242]

Nicholas-Applegate Mutual Funds, et al.; Notice of Application

March 5, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Nicholas-Applegate Mutual Funds (the "Trust") and the following series thereof: Nicholas-Applegate Core Growth Portfolio A, Nicholas-Applegate Income and Growth Portfolio A, Nicholas-Applegate Balanced Growth Portfolio A, Nicholas Applegate Worldwide Growth Portfolio A, and Nicholas-Applegate Government Income Portfolio A (the "Portfolio A Series"); Nicholas-Applegate Core Growth Portfolio B, Nicholas-Applegate Income and Growth Portfolio B, Nicholas-Applegate Balanced Growth Portfolio B, Nicholas-Applegate Worldwide Growth Portfolio B, and Nicholas-Applegate Government Income Portfolio B (the "Portfolio B Series"); Nicholas-Applegate Money Market Portfolio (the "Money Market Portfolio," and together with Portfolio A Series and Portfolio B Series, the "Portfolios"); Nicholas-Applegate Capital Management (the "Adviser"); Nicholas-Applegate Securities (the "Distributor"); and all other open-end management investment companies or series thereof that invest substantially all of their assets in a registered investment company for which the Adviser serves in the future as investment adviser, that are in the same "group of investment companies" as the Portfolios, as defined in rule 11a–3 under the Act, the shares of which will be distributed on substantially the same basis as those of the Portfolios.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order that would permit them to impose a contingent deferred sales charge ("CDSC") on certain redemptions of shares, and waive the CDSC in certain specified instances.

FILING DATE: The application was filed on January 12, 1993, and amended on February 11, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 29, 1993 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 501 West Broadway, suite 2000, San Diego, California 92101.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272–2511, or C. David Messman, Branch Chief, (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application

may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. The Trust is an open-end management investment company organized in December 1992 as a Delaware business trust. The Trust has filed a registration statement on Form N–1A under the Act and the Securities Act of 1933, which has not yet been declared effective. The Trust is currently comprised of 17 series, divided into four groups: The Portfolio A Series, the Portfolio B Series, the Money Market Portfolio, and the Qualified Portfolios (the "Series"). The Portfolio A Series, the Portfolio B Series, and the Money Market Portfolio are intended to be offered to the public. The Qualified Portfolios will be offered exclusively to certain qualified retirement plans and to other institutional investors that are advisory clients of the Adviser. Each Series has separate investment objectives and policies, and segregated assets.

2. Each Series will invest substantially all of its assets in a corresponding series (a "Master Fund") of Nicholas-Applegate Investment Trust (the "Master Trust"), an open-end management investment company organized in December 1992 as a Delaware business trust. Shares of the Master Funds will be issued in private placement transactions to certain institutional investors such as other investment companies, retirement plans, broker-dealers, and insurance company separate accounts. The Adviser provides investment advisory services to the Master Trust. The Trust has not retained the services of an investment adviser since each Series will seek to achieve its investment objectives by investing its assets in a corresponding Master Fund. The Distributor will serve as the principal underwriter for each of the Series, and as placement agent for shares of the Master Funds in private sales to the Series and other institutional investors.

3. Under the "master-feeder" structure between the Trust and the Master Trust, all portfolio management services will be provided, and all related costs will be incurred, at the Master Fund level, although each Series will bear its *pro rata* share of the corresponding Master Fund's costs and expenses. The Master Trust, on behalf of each Master Fund, will enter into an investment advisory agreement and an administration agreement with the Adviser. Distribution and shareholder servicing fees and costs, and additional administrative expenses, will be paid by the Trust at the Series level. The Trust and each Series will enter into an administration agreement with the Adviser that will provide administrative services, and a plan of distribution pursuant to rule 12b–1 of the Act, a distribution agreement, and a shareholder service plan with the Distributor. The Distributor, in turn, will enter into selected dealers agreements with unaffiliated broker-dealers pursuant to which such broker-dealers will sell shares of the Series.

4. Shares of the Money Market Portfolio will be offered at net asset value without a front-end sales load, but will be subject to a rule 12b–1 fee and a shareholder service fee at expected annual rates of up to 0.25% and 0.10%, respectively, of the Money Market Portfolio's average daily net assets.

5. Shares of each Portfolio A Series will be offered at net asset value plus a front-end sales load. The maximum sales load will be 5.25% (4.75% on purchases of the Nicholas-Applegate Government Income Portfolio A) for purchases of less than $50,000. Lesser sales loads will apply to larger purchases. Purchases of $1,000,000 or more of shares of a Portfolio A Series will be made without the imposition of a front-end sales load. Shares of each Portfolio A Series will be subject to a rule 12b–1 fee and shareholder service fee at expected annual rates of up to 0.25% and 0.10%, respectively, of the Portfolio A Series' average daily net assets.

6. If shares of a Portfolio A Series that had been acquired without a sales load through a purchase of $1,000,000 or more are redeemed within a specified period (currently anticipated to be 12 months) after their purchase date, the redemption proceeds will be reduced by a percentage (currently anticipated to be 1.00%) of the lesser of the value of the shares redeemed or the total cost of such shares (the "Portfolio A CDSC").

7. Shares of each Portfolio B Series will be offered at net asset value without a front-end sales load, but will be subject to a rule 12b–1 fee and a shareholder service fee at expected annual rates of up to 0.75% (0.60% in the case of Nicholas-Applegate Government Income Portfolio B) and 0.25%, respectively, of the Portfolio B Series' average daily net assets.

8. If shares of the Portfolio B Series are redeemed within a specified period (currently anticipated to be 12 months) after their purchase date, the redemption proceeds will be reduced by a percentage (currently anticipated to be 1.00%) of the lesser of the value of the shares redeemed or the total cost of such shares (the "Portfolio B CDSC"). The Portfolio B CDSC also will apply to redemptions of shares of the Money Market Portfolio if such shares were acquired in exchange for shares of a Portfolio B Series subject to the Portfolio B CDSC.

9. Imposition of the Portfolio A CDSC or Portfolio B CDSC will not cause the sales load imposed on purchases of shares of any Portfolio A Series or Portfolio B Series to exceed the maximum sales load permitted under Article III, section 26(d) of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. In addition, no CDSC will be imposed on the redemption of shares of the Portfolio A Series or Portfolio B Series purchased prior to the date an order is obtained.

10. No CDSC will be imposed on redemptions if the shares redeemed were acquired through reinvestment of income dividends or capital gain distributions, or if the amount redeemed was derived from increases in the value of the account above the amount of purchase payments, or if the shares redeemed were held for more than 12 months. In determining whether the CDSC will be payable with respect to any redemption, it will be assumed that shares not subject to the CDSC are redeemed first and that other shares then are redeemed in the order purchased.

11. Applicants may in the future decide to reduce the Portfolio A CDSC and Portfolio B CDSC percentages below 1.00%, or shorten the applicable holding period to less than 12 months. Applicants also may temporarily or permanently discontinue the Portfolio A CDSC or Portfolio B CDSC in the future. However, any future changes, variations, discontinuations or reinstatements of the Portfolio A CDSC or Portfolio B CDSC will be disclosed in each affected Portfolio A Series' or Portfolio B Series' prospectus, and any such change, variation, discontinuation or reinstatement will not affect the shares of any Portfolio A Series or Portfolio B Series that were issued prior to the disclosure thereof in such prospectus.

12. Applicants intend to waive the Portfolio A CDSC and Portfolio B CDSC on redemptions of shares (a) for distributions from qualified retirement plans and other employee benefit plans qualified under section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code"); (b) for distributions from custodial accounts under section 403(b)(7) of the Code or individual retirement accounts ("IRAs") due to death, disability or attainment of age 59½; (c) for tax-free returns of excess contributions to IRAs; (d) for any partial or complete redemptions

following death or disability (as defined in section 72(m)(7) of the Code) of a shareholder from an account in which the deceased or disabled is named, provided the redemption is made within one year of death or initial determination of disability; and (e) pursuant to automatic withdrawals.

13. The Portfolio A CDSC and Portfolio B CDSC also will be waived for redemptions of shares by (a) current or retired directors, trustees, partners, officers and employees of the Trust, the Distributor, the Adviser and its general partner, certain family members of the above persons, and trusts or plans primarily for such persons; (b) investment partnerships managed by the Adviser and their current and former partners; (c) current or retired registered representatives or full-time employees and their spouses and minor children of dealers having selected dealers agreements with the Trust and plans for such persons; (d) trustees and other fiduciaries purchasing shares for retirement plans of organizations with retirement plan assets of $100 million or more; (e) insurance company separate accounts; and (f) participants in pension, profit-sharing or employee benefit plans that are sponsored by the Distributor and its affiliates.

14. The Distributor will provide a *pro rata* refund, out of its own assets, of any Portfolio A CDSC or Portfolio B CDSC paid in connection with a redemption of shares (by crediting such CDSC to such shareholder's account) if, within 90 days of such redemption, all or any portion of the redemption proceeds are reinvested in shares of the Portfolio A Series or Portfolio B Series, as the case may be. Any such reinvestment will be made without the imposition of a front-end sales load but will be subject to the same CDSC to which such amount was subject prior to the redemption; the CDSC time period will run from the original investment date but will be extended by the number of days between the redemption and reinvestment dates.

Applicants' Legal Conclusion

Applicants believe that the imposition of a CDSC in the manner and under the circumstances described above would be fair and in the best interests of those shareholders upon whom the CDSC would be imposed. Thus the granting of the requested relief would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Therefore, applicants request an order of the Commission pursuant to section 6(c) for an exemption from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act, and rule 22c–1 thereunder to the extent necessary to permit the proposed CDSC arrangements.

Applicants' Condition

Applicants agree that the order granting the requested relief may be subject to the following condition:

Applicants will comply with the provisions of proposed rule 6c–10 under the Act (Investment Company Act Release No. 16619 (Nov. 2, 1988)), as such rule is currently proposed and as it may be reproposed, adopted, or amended.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5612 Filed 3–10–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted within 30 days of this publication in the **Federal Register**. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205–6629.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503

Title: Stockholders Confirmation
SBA Form No.: SBA Form 1405
Frequency: On Occasion
Description of Respondents: New Licensees
Annual Responses: 300
Annual Burden: 50

Dated: March 8, 1993.

Cleo Verbillis,

Chief, Administrative Information Branch.

[FR Doc. 93–5614 Filed 3–10–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2629; Amendment #2]

California; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, effective February 22, 1993, to include Alpine and Los Angeles Counties in the State of California as a disaster area as a result of damages caused by severe winter storms, mud and rock slides, and flooding which occurred January 5 through January 22, 1993.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Amador, Calaveras, and El Dorado in the State of California and Douglas County in the State of Nevada may be filed until the specified date at the aforementioned location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is April 5, 1993 and November 3, 1993 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 26, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 92–5523 Filed 3–10–92; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2586; Amendment #4]

Florida; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damage. The new deadline is March 21, 1993.

The termination date for filing applications for economic injury remains the close of business on May 24, 1993.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 25, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–5524 Filed 3–10–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Economic Injury Disaster Loan Area #7871]

New York (And Contiguous Counties in New Jersey); Declaration of Disaster Loan Area

New York County (Borough of Manhattan) and the contiguous counties of Bronx, Kings, and Queens in the State of New York, and Bergen and Hudson Counties in New Jersey constitute an economic injury disaster area as a result of damages caused by an explosion at the World Trade Center which occurred on February 26, 1993. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on December 1, 1993 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Fl., Niagara Falls, NY 14303, or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury number for the State of New Jersey is 7872.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: March 1, 1993

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–5525 Filed 3–10–93; 8:45 am]

BILLING CODE 8025–01–M

Buffalo District Advisory Council; Public Meeting

The U.S. Small Business Administration Buffalo District Advisory Council will hold a public meeting at 10 a.m. on Tuesday, April 20, 1993 at the Chase Lincoln First Bank, 1 Lincoln First Square, 20th floor conference room, Rochester, New York, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Franklin J. Sciortino, District Director, U.S. Small Business Administration, room 1311, 111 West Huron Street, Buffalo, New York 14202, (716) 846–4301.

Dated: March 4, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–5526 Filed 3–10–93; 8:45 am]

BILLING CODE 8025–01–M

Hartford District Advisory Council; Public Meeting

The U.S. Small Business Administration Hartford District Advisory Council will hold a public meeting at 8 a.m. on Wednesday, April 28, 1993 at 2 Science Park, 3rd Floor, New Haven, Connecticut, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Jo-Ann Van Vechten, Acting District Director, U.S. Small Business Administration, 330 Main Street, Hartford, Connecticut 06106, (203) 240–4670.

Dated: March 4, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–5527 Filed 3–10–93; 8:45 am]

BILLING CODE 8025–01–M

Privacy Act; System of Record

AGENCY: Small Business Administration.

ACTION: Notice of Amendment to System of Record.

SUMMARY: The Small Business Administration (SBA) is hereby amending its Privacy Act System of Record 155 regarding unofficial personnel files. This notice changes the name of System of Record 155 from "Unofficial Personnel Files" to "SBA Employee Activity Files" and clarifies its location.

DATES: This notice shall be effective March 11, 1993.

FOR FURTHER INFORMATION CONTACT: Beverly K. Linden, Chief, Freedom of Information/Privacy Act, Office of Hearings and Appeals, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416, (202) 653–6460.

SUPPLEMENTARY INFORMATION: On February 26, 1991, SBA published, in the **Federal Register**, a notice to provide for review and comment on a revision of the Agency's Systems of Records. 56 FR 8008. This revision eliminated some of the Systems, consolidated others, and developed three new Systems. SBA is publishing this notice to change the name of System of Record 155 from "Unofficial Personnel Files" to "SBA Employee Activity Files" and to clarify the location of such files, in order to distinguish between SBA's records and those under the jurisdiction of the Office of Personnel Management (OPM).

SBA is publishing this notice in accordance with the Privacy Act stipulation that all agencies publish their Systems in the **Federal Register** when there is a revision, change, or addition.

For the reasons set forth above, SBA is amending its System of Record 155 by revising the System name and System location to read as follows:

SBA 155

SYSTEM NAME:

SBA Employee Activity Files—SBA 155.

SYSTEM LOCATION:

Central Office, Regional, District, Branch and Program Officers. See appendix A for addresses.

* * * * *

Dated: March 2, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–5528 Filed 3–10–93; 8:45 am]

BILLING CODE 8025–01

DEPARTMENT OF STATE

Office of Defense Trade Controls

[Public Notice 1774]

Statutory Debarment Under the International Traffic in Arms Regulations; Japan Aviation Electronics Industry, Ltd.

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that Japan Aviation Electronics Industry, Ltd. (JAE) has been statutorily debarred pursuant to § 127.6(c) of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130).

EFFECTIVE DATE: February 20, 1993.

FOR FURTHER INFORMATION CONTACT: Clyde G. Bryant Jr., Chief, Compliance Analysis Division, Office of Defense Trade Controls, Department of State (703–875–6650).

SUPPLEMENTARY INFORMATION: Section 38(g)(4)(A) of the Arms Export Contro. Act (AECA) prohibits the issuance of export licenses to a person, or any party to the export, who has been convicted of violating certain U.S. criminal statutes, including the AECA. The term "person" means a natural person as well

as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities. The term "party to the export" means the president, the chief executive officer, and other senior officers of the license applicant; the freight forwarders or designated exporting agent of the license applicant; and any consignee or end user of any item to be exported. The statute permits certain limited exceptions to this prohibition to be made on a case-by-case basis.

Section 127.6 of the ITAR authorizes the Assistant Secretary of State for Politico-Military Affairs to prohibit certain persons convicted of violating or conspiracy to violate the AECA from participating directly or indirectly in the export of defense articles or in the furnishing of defense services.

Such a prohibition is referred to as a statutory debarment, which may be imposed on the basis of judicial proceedings that resulted in a conviction for violating, or of conspiring to violate, the AECA. See 22 CFR 127.6(c).

Pursuant to a Consent Agreement, between Japan Aviation Electronics Industry, Ltd. (JAE) and the Department of State, and an Order signed by the Assistant Secretary of State for Politico-Military Affairs, the period for debarment for JAE will be three years with two years suspended starting from the date of conviction which was March 11, 1992. Licensing privileges may be reinstated at the request of the debarred person following the necessary interagency consultations, after a thorough review of the circumstances surrounding the conviction and a finding that appropriate steps have been taken to mitigate any law enforcement concerns, as required by section 38(g)(4) of the AECA.

Statutory debarment is based upon a conviction of guilt by a United States court, 22 CFR 127.6. Thus, the administrative procedures of part 128 of the ITAR do not apply in these cases.

During the period of statutory debarment the Department of State will not consider applications for licenses or requests for approvals that involve any person or any party to the export who has been convicted of violating the AECA or of conspiring to violate the AECA.

The Assistant Secretary for Politico-Military Affairs has debarred JAE as a result of JAE's March 11, 1992, conviction of violating the AECA in the U.S. District Court for the District of Columbia, pursuant to section 38(g)(4)(A) of the AECA and § 127.6 of the ITAR.

This notice involves a foreign affairs function of the United States encompassed within the meaning of the military and foreign affairs exclusion of the Administrative Procedure Act. Because the exercising of this foreign affairs function is discretionary, it is excluded from review under the Administrative Procedure Act.

Dated: March 1, 1993.

William B. Robinson,

Director, Office of Defense Trade Controls, Department of State.

[FR Doc. 93–5605 Filed 3–10–93; 8:45 am]

BILLING CODE 4710–25–M

[Public Notice 1772]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea Working Group on Fire Protection; Meeting

The U.S. Safety of Life at Sea (SOLAS) Working Group on Fire Protection will conduct an open meeting on March 31, 1993 at 10 a.m. in room 4315 at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington DC 20593. The purpose of this meeting will be to prepare for discussions anticipated to take place at the 38th Session of the International Maritime Organization's Sub-Committee on Fire Protection, scheduled for June 29, 1993.

The meeting will focus on the fire safety of commercial vessels. Specific discussion areas include: Smoke and toxicity, round robin tests for devices to prevent the passage of flame, revision of resolution A.472, heat radiation through windows and glass partitions, automatic sprinkler systems and fixed water spraying systems, dynamically supported craft, criteria for minimum fire loads, analyses of fire casualty records, guidelines for performance and testing criteria and surveys of foam concentrates, phasing out of halons, interpretations to SOLAS 74, requirements for dangerous solid bulk cargo, escape route sizing on passenger vessels, role of the human element in maritime casualties, interim fire protection requirements for open-top container ships, smoke control and ventilation, inert gas de-aeration of ballast tanks and double hull spaces, carriage of dangerous goods on the vehicle decks of passenger ships, fire safety aspects of composite materials used on board ships, and low-location lighting.

Members of the public may attend up to the seating capacity of the room. For further information regarding the meeting of the SOLAS Working Group on Fire Protection contact Mr. Jack Booth at (202) 267–2997.

Dated: March 1, 1993.

Bruce Carter,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 93–5606 Filed 3–10–93; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Motorcyle Helmet Standard Compliance Test Demonstration for Interested Members of the Public

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of demonstration for interested members of the public of tests conducted to determine whether motorcyle helmets comply with Federal motor vehicle safety standards.

SUMMARY: This notice announces a demonstration that will be held for interested members of the public of tests that are conducted to determine whether motorcycle helmets comply with performance requirements specified in Federal Motor Safety Standard No. 218, Motorcycle Helmets. The purpose of the demonstration is to provide information to interested members of the public on the equipment and procedures that are used to conduct Standard No. 218 compliance tests.

DATES AND TIMES: The demonstration will be held on Monday, April 5, 1993. It will be conducted from 9 to 11 a.m. for the first six people whose reservations are confirmed by NHTSA. Additional demonstrations will be conducted at two hour intervals until 4:30 p.m. on the same day, as necessary, if more than six people make reservations with the agency.

PLACE: Southwest Research Institute, Engineering and Materials Sciences Building (Building No. 128), 6220 Culebra Road, San Antonio, Texas 78238.

TO MAKE RESERVATIONS AND RECEIVE FURTHER INFORMATION CONTACT: James Gilkey, Office of Vehicle Safety Compliance, NHTSA (202–366–5298).

DEADLINE FOR MAKING RESERVATIONS: 3:45 p.m. on Wednesday, March 31, 1993.

SUPPLEMENTARY INFORMATION: These tests will be conducted for demonstration purposes alone, and not to establish whether any particular motorcyle helmet complies with the standard. Data generated during the

course of the demonstration will therefore not be recorded. Video cameras will not be permitted on the premises where the demonstration is to be conducted. The use of still photography is subject to approval by the Project Engineer conducting the demonstration tests.

No security clearance is required for attending the demonstration. However, owing to space limitations at the facility where the demonstration is to be conducted, no more than six people may observe a demonstration at any one time. Demonstrations may consequently be conducted in shifts if more than six people express an interest in attending. Attendance will be limited to those who have made reservations in advance with NHTSA, and will be granted on a first come, first served basis. NHTSA reserves the right to limit the total attendance.

Authority: 15 U.S.C. 1412(a); and delegations of authority at 49 CFR 1.50 and 501.8.

Dated: March 8, 1993.

William A. Boehly,

Associate Administrator for Law Enforcement.

[FR Doc. 93-5646 Filed 3-10-93 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods by Air; Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise persons that RSPA will conduct a public meeting to exchange views on proposals submitted to the Working Group meeting of the International Civil Aviation Organization's (ICAO) Dangerous Goods Panel (DGP) to be held in Cairo, Egypt on April 19–23, 1993.

DATES: April 6, 1993 at 9:30 a.m.

ADDRESSES: Department of Transportation, Nassif Building, Room 8334, 400 Seventh Street SW., Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Frits Wybenga, (202) 366–0656, International Standards Coordinator for Hazardous Materials Safety, RSPA, Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: This meeting will be held in preparation for the ICAO Dangerous Goods Panel Working Group meeting. The primary purpose of the Working Group meeting will be to discuss proposed amendments to the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air (the Technical Instructions). The Working Group will consider possible amendments to resolve problems encountered with the use of the Technical Instructions, and future amendments to the Technical Instructions on the basis of revisions to the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations). The public is invited to attend without prior notification.

Documents

Documents submitted to the working group of the ICAO DGP may be reviewed between the hours of 8:30 and 5 in RSPA's Dockets Unit located in room 8419 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Copies of documents may be obtained from RSPA for a nominal fee. A listing of these documents is available on the Hazardous Materials Information Exchange (HMIX), RSPA's computer bulletin board. Documents may be ordered by filling out an online request form on the HMIX or by contacting RSPA's Dockets Unit (202–366–4453). For more information on the use of the HMIX system, contact the HMIX information center; 1–800–PLANFOR (782–6367); in Illinois, 1–800–367–9592; Monday through Friday, 8:30 a.m. to 5 p.m. Central time.

After the meeting, a summary of the public meeting will also be available from the Hazardous Materials Advisory Council (HMAC), suite 250, 1110 Vermont Ave., NW., Washington, DC 20005; telephone number (202) 728–1460.

Issued in Washington, DC, on March 8, 1993.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93-5642 Filed 3-10-93; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Departmental Offices; Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to Section 10 of Public Law 92–463, that a meeting will be held at the Federal Reserve Bank of New York on March 15, 1993, of the following debt management advisory committee:

Public Securities Association Treasury Borrowing Advisory Committee

The agenda for the Public Securities Association Treasury Borrowing Advisory Committee meeting provides for a working session on March 15. A written report will be submitted to the Secretary of the Treasury following the meeting.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Public Law 92–463, and vested in me by Treasury Department Order 101–05, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(9)(A) of title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Public Law 92–463.

Although the Treasury's final decisions may not reflect the recommendations provided in reports of an advisory committee, the nature and content of the discussion and recommendations are such that their premature disclosure would lead to significant speculation in the securities market. Thus, the meeting falls within the exemption covered by section 552b(c)(9)(A) of title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of section 552b of title 5 of the United States Code.

Dated: March 4, 1993.

Deborah J. Danker,

Acting Assistant Secretary, (Domestic Finance).

[FR Doc. 93-5537 Filed 3-10-93; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

[Delegation Order No. 241]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Order 150–10, authority has been delegated to the Assistant Commissioner (Employee Plans and Exempt Organizations) to administer the Voluntary Compliance Resolution Program described in Rev. Proc. 92–89. This authority may be redelegated to the Director, Employee Plans Technical and Actuarial Division, and may be further redelegated. The authority to approve compliance statements under Rev. Proc. 92–89 may be redelegated to reviewers, grade GS–12 and above.

The text of the delegation order appears below.

EFFECTIVE DATE: February 25, 1993.

FOR FURTHER INFORMATION CONTACT: John H. Turner, E:EP:P:1, room 6702, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone (202) 622–7146 (not a toll-free call).

Order No. 241.

Effective date: February 25, 1993.

Voluntary Compliance Resolution Program

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Order 150–10, there is hereby delegated to the Assistant Commissioner (Employer Plans and Exempt Organizations) the authority to administer the Voluntary Compliance Resolution Program (VCR Program) described in Revenue Procedure 92–89, 1992–46 I.R.B. 27.

2. The authority described in Section 1 may be redelegated to the Director, Employee Plans Technical and Actuarial Division, and may be further redelegated to the Assistant Director, Employee Plans Technical and Actuarial Division, and to the Chief, Voluntary Compliance Resolution Staff, Employee Plans Technical and Actuarial Division. The authority to approve compliance statements under Rev. Proc. 92–89 may be further redelegated to reviewers, grade GS–12 and above.

Dated: February 25, 1993.

Approved:

David G. Blattner,

Chief Operations Officer.

[FR Doc. 93–5522 Filed 3–10–93; 8:45 am]

BILLING CODE 4830–01–M

UNITED STATES INFORMATION AGENCY

Fulbright Teacher Exchange—Cooperative Agreement for Administrative Services

AGENCY: United States Information Agency.

ACTION: Notice—request for proposals.

SUMMARY: The United States Information Agency (USIA) seeks applications from non-profit organizations with at least four years of experience in successfully administering international exchange programs to provide administrative and program services for the 1993–1994 Fulbright Teacher Exchange Program. Activities include: Receipt and logging of applications (approximately 1,200); technical screening for eligibility; assignment of applicants to peer interview sites; preparation of candidate dossiers for Agency review; proposing up to 450 preliminary educator matches to foreign counterparts; processing approximately 240 selected candidates; updating informational literature; developing new country information (presently, there are exchanges with 35 countries); analyzing grantee reports; maintaining contact with 240 exchange educators, academic deans, and school administrators; conducting outreach activities to publicize the program; and disbursing stipends to teachers, including withholding and reporting to the IRS. Subject to USIA review, the cooperative agreement will be renewed annually for three years to enable the cooperating organization to begin and complete an entire program cycle.

DATES: Deadline for proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC, time on May 7, 1993. Faxed documents will not be accepted, nor will documents postmarked on May 7, but received at a later date. It is the responsibility of each applicant to ensure that proposals are received by the above deadline. The cooperative agreement should begin October 15, 1993.

ADDRESSES: The original and 10 copies of the completed application, including required forms, must be submitted by the deadline to: U.S. Information Agency, REF: Fulbright Teacher Exchange, Administrative Services, Grant Management Staff, E/XE, room 336, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested United States organizations/institutions should contact Ilo-Mai Harding at the U.S. Information Agency, 301 4th Street, SW., Teacher Exchange Branch, (E/ASX), room 353, Washington, DC 20547, telephone, (202) 619–4556, fax, (202) 401–1433 to request detailed application packets, which include award criteria additional to this announcement, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information.

SUPPLEMENTARY INFORMATION: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life.

Overview—The Fulbright Teacher Exchange Program provides opportunities for approximately 240 U.S. educators at the secondary, post-secondary, and in Canada and the United Kingdom, at the elementary level, to exchange teaching positions with foreign counterpart teachers from 35 countries for one academic year. The success of the current program—and low dropout rate—is largely due to the administrative services provided by the cooperating organization that includes screening and matching of applicants.

Guidelines

The cooperating organization will perform administrative and program functions for the Fulbright Teacher Exchange Program. The cooperating organization will have the responsibility for:

A. Observing and complying with the policies of the United States Information Agency (USIA) and the J. William Fulbright Foreign Scholarship Board (BFS) in the administration of this cooperative agreement;

B. Providing data, as requested by USIA, concerning the Fulbright Teacher Exchange Program;

C. Submitting quarterly budget and program reports and an annual report with recommendations for project improvements.

Proposed Budget—All organizations must submit a comprehensive line item budget for which specific details are available in the application packet.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. In addition, all eligible proposals will be reviewed by the budget and contracts offices. Proposals may also be reviewed by the Agency's

Office of General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the following criteria:

1. *Quality of program idea:* Proposals should exhibit originality, substance, and relevance to the USIA mission of promoting mutual understanding between the U.S. and other countries.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive rigor and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals.

5. *Institution's Track Record/Ability:* In the proposal, applicant institution should demonstrate a track record of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts (M/KG). Applicant institution should also demonstrate ability to perform the services that are outlined in the work statement. The Agency will consider the past performance of prior grantees and the demonstrated potential of new applicants.

6. *Evaluation Plan:* Proposals should provide a plan for program evaluation by the grantee institution.

7. *Cost effectiveness:* The overhead and administrative components of the cooperative agreement, as well as salaries and honoraria, should be kept as low as possible. All expenditures should be necessary and appropriate.

8. *Cost-sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final awards cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about July 23, 1993. The awarded cooperative agreement will be subject to periodic reporting and evaluation requirements.

Dated: March 5, 1993.

Barry Fulton,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 93–5615 Filed 3–10–93; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 46
Thursday, March 11, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. COMMISSION ON CIVIL RIGHTS

DATE AND TIME: Tuesday, March 9, 1993.

PLACE: U.S. Commission on Civil Rights, 1124 Ninth Street, NW., Rm. 530, Washington, DC 20415.

STATUS: Open to the Public.

March 9, 1993

1. Discussion of U.S. Commission on Civil Rights' FY 1994 Budget. A vote will be taken at the beginning of the meeting to discuss the budget in an executive meeting. A vote to close the meeting will be taken pursuant to the Government in the Sunshine Act at 5 U.S.C. § 552b(c)(9)(B) and Commission regulations at 45 C.F.R. § 702.53(9). The reason why this meeting might be closed is because the disclosure of budgetary information may be likely to significantly frustrate implementation of proposed agency action.

A copy of the portions of the transcript that are open to the public will be available at least five (5) working days after the scheduled date of the meeting at the Office of General Counsel at (202) 376–8351.

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Dated: March 8, 1993.

Emma Monroig,

Solicitor.

[FR Doc. 93–5681 Filed 3–8–93; 4:29 pm]

BILLING CODE 6335-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 2:15 p.m., Wednesday, March 17, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 8, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–5781 Filed 3–9–93; 3:29 pm]

BILLING CODE 6210-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of March 15, 1993.

A closed meeting will be held on Tuesday, March 16, 1993, at 2:30 p.m. An open meeting will be held on Thursday, March 18, 1993, at 10:00 a.m., in Room 1C30.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 16, 1993, at 2:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.

Settlement of injunctive actions.

Institution of injunctive actions.

The subject matter of the open meeting scheduled for Thursday, March 18, 1993, at 10:00 a.m., will be:

1. Consideration of whether to propose for public comment amendments to rule 482 under the Securities Act. The proposed amendments to rule 482 would permit certain advertisements that take the form of off-the-page prospectuses for mutual fund shares to include order form for purchasing shares if the off-the page prospectuses contain specified disclosure. Additionally, the Commission is considering proposing for public comment new Form 482(g), which would be used as a cover sheet for certain filings required to be made under the proposed amendments, and amendments to Form N–1A, which would delete the instructions for summary prospectuses for mutual funds. For further information, please contact Robert G. Bagnall at (202) 272–2048

2. Consideration of whether to adopt amendments to Form N–1A, the registration form used by open-end management investment companies under the Investment Company Act of 1940 and the Securities Act of 1933, and related rules and forms. The amendments would require a mutual fund to include in its prospectus or, alternatively, its annual report to shareholders: (1) a discussion of those factors, strategies, and techniques that materially affected its performance during its most recently completed fiscal year and (2) a line graph comparing its performance to that of an appropriate securities market index. The amendments would also require a registrant to identify its portfolio manager and would revise the per share table contained in the prospectus. Conforming technical amendments would be made to Form N–14, the registration form used by investment companies to register under the 1933 Act securities to be issued in mergers and other forms of business combination and to Rule 34b–1 under the 1940 act. For further information, please contact Martha Platt at (202) 272–2838.

3. Consideration of proposed Rule 15b7–1 under the Securities and Exchange Act of 1934. The release would propose for comment a rule that would prohibit registered broker-dealers from effecting any securities transaction unless the associated person effecting such transaction is in compliance with the qualification requirements established under the rules of any self-regulatory organization of which the broker-dealer is a member or to which it is subject. For further information, please contact Andrew S. Margolin at (202) 504–2418.

4. Consideration of whether to issue an order approving a proposed rule change by the National Association of Securities Dealers ("NASD") (SR–NASD–92–45) that establishes a pricing system for certain high yield fixed income securities—the Fixed Income Pricing System. For further information, please contact Jill Ostergaard at (202) 504–2932.

5. Consideration of whether to adopt, on a temporary basis, a new exception to Rule 10b–6 and new Rule 10b–6A(T) under the Securities Exchange Act of 1934, which would permit "passive market making" during distributions of certain NASDAQ securities. The new provisions would allow "passive market making" during the two business day "cooling-off" period of Rule 10b–6, that is, the period when Rule 10b–6

otherwise would prohibit such transactions. In general, a passive market maker's bids would be limited by the level of bids of market makers that are not participating in the distribution. Conforming amendments also would be adopted to Rules 502(d) and 508 of Regulation S–K and S–B under the Securities Act of 1933. For further information, please contact Liz Pucciarelli Hensley or Susan H. Schleisner at (202) 272–2848.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kaye Williams (202) 272–2400.

Dated: March 8, 1993.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–5763 Filed 3–9–93; 2:20 pm]

BILLING CODE 8010–01–M

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federal register

Thursday
March 11, 1993

Part II

Department of Education

34 CFR Part 300

Assistance to States for the Education of Children with Disabilities; Rule

DEPARTMENT OF EDUCATION

34 CFR Part 300

RIN 1820–AA89

Assistance to States for the Education of Children With Disabilities Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations for the Assistance to States for the Education of Children with Disabilities Program to add the Office of Management and Budget (OMB) control numbers for certain sections of the regulations. These sections contain information collection requirements. The Secretary takes this action to inform the public that these requirements have been approved by OMB.

EFFECTIVE DATE: These regulations are effective March 11, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Lucille Sleger, U.S. Department of Education, 400 Maryland Avenue, SW., Switzer Building, room 3615, Washington, DC 20202–2720. Telephone: (202) 205–8104. Deaf and hearing impaired individuals may call (202) 205–9090 for TDD services.

SUPPLEMENTARY INFORMATION: On September 29, 1992, at 57 FR 44794–44852, final regulations were published in the **Federal Register** revising part 300. The effective date of certain sections of the regulations was delayed until information collection requirements contained in those sections were approved by OMB under the Paperwork Reduction Act of 1980, as amended. OMB has now approved the information collection requirements.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined, under 5 U.S.C. 553(b)(B), that proposed rulemaking is unnecessary and contrary to the public interest.

List of Subjects in 34 CFR Part 300

Administrative practice and procedures, Education, Education of individuals with disabilities, Grant programs—education, Privacy, Private schools, Reporting and record keeping requirements.

Dated: March 5, 1993.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

The Secretary amends title 34 of the Code of Federal Regulations by amending part 300 as follows:

PART 300—ASSISTANCE TO STATES FOR THE EDUCATION OF CHILDREN WITH DISABILITIES PROGRAM

1. The authority citation for part 300 continues to read as follows:

Authority: 20 U.S.C. 1411–1420, unless otherwise noted.

§§ 300.110; 300.121–300.123; 300.125–300.134; 300.136; 300.138–300.141; 300.144; 300.146; 300.148; 300.149; 300.152; 300.153; 300.341; 300.343; 300.345; 300.346; 300.349; 300.380–300.383; 300.402; 300.482; 300.483; 300.505; 300.510; 300.512; 300.532; 300.533; 300.543; 300.561–300.563; 300.565; 300.569; 300.571; 300.572; 300.574; 300.575; 300.589; 300.600; and 300.653 [Amended]

2. Sections 300.110; 330.121–300.123; 300.125–300.134; 300.136; 300.138–300.141; 300.144; 300.146; 300.148; 300.149; 300.152; 300.153; 300.341; 300.343; 300.345; 300.346; 300.349; 300.380–300.383; 300.402; 300.482; 300.483; 300.505; 300.510; 300.512; 300.532; 300.533; 300.543; 300.561–300.563; 300.565; 300.569; 300.571; 300.572; 300.574; 300.575; 300.589; 300.600; and 300.653 are amended by adding at the end of those sections "Approved by the Office of Management and Budget under control number 1820–0030."

§§ 300.180; 300.192; 300.220; 300.222–300.227; 300.231; 300.235; 300.238; 300.240; 300.280; 300.281; and 300.284 [Amended]

3. Sections 300.180; 300.192; 300.220; 300.222–300.227; 300.231; 300.235; 300.238; 300.240; 300.280; 300.281; and 300.284 are amended by adding at the end of those sections "Approved by the Office of Management and Budget under control number 1820–0600."

§§ 300.660–300.662 [Amended]

4. Sections 300.660–300.662 are amended by adding at the end of those sections "Approved by the Office of Management and Budget under control number 1820–0599."

§§ 300.750; 300.751; and 300.754 [Amended]

5. Sections 300.750; 300.751; and 300.754 are amended by adding at the end of those sections "Approved by the Office of Management and Budget under control number 1820–0043."

[FR Doc. 93–5553 Filed 3–10–93; 8:45 am]

BILLING CODE 4000–01–M

Reader Aids

Federal Register

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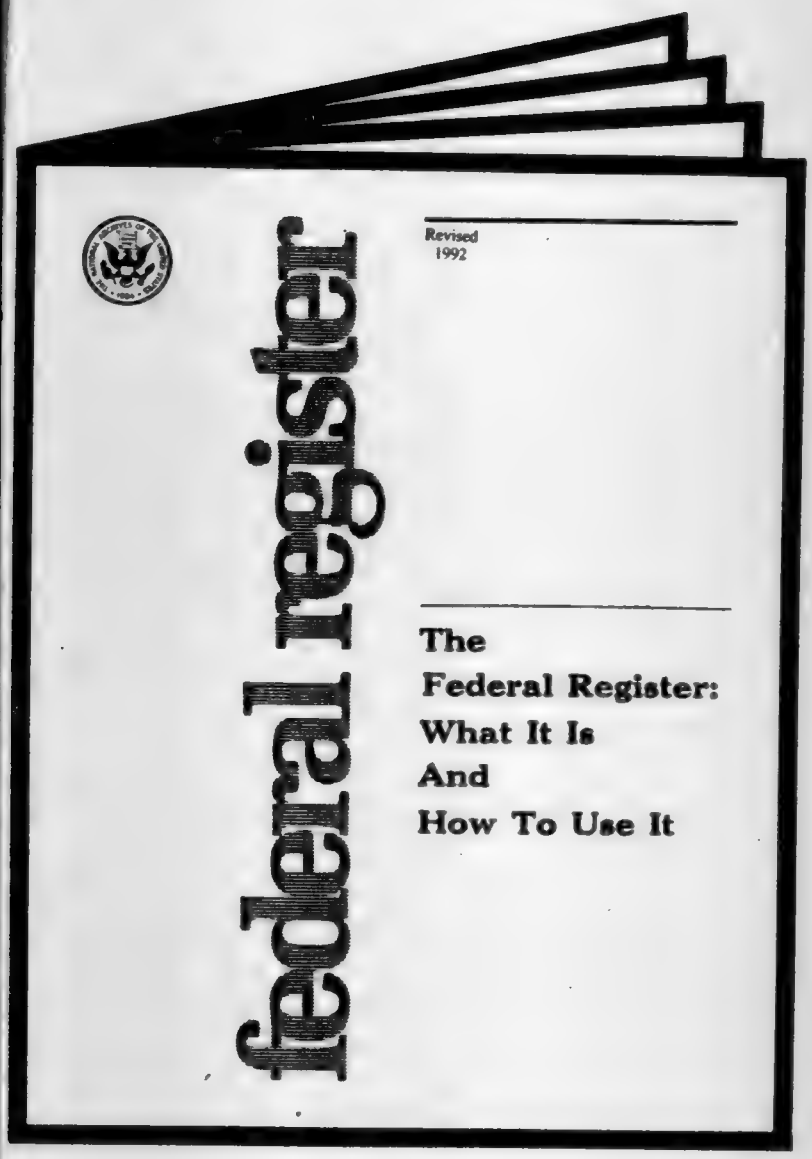

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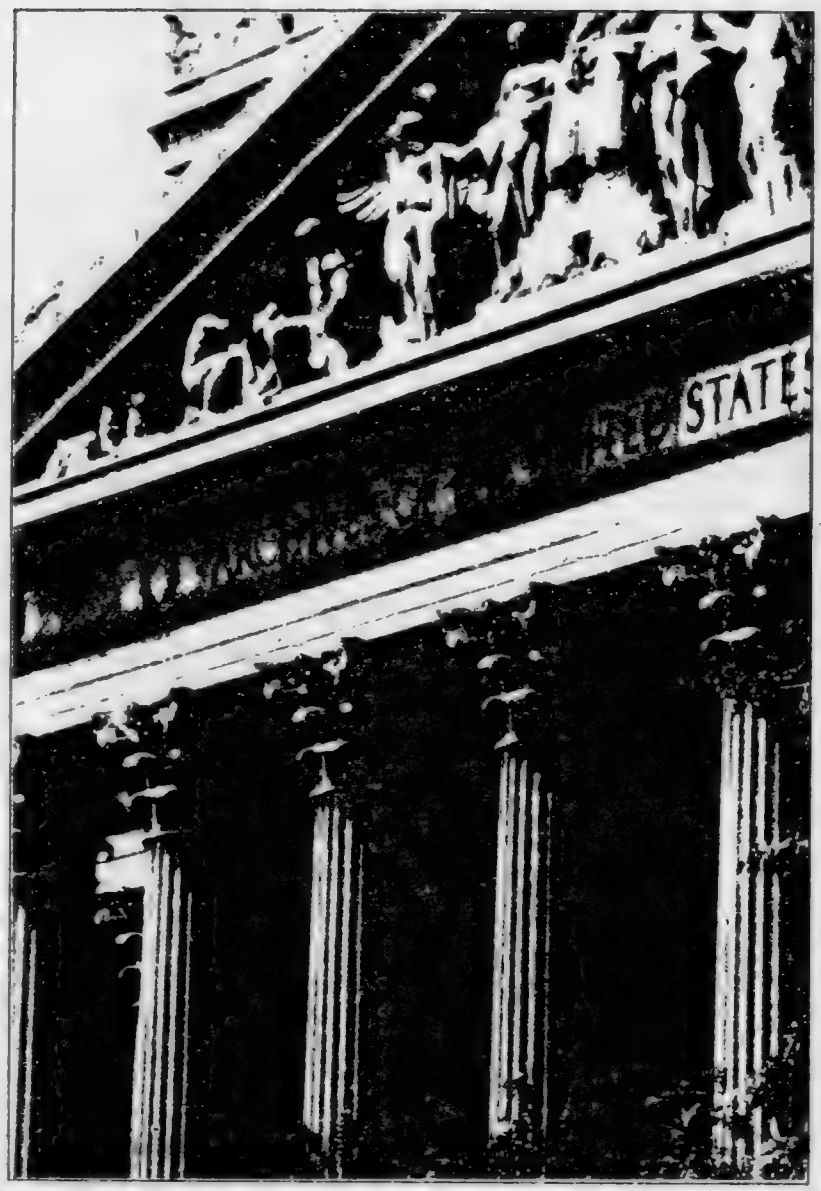

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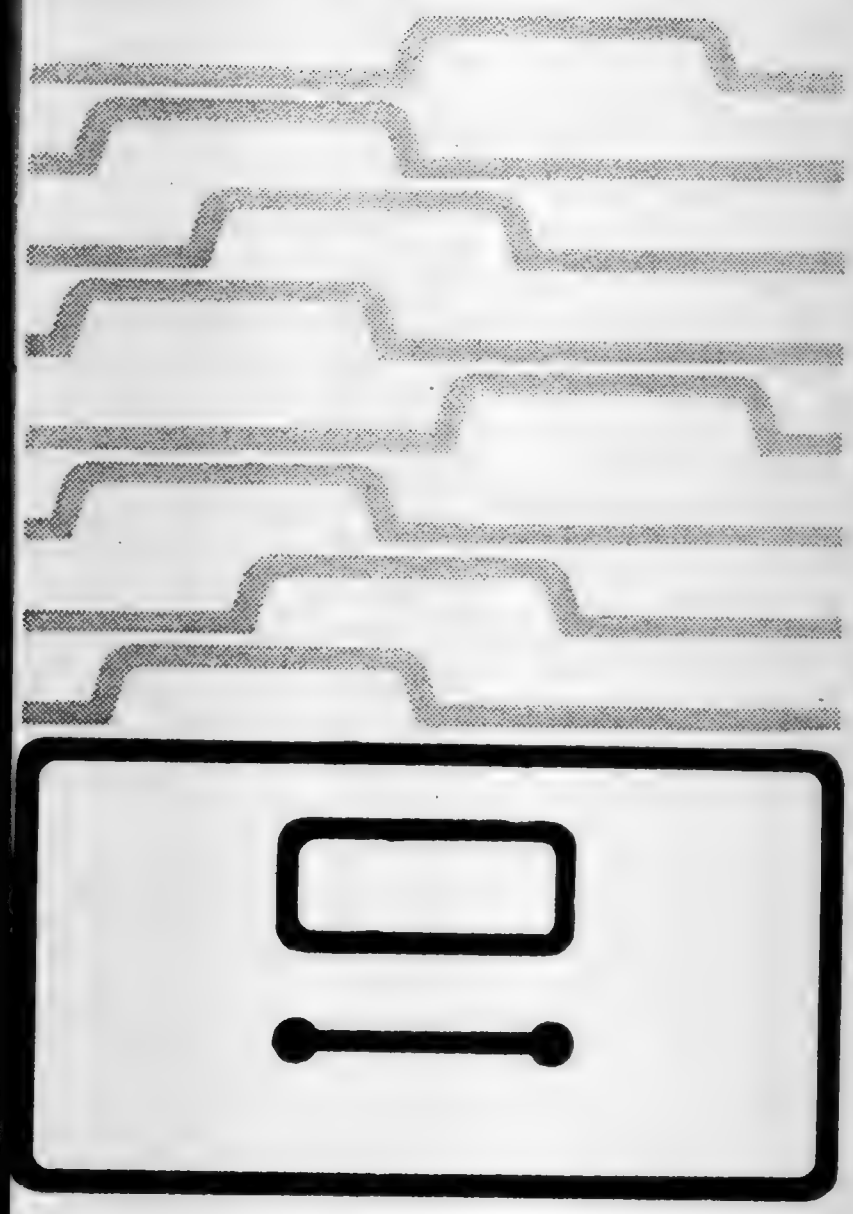

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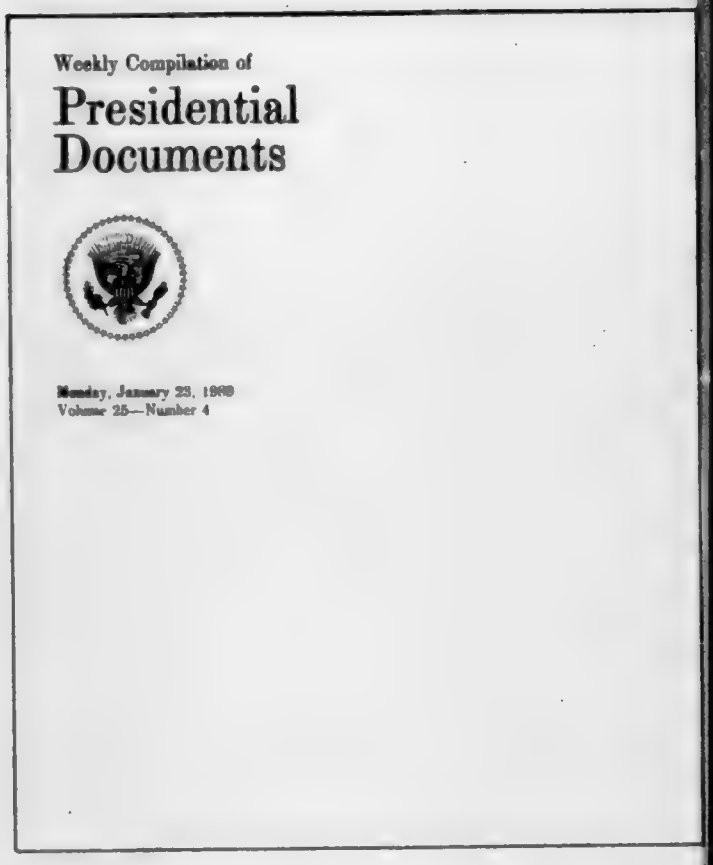
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Friday
March 12, 1993

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Law numbers, Federal Register finding aids, and a list of Clinton Administration officials is available on 202–275–1538 or 275–0920.

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Friday, March 12, 1993

Presidential Documents

Title 3—

The President

Executive Order 12841 of March 9, 1993

Adjustments to Levels IV and V of the Executive Schedule

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 5317 of title 5, United States Code, and in order to adjust positions in levels IV and V of the Executive Schedule, it is hereby ordered that Executive Order No. 12154, as amended, is further amended by: (1) adding the following new subsection to section 1–101: "(k) Commissioner on Aging, Department of Health and Human Services"; (2) deleting the following subsections from section 1–102: "(d) Commissioner on Aging, Department of Health and Human Services", and "(g) Transition Manager, United States Enrichment Corporation"; and (3) relettering subsections (e) and (f) of section 1–102 as subsections (d) and (e), respectively.

William J. Clinton

THE WHITE HOUSE,
March 9, 1993.

[FR Doc. 93–5864
Filed 3–10–93; 12:44 pm]
Billing code 3195–01–M

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Rules and Regulations

Federal Register
Vol. 58, No. 47
Friday, March 12, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

General Administrative Regulations; Information Collection Requirements Under the Paperwork Reduction Act; OMB Control Numbers

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation is required to publish currently valid Office of Management and Budget (OMB) control numbers for each collection of information requirement contained in its regulations. These numbers must be published in a manner that will ensure codification in the Code of Federal Regulations.

DATES: Effective March 12, 1993.

FOR FURTHER INFORMATION CONTACT: Mari L. Dunleavy, Acting Director, Regulatory and Procedural Development, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found with good cause that notice and public comment are impractical and unnecessary. Good cause is also found for making this rule effective in less than thirty days after publication in the **Federal Register**.

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. This action is not a major rule as defined in Public Law 96–354, the Regulatory Flexibility Act, and is thus exempt from its provisions.

The OMB regulations, 5 CFR part 1320 "Controlling Paperwork Burdens on the Public," require FCIC to publish currently valid OMB control numbers for each collection of information requirement contained in its regulations. These numbers must be published in a manner that will ensure codification into the Code of Federal Regulations.

FCIC hereby amends 7 CFR part 400, subpart H to include the information collection control numbers issued by OMB with respect to the FCIC forms contained in this rule.

List of Subjects in 7 CFR Part 400

Administrative practice and procedure, information collection requirements, OMB control numbers.

Final Rule

PART 400—[AMENDED]

In accordance with the provisions of 5 CFR Part 1320, and the Paperwork Reduction Act, Pub. L. 96–511, the Federal Crop Insurance Corporation hereby amends the General Administrative Regulations; Information Collection Requirements Under the Paperwork Reduction Act; OMB Control Numbers, found at 7 CFR part 400, subpart H, effective upon publication in the **Federal Register** in the following instances:

1. The authority citation for 7 CFR part 400, subpart H continues to read as follows:

Authority: 5 U.S.C. 1320, Pub. L. 96–511

2. In CFR 400.66(b) the table is revised as follows:

§ 400.66 Display.

* * * * *

(b) * * *

FCI No.	Form title	OMB No.	Expiration date
FCI–3	Collector's Contact Report	0563–0043	8–31–94
FCI–5	Contract Price Election Agreement Option for Non-Quota (additional) Peanuts	0563–0021	6–30–94
FCI–5	Request for Actuarial Change	0563–0042	9–30–94
FCI–5–A	Request for Actuarial Change Continuation Sheet	0563–0042	9–30–94
FCI–6	Statement of Facts	0563–0027	6–30–94
FCI–9	Late Planting Agreement	0563–0023	6–30–94
FCI–12	Crop Insurance Application	0563–0003	3–31–93
FCI–12–A	Contract Changes	0563–0025	7–31–94
FCI–12–P	Pre-Acceptance Perennial Crop Inspection Report	0563–0031	7–31–94
FCI–19	Crop Insurance Acreage Report	0563–0001	2–28–95
FCI–19–A	Actual Production History Review	0563–0036	7–31–94
FCI–19–A	Production and Yield Report	0563–0029	7–31–94
FCI–19–C	Texas Citrus Grove Inspection Report	0563–0017	4–30–95
FCI–20	Application for Assignment of Indemnity	0563–0014	12–31–93
FCI–21	Transfer of Right to an Indemnity	0563–0014	12–31–93
FCI–63	Claim for Citrus Indemnity	0563–0007	2–28–95
FCI–63–A	Claim for Raisin Indemnity	0563–0007	2–28–95
FCI–63–A	Notice of Damage—Raisins	0563–0035	8–31–94
FCI–63–A	Adjuster's Florida Citrus Worksheet	0563–0016	4–30–95
FCI–63–B	Tabulation of Production Records from Individual Load Certificates	0563–0044	9–30–94
FCI–73	Certification Form	0563–0033	7–31–94
FCI–74	Field Inspection and Claim for Indemnity	0563–0007	2–28–95
FCI–74	Field Inspection and Claim for Indemnity (Continuation Sheet)	0563–0007	2–28–95
FCI–74–T–P–C	Field Inspection and Claim for Indemnity (Tobacco, Peanuts, and Cotton)	0563–0007	2–28–95
FCI–74–T–P–C	Field Inspection Claim for Indemnity (Continuation Sheet)	0563–0007	2–28–95

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FCI–74–A	Beans and Peas Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Citrus Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Stand Reduction and Hail Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Nut Tree Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Adjuster's Citrus Worksheet	0563–0016	4–30–95
FCI–74–A	Corn, Grain Sorghum, and Silage Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Cotton Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Fig Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Flax Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Forage Seeding Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Fresh Sweet Corn Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Table Grape Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Peanut Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Pear Appraisal Worksheet	0563–0016	4–30–95
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FCI–74–A	Sunflower Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Tobacco Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Adjuster's Peach Worksheet	0563–0016	4–30–95
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FCI–74–A	Texas Citrus Tree Appraisal Worksheet	0563–0016	4–30–95
FCI–74–A	Macadamia Tree Worksheet	0563–0028	6–30–94
FCI–74–A	Macadamia Tree Worksheet (continuation)	0563–0028	6–30–94
FCI–74–A	Random Path Appraisal Worksheet	0563–0039	8–31–94
FCI–74–B	Adjuster's Apple Worksheet	0563–0016	4–30–95
FCI–74–B	Peanut Computation Sheet	0563–0041	9–30–94
FCI–74–B	Stand Reduction Appraisal Worksheet	0563–0016	4–30–95
FCI–74–B	Fresh Tomatoes Appraisal Worksheet	0563–0016	4–30–95
FCI–74–B	Peppers Appraisal Worksheet	0563–0016	4–30–95
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FCI–74–C	Summary of Harvested Production	0563–0040	8–31–94
FCI–74–C	Hail Damage Appraisal Worksheet	0563–0016	4–30–95
FCI–78	Request to Exclude Hail and Fire	0563–0032	6–30–94
FCI–78–A	Request to Exclude Hail and Fire	0563–0032	6–30–94
FCI–505	Potato Crop Insurance Policy—Certified Seed Potato Option Amendment	0563–0029	6–30–94
FCI–506	Apple Fresh Fruit Option	0563–0020	6–30–94
FCI–513	Waiver to Transfer Segregation II and III Peanuts to Quota Loan	0563–0026	7–31–94
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FCI–528	Planting Record—Peppers	0563–0022	6–30–94
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FCI–539	Apple Sunburn Option	0563–0020	6–30–94
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FCI–553	Unit Division Option	0563–0001	2–28–95
FCI–554	Macadamia Orchard Inspection Report	0563–0015	4–30–95
FCI–555	Peach Producer's Picking Records	0563–0024	6–30–94
FCI–819	Raisin Supplement—Tonnage Report	0563–0035	8–31–94

Done in Washington DC on March 4, 1993.

Kathleen Connelly,

Acting Deputy Manager, Federal Crop Insurance Corporation.

[FR Doc. 93–5670 Filed 3–11–93; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Temporary Placement of Alpha-ethyltryptamine into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: The Administrator of the Drug Enforcement Administration (DEA) is issuing this final rule to temporarily place alpha-ethyltryptamine into Schedule I of the Controlled Substances Act (CSA) pursuant to the emergency scheduling provisions of the CSA (21 U.S.C. 811(h)). This action is based on the finding by the DEA Administrator that the placement of alpha-ethyltryptamine in Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety. As a result of this rule, the criminal sanctions and regulatory controls of Schedule I substances under the CSA will be applicable to the manufacture, distribution, and possession of alpha-ethyltryptamine.

EFFECTIVE DATE: March 12, 1993.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: The Comprehensive Crime Control Act of 1984 (Pub. L. 98–473), which was signed into law on October 12, 1984, amended section 201 of the Controlled Substances Act (CSA) (21 U.S.C. 811) to give the Attorney General the authority to temporarily place a substance into Schedule I of the CSA if he finds that such action is necessary to avoid an imminent hazard to the public safety. A substance may be temporarily scheduled under the emergency provision of the CSA if that substance is not listed in any other schedule under Section 202 of the CSA (21 U.S.C. 812) or if there is no approval or exemption in effect under 21 U.S.C. 355 of the Food, Drug, and Cosmetic Act for the substance. The Attorney General has delegated his authority under 21 U.S.C. 811 to the Administrator of DEA (28 CFR 0.100).

A notice of intent to temporarily place alpha-ethyltryptamine into Schedule I of the CSA was published in the **Federal Register** on January 14, 1993 (58 FR 4370). The Administrator transmitted notice of his intention to temporarily place alpha-ethyltryptamine into Schedule I of the CSA to the Assistant Secretary for Health of the Department of Health and Human Services. In response to this notification, the Food and Drug Administration has advised DEA that there are no exemptions or approvals in effect under 21 U.S.C. 355 of the Food, Drug, and Cosmetic Act for alpha-ethyltryptamine and that the Department of Health and Human Services has no objection to DEA's intention to temporarily place alpha-ethyltryptamine into Schedule I of the CSA.

In making a finding that placing a substance temporarily in Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety the Administrator is required to consider three of the eight factors set forth in section 201(c) of the CSA (21 U.S.C. 811(c)). These factors are as follows: (4) History and current pattern of abuse; (5) The scope, duration and significance of abuse; and (6) What, if any, risk there is to the public health.

Alpha-ethyltryptamine has been classified as a central nervous system (CNS) stimulant as well as a tryptamine hallucinogen. Chemically it is α-ethyl-1H-indole-3-ethanamine or 3-(2-aminobutyl) indole. It is structurally similar to N,N-dimethyltryptamine (DMT) and N,N-diethyltryptamine (DET) both of which are hallucinogens controlled in Schedule I of the CSA. Available data indicate that alpha-ethyltryptamine produces some pharmacological effects qualitatively similar to those of other Schedule I hallucinogens.

DEA first encountered alpha-ethyltryptamine in 1986 at a clandestine laboratory in Nevada. Several exhibits of alpha-ethyltryptamine have been analyzed by DEA and state forensic laboratories since 1989. Individuals in Colorado and Arizona have purchased several kilograms of this substance as the acetate salt from chemical supply companies and have distributed and sold quantities to individuals for the purpose of human consumption. Touted as an MDMA (3,4-methylenedioxymethamphetamine)-like substance, it has been trafficked as "TRIP" or "ET". Distribution and use have been primarily among high school and college-age individuals. In Arizona, the death of a 19-year-old female was attributed to acute alpha-ethyltryptamine toxicity. Illicit use has been documented in both Germany and Spain where two deaths have resulted from alpha-ethyltryptamine overdose.

Alpha-ethyltryptamine acetate was marketed by the Upjohn Company in 1961 as an antidepressant under the trade name of Monase. After less than one year of marketing, Upjohn withdrew its New Drug Application when it became apparent that Monase administration was associated with the development of agranulocytosis. Recent scientific data also suggest that this substance may produce neurotoxicity similar to the neurotoxic effects produced by MDMA and PCA (para-chloroamphetamine).

In light of its CNS stimulatory and hallucinogenic properties similar to those of DMT, DET and MDMA, its association with agranulocytosis and its possible neurotoxicity, the continued uncontrolled availability of alpha-ethyltryptamine poses an imminent hazard to public safety.

In accordance with the provisions of section 201(h) of the CSA (21 U.S.C. 811(h)) and 28 CFR 0.100 the Administrator has considered the three factors required for a determination of whether temporarily scheduling alpha-ethyltryptamine under the CSA is necessary to avoid an imminent hazard to the public safety. Based on a consideration of these factors and other relevant information, the Administrator finds that placement of alpha-ethyltryptamine into Schedule I of the CSA on a temporary basis is necessary to avoid an imminent hazard to the public safety.

The following regulations are effective with respect to alpha-ethyltryptamine on March 12, 1993, except for those individuals registered with DEA in accordance with part 1301 or part 1311 of title 21 of the Code of Federal Regulations, who currently possess alpha-ethyltryptamine may continue to do so pending DEA's receipt of an application for amended registration no later than April 12, 1993:

1. Registration. Any person who manufactures, distributes, delivers, imports or exports alpha-ethyltryptamine or who engages in research or conducts instructional activities with respect to alph-ethyltryptamine or who proposes to engage in such activities must be registered to conduct such activities in accordance with parts 1301 and 1311 of title 21 of the Code of Federal Regulations.

2. Security. Alpha-ethyltryptamine must be manufactured, distributed and stored in accordance with §§ 1301.71–

1301.76 of title 21 of the Code of Federal Regulations.

3. Labeling and Packaging. All labels and labeling for commercial containers of alpha-ethyltryptamine must comply with requirements of §§ 1302.03–1302.05, 1302.07 and 1302.08 of title 21 of the Code of Federal Regulations.

4. Quotas. All persons required to obtain quotas for alpha-ethyltryptamine must submit application pursuant to §§ 1303.12 and 1303.22 of title 21 of the Code of Federal Regulations.

5. Inventory. Every registrant required to keep records and who possesses any quantity of alpha-ethyltryptamine is required to take an inventory of all stocks of this substance on hand pursuant to §§ 1304.11–1304.19 of title 21 of the Code of Federal Regulations.

6. Records. All registrants to keep records pursuant to §§ 1304.21–1304.27 of title 21 of the Code of Federal Regulations must do so regarding alpha-ethyltryptamine.

7. Reports. All registrants required to submit reports in accordance with §§ 1304.34–1304.37 of title 21 of the Code of Federal Regulations shall do so regarding alpha-ethyltryptamine.

8. Order Forms. All registrants involved in the distribution of alpha-ethyltryptamine must comply with the order form requirements of §§ 1305.01–1305.16 of title 21 of the Code of Federal Regulations.

9. Importation and Exportation. All importation and exportation of alpha-ethyltryptamine must be in compliance with part 1312 of title 21 of the Code of Federal Regulations.

10. Criminal Liability. Any activity with alpha-ethyltryptamine not authorized by, or in violation of, the CSA or the Controlled Substances Import and Export Act occurring on or after March 12, 1993 is unlawful.

The Administrator of the DEA hereby certifies that the temporary placement of alpha-ethyltryptamine into Schedule I of the CSA will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This action involves the temporary control of a substance with no currently approved medical use in the United States.

The temporary scheduling of alpha-ethyltryptamine is not a major rule for the purposes of Executive Order (E.O.) 12291 of February 17, 1981. It has been determined that drug scheduling matters are not subject to review by the Office of Management and Budget (OMB) pursuant to the provisions of E.O. 12291. Accordingly, this proposed emergency scheduling action is not subject to provisions of E.O. 12778 which are contingent upon review by OMB. This regulation both responds to an emergency situation posing an imminent danger to the public safety, and is essential to a criminal law enforcement function of the United States.

This action has been analyzed in accordance with the principles and criteria in E.O. 12291, and it has been determined that the temporary placement of alpha-ethyltryptamine into Schedule I of the CSA does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs, Reporting and Recordkeeping requirements.

Under the authority vested in the Attorney General by section 201(h) of the CSA (21 U.S.C. 811(h)), and delegated to the Administrator of the DEA by Department of Justice regulations (28 CFR 0.100), the Administrator hereby amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871b, unless otherwise noted.

2. Section 1308.11 is amended by adding paragraph (g)(5) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(g) * * *

(5) alpha-ethyltryptamine, its optical isomers, salts and salts of isomers—7249.

Some other names: etryptamine; α-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole.

* * * * *

Dated: March 8, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–5734 Filed 3–11–93; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 200, 202, 203, 213, 234, and 240

[Docket No. R–93–1506; FR–2854–C–03]

RIN 2501–AB16

Mortgagee Approval Reform and Direct Endorsement Expansion; Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; correction.

SUMMARY: On December 9, 1992 (57 FR 58326), the Department published in the Federal Register, a final rule that implemented a comprehensive revision of the Department's regulations that prescribe the standards by which mortgagees are approved to participate in the HUD mortgage insurance programs, and by which approved mortgagees maintain their approval status. The rule also reorganized and updated the Department's Direct Endorsement program requirements.

The purpose of this document is to correct technical errors, and to add an amended § 234.248 on Waivers that was inadvertently omitted from the published final rule. (Section 234.248 is a parallel section to § 203.248, amended in the December 9, 1992 final rule.)

EFFECTIVE DATE: January 8, 1993.

FOR FURTHER INFORMATION CONTACT: William M. Heyman, Director, Office of Lender Activities and Land Sales Registration, Department of Housing and Urban Development, room 9146, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1824, or (202) 708–4594 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On December 9, 1992 (57 FR 58326), the Department published a final rule that implemented a comprehensive revision of the Department's regulations that prescribe the standards by which mortgagees are approved to participate in the HUD mortgage insurance programs, and by which approved mortgagees maintain their approval status. The rule also reorganized and updated the Department's Direct Endorsement program requirements.

The purpose of this document is to correct certain technical errors that appeared in the December 9, 1992 final rule. The following provides a summary of the corrections that are being made by this document.

1. The preamble discussion of the origination approval agreement under the heading "Section 202.11—Approval,

Recertification, Withdrawal of Approval and Termination of Approval Agreement" states that: "The Secretary can terminate an origination approval agreement of a mortgagee which has had a default and claim rate on insured mortgages and that exceeds both the national rate and 200 percent of the HUD Field Officer average rate." (See 57 FR 58328, first column.) The second "and" in this sentence is an error.

2. The preamble discussion of § 202.18 states that servicing of insured mortgages will be limited to mortgagees that have been "approved for servicing." (See 57 FR 58334, third column.) This language indicates that there will be a separate approval process for mortgagees who wish to service FHA-insured loans, and is inconsistent with the text of § 202.18, which only requires servicers to be approved mortgagees. This document corrects this error in the preamble to provide that servicing of insured mortgages is limited to "approved mortgagees."

3. In the preamble discussion under the heading "Mortgagee Review Board", the reference to § 25.9(d) is incorrect. (See 57 FR 58335, first column.) The correct citation is § 25.9(b).

4. The preamble discussion under the heading "Section 203.3—Approval of Mortgagees for Direct Endorsement" states that applications may be submitted directly to the "Single Family Development Division in HUD Headquarters." (See 57 FR 58335, third column). The correct Headquarters division to which applications may be submitted is the "Lender Approval and Recertification Division."

5. The preamble discussion of HUD's update of its certification requirements, under the heading "Section 203.3—Approval of Mortgagees for Direct Endorsement", states that § 203.255(c)(7)(ii) is designed to cover the situation where a Direct Endorsement (DE) processed mortgage must be rejected for insurance because of legal limitations on HUD's insurance authority that are not specifically covered by a particular certification. (See 57 FR 58337, second column.) There is no § 203.255(c)(7)(ii). The correct citation is § 203.255(c)(7).

6. The preamble discussion under the heading "Direct Endorsement Certifications" states, in the second sentence, that: "The Department expects to publish the revised certifications in the revised Direct Endorsement Handbook, 4000.4 immediately after the publication of this Single Family rule." (See 57 FR 58338, first column.) The revised certifications were published on December 11, 1992 in Change 1 to the existing handbook, not in a revised handbook.

In the third sentence of this same paragraph, reference to the handbook number as "Handbook 4000.4 Rev. 4" is incorrect. The correct citation is "Handbook 4000.4 Rev. 1."

7. In § 200.926 (Minimum Property Standards for One and Two Family Dwellings), the "and" following paragraph (a)(2)(ii) should be an "or".

8. In § 202.3 (General Approval Requirements), paragraph (a)(4) states that "The Secretary must be notified immediately of any amendments to the partnership agreement which would affect the partnership's actions under any mortgage insurance programs administered by the Secretary." (See 57 FR 58340, third column.) The notification requirement imposed by § 202.3 does not apply to mortgage insurance programs administered by the Secretary because they do not involve title I lenders. The notification requirement applies only to those amendments which would affect the partnership's actions under the title I property improvement or manufactured home loan insurance programs.

9. Section 202.11 (Approval, Recertification, Withdrawal of Approval and Termination of Approval Agreement) contains four errors.

First, in paragraph (a)(5)(iii) of § 202.11, the reference to section § 202.17(d) is incorrect. (See 57 FR 58341, second column.) The correct citation should be simply § 202.17.

Second, in paragraph (b), the reference to § 202.12(h)(3) is incorrect. (See 57 FR 58341, second column.) The correct citation should be § 202.17(h)(2).

Third, in paragraph (d)(4), the term "under-served" in the last sentence is not hyphenated, and it should be. (See 57 FR 58342, first column.) (This term is hyphenated in all other places it appears in the rule.)

Fourth, in paragraph (d)(5), the reference to § 202.11(d)(3) in the last sentence is incorrect. (See 57 FR 58342, first column.) The correct citation should be § 202.11(d)(3)(iii).

10. Section 202.13 (Supervised Mortgagees) contains two errors. First, paragraph (b) of § 202.13 inadvertently includes the phrase—"originate mortgages". (See 57 FR 58343, third column.) The reference to origination of mortgages in § 202.13 (and in § 202.17, as will be discussed later in this preamble) makes this section inconsistent with §§ 202.14(a) and 202.15(b), and leads to confusion. Both § 202.14(a) and § 202.15(a) treat origination as part of the concept of applying for mortgage insurance, so that origination need not be mentioned separately. To make § 202.13 consistent with §§ 202.14 and 202.15(a), no reference to mortgage origination was intended. Accordingly, the phrase "originate mortgages" is removed from § 202.13(a).

Second, § 202.11(a)(5) of the final rule provides for the use of authorized agents by certain approved mortgagees, including supervised mortgagees in certain circumstances and governmental institutions. Section 202.17(d) pertaining to governmental institutions incorporates the provision of § 202.11(a)(5), but no cross reference was incorporated at § 202.13 pertaining to supervised mortgagees. Accordingly, this document adds a new paragraph (e) to § 202.13 to clarify that a supervised mortgagee may use an authorized agent that is an affiliate or subsidiary of the mortgagee.

11. Section 202.15 (Loan Correspondents) contains two errors.

First, in the definition of "sponsor" in § 202.15(a), the word "origination" was inadvertently omitted before the term "approval agreement." (See 57 FR 58344, first column.) As noted in the preamble, the term "approval agreement," introduced in the June 25, 1991 proposed rule, was changed in the final rule to "origination approval agreement." (See 57 FR 58328, first column.)

The second error is in paragraph (c)(5) of § 202.15 and pertains to the filing of audit reports. Second 202.15(a) provides, in the definition of "loan correspondent", for a supervised mortgagee to be approved as a loan correspondent without having to meet the principal activity test (which is required of a non-supervised mortgagee seeking approval as a loan correspondent). (See 57 FR 58344, first column.) Paragraph (c)(5) of § 202.15 requires loan correspondents to file annual reports. (See 57 FR 58344, second column.) The Department did not intend to require audits of mortgagees that are federally supervised mortgagees, simply because they receive approval as loan correspondents. However, this is exactly what the Department requires under the current wording of § 202.15(c)(5). Accordingly, this document corrects § 202.15(c)(5) to exclude, from the requirement to file audit reports, a mortgagee that meets the definition of a supervised mortgagee in § 202.13(a).

12. In § 202.17, the term "originate" is removed from paragraph (a) for the same reason discussed under paragraph (10) above, and the phrase "submit applications for mortgage insurance" is substituted for the terms "originate." (See 57 58344, third column.)

13. In § 202.18 (Approval for Servicing), the word "on" which precedes the reference to § 202.17, is removed and replaced by the word "or". (See 57 FR 58344, third column.)

14. Section 203.5 (Direct Endorsement Process) contains two errors.

First, paragraph (a) of § 203.5, as published in the December 9, 1992 final rule, provides that the Secretary does not review applications for mortgage insurance. (See 57 FR 58346, first column.) This statement is incorrect. The Secretary does review applications for mortgage insurance, but after the mortgage is executed. Accordingly, the first sentence of paragraph (a) is corrected to state that: "Under the Director Endorsement program, the Secretary does not review applications for mortgage insurance before the mortgage is executed, or issue conditional or firm commitments, except to the extent required by § 203.3(b)(4), § 203.3(d)(1), or as determined by the Secretary."

Second, in paragraph (e) of § 203.5, the first word of the first sentence, which is "This" should be "The".

15. In § 203.7 (Commitment Process), the hyphen between the words "single" and "family" in the introductory paragraph is incorrect, and is removed by his document. Additionally, in § 203.7, the word "loan" should follow the word "mortgage" at the end of the first sentence of the introductory paragraph.

16. In § 203.27 (Charges, Fees or Discounts), the word "from" the first time it appears in the first sentence of paragraph (d), should be "form".

17. Paragraph (c) of § 203.255 (Insurance of Mortgage) contains several errors.

First, paragraph (c)(3), as published in the December 9, 1992 final rule, states that: "The stated mortgage amount exceeds the maximum mortgage amounts as most recently published in the **Federal Register**." (See 57 FR 58348, first column.) Paragraph (c)(3) should state just the opposite—that "The stated mortgage amount does not exceed the maximum mortgage amounts as most recently published in the **Federal Register**.

Second, paragraph (c)(4) should be followed by a semicolon, instead of a colon.

Third, in paragraph (c)(6), the word "any" is incorrect. (See 57 FR 58348, third column.) Paragraph (c)(6) should read: "There is no mortgage insurance premium. * * *"

Fourth, the first sentence of paragraph (c)(7) should include the word "not" so that this sentence reads: "The mortgage was not in default * * *"

18. In § 203.441 (Insurance of Loan), the word "respects" is corrected to read "respect".

19. In § 203.258 (Substitute Mortgagors), the date "December 15, 1989" inadvertently appears twice. (See 57 FR 58349, first column.) The second phrase in which this date appears—"but before December 15, 1989"—is removed by this document.

20. In § 204.1 (Cross Reference), the cross reference to § 293.43) incorrectly spells the name of this reservation of the Seneca Nation of Indians. The correct spelling is "Allegany", not "Allegheny" as set forth in the December 9, 1992 final rule. (See 57 FR 58349, third column.)

21. In § 213.503 (Processing for Insurance), the reference to "part 213" is incorrect. The correct term is "subpart".

22. In § 221.70 (Applicability), the term "appraisal report" should be capitalized.

23. In § 234.48 (Charges, Fees or Discounts), paragraph (b) should have been amended to be identical to the amendment made to paragraph (d) of § 203.27 (Charges, Fees or Discounts). The amendment to § 234.48(b) was inadvertently omitted.

24. Section 234.248 (Waivers) should have been amended to be identical to the amendment made to § 203.248 (Waivers) by the final rule. The amendment to § 234.248 was inadvertently omitted.

25. In § 234.249 (Effect of Amendments), the phrase "shall not adversely affect the interest of a mortgagee on any mortgage or loan to be insured" should read "shall not adversely affect the interest of a mortgagee for any mortgage or loan to be insured." Additionally, in the second sentence of § 234.249, the word "is" should be "if".

26. In § 240.16 (Mortgage Provisions), the language in parentheses, added by the final rule, is inappropriate for section 240 programs that involve purchase of fee title to a leased home site, and should not have been included in the final rule.

The foregoing describes the technical corrections that are being made by this document.

Accordingly, FR Doc. 92–29524, a final rule published in the **Federal Register** on December 9, 1992 (57 FR 58326), is corrected to read as follows:

1. In the preamble, on page 58328, under the heading, *"Section 202.11 Approval, Recertification, Withdrawal of Approval and Termination of Approval Agreement"*, in the first column, in the second full paragraph, in line 17, correct by removing the word "and".

2. In the preamble, on page 58334, under the heading, *"Section 202.18 Approval for Servicing"*, in the third column, the first sentence in the first paragraph immediately following the heading, is corrected to read, "Under the proposed rule, this § 202.18, together with a related new § 207.263 and an amendment to § 203.502, would establish a requirement limiting servicing of insured mortgages to approved mortgagees."

3. In the preamble, on page 58335, under the heading, *"Mortgagee Review Board"*, in the first column, correct the beginning of the second sentence to read, "* * * Section 25.9(b) is also reworded * * *".

4. In the preamble, on page 58335, under the heading, *"Section 203.3 Approval of Mortgagees for Direct Endorsement"*, in the third column, at the top of the page, correct the last sentence in the paragraph, to read, "* * * Applications may be submitted directly to the Lender Approval and Recertification Division in HUD Headquarters."

5. In the preamble, on page 58337, under the heading, *"Section 203.255 Insurance of Mortgage"*, in the middle column, in line 25 from the top of the page, correct the last sentence in the paragraph, to read, "* * * Section 203.255(c)(7) of the final rule is designed to cover those situations."

6. In the preamble, on page 58338, under the heading, *"Direct Endorsement Certifications"*, in the first column, correct the second sentence in its entirety and the beginning of the third sentence in the paragraph, to read, "* * * The Department published the revised certifications in Change 1 to the Direct Endorsement Program Handbook 4000.4 on December 11, 1992. Mortgagees may continue to use the Direct Endorsement certifications currently in Handbook 4000.4 Rev. 1 until * * *"

7. On page 58340, in § 200.926(a)(2)(ii), correct the word "and" to read "or".

8. On page 58340, in § 202.3, correct paragraph (a)(4) to read as follows:

§ 202.3 General approval requirements.

* * * * *

(a) * * *

(4) The Secretary must be notified immediately of any amendments to the partnership agreement which would affect the partnership's actions under the title I property improvement or manufactured home loan insurance programs.

* * * * *

9. On pages 58341–58342, in § 202.11, correct paragraph (a)(5)(iii), the beginning of the second sentence in paragraph (b) through the first comma, the last sentence in paragraph (d)(4), and the last sentence in paragraph (d)(5), to read as follows:

§ 202.11 Approval, recertification, withdrawal of approval and termination of approval agreement.

(a) * * *

(5) * * *

(iii) The mortgagee is approved under § 202.17.

(b) *Recertification of approval.* * * * The Secretary shall review the yearly verification report required by § 202.12(h)(2) and other pertinent documents, * * *.

* * * * *

(d) * * *

(4) * * * If the Secretary determines that the excessive rate is the result of mortgage lending in under-served areas the Secretary may determine not to place the mortgagee on credit watch status.

(5) * * * The Secretary shall provide 60 days notice and an opportunity for an informal conference as required by § 202.11(d)(3)(iii) to a mortgagee which will have its origination approval agreement terminated subsequent to a credit watch.

* * * * *

10. On page 58343, in § 202.13, paragraph (b) is corrected by removing the words and first comma, "originate mortgages," and by adding a new paragraph (e), to read as follows:

§ 202.13 Supervised mortgagee.

* * * * *

(b) *General functions.* A supervised mortgagee may submit applications for mortgage insurance, and may purchase, hold, service or sell insured mortgages.

* * * * *

(e) *Authorized agents.* A mortgagee approved under this section may, with the approval of the Secretary, designate an affiliate or subsidiary of the mortgagee as authorized agent for the purpose of submitting applications for mortgage insurance in its name and on its behalf.

11. On page 58344, in § 202.15, the definition for *"sponsor"* in paragraph (a) is corrected by inserting the word "origination" between the words "valid" and "approval," and paragraph (c)(5) is corrected to read as follows:

§ 202.15 Loan correspondents.

* * * * *

(c) * * *

(5) It shall file audit reports in accordance with § 202.14(c)(2), unless it meets the definition of a supervised mortgagee in § 202.13(a).

* * * * *

§ 202.17 [Amended].

12. On page 58344, in § 202.17, paragraph (a) is corrected by removing the word "originate" and inserting in its place, "submit applications for mortgage insurance,".

§ 202.18 [Amended].

13. On page 58344, in § 202.18, correct by removing "on § 202.17" and insert in its place "or § 202.17".

14. On page 58346, in § 203.5, the first sentence in paragraph (a) through the first comma, and the first three words in paragraph (e) are corrected to read as follows:

§ 203.5 Direct Endorsement process.

(a) *General.* Under the Direct Endorsement program, the Secretary does not review applications for mortgage insurance before the mortgage is executed or issue conditional or firm commitments, * * *".

* * * * *

(e) *Appraisal.* The mortgagee shall * * *.

* * * * *

§ 203.7 [Amended].

15. On page 58346, in § 203.7, the introductory text is corrected by removing the hyphen between "single-family" to read "single family", and by adding the word "loan" at the end of the sentence to read "* * *, prior to making the mortgage loan. If:".

§ 203.27 [Amended].

16. On page 58347, in § 203.27(d), in the first sentence, correct "from" to read "form".

17. On page 58348, in § 203.255, paragraphs (c)(3), (4), (5), (6), and the first sentence of paragraph (7), are corrected to read as follows:

§ 203.255 Insurance of mortgage.

* * * * *

(c) * * *

(3) The stated mortgage amount does not exceed the maximum mortgage amounts as most recently published in the **Federal Register**;

(4) All documents required by paragraph (b) of this section are submitted;

(5) All necessary certifications are made in accordance with paragraph (b) of this section;

(6) There is no mortgage insurance premium, late charge or interest due to the Secretary; and

(7) The mortgage was not in default when submitted for insurance or, if submitted for insurance more than 60 days after closing whether the mortgage shows an acceptable payment history.

* * *

* * * * *

§ 203.258 [Amended].

18. On page 58349, in § 203.258, paragraph (c)(2) is corrected by adding a semicolon after the first reference to "December 15, 1989" to read, "on or after December 15, 1989;" and by removing the comma and phrase ", but before December 15, 1989, or"

§ 203.441 [Amended].

19. On page 58349, in § 203.441, correct "respects" to read "respect".

§ 204.1 [Amended].

20. On page 58349, in § 204.1, in the list of cross-references, in the listing for § 203.43j, correct the spelling for the word "Allegheny" to read "Allegany".

§ 213.503 [Amended].

21. On page 58350, in § 213.503, correct "part 213" to read "subpart".

§ 221.70 [Amended].

22. On page 58351, in § 221.70, correct paragraph (a)(2) by capitalizing the words "Appraisal Report".

23. On page 58352 in the third column, following the revision of § 234.85(a)(2), insert amendments 83a and 83b reading as follows:

83a. In § 234.48, paragraph (b) is revised to read as follows:

§ 234.48 Charges, fees or discounts.

* * * * *

(b) Before the insurance of any mortgage, the mortgagee shall furnish to the Secretary a signed statement in a form satisfactory to the Secretary listing any charge, fee or discount collected by the mortgagee from the mortgagor. All charges, fees or discounts are subject to review by the Secretary both before and after endorsement under 203.255.

* * * * *

83b. Section 234.248 is revised to read as follows:

§ 234.248 Waivers.

On a case-by-case basis, the Secretary may waive any requirement of this subpart not required by statute, if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds of forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but shall not be redelegated.

§ 234.249 [Amended].

24 and 25. On page 58352, in § 234.249, in line 9 of the section, correct "on" to read "for" and in line 18 correct "is such property" to read "if such property".

§ 240.16 [Amended].

26. On page 58353, in § 240.16(b)(4), correct by adding a period after the word "executed", and by removing the parenthetical phrase "(or the date a construction mortgage is converted to a permanent mortgage, if applicable)."

Dated: March 5, 1993.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 93–5549 Filed 3–11–93; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

31 CFR Part 103

Amendments to the Bank Secrecy Act; Regulations Regarding Reporting and Recordkeeping Requirements by Casinos

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: The Bank Secrecy Act, authorizes the Secretary of the Treasury to require financial institutions to file reports and keep records that the Secretary determines have a high degree of usefulness in criminal, tax, and regulatory matters. The Secretary has designated certain casinos as "financial institutions" for purposes of the Bank Secrecy Act. The Secretary has imposed particular reporting and recordkeeping requirements on these casinos.

EFFECTIVE DATE: This final rule is effective September 8, 1993.

ADDRESSES: Peter Djinis, Director, Office of Financial Enforcement, Department of the Treasury, room 5000 Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: A. Carlos Correa, Assistant Director, Rules and Regulations Section, Office of Financial Enforcement, Department of the Treasury, (202) 622–0400.

SUPPLEMENTARY INFORMATION: On August 18, 1988, Treasury published in the **Federal Register**, 53 FR 31370, a Notice of Proposed Rulemaking ("the Notice") dealing with sixteen proposed amendments to the Bank Secrecy Act regulations affecting casinos. The purpose of the proposed amendments was to enhance compliance with Bank Secrecy Act requirements, Public Law No. 91–508 (codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5326), and to provide Bank Secrecy Act examiners with "audit trails" to determine the adequacy of compliance. One commenter to the proposals, a state gaming regulatory enforcement agency, stated that it "has observed inadequate and incomplete filings of CTR's by the casinos which illustrates the need for more comprehensive regulations on both the Federal and State levels. * * * In summary, [the agency] is supportive of the Department of the Treasury's efforts to improve the accountability . . . of casinos in capturing and preparing complete CTR's."

The need for revised regulations for casinos was suggested by the Internal Revenue Service (IRS), which has been delegated Bank Secrecy Act enforcement authority with respect to casinos by the Assistant Secretary (Enforcement). In the past, IRS casino compliance examinations involved hundreds of hours. The IRS concluded that, with the creation of adequate audit trails, examination time would be greatly reduced, and the quality and completeness, and consequently, the utility, of the information would be enhanced.

There were five commenters in addition to the one referred to above. They consisted of another state gaming regulatory enforcement agency, a state gaming commission, and associations representing the gaming industries of New Jersey, Puerto Rico, and Nevada. After reviewing these comments, Treasury is issuing a final rule adopting the proposals, with several modifications designed to ease the burdens imposed, to offer guidance on how to implement the rules, and to address other concerns raised in the comments.

Since the proposed regulations were published in August 1988, licensed casino type gaming operations have expanded from three to eight jurisdictions. In addition, to Puerto Rico, Nevada and New Jersey, land based casinos are operating in Colorado and South Dakota and river boat gaming is operating in Illinois, Iowa and Mississippi. The final rule applies to all casinos meeting the definition in 31 CFR 103.11(i)(7)(i), including those casinos that have opened since the proposed regulations were published and any that will open in the future.

Discussion of Amendments

A summary of the proposed amendments, comments received thereon, and Treasury's decisions with respect thereto, follow.

(1) *Clarify definition of casinos subject to the Bank Secrecy Act:* The current definition of "casino" is based on the concept of "gross annual gaming revenue," a term which is not defined in the regulations. The proposed definition explained this concept basically in terms of gross receipts and clarified when a casino would become subject to the reporting and recordkeeping requirements of the Bank Secrecy Act and the regulations promulgated thereunder (hereinafter collectively referred to as "the Act"). (Amendment #2).

Although the Nevada casinos are subject to state regulations (*see* 31 CFR § 103.45(c)), the Nevada casino industry and state regulators submitted comments on the proposed definition. Specifically, they advised that if it were applied to Nevada casinos, this definition would encompass significantly more enterprises than are currently covered by Nevada regulations. They expressed concern that the reporting and recordkeeping requirements of the Act would both overly burden a large number of relatively minor operations, such as retail stores with slot machine games, and strain the resources of regulators.

Treasury agrees that the proposed definition could have encompassed many additional Nevada casinos. While Treasury could, in response, have limited the definition to exclude truly "minor" Nevada operations, Treasury has instead withdrawn the proposed definition of gross annual gaming revenue from the final rule. If necessary, the application of the term to Nevada casinos will be taken up at a subsequent time.

(2) *Link "gross annual gaming revenue" to "business year":* In the comments, casinos expressed concern that Treasury was attempting to specify the exact period of time that would constitute every casino's business year. However, the proposed definition of "business year," as explained in (19) below, allows each casino to adopt a calendar year or a fiscal year so long as it is consistent with the casino's accounting year for federal income tax purposes. Therefore, Treasury has decided to adopt the rule as proposed. A casino's gross annual gaming revenue must be linked to its income tax accounting year. (Amendments #2 and #19).

(3) *Provide examples of "cash in" and "cash out" transactions:* This revision is intended to be as expansive as possible in clarifying what constitutes cash in and cash out transactions. The examples listed are illustrative only; they do not represent an exhaustive list of all types

of currency transactions which may be conducted in a casino. (Amendment #3).

One commenter criticized the breadth of this revision, pointing out that some cash out transactions (such as cash payouts on a sports book bet or reimbursement of travel fees) are not "money laundering events." It is important to remember, however, that reports and records required by the Act are not solely intended to combat money laundering. In addition, they may "have a high degree of usefulness in [other] criminal, tax, and regulatory investigations or proceedings." *See* 31 U.S.C. § 5311. Reports and records of cash in and cash out casino transactions certainly have a high degree of usefulness in such other investigations and proceedings.

(4) *Require the aggregation of all cash in and cash out transactions:* This provision does not represent a change in the current rule, set forth in 31 CFR § 103.22(a). Under the current and final rule, each cash in transaction is to be aggregated with all other cash in transactions, and each cash out transaction is to be aggregated with all other cash out transactions. However, cash in and cash out transactions are not to be aggregated with, or offset against, each other. (Amendment #3).

Under both the current and proposed final rules, exchanges of currency for currency (including foreign currency) are to be treated as both cash in and cash out transactions. This rule is important for aggregation purposes. If, for example, a casino has knowledge that, in a single day, a customer exchanged $4,000 in cash for $4,000 in cash of different denominations, and purchased with cash $7,000 in chips at the table games and was paid a slot jackpot of $8,000 in cash, it would be required to report two aggregated transactions. The first would be a cash in transaction of $11,000; the second, a cash out transaction of $12,000.

One commenter suggested that casinos not be required to aggregate purchases and redemptions of slot tokens for cash with other cash in and cash out transactions. This comment is linked to another one which suggests the elimination of the "denominational imprest system" (new § 103.54(b)) for slot token transactions. Both comments are discussed further in (7) and (16), below. Also, a special rule has been provided for *de minimis* transactions. See (7), below.

(5) *Require the aggregation of "dissimilar types" of currency transactions:* Subject to the rules explained in (7) below, all cash in transactions and all cash out transactions, per customer, per gaming day, must be aggregated. Thus, if a casino has knowledge that a customer, in a single gaming day, bets $2,500 in cash at a sports book window, purchases chips of $2,500 in cash at a blackjack table, bets $2,500 in cash at a race book window, and pays off a marker with $5,000 in cash at the "cage," the casino would be required to file a report (Internal Revenue Service Form 8362) reflecting cash in transactions of $12,500. The fact that these transactions are "dissimilar" in terms of the "purpose" of the transaction, (*i.e.*, bet, versus chip purchase, versus payoff of credit) is irrelevant; they are "similar" in the sense that they each involve a cash in transaction. Allowing them to escape the Act's reporting and recordkeeping requirements would deny Treasury meaningful information and possibly encourage casino patrons to arrange their gaming activity to avoid the creation of reports and records. (Amendment #3).

(6) *Explain the knowledge requirement for triggering the filing of a report:* New § 103.22(a)(2)(iii) restates the rule of current § 103.22(a)(2) that multiple currency transactions shall be treated as a single transaction, provided that the casino (a) has knowledge that (b) they are by or on behalf of any person and (c) when aggregated, exceed $10,000 (d) during a "gaming day." In addition, it generally adopts the proposed amendment that if (a) a casino owner, officer, director, or employee has knowledge of reportable currency transactions or (b) a casino's books, records, logs, machine-readable information, etc., maintained "pursuant to any law or regulation or within the normal course of * * * business" indicate that reportable transactions have occurred, the casino would be deemed to have knowledge of such transactions. (Amendment #3).

As proposed, the amendment specifically provided that employees' actual knowledge of currency transactions would always be attributed to the casino. Commenters viewed this as a mistaken delineation of corporate criminal liability and an attempt by Treasury to impose a standard of strict liability upon casinos in Bank Secrecy Act matters. They suggested that Treasury limit corporate liability based upon principles of "scope of employment" and "the benefit that may inure to the corporation." See, *e.g.*, *United States* v. *Bank of New England*, 821 F.2d 844 (1st Cir. 1987); *United States* v. *Beusch*, 596 F.2d 871 (9th Cir. 1979); *United States* v. *DeMauro*, 581 F.2d 50 (2d Cir. 1978).

To avoid confusion, Treasury has clarified the rule. The final rule provides that employees' actual knowledge of currency transactions shall be attributed to the casino when the employee gains such knowledge while acting within the scope of his or her employment. The knowledge which an employee, director, officer, or partner obtains may be acquired in any manner. For example, if a casino floor supervisor observes a player purchase $6,000 in chips for cash and later that same gaming day observes that same player purchase another $6,000 in chips for cash, the supervisor (and thus the casino) would have the requisite knowledge that the two currency transactions (a) are by the same person and (b) result in cash in totalling more than $10,000 in one gaming day. Similarly, if a casino employee, while reviewing a casino's internal records of currency transactions, learns that a player has transacted more than $10,000 during one gaming day, through a series of smaller transactions, the employee (and thus the casino) would be deemed to have knowledge of the multiple transactions. By way of another example, if the casino's marketing officer routinely reviews the gaming transactions of a customer or a series of customers and these records indicate the customer has engaged in multiple currency transactions which exceed $10,000 during a gaming day, even if the review was initiated for purposes other than determining a casino's compliance with BSA, the officer (and thus the casino) would be deemed to have knowledge of the multiple transactions.

The proposed concept of constructive knowledge was not criticized and is adopted in the final rule. The amendment responds to the comment that, given the activity of players on crowded casino floors, it often is difficult to determine if and when a particular customer has engaged in multiple transactions that meet the reporting threshold. New § 103.22(a)(2)(iii) clarifies that a casino can have knowledge of multiple same-day transactions by or on behalf of the same person which, when aggregated, exceed $10,000, not only if (a) an employee, director, officer, sole proprietor, or partner, has knowledge of the multiple transactions, but also if (b) the various books, records, similar documents, or information retained in a casino's automated data processing system or any existing manual system maintained by the casino indicates that such transactions have occurred. Because most casino players gamble at more than a single table in a gaming

day, a requirement that casinos check their internal information, books and records, and similar material is an effective way of assuring that multiple transactions are aggregated and reported.

(7) *Provide a special rule for aggregation of certain de minimis currency transactions:* Regarding knowledge of transactions that should be aggregated, changes are incorporated into the final rule. First, a casino will not be deemed to have knowledge of cash in or cash out transactions involving slot tokens unless a record of such activity is required by new section 103.36(b)(15). See (16), below. Second, a casino will not be deemed to have knowledge of *de minimis* currency transactions unless, in aggregating transactions, it has actual knowledge of such transactions. (Amendment #3).

For purposes of this rule, a *de minimis* transaction is one involving less than $500 in currency, either through a distinctly isolated transaction, such as a single buy-in of chips or the "cashing" of a check, or through a series of related transactions occurring in a relatively compact area over a continuous period of time, such as play at two or three tables in the same pit, even over several hours, with occasional short breaks in the play. Except as provided in the next paragraph, a casino will not be deemed to have knowledge of such transactions even if they are reflected on player rating cards (which are discussed at (12), below) or other books and records.

A casino may not ignore transactions under $500 of which it has knowledge in aggregating transactions. For example, if a player engages in a series of transactions that are less than $500 in a relatively compact area over a continuous period of time, such as play at two or three tables in the same pit, and the pit boss observes the play and knows that the total play exceeds $500, the casino is deemed to have actual knowledge of the transactions. Thus, if a player buys-in for $400 at a table, and the amount is recorded on a player rating card by a casino employee, and 30 minutes later, the player buys-in again for another $400 at the same table, and the amount is again recorded on the same player rating card, the casino is deemed to have actual knowledge of the transactions. These $400 transactions are not isolated *de minimis* transactions, but are a series of related transactions amounting to $800.

By way of another example, should a casino manually aggregate cash in activity by separating out and then aggregating only those player rating cards of $500 or more, and actually discover one reflecting less than $500, which causes the total cash in to exceed $10,000, this card cannot be ignored. In such a situation, the card reflecting a *de minimis* transaction must be aggregated with the others. Similarly, if a casino tallies rating cards information with its in-house computer, it may not ignore *de minimis* transactions that have been entered into the computer or exclude them during the aggregation process.

(8) *Except for certain currency transactions of $10,000 or less, require that customer identification be produced and verified before concluding currency transactions:* The general rule requiring identification "before concluding" a currency transaction is retained. The proposed rule would have provided an ameliorative provision only for certain table game transactions. This ameliorative provision is adopted and expanded to include all types of cash in transactions and cash out transactions.

Under the Bank Secrecy Act regulations, all financial institutions are required to obtain a customer's identity (*i.e.*, name, address, and social security number, verifying the first two) before concluding a reportable transaction. *See* section 103.28. Given the fast-paced activity of a casino gaming floor, however, it was considered impractical to impose this requirement upon buy-ins, purchases of chips, plaques, and tokens, and cash bets, which, standing alone, do not constitute reportable transactions (*i.e.*, involve $10,000 or less).

Under the proposal, if a casino had learned solely by its books, records, computer information, etc. (*e.g.*, other than through the personal knowledge of a casino employee) that a customer's purchase of chips or tokens, or a cash bet, had caused the customer's total cash in transactions to be aggregated for the purpose of filing a currency transaction report, the casino would be afforded a reasonable period of time to obtain, verify, and record "reasonably available" customer identification. The rule deems the identifying information to be reasonably available if the customer is reasonably available. (Amendments #4 and #7).

Treasury has been criticized for using the concepts of "reasonable period of time" and "reasonably available" information. Some commenters feel the terms are too nebulous and thus provide insufficient guidance. They have asked for examples and for a specific period of time in which to obtain customer identifying information.

Treasury believes it is wiser to afford individual establishments flexibility by allowing them to consider all internal and external factors, such as the ease in checking hotel registers, the amount of floor space in the casino, and the pace of gaming activity.

Still, for clarification purposes, Treasury addresses herein a commonly occurring situation. Assume a casino maintains cumulative detailed information on customer gaming activity in its in-house computer system to determine "complimentaries." Dan McCoy plays table games at five different pit areas between 1 p.m. and 6 p.m. A rating card is prepared in each pit and the information is input into the computer when Dan terminates play at the pit. Each card reflects that Dan has a single buy-in of $2,200 in cash, and lost all of his purchased chips at the games. At 7 p.m., Dan arrives at a new pit, explains he has already been rated, and asks to be rated again. The rater in this pit immediately determines from a computer terminal that Dan already has buy-ins (cash in transactions) of $11,000 for that gaming day. Since Dan is reasonably available, he must be asked for identifying information.

At other areas of the casino, customer activity is more controlled. Therefore, Treasury determined that it is appropriate to apply the "before concluding the transaction" rule for obtaining customer identification in these areas. For example, when a customer wishes to redeem chips for cash at the cage, the casino is in a position to determine whether it is advisable to ascertain whether the customer has engaged in aggregated transactions.

One commenter advised that the proposed rule was not broad enough because it failed to provide guidance on when a cash in cage transaction, as opposed to a table transaction, might cause all cash in transactions to be aggregated. The commenter also suggested that the rule cover cash out transactions as well.

There is merit to these suggestions. In cases of both aggregable cash in and cash out transactions, whether occurring at the cage or at the games, it is possible that each individual aggregable transaction was of such a low amount that the casino had no reason to obtain customer identification before concluding that transaction. *Cf.* new sections 103.36(b)(9) and 103.54(b) (identification required for certain $3,000 currency transactions). Yet, when aggregating all transactions in a gaming day, it may be determined that certain customers had indeed reached the over-$10,000 reporting threshold. The final rule is expanded to cover these situations.

(9) *Allow the verification of identity of casino accountholders through internal records:* The regulatory identification requirements are further amended to permit the casinos to verify customer identification through internal records. This change, which was not contained in the Notice, is intended to allow casinos to verify identification on known customers in a manner similar to the way banks may verify identification through bank signature cards. (Amendment #5).

Under the final rule, a casino may rely upon an internal record for verification purposes, provided the following conditions are met. First, the record had to have been prepared with respect to a deposit or credit account. Second, the individual on whom the casino is verifying identification must have an ownership interest in, or signature authority over, that account. Third, in preparing the record, the casino must have examined documents establishing the identity of the individual and noted the specific identifying information on the record. These documents must have been of the type banks normally examine when cashing checks of nonaccountholders, *e.g.*, driver's license, voter registration or alien identification card, passport, etc. Fourth, the casino must periodically reverify the identifying information and record the date on which each verification is made.

To illustrate the operation of the rule, which appears at new § 103.28(a)(2)(ii), assume that Patricia Adams establishes a front money account with a casino on January 2, 1992. In opening the account, Patricia deposits $15,000 in cash and the casino obtains and makes a record of her name, address, and social security number. The casino verifies Patricia's name and address by examining her driver's license. On the record, the casino notes the State that issued the driver's license and the license number. The casino completes a currency transaction report on this transaction.

On January 3, 1992, Patricia withdraws $11,000 in cash from the account. Because the transaction involves more than $10,000, the casino must prepare a currency transaction report. The casino need not ask Patricia for a document to establish her identity. Instead, it may rely on the record which it had prepared the previous day. However, in completing the report, the casino must describe Patricia's driver's license as the method used to verify her identity and cite her driver's license number. The casino may not use the notation "known customer" or "internal record on file" and may not only describe Patricia's casino account. See new § 103.28(a)(3).

On January 4, 1992, Patricia Adams has no transactions with her account, but "buys-in" for $11,000 in cash at a black jack table. A pit boss asks Patricia whether she has a deposit or credit account with the casino, and Patricia replies that she does. If the casino can verify that Patricia does have such an account, it may rely on the record it produced on January 2, 1992, in verifying Patricia's identity. As with the January 3 transaction, the casino must describe Patricia's driver's license as the method used to verify her identity and cite her driver's license number, when it prepares the currency transaction report.

Assume further that on January 1, 1993, Patricia Adams makes a front money deposit of $8,000 in cash in the same casino. At that time, the casino examines the record that it had prepared on January 2, 1992. Patricia produces the same driver's license she had shown on January 2, 1992, and the casino examines it. Patricia informs the casino that her name and address are the same as shown on the license, and the casino notes on the record that a reverification has occurred on that date. On January 2, 1993, Patricia deposits $11,000 in cash into her account. The casino may rely on the internal record to verify Patricia's identity in preparing a currency transaction report on the $11,000 transaction. See new section 103.28(a)(2)(ii)(C).

(10) *Require casinos to obtain and verify customer identification when a customer deposits funds or establishes an account or a line of credit:* The current rule requires casinos to maintain a record of customer social security numbers with respect to each deposit of funds, account opened, or line of credit extended. The new rule, adopted as proposed, requires that casinos also obtain and verify the customer's name and address. (Amendments #8, #9, and #10).

This revision is necessary to resolve the problem of easily contriving falsified social security numbers, which cannot be readily verified. One commenter expressed the opinion that requiring additional customer information is appropriate a single time, for the initial transaction, but could not see the need for doing so for each subsequent transaction. The requirement is intended to safeguard against misidentified persons participating in the transaction. Also, under the final rule, the casino may obtain certain identifying information from internal records. See (9), above.

One commenter asserted that the requirement to obtain and verify a customer's permanent address is overly intrusive. This information, however, is essential to law enforcement. Currently, verification of name and address is required by both the Currency Transaction Report and the Currency Transaction Report for Casinos. Information recorded on Bank Secrecy Act reports and records would be meaningless if it could not be associated with the persons who conducted a transaction at a particular financial institution. The customer's address helps to provide this association, and supplies other useful information to regulators and the law enforcement community.

(11) *Raise the threshold amount for making a record of an extension of credit to $3,000:* The current regulations require casinos to prepare a record of each extension of credit in excess of $2,500. The final rule, which was not contained in the Notice, raises the threshold amount to $3,000. This change makes the threshold recordkeeping amount consistent with other thresholds set in this final rule. (Amendment #11).

(12) *Require casinos to maintain a record of each person who engages in cash in transactions of $2,500 or more at the games:* The proposed amendment, which would have required a casino to make a record of each individual whose buy-ins, purchases of chips, tokens, and plaques, and cash bets reach $2,500 or more in a gaming day, was very controversial. It was criticized as unduly slowing down casino play and creating an oppressive number of records for numerous individuals who may not reach the over-$10,000 reporting threshold for cash in transactions. Further, commenters complained that no guidance was given as to when to begin rating players. (Amendment #12).

The reason for the rule, as proposed, was to afford casinos additional opportunities to obtain the customer information which might eventually have to be included on a currency transaction report. Treasury has been concerned about the large number of currency transaction reports filed by casinos that do not contain complete customer identification and verification. When asked about missing information, casinos almost always responded that the intense pace of activity on the gaming floor and the absence of the customer from the immediate area prevented them from obtaining such information for multiple transactions that were required to be reported. *See* (6), above. To resolve this problem,

Treasury proposed requiring casinos to acquire the information well below the over-$10,000 reporting threshold. This way, casinos would have verified information available in the event that a customer, on whom a report became necessary, "slipped through the system." Moreover, this proposal should have helped allay concerns regarding the "reasonable period of time" and "reasonably available" standards of new § 103.28(b).

As explained by Treasury when it adopted a recent final rule, § 103.36(b)(8), 54 FR 1165, there is a high degree of utility in the information compiled on player rating cards, which are the only documents prepared on the gaming floor that reflect player cash activity. Therefore, all player rating cards constitute records for Bank Secrecy Act purposes. Since all casinos do not prepare such player rating cards, however, Treasury in part wanted to assure that casinos would prepare a system of records reflective of high cash activity on the gaming floor. Double recordkeeping is avoided because casinos which rate players at least at $3,000 and obtain, verify, and record the information required under new § 103.36(b)(9) on rating cards are exempted from making additional records under § 103.36(b)(9).

Treasury continues to find merit in the proposal. Therefore, records of players' cash in gaming activity must be made; however, the minimum amount of a transaction that will precipitate the record is now set at $3,000. This amount corresponds to a Bank Secrecy Act recordkeeping amount established by Congress. See 31 U.S.C. 5325; 31 CFR 103.29. In addition, slot machine token transactions are to be recorded under new section 103.36(b)(15), rather than under this provision. See (16), below.

The final rule also adopts the proposed "reasonable diligence" standard. Since it may at times be difficult to ascertain the exact time at which a player has bought in, bet, or purchased chips for $3,000 or more through a series of transactions, the rule requires each casino to use reasonable diligence in determining whether the $3,000 threshold has been met. This standard accounts for the fact that tracking multiple buy-ins, bets, and chip and token purchases is at times subjective and based on approximations. Still, Treasury expects that, where a player meets the $3,000 threshold through multiple transactions at a single gaming table, or at several adjacent tables, or within a single rating period, the requirements of this regulation will always be complied with.

Arguments that the reasonable diligence standard imposes a duty to rate players "from dollar one" are meritless. The standard is necessary to assure that significant cash in transactions are not ignored.

Still, to alleviate concerns that *de minimis* amounts of cash must be tracked, Treasury will allow a special *de minimis* rule to be applied. Casinos will not be deemed to have knowledge of cash in table transactions which are less than $500 in the aggregate, and which occur at a single game or a contiguous group of games, such as at a pit. *See* (7), above.

Section 103.36(b)(8) provides that all rating cards must be retained, regardless of the amount of cash activity reflected thereon. Treasury expects casinos to continue their current rating schemes after the final rule becomes effective. Treasury will ask its Bank Secrecy Act compliance examiners to ascertain whether rating procedures have been changed to avoid knowledge of currency transactions below the $3,000 level. In addition, if it is found that information about players, whose cash table activity is near $3,000, is not being captured for aggregation purposes, Treasury will re-evaluate the $3,000 threshold to determine whether a lower figure is necessary.

New Jersey casinos have asked Treasury to consider an alternative mechanism for obtaining customer information. In essence, their proposal calls for aggregation of player rating information after the termination of the gaming day. If customer identification is found to be missing, the casino will check its computer records "and any other reasonable sources" to obtain it. If such information is absent, the person's name will be entered into a computer and, if the customer returns to the casino and makes buy-ins in excess of $5,000, the customer will be asked for the missing information. If the information is refused, and the customer's cash in activity progresses to more than $10,000, the information again will be requested. If the information is then refused, the customer will be banned from gaming until the information is produced or until the expiration of six months. When (and if) the missing information is furnished, a supplemental currency transaction report will be filed.

Treasury considered this alternative, but rejected it for several reasons. Checking internal information for missing information is not sufficient because it ignores the verification requirement. Routinely filing supplemental currency transaction reports burdens the Internal Revenue Service data processing system, and dated information is of no use to the law enforcement community. Moreover, the Bank Secrecy Act regulations mandate that *complete* information be provided within 15 days of the transaction.

In addition, the proposed alternative makes it easy for individuals to avoid providing the required information by intentionally keeping cash in activity low, spreading the activity over several games, or not returning to the same casino for six months. Treasury regards the proposed sanction as insignificant; allowing a customer on whom there is known to be missing information to again exceed the $10,000 reporting requirement, with the possibility that he or she will again refuse the information, is ineffective. It is much more effective to obtain identifying information before the customer exceeds the reporting limit.

(13) *Require a record containing a list of casino Customers who are known by aliases, nicknames, "AKAs", etc.:* This amendment is adopted as proposed, except that, in response to the suggestion of one commenter, it does not require that the list include derivatives of a single name (*e.g.*, Tim, Timothy, Timmy). (Amendment #13).

(14) *Require a record containing a list of transactions of $2,500 or more involving certain monetary instruments:* This amendment mandates a chronological listing of transactions involving personal checks, business checks, official bank checks, cashier's checks, third party checks, promissory notes, traveler's checks, and money orders. The list is to include the type of instrument; time, date, and amount of the transaction; name of the drawee or issuer; name and address of the customer; reference numbers (including the instrument number and customer's casino account number); and name or casino license number of the employee conducting the transaction. (Amendment #14).

As proposed, the rule would have required a record to be made when the monetary instrument was of $2,500 or more. The amount is set at $3,000 or more in the final rule to correspond to a Bank Secrecy Act recordkeeping amount established by Congress. See 31 U.S.C. 5325; 31 C.F.R. 103.29.

Commenters asserted that the creation of such a list would be burdensome, and that the information requested already exists in a form other than a log. As indicated in the Notice, however, such a list will provide an important means of checking whether or not large transactions have been accounted for as currency transactions. A chronological log form will facilitate compliance

reviews by allowing systematic, quick references from a centralized listing.

New Jersey casinos explained that this recordkeeping burden becomes very oppressive if "markers" are included on the list. However, Treasury did not intend markers to be included; therefore, for clarification, the final rule expressly excludes them.

Nevada casinos stated that they cash "thousands of checks every day." The comment did not take into account the proposed $2,500 threshold amount and did not mention the other types of monetary instruments that must be included on the list. A suggested requirement that issuers of the monetary instruments report their issuance would not meet the purpose of this rule.

(15) *Require a record of wire transfers on behalf of a customer in amounts of $2,500 or more* The Notice contained a proposal that casinos maintain a log of transmittals or receipts of funds for customers over $2,500 containing certain information. These transactions are accomplished through funds transfers generally through a wholesale wire transfer system such as Fedwire. Treasury is revoking this proposal. It envisions that casinos will be subject to the same recordkeeping requirement for transmittals and receipts of funds as other non-bank financial institutions subject to the Bank Secrecy Act. Treasury has issued a regulatory proposal in this regard. 55 FR 41696.

(16) *Require a record of certain slot token activity* This provision, while not included in the Notice, is a derivative of Amendment #12. As proposed, Amendment #12 would have required slot token purchases and redemptions for currency to be aggregated with all other cash in gaming activity, regardless of the amount. *See* (12), above. The new provision responds to some commenters' concern that it is difficult to track currency transactions, which are usually very small, involving slot tokens. (Amendment #18).

The new amendment requires a record to be made of (a) slot token purchases which amount to $3,000 or more in currency and (b) slot token redemptions which amount to $3,000 or more in currency, in a gaming day. It requires casinos to use "reasonable diligence," as explained in (11) above, in determining whether such transactions have occurred. The rule is beneficial to the casinos because they will not be required to aggregate currency transactions involving purchases or redemptions of slot tokens with other currency transactions unless, in the aggregate, they amount to $3,000 or more in the gaming day. New § 103.22(a)(2)(iv).

(17) *Require casinos to create and implement compliance programs* This amendment, authorized by section 5318(a)(2) of title 31 of the United States Code, requires each casino to develop and implement a compliance program. The program must provide for internal controls to assure ongoing compliance, independent testing for compliance, training of casino personnel in Bank Secrecy Act matters, and the designation of personnel responsible for day-to-day compliance. It also must ensure use of all available information to determine when identifying information must be obtained or verified, when multiple transactions must be treated as a single transaction for reporting purposes, and whether records required by the Act must be made and retained. Casinos having automated data processing systems must use them in assuring Bank Secrecy Act compliance. (Amendments #15 and #19). Similar programs have been required of other financial institutions. See, *e.g.*, 12 CFR 21.21 and 208.14.

Many of the components of this requirement were derived from compliance programs that are already in place in some casinos. Contrary to some of the comments, the components are quite general, and Treasury has not dictated the actual design of each program. All compliance programs should contain such fundamental provisions as personnel training, compliance testing, and procedures using available information to enhance compliance.

The new rule permits flexibility by allowing each compliance program to depend on the characteristics of the individual casino. For example, a casino having many table games and cage windows might need a full-time compliance officer. On the other hand, a casino having only a few table games and cashiers might not. Similarly, the training program for slot booth personnel may be much simpler than for a pit boss. The new rule recognizes these distinctions and permits the compliance programs to reflect them.

One proposal that drew unexpected criticism would have required casinos to "develop," as well as "use," computer programs to aid in compliance. This requirement would have been imposed only on those casinos with automated data processing capabilities. Because financial institutions currently are not required to obtain automated data processing systems solely to improve Bank Secrecy Act compliance, Treasury has abandoned this proposal. Casinos, however, are still required to use effectively the capabilities they do have. In addition, Treasury expects casinos to welcome inexpensive, compatible programs which could greatly improve their compliance efforts.

Another item that caused great controversy was Treasury's declaration in proposed § 103.54(a)(3) that mere compliance with the requirements of the provision "shall not be considered a defense to any criminal or civil action" under the Act. This statement has been deleted from the final rule. Whether a particular program is sufficiently comprehensive, utilized, and effective must be determined on a case-by-case basis. However, a program that constitutes nothing more than a paper exercise or a show piece for compliance examiners will be regarded as no program at all.

In the past, some casinos were found to ignore information made and maintained in their normal course of business which would have greatly improved their compliance effort. New section 103.54(a)(2)(v) responds to this discovery by requiring that all available information be used to determine: the name, address, social security number, and other information; verification of the name and address; the point at which multiple currency transactions are reportable; and whether a record must be created and retained, under the Act. Accordingly, a proposal including a "reasonable efforts" standard is rejected.

(18) *Require casinos to use a denominational imprest system* The proposed amendment required that records be made of various currency transactions the casino already had identified by amount, and often, by denomination. Generally, this would have included deposits and withdrawals of cash with respect to other financial institutions, activity in the "count room", and customer cash activity (other than table game activity, the inclusion of which did not seem workable). The final rule eliminates the denominational aspect of the proposal for customer cash activity only. Also, to be consistent with similar changes to the proposed amendments, the threshold amount for obtaining customer identifying information has been raised to $3,000. (Amendments #16 and #19).

This proposal created much contention. It was characterized as "unprecedented". While this assessment is correct, there is reason for it. The casino industry appears to be the only type of financial institution that is cash-intensive and in which frequent currency transactions occur, but which does not keep a per transaction record (such as cash register or "teller" tape).

While Treasury is in no position to mandate which records are necessary for a particular industry to carry on its day-to-day operations, it unquestionably has the authority to require the establishment of a comprehensive audit trail that will advance the Government's compliance examinations effort.

Casinos do not differentiate between chip transactions and currency transactions which occur at the cage. Treasury's review of cage transactions has shown that cash transactions can be disguised as non-reportable chip transactions without much difficulty. Despite attempts by commenters, none could demonstrate that it had an adequate audit (or "paper") trail to differentiate between chips and currency for a particular cage transaction.

Time and cost are important matters and cannot be readily dismissed. With the exception of $3,000-and-over customer transactions, however, the additional time imposed by this requirement will consist only of recording the transaction, either manually (*e.g.*, a hand-written log) or mechanically (*e.g.*, a cash register tape).

Under the new requirement, the most time-consuming transactions will be those involving $3,000 or more in chips and/or currency. When these transactions occur, the casino must compile a record of the customer's verified name and address, social security number, the date, time, and amount of the transaction, and the name or casino license number of the employee conducting the transaction. However, these transactions are relatively infrequent.

While the proposed $2,500 threshold was termed "arbitrary", it would enable casinos to capture potentially aggregable transactions, to have customer information available when multiple transactions are reportable, and to make it difficult for a customer to structure reportable transactions in order to avoid the filing of a report. Arguments that, because the over-$10,000 regulatory reporting threshold has been in existence for a long time, the $2,500 threshold is contrary to Congressional intent, are meritless. Still, to comport with other recordkeeping thresholds adopted in this final rule, the $2,500 amount is raised to $3,000.

Treasury recognizes that there will be a monetary cost to the casino. However, Treasury has not mandated a particular recordkeeping system. In the smallest casinos, an inexpensive hand-written general ledger system might be satisfactory, while larger ones with computerized cages might decide to enhance their hardware or software to create the record. Ordinary cash registers may suffice in some casinos.

The denominational aspect of the proposal has been questioned. Many contended that law enforcement's need for a record of the denominational composition of each cage transaction does not outweigh the apparent burden this record would impose on casinos at this time. Treasury has eliminated the denominational aspect of customer transactions only from the final rule. Adequate information may be derived by other types of transactions, for which the denominational requirement is retained.

In view of the additional time and costs which will result from the denominational imprest system, Treasury has provided that each casino which certifies to the Secretary that certain customer transactions covered by the system will be handled only at particular stations (which have taken on the name "specialized windows") will be exempted from the requirement. In essence, if all non-table game transactions involving chips, currency, or a combination of chips and currency of more than $10,000 are handled at one or more places, and all non-table game transactions involving chips, currency, or a combination of chips and currency between $3,000 and $10,000 are handled at one or more different places, and these places handle no other transactions, a casino would be exempted from the requirement of a denominational imprest system for all customer chip and/or currency transactions. By channeling large transactions to specific areas, reports or records will be prepared on each customer going to those areas. Thus, the goals of achieving information on the customers for potentially aggregable transactions, while making it difficult for customers to avoid the reporting requirement by structuring their transactions, are achievable, at much less burden to the casinos.

Commenters criticized the specialized window exemption on the grounds of costs, safety, and customer dissatisfaction. They contended that devoting at least two cage windows to relatively infrequent transactions could necessitate expansion of the cage area, precipitating construction costs, and possibly removing some income-producing games. Moreover, they claimed that dedicating present windows would back up customer lines at the other windows. In addition, commenters noted that cashiers who work the specialized windows would be paid for full shifts regardless of the fact that activity at their windows would be light.

With respect to safety, commenters asserted that the activity occurring at the specialized windows might attract criminals hoping to target customers carrying greater amounts of currency. They also noted that customers would be irritated by standing in long lines at the cage while there was little activity at the specialized windows.

Some of the comments reflect a misunderstanding of the proposed implementation of this rule. There may be no need to have the specialized windows constantly occupied by a cashier. A single cashier could work a regular window as well as a specialized window on either side by merely moving to the adjacent window. That other start-up costs will result from this exemption is inevitable.

It is emphasized that the new provision talks in terms of "stations" rather than windows. If security becomes a problem, these stations could be in more protected areas, such as where larger lines of credit are established (sometimes referred to as the "high roller" areas). The fact that those who criticized both the denominational imprest system and the specialized window option could not provide a viable alternative is indicative that these are the least burdensome means of obtaining the information Treasury deems necessary.

The amendment, as proposed, also would have required the denominational imprest system to be used in slot booths. In response to several comments, the requirement for accounting for each transaction at the slot booths has been eliminated in the final rule. (The rule is written in terms of stations in order to account for slot booths and persons who "walk" the slot machine areas.) Only slot token transactions, that is, purchases and redemptions of slot play, may be conducted at these stations. Occasional exchanges of small amounts of currency and very small chip transactions, however, will not violate this condition.

As discussed in (15), above, the new rule requires slot personnel to prepare a record in the rare event that a customer engages in cash in or cash out transactions amounting to $3,000 or more at these stations in a single gaming day. Treasury expects casinos to check these records for the purpose of aggregating multiple transactions.

To summarize the final rule, new § 103.54(b) requires each casino employee who engages in chip or currency transactions with customers, other than those occurring at the gaming tables or the slot booths, to be responsible for a currency or a currency and chip inventory (*e.g.*, a "drawer") of

a recorded dollar value and denominational composition at the beginning of his or her employment shift. The employee must also record the inventory at the end of his or her employment shift by dollar value and denominational composition.

Each transaction involving the inventory must be accounted for chronologically and recorded. The requirement for chronological recordkeeping refers to each individual inventory, not all inventories throughout the casino. In other words, there is no requirement that all non-table transactions be accounted for chronologically with respect to each other.

Transactions involving the inventory include those conducted with other areas of the casino, such as a "chip bank," or with a customer, such as a payment of credit with chips. Records of these transactions must include the amounts involved and a brief description of the transaction (*e.g.*, "redemption of chips for $50 cash"). Paper tape, such as bank teller tape, can constitute the record. In addition, the casino may develop a code to help expedite each transaction. This would allow the casino to apply symbols, different colors of ink, etc., to describe various transactions.

Under the final rule, when a transaction with a customer involves $3,000 or more in currency, the casino is also required to secure and record certain identifying information, including social security number or taxpayer identification number and verify the name and address. If it cannot obtain a social security number or taxpayer identification number, the casino will not be deemed to have violated that requirement, provided it has made a reasonable effort to secure the number and maintains a list, made available to the Secretary upon request, of those persons from whom it was unable to obtain the number. The casino must also record the name or casino license number of the employee conducting the transaction.

It is reemphasized that only customer transactions are not required to be accounted for by denominational composition. Casinos must account for other transactions to which the imprest system applies: (*e.g.*, exchanges between the cashier's drawer and the "chip bank"; segregating currency for transfer to another financial institution (*e.g.*, depositing cash in a bank); receipt of currency from another financial institution (*e.g.*, withdrawing cash from a bank); and inventorying currency transferred from the games to the casino's cash bank (*e.g.*, activity in the "count room") by denominational composition).

Again, the Secretary may exempt a casino from the requirement to account for customer currency or chip transactions of less than $3,000 through an imprest system. To obtain an exemption, a casino must certify to the Secretary that all of its currency and chip transactions (other than those occurring at the gaming tables) in amounts greater than $10,000 occur only at one or more stations, such as a cashier's window in the cage; that all of its currency and chip transactions in amounts between $3,000 and $10,000 inclusive occur only at one or more other stations; that certain information is recorded and verified at those stations; and that those stations handle no other transactions. It is emphasized that the exemption applies only to customer transactions as described herein. The requirement to account for the other types of currency transactions through the denominational imprest system remains in effect.

(19) *Add new definitions:* New section 103.54(c) defines five terms used in the regulations that pertain to casinos. (Amendment #19.)

"Business year" means the taxable year, for purposes of subtitle A of title 26 of the United States Code, of the casino.

"Casino account number" includes all numbers by which a casino identifies a customer.

"Customer" is all-inclusive and refers to each person involved in a transaction with a casino, regardless of whether that person engages in the casino's gaming activity. A person who frequents a casino solely to cash a monetary instrument is a customer.

"Gaming day" is defined essentially in terms of the normal business day of a casino. Moreover, no casino is permitted to maintain separate gaming days for its various divisions, *e.g.*, by having a 24-hour period for cage transactions which is not the same as the period used for gaming table transactions.

"Machine-readable" means capable of being read by an automated data processing system.

(20) *Require casinos to obtain missing customer information:* Under new section 103.54(d), each casino must prepare a record containing a list of customers on whom identifying information was required, but not obtained because no casino employee had personal knowledge of the activities that necessitated the gathering of such information. This list will reflect instances where such knowledge was gained solely by a review of the various books, records, logs, and similar documents and information that was retained in an automated data processing system or existing manual system pursuant to federal, state, or local regulations, or in the normal course of business. *See* (6), above. The casino is under an ongoing duty to obtain the missing information. (Amendments #17 and #19.)

The system of checking internal casino computer information, rating cards, general ledgers, and other books and records to find reportable currency transactions is sometimes referred to as "after the fact aggregation." Such aggregation normally occurs after the gaming day, when all information has been gathered as to the particular day. When reviewing this information, a casino may determine that a certain customer's total gaming day cash in or cash out activity exceeded $10,000, triggering a currency transaction report, but that each individual transaction was of such an amount that the casino did not obtain the customer's name, address, or social security (or other required identification) number. This could happen, for example, if none of a customer's aggregated cash in activity at a single pit reached $3,000. § 103.36(b)(9).

If the casino cannot obtain the missing information (*e.g.*, because the customer is no longer reasonably available), it must place the information known on that customer along with a description of the specific information obtained, verified, or recorded, and the time, date, and amount of the transaction on a list. New § 103.36(b)(14). Then, the casino must supplement this list with reasonably available information acquired thereafter. New § 103.54(d).

To illustrate the interplay of new §§ 103.36(b)(9), 103.36(b)(14), and 103.54(d), assume that Joseph Michaels plays table games at five different pits in a casino in one gaming day. The casino has a computer system which is capable of aggregating table transactions and displaying the total on terminals located in the pits. Mr. Michaels is "rated" at each pit. Each rating card reflects cash in activity of more than $2,000, but less than $3,000. When play terminates at each pit, information from the rating card is input into the computer system.

The following day, while aggregating player rating information, the casino realizes that a customer named Joseph Michaels had cash in table activity exceeding $10,000. There is no address or social security number shown, however, and it is clear that no information was verified. If the casino

cannot reasonably obtain this information, it is obligated under section 103.36(b)(14) to include Mr. Michaels' name on a list of customers on which there is missing identifying information. Under section 103.54(d), the casino is also required to obtain the information when it becomes reasonably available, such as if and when Mr. Michaels returns to the casino and is identified as a person on whom information is needed.

To clarify an apparent misunderstanding of the commenters, Treasury wishes to emphasize that these rules apply *only* when a casino ascertains through books, records, etc. that multiple transactions are to be treated as a single reportable transaction. If, for example, a pit employee learns from computer information that a customer has already exceeded the over-$10,000 threshold while the customer is playing at the pit, the casino has actual knowledge of the currency transactions and it must obtain and verify identifying information. Likewise, if a customer is present in a casino, and a pit employee determines from computer information that the customer had engaged in more than $10,000 in currency transactions during the previous day, or on a single day of a recent trip, the employee must obtain and verify any missing customer information.

Other Comments

Having analyzed the comments on a revision-by-revision basis, other general comments are discussed below:

(1) Some commenters contended that because casinos are not comparable to banks, they are not financial institutions within the meaning of the Bank Secrecy Act. However, the Secretary, in accordance with the controlling statute at the time, 31 U.S.C. 5312 (a)(2)(U), concluded in a final rule that casinos were included in the term "financial institution," bringing them under the reporting and recordkeeping requirements of the Act. See 50 FR 5065.

Under the Anti-Drug Abuse Act of 1988, title VI, subtitle E, Public Law 100-690, § 6185(a), Nov. 18, 1988, the concepts of 31 U.S.C. 5312(a)(2)(U), are recodified, with a slight change in wording, at § 5312(a)(2)(X). Also, the Anti-Drug Abuse Act of 1988 provides additional authority for the Secretary to designate as a financial institution "any other business . . . whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters." 31 U.S.C. 5312 (a)(2)(Y).

The Secretary hereby reiterates that gambling casinos carry out and engage in activity which he determines to be similar to, related to, and substituted for activity authorized to be engaged in by the other businesses described in 31 U.S.C. 5312(a)(2). The Secretary expressly designates gambling casinos as businesses whose cash transactions have a high degree of usefulness in criminal, tax, and regulatory matters. The Secretary concludes that the reporting and recordkeeping requirements announced in this final rule have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings.

(2) *The new regulations do not unconstitutionally implicate customers' privacy.* Some commenters alleged that the requirements imposed by this rule would necessitate an unconstitutional invasion of individuals' privacy. This assertion, however, has already withstood judicial scrutiny. *See California Bankers Assn.* v. *Shultz,* 416 U.S. 21 (1974). Therefore, the Secretary concludes that these regulations do not unconstitutionally infringe upon customers' privacy.

Executive Order 12291

This final rule is not a major rule for purposes of Executive Order 12291. It is not anticipated to have an annual effect on the economy of $100 million or more. It will not result in a dramatic increase in costs or prices for consumers, individual industries, federal, State, or local government agencies, or geographic regions. The rule will not significantly impact competition, employment, investment, productivity, innovation, or the ability of a United States-based enterprise to complete with foreign-based enterprises in domestic or foreign markets.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, it is hereby certified that this final rule will not have a significant economic impact upon a substantial number of small entities. Most of the recordkeeping and reporting requirements imposed by this final rule concern information already kept in routine business records. If an affected financial institution has prudent record keeping practices, it will already be retaining a substantial portion of the information identified in this proposed regulation.

Paperwork Reduction Act

The collection of information contained in this final regulation has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1505–0063. The estimated average burden associated with the collections of information in this final rule is 533 hours per recordkeeper.

Comments concerning the accuracy of this estimate and suggestions for reducing this burden should be directed to Peter G. Djinis, Director, Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement), Department of the Treasury, room 5000 Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220, and to the Office of Management and Budget, Paperwork Reduction Project (1505–0063), Washington, D.C. 20503.

Drafting Information

The principal authors of this document are the Office of the Assistant General Counsel (Enforcement) and the Office of Financial Enforcement, Department of the Treasury.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Foreign banking, Investigations, Law enforcement, Reporting and recordkeeping requirements, Taxes.

Amendment

For the reasons set forth above in the preamble, 31 CFR part 103 is amended as set forth below:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for part 103 is revised to read as follows:

Authority: Pub. L. No. 91–508, Title I, 84 Stat. 1114 (12 U.S.C. 1829b, 1951–1959); and the Currency and Foreign Transactions Reporting Act, Pub. L. No. 91–508, Title II, 84 Stat. 1118, as amended (31 U.S.C. 5311–5326).

2. Section 103.11(i)(7) is revised to read as follows:

§ 103.11 Meaning of terms.

* * * * *

(i) * * *

(7) (i) *Casino.* A casino or gambling casino duly licensed to do business as a casino or gambling casino in the United States and having gross annual gaming revenue in excess of $1,000,000. The term includes the principal headquarters and every domestic branch or place of business of the casino.

(ii) For purposes of this paragraph (i)(7), "gross annual gaming revenue" means the gross gaming revenue received by a casino, during either the previous business year or the current

business year of the casino. A casino or gambling casino which is a casino for purposes of this part solely because its gross annual gaming revenue exceeds $1,000,000 during its current business year, shall not be considered a casino for purposes of this part prior to the time in its current business year that its gross annual gaming revenue exceeds $1,000,000.

3. Section 103.22 is amended by revising paragraph (a)(2) to read as follows:

§ 103.22 Reports of currency transactions.

* * * * *

(a) * * *

(2) Each casino shall file a report of each transaction in currency, involving either cash in or cash out, of more than $10,000.

(i) Transactions in currency involving cash in include, but are not limited to:

(A) Purchases of chips, tokens, and plaques;

(B) Front money deposits;

(C) Safekeeping deposits;

(D) Payments on any form of credit, including markers and counter checks;

(E) Bets of currency;

(F) Currency received by a casino for transmittal of funds through wire transfer for a customer;

(G) Purchases of a casino's check; and

(H) Exchanges of currency for currency, including foreign currency.

(ii) Transactions in currency involving cash out include, but are not limited to:

(A) Redemptions of chips, tokens, and plaques;

(B) Front money withdrawals;

(C) Safekeeping withdrawals;

(D) Advances on any form of credit, including markers and counter checks;

(E) Payments on bets, including slot jackpots;

(F) Payments by a casino to a customer based on receipt of funds through wire transfer for credit to a customer;

(G) Cashing of checks or other negotiable instruments;

(H) Exchanges of currency for currency, including foreign currency; and

(I) Reimbursements for customers' travel and entertainment expenses by the casino.

(iii) Multiple currency transactions shall be treated as a single transaction if the casino has knowledge that they are by or on behalf of any person and result in either cash in or cash out totalling more than $10,000 during any gaming day. For purposes of this paragraph (a)(2), a casino shall be deemed to have the knowledge described in the preceding sentence, if

(A) Any sole proprietor, partner, officer, director, or employee of the casino, acting within the scope of his or her employment has knowledge that such multiple currency transactions have occurred, or

(B) The books, records, logs, information retained on magnetic disk, tape or other machine-readable media, or in any manual system, and similar documents and information, which the casino maintains pursuant to any law or regulation or within the normal course of its business, contain information that such multiple currency transactions have occurred.

(iv) Notwithstanding paragraph (a)(2)(iii) of this section,

(A) A casino will not be deemed to have knowledge of purchases or redemptions of slot tokens for currency unless a record as described in § 103.36(b)(15) is required to be prepared, and

(B) A casino will not be deemed to have knowledge of *de minimis* transactions in currency, unless it has actual knowledge thereof when aggregating currency transactions. For purposes of this paragraph (a)(2), as it pertains to casinos, a *de minimis* transaction is one involving less than $500 in currency, either through a distinctly isolated transaction, or through a series of related transactions.

* * * * *

§ 103.28 [Amended]

4. Section 103.28 is amended by designating the first three sentences as paragraph (a)(1) and by deleting the word "Before" from the first sentence and adding in its place the phrase "Except as provided in paragraph (b) of this section, before".

5. Section 103.28 is further amended by deleting the fourth sentence and substituting therefor new paragraph (a)(2) to read as follows:

§ 103.28 Identification required.

(a) (1) * * *

(2) Notwithstanding paragraph (a)(1) of this section,

(i) With respect to a bank, a bank signature card may be relied upon to verify identity only if such card was issued after documents establishing the identity of the individual were examined and notation of the specific information was made on the signature card; and

(ii) With respect to a casino, an internal casino record may be relied upon to verify identity only if:

(A) Such record was prepared with regard to a deposit or credit account, in which the individual whose identification is to be verified has an ownership interest or signature authority;

(B) Such record was prepared after official or otherwise reliable documents establishing the name and address of the individual (such as a driver's license, passport, voter registration or alien identification card) were examined and notation of the specific information was made on the record; and

(C) The casino periodically reverifies the identifying information in the record, and includes in the record the date on which each reverification is made.

6. Section 103.28 is further amended by designating the fifth sentence as paragraph (a)(3).

7. Section 103.28 is further amended by adding a new paragraph (b) to read as follows:

§ 103.28 Identification required.

* * * * *

(b) If a casino acquires knowledge, solely as described in § 103.22(a)(2)(iii)(B), that

(1) A cash in transaction has caused all of a customer's cash in transactions to be treated as a single transaction in currency under § 103.22(a)(2)(iii), or

(2) A cash out transaction has caused all of a customer's cash out transactions to be treated as a single transaction in currency under § 103.22(a)(2)(iii), then the casino shall obtain, verify, and record, within a reasonable period of time after such knowledge is so acquired, the information described, in the manner prescribed, in § 103.28(a), which is then reasonably available. For purposes of the preceding sentence, information shall be deemed reasonably available if the customer is reasonably available. (For special recordkeeping requirements regarding this paragraph (b), see § 103.36(b)(14)).

§ 103.36 [Amended]

8. Section 103.36(a) is amended by inserting in the first sentence of paragraph (a) the words "name, permanent address, and" immediately following the words "record of the".

9. Section 103.36(a) is further amended by inserting in the second sentence the words "name, permanent address, and" immediately following words "the casino shall secure the".

10. Section 103.36(a) is further amended by inserting the following between the second and third sentences: "The name and address of such person shall be verified by the casino at the time the deposit is made, account opened, or credit extended. The verification shall be made by examination of a document of the type described in § 103.28(a), and the

specific identifying information shall be recorded in the manner described in § 103.28(a)."

11. Section 103.36(b)(4) is amended by deleting "$2500" in the first sentence and substituting therefor "$3,000".

12. Section 103.36 is further amended by adding new paragraph (b)(9), to read as follows:

§ 103.36 Additional records to be made and retained by casinos.

* * * * *

(b) * * *

(9) A record of each person that the casino knows, or through reasonable diligence should know, has bought in at, bet, or purchased chips, tokens, or plaques of, $3,000 or more, through one or more transactions in currency, in a single gaming day. The record shall include the name, permanent address, casino account number (if any), and social security number or taxpayer identification number of such person; the date and time of, and the amount of currency involved in, the transaction(s); and the name or casino license number of the casino employee preparing the record.

(i) The name and address of such person shall be verified by the casino. The verification shall be made by examination of a document or record of the type described in § 103.28(a), and the specific identifying information shall be recorded in the manner described in § 103.28(a).

(ii) If the person is a nonresident alien, the person's passport number or a description of some other government document used to verify the person's identity shall be obtained and recorded.

(iii) In the event that a casino has been unable to secure the required social security number or taxpayer identification number, it shall not be deemed to be in violation of this requirement if it has made a reasonable effort to secure such number, maintains a list containing the names and permanent addresses of those persons from whom it has been unable to obtain such number, and makes the names and addresses of those persons available to the Secretary upon request.

(iv) If

(A) A casino makes and retains the records described in paragraph 103.36(b)(8) when a person buys-in at, bets, or purchases chips of at least $3,000 in currency through one or more transactions in a gaming day;

(B) Such records contain all of the information required by this paragraph (b)(9); and

(C) The customer information for such records is verified as described in (b)(9)(i) and (ii) of this section, the casino shall not be required to make the records described in this paragraph (b)(9).

(v) Purchases of slot tokens with currency are excluded from the provisions of this paragraph (b)(9), but are subject to the provisions of § 103.36(b)(15).

* * * * *

13. Section 103.36 is further amended by adding new paragraph (b)(10), to read as follows:

§ 103.36 Additional records to be made and retained by casinos.

* * * * *

(b) * * *

(10) A record containing a list of each customer who is known by the casino by more than one name. The list shall include the name of the customer, his or her permanent address, casino account number (if any), and social security or taxpayer identification number (if known by the casino), and the aliases, nicknames, and other names by which the customer is identified. The list need not include derivatives of a single name (e.g., Timothy, Tim, Timmy).

* * * * *

14. Section 103.36 is further amended by adding a new paragraph (b)(11), to read as follows:

§ 103.36 Additional records to be made and retained by casinos.

* * * * *

(b) * * *

(11) (i) A separate record containing a list of each transaction between the casino and its customers involving the following types of instruments having a face value of $3,000 or more:

(A) Personal checks (excluding instruments which evidence credit granted by a casino strictly for gaming, such as markers);

(B) Business checks (including casino checks);

(C) Official bank checks;

(D) Cashier's checks;

(E) Third-party checks;

(F) Promissory notes;

(G) Traveler's checks; and

(H) Money orders.

(ii) The list will contain the time, date, and amount of the transaction; the name and permanent address of the customer; the type of instrument; the name of the drawee or issuer of the instrument; all reference numbers (*e.g.*, casino account number, personal check number, etc.); and the name or casino license number of the casino employee who conducted the transaction. Applicable transactions will be placed on the list in the chronological order in which they occur.

* * * * *

15. Section 103.36 is further amended by adding a new paragraph (b)(12), to read as follows:

§ 103.36 Additional records to be made and retained by casinos.

* * * * *

(b) * * *

(12) A copy of the compliance program described in § 103.54(a).

* * * * *

16. Section 103.36 is further amended by adding a new paragraph (b)(13), to read as follows:

§ 103.36 Additional records to be made and retained by casinos.

* * * * *

(b) * * *

(13) All documents and codes prepared in conjunction with the operation of the imprest systems, or the systems to be used if the imprest system is exempted by the Secretary, as described in § 103.54(b).

* * * * *

17. Section 103.36 is further amended by adding a new paragraph (b)(14), to read as follows:

§ 103.36 Additional records to be made and retained by casinos.

* * * * *

(b) * * *

(14) A record that contains a list of each person on which the casino was required, solely by operation of paragraph 103.28(b), to verify and record the information described in paragraph 103.28(a), but the information was not reasonably available, within the meaning of paragraph 103.28(b). The list shall contain any identifying information on the person which is available; a description of the specific information that was not obtained, verified, or recorded; and the time, date, and amount of the transaction or transactions that caused the operation of paragraph 103.28(b).

* * * * *

18. Section 103.36 is further amended by adding a new paragraph (b)(15), to read as follows:

§ 103.36 Additional records to be made and retained by casinos.

* * * * *

(b) * * *

(15) A record of each person that the casino knows, or through reasonable diligence should know, has purchased or redeemed slot machine tokens of $3,000 or more, through one or more transactions in currency, in a single gaming day. The record shall include the name, permanent address, casino

account number (if any), and social security number of taxpayer identification number of such person; the date and time of, and the amount of currency involved in, the transaction(s); and the name or casino license number of the casino employee preparing the record.

(i) The name and address of such person shall be verified by the casino. The verification shall be made by examination of a document or record of the type described in § 103.28(a), and the specific identifying information shall be recorded in the manner described in § 103.28(a).

(ii) If the person is a nonresident alien, the person's passport number or a description of some other government document used to verify the person's identity shall be obtained and recorded.

(iii) In the event that a casino has been unable to secure the required social security number or taxpayer identification number, it shall not be deemed to be in violation of this requirement if it has made a reasonable effort to secure such number and it maintains a list containing the names and permanent addresses of those persons from whom it has been unable to obtain such number and makes the names and addresses of those persons available to the Secretary upon request.

* * * * *

19. New § 103.54 is added immediately after § 103.53, to read as follows:

§ 103.54 Special rules for casinos.

(a) *Compliance programs.* (1) On or before September 8, 1993, each casino shall develop and implement a written program reasonably designed to assure and monitor compliance with the requirements set forth in subchapter II of chapter 53 of title 31 of the United States Code and the regulations contained in this part.

(2) At a minimum, each compliance program shall provide for:

(i) A system of internal controls to assure ongoing compliance;

(ii) Internal and/or external independent testing for compliance;

(iii) Training of casino personnel;

(iv) An individual or individuals to assure day-to-day compliance;

(v) Procedures for using all available information to determine:

(A) When required by this part, the name, address, social security number, and other information, and verification of the same, of a person;

(B) The point in time at which multiple currency transactions will be treated as a single transaction for purposes of § 103.22(a)(2); and

(C) Whether any record as described in subpart C of this part must be made and retained; and

(vi) For casinos that have automated data processing systems, the use of automated programs to aid in assuring compliance.

(b) *Imprest systems.* (1) Each casino shall develop and use an imprest system to account for the following transactions:

(i) With its customers, all transactions involving chips, currency, or any combination of chips and currency, other than those that occur at the gaming tables and at stations that conduct solely purchases and redemptions of slot tokens;

(ii) The segregation of currency for transfer to another financial institution;

(iii) The receipt of currency from another financial institution; and

(iv) The inventorying of currency that has been transferred from the games to the casino's central location for custody of the casino's currency.

(2)(i) For the transactions described in paragraph (b)(1)(i) of this section, each imprest system shall:

(A) Provide individual imprest inventories of currency or chips and currency for each employee who is responsible for conducting such transactions;

(B) Assure the recording of the beginning and ending inventory of each individual imprest inventory by dollar value and denominational composition; and

(C) Provide for the chronological recording of

(*1*) All such transactions and

(*2*) All transactions involving the individual imprest inventories and any other place in the casino (*e.g.*, a "chip bank").

The record shall contain the amount and brief description of all transactions (*e.g.*, "redemption of chips for $50" or "payoff of $200 credit with chips"). Paper tape containing the amount and description meets this recordkeeping requirement. The description may be coded, so long as a single code is used uniformly in recording the transactions, and is made available to the Secretary upon request.

(ii) When a transaction described in paragraph (b)(1)(i) of this section involves cash in or cash out of $3,000 or more in currency, the casino shall, in addition to all other requirements of this section, prepare a record containing the customer's name, permanent address, casino account number (if any), and social security number or taxpayer identification number; the date and time of the transaction; and the name or casino license number of the casino employee conducting the transaction. The customer's name and address shall be verified as described in § 103.28(a). If the customer is a nonresident alien, the casino shall also record the customer's passport number or a description of some other government document used to verify the person's identity. In the event that a casino is unable to secure the social security number or taxpayer identification number, it shall not be deemed to be in violation of this requirement if it has made a reasonable effort to secure such number and maintains a list containing the names and permanent addresses of those persons from whom it has been unable to obtain such numbers and makes the names and addresses of those persons available to the Secretary upon request.

(3) For the transactions described in paragraph (b)(1) (ii), (iii), and (iv) of this section, the casino must prepare and keep a record containing the following information: the type of transaction involved (*e.g.*, a "drop count"); the number of all denominations of currency involved (*e.g.*, ten $100 bills, fifty $50 bills, twenty-five $20 bills, etc.); the specific place of origination or destination of the currency (*e.g.*, the name of a commercial bank, the table number of currency transferred from a game to the cage, etc.); the time and date of the transaction; and the name or casino license number of the employee who prepares the record.

(4) The Secretary may exempt a casino from the requirements of this paragraph (b) that relate to the transactions described in paragraph (b)(1)(i) only. The exemption may be granted, provided the casino certifies to the Secretary that:

(i) All of the transactions described in paragraph (b)(1)(i), which are in amounts in excess of $10,000, occur only at one or more stations, and such station(s) handle no other transactions;

(ii) All of the transactions described in paragraph (b)(1)(i), which are in amounts of $3,000 through and including $10,000, occur only at one or more stations, and such station(s) handle no other transactions; and

(iii) For each transaction occurring at the station or stations described in (b)(4)(i) and (ii) of this section, a record is prepared, retained, and made available to the Secretary upon request, of the name, permanent address, casino account number (if any), and social security number or taxpayer identification number of the customer involved; the passport number or a description of some other government document if the customer is a nonresident alien; the date and time, and amount of any currency involved

in, the transaction; a brief description of the transaction (*e.g.*, "redemption of chips for $3,000 check"); and the name or casino license number of the casino employee conducting the transaction. The name and address of the customer shall be verified as described in § 103.28(a). In the event that a casino is unable to secure the social security or taxpayer identification number, it shall not be deemed to be in violation of this requirement if it has made a reasonable effort to secure such number and makes the names and addresses of those persons available to the Secretary upon request.

(c) *Special terms.* As used in this part, as applied to casinos:

(1) *Business year* means the annual accounting period, such as a calendar or fiscal year, by which a casino maintains its books and records for purposes of subtitle A of title 26 of the United States Code.

(2) *Casino account number* means any and all numbers by which a casino identifies a customer.

(3) *Customer* includes every person which is involved in a transaction to which this part applies with a casino, whether or not that person participates, or intends to participate, in the gaming activities offered by that casino.

(4) *Gaming day* means the normal business day of a casino. For a casino that offers 24 hour gaming, the term means that 24 hour period by which the casino keeps its books and records for business, accounting, and tax purposes. For purposes of the regulations contained in this part, each casino may have only one gaming day, common to all of its divisions.

(5) *Machine-readable* means capable of being read by an automated data processing system.

(d) *Ongoing identification requirements.* Casinos shall be under a continuous duty to obtain and record all missing information contained in the list required by paragraph (b)(14) of § 103.36, whenever the information becomes reasonably available.

Dated: March 8, 1993.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff, and Trade Enforcement).

[FR Doc. 93–5686 Filed 3–11–93; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 92

[DoD Directive 1215.8]

Senior Reserve Officers Training Corps Program

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: The Department of Defense hereby removes 32 CFR part 92 concerning Senior Reserve Officers Training Corps Program. This part has served the purpose for which it was intended in 1982 and is no longer valid.

EFFECTIVE DATE: March 12, 1993.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, Correspondence and Directives Directorate, 1155 Defense Pentagon, Washington, DC 20301–1155, (703 697–4111.

SUPPLEMENTARY INFORMATION: An updated version of DoD Directive 1215.8 of the same title is available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161. The NTIS accession number for DoD Directive 1215.8 is PB90–120551.

List of Subjects in 32 CFR Part 92

Armed Forces reserves, Colleges and universities.

PART 92—[REMOVED]

Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 92 is removed.

Dated: March 9, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–5703 Filed 3–11–93; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 154

[CGD 91–036]

RIN 2115–AD62

Response Plans for Marine Transportation-Related Facilities; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction to interim final rule.

SUMMARY: This document contains corrections to the interim final rule (CGD 91–036) which was published Friday, February 5, 1993, (58 FR 7330). The regulations related to the preparation and submission of response plans for marine transportation-related facilities.

EFFECTIVE DATE: March 12, 1993.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Walter (Bud) Hunt, Project Manager, Oil Pollution Act (OPA 90) Staff, (202) 267–6740. This telephone is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION:

Background

The interim final rule that is the subject of these corrections established regulations requiring response plans for marine transportation-related facilities (MTR) including deepwater ports, certain Coast Guard-regulated onshore facilities, marinas, tank trucks, and railroad tank cars that handle, store or transport oil. The interim final rule also established additional response plan requirements for MTR facilities located in Prince William Sound, Alaska permitted under the Trans-Alaska Pipeline Authorization Act (TAPAA). These regulations are mandated by the Federal Water Pollution Control Act (FWPCA), as amended by the Oil Pollution Act of 1990 (OPA 90).

Need for Correction

As published, the interim final rule contains certain errors and omissions which are in need of correction.

Correction of Publication

Accordingly, the publication on February 5, 1993 of the interim final rule (CGD 91–036), which is the subject of FR Doc. 93–1708 is corrected as follows:

1. On page 7338, in the first column, lines 34 and 35, the phrase "non-persistent" should read "non-petroleum oil".

2. On page 7341, in the third column at line 43, "war" should read "water".

3. On page 7352, in the third column at line 68, the following should be added to the table of contents:

Appendix C of Part 154—Guidelines for Determining and Evaluating Required Response Resources for Facility Response Plans

Appendix D of Part 154—Interim Guidelines for Determining Economically Important and Environmentally Sensitive Areas for Facility Response Plans

§ 154.1020 [Corrected]

4. On page 7354, in the first column at line 23, in § 154.1020, "offshore" should read "onshore".

§ 154.1028 [Corrected]

5. On page 7355, in the third column at line 24, in § 154.1028(a)(4)(v), "(v)" should read "(5)".

§ 154.1060 [Corrected]

6. On page 7364, in the first column at line 18, in § 154.1060(b), between the words "Coordinator" and "prior" insert the words "the COTP may consult with the EPA Federal On-Scene Coordinator".

Dated: March 5, 1993.

A.E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–5736 Filed 3–11–93; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 111

Implementation of Delivery Point Barcode Requirement for Letter-Size Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule adopts on a temporary basis changes to the prebarcoding requirements for automation rate letter-size mailings, requiring a delivery point barcode on all letter-size mail for which a barcoded discount is claimed, and making conforming changes to the requirements for ZIP+4 numeric discounts.

EFFECTIVE DATE: March 21, 1993.

FOR FURTHER INFORMATION CONTACT: Mrs. Lynn Martin (202) 268–5176.

SUPPLEMENTARY INFORMATION: On November 9, 1992, pursuant to 39 U.S.C. 3623, the Postal Service filed with the Postal Rate Commission a Request for a Recommended Decision on Pre-barcoded Letter Mail Requirements. The Commission gave notice of the establishment of a classification proceeding (PRC Docket No. MC93–2) to consider the Postal Service's Request and the procedures for participation by interested parties. 57 FR 54866 (November 20, 1992).

In its Request and supporting testimony, the Postal Service set forth its plans to begin automated delivery point sequencing of letter-size mail on March 21, 1993, and requested that the Commission recommend a change in the Domestic Mail Classification Schedule (DMCS) which would give the Postal Service the flexibility to require that all letter-size mail claimed at a prebarcoded rate must bear a delivery point barcode, rather than the ZIP+4 barcode now specified by the DMCS.

In a proposed rule published on February 18, 1993 (58 FR 8921), the Postal Service explained that the Commission's procedural schedule in PRC Docket No. MC93–2 would not permit the issuance of a recommended decision before March 21, 1993. The proposed rule described the operational problems that would be associated with the continued entry of ZIP+4 prebarcoded letter mail after that date.

To avoid these operational problems, the proposed rule stated that the Postal Service planned, pursuant to its authority under 39 U.S.C. 3641(e), to place into effect temporary changes in the mail classification schedule in accordance with the proposed changes under consideration by the Commission. The proposed rule set forth the amendments to the prebarcoding requirements in the Domestic Mail Manual that the Postal Service proposed to make in the event a temporary classification change was placed into effect.

On March 5, 1993, the Postal Service published a notice that the Board of Governors of the Postal Service had authorized it to place the temporary change into effect and that the Postal Service had determined, pursuant to this authorization and its statutory authority under 39 U.S.C. 3641(e), to place into effect this temporary classification change effective at 12:01 a.m. on March 21, 1993. 58 FR 12605. This final rule sets forth the amendments to the prebarcoding requirements in the Domestic Mail Manual that implement this temporary classification change, as well as conforming changes to the requirements for numeric ZIP+4 rates for letter mail.

Evaluation of Comments Received

The Postal Service received three comments on the proposed rule, one from a mailing industry trade association, one from an association of presort service bureaus, and one from a manufacturer of mailing preparation equipment.

One commenter stated the comment period was too short to allow mailers time to generate constructive comments and recommendations. The Postal Service believes that mailers have had adequate time to determine the impact of required use of delivery point barcodes on their mailing operations. The Postal Service has been communicating its plans to adopt a delivery point barcoding requirement for letter-size barcoded rate mailings since 1989. Mailers have been provided notice through the Domestic Mail Manual (DMM) that the Postal Service planned to require a delivery point barcode on all mail qualifying for letter-size barcoded rates. Notice was published in the DMM as early as December 15, 1991. In the March 15, 1992 issue of the DMM, the Postal Service set forth the date of March 21, 1993, as the intended date of implementation of the delivery point barcode requirement. Additional notice was given through the Postal Rate Commission proceeding described above. Thus, mailers should have been aware of the impact implementation of the delivery point barcoding requirements would have on their mailing practices prior to the publication of the formal Federal Register proposed rule. Given this, the Postal Service believes the two-week comment period provided was adequate.

All three commenters requesting delaying implementation of the requirement for delivery point barcodes to obtain letter-size barcoded rates. Two commenters indicated that since the Postal Service will not have delivery point barcoding equipment fully deployed on March 21, it should not hurt the Postal Service to delay implementation. One of these commenters indicated that delaying the effective date would not hurt the Postal Service financially, but that mailers who are not ready will lose automation discounts. Another of these commenters asserted that the March 21 date was arbitrary, although he also indicated the members of his association would be ready on that date to apply delivery point barcodes to the mail they process. Even though the Postal Service will not be sorting all delivery point barcoded mail to carrier route walk sequence on automated equipment on March 21, 1993, delaying the effective date for requiring mailer applied delivery point barcodes would have an impact on the Postal Service. Full implementation of Postal Service delivery point sequencing is dependent upon the volume of delivery point barcoded mail received. The Postal Service will begin sorting to delivery point on a route by route and unit by unit basis in March 1993. Start-ups will vary depending on each postal facility's ability to restructure its operations; but the sooner each facility processes sufficient delivery sequenced volume to restructure its operation, the sooner the Postal Service can achieve automation-related savings. Since mail barcoded by the mailer is a substantial percentage of the total volume of barcoded mail in the system, delaying the requirement for delivery point

barcodes would affect the implementation schedule of the Postal Service and have an adverse impact on the savings to be gained from use of delivery point barcodes for automated sequencing of mail. Furthermore, continued encouragement of mailers to apply ZIP+4 barcodes would increase Postal Service costs since extra handling by the Postal Service will be required to apply a delivery point barcode to such pieces. (As noted in the proposed rule, the complexity of applying delivery point barcodes to ZIP+4 barcoded pieces varies depending on whether the ZIP+4 barcode appears in the address block or in the lower right barcode clear zone, but additional handlings will always be required.)

One commenter requested postponing the implementation date until June 20. This commenter stated that many mailers will not be ready on March 21 because new software needed to implement both the new presort requirements that will also go into effect on March 21, 1993, and the delivery point barcode requirement will not be available from their software vendors until mid-March. This commenter also expressed concern that the Postal Service will not have an adequate number of trays to support the presort changes. Although he acknowledged that the Postal Service has already established procedures for handling spot tray shortages and for granting mail preparation exceptions to those mailers with presort problems, this commenter stated it would be costly for both the Postal Service and mailers to request exceptions and indicated that it would be better to delay the date of implementation. Availability of presort software and trays are different issues from those addressed in the instant proposed rule on prebarcoding of letter-size mail. Those issues have been addressed by the procedures described above. The Postal Service believes this is an adequate solution and that delaying delivery point barcode implementation for these reasons is not necessary.

Another commenter requested postponement of the implementation date until the end of April, 1993. This commenter indicated the proposal not to allow pieces bearing a ZIP+4 barcode in the lower right corner to qualify for the ZIP+4 rates was not anticipated, and that software changes necessary to implement this requirement cannot be completed in time for the March 21, 1993, implementation date. Further discussion with the commenter revealed that there are options within its software that, if turned off, would result in proper application of rates in the vast majority of cases. The commenter agreed to notify its customers to do so and the Postal Service agreed to work with those customers on a case-by-case basis to resolve any other difficulties.

One commenter also stated that the Postal Service should move more quickly toward simplified sorting schemes for automation mail and noted its opposition to the longstanding requirement that barcoded mailpieces must also contain a correct numeric ZIP Code in the address. These comments are both outside the scope of the proposed rule concerning implementing requirements for delivery point barcodes and will not be addressed here.

This commenter also stated that the Postal Service should provide an additional rate incentive for delivery point barcoding. This issue has been raised by this commenter in the Postal Rate Commission proceeding. This rulemaking is not the proper forum for addressing that issue. This rulemaking is intended solely to adopt implementing regulations for the temporary classification change, which contains no change in postal rates.

No other comments were received concerning the DMM requirements in the proposed rule. Accordingly, the Postal Service will implement the requirement for delivery point barcodes to obtain a letter-size barcoded rate on March 21, 1993, as proposed. The regulations adopted in this final rule are the same as those in the proposed rule, except for some minor clarifications (58 FR 8921–8926).

These changes to the Domestic Mail Manual will be effective at 12:01 a.m. on March 21, 1993. The Postal Service believes that mailers will have adequate time to comply with the changed requirements, given the notice previously published of the Postal Rate Commission proceeding, as well as the fact that advance notice of the planned March 21 implementation has appeared in the DMM since March 1992.

See DMM 515.1, 531.112 (Issue 42, March 15, 1992). The March 5, 1993 notice of the temporary classification change also stated that these regulations would be implemented on March 21. 58 FR 12605, 6.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

Stanley F. Mires,
Chief Counsel, Legislative.

CHAPTER 3—FIRST-CLASS MAIL

2. Make the following changes to Domestic Mail Manual (DMM) Chapter 3:

312 NONPRESORTED BULK RATES

* * * * *

312.2 Nonpresorted Barcoded Rate

312.21 Cards

312.211 Rate Application. The nonpresorted Barcoded rate in 312.212 applies to cards meeting the requirements in 311.11 and 322 bearing delivery point barcodes in mailings meeting the requirements in 513 and 515.

* * * * *

313.7 3-Digit Barcoded Rates

313.71 Rate Application. The 3-digit Barcoded rates in 313.72 apply to cards and letter-size pieces bearing delivery point barcodes in mailings meeting the requirements in 513 and 515.

* * * * *

313.8 5-Digit Barcoded Rates

313.81 Rate Application. The 5-digit Barcoded rates in 313.82 apply to cards and letter-size pieces bearing delivery point barcodes in mailings meeting the requirements in 513 and 515.

* * * * *

325 PRESORTED BARCODED RATE FIRST-CLASS MAIL

325.1 Letter-Size Mailings. Presorted letter-size Barcoded rate mailings must meet the requirements in 513 and 515, including presort under 564, 565, or 566. The rate eligibility criteria for letter-size mailings presorted under 564, 565, or 566 are in 564.1, 565.21, and 566.21.

[Delete current 325.2.]

325.2 Flat-Size Mailings. [Insert current 325.12.]

[Delete current 325.3.]

* * * * *

CHAPTER 4—SECOND-CLASS MAIL

3. Make the following changes to Domestic Mail Manual (DMM) Chapter 4:

411.126 Barcoded Rates. [Change title to "Barcoded Rates." In the first sentence, delete "ZIP+4 Barcoded" and "ZIP+4 barcode."]

* * * * *

424.84 Documentation

* * * * *

424.843 Description. [Change the third sentence to read: "Further, for mailings at a ZIP+4 or Barcoded rate, each entry must detail the number of pieces bearing a ZIP+4 code or delivery point barcode, as appropriate, and a summary for the entire mailing must show a total number of pieces in the mailing and the number and percentage that bear a ZIP+4 code or delivery point barcode, as applicable, for the rate claimed."]

* * * * *

CHAPTER 5—AUTOMATION-COMPATIBLE MAIL

4. Change DMM 514.1 to read as follows:

514 REQUIREMENTS FOR ZIP+4 RATE MAILINGS (LETTER-SIZE PIECES ONLY)

514.1 Rate Eligibility

514.11 General. Only mailpieces containing a correct ZIP+4 code in the address and otherwise meeting the eligibility requirements of 514 can qualify for ZIP+4 rates. Other pieces can qualify for presort rates and, if First-Class, single-piece rates. Eligibility for specific rates differs based on the class of mail and the presort option used. Specific rate eligibility for ZIP+4 rate mailings presorted under 562.1 or 563 is in 562.11, and 563.1. Specific rate eligibility for nonpresorted First-Class mailings prepared under 569.1 is in 569.11.

514.12 Pieces Prepared with Delivery Point Barcodes. Mailers may claim mailpieces prepared with correct delivery point barcodes at ZIP+4 rates and may count such pieces toward the 85% requirement in 514.3. In barcoded mailings, pieces prepared with delivery point barcodes need not meet the OCR readability requirements in 540 or bear a numeric ZIP+4 code in the address to qualify for the ZIP+4 rates. The delivery point barcodes must be prepared under 530 and 551. See 514.3 and 514.52 for additional specifications for such pieces.

514.13 Pieces Prepared with ZIP+4 Barcodes. ZIP+4 rate mailings may include pieces prepared with ZIP+4 barcodes under the following conditions:

a. All pieces bearing ZIP+4 barcodes must meet the requirements of 520, 530, 540, and 551, and are subject to the limits in 514.3.

b. ZIP+4 barcodes may appear only in the address block as specified in 551.24. ZIP+4 barcodes are not permitted in the lower right barcode clear zone.

c. Pieces that bear a ZIP+4 barcode in the address block may qualify for ZIP+4 rates and may be counted toward the 85% requirement in 514.3 only if they bear a correct numeric ZIP+4 code in the address. ZIP+4 barcoded pieces that do not bear a numeric ZIP+4 code in the address do not qualify for ZIP+4 rates and do not count towards the 85% requirement in 514.3.

514.14 Pieces Prepared with 5-Digit Barcodes. ZIP+4 rate mailing prepared with delivery point barcodes may include pieces with correct 5-digit barcodes under the following conditions:

a. All pieces bearing a 5-digit barcode must meet the requirements of 520, 530, 540, 552, and are subject to the limits in 514.3.

b. When correct 5-digit barcodes are printed directly on mailpieces, the pieces may qualify for ZIP+4 rates and may be counted toward the 85% requirement in 514.3 if they also bear a correct numeric ZIP+4 code (see 530).

c. When 5-digit barcodes are printed on inserts that appear through a barcode window located in the lower right barcode clear zone, the pieces do not qualify for any automation-based rate and may not be counted toward the 85% requirement in 514.3 even if they bear a correct numeric ZIP+4 code in the address.

514.15 Pieces Prepared with Blank Barcode Windows in Lower Right Barcode Clear Zone. Pieces prepared with barcode windows in the lower right barcode clear zone through which no barcode appears are not eligible for any automation-based rate, and may not be counted toward the 85% requirement in 514.3 even if they bear a correct numeric ZIP+4 code in the address.

5. Make the following revisions to the remainder of 514:

514.32 Barcoded Pieces. The correct delivery point barcode prepared as required by 530 and 550 satisfies the requirement for a correct ZIP+4 code for rate qualification and meeting the 85% requirement in 514.31. A ZIP+4 barcode does not satisfy the requirement for a numeric ZIP+4 code. Therefore, ZIP+4 barcoded pieces will count towards the 85% requirement in 514.31 and qualify for ZIP+4 rates only if the address bears a numeric ZIP+4 code and the piece meets the requirements of 540.

* * * * *

514.4 Addresses. The address on each piece in the mailing must include either the correct numeric ZIP+4 code or the correct numeric 5-digit ZIP Code. The addresses on pieces in mailings prepared with delivery point barcodes may bear the numeric equivalent to the delivery point barcode as provided in 517. Each piece in the mailing that bears a ZIP+4 code or a delivery point barcode must bear an accurate address as specified in 534. The mailing must meet all requirements in 530 (see also 514.52).

514.5 Mailpiece Characteristics

514.51 Physical Requirements. [In current 515.51, delete the phrase "ZIP+4 barcoded or".]

514.52 OCR Processing. Each piece in the mailing, except those pieces in mailings prepared with correct delivery point barcodes (see 530) must meet the requirements of 540, including the requirement that the address be printed in a standardized addressing format (see 541). Pieces in mailings prepared with delivery point barcodes must meet the requirements of 550.

* * * * *

6. Change DMM 515.1 to read as follows:

515 REQUIREMENTS FOR LETTER-SIZE BARCODED RATE MAILINGS

515.1 Rate Eligibility

515.11 General. Only mailpieces bearing a correct delivery point barcode and otherwise meeting the eligibility requirements of 515 can qualify for barcoded rates. Other pieces can qualify for ZIP+4 rates or presort rates, and if First-Class, single piece rates. Eligibility for specific rates differs based on the class of mail and the presort option used. Specific rate eligibility criteria for barcoded mailings presorted under 564.1, 565, or 566 are in 564.11, 565.2, and 566.2. Specific rate eligibility criteria for First-Class nonpresorted Barcoded rate mailings prepared under 569.2 are in 569.21.

515.12 Pieces Prepared with ZIP+4 Barcodes. Pieces with correct ZIP+4 barcodes may be included in the mailing under the following conditions:

a. All pieces bearing a ZIP+4 barcode must meet the requirements of 520, 530, 551, and are subject to the limits in 515.3.

b. In mailings prepared with barcodes in the lower right corner, pieces bearing ZIP+4 barcodes in the lower right corner are permitted. However, because they cause subsequent processing problems, ZIP+4 barcodes in the lower right corner are discouraged.

c. Pieces with ZIP+4 barcodes printed in the lower right corner do not qualify for any automation-based rate.

d. Mailpieces bearing a ZIP+4 barcode in the address block must contain a barcode clear zone in the lower right under 551.22 and 551.412.

e. When ZIP+4 barcodes are printed in the address block, the pieces may

qualify for ZIP+4 rates if they bear a correct numeric ZIP+4 code and meet the requirements of 540.

515.13 Pieces Prepared with 5-Digit Barcodes. Pieces with correct 5-digit barcodes may be included in the mailing under the following conditions:

a. All pieces bearing a 5-digit barcode must meet the requirements of 520, 530 and 562, and are subject to the restrictions in 515.3.

b. Pieces bearing only a 5-digit barcode do not qualify for the Barcoded rates.

c. When correct 5-digit barcodes are printed directly on mailpieces the pieces may qualify for ZIP+4 rates if they also bear a correct numeric ZIP+4 code (see 530), and meet the requirements of 540.

d. When 5-digit barcodes are printed on inserts that appear through a barcode window located in the lower right barcode clear zone the pieces do not qualify for any automation-based rate.

515.14 Pieces Prepared with Blank Barcode Windows Located in the Lower Right Barcode Clear Zone. Pieces prepared with barcode windows in the lower right barcode clear zone through which no barcode appears do not qualify for any automation-based rate.

7. Make the following additional changes to DMM chapter 5:

515.3 Required Percentage of Delivery Point Barcoded Pieces. [Delete "ZIP+4 Barcoded" from title.]

515.31 85% Delivery Point Barcoded Pieces for Entire Mailing. [In current 515.31, add "Delivery Point" to the title. Delete the phrase "ZIP+4 barcode or". Change the phrase "ZIP+4 Barcoded" to "barcoded" and change the phrase "certified ZIP+4 or" to "certified."]

515.32 100% Delivery Point Barcoded Pieces for 5-Digit Portion of Mailing. [In current 515.32, delete the reference to "567", and delete the phrase "correct ZIP+4 barcode or"].

[Delete 515.33]

515.4 Addresses. [In current 515.4, delete the phrase "ZIP+4 barcode."]

* * * * *

515.5 Letter-Size Mailpiece Characteristics

* * * * *

515.512 Nonpresorted Barcoded Rates (First-Class Only). [In current 515.512 delete "ZIP+4" from the title.]

* * * * *

515.53 Rate Marking. [In current 515.53, change the rate markings "ZIP+4 Barcoded" to "Barcoded." Change all other references to "ZIP+4 Barcoded" to "Barcoded."]

515.6 Presort and Documentation. [In current 515.6, change all phrases "ZIP+4 Barcoded" to "Barcoded."]

* * * * *

517 DELIVERY POINT BARCODE

[Delete 517.1 and renumber 517.2 and 517.3 accordingly.]

517.1 Description. [In renumbered 517.1 (formerly 517.2) delete the third sentence. Delete "In addition," from the fourth sentence.]

* * * * *

531 CODING ACCURACY SUPPORT SYSTEM (CASS CERTIFICATION)

* * * * *

531.113 Delivery Point Barcoding

a. Letter-Size Mailings. The use of a delivery point barcode to obtain letter-size barcoded rates is mandatory. All mailings claimed at letter-size barcoded rates must be prepared using mailing lists processed with address matching software that is CASS-certified for delivery point coding (DPC) capability. The two-digit add-on logic must use the primary street number field from the CASS-certified ZIP+4 address matching process.

b. Flat-Size Mailings. The use of a delivery point barcode instead of a ZIP+4 barcode on mailpieces to obtain the flat-size barcoded rates is optional. However, both ZIP+4 barcodes and delivery point barcodes must be obtained from CASS certified DPC address matching software.

Exception: Address lists coded with ZIP+4 address matching software CASS certified before the Fall 1992 CASS certification cycle may continue to be used to prepare flat-size barcoded mailings within the time constraints allowed under 531.15.

* * * * *

531.14 Use of Current Information. [In current 531.14, change the phrase "When used for ZIP+4 coding or ZIP+4 barcoding" to "When used for ZIP+4 coding, ZIP+4 barcoding, or delivery point barcoding."]

* * * * *

534 ACCURATE ADDRESSING

534.1 Basic Requirement. [In current 534.1, replace the second sentence with the following: "Standardization of addresses is not required for mail in barcoded rate mailings. Within letter-size ZIP+4 rate mailings, pieces qualifying for ZIP+4 rates must bear addresses prepared in a standardized addressing format as shown in Exhibit 122.33, except for pieces in ZIP+4 rate mailings prepared with delivery point barcodes (see 514.12 and 514.52)." In the last sentence, revise "ZIP+4 Barcoded rate" to read "Barcoded rate."]

* * * * *

534.2 Depth of Code Quality

* * * * *

534.244 Information Not Available. [In current 534.244, change the phrase "or ZIP+4 barcode" to ", ZIP+4 barcode, or delivery point barcode."]

540 Non-Delivery Point Barcoded Pieces Qualifying for ZIP+4 Rates

541 GENERAL

541.1 Applicability. [In current 541.1, delete the phrase "ZIP+4 barcode or".]

541.2 Address Content and Standardized Address Format. [In the second sentence of 541.2, revise the phrase non-ZIP+4 barcoded" to non-delivery point barcoded".]

542 OCR READABILITY

* * * * *

542.3 Limits for Nonaddress Printing in OCR Read Area

542.31 Nonaddress Printing or Markings. [Revise the first sentence to read as follows: "There must be no markings, printing (except for a 5 digit, ZIP+4, or delivery point barcode prepared under 551.24 or 552.31), or die cuts (except for the edges of address windows prepared in accordance with 543) in the OCR read area defined in 542.1 on either side of, or below, any of the delivery address lines."]

* * * * *

545 BARCODE CLEAR ZONE

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545.4 What may Appear in Barcode Clear Zone. Except for a delivery point barcode or 5-digit barcode prepared under 550, no printing, markings, tabs, or wafer seals may appear in the barcode clear zone unless meeting the requirements of 551.4. ZIP+4 barcodes must not appear in the barcode clear zone.

* * * * *

546 ACCEPTANCE OF USPS WATER-BASED BARCODE INK

546.1 General. [In current 546.1, change the phrase "to print a ZIP+4 barcode" to "to print a delivery point barcode".]

551 ZIP+4 OR DELIVERY POINT BARCODE

* * * * *

551.2 Location

551.21 General

551.211 Cards and Letter-Size Mail. [Add the following to the end of this section. "Pieces bearing ZIP+4 barcodes in the lower right barcode read area do not qualify for any automation-based rates.

551.22 Barcode Clear Zone (Lower Right Corner)—Letter-Size Mail

* * * * *

551.222 What May Appear in Barcode Clear Zone. Except for a delivery point barcode, 5-digit barcode, and under limited circumstances, a ZIP+4 barcode, properly prepared under 550, no printing, markings, tabs, or wafer seals may appear in the barcode clear zone unless meeting the requirements of 551.4. In letter-size mailings, ZIP+4 barcodes may appear in the lower right barcode clear zone only in Barcoded rate mailings prepared with barcodes in the lower right corner, subject to the 15% limit in 515.3. Letter-size pieces prepared with ZIP+4 barcodes in the lower right barcode clear zone do not qualify for any automation-based rates. ZIP+4 barcodes must not appear in the lower right barcode clear zone in letter-size Barcoded rate mailings prepared with address block barcodes, nor in ZIP+4 rate mailings.

* * * * *

551.23 Barcode Placement on Letter-Size Mail (Lower Right Corner)

551.231 Printed Directly on Mailpieces. [Add the following to the end of this section: "Note: Pieces bearing ZIP+4 barcodes in the lower right corner do not qualify for any automation-based rates."]

551.232 Printed on Inserts. [Add the following to the end of this section: "Note: Pieces bearing ZIP+4 barcodes in the lower right corner do not qualify for any automation-based rates."]

* * * * *

551.4 Reflectance

551.41 Background Reflectance

551.412 Pieces Barcoded in Address Block

* * * * *

b. Pieces Not Bearing Delivery Point Barcode. [Revise the first sentence to read as follows: "All pieces in letter-size barcoded rate mailings that do not bear a delivery point barcode must contain a barcode clear zone in the lower right corner as specified in 551.22 that meets the requirements of 551.441a."]

* * * * *

551.44 Dark Fibers and Background Patterns

* * * * *

551.442 Pieces Not Bearing ZIP+4 or Delivery Point Barcode. [Revise the first sentence to read as follows: "All pieces in a letter-size barcoded rate mailing that do not bear a delivery point barcode must contain a barcode clear zone in the lower right corner as specified in 551.22 that meets the requirements of 551.441."]

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551.7 Barcodes on Inserts Appearing Through Windows in Lower Right Clear Zone (Letter-Size Pieces Only)

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551.73 Delivery Point Barcode Location

* * * * *

551.732 Clear Space—Barcode In Lower Right Corner. [Add the following as the last sentence: "In letter-size barcoded rate mailings prepared with address block barcodes, and in ZIP+4 rate mailings, only delivery point barcodes (or 5-digit barcodes prepared under 552) may be printed on an insert appearing through a window in the lower right barcode clear zone."]

551.8 Barcodes on Inserts Appearing Through Windows in Address Block. [Insert current 51.733. Add the following as the last sentence: "If windows are covered they must meet the requirements of 551.723."]

* * * * *

552 5-DIGIT BARCODES

552.1 General. [Revise the first sentence to read as follows: "Pieces in barcoded rate mailings may contain 5-digit barcodes, provided at least 85% of the pieces in a letter-size mailing contain a delivery point barcode (see 515.3), or in flat-size mailings, provided at least 85% of the pieces bear a ZIP+4 barcode or delivery point barcode (see 516.3)."]

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CHAPTER 6—THIRD-CLASS MAIL

8. Make the following changes to DMM Chapter 6.

628 ADDITIONAL CONDITIONS FOR AUTOMATION-BASED BULK THIRD-CLASS RATES

* * * * *

628.2 Eligibility Requirements for Barcoded Rate Mail

628.21 Mailings of Letter-Size Pieces. Barcoded rate mailings must meet the requirements in 513 and 515. The rate eligibility criteria for mailings presorted under 564, 565, or 566 are in 564.13, 565.23, and 566.23.

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[Delete current 628.3.]

Miscellaneous Conforming Changes

9. In the following sections change "ZIP+4 barcode" or "ZIP+4 barcodes" to "delivery point barcode": 424.843, 534.232, and 568.

10. In the following sections change "nonpresorted ZIP+4 barcoded" to "nonpresorted barcoded": 312.212, 382.231, 382.335, 515.512, 515.531b, 569.2, 577, and 581.

11. In the following sections change "nonpresorted ZIP+4 barcoded" to "nonpresorted barcoded": 145.742, 382.335, 515.612, 569, and 581.

12. In the following sections change "ZIP+4 barcoded" to "barcoded": 122.16F, 143.131, 144.492, 144.513, 145.742, 328, 328.1, 361.61, 362.6, 372, 372.2, 374.11d, 374.12, 374.21, 382, 382.33, 382.422, 382.5, 382.6, 411.146, 411.23, 424.823, 424.842, 424.843, 424.912, 511, 513, 513.22, 513.3, 513.41, 513.43, 513.5, 515.2, 515.21, 515.22, 515.23, 521.111, 532.1, 564, 565, 566, 568, 569.2, 576.4, 581, 581.5, 582, 583, 583.4, Exhibit 611.2a, 628.2, 629.66, 647.3, and 661.4.

13. In the following sections delete "ZIP+4 barcodes or" or "ZIP+4 barcode or": 361.6, 411.126, and 569.2.

14. In the following sections delete "ZIP+4 barcoded or": 561.272, 564, 565, 566, and 569.2.

15. In the following sections change "5-Digit ZIP+4 Barcoded rate" to "5-Digit Barcoded rate": 313.81, 313.821, 341, and 382.231.

16. In the following sections change "ZIP+4 Barcoded rates" or "ZIP+4 Barcoded rate to "Barcoded Rate": 315.14, 382.315, 382.33, 382.41, 411.126, 521.112, 521.132, 521.141, 521.142, 531.112, 531.131, 531.14, 532.1, 534.1, 541.2, 561.271, 564, 566, and 568.

17. In the following sections change "3-Digit ZIP+4 Barcoded rate" to "3-Digit Barcoded rate": 313.7, 313.71, 313.721, 325.23a, 341, and 382.231.

18. Documentation. In exhibits 564.144b(1), 564.144b(2), 565.53a, 565.53b, 566.63, 567.624a, 567.24b, 567.634c, 574.332(1), and 574.332(2), change "5-Digit ZIP+4 Barcoded rate" and "3-Digit ZIP+4 Barcode rate" to "5-Digit Barcoded rate" and "3-Digit Barcoded rate."

[FR Doc. 93–5748 Filed 3–11–93; 8:45 am]
BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 712 and 716

[OPPTS-82039; FRL-4056-9]

Preliminary Assessment Information and Health and Safety Data Reporting; Addition of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Interagency Testing Committee (ITC) in its Twenty-ninth Report to EPA revised the Toxic Substances Control Act (TSCA) Section 4(e) Priority List by recommending one chemical substance and one chemical group. There are no designated or recommended with intent-to-designate chemical substances. The ITC recommendations must be given priority consideration by EPA in promulgating test rules. EPA is adding the one substance and the one category to two model information-gathering rules: The Toxic Substances Control Act (TSCA) section 8(a) Preliminary Assessment Information Rule (PAIR) and the TSCA section 8(d) Health and Safety Data Reporting Rule. These model rules will require manufacturers, importers, and processors of the specific substance and members of the category to report production, use, exposure-related, and unpublished health and safety data to EPA.

DATES: This rule will become effective on April 12, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., rm. E-543, Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: This rule adds one substance and one category of substances to both the PAIR and the section 8(d) Health and Safety Data Reporting Rule. Manufacturers, processors, and importers of these chemical substances will be required to report unpublished health and safety data and/or end use, exposure, and production volume data to EPA.

I. Background

Section 4(e) of TSCA established the ITC and authorized it to recommend to EPA chemical substances and mixtures to be given priority consideration in proposing test rules under section 4. For some of these chemical substances, the ITC may designate that EPA must respond to its recommendations within 12 months. In this time, EPA must either initiate a rulemaking to test the chemical substance or publish in the **Federal Register** its reasons for not doing so.

On November 27, 1991, EPA announced the receipt of the Twenty-ninth Report from the ITC. It was then published by EPA on December 30, 1991 (56 FR 67424). The Twenty-ninth Report revises the Committee's priority list of chemicals by recommending one chemical substance and one category of substances to the section 4(e) priority list (for a total of 15 chemical substances).

This rule adds one chemical substance and one category of substances to the PAIR and the section 8(d) Health and Safety Data Reporting Rule. These two rules are model information-gathering rules which assist EPA in responding to the ITC recommendations.

EPA issued the PAIR under section 8(a) of TSCA (15 U.S.C. 2607(a)), and it is codified at 40 CFR part 712. This model section 8(a) rule establishes standard reporting requirements for manufacturers and importers of the chemical substances listed in the rule at 40 CFR 712.30. These manufacturers and importers are required to submit a one-time report on general volume, end use, and exposure-related information using the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710-35). EPA uses this model section 8(a) rule to gather current information on chemical substances of concern quickly.

EPA issued the model Health and Safety Data Reporting Rule under section 8(d) of TSCA (15 U.S.C. 2607(d)), and it is codified at 40 CFR part 716. The section 8(d) model rule requires past, current, and prospective manufacturers, importers, and processors of listed chemicals to submit to EPA copies and lists of unpublished health and safety studies on the listed chemicals that they manufacture, import, or process. These studies provide EPA with useful information and have provided significant support for EPA's decision making under TSCA sections 4, 5, 6, 8, and 9.

These model rules provide for the automatic addition of ITC priority list chemicals. Whenever EPA announces the receipt of an ITC report, EPA may, at the same time without further notice and comment, amend the two model information-gathering rules by adding the recommended chemicals. The amendment adding these chemicals to the PAIR and the Health and Safety Data Reporting Rule becomes effective 30 days after publication.

The ITC is currently revising the recommended chemicals identified in the 28th list of ITC chemicals (56 FR 41212, August 19, 1991). EPA is delaying publication of the PAIR/8(d) rule for these chemicals until the amended list is received.

II. Chemical Substances To Be Added

In its Twenty-ninth Report to EPA, the ITC recommended for priority consideration one substance and one category of substances; there are no designated or recommended with intent-to-designate chemical substances. More specifically, the ITC is recommending for testing consideration one category of chemical substances, alkyl-, chloro-, hydroxymethyl diaryl ethers, and one substance, white phosphorus (CAS No. 7723-14-0). For a complete listing of the substances, see the ITC's Twenty-ninth Report published in the **Federal Register** of December 30, 1991 (56 FR 67424).

EPA is adding the ITC's recommended substances to the PAIR and the section 8(d) Health and Safety Data Reporting Rule, subject to the following exceptions: EPA will not add to the section 8(a) PAIR rule two substances listed in the ITC report because they have been subject to PAIR reporting recently and sufficient and current information about these substances is available. These substances are: White phosphorus (CAS No. 7723-14-0), (53 FR 10387, March 31, 1988); and a member within the category, benzene, 1,1'-oxybis- (CAS No. 101-84-8), (54 FR 8484, February 28, 1989).

EPA will not add to the section 8(d) Health and Safety Data Reporting Rule one substance listed in the ITC report because the substance is already on the section 8(d) rule and subject to a 10-year reporting period. This substance is: benzene, 1,1'-oxybis- (CAS No. 101-84-8), (54 FR 8484, February 28, 1989).

III. Reporting Requirements

A. Preliminary Assessment Information Rule

All persons who manufactured or imported the chemical substances named in this rule during their latest complete corporate fiscal year must submit a Preliminary Assessment Information Manufacturer's Report (EPA Form No. 7710-35) for each manufacturing or importing site at which they manufactured or imported a named substance. A separate form must be completed for each substance and submitted to the Agency no later than June 10, 1993. Persons who have previously and voluntarily submitted a

Manufacturer's Report to the ITC or EPA may be able to submit a copy of the original Report to EPA or to notify EPA by letter of their desire to have this voluntary submission accepted in lieu of a current data submission. See § 712.30(a)(3).

Details of the reporting requirements, the basis for exemptions, and a facsimile of the reporting form, are provided in 40 CFR part 712. Copies of the form are available from the TSCA Environmental Assistance Division, whose address is given under **FOR FURTHER INFORMATION CONTACT**.

B. Health and Safety Data Reporting Rule

Listed below are the general reporting requirements of the section 8(d) model rule.

1. Persons who, in the 10 years preceding the date a substance is listed, either have proposed to manufacture, import, or process, or have manufactured, imported, or processed, the listed substance must submit to EPA a copy of each health and safety study which is in their possession at the time the substance is listed.

2. Persons who, at the time the substance is listed, propose to manufacture, import, or process, or are manufacturing, importing, or processing the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time the substance is listed.

b. A list of health and safety studies known to them but not in their possession at the time the substance is listed.

c. A list of health and safety studies that are ongoing at the time the substance is listed and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the date the substance is listed and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of completion date.

3. Persons who, after the time the substance is listed, propose to manufacture, import, or process the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time they propose to manufacture, import, or process the listed substance.

b. A list of health and safety studies known to them but not in their possession at the time they propose to manufacture, import, or process the listed substance.

c. A list of health and safety studies that are ongoing at the time they propose to manufacture, import, or process the listed substance, and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the time they propose to manufacture, import, or process the listed substance, and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of the completion date.

The bulk of reporting is required at the time the substance is listed. Persons described in categories 1 and 2 do all or most of their health and safety data reporting at the start of the reporting period. The remaining reporting requirements, specifically categories 2(d), 2(e), and 3, continue prospectively.

Detailed guidance for reporting unpublished health and safety data is provided in the **Federal Register** of September 15, 1986 (51 FR 32720). Also found there are the reporting exemptions.

C. Submission of PAIR Reports and Section 8(d) Studies

PAIR reports and section 8(d) health and safety studies must be sent to: TSCA Document Processing Center (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, ATTN: (insert either PAIR or 8(d) Reporting).

D. Removal of Chemical Substances from the Rules

Any person who believes that section 8(a) or 8(d) reporting required by this rule is unwarranted, should promptly submit to EPA in detail the reasons for that belief. EPA, in its discretion, may remove the substance from this rule for good cause (40 CFR 712.30 and 716.105). When withdrawing a substance from the rule, EPA will issue a rule amendment for publication in the **Federal Register**.

IV. Release of Aggregate Data

EPA will follow procedures for the release of aggregate statistics as prescribed in the **Federal Register** notice of June 13, 1983 (48 FR 27041). Included in the notice are procedures for requesting exemptions from the release of aggregate data. Exemption requests concerning the release of aggregate data on any chemical substance must be received by EPA no later than June 10, 1993.

V. Economic Analysis

A. Preliminary Assessment Information Rule

EPA estimates the PAIR reporting cost of this rule is $29,100. To calculate this figure, EPA used information from the 1986 TSCA Inventory Update and SRI *Directory of Chemical Producers* to generate a list of 12 firms that manufacture and/or import the 13 chemicals at a total of 13 sites. None of the companies identified qualify as a small business as defined in 40 CFR 712.25(c), thus, EPA expects the 12 firms to generate a total of 21 reports.

Reporting costs (dollars)	
(a) 21 reports estimated at $914 per report	~~$9,905~~
(b) 13 sites at $762 per site	$19,194
Total cost	$29,100
Mean cost per site: $29,100/13 sites	$2,238
Mean cost per firm: $29,100/12 firms	$2,425
Reporting burden (hours)	
(a) Rule familiarization: 18 h/site X 13 sites	234 h
(b) Reporting: 16 h/report X 21 reports	336 h
Total burden hours	570 h
Average burden per site at 570 h/13 sites	44 h
Average burden per firm at 570 h/12 firms	48 h

EPA costs (dollars):	
Processing cost = 21 reports at $95/report	$1,995

B. Health and Safety Data Reporting Rule

EPA estimates the total reporting costs for establishing section 8(d) reporting requirements for 14 chemicals will be $50,772. This cost estimate is high because the Agency is uncertain about the likely number of respondents to the rule. Although EPA has used the best available data to make its economic projections, much of the information is based upon the 1986 TSCA Inventory Update and secondary information from industry sources. Therefore, EPA tends to overestimate rather than underestimate reporting burden. The estimated reporting costs are broken down as follows:

Initial corporate review	$ 4,988
Site identification	7,482
File searches at site	15,384
Photocopying existing studies	2,293
Title listing	780
Managerial review for CBI	13,354
Reporting on newly-initiated studies	341
Submissions after initial reporting period	6,150
Total	$50,772
Reporting burden (hours)	
Initial review: 2 h/firm X 48 firms	96 h
(b) Reporting: 24.4 h/firm X 48 firms	1,002 h
Total reporting burden hours	1,267 h

VI. Rulemaking Record

The following documents constitute the record for this rule (docket control number OPPTS–82039). All of these documents are available to the public in the TSCA Public Docket Office from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Public Docket Office is located at EPA Headquarters, rm. NE–G004, 401 M St., SW., Washington, DC.

1. This final rule.
2. The economic analysis for this rule.
3. The Twenty-ninth Report of the ITC.

VII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This rule is not major because it will not result in an effect on the economy of $100 million or more, an increase in costs or prices, or any of the adverse effects described in the Executive Order.

This amendment was not submitted to the Office of Management and Budget (OMB) for review, because the automatic listing of substances recommended by the ITC is provided for in 40 CFR 712.30(c) and 716.18(b).

B. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control numbers 2070–0054 for PAIR reporting and 2070–0004 for TSCA section 8(d) reporting.

Public reporting burden for this collection of information is estimated to average 18 hours for PAIR per response and 25.44 hours for section 8(d), including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

List of Subjects in 40 CFR Parts 712 and 716

Chemicals, Environmental protection, Hazardous substances, Health and safety data, Recordkeeping and reporting requirements.

Dated: March 2, 1993.

Denise M. Keehner,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR Chapter I is amended as follows:

PART 712–[AMENDED]

1. In part 712:

a. The authority citation for part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

b. Section 712.30 is amended by adding one category alphabetically in paragraph (x) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(x) * * *

CAS No.	Substance	Effective Date	Reporting Date
Alkyl-, Chloro-, and Hydroxymethyl Diaryl Ethers			
3061–36–7	1,4-Diphenoxybenzene	4/12/93	6/10/93
3586–14–9	Benzene, 1-methyl-3-phenoxy-	4/12/93	6/10/93
13826–35–2	Benzenemethanol, 3-phenoxy-,	4/12/93	6/10/93
28299–41–4	Benzene, 1,1'-oxybis[methyl-	4/12/93	6/10/93
28984–89–6	1,1'-Biphenyl, phenoxy-	4/12/93	6/10/93
42874–96–4	2-Chloro-1-(3-methylphenoxy)-4-(trifluoromethyl)benzene	4/12/93	6/10/93
50594–77–9	Phenol, 3-[2-chloro-4-(trifluoromethyl)phenoxy]-, acetate	4/12/93	6/10/93
50789–44–1	Benzenemethanol, 3-phenoxy-, acetate	4/12/93	6/10/93
51632–16–7	Benzene, 1-(bromomethyl)-3-phenoxy-	4/12/93	6/10/93
61702–88–3	Benzene, 1,1'-oxybis[(1,1,3,3-tetramethylbutyl)-	4/12/93	6/10/93
63734–62–3	Benzoic acid, 3-[2-chloro-4-(trifluoromethyl)phenoxy]-,	4/12/93	6/10/93
69834–19–1	Benzene, 1,1'-oxybis[dodecyl-	4/12/93	6/10/93
72252–48–3	Benzoic acid, 3-[2-chloro-4-(trifluoromethyl)phenoxy]-, potassium salt	4/12/93	6/10/93

PART 716–[AMENDED]

2. In part 716:

a. The authority citation for part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

b. Section 716.120 is amended by adding, in CAS number sequence, one substance to the list in paragraph (a), adding one category alphabetically to paragraph (d), and revising the second column heading in paragraph (d) to read as follows:

§ 716.120 Substances and listed mixtures to which this subpart applies.

* * * * *

(a) * * *

CAS No.	Substance	Special exemptions	Effective Date	Sunset date
7723–14–0	White phosphorus		4/12/93	4/12/03

(d) * * *

Category	CAS No	Special exemptions	Effective Date	Sunset date
Alkyl-, Chloro-, and Hydroxymethyl Diaryl Ethers				
Benzene, 1-(bromomethyl)-3-phenoxy-	51632–16–7		4/12/93	4/12/03
Benzenemethanol, 3-phenoxy-,	13826–35–2		4/12/93	4/12/03
Benzenemethanol, 3-phenoxy-, acetate	50789–44–1		4/12/93	4/12/03
Benzene, 1-methyl-3-phenoxy-	3586–14–9		4/12/93	4/12/03
Benzene, 1,1'-oxybis[dodecyl-	69834–19–1		4/12/93	4/12/03
Benzene, 1,1'-oxybis[methyl-	28299–41–4		4/12/93	4/12/03
Benzene, 1,1'-oxybis[(1,1,3,3-tetramethylbutyl)-	61702–88–3		4/12/93	4/12/03
Benzoic acid, 3-[2-chloro-4-(trifluoromethyl)phenoxy]-,	63734–62–3		4/12/93	4/12/03
Benzoic acid, 3-[2-chloro-4-(trifluoromethyl)phenoxy], potassium salt	72242–48–3		4/12/93	4/12/03
1,1'-Biphenyl, phenoxy-	28984–89–6		4/12/93	4/12/03
2-Chloro-1-(3-methylphenoxy)-4-(trifluoromethyl)benzene	42874–96–4		4/12/93	4/12/03
1,4-Diphenoxybenzene	3061–36–7		4/12/93	4/12/03
Phenol, 3-[2-chloro-4-(trifluoromethyl)phenoxy]-, acetate	50594–77–9		4/12/93	4/12/03

[FR Doc. 93-5659 Filed 3-11-93; 8:45 am]
BILLING CODE 6560-50-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 921101-2301]

Summer Flounder Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule; extension of effective dates.

SUMMARY: An emergency interim rule that modified the boundary line defining the seasonal mesh exemption area established in Amendment 2 to the Fishery Management Plan for the Summer Flounder Fishery is in effect through March 9, 1993. The emergency interim rule provides for a larger area and simplified configuration of the boundary line of the small mesh exemption area to enhance compliance and enforcement and to allow cooperative NMFS-industry sea sampling studies to be conducted. The Secretary of Commerce (Secretary) extends the emergency interim rule for an additional 52 days from March 10, through April 30, 1993, because conditions warranting the emergency still exist.

EFFECTIVE DATES: March 10, 1993 through April 30, 1993.

ADDRESSES: Copies of the environmental assessment may be obtained from Richard B. Roe, Regional Director, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930-3799.

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, Resource Policy Analyst, 508-281-9324.

SUPPLEMENTARY INFORMATION: Under section 305(c) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary promulgated an emergency interim rule (57 FR 58150; December 9, 1992) that modified an irregular boundary to the small mesh exemption area established by Amendment 2 to the FMP (57 FR 57358; December 4, 1992). The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission both requested emergency action to modify the line because it proved confusing to the industry and its configuration unnecessarily complicated enforcement and administration of the small mesh exemption program. The modified line is a straight line following 72°30' W. longitude from the U.S. coast to the outer boundary of the exclusive economic zone. Because the small mesh exemption program that takes place in the delineated area continues through April 30, and the conditions warranting the emergency still exist, the Council requested extension of the emergency rule from March 10, through April 30, 1993. Therefore, the Secretary extends the emergency interim rule through April 30, 1993.

The emergency rule is exempt from the normal review procedures of the Executive Order 12291 as provided in section 8(a)(1) of that order. This rule was reported to the Director of the Office of Management and Budget with an explanation of why following the procedures of that order were not possible.

List of Subjects in 50 CFR Part 625

Fisheries, Reporting and recordkeeping requirements.

Dated: March 8, 1993.

Nancy Foster,

Acting Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 93-5726 Filed 3-9-93; 2:39 pm]
BILLING CODE 3510-22-M

50 CFR Part 641

[Docket No. 921235-2335]

Reef Fish Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule; extension of effectiveness.

SUMMARY: An emergency interim rule is in effect through March 30, 1993, that establishes vessel trip limits for red snapper of 2,000 pounds (907 kg) for a vessel that has a red snapper endorsement on its reef fish permit and 200 pounds (91 kg) for a permitted vessel without such endorsement. NMFS extends the emergency interim rule for an additional 90 days because conditions justifying the emergency action remain unchanged and to prevent a lapse in these management measures prior to completion of regulatory action to further extend their period of effectiveness. The intended effect is to respond to social and economic emergencies without jeopardizing the long-term rebuilding program for the overfished red snapper resource.

EFFECTIVE DATES: March 31, 1993, through June 28, 1993.

ADDRESSES: Copies of documents supporting this action may be obtained from Robert A. Sadler, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813-893-3161.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico prepared by the Gulf of Mexico Fishery Management Council (Council) and its implementing regulations at 50 CFR part 641, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Under section 305(c) (2)(B) and (c)(3) of the Magnuson Act, NMFS published an emergency interim rule (57 FR 62237, December 30, 1992) effective for 90 days (December 30, 1992, through March 30, 1993) to establish the two-tier trip limit system for the landings of red snapper from the Gulf of Mexico. The Council requested extension of the emergency interim rule because conditions justifying the emergency action remain unchanged and to prevent a lapse in these management measures prior to completion of regulatory action that will further extend their period of effectiveness. NMFS concurs and extends the emergency interim rule for an additional 90 days in accordance with section 305(c)(3)(B) of the Magnuson Act.

In a related emergency interim rule, NMFS closed the commercial fishery for red snapper in the Gulf of Mexico from December 30, 1992, through February 15, 1993 (57 FR 62236, December 30, 1992). Because the commercial fishery for red snapper is no longer closed, this extension of the two-tier trip limits for red snapper deletes provisions related to the closure that were in the initial emergency interim rule.

Details concerning the basis for the emergency interim rule and the classification of the rulemaking are contained in the initial emergency interim rule and are not repeated here.

Classification

This extension of the emergency interim rule is exempt from the normal review procedures of E.O. 12291 as provided for in section 8(a)(1) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Nancy Foster,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 641 is amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 641 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 641.4 is amended by adding paragraphs (m) and (n), effective from March 31, 1993, through June 28, 1993, to read as follows:

§ 641.4 Permits and fees.

* * * * *

(m) *Red snapper endorsement.* (1) As a prerequisite for exemption from the trip limit for red snapper specified in § 641.21(d)(1), a vessel for which a reef fish permit has been issued under this section must have a red snapper endorsement on such permit.

(2) A red snapper endorsement is invalid upon sale of the vessel; however, an owner of a permitted vessel may transfer the red snapper endorsement to another permitted vessel owned by him or her by returning the existing endorsement with an application for an endorsement for the replacement vessel.

(n) *Condition of a permit.* As a condition of a reef fish permit issued under this section, without regard to where red snapper are harvested or possessed, a permitted vessel—

(1) May not exceed the appropriate vessel trip limit for red snapper, as specified in § 641.21(d)(1) or (d)(2); and

(2) May not transfer red snapper at sea, as specified in § 641.21(d)(3).

3. Section 641.7 is amended by adding paragraphs (u) and (v), effective from March 31, 1993, through June 28, 1993, to read as follows:

§ 641.7 Prohibitions.

* * * * *

(u) Exceed the vessel trip limits for red snapper, as specified in § 641.21(d)(1) and (d)(2).

(v) Transfer red snapper at sea, as specified in § 641.21(d)(3).

4. Section 641.21 is amended by adding paragraph (d), effective from March 31, 1993, through June 28, 1993 to read as follows:

§ 641.21 Harvest limitations.

* * * * *

(d) *Red snapper trip and transfer limitations.* (1) Except as provided in paragraph (d)(2) of this section, a vessel for which a reef fish permit has been issued under § 641.4 may not possess on any trip red snapper in excess of 200 pounds (91 kg), whole or eviscerated weight.

(2) A vessel for which a red snapper endorsement has been issued under § 641.4(m) may not possess on any trip red snapper in excess of 2,000 pounds (907 kg), whole or eviscerated weight.

(3) Red snapper may not be transferred at sea from one vessel to another.

[FR Doc. 93–5684 Filed 3–11–93; 8:45 am]

BILLING CODE 3510–22–M

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50 CFR Parts 672 and 675

[Docket No. 921109–3016]

RIN 0648–AE45

Groundfish of the Gulf of Alaska; and Groundfish Fishery of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NMFS is implementing a regulatory amendment to create a 20 nautical mile (nm) seasonally expanded trawl fishery closure around the Ugamak Island Steller sea lion rookery in the eastern Aleutian Islands during the pollock roe fishery season conducted in the Bering Sea and Aleutian Islands Area. This regulation is consistent with management measures in place at other Steller sea lion rookeries in this region, and is necessary to minimize possible adverse effects of groundfish fisheries on Steller sea lions. It is intended to further the goals and objectives contained in fishery management plans that govern these fisheries.

EFFECTIVE DATE: March 11, 1993.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) may be obtained from National Marine Fisheries Service, Fisheries Management Division, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, Chief, Fishery Management Division, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) of the Gulf of Alaska (GOA) and Bering Sea and Aleutian Islands Area (BSAI) are managed according to the fishery management plans (FMPs) prepared by the North Pacific Fishery Management Council (Council) for these fisheries under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMPs are implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fishery at 50 CFR parts 672 and 675. General regulations that also pertain to U.S. fisheries appear at 50 CFR part 620.

At times, amendments to the FMPs and/or their implementing regulations are necessary to respond to fishery conservation and management issues. Amendment 25 to the FMP for Groundfish of the GOA and Amendment 20 to the FMP for the Groundfish Fishery of the BSAI were implemented in 1992 to afford protection to Steller sea lions (sea lions), a species listed as threatened under the Endangered Species Act (55 FR 49204; November 26, 1990). Regulations implementing these amendments established the following measures: (1) year-round trawl closures in the GOA and BSAI area within 10 nm of key Steller sea lion rookeries; (2) expanded trawl closures (to 20 nm) at five Steller lion rookeries in the eastern Aleutian Islands during the BSAI pollock roe fishery, January 20–April 15 or the "A" season; and (3) new GOA pollock management districts and limits on pollock seasonal harvest allowances specified for these districts. This regulatory amendment is intended to extend the protections afforded under Amendments 20 and 25.

The BSAI and GOA groundfish fisheries have developed in the geographic area that has historically supported the majority of the Steller sea lion population. This geographic region also has experienced substantial declines in the number of Steller sea lions counted on breeding sites over the last 30 years, which led to their listing as threatened species. Causes of the observed decline are not known, but could be related to changes in the food base of Steller sea lions, intentional killing, incidental take by fishing gear, and disease.

Although the ultimate cause of the species' decline remains unresolved, Steller sea lions are incidentally taken in fishing gear, have been intentionally killed and harassed by fishermen, and may compete with commercial fisheries for food resources. On November 18, 1991, NMFS issued a proposed rule to prohibit groundfish trawling within 10 nm of all BSAI and GOA Steller sea lion rookeries. These restrictions were

proposed primarily to reduce the likelihood that commercial groundfish removals would deplete Steller sea lion prey abundance in key habitats, as well as to reduce incidental and intentional takes of Steller sea lions.

Subsequent to the proposed rulemaking, NMFS evaluated the available BSAI fishery data and identified trends in recent years of (1) increased harvests on the southeastern Bering Sea shelf, (2) increased harvests within the vicinity of BSAI Steller sea lion rookeries, and (3) an increase in the proportion of the catch taken during the first half of the year. From the evaluation, it also appeared likely that the 1992 "A" season closure of the Bogoslof District to directed pollock fishing would further concentrate the first half of the year's harvest onto the southeastern Bering Sea shelf proximal to sea lion rookeries.

The eastern Aleutian Islands' portion of the Steller sea lion's range, which abuts the southeastern Bering Sea shelf, has experienced drastic Steller sea lion population declines—about an 80 percent reduction since the 1970's. There were concerns that the concentrated fishing effort on the southeastern Bering Sea shelf expected during the winter pollock fishery could adversely affect the ability of Steller sea lions to obtain adequate food. Consequently, the final rule for the no-trawl zones included expanded trawl prohibitions during the BSAI pollock "A" season around three of these Steller sea lion rookeries (Akun, Akutan, and Sea Lion Rock) that border the southeastern Bering Sea shelf (January 23, 1992; 57 FR 2683).

Ugamak Island is located within the eastern Aleutian Islands region, very close to Akun and Akutan Islands. The concordance of historic population trends and the observed movements of animals among these three islands indicate that sea lions using these sites behave as one group. Thus, treatment of sea lions within this area as one unit, with a similar management regime at each site, appears warranted from our present knowledge of sea lions. During review of the trawl closure proposal in 1992, NMFS considered a seasonally expanded zone around the Ugamak Island Steller sea lion rookery, similar to those instituted at Akun and Akutan. At that time, this action was rejected primarily because the majority of the fishery catch was centered around Sea Lion Rock, Akun, and Akutan Islands. However, 1992 Steller sea lion research has provided additional justification for an expanded seasonal closure around Ugamak Island, and has caused NMFS to reconsider this previous decision.

The expanded seasonal buffer at Ugamak Island is intended to better encompass Steller sea lion winter habitats and juvenile foraging areas in this portion of the southeastern Bering Sea shelf during the BSAI winter pollock fishery. Satellite telemetry data collected by NMFS in 1992 indicate that the shallow portion of the southeastern Bering Sea shelf is an important feeding area for sea lions. Most of the sea lions with satellite transmitters foraged on the shelf area within the Krenitzen Islands and to the east on the north and south sides of Unimak Island. Establishing a 20 nm seasonal closure around Ugamak island, in addition to the closures at Akun and Akutan Islands, creates a large contiguous no-trawl zone that better envelops winter haulout sites and the foraging zone of pups defined by satellite tracking studies.

During its September 22–28, 1992, meeting, the Council reviewed regulatory measures established in 1992 to afford protection to sea lions, and considered the need for expansion of the 10 nm trawl fishery closure around the Ugamak Island Steller sea lion rookery to 20 nm during the BSAI pollock fishery "A" season. The Council reviewed information and analyses contained in the draft EA/RIR/IRFA prepared for this proposed trawl closure, and considered testimony from its Scientific and Statistical Committee, Advisory Panel, representatives of the fishing industry, and NMFS staff.

The Council considered whether all gear types should be prohibited within the proposed 10–20 nm closure area, and whether Pacific cod trawl fisheries should be allowed to continue to operate within the closed zone. It determined that groundfish harvests by vessels using hook-and-line and pot gear within the closed areas should continue without restriction. The primary reasons for excluding only trawl gear are: (1) the trawl fishery harvests the majority of the catch; (2) the risk of lethal incidental take of sea lions with non-trawl gear is low; and (3) groundfish harvest with trawl gear results in the bycatch of other non-target species, such as juvenile pollock, squid, octopus, and herring, which also are important prey items for sea lions.

The Council also determined that an exception for the Pacific cod trawl fleet would be inconsistent with trawl closures around all other GOA and BSAI rookeries. Allowing trawling within 10–20 nm of the Ugamak Island rookery for Pacific cod would not separate important sea lion foraging habitat from the trawl fleet as intended, and might result in adverse interactions between trawl vessels and sea lions. Also, permitting Pacific cod trawl fisheries to operate in the closed area would be difficult to enforce, given existing agency enforcement resources. Available data indicate that the fleet should be able to harvest the total allowable Pacific cod catch in the GOA and BSAI despite the closure.

After considerable discussion, the Council recommended that regulations adopted under Amendments 20 and 25 be modified to expand the trawl fishery exclusion area around Ugamak Island during the BSAI pollock fishery "A" season, effective for 1 year only. On December 7, 1992, NMFS proposed that groundfish trawling be prohibited within 10–20 nm of the Ugamak Island Steller sea lion rookery during the BSAI pollock fishery "A" season, but did not include the 1-year automatic termination recommended by the Council. The reasons for not including a sunset provision are: (1) NMFS has determined that the proposed closure is necessary to aid the species' recovery and has no evidence to suggest that this management action will no longer be necessary after 1993; (2) the effectiveness of the buffer zone could not reasonably be assessed after only a 1-year period; and (3) NMFS intends to reevaluate the need for, and efficacy of, all the Steller sea lion trawl exclusion areas on an annual basis. Changes in the trawl restriction prohibitions will be made whenever they are deemed necessary.

No public comments were received on the proposed rule. NMFS has approved the above-described regulatory amendment to seasonally expand the Steller sea lion protection area around Ugamak Island during the BSAI "A" season pollock fishery, as proposed on December 7, 1992.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary for the conservation and management of the groundfish fisheries off Alaska, and that it is consistent with the Magnuson Act and other applicable law.

The Alaska Region prepared an environmental assessment for this rule. The Assistant Administrator concluded that the fisheries as managed by 50 CFR parts 672 and 675 will have no significant impact on the human environment. A copy of the EA may be obtained (see **ADDRESSES**).

An informal consultation under the Endangered Species Act was concluded for this action on October 9, 1992. As a result of the informal consultation, the Regional Director determined that

fishing activities under this rule are not likely to adversely affect endangered or threatened species or critical habitat.

The Assistant Administrator determined that the final rule is not a major rule requiring a regulatory impact analysis under E.O. 12291. The Council prepared a regulatory impact review that concludes that none of the proposed measures in this rule would cause impacts considered significant for purposes of this Executive Order. A copy of this review is available (see ADDRESSES).

The Alaska Region prepared a final regulatory flexibility analysis as part of the regulatory impact review that concludes this rule could have a significant economic effect on a substantial number of small entities. Vessels operating out of Dutch Harbor, particularly in the Pacific cod trawl fishery, are expected to be most affected by the proposed action. No loss in catch or value is anticipated; however, travel costs may increase slightly for some vessels. A copy of this analysis is available (see ADDRESSES).

This final rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Alaska Regional Director, NMFS, determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of Alaska. This determination has been submitted for review by the responsible State agency under section 307 of the Coastal Zone Management Act. The State agency did not respond within the statutory time period, therefore, consistency is inferred.

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under E.O. 12612.

The Assistant Administrator has waived the 30-day delayed effectiveness date of this rule under section 553 of the Administrative Procedure Act. This determination was reached because this rule should be in effect to afford protection to the threatened Steller sea lions near the Ugamak sea lion rookery when the trawl fishing season commences on January 20, 1993. Although the ultimate cause of the sea lion's decline remains unresolved, sea lions are incidentally taken in fishing gear, have been intentionally killed by fishermen, and may compete with commercial fisheries for food resources. The conservation benefits for Steller sea lions of the rule would be lost for the 1993 fishing year if its effectiveness were delayed.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: March 9, 1993.

Nancy Foster,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 672.24, paragraph (e)(2) is revised to read as follows:

§ 672.24 Gear limitations.

* * * * *

(e) * * *

(2) *Seasonal closures.* During January 1 through April 15, or a date earlier than April 15 if adjusted under 50 CFR 675.20(a)(8), trawling is prohibited in the Gulf of Alaska within 20 nautical miles of each of the following three Steller sea lion rookeries:

Island	From		To	
	Lat.	Long.	Lat.	Long.
Akun I	54°17.5 N	165°34.0 W	54°18.0 N	165°31.0 W
Akutan I	54°03.5 N	166°00.0 W	54°05.5 N	166°05.0 W
Ugamak I	54°14.0 N	164°48.0 W	54°13.0 N	164°48.0 W

Note: The bounds of each rookery extend in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

PART 675—GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIANS ISLANDS AREA

3. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In § 675.24, paragraph (f)(1)(ii) is revised to read as follows:

§ 675.24 Gear limitations.

* * * * *

(f) * * *

(1) * * *

(ii) *Seasonal closures.* During January 1 through April 15, or a date earlier than April 15 if adjusted under 50 CFR 675.20(a)(8), trawling is prohibited within 20 nautical miles of each of the following six Steller sea lion rookeries:

Island	From		To	
	Lat.	Long.	Lat.	Long.
Sea Lion Rks	55°28.0 N	163°12.0 W		
Akun I	54°17.5 N	165°34.0 W	54°18.0 N	165°31.0 W
Akutan I	54°03.5 N	166°00.0 W	54°05.5 N	166°05.0 W
Ugamak I	54°14.0 N	164°48.0 W	54°13.0 N	164°48.0 W

Island	From		To	
	Lat.	Long.	Lat.	Long.
Seguam I	52°21.0 N	172°35.0 W	52°21.0 N	172°33.0 W
Agligadak I	52°06.25 N	172°54.0 W		

Note: The bounds of each rookery extend in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

[FR Doc. 93–5745 Filed 3–11–93; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 58, No. 47
Friday, March 12, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 900

Hearing For the Study of the Role of the Federal Home Loan Bank System

AGENCY: Federal Housing Finance Board.

ACTION: Notice of public hearing location.

SUMMARY: The Federal Housing Finance Board (Finance Board) has determined that its previously announced hearing will take place in the Amphitheater on the second floor of the Office of Thrift Supervision (OTS).

DATES: The public hearing will be held on March 25 and 26 at 10 a.m.

ADDRESSES: The hearing will take place at the OTS, located at 1700 G Street, NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: James H. Gray Jr., Associate General Counsel, (202) 408–2552 or Bruce W. McDougal, Attorney-Advisor, (202) 408–2505, Office of Legal and External Affairs, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: On Tuesday, February 16, 1993, the Finance Board published a notice of public hearing for the Study of the Role of the Federal Home Loan Bank System. See 58 FR 8563 (1993). At the time that the notice was published, the Finance Board had not yet determined the location for the hearing. The Finance Board has now determined that the hearing will take place on March 25 and 26, 1993, at 10 a.m. at the OTS Amphitheater, located on the second floor of the OTS headquarters building at 1700 G Street, NW., Washington, DC 20552.

By the Federal Housing Finance Board.

Philip L. Conover,

Managing Director.

[FR Doc. 93–5685 Filed 3–11–93; 8:45 am]

BILLING CODE 6725–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Proposed Rule Concerning Composition of Various Self-Regulatory Organization Governing Boards and Major Disciplinary Committees

AGENCY: Commodity Future Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing a rulemaking which would implement the statutory directives of sections 5a, 8c, and 17 of the Commodity Exchange Act as they were amended by section 206 of the Future Trading Practices Act of 1992 ("1992 Act").[1]

The proposed rulemaking would establish a new § 1.64 which would require various self-regulatory organizations ("SROs") to adopt rules establishing composition requirements for their governing boards and major disciplinary committees. Proposed § 1.64 also would require that upon a final SRO disciplinary action involving a customer transaction which caused financial harm to the customer, the customer be notified of the case's pertinent facts and disposition. The proposed rulemaking also would amend existing § 1.63 so that persons with certain disciplinary histories would be prohibited from serving on any SRO oversight panel.

DATES: Comments on the proposed rule and rule amendments must be received by April 12, 1993.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–6314.

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955.

[1] Public Law 102–546, section 206, 106 Stat. 3590 (1992).

SUPPLEMENTARY INFORMATION:

I. Introduction

One of the purposes for the passage of the 1992 Act was to amend the Commodity Exchange Act ("Act") to establish "higher standards for service on governing boards and disciplinary committees" of SROs.[2] Historically, the Act had not directly imposed any standards for service on such SRO deliberative bodies.[3] Section 206 of the 1992 Act amended the Act to require that the Commission establish various standards with respect to the composition of SRO governing boards and disciplinary committees. In general, section 206 requires a greater diversity of representation on SRO governing boards and disciplinary committees in order to promote the public interest in the self-regulatory process.

In response to section 206's mandate, the Commission is proposing a new Regulation 1.64. The proposed regulation generally requires that SRO governing boards include meaningful representation of a variety of market participants. The Commission believes that proposed Regulation 1.64 effectuates section 206 and as such should help foster the integrity and impartiality of governing boards' decisionmaking. Proposed Regulation 1.64 also would require that SRO major disciplinary committees be of sufficient diversity to prevent preferential treatment in disciplinary proceedings.

The section 206 amendments to the Act also require that the commission adopt regulations prohibiting service on SRO governing boards, disciplinary committees or oversight panels by persons who have committed various violations of the Act or the law. Existing Commission Regulation 1.63 already generally imposes a three-year ban on service on SRO governing boards, disciplinary committees and arbitration panels for persons found to have committed major violations. Accordingly, as part of this rulemaking, the Commission is proposing to extend

[2] 138 Cong. Rec. H10926 (daily ed. October 2, 1992); H.R. Rep. No. 102–978, 102d Cong., 2d Sess., 47 (1992).

[3] Existing Commission Regulation 1.63, which was promulgated by the Commission pursuant to the general rulemaking authority of Section 8a(5) of the Act, does impose service standards for SRO governing boards, disciplinary committees and arbitration panels. However, those standards are limited to excluding participation by persons with certain types of disciplinary histories.

Regulation 1.63's prohibition to service on oversight panels.

Finally, as required by the section 206 amendments to the Act, proposed Regulation 1.64 includes a requirement that upon the disposition of an exchange disciplinary action involving a customer transaction which caused financial harm to the customer, the exchange must provide written notice of the details of the action to the futures commission merchant ("FCM") which cleared the trade. In addition, each FCM involved in the clearing or carrying of the transaction must pass similar notice to the FCM with which it dealt until the ultimate customer is informed.

II. Description of Proposed Rulemaking

A. Scope of Proposed Regulation 1.64—SROs

In compliance with section 206 of the 1992 Act, proposed Commission Regulation 1.64 would impose various composition requirements on SRO governing boards and major disciplinary committees. Section 206(a) amended section 5a of the Act to establish similar requirements for the governing board of each "contract market's board of trade" and for the major disciplinary committees of each "contract market." The Commission has interpreted section 206(a) to mandate composition requirements for each futures exchange (*i.e.*, board of trade). Section 206(b) amended section 17 of the Act to establish composition requirements for each registered futures association's governing board and major disciplinary committee.

In this regard, the Commission notes that section 206 of the 1992 Act does not explicitly apply to clearing organizations, and neither did the House and Senate bills which were the predecessors to the 1992 Act (H.R. 707, 102d Cong., 1st Sess. (1991) and S. 207, 102d Cong., 1st Sess. (1991)). The Senate bill's legislative history, in fact, indicates that a nearly identical provision in the Senate bill was not to be imposed on clearing organizations but that "contract markets should consider applying the principles of [the provision] to their clearinghouses and other bodies in appropriate cases to engender greater public confidence in the integrity and openness of exchange decisionmaking." S. Rep. No. 102–22, 102d Cong., 1st Sess., 38 (1991).

In addition, section 206(a)'s amendments to Section 5a(14) of the Act contain references to "exchange" which appear as if they were intended to be synonymous with a "contract market's board of trade." For instance, section 206 requires that the governing board of each contract market's board of trade have members representing "participants in a variety of pits or principal groups of commodities traded on the exchange" and commercial interest members representing various users of "principal commodities traded on the exchange."

The Commission believes that section 206(a)'s amendments to section 5a(15) of the Act do not require application of major disciplinary committee composition requirements on clearing organizations. As with the above-mentioned amendments to Section 5a(14) of the Act, section 206(a)'s amendments to section 5a(15) also indicate that composition requirements are not mandated for clearing organizations. Clearing organizations could not practically comply with many aspects of section 206(a) such as the requirement that half of each major disciplinary committee consists of persons with a "trading status other than that of the subject" of a proceeding. In addition, amended section 5a(15)(B)(ii) states that major disciplinary committees may be required to include persons who "are not members of the exchange."

Based upon this interpretation, the Commission is proposing that Regulation 1.64's composition requirements pertain to the governing boards and major disciplinary committees of exchanges and registered futures associations, but not clearing organizations.[4] The Commission invites comment, however, on whether any or all of the requirements of proposed Regulation 1.64 should apply to the governing boards and major disciplinary committees of clearing organizations.

B. Governing Board Composition Requirements

Proposed Commission Regulations 1.64(b) (1) through (3) would establish separate but related composition requirements for SRO governing boards. While SROs must establish separate rules complying with Regulations 1.64(b) (1), (2) and (3), respectively, it is possible that a single board member could satisfy the requirements of more than one of Regulation 1.64's requirements.[5] For example, the president of a grain processing concern could address the respective requirements of Regulations 1.64(b) (2) and (3) that SRO boards have public and commercial representatives.

1. Proposed Regulation 1.64(b)(1)—Diversity Standards

Under proposed Commission Regulation 1.64(b)(1), each SRO would have to implement rules requiring that its governing board be comprised of persons from a variety of membership interests who will meaningfully represent the SRO members' diverse interests. Regulation 1.64(a)(4) defines an SRO's membership interests to include floor brokers, floor traders, FCMs and various commercial users of commodities or any set of alternative categories proposed by an SRO which is consistent with the purposes of Commission Regulation 1.64, which reflects the representational categories referred to in Section 206 of the 1992 Act.[6]

Regulation 1.64 would give latitude to each SRO to establish a board composition scheme which is most appropriate to that particular SRO. However, any scheme must establish, by rule, some fixed form of categorical representation which will ensure that the various interests which could be affected by the decisionmaking of an SRO governing board will be fairly represented on the board.

2. Proposed Regulation 1.64(b)(2)—Public Representatives

Under proposed Regulation 1.64(b)(2), each SRO would be required to adopt a rule requiring that at least 20% of the regular voting members of its governing board[7] be members of the public who are capable of contributing to the board's deliberations. Regulation 1.64(b)(2) would establish a two-part test for who would constitute a public member of the board. First, the person would have to be knowledgeable of

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[4] The Commission notes that section 17A(b)(3)(B) of the Securities Exchange Act of 1934 imposes various fair participation and representation requirements on securities clearing organizations. The Securities and Exchange Commission in interpreting this provision gives discretion to each clearing organization as to whether or not to have public representation on governing boards. Securities Exchange Act Release No. 34–16900, 45 FR 41920, 41924 (June 23, 1980).

[5] With respect to the comparable composition requirements in the Senate bill, the Senate report indicates that qualified board members may satisfy more than one board composition requirement so long as such overlapping does not "reduce the level of nonmember public directors to below 20 percent." S. Rep. No. 102–22, 102d Cong., 1st Sess., 37 (1991).

[6] For example, registered futures associations such as the National Futures Association ("NFA") may not have floor broker or floor trader membership categories, however, they may have FCM, introducing broker ("IB"), commodity trading advisor or commodity pool operator members. In that case, the association could propose a compositional scheme for its board which takes into account its unique set of membership categories.

[7] Proposed Regulation 1.64(a)(3) defines a "regular voting member of a governing board" to mean "any person who is eligible to vote routinely on matters being considered by the board and excludes those members who are only eligible to vote in the case of a tie vote by the board."

futures trading or financial regulation or otherwise have a background which would enable him to make a meaningful contribution to the governing board's decisionmaking process. Second, the person could not have certain commodity industry affiliations. Specifically, the public member must not have been a Commission registrant or SRO member within the prior year. In addition, the public member must not have received more than ten percent of his income for the prior year as compensation for work done for any particular SRO, SRO member or Commission registrant.[8]

Proposed Regulation 1.64(b)(2) is an attempt to ensure board representation by persons who will be sufficiently independent to represent and protect the public interest. In defining what constitutes a governing board public member, the Commission has attempted to exclude persons whose interests might be so closely aligned with a particular SRO, registrant, or SRO member as to be considered unrepresentative of the general public interest. However, the provision would not exclude persons who are actively involved with and knowledgeable about the commodities industry in general.

As mandated by section 206 of the 1992 Act, proposed Regulation 1.64(b)(2) would require that there be a minimum of 20 percent public member representation on SRO governing boards. Accordingly, any SRO compositional scheme which had less than 20 percent representation for public members would be inconsistent with the 1992 Act and this provision.[9]

3. Proposed Regulation 1.64(b)(3)—Commercial Interest Representatives

Proposed Commission Regulation 1.64(b)(3) states that each contract market must adopt a rule which requires that at least ten percent of the regular voting members of its governing board be comprised of persons who primarily produce, manufacture, process, export, merchandise or commercially use any of the commodities underlying a futures product traded on that contract market.[10] Like the other SRO board composition requirements of proposed Regulation 1.64, the requirement for representation of commercial interests on SRO governing boards is intended to ensure effective representation for all market participants in each SRO's decisionmaking process.

The Commission notes that Section 206 of the 1992 Act mandates a ten percent commercial interest representation requirement for contract market governing boards, but not for the boards of registered futures associations. However, the active representation of commercial interests on the boards of registered futures associations may provide for a more meaningful exchange of views on various issues affecting all industry participants. Accordingly, the Commission invites comment as to whether it would be appropriate to extend Regulation 1.64(b)(3)'s commercial interest representation requirement to registered futures associations.

C. Major Disciplinary Committee Composition Requirements

Proposed Commission Regulations 1.64(b) (4) through (6) would establish compositional requirements for SRO major disciplinary committees. Like Regulation 1.64's requirements for SRO governing boards, SROs must establish rules which individually satisfy Regulations 1.64(b) (4), (5) and (6).

1. Proposed Regulation 1.64(b)(4)—Diversity Standards

Section 206 of the 1992 Act amended sections 5a(15)(A) and 17(b)(12)(A) of the Act to require that the major disciplinary committees of contract markets and registered futures associations, respectively, be diverse enough to ensure fairness and prevent special treatment or preference in disciplinary proceedings and the assessment of penalties. The Commission's proposed Regulation 1.64(b)(4) would implement these provisions by requiring that each SRO maintain rules specifying diversity standards for major disciplinary committees. Under Regulation 1.64(b)(4), the Commission expects that responsive SRO rules would establish some form of categorical representation on major disciplinary committees in order to ensure that the persons discharging disciplinary responsibilities would treat accused parties fairly and impartially. Within these guidelines, SROs may develop their own means of satisfying proposed Regulation 1.64(b)(4), subject to review by the Commission.[11]

For the purposes of proposed Commission Regulation 1.64, "major disciplinary committee" is defined by Regulation 1.64(a)(2) as a panel of persons who, as a group, are "empowered by [an SRO] to bring disciplinary charges, to conduct disciplinary hearings, to settle disciplinary charges, to impose sanctions or to hear appeals thereof."

The Commission is proposing this definition of a major disciplinary committee after having considered alternatives which it believes would be unsatisfactory. For instance, it would be impractical to formulate a definition based upon the types of rule violations which a disciplinary committee considers because of the wide variety of rule violations at the various SROs. While many SROs have similar types of major rule violations, many major rule violations are unique to particular SROs. Similarly, defining what constitutes a major disciplinary committee based upon the type of sanctions which could be imposed would be problematic given the lack of any uniform industry standards for sanction levels.

Accordingly, the Commission concluded that by defining a major disciplinary committees in terms of panels which operate as a group in a conducting disciplinary matters, the proposed definition would exclude SRO disciplinary committee members and personnel who can dispose of minor disciplinary violations with summary fines or other limited penalties. The Commission believes that any disciplinary matter which is significant enough to warrant an adjudicatory panel, is a matter which should require the protections that Regulation 1.64 would provide. This approach is consistent with current industry practice whereby disciplinary matters

[8] The Commission seeks comment on the extent to which SROs currently compensate public members of their governing boards and how such situations should be addressed under the income standard which proposed Regulation 1.64(b)(2) would use to define public board members.

[9] For example, an SRO governing board of 17 persons would have to have at least four public members. This would be required although, in fact, three public members, constituting 17.6 percent of such a board, would be closer to 20 percent than four public members, constituting 23.5 percent of such a board. The Commission invites comments as to whether there would be any alternative manner in which the 20 percent public member requirement of Section of 206 could be effectuated consistent with its terms.

[10] The ten percent representation requirement for commercial interest representatives on governing boards is a statutorily-required minimum requirement. As with the percentage calculation of public members on SRO governing boards, any proposed SRO composition scheme in which the percentage of commercial representatives must be rounded-up to reach ten percent of the board would be inconsistent with proposed Regulation 1.64(b)(3).

[11] While proposed Regulation 1.64 states that SROs must have rules requiring a certain level of diversity in both their governing boards (Regulation 1.64(b)(1)) and their major disciplinary committees (Regulation 1.64(b)(4)), the purposes of these two diversity requirements differ. Regulation 1.64(b)(1) is intended to provide meaningful representation in the SRO rulemaking process, while Regulation 1.64(b)(4) is intended to ensure fairness and impartiality in the SRO disciplinary process. Accordingly, what constitutes an acceptably diverse composition scheme may differ between governing boards and major disciplinary committees.

with a higher degree of seriousness are dealt with by disciplinary panels.

The Commission believes the ability "to bring disciplinary charges, to conduct disciplinary hearings, to settle disciplinary charges, to impose sanctions [and] to hear appeals" are each disciplinary powers which could have a detrimental effect if they are not applied fairly and impartially. Accordingly, the proposed definition of a major disciplinary committee would cover any SRO panel which had any one of these powers.[12]

The diversity requirements of proposed Regulation 1.64(b)(4), as well as the representational requirements of Regulation 1.64(b) (5) and (6) described below, apply to any panel of persons who have the disciplinary powers enumerated in Regulation 1.64(a)(2). Thus, if an SRO has a disciplinary committee structure in which a large disciplinary committee has a variety of smaller subsidiary committees which, as panels, can bring or settle disciplinary charges, conduct disciplinary hearings or hear appeals of disciplinary sanctions, each such subsidiary committee would be required to satisfy the requirements of proposed Regulations 1.64(b) (4) through (6).

2. Proposed Regulation 1.64(b)(5)—Non-Member Representatives

As mandated by Section 206 of the 1992 Act, the Commission is proposing a new Regulation 1.64(b)(5) which would require that each SRO specify by rule that each of its major disciplinary committees have at least one member who is not a member of the SRO.[13] This requirement would apply to all SRO major disciplinary committees, regardless of the person or rule violation involved in a disciplinary proceeding. By having at least one non-member on each major disciplinary committee, proposed Regulation 1.64(b)(5) would prevent the situation in which an SRO member is judged exclusively by people who might have close, daily contact with the accused.

Proposed Regulation 1.64(b)(5) would satisfy Section 206(c)'s requirement that, at a minimum, there be a person who is a non-member of the SRO or any major disciplinary committee conducting a proceeding in which: (1) the person charged was a member of the SRO's governing body or a major disciplinary committee, or (2) the subject matter relates to price manipulation or attempted manipulation.

The Commission believes that the presence of at least one non-member of an SRO on each major disciplinary committee should promote fairness and impartiality in the commodity industry's disciplinary proceedings. The Commission believes that proposed Regulation 1.64(b)(5)'s requirement should not be too burdensome for the SROs. Each major disciplinary committee would have to have only a single SRO non-member. In addition, proposed Regulation 1.64(b)(5) would not require that each SRO major disciplinary committee have one "public" member, but instead it would require that the committee have one non-member of the SRO. Accordingly, the requirement could be met by a wide variety of more readily available people, including industry professionals who would not be considered public members of an SRO governing board under Regulation 1.64(b)(2).

3. Proposed Regulation 1.64(b)(6)—Representatives of Differing Membership Interests

In response to section 5a(15)(B), as it was amended by section 206 of the 1992 Act, proposed Regulation 1.64(b)(6) states that each SRO must establish rules requiring that more than 50 percent of each major disciplinary committee be made up of persons representing a membership interest other than that of the person who is the subject of the disciplinary proceeding. As indicated above, Regulation 1.64(a)(4) would define "membership interest" as a membership category such as floor brokers, floor traders or FCMs; commercial users of commodities such as producers, processors, or distributors; or, members of the SRO that use trading pits other than those used by the subject of the disciplinary proceeding.[14] The premise of Commission Regulation 1.64(b)(6) is that persons who work in close proximity to one another (*e.g.*, people who trade in the same trading pit) or who have professional ties to one another (*e.g.*, floor brokers who establish formal or informal associations with each other) may not be, or may appear to not be, totally objective in adjudicating disciplinary proceedings involving their colleagues. By requiring that half of each major disciplinary committee consist of persons who have a different membership interest than the accused, proposed Regulation 1.64(b)(6) should help to discourage special or preferential treatment in the conduct of disciplinary proceedings and the assessment of disciplinary sanctions.

In submitting rules in compliance with proposed Regulation 1.64(b)(6), SROs may propose alternative categories of membership interests to those listed in Regulation 1.64(b)(6)(i). In proposing any such alternative set of categories, however, the submitting SRO must demonstrate to the Commission that their proposed approach is consistent with the purposes of Regulation 1.64(b)(6).

D. Proposed Regulation of 1.64(c)—Customer Notification of Disciplinary Actions

Proposed Regulation 1.64(c) states that when a futures exchange takes final disciplinary action against a member for trading violations resulting in financial harm to a customer, the exchange must provide written notice of the action to the FCM that cleared the transaction.[15] In addition, the clearing FCM must provide the same written notice to the

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[12] As part of this rulemaking, the Commission also is proposing to amend Commission regulation 1.63(a)(2)'s definition of "disciplinary committee" to duplicate the operative characteristics of a "major disciplinary committee" under proposed Regulation 1.64(a)(2). Under this approach, the only distinction between these two definitions would be that a Regulation 1.64 major disciplinary committee would have to be a panel which exercised its disciplinary powers as a group, while a Regulation 1.63 disciplinary committee could be one or more persons who could exercise the same powers. The Commission invites comment regarding the effect of this proposed amendment of Regulation 1.63.

[13] For a registered futures association, Regulation 1.64(b)(5) would require that each of the association's major disciplinary committees have at least one member who is not regulated by the association. The use of the term non-regulatee rather than non-member is intended to address the situation which now exists at NFA where associated persons ("APs") are not NFA members but are regulated by NFA.

[14] For the purposes of registered futures associations, proposed Regulation 1.64(b)(6) would require that at least 50 percent of each major disciplinary committee consist of persons who are in a different "regulatory category" than the person charged in the disciplinary proceeding. "Regulatory category" should be interpreted to include not only the association's different membership categories such as FCMs and IBs, but also any category of persons who are regulated by the registered futures association but are not association members (*e.g.*, APs at the NFA).

[15] For these purposes, proposed Regulation 1.64(a)(5) defines "final disciplinary action" to mean any exchange final decision as that term is defined by exchange rules implementing the requirements of Commission Regulations 8.20 and 8.26. Accordingly, a "final disciplinary action" under Commission Regulation 1.64 would include not only instances where a disciplinary committee makes a determination that a person has committed a rule violation, but also those instances where a person settles disciplinary charges against him in a settlement agreement with an exchange. This definition differs from Regulation 1.63(a)(5)'s definition of an SRO "final decision" in that such a decision may not be arrived at until after a member's appeal rights are exhausted. With Regulation 1.64(a)(5)'s definition of "final disciplinary action," proposed Regulation 1.64(c) would require customer notification of a disciplinary action even if it was pending appeal. Under this approach, the Commission believes that customers could more promptly learn of disciplinary actions and that, therefore, they would be in the best possible position to pursue any available recourse.

customer involved, or, in a case where two or more FCMs have cleared and carried the transaction, each FCM involved must provide written notice to the FCM with which it dealt until notice is provided to the ultimate customer. The written notice describing the disciplinary action must include the same type of information which is required in Regulation 9.11 notices.[16]

Regulation 1.64(c) should help public customers effectively to exercise their rights with respect to the treatment of their orders by exchange members. For example, a customer who learns of an abuse of his order of which he might otherwise have been ignorant, would be better able to evaluate his business relationship with the member or to initiate legal action. Additionally, proposed Regulation 1.64(c)'s notice requirement should generate closer scrutiny of exchange activities.

E. Proposed Amendments to Regulation 1.63

1. Prohibition of Oversight Panel Service

In compliance with section 206 of the 1992 Act, the Commission is proposing amendments to existing Regulation 1.63 which would disqualify persons with certain disciplinary histories from serving on any SRO oversight panel and which would require each SRO to implement rules in this regard.[17] Upon a finding of a disqualifying offense,[18] the amendment to Regulation 1.63 would bar oversight panel service for a period of three years from the date of such finding or for the length of any criminal sentence, SRO expulsion or suspension, Commission registration suspension, or failure to pay a disciplinary fine, resulting from the finding, whichever was longer.

The proposed amendment to Regulation 1.63(a) would define an SRO oversight panel to mean any body of persons having the authority to "review, recommend or establish policies or procedures with respect to the self-regulatory duties of the [SRO], including, but not limited to, compliance activities and disciplinary policies." With this proposed definition of oversight panel, Regulation 1.63 would establish a minimum qualification standard for bodies which are charged with the responsibility of formulating and carrying out an SRO's self-regulatory responsibilities.

2. Public Listing of SRO Major Rule Violations

Commission Regulation 1.63(d) currently requires that each SRO publish a listing of its own rule violations which would not constitute a disqualifying "disciplinary offense" under current Commission Regulation 1.63(a)(4)(i).[19] The Commission took this approach in adopting Regulation 1.63 because, at the time that the regulation was proposed, various SROs contended that a comprehensive listing of disqualifying SRO rule violations would be too cumbersome. Section 206 of the 1992 Act, however, requires that each SRO establish and make publicly available a listing of those SRO major rule violations which would disqualify a person from governing board or disciplinary committee service at that SRO. Accordingly, the Commission is proposing to amend Regulation 1.63(d) to require that each SRO establish, maintain and make available to the general public a notice of all those rules of the SRO which if violated would constitute a "disciplinary offense" under Regulation 1.63. This requirement would enable any person who had been found to have committed a rule violation by an SRO to determine whether that violation was in fact a "disciplinary offense" for the purposes of Regulation 1.63 and whether he would be disqualified from future SRO committee service. Also, an SRO upon ascertaining that a potential committee selectee had violated some rule at another SRO, could review that other SRO's listing of "disciplinary offenses" to determine whether the potential selectee should be disqualified from committee service.

F. Additional Requirements of Section 206 of the 1992 Act

The Commission notes that various other requirements of section 206 of the 1992 Act are satisfied by Commission Regulation 1.63, thus eliminating the need to establish any new Commission regulations. For instance, section 206 of the 1992 Act requires that SROs prohibit disciplinary committee service by persons with certain disciplinary records. As indicated above, Commission Regulation 1.63 already prohibits service on disciplinary committees, as well as on governing boards and arbitration panels, by persons who have committed disciplinary offenses.

III. Conclusion

The Commission believes that the proposed new Regulation 1.64 and the proposed amendments to Regulation 1.63 meet the statutory directives of Sections 5a, 8c and 17 of the Act as they were amended by Section 206 of the 1992 Act. Toward that end, where the 1992 Act permits the Commission to exercise discretion, the Commission has endeavored to permit SROs flexibility in complying with the proposed rulemaking and to take into account existing industry practices.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.* (1988), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously determined that contract markets are not "small entities" for purposes of the RFA, and that the Commission, therefore, need not consider the effect of proposed rules on contract markets. 47 FR 18618, 18619 (April 30, 1982).

Furthermore, the Chairman of the Commission previously has certified on behalf of the Commission that comparable rule proposals effecting registered futures associations, if adopted, would not have had a significant economic impact on a substantial number of small entities. 51 FR 44866, 44868 (December 12, 1986). Accordingly, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), that the proposed rulemaking, if adopted, would not have a significant economic impact on a substantial number of small entities.

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[16] Commission Regulation 9.11 requires that notices of exchange disciplinary actions include:

(1) The name of the person against whom the disciplinary action or access denial action was taken;

(2) A statement of the reasons for the disciplinary action or access denial action together with a listing of any rules which the person who was the subject of the disciplinary action or access denial action was charged with having violated or which otherwise serve as the basis of the exchange action;

(3) A statement of the conclusions and findings made by the exchange with regard to each rule violation charged or, in the event of settlement, a statement specifying those rule violations which the exchange has reason to believe were committed;

(4) The terms of the disciplinary action or access denial action; [and]

(5) The date on which the action was taken and the date the exchange intends to make the disciplinary or access denial action effective * * *

[17] Commission Regulation 1.63 already establishes a similar disqualification standard with respect to SRO disciplinary committees, arbitration panels and governing boards.

[18] Under Commission Regulation 1.63, disqualifying offenses would include, among other things, various SRO rule violations and any violation of the Act or the Commission's regulations.

[19] Regulation 1.63(a)(4)(i) defines "disciplinary offense" to mean committing or having supervisory responsibility for any act which violates an SRO's rules with exclusions for minor recordkeeping and trade timing violations as well as decorum and attire violations.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 ("PRA"), 44 U.S.C. 3501 *et seq.* (1988), imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In reviewing this proposed rulemaking the Commission has determined that it does not impose any information collection requirements as defined by the PRA. In compliance with the PRA, the Commission has submitted the proposed rulemaking and its associated information collection requirements to the Office of Management and Budget ("OMB"). The burden associated with the entire collection, including this proposed regulation, is as follows:

Average burden hours per response: 611.26.

Number of respondents: 4201.

Frequency of response: On occasion.

The burden associated with the proposed regulation is as follows:

Average burden hours per response: .25.

Number of respondents: 13.

Frequency of response: On occasion.

Persons wishing to comment on the information that would be required by the proposed rulemaking should contact Gary Waxman, OMB, room 3228, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K Street, NW., Washington, DC 20581, (202) 254–9735.

List of Subjects in 17 CFR Part 1

Commodity futures, Contract markets, Clearing organizations, Registered futures associations, Members of contract market.

In consideration of the foregoing, and based on the authority contained in the Commodity Exchange Act and, in particular, Sections 3, 4b, 5, 5a, 6, 6b, 8, 8a, 9, 17, and 23(b) thereof, 7 U.S.C. 5, 6b, 7, 7a, 8, 13a, 12, 12a, 13, 21 and 26(b) the Commission is proposing to amend Title 17, Chapter I, Part 1 of the Code of Federal Regulations is amended as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for part 1 continues to read as follows:

Authority: 7 USC 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 19, 21, 23, and 24, unless otherwise stated.

2. Section 1.63 is proposed to be amended by adding paragraph (a)(7) and revising paragraphs (a)(2), (a) (4) through (6), (b) introductory text, and (c) through (f) to read as follows:

§ 1.63 Service on self-regulatory organization governing boards or committees by persons with disciplinary histories.

(a) * * *

(2) *Disciplinary committee* means any person or panel empowered by a self-regulatory organization to bring disciplinary charges, to conduct disciplinary hearings, to settle disciplinary charges, to impose sanctions or to hear appeals thereof.

* * * * *

(4) *Oversight panel* means any panel empowered by a self-regulatory organization to review, recommend or establish policies or procedures with respect to the self-regulatory duties of the self-regulatory organization, including, but not limited to, compliance activities and disciplinary policies.

(5) *Final decision* means:

(i) A decision of a self-regulatory organization which cannot be further appealed within the self-regulatory organization, is not subject to the stay of the Commission or a court of competent jurisdiction, and has not been reversed by the Commission or any court of competent jurisdiction; or,

(ii) Any decision by an administrative law judge, a court of competent jurisdiction or the Commission which has not been stayed or reversed.

(6) *Disciplinary offense* means:

(i) Any violation of the rules of a self-regulatory organization except those rules related to:

(A) Decorum or attire,

(B) Financial requirements, or

(C) Reporting or recordkeeping unless resulting in fines aggregating more than $5,000 within any calendar year;

(ii) Any rule violation described in paragraphs (a)(6)(i) (A) through (C) of this section which involves fraud, deceit or conversion or results in a suspension or expulsion;

(iii) any violation of the Act or the regulations promulgated thereunder; or,

(iv) any failure to exercise supervisory responsibility with respect to acts described in paragraphs (a)(6)(i) through (iii) of this section when such failure is itself a violation of either the rules of a self-regulatory organization, the Act or the regulations promulgated thereunder.

A disciplinary offense must arise out of a proceeding or action which is brought by a self-regulatory organization, the Commission, any federal or state agency, or other governmental body.

(7) *Settlement agreement* means any agreement consenting to the imposition of sanctions by a self-regulatory organization, a court of competent jurisdiction or the Commission.

(b) Each self-regulatory organization must maintain in effect rules which have been submitted to the Commission pursuant to section 5a(a)(12)(A) of the Act and § 1.41 or, in the case of a registered futures association, pursuant to section 17(j) of the Act, that render a person ineligible to serve on its disciplinary committees, arbitration panels, oversight panels or governing board who:

* * * * *

(c) No person may serve on a disciplinary committee, arbitration panel, oversight panel or governing board of a self-regulatory organization if such person is subject to any of the conditions listed in subparagraphs (b)(1) through (6) of this section.

(d) Any rule submitted pursuant to paragraph (b) of this section must include a listing of all those rules of the self-regulatory organization which if violated would constitute a disciplinary offense under paragraph (a)(6)(i) of this section. Each self-regulatory organization shall establish, maintain and make available to the general public a notice listing such rules.

(e) Each self-regulatory organization shall submit to the Commission within thirty days of the end of each calendar year a certified list of any persons who have been removed from its disciplinary committees, arbitration panels, oversight panels or governing board pursuant to the requirements of this regulation during the prior year.

(f) Whenever a self-regulatory organization finds by final decision that a person has committed a disciplinary offense and such finding makes such person ineligible to serve on that self-regulatory organization's disciplinary committees, arbitration panels, oversight panels or governing board, the self-regulatory organization shall inform the Commission of that finding and the length of the ineligibility in any notice it is required to provide to the Commission pursuant to either Section 17(h)(1) of the Act or § 9.11 of this chapter.

3. Section 1.64 is proposed to be added to read as follows:

§ 1.64 Composition of various self-regulatory organization governing boards and major disciplinary committees.

(a) *Definitions.* For purposes of this section:

(1) *Self-regulatory organization* means "self-regulatory organization" as defined in § 1.3(ee), but shall not include a "clearing organization" as defined in § 1.3(d).

(2) *Major disciplinary committee* means any panel of persons who, as a group, are empowered by a self-regulatory organization to bring disciplinary charges, to conduct disciplinary hearings, to settle disciplinary charges, to impose sanctions or to hear appeals thereof.

(3) *Regular voting member of a governing board* means any person who is eligible to vote routinely on matters being considered by the board and excludes those members who are only eligible to vote in the case of a tie vote by the board.

(4) *Membership interest* means a membership category or a group of market users which shall include:

(i)(A) Floor brokers,

(B) Floor traders,

(C) Producers, consumers, processors, distributors, or merchandisers of commodities,

(D) Futures commission merchants, and

(E) Members of the aforementioned categories who participate in particular contract markets or principal groups of commodities on the board of trade, or

(ii) Any alternative set of membership categories or market users proposed by a self-regulatory organization which the self-regulatory organization demonstrates fairly reflects the composition of its membership and is otherwise consistent with the purposes of this section.

(5) *Final disciplinary action* means any contract market "final decision" as that term is defined by contract market rules implementing the requirements of §§ 8.20 and 8.28 of this chapter.

(b) Each self-regulatory organization must maintain in effect rules which have been submitted to the Commission pursuant to section 5a(a)(12)(A) of the Act and § 1.41 or, when applicable to a registered futures association, pursuant to section 17(j) of the Act, that require that:

(1) The governing board of each self-regulatory organization be comprised of persons from a variety of membership interests who will meaningfully represent the self-regulatory organization's diversity of interests;

(2) Twenty percent or more of the regular voting members of the self-regulatory organization's governing board be comprised of persons who:

(i) Are knowledgeable of futures trading or financial regulation or are otherwise capable of contributing to governing board deliberations, and

(ii)(A) Are not and for the prior year have not been members of a self-regulatory organization,

(B) Are not and for the prior year have not been registered with the Commission in any capacity, and

(C) Are not receiving and for the prior year have not received more than ten percent of their income as compensation for work performed for any self-regulatory organization, self-regulatory organization member or Commission registrant;

(3) Ten percent or more of the regular voting members of the contract market's governing board be comprised of persons who are primarily engaged in the business of producing, manufacturing, processing, exporting, merchandising or commercially using any of the commodities underlying a commodity futures or commodity option contract traded on the contract market;

(4) Each of the self-regulatory organization's major disciplinary committees be comprised of persons representing a variety of membership interests sufficient to ensure fairness and to prevent special treatment or preference for any person in the conduct of the committee's responsibilities;

(5) At least one member of each of the self-regulatory organization's major disciplinary committees be a person who is not a member of that self-regulatory organization or, in the case of a registered futures association, is not regulated by such registered futures association; and

(6) More than 50% of each of the self-regulatory organization's major disciplinary committees be comprised of persons representing a membership interest or, in the case of a registered futures association, a regulatory category at the association other than that of the subject of the disciplinary proceeding.

(c) Upon any final disciplinary action in which a contract market finds that a member has committed a rule violation that involved the execution of a transaction for a customer and resulted in financial harm to such customer:

(1)(i) The contract market shall promptly provide written notice of the disciplinary action to the futures commission merchant that cleared the transaction; and,

(ii) Each futures commission merchant involved in the clearing or carrying of such transaction shall promptly provide written notice of the disciplinary action to the individual or entity maintaining the account for which the transaction was executed, as such individual or entity is identified on the records of the clearing or carrying futures commission merchant, upon receipt of such notice from a contract market or another futures commission merchant.

(2) The written notice required by paragraph (c)(1) of this section shall include the information listed in § 9.11(b) of this chapter as well as the principal facts of the case involved.

Issued in Washington, DC, on March 2, 1993, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93-5180 Filed 3-11-93; 8:45 am]

BILLING CODE 6351-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-4605-7]

Location Change of Open Meeting on Proposed Wood Furniture Rules and/or Control Techniques Guidelines

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The location of the March 25-26 meeting discussing the possible use of Regulatory Negotiation or some other consensus-based approach to develop proposed rules regulating hazardous air pollutant emissions and/or a Control Techniques Guidelines covering volatile organic compound emissions associated with wood furniture manufacturing (58 FR 12352, Mar. 4, 1993) has been changed from the Omni Europa "Chapel Hill" to the Omni Europa "Durham".

DATES: The meeting will take place on March 25-26. On March 25, it will start at 9 a.m. and end at 5 p.m. On March 26, it will start at 8 a.m. and end by 3 p.m.

ADDRESSES: The meeting will take place at the Omni Europa Hotel, 201 Foster Street, Durham, NC., 27201, (919) 683-6664.

FOR FURTHER INFORMATION CONTACT: For additional information on substantive aspects of the meeting, please contact Ellen Ducey of EPA's Office of Air Quality Planning and Standards, (919) 541-5408. For additional information on procedural or administrative matters please contact Susan Wildau or John Lingelbach, EPA's co-convenors, at (303) 442-7367.

Dated: March 9, 1993.

Chris Kirtz,

Director, Consensus and Dispute Resolution Program.

[FR Doc. 93-5871 Filed 3-11-93; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[AK2-1-5480; AD-FRL-4603-4]

Approval and Promulgation of State Implementation Plan: Alaska

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The EPA proposes approval of the state implementation plan (SIP) revision submitted by the State of Alaska for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). The implementation plan was submitted by the state to satisfy certain federal Clean Air Act requirements for an approvable moderate nonattainment area PM–10 SIP for Eagle River, Alaska.

DATES: Comments on this proposed action must be postmarked by April 12, 1993.

ADDRESSES: Comments should be addressed to: Christi A. Lee, Environmental Protection Agency, 1200 Sixth Avenue, AT–082, Seattle, Washington 98101. Copies of the state's submittal and other information are available for inspection during normal business hours at the following locations:

Air and Radiation Branch (AK2–1–5480), U.S. Environmental Protection Agency, 1200 Sixth Avenue, AT–082, Seattle, Washington 98101.

Alaska Department of Environmental Conservation, 410 Willoughby, suite 100, Juneau, Alaska 99801–1795.

FOR FURTHER INFORMATION CONTACT: Christi Lee, U.S. Environmental Protection Agency, 1200 Sixth Avenue, AT–082, Seattle, Washington 98101, Telephone: (206) 553–1814.

SUPPLEMENTARY INFORMATION:

I. Background

The Eagle River, Alaska, area was designated nonattainment for PM–10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.[1] See 56 FR 56694 (November 6, 1991). The air quality planning requirements for moderate PM–10 nonattainment areas are set out in subparts 1 and 4 of Part D, Title I of the Act.[2] The EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under Title I of the Act, including those state submittals containing moderate PM–10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in today's proposal and the supporting rationale. In today's rulemaking action on the Alaska moderate PM–10 SIP for Eagle River, EPA is proposing to apply its interpretations taking into consideration the specific factual issues presented. Additional information supporting EPA's action on this particular area is available for inspection at the addresses indicated above. EPA will consider any timely submitted comments before taking final action on today's proposal.

Those states containing initial moderate PM–10 nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology—RACT) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable;[Insert date 30 days after the date of publication]. [Insert date 30 days after the date of publication]. [Insert date 30 days after the date of publication]. [Insert date 30 days after the date of publication]. [Insert date 30 days after the date of publication].

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Some provisions are due at a later date. States with initial moderate PM–10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992 (see section 189(a)). Such states also must submit contingency measures by November 15, 1993 which become effective without further action by the state or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline (see section 172(c)(9) and 57 FR 13543–44).

II. Today's Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–13566). In today's action, EPA is proposing to approve the plan revision certified by the Lieutenant Governor on June 21, 1991 and submitted to EPA on October 15, 1991 because it meets all of the applicable requirements of the Act.

A. Analysis of State Submission

1. Procedural Background

The Act requires states to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Sections 110(a)(2) and 110(l) of the Act provides that each implementation plan submitted by a state must be adopted after reasonable notice and public hearing.[3]

EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. sections 7401, *et seq.*

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM–10 nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the "General Preamble" and, as appropriate, in today's notice and supporting information.

[3] Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

After providing adequate public notice, the Alaska Department of Environmental Conservation (ADEC) held a public hearing on November 21, 1989 to entertain public comment on the implementation plan for the Eagle River nonattainment. Following the public hearing the plan was adopted by the state and signed by the Governor on July 15, 1990, and submitted to EPA as a proposed revision to the SIP on July 17, 1990. The state subsequently readopted the SIP revisions and resubmitted them to EPA on October 15, 1991.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR Part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete and a letter dated February 19, 1992, was forwarded to the Director of ADEC indicating the completeness of the submittal and the next steps to be taken in the review process.

2. Accurate Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Because the submission of the emissions inventory is a necessary adjunct to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventory must be received with the demonstration (see 57 FR 13539).

ADEC submitted an emissions inventory for base year 1987. Eagle River's base year emissions inventory identified the major source categories as fugitive dust from paved and unpaved streets and windblown dust. Since the PM–10 sources in the area are seasonal in nature and worst case emissions from different sources may not occur concurrently, a separate inventory was compiled for each of the four seasons. The primary source of fall seasonal PM–10 is locally generated road dust. Windblown dust, sanding material and vehicle-generated dust from paved roads are significant sources of springtime PM–10. The combined contribution of all other sources was estimated to be less than ten percent of total emissions in both the spring and fall seasons.

EPA is proposing to approve the emissions inventory because it generally appears to be accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area.[4] For further details see the Technical Support Document (TSD) corresponding with this action, which is available at the address indicated above.

3. RACM (Including RACT)

As noted, the initial moderate PM–10 nonattainment areas must submit provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993 (see sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–13545 and 13560–13561). The PM–10 problem in the area is more severe in the fall and for this reason, separate design concentrations were determined for fall and spring. The fall 24-hour design value of 238 $\mu g/m^3$ and the spring design value of 166 $\mu g/m^3$ are based on monitored values. (The design value, which reflects high PM–10 concentrations in the area, is the basis for determining the amount of reduction needed to attain the NAAQS). Spring season emissions are presently below the threshold emission rate necessary to ensure attainment of the PM–10 NAAQS as a result of the completion of paving projects. Fall season PM–10 levels are projected to be in attainment after completion of anticipated projects by the end of 1992.

In light of the PM–10 sources in the area described in the emissions inventory discussion above, the Eagle River attainment plan targeted controls of fugitive dust from unpaved and paved streets for PM–10 emission reductions.[5] The Municipality of Anchorage has identified funds that will be devoted to implementing the road paving and surfacing projects intended to address the resuspended road dust problem in the area. EPA views these measures as enforceable control measures as required by sections 10(a)(2)(A) and 172(c)(6) of the Act. The Municipality and ADEC should inform EPA if they believe the commitment to implement these measures is not enforceable. The measures intended to address resuspended road dust are described in further detail below. Note that most of the measures in question were scheduled for completion prior to today's action. Therefore, in taking final action on this SIP, EPA intends to consider any comments addressing the progress that has been made in implementing the measures.

A 40 percent reduction in fall emissions is required to attain the NAAQS. The plan uses a fall emission reduction of 56 percent from controls on resuspended road dust. A significant reduction in fall PM–10 emissions occurred between 1987 and 1991 as a result of road paving and surfacing projects in Eagle River. Of the 22 miles of unpaved roads in the nonattainment (NA) area, 3.4 miles were strip-paved by mid-1989. In addition to these paving projects, 3.2 miles of recycled asphalt paving (RAP) has been applied to gravel roadways in the NA area. RAP is a product salvaged from road construction projects. To achieve the emission reduction goals, the Eagle River Rural Road Service Board (ERRRSB) has included 8.6 miles of existing gravel roadway within the PM–10 NA area on a priority list for paving or recycled asphalt improvements. The ERRRSB received $1.5 million in FY 92 capital funds for road projects. A significant portion is allocated for strip paving and approximately half is designated for RAP projects which would surface about 25 additional miles of road. This would include all areas in the NA area and a few outlying areas. The Municipality expected to complete most of the road surfacing projects in the May through October 1992 construction season. A small number of the hot asphalt paving projects may be delayed one year for pavement engineering. The Municipality of Anchorage expects to complete all 8.6 miles of road surfacing by the end of 1993.

By the end of 1989, fall PM–10 emissions were estimated to have been reduced by 32 percent. An additional 24 percent emission reduction is projected to result from planned 1992–93 projects. A total emission reduction of 12 percent from paving, 28 percent from recycled asphalt projects and 15 percent from reduced track out of dirt onto paved streets results in a projected overall emission reduction of 56 percent. This estimated reduction exceeds the 40 percent reduction required to reach attainment.

An 11 percent reduction is required for spring emissions to yield compliance

[4] The EPA issued guidance on PM–10 emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 *PM–10 SIP Development Guideline*. The guidance provided in this document appears to be consistent with the Act.

[5] Where sources of PM–10 contribute insignificantly to the PM–10 problem in the area, EPA's policy is that it would be unreasonable (and would not constitute RACM) to require the sources to implement potentially available control measures. 57 FR 13540. As indicated, the combined contribution of all other sources is estimated to be less than ten percent of total emissions. For this reason, EPA believes it would be unreasonable to require these other sources to implement potentially available control measures. Further, EPA believes implementation of such additional controls in this case would not expedite attainment and, therefore, such measures are not "reasonably" required. 57 FR 13543.

with the NAAQS. The plan uses a spring emission reduction of 12 percent from controls on resuspended road dust. Spring emissions have already been reduced by 8% as a result of improvements in winter sanding and street clean-up practices instituted in the winter of 1987–1988. The Alaska Department of Transportation has estimated that the quantity of road sand applied to state and municipal roads has been cut from 17,000 to 10,000 tons during a typical winter. Furthermore, by tightening material specifications, the silt fraction (grain size less than 75 microns) of the sanding material has been reduced. In addition to reductions achieved through improved winter sanding methods, road paving and recycled asphalt projects are estimated to reduce spring emissions by an additional 4 percent. Implementation of these two measures results in a total estimated reduction of 12 percent in spring emissions.

Changes in the quantity of road sanding material applied during winter, the tightening of sanding material specifications and road surfacing projects have sufficiently reduced emissions to achieve NAAQS attainment in the spring season.

EPA has reviewed the ADEC's explanation and associated documentation and concluded that it adequately justifies the control measures to be implemented. The implementation of ADEC's moderate PM–10 nonattainment plan control strategy will provide for attainment of the PM–10 NAAQS in the Eagle River, Alaska nonattainment area by December 31, 1992. By this notice, EPA is proposing to approve the ADEC's control strategy as satisfying the RACM (including RACT) requirement.

4. Demonstration

As noted, the initial moderate PM–10 nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see section 189(a)(1)(B)(i) of the Act). The General Preamble sets out EPA's guidance on the use of modeling for moderate area attainment demonstrations (57 FR 13539). Alternatively, if ADEC does not submit a demonstration of attainment, ADEC must show that attainment by December 31, 1994 is impracticable (section 189(a)(1)(B)(ii)).

The Municipality of Anchorage Air Pollution Control Agency (AAPCA) in consultation with the Alaska Department of Environmental Conservation (ADEC) conducted an attainment demonstration using receptor modeling for Eagle River, Alaska and a "grid-by-grid rollback" approach. This demonstration indicates that the NAAQS for PM–10 will be attained by 1992 in the Eagle River nonattainment area and maintained in future years. The 24-hour PM–10 NAAQS is 150 micrograms/cubic meter ($\mu g/m^3$), and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$ is equal to or less than one (see 40 CFR section 50.6). The annual PM–10 NAAQS is 50 $\mu g/m^3$, and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50 $\mu g/m^3$ (id). The demonstration predicted that the 24-hour design concentration in the attainment year of 1992 will be below 150 $\mu g/m^3$, thus demonstrating attainment of the 24-hour PM–10 NAAQS. Ambient data show that the area has never approached an exceedance of the annual standard. Since no violations of the annual NAAQS have been noted with the current emissions inventory and since the inventory was "rolled back" to show attainment of the 24-hour NAAQS, no violations of the annual NAAQS are likely. Therefore, EPA believes that ADEC has adequately demonstrated that the annual standard has been attained in the Eagle River nonattainment area.

The control strategy used to achieve these design concentrations is summarized in the section titled "RACM (including RACT)." For a more detailed description of the attainment demonstration and the control strategy used, see the TSD.

5. PM–10 Precursors

The control requirements which are applicable to major stationary sources of PM–10, also apply to major stationary sources of PM–10 precursors unless EPA determines such sources do not contribute significantly to PM–10 levels in excess of the NAAQS in that area (see section 189(e) of the Act).

The emissions inventory for the Eagle River nonattainment area did not reveal any significant stationary sources of PM–10 precursors, and stationary sources as a whole provide an insignificant contribution to Eagle River's ambient PM–10 concentrations as demonstrated through receptor modeling for the area. Thus, ambient PM–10 precursor concentrations in the Eagle River nonattainment area are considered to be de minimis and EPA is proposing to grant the area the exclusion from PM–10 precursor control requirements authorized under section 189(e) of the Act.

6. Quantitative Milestones and Reasonable Further Progress (RFP)

The PM–10 nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every three years until the area is redesignated attainment and which demonstrate RFP, as defined in section 171(1), toward attainment by December 31, 1994 (see section 189(c) of the Act). RFP is defined in section 171(1) as such annual incremental reductions in emissions of the relevant air pollutant as are required by part D or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

In implementing RFP for this initial moderate area, EPA has reviewed the attainment demonstration and control strategy for the area to determine whether annual incremental reductions are different from those provided in the SIP and should be required in order to ensure attainment of the PM–10 NAAQS by December 31, 1994 (see section 171(1)). Eagle River demonstrates attainment in 1992 and maintenance through 1994, and therefore satisfies the initial quantitative milestone requirement (see 57 FR 13539) and RFP for the area.

7. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the state and EPA (see sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). EPA criteria addressing the enforceability of SIP's and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C)).

The particular control measures contained in the SIP are addressed above under the section headed "RACM (including RACT)." These control measures apply to the types of activities identified in that discussion including, for example, fugitive dust from paved and unpaved streets. The SIP provides that the affected activities will be controlled throughout the entire nonattainment area.

As discussed previously, a state grant has been allocated by the municipality to finance various road surfacing and paving measures to address PM–10 emissions from road dust. In addition, both the state and local municipality have legal authority to adopt levy taxes,

adopt annual budgets and borrow funds. EPA believes the SIP measures to address PM–10 emissions are enforceable. Further, the ADEC has a program that will ensure that control measures contained in the Eagle River PM–10 SIP (i.e., Title 21 of the Anchorage Municipal Code (AMC), sections 21.85.030 and 21.45.080.w.7) are adequately enforced.

8. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIP's that demonstrate attainment must include contingency measures (see generally 57 FR 13543–13544). These measures must be submitted by November 15, 1993 for the initial moderate nonattainment areas. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures must take effect without further action by the state or EPA, upon a determination by EPA that the area has failed to make RFP or attain the PM–10 NAAQS by the applicable statutory deadline. Since contingency measures were not due with the November 15, 1991 moderate PM–10 nonattainment area SIP requirements, EPA is not taking any action on this requirement in today's proposal.

III. Implications of Today's Action

EPA is proposing to approve the plan revision submitted to EPA on November 15, 1991, for the Eagle River nonattainment area. Among other things, ADEC has demonstrated that the Eagle River moderate PM–10 nonattainment area will attain the PM–10 NAAQS by December 31, 1992.

As noted, additional submittals for the initial moderate PM–10 nonattainment areas are due at later dates. EPA will determine the adequacy of any such submittal as appropriate.

IV. Request for Public Comments

EPA is requesting comments on all aspects of today's proposal. As indicated at the outset of this notice, EPA will consider any comments postmarked by April 12, 1993.

V. Administrative Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. Section 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 18, 1993.

Dana A. Rasmussen,

Regional Administrator.

[FR Doc. 93–5660 Filed 3–11–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[WA6–1–5519; AD–FRL–4603–6]

Approval and Promulgation of State Implementation Plans: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The EPA proposes approval of the state implementation plan (SIP) submitted by the State of Washington for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). The implementation plan was submitted by the State to satisfy certain Federal Clean Air Act requirements for an approvable moderate PM–10 nonattainment area SIP for Thurston County, Washington.

DATES: Comments on this proposed action must be postmarked by April 12, 1993.

ADDRESSES: Comments should be addressed to: George Lauderdale, Environmental Protection Agency, Air and Radiation Branch, Docket No. WA6–1–5519, 1200 Sixth Avenue, AT–082, Seattle, Washington 98101.

Copies of the State's submittal and other information are available for inspection during normal business hours at the following location:

Air and Radiation Branch (WA6–1–5519), U. S. Environmental Protection Agency, 1200 Sixth Avenue, AT–082, Seattle, Washington 98101.

State of Washington Department of Ecology, College Street Building, 4550 Third Avenue Southeast, Olympia, Washington 98504.

FOR FURTHER INFORMATION CONTACT: George Lauderdale, Environmental Protection Agency, Air and Radiation Branch, Docket No. WA6–1–5519, 1200 Sixth Avenue, AT–082, Seattle, Washington 98101.

SUPPLEMENTARY INFORMATION:

I. Background

The Thurston County, Washington, area (i.e. cities of Olympia, Tumwater, and Lacey) was designated nonattainment for PM–10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.[1] See 56 FR 56694 (November 6, 1991). The air quality planning requirements for moderate PM–10 nonattainment areas are set out in subparts 1 and 4 of Part D, Title I of the Act.[2] The EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under Title I of the Act, including those State

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. sections 7401, et seq.

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM–10 nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the "General Preamble" and, as appropriate, in today's notice and supporting information.

submittals containing moderate PM–10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in today's proposal and the supporting rationale. In today's rulemaking action on the State of Washington's moderate PM–10 SIP for the Thurston County area, EPA is proposing to apply its interpretations taking into consideration the specific factual issues presented. Additional information supporting EPA's action on this particular area is available for inspection at the address indicated above. EPA will consider any timely submitted comments before taking final action on today's proposal.

Those States containing initial moderate PM–10 nonattainment areas (those areas designated nonattainment under section 107(d)(4)(B)) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology—RACT) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Some provisions are due at a later date. States with initial moderate PM–10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992 (see section 189(a)). Such States also must submit contingency measures by November 15, 1993 which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline (see section 172(c)(9) and 57 FR 13543–13544).

II. Today's Action

Section 110(k) of the Act sets out provisions governing EPA's review and processing of SIP submittals (see 57 FR 13565–13566). In today's action, EPA is proposing to approve the plan revision submitted to EPA for the Thurston County area on February 17, 1989 as subsequently revised by addenda submitted on December 26, 1989, November 15, 1991, and April 8, 1992 (hereafter generally referred to as a single submittal). EPA is proposing to approve the submittal because it appears to meet all of the applicable requirements of the Act. EPA invites public comment on the action.

A. Analysis of State Submission

1. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[3] Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing. EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

After providing adequate public notice, the State of Washington Department of Ecology (WDOE) held a public hearing on September 22, 1988, to entertain public comment on the PM–10 implementation plan for the Thurston County nonattainment area. Following the public hearing the plan was adopted by WDOE and signed by the Governor on February 8, 1989, and submitted to EPA on February 17, 1989, as a proposed revision to the SIP. Each of the subsequent addenda, described above, were similarly adopted by the WDOE after reasonable notice and public hearing.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness the criteria set out at 40 CFR part 51, appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). A letter dated April 21, 1992, was forwarded to the Director of WDOE indicating the completeness of the submittal and the next steps to be taken in the review process.

2. Accurate Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Because the submission of the emissions inventory is a necessary adjunct to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventory must be received with the demonstration (see 57 FR 13539).

The State of Washington Department of Ecology submitted an emissions inventory for base year 1985. The base year inventory identified residential wood combustion as the predominant source of PM–10 in the nonattainment area. The inventory also identified resuspended road dust as a smaller source. Other sources were determined to be insignificant. All exceedances of the PM–10 24-hour standard have occurred during the winter wood heating season.

EPA is proposing to approve the emissions inventory because it generally appears to be accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area.[4] For further details the reader is referred to the Technical Support Document (TSD) corresponding with this action, which is available at the EPA address indicated above.

3. RACM (Including RACT)

As noted, the initial moderate PM–10 nonattainment areas must submit

[3] Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

[4] The EPA issued guidance on PM–10 emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 *PM–10 SIP Development Guideline*. The guidance provided in this document appears to be consistent with the amended Act.

provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993 (see sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–13545 and 13560–13561). Residential wood combustion and resuspended road dust were identified as contributing to the PM–10 nonattainment problem in the Thurston County, Washington nonattainment area and will be controlled as follows.

a. Residential Wood Combustion

The Washington State Legislature adopted a comprehensive, statewide residential wood combustion control program in 1987. The Washington Department of Ecology promulgated regulations to implement the program in 1987 (WAC 173–433). The local agency, Olympic Air Pollution Control Authority (OAPCA), initiated a mandatory woodsmoke curtailment program throughout its six county jurisdictional area, including the Thurston County nonattainment area, in the winter of 1987–88, pursuant to WAC 173–433 (adopted 12/16/87, and later amended 9/17/90).

The curtailment program currently being implemented and that EPA is proposing to approve in today's action is a two stage plan. At Stage I, which is imposed when ambient PM–10 levels reach 75 $\mu g/m^3$, the use of uncertified stoves and fireplaces is banned. At Stage II, imposed when PM–10 levels reach 105 $\mu g/m^3$, all wood heating, including fireplaces, certified and uncertified woodstoves, is prohibited. The program exempts homes with no other adequate source of heat. The Washington State regulations contain additional controls, including the prohibition of all fuels except dry, seasoned wood in woodheating devices. Plume opacity for woodheating devices is limited to 20%, with brief allowances for fire starting and stoking.

OAPCA serves as the primary enforcement agency for the curtailment and opacity portions of the control program. Both OAPCA and WDOE administer public education programs targeted at residential wood burning. Throughout the state, WDOE also enforces its ban on the sale of uncertified woodstoves.

In addition to the above described controls, the Washington State Clean Air Act of 1991 introduced several changes to the enabling legislation which further strengthens the program. The fee on the sale of new woodstoves rose from $15 to $30, and also applies to fireplace sales. The installation of any uncertified stove is prohibited after January 1, 1992. Finally, the law requires that after July 1, 1992 new or substantially remodeled constructions in urban growth areas or PM–10 nonattainment areas must include a non-wood heat source so that wood is not the sole source of adequate heat.

EPA is proposing to approve the WDOE's and OAPCA's residential wood combustion measures described above as sufficient to meet RACM. The WDOE's submittal contains additional residential wood combustion measures that will take effect in the next few years. One significant additional measure is the requirement for new stoves sold after January 1, 1995 to meet stricter emission standards than the current EPA new source performance standards. EPA believes that these measures will help ensure future maintenance of the PM–10 NAAQS in the area and is proposing to approve them in today's action because they further strengthen the SIP. The TSD contains a more detailed discussion of the control measures EPA is proposing to approve today.

The Thurston plan predicts that during curtailment periods a 70% reduction in solid fuel burning device emissions will be achieved through implementation of the mandatory program. This emission reduction credit is greater than the 50% credit given in the Guidance Document for Residential Wood Combustion Emission Control Measures (September 1989) EPA–450/2–89–015.

The 1989 and 1991 addenda to the plan provide details of OAPCA's effective enforcement program. The strength of the Washington legislated woodsmoke program and, OAPCA's effective implementation of the program demonstrates to EPA's satisfaction that the Thurston area is achieving a sufficient compliance rate to justify the 70% emission reduction credit. Further, a PM–10 NAAQS exceedance has not been monitored in the Thurston County area since the mandatory curtailment was initiated in the 1988–89 heating season.

b. Resuspended Road Dust and other sources of PM–10:

1. Fugitive Dust

The Thurston emission inventory identified urban fugitive dust (primarily resuspended road dust) as a relatively minor contributor to exceedances in Thurston. Urban fugitive dust is estimated to contribute approximately 7% to the nonattainment problem in the area. Moreover, the plan demonstrates expeditious attainment without implementation of potentially available control measures on fugitive dust sources. Therefore, such measures are not "reasonably" required and, thus, do not represent RACM for the area (57 FR 13543).

2. Prescribed Burning

Prescribed burning is not a significant contributor to PM–10 concentrations in the Thurston County area. Where sources of PM–10 do not contribute significantly to the PM–10 problem in an area, EPA's policy is that a state is not reasonably required to implement potentially available control measures for such sources (57 FR 13543). It should, however, be noted that Washington State regulations (WAC 173–425) ban all outdoor burning in all PM–10 or CO nonattainment areas in the state. This ban should help ensure maintenance of the PM–10 NAAQS in the area and EPA is proposing to approve the measure because it strengthens the SIP.

3. RACT (Applicable to Point Sources)

The General Preamble states that generally EPA recommends that available control technology be applied to those existing sources in the nonattainment area that are reasonable to control in light of the attainment needs of the area and the feasibility of such controls. The Thurston nonattainment area contains no major point sources of PM–10 and the imposition of available control technology on other existing sources would not expedite attainment; therefore, implementation of available control technology is not reasonably required in this plan (57 FR 13543).

The regulations and supporting documentation contained in the Thurston County SIP revision demonstrate that WDOE and OAPCA observed EPA's applicable guidance in determining RACM for this area. A more detailed discussion of the individual source contributions, their associated control measures and an explanation as to why certain available control measures were not implemented, can be found in the TSD.

EPA has reviewed WDOE's explanation and associated documentation and concluded that it adequately justifies the control measures to be implemented. The implementation of the State of Washington's moderate PM–10 nonattainment plan control strategy will provide for attainment of the PM–10 NAAQS in the Thurston County, Washington nonattainment area as expeditiously as practicable and prior to December 31, 1994. By this notice, EPA

is proposing to approve the WDOE's control strategy as satisfying the RACM (including RACT) requirement.

4. Demonstration

As noted, the initial moderate PM–10 nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see section 189(a)(1)(B)(i) of the Act). The General Preamble sets out EPA's guidance on the use of modeling for moderate area attainment demonstrations (57 FR 13539). Alternatively, if the State does not submit a demonstration of attainment, the State must show that attainment by December 31, 1994 is impracticable (section 189(1)(B)(ii)).

WDOE conducted dispersion modeling for Thurston using the guideline model RAM and the non-guideline dispersion model WYNDvalley. Both models performed adequately in Thurston. EPA recommended the use of WYNDvalley to demonstrate attainment, as its initial performance was superior to RAM. However, WDOE chose to use the RAM model for the plan's attainment demonstration due to time constraints involved with the developmental nature of the WYNDvalley model. At a critical time during plan preparation some suspected potential deterioration in the efficacy of WYNDvalley model was discovered. This problem was later corrected and applied in the Thurston area (December 26, 1989 addendum).

Receptor modeling was also conducted in the Thurston nonattainment area (Olympic Aerosol Characterization Study, Khalil et al., 1986). The analysis employed included chemical mass balance (CMB), gaseous tracer model (GTM), and regression analyses of filters collected at the Mountain View School primary impact monitoring site. The CMB analysis indicated that woodsmoke contributes about 85–90% of ambient PM–10 concentrations on the high pollution days analyzed.

WDOE was able to satisfactorily reconcile the dispersion and receptor modeling after adjusting dispersion modeling inputs. The reconciliation was conducted according to EPA's modeling protocol. This demonstration indicates that the NAAQS for PM–10 will be attained by 1991 in the Thurston County, Washington nonattainment area and maintained in future years. The 24-hour PM–10 NAAQS is 150 micrograms/cubic meter ($\mu g/m^3$), and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$ is equal to or less than one (see 40 CFR section 50.6). The annual PM–10 NAAQS is 50 $\mu g/m^3$, and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50 $\mu g/m^3$(id.).

The demonstration predicted that the 24-hour design concentration in the attainment year of 1991 will be below the national standard of 150 $\mu g/m^3$ throughout the nonattainment area, thus demonstrating attainment of the 24-hour PM–10 NAAQS.

Thurston County has not exceeded the 24-hour standard since January of 1988. Thurston recorded one exceedance of the PM–10 annual standard for the year 1985, but has not violated the standard, which is based on a three-year average. EPA is proposing to approve the attainment demonstration for the Thurston County nonattainment area.[3] The control strategy used to achieve the attainment date design concentrations is summarized in the section titled "RACM (including RACT)". A more detailed description of the attainment demonstration is contained in the TSD.

5. PM–10 Precursors

The control requirements which are applicable to major stationary sources of PM–10, also apply to major stationary sources of PM–10 precursors unless EPA determines such sources do not contribute significantly to PM–10 levels in excess of the NAAQS in that area (see section 189(e) of the Act). The General Preamble contains guidance addressing how EPA intends to implement section 189(e) (see 57 FR 13539–13540 and 13541–13542).

The Thurston County, Washington nonattainment area emissions inventory revealed no major stationary sources of PM–10 precursors or any significant minor stationary sources of PM–10 precursors, and stationary sources as a whole provide an insignificant contribution to the Thurston County, Washington ambient PM–10 concentrations as demonstrated through air quality modeling in the nonattainment area. Thus, ambient PM–10 precursor concentrations in the Thurston County nonattainment area are considered to be de minimis and EPA is proposing to grant the area the exclusion from PM–10 precursor control requirements authorized under section 189(e) of the Act. Note that today's proposed exclusion is based on the current character of the area. It is possible that future growth could change the significance of precursors in the area. EPA intends to issue future guidance addressing such potential changes in the significance of precursor emissions in an area.

6. Quantitative Milestones and Reasonable Further Progress (RFP)

The PM–10 nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate RFP, as defined in section 171(1), toward attainment by December 31, 1994 (see section 189(c) of the Act). Reasonable further progress is defined in section 171(1) as such annual incremental reductions in emissions of the relevant air pollutant as are required by Part D or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

For the initial moderate PM–10 nonattainment area, the emissions reductions progress made between the SIP submittal due date of November 15, 1991 and the attainment date of December 31, 1994 (only 46 days beyond the November 15, 1994 milestone date) will satisfy the first milestone requirement (57 FR 13539). The de minimis timing differential makes it administratively impracticable to require separate milestone and attainment demonstrations.

In implementing RFP for this initial moderate area, EPA has reviewed the attainment demonstration and control strategy for the area to determine whether annual incremental reductions different from those provided in the SIP should be required in order to ensure attainment of the PM–10 NAAQS by December 31, 1994 (see section 171(1)). The State of Washington's PM–10 SIP for Thurston County, Washington demonstrates attainment in 1991 and maintenance through 1994, and therefore satisfies the RFP requirement.

7. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA (see sections 172(c)(6), 110(a)(2)(A), and 57 FR 13556). EPA criteria addressing the enforceability of SIP's and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that

[3] EPA believes that an attainment demonstration for the annual PM–10 NAAQS is unnecessary. As indicated, annual PM–10 NAAQS have never been violated in the area. Further, the control measures EPA is proposing to approve today should serve to maintain air quality below the annual NAAQS.

provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C)).

The particular control measures contained in the SIP are addressed above under the section headed "RACM (including RACT)." These control measures apply to the types of activities identified in that discussion including, primarily, residential wood combustion. The SIP applies to residential wood combustion sources throughout the nonattainment area. As noted, exemptions to the mandatory curtailment program are limited to those homes with no other adequate source of heat.

RCW 70.94.331(6) requires WDOE to enforce air quality and emissions standards "throughout the state except where a local authority is enforcing the state regulations or its own regulations which are more stringent than those of the state." RCW 70.94.380 requires that emissions standards of local authorities must be at least as stringent as State standards, but may be more stringent. As noted, OAPCA is the local entity that assumes primary responsibility for implementing the residential wood combustion control measures and EPA believes OAPCA's enforcement program is adequately supported and effective. RCW 70.94.410 grants WDOE the authority to enforce the regulations of a local authority in cases where that authority has failed to make good faith efforts to implement its regulations. In addition to the applicable control measures, this includes the applicable record-keeping requirements. These issues are addressed further in supporting technical information.

8. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIP's that demonstrate attainment must include contingency measures (see generally 57 FR 13543–13544). These measures must be submitted by November 15, 1993 for the initial moderate PM–10 nonattainment areas. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures must take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to make RFP or attain the PM–10 NAAQS by the applicable statutory deadline.

The WDOE has submitted a contingency measure that bans all use of uncertified woodstoves in the Thurston County nonattainment area, if the area fails to attain or maintain the NAAQS for PM–10. State law allows this regulation to take effect on or after July 1, 1995.

After review of the contingency measures described above, EPA is proposing to approve the Thurston County, Washington nonattainment area contingency measures.

III. Implications of Today's Action

EPA is proposing to approve the plan revision submitted to EPA for the Thurston County, Washington area on February 17, 1989 as subsequently revised by addenda submitted on December 26, 1989, November 15, 1991, and April 8, 1992. Among other things, the State of Washington Department of Ecology has demonstrated that the Thurston County moderate PM–10 nonattainment area will attain the PM–10 NAAQS as expeditiously as practicable and no later than December 31, 1994. As noted, additional submittals for the initial moderate PM–10 nonattainment areas are due at later dates. EPA will determine the adequacy of any such submittal as appropriate.

IV. Request for Public Comments

EPA is requesting comments on all aspects of today's proposal. As indicated at the outset of this notice, EPA will consider any comments postmarked by April 12, 1993.

V. Administrative Review

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, and Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 4, 1993.

Dana A. Rasmussen,

Regional Administrator.

[FR Doc. 93–5661 Filed 3–11–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 69

[FRL–4602–6]

Special Exemptions From Requirements; Section 325(a) of the Clean Air Act, Territory of Guam

AGENCY: Environmental Protection Agency ("EPA").

ACTION: Notice of proposed rulemaking.

SUMMARY: On October 19, 1992, the Governor of Guam sent to the EPA a petition for a waiver ("Petition") from certain requirements of the Clean Air Act ("CAA"). The Petition was submitted pursuant to section 325(a) of the CAA. Based on its review of the Petition and supplemental information provided by both the Guam Power Authority ("GPA") and the United States Navy ("USN"), the EPA is proposing to partially and conditionally approve the Petition. The Petition requests that proposed electric generating units on Guam be exempted from: several nonattainment area requirements applicable to the Cabras-Piti area which is designated as not attaining the primary national ambient air quality standard ("NAAQS") for sulfur dioxide; the requirement of obtaining a prevention of significant deterioration ("PSD") permit prior to constructing an emissions source; and the CAA prohibition on the use of the intermittent control strategy ("ICS") of

fuel switching. This proposed rulemaking provides a description of the basis for the Petition under section 325(a), the Petition and supporting documentation submitted by the GPA and the USN, and the proposed decision by the EPA on the Petition. Comments on this proposed rulemaking action may be made to the EPA as described below.

DATES: Comments must be received on or before April 12, 1993.

ADDRESSES: Comments may be mailed to: Norman Lovelace, Chief, Office of Pacific Islands and Native American Programs (E–4), Office of External Affairs, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Norman Lovelace, Chief, Office of Pacific Islands and Native American Programs (E–4), Office of External Affairs, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Telephone: (415) 744–1599.

SUPPLEMENTARY INFORMATION:

Background

By submitting the Petition, the Governor of Guam seeks to have a class of sources, proposed electric generating units, exempted from certain requirements of the CAA. As stated by the Governor in the Petition's cover letter to EPA Administrator William Reilly, the Petition is being submitted because "the Territory of Guam is in the midst of a severe energy emergency." Due to a shortage of electric generating capacity, the GPA has instituted periodic, scheduled, and rotating electrical blackouts across the Island of Guam. These blackouts are negatively affecting the provision of drinking water, the treatment of sewage, and vehicle traffic controls. According to information accompanying the Petition, potential peak load demands currently exceed total electric generating capacity by approximately 15%. The capacity shortfall is projected to steadily grow if new generating capacity is not constructed in the near future.

Section 325(a) provides, in pertinent part: Upon petition by the governor of Guam, the Administrator of the EPA is authorized to exempt any persons or source or class of persons or sources in such territory from any requirement under the CAA other than section 112 or any requirement under section 110 or part D of subchapter I necessary to attain or maintain a national ambient air quality standard.

Via a letter dated October 19, 1992, the Governor of Guam submitted to the EPA the Petition which is the subject of this proposed rulemaking. Aside from the Governor's transmittal letter, the Petition, and supporting documents attached thereto, was prepared by the GPA and the USN. The Petition requests that electric generating units on Guam be exempted from: (1) Several nonattainment area requirements applicable to the Cabras-Piti area, including a construction ban, the use of lowest achievable emission rate ("LAER") control equipment, and emission offset requirements; (2) the requirement of obtaining a prevention of significant deterioration ("PSD") permit prior to constructing an emissions source; and (3) the CAA prohibition on the use of the ICS of fuel switching.

In a letter dated January 13, 1993, the Guam Environmental Protection Agency ("GEPA") provided to the EPA its review of and support for the Petition.

Description of Petition and Supporting Documents

The Petition, aside from transmittal letters, consists of a thirty-one page narrative and eighteen supporting exhibits. The narrative portion of the Petition is organized into sections which: (1) Describe the power shortages currently being experienced on Guam and explain why the relief requested in the Petition is necessary; (2) specifically describe the relief being sought by the Petition; (3) argue that the relief sought in the Petition is tailored to the current power shortage; (4) describe an air quality analysis performed on behalf of the GPA; and (5) set forth arguments to justify granting the relief requested in the Petition.

The eighteen supporting exhibits in the Petition were submitted in a separate bound volume and include, among other things, such items as: (1) Correspondence between the various government entities involved in this matter; (2) an air quality analysis performed on behalf of GPA; (3) the current fuel switching protocol for the Cabras and Piti power plants; (4) information concerning Guam's shortfall in electric generating capacity; and (5) a project schedule for the construction of proposed electric generating facilities.

Criteria for Approval

Section 325(a) provides the criteria for approval of a request for exemptions from certain requirements of the CAA: "Such exemption may be granted if the Administrator finds that compliance with such requirement is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors of such territory, or such other local factors as the Administrator deems significant."

These criteria, however, are not the only factors that must be considered. As quoted above, a waiver cannot be approved under section 325(a) where the requirements that would be waived are necessary to attain or maintain a primary NAAQS, and a waiver cannot affect any requirement under section 112 regarding a national emission standard for a hazardous air pollutant.

EPA Evaluation and Proposed Action

The EPA is faced with a number of perplexing problems in evaluating and acting on the Petition. The shortfall in electrical generating capacity on Guam is both real and significant, and the situation requires immediate attention. In addition, circumstances unique to Guam support the granting of a waiver. However, the Petition and its supporting documents do not conclusively demonstrate that the Cabras-Piti area is attaining and will continue to attain the primary NAAQS for sulfur dioxide.

Three special features of Guam support the granting of the waiver sought in the Petition. First, Guam is an isolated island. It does not have the option of obtaining electric power from any outside source. In solving its current crisis and in meeting its future electric power needs, Guam is and must remain self-sufficient. Second, the prevailing trade winds blow any emissions generated in the Cabras-Piti area seaward approximately 90% of the time. The nearest downwind land masses are more than six hundred miles from Guam and the ocean impacts are minimal to nonexistent. As previously acknowledged by the EPA and Congress, the Cabras-Piti area is uniquely suited for the ICS of fuel switching from high sulfur fuel during offshore winds to low sulfur fuel during onshore winds. Third, although not impoverished, Guam is relatively poor compared to the rest of the United States. The per capita income on Guam is just over $7,000 per year. The high costs associated with controlling emissions from electric generating units should not be imposed in the absence of significant air quality benefits.

The Petition asks, among other things, for a waiver of CAA nonattainment area requirements. Section 325(a) does not allow waiver of requirements that are necessary to prevent exceedences of a primary NAAQS. This, in turn, is complicated by assertions in the Petition that the sulfur dioxide nonattainment designation for the Cabras-Piti area is merely an inaccurate hold over from an earlier time and that the area should be redesignated to attainment. However, neither the Petition nor the Guam Environmental

Protection Agency have provided sufficiently complete data to enable redesignation of the Cabras-Piti area to attainment status or justify an unqualified finding that the electrical generators proposed to be built in the Cabras-Piti area will definitely not contribute to or cause exceedences of the primary NAAQS for sulfur dioxide.

The Petition states that the EPA has "acknowledged that in fact all [NAAQS] are being met" in the Cabras-Piti area. The EPA **Federal Register** notice referred to in the Petition states that Guam had submitted an implementation plan which, for planning purposes, demonstrated future attainment of the primary NAAQS for sulfur dioxide. The EPA notice does not state that the primary NAAQS for sulfur dioxide was being met, nor can a future demonstration of attainment be equated to achieving attainment in fact. Attainment status must be confirmed by ambient air quality monitoring and/or modelling.

The Petition claims that an air quality analysis performed by a consultant to GPA adequately demonstrates that "all primary (and secondary) [NAAQS] will be met when the electric generating facilities addressed in this Petition are built and operating." The results of the air quality analysis cannot be considered conclusive. While EPA believes that the analysis is sufficient for conditionally granting a waiver, the analysis is based upon data which is incomplete and inappropriate for purposes of redesignating an area to attainment. For example, the analysis indicated that the second highest ambient SO_2 concentration was greater than 99% of the secondary NAAQS and was 85% of the primary NAAQS. In addition, the meteorological data used in the analysis was not on-site data and, therefore, does not meet the criteria for site specific data required for second level screening for complex terrain such as that found in the Cabras-Piti area. Given the lack of a conclusive analysis, a full modelling effort must be made before attainment of the primary SO_2 NAAQS can be verified.

In view of the need to both protect the air quality on Guam and allow the construction of needed electric generating units, the EPA is proposing to partially and conditionally approve the Petition. With regard to the Petition's request for a waiver of the requirement to obtain a PSD permit prior to construction, the EPA is proposing to approve a waiver, but only for the electric generating units identified in the Petition as Cabras Diesel No. 1, the Tenjo project, and three 6-megawatt diesel generators to be constructed by the USN at Orote, with the following conditions: (1) New each electric generating unit shall not be operated until a final PSD permit is issued for that unit; (2) each new electric generating unit shall not be operated until that unit complies with all requirements of its PSD permit, including, if necessary, retrofitting with the best available control technology; (3) the PSD application for each new electric generating unit shall be deemed complete without the submittal of the required one year of on-site meteorological data, however, EPA will not issue a PSD permit to such a unit prior to submission of such data; and (4) the aspect of the waiver described in this paragraph shall retroactively terminate if the conditions of this paragraph are violated by the GPA or the USN, leaving any effected electric generating unit retroactively subject to all CAA requirements as if the waiver had not been granted.

With regard to the Petition's request for a waiver of the three nonattainment area requirements currently applicable to the Cabras-Piti area, the EPA is proposing to approve a waiver for electric generating units with the following conditions: (1) A tower and meteorological station shall be constructed in the Cabras-Piti area by May 1, 1993; (2) meteorological data shall be collected from the Cabras-Piti station which is sufficient to run air quality models both to demonstrate no exceedences of the primary NAAQS for sulfur dioxide and sufficient to submit a complete request for redesignation of the area to attainment; (3) ambient SO_2 monitors shall be installed and operated in accordance with the procedures set forth at 40 CFR part 58, the PSD air monitoring requirements, and any additional monitoring requested by EPA to verify the efficacy of the ICS of fuel switching; (4) within three years from the effective date of this waiver, Guam shall submit to the EPA a complete request that the Cabras-Piti area be redesignated to attainment for the sulfur dioxide primary NAAQS; (5) new electric generating units constructed in the Cabras-Piti area must submit applications for PSD permits as though the area had been redesignated to attainment for the sulfur dioxide primary NAAQS; (6) if the collected data and air quality analysis does not demonstrate to the EPA's satisfaction that there are no exceedences of the primary NAAQS for sulfur dioxide, the EPA will so notify the GPA and the USN; (7) within six months of such notification, the GPA and the USN shall submit to the GEPA a plan which includes a schedule of emission reductions and/or control measures that will achieve the primary NAAQS for sulfur dioxide within one year; (8) the GPA and the USN shall implement the plan upon approval by the EPA and in accordance with any conditions or modifications specified by the EPA; (9) the existing Cabras and Piti electric generating units shall comply with the fuel switching ICS described in the next paragraph; and (10) the aspect of the waiver described in this paragraph shall retroactively terminate if the conditions of this paragraph are violated by the GPA or the USN, leaving any effected electric generating unit retroactively subject to all CAA requirements as if the waiver had not been granted.

With regard to the Petition's request for a waiver of the prohibition on the use of the ICS of fuel switching, the EPA is proposing to approve a waiver for electric generating units with the following conditions: (1) The protocol for the ICS of fuel switching for electric generating units shall be modified, as set forth in a separate EPA document entitled *Cabras Area ICS*, to make the ICS more effective and enforceable; and (2) the aspect of the waiver described in this paragraph shall retroactively terminate if the conditions of this paragraph are violated by the GPA or the USN, leaving any effected electric generating unit retroactively subject to all CAA requirements as if the waiver had not been granted.

In addition to the conditions described above, the waiver will be periodically reviewed (at intervals no longer than three years) and, as deemed appropriate by the Administrator, can be modified or terminated at any time through rulemaking procedures.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rulemaking on small entities. 5 U.S.C. 603 and 604. Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

This proposed rulemaking will only apply to large sources of air emissions used to generate electrical power on Guam. These sources of electrical power will be constructed, owned, and operated by the GPA and/or the USN. Neither of these organizations is a small entity. Therefore, this proposed

rulemaking will not impact small entities.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget ("OMB") waived Table 2 and Table 3 rulemaking actions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. The EPA has submitted a request for a permanent waiver for Table 2 and Table 3 rulemaking actions. OMB has agreed to continue the temporary waiver until such time as it rules on the EPA's request.

List of Subjects in 40 CFR Part 69

Air pollution control.

Dated: February 11, 1993.

Carol Browner,

Administrator.

Part 69 of chapter I, title 40 of the *Code of Federal Regulations* would be amended to read as follows:

PART 69—[AMENDED]

1. The authority citation for part 69 continues to read as follows:

Authority: Sec. 325(b), Clean Air Act, as amended (42 U.S.C. 7625–1).

Subpart A—Guam

2. Subpart A is amended by adding text to § 69.11 to read as follows:

§ 69.11 New exemptions.

(a) Pursuant to section 325(a) of the Clean Air Act ("CAA") and a petition submitted by the Governor of Guam ("Petition"), the Administrator of the Environmental Protection Agency ("EPA") conditionally exempts electric generating units on Guam from certain CAA requirements.

(1) A waiver of the requirement to obtain a PSD permit prior to construction is granted for the electric generating units identified in the Petition as Cabras Diesel No. 1, the Tenjo project, and three 6-megawatt diesel generators to be constructed by the USN at Orote, with the following conditions:

(i) Each electric generating unit shall not be operated until a final PSD permit is issued for that unit;

(ii) Each electric generating unit shall not be operated until that unit complies with all requirements of its PSD permit, including, if necessary, retrofitting with the best available control technology;

(iii) The PSD application for each electric generating unit shall be deemed complete without the submittal of the required one year of on-site meteorological data, however, EPA will not issue a PSD permit to such a unit prior to submission of such data; and

(iv) The aspect of the waiver described in this paragraph shall retroactively terminate if the conditions of this paragraph are violated by the GPA or the USN, leaving any effected electric generating unit retroactively subject to all CAA requirements as if the waiver had not been granted.

(2) A waiver of the three nonattainment area requirements (a construction ban, the use of lowest achievable emission rate ("LAER") control equipment, and emission offset requirements) currently applicable to the Cabras-Piti area is granted for electric generating units with the following conditions:

(i) A tower and meteorological station shall be constructed in the Cabras-Piti area by May 1, 1993;

(ii) Meteorological data shall be collected from the Cabras-Piti station which is sufficient to run air quality models both to demonstrate no exceedences of the primary NAAQS for sulfur dioxide and sufficient to submit a complete request for redesignation of the area to attainment;

(iii) Ambient SO_2 monitors shall be installed and operated in accordance with the procedures set forth at 40 CFR Part 58, the PSD air monitoring requirements, and any additional monitoring requested by EPA to verify the efficacy of the ICS of fuel switching;

(iv) Within three years from the effective date of this waiver, Guam shall submit to the EPA a complete request that the Cabras-Piti area be redesignated to attainment for the sulfur dioxide primary NAAQS;

(v) Electric generating units constructed in the Cabras-Piti area must submit applications for PSD permits as though the area had been redesignated to attainment for the sulfur dioxide primary NAAQS;

(vi) If the collected data and air quality analysis does not demonstrate to the EPA's satisfaction that there are no exceedences of the primary NAAQS for sulfur dioxide, the EPA will so notify the GPA and the USN;

(vii) Within six months of such notification, the GPA and the USN shall submit to the GEPA a plan which includes a schedule of emission reductions and/or control measures that will achieve the primary NAAQS for sulfur dioxide within one year;

(viii) The GPA and the USN shall implement the plan upon approval by the EPA and in accordance with any conditions or modifications specified by the EPA;

(ix) The existing Cabras and Piti electric generating units shall comply with the fuel switching ICS described in the next paragraph; and

(x) The aspect of the waiver described in this paragraph shall retroactively terminate if the conditions of this paragraph are violated by the GPA or the USN, leaving any effected electric generating unit retroactively subject to all CAA requirements as if the waiver had not been granted.

(3) A waiver of the prohibition on the use of the ICS of fuel switching is granted for electric generating units with the following conditions:

(i) The protocol for the ICS of fuel switching for electric generating units shall be modified, as set forth in a separate EPA document entitled *Cabras Area ICS*, to make the ICS more effective and enforceable; and

(ii) The aspect of the waiver described in this paragraph shall retroactively terminate if the conditions of this paragraph are violated by the GPA or the USN, leaving any effected electric generating unit retroactively subject to all CAA requirements as if the waiver had not been granted.

(b) The waiver will be periodically reviewed (at intervals no longer than three years) and, as deemed appropriate by the Administrator, can be modified or terminated at any time through rulemaking procedures.

[FR Doc. 93–5729 Filed 3–11–93; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 58, No. 47
Friday, March 12, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: National Health Interview Survey – Screening Pretest.

Form Number(s): NHIS–NS, NHIS–TH.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 100 hours.

Number of Respondents: 900.

Avg Hours Per Response: 6 and one half minutes.

Needs and Uses: The Bureau of the Census conducts the National Health Interview Survey (NHIS) for the National Center for Health Statistics (NCHS). The NHIS is the principal source of information on the health of the civilian, noninstitutionalized population of the United States. The NCHS is interested in oversampling Blacks and Hispanics. This can be accomplished through a procedure called screening. Screening ensures that a proportion of nonminority units will be screened out while retaining all minority sample units. To determine the Black/Hispanic status of sample households, we are considering visiting neighbors of the sample units if a sample household was not home at the time of the first visit. We would ask the neighbors several questions to screen the sample household in or out of the regular NHIS sample. This submission requests approval to conduct a Screening Pretest of the feasibility and accuracy of visiting neighbors to determine Black/Hispanic status of sample units. The Screening Pretest will determine if the proposed questionnaires and procedures work in the field data collection. It will also provide data on whether the neighbors' reporting of Black/Hispanic status is accurate.

Affected Public: Individuals or households.

Frequency: One time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: March 8, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–5672 Filed 3–11–93; 8:45 am]

BILLING CODE 3510–07–F

Foreign-Trade Zones Board

[Order No. 633]

Termination of Foreign-Trade Subzone 15B, Kansas City, MO

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board has adopted the following order:

Whereas, On April 10, 1985, the Foreign-Trade Zones Board issued a grant of authority to the Greater Kansas City Foreign-Trade Zone, Inc. (GKCFTZ), authorizing the establishment of Foreign-Trade Subzone 15B at General Motor Corporation's automobile manufacturing plant in Kansas City, Missouri (Board Order 284, 50 FR 15769, 4/22/85);

Whereas, GKCFTZ advised the Board on October 23, 1991 (FTZ Docket 65–91), that zone procedures were no longer needed at the facility and requested voluntary termination of Subzone 15B;

Whereas, The request has been revised by the FTZ Staff and the Customs Service, and approval has been recommended;

Now, Therefore, The Foreign-Trade Zones Board terminates the subzone status of Subzone No. 15B effective this date.

Signed at Washington, DC, this 1st day of March, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 93–5676 Filed 3–11–93; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.22 or § 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than March 31, 1993, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in March for the following periods:

	Period
Antidumping Duty Proceedings:	
AUSTRALIA: Canned Bartlett Pears (A–602–039)	03/01/92–02/28/93
BANGLADESH: Shop Towels (A–538–802)	09/12/91–02/28/93
CANADA: Iron Constructing Castings (A–122–503)	03/01/92–02/28/93
CANADA: Certain Fresh Cut Flowers (A–122–604)	03/01/92–02/28/93
CHILE: Standard Carnations (A–337–602)	03/01/92–02/28/93
COLOMBIA: Certain Fresh Cut Flowers (A–301–602)	03/01/92–02/28/93
ECUADOR: Certain Fresh Cut Flowers (A–331–602)	03/01/92–02/28/93
FINLAND: Rayon Staple Fiber (A–405–071)	03/01/92–02/28/93
FRANCE: Brass Sheet and Strip (A–427–602)	03/01/92–02/28/93
GERMANY: Brass Sheet and Strip (A–428–602)	03/01/92–02/28/93
ISRAEL: Oil Country Tubular Goods (A–508–602)	03/01/92–02/28/93
ITALY: Certain Valves and Connections of Brass, for Use in Fire Protection Systems (A–475–401)	03/01/92–02/28/93
ITALY: Brass Sheet and Strip (A–475–601)	03/01/92–02/28/93
JAPAN: Ferrite Cores (of the Type Used in Consumer Electronic Products) (A–588–016)	03/01/92–02/28/93
JAPAN: Stainless Steel Butt-Weld Pipe Fittings (A–588–702)	03/01/92–02/28/93
JAPAN: Television Receivers, Monochrome and Color (A–588–015)	03/01/92–02/28/93
SWEDEN: Brass Sheet and Strip (A–401–601)	03/01/92–02/28/93
TAIWAN: Light-Walled Welded Rectangular Carbon Steel Tubing (A–583–803)	03/01/92–02/28/93
THAILAND: Certain Circular Welded Carbon Steel Pipes and Tubes (A–549–502)	03/01/92–02/28/93
THE PEOPLE'S REPUBLIC OF CHINA: Chloropicrin (A–570–002)	03/01/92–02/28/93
Suspension Agreements:	
BRAZIL: Frozen Concentrated Orange Juice (C–351–005)	01/01/92–12/31/92
THAILAND: Certain Yarns Products (C–549–401)	01/01/92–12/31/92
Countervailing Duty Proceedings:	
ARGENTINA: Certain Apparel (C–357–404)	01/01/92–12/31/92
ARGENTINA: Certain Textile Mill Products (C–357–404)	05/18/92–12/31/92
ARGENTINA: Leather Wearing Apparel (C–357–001)	01/01/92–12/31/92
BRAZIL: Certain Castor Oil Products (C–351–029)	01/01/92–12/31/92
BRAZIL: Cotton Yarn (C–351–037)	01/01/92–12/31/92
CANADA: Standard Carnations (C–122–603)	01/01/92–12/31/92
CHILE: Standard Carnations (C–337–601)	01/01/92–12/31/92
FRANCE: Brass Sheet and Strip (C–427–603)	01/01/92–12/31/92
IRAN: In-Shell Pistachios (C–507–501)	01/01/92–12/31/92
ISRAEL: Oil Country Tubular Goods (C–508–601)	01/01/92–12/31/92
MEXICO: Certain Textile Mill Products (C–201–405)	01/01/92–12/31/92
NETHERLANDS: Standard Chrysanthemums (C–421–601)	01/01/92–12/31/92
NEW ZEALAND: Carbon Steel Wire Rod (C–614–504)	01/01/92–12/31/92
PAKISTAN: Cotton Shop Towels (C–535–001)	01/01/92–12/31/92
SOUTH AFRICA: Ferrochrome (C–791–001)	01/01/92–12/31/92
THAILAND: Certain Apparel (C–549–401)	01/01/92–12/31/92
TURKEY: Certain Welded Carbon Steel Pipe and Tube (C–489–502)	01/01/92–12/31/92

In accordance with §§ 353.22(a) and 355.22(a) of the Commerce regulations, an interested party may request in writing that the Secretary conduct an administrative review of specified individual producers or resellers covered by an order, if the requesting person states why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping Compliance, Attention: Thomas Futtner, in room 3069–A of the main Commerce building. Further, in accordance with § 353.31 or 355.31 of the Commerce Regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the Federal Register a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by March 31, 1993.

If the Department does not receive, by March 31, 1993, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: March 5, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–5674 Filed 3–11–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–583–603]

Stainless Steel Cooking Ware From Taiwan; Determination Not To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty order on stainless steel cooking ware from Taiwan.

EFFECTIVE DATE: March 12, 1993.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Fargo or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION: The Department of Commerce (the Department) may revoke an antidumping duty order, pursuant to § 353.25(d)(4)(iii) of the Department's regulations, if no interested party has requested an administrative review for four consecutive annual anniversary months and no interested party objects to the revocation or requests an administrative review.

We had not received a request to conduct an administrative review of the antidumping duty order on stainless steel cooking ware from Taiwan (52 FR 2138, January 20, 1987) for the last four consecutive annual anniversary months. Therefore, pursuant to the Department's regulations, on January 4, 1993, we published in the **Federal Register** a notice of intent to revoke the order and served written notice of the intent to revoke to each interested party on the Department's service list.

On January 25, 1993, several domestic interested parties, All-Clad Metalcrafters, Corning/Revere, Farberware, General Housewares, Metal Ware Corp., Regal Ware, and Vita Craft, objected to our intent to revoke the order. Therefore, because several interested parties objected to the revocation, we no longer intend to revoke this antidumping duty order.

Dated: March 3, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–5675 Filed 3–11–93; 8:45 am]

BILLING CODE 3510–DS–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Indonesia

March 8, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: March 15, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6704. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being increased for carryover and the limit for Category 641 is being decreased for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23 1992). Also see 57 FR 24597, published on June 10, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 8, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on June 5, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1992 and extends through June 30, 1993.

Effective on March 15, 1993, you are directed to amend further the directive dated June 5, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Indonesia:

Category	Adjusted twelve-month limit[1]
Levels in Group I	
219	6,497,279 square meters.
313	11,975,019 square meters.
317/617/326	17,824,512 square meters of which not more than 2,902,531 square meters shall be in Category 326.
334/335	165,334 dozen.
336/636	440,000 dozen.
341	648,920 dozen.
342/642	275,000 dozen.
345	305,336 dozen.
443	87,150 numbers.
445/446	54,725 dozen.
604–A[2]	519,701 kilograms.
638/639	1,166,684 dozen.
641	1,559,040 dozen.
645/646	560,773 dozen.
647/648	2,345,643 dozen.
847	305,767 dozen.
Group II	
200, 201, 218, 220, 222-224, 226, 227, 229, 237, 239, 330, 332, 333, 349, 350, 352–354, 359–O[3], 360–363, 369–O[4], 400, 410, 414, 431, 432, 433, 434, 435, 436, 438, 439, 440, 442, 444, 447, 448, 459, 464, 465, 469, 603, 604–O[5], 606, 607, 621, 622, 624, 630, 632, 633, 643, 644, 649, 650, 652–654, 659–O[6], 665, 666, 669–O[7], 670–O[8], 831–838, 839, 840, 842–845, 850–852, 858 and 859, as a group.	64,613,426 square meters equivalent.
Subgroup in Group II	
400, 410, 414, 431, 432, 433, 434, 435, 436, 438, 439, 440, 442, 444, 447, 448, 459, 464, 465 and 469, as a group.	2,884,000 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1992.

[2] Category 604–A: only HTS number 5509.32.0000.

[3] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); 6112.39.0010, 6112.49.0010, 6211.11.2010, 6211.11.2020, 6211.12.3003 and 6211.12.3006 (Category 359–S).

[4] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S).

[5] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A)

[6] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[7] Category 669–O: all HTS numbers except 6305.31.0010, 6305.31.0020 and 6305.39.0000 (Category 669–P).

[8] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020 (Category 670–L).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–5671 Filed 3–11–93; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a commodity and services previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 12, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following services to the Procurement List for production by the nonprofit agencies listed:

Grounds Maintenance, Bureau of Reclamation, Auburn Field Office, Auburn, California, Nonprofit Agency: Pride Industries, Roseville, California

Janitorial/Custodial, Federal Building and U.S. Post Office, 104 West Magnolia, Bellingham, Washington, Nonprofit Agency: Cascade Christian Services, Lynden, Washington

Deletions

It is proposed to delete the following commodity and services from the Procurement List:

Commodity

Gown, Hospital Personnel, 6532–01–045–5381

Services

Commissary Shelf Stocking, Custodial and Warehousing, George Air Force Base, California

Janitorial/Custodial, Social Security Administration Building, 3116 St. Claude Avenue, New Orleans, Louisiana

Janitorial/Custodial, Armed Forces Examining Station and Bureau of Mines Building, Amarillo, Texas

Beverly L. Milkman,

Executive Director.

[FR Doc. 93–5746 Filed 3–11–93; 8:45 am]

BILLING CODE 6820–33–F

Procurement List Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: April 12, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On December 18, 1992, January 8, 15 and 25, 1993, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (57 FR 60176, 58 FR 3262, 4658 and 5959) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified workshops to provide the services, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to Procurement List:

Janitorial/Custodial, Social Security Administration Operations Building (Ground Floor and Connecting Links), 6401 Security Boulevard, Baltimore, Maryland

Janitorial/Custodial, Federal Building and U.S. Courthouse, 316 N. 26th Street, Billings, Montana

Order Processing, General Services Administration, Northeast Distribution Center, Burlington, New Jersey

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Strap, Chin, Parachutist's Steel Helmet, 8470–00–032–2737

Strap, Soldier's Steel Helmet M–1, 8470–00–030–8003

Beverly L. Milkman,

Executive Director.

[FR Doc. 93–5747 Filed 3–11–93; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Base Closure and Realignment Commission Investigative Hearings

AGENCY: Defense Base Closure and Realignment Commission (a Presidentially appointed commission separate from and independent of DoD).

ACTION: Notice of investigative hearings.

SUMMARY: Pursuant to Public Law 101–510, the Defense Base Closure and Realignment Commission announces a series of Washington, DC-based investigative hearings. The general purpose of these hearings is for the Commission to interact with key policy makers within both government and the private sector as a prelude to beginning independent review and analysis of base closure and realignment recommendations from the Secretary of Defense. The specific dates and general topics follow:

March 15

- SECDEF presents closure/realignment recommendations.
- Chairman, JCS discusses the recommended closures/realignments as they relate to force structure plan and overall national defense strategy.
- Service secretaries present views/methodology for service selection process. (2118 Rayburn House Office Building)

March 16

- Assistant Secretary of Defense for Production and Logistics presents testimony on overall DoD policies and methodology of selection process.
- Assistant service secretaries present testimony on detailed selection process. (2118 Rayburn House Office Building)

March 22

- Environmental issues testimony by OSD, Service, and industry experts. (1100 Longworth House Office Building)

March 29

- Testimony on the base closure account, installation disposal/reuse, budget impact, and perspective of former leaders in the area of public policy. (1100 Longworth House Office Building)

April 5

- Strategic defense and chemical weapons issues, military family and retiree issues. (1100 Longworth House Office Building)

April 12

- Economic and industrial-base issues. (1100 Longworth House Office Building)

Each hearing is planned for an all-day session beginning at 10 a.m. The room number and building for each date are annotated in parentheses.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Houston, Director, Communication, at (703) 696–0550.

SUPPLEMENTARY INFORMATION: Changes to the above schedule will be published in the **Federal Register** as soon as known by the Commission. Please call the Commission point of contact to confirm dates, times and locations prior to hearing(s). Less than 15 days notice is being given for the March 15–16 hearings due to final Senate Confirmation of Commissioners was not possible until March 4, 1993

Dated: March 8, 1993.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–5666 Filed 3–11–93; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Family Support Center Information; AF Forms 2800, 2801, and 2805; OMB No. 0701–0070.

Type of Request: Revision of a currently approved collection.

Average Burden Hours/Minutes Per Response: 6 Minutes.

Responses per Respondent: 3.

Number of Respondents: 10,000.

Annual Burden Hours: 3,000.

Annual Responses: 30,000.

Needs and Uses: Military members and their families are offered assistance in adaptation to military life through the programs and services of the Family Support Center (FSC). The FSC serves as the focal point for programs and activities that serve military families. These forms provide information on usage and trends for program evaluation, targeting, and budgeting as well as reports to DoD and Congress.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington Virginia 22203–4302.

Dated: March 8, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-5704 Filed 3-11-93; 8:45 am]

BILLING CODE 3810-01-M

The U.S. Strategic Command Strategic Advisory Group: Closed Meeting

AGENCY: USSTRATCOM, Department of Defense.

ACTION: Notice of closed meeting.

SUMMARY: The CINCSTRATCOM has scheduled a closed meeting of the Strategic Advisory Group.

DATES: The meeting will be held from 1 to 2 April 1993.

ADDRESSES: The meeting will be held at Offutt AFB, Nebraska.

FOR FURTHER INFORMATION CONTACT: USSTRATCOM Strategic Advisory Group, Offutt AFB, Nebraska 68113.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss strategic issues that relate to the development of the Single Integrated Operational Plan (SIOP). Full development of the topics will require discussion of information classified TOP SECRET in accordance with Executive Order 12356, 2 April 1982. Access to this information must be strictly limited to personnel having requisite security clearances and specific need-to-know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact upon national defense. Accordingly, the meeting will be closed in accordance with 5 U.S.C. App II Para 10(d) (1976), as amended.

Dated: March 5, 1993.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-5705 Filed 3-11-93; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before April 12, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202-4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 708-5174. Individuals who are hearing impaired may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: March 8, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Elementary and Secondary Education

Type of Review: Revision
Title: Christa McAuliffe Fellowship Program State Application
Frequency: Annually
Affected Public: Individuals or households; State or local governments
Reporting Burden:
Responses: 57
Burden Hours: 285
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This information is needed in order to make fellowship awards to teachers recommended by statewide selection panels.

Office of Postsecondary Education

Type of Review: Existing
Title: Application to Participate in the State Student Incentive Grant Program
Frequency: Annually
Affected Public: State or local governments
Reporting Burden:
Responses: 57
Burden Hours: 200
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: The State Student Incentive Grant Program uses matching Federal/State funds to provide a nationwide system of grants to assist postsecondary education students with substantial financial need. On this application the States provide information the Department requires to obligate program funds and for program management. The signed assurances legally bind the States to administer the program according to regulatory and statutory requirements.

Office of Postsecondary Education

Type of Review: Revision
Title: Guarantee Agency Monthly Claims & Collections Report (ED Form 1189)
Frequency: Monthly
Affected Public: State or local governments; Non-profit institutions
Reporting Burden:
Responses: 648
Burden Hours: 2,592
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: The Guarantee Agency Monthly Claims and Collections Report (ED Form 1189) is used by a guarantee agency to request payments of reinsurance for default, bankruptcy, death, and disability claims paid to lenders; and for costs incurred for supplemental preclaims assistance. An agency may use the form to make payments for amounts due to ED for

collections on defaulted loans on which reinsurance has been paid and for refunding amounts previously paid on reinsurance claims.

Office of Postsecondary Education

Type of Review: Revision
Title: Guaranty Agency Quarterly/ Annual Report ED Form 1130
Frequency: Quarterly
Affected Public: State or local governments; Non-profit institutions
Reporting Burden:
Responses: 270
Burden Hours: 4185
Recordkeeping Burden:
Recordkeepers: 54
Burden Hours: 108

Abstract: The Guaranty Agency Quarterly/Annual Report is submitted by 54 agencies operating a student loan insurance program under agreement with ED. These reports are used to evaluate agency operations to determine the amount of payments, to Guaranty agencies as authorized by law, and to make reports to Congress.

Office of Postsecondary Education

Type of Review: New
Title: Credit Return System
Frequency: Quarterly
Affected Public: State or local governments; Non-profit institutions
Reporting Burden:
Responses: 48
Burden Hours: 1920
Recordkeeping Burden:
Recordkeepers: 12
Burden Hours: 48

Abstract: Quarterly, the Department of Education will collect data from 12 guarantee agencies on a sample of loans and extrapolate the data to budget and account for the FFEL loan portfolio under the Federal Credit Reform Act of 1990.

Office of Postsecondary Education

Type of Review: New
Title: Dwight D. Eisenhower Leadership Development Program (Guide for the Preparation of Applications—FY 1993)
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden:
Responses: 150
Burden Hours: 4800
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: To provide grants that establish prototypes which reach out to young Americans and promote the practical study and teaching of leadership through programs specially prepared to foster the development of new generations of leaders in the areas of national and international affairs.

[FR Doc. 93–5692 Filed 3–11–93; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 93–18–NG]

Indeck Oswego Limited Partnership and Indeck Yerkes Limited Partnership; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Indeck Oswego Limited Partnership and Indeck Yerkes Limited Partnership (together Indeck) authorization to import up to 9 billion cubic feet of natural gas from Canada over a two-year period beginning on the date of the first delivery after March 31, 1993, the date Indeck's current authorization expires.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 5, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–5743 Filed 3–11–93; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. CP93–223–000, et al.]

Northern Natural Gas Company, et al.; Natural Gas Certificate Filings

March 5, 1993.

Take notice that the following filings have been made with the Commission:

1. Northern Natural Gas Company

[Docket No. CP93–223–000]

Take notice that on February 25, 1993, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed an application with the Commission in Docket No. CP93–233–000 pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon four individually certificated transportation and exchange agreements with Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the request which is open to public inspection.

Norther requests permission and approval to abandon services under its FERC Rate Schedules T–30, X–54, X–55, and X–72 with Panhandle. Northern indicates that it provided Panhandle with proper notice to terminate these transportation and exchange services and that abandonment of these services would have no detrimental impact Panhandle. Northern also states that Panhandle will file a separate application with the Commission to abandon its corresponding services for Northern.

No facilities would be abandoned in this proposal.

Comment date: March 26, 1993, in accordance with Standard Paragraph F at the end of this notice.

2. Great Plains Natural Gas Company

[Docket No. CP93–222–000]

Take notice that on February 22, 1993, Great Plains Natural Gas Company (Great Plains), P.O. Box 176, Fergus Falls, Minnesota 56538–0176, filed in Docket No. CP93–222–000 an application pursuant to section 7(f) of the Natural Gas Act wherein it requests issuance of a Commission order (a) making a service area determination within which Great Plains may enlarge or extend its facilities without further Commission authorization; (b) holding that Great Plains qualifies as a local distribution company (LDC) in the service area to be determined, for purposes of section 311 of the Natural Gas Policy Act of 1978 (NGPA); and (c) waiving the regulatory requirements ordinarily applicable to natural gas companies under the NGA and NGPA, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Great Plains states that it is engaged in the retail distribution of natural gas for use in seventeen communities in the state of Minnesota and one community in the state of North Dakota and that its rates and services provided to these communities are regulated by the Minnesota Public Utilities Commission (MPUC) and the North Dakota Public Service Commission (NDPSC). The communities served include Fergus Falls, Pelican Rapids, Breckenridge, Crookston, Belview, Boyd, Clarkfield,

Danube, Dawson, Echo, Granite Falls, Marshall, Montevideo, Redwood Falls, Renville, Sacred Heart, and Wood Lake, all in Minnesota, and Wahpeton, North Dakota. Except for service to the communities of Fergus Falls, Pelican Rapids, Breckenridge and Wahpeton, Great Plains states that all its facilities in these communities are strictly distribution facilities and therefore exempt from Commission jurisdiction pursuant to section 1(b) of the NGA.

Great Plains states that by the Commission's Opinion No. 469 issued on August 10, 1965, in Midwestern Gas Transmission Company (Midwestern), *et al.*, Docket No. CP64–308, *et al.*, 34 FPC 457, it was authorized to construct and operate a high-pressure transmission lateral to serve the communities of Fergus Falls, Pelican Rapids and Breckenridge, all in Minnesota and the community of Wahpeton in North Dakota. This transmission line measures approximately 65 miles and extends from the interconnection with Viking Gas Transmission Company's (formerly Midwestern) system at Luce in north central Otter Tail County, Minnesota through the communities of Pelican Rapids and Fergus Falls in Otter Tail County, Minnesota and the community of Breckenridge in Wilkin County, Minnesota across the Red River to the community of Wahpeton in Richland County, North Dakota. Great Plains states that the exclusive function of this transmission line is to transport gas to Great Plains' distribution facilities in the four above communities served and that it is the area served by these transmission facilities that Great Plains proposes to be designated by the Commission as Great Plains service area.

Thus, Great Plans requests that the Commission make a service area determination for Great Plains pursuant to section 7(f) of the NGA, consisting of Otter Tail and Wilkin Counties, Minnesota and Richland County, North Dakota. In support of its request Great Plains states that it satisfies the criteria the Commission has cited in the past in considering section 7(f) applications. That is, Great Plains does not make any gas sales for resale, nor does it have any plans to do so; its rates and services within the requested service area are regulated by the MPUC and NDPSC; it does not have an extensive transmission system; and the requested service area determination would have no effect on neighboring distribution companies.

Great Plains also seeks a waiver by the Commission of all reporting and accounting requirements and rules and regulations which are ordinarily applicable to natural gas companies, so that Great Plains will have the same regulatory treatment as any other LDC that is not regulated by the Commission. Great Plains states that such a waiver is appropriate since it would eliminate costly reporting, accounting, and regulatory requirements duplicating those already imposed by the MPUC and NDPSC.

Lastly, Great Plains requests that the Commission grant it treatment as a LDC for purposes of section 311 of the NGPA. Great Plains states that such treatment would ensure that it would have access to transportation of gas by interstate pipelines under section 311 of the NGPA, and would be consistent with other orders of the Commission under section 7(f).

Comment date: March 26, 1993 in accordance with Standard Paragraph F at the end of the notice.

3. Colorado Interstate Gas Company

[Docket No. CP93–227–000]

Take notice that on February 26, 1993, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP93–227–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service for Coastal Gas Marketing Company (Coastal), all as more fully set forth in the application which is on file, with the Commission and open to public inspection.

CIG proposes to abandon the transportation of up to 50,000 Mcf per day for Coastal from various points on CIG's system to points in Hutchinson and Moore Counties, Texas. It is stated that the transportation service was carried out under the terms of a transportation agreement on file as CIG's Rate Schedule X–61 of its FERC Gas Tariff, Original Volume No. 2. It is asserted that the term of the agreement has expired and that no gas has been transported under the agreement since 1987. It is further asserted that Coastal does not desire to extend the agreement. It is explained that the abandonment will have no effect on CIG's system design capacity or operation.

No facilities are proposed to be abandoned herein.

Comment date: March 26, 1993, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulation's under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rule.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5707 Filed 3–11–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 93–10–NG]

TransCanada Pipelines Limited; Order Granting Blanket Authorization to Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting TransCanada PipeLines Limited authorization to import up to 500,000 Mcf day of Canadian natural gas and export up to 500,000 Mcf per day of Canadian natural gas over a two-year term beginning on the date of fist import or export.

A copy of this order is available for inspection and copying in the Office of Fuels Program Docket Room, 3F–056,

Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 5, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–5744 Filed 3–11–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00352; FRL–4573–3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. Because EPA is requesting an expedited review, this notice includes the specific data items being collected. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before March 29, 1993.

ADDRESSES: Additional information supporting this action is available for public inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays in: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, Cystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, Telephone: (703–305–5805).

FOR FURTHER INFORMATION CONTACT: Sandy Farmer, Information Policy Branch, Environmental Protection Agency (PM–223Y), 401 M St., SW., Washington, DC 20460, Telephone: (202) 260–2740.

SUPPLEMENTARY INFORMATION:

This is a request for reinstatement of a previously approved collection (EPA ICR number 0152.04; OMB number 2070–0020), for the Notice of Arrival of Pesticides and Devices (NOA) Form (EPA Form No. 3540–1) in support of the Federal Insecticide, Fungicide, and Rodenticide Act and U.S. Customs Service regulations (19 CFR 12.112 – 12.117) which require that an NOA be submitted to the Regional EPA office by importers of pesticides and devices prior to their importation, and a copy to the U.S. Customs Service at the time of importation.

I. Elements of the Notice of Arrival of Pesticides and Devices Form

The NOA form will contain the following information requirements:

1. *The name and address of broker or agent.* Self explanatory.

2. *Name and address of importer or consignee.* Self explanatory.

3. *Name and address of shipper.* The person exporting the pesticide to the United States.

4. *EPA registration number.* This is the product registration number assigned to the pesticide product by EPA at the time of registration. If the product is a device not obligated to have a registration number, the importer must write the word "device" in the block.

5. *EPA producer establishment number.* The pesticide product or device must have the establishment number where the product underwent final product printed on the label. That establishment number which appears on the product or device is the information sought in this box.

6. *Brand name of product.* Name under which the product is sold.

7. *Major active ingredients and percentage of each:* If the product is registered by the EPA, this question may be left blank. If the product is not registered, then the active ingredients must be entered (or two major ingredients) and their percentages of each.

8. *Unit size.* Self explanatory.

9. *Quantity.* Self explanatory.

10. *Total net weight.* Self explanatory.

11. *Country of origin.* The country where the pesticide producing establishment is located.

12. *Port of entry.* Self explanatory.

13. *Carrier.* For example, the ship's name, airline or trucking company, etc..

14. *Entry number.* Self explanatory.

15. *Entry date.* Self explanatory.

16. *Confidential business information declaration.* Information required in blocks 4, 5, 6, and 7 are not entitled to FIFRA/CBI treatment under section 7(d) and under labeling requirements for pesticides at 40 CFR 156.10. Information provided in those blocks will be made public without further notice.

17. *Location of goods for examination after importation.* Self explanatory.

18. *Remarks.* Self explanatory.

19. *Printed name of importer or agent, telephone number.* Self-explanatory.

20. *Signature of importer or agent, date signed.* Self explanatory.

EPA Form 3540–1 is a four part carbon identified as: Official File Copy (white), Customs' Copy (yellow), Importer's Copy (gold), and U.S. EPA Copy (pink).

II. Form and Instructions

The form and instructions follow

BILLING CODE 6560–50–F

United States Environmental Protection Agency
Washington, DC 20460

EPA Notice of Arrival of Pesticides and Devices

Note: Read instructions on reverse before completing form

Send Completed Form to Appropriate Regional Office Listed on the Reverse of this Form.

Form Approved
OMB No. 2070-0020
Approval expires 11-30-91

Part I: To Be Completed by Importer or Agent

1. Name and Complete Address of Broker or Agent

☐ Return Form to this Address

2. Name and Complete Address of Importer or Consignee

☐ Return Form to this Address

3. Name and Address of Shipper

4. EPA Registration Number

5. EPA Producer Establishment No.

6. Brand Name of Product

7. Major Active Ingredients and Percentage of Each

8. Unit Size	9. Quantity	10. Total Net Weight	11. Country of Origin

12. Port of Entry

13. Carrier

14. Entry Number

15. Entry Date

16. I assert that information constituting Confidential Business Information is shown in the above blocks numbered (Note Blocks 4,5,6,7 are not entitled to CBI treatment --see Instructions)

17. Location of Goods for Examination After Importation

18. Remarks

Certification

I certify that the statements I have made on this form and all attachments thereto are true, accurate, and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law

19. Printed Name of Importer or Agent	Telephone Number	20. Signature of Importer or Agent	Date Signed

Part II: To Be Completed by U.S. Environmental Protection Agency

Action to be taken on shipment by U.S. Customs Service

☐ Release Shipment ☐ Detain for Inspection ☐ Release shipment to consignee under bond. Shipment must be held intact pending inspection

☐ Other *(Specify)*

Remarks

Signature and Title of EPA Official

Date

Part III: To Be Completed by U.S. Customs Service

The information shown in Part I was compared with the entry papers for this shipment and no discrepancies were noted. The shipment was handled as instructed by EPA in Part II. Any deviations should be brought to the attention of EPA before releasing shipment and should also be noted in "Remarks."

Remarks

Signature of District Director of Customs

Date

EPA Form 3540-1 (Rev. 6-90) Previous Editions Are Obsolete

Official File Copy

Instructions

Customs Regulations. 19 CFR Part 12.112, require an importer desiring to import pesticides or devices into the United States to submit EPA Form 3540-1, Notice of Arrival of Pesticides and Devices, to the U.S. Environmental Protection Agency prior to the arrival of the shipmnent in the United States. This form will be used by:

Importer or Agent. The Importer or his agent must complete Part I of the form to the maximum extent possible. It may be necessary to complete some of the items at the time of entry, e.g., entry data, carrier. To expedite the handling of pesticide shipments, submit this form to the EPA office listed below having jurisdiction over the state/territory in which the Port of Entry is located prior to the arrival of the shipment.

EPA. Part II of this form will be completed by EPA. EPA will retain the EPA Copy for its files and return the other copies to the importer or agent for presentation to Customs at the time of entry.

Customs - Customs will compare the information shown on this form with the entry documents and the shipment. Bring any discrepancies to the attention of EPA before the shipment is released and noted in the remarks section. If the importation is not handled by Customs in the manner instructed in Part II, this should also be noted in the remarks. All data left blank by the importer (e.g., entry date) must be completed at this time. After completion of Part III and signing the form, Customs will return the Official File Copy to EPA and retain the Custom's Copy.

The following blocks are self-explanatory - 1, 2 ,8, 9, 10, 12, 14, 15, 17, 18, 19, and 20.

3. Name and Address of Shipper. The name and address of person exporting the pesticide to the United States.

4. EPA Registration No. The product registration number assigned at the time of registration which identifies the product. If the product is a device, write the word "device" in this block.

5. EPA Producer Establishment No. The producing establishment registration number which identifies where the product or device was produced.

6. Brand Name of Product. Name under which the product is sold.

7. Major Active Ingedients and Percentage of Each. If block 4 contains registration number, leave blank. If no registration number, list active ingredients (or two major ingredients and percentage of each).

11. Country of Origin. The country in which the pesticide producer is located.

13. Carrier. E.g., ship's name, airline or trucking company.

16. Confidential Business Information (CBI) Designation. Please note that the information provided in blocks 4,5,6 and 7 is not entitled to confidential treatment under section 7(d) of FIFRA and under labeling requirements for pesticides at 40 CFR 156.10 Information provided in those blocks will be made public with no further notice.

EPA Regional Offices	States Covered			EPA Regional Offices	States Covered		
EPA Region I J.F Kennedy Fed Bldg Boston MA 02203-2211	CT NH	MA RI	ME VT	EPA Region VI 1445 Ross Ave. Dallas, TX 75202-2733	AR, OK	LA TX	NM
EPA Region II Woodbridge Ave. Edison, NJ 08837	NJ PR	NY VI		EPA Region VII 726 Minnesota Ave Kansas City, KS 66101	IA, MO	KS NB	
EPA Region III 841 Chestnut Building Philadelphia, PA 19107	DE MD VA	DC PA WV		EPA, Region VIII Suite 500 One Denver Place 999 18th St. Denver, CO 80202-2413	CO ND UT	MT SD WY	
EPA Region IV 345 Courtland St.NE Atlanta, GA 30365	AL KY SC	FL MS TN	GA NC	EPA,Region IX 1235 Mission St. San Francisco, CA 94105	AZ GU PI	AS HI WK	CA NV
EPA Region V 230 South Dearborn St. Chicago, IL 60604	IL OH MN	IN MI WI		EPA, Region X 1200 Sixth Ave Seattle, WA 98101	AK OR	ID WA	

EPA Form 3540-1 (Rev. 6-90)

III. Public Burden

Public reporting burden for this collection of information is estimated to be .3 hour per NOA including time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the application.

Respondents: Persons importing pesticide products and devices.

Estimated number of respondents: 7,000 annually.

Estimated number of responses per respondent: One.

Frequency of collection: Once per pesticide or device imported.

Estimated total annual burden on respondents: 2,100 hours.

An expedited request is made under the Paperwork Reduction Act (5 CFR 1320.18). To provide the NOA to persons intending to import pesticides or devices, and to provide time to print sufficient copies of the forms for persons already requesting them, the EPA has requested OMB clearance by late February 1993. Send comments regarding the burden estimate, or any aspect of this collection of information, including suggestions for reducing the burden to: Sandy Farmer, Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M St., SW., Washington, DC 20460, and Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: February 3, 1993.

Paul Lapsley,

Director, Regulatory Management Division, Office of Policy Planning and Evaluation.

[FR Doc. 93–5727 Filed 3–11–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4603–9]

Notice of Approval of PSD Permits

Notice is hereby given that the Environmental Protection Agency (EPA), Region 6, has issued Prevention of Significant Deterioration (PSD) permits to the following:

1. Belvieu Olefins Partners Project—Permit PSD–TX–796, which was issued on January 2, 1992, authorized the construction of a new oleflex facility to be located adjacent to Hatcherville Road, approximately 1 mile west of State Highway 146, near Mont Belvieu, Chambers County, Texas.

2. City Public Service—Permit PSD–TX–742M–1 modifies PSD–TX–742 to authorize changes in the coal handling facility at the existing Calaveras Lake Generating Station located at 9599 Gardner Road, approximately 5 miles northeast of Elmendorf, Bexar County, Texas. This modified permit was issued on February 11, 1992.

3. Graham Energy, Limited—Permit PSD–TX–665M–2 modifies permit PSD–TX–665M–1 to authorize the injection of acid gases, currently being routed to the flare, into the formation. The company also replaced two compressor engines of equivalent size, and equipped all four of the compressor engines with catalytic converters. This facility will no longer be a PSD major stationary source as a result of this request. However, the source prefers to retain its permit and have it modified. A special provision has been added to restrict the facility's use of the flare only in periods of upset and/or emergency conditions. This modified permit was issued on February 11, 1992.

4. Amoco Chemical Company—Permit PSD–TX–793, which was issued on February 27, 1992, authorizes the debottlenecking of the No. 2 olefins plant at the existing Chocolate Bayou complex located on FM Road 2004, approximately 7 miles southeast of Liverpool, Brazoria County, Texas.

5. Koch Refining Company—Permit PSD–TX–413M–4 modifies PSD–TX–413M–2 to authorize the modification of the existing continuous catalyst regenerator unit and increase the throughput of the naphtha hydrotreater unit at the East plant located at 9254 Up River Road, Corpus Christi, Nueces County, Texas. Permit PSD–TX–413M–3 has been incorporated into PSD–TX–413M–4. This modified permit was issued on March 31, 1992.

6. Capitol Aggregates, Incorporated—Permit PSD–TX–120M–3 modifies PSD–TX–120M–2 to authorize the installation of a new finishing mill parallel to the existing mill at the Portland cement facility located at 11551 Nacogdoches Road, San Antonio, Bexar County, Texas. This modified permit was issued on April 2, 1992.

7. Mesa Operating Limited Partnership—Permit PSD–TX–798, which was issued on May 4, 1992, authorizes the increase of the natural gas processing capacity from 80 MMSCFD to 120 MMSCFD at the existing Fain natural gas processing plant located off Highway 287, approximately 20 miles northwest of Amarillo, Potter County, Texas.

8. Belvieu Environmental Fuels Project—Permit PSD–TX–797, issued on May 13, 1992, authorizes the construction of a 15,000 barrel per day methyl-tertiary-butyl-ether production facility at the intersection of FM Road 1942 and Hatcherville Road in Mont Belvieu, Chambers County, Texas.

9. Shintech, Incorporated—Permit PSD–TX–285M–4 modifies PSD–TX–285M–3 to authorize the construction of a new polyvinyl chloride (PVC) production train (EX–6) capable of producing 360 million pounds of PVC per year, and the increase of the capacity of train EX–5 by 50 million pounds of PVC per year at the PVC facility located at 5618 Highway 332 East, Freeport, Brazoria County, Texas. This modified permit was issued on May 18, 1992.

10. Mobil Chemical Company—Permit PSD–TX–755, which was issued on May 21, 1992, authorizes the construction of an olefins unit at the existing olefins plant located at 9822 LaPorte Freeway, Houston, Harris County, Texas.

11. Mobil Oil Corporation—Permit PSD–TX–768M–1 modifies PSD–TX–768 to authorize an increase in the amount of crude processed and to increase the high quality gasoline rate at the existing refinery located at the end of Burt Street, Beaumont, Jefferson County, Texas. This modified permit was issued on May 28, 1992.

12. International Paper Corporation—Permit PSD–TX–766, which was issued on June 10, 1992, authorizes the installation of a flake dryer and the increase from 124,700 tons per year of product based on 6800 hours per year of operation to 227,760 tons per year of product based on 8760 hours per year of operation at the existing oriented strand board plant located on Highway 59 in Nacogdoches, Nacogdoches County, Texas.

13. Phibro Energy USA—Permit PSD–TX–767M–1 modifies PSD–TX–767 to authorize the shut down of grandfathered boilers BS–5 and BS–11 instead of grandfathered boiler BS–7 after the start-up of the permitted cogeneration units at the existing refinery located at 9701 Manchester, Houston, Harris County, Texas. This modified permit was issued on June 10, 1992.

14. Oryx Energy Company—Permit PSD–TX–741M–2 modifies PSD–TX–741M–1 to authorize the installation of two natural gas fired compressor engines and a small heater to the existing compressor station located off FM Road 2294, approximately 4.5 miles southwest of San Isidro, Starr County, Texas. This modified permit was issued on June 10, 1992.

15. Oyster Creek, Limited—Permit PSD–TX–800, which was issued on June 10, 1992, authorizes the construction of a natural gas fired turbine cogeneration facility at the existing Dow Chemical Company complex located at the intersection of State Highway 332 and

FM Road 523, approximately one mile northeast of Freeport, Brazoria County, Texas.

16. Mobil Oil Corporation—Permit PSD–TX–799, which was issued on June 18, 1992, authorizes the construction of a cogeneration facility at the existing refinery located at the end of Burt Street, Beaumont, Jefferson County, Texas.

17. Cogen Lyondell, Incorporated—Permit PSD–TX–493M–3 modifies PSD–TX–493M–2 to authorize the sampling of only one of the five sources, since the units are identical, using the alternative fuel mixture authorized in TX–493M–2 at the existing cogeneration facility located at 2330 Sheldon Road, Channelview, Harris County, Texas. This modified permit was issued on June 24, 1992.

18. Structural Metals, Incorporated—Permit PSD–TX–708M–2 modifies PSD–TX–708 to authorize an increase in the carbon monoxide emission limit from the electric arc furnace "C" from 103 lb/hr to 148 lb/hr, and the installation of a ladle metallurgy station on"C" at the existing steel mill located near the intersection of FM road 1620 and FM Road 464, approximately 2.5 miles west of Seguin, Guadalupe County, Texas. Modification request numbered TX–708M–1 is incorporated into TX–708M–2 and the consolidated permit was issued on June 30, 1992.

19. Shintech, Incorporated—Permit PSD–TX–285M–5 modifies PSD–TX–285M–4 to authorize the addition of a seventh polyvinyl chloride (PVC) storage silo to the existing storage silo facility and increase the throughput from 55 million pounds per month to 80 million pounds per month at the PVC facility located at 5618 Highway 332 East, Freeport, Brazoria County, Texas. This modified permit was issued on July 22, 1992.

These permits have been issued under EPA's Prevention of Significant Air Quality Deterioration Regulations at 40 CFR 52.21, as amended August 7, 1980. The time period established by the Consolidated Permit Regulations at CFR 124.19 for petitioning the Administrator to review any condition of the permit decisions has expired. Such a petition to the Administrator is, under 5 U.S.C. 704, a prerequisite to the seeking of judicial review of the final agency action. No petitions for review of these permits have been filed with the Administrator.

Documents relevant to the above actions are available for public inspection during normal business hours at the Air, Pesticides and Toxics Division, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202.

Under section 307(b)(1) of the Clean Air Act, judicial review of the approval of these actions is available, if at all, only by the filing of a petition for a review in the United States Fifth Circuit Court of Appeals within 60 days of March 12, 1993. Under section 307(b)(2) of the Clean Air Act, the requirements, which are the subject of today's notice, may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

This notice will have no effect on the National Ambient Air Quality Standards.

The Office of Management and Budget has exempted this information notice from the requirements of section 3 of Executive Order 12291.

Dated: February 4, 1993.

Joe D. Winkle,

Acting Regional Administrator, Region 6.

[FR Doc. 93–5662 Filed 3–11–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4604–5]

Proposed Consent Decree in Settlement of Litigation; Suit to Compel Promulgation of Conformity Regulations Under Clean Air Act Section 176(c)

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act ("Act"), notice is hereby given of a proposed consent decree in settlement of litigation instituted against the Environmental Protection Agency ("EPA") regarding the fact that EPA has not promulgated final rules under section 176(c)(4) of the Act establishing criteria and procedures for determining the conformity of certain federal actions to State Implementation Plans (SIPs) providing for attainment of the National Ambient Air Quality Standards (NAAQS). *Environmental Defense Fund, Inc., et al.*, v. *EPA, et al.*, N.D. 92–1636 TEH.

The parties to the litigation, desiring to settle the matter without extensive proceedings, entered into a proposed consent decree that obligates EPA to propose such conformity regulations by March 8, 1993, and to promulgate final conformity regulations by October 15, 1993. The proposed consent decree has been signed by counsel for all parties and is currently pending before the court. Pursuant to section 113(g), the decree may not be entered by the court until the public has had the opportunity to comment on the terms of the proposed decree.

For a period of thirty [30] days following the date of publication of this notice, the Agency will receive written comments relating to the proposed consent decree. EPA or the Department of Justice may withhold or withdraw consent to the proposed decree if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

Copies of the proposed consent decree are available from Sara Schneeberg, Air and Radiation Division (LE–132A), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–7723. Written comments should be sent to Sara Schneeberg at the above address and must be submitted on or before April 12, 1993.

Dated: February 18, 1993.

Gerald H. Yamada,

Deputy General Counsel.

[FR Doc. 93–5731 Filed 3–11–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4604–7]

Clean Air Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with 40 CFR 2.301(h)(2) EPA has determined that Wayne State University requires access, on a need-to-know basis, to CBI materials submitted to EPA under title II, section 208, of the Clean Air Act (CAA). This access is necessary to this contractor's performance under EPA contract number 68–W3–0013.

DATES: The transfer of such data to this EPA contractor will occur on April 1, 1993.

FOR FURTHER INFORMATION CONTACT: Clifford D. Tyree, Project Manager/Freedom of Information Act Officer, Certification Division, Ann Arbor, MI 48105, telephone (313) 668–4310.

SUPPLEMENTARY INFORMATION: Title II of the Clean Air Act (CAA) requires that manufacturers of light-duty vehicles, light-duty truck, heavy-duty engines, and motorcycles meet applicable exhaust emission standards. Section 208 of the CAA requires these manufacturers to provide "* * * such information as the Administrator may reasonably

require * * *." Because this information is collected under section 208 of the Act, EPA possesses the authority to disclose said information to its authorized representatives. EPA provides a recommended application format identifying the information needed to support their assertions their vehicles/engines comply with the applicable emission standards. Each manufacturer is required to submit an application for certification for a certificate of conformity to the applicable regulations. These data include vehicle descriptions, engine/vehicle descriptions, emission control system descriptions and calibrations, and sales information. EPA has encouraged the manufacturers to submit as much of this information as possible in an electronic format, and a majority of manufacturers do so. To accomplish this, each manufacturer has obtained an account at the contract computer center and provides EPA with access to their account containing this information. EPA accesses this information and compiles it in the appropriate files for use in support of each manufacturer's application for certification.

Under contract No. 63–W3–0013, Wayne State University will continue to provide computer timesharing services for the Certification Division to access the data submitted by the manufacturers to support their respective exhaust emission and fuel economy programs. This contractor's responsibility is to maintain the integrity of the transfer of these data. In order to perform this function the contractor may, on a need-to-know basis, have access to these data. The contractor's address is:

Wayne State University, Computing Information Technology, 5925 Woodward Avenue, Detroit, Michigan 48202. This contract will prohibit the use of the information for any purpose not specified in the contract; will prohibit the disclosure, in any form, to a third party; and will require that each official and employee of the contractor with access to the confidential information sign an agreement to protect the information from unauthorized release or access.

Dated: March 4, 1993.

Michael H. Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93–5730 Filed 3–11–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4602–9]

Final Documents: Employee Commute Options Guidance; Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Employee Commute Options final guidance is now available that provides EPA's interpretation of the employer trip reduction provision of the Clean Air Act, section 182(d)(1)(B).

DATES: The guidance document was issued December 17, 1992.

ADDRESSES: The document is available to Federal, State, and local governmental Agencies and may be requested from Ms. Marjorie Sinclair, Emission Control Strategies Branch, U.S. EPA National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Telephone: (313) 668–4259. Facsimile: (313) 668–4531. It is suggested that requests be made by facsimile. Copies of the document will be available for public viewing in the National Vehicle and Fuel Emissions Laboratory Library, at the same address. The document will be available to non-governmental requestors through the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. Telephone: (703) 487–4650. A copy of the document may be downloaded via computer modem from the Technology Transfer Network Bulletin Board System of the Office of Air Quality Planning and Standards. The guidance is available from the Clean Air Act Amendments heading of the top menu listed under Title I, Policy Guidance Documents. Modem access number is: (919) 541–5342 300/1200/2400/HST Dual Standard 9600 baud. Voice contact number is: (919) 541–5384.

FOR FURTHER INFORMATION CONTACT: Ms. Constance H. Ruth, Emission Control Strategies Branch, U.S. EPA National Vehicles and Fuels Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Facsimile: (313) 668–4531.

SUPPLEMENTARY INFORMATION: Section 182(d)(1)(B) of the Clean Air Act as amended November 15, 1990, requires States in severe and extreme ozone nonattainment areas and serious carbon monoxide nonattainment areas to submit to the Environmental Protection Agency state implementation plans to develop Employee Commute Options programs for employers with 100 or more employees. Such employers need to develop compliance plans designed to increase the average passenger occupancy of their employees who commute to work during the peak period by 25% above the average passenger occupancy of the nonattainment area. Employers will submit to the State such compliance plans within two years after the State has submitted a state implementation plan to the Environmental Protection Agency. Employer compliance plans shall "convincingly demonstrate compliance" not later than four years after the state implementation plan has been submitted to the Environmental Protection Agency.

The guidance document provides those States subject to this provision with EPA's interpretation of this statutory requirement. Included in the document are: Pertinent definitions; information regarding state implementation plan submittal requirements; averaging, banking and trading; costs and benefits; and best practices.

Dated: March 2, 1993.

Michael H. Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93–5663 Filed 3–11–93; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4597–5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 22, 1993 Through February 26, 1993 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1992 (57 FR 12499).

Other

ERP No. A–NSF–A29003–00, Initial Environmental Evaluation (IEE) of the US Antarctic Program's, Management of Food Wastes at McMurdo Station, Antarctica for 1993–1995.

Summary:

EPA's comments concerned the amount and type of waste being generated or expected to be generated and subjected to the various waste management practices. EPA believed that portions of the IEE contain information that is inconsistent with the

references cited, and that additional data is needed on the reliability of this new technology to manage food wastes in an extreme environment.

Draft EISs

ERP No. D–BLM–K60023–CA Rating EO2, Rail-Cycle-Bolo Station Class III Nonhazardous Waste Landfill Project, Construction and Operation, Federal Land Exchange and Right-of-Way Grants, San Bernardino County, CA.

Summary:

EPA expressed environmental objections due to potential project impacts to air and water quality and the need for additional information in the Final EIS regarding air quality impacts, groundwater monitoring, design and management of the leachate collection system and landfill cover, and the biological opinion for the desert tortoise.

ERP No. D–FRC–E03004–00 Rating EC2, West-East Cross Interstate Natural Gas Pipeline Project, Construction and Operation, Section 10 and 404 Permits, NPDES Permit and Right-of-Way Grant, several Parishes, LA and several Counties, MS.

Summary:

EPA indicated that the functions and values of forested wetlands projected to be lost along the pipeline corridor need to be restored or otherwise mitigated. EPA recommended that the FERC commit to the environmental recommendations presented in the DEIS as FERC licensing conditions.

ERP No. D–FRC–K05051–CA Rating EC2, Lower Mokelumne River Hydroelectric Project Modifications, Licensing, (FERC. No. 29116–004), Parts of Pardee and Camanhe Dams, Mokelumne River, CA.

Summary:

EPA expressed concerns due to potential cumulative impacts to flows from upstream developments and their effect on the project sponsor's ability to achieve the project goals. The DEIS did not fully discuss issues, of potential minimum flow, pool impacts, and temperature effects.

ERP No. D–USA–K11016–CA Rating EO2, Fort Ord Disposal and Reuse Installation, Implementation, Establishment of Presidio of Monterey (POM) Annex, Cities of Marina and Seaside, Monterey County, CA.

Summary:

EPA expressed environmental objections due to the need for adequate coordination between base reuse and hazardous waste cleanups and hazardous waste management, impacts to air and water quality, the protection and preservation of significant natural resources, such as wetlands, and the evaluation of achievable reuse alternatives. EPA noted that the proposed alternatives may not be achievable or acceptable without modifications to encourage economic development in an environmental framework.

Final EISs

ERP No. F–AFS–B61017–NH, Loon Mountain Ski Area, South Mountain Expansion Project, Special Use Permit, White Mountain National Forest, Grafton County, NH.

Summary: EPA had environmental objection to the proposed development of a ski area on South Mountain in Lincoln, New Hampshire, based on longstanding concerns about impacts to water resources from artificial snowmaking water withdrawals and the ability of local infrastructure (wastewater treatment, water supply, and traffic operations) to accommodate projected growth as a result of the project. EPA also raised serious concerns about the cumulative impacts that would result from this and other ski area expansions in the White Mountain National Forest.

ERP No. FR-AFS-K65138–CA, Red Hill Planning Area Timber Sale, Implementation, Sequoia National Forest, Tule River Ranger District, Tulare County, CA.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

Dated: March 9, 1993.

B. Katherine Biggs,

Director, Special Programs and Analysis Division Office of Federal Activities.

[FR Doc. 93–5756 Filed 3–11–93; 8:45 am]

BILLING CODE 5580-50-P

[FRL 4063–7]

The Green Pages Listing of U.S. Suppliers of Environmental Products and Services

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: U.S. Environmental Protection Agency, in cooperation with Delphos International and the Department of Commerce, will publish a new directory called *The Green Pages* which will feature U.S. suppliers of environmental products and services.

The Green Pages will be bound into the 1993 edition of *THE EXPORT YELLOW PAGES* and will also be published as a stand-alone directory. In addition to worldwide distribution of 50,000 copies of *THE EXPORT YELLOW PAGES*, as many as 10,000 copies of *The Green Pages* will be distributed free of charge by EPA and other federal agencies.

Company listings are free of charge. To learn how to have your company listed in the 1993 edition of *The Green Pages*, contact Delphos International at 202–337–6300 by March 26, 1993.

DATES: Submit company information by March 26, 1993.

ADDRESSES: Submit information to Delphos International by phone at 202–337–6300.

FOR FURTHER INFORMATION CONTACT: If you have any further questions about this notice, please contact Scott Bidner, 202–260-2087.

Dated: March 5, 1993.

Scott Bidner,

International Activities Specialist.

[FR Doc. 93–5679 Filed 3–11–93; 8:45 am]

BILLING CODE 6560-50-P

[ER–FRL–4597–4]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 260–5076 or (202) 260–5075.

Weekly receipts of Environmental Impact Statements filed March 1, 1993 through March 5, 1993 pursuant to 40 CFR 1506.9.

EIS No. 930063, DRAFT EIS, AFS, MT, Buck-Little Boulder Timber Sales, Timber Harvest, Implementation, Bitterroot River, Bitterroot National Forest, West Fork Ranger District, Ravalli County, MT, Due: April 26, 1993, Contact: Chris Linkenhoker (406) 821–3269.

EIS No. 930064, DRAFT EIS, GSA, CA, Calexico East Border Station Construction and Road Construction, CA–7 between the new Port of Entry and CA–98 that borders the United States and Mexico, Funding and Right-of-Way Permit, City of Calexico, Imperial County, CA, Due: April 26, 1993, Contact: Alan R. Campbell (415) 744–5857.

EIS No. 930065, DRAFT EIS, NRC, UT, Uranium and Thorium Byproduct Material Disposal Project, Construction and Operation, Licenses, Salt Lake City, Tooele County, UT, Due: April 26, 1993, Contact: John J. Surmeier (301) 504–3439.

EIS No. 930066, FINAL EIS, AFS, CA, Last Chance Helicopter Timber Sale,

Harvesting Timber and Road Construction/Reconstruction, Plumas National Forest, Greenville Ranger District, Plumas County, CA, Due: April 12, 1993, Contact: Michael R. Williams (916) 284–7126.

EIS No. 930067, DRAFT SUPPLE, COE, CA, New San Clemente Project, Dam and Reservoir Construction, Monterey Peninsula Water Supply Management, New Information about the New Los Padres Project, Section 404 Permit, Carmel River, Monterey County, CA, Due: April 26, 1993, Contact: Roger Golden (415) 744–3344.

EIS No. 930068, FINAL EIS, TVA, TN, GA, AL, Tennessee River Chip Mill Barge Terminals, Construction and Operation, Issuance of Barge Terminal Permit and COE Section 10 and 404 Permit, several Counties, AL and TN, Due: April 12, 1993, Contact: M. Paul Schmierbach (615) 632–6584.

EIS No. 930069, DRAFT EIS, AFS, UT, WY, North Slope Oil and Gas Leasing, Application for Permit to Drill, High Uinta Mountains, Evanston and Mountain View Ranger Districts, Wasatch-Cache National Forest and Flaming Gorge District, Ashley National Forest, Intermountain Region, Summit and Daggett Counties, UT and Uinta County, WY, Due: May 11, 1993, Contact: Barry Buckhardt (801) 524–5030.

EIS No. 930070, FINAL EIS, AFS, AR, Mount Magazine State Park, Construction, Operation and Maintenance, Recreational Development Plan, Special Use Permit, Ozark National Forest, Logan County, AR, Due: April 12, 1993, Contact: Rob Kopack (501) 963–3076.

EIS No. 930071, DRAFT EIS, UAF, MI, Wurtsmith Air Force Base Disposal and Reuse, Implementation, Iosco County, MI, Due: April 26, 1993, Contact: Ltc. Gary Gaumgartel (210) 536–3869.

EIS No. 930072, FINAL EIS, FHW, NY, NY–96 Improvement, Meadow Street in the City of Ithaca to Duboise Road in the Town of Ithaca, Funding and COE Section 10 and 404 Permit, Tompkins County, NY, Due: April 12, 1993, Contact: Harold J. Brown (518) 472–3616.

EIS No. 930073, DRAFT EIS, UAF, AK, Ionospheric Research Facility for the High Frequency Active Auroral Research Program, Construction and Operation, Site Selection, COE Section 404 Permit and NPDES Permit, AK, Due: April 26, 1993, Contact: John Heckscher (617) 377–5121.

EIS No. 930074, DRAFT EIS, SFW, Refuges 2003—A Plan for the Future, National Wildlife Refuge Management Plan, Implementation, Due: June 10, 1993, Contact: Rob Shallenberger (703) 358–1744.

EIS No. 930075, DRAFT EIS, IBR, CA, Reclamation Reform Act of 1982 Implementation in the Central Valley Project, CA, Due: April 26, 1993, Contact: Darrell Cauley (303) 236–0511.

Dated: March 9, 1993.

B. Katherine Biggs,

Director, Special Programs and Analysis Division, Office of Federal Activities.

[FR Doc. 93–5754 Filed 3–11–93; 8:45 am]

BILLING CODE: 6560-50-F

[OPP–00353; FRL–4575–4]

Science Advisory Board/FIFRA Scientific Advisory Panel Special Joint Committee, Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given that a Special Joint Committee (SJC) of the Science Advisory Board and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) will hold a meeting which is open to the public. The main purpose of the meeting is to review pertinent, available information regarding the carcinogenicity of 2,4-D to humans. The Agency is asking the SJC to evaluate the weight of evidence of carcinogenicity of 2,4-D. Principal subjects to be discussed include human epidemiology data, a dog epidemiology study conducted by the National Cancer Institute, and results of laboratory animal testing with the main emphasis on carcinogenicity studies. The committee will also review other pertinent supporting information such as mutagenicity studies and metabolism data, as well as relevant information on contaminants in 2,4-D products. The committee will also be asked to comment on any additional studies, data, or other relevant information which should be considered by the Agency in forming an opinion or determination of the carcinogenicity of 2,4-D.

DATES: The meeting, which is open to the public, will be held on April 1 and 2, 1993. The meeting will start at 9 a.m. each day, and adjourn not later than 5 p.m. each day.

ADDRESSES: The meeting will be held at the Doubletree Hotel, 300 Army-Navy Drive, Arlington, VA. Telephone (703) 521–0286. Copies of documents relating to this review process, may be obtained by contacting: By mail: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, US Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: By mail: Robert B. Jaeger, Designated Federal Official, FIFRA Scientific Advisory Panel (H7509C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 819B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5369/5244 or: Samuel R. Rondberg, Designated Federal Official, Science Advisory Board (A101F), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. (202) 260–6552.

SUPPLEMENTARY INFORMATION: Any member of the public wishing to submit written comments should contact Robert B. Jaeger at the address or the phone number given above to be sure that the meeting is still scheduled and to confirm the Committee's agenda. Interested persons are permitted to file written statements before the meeting. To the extent that time permits and upon advance notice to the Designated Federal Official, interested persons may be permitted by the chairman of the SJC to present oral statements at the meeting. There is no limit on written comments for consideration, but oral statements before the Subpanel are limited to approximately 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. The public docket will be available for public inspection in room 1132 Bay at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. All statements will be made part of the record and will be taken into consideration by the Committee.

Persons wishing to make oral and/or written statements should notify the Designated Federal Official and submit twenty copies of each no later than March 24, 1993, in order to ensure appropriate consideration by the Committee.

Dated: March 8, 1993.

Victor J. Kimm,

Acting Assistant Administrator, Prevention, Pesticides and Toxic Substances.

[FR Doc. 93–5726 Filed 3–11–93; 8:45 am]

BILLING CODE 6560-50-F

[FRL–4603–5]

Proposed Administrative Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act; Western Sand & Gravel Superfund Site, Burrillville & North Smithfield, RI

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed administrative settlement and request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to enter into an administrative settlement to address claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601. Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. The settlement is intended to resolve the liability under CERCLA of Franklin Environmental Services, Inc., for costs incurred by EPA in conducting response actions at the Western Sand and Gravel Superfund Site in Burrillville and North Smithfield, Rhode Island as of December 10, 1991.

DATES: Comments must be provided on or before April 12, 1993.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building—RCG, Boston, Massachusetts 02203, and should refer to: In the matter of Western Sand & Gravel Superfund Site, Burrillville and North Smithfield, Rhode Island, U.S. EPA Docket No. I–92–1066.

FOR FURTHER INFORMATION CONTACT: Brian Rohan, U.S. Environmental Protection Agency, Office of Regional Counsel, RCU, J.F.K. Federal Building, Boston, Massachusetts 02203, (617) 565–3699.

SUPPLEMENTARY INFORMATION: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement concerning the Western Sand & Gravel Superfund Site in Burrillville and North Smithfield, Rhode Island. The settlement was approved by EPA Region I on January 14, 1993 subject to review by the public pursuant to this Notice. Franklin Environmental Services, Inc. has executed a signature page committing it to participate in the settlement. Under the proposed settlement, Franklin is required to pay $39,216.73 to the Hazardous Substances Superfund, as well as contribute to the performance of the third operable unit remedy at the Site. Several other parties have previously agreed to perform that remedy. EPA believes the settlement is fair and in the public interest.

EPA is entering into this agreement under the authority of section 122(h) of CERCLA. Section 122(h) of CERCLA provides EPA with authority to consider, compromise, and settle a claim under section 107 of CERCLA for costs incurred by the United States if the claim has not been referred to the U.S. Department of Justice for further action. The U.S. Department of Justice approved this settlement in writing on February 18, 1993.

EPA will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice.

A copy of the proposed administrative settlement may be obtained in person or by mail from Brian Rohan, U.S. Environmental Protection Agency, Office of Regional Counsel, JFK Federal Building—RCU, Boston, Massachusetts 02203, (617) 565–3699.

The Agency's response to any comments received will be available for public inspection with the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building—RCG, Boston, Massachusetts (U.S. EPA Docket No. I–92–1066).

Dated: February 24, 1993.

Patricia L. Meaney,

Acting Regional Administrator.

[FR Doc. 93–5665 Filed 3–11–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4602–8]

Privacy Act; Contract Manager Record System

AGENCY: Environmental Protection Agency.

ACTION: Notice of a new Privacy Act system of records.

SUMMARY: As required by the Privacy Act of 1974 (5 U.S.C. 552a) the Environmental Protection Agency (EPA) is proposing to establish and maintain a new system of records, the "*Contract Manager Record System*". The purpose of the system is to assure the proficiency of the Agency's contract management workforce by identifying and tracking those EPA employees who have been certified as contract managers under the Agency's certification program set forth in Chapter 7 of the EPA Contract Management Manual. Records in this system will be used to validate certification and/or training accomplishments, interim certification, and requirements in support of the contract managers award program. The system contains data on EPA employees who have taken the contract management training courses required for certification, including the Basic training course, the Contract Administration training course and the Recertification course.

The Privacy Act permits agencies to disclose information without the consent of the individual for "routine uses", that is for purposes that are compatible with the use for which the information is collected. The routine uses proposed for this system meet this compatibility requirement.

EFFECTIVE DATE: This proposed system of records shall be effective, without further notice, May 11, 1993, unless EPA receives comments which would result in a contrary determination.

ADDRESSES: Comments should be addressed to: D. Kent Goodger, Environmental Protection Agency, Procurement Policy Staff, Procurement and Contracts Management Division, (PM–214F), 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: D. Kent Goodger, Procurement Analyst, PPS, PCMD, (PM–214F) 401 M Street SW., Washington, DC 20460. Telephone number: (202) 260–4570.

Dated: February 22, 1993.

Sallyanne Harper,

Acting Assistant Administrator.

EPA–31

SYSTEM NAME:

Contract Manager Record System, EPA/PCMD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Environmental Protection Agency, Procurement Policy Staff, Procurement and Contracts Management Division, (PM–214F), 499 South Capitol Street SW., 2nd floor, Washington, DC 20003.

CATEGORIES OF INDIVIDUALS IN SYSTEM:

Environmental Protection Agency (EPA) employees performing contract management or contract management related functions which are subject to the Agency certification program and who are certified, as set forth in Chapter 7 of the EPA Contracts Management Manual.

CATEGORIES OF RECORDS IN SYSTEM:

This system contains training records pertaining to the EPA Procurement

Contracts Management Division (PCMD) certification program for contract managers. Records in the system include the individuals' training histories which contain such data as full name, title, organization, mail code, business address, work phone number, information about previously taken contract management courses, course completion dates, and interim certification status.

AUTHORITY FOR MAINTENANCE OF SYSTEM:

41 U.S.C. 414 (The Office of Federal Procurement Policy Act of 1974, as amended).

PURPOSE(S):

Records in this system are used to assure a proficient contract management workforce by identifying EPA employees who have been certified as Contract Managers, pursuant to the certification requirements contained in Chapter 7 of the EPA Contract Management Manual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USE:

Records in this system may be disclosed:

1. To a Member of Congress or a congressional office in response to an inquiry from that member or office made at the request of the individual to whom the record pertains.

2. To EPA contractors, grantees or volunteers who have been engaged to assist EPA in the performance of a contract, or other activity related to this system of records and who need to have access to the records in order to perform the activity.

3. To a Federal agency which has requested information relevant to its decision in connection with the hiring or retention of an employee; the reporting of an investigation of an employee; the letting of a contract; or the issuance of a certification or other benefit.

4. To a Federal, State or local agency where necessary to enable EPA to obtain information relevant to an EPA decision concerning the hiring or retention of an employee; the letting of a contract; or the issuance of a certification or other benefit.

5. To an appropriate Federal, State, local or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation or order, where there is an indication of a violation or potential violation of the statute, rule, regulation or order which is relevant to the purposes for which the records are maintained.

6. To the Department of Justice to the extent that each disclosure is compatible with the purpose for which the record was collected and is relevant and necessary to litigation or anticipated litigation in which one of the following is a party or has an interest: (a) EPA or any of its components, (b) an EPA employee in his or her official capacity, (c) an EPA employee in his or her official capacity where the Department of Justice is representing or considering representation of the employee, or (d) the United States where EPA determines that the litigation is likely to affect the Agency.

7. In a proceeding before a court, other adjudicative body or grand jury, or in an administrative or regulatory proceeding, to the extent that each disclosure is compatible with the purpose for which the record was collected and is relevant and necessary to the proceeding in which one of the following is a party or has an interest: (a) EPA or any of its components, (b) an EPA employee in his or her official capacity, (c) an EPA employee in his or her individual capacity where the Department of Justice is representing or considering representation of the employee, or (d) the United States where EPA determines that the litigation is likely to affect the Agency. Such disclosures include, but are not limited to, those made in the course of presenting evidence, conducting settlement negotiations, and responding to subpoenas and requests for discovery.

8. To representatives of the General Services Administration and the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

9. To prospective employers for the purpose of informing them of the certification status of individuals covered by this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Various portions of the system are maintained in computer tape and in hardcopy files.

RETRIEVABILITY:

Information is retrieved from the computer database by an employee's name, identification number or office mail code. Information is retrieved from hardcopy files by an employee's name.

SAFEGUARDS:

Access to records in this system is limited to authorized EPA employees. Records on the computer disks are protected from access by a unique identification code. Hardcopy files are maintained in a locked cabinet. Both the computer and cabinet are in rooms protected by door locks in a building with restricted access.

RETENTION AND DISPOSAL:

Records will be deleted from the Contract Manager Record System upon the employee's separation from the Agency. (EPA Record Control Schedules, Appendix B, Schedule 5)

SYSTEM MANAGER(S) AND ADDRESS:

Director, Policy and Management Support Staff, Procurement and Contracts Management Division (PM–214F), U.S. Environmental Protection Agency, 499 South Capitol Street SW., Washington, DC 20003.

NOTIFICATION PROCEDURES:

Written inquiries should be addressed to the System Manager. The requester should provide his name, mail code, office address and phone number. Oral inquiries may also be made to the system manager. Additional information and requirements will be provided if necessary.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORDS PROCEDURES:

Same as notification procedures. In addition, the requester should describe the corrective action sought and supporting justification for the correction.

RECORD SOURCE CATEGORIES:

Employees on whom records are maintained; Agency acquisition management officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 93–5664 Filed 3–11–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 632–6934.

Federal Communications Commission

OMB Control No.: 3060–0454

Title: Regulation of International Accounting Rates, CC Docket No. 90–337

Expiration Date: 01/31/95

Description: In the Order on Reconsideration in CC Docket No. 90–337, the Commission amended the reporting requirements found in 47 CFR 64.1001(g) to require that a U.S. common carrier submitting a waiver or notification pursuant to the International Settlements Policy (ISP) certify that it has informed the relevant foreign administration that U.S policy requires that competing U.S. carriers have access to accounting rates negotiated by the filing carrier with the foreign administration on a nondiscriminatory basis. The Commission also issued a Third Further Notice of Proposed Rulemaking in CC Docket No. 90–337 which solicited, among other things, comments on extending the scope of the international resale policy to end users international private lines interconnected to the public switched network at a U.S. carrier's central office.

OMB Control No.: 3060–0530

Title: Expanded Interconnection with Local Exchange Companies Facilities, Memorandum and Opinion and Order, CC Docket No. 91–141

Expiration Date: 01/31/94

Description: In the Memorandum Opinion and Order issued in CC Docket No. 91–141, the Commission modified certain requirements adopted in the Expanded Interconnection Order. Local exchange carriers (LECs) are required to file initial tariffs for a subset of their central offices and to establish new procedures for the tariffing of additional central offices thereafter. Petitions for exemptions from the physical collocation requirement with respect to specific central offices based on space availability must be filed with the initial tariff filing. With respect to other offices, LECs must file petitions for exemption based on insufficient space at the same time that they file tariff revisions offering expanded interconnection at those central offices.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–5658 Filed 3–11–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Revision of a currently approved collection.

Title: Activities and Investments of Savings Associations.

Form Number: None.

OMB Number: 3064–0104.

Expiration Date of OMB Clearance: May 31, 1993.

Respondents: Savings associations.

Frequency of Response: On occasion.

Number of Respondents: 45.

Number of Responses Per Respondent: 1.

Total Annual Responses: 45.

Average Number of Hours Per Response: 8.89.

Total Annual Burden Hours: 400.

OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0104, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–8907, Office of the Executive Secretary, room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted before May 11, 1993.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The information in this collection is used by the FDIC to fulfill its statutory obligation (12 U.S.C. 1831e) to enforce certain thrift industry restrictions and filing requirements.

Dated: March 8, 1993.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–5725 Filed 3–11–93; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Commodore Cruise Line Limited, (d/b/a/ Crown Cruise Line) 800 Douglas Road, suite 700, Coral Gables, Florida 33134

Vessel; CROWN DYNASTY.

Dated: March 8, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–5650 Filed 3–11–93; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Commodore Cruise Line Limited, (d/b/a Crown Cruise Line) and Crown Dynasty Inc., 800 Douglas Road, Suite 700, Coral Gables, Florida 33134

Vessel: CROWN DYNASTY.

Dated: March 8, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–5651 Filed 3–11–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Delmar Bancorp; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 1, 1993.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Delmar Bancorp, Delmar, Maryland; to engage *de novo* through its subsidiary, Delmar Insurance Agency, Inc., Delmar, Maryland, in offering and selling all types of insurance and annuity products, including, without limitation, property, casualty, liability, health and title insurance, term and whole life insurance, and fixed rate and variable rate annuity products in Delmar, Maryland, and Delmar, Delaware, pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 8, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-5700 Filed 3-11-93; 8:45 am]

BILLING CODE 6210-01-F

GFH Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 5, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. GFH Corp., Elmhurst, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Elmhurst, Elmhurst, Illinois, a *de novo* bank.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. West Tennessee Financial Corporation, Selmer, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of West Tennessee, Selmer, Tennessee, through conversion of First Federal Savings Bank of West Tennessee, Selmer, Tennessee.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. United Bankers' Bancorporation, Bloomington, Minnesota; to become a bank holding company by acquiring 85 percent of the voting shares of United Bankers' Bank, Bloomington, Minnesota.

Board of Governors of the Federal Reserve System, March 8, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-5701 Filed 3-11-93; 8:45 am]

BILLING CODE 6210-01-F

Northern Trust Corporation, Chicago, Illinois; Application to Engage in Nonbanking Activities

Northern Trust Corporation, Chicago, Illinois (Applicant), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) to engage *de novo* through its wholly owned subsidiary, Northern Futures Corporation, Chicago, Illinois (Company), a futures commission merchant (FCM) registered under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*), in the following activities:

(1) Executing and clearing the following financial commodities contracts: Standard & Poor's 100 Stock Price Index futures, and Standard & Poor's Over-the-Counter 250 Stock Index futures on the Chicago Mercantile Exchange; and The Bond Buyer Long-Term Municipal Bond Index futures and options thereon, and The Major Market Index futures on the Chicago Board of Trade;

(2) Brokering the following financial commodities contracts for execution and clearance by non-affiliated FCMs: Deutsche Aktienindex 30 Stock Index futures, and German Government Bond Index futures on the Deutsche Terminborse GmbH; Dutch Government Bond Index futures on the Financiele Termijnmarkt Amsterdam NV; Hang Seng Stock Index futures on the Hong Kong Futures Exchange Limited; Value Line Average Stock Index futures, Value Line Futures (Mini) Index futures, and Value Line Futures (Maxi) Index futures on the Kansas City Board of Trade; The Financial Times-Stock Exchange 100 Equity Index futures and options thereon, options on Eurodollar futures, U.K. Bond futures, and options on U.S. Treasury Bond futures on the London International Financial Futures Exchange; French Government Bond Index futures on the Marche a Terme

d'Instruments Financiers; New York Stock Exchange Composite Index futures and options thereon on the New York Futures Exchange; National Over-the-Counter Index futures on the Philadelphia Board of Trade; Nikkei 225 Stock Average futures on the Singapore International Monetary Exchange; All Ordinaries Share Index futures, and Australian Government Bond futures on the Sydney Futures Exchange; and Tokyo Stock Price Index futures, and Japanese Government Bond futures on the Tokyo Stock Exchange; and

(3) Providing related investment advisory services.

Applicant proposes to conduct these activities throughout the United States.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto.

The Board previously has approved acting as an FCM in executing, clearing, and providing investment advisory services with respect to the proposed financial commodities contracts. *See, e.g., National Westminster Bank PLC*, 78 Federal Reserve Bulletin 953 (1992); *The Sanwa Bank, Limited*, 77 Federal Reserve Bulletin 64 (1991); *The Hongkong and Shanghai Banking Corporation*, 76 Federal Reserve Bulletin 770 (1990). Applicant has stated that it will conduct the proposed activities using the same methods and procedures and subject to the same prudential limitations established by the Board in its previous orders, including the conditions and limitations set forth in §§ 225.25(b)(18) and (19) of the Board's Regulation Y (12 CFR 225.25(b)(18) and (19)).

The Board has not previously approved the brokering of futures contracts or options on futures contracts on behalf of customers for execution and clearance by non-affiliated FCMs Applicant contends that the proposed brokering activities are virtually identical to the FCM execution, clearance, and investment advisory activities previously approved by the Board, and are similar to services that banks currently provide their customers. Accordingly, Applicant believes that the proposed futures brokerage activities are closely related to banking within the meaning of section 4(c)(8) of the BHC Act.

Applicant also believes that the proposed activities will benefit the public by promoting competition. Applicant also believes that approval of this application will allow Company to provide a wider range of services and added convenience to its customers. Applicant believes that the proposed activities will not result in any unsound banking practices or other adverse effects.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than April 9, 1993. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, March 8, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-5702 Filed 3-11-93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93F-0050]

E. I. du Pont de Nemours and Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that E. I. du Pont de Nemours and Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of perfluoroalkylethyl acrylate copolymer, produced by the copolymerization of perfluoroalkylethyl acrylate, octadecyl methacrylate, vinylidene chloride, 2-hydroxyethyl methacrylate, and polyoxyethylene methacrylate, as an oil and water repellent in paper and paperboard intended for food-contact use.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9500.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B4360) has been filed by E. I. du Pont de Nemours and Co., Du Pont Chemicals, Jackson Laboratory, Chambers Works, Deepwater, NJ 08023. The petition proposes to amend the food additive regulations in § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of perfluoroalkylethyl acrylate copolymer, produced by the copolymerization of perfluoroalkylethyl acrylate, octadecyl methacrylate, vinylidene chloride, 2-hydroxyethyl methacrylate, and polyoxyethylene methacrylate, as an oil and water repellent in paper and paperboard intended for food-contact use.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: March 3, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93-5695 Filed 3-11-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 93F-0001]

Mitsubishi Petrochemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Mitsubishi Petrochemical Co. has filed a petition proposing that the food additive regulations be amended to

correct an error in nomenclature. The amendment would add *N*-methacryloyloxyethyl-*N*, *N*-dimethylammonium-α-*N*-methyl carboxylate chloride sodium salt, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer for use as an antistatic agent in polyolefin films that contact foods under certain conditions of use. The amendment would also remove the erroneous listing of *N*-methacryloyl ethyl-*N*, *N*-dimethylammonium-α-*N*-methyl carboxylate, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer from the regulations.

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9528.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B4352) has been filed by Mitsubishi Petrochemical Co., c/o Center for Regulatory Services, 2347 Paddock Lane, Reston, VA 22091. The petition proposes that § 178.3130 *Antistatic and/or antifogging agents in food-packaging materials* (21 CFR 178.3130) of the food additive regulations be amended to correct an error in nomenclature. The amendment would list *N*-methacryloyloxyethyl-*N*, *N*-dimethylammonium-α-*N*-methyl carboxylate chloride sodium salt, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer (CAS Reg. No. 66822–60–4) for use as an antistatic agent at levels not to exceed 0.2 percent by weight of polyolefin films that contact foods under certain conditions of use. The amendment would also remove the erroneous listing of *N*-methacryloyl ethyl-*N*, *N*-dimethylammonium-α-*N*-methyl carboxylate, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer (CAS Reg. No. 64913–46–8) from the regulations.

The agency has determined under 21 CFR 25.24(a)(9) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: March 3, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–5696 Filed 3–11–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93F–0015]

Regutech Associates; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Regutech Associates has filed a petition proposing that the food additive regulations be amended to provide for the safe use of aspartame in frostings, toppings, fillings, glazes, and icings for precooled bakery products.

FOR FURTHER INFORMATION CONTACT: F. Owen Fields, Center for Food Safety and Applied Nutrition (HFS–207), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9523.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3A4355) has been filed by Regutech Associates, 158 West Boston Post Rd., Mamaroneck, NY 10543–3605. The petition proposes to amend the food additive regulations in § 172.804 *Aspartame* (21 CFR 172.804) to provide for the safe use of aspartame in frostings, toppings, fillings, glazes, and icings for precooled bakery products.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: March 3, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–5697 Filed 3–11–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93F–0033]

Sumitomo Chemical America, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Sumitomo Chemical America, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 3,9-bis[2-{3-(3-*tert*-butyl-4-hydroxy-5-methylphenyl)propionyloxy}-1,1-dimethylethyl]-2,4,8,10-tetraoxaspiro[5.5]undecane as an antioxidant for polyethylene intended for use in food-contact articles.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9500.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B4358) has been filed by Sumitomo Chemical America, Inc., 345 Park Ave., New York, NY 10154. The petition proposes that the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of 3,9-bis[2-{3-(3-*tert*-butyl-4-hydroxy-5-methylphenyl)propionyloxy}-1,1-dimethylethyl]-2,4,8,10-tetraoxaspiro[5.5]undecane as an antioxidant for polyethylene complying with § 177.1520 *Olefin polymers* (21 CFR 177.1520) intended for use in food-contact articles.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: March 3, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–5698 Filed 3–11–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 88F–0403]

Takeda Chemical Industries, Ltd.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 9B4116), filed on behalf of Takeda Chemical Industries, Ltd., proposing that the food additive regulations be amended to provide for the safe use of 3-isocyanatomethyl-3,5,5-trimethylcyclohexylisocyanate trimer as a new cross-linking agent, and to change the use level of components of the polyurethane-polyester resin-epoxy adhesives used in the production of high temperature laminates intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9500.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 27, 1989 (54 FR 4083), FDA published a notice that it had filed a petition (FAP 9B4116) on behalf of Takeda Chemical Industries, Ltd., c/o 1730 Rhode Island Ave. NW., Washington, DC 20036. The petition proposed that § 177.1390 *Laminate structures for use at temperatures of 250° F and above* (21 CFR 177.1390) be amended to provide for the safe use of 3-isocyanatomethyl-3,5,5-trimethylcyclohexylisocyanate trimer as a new cross-linking agent, and to change the use level of components of the polyurethane-polyester resin-epoxy adhesives used in the production of high temperature laminates intended for use in contact with food. Takeda Chemical Industries, Ltd., has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: March 3, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–5699 Filed 3–11–93; 8:45 am]

BILLING CODE 4160–01–F

Indian Health Service

Tribal Management Program for American Indians/Alaska Natives: Grants Application Announcement

AGENCY: Indian Health Service, HHS.

ACTION: Final funding priorities.

SUMMARY: The Indian Health Service (IHS) announces final funding priorities for Tribal Management Grants for American Indians/Alaska Natives, under the authority of section 103(b)(2) of the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638, as amended by Pub. L. 100–472, 25 U.S.C. 450h(B)(2).

Proposed funding priorities were published for public comment in the **Federal Register** on November 23, 1992, at 57 FR 54986. Five comments were received during the 60-day comment period.

COMMENTS AND RESPONSE: A majority of comments recommended that the five priorities be allocated equal funds and that each proposal be ranked according to merit within that funding priority. Another respondent recommended that the priority system be abolished and that each proposal be ranked and funded according to rank. A final comment was that a reasonable amount of the total funding available be allocated to each priority.

The Tribal Management Grant Program assists tribes and tribal organizations to assume operation of all or part of an existing IHS health care program by enabling them to develop and maintain their management capabilities. However, the demand for tribal managements funds has exceeded available resources over the last several years, e.g., in fiscal year 1992, the IHS had 22 applications that were approved but not funded because of lack of funds. The proposed funding priorities are designed to assure competition for the limited funds available for this program purpose. In accordance with the program purpose, the funding priorities place emphasis on: newly recognized tribes; tribes with a stated intent to contract IHS direct operated health care programs; first time applicants; tribes evaluating Federal programs serving them; and Public Law 93–638 contractors seeking to improve current programs without additional contracts. The IHS believes that the priority system best meets the intent of the program. Therefore, the proposed funding priorities will be retained with clarification.

Priority I—An Indian tribe that has received Federal recognition (new, restored, unterminated, funded or unfunded) within the past three (3) years and is preparing to contract under Public Law 93–638 to assume operation of health care services. (Verification of documents is required, e.g., Letter of Acknowledgement).

Priority II—An Indian tribe or Indian tribal organization currently contracting with IHS, with a stated intention to contract all or part of an existing IHS direct operated service unit health program. Applicants meeting this profile must have current certified management systems, e.g., BIA, IHS or CPA certified; and resolutions of support from the tribes affected in a multi-tribal service unit.

Priority III—An Indian tribe or Indian tribal organization stating an interest in contracting IHS health programs for the first time. Applicants meeting this profile must have current certified management systems, e.g., BIA, IHS or CPA certified; or respond to a specific time period within the first quarter of the grant period to establish certified management systems to being receiving Federal funds.

Priority IV—An Indian tribe or Indian tribal organization stating an interest in planning, designing, monitoring, and evaluating Federal health programs serving the tribe, including Federal administration functions.

Priority V—An Indian tribe or Indian tribal organization currently contracting IHS tribal programs, e.g., Community Health Representative program, Alcohol programs, Emergency Medical Services, etc., and are seeking improvement or expansion of existing tribal health management structure without further contacting.

FOR FURTHER INFORMATION CONTACT: For Tribal Management Grant program information contact Ms. Bea Bowman, Division of Community Services, Indian Health Service, Parklawn Building, Room 6A–05, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6840. For grant application information, contact Mrs. Kay Carpentier, Grants Management Branch, Indian Health Service, Twinbrook Building, Suite 300, 12300 Twinbrook Parkway, Rockville, Maryland 20852, (301) 443–5204. (The telephone numbers are not toll-free.)

This program is described at 93.228 in the Catalog of Federal Domestic Assistance. Executive Order 12373 requiring intergovernmental review is not applicable to this program.

Dated: March 4, 1993.

Michel E. Lincoln,

Acting Director.

[FR Doc. 93–5652 Filed 3–11–93; 8:45 am]

BILLING CODE 4160–16–M

National Institutes of Health

National Cancer Institute; Notice of Meeting of the National Cancer Advisory Board Program Project Task Force

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board Program Project Task Force, March 23, 1993, at the St. Louis Airport Marriott, I–70 at Lambert Airport, St. Louis, Missouri 63134.

The entire meeting will be open to the public from 9 a.m. to approximately 5 p.m. Attendance by the public will be limited to space available. The Task Force will review data and formulate strategy for the overall PO1 review mechanism as its related to the National Cancer Program.

Ms. Carole Frank, Committee Management Specialist, National Cancer Institute, EPN, room 630, 9000 Rockville Pike, National Institute of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and a roster of the Task Force members upon request.

Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact Mr. Lorrie Smith, (301) 496–5147 in advance of the meeting.

Mrs. Barbara Bynum, Executive Secretary, Program Project Task Force, National Cancer Advisory Board, National Cancer Institute, EPN, room 600A, 9000 Rockville Pike, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5147) will furnish substantive program information.

This notice is being published less than 15 days prior to the meeting due to the difficulty of coordinating the attendance of members because of conflicting schedules.

Dated: March 9, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–5792 Filed 3–11–93; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–93–1917; FR–3350–N–22]

Office of the Assistant Secretary for Community Planning and Development; Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing-and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Army: Robert Conte, Dept. of Army, Military Facilities, DAEN–ZCI–P; Rm. 1E671, Pentagon, Washington, DC 20310–2600; (703) 693–4583; (This is not a toll-free number).

Dated: March 5, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

Title V, Federal Surplus Property Program Federal Register Report for 03/12/93

Suitable/Available Properties

Buildings (by State)

Alabama

Bldg. T00221
Fort McClellan
Fort McClellan Co: Calhoun AL 36205–5000
Location: Take left turn off Baltzell Gate Road.
Landholding Agency: Army
Property Number: 219110042
Status: Underutilized
Comment: 4125 sq. ft.; one story wood frame; needs major rehab; termite infested; presence of asbestos; off-site use only.

Bldg. T00796
Fort McClellan
Fort McClellan Co: Calhoun AL 36205–5000

Location: Intersection of 19th and 20th Streets.
Landholding Agency: Army
Property Number: 219110043
Status: Unutilized
Comment: 1340 sq. ft.; one story wood frame; needs major rehab; presence of asbestos; off-site use only.

Bldg. T00883
Fort McClellan
3rd Avenue
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219110044
Status: Unutilized
Comment: 760 sq. ft.; one story wood frame; needs major rehab; presence of asbestos; off-site use only.

Bldgs. T01121, T01123, T01124
Fort McClellan
MacArthur Avenue
Fort McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Numbers: 219110048–219110050
Status: Unutilized
Comment: 2400 sq. ft. each; two story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T01125
Fort McClellan
21st Street and MacArthur Avenue
Fort McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219110051
Status: Unutilized
Comment: 2556 sq. ft.; one story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T01394
Fort McClellan
4th Avenue in Area 13 of Post
Fort McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219110052
Status: Unutilized
Comment: 191 sq. ft.; one story tin and lumber building; needs major rehab; off-site use only.

Bldg. T01692
Fort McClellan
25th Street
Fort McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219110053
Status: Unutilized
Comment: 4404 sq. ft.; one story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldgs. T02264, T02266
Fort McClellan
Fort McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Numbers: 219110054–219110055
Status: Unutilized
Comment: 664 sq. ft. each; one story wood frame; needs major rehab; electrical hazard; presence of asbestos; off-site use only.

Bldg. T00123
Post Chapel—Fort Rucker
5th Avenue
Fort Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 219110145
Status: Unutilized
Comment: 4798 sq. ft.; 1 story wood structure; minor repairs.

Bldg. T00108
Fort Rucker
6th Avenue
Fort Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 219120270
Status: Unutilized
Comment: 24992 sq. ft., 1 story wood structure, most recent use—youth center gymnasium, possible asbestos, off-site use only.

Bldg. 8913, Fort Rucker
7th Avenue
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 219140025
Status: Unutilized
Comment: 3100 sq. ft., 1 story wood, most recent use—chaplain's conference room, off-site use only.

Bldg. 8914, Fort Rucker
7th Avenue
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219140026
Status: Unutilized
Comment: 2250 sq. ft., 1 story wood, most recent use—chaplain's headquarters, off-site use only.

Bldgs. T03202–T03203, T03206–T03208, T03211, T03213, T03216–T03217
Cowboy & Crusader Street
Fort Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Numbers: 219210001–219210009
Status: Unutilized
Comment: 5310 sq. ft., each, two story wood structure, most recent use—barracks, presence of asbestos, off-site use only.

Bldg. T03214, Fort Rucker
Cowboy & Crusader Streets
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 219230001
Status: Unutilized
Comment: 3306 sq. ft., 1-story wood structure, most recent use—storehouse, presence of asbestos, off-site use only.

Bldg. T03215, Fort Rucker
Cowboy & Crusader Streets
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 219230002
Status: Unutilized
Comment: 3452 sq. ft., 1-story wood structure, most recent use—storehouse, presence of asbestos, off-site use only.

Bldg. 9014, Fort Rucker
5th Avenue
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 219240772
Status: Unutilized
Comment: 25' x 50' ft., 1 story wood frame, needs rehab, most recent use—children's chapel, off-site use only.

Arizona

Bldg. S–503
Yuma Proving Ground
Main Admin. Area—2nd St. bet. D & F Sts.
Yuma Co: Yuma/La Paz AZ 85365–9102
Landholding Agency: Army
Property Number: 219011746
Status: Underutilized
Comment: 2123 sq. ft.; possible asbestos; 2nd floor vacant; structural upgrading needed; bldg. scheduled for renovation and used as community center.

Bldg. T67208
U.S. Army Intelligence Center
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120113
Status: Unutilized
Comment: 2546 sq. ft., one story wood, most recent use—storage.

Bldg. T70224
U.S. Army Intelligence Center
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120149
Status: Unutilized
Comment: 1252 sq. ft., one story wood, most recent use—Administrative.

Bldgs. 70117–70120
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Numbers: 219120306–219120309
Status: Excess
Comment: 3434 sq. ft. each, 1 story wood structures, presence of asbestos, most recent use—general instructional.

Bldg. 70225—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120310
Status: Excess
Comment: 3813 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose

Bldg. 83006—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120311
Status: Excess
Comment: 2062 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose

Bldg. 83007—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120312
Status: Excess
Comment: 2000 sq. ft., 2 story wood structure, presence of asbestos, most recent use—admin. gen. purpose

Bldg. 83008—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120313
Status: Excess
Comment: 2192 sq. ft., 2 story wood structure, presence of asbestos, most recent use—admin. gen. purpose

Bldg. 83015—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120314
Status: Excess
Comment: 2325 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose

Bldg. 81001

Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240720
Status: Unutilized
Comment: 4386 sq. ft., 2 story wood frame, possible asbestos, most recent use—administrative, scheduled to become vacant in 6 months, off-site use only

Bldg. 81017
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240721
Status: Unutilized
Comment: 2269 sq. ft., 1 story wood frame, possible asbestos, most recent use—classroom, scheduled to become vacant in 6 months, off-site use only

Bldg. 81020
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240722
Status: Unutilized
Comment: 4386 sq. ft., 2 story wood frame, possible asbestos, most recent use—administrative, scheduled to become vacant in 6 months, off-site use only

Bldg. 67204
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240723
Status: Unutilized
Comment: 4332 sq. ft., 2 story wood frame, possible asbestos, most recent use—administrative, scheduled to become vacant in 6 months, off-site use only

Bldg. 81010
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240724
Status: Unutilized
Comment: 1955 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only

Bldg. 81013
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240725
Status: Unutilized
Comment: 1955 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only

Bldg. 81024
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240726
Status: Unutilized
Comment: 1265 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only

Bldg. 81025
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240727
Status: Unutilized
Comment: 1265 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only

Bldg. 66151
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240728
Status: Unutilized
Comment: 4194 sq. ft., 2 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only

Bldg. 72219
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240729
Status: Unutilized
Comment: 2730 sq. ft., 1 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only

Bldg. 72220
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240730
Status: Unutilized
Comment: 2879 sq. ft., 1 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only

Bldg. 72221
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240731
Status: Unutilized
Comment: 3736 sq. ft., 1 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only

Bldg. 85007
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240732
Status: Unutilized
Comment: 4385 sq. ft., 1 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only

Bldg. 67108
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240733
Status: Unutilized
Comment: 2403 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only

Bldg. 70226
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240734
Status: Unutilized
Comment: 1868 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only

Bldg. 71116
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240735
Status: Unutilized
Comment: 3470 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only

Bldg. 71215
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240736
Status: Unutilized
Comment: 4854 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only

Bldg. 67215
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240737
Status: Unutilized
Comment: 1140 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, off-site use only

Bldg. 67223
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240738
Status: Unutilized
Comment: 1583 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, off-site use only

Bldg. 70110
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240739
Status: Unutilized
Comment: 2675 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70111
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240740
Status: Unutilized
Comment: 2800 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70113
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240741
Status: Unutilized
Comment: 2800 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70114
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240742
Status: Unutilized
Comment: 2544 sq. ft., 1 story wood frame, possible asbestos, scheduled to become

vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70115
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240743
Status: Unutilized
Comment: 2544 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70123
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240744
Status: Unutilized
Comment: 3298 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70124
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240745
Status: Unutilized
Comment: 3298 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70126
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240746
Status: Unutilized
Comment: 3343 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70210
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240747
Status: Unutilized
Comment: 3258 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site only

Bldg. 70211
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240748
Status: Unutilized
Comment: 2966 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70221
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240749
Status: Unutilized
Comment: 2526 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 70222
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240750
Status: Unutilized
Comment: 1627 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 71214
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240751
Status: Unutilized
Comment: 3779 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 82013
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240752
Status: Unutilized
Comment: 2193 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 90327
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240753
Status: Unutilized
Comment: 279 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only

Bldg. 71213
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240754
Status: Unutilized
Comment: 3779 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—storehouse, off-site use only

Bldg. 82007
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240755
Status: Unutilized
Comment: 4386 sq. ft., 2 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—storehouse, off-site use only

Bldg. 82009
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240756
Status: Unutilized
Comment: 2444 sq. ft., 2 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—storehouse, off-site use only

Bldg. S–306
Yuma Proving Ground
Yuma, AZ, Yuma/LaPaz, Zip: 85365–9104
Landholding Agency: Army
Property Number: 219240779
Status: Underutilized
Comment: 2659 sq. ft., 2 story wood frame, 2nd floor underutilized, needs rehab, does not meet fire codes.

California

Bldg. 60
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos Co: Orange CA 90720–5001
Landholding Agency: Army
Property Number: 219120315
Status: Unutilized
Comment: 1024 sq. ft., 2 story concrete-wood plaster, possible asbestos, off-site use only, most recent use—nose hanger

Bldg. 95
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos Co: Orange CA 90720–5001
Landholding Agency: Army
Property Number: 219120316
Status: Unutilized
Comment: 392 sq. ft., 1 story raised portable, off-site use only, most recent use—radar maint. shop

Bldg. 186
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos Co: Orange CA 90720–5001
Landholding Agency: Army
Property Number: 219120317
Status: Unutilized
Comment: 996 sq. ft., 1 story steel, off-site use only, most recent use—storage

Bldg. 196
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos Co: Orange CA 90720–5001
Landholding Agency: Army
Property Number: 219120318
Status: Unutilized
Comment: 1029 sq. ft., stucco structure, off-site use only, most recent use—storage

Bldg. 197
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos Co: Orange CA 90720–5001
Landholding Agency: Army
Property Number: 219120319
Status: Unutilized
Comment: 720 sq. ft. 1 story stucco structure, off-site use only, most recent use—storage, possible asbestos

Bldgs. 262–263, 265, 268
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos CA: Orange CA 90720–5001
Landholding Agency: Army
Property Numbers: 219120320–219120323
Status: Unutilized
Comment: 449 sq. ft., trailers, off-site use only, most recent use—storage

Colorado

Bldg. 1677, Fort Carson
Macgrath Avenue
Colorado Springs Co: El Paso CO 80913
Landholding Agency: Army
Property Number: 2192204546
Status: Unutilized
Comment: 9019 sq. ft., 1-story wood structure, most recent use-theater, needs repair, off-site removal only.

Bldg. 704, Fort Carson
Wetzel Avenue

Colorado Springs Co: El Paso CO 80913
Landholding Agency: Army
Property Number: 219240637
Status: Unutilized
Comment: 224 sq. ft., 1 story sheet metal shed, needs repair, off-site use only, most recent use—storage.

Bldg. 1819, Fort Carson
Prussman Blvd.
Colorado Springs Co: El Paso CO 80913
Landholding Agency: Army
Property Number: 219240638
Status: Unutilized
Comment: 1850 sq. ft., 1 story wood frame, needs repair, off-site use only, most recent use—storage, presence of asbestos.

Bldg. 1828, Fort Carson
Specker Avenue
Colorado Springs Co: El Paso CO 80913
Landholding Agency: Army
Property Number: 219240639
Status: Unutilized
Comment: 2488 sq. ft., 1 story wood frame, needs repair, off-site use only, most recent use—storage, presence of asbestos.

Bldg. 3450, Fort Carson
Berkeley Avenue
Colorado Springs Co: El Paso CO 80913
Landholding Agency: Army
Property Number: 219240640
Status: Unutilized
Comment: 1774 sq. ft., 1 story wood frame, needs repair, off-site use only, most recent use—soil lab, presence of asbestos.

Georgia

Bldgs. 4920, 4921, 4910
Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Numbers: 219010002–219010003, 219010105–
Status: Unutilized
Comment: 1888 sq. ft. each; most recent use—barracks; needs rehab

Bldg. 4915
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219010004
Status: Unutilized
Comment: 1297 sq. ft.; most recent use—headquarters building; needs rehab

Bldg. 4914
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219010005
Status: Unutilized
Comment: 810 sq. ft.; most recent use—arms building; needs rehab

Bldg. 5266
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219012364
Status: Unutilized
Comment: 1400 sq. ft.; one story; most recent use—day room; in poor condition; needs major rehab.

Bldgs. 5267–5271, 5283
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Numbers: 219012365–219012370, 219012386
Status: Unutilized
Comment: 2124 sq. ft.; each; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 4936
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219012388
Status: Unutilized
Comment: 1888 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 4937
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219012389
Status: Unutilized
Comment: 2183 sq. ft.; 1 story; most recent use—dining room; poor condition; needs major rehab.

Bldg. 4938
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219012391
Status: Unutilized
Comment: 1320 sq. ft.; one story; most recent use—administrative; poor condition; needs major rehab.

Bldg. 4939
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219012392
Status: Unutilized
Comment: 1800 sq. ft.; one story; most recent use—classrooms; poor condition; needs major rehab.

Bldg. 4951
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219012394
Status: Unutilized
Comment: 2192 sq. ft.; one story; most recent use—storehouse; poor condition; needs major rehab.

Bldg. 4953
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219012395
Status: Unutilized
Comment: 794 sq. ft.; 1 story; most recent use—storehouse; poor condition; needs major rehab.

Bldg. 4954
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219012397
Status: Unutilized
Comment: 1888 sq. ft.; 2 story; most recent use—custody fac.; poor condition; needs major rehab.

Bldg. 4926
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219012398
Status: Unutilized
Comment: 1888 sq. ft.; 2 story; most recent use—classrooms; poor condition; needs major rehab.

Bldg. 4925
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219012400
Status: Unutilized
Comment: 1507 sq. ft.; one story; most recent use—classroom; poor condition; needs major rehab.

Bldg. 4924
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219012401
Status: Unutilized
Comment: 2183 sq. ft.; one story; most recent use—dining room; poor condition; needs major rehab.

Bldgs. 4919, 4918, 4929, 4931, 4912, 4933, 4935
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Numbers: 219012403–219012404, 219012406, 219012410, 219012417–219012418, 219012422
Status: Unutilized
Comment: 1888 sq. ft. each; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldgs. 4917, 4930
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Numbers: 219012405, 219012408
Status: Unutilized
Comment: 810 sq. ft. each; 1 story; most recent use—arms building; poor condition; needs major rehab.

Bldg. 5287
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219012411
Status: Unutilized
Comment: 1216 sq. ft; 1 story; most recent use—arms building; poor condition; needs major rehab.

Bldg. 4934
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219012419
Status: Unutilized
Comment: 1507 sq. ft.; one story; most recent use—dayroom; needs major rehab.

Bldg. 4932
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219012421
Status: Unutilized
Comment: 794 sq. ft.; 1 story; most recent use—storehouse; needs rehab.

Bldgs. 34402, 34404, 35401
Fort Gordon
Augusta Co: Richmond GA 30905–
Location: Located on Barnes Avenue and 20th street.
Landholding Agency: Army
Property Numbers: 219014285–219014287

Status: Unutilized
Comment: 4524 sq. ft. each; 2 story wood structure; needs major rehab; off-site use only.

Bldgs. 1235, 1236
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Numbers: 219014887–219014888
Status: Unutilized
Comment: 9367 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse

Bldg. 1251
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014889
Status: Unutilized
Comment: 18385 sq. ft.; 1 story building; needs rehab; most recent use—Arms Repair Shop.

Bldg. 2591
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014906
Status: Unutilized
Comment: 1663 sq. ft.; 1 story building; needs rehab; most recent use—General storehouse.

Bldgs. 3005–3010
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Numbers: 219014907–219014912
Status: Unutilized
Comment: 7688 sq. ft. each; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 3080
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014913
Status: Unutilized
Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 3081
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014914
Status: Unutilized
Comment: 2284 sq. ft.; 1 story building; needs rehab; most recent use—Clinic.

Bldg. 4022
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014915
Status: Unutilized
Comment: 1712 sq. ft.; 1 story building; needs rehab; most recent use—Clinic.

Bldg. 4491
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014916
Status: Unutilized
Comment: 18240 sq. ft.; 1 story building; needs rehab; most recent use—Vehicle maintenance shop.

Bldg. 4500
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014917
Status: Unutilized
Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—Arms Building.

Bldg. 4511
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014918
Status: Unutilized
Comment: 4720 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 4633
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014919
Status: Unutilized
Comment: 5069 sq. ft.; 1 story building; needs rehab; most recent use—Training Building.

Bldg. 4634
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014920
Status: Unutilized
Comment: 5069 sq. ft.; 1 story building; needs rehab; most recent use—Training Building.

Bldgs. 4646, 4690
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Numbers: 219014921, 219014923
Status: Unutilized
Comment: 1372 sq. ft. each; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 4649
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014922
Status: Unutilized
Comment: 2250 sq. ft.; 1 story building; needs rehab; most recent use—Headquarters Building.

Bldg. 4751
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014924
Status: Unutilized
Comment: 3960 sq. ft.; 1 story building; needs rehab; most recent use—Recreation building.

Bldg. 4752
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014925
Status: Unutilized
Comment: 2284 sq. ft.; 1 story building; needs rehab; most recent use—Headquarters Building.

Bldg. 95
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120253
Status: Unutilized
Comment: 1006 sq. ft., 1 story, most recent use—fire station annex, needs rehab

Bldg. 1234
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120254
Status: Unutilized
Comment: 16148 sq. ft., 2 story, most recent use—officer's club, needs rehab

Bldg. 1684
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120255
Status: Unutilized
Comment: 2671 sq. ft., 1 story, needs rehab, most recent use—administration/general purpose.

Bldg. 1827
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 2190120257
Status: Unutilized
Comment: 943 sq. ft., 1 story, needs rehab, most recent use—general purpose warehouse.

Bldg. 2150
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120258
Status: Unutilized
Comment: 3909 sq. ft., 1 story, needs rehab, most recent use—general inst. bldg.

Bldgs. 2212, 2213
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Numbers: 219120259–219120260
Status: Unutilized
Comment: 4720 sq. ft. each, 2 story, needs rehab, most recent use—drug abuse center.

Bldg. 2214
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120261
Status: Unutilized
Comment: 2253 sq. ft., 1 story, needs rehab, most recent use—enlisted persons dining room.

Bldg. 2215
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120262
Status: Unutilized
Comment: 1844 sq. ft., 1 story, needs rehab, most recent use—day room.

Bldg. 2409
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120263
Status: Unutilized
Comment: 9348 sq. ft., 1 story, needs rehab, most recent use—general purpose warehouse.

Bldg. 2548
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120264
Status: Unutilized
Comment: 2337 sq. ft., 1 story, needs rehab, most recent use—clinic w/0 beds.

Bldg. 2590
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120265
Status: Unutilized
Comment: 3132 sq. ft., 1 story, needs rehab, most recent use—vehicle maintenance shop.

Bldg. 3828

Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120266
Status: Unutilized
Comment: 628 sq. ft., 1 story, needs rehab, most recent use—general storehouse.

Bldg. 5284, Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120267
Status: Unutilized
Comment: 5310 sq. ft.; 2 story; needs rehab; most recent use—trainee barracks.

Bldgs. 3084, 3086, 3089, 3092, 3094, 3097, 3601
Fort Benning GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219220687–219220692, 219220754
Status: Unutilized
Comment: 4720 sq. ft. ea., 2 story, most recent use—barracks. Needs major rehab, off-site removal only.

Bldg. 499, Fort Benning
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220693
Status: Unutilized
Comment: 840 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 1252, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220694
Status: Unutilized
Comment: 583 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 1253, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220695
Status: Unutilized
Comment: 617 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 1678, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220697
Status: Unutilized
Comment: 9342 sq. ft., 1 story, most recent use—storehouse; needs major rehab, off-site removal only.

Bldg. 1733, Fort Benning
Ft. Benning Co: Muscogee, GA 31905
Landholding Agency: Army
Property Number: 219220698
Status: Unutilized
Comment: 9375 Sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldgs. 3083, 3093, 3100, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Numbers: 219220699, 219220701–219220707
Status: Unutilized
Comment: 1372 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 3091, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220700
Status: Unutilized
Comment: 1635 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 3856, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220703
Status: Unutilized
Comment: 4111 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldgs. 4099, 4490, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Numbers: 219220704, 219220706
Status: Unutilized
Comment: 2740 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 4216, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220705
Status: Unutilized
Comment: 9211 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 4881, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220707
Status: Unutilized
Comment: 2449 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 4941, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220708
Status: Unutilized
Comment: 2485 sq. ft., 1 story, most recent use—storehouse, needs repair, off-site removal only.

Bldg. 4943, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220709
Status: Unutilized
Comment: 960 sq. ft., 1 story, most recent use—storehouse, needs repair, off-site removal only.

Bldg. 4963, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220710
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storehouse, needs repair, off-site removal only.

Bldg. 5214, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220711
Status: Unutilized
Comment: 1520 sq. ft., 1 story, most recent use—storehouse, needs repair, off-site removal only.

Bldg. 2396, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220712
Status: Unutilized
Comment: 9786 sq. ft., 1 story, most recent use—dining facility, needs major rehab, off-site removal only.

Bldg. 3011, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220713
Status: Unutilized
Comment: 2775 sq. ft., 1 story, most recent use—dining facility, needs major rehab, off-site removal only.

Bldg. 3012, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220714
Status: Unutilized
Comment: 2794 sq. ft., 1 story, most recent use—dining facility, needs major rehab, off-site removal only.

Bldgs. 3085, 3088, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Numbers: 219220715–219220716
Status: Unutilized
Comment: 2253 sq. ft., 1 story, most recent use—dining facility, needs major rehab, off-site removal only.

Bldgs. 3087, 3095, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Numbers: 219220717–219220718
Status: Unutilized
Comment: 1884 sq. ft., 1 story, most recent use—day room, needs major rehab, off-site removal only.

Bldg. 3246, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220719
Status: Unutilized
Comment: 973 sq. ft., 1 story, most recent use—tailor shop, needs major rehab, off-site removal only.

Bldg. 3730, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220720
Status: Unutilized
Comment: 13587 sq. ft., 1 story, most recent use—gym, needs major rehab, off-site removal only.

Bldgs. 5261–5265, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Numbers: 219220721–219220725
Status: Unutilized
Comment: 1750 sq. ft., 1 story, most recent use—day room, needs major rehab, off-site removal only.

Bldg. 2537, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220726
Status: Unutilized
Comment: 802 sq. ft., 1 story, most recent use—storage, needs major rehab, off-site removal only.

Bldgs. 4882, 4967, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Numbers: 219220727–219220728
Status: Unutilized

Comment: 6077 sq. ft., 1 story, most recent use—storage, needs repair, off-site removal only.

Bldgs. 1230, 1231 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Federal Register Notice Date: 08/07/92
Property Numbers: 219220729–219220730
Status: Unutilized
Comment: 4386 sq. ft. ea., 1 story, most recent use—general instruction bldg., needs major rehab, off-site removal only.

Bldg. 4497, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220731
Status: Unutilized
Comment: 4850 sq. ft., 1 story, most recent use—general instruction bldg., needs major rehab, off-site removal only.

Bldg. 4689, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220732
Status: Unutilized
Comment: 3492 sq. ft., 1 story, most recent use—general instruction bldg., needs major rehab, off-site removal only.

Bldgs. 5394, 5396 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219220733–219220734
Status: Unutilized
Comment: 10944 sq. ft., 1 story, most recent use—general instruction bldg., needs major rehab, off-site removal only.

Bldg. 247, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219220735
Status: Unutilized
Comment: 1144 sq. ft., 1 story, most recent use—offices, needs major rehab, off-site removal only.

Bldgs. 4977, 4978 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219220736–219220737
Status: Unutilized
Comment: 192 sq. ft. ea., 1 story, most recent use—offices, need repairs, off-site removal only.

Bldg. 3099, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220738
Status: Unutilized
Comment: 2794 sq. ft., 1 story, most recent use—administration, needs major rehab, off-site removal only.

Bldg. 4833, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220739
Status: Unutilized
Comment: 5088 sq. ft., 1 story, most recent use—administration, needs repairs, off-site removal only.

Bldg. 5153, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220740
Status: Unutilized
Comment: 8044 sq. ft., 1 story, most recent use—administration, needs major rehab, off-site removal only.

Bldg. 1240, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220741
Status: Unutilized
Comment: 1197 sq. ft., 1 story, most recent use—recreation, needs major rehab, off-site removal only.

Bldg. 1673, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220742
Status: Unutilized
Comment: 1286 sq. ft., 1 story, most recent use—recreation, needs major rehab, off-site removal only.

Bldg. 3743, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220743
Status: Unutilized
Comment: 6954 sq. ft., 1 story, most recent use—recreation center, needs major rehab, off-site removal only.

Bldgs. 3805, 3806 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219220744–219220745
Status: Unutilized
Comment: 2330 sq. ft. ea., 1 story, most recent use—recreation bldg., needs major rehab, off-site removal only.

Bldg. 5364, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220746
Status: Unutilized
Comment: 4699 sq. ft., 1 story, most recent use—recreation bldg., needs major rehab, off-site removal only.

Bldg. 4944, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220747
Status: Unutilized
Comment: 6400 sq. ft., 1 story, most recent use—vehicle maintenance shop, need repairs, off-site removal only.

Bldg. 4946, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220748
Status: Unutilized
Comment: 3444 sq. ft., 1 story, most recent use—vehicle maintenance shop, needs major rehab, off-site removal only.

Bldgs. 4947–4949 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219220749–219220751
Status: Unutilized
Comment: 3444 sq. ft. ea., 1 story, most recent use—vehicle maintenance shop, needs major rehab, off-site removal only.

Bldg. 4960, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220752
Status: Unutilized
Comment: 3335 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only.

Bldg. 4969, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220753
Status: Unutilized
Comment: 8416 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only.

Bldg. 1724, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220754
Status: Unutilized
Comment: 7873 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 1758, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220755
Status: Unutilized
Comment: 7817 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 1680, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220756
Status: Unutilized
Comment: 9243 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 1682, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220757
Status: Unutilized
Comment: 9250 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 3817, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220758
Status: Unutilized
Comment: 4000 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 4372, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220759
Status: Unutilized
Comment: 9190 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 1732, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220760
Status: Unutilized
Comment: 2304 sq. ft., 1 story, most recent use—headquarters bldg., needs major rehab, off-site removal only.

Bldg. 3082, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220761
Status: Unutilized
Comment: 2794 sq. ft., 1 story, most recent use—headquarters bldg., needs major rehab, off-site removal only.

Bldgs. 4884, 4964, 4966, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219220762–219220764

Status: Unutilized
Comment: 2000 sq. ft. ea., 1 story, most recent use—headquarters bldgs., need repairs, off-site removal only.

Bldg. 5105, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220765
Status: Unutilized
Comment: 2350 sq. ft., 1 story, most recent use—headquarters bldg., needs major rehab, off-site removal only.

Bldg. 5260, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220766
Status: Unutilized
Comment: 1750 sq. ft., 1 story, most recent use—headquarters bldg., needs major rehab, off-site removal only.

Bldg. 4679, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220767
Status: Unutilized
Comment: 8657 sq. ft., 1 story, most recent use—supply bldg., needs major rehab, off-site removal only.

Bldg. 4883, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220768
Status: Unutilized
Comment: 2600 sq. ft., 1 story, most recent use—supply bldg., need repairs, off-site removal only.

Bldg. 4965, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220769
Status: Unutilized
Comment: 7713 sq. ft., 1 story, most recent use—supply bldg., need repairs, off-site removal only.

Bldg. 2513, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220770
Status: Unutilized
Comment: 9483 sq. ft., 1 story, most recent use—training center, needs major rehab, off-site removal only.

Bldg. 2526, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220771
Status: Unutilized
Comment: 11855 sq. ft., 1 story, most recent use—training center, needs major rehab, off-site removal only.

Bldg. 2589, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220772
Status: Unutilized
Comment: 146 sq. ft., 1 story, most recent use—training bldg., needs major rehab, off-site removal only.

Bldg. 4486, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220773
Status: Unutilized
Comment: 3238 sq. ft., 1 story, most recent use—chapel, needs major rehab, off-site removal only.

Bldg. 4832, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220774
Status: Unutilized
Comment: 3364 sq. ft., 1 story, most recent use—chapel, needs major rehab, off-site removal only.

Bldg. 233, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220775
Status: Unutilized
Comment: 5006 sq. ft., 1 story, most recent use—repair shop, needs major rehab, off-site removal only.

Bldg. 4970, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220776
Status: Unutilized
Comment: 4912 sq. ft., 1 story, needs repairs, off-site removal only.

Bldg. 4971, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220777
Status: Unutilized
Comment: 1944 sq. ft., 1 story, needs repairs, off-site removal only.

Bldg. 4976, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220778
Status: Unutilized
Comment: 192 sq. ft., 1 story, most recent use—gas station, needs repairs, off-site removal only.

Bldg. 4945, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220779
Status: Unutilized
Comment: 220 sq. ft., 1 story, most recent use—gas station, needs major rehab, off-site removal only.

Bldg. 4979, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220780
Status: Unutilized
Comment: 400 sq. ft., 1 story, most recent use—oil house, needs repairs, off-site removal only.

Bldg. 5200, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220781
Status: Unutilized
Comment: 14934 sq. ft., 2 story, most recent use—theater, needs major rehab, off-site removal only.

Bldg. 5285, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220782
Status: Unutilized
Comment: 1520 sq. ft., 1 story, most recent use—arms bldg., needs major rehab, off-site removal only.

Bldg. 4215, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220785
Status: Unutilized
Comment: 11650 sq. ft., 1 story, most recent use—sales store, needs major rehab, off-site removal only.

Bldg. 4627, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220786
Status: Unutilized
Comment: 1676 sq. ft., 1 story, most recent use—sentry station, needs major rehab, off-site removal only.

Bldg. 5286, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220788
Status: Unutilized
Comment: 1520 sq. ft., 1 story, most recent use—arms bldg., needs major rehab, off-site removal only.

Hawaii

P–88
Aliamanu Military Reservation
Honolulu Co: Honolulu HI 96818
Location: Approx. 600 feet from Main Gate on Aliamanu Drive
Landholding Agency: Army
Property Number: 219030324
Status: Unutilized
Comment: 45216 sq. ft. underground tunnel complex, pres. of asbestos, clean-up required of contamination, use of respirator required by those entering property, use limitations.

Bldgs. P–100, P–101
Fort DeRussy
Honolulu Co: Honolulu HI 96815
Landholding Agency: Army
Property Numbers: 219240641–219240642
Status: Unutilized
Comment: 35 sq. ft. ea., 1 story, off-site use only, most recent use—sentry stations

Bldg. T–107
Fort DeRussy
Honolulu Co: Honolulu HI 96815
Landholding Agency: Army
Property Number: 219240643
Status: Unutilized
Comment: 4829 sq. ft., 1 story, off-site use only, most recent use—offices

Bldg. T–107A
Fort DeRussy
Honolulu Co: Honolulu HI 96815
Landholding Agency: Army
Property Number: 219240644
Status: Unutilized
Comment: 3202 sq. ft., 1 story, off-site use only, most recent use—offices

Bldgs. T–108, T–109
Fort DeRussy
Honolulu Co: Honolulu HI 96815
Landholding Agency: Army
Property Numbers: 219240645–219240646
Status: Unutilized
Comment: 2400 sq. ft. ea., 1 story, off-site use only, most recent use—barracks

Bldg. T–110
Fort DeRussy
Honolulu Co: Honolulu HI 96815
Landholding Agency: Army
Property Number: 219240647

Status: Unutilized
Comment: 2754 sq. ft., 1 story, off-site use only, most recent use—barracks

Bldg. T–114
Fort DeRussy
Honolulu Co: Honolulu HI 96815
Landholding Agency: Army
Property Number: 219240648
Status: Unutilized
Comment: 6063 sq. ft., 1 story, off-site use only, most recent use—maintenance shop.

Bldg. P–180
Fort DeRussy
Honolulu Co: Honolulu HI 96815
Landholding Agency: Army
Property Number: 219240649
Status: Unutilized
Comment: 190 sq. ft., 1 story moss rock frame, off-site use only, most recent use—shelter

Bldg. P–182
Fort DeRussy
Honolulu Co: Honolulu HI 96815
Landholding Agency: Army
Property Number: 219240650
Status: Unutilized
Comment: 160 sq. ft., 1 story, off-site use only, most recent use—bus shelter, 3-sided

Bldg. P–195
Fort DeRussy
Honolulu Co: Honolulu HI 96815
Landholding Agency: Army
Property Number: 219240651
Status: Unutilized
Comment: 28 sq. ft., 1 story, off-site use only, most recent use—sentry station

Indiana

Bldg. 703–1C
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111
Location: Gate 22 off Highway 22
Landholding Agency: Army
Property Number: 219013761
Status: Underutilized
Comment: 4000 sq. ft., 2 story brick frame; possible asbestos; most recent use—exercise area.

Bldg. 1011 (Portion of)
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111
Location: East of State Highway 62 at Gate 3
Landholding Agency: Army
Property Number: 219013762
Status: Underutilized
Comment: 4040 sq. ft., 1 story concrete block frame; possible asbestos; secured area with alternate access; most recent use—office.

Bldg. 1001 (Portion of)
Indiana Army Ammunition Plant
Charlestown Co: Clark IN
Location: South end of 3rd Street, East of Highway 62 at entrance gate.
Landholding Agency: Army
Property Number: 219013763
Status: Underutilized
Comment: 55630 sq. ft.; 1 story concrete block; possible asbestos; secured area with alternate access; most recent use—cloth bag manufacturing.

Bldg. 2542
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111
Landholding Agency: Army
Property Number: 219240717
Status: Unutilized
Comment: 1954 sq. ft., 1 story concrete block, secured area w/alternate access, asbestos, most recent use—heating facility

Bldg. 2531
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111
Landholding Agency: Army
Property Number: 219240718
Status: Unutilized
Comment: 119746 sq. ft., 1 story concrete block, secured area w/alternate access, asbestos, most recent use—storage

Kansas

Bldg. T–1351, Fort Riley
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Number: 219210284
Status: Unutilized
Comment: 4862 sq. ft., 2 story wood frame, most recent use—barracks, needs rehab, presence of asbestos

Bldgs. T–1252, T–1253, Fort Riley
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Numbers: 219230365–219230366
Status: Unutilized
Comment: 4841 sq. ft. ea., 2 story wood frame, needs rehab, presence of asbestos, most recent use—barracks.

Bldgs. T–1283, T–1284, Fort Riley
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Numbers: 219230367–219230368
Status: Unutilized
Comment: 4847 sq. ft. ea., 2 story wood frame, presence of asbestos, most recent use—barracks, needs rehab.

Bldgs. T–1353, T–1354, T2551–T2558, T–2571–T2578
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Numbers: 219230369–219230386
Status: Unutilized
Comment: 4862 sq. ft. ea., 2 story wood frame, presence of asbestos, needs rehab, most recent use—barracks.

Bldgs. T–2550, T–2559, T–2570, T–2579
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Numbers: 219230387–219230390
Status: Unutilized
Comment: 3186 sq. ft. ea., 1 story wood frame, presence of asbestos, needs rehab, most recent use—dining.

Bldg. T–1254, Fort Riley
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Number: 219230391
Status: Unutilized
Comment: 2780 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, most recent use—custody facility.

Bldg. T–1255, Fort Riley
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Number: 219230392
Status: Unutilized
Comment: 2592 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, most recent use—custody facility.

Bldg. T–1350, Fort Riley
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Number: 219230393
Status: Unutilized
Comment: 2456 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, most recent use—custody facility.

Bldg. T–1633, Fort Riley
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Number: 219230394
Status: Unutilized
Comment: 3156 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, most recent use—maintenance facility.

Bldg. T–1301, Fort Riley
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Number: 219230395
Status: Unutilized
Comment: 3339 sq. ft., 2 story wood frame, presence of asbestos, needs rehab, most recent use—craft shop.

Bldg. T–1919, Fort Riley
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Number: 219230396
Status: Unutilized
Comment: 7758 sq. ft., 2 story wood frame, presence of asbestos, needs rehab, most recent use—theater.

Bldg. T–1921, Fort Riley
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Number: 219230397
Status: Unutilized
Comment: 3922 sq. ft., 1 story chapel, presence of asbestos.

Bldg. T–2307, Fort Riley
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Number: 219230398
Status: Unutilized
Comment: 3905 1 story chapel, presence of asbestos.

Bldg. T–2562, Fort Riley
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Number: 219230399
Status: Unutilized
Comment: 1327 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, most recent use—administration.

Bldgs. T–2563, T–2568 Fort Riley
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Numbers: 219230400–219230401
Status: Unutilized
Comment: 1327 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, most recent use—administration.

Bldg. T–2569, Fort Riley
Ft. Riley Co: Geary KS 66442
Landholding Agency: Army
Property Number: 219230402
Status: Unutilized
Comment: 1343 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, most recent use—administration.

Kentucky

Bldg. 104
Fort Campbell
Fort Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 219010937
Status: Underutilized

Comment: 15066 sq. ft.; two story; possible asbestos; most recent use—barracks.

Bldgs. 126, 141, 147, 149, 161, 165, 167, 169, 143
Fort Campbell
Fort Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Numbers: 219010938, 219010940–219010946, 219013139
Status: Underutilized
Comment: 12576 sq. ft. each; two story; possible asbestos; most recent use—storage/child care/administration.

Bldg. 122
Fort Campbell
Fort Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 219010939
Status: Underutilized
Comment: 1488 sq. ft.; two story; possible asbestos; most recent use—storage and administration.

Bldg. 2244
Fort Campbell
Fort Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 219010948
Status: Underutilized
Comment: 4248 sq. ft.; possible asbestos; two story; most recent use—storage.

Bldg. 3110
Fort Campbell
Fort Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 219010950
Status: Unutilized
Comment: 1000 sq. ft.; one story; possible asbestos; most recent use—administration.

Bldgs. 5954, 5956, 5958, 5960
Fort Campbell
Fort Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Numbers: 219010953, 219010956, 219010958, 219010961
Status: Unutilized
Comment: 2179 sq. ft. each; one story; possible asbestos; most recent use—Military Vehicle Maintenance Shop, Organizational.

Bldg. 6605
Fort Campbell
Fort Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 219010968
Status: Underutilized
Comment: 1968 sq. ft.; one story; most recent use—storage.

Bldg. 3148
Fort Campbell
Fort Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 219013223
Status: Underutilized
Comment: 2200 sq. ft.; 1 story; possible asbestos; selected periods used for military/training exercises.

Bldg. 00837, Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 219220447
Status: Unutilized
Comment: 2296 sq. ft., 1-story wooden structure with metal siding, presence of asbestos, most recent use—railroad repair shop, off-site removal only.

Bldg. 0236, Fort Knox
Ft. Knox Co: Hardin KY 40121
Landholding Agency: Army
Property Number: 219230306
Status: Underutilized
Comment: 3032 sq. ft., 1 story, needs rehab, off-site use only, most recent use—maintenance shop.

Bldg. 0655, Fort Knox
Ft. Knox Co: Hardin KY 40121
Landholding Agency: Army
Property Number: 219230307
Status: Underutilized
Comment: 1500 sq. ft., 1 story, needs rehab, off-site use only, most recent use—storehouse.

Bldg. 1063, Fort Knox
Ft. Knox Co: Hardin KY 40121
Landholding Agency: Army
Property Number: 219230308
Status: Underutilized
Comment: 1600 sq. ft., 1 story, needs rehab, off-site use only, most recent use—instruction bldg.

Bldg. 1373, Fort Knox
Ft. Knox Co: Hardin KY 40121
Landholding Agency: Army
Property Number: 219230309
Status: Underutilized
Comment: 2034 sq. ft., 1 story, needs rehab, off-site use only, most recent use—administration.

Bldg. 2415, Fort Knox
Ft. Knox Co: Hardin KY 40121
Landholding Agency: Army
Property Number: 219230310
Status: Underutilized
Comment: 7525 sq. ft., 2 story, needs rehab, off-site use only, most recent use—administration.

Bldg. 2417, Fort Knox
Ft. Knox Co: Hardin KY 40121
Landholding Agency: Army
Property Number: 219230311
Status: Underutilized
Comment: 7540 sq. ft., 2 story, needs rehab, off-site use only, most recent use—administration.

Bldg. 2707, Fort Knox
Ft. Knox Co: Hardin KY 40121
Landholding Agency: Army
Property Number: 219230312
Status: Underutilized
Comment: 4598 sq. ft., 2 story, needs rehab, off-site use only, most recent use—administration.

Bldg. 2708, Fort Knox
Ft. Knox Co: Hardin KY 40121
Landholding Agency: Army
Property Number: 219230313
Status: Underutilized
Comment: 3560 sq. ft., 2 story, needs rehab, off-site use only, most recent use—offices.

Bldg. 2711, Fort Knox
Ft. Knox Co: Hardin KY 40121
Landholding Agency: Army
Property Number: 219230314
Status: Underutilized
Comment: 1275 sq. ft., 1 story, needs rehab, off-site use only, most recent use—storage.

Bldg. 7001, Fort Knox
Ft. Knox Co: Hardin KY 40121
Landholding Agency: Army
Property Number: 219230315
Status: Underutilized
Comment: 962 sq. ft., 1 story, needs rehab, off-site use only, most recent use—administration.

Bldg. 7002, Fort Knox
Ft. Knox Co: Hardin KY 40121
Landholding Agency: Army
Status: Underutilized
Comment: 3085 sq. ft., 1 story, needs rehab, off-site use only, most recent use—storage.

Bldgs. 06864, 06866
Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Numbers: 219240757, 219240759
Status: Unutilized
Comment: 1000 sq. ft., 1 story wood frame, most recent use—storage, off-site use only

Bldg. 06865
Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 219240758
Status: Unutilized
Comment: 1200 sq. ft., 1 story wood frame, most recent use—storage, off-site use only

Bldg. 70
Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 219240760
Status: Unutilized
Comment: 979 sq. ft., 1 story wood frame, secured area w/alternate access, off-site use only

Bldg. 0074
Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 219240761
Status: Unutilized
Comment: 5400 sq. ft., 2 story wood frame, secured area w/alternate access, off-site use only

Bldgs. 2184, 2560, 2558
Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Numbers: 219240762–219240764
Status: Unutilized
Comment: 5310 sq. ft. ea., 2 story wood frame, secured area w/alternate access, off-site use only

Louisiana

Bldg. 8026
10th Street
Fort Polk Co: Vernon LA 71459–5000
Landholding Agency: Army
Property Number: 219012724
Status: Underutilized
Comment: 2580 sq. ft., 1 story temporary wood frame; most recent use—storage.

Bldg. 8226
12th Street
Fort Polk Co: Vernon LA 71459–5000
Landholding Agency: Army
Property Number: 219012729
Status: Unutilized
Comment: 2050 sq. ft., 1 story temporary wood frame; possible asbestos; most recent use—dining facility.

Bldg. 8425
8425 H Avenue
Fort Polk Co: Vernon Parish LA 71459–7100

Landholding Agency: Army
Property Number: 219230362
Status: Unutilized
Comment: 4957 sq. ft., 2 story frame structure, needs rehab, most recent use—barracks.

Maryland

Bldgs. E5878, E5879
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Numbers: 219012652, 219012653
Status: Unutilized
Comment: 213 sq. ft. each; structural deficiencies; possible asbestos; and contamination.

Bldg. 10302
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Number: 219012666
Status: Unutilized
Comment: 42 sq. ft.; possible asbestos; most recent use—pumping station.

Bldg. E5975
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Number: 219012677
Status: Unutilized
Comment: 650 sq. ft.; possible contamination; structural deficiencies most recent use—training exercises/chemicals and explosives; potential use—storage.

Bldg. 6599
Fort George G. Meade
Zimborski Road
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 219014852
Status: Unutilized
Comment: 4173 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access.

Bldg. 6687
Fort George G. Meade
Mapes and Zimborski Roads
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219220446
Status: Unutilized
Comment: 1150 sq. ft. presence of asbestos, wood frame, most recent use—veterinarian clinic, off-site removal only.

Bldg. T–115, Fort Detrick
Frederick Co: Frederick MD 21702–5000
Landholding Agency: Army
Property Number: 219230359
Status: Unutilized
Comment: 6200 sq. ft., 1 story, needs rehab. presence of asbestos, most recent use—child care center.

Bldg. 902, Fort Detrick
Frederick Co: Frederick MD 21702–5000
Landholding Agency: Army
Property Number: 219230360
Status: Unutilized
Comment: 4396 sq. ft., 1 story, needs rehab. presence of asbestos, most recent use—thrift shop, office.

Massachusetts

Bldgs. T–2281
Fort Devens
Fort Devens Co: Middlesex/Worce MA 01433–
Landholding Agency: Army
Property Number: 219012344
Status: Unutilized
Comment: 6351 sq. ft. each, wood, two stories, most recent use—housing.

Bldg. T–201
Fort Devens
Fort Devens Co: Middlesex/Worce MA 01433–
Landholding Agency: Army
Property Number: 219012363
Status: Unutilized
Comment: 1000 sq. ft., wood structure-needs rehab, no sanitary facilities, most recent use-company admin/supply.

Bldg. KB–0021
Fort Devens
Ft. Rodman MA 02744–
Landholding Agency: Army
Property Number: 219140027
Status: Unutilized
Comment: 4926 sq. ft., 1 story wood, presence of asbestos, most recent use—storage.

Bldg. KB–0100
Fort Devens
Ft. Rodman MA 02744–
Landholding Agency: Army
Property Number: 219140028
Status: Unutilized
Comment: 9100 sq. ft., 1 story insulated monopanel, most recent use—reserve center.

Bldg. KB–0102
Fort Devens
Ft. Rodman MA 02744–
Landholding Agency: Army
Property Number: 219140029
Status: Unutilized
Comment: 15480 sq. ft., 1 story concrete block, most recent use—reserve center.

Bldg. T–0208
Fort Devens
Ft. Devens Co: Middlesex/Worce MA 01433–
Landholding Agency: Army
Property Number: 219140030
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood, presence of asbestos, needs rehab.

Bldg. T–0209
Fort Devens
Ft. Devens Co: Middlesex/Worce MA 01433–
Landholding Agency: Army
Property Number: 2219140031
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood, presence of asbestos, needs rehab.

Bldg. T–0236
Fort Devens
Ft. Devens Co: Middlesex/Worce MA 01433–
Landholding Agency: Army
Property Number: 219140032
Status: Unutilized
Comment: 4613 sq. ft., 1 story wood, presence of asbestos, needs rehab.

Bldg. T–2676
Fort Devens
Ft. Devens Co: Middlesex/Worce MA 01433–
Landholding Agency: Army
Property Number: 219140033
Status: Unutilized
Comment: 1176 sq. ft., 1 story wood, presence of asbestos, needs rehab.

Michigan

Bldg. 300, Arsenal Acres
24140 Mound Road
Warren, MI 48091
Landholding Agency: Army
Property Number: 219220448
Status: Unutilized
Comment: 52 sq. ft., sentry station, secured area w/alternate access.

Bldg. 301, Arsenal Acres
24140 Mound Road
Warren, MI 48091
Landholding Agency: Army
Property Number: 219220449
Status: Unutilized
Comment: 3125 sq. ft., 2-story colonial style home, secured area w/alternate access.

Bldgs. 302, 303
24140 Mound Road
Warren, MI 48091
Landholding Agency: Army
Property Numbers: 219220450–219220451
Status: Unutilized
Comment: 2619 sq. ft. ea., 2-story colonial style home, secured area w/alternate access.

Bldgs. 304, 305
24140 Mound Road
Warren, MI 48091
Landholding Agency: Army
Property Numbers: 219220452–219220787
Status: Unutilized
Comment: 2443 sq. ft. ea., 2-story colonial style home, secured area w/alternate access.

Missouri

Bldg. 2178
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219210247
Status: Underutilized
Comment: 2284 sq. ft., 1 story, presence of asbestos, off-site use only.

Bldg. T451
Fort Leonard Wood
Ft. Leonard Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219220568
Status: Underutilized
Comment: 4640 sq. ft., 1 story wood frame, presence of asbestos, off-site use only, not handicapped accessible, most recent use—admin/general purpose.

Bldg. T3057
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219220580
Status: Underutilized
Comment: 2650 sq. ft., 1 story wood frame, presence of asbestos, off-site use only, not handicapped accessible, most recent use—admin/general purpose.

Bldg. 1691
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219220594
Status: Unutilized

Comment: 2646 sq. ft., 1 story wood frame, presence of asbestos, off-site use only, not handicapped accessible, most recent use—comdr. headquarters bldg.

Bldg. T2383
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219230228
Status: Underutilized
Comment: 9267 sq. ft., 1 story, presence of asbestos, off-site use only, most recent use—general purpose.

Bldg. T1376
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219230237
Status: Underutilized
Comment: 1296 sq. ft., 1 story, presence of asbestos, off-site use only, most recent use—Hdqtrs building.

Bldg. T599
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219230260
Status: Underutilized
Comment: 18270 sq. ft., 1 story, presence of asbestos, off-site use only, most recent use—storehouse.

Bldg. T1311
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219230261
Status: Underutilized
Comment: 2740 sq. ft., 1 story, presence of asbestos, off-site use only, most recent use—storehouse.

Bldg. T1333
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219230263
Status: Underutilized
Comment: 1144 sq. ft., 1 story, presence of asbestos, off-site use only, most recent use—storehouse.

Bldg. T3071
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219240719
Status: Unutilized
Comment: 2500 sq. ft., 1 story wood frame, possible asbestos, heating fuel storage tanks nearby, off-site use only, most recent use—mess hall

Nebraska

Bldg. RG–1
Cornhusker Army Ammunition Plant
Old Potash Hwy
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210292
Status: Unutilized
Comment: 1080 sq. ft., 1 story garage, possible asbestos, secured area with alternate access

Bldg. RG–2
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210293
Status: Unutilized
Comment: 576 sq. ft., 1 story garage, secured area with alternate access

Bldg. RG–3
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210294
Status: Unutilized
Comment: 936 sq. ft., 1 story garage, possible asbestos, secured area with alternate access

Bldg. RG–4
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210295
Status: Unutilized
Comment: 1040 sq. ft., 1 story garage, possible asbestos, secured area with alternate access

Bldg. RG–5
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210296
Status: Unutilized
Comment: 490 sq. ft., 1 story garage, possible asbestos, secured area with alternate access

Bldg. RG–6
Cornhusker Army Ammunition Plant
Grand Island Co; Hall NE 68803
Landholding Agency: Army
Property Number: 219210297
Status: Unutilized
Comment: 510 sq. ft., 1 story garage, possible asbestos, secured area with alternate access

Nevada

Bldgs. 00425–00449
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Numbers: 219011946–219011952, 219011954, 219011956, 219011959, 219011961, 219011964, 219011968, 219011970, 219011974, 219011976–219011978, 219011980, 219011982, 219011984, 219011987, 219011990, 219011994, 219011996
Status: Unutilized
Comment: 1310–1640 sq. ft. each, one floor residential, semi/wood construction, good condition.

New Jersey

Bldg. 5316
Snyder Avenue
Fort Dix Co: Burlington NJ 08640
Landholding Agency: Army
Property Number: 219210280
Status: Unutilized
Comment: 700 sq. ft., 1 story cinder block structure, windowless

Bldg. 9111, Evans Area
Fort Monmouth—Watson Avenue
Wall Co: Monmouth NJ 07719
Landholding Agency: Army
Property Number: 219210288
Status: Unutilized
Comment: 1126 sq. ft., 1 story, needs major repairs, possible asbestos

Bldg. 9113, Evans Area
Fort Monmouth—Watson Avenue
Wall Co: Monmouth NJ 07719
Landholding Agency: Army
Property Number: 219210289
Status: Unutilized
Comment: 2000 sq. ft., 1 story, needs major repairs, possible asbestos

Bldg. 9126, Evans Area
Fort Monmouth—Watson Avenue
Wall Co: Monmouth NJ 07719
Landholding Agency: Army
Property Number: 219210290
Status: Unutilized
Comment: 384 sq. ft., 1 story, needs major repairs, possible asbestos

Bldg. 2534, Charles Wood Area
Fort Monmouth
Tinton Falls Co: Monmouth NJ
Landholding Agency: Army
Property Number: 219210291
Status: Unutilized
Comment: 5307 sq. ft., 2 story, most recent use—storage, needs rehab, possible asbestos

Bldg. 443, 458, Main Post
Fort Monmouth
Ft. Monmouth Co: Monmouth NJ 07703
Landholding Agency: Army
Property Numbers: 219230363–219230364
Status: Unutilized
Comment: 4720 sq. ft. ea., 2 story structure, needs repair.

New York

Bldg. 503
Fort Totten
Ordnance Road
Bayside Co: Queens NY 11357–
Landholding Agency: Army
Property Number: 219012564
Status: Underutilized
Comment: 510 sq. ft., 1 floor, most recent use—storage, needs major rehab/no utilities.

Bldg. 323
Fort Totten
Story Avenue
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012567
Status: Underutilized
Comment: 30000 sq. ft., 3 floors, most recent use—barracks & mess facility, needs major rehab.

Bldg. 304
Fort Totten
Shore Road
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012570
Status: Underutilized
Comment: 9610 sq. ft., 3 floors, most recent use—hospital, needs major rehab/utilities disconnected.

Bldg. 211
Fort Totten
211 Totten Avenue
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012573
Status: Underutilized
Comment: 6329 sq. ft., 3 floors, most recent use—family housing, needs major rehab, utilities disconnected.

Bldg. 332
Fort Totten

Theater Road
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012578
Status: Underutilized
Comment: 6288 sq. ft., 1 floor, most recent use—theater w/stage, needs major rehab, utilities disconnected.

Bldg. 504
Fort Totten
Ordnance Road
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012580
Status: Underutilized
Comment: 490 sq. ft., 1 floor, most recent use—storage, no utilities, needs major rehab.

Bldg. 322
Fort Totten
322 Story Avenue
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012583
Status: Underutilized
Comment: 30000 sq. ft., 3 floors, most recent use—barracks, mess & administration, utilities disconnected, needs rehab.

Bldg. 326
Fort Totten
326 Pratt Avenue
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012586
Status: Underutilized
Comment: 6000 sq. ft., 2 floors, most recent use—storage, offices & residential, utilities disconnected/needs rehab.

Bldg. 627
U.S. Military Academy—West Point
Pitcher Road, North Dock
Highland Co: Orange NY 10996–1592
Landholding Agency: Army
Property Number: 219030185
Status: Unutilized
Comment: 23185 sq. ft., 1 story wood frame; needs rehab; presence of asbestos; most recent use—storage warehouse.

Bldgs. T–950, T–959, T–970
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Numbers: 219240483–219240485
Status: Unutilized
Comment: 2360 sq. ft., 1 story wood frame, off-site use only, most recent use—applied instruction.

Bldg. T–953
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240486
Status: Unutilized
Comment: 1296 sq. ft., 1 story wood frame, off-site use only, most recent use—applied instruction.

Bldgs. T–951, T–952, T–956 thru T–958, T–969, T–971 thru T–973, T–975 thru T–978
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Numbers: 219240487–219240499
Status: Unutilized
Comment: 4720 sq. ft. ea., 2 story wood frame, off-site use only, most recent use—applied instruction.

Bldg. T–954
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240500
Status: Unutilized
Comment: 2750 sq. ft., 1 story wood frame, off-site use only, most recent use—applied instruction.

Bldg. T–960
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240501
Status: Unutilized
Comment: 2588 sq. ft., 1 story wood frame, off-site use only, most recent use—applied instruction.

Bldgs. T–961, T–962, T–966, T–967
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Numbers: 219240502–219240505
Status: Unutilized
Comment: 1144 sq. ft. ea., 1 story wood frame, off-site use only, most recent use—applied instruction.

Bldgs. T–968, T–780, T–860, T–861, T–868, T–869, T–2491, T–4810
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Numbers: 219240506, 219240508–219240514
Status: Unutilized
Comment: 1296 sq. ft. ea., 1 story wood frame, off-site use only, most recent use—applied instruction.

Bldg. T–979
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240507
Status: Unutilized
Comment: 2663 sq. ft., 1 story wood frame, off-site use only, most recent use—applied instruction.

Bldg. T–791
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240515
Status: Unutilized
Comment: 1372 sq. ft., 1 story wood frame, off-site use only, most recent use—general storehouse.

Bldg. T–793
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240516
Status: Unutilized
Comment: 2740 sq. ft., 1 story wood frame, off-site use only, most recent use—general storehouse.

Bldg. T–804
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240517
Status: Unutilized
Comment: 3537 sq. ft., 1 story wood frame, off-site use only, most recent use—general storehouse.

Bldg. T–864
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240518
Status: Unutilized
Comment: 1500 sq. ft., 1 story wood frame, off-site use only, most recent use—general storehouse.

Bldg. T–909
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240519
Status: Unutilized
Comment: 1478 sq. ft., 1 story wood frame, off-site use only, most recent use—general storehouse.

Bldgs. T–930, T–934, T–939
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Numbers: 219240520–219240522
Status: Unutilized
Comment: 2588 sq. ft., 1 story wood frame, off-site use only, most recent use—general storehouse.

Bldg. T–1298
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240523
Status: Unutilized
Comment: 960 sq. ft., 1 story wood frame, off-site use only, most recent use—general storehouse.

Bldg. T–2043
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240524
Status: Unutilized
Comment: 100 sq. ft., 1 story wood frame, off-site use only, most recent use—general storehouse (storage).

Bldgs. T–2460 thru T–2463
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Numbers: 219240525–219250528
Status: Unutilized
Comment: 1637 sq. ft. ea., 1 story wood frame, off-site use only, most recent use—general storehouse.

Bldg. T–2485
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240529
Status: Unutilized
Comment: 840 sq. ft., 1 story wood frame, off-site use only, most recent use—general storehouse (storage).

Bldg. T–2486
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240530
Status: Unutilized
Comment: 132 sq. ft., 1 story wood frame, off-site use only, most recent use—general storehouse (storage).

Bldg. T–2487
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240531
Status: Unutilized
Comment: 270 sq. ft., 1 story wood frame, off-site use only, most recent use—general storehouse.

Bldgs. T–2492, T–4811, T–4855, T–4858, T–4865, T–4868
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Numbers: 219240532–219240537
Status: Unutilized
Comment: 1250 sq. ft. ea., 1 story wood frame, off-site use only, most recent use—recreation.

Bldgs. T–781, T–807, T–862, T–863, T–866, T–867, T–931, T–932, T–935 thru T–938, T–2493
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Numbers: 219240538–219240550
Status: Unutilized
Comment: 1114 sq. ft. ea., 1 story wood frame, off-site use only, most recent use—recreation.

Bldgs. T–785, T–809, T–819, T–859, T–920, T–924, T–929, T–940, T–944, T–949
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Numbers: 219240551–219240560
Status: Unutilized
Comment: 2360 sq. ft. ea., 1 story wood frame, off-site use only, most recent use—enlisted personnel dining.

Bldgs. T–850, T–870, T–879
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Numbers: 219240561–219240563
Status: Unutilized
Comment: 2663 sq. ft. ea., 1 story wood frame, off-site use only, most recent use—enlisted personnel dining.

Bldg. T–855
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240564
Status: Unutilized
Comment: 2650 sq. ft., 1 story wood frame, off-site use only, most recent use—enlisted personnel dining.

Bldg. T–919
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240565
Status: Unutilized
Comment: 2670 sq. ft., 1 story wood frame, off-site use only, most recent use—enlisted personnel dining.

Bldg. T–1015
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240566
Status: Unutilized
Comment: 1976 sq. ft., 1 story wood frame, off-site use only, most recent use—enlisted personnel dining.

Bldg. T–1016
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240567
Status: Unutilized
Comment: 3293 sq. ft., 1 story wood frame, off-site use only, most recent use—enlisted personnel dining.

Bldg. T–2401
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240568
Status: Unutilized
Comment: 7811 sq. ft., 1 story wood frame, off-site use only, most recent use—enlisted personnel dining.

Bldg. T–2447
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240569
Status: Unutilized
Comment: 7483 sq. ft., 1 story wood frame, off-site use only, most recent use—enlisted personnel dining.

Bldg. T–4844
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240570
Status: Unutilized
Comment: 2250 sq. ft., 1 story wood frame, off-site use only, most recent use—enlisted personnel dining.

Bldgs. T–4800, T–4809, T–4874, T–4879
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Numbers: 219240571–219240574
Status: Unutilized
Comment: 2500 sq. ft. ea., 1 story wood frame, off-site use only, most recent use—enlisted personnel dining.

Bldgs. T–911, T–912, T–925, T–1017, T–4806, T–4807, T–4845, T–4846, T–4877, T–4878, T–4875, T–4876
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Numbers: 219240575–219240586
Status: Unutilized
Comment: 5310 sq. ft. ea., 2 story wood frame, off-site use only, most recent use—enlisted barracks.

Bldgs. T–787, T–817, T–818, T–852 thru T–854, T–856, T–858, T–871 thru T–878, T–921 thru T–923, T–926, T–927, T–941 thru T–943, T–945 thru T–948, T–1013, T–1014, T–1018, T–1019, T–2474, T–2475
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Numbers: 219240587–219240620
Status: Unutilized
Comment: 4720 sq. ft. ea., 2 story wood frame, off-site use only, most recent use—enlisted barracks.

Bldg. T–684
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240621
Status: Unutilized
Comment: 304 sq. ft., 1 story wood frame, off-site use only, most recent use—exchange cafeteria.

Bldg. T–2409
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240622
Status: Unutilized
Comment: 80 sq. ft., 1 story wood frame, off-site use only, most recent use—standby generator plant.

Bldg. T–2490
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240623
Status: Unutilized
Comment: 525 sq. ft., 1 story wood frame, off-site use only, most recent use—vehicle storage.

Bldg. T–1299
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240624
Status: Unutilized
Comment: 960 sq. ft., 1 story wood frame, off-site use only, most recent use—flammable material storehouse.

Bldg. T–2042
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240625
Status: Unutilized
Comment: 80 sq. ft., 1 story wood frame, off-site use only, most recent use—flammable material storehouse.

Bldg. T–2044
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240626
Status: Unutilized
Comment: 100 sq. ft., 1 story wood frame, off-site use only, most recent use—flammable material storehouse.

Bldg. T–2324
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240627
Status: Unutilized
Comment: 4408 sq. ft., 1 story wood frame, off-site use only, most recent use—admin general purpose.

Bldg. T–928
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240628
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood frame, off-site use only, most recent use—admin general purpose.

Bldg. T–2414
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army

Property Number: 219240629
Status: Unutilized
Comment: 2250 sq. ft., 1 story wood frame, off-site use only, most recent use—admin general purpose.

Bldgs. T–2432, T–2433
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Numbers: 219240630–219240631
Status: Unutilized
Comment: 4340 sq. ft., 1 story wood frame, off-site use only, most recent use—hospital.

Bldg. T–2403
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240632
Status: Unutilized
Comment: 2230 sq. ft., 1 story wood frame, off-site use only, most recent use—officer's quarters trans.

Bldg. T–4896
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240633
Status: Unutilized
Comment: 632 sq. ft. 1 story wood frame, off-site use only, most recent use—officer's quarters trans.

Bldg. T–688
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240634
Status: Unutilized
Comment: 12014 sq. ft., 1 story wood frame, off-site use only, most recent use—theatre w/stage.

Bldg. T–713
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240635
Status: Unutilized
Comment: 840 sq. ft., 1 story wood frame, off-site use only, most recent use—company headquarters.

Bldg. T–1009
Fort Drum
Ft. Drum, NY, Jefferson, Zip: 13602–
Landholding Agency: Army
Property Number: 219240636
Status: Unutilized
Comment: 2360 sq. ft., 1 story wood frame, off-site use only, most recent use—company headquarters.

North Carolina

Bldg. A–3347, Fort Bragg
Ft. Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219230276
Status: Unutilized
Comment: 800 sq. ft., 1 story wood, off-site use only, most recent use—storage.

Bldg. A–2637, Fort Bragg
Ft. Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219230277
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood, needs rehab, off-site use only, most recent use—storage.

Ohio

15 Units Military Family Housing
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266
Landholding Agency: Army
Property Number: 219230354
Status: Unutilized
Comment: 7–3 bedroom units (1824 sq. ft. ea.) 8–4 bedroom units (2430 sq. ft. ea.), 2 story wood frame, presence of asbestos, off-site use only.

7 Units Military Family Housing
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266
Landholding Agency: Army
Property Number: 219230355
Status: Unutilized
Comment: One-4 stall garage and Six-3 stall garages, off-site use only, presence of asbestos.

Oklahoma

Bldg. T–2545, Fort Sill
2544 Sheridan Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219011255
Status: Unutilized
Comment: 1994 sq. ft.; asbestos; wood frame; 2 floors, no operating sanitary facilities; most recent use—barracks.

Bldg. T–2606
Fort Sill
2606 Currie Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219011273
Status: Unutilized
Comment: 2722 sq. ft.; possible asbestos; one floor wood frame; most recent use—Headquarters Bldg.

Bldg. T–3507
Fort Sill
3507 Sheridan Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219011315
Status: Unutilized
Comment: 2904 sq. ft.; possible asbestos; potential heavy metal contamination; wood frame; most recent use—chapel

Bldg. T–3516
Fort Sill
3516 Packard Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219011324
Status: Unutilized
Comment: 1425 sq. ft.; possible asbestos, wood frame, most recent use—administrative.

Bldgs. T–3779, T–3780
Fort Sill
3779 Currie Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Numbers: 219011343, 219011344
Status: Unutilized
Comment: 4720 sq. ft. each; possible asbestos; wood frame; 2 floors, most recent use—barracks.

Bldg. T–4502
Fort Sill
4502 Wilson Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219011376
Status: Unutilized
Comment: 2812 sq. ft.; structurally unsound; possible asbestos; one story wood frame.

Bldg. T–4720
Fort Sill
4720 Hartell Blvd.
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219011405
Status: Unutilized
Comment: 13225 sq. ft.; visual asbestos; wood frame; 2 floors; most recent use—recreation bldg.

Bldg. T–836
Fort Sill
Corner of Macomb Road and Burrell Road
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219014328
Status: Unutilized
Comment: 1341 sq. ft.; 1 story wood frame; most recent use—storage; possible asbestos.

Bldg. T–4919
Fort Sill
4919 Post Road
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219014842
Status: Unutilized
Comment: 603 sq. ft.; 1 story mobile home trailer; possible asbestos; needs rehab.

Bldg. T–4523, Fort Sill
4523 Wilson Road
Lawton Co: Comanche OK 73503
Landholding Agency: Army
Property Number: 219014933
Status: Unutilized
Comment: 1639 sq. ft., 1 story wood frame, needs rehab, possible asbestos, most recent use—storage.

Bldg. S–701
Fort Sill
701 Randolph Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219030183
Status: Unutilized
Comment: 19903 sq. ft.; steel/wood frame; 1 story; needs rehab; possible asbestos; most recent use—general instruction building.

Bldg. T–283 Fort Sill
283 Knox Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219220608
Status: Unutilized
Comment: 2419 sq. ft., wood frame, 2 story, off-site removal only, most recent use—classroom.

Bldg. T–838, Fort Sill
838 Macomb Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219220609
Status: Unutilized
Comment: 151 sq. ft., wood frame, 1 story, off-site removal only, most recent use—vet facility (quarantine stable).

Bldg. T–3539, Fort Sill
3539 Tacy Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army

Property Number: 219220610
Status: Unutilized
Comment: 1594 sq. ft., wood frame, 1 story, off-site removal only, most recent use—headquarters bldg.

Bldg. T–3600, Fort Sill
3600 Tacy Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219220611
Status: Unutilized
Comment: 2267 sq. ft., wood frame, 1 story, off-site removal only, most recent use—storage.

Bldgs. T–3607, T–3621, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Numbers: 219220612–219220613
Status: Unutilized
Comment: 2265 sq. ft. ea., wood frame, 1 story, off-site removal only, most recent use—storage.

Bldg. T–3658, Fort Sill
3658 Tacy Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219220614
Status: Unutilized
Comment: 3091 sq. ft., wood frame, 1 story, off-site removal only, most recent use—storage.

Bldg. T–3681, Fort Sill
3681 Thomas Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219220615
Status: Unutilized
Comment: 3673 sq. ft., wood frame, 1 story, off-site removal only, most recent use—detached dayroom.

Bldg. T–3700, Fort Sill
3700 Tacy Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219220616
Status: Unutilized
Comment: 3162 sq. ft., wood frame, 1 story, off-site removal only, most recent use—classroom.

Bldg. T–3701 Fort Sill
3701 Walker Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219220617
Status: Unutilized
Comment: 2263 sq. ft., wood frame, 2 story, off-site removal only, most recent use—barracks.

Bldg. T–4712, Fort Sill
4712 Bartell Blvd.
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219220618
Status: Unutilized
Comment: 3842 sq. ft., wood frame, 1 story, off-site removal only, most recent use—chapel/administration.

Bldg. P–7452, Fort Sill
Lake Elmer Thomas Rec Area
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219220619
Status: Unutilized
Comment: 450 sq. ft., metal frame, 1 story, off-site removal only, most recent use—garage.

Bldg. T–3660, Fort Sill
3660 Tacy Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219230275
Status: Unutilized
Comment: 4659 sq. ft., 1 story wood frame, off-site use only.

Bldg. T–314, Fort Sill
314 Fowler Road
Lawton, Co: Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240652
Status: Unutilized
Comment: 2798 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—admin supply.

Bldg. T–315, Fort Sill
315 Fowler Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240653
Status: Unutilized
Comment: 2787 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—training aids center.

Bldg. T–3541, Fort Sill
3541 Tacy Street
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240654
Status: Unutilized
Comment: 3873 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—admin/supply.

Bldg. T–2702, Fort Sill
2702 Thomas Street
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240655
Status: Unutilized
Comment: 5520 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—admin.

Bldg. T–3311, Fort Sill
3311 Naylor Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240656
Status: Unutilized
Comment: 1468 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—admin.

Bldg. T–3545, Fort Sill
3545 Tacy Street
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240657
Status: Unutilized
Comment: 1647 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—general instruction.

Bldg. T–942, Fort Sill
942 Quinette Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240658
Status: Unutilized
Comment: 149 sq. ft., 1 story metal frame, needs rehab, off-site use only, most recent use—gas station bldg.

Bldg. T–954, Fort Sill
954 Quinette Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240659
Status: Unutilized
Comment: 3571 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—motor repair shop.

Bldgs. T–1050, T–1051 Fort Sill
1050 Quinette Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Numbers: 219240660–219240661
Status: Unutilized
Comment: 6240 sq. ft. ea., 2 story wood frame, needs rehab, off-site use only, most recent use—barracks.

Bldgs. T–3703 thru T–3605, T–3709 Fort Sill
3703 Walker Street
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Numbers: 219240662–219240665
Status: Unutilized
Comment: 4524 sq. ft. ea., 2 story wood frame, needs rehab, off-site use only, most recent use—barracks.

Bldg. T–5121, Fort Sill
5121 Post Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240666
Status: Unutilized
Comment: 8156 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—barracks.

Bldgs. T–2703, T–2704, Fort Sill
2703 Thomas Street
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Numbers: 219240667–219240668
Status: Unutilized
Comment: 5520 sq. ft. ea., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks.

Bldg. T–2740, Fort Sill
2740 Miner Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240669
Status: Unutilized
Comment: 8210 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks.

Bldg. T–2745, Fort Sill
2745 Miner Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240670
Status: Unutilized
Comment: 8288 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks.

Bldg. T–1475, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240671
Status: Unutilized
Comment: 544 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—stable.

Bldg. T–2633, Fort Sill
2633 Miner Road
Lawton, OK, Comanche, Zip: 73503–5100

Landholding Agency: Army
Property Number: 219240672
Status: Unutilized
Comment: 19455 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—enlisted mess.

Bldg. T–2701, Fort Sill
2701 Thomas Street
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240673
Status: Unutilized
Comment: 5520 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—storage.

Bldg. T–2907, Fort Sill
2907 Marcy Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240674
Status: Unutilized
Comment: 3861 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage.

Bldg. T–2928, Fort Sill
2928 Custer Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240675
Status: Unutilized
Comment: 2315 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage.

Bldg. T–4050, Fort Sill
4050 Pitman Street
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240676
Status: Unutilized
Comment: 3177 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage.

Bldg. T–5110, Fort Sill
5110 Post Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240677
Status: Unutilized
Comment: 457 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage.

Bldg. P–3032, Fort Sill
3032 Haskins Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240678
Status: Unutilized
Comment: 101 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—general storehouse.

Bldg. T–5115, Fort Sill
5115 Post Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240679
Status: Unutilized
Comment: 1,260 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storehouse.

Bldg. T–3302, Fort Sill
3302 Naylor Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240680
Status: Unutilized
Comment: 114 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—flammable storage.

Bldg. T–3325, Fort Sill
3325 Naylor Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240681
Status: Unutilized
Comment: 8832 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—warehouse.

Bldg. T–3540, Fort Sill
3540 Tacy Street
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240682
Status: Unutilized
Comment: 3833 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—classroom

Bldg. T–3708, Fort Sill
3708 Walker Street
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240683
Status: Unutilized
Comment: 4526 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—day room.

Bldg. T–2911, Fort Sill
291 Craig Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240684
Status: Unutilized
Comment: 2284 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—dispensary.

Bldg. T–260, Fort Sill
260 Corral Road
Lawton, OK, Comanche, Zip: 73503–5000
Landholding Agency: Army
Property Number: 219240776
Status: Unutilized
Comment: 4838 sq. ft., 2 story wood frame, off-site use only, possible asbestos, most recent use—admin.

Bldg. T–228, Fort Sill
228 Corral Road
Lawton, OK, Comanche, Zip: 73503–5000
Landholding Agency: Army
Property Number: 219240777
Status: Unutilized
Comment: 4884 sq. ft., 2 story wood frame, off-site use only, possible asbestos, most recent use—storage.

Bldg. T–2933, Fort Sill
2933 Marcy Road
Lawton, OK, Comanche, Zip: 73503–5000
Landholding Agency: Army
Property Number: 219240778
Status: Unutilized
Comment: 13545 sq. ft., 1 story wood frame, off-site use only, possible asbestos, most recent use—theatre w/stage.

Bldg. T–1475, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240784
Status: Unutilized
Comment: 544 sq. ft., 1-story wood frame donkey shed, off-site use only

Tennessee

Robert Joel Ridings
US Army Reserve Center
920 Cherokee Avenue
Nashville Co: Davidson TN 37207–
Landholding Agency: Army
Property Number: 219011667
Status: Excess
Comment: 40,000 sq. ft.; 3.67 acres; concrete block; utilities disconnected; site vandallized.

Texas

Bldg. 2
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014815
Status: Unutilized
Comment: 94606 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 4
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014816
Status: Unutilized
Comment: 1350 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 17
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014817
Status: Unutilized
Comment: 68 sq. ft.; wood and metal frame; subject to sewer pipeline easement; needs rehab.; most recent use—guard house.

Bldg. 29
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014818
Status: Unutilized
Comment: 5028 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 30
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014819
Status: Unutilized
Comment: 5323 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 18
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014820
Status: Unutilized
Comment: 9560 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 6
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014821
Status: Unutilized
Comment: 1258 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 7
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014822
Status: Unutilized
Comment: 508 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 8
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014824
Status: Unutilized
Comment: 171 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—watch tower.

Bldg. 16
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014825
Status: Unutilized
Comment: 17263 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 19
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014826
Status: Unutilized
Comment: 25399 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 31
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014827
Status: Unutilized
Comment: 1392 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 9
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014828
Status: Unutilized
Comment: 244 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 25
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014829
Status: Unutilized
Comment: 1320 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—fire house.

Bldg. 10
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014830
Status: Unutilized
Comment: 354 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 26
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014831
Status: Unutilized
Comment: 3518 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 21
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014832
Status: Unutilized
Comment: 65 sq. ft.; wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—guard house.

Bldg. 22
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014833
Status: Unutilized
Comment: 50581 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 27
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014834
Status: Unutilized
Comment: 228 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—control tower.

Bldg. 32
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014835
Status: Unutilized
Comment: 19546 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. P–3350, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220397
Status: Underutilized
Comment: 992 sq. ft., 1-story wood structure, possible asbestos, off-site removal only.

Bldg. P–3824, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220398
Status: Unutilized
Comment: 2232 sq. ft., 1-story concrete structure, within National Landmark Historic District, off-site removal only.

Bldg. 11042, Fort Bliss
El Paso, TX, El Paso, Zip: 79916–
Landholding Agency: Army
Property Number: 21922681
Status: Unutilized
Comment: 6851 sq. ft., 1 story wood structure, most recent use—vehicle maintenance shop, off-site use only.

Bldg. 659, Fort Bliss
El Paso, TX, El Paso, Zip: 79916–
Landholding Agency: Army
Property Number: 21923004
Status: Unutilized
Comment: 630 sq. ft., 1-story wood structure, needs major rehab, most recent use—admin., off-site use only.

Bldg. T–2400, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220435
Status: Underutilized
Comment: 6093 sq. ft., 1-story concrete and tile structure, off-site removal only.

Bldg. 56616, Fort Hood
Ft. Hood, TX, Bell, Zip: 76544–
Landholding Agency: Army
Property Number: 219230295
Status: Unutilized
Comment: 1883 sq. ft., 1-story, most recent use—storage, needs rehab, off-site use only.

Bldgs. 866, 883, Fort Bliss
El Paso, TX, El Paso, Zip: 79916–
Landholding Agency: Army
Property Numbers: 219230317, 219230320
Status: Unutilized
Comment: 972 sq. ft. es., 1-story wood frame, most recent use—storehouse, off-site use only.

Bldg. 880, Fort Bliss
El Paso, TX, El Paso, Zip: 79916–
Landholding Agency: Army
Property Number: 219230319
Status: Unutilized
Comment: 978 sq. ft., 1-story wood frame, most recent use—storehouse, off-site use only.

Bldgs. 876, 879, 882, Fort Bliss
El Paso, TX, El Paso, Zip: 79916–
Landholding Agency: Army
Property Numbers: 219230343
Status: Unutilized
Comment: 858 sq. ft., 1-story wood frame, most recent use—admin., off-site use only.

Bandstand & Pavillon
Fort Bliss
El Paso, TX, El Paso, Zip: 79916–
Landholding Agency: Army
Property Number: 219230353
Status: Unutilized
Comment: concrete and flag stone, off-site use only.

Harlingen USARC
1920 East Washington
Harlingen Co: Cameron TX 78550–
Landholding Agency: Army
Property Number: 219120304
Status: Excess
Comment: 19440 sq. ft., 1 story brick, needs rehab, with approx. 6 acres including parking areas, most recent use—Army Reserve Training Center.

Bldgs. 6202–6207, 6162–6166
Bradshaw Avenue, Fort Bliss
El Paso, TX, El Paso, Zip: 79916
Landholding Agency: Army
Property Numbers: 219240685–219240695
Status: Unutilized
Comment: 5400 sq. ft., 2 story wood frame, 4-unit residences, needs rehab, off-site use only.

Bldgs. 6208, 6217–6219, 6209–6212, 6227, 6229, 6231, 6233, 6238, 6240, 6242, 6244
Bradshaw Avenue, Fort Bliss
El Paso, Co: El Paso, TX 79916
Landholding Agency: Army
Property Numbers: 219240696–219240711
Status: Unutilized

Comment: 5040 sq. ft. ea., 2 story wood frame, 4-unit residences, needs rehab, off-site use only.

Bldg. 4241, Fort Bliss
4241 Logan Heights
El Paso, Co: El Paso, TX 79916–
Landholding Agency: Army
Property Number: 219240712
Status: Unutilized
Comment: 1383 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—administrative.

Bldgs. 123, 3435, Fort Hood
Battalion
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Numbers: 219240713–219240714
Status: Unutilized
Comment: 1350 sq. ft. ea., 1 story wood frame, needs rehab, off-site use only.

Bldg. 2204, Fort Hood
Battalion
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 219240715
Status: Unutilized
Comment: 1512 sq. ft., 1 story wood frame, needs rehab, off-site use only.

Bldg. 2326, Fort Hood
Battalion
Ft. Hood Co: Bell TX 76544
Property Number: 219240716
Status: Unutilized
Comment: 1728 sq. ft., 1 story wood frame, needs rehab, off-site use only.

Virginia

Bldg. T–6015
U.S. Army Logistics Center & Fort Lee
Shop Road
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219012376
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. T–6018
U.S. Army Logistics Center & Fort Lee
Shop Road
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219012396
Status: Unutilized
Comment: 1575 sq ft., 1 floor, no utilities, possible asbestos, needs rehab, off site use only.

Wisconsin

Bldgs. T–1058, T–1027—T–01030, T–01035—T–01040, T–01044, T–01046—T–01053, T–01059, T–01063, T–01069, T–01034, T–01041, T–01057, T–01071—T–01080, T–01082—T–01084
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Numbers: 219013435, 219013471–219013480, 219013483, 219013485–219013493, 219013497, 219013502, 219013504–219013505, 219013519, 219013521–219013533
Status: Unutilized
Comment: 4829 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10122
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013436
Status: Unutilized
Comment: 1900 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10123
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013437
Status: Unutilized
Comment: 2405 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10135
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013438
Status: Unutilized
Comment: 97 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—power plant.

Bldg. T–10136
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013439
Status: Unutilized
Comment: 96 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—power plant.

Bldg. T–10127
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013440
Status: Unutilized
Comment: 1148 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. P–10119
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013441
Status: Unutilized
Comment: 215 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. P–10137
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013442
Status: Unutilized
Comment: 192 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—power plant.

Bldgs. T–01088—T–01089, T–01090—T–01093, T–01094—T–01097, T–01014
Fort McCdy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Numbers: 219013444–219013445, 219013446–219013449, 219013452–219013455, 219013457
Status: Unutilized
Comment: 5295 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10118
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013450
Status: Unutilized
Comment: 1250 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10120
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013451
Status: Unutilized
Comment: 1250 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10113
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013456
Status: Unutilized
Comment: 2393 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10121
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013458
Status: Unutilized
Comment: 506 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T–10100—T–10103, T–10105, T–10107, T–10108
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Numbers: 219013459–219013462, 219013463, 219013465–219013466
Status: Unutilized
Comment: 3944 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10106
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013464
Status: Unutilized
Comment: 4105 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10124
Fort McCoy

Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013467
Status: Unutilized
Comment: 3115 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T–10125—T–10126
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Numbers: 219013468–219013469
Status: Unutilized
Comment: 3590 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10110
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013470
Status: Unutilized
Comment: 2548 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—vehicle storage.

Bldgs. T–01042, T–01043, T–01045, T–01060—T–01062, T–01022—T–01025, T–01064, T–01085—T–01086
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Numbers: 219013481–219013482, 219013484, 219013494–219013496, 219013515–219013518, 219013520, 219013534–219013535
Status: Unutilized
Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T–01065—T–01067
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Numbers: 219013498–219013500
Status: Unutilized
Comment: 4793 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01068
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013501
Status: Unutilized
Comment: 4848 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01032
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013503
Status: Unutilized
Comment: 5588 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01054
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013506
Status: Unutilized
Comment: 4184 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01033
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013507
Status: Unutilized
Comment: 5241 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10112
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013508
Status: Unutilized
Comment: 1273 sq. ft.; 1 story wood frame; posssible asbestos; hospital/patient ward buildings; most recent use—morgue.

Bldg. T–01031
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013509
Status: Unutilized
Comment: 4813 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01002
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013510
Status: Unutilized
Comment: 2573 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01010
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013511
Status: Unutilized
Comment: 8799 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10109
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013512
Status: Unutilized
Comment: 2000 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01098
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013513
Status: Unutilized
Comment: 7133 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01099
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013514
Status: Unutilized
Comment: 3294 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01003
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013536
Status: Unutilized
Comment: 3366 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01001
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013537
Status: Unutilized
Comment: 3350 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01005
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013538
Status: Unutilized
Comment: 3253 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01020
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013539
Status: Unutilized
Comment: 4150 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T–01070, T–01081
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Numbers: 219013540–219013541
Status: Unutilized
Comment: 7133 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T–01006—T–01007, T–01009, T–01012—T–01013, T–01015—T–01018
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Numbers: 219013542–219013544, 219013546–219013551
Status: Unutilized

Comment: 5295 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01011
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013545
Status: Unutilized
Comment: 4236 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01021
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013552
Status: Unutilized
Comment: 4236 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T–01004, T–01019
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Numbers: 219013553–219013554
Status: Unutilized
Comment: 2815 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01056
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013555
Status: Unutilized
Comment: 15657 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01000
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013556
Status: Unutilized
Comment: 3378 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—fire station.

Bldg. T–01055
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54646–5000
Landholding Agency: Army
Property Number: 219013557
Status: Unutilized
Comment: 5471 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. 2112, Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Number: 219210310
Status: Underutilized
Comment: 582 sq. ft., 1 story, most recent use—ice house, needs repair.

Bldgs. 212–214, 218–220, 223–225, 228–231, 312–314, 318–320, 402–404, 407–410, 412–414, 418–420, 423–425, 428–429, 440–442
Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Numbers: 219210311–219210350
Status: Underutilized
Comment: 5310 sq. ft. ea., 2 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—housing.

Bldgs. 216–217, 226–227, 316–317, 405–406, 416–417
Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Numbers: 219210351–219210360
Status: Underutilized
Comment: 2950 sq. ft. ea., 1 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—mess halls.

Bldgs. 426–427, 439
Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Numbers: 219210361–219210362, 219210364
Status: Underutilized
Comment: 2350 sq. ft. ea., 1 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—mess halls.

Bldg. 438, Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Number: 219210363
Status: Underutilized
Comment: 2500 sq. ft., 1 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—mess hall.

Bldgs. 221–222, 232–233, 321, 333, 401, 411, 421, 433
Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Numbers: 219210365–219210368, 219210371–219210375, 219210378
Status: Underutilized
Comment: 3250 sq. ft. ea., 2 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—office/storage.

Bldg. 234, Fort McCoy
US Highway 21
Fort McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Number: 219210369
Status: Underutilized
Comment: 2682 sq. ft., 2 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—office/storage.

Bldg. 240, Fort McCoy
US Highway 21
Fort McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Number: 219210370
Status: Underutilized
Comment: 1750 sq. ft., 1 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—office.

Bldgs. 422, 432, 443
Fort McCoy
US Highway 21
Fort McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Numbers: 219210376–219210377, 219210380
Status: Underutilized
Comment: 2750 sq. ft. ea., 2 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—office/storage.

Bldgs. 434, 444
Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Numbers: 219210379, 219210381
Status: Underutilized
Comment: 2682 sq. ft. ea., 2 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—office/storage.

Land (by State)

Kansas

Parcel 1
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Landholding Agency: Army
Property Number: 219012333
Status: Underutilized
Comment: 14.4+ acres.

Parcel 3
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Landholding Agency: Army
Property Number: 219012336
Status: Underutilized
Comment: 261+ acres; heavily forrested; no access to a public right-of-way; selected periods are reserved for military/training exercises.

Parcel 4
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Landholding Agency: Army
Property Number: 219012339
Status: Underutilized
Comment: 24.1+ acres; selected periods are reserved for military/training exercises; steep/wooded areas.

Parcel 6
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Location: Extreme north east corner of installation in Flood Plain of the Missouri River.
Landholding Agency: Army
Property Number: 219012340
Status: Underutilized
Comment: 1280 acres; selected periods are reserved for military/training exercises.

Parcel F
Fort Leavenworth

Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Landholding Agency: Army
Property Number: 219012552
Status: Unutilized
Comment: 33.4 acres; area is land locked; heavily wooded; periodic flooding.

Minnesota

Land
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112–
Landholding Agency: Army
Property Number: 219120269
Status: Underutilized
Comment: Approx. 25 acres, possible contamination, secured area with alternate access.

Nevada

Parcel A
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: At Foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane
Landholding Agency: Army
Property Number: 219012049
Status: Unutilized
Comment: 160 acres, road and utility easements, no utility hookup, possible flooding problem.

Parcel B
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: At Foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane
Landholding Agency: Army
Property Number: 219012056
Status: Unutilized
Comment: 1920 acres; road and utility easements; no utility hookup; possible flooding problem.

Parcel C
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at western edge of State Route 359.
Landholding Agency: Army
Property Number: 219012057
Status: Unutilized
Comment: 85 acres; road and utility easements; no utility hookup.

Parcel D
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at western edge of State Route 359.
Landholding Agency: Army
Property Number: 219012058
Status: Unutilized
Comment: 955 acres; road and utility easements; no utility hookup.

New Jersey

Land—Camp Kilmer
Plainfield Avenue
Edison Co: Middlesex NJ 08817
Landholding Agency: Army
Property Number: 219230357
Status: Underutilized
Comment: approx. 10 acres in the center portion of site, most recent use—ballfields/recreation.

Land—Camp Kilmer
Plainfield Avenue
Edison Co: Middlesex NJ 08817
Landholding Agency: Army
Property Number: 219230358
Status: Underutilized
Comment: approx. 10 acres in the southwest corner of site, most recent use—reserve training, wooded area.

Skaneateles WET Site
Old Seneca Turnpike
Skaneateles Co: Onondaga NY 13152
Landholding Agency: Army
Property Number: 219240781
Status: Unutilized
Comment: 148.9 acres, approx. 10 acres wetland, 3 bldgs. extensively deteriorated, portion near bldg. contaminated w/ gasoline.

Tennessee

Milan Army Ammunition Plant
Milan Co: Carroll TN 38358–
Location: Plant boundary in the northeast corner of the plant & housing area
Landholding Agency: Army
Property Number: 219010547
Status: Excess
Comment: 17.2 acres; right of entry legal constraint

Holston Army Ammunition Plant
Kingsport Co: Hawkins TN 61299–6000
Landholding Agency: Army
Property Number: 219012338
Status: Unutilized
Comment: 8 acres; unimproved; could provide access; 2 acres unusable; near explosives.

Land
Milan Army Ammunition Plant
NE corner of plant & housing area
Milan Co: Carroll TN 38358
Landholding Agency: Army
Property Number: 219240780
Status: Unutilized
Comment: 17.2 acres, secured area w/ alternate access, most recent use—buffer zone.

Texas

Land Saginaw Army Aircraft Plt
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014814
Status: Unutilized
Comment: 154.3 acres; includes buildings/structures/parking and air strip.

Vacant Land, Fort Sam Houston
All of Block 1800, Portions of Blocks 1900, 3100 and 3200
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220438
Status: Unutilized
Comment: 250.33 acres, 85% located in floodplain, possibility of unexploded ordnance.

Suitable/Unavailable Properties

Buildings (by State)

Alaska

Bldgs. 240, 246, 260, 267, 502, 507
Fort Richardson
Ft. Richardson Co: Anchorage AK
Landholding Agency: Army
Property Numbers: 219240766–219240771
Status: Unutilized
Comment: 13059 sq. ft. ea., 3 story wood frame, asbestos/lead paint, off-site use only, most recent use—residential.

Kentucky

Bldgs. 2945
Fort Campbell
Fort Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219012543
Status: Underutilized
Comment: 4248 sq. ft.; 2 story; selected periods are reserved for military/training exercises; possible asbestos.

Bldgs. 144, 145
Ft. Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Numbers: 219013140–219013141
Status: Underutilized
Comment: 12576 sq. ft. each; 2 story; possible asbestos; most recent use—basic training central issue facility.

Massachusetts

Bldg. T–206
Fort Devens
Fort Devens Co: Middlesex/Worce MA 01433–
Landholding Agency: Army
Property Number: 219012345
Status: Underutilized
Comment: 1000 sq. ft.; 1 story, wood, most recent use—day room.

Bldg. T–209
Fort Devens
Fort Devens MA 01433–
Landholding Agency: Army
Property Number: 219030265
Status: Underutilized
Comment: 4070 sq. ft.; 2 story wood frame; needs rehab; most recent use—barracks.

Texas

Bldg. P–16, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220366
Status: Underutilized
Comment: 76,102 sq. ft.; 2-story stone bldg., within National Landmark Historic District

Bldg. P–44, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220367
Status: Unutilized
Comment: 95,332 sq. ft., 3-story concrete bldg., possible asbestos

Bldg. P–122, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220368
Status: Underutilized
Comment: 12,782 sq. ft., 1-story brick bldg., within National Landmark Historic District

Bldg. P–125, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220369
Status: Underutilized
Comment: 1593 sq. ft., 1-story brick bldg., within National Landmark Historic District

Bldg. P–126, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220370
Status: Underutilized
Comment: 12,445 sq. ft., 3-story brick bldg., within National Landmark Historic District

Bldg. P–127, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220371
Status: Underutilized
Comment: 1593 sq. ft., 1-story brick bldg., within National Landmark Historic District

Bldg. P–133, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220372
Status: Underutilized
Comment: 13,232 sq. ft., 2-story brick bldg., within National Landmark Historic District

Bldgs. P–135, P–140, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Numbers: 219220373–219220374
Status: Underutilized
Comment: 1593 sq. ft. ea., 1-story brick bldg., within National Landmark Historic District

Bldg. P–142, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220375
Status: Underutilized
Comment: 4735 sq. ft., 3-story brick bldg., within National Landmark Historic District

Bldgs. P–145, P–146, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Numbers: 219220376–219220377
Status: Underutilized
Comment: 14,813 sq. ft. ea., 3-story brick bldg., within National Landmark Historic District

Bldg. P–155, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220378
Status: Underutilized
Comment: 7374 sq. ft., 2-story brick bldg., within National Landmark Historic District

Bldg. P–197, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220379
Status: Underutilized
Comment: 13,819 sq. ft., 3-story stucco bldg., within National Landmark Historic District

Bldg. P–198, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220380
Status: Underutlilized
Comment: 5468 sq. ft., 3-story stucco bldg., within National Landmark Historic District

Bldg. P–252, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220381
Status: Underutilized
Comment: 1830 sq. ft., 1-story stucco bldg.

Bldgs. P–260, P–261, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Numbers: 219220382–219220383
Status: Underutilized
Comment: 1749 sq. ft. ea., 1-story brick bldg., within National Landmark Historic District

Bldg. P–366, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220384
Status: Underutilized
Comment: 2844 sq. ft., 1-story stucco bldg.

Bldg. P–367, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220385
Status: Underutilized
Comment: 19,830 sq. ft., 1-story stucco bldg., possible asbestos

Bldg. P–369, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220386
Status: Underutilized
Comment: 10,361 sq. ft., 2-story concrete bldg.

Bldg. P–912, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220387
Status: Underutilized
Comment: 4390 sq. ft., 1-story stone bldg.

Bldg. P–1029, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220388
Status: Underutilized
Comment: 51,236 sq. ft., 3-story brick structure

Bldg. P–2000, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220389
Status: Underutilized
Comment: 49,542 sq. ft., 3-story brick structure, within National Landmark Historic District

Bldg. P–2001, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220390
Status: Underutilized
Comment: 16,539 sq. ft., 4-story brick structure, within National Landmark Historic District

Bldg. P–2007, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220391
Status: Underutilized
Comment: 13,058 sq. ft., 3-story brick structure, within National Landmark Historic District

Bldg. P–2267, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220392
Status: Underutilized
Comment: 7075 sq. ft., 2-story brick structure, within National Landmark Historic District

Bldg. P–2268, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220393
Status: Underutilized
Comment: 10,260 sq. ft., 2-story brick structure, within National Landmark Historic District, possible asbestos

Bldg. P–2289, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220394
Status: Underutilized
Comment: 4720 sq. ft., 2-story wood structure, possible asbestos

Bldg. P–2509, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220395
Status: Underutilized
Comment: 3147 sq. ft., 1-story wood structure, possible asbestos

Bldg. P–2840, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220396
Status: Underutilized
Comment: 102,194 sq. ft., 4-story concrete structure

Bldg. T–189, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220402
Status: Underutilized
Comment: 11,949 sq. ft., 4-story brick structure, within National Landmark Historic District, possible lead contamination

Bldg. T–300, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220406
Status: Underutilized
Comment: 8352 sq. ft., 1-story wood structure, possible asbestos

Bldg. T–942, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220409
Status: Underutilized
Comment: 2740 sq. ft., 1-story wood structure, within National Landmark Historic District, possible asbestos

Bldg. T–2066, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220424
Status: Underutilized
Comment: 4720 sq. ft., 1-story wood structure, within National Landmark Historic District, possible asbestos

Bldg. T–2067, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220425
Status: Underutilized
Comment: 2664 sq. ft., 1-story wood structure, within National Landmark Historic District, possible asbestos

Bldg. T–2250, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220432
Status: Underutilized
Comment: 13,483 sq. ft., 3-story brick structure, within National Landmark Historic District, possible asbestos

Suitable/To Be Excessed

Buildings (by State)

California

Bldg. 270

Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos Co: Orange CA 90720–5001
Landholding Agency: Army
Property Number: 219120324
Status: Unutilized
Comment: 90 sq. ft., concrete/aluminum, off-site use only, most recent use—aircraft steam cleaning bldg.

Maryland

Bldg. 101
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910–
Landholding Agency: Army
Property Number: 219012678
Status: Underutilized
Comment: 18438 sq. ft.; needs rehab; possible asbestos; building listed on National Historic Register.

Bldg. 104
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910–
Landholding Agency: Army
Property Number: 219012679
Status: Underutilized
Comment: 12495 sq. ft.; needs rehab; possible asbestos; building listed on National Historic Register.

Bldg. 107
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910–
Landholding Agency: Army
Property Number: 219012680
Status: Unutilized
Comment: 4107 sq. ft.; possible structural deficiencies; possible asbestos; historic property.

Bldg. 120
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910–
Landholding Agency: Army
Property Number: 219012681
Status: Underutilized
Comment: 2442 sq. ft.; possible structural deficiencies; possible asbestos; historic property.

Unsuitable Properties

Buildings (by State)

Alabama

69 Bldgs.
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–
Landholding Agency: Army
Property Numbers: 219014000, 219014003–219014005, 219014009, 219014012, 219014015–219014051, 219014057, 219014060, 219014068–219014080, 219014291–219014292, 219110109, 219120247–219120250, 219140614–219140615, 219230190
Status: Unutilized
Reason: Secured Area

Bldg. P00894
Fort McClellan
3rd Avenue in Area 8 Motor Pool
Fort McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219110046
Status: Unutilized
Reason: Gas station

Bldg. T00862
Fort McClellan
Off 21st Street between 2nd & 3rd Avenue
Fort McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219130019
Status: Unutilized
Reason: Extensive deterioration

Two Bedroom Apt.
Anniston Army Depot
Wherry Housing—Terrace Homes Apt.
Anniston Co: Calhoun AL 36201–
Landholding Agency: Army
Property Number: 219130108
Status: Excess
Reason: Extensive deterioration

77 Bldgs.
Alabama Army Ammunition Plant
110 Hwy. 235
Childersburg Co: Talladega AL 35044–
Landholding Agency: Army
Property Numbers: 219210018–219210094
Status: Excess
Reason: Secured Area

L006T1, L006T2, L006T3
Troy Municipal Airport
Troy Co: Pike AL 36081
Landholding Agency: Army
Property Number: 219220294
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 3403, 24201–24203, 8418, 8421, 620
Fort Rucker
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Numbers: 219220341–219220344, 219230191, 219230192, 219310016
Status: Unutilized
Reason: Extensive deterioration

27 Bldgs.
Phosphate Development Works
Muscle Shoals Co: Colbert AL 35660–1010
Landholding Agency: Army
Property Numbers: 219220789–219220815
Status: Unutilized
Reason: Extensive deterioration

9 Bldgs., Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Numbers: 219310006–219310014
Status: Unutilized
Reason: Extensive deterioration

Alaska

16 Bldgs.
Fort Greely
Ft. Greely AK 99790–
Landholding Agency: Army
Property Numbers: 219210124–219210125, 219220319–219220332
Status: Unutilized
Reason: Extensive deterioration

Bldg. 47022, Fort Richardson
Ft. Richardson Co: Anchorage AK 99505
Landholding Agency: Army
Property Number: 219220351
Status: Unutilized
Reason: Within airport runway clear zone

11 Bldgs., Fort Richardson
Ft. Richardson Co: Anchorage AK 99505
Landholding Agency: Army
Property Numbers: 219220352–219220355, 219230185–219230187, 219240270–219240272, 219310015
Status: Unutilized
Reason: Extensive deterioration. (Some are in a secured area.)

Bldgs. 1126, 1578, Fort Wainwright
Ft. Wainwright Co: Fairbanks AK 99505
Landholding Agency: Army
Property Numbers: 219230183–219230184
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1144, Fort Wainwright
Ft. Wainwright Co: Fairbanks/North AK 99703
Landholding Agency: Army
Property Number: 219240273
Status: Unutilized
Reason: Secured Area. Within airport runway clear zone

Bldgs. 5001, 5002, Fort Wainwright
Ft. Wainwright Co: Fairbanks/North AK 99703
Landholding Agency: Army
Property Numbers: 219240274–219240275
Status: Unutilized
Reason: Secured Area. Floodway

Bldg. 1501, Fort Greely
Ft. Greely AK 99505
Landholding Agency: Army
Property Number: 219240327
Status: Unutilized
Reason: Secured Area

Bldg. 914, Fort Richardson
Ft. Richardson AK 99505
Landholding Agency: Army
Property Number: 219240330
Status: Unutilized
Reason: Secured Area. Within airport runway clear zone. Structural Damage

Arizona

49 Bldgs.
Yuma Proving Ground
Yuma Co: Yuma/La Paz AZ 85365–9102
Landholding Agency: Army
Property Numbers: 219011738, 219011744, 219013931–219013958, 219013962–219013964, 219013966–219013980, 219240332
Status: Underutilized
Reason: Secured Area

32 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40
Landholding Agency: Army
Property Numbers: 219014560–219014591
Status: Underutilized
Reason: Secured Area

10 properties: 753 earth covered igloos; above ground standard magazines
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40.
Landholding Agency: Army
Property Numbers: 219014592–219014601
Status: Underutilized
Reason: Secured Area

9 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–5000
Location: 12 miles west of Flagstaff on I–40
Landholding Agency: Army
Property Numbers: 219030273–219030274, 219120175–219120181

Status: Unutilized
Reason: Secured Area

Bldgs. 22330, 84001
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Numbers: 219210016–219210017
Status: Excess
Reason: Extensive deterioration

Arkansas

Fort Smith USAR Center
Fort Smith
1218 South A Street
Fort Smith Co: Sebastian AR 72901–
Landholding Agency: Army
Property Number: 219014928
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

U.S. Army Garrison
Fort Chaffee
428 Ellis Avenue
Fort Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219110114
Status: Underutilized
Reason: Fuel pumphouse

Army Reserve Center
Hwy 79 North
Camden Co: Calhoun AR 71701–3415
Landholding Agency: Army
Property Number: 219220345
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5169, Fort Chaffee
Fort Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219230173
Status: Unutilized
Reason: Extensive deterioration

California

Bldgs. P–99, T–324
Fort Hunter Liggett
Jolon Co: Monterey CA 93944–
Landholding Agency: Army
Property Numbers: 219012413, 219012420
Status: Unutilized
Reason: Latrine, detached structure.

Bldgs. P–177, P–178, 325, S–308, S–308A, T–3085
Fort Hunter Liggett
Jolon Co: Monterey CA 93928–
Landholding Agency: Army
Property Numbers: 219012414–219012415, 219012600, 219240284–219240285, 21924057
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. (Some are in a secured area.)

Bldg. 18
Riverbank Army Ammunition Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219012554
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

Bldgs. T–323, T–322
Fort Hunter Liggett
Mission Road
Jolon Co: Monterey CA 93928–
Landholding Agency: Army
Property Numbers: 219012601–219012602
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

11 Bldgs., Nos. 2–8, 156, 1, 120, 181
Riverbank Army Ammunition Plant
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Numbers: 219013582–219013588, 219013590, 219240444–219240446
Status: Underutilized
Reason: Secured Area

9 Bldgs.
Oakland Army Base
Oakland Co: Alameda CA 94626–5000
Landholding Agency: Army
Property Numbers: 219013903–219013906, 219120048–219120051, 219140568
Status: Unutilized
Reason: Secured Area

Bldgs. S–108, S–20, S–290
Sharpe Army Depot
Lathrop Co: San Joaquin CA 95331–
Location: Roth Road
Landholding Agency: Army
Property Numbers: 219014290, 219230178–219230179
Status: Underutilized
Reason: Secured Area

Bldg. S–184
Fort Hunter Liggett
Ft. Hunter Liggett Co: Monterey CA 93928–
Location: POL Road
Landholding Agency: Army
Property Number: 219014602
Status: Underutilized
Reason: Secured Area

15 Bldgs.
Sierra Army Depot
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Numbers: 219014705, 219014708–219014710, 219014713–219014717, 219014719–219014721, 219230180–219230182
Status: Unutilized
Reason: Secured Area

Bldg. P–88
Sierra Army Depot
Road Oil Storage
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Number: 219014707
Status: Unutilized
Reason: Oil Storage Tank

Bldgs. 173, 177, 197
Roth Road—Sharpe Army Depot
Latherop Co: San Joaquin CA
Landholding Agency: Army
Property Numbers: 219014940–219014942
Status: Unutilized
Reason: Secured Area

Bldgs. 13, 171, 178 Riverbank Ammun Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Numbers: 219120162–219120164
Status: Underutilized
Reason: Secured Area

Bldg. 81
Los Alamitos Armed Forces Reserve Center
Los Alamitos Co: Orange CA 90720–5001
Location: Main entrance on Lexington Dr.
Landholding Agency: Army
Property Number: 219120276
Status: Unutilized
Reason: Detached latrine

10 Bldgs., Sharpe Site
Lathrop Co: San Joaquin CA 95331–
Landholding Agency: Army
Property Numbers: 219140262–219140266, 219240151–219240155
Status: Unutilized
Reason: Secured Area

Bldg. T–187, Fort Hunter Liggett
Ft. Hunter Liggett Co: Monterey CA 93928
Landholding Agency: Army
Property Number: 219240321
Status: Unutilized
Reason: Secured Area. Extensive deterioration

Colorado

87 Bldgs.
Pueblo Army Depot
Pueblo Co: Pueblo CO 81001–
Location: 14 miles East of Pueblo City on Highway 50
Landholding Agency: Army
Property Numbers: 219012209, 219012211, 219012214, 219012216, 219012221, 219012223–219012224, 219012226–219012228, 219012230–219012237, 219012239–219012257, 219012260–219012278, 219012280–219012288, 219012290–219012298, 219012300, 219012303, 219012743, 219012745, 219012747–219012748, 219014845, 219120058–219120063
Status: Unutilized
Reason: Secured Area

Bldgs. T–9643, T–9644, 325, T–2436. T–2437, T–2497, T–2498
Fort Carson
Colorado Springs Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Numbers: 219013603–219013604, 219310001–219310005
Status: Unutilized
Reason: Extensive deterioration. (Some are in a secured area.)

26 Bldgs., Pueblo Depot Activity
Pueblo CO 81001
Landholding Agency: Army
Property Numbers: 219240466–219240482
Status: Unutilized
Reason: Secured Area. Extensive deterioration

Georgia

Fort Stewart
Sewage Treatment Plant
Ft. Stewart Co: Hinesville GA 31314–
Landholding Agency: Army
Property Number: 219013922
Status: Unutilized
Reason: Sewage treatment

Facility 12304
Fort Gordon
Augusta Co: Richmond GA 30905–
Location: Located off Lane Avenue
Landholding Agency: Army
Property Number: 219014787
Status: Unutilized
Reason: Wheeled vehicle grease/inspection rack

34 Bldgs.
Fort Gordon
Augusta Co: Richmond GA 30905–

Landholding Agency: Army
Property Numbers: 219140179–219140180, 219220264–219220293, 219240319–219240320
Status: Unutilized
Reason: Extensive deterioration

25 Bldgs.
Fort Gordon
Augusta Co: Richmond GA 30905–
Landholding Agency: Army
Property Numbers: 219140181–219140203, 219140205–219140206
Status: Unutilized
Reason: Structural damage

Bldgs. GT001, GT002, GT003, GT004, 11726–11727
Fort Gordon
Augusta Co: Richmond GA 30905–
Landholding Agency: Army
Property Numbers: 219210136, 219210138–219210139
Status: Unutilized
Reason: Secured Area

8 Bldgs., Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Numbers: 219220333–219220340
Status: Unutilized
Reason: Detached lavatory

21 Bldgs.
Fort Gillem
Forest Park Co: Clayton GA 30050
Landholding Agency: Army
Property Numbers: 219240280–219240283, 219310091–219310107
Status: Unutilized
Reason: Extensive deterioration

Hawaii

PU–01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11
Schofield Barracks
Kolekole Pass Road
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army
Property Numbers: 219014836–219014837
Status: Unutilized
Reason: Secured Area

P–3384 East Range
Schofield Barracks
East Range Road
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219030361
Status: Unutilized
Reason: Secured Area.

7 Bldgs., Fort Shafter
Honolulu Co: Honolulu HI 96819
Landholding Agency: Army
Property Numbers: 219230128–219230134
Status: Unutilized
Reason: Extensive deterioration.

12 Bldgs., Schofield Barracks
Wahiawa Co: Wahiawa HI 96786
Landholding Agency: Army
Property Numbers: 219230135–219230146
Status: Unutilized
Reason: Extensive deterioration.

P–185, Fort DeRussy
Honolulu Co: Honolulu HI 96815
Landholding Agency: Army
Property Number: 219240119
Status: Unutilized
Reason: Detached latrine.

Illinois

577 Bldgs. and Groups
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Landholding Agency: Army
Property Numbers: 219010153–219010317, 219010319–219010413, 219010415–219010439, 219011750–219011879, 219011881–219011908, 219012331, 219013076–219013138, 219014722–219014781, 219030277–219030278, 219040354, 219140441–219140446, 219210146, 219240457–219240465
Status: Unutilized
Reason: Secured Area; many within 2000 ft. of flammable or explosive materials; some within floodway.

Bldg. 725
Fort Sheridan
Highwood Co: Lake IL 60037–5000
Landholding Agency: Army
Property Number: 219013769
Status: Underutilized
Reason: Secured Area.

Bldgs. 58, 59 and 72, 69, 64, 105
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–5000
Landholding Agency: Army
Property Numbers: 219110104–219110108
Status: Unutilized
Reason: Secured Area.

Bldg. 133, Rock Island Arsenal
Gillespie Avenue
Rock Island Co: Rock Island IL 61299–
Landholding Agency: Army
Property Number: 219210100
Status: Underutilized
Reason: Extensive deterioration.

Bldgs. 250, 253, Savanna Army Depot Activity
Savanna Co: Carroll IL 61074
Landholding Agency: Army
Property Numbers: 219230126–219230127
Status: Unutilized
Reason: Extensive deterioration.

Indiana

135 Bldgs.
Indiana Army Ammunition Plant (INAAP)
Charlestown Co: Clark IN 47111–
Landholding Agency: Army
Property Numbers: 219010913–219010919, 219010925–219010926, 219010929–219010936, 219010952, 219010955, 219010957, 219010959–219010960, 219010962–219010964, 219010966–219010967, 219010969–219010970, 219011449, 219011454, 219011456–219011457, 219011459–219011464, 219013764, 219013848, 219014608–219014620, 219014622–219014651, 219014653, 219014655–219014661, 219014663–219014683, 219030315, 219120168–219120171, 219140425–219140440
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

6 Bldgs.
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111–
Landholding Agency: Army
Property Numbers: 219010920, 219010924, 219010927–219010928, 219014621, 219014652
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material.

58 Bldgs.
Newport Army Ammunition Plant
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Numbers: 219011584, 219011586–219011587, 219011589–219011590, 219011592–219011627, 219011629–219011636, 219011638–219011641, 219210149–219210151, 219220220, 219230032–219230033
Status: Unutilized
Reason: Secured Area.

29 Bldgs.
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111–
Landholding Agency: Army
Property Numbers: 219210152–219210155, 219230034–219230037
Status: Unutilized
Reason: Secured Area.

2 Bldgs.
Atterbury Reserve Forces Training Area
Edinburgh Co: Johnson IN 46124–1096
Landholding Agency: Army
Property Numbers: 219230030–219230031
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2635, Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111
Landholding Agency: Army
Property Number: 219240322
Status: Unutilized
Reason: Secured Area, Extensive deterioration.

Iowa

13 Bldgs.
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Numbers: 219012605–219012607, 219012609, 219012611, 219012613, 219012615, 219012620, 219012622, 219012624, 219120172–219120174
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

33 Bldgs.
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA
Landholding Agency: Army
Property Numbers: 219013706–219013738
Status: Unutilized
Reason: Secured Area

26 Bldgs., Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638
Landholding Agency: Army
Property Numbers: 219230005–219230029, 219310017
Status: Unutilized
Reason: Extensive deterioration

Kansas

37 Bldgs.
Kansas Army Ammunition Plant
Production Area
Parsons Co: Labette KS 67357–
Landholding Agency: Army
Property Numbers: 219011909–219011945
Status: Unutilized
Reason: Secured Area, (Most are within 2000 ft. of flammable or explosive material)

351 Bldgs.
Sunflower Army Ammunition Plant
35425 W. 103rd Street
DeSoto Co: Johnson KS 66018–

Landholding Agency: Army
Property Numbers: 219040005–219040006, 219040032–219040080, 219040086–219040335, 219040337, 219040339–219040353, 219140569–219140577, 219140580–219140592, 219140594, 219140599–219140601, 219140606–219140612
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Floodway, Secured Area

25 Bldgs.
Sunflower Army Ammunition Plant
35425 W. 103rd Street
DeSoto Co: Johnson KS 66018–
Landholding Agency: Army
Property Numbers: 219040007–219040031
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Floodway

Bldg. 9002
Sunflower Army Ammunition Plant
35525 W. 103rd Street
DeSoto Co: Johnson KS 66018–
Landholding Agency: Army
Property Number: 219110073
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

62 Bldgs.
Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Numbers: 219140240, 219240029–219240080, 219240438, 219310200–219310207
Status: Unutilized
Reason: Extensive deterioration

11 Latrines
Sunflower Army Ammunition Plant
35425 West 103rd
DeSoto Co: Johnson KS 66018–
Landholding Agency: Army
Property Numbers: 219140578–219140579, 219140593, 219140595–219140598, 219140602–219140605
Status: Unutilized
Reason: Detached Latrine

219 Bldgs., Sunflower Army Ammunition Plant
DeSoto Co: Johnson KS 66018
Landholding Agency: Army
Property Numbers: 219240333–219240437
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material, Extensive deterioration

Kentucky

Bldg. 126
Lexington-Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location: 12 miles northeast of Lexington, Kentucky.
Landholding Agency: Army
Property Number: 219011661
Status: Unutilized
Reason: Secured Area, Sewage treatment facility

Bldg. 12
Lexington-Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location: 12 miles northeast of Lexington Kentucky.
Landholding Agency: Army
Property Number: 219011663
Status: Unutilized
Reason: Industrial waste treatment plant.

5 Bldgs., Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Numbers: 219140557–219140560, 219230070
Status: Unutilized
Reason: Extensive deterioration

Bldgs. TO5650, TO6136, TO6382, TO6486
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Numbers: 219210132–219210135
Status: Unutilized
Reason: Secured Area
Comment: Extensive deterioration

7 Bldgs., Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Numbers: 219240450–219240456
Status: Unutilized
Reason: Extensive deterioration

Bldg. 06862, Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 219240782
Status: Unutilized
Reason: Detached latrine

Louisiana

26 Bldgs.
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Numbers: 219011668–219011670, 219011700, 219011714–219011716, 219011735–219011737, 219012112, 219013571–219013572, 219013863–219013869, 219110124, 219110127, 219110131, 219110135–219110136, 219120290
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material)

Staff Residences
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Numbers: 21920284–219120286
Status: Excess
Reason: Secured Area

Bldg. A–102
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023
Landholding Agency: Army
Property Number: 2191230087
Status: Unutilized
Reason: Extensive deterioration

14 Bldgs.
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023
Landholding Agency: Army
Property Numbers: 219240137–219240150
Status: Unutilized
Reason: Secured Area

Bldg. T–2924, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 219240323
Status: Unutilized
Reason: Extensive deterioration

Maryland

56 Bldgs.
Aberdeen Proving Ground
Aberdeen City Co: Harford MD 21005–5001
Landholding Agency: Army
Property Numbers: 219011406–219011417, 219012608, 219012610, 219012612, 219012614, 219012616–219012617, 219012619, 219012623, 219012625–219012629, 219012631, 219012633–219012635, 219012637–219012642, 219012645–219012651, 219012655–219012664, 219013773, 219014711–219014712, 219030316, 219110140, 219240329
Status: Unutilized
Reason: Most are in a secured area. (Some are within 2000 ft. of flammable or explosive material) (Some are in a floodway)

P501
Installation #24235
Ballast House
La Plata Co: Charles MD 20646–
Location: At the end of the access road
Landholding Agency: Army
Property Number: 219011643
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

2 Bldgs.
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Numbers: 219014789, 219130039
Status: Unutilized
Reason: Secured Area

Bldg. 10401
Aberdeen Proving Ground
Aberdeen Area
Harford Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219110138
Status: Unutilized
Reason: Sewage treatment plant

Bldg. 10402
Aberdeen Proving Ground
Aberdeen Area
Aberdeen City Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219110139
Status: Unutilized
Reason: Sewage pumping station

Bldgs. 142–146, USARC Gaithersburg
8510 Snouffers School Road
Gaithersburg Co: Montgomery MD 20879–1624
Landholding Agency: Army
Property Numbers: 219120009–219120013
Status: Unutilized
Reason: Secured Area

108 Bldgs. Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Numbers: 219130048, 219130059, 219140458, 219140460–219140461, 219140465–219140467, 219140472–219140473, 219140477, 219140484, 219140486–219140488, 219140493, 219140497–219140498, 219140510, 219210116–219210123, 219220110–219220111, 219220116–219220128, 219220131–219220134, 219220136–219220148, 219220151–219220155, 219220158, 219220160–219220168,

219220170–219220175, 219220177, 219220180–219220182, 219220188, 219220190–219220193, 219220195–219220197, 219240120–219240122, 219310021–219310033
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 128, 129, 144 Fort Ritchie
Ft. Ritchie Co: Washington MD 21719–5010
Landholding Agency: Army
Property Numbers: 219230088, 219310058–219310059
Status: Underutilized
Reason: Secured Area

Bldg. 4900, Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219230089
Status: Unutilized
Reason: Within airport runway clear zone

Massachusetts

Material Technology Lab
405 Arsenal Street
Watertown Co: Middlesex MA 02132–
Landholding Agency: Army
Property Number: 219120161
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material. Floodway. Secured Area

14 Bldgs.
Fort Devens
Ft. Devens Co: Middlesex/Worce MA 01433–
Landholding Agency: Army
Property Numbers: 219140241–219140254
Status: Unutilized
Reason: Extensive deterioration

Bldgs. T–102, T–110, T–111, Hudson Family Hsg
Natick RD&E Center
Bruun Road
Hudson Co: Middlesex MA 01749
Landholding Agency: Army
Property Numbers: 219220105–219220107
Status: Unutilized
Reason: Extensive deterioration

Bldg. 3462, Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 024620–5003
Landholding Agency: Army
Property Number: 219230095
Status: Unutilized
Reason: Secured Area. Extensive deterioration

Bldgs. 3596, 1209–1211 Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 02462–5003
Landholding Agency: Army
Property Numbers: 219230096, 219310018–219310020
Status: Unutilized
Reason: Secured Area

Michigan

Bldgs. 602, 604
US Army Garrison Selfridge
Mt. Clemens Co: Macomb MI 48043–
Landholding Agency: Army
Property Numbers: 219012355–219012356
Status: Unutilized
Reason: Within airport runway clear zone. Floodway. Secured Area

Detroit Arsenal Tank Plant
28251 Van Dyke Avenue
Warren Co: Macomb MI 48090–
Landholding Agency: Army
Property Number: 219014605
Status: Underutilized
Reason: Secured Area

Bldgs. 5755–5756
Newport Weekend Training Site
Carleton Co: Monroe MI 48166
Landholding Agency: Army
Property Numbers: 219310060–219310061
Status: Unutilized
Reason: Secured Area. Extensive deterioration

25 Bldgs.
Fort Custer Training Center
2501 26th Street
Augusta Co: Kalamazoo MI 49102–9205
Landholding Agency: Army
Property Numbers: 219014947–219014963, 219140447–219140454
Status: Unutilized
Reason: Secured Area

Minnesota

Bldgs. 113, 575, 598
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112–
Landholding Agency: Army
Property Numbers: 219120165–219120167
Status: Unutilized
Reason: Secured Area

12 Bldgs.
Twin Cities Army Ammunition Plant
Old Highway 8
New Brighton Co: Ramsey MN 55112–
Landholding Agency: Army
Property Numbers: 219210014–219210015, 219220227–219220235, 219240328
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material

Bldgs. 580, 586
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112
Landholding Agency: Army
Property Numbers: 219310055–219310056
Status: Underutilized
Reason: Secured Area

Mississippi

Bldgs. 8301, 8303–8305, 9158
Mississippi Army Ammunition Plant
Stennis Space Center Co: Hancock MS 39529–7000
Landholding Agency: Army
Property Numbers: 219040438–219040442
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

Missouri

Lake City Army Ammo. Plant
59, 59A, 59C, 59B
Independence Co: Jackson MO 64050–
Landholding Agency: Army
Property Numbers: 219013666–219013669
Status: Unutilized
Reason: Secured Area

Bldgs. #1, 2, 3
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd.
St. Louis Co: St. Louis MO 63120–1798
Landholding Agency: Army
Property Numbers: 219120067–219120069
Status: Unutilized
Reason: Secured Area

4 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Numbers: 219140350–219140351, 219140422–219140423
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Nebraska

13 Bldgs.
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68802–
Location: 4 miles west (Potash Road)
Landholding Agency: Army
Property Numbers: 219013849–219013861
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Bldgs. 1L-19, 1CH19, 1P019, A0001, A0004
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Numbers: 219230092–219230094, 219310238–219310239
Status: Unutilized
Reason: Extensive deterioration

Bldg. A0002
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803–
Landholding Agency: Army
Property Number: 219310240
Status: Unutilized
Reason: Standby Generator Bldg.

Nevada

7 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Numbers: 219011953, 219011955, 219012061–219012062, 219012106, 219013614, 219230090
Status: Unutilized
Reason: Secured Area

Bldg. 396
Hawthorne Army Ammunition Plant
Bachelor Enlisted Qtrs W/Dining Facilities
Hawthorne Co: Mineral NV 89415–
Location: East side of Decatur Street-North of Maine Avenue
Landholding Agency: Army
Property Number: 219011997
Status: Unutilized
Reason: Within airport runway clear zone; Secured Area

55 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Numbers: 219012009, 219012013, 219012021, 219012044, 219013615–219013665
Status: Underutilized
Reason: Secured Area (Some within airport runway clear zone; many within 2000 ft. of flammable or explosive material)

62 Concrete Explo. Mag. Stor.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: North Mag. Area
Landholding Agency: Army
Property Number: 219120150
Status: Unutilized

Reason: Secured Area

259 Concrete Explo. Mag. Stor.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: South & Central Mag. Areas
Landholding Agency: Army
Property Number: 219120151
Status: Unutilized
Reason: Secured Area

Facility No. 00169
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415
Landholding Agency: Army
Property Number: 219240276
Status: Unutilized
Reason: Extensive deterioration

Bldg. 0C440
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415
Landholding Agency: Army
Property Number: 219240278
Status: Unutilized
Reason: Within airport runway clear zone; Floodway; Extensive deterioration

122 Babbitt Housing Units
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415
Landholding Agency: Army
Property Number: 219240279
Status: Unutilized
Reason: Within airport runway clear zone; Floodway; Extensive deterioration

New Jersey

183 Bldgs.
Armament Res. Dev. & Eng. Ctr.
Picatinny Arsenal Co: Morris NJ 07806–5000
Location: Route 15 north
Landholding Agency: Army
Property Numbers: 219010440–219010474, 219010476, 219010478, 219010639–219010667, 219010669–219010721, 219012423–219012424, 219012426–219012428, 219012430–219012431, 219012433–219012472, 219012474–219012475, 219013787, 219014306–219014307, 219014311, 219014313–219014321, 219030269, 219140617
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

18 Bldgs.
Armament Research Dev. and Engineering Center
Route 15 North
Picatinny Arsenal Co: Morris NJ 07806–
Landholding Agency: Army
Property Numbers: 219012756–219012760, 219012763–219012767, 219230118–219230125
Status: Excess
Reason: Secured Area

11 Bldgs.
Fort Monmouth
Wall Co: Monmouth NJ 07719–
Landholding Agency: Army
Property Numbers: 219012829–219012833, 219012837, 219012841–219012842, 219013786, 219210102, 219230177
Status: Unutilized
Reason: Secured Area

Bldgs. 13–14, 15A, 41, 100, 110–111
Military Ocean Terminal
Bayonne Co: Hudson NJ 07002–
Location: Foot of 32nd Street and Route 169.
Landholding Agency: Army
Property Numbers: 219013890–219013896
Status: Unutilized
Reason: Floodway; Secured Area

Bldgs. 820C, 3598
Armament Research, Dev. & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Numbers: 219240315–219240316
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Bldgs. TO9136, TO3280, TO3174, TO2531, PO3560, PO4146
Fort Dix
Ft. Dix Co: Burlington NJ 08640
Landholding Agency: Army
Property Numbers: 219310174–219310179
Status: Unutilized
Reason: Extensive deterioration

New York

Bldgs. 10, 20, 40
Watervliet Arsenal
Watervliet Co: Albany NY 12189–4050
Landholding Agency: Army
Property Numbers: 219012514, 219012516, 219012519
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 25
Watervliet Arsenal
Watervliet Co: Albany NY 12189–4050
Landholding Agency: Army
Property Number: 219012521
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area
Comment: Contamination

Bldg. 110
Fort Totten
110 Duane Road
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012589
Status: Unutilized
Reason: Other
Comment: Contamination

Bldgs. 202, 204, Fort Totten
Bayside Co: Queens NY 11357–
Landholding Agency: Army
Property Numbers: 219210130–219210131
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. S–7000, Fort Drum
Ft. Drum Co: Jefferson NY 13602
Landholding Agency: Army
Property Number: 219240123
Status: Unutilized
Reason: Detached latrine

Bldg. S–7004, Fort Drum
Ft. Drum Co: Jefferson NY 13602
Landholding Agency: Army
Property Number: 219240124
Status: Unutilized
Reason: Secured Area

Bldg. T–4002, Fort Drum
Ft. Drum Co: Jefferson NY 13602
Landholding Agency: Army
Property Number: 219240125
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Bldg. T–669, Fort Drum
Ft. Drum Co: Jefferson NY 13602
Landholding Agency: Army
Property Number: 219240126
Status: Unutilized
Reason: Extensive deterioration

Bldg. 110, Seneca Army Depot
Romulus Co: Seneca NY 14541–5001
Landholding Agency: Army
Property Number: 219240439
Status: Unutilized
Reason: Secured Area

Bldgs. 143, 2084, 2105, 2110
Seneca Army Depot
Romulus Co: Seneca NY 14541–5001
Landholding Agency: Army
Property Numbers: 219240440–219240443
Status: Unutilized
Reason: Secured Area; Extensive deterioration

North Carolina

Bldgs. A–5228, 4–2133, 8–3315, M–6157 Fort Bragg
Fort Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Numbers: 219230097–219230099, 219310054
Status: Unutilized
Reason: Extensive deterioration

Ohio

63 Bldgs.
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Numbers: 219012476–219012507, 219012509–219012513, 219012515, 219012517–219012518, 219012520, 219012522–219012523, 219012525–219012528, 219012530–219012532, 219012534–219012535, 219012537, 219013670–219013677, 219013781, 219210148
Status: Unutilized
Reason: Secured Area

Bldgs. T–404, T–78, T–79, T–97, T–80, 309, 317
Defense Construction Supply Center
Columbus Co: Franklin OH 43216–5000
Landholding Agency: Army
Property Numbers: 219240331, 219310034–219310039
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

Oklahoma

551 Bldgs.
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501–5000
Landholding Agency: Army
Property Numbers: 219011674, 219011680, 219011684, 219011687, 219012113, 219013792–219013793, 219013981–219013995, 219014081–219014102, 219014104, 219014107–219014137, 219014141–219014159, 219014162, 219014165–219014216, 219014218–219014274, 219014336–219014559, 219030007–219030127, 219040004
Status: Underutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material.)

P–3042, Fort Sill
3042 Austin Road

Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219130060
Status: Unutilized
Reason: Structurally unsound

27 Bldgs.
Fort Sill
Lawton Co: Comanche Ok 73503–
Landholding Agency: Army
Property Numbers: 219140524–219140530, 219140532–219140537, 219140540–219140541, 219140545–219140555, 219240081
Status: Unutilized
Reason: Extensive deterioration

Bldg. T–3711, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240082
Status: Unutilized
Reason: Detached latrine

Bldgs. 28, 55–56, 463
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501
Landholding Agency: Army
Property Numbers: 219310050–219310053
Status: Unutilized
Reason: Secured Area

Oregon

11 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Numbers: 219012174–219012176, 219012178–219012179, 219012190–219012191, 219012197–219012198, 219012217, 219012229
Status: Underutilized
Reason: Secured Area

23 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Numbers: 219012177, 219012185–219012186, 219012189, 219012195–219012196, 219012199–219012205, 219012207–219012208, 219012225, 219012279, 219014304–219014305, 219014782, 219030362–219030363, 219120032
Status: Unutilized
Reason: Secured Area

Pennsylvania

Defense Personnel Support Ctr.
2800 South 20th Street
Philadelphia Co: Philadelphia PA 19101–6419
Landholding Agency: Army
Property Number: 219011664
Status: Underutilized
Reason: Other environmental; Secured Area
Comment: Friable asbestos

Hays Army Ammunition Plant
300 Miffin Road
Pittsburgh Co: Allegheny PA 15207–
Landholding Agency: Army
Property Number: 219011666
Status: Excess
Reason: Secured Area

58 Bldgs.
Fort Indiantown Gap
Annville Co: Lebanon PA 17003–5011
Landholding Agency: Army
Property Numbers: 219140267–219140324
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

South Carolina

5 Bldgs., Fort Jackson
Ft. Jackson Co: Richland SC 29207
Landholding Agency: Army
Property Numbers: 219310062–219310066
Status: Unutilized
Reason: Detached latrines

23 Bldgs., Fort Jackson
Ft. Jackson Co: Richland SC 29207
Landholding Agency: Army
Property Numbers: 219310067–219310089
Status: Unutilized
Reason: Extensive deterioration

Tennessee

Bldg. 100
Volunteer Army Ammo. Plant
Chattanooga Co: Hamilton TN 37422–
Landholding Agency: Army
Property Number: 219010475
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

23 Bldgs.
Volunteer Army Ammo. Plant
Chattanooga Co: Hamilton TN 37422–
Landholding Agency: Army
Property Numbers: 219010477, 219010479–219010500
Status: Underutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

23 Bldgs.
Holston Army Ammunition Plant
Kingsport Co: Hawkins TN 61299–6000
Landholding Agency: Army
Property Numbers: 219012304–219012309, 219012311–219012312, 219012314, 219012316–219012317, 219012319, 219012325, 219012328, 219012330, 219012332, 219012334–219012335, 219012337, 219013789–219013790, 219030266, 219140613
Status: Unutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

30 Bldgs.
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37422
Landholding Agency: Army
Property Numbers: 219240127–219240136
Status: Unutilized
Reason: Secured Area

Bldgs. I–156, J–52, K–8
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Numbers: 219240447–219240449
Status: Unutilized
Reason: Secured Area

Bldg. Z–183A
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240783
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Texas

Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76079–
Landholding Agency: Army
Property Number: 219011665
Status: Unutilized
Reason: Other
Comment: Easement to city of Saginaw for sewer pipeline ending 5/15/2023

18 Bldgs.
Lone Star Army Ammunition Plant
Highway 82 West
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Numbers: 219012524, 219012529, 219012533, 219012536, 219012539–219012540, 219012542, 219012544–219012545, 219030337–219030345
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

Bldgs. 0021A, 0027A
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661–
Location: State highway 43 north
Landholding Agency: Army
Property Numbers: 219012546, 219012548
Status: Underutilized
Reason: Secured Area

Bldg. 14
Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070–
Landholding Agency: Army
Property Number: 219014823
Status: Unutilized
Reason: Pump house

Bldg. 9042
Possum Kingdom Rec Area
Star Route, Box 200
Grayford Co: Palo Pinto TX 76045–
Landholding Agency: Army
Property Number: 219040397
Status: Unutilized
Reason: Detached latrine

Bldg. 9046
Possum Kingdom Rec Area
Star Route, Box 200
Grayford Co: Palo Pinto TX 76045–
Landholding Agency: Army
Property Number: 219040399
Status: Unutilized
Reason: Sewage treatment plant

Bldg. 9047
Possum Kingdom Rec Area
Star Route, Box 200
Grayford Co: Palo Pinto TX 76045–
Landholding Agency: Army
Property Number: 219040400
Status: Unutilized
Reason: Chlorine Building

10 Bldg., Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Landholding Agency: Army
Property Numbers: 219120064, 219130002, 219140255, 219230109–219230115
Status: Unutilized
Reason: Secured Area

Bldg. T–5000
Camp Bullis
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220100
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

Swimming Pools

Fort Bliss
El Paso Co: El Paso TX 79916
Landholding Agency: Army
Property Number: 219230106
Status: Unutilized
Reason: Extensive deterioration

5 Bldgs., Fort Hood
Ft. Hood Co: Coryell TX 76544
Landholding Agency: Army
Property Numbers: 219310166–219310170
Status: Unutilized
Reason: Detached latrines

Bldgs. 4134, 4135, 4137, Fort Hood
Ft. Hood Co: Coryell TX 76544
Landholding Agency: Army
Property Numbers: 219310171–219310173
Status: Unutilized
Reason: Secured Area

20 Bldgs., Van Horne Park
Fort Bliss
El Paso Co: El Paso TX 79916
Landholding Agency: Army
Property Numbers: 219310180–219310199
Status: Unutilized
Reason: Extensive deterioration

Utah

24 Bldgs.
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Numbers: 219012115, 219012138, 219012140, 219012150, 219012153, 219012159, 219012162, 219012165–219012166, 219012172, 219012752, 219030366, 219120031, 219120283, 219240263, 219310040–219310049
Status: Unutilized
Reason: Secured Area

18 Bldgs.
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Numbers: 219012142–219012144, 219012148–219012149, 219012152, 219012155, 219012156, 219012158, 219012163, 219012171, 219012742, 219012751, 219014938, 219120281, 219240265–219240267
Status: Underutilized
Reason: Secured Area

12 Bldgs.
Dugway Proving Ground
Dugway Co: Toole UT 84022–
Landholding Agency: Army
Property Numbers: 219013996–219013999, 219130008, 219130011–219130013, 219130015–219130018
Status: Underutilized
Reason: Secured Area

8 Bldgs.
Dugway Proving Ground
Dugway Co: Toole UT 84022–
Landholding Agency: Army
Property Numbers: 219014693, 21913009–219130010, 219130014, 219220204–219220207
Status: Unutilized
Reason: Secured Area

Bldg. 104
Tooele Army Depot, North Area
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219120014
Status: Underutilized
Reason: Extensive deterioration

15 Bldgs.
Tooele Army Depot, South Area
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Numbers: 219120015–219120027, 219240264, 219240268
Status: Unutilized
Reason: Extensive deterioration

Virginia

164 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Location: State Highway 114
Landholding Agency: Army
Property Numbers: 219010833, 219010836, 219010839, 219010842, 219010844, 219010847–219010890, 219010892–219010912, 219011521–219011577, 219011581–219011583, 219011585, 219011588, 219011591, 219013559–219013570, 219110142–219110143, 219120071, 219140618–219140633
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

13 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Location: State Highway 114
Landholding Agency: Army
Property Numbers: 219010834–219010835, 219010837–219010838, 219010840–219010841, 219010843, 219010845–219010846, 219010891, 219011578–219011580
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area
Comment: Latrine, detached structure

34 Bldgs.
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Numbers: 219120035–219120039, 219130006, 219140260, 219230105–219230106, 219240083–219240118
Status: Unutilized
Reason: Extensive deterioration (Some are in a secured area.)

Bldg. T–221
Vint Hill Farms Station
Warrenton Co: Fauquier VA 22186–
Landholding Agency: Army
Property Number: 219210142
Status: Unutilized
Reason: Extensive deterioration

13 Bldgs.
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Numbers: 219220210–219220218, 219230100–219230103
Status: Unutilized
Reason: Secured Area

5 Bldgs.
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801
Landholding Agency: Army
Property Numbers: 219220312, 219220314, 219220316–219220318
Status: Underutilized
Reason: Extensive deterioration

Bldg. T–551, Fort Monroe
Ft. Monroe VA 23651
Landholding Agency: Army
Property Number: 219230104
Status: Unutilized
Reason: Extensive deterioration

44 Bldgs., Fort A.P. Hill
Bowling Co: Caroline VA 22427
Landholding Agency: Army
Property Numbers: 219240288–219240314
Status: Underutilized
Reason: Detached latrines

Bldg. B7103–01, Motor House
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219240324
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material. Extensive deterioration

Bldg. 191, Fort Eustis
Newport News VA 23604
Landholding Agency: Army
Property Number: 219310090
Status: Underutilized
Reason: Extensive deterioration

32 Bldgs., Fort Pickett
Blackstone Co: Nottoway VA 23824
Landholding Agency: Army
Property Numbers: 219310133–219310159, 219310161–219310165
Status: Unutilized
Reason: Extensive deterioration

Washington

Bldg. 209
Yakima Firing Center
Yakima Co: Yakima WA 98901–5000
Location: Exit 26 off I–82 on Yakima Firing Center Road
Landholding Agency: Army
Property Number: 219040363
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

25 Bldgs., Fort Lewis
Ft. Lewis Co: Pierce WA 98433–5000
Landholding Agency: Army
Property Numbers: 219310108–219310132
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

Bldg. 785, Vancouver Barracks
Vancouver Co: Clark WA 98661–3896
Landholding Agency: Army
Property Number: 219240325
Status: Unutilized
Reason: Extensive deterioration

Bldg. T209, Fort Lawton Cemetary
Seattle Co: King WA 98199
Landholding Agency: Army
Property Number: 219240326
Status: Unutilized
Reason: Extensive deterioration

Wisconsin

6 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Numbers: 219011094, 219011209–219011212, 219011217
Status: Underutilized

Reason: Within 2000 ft. of flammable or explosive material. Other environmental. Secured Area.
Comment: Friable asbestos.

154 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Numbers: 219011104, 219011106, 219011108–219011113, 219011115–219011117, 219011119–219011120, 219011122–219011139, 219011141–219011142, 219011144, 219011148–219011208, 219011213–219011216, 219011218–219011234, 219011236, 219011238, 219011240, 219011242, 219011244, 219011247, 219011249, 219011251, 219011254, 219011256, 219011259, 219011263, 219011265, 219011268, 219011270, 219011275, 219011277, 219011280, 219011282, 219011284, 219011286, 219011290, 219011293, 219011295, 219011297, 219011300, 219011302, 219011304–219011311, 219011317, 219011319, 219011320–219011321, 219011323
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Other environmental. Secured Area.
Comment: Friable asbestos.

Bldg. P–10111
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656–5000
Landholding Agency: Army
Property Number: 219013443
Status: Unutilized
Reason: Structure is boiler plant for hospital.

4 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Numbers: 219013871–219013873, 219013875
Status: Underutilized
Reason: Secured Area

3 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Numbers: 219013876–219013878
Status: Unutilized
Reason: Secured Area

Bldgs. 6513–27, 6823–2, 6861–4
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Numbers: 219210097–219210099
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area.

144 Bldgs., Fort McCoy
US Hwy. 21
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Numbers: 219210103–219210115, 219240161–219240162, 219240164–219240262, 219310208–219310237
Status: Unutilized
Reason; Extensive deterioration

17 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913
Landholding Agency: Army
Property Numbers: 219220295–219220311
Status: Unutilized
Reason: Secured Area

Land (by State)

Alabama

23 acres and 2284 acres
Alabama Army Ammunition Plant
110 Hwy. 235
Childersburg Co: Talladega AL 35044–
Landholding Agency: Army
Property Numbers: 219210095–219210096
Status: Excess
Reason: Secured Area

Alaska

Campbell Creek Range
Fort Richardson
Anchorage Co: Greater Anchorage AK 99507
Landholding Agency: Army
Property Number: 219230188
Status: Unutilized
Reason: Inaccessible

Georgia

Facility EH001
Fort Gordon
Augusta Co: Richmond GA 30905–
Location: Located at the Eisenhower Army Medical Center
Landholding Agency: Army
Property Number: 219014786
Status: Unutilized
Reason: Heliport—concrete pad

Illinois

Group 66A
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Landholding Agency: Army
Property Number: 219010414
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

Parcel 1
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Location: South of the 811 Magazine Area, adjacent to the River Road.
Landholding Agency: Army
Property Number: 219012810
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material. Floodway

Parcel No. 2, 3
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Landholding Agency: Army
Property Numbers: 219013796–219013797
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material. Floodway

Parcel No. 4, 5, 6
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Landholding Agency: Army
Property Numbers: 219013798–219013800
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Floodway

Homewood USAR Center
18760 S. Halsted Street
Homewood Co: Cook IL 60430–
Landholding Agency: Army
Property Number: 219014067
Status: Underutilized
Reason: Secured Area

38,000 sq. ft. & 4,000 sq. ft. of Land
Rock Island Arsenal
South Shore Moline Pool Miss. River
Moline Co: Rock Island IL 61299–5000
Landholding Agency: Army
Property Numbers: 219240317–219240318
Status: Unutilized
Reason: Floodway

Indiana

Newport Army Ammunition Plant
East of 14th St. & North of S. Blvd.
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219012360
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

Maryland

Carroll Island, Graces Quarters
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Numbers: 219012630, 219012632
Status: Underutilized
Reason: Floodway. Secured Area

Nebraska

Land
Cornhusker Army Ammunition Plant
Potash Road
Grand Island Co: Hall NE 68802–
Location: 4 miles west of Grand Island
Landholding Agency: Army
Property Number: 219013785
Status: Underutilized
Reason: Floodway

New Jersey

Land
Armament Research Development & Eng. Center
Route 15 North
Picatinny Arsenal Co: Morris NJ 07806–
Landholding Agency: Army
Property Number: 219013788
Status: Unutilized
Reason: Secured Area

New York

Watervliet Arsenal
Watervliet Co: Albany NY 12189–4050
Location: East of Main Arsenal Reservation
Landholding Agency: Army
Property Number: 219012508
Status: Excess
Reason: Easement to N.Y. State, 6-lane highway construction.

Oklahoma

McAlester Army Ammo. Plant
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501–
Landholding Agency: Army
Property Number: 219014603
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

Pennsylvania

Lickdale Railhead
Fort Indiantown Gap
Lickdale Co: Lebanon PA 17038–
Landholding Agency: Army
Property Number: 219012359

Status: Excess
Reason: Floodway

Tennessee

Land
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN
Landholding Agency: Army
Property Number: 219013791
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

Volunteer Army Ammo. Plant
Chattanooga Co: Hamilton TN
Location: Area around VAAP—outside fence in buffer zone.
Landholding Agency: Army
Property Number: 219013880
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

Utah

Land—32 Acres
Tooele Army Depot
Tooele Co: Tooele UT 84084
Landholding Agency: Army
Property Number: 219240269
Status: Unutilized
Reason: Secured Area

Virginia

Fort Belvoir Military Reservation—5.6 Acres
South Post located West of Pohick Road
Fort Belvoir Co: Fairfax VA 22060–
Location: Rightside of King Road
Landholding Agency: Army
Property Number: 219012550
Status: Unutilized
Reason: Within airport runway clear zone. Secured Area
Comment: 5.6 acres

Wisconsin

Land
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Location: Vacant land within plant boundaries.
Landholding Agency: Army
Property Number: 219013783
Status: Unutilized
Reason: Secured Area

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BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Final Certification of No Adverse Impact on Theodore Roosevelt National Park and Lostwood Wilderness Area Under Section 165(d)(2)(C)(iii) of the Clean Air Act

AGENCY: Office of the Secretary, U.S. Department of the Interior.

ACTION: Notice of final determination of no adverse impact under section 165(d)(2)(C)(iii) of the Clean Air Act.

SUMMARY: This notice announces the final determination by the Federal Land Manager (FLM) of Theodore Roosevelt National Park (NP) and the Lostwood Wilderness Area (WA) that a proposed major modification to an existing source in the State of North Dakota subject to Prevention of Significant Deterioration (PSD) of air quality requirements will not adversely affect the resources of the park or wilderness area. The Department of the Interior has made the final determination after full consideration of the best available information and the public comments received on the issues involved. The intent of this notice is to announce the final determination of no adverse impact and to respond to the public comments received on this matter.

EFFECTIVE DATE: This certification of no adverse impact is effective as of March 8, 1993.

ADDRESSES: (To conform with EPA notices and our convenience) Copies of the FLM's final certification letter and other supporting documentation are available for public inspection and copying between the hours of 8:30 a.m. to noon and from 1:30 p.m. to 3:30 p.m., Monday through Friday, at the following locations: U.S. Department of the Interior, National Park Service, Air Quality Division, room 3229, 1849 C Street, NW., Washington, DC; National Park Service, Air Quality Division, 12795 W. Alameda Parkway, Room 215, Lakewood, CO; Theodore Roosevelt National Park Headquarters, Medora, ND; and Lostwood National Wildlife Refuge, Kenmare, ND. A reasonable fee may be charged for copying materials.

FOR FURTHER INFORMATION CONTACT: John Bunyak, Air Quality Division, National Park Service—AIR, P.O. Box 25287, Denver, CO 80225, Telephone Number: (303) 969–2071; Facsimile Machine Number: (303) 969–2822.

SUPPLEMENTARY INFORMATION: Dakota Gasification Company (DGC) has submitted an application to the North Dakota State Department of Health and Consolidated Laboratories (State) to amend the PSD permit for the Great Plains Synfuels Plant (GPSP). The GPSP is located near Beulah, North Dakota, approximately 120 kilometers east of Theodore Roosevelt NP and 150 kilometers southeast of the Lostwood WA. The facility was originally permitted in 1977 and began operation in 1984. The air pollution control equipment initially installed as best available control technology (BACT) failed to comply with the permitted sulfur dioxide (SO_2) limit, and the current SO_2 emissions continue to exceed the permitted limit.

In their application, DGC proposes to: (1) Redefine BACT for SO_2 from the main stack, (2) increase the maximum sulfur content of the coal utilized, and (3) increase main stack nitrogen oxide (NO_X) emissions as a result of the higher nitrogen levels in the fuel and increased firing of liquid fuels in the boiler. The net changes in actual and permitted emissions at the GPSP (in tons per year) as a result of the proposed modification are summarized in the following table.

Pollutant	Permitted emissions	Actual emissions	Proposed emissions	Net change in permitted emissions	Net change in actual emissions
Sulfur dioxide	8,988	33,459	15,409	+6,421	−18,050
Nitrogen oxides	3,451	4,012	3,795	+344	−217
Particulate matter	891	2,416	874	−17	−1,542
Carbon monoxide	[1]2,519	2,110	2,240	−279	+130

[1] Carbon monoxide emissions were not listed in the permit, but were included in the original analysis for the facility.

As the above table shows, although the proposed modification would result in significant net increases in *permitted* SO_2 and NO_X emissions from the GPSP, the modification would also result in substantial reductions in current actual SO_2, NO_X, particulate matter, and carbon monoxide emissions. The substantial reduction in actual SO_2 emissions would result from the installation of a wet limestone flue gas desulfurization system, which will control SO_2 emissions from the main boiler stack by at least 93 percent.

Results of the State's dispersion modeling analyses indicate that the modified facility would meet the National Ambient Air Quality Standards (NAAQS) and Class II increments, but would significantly contribute to exceedances of the SO_2 Class I

increment at both Theodore Roosevelt NP and the Lostwood WA. Given the modeled Class I increment exceedances, DGC had several options available for obtaining a modified permit. One option was to request certification from the FLM under section 165(d)(2)(C)(iii) of the Clean Air Act, 42 U.S.C. 7475(d)(2)(C)(iii), that the project would have no adverse impact on the resources of Theodore Roosevelt NP or the Lostwood WA, even though the Class I SO_2 increment would be exceeded. Another option would be to reduce emissions further, so that the source would not significantly contribute to increment exceedances. DGC chose to request FLM certification of no adverse impact.

After review of the State's modeling analysis and other supporting information, on November 5, 1992, the FLM announced the preliminary determination that DGC's proposed permit modification would not cause an unacceptable, adverse impact on the visibility and other air quality related values at Theodore Roosevelt NP or the Lostwood WA. (See 57 FR. 52,788). At that time, the FLM provided for a 30-day public comment period and solicited comments on this preliminary determination.

Discussion of Public Comments

The FLM received no comments or additional information opposing the preliminary determination. The only comments received during the 30-day public comment period were those provided by the State in a December 1, 1992, letter. The State questioned the FLM's inclusion of the Lostwood WA in the preliminary notice because "only one Class I increment exceedance was predicted there, and one exceedance is allowable under the Prevention of Significant Deterioration Rules." In other words, the Class I increment at the Lostwood WA was "exceeded," but not "violated."

Whether an "exceedance" or a "violation" of the Class I increment triggers the need for the FLM's certification process is not clear. The Clean Air Act provides for a State issuance of a permit in cases where the FLM certifies that emissions from the proposed facility "will have no adverse impact on the air quality-related values of such lands (including visibility) notwithstanding the fact that the change in air quality resulting from emissions from such facility will cause or contribute to concentrations which *exceed* the maximum allowable increases for class I areas." 42 U.S.C. 7475(d)(2)(C)(iii) (emphasis added). Therefore, to avoid possible procedural errors with this certification, and to err on the side of protecting the resource, as mandated by the Clean Air Act, the FLM also evaluated potential adverse impacts on the Lostwood WA, and reported the results of this evaluation in the notice. Since the FLM has found "no adverse impacts" to either the Lostwood WA or Theodore Roosevelt NP in this case, the legal question raised by the State did not affect the outcome. For future cases, however, the FLM will consider the question further and consult with the Environmental Protection Agency to resolve it.

The State also clarified the modeling analyses they performed for the DGC project. The FLM acknowledges and appreciates these clarifying comments.

Findings and Final Determination

The findings of the FLM's review of DGC's proposed modification of the Great Plains Synfuels Plant PSD permit are as follows:

1. The proposed increase in allowable emissions should not increase perceptible plume impacts or contribute to regional haze impacts in either Theodore Roosevelt NP or the Lostwood WA.

2. The substantial reductions in actual emissions from the GPSP (over 18,000 tons per year of SO_2) should result in an overall environmental improvement compared to existing conditions at the plant.

3. There is no evidence of existing adverse impacts on biological resources due to air pollution at either Theodore Roosevelt NP or the Lostwood WA.

4. In general, the air quality in North Dakota appears to have improved, for various reasons, since the FLM's last certification of no adverse impacts in 1984.

5. The maximum predicted pollutant concentrations at Theodore Roosevelt NP and the Lostwood WA are well below the alternate Class I increments provided for in the Clean Air Act.

6. There is no reason to believe that the proposed new allowable emissions from the GPSP would cause or contribute to impairment of the structure and functioning of ecosystems at Theodore Roosevelt NP or the Lostwood WA. Likewise, there should be no impairment to the visitor experience, or diminution of the national significance of the park or wilderness area.

Based on the above findings, and the overall analysis, the FLM concludes that the proposed DGC permit modification would not cause an unacceptable, adverse impact on the natural resources of Theodore Roosevelt NP or the Lostwood WA.

These findings and review are based on emissions as proposed by the DGC and the analysis presented by the State of North Dakota. The conclusion reached in this review should not be extrapolated to any future permit applications in the vicinity of Theodore Roosevelt NP or the Lostwood WA. Each future application must be reviewed on a case-by-case basis, because a source's emission parameters, such as stack height, gas temperature, and geographic location, determine its interaction with other sources and hence, the potential for adverse effects. New applicants that contribute to Class I increment exceedances must demonstrate to the FLM's satisfaction that the proposed source will not cause or contribute to an adverse impact on the resources of Theodore Roosevelt NP or the Lostwood WA.

Dated: March 8, 1993.

Joseph E. Deddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks, Federal Land Manager of Theodore Roosevelt National Park and Lostwood Wilderness Area.

[FR Doc. 93–5691 Filed 3–11–93; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Land Management

[ID–020–4210–05; I–29559]

Twin Falls County, ID, Hub Butte Landfill Proposal; Intent To Prepare an Environmental Impact Statement/Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement/Plan Amendment (EIS/PA).

SUMMARY: Notice is hereby given that the Bureau of Land Management is proposing to prepare an EIS/PA for Twin Falls County's proposed Hub Butte Sanitary Landfill Project and for their proposal to purchase public lands in Twin Falls County, Idaho for that project.

DATES: The public, state and local governments and other Federal agencies are asked to participate in the EIS/PA process. Written comments will be accepted for 30 days following the date this notice is published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Gerald Quinn, District Manager, Bureau of Land Management, Burley District Office, Route 3, Box 1, Burley, ID 83318.

FOR FURTHER INFORMATION CONTACT: Scott Barker, Project Manager, Burley

District Office, Route 3, Box 1, Burley, ID 83318; phone (208) 678–5514.

SUPPLEMENTARY INFORMATION: Twin Falls County plans to construct and operate a municipal solid waste landfill in compliance with subtitle D of the Resource Conservation and Recovery Act of October 21, 1976, as amended (42 U.S.C. 6941–6949a) and in accordance with the regulations at 40 CFR part 258. In order to accomplish this objective, they propose to purchase a parcel of public land in an area of Twin Falls County locally known as Hub Butte. The parcel of public land proposed to be purchased is legally described as follows:

Boise Meridian, Idaho

T. 11 S., R. 17 E.,
Sec. 31: SE¼SW¼SE¼, S½SE¼SE¼;
Sec. 32: W½SW¼SW¼SE¼, SW¼SW¼SE¼.
T. 12 S., R. 17 E.,
Sec. 5: West Half of Lot 2, Lots 3, 4, W½SW¼NE¼, S½NW¼, SW¼, W½W½SE¼;
Sec. 6: Lot 1, East Half of Lot 2, E½SW¼NE¼, SE¼NE¼, E½W½SE¼, E½SE¼;
Sec. 7: N½NE¼NE¼, NE¼NW¼NE¼;
Sec. 8: NW¼NW¼NE¼, N½N½NW¼.

Containing 1,083.77 acres, more or less.

The Bureau of Land Management's scoping process for the EIS/PA will include: (1) Identification of significant issues; (2) identification of sensitive or critical environmental impacts; (3) identification of reasonable alternatives (at present the only alternative identified is that of no action); (4) notifying groups, individuals and agencies so that additional information concerning these issues and concerns can be obtained. The proposed date for publishing the Draft Environmental Impact Statement is August 1, 1993.

Issues that have been identified to date include, but are not limited to:

—Effects on members of the Western Stockgrowers Association, grazing permits, grazing patterns, range improvements and rangeland resources, including threatened and endangered plant species both from the construction and operation of the landfill and from the lands leaving federal ownership.
—Impacts on wildlife including threatened and endangered species from construction and operation of the landfill.
—Impacts on cultural resources within the proposed sale area both from construction of the landfill and from the lands leaving federal ownership.
—Visual impacts and impacts to air quality resulting from construction and operation of the landfill.
—Socio-economic impacts associated with the landfill.
—Possible or potential impacts to ground water supplies as a result of operating the landfill.

Dated: March 3, 1993.

Gerald L. Quinn,

District Manager.

[FR Doc. 93–5683 Filed 3–11–93; 8:45 am]

BILLING CODE 4310-GG-M

[AZ–040–03–4351–03–ADVB]

Safford District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 94–579 and 43 CFR part 1780, that a meeting of the Safford District Advisory Council will be held.

DATES: Thursday, April 15, 1993, 10 a.m. to 4 p.m.

ADDRESSES: Safford District Office, 711 14th Ave., Safford, AZ 85546.

FOR FURTHER INFORMATION CONTACT: Diane Drobka, Public Affairs Officer, Safford District, 711 14th Ave., Safford, AZ 85546. Telephone (602) 428–4040.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

1. Introductions
2. Elect Chairperson
3. Review Council goals and involvement
4. Wild and Scenic Rivers
5. Razorback Sucker Critical Habitat
6. BLM 2015 restructuring
7. Dedication/Open House
8. Management Updates:
   a. Update of Gila Box planning effort
   b. Status AZCO Mine EIS
   c. Black Hills Back County Byway
   d. Grazing Advisory Board meeting highlights
   e. RMP Record of Decision
   f. Clifton Ranger District—Interagency Visitor Center

The meeting will be open to the public. Interested persons may make oral statements to the Council between 1 and 2 p.m., or may file written statements for consideration by the Council. Anyone wishing to make an oral statement must notify the District Manager by Wednesday, April 14, 1993.

Summary minutes of the Council meeting will be maintained in the District Office and will be available for public inspection and reproduction (during business hours) within thirty (30) days following the meeting.

Dated: March 5, 1993.

Frank L. Rowley,

Acting District Manager.

[FR Doc. 93–5653 Filed 3–11–93; 8:45 am]

BILLING CODE 4310-GG-M

[ID–050–1520–02]

Shoshone District Advisory Council; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed topics for a meeting of the Shoshone (Idaho) District Advisory Council.

DATES: Wednesday, April 14, 1993, at 9 a.m.

ADDRESSES: Shoshone District BLM Office, 400 West F Street, Shoshone, Idaho.

FOR FURTHER INFORMATION CONTACT: District Manager Mary Gaylord, P.O. Box 2–B, 400 West F Street, Shoshone, ID 83352. Telephone (208) 886–7201.

SUPPLEMENTARY INFORMATION: The proposed topics for the meeting include:

1. Status of the Bennett Hills Resource Management Plan
2. Fire Rehabilitation Status and Issues
3. Sanitary Landfill Issues
4. Status of Fossil River Mineral Withdrawal
5. Report on Idaho BLM Executive Conference
6. Presentation on the Big Wood River
7. Other topics as needed

The Shoshone District Advisory Council is established under section 309 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579; U.S.C. 1701 *et seq.*) as amended. Operation and administration of the Council will be in accordance with the Federal Advisory Committee Act of 1972 (Pub. L. 92–463; 5 U.S.C. appendix 1) and Department of Interior regulations, including 43 CFR part 1784.

The meeting is open to the public. Anyone may present oral statements or may file a written statement with the District Manager regarding matters on the agenda. Oral statements will be limited to ten minutes.

Anyone wishing to make an oral statement should notify the District Manager by April 12, 1993. Records of the meeting will be available in the Shoshone District Office for public inspection or copying within 30 days after the meeting.

Dated: March 3, 1993.

Mary C. Gaylord,

District Manager.

[FR Doc. 93–5656 Filed 3–11–93; 8:45 am]

BILLING CODE 4310–GG–M

[NV–930–4210–05; N–37750]

Termination of Recreation and Public Purposes Classification and Opening Order, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates a Recreation and Public Purposes Classification N–37750. The land will be opened to the public land laws generally, including the mineral leasing and material sale laws, and to location under the mining laws.

EFFECTIVE DATE: Termination of the classification is effective on March 12, 1993. The land will be open to entry at 10 a.m. on April 12, 1993.

FOR FURTHER INFORMATION CONTACT: Mary Clark, Nevada State Office, Bureau of Land Management, 850 Harvard Way, Reno, NV 89520, (702) 785–6530.

SUPPLEMENTARY INFORMATION: In 1984, 670 acres of land in White Pine County, Nevada, were classified as suitable for lease under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, 869–1 to 869–4).

In accordance with the classification, the lands were segregated from all further appropriation including location under the mining laws and applications under the mineral leasing and material sale laws.

A lease was subsequently issued to White Pine County for a public shooting facility. By notice published in the **Federal Register** on April 21, 1992 (57 FR 14587), 580 acres of the leased lands were classified as suitable for disposal under the Recreation and Public Purposes Act and those lands were conveyed to White Pine County by patent issued September 18, 1992. The classification and segregation as to those 580 acres terminated automatically upon issuance of the patent. The County has relinquished the lease as to the remaining 90 acres which are described as follows:

Mount Diablo Meridian, Nevada

T. 16 N., R. 64 E.,
Sec. 4, SW¼SW¼SE¼;
Sec. 9, W½W½E½.

Pursuant to section 7 of the Taylor Grazing Act (48 Stat. 1272) and the authority delegated by Appendix 1 of Bureau of Land Management Manual 1203, the aforementioned Recreation and Public Purposes classification is hereby terminated as it affects the above described lands.

At 10 a.m. on April 12, 1993 those lands will become open to the operation of the public land laws generally, and the mineral leasing and material sale laws, subject to existing rights, the provisions of existing withdrawals, and the requirements of applicable laws, rules, and regulations.

At 10 a.m. on April 12, 1993 the above described lands will become open to location under the United States mining laws. Appropriation of the land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The lands have been and will remain open to appropriation under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, 869–1 to 869–4).

Billy R. Templeton,

State Director, Nevada.

[FR Doc. 93–5655 Filed 3–11–93; 8:45 am]

BILLING CODE 4310–HC–M

[MT–070–03–4210–05; MTM80913]

Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Lewis & Clark County, MT

AGENCY: Bureau of Land Management, Butte District Office, Interior.

ACTION: Recreation and Public Purposes (R&PP) Act classification; Lewis & Clark County, MT.

SUMMARY: The following described lands in Lewis & Clark County, Montana, have been examined and found suitable for sale to the State of Montana for inclusion and management as part of the Beartooth State Wildlife Management Area. The lands are located northeast of Helena, Montana, in the proximity of Holter Lake, within and adjacent to the Beartooth Wildlife Management Area.

Principal Meridian, Montana

T13N R3W
Section 2: Lots 6, 7
Section 12: Lots 3, 4, 5
T14N R2W
Section 12: E½NE¼, NW¼NE¼, NE¼NW¼, S½.
Containing 607.11 acres.

The lands are not needed for Federal purposes. The sale is consistent with the Headwaters Resource Management Plan and would be in the public interest.

The patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches or canals constructed by the United States in accordance with 43 U.S.C. 945.

3. The lands will be sold subject to all valid, existing rights (e.g., rights-of-way, easements and leases of record).

4. The sale must meet the requirements of 43 U.S.C. 869 *et seq.*

Publication of this notice in the **Federal Register** segregates the public lands described above from all forms of appropriation under the public land laws, including the general mining laws, except for sale under the Recreation and Public Purposes Act.

DATES: Interested parties may submit comments April 26, 1993 to the Bureau of Land Management at the address shown below. Any adverse comments will be evaluated by the BLM, Montana State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Information related to this realty action, including the Environmental Assessment, is available for review at the Butte District Office, 106 No. Parkmont, Box 3388, Butte MT 59702.

Dated: March 2, 1993.

Orval L. Hadley,

Acting District Manager.

[FR Doc. 93–5718 Filed 3–11–93; 8:45 am]

BILLING CODE 4310–DN–M

[MT–025–93–4210–04; MTM 80345]

Realty Action; Exchange of Public and Private Lands and Minerals in Musselshell and Yellowstone Counties, MT

AGENCY: Bureau of Land Management, Miles City District Office, Montana, Interior.

ACTION: Notice of Realty Action M80345. Exchange of public and private lands

and minerals in Musselshell and Yellowstone Counties, Montana.

SUMMARY: The following described lands and minerals have been determined suitable for disposal by exchange to the Meridian Minerals Company (Meridian) under the authority of section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Principal Meridian, Montana

Selected public surface land to be acquired by Meridian in Musselshell County, Montana.

T. 6 N., R. 26 E.,
Section 12, Lot 4, W2SW, SESW.

Aggregating 153.96 acres of public surface.

Selected federal minerals except oil and gas to be acquired by Meridian in Musselshell County.

T. 6 N., R. 26 E.,
Section 12, All;
Section 14, All.

Aggregating 1257.55 acres of federal minerals.

Offered surface and mineral estate to be acquired by the BLM in Yellowstone County, Montana.

T. 1 S., R. 26 E.,
Section 23, NESW, N2SE, SESE.

Aggregating 160.00 acres of surface and mineral estate.

DATES: From a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 940, Miles City, MT 59301. Any adverse comments will be evaluated by the BLM Montana State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange including the environmental assessment is available for review at the Bureau of Land Management, Billings Resource Area Office, 810 Main, Billings, Montana 59105 or the Miles City District Office, Garryowen Road, Miles City, MT 59301.

SUPPLEMENTARY INFORMATION: The public lands and minerals described above are segregated from settlement, sale location, and entry under the public land laws, including the mining laws, but not from the mineral leasing laws nor from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976, for a period of two years from the date of publication of this notice. The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals in accordance with 43 U.S.C. 945.
2. All valid existing rights of record (rights-of-way, easements, leases).
3. The exchange must meet the requirements of 43 CFR 4110.4–2(b).
4. Agreement by Meridian not to surface mine the selected coal estate.
5. Any other applicable terms and conditions.

This exchange is consistent with BLM policies and planning and has been discussed with state and local officials. The public interest will be served by completion of this exchange because it will enable the BLM to acquire lands with high public values and will increase management efficiency of public lands in the area.

Sandra E. Sacher,

Associate District Manager.

[FR Doc. 93–5443 Filed 3–11–93; 8:45 am]

BILLING CODE 4310-DN-M

[WY–060–4210; WYW 101848]

Realty Action; Exchange/Sale of Public Lands in Campbell County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, exchange/sale of public lands in Campbell County for private lands in Campbell County.

SUMMARY: The following public surface estate has been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Sixth Principal Meridian

T. 53 N., R. 70 W.
Sec. 19, lot 17;
Sec. 30, lots 7, 8, 12, 13, 14, 15.
T. 53 N., R. 71 W.
Sec. 10, lot 8;
Sec. 11, lots 9, 10;
Sec. 15, lots 3, 4, 5, 6;
Sec. 20, lots 6, 7;
Sec. 21, lots 2, 3, 7;
Sec. 24, lots 9, 10;
Sec. 25, lots 1, 8;
Sec. 29, lots 2, 3, 5, 6, 7, 10;
Sec. 30, lots 9, 10, 11, 12, 13, 14, 15, 16, 20;
Sec. 32, lot 2.

The above land aggregates 1,534.73 acres in Campbell County.

In exchange, the United States proposes to acquire the following private surface estate from Bonnie and Glen Clabaugh.

Sixth Principal Meridian

T. 53 N., R 71 W.
Sec. 3, lots 2, 3, SE¼NW¼, W½SE¼;
Sec. 10, lot 7, SW¼NE¼;
Sec. 11, lots 5, 6, 7, 8;
Sec. 12, lots 1, 2, 3, 4, 5, 6, 7, 8.
T. 54 N., R. 71 W.
Sec. 34, NE¼, NE¼NW¼, S½NW¼, SW¼SE¼;
Sec. 35, SW¼SW¼.

The above land aggregates 1,126.03 acres in Campbell County.

The following described lands will be considered for sale or exchange at a later date, first to the adjoining landowners, currently, Bonnie and/or Glen Clabaugh, pending cultural testing of the land and/or any necessary mitigation. These disposal actions will be under the authority of section 203 and/or section 206 of the Federal Land Policy and Management Act of 1976, as amended, 43 U.S.C. 1713, 1716, 1719;

Sixth Principal Meridian

T. 53 N., R. 71 W.,
Sec. 15, lots 2, 7;
Sec. 21, lot 1;
Sec. 24, lots 7, 11, 12;
Sec. 25, lots 9, 16;
Sec. 28, lot 1;
Sec. 29, lots 1, 8, 9;
Sec. 32, lots 3, 4;
Sec. 35, lot 11.

The above land aggregates 603.20 in Campbell County.

If an exchange action is the chosen disposal method, a list of lands to be acquired by the United States will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Dave Pomerinke, Area Manager, Buffalo Resource Area, BLM, 189 Cedar, Buffalo, Wyoming 82834, (307) 684–5586.

SUPPLEMENTARY INFORMATION: The purpose of this land adjustment action is to facilitate land management in the area by both the private party and the BLM by repositioning both the scattered parcels of private and public lands. This disposal is in the public interest and would provide additional legal access to larger blocks of public lands. The lands acquired by BLM would provide high recreational values and increase potential for wildlife habitat improvement while at the same time disposing of small, isolated and unmanageable pieces of public land.

No significant negative impacts are anticipated from this exchange or any future pending exchange or sale of the additional disposal parcels.

This land adjustment action is consistent with the Buffalo Resource Area Resource Management Plan and has been discussed with State and local officials. The public interest will be served by completion of this exchange or any future disposal action.

The Federal parcels that contain unknown or potentially eligible cultural

sites will be properly evaluated or mitigated prior to any disposal action.

The publication of this notice segregates the 1,534.73 acres of public land described in the above exchange from settlement, sale, location, and entry under the public land laws, including the mining laws, but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976.

Those 603.20 acres of land to be considered for disposal at a future date are not included in this segregation.

Any patent issued will be subject to all valid existing rights.

Specific Patent reservations include:

1. A reservation to the United States of a right-of-way for ditches or canals in accordance with Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove minerals. A more detailed description of this reservation, which will be incorporated into the patent document, is available for review at the Bureau of Land Management, Buffalo Resource Area Office.

For a period of forty-five (45) days, from the date of issuance of this Notice in the **Federal Register**, interested parties may submit comments for all lands identified in this Notice for land adjusting action to the Bureau of Land Management, District Manager, Casper, 1701 East E. Street, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this proposed realty action will become final.

Dated: March 4, 1993.

Mike Karbs,

Casper District Manager.

[FR Doc. 93–5657 Filed 3–11–93; 8:45 am]

BILLING CODE 4310–22–M

Fish and Wildlife Service

Availability of Draft Environmental Impact Statement; Refuges 2003—A Plan for the Future of the National Wildlife Refuge System

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability of a draft environmental impact statement for the management of national wildlife refuges.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has prepared, for public review, a Draft Environmental Impact Statement for the management of national wildlife refuges, entitled: "Refuges 2003—A Plan for the Future of the National Wildlife Refuge System." This draft has been prepared pursuant to the National Environmental Policy Act of 1969. The draft statement describes six alternatives and a "no action" option for managing the national wildlife refuges and the environmental consequences of their implementation, respectively.

DATES: Comments on the draft statement should be received no later than June 14, 1993. During this public review period, public meetings will be held at various locations throughout the United States to be scheduled at a later date. Notices of these public meetings will be published in the **Federal Register**.

ADDRESSES: Written comments may be addressed to: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1849 C Street, NW., MS 670 ARLSQ, Washington, DC 20240; Telephone (703) 358–1744.

FOR FURTHER INFORMATION CONTACT: Rob Shallenberger, Division of Refuges, U.S. Fish and Wildlife Service, 1849 C Street NW., MS 670 ARLSQ, Washington, DC 20240; Telephone (703) 358–1744.

SUPPLEMENTARY INFORMATION: The Service has prepared a draft environmental impact statement entitled "Refuges 2003—A Plan for the Future of the National Wildlife Refuge System" pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969. This draft statement was developed with assistance from the comments received at the various public meetings held throughout the United States, a team of wildlife and environmental experts in the various fields reviewed in the draft statement, and the expertise of the professional staff within the Division of Refuges of the Service, including field stations, Regional Offices and the Washington Office. A summary of the draft statement has been prepared and will be sent to all persons and organizations who participated in any part of the review process, such as scoping meetings or in other types of communication with the planning team. Copies of the complete draft statement will be sent to Federal and State agencies, local governments, and other organizations and individuals who have already requested copies. A limited number of copies of both documents are available upon request at the Division of Refuges, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, 670 ARLSQ, Arlington, VA 22203.

Written and oral comments will be accepted at the public meetings to be scheduled, the notice of which will be provided in the **Federal Register**. To be considered in the preparation of the final environmental impact statement, all comments should be received no later than June 14, 1993.

Copies of the Draft Environmental Impact Statement are available for public review at the Regional Offices of the Service at the following addresses:

Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington.
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Eastside Federal Complex, suite 1692, 911 NW. 11th Avenue, Portland, Oregon 97232–4181; Telephone (503) 231–6214.

Region 2—Arizona, New Mexico, Oklahoma and Texas.
Assistant Regional Director—Refuges and Wildlife U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; telephone (505) 766–1829.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin.
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota, 55111; Telephone (612) 725–3507.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, South Carolina, Puerto Rico and the Virgin Islands.
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303; Telephone (404) 331–0833.

Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia.
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 300 W. Gate Center Drive, Hadley, Massachusetts 01035; Telephone (413) 253–8200.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming.
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado, 80225; Telephone (303) 236–8145.

Region 7—Alaska.
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786–3538.

Dated: February 11, 1993.

Richard H. Smith,

Deputy Director.

[FR Doc. 93–5448 Filed 3–11–93; 8:45 am]

BILLING CODE 4310–55–M

North American Wetlands Conservation Council; Availability of Document

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that a final document, U.S. Grant Application Instructions Package For Funding Consideration Through the North American Wetlands Conservation Council Under Authority of North American Wetlands Conservation Act is available.

DATES: Proposals may be submitted at any time. FY 1994 proposals will be accepted through August 16, 1993.

SUPPLEMENTARY INFORMATION: This document provides the schedules, review criteria, definitions, description of information required in the proposal, and a format for proposals submitted for Fiscal Year 1994 funding. This document was prepared to comply with the "North American Wetlands Conservation Act." The Act established a North American Wetlands Council. This Federal-State-Private body annually recommends wetland acquisition, restoration, and enhancement conservation projects to the Migratory Bird Conservation Commission. These project recommendations will be selected from proposals made in accordance with this document. Proposals from State and private sponsors require a minimum of 50 percent non-Federal matching funds.

ADDRESSES: Copies of this document can be obtained by contacting the U.S. Fish and Wildlife Service, Publications Unit, 4401 N. Fairfax Drive, Mail Stop 130 Webb, Arlington, Virginia 22203 during normal business hours (7:45 am–4:15 pm) in writing or by phone (703) 358–1711.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Streeter, Coordinator, North American Wetlands Conservation Council, Arlington Square Building, Room 110, U.S. Fish and Wildlife Service, Department of the Interior, Arlington, VA 22203, telephone (703) 358–1784.

Dated: March 5, 1993.

Bruce Blanchard,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–5740 Filed 3–11–93; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

General Management Plan; Petrified Forest National Park; Notice of Availability of Final General Management Plan and Environmental Impact Statement

SUMMARY: In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190, the National Park Service has prepared a Final General Management Plan/Environmental Impact Statement (GMP/EIS) for Petrified Forest National Park.

The Draft General Management/Environmental Impact Statement (GMP/EIS) was circulated for public review between November 15, 1991 and January 31, 1992 (56 FR 58395). Both the Draft and Final GMP/EIS describe and analyze a proposal and three alternatives, for future management and use of the park. The proposal, Alternative 2, provides for the development of a research center/visitor center complex, relocation of some housing and maintenance facilities, adaptive use of historic structures for interpretive, administrative and concession purposes, and improvement of an existing access road. The proposal also addresses potential expansion of the park's administrative boundary. Alternative 1 is the no action alternative. Alternative 3 would replace and expand the inadequate facilities on site with the north visitor center remaining at the headquarters area and the residential area at Giant Logs expanded to meet staff housing needs. Alternative 4 would remove most existing development from the Giant Logs area and replace it with a new visitor center. In most other respects, Alternatives 3 and 4 would be the same as the proposal.

The 30 day no action period on the Final GMP/EIS will end April 4, 1993. Requests for additional information and/or copies of the Final GMP/EIS should be directed to: Superintendent, Petrified Forest National Park, P.O. Box 2217, Petrified Forest National Park, AZ 86028, telephone number (602) 524–6228.

Copies of the Final GMP/EIS are available at the park headquarters and at libraries located in the park's vicinity. Copies also are available for inspection at the following address: Western Regional Office, National Park Service, Division of Planning, Grants and Environmental Quality, 600 Harrison St., suite 600, San Francisco, CA 94107–1372.

Dated: January 11, 1993.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 93–5677 Filed 3–11–93; 8:45 am]

BILLING CODE 4310–70–M

Underground Railroad Advisory Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. appendix, that a meeting of the Underground Railroad Advisory Committee will be held on March 31, 1993, at the Second National Bank Building in Independence National Historical Park, 420 Chestnut Street, Philadelphia, Pennsylvania. The meeting will begin at 9:30 a.m. and will adjourn at approximately 4 p.m.

The Underground Railroad Advisory Committee was established by Public Law 101–628 to advise the Secretary of the Interior in preparation of a study of alternatives for commemorating and interpreting the Underground Railroad, sites and routes used by slaves escaping to freedom before the conclusion of the Civil War.

This will be the first meeting of the Committee. The matters to be discussed at the meeting include:

—Organization and responsibilities of the Committee
—National Park Service study process, criteria, and procedures
—Study background and progress with data collection
—Interpretive themes for the study
—Various concepts for resource protection and management
—Future Committee meetings and opportunities for public involvement in the study.

The meeting will be open to the public. However, space and facilities to accommodate members of the public are limited and people will be accommodated on a first-come, first-served basis. Anyone may file a written statement concerning the matters to be discussed at the committee meeting. For further information about the meeting or submitting statements, contact Mr. John Paige, Underground Railroad Study Team Captain, National Park Service, Denver Service Center—TEA, P.O. Box 25287, Denver, CO 80225–0287, Telephone 303/969–2356.

Dated: March 8, 1993.

Denis P. Galvin,

Associate Director for Planning and Development, Washington Office.

[FR Doc. 93–5706 Filed 3–11–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office: Alex Lee, Inc. (a North Carolina corporation), 120 Fourth Street, SW., Hickory, North Carolina 28601.

2. Wholly owned subsidiaries which will participate in the operations, and States of incorporation:

Institution Food House, Inc. (North Carolina)
Lowe's Food Stores, Inc. (North Carolina)
Merchants Distributors, Inc. (North Carolina)
Merchants Transport of Hickory, Inc. (North Carolina)

B. 1. Parent corporation and address of principal office: Michael Foods, Inc., 324 Park National Bank Building, 5353 Wayzata Boulevard, Minneapolis, MN 55416.

2. Wholly owned subsidiaries which will participate in the operations, and State(s) of incorporation:

The M.G. Waldbaum Company, State of Incorporation: Nebraska
Kohler Mix Specialties, State of Incorporation: Minnesota
Northern Star Co., State of Incorporation: Minnesota
Crystal Farms RDC, State of Incorporation: Minnesota
Sunnyside Vegetable Packing, Inc., State of Incorporation: New Jersey

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5720 Filed 3–11–93; 8:45 am]

BILLING CODE 7035–01–M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Michael Foods, Inc., 324 Park National Bank Building, 5353 Wayzata Boulevard, Minneapolis, MN 55416.

2. Wholly owned subsidiaries which will participate in the operations, and State(s) of incorporation: The M.G. Waldbaum Company, State of Incorporation: Nebraska; Kohler Mix Specialties, State of Incorporation: Minnesota; Northern Star Co., State of Corporation: Minnesota; Crystal Farms RDC, State of Incorporation: Minnesota; Sunnyside Vegetable Packing, Inc., State of Incorporation: New Jersey.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5721 Filed 3–11–93; 8:45 am]

BILLING CODE 7035–01–M

[Amendment No. 1 to Directed Service Order No. 1512]

Rocky Mountain Pipe Company/Fagan Iron & Metal, Inc./Dry Wall Products of Denver, Inc./ et al.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment to Directed Service Order.

SUMMARY: Pursuant to 49 U.S.C. 11125(b)(1), the Commission is authorizing The Great Western Railway Company (GWRC) d/b/a Platt Valley Railway (PVR) to operate as a "Directed Rail Carrier" (DRC) over the Denver Railway, Inc. (DRI)—uncompensated and without Federal subsidy under 49 U.S.C. 11125(b)(5)—for an additional period of 180 days.

This extension of the Commission's directed service order is based on numerous factors including a Commission field investigation that indicates that the railroad's present cash position does not allow the acquisition of locomotive equipment or the hiring of Federal Railroad Administration certified crews at this time. As a result, any resumption of operations by DRI over its lines at this time remains impossible.

To assure continuation of rail service to shippers that are affected by the DRI's discontinuance of operations, the Commission is authorizing GWRC/PVR, as DRC, to continue to provide directed service over DRI's two line segments in Denver, CO for an additional 180 days. See 49 U.S.C. 11125(a)(1), (a)(3), and (b)(1).

DATES: *Effective Date:* Amendment No. 1 to Directed Service Order No. 1512 shall become effective at 11:59 a.m., EST, March 9, 1993. GWRC/PVR shall notify DRI and the Commission that it is continuing its operations pursuant to this amended authority.

Expiration Date: Unless otherwise modified by order of the Commission, Directed Service Order No. 1512 will expire at 11:59 a.m., September 4, 1993.

FOR FURTHER INFORMATION CONTACT: Bernard Gaillard, (202) 927–5500, or Melvin F. Clemens, Jr., (202) 927–5538, [FAX (202) 927–5529], [TDD for hearing impaired: (202) 927–5721].

SUPPLEMENTARY INFORMATION: On January 8, 1993, at the request of shippers who were being denied rail service due to the cessation of operations by the DRI, the Commission issued Directed Service Order No. 1512 (DSO 1512). That order authorized GWRC/PVR to operate over DRI's lines in an industrial district of Denver, CO, for a period of 60 days without compensation from the Federal Government. DSO 1512 expires on March 9, 1993.

On February 24, 25, and 26, 1993, the Commission's Office of Compliance and Consumer Assistance conducted an on-site inspection of the DRI properties and interviewed officials representing shippers, GWRC/PVR, the directed rail carrier, and DRI. Based on these interviews, we have verified from shippers that there is a continued need for rail services after March 9, 1993. GWRC/PVR, the directed rail carrier, has indicated its willingness to continue its directed service operations on the same terms and conditions as presently contained in DSO 1512. DRI, which had temporarily discontinued its service due to the absence of locomotive power required to perform the switching services for DRI shippers, has indicated that it remains unable to resume its operations and supports continued directed service.

We have confirmed also, that on February 3, 1993 the principals of the DRI, Harvey E. Webb, President and Mary J.K. Webb, Secretary and Treasurer, have filed a Chapter 7 personal bankruptcy petition in the United States Bankruptcy Court for the District of Colorado, Case No. 93–11058 SBB.

In a related matter, Harvey Webb, on behalf of the DRI, filed a petition with the Commission on January 23, 1993 requesting that the Commission reconsider its decision to direct service to the extent that the Commission might consider extending the authority contained in DSO 1512 beyond the initial 60 days. However, the bankruptcy petition, coupled with indications from our on-site review and comments by Mr. Webb's attorney, confirm that DRI is not presently able to provide rail service to shippers, and moot Mr. Webb's request for the Commission to reconsider any extension of the authority contained in DSO 1512.

Shippers have indicated their need for rail services beyond March 9, 1993. Also, GWRC/PVR has agreed to

continue its operations as DRC under the same terms and conditions as are currently contained in DSO 1512. This amendment allows GWRC/PVR to continue to provide directed service to affected shippers for an additional period of 180 days, the maximum period allowable under 49 U.S.C. 11125(b)(1).

Considering DRI's continuing inability to maintain sufficient locomotive equipment to provide continuous rail service to its shippers, which caused its earlier cessation of operations, we find that DRI's current situation meets the statutory standards of 49 U.S.C. 11125(a) (1) and (3).

In view of the urgent need for continued rail service over lines of the DRI, this decision grants the shippers' requests and authorizes GWRC/PVR to continue to provide uncompensated directed service in the public interest.

Based on our field investigation and the absence of any comments in response to our order of January 8, 1993 opposing extension of DSO 1512, we have decided to exercise our authority under 49 U.S.C. 11125 to extend this authority.

This action will not significantly affect either the quality of the human environment or energy conservation.

It is ordered:

Based upon its agreement to do so without any form of compensation from the Federal Government, GWRC/PVR is authorized to enter upon and operate DRI's lines at Denver, CO pursuant to this voluntary directed service order under 49 U.S.C. 11125 for an additional period of 180 days.

Notice of this decision shall be given to the general public by publication in the **Federal Register**.

Amendment No. 1 to Directed Service Order No. 1512 shall become effective at 11:59 a.m., March 9, 1993. GWRC/PVR shall notify the Commission and DRI immediately that it has commenced continued operations under this authority.

Directed Service Order No. 1512 will expire at 11:59 a.m., September 4, 1993, unless otherwise modified by the Commission.

Decided: March 5, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5722 Filed 3–11–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32239]

Molalla Western Railway—Acquisition and Operation Exemption—Southern Pacific Transportation Co.

Molalla Western Railway, a non-carrier, has filed a notice of exemption to acquire and operate a 10.418-mile rail line segment from Southern Pacific Transportation Company (SP), extending from the point of interchange with SP at milepost 747.568 near Canby, to milepost 757.986 at Molalla, in Clackamas County, OR. The notice became effective on February 24, 1993.[1]

Any comments must be filed with the Commission and served on: Richard A. Samuels, Molalla Western Railway, P.O. Box 22548, Portland, OR 97269.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 4, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5723 Filed 3–11–93; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–12; Sub–No. 144X]

Southern Pacific Transportation Company—Abandonment Exemption—In Lafayette and St. Landry Parishes, LA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Commission exempts the Southern Pacific Transportation Company (SPT) from the prior approval requirements of 49 U.S.C. 10903–10904 to permit SPT to abandon a 19-mile line of railroad between milepost 1.00 at or near the Alex Junction rail station and milepost 20.00 at or near the Veltin rail station in Lafayette and St. Landry Parishes, LA (the Alex Junction-Veltin line), subject to the employee protective conditions in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979), public use, and interim trail use/rail banking conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on April 11, 1993. Formal expressions of intent to file an offer[1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by March 22, 1993. Petitions for stay must be filed by March 29, 1993. Requests for a public use condition in conformity with 49 CFR 1152.28(a)(2) must be filed by April 1, 1993. Petitions to reopen must be filed by April 6, 1993.

ADDRESSES: Send pleadings referring to Docket No. AB–12 (Sub–144X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' representatives: Karl Morell, Louis Gitomer, 919 18th Street, NW., Suite 210, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927–5610. [TDD for hearing impaired: (202) 927–5721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 927–5721.]

Decided: March 5, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5724 Filed 3–11–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Federal Bureau of Prisons

Intent To Prepare a New Draft Environmental Impact Statement (DEIS) for the Construction and Operation of a Metropolitan Detention Center (MDC) in Philadelphia, Pennsylvania

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice of intent to prepare a new Draft Environmental Impact Statement (DEIS).

[1] Under 49 CFR 1150.32(b), a notice of exemption does not become effective until 7 days after filing. Here, because the notice was not filed until February 17, 1993, consummation should not have taken place until on or after February 24, 1993. According to applicant's representative, consummation took place on February 22, 1993. We caution applicant in the future to ensure that it properly files its verified notice of exemption 7 days prior to the expected consummation date.

[1] *See Exempt. of Rail Line Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

SUMMARY:

Proposed Action

In 1991, the Federal Bureau of Prisons (Bureau) announced a proposal to construct and operate a 750 bed Metropolitan Detention Center to house detainees awaiting trial, sentencing or having other business with the Federal Courts in Philadelphia, Pennsylvania. The proposed facility would include space for inmate housing, administration, programs, services and parking. At that time, a Notice of Intent was published in the **Federal Register** and received wide publicity in the Philadelphia news media. A Scoping Meeting was held and a Draft Environmental Impact Statement (DEIS) was published on June 12, 1992.

The Bureau's proposal and subsequent publication of the DEIS brought out a number of community concerns regarding the preferred site and its proximity to the Philadelphia downtown business district. During the public hearing on the DEIS, several alternative sites were suggested by the participants. Additionally, several alternative sites were also suggested during meetings with City officials and community leaders.

In response to these community concerns, the Bureau made the decision to evaluate all of the suggested alternative sites to determine if any of the sites met the Bureau's criteria for a MDC. During this evaluation, the Bureau determined that two of the suggested alternative sites, in addition to the one site previously identified in the DEIS were suitable for further consideration. In the course of the Bureau's evaluation of the suggested sites, it was discovered that several had previously been evaluated and therefore eliminated from further consideration.

In response to the comments received and alternative sites suggested, the Bureau made the decision to begin the EIS process again. Holding a new Scoping Meeting on this proposal will ensure full public understanding of the proposal, sites to be considered, opportunity to provide direct input and scope of the studies to be conducted in the EIS process.

During the EIS process of evaluating the three sites, several issues will receive a detailed examination including utilities, traffic patterns, noise levels, visual intrusion, cultural resources, and socio-economic impacts.

Alternatives: In developing the EIS, the options of "no action" and "alternative sites" for the proposed facility will be fully and thoroughly examined.

Scoping Process: During the preparation of the EIS, there will be opportunities for public participation. The Scoping Meeting will be held at a location convenient for the public, State and local agencies to attend. The meeting will be well publicized in local news media and will be held at a time which will make it possible for the public and interested agencies to participate. A number of informational meetings have already been held to insure that the public, City and State officials have an understanding of this proposal. The Bureau of Prisons will continue these meetings with interested community leaders, officials and citizens as needed during the EIS process.

DEIS Preparation: Public notice will be given concerning the availability of the Draft and Final EIS for public review and comment.

Address: Questions concerning the proposed action and the EIS can be answered by: Debra J. Hood, Site Selection Specialist, U.S. Bureau of Prisons, 320 First Street, NW., Washington, DC 20534, Telephone: (202) 514–6470.

Dated: March 9, 1993.

Patricia K. Sledge,

Chief, Site Selection and Environmental Review Branch.

[FR Doc. 93–5762 Filed 3–11–93; 8:45 am]

BILLING CODE 4410–5–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decisions, together with any modifications issued, must be made a part of every contract for performance of the described work writhing the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution

Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State.

Volume II

Arkansas:
AR93–9 (Mar. 12, 1993) .....
AR93–29 (Mar. 12, 1993) .....

Volume III

Oregon:
OR93–5 (Mar. 12, 1993) .....
Washington:
WA93–12 (Mar. 12, 1993) .....

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Delaware:
DE93–2 (Feb. 19, 1993) .....
DE93–5 (Feb. 19, 1993) .....
Kentucky:
KY93–1 (Feb. 19, 1993) .....
KY93–2 (Feb. 19, 1993) .....
KY93–29 (Feb. 19, 1993) .....
New York:
NY93–8 (Feb. 19, 1993) .....
NY93–13 (Feb. 19, 1993) .....
NY93–21 (Feb. 19, 1993) .....
NY93–22 (Feb. 19, 1993) .....
Virginia:
VA93–13 (Feb. 19, 1993) .....
West Virginia:
WV93–2 (Feb. 19, 1993) .....

Volume II

Indiana:
IN93–4 (Feb. 19, 1993) .....
Minnesota:
MN93–3 (Feb. 19, 1993) .....
Missouri:
MO93–1 (Feb. 19, 1993) .....
New Mexico:
NM93–1 (Feb. 19, 1993) .....
Oklahoma:
OK93–14 (Feb. 19, 1993) .....

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 5th day of March 1993.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 93–5501 Filed 3–11–93; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: Office of National Archives and Records Administration, Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before April 26, 1993. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Health and Human Services, Centers for Disease Control (N1–442–91–8). Paper copies of microfilmed poliomyelitis and polio vaccine files, 1950–85.

2. Department of Health and Human Services, Health Resources and Services

Administration (N1–512–93–1). Fire protection surveys of Army and Air Force healthcare facilities.

3. Department of Health and Human Services, Office of the Assistant Secretary for Health (N1–514–92–1). Revisions to comprehensive records schedule.

4. Department of State, Bureau of African Affairs (N1–59–93–18). Routine, facilitative, and duplicative records of the assistant secretary.

5. Department of State, Bureau of African Affairs (N1–59–93–19). Routine, facilitative, and duplicative records of the Office of Regional Affairs.

6. Department of State, Bureau of African Affairs (N1–59–93–20). Routine, facilitative, and duplicative records of the Public Affairs Staff.

7. Department of State, Bureau of African Affairs (N1–59–93–21). Duplicative records of the Economic Policy Staff.

8. Department of State, Bureau of African Affairs (N1–59–93–22). Routine, facilitative, and duplicative records of the Office of the Executive Director.

9. Department of State, Bureau of African Affairs (N1–59–93–23). Routine, facilitative, and duplicative records of geographic offices.

10. Tennessee Valley Authority, Resource Development (N1–142–90–16). Routine operational and administrative records relating to flood protection.

11. Tennessee Valley Authority (N1–142–92–20). Records relating to employee health services.

12. Department of Transportation, Maritime Administration (N1–357–93–1). Electronic inventory of equipment, parts, manuals, and drawings.

13. Bureau of Labor Statistics, Division of System Design (N1–257–93–1). Computer mainframe benchmark records used to solicit and monitor compliance of the Bureau's timeshare contract.

14. Commission on Interstate Child Support (N1–220–93–4). Routine and administrative records.

15. Federal Energy Regulation Commission, Office of Hydropower Licensing (N1–13–93–1). Hydropower licensing case files.

16. Federal Judicial Center (N1–516–92–2). Routine and facilitative correspondence, memoranda, and other documentation.

17. National Archives and Records Administration (N1–GRS–93–2). Addition to General Records Schedule 1, Civilian personnel Records, to cover case files relating to the appointment of handicapped individuals.

Dated: March 4, 1993.

Raymond A. Mosley,

Acting Archivist of the United States.

[FR Doc. 93–570 Filed 3–11–93; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL

AGENCY: National Commission on Judicial Discipline and Removal.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given in the public interest and pursuant to the Federal Advisory Committee Act that a public meeting of the National Commission on Judicial Discipline and Removal will be held on April 1 and 2, 1993, in Washington, DC. On April 1, the first session of the meeting will convene at 9:30 a.m. and adjourn at approximately 12:30 p.m., and the second session of the meeting will convene at 1:30 p.m. and adjourn at approximately 5 p.m. On April 2, the third session of the meeting will convene at 9:30 a.m. and adjourn at approximately 12:30 p.m., and the fourth session of the meeting will convene at 1:30 p.m. and adjourn at approximately 5 p.m. All four sessions of the meeting will be held in room 628 of the Dirksen Senate Office Building, located at Constitution Avenue and First Street, NE.

AUTHORITY: This public meeting will be the ninth meeting for the National Commission, a body composed of thirteen members appointed by the Speaker of the House, the President, the President *pro tem* of the Senate, the Chief Justice of the United States and the Conference of State Chief Justices. The National Commission, established by Public Law 101–650 (title IV), is assigned three statutory duties. The first is to investigate and study the problems and issues involved in the tenure (including discipline and removal) of Article III (appointed to serve for life) Federal judges. The second is to evaluate the advisability of proposing alternatives to current arrangements with respect to such problems and issues, including alternatives for the discipline and removal of Federal judges that would require constitutional amendments. Finally, the Commission is required to prepare and submit a report to the Congress, the Chief Justice, and the President setting forth a detailed statement of its findings and conclusions together with any recommendations for legislative and administrative actions as are considered appropriate. The due date for the Commission's final report is August 1, 1993. The Commission is not authorized to consider specific complaints against Federal judges.

Ordinarily the provisions of the Federal Advisory Committee Act are not applicable to legislative or judicial agencies. Nonetheless, since the Commission is composed of representatives of all three branches of the Federal government, a good faith commitment to open meetings is incorporated in the Commission's By-laws.

STATUS: All four sessions of the meeting will be open to the public. A portion of any session of the meeting may be held in executive session to consider administrative matters involving privacy interests.

MATTERS TO BE CONSIDERED: This meeting will be the second in a series of Commission meetings designed to consider proposed recommendations for legislative or administrative action arising as responses to reports from consultants who have prepared research papers previously discussed at length by the Commission about specific topics.

CONTACT PERSONS FOR FURTHER INFORMATION: Contact Michael J. Remington or William J. Weller at the National Commission on Judicial Discipline and Removal, suite 690, 2100 Pennsylvania Ave, NW., Washington, DC, 20037–3202; or call (202) 254–8169.

SUPPLEMENTARY INFORMATION: Minutes of the meeting will be available for public inspection during regular working hours at the Commission office approximately thirty (30) working days following the meeting.

William J. Weller,

Deputy Director.

[FR Doc. 93–5755 Filed 3–11–93; 8:45 am]

BILLING CODE 8820–DM–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type of submission, new, revision, or extension: Revision

2. The title of the information, collection: Grant and Cooperative Agreement Provisions

3. The form number if applicable: Not applicable

4. How often the collection is required: Occasionally, Quarterly, Semi-Annually

5. Who will be required or asked to report: Recipients of grants and cooperative agreements

6. An estimate of the number of responses: 216

7. An estimate of the total number of hours needed to complete the requirement or request: 2,065 (9.6 hours per response)

8. An indication of whether section 3504(h), Public Law 96–511 applies: Not applicable

9. Abstract:

The Division of Contracts and Property Management uses provisions, required to obtain or retain a benefit, in its awards and cooperative agreements to ensure: adherence to Public Laws, that the Government's rights are protected, that work proceeds on schedule, and that disputes between the Government and the recipient are settled.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC. Comments and questions can be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs, NEOB–3019, (3150–0107), Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 492–8132.

Dated at Bethesda, Maryland this 3rd day of March, 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93–5751 Filed 3–11–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 40–8943]

Ferret Exploration Company of Nebraska, Inc.; Final Finding of No Significant Impact Regarding Increased Production Flow Rate at the Crow Butte In Situ Leach Facility, Dawes County, Nebraska

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final finding of no significant impact.

1. Proposed Action

The proposed administrative action is to issue a license amendment authorizing increased maximum flow rates at the Crow Butte In Situ Leach (ISL) Facility by revising Source Material License SUA–1534.

2. Reasons for the Final Finding of No Significant Impact

The Crow Butte ISL facility, owned by Ferret Exploration Company of Nebraska, Inc. (Ferret), is an operating uranium recovery facility. Activities authorized by Source Material License SUA–1534 include in situ leaching of uranium from subsurface ore bodies, and uranium recovery in a surface processing plant and associated facilities. Ferret's licensed maximum plant flow capacity is 2500 gallons per minute (gpm), and the licensee requests to increase the licensed maximum flow rate to 3500 gpm. The NRC staff evaluated a supplemental Environmental Report, submitted by the licensee on November 20, 1992, addressing the likely increase in radon-222 emissions and the estimated radiological dose to environmental receptors.

In accordance with title 10, Code of Federal Regulations, part 51, § 51.21, NRC prepared an environmental assessment addressing the proposed change. As a result of that assessment, the NRC has determined not to prepare an environmental impact statement. The following statements support the Finding of No Significant Impact and summarize the environmental assessment:

A. In accordance with 10 CFR part 51.60, the licensee submitted a Supplemental Environmental Report documenting the potential environmental effects of the proposed change.

B. Radiological effluents and doses resulting from the proposed operation of the well field and processing plant are predicted to be only small percentages of regulatory limits and will be continuously monitored.

In accordance with 10 CFR part 51.32, the Director, Uranium Recovery Field Office, made the determination to issue a final finding of no significant impact for publication in the **Federal Register**.

This finding and the environmental assessment setting the basis for the finding, are available for public inspection at the Commission's Uranium Recovery Field Office at 730 Simms Street, Denver, Colorado, and at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC.

Dated at Denver, Colorado, this 4th day of March 1993.

For the Nuclear Regulatory Commission.

Ramon E. Hall,

Director, Uranium Recovery Field Office.

[FR Doc. 93–5752 Filed 3–11–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–271–OLA–5, ASLBP No. 93–676–02–OLA–5]

Vermont Yankee Nuclear Power Corporation; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Vermont Yankee Nuclear Power Corporation

Vermont Yankee Nuclear Power Station

Facility Operating License No. DPR–28

This Board is being established pursuant to a notice published by the Commission on January 21, 1993, in the **Federal Register** (58 FR 5427, 5435) entitled, "Notice Of Consideration Of Issuance Of Amendment To Facility Operating License, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing." The proposed amendment would allow a one-time extension from 7 to 14 days of the Limiting Condition for Operation to permit extensive "B" diesel generator maintenance while the reactor is at full power.

The Board is comprised of the following administrative judges:

Ivan W. Smith, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Peter S. Lam, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All correspondence, documents and other materials shall be filed with the Judges in accordance with 10 CFR 2.701.

Issued at Bethesda, Maryland, this 5th day of March 1993.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 93–5753 Filed 3–11–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Company; Notice of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No 174 to Facility Operating License No. DPR–32 and Amendment No. 173 to Facility Operating License No. DPR–37, issued to the Virginia Electric and Power Company (the licensee), which revised the Technical Specifications for operation of the Surry Power Station, Units 1 and 2, located in Surry County, Virginia. These amendments are effective as of the date of issuance.

The amendments modified the Technical Specifications to provide specific operability requirements for the actuation logic and, as part of the associated action statement, reinstate the permissible bypass condition.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on October 20, 1992 (57 FR 47884). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment (58 FR 11874).

For further details with respect to the action see (1) the application for amendments dated September 4, 1992, (2) Amendment No. 174 to License No. DPR–32 and Amendment No. 173 to License No. DPR–37, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the local public document room located at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland this 5th day of March 1993.

For the Nuclear Regulatory Commission.

Bart C. Buckley,

Senior Project Manager, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–5749 Filed 3–11–93; 8:45 am]

BILLING CODE 7590–01–M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Design and Implementation of a Global Budgeting System; Meeting

The Prospective Payment Assessment Commission (ProPAC) has been asked to report to Congress on the design and implementation of a global budgeting system, focusing on health care spending for institutional services. The Commission's report, due July 1, 1993, will not contain recommendations regarding the desirability of adopting such a system. ProPAC will be considering this topic at its next meeting. The meeting will be held on April 13, 1993 at the Madison Hotel, in Executive Rooms 1, 2, and 3, 15th and M Streets, NW., Washington, DC.

Start at 9:30 a.m., a panel of invited experts will discuss the range of design and implementation decisions associated with various approaches to global budgeting. From 1:30 p.m. to 5 p.m., the Commission will invite individuals and organizations to comment on the important considerations in designing and implementing global budgets. The presentations should focus on issues that would need to be resolved in developing this policy. Parties interested in presenting their views to the Commission should contact Mrs. Jay Younes at 202/401–8490 by April 2 to indicate their desire to participate. Written materials may be submitted in lieu of or in addition to comments at the meeting. ProPAC, 300 7th Street, SW., suite 301B, Washington, DC 20024.

Donald A. Young,

Executive Director.

[FR Doc. 93–5617 Filed 3–11–93; 8:45 am]

BILLING CODE 8820–BW–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–31957; File No. SR–DTC–93–01]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Fee Schedule for DTC Services

March 5, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 9, 1993, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–DTC–93–01) as described in Items I, II, and III below, which Items have been prepared primarily by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC is filing a revised fee schedule for DTC services. The proposed rule change, which will be effective for services provided by DTC on and after March 1, 1993, will adjust the fees charged for various DTC services to bring them closer to, or to, their respective estimated service costs for 1993.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at

[1] 15 U.S.C. 78s(b)(1).

[2] DTC understands that Commission publication of the notice soliciting comments on the revised fee schedule does not constitute Commission approval of any inter-depository interface fee for third-party deliveries. Letter from Jack R. Wiener, Associate Counsel, DTC, to Ester Saverson, Jr., Branch Chief, Division of Market Regulation, Commission (February 8, 1993).

the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change, which will be effective for services provided by DTC on and after March 1, 1993, is to adjust the fees charged for various DTC services to bring them closer to, or to, their respective estimated service costs for 1993.

DTC previously has revised its annual service fees to conform them with estimated service costs. Specifically, DTC gradually revised its annual service fees over a period of several years so as to align them with estimated service costs in 1991. DTC continued this process when preparing its 1992 fee schedule and aligned service fees with estimated 1992 service costs. To ensure that this annual alignment continues, DTC's Board of Directors completed a review of its estimated unit service costs for 1993 and adjusted many DTC service fees accordingly.[3]

DTC believes that the proposed rule change is consistent with the requirements of section 17A of the Act, and the rules and regulations thereunder, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its participants.

(B) Self Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC informed participants and other users of its services of the proposed fee revisions by a memorandum dated January 12, 1993, entitled "1993 Revisions of DTC Service Fees." Because participants have supported gradual moves towards cost-based fees in the past and because DTC believes that the fee changes are modest overall, DTC decided that a formal period for participant comment was not considered necessary this year.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder, because the proposed rule change establishes or changes a due, fee, or other charge imposed by the self-regulatory organization. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the File No. SR–DTC–93–01 and should be submitted by April 2, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5710 Filed 3–11–93; 8:45 am]

BILLING CODE 8010–01–M

[3] The 1993 fee schedule has been formulated to yield $14 million less in operating revenue during the twelve months it will be in effect than the 1992 fee schedule would have yielded.

[4] 17 CFR 200.30–3(a)(12).

[Release No. 34–31958; File No. SR–DTC–93–02]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Increase in the Fixed Net Debit Cap Employed in DTC's Same-Day Funds Settlement System

March 8, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 19, 1993, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR–DTC–93–02) as described in Items I, II, and III below, which Items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of a $75 million increase in the fixed net debit cap employed in DTC's Same-Day Funds Settlement ("SDFS") system.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC employs a fixed net debit cap in its SDFS system in order to assure that DTC's resources are sufficient to complete settlement even if, due to insolvency or (as would be more likely) a temporary operational problem, an SDFS participant were to fail to settle its debit obligation.[2] This cap, which is

[1] 15 U.S.C. 78s(b)(1).

[2] Each participant's net debit is limited throughout the processing day by a net debit cap that is the lesser of: (1) The adjustable cap, that is a multiple of the participant's deposits to the SDFS Participant's Fund, and (2) the fixed debit cap.

75% of (a) aggregate cash deposits to the SDFS Participants Fund ("Fund") and (b) DTC's internal and external lines of credit, is currently set at $310 million. Now that limits on expansion of DTC's Commercial Paper ("CP") program have been eliminated,[3] DTC expects that a number of additional CP issuer programs will begin to be distributed through its facilities. DTC is concerned that with this anticipated increase in volume the fixed net debit cap at its current level could have the undesirable effect of temporarily blocking substantial numbers of book-entry deliveries. In order to ease the flow of transactions through the system, DTC has decided to raise the cap by increasing its external committed line of credit by $100 million. DTC believes that the resources available to it to collateralize borrowings, if any, under the increased line of credit are more than adequate.[4]

DTC believes the proposed rule change is consistent with section 17A(b)(3)(A) of the Act [5] because it will facilitate the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds in its custody or control for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Public Securities Association's CP Task Force, comprised of representatives of CP issuers, issuing/paying agents and dealers, strongly supports the proposed rule change.

[3] See Securities Exchange Act Release No. 30986 (August 11, 1992), 57 FR 35856 (SR–DTC–92–01), relating to the permanent approval of DTC's CP program. Limits on the expansion of the CP program were removed in late 1992 once DTC's off-site disaster recovery facility, which permits recovery of both the SDFS and NDFS settlement systems within three hours of a disaster, became fully operational.

[4] DTC's line of credit agreement provides that any borrowing may be collateralized by collateral securities in the account of a failing participant as well as by securities that have been deposited by DTC participants to the Fund. On January 31, 1993, deposits to the Fund included securities having a principal amount of $528 million.

[5] 15 U.S.C. 78q–1(b)(3)(A).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act [6] and subparagraph (e) of Rule 19b–4 [7] thereunder because it effects a change in an existing service of a registered clearing agency that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to file number SR–DTC–93–02 and should be submitted by April 2, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5711 Filed 3–11–93; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(e) (1980).

[Release No. 34–31956; File No. SR–DTC–92–14]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Relating to the Automation of Services for Mortgaged-Backed Put Securities

March 5, 1993.

On August 21, 1992, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–DTC–92–14) under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] to automate the services for mortgage-backed put securities. Notice of the proposal was published in the **Federal Register** on October 16, 1992.[2] No comment letters were received.

I. Description

A. Background

In June of 1991, the Commission approved DTC procedures which permit DTC Participants to exercise repayment, retainment, and relinquishment options on put option securities by providing instructions to DTC over their Participant Terminal System ("PTS") terminals rather than through delivery of hardcopy (i.e., paper) forms to DTC.[3] Under the current proposal, DTC will automate its services for mortgage-backed put securities to allow Participants to exercise monthly repayment options by submitting instructions to DTC over their PTS terminals and to implement the Agent Put System ("APUT") to enable mortgage-backed put agents to access the PTS system.

Generally, mortgage-backed put securities are characterized by a monthly put exercise period during which time Participants can tender their securities for repayment on a regularly scheduled monthly repayment date. The actual repayment of these securities is subject to the amount of funds, if any, made available by the issuer each month. In the event the total dollar value represented by the tendered securities exceeds the available repayment dollars, the put agent selects only a portion of the Participants' put instructions for repayment.[4] The

[1] 15 U.S.C. 78(b)(1) (1988).

[2] Securities Exchange Act Release No. 31304 (October 8, 1992), 57 FR 31304.

[3] Securities Exchange Act Release No. 29381 (June 27, 1991), 56 FR 30781 [File No. SR–DTC–91–10] (notice of filing and immediate effectiveness of proposed rule change automating processing of put option securities instructions).

[4] The put agent usually selects put instructions for repayment on a first in, first out basis if the

remaining unpaid put instructions automatically rollover to the succeeding month on a queue maintained by the put agent and are paid when the issuer makes available sufficient repayment dollars. The unpaid put instructions may stay in the queue for several months until sufficient funds become available. While put instructions remain in the queue, a Participant may elect to withdraw an instruction or "swing" it to the account of another Participant. A swing occurs whenever a customer transfers his account to another DTC Participant. The queue of unpaid put instructions is kept on a first in, first out basis in the name of the submitting customer to help ensure that the older customer instructions are exercised first.

B. DTC's Current Mortgage-Backed Put Instruction Processing System

DTC currently processes Participant's mortgage-backed put instructions completely through the use of hardcopy forms. A Participant electing to put, withdraw, or effect a swing submits an instruction form to DTC.[5] DTC processes the Participant's instruction and then issues instructions to the put agent for execution.[6] When the issuer makes repayment dollars available, the put agent will select the appropriate number of unpaid put instructions for repayment by selecting older put instructions from its queue before exercising newly tendered put instructions. Prior to the repayment date, the put agent sends notification of the upcoming repayment date and the names of the Participants whose put instructions have been selected for exercise to DTC and to the selected Participants. Upon receipt of the repayment dollars from the put agent, DTC allocates the repayments to the selected Participants.[7]

C. Proposed Automated System for Mortgage-Backed Put Processing

DTC's proposed system will enable DTC Participants to submit put instructions via their PTS terminals. In addition, mortgage-backed put agents will be able to access the PTS system through the APUT function. A Participant electing to exercise a put repayment would submit a put instruction to DTC via PTS.[8] Once the Participant confirms the instructions via PTS, DTC processes the transaction and submits the instruction to the put agent via APUT.[9] As with current procedures, newly tendered put instructions are placed in the put agent's queue.

The addition of the APUT function will enable the put agent to manage the queue more efficiently. The put agent has the ability to move instructions to different positions in the queue.[10] Once the put agent alters the queue, the new queue will be available to the Participants over PTS. Notification to DTC and selected Participants about the upcoming repayment date and who the selected Participants are will be accomplished using APUT instead of paper notices.

Repayment procedures will not change. Repayment will be made after the issuer makes funds available, the put agent selects the appropriate put instructions for exercise, and DTC receives the repayment dollars from the put agent.

A Participant electing to withdraw or swing a previously submitted but unexercised put instruction will transmit such instruction via PTS at any time during the month.[11] Withdrawal instructions are subject to the approval of the put agent, and DTC will not adjust the account of the Participant until the approval is received. A withdrawal will pend on the APUT system until it is approved or rejected by the put agent. Participants exercising a swing over PTS will access the appropriate PTS screen and will enter the name of the Participant to whom the instruction is being transferred. Once the transferring Participant confirms the instruction, the transaction is submitted to DTC for processing. DTC then submits the instruction to the put agent via APUT.

The proposed system will provide Participants with the capability to inquire via PTS about the status of unpaid put instructions to determine if any have been selected for repayment on the next repayment date and about the status of withdrawals pending approval by the put agent. In addition, Participants can view the reason supplied by the put agent for rejecting a withdrawal. Currently, information regarding the status of a put or withdrawal can be accessed only by calling the put agent directly.

In addition to automating the processing of put instructions, the system will allow DTC to create "envelopes" in the Reorganization Information for Participants ("RIPS") function of PTS.[12] Each envelope will be automatically activated on the first business day of each month and updated monthly thereafter to provide Participants with notification of that month's exercise period and the terms thereof. Currently, DTC notifies Participants of the exercise periods and the terms thereof via hardcopy notices.

II. Discussion

Section 17A(a)(1)(C)[13] of the Act sets forth Congress' findings that new data processing and communication techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement. Section 17A(b)(3)(F)[14] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and

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issuer does not make available a sufficient amount of repayment dollars to cover all put instructions.

[5] All put instructions submitted to DTC must identify each underlying customer's name so that the put agent may maintain the queue of unpaid put instructions in the customers' names.

[6] The securities put by a Participant are debited from the Participant's account and credited to the put agent's account by DTC. At the same time, an equal number of the contra-CUSIP number securities are credited to the Participant's account and debited from the put agent's account by DTC. DTC assigns a contra-CUSIP number security to each issue of mortgage-backed put securities. The contra-CUSIP number security is used to identify the number of outstanding puts submitted by a Participant. A Participant's position will remain unchanged until a withdrawal, swing, or payment occurs.

[7] Once DTC receives the payment from the put agent and credits the payment to the selected Participants' accounts, DTC also reduces the Participants' positions in the contra-CUSIP number security.

[8] The put instruction must contain the customers' names with a maximum of twelve customers per instruction. DTC then will create a separate instruction for each customer with the addition of a two-digit sequence number that helps to ensure proper priority in the queue.

[9] The APUT function will only be available to put agents of mortgage-backed securities. The current volume of transactions involving other asset-backed security put agents is insufficient to warrant access to APUT. DTC will continue to issue paper instructions to put agents of other asset-backed securities. Telephone conversation between Carl H. Urist, Deputy General Counsel, DTC, and Peter R. Geraghty, Attorney, Division of Market Regulation, Commission (December 2, 1992).

[10] For example, if a customer is deceased, the Participant notifies the put agent through PTS, and the put agent may move that customer's put to the top of the queue for immediate payment.

[11] The automation of services for mortgage-backed put securities will also be available to Participants who utilize the Release Reorganization Transactions Over PTS ("RTOP") function. The RTOP function requires that an instruction be approved by a person, usually a manager, separate and distinct from the person inputting the instruction before the instruction will be transmitted to DTC. The manager "releases" the instruction DTC. Consequently, for Participants who utilize RTOP all put, withdrawal, and swing instructions will be subject to release via RTOP. Telephone conversation between Carl H. Urist and Peter R. Geraghty, *supra* note 9.

[12] RIPS allows Participants to view information regarding the processing through DTC of issues of securities undergoing reorganization functions such as mergers (cash or stock), tender offers, exchange offers, conversions, warrant exercises, put option exercises, and other types of reorganization activities. An envelope is a screen in the RIPS function that provides information about a particular security. Envelopes are created for each CUSIP number in the PTS system.

[13] 15 U.S.C. 78q–1(a)(1)(C).

[14] 15 U.S.C. 78q–1(b)(3)(F).

funds which are in its custody or control or for which it is responsible. The Commission believes that the automation of services for mortgage-backed put securities proposed in this rule filing is consistent with these provisions of section 17A and that in general it will enhance the safe and efficient operation of the national system for the clearance and settlement of securities transactions.

The Commission believes the automation of services for mortgage-backed put securities will reduce many of the risks and time delays inherent in a system utilizing paper forms. The new system will enable Participants to exercise the various options available to the holders of mortgage-backed put securities via their PTS terminals and will eliminate hardcopy instruction forms for tenders, withdrawals, and swings.

In addition, the proposal seeks to implement the APUT function which will allow put agents to access the PTS system. This function enables put agents to announce electronically a repayment date and the terms thereof through the use of RIPS envelopes.[15] APUT additionally will create a central database for information. Participants will be able to access this information through their PTS terminals to inquire about the status of their puts, withdrawals, and rejected withdrawals. Previously, this information was not centralized at DTC but was maintained independently by the put agent and could be accessed only by contacting the put agent directly. The new system also will enable the put agent to manage the queue of unexecuted instructions more efficiently by providing a centralized location where the queue can be maintained by the put agent and accessed by the Participants for inquiry purposes.

Precautions have been taken to safeguard the securities and funds under DTC's control by restricting access to the PTS and APUT systems to authorized users only. The current security features of the PTS system will be applied to the APUT function. Participants and put agents are assigned user identification numbers. After correctly inputting its identification number, the user will be prompted by the system to enter a password. The user has two opportunities to enter correctly its password. If the password is entered incorrectly the second time, all services to the user are suspended until the DTC/PTS Supervisor is called. A user may have multiple passwords for different functions. For example, one password may be assigned for inquiries and another password may be assigned for updates. A hardcopy audit trail is also automatically generated for all users activities. To further ensure the security of the system, file update transactions are allowed on dedicated communication lines only. The Commission believes these security features will help enable DTC to safeguard the securities and funds which are in its custody or control or for which it is responsible consistent with DTC's obligations under the Act.

The Commission believes the APUT function will provide a more convenient and efficient form of communication regarding put exercise periods and the status of instructions as well as enhance the put agent's ability to manage the queue and reduce the amount of paper in the system by eventually eliminating the distribution of hardcopy notices.

III. Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[16] that the proposed rule change (File No. SR-DTC-92-14) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-5709 Filed 3-11-93; 8:45 am]

BILLING CODE 8010-01-M

[15] Because the industry standard is to issue mortgage-backed put securities in book entry only form, DTC is the holder of record of the majority of outstanding mortgage-backed put issues. Consequently, an announcement of an upcoming repayment date by a put agent via PTS to DTC with DTC in turn retransmitting the announcement to its Participants will notify most, if not all, holders of the subject issue. (For example, Texas Commerce Bank, the put agent for the largest number of mortgage-backed put securities issues held at DTC, will not act as the put agent for an issuer unless the issue will be in book entry only form. Telephone conversation between Susan Needham, Vice President and Trust Officer, Division Head of Collateralized Mortgage Obligations Division, Texas Commerce Bank, and Peter R. Geraghty, Attorney, Division of Market Regulation, Commission (February 23, 1993).) The obligation of put agents to notify holders of record of any issue that is not issued in book entry only form is not altered by this approval order. In such a situation, the put agent will continue to have the responsibility to notify holders outside the DTC system of upcoming repayment dates.

[16] 15 U.S.C 78s(b)(2).

[17] 17 CFR 200.30-3(a)(12).

[Release No. 34-31960; File No. SR-NSCC-93-2]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Comparison Procedures for Municipal Securities Transactions

March 8, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 6, 1993, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would facilitate earlier comparison of trades in municipal securities.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NSCC intends to make certain changes to the comparison procedures for municipal securities transactions. These changes are designed to achieve higher rates of trade comparison at earlier points in the comparison process thus increasing certainty and reducing risk in the clearance and settlement of municipal securities transactions.

Original trade input for all municipal securities transactions must be made by the time specified by NSCC on the trade date. (For this purpose, the trade date extends to 2:00 a.m. on the day after the trade date.) Currently, original trade

[1] 15 U.S.C. § 78s(b)(1) (1988).

input is accepted until 1:00 p.m. on the day after the trade date. This change will permit the entire comparison process, including the submission of adjustment input, to be put on an earlier time schedule.

Original trade input for new issue municipal securities transactions that are to settle on the initial settlement date for an issue or a specified number of days after the initial settlement date ("new issue transactions") will be accepted up until the second day prior to the initial settlement date for the issue. This will increase the number of new issue transactions compared through NSCC's facilities because these submissions currently are accepted only until the fifth day prior to the initial settlement date for the issue.

Original input of new issue municipal securities transactions may set forth either a dollar price, a price-to-yield (and concession, if any), or a final settlement price. (Currently only dollar price and price-to-yield submissions are accepted.) If a final settlement price is specified, a settlement date for the transaction, which is either the initial settlement date for the issue or a specified number of days after the initial settlement date, also has to be specified.[2] Original trade input that is submitted between two and five days prior to the initial settlement date for an issue and that does not meet these criteria will be treated as regular way input.

NSCC will engage an agent to keep track of initial settlement dates for new municipal issues. When NSCC is informed of any initial settlement date, either by the agent or the lead underwriter for the issue, or is able to confirm any initial settlement date with the agent, NSCC will calculate a final settlement price for all new issue submissions that specify a dollar price or a price-to-yield (and concession, if any). New issue submissions will be compared on the basis of these final settlement prices.[3]

Under current NSCC comparison procedures, only the syndicate manager for municipal issues may submit syndicate takedown trades for comparison. Currently, submissions that are the buy side of syndicate takedown trades and that are not indicated as syndicate takedown trades will not be recognized as syndicate takedown submissions and will give rise to uncompared submissions while creating advisories against the syndicate manager. Under the proposed changes, for the two days following any syndicate takedown submission NSCC will drop as a possible duplication of the syndicate takedown submission any buy side non-syndicate takedown submission that matches the sell side of the syndicate takedown submission. In addition, NSCC will reject any municipal syndicate takedown submission against brokers' brokers.

Under the proposed changes NSCC may report as compared new issue municipal submissions that have different trade dates if the trade dates are within two days of each other. Furthermore, at the election of the affected participants, any municipal securities transaction may be compared when net buy side and sell side aggregate principal amounts can be matched for a particular issue as long as the transactions would have been compared had such buy side and sell side principal amounts each been specified in a single submission. Because the proposed changes will permit new issue municipal securities submissions to be reported as compared even when they are not identical, any compared new issue municipal securities transaction may be deleted by a participant on the day it is reported to the participant as compared.

The proposed changes to NSCC's comparison procedures for municipal securities transactions will achieve higher rates of trade comparison at earlier points in the comparison process thus increasing certainty and reducing risk in the clearance and settlement of municipal securities transactions. This will remove impediments to and promote the prompt and accurate clearance and settlement of municipal securities transactions in accordance with the Act, as amended, and particularly with Section 17A(b)(3)(F) thereof.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be approved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the File No. SR–NSCC–93–2 and should be submitted by April 2, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5712 Filed 3–11–93; 8:45 am]

BILLING CODE 8010–01–M

[2] Any uncompared new issue transaction that remains unresolved at the open of business on the day prior to its settlement date will be dropped. This means that some new issue transactions may not be able to be moved through the entire range of available trade resolution procedures prior to being dropped. In the extreme case, new issue submissions made on the second day prior to settlement date that do not compare will be dropped without any opportunity for resolution.

[3] The Municipal Securities Rulemaking Board ("MSRB") has approved in principal an amendment to MSRB Rule G–12(b) which would accelerate the time frame that underwriters would have to provide notification of the initial settlement date for new issues.

[Release No. 34–31959; File No. SR–PHILADEP–93–01]

Self-Regulatory Organizations; Philadelphia Depository Trust Company, Inc.; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of Proposed Rule Change Relating to the Extension of the Pilot Operation of its PHILANET Terminal Communication System and the Offering of the Voluntary Offer Instructions Program as Part of the Philanet Pilot Program

March 8, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 12, 1993, the Philadelphia Depository Trust Company, Inc. ("PHILADEP") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared primarily by the self-regulatory organization. The Commission is publishing this notice and order to solicit comments on the proposed rule change and to grant approval of the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PHILADEP seeks to extend the pilot operation of its PHILADEP Terminal Communication System ("PHILANET") until February 28, 1994. PHILANET is an electronic communications system linking PHILADEP to its Participants through a terminal network. PHILADEP also seeks to add a limited pilot Voluntary Offer Instructions Program ("VOI") to PHILANET. The VOI pilot service enhancement would allow up to five PHILADEP Participants to submit electronically through the PHILANET computer system, voluntary corporate action instructions to PHILADEP's Reorganization Department.

II. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On December 30, 1983, the Commission approved SR–PHILADEP–83–03 establishing PHILANET on a pilot basis.[2] PHILANET is an electronic communication system linking PHILADEP to its participants. Subsequently, the Commission has issued several orders extending the temporary approval of PHILANET, the latest of which expired February 28, 1993.[3]

PHILADEP has operated its telecommunications system for nine years without experiencing any instances of unauthorized system access. PHILADEP, however, plans to upgrade its telecommunications system in the near future and has represented that the enhancements, among other things, will increase the security of the system. PHILADEP continues to monitor the adequacy of dial-up safeguards and to implement additional safeguards as necessary to minimize the risk of unauthorized access. PHILADEP expects to file the proposed rule change concerning enhancements to its system during the second quarter of 1993. PHILADEP therefore requests that the Commission extend the PHILANET pilot program until February 28, 1994.

As required by previous temporary approval orders, PHILADEP will continue to provide quarterly reports regarding the number of participants using dial-up access and dedicated lines, the number of lines available (dedicated and dial-up), any security breaches to the system, any operational difficulties that occurred and capacity projections for six months following the date of the report.

PHILADEP also proposes to add VOI on a limited pilot basis to the current PHILANET pilot program.[4] The pilot VOI proposal would allow for the electronic submission of instructions through PHILANET by up to five participants regarding voluntary offers on eligible securities on deposit at PHILADEP. PHILADEP participants who use VOI will enter instructions regarding specific eligible offers in accordance with PHILADEP's established processing procedures. In order to use the VOI service, a participant must sign an agreement with PHILADEP stating that instructions submitted through VOI have the same legal force and effect as those instructions submitted physically in hard copy.

The VOI service incorporates numerous procedural safeguards in its operation. The VOI service will use a two step process to validate instructions: First, account validation and second, transaction validation. PHILADEP's automated systems will accept an instruction only after it has been successfully validated. The requested security position will be journaled from the participant's primary depository account to a reorganization control ("Reorg") account. A further control feature provides for a confirmation ticket to be printed on the participant's PHILANET printer documenting that the instruction was successfully communicated to PHILADEP's reorganization department. VOI is restricted to dedicated lines only.

Under the VOI service, PHILADEP will accept an instruction and will move the security position only when the participant's account at PHILADEP has sufficient shares to validate and fill the instruction. A pending VOI instruction will recycle during a single business day until a sufficient position is available. If the participant has an insufficient position in the account by the end of the business day in which the instruction was originally entered, the VOI instruction will drop from the processing stream. Additionally, PHILADEP's reorganization department has the ability to reject previously accepted voluntary offer instructions through PHILANET's VOI program. The participant will be notified via PHILANET if the offer is rejected for any reason. PHILADEP also will endeavor to notify the participant of a rejected instruction by telephone. Participants who do not have the capability to use VOI will continue to submit hard copy instructions in accordance with existing procedures. Additionally, participants using VOI may instead send the instructions physically.

PHILADEP believes that the VOI service will reduce the processing risk normally associated with hard copy instructions. Participants will be linked to PHILADEP's reorganization department by a secure point-to-point terminal communication connection. In

[1] 15 U.S.C. § 78s(b)(1).

[2] *See* Securities Exchange Act Release No. 20519 (December 30, 1983), 49 FR 966.

[3] *See* SR–PHILADEP–89–02, Securities Exchange Act Release No. 27491 (December 7, 1989), 54 FR 50556; SR–PHILADEP–89–02, Securities Exchange Act Release No. 28172 (July 11, 1990), 55 FR 28493; and SR–PHILADEP–90–04, Securities Exchange Act Release No. 30362 (February 18, 1992), 57 FR 5921.

[4] *See* letter from William W. Uchimoto, General Counsel, PHILADEP, to Ester Saverson, Branch Chief, Division of Market Regulation, Commission dated November 24, 1992 withdrawing File Nos. SR–PHILADEP–92–02 and SR–PHILADEP–92–03.

addition, since the proposed rule change provides for the prompt and accurate clearance and settlement of securities transactions, PHILADEP believes it is consistent with section 17A of the Act and the rules and regulations applicable to PHILADEP thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

PHILADEP does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No comments on the proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

PHILADEP has requested that the Commission approve the proposed rule change on an accelerated basis. PHILADEP's current extension of the PHILANET program expired on February 28, 1993. PHILANET has been in operation for over nine years without any significant problems and is the primary communication vehicle between PHILADEP and its participants. The Commission believes that it is desirable for PHILADEP to continue operating its PHILANET program. Thus, the Commission believes that "good cause" exists under Section 19(b)(2) of the Act [5] for approving PHILADEP's proposed rule change prior to the thirtieth day after publication of notice in the **Federal Register**. [6]

The Commission believes that the proposed rule change is consistent with Section 17A of the Act and in particular Sections 17A(b)(3)(A) and (F).[7] These Sections require that a clearing agency be organized and its rules be designed to promote the prompt and accurate clearance and settlement of securities transactions for which it is responsible and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency.

The Commission believes that PHILADEP's proposal is consistent with these goals. The proposal should facilitate the prompt and accurate clearance and settlement of securities transactions by encouraging the use of automation in the settlement process. The Commission also believes that the introduction of PHILADEP's pilot VOI will further these goals by reducing the processing risks that can arise through the use of paper instructions. These include loss of data and delays in processing. Nevertheless, PHILADEP will continue to allow participants to submit hard copy instructions.

One area of concern which remains relates to the need for PHILADEP to develop additional safeguards against unauthorized access to the PHILANET system. The Commission expects PHILADEP to file a proposed rule change concerning enhancements to its security system. Consequently, the Commission is approving PHILADEP's proposed rule change for a temporary period until February 28, 1994.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR–PHILADEP–93–01 and should be submitted by April 2, 1993.

V. Conclusion

On the basis of the foregoing, the Commission finds that PHILADEP's proposed rule change is consistent with the Act and in particular with section 17A of the Act. The Commission also finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication in the **Federal Register**.

It is therefore ordered, under section 19(b)(2) of the Act, that the proposed rule change (File No. SR–PHILADEP–93–01) be, and hereby is, approved until February 28, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5713 Filed 3–11–93; 8:45 am]

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[Release No. 34–31963; File No. SR–GSCC–92–16]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing Relating to the Netting of Forward-Settling Trades in Government Securities

March 8, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 18, 1992, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow GSCC to continue netting forward-settling trades.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

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[1] 15 U.S.C. 78s(b)(1) (1988).

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[5] 15 U.S.C. § 78s(b)(2).

[6] Pursuant to Section 19(b)(4)(A) of the Act, 15 U.S.C. § 78s(b)(4)(A), the Commission contacted the Board of Governors of the Federal Reserve System ("Federal Reserve"), PHILADEP's appropriate regulatory agency, regarding the proposed rule change. Staff of the Federal Reserve believes that the proposed rule change is consistent with PHILADEP's obligation to safeguard securities and funds in its custody or control or for which it is responsible, and did not object to the proposed accelerated approval. Telephone conversation between Jose B. Henriques, Jr., Senior Trust Analyst, Federal Reserve, and Francois-Ihor Mazur, Staff Attorney, Division of Market Regulation, Commission (February 1, 1993).

[7] 15 U.S.C. § 78q–1(b)(3)(A) and (F).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) On April 12, 1990, the Commission approved on a temporary basis, until April 30, 1992, a proposed rule change (SR–GSCC–90–01)[2] that expanded GSCC's netting service to include forward-settling trades in Government securities ("forward trades"). That order was subsequently approved through March 31, 1993.[3] By this filing, GSCC requests that such authority be made permanent by the Commission or, in the alternative, that the Commission further extend on a temporary basis GSCC's authority to net forward trades.

In its approval order of April 12, 1990 (the "Approval Order"),[4] the Commission stated that, "in light of its significance to GSCC and its membership, the proposed netting service for forward-settling transactions should be carefully monitored before it becomes a permanent feature of GSCC's netting system." The Approval Order was a lengthy one; however, the essence of the Commission's concerns regarding the proposal may be said to have been the adequacy of each of the following: (1) GSCC's forward mark allocation payment process; (2) the revised Clearing Fund formula; and (3) GSCC's system prices. Each of these concerns is discussed below.

1. The Forward Mark Allocation Calculation

As was stated in the original rule filing (SR–GSCC–90–01), in designing a system for the netting of forward trades, GSCC considered fully applying mark-to-market requirements during the period between trade and settlement, in the same manner as is done for regular-way trading. That is, GSCC considered requiring Netting Members (hereinafter "members") to pay on a daily basis in cash the full amount of mark payments stemming from net settlement positions in forward-settling securities.

In view, however, of the potential for significant amounts of money to have to be passed through GSCC on a daily basis, which might on any particular day drain liquidity from a firm in an unpredictable manner, GSCC chose an alternative approach that realistically reflects, and sufficiently minimizes, the risk of disruption to the settlement process. This method provides for the daily collection of a percentage of any debit mark amount allocable to a forward-settling position (the "forward mark allocation amount") that ensures, on a per-CUSIP basis, that the failure of up to all of the five members with the largest debit mark levels on any given day would not disrupt GSCC's ability to successfully settle that day's Government securities trades.

GSCC's experience to date shows that this approach to the margining of forward trades strikes an appropriate balance between the need for a sufficient margin to ensure GSCC's liquidity and to prevent a loss upon liquidation of a member's position, versus the desire to not unduly drain funds from members. (The sufficiency of GSCC's margining process for forward trades also is supported by the preliminary conclusions of a comprehensive risk assessment of GSCC that has been forwarded to the Commission.) Analyses done by GSCC indicate that, in the morning of a typical date for forward trades, when GSCC faces exposure equal to the difference between the amount of forward mark allocation ("FMA") payments collected on the previous business day (which has not yet been returned) and the amount of transaction adjustment payments ("TAP") owed to GSCC on such day (and not yet paid), the amount already "pre-collected" in FMA payments is a majority (often a large majority) of that day's TAP amount.

To the extent that GSCC has had concerns with its FMA process, it has been with the increasing activity in non new-issue securities (in particular, zero coupon securities). Such activity typically is not as evenly spread among members as the activity in normally recurring issues (such as the weekly Bill issues and the monthly two-year and five-year Note issues). Instead, it tends to be more concentrated in a few members. For a particular CUSIP, this often leads to the total debit mark level of the five members with the largest such debit marks constituting a higher percentage of the daily liquidation exposure incurred by GSCC as regards that CUSIP than if the activity were more evenly spread. Currently, only a maximum of 75 percent of a member's debit mark is collected as FMA.

This matter, together with numerous other margining issues, was addressed in a recent filing (SR–GSCC–91–04)[5] by GSCC, wherein GSCC requested authority to raise the cap on a member's daily FMA payment amount from 75 percent of the calculation to 100 percent. This will increase the dollar amount collected by GSCC in the event that certain members create a relatively large exposure for GSCC vis-a-vis other members.

2. GSCC's Clearing Fund Formula

With regard to the sufficiency of FMA payments, GSCC notes that the Commission, in the Approval Order, indicated a concern that the FMA payment process provide "adequate collateral protection for forward-settling transactions independently from other liquidity sources designed to protect against risks stemming from the settling of regular-way trades." Of course, the source of liquidity protection for next-day trades are Clearing Fund deposits. Thus, the Commission has, in effect, indicated that the Clearing Fund formula must factor in exposure arising from next-day and forward trades independently of each other and cumulatively. GSCC's experience to date confirms that the formula do so in fact do so, and that the nature of GSCC's margining process for forward trades, wherein such trades are both margined for Clearing Fund purposes *and* are subject to a separate margin requirement (the FMA payment process), is quite conservative and prudent in nature. This is particularly true in light of GSCC's recent rule filing (SR–GSCC–91–04) noted above.

GSCC's Clearing Fund formula provides for the collection of 125 percent of the member's average daily funds-only settlement amount over the most recent 20 business days and the greater of: (1) the margin amount on the member's net settlement positions taking into account offsetting positions averaged over the most recent 20 business days or (2) 50 percent of the margin amount for that business day on the member's net settlement positions calculated without taking into account offsetting positions. Currently, a member's net securities and funds-only settlement obligations arising from forward trades are factored into the calculation of such member's Clearing Fund requirement during the post-auction forward-settling period, except that such positions are factored into the 20-day averages only for purposes of determining the current day's margin calculation. GSCC's recently proposed rule filing, SR–GSCC–91–04, will

[2] Securities Exchange Act Release No. 27902 (April 12, 1990), 55 FR 15066.

[3] Securities Exchange Act Release Nos. 30661 (April 30, 1992), 57 FR 19654 (approving the netting of forward settling trades through July 31, 1992); 31065 (August 21, 1992), 57 FR 39255 (approving the netting of forward settling trades through October 30, 1992); and 31384 (October 30, 1992), 57 FR 52807 (approving the netting of forward settling trades through March 31, 1993).

[4] *Supra*, note 2.

[5] Securities Exchange Act Release No. 30135 (December 31, 1991), 57 FR 942.

change this to provide for GSCC to treat forward settlement positions for Clearing Fund calculation purposes essentially as it does all other net settlement obligations, thus providing for a smoother Clearing Fund collection process and greater amounts of margin received from members.

3. Prices

A significant event that has occurred since the issuance of the Approval Order is that GSCC now has close to two-years' worth of its own price volatility data. This data base now is used in assessing and monitoring the adequacy of its margin factors. GSCC hereby represents that the information contained in this data base is being and will continue to be considered on a periodic basis by GSCC's Membership and Standards Committee in reviewing the sufficiency of GSCC's margin factors. It is noteworthy that GSCC has ensured, and will continue to ensure, the sufficiency of its margining process through the use of conservative margin factor criteria.

With regard to obtaining additional third party Government securities price volatility data, in the past, there has been no available source of data that was sufficiently comprehensive and accurate to consider as an alternative to GSCC's internal data base. Indeed, GSCC's own data base is likely always to be more precise than any third-party data source for off-the-run issues, because GSCC receives price data across a broad spectrum of issues and products and is not focused on leading issues within a maturity or product range.

Recently, however, private sector initiatives in the Government securities marketplace have arisen, such as the establishment of GOVPX, Inc., which have made significant steps toward disseminating the type of Government securities price information that would be of particular benefit to GSCC. In view of this, GSCC continues to evaluate the types of third-party price volatility information that are available and the usefulness of such information. GSCC notes in this regard that it continues to believe that its own data base would be able to serve as the most accurate and meaningful source of price volatility data on Government securities in existence if it were to receive trade data from its members on a time-stamped basis.

In sum, in view of GSCC's positive experience to date in the netting of forward trades, the conservative nature of its margining process for forwards and the general strengthening of the process that has taken place, and its ability now to use internal price volatility data to assess the adequacy of its margin factors, GSCC believes that its method for margining forward trades is an appropriate one and that its authority to net forward trades should be made permanent.

(b) The proposed rule change will encompass forward-settling Government securities transactions within the Netting System and, thus, will further promote the prompt and accurate clearance and settlement of securities transactions for which GSCC is responsible. It is therefore consistent with Section 17A of the Act, and section 17A(b)(3)(A) of the Act in particular.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change, Received From Members, Participants, or Others

Comments on the proposed rule change have not been received. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR–GSCC–92–16 and should be submitted by April 2, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5759 Filed 3–11–93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–31962; File No. SR–PSE–92–48]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Requirements That Market Makers Fill Incoming Orders or Update Existing Markets

March 8, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 22, 1992, the Pacific Stock Exchange ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend its Rules to expressly require its market makers and lead market makers ("LMMs") to respond to orders, represented in a trading crowd at the currently disseminated bid or offer, either by satisfying the order or by updating the existing market in the subject series.

The text of the proposed rule change is available at the Office of the Secretary, PSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of

and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The PSE believes that trading in multiply-listed options is impaired when market makers or specialists at an exchange that is disseminating the best price available in an option series refuses to satisfy an order at the currently disseminated price and fails to update the existing market in the particular options series. Accordingly, the Exchange is proposing a rule that would subject its members to disciplinary action in such situations.

The proposed rule change was designed to address the following situation: Exchange A and Exchange B both list and trade XYZ options. Exchange A's traders are disseminating a bid of $2 for a series of XYZ calls, while Exchange B's traders are disseminating a bid of $2.25 for the same calls. If Exchange B's quotation has not been updated to reflect a recent change in the market (*i.e.*, downward movement in the underlying stock), then its "stale" quotation effectively will prevent traders at Exchange A from buying the calls for $2 without giving the false appearance of a "trade-through." In practice, to avoid an apparent trade-through, traders at Exchange A generally will attempt to cause a change in Exchange B's markets by sending some or all of the sell order to Exchange B. Under the current proposal, Exchange B's traders must either (a) trade at $2.25 or (b) lower their bid price to allow Exchange A to execute the sell order at $2 without the appearance of a trade-through.

The current proposal also would require that if market makers or LMMs [1] update a market pursuant to the Rule, then such new market must be maintained for a "reasonable" period of time. Proposed Commentary .09 to Exchange Rule 6.37 provides that for the purpose of proposed Rule 6.37(d), two minutes is presumed to be a "reasonable" period of time in which to maintain a revised bid or offer. Proposed Commentary .09 further provides, however, that this new bid or offer may be revised before two minutes pass if the following changes occur: (a) A change in the market quote in the underlying security or a change in the size of the market quoted; or (b) a quote change of ¼ of a point (or twice the minimum price differential) resulting from a customer order in another options series on the same underlying security.

The Exchange further proposes to include violations of the rule within the jurisdiction of its Minor Rule Plan so that prompt and meaningful discipline can result from noncompliance with the proposed rule. Under the proposal, a member could be fined $100, $250 or $500 for a first, second, or third violation, respectively. However, such fines would be recommended, but not required, and repeated or aggravated violations could entail formal disciplinary action. The Exchange believes that if the rule is not contained in its Minor Rule Plan, first-time violations might otherwise result in letters of caution.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act, in particular, in that it facilitates transactions in securities, removes impediments to and perfects the mechanism of a free and open market and a national market system, and promotes just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 2, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5761 Filed 3–11–93; 8:45 am]

BILLING CODE 8010–01–M

[1] The proposed rule change would apply to LMMs pursuant to Exchange Rule 6.82(c)(4), which requires LMMs to "fulfill [] general market maker obligations under Rule 6.37."

[2] 17 CFR 200.30–3(a)(12) (1992).

[Release No. 34–31961; File No. SR–Phlx–92–12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Restrictions on Specialists and Registered Options Traders' Entering Orders for Execution on Other Exchanges in Multiply Traded Options

March 8, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 14, 1992, the Philadelphia Stock Exchange ("Phlx" or "Exchange") filed with the

Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to adopt Options Floor Procedure Advice ("Advice") B–12 to require that opening options orders sent for execution on another market for the market maker account of a Phlx Registered Options Trader ("ROT") or specialist be initiated from on the Phlx floor. The proposal also prohibits a Phlx ROT or specialist from sending an opening order to buy or sell options for his or her market functions account to another exchange unless the ROT or specialist is registered in that specific option on the Phlx.

The text of the proposed rule change is available at the Office of the Secretary, Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Phlx proposes to adopt new Advice B–12, which imposes certain restrictions on orders executed for a market maker account. The purpose of these restrictions is to ensure that market maker treatment is afforded appropriately in a multiple trading environment.

Specifically, proposed Advice B–12 would extend the prohibitions contained in Phlx Rule 1014 and Advice B–4 regarding off-floor opening orders to a multiple trading environment. Currently, Commentary .14 to Phlx Rule 1014 and Phlx Advice B–4 prohibit a ROT from placing an opening order for his or her market functions account from off-floor. At this time, because of the number of multiply traded options on the Exchange, the Phlx seeks to adopt Advice B–12 to restrict Phlx ROTs and specialists from sending orders which would establish or increase a position in registered options to other exchanges from off-floor. Instead, the Phlx intends for ROTS and specialists to place their off-floor opening positions in their customer accounts, regardless of whether the execution of such orders occurs on the Phlx or on another exchange.

The Phlx notes that proposed Advice B–12 would only be applicable to the equity options floor. Thus, the Phlx has placed the notation "(O)" after the Advice. In addition, the Phlx notes that the fine schedule for proposed Advice B–12 would run on a three year cycle, such that repeat violations within a three-year period would result in escalating fines.[1]

The Exchange believes that the proposal is consistent with sections 11(a) and 6(b) of the Act. First, the Exchange believes that the proposal is consistent with Section 11(a)(1) of the Act. Section 11(a)(1) prohibits exchange members from executing transactions for their own account on an exchange, but section 11(a)(1)(A) exempts market makers from this prohibition. Accordingly, because the proposed advice reserves market maker treatment for true market maker trades, the Phlx believes that proposed Advice B–12 is consistent with section 11(a) and the rules thereunder. Second, the Phlx believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

[1] The fine schedule for Advice B–12 provides that a fine of $500 will be imposed for the first violation and a fine of $1,000 will be imposed for the second violation. The sanction for the third violation is discretionary with the Phlx Business Conduct Committee. In addition, under a rolling three-year cycle, if three years elapse between the first and second violation, the second violation would be treated as a first violation. If there is a violation within three years after the most recent violation, the next highest fine will be issued. Thus, a third violation less than three years after a fine was issued for a second violation would be treated as a "third violation," even though more than three years may have elapsed after the first violation.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 2, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5760 Filed 3–11–93; 8:45 am]

BILLING CODE 8010–01–M

[2] 17 CFR 200.30–3(a)(12) (1992).

[Rel. No. IC–19318; 812–7940]

First Investors Corporation Inc., et al.; Filing of Reports Pursuant to Temporary Order

March 9, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of filing of reports pursuant to temporary order under section 9(c) of the Investment Company Act of 1940 (the "Act").

APPLICANTS: First Investors Corporation ("FIC"), First Investors Management Company, Inc., Executive Investors Corporation, Executive Investors Management Company, Inc., and First Investors Life Insurance Company.

RELEVANT 1940 ACT SECTIONS: Permanent order requested under section 9(c) for an exemption from the provisions of section 9(a) of the Act.

SUMMARY OF APPLICATION: Applicants filed an application pursuant to section 9(c) of the Act on June 12, 1992 for both a temporary and permanent order exempting them from the provisions of section 9(a) of the Act, operative as a result of the entry of a securities-related injunction against FIC described therein. A notice of the filing of the application, and a conditional temporary order granting the requested temporary exemption from section 9(a) ("Temporary Order"), were issued in Investment Company Act Release No. 18778 on June 12, 1992. The Temporary Order was conditioned upon, *inter alia*, applicants' undertaking to submit a report by an independent reviewer ("Special Reviewer") reviewing, and making recommendations concerning, the manner in which applicants carry out and have carried out their investment company activities, including the policies, procedures, and internal controls used by the applicants to prevent and detect any violation of applicable laws, rules, and regulations, including the applicable rules and regulations of self-regulatory organizations, relating to their investment company activities (the "Report"). Applicants have filed the Report and their own report setting forth the action they have taken or propose to take concerning the implementation of the Special Reviewer's recommendations ("Applicants' Report"), and the Commission is providing an opportunity for public review of the reports and for interested persons to comment on the application for a permanent section 9(c) order.

FILING DATES: The application was filed on June 12, 1992. The Report was filed on December 9, 1992 and the Applicants' Report was filed on February 5, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 12, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o First Investors Corporation, 95 Wall Street, New York, New York 10005.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The complete application may be obtained for a fee at the SEC's Public Reference Branch at its Headquarters Office in Washington, DC. Copies of the reports also are available for public inspection in the SEC's Public Reference Branch. For further information, refer to the Temporary Order (Investment Company Act Release No. 18778, June 12, 1992).

Notice of Filing of Report

1. Notice is hereby given that applicants, pursuant to the terms of the Temporary Order, filed the Report on December 9, 1992. Applicants submitted the Applicants' Report to the Commission setting forth the actions they have taken or propose to take in response to the recommendations contained in the Report on February 5, 1993.

2. Interested persons wishing to comment on the application may do so. As noted above, such comments should be filed with the Secretary of the SEC by 5:30 p.m. on April 12, 1993.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5717 Filed 3–11–93; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. IC–19316; 812–8230]

Prime Value Funds, Inc., et al.; Notice of Application

March 5, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Prime Value Funds, Inc. (the "Fund") and Forum Financial Services, Inc. ("Forum").

RELEVANT 1940 ACT SECTIONS: Conditional order requested under section 6(c) for exemption from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order to permit them to impose a contingent deferred sales load ("CDSL") on the redemption of certain shares, and to waive the CDSL under certain specified instances.

FILING DATES: The application was filed on December 30, 1993 and amended on March 2, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 30, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 61 Broadway, New York, New York 10006.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Staff Attorney, at (202) 272–7648, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Fund, a Maryland corporation, is a registered investment company sponsored and managed by Forum, a broker-dealer. Forum also serves as the Fund's distributor. The Fund currently consists of thirteen investment portfolios (the "Portfolios"). Applicants request exemptive relief on behalf of themselves, the Portfolios, and any additional separate investment portfolios of the Fund that may be created in the future.[1]

2. Applicants propose to offer Portfolio shares subject to a CDSL. The CDSL would be imposed at a rate equal to a specified percentage or percentages of the lesser of (i) the net asset value of the shares at the time of purchase, or (ii) the net asset value of the shares at the time of redemption. The CDSL typically would range from 1% to 6.25% (but could be higher or lower) on shares redeemed during the first year after purchase and would be reduced at a rate of either 1.00% or .50% per year over the applicable CDSL period. The CDSL period would range from one to six years.

3. The holding period and amount of the CDSL and the size of purchases to which the CDSL applies are subject to change. However, any change in the specified terms of a CDSL with respect to its implementation by a Portfolio would be disclosed in the prospectus of the Portfolio. Any such change would not affect shares already issued unless such change results in terms more favorable to the shareholders, such as by reducing the amount of the CDSL or reducing the CDSL period. In addition, no CDSL would be imposed on any shares purchased prior to the effective date of the requested order or prior to the amendment of the affected Portfolio's prospectus disclosing the CDSL arrangement.

4. No CDSL would be imposed on (a) redemption proceeds that represent capital appreciation of shares, (b) shares acquired through the reinvestment of dividends or capital gain distributions, or (c) shares held for more than a certain period of time after purchase. In addition, in determining whether a CDSL is applicable, it will be assumed that a redemption is made first of shares not subject to a CDSL, and then other shares in the order of purchase.

5. The Fund will offer an exchange privilege whereby shares of a Portfolio could be exchanged for shares of another Portfolio in accordance with rule 11a–3 under the Act. Shares sold with a CDSL arrangement could be exchanged for shares of another Portfolio sold with the same or lower CDSL arrangement, except that no CDSL would be imposed at the time of an exchange.

6. A Portfolio may offer a reinvestment privilege, whereby shareholders who were assessed a CDSL in connection with the redemption of shares of that or another Portfolio, followed by a reinvestment of some or all of the redemption proceeds in shares of that Portfolio within six months after the redemption (or such other period as the Portfolio may establish from time to time), will be permitted to do so at net asset value and will not be assessed a CDSL on any subsequent redemption of those shares, provided the shareholder's entitlement to the reinvestment privilege is claimed at the time of reinvestment. In the event the reinstatement period is changed after a shareholder redeems out of a Portfolio, the shareholder will be allowed to reinvest within the reinstatement period in effect at the time of the redemption. The Fund does not expect that the reinstatement privilege will be used by shareholders in lieu of the Fund's exchange privilege. A shareholder that wishes to redeem shares of one Portfolio and reinvest in another Portfolio will probably prefer to use the exchange privilege, as exchanges will be made on the basis of relative net asset values without the imposition of a CDSL in accordance with rule 11a–3. The reinstatement privilege would be intended for the shareholder who changes his mind after a redemption and decides to reinvest in the Fund.

7. Applicants request the ability to waive the CDSL: (a) on redemptions of Portfolio shares following death or disability, as defined in section 72(m)(7) of the Internal Revenue Code of 1986, as amended, of a shareholder if the Fund is notified of the death or disability at the time redemption is requested and such request is made within one year after the shareholder's death or disability; (b) in connection with redemptions of Portfolio shares held by an individual retirement account ("IRA") or other qualified retirement plan and which redemptions (i) result from the death or disability of the employee or the tax-free return of an excess contribution, (ii) are made to effect a lump-sum or partial distribution from a qualified retirement plan in the case of retirement, or (iii) are made to effect a distribution from an IRA, a Keogh Plan, or a section 403(b)(7) custodial account that is required because the distributee has reached the age at which distributions are required to commence; (c) in connection with redemptions of shares of a Portfolio purchased by current or retired directors of the Fund, or by current or retired officers or employees of the Fund, the Fund's investment adviser, Forum, or their affiliated companies, registered representatives of Forum, and by members of the immediate families of such persons; (d) in connection with redemptions of Portfolio shares made pursuant to a shareholder's participation in any systematic withdrawal plan adopted for a Portfolio; (e) in part, in connection with redemptions by shareholders holding shares of a Portfolio worth over a specified amount immediately prior to redemption; (f) in connection with redemptions of Portfolio shares effected by advisory accounts managed by the Portfolio's investment adviser or Forum or any of their affiliated companies or by any such affiliated company itself; (g) in connection with redemptions of Portfolio shares by any tax-exempt employee benefit plan for which continuation of its investment in a Portfolio would be improper under applicable law or regulation; (h) in connection with redemptions of Portfolio shares effected by another registered investment company as part of a merger or other reorganization with a Portfolio or by a former shareholder of such investment company of Portfolio shares acquired pursuant to such reorganization; (i) on redemptions of Portfolio shares effected pursuant to the Fund's right to liquidate a shareholder's account if the aggregate net asset value of shares held in the account is less than the applicable minimum account size; (j) by banks, trust companies, registered investment advisers, and other financial institutions with fiduciary powers which use fiduciary funds to purchase shares of a Portfolio; and (k) in connection with shares sold to any state, county, or city, or any instrumentality, department, authority, or agency thereof, that is prohibited by applicable investment laws from paying a sales load or commission in connection with the purchase of shares of any registered investment company. If the Fund waives or reduces the CDSL, such waiver or reduction will be uniformly applied to all offerees of the particular Portfolio's shares.

Applicants' Condition

If the requested exemptive relief is granted, applicants agree to comply

[1] In a separate application (File No. 812–7898), applicants have requested a conditional order that would permit the Fund to establish separate classes of shares with different fee structures ("Multiple Class Order"). Following the issuance of the Multiple Class Order, and after obtaining an order pursuant to this application, the Fund intends to implement CDSLs with respect to certain classes of shares.

with the provisions of proposed rule 6c–10 under the Act, as such rule is currently proposed and as it may be reproposed, adopted or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5714 Filed 3–11–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19317; 812–7898]

Prime Value Funds, Inc. et al.; Notice of Application

March 5, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Prime Value Funds, Inc., Forum Funds, Inc., The Jermyn Street Funds, Inc., The Global Settlement Fund, Inc., Stone Bridge Funds, Inc., Monarch Funds, and Forum Financial Services, Inc. ("Forum").

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 6(c) from the provisions of sections 18(f), 18(g), and 18(i) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit each series of the funds to sell multiple classes of securities representing differing interests in some or all of each fund's existing and future investment portfolios. The classes would be identical in all respects except for differences relating to distribution expenses or shareholder servicing fees; voting rights relating to rule 12b–1 plans; the impact of certain expenses directly attributable to a particular class of shares; exchange privileges; conversion features; and sales loads.

FILING DATE: The application was filed on April 3, 1992, and amended on September 25, 1992, December 29, 1992. In a letter dated March 5, 1993, applicant's counsel has stated that an additional amendment, the substance of which is incorporated herein, will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 31, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 61 Broadway, New York, New York 10006.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Barry D. Miller, Senior Special Counsel, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The funds are registered investment companies sponsored or managed by Forum, a registered broker-dealer. Each fund is authorized to issue a specified number of shares of common stock, including shares representing interests in separate investment portfolios. Applicants request that relief be extended to all other registered investment companies for which Forum or any of its affiliates, as defined in section 2(a)(3) of the Act, which are under common control or controlled by Forum, acts now or may in the future act as administrator, manager, investment adviser, or distributor.[1]

2. Forum serves as each fund's administrator, manager, or distributor. As manager or administrator for a portfolio, Forum provides management services other than investment advisory services, such as overseeing the performance of the portfolio's transfer agency, fund accounting and custodial services, providing office space and key personnel for the portfolio's operations, overseeing the preparation of registration statements and reports, and overseeing legal compliance, pursuant to management or administration agreements ("Management Agreements"). As distributor for a portfolio, Forum acts pursuant to a distribution agreement which may be part of a Management Agreement. With respect to the Management Agreement, Forum receives a management or administrative fee for its services ("management fee") from each portfolio of up to a specified percentage of that portfolio's average daily net assets. The management fees do not relate to services which are covered by investment advisory or other fees.

3. Shares of each portfolio currently are sold at net asset value plus, in the case of certain portfolios, a front-end sales load, and are offered directly or through financial institutions, such as banks and broker-dealers. Some portfolios have adopted a Rule 12b–1 Plan.

4. Applicants seek an exemptive order permitting the funds to offer multiple classes of the funds' existing and future portfolios. The only material differences among the classes would be:

(a) The amount and type of fees permitted by different Rules 12b–1 Plans and of shareholder servicing expenses permitted by non-rule 12b–1 shareholder service plans ("Shareholder Services Plans"),

(b) Voting rights with respect to a class's Rule 12b–1 Plan,

(c) The impact of any incremental transfer agency fees directly attributable to a particular class of shares and any other non-distribution incremental expenses allocated on a class basis as further described in condition one below ("Class Expenses"),

(d) Conversion features, and

(e) Exchange privileges. The investment objectives, policies, and limitations pertaining to a portfolio will be identical for each class of a portfolio.

5. A Rule 12b–1 Plan adopted by a fund with respect to a class of shares may take a number of forms. For example, a fund may adopt a Rule 12b–1 Plan permitting the fund to compensate its distributor, investment adviser, or other service provider for providing distribution assistance or permitting a fund to pay or compensate a service provider for incurring certain expenses related to distribution such as preparing prospectuses, advertising, and sales literature. A Rule 12b–1 Plan may also permit a fund or its investment adviser or distributor to enter into agreements with certain financial institutions, such as banks, broker-dealers, and other industry professionals for the performance of a number of services with respect to a class.

6. Under a Shareholder Service Plan, a fund, its transfer agent, or other service provider would enter into agreements with groups, organizations, or institutions. The provision of services under the Shareholder Services Plans would augment or replace (and not be duplicative of) the services to be

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[1] All existing funds that currently intend to rely on the order are parties to the application. Any other fund that relies on the order in the future will issue multiple classes of shares in accordance with the representations and conditions of the order.

provided by the fund's administrator, distributor, transfer agent, or any other service provider or any services provided under any Rule 12b–1 Plan adopted by the fund with respect to that class.

7. The adoption and implementation of a Rule 12b–1 Plan or Shareholder Service Plan by a fund in relation to any of its portfolios and classes will be independent of, and not conditioned upon, the adoption or implementation of a Rule 12b–1 Plan or Shareholder Service Plan by any other fund, portfolio, or class. In addition, no fund will use Rule 12b–1 Plan fees charged to any class of shares in a portfolio to support the marketing of any other class of shares in that portfolio or in any other portfolio. In establishing and implementing the Rule 12b–1 Plan and the Shareholder Service Plan, applicants will comply with subsection (d) of article III, section 26 of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. ("NASD") as it relates to the maximum amount of asset-based sales charges and service fees that may be imposed by an investment company, when and in the form (as amended from time to time) it becomes effective, and for as long as it remains in effect.

8. Initially, the funds expect to offer some or all of the proposed classes of shares, each of which is discussed below. In addition, other classes of shares of the funds' existing and future portfolios may be offered from time to time. Any such classes would, however, comply with all representations and conditions contained herein.

9. A money market investor class shares will be established in each money market portfolio and will be offered without a front-end sales load to retail investors (Money Market Investor Class"). A Money Market Investor Class may have a Rule 12b–1 Plan and also may have a Shareholder Service Plan requiring Money Market Investor Class shares to pay a fee to the portfolio's transfer agent or a designated shareholder servicing agent (which may be Forum or one of its affiliates).

10. With respect to each non-money market portfolio, applicants propose to create two classes of shares to be offered to retail investors. With respect to each of these retail classes, the portfolio may adopt a Shareholder Service Plan and also may adopt a Rule 12b–1 Plan. One class of shares would be offered without a front-end sales load (the "Investor Class A") and the other class of shares would be offered subject to a front-end sales load (the "Investor Class B"). (The Money Market Investor Class, Investor Class B, and Investor Class A are collectively referred to as the "Investor Class.")

11. An institutional class of shares may be established in each portfolio ("Institutional Class") to be offered without a front-end sales load to institutional investors, to investors who invest through financial institutions and, except in the case of portfolios that have a class of shares solely for trust investors, to trusts. Institutional Class shares will be identical to Money Market Investor Class shares, except that any Rule 12b–1 Plan adopted by or Shareholder Service Plan covering Institutional Class shareholders might provide for levels of fees and expenses lower than those applicable to Money Market Investor Class shares.

12. A trust class of shares will be established in certain portfolios ("Trust Class") and will be offered without a front-end sales load exclusively to persons acting as fiduciaries for certain entities such as living trusts, irrevocable trusts, foundations, endowments, retirement plans, and certain agency or custodial accounts. Trust Class shares will be identical to Institutional Class shares, except that any Rule 12b–1 Plan adopted by or Shareholder Service Plan covering Trust Class shareholders might provide for levels of fees and expenses different from those applicable to Institutional Class Shares.

13. The differences in the levels of fees permitted for the classes of shares will be based on the cost to the portfolios of providing differing levels of distribution services and shareholder servicing to satisfy the requirements of particular classes of shares.

14. Expenses of a fund that could not be attributed directly to any one portfolio would be allocated to each portfolio based on the relative net assets of such portfolio or as otherwise determined under the supervision of its directors. Certain expenses may be attributable to a portfolio but not to a particular class. All such expenses incurred by the portfolio would be allocated to each class on the basis of the relative net asset values of the respective classes in the portfolio.

15. Any exchange privilege offered by a portfolio will provide that shares of a class of that portfolio will be exchanged only for shares of the same class of another portfolio or fund that is part of the same "group of investment companies" as defined in rule 11a–3 under the Act and participating in the exchange privilege program (for this purpose only, Money Market Investor Class shares and Investor Class A shares could be treated as shares of the same class). Notwithstanding the foregoing, exchanges will be permitted among classes should a shareholder cease to be eligible to purchase shares of the original class by reason of a change in the shareholder's status, such as a termination of a trust and distribution of the corpus to beneficiaries. In addition, the right of any shareholder to exchange into a class of shares subject to a front-end sales load will be subject to conditions imposed in accordance with rule 11a–3 under the Act.

16. Any conversion feature will be subject to terms fully disclosed in a fund's then-current registration statement and will include the following:

(a) All conversions will be done at net asset value;

(b) Any conversion feature adopted by fund will be fully disclosed in the fund's then-current prospectus;

(c) After conversion the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in article III, section 26 of the NASD Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversions; and

(d) Any conversion feature will be subject to the availability of a ruling from the Internal Revenue Service ("IRS") or an opinion of counsel that the conversion of shares does not constitute a taxable event under Federal tax law.

17. For example, a fund may, pursuant to further exemptive relief or a rule adopted by the Commission, offer a class of shares subject to a contingent deferred sales load ("CDSL"). A conversion option might require that on the first day of the month in which the seventh anniversary of the purchase of shares of a class subject to a CDSL ("Purchase Class") occurs, shares (except those purchased through the reinvestment of dividends and other distributions paid in respect of Purchase Class shares of the fund) would automatically convert to another class of shares of such fund ("Target Class") at the relative net asset values of each of the classes, and thereafter would be subject to the Rule 12b–1 Plan and Shareholder Service Plan payments, if any, applicable to the Target Class shares. As would be the case with respect to Purchase Class shares of a fund that have been outstanding for less than seven years, shares purchased through the reinvestment of dividends and other distributions paid in respect of Purchase Class shares will be issued as Purchase Class shares, but would be considered to be held in a separate sub-account. Each time any Purchase Class shares in the shareholder's account (other than those in the sub-account)

convert to Target Class shares, a *pro rata* portion of the Purchase Class shares then in the sub-account also would convert to Target Class shares. The portion would be determined by the ratio that the shareholder's shares converting to Target Class shares bears to the shareholder's total Purchase Class shares not acquired through dividends and distributions.

Applicants' Legal Analysis

1. Applicants request an exemptive order under section 6(c) of the Act to permit the proposed creation, issuance, and sale of shares as described above to the extent that such issuance and sale might be deemed to result in a "senior security" within the meaning of section 18(g) of the Act, and to be prohibited by section 18(f)(1) of the Act, or to violate the equal voting provisions of section 18(i) of the Act.

2. Applicants assert that the requested relief does not contravene the policies of the Act or permit the abuses intended to be addressed by section 18 of the Act. The proposed class structure does not involve borrowings, adversely affect any portfolio's existing assets or reserves, or increase the speculative character of any portfolio's shares. The proposed capital structure will not induce any group of shareholders to invest in risky securities to the detriment of any other group of shareholders because the investment risks will be borne equally by all shareholders. Applicants state that mutuality of risk will be preserved with respect to all shares in a portfolio.

3. Applicants assert that the proposed arrangement will permit a fund to facilitate the distribution of its shares and expand the scope and depth of administrative and shareholder services without assuming excessive organizational, legal, administrative, accounting and bookkeeping costs, or unnecessary investment risks. Further, each portfolio could, among other things, compensate financial institutions for providing distribution and related administrative services that are tailored to the needs of their customers. Each fund could more closely match the actual costs incurred by a portfolio with respect to different types of investors with the fees allocated to the classes of shares by those types of investors.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each class of shares will represent interests in the same portfolio of investments of the funds, and be identical in all respects, except as set forth below. The only differences between classes of shares of the funds will relate solely to:

(a) The amount and type of fees permitted by differences in Rule 12b–1 Plans or of shareholder servicing expenses permitted by Shareholder Service Plans;

(b) Voting rights with respect to a class' Rule 12b–1 Plan;

(c) The impact of any incremental transfer agency costs attributable to a particular class of shares and certain other Class Expenses, which are limited to:

(i) Printing and postage expenses related to preparing and distributing materials such as shareholders reports, prospectuses, and proxies to current shareholders,

(ii) Blue sky registration fees incurred by a class,

(iii) Commission or other qualification or registration fees incurred by a class,

(iv) The expense of administrative personnel and services as required to support the shareholders of a specific class,

(v) Litigation or other legal expenses relating solely to one class, and

(vi) Directors' fees incurred as a result of issues relating to one class;

(d) Conversion features; and

(e) Exchange privileges.

2. The directors or trustees (the "Directors") of each of the funds, including a majority of the independent Directors, will approve the Multi-Class Distribution System for that fund. The minutes of the meetings of the Directors of each of the funds regarding the deliberations of the Directors with respect to the approvals necessary to implement the Multi-Class Distribution System will reflect in detail the reasons for the Directors' determination that the proposed Multi-Class Distribution System is in the best interests of both that fund and its shareholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the Directors of each of the funds, including a majority of Directors who are not interested persons of that fund. Any person authorized to director the allocation and disposition of monies paid or payable by the fund to meet Class Expenses shall provide to the Directors, and the Directors shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made for that fund.

4. On an ongoing basis, the Directors of each of the funds, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor that fund for the existence of any material conflicts among the interests of the various classes of shares. The Directors of each fund, including a majority of the independent Directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The investment adviser(s) and the distributor of each of the funds will be responsible for reporting any potential or existing conflicts to the Directors of that fund. If a conflict arises, the investment adviser(s) and the distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

5. The Shareholder Services Plans will be adopted and operated in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders will not enjoy the voting rights specified in rule 12b–1. In evaluating the Shareholder Services Plan, the Directors will specifically consider whether (a) the Shareholder Services Plan is in the best interests of the applicable classes and their respective shareholders, (b) the services to be performed pursuant to the Shareholder Services Plan are required for the operation of the applicable classes, (c) the service organizations can provide services at least equal, in nature and quality, to those provided by others, including the fund, providing similar services, and (d) the fees for such services are fair and reasonable in light of the usual and customary charges made by other entities, especially non-affiliated entities, for services of the same nature and quality.

6. Each agreement entered into pursuant to the Shareholder Service Plans or Rule 12b–1 Plans (collectively, "Plans") will contain a representation by the service provider that any compensation payable to the service provider in connection with the investment of its customers' assets in the fund (a) will be disclosed by it to its customers, (b) will be authorized by its customers, and (c) will not result in an excessive fee to the service provider.

7. Each agreement entered into pursuant to the Plans will provide that, in the event an issue pertaining to the Plan is submitted for shareholder approval, the service provider will vote any shares held for its own account in the same proportion as the vote of those shares held for its customers' accounts.

8. The Directors of each of the funds will receive quarterly and annual statements concerning distribution and shareholder servicing expenditures

complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly charged to the sale or servicing of a particular class of shares will be used to justify any distribution or servicing fee attributable to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the Directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent Directors in the exercise of their fiduciary duties.

9. Dividends paid by each fund with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that distribution and shareholder service payments relating to each respective class of shares will be borne exclusively by that class, any incremental transfer agency costs and other Class Expenses directly attributable to a particular class, and any other incremental expense subsequently identified that should be properly allocated to one class which shall be approved by the Commission pursuant to an amended order will be borne exclusively by that class.

10. The methodology and procedures for calculating the net asset value and dividends and distributions of the various classes and the proper allocation of expenses between the various classes has been reviewed by an expert (the "Expert") who has rendered a report to applicants, which has been provided to the staff of the Commission, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the funds that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by the funds (which the funds agree to make), will be available for inspection by the Commission staff upon the written request to the funds for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrator or Associate and Assistant Regional Administrator. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in Statement of Auditing Standards No. 44 of the American Institute of Certified Public Accountants ("AICPA"), as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.[2]

11. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the various classes of shares and the proper allocation of expenses among the classes of shares and this representation will be concurred with by the Expert in the initial report referred to in condition (10) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (10) above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

12. The prospectus of the funds will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing fund shares may receive different compensation with respect to one particular class of shares over another in the fund.

13. The distributor will adopt compliance standards, as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the funds to agree to conform to such standards.

14. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Directors of each of the funds with respect to the Multi-Class Distribution System will be set forth in guidelines which will be furnished to the Directors.

15. Each fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. Each fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares. The information provided by applicants for publication in any newspaper or similar listing of the fund's net asset value and public offering price will present each class of shares separately.

16. A fund may choose to offer Purchase Class shares that convert automatically to Target Class shares after a specified period of time. If a fund implements any amendment to a Rule 12b–1 Plan (or, if presented to shareholders, adopts or implements any amendment of a non-Rule 12b–1 Shareholder Services Plan) that would increase materially the amount that may be borne by the Target Class shares under the plan, existing Purchase Class shares will stop converting into Target Class unless the Purchase Class shareholders, voting separately as a class, approve the proposal. The Directors shall take such action as is necessary to ensure that existing Purchase Class shares are exchanged or converted into a new class of shares ("New Target Class"), identical in all material respects to Target Class as it existed prior to implementation of the proposal, no later than such shares previously were scheduled to convert into Target Class. If deemed advisable by the Directors to implement the foregoing, such action may include the exchange of all existing Purchase Class shares for a new class ("New Purchase Class"), identical to existing Purchase Class shares in all material respects except that New Purchase Class will convert into New Target Class. New Target Class or New Purchase Class may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in any manner that the Directors reasonably believe will not be subject to federal taxation. Any additional cost associated with the creation, exchange, or conversion of New Target Class or New Purchase Class shall be borne solely by the investment adviser(s) and/or the distributor of the fund. Purchase Class shares sold after the implementation of the proposal may convert into Target Class shares subject to the higher maximum payment,

[2] The staff notes that SAS No. 44 of the AICPA has been superseded by SAS No. 70, which is effective for all auditors' reports dated after March 31, 1993.

provided that the material features of the Target Class plan and the relationship of such plan to the Purchase Class shares are disclosed pursuant to an effective registration statement.

17. Any Purchase Class shares will convert into Target Class shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in article III, section 26 of the NASD Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

18. Applicants acknowledge that the grant of the exemptive order requested by the application will not imply Commission approval, authorization, or acquiescence in any particular level of payments that the fund may make pursuant to its rule 12b–1 distribution plan or shareholder services plan in reliance on the exemptive order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5715 Filed 3–11–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25756]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

March 5, 1993.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 29, 1993 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Alabama Power Company (70–8061)

Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, a wholly owned electric utility subsidiary company of The Southern Company, a registered holding company, has filed an application under sections 9(a) and 10 of the Act.

Alabama proposes to provide, through December 31, 1997, consulting and operation and maintenance services to nonaffiliated publicly or privately owned utilities, governmental entities or cooperative organizations, which may be electric, gas, telephone or water utility companies, located in the State of Alabama. Alabama states that the services will be offered at a competitive price to the purchaser, and revenues received will be recorded in "above-the-line" accounts, which will result in a credit against the operating expenses of Alabama, thus reducing the cost of providing electric service to Alabama's electric customers.

The consulting services will be:

(i) Management expertise, such as strategic planning, feasibility studies, organization, environmental matters, policy matters and energy efficiency services;

(ii) Technical expertise, such as design, engineering, procurement, construction supervision, engineering and construction planning and procedures, system planning, energy efficiency planning and operational planning;

(iii) Training expertise, especially training in the area of operation and maintenance;

(iv) Technical and procedural resources, such as are embedded in computer, information and communications systems, programs or manuals; and

(v) The resale or licensing of intellectual and proprietary property of Alabama.

Alabama proposes to offer operation and maintenance services with respect to generating plants, distribution and transmission facilities, coal-handling facilities, transportation, environmental, computer, information, and communications facilities, equipment and systems which are related to generation, transmission and distribution of electricity (the "O&M Services"). All such O&M Services would be provided by Alabama for and under the direction and management of the owners or operators of the aforementioned facilities, pursuant to written agreements with the owners or operators of such facilities, and in certain cases, Alabama may operate the facilities of electric utilities.

Alabama states that provision of the foregoing services will enable Alabama to use its available expertise and personnel and will result in the optimal utilization of their capabilities. Alabama states that its ability to provide these services will keep such expertise and capabilities available to Alabama, as well as enabling Alabama to minimize the cost of maintaining such resources which it deems necessary to the adequate servicing of its electric customers.

Alabama states that it anticipates no material increase in its staff, nor any material capital investment to provide the utility services described herein. It is expected that the utility services will be provided by the appropriate department of Alabama, and that no new departments will be created. If Alabama determines to finance any projects in connection with the provision of utility services, Alabama represents that any required Commission approval of such financing will be the subject of a further application.

Alabama proposes to offer the utility services through December 31, 1997; however, it is proposed that the term of contracts to provide the utility services entered into before that date may extend beyond that date. If and to the extent that any utility services are proposed to be provided by both Alabama and an affiliate of Alabama, Alabama will be responsible for deciding which entity will provide such services.

Alabama proposes to file semi-annual reports with the Commission describing the utility services provided and including the amount of revenues received from such services. Alabama states that it is not expected that such reports generally will include the cost of such services, since it anticipates that it will not create separate cost centers with respect to the proposed transaction because the services will be provided from its existing capacity. Alabama does propose, however, in the event any single transaction, or series of transactions pursuant to a contract with one utility, is expected to generate revenues in excess of $500,000 in a year, the cost of providing such services will

be separately accounted for by a work-order system and will be included in Alabama's reports.

Georgia Power Company (70–8117)

Georgia Power Company ("Georgia"), 333 Piedmont Avenue, NE., Atlanta, Georgia 30308, a wholly owned public-utility subsidiary company of The Southern Company ("Southern"), a registered holding company, has filed an application under sections 9(a) and 10 of the Act.

In 1985, South Carolina Public Service Authority ("Santee Cooper") requested that Georgia construct a 500/230 kV substation located in Effingham County, Georgia ("Substation"), in Georgia's service territory in order to establish a transmission interconnection between Santee Cooper and the Southern electric system thereby providing back-up power to Santee Cooper's electric system and improving Santee Cooper's service reliability. Georgia began construction of the facilities comprising the Substation ("Facilities") in April of 1986 and paid for such construction until December of 1986 when Santee Cooper reimbursed Georgia for past costs of construction and began making payments for the remaining construction of the Facilities.

In January 1988, Georgia entered into a Purchase Agreement ("Agreement") with Santee Cooper which stated that Georgia would sell all of its interest in the Facilities to Santee Cooper for an amount equal to the aggregate cost of construction less any amounts paid by Santee Cooper to Georgia for the construction of the Facilities. In addition, Santee Cooper agreed to pay Georgia interest on the amount Georgia expended on construction from April 1986 to December 1986. The Agreement states that Georgia will repurchase the Facilities at their depreciated value within five years of commercial operation.

Concurrent with the execution of the Agreement, Georgia and Santee Cooper executed an Operating Agreement whereby Georgia would manage, control, operate and maintain the Substation until Georgia repurchased the Substation. Santee Cooper has been making periodic payments to Georgia for the operation and maintenance of the Substation.

Georgia now proposes to purchase from Santee Cooper its entire interest in the Substation for an aggregate purchase price of approximately $12,906,061. The purchase price represents the sum of: (1) $14,906,010, the cost of construction of the Facilities; plus (2) $17,604, the interest paid by Santee Cooper to Georgia for the construction of the Facilities from April 1986 to December 1986; less (3) $2,017,553 in accumulated depreciation. The purchase price represents the net book value on the funds paid by Santee Cooper for the Facilities and will be paid from immediately available funds.

The proposed transaction was contemplated to take place on January 4, 1993. Georgia has agreed to pay Santee Cooper interest on the purchase price from January 4, 1993 until the closing of the transaction.

Southwestern Electric Power Company (70–8123)

Southwestern Electric Power Company ("SWEPCO"), 428 Travis Street, Shreveport, Louisiana 71101, a wholly owned electric utility subsidiary company of Central and South West Corporation, a registered holding company, has filed an application under sections 9(a) and 10 of the Act.

SWEPCO states that it has provided from time to time certain environmental laboratory services ("Services"), including analysis of water, oils, soil and waste characterization, without charge to Dolet Hills Mining Venture, a nonaffiliate, as an accommodation. SWEPCO now seeks Commission authority to charge for the Services and to provide the Services to other nonaffiliates as well through December 31, 1994. SWEPCO states that there is excess capacity available for sale to nonaffiliates because the laboratory is not being utilized by SWEPCO continuously. SWEPCO further states that providing the Services to nonaffiliates will not in any way interfere with its utility business.

SWEPCO anticipates that the total annual billings to nonaffiliates would not exceed $250,000 and the total cost for such Services would be approximately $50,000. SWEPCO states that it will not hire additional personnel in connection with providing the Services to nonaffiliates. SWEPCO further states that income generated from providing the Services will be credited back against environmental expenses and will reduce electric rates.

Central and South West Corporation, et al. (70–8133)

Central and South West Corporation ("CSW"), 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas 75202, a registered holding company, CSW Energy, Inc. ("Energy"), 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas 75202, a wholly owned nonutility subsidiary company of CSW, CSW Development-I, Inc. ("Energy Sub"), 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas 75202, a wholly owned nonutility subsidiary company of Energy, and ARK/CSW Development Partnership ("Joint Venture"), 23293 South Pointe Drive, suite 100, Laguna Hills, California 92635, a nonutility subsidiary company of Energy Sub (collectively, "Applicants"), have filed an application-declaration, as amended ("Application-Declaration"), under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 45 and 51 thereunder.

By prior order dated September 28, 1990 (HCAR No. 26162), supplemented by orders dated November 22, 1991 (HCAR No. 25414) and December 31, 1992 (HCAR No. 25728) (collectively, "Prior Order"), CSW and Energy were authorized, among other things,

(1) To spend up to $150 million to conduct preliminary studies of, to investigate, to research, to develop, to consult with respect to, and to agree to construct qualifying cogeneration facilities, qualifying small power production facilities and independent power facilities;

(2) To finance such activities through capital contributions, open account advances and loans in an aggregate amount not to exceed $150 million;

(3) For energy to form Energy Sub for the purpose of engaging in the Joint Venture with ARK Energy, Inc. ("ARK"), a nonassociate; and

(4) For energy to use $50 million of the $150 million to finance the Joint Venture through capital contributions and loans.

The Applicants now seek authority to acquire indirectly, through subsidiary companies to be formed, a 74-megawatt (net) combined cycle gas turbine cogeneration facility ("Project") to be located in or near Bartow, Florida. Once operational, the Project will be a qualifying cogeneration facility under the Public Utility Regulatory Policies Act of 1978. The requested time limit for the proposed transactions is one year from the date of the order sought herein.

Orange Cogeneration Limited Partnership ("Project Venture"), a Delaware limited partnership to be organized, will develop, own and operate the Project. The Joint Venture proposes to organize and acquire for $1,000 all of the common stock (1,000 shares with no par value) of a new subsidiary, Orange GP, Inc. ("JV Sub"), which will be the general partner, owning 1%, of the Project Venture. Energy Sub proposes to organize and acquire for $1,000 all of the common stock (1,000 shares with no par value) of a new subsidiary, CSW Orange, Inc. ("CSWO"), which will be one of the limited partners, owning 49.5%, of the Project Venture. The other 49.5%

limited partnership interest will be owned by ARK (either directly or through a to-be-formed wholly owned special purpose subsidiary or affiliate).

JV Sub, CSWO and ARK will each make initial capital contributions to the Project Venture as follows: (1) up to $1,000 by each of CSWO and ARK, and (2) work product and minimal management services equal to up to $200 by JV Sub. The Project Venture will acquire the Project from its present owner, AP Cogen, Ltd. ("Seller"), a nonassociate company, pursuant to a purchase agreement ("Purchase Agreement"), dated as of December 31, 1992, among Seller, Energy Development Corporation, CFR-Biogen Corporation and the Joint Venture. The Joint Venture's rights and obligations under the Purchase Agreement will be transferred to the Project Venture upon the formation of the Project Venture and the Joint Venture will be released of its obligations upon the transfer of rights and obligations to the Project Venture. In consideration for the acquisition of the Project, the Project Venture will pay to Seller an amount not to exceed $3.395 million ("Purchase Price") in addition to the contingent assumption of certain of the Project's liabilities not to exceed $3 million. The proposed acquisition includes all Seller's right, title and interest in the Project and any related contractual rights, permits, work product or other property, but does not include any generating assets or any fee interest in any real property related thereto.

The Applicants state that they are not seeking Commission authority to finance the construction of the Project ("Construction Financing") at this time. The Project will pay the Purchase Price out of the proceeds of the Construction Financing. Alternatively, the Project Venture may, at its option, fund the Purchase Price by means of capital contributions, loans or open account advances from CSWO and the Joint Venture. In such event, Energy proposes to fund the Purchase Price by capital contributions, loans or open account advances to Energy Sub pursuant to the Prior Order, and by capital contributions, loans or open account advances from Energy Sub to the Joint Venture and CSWO, and from the Joint Venture and CSWO to the Project Venture pursuant to this Application-Declaration. All such loans or open account advances will be on the same terms as those under the Prior Order.

Prior to the close of the Construction Financing, the Joinf Venture and the Project Venture may incur certain development expenses not to exceed $7 million in connection with the Project. Energy proposes to fund these development expenses by capital contributions, loans or open account advances to Energy Sub pursuant to the Prior Order, and by capital contributions, loans or open account advances from Energy Sub to the Joint Venture and CSWO, and from the Joint Venture and CSWO to the Project Venture pursuant to this Application-Declaration. All such loans will be on the same terms as those under the Prior Order.

If the Construction Financing is not closed by June 30, 1994, or if the Joint Venture or the Project Venture exercises to abandon the Project, then the Joint Venture, Energy Sub, and ARK will have the right to sell, and Seller will have the obligation to buy ("Put") all the outstanding capital stock or other equity interests of CSWO, JV Sub and ARK, and thereby all of the equity interests in the Project Venture and the Project. The Put will be exercised (or will terminate) on the earlier of June 30, 1994 or the close of the Construction Financing. In consideration for exercising the Put, Seller will assume all the Project Venture's liabilities and will execute a note ("Buyer Note"), payable to the Joint Venture (or its designee), in an amount (not to exceed $10 million) equal to the aggregate of all portions of the Purchase Price actually paid and all development costs or other expenses paid by or on behalf of the Joint Venture or the Project Venture. The Buyer Note will bear interest at the prime rate as announced by The Chase Manhattan Bank, N.A. and will be secured by a subordinated lien on the Project assets. The Buyer Note will mature on the earlier of (i) the Construction Financing, (ii) the sale or other disposition of the Project, and (iii) June 30, 1994.

The Southern Company, et al. (70–8147)

The Southern Company ("Southern"), 64 Perimeter Center East, Atlanta, Georgia 30346, a registered holding company, and its wholly owned subsidiary company, Southern Nuclear Operating Company, Inc. ("Southern Nuclear"), 40 Inverness Center Parkway, Birmingham, Alabama 35204, have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rule 45 thereunder. Southern Nuclear proposes to borrow, from time to time through March 31, 1995, from Southern or other lenders up to an aggregate principal amount of $10 million, which amount includes the $5 million currently outstanding in open account advances from Southern as authorized by Commission order, dated December 14, 1990 (HCAR No. 25212).

Open account advances of up to $5 million from Southern will have maturities not to exceed 10 years and will accrue interest at a rate equal to the average effective interest cost of Southern's outstanding obligations for borrowed money on the first day of each month, or if no obligations are outstanding at the time, at a rate equal to the weekly average of the thirty-day certificate of deposit rate (secondary market) as reported in the Federal Reserve statistical release H.15 (519) for the next to last complete business week of the preceding calendar month. However, this rate will not exceed the prime rate in effect at a nationally recognized U.S. bank to be designated by Southern.

Such open account advances may, at the option of Southern, be converted into capital contributions or additional shares of common stock of Southern Nuclear. To the extent such advances are converted to equity, the borrowing authority sought herein will be reduced by the amount so converted so that the total capitalization does not exceed $11.4 million (including its present common equity of $1.4 million). The rate of return on Southern Nuclear's common equity capital will not exceed the simple average of the most recent rates of return allowed by the Alabama Public Service Commission and the Georgia Public Service Commission.

Borrowings from other lenders will have maturities not to exceed 10 years and will accrue interest at a rate not to exceed the prime rate plus 2% for variable rate loans and the prime rate at the time of borrowing plus 3% for fixed rate loans. Such loans may be secured or unsecured and may be guaranteed by Southern. Southern Nuclear states that the funds will be used by Southern Nuclear in connection with its working capital needs, including the purchase of equipment and office furniture, leasehold improvement and loans to employees for purposes such as residential energy programs, purchases of computers and employee transfer expenses.

Central and South West Corp., et al. (70–8157)

Central and South West Corporation ("CSW"), a registered holding company, its service company subsidiary, Central and South West Services, Inc. ("Services"), both located at 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, and five of CSW's operating subsidiary companies, Central Power and Light Company ("CP&L"), 539 North Carancahua Street, Corpus Christi, Texas 78401–2802, Public Service Company of Oklahoma ("PSO"),

212 East Sixth Street, Tulsa, Oklahoma 74119–1212, Southwestern Electric Power Company ("SWEPCO"), 428 Travis Street, Shreveport, Louisiana 71156–0001, West Texas Utilities Company ("West Texas"), 301 Cypress Street, Abilene, Texas 79601–5820, Transok, Inc. ("Transok"), 2 West Sixth Street, Tulsa, Oklahoma 74119 (collectively, "Subsidiaries") have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43, 45 and 50(a)(5) thereunder.

CSW and its Subsidiaries propose to continue, through March 31, 1995, their short-term borrowing program, which includes the sale of commercial paper by CSW to commercial paper dealers and financial institutions and the sale of short-term notes to banks and their trust departments by CSW and the Subsidiaries ("External Program") and the CSW System Money Pool ("Money Pool"), as previously authorized by orders dated April 5, 1989, October 10, 1989, May 15, 1990 and March 29, 1991 (HCAR Nos. 24855, 24966, 25090 and 25288, respectively) ("Prior Orders"). The External Program would be coordinated through the use of the Money Pool, whereby CSW and its Subsidiaries would make loans to, and the Subsidiaries would borrow from, the Money Pool. Loans to the Subsidiaries through the Money Pool will be made pursuant to open-account advances, although any lender would at all times be entitled to receive upon demand a promissory note evidencing the transaction.

The External Program and the Money Pool would make funds available to the Subsidiaries for the interim financing of their capital expenditure programs and their other working capital needs, and to CSW to loan and, when approved by the Commission, to make capital contributions to any of its subsidiaries and in both instances to repay previous borrowings incurred for such purposes. CSW and its Subsidiaries will not use the additional requested borrowings to finance the acquisition of an exempt wholesale generator or a foreign utility company.

Funds for the Money Pool would be available from surplus funds from the treasuries of CSW and its operating subsidiaries CP&L, PSO, SWEPCO, West Texas and Transok ("Operating Subsidiaries"), from proceeds from the sale of commercial paper by CSW and bank borrowings by CSW and its Subsidiaries. Funds to be loaned to the Subsidiaries are obtained in the following order of priority:

(1) Available surplus funds of the Operating Subsidiaries will be used to satisfy the borrowing needs of other Subsidiaries before any funds of CSW are used;

(2) Available surplus funds in CSW's treasury; and

(3) External borrowings by CSW from the sale of commercial paper and/or bank borrowings. External borrowings by CSW would not be made unless there were no surplus funds in the treasuries of the Operating Subsidiaries or CSW sufficient to meet borrowing needs. However, no loan will be made by CSW or an Operating Subsidiary if the borrowing company could borrow more cheaply directly from banks or through the sale of its own commercial paper. Each borrowing Subsidiary will borrow *pro rata* from each fund source in the same proportion that the amount of funds provided by that fund source bears to the total amount of short-term funds available to the Money Pool.

The interest rate applicable on any day to the then outstanding loans through the Money Pool will be the composite weighted average daily effective cost incurred by CSW for short-term borrowings from external sources. If there are no borrowings outstanding then the rate would be the certificate of deposit yield equivalent of the 30-day Federal Reserve "AA" Industrial Commercial Paper Composite Rate ("Composite"), or if no Composite is established for that day, then the applicable rate will be the Composite for the next preceding day for which the Composite is established.

The aggregate principal amounts of short-term borrowing outstanding at any one time requested by CSW and its Subsidiaries are as follows: CSW—$800 million; CP&L—$250 million; PSO—$100 million; SWEPCO—$150 million; West Texas—50 million; Services—$90 million; and Transok—$120 million. These amounts reflect an increase in borrowing levels from those authorized in the Prior Orders for:

(1) CSW of $200 million to accommodate additional investments in CSW Credit, Inc., CSW Energy, Inc. and new Money Pool requirements;

(2) CP&L of $50 million to finance an increase in capital expenditures and for bond refinancing; and

(3) Services of $30 million to finance building expenditures. The aggregate principal amount of outstanding borrowings for CSW and its Subsidiaries together will not exceed $800 million.

To provide funds for the Money Pool, CSW requests authority to issue and sell commercial paper ("Commercial Paper") to commercial paper dealers ("Dealers") and financial institutions. The Commercial Paper will mature in 270 days or less and will be issued from time-to-time through March 31,1995. CSW requests an exception from the competitive bidding requirements of Rule 50 under subsection (a) (5) for the issuance and sale of Commercial Paper.

The Commercial Paper issued to Dealers will be in the form of either physical or book-entry unsecured promissory notes. Such notes will be issued and sold by CSW directly to Dealers at a rate not to exceed the rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity sold by issuers thereof to Dealers. No commission or fee will be payable in connection with the issuance and sale of the Commercial Paper. The purchasing dealer, however, will reoffer such notes at a rate less than the rate to the issuer and, as principal, will reoffer such notes in such a manner as not to constitute a public offering under the Securities Act of 1933.

Sales of Commercial paper directly to financial institutions will be undertaken only if the resulting cost of money is equal to or less than that available from Dealer-placed commercial paper or bank-borrowings. Terms for directly placed notes would be similar to those of dealer placed notes.

CSW and its Subsidiaries also request authorization to borrow money from banks, from time-to-time through March 31, 1995, to the extent that the surplus funds of CSW and the Operating Subsidiaries are insufficient to meet the Subsidiaries' requests for short-term loans, and subject to the limitations on aggregate principal amounts, above. Such borrowing will not be made unless it would produce a lower cost of money than the issue of CSW's Commercial Paper and, in any event, they will not bear a rate of interest higher than the effective cost of money for unsecured prime commercial bank loans prevailing on the date of such borrowing. The borrowings will be evidenced by promissory notes maturing no later than December 31, 1995 and will be subject to prepayment by the borrower in whole at any time or in part from time-to-time, without penalty.

Compensation arrangements under lines of credit with banks maintained by CSW and its Subsidiaries are on a balance or fee basis. In general, fees range from 1/8 to 1/5 of 1% per annum on the average unused portion of the commitment and balance arrangements require average balances of 3% of the amount of the commitment.

Additionally, CSW requests authorization, from time-to-time through March 31, 1995, to borrow funds managed by the trust departments of banks if such borrowings result in a

cost of money equal to or less than that available from the sale of Commercial Paper or other bank borrowings.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5716 Filed 3–11–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted within 30 days of this publication in the **Federal Register**. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Office before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205–6629.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Lender Field Visit Report

Form No.: SBA Form 1183

Frequency: On Occasion

Description of Respondents: Small Businesses

Annual Responses: 14,720

Annual Burden: 14,720

Title: Loan Servicing Field Visit Report

Form No.: SBA Form 712

Frequency: On Occasion

Description of Respondents: Small Businesses

Annual Responses: 45,000

Annual Burden: 45,000

Title: Liquidation Activities

Form No.: N/A

Frequency: On Occasion

Description of Respondents: Auctioneer Contractors

Annual Responses: 2,800

Annual Burden: 28,000

Cleo Verbillis,

Chief, Administrative Information Branch.

[FR Doc. 93–5667 Filed 3–11–93; 8:45 am]

BILLING CODE 8025–01–M

Chicago District Advisory Council; Public Meeting

The U.S. Small Business Administration Chicago District Advisory Council will hold a public meeting from 10 a.m. to 1 p.m. on Thursday, April 22, 1993 at the U.S. Small Business Administration, 500 West Madison Street, suite 1250, Chicago, Illinois, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. John L. Smith, District Director, U.S. Small Business Administration, 500 West Madison Street, Chicago, Illinois 60661–2511, (312) 353–4508.

Dated: March 8, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–5669 Filed 3–11–93; 8:45 am]

BILLING CODE 8025–01–M

Houston District Advisory Council; Public Meeting

The U.S. Small Business Administration Houston District Advisory Council will hold a public meeting at 9 a.m: on Wednesday, March 31, 1993 at Texas Commerce Bank—Del Oro, 7505 Fannin, 3rd Floor, suite 333, Houston, Texas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Milton Wilson, Jr., District Director, U.S. Small Business Administration, 9301 Southwest Freeway, suite 550, Houston, Texas 77074–1591, (713) 773–6500.

Dated: March 8, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–5668 Filed 3–11–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; North Kona, HI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in North Kona, Hawaii.

FOR FURTHER INFORMATION CONTACT: William R. Lake, Division Administrator, Federal Highway Administration, Office Address: 300 Ala Moana Boulevard, rm. #3202, Honolulu, Hawaii 96813; Mailing Address: P.O. Box 50206, Honolulu, Hawaii 96850. Telephone: (808) 541–2700.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Hawaii Department of Transportation, Highways Division will prepare an environmental impact statement on a proposal to construct a new, four-lane divided roadway approximately 2.4 miles long, connecting Mamalahoa Highway and Queen Kaahumanu Highway. This roadway, referred to as Kealakehe Parkway, is generally aligned in an east-west (mauka-makai) direction and is intended to provide a major access road to both Queen Kaahumanu Highway and Mamalahoa Highway/Palani Road from the La'i Opua Planned Community.

Improved access to the corridor is necessary to provide for the existing and projected traffic demand. Since the 2010 projections of traffic volumes along the major roadways in the area exceed existing capacity even without the La'i Opua development, there is need to reduce projected future congestion on the existing roadways. The project will also provide an improved, safe and efficient highway for traffic which now must use Palani Road. Alternatives under consideration include (1) taking no action; and (2) constructing a four-lane, limited access highway on a new location. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposed project. A public information and scoping meeting was held August 27, 1992 at King

Kamehameha Hotel in Kona, Hawaii. In addition, a public hearing will be held after publication of the draft EIS. Public notice will be given of the time and place of the hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. A second public scoping meeting is not proposed.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and EIS should be directed to the FHWA at the above address.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

William R. Lake,

Division Administrator, Hawaii.

[FR Doc. 93-5654 Filed 3-11-93; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 93-05]

Report to the Congress Regarding the Differences in Capital and Accounting Standards Among the Federal Banking and Thrift Agencies

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Report to the Committee on Banking, Housing, and Urban Affairs of the United States Senate and to the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives regarding differences in capital and accounting standards among the federal banking and thrift agencies.

SUMMARY: The Office of the Comptroller of the Currency (OCC) has prepared this report as required by the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). FDICIA requires the OCC to provide a report to Congress on any differences in capital standards among the federal financial regulatory agencies. This notice is intended to satisfy the FDICIA requirement that the report be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Robert Hemming, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 874-5170, or Ronald Shimabukuro, Senior Attorney, Banking Operations and Assets Division, (202) 874-4460, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Section 121 of FDICIA, Public Law 102-242, 105 stat. 2236 (December 19, 1991), requires each federal banking agency to report annually to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on any differences between the capital standards used by the OCC and the capital standards used by the other financial institutions supervisory agencies. The text of that report is provided as follows:

Differences in Capital and Accounting Standards Among the Federal Banking and Thrift Agencies

Report to the Committee on Banking, Housing, and Urban Affairs of the United States Senate and to the Committee on Banking, Finance, and Urban Affairs of the United States House of Representatives

This annual report details the differences in the capital requirements of the OCC, the Federal Reserve Board (FRB), the Federal Deposit Insurance Corporation (FDIC) and the Office of Thrift Supervision (OTS). Representatives of each of the agencies meet regularly to discuss capital issues as part of an ongoing effort to promote consistent interpretation and application of capital requirements and to develop uniform capital standards.

This report is divided into two sections. The first section discusses the differences in the capital standards; the second section discusses the differences in accounting standards.

A. Differences in Capital Standards Among the Federal Financial Institution Regulatory Agencies

Prior to the promulgation of the risk-based capital guidelines, the federal banking agencies imposed a leverage capital standard based on the ratio of primary and secondary capital to total assets. Primary capital was defined principally as permanent shareholders' equity, general loan loss reserves, and certain mandatory convertible securities. Generally, banks were required to maintain a level of primary capital of at least 5.5 percent of total assets and a level of total capital (primary plus secondary capital) of at least 6 percent of total assets.

In 1989 the banking agencies and OTS adopted the risk-based capital guidelines. Unlike the leverage capital requirements, the risk-based capital guidelines impose capital requirements based on the credit risk profiles of the assets held by an institution and provide a means to measure off-balance sheet risks. In addition, the risk-based capital guidelines revised the definition of capital by replacing primary and secondary capital with Tier 1 and Tier 2 capital. Once fully phased in at the end of 1992, the risk-based capital guidelines will require banking and thrift institutions to maintain total capital of at least 8 percent of risk-weighted assets. The risk-based capital guidelines implement the Accord on International Convergence of Capital Measurement and Capital Standards of July 1988, as reported by the Committee on Banking Regulation and Supervisory Practice (Basle Accord).

After the promulgation of the risk-based capital guidelines, the agencies also revised the leverage capital requirements by similarly replacing the definitions of primary and secondary capital with the risk-based capital definitions of Tier 1 and Tier 2 capital. The leverage capital requirements work in conjunction with the risk-based capital guidelines and impose minimum capital requirements regardless of the risk weights of the assets held by the institution.

Although the agencies have adopted common leverage capital requirements and risk-based capital guidelines, there remain some technical differences in language and interpretation of the capital standards among the agencies. These minor differences are detailed below.

1. Leverage Capital Requirements

Aside from the risk-based capital guidelines, the banking agencies and the OTS impose an additional leverage capital requirement. Under the leverage capital requirements of the banking agencies the most highly-rated banks must maintain a minimum leverage capital ratio of 3 percent of Tier 1 capital to total assets; all other banks are required to maintain capital of an additional 100 to 200 basis points.

As required by the Financial Institution Reform, Recovery and Enforcement Act (FIRREA), the OTS has established a 3 percent core capital ratio and a 1.5 percent tangible capital leverage requirement for thrift institutions. The OTS, however, is currently in the process of finalizing a new leverage rule that will generally conform with the rules of the banking agencies. The differences that will exist after the promulgation of the final OTS leverage requirement will pertain to the

definition of core capital. While the OTS definition of core capital will generally conform to Tier 1 bank capital, certain adjustments remain to be made.

2. Equity Investments

In general, commercial banks are not permitted to invest in equity securities, nor are they generally permitted to engage in real estate investment or development activities. To the extent that a bank is permitted to hold equity securities (as with securities obtained in connection with debts previously contracted), the risk-based capital guidelines of the banking agencies require these investments to be risk-weighted at 100 percent. However, the banking agencies may require deduction of equity investments from the capital of the parent bank or impose other requirements in order to assess an appropriate capital charge above the minimum capital requirements.

The OTS risk-based capital requirements require thrift institutions to deduct equity investments from capital over a phased-in period ending July 1, 1994. This phased-in period may be extended to July 1, 1996, by the OTS on a case-by-case basis. In the interim, the portion of these equity investments not deducted will be risk-weighted at 100 percent.

3. Assets Subject to Guarantee Arrangements by the Federal Savings and Loan Insurance Corporation (FSLIC)/Federal Deposit Insurance Corporation

The risk-based capital guidelines of the banking agencies assign assets subject to FSLIC or FDIC guarantees to the 20 percent risk-weight category, the same category to which claims on depository institutions and government-sponsored agencies are assigned. The OTS assigns these assets to the zero percent risk weight category.

4. Repossessed Assets and Assets More Than 90 Days Past Due

The banking agencies require that foreclosed real estate be written down to fair value and the resulting asset assigned to the 100 percent risk-weight category. See section B, Specific Valuation Allowance for, and Charge-Offs of, Troubled Real Estate Loans Not in Foreclosure. This write-down effectively results in a reduction of capital. Assets 90 days or more past due, including one- to four-family mortgages, are assigned to the 100 percent risk-weight category. When the assets are charged-off, capital is effectively adjusted for any resulting loss.

Consistent with the Basle Accord, the 100 percent risk-weight category is the highest risk-weight category under the risk-based capital guidelines of the banking agencies. The OTS risk-based capital requirements provide for a 200 percent risk-weight category assigned to repossessed assets and assets more than 90 days past due (generally referred to as real estate owned (REO)). An exception to this are one- to four-family mortgages more than 90 days past due, which are assigned to the 100 percent risk weight category and not the 200 percent risk weight category. In conjunction with proposed changes in the accounting for REO, the OTS intends to change the risk weight for all REO to 100 percent.

5. Limitation on Subordinated Debt and Limited-Life Preferred Stock

As provided in the Basle Accord, the banking agencies limit the amount of subordinated debt and limited-life preferred stock that may be included in Tier 2 capital to 50 percent of Tier 1 capital. This limitation is in addition to the overall limitation on Tier 2 capital which restricts the amount of Tier 2 capital that may be included in total capital to 100 percent of Tier 1 capital. In addition, the risk-based capital guidelines of the banking agencies require that subordinated debt and limited-life preferred stock be discounted 20 percent in each of the five years prior to maturity.

While subordinated debt and limited-life preferred stock do provide some measure of protection to the FDIC insurance fund, neither are a permanent source of funds. Moreover, subordinated debt cannot absorb losses while the bank continues to operate as a going concern. Consequently, this limitation permits the inclusion of some subordinated debt and limited-life preferred stock in capital while assuring that permanent stockholders' equity capital remains the predominant element in bank regulatory capital.

The OTS risk-based capital guidelines do not contain any sublimit on the total amount of limited-life instruments that may be included within Tier 2 capital. In addition, the OTS allows thrift institutions the option of either: (1) Discounting maturing capital instruments (issued on or after November 7, 1989) by 20 percent a year over the last five years of their term or (2) including the full amount of such instruments provided that the amount maturing in any of the next seven years does not exceed 20 percent of the total capital of the thrift institution.

6. Subsidiaries

There are significant differences in the types of activities in which bank and thrift subsidiaries may engage, and in the applicable accounting rules concerning the consolidation of subsidiaries. These differences in permissible activities and accounting can generate differences in the capital requirement for banks and thrift institutions. The banking agencies generally require that all significant majority-owned subsidiaries be consolidated with the parent organization for capital purposes. This requirement is consistent with the Basle Accord and ensures that all risks related to the banking organizations are taken into account for regulatory capital purposes.

In the case of unconsolidated banking and financial subsidiaries, the OCC risk-based capital guidelines require investments, both equity and debt, to be deducted from the total capital of the bank. Investments in other subsidiaries and associated companies may be required to be deducted by the OCC on a case-by-case basis.

Similarly, while the FRB risk-based capital guidelines generally require the deduction of investments in unconsolidated banking and finance subsidiaries, the FRB does retain flexibility in the capital treatment of investments in unconsolidated subsidiaries other than banking and finance subsidiaries or joint ventures and associated companies. The FRB may require the investments in such subsidiaries to be deducted, to be appropriately risk-weighted against the proportionate share of the assets of the entity, to be consolidated line-by-line with the entity, or otherwise require the parent organization to maintain capital above the minimum standard sufficient to compensate for any risks associated with the investment.

The risk-based capital guidelines also permit the deduction of investments in subsidiaries that, while consolidated for accounting purposes, are not consolidated for certain specified supervisory or regulatory purposes. For example, the FRB deducts investments in, and unsecured advances to, Section 20 securities subsidiaries from the capital of the parent bank holding company. The FDIC accords similar treatment to securities subsidiaries of state-chartered nonmember banks. In addition, under the FDIC rules, investments in, and extensions of credit to, certain mortgage banking subsidiaries are also deducted in computing the capital of the parent bank. Neither the OCC nor the FRB has a similar requirement with regard to mortgage banking subsidiaries.

The deduction of investments in subsidiaries from the capital of the

parent bank is designed to ensure that the capital supporting the subsidiary is not also used as the basis of further leveraging and risk-taking by the parent bank. In deducting investments in, and advances to, certain subsidiaries from the capital of the parent bank, the banking agencies expect the parent banking organization to meet or exceed minimum regulatory capital requirements without reliance on the capital invested in the subsidiary. In assessing the overall capital adequacy of banking organizations, the banking agencies may also consider the organization's fully consolidated capital position.

Under OTS risk-based capital guidelines, a distinction, mandated by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, is made between subsidiaries engaged in activities permissible for national banks and subsidiaries engaged in activities "impermissible" for national banks. Subsidiaries of thrift institutions that engage only in bank-permissible activities are consolidated on a line-for-line basis if majority-owned and on a *pro rata* basis if ownership is between 5 percent and 50 percent. As a general rule, investments, including loans, in subsidiaries that engage in impermissible activities are deducted in determining the capital adequacy of the parent thrift institution. The remaining assets (the percent of assets corresponding to the nondeducted portion of the investment in the subsidiary) are consolidated with the parent thrift. However, investments, including loans, outstanding as of April 12, 1989, to subsidiaries that were engaged in impermissible activities prior to that date are grandfathered and will be phased-out of capital over a transition period that expires on July 1, 1994. The transition period may be extended to July 1, 1996, by the OTS on a case-by-case basis. During this transition period, investments in subsidiaries engaged in impermissible activities that have not been phased out of capital are to be consolidated on a *pro rata* basis.

7. Presold Residential Construction Loans

As mandated under Section 618(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (RTCRRIA), the banking agencies have amended the risk-based capital guidelines to lower the risk-weight to 50 percent for loans to finance the construction of one- to four-family residential properties that have been presold. Prior to this amendment, these loans were considered to be construction and land development loans and generally assigned to the 100 percent risk-weight category.

Section 618(a) requires the banking agencies and the OTS to assign to the 50 percent risk weight category any presold residential construction loan that meets the following criteria: (1) The loan is for the construction of a one- to four-family residential property, (2) the financial institution has sufficient documentation, as may be required by the appropriate federal banking agency, to demonstrate the intent and ability of the buyer to purchase the property, (3) the purchaser has provided a nonrefundable deposit to the builder in an amount determined by the appropriate federal banking agency, but not less than one percent of the principal amount of the mortgage, and (4) the loan satisfies prudent underwriting standards as established by the appropriate federal banking agency.

The OTS and OCC have already issued final rules implementing Section 618(a). The FDIC is in the process of adopting a final rule. The FRB is planning to issue an interim rule amending its risk-based capital guidelines. There is a difference between the OCC rules and those under consideration by the FDIC and FRB. Under the OCC rules, the property must be presold *before* the construction loan is extended in order for the loan to qualify for the 50 percent risk-weight. The FDIC and FRB amendments would allow loans for the construction of such properties to qualify for the 50 percent risk-weight once the property is presold, even if that sale occurs *after* the construction loan was made. The OTS also is considering an approach similar to the FRB and FDIC.

8. Qualifying Multifamily Mortgage Loans

Currently, the risk-based capital guidelines of the banking agencies risk-weight multifamily mortgage loans (five units or more) at 100 percent. The reason for this is that the credit risk associated with such loans, unless conservatively underwritten and seasoned, is similar to that experienced on commercial property loans assigned to the 100 percent risk-weight category, rather than to loans secured by mortgages on one- to four-family residences assigned to the 50 percent risk weight category. Under the OTS risk-based capital guidelines, however, certain multifamily mortgage loans that are secured by buildings with 5 to 36 units, have a maximum 80 percent loan-to-value ratio, and maintain an 80 percent occupancy rate may qualify for the 50 percent risk-weight category.

Pursuant to section 618(b) of the RTCRRIA, the banking agencies and OTS were directed to amend their risk-based capital guidelines to lower the risk weight of certain multifamily housing loans, and securities backed by such loans, from 100 percent to 50 percent. Section 618(b) provides specific criteria for qualifying multifamily housing loans which include: (1) The loan must be secured by a first lien, (2) the loan-to-value ratio does not exceed 80 percent for fixed interest rate loans and 75 percent for floating interest rate, (3) the annual net operating income generated by the property (before debt service) is not less than 120 percent of the annual debt service on the loan for a fixed interest rate loan or not less than 115 percent for a floating interest rate loan, (4) the amortization of principal and interest occurs over a period of not more than 30 years and the minimum maturity for repayment of principal is not less than seven years, and (5) all principal and interest payments have been made on time for a period of not less than one year.

In addition, section 618(b) also provides that multifamily housing loans accorded a 50 percent risk weight must meet any other underwriting characteristics that the appropriate federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

The agencies have proposed revisions to their capital standards to meet the requirement of section 618(b). The comments received in response to these proposals are currently under review and consideration.

9. Nonresidential Construction and Land Loans

Under the risk-based capital guidelines of the banking agencies loans for real estate development and construction are assigned to the 100 percent risk-weight category. Reserves or charge-offs are required for such loans when weaknesses or losses develop. The banking agencies have no requirement for an automatic charge-off when the amount of a loan exceeds the fair value of the property pledged as collateral for the loan.

OTS generally also assigns these loans to the 100 percent risk category. However, if the amount of the loan exceeds 80 percent of the fair value of the property, that excess portion must be deducted from capital in accordance

with a phase-in arrangement, which ends on July 1, 1994.

10. Mortgage-Backed Securities (MBS)

The risk-based capital guidelines of the banking agencies generally assign a risk weight to privately-issued MBSs according to the underlying assets, but in no case to the zero percent risk-weight category. In the case of privately-issued MBSs where the direct underlying assets are mortgages, this treatment generally results in a risk weight of 50 percent or 100 percent. Privately-issued MBSs that have government agency or government-sponsored agency securities as their direct underlying assets are generally assigned to the 20 percent risk-weight category.

The OTS assigns privately-issued high quality mortgage-related securities to the 20 percent risk-weight category. However, these are privately-issued MBSs with AA or better investment ratings.

At the same time, the federal banking agencies automatically assign to the 100 percent risk weight category certain MBSs, including interest-only strips, residuals, and similar intruments that can absorb more than their *pro rata* share of loss.

11. Goodwill

As required by FIRREA, the federal banking agencies do not allow banks or FDIC-supervised savings banks to include goodwill as capital for either risk-based capital guidelines or the leverage capital requirements. Bank holding companies may include goodwill acquired prior to March 12, 1988, in Tier 1 for the purposes of the risk-based capital guidelines (although not for leverage capital requirements), until the end of 1992. After 1992, all goodwill is to be deducted from bank holding company capital.

As permitted by FIRREA, OTS allows "qualifying supervisory goodwill" to be included as part of core capital through year-end 1994. After this date, thrift institutions must satisfy their minimum core capital requirement without reliance on goodwill.

12. Intangible Assets

Currently, the banking agencies and OTS differ somewhat with regard to the capital treatment of identifiable intangible assets. The FDIC and OCC require banks to deduct all intangible assets other than purchased mortgage servicing rights (PMSR) from Tier 1 capital. The FRB does not automatically deduct any identifiable intangible assets from Tier 1 capital, but determines the appropriateness of their inclusion as capital on a case-by-case basis. The OTS deducts all intangible assets other than PMSRs unless an institution can document that its holdings of the intangible asset satisfy certain criteria.

All of the agencies have some means of limiting the amount of intangible assets that institutions can include in capital. The OCC permits PMSRs to account for up to 25 percent of Tier 1 capital, while the FDIC permits them to account for up to 50 percent of Tier 1. The OTS also permits PMSRs to be included up to 50 percent of Tier 1 capital and limits other qualifying intangibles to 25 percent of Tier 1 capital. The FRB risk-based capital guidelines provide that identifiable intangible assets in excess of 25 percent of Tier 1 capital are subject to particularly close scrutiny. The FDIC and OTS also subject PMSRs to certain valuation and discounting requirements.

In order to develop a uniform capital treatment for identifiable intangible assets, the agencies issued separate proposals, on a coordinated basis, for public comment. Generally, the agencies proposed to permit the inclusion of PMSRs and purchased credit card relationships (PCCR) in capital, provided that, in the aggregate, the amount included does not exceed 50 percent of Tier 1 capital. PCCRs would be subject to a separate sublimit of 25 percent of Tier 1. Amounts of PMSRs and PCCRs in excess of these amounts, as well as all other identifiable intangible assets, including core deposit intangibles, would be deducted from Tier 1 for purposes of calculating regulatory capital ratios.

The proposals also deal with the valuation of identifiable intangible assets included in capital in a manner that is consistent with section 475 of FDICIA. Section 475 requires that the value of PMSRs included in calculating an institution's capital not exceed 90 percent of their fair market value and that such value be determined at least quarterly. The proposal also states that, for purposes of calculating regulatory capital (but not for financial statement purposes), the amount of PMSRs and PCCRs reported as a balance sheet asset would be reduced to the lesser of: (1) 90 percent of the fair market value of the PMSRs; (2) 90 percent of the original purchase price paid for the PMSRs; or (3) 100 percent of the remaining unamortized book value of the PMSRs.

This discounting requirement is the same as that which the FDIC and OTS currently require state-chartered nonmember banks and savings associations to apply to their holdings of PMSRs.

The proposals also state that, in accordance with current FDIC and OTS rules, institutions wishing to include PMSRs and PCCRs in capital must carry them at a book value equal to the discounted value of their future net servicing income. Under the proposal, it would further be required that the discount rate used for this purpose not be less than that used at the time of acquisition, based upon the estimated cash flows and the price paid for the asset at the time of purchase.

The agencies have received public comments on the proposals and are reviewing these comments in preparation for issuing their final rules.

13. Assets Sold with Recourse

In general, recourse arrangements allow the purchaser of an asset to seek recovery against the originating institution which sold the asset under such circumstances that may be prescribed by agreement. Recovery can take various forms, but usually permits the seller to "put," or resell, the asset back to the selling institution or to obtain reimbursement from the selling institution for the amount of the loss. A typical condition for recourse would be if the asset ceases to perform satisfactorily. Therefore, recourse provisions generally expose the originating institution to loss associated with the asset.

Generally, under the risk-based capital guidelines of the banking agencies, sales of assets involving any recourse must be reported as financings so that the assets are retained on the balance sheet of the selling bank. This has the effect of requiring a full leverage and risk-based capital charge whenever assets are sold with recourse, including limited recourse.

The OCC has recently revised its risk-based capital guidelines to clarify the definition of recourse and to permit a limited exception for transactions involving the sale of certain mortgage loan pools where the selling bank has retained only minimal recourse and generally has provided for all potential losses.

The FRB generally applies a capital charge to any recourse arrangement that is the equivalent of an off-balance sheet guarantee, regardless of the nature of the transaction that gives rise to the recourse obligation. As with the OCC, the FRB provides exception for pools of one- to four-family residential mortgages and to certain farm mortgage loans. These recourse transactions are reported by the bank as sales, removing them from leverage capital requirements. These transactions, which are the equivalent of off-balance sheet

guarantees, involve the type of credit risk that is addressed by the risk-based capital guidelines. However, some questions have been raised because of the treatment afforded these transactions for the purposes of the leverage capital requirements. The FRB has clarified its risk-based capital guidelines to ensure that recourse sales involving residential mortgages are to be taken into account for determining compliance with risk-based capital requirements.

In general, OTS also requires a full capital charge against assets sold with recourse. However, in the case of limited recourse, OTS limits the capital charge to the lesser of the amount of recourse or the actual amount of capital that would otherwise be required against that asset, that is, the normal full capital charge.

Some securitized asset arrangements involve the issuance of senior and subordinated classes of securities against pools of assets. When a bank originates such a transaction by placing loans that it owns in a trust and retaining any portion of the subordinated securities, the banking agencies require that capital be maintained against the entire amount of the asset pool. When a bank acquires a subordinated security in a pool of assets that it did not originate, the banking agencies assign the investment in the subordinated piece to the 100 percent risk-weight category. The banking agencies review these instruments to determine if additional reserves, asset write-downs, or capital are necessary to protect the bank.

The OTS requires that capital be maintained against the entire amount of the asset pool in both of the situations described in the preceding paragraph. Additionally, the OTS applies a capital charge to the full amount of assets being serviced when the servicer is required to absorb credit losses on the assets being serviced.

In 1990, the banking agencies and the OTS under the FFIEC issued for public comment a fact finding paper pertaining to the full range of issues relating to recourse arrangements. These issues include the definition of "recourse" and the appropriate reporting and capital treatments to be applied to recourse arrangements, as well as so-called recourse servicing arrangements and limited recourse. The objective of this effort was to develop in a comprehensive and consistent fashion an appropriate and uniform approach to recourse arrangements for capital adequacy, reporting, and other regulatory purposes. The comments received were very extensive and generally illustrated the complexity of the subject. In view of the significance and complexity of this project, the FFIEC in December 1990 decided to narrow the scope of the initial phase of the recourse project to credit-related recourse arrangements that involve limited recourse or that support a third party's assets.

A recourse working group, composed of representatives from all four agencies, presented a report and recommendations to the FFIEC in August 1992 and were directed to carry out a study of the impact of their recommendations on depository institutions, financial markets, and other affected parties. Plans to carry out this study are being developed by the interagency working group.

14. Agricultural Loan Loss Amortization

In determining regulatory capital, those banks accepted into the agricultural loan loss amortization program pursuant to Title VIII of the Competitive Equality Banking Act of 1987 are permitted to defer and amortize losses incurred on agricultural loans between January 1, 1984, and December 31, 1991. The program also applies to losses incurred between January 1, 1983, and December 31, 1991, as a result of reappraisals and sales of agricultural other real estate owned and agricultural personal property. These losses must be fully amortized over a period not to exceed seven years and, in any case, must be fully amortized by year-end 1998. Thrift institutions are not eligible to participate in the agricultural loan loss amortization program established by this statute.

15. Treatment of Junior Liens on One- to Four-Family Properties

In some cases, a banking organization may make two loans secured by a single piece of residential property: One loan secured by a first lien, the other by a second lien. The OCC and OTS generally assign first liens on one- to four-family property to the 50 percent risk-weight category. All second liens on residential property are assigned to the 100 percent risk-weight category, regardless of whether the institution also holds the first lien. The assignment of mortgages to the 50 percent risk-weight category is based upon the presumption that banks will adhere to prudent underwriting standards with respect to the maximum loan-to-value ratio, the borrower's paying capacity and the long-term expectations for the real estate market in which the bank is lending.

The FDIC similarly assigns all second liens to the 100 percent risk-weight category. However, in determining the risk-weight of the first lien, the FDIC considers the first and second liens together to assess whether the first lien satisfies prudent underwriting standards. When evaluated together, if the first and second liens are within the prudent loan-to-value ratio and satisfy all other underwriting standards, then the first lien will be assigned to the 50 percent risk-weight category; otherwise, it will be assigned to the 100 percent risk category.

The FRB and OTS considers the first and second liens as a single loan, provided there are no intervening liens. Therefore, the total amount of these transactions may be assigned to the 100 percent risk-weight category if, in the aggregate, the two loans exceed a prudent loan-to-value ratio and, therefore, do not qualify for the 50 percent risk-weight category. This approach is intended to avoid possible circumvention of the capital requirements and capture the risks associated with the combined transactions. However, if the total amount of the transaction does satisfy a prudent loan-to-value ratio and other underwriting standards, then both the first and second liens may be assigned to the 50 percent risk-weight category.

Although there are some technical differences in the methodology, all the agencies have the same ability to adjust the capital requirements of an individual bank to account for imprudent loans secured by first liens on one- to four-family properties.

16. Pledged Deposits and Nonwithdrawable Accounts

The OTS capital guidelines permit thrift institutions to include in capital certain pledged deposits and nonwithdrawal accounts that satisfy specified OTS criteria. Income capital certificates and mutual capital certificates held by OTS may also be included in capital by thrift institutions. These instruments are not relevant to the commercial banks, and, therefore, they are not addressed in the risk-based capital guidelines of the banking agencies.

17. Mutual Funds

The three banking agencies assign all of the holdings of a bank in a mutual fund to the risk category appropriate to the highest risk asset that a particular mutual fund is permitted to hold under its operating rules. The purpose of this is to take into account the maximum degree of risk to which a bank may be exposed when investing in a mutual fund in view of the fact that the future

composition and risk characteristics of the fund cannot be known in advance.

The OTS applies a capital charge based on the riskiest asset that is actually held by the mutual fund at a particular time. In addition the OTS guidelines also permit, on a case-by-case basis, investments in mutual funds to be allocated on a *pro rata* basis dependent on the actual composition of the fund.

18. Interest Rate Risk

The risk-based capital ratio was designed primarily as a broad measure of relative credit risk of the assets of the bank. However, the banking agencies and OTS are continuing their efforts to refine the risk-based capital guidelines to take into account other noncredit risks, including risks associated with interest rates, equity investments, and foreign exchange activities. The agencies are required to consider interest rate risk as well as the risk of concentrations of credit and the risks of nontraditional activities under Section 305 of FDICIA.

The OTS is currently considering issuing in the near future an approach for incorporating an interest rate risk component into its reporting and risk-based capital guidelines. The banking agencies have published for public comment an advance notice of proposed rulemaking on ways to incorporate interest rate risk, the risk of concentrations of credit and the risks of nontraditional activities into the risk-based capital guidelines. With respect to interest rate risk, the approach adopted by the banking agencies might differ from the approach taken by the OTS.

19. Collateralized Transactions

In December 1992, the FRB amended its risk-based capital guidelines to lower the risk-weight on loans collateralized by cash or government securities from 20 percent to zero percent. The OCC is currently drafting a notice of proposed rulemaking to propose similar changes to its risk-based capital guidelines. The FDIC and OTS are also considering the issue.

B. Interagency Differences in Accounting Principles

The OCC, as well as the other banking agencies, requires banks to follow generally accepted accounting principles (GAAP) except when significant supervisory concerns dictate more stringent standards. For the most part, the regulatory accounting standards for all commercial banks, whether regulated by the OCC, the FRB, or the FDIC, are prescribed in the Instructions to the Report of Condition and Income (Call Report).

The Call Report instructions are established by the FFIEC and are generally consistent with GAAP. Differences in interpretations between the OCC and the other banking agencies may occur. However, such differences are usually infrequent and involve immaterial or emerging issues which the FFIEC has not yet reviewed on a joint agency basis.

The OTS requires each thrift institution to file the Thrift Financial Report. That report is filed on a basis consistent with GAAP as it is applied by thrift institutions, which differs in a few respects for GAAP as it is applied by banks.

These differences in accounting principles between the banks and thrift institutions may cause differences in financial statement presentation and in amounts of regulatory capital required to be maintained by depository institutions.

The following summarizes the significant differences in accounting standards between the Thrift Financial Report and the Call Report. These differences generally arise because of either: (1) Differences between regulatory reporting standards and GAAP applicable to banks, or (2) differences in GAAP applicable to banks and GAAP applicable to thrift institutions.

1. Specific Valuation Allowances for and Charge-offs of Troubled Loans

The differences between bank and thrift accounting for specific valuation allowances result primarily from differing GAAP principles set forth in their respective industry audit guides.

The OTS primarily follows GAAP applicable to thrift institutions to account for the ALLL. Thrift GAAP requires specific valuation allowances for troubled, collateral-dependent loans (not considered in-substance foreclosed) based on the estimated net realizable value (NRV) of the collateral. NRV represents the estimated future sales price reduced by certain expenses and direct holding costs. Direct holding costs include a cost of capital (debt and equity) discount rate applied to expected cash flows during the anticipated holding period.

Existing OTS policy requiring use of NRV may be more or less stringent than required by the banking agencies. However, the OTS has proposed a new policy for the valuation of troubled assets that focuses on fair value rather than estimated net realizable value of the collateral.

2. Futures and Forward Contracts

Differences in this area result because the banking regulators generally require future and forward contracts to be marked to market, whereas thrift institutions may defer gains and losses resulting from hedging activities.

The banking agencies do not follow GAAP, but require banks to report changes in the market value of futures and forward contracts, even when used as hedges, in current income. However, futures contracts used to hedge mortgage banking operations are reported in accordance with GAAP. A proposal to permit banks to use hedge accounting for futures contracts other than mortgage banking operations is being considered.

The OTS requires thrift institutions to follow GAAP to account for futures contracts. Accordingly, when specified hedging criteria are satisfied, the accounting for the futures contract is matched with the accounting for the hedged item. Changes in the market value of the futures contract are recognized in income when the income effects of the hedged item are recognized. This reporting can result in the deferral of both gains and losses. Although there is no specific GAAP for forward contracts, the OTS applies these same principles to forward contracts.

3. Push-Down Accounting

When a depository institution is acquired by a holding company in a purchase transaction, the holding company is required to revalue all of the assets and liabilities of the depository institution at fair value at the time of acquisition. When push-down accounting is applied, the same fair value adjustments recorded by the parent holding company are also recorded at the depository institution level.

All of the agencies require the use of push-down accounting when there has been a substantial change in the ownership of the institution. However, differing standards have been applied to determine when this substantial change has occurred.

The three banking agencies require push-down accounting when there is at least a 95 percent change in ownership of the institution. This approach is consistent with interpretations of the Securities and Exchange Commission.

The OTS requires push-down accounting when there is at least a 90 percent change of ownership.

4. Other Real Estate Owned—Other Than Primary Residences

The three banking agencies require that receivables resulting from the sales

of other real estate owned (OREO) be reported as OREO when the buyer's initial investment is less than 10 percent.

The OTS follows GAAP, which may permit the receivable to be reported as a loan when the buyer's initial investment is less than 10 percent.

5. Excess Service Fees

Thrift institutions consider excess servicing fees in the determination of the gain or loss of a loan sale, whereas banks generally recognize the excess fee over the life of the loan.

The banking agencies require banks to follow GAAP for residential mortgage loans. This requires that when loans are sold with servicing retained and the stated servicing fee is sufficiently higher than a normal servicing fee, the sales price is adjusted to determine the gain or loss from the sale. This allows additional gain recognition at the time of sale and recognizes a normal servicing fee in each subsequent year. This gain cannot exceed the gain assuming the loans were sold with servicing released.

For all other loans, the banking agencies require that excess servicing fees retained on loans sold be recognized over the contractual life of the transferred assets.

The OTS follows GAAP in valuing all excess service fees. Therefore, the accounting stated above for sales of mortgage loans with excess servicing at banking institutions would apply to all loan sales with excess servicing at thrift institutions.

6. In-Substance Defeasance of Debt

The banking agencies do not permit banks to defease their liabilities in accordance with FASB Statement Number 76, whereas thrift institutions may eliminate defeased liabilities from the balance sheet.

The banking agencies report in-substance defeased debt as a liability and the securities contributed to the trust as assets with no recognition of any gain or loss of the transaction.

The OTS accounts for debt that has been in-substance defeased in accordance with GAAP. Therefore, when a debtor irrevocably places risk-free monetary assets in a trust solely for satisfying the debt and the possibility that the debtor will be required to make further payments is remote, the debt is considered extinguished. The transfer can result in a gain or loss in the current period.

7. Sales of Assets with Recourse

Banks generally do not report sales of receivables if any risk of loss is retained. Thrift institutions report sales when the risk of loss can be estimated in accordance with FASB Statement Number 77.

The banking agencies generally allow banks to report transfers of receivables as sales only when the transferring institution: (1) Retains no risk of loss from the assets transferred and (2) has no obligation for the payment of principal or interest on the assets transferred. As a result, assets transferred with recourse are reported as financings, not sales.

However, this rule does not apply to the transfer of mortgage loans under certain government programs (GNMA, FNMA, etc.). Transfers of mortgages under one of these programs are automatically treated as sales. Furthermore, private transfers of pools of mortgages are also reported as sales if the transferring institution does not retain more than an insignificant risk of loss on the assets transferred.

The OTS follows GAAP to account for a transfer of all receivables with recourse. A transfer of receivables with recourse is recognized as a sale if: (1) The seller surrenders control of the future economic benefits, (2) the transferor's obligation under the recourse provisions can be reasonably estimated, and (3) the transferee cannot require repurchase of the receivables except pursuant to the recourse provisions.

During the past year the regulatory agencies have continued to work on a proposed rule that is intended to conform the reporting practices required by the banking agencies and the OTS.

8. Negative Goodwill

The three banking agencies require that negative goodwill be reported as a liability, and not netted against the goodwill asset.

The OTS permits negative goodwill to offset the goodwill assets resulting from other acquisitions.

Dated: January 5, 1993.

Stephen R. Steinbrink,

Acting Comptroller of the Currency.

[FR Doc. 93–5678 Filed 3–11–93; 8:45 am]

BILLING CODE 4810-33-M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 47
Friday, March 12, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 F.R. 12984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., Tuesday, March 30, 1993.

CHANGES IN THE MEETING: The Commodity Futures Trading Commission has added to the March 30 open Commission meeting the following:

—Revision of Federal Speculative Position Limits—final rulemaking

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–5903 Filed 3–10–93; 3:07 pm]

BILLING CODE 6351–01–M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: March 8, 1993, 58 FR 12985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: March 10, 1993, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Number and Company has been added as Item CAG–39 on the Agenda scheduled for March 10, 1993:

Item No., Docket No., and Company

CAG–39—RM93–4–000, Standards for Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations

Lois D. Cashell,

Secretary.

[FR Doc. 93–5828 Filed 3–10–93; 11:05 am]

BILLING CODE 6717–02–M

LEGAL SERVICES CORPORATION

Board of Directors Meetings

TIME AND DATE: The Legal Services Corporation Board of Directors and Audit and Appropriations Committee will hold meetings on March 23, 1993. The meetings will commence in the order and at the times noted below.

	Time
1. Audit and Appropriations Committee.	11:00 a.m.
2. Board of Directors	12:30 p.m.

PLACE: The Legal Services Corporation, 750 1st Street, NE., The Board Room, Washington, DC 20002, (202) 336–8800.

AUDIT AND APPROPRIATIONS COMMITTEE MEETING:

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Approval of Minutes of January 28, 1993 Meeting.
3. Consideration of the Corporation's Fiscal Year 1992 Financial Audit as Presented by Representatives of Grant-Thornton.
4. Consideration and Review of Expenses for the Period Ending January 31, 1993.

BOARD OF DIRECTORS MEETING:

STATUS OF MEETING: *Open,* except that a portion of the meeting may be closed if a majority of the Board of Directors votes to hold an executive session. At the closed session, pursuant to receipt of the aforementioned vote, the Board will consider and vote on approval of the draft minutes of the executive session held on February 22, 1993. In addition, the Board will hear and consider the report of the General Counsel on litigation to which the Corporation is a party. Finally, the Board will consult with the Inspector General and President, individually, regarding the internal personnel rules and practices of their respective organizations. The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Sections 552b(c)(2)(5), (6), and (10)], and the corresponding regulation of the Legal Services Corporation [45 C.F.R. Section 1622.5(a), (d), (e), and (h)].[1] The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 750 First Street, NE., Washington, DC 20002, in its eleventh floor reception area, and will otherwise be available upon request.

BOARD OF DIRECTORS MEETING (Continued)

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Approval of Minutes of February 22, 1993 Meeting.

CLOSED SESSION:

3. Consultation by Board with the Inspector General on the Internal Personnel Rules and Practices of the Office of the Inspector General.
4. Consultation by Board with the President on the Internal Personnel Rules and Practices of the Corporation.
5. Consideration of the General Counsel's Report on Pending Litigation to which the Corporation is a Party.
6. Approval of Minutes of Executive Session Held on February 22, 1993.

BOARD OF DIRECTORS MEETING (Continued)

OPEN SESSION: (Resumed)

7. Chairman's and Members's Reports.
   a. Consideration of Travel Guidelines and General Services Administration Contract Governing Corporation Travel.
8. Consideration of Operations and Regulations Committee Report.
9. Consideration of Office of the Inspector General Oversight Committee Report.
10. Consideration of Provision for the Delivery of Legal Services Committee Report.
11. Consideration of Audit and Appropriations Committee Report.
    a. Consideration of Audit and Appropriations Committee Recommendation on Approval of the Corporation's Fiscal Year 1992 Financial Audit.
12. President's Report.
13. Inspector General's Report.
14. Consideration of Other Business.

BOARD OF DIRECTORS MEETING (Continued)

CONTACT PERSON FOR INFORMATION: Patricia Batie (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate individuals who are blind or have visual impairment.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: March 10, 1993.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 93–5811 Filed 3–10–93; 10:19 am]

BILLING CODE 7050–01–M

[1] As to the Board's consideration and approval of the draft minutes of the executive session(s) held on the above-noted date(s), the closing is authorized as noted in the **Federal Register** notice(s) corresponding to that/those Board meeting(s).

NUCLEAR REGULATORY COMMISSION

DATE: Monday, March 15, 1993.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland

STATUS: Public.

MATTERS TO BE CONSIDERED:

Monday, March 15

9:30 a.m.

Discussion on Full Power Operating License for Comanche Peak (Unit 2) (Public Meeting)

(Contact: Suzanne Black, 301–504–1318)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

2:00 p.m.

Briefing on License Renewal Issues (Public Meeting)

(Contact: William Travers, 301–504–1117)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meeting call (recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: March 9, 1993.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93–5883 Filed 3–10–93; 1:37 pm]

BILLING CODE 7590-01-M

Corrections

Federal Register

Vol. 58, No. 47

Friday, March 12, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1493

Commodity Credit Corporation Emerging Democracies Facilities Guarantees

Correction

In rule document 93-4501 beginning on page 11786, in the issue of Monday, March 1, 1993, make the following correction:

§ 1493.210 [Corrected]

On page 11789, in the first column, in § 1493.210, in the second line, "§ 1493.200" should read "§ 1493.20".

BILLING CODE 1505-01-D

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 155

Proposed Regulation Prohibiting Dual Trading by Floor Brokers

Correction

In proposed rule document 92-5239 beginning on page 13025 in the issue of Tuesday, March 9, 1993, make the following correction:

On the same page, in the second column, in the second and third lines, "[insert date 60 days after publication]." should read "May 7, 1993.".

BILLING CODE 1505-01-D

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

10 CFR Part 1706

[Docket No. RM-92-1]

Rules Governing Organizational and Consultant Conflicts of Interest

Correction

In rule document 92-23483 beginning on page 44651 in the issue of Tuesday, September 29, 1992 make the following corrections:

§ 1706.3 [Corrected]

1. On page 44653, in § 1706.3(b), in the third column, in the 11th line, "consultant" should read "consultants" and in the last line, "subpart." should read "part.".

§ 1706.5 [Corrected]

2. On the same page, in the same column, in § 1706.5(a), in the last line, "offeror." should read "offeror:" and in § 1706.5(a)(3), in the seventh line, "OCI paragraphs" should read "OCI. Paragraphs".

3. On page 44654, in the first column in § 1706.5(b)(1)(ii), in the third line, "of" should read "by".

§ 1706.6 [Corrected]

4. On the same page, in the third column, in § 1706.6(a)(2), in the fifth line, "subpart" should read "part" and in the last line, after "reference" insert a period.

§ 1706.7 [Corrected]

5. On page 44655, in the 1st column, in § 1706.7(c)(1), in the 10th line, "offerer" should read "offeror".

§ 1706.9 [Corrected]

6. On page 44656, in the first column, in § 1706.9(c)(2), in the third line, "the" should read "that".

§ 1706.10 [Corrected]

7. On the same page, in the 3d column in § 1706.10, in the 16th line, "subpart," should read "part,".

BILLING CODE 1505-01-D

Federal Register

Friday
March 12, 1993

Part II

Department of Housing and Urban Development

Office of the Secretary

24 CFR Parts 91 and 570

Comprehensive Housing Affordability Strategies; Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 91 and 570

[Docket No. R-93-1644; FR-3390-F-01]

RIN 2506-AB49

Comprehensive Housing Affordability Strategies

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises the final rule now in effect with respect to the Comprehensive Housing Affordability Strategy (CHAS), a document to be prepared and submitted to HUD as part of the planning process for a jurisdiction with respect to HUD programs and other resources related to affordable housing and supportive services. The Housing and Community Development Act of 1992 amended the provisions of the National Affordable Housing Act of 1990 governing the CHAS by imposing additional content and procedural requirements. By implementing the new requirements along with a few technical amendments related to deadlines, abbreviated strategies, and certifications of consistency, the revised regulations will ensure the timely notification of CHAS preparers as they formulate their 1994 submissions.

EFFECTIVE DATE: April 12, 1993.

FOR FURTHER INFORMATION CONTACT: Mary Kolesar, Director, Program Policy Division, Office of Affordable Housing Programs, Office of Community Planning and Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-2470 (voice) or (202) 708-2565 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in §§ 91.19, 91.21, 91.23, 91.25, 91.44, 91.46, 91.48, 91.52 and 91.53 of this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the Federal Register. Information on the estimated public reporting burden is provided in paragraph IV. G. of this preamble. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, should be sent to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., Washington, DC 20410-0500; and to the Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, room 3001, Washington, DC 20503, Attention: Desk Officer for HUD.

II. Background

The Housing and Community Development Act of 1992 (HCDA), amended title I of the National Affordable Housing Act of 1990, which authorizes the CHAS. These statutory changes to CHAS were effective October 28, 1992. Those changes require the CHAS rule now in effect (57 FR 40038, September 1, 1992) to be amended, and other technical changes are also being made.

This rule is being issued as a final rule, despite the Department's policy of soliciting public comment before issuing a rule for effect (24 CFR part 10), because the statutory changes do not require any exercise of discretion and are, as a result, statutorily required to be effective immediately (without waiting for publication of a rule, much less solicitation of public comment). The technical changes made in this rule are all beneficial to affected parties and, consequently, it would be contrary to the public interest to delay their effectiveness to solicit comment first.

III. Amendments to CHAS

The following is a summary of the changes relating to the CHAS that are contained in the Housing and Community Development Act of 1992 and the corresponding sections of the CHAS regulations.

Homeless Information (Section 220—HDCA)

The CHAS strategy must include tabular information on the extent of homeless in the jurisdiction. A jurisdiction with rural areas must also specifically address rural homelessness in its description of the extent of homelessness. See §§ 91.15(a), 91.17(b)(2), 91.40(a), and 91.42(b)(2).

Linkage to Funding Priorities (Section 220—HCDA)

A description of how the jurisdiction's plan will address identified housing needs and the reasons for allocation priorities must be provided. Also, the jurisdiction must identify any obstacles to addressing underserved needs. See §§ 91.19(b)(1) and 91.44(b)(1).

Lead-Based Paint (Section 1014—HCDA)

The jurisdiction must estimate the number of housing units that are occupied by low- and very low-income families and that contain lead-based paint hazards. See §§ 91.17(a)(2) and 91.42(a)(2). In addition, the jurisdiction must outline actions to evaluate and reduce lead-based paint hazards and describe how lead-based paint hazard reduction will be integrated into housing policies and programs. See §§ 91.19(g) and 91.44(g). Further, when preparing this part, the jurisdiction must consult with health and child welfare agencies and examine existing data related to lead-based paint hazards, including data on the addresses of housing units in which children have been identified as lead poisoned. See § 91.57.

Anti-Poverty Plan (Section 220—HCDA)

The statute requires a jurisdiction to describe its goals, programs, and policies for reducing the number of households with incomes below the poverty line, and state how its housing strategy will be coordinated with other programs and services intended to reduce the number of households with incomes below the poverty line. See §§ 91.21(c) and 91.46(c).

Note: Poverty level, status and threshold information is published by the U.S. Department of Commerce, Economic and Statistic Administration, Bureau of the Census. For example, the poverty status in 1989 is contained in the 1990 Census of Population and Housing, Summary of Social, Economic, and Housing Characteristics, Appendix B, pages B-27 and B-28, 1990 CPH-5-1. This Bureau of Census document can be found in most public libraries.

Anti-Displacement Requirement (Section 220—HCDA)

The jurisdiction must certify that it has in place and is following a residential anti-displacement and relocation assistance plan that gives persons displaced by HOME activities the same rights as those displaced by CDBG activities. See §§ 91.21(e) and 91.46(e). (The substantive program requirements will be set out in a proposed rule for public comment.) In addition, the HCDA deleted the certification regarding the plan for the CDBG program.

Coordination Efforts (Section 681—HCDA)

Activities undertaken by the jurisdiction to enhance coordination

between public and assisted housing providers and private and governmental health, mental health and service agencies must be described. See §§ 91.21(d) and 91.46(d).

Certification of Consistency, Compliance, or Existence of an Approved CHAS (Sections 120, 164, 1011, 1403, 1404—HCDA)

Several new McKinney Act and other programs require the funding applications to include a certification of consistency with the approved housing strategy of the State or jurisdiction within which the project is to be located. See § 91.1(b). Further, Lead-Based Paint Hazard Reduction Grants require State and local governments to have an approved CHAS.

The HCDA creates one program that requires applicants to certify that the housing activity is not inconsistent with an approved CHAS. The John Heinz Neighborhood Development Program requires a certification by the local jurisdiction that the assistance is not inconsistent with the approved CHAS or community development plan submitted under section 104(m) of the Housing and Community Development Act of 1974.

Other Plans Requiring Information from the CHAS (Section 622—HCDA)

The HCDA allows public housing agencies (under section 7 of the Housing Act of 1937) to designate a public housing project (or portion of a project) for occupancy by: (a) Only elderly families, (b) only disabled families, or (c) elderly and disabled families in accordance with a HUD approved plan. This plan must contain a description of the estimated pool of applicants for such housing, based on the waiting lists for such projects, and any information collected in the CHAS on housing need. See § 91.1(b).

Non-HUD Programs (Section 707—HCDA)

Under section 515 of the Housing Act of 1949 (Rental Housing Loans), the Farmers Home Administration must require each State to establish a process for coordinating the selection of projects with the Housing needs and priorities as established in the State CHAS. See § 91.1(c).

The new statutory elements have been incorporated into the instructions for preparing a CHAS for FY 1994. Failure to fully address these elements is a basis for HUD to disapprove the CHAS as incomplete.

Definitions

Section 211(a) of HCDA amended section 104 (Definitions) of NAHA to include Palau, the Marshall Islands, and the Federated States of Micronesia in the Definition of a "unit of general local government." Further, the HCDA deletes Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands from this definition, and instead defines them as "insular areas." Because Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands are not units of general local government, they are no longer "jurisdictions" (as defined in § 91.5). Thus, because only jurisdictions are required to prepare and submit a CHAS, the insular areas are not subject to the requirements of 24 CFR part 91. On the other hand, Palau (which is a unit of general local government) is covered by the CHAS if it receives and uses CDBG, Insular Areas, or other HUD funds for housing. If that is the case, Palau may prepare and submit an abbreviated strategy (§ 91.25). The reference in §§ 91.1(b)(2)(x) and 91.25(b)(3) to the CDBG Insular Areas Program only covers grants to Palau for housing activities.

Accordingly, the definition of a unit of general local government is changed to reflect the HCDA of 1992 amendments and the definition of insular area is deleted. In addition, Subpart D, in its entirety, is deleted from part 91 but reserved for future use; all references to insular areas, subpart D, and §§ 91.50 through 91.53 are also deleted; and the definition of assisted family is modified to delete reference to insular areas.

The definition of "lead-based paint hazards" is added to § 91.5. The definition is taken from title X of the HCDA (also known as the Residential Lead-Based Paint Hazard Reduction Act of 1992) which amended title I of NAHA to add a lead-based paint element to the CHAS. Lead-based paint hazard is defined as any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

Regulatory Barriers to Affordable Housing (Section 1206—HCDA)

Title XII of the HDCA creates a new program for grants to State and local governments to develop and implement strategies to remove regulatory barriers to affordable housing. Section 1206 amends section 105(b)(4) of NAHA (see § 91.19(c)(1)) by providing "if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph." However, the definition of "regulatory barriers to affordable housing" for title XII, excludes items described in section 105(b)(4) of NAHA. In particular, "regulatory barriers to affordable housing" in title XII excludes "policies relating to rents imposed on a structure by a jurisdiction." Section 105(b)(4) of NAHA includes "policies that affect the return on residential investment"—which the Department has interpreted to encompass rent control.

Therefore, in determining whether a regulatory barriers assessment under title XII is substantially equivalent to the information required for the CHAS, HUD will consider whether the local jurisdiction has rent control. In any event, a CHAS cannot be disapproved by HUD based on the jurisdiction's adoption or continuation of a public policy, including rent control, affecting the availability of affordable housing.

The few technical amendments to the regulations relate to deadlines, abbreviated strategies, and certifications of consistencies. The CHAS submission deadline (§ 91.70) is inconsistent with the HOME program's statutory time frame for jurisdictions that will be participating in the HOME program for the first time. Therefore, this rule amends the submission deadline section to reference the HOME rule deadline for that category of jurisdictions (§ 92.104). It also clarifies the CDBG section on the CHAS deadline for communities newly designated as eligible for CDBG (§ 570.306(c)) to include jurisdictions that will not be participating in the HOME program for the first time. In addition, the rule states that if a local jurisdiction is subject to two different CHAS submission deadline provisions—the newly entitled CDBG community deadline and the HOME Deadline for a jurisdiction seeking to be designated as a participating jurisdiction—the HOME deadline for the CHAS submission controls.

The regulations also have been amended to clarify when an applicant that is not a jurisdiction must obtain a certification of consistency from a local government (rather than the State) and when an abbreviated strategy is

permitted and the duration of that strategy.

Typographic Corrections

Several typographic errors were discovered in the September 1, 1992 printing of part 91. These errors: Led to inaccurate referencing of a subpart in § 91.25(f); duplicated sub-section lettering in § 91.44; incorrectly referenced the HOPE Program in § 91.82(c); incorrectly referenced § 91.80 in § 91.85; and affected the clarity of the rule. Such errors are corrected herein.

IV. Findings and Certifications

A. Environmental Review

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

B. Impact on the Economy

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291, Regulatory Planning Process. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

C. Federalism Impact

In connection with the preparation of this final rule, the General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has certified that the method of implementing the Comprehensive Housing Affordability Strategy requirements of the National Affordable Housing Act used in this final rule achieves the goals of the statute in a way that promotes the Federal objectives, while having the least possible adverse effects on the operations and functions of the States and local governments.

D. Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this final rule does not have potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. The rule governs the planning function of State and local governments in their efforts to provide affordable housing for families. Therefore, to some degree the rule has an indirect effect of promoting better living conditions for families.

E. Regulatory Agenda

This rule was not listed under the Office of the Secretary in the Department's Semiannual Regulatory Agenda published on November 3, 1992 (57 FR 51392).

F. Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this final rule before publication and by approving it certifies that this rule will not have a significant impact on a substantial number of small entities.

G. Public Reporting Burden

The public reporting burden for the information collection requirements and record keeping requirements contained in this final rule, including the CHAS-related provisions required by the Housing and Community Development Act of 1992, are estimated as described below. These estimates of burden include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

ANNUAL REPORTING BURDEN FINAL RULE—COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY

Rule provision	Number of respondents	Response per respdnt	Original hours/response	Added hours/response	Adjusted burden hours	Total hours
Five-year CHAS:						
Localities (§§ 91.15–.23)	800	1	391	125	516	412,800
States (§§ 91.40–.48)	50	1	469	250	719	35,950
Annual plan:[1]						
Localities (§ 91.21)	800	1	158	80	238	190,400
States (§ 91.46)	50	1	158	160	318	15,900
Abbreviated strategy:[2]						
(§ 91.25)	100	1	100		100	10,000
Record keeping	[3]850	1	12		12	([5])
	[4]100	1	4.5		4.5	([5])
Total burden						685,050

[1] Submitted in each of the four years following submission of the complete strategy.
[2] Submitted by a jurisdiction instead of the complete CHAS.
[3] For complete CHAS.
[4] For abbreviated strategies.
[5] Included in above.

List of Subjects

24 CFR Part 91

Grant programs—Indians, Low and moderate income housing, Homeownership, Public housing.

24 CFR Part 570

Administrative practice and procedure, Grant programs—housing and community development, American Samoa, Northern Mariana Islands, Pacific Islands Trust Territory, Puerto Rico, Virgin Islands.

Accordingly, parts 91 and 570 of title 24 of the Code of Federal Regulations are amended as follows:

PART 91—STATE AND LOCAL HOUSING AFFORDABILITY STRATEGIES

1. The authority citation for part 91 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701–12708.

Subpart A—General

2. In § 91.1, paragraph (b)(1)(ii) is revised; a paragraph (b)(1)(v) is added; paragraphs (b)(2)(ix) and (b)(2)(x) are revised; paragraphs (b)(2)(xi) through (b)(2)(xv) are added; the first sentence in paragraph (b)(3) is revised; paragraph (b)(4) is added; and paragraph (c) is added, to read as follows:

§ 91.1 Purpose and applicability.

* * * * *

(b) * * *

(1) * * *

(ii) In certain HUD programs, an applicant that is not a jurisdiction must obtain a certification by the public official responsible for submitting the housing strategy that the proposed housing activity is consistent with the approved housing strategy for the jurisdiction in which the proposed project will be located.

(A) The certification must be obtained from the unit of general local government if the project will be located in a unit of general local government which: Is required to have a complete housing strategy; or is authorized to use an abbreviated strategy but elects to prepare and has submitted a complete housing strategy; or is authorized to use an abbreviated strategy and is applying for the same program as the applicant pursuant to the same Notice of Funding Availability (and therefore has or will have an abbreviated housing strategy for the fiscal year for that program).

(B) If the project will not be located in a unit of general local government described in paragraph (b)(1)(ii)(A) of this section, the certification may be obtained from the State or, if the project will be located in an unit of general local government authorized to use an abbreviated strategy (see § 91.25), from the unit of general local government if it is willing to prepare such strategy.

(v) In one HUD program, an applicant for funds must submit a certification from the local jurisdiction that the proposed housing activities are not inconsistent with the approved housing strategy or community development plans of the local jurisdiction.

(2) * * *

(ix) Title IV of the Stewart B. McKinney Homeless Assistance Act: Emergency Shelter Grants (24 CFR part 576); Single Room Occupancy Housing (24 CFR part 882, subpart H); Shelter Plus Care (24 CFR part 582); Supportive Housing Program (24 CFR part 583); Housing Opportunities for Persons with AIDS Program (24 CFR part 574); Safe Havens for Homeless Individuals Demonstration Program (subtitle D, title IV); and the Rural Homeless Grant Program (section 491, McKinney Act);

(x) The Community Development Block Grant Program—Entitlement, Small Cities, States and Insular Areas (Palau only) (sections 106 and 107 of the Housing and Community Development Act of 1974; 24 CFR part 570);

(xi) Revitalization of Severely Distressed Public Housing (section 24 of the United States Housing Act of 1937);

(xii) Hope For Youth: Youthbuild (title IV, subtitle D of the Act);

(xiii) The John Heinz Neighborhood Development Program (section 123 of the Housing and Urban-Rural Recovery Act of 1983);

(xiv) The Lead-Based Paint Hazard Reduction Program (section 1011, Housing and Community Development Act of 1992); and

(xv) Grants for Regulatory Barrier Removal Strategies and Implementation (section 1204, Housing and Community Development Act of 1992.)

(3) *Program not covered.* Except for the program identified in paragraph (b)(2)(xi) of this section, Public Housing and Indian Housing funding (authorized under titles I and II of the United States Housing Act of 1937) is not dependent on the existence of, or a certification of consistency with, an approved housing strategy for the jurisdiction. * * *

(4) *Other Plans Requiring Information from the CHAS.* Section 7 of the Housing Act of 1937 allows public housing agencies to provide public housing projects (or portions of projects) to be designated for occupancy by: Only elderly families, only disabled families, or elderly and disabled families in accordance with a HUD approved plan. This plan must contain a description of the estimated pool of applicants for such housing, based on the waiting lists for such projects, and any information collected in the CHAS.

(c) *Non-HUD Programs.* Under section 515 of the Housing Act of 1949 (Rural Rental Housing and/or Rural Cooperative Housing Program), the Farmers Home Administration must require each State to establish a process for coordinating project selection with housing needs and priorities established in the housing strategy of the State.

3. In § 91.5, the first sentence of the definition of "assisted family" is revised; the definition of "insular area" is removed; a definition of "lead-based paint hazards" is added; and the definition of "unit of general local government" is revised, to read as follows:

§ 91.5 Definitions.

* * * * *

Assisted family. For purposes of identification of goals, in accordance with §§ 91.21 (a)(1)(iv) and 91.46 (a)(1)(iv), a family is assisted if, during the period covered by the annual plan, they will benefit through one or more programs included in the jurisdiction's investment plan. * * *

* * * * *

Lead-based paint hazards. The term "lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

* * * * *

Unit of general local government. A city, town, township, county, parish, village, or other general purpose political subdivision of a State; an urban county; the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium of such political subdivisions recognized by HUD in accordance with the HOME Program (24 CFR part 92); and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to HUD assistance.

* * * * *

Subpart B—Contents of Strategy: Local Governments

4. In § 91.15, paragraph (a) is revised to read as follows:

§ 91.15 General.

(a) A complete housing strategy for a unit of general local government consists of the information required in §§ 91.15 through 91.21, submitted in accordance with the instructions prescribed by HUD (including tabular representation of homeless information). An abbreviated strategy consists of the information required in § 91.25.

* * * * *

5. In § 91.17, paragraphs (a)(2)(i)(A) and (b)(2)(i) are revised to read as follows:

§ 91.17 Community profile.

(a) * * *

(2) *Market and inventory conditions.* (i) *General market and inventory.* (A) Based on the data and information available, the jurisdiction must describe the significant general housing market and inventory conditions, including such aspects as supply, demand, condition, and cost of housing. Data on the housing inventory must include the ownership or rental status of units, whether they are occupied or vacant, their cost and size by number of bedrooms, and their structural condition, i.e., standard, substandard but suitable for rehabilitation, or substandard and not suitable for rehabilitation. (The jurisdiction must define in its CHAS the terms "standard condition" and "substandard condition but suitable for rehabilitation.") An assessment of the hazards of housing related environmental concerns should be included, to the extent information is available. In addition, the jurisdiction must estimate the number of housing units within the jurisdiction that are occupied by low-income or very low-income households that contain lead-based paint hazards.

* * * * *

(b) * * *

(2) *Nature and extent of homelessness.* (i) *Needs of sheltered and unsheltered homeless.* The jurisdiction shall describe the nature and extent of homelessness (including rural homelessness) within the jurisdiction, addressing separately the need for facilities and services for homeless individuals and homeless families, both sheltered and unsheltered, and, to the extent this information is available, by racial and ethnic group. Any numerical estimates must reflect methods for counting the homeless that eliminate or correct for duplicative reporting.

* * * * *

6. In § 91.19, paragraph (b)(1) is revised; a sentence is added to the end of paragraph (c)(1); paragraph (g) is redesignated as paragraph (h); and a new paragraph (g) is added to read as follows:

§ 91.19 Five-year strategy.

* * * * *

(b) * * *

(1) *Analysis.* An analysis of each priority category of very low- and other low-income residents or activities shall consider how the size, distribution, condition, and cost of the jurisdiction's housing inventory matches the severity of needs and types of housing problems of each priority category of residents. (Family types may be grouped together for discussion where the analysis would apply to more than one of them.) The jurisdiction must describe how this analysis provides the basis for establishing the category of residents or activity type as a priority. For very low-income renters, the analysis should discuss how the housing problems of households meeting Federal or local preferences for housing assistance were considered. The rationale for establishing the priorities and determining the relative numerical assignment of priorities should flow logically from the analysis. As part of the analysis, the jurisdiction must identify any obstacles to addressing underserved needs.

(c) * * *

(1) * * * If a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph.

* * * * *

(g) *Lead-based paint hazard reduction.* The jurisdiction shall outline the actions proposed to be undertaken over the next five years to evaluate and reduce lead-based paint hazards, and describe how lead-based paint hazards reduction will be integrated into housing policies and programs.

* * * * *

7. In § 91.21, paragraphs (b) and (c) are revised; paragraph (d) is redesignated as paragraph (f); and new paragraphs (d) and (e) are added, to read as follows:

§ 91.21 Annual plan.

* * * * *

(b) *Other actions.* The jurisdiction shall describe the actions it plans to take in the Federal fiscal year to address relevant public policies, to develop institutional structure, to foster public housing improvements or resident initiatives, and to evaluate and reduce lead-based paint hazards. (See §§ 91.19(c) through (g).)

(c) *Anti-poverty strategy.* The jurisdiction shall describe, taking into consideration factors over which it has control, the jurisdiction's goals, programs, and policies for reducing the number of households with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually), and, in consultation with other appropriate public and private agencies, state how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing set forth in the housing strategy will be coordinated with other programs and services for which the jurisdiction is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line.

(d) *Coordination with health and service agencies.* The jurisdiction shall describe its activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health, and service agencies.

(e) *Certifications.* Each jurisdiction submitting a CHAS is required to submit a certification that it will affirmatively further fair housing and is required to maintain records pertaining to any steps taken to carry out the certification. These records may include the analysis of impediments to fair housing and the description of actions taken to overcome them described in 24 CFR 570.904(c). If a jurisdiction receives HOME Investment Partnership Program funds, its CHAS also must include a certification that it has in effect and is following a residential anti-displacement and relocation assistance plan that, in any case of any such displacement in connection with any activity assisted with amounts provided under the HOME program, requires the same actions and provides the same rights as required and provided under a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 in the event of displacement in connection with a development project assisted under section 106 or 119 of such Act.

* * * * *

8. In § 91.25, paragraphs (a) and (b)(1) are revised; the last sentence of paragraph (b)(3) is revised; and paragraphs (c)(7), (d)(2), and the first sentence of paragraph (f) are revised, to read as follows:

§ 91.25 Special case—abbreviated strategy.

(a) *Who may submit an abbreviated strategy?* A jurisdiction that is not a CDBG entitlement community under 24 CFR part 570, subpart D and is not expected to be a participating jurisdiction (in the HOME program), may submit an abbreviated housing strategy that is appropriate to the types and amounts of assistance sought from HUD.

(b) *When is an abbreviated strategy necessary?*

(1) *Jurisdiction.* When a jurisdiction that is permitted to use an abbreviated strategy applies to HUD for funds under

a program requiring an approved CHAS (see § 91.1(b)(2)), it must obtain approval of an abbreviated strategy and submit a certification that the housing activities are consistent with the strategy.

* * * * *

(3) * * * For the CDBG program, an abbreviated strategy may be submitted only for the Small Cities program and for the Insular Areas program (Palau only).

(c) * * *

(7) *Replacement of low-income housing and relocation assistance.* A jurisdiction applying for assistance under the HOME program (reallocations to other than participating jurisdictions awarded competitively under 24 CFR part 92, subpart J) must provide a certification that it has in effect and is following a residential antidisplacement and relocation assistance plan, that, in any case of such displacement in connection with any activity assisted with amounts provided under the HOME program, requires the same actions and provides the same rights as required and provided under a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 in the event of displacement in connection with a development project assisted under section 106 of 119 of such Act.

* * * * *

(d) * * *

(2) *Timing.* An abbreviated strategy must be submitted for HUD approval for each fiscal year for which funding is to be applied for. The submission may be made before or at the time of submission of the application for funding as set forth in the program regulations or Notice of Funding Availability. A jurisdiction having an approved abbreviated strategy that decides during the same fiscal year to submit an application for assistance under a program which assists the same eligible population (and therefore the market conditions and needs data are the same as in the approved abbreviated strategy) must amend the investment plan, goals, and any other contents requirements of its approved abbreviated strategy necessary to provide a basis for consistency of the application with the strategy. A jurisdiction having an approved abbreviated strategy that decides during the same fiscal year to submit an application for assistance under a program which does not assist the same eligible population (and therefore the market conditions and needs data are different from that in the approved abbreviated strategy) must submit a new abbreviated strategy.

* * * * *

(f) *Performance reports.* The requirements of subpart H of this part apply to an abbreviated strategy. * * *

Subpart C—Contents of Strategy: States

9. In § 91.40, paragraphs (a) and (c) are revised to read as follows:

§ 91.40 General.

(a) A complete housing strategy for a State consists of the information required in §§ 91.40 through 91.46, submitted in accordance with the instructions prescribed by HUD, including tabular representation of homeless information.

* * * * *

(c) The State is not required to present needs and market inventory data beyond that which is provided by HUD, except where data are being required "to the extent available."

* * * * *

10. In § 91.42, paragraphs (a)(2)(i)(A) and (b)(2)(i) are revised to read as follows:

§ 91.42 State profile.

(a) * * *

(2) *Market and inventory conditions.*

(i) *General market and inventory.* (A) Based on the data and information available to the State, it must describe the significant general housing market and inventory conditions Statewide, and for sub-state areas or regions considered appropriate, including such aspects as supply, demand, condition, and cost of housing. Data on the housing inventory must include the ownership or rental status of units, whether they are occupied or vacant, and their cost and size by number of bedrooms. An assessment of the hazards of housing related environmental concerns should be included, to the extent information is available. The State must estimate the number of housing units within the State that are occupied by low-income or very low-income households and that contain lead-based paint hazards. The discussion of the general market inventory shall also include an assessment of whether any rental housing is expected to be lost from the Federally assisted housing inventory administered by a State housing agency for any reason, including losses through demolition or conversion to homeownership, or through prepayment or voluntary termination of a Federally assisted mortgage. If no such losses are anticipated or there is no Federally assisted housing inventory being administered directly by a State housing agency, this must be clearly stated.

* * * * *

(b) * * *

(2) *Nature and extent of homelessness.* (i) *Needs of sheltered and unsheltered homeless.* The State shall describe the nature and extent of hopelessness, including rural homelessness, within the State, addressing separately the need for facilities and services for homeless individuals and homeless families, both sheltered and unsheltered, and, to the extent this information is available, by racial and ethnic group. Any numerical estimates must reflect methods for counting the homeless that eliminate or correct for duplicative reporting.

* * * * *

11. In § 91.44, paragraphs (c) through (f) are redesignated as (d) through (g); the second paragraph designated as paragraph (b) is redesignated as paragraph (c); paragraph (b)(1) is revised; newly redesignated paragraph (g) is redesignated as paragraph (h); and a new paragraph (g) is added, to read as follows:

§ 91.44 Five-year strategy.

* * * * *

(b) * * *

(1) *Analysis.* An analysis of each priority category of very low- and other low-income residents or activities shall consider how the size, distribution, condition, and cost of the jurisdiction's housing inventory matches the severity of needs and types of housing problems of each priority category of residents. (Family types may be grouped together for discussion where the analysis would apply to more than one of them.) The State must describe how this analysis provides the basis for establishing the category of residents or activity type as a priority. For very low-income renters, the analysis should discuss how the housing problems of households meeting Federal or local preferences for housing assistance were considered. The rationale for establishing the priorities and determining the relative numerical assignment of priorities should flow logically from this analysis. As part of the analysis, the State must identify any obstacles to addressing undeserved needs.

* * * * *

(g) *Lead-based paint hazard reduction.* The State shall outline the actions proposed to be undertaken over the next five years to evaluate and reduce lead-based paint hazards, and describe how lead-based paint hazards

reduction will be integrated into housing policies and programs.

* * * * *

12. In § 91.46, paragraph (b) is revised; paragraphs (c) and (d) are redesignated as paragraphs (e) and (f); paragraphs (c) and (d) are added; and the newly redesignated paragraph (e) is revised, to read as follows:

§ 91.46 Annual plan.

* * * * *

(b) *Other actions.* The State shall describe the actions it plans to take in the Federal fiscal year to address relevant public policies, to develop institutional structure, to coordinate the Low-Income Housing Tax Credit, to foster public housing resident initiatives, and to evaluate and reduce lead-based paint hazards. (See §§ 91.44 (c) through (g).)

(c) *Anti-poverty strategy.* The State shall describe, taking into consideration factors over which it has control, the State's goals, programs, and policies for reducing the number of households with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually), and, in consultation with other appropriate public and private agencies, state how the State's goals, programs, and policies for producing and preserving affordable housing set forth in the housing strategy will be coordinated with other programs and services for which the State is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line.

(d) *Coordination with health and service agencies.* The jurisdiction shall describe its activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health, and service agencies.

(e) *Certifications.* Each State submitting a CHAS is required to submit a certification that it will affirmatively further fair housing and is required to maintain records pertaining to any steps taken to carry out the certification. These records may include the analysis of impediments to fair housing and the description of actions taken to overcome them described in 24 CFR 570.904(c). If a State receives HOME Investment Partnership Program funds, its CHAS also must include a certification that it has in effect and is following a residential anti-displacement and relocation assistance plan that, in any case of any such displacement in connection with any activity assisted with amounts provided under the HOME program, requires the same actions and provides the same rights as required and provided under a residential antidisplacement and relocation assistance plan under section 104 (d) of the Housing and Community Development Act of 1974 in the event of displacement in connection with a development project assisted under section 106 or 119 of such act.

* * * * *

Subpart D [Removed and reserved]

13. Subpart D, consisting of §§ 91.50 through 91.53, is removed and reserved.

Subpart E—Coordination and Consultation

14. Section 91.57 is revised to read as follows:

§ 91.57 Consultation with social service agencies.

In the preparation of its housing strategy, a jurisdiction must make reasonable efforts to confer with social service agencies (both public and private) regarding the housing needs of children, elderly persons, persons with disabilities, homeless persons, and other persons served by the agencies. When preparing that portion of its housing strategy concerning lead-based paint hazards, the jurisdiction shall consult with State or local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned.

Subpart G—HUD Review and Approval

15. In § 91.70, paragraph (a) is revised to read as follows:

§ 91.70 Submission of housing strategy.

(a) *General.* Except as provided in § 91.25(d)(1) with respect to abbreviated strategies, in § 92.104 with respect to jurisdictions that will become HOME participating jurisdictions, and in § 570.306(c) for communities newly designated as entitled communities under the CDBG program, a housing strategy with an annual plan covering the Federal fiscal year (October 1 of that year through September 30 of the following year) must be submitted annually between October 1 and December 31, with December 31 being the deadline for submission. However, if a jurisdiction is a newly entitled community in the CDBG Program and also will become a participating jurisdiction in the HOME program, the CHAS submission deadline specified for the HOME program controls. Further, the Department encourages jurisdictions to amend their CHAS, if necessary, to accommodate the requirements of other programs.

* * * * *

Subpart H—Use of Housing Strategy

16. Section 91.80 is revised to read as follows:

§ 91.80 Consistency certification.

(a) *Complete housing strategy.* (1) A jurisdiction's certification that an application is consistent with its housing strategy means that the jurisdiction's annual plan indicates the jurisdiction planned to apply for the program or was willing to support an application by another entity for the program; the location of the activities is consistent with the geographic areas specified in the annual plan; and the activities benefit a category of residents for which the jurisdiction's five-year strategy shows a priority.

(2) The certification of consistency shall be made with respect to the jurisdiction's CHAS that contains an annual plan for the Federal fiscal year that covers the application submission deadline; except that where a competitive funding application submission deadline falls between October 1 and December 31, the certification of consistency may be made with respect to the jurisdiction's CHAS (including annual plan) for the prior fiscal year if the jurisdiction has not yet submitted its CHAS (including annual plan) for the current fiscal year, unless the notice of funding availability provides otherwise.

(b) *Abbreviated housing strategy.* A jurisdiction's certification that an application is consistent with its housing strategy means that the required contents of the abbreviated strategy for the same fiscal year (see § 91.25(c)) cover the program for which the application is submitted.

17. In § 91.82, paragraph (c) introductory text is revised to read as follows:

§ 91.82 Performance reports.

* * * * *

(c) *Failure to Report.* If a jurisdiction fails to submit a report satisfactory to HUD in a timely manner, HUD may take one of the following actions with respect to assistance to the jurisdiction under the HOME Program, the Community Development Block Grant Programs, or the Homeless Housing Assistance Programs:

* * * * *

18. In § 91.85, paragraph (a)(3) is revised and a new sentence is added to the end of paragraph (b), to read as follows:

§ 91.85 HUD performance reviews.

(a) * * *

(3) Accuracy in the preparation of performance reports under § 90.82; and

* * * * *

(b) * * * The report will be available at the HUD field office.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

19. The authority citation for part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5300–5320.

§ 570.306 [Amended]

20. In § 570.306, the first sentence of paragraph (c) is amended by adding, after the parenthetical phrase, the following phrase: "or is not becoming a participating jurisdiction under the HOME program (24 CFR 92.104)".

Dated: March 4, 1993.

Don I. Patch,

Deputy Assistant Secretary for Grant Programs.

[FR Doc. 93–5548 Filed 3–11–93; 8:45 am]

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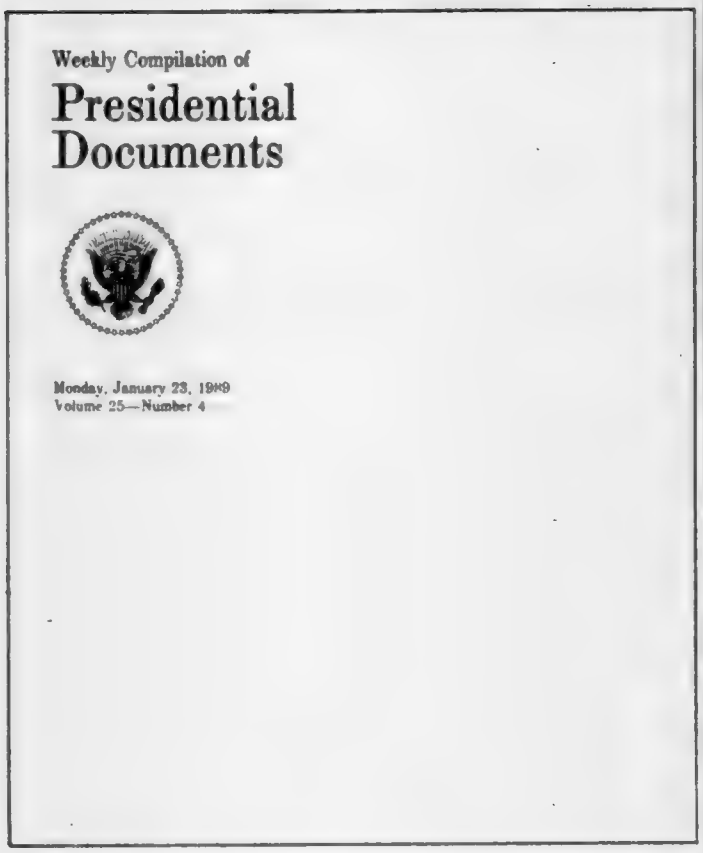

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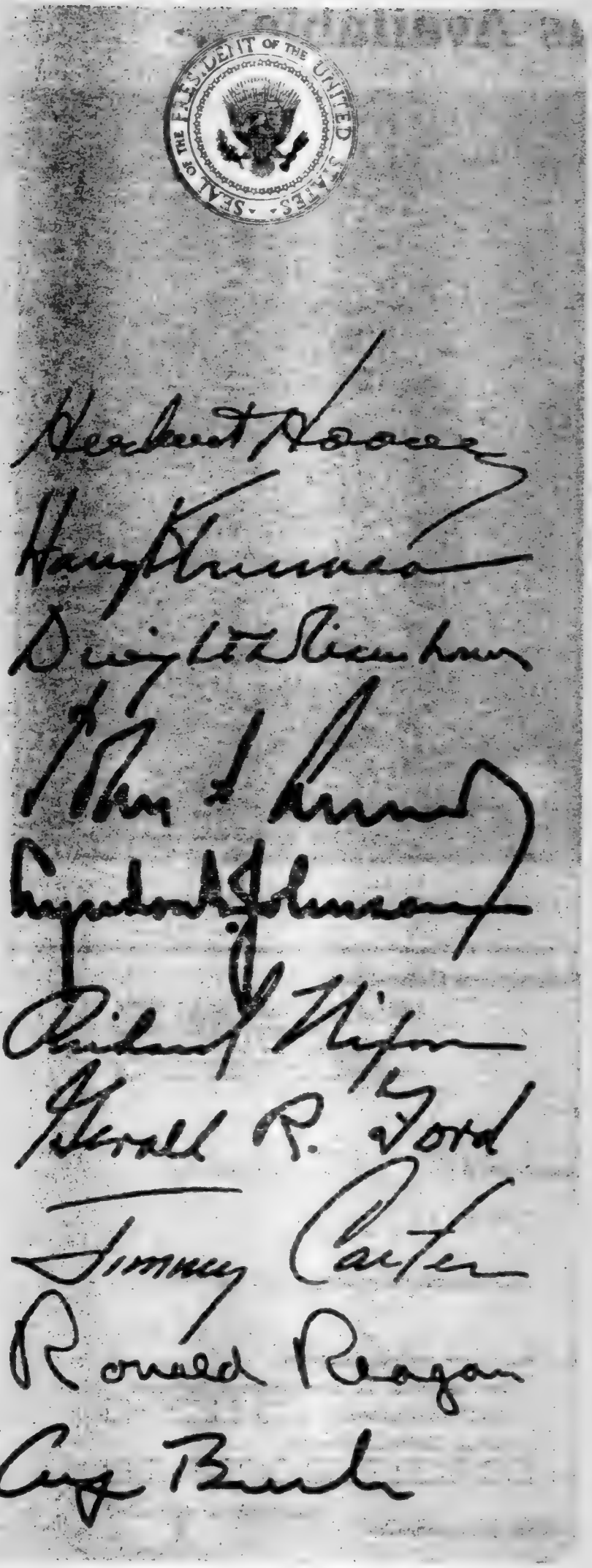

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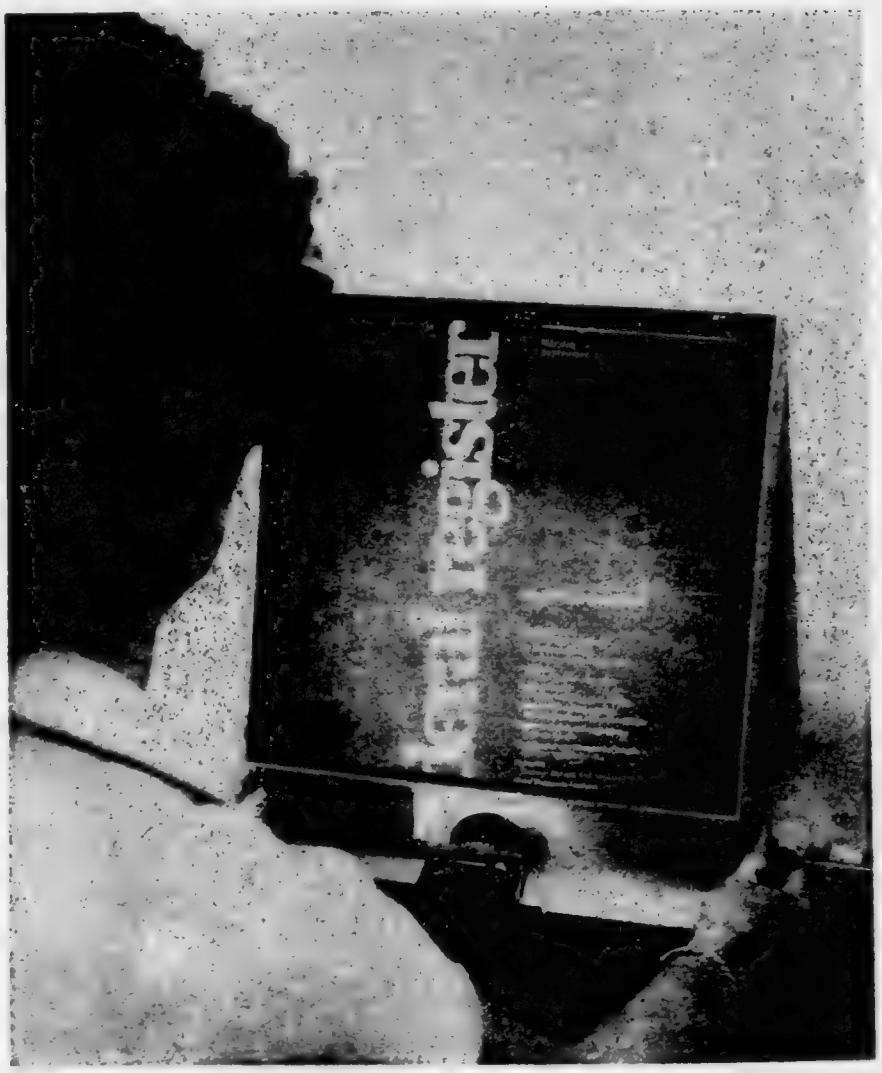

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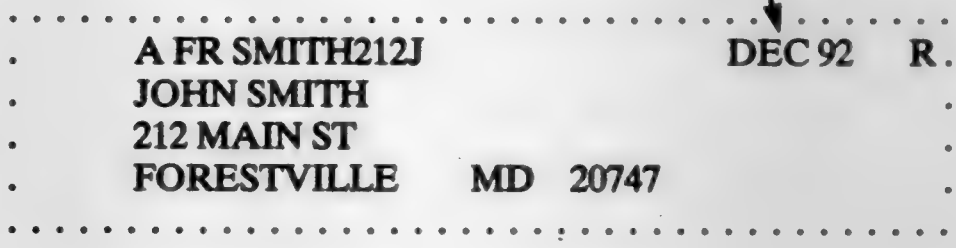

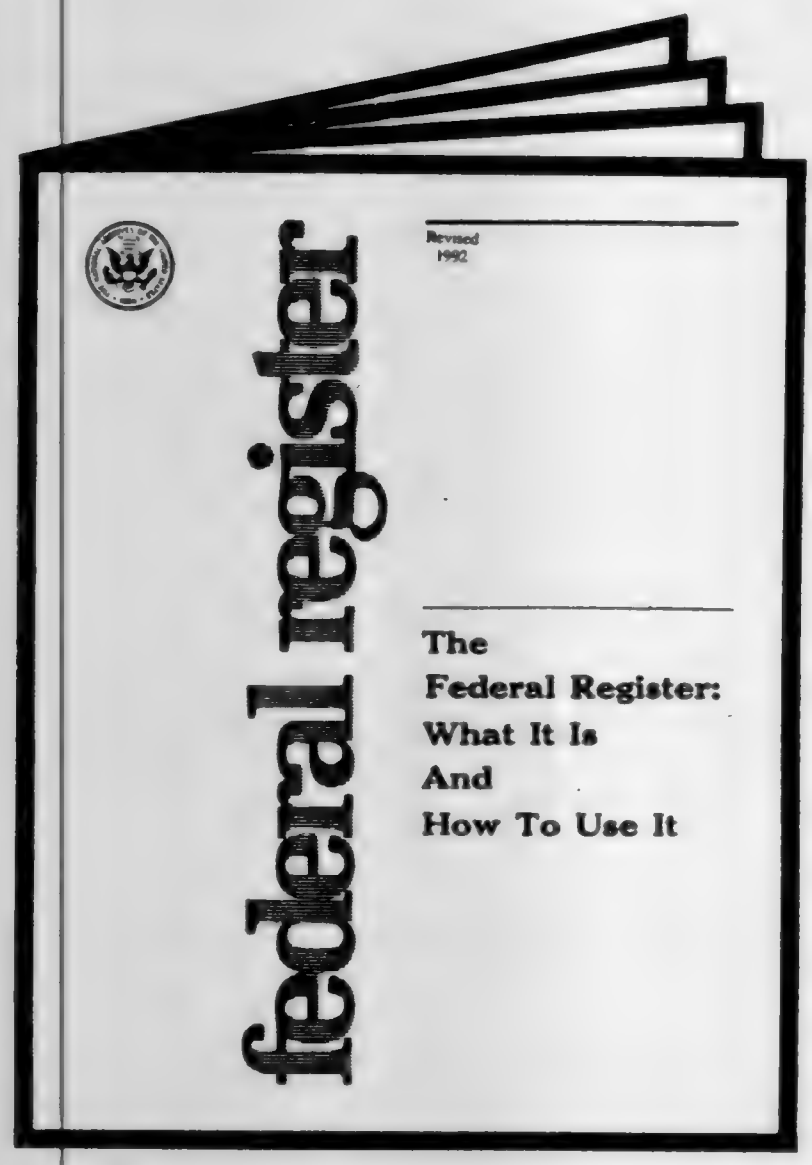

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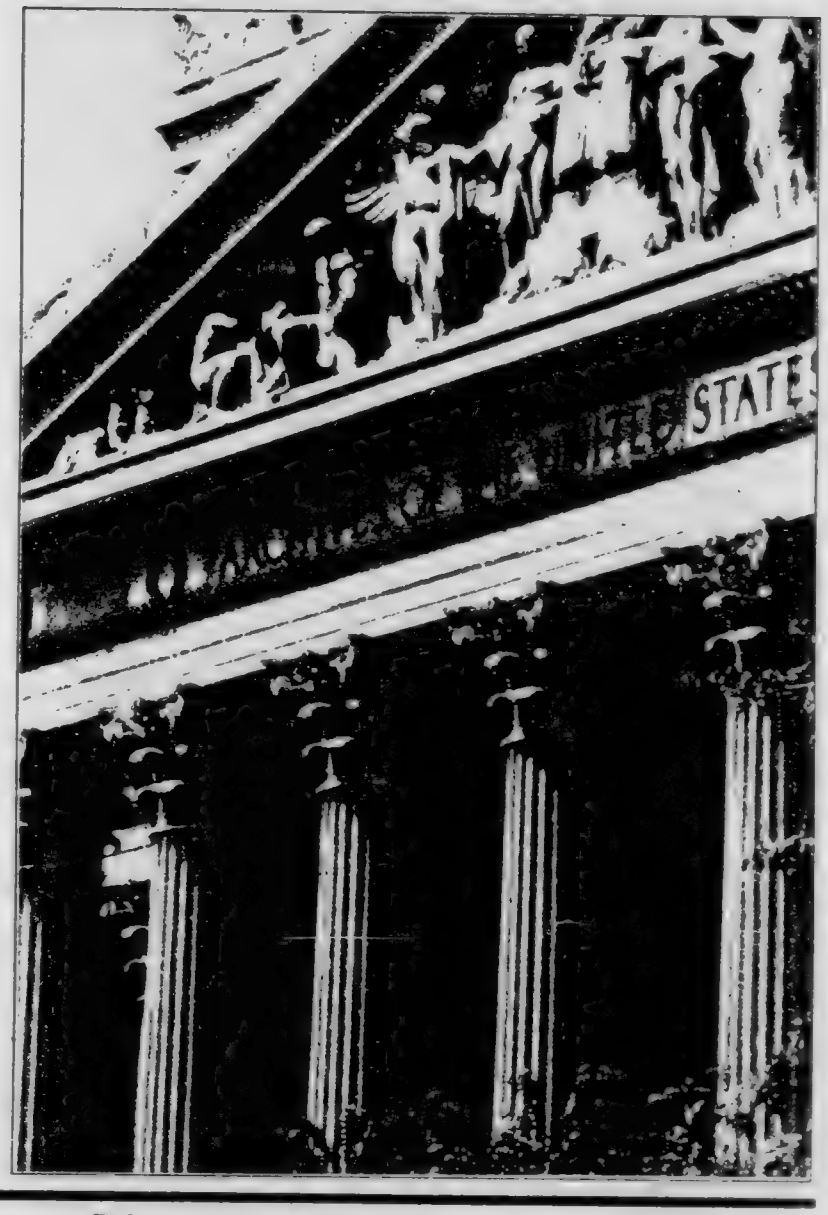

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Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, Federal Register finding aids, and a list of Clinton Administration officials is available on 202–275–1538 or 275–0920.

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Rules and Regulations

Federal Register
Vol. 58, No. 48
Monday, March 15, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Chapter XIV

Relocation of Headquarters and Regional Offices

AGENCY: Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority, and Federal Service Impasses Panel.

ACTION: Amendment of rules and regulations.

SUMMARY: The Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority, and the Federal Service Impasses Panel are relocating their headquarters offices. In addition, certain Authority regional offices have been or are being relocated, or have changed their telephone and fax numbers. This amendment to appendix A of the rules and regulations of the Authority, the General Counsel, and the Federal Service Impasses Panel sets forth the new addresses, telephone numbers, and fax numbers for the offices.

EFFECTIVE DATE: March 15, 1993: paragraphs (a), (b), (c), (d)(1), (d)(3), (d)(4)(i), (d)(5), (d)(6), (d)(7), and (e); March 29, 1993: paragraphs (d)(2) and (d)(4) introductory text.

FOR FURTHER INFORMATION CONTACT: Solly Thomas, Executive Director, (202) 482–6560.

SUPPLEMENTARY INFORMATION: Paragraphs (a), (b), (c), (d), and (e) of Appendix A to 5 CFR Chapter XIV set forth the addresses, telephone, and fax numbers of the offices of the Authority, the General Counsel, the Chief Administrative Law Judge of the Authority, the Regional Offices, and the Federal Service Impasses Panel, respectively. Because of the relocation of those offices, or change in certain telephone numbers, it is necessary to revise the provisions to read as follows:

CHAPTER XIV—FEDERAL LABOR RELATIONS AUTHORITY

Paragraphs (a), (b), (c), (d), and (e) of Appendix A to 5 CFR Chapter XIV are revised to read as follows:

Appendix A to 5 CFR Ch. XIV—Current Addresses and Geographic Jurisdictions

(a) The Office address, telephone and fax numbers of the Authority are: 607 14th Street, NW., Washington, DC 20424–0001; telephone: FTS or Commercial (202) 482–6540; fax: FTS or Commercial (202) 482–6635.

(b) The Office address, telephone and fax numbers of the General Counsel are: 607 14th Street, NW., Washington, DC 20424–0001; telephone: FTS or Commercial (202) 482–6600; fax: FTS Commercial (202) 482–6608.

(c) The Office address, telephone and fax numbers of the Chief Administrative Law Judge are: 607 14th Street, NW., Washington, DC 20424–0001; telephone: FTS or Commercial (202) 482–6630; fax: FTS or Commercial (202) 482–6635.

(d) The Office Addresses, telephone and fax numbers of the Regional Offices of the Authority are as follows: (1) Boston Regional Office—99 Summer Street, suite 1500, Boston, Massachusetts 02110; telephone: FTS or Commercial 617–424–5730; fax: FTS or Commercial 617–424–5743. (i) New York, New York Sub-Regional Office—26 Federal Plaza, room 3700, New York, New York 10278; telephone: FTS or Commercial (212) 264–4934; fax: FTS or Commercial (212) 264–8038.

(ii) Philadelphia, Pennsylvania Sub-Regional Office—105 South 7th Street, 5th Floor, Philadelphia, Pennsylvania 19106; telephone: FTS or Commercial (215) 597–1527; fax: FTS or Commercial (215) 597–3565.

(2) Washington, DC Regional Office—1255 22nd Street, NW., suite 400, Washington, DC 20036; telephone: FTS or Commercial (202) 653–8500; fax: FTS or Commercial (202) 653–5091.

(3) Atlanta, Georgia Regional Office—1371 Peachtree Street, NE., suite 122, Atlanta, Georgia 30367; telephone: FTS or Commercial (404) 347–2324; fax: FTS or Commercial (404) 347–1032.

(4) Chicago, Illinois Regional Office—Xerox Centre, 55 West Monroe, suite 1150, Chicago, Illinois 60603; telephone: FTS or Commercial (312) 353–6306; fax: FTS or Commercial (312) 886–5977.

(i) Cleveland, Ohio Sub-Regional Office—Renaissance Building, 1350 Euclid Avenue, suite 420, Cleveland, Ohio 44115; telephone: FTS or Commercial (216) 522–2114; fax: FTS or Commercial (216) 522–7950.

(ii) [Reserved]

(5) Dallas, Texas Regional Office—Federal Office Building, 525 Griffin Street, suite 926, LB 107, Dallas, Texas 75202; telephone: FTS or Commercial (214) 767–4996; fax: FTS or Commercial (214) 767–0156.

(6) Denver, Colorado Regional Office—1244 Speer Boulevard, Suite 100, Denver, Colorado 80204; telephone: FTS or Commercial (303) 844–5224; fax: FTS or Commercial (303) 844–2774.

(7) San Francisco, California Regional Office—901 Market Street, suite 220, San Francisco, California 94103; telephone: FTS or Commercial (415) 744–4000; fax: FTS or Commercial (415) 744–4117.

(i) Los Angeles, California Sub-Regional Office—350 South Figueroa Street, room 370, Los Angeles, California 90071; telephone: FTS or Commercial (213) 894–3805; fax: FTS or Commercial (213) 894–6202.

(ii) [Reserved]

(e) The Office address and telephone number of the Federal Service Impasses Panel are: 607 14th Street NW., Washington, DC 20424–0001; telephone: FTS or Commercial (202) 482–6670.

Authority: 5 U.S.C. 7134.

Dated: March 2, 1993.

Solly Thomas,

Executive Director, Federal Labor Relations Authority.

[FR Doc. 93–5254 Filed 3–12–93; 8:45 am]
BILLING CODE 6267–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Docket No. FV92–987–1FIR]

Continuation of a Temporary Relaxation of Size Requirements for California Deglet Noor Dates

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action finalizes, without modification, the provisions of an interim final rule which temporarily relaxed the size requirements prescribed

for Deglet Noor dates for use domestically and in Canada as whole and pitted dates. This action increases the current tolerance, from 10 percent to 15 percent, through October 31, 1993, for individual Deglet Noor dates weighing less than 6.5 grams (the prescribed minimum). The relaxation is necessary because Deglet Noor dates from the 1992–93 crop are significantly smaller in size and weight than normal. The decrease in size and weight is due to extremely high temperatures experienced in the production area during late August and early September. The relaxation was unanimously recommended by the California Date Administrative Committee (committee) to make a larger quantity of the 1992–93 crop available for use as whole or pitted dates domestically and in Canada.

EFFECTIVE DATE: April 14, 1993.

FOR FURTHER INFORMATION CONTACT: Kellee Hopper, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, 2202 Monterey Street, suite 102 B, Fresno, CA 93721; telephone (209) 487–5901 or Richard Lower, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–2020.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 987 (7 CFR part 987), both as amended, regulating the handling of domestic dates produced or packed in Riverside County, California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

This final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempt therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his/her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 25 handlers of California dates subject to regulation under the order each season and approximately 135 date producers in the regulated area. The majority of the date handlers and producers may be classified as small entities.

This final rule continues in effect modifications to paragraphs (b)(2) and (c)(2) of section 987.112a which relaxed the size requirements for Deglet Noor dates to be used as whole or pitted dates domestically or in Canada. The modifications were issued pursuant to § 987.39 of the order.

Section 987.112a prescribes grade, size, and container requirements for each outlet category of dates. Paragraph (b)(2) of that section prescribes such requirements for "DAC" dates, including an individual size requirement for Deglet Noor dates of 6.5 grams with a tolerance of 10 percent per lot for dates weighing less than 6.5 grams. DAC dates are marketable whole or pitted dates that are inspected and certified as meeting the grade, size, container, and applicable identification requirements for handling in the United States and Canada. Paragraph (c)(2) of section 987.112a provides the same requirements for "dates for further processing" (FP dates). FP dates are marketable whole dates acquired by one handler from another handler that are certified as meeting the same grade and size requirements for DAC dates, with the exception of moisture requirements and applicable identification requirements.

Due to exceedingly high temperatures during late August and early September which stressed the date palms, individual fruit of the current crop is significantly smaller in size and weight than normal. Early deliveries of Deglet Noor dates failed to meet the marketing order requirements of 10 percent tolerance for individual dates in a lot weighing less than 6.5 grams. The size and weight of the dates were not expected to improve as the harvest progressed. Current deliveries are still smaller in size and weight than normal.

Therefore, at its October 22, 1992, meeting, the committee unanimously recommended that the size requirements for DAC and FP dates be relaxed through October 31, 1993, by increasing the tolerance from 10 to 15 percent for dates weighing less than 6.5 grams. On December 21, 1992, an interim final rule implementing the committee's recommendation was issued. The relaxation has permitted a greater quantity of Deglet Noor dates which are of good quality but weigh less than 6.5 grams to meet the requirements for DAC and FP dates. The additional five percent tolerance for undersize dates has allowed handlers to use approximately three smaller dates per pound. Thus, more of the current crop will continue to be available for shipment as whole or pitted dates domestically and to Canada. The committee estimates marketable 1992–93 Deglet Noor production at approximately 35.3 million pounds. Continuing to make more Deglet Noor dates of satisfactory quality available for use as whole and pitted dates domestically and in Canada will provide for maximum utilization of the 1992–93 crop, thereby benefiting producers, handlers and consumers.

The interim final rule concerning this action was published in the **Federal Register** on December 29, 1992 (57 FR 61777). That rule invited interested persons to submit written comments through January 28, 1993. No comments were received.

Based on the available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and unanimous recommendation submitted by the committee and other available

information, it is found that this action will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CA

1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Accordingly, the interim final rule amending § 987.112a, which was published in the **Federal Register** on December 29, 1992 (57 FR 61777), is adopted without change as a final rule.

Note: This section will appear in the annual Code of Federal Regulations.

Dated: March 9, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–5789 Filed 3–12–93; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 993

[Docket No. FV–92–084FR]

Extension of Date for Disposition of Undersized Dried Prunes Produced in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule relaxes handling requirements by extending the deadline for handlers to find additional non-human consumption outlets to market their undersized prune inventories. The Prune Marketing Committee (Committee) unanimously recommended extending the date for disposing of undersized prunes by up to 60 days in those crop years when there are excessive undersized supplies and limited inedible market demand for such prunes. This action will assist handlers with undersize prune inventories in disposing such inventories to non-human consumption outlets.

EFFECTIVE DATES: April 14, 1993.

FOR FURTHER INFORMATION CONTACT: Richard Van Diest, California Marketing Field Office, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (209) 487–5901; or Valerie L. Emmer, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone (202) 205–2829.

SUPPLEMENTARY INFORMATION: This final rule is issued under marketing agreement and Order No. 993 (7 CFR part 993), both as amended, hereinafter referred to as the order, regulating dried prunes produced in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This final action is not intended to have retroactive effect. Under the marketing order provisions now in effect, the deadline for the disposition of undersized prunes is July 31 of the same crop year in which the obligation is incurred. This action extends by up to 60 days the date for disposition of undersized prunes. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 17 handlers of dried prunes who are subject to regulation under the order and approximately 1,400 producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $3,500,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of handlers and producers of dried prunes may be classified as small entities.

This action will amend § 993.150(g)(1) of Subpart—Administrative Rules and Regulations (7 CFR 993.101–993.174). Section 993.150(g)(1) requires that undersized prunes accumulated by a handler, pursuant to § 993.49(c), shall be disposed of in non-human consumption outlets during the crop year in which such prunes were received from producers and dehydrators. The crop year runs from August 1 through July 31. Non-human consumption outlets include livestock feeders and manufacturers of inedible syrup, industrial alcohol, animal feed or other products intended for non-human use.

During most crop years, handlers have little difficulty in disposing of undersized prunes by the July 31 disposition deadline, most of which are sold to feed lots for use as cattle feed. However, there may be other less expensive products available to feed lot operators, and purchases of undersized prunes may be reduced or curtailed. During the 1991–92 crop year (August 1, 1991, through July 31, 1992), prune handlers had excessive supplies of undersized prunes for which there was a limited demand. Fortunately, all prune handler found outlets for their undersized prunes by July 31.

Recognizing that feed lot operators may be able to purchase less expensive feed alternatives and that prune handlers may not be able to dispose of their undersized prune inventories by the July 31 deadline, the Committee, at its June 23, 1992, meeting, recommended that the disposition deadline for such prunes be extended by up to 60 days beyond July 31. At its November 12, 1992, meeting, the Committee unanimously recommended

modifying its original recommendation to include criteria for granting such an exemption. This action will provide handlers additional time to dispose of undersized prune inventories to non-human consumption outlets.

Under this action, individual handlers needing an extension will be required to notify the Committee in writing no later than July 1—30 days prior to the end of the crop year. The Committee will approve an extension of time provided that: (1) The Committee's records indicate that the handler has disposed of at least 65 percent of the handler's undersized prunes by May 31, indicating a bona fide effort by the handler to dispose of the handler's undersized prunes; (2) such handler has a sufficient quantity of undersized prunes held in storage to meet its remaining obligation; and (3) the extension of time requested is not later than 60 days beyond the end of the crop year.

There is periodic contact between the handlers and the Committee regarding the disposal of undersized prunes. Paragraph (g) of section 993.150 requires a handler to file an application with the Committee to obtain approval before the handler disposes of the undersized inventory. Paragraph (g) also requires handlers to report to the Committee to assure that undersized prune inventories are disposed of in non-human consumption channels. Through such reporting, the Committee is able to determine the quantity of undersize prunes in the handler's possession and the effort made in disposing of such prunes.

This procedure will limit an extension request to not more than 60 days beyond the end of the crop year. The Committee indicated that an extension of more than 60 days could adversely impact the undersized prune market for the next year's crop. This action will provide handlers additional time for disposing of their undersized prunes, without adversely impacting the market during the subsequent crop year.

Based on available information, the Administrator of the AMS has determined that issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

The information collection requirements that are contained in these regulations have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB Control Number 0581–0099.

The proposed rule was published in the **Federal Register** on December 30, 1992 (57 FR 62240). Interested persons were invited to submit comments on the proposal through January 14, 1993. No comments were received.

After consideration of all relevant matters presented, the Committee's recommendation and other available information, it is found that the issuance of this rule will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is amended to read as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Subpart—Administrative Rules and Regulations

2. Section 993.150(g)(1) of Subpart—Administrative Rules and Regulations is amended by revising paragraphs (g)(1)(i)–(iii) to read as follows:

§ 993.150 Disposition of prunes by handlers.

* * * * *

(g) *Disposition of undersized prunes—*(1) *Application for and approval of disposition.* Undersized prunes accumulated by a handler pursuant to section 993.49(c) shall be disposed of in non-human consumption outlets during the crop year in which the prunes establishing such obligations were received from producers or dehydrators, or such later date that a handler may request in a notice, filed with the Committee at least 30 days prior to July 31 of the year of accumulation: *Provided,* That:

(i) Such handler has made a bona fide effort to dispose of its undersized prunes as demonstrated by the shipment of at least 65 percent of its undersized obligation by May 31;

(ii) Such handler has a sufficient quantity of undersized prunes held in storage to meet its remaining obligation; and

(iii) The extension of time requested is not later than 60 days beyond the end of the crop year. * * *

* * * * *

Dated: March 9, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–5788 Filed 3–12–93; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 92–147–3]

Change in Disease Status of Spain Because of Rinderpest, Foot-and-Mouth Disease, Hog Cholera, and Swine Vesicular Disease; Partial Withdrawal

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Partial withdrawal of final rule.

SUMMARY: We are withdrawing part of a final rule which declared Spain free of swine vesicular disease (SVD) and certain other diseases, relieving certain prohibitions and restrictions on the importation into the United States of ruminants and swine and animal products of ruminants and swine from Spain. According to a report just issued by the Office International des Epizooties, SVD has been detected in Spain. Therefore we are withdrawing that part of the final rule which would have added Spain as a country considered to be free of SVD, but which supplements its national pork supply by the importation of fresh, chilled or frozen pork from countries where SVD is considered to exist. The final rule was published on February 25, 1993 and is effective on March 29, 1993 (58 FR 11365, Docket No. 92–147–2).

DATES: This partial withdrawal is effective on: March 15, 1993.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Chief Staff Veterinarian, Import-Export Products Staff, VS, APHIS, USDA, room 756–A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7885.

In FR Doc. 93–4348, page 11367, the amendatory language is changed as follows:

1. On page 11367, first column, the amendatory instruction number 6 for § 94.12(a) is withdrawn.

2. On page 11367, first column, the amendatory instruction number 7 for § 94.13 is withdrawn.

Done in Washington, DC, this 9th day of March 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–5842 Filed 3–12–93; 8:45 am]

BILLING CODE 3410-34-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

RIN 3150–AE08

Clarification of Physical Protection Requirements at Fixed Sites

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its general physical protection requirements for fixed sites. This action is necessary to clarify the Commission's regulatory intent. This amendment makes it clear that the Commission's regulations do not require protection against *both* radiological sabotage and theft of special nuclear material (SNM) at *all* facilities. The Commission is also adding a requirement that nonpower reactor licensees, who operate at or above 2 megawatts thermal, protect against radiological sabotage where deemed necessary.

EFFECTIVE DATE: April 14, 1993.

ADDRESSES: The final regulatory analysis and environmental assessment for the rule is available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Sandra D. Frattali, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3773.

SUPPLEMENTARY INFORMATION:

Background

The Commission is concerned that its regulations regarding physical protection requirements could be interpreted as requiring protection against both radiological sabotage and theft of special nuclear material at all fixed sites. The Commission is clarifying the language of the current rule to prevent this interpretation. Additionally, the Commission is concerned that for some nonpower reactors authorized to operate at or above 2 megawatts thermal, the possibility of sabotage leading to a significant radiological release, though remote, should not be discounted. The Commission has decided to add a requirement to its regulations to address this issue. The Commission published a proposed rule in the **Federal Register** on May 29, 1992 (57 FR 22670), to address these concerns. The proposed rule clarified the physical protection requirements at fixed sites by amending the wording of § 73.40 to make it clear that if a licensee satisfies the specific requirements in part 73 that apply to its specific class of facility, material, or activity, then the general need for physical protection is satisfied. The proposed rule also added an explicit requirement to § 73.60 for protection against radiological sabotage where deemed necessary. It should be noted that those nonpower reactor licensees currently operating at or above 2 megawatts thermal, who have been identified as possibly being vulnerable to radiological sabotage, are voluntarily implementing additional measures to provide physical protection against radiological sabotage. The 75-day public comment period expired on August 12, 1992. One comment was received.

Public Comment on the Proposed Rule

The commenter supported the proposed rule. There are no changes in the regulatory requirements of this final rule from those published as the proposed rule. In addition, the commenter interpreted the proposed rule to mean that if the physical protection system for a uranium enrichment facility that possessed only special nuclear material of low strategic significance satisfied the requirements of §§ 73.67(a), (f), and (g), then the requirements of § 73.40 would be satisfied.

The Commission agrees that this interpretation is correct.

There was no public comment on the amendment to § 73.60 requiring additional protection for nonpower reactors.

This rule is issued pursuant to sections 161 (b) and (i) of the Atomic Energy Act of 1954, as amended.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The amendment to § 73.40 clarifies that the Commission's regulations do not require protection against *both* radiological sabotage and theft of special nuclear material at *all* facilities, which simply codifies existing NRC practice. Consequently, no environmental impacts are associated with this amendment. The amendment to § 73.60 requires certain nonpower reactor licensees, who operate at or above 2 megawatts thermal, to protect against radiological sabotage where deemed necessary. Facilities affected by the amendment to § 73.60 are already voluntarily implementing this requirement, and therefore, no consequences to the environment will occur due to this rulemaking. The amendment to § 73.60 also requires future nonpower reactor licensees to provide physical protection against radiological sabotage if an analysis of the reactor's characteristics and fuel used therein indicates that such protection is necessary. For a future licensee, any environmental impacts associated with this requirement will be included in the Environmental Impact Statement prepared in support of that license application. The environmental assessment and finding of no significant impact on which this determination is based is available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies are available from Dr. Sandra D. Frattali, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3773.

Paperwork Reduction Act Statement

This final rule contains no new or amended information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0002.

Regulatory Analysis

The Commission has prepared a regulatory analysis for this final regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Dr. Sandra D. Frattali, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492–3773.

Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. There is no economic impact on any current or future licensee except for certain

nonpower reactor licensees. However, nonpower reactor licensees do not fall within the scope of "small entities" set forth in section 601(3) of the Regulatory Flexibility Act, 15 U.S.C. 632, or the Small Business Size Standards set out in regulations issued by the Small Business Administration in 13 CFR part 121.

Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule because the amendment to § 73.40 does not impose requirements on existing nuclear power reactor licensees, and the amendment to § 73.60 applies only to nonpower reactors. Therefore, a backfit analysis was not prepared for this final rule.

List of Subjects in 10 CFR Part 73

Criminal Penalties, Hazardous materials—transportation, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 73.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.1 also issued under secs. 135, 141, Public Law 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Public Law 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Public Law. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

2. Section 73.40 is revised to read as follows:

§ 73.40 Physical protection: General requirements at fixed sites.

Each licensee shall provide physical protection at a fixed site, or contiguous sites where licensed activities are conducted, against radiological sabotage, or against theft of special nuclear material, or against both, in accordance with the applicable sections of this Part for each specific class of facility or material license. If applicable, the licensee shall establish and maintain physical security in accordance with security plans approved by the Nuclear Regulatory Commission.

3. In § 73.60, the section heading is revised and paragraph (f) is added to read as follows:

§ 73.60 Additional requirements for physical protection at nonpower reactors.

* * * * *

(f) In addition to the fixed-site requirements set forth in this section and in § 73.67, the Commission may require, depending on the individual facility and site conditions, any alternate or additional measures deemed necessary to protect against radiological sabotage at nonpower reactors licensed to operate at or above a power level of 2 megawatts thermal.

Dated at Rockville, Maryland, this 9th day of March, 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–5878 Filed 3–12–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–ASW–13; Amendment 39–8507; AD 93–05–01]

Airworthiness Directives; Bell Helicopter Textron, Inc., Model 212 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Bell Helicopter Textron, Inc. Model 212 helicopters, that requires repetitive inspections of the main rotor yoke assembly on these helicopters. This amendment is prompted by 12 reports of cracks in the main rotor yoke assembly at the pillow block holes. The actions specified by this AD are intended to prevent and detect corrosion pitting, and cracks in the pillow block bolt bushing holes of the main rotor yoke assembly, which could result in failure of the main rotor system and subsequent loss of control of the helicopter.

EFFECTIVE DATE: April 19, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101. This information may be examined at the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–ASW–13, 4400 Blue Mound Road, Bldg. 3B, Room 158, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Henry, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, ASW–170, Fort Worth, Texas 76193–0170, telephone (817) 624–5168, fax (817) 740–3394.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to Bell Helicopter Textron, Inc. (BHTI) Model 212 helicopters was published in the **Federal Register** on August 19, 1992 (57 FR 37485). That action proposed to require repetitive inspections of the main rotor yoke assembly. The proposal as published in the **Federal Register** contained an error in paragraph (a)(2), which was corrected by the **Federal Register** on January 25, 1993 (58 FR 6056).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. However, an editorial change inserting the words "since new or the last overhaul" has been added to paragraph (b) to correlate with identical wording in paragraph (a). The FAA has determined that air safety and the public interest require the adoption of the rule with this change. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 168 helicopters of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per helicopter to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $36,960 per year. This total cost figure assumes that no operator has accomplished the requirements of this AD. The FAA estimates that half of these inspections will be conducted during normal overhaul of these helicopters.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

AD 93-05-01 BELL HELICOPTER TEXTRON, INC. (BHTI): Amendment 39-8507. Docket Number 92-ASW-13.

Applicability: BHTI Model 212 helicopters, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent possible fatigue failure of the main rotor yoke assembly, accomplish the following:

(a) For main rotor hub assemblies with main rotor yokes, part number (P/N) 204-011-102 (all dash numbers), having 1,100 or more hours time in service since new or the last overhaul on the effective date of this AD, perform the following within the next 100 hours time in service, and thereafter at intervals not to exceed 1,200 hours time in service:

(1) Remove the main rotor yoke from the hub assembly. Visually inspect the pillow block bushing holes for corrosion and mechanical damage. Inspect the yoke for cracks using the magnetic particle method as specified in BHTI component repair and overhaul manual.

(2) If cracks are found, or if corrosion or mechanical damage is present that cannot be removed within the rework limits of the BHTI component repair and overhaul manual, replace the main rotor yoke with an airworthy part.

(b) For main rotor hub assemblies with main rotor yokes, P/N 204-011-102 (all dash numbers), having less than 1,100 hours time in service since new or the last overhaul on the effective date of this AD, comply with paragraphs (a) (1) and (2) of this AD prior to attaining 1,200 hours time in service, and thereafter at intervals not to exceed 1,200 hours time in service from the last inspection.

(c) If no cracks are found and the yoke is airworthy, reinstall it in accordance with the BHTI component repair and overhaul manual.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Rotorcraft Certification Office, ASW-170, FAA, 4400 Blue Mound Road, Fort Worth, Texas 76106. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Rotorcraft Certification Office.

(e) The visual and magnetic particle inspection specified in BHTI, Alert Service Bulletin 212-90-60, Part III, dated March 23, 1990, is an equivalent means of compliance with this AD.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(g) This amendment becomes effective on April 19, 1993.

Issued in Fort Worth, Texas, on March 4, 1993.

Henry A. Armstrong,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 93-5841 Filed 3-12-93; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-NM-202-AD; Amendment 39-8505; AD 93-04-03]

Airworthiness Directives; General Dynamics Convair Model 340, 440, and C-131B Through C-131H (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all General Dynamics Convair Model 340, 440, and C-131B through C-131H (military) series airplanes, that requires an inspection of both horizontal stabilizers and vertical stabilizer attach fittings, and rework, if necessary. This amendment would also require a hardness test of the horizontal and vertical stabilizer taper pins and split sleeve bushings, and replacement, if necessary. This amendment is prompted by reports of the installation of soft, unheat-treated stabilizer pins and split sleeves, which can result in looseness of the attachments. The actions specified by this AD are intended to prevent failure of the stabilizer attach fittings, and potential subsequent loss of a horizontal or vertical stabilizer.

DATES: Effective April 19, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 19, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from General Dynamics, Convair Division, Lindberg Field Plant, P.O. Box 85377, San Diego, California 92138, Attention: L.J. Hayes. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Brent Bandley, Aerospace Engineer, Los Angeles Aircraft Certification Office, Airframe Branch, ANM-123L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach California 90806-2425; telephone (310) 988-5237; fax (310) 988-5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to all General Dynamics Convair Model 340, 440, and C-131B through C-131H (military) series airplanes was published in the **Federal Register** on November 17, 1992 (57 FR 54194). That action proposed to require an inspection to determine the sizing and condition of the holes in the lugs of the fuselage and stabilizer fittings, and rework, if necessary. That action also proposed to require a hardness test of the horizontal and vertical stabilizer taper pins and split sleeve bushings, and replacement, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the rule as proposed.

One commenter requests a clarification of the circumstances that prompted AD action, as explained in the Summary section of the proposal. The commenter requests that the description of the problem be revised to indicate that "soft, unheat-treated stabilizer pins and split sleeves" can result in looseness of the attachments. The commenter notes that the unsafe condition is more likely prompted by the possibility of unheat-treated pins and split sleeves rather than merely by loose stabilizer pins and split sleeve attachments. The FAA concurs. The commenter's description is more accurate with regards to the problem addressed by this action. Appropriate sections of the final rule have been revised accordingly.

One commenter requests that the proposal be revised to indicate that General Dynamics has changed its contact person regarding service information. The new contact person is L.J. Hayes. The FAA concurs and has changed the final rule accordingly.

Two commenters request that paragraph (a)(1) of the proposal be revised to delete reference to removal of both horizontal stabilizers and the vertical stabilizer. Both commenters note that it is not necessary to remove both horizontal stabilizers and the vertical stabilizer in order to accomplish the proposed initial inspections of the horizontal and vertical stabilizer attachment lugs, pins, and bushings. The FAA concurs with the commenters' request. The intent of the requirements of this AD can be met without removal of the stabilizers. Paragraph (a)(1) has been revised to delete reference to removal of both horizontal and the vertical stabilizer and to clarify the inspection procedures.

Two commenters request that paragraphs (a)(2) and (a)(2)(ii) of the proposal be revised to specify that certain pins and split sleeves are excluded from the proposed hardness test. One commenter requests that pins and split sleeves manufactured by Convair be excluded from the hardness test requirement. This commenter states that all new pins and split sleeves sold by Convair have been hardness tested prior to shipment. One commenter requests that the rule require hardness testing only when manufacturer certification of each pin and sleeve cannot be established. The FAA concurs. Paragraphs (a)(2) and (a)(2)(ii) of the final rule have been revised to exclude taper pins and split sleeve bushing that are received directly from Convair and that bear the Convair mark from the hardness test requirement.

One commenter requests that the proposal be revised to clearly provide credit to operators who have already accomplished the procedures described in General Dynamics, Convair Division, Service Bulletin 640(340D) S.B. No. 55–6, dated September 1, 1992. This commenter suggests that operators who have accomplished those procedures, within the past six months, and who used either new Convair pins and split sleeves or other serviceable parts of a known hardness, should be given credit, provided they can produce records proving the accomplishment. The FAA does not concur that a change to the rule is necessary. The AD specifically states that compliance is required as indicated, "unless accomplished previously." This statement provides credit for operators who have previously accomplished the requirements of the final rule. It should be noted, however, that operators who have performed the actions previously must be able to substantiate (1) when the procedures were accomplished; (2) whether any of the attachment lugs were reworked; (3) test results of the hardness test of the pin and bushing; (4) test results of the hardness test of the replacement pin and bushing, or proof that the replacement pins and bushings were purchased from Convair subsequent to the issuance of General Dynamics, Convair Division, Service Bulletin 640(340D) S.B. No. 55–6, dated September 1, 1992; and (5) verification that the Convair pins and bushings have been installed in the airplane.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 320 General Dynamics Convair Model 340, 440, and C–131B through C–131H (military) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 240 airplanes of U.S. registry will be affected by this AD, that it will take approximately 34 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $448,800, or $1,870 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93–04–03 General Dynamics: Amendment 39–8505. Docket 92–NM–202–AD.

Applicability: All Model 340, 440, and C–131B through C–131H (military) series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the stabilizer attach fittings, and potential subsequent loss of a horizontal or vertical stabilizer, accomplish the following:

(a) Within 12 months or 1,500 flight hours after the effective date of this AD, whichever occurs first, accomplish paragraphs (a)(1) and (a)(2) of this AD:

(1) Inspect both horizontal stabilizers and vertical stabilizer attach fittings in accordance with General Dynamics, Convair Division, Service Bulletin 640(340D) S.B. No. 55–6, Paragraph 2.A, Accomplishment Instructions, part 1, dated September 1, 1992. If the attach fittings are not within the tolerance limitations specified in the Convair 440 Structural Repair Manual, prior to further flight, bush the fittings in accordance with the repair manual.

(2) Perform a hardness test of the horizontal and vertical stabilizer taper pins and split sleeve bushings in accordance with normal maintenance procedures. The equivalent strength values for the pins and bushings based on the hardness test must be between 160–180 ksi. Taper pins and split sleeve bushing received directly from Convair and bearing the Convair mark are excluded from this requirement.

Note: The Convair mark is an etched mark:
CV
SD
It is located on a flat side near the top of the taper pin, and on the top of the bushing.

(i) If the pins or bushings have a lower strength value than 160 ksi, if they are worn into the parent metal, if they show signs of corrosion, or if they have been ground and replated, prior to further flight, remove the discrepant part(s) and replace it with a new FAA-approved part(s). Reworked parts are not acceptable for use as replacement parts.

(ii) Prior to installing any FAA-approved new taper pin or split sleeve bushing on the airplane, perform a hardness test on the part(s) and ensure that the equivalent strength value is between 160 and 180 ksi. Parts having a strength value lower than 160 ksi shall not be installed. Taper pins and split sleeve bushing received directly from Convair and bearing the Convair mark are excluded from this requirement.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspection shall be done in accordance with General Dynamics, Convair Division, Service Bulletin 640(340D) S.B. No. 55–6, dated September 1, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Dynamics, Convair Division, Lindberg Field Plant, P.O. Box 85377, San Diego, California 92138, Attention: L.J. Hayes. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on April 19, 1993.

Issued in Renton, Washington, on February 26, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–5784 Filed 3–12–93; 8:45 am]
BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 91–ANE–60]

Amendment to Transition Area; Highgate, VT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Highgate, Vermont (VT) Transition Area by redefining the area using the St. Jean VORTAC. This action is prompted by the establishment of a new VOR/DME Instrument Approach Procedure (IAP) to the Highgate, Franklin County State Airport (Highgate) based on the St. Jean VORTAC. This action is intended to contain aircraft executing the new IAP to Highgate within controlled airspace while transitioning between the terminal and en route environments.

EFFECTIVE DATE: May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Charles M. Taylor, Airspace Specialist, System Management Branch, ANE–530, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 270–2428; fax (617) 273–4345 or (617) 272–0395.

SUPPLEMENTARY INFORMATION:

History

On April 7, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Highgate, Vermont (VT) Transition Area by redefining the area using the St. Jean VORTAC. (57 FR 11701). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The FAA received no comments to the proposed rule. Except for the following minor changes, this amendment is the same as the proposed rule. The longitude and latitude coordinates used in the proposed rule were based on North American Datum 27. These coordinates have been updated to North American Datum 83. In addition, since the FAA issued the proposed rule, the Highgate, VT Transition Area was modified by the Terminal Airspace Reconfiguration rule (57 FR 38962), which converted the lateral unit of measurement from statute to nautical miles and redesignated the area intended to contain aircraft operations under instrument flight rules (IFR). Lastly, this final rule contains editorial changes from the proposed rule that do not change the scope of intent of the rule. Transition areas are published in Section 71.181 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The Highgate, VT transition area will be modified subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations is prompted by the establishment of a new VOR/DME Instrument Approach Procedure (IAP) to the Highgate, Franklin County State Airport (Highgate) based on the St. Jean VORTAC. The previous IAP to Highgate was based on the Plattsburg VORTAC (PLB). That IAP is no longer authorized due to limitations of the use of the Plattsburg VORTAC. Accordingly, this action redefines the Highgate, VT transition area using the St. Jean VORTAC (YJN). This action is intended to contain aircraft executing the new IAP to Highgate within controlled airspace while transitioning between the terminal and en route environments.

The FAA has determined that this regulation involves only an established body of technical regulations for which frequent and routine amendments are necessary to keep these regulations operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated economic cost will be so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963, Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation of transition areas.

* * * * *

ANE VT TA Highgate, VT [Revised]
Highgate, Franklin County State, VT (lat. 44°56'25"N, long. 73°05'50"W)

That airspace extending upward from 700 feet above the surface within a 7.8-mile radius of the Franklin County State Airport, excluding that airspace outside of the United States.

* * * * * *

Issued in Burlington, Massachusetts, on February 25, 1993.

Francis J. Johns,

Manager, Air Traffic Division, New England Region.

[FR Doc. 93–5826 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 92–AWP–20]

Establishment of a 700 Foot Above Ground Level (AGL) and Above Transition Area at Westover Field Amador Co., Jackson, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a 700 foot AGL and above transition area at Westover Field Amador Co., Jackson, CA. This transition area will provide controlled airspace for aircraft executing a Very High Frequency Omni-directional Range/Distance Measuring Equipment (VOR/DME) Standard Instrument Approach Procedure (SIAP) to the Westover Field Amador Co.

EFFECTIVE DATE: 0901 u.t.c., May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Gene Enstad, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 297–0010.

SUPPLEMENTARY INFORMATION:

History

On December 24, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a 700 foot AGL and above transition area at Westover Field Amador Co., Jackson, CA (57 FR 61344). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Transition areas are published in Section 71.181 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes the Westover Field Amador Co., Jackson, CA 700 foot AGL and above transition area. This transition area will provide controlled airspace from 700 feet AGL and above for aircraft executing a newly established approach, the VOR/DME Runway 1, into Westover Field Amador Co., Jackson, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 Part 71

Aviation safety, Incorporation by reference, Transition areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS, JET ROUTES, AND AREA HIGH ROUTES

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation of Transition Area

* * * * *

AWP CA TA Jackson, CA [New]
Westover Field Amador Co., Jackson, CA (lat. 38°22'45" N, Long. 120°48'04" W)

That airspace extending upward from 700 feet above the surface within a 4.3 mile radius of Westover Field Amador Co., Jackson, CA.

* * * * *

Issued in Los Angeles, California, on March 1, 1993.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 93–5816 Filed 3–12–93 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 92–AWP–19]

Establishment of a 9,000 Foot Mean Sea Level (MSL) and Above Transition Area Near the Grand Canyon Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC), AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a 9,000 foot MSL and above transition area near the Grand Canyon VORTAC, AZ, to be known as the Aubrey Cliffs transition area. This transition area will provide controlled airspace for aircraft vectored to the final approach fix at the Grand Canyon Airport.

EFFECTIVE DATE: 0901 u.t.c., May 27, 1993.

FOR FURTHER INFORMATION CONTACT:
Gene Enstad, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 297–0010.

SUPPLEMENTARY INFORMATION:

History

On January 8, 1993, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a 9,000 foot MSL and above transition area near the Grand Canyon VORTAC, AZ (58 FR 3242). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Transition areas are published in Section 71.181 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes the Aubrey Cliffs transition area. This transition area will provide controlled airspace for aircraft being vectored to the final approach fix at the Grand Canyon Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 Part 71

Aviation safety, Incorporation by reference, Transition areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS, JET ROUTES, AND AREA HIGH ROUTES

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation of transition areas.

* * * * *

AWP AZ TA Aubrey Cliffs [New]

That airspace extending upward from 9,000 feet mean seal level (MSL) and above bounded on the north by the southern edge of Victor Airway 208/210 (V–208/210), on the east by the western edge of V–257, and on the south by the northern edge of V–291.

* * * * *

Issued in Los Angeles, California, on March 1, 1993.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 93–5817 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3500

[Docket R–93–1643; FR–3457–I–01]

Real Estate Settlement Procedures Act, RESPA Interpretive Rule 1993–2; Effective Date of Application of the Real Estate Settlement Procedures Act (RESPA) To Subordinate or Junior Lien Loans

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interpretive rule.

SUMMARY: The Housing and Community Development Act of 1992, approved October 28, 1992 (the 1992 Act), amended the Real Estate Settlement Procedures Act (RESPA) to, among other things, add a new class of covered transactions: second and other subordinate mortgages, such as home equity lines of credit, home equity loans, and home improvement loans secured by residential real estate qualifying under RESPA. This Interpretive Rule clarifies that RESPA's coverage of subordinate liens will only take effect when final regulations implementing this section become effective.

EFFECTIVE DATE: March 15, 1993.

FOR FURTHER INFORMATION CONTACT: Grant E. Mitchell, Senior Attorney for RESPA, room 10252, (202) 708–1550, and Kenneth A. Markison, Assistant General Counsel for Administrative Law, room 10252, (202) 708–3137, or David Williamson, Director, RESPA Enforcement, room 5241, (202) 708–4560, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The purpose of this Interpretive Rule is to state the position of the Department regarding the effective date of the application of RESPA to loans brought under RESPA coverage by section 908 of the Housing and Community Development Act of 1992. Pub. L. 102–550, Approved October 28, 1992 (the 1992 Act). For purposes of the 1992 Act, section 3(1)(A) of RESPA was revised to define the term "federally related mortgage loan" to include any loan (other than temporary financing such as a construction loan) which is secured by a first *or subordinate* lien on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from one to four families, *including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property.* (Emphasis added.)

Section 908(c) requires the Secretary to issue regulations to implement the amendments made by this section not later than the expiration of the 180-day period beginning on the date of enactment of the 1992 Act * * * after notice and opportunity for public comment * * *. Section 908(d) also states that this section shall take effect on the date of enactment of this Act * * *.

The apparent conflict between the language of sections 908(c) and 908(d) has led to confusion by the public and concern by subordinate mortgage

lenders that they might be subject to civil or criminal actions before regulations are in place. It is the Department's position, following standard interpretations of the Administrative Procedure Act, 5 U.S.C. 553, that the intent of the Congress was that this amendment was not applicable until the effective date of the rulemaking required by the Act.

This interpretation recognizes that this legislative amendment expands the Department's jurisdiction to classes of loans over which the Department never had jurisdiction before, with civil and criminal law implications over persons who could not reasonably be aware of the implications of the amendment.

The 1992 Act also made explicit that RESPA covered refinancing transactions. This had always been the position of the Department, and this coverage is set out in the Revised RESPA Rule, effective on December 2, 1992.

The following is the interpretive rule:

Interpretive Rule

[RESPA Interpretive Rule 1993–2]

The Department hereby interprets section 908 of the Housing and Community Development Act of 1992, Pub. L. 102–550, Approved October 28, 1992 (the 1992 Act), as requiring the Department to first complete required rulemaking under the 1992 Act, which rulemaking will have its own effective date, before junior or subordinate lien loans are covered under RESPA. The provisions respecting refinancings have previously been through rulemaking and are not affected by this interpretation.

This interpretation is an "interpretation" of RESPA for the purpose of 19(a) of RESPA (12 U.S.C. 2617) (see also 24 CFR 3500.4(b)(ii) of the Revised RESPA Rule, effective December 2, 1992, found at 57 FR 49600). This interpretation is directed to all regulatory agencies and any other concerned persons.

Dated: February 25, 1993.

James E. Schoenberger,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 93–5797 Filed 3–12–93; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8477]

RIN 1545–AO01

Casualty and Theft Losses and Loss Reimbursements; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final and temporary regulations.

SUMMARY: This document contains corrections to Treasury Decision 8477, which was published in the **Federal Register** for Friday, February 26, 1993 (58 FR 11537). The final and temporary regulations relate to the limitations on passive activity losses and credits under section 469.

EFFECTIVE DATE: February 26, 1993.

FOR FURTHER INFORMATION CONTACT: Martin Schaffer of the Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3080 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations that are the subject of these corrections provide rules under section 469 of the Internal Revenue Code.

Need for Correction

As published, T.D. 8477 contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of final and temporary regulations (T.D. 8477), which was the subject of FR Doc. 93–4423, is corrected as follows:

1. On page 11538, column 2, § 1.469–2(d)(2)(xi), fourth line from the bottom of the paragraph, the language "section 167(c)(3)) if losses that are" is corrected to read "section 165(c)(3)) if losses that are".

2. On page 11538, column 3, second line in the Commissioner's signature block, the language "Commissioner of Internal Revenue" is corrected to read "(Acting) Commissioner of Internal Revenue".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–5764 Filed 3–12–93; 8:45 am]

BILLING CODE 4830–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning April 1, 1993. The use of these interest rates and factors to value benefits is mandatory for some terminating single-employer pension plans and optional for others. The Pension Benefit Guaranty Corporation adjusts the interest rates and factors periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after April 1, 1993, which will remain in effect until the PBGC issues new interest rates and factors.

EFFECTIVE DATE: April 1, 1993.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202–778–8850 (202–778–8859 for TTY and TDD only). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's ("PBGC's") regulation on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Under ERISA section 4041(c), all plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities", i.e., all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the Subpart C formulas to determine the amount of the plan's underfunding.

Appendix B in part 2619 sets forth the interest rates and factors that are to be used in the formulas contained in the regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The rates and factors currently in use have been in effect since March 1, 1993. This amendment adds to appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after April 1, 1993, which set reflects a decrease of ¼ percent in the immediate interest rate from 5¼ percent to 5 percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as the PBGC publishes another amendment changing them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans that will terminate on or after April 1, 1993, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because it will not result in an annual effect on the economy of $100 million or more, major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

In consideration of the foregoing, part 2619 of chapter XXVI, title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, and 1362 (1988).

2. Rate Set 104 of appendix B is revised and Rate Set 105 of appendix B is added to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates and Quantities Used To Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "Gy" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate (%)	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
•	•	•	•	•	•	•	•	
104	3–1–93	4–1–93	5.25	1.0450	1.0400	1.0400	7	8
105	4–1–93		5.00	1.0425	1.0400	1.0400	7	8

Issued in Washington, DC, on this 10th day of March, 1993.

William M. DeHarde,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 93–5884 Filed 3–12–93; 8:45 am]

BILLING CODE 7708–01–M

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal—Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of April 1993.

EFFECTIVE DATE: April 1, 1993.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington DC 20006; 202–778–8820 (202–778–1958 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (See 5 U.S.C. 553 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant

adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, part 2676 of subchapter H of chapter XXVI of title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates the new entries to read as follows:

§ 2676.15 Interest.

* * * * *

(c) *Interest Rates*

For valuation dates occurring in the month	The values for i_k are:															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_k
•		•		•		•			•			•			•	
April 1993	.06	.05875	.0575	.05625	.055	.05375	.05375	.05375	.05375	.05375	.0525	.0525	.0525	.0525	.0525	.05

Issued at Washington, DC, on this 10th day of March 1993.

William M. DeHarde,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 93–5885 Filed 3–12–93; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 155

[CGD 91–034]

RIN 2115–AD81

Vessel Response Plans; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction to interim final rule.

SUMMARY: This document contains corrections to the interim final rule (CGD 91–034), which was published Friday, February 5, 1993, (58 FR 7376). The regulations related to the preparation and submission of vessel response plans.

EFFECTIVE DATE: March 15, 1993.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Gary Greene, Project Manager, Oil Pollution Act (OPA 90) Staff, (202) 267–6739. This telephone is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION:

Background

The interim final rule that is the subject of these corrections establishes regulations requiring response plans for certain vessels that carry oil in bulk as cargo and additional requirements for vessels operating in Prince William Sound, Alaska. These regulations are mandated by the Federal Water Pollution Control Act (FWPCA), as amended by the Oil Pollution Act of 1990 (OPA 90).

Need for Correction

As published, the interim final rule contains certain errors and omissions which are in need of correction.

Correction of Publication

Accordingly, the publication on February 5, 1993 of the interim final rule (CGD 91–034), which is the subject of FR Doc. 93–1709 is corrected as follows:

Table of Contents [Corrected]

1. On page 7424, in the third column at line 29, the following should be added to the table of contents:

Appendix B to Part 155—Guidelines for Determining and Evaluating Required Response Resources for Vessel Response Plans

§ 155.1015 [Corrected]

2. On page 7425, in the first column at line 45 to the end of the section, in § 155.1015, remove all of paragraph (e).

§ 155.1020 [Corrected]

3. On page 7426, in the second column after line 49, immediately following the definition of *"Qualified individual alternate qualified individual"* and preceding the definition of *"Response area"*, in § 155.1020, the definition of *"Response activities"* should be added to read as follows:

Response activities means the containment and removal of oil from the water and shorelines, the temporary storage and disposal of recovered oil, or the taking of other actions as necessary to minimize or mitigate damage to the public health or welfare or the environment.

§ 155.1030 [Corrected]

4. On page 7428, in the first column at line 51, in § 155.1030(j), "owner or operator" is corrected to read "owner or operator of a United States flag vessel".

§ 155.1040 [Corrected]

5. On page 7431, in the third column at line 53, in § 155.1040(f)(5), "paragraph (d)(5)(ii)" is corrected to read "paragraph (d)(5)(i)".

§ 155.1050 [Corrected]

6. On page 7436, in the second column at line 18, in § 155.1050(n)(2), "paragraph (m)" is corrected to read "paragraph (n)".

Appendix B to Part 155—[Corrected]

7. On page 7443, in the third column at line 32, in section 7.4, ".77" is corrected to read ".7".

Dated: March 5, 1993.

A.E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–5735 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 21

Multipoint Distribution Service, Multichannel Multipoint Distribution Service, Instructional Television Fixed Service, Private Operational-Microwave Fixed Service, and Cable Television Relay Service

CFR Correction

In title 47 of the Code of Federal Regulations, parts 20-39, revised as of October 1, 1992, on pages 72 and 73, § 21.901 paragraphs (d)(1)(i) through (d)(1)(vii)(C) should be removed.

BILLING CODE 1505-01-D

Proposed Rules

Federal Register
Vol. 58, No. 48
Monday, March 15, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–CE–16–AD]

Airworthiness Directives; GROB Luft und Raumfahrt Models G102, G103, G109, and G109B Gliders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would apply to GROB Luft und Raumfahrt (Grob) Models G102, G103, G109, and G109B gliders. The proposed action would require inspecting (one-time) the airbrake stops for cracks in the surrounding gelcoat and to ensure that the outer airbrake swivel levers are in contact with stops during operation, and repairing any gelcoat cracks or any airbrake stops not in contact with the swivel levers. Excessive wear caused the airbrake fence to jam on the upper shell of the wing on one of the affected gliders, which resulted in an accident. The actions specified by the proposed AD are intended to prevent airbrake failure caused by jamming of the airbrake fence, which could result in loss of control of the glider.

DATES: Comments must be received on or before May 28, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–CE–16–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from GROB Luft and Raumfahrt, D–8939 Mattsies, Federal Republic of Germany. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. E.S. Chalpin, Project Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; Telephone (322) 513.38.30 ext. 2717; Facsimile (322) 230.68.99; or Mr. Herman C. Belderok, Project Officer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; Telephone (816) 426–6932; Facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 93–CE–16–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–CE–16–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion: The Luftfarht-Bundesant (LBA), which is the airworthiness authority for the Federal Republic of Germany, recently notified the FAA that an unsafe condition may exist on certain Grob Models G102, G103, G109, and G109B gliders. The LBA reports that there was an accident where excessive wear caused the airbrake fence to jam on the upper shell of the wing on one of the affected gliders. The maintenance manual for the affected gliders currently does not cover this area, and it is possible that excessive wear could exist on other gliders of this type design. If not detected and corrected, airbrake failure caused by jamming of the airbrake fence could result in loss of control of the glider.

Grob has issued Service Bulletin TM 306–31 TM 315–49 TM 320–6 TM 817–36, dated September 14, 1992, which specifies procedures for inspecting the airbrake stops and repairing any gelcoat cracks or any airbrake stops not in contact with the swivel levers. The LBA classified this service bulletin as mandatory and issued LBA AD 92–356 Grob in order to assure the continued airworthiness of these gliders in the Federal Republic of Germany.

This glider model is manufactured in the Federal Republic of Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop in other Grob Models G102, G103, G109, and G109B gliders of the same type design, the proposed AD would require inspecting (one-time) the airbrake stops for cracks in the surrounding gelcoat and to ensure that the outer airbrake swivel levers are in contact with stops during operation, and repairing any gelcoat cracks or any airbrake stops not in contact with the swivel levers. The proposed actions would be accomplished in accordance with the service information described

above. This inspection will eventually become part of the maintenance program for these gliders.

The FAA has determined that calendar time is the most desirable method of compliance for the proposed AD because yearly operational times vary greatly throughout the fleet. For example, one glider operator might utilize the glider 10 hours time-in-service (TIS) in one month, while another may not utilize the glider 10 hours TIS in one year. Therefore, to maintain continuity and avoid inadvertent grounding of the affected gliders, compliance based upon calendar time is proposed.

The FAA estimates that 282 gliders in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per glider to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $15,510.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Grob Luft und Raumfahrt: Docket No. 93–CE–16–AD. Applicability: Models G102, G103, G109, and G109B gliders (all serial numbers), certificated in any category.

Compliance: Required within the next 60 calendar days after the effective date of this AD, unless already accomplished.

To prevent airbrake failure caused by jamming of the airbrake fence, which could result in loss of control of the glider, accomplish the following:

(a) Inspect the airbrake stops for cracks in the surrounding gelcoat and to ensure that the outer airbrake swivel levers are in contact with stops during operation in accordance with the instructions in Grob Service Bulletin TM 306–31 TM 315–49 TM 320–6 TM 817–36, dated September 14, 1992.

(b) Prior to further flight, repair any gelcoat cracks or any airbrake stops not in contact with the swivel levers in accordance with the instructions in Grob Service Bulletin TM 306–31 TM 315–49 TM 320–6 TM 817–36, dated September 14, 1992.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to Grob Luft und Raumfahrt, D–8939 Mattsies, Federal Republic of Germany; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on March 9, 1993.

Bobby W. Sexton,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–5806 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 92–ANE–34]

Airworthiness Directives; Textron Lycoming ALF502R and ALF502L Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to Textron Lycoming ALF502R series turbofan engines, that currently requires the establishment of a reduced stress rupture retirement life limit for certain third stage turbine disks. This action would establish a new increased stress rupture retirement life limit for certain third stage turbine disks used in conjunction with third stage turbine nozzles that have improved cooling effectiveness, expand the applicability by adding the ALF502L series engines, and establish other new reduced stress rupture retirement life limits. This proposal is prompted by the introduction of an improved design third stage turbine nozzle, and a new reduced stress rupture retirement life limit for certain third stage turbine disks on the ALF502L series engines. The actions specified by the proposed AD are intended to prevent a total loss of engine power, inflight engine shutdown, and possible damage to the aircraft.

DATES: Comments must be received by April 29, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–ANE–34, 12 New England Executive Park, Burlington, Massachusetts 01803–5299. Comments may be inspected at this location between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Textron Lycoming, 550 Main Street, Stratford, Connecticut 06497. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Mark A. Rumizen, Aerospace Engineer, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington,

Massachusetts 01803–5299, telephone (617) 273–7087; fax (617) 270–2412.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92–ANE–34". The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–ANE–34, 12 New England Executive Park, Burlington, Massachusetts 01803–5299.

Discussion

On November 6, 1990, the FAA issued AD 90–25–02, Amendment 39–6811 (55 FR 48592, November 21, 1990), to require a reduced stress rupture retirement life limit for certain third stage turbine disks on Textron Lycoming ALF502R series turbofan engines. That action was prompted by three inflight shutdowns that resulted from third stage turbine blade releases due to creep of the third stage turbine disk. The third stage turbine disks' published stress rupture retirement life limit was reduced from 50,000 hours to 13,300 hours. That determination was based upon new stress and temperature analyses of the disks. These disks have both cyclic and hourly life limits: the cyclic life limits were not changed. That AD also required affected parts to be removed from service at or prior to reaching this new life limit. That condition, if not corrected, could result in a total loss of engine power, inflight engine shutdown, and possible damage to the aircraft.

Since issuance of that AD, the FAA has determined that new increased stress rupture life retirement limits may be established for certain third stage turbine disks when these disks are used in conjunction with third stage turbine nozzles that have improved cooling effectiveness. The FAA has also determined that the applicability of the AD should be expanded to include the ALF502L series engines.

The FAA has reviewed and approved the technical contents of: Textron Lycoming Service Bulletin (SB) ALF502R 72–0002, Revision 21, dated September 25, 1992, that defines the stress rupture retirement life limits applicable to the ALF502R series engines, and defines the procedure to calculate the prorated hourly life limit for those disks that require this calculation; and Textron Lycoming SB ALF502L 72–0004, Revision 11, dated June 17, 1987, that defines the procedure to calculate the prorated hourly life limits for disks that require this calculation and are installed on Textron Lycoming ALF502L series engines.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 90–25–02 to expand the applicability by adding the ALF502L series. The AD will also provide for increased stress rupture retirement life limits for certain third stage turbine disks when used in conjunction with third stage turbine nozzles that have improved cooling effectiveness.

There are approximately 900 Textron Lycoming ALF502R and ALF502L series turbofan engines of the affected design in the worldwide fleet. The FAA estimates that 300 engines installed on aircraft of U.S. registry would be affected by this AD, and that 100 are ALF502L series engines that are subject to the reduction in service life requirement. It is also estimated that to implement the reduction in service life requirement it would take approximately 14 work hours per engine to accomplish the required actions, and that the average labor rate is $55 per work hour. The reduction in service life requirement would cost approximately $30,000 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,077,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6811 (55 FR 48592, November 21, 1990), and by adding a new airworthiness directive to read as follows:

Textron Lycoming: Docket No. 92–ANE–34. Supersedes AD 90–25–02, Amendment 39–6811.

Applicability: Textron Lycoming ALF502R and ALF502L series turbofan engines installed on but not limited to British Aerospace BAe-146 and Canadair Challenger CL600 aircraft.

Compliance: Required as indicated, unless accomplished previously

To prevent a total loss of engine power, inflight shutdown, and possible damage to the aircraft, accomplish the following:

(a) Remove from service and replace with a serviceable part third stage turbine disks, Part Numbers (P/N) 2–143–030–05, 2–143–030–08, and 2–143–030–14, as follows:

(1) For disks that have been installed only with third stage turbine nozzles P/Ns 2–141–130–52 or 2–141–120–53, remove from service as follows:

(i) For disks that have accumulated 13,220 or more hours time in service (TIS) since new on the effective date of this AD, within the next 80 hours (TIS) after the effective date of this AD for the ALF502L engines, or within the next 80 hours TIS after December 11, 1990 (the effective date of AD 90–25–02), for the ALF502R engines, but not to exceed the existing cyclic life limit,

(ii) For disks that have accumulated less than 13,220 hours TIS since new on the effective date of this AD, prior to accumulating more than 13,300 hours TIS since new, but not to exceed the existing cyclic life limit.

(iii) Thereafter, remove disks prior to accumulating more than 13,300 hours TIS since new, but not to exceed the existing cyclic life limit.

(2) For disks that have been installed only with third stage turbine nozzles, P/Ns 2–141–120–57 or 2–141–120–R56, remove from service as follows:

(i) For disks that have accumulated 27,420 or more hours TIS since new on the effective date of this AD, within the next 80 hours TIS after the effective date of this AD, but not to exceed the existing cyclic life limit.

(ii) For disks that have accumulated less than 27,420 hours TIS since new on the effective date of this AD, prior to accumulating more than 27,500 hours TIS since new, but not to exceed the existing cyclic life limit.

(iii) Thereafter, remove disks prior to accumulating more than 27,500 hours TIS since new, but not to exceed the existing cyclic life limit.

(3) For disks that have been installed with both third stage turbine nozzles, P/Ns 2–141–120–52 or 2–141–120–53, and third stage turbine nozzles, P/Ns 2–141–120–57 or 2–141–120–R56, remove from service as follows:

(i) Determine the prorated hourly life limit in accordance with the procedure defined in the Accomplishment Instructions, section 2.B.(2) of Textron Lycoming Service Bulletin (SB) ALF502 72–0002 (for ALF502R series engines) Revision 21, dated September 25, 1992, or ALF502 72–0004 (for ALF502L series engines) Revision 11, dated June 17, 1987. From this prorated hourly life limit, subtract 80 hours time in service to determine the compliance threshold.

(ii) For disks that have equalled or exceeded the compliance threshold on the effective date of this AD, within the next 80 hours TIS, but not to exceed the existing cyclic life limit.

(iii) For disks that have accumulated less than the compliance threshold on the effective date of this AD, prior to accumulating more than the calculated prorated hourly life limit.

(iv) Thereafter, remove disks at or prior to accumulating the prorated hourly life limit, but not to exceed the existing cyclic life limit.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on February 23, 1993.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–5819 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 91–ANE–46]

Airworthiness Directives; Textron Lycoming Models LTS 101 Series Turboshaft Engines and LTP 101 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Textron Lycoming Model LTS 101 series turboshaft and Model LTP 101 series turboprop engines. This proposal would reduce low cycle fatigue (LCF) retirement life limits for certain gas generator turbine rotor disks, and provide a removal schedule for those affected disks with reduced LCF retirement lives. This proposal is prompted by recent life analyses that have revealed calculated minimum lives significantly lower than original limits. The actions specified by the proposed AD are intended to prevent gas generator turbine rotor disk failure, uncontained engine failure, and possible damage to the aircraft.

DATES: Comments must be received by May 14, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–ANE–46, 12 New England Executive Park, Burlington, Massachusetts 01803–5299. Comments may be inspected at this location between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Textron Lycoming, 550 Main Street, Stratford, Connecticut 06497. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Branch, ANE–141, FAA, New England Region, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts 01803–5299, telephone (617) 272–5303; fax (617) 270–2412.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–ANE–46." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–ANE–46, 12 New England Executive Park, Burlington, Massachusetts 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has determined that the low cycle fatigue (LCF) retirement life must be reduced for gas generator turbine rotor disks on Textron Lycoming Model LTS 101 series turboshaft engines and Model LTP 101 series turboprop engines. The reduced LCF life limits are based on recent analyses utilizing improved calculation methods including mission surveys, analysis of engine testing and component material testing data, and examinations of retired disks. Although no known failures have occurred, the results of these analyses show that calculated minimum LCF lives are significantly lower than the original life limits. This condition, if not corrected, could result in gas generator turbine rotor disk failure, uncontained engine failure, and possible damage to the aircraft.

The gas generator turbine rotor disks installed in Textron Lycoming Model LTS 101 series turboshaft engines or Model LTP 101 series turboprop engines may be one of three part numbers. The life limits applicable to each part number depend on the engine model. These life limits appear in Textron Lycoming Service Bulletin (SB) No. LT 101–71–00–0002, Revision 12, dated May 31, 1991.

The FAA has reviewed and approved the technical contents of Textron Lycoming SB No. LT 101–71–00–0002, Revision 12, dated May 31, 1991, that describes the new reduced LCF life limits for the gas generator turbine rotor disks, and a removal schedule for disks now in service based on the reduced LCF life limits.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, the proposed AD would require establishing a reduced LCF life limit for gas generator turbine rotor disks and replacement of disks which exceed the new LCF life limit with serviceable disks. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 1,500 Textron Lycoming Model LTS 101 turboshaft series engines, and Model LTP 101 series turboprop engines of the affected design in the worldwide fleet. The FAA estimates that 100 engines installed on aircraft of U.S. registry contain disks that currently exceed the reduced LCF life limit proposed by this AD, and that it would take an average of approximately 8 hours to remove and replace the engine from the aircraft, and 16 work hours per engine to replace the gas generator turbine rotor disks, and that the average labor rate is $55 per work hour. Required parts would cost approximately $40,000 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,132,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39— AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Textron Lycoming: Docket No. 91–ANE–46.

Applicability: Textron Lycoming Model LTS 101 series turboshaft engines and Model LTP 101 series turboprop engines installed on but not limited to Aerospatiale AS 350 and SA366G, Bell 222, and Messerschmitt-Bolkow-Blohm (MBB) BK117 helicopters; or Piaggio P166–DL3 and Airtractor AT302 airplanes.

Compliance: Required as indicated, unless accomplished previously.

To prevent gas generator turbine rotor disk failure, uncontained engine failure, and possible damage to the aircraft, accomplish the following:

(a) Remove from service and replace with a serviceable part, gas generator turbine rotor disks in accordance with the following schedule based on disk cycles since new (CSN) on the effective date of this AD, but not to exceed the total operating hour service life limits established in Textron Lycoming Service Bulletin (SB) No. LT 101–71–00–0002, Revision 12, dated May 31, 1991:

(1) For Model LTS 101 series turboshaft engines with gas generator turbine rotor disks identified by Part Numbers (P/N) 4–111–015–04 or 4–111–015–09:

(i) Replace disks with 6,800 or more CSN within 100 cycles in service (CIS) or 1 month after the effective date of this AD, whichever occurs first, but not to exceed 7,500 CSN.

(ii) Replace disks with 6,500 or more CSN but less than 6,800 CSN within 200 CIS, or 3 months after the effective date of this AD, whichever occurs first.

(iii) Replace disks with 6,000 or more CSN but less than 6,500 CSN, within 400 CIS, or 6 months after the effective date of this AD, whichever occurs first.

(iv) Replace disks with 5,500 or more CSN but less than 6,000 CSN, within 600 CIS, or 9 months after the effective date of this AD, whichever occurs first.

(v) Replace disks with 5,000 or more CSN but less than 5,500 CSN, within 800 CIS, or 12 months after the effective date of this AD, whichever occurs first.

(vi) Replace disks with 4,000 or more CSN but less than 5,000 CSN, within 1,000 CIS, or 15 months after the effective date of this AD, whichever occurs first.

(vii) Replace disks with less than 4,000 CSN before exceeding 5,000 CSN.

(2) For Textron Lycoming Model LTP 101 series turboprop engines with gas generator turbine rotor disks identified by P/N 4–111–015–04 or P/N 4–111–015–09:

(i) Replace disks with 5,000 or more CSN within 100 CIS, or 3 months after the effective date of this AD, whichever occurs first, but not to exceed 5,500 CIS.

(ii) Replace disks with 4,000 or more CSN but less than 5,000 CSN, within 200 CIS, or 6 months after the effective date of this AD, whichever occurs first.

(iii) Replace disks with 3,400 or more CSN but less than 4,000 CSN, within 300 CIS, or 9 months after the effective date of this AD, whichever occurs first.

(iv) Replace disks with 3,000 or more CSN but less than 3,400 CSN, within 400 CIS, or

12 months after the effective date of this AD, whichever occurs first.

(v) Replace disks with less than 3,000 CSN before exceeding 3,400 CSN.

(3) For Textron Lycoming Model LTS 101 series turboshaft engines with gas generator turbine rotor disks identified by P/N 4–111–015–14, replace disks before exceeding 6,300 CSN.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety, may be used if approved by the Manager, Engine Certification Office, FAA, Engine and Propeller Directorate. The request should be forwarded through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on February 23, 1993.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–5821 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 93–AGL–4]

Proposed Transition Area Establishment; Moose Lake, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish a transition area near Moose Lake, MN, to accommodate a new nondirectional beacon (NDB) runway 04 Standard Instrument Approach Procedure (SIAP) to Moose Lake Carlton County Airport, Moose Lake, MN. The intended affect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before April 23, 1993.

ADDRESSES: Send comments on the proposal in triplicate to Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 93–AGL–4, 2300 East Devon Avenue, Des Plaines, Illinois 60018. The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois, An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–AGL–4." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a transition area near Moose Lake, MN, to accommodate a new NDB runway 04 SIAP to Moose Lake Carlton County Airport, Moose Lake, MN.

The development of a new SIAP requires that the FAA establish the designated airspace to ensure that the procedure would be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts would reflect the defined area which would enable pilots to circumnavigate the area in order to comply with applicable visual flight rule requirements. The coordinates for this airspace docket are based on North American Datum 83. Transition areas are published in Section 71.181 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration

propose to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation of Transition Areas

* * * * *

AGL MN TA Moose Lake, MN [New]
Moose Lake Carlton County Airport, MN (lat. 46°25'06" N., long. 94°48'16" W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Moose Lake Carlton County Airport, MN.

* * * * *

Issued in Des Plaines, Illinois on February 25, 1993.

John P. Cuprisin,

Manager, Air Traffic Division.

[FR Doc. 93–5827 Filed 3–12–93; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 17 and 18

Reporting Futures Positions of Commodity Pools, Commodity Trading Advisors and Partnerships; Definition of Financial Interest for Reporting Purposes and Reporting Information Concerning Controlled Accounts

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission) is proposing amendments to parts 17 and 18 of its regulations as part of its ongoing review of various reporting requirements. The proposed amendments clarify the manner in which futures positions of commodity pools, certain commodity trading advisors (CTAs), and accounts controlled by two or more persons are reported to the Commission. Additionally, the Commission is proposing amendments that more fully explain the information that should be provided under rules 17.01(b) and 18.04(a) concerning financial interest in options and futures trading accounts and that reduce the amount of information which must be provided concerning controlled accounts which are a part of a customer trading program.

DATES: Comments must be received by April 14, 1993.

ADDRESSES: Comments should be sent to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, and should make reference to "large trader reports."

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Division of Economic Analysis, 2033 K Street, NW., Washington, DC 20581, Telephone (202) 254–3310.

SUPPLEMENTARY INFORMATION: The Commission, as part of its ongoing review of reporting requirements set forth in parts 15, 17 and 18 of the regulations under the Commodity Exchange Act (Act), is proposing changes to a number of its rules. These proposed changes affect the manner in which positions of commodity pools and CTAs are reported, clarifies information that is required concerning participants in commodity pools, and limits the amount of information that traders provide routinely concerning controlled accounts that are part of a customer trading program.

Generally, parts 17 and 18 of the regulations require reports from members of contracts markets, futures commission merchants (FCMs) or foreign brokers (firms) and traders, respectively, when a trader holds a "reportable position," i.e., any open position held or controlled by a trader at the close of business in any one future of a commodity traded on any one contract market that is equal to or in excess of the quantities fixed by the Commission in § 15.03 of the regulations, 17 CFR 15.03 (1992).

Firms that carry accounts in which traders hold "reportable positions" are required to identify such accounts on a form 102 and report on the Form 101 or electronically any reportable positions in the account, the delivery notices issued or stopped by the account and any exchanges of futures for physicals. Traders who own or control reportable positions are required to file annually a CFTC form 40 giving certain background information concerning their trading in commodity futures and, on call by the Commission, must submit a form 103 showing positions and transactions in the contract market specified in the call.

I. Reporting Accounts Under Part 17—Ownership and Control

When reporting large trader positions, firms must consider as a single account for reporting purposes all accounts that a person controls or in which a person has a financial interest, i.e., the aggregate position in all such accounts for each expiration month of a contract market is reported if this aggregate position exceeds the Commission's reporting levels, 17 CFR 17.00(b) (1990). This manner of reporting compares with the manner in which compliance with speculative limits is enforced, since all futures positions that a person directly or indirectly holds or controls must be combined to determine compliance with speculative position levels. See, for example, section 4a(1) of the Act, 7 U.S.C. 6a(1).

In a number of instances, control of an account is vested in a person other than the account owner. One common example of this separation of account ownership and control involves associated persons of FCMs or independent CTAs directing the trading of individual accounts of small traders. Small traders generally have ownership interest in a single account.[1] In these cases, firms appropriately combine all accounts controlled by the same person and report the resulting positions as if they were carried in a single account. Reporting issues arise, however, when a person maintains two or more accounts at the same FCM and different persons have authority to trade each of the accounts. This generally is the case with accounts held by commodity pools and with partnership accounts.

For a number of commodity pools, trading is conducted by multiple independent CTAs. Generally, firms through which the pool trades maintain a separate account for each CTA who has authority to trade for the pool. Additionally, each CTA may own or control accounts other than those belonging to the pool; i.e., accounts of other pools or individuals over which the CTA has trading authority or personal trading accounts for the CTA. Under current regulations there are two ways in which the accounts of a commodity pool and CTAs of the pool could be reported in a manner that would avoid duplicate reporting of the

[1] The Commission requires that when firms file reports concerning controlled accounts, they list the names and addresses of the persons whose accounts are controlled (see 17 CFR 17.01(b)(6) (1992)). In this way, the Commission can determine if any of these persons maintain trading accounts of a reportable size at other firms.

pool's and the CTA's position in futures.[2]

First, a firm may combine the futures position of the pool carried in an account that is controlled by a particular CTA with positions in other accounts owned or controlled by the CTA and report the aggregate positions in all such accounts in the name of the CTA. This method gives the Commission the information necessary to enforce speculative limits for the CTA and to assess the market activity of the CTA in a surveillance context. However, since there is no separate disclosure of that portion of the CTA's reported position representing the position of the pool, the Commission must forego the information necessary to gauge the aggregate market activities of the commodity pool. Alternatively, the firm may report positions in the name of the pool, combining the futures position of the pool across all accounts controlled by different CTAs. Although this gives the Commission the information it requires for commodity pools, information is now lacking about the full extent of the positions controlled by each CTA. Similar problems exist with partnership accounts.[3]

Until recently, the Commission, in most instances, instructed firms to combine all accounts held by the same pool and to report the combined position in the name of the pool even though each of the accounts may have been under the trading authority of different CTAs. Generally, the combined position of a commodity pool is large relative to the position controlled by each CTA and this information was deemed necessary for enforcement of speculative position limits. However, in a series of rule makings extending from October 1988 to September 1992,[4] the Commission amended part 150 of its regulations to provide certain exemptions from speculative limits for eligible entities[5] but to continue applying the limits individually to positions held or controlled by independent account controllers. In view of these amendments, the Commission is proposing to amend Rule 17.00 to provide that those accounts of an eligible entity under trading control of a particular independent account controller be combined for reporting purposes with other accounts held or controlled by that independent account controller and the resulting positions reported in the name of the controller.

In addition, the Commission is proposing to clarify the manner in which accounts subject to trading control by two or more persons are to be combined for reporting purposes. As noted above, this typically occurs with partnership or joint accounts where each participant is authorized to trade the partnership or joint account and each trades other accounts which are individually owned or controlled. In such cases, the Commission is proposing that firms combine for reporting purposes only accounts which are under control by exactly the same persons. The Commission's surveillance staff will use its computer software to appropriately combine accounts for speculative limit and surveillance purposes.[6]

II. Definition of Financial Interest

In addition to the above amendments, the Commission is proposing to amend its regulations concerning the definition of financial interest contained in parts 17 and 18. For the purpose of filing reports under these parts of the regulations, Rules 17.00(b) and 18.01(a) currently define financial interest to mean, except for the interest of a limited partner or shareholder (other than the commodity pool operator (CPO)) in a commodity pool, an interest of 10 percent or more in ownership or equity of an account, 17 CFR 17.00(b) and 18.01(a) (1990).

Rules 17.00(b) and 18.01(a) instruct firms and traders on reporting when persons have a financial interest in or control of several accounts. The definition of financial interest contained in these sections alerts the firms and traders that certain accounts need not be combined to determine if the trader has a reportable position. For example, if a trader owns and controls accounts (personal accounts) and is a limited partner in a commodity pool traded by independent CTAs, then, using the Commission's definition of financial interest, the accounts of the commodity pool need not be combined with the trader's personal accounts to determine if reports must be filed. Although this definition is pertinent to Rules 17.00 and 18.01, the current language makes it applicable to all sections of parts 17 and 18. This may result in a loss of important surveillance information.

In addition to Rules 17.00 and 18.01, the term "financial interest" also is used in §§ 17.01(b) and 18.04. These regulations require reporting firms and traders to identify persons who have a financial interest of 10 percent or more in a reportable account or trader and other persons or accounts in which the subject trader has a financial interest of 10 percent or greater. See, for example, 17 CFR 17.01(b)(8), 17.01(b)(9), 18.04(a)(8) and 18.04(a)(9) (1992). In all cases, it is important for the Commission to have this financial information, whether or not the accounts in question are limited partnerships. Limited partnerships in which a single or only a few traders have a financial interest raise potential questions of *de facto* trading control. In such instances, the Commission must be aware of the extent of traders' financial interest in the limited partnership in order to determine if further inquiry is warranted.

In view of the above, the Commission is proposing to amend sections 17.00(b) and 18.01(a) by making its current definition of financial interest applicable only to these sections of the regulations rather than to parts 17 and 18 in general.

III. Reporting Information About Controlled Accounts in Customer Trading Programs

Many FCMs, CTAs, and others promote customer trading programs known commonly as managed or guided account programs. Typically, program participants enter into an agreement not obtained from other customers and

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[2] Duplicate position data collected by the Commission must be eliminated before the data can be used for regulatory analyses or publication.

[3] In the case of partnership accounts, each partner may be authorized to trade the partnership account and, additionally, each partner may hold and/or control other accounts. The Commission does not wish firms to combine the partnership account with each of the partners' other accounts, since reporting a combined position for each partner results in duplicate reporting of the futures positions of the partnership. Moreover, there is no way for the Commission to distinguish the position of the partnership from the combined position in order to eliminate the duplicate reporting.

[4] See 53 FR 41563 (October 24, 1988); 56 FR 14306 (April 9, 1991); and 57 FR 44490 (September 28, 1992).

[5] Commission rule 150.1 defines an eligible entity as a commodity pool operator, the operator of a trading vehicle which is excluded, or who itself has qualified for exclusion from the definition of the term "pool" or "commodity pool operator," respectively, under § 4.5 of this chapter, or a commodity trading advisor:

(1) Which authorizes an independent account controller independently to control all trading decision for positions it holds directly or indirectly, or on its behalf, but without its day-to-day direction; and

(2) Which maintains only such minimum control over the independent account controller as is consistent with its fiduciary responsibilities and necessary to fulfill its duty to supervise diligently the trading done on its behalf.

[6] As noted above, all futures positions that a person directly or indirectly holds or controls must be combined to determine compliance with speculative position levels. Accordingly, although positions are reported in the manner specified above, the Commission will combine all positions owned or controlled by a trader to determine if the trader is in violation of Commission or exchange speculative position levels. In this respect, traders must themselves make the necessary calculations of their overall position to ensure they are in compliance with Commission regulations and exchange rules.

make a minimum deposit or pay fees in excess of that required of others for the purpose of having their account traded by the program or to receive specific advice and recommendations which are not available to others. For reporting purposes, futures positions in all accounts in a program should be combined and reported as a single account pursuant to Commission Rule 17.00(b). Although positions in all accounts that are part of a program are combined, the firm, when reporting the positions for the first time, must provide the name and address of each customer with an account that participates in the program, 17 CFR 17.01(b)(6) (1992). In addition, the program manager or CTA directing the trading of the program must file a CFTC form 40 showing the name and address of each customer with an account that participates in the program, 17 CFR 18.04(a)(5) (1992). Commission regulations also require that this information be updated whenever an account is added or dropped from the program. In some instances, several hundred customers may participate in a managed or guided account program. In such instances, the cost to initially provide and to update this information may be relatively high. Since, for the most part, participants in these programs tend to be small traders who do not direct trading in other accounts, their identity for market surveillance purposes is not needed on a routine basis.

In view of this, the Commission is seeking comment on ways it can reduce reporting burdens associated with providing information about accounts in customer trading programs under Rules 17.01(b)(6) and 18.04(a)(5), while still collecting the information it deems necessary for market surveillance. As noted previously, the information is useful if a controlled account is held by any person who holds or controls positions of a reportable size either at the same or other firms. This situation commonly occurs with commodity pool managers or other futures trading professionals and provides an indication of whether a call for additional information from a trader is appropriate under Regulation 18.00, 17 CFR 18.00 (1992).[7]

Since it is difficult to circumscribe definitionally the information the Commission requires, the Commission is proposing a numerical rule to limit the amount of information that is reported under §§ 17.01(b)(6) and 18.04(a)(5). As proposed, these rules would continue to require that firms and traders provide the names and addresses of persons whose accounts are under the control of another person. However, if the accounts are part of a customer trading program that is a managed or guided account program and there are 10 or more such accounts, only those accounts which are held by commodity pools need to be identified. Additionally, the proposed amendments to Rule 17.01(b)(6) specify that the Commission will retain the authority to collect, on call, the names and addresses of all persons whose accounts are part of the customer trading program.[8]

IV. Related Matters

A. The Regulatory Flexibility Act (RFA)

The RFA requires that agencies, in proposing rules, consider the impact of those rules on small businesses. These amendments affect large traders, FCMs, commodity pools, CTAs and other similar entities such as foreign brokers and foreign traders. The Commission has defined "small entities" in evaluating the impact of its rule in accordance with RFA, 47 FR 18618–18621 (April 30, 1982).

In that statement, the Commission concluded that large traders and FCMs are not considered to be small entities for purposes of the RFA. In this regard, the proposed amendments to reporting requirements relating to the positions of CPOs and CTAs, fall mainly upon FCMs. Similarly, foreign brokers and foreign traders report only if carrying or holding reportable, i.e., large positions. Thus, pursuant to section 3(a) of the RFA (5 U.S.C. 605(b)), the Acting Chairman, on behalf of the Commission, certifies that these proposed rules will not have a significant economic impact on a substantial number of small entities. The Commission nonetheless invites comments from any firm which believes that these rules would have a significant economic impact upon its operations.

B. Paperwork Reduction Act (PRA)

The PRA of 1980, 44 U.S.C. 3501 *et seq.*, imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission has submitted these proposed rules and their associated information collection requirements to the Office of Management and Budget. The burden associated with this entire collection, including this proposed rule, is as follows:

Average Burden Hours Per Response.	.1526 hour
Number of Respondents	3709
Frequency of Response	Daily

Persons wishing to comment on the information which would be required by these proposed rules should contact Gary Waxman, Office of Management and Budget, room 3228, NEOB, Washington, DC 20503, (202) 395–7304. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K Street, NW., Washington, DC 20581, (202) 254–9735.

List of Subjects

17 CFR Part 17

Brokers, Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 18

Commodity futures, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act and, in particular, sections 4g, 4i, 5 and 8a of the Act, 7 U.S.C. 6g, 6i, 7 and 12a (1989), the Commission hereby proposes to amend chapter I of title 17 of the Code of Federal Regulations as follows:

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS AND FOREIGN BROKERS

1. The authority citation for part 17 continues to read as follows:

Authority: 7 U.S.C. 6a, 6c, 6d, 6f, 6g, 6i, 7 and 12a.

2. Section 17.00 is proposed to be amended by revising paragraph (b), as follows:

§ 17.00 Information to be furnished by futures commission merchants, clearing members and foreign brokers.

* * * * *

(b) *Interest in or Control of Several Accounts.* Except as otherwise instructed by the Commission or its designee, and as provided specifically below, if any person holds or has a financial interest in or controls more than one account, all such accounts shall be considered by the futures commission merchant, clearing member or foreign broker as a single account for the purpose of determining Special

[7] Regulation 18.00 requires traders on call by the Commission to report information concerning all futures and option positions and transactions they own or control. The Commission may use this provision of the regulations to determine the total holdings of large traders who disperse their trading among several CTAs and FCMs.

[8] The amendments to Rule 18.04 do not include this call provision since, under § 18.05 of the regulations, the Commission already has authority to request this information.

Account status and for reporting purposes. For purposes of this Section, the following shall apply:

(1) *Accounts of Eligible Entities*—Accounts of eligible entities as defined in § 150.1 of this Chapter that are traded by an independent account controller shall, together with other accounts traded by the independent account controller or in which the independent controller has a financial interest, be considered a single account.

(2) *Accounts Controlled by Two or More Persons*—Accounts that are subject to day-to-day trading control by two or more persons shall, together with other accounts subject to control by exactly the same persons, be considered a single account.

For the purpose of this § 17.00(b), except for the interest of a limited partner or shareholder (other than the CPO) in a commodity pool, the term financial interest shall mean an interest of 10 percent or more in ownership or equity of an account.

* * * * *

3. Section 17.01 is proposed to be amended by revising paragraph (b)(6) as follows:

§ 17.01 Special account designation and identification.

* * * * *

(b) * * *

(6) The name and address of any other person whose futures or options trading is controlled by the account. Provided that, if the special account reported is a customer trading program, or the commodity trading advisor thereof, that is a managed or guided account program in which ten or more accounts participate, the following information:

(i) The name of any commodity pool which participates in the program and the name and address of the CPO; and

(ii) On call by the Commission or its designee the name and address of each person who participates in the program.

* * * * *

PART 18—REPORTS BY TRADERS

4. The authority section for part 18 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 12a and 19; 5 U.S.C. 552 and 552(b).

5. Section 18.01 is proposed to be amended by revising paragraph (a) as follows:

§ 18.01 Interest in or control of several accounts.

(a) Multiple accounts. If any trader holds, has a financial interest in or controls more than one account, whether carried with the same or with different futures commission merchants or foreign brokers, all such accounts shall be considered as a single account for the purposes of determining whether such trader has a reportable position and for the purpose of reporting. For the purpose of § 18.01, except for the interest of a limited partner or shareholder (other than the CPO) in a commodity pool, the term "financial interest" shall mean an interest of 10 percent or more in ownership or equity of an account.

* * * * *

6. Section 18.04 is proposed to be amended by revising paragraph (a)(5) as follows:

§ 18.04 Statement of reporting trader.

* * * * *

(a) * * *

(5) The name and address of each person whose option or futures trading is controlled by the reporting trader. Provided that if the reporting trader is a customer trading program, or the commodity trading advisor thereof, that is a managed or guided account program in which ten or more persons participate, the information furnished may be limited to the name of any commodity pool which participates in the program and the name and address of the CPO.

* * * * *

Issued in Washington, DC, this 8th day of March 1993, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93-5738 Filed 3-12-93; 8:45 am]

BILLING CODE 8351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 250 and 259

[Release No. 35-25757; International Series Release No. 523; File No. S7-9-93]

RIN AF77, AF78, AF79, AF80 and AF82

Proposed Rules and Forms Relating to Exempt Wholesale Generators and Foreign Utility Companies

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Proposed rulemaking.

SUMMARY: The Commission is proposing to adopt five new rules implementing new sections 32 and 33 of the Public Utility Holding Company Act of 1935, as amended ("Act"). Generally, the proposed rules provide a partial safe harbor for the financing of acquisitions of exempt wholesale generators ("EWGs"), provide a complete safe harbor for certain acquisitions of foreign utility companies, and clarify the treatment of other related matters. Additionally, the Commission proposes to amend two of its forms and to create a new form to report these transactions, and proposes a new form relating to notifications of foreign utility company status. These rules will allow companies meeting the terms of the rules to make and finance certain acquisitions with little or no Commission review of such transactions. The rules also provide for the reporting of these transactions, which will enable the Commission to monitor the activities of public-utility companies that own EWGs or foreign utility companies.

DATES: Comments must be submitted on or before April 14, 1993.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Mail Stop 6-9, Washington, DC 20549. Comment letters should refer to File No. S7-9-93. All comment letters received will be made available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: William C. Weeden, Associate Director, Sidney L. Cimmet, Senior Special Counsel (202) 272-7676, Joanne C. Rutkowski, Senior Special Counsel (202) 504-2267, Robert P. Wason, Chief Financial Analyst (202) 272-7684, or Karrie H. McMillan, Staff Attorney (202) 504-3387, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Background

The Public Utility Holding Company Act of 1935, which was enacted in the wake of widespread fraud and mismanagement by large and far-flung public-utility holding companies, generally requires that a holding company limit its operations to a group of related operating utility properties within a confined geographic region.[1]

[1] See section 11 of the Act. See also Federal Trade Commission Report to the Senate, Utility Corporations, S. Doc. No. 92, 74th Cong., 1st Sess. 24 (1935); Report on the Relation of Holding Companies in Power and Gas Affecting Control, H.R. Rep. No. 1827, 73rd Cong., 2d Sess. (1933-1935) (documenting the circumstances that gave rise to passage of the Act). But see Southern Co., Holding Co. Act Release No. 25639, International Release No. 460 (Sept. 23, 1992); SCEcorp, Holding Co. Act Release No. 25584, International Release

Continued

To ensure that these standards are met, the Act imposes a requirement of prior approval for the acquisition of securities of a public-utility company.[2] The imposition of these constraints upon the structure of the utility industry more than fifty years ago was believed necessary to protect the public interest and the interests of investors and consumers.

The Congress in 1935 did not foresee the changes that have taken place in recent years. Since the enactment of the Public Utility Regulatory Policies Act of 1978, the traditional vertically-integrated structure of the industry has begun to give way as utilities are increasingly relying on purchased a power from so-called independent power produces.[3] In addition, sweeping political and economic changes worldwide have created a large demand for American utility expertise and significant investment opportunities for United States companies.

As the industry adapts to this new market environment, regulators face new challenges. Prior to enactment of the Energy Policy Act of 1992, the Commission attempted to accommodate these changes within the framework of existing law. In its orders, the Commission sought to protect the interests of domestic utility consumers and investors, while permitting acquisitions of foreign utility operations.[4] The staff also discussed various approaches to the Act with developers of domestic independent power projects.[5]

Title VII of the new legislation amends the Act to create two new classes of exempt entities, exempt wholesale generators ("EWGs")[6] and foreign utility companies.[7] By exempting these entities from all provisions of the Act, and providing for the acquisition of EWGs without prior Commission approval, the legislation is intended to facilitate the participation of domestic companies in independent power production and foreign utility investment, activities to which the Act previously raised significant barriers.[8]

The Congress has pursued another goal as well, specifically, the protection of domestic ratepayers.[9] In this regard, the legislation assigns state regulators significant responsibility for the protection of consumers of domestic public-utility companies. The Commission, however, is given primary responsibility to shield the consumers of registered public-utility holding companies from adverse effects of these new ventures.

There is an inherent tension between the drive toward a competitive energy market and the demand for effective consumer protection.[10] The Commission has sought in the proposed rules to strike an appropriate balance between the statutory goals embodied in title VII of the Energy Policy Act.

II. Proposed Rule 53

Under section 32, an EWG is exempt from all provisions of the Act, and a registered holding company may acquire an EWG without the need to apply for or receive Commission approval. The legislation, however, preserves Commission jurisdiction over various ancillary transactions, including the issuance of securities by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, and the guarantee of securities of an exempt wholesale generator by a registered holding company.[11]

The legislation prescribes certain standards for the Commission to apply when reviewing these transactions.[12] Section 32(h)(3) directs the Commission, in determining whether to approve such transactions, not to find that the security is not reasonably adapted to the earning power of the registered holding company or the security structure of the registered holding company system, or that the making of the guarantee would constitute an improper risk, unless the Commission first determines that the proposed transaction would have a "substantial adverse impact" on the financial integrity of the registered holding company system.[13]

No. 405 (June 29, 1992) (permitting limited acquisitions of foreign utility operations).

[2] Section 9(a)(1) requires prior Commission approval for the direct or indirect acquisition of any securities or utility assets or any other interest in any business by a company in a registered system. In addition, section 9(a)(2) generally requires prior Commission approval for an acquisition that would result in an extension of a holding-company system.

[3] Independent power producers contract to build generating facilities and to sell power to utilities at market rates. Independents currently produce 15% of the electric power in the United States. They are expected to provide 30% to 50% of new generating capacity during this decade. Crittenden, Generating Competition: Electric Utilities Face a Host of New Rivals, Barron's, Feb. 3, 1992 at 14.

[4] See, e.g., Southern Co., *supra* (in authorizing the acquisition of foreign utility interests by a registered holding company, the Commission found various safeguards to protect the interests of domestic consumers); SCEcorp, *supra* (the Commission gave great weight to the statement of the California Public Utility Commission that it had no objection to the acquisition of a foreign utility interest so long as the exempt holding company complied with certain conditions intended to protect the interests of domestic consumers).

[5] The staff issued a number of no-action letters to developers. See, e.g., Nevada Sun-Peak Ltd. Partnership (May 14, 1991); Colstrip Energy Ltd. Partnership (June 30, 1988); and Catalyst Energy Co. (Jan. 21, 1988). At least one developer sought to be exempted as a holding company under section 3(a)(5). Mitsubishi Corp., File No. 31–857. The application was subsequently withdrawn when the underlying project was determined to be an "exempt wholesale generator" under the Energy Policy Act of 1992.

[6] An EWG is defined in pertinent part as any person determined by the Federal Energy Regulatory Commission to be engaged directly, or indirectly, and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale. Section 32(a)(1). An "eligible facility" is defined in pertinent part as a facility, wherever located, which is used for the generation of electric energy exclusively for sale at wholesale. Section 32(a)(2).

[7] A "foreign utility company" is broadly defined in section 33(a)(3)(A) to reach any company that owns or operates facilities that are not located in any State and that are used for the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light or power. The definition further requires that a company derive no part of its income, directly or indirectly, from such utility operations within the United States, and that neither the company nor any of its subsidiaries is a public-utility company operating in the United States.

[8] See, e.g., statement of Sen. Wallop, Cong. Rec. S17615 (Oct. 8, 1992) (section 32 is intended to "streamline and minimize" federal regulation); statement of Sen. Riegle, Cong. Rec. S17629 (Oct. 8, 1992) ("the purpose of section 33 is to facilitate foreign investment, not burden it.").

[9] The legislation seeks to "carefully strik[e] a balance between the concerns of many who are affected by its provisions, namely consumers, ratepayers, municipals, industrials, utility companies and State and Federal regulators." Statement of Rep. Dingell, Cong. Rec. H11428 (Oct. 5, 1992).

[10] See e.g., statement of Rep. Markey, Cong. Rec. H11446 (Oct. 5, 1992) ("This provision would invite utilities to shift valuable resources and management—paid for by captive retail ratepayers—from monopoly markets to competitive markets. Utility expansion into new markets raises the same problems as does utility diversification in general: risk of failure, diversification of utility profits from measures which would strengthen the utility's financial condition, reduced utility maintenance, the draining of top management from the core utility, and cross-subsidization.").

[11] Section 32(h) further provides that the entering into service, sales or construction contracts, and the creation or maintenance of any other relationship other than the acquisition of the securities of, or an interest in the business of an EWG between an exempt wholesale generator and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under the Act.

Under the legislation, Commission approval would not be required for a registered holding company to acquire and finance the operations of EWGs with available funds.

[12] The issue and sale of a security is otherwise subject to sections 6 and 7 of the Act; a guarantee is governed by section 12.

[13] Under section 7(d), the Commission shall not permit a declaration regarding the issue or sale of a security by a registered holding company or its subsidiary to become effective if, among other things, the Commission finds that (1) the security is not reasonably adapted to the security structure of the declarant and other companies in the same holding-company system; or (2) the security is not reasonably adapted to the earning power of the declarant. Section 12(b) provides, in pertinent part, that it is unlawful for a registered holding company,

Although the legislation does not expressly define the term "substantial adverse impact," it is clear that Congress intended the Commission to protect the domestic consumers of a registered holding company, to the extent possible, against detriment associated with a failed investment in an EWG.[14] Section 32(h)(6) requires the Commission to promulgate regulations with respect to the actions which would be considered to have a substantial adverse impact on the financial integrity of the registered holding company system.[15] The legislation further provides that such regulations shall ensure that the action has no adverse impact on any utility subsidiary or its customers, or on the ability of State commissions to protect such subsidiary or customers.[16]

As noted previously, the Commission has no jurisdiction over acquisition of EWGs as such, although it does retain its jurisdiction over certain transactions of EWGs as such, although it does retain its jurisdiction over certain transactions ancillary to such acquisitions. In promulgating rules related to its authority over these ancillary transactions, the Commission is to take into account the amount and type of capital invested in exempt wholesale generators, the ratio of such capital to the total capital invested in utility operations, the availability of books and records, and the financial and operating experience of the registered holding company and the exempt wholesale generator.[17] These statutory factors reflect the underlying legislative concern with the preservation of capital for the utility operations of the integrated system, the effect of EWG activities upon the daily operations of the domestic utility subsidiaries, and the possible repercussions upon captive ratepayers.

Proposed rule 53 addresses these concerns by defining standards for the financing of EWG acquisitions and the guarantee of EWG securities by a registered holding company.[18] Rule 53(a) establishes three conditions that relate to the size of the holding company's investment in EWGs and foreign utility companies, the Commission's access to books and records, and the provision of services by domestic utility personnel. Where these conditions are met, the Commission will not make a finding of "substantial adverse impact," absent an event of bankruptcy or other evidence of financial or operating problems, as specified in rule 53(b).[19]

Rule 53(a)(1) requires that the aggregate investment by registered system companies in EWGs and foreign utility companies not exceed an amount equal to 50% of the consolidated retained earnings.[20] At present, all but one of the registered holding company systems have positive retained earnings, ranging in amount from approximately $20 million to nearly $3 billion.[21] We believe the use of the retained earnings test offers the most accurate measure of the continued financial health of the holding company system and so protects domestic utility consumers.[22]

Company	Retained earnings	50% of retained earnings
The Southern Company	$2,754,801,000	$1,377,401,000
Entergy Corporation	2,078,950,000	1,039,475,000
General Public Utilities	1,754,555,000	877,278,000
Central and South West	1,737,000,000	868,500,000
Consolidated Natural Gas	1,386,464,000	693,232,000
American Electric Power Company	1,313,606,000	656,803,000
Northeast Utilities	850,765,000	425,383,000
Allegheny Power System	846,927,000	423,464,000
New England Electric System	677,187,000	338,594,000
National Fuel Gas Company	314,334,000	157,176,000
Eastern Utilities Associates *	20,234,000	10,117,000
UNITIL Corporation	19,553,000	9,777,000
Columbia Gas System *	(50,000,000)	Not applicable

* On July 31, 1991, The Columbia Gas System and its nonutility subsidiary, Columbia Gas Transmission Corporation, filed petitions for relief under Chapter 11 of the United States Bankruptcy Code. EUA Power, a subsidiary of Eastern Utilities Associates, filed for such relief on February 28, 1991. As explained *infra*, these registered companies could not at present rely upon the proposed rule.

In applying the retained earnings tests, the Commission proposes to consider investments in both EWGs and foreign utility companies. This approach offers a conservative basis for the protection of the interests identified by Congress. Because such investments by registered holding companies were severely limited under prior law, there is little basis on which to assess the impact of such activities or to distinguish between them. Accordingly, the Commission believes it appropriate to consider the aggregate system investment in EWGs and foreign utility companies.

For purposes of the rule, the ratio of aggregate investment to retained earnings would be computed on a pro forma basis.[23] Aggregate investment would not include debt or other obligations for which there is no recourse to a system company other

directly or indirectly, to lend or in any manner extend its credit to or indemnify any company in the same holding-company system in contravention of such rules or orders as the Commission deems necessary or appropriate to protect the financial integrity of companies in holding-company systems.

[14] See statement of Sen. Wallop, Cong. Rec. S17615 (Oct. 6, 1992) ("the intent of these provisions is to assure that the risk, if any, of any EWG is not borne by the operating company subsidiaries (i.e., those subsidiaries which provide retail electric service to consumers), and is not borne by those companies' ratepayers. * * * It is not the intent to preclude all risk, but rather to assure that the relationship between the registered holding company and the EWG does not increase the risks that otherwise are borne in the ordinary course of business, not to transfer those risks unreasonably to ratepayers.").

[15] Section 32(h)(6). The legislation requires the Commission to adopt regulations concerning EWG financings within six months of the date of enactment of the legislation. Further, the legislation provides that after such 6-month period the Commission shall not approve any actions under section 32(h)(6) except in accordance with such issued regulations. *Id.*

[16] *Id.*

[17] Section 32(h)(6). Such factors are relevant to the Commission's review of filings under sections 6, 7 and 12 of the Act. The Commission has taken these factors into account, either expressly as a condition of the rule (i.e., rule 53(a)(2) ensures Commission access to books or records) or implicitly as a reporting requirement (e.g., Item 10 of the proposed amended Form U5S requires the reporting of a ratio of the registered system's EWG and foreign utility company investments to total capital invested in utility operations).

[18] Although section 32 is intended primarily to benefit developers of domestic EWGs, the exception would include companies owning foreign EWGs. The rule does not distinguish between domestic and foreign EWGs. See discussion *infra* at 19. This approach is consistent with the statutory treatment of these entities. The only distinction in the legislation concerns retail sales, which are permissible for foreign EWGs but not domestic EWGs.

[19] The rule is thus intended to identify those circumstances which do not require evaluation under the standards of sections 7(d)(1) and (2), or 12(b), on a case-by-case basis.

[20] The amount of consolidated retained earnings would be that reported most recently on Form 10-Q or Form 10-K, pursuant to the Securities Exchange Act of 1934, as amended.

[21] The following table lists the active registered holding companies, and each system's consolidated retained earnings at September 30, 1992:

[22] Because retained earnings accumulate through sustained economic performance over time, they are a reliable indicator of the financial strength and viability of the system.

[23] The rule contemplates valuation of a proposed investment as of the date of that initial investment. Aggregate investment would include amounts invested to date, as well as amounts to be invested over time, as estimated at the time of the initial investment. Any subsequent changes in the system's retained earnings, or in the value of an investment, would not affect the company's continued reliance upon the rule with respect to that particular investment. The rule thus would afford commercial certainty.

than the subject EWG or foreign utility company.[24]

We considered the use of other approaches, including a debt-equity test or a standard linked to the ratio of capital invested in EWGs to the total capital invested in utility operations. We concluded that these other approaches could mask a deterioration in the system's financial health. For example, a write-off of an EWG-related investment could have a nominal effect upon the consolidated debt-to-equity ratio, and yet have a substantial adverse effect upon the system's retained earnings. Further, a standard that measures the extent of a system's investment in EWGs as a percentage of its investment in its core utility operations would indicate the extent of the system's diversification away from its integrated system, but would not necessarily reflect the impact of a failed EWG investment upon the financial health of the system.[25]

Rules 53(a)(2) ensures the Commission access to books and records concerning investments in EWGs and foreign utility companies.[26] The rule requires that these books and records be made readily available to the Commission in English, within the United States, and that they be kept in a manner consistent with generally accepted accounting principles and the Federal Energy Regulatory Commission's Uniform System of Accounts, as set forth in 18 CFR parts 101 and 201, and maintained for the periods set forth in 17 CFR part 257, as appropriate. Access to such information should enable the Commission to monitor investments in EWGs and foreign utility companies and so protect against possible cross-subsidization and other affiliate abuses.[27]

The rule does not require access to the books and records of an EWG or a foreign utility company which is not a subsidiary of the registered holding company. We believe that it could be unduly burdensome to require compliance with respect to a foreign affiliate in which the registered holding company has less than a subsidiary interest.[28] We anticipate, however, that where possible, such books and records will be made available to the Commission.

Finally, rule 53(a)(3) requires that no more than 2% of the systems's domestic utility employees render services, at any one time, to EWGs and foreign utility companies in which a system company holds an interest. Under the rule, each affected state public-utility commission must approve the use of such personnel.[29] The Commission believes that a state public-utility commission is best able to assess the potential impact of the assignment of utility personnel, particularly managers and technical staff, on an operating company.[30]

Notwithstanding the foregoing conditions, the rule would not be available if a system company has filed a voluntary petition of bankruptcy or has filed an answer admitting the material allegations of, or consenting to, or defaulting in answering, a petition filed against it in any bankruptcy or similar proceeding—unless three calendar years have elapsed since confirmation of a plan of reorganization in such proceeding. The rule would similarly be unavailable if, within the previous fiscal year, the subject EWG reported operating losses, or other EWGs and foreign utility companies in which system companies held interests reported operated losses exceeding 25% of the system's total investment in EWGs and foreign utility companies. These provisions are intended to isolate those circumstances that would require evaluation under the standards of sections 7 or 12 on a case-by-case basis.

We wish to emphasize that proposed rule 53 creates a conclusive presumption only with respect to certain required statutory findings.[31] Reliance upon the rule does not moot the need for an order upon application approving an otherwise jurisdictional transaction. Conversely, the inability to rely upon the rule does not preclude approval of the subject transaction. Instead, it creates a rebuttable presumption of "substantial adverse impact" that may be overcome on a proper showing of particular facts and circumstances.

III. Proposed Rule 54

Section 32(h)(4) directs the Commission, in reviewing a proposed issue or sale of a security by a registered holding company for purposes other than the acquisition of an EWG, or other transactions by such company or its subsidiaries other than with respect to EWGs, not to consider the effect of the capitalization or earnings of any EWG subsidiary upon the registered holding company system, unless the approval of the transaction, together with the effect of such capitalization and earnings, would have a "substantial adverse impact" on the financial integrity of the registered holding company. Proposed rule 54 would obviate consideration of the capitalization or earnings of any EWG subsidiary upon the registered system where the conditions set forth in the rule are satisfied. We believe that the standards prescribed in proposed rule 53 describe the conditions under which the Commission may disregard the impact of an EWG or a foreign utility company subsidiary upon consolidated capitalization.[32]

IV. Proposed Rule 55

Under section 33, a foreign utility company is exempt from all provisions of the Act. Section 33, however, requires the Commission to adopt rules governing the foreign utility company acquisition by a registered holding company that will protect the domestic customers of the registered system and maintain the financial integrity of the registered system.[33] Certain transactions

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[24] In testimony before the Congress, the Commission noted that so-called independent power projects are typically characterized by a highly-leveraged capital structure. Testimony of Edward H. Fleischman, Commissioner, Securities and Exchange Commission, Before the Senate Committee on Energy and Natural Resources (March 14, 1991); Testimony of James R. Doty, General Counsel, Securities and Exchange Commission, Before the Senate Subcommittee on Securities, Committee on Banking, Housing and Urban Affairs (Sept. 17, 1991).

[25] We have, however, included a requirement that a registered holding company report on proposed amended Form U5S the ratio of its system investments in EWGs and foreign utility companies to total capital invested in core utility operations.

[26] Rule 53(a)(2). Section 15 of the Act gives the Commission broad authority concerning the books and records of registered holding companies, their subsidiaries and affiliates.

[27] See *supra* at note 10, statement of Rep. Markey (citing cross-subsidization as a possible abuse).

[28] Under section 32(a)(2), an EWG can own or operate a domestic or foreign generating facility.

[29] The legislative history of the Energy Policy Act expresses concern about the possible diversion of personnel necessary for the successful operation of the integrated system. See also section 1(b)(5) of the Act (citing lack of economy of management and operation of public-utility companies as an abuse the Act was intended to address).

[30] We recognize that such services could be rendered through service companies or other nonutility subsidiary companies. Although the Commission has jurisdiction to review such arrangements under section 13, rule 87 generally allows a nonutility subsidiary of a registered holding company to perform services for an associate company without the need for Commission approval. The rule thus creates a potential regulatory gap, which we will address in a future rulemaking.

[31] See *supra* note 13.

[32] It is anticipated that foreign utility companies, like EWGs, will be characterized by a significant amount of debt that is nonrecourse to other system companies. We therefore think it appropriate to exclude the capitalization and earnings of those companies from consideration of other unrelated transactions.

[33] Specifically, section 33(c)(1) provides: Notwithstanding any provision of this Act except as otherwise provided under this section, a registered holding company shall be permitted as of the date of enactment of this section (without the need to apply for, or receive approval from the Commission) to acquire and hold the securities or an interest in the business, of one or more foreign utility companies. The Commission shall promulgate rules or regulations regarding registered

ancillary to the acquisition of a foreign utility company also remain subject to the Commission's jurisdiction.[34]

Section 33 does not specify the factors which the Commission is to consider when promulgating these rules.[35] Congress enacted section 33 to facilitate foreign investment.[36] The legislative history nonetheless indicates a strong concern that such investments not adversely affect domestic ratepayers.[37] Although foreign utility operations raise unique issues for the administration of the Act,[38] we believe that the relevant considerations are generally those identified in section 32(h)(6), relating to the preservation of capital for domestic utility operations, the effect of foreign utility company investments upon the daily operations of the domestic utility subsidiaries, and the possible effect upon domestic ratepayers.

Proposed rule 55 defines the circumstances under which a registered holding company can acquire an interest in a foreign utility company without the need to apply for or receive Commission approval. Like proposed rule 53, the rule prescribes three conditions that relate to the size of the registered system's investment in foreign utility companies, the Commission's access to books and records, and the provision of services by domestic utility personnel. Where these conditions are met, the acquisition can proceed absent an event of bankruptcy or other evidence of financial or operating problems.[39]

We note that section 33 does not prescribe standards for the issue and sale of a security by a registered holding company for the purposes of acquiring an interest in a foreign utility company, or for transactions that involve the creation or maintenance of a relationship between the foreign utility company and the registered holding company or its associate companies. The Commission will develop such standards on a case-by-case basis. We note, however, that the underlying acquisition will be exempted from Commission review if rule 55 applies.[40]

V. Proposed Rule 56

Proposed rule 56 would clarify the status of intermediate subsidiaries that engage exclusively in the business of owning or operating, or both owning and operating, foreign utility companies, or a combination of EWGs and foreign utility companies. The legislation defines EWGs to include an intermediate subsidiary that is engaged exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities. There are no similar provisions regarding intermediate companies formed to hold an interest in a foreign utility company,[41] or in a combination of EWGs and foreign utility companies. The legislative history indicates that Congress intended the definition of foreign utility company to extend to a company that is engaged directly or indirectly, and exclusively, in the business of owning or operating, or both owning and operating, all or part of one or more foreign utility companies.[42] Accordingly, we believe it is appropriate to treat such companies as foreign utility companies.

We note that for business or other reasons, a company may wish to hold its investments in EWGs and foreign utility companies through a special purpose subsidiary. To the extent a subsidiary company of a registered holding company is engaged exclusively in the direct or indirect ownership of the securities of, or an interest in the business of, EWGs or foreign utility companies, or both, we think it appropriate to exempt the company from all provisions of the Act. Under the proposed rule, a registered holding company, unless otherwise restricted, could acquire the securities of, or an interest in, such a company without the need to apply for or receive Commission approval.[43]

VI. Proposed Rule 57

The proposed rule addresses two reporting requirements under section 33. Under section 33(a)(3)(B), a company must provide notice to the Commission, in such form as the Commission may prescribe, that such company is a foreign utility company. Proposed rule 57(a) requires the filing of such notification on proposed Form U–57 by either a foreign utility company, any person purposing to become a foreign utility company, or any person holding an interest in a company that intends to become a foreign utility company, on behalf of such company.[44]

Section 33(e)(1) requires a public-utility company that is associated with a foreign utility company to file such reports as the Commission may by rules, regulations, or order prescribe.[45] Under rule 57(b), a public-utility company (other than an associate company of a registered holding company or a holding company exempt from registration pursuant to rule 2) that is an associate of a foreign utility company is directed to file an annual report regarding foreign utility company activities on proposed new Form U–33–S.[46] The rule also provides that if the public-utility company is a subsidiary of a holding company that is exempt by Commission order, such holding company may file a single Form U–33–S on behalf of all of its subsidiary public/utility companies.

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holding companies' acquisition of interests in foreign utility companies which shall provide for the protection of the customers of a public utility company which is an associate company of a foreign utility company and the maintenance of the financial integrity of the registered holding company system.

[34] These transactions include the issuance of securities by a registered holding company for purposes of financing the acquisition of a foreign utility company, the guarantee of securities of a foreign utility company by a registered holding company, the entering into service, sales, or construction contracts and the creation or maintenance of any other relationship between a foreign utility company and a registered holding company, its affiliates and associate companies. Section 33(c)(2).

[35] Compare section 32(h)(6), discussed *supra* at 7.

[36] See supra note 8.

[37] See statement of Rep. Markey, Cong. Rec. H11446 (daily ed. Oct. 5, 1992) ("I am very concerned that utilities will make unwise investments in foreign utility systems with great potential risk to their asset base, and in turn to their ratepayers—residential, commercial, and industrial"). See also statement of Rep. Dingell, Cong. Rec. H11428 (daily ed. Oct. 5, 1992) ("The provision includes protective firewalls in the form of determinations by the State and the Securities and Exchange Commission [SEC] that the foreign investments will not put the ratepayers' investments at risk.").

[38] The issues raised by foreign ventures are discussed *infra* at 19.

[39] As noted *supra*, the Commission will continue to exercise jurisdiction over related financings, unless otherwise excepted.

[40] We have noted that the standards of rule 55 track those under which the Commission would not find a "substantial impact" with respect to the issue and sale of a security by a registered holding company for the purposes of acquiring an interest in an EWGB. We are requesting comment as to whether more restrictive standards should be adopted for foreign utility operations. The issue is discussed in greater detail in section VIII, *infra*.

[41] The Commission previously discussed this problem in Entergy Corp., Holding Co. Act Release No. 25706, International Release No. 510 (Dec. 14, 1992).

[42] See statement of Sen. Riegle, Cong. Rec. S18329 (Oct. 29, 1992) ("It is our intent that the definition of a foreign utility company and the provisions of subsections (b) and (c)(1) permit such acquisition and maintenance of an interest directly such as through the interposition of one or more subsidiaries. Such subsidiaries would also be considered foreign utility companies, so long as such subsidiary satisfies all criteria established in subsection (c)(3) [i.e., is a company organized exclusively to own, directly or indirectly, the securities or other interest in a foreign utility company] or is a nonoperating company that merely owns the securities of a foreign utility company.").

[43] As noted *supra* an application may be required in connection with the acquisition of an interest in a foreign utility company.

[44] Proposed Form U–57 is discussed in Section VII, *infra*.

[45] We note that Congress did not contemplate a reporting requirement for nonutility companies that are associates of EWGs or foreign utility companies.

[46] Proposed Form U–33–S is described further in Section VII, *infra*.

For a public utility company in a registered system, the activities of associate foreign utility companies would be reported by the parent holding company on Form U5S, as proposed to amended.[47] For a public-utility company that is a subsidiary of a holding company exempt from registration pursuant to rule 2, the activities of associate foreign utility companies would be reported by the parent holding company on Form U–3A–2, as proposed to be amended.[48]

VII. Other Reporting Requirements

A. Amendment to Form U5S

The Commission proposes to amend Form U5S, the annual report filed by registered holding companies, to require submission of information concerning EWGs and foreign utility companies. Such information would pertain to ownership structure, affiliate transactions, amount and type of capital invested in such entities, and the ratio of such investments to consolidate retained earnings, as well as certain additional financial information.

B. Amendment to Form U–3A–2

The Commission proposes to amend Form U–3A–2, the annual report filed by holding companies that claim exemption from registration pursuant to rule 2, to require submission of information relating to interests in and the activities of associate EWGs or foreign utility companies. The information would be similar to that required by Item 10 of amended Form U5S.

C. Proposed Form U–33–S

The Commission proposes to adopt a new Form U–33–S for the reporting activities of foreign utility companies and their associates. The form is to be filed annually by any public-utility company (other than an associate company of a registered holding company or a holding company exempt from registration pursuant to rule 2) that is an associate of a foreign utility company. The reporting companies would consist of stand-alone public-utility companies and holding companies exempt from registration by order of the Commission. The amended form would require information similar to that required by Item 10 of amended Form U5S.

[47] A proposed amendment Form U5S is discussed in Section VII, *infra*.

[48] A proposed amendment to Form U–3A–2 is discussed in Section VII, *infra*.

D. Proposed Form U–57

The Commission proposes to adopt a new Form U–57 for notification of foreign utility company status. A company that otherwise meets the definition of a foreign utility, or any person holding an interest in such company, on behalf of such company, may file Form U–57. The information would relate generally to ownership structure, and the amount and type of capital invested in such entities. Upon the filing of such notification, a company that meets the criteria of section 33(a)(3)(A) shall be exempt from all provisions of the Act.

VIII. Additional Request for Comments

We have previously noted the tension in the new legislation between the drive toward a competitive energy market and the demand for effective consumer protection, and our effort to strike an appropriate balance between these statutory goals in the proposed rules. We request general comment on this feature of the proposed rules. We also request comment with respect to the following issues.

1. Congress directed the Commission in section 32 to "take into account" the ratio of capital invested in EWGs to total capital invested in utility operations. This directive appears to indicate concern regarding the extent of diversification into EWGs, away from the holding company's core utility business. Congress did not, however, provide any normative standards in this regard. The Commission requests comment on the need to restrict, either in absolute terms or as a percentage of total utility investment, the amount a registered holding company could invest in EWGs.[49] The Commission also requests comment on the need for a similar restriction on foreign utility company acquisitions.[50]

[49] It is clear that the Commission may not impose conditions upon the acquisition of EWGs. However, rule 53, which addresses EWG-related financings, could include a limitation upon a registered holding company's investments in EWGs, based upon a specified percentage of its consolidated utility assets.

[50] The legislative history that "[U.S. companies'] financial exposure in the international arena is potentially enormous with commensurate risk to investors and to ratepayers." Statement of Rep. Markey, Cong. Rec. H11446 (Oct. 5, 1992). Foreign utility investments typically require large financial commitments. For example, the Commission recently issued an order in a filing that involved an option to participate in the consortium that had submitted the winning bid for an interest in the electric distribution system that serves the greater Buenos Aires metropolitan area. The winning bid in that matter was approximately $511 million. Entergy Corp., Holding Co. Act. Rel. No. 25705, International Rel. No. 311 (Dec. 14, 1992). As noted above, the definition of a "foreign utility company" extends to electric generation, transmission and distribution facilities, as well as retail gas distribution facilities.

2. The new legislation creates two types of exempt foreign entities, foreign EWGs and foreign utility companies. Under certain circumstances, a company would have an option to elect treatment as an EWG or as a foreign utility company.[51] With EWG status, the interest could be acquired without Commission review or approval. With foreign utility status, on the other hand, prior Commission approval would be required, unless the requirements of proposed rule 55 were satisfied. Different levels of state involvement could also result.[52] These inconsistencies in the statutory pattern invite forum shopping. The Commission seeks comment on the need to rationalize the treatment of these two classes of exempt foreign entities.

3. The legislative history contains numerous expressions of concern for the interests of ratepayers of registered systems. The foreign ventures contemplated by the legislation involve the risks of doing business abroad, and raise such issues as sovereign risk, currency fluctuations, repatriation of earnings and changes in local law.

The Commission has considered various alternatives to the standards set forth in proposed rule 55. We considered and rejected an approach that would arbitrarily establish a more restrictive standard for the acquisition of foreign utility interests, e.g., limiting foreign investments to an amount equal to a smaller percentage of consolidated retained earnings.

Alternatively, the rule could establish qualitative criteria for foreign acquisitions, such as those a rating agency might consider.[53] We believe,

[51] This option would occur only if the foreign assets to be acquired consisted of electric generating facilities.

[52] Although the rulemaking is largely concerned with registered holding companies, we note that companies not associated with a registered holding company which seek to acquire foreign generating facilities may avoid the state certification requirements under section 33 by qualifying their foreign investments as EWGs under section 32.

[53] Factors could include the ability of the utility to adjust to new competitive forces, its customer base (whether, for example, there are any power purchase contracts covering some or all of the capacity of a generating facility), the likelihood of market destabilization (due, for example, to changing technology, the break-up of protected markets or competition for fuel supplies), the stability of the foreign government, the quality of the assets to be acquired, the type of facility to be acquired (generation, transmission or distribution facilities) and its projected financial strength at the time of acquisition, and the utility's ability to raise its rates. See generally Privatisation Risk for European Utilities: Impact of Developing Regulation and Competition on Credit Quality, Moody's Investor Reports, October 1992.

A third approach would be to rely upon the rating agencies themselves.

however, that the fact-specific analysis contemplated by this approach is not compatible with the general parameters of a rulemaking.[54]

The Commission requests comment on the need to adopt a standard that reflects the considerations involved in foreign operations.

4. The Commission requests comment as to whether the proposed rule should recognize that some foreign countries present greater political and safety risks to utility interests than others. In protecting consumers from potential enormous financial exposure in the international arena, should the rules further restrict investments in countries that are politically unstable? Should the proposed rules restrict investment in countries that do not have adequate safety and inspection standards? Should investment be restricted or expanded in relation to a foreign country's tort liability laws? Likewise, should the proposed rules permit greater investment in foreign countries with regulatory oversight that is comparable with that in the United States? Finally, comment is solicited as to whether the proposed rules should prohibit or restrict investment in specific foreign operations that may be deemed unsafe (such as foreign nuclear plants that would be deemed unsafe pursuant to standards adopted by the Nuclear Regulatory Commission)?

Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 with respect to rule 57, Form U–3A–2 and new Forms U–33–S and U–57. Proposed rule 57(a) provides that a company seeking foreign utility company status file a notification with the Commission on Form U–57. Proposed rule 57(b) provides for the annual reporting by certain public-utility companies of foreign utility company activities on Form U–33–S. Form U–3A–2 is proposed to be amended to provide for the annual reporting by holding companies exempt from registration under rule 2 of EWG and foreign utility company activities. The analysis notes that the information obtained from these reports will aid the Commission in monitoring the activities of foreign utility companies, as instructed by Congress, and in evaluating their impact upon domestic public-utility companies.

As discussed more fully in the analysis, the proposed reports may affect some small businesses, but are necessary to carry out Congress' direction that certain reporting requirements be imposed with respect to foreign utility companies. A "small businesses," for purposes of rulemaking under the Act, is a holding company system whose gross consolidated revenues from sales of electric energy or of natural or manufactured gas distributed at retail for its previous fiscal year did not exceed $1 million.[55] The analysis notes that while it is possible that small businesses may be subject to the reporting requirements contained in rule 57 or Form U–3A–2, as proposed to be amended, it is unlikely, in view of the cost of such transactions, that such businesses will have sufficient resources to engage in foreign utility operations. The Commission believes that no federal rules or forms duplicate, overlap with, or conflict with the requirements of proposed rule 57, the reporting requirements thereunder or the amendment to Form U–3A–2.

As stated in the analysis, several possible alternatives to the proposals were considered, including, among others, establishing different reporting requirements for small businesses or exempting them from all or part of the proposed requirements. As more fully discussed in the analysis, none of the alternatives were deemed appropriate either because they were duplicative of the proposed changes, inconsistent with the Act and Congressional intent, or otherwise unsuitable. The Commission believes that the requirements proposed afford the necessary consumer protection while imposing the least regulatory burden upon small entities.

Written comments are encouraged with respect to any aspect of the analysis. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis if the proposed rule and forms are adopted. A copy of the Initial Regulatory Flexibility Analysis may be obtained from Karrie H. McMillan at Mail Stop 10–6, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

Costs and Benefits of the Proposed Rule

Costs

Proposed rule 53, under section 32 of the Act, defines the circumstances under which the Commission would not find that the issue and sale of a security by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator ("EWG") or the guarantee of a security of an EWG by a registered holding company would have a substantial adverse impact on the financial integrity of the registered holding company system. The rule requires, among other things, that the registered system's aggregate investment in EWGs and foreign utility companies not exceed an amount equal to 50% of consolidated retained earnings, and that prior State approval be obtained for the provision of services to an EWG or a foreign utility company by domestic utility personnel. The cost of complying with the rule will consist of the cost of (1) Determining the ratio of the registered system's aggregate investment in EWGs and foreign utility companies to the amount of consolidated retained earnings, and (2) obtaining, where necessary, State approval for services by utility personnel.

The cost of determining the investment ratio should be nominal. The cost of obtaining State approval may also be nominal, since a letter from the state public-utility commission will satisfy the requirement. Greater costs may be involved, however, if further State procedures, such as a hearing, are involved. Accordingly, it appears that the cost of compliance with the rule could range from $200, for a filing that does not involve services by utility personnel, to $10,000 or more if a State proceeding is required. We believe it is appropriate to estimate the average cost of compliance at $2,000.

A registered holding company will rely upon rule 53 only when it seeks to engage in one of the specified transactions. Since various other financing options for EWG acquisitions are available, we think it unlikely that there will be more than 7 such filings per year. Accordingly, we estimate the annual compliance cost as approximately $14,000.

Proposed rule 54, under section 32 of the Act, similarly prescribes the conditions under which the Commission would not consider the effect of the capitalization and earnings of any subsidiary which is an EWG upon the registered system, when reviewing a proposed issue or sale of a security by a registered holding company for purposes other than the acquisition of an EWG, or other transactions by such company or its subsidiaries other than with respect to EWGs. We note that any required State approval for these transactions predates the enactment of section 32. Accordingly, we estimate the average

[54] To the extent that the rule created regulatory uncertainty, it could defeat Congress' intention to allow registered holding companies to take advantage of "immediate, and fleeting, market opportunities for U.S. companies." Statement of Sen. Riegle, Cong. Rec. S17629 (daily ed. Oct. 8, 1992).

[55] 17 CFR 250.110.

cost of compliance with proposed rule 54 as approximately $200. In fiscal year 1992, the Commission received 166 filings from registered holding companies and their subsidiary companies. An estimated 175 filings annually would result in a compliance cost of $35,000 per year.

Proposed rule 55, under section 33 of the Act, prescribes the conditions under which a registered holding company can acquire a foreign utility company without the need to apply for or receive Commission approval. Because this rule tracks the requirements of proposed rule 53, the cost of compliance will consist of the cost of: (1) Determining the ratio of the registered system's aggregate investment in EWGs and foreign utility companies to the amount of consolidated retained earnings, and (2) obtaining State commission approval, where necessary, for the provision of services by utility personnel. As explained above, the cost of compliance may vary widely, depending upon State procedures. We believe that $2,000 is a reasonable estimate of the average cost of complying with rule 55. It is difficult to estimate the frequency of reliance upon the rule. We anticipate significant activity in the near future, but it appears unlikely that new investment will be sustained indefinitely at a high level. Accordingly, we estimate that registered holding companies will rely upon the rule for an average of 7 acquisitions per year. In this event, the annual compliance cost would be approximately $14,000.

Proposed rule 56 clarifies the status of certain system companies that hold interests in EWGs and foreign utility companies. No compliance cost is associated with the rule.

Proposed rule 57 imposes two reporting requirements. First, a company must notify the Commission of its status as a foreign utility company. The cost of complying with this requirement should be nominal. Since the rule permits all persons holding an interest in a foreign utility company to rely upon a single notification filed by or on behalf of such company, we anticipate an average of 20 Rule 57 filings per year, for a total average compliance cost of $12,000.

Second, rule 57 requires the filing of an annual report on proposed Form U–33–S, by a domestic public-utility company (other than an associate company of a registered holding company or a holding company exempt from registration pursuant to rule 2) that is an associate of a foreign utility company. We estimate that proposed Form U–33–S will require approximately 3 hours to complete, at a cost of $200 per hour, for a total cost of $600. At present, there are approximately 177 domestic public-utility companies that could be required to file under the rule. We believe it is reasonable to estimate that one-half of these companies may ultimately be required to file proposed Form U–33–S, for an average annual compliance cost of $53,400.

In addition, the Commission is proposing amendments to Forms U5S and U–3A–2 to require information on an annual basis concerning EWG and foreign utility interests held by registered holding companies and by holding companies that are exempt by rule under sections 3(a)(1) and 3(a)(2), respectively. The estimated cost of complying with the amendment to Form U5S would be approximately $2,000 for each of the 14 active registered holding companies, for an annual cost of $28,000.

The proposed amendment to Form U–3A–2 requires less information and would thus be less costly to complete. We estimate the cost of complying with the amendment as approximately $600. Again, it is not clear that all of the 116 companies that currently file Form U–3A–2 will engage in EWG or foreign utility company activities. We believe it is reasonable to estimate that one-half of these companies will participate in such activities, for an annual compliance cost of $34,800.

Benefits

The legislation provides that acquisitions of EWGs may be made without the need for Commission approval, a notable change in the previously regulatory pattern. Registered holding companies seeking to finance these acquisitions need only demonstrate that the requirements of rule 53 have been met, and file a Form U–1 as to certain, limited aspects of the financing transaction. The application burden to registered holding companies that qualify for the partial safe harbor of rule 53 will thus be significantly reduced by substituting a less rigorous analysis for the former, detailed inquiry under section 7(d) (1) and (2). It is estimated that these companies will save approximately $30,000 per EWG financing in costs normally associated with filing a complete Form U–1 with the Commission. Rule 53 also limits greatly the matters which may be properly challenged by intervenors. Depending upon the complexity of the issues raised, and the necessity for a hearing, interventions can result in as much as a ten-fold increase in the cost of a transaction.

Rule 53 also provides that the Commission must issue its decision to either grant, deny or hold a hearing on the application within 120 days of the completion of the record. This schedule will result in planning certainty and other efficiencies which cannot be quantified.

Registered holding companies entitled to take advantage of rule 55 with respect to their acquisitions of foreign utility companies will receive even greater benefits. Companies which meet the terms of the rule will be granted a complete safe harbor from Commission review, thus obviating the need to file a Form U–1 as to any aspect of the acquisition. It is estimated that the savings to these companies of foregoing the preparation and filing of a Form U–1 will be approximately $75,000 per foreign utility company acquisition. Further, acquisitions under the rule will not be subject to intervention (except as to the factual matters upon which reliance on the rule is based, which in general should be a relatively simple inquiry), with the resulting potential of enormous savings, as discussed above.

Proposed rule 56, which clarifies the status of certain system companies that hold interests in EWGs and foreign utility companies, benefits those registered holding companies that structure their ownership of foreign utility companies and EWGs through an intermediate entity. Without this rule, an acquisition which would be exempt from Commission approval under rule 55, for example, could nevertheless require an application and Commission approval as to the creation and acquisition of the intermediate company, and that company's acquisition of the foreign utility company. This rule obviates the need for such a filing, and thus creates savings similar to those provided by rule 55.

Paperwork Reduction Act

The proposed rules are subject to the Paperwork Reduction Act and will be submitted to the Office of Management and Budget for its review.

Statutory Authority

The Commission is proposing rules 53 through 57 pursuant to sections 14, 15, 20, 32 and 33 of the Act, as amended. The authority citations for this action precedes the text of the action.

Text of Proposed Rule

List of Subjects in 17 CFR Parts 250 and 259

Holding companies, Reporting and recordkeeping requirements, utilities.

For the reasons set out in the preamble, parts 250 and 259 of chapter II, title 17, of the Code of Federal Regulations are proposed to be amended as follows:

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

1. The general authority citation for part 250 continues to read, in part, as follows:

Authority: 15 U.S.C. 79c, 79f(b) 79i(c)(3) and 79t, unless otherwise noted.

* * * * *

2. Section 250.53 is added to read as follows:

§ 250.53 Certain registered holding company financings in connection with the acquisition of one or more exempt wholesale generators.

(a) In determining whether to approve the issue or sale of a security by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, or the guarantee of a security of an exempt wholesale generator by a registered holding company, the Commission shall not make a finding that such security is not reasonably adapted to the earning power of such company or to the security structure of such company and other companies in the same holding company system, or that the circumstances are such as to constitute the making of such guarantee an improper risk for such company, if the following conditions are met:

(1) The registered holding company system's aggregate investment in exempt wholesale generators and foreign utility companies does not exceed 50% of its consolidated retained earnings as stated on its most recent Form 10–Q or Form 10–K (§ 249.308a and § 249.310 of this chapter, respectively) filed under the Securities Exchange Act of 1934, as amended. For purposes of this section, the aggregate investment shall include all amounts invested or proposed to be invested, directly or indirectly, in such entities, excluding any debt or other financial obligation to a third-party unless there is recourse to an associate company, other than to an exempt wholesale generator or foreign utility company;

(2) The registered holding company maintains, and causes each subsidiary which is an exempt wholesale generator or a foreign utility company to maintain separate books and records to identify investments in and earnings from any exempt wholesale generators or foreign utility companies in which the registered holding company directly or indirectly holds an interest, and the registered holding company undertakes to provide the Commission access to such books and records in the United States, at such place as the Commission may reasonably request. Such books and records shall be kept in English, in a manner consistent with generally accepted accounting principles and the Federal Energy Regulatory Commission's Uniform System of Accounts, as set forth in 18 CFR parts 101 and 201, and shall be maintained for the periods set forth in part 257 of this chapter, as appropriate; and

(3) No more than two percent (2%) of the employees of the system's domestic associate public-utility companies render services, directly or indirectly, to exempt wholesale generators and foreign utility companies in which the registered holding company directly or indirectly holds interests; provided, that every State commission having jurisdiction over the retail rates of the affected public-utility company has previously approved the rendering of such services.

(b) Notwithstanding the provisions of paragraph (a) of this section, § 250.53 shall not apply if:

(1) The registered holding company or any of its associate companies has filed a voluntary petition of bankruptcy or an answer admitting the material allegations of, or consenting to, or defaulting in answering, a petition filed against it, in any bankruptcy or similar proceeding, unless three calendar years have elapsed since confirmation of a plan of reorganization in such proceeding or

(2) Within the past fiscal year, the exempt wholesale generator to be acquired has reported losses attributable to operations, or other exempt wholesale generators and foreign utility companies in which the registered holding company or its associate companies hold interests have reported aggregate losses attributable to operations in excess of 25% of the system's aggregate investment in such entities.

(c) The Commission shall by order approve the issue or sale of a security by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, or the guarantee of a security of an exempt wholesale generator by a registered holding company, or set the matter down for a hearing, within 120 days of completion of the record.

3. Section 250.54 is added to read as follows:

§ 250.54 Effect of exempt wholesale generators on other transactions.

In determining whether to approve the issue or sale of a security by a registered holding company for purposes other than the acquisition of an exempt wholesale generator or a foreign utility company, or other transactions by such registered holding company or its subsidiaries other than with respect to exempt wholesale generators or foreign utility companies, the Commission shall not consider the effect of the capitalization or earnings of any subsidiary which is an exempt wholesale generator or a foreign utility company upon the registered holding company system if § 250.53 (a) and (b) are satisfied.

4. Section 250.55 is added to read as follows:

§ 250.55 Exemption for certain acquisitions of one or more foreign utility companies.

A registered holding company shall be permitted, without the need to apply for or receive Commission approval, to acquire and hold the securities or an interest in the business of, one or more foreign utility companies, if § 250.53(a) and (b) are satisfied.

5. Section 250.56 is added to read as follows:

§ 250.56 Exemption for subsidiary companies of registered holding companies formed to hold interests in foreign utility companies.

(a) A company that is engaged directly or indirectly, and exclusively, in the business of owning or operating, or both owning and operating, all or part of one or more foreign utility companies shall be deemed a foreign utility company.

(b) A subsidiary company of a registered holding company which is engaged exclusively in the direct or indirect ownership of the securities, or an interest in the business, of exempt wholesale generators or foreign utility companies, or both, shall be exempt from all provisions of the Act, and a registered holding company shall be permitted (without the need to apply for or receive approval of the Commission, unless otherwise required) to acquire and hold the securities, or an interest in the business, of one or more of such subsidiary companies.

6. Section 250.57 is added to read as follows:

§ 250.57 Notices and reports to be filed under section 33.

(a) *Notification of Status as Foreign Utility Company.* A foreign utility company, any person purposing to become a foreign utility company, or any person holding an interest in a

company that intends to become a foreign utility company, on behalf of such company, may file on Form U–57 (§ 259.207 of this chapter) a notification of status as a foreign utility company. If the criteria of section 33(a)(3)(A) for the Act are met, the foreign utility company shall be exempt from all provisions of the Act upon the filing of such notification.

(b) *Reporting Requirement for Domestic Associate Public-Utility Companies.* A United States public-utility company that is an associate company of a foreign utility company shall file with the Commission a report on Form U–33–S (§ 259.405 of this chapter) on or before May 1 of each year, unless such public-utility company is an associate of a registered holding company, or of a holding company exempt from registration pursuant to § 250.2. A holding company that is exempted by Commission order may file a single Form U–33–S on behalf of all of its subsidiary public-utility companies.

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Subpart A—Forms for Registration and Annual Supplements

7. The general authority citation for Part 259 is revised to read as follows:

Authority: 15 U.S.C. 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q and 79t.

* * * * *

Note: The text of the following forms will not appear in the Code of Federal Regulations.

8. By amending Form U5S (§ 259.5s) by revising the first sentence of Item 8, designating Item 9 as Item 10, adding Item 9 and adding Exhibits G and H to newly redesignated Item 10 to read as follows:

Form U5S

Annual Report

* * * * *

Item 8. Service, Sales and Construction Contracts

Excluding (i) transactions included in the annual report on Form U–13–60 of a service company, (ii) the sharing of costs of jointly owned facilities or jointly employed personnel, (iii) contracts for the purchase, sale or interchange of electricity or gas, and (iv) contracts between an exempt wholesale generator or a foreign utility company and a system company, as reported under Item 10, *infra*, provide the following information: * * *

Item 9. Wholesale Generators and Foreign Utility Companies

Part I. For each interest in an exempt wholesale generator (EWG) or a foreign utility company, provide the following information. State all monetary amounts in United States dollars. Indicate by bold face type all data relevant to the current reporting period.

(a) Identify the company, its location and its business address. Describe the facilities used for the generation, transmission and distribution of electric energy for sale or for the distribution at retail of natural or manufactured gas. Identify each system company that holds an interest in the company and describe the interest held.

(b) State the type and amount of capital invested in the company by the registered holding company, directly or indirectly. Identify any debt or other financial obligation for which there is recourse, directly or indirectly, to the registered holding company or another system company, other than an EWG or foreign utility company. Identify separately any direct or indirect guarantee of a security of the EWG or foreign utility company by the registered holding company.

(c) If the company is not a subsidiary company of the registered holding company, state the ratio of debt to common equity of the company and earnings of the company as of the end of the reporting period.

(d) Identify any service, sales or construction contract(s) between the company and a system company, and describe the services to be rendered or goods sold and the fees or revenues under such agreement(s).

Part II. Submit as Exhibit G hereto an organizational chart showing the relationship of each EWG and foreign utility company to other system companies. If the company is a subsidiary company of the registered holding company, Submit as Exhibit H hereto an audited balance sheet (to include a capitalization table), income statement and cash flow statement.

Part III. State the registered holding company's aggregate investment in EWGs and foreign utility companies, respectively. Also state the ratio of each respective aggregate investment to the aggregate capital investment of the registered holding company in its domestic public-utility subsidiary companies. State the ratio of the registered holding company's investment in both foreign EWGs and foreign utility companies to domestic EWGs.

Item 10. Financial Statements and Exhibits

* * * * *

Exhibit G

An organizational chart showing the relationship of each EWG or foreign utility company in which the system holds an interest to other system companies.

Exhibit H

If the EWG or foreign utility company is a subsidiary company of the registered holding company, Submit an audited balance sheet (to include a capitalization table), income statement and cash flow statement of such EWG or foreign utility company.

9. Form U–3A–2 (§ 259.402) is amended by revising the introductory paragraph and paragraph 1, and adding paragraph 4 and Exhibit B to read as follows:

Form U–3A–2

Statement by Holding Company Claiming Exemption Under Rule U–3A–2 From the Provisions of the Public Utility Holding Company Act of 1935

* * * * *

hereby files with the Securities and Exchange Commission, pursuant to Rule 2, its statement claiming exemption as a holding company from the provisions of the Public Utility Holding Company Act of 1935, and submits the following information:

1. Name, State of organization, location and nature of business of claimant and every subsidiary thereof, other than any exempt wholesale generator (EWG) or foreign utility company in which claimant directly or indirectly holds an interest.

* * * * *

4. The following information for the reporting period with respect to claimant and each interest it holds directly or indirectly in an EWG or a foreign utility company, stating monetary amounts in United States dollars:

(a) Name, location, business address and description of the facilities used by the EWG or foreign utility company for the generation, transmission and distribution of electric energy for sale or for the distribution at retail of natural or manufactured gas.

(b) Name of each system company that holds an interest in such EWG or foreign utility company; and description of the interest held.

(c) Type and amount of capital invested, directly or indirectly, by the holding company claiming exemption;

any direct or indirect guarantee of the security of the EWG or foreign utility company by the holding company claiming exemption; and any debt or other financial obligation for which there is recourse, directly or indirectly, to the holding company claiming exemption or another system company, other than the EWG or foreign utility company.

(d) Capitalization and earnings of the EWG or foreign utility company during the reporting period.

(e) Service, sales or construction contract(s) between the EWG or foreign utility company and a system company, and services to be rendered or goods sold and fees or revenues under such agreement(s).

Exhibit A

* * * * *

Exhibit B

An organizational chart showing the relationship of each EWG or foreign utility company to associate companies in the holding-company system.

* * * * *

10. § 259.405 and Form U–33–S are added to read as follows:

§ 259.405 Form U–33–S, for annual reports pursuant to Rule 57(b) (§ 250.57 of this chapter).

This form shall be filed by a public utility company that is an associate of one or more foreign utility companies, unless such public-utility company is an associate of a registered holding company, or of a holding company exempt from registration under Rule 2 (§ 250.2 of this chapter).

Form U–33–S

Securities and Exchange Commission

Washington, DC

Form U–33–S

Annual Report Concerning Foreign Utility Companies

Filed under Section 33(e) of the

Public Utility Holding Company Act of 1935, as amended

For the fiscal year ended _____
Filed pursuant to the Public Utility Holding Company Act
of 1935 by: _____

_____

_____

(Name and address)

General Instructions

1. *Use of Form*

An annual report covering the preceding fiscal year shall be filed on Form U–33–S with the Commission on or before 120 days after the close of fiscal year by a United States public-utility company, other than a subsidiary company of a registered holding company or of a holding company exempt from registration under the Public Utility Holding Company Act of 1935 pursuant to rule 2, that is an associate company of a foreign utility company; provided that if the public-utility company is a subsidiary of a holding company that is exempt by Commission order, such holding company may file a single annual report on Form U–33–S on behalf of all of its subsidiary public-utility companies.

2. *Formal Requirements*

(a) Two copies of the report on this form, including the exhibits specified, shall be filed with the Commission. At least one of such copies shall be manually signed and filed at the place designated by the Commission for filings under the laws it administers. The second copy shall be addressed to the Division or Office responsible for administering the Act.

Every amendment to the annual report shall comply with the formal requirements governing an original annual report with respect to the number of copies filed, signature and similar matters. Each such amendment should be numbered.

(b) The annual report, and where practicable all documents filed as part thereof, shall be on good quality, unglazed white paper, 8½" × 11" in size. Tabulations may be placed either vertically or horizontally on a page, may utilize facing pages, and may be reduced. All papers included in the annual report, except exhibits not especially prepared for such purpose, shall have a side margin of at least 1½" for binding, and each copy should be firmly bound on the left side.

(c) The report or any portion thereof may be prepared by any process. All copies shall be legible and suitable for repeated photocopying. Accordingly, items in tabulations which must be subtracted rather than added shall be distinguished in a manner which will not be obscured by black and white reproduction.

(d) The report shall contain the item number and caption of each item in the form, but shall omit all instructions and text. If any item is inapplicable or the answer thereto is negative, it shall be so stated. These items may be collected on a single page to economize on the space required.

3. *Definitions*

All terms used in this form and the instructions have the same meaning as in the Public Utility Holding Company Act of 1935 and the rules and regulations thereunder.

Item 1

Identify each foreign utility company, state its location and business address, and describe the facilities it utilizes for the generation, transmission and distribution of electric energy for sale or for the distribution at retail of natural or manufactured gas. Identify each system company that holds an interest in the company and describe the interest held.

Item 2

Identify any debt or other financial obligation of the foreign utility company for which there is recourse directly or indirectly to the reporting public-utility company or, if the reporting company is an exempt holding company, to any system company. Identify separately any direct or indirect guarantee of a security of a foreign utility company by any system company.

Item 3

Identify any service, sales or construction contract(s) between a foreign utility company and the reporting public-utility company or, if the reporting company is an exempt holding company, any system company. Describe the services to be rendered or goods sold, and the fees or revenues under such contract(s).

Exhibit A

An organizational chart showing the relationship of each foreign utility company to the reporting public-utility company or, in the event that the reporting company is an exempt holding company, to system public-utility companies.

Signature

The undersigned company has duly caused this annual report to be signed on its behalf by the undersigned thereunto duly authorized pursuant to the requirements of the Public Utility Holding Company Act of 1935. The signature of the undersigned company shall be deemed to relate only to matters having reference to such company or its subsidiaries.

By _____

_____

(Signature and printed name and title of signing officer)

Date _____

11. § 259.207 and Form U–57 are added to read as follows:

§ 259.207 Form U–57, for notification of foreign utility company status pursuant to Rule 57(a) (§ 250.57 of this chapter).

This form shall be filed pursuant to section 33(a)(3)(B) of the Act by a company claiming foreign utility company status.

Form U–57

Securities and Exchange Commission

Washington, DC

Form U–57

Notification of Foreign Utility Company Status

Filed under section 33(a) of the

Public Utility Holding Company Act of 1935, as amended

General Instructions

1. Use of Form

A notification to the Commission that a company is or purposes to become a foreign utility company shall be filed on Form U–57 by or on behalf of such company.

2. Formal Requirements

(a) Two copies of the notification on this form, including the exhibit specified, shall be filed with the Commission. At least one of such copies shall be manually signed and filed at the place designated by the Commission for filings under the laws it administers. The second copy shall be addressed to the Division or Office responsible for administering the Act.

(b) The notification shall be on good quality, unglazed white paper, 8½″×11″ in size.

3. Definitions

All terms used have the same meanings as in the Public Utility Holding Company Act of 1935, as amended, and the rules and regulations thereunder.

1. Names of the entity claiming foreign utility company status, its business address, and a description of the facilities used for the generation, transmission and distribution of electric energy for sale or for the distribution at retail of natural or manufactured gas. Identify each company that holds an interest in the foreign utility company and describe the interest held.

2. Name of any domestic associate public-utility company and, if applicable, its holding company, and a description of the relationship between the foreign utility company and such company.

Exhibit A

If applicable, the state certification(s) required under section 33(a)(2) of the Act. Certification(s) previously filed with the Commission which are still in effect and which encompass the foreign utility company for which this notification is being filed may be incorporated by reference. If the certification(s) is not available at the time of filing the Form U–57, so state, and undertake to file such certification as an amendment when available.

Signature

The undersigned company has duly caused this statement to be signed on its behalf by the undersigned thereunto duly authorized.

By _____

(Signature and printed name and title of signing officer)

Date _____

By the Commission.

Dated: March 8, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5708 Filed 3–12–93; 8:45 am]

BILLING CODE 8010–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL–4605–5]

Notice of Public Meeting of the Hazardous Waste Manifest Rulemaking Committee

AGENCY: Environmental Protection Agency.

ACTION: Public meeting.

SUMMARY: As required by the Federal Advisory Committee Act, we are giving notice of the next public meeting of the Hazardous Waste Manifest Rulemaking Committee. The meeting is open to the public without advance registration.

The purpose of the meetings is to continue work on revising the uniform national hazardous waste manifest form and rule.

DATES: The Committee meeting will be held on March 29, from 10 a.m. to 6 p.m., on March 30, 1993 from 8:30 a.m. to 5 p.m. and March 31, 1993 from 8:30 a.m. to 4 p.m. The above dates reflect an additional meeting day (March 31) than listed in the January announcement.

ADDRESSES: On March 29 the meeting will be held at Resolve-World Wildlife, 1250 Twenty-fourth Street, NW., Fifth Floor, Washington, DC. On March 30 the meeting will be held at the Madison Hotel at 15th and M Street, NW., Washington, DC. On March 31 the meeting will be held at Resolve-World Wildlife, 1250 Twenty-fourth Street, NW., Fifth Floor, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on the substantive matters of the rule should contact Rick Westlund, Regulatory Management Division, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–2745. Persons needing further information on procedural or logistical matters should call Deborah Dalton, Consensus and Dispute Resolution Program, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–5495, or the Committee's facilitator, Suzanne Orenstein, Resolve, 1250 24th Street, NW., suite 500, Washington, DC 20037, (202) 778–9533.

Dated: March 9, 1993.

Deborah S. Dalton,

Deputy Director, EPA Consensus and Dispute Resolution Program, Office of Regulatory Management and Evaluation.

[FR Doc. 93–5868 Filed 3–12–93; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 85 and 86

[FRL–4605–4]

Motor Vehicle Certification Short Test and Performance Warranty Procedures

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period and notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) announces an extension of the comment period for the Light-Duty Certification Short Test and Revised Emission Performance Warranty rulemaking and the availability of three documents pertinent to the rulemaking. EPA will consider the following three documents, "NVFEL Certification Short Test Shakedown Testing Program Results," "NVFEL Certification Short Test Comparative Testing Program Preliminary Results," and "Report on Analytical Support for the Selection of Certification Short Test Standards," when making decisions on the Certification Short Test standards and test procedures for the final rule. The Agency has decided to extend the comment period by one month to provide an opportunity for review of these items, and also in response to motor vehicle manufacturers' requests that EPA allow a longer period for testing and analysis to enable sufficient development of comments. In recognition of the unique scheduling

problems for manufacturers wishing to perform cold temperature testing, the Agency has decided to extend the comment period an incremental two weeks longer for submission of test results and comments relevant to the cold temperature aspects of the proposed rule.

DATES: Written comments on these documents, all other documents related to the proposed rule, and the proposed rule itself must be submitted on or before April 15, 1993, with the exception of comments pertaining specifically to catalyst cooldown and cold temperature testing, as noted elsewhere in this document. The Agency will accept comments pertinent to catalyst cooldown and cold temperature testing until April 29, 1993.

ADDRESSES: The documents described in today's document and other relevant material are available in the EPA Air Docket LE–131, Docket No. A–91–21, located on the first floor of Waterside Mall, U.S. Environmental Protection Agency, room M–1500, 401 M Street, SW., Washington, DC 20460. Documents may be inspected from 8:30 a.m. to noon and from 1:30 p.m. to 3:30 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

Interested parties may submit written comments (in duplicate if possible) for EPA consideration by addressing them as follows: EPA Air Docket LE–131, Attention: Docket No. A–91–21, U.S. Environmental Protection Agency, room M–1500, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lisa M. Snapp, Certification Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 668–4282.

SUPPLEMENTARY INFORMATION: The proposed Certification Short Test is mandated by section 208(a) of title II of the 1990 Amendments to the Clear Air Act. The notice of proposed rulemaking (NPRM) was published in the **Federal Register** on Friday, January 8, 1993 (58 FR 3380). The original close of the comment period was March 15, 1993. Automobile manufacturers approached EPA with requests for an extension of the comment period to allow more time for testing and evaluation of the proposal as well as to develop alternatives, particularly with regard to issues related to catalyst cooldown and cold temperature testing.[1][2][3] Automobile manufacturers have expressed their interest in developing alternatives to the EPA proposal with regard to warm-up and preconditioning, but lack the test data necessary to do so. Therefore, EPA has been asked to allow a longer interval for comment on these particular issues only in order to provide sufficient time for testing, analysis, and development of alternative proposals.

The Agency has an interest in examining additional information that may be useful in drafting a more effective final rule, and therefore has extended the comment period until April 15, 1993. When deciding on test procedures and standards for the final rule, EPA will consider all comments submitted by this date, in addition to the three documents that were not available when the NRPM was published. Moreover, in recognition of the need for additional time required for testing and addressing catalyst cooldown and cold temperature operation, the Agency will accept and respond to comments deriving from those test programs if they are submitted by April 29, 1993.

Two of the documents describe the results of test programs run at EPA's National Vehicle and Fuel Emissions Laboratory (NVFEL). These programs investigated the feasibility of executing the proposed procedures and the emission effects of utilizing various test parameter options. The third document was prepared by an EPA contractor and presents analyses of EPA-provided vehicle emission data from Indiana's inspection and maintenance program. This analysis will contribute to the selection of emission standards in the final rule.

EPA welcomes comments on the documents described in today's notice and all aspects of the associated rulemaking. All comments, with the exclusion of proprietary information, should be directed to the EPA Air Docket LE–131, Attention: Docket No. A–91–21 (see "**ADDRESSES**" above).

Commenters desiring to submit proprietary information for consideration should clearly distinguish such information from other comments to the greatest possible extent and label it as "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the contact person (see "**FOR FURTHER INFORMATION CONTACT**" above), and not to the public docket. This will help ensure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to use confidential business information as part of the basis for the final rule, then a nonconfidential version of the document that summarizes the key data or information should be placed in the public docket.

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the commenters.

Dated: February 11, 1993.

Michael H. Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93–5758 Filed 3–12–93; 8:45 am]

BILLING CODE 6560–50–M

[1] See letter from Dr. Marcel Halberstadt of the American Automobile Manufacturers Association (AAMA) to Richard Wilson of the EPA Office of Mobile Sources dated January 26, 1993, and the reply dated February 10, 1993, available in EPA Air Docket No. A–91–21.

[2] See AAMA testimony presented at the public hearing for this rulemaking, held at the EPA National Vehicle and Fuel Emissions Laboratory, Ann Arbor, Michigan on February 12, 1993. Written testimony and transcripts of the hearing are available in EPA Air Docket No. A–91–21.

[3] See comments made by representatives of AAMA at a meeting held at the EPA National Vehicle and Fuel Emissions Laboratory, Ann Arbor, Michigan on February 25, 1993, attended by representatives of EPA, AAMA, and the Association of International Automobile Manufacturers. A summary of the meeting is available in EPA Air Docket No. A–91–21.

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40 CFR Part 144 and 191

[FRL–4605–8]

Environmental Radiation Protection Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes; Hearings and Dockets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Hearings and dockets; correction.

SUMMARY: On February 11, 1993 (58 FR 8028), EPA announced public hearings on the proposed amendments to 40 CFR parts 144 and 191 which pertain to the environmental radiation protection standards for the disposal of spent nuclear fuel, high-level and transuranic wastes and the establishment of dockets in three locations in New Mexico. On page 8028 in the third column, lines 40–42, the Meem Library at St. John's College was incorrectly identified as the docket location in Santa Fe. The purpose of this notice is to provide the

correct docket location information for Santa Fe which is the Fogelson Library, College of Santa Fe, 1600 St. Michaels Drive, Santa Fe, NM.

FOR FURTHER INFORMATION CONTACT: Ray Clark at (202) 233–9198.

SUPPLEMENTARY INFORMATION: As noted in the summary section above, this action corrects an omission in the earlier notice published February 11. Effective March 23, 1993, EPA's toll free WIPP Information Line will be in service. The telephone number is 800–331–WIPP. The line will be updated weekly to announce upcoming EPA-sponsored public meetings and provide highlights on the 40 CFR Parts 144 and 191 rulemaking and EPA's other rulemaking activities under the Waste Isolation Pilot Plant Land Withdrawal Act.

Dated: March 5, 1993.

Margo T. Oge,

Director, Office of Radiation and Indoor Air.

[FR Doc. 93–5866 Filed 3–12–93; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB 91

Endangered and Threatened Wildlife and Plants: Proposed Rule Determining Critical Habitat for the Colorado River Endangered Fishes: Razorback Sucker, Colorado Squawfish, Humpback Chub, and Bonytail Chub; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction to proposed rule.

SUMMARY: The Fish and Wildlife Service corrects the proposed rule published Friday, January 29, 1993 (58 FR 6578), regarding critical habitat for four Colorado River endangered fishes. Incorrect descriptions of areas proposed for critical habitat for the razorback sucker were given at 58 FR 6595. Corrections are provided.

FOR FURTHER INFORMATION CONTACT: Robert D. Williams, Utah State Supervisor, U.S. Fish and Wildlife Service, 2060 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104 (801/975–3630).

SUPPLEMENTARY INFORMATION:

Background

On January 29, 1993, a proposed rule was published proposing designation of critical habitat for four Colorado River fishes that are currently listed as endangered species under the Endangered Species Act of 1973, as amended (58 FR 65178–6596). The rule proposed amendment of 50 CFR 17.95, the section of the regulations that delineates critical habitat, and included maps and descriptions of the areas proposed as critical habitat for each of the four species. The Service notes that the description of the critical habitat proposed for the razorback sucker in Arizona contained errors in three separate paragraphs.

The description of the area proposed as critical habitat for the razorback sucker in Coconino and Mohave Counties, Arizona, inadvertently excluded a section of the Colorado River that extends from the mouth of Paria River to the Little Colorado River, although this area was identified as critical habitat on the map for the razorback sucker presented at 58 FR 6596. In addition, the description of an unsurveyed section of the Colorado River in Gila County, Arizona, has been revised to more adequately reflect its location. Finally, a one-word correction is made to clarify the description of proposed critical habitat in Yavapai County, Arizona. These errors could be misleading and cause confusion. Therefore, the Service provides these corrections.

Accordingly, the proposed designation of critical habitat for four endangered Colorado River fishes (50 CFR 17.95(e)), the subject of the **Federal Register** proposal (58 FR 6578) is corrected in three locations describing critical habitat for the razorback sucker, as follows:

1. On page 6595, second column, fifth full paragraph, which begins "Arizona, Coconino and Mohave Counties, and Nevada, Clark County," correct as follows: Starting in line 4, delete the words "Little Colorado River in T.32N, R.5E., section 1" and replace them with "Paria River in T.40N, R.7E, section 24".

2. On page 6595, third column, second paragraph, which begins "Arizona, Gila County," correct as follows: Starting in line 13, delete the words "OW Ranch road crossing in T.R. section (Gila and Salt River Meridian)" and replace them with "Indian Route 1 crossing (about 1 mile upstream of the confluence of Canyon Creek and the Salt River; an unsurveyed area)".

3. On page 6595, third column, third paragraph, which begins "Arizona, Yavapai County," correct as follows: In the 8th line of the paragraph, replace the word "including" with the word "and" so that the line reads "elevation and Sycamore Creek and its".

Dated: March 8, 1993.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–5812 Filed 3–12–93; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 930115–3015]

RIN 0648–AE69

Snapper-Grouper Fishery of the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS proposes to establish eight special management zones (SMZs) at the sites of artificial reefs (ARs) in the exclusive economic zone (EEZ) off the South Carolina coast and restrict fishing in these SMZs to hand-held, hook-and-line gear (including manual, electric, or hydraulic rod and reel) and spearfishing (excluding powerheads). The intended effect is to promote orderly use of the fishery resources on and around the ARs, to reduce potential user-group conflicts, and to maintain the socioeconomic benefits of the ARs to the maximum extent practicable.

DATES: Written comments must be received on or before April 14, 1993.

ADDRESSES: Copies of documents supporting this action may be obtained from the South Atlantic Fishery Management Council, Southpark Building, suite 306, Charleston, SC 29407–4699

Comments on the proposed rule should be sent to and copies of the Environmental Assessment may be obtained from Peter J. Eldridge, Southeast Regional Office, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813–893–3161.

SUPPLEMENTARY INFORMATION: Snapper-grouper species off the southern Atlantic states are managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP), prepared by the South Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR part 646, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP provides for

designation of ARs as SMZs following Council recommendation to the Director, Southeast Region, NMFS (Regional Director).

ARs create fishing opportunities that would not exist otherwise and may increase biological production. They are expensive to construct and their benefits can be dissipated rapidly by certain types of fishing gear. Use of fishing gear on an AR that offers exceptional advantages over other gear, such as sea bass pots, may reduce significantly the improved fishing opportunities and, thus, may eliminate the incentive for the development of ARs. The intent of SMZs is to preserve the fishing opportunities of ARs and the incentive to establish them.

Although ARs and SMZs are intended primarily to create recreational fishing opportunities, by allowing commercial fishing with hand-held hook-and-line gear, they also enhance commercial fishing. Further, when fish migrate from ARs and their corresponding SMZs, they become available to be taken by additional commercial gear such as sea bass pots.

The South Carolina Wildlife and Marine Resources Department (SCWMRD) requested that the Council establish SMZs around eight ARs in which fishing would be limited to hand-held, hook-and-line gear and spearfishing (excluding powerheads). The ARs are in the EEZ off South Carolina on an expansive shelf area that has large areas devoid of any hard or live bottom. Prior to establishment of the ARs, these areas did not support any significant fisheries. In fact, these large barren areas limited the development of recreational fishing.

In accordance with the FMP, as amended, a monitoring team appointed by the Council evaluated SCWMRD's request in consideration of the following criteria: (1) Fairness and equity; (2) promotion of conservation; (3) prevention of excessive shares; (4) consistency with the objectives of the FMP, the Magnuson Act, and other applicable law; (5) consideration of the natural bottom in and surrounding the areas and impacts on historical uses; and (6) cumulative impacts. A copy of the monitoring team's report is available (see **ADDRESSES**).

After consideration of all relevant information, including the monitoring team's report, other supporting data, and comments received during public hearings, committee meetings, and Council meetings, the Council approved SCWMRD's request. The Regional Director concurs with this decision. Accordingly, the proposed SMZs and the management measures applicable to them are published for public comment.

Classification

At this time, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has not determined that this proposed action is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Assistant Administrator, in making that determination, will take into account the data, views, and comments received during the comment period.

The Assistant Administrator determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. This proposed rule, if adopted, is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Deputy General Counsel of the Department of Commerce has certified to the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities because few commercial fishermen depend on the artificial reef sites and the negative economic effects would be minimal.

The Council prepared a regulatory impact review (RIR) for this proposed rule, which concludes that the costs or negative impacts associated with the proposed designation of additional SMZs are insignificant compared to the benefits associated with SMZ status. A copy of the RIR is available (see **ADDRESSES**).

The Southeast Regional Office prepared an environmental assessment (EA) for this proposed rule that discusses the impact on the environment as a result of this rule. A copy of the EA is available from the Region (see **ADDRESSES**).

In the final rules implementing the FMP and its amendments, NMFS concluded that, to the maximum extent practicable, the FMP and amendments are consistent with the approved coastal zone management programs of all the affected states. Since this proposed rule, if adopted, does not directly affect the coastal zone in a manner not already fully evaluated in the FMP and amendments and their consistency determinations, a new consistency determination under the Coastal Zone Management Act is not required.

This proposed rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 9, 1993.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 646 is proposed to be amended as follows:

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

1. The authority citation for part 646 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 646.26, new paragraphs (a)(22) through (a)(29) are added and paragraph (c)(1) introductory text and the first sentence of paragraph (c)(4) are revised to read as follows:

§ 646.26 Area limitations.

(a) * * *

(22) *Little River Offshore Reef:* The area is bounded on the north by 33°42.10′N. latitude; on the south by 33°41.10′N. latitude; on the east by 78°26.40′W. longitude; and on the west by 78°27.10′W. longitude.

(23) *BP–25 Reef:* The area is bounded on the north by 33°21.70′N. latitude; on the south by 33°20.70′N. latitude; on the east by 78°24.80′W. longitude; and on the west by 78°25.60′W. longitude.

(24) *Vermilion Reef:* The area is bounded on the north by 32°57.80′N. latitude; on the south by 32°57.30′N. latitude; on the east by 78°39.30′W. longitude; and on the west by 78°40.10′W. longitude.

(25) *Cape Romaine Reef:* The area is bounded on the north by 33°00.00′N. latitude; on the south by 32°59.50′N. latitude; on the east by 79°02.01′W. longitude; and on the west by 79°02.62′W. longitude.

(26) *Y–73 Reef:* The area is bounded on the north by 32°33.20′N. latitude; on the south by 32°32.70′N. latitude; on the east by 79°19.10′W. longitude; and on the west by 79°19.70′W. longitude.

(27) *Eagles Nest Reef:* The area is bounded on the north by 32°01.48′N. latitude; on the south by 32°00.98′N.

latitude; on the east by 80°30.00′W. longitude; and on the west by 80°30.65′W longitude.

(28) *Bill Perry Jr. Reef:* The area is bounded on the north by 33°26.20′N. latitude; on the south by 33°25.20′N. latitude; on the east by 78°32.70′W. longitude; and on the west by 78°33.80′W. longitude.

(29) *Comanche Reef:* The area is bounded on the north by 32°27.40′N. latitude; on the south by 32°26.90′N. latitude; on the east by 79°18.80′W. longitude; and on the west by 79°19.60′W. longitude.

* * * * *

(c) * * *

(1) In SMZs specified in paragraphs (a)(1) through (a)(18) and (a)(22) through (a)(29) of this section,

* * * * *

(4) In the SMZs specified in paragraphs (a)(1) through (a)(10) and (a)(22) through (a)(29) of this section, a powerhead may not be used to take a fish in the snapper-grouper fishery.

* * *

[FR Doc. 93–5872 Filed 3–12–93; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 58, No. 48
Monday, March 15, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Foster Grandparent and Senior Companion Programs

AGENCY: ACTION.

ACTION: Notice of Revision of Income Eligibility Levels for the Foster Grandparent Program and Senior Companion Program.

SUMMARY: This Notice revises the schedules of income eligibility levels for participation in the Foster Grandparent Program (FGP) and Senior Companion Program (SCP), published in 57 FR 9683, March 20, 1992 and 57 FR 21642, May 21, 1992. Because data used for determining FGP and SCP income eligibility levels is available at different times during the year, ACTION has determined that it will issue these guidelines twice a year so as to reflect the most current information and to assure the widest base of potential applicants

The revised schedules are based on changes in the Poverty Income Guidelines from the Department of Health and Human Services (DHHS), published in 58 FR 8287, February 12, 1993 and Supplemental Security Income (SSI) guidelines disseminated by the Social Security Administration in April 1992. This revision adopts as the income eligibility level for each State the higher amount of either: (a) 125 percent of DHHS Poverty Income Guidelines, or (b) 100 percent of the DHHS Poverty Income Guidelines, plus the 1992 amount each State supplemented Federal SSI, rounded to the next highest multiple of $5.00.

When the Social Security Administration disseminates the 1993 State supplements to the Federal SSI, ACTION will revise its income eligibility guidelines for those States with SSI supplements above 125 percent of the DHHS Poverty Income Guidelines.

Schedule of Income Eligibility Levels: Foster Grandparent and Senior Companion Programs

1993 FGP/SCP Income Eligibility Levels for All States (and Hawaii), Except Alaska, California, Colorado, Connecticut (Based on 125 Percent of DHHS Poverty Income Guidelines)

States	Household units of One	Two	Three	Four	Five	Six	Seven	Eight
All	$8,715	$11,790	$14,865	$17,940	$21,015	$24,090	$27,165	$30,240
HI	10,050	13,575	17,100	20,625	24,150	27,675	31,200	34,725

(For household units with more than eight members, add $3,075 in all States and $3,525 in Hawaii for each additional member.)

Below are adjusted income eligibility levels, which reflect either 1992 SSI supplements or 125 percent of the DHHS 1993 Poverty Income Guidelines, whichever is higher.

FGP/SCP Income Eligibility Levels for the Following SSI-Adjusted States

States	Household units of One	Two	Three	Four	Five	Six	Seven	Eight
AK	$12,845	$17,820	$20,800	$23,780	$26,275	$30,125	$33,975	$37,825
CA	10,305	17,510	19,890	22,270	24,650	27,030	29,410	31,790
CO	8,715	13,070	15,450	17,940	21,015	24,090	27,165	30,240
CT	10,715	14,725	17,105	19,485	21,865	24,245	27,165	30,240

(For household units with more than eight members, add $3,850 in Alaska, add $2,380 in California, and add $3,075 in Connecticut and Colorado for each additional member.)

Any person whose income is not more than 100 percent of the DHHS Poverty Income Guideline for her/his specific household unit shall be given special consideration for participation in the Foster Grandparent and Senior Companion Programs. The revised income eligibility levels presented here are calculated from the base DHHS Poverty Income Guidelines now in effect.

1993 DHHS POVERTY INCOME GUIDELINES FOR ALL STATES

States	Household units of One	Two	Three	Four	Five	Six	Seven	Eight
All Except AK/HI	$6,970	$9,430	$11,890	$14,350	$16,810	$19,270	$21,730	$24,190
AK	8,700	11,780	14,860	17,940	21,020	24,100	27,180	30,260
HI	8,040	10,860	13,680	16,500	19,320	22,140	24,960	27,780

EFFECTIVE DATE: March 15, 1993.

FOR FURTHER INFORMATION CONTACT: Rey Tejada, FGP Program Officer and Thomas E. Endres, SCP Program Officer, 1100 Vermont Avenue, NW., Washington, DC 20525 or Telephone (202) 606–4849 and 606–4851.

SUPPLEMENTARY INFORMATION: These ACTION programs are authorized pursuant to Section 211 and 213 of the Domestic Volunteer Service Act of 1973, as amended, Public Law 93–113, 87 Stat. 394. The income eligibility levels are determined by the currently applicable guidelines published by DHHS pursuant to Sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 which requires poverty guidelines to be adjusted for Consumer Price Index changes.

Signed in Washington, DC March 9, 1993.

John Seal,

Acting Director of ACTION.

[FR Doc. 93–5857 Filed 3–12–93; 8:45 am]

BILLING CODE 6050–28–M

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Interpreters in Courts of the United States; Announcement of Spanish/English Certification Examination

AGENCY: Administrative Office of the United States Courts.

ACTION: Notice of Spanish/English Certification Examination for Court Interpreters.

SUMMARY: The Administrative Office of the United States Courts will conduct the written portion of the certification examination for individuals who desire to be certified to serve as Spanish/English interpreters in courts of the United States in accordance with the Court Interpreter Amendments Act of 1988, title VII of Public Law 100–702, (28 U.S.C. 1827). To take the examination an individual must file a written application, or apply by telephone.

DATES: The agency will administer the written portions of the examination June 5, 1993, at 1 p.m. The deadline for filing the application is 4 p.m. on April 1, 1993.

ADDRESSES: Applications, along with a $60 money order, cashiers check, or personal check payable to the University of Arizona Federal Court Project are to be sent to the Federal Court Interpreters Certification Project, Modern Languages Building, Room 445, University of Arizona, Tucson, Arizona 85721.

FOR FURTHER INFORMATION CONTACT: Dr. Roseann Gonzalez, University of Arizona, (602) 621–3687 (Mountain Time).

SUPPLEMENTARY INFORMATION:

I. Background

The Director of the Administrative Office of the United States Courts (AOUSC) is responsible for the establishment of a program to facilitate the use of certified and otherwise qualified interpreters in courts of the United States. He must prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters in bilingual proceedings and proceedings involving the hearing impaired (28 U.S.C. 1827(b)). Whenever an interpreter is required for a person in any criminal or civil action initiated by the United States, the presiding judicial officer must utilize the services of the most available certified interpreter, unless no certified interpreter is reasonably available.

The AOUSC will provide the courts with a roster of certified court interpreters selected on the basis of the successful completion of written and oral examinations in English and a foreign language.

II. This Examination

This examination will be a comprehensive written and oral examination for bilingual proficiency in Spanish and English, developed and administered under contract by the University of Arizona.

The written portion of the examination does not require a special knowledge of legal vocabulary. Each applicant who completes successfully the written portion will be eligible for the oral examination. Successful applicants will receive notice of the time and place of the oral portion of the examination.

The oral portion of the examination will test, in simulated settings, the applicant's ability to: (1) Interpret precisely from Spanish to English, in consecutive, simultaneous, and summary modes; (2) Interpret from English to Spanish in consecutive, simultaneous, and summary modes; and (3) Perform sight interpretations. The oral portion of the examination does not necessarily require previous experience in court interpreting.

Testing Sites

Applicants may schedule the written examination at any of the locations identified below. Applicants must identify the city for taking both the written and oral portions.

Written Testing Sites

Alaska: Anchorage.
Arizona: Phoenix, Tucson.
California: Fresno, Los Angeles, Monterey, Sacramento, San Diego, San Francisco.
Colorado: Denver .
Connecticut: Hartford.
District of Columbia.
Florida: Miami, Orlando.
Georgia: Atlanta.
Hawaii: Honolulu.
Idaho: Boise.
Illinois: Chicago.
Iowa: Sioux City.
Louisiana: New Orleans.
Massachusetts: Boston.
Minnesota: Minneapolis.
Missluri: Kansas City.
Nevada: Las Vegas, Reno.
New Jersey: Newark, Trenton.
New Mexico: Albuquerque, Las Cruces.
New York: Brooklyn, Buffalo, Manhattan.
Ohio: Cincinnati.
Oregon: Portland.
Pureto Rico: San Juan.
Texas: Brownsville, Corpus Christi, Dallas, Houston, Laredo, San Antonio.
Utah: Salt Lake City.
Washington: Seattle.

Oral Testing Sites

The tentative locations for the oral examination are:

Arizona: Phoenix.
California: Los Angeles.

District of Columbia.
Florida: Miami.
Georgia: Atlanta.
Illinois: Chicago.
Louisiana: New Orleans.
Massachusetts: Boston.
New Mexico: Albuquerque.
New York: New York City.
Oregon: Portland.
Puerto Rico: San Juan.
Texas: Houston and San Antonio.

Filing

Written applications are preferred, but phone applications will be accepted if the fee is sent by April 1, 1993. Applicants who do not have an application form should type or print the following information on 8-½ X 11 paper:

1. Name.
2. Mailing address, including zip code.
3. Daytime telephone number.
4. Evening telephone number.
5. City for written examination.
6. City for oral examination.
7. Date of birth.
8. Social Security Number.
9. Special arrangements necessary because of physical disability or keeping of the Sabbath.
10. I did/did not take the written and/or oral examination in 1991.
11. I.D. number of exam (if known).
12. Enclosed money order/check number.

Exam Procedures

Each applicant will receive an admission ticket to the exam shortly before the exam date. It will list the exact location of the exam. Each applicant must present the admission ticket and a photo identification: Driver's license, passport, work/student identification, etc., to be admitted to the exam.

III. Qualifications

There are no formal educational requirements, either in languages or interpreting, for certification. However, the difficulty of the examination is at the college degree level of proficiency. Successful completion of the oral portion of the examination normally would require prior training or professional experience in simultaneous, consecutive, and summary interpreting.

IV. Duties

Successful completion of the examination will not necessarily lead to full-time employment as a staff or contract free-lance interpreter. Interpreters satisfy most court needs as independent contractors. However, where full-time interpreters are needed, only certified interpreters are eligible for appointment.

As the federal courts require full-time salaried interpreters, these interpreters will be chosen from the eligibility lists. The annual salary range is JSP–10 to JSP–14 ($30,603–$73,619) for full-time salaried interpreters. For certified interpreters who provide services as independent contractors, the fee is $250 per day.

Court interpreters perform all or some of the following duties: (1) Interpret verbatim in simultaneous, consecutive, or summary mode a foreign language into English, and vice versa, at arraignments, preliminary hearings, pretrial hearing, trails, and other court proceedings; (2) Transcribe for electronic sound recordings; and (3) Translate technical, medical, and legal documents and correspondence for introduction as evidence.

Dated: March 8, 1993.

L. Ralph Mecham,

Director.

[FR Doc. 93–5851 Filed 3–12–93; 8:45 am]

BILLING CODE 2210-01-M

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Agricultural Science and Technology Review Board; Notice of Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), as amended, the Office of Grants and Program Systems, Cooperative State Research Service, announces the following meeting:

Name: Agricultural Science and Technology Review Board (hereafter referred to as the Review Board).

Date: April 7–9, 1993.

Time: April 7—8:30 a.m.–5:30 p.m.; April 8—8:30 a.m.–5:30 p.m.; April 9—8:30 a.m.–12 noon.

Place: Winrock International, Route 3, Morrilton, Arkansas 72110.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person named below.

Purpose: To write a technology assessment report on current and emerging agricultural research and technology transfer initiatives.

Contact Person for Agenda and More Information: Ms. Marshall Tarkington, Executive Director, Science and Education Advisory Committees, room 432–A Administration Building, U.S. Department of Agriculture, Washington, DC 20250–2200; Telephone (202) 720–3684.

Done in Washington, DC this 4th day of March 1993.

John Patrick Jordan,

Administrator.

[FR Doc. 93–5790 Filed 3–12–93; 8:45 am]

BILLING CODE 3410-22-M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Federal Subsistence Moose Hunt Opening, Alaska, Game Management Unit 18

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Federal Subsistence Board has opened a winter season for subsistence moose hunting on a portion of Federal public lands in Game Management Unit (GMU) 18. The season opens on December 31, 1992 and will extend through January 9, 1993. Residents of GMU 18 and Upper Kalskag are eligible for the hunt, and the bag limit is one antlered moose. Title VIII of the Alaska National Interest Lands Conservation Act requires the Secretary of the Interior and the Secretary of Agriculture to assure the continued viability of fish and wildlife populations in the implementation of Title VIII mandates. Subsistence Management Regulations for Federal Public Lands in Alaska, Subpart D, note that a winter season will be announced for moose in portions of GMU 18. Dates were not included in the regulations regarding this hunt so that the Federal Subsistence Board would have the flexibility necessary to assure that the hunt occurs when the continued viability of the affected moose population is not threatened and when snow conditions and other factors affecting travel by rural residents are favorable for taking moose.

EFFECTIVE DATE: December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Richard S. Pospahala, U.S. Fish and Wildlife Service, Subsistence Office, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 271–2326. Yukon Delta National Wildlife Refuge, P.O. Box 346, Bethel, Alaska; telephone (907) 543–3151.

SUPPLEMENTARY INFORMATION: Subsistence Management Regulations for Public Lands in Alaska, subpart D, provide for a 10-day winter hunt for moose in GMU 18 to be announced by the Federal Subsistence Board (57 FR 22530, May 28, 1992). All Federal

public lands in GMU 18 are open for the hunt except that portion of GMU 18 north and west of a line from Cape Romanzof to Kuzilvak Mountain, and then to Mountain Village, and west of (but not including) the Andreafsky River drainage; and those portions contained in the Kanektok and Goodnews drainages. The Federal Subsistence Board announced the opening based on the recommendation of the Yukon Delta National Wildlife Refuge manager, who had conferred with Native organizations and the Alaska Department of Fish and Game (ADF&G) before recommending the opening dates. The Native organizations and ADF&G supported the proposed harvest. Dates are not included in the regulations in order to afford managers the flexibility to open the season only when weather and travel conditions are favorable for taking moose. The intent is to afford rural Alaska residents the opportunity to take moose for subsistence uses while assuring the continued viability of the moose population. The bag limit is one antlered moose. Only residents of GMU 18 and Upper Kalskag are eligible to participate in the Federal season. Information released through the media on December 21, 1992, has previously announced this opening to affected rural Alaska residents.

Dated: February 26, 1993.

Ronald B. McCoy,

Interim Chair, Federal Subsistence Board.

Michael A. Barton,

Regional Forester, USDA-Forest Service.

[FR Doc. 93–5739 Filed 3–12–93; 8:45 am]

BILLING CODE 4310–55–M

Proposed Recreational Reservoir and Complex on Porter Creek, Homochitto National Forest, Bude Ranger District, Franklin County, MS

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare a draft and final Environmental Impact Statement for a proposal to construct a recreational reservoir and developed recreation complex in the Porter Creek drainage basin on the Homochitto National Forest, Bude Ranger District in Franklin County, Mississippi.

The agency invites written comments and suggestions that are within the scope of the proposed action. In addition, the agency gives notice of the full environmental analysis and decision making process that will occur on the proposal, so those interested and affected may participate in the process and contribute to the final decision.

DATES: Comments related to the issues to be addressed should be received by April 12, 1993 to ensure timely consideration.

FOR FURTHER INFORMATION CONTACT: Gary Bennett, District Ranger, or Carol Boll, Recreation Planner, Homochitto National Forest, Bude Ranger District, Route 1, Box 1, Meadville, Mississippi 39653 (601) 384–5876.

SUPPLEMENTARY INFORMATION: The "Land and Resource Management Plan for the National Forest in Mississippi" was completed in October 1985, it identified the Homochitto National forest as having a shortfall in developed recreation capacity. On October 17, 1991 appropriations were allocated for a feasibility study regarding a reservoir on the Homochitto National Forest. On January 29, 1993 the Homochitto National Forest Lake and Recreation Complex Feasibility Study and Environmental Assessment was completed.

The objective of the feasibility study and environmental assessment was to identify the most advantageous site for development of a recreational lake and complex on Homochitto National Forest administered lands and determine if further environmental study was warranted. Initially the Forest Service proposed two sites for study; Lower Middleton Creek and Upper Middleton Creek. During the public scoping process five additional study sites were identified; Steep Hill Branch, Porter Creek, Dry Creek, Beaver Creek and Brushy Creek. Three sites; Steep Hill Branch, Brushy Creek and Beaver Creek were considered but not in detail. The remaining four potential sites; Lower Middleton Creek, Upper Middleton Creek, Dry Creek (a tributary of McGehee Creek) and Porter Creek were evaluated in detail.

The feasibility study evaluated each site's probable environmental impacts; estimated each site's suitability for various types of recreation facilities (camping, swimming, fishing and boating); estimated the economic impact of developing each site; and estimated the development cost for each site studied in detail. Porter Creek was identified as the most environmentally and socially desirable site. Based upon the analysis and findings disclosed in the Feasibility Study and Environmental Assessment Forest Supervisor, Ken Johnson, made a decision to select the Porter Creek site for further study. On February 4, 1993, legal notice of the Forest Supervisor's decision was published in the Clarion-Ledger, the primary newspaper for publishing legal notices for National Forests in Mississippi decisions.

Federal, State, and local agencies; potential developers; and other individuals or organizations who may be interested in or affected by the decision are invited to participate in the scoping process. No formal public scoping meetings are planned. Written comments on any issues related to the proposed action to construct a recreational lake and developed recreation complex in the Porter Creek drainage basin should be directed to the address indicated below by April 12, 1993 to ensure timely consideration.

The issues and concerns identified during the scoping process from the Feasibility Study and Environmental Assessment, that are applicable to the Porter Creek site, along with any new issues or concerns generated during this scoping process, will be considered and evaluated in the environmental impact statement. The following issues were identified during the feasibility study: Economics, land ownership, threatened and endangered species, hardwood, private land, hunting, lake size, timber sales, water quality, wildlife management, zoning, and oil and gas. The types of recreation identified were: Day use, overnight accommodations, trails, concessions, hunting, and water base activities.

The proposed action is to construct a recreational lake and developed recreation complex in the Porter Creek drainage basin on the Homochitto National Forest, Bude Ranger District. The purpose is to satisfy the shortfall in developed recreation capacity on the Homochitto National Forest identified in the "Land and Resource Management Plan for the National Forest in Mississippi" while also contributing towards developing a more diverse local economy by providing developed recreational opportunities. Franklin County is almost wholly dependent upon the timber and oil-gas industries, a recreation complex would help provide greater economic diversity of the local economy.

The decision(s) to be made will be whether or not to construct a recreation lake in the Porter Creek drainage basin, if so, determine the dam site location and reservoir size. If an action alternative for a recreation lake is selected then determine the amount and type of recreational facilities to develop. A range of alternatives will be considered that will include: alternative locations for the dam site and recreational facilities within the Porter Creek watershed with designs ranging from 400 to 1100 acre reservoir and a

developed recreation complex capacity ranging from 2000 to 6000 persons at one time.

The feasibility study evaluated one dam site location on Porter Creek that would result in a reservoir size of approximately 600 acres. The following recreational facilities are proposed: 15 cabins, 136 full hook-up camp sites, 64 rustic camp sites, 4 group camp sites, 800 person per day beach capacity, safe boating capacity of 127 boats, 70 picnic sites, 4 picnic group shelters, 1 education center, 1 gate entrance, 11.6 acre play fields, 2342 acre no hunting zone, 2474 acre primitive hunt zone. Alternative dam sites located further down stream would result in reservoir sizes of approximately 890 and 1100 acres. Similar recreation facilities with different capacities will be evaluated for this site. Potential dam site locations will be evaluated in detail in this environmental impact statement.

The Forest Service, Department of Agriculture, will be the lead federal agency for this proposed action, having administrative jurisdiction of the impacted federal lands, and will be responsible for recreation facility design. The Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the potential recreational reservoir and complex. The Soil Conservation Service, Department of Agriculture, will be invited to participate as a cooperating agency to evaluate potential dam sites and provide technical expertise for the dam and reservoir design.

The following permits will be required: Corps of Engineers 404 Clean Water Act Permit due to potential impacts to wetlands and floodplains, a Water Discharge Permit (Water Quality Certification for Discharge) from the Mississippi Department of Environmental Quality, Office of Pollution Control for sewage disposal and a Highway Connection Permit from the Mississippi Department of Transportation.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Written comments and suggestions concerning the analysis should be sent by April 12, 1993 to: Gary Bennett, District Ranger, Homochitto National Forest, Bude Ranger District, Route 1, Box 1, Meadville, Mississippi 39653.

The analysis is expected to take about two additional months. The draft environmental impact statement should be available for public review in April, 1993. The final environmental impact statement is scheduled to be completed by June, 1993.

The responsible official for this environmental analysis and associated decisions is Kenneth R. Johnson, Forest Supervisor, National Forests in Mississippi, 100 West Capitol Street, suite 1141, Jackson, Mississippi 39269.

Dated: February 24, 1993.

Kenneth R. Johnson,

Forest Supervisor.

[FR Doc. 93–5767 Filed 3–12–93; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–828]

Notice of Final Determination of Sales at Less Than Fair Value: Dry Film Photoresist From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 15, 1993.

FOR FURTHER INFORMATION CONTACT: Bill Crow, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0116.

FINAL DETERMINATION: We determine that dry film photoresist from Japan is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination of sales at less than fair value in this investigation on December 22, 1992, (57 FR 62297, December 30, 1992), the following events have occurred.

On January 19, 1993, Hitachi Chemical Co., Ltd., an exporter not selected as a respondent in this investigation, and Hitachi Chemical Co. America, Ltd., a related importer, filed a case brief commenting on the Department's preliminary determination. On January 19, 1993, petitioners requested an extension to file a case brief; on January 19, 1993, the Department granted an extension until January 21, 1993. On January 21, 1993, petitioners filed their case brief and the Department instructed them to refile the public version of certain pages of the case brief, ranging proprietary numbers pursuant to 19 CFR 352.32(b)(1). On January 22, 1993, petitioners resubmitted those pages. On January 25, 1993, Hitachi Chemical Co., Ltd., and Hitachi Chemical Co. America, Ltd., and petitioners filed rebuttal briefs.

Scope of Investigation

The products covered by this investigation are dry film photoresist (DFP) from Japan. DFP means all forms and dimensions of solid photosensitive resin film, without sprocket holes, designed to be laminated onto a surface to permit etching or plating of a pattern.

The photoresist chemicals which comprise DFP are in dry film format, whether or not in rolls, and do not include bulk powder chemicals. In light of its dry film format, DFP may be entering the United States under Harmonized Tariff Schedule of the United States (HTSUS) subheading 3707.90.30 and categories 3702.39.00.00, 3702.42.00.60, 3702.43.00.00, 3702.44.00.00, 3702.95.00.00 and 3707.10.00.00. Although the HTSUS subheadings and categories are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation is from January 1, 1992, through June 30, 1992.

Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the use of best information available (BIA) is appropriate for sales of subject merchandise in this investigation. In deciding whether to use BIA, section 776(c) provides that the Department may take into account whether the respondent was able to produce information requested in a timely manner and in the form required. In this case, Tokyo Ohka Kogyo (TOK) did not do so.

As outlined in our preliminary determination, the Department granted repeated requests by TOK for extensions in order for the company to gather and process the information requested in the Department's questionnaire. On November 2, 1992, TOK informed the Department that it would not respond to sections B and C of the questionnaire. TOK's refusal to provide this information denied the Department the information required to calculate an antidumping duty margin. Consequently, we based our preliminary determination in this investigation on BIA. As BIA, we selected the highest margin calculated from information provided in the petition and in a supplement to the petition received on July 29, 1992.

As noted in our notice of initiation, for purposes of the initiation, no adjustments were made to petitioners' calculations. However, the Department noted that if it became necessary at a later date to consider the petition as a source of BIA, we might review all of the bases for the petitioners' estimated dumping margins in determining BIA. The petitioners' methodology for calculating the estimated dumping margins was discussed in detail in our notice of initiation (57 FR 36066, August 12, 1992). The Department's methodology for calculating the preliminary estimated dumping margin was discussed in detail in our preliminary determination notice (57 FR 62297, December 30, 1992). Because some of the data in the petition were not presented accurately or appeared insufficiently documented, we made modifications to petitioners' estimated dumping margins. The resulting margins ranged from 13.60 to 30.49 percent.

For purposes of this final determination, since respondent has been uncooperative in this investigation, we are continuing to apply the highest margin derived from the corrected information presented in the petition as BIA for TOK. Based on a reexamination of our preliminary calculations, and the comments received in the briefing process, we have recalculated new margins from the information presented in the petition. (See *Comments*, below.)

Interested Party Comments

Comment 1

Petitioners maintain that the Department properly resorted to BIA in the preliminary determination of sales at less than fair value and should adhere in the final determination to its practice of selecting the highest dumping margin calculated from information provided in the petition. Petitioners cite section 776(c) of the Act, which directs the Department to use BIA "whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation * * *." Petitioners maintain that TOK's November 2, 1992, letter informing the Department that it would not respond to sections B and C of the Department's antidumping questionnaire constitutes a refusal to cooperate. Citing Final Determination of Sales at Less than Fair Value: Sulfanilic Acid from India, 58 FR 3251 (January 8, 1993), *inter alia*, petitioners argue that the Department should follow its longstanding BIA policy and assign to TOK the highest dumping margin calculated from information contained in the petition.

DOC Position

We agree with petitioners. In deciding whether to use best information available, section 776(c) provides that the Department shall take into account whether the respondent was able to produce information requested in a timely manner and in the form required. In this case, TOK did not do so. TOK's refusal to provide this data denies the Department the information required to calculate an antidumping duty margin. Thus we are basing the final determination on BIA.

Comment 2

In their margin calculations in the petition, petitioners based U.S. price on the sale from LeaRonal, the reseller of TOK's dry film photoresist products, to the next unrelated purchaser in the United States. Petitioners maintain that the Department should deduct LeaRonal's U.S. warehousing and U.S. packing from its resale price in order to derive the proper U.S. price in calculating an estimated dumping margin from information contained in the petition as BIA. Petitioners maintain that the U.S. warehousing expenses and packing expenses should not be treated as purchase price circumstance of sales adjustments, as they had been in the preliminary determination. Petitioners maintain that because the gross price used in the petition was the price from LeaRonal to an unrelated purchaser, and since the warehousing and packing expenses represent costs to LeaRonal as the reseller/further manufacturer in the U.S., these expenses should be directly deducted from the gross U.S. price.

Hitachi maintains that the Department's treatment of these expenses for the preliminary determination was correct.

DOC Position

We agree with petitioners. Petitioners' estimates account for expenses which LeaRonal incurs in reselling the subject merchandise. We have deducted these expenses directly from the resale price, rather than treat them as circumstance of sale adjustments.

Comment 3

Petitioners maintain that the Department should deduct LeaRonal's total selling expenses from the gross U.S. price and not just limit adjustments to U.S. warehousing expenses, as the Department did in the preliminary determination. Petitioners maintain that the 10 percent estimate used in the petition is a conservative estimate of LeaRonal's expenses as a converter and reseller of DFP. Petitioners point out that the domestic industry did not have access to TOK's sales price to LeaRonal (the first unrelated purchaser in the United States), and therefore derived the U.S. price from the price at which LeaRonal resells TOK's DFP after warehousing the imported master rolls, slitting, and then repackaging them.

Petitioners estimated LeaRonal's U.S. selling expenses at 10 percent of its U.S.

selling price. They based the figure on the statutory minimum rate allowed for Selling, General and Administrative (SG&A) expenses in the Department's use of constructed value (CV). In the petition, this 10 percent figure included petitioners' estimate of all expenses related to reselling DFP to the next customer, including LeaRonal's cost of DFP samples and of rebates. Petitioners disagree with the Department's characterization of the selling expenses as being undocumented. Petitioners point to data contained in the injury section of the petition which presents information on the U.S. DFP industry's recent financial performance. Petitioners maintain that this information, which shows actual U.S. SG&A expenses to be much larger than the estimated 10 percent, makes petitioners' original estimate extremely conservative.

Hitachi maintains that the Department correctly concluded that the petitioners provided insufficient information to make an appropriate price adjustment, and that since petitioners had not supplemented the information regarding selling expenses, the Department should not depart from its earlier calculations.

DOC Position

We agree with petitioners. In the preliminary determination, the Department erroneously concluded that the 10 percent estimate pertained to TOK's selling expenses, rather than to the re-sale effort required by LeaRonal. Based on the SG&A expenses provided in the injury section of the petition, the 10 percent figure used in the petition is a reasonable estimation of LeaRonal's selling expenses. The calculation in the petition did not clearly reference that this comparison was submitted in the injury section of the petition. Because we did not give petitioners the opportunity to address perceived deficiencies before initiating the investigation, petitioners' first opportunity to address the issue of selling expense estimates occurred in the briefing process. Moreover, the petition affidavits from managers within the U.S. DFP industry do reference estimates of selling expenses, thereby documenting petitioners' estimation of selling expenses for LeaRonal.

Because warehousing was deducted directly from LeaRonal's gross U.S. price to an unrelated purchaser, prior to adjusting for selling expenses incurred, the Department did not deduct LeaRonal's total selling expenses (inclusive of warehousing) from the gross U.S. price, as petitioners have requested. Accordingly, for the purposes of the final determination, we have deducted LeaRonal's estimated selling expenses of 10 percent from gross U.S. price, net of petitioners' estimate of LeaRonal's U.S. warehousing expenses, so as not to double-count warehousing expenses.

Comment 4

Petitioners maintain that, in light of the fact that LeaRonal sold the same type of merchandise through the same channels in the U.S. market and offered the same service and technical support in making these sales, the Department should use the domestic industry's total SG&A data in the petition as the basis for estimating LeaRonal's selling expenses in the United States.

DOC Position

We disagree with petitioners. The various expenses which LeaRonal incurs, (e.g., rebate programs, direct selling expenses such as warehousing, etc.), should be deducted from the gross U.S. price. The SG&A figures given in the injury section of the petition pertain to the overall operation of U.S. companies and are not limited to the estimated expenses associated with the further manufacture and reselling of DFP by LeaRonal. The Department cannot accurately ascertain from the information on the record which part of the referenced total SG&A expenses would be allocable to the further manufacture and reselling of DFP. We are thus using the 10 percent figure which was originally estimated by petitioners for LeaRonal's total selling expenses, net of separately deducted warehousing expenses.

Comment 5

Hitachi maintains that the Customs Service has recently informed it by Notice of Action that DFP is not being classified as a "film." According to the January 12, 1993, document which Hitachi submitted for the record, the Customs Service indicated that certain Hitachi entries of DFP were not of "film." Rather, Customs classified these Hitachi entries as emulsions, in solid form, layered on both sides with plastic. Such merchandise is classified under HTSUS item number 3707.10.00.00 which provides for "Sensitized Emulsions." Accordingly, Customs form 29 instructed Hitachi that the duty rate for this category is 3 percent. Hitachi maintains that the Department should therefore reduce its deduction for U.S. duty in its margin calculations from 3.7 to 3 percent.

DOC Position

We disagree with Hitachi. As Hitachi noted, this 1993 re-classification notice is very recent. The pricing considerations which exporters and importers confronted during the POI would have included the original U.S. duty of 3.7 percent; this is the correct duty rate for establishing the estimated margin of dumping during the POI.

Comment 6

Hitachi maintains that it should not receive the highest margin calculated as best information available. Instead, Hitachi maintains that it should receive the lowest margin calculated from data contained in the petition, which it considers to still be a relatively adverse result. Hitachi argues that to apply the punitive highest margin to all other exporters is unfair and inconsistent with past Department practice. Hitachi maintains that it is the Department's normal practice to assign the most punitive rate based on BIA when a company refuses to participate in an investigation. Hitachi cites the Final Antidumping Duty Determination: Aspheric Ophthalmoscopy Lenses from Japan, 57 FR 6703 (February 27, 1992) and Final Determination of Sales at Less than Fair Value: Circular Welded Non-Alloy Steel Pipe from Brazil, 57, FR 42940, 42942 (September 17, 1992), to support its argument that the Department has clearly adopted a two-tier approach for determining the level of "adversity" of BIA to be applied, assigning lower rates for respondents who cooperate in an investigation, while applying rates based on more adverse assumptions for respondents who do not cooperate.

Hitachi maintains that in choosing TOK as the sole mandatory respondent in this investigation, the Department relieved Hitachi of any obligation to submit a questionnaire response or otherwise to participate in the investigation. It maintains that, until it was too late for Hitachi to apply as a voluntary respondent, the company had every reason to believe that TOK would participate in the investigation and would support a non-BIA result. According to Hitachi, its expectation of TOK's cooperation in the investigation, combined with the fact that the Department has not encouraged voluntary questionnaire responses in the past, led Hitachi to choose not to undertake the costly and burdensome task of preparing and trying to submit a voluntary response. Hitachi maintains that it has not failed in any way to cooperate in this investigation.

Petitioners counter that the Department should continue to use the BIA rate assigned to TOK as the "all others" rate in this case. Petitioners maintain that Hitachi misstates the

Department's policy when Hitachi asserts that the Department has refrained from using punitive BIA rates as the "all others" rate in dumping investigations and administrative reviews. According to petitioners, the Department's policy is to use all affirmative rates, including rates based on BIA, in calculating the "all others" rate. Therefore, according to petitioners, in an investigation, such as this proceeding, where the only affirmative margin is a punitive BIA rate, the Department correctly follows this policy and bases the "all others" rate exclusively on the BIA-based margin for the sole uncooperative respondent. As past precedent, petitioners cite Final Determination of Sales at Less Than Fair Value: Steel Wire Rope from India, 56 FR 46285, 46286 (September 11, 1992) and Final Determination of Sales at Less Than Fair Value: Personal Word Processors from Japan, 56 FR 31101, 31109–31110 (July 9, 1991).

Petitioners assert that Hitachi's argument that it has not failed to cooperate in this investigation is a moot point because the Department does not make such distinctions in cases where the only affirmative rate calculated in the investigation is an adverse BIA rate. Further, petitioners maintain that Hitachi had every opportunity to file a voluntary response after the initiation of the investigation and chose not to submit the data required to receive its own dumping margin. Petitioners assert that Hitachi knew as early as November 2, 1992, that TOK was an uncooperative respondent subject to a punitive BIA rate, and still did not attempt to file a voluntary response.

DOC Position

It is incumbent upon a non-mandatory respondent to submit voluntary responses in order to ensure that it does not receive a BIA rate based on the non-cooperation of named (*i.e.*, mandatory) respondents. The Department's practice in calculating the "all others" rate has been to use a weighted-average of all margins in a given investigation which are not zero or *de minimis*, including those based on BIA. In this case there is only one respondent, and thus only one margin, based on BIA. The Department is therefore continuing to use the BIA margin derived from information contained in the petition and applied to the respondent TOK for "all other" producers/exporters, including Hitachi.

Comment 7

Hitachi maintains that the Department should not deduct an estimated profit of eight percent from LeaRonal's U.S. resale price as part of the calculation of TOK's estimated dumping margin.

Petitioners maintain that the Department should continue to deduct an estimated profit of eight percent from LeaRonal's U.S. resale price.

DOC Position

We disagree with Hitachi. The profit associated with LeaRonal's resale must be deducted in order to derive the sales price between TOK and LeaRonal, the basis for price comparison purposes. Petitioners relied on the eight percent profit figure which is the Department's statutory estimate of minimum company profitability set forth in section 773(e)(B)(ii) of the Act in order to estimate the profit earned by LeaRonal in reselling DFP to unrelated purchasers. We are therefore continuing to use this reasonable estimate of LeaRonal's profit portion of its resale price in the calculation of the BIA margin.

Continuationy of Suspension of Liquidation

In accordance with section 735 of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of DFP produced or exported from Japan, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percentage
Tokyo Ohka Kogyo	52.37
All Others	52.37

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

As our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry within 45 days.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4).

Dated: March 8, 1993.

Joseph Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–5786 Filed 3–12–93; 8:45 am]

BILLING CODE 3510-DS-P

[A–557–807]

Initiation of Antidumping Duty Investigation: Welded Stainless Steel Pipe From Malaysia

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: March 15, 1993.

FOR FURTHER INFORMATION CONTACT: Kate Johnson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC. 20230; telephone (202) 482–4929.

INITIATION OF INVESTIGATION:

The Petition

On February 16, 1993, we received a petition filed in proper form by Avesta Sheffield Pipe (formerly Avesta Sandvik Tube), Bristol Metals, Damascus Tubular Products, Trent Tube Division of the Crucible Materials Corporation, and the United Steelworkers of America, filing on behalf of the domestic welded stainless steel pipe industry (WSSP) (petitioners). Supplements to the petition were received on February 26 and March 5, 1993. In accordance with 19 CFR 353.12 (1992), the petitioners allege that WSSP from Malaysia is, or is likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as Amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

The petitioners have stated that they have standing to file the petition because they are interested parties, as defined under section 771(9)(C) and (D) of the Act, and because the petition was filed on behalf of the U.S. industry producing the product subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, these petitions, it should file a written notification with the Assistant Secretary for Import Administration.

Scope of Investigation

The product covered by this investigation is welded austenitic stainless steel pipe of circular cross section. WSSP is produced according to standards and specifications set forth by the American Society for Testing and Materials (ASTM). The designations for this product include, but are not limited to, ASTM A–312, ASTM A–358, ASTM A–409, and ASTM A–778. Welded

pipes are generally used as conduits to transmit liquids or gases. The major applications for WSSP are: Digester lines; blow lines; pharmaceutical lines; petrochemical stock lines; brewery process and transport lines; general food processing lines; automotive paint lines; and paper process machines.

This product is classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.40.1000; 7306.40.5005; 7306.40.5015; 7306.40.5045; 7306.40.5060; and 7306.40.5075. These subheadings are defined to encompass welded stainless steel tube as well as WSSP, however, the only product subject to this investigation is WSSP. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

United States Price and Foreign Market Value

Petitioners based United States Price (USP) for WSSP on (1) FOB export prices obtained from a foreign market research report and (2) various offers for sale to U.S. purchasers, duty paid and delivered, by U.S.-based broker/traders. Petitioners made deductions, where appropriate, to the U.S. prices for ocean freight and insurance, U.S. merchandise processing and harbor maintenance fees, U.S. duties, foreign inland freight, and U.S. inland freight. Petitioners also deducted credit, rebates and promotions, and warranties and guarantees. Petitioners added an amount for duty drawback to USP. Petitioners also added to USP the amount of sales tax that would have been collected had the exported merchandise been taxed.

Petitioners based foreign market value (FMV) for WSSP on domestic prices obtained by a foreign market research firm. Deductions were made for Malaysian inland freight, rebates and promotions, advertising, warranties and guarantees, and credit. Petitioners also made a circumstance-of-sale adjustment for the difference between the sales tax on home market sales and that which would have been collected on U.S. sales if the export sale had been taxed.

Based on petitioners' calculations, dumping margins range from 3.6 percent to 43.8 percent. For purposes of this initiation, no adjustments were made to petitioners' calculations.

Initiation of Investigation

We have examined the petition on welded stainless steel pipe from Malaysia and have found that the petition meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of welded stainless steel pipe from Malaysia are being, or are likely to be, sold in the United States at less than fair value.

International Trade Commission (ITC) Notification

Section 732(d) of the Act requires us to notify the ITC of these actions and we have done so.

Preliminary Determination by the ITC

The ITC will determine by April 2, 1993, whether there is a reasonable indication that imports of welded stainless steel pipe from Malaysia are materially injuring, or threaten material injury to, a U.S. industry. A negative ITC determination will result in a termination of the investigation; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c) of the Act and 19 CFR 353.13(b).

Dated: March 8, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration

[FR Doc. 93-5785 Filed 3-12-93; 8:45 am]

BILLING CODE 3510-DS-P

National Oceanic and Atmospheric Administration

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Scientific and Statistical Committee (Committee) will hold its 54th meeting on March 25–26, 1993, at the University of Hawaii, Hawaii Institute of Geophysics, room 135, 2525 Correa Road, Honolulu, HI. The meeting will begin at 8:30 a.m., on each day.

The Committee will discuss, and possibly make recommendations to the Council regarding, the following: (1) Multi-agency Pacific pelagic fisheries research program; (2) draft Amendment 7 to the Pelagics Fishery Management Plan, which will establish management measures to replace the longline entry moratorium when it expires in April 1994; (3) preparation of the 1992 pelagics and bottomfish annual reports; (4) need for restrictions in the Hawaii pelagic handline fishery; (5) April 1993 blue marlin workshop; (6) proposed modifications to the Northwestern Hawaiian Islands lobster fishery regulations; (7) status of lobster stocks and annual lobster report; (8) evaluating the need to maintain the Precious Corals fishery management plan; (9) preparation of regulations for opakapaka minimum size; (10) fishery conditions and management options for other bottomfish; (11) strategies to collect data from all fishing sectors; (12) priorities and long-term goals for pelagics, lobster, precious corals and bottomfish research; (13) effects of environmental changes on fisheries; (14) Magnuson Act reauthorization; and (15) other topics as necessary.

For more information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813; telephone: (808) 541–1974.

Dated: March 8, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93-5873 Filed 3-12-93; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

March 9, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: March 16, 1993.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6703. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being reduced for carryforward used in 1992.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23 1992). Also see 57 FR 62304, published on December 30, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 9, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 23, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on March 16, 1993, you are directed to amend the directive dated December 23, 1992 to reduce the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the People's Republic of China:

Category	Adjusted twelve-month limit [1]
Levels not in a group	
200	600,259 kilograms.
226	9,462,865 square meters.
237	1,612,707 dozen.
313	38,611,593 square meters.
331	4,581,826 dozen pairs.
342	248,723 dozen.
[illegible]	6,764,306 numbers of which not more than 4,479,524 numbers shall be in Category 360–P [2].
369–D [3]	4,264,677 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

[2] Category 360–P: only HTS numbers 6302.21.1010, 6302.21.1020, 6302.21.2010, 6302.21.2020, 6302.31.1010, 6302.31.1020, 6302.31.2010 and 6302.31.2020.

[3] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–5839 Filed 3–12–93; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Brazil

March 9, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: March 16, 1993.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 225 and 300/301 are being increased for carryforward. As a result, the limit for Category 225, which is currently filled, will re-open.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23 1992). Also see 57 FR 21971, published on May 26, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 9, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on May 19, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1992 and extends through March 31, 1993.

Effective on March 16, 1993, you are directed to amend further the directive dated May 19, 1992 to increase the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Federative Republic of Brazil:

Category	Adjusted twelve-month limit [1]
225	9,395,836 square meters.
300/301	6,413,679 kilograms.

[1] The limits have not been adjusted to account for any imports exported after March 31, 1992.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–5838 Filed 3–12–93; 8:45 am]

BILLING CODE 3510–DR–F

Establishment of an Import Restraint Limit for Certain Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Myanmar

March 9, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: March 16, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin

boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Under the terms of Section 204 of the Agricultural Act of 1956, as amended, the Government of the United States has decided to establish a restraint limit for trousers, breeches and shorts in Categories 647/648/847, produced or manufactured in Myanmar and exported during the twelve-month period which began on March 1, 1993 and extends through February 28, 1994 at a level of 24,551 dozen.

A summary market statement concerning Categories 647/648/847 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 647/648/847 or to comment on domestic production or availability of products included in Categories 647/648/847, is invited to submit 10 copies of such comments or information to J. Hayden Boyd, Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992).

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Myanmar

Category 647/648/847—Man-made Fiber, Silk Blend and Non-Cotton Vegetable Fiber Trousers

February 1993

Import Situation and Conclusion

U.S. imports of man-made fiber, silk blend, and non-cotton vegetable fiber trousers, Category 647/648/847, from Myanmar reached 26,073 dozen in 1992, nearly 400 times the 70 dozen imported in 1991. There were no Category 647/648/847 imports from Myanmar in 1990.

The sharp and substantial increase in Category 647/648/847 imports from Myanmar is causing disruption in the U.S. market for man-made fiber, silk blend and non-cotton vegetable fiber trousers.

U.S. Production, Import Penetration, and Market Share

U.S. production of trousers for the man-made fiber, silk-blend and non-cotton vegetable fiber market fell 19 percent, from 41,442,000 dozen in 1987 to 33,744,000 dozen in 1991. U.S. production continued to decline in 1992, falling to 24,844,000 dozen in the first three quarters of 1992, 1 percent below the January-September 1991 level. U.S. imports of man-made fiber, silk blend, and non-cotton vegetable fiber trousers, Category 647/648/847, increased 14 percent from 23,629,000 dozen in 1987 to 26,997,000 dozen in 1991. This increase continued in 1992, as U.S. imports of man-made fiber, silk blend, and non-cotton vegetable fiber trousers increased another 9 percent reaching 29,514,100 dozen in 1992.

The ratio of imports to production rose from 57 percent in 1987 to 80 percent in 1991. The ratio of imports to production continued to increase in 1992 reaching 93 percent in the first three quarters of 1992. The domestic manufacturers' share of the U.S. market fell from 64 percent in 1987 to 56 percent in 1991. This decline continued in 1992, with the domestic manufacturers' share of the U.S. market falling another 4 percentage points to 52 percent in the January-September 1992 period.

Duty-Paid Value and U.S. Producers' Price

Approximately 97 percent of Category 647/648/847 imports from Myanmar during 1992 entered the U.S. under HTSUSA numbers 6203.49.3060—Men's and boys' silk blend, or non-cotton vegetable fiber woven shorts and 6204.69.9046—Women's and girls' shorts, of non-cotton vegetable fiber. These shorts entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable shorts.

Committee for the Implementation of Textile Agreements

March 9, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 16, 1993, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 647/648/847, produced or manufactured in Myanmar and exported during the period beginning on March 1, 1993 and extending through February 28, 1994, in excess of 24,551 dozen.[1]

Textile products in Categories 647/648/847 which have been exported to the United States prior to March 1, 1993 shall not be subject to the limit established in this directive.

Textile products in Categories 647/648/847 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1) prior to the effective date of this directive shall not be denied entry under this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–5840 Filed 3–12–93; 8:45 am]

BILLING CODE 3510-DR-F

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Approval of a Collection of Information: Compliance Survey of Juvenile Products

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval through December 30, 1993, of a collection of information in the form of a survey of firms which manufacture or import juvenile products such as cribs, bassinets, strollers, playyards, high chairs, toilet trainers and other articles intended for use by infants and young children. The purpose of this survey is to determine the extent to which those firms comply with regulations banning articles which are intended for use by

[1] The limit has not been adjusted to account for any imports exported after February 28, 1993.

children younger than three years of age and which present a choking, aspiration, or ingestion hazard because of small parts. The regulations were issued under the authority of the Federal Hazardous Substances Act (15 U.S.C. 1261, 1262) and are codified at 16 CFR 1500.18(a)(9) and part 1501.

The survey of manufacturers and importers of juvenile products is part of a comprehensive plan to assess compliance by regulated industries with 70 rules enforced by the Commission. The Commission will use the information obtained from the survey of manufacturers and importers of juvenile products to establish priorities for enforcement of mandatory standards and regulations which the Commission administers. Information obtained from this survey will also be used to support appropriate legal action against any firm which has imported or sold articles which are intended for children younger than three years of age and which are banned because of the presence of small parts.

Additional Details About the Request for Extension of Approval of Information Collection Requirements

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Juvenile Products Small Parts Survey.

Type of request: New request.

General description of respondents: Manufacturers and importers of cribs, strollers, high chairs, and other juvenile products.

Frequency of collection: One time.

Estimated number of respondents: 100.

Estimated average number of hours per respondent: 8.

Estimated number of hours for all respondents: 800.

Comments: Comments on this request for extension of approval of information collection requirements should be addressed to Donald Arbuckle, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503; telephone (202) 395-7340. Copies of the request for extension of information collection requirements are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504-0416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 93-5778 Filed 3-12-93; 8:45 am]

BILLING CODE 6355-01-F

Commission Agenda and Priorities; Public Hearing

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public hearing.

SUMMARY: The Commission will conduct a public hearing to receive views from all interested parties about its agenda and priorities during fiscal year 1995, which begins October 1, 1994. Participation by members of the public is invited. Written comments and oral presentations concerning the Commission's agenda and priorities for fiscal year 1995 will become part of the public record.

DATES: The hearing will begin at 10 a.m. on May 5, 1993. Written comments will be accepted until April 28, 1993. Requests from members of the public desiring to make oral presentations must be received by the Office of the Secretary not later than April 21, 1993. Persons desiring to make oral presentations at this hearing must submit a written text or summary of their presentations not later than April 28, 1993.

ADDRESSES: The hearing will be in room 556 of the Westwood Towers Building, 5401 Westbard Avenue, Bethesda, Maryland. Written comments, requests to make oral presentations, and texts or summaries of oral presentations should be captioned "Agenda and Priorities" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 420, 5401 Westbard Avenue, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: For information about the hearing or to request and opportunity to make an oral presentation, call or write Sheldon Butts, Deputy Secretary, Consumer Product Safety Commission, Wasington, DC 20207; telephone (301) 504-0800; telefax (301) 504-0127.

SUPPLEMENTARY INFORMATION: Section 4(j) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2053(j)) requires the Commission to establish an agenda for action under the laws it administers, and priorities for action at least 30 days before the beginning of each fiscal year. Section 4(j) of the CPSA provides further that before establishing its agenda and priorities, the Commission shall conduct a public hearing and provide an opportunity for the submission of comments.

Selection of priorities from the Commission's agenda of projects and programs is a crucial step in the development of the Commission's budget for each fiscal year. The Office of Management and Budget requires all Federal agencies to submit their budget requests 13 months before the beginning of each fiscal year. The Commission is beginning the process of formulating its budget request for fiscal year 1995, which begins on October 1, 1994.

For this reason, the Commission will conduct a public hearing on May 5, 1993, to receive comments from the public concerning its agenda and priorities for fiscal year 1995. The Commissioners desire to obtain the views of a wide range of interested persons including consumers; manufacturers, importers, distributors of consumer products; members of the academic community; and health and safety officers of state and local governments.

The Commission is charged by Congress with protection of the public from unreasonable risks of injury associated with consumer products. The Commission enforces and administers the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*); the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*); the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*); the Poison Prevention Packaging Act (15 U.S.C. 1471 *et seq.*); and the Refrigerator Safety Act (15 U.S.C. 1211 *et seq.*). Standards and regulations issued under provisions of those statutes are codified in the Code of Federal Regulations, title 16, chapter II.

While the Commission has broad jurisdiction over products used by consumers in or around their homes, in schools, in recreation, and other settings, its staff and budget are limited. Section 4(j) of the CPSA expresses Congressional direction to the Commission to establish an agenda for action each fiscal year and to select from that agenda a limited number of projects for priority attention.

In the establishment of its agenda and selection of its priorities, the Commission may select any activity the Commission is authorized to undertake and is not necessarily limited to consideration of only those projects which are intended to reduce hazards associated with particular consumer products or groups of products. In addition to projects related to reduction of identified hazards associated with specific products, the Commission's

agenda and priorities may include investigations, studies, and research; collection and analysis of injury data; information and education activities; and development of tests and test methods.

Commission priorities are selected in accordance with the Commission statement of policy governing establishment of priorities codified at 16 CFR 1009.8. That policy statement includes the following factors to be considered by the Commission when selecting its priorities:

- Frequency and severity of injuries.
- Causality of injuries.
- Chronic illness and future injuries.
- Costs and benefits of Commission action.
- Unforeseen nature of a risk of injury.
- Vulnerability of the population at risk.
- Probability of exposure to hazard.

The order of listing of these criteria does not indicate their relative importance. The Commission will consider these criteria to the extent feasible and as interactively as possible when evaluating each candidate project in the selection of its priorities for fiscal year 1995.

Persons who desire to make oral presentations at the hearing on May 5, 1993, should call or write Sheldon Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504-0800, telefax (301) 504-0127, not later than April 21, 1993.

Presentations should be limited to approximately ten minutes. Persons desiring to make presentations must submit the written text or a summary of their presentations to the Office of the Secretary not later than April 28, 1993. The Commission reserves the right to impose further time limitations on all presentations and further restrictions to avoid duplication of presentations. The hearing will begin at 10 a.m. on May 5, 1993, and will conclude the same day.

Written comments on the Commission's agenda and priorities for fiscal year 1995 should be received in the Office of the Secretary not later than April 28, 1993.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 93-5779 Filed 3-12-93; 8:45 am]

BILLING CODE 6355-01-F

[CPSC Docket No. 93-C0003]

Franco-American Novelty Company, Inc.; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a settlement agreement under the Federal Hazardous Substances Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Federal Hazardous Substances Act in the **Federal Register** in accordance with the terms of 16 CFR part 1118.20(e)–(h). Published below is a provisionally-accepted Settlement Agreement with Franco-American Novelty Company, Inc., a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by March 30, 1993.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 93–C0003, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Melvin I. Kramer, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0626.

Dated: March 5, 1993.

Sheldon D. Butts,

Deputy Secretary.

Settlement Agreement and Order

1. Franco-American Novelty Company, Inc. (hereinafter,"Franco-American"), a corporation, enters into this Settlement Agreement (hereinafter, "Agreement") with the staff of the Consumer Product Safety Commission, and agrees to the entry of the Order described herein. The purpose of the Agreement and Order is to settle the staff's allegations that Franco-American knowingly caused the export of certain banned hazardous substances, namely toys, in violation of section 14(d) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1273(d), which is a prohibited act under section 4 (i) of the FHSA, 15 U.S.C. 1263(i).

I. Jurisdiction

2. The Commission has jurisdiction over Franco-American and the subject matter of this Settlement Agreement pursuant to section 30(a) of the Consumer Product Safety Act (hereinafter, "CPSA"), 15 U.S.C. 2079(a), and sections 2(f)(1)(A), 4(a) and (i) and 5(c) of the Federal Hazardous Substances Act (hereinafter, "FHSA"), 15 U.S.C. 1261(f)(1)(A), 1263(a) and (i) and 1264(c).

II. The Parties

3. The "staff" is the staff of the Consumer Product Safety Commission, an independent regulatory commission of the United States established pursuant to section 4 of the CPSA, 15 U.S.C. 2053.

4. Franco-American is a corporation organized and existing under the laws of the State of New York with its principal corporate offices located at 84–00 73rd Avenue, Glendale, New York 11385. Franco-American is engaged in the business of importing, exporting, and selling domestically, children's toys and novelty items.

III. Allegations of the Staff

5. Sometime between October 3, 1989 and February 1, 1990, Franco-American caused the introduction into interstate commerce of approximately 70,000 toys, namely, pressurized spray cans of "Goofy Flying String" (Item #75501), intended for use by children.

6. On February 1, 1990, the staff collected samples of this product and submitted them to the Commission's laboratory for testing. The staff's analysis revealed that each sample exhibited a flame extension of more than 18 inches when subjected to testing outlined in 16 CFR 1500.45, of the FHSA regulations. These findings cause the contents of "Goofy Flying String" (Item 75501) to meet the definition of "Flammable Contents of a Self Pressurized Container" as described in 16 CFR 1500.3(c)(6)(viii).

The customary and reasonably foreseeable handling of this product by consumers causes it to meet the definition of a "hazardous substance" as defined in section 2(f)(1)(A) of the FHSA, 15 U.S.C. 1261(f)(1)(A) and in 16 CFR 1500.3(b)(4)(i) of the FHSA regulations. The reasonably foreseeable use of this product by children causes it to meet the definition of a "banned hazardous substance" as defined in section 2(q)(1)(A) of the FHSA, 15 U.S.C. 1261(q)(1)(A). The distribution of a banned hazardous substance is a prohibited act as defined in section 4 of the FHSA, 15 U.S.C. 1263.

7. In cooperation with the Commission, Franco-American recalled the product on February 22, 1990. Both before and after the recall, Franco-American was advised of section 14(d) of the FHSA, 15 U.S.C. 1273(d),

regarding the export of noncomplying products.

8. Section 14(d) of the FHSA requires, in pertinent part, that any person who elects to export a banned hazardous product shall notify the Commission of its intent to export at least 30 days prior to the date of exportation.

9. In May, 1991, Franco-American submitted an export request to the Commission to export some of the products to Sweden. The Commission staff responded and prepared the necessary correspondence. Although the shipment never took place, Franco-American was fully aware of the statutory requirements for the export of these products. No other notifications were received from Franco-American in 1991.

10. On September 5, 1991, a Commission investigator visited Franco-American to determine the status of the ongoing recall. The investigator learned that Franco-American had exported 2,664 units of the recalled Goofy Flying String to a firm in Mexico on August 2, 1991.

11. As noted in its letter of that date, Franco-American acknowledged that it exported the products without complying with the export notification requirements of section 14(d) of the FHSA, 15 U.S.C. 1273(d).

12. At that time, the staff advised Franco-American that failure to comply with the export notification requirement is a prohibited act under section 4(i) of the FHSA, 15 U.S.C. 1263(i), and could subject it to a civil penalty of $5,000 per product, up to a maximum penalty of $1,250,000 under section 5(c)(1) of the FHSA, 15 U.S.C. 1264(c)(1).

IV. Response of Franco-American

13. Franco-American denies the allegations of the staff that it has knowingly introduced or caused the introduction into commerce of the aforesaid banned hazardous toys, that it knowingly failed to comply with export notification requirements of the FHSA, or that it has violated the FHSA in any way.

V. Agreement of the Parties

14. The Consumer Product Safety Commission has jurisdiction over Franco-American and the subject matter of this Settlement Agreement and Order under the following acts: Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*), and the Federal Hazardous Substances Act, 15 U.S.C. 1261 *et seq.*

15. Franco-American agrees to pay to the Commission a civil penalty in the amount of forty thousand and 00/100 dollars ($40,000.00) within twenty (20) days after service of the Final Order of the Commission accepting this Settlement Agreement. This payment is made in full settlement of the staff's allegations set forth in paragraphs five through twelve above that Franco-American violated the FHSA.

16. The Commission does not make any determination that Franco-American knowingly violated the FHSA. The Commission and Franco-American agree that this Agreement is entered into for the purposes of settlement only.

17. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, Franco-American knowingly, voluntarily and completely, waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether Franco-American failed to comply with the FHSA as aforesaid, and (4) to a statement of findings of fact and conclusions of law.

18. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint had issued; and, the Commission may publicize the terms of the Settlement Agreement and Order.

19. Upon provisional acceptance of this Settlement Agreement-and-Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e)–(h). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register.**

20. The parties further agree that the Commission shall issue the attached Order, incorporated herein by reference; and that a violation of the Order shall subject Franco-American to appropriate legal action.

21. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement and Order may be used to vary or to contradict its terms.

22. The provisions of the Settlement Agreement and Order shall apply to Franco-American and each of its successors and assigns.

Dated: November 13, 1992.

Respondent Franco-American Novelty Company, Inc.

Robert Oumano,

President, Franco-American Novelty Company, Inc.

Commission Staff

David Schmeltzer,

Assistant Executive Director, Office of Compliance and Enforcement.

Alan H. Schoem, Director,

Division of Administrative Litigation, Office of Compliance and Enforcement.

Dated: January 2, 1993.

Melvin I. Kramer,

Trial Attorney, Division of Administrative Litigation, Office of Compliance and Enforcement.

Order

Upon consideration of the Settlement Agreement entered into between respondent Franco-American Novelty Company, Inc., a corporation, and the staff of the Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Franco-American; and it appearing that the Settlement Agreement is in the public interest, it is

Ordered, That the Settlement Agreement be and hereby is accepted, as indicated below; and it is

Further ordered, That upon final acceptance of the Settlement Agreement, Franco-American Novelty Company, Inc. shall pay to the Order of the Consumer Product Safety Commission a civil penalty in the amount of forty thousand and 00/100 dollars (40,000.00) within twenty (20) days after service of the Final Order and Decision in this matter.

Provisionally accepted and Provisional Order issued on the 5th day of March 1993.

By Order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 93–5780 Filed 3–12–93; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of closed teleconference meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming closed teleconference meeting of the Executive Committee of the National Assessment Governing Board. This notice also describes the

functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: March 19, 1993.

TIME: 3 p.m. to 5 p.m.

LOCATION: U.S. Department of Education, National Assessment Governing Board, suite 825, 800 North Capitol Street, NW., Washington, DC 20002–4233.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, suite 825, 800 North Capitol Street, NW., Washington, DC 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), title III–C of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297), (20 U.S.C. 1221e–1).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

The Executive Committee of the National Assessment Governing Board will meet on March 19, 1993 from 3 p.m. until 5 p.m. to review and comment on a draft report on achievement standard results. This meeting will be closed to the public to permit the Committee to discuss the undisclosed information contained in the report without compromising its confidentiality. The premature disclosure of the information contained in the report would significantly frustrate implementation of the NAEP. Such matters are protected by exemption (9)(B) of section 552b(c) of title 5 U.S.C.

The public is given less than fifteen days notice of this meeting because of problems encountered in scheduling members' availability.

A summary of the activities of the meeting and related matters, which are informative to the public, consistent with the policy of 5 U.S.C., will be available to the public within fourteen days after the meeting.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, suite 825, 800 North Capitol Street, NW., Washington, DC, from 8:30 a.m. to 5 p.m.

Dated: March 9, 1993.

Roy Truby

Executive Director, National Assessment Governing Board.

[FR Doc. 93–5783 Filed 3–12–93; 8:45 am]

BILLING CODE 6000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER93–410–000, et al.]

Carolina Power and Light Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

March 8, 1993.

Take notice that the following filings have been made with the Commission:

1. Carolina Power and Light Co.

[Docket No. ER93–410–000]

Take notice that on March 1, 1993, Carolina Power & Light Company (CP&L) tendered for filing with the Commission the changes outlined below to its agreements with Lumbee River EMC and South River EMC.

Lumbee River EMC—Rennert 115 kV POD—Addition of special provisions for providing facilities for metering public information.

South River EMC—Eureka Springs 115 kV POD—Addition of special provisions for providing facilities for metering pulse information.

The Company requests that the notice period be waived and that these supplements be made effective coincident with the effective dates set forth in the Exhibit A's, however, the Company will not begin billing for the additional facilities until the date FERC accepts and approves this filing.

A copy of this filing has been sent to the affected parties, the North Carolina Utilities Commission, and the South Carolina Public Service Commission.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. New England Power Co.

[Docket No. ER93–391–000]

Take notice that on February 23, 1993, New England Power Company (NEP) tendered for filing four service agreements for service to the municipal light departments in Holden, Massachusetts and Princeton, Massachusetts under NEP's FERC Electric Tariff, Original Volume No. 3. According to NEP, the agreements restate and extend the service provided by NEP, but do not involve a change in rate.

Comment date: March 22, 1993, in accordance with Standard Paragraph E end of this notice.

3. Kansas City Power and Light Co.

[Docket No. ER93–388–000]

Take notice that on February 22, 1993, Kansas City Power & Light Company (KCPL) tendered for filing a Border Customer Agreement dated August 31, 1964, as amended between KCPL and the City of Kansas City, Kansas (City), effective as of August 31, 1964.

In its filing, KCPL states that the rates included in the above-mentioned Agreement have been in effect since 1964, however, Kansas City Power & Light Company can find no evidence that this Agreement is on file with the Federal Energy Regulatory Commission. Therefore, KCPL is filing it at this time due to the Commission's policies being established in Docket No. PL93–2–000 (Prior Notice and Filing Requirements under Part II of the Federal Power Act).

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Midwest Power Systems, Inc.

[Docket No. ER93–394–000]

Take notice that on February 25, 1993, Midwest Power Systems, Inc. tendered for filing a request for redesignation of Iowa Public Service Company Rate Schedule FERC No. 77. This Rate Schedule was inadvertently omitted from the list of Rate Schedules to be designated under Docket No. ER92–784–000 for MPSI approved by the Commission on October 23, 1992.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Montaup Electric Co.

[Docket No. ER93–401–000]

Take notice that on February 26, 1993, Montaup Electric Company (Montaup) tendered for filing Exhibit A to the Service Agreement between Montaup and New England Power Company.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Commonwealth Edison Co.

[Docket No. ER93–390–000]

Take notice that on February 22, 1993, Commonwealth Edison Company (Edison) tendered for filing Amendment No. 7, dated February 21, 1992, to the Interconnection Agreement, dated

March 1, 1975, between Edison and Wisconsin Power and Light Company (Wisconsin Power). Amendment No. 7 adds a new Service Schedule R, Resource Power, to the Interconnection Agreement. Under the terms of Service Schedule R, Edison will supply various amounts of Resource Power to Wisconsin Power during the period June 1, 1996 through May 31, 2203.

Copies of this filing were served upon Wisconsin Power, the Illinois Commerce Commission, and the Public Service Commission of Wisconsin.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. The Cincinnati Gas & Electric Co.

[Docket No. ER93–416–000]

Take notice that on March 1, 1993, The Cincinnati Gas & Electric Company (CG&E), on behalf of itself and its subsidiary, The Union Light, Heat & Power Company (ULH&P), tendered for filing an agreement by which CG&E will reimburse ULH&P for costs incurred by ULH&P in obtaining interruptible electric load under certain circumstances. CG&E and ULH&P request waiver of the Commission's notice requirements and an effective date of March 1, 1993.

Copies of the filing were served on the Public Service Commission of Kentucky and the Public Utilities Commission of Ohio.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Consolidated Edison Co. of New York, Inc.

[Docket No. ER93–411–000]

Take notice that on March 1, 1993, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a Supplement to its Rate Schedule FERC No. 102, an agreement to provide transmission service for the New York Power Authority (the Authority). The Supplement provides for a decrease in the monthly transmission charge from $1.07 to $1.02 per kilowatt for transmission of power and energy sold by the Authority to its Economic Development Power customers on Long Island, thus decreasing annual revenues under the Rate Schedules by a total of $9,166. The Supplement also decreases the monthly charge for an alternative transmission service from $2.43 to $2.26 per kilowatt. Con Edison has requested waiver of notice requirements so that the decreases can be made effective as of July 1, 1992.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Northeast Utilities Service Co.

[Docket No. ER93–415–000]

Take notice that on March 1, 1993, Northeast Utilities Service Company (NUSCO) on behalf of Public Service Company of New Hampshire (PSNH) tendered for filing an agreement for the sale to UNITIL Power Corp. (UNITIL Power) of unit capacity and associated energy.

NUSCO requests that the Commission waive its standard notice periods and filing regulations to the extent necessary to permit the rate schedule change to become effective May 1, 1993.

NUSCO states that copies of this information have been mailed or delivered to each of the parties.

NUSCO requests that the Commission waive its standard notice periods and filing regulations to the extent necessary to permit the rate schedule to become effective May 1, 1993.

NUSCO further states that the filing is in accordance with Section 35 of the Commission's regulations.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Northern States Power Co. (Minnesota) Northern States Power Co. (Wisconsin)

[Docket No. ER93–412–000]

Take notice that on March 1, 1993, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) jointly tendered for filing proposed changes in their FERC Electric Tariff, Original Volume No. 1 to establish rates and terms and conditions for third-party purchase and resale transactions pursuant to Commission Order No. 84, designated as:

Northern States Power Companies
FERC Electric Tariff—Original Volume No. 1
Original Sheet No. 157
Original Sheet No. 200

The rate schedule is applicable to third-party purchase and resale of electric power and/or energy. The rate schedule provides that for such voluntary third-party transactions, NSP will charge the receiving party:

(a) The amount NSP pays the supplying third party for such power and/or energy, plus

(b) Transmission losses as provided in the agreement between NSP and the other party, plus

(c) Up to $4.30 per MWh for interruptible energy deliveries, or up to $22.64 per KW/year for firm capacity deliveries to customers located inside the NSP Operating Area and up to $21.29 per KW/year for deliveries to customers located outside the NSP Operating Area. However, in no event shall the one day total of such hourly charges for any single transaction exceed $112.54 times the highest average number of megawatts resold in any hour during the day.

In addition, in no event will the maximum rate exceed the comparable rate for Reserved or Interruptible transmission service under the NSP Transmission Services Tariff in effect from time to time.

NSP states that its reason for proposing the rate schedule is to include the quantifiable costs in its third-party purchase for resale transactions, to increase NSP's flexibility to effectively market power and energy by permitting it to charge less than the full rate, and to provide comparable rates for purchase for resale and transmission-only transactions.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Co.

[Docket No. ER93–417–000]

Take notice that on March 1, 1993, Northeast Utilities Service Company (NUSCO) on behalf of Public Service Company of New Hampshire (PSNH) tendered for filing a Sales Agreement for the purchase by Fitchburg Gas and Electric Light Company (FG&E) of system capacity and energy from PSNH.

NUSCO states that copies of this rate schedule have been mailed or delivered to each of the parties.

NUSCO further states that the filing is in accordance with Section 35 of the Commission's regulations.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Waste Conversion Systems of Georgia, Inc.

[Docket No. QF93–42–000]

On March 1, 1993, Waste Conversion Systems of Georgia, Inc. (Applicant), of 5457 Roswell Road, suite 103–104, Atlanta, Georgia 30342, re-submitted for filing an application for certification of a facility as a small power production facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the small power production facility will be located in LaGrange, Georgia, and will consist of two waste-to-energy conversion units. The maximum power

production capacity of the facility will be approximately 13.5 MW. The primary energy source will be waste and renewable resources.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

13. Monsanto Co.

[Docket No. QF93–33–000]

On March 2, 1993, Monsanto Company (Applicant) tendered for filing a supplement to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The supplement provides additional information pertaining primarily to the technical data and the ownership structure of the cogeneration facility.

Comment date: March 26, 1993, in accordance with Standard Paragraph E at the end of this notice.

14. Indeck-Yerkes Limited Partnership

[Docket No. QF87–265–002]

On February 26, 1993, Indeck-Yerkes Limited Partnership (Applicant) tendered for filing a supplement to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The supplement provides additional information pertaining primarily to the ownership structure of the cogeneration facility.

Comment date: March 26, 1993, in accordance with Standard Paragraph E at the end of this notice.

15. Otter Tail Power Co.

[Docket No. ER93–408–000]

Take notice that on March 1, 1993, Otter Tail Power Company (Otter Tail) tendered for filing an agreement between Otter Tail and Manitoba Hydro Electric Board (MHEB). Otter Tail states that the Agreements are for the sale of capacity and energy from MHEB to Otter Tail for the months of May through October for 1995 and 1996

Otter Tail requests the Commission to allow this schedule to become effective on May 1, 1995.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

16. Wisconsin Power and Light Co.

[Docket No. ER93–407–000]

Take notice that on March 1, 1993, Wisconsin Power & Light Company (WPL) tendered for filing a "Joint Agreement for Sharing a Spare 115/138–69 kV Transformer" between WPL and Wisconsin Public Service Corporation (WPSC). The agreement is intended to make efficient and economical use by the parties of a spare transformer owned by WPL. WPL requests an effective date 60 days after filing in accordance with the terms of the agreement.

WPL states that copies of this filing have been served on WPSC and on the Public Service Commission of Wisconsin.

Comment date: March 22, 1993, in accordance with Standard Paragraph E end of this notice.

17. Boston Edison Co.

[Docket No. ER93–404–000]

Take notice that on February 26, 1993, Boston Edison Company (BECo) tendered for filing a supplement to Appendix A for the United Illuminating Company (UI) for the sale and/or exchange of power from time to time pursuant to BECo's Electric Tariff, Original Volume No. 6. BECo requests that this Appendix A become effective on May 1, 1993.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

18. Northeast Utilities Service Co.

[Docket No. ER93–403–000]

Take notice that on February 26, 1993, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, and Holyoke Power and Electric Company, tendered for filing a Transmission Service Agreement and a Distribution and Transformation Agreement for service to New England Power Company (NEP).

NUSCO states that the filing is in accordance with Section 35 of the Commission's regulations.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

19. Montaup Electric Co.

[Docket No. ER93–402–000]

Take notice that on February 26, 1993, Montaup Electric Company tendered for filing an annual report titled Conservation and Load Management Informational Report Proposed Surcharge—February 26, 1993—supporting a negative surcharge for the period March 1, 1993 through February 28, 1994. This annual report filing is required under a conservation and load management (C&LM) clause applied to service to Montaup's affiliated M-rate customers as amended by Montaup in a filing made to the Commission on October 30, 1992 in Docket No. ER93–79–000. The informational report shows that a negative surcharge (credit) will be required to true up collections for the eight months ended December 31, 1992 with actual C&LM costs during that period.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

20. Southwestern Electric Power Co.

[Docket No. ER93–399–000]

Take notice that on February 26, 1993, Southwestern Electric Power Company (SWEPCO) tendered for filing the final return on common equity (Final ROE) to be used in redetermining or "truing-up" cost-of-service formula rates for wholesale service in 1992 to Northeast Texas Electric Cooperative, Inc., the City of Bentonville, Arkansas, the City of Hope, Arkansas, the Oklahoma Municipal Power Authority, Rayburn Country Electric Cooperative, Inc., Cajun Electric Power Cooperative, Inc. and TEX–LA Electric Cooperative of Texas, Inc. SWEPCO provides service to these customers under contracts which provide for periodic changes in rates and charges determined in accordance with cost-of-service formulas, including a formulaic determination of the return on common equity.

Copies of the filing were served upon the affected wholesale customers, the Public Utility Commission of Texas, the Oklahoma Corporation Commission, the Louisiana Public Service Commission and the Arkansas Public Service Commission.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

21. Entergy Power, Inc.

[Docket No. ER93–406–000]

Take notice that Entergy Power, Inc. (Entergy Power), on February 26, 1993, tendered for filing an amendment to an energy sale agreement between Entergy Power and Oglethorpe Power Corporation previously filed with the Commission in Docket No. ER92–518–000 as amended in Docket No. ER92–518–001. Entergy Power requests an effective date of March 1, 1993 and therefore seeks waiver of the Commission's notice requirements.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

22. Wisconsin Public Service Corp.; Marshfield Electric & Water Department

[Docket No. ER93–405–000]

Take notice that on February 26, 1993, Wisconsin Public Service Corporation (WPSC) of Green Bay, Wisconsin, filed

an Agreement dated February 22, 1993, between the City of Marshfield, Wisconsin (Marshfield), and Wisconsin Public Service Corporation (the Agreement). WPSC states that the Agreement, which will be in effect for at least twenty years, will replace and supersede the rate schedules under which WPSC currently provides service to Marshfield, and give Marshfield the option to acquire a 32% ownership interest in one of two combustion turbine (CT) facilities. The Agreement also provides for WPSC to provide Marshfield with a variety of electric services.

WPSC asks that the Agreement be allowed to become effective pursuant to the provisions of Section 205 of the Federal Power Act on April 30, 1993. WPSC states that service under the Agreement is scheduled to begin on the earlier of June 1, 1994 or on the date, expected to be April 30, 1993, the M–33 unit will enter service. Therefore, service under the Agreement will commence shortly after the requested effective date of the Agreement. Pursuant to the Agreement, WPSC's service to Marshfield under its existing Service Agreement No. 6 to WPSC's First Revised Tariff No. 1, as supplemented, will terminate on the M–33 CT in-service date, assuming as expected that the M–33 CT's in-service date occurs prior to June 1, 1994. Appropriate notices of cancellation are included with the filing.

WPSC states that the filing has been served on Marshfield and on the Wisconsin Public Service Commission, and has been posted as required by the Commission's regulations.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

23. Public Service Company of Colorado

[Docket No. ER93–409–000]

Take notice that on March 1, 1993, Public Service Company of Colorado tendered for filing, in accordance with 18 CFR 35.13 of the Commission's Rules of Practice and Regulations, a proposal to supersede its Rate Schedule FERC No. 23, which provides for transmission service between itself and the Platte River Power Authority, with its Transmission Service Tariff submitted in Docket No. ER92–317–000 and identified as FERC Electric Tariff, Original Volume No. 1. The proposed change would have no immediate effect on jurisdictional revenue as Public Service Company of Colorado and the Platte River Power Authority do not anticipate that Public Service Company of Colorado will be providing firm transmission service to the Platte River Power Authority in the foreseeable future. The filing is necessary, however, because the agreement between the parties is contingent upon the acceptance of this filing by the Commission and the parties contemplate that service provided by the Platte River Power Authority for Public Service Company of Colorado will begin April 1, 1993. As a result of the proposed, anticipated effective date the filing requires a waiver of the 60 day notice period.

The proposed supersession of Rate Schedule FERC No. 23 is requested as a result of a new agreement between the parties dated February 5, 1993. The current agreement simply provides for the noncompensatory exchange of transmission services while the new agreement more accurately reflects updated and more accurate costs of providing transmission service, consistent with Public Service Company of Colorado's Colorado-Ute Acquisition Section 205 filing, dated February 6, 1992, which has been accepted by the Commission.

Copies of the filing were served upon state jurisdictional regulators which include the Public Utilities Commission of the State of Colorado and the State of Colorado's Office of Consumer Counsel.

Comment date: March 22, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5829 Filed 3–12–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–05269T North Dakota–1]

Department of Interior, Bureau of Land Management; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

March 8, 1993.

Take notice that on March 3, 1993, the Bureau of Land Management (BLM), Montana State Office, submitted the above-referenced notice of determination pursuant to section 271.703(c)(3) of the Commission's regulations, that the Red River Formation, underlying certain lands in McKenzie County, North Dakota, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application covers 640 acres (75% Federal Lands and 25% Private Lands) described as all of Section 8, Township 151 North, Range 95 West.

The notice of determination also contains BLM's and the North Dakota Industrial Commission's findings that the referenced portion of the Red River Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5830 Filed 3–12–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of January 11 Through January 15, 1993

During the week of January 11 through January 15, 1993, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

John W. Osenbaugh, 1/12/93, LFA–0255

John W. Osenbaugh filed an Appeal from a partial denial by the DOE's National Renewable Energy Laboratory

Area Office of a Request for Information that had been submitted pursuant to the Freedom of Information Act (the FOIA). The DOE remanded the submission for a search of documents responsive to the Appellant's September 17, 1992, request and found that cost and pricing data had been properly withheld in accordance with Exemption 4.

Interlocutory Order

Economic Regulatory Administration, 1/13/93, LRZ–0019

The Economic Regulatory Administration (ERA) filed a Motion to Dismiss a Proposed Remedial Order (PRO) issued on April 30, 1982 to the Dalco Petroleum Company (Dalco) and W. Darryl Zang. After the issuance of the PRO but before Statements of Objections were filed, Dalco and Zang filed for bankruptcy. The Motion was filed because the ERA had reached a settlement with both parties that had been approved by the bankruptcy court. The ERA stated that the approval of the settlements by the bankruptcy court renders unnecessary any further review of the PRO as it related to any liability of these two parties. The DOE agreed. Therefore, the Motion to Dismiss was granted. The proceeding remains active with respect to Louis Porter.

Refund Application

Shell Oil Company, Inter City Oil Co., Inc., 1/12/93, RR315–1

The DOE issued a Decision and Order denying a Motion for Reconsideration filed in the Shell Oil Company special refund proceeding by Inter City Oil Co., Inc. (Inter City). Inter City requested that the DOE reverse its decision in *Shell Oil Company/Arne Moores*, 20 DOE ¶ 85,719 (1990) (*Arne Moores*), in which Inter City's refund claim was combined with that of Consumers Oil Co., for the purposes of determining the appropriate presumption of injury. Inter City argued that the factual criteria which led the DOE to grant separate consideration of claims to affiliated firms in previous Decisions were present in its case. The DOE determined that, on the contrary, Inter City did not satisfy the criteria necessary for the application of separate presumptions and therefore upheld its determination in *Arne Moores*.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full tests of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Agway Inc./Dixie Oil Co. of Alabama, Inc.	RF324–53	01/11/93
Atlantic Richfield Company/Allegheny Cigarette Service Co. et al.	RF304–13328	01/15/93
Atlantic Richfield Company/Andrew's Arco.	RF304–12168	01/13/93
Andrew's Arco ..	RF304–13508	.....
Atlantic Richfield Company/Barry Luff Atlantic, Inc. et al.	RF304–13360	01/13/93
Atlantic Richfield Company/Calabasas Arco.	RF304–12167	01/13/93
Calabasas Arco ..	RF304–12650	.....
Atlantic Richfield Company/Del's Arco et al.	RF304–13413	01/13/93
Atlantic Richfield Company/Empire Petroleum, Inc.	RF304–2159	01/12/93
Atlantic Richfield Company/Fraedrick's Arco.	RF304–13528	01/15/93
Atlantic Richfield Company/Gerald J. Patrone Service Station et al.	RF304–13201	01/11/93
Atlantic Richfield Company/McCauley Arco Service Station.	RF304–8948	01/15/93
Atlantic Richfield Company/Pappy's Arco.	RF304–13421	01/12/93
Attica Central Schools et al.	RF272–83605	01/14/93
Channahon School District 17 et al.	RF272–79424	01/11/93
City of Brewton	RF272–82915	01/13/93
City of Greenville.	RF272–83379	01/13/93
City of San Clemente.	RF272–83397	.....
Town of Kenneth City.	RF272–83484	.....
City of La Fayette.	RF272–82963	01/11/93
Davis Transport, Inc. et al.	RF272–82859	01/13/93
Gulf Oil Corporation/Al Fitzgerald Gulf Service et al.	RR300–132	01/13/93
Gulf Oil Corporation/Cape Coral Gulf et al.	RF300–16011	01/11/93
Gulf Oil Corporation/Charles J. Byars.	RF300–17584	01/14/93
Gulf Oil Corporation/M-Bro Industries, Inc.	RF300–14553	01/15/93
Murphy Oil Corp./Armstrong and Troutwine, Inc.	RF309–1426	01/11/93
Poquoson City Public Schools.	RF272–82994	01/11/93
Suffolk Public Schools.	RF272–82968	01/14/93
Ted Peters Trucking Co., Inc.	RF272–82519	01/11/93
Morvan Freight Lines, Inc.	RF272–86036	.....
Delaware Trucking Co., Inc.	RF272–86956	.....
Texaco Inc./Cyr's Texaco Station et al.	RF321–7987	01/15/93
Texaco Inc./Hilltop Texaco et al.	RF321–16646	01/11/93
Texaco Inc./Overhead Door Company of Fort Worth et al.	RF321–15356	01/14/93
Texaco Inc./System Fuels, Inc.	RF321–5879	01/14/93
Texaco Inc./Tom Simington Texaco et al.	RF321–11309	01/14/93
Texaco Inc./William J. Perret.	RF321–41	01/14/93
231 Texaco	RF321–62	.....
Hiway Texaco ...	RF321–68	.....
Trumansburg Central School District.	RF272–82984	01/11/93

Dismissals

The following submissions were dismissed:

Name	Case No.
Ambrose Reggans	RF321–11780
BBS Construction, Inc	RF272–80628
Clarinda Community School District.	RF272–89080
Culver School District 004 ..	RF272–89062
Dhernecourt Amoco #1	RF321–10663
Ervin Thacker's Texaco	RF321–10832
Eureka City Schools	RF272–78952
G&H Towing Company	RF272–93331
Hull, MA	RF272–89057
John J. Garecht	RF304–13382
Locklair Texaco	RF321–11057
Lyman County, SD	RF272–85536
M.G. Smith Farm	RF272–82530
Melvin Sibley C U Sch. Dist. 4.	RF272–87589
Pat Vincent's Texaco	RF321–10646
Peter Wogwod	RF390–17674
Rainbow Texaco	RF321–10618

Name	Case No.
Richland School District 88A	RF272–89064
Robinson & Robinson	RF272–92529
Robinson & Robinson	RF272–92583
Ronald V. Wood Texaco	RF321–10876
Salisbury, MA	RF272–89068
Santa Rosa ISD	RF272–89029
Shelnutt Texaco	RF321–10621
Shorty's Texaco	RF321–10845
South Hill Gulf	RF300–17220
Stone's Truck Center Corp	RF321–10886
Stutts Gulf	RF300–17186
Texoma Texaco	RF321–10619
Tommy Zachary Texaco	RF321–10894
Weyauwega-Fremont School District	RF272–83635
William H. Brown Arco	RF304–12614

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: March 9, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 93–5876 Filed 3–12–93; 8:45 am]

BILLING CODE 6450–01–M

Notice of Issuance of Decisions and Orders During the Week of January 18 Through January 22, 1993

During the week of January 18 through January 22, 1993, the decisions and orders summarized below were issued with respect to applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Request for Exception

Suburban Fuel Company, 1/22/93, LEE–0045

Suburban Fuel Company (Suburban) filed an Application for Exception from the provisions of the Energy Information Administration (EIA) reporting requirements in which the firm sought relief from filing Form EIA–782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that the firm was not adversely affected by the reporting burden in a way that is significantly different from the burden borne by similar reporting firms. Accordingly, exception relief was denied.

Refund Applications

Aminoil U.S.A., Inc./Behm Family Corporation, 1/21/93, RR139–74

The Department of Energy (DOE) issued a Decision and Order denying the last filing in the Aminoil U.S.A., Inc. Subpart V Special Refund Proceeding (Aminoil), a Motion for Reconsideration by Behm Family Corporation (Behm). In that Motion, Behm sought recalculation of its 1973–75 banks of unrecovered costs using comparison propane price postings for Oklahoma Group 3 found in Platt's Oil Price Handbook and Oilmanac (Platt's), rather than the Platt's Chicago propane price postings used in the original DOE determination. The DOE found that the Behm application previously had been the subject of six administrative or judicial decisions, including review by the Temporary Emergency Court of Appeals. Further, in considering the Motion, the DOE found it both procedurally and substantively meritless. Behm failed to show any "significant changed circumstances" justifying reconsideration of the prior determinations because it had not offered any new, different or previously unavailable information. In addition, the DOE found the Motion to be without substantive basis because firms that had successfully employed the Oklahoma price comparison had provided specific information demonstrating the applicability of those prices. Behm had never made a similar showing in any of its filings. Further, Behm itself had suggested the use of the Platt's Chicago prices in its original application and was bound by its choice. The DOE also announced that it would no longer accept any applications or motions for reconsideration in the Aminoil proceeding, and would make any remaining funds available for indirect restitution pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986. Accordingly, the Motion was denied.

Pennzoil Company/Louisiana, 1/21/93, RQ10–574

The DOE issued a Decision and Order granting a second-stage refund application filed by the State of Louisiana in the Pennzoil special refund proceeding. Louisiana requested permission to use $1,500,000 of its allocated Pennzoil monies to continue funding its Statewide Recycling Awareness Program. Although the Statewide Recycling Awareness Program focused largely on the environmental benefits of a reduced solid waste stream (second-stage programs designed solely to improve environmental conditions are generally not approved) the DOE determined that significant energy savings would be realized through Louisiana's promotion of organized recycling. The DOE found that this program, as part of Louisiana's overall balanced restitutionary program, would provide restitution to injured consumers of refined petroleum products. Accordingly, the State's second-stage refund application was granted.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/ Ahmad's Arco.	RR304–23	01/19/93
Atlantic Richfield Company/General Oil Co., Inc.	RF304–13309	01/19/93
Canton Union School District 66 et al.	RF272–79535	01/22/93
Curtis Oil Co. et al.	RF272–14851	01/19/93
Greenwood School District et al.	RF272–80914	01/19/93
Gulf Oil Corporation/ Flagman Filling Stations.	RF300–17458	01/22/93
Richard S. Dickinson.	RF300–17764	.....
Harold Dickey Transport, Inc. et al.	RF272–92247	01/19/93
Nome Joint Utility System.	RF272–68626	01/22/93
Schuyler C. U. School District et al.	RF272–79043	01/19/93
Shell Oil Company/ Dreyer's Shell Service et al.	RF315–8718	01/21/93
Shell Oil Company/ Hamilton Farm Bureau Co-op, Inc.	RF315–1278	01/22/93

Shell Oil Company/ Thrifty Squirrel.	RF315–7277	01/22/93
Andy's Shell Service.	RF315–7282	.....
Roy E. Shimek.	RF315–7278	.....
Texaco Inc./ Riverside Texaco et al.	RF321–5196	01/19/93
Town of Littleton.	RF272–83374	01/19/93
City of Conrad.	RF272–83483	.....
City of Caribou.	RF272–83496	.....
City of San Benito.	RF272–83529	.....

Dismissals

The following submissions were dismissed:

Name	Case No.
A.L. Mullins	RF321–11786
American Rent-All, Inc	RF321–16558
B–A Cartage	RF272–89092
Bericowitz Texaco	RF321–10372
Brumfield Texaco	RF321–10326
Cator's Texaco	RF321–14607
Crescent Beach Texaco	RF321–10343
David W. Steward	RF304–13460
Ernie's Texaco	RF321–15715
Glover Distributing Co	RF300–20584
Goldsmith Tuthill, Inc	RF300–15630
Holiday Texaco Service Station.	RF321–14872
J&K Service	RF300–20713
Kenwood Texaco	RF321–13856
L. Grossman Sons, Inc	RF321–17560
Leblanc's Texaco	RF321–11048
Lone Star Steel Co., Inc	RF300–20166
M.M. Fowler, Inc	RF300–20718
Majo Oil	RF321–13900
Max's 1–70 Texaco	RF321–672
Medora Store	RF321–6804
Miami Oil Company	RF321–18111
Modoc Sportsman Center	RF300–20476
Plains Oil & Gas Co	RF300–20451
Ron Campbell's Texaco Service #2.	RF321–13726
Ski's Texaco	RF321–10328
Stender Oil Company	RF321–6823
Stephen H. Rianda, Jr	RF304–13484
Village Texaco	RF321–13596
West Dixie Texaco	RF321–10329

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: March 9, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 93–5877 Filed 3–12–93; 8:45 am]

BILLING CODE 6450–01–M

Pittsburgh Energy Technology Center; Notice of Intent To Award a Cooperative Agreement to the Consortium for Fossil Fuel Liquefaction

AGENCY: Pittsburgh Energy Technology Center, DOE.

ACTION: Intent to award noncompetitive financial assistance.

SUMMARY: The Department of Energy announces that it intends to make a noncompetitive financial assistance (cooperative agreement) award to the Consortium for Fossil Fuel Liquefaction Science. The title of this assistance instrument will be "Cooperative Research in Coal Liquefaction". Five universities (University of Kentucky, Auburn University, University of Pittsburgh, West Virginia University and University of Utah) are members of this consortium. The award will be intended to support long-term, integrated research on subjects of interest in coal liquefaction. The proposed cooperative agreement is an extension of previous research efforts and also contains distinct new initiatives. The research will be organized into five specific tasks:

(1) Coliquefaction of Coal with Waste Materials,

(2) Catalyst for the Liquefaction of Coal to Clean Transportation Fuels,

(3) Fundamental Research in Coal Liquefaction,

(4) Develop In-Situ Analytical Techniques and

(5) Management and Data Base. The total estimated cost of the project is $19,030,000 with DOE to provide $9,730,000 as its share. The remaining $9,300,000 is to be provided by the Consortium.

DATES: The period of performance for the cooperative agreement will be April 1, 1993 through March 31, 1998.

ADDRESSES: Any comments concerning the proposed action should be addressed to David L. Hunter, U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236–0940.

FOR FURTHER INFORMATION CONTACT: David L. Hunter, 412/892–4524.

SUPPLEMENTARY INFORMATION: This notice is provided pursuant to 10 CFR 600.7(b)(2). The action is supported by a January 13, 1993, Determination of Noncompetitive Financial Assistance citing 10 CFR 600.7(b)(2)(i) criteria (A) and (D). The noncompetitive financial assistance is a logical extension of the research presently being funded by DOE and the Consortium is uniquely qualified to conduct the research so as to satisfy the needs of DOE's Fossil Fuel Energy Program. Competition would have a significant adverse effect on the continuity of the research.

Richard D. Rogus,

Contracting Officer.

[FR Doc. 93–5874 Filed 3–12–93; 8:45 am]

BILLING CODE 6450–01–M

Pittsburgh Energy Technology Center; Notice of Non-Competitive Financial Assistance Award

AGENCY: U.S. Department of Energy, Pittsburgh Energy Technology Center.

ACTION: Notice of non-competitive financial assistance (Grant) Award with the 7th International Conference on Coal Science.

SUMMARY: The U.S. Department of Energy (DOE), Pittsburgh Energy Technology Center (PETC) announces that pursuant to 10 CFR 600.7(b)(2)(i) criterion (B), it intends to make a non-competitive financial assistance (Grant) award to the 7th International Conference on Coal Science for a conference entitled "7th International Conference on Coal Science". Although the conference would be organized and conducted by the grantee using its own funds or those donated by third parties, DOE support of the conference will enhance the public benefits to be derived, and the DOE knows of no other entity which is planning to conduct such an activity.

ADDRESSES: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236–0940.

FOR FURTHER INFORMATION CONTACT: John R. Columbia, Contract Specialist, (412) 892–6219.

SUPPLEMENTARY INFORMATION:

Grant No.: DE–FG22–93PC93626

Title of Research Effort: "7th International Conference on Coal Science"

Awardee: 7th International Conference on Coal Science

Term of Assistance Effort: Two (2) months

Cost of Assistance Effort: $527,000, with DOE estimated funding of $84,000

Objective: Based upon the authority of 10 CFR 600.7(b)(2)(i) criterion (B), the

objective of this Grant is to cofund the 7th International Conference on Coal Science to be held on September 12–17, 1993, in Banff, Alberta, Canada. The purpose of the conference is to transfer information regarding coal science technologies which will contribute toward the environmental goals expressed in both the National Energy Strategy and recent amendments to the Clean Air Act.

Dated: March 5, 1993.

Dale A. Siciliano,

Contracting Officer.

[FR Doc. 93–5675 Filed 3–12–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. JD93–05063T Texas-121]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

March 8, 1993.

Take notice that on March 1, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to section 271.703(c)(3) of the Commission's regulations, that the Wilcox formation, L–27 and L–28 Sands, Bob West Field, underlying portions of Starr and Zapata Counties, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is in Railroad Commission District No. 4 and consists of approximately 3,344 acres in the following surveys:

Porcion 57—Lazaro Vela, A–354
Porcion 56—Juan Pantaleon Yzaguirre, A–139
Porcion 55—Juan Leal, A–335
Porcion 15—Jose Clement Gutierrez, A–35
Porcion 14—Bernaro Gutierrez, A–34

The notice of determination also contains Texas' findings that the referenced portions of the Wilcox Formation, L–27 and L–28 Sands meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5831 Filed 3–12–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG93–30–000]

Crown Energy, L.P.; Notice of Application for Commission Determination of Exempt Wholesale Generator Status

March 8, 1993.

On March 1, 1993, Crown Energy, L.P., 100 Fluor Daniel Drive, C303G, Greenville, South Carolina 29607–2762, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended by section 711 of the Energy Policy Act of 1992.

The applicant describes itself as a limited partnership which will be engaged directly and exclusively in owning and operating a coal-fired electric power production facility of approximately 181 MW, located in West Deptford Township, New Jersey, for the generation and sale of electric power at wholesale. The general partner of the applicant is a subsidiary of Fluor Daniel Development Corporation. The limited partner of the applicant is a subsidiary of Mission Energy Company.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before March 22, 1993 and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5832 Filed 3–12–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG93–31–000]

Vista Energy, L.P.; Notice of Application for Commission Determination of Exempt Wholesale Generator Status

March 8, 1993.

On March 1, 1993, Vista Energy, L.P., 12500 Fair Lakes Circle, suite 420, Fairfax, Virginia 22033, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended by section 711 of the Energy Policy Act of 1992.

The applicant describes itself as a limited partnership which will be directly and exclusively engaged in owning and operating a coal-fired electric power production facility of approximately 181 MW, located in West Deptford Township, New Jersey, for the generation and sale of electric power at wholesale. The general partner of the applicant is a subsidiary of Mission Energy Company. The limited partner of the applicant is a subsidiary of Fluor Daniel Development Corporation.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before March 22, 1993 and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5833 Filed 3–12–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4605–9]

Meetings of the Grand Canyon Visibility Transport Commission Work Plan Committees

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of meetings.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) is announcing two meetings of the working committees of the Grand Canyon Visibility Transport Commission (Commission). The first meeting will be for the Operations Committee to discuss management of the Commission's Work Plan. It will be held at the offices of the Western Governors' Association, 600 17th Street, Denver, Colorado, beginning at 10 a.m. (MST) on March 18. The second meeting is for all working committees and subcommittees, including the Public Advisory Committee. This second meeting will be held at the Albuquerque Convention Center, 330 Tijeras, NW, Albuquerque, New Mexico, beginning at 1 p.m. (MST) on April 13, 1993. The committees were established by the Commission by approval of a work plan at its June 21, 1992 meeting (see 56 FR 24790, June 11, 1992, and 56 FR 38633, August 26, 1992). The Commission was established by the EPA on November 13, 1991 (see 56 FR 57522, November 12, 1991).

The series of meetings beginning on April 13, 1993 will include a workshop by the members of the Alternatives Assessment Committee which is designed to develop visibility policy management options to be considered in the Commission's deliberations. All of the committees will review tasks in progress and will assign additional work plan tasks to participating State, Federal, private and nongovernmental organizations. All meetings are open to the public. These meetings are not subject to provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended.

DATES: The meetings will be held as follows (all times MST):

March Meetings in Denver, Colorado

Operations Committee:
Thursday, March 18, 10 a.m.–5 p.m.
Friday, March 19, 8:30 a.m.–3 p.m.

April Meetings in Albuquerque, New Mexico

Operations Committee:
Tuesday, April 13, 1 p.m.–9 p.m.
Wednesday, April 14, 8:30 a.m.–5 p.m.
Saturday, April 17, 8:30 a.m.–noon.
Public Advisory Committee Steering Committee:
Wednesday, April 14, 10:00 a.m.–noon.
Public Advisory Committee:
Wednesday, April 14, 1 p.m.–5 p.m.
Alternatives Assessment Committee Management Options Workshop:
Thursday, April 15, 8:30 a.m.–5 p.m.
Friday, April 16, 8:30 a.m.–2 p.m.
All Work Plan Committees and Subcommittees:
Friday, April 16, 2:30 p.m.–4:30 p.m.

ADDRESSES: The March meetings will be held in Denver, Colorado, at the offices of the Western Governors' Association, 600 17th Street.

The April meetings will be held at the Albuquerque Convention Center, 330 Tijeras, NW. The April 17 meeting of the Operations Committee will be held at the Albuquerque Hyatt Regency, 401 Second Street, NW.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Leary, Project Manager for the Grand Canyon Visibility Transport Commission, Western Governors' Association, 600 17th Street, suite 1705, South Tower, Denver, Colorado 80202. Telephone number (303) 623–9378. Facsimile machine number (303) 534–7309.

Dated: March 3, 1993.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93–5870 Filed 3–12–93; 8:45 am]

BILLING CODE 6560–50–P

[FRL–4605–6]

Public Meeting on the Hazardous Waste Identification System

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: We are giving notice of an April 1–2 meeting to discuss issues related to contaminated media and treatment residuals. The meeting is open to the public without advance registration.

DATES: The meeting will start at 9 and end by 5 p.m. each day.

ADDRESSES: The meeting will be held at the Capitol Hilton Hotel, 16th and K Street NW., Washington, DC 20036, (202) 393–1000.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on substantive aspects of these issues should contact William A. Collins, Jr., Office of Solid Waste, OS–333, Environmental Protection Agency, Washington, DC 20460, (202) 260–4791. Persons needing further information on procedural matters should call the meeting Co-facilitator, Denise Madigan, of Endispute, Washington, DC (202) 429–8782.

Dated: March 9, 1993.

Chris Kirtz,

Director, Consensus and Dispute Resolution Program.

[FR Doc. 93–5867 Filed 3–12–93; 8:45 am]

BILLING CODE 6560–60–M

[FRL 4606–2]

Science Advisory Board Radiation Advisory Committee Open Conference Call Meeting

Under Public Law 92–463, notice is hereby given that the Science Advisory Board's Radiation Advisory Committee of EPA will conduct a conference call meeting, Wednesday, March 24, 1993 at 11 a.m. to 1 p.m. EST. The meeting is open to the public.

The purpose of the conference call is allow the Subcommittee members to discuss the status of knowledge and research needs in the areas of radon risk assessment, radon control and radon communication. The conference call discussion will be helpful to the Subcommittee in developing the agenda for its planned face-to-face meeting May 21–22 in Washington, DC.

Members of the public wishing to provide written comment should do so before March 17, 1993. Opportunities for oral comment will be restricted to a total of fifteen minutes. Twenty lines have been reserved for this call, of which ten are required by the Subcommittee, and two by EPA and SAB staff. Members of the public wishing to reserve a line should call Mrs. Kathleen Conway, Designated Federal Official, Radiation Advisory Committee, Science Advisory Board (A–101–F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Phone: (202) 260–6552; FAX (202) 260–7118.

Dated: March 8, 1993.

A. Robert Flaak,

Assistant Staff Director, Science Advisory Board.

[FR Doc. 93–5982 Filed 3–12–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4605–3]

Superfund Program; Policy on the Performance of Risk Assessments at Superfund Sites; 1992 Risk Assessment Evaluation Report and Responses to Public Comments on EPA's Conduct of the Evaluation; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of the availability of the risk assessment evaluation report and

response to public comments; request for comment.

SUMMARY: As discussed in a prior notice (see 57 FR 6116, February 20, 1992), EPA conducted an evaluation during 1992 of the June 21, 1990 policy under which EPA announced that EPA, rather than Potentially Responsible Parties (PRPs), would conduct the risk assessment portion of the Remedial Investigation/Feasibility Study (RI/FS) at Superfund sites. The evaluation focused on the Agency's experience to date in implementing the new policy and on the merits of the new policy compared to the old policy under which PRPs were permitted to conduct risk assessments. The evaluation report, which contains EPA's findings, has now been completed and is available for public review and comment. EPA has also completed its response to public comments submitted in response to the February 20, 1992 notice on how EPA should conduct the risk assessment evaluation; this response is also available for review. The remaining public comments on the merits of the new and old risk assessment policies will be addressed in a future Federal Register notice.

DATES: Any person wishing to submit comments on the Risk Assessment Evaluation must do so on or before April 14, 1993.

ADDRESSES: Written comments on the evaluation should be submitted in duplicate to Matthew Charsky, U.S. Environmental Protection Agency, Office of Waste Programs Enforcement, Guidance and Evaluation Branch (5502-G), 401 M Street SW., Washington, DC 20460. For ease of public review, the evaluation report and the response to public comments will be available at the Superfund public docket, located at EPA Headquarters at the above address in room M2427. Public viewing will be available from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. For parties unable to attend the public viewing, copies of EPA's evaluation report and response to public comments may be requested through the Superfund public docket at (202) 260-3046.

FOR FURTHER INFORMATION CONTACT: Matthew Charsky at the above address, or at (703) 603-8931.

SUPPLEMENTARY INFORMATION: For information on the history of the new policy, see the prior notice published February 20, 1992 (57 FR 6116).

Dated: March 9, 1993.

Richard J. Guimond,

Assistant Surgeon General, USPHS, Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 93-5757 Filed 3-12-93; 8:45 am]

BILLING CODE 6560-60-P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1931]

Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

March 8, 1993.

Petitions for reconsideration and clarification have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857-3800. Opposition to these petitions must be filed March 30, 1993.

See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies. (ET Docket No. 92-9, RM Nos. 7981 & 8004) Number of Petitions Filed: 4.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-5768 Filed 3-12-93; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Proceeding

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Lehigh Valley Community Broadcasters Board of Directors, Allentown, Penn.	BPED-891019MF	93-37
B. Beacon Broadcasting Corporation, Allentown, Penn.	BPED-900905ML	
C. Northampton Community College, Bethlehem, Penn.	BPED-900202MC [dismissed previously]	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading and Applicant(s)

1. Financial, A
2. Environmental, A,B
3. Comparative—Noncommercial, Educational FM, A,B
4. Ultimate, A,B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, Inc. 2100 M Street NW., suite 140, Washington, DC 20037; telephone (202) 857-3800.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 93-5769 Filed 3-12-93; 8:45 am]

BILLING CODE 6712-01-M

Application for Consolidated Hearing

1. The Commission has before it the following mutually exclusive application for a new FM Station:

Applicant, city and state	File No.	MM Docket
Ojeda Broadcasting, Inc., Hobbs, New Mexico.	BPH–910705ML	93–43

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above application has been designated for hearing upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986.

Issue Heading

1. Financial Qualifications.
2. Misrepresentation.
3. Ultimate.

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., suite 140, Washington, DC 20037 (telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief Audio Services Division, Mass Media Bureau.

[FR Doc. 93–5770 Filed 3–12–93; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/state	File No.	MM docket No.
I		
A. Rural Initiatives for Shelter and Education, Hartford, MI.	BPED–870617MC	93–44
B. American Indian Broadcast Group, Inc, Hartford, MI.	BPED–870820MB	

Issue Heading and Applicants

Applicant and city/state	File No.	MM docket No.
1. Environmental, A, B 2. Air Hazard, A, B 3. Comparative, A, B 4. Ultimate, A, B		
II		
A. Triad Family Network, Inc., Winston-Salem, NC.	BPED–910227MD	93–41
B. Positive Alternative Radio, Inc., Asheboro, NC.	BPED–911119MC	

Issue Heading and Applicants

1. Environmental Impact, A 2. 307(b)—Noncommercial Educational FM, A & B 3. Contingent Comparative—Noncommercial Educational FM, A & B 4. Ultimate, A & B		
III		
A. Moonbeam, Inc., Calistoga, CA.	BPH–911115MG	93–44
B. Gary E. Willson, Calistoga, CA.	BPH–911115MO	

Issue Heading and Applicants

1. Comparative, A, B 2. Ultimate, A, B		

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used above to signify whether the issue in question applies to that particular applicant.

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., suite 140, Washington, DC 20037 (telephone 202–857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 93–5771 Filed 3–12–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

The National Board Fiscal Year 1993 Plan for Carrying Out the Emergency Food and Shelter Program (EFSP)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice sets out the plan by which the Emergency Food and Shelter Program National Board (National Board) will conduct a program during FY 1993 to distribute $129,000,000 to private voluntary organizations and local governments for delivering emergency food and shelter to needy individuals. The distribution formula for selecting organizations and localities, and the award amount for each, follow the Plan text.

DATES: The award to the National Board was made October 16, 1992.

FOR FURTHER INFORMATION CONTACT: Fran McCarthy, Disaster Assistance Programs, Federal Emergency Management Agency, (202) 646–3652, or Dennis H. Kwiatkowski, chair, EFSP National Board, (202) 646–3615.

SUPPLEMENTARY INFORMATION: Title III of the Stewart B. McKinney Homeless Assistance Act, 4 U.S.C. 11301 *et seq.*, authorizes use of funds appropriated by the Congress to supplement and expand ongoing efforts to provide shelter, food, and supportive services to homeless, needy individuals. As in past phases, grant awards from this program are provided to address emergency needs. This program is not intended to address or correct structural poverty or long-standing problems. Rather, this appropriation is intended for the

purchase of food and shelter to supplement and expand current available resources and not to substitute or reimburse ongoing programs and services.

The National Board has once again adopted the following operating principles:

- Speedy administration and funding.
- Awards to areas of greatest need.
- Local decision-making.
- Public/private sector cooperation.
- Minimum, but accountable reporting.

The National Board expects Local Boards, Local Recipient Organizations (LROs), and State Set-Aside (SSA) Committees to abide by the stated rules of this Plan and to focus on the following concerns and principles mandated by the National Board:

- Serve individuals in need without discrimination and avoid duplication of benefits by supplementing food and shelter services individuals might currently be receiving, as well as by aiding those who are receiving no assistance.
- Refuse to authorize the spending of funds on costs that differ from those allowed by the National Board, unless a written request is made in advance and approved by the National Board.
- Restrict shelter repairs to minimum work required to bring the facility into compliance with local building codes and for emergency repairs only to keep the facility open during the program year ($5,000 limit). Avoid decorative or non-essential repairs and purchases as this is outside the intent of this program. The benefit of rehabilitation to provide service should be carefully weighed against the response to needs that exist at the time. Emphasis should be placed on currently existing needs.

The National Board is mandated, as are Local Boards, LROs, SSA Committees, and FEMA, to carry out the intent of the law. We must all ensure that as decisions are made, we not only question if a specific expenditure falls within the guidelines for eligible costs, but also if making this expenditure would fulfill the intent of the program and the law.

This funding should be used to target special emergency needs. And when we discuss emergency needs we are referring to economic, not disaster-related, emergencies. The funding should supplement feeding and sheltering efforts in ways that make a difference. What that means is:

- The EFS program is not intended to make up for budget shortfalls or to be considered just a line in an annual budget;
- It is not intended that the funds must go to the same agencies for the exact same purposes every year and;
- The funding is open to all organizations helping hungry and homeless people and it is not intended that the funds should go only to Local Board member agencies or local government agencies.

Having stated what it is not, what does the National Board want this program to be? As we read the law the EFS program should:

- Create inclusive local coalitions that meet regularly to determine the best use of funds and to monitor their use in their respective communities;
- Treat every program year as a fresh opportunity to reassess what particular community needs (e.g.; on-site feeding or utility assistance, mass shelter or homelessness prevention, etc.) should be addressed;
- Encourage agencies to work together to emphasize their respective strengths, work out common problems, and prevent duplication of effort; and,
- Examine whether the program is helping to meet the needs of special populations such as minorities, Native Americans, veterans, families with children, the elderly, and the handicapped.

It is our intention to re-emphasize that this program has a commitment to emergency services. We continue to view it as an opportunity for building a cohesive emergency structure which can, for example:

- Coordinate the assistance provided, across agencies, to families and individuals applying for rental, mortgage, or utility assistance;
- Enhance a food banking network that is economical in its cost and broad in its coverage;
- Reinforce creative cooperation among feeding and sheltering sites to ensure help for street populations most in need; and,
- Establish or maintain a system that complements rather than supplants existing private and governmental efforts to provide rent, mortgage, or utility assistance.

The National Board is aware that much is asked of our voluntary Local Boards and Local Recipient Organizations, and very little administrative funding is provided. But the cooperative model that the EFS program has helped to create can be a useful vehicle for many governmental and community-based programs. As a group, local providers can accomplish much:

- Working with local offices of Federal entities such as the U.S. Department of Agriculture to take full advantage of excess commodities and its other programs or with the U.S. Department of Labor's Job Training Partnership Act (JTPA);
- Working with Federal programs that require the input of local providers such as the Department of Housing and Urban Development's Community Development Block Grant or Emergency Shelter Grant and the Department of Health and Human Services' Health Care for the Homeless;
- Pooling agency efforts to gain Federal (for example, HUD's Transitional Housing Program) and private foundation grants;
- Leveraging EFS funds within the community by encouraging matches of local EFS allocations from State and local governments and private resources; and,
- Exchanging ideas on administrative and accounting methods that can improve delivery of services and focus on the collaborative rather than the competitive aspects of agency relations.

Ten years ago this program began as a one-time effort to help address urgent needs. The survival of this public-private partnership is not only a testament to needs, but also to the effectiveness of the EFS program as an example of local decision-making and community responsibility in attempting to meet those needs.

The EFS program is a reminder of this nation's willingness to confront difficult problems within the society in new ways. But most importantly, the EFS program has fed and sheltered homeless and hungry people, it has maintained homes and the families in those homes, and it has created useful public-private partnerships within communities.

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§ 1.0 Background and Introduction.

The Emergency Food and Shelter Program was established on March 24, 1983 with the signing of the "Jobs Stimulus Bill," Public Law 98–8. That legislation created a National Board, chaired by FEMA, which consisted of representatives of the American Red Cross; Catholic Charities, USA; the Salvation Army; Council of Jewish Federations, Inc.; United Way of

America; and the National Council of Churches of Christ in the U.S.A.

Since that first piece of legislation in 1983, through its authorization under the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77—signed into law on July 24, 1987, subsequently reauthorized under Pub. L. 100–628, signed into law on November 7, 1988), the Emergency Food and Shelter Program has distributed more than $1 billion to over 10,500 social service agencies in more than 2,500 communities across the country.

From its inception, the unique features of this program have been the partnerships it has established. At the national level, the Federal government and board member organizations have the legal responsibility to work together to set allocations criteria and establish program guidelines. Such coalitions, as set forth in the law, are even more vital on the local level. In each community Local Boards make the most significant decisions on their own make-up and operation, the types of services most in need of supplemental help, what organizations should be funded and for what purpose and amount. These portions of the law have remained unchanged and are the core of this unique public-private partnership.

§1.1 Purpose.

This publication is developed by the National Board to outline the roles, responsibilities, and implementation procedures which shall be followed by the Local Boards, LROs, SSA Committees, National Board, and FEMA in the distribution and use of these funds. National in scope, the EFS program will provide food and shelter assistance to individuals in need through local private voluntary organizations and local governments in areas designated by the National Board as being in highest need. The intent of the EFSP is to meet emergency needs by supplementing and expanding food and shelter assistance individuals might currently be receiving, as well as to help those who are receiving no assistance. Individuals who received assistance under previous programs may again be recipients, providing they meet local eligibility requirements.

§2.0 Concept of Operations.

(a) Secretariat of National Board

United Way of America will act as the National Board's Secretariat and fiscal agent and perform the necessary administrative duties that the Board must accomplish.

(b) Funds Distribution

Funds distributed by the National Board will be to areas of greatest need (refer to section 2.3(a) and Supplementary Information, above, for jurisdiction distribution formula and funding requirements).

(c) Distribution to LROs

National Board funds will be distributed to LROs and Fiscal Agents certified eligible by Local Boards. (Refer to section 2.2(b) for selection of LROs and section 2.2(c) for the Fiscal Agent/Fiscal Conduit Agency Relationship).

(d) Administrative Allowance Limitation

There is an administrative allowance limitation of two percent (2%) for local jurisdictions, one-half of one percent (0.5%) for SSA Committees (when in operation), and one percent (1%) for the National Board. Local administrative funds are intended for use by LROs and not for reimbursement of program or administrative costs which any recipient's parent organization (its State or regional offices) might incur as a result or this additional funding.

(e) Notification of Award Eligibility

The National Board will notify qualifying jurisdictions of award eligibility within 60 days following allocation by FEMA. Unused or recaptured funds will be reallocated by the National Board, except in the case of SSA counties whose funds may be reallocated by the respective SSA Committees.

(f) Funds End-Date

All funds shall be paid out by LROs and spending shall cease by their jurisdiction's selected end date. Local Boards have until one month following their end date to submit final reports and complete documentation of expenses (for specified LROs only) to the National Board.

Those LROs not required to submit documentation to the National Board must satisfy the Local Board that all funds have been expended in accordance with National Board guidelines. **Note:** Local Boards and LROs are reminded that although documentation may not be required to be submitted with their final report, they are subject to random audits which may require the submission of documentation at a later date.

§2.1 Financial Terms and Conditions.

(a) Definitions

"Local Recipient Organization" refers to the local private or public organizations that will receive any award of funds from the National Board.

"Award" refers to the award of funds made by the National Board to a local private or public organization on the recommendation of a Local Board.

"End-of-program date" refers to the date, as agreed upon by Local and National Board, by which all monies in a given jurisdiction must be spent or returned.

(b) Amendments

An award may be amended at any time by a written modification. Amendments that reflect the rights and obligations of either party shall be executed by both the National Board and the recipient organization. Administrative amendments such as changes in accounting data may be issued unilaterally by the National Board.

(c) Local Board Authority Related to Recipient Organizations

(1) The Local Board is responsible for monitoring expenditures of recipient organizations providing food, services, or both, authorizing the adjustment of funds between food and shelter programs, and reallocating funds from one recipient organization to another.

(2) Local Boards may not alter or change National Board cost eligibility or approve expenditures outside the National Board's criteria without National Board permission. (Refer to section 4.0 on Variances and Waivers.)

(3) A Local Board can call back funds from an LRO and reallocate to another LRO in the case of gross negligence, inadequate use of funds, failure to use funds for purposes intended, or for any other violation of the National Board guidelines, or in cases of critical need in the community. The Local Board must advise, in writing, all concerned recipient organizations of any reduction or reallocation of their original award.

(4) If the Local Board discovers ineligible expenditures by a recipient organization, the Local Board must send to the organization a written request for reimbursement of the amount. The National Board must also be notified. If the recipient organization is unwilling or unable to reimburse the National Board for the ineligible expenditures, the Local Board must refer the matter to the National Board. The National Board may ask the Local Board to take further action to see that reimbursement of ineligible expenditures is made to the National Board, or the National Board may refer the matter to FEMA.

If the Local Board suspects that fraud has been committed by a recipient organization, the Local Board must

contact the Office of the Inspector General, FEMA, in writing or by telephone at 1–800–323–8603 with details of suspected fraud or misuse of Federal funds.

(5) If a recipient organization received an award under previous phases, it must not include those funds in any reporting for the present awards. Reports should be confined to the amount granted by the National Board under the new appropriations legislation.

(d) Cash Depositories

(1) Any money advanced to the recipient organization under the terms of this award must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) or Federal Savings & Loan Insurance Corporation (FSLIC) insurance coverage, and the balance exceeding the FDIC or FSLIC coverage must be collaterally secured. Interest income earned on these monies must be put back into program costs.

(2) Recipient organizations are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). This is consistent with the national goal of expanding the opportunities for minority business enterprises. A list of minority-owned banks can be obtained from the Office of Minority Business Enterprises, Department of Commerce, Washington, DC 20203.

(e) Retention and Custodial Requirements for Records

(1) Financial records, supporting documentation, statistical records, and all other records pertinent to the award shall be retained for a period of three years, with the following exceptions:

(i) If any litigation, claim or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

(ii) Records for nonexpendable property, if any, acquired in part with Federal funds shall be retained for three years after submission of a final report. Nonexpendable property is defined as tangible property having a useful life of more than one year and an acquisition cost of more than $300 per unit.

(2) The retention period starts from the date of the submission by the recipient organization of the final expenditure report.

(3) The National Board may request transfer of certain records to its custody from the recipient organization when it determines that the records possess long-term retention value. The recipient organization shall make such transfers as requested.

(4) The Director of FEMA, the Comptroller General of the United States, and the National Board, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the recipient organization, and its subgrantees to make audits, examinations, excerpts and transcripts.

(f) Financial Management Systems

(1) The recipient organization/fiscal agent or fiscal conduit shall maintain a financial management system that provides for the following:

(i) Accurate, current and complete disclosures of the financial results of this program.

(ii) Records that identify adequately the source and application of funds for federally supported activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, and incomes.

(iii) Effective control over and accountability for all funds, property, and other assets.

(iv) Procedures for determining eligibility of costs in accordance with the provisions of the EFSP manual.

(v) Accounting records that are supported by source documentation. The recipient organization must maintain and retain a register of cash receipts and disbursements and original supporting documentation such as purchase orders, invoices, canceled checks, and whatever other documentation is necessary to support its cost under the program.

(vi) A systematic method to ensure timely and appropriate resolution of audit findings and recommendations.

(vii) In cases where more than one civil jurisdiction (e.g., a city and a balance of county, or several counties) recommends awards to the same recipient organization, the organization can combine these funds in a single account. However, separate program records for each civil jurisdiction award must be kept.

(g) Audit requirements

The LRO will be eligible to receive funds if it arranges for an audit of funds to coincide with the next scheduled annual audit of its financial affairs. An original and two copies of this audit will be provided to the National Board on request. It is not necessary to have a separate, independent audit for this award so long as program funds are treated as a separate element in the recipient organization's regular annual audit. If the recipient organization does not have a certified annual audit, its audit must be provided by a Local Board-designated fiscal agent for the recipient organization willing to account for the funds.

All National Board-funded agencies (both governmental and not-for-profit) that receive $100,000 or more in Federal funds must comply with the Single Audit Act. This $100,000 could be exclusively EFSP funds or a combination of EFSP funds and other Federal funds which an agency might be receiving. In addition to compliance with the Single Audit Act, the National Board requires all EFSP-funded agencies to meet the requirements stated in this plan regarding program compliance, reporting, documentation and submission of documentation.

(h) Payment

A first payment shall be made to the LRO by the Secretariat upon recommendation of the Local Board and approval by the National Board. An interim report will be mailed with the second and third check requests to be completed by each agency and mailed to the National Board. Second/third installments will be held until the jurisdiction's final Local Board report and documentation for the previous year has been reviewed and found to be clear.

(i) Financial Reporting Requirements

Recipient organizations shall submit a financial status report to the Local Board which will forward it to the National Board by one month after the jurisdiction's program ending date.

The National Board shall provide the recipient organization, through the Local Board, with the necessary report forms well in advance of report deadlines.

(j) Closeout Procedures

(1) The following definitions shall apply to closeout procedures:

"Close-out" is the process by which the National Board determines that all applicable administrative actions and all required work pertaining to the award have been completed.

"Disallowed costs" are those charges that the National Board determined to be unallowable in accordance with the legislation, National Board requirements, applicable Federal cost principles, or other conditions contained in the award. The applicable cost principles for Private Voluntary Organizations are contained in OMB Circular A–122, "Cost Principles Applicable for Non-Profit Agencies," and OMB Circular A–110, "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and

Other Non-Profit Organizations." The applicable cost principles for Public Organizations are contained in OMB Circular A–87, "Cost Principles for State Agencies and Units of Local Governments." If unsure of where to find these circulars, check with your local Congressional Representative.

(k) Lobbying

The recipient organization shall not use EFSP or any Federal appropriated grant funds for lobbying activities. This condition bars the use of Federal money for political activities, but does not in any way restrict lobbying or political activities paid for with non-Federal funds. This condition prohibits the use of Federal grant funds for the following activities:

(1) Federal, State or local electioneering and support of such entities as campaign organizations and political action committees;

(2) Direct lobbying of the Congress and State legislatures to influence legislation;

(3) Grassroots lobbying concerning either Federal or State legislation;

(4) Lobbying of the executive branch in connection with decisions to sign or veto enrolled legislation; and,

(5) Efforts to utilize State or local officials to lobby the Congressional or State Legislatures.

§ 2.2 Organization, Roles, and Responsibilities

(a) Local Board

(1) Each area designated by the National Board to receive funds shall constitute a Local Board. In a local community where there are affiliates of the United Way of America, The Salvation Army, the National Council of Churches of Christ in the U.S.A., Catholic Charities, U.S.A., Council of Jewish Federations, and the American Red Cross, which are represented on the National Board, they must be invited to serve on the Local Board. The National Board mandates that if a jurisdiction is located within or encompasses a federally recognized Indian reservation, a Native American representative must be invited to serve on the Local Board. The County Executive/Mayor, appropriate head of local government or his or her designee will replace the FEMA member. An agency's own governing board is not an acceptable substitute for a Local Board. Local Boards are encouraged to expand participation and membership by inviting or notifying minority populations, other private non-profit organizations and government organizations; the jurisdiction should be geographically represented as well.

The members of each Local Board will elect a chair. Local Board membership is not honorary; there are specific duties the board must perform. If a member cannot regularly attend meetings, the member should be replaced by the member's designated agency. If a member must be absent from a meeting, the member's organization may designate an alternate.

(2) If a locality has not previously received funding and is now designated as being in high need, the National Board has designated the local United Way to constitute and convene a Local Board as described above. If there is no local United Way, or it does not convene the board, the local American Red Cross, the local Salvation Army, or a local government official will be responsible for convening the initial meeting of the Local Board.

If a locality has previously received National Board funding, the former chairman of the Local Board will be contacted regarding any new funding the locality is designated to receive.

Each award phase is new; therefore, the Local Board is a new entity in every phase. The convener of the Local Board must ask each agency to designate or redesignate a representative every program year.

(3) The Local Board must establish and follow regular procedures. The National Board encourages Local Boards to hold regularly scheduled meetings, to ensure that a majority of members be present for the meeting to be official, and to require that attendance and decision-making minutes be kept. Meeting minutes must be approved by the Local Board at the next meeting. They must also be available to the National Board, Federal authorities, and the public on request.

(4) The Local Board will have 25 working days after the notification of the award selection by the National Board in which to advertise and promote the program and consider all private voluntary and public organizations for participation, including those on Indian reservations. Consideration must be given to any agency providing or capable of providing emergency food and shelter services, not only those represented on the Local Board or affiliates of State or national organizations. Advertising must take place prior to the Local Board's allocation of funds. Failure to advertise properly will delay processing of the jurisdiction's board plan.

(5) The Local Board selects and recommends which local organizations should receive grants and the amounts of the grants. Since member agencies of the Local Board may also apply for funding, care must be taken that every applicant is judged by common, consistent criteria. Local Board members should strive to use sound judgement and fairness in their approach. The Local Board should be prepared to justify an allocation of one-third (⅓) or more of its total award to a single recipient organization. Note: The minimum grant per LRO is $300 and only whole-dollar amounts may be allocated.

(6) Local Boards must complete and return all required forms to the National Board. (Local Board Plan, Local Board Certification Form, and Local Board Roster).

(7) Local Boards shall secure and retain signed forms from each LRO certifying that program guidelines have been read and understood, and that the LROs will comply with cost eligibility and reporting requirements.

(8) Local Boards must notify the National Board of changes in the Local Board chair, staff contact, or LRO contacts, including complete addresses and phone numbers.

(9) Local Boards that determine they can better utilize their resources by merging with neighboring boards may do so. The head of government or his or her designee for each jurisdiction must sit on the merged board, along with agency representatives from each jurisdiction. The merged Local Board must ensure that the award amount designated for each civil jurisdiction is used to provide assistance to individuals within that jurisdiction.

(10) Local Boards are required to be familiar with current guidelines and to provide technical assistance to service providers. Advice and counsel can be provided by National Board staff.

(11) An appeals process shall be established to address participation or funding including, where deemed appropriate, the involvement of individuals not a part of the dispute in the decision, to hear and resolve appeals made by funded or non-funded organizations, and to investigate complaints made by individuals or organizations. Appeals should be handled promptly. Cases that cannot be handled locally should be referred in writing to the National Board and include details on action that has been taken. Cases involving fraud or other misuse of Federal funds should be reported to the Office of the Inspector General, FEMA, in writing or by telephone at 1–800–323–8603.

(12) The chair of the Local Board or his or her designated staff will be the central coordination point of contact between the National Board and the LRO selected to receive assistance from

EFSP. To facilitate program coordination, the chair of the Local Board will contact the State agencies through which surplus food and other Federal assistance are provided.

(13) Local Boards will be responsible for monitoring programs carried out by the organizations they have selected to receive funds. Local Boards should work with LROs to ensure that funds are being used to meet immediate food and shelter needs on an ongoing basis. Local Boards may not alter or change National Board cost eligibility or approve expenditures outside the National Board's criteria without National Board permission. **Note:** When selecting more than one provider for rent and mortgage, the Local Board must be able to ensure a collaborative effort among those providers.

(14) The Local Board should reallocate funds whenever it determines that the original allocation plan does not reflect the actual need for services or if an LRO is unable to use its full award effectively. Funds must be recovered and may be reallocated if an LRO makes ineligible expenditures or uses funds for items that have clearly not been approved by the Local Board. Funds held in escrow for LROs which have unresolved compliance problems can be reallocated or may be reclaimed by the National Board.

The Local Board may approve reallocation of funds between LROs that are already participating in the program. However, the National Board must be notified in writing. The Local Board may also return funds to the National Board for reissuance to another LRO or request reallocation of remaining funds before they are released by the National Board (e.g., second/third payments).

If the Local Board wishes to reallocate funds to an agency that was not approved on the original board plan, a written request for approval must be made to the National Board. An LRO must be approved by the National Board prior to receipt of funds.

If a Local Board is unable to satisfy the National Board that it can utilize funds in accordance with this plan, the National Board may reallocate the funds to other jurisdictions.

(15) Should anyone have reason to suspect that EFSP funds are being used for purposes contrary to the law and guidelines governing the program, the National Board recommends taking action to assist in bringing such practices to a halt.

The National Board requires that the Office of the Inspector General, FEMA, be contacted immediately when fraud, theft, or other criminal activity is suspected in connection with the use of EFSP funds, or the operation of a facility receiving EFSP funds. This notification can be made by calling the Inspector General's Hotline at 1–800–323–8603, or in writing to: Office of the Inspector General, FEMA, 500 C Street, SW., Washington, DC 20472. The complainant should include as much information as possible to support the allegation and preferably furnish his/her name and telephone number so that the special agents assigned to that office may make a follow-up contact. The confidentiality of any communication made with the Office of Inspector General is protected by Federal law.

A complainant desiring to remain totally anonymous should make a follow-up phone call to the Office of Inspector General within 30 days from the date of the original complaint so that any follow-up questions may be asked. Follow-up calls should be made to 1–202–646–3894 during normal business hours, Eastern Standard Time (charges may be reversed). The caller should advise that he/she is making a follow-up call regarding a prior anonymous complaint. The Office of the Inspector General, FEMA, will appropriately notify both local law enforcement authorities and the National Board concerning the substance of the allegations and the results of the investigation.

(16) Reports to the National Board on LROs' expenditures shall be submitted as the date each LROs second/third check is requested and a final report should be submitted one month after the jurisdiction's end-of-program date.

(17) After the close of the program, the accuracy of all LROs' reports and documentation shall be reviewed. Documentation for specified LROs should be forwarded to the National Board as requested. In the event of expenditures violating the eligible costs under this award, the Local Board must require reimbursement to the National Board.

Local Boards are required to remain in operation until all program and compliance requirements of the National Board have been satisfied. All records related to the program must be retained for three (3) years from the end-of-program date.

(18) Each jurisdiction will be granted the option to extend its spending period by 30, 60, or 90 days. This option will be offered during the summer of each phase. The extension applies to the entire jurisdiction. Should the jurisdiction receive a grant in the next phase, that phase's spending period will begin the day after the chosen end-date.

(b) Local Recipient Organization

(1) In selecting LROs to receive funds, the Local Board must consider the demonstrated ability of an organization to provide food and shelter assistance. LROs should be selected to receive funds to supplement and extend eligible ongoing services, not be funded in anticipation of a needed service (i.e., fire, flood, or tornado victims); neither should agencies be selected for funding due to budget shortfalls nor for cuts in other funding sources. Local participation in the program is not limited to organizations that are part of any State or national organization. Agencies on Indian reservations are eligible to receive EFSP funds if they meet LRO requirements as set forth in the program manual. Organizations that received awards from previous legislation may again be eligible provided that the organization still meets eligibility requirements.

(2) For a local organization to be eligible for funding it must:

(i) be nonprofit or an agency of government;

(ii) have an accounting system and conduct an annual audit;

(iii) be subject to an annual audit by an independent public accountant;

(iv) practice nondiscrimination. Those agencies with a religious affiliation wishing to participate in the program must agree not to refuse services to an applicant based on religion or require attendance at religious services as a condition of assistance, nor will such groups engage in any religious proselytizing in any program receiving EFSP funds; and,

(v) for private voluntary organizations, have a voluntary board.

Each LRO will be responsible for certifying in writing to the Local Board that it has read and agrees to abide by the cost eligibility and reporting standards of this publication and any other requirements made by the Local Board.

(3) LROs selected for funding must:

(i) Maintain records according to the guidelines set forth in the manual. Consult the Local Board chair/staff on matters requiring interpretation or clarification prior to incurring an expense or entering into a contract. It is important to have a thorough understanding of these guidelines to avoid ineligible expenditures and consequent repayment of funds. LROs' questions can be answered by National Board staff at (703) 706–9660.

(ii) Provide services within the intent of the program. Funds are to be used to supplement and extend or initiate food and shelter services, not as a substitute

for other program funds. LROs should take the most cost-effective approach in buying or leasing eligible items/services, and should limit purchases to essential items within the $300.00 limit for equipment, unless prior approval has been granted by the National Board.

(iii) Deposit funds for this program in a federally insured bank account. Proper documentation must be maintained for all expenditures under this program according to the guidelines. Agencies should ensure that selected banks will return canceled checks. LRO's expenditures and documentation will be subject to review for program compliance by the Local Board, National Board or Federal authorities. Records must be maintained for three years and any interest income must be put back into program expenditures.

(iv) LRO Documentation of EFSP expenditures requires copies of canceled checks (both sides) and itemized vendor invoices. An acceptable invoice has the following characteristics:

(A) It must be vendor originated;

(B) It must have name of vendor;

(C) It must have name of purchaser;

(D) It must have date of purchase;

(E) It must be itemized; and

(F) It must have total cost of purchase.

All LROs will be required to periodically submit documentation to the National Board to ensure continued program compliance.

(v) In addition to the aforementioned documentation, reports to the Local Board must be submitted by their due date. Interim report/second and third check request forms will be enclosed in the LROs' first check package. When the LRO is ready to request its second/third check it must complete and sign the interim report and forward it to the Local Board for its review and approval. The reverse side (second/third check request) should be completed by the Local Board chair and mailed to the National Board. LROs must complete all portions of the final report form, return two copies to the Local Board, including one copy of documentation if requested, and retain a copy for their records.

(vi) The LRO must work with the Local Board to quickly clear up any problems related to compliance exception(s) at the end of the program.

(vii) The LRO shall contact the Local Board regarding technical assistance, interpretation of guidelines, and resources from other Federal programs, such as U.S. Department of Agriculture (USDA) surplus food.

(c) Fiscal Agent/Fiscal Conduit Relationship

(1) For National Board purposes, a fiscal agent/fiscal conduit is an agency that is serving as the mechanism for other agencies to benefit from EFSP funds.

(2) The fiscal agent/fiscal conduit is the organization responsible for the receipt of funds, disbursement of funds to vendors, and documentation of funds received. The fiscal agent/fiscal conduit must meet all of the requirements of an LRO.

(3) Local Boards may wish to use a fiscal agent/fiscal conduit when they desire to fund an agency not having an adequate accounting system or not conducting an annual audit.

(4) Any agency benefitting from funds received by a fiscal agent/fiscal conduit must meet all of the criteria to be an LRO except the accounting system and annual audit requirements and sign the Fiscal Agent/Fiscal Conduit Relationship Certification Form.

(5) Fiscal agents/fiscal conduits may cut checks to vendors only. They may not cut checks to the agencies on whose behalf they are acting or to agencies/sites under their "umbrella." The exception to this is when an agency is using the per diem allowance.

(6) Fiscal agents will be required to submit individual interim and final reports for each agency. Fiscal conduits will file a single interim report on their awards along with a breakdown of agencies and spending with the final report.

(7) Fiscal agents will be reviewed independently for each agency's award. Only an agency with a compliance problem will have funds held. Fiscal conduits will be audited as a single award. If any agency under the fiscal conduit's "umbrella" has a compliance problem, it will hold up the entire fiscal conduit's next award and therefore the amount designated for any agency under the "umbrella."

(8) If any one agency in a jurisdiction is making bulk purchases for other agencies not funded directly, it must serve as a fiscal conduit and follow all rules noted in this section.

(d) State Set-Aside (SSA)

(1) In addition to the awards made to qualifying jurisdictions, an award shall be made to each State.

(2) The SSA process has been adopted to allow greater flexibility in selection of jurisdictions and is intended to target pockets of homelessness or poverty in non-qualifying jurisdictions (refer to Supplementary Information, above, on qualifying criteria), areas experiencing drastic economic changes such as plant closings, areas with high levels of unemployment or poverty which do not meet the minimum 500 unemployed, or jurisdictions that have documented measures of need which are not adequately reflected in unemployment and poverty data.

(3) The distribution of funds to SSA Committees will be based on a ratio calculated as follows: The State's average number of unemployed in non-funded jurisdictions divided by the average number of unemployed in non-funded jurisdictions nationwide equals the State's percentage of the total amount available for SSA awards.

(4) An SSA Committee in each State will recommend high-need jurisdictions and award amounts to the National Board. Priority consideration is to be given to jurisdictions otherwise not meeting criteria for funding, although funded jurisdictions are not exempt from receiving additional funding. SSA Committees should also consider the special circumstances of jurisdictions that qualified in previous funding phases but are not eligible in the current phase. The State Committees may wish to provide these jurisdictions with an allocation so that the abrupt change in funding status is not disruptive to local providers. SSA Committees are encouraged to consider current and significant State or local data in their deliberations. Although the National Board staff provides national data to the SSA Committees, it does *not* mandate any particular formula. These committees are free to act independently in choosing eligible jurisdictions.

(5) In each State, the State United Way (or United Way in the capital city) will be notified of the award amount available to the SSA Committee. In a State where there are affiliates of the voluntary organizations represented on the National Board, they must be invited to serve on the State Committee. If no single State affiliate exists, an appropriate representative should be invited. The Governor or his/her representative will replace the FEMA member. State Committees are encouraged to expand participation by inviting or notifying other private non-profit organizations on the State level. The National Board encourages the inclusion of Native American representation on the State Committee.

(6) Members of the SSA Committee shall elect a person to chair the committee.

(7) The SSA Committees are responsible for the following:

(i) SSA Committees are charged with recommending high-need jurisdictions

and award amounts within the State. When selecting jurisdictions with demonstrated need, the National Board encourages the consideration of counties incorporating or adjoining Indian reservations. The SSA Committee has 25 working days to notify the National Board in writing of its selections and the appropriate contact person for each area.

Note: The minimum award amount for a single jurisdiction is $1,000 and only whole-dollar amounts can be allocated.

(ii) Notification to the National Board of selection criteria that were used to determine which jurisdictions within the State was selected to receive funds.

(iii) The National Board will then notify these jurisdictions directly.

(iv) In the event that funds are not claimed by SSA jurisdictions, SSA Committees may recommend that other jurisdictions receive the reallocated funds.

(e) National Board

The National Board will:

(1) Select jurisdictions of highest need for food and shelter assistance and determine amount to be distributed to each.

(2) Notify national organizations interested in emergency food and shelter to publicize the availability of funds.

(3) Develop the operational manual for distributing funds and establish criteria for expenditure of funds.

(4) In jurisdictions that received previous awards, notify the former Local Board chair that new funds are available. In areas newly selected for funding, notify the local United Way, American Red Cross, Salvation Army, or local government official.

(5) Provide copies of award notification materials to National Board member affiliates and other interested parties.

(6) Secure certification forms and board rosters from Local Boards that funds will be used in accordance with established criteria.

(7) Distribute funds to selected LROs.

(8) Hear appeals and grant waivers.

(9) Establish an equitable system to accomplish the reallocation of unclaimed or unused funds.

(10) Ensure that funds are properly accounted for, and that funds due are collected.

(11) Provide consultation and technical assistance to local jurisdictions as necessary to monitor program compliance.

(12) Submit end-of-program report on jurisdictions' use of funds to FEMA.

(13) Conduct a compliance review of food and shelter expenditures made under this program for specified LROs. The National Board, FEMA, the independent accounting firm selected by the National Board, and/or the Inspector General's office may also conduct an audit of these funds. The National Board is also responsible for monitoring LRO compliance with OMB Circular A–133.

(f) Federal Emergency Management Agency (FEMA)

FEMA will perform the following EFSP activities:

(1) Constitute a National Board consisting of individuals affiliated with United Way of America, the Salvation Army, the National Council of Churches of Christ in the USA, Catholic Charities, USA, the Council of Jewish Federations, Inc., the American Red Cross, and FEMA.

(2) Chair the National Board, using parliamentary procedures and consensus by the National Board as the mode of operation.

(3) Provide policy guidance, management oversight, Federal coordination, and staff assistance to the National Board.

(4) Award the grant to the National Board.

(5) Assist the Secretariat in implementing the National Board Program.

(6) Report to Congress on the year's program activities through the Interagency Council on the Homeless Annual Report.

(7) Conduct audits of the program.

(8) Initiate Federal collection procedures to collect funds due when the efforts of the National Board have not been successful.

§ 2.3 General Guidelines

(a) Designation of Target Areas

Local jurisdictions will be selected to receive funds from the National Board based on average unemployment statistics from the U.S. Department of Labor for the most current 12-month period (July 1991–June 1992) available. Also used are poverty statistics from the 1990 Census. The Board adopted this combined approach in order to target funds for high-need areas more effectively. Funds designated for a particular jurisdiction must be used to provide services within that jurisdiction.

The National Board based its determination of high-need jurisdictions on four factors:

1. Most current twelve-month national unemployment rates;

2. Total number of unemployed within a civil jurisdiction;

3. Total number of individuals below the poverty level within a civil jurisdiction; and,

4. The total population of the civil jurisdiction.

In addition to unemployment, poverty was used to qualify a jurisdiction for receipt of an award.

Jurisdictions were selected under Phase XI (PL 102–389) according to the following criteria:

- Jurisdictions, including balance of counties, with 18,000+ unemployed and a 6.1% rate of unemployment.
- Jurisdictions, including balance of counties, with 500 to 17,999 unemployed and an 8.7% rate of unemployment.
- Jurisdictions, including balance of counties, with 500 or more unemployed and an 11.7% rate of poverty.

Jurisdictions with a minimum of 500 unemployed may qualify for an award based upon their rate of unemployment or their rate of poverty. Once a jurisdiction's eligibility is established, the National Board will determine its fund distribution based on a ratio calculated as follows: the average number of unemployed within an eligible area divided by the average number of unemployed covered by the national program equals the area's portion of the award (less National Board administrative costs, and less that portion of program funds required to fulfill designated awards).

$$\frac{\text{Area's average number unemployed}}{\text{Average number employed in all eligible areas}} = \text{Area's percent of the award (less National Board's administrative costs and designated awards)}$$

(b) Grant Award Process

(1) United Way of America has been designated as the fiscal agent for the National Board and as such will process all Local Board plans. Payments will be made to organizations recommended by Local Boards for funding. Local Boards have the right to reallocate funds throughout the program period, as they determine necessary. When a Local Board reallocation between two or more LROs occurs, the Local Board must promptly notify the National Board in writing so that the National Board's records can be updated accordingly.

(2) The National Board offers two methods of payment to LROs. The two methods are either direct deposit (electronic funds transfer) or checks. The National Board encourages LROs to take advantage of direct deposit where possible.

(3) To ensure greater accountability and reporting, awards totaling less than $100,000 are paid in two equal installments. Awards totaling $100,000 or more will be paid in three equal installments.

(4) The National Board will distribute second/third payments once the jurisdiction's compliance review is completed for the previous program period. Second/third payments will be held in escrow until all compliance exceptions are satisfied by the LRO.

All payments will be mailed directly to the LRO. Second and third payments will be mailed to the LRO only upon the written request of the Local Board Chair which encloses the LROs interim report. The Local Board will authorize second/third payments once it is assured that the organization is implementing the current program as intended and according to the guidelines in the Plan.

(c) Client Eligibility

The National Board does not set client eligibility criteria. Local Boards may choose to set such criteria. If the Local Board does not set eligibility criteria, the LRO may use its existing criteria or set criteria for assistance under this award. However, the LRO's criteria must provide for assistance to needy individuals without discrimination (age, race, sex, religion, national origin, or handicap). **Note:** Funds allocated to a jurisdiction are intended for use within that jurisdiction. Residents of or transients in a specific jurisdiction should seek service within that jurisdiction.

Citizenship is not an eligibility requirement to receive assistance from the EFSP. The National Board does not mandate nor recommend the use of any particular existing criteria (i.e., food stamp guidelines, welfare guidelines, or income guidelines).

§ 2.4 Eligibility of Costs

The intent of this appropriation is for the purchase of food and shelter to supplement and extend current available resources and not to substitute or reimburse ongoing programs and services. Questions regarding interpretation of the program's guidelines should be cleared by the recipient organization with the Local Board prior to action. Local Boards unsure of the meaning of these guidelines should contact the National Board at (703) 706–9660 for clarification prior to advising the LRO. Listed below are the eligible program costs associated with the program, in addition to the documentation required to support the expenditures. **Note:** If an expenditure requested by an LRO is not listed below as eligible, the Local Board has the option of requesting a waiver from the National Board for consideration.

(a) Eligible Program Costs

Eligible program costs include, but are not limited to:

(1) Food (hot meals, groceries, food vouchers). Limited amounts of dessert items (e.g., cookies, ice cream, candy) used as a part of a daily diet plan may be purchased. Also allowable are vegetable seeds and vegetable plants either cultivated in an agency's garden on-site or at an individual's home. Documentation required: Receipts/invoices for food purchased and canceled checks.

(2) An allowance for maintenance fees charged by food banks can be granted by a Local Board at the prevailing rate. EFSP funds cannot be used to pay such a maintenance fee twice: By a food bank and by the food pantry/agency that it is serving.

(3) Transportation expenses related to the provision of food and/or shelter; limited to actual fuel costs, a mileage log at the current Federal rate (25.0 cents per mile), contracted services, or public transportation. Documentation required: (1) Mileage log, or (2) receipts/invoices from contracted services or public transportation, receipts for actual fuel costs, and canceled checks.

(4) Purchase of consumable supplies essential to mass feeding (e.g., plastic cups, utensils, detergent) and/or mass shelters of five or more beds (e.g., soap, toothbrushes, toothpaste, cleaning supplies). Documentation required: Receipts/invoices for supplies purchased and canceled checks.

(5) Purchase of small equipment not exceeding $300 per item and essential for mass feeding (e.g., pots, pans, toasters, blenders, etc.) or for mass shelters (e.g., cots, blankets, linens). Documentation required: Receipts/invoices for equipment purchased and canceled checks.

(6) Leasing, only for the program period, of capital equipment associated with mass feeding or mass shelter (e.g., stoves, freezers, or vans with costs over $300 per item) only if approved in advance by the Local Board. Documentation required: Local Board approval, copy of lease agreement, and canceled checks.

(7) Direct expenses associated with new or expanded services or to prevent closings of mass shelters or feeding operations only during program period (e.g., rent, cleaning, pest control, utilities, garbage pickup. **Note:** This can be done for one program period only. Documentation required: Receipts/invoices/bills for direct expenses and canceled checks.

(8) Increased utility costs due to expanded services for mass shelters and mass feeding centers. **Note:** This is not intended for reimbursement of normal operating costs nor should it include rate increases. Documentation required: Copies of current phase's utility bills and previous year's (same month's) utility bills and canceled checks. Only the difference between the two years can be claimed as an eligible expenditure.

(9) Limited emergency rent or mortgage assistance for individuals or families, provided that:

(i) Payment is in arrears; and

(ii) All other resources have been exhausted; and

(iii) The client is the primary resident of home in which rent/mortgage is being paid; and

(iv) Payment is limited to one month's cost for each individual or family; and

(v) Assistance is provided only once in each award phase for each individual or family.

(vi) An additional 30 days service for the above listed items (i)–(v) is guaranteed.

Note: Late fees, but not deposits, are eligible. Documentation required: Letters from landlords (must include amount of one month's rent and statement that rent is past due), mortgage letters and/or copy of loan coupon showing mortgage amount and date due and canceled checks.

(10) The first month's rent may be paid when an individual or family:

(i) Is transient and plans to stay in the area for an extended period of time; or

(ii) Is moving from a temporary shelter to a more permanent living arrangement; or

(iii) Is being evicted because one month payment will not forestall eviction.

The first month's rent cannot be provided in addition to emergency rent/mortgage payment under Item 9 above. It can be provided in addition to assistance provided in Items 11 and 12 that follow. Documentation required: Letters from landlords (must include amount of first month's rent) and canceled checks.

(11) Off-site emergency lodging in a hotel or motel, provided that:

(i) No appropriate on-site shelter is available; and

(ii) It is limited to 30-days' assistance per individual or family during the program period. **Note:** Assistance may be extended in extreme cases with prior Local Board written approval. A copy of this approval should accompany LRO's documentation. Documentation required: Receipts/invoices from off-site shelter (hotel/motel) and canceled checks.

(12) Per diem allowance of exactly $5 per person or exactly $10 per person per night for mass shelter (five beds or more) providers, only if:

(i) Approved in advance by the Local Board; and

(ii) LRO's total mass shelter award is expended in this manner.

The $5/$10 per diem, if elected, may be expended by the LRO for any related cost; it is not limited to otherwise eligible items. **Note:** It is the decision of the Local Board to choose between the $5/$10 rate. This rate must apply to all agencies funded in the jurisdiction that utilize the per diem allowance. Documentation required: Per diem schedule showing daily rate of $5 or $10.

(13) Limited utility assistance (includes gas, coal, electricity, oil, water, firewood) for individuals or families, provided that:

(i) Payment is in arrears; and

(ii) All other resources have been exhausted (e.g., State's Low Income Home Energy Assistance Program); and

(iii) Payment is limited to one month's cost for each utility for each individual or family. Each utility can be paid only once in each award phase to any individual or family. **Note:** Reconnect fees, but not deposits, are eligible, but again only a one-month payment for each utility for each individual or family in each award phase. Documentation required: (1) Nonmetered utilities (e.g., propane, firewood), receipts/invoices for fuel including due date and canceled checks; (2) metered utilities (e.g., electricity, water), copy of past due utility bill showing monthly charges including due date and canceled checks.

(14) Limited amounts of basic first-aid supplies (e.g., aspirin, band-aids, cough syrup) for mass shelter providers and mass feeding sites only. Documentation required: Receipts/invoices for first-aid supplies and canceled checks.

(15) Emergency repairs/building code of a mass feeding facility or mass shelter, provided that:

(i) The facility is owned by a not-for-profit organization (profit-making facilities, leased facilities, government facilities, and individual residences are not eligible); and

(ii) The emergency repair/building code plan and the contract detailing work to be done and material and equipment to be used or purchased are approved by the Local Board prior to the start of the emergency repair/building code project; and

(iii) The emergency repair/building code is limited to:

(A) Bring facility into compliance with local building codes; or

(B) Keep the facility open for the current program phase.

(C) $5,000.00 is the maximum expenditure. Expenditures over that amount must be approved by the National Board along with extension of time.

(D) No award funds are used for decorative or non-essential purposes or routine maintenance/repairs.

(E) Rehabilitation for expansion of service is no longer eligible.

(F) All emergency repair work is completed and paid for by the end of the jurisdiction's award phase. (Expenses occurring after that date will not be accepted as eligible costs.) Documentation required: Letter from Local Board indicating approval and amount approved, copy of contract including cost or invoices for supplies and contract labor, document citing building code violation requiring the repair (for building code repairs) and canceled checks.

(16) Providing accessibility for the handicapped is eligible for mass feeding or mass shelter facilities and is limited to the $5,000 cap. These improvements may include those required by the Americans With Disabilities Act of 1990. **Note:** All social service providers are mandated to comply with the Americans With Disabilities Act of 1990.

Local Boards may further restrict the allowable costs mentioned above as they deem necessary.

(b) Ineligible Program Costs

Purposes for which funds cannot be used include, but are not limited to:

(1) Rental security; deposits; revolving loan accounts.

(2) Deposits of any kind.

(3) Payment of more than one month's rent.

(4) Payment of more than one month's mortgage.

(5) Transportation to another town or agency not related to food or shelter or to a relative's home.

(6) Payment of more than one month's portion of an accumulated utility bill.

(7) Payments made directly to a client.

(8) Cash payments of any kind including checks made out to cash.

(9) Real property (land or buildings) costing more than $300.

(10) Property taxes of any kind.

(11) Equipment costing more than $300 per item (e.g., vehicles, freezers, washers).

(12) Emergency repairs/building code or rehabilitation to government-owned or profit-making facilities or leased facilities.

(13) Any rehabilitation for expansion of service.

(14) Repairs of any kind to an individual's house or apartment.

(15) Purchase of supplies or equipment for an individual's home or private use.

(16) Lease-purchase agreements.

(17) Administrative cost reimbursement to State or regional offices of governmental or voluntary organizations.

(18) Lobbying efforts.

(19) Expenditures made prior to beginning of jurisdiction's program.

(20) Expenditures made after end of jurisdiction's program.

(21) Expenditures for client-owned transportation (e.g., repairs or gasoline).

(22) Purchase of prescription medication or related medical supplies.

(23) Purchase of clothing (except underwear/diapers for clients of mass shelters, if necessary).

(24) Payments for expenses not incurred (i.e., where no goods or services have been provided during new program period).

(25) Emergency assistance for natural disaster victims.

(i) Supplies bought for and in anticipation of a natural disaster.

(26) Telephone costs, except as administrative allowance and limited to the total allowance (2 percent).

(27) Salaries, except as administrative allowance and limited to the total allowance (2 percent).

(28) Office equipment, except as administrative allowance and limited to the total allowance (2 percent).

(29) LRO may not operate as a vendor for itself or other LROs, except for shared maintenance fee for food banks.

(30) Encumbrance of funds for shelter, emergency repairs, utilities, that is, payments for goods or services that are purchased and are to be delivered at a later date; unless it is intended that these goods or services are received on or before the end of the jurisdiction's program.

(31) Supplementing foster care costs, where an LRO has already received payment for basic boarding of a client. Comprehensive foster care costs beyond food and shelter are not allowed.

(c) Administrative Allowance

(1) There is an administrative allowance limitation of two percent (2%) of total funds received by the Local Board, excluding any interest earned. This allowance is a part of the total award, not in addition to the award. The local administrative allowance is intended for use by LROs and not for reimbursement of the program or administrative costs that a recipient's parent organization (its State or regional offices) might incur as a result of this additional funding.

(2) The Local Board may elect to use, for its own administrative costs, all or any portion of the 2 percent allowance. The decision on distribution of the allowance among LROs rests with the Local Board. No LRO may receive an allowance greater than 2 percent of that LROs award amount unless the LRO is providing the administrative support for the Local Board and it is approved by the National Board.

(3) The SSA Committee, when in operation, may utilize a maximum of one-half of one percent (0.5%) for its administrative costs in allocating the SSA grant. As with Local Board awards, this administrative allowance is part of the total award, not in addition to the award.

(4) Any of the administrative allowance not used must be put back into program funds for additional services. **Note:** The administrative allowance may only be allocated in whole-dollar amounts.

§ 3.0 Appeals Process for Participation/Funding

(a) Fairness and Openness

An appeals process is a statement to eligible agencies and to the community at large that the Local Board is interested in fairness and openness.

A good appeals process begins with prevention. If the Local Board includes both representatives of affiliates of the National Board and representatives of other groups involved with assisting hungry and homeless people, it is less likely to experience an appeal. Similarly, if the Local Board's decision-making process is open, thorough, and even-handed, appeals are less likely.

It is the responsibility of the Local Board to establish a written appeals process. That process may be simple or elaborate, depending on the needs of the community.

(b) Appeals Guidelines

The appeal process should meet the following guidelines:

(1) It should be available to agencies and to the public upon requests;

(2) It should be timely, without undue delay;

(3) It should include the basis for appeal (e.g., Provision of information not previously available to the group making the appeal or to the Local Board; correction of erroneous information; violation of Federal or National Board guidelines; or allegation or bias, fraud, or misuse of Federal funds on the part of the Local Board may be cause for appeal);

(4) The decision should be communicated to the organization making the appeal in a timely manner. In the case of an appeal on the basis of fraud or other abuse of Federal funds, the agency making the appeal must be informed of the right of referral to the National Board;

(c) Primary Decision Maker

Except for cost and LRO eligibility, the Local Board is the primary decision maker. Only when there is significant question of misapplication of guidelines, fraud, or other abuse on the part of the Local Board will the National Board consider action.

(d) Common Appeals Practices

The National Board does not mandate any particular appeals process. However, some Local Boards have developed processes which work well for them and may offer some help to other communities. Common practices include the following:

(1) Set a time period of not more than 30 days for agencies or organizations to appeal a funding decision;

(2) Require written notice of appeal, signed by the Chief Volunteer Officer of the organization making the appeal;

(3) The first level of appeal is usually to the Local Board, or to an executive committee of the board;

(e) Appeals Boards; Delegations

Some boards appoint one or more members to act as a liaison with the organization making the appeal:

(1) In the case of an appeal for the purpose of providing previously unavailable information or correction of erroneous information, the process usually ends with prompt notification of decision (within ten working days of appeal).

(2) In the case of appeals for the purpose of contesting alleged prejudice, violation of law or National Board guidelines, fraud, or misuse of Federal funds, some boards have allowed appeals to a group other than the board itself. This practice is not mandated but is permitted by the National Board. Such groups vary. They may simply be composed of different individuals representing the same organizations that make up the Local Board. They may also include an entirely different group of persons who have knowledge of the program and are deemed by the board to be both responsible and unbiased, and to hold the trust of the community at large.

(3) If the board chooses to delegate authority to any third party in an appeals process, the power and authority of that body should be clear. Is it simply advisory to the Local Board? Will the board abide by the decisions of this body as long as they are consistent with the law and the National Board guidelines?

(4) The disposition of appeals is often communicated by telephone to the chief professional and volunteer officers of the organization appealing immediately after a decision is made. In such cases, a written communication is sent as soon as possible confirming the action taken. The written communication is, of course, the official notification.

(f) National Board Role

It is important to reaffirm that no single appeals process is mandated or advised by the National Board.

§ 4.0 Variances and Waivers

(a) Variances

Local Boards may receive requests for variances in the budgets they have approved for LROs. Local Boards may allow such changes provided that the requested items are eligible under this program. If there is any doubt on the part of the Local Board as to eligibility, it should contact the National Board for clarification.

If an expenditure requested by an LRO falls outside the program guidelines, the Local Board, if in accord, should request in writing a waiver from the National Board in advance of the expenditure.

(b) Waivers

Waivers requested because of a compliance exception must be submitted to the National Board with a

copy to the Local Board chair. A waiver to release the LRO from submitting canceled checks must be submitted before any expenditures are made.

The waiver request from the Local Board should clearly state the need for this exception, approximate costs, timeliness or any other pertinent information it deems necessary for the National Board to make their decision.

§ 5.0 Reporting Requirements

Local Boards must monitor LROs' expenditures and eligible cost compliance throughout the program period. An interim report of expenditures is due to the National Board with each LRO's second/third check request. A final report (accompanied by financial documentation for specified LROs) is due one month after the end of each jurisdiction's program. The National Board will provide forms for all required reports. The National Board advises Local Boards to request at least one other report from their LROs at a time deemed appropriate by each Local Board.

LROs that successfully completed previous program compliance reviews and are receiving funds under this program may not be required to submit documentation with their final reports unless specifically asked to do so by the National Board; however, successful completion does not mean automatic exemption from submission. Documentation will be required for LROs not funded in the previous phase of the program.

Failure of an LRO to comply with the National's Board's reporting requirements may result in its funds being held in escrow. Funds will be held until all reporting requirements have been satisfied. If an LRO does not comply in a timely manner, the Local Board or National Board may reclaim and reallocate the funds being held in escrow.

The National Board will compile the reports it receives from the Local Boards and submit a detailed accounting of use of all program monies in the form of a report to FEMA.

If the Local Board discovers lack of documentation, ineligible expenditures or any other problem in an LRO report, it should contact the LRO and attempt to correct the problem before submitting the report to the National Board. If the National Board discovers a problem, it will inform the Local Board and LRO and advise them of the action to be taken. It is the responsibility of the Local Board to continue working with LROs which have compliance problems until they have been cleared by the Secretariat.

To avoid compliance-related problems, the Local Board should ensure that LROs have a thorough understanding of the types of documentation (e.g., canceled checks (both sides), invoices, contracts, lease agreements, utility bills) they must retain to meet costly eligibility guidelines. Items not listed as eligible or ineligible should not be assumed to be eligible. Local Boards are advised to contact National Board staff for clarification on items subject to interpretation.

LROs failing to clear the National Board compliance review after a reasonable amount of time will be referred to FEMA and will remain ineligible to receive funds until audit problems are received with FEMA.

§ 6.0 Amendments to Plan

The National Board reserves the right to amend this Plan at any time.

Dated: March 5, 1993.

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

The following is a list of all Phase XI (Fiscal Year 1993) funded jurisdictions:

Alabama		
11–0030–00	Autauga County	16,302
11–0032–00	Baldwin County	43,274
11–0034–00	Barbour County	15,632
11–0036–00	Bibb County	11,027
11–0038–00	Blount County	16,675
11–0040–00	Bullock County	9,671
11–0042–00	Butler County	14,395
11–0044–00	Calhoun County	59,040
11–0046–00	Chambers County	20,728
11–0048–00	Cherokee County	11,221
11–0050–00	Chilton County	21,116
11–0052–00	Choctaw County	10,074
11–0054–00	Clarke County	19,596
11–0060–00	Coffee County	17,301
11–0062–00	Colbert County	32,530
11–0064–00	Conecuh County	10,446
11–0068–00	Covington County	24,081
11–0070–00	Crenshaw County	7,466
11–0072–00	Cullman County	33,126
11–0074–00	Dale County	22,904
11–0076–00	Dallas County	33,752
11–0078–00	De Kalb County	30,697
11–0080–00	Elmore County	20,251
11–0082–00	Escambia County	24,662
11–0084–00	Etowah County	60,367
11–0086–00	Fayette County	10,446
11–0088–00	Franklin County	18,031
11–0090–00	Geneva County	9,105
11–0094–00	Hale County	8,315
11–0098–00	Houston County	34,289
11–0102–00	Jackson County	35,496
11–0104–00	Jefferson County	275,815
11–0108–00	Lamar County	9,641
11–0110–00	Luaderdale County	40,682
11–0112–00	Lawrence County	22,851
11–0114–00	Lee County	36,315
11–0116–00	Limestone County	32,977
11–0118–00	Lowndes County	10,163
11–0120–00	Macon County	11,504
11–0126–00	Marengo County	12,786
11–0128–00	Marion County	18,866
11–0130–00	Marshall County	44,303
11–0132–00	Mobile County	204,197
11–0136–00	Monroe County	23,604
11–0138–00	Montgomery County	90,528
11–0142–00	Morgan County	52,543
11–0144–00	Perry County	8,136
11–0146–00	Pickens County	12,190
11–0148–00	Pike County	14,127
11–0150–00	Randolph County	11,146
11–0152–00	Russell County	25,095
11–0154–00	St. Clair County	22,069
11–0158–00	Sumter County	9,731
11–0160–00	Talladega County	45,867
11–0162–00	Tallapoosa County	15,021
11–0164–00	Tuscaloosa County	63,302
11–0168–00	Walker County	45,793
11–0170–00	Washington County	13,620
11–0172–00	Wilcox County	8,852
11–0174–00	Winston County	15,319
11–0176–00	State Set-Aside Committee, AL	83,329
		1,982,188
Alaska		
11–0196–00	Fairbanks North Star Boro	50,412
11–0202–00	Kenai Peninsula Borough	41,382
11–0204–00	Ketchikan Gateway Borough	10,282
11–0208–00	Kodiak Island Borough	9,105
11–0210–00	Matanuska-Susitna Census	37,239
11–0232–00	State Set-Aside Committee, AK	109,044
		257,464
Arizona		
11–0242–00	Apache County	37,105
11–0244–00	Cochise County	46,344
11–0246–00	Coconino County	58,340
11–0248–00	Gila County	23,902
11–0250–00	Graham County	10,714
11–0254–00	La Paz County	10,088
11–0256–00	Maricopa County	979,650
11–0268–00	Mohave County	54,853
11–0270–00	Navajo County	52,737
11–0272–00	Pima County	236,013
11–0276–00	Pinal County	58,176
11–0278–00	Santa Cruz County	28,090
11–0280–00	Yavapai County	45,733
11–0282–00	Yuma County	188,446

11-0284-00	State Set-Aside Committee, AZ	2,267
		1,832,458

Arkansas

11-0304-00	Arkansas County	10,014
11-0306-00	Ashely County	11,728
11-0308-00	Baxter County	10,744
11-0312-00	Boone County	12,264
11-0314-00	Bradley County	7,585
11-0318-00	Carroll County	9,701
11-0320-00	Chicot County	10,163
11-0322-00	Clark County	8,256
11-0324-00	Clay County	9,939
11-0326-00	Cleburne County	13,784
11-0330-00	Columbia County	11,892
11-0332-00	Conway County	11,266
11-0334-00	Craighead County	37,537
11-0336-00	Crawford County	28,254
11-0338-00	Crittenden County	27,941
11-0340-00	Cross County	11,012
11-0344-00	Desha County	12,041
11-0346-00	Drew County	11,176
11-0348-00	Faulkner County	35,868
11-0354-00	Garland County	39,445
11-0356-00	Grant County	7,540
11-0358-00	Greene County	16,183
11-0360-00	Hempstead County	12,234
11-0362-00	Hot Spring County	18,225
11-0366-00	Independence County	16,839
11-0370-00	Jackson County	15,870
11-0372-00	Jefferson County	60,635
11-0376-00	Johnson County	8,613
11-0380-00	Lawrence County	10,312
11-0382-00	Lee County	9,314
11-0384-00	Lincoln County	7,749
11-0386-00	Little River County	9,254
11-0388-00	Logan County	10,148
11-0390-00	Lonoke County	16,407
11-0396-00	Miller County	20,684
11-0398-00	Mississippi County	38,133
11-0400-00	Monroe County	7,659
11-0408-00	Ouachita County	21,533
11-0412-00	Phillips County	16,437
11-0416-00	Poinsett County	14,693
11-0418-00	Polk County	7,481
11-0420-00	Pope County	23,545
11-0422-00	Prairie County	8,375
11-0424-00	Pulaski County	172,695
11-0430-00	Randolph County	10,983
11-0432-00	St. Francis County	19,596
11-0440-00	Sebastian County	56,954
11-0450-00	Union County	22,069
11-0452-00	Van Buren County	9,135
11-0454-00	Washington County	37,925
11-0456-00	White County	35,228
11-0458-00	Woodruff County	9,835
11-0462-00	State Set-Aside Committee, AR	88,153
		1,171,046

California

11-0464-00	Fresno City/County	631,026
11-0634-00	Alameda County	353,318
11-0646-00	Oakland City	226,923
11-0654-00	Butte County	120,480
11-0656-00	Calaveras County	21,458
11-0658-00	Colusa County	21,429
11-0660-00	Contra Costa County	370,038
11-0668-00	Del Norte County	19,000
11-0676-00	Glenn County	27,970
11-0678-00	Humboldt County	74,553
11-0680-00	Imperial County	168,806
11-0682-00	Inyo County	9,925
11-0684-00	Kern County	489,982
11-0688-00	Kings County	76,624
11-0690-00	Lake County	34,721
11-0692-00	Lassen County	15,423
11-0695-00	Los Angeles City/County	5,924,648
11-0760-00	Madera County	91,541
11-0766-00	Mariposa County	8,017
11-0768-00	Mendocino County	61,916
11-0770-00	Merced County	174,960
11-0774-00	Mono County	7,913
11-0776-00	Monterey County	269,690
11-0786-00	Orange County	1,064,620
11-0818-00	Plumas County	17,226
11-0820-00	Riverside County	813,676
11-0824-00	Sacramento County	558,693
11-0828-00	San Benito County	46,463
11-0830-00	San Bernardino County	792,858
11-0840-00	San Diego County	1,149,395
11-0858-00	San Francisco City/County	361,216
11-0860-00	San Joaquin County	397,234
11-0864-00	San Luis Obispo County	96,235
11-0876-00	Santa Barbara County	182,039
11-0880-00	Santa Clara County	736,559
11-0892-00	Santa Cruz County	175,348
11-0896-00	Shasta County	110,555
11-0900-00	Siskiyou County	36,405
11-0902-00	Solano County	163,978
11-0912-00	Stanislaus County	379,665
11-0916-00	Sutter County	84,776
11-0918-00	Tehama County	34,676
11-0920-00	Trinity County	11,653
11-0922-00	Tulare County	336,256
11-0926-00	Tuolumne County	28,060
11-0928-00	Ventura County	422,417
11-0938-00	Yolo County	86,161
11-0940-00	Yuba County	45,271
11-0942-00	State Set-Aside Committee, CA	429,937
		17,761,733

Colorado

11-0968-00	Adams County	119,571
11-0990-00	Boulder County	80,871
11-1010-00	Delta County	11,832
11-1012-00	Denver City/County	246,950
11-1026-00	Fremont County	12,801
11-1056-00	La Plata County	14,276
11-1058-00	Larimer County	67,043
11-1068-00	Mesa County	49,533
11-1074-00	Montezuma County	12,309
11-1076-00	Montrose County	14,127
11-1078-00	Morgan County	7,615
11-1080-00	Otero County	9,358
11-1092-00	Pueblo County	58,742
11-1116-00	Weld County	51,858
11-1122-00	State Set-Aside Committee, CO	363,873
		1,120,759

Connecticut

11-1422-01	Fairfield County/Bridgeport	201,434
11-1422-02	Fairfield County/Danbury	61,306
11-1422-03	Fairfield County/Norwalk	74,443
11-1422-04	Fairfield County/Stamford	100,717
11-1438-00	Hartford Census County	526,848
11-1454-00	Litchfield Census County	108,737
11-1458-00	New Haven Census County	492,873
11-1472-00	New London Census County	137,170
11-1476-00	Windham Census County	76,654
11-1478-00	State Set-Aside Committee, CT	77,731
		1,857,913

Delaware

11-1482-00	New Castle County	208,146
11-1488-00	State Set-Aside Committee, DE	59,715
		267,861

District of Columbia

11-1492-00	District of Columbia	342,187
		342,187

Florida

11-1556-00	Alachua County	70,843
11-1560-00	Baker County	12,413
11-1562-00	Bay County	81,914
11-1564-00	Bradford County	9,209
11-1566-00	Brevard County	235,953
11-1570-00	Broward County	823,034
11-1586-00	Citrus County	48,043
11-1592-00	Columbia County	30,623
11-1594-00	Dade County	1,016,526
11-1598-00	Miami City	374,911
11-1604-00	De Soto County	12,115
11-1608-00	Duval County	387,726
11-1612-00	Escambia County	109,497
11-1616-00	Flagler County	15,483
11-1620-00	Gadsden County	22,621
11-1630-00	Hardee County	17,495
11-1632-00	Hendry County	28,552

11-1636-00	Highlands County	37,835
11-1638-00	Hillsborough County	468,777
11-1644-00	Indian River County	59,561
11-1648-00	Jackson County	21,637
11-1652-00	Lake County	84,925
11-1654-00	Lee County	167,778
11-1656-00	Leon County	71,185
11-1660-00	Levy County	12,055
11-1664-00	Madison County	8,509
11-1666-00	Manatee County	92,390
11-1668-00	Marion County	111,211
11-1670-00	Martin County	68,101
11-1674-00	Nassau County	25,676
11-1678-00	Okeechobee County	21,742
11-1680-00	Orange County	435,471
11-1684-00	Osceola County	64,599
11-1686-00	Palm Beach County	614,664
11-1692-00	Pasco County	133,853
11-1694-00	Pinellas County	413,253
11-1702-00	Polk County	292,584
11-1706-00	Putnam County	33,767
11-1710-00	St Lucie County	149,792
11-1712-00	Santa Rosa County	34,155
11-1714-00	Sarasota County	109,959
11-1718-00	Seminole County	178,552
11-1720-00	Sumter County	15,930
11-1722-00	Suwannee County	16,139
11-1724-00	Taylor County	16,273
11-1728-00	Volusia County	184,825
11-1734-00	Walton County	12,309
11-1736-00	Washington County	8,598
11-1738-00	State Set-Aside Committee, FL	236,404
		7,509,367

Georgia

11-1741-00	Atlanta & College Park/Clayton, De Kalb, Fulton Counties	593,950
11-1742-00	Macon/Bibb, Jones Counties	56,880
11-1772-00	Appling County	10,014
11-1780-00	Baldwin County	9,373
11-1784-00	Barrow County	13,441
11-1804-00	Bulloch County	12,428
11-1806-00	Burke County	13,978
11-1816-00	Carroll County	28,954
11-1818-00	Catoosa County	13,978
11-1822-00	Chatham County	78,576
11-1828-00	Chattooga County	9,835
11-1832-00	Clarke County	23,500
11-1840-00	Cobb County	167,554
11-1842-00	Coffee County	12,532
11-1844-00	Colquitt County	13,024
11-1854-00	Crisp County	9,761
11-1860-00	Decatur County	12,413
11-1870-00	Dougherty County	45,271
11-1880-00	Effingham County	10,103
11-1882-00	Elbert County	10,535
11-1884-00	Emanuel County	12,681
11-1892-00	Floyd County	34,020
11-1896-00	Franklin County	8,568
11-1906-00	Glynn County	20,877
11-1910-00	Grady County	7,928
11-1922-00	Haralson County	12,920
11-1926-00	Hart County	8,807
11-1932-00	Houston County	28,075
11-1936-00	Jackson County	11,444
11-1956-00	Laurens County	12,786
11-1960-00	Liberty County	11,713
11-1966-00	Lowndes County	24,409
11-1974-00	Macon County	7,928
11-1976-00	Madison County	8,762
11-1980-00	Meriwether County	9,562
11-1984-00	Mitchell County	10,848
11-1994-00	Muskogee County	58,742
11-1998-00	Newton County	17,599
11-2006-00	Peach County	8,956
11-2014-00	Polk County	18,508
11-2026-00	Richmond County	77,638
11-2036-00	Spalding County	23,440
11-2038-00	Stephens County	10,014
11-2042-00	Sumter County	14,112
11-2056-00	Thomas County	14,186
11-2058-00	Tift County	13,754
11-2060-00	Toombs County	11,817
11-2066-00	Troup County	27,523
11-2074-00	Upson County	7,451
11-2076-00	Walker County	25,646
11-2078-00	Walton County	15,900
11-2080-00	Ware County	12,815
11-2086-00	Wayne County	10,893
11-2104-00	State Set-Aside Committee, GA	419,614
		2,166,056

Hawaii

11-2108-00	Hawaii County	54,391
11-2116-00	State Set-Aside Committee, HI	195,609
		250,000

Idaho

11-2134-00	Bannock County	29,356
11-2140-00	Bingham County	16,645
11-2146-00	Bonner County	17,539
11-2156-00	Canyon County	47,700
11-2160-00	Cassia County	9,030
11-2164-00	Clearwater County	7,794
11-2168-00	Elmore County	7,808
11-2178-00	Idaho County	9,446
11-2184-00	Kootenai County	37,090
11-2186-00	Latah County	8,926
11-2196-00	Minidoka County	10,655
11-2198-00	Nez Perce County	12,294
11-2204-00	Payette County	9,075
11-2208-00	Shoshone County	14,678
11-2212-00	Twin Falls County	27,047
11-2218-00	State Set-Aside Committee, ID	104,648
		369,733

Illinois

11-2220-00	Aurora City/ Dupage, Kane Counties	594,264
11-2342-00	Adams County	38,297
11-2344-00	Alexander County	8,717
11-2346-00	Bond County	11,444
11-2348-00	Boone County	33,231
11-2356-00	Carroll County	9,805
11-2358-00	Cass County	9,373
11-2360-00	Champaign County	70,246
11-2364-00	Christian County	23,947
11-2366-00	Clark County	12,026
11-2368-00	Clay County	11,638
11-2372-00	Coles County	28,775
11-2374-00	Cook County	1,306,262
11-2378-00	Chicago City	1,970,760
11-2398-00	Crawford County	13,784
11-2400-00	Cumberland County	8,524
11-2402-00	Dekalb County	37,418
11-2404-00	De Witt County	11,385
11-2406-00	Douglas County	12,696
11-2414-00	Edgar County	13,784
11-2418-00	Effingham County	29,237
11-2420-00	Fayette County	16,019
11-2424-00	Franklin County	38,715
11-2426-00	Fulton County	37,643
11-2430-00	Greene County	9,731
11-2432-00	Grundy County	30,504
11-2434-00	Hamilton County	7,749
11-2436-00	Hancock County	13,064
11-2442-00	Henry County	38,774
11-2446-00	Jackson County	35,391
11-2450-00	Jefferson County	35,928
11-2456-00	Johnson County	8,419
11-2464-00	Kankakee County	71,737
11-2468-00	Knox County	36,673
11-2470-00	Lake County	250,035
11-2474-00	La Salle County	86,469
11-2476-00	Lawrence County	12,294
11-2484-00	McDonough County	14,499
11-2488-00	McLean County	58,429
11-2490-00	Macon County	93,672
11-2494-00	Macoupin County	32,724
11-2496-00	Madison County	163,099
11-2498-00	Marion County	36,733
11-2502-00	Mason County	14,216
11-2504-00	Massac County	9,299
11-2508-00	Mercer County	12,994
11-2512-00	Montgomery County	23,291
11-2516-00	Moultrie County	9,388
11-2520-00	Peoria County	107,858
11-2524-00	Perry County	22,397
11-2526-00	Piatt County	10,905
11-2528-00	Pike County	11,653
11-2536-00	Randolph County	23,083
11-2538-00	Richland County	10,252
11-2540-00	Rock Island County	99,752
11-2542-00	St. Clair County	162,890
11-2546-00	Saline County	20,684
11-2548-00	Sangamon County	93,895
11-2556-00	Shelby County	18,553
11-2560-00	Stephenson County	32,575
11-2562-00	Tazewell County	77,061
11-2564-00	Union County	16,153
11-2566-00	Vermilion County	69,427
11-2568-00	Wabash County	13,322

11-2570-00	Warren County ..	9,120
11-2574-00	Wayne County ...	13,292
11-2576-00	White County	12,443
11-2580-00	Will County	255,936
11-2586-00	Williamson County	45,674
11-2588-00	Winnebago County	195,376
11-2594-00	State Set-Aside Committee, IL	249,682
		7,017,928

Indiana

11-2630-00	Blackford County	9,269
11-2642-00	Clay County	11,474
11-2648-00	Daviess County ..	10,386
11-2656-00	Delaware County	53,631
11-2662-00	Elkhart County ..	75,328
11-2666-00	Fayette County ..	20,654
11-2668-00	Floyd County	26,003
11-2670-00	Fountain County	9,835
11-2678-00	Grant County	39,176
11-2680-00	Greene County ...	18,404
11-2690-00	Henry County	27,598
11-2692-00	Howard County .	38,282
11-2700-00	Jay County	12,160
11-2704-00	Jennings County	10,670
11-2708-00	Knox County	14,052
11-2714-00	Lake County	139,077
11-2716-00	Gary City	94,581
11-2720-00	La Porte County	47,387
11-2722-00	Lawrence County	28,492
11-2724-00	Madison County	60,367
11-2728-00	Marion County ..	334,632
11-2738-00	Monroe County .	38,774
11-2752-00	Orange County ..	13,188
11-2754-00	Owen County	9,820
11-2758-00	Perry County	10,878
11-2770-00	Randolph County	17,912
11-2776-00	St. Joseph County	113,834
11-2780-00	Scott County	12,637
11-2786-00	Starke County	11,653
11-2790-00	Sullivan County	10,595
11-2794-00	Tippecanoe County	34,408
11-2800-00	Vanderburgh County	77,653
11-2804-00	Vermillion County	8,628
11-2806-00	Vigo County	41,069
11-2816-00	Washington County	13,218
11-2818-00	Wayne County ...	50,248
11-2826-00	State Set-Aside Committee, IN	480,631
		2,026,604

Iowa

11-2858-00	Blackhawk County	53,780
11-2866-00	Buchanan County	8,881
11-2890-00	Clayton County .	9,030
11-2892-00	Clinton County ..	25,944
11-2904-00	Des Moines County	21,816
11-2914-00	Fayette County ..	9,165
11-2916-00	Floyd County	10,163
11-2946-00	Jackson County ..	10,431
11-2952-00	Johnson County .	17,241
11-2962-00	Lee County	24,781
11-2998-00	Page County	7,689
11-3006-00	Polk County	121,285
11-3010-00	Pottawattamie County	36,658
11-3020-00	Scott County	65,776
11-3028-00	Story County	14,976
11-3038-00	Wapello County	19,894
11-3046-00	Webster County .	16,168
11-3052-00	Woodbury County	36,956
11-3060-00	State Set-Aside Committee, IA	289,919
		800,553

Kansas

11-3061-00	Manhattan/ Pottawatamie, Riley Counties	20,013
11-3088-00	Barton County ...	9,269
11-3100-00	Cherokee County	9,761
11-3116-00	Crawford County	12,353
11-3124-00	Douglas County .	20,877
11-3140-00	Frankin County .	8,941
11-3142-00	Geary County	9,373
11-3182-00	Labette County ..	11,146
11-3194-00	Lyon County	11,295
11-3208-00	Montgomery County	15,617
11-3238-00	Reno County	21,205
11-3252-00	Saline County	16,183
11-3256-00	Sedgwick County	138,019
11-3262-00	Shawnee County	58,698
11-3296-00	Wyandotte County	89,142
11-3300-00	State Set-Aside Committee, KS	178,620
		630,512

Kentucky

11-3316-00	Adair County	10,208
11-3318-00	Allen County	7,704
11-3324-00	Barren County ...	20,102
11-3326-00	Bath County	8,703
11-3328-00	Bell County	17,614
11-3334-00	Boyd County	27,389
11-3336-00	Boyle County	11,057
11-3340-00	Breathitt County	10,565
11-3342-00	Breckinridge County	10,029
11-3346-00	Butler County	7,928
11-3348-00	Caldwell County	8,956
11-3350-00	Calloway County	12,637
11-3358-00	Carter County	23,783
11-3360-00	Casey County	7,704
11-3362-00	Christian County	23,485
11-3364-00	Clark County	16,407
11-3366-00	Clay County	8,971
11-3374-00	Daviess County ..	47,656
11-3382-00	Estill County	8,151
11-3384-00	Fayette County ..	76,431
11-3388-00	Floyd County	23,142
11-3390-00	Franklin County	16,064
11-3398-00	Grant County	9,701
11-3400-00	Graves County ...	21.116
11-3402-00	Grayson County .	13,248
11-3406-00	Greenup County	20,460
11-3410-00	Hardin County ...	34,736
11-3412-00	Harlan County ...	24,200
11-3416-00	Hart County	9,954
11-3418-00	Henderson County	23,425
11-3420-00	Henry County	8,211
11-3424-00	Hopkins County	27,613
11-3428-00	Jefferson County	332,516
11-3432-00	Jessamine County	10,521
11-3434-00	Johnson County .	12,249
11-3436-00	Kenton County ..	59,711
11-3440-00	Knott County	8,375
11-3442-00	Knox County	13,069
11-3446-00	Laurel County	22,099
11-3448-00	Lawrence County	9,135
11-3452-00	Leslie County	8,226
11-3454-00	Letcher County ..	19,402
11-3456-00	Lewis County	11,832
11-3458-00	Lincoln County .	10,267
11-3462-00	Logan County	11,668
11-3466-00	McCracken County	26,421
11-3468-00	McCreary County	9,463
11-3470-00	McLean County .	8,032
11-3472-00	Madison County	21,309
11-3474-00	Magoffin County	10,014
11-3476-00	Marion County ..	10,714
11-3478-00	Marshall County	15,229
11-3482-00	Mason County ...	8,479
11-3484-00	Meade County ...	10,670
11-3488-00	Mercer County ...	9,179
11-3490-00	Metcalfe County	7,585
11-3494-00	Montgomery County	14,887
11-3496-00	Morgan County ..	8,002
11-3498-00	Muhlenberg County	19,625
11-3500-00	Nelson County ...	20,117
11-3504-00	Ohio County	14,112
11-3514-00	Perry County	18,210
11-3516-00	Pike County	41,069
11-3518-00	Powell County ...	8,777
11-3520-00	Pulaski County ..	29,237
11-3524-00	Rockcastle County	9,433
11-3526-00	Rowan County ...	9,477
11-3528-00	Russell County ..	14,425
11-3530-00	Scott County	9,895
11-3534-00	Simpson County	9,343
11-3538-00	Taylor County ...	9,850
11-3548-00	Warren County ..	37,090
11-3552-00	Wayne County ...	10,237
11-3554-00	Webster County .	8,315
11-3556-00	Whitley County .	16,228
11-3562-00	State Set-Aside Committee, KY	157,519
		1,729,363

Louisiana

11-3564-00	Shreveport/Bossier, Caddo Parishes	163,903
11-3574-00	Acadia Parish	31,353
11-3576-00	Allen Parish	15,006
11-3578-00	Ascension Parish	30,712
11-3580-00	Assumption Parish	12,294
11-3582-00	Avoyelles Parish	27,553
11-3584-00	Beauregard Parish	16,496
11-3586-00	Bienville Parish .	8,419
11-3598-00	Calcasieu Parish	107,054
11-3606-00	Catahoula Parish	7,928
11-3608-00	Claiborne Parish	9,090
11-3610-00	Concordia Parish	18,359
11-3612-00	De Soto Parish ...	16,317

11-3614-00	East Baton Rouge Parish	164,932
11-3618-00	East Carroll Parish	8,047
11-3620-00	East Feliciana Parish	7,496
11-3622-00	Evangeline Parish	17,852
11-3624-00	Franklin Parish	16,098
11-3626-00	Grant Parish	10,297
11-3628-00	Iberia Parish	37,537
11-3630-00	Iberville Parish	18,702
11-3634-00	Jefferson Parish	201,068
11-3638-00	Jefferson Davis Parish	20,102
11-3640-00	Lafayette Parish	77,966
11-3644-00	Lafourche Parish	33,737
11-3646-00	La Salle Parish	8,092
11-3648-00	Lincoln Parish	10,550
11-3650-00	Livingston Parish	44,437
11-3652-00	Madison Parish	9,701
11-3654-00	Morehouse Parish	18,269
11-3656-00	Natchitoches Parish	18,463
11-3658-00	New Orleans City/Orleans	207,863
11-3660-00	Ouachita Parish	67,207
11-3664-00	Plaquemines Parish	9,656
11-3666-00	Pointe Coupee Parish	13,009
11-3668-00	Rapides Parish	61,723
11-3674-00	Richland Parish	14,335
11-3676-00	Sabine Parish	11,579
11-3678-00	St Bernard Parish	33,320
11-3680-00	St Charles Parish	19,625
11-3684-00	St James Parish	12,026
11-3686-00	St John Bapitist Parish	23,083
11-3688-00	St Landry Parish	49,041
11-3690-00	St Martin Parish	24,334
11-3692-00	St Mary Parish	40,473
11-3694-00	St Tammany Parish	61,186
11-3696-00	Tangipahoa Parish	52,752
11-3700-00	Terrebonne Parish	50,904
11-3702-00	Union Parish	9,671
11-3704-00	Vermilion Parish	28,492
11-3706-00	Vernon Parish	20,922
11-3708-00	Washington Parish	25,795
11-3710-00	Webster Parish	26,123
11-3712-00	West Baton Rouge Parish	10,729
11-3714-00	West Carroll Parish	12,532
11-3720-00	State Set-Aside Committee, LA	22,177
		2,097,187

Maine

11-3726-00	Androscoggin County	72,005
11-3728-00	Aroostook County	59,711
11-3730-00	Cumberland County	114,117
11-3734-00	Franklin County	17,509
11-3740-00	Knox County	18,508
11-3744-00	Oxford County	32,426
11-3746-00	Penobscot County	80,156
11-3748-00	Piscataquis County	11,191
11-3752-00	Somerset County	38,685
11-3754-00	Waldo County	23,068
11-3756-00	Washington County	23,634
11-3760-00	State Set-Aside Committee, ME	109,011
		600,021

Maryland

11-3774-00	Allegany County	57,610
11-3776-00	Anne Arundel County	183,857
11-3778-00	Baltimore County	374,971
11-3782-00	Caroline County	17,569
11-3786-00	Cecil County	54,942
11-3790-00	Dorchester County	27,106
11-3794-00	Garrett County	26,778
11-3812-00	Somerset County	22,874
11-3816-00	Washington County	81,721
11-3818-00	Wicomico County	56,686
11-3820-00	Worcester County	37,895
11-3822-00	Baltimore City	522,259
11-3824-00	State Set-Aside Committee, MD	547,234
		2,011,502

Massachusetts

11-4476-00	Barnstable County	146,886
11-4478-00	Berkshire County	103,552
11-4482-00	Bristol County	427,663
11-4490-00	Essex County	460,327
11-4500-00	Franklin County	46,046
11-4502-00	Hampden County	303,145
11-4508-00	Hampshire County	88,710
11-4510-00	Middlesex County	841,750
11-4532-00	Norfolk County	368,011
11-4540-00	Plymouth County	328,775
11-4550-00	Suffolk County	426,411
11-4554-00	Worcester County	489,132
11-4558-00	State Set-Aside Committee, MA	7,179
		4,037,587

Michigan

11-4560-00	Lansing/Eaton, Ingham Counties	198,088
11-4561-00	Holland/Allegan, Ottawa Counties	156,140
11-4632-00	Alcona County	9,299
11-4638-00	Alpena County	27,270
11-4640-00	Antrim County	16,481
11-4642-00	Arenac County	10,312
11-4648-00	Bay County	75,045
11-4650-00	Benzie County	12,264
11-4652-00	Berrien County	108,037
11-4654-00	Branch County	23,619
11-4656-00	Calhoun County	76,580
11-4660-00	Cass County	28,760
11-4662-00	Charlevoix County	21,399
11-4664-00	Cheboygan County	36,703
11-4666-00	Chippewa County	29,267
11-4668-00	Clare County	18,523
11-4672-00	Crawford County	7,943
11-4674-00	Delta County	33,797
11-4676-00	Dickinson County	17,942
11-4682-00	Emmet County	28,149
11-4684-00	Genesee County	335,585
11-4688-00	Gladwin County	16,019
11-4690-00	Gogebic County	10,297
11-4694-00	Gratiot County	27,583
11-4696-00	Hillsdale County	26,942
11-4698-00	Houghton County	20,460
11-4700-00	Huron County	29,997
11-4708-00	Ionia County	37,910
11-4710-00	Iosco County	18,165
11-4712-00	Iron County	9,120
11-4714-00	Isabella County	31,413
11-4716-00	Jackson County	96,742
11-4718-00	Kalamazoo County	104,282
11-4722-00	Kalkaska County	12,130
11-4724-00	Kent County	320,565
11-4734-00	Lapeer County	68,503
11-4736-00	Leelanau County	11,295
11-4738-00	Lenawee County	63,258
11-4744-00	Mackinac County	23,530
11-4746-00	Macomb County	517,550
11-4758-00	Manistee County	18,180
11-4760-00	Marquette County	44,005
11-4762-00	Mason County	21,905
11-4764-00	Mecosta County	22,859
11-4766-00	Menominee County	15,721
11-4768-00	Midland County	39,430
11-4770-00	Missaukee County	8,554
11-4772-00	Monroe County	98,068
11-4774-00	Montcalm County	45,450
11-4776-00	Montmorency County	9,552
11-4778-00	Muskegon County	121,568
11-4780-00	Newaygo County	33,454
11-4782-00	Oakland County	843,662
11-4796-00	Oceana County	22,680
11-4798-00	Ogemaw County	13,218
11-4802-00	Osceola County	14,991
11-4806-00	Otsego County	14,648
11-4810-00	Presque Isle County	14,440
11-4812-00	Roscommon County	12,845
11-4814-00	Saginaw County	121,806
11-4818-00	St. Clair County	116,948
11-4820-00	St. Joseph County	42,425
11-4822-00	Sanilac County	35,228
11-4824-00	Schoolcraft County	8,270
11-4826-00	Shiawassee County	60,545
11-4828-00	Tuscola County	43,736

11–4830–00	Van Buren County	54,376
11–4832–00	Washtenaw County	138,690
11–4836–00	Wayne County	537,995
11–4844–00	Detroit City	834,732
11–4854–00	Wexford County	24,647
11–4856–00	State Set-Aside Committee, MI	112,225
		6,063,817

Minnesota

11–4857–00	St. Cloud City/ Benton, Sherburne, Stearns Counties	91,839
11–4898–00	Aitkin County	9,135
11–4902–00	Becker County	16,720
11–4904–00	Beltrami County	17,003
11–4910–00	Blue Earth County	16,243
11–4914–00	Carlton County	15,662
11–4918–00	Cass County	13,948
11–4924–00	Clay County	18,404
11–4926–00	Clearwater County	8,837
11–4932–00	Crow Wing County	22,710
11–4938–00	Douglas County	12,204
11–4940–00	Faribault County	7,645
11–4942–00	Fillmore County	8,524
11–4950–00	Hennepin County	400,750
11–4964–00	Hubbard County	9,075
11–4968–00	Itasca County	27,807
11–4972–00	Kanabec County	9,537
11–4974–00	Kandiyohi County	15,021
11–4978–00	Koochiching County	10,670
11–4990–00	Lyon County	7,719
11–4996–00	Marshall County	9,999
11–4998–00	Martin County	10,863
11–5000–00	Meeker County	12,920
11–5002–00	Mille Lacs County	10,953
11–5004–00	Morrison County	19,819
11–5020–00	Otter Tail County	24,036
11–5022–00	Pennington County	9,805
11–5024–00	Pine County	14,991
11–5028–00	Polk County	16,273
11–5032–00	Ramsey County	179,833
11–5040–00	Renville County	8,062
11–5048–00	St. Louis County	96,908
11–5066–00	Todd County	12,905
11–5082–00	Winona County	19,402
11–5088–00	State Set-Aside Committee, MN	354,671
		1,540,891

Mississippi

11–5089–00	Hattiesburg/Forrest, Lamar Counties	44,422
11–5090–00	Adams County	20,743
11–5092–00	Alcorn County	22,054
11–5096–00	Attala County	15,185
11–5100–00	Bolivar County	22,308
11–5106–00	Chickasaw County	14,022
11–5110–00	Claiborne County	8,643
11–5112–00	Clarke County	9,925
11–5114–00	Clay County	14,231
11–5116–00	Coahoma County	20,758
11–5118–00	Copiah County	15,379
11–5120–00	Covington County	10,133
11–5128–00	George County	14,753
11–5130–00	Greene County	8,539
11–5132–00	Grenada County	13,650
11–5134–00	Hancock County	13,650
11–5136–00	Harrison County	76,297
11–5138–00	Hinds County	117,500
11–5142–00	Holmes County	13,367
11–5144–00	Humphreys County	7,525
11–5148–00	Itawamba County	11,772
11–5150–00	Jackson County	61,559
11–5152–00	Jasper County	12,875
11–5154–00	Jefferson County	9,150
11–5156–00	Jefferson Davis County	12,801
11–5158–00	Jones County	33,410
11–5162–00	Lafayette County	9,045
11–5166–00	Lauderdale County	38,566
11–5168–00	Lawrence County	8,211
11–5170–00	Leake County	10,665
11–5172–00	Lee County	38,685
11–5174–00	Leflore County	25,884
11–5176–00	Lincoln County	20,982
11–5178–00	Lowndes County	33,022
11–5180–00	Madison County	23,500
11–5182–00	Marion County	17,182
11–5184–00	Marshall County	23,664
11–5186–00	Monroe County	22,323
11–5188–00	Montgomery County	7,555
11–5190–00	Neshoba County	13,113
11–5192–00	Newton County	9,403
11–5194–00	Noxubee County	8,062
11–5196–00	Oktibbeha County	14,410
11–5198–00	Panola County	22,889
11–5200–00	Pearl River County	20,207
11–5202–00	Perry County	7,600
11–5204–00	Pike County	23,247
11–5206–00	Pontotoc County	12,532
11–5208–00	Prentiss County	15,513
11–5210–00	Quitman County	8,181
11–5214–00	Scott County	10,431
11–5218–00	Simpson County	9,865
11–5224–00	Sunflower County	21,071
11–5226–00	Tallahatchie County	11,221
11–5228–00	Tate County	12,696
11–5230–00	Tippah County	14,335
11–5232–00	Tishomingo County	12,428
11–5236–00	Union County	11,638
11–5238–00	Walthall County	8,107
11–5240–00	Warren County	29,386
11–5242–00	Washington County	49,637
11–5244–00	Wayne County	16,064
11–5250–00	Winston County	16,794
11–5252–00	Yalobusha County	8,151
11–5254–00	Yazoo County	13,620
11–5256–00	State Set-Aside Committee, MS	74,037
		1,378,563

Missouri

11–5257–00	Joplin/Jasper, Newton Counties	64,956
11–5258–00	Kansas City/ Clay, Jackson, Platte Counties	413,536
11–5278–00	Audrain County	10,431
11–5280–00	Barry County	12,190
11–5284–00	Bates County	7,719
11–5286–00	Benton County	7,883
11–5290–00	Boone County	34,795
11–5294–00	Buchanan County	44,169
11–5298–00	Butler County	21,309
11–5304–00	Camden County	18,165
11–5306–00	Cape Girardeau County	24,424
11–5332–00	Crawford County	16,094
11–5336–00	Dallas County	7,674
11–5342–00	Dent County	8,196
11–5346–00	Dunklin County	18,135
11–5348–00	Franklin County	57,729
11–5354–00	Greene County	84,150
11–5362–00	Henry County	11,757
11–5370–00	Howell County	16,019
11–5372–00	Iron County	7,659
11–5384–00	Johnson County	14,842
11–5388–00	Laclede County	18,940
11–5390–00	Lafayette County	13,486
11–5392–00	Lawrence County	14,186
11–5396–00	Lincoln County	17,197
11–5398–00	Linn County	8,568
11–5402–00	McDonald County	7,719
11–5406–00	Madison County	10,670
11–5410–00	Marion County	13,233
11–5414–00	Miller County	15,587
11–5416–00	Mississippi County	11,355
11–5424–00	Morgan County	9,045
11–5426–00	New Madrid County	12,994
11–5438–00	Pemiscot County	12,547
11–5442–00	Pettis County	20,505
11–5444–00	Phelps County	14,216
11–5446–00	Pike County	8,375
11–5452–00	Polk County	9,939
11–5454–00	Pulaski County	14,455
11–5460–00	Randolph County	11,877
11–5472–00	Ste. Genevieve County	7,496
11–5474–00	St. Francois County	31,517
11–5476–00	St. Louis County	409,259
11–5480–00	Saline County	11,146
11–5486–00	Scott County	24,111
11–5492–00	Stoddard County	19,313
11–5494–00	Stone County	15,706
11–5498–00	Taney County	26,063
11–5500–00	Texas County	13,158
11–5502–00	Vernon County	7,585
11–5506–00	Washington County	16,481
11–5508–00	Wayne County	9,224
11–5510–00	Webster County	12,830
11–5514–00	Wright County	10,014
11–5516–00	St. Louis City	247,651
11–5518–00	State Set-Aside Committee, MO	275,459
		2,283,739

Montana		
11-5530-00	Big Horn County	9,612
11-5540-00	Cascade County	36,554
11-5558-00	Flathead County	44,198
11-5560-00	Gallatin County	17,852
11-5564-00	Glacier County	10,640
11-5570-00	Hill County	8,539
11-5576-00	Lake County	14,604
11-5578-00	Lewis and Clark County	22,919
11-5582-00	Lincoln County	18,374
11-5592-00	Missoula County	39,251
11-5596-00	Park County	9,224
11-5610-00	Ravalli County	18,866
11-5614-00	Roosevelt County	9,165
11-5622-00	Silver Bow County	19,074
11-5640-00	Yellowstone County	53,720
11-5644-00	State Set-Aside Committee, MT	51,284
		383,876
Nebraska		
11-5686-00	Buffalo County	8,077
11-5722-00	Douglas County	112,373
11-5782-00	Lincoln County	8,315
11-5828-00	Scotts Bluff County	10,968
11-5858-00	State Set-Aside Committee, NE	119,383
		259,116
Nevada		
11-5868-00	Clark County	385,998
11-5886-00	Lyon County	12,190
11-5906-00	State Set-Aside Committee, NV	101,831
		500,019
New Hampshire		
11-5936-00	Rockingham County	163,769
11-5942-00	State Set-Aside Committee, NH	282,951
		446,720
New Jersey		
11-5948-00	Atlantic County	175,407
11-5950-00	Bergen County	400,631
11-5952-00	Burlington County	182,173
11-5954-00	Camden County	275,040
11-5960-00	Cape May County	82,898
11-5962-00	Cumberland County	108,097
11-5966-00	Essex County	239,738
11-5974-00	Newark County	256,130
11-5978-00	Hudson County	404,282
11-5988-00	Mercer County	155,558
11-5994-00	Middlesex County	380,007
11-6004-00	Monmouth County	296,498
11-6012-00	Ocean County	224,777
11-6018-00	Passaic County	315,021
11-6034-00	Union County	300,298
11-6042-00	State Set-Aside Committee, NJ	315,799
		4,112,354

New Mexico		
11-6044-00	Bernalillo County	198,997
11-6050-00	Chaves County	41,382
11-6052-00	Cibola County	15,721
11-6056-00	Curry County	16,630
11-6060-00	Dona Ana County	68,041
11-6064-00	Eddy County	23,530
11-6066-00	Grant County	14,917
11-6074-00	Lea County	20,877
11-6080-00	Luna County	20,371
11-6082-00	McKinley County	27,017
11-6086-00	Otero County	23,828
11-6090-00	Rio Arriba County	29,386
11-6094-00	Sandoval County	29,639
11-6096-00	San Juan County	59,577
11-6098-00	San Miguel County	14,708
11-6100-00	Santa Fe County	37,105
11-6108-00	Taos County	27,464
11-6114-00	Valencia County	19,938
11-6116-00	State Set-Aside Committee, NM	28,992
		718,120
New York		
11-6120-00	Albany County	109,184
11-6126-00	Allegany County	28,194
11-6130-00	Broome County	90,736
11-6136-00	Cattaraugus County	54,182
11-6138-00	Cayuga County	48,401
11-6140-00	Chautauqua County	79,843
11-6142-00	Chemung County	42,559
11-6144-00	Chenango County	26,301
11-6146-00	Clinton County	47,790
11-6150-00	Cortland County	26,450
11-6152-00	Delaware County	22,025
11-6154-00	Dutchess County	103,477
11-6156-00	Erie County	483,782
11-6168-00	Essex County	32,083
11-6170-00	Franklin County	34,676
11-6172-00	Fulton County	37,701
11-6174-00	Genesee County	39,802
11-6176-00	Greene County	26,316
11-6180-00	Herkimer County	38,685
11-6182-00	Jefferson County	81,825
11-6186-00	Lewis County	19,775
11-6192-00	Monroe County	250,482
11-6200-00	Montgomery County	35,794
11-6202-00	Nassau County	618,330
11-6212-00	Niagara County	127,141
11-6216-00	Oneida County	113,476
11-6220-00	Onondaga County	209,458
11-6232-00	Oswego County	62,063
11-6234-00	Otsego County	26,972
11-6240-00	Rensselaer County	73,808
11-6254-00	St. Lawrence County	73,242
11-6258-00	Schenectady County	67,221
11-6264-00	Schuyler County	10,893
11-6268-00	Steuben County	55,926
11-6270-00	Suffolk County	742,952
11-6282-00	Sullivan County	39,936
11-6286-00	Tompkins County	29,774
11-6290-00	Warren County	43,409
11-6296-00	Westchester County	393,359
11-6308-00	Wyoming County	26,123
11-6310-00	Yates County	12,309
11-6312-00	State Set-Aside Committee, NY	409,454
11-6314-00	New York City	4,779,708
		9,695,617
North Carolina		
11-6315-00	Kannapolis/ Cabarrus, Rowan Counties	94,342
11-6316-00	High Point City/ Davidson, Guliford Counties	225,641
11-6317-00	Rocky Mount/ Edgecombe, Nash Counties	72,139
11-6326-00	Anson County	20,847
11-6328-00	Ashe County	14,097
11-6330-00	Avery County	9,254
11-6332-00	Beaufort County	23,545
11-6334-00	Bertie County	8,405
11-6336-00	Bladen County	21,160
11-6338-00	Brunswick County	38,551
11-6340-00	Buncombe County	72,750
11-6354-00	Caswell County	8,285
11-6360-00	Cherokee County	13,337
11-6368-00	Columbus County	29,237
11-6370-00	Craven County	30,787
11-6372-00	Cumberland County	94,462
11-6386-00	Duplin County	24,945
11-6388-00	Durham County	63,526
11-6394-00	Forsyth County	101,287
11-6398-00	Franklin County	18,761
11-6400-00	Gaston County	92,346
11-6406-00	Graham County	9,820
11-6408-00	Granville County	14,931
11-6418-00	Halifax County	29,684
11-6420-00	Harnett County	27,479
11-6422-00	Haywood County	22,814
11-6426-00	Hertford County	11,489
11-6428-00	Hoke County	11,743
11-6434-00	Jackson County	12,473
11-6436-00	Johnston County	40,890
11-6440-00	Lee County	20,818
11-6442-00	Lenoir County	28,760
11-6448-00	Macon County	10,670
11-6450-00	Madison County	8,539
11-6452-00	Martin County	11,847
11-6458-00	Mitchell County	10,640
11-6460-00	Montgomery County	15,349
11-6466-00	New Hanover County	67,311
11-6468-00	Northampton County	8,181
11-6470-00	Onslow County	32,053
11-6472-00	Orange County	23,947
11-6476-00	Pasquotank County	10,789
11-6478-00	Pender County	17,465
11-6482-00	Person County	22,963
11-6484-00	Pitt County	49,637
11-6490-00	Richmond County	25,525
11-6492-00	Robeson County	65,701

11-6494-00	Rockingham County	49,727
11-6498-00	Rutherford County	29,356
11-6500-00	Sampson County	22,665
11-6502-00	Scotland County	22,174
11-6510-00	Swain County	13,650
11-6512-00	Transylvania County	8,628
11-6518-00	Vance County	25,124
11-6520-00	Wake County	142,892
11-6524-00	Warren County	9,939
11-6528-00	Watauga County	12,502
11-6530-00	Wayne County	47,030
11-6532-00	Wilkes County	23,902
11-6534-00	Wilson County	47,253
11-6536-00	Yadkin County	11,385
11-6538-00	Yancey County	8,658
11-6540-00	State Set-Aside Committee, NC	458,503
		2,623,610

North Dakota

11-6576-00	Cass County	25,199
11-6596-00	Grand Forks County	18,716
11-6622-00	Morton County	9,850
11-6642-00	Rolette County	8,688
11-6652-00	Stark County	9,984
11-6664-00	Ward County	17,122
11-6668-00	Williams County	9,060
11-6670-00	State Set-Aside Committee, ND	151,381
		250,000

Ohio

11-6672-00	Columbia/Fairfield, Franklin Cos.	413,193
11-6678-00	Adams County	20,609
11-6680-00	Allen County	61,633
11-6684-00	Ashtabula County	68,875
11-6686-00	Athens County	26,495
11-6690-00	Belmont County	35,332
11-6692-00	Brown County	24,111
11-6694-00	Butler County	143,816
11-6698-00	Carroll County	15,751
11-6702-00	Clark County	78,800
11-6708-00	Clinton County	20,028
11-6710-00	Columbiana County	63,511
11-6712-00	Coshocton County	19,208
11-6714-00	Crawford County	32,292
11-6716-00	Cuyahoga County	637,508
11-6734-00	Erie County	44,094
11-6740-00	Fayette County	15,542
11-6746-00	Fulton County	28,626
11-6748-00	Gallia County	18,553
11-6752-00	Greene County	51,932
11-6754-00	Guernsey County	32,650
11-6756-00	Hamilton County	348,490
11-6762-00	Hardin County	18,985
11-6764-00	Harrison County	8,539
11-6768-00	Highland County	22,367
11-6770-00	Hocking County	16,998
11-6772-00	Holmes County	13,441
11-6774-00	Huron County	49,533
11-6776-00	Jackson County	16,243
11-6778-00	Jefferson County	36,762
11-6780-00	Knox County	23,381
11-6784-00	Lawrence County	28,716
11-6786-00	Licking County	63,883
11-6790-00	Lorain County	168,881
11-6796-00	Lucas County	283,892
11-6802-00	Mahoning County	131,135
11-6806-00	Marion County	36,628
11-6810-00	Meigs County	13,561
11-6816-00	Monroe County	9,671
11-6818-00	Montgomery County	253,090
11-6824-00	Morgan County	9,418
11-6826-00	Morrow County	15,691
11-6828-00	Muskingum County	56,045
11-6832-00	Ottawa County	33,663
11-6836-00	Perry County	26,018
11-6838-00	Pickaway County	20,162
11-6840-00	Pike County	16,705
11-6842-00	Portage County	68,518
11-6848-00	Richland County	81,572
11-6852-00	Ross County	39,638
11-6856-00	Scioto County	48,892
11-6858-00	Seneca County	37,955
11-6862-00	Stark County	200,487
11-6866-00	Summit County	253,015
11-6870-00	Trumbull County	133,668
11-6884-00	Washington County	34,527
11-6886-00	Wayne County	49,786
11-6892-00	Wyandot County	15,528
11-6894-00	State Set-Aside Committee, OH	494,071
		5,032,104

Oklahoma

11-6896-00	Oklahoma City/Canadian, McClain, Oklahoma Counties	324,408
11-6902-00	Adair County	8,390
11-6910-00	Beckham County	10,804
11-6914-00	Bryan County	12,994
11-6916-00	Caddo County	13,575
11-6922-00	Carter County	21,160
11-6924-00	Cherokee County	19,193
11-6926-00	Choctaw County	9,090
11-6930-00	Cleveland County	58,519
11-6938-00	Comanche County	45,107
11-6946-00	Creek County	30,683
11-6948-00	Custer County	12,115
11-6950-00	Delaware County	13,143
11-6956-00	Garfield County	18,985
11-6960-00	Garvin County	13,769
11-6962-00	Grady County	19,894
11-6972-00	Haskell County	10,372
11-6974-00	Hughes County	10,044
11-6976-00	Jackson County	10,103
11-6982-00	Kay County	22,457
11-6988-00	Latimer County	8,762
11-6990-00	Le Flore County	30,504
11-6992-00	Lincoln County	13,143
11-6994-00	Logan County	10,416
11-7002-00	McCurtain County	19,745
11-7004-00	McIntosh County	7,943
11-7010-00	Mayes County	21,891
11-7010-00	Mayes County	21,891
11-7012-00	Murray County	10,044
11-7014-00	Muskogee County	37,060
11-7028-00	Okmulgee County	21,905
11-7030-00	Osage County	14,425
11-7034-00	Ottaw County	15,617
11-7036-00	Pawnee County	9,239
11-7038-00	Payne County	22,502
11-7040-00	Pittsburg County	29,669
11-7042-00	Pontotoc County	17,837
11-7044-00	Pottawatomie County	27,881
11-7052-00	Rogers County	34,780
11-7054-00	Seminole County	16,943
11-7056-00	Sequoyah County	21,563
11-7058-00	Stephens County	23,098
11-7064-00	Tulsa County	230,380
11-7068-00	Wagoner County	22,025
11-7076-00	Woodward County	9,612
11-7078-00	State Set-Aside Committee, OK	63,292
		1,425,081

Oregon

11-7080-00	Portland/Clackamas, Multnomah, Washington Counties County	567,470
11-7082-00	Salem/Marion, Polk Counties	135,322
11-7088-00	Baker County	8,956
11-7090-00	Benton County	22,844
11-7096-00	Clatsop County	19,864
11-7098-00	Columbia County	26,063
11-7100-00	Coos County	42,529
11-7104-00	Curry County	10,789
11-7108-00	Douglas County	71,886
11-7116-00	Hood River County	13,650
11-7118-00	Jackson County	88,859
11-7120-00	Jefferson County	8,017
11-7122-00	Josephine County	38,372
11-7124-00	Klamath County	36,584
11-7128-00	Lane County	156,169
11-7132-00	Lincoln County	20,803
11-7134-00	Linn County	63,317
11-7136-00	Malheur County	16,600
11-7154-00	Tillamook County	9,880
11-7156-00	Umatilla County	39,936
11-7158-00	Union County	12,920
11-7162-00	Wasco County	14,022
11-7170-00	Yamhill County	29,028
11-7172-00	State Set-Aside Committee, OR	46,112
		1,499,992

Pennsylvania

11-7174-00	Bethelhem/Lehigh, Northampton Counties	289,778
11-7180-00	Allegheny County	576,724
11-7184-00	Armstrong County	46,061
11-7186-00	Beaver County	95,833
11-7188-00	Bedford County	35,868
11-7190-00	Berks County	179,699
11-7194-00	Blair County	82,317
11-7198-00	Bradford County	32,992
11-7200-00	Bucks County	311,385
11-7208-00	Cambria County	96,131
11-7212-00	Carbon County	41,978
11-7214-00	Centre County	61,916
11-7218-00	Clarion County	27,419

11-7220-00	Clearfield County	59,800
11-7222-00	Clinton County	24,618
11-7224-00	Columbia County	43,647
11-7226-00	Crawford County	55,807
11-7230-00	Dauphin County	116,546
11-7234-00	Delaware County	254,520
11-7242-00	Erie County	159,329
11-7246-00	Fayette County	90,721
11-7252-00	Fulton County	7,868
11-7254-00	Greene County	24,290
11-7256-00	Huntingdon County	36,569
11-7258-00	Indiana County	62,483
11-7260-00	Jefferson County	30,519
11-7262-00	Juniata County	18,195
11-7264-00	Lackawanna County	137,960
11-7268-00	Lancaster County	187,046
11-7272-00	Lawrence County	59,711
11-7274-00	Lebanon County	56,120
11-7282-00	Luzerne County	229,128
11-7284-00	Lycoming County	72,959
11-7286-00	McKean County	26,048
11-7288-00	Mercer County	60,096
11-7290-00	Mifflin County	36,628
11-7292-00	Monroe County	70,425
11-7306-00	Northumberland County	72,616
11-7310-00	Philadelphia City/County	895,009
11-7312-00	Pike County	18,120
11-7314-00	Potter County	10,983
11-7316-00	Schuylkill County	105,996
11-7320-00	Somerset County	50,806
11-7324-00	Susquehanna County	25,452
11-7326-00	Tioga County	22,919
11-7330-00	Venango County	32,903
11-7334-00	Washington County	104,341
11-7336-00	Wayne County	30,235
11-7340-00	Wyoming County	20,639
11-7342-00	York County	181,323
11-7344-00	State Set-Aside Committee, PA	553,076
		5,923,354

Rhode Island

11-7354-00	Providence Census County	419,765
11-7368-00	State Set-Aside Committee, RI	235,203
		654,968

South Carolina

11-7370-00	Abbeville County	11,459
11-7372-00	Aiken County	53,050
11-7376-00	Anderson County	67,877
11-7378-00	Bamberg County	10,282
11-7380-00	Barnwell County	18,180
11-7382-00	Beaufort County	27,434
11-7384-00	Berkeley County	45,867
11-7388-00	Charleston County	127,901
11-7394-00	Cherokee County	22,829
11-7396-00	Chester County	26,763
11-7398-00	Chesterfield County	17,807
11-7400-00	Clarendon County	19,879
11-7402-00	Colleton County	22,129
11-7404-00	Darlington County	37,522
11-7406-00	Dillon County	21,190
11-7412-00	Fairfield County	15,647
11-7414-00	Florence County	58,295
11-7416-00	Georgetown County	30,429
11-7418-00	Greenville County	140,165
11-7422-00	Greenwood County	29,654
11-7424-00	Hampton County	9,999
11-7426-00	Horry County	97,636
11-7430-00	Kershaw County	26,540
11-7432-00	Lancaster County	36,420
11-7434-00	Laurens County	24,752
11-7436-00	Lee County	9,507
11-7442-00	Marion County	29,625
11-7444-00	Marlboro County	19,238
11-7446-00	Newberry County	14,693
11-7450-00	Orangeburg County	53,676
11-7452-00	Pickens County	39,713
11-7454-00	Richland County	110,079
11-7460-00	Spartanburg County	88,903
11-7462-00	Sumter County	53,527
11-7464-00	Union County	17,971
11-7466-00	Williamsburg County	20,654
11-7468-00	York County	68,637
11-7470-00	State Set-Aside Committee, SC	88,410
		1,614,339

South Dakota

11-7484-00	Brookings County	10,386
11-7486-00	Brown County	11,519
11-7554-00	Lawrence County	8,002
11-7580-00	Pennington County	21,816
11-7614-00	State Set-Aside Committee, SD	198,277
		250,000

Tennessee

11-7616-00	Anderson County	28,358
11-7618-00	Bedford County	18,806
11-7620-00	Benton County	9,179
11-7624-00	Blount County	39,251
11-7626-00	Bradley County	39,415
11-7628-00	Campbell County	31,726
11-7632-00	Carroll County	16,541
11-7634-00	Carter County	25,586
11-7640-00	Claiborne County	12,547
11-7644-00	Cocke County	27,851
11-7646-00	Coffee County	19,178
11-7650-00	Cumberland County	22,844
11-7652-00	Davidson County	210,277
11-7656-00	Decatur County	9,522
11-7658-00	De Kalb County	8,583
11-7660-00	Dickson County	18,344
11-7662-00	Dyer County	22,800
11-7664-00	Fayette County	12,830
11-7666-00	Fentress County	9,761
11-7668-00	Franklin County	14,782
11-7670-00	Gibson County	29,401
11-7672-00	Giles County	14,380
11-7674-00	Grainger County	9,045
11-7676-00	Greene County	49,056
11-7678-00	Grundy County	10,819
11-7680-00	Hamblen County	33,603
11-7682-00	Hamilton County	128,124
11-7688-00	Hardeman County	11,772
11-7690-00	Hardin County	15,587
11-7692-00	Hawkins County	20,087
11-7694-00	Haywood County	13,188
11-7696-00	Henderson County	16,243
11-7698-00	Henry County	14,812
11-7700-00	Hickman County	10,640
11-7704-00	Humphreys County	12,577
11-7708-00	Jefferson County	21,518
11-7710-00	Johnson County	10,029
11-7712-00	Knox County	123,937
11-7718-00	Lauderdale County	14,186
11-7720-00	Lawrence County	23,306
11-7724-00	Lincoln County	16,511
11-7726-00	Loudon County	17,211
11-7728-00	McMinn County	30,012
11-7730-00	McNairy County	13,769
11-7732-00	Macon County	10,237
11-7734-00	Madison County	38,446
11-7738-00	Marion County	15,721
11-7740-00	Marshall County	11,176
11-7742-00	Maury County	43,870
11-7744-00	Meigs County	7,600
11-7746-00	Monroe County	24,603
11-7748-00	Montgomery County	42,425
11-7754-00	Morgan County	9,746
11-7756-00	Obion County	21,220
11-7758-00	Overton County	12,428
11-7764-00	Polk County	9,641
11-7766-00	Putnam County	27,225
11-7768-00	Rhea County	16,794
11-7770-00	Roane County	25,884
11-7774-00	Rutherford County	48,252
11-7776-00	Scott County	17,077
11-7780-00	Sevier County	41,114
11-7782-00	Shelby County	340,980
11-7786-00	Smith County	7,510
11-7790-00	Sullivan County	58,504
11-7794-00	Tipton County	18,150
11-7798-00	Unicoi County	12,547
11-7804-00	Warren County	22,040
11-7806-00	Washington County	40,965
11-7808-00	Wayne County	9,537
11-7810-00	Weakley County	14,902
11-7812-00	White County	13,903
11-7818-00	State Set-Aside Committee, TN	122,818
		2,343,309

Texas

11-7820-00	Abilene/Jones, Taylor Counties	54,585
11-7822-00	Amarillo/Potter, Randall Counties	80,052

11–7824–00	Austin/Travis, Williamson Counties	319,819
11–7826–00	Dallas/Collin, Dallas, Denton Counties	1,393,291
11–7828–00	Houston/Fort Bend, Harris Counties	1,618,753
11–7830–00	Longview/Gregg, Harrison Counties	108,469
11–7856–00	Anderson County	23,336
11–7860–00	Angelina County	35,719
11–7868–00	Atascosa County	15,468
11–7876–00	Bastrop County	14,157
11–7880–00	Bee County	12,339
11–7882–00	Bell County	90,051
11–7886–00	Bexar County	576,948
11–7896–00	Bowie County	48,907
11–7902–00	Brazos County	36,897
11–7912–00	Brown County	19,745
11–7916–00	Burnet County	9,016
11–7918–00	Caldwell County	9,492
11–7920–00	Calhoun County	9,612
11–7924–00	Cameron County	213,466
11–7930–00	Camp County	8,285
11–7934–00	Cass County	24,692
11–7940–00	Cherokee County	19,730
11–7964–00	Comal County	22,203
11–7970–00	Cooke County	12,353
11–8004–00	Deaf Smith County	11,072
11–8020–00	Dimmit County	9,701
11–8024–00	Duval County	8,285
11–8026–00	Eastland County	8,360
11–8028–00	Ector County	69,233
11–8034–00	Ellis County	42,932
11–8036–00	El Paso County	415,920
11–8040–00	Erath County	9,835
11–8044–00	Fannin County	13,859
11–8062–00	Frio County	14,559
11–8066–00	Galveston County	136,335
11–8080–00	Gray County	10,461
11–8084–00	Grayson County	50,010
11–8090–00	Grimes County	7,764
11–8092–00	Guadalupe County	20,326
11–8094–00	Hale County	16,988
11–8104–00	Hardin County	20,549
11–8122–00	Hays County	24,141
11–8126–00	Henderson County	35,675
11–8128–00	Hidalgo County	417,053
11–8132–00	Hill County	13,784
11–8134–00	Hockley County	10,074
11–8138–00	Hopkins County	16,943
11–8142–00	Howard County	13,784
11–8146–00	Hunt County	37,746
11–8148–00	Hutchinson County	11,892
11–8158–00	Jasper County	21,339
11–8162–00	Jefferson County	136,872
11–8170–00	Jim Wells County	27,926
11–8180–00	Kaufman County	23,008
11–8188–00	Kerr County	11,877
11–8196–00	Kleberg County	16,541
11–8200–00	Lamar County	25,333
11–8214–00	Liberty County	33,752
11–8226–00	Lubbock County	109,095
11–8234–00	McLennan County	95,579
11–8248–00	Matagorda County	35,242
11–8250–00	Maverick County	53,273
11–8252–00	Medina County	10,744
11–8256–00	Midland County	48,594
11–8260–00	Milam County	7,481
11–8266–00	Montague County	7,510
11–8268–00	Montgomery County	80,886
11–8272–00	Morris County	11,921
11–8276–00	Nacogdoches County	26,167
11–8278–00	Navarro County	21,160
11–8280–00	Newton County	8,270
11–8282–00	Nolan County	9,507
11–8284–00	Nueces County	187,672
11–8292–00	Orange County	62,289
11–8294–00	Palo Pinto County	14,991
11–8296–00	Panola County	13,069
11–8302–00	Pecos County	8,300
11–8304–00	Polk County	15,304
11–8310–00	Presidio County	11,236
11–8322–00	Red River County	7,630
11–8324–00	Reeves County	13,248
11–8336–00	Rusk County	22,591
11–8344–00	San Patricio County	43,483
11–8350–00	Scurry County	12,488
11–8354–00	Shelby County	11,772
11–8358–00	Smith County	79,545
11–8364–00	Starr County	55,822
11–8376–00	Tarrant County	699,872
11–8402–00	Titus County	16,600
11–8404–00	Tom Green County	40,100
11–8414–00	Tyler County	8,509
11–8416–00	Upshur County	18,716
11–8420–00	Uvalde County	22,457
11–8422–00	Val Verde County	27,240
11–8424–00	Van Zandt County	17,241
11–8426–00	Victoria County	33,439
11–8430–00	Walker County	13,099
11–8432–00	Waller County	7,630
11–8438–00	Webb County	76,982
11–8442–00	Wharton County	19,238
11–8446–00	Wichita County	58,251
11–8452–00	Willacy County	17,882
11–8458–00	Wilson County	7,779
11–8462–00	Wise County	14,291
11–8464–00	Wood County	13,292
11–8468–00	Young County	9,030
11–8472–00	Zavala County	14,842
11–8474–00	State Set-Aside Committee, TX	324,226
		9,066,899

Utah

11–8480–00	Cache County	20,236
11–8482–00	Carbon County	9,805
11–8510–00	Salt Lake County	246,995
11–8518–00	Sanpete County	8,107
11–8526–00	Uintah County	8,554
11–8528–00	Utah County	79,649
11–8536–00	Washington County	16,332
11–8540–00	Weber County	65,150
11–8544–00	State Set-Aside Committee, UT	71,621
		526,499

Vermont

11–8552–00	Caledonia County	15,975
11–8554–00	Chittenden County	51,888
11–8566–00	Orleans County	18,538
11–8576–00	State Set-Aside Committee, VT	163,599
		250,000

Virginia

11–8584–00	Accomack County	20,788
11–8588–00	Alleghany County	9,448
11–8608–00	Brunswick County	11,981
11–8610–00	Buchanan County	22,978
11–8616–00	Caroline County	15,647
11–8618–00	Carroll County	16,079
11–8622–00	Charlotte County	7,719
11–8630–00	Culpeper County	18,582
11–8634–00	Dickenson County	13,590
11–8636–00	Dinwiddie County	12,353
11–8644–00	Floyd County	11,832
11–8652–00	Giles County	18,165
11–8658–00	Grayson County	9,507
11–8660–00	Greene County	7,898
11–8664–00	Halifax County	17,763
11–8674–00	Isle of Wight County	13,859
11–8684–00	Lancaster County	11,087
11–8686–00	Lee County	16,958
11–8690–00	Louisa County	15,513
11–8692–00	Lunenburg County	11,012
11–8698–00	Mecklenburg County	19,029
11–8702–00	Montgomery County	45,733
11–8708–00	Northampton County	8,896
11–8710–00	Northumberland County	9,254
11–8712–00	Nottoway County	7,525
11–8714–00	Orange County	12,741
11–8716–00	Page County	20,877
11–8718–00	Patrick County	8,002
11–8720–00	Pittsylvania County	34,006
11–8724–00	Prince Edward County	12,488
11–8730–00	Pulaski County	28,313
11–8738–00	Rockbridge County	12,577
11–8742–00	Russell County	21,935
11–8744–00	Scott County	12,726
11–8748–00	Smyth County	27,926
11–8752–00	Spotsylvania County	32,009
11–8760–00	Tazewell County	35,675
11–8762–00	Warren County	23,947
11–8764–00	Washington County	26,525
11–8766–00	Westmoreland County	12,145
11–8768–00	Wise County	30,817
11–8770–00	Wythe County	19,998
11–8778–00	Bristol City	9,090

11-8782-00	Charlottesville City	16,228
11-8792-00	Danville City	41,486
11-8802-00	Fredericksburg City	16,168
11-8808-00	Harrisonburg City	16,377
11-8810-00	Hopewell City	16,019
11-8814-00	Lynchburg City	31,204
11-8820-00	Martinsville City	11,668
11-8822-00	Newport News City	85,506
11-8824-00	Norfolk City	112,195
11-8828-00	Petersburg City	28,820
11-8832-00	Portsmouth City	64,271
11-8834-00	Radford City	10,550
11-8836-00	Richmond City	132,610
11-8838-00	Roanoke City	52,469
11-8844-00	Staunton City	8,911
11-8846-00	Suffolk City	29,818
11-8852-00	Williamsburg City	10,804
11-8856-00	State Set-Aside Committee, VA	879,238
		2,319,335

Washington

11-8858-00	Adams County	16,511
11-8862-00	Benton County	62,781
11-8864-00	Chelan County	47,119
11-8866-00	Clallam County	30,846
11-8868-00	Clark County	142,028
11-8872-00	Cowlitz County	55,017
11-8874-00	Douglas County	18,091
11-8878-00	Franklin County	33,052
11-8882-00	Grant County	45,525
11-8884-00	Grays Harbor County	44,824
11-8888-00	Jefferson County	10,088
11-8890-00	King County	691,005
11-8896-00	Kitsap County	72,392
11-8898-00	Kittitas County	23,843
11-8900-00	Klickitat County	15,289
11-8902-00	Lewis County	41,099
11-8906-00	Mason County	19,313
11-8908-00	Okanogan County	33,380
11-8910-00	Pacific County	12,249
11-8914-00	Pierce County	269,303
11-8920-00	Skagit County	57,640
11-8922-00	Skamania County	8,077
11-8924-00	Snohomish County	218,831
11-8928-00	Spokane County	172,084
11-8932-00	Stevens County	22,189
11-8934-00	Thurston County	81,154
11-8938-00	Walla Walla County	24,558
11-8940-00	Whatcom County	71,766
11-8942-00	Whitman County	8,673
11-8944-00	Yakima County	180,891
11-8948-00	State Set-Aside Committee, WA	26,790
		2,556,408

West Virginia

11-8950-00	Huntington/Cabell, Wayne Counties	98,291
11-8954-00	Barbour County	16,749
11-8956-00	Berkeley County	49,026
11-8958-00	Boone County	19,879
11-8960-00	Braxton County	17,852
11-8962-00	Brooke County	17,599
11-8968-00	Calhoun County	10,103
11-8970-00	Clay County	9,626
11-8974-00	Fayette County	38,998
11-8978-00	Grant County	8,837
11-8980-00	Greenbrier County	32,501
11-8982-00	Hampshire County	15,036
11-8984-00	Hancock County	21,235
11-8986-00	Hardy County	7,987
11-8988-00	Harrison County	53,586
11-8990-00	Jackson County	21,697
11-8992-00	Jefferson County	33,067
11-8994-00	Kanawha County	127,618
11-8998-00	Lewis County	16,079
11-9000-00	Lincoln County	18,955
11-9002-00	Logan County	29,595
11-9004-00	McDowell County	22,949
11-9006-00	Marion County	48,296
11-9008-00	Marshall County	30,354
11-9010-00	Mason County	25,005
11-9012-00	Mercer County	43,260
11-9014-00	Mineral County	14,410
11-9016-00	Mingo County	21,205
11-9018-00	Monongalia County	37,344
11-9020-00	Monroe County	8,136
11-9022-00	Morgan County	8,390
11-9024-00	Nicholas County	26,853
11-9026-00	Ohio County	27,926
11-9032-00	Pocahontas County	10,714
11-9034-00	Preston County	20,758
11-9036-00	Putnam County	30,772
11-9038-00	Raleigh County	55,226
11-9040-00	Randolph County	26,868
11-9042-00	Ritchie County	11,102
11-9044-00	Roane County	15,528
11-9046-00	Summers County	9,939
11-9048-00	Taylor County	12,130
11-9050-00	Tucker County	7,466
11-9054-00	Upshur County	22,159
11-9060-00	Webster County	9,954
11-9062-00	Wetzel County	15,900
11-9066-00	Wood County	60,396
11-9068-00	Wyoming County	16,824
11-9070-00	State Set-Aside Committee, WV	16,843
		1,321,023

Wisconsin

11-9072-00	Eau Claire/Chippewa, Eau Claire Counties	53,318
11-9098-00	Ashland County	7,615
11-9104-00	Brown County	75,477
11-9120-00	Clark County	16,675
11-9124-00	Crawford County	8,598
11-9126-00	Dane County	106,189
11-9134-00	Douglas County	15,125
11-9136-00	Dunn County	14,246
11-9148-00	Grant County	28,611
11-9158-00	Jackson County	7,734
11-9162-00	Juneau County	10,908
11-9164-00	Kenosha County	49,772
11-9170-00	La Crosse County	38,133
11-9176-00	Langlade County	7,630
11-9182-00	Marathon County	56,194
11-9184-00	Marinette County	17,405
11-9190-00	Milwaukee County	345,972
11-9198-00	Monroe County	17,003
11-9200-00	Oconto County	15,155
11-9214-00	Polk County	15,304
11-9216-00	Portage County	30,995
11-9220-00	Racine County	82,734
11-9224-00	Richland County	8,017
11-9226-00	Rock County	80,141
11-9230-00	Rusk County	7,928
11-9242-00	Taylor County	10,759
11-9246-00	Vernon County	10,416
11-9264-00	Waushara County	8,717
11-9266-00	Winnebago County	53,422
11-9272-00	State Set-Aside Committee, WI	416,365
		1,616,558

Wyoming

11-9276-00	Albany County	8,479
11-9288-00	Fremont County	17,107
11-9302-00	Natrona County	31,293
11-9326-00	State Set-Aside Committee, WY	193,121
		250,000

American Samoa

11-9328-00	American Samoa	134,096
		134,096

Guam

11-9330-00	Guam	127,710
		127,710

Northern Mariana Islands

11-9332-00	No. Mariana Islands	83,012
		83,012

Puerto Rico

11-9334-00	Puerto Rico	2,325,166
		2,325,166

Trust Territories

11-9338-00	Trust Territories	114,939
		114,939

Virgin Islands

11-9340-00	Virgin Islands	178,794
		178,794

[FR Doc. 93-5835 Filed 3-12-93; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Florida-Western Caribbean Shipowners and Operators Association Agreement, et al; Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011240–002.

Title: Florida-Western Caribbean Shipowners and Operators Association Agreement

Parties: Tropical Shipping & Construction Co., Ltd., Hybur Ltd., Nexos Line

Synopsis: The proposed amendment expands the geographic scope of the Agreement to include ports and points in Mexico. The parties have requested a shortened review period.

Agreement No.: 232–011337–003.

Title: Neptune Orient Lines, Ltd., Nippon Liner System, Ltd. and Nippon Yusen Kaisha Space Charter and Sailing Agreement

Parties: Neptune Orient Lines, Ltd., Nippon Yusen Kaisha

Synopsis: The proposed amendment authorizes each party to exchange a portion of the space which has been allocated to it under this Agreement for an equivalent amount of space which Hapag-Lloyd A.G. may have available to it under Agreement No. 203–011398 (Nippon Yusen Kaisha, Hapag-Lloyd, A.G., and Neptune Orient Lines, Ltd. Far/East United States/North Europe Space Charter and Sailing Agreement). The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: March 10, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–5886 Filed 3–12–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

[Docket No. 7100-0128]

Bank Holding Company Reporting Requirements

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final approval of proposed changes to the bank holding company report FR Y-9C and revisions to other bank holding company reports (FR Y-11Q and FR Y-11AS)

SUMMARY:

1. Final Approval

Notice is hereby given of final approval by the Board of Governors of the Federal Reserve System (the Board) under delegated authority from the Office of Management and Budget (OMB), as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public), of changes to the Consolidated Financial Statements for Bank Holding Companies With Total Consolidated Assets of $150 Million or More or With More Than One Subsidiary Bank (FR Y-9C; OMB No. 7100-0128). Notice also is given of final approval of changes to two other bank holding company reports: the Combined Financial Statements of Nonbank Subsidiaries of Bank Holding Companies (FR Y-11Q; OMB No. 7100-0244) and the Combined Financial Statements of Nonbank Subsidiaries of Bank Holding Companies, by Type of Nonbank Subsidiary (FR Y-11AS; OMB No. 7100-0244).

These changes, which appeared in the **Federal Register** (58 FR 6637 February 1, 1993), are to be implemented for the March 31, 1993, reporting date.[1] No comment letters were received. Therefore, the Board has determined that the changes as proposed should become final.

FOR FURTHER INFORMATION CONTACT: Arleen Lustig, Supervisory Financial Analyst (202/452-2987), Robert T. Maahs, Senior Financial Analyst (202/872-4935), or Mark S. Benton, Senior Financial Analyst (202/452-5205), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. The following individuals may be contacted with respect to issues related to the Paperwork Reduction Act of 1980: Stephen Siciliano, Special Assistant to the General Counsel for Administrative Law (202/452-3920), Legal Division; and Mary M. McLaughlin, Chief, Financial Reports Section (202/452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System; and Gary Waxman (202/395-7340), Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

A. General Information

Under the Bank Holding Company Act of 1956, as amended, the Board is responsible for the supervision and regulation of all bank holding companies. The Board has given final approval to allow the reporting, effective with the March 31, 1993, reporting date, of certain items described in Section C below, under "Reporting Form Revisions" on the FRY-9C, FR Y-11Q, and the FR Y-11AS.

B. Description of Affected Reports

1. Report Title: Consolidated Financial Statements for Bank Holding Companies with Total Consolidated Assets of $150 Million or More, or With More Than One Subsidiary Bank.

This report is filed by all bank holding companies that have total consolidated assets of $150 million or more *and* by all multibank holding companies regardless of size. The following bank holding companies are exempt from filing the FR Y-9C, unless the Board specifically requires an exempt company to file the report: bank holding companies that are subsidiaries of another bank holding company *and* have total consolidated assets of less than $1 billion; bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act; and foreign banking organizations as defined by section 211.23(b) of Regulation K.

Agency Form Number: FR Y-9C
OMB Docket Number: 7100-0128
Frequency: Quarterly
Reporters: Bank Holding Companies
Annual Reporting Hours: 148,054
Estimated Average Hours per Response: Range from 5 to 1,250 hours
Number of Respondents: 1,598
Small businesses are affected.

2. Report Title: Combined Financial Statements of Nonbank Subsidiaries of Bank Holding Companies

This report is filed by the top tier of bank holding companies that have total consolidated assets of $1 billion or more, or by a top tier bank holding company with total consolidated assets of $150 million or more but less than $1 billion that have significant holdings in nonbank subsidiaries.

Agency Form Number: FR Y-11Q
OMB Docket Number: 7100-0244
Frequency: Quarterly
Reporters: Bank Holding Companies
Annual Reporting Hours: 3,878

[1] The reporting change to the FR Y-11AS is effective with the December 1993 reporting date.

Estimated Average Hours per Response:
Range from 1 to 6 hours
Number of Respondents: 303
Small businesses are affected.

3. Report Title: Combined Financial Statements of Nonbank Subsidiaries of Bank Holding Companies, by Type of Nonbank Subsidiary

This report is filed by the top tier of bank holding companies that have total consolidated assets of $1 billion or more, or by a top tier bank holding company with total consolidated assets of $150 million or more but less than $1 billion that have significant holdings in nonbank subsidiaries.
Agency Form Number: FR Y-11AS
OMB Docket Number: 7100-0244
Frequency: Annual
Reporters: Bank Holding Companies
Annual Reporting Hours: 1,879
Estimated Average Hours per Response:
Range from 1 to 17 hours
Number of Respondents: 303
Small businesses are affected.

These information collections are mandatory (12 U.S.C. 1844) and part of the information is given confidential treatment. Confidential treatment is not routinely given to the remaining information on the form. However, confidential treatment for the remaining information, in whole or in part, can be requested in accordance with the instructions to the form.

C. Reporting Form Revisions

The Board has granted final approval for revisions to reporting on the consolidated bank holding company financial statements (FR Y-9C) and to the combined financial statements for nonbank subsidiaries of bank holding companies (FR Y-11Q and FR Y-11AS), which are described below.

1. FR Y-9C

a. The deletion of Memorandum item 1, of Schedule HC-I, Part I, "Goodwill incurred on or after March 12, 1988."

This line item was originally added to enable analysts to calculate Tier 1 capital under the transition rules for risk-based capital. The final rules became effective as of December 31, 1992; therefore, this information is no longer needed.

b. The addition of two line items to Schedule HC-H for past due and nonaccrual assets wholly or partially guaranteed by the U.S. government or by U.S. government agencies and the guaranteed portion of such assets.

These line items will parallel comparable line items being added to Schedule RC-N of the commercial bank Reports of Condition and Income for the March 31, 1993, reporting date. The addition of this information will enable the Board to analyze more accurately the asset quality of bank holding companies.

2. FR Y-11Q and Y-11AS

The addition of a line item for the "Provision for loan and lease losses" on the income statement of both the FR Y-11Q and FR Y-11AS.

Currently, these reports collect information only on the "allowance for loan and lease losses." The amount of the provision is included in "Other expense." The breakout of the provision for loan and lease losses will enable the Board to analyze asset quality more effectively for nonbank subsidiaries.

Regulatory Flexibility Act Analysis

The Board certifies that the above bank holding company reporting requirements are not expected to have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The reporting requirements for the small companies require significantly fewer items of data to be submitted than the amount of information required of large bank holding companies.

The information that is collected on the reports is essential for the detection of emerging financial problems, the assessment of a holding company's financial condition and capital adequacy, the performance of pre-inspection reviews, and the evaluation of expansion activities through mergers and acquisitions. The imposition of the reporting requirements is essential for the Board's supervision of bank holding companies under the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, March 9, 1993.
William W. Wiles,
Secretary of the Board.
[FR Doc. 93-5807 Filed 3-12-93; 8:45 am]
BILLING CODE 6210-01-F

Crestar Financial Corporation, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 5, 1993.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Crestar Financial Corporation, Richmond, Virginia; to engage *de novo* through its subsidiary, Crestar Securities Corporation, Richmond, Virginia, in the brokerage as agent of variable-rate and fixed-rate annuities pursuant to § 225.25(b)(8)(vii) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. First Bancorp of Kansas, Inc., Wichita, Kansas; to engage *de novo* through its subsidiary, Intrust Mortgage Corporation, Wichita, Kansas, in originating, purchasing and servicing mortgage loans pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Banque Nationale de Paris, Paris, France; to engage *de novo* through its subsidiary, BNP-N&B Global Asset

Management L.P., New York, New York, in investment advisory services, foreign exchange advisory and transactional services, and investment advisory services on financial futures and options, pursuant to §§ 225.25(b)(4)(ii), (iii), and (iv), (b)(17), and (b)(19), respectively of the Board's Regulation Y This is a joint venture with Neuberger & Berman, L.P., New York, New York. Banque Nationale de Paris also proposes to acquire a non-voing, non-controlling special limited partnership interest in Neuberger & Berman, L.P.

Board of Governors of the Federal Reserve System, March 9, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-5809 Filed 3-12-93; 8:45 am]

BILLING CODE 6210-01-F

Laramie Bankshares; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than April 8, 1993.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Laramie Bankshares, Laramie, Wyoming; to become a bank holding company by acquiring 100 percent of the voting shares of American National Bank, Laramie, Wyoming.

Board of Governors of the Federal Reserve System, March 9, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-5808 Filed 3-12-93; 8:45 am]

BILLING CODE 6210-01-F

Gary D. Whitlock et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 5, 1993.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Gary D. Whitlock, Colorado Springs, Colorado; to acquire an additional 9.87 percent of the voting shares of Citadel Bancorporation, Colorado Springs, Colorado, for a total of 29.87 percent, and thereby indirectly acquire The Citadel Bank, Colorado Springs, Colorado.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Benjie Sims Reed, Mexia, Texas, and Bobby Lynne Reed, Groesbeck, Texas, to each acquire 14.85 percent of the voting shares of First Groesbeck Holding Company, Groesbeck, Texas, and thereby indirectly acquire First National Bank, Groesbeck, Texas.

Board of Governors of the Federal Reserve System, March 9, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-5810 Filed 3-12-93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Medical Classification Systems: Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: NCVHS Subcommittee on Medical Classification Systems.

Time and Date: 9 a.m.–5 p.m., April 1, 1993.

Place: Room 703A–729A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The subcommittee will continue its discussion on the feasibility of a single procedure classification system.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: March 9, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–5804 Filed 3–12–93; 8:45 am]

BILLING CODE 4160–18–M

National Institutes of Health

National Cancer Institute; Notice of Meeting of the National Cancer Advisory Board Planning and Budget Task Force

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board Planning and Budget Task Force, March 24, 1993, at the O'Hare Hilton, O'Hare Airport, Chicago, Illinois 60666.

The entire meeting will be open to the public from 9 a.m. to approximately 4 p.m. Attendance by the public will be limited to space available. The Task Force will discuss and develop specific suggestions and guidelines for developing the FY 1995 Bypass Budget.

Ms. Carole Frank, Committee Management Specialist, National Cancer Institute, EPN, room 630, 9000 Rockville Pike, National Institutes of Health,

Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and a roster of the Task Force members upon request.

Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact Ms. Cherie Nichols (301/496–5515), in advance of the meeting.

Ms. Cherie Nichols, Executive Secretary, Planning and Budget Task Force, National Cancer Advisory Board, National Cancer Institute, Building 31A, room 11A21, 9000 Rockville Pike, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5515) will furnish substantive program information.

This notice is being published less than 15 days prior to the meeting due to the difficulty of coordinating the attendance of members because of conflicting schedules.

Dated: March 9, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–5793 Filed 3–12–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Notice of Meeting of Environmental Health Sciences Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on March 23, 1993 at the National Institute of Environmental Health Sciences, Building 101 Conference Room, South Campus, Research Triangle Park, North Carolina. The meeting will be open to the public on March 23 from 8:30 a.m. until approximately 11:30 a.m. for general discussion. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public March 23, from approximately 11:30 a.m. until adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Drs. John Braun, Carol Shreffler or Donald McRee, Scientific Review Administrators, Environmental Health Sciences Review Committee, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, North Carolina 27709 (telephone 919–541–7826), will provide summaries of meeting and rosters of committee members. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact any of the above named Scientific Review Administrators in advance of the meeting.

This notice is being published less than 15 days prior to the meeting due to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: March 10, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–5919 Filed 3–15–93; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–93–3587; FR–3379–N–02]

Notice Requesting Public Comments on an Information Collection

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of request for public comments on the information collection requirements contained in the application package used in connection with the Supportive Housing Program.

SUMMARY: OMB has approved the information collection requirements contained in the rule for the Supportive Housing Program until September 30, 1993 under OMB control number 2506–0112. This short-term approval has been given to allow public comment on the application forms, based on the experience of applicants during the 1993 Fiscal Year funding competition. The Department will consider all public comments received before submitting the information collection request to OMB again for a multi-year approval. Interested persons are invited to submit comments regarding this proposal before September 30, 1993.

ADDRESSES: Comments should refer to the proposal by name and should be sent to James N. Forsberg, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, with a copy also sent to Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay Weaver, Reports Management Officer, Department of Housing and Urban Development, 451–7th Street, Southwest, Washington, DC 20410, telephone, (202) 708–0050 (this is not a toll-free number). Copies of the proposed forms and other available documentation submitted to OMB may be obtained from Mrs. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The notice lists the following information: (1) The Title of the information collection; (2) the office of the agency to collect the information; (3) the description of the need for the information and its use; (4) the agency form numbers, if applicable; (5) what members of the public are affected; (6) how frequently information submissions is required; (7) an estimate of the total numbers of hours needed to prepare the information collection, including respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement or revision of an information collection requirement; and, (9) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507, section 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).

Dated: March 8, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

Notice of Submission of Proposed Information Collection to OMB

Proposal: The Supportive Housing Program application.

Office: Office of the Assistant Secretary for Community Planning and Development.

Description of the Need for the Information and Its Proposed Use: The information provided in the application package will be reviewed by HUD and evaluated against rating criteria for possible grant funding.

Form Numbers: HUD–40076 and SF–424.

Respondents: Supportive Housing Program applicants.

Frequency of Response: Applicant response is one-time.

Reporting Burden:

Supportive Housing Program:

Information collected	No. of respondents	No. of responses	Total annual responses	Hours per response	Total hours
Application preparation	500	1	500	42	21,000
Environmental reviews	75	1	75	14	1,050
Total	.....	.....	.....	.....	22,050

Status: Extension of a currently approved information collection.

Contact: James N. Forsberg, HUD, (202) 708–4300, Angela Antonelli, OMB, (202) 395–6880.

Dated: March 8, 1993.

[FR Doc. 93–5732 Filed 3–12–93; 8:45 am]
BILLING CODE 4210–29–M

[Docket No. N–93–3588; FR–2877–N–04]

Notice Requesting Public Comments on an Information Collection

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of request for public comments on the information collection requirements contained in the application package used in connection with the Shelter Plus Care program.

SUMMARY: OMB has approved the information collection requirements contained in the rule for the Shelter Plus Care program until September 30, 1993 under OMB control number 2506–0118. This short-term approval has been given to allow public comment on the application forms, based on the experience of applicants during the 1993 Fiscal Year funding competition. The Department will consider all public comments received before submitting the information collection request to OMB again for a multi-year approval. Interested persons are invited to submit comments regarding this proposal before September 30, 1993.

ADDRESSES: Comments should refer to the proposal by name and should be sent to James N. Forsberg, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, with a copy also sent to Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay Weaver, Reports Management Officer, Department of Housing and Urban Development, 451–7th Street, Southwest, Washington, DC 20410, telephone, (202) 708–0050 (this is not a toll-free number). Copies of the proposed forms and other available documentation submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The notice lists the following information: (1) The Title of the information collection; (2) the office of the agency to collect the information; (3) the description of the need for the information and its use; (4) the agency form numbers, if applicable; (5) what members of the public are affected; (6) how frequently information submissions is required; (7) an estimate of the total numbers of hours needed to prepare the information collection, including respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement or revision of an information collection requirement; and, (9) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507, section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 8, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

Notice of Submission of Proposed Information Collection to OMB

Proposal: The Shelter Plus Care (S+C) Program: Revised S+C Application.

Office: Community Planning and Development.

Description of the Need for the Information and its Proposed Use: The information provided in the application package will be reviewed by HUD and evaluated against rating criteria for possible grant funding.

Form Numbers: HUD–40085 and SF–424.

Respondents: S+C Applicants.

Frequency of Response: Applicant response is one-time.

Reporting Burden:

Shelter Plus Care Program:

Information collected	No. of respondents	No. of responses	Total annual responses	Hours per response	Total hours
Application preparation	300	1	300	40	12,000

Information collected	No. of respondents	No. of responses	Total annual responses	Hours per response	Total hours
Environmental reviews	100	1	100	14	1,400
Total					13,400

Status: Reinstatement of a previously approved information collection.

Contact: James N. Forsberg, HUD, (202) 708–4300, Angela Antonelli, OMB, (202) 395–6880.

Dated: March 8, 1993.

[FR Doc. 93–5733 Filed 3–12–93; 8:45 am]

BILLING CODE 4210–29–M

[Docket No. N–93–3478; FR–3196–N–02]

Supplemental Assistance for Facilities To Assist the Homeless (SAFAH); Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program. The announcement contains the names and addresses of the award winners and the amounts of the awards.

DATES: March 15, 1993.

FOR FURTHER INFORMATION CONTACT: James Forsberg, Director, Special Needs Assistance Program, Department of Housing and Urban Development, room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The SAFAH program was authorized by title IV of the Stewart B. McKinney Act in 1987 to provide comprehensive assistance for programs that meet the immediate and long-term needs of homeless persons. (The program was replaced by a comprehensive Supportive Housing Program by an amendment to the McKinney Act in the Housing and Community Development Act of 1992.) A Notice of Fund Availability for FY 1992 was published on August 14, 1992 (57 FR 36870), which requested applications from States to be used in local programs that will help homeless families move from transitional housing to achieve long-term self-sufficiency. The awards announced here were selected for funding in a competition under selection criteria contained in that Notice.

Applications were submitted by 42 States, and grants totaling $10.3 million were awarded to 11 States and the District of Columbia. In accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of those awards as follows:

State of Colorado for Adams, Denver, and Jefferson Counties, $999,147; Ms. Tracy D'Alanno, 1313 Sherman, #323, Denver, CO 80203

District of Columbia, $926,228; Mr. Vincent C. Gray, 801 N. Capitol St. NE., Washington, DC 20002

State of Indiana for Columbus, Warsaw, Muncie, Fort Wayne, $951,570; Mr. Joseph Leary, 302 West Washington St., Rm E442, Indianapolis, IN 46206–6116

State of Kentucky for Jefferson County, $931,199; Mr. Kevin E. Payton, 275 E. Main St., Frankfort, KY 40621

State of Maryland for Baltimore City, Garrett and Baltimore Counties; $961,730; Ms. Carolyn Colvin, 311 W. Saratoga St., Baltimore, MD

State of North Carolina for Charlotte, Anson, Montgomery, Moore, Richmond, and Durham Counties, $997,498; Ms. Edith T. Hubbard, 101 Blair Dr., Adams Bldg., Raleigh, NC 27603

State of New Jersey for Essex, Hudson, Mercer, Middlesex, Monmouth, Ocean, Salem Counties, $999,887; Mr. David Gardner, 101 S. Broad St., Trenton, NJ 08625–0051

State of Nevada for Carson City, $571,115; Ms. Anthoula C. Sullivan, 2527 N. Carson St., Carson City, NV 89710

State of New York for New York City, $1,000,000; Ms. Katherine R. Napoli, 40 N. Pearl St., Albany, NY 12243

State of Ohio for Toledo, Troy, $459,644; Mr. Scott F. Gary, 77 S. High St., 16th Fl., Columbus, OH 43266–0413

State of Oregon for Washington, Douglas, Coos Counties, $854,725; Mr. Dan Otten, 1600 State St., Salem, OR 97310

State of Virginia for Virginia Beach, Fredericksburg, Rappahannock, $717,497; Ms. Robbie J. Campbell, 501 N. 2nd St., Richmond, VA 23219–1321.

Dated: March 5, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

[FR Doc. 93–5802 Filed 3–12–93; 8:45 am]

BILLING CODE 4210–29–M

[Docket No. N–93–3421; FR–3140–N–02]

Supportive Housing Demonstration; Permanent Housing for Handicapped Homeless; Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Permanent Housing for Handicapped Homeless program of the Supportive Housing Demonstration. The announcement contains the names and addresses of the award winners and the amounts of the awards.

DATES: March 15, 1993.

FOR FURTHER INFORMATION CONTACT: James Forsberg, Director, Special Needs Assistance Program, Department of Housing and Urban Development, room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Supportive Housing Demonstration was authorized by title IV of the Stewart B. McKinney Act in 1987 to develop innovative approaches for providing supportive housing for the homeless. (The Demonstration was replaced by a comprehensive Supportive Housing Program by an amendment to the McKinney Act in the Housing and

Community Development Act of 1992.) The Permanent Housing for Handicapped Homeless program (24 CFR part 578), a component of the Demonstration, had as its purpose the development of long-term housing and supportive services for handicapped homeless persons. A Notice of Fund Availability for applications for Permanent Housing funding for Fiscal Year 1992 was published on April 30, 1992 (57 FR 18766). The awards announced here were selected for funding in a competition under selection criteria in that Notice.

Applications were submitted by States for projects to be developed in partnership with private non-profit organizations as project sponsors. Approximately $43.6 million was awarded for 50 projects in 20 states. In accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545), the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of those awards as follows:

State of Alaska, Dr. Theodore A. Mala, Commissioner, Pouch H–01, Juneau, AK 99811. Project sponsor: Southcentral Counseling Center, Anchorage, $1,471,497

Alabama Dept. of Mental Health and Mental Retardation, Mr. Royce G. King, Commissioner, P.O. Box 3710, Montgomery, AL 36109. Project sponsor: Mobile Mental Health Center, Inc., Mobile, $252,000

Arizona Dept. of Health Services, Mr. Mark Stillion, Deputy Director, 1740 W. Adams St., Phoenix, AZ 85007. Project sponsor: CODAMA, Phoenix, $937,808; CODAMA, Phoenix, $4,785,851; Behavioral Health Services, Inc., Phoenix, $1,470,510

State of California, Mr. Timothy L. Coyle, Director, Housing and Community Development, P.O. Box 951054, Sacramento, CA 994252–9205. Project sponsor: Salvation Army, Los Angeles, $1,673,247; Sacramento Housing and Redevelopment Agency, Sacramento, $393,920; Turning Point Foundation, Ventura, $406.988

State of Delaware, Mr. Thomas P. Eichler, Secretary, Department of Health and Social Services, 1901 N. Dupont Hwy, New Castle, DE 19720. Project sponsor: Connections Community Support Program, Wilmington, $845,681

State of Florida, Ms Jill Sandler, Program Director, 1317 Winewood Blvd, room 214, Tallahassee, FL 32399–0700. Project sponsor: Boley, Inc., St. Petersburg $302,813; North Miami Community Mental Health Center, Inc., Miami, $420,721; Volunteers of America, Inc., Jacksonville, $1,191,157; New Horizons Community Mental Health Center, Inc., Miami, $1,252,270

Georgia Department of Human Resources, Dr. James G. Ledbetter, Commissioner, 878 Peachtree St. NE., Rm. 109, Atlanta, GA 30303. Project sponsor: St. Jude's Recovery Center, Inc., Atlanta, $922,689

State of Illinois, Mr. Joseph A. Bonefeste, Associate Director, Dept. of Mental Health and Developmental Disabilities, 100 N. 9th St., Rm. 308, Springfield, IL 62765. Project sponsor: Chicago House, Chicago, $295,833; Pioneer Center for McHenry County, McHenry, $611,172; Thresholds, Woodstock, $417,116; Cornerstone Services, Inc., Joliet, $1,038,345

Indiana Housing Finance Authority, Mr. Ira G. Peppercorn, Executive Director, One N. Capitol, Ste. 515, Indianapolis, IN 46204. Project sponsor: Eastside Community Investments, Inc., Indianapolis, $377,400; Homeless Task Force, Fort Wayne, $518,893

Commonwealth of Massachusetts, Ms. Mary L. Padula, Secretary, Executive Office of Communities and Development, 100 Cambridge St., Rm. 1703, Boston, MA 02202. Project sponsor: Vinfen Corp., Roxbury, $1,341,297; River Valley Counseling Center, Inc., Holyoke and Springfield, $831,063; Harbor Point Community Task Force, Inc., Dorchester, $241,053

North Carolina Dept. of Economic and Community Development, Ms. Estelle Lee, Secretary, 1307 Glenwood Ave., Ste. 250, Raleigh, NC 27605. Project sponsor: CASA, Inc., Raleigh, $2,949,850; Hospitality House, Asheville, $265,498

New Jersey Dept. of Community Affairs, Mr. Roy Ziegler, Assistant Director, 11 S. Broad St/CN 051, Trenton, NJ 08625–0051. Project sponsor: Volunteers of America, Camden, $484,171; United Cerebral Palsey, Trenton, $571,046

New York State Dept. of Social Services, Mr. Peter R. Brest, Assoc. Commissioner, 40 N. Pearl St., Ste. 10A, Albany, NY 12243–0001. Project sponsor: People, Inc., Amherst, $947,161

New York State Office of Mental Health, Mr. George J. Troiano, Director, Bureau of Housing and Community Capital, 44 Holland Ave., 6th Fl., Albany, NY 12229. Project sponsor: Transitional Services, Buffalo, $1,271,443; Rehabilitation Support Services, Albany, $759,570; Volunteers of America, Rochester, $640,309; Institute for Community Living, Brooklyn, $2,143,705; Federation of Organizations for the Mentally Disabled, Patchogue, $464,395; Federation of Organizations for the Mentally Disabled, Bethpage, $606,963; Transitional Services of New York for Long Island, Brentwood, $1,251,484; Coalition Conservation, Brooklyn, $1,359,104; West Side Federation for Senior Housing, New York, $875,822; Angelo J. Melillo Center for Mental Health, Glen Head, $655,767

Ohio Dept. of Development, Ms. Roberta F. Gaber, Deputy Director, Community Development Division, P.O. Box 1001, Columbus, OH 43266–0101. Project sponsor: Rescue Mental Health Service, Lucas County, $2,325,166; Stark County Community Support, Massilion, $723,087

Commonwealth of Pennsylvania, Ms. Karen A. Miller, Secretary, Dept. of Community Affairs, Rm. 506, Forum Bldg., Harrisburg, PA 17120. Project sponsor: Mercer County Community Action Agency, Sharon, $217,424

State of South Carolina, Office of the Governor, Ms. Mary E. Spencer, Director, 1205 Pendleton St., Columbia, SC 29210. Project sponsor: Volunteers of America, Columbia, $354,608

Tennessee Dept. of Mental Health and Mental Retardation, Ms. Mary Rolando, Assistant Commissioner, 706 Church St., Nashville, TN 37243–0675. Project sponsor: Child and Family Services, Knoxville, $552,500

Utah Dept. of Community and Economic Development, Mr. A. Barclay Gardner, Deputy Executive Director, 324 South State St., Ste. 500, Salt Lake City, UT 84114–7930. Project sponsor: Valley Mental Health, Salt Lake City, $194,000

Virginia Dept. of Housing and Community Development, Mr. Neal J. Barber, Director, 501 N. 2nd St., Richmond, VA 23219. Project sponsor: Sheltered Homes, Alexandria, $691,500; Presbyterian Home and Family Services, Waynesboro, $678,629; Robert E. Rose Memorial Foundation, Winchester, $34,650

Washington Dept. of Community Development, Housing Division, Mr. Tim Arnold, Director, 906 Columbia St. SW., Olympia, WA 98504–8300. Project sponsor: Evergreen Counseling Center, Aberdeen and Hoquiam, $237,467; Community Psychiatric Clinic, Seattle, $215,968.

Dated: March 5, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

[FR Doc. 93–5800 Filed 3–12–93; 8:45 am]

BILLING CODE 4210–29–M

[Docket No. N–93–3420; FR–3139–N–02]

Supportive Housing Demonstration; Transitional Housing Program; Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Transitional Housing program of the Supportive Housing Demonstration. The announcement contains the names and addresses of the award winners and the amounts of the awards.

DATES: March 15, 1993.

FOR FURTHER INFORMATION CONTACT: James Forsberg, Director, Special Needs Assistance Program, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Supportive Housing Demonstration was authorized by title IV of the Steward B. McKinney Act in 1987 to develop innovative approaches for providing supportive housing for the homeless. (The Demonstration was replaced by a comprehensive Supportive Housing Program by an amendment to the McKinney Act in the Housing and Community Development Act of 1992.) The Transitional Housing program (24 CFR part 577), a component of the Demonstration, had as its purpose facilitating the movement of homeless persons to independent living. A Notice of Fund Availability for applications for Transitional Housing funding for Fiscal Year 1992 was published on April 30, 1992 (57 FR 18760). The awards announced here were selected for funding in a competition under selection criteria contained in that Notice.

A total of $98 million was awarded to 102 projects in 30 states, including the District of Columbia. In accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of those awards as follows:

Alaska

Covenant House of Alaska-Anchorage, $274,605; contact: Robert Flint, Chairman, Board of Directors, P.O. Box 104640, Anchorage, AK 99510–4640

Alabama

Salvation Army-Birmingham, $686,100; contact: Wesley Faulkner, 2130 11th Ave. North, Birmingham, AL 35234

Montgomery Area Family Violence Program-Montgomery, $1,170,420; contact: Karen Sellers, P.O. Box 4752, Montgomery, AL 36101

Arizona

Save the Family Foundation of Arizona-Mesa, $121,967; contact: David Radcliffe, 450 W. 4th Pl., Ste. 202, Mesa, AZ 85201

California

Human Options—Costa Mesa, $1,180,942; contact: Vivian Clecak, P.O. Box 9445, South Laguna, CA 92677–9445

North County Interfaith Council-Escondido, $2,087,080; contact: Suzanne Stewart Pohlman, 430 N. Rose, Escondido, CA 92027

Los Angeles County Dept. of Children's Services-Los Angeles, $1,011,172; contact: Peter Digre, 425 S. Shatto Place, Rm. 603, Los Angeles, CA 90020.

Shelter Services for Women-Santa Barbara, $818,100; contact: Susan Frascella, P.O. Box 1536, Santa Barbara, CA 93102

Salvation Army-Santa Fe Springs, $645,120; contact: Lt. Col. David Riley, 12000 E. Washington Blvd., Santa Fe Springs, CA 90606

Ocean Park Community Center-Santa Monica, $2,777,398; contact: Vivian Rothstein, 237 Hill Street, Santa Monica, CA 90405

Christian Outreach Appeal-Long Beach, two grants for $658,507 and $575,553; contact: John Jensen, 515 E. 3rd St., Long Beach, CA 90802

Swords to Plowshares Veterans Rights Organization-San Francisco, $1,187,684; contact: Michael Blecker, 400 Valencia St., San Francisco, CA 94103

Berkeley Oakland Support Services-Berkeley, two grants for $3,585,978 and $976,977; contact: Boona Cheema, 2065 Kittredge St., Ste. E, Berkeley, CA 94704

YWCA in Santa Clara Valley-San Jose, $2,534,095; contact: Faith Rein, 440 N. 1st St., San Jose, CA 95112–4024

Transitional Living and Community Support-Sacramento, $430,396; contact: Jane Ginsberg, 1631 P St., Sacramento, CA 95814

Innovative Housing for Community-San Rafael, $463,800; contact: Deborah Breiff, 2169 E. Francisco Blvd., Ste. E, San Rafael, CA 94901

Travelers Aid Society-San Francisco, $2,372,877; contact: Diane Larrabee, P.O. Box 420137, San Francisco, CA 94142

Progress Foundation-San Francisco, $2,710,979; contact: Steve Fields, 368 Fell St., San Francisco, CA 94102

Colorado

Volunteers of America-Denver, $1,446,125; contact: Dianna Kunz, 1865 Larimer St., Denver, CO 80202.

Southwest Community Resources-Durango, $183,579; contact Peter Tregillus, 572 E. 6th Ave., Durango, CO 81301.

Colorado Coalition for Homeless-Denver, $998,709; contact: John Parvensky, 2100 Broadway, Denver, CO 80205.

Connecticut

St. Luke's Community Services-Stamford, $2,773,691; contact: Richard Schuster, 8 Woodland Pl., Stamford, CT 06902.

New Opportunities-Waterbury, $843,723; contact: Donald Doring, 232 N. Elm St., Waterbury, CT 06702

Connecticut AIDS Residence Program-New Haven, $1,753,188; contact: Monroe Wright, 254 College St., Ste. 205, New Haven, CT 06510

District of Columbia

Anchor Mental Health Assoc., $987,163; contact; Richard C. Fults, 804 Rhode Island Ave. NE, Washington, DC 20018

Consortium for Services to Homeless Families, $1,008,665; contact: Tony Russo, 707 8th St. SE, Ste. 100, Washington, DC 20003

Florida

Adopt-a-Family of the Palm Beaches, Inc.-Lantana, $1,162,064; contact: Terry L. Bozarth, 1199 W. Lantana Rd., Bldg. 18, Lantana, FL 33465

Religious Community Services-Clearwater, $1,123,232; contact: Ellen Jensen, P.O. Box 37, Clearwater, FL 34617

Mental Health Assoc. of Dade County-Miami, $391,650; contact: Patricia Regester, 227 NE 17th St., Miami, FL 33132

Lodestar Foundation-St. Petersburg, $413,789; contact: Donald Malcolm,

2510 Central Ave., St. Petersburg, FL 33712
Another Way-Levy County, $361,444; contact: Dr. Kathleen Cantwell, P.O. Box 529, Archer, FL 32618

Idaho

St. Vincent De Paul Society-Coeur d'Alene, $1,341,754; contact; Gary Strope, 108 E. Walnut, Coeur d'Alene, ID 83814

Illinois

Pioneer Center of McHenry County-McHenry, $1,866,883; contact: Leonard Duncan, 4001 Dayton St., McHenry, IL 60050
Catholic Charities-Joliet, $167,858; contact: Frank Laule, 411 Scott St., Joliet, IL 60432
Travelers and Immigrants Aid-Chicago, $2,152,500; contact: Sid Mohn, 327 S. LaSalle St., Ste. 1500, Chicago, IL 60604
Sojourn Women's Center-Springfield, $299,912; contact: Alice Nathan, P.O. Box 4626, Springfield, IL 62708

Indiana

Hope House-Fort Wayne, $740,322; contact: Donald Maillho, Jr., 1115 Garden St., Fort Wayne, IN 46802
Westside Community Development Corp.-Indianapolis, $1,584,183; contact: Jay Alley, 1635 W. Michigan St., Indianapolis, IN 46222
City of Gary, $354,450; contact: Thomas V. Barnes, Mayor, Gary, IN 46402
Eastside Community Investments-Indianapolis, $1,577,578; contact: Dennis West, 26 N. Arsenal Ave., Indianapolis, IN 46201

Kentucky

Hope Center-Lexington, $954,587; contact: Debra Hensley, P.O. Box 1725, Lexington, KY 40592–1725
Presbyterian Child Welfare Agency-Buckhorn, $420,042; contact: Charles Baker, Buckhorn Children's Center 1 Buckhorn Lane, Buckhorn, KY 41721

Louisiana

Associated Catholic Charities-New Orleans, $389,873; contact: Sr. Anthony Barczykowski, 1231 Prytania St., New Orleans, LA 70130
Covenant House-New Orleans, $398,346; contact: Phil Boudreau, 611 N. Rampart St., New Orleans, LA 70112

Massachusetts

Trustees of Health and Hospitals-Boston, $1,518,413; contact: John Christian, 1010 Massachusetts Ave., Boston, MA 02118.
Springfield Home for Friendless Women & Children-Springfield, $847,435; contact: Dennis Richardson, 44 Sherman St., Springfield, MA 01109.

Maryland

Domestic Violence Center-Columbia, $187,205; contact: Frances Price, 8950 Route 108, Ste. 116, Columbia, MD 21045.
Anne Arundel County Dept. of Social Services-Fort Meade, $551,663; contact: Robert Neall, 80 West St., Annapolis, MD 21401.
Prince George's County Dept. of Housing & Community Development-Capitol Heights, $2,116,885; contact: Lynda Fox, 9400 Peppercorn Pl, Ste. 200, Landover, MD 20785.
Montgomery County Housing Opportunities Commission-Silver Spring, $1,150,664; contact: Bernard Tetreault, 10400 Detrick Ave., Kensington, MD 20895.

Michigan

Salvation Army-Mt. Clemens, MI, $887,775; contact: LTC Clarence Harvey, 16130 Northland Dr., Southfield, MI 48075
Grand Rapids Housing Commission-Grand Rapids, $689,498; contact: Carlos Sanchez, 1420 Fuller SE, Grand Rapids, MI 49507
Salvation Army-Grand Rapids, $776,059; contact: LTC James Davis, 1215 East Fulton, Grand Rapids, MI 49503
Kalamazoo County-Kalamazoo, $575,880; contact: Roger Vander Shie, 201 W. Kalamazoo Ave., Kalamazoo, MI 49007

Minnestoa

Cornerstone Advocacy Services-Bloomington, $610,366; contact: Shirley Culter, 9730 Irving Ave. So., Bloomington, MN 55431
Peta Wakan Tipi-St. Paul-$307,099; contact: John Eichhorn, 459 N. Wheeler St., St. Paul, MN 55104
Harriet Tubman Women's Shelter-Minneapolis, $1,449,599; contact: Sheila Plunkett, P.O. Box 7026, Minneapolis, MN 55407

Missouri

Salvation Army-Kansas City, $1,016,541; contact: LTC James Davis, 3637 Broadway, Kansas City, MO 64111
YWCA-St. Louis, $618,624; contact: Marilyn Robinson, 4232 Forest Park Blvd, Ste. 204, St. Louis, MO 63108

Montana

Human Resources Council-Butte, $802,800; contact: Tim Shea, 700 Casey, Butte, MT 59701

North Carolina

Salvation Army-Charlotte, $1,101,015; contact: Wesley Faulkner, 534 Spratt St., Charlotte, NC 28206
Volunteers of America-Wilmington, NC, $710,834; contact: Pepper Schales-Elkins, 2218 Devine St., Columbia, NC 29205
Hospitality House-Boone, $224,659; contact: Jim Thompson, 410 E. Kine St., Boone, NC 28607

New Jersey

New Community Harmony House Corp.-Newark, $981,375; contact: Jeanette Page-Hawkins, 278–282 S. Orange Ave., Newark, NJ 07103

New York

Homespace Corp.-Buffalo, $638,868; contact: Frederick Spaulding, 371 Delaware Ave., Buffalo, NY 14202
Oneida County Substance Abuse Services-Utica, $1,936,593; contact: Paul Vitagliano, 400 Rutger St., Utica, NY 13501
Services for the Underserved-Brooklyn, $1,962,690; contact: Steven Warren, 305 Seventh Ave., New York, NY 10001
Westhab-White Plains, $262,500; contact: Robert Miller, 85 Executive Blvd., Elmsford, NY 10523
Institute for Community Living-Brooklyn, $690,028; contact: Dr. Peter Campanelli, 6209 16th Ave., Brooklyn, NY 11204
Homes for the Homeless-NYC, $189,080; contact: Aurora Zepeda, 36 Cooper Sq., 6th Fl., New York, NY 10003
Doe Fund-Flushing, $1,648,761; contact: George McDonald, 232 E. 84th St., New York, NY 10028–2951
Addicts Rehabilitation Center Fund-NYC, $1,575,000; contact: James Allen, 1881 Park Ave., New York, NY 10035
Center for Children & Families-NYC, $1,443,688; contact: Beverly Brooks, 161–20 89th Ave., Jamaica, NY 11432

Ohio

Montgomery Cnty. Community Action Agency-Dayton, $589,056; contact: David Hernandez, 318 S. Main St., Dayton, OH 45401–4008
H.M. Life Opportunity Services-Akron, $848,665; contact: Sr. Loretta Rafter, P.O. Box 8174, Akron, OH 44320
Huckleberry House-Columbus, $987,406; contact: Douglas McCoard, 1421 Hamlet St., Columbus, OH

Pennsylvania

Interfaith Community Development Corp.-Pottstown, $285,515; contact: Cherie Wilson, 503 King St., Pottstown, PA 19464

Temporary Housing-State College, $221,559; contact: Ronald Quinn, P.O. Box 1391, State College, PA 16801
Greater Philadelphia Urban Affairs Coalition-Philadelphia, $666,173; contact: Ernest Jones, 121 N. Broad St., Philadelphia, PA 19107
Opportunities Industrialization Center-Philadelphia, $1,428,511; contact: Robert Nelson, 1231 N. Broad St., Philadelphia, PA 19122
DELTA Housing-Harrisburg, $538,073; contact: James Ross, P.O. Box 5342, Harrisburg, PA 17110
Resources for Human Development-Philadelphia, $1,942,179; contact: Robert Fishman, 4101 Kelly Dr., Philadelphia, PA 19129–1532

Rhode Island

Women's Center of Rhode Island-Providence, $702,613; contact: Anne Grant, 45 East Transit St., Providence, RI 02906
Self-Help Inc.-Bristol, Warren, and East Providence, $517,817; contact: Dennis Roy, 100 Bullocks Point Ave., East Providence, RI 02915

Tennessee

Metropolitan Inter-Faith Assoc.-Memphis, $718,141; contact: Allie Prescott, 910 Vance Ave., Memphis, TN 38173

Texas

Salvation Army-Abilene, $186,974; contact: Wesley Faulkner, 1726 Butternut St., Abilene, TX 79608
HOPE, Inc.-Denton, $168,303; contact: Barbara Atkins, 1213 N. Locust, Denton, TX 76206
Community Enrichment Center-Haltom City, Arlington, Burleson, Euless, Everman, Fort Worth, Watauga, North Richland Hills, Keller, Grapevine, Irving, Mansfield, Saginaw, $1,163,022; contact: Jan Johnson, 6250 N.E. Loop 820, Fort Worth, TX 76180–7899
S.E.A.R.C.H. Homeless Project-Houston, $1,787,264; contact: Early Hatcher, 3202 Louisiana, Houston, TX 77270

Utah

Utah Nonprofit Housing Corp.-Salt Lake City, $346,098; contact: Carl Inoway, 285 West North Temple, Ste. 202, Salt Lake City, UT 84103

Virginia

New Land Samaritan Inns-Lynchburg, $993,496; contact: Vincent Sawyer, Jr., P.O. Box 1255, Lynchburg, VA 24505
Portsmouth Area Resources Coalition-Chesapeake, $504,451; contact: Ethel Robinson, P.O. Box 1183, Portsmouth, VA 23705
Arlington County Dept. of Human Services-Arlington, $639,999; contact: Anton Gardner, 2100 Clarendon Boulevard, Ste. 411, Arlington, VA 22201
Fairfax County Redevelopment and Housing Auth.-Fairfax, $387,880; contact: Walter Webdale, One University Plaza, Fairfax, VA 22030

Washington

Dominican Outreach Services-Spokane, $1,029,013; contact: Sr. Judith Nilles, W. 3102 Ft. Wright Dr., Spokane, WA 99204
Veterans Independent Enterprises-Tacoma, $186,865; contact: Richard Meier, 117 American Lake, Tacoma, WA 98493
Episcopal Services for Youth-Tacoma, $130,699; contact: Julie Bonsteel, 5210 S. State St., Tacoma, WA 98409
Walla Walla County-Walla Walla, $269,851; contact: David Carey, 310 W. Poplar, Walla Walla, WA 99362
Friends of Youth-Bothell, $767,899; contact: Howard Finck, 16225 NE. 87th St., Redmond, WA 98052
YWCA of Seattle-Kent, $250,000; contact: Rita Ryder, 1118 Fifth Ave., Seattle, WA 98101
YWCA of Seattle-Redmond, $340,480; contact: Rita Ryder, 1118 Fifth Ave., Seattle, WA 98101

Dated: March 5, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

[FR Doc. 93–5801 Filed 3–12–93; 8:45 am]
BILLING CODE 4210-29-M

Office of Assistant Secretary for Public and Indian Housing

[Docket No. N93–3354; FR–3167–N–03]

FY 1992 NOFA for the Public Housing Development/Major Reconstruction of Obsolete Public Housing/Family Self-Sufficiency Programs; Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions the Department has made under the Fiscal Year 1992 NOFA for the Public Housing Development/Major Reconstruction of Obsolete Public Housing/Family Self-Sufficiency Programs, published on June 18, 1992 (57 FR 27330). The announcement contains the names and addresses of the award winners and the amounts of the awards.

FOR FURTHER INFORMATION CONTACT: Janice Rattley, Office of Construction, Rehabilitation and Maintenance, Department of Housing and Urban Development, 451 Seventh Street, SW., room 4134, Washington, DC 20410. Telephone (202) 708–1800. Hearing or speech impaired individuals may call HUD's TDD number (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On June 18, 1992, (57 FR 27330), the Department published a Notice of Fund Availability (NOFA) advising public housing agencies (PHAs) that $573,983,000 in grant appropriations were available for Fiscal Year (FY 1992 for Public Housing Development or Major Reconstruction of Obsolete Public Housing (MROP)), and the Family Self-Sufficiency Programs. (In accordance with its authorizing legislation, participation in the Family Self-Sufficiency (FSS) Program was voluntary for PHAs in FY 1992, and public housing development grants were offered as an incentive to encourage participation in the FSS Program. The NOFA set forth the application procedures and described the methods that the Department would use to rate and rank approvable applications.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing, in this notice, the names and addresses of the PHAs (by HUD Regions) that were awarded development and/or MROP grants under the public housing NOFA and the amounts of the grants. The list of the grantees is set forth in Appendix A to this notice.

Dated: March 5, 1993.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

APPENDIX A—PUBLIC HOUSING DEVELOPMENT/MROP/FSS/FUNDING GRANTS

Region/PHA recipient	Amount
I. Boston Regional Office, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Room 375, Boston, MA 02222:	
Boston Housing Authority, 52 Chauncy St., Boston, MA 02111	$5,974,700
Cranston Housing Authority, 50 Birch St., Cranston, RI 02920	2,279,250
Hartford Housing Authority, 475 Flatbush Ave., Hartford, CT 06106	3,770,000
Keene Housing Authority, 105 Castle St., Keene, NH 03104	1,551,600
Winooski Housing Authority, 83 Barlow St., Winooski, VT 05404	2,436,500
II. New York Regional Office, 26 Federal Plaza, New York, NY 10278:	
Atlantic City Housing Authority, 227 N. Vermont Ave., Atlantic City, NJ 08404	19,438,632
New York City Housing Authority, 250 Broadway, New York, NY 10007	68,274,950
Newark Housing Authority, P.O. Box 108, 200 Driving Park Circle, Newark, NJ	39,554,200
Perth Amboy Housing Authority, 881 Amboy Ave., Perth Amboy, NJ 08862	5,239,113
Rochester Housing Authority, 140 West Ave., Rochester, NY 14611	192,200
III. Philadelphia Regional Office, Liberty Square Bldg., 105 S. 7th St., Philadelphia, PA 19106:	
Altoona Housing Authority, 1100 11th Ave., Altoona, PA 16601	1,591,200
Beckley Housing Authority, PO Box 1780, 100 Beckwood Dr., Beckley, WV 25802	460,500
Bristol Housing Authority, 650 Quarry St., Bristol, VA 24201	3,203,035
Chester Housing Authority, 6 W. 6th St., Chester, PA 19016	35,893,813
Cumberland County Housing Authority, 114 N. Hanover St., Carlisle, PA 17013	507,000
Delaware County Housing Authority, 1855 Constitution Ave., Woodlyn, PA 19094	4,611,700
Fayette County Housing Authority, PO Box 1007, Uniontown, PA 15401	1,684,600
Luzerne County Housing Authority, 250 1st AVe., Kingston, PA 18704	4,420,000
McKean Co Housing Authority, 410 E. Water St., Smethport, PA 16749	1,071,000
Newport News Housing Authority, PO Box 77, Newport News, VA 23607	1,622,600
Pittsburgh Housing Authority, 200 Ross St., Pittsburgh, PA 15219	7,898,958
Randolph Co. Housing Authority, PO Box 1579, 525-B Center St., Elkins, WV 26241	2,145,500
Reading Housing Authority, 400 Hancock Blvd., Reading, PA 17837	1,692,600
Union County Housing Authority, 2015 Market St., Colonial Pk-Box 274, Lewisburg, PA 17837	915,800
Waynesboro Housing Authority, PO Box 1138, 1700 New Hope Rd., Waynesboro, VA 22980	3,133,500
IV. Atlanta Regional Office, Richard B. Russell Federal Bldg., 75 Spring St., S.W. Atlanta, GA 30303:	
Atlanta Housing Authority, 739 W. Peachtree, N.E., Atlanta, GA 30365	33,510,000
Asheville Hsg Auth, PO Box 1898, 165 S. French Broad Ave., Asheville, NC 27261	3,069,500
Claxton Housing Authority, PO Box 849, Claxton, GA 30417	1,060,000
Crossville Housing Authority, PO Box 425, 202 Irwin Ave, Crossville TN 38557	1,143,450
Cumming Housing Authority, PO Box 36, Cumming, GA 30130	1,520,600
Floyd County Housing Authority, PO Box 687, Prestonsburg, KY 41653	982,600
Ft. Lauderdale Housing Authority, 437 SW 4th Ave., Ft. Lauderdale, FL 33315	3,217,500
High Point Housing Authority, PO Box 1779, 500 E Russell Ave, High Point, NC 27261	6,201,300
Jackson Housing Authority, 3430 Albemarle Rd., Jackson, MS 39213	3,427,500
Jasper Housing Authority, PO Box 582, Jasper, AL 35501	2,217,235
Jefferson County Housing Authority, 2100 Walker Chapel Rd., Fultondale, AL 35068	3,320,000
Mobile Housing Authority, PO Box 1345, 151 S. Claiborne St., Mobile, AL 36633	3,186,450
Prichard Housing Authority, PO Box 10307, 600 Hinson Ave., Prichard, AL 36610	6,914,000
Raleigh Housing Authority, PO Box 28007, 600 Tucker St., Raleigh, NC 27611	3,962,500
Tampa Housing Authority, PO Box 4766, 1514 Union St., Tampa, FL 33607	3,769,750
Uniontown Housing Authority, PO Box 633, Uniontown, AL 36786	1,063,000
V. Chicago Regional Office, Ralph H. Metcalfe Federal Bldg., 77 W. Jackson Blvd., Chicago, IL 60604:	
Akron Housing Authority, 180 W. Cedar St., Akron, OH 44307	6,478,500
Benton Harbor Housing Authority, 925 Buss St., Benton Harbor, MI 49022	1,437,650
Boscobel Housing Authority, 213 N. Wisconsin Ave, Boscobel, WI 53805	871,000
Brainerd Housing Authority, 304 E. River Rd., Brainerd, MN 56401	2,135,050
Chicago Housing Authority, 22 W. Madison St., Chicago, IL 60602	2,021,250
Cuyahoga Housing Authority, 1441 W. 25th St., Cleveland, OH 44113	26,334,329
Dakota County Housing Authority, 2496 145th St., Rosemont, MN 55068	2,330,000
Detroit Housing Authority, 2211 Orleans, Detroit, MI 48027	7,898,958
Duluth Housing Authority, PO Box 16900, 222 E. 2nd St., Duluth, MN 55816	893,500
East St. Louis Housing Authority, 700 N. 20th St., E. St. Louis, IL 62205	14,019,200
Eau Claire County Housing Authority, 731 Oxford, Rm 180, Eau Claire, WI 54703	544,900
Fairfield Housing Authority, PO Box 861, Lancaster, OH 43130	873,500
SE MN Multi-County Housing Authority, 134 E. 2nd St., Wabasha, MN 55981	878,000
Sullivan Housing Authority, 200 N. Court St., Sullivan, IN 47882	1,340,850
Worthington Housing Authority, 819 10th St., Worthington, MN 56187	926,000
VI. Fort Worth Regional Office, 1600 Throckmorton, PO Box 2905, Fort Worth, TX 76113:	
Albuquerque Hsg Auth, PO Box 1293, 2200 Univ Blvd, SE, Albuquerque, NM 87103	927,600
Beaumont Housing Authority, PO Box 1312, Beaumont, TX 77704	10,659,000
Bernalillo County Housing Authority, 620 Lomas Blvd, NW, Albuquerque, NM 87102	1,852,650
Cameron County Housing Authority, PO Box 5806, Brownsville, TX 78520	2,627,500
Corpus Christi Housing Authority, PO Box 7019, Corpus Christi, TX 78467	1,268,750
Dallas Housing Authority, PO Box 191485, 2525 Lucas Dr., Dallas, TX 75219	3,819,100
El Paso Housing Authority, PO Box 9895, 1600 Montana Ave., El Paso, TX 79989	3,595,000
Kingsville Housing Authority, 1000 Brown Villa, Kingsville, TX 78363	1,258,000
Mission Housing Authority, 906 E. 8th, Mission, TX 78572	1,324,500
Port Arthur Housing Authority, PO Box 2295, Port Arthur, TX 77643	1,745,400

APPENDIX A—PUBLIC HOUSING DEVELOPMENT/MROP/FSS/FUNDING GRANTS—Continued

Region/PHA recipient	Amount
San Antonio Housing Authority, PO Drawer 1300, San Antonio, TX 78295	2,243,900
San Benito Housing Authority, PO Box 1950, San Benito, TX 78586	715,000
Vernon Parish Hsg Auth, PO Box 1247, Hwy LA–10, Sandy Hill, Leesville, LA 71446	1,194,750
VII. Kansas City Regional Office, Gateway Tower II, 400 State Ave., Kansas City, KS 66101:	
Des Moines Housing Authority, 1101 Crocker St., Des Moines, IA 50309	4,995,000
E. Iowa Regional Housing Auth, PO Box 1140, #330 Nesler Ctr., Dubuque, IA 52004	1,708,050
Kansas City Housing Authority, 299 Paseo, Kansas City, MO 64106	10,536,900
Kearney Housing Authority, 2715 Ave. I, Kearney, NE 68847	2,457,200
Lincoln Housing Authority, PO Box 5327, 5700 R St., Lincoln, NE 68505	2,006,300
Omaha Housing Authority, 540 W. 27th St., Omaha, NE 68105	1,941,250
St. Charles Housing Authority, 1041 Olive St., St. Charles, MO 63301	1,289,100
St. Louis Housing Authority, 4100 Lindell Blvd., St. Louis, MO 63108	14,998,249
Salina Housing Authority, PO box 1202, 469 S. 5th St., Salina, KS 67402	3,602,500
Southern Iowa Regional Housing Authority, 219 N. Pine St., Creston, IA 50801	371,200
VIII. Denver Regional Office, Executive Tower Building, 1405 Curtis St., Denver, CO 80202:	
H.A. of the City & County of Denver, PO Box 4305, 1100 W. Colfax Ave., Denver, CO	3,337,500
Lakewood Housing Authority, 445 S. Allison Pkwy, Lakewood, CO 80226	1,057,200
Longmont Housing Authority, 900 Coffman, Suite C, Longmont, CO 80501	566,100
Pueblo Housing Authority, 1414 N. Santa Fe Ave, Pueblo, CO 81003	810,000
Salt Lake City Housing Authority, 1776 SW Temple, #204, Salt Lake City, UT 84115	1,084,900
Salt Lake County Housing Authority, 1962 S. 200 E., Salt Lake City, UT 84115	1,113,500
West Valley City Housing Auth, 3600 Constitution Blvd., West Valley City, UT 84119	1,352,900
IX. San Francisco Regional Office, Philip Burton Fed Bldg & U.S. Courthouse, 450 Golden Gate Ave, San Francisco, CA 94102:	
State of Hawaii Housing Authority, PO Box 17907, Honolulu, HI 96817	14,998,000
Imperial Valley Housing Authority, 1401 D St., Brawley CA 92227	6,891,300
Las Vegas Housing Authority, PO Box 1897, Las Vegas, NV 89125	19,145,405
Los Angeles County Housing Authority, 4800 Brooklyn Ave., Los Angeles, CA 90022	2,501,000
Madera Housing Authority, 205 N. G St., Madera, CA 93637	1,250,550
Phoenix Neighborhd Impr & Hsg Dept., 920 E. Madison, Suite D, Phoenix, AZ 85034	2,515,150
Sacramento City Housing Authority, PO Box 1834, 630 I St., Sacramento, CA 95812	4,261,400
Sacramento County Housing Authority, PO box 1834, 630 I St., Sacramento, CA 95812	4,261,400
San Diego Housing Authority, 1625 Newton St., San Diego, CA 92113	8,829,900
Santa Clara County Housing Authority, 505 W. Julian St., San Jose, Ca 95110	1,778,800
Yuma Housing Authority, 1350 W. Colorado St., Yuma, AZ 85350	4,279,250
X. Seattle Regional Office, Arcade Plaza Building, 1321 Second Ave., Seattle, WA 98101:	
Alaska HFC, PO Box 230329, 624 W. International Airport Road, Anchorage, AK 99523	15,967,310
Grant County Housing Authority, 1139 Larson Blvd., Moses Lake, WA 98837	2,631,600
NE Oregon Housing Authority, PO Box 3357, La Grande, OR 97850	1,009,200
Pierce County Housing Authority, PO Box 45410, 603 S. Polk, Tacoma, WA 98445	2,463,750
Vancouver Housing Authority, 500 Omaha Way, Vancouver, WA 98661	1,215,900

[FR Doc. 93–5799 Filed 3–12–93; 8:45 am]
BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–050–4333–04]

Seasonal Road Closure

AGENCY: Bureau of Land Management, Interior

ACTION: Seasonal road closure.

SUMMARY: Notice is hereby given in accordance with 43 CFR 8364.1(a) Closure and Restriction. Pursuant to 43 CFR 8364.1 the following Bureau of Land Management (BLM) roads in Conejos, Rio Grande, and Saquache Counties will be temporarily closed to protect roads and fragile resources during the wet conditions of the spring thaw.

Conejos County: Cumbres Toltec Rd. (#5035), Bighorn Rd. (#5041), Las Mestas Rd. (#5048), Poso Loop Rd. (#5046), Ra Jadero Rd. (#5065), Posito Creek Rd. (#5075), Capulin Peak Rd. (#5060) and Cinder Pits Rd. (#5055).

Rio Grande County: Bronson Peak Rd. (#5100), Spring Gulch Rd. (#5105), and the Nine Mile Road access onto BLM Rd. #5100.

Sequache County: Poncha Loop Rd. (#5325), Clover Creek Rd. (#5330), Dorsey Creek Rd. (#5331), Noland Gulch Loop Rd. (#5305), Clayton Cone Rd. (#5310), Findley Gulch Rd. (#5290), Poison-Dry Loop Rd. (#5275), Ford Creek Rd. (#5270), Cabin Draw Rd. (#5265), Ward Gulch Rd. (#5260), Antelope Creek Rd. (#5250), Trickle Mountain Rd. (#5255), Big Dry Gulch Rd. (#5242), Taylor Canyon Rd. (#5248), Spanish Creek Rd. (#5252), Decker Creek Rd. (#5335) and Squaw Creek Rd. (#5245).

ADDRESSES: Comments can be directed to the Area Manager, San Luis Resource Area, 1921 State Street, Alamosa, CO 81101 or District Manager, Cañon City District Office, P.O. Box 2200, Cañon City, Co 81215–2200.

SUPPLEMENTARY INFORMATION: This temporary closure will serve to protect the fragile vegetation and highly erodible soils from adverse effects of vehicle travel during the wet months of the year. Roads will be reopened to travel when dry soil conditions allow. Pursuant to 43 CFR 8364.1(4), the following persons are exempted from this order: Search and Rescue, Local Law Enforcement and BLM personnel in performance of official duties.

Dated: March 8, 1993.

Donnie R. Sparks,

District Manager, Cañon City.

[FR Doc. 93–5836 Filed 3–12–93; 8:45 am]
BILLING CODE 4710–JB–M

[CA-010-03-4333-04]

Temporary Firearms Use Restriction Order for the Keyesville/Kern River Special Recreation Management Area

AGENCY: Bureau of Land Management.

ACTION: Establishment of a Temporary Firearms Use Restriction Order on Public Lands within the Keyesville/Kern River Special Recreation Management Area of the Caliente Resource Area, Bakersfield District, California.

SUMMARY: The Keyesville/Kern River Special Recreation Management Area will have a firearms use restriction in the congested recreational portion of public land between Keyesville Road and State Highway 178.

SUPPLEMENTARY INFORMATION: Effective April 1, 1993, and pursuant to 43 CFR 8360, 43 CFR 8364, and 43 CFR 8365.1–4(a,b), any discharge of firearms, except for the lawful taking of game, is prohibited on Public Lands south or east of the Keyesville Road to State Highway 178 and east to State Highway 155 in Kern County, and north or west of Keyesville Road for its first mile.

This prohibition includes all public lands in T.26S., R. 33 E. Section 30 W½, Sec. 31 W½; T.26 S., R.32 E. Sec. 25 E½, Sec. 35 E½, Sec. 36; and T.27 S., R 32 E, Sec. 1, Sec. 2 E½, Mount Diablo Base and Meridian.

For the purpose of this order, a firearm is defined as under title 18, U.S.C., chapter 44, section 921(a)(3).

Federal, State and local law enforcement officers are exempt from this order in the course of their official duties.

This order is intended to restrict the discharge of firearms in a congested recreational use area. Other adjacent and less heavily used parcels of Public Land are not affected by this order.

This order will expire upon completion and publication of the Record of Decision for the Caliente Resource Management Plan.

Any person who fails to comply with this restriction order may be subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. Penalties are contained in 43 CFR 8360.0–7.

Dated: February 18, 1993.

James Wesley Abbott,

Caliente Resource Area Manager.

[FR Doc. 93-4902 Filed 3-12-93; 8:45 am]

BILLING CODE 4310-40-M

[OR-130-4920-10-4709; GP3-089]

Availability of the Proposed Spokane Resource Management Plan Amendment and Environmental Assessment for Department of the Army, Corps of Engineer's Application for Land Withdrawal-Yakima Firing Center

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This Resource Management Plan Amendment (RMPA) is being prepared to address the U.S. Department of the Army, Corps of Engineer's application to withdraw certain public lands as part of an overall expansion of the Yakima Firing Center. The Spokane District RMP of 1985, and the recently completed Resource Management Plan Amendment (June 22, 1992) identified this area as important for leasable minerals, recreation, and range. However, the RMP did not anticipate the requested withdrawal. In addition, a withdrawal of this type would not be consistent with the management objectives of the RMP. The environmental review included in this document also meets the requirements contained in the Bureau's interim withdrawal handbook (H–2310–1).

This document is expected to be available to the public for a forty five (45) day comment period beginning with the publication of this notice.

DATES: Comments should be received on or about April 30, 1993.

ADDRESSES: Comments should be sent to District Manager, Spokane District, East 4217 Main Avenue, Spokane, Washington 99202.

SUPPLEMENTARY INFORMATION: The subject public lands are located in an area extending west of the Columbia River for about 20 miles and south from Interstate 90 to the present boundary of the Yakima Firing Center. There are 27 individual tracts of public land, 9,745.82 acres, included in the withdrawal application; 6,655.02 acres are public surface/federal minerals and 3,090.80 acres are private surface/federal minerals.

Planning Issues

Minerals Resources: BLM's policy has been to encourage the orderly development of mineral resources. With the change in administrative authority to the Department of the Army, the subject public lands would be removed from settlement, sale, location and entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2). However, the public lands would remain open to applications and offers under the mineral leasing laws.

Recreation: Most of the land available for recreation in the Columbia Basin is under private ownership. As a result of this situation recreational activities are either dependent upon permitted access to private lands or confined to established parks or to public lands where legal access exists. The expansion of the Yakima Firing Center would result in additional land being lost for recreational purposes.

Other Issues Considered

Threatened or Endangered Species: The Department of Army is responsible for adhering to the Endangered Species Act. This obligation pertains to species that are Federally listed, not State listed species or candidates for Federal or State listing. However, both the Department of the Army and BLM have a written policy to consider the effects of their actions on Federal candidate and State listed and candidate species as well. The Army will be subject to the ESA's stipulations in its future use of the land. Therefore, impacts to Threatened or Endangered Species is not believed to be an issue.

No other issues were considered.

Alternatives, Including the Preferred Alternative

Three alternatives were developed and analyzed in this plan amendment. These alternatives are based upon information included in the Spokane District Resource Management Plan/EIS of 1985, and the RMP Amendment/EIS of June of 1992. These plans addressed multiple use management of the subject Federal lands. Additional information relative to the development of alternatives and impact assessment was taken from the Environmental Impact Statement and Record of Decision compiled by the Army, which addressed the overall Yakima Firing Center expansion project. The Army's Record of Decision for the proposed expansion was approved on July 25, 1991.

Alternative One: (The Preferred Alternative)—Under this alternative, the Spokane Resource Management Plan would be amended to permit processing of the Army's application for a withdrawal of public lands and a portion of public mineral estate (private surface/federal minerals) within the expansion area. The subject public lands would be removed from settlement, sale, location and entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2). However, the public lands would be open to applications and offers under the mineral leasing laws. In

addition, this alternative would require that the Department of the Army purchase mitigation lands to offset the effects of the withdrawal.

Alternative Two: (Department of the Army's Proposal)—Under this alternative, the Spokane Resource Management Plan would be amended to permit the processing of the Army's application as filed. No lands would be acquired for mitigation.

Alternative Three: (No Action Alternative)—This alternative describes the continuation of the existing situation. Under this alternative the Spokane Resource Management Plan would not be amended to permit processing of the Army's withdrawal application. Consequently, the subject public domain lands would not be withdrawn for a specific use, and would instead continue to be open to the full range of public land laws, including the United States Mining Laws. Activities such as livestock grazing, public recreation (where legal access is available), and mineral exploration would be permitted.

Existing Resource Management Plan Decisions

The 1985 Resource Management Plan (page 70 Alternative B Preferred Alternative) committed to managing the public lands in the proposed expansion area as follows: The public lands would be open to oil and gas leasing, livestock grazing, and rock collecting. Off road vehicle use would be permitted but would be limited to designated roads and trails. Land exchanges or easements with the State and private parties would be pursued that would compliment, grazing, and recreation management. Protection and improvement of riparian habitat along Johnson Creek (1 mile) and six miles of its tributaries would be a high priority. All surface disturbing activities would be minimized in an effort to enhance/protect watershed values.

Affects to Existing Resource Management Plan Decisions

Under Alternative One (The Preferred Alternative)

Oil and gas leasing would be permitted however, activities under the general mining laws would not. Livestock grazing would be permitted but regulated by the Department of the Army. Because of the withdrawal, there would be no need to pursue land exchanges, or easements. Except for activities regulated by permit, big game hunting and horseback riding along the John Wayne Trail, recreation activities on the pubic lands would be eliminated. Efforts/projects to protect and improve high value riparian habitat along Johnson Creek and its tributaries would not be implemented. Minimizing of surface disturbing activities in favor of watershed values would not be emphasized.

Under Alternative Two (Proposed Withdrawal), the affects would be similar to those stated in alternative One.

Under Alternative Three (No Action) the District would continue to implement the 1985 RMP. Oil and gas leasing, and livestock grazing, as authorized by BLM, would be permitted to continue but would be curtailed due to access limitations. Because of the Department of the Army's acquisition of all private lands in the immediate vicinity, land exchanges or easements with the State and private parties in the expansion area to enhance these programs would not be pursued. Efforts/projects to protect and improve high value riparian habitat along Johnson Creek and its tributaries would be implemented. Surface disturbing activities would be minimized in favor of watershed values.

FOR FURTHER INFORMATION CONTACT: Mr. William Schurger, Realty Specialist, of the Wenatchee Resource Area Office, at 1133 N. Western Avenue, Wenatchee, WA. 98801 (509) 662–4223 or Gary Yeager, Planning Coordinator, of Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202 (509) 353–2570.

Dated: March 5, 1993.

Joseph K. Buesing,

District Manager.

[FR Doc. 93–5772 Filed 3–12–93; 8:45 am]

BILLING CODE 4310–33–M

[WY–980–4340–04]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 49 N., R. 78 W., accepted March 4, 1993
T. 21 N., R. 88 W., accepted March 4, 1993
T. 29 N., R. 100 W., accepted March 4, 1993
T. 42 N., R. 104 W., accepted March 4, 1993
T. 42 N., R. 105 W., accepted March 4, 1993

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s). These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 2515 Warren Ave., Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $2.00 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys, surveys and subdivisions.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: March 4, 1993.

John P. Lee,

Chief, Branch of Cadastral Survey.

[FR Doc. 93–5773 Filed 3–12–93; 8:45 am]

BILLING CODE 4310–22–M

[NV–930–4210–06; N–56315]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 40 acres of public land to protect the Las Vegas Administrative Complex site. This notice closes the land for up to 2 years from settlement, sale, location and entry under the general land laws, including the United States mining laws. The land will remain open to leasing under the mineral leasing laws.

DATES: Comments and requests for a public meeting should be received on or before June 14, 1993.

ADDRESSES: Comments and meeting requests should be sent to the Nevada State Director, BLM, P.O. Box 12000, Reno, Nevada 89502.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM Nevada State Office, 702–785–6526.

SUPPLEMENTARY INFORMATION: On February 23, 1993, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location and entry under the public land laws, including the mining laws, subject to valid existing rights:

Mount Diablo Meridian

T. 20 S., R. 60 E.,
Sec. 22, SE¼NW¼.

The area contains 40 acres in Clark County.

The purpose of the withdrawal is to protect the Las Vegas Administrative Complex Site.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period by the BLM authorized officer are any temporary uses which will not interfere with the purpose of the withdrawal.

The temporary segregation of the lands in connection with this withdrawal application shall not affect the administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of the lands.

Robert G. Steele,
Deputy State Director, Operations.
[FR Doc. 93–5774 Filed 3–12–93; 8:45 am]
BILLING CODE 4310–HC–M

Fish and Wildlife Service

Availability of a Draft Recovery Plan for the Uncompahgre Fritillary Butterfly (Boloria acrocnema) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the Uncompahgre fritillary butterfly (*Boloria acrocnema*). Known colonies of this butterfly are located on public lands near lake City in southwestern Colorado. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before May 14, 1993 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the State Supervisor's Office, Ecological Services, 730 Simms Street, room 290, Golden, Colorado 80401, telephone (303) 231–5280, or the Western Colorado Ecological Services Suboffice, 529–25½ Road, suite B–113, Grand Junction, Colorado 81505. Written comments and materials regarding this recovery plan should be sent to the Assistant Colorado State Supervisor at the Grand Junction address above. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the Grand Junction address above.

FOR FURTHER INFORMATION CONTACT: Keith Rose or Terry Ireland at the Western Colorado Ecological Services Suboffice (see **ADDESSES** above) at telephone (303) 243–2778.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's (Service) endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal Agencies also will take these comments into account in the course of implementing approved recovery plans.

The Uncompahgre fritillary butterfly, which is known to occur at only two areas near Lake City in southwestern Colorado, is a diminuitive butterfly with a 1-inch wingspan. It may occur in other locations in the San Juan Mountains at elevations exceeding 12,500 feet. The butterfly was listed as endangered on June 24, 1991 (56 *FR* 28712), because of its small geographic range and the declining population numbers in the two known colonies. The greatest known threat to the butterfly is collecting. Climatological patterns, disease, parasitism, predation, and trampling of larvae by humans and livestock might pose additional threats. Major recovery activities planned for this species include protecting known column sites, conducting surveys for additional colonies, and conducting studies on the butterfly's ecology.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified in the **DATES** section above will be considered prior to approval of the recovery plan.

Authority: The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f)

Dated: March 5, 1993.

John L. Spinks, Jr.,
Deputy Regional Director.
[FR Doc. 93–5805 Filed 3–12–93; 8:45 am]
BILLING CODE 4310–55–M

DEPARTMENT OF INTERIOR

National Park Service

Proposed Construction and Operation of a Stadium, Washington, DC; Notice of Public Meeting and Intent to Prepare an Environmental Analysis

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality (40 CFR parts 1500–1508), and the District of Columbia Environmental Policy Act of 1989, and in accordance with Advisory Neighborhood Commission (ANC) requirements, the National Park Service and the District of Columbia Government announce their intent to conduct two (2) public meetings to discuss the construction and operation of a new stadium in Anacostia Park in Washington, DC. These public meetings are intended to determine the significant issues related to the stadium, and will serve as part of the formal scoping process for the preparation of an environmental analysis document that is required for this project.

This Notice of Intent (NOI) initiates the formal environmental review process for this project. At this time, based on an initial analysis of the project and its impacts, an Environmental Assessment (EA) is considered to be the appropriate environmental document for this project and it is expected that completion of an EA will discharge all obligations under both Federal and District of Columbia environmental laws. Please note: if it becomes apparent, either through the scoping process or during the analysis and documentation of environmental impacts, that an Environmental Impact Statement (EIS) is necessary, a supplementary Notice will be issued at that time. Accordingly, the comments and responses received on the scope of alternatives and potential impacts, as a result of this Notice, will be considered for the environmental analysis document, whether it is ultimately an EA or an EIS. The public is encouraged to submit written comments on alternatives and impacts.

The proposed stadium would seat approximately 78,600 persons and would be located north of Robert F. Kennedy Stadium within an area currently designated as parking lot 6. Existing vehicular parking spaces would be reconfigured within the limits of the approximately 190-acre site area. Although previous proposals for a new stadium in this area sought to utilize portions of Langston Golf Course and Children's Island for parking, these properties are not included within the site of the current proposal. The proposed stadium is scheduled to be completed in time for the 1995 football season.

The site area can be generally defined by Oklahoma Avenue and Benning Road to the north; 21st Street, Constitution Avenue, and 19th Street on the west; the D.C. Armory, Independence Avenue, D.C. General Hospital, and the approximate extension of E Street, SE., to the south; and by Kingman Lake and the Anacostia River to the east.

The Environmental Assessment will analyze impacts and mitigation options. In addition, the EA will consider alternative actions. At present, those alternatives may include: (1) Construction of a new stadium substantially in parking lot 6; (2) the renovation and expansion of RFK Stadium; and (3) a No Action alternative, which would result in no new construction and would involve the continued use of RFK Stadium in its current configuration and capacity. Topics for environmental analysis may include short-term construction-related impacts; long-term changes in traffic, parking, socio-economic impacts, land use, and physicial/biological conditions within the project area; historic and natural resource protection; and site operations and maintenance.

The scoping process will include two public scoping meetings for the purpose of determining significant issues related to the alternatives and to the potential impacts associated with the proposed construction and operation of the stadium. The public scoping meetings will be held: Monday, April 12, 1993, at 7 p.m. at Eastern High School, 17th & East Capitol Street, NE.; and Friday, April 16, 1993, at 7 p.m., at D.C. Convention Center, 900 9th Street, NW.

Adequate signs will be posted at both locations to direct meeting participants. At both meetings, a short formal presentation will precede the request for public comments. National Park Service and District of Columbia representatives will be available at these meetings to receive comments from the public regarding issues of concern. It is important that Federal, regional and local agencies, and interested individuals and groups take this opportunity to identify environmental concerns that should be addressed during the preparation of the Draft EA. In the interest of available time, each speaker will be asked to limit oral comments to five minutes. A scoping document will be prepared as a result of these meetings.

As of March 12, 1993, an Informational Packet will be available for inspection at D.C. Public Libraries, the lobby of 1 Judiciary Square at 441 4th Street, NW., the District Building at 1350 Pennsylvania Avenue, NW., and the D.C. Armory, and upon request. Agencies and the general public are invited and encouraged to provide written comments on the scoping issues in addition to, or in lieu of, oral comments at the public scoping meeting. To be most helpful, scoping comments should clearly describe specific issues or topics which the community believes the EA should address.

All written statements regarding environmental review of the proposed stadium must be mailed no later than Monday, April 19, 1993, to the attention of Ms. Marianne Niles, General Counsel, DC National Guard Armory Complex, 2001 East Capitol Street, Washington, DC 20003, Phone (202) 547–1560.

The responsible officials are: Mr. John G. Parsons, Associate Regional Director, Land Use Coordination, National Capitol Region, National Park Service; and Mr. George Brown, Assistant City Administrator for Economic Development.

Dated: March 9, 1993.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 93–5787 Filed 3–12–93; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Peabody Museum of Archaeology and Ethnology

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act of 1990 of the intent to repatriate a cultural item in the possession of the Peabody Museum of Archaeology and Ethnology that meets the definitions of "sacred object" and "object of cultural patrimony" under section 2 of the act.

The carved, wooden figurine, with a height of 34.75" and a diameter of 3.5", was collected between 1902 and 1917 by Henry W. Sharp, the divisional superintendent of the Santa Fe Railroad. The object was donated to the Peabody Museum by Miss Gladys Sharp in 1951. The original museum records describe the object as "#51–31–10/33190: Hopi? wooden post carved to represent a figure." While museum records do not

indicate exactly where the object was collected, other materials donated by Miss Sharp came from ruins located east of Zuni Salt Lake, in New Mexico.

The form of the item and its apparent source lead the museum to believe that the item is of Zuni origin, and most likely a Zuni War God. Copies of museum records and photographs of the object have been provided to the Governor and Head Councilman of the Pueblo of Zuni. Authorized representatives of the Zuni tribe have viewed photographs of the object and concur with the identification of the object as a Zuni War God. The Pueblo of Zuni has requested repatriation of the object from the Peabody Museum in a letter dated February 8, 1993. The Peabody Museum has no objection.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object should contact Dr. David Pilbeam, Director, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone: (617) 495–2248, before April 19, 1993. Repatriation of the object of the Pueblo of Zuni may begin after that date if no additional claimants come forward.

Dated: March 10, 1993.

Francis P. McManamon,

Departmental Consulting Archeologist, Chief, Archeological Assistance Division.

[FR Doc. 93–5843 Filed 3–12–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–42; Sub–No. 2X]

Aroostook Valley Railroad Company—Abandonment Exemption—In Aroostook County, ME

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903–10904 the abandonment by Aroostook Valley Railroad Company of a 4.87-mile rail line in Presque Isle, ME: (1) Between milepost 0.0, at Washburn Junction, and milepost 3.0, at Rands; (2) between milepost 2.06, at Presque Isle Junction (including the Wye connection), and the end of the line at milepost 3.75, near Dyer Street; and (3) the Skyway Branch, between mileposts 2.95 and 3.04, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on March 29, 1993. Formal expressions of intent to file an offer of financial assistance [1] under 49 CFR 1152.27(c)(2) must be filed by March 25, 1993. Petitions for stay must be filed by March 25, 1993. Requests for a public use condition in conformity with 49 CFR 1152.28(a)(2) must be filed by March 25, 1993. Petitions to reopen must be filed by April 9, 1993.

ADDRESSES: Send pleadings referring to Docket No. AB–42 (Sub–No. 2X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Linda Smith Dyer, 45 Memorial Circle, Augusta, ME 04330.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202 927–5610). [TDD for hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: March 8, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5856 Filed 3–12–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Civil Rights Division

Public Access Section; The Americans with Disabilities Act; Technical Assistance Grants to Promote Voluntary Compliance With the Act

AGENCY: Public Access Section, Civil Rights Division, Department of Justice.

ACTION: Notice of availability of funds and of solicitation for grant applications.

PURPOSE: The Public Access Section of the Civil Rights Division, United States Department of Justice (DOJ), announces the availability of up to $2.5 million to conduct projects to inform individuals with disabilities and covered entities about their rights and responsibilities under titles II and III of the Americans with Disabilities Act of 1990 (ADA) and to facilitate voluntary compliance with the Department's regulations implementing titles II and III of the ADA. The term "covered entities" refers to businesses, institutions, State or local governments or their agencies, or other organizations that have responsibilities under title II or title III of the ADA.

Grants will be awarded to selected applicants who propose cost-effective and efficient approaches of disseminating information about, and encouraging voluntary compliance with, the requirements of these titles of the ADA. Only submissions that propose projects of national scope or significance will be considered.

The Department is particularly interested in receiving, but is not limiting this solicitation to, proposals that: Reflect an ability to begin project activities in an expedited manner; represent joint ventures between covered entities and persons with disabilities; specifically address how members of minority communities will be included within the population targeted by the applicant for receipt of technical assistance; and/or provide technical assistance to entities that have responsibilities under title II of the ADA.

The Department intends to award grants in amounts ranging from $85,000 to $200,000.

DATES: March 15, 1993.

FOR FURTHER INFORMATION CONTACT: James Bennett, Public Access Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66738, Washington, DC 20035–6738. (202) 514–0317 (Voice) or (202) 514–3519 (TDD). This notice and other related information, with the exception of standard forms, are available in alternate formats, i.e., large print, braille, audiotape, and computer disk. With the exception of standard forms, this information may also be accessed through the Civil Rights Division's electronic bulletin board at (202) 514–6193.

BACKGROUND: On January 26, 1992, the major provisions of titles II and III of the Americans with Disabilities Act (ADA) went into effect. The ADA provides legal protections to individuals with disabilities in the areas of employment, public accommodations, commercial facilities, State and local government services, and public transportation. Title II prohibits discrimination on the basis of disability in State and local government employment and State and local government services. Title III prohibits discrimination on the basis of disability in a broad range of public accommodations and commercial

[1] *See Exempt. of Rail Line Abandonment—Offers of Finan. Assist.*, 4 I.D.C.2d 164 (1987).

facilities, including certain privately-owned public transportation services. The employment and transportation provisions of the ADA are regulated by other Federal agencies and are not the subject of this Notice.

Section 506 of the ADA requires that the Department of Justice render technical assistance to individuals and entities that have rights or responsibilities under title II (subtitle A, state and local government services) and title III (public accommodations and commercial facilities) of the ADA.

Pursuant to this requirement, the Department provides a variety of ADA-related services and information, including:

—A telephone information line through which members of the public may obtain answers to questions they have about the requirements of titles II and III of the Act;
—A speaker's bureau through which major organizations can arrange to have ADA experts from the Civil Rights Division speak on a variety of ADA issues; and
—Distribution of written materials, including the Department's regulations implementing titles II and III, technical assistance manuals for titles II and III, an ADA Handbook, an ADA Questions and Answers booklet, and other reference materials. These materials are available in standard print, large print, braille, audiotape, and computer disk. They also may be obtained through the Civil Rights Division's electronic bulletin board.

Under section 506(d) of the Act, the Department has authority to award grants to individuals and to nonprofit entities for the purpose of supplementing the Department's technical assistance efforts. In September and October of 1991, the Department awarded 19 grants to nonprofit organizations. The recipients were:

—American Foundation for the Blind and Gallaudet University's National Center for Law and Deafness
—American Hotel and Motel Association
—American Speech-Language-Hearing Association
—The Arc
—The Association on Higher Education and Disability
—Building Owners and Managers Association International
—Council of Better Business Bureaus' Foundation
—Disability Rights Education and Defense Fund
—Eastern Washington University
—Food Marketing Institute
—The Foundation on Employment and Disability
—Institute for Law and Policy Planning
—National Association of Protection and Advocacy Systems
—National Center for State Courts
—National Conference of States on Building Codes and Standards
—National Federation of the Blind
—National Rehabilitation Hospital
—National Restaurant Association
—Police Executive Research Forum

These grantees directed their technical assistance toward various categories of covered entities including restaurants and bars, hotels and motels, retail stores, grocery stores, recreation and fitness centers, day care centers, hospitals and health care providers, owners and managers of commercial properties, persons involved in testing for licensure and certification purposes, local law enforcement agencies, state courts, and state code officials. A number of grantees also targeted their projects toward informing persons with disabilities about their rights under title II and III of the ADA. The grantees' technical assistance activities included the production of materials such as ADA compliance manuals, brochures, and videotapes; the conduct of training sessions; and the operation of telephone information lines. A list of materials produced by these grantees may be obtained by calling (202) 514–0317 (Voice) or (202) 514–3519 (TDD) or the electronic bulletin board at (202) 514–6193.

Program Description: The program is designed to develop and implement cost-effective and efficient approaches for disseminating information about the rights of individuals and responsibilities of covered entities under titles II and III of the ADA and for bringing about compliance with the ADA on a voluntary basis. Only proposals to conduct projects of national scope or significant will be considered. Proposals should address the four key elements discussed below.

I. Targeted Populations and Issues

The activities conducted under the grant should be directed toward providing technical assistance to: Persons with disabilities; State or local governmental entities that provide public services; owners or managers of public accommodations or commercial facilities; or a combination of these three groups. Proposals should define the characteristics of the population group(s) targeted to be the recipients of the proposed technical assistance by describing such factors as geographic scope, type of disability, type of governmental unit, type of business, size of business, or other descriptive indicators of the issues or populations to be addressed. Applicants are encouraged to address how racial and ethnic minority communities, including language minority groups, will be included within their targeted population group(s).

The Department is particularly interested in soliciting proposals to educate public officials about the responsibilities of State and local governments and the rights of persons with disabilities under title II.

The Department is particularly interested in receiving proposals that address the following specific situations: cost-effective means of making city council meetings, town halls, and State and local courtrooms accessible to persons with disabilities, particularly mobility impairments; a mechanism to provide small businesses, particularly very small retail shops, "mom and pop" stores, and neighborhood restaurants, with easily understandable information about the ADA's requirements; and the development of a protocol for the use of doctors, dentists, and other health care professionals that focuses on the provision of appropriate auxiliary aids for persons with hearing impairments, including low-cost means of facilitating communication. In the title III context, the Department seeks proposals that evidence an ability to reach a large number of small entities, either through an existing infrastructure or through innovative ways of reaching a large number of diversely located, small public accommodations. Proposal of national scope or significance that address other meritorious issues or targeted populations will also be considered.

Applicants should explain their reasons for targeting particular population(s) or issues(s). Applicants must submit information that demonstrates that they can effectively reach the targeted population. Applicants are encouraged to address how businesses and persons with disabilities can be involved jointly in reaching the targeted population.

II. Project Strategy

Proposals must discuss the components of the project strategy, detail the reasons supporting the choice of each component, and explain how each component will contribute to the achievement of the overall objective of cost-effective and efficient provision of technical assistance to the targeted population. Discussions of the project strategy and supporting rationale should be clear, concise, and based on sound

evidence and reasoning. Proposals that reflect a sound understanding of the requirements of title II or III, a well thought-out project strategy, and an effective implementation schedule will be taken as evidence of the ability to begin project activities in an expedited manner.

The Department encourages applicants to consider projects based on one or more of the following strategies:

Material Development and Dissemination. Applicants may consider the development and dissemination of material explaining the ADA to covered entities and/or persons with disabilities. In projects of this sort, if applicants plan to disseminate basic information about the legal requirements of title II or title III, they are required to use material produced by the Department of Justice (DOJ), as the development of new materials of this type is time-consuming and expensive and would merely duplicate existing materials. DOJ will provide grantees with a camera-ready copy of DOJ-produced materials to facilitate the printing of such materials. Funds for the reproduction of this material should be included in the proposed grant budget.

The development of new materials is encouraged where applicants propose to provide a particular targeted population with information tailored to their particular needs. For example, DOJ materials could be supplemented with industry-specific examples to tailor the generic material to the interests of a particular targeted population. Or a pamphlet could be developed to provide practical advice on cost-effective ways to eliminate physical barriers commonly found in a particular type of covered entity. To avoid duplication of effort and to maximize the effectiveness of the government's investment in materials development efforts, applicants should be aware of materials produced by previous DOJ grantees and materials produced by grantees of other Federal agencies, most notably those funded by the National Institute on Disability and Rehabilitation Research (see information in section III of this solicitation). If an applicant intends to disseminate material of a similar nature as that produced under a previous Federal grant but targeted to a different population than that previously reached (for example, to reach retailers or medical practices of a size or location or membership group that was not targeted by the previous grant), it should coordinate with the previous grantee(s) to arrange to use the existing material(s), where appropriate. Funds for the reproduction of such materials should be included in the proposed grant budget.

The application must outline the type and amount of materials to be produced and disseminated and should describe the applicant's plans for getting the materials to the targeted population.

All materials used or developed by grantees must be approved by DOJ in advance of use. Applicants should anticipate careful review of any new materials to be developed and should allow ample time in their proposed project schedules for review by DOJ to ensure that the materials are legally accurate. Grantees will be free to copyright any materials they develop, if they so choose, and may continue to reproduce and distribute such materials after the grant period is over, if they so choose. Applicants should be aware that DOJ retains the right to reproduce their materials and to disseminate them to the public at its will, without payment of royalties to the grantee. (The provisions in this paragraph also apply to materials developed under training projects and model projects, as described later.)

Other factors that applicants should take into consideration in preparing their proposed project budgets are as follows: (1) All materials produced in standard print must also be produced in large print, in Braille, and on audiotape in proportion to anticipated demand by persons with vision impairments in the targeted population(s). Audiotapes of lengthy materials must be voice- or tone-indexed. All copies of any videotapes produced must either be open-captioned or closed-captioned for persons with hearing impairments. If videotapes contain significant visual action, some of the closed-captioned tapes must be audio-described. (2) One thousand standard print copies, 100 audiotape copies, 100 large print copies, and 100 Braille copies of each publication produced under the grant must be provided to DOJ. A master open-captioned copy, 25 other copies, and, where appropriate, 15 audiodescribed copies of each videotape produced under the grant must be provided to DOJ. These materials should be provided to DOJ at the same time that they are distributed to the targeted population. In addition, a copy of the final text of each document or videotape script produced must be provided to DOJ on computer disk in ASCII or Wordperfect. (3) If applicants propose to charge a fee for the materials they produce and disseminate, they must charge the same fee for alternate formats as they charge for standard formats. (4) Applicants who plan to list a voice telephone number on correspondence or promotional materials concerning the grant activities, or on materials produced under the grant, must also list a TDD telephone number. Applicants who do not have a TDD may include the cost of purchasing one in the proposed grant budget. Applicants who plan to use an automated telephone information system to respond to voice calls concerning grant activities must provided comparable service for TDD users. The cost of establishing an automated TDD information system may not be included in the proposed grant budget. (The materials production and TDD provisions in this paragraph also apply to training projects and model projects, as described later.)

Telephone information lines. Applicants may consider the establishment of telephone information lines to provide technical assistance relevant to a particular targeted population and/or targeted to the public in general to reduce the burden on DOJ's ADA Information Line. Proposals for projects of this sort must discuss the methods that will be used to ensure a high standard of accuracy in the information given out over the telephone. In addition, proposals should describe how the applicant proposes to minimize overlap with other projects that provide ADA information by telephone. For example, an applicant might propose to answer questions only about a specific type of covered entity or issue. Proposals also should explain how the information line will be publicized to reach the targeted population.

Applicants who, parallel to their proposed grant activities, offer consultative services for a fee to assist covered entities in complying with their ADA responsibilities or who provide legal representation services (advocacy services) for free or for a fee to or on behalf of persons with disabilities should note this fact in their grant applications. Such applicants may use their DOJ-funded telephone information lines to refer callers to other sources of assistance—including non-DOJ funded telephone lines—but should refrain from using their DOJ-funded telephone lines to sell their consultative services to covered entities or to provide legal representation services (advocacy services) to or on behalf of persons with disabilities.

Factors that applicants should take into consideration in preparing their proposed project budgets are as follows: (1) Equivalent service must be provided for callers who use voice telephones and callers who use TDD telephone devices. (2) If an applicant proposes to use an automated telephone information system to respond to voice calls, it must

propose to use an automated TDD information system or to provide equivalent service to respond to TDD calls. (3) Sufficient funds should be budgeted to provide for record-keeping and compiling reports to DOJ on the questions raised and assistance provided over the grant-funded information lines.

Training. Applicants may consider the development of training courses, seminars, or workshops to facilitate compliance with the ADA. Proposals of this sort should describe how the training is expected to lead to concrete steps in achieving voluntary compliance. Applicants may also want to consider how their training projects might be leveraged, that is, how efforts sponsored with grant funds might be used to create a training capability that can later be used by a larger segment of the general population without additional cost to the government. Proposals must indicate the type of training that will be offered, the training objectives, and the number of persons expected to be trained. Proposals should also discuss how the applicant proposes to verify the skill or knowledge levels attained.

Development of model projects. Applicants may consider the development of a model or exemplary project for encouraging voluntary compliance with the ADA. Proposals for projects of this sort must indicate the process by which a model is to be selected or created, and must describe in detail the procedure the applicant intends to use in order to promote the model as an example for others to follow or replicate on a nationwide basis.

The Department is particularly interested in soliciting proposals for two types of model projects that are described below.

1. "Seed projects" to achieve voluntary compliance. Applicants may consider selecting a specific covered entity of national scope or significance, or an organization representing a specific type on developing and implementing strategies for achieving voluntary compliance. Applicants who are interested in proposing projects of this type should describe their experience in developing specific, practical solutions for achieving accessibility (overcoming policy, communication, and physical barriers to access) and how that experience can be applied in the context of the selected entity or organization. In addition, applicants should describe both the relationship they will develop with the selected entity or organization during the period of the grant and their specific plans for applying their practical knowledge and experience in the context of working with that covered entity or organization. Particular consideration will be given to proposals that have the potential of being leveraged, that is, that utilize methods for achieving voluntary compliance in a specific context that might later be adopted by other covered entities whose activities or services are similar in nature, so that wider voluntary compliance might be achieved over time from the seed project at no additional cost to the government.

2. Projects to achieve resolution of ADA disputes without resort to litigation. Applicants may consider the development of models that will provide a means of informal, negotiated resolution of differences between persons with disabilities and entities with compliance obligations under the Act. Many vehicles, techniques, and procedures for achieving voluntary (non-litigious) resolution of disputes between businesses and consumers and between government agencies and the public already exist. Applicants are encouraged to examine existing vehicles, techniques, and procedures and to develop guides or recommended modifications to make them more useful in the context of the ADA. In addition, applicants are encouraged to propose the development of a practical and effective model grievance procedure for public agencies, as required by § 35.107 of the Department's title II regulations.

III. Coordination with Other Federally Sponsored ADA-Related Activities

An important aspect of proposals is a description of how the applicant will coordinate, where appropriate, its proposed activities with other federally conducted and sponsored ADA activities, including those of the Department of Justice (DOJ), the National Institute on Disability and Rehabilitation Research, and the Equal Employment Opportunity Commission. The purpose of this coordination is to avoid duplication of effort, to utilize materials already developed by Federal agencies and grantees, and otherwise to refer to and take advantage of the resources sponsored by the agencies described below.

As noted earlier, DOJ sponsored 19 technical assistance grants in FY 1992. Applicants should familiarize themselves with the materials developed by these past grantees to determine if any of their materials could be utilized or adapted in the project being proposed. If so, the applicant should coordinate with the past grantee to arrange to utilize the existing materials where possible.

Successful applicants will be given an orientation that will familiarize them with the projects being undertaken by other successful applicants. Thereafter, the 1993 grantees will be expected to exchange information and provide support to each other where appropriate.

The National Institute on Disability and Rehabilitation Research (NIDRR) has established ten Disability and Business Technical Assistance Centers (DBTACs). These Centers address a wide range of issues related to the implementation of the ADA, but place particular emphasis on issues relating to employment and public accommodations. In addition, NIDRR has supported three projects to produce training materials and other resources related to public accommodations, employment, and the telecommunications requirements of the ADA. NIDRR has also developed national peer training projects for operators of Independent Living Centers and for parents of disabled children to enhance their knowledge of the ADA. These projects are outlined in a "Notice of Final Priorities" that was published by NIDRR in the **Federal Register** on Tuesday, August 13, 1991 (Vol. 56, No. 156, Page 40168). For further information regarding these and other projects funded by NIDRR, contact: David Esquith at (202) 205–8801 (voice) or (202) 205–8198 (TDD).

In 1992, the Equal Employment Opportunity Commission (EEOC) and DOJ jointly funded a contract to train a carefully selected cross-section of persons with disabilities about the ADA. The contract entails conducting week-long training sessions for 500 participants around the country. Upon completion of the formal training sessions, the contractor provides follow-up technical assistance to the participants as needed. The objectives of the contract are to train the project participants to understand and communicate the requirements of titles I, II and III of the ADA; to assist them in developing specific training projects to educate employers, owners and managers of public accommodations and commercial facilities, State and local government officials, and other persons with disabilities about the ADA; and to give them training in alternative dispute resolution techniques and other informal methods of resolving disagreements. Extensive training materials were developed as part of this project to train a cadre of people upon whom others can rely for ADA information and assistance. Contract

activities will continue in 1993, and additional training regarding the employment provisions of the ADA will be conducted. For more information regarding this contract contact: Deidra Davis at (202) 663–7083 (Voice) or (202) 663–4061 (TDD).

In addition, grantees will be expected to familiarize themselves with programs and projects related to the ADA that are being sponsored by State or local government agencies or by other organizations such as trade and professional associations. Where such programs or projects dovetail with the issues that are being addressed or the targeted populations that are being reached by the grantee's project, the grantee should seek to coordinate its proposed activities with those being conducted under these other programs, as appropriate.

IV. Evaluation of the Secretary

One goal of this grant program is to determine what information dissemination, education, and compliance assistance strategies are most effective. It is therefore essential that each proposal describe reliable criteria to evaluate the effectiveness of the project at the conclusion of the period of performance.

Each proposal must explain the methods the applicant intends to use to measure the effectiveness of the project, and how the proposed evaluation criteria will indicate to what degree the project succeeded in meeting its goals.

Seclection Criteria: Prospective applicants are advised that the grant awards will be made by the Assistant Attorney General for Civil Rights after careful evaluation of each proposal by Civil Rights Division personnel. The results of these evaluations are advisory in nature and are not binding on the Assistant Attorney General. Each person evaluating the proposals for acceptability will take into consideration the factors enumerated below.

Project Proposal Evaluation Point System

1. Project Design (55 points)

Proposals will be evaluated on the degree to which they reflect sound project design and cost-effective and efficient strategies for dissemination of information to targeted population(s), the extent to which the project design addresses important ADA issues, and the extent to which voluntary compliance may be achieved as a result of the proposed project activities. Areas that will be closely examined will include the following:

1.1. Evidence of an in-depth knowledge of the ADA, an understanding of the importance of the ADA issue being addressed, and familiarity with the specific nature of the targeted population and the specific information and assistance the population needs to help it bring about voluntary compliance.

1.2. The description of a strategy to disseminate information and provide compliance assistance to members of the targeted group(s) and the rationale supporting the choice of strategies. The description of the strategy to be employed by the applicant must include an articulation of the project's goals and objectives, a description of the project's major activities, events, and products, and a timetable for the accomplishment of the project's goals. Applicants should explain how proposed project activities will be coordinated, if appropriate, with other Federal, State, and local ADA activities.

1.3. The methods proposed by the applicant to measure the effectiveness of the project, and how the proposed evaluation criteria will document to what degree the project succeeds in meeting its goals.

2. Administrative Capability (25 points)

Proposals will be rated in terms of the capability of the applicant to reach the targeted population, to implement the project strategy, and to accomplish the coordination and evaluation components of the proposal. (*No letters of reference will be accepted.*)

2.1. Evidence of proven organizational ability to provide high quality results, including:

—Past and present grants and contracts; and

—Specific experience implementing similar projects.

2.2. Evidence that the applicant will be able to implement the project and complete it on schedule.

3. Staff capability. (20 points)

Applications will be evaluated in terms of:

3.1. The degree to which the duties outlined for grant-funded positions appear appropriate to the work that will be conducted under the award.

3.2. The degree to which the qualifications of proposed staff for grant-funded positions appear to match the requirements of these positions. Applicants should submit resumes and job descriptions. (*No letters of reference will be accepted.*)

3.3. The degree to which the applicant demonstrates that proposed staff has successfully carried out projects or work of a similar nature in the past.

Eligible Applicants: This grant competition is open to individuals and to not-for-profit organizations, including national and local organizations representing persons with disabilities, trade associations or their subsidiaries, other organizations representing entities covered by the ADA, State and local government agencies, and organizations representing State and local governments or their employees. Applicants are reminded that this solicitation is for projects that are national in scope or significance.

Grant Period and Award Amount: The period of performance will be twelve months from the date of the grant award. A total of $2.5 million is available for this technical assistance grant program; it is anticipated that a number of grants will be awarded, in amounts from $85,000 to $200,000.

Post-Award Monitoring: The Department intends to provide grantees with the maximum amount of post-award guidance and technical assistance possible within budget and staff constraints. Within approximately one month of the grant award, the Department will conduct a two-day training session on the ADA and grant management procedures. Each grantee will be invited to send two staff persons to this training session. Funds for travel to Washington, DC for this training should be included in the proposed grant budget. Applicants are also advised that DOJ staff will make periodic site visits to provide grantees with guidance and technical assistance and to monitor the progress of the grant. The Office of Justice Programs (OJP), a component of the Department of Justice, will provide financial management and other services in support of the Public Access Section in the administration of this program. Applicants are advised that copies of the quarterly reports sent to OJP must also be sent to the Public Access Section.

Application Deadline: Complete applications must be received by the close of business (5:30 p.m. EST) on [insert date 60 days from date of publication] at the Public Access Section, 1425 New York Avenue, NW, Fourth Floor, Washington, D.C. 20004. Applications may not be sent by FAX. Applications received after 5:30 p.m. on [60 days from date of publication] will not be considered for award, even if the application was postmarked before that date. Incomplete applications will not be considered for award. In order to be considered complete, an original and seven copies of the application packet described below must be submitted.

Application Requirements: Applicants must submit, in the order

given, an original and seven copies the following information:

1. A signed SF 424 and SF 424A (Rev. 4/88);

2. A one page abstract of the proposal labeled "ABSTRACT";

3. A narrative project description. The narrative must be limited to twenty (20) pages and must address:

—the targeted population and issues to be addressed in the project;

—the project strategy, including a description of the project's goals and objectives, the major activities, events, and/or products that are planned, and a timetable for the accomplishment of the project's goals;

—the applicant's plans for coordinating its proposed project with other Federally sponsored ADA related activities; and

—the applicant's project evaluation strategy;

4. A budget narrative required by the SF 424 (Rev. 4/88);

5. Job descriptions for positions that are proposed to be funded under the grant;

6. Resumes of individuals who will fill the grant positions;

7. A certification regarding lobbying, debarment, suspension, other responsibility matters, and drug-free workplace requirements, OJP Form 4061/6; and

8. A disclosure of lobbying activities, SF LLL.

Dated: February 4, 1993.

James P. Turner,

Acting Assistant Attorney General.

[FR Doc. 93–5775 Filed 3–12–93; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree in United States and State of Oregon v. Port of Portland

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on March 5, 1993, a proposed Consent Decree in *United States of America and the State of Oregon* v. *Port of Portland* was lodged in the United States District Court for the District of Oregon.

The Complaint in this enforcement action was filed on or about March 5, 1993 pursuant to sections 301 and 309 of the Clean Water Act (the "Act"), 33 U.S.C. 1311 and 1319, seeking civil penalties for the defendant's unpermitted discharge of a pollutant known as "pencil pitch" into the Willamette River, and seeking injunctive relief. Under the terms of the proposed Consent Decree, the Port of Portland will pay the United States a civil penalty of $92,000; remove deposits of pencil pitch from the Williamette River (where such pollutants settled after being discharged by the Port), and conduct sampling of sediments in the vicinity of storm drains in the Williamette River near the Port facility in question. The estimated cost of completion of the sampling is approximately $58,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States of America and the State of Oregon* v. *Port of Portland* (DOJ #90–5–1–1–3258).

The proposed Consent Decree may be examined at the office of the United States Attorney, District of Oregon, 888 SW 5th Ave., Suite 1000, Portland, Or. 97204–2024, and at the offices of the U.S. Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, (202) 624–0892. In requesting a copy, please enclose a check in the amount of $5.25 (25 cents per page reproduction costs), payable to the "Consent Decree Library."

Myles E. Flint,

Acting Assistant Attorney General, Environmental and Natural Resources Division.

[FR Doc. 93–5882 Filed 3–12–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—CAD Framework Initiative, Inc.

Notice is hereby given that, on January 26, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), CAD Framework Initiative, Inc. ("CFI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, GE Aerospace, Philadelphia, PA; has become a Corporate Member and Information Handling Services, Inc., Arlington, VA; MATRA MHS, Nantes, FRANCE; OrCAD Inc., Hillsboro, OR; and Oliver Stephens, Cambridge, ENGLAND have become Associate Members.

On December 30, 1988, CFI filed its original notification pursuant to section 6(a) of the Act. That filing was amended on February 7, 1989. The Department of Justice published a notice concerning the amended filing in the **Federal Register** pursuant to section 6(b) of the Act on March 13, 1989 (54 FR 10456). A correction notice was published on April 20, 1989 (54 FR 16013).

The last notification was filed with the Department on October 27, 1992. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on January 12, 1993 (58 FR 3980).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–5776 Filed 3–12–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub Law 92–463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, Time and Place: April 14, 1993, 10 a.m.–12 noon, rm. S–4215 A&B Department of Labor Building, 200 Constitution Avenue NW., Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information contact: Fernand Lavallee, Director, Trade Advisory Group, Phone: (202) 291–4752.

Signed at Washington, DC this 8th day of March, 1993.

Jorge Perez-Lopez,

Acting Deputy Under Secretary, International Affairs.

[FR Doc. 93–5844 Filed 3–12–93; 8:45 am]

BILLING CODE 4510–28–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; Ardyne Inc., et al.

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 25, 1993.

Interested persons are invited to submit written comments regarding, the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 25, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 1st day of March, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Ardyne, Inc. (Wkrs)	Grand Haven, MI	03/01/93	12/27/92	28,364	Custom vehicle parts.
Ametek, U.S. Gauge Div. (IAMAW)	Sellersville, PA	03/01/93	02/18/93	28,365	Pressure gauges cockpit instruments.
Armco Stainless & Alloy Products (USWA).	Bridgeville, PA	03/01/93	02/11/93	28,366	Stainless steel products.
Alphabet, Inc., FMA Div. (Wkrs)	Farmington, MO	03/01/93	02/11/93	28,367	Wire harnesses.
Unocal/No. Amer. Oil & Gas Div. (Wkrs).	Anchorage, AK	03/01/93	02/17/93	28,368	Oil and gas.
Amoco Corp/Information Tech (Wkrs)	Chicago, IL	03/01/93	02/22/93	28,369	Oil and gas services.
Armco Steel (USWA)	Baltimore, MD	03/01/93	02/16/93	28,370	Stainless steel products.
Marie Coat & Suit (ILGWU)	Clipton, NJ	03/01/93	11/10/92	28,371	Women's coats and jackets.
Rogers Corp., Power Distribution (Wkrs).	Mesa, AZ	03/01/93	02/15/93	28,372	Bus bars (computer part.
Wells Manufacturing Corp (UAW)	Fond Du Lac, WI	03/01/93	02/16/93	28,373	Auto ignition parts.
Teledyne Wah Chang Albany (USWA).	Albany, OR	03/01/93	02/12/93	28,374	Refactory metals.
Parker Pen USA Ltd (Wkrs)	Janesville, WI	03/01/93	02/09/93	28,375	Pens, pencils and refills.
National Semi-Conductor (Co)	South Portland, ME	03/01/93	02/11/93	28,376	Integrated circuits.
Larry H. Miller Dodge (Wkrs)	Murray, UT	03/01/93	01/10/93	28,377	Service and sell cars, trucks and parts.
Houston Engineers (Wkrs)	Oklahoma City, OK	03/01/93	12/18/92	28,378	Service drilling tools.
H&G Services, Inc (Wkrs)	Williston, ND	03/01/93	02/17/93	28,379	Oil field trucking.
Geodyne Resources, Inc (Wkrs)	Tulsa, OK	03/01/93	02/19/93	28,380	Crude oil, natural gas.
Dixie Yarns, Inc (Wkrs)	Cumberland, NC	03/01/93	02/07/93	28,381	Cotton spinning yarn.
Dixie Yarns, Inc (Wkrs)	Hope Mills, NC	03/01/93	02/07/93	28,382	Cotton yarn.
Dale Electronics, Inc (Co)	El Paso, TX	03/01/93	02/10/93	28,383	Thermistors.
Jones and Vining, Inc. (Wkrs)	Troys, MO	03/01/93	02/16/93	28,386	Shoe lasts.
Electro-Wire Products, Inc (Wkrs)	El Paso, TX	03/01/93	02/11/93	28,385	Maintainance department.
Chalk Line, Inc (Wkrs)	West Point, GA	03/01/93	02/18/93	28,386	Undecorated sportswear, outerwear.
Black Eagle Petroleum (Wkrs)	Billings, MT	03/01/93	01/19/93	28,387	Crude oil natural gas service.
Vanderbilt Shirt Co (Co)	Asheville, NC	03/01/93	02/23/93	28,388	Women's apparel.
Vanderbilt Fashions, Inc/Langtry (Co)	Asheville NC	03/01/93	02/23/93	28,389	Women's apparel.
Vanderbilt Fashions Inc/Langtry (Co)	Pigeon Forge TN	03/01/93	02/23/93	28,390	Women's apparel.
Vanderbilt Fashions Inc/Langtry (Co)	Opelika, AL	03/01/93	02/23/93	28,391	Women's apparel.
Vanderbilt Fashions, Inc/Langtry (Co)	Eddyville, KY	03/01/93	02/23/93	28,392	Women's apparel.
Vanderbilt Fashions, Inc/Langtry (Co)	Foley, AL	03/01/93	02/23/93	28,393	Women's apparel.
Vanderbilt Fashions, Factory Outlet (Co).	Columbus, NC	03/01/93	02/23/93	28,394	Women's apparel.
Vanderbilt Fashions, Factory Stores (Co).	Slidell, LA	03/01/93	02/23/93	28,395	Women's apparel.
Vanderbilt Fashions, Pottery Outlet (Co).	Georgetown, KY	03/01/93	02/23/93	28,396	Women's apparel.
Vanderbilt Fashions, Langtry (Co)	Horse Cave, KY	03/01/93	02/23/93	28,397	Women's apparel.
Vanderbilt Fashions, Langtry (Co)	Birch Run, MI	03/01/93	02/23/93	28,398	Women's apparel.
Vanderbilt Fashions, H.S. Outlet (Co)	Hot Springs, AR	03/01/93	02/23/93	28,399	Women's apparel.
Vanderbilt Fashions, Pottery Outlet (Co).	Blountville, TN	03/01/93	02/23/93	28,400	Women's apparel.
Vanderbilt Fashions, Peach Outlet (Co).	Byron, GA	03/01/93	02/23/93	28,401	Women's apparel.
Vanderbilt Fashions, Langtry (Co)	Hilton Head, SC	03/01/93	02/23/93	28,402	Women's apparel.

APPENDIX—Continued

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Vanderbilt Fashions, Langtry (Co)	Myrtle Beach, SC	03/01/93	02/23/93	28,403	Women's apparel.
Vanderbilt Fashions, Langtry (Co)	St. Augustine, FL	03/01/93	02/23/93	28,404	Women's apparel.
Vanderbilt Fashions, Langtry (Co)	University Park, FL	03/01/93	02/23/93	28,405	Women's apparel.
Vanderbilt Fashions, Langtry (Co)	Panama City, FL	03/01/93	01/23/93	28,406	Women's apparel.
Vanderbilt Fashions, Langtry (Co)	Ft. Pierce, FL	03/01/93	02/23/93	28,407	Women's apparel.
Vanderbilt Fashions, Langtry (Co)	Kannapolis, NC	03/01/93	02/23/93	28,408	Women's apparel.
Vanderbilt Fashions, Savannah Fest. (Co).	Savannah, GA	03/01/93	02/23/93	28,409	Women's apparel.
Vanderbilt Fashions, Langtry (Co)	Lake Park, GA	03/01/93	02/23/93	28,410	Women's apparel.
Vanderbilt Fashions, Langtry Outlet (Co).	Ft. Walton Beach, FL.	03/01/93	02/23/93	28,411	Women's apparel.
Vanderbilt Fashions, Factory Stores (Co).	Adel, GA	03/01/93	01/23/93	28,412	Women's apparel.
Vanderbilt Fashions Langtry (Co)	Zephyrhills, FL	03/01/93	02/23/93	28,413	Women's apparel.
Langtry, Ltd (Co)	New York, NY	03/01/93	02/23/93	28,414	Women's apparel.
Vanderbilt Shirt Co (Co)	Washington, PA	03/01/93	02/23/93	28,415	Women's apparel.

[FR Doc. 93–5845 Filed 3–12–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28,387]

Black Eagle Petroleum, Billings, MT; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 1, 1993 in response to a worker petition which was filed on behalf of former workers at Black Eagle Petroleum, Billings, Montana.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 4th day of March 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–5846 Filed 3–12–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–23,528]

Exploration Department, Hawkins Oil and Gas, Inc., Tulsa, OK; Revised Determination on Reconsideration

Pursuant to a court order of February 18, 1993 in *Former Employees of Hawkins Oil & Gas, Inc.* v. *Secretary of Labor* (USCIT 90–02–00083), the Department is revising its initial denial of eligibility to workers of Hawkins Oil & Gas, Inc., in Tulsa, Oklahoma and certifying all workers of the Exploration Department of Hawkins Oil & Gas, Inc., in Tulsa, Oklahoma.

As a result of this court order, the Department is certifying the appropriate subdivision of the subject firm.

Conclusion

Therefore, pursuant to the court order, mentioned above, and in accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of the Exploration Department of Hawkins Oil & Gas, Inc., in Tulsa, Oklahoma who became totally or partially separated from employment on or after June 1, 1989 and before August 1, 1989 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 3rd day of March 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 93–5847 Filed 3–12–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–26,975]

M-I Drilling Fluids, Corpus Christi District, Corpus Christi, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 7, 1992, applicable to all the workers of the subject firm.

At the request of one of the petitioners, the Department reviewed the certification for workers of the subject firm. The investigation findings show that the petition was filed for the Corpus Christi District which includes various locations in South Texas and offshore.

The Department is amending the certification to properly reflect the correct worker group.

The amended notice applicable to TA–W–26,975 is hereby issued as follows:

All workers of M-I Drilling Fluids, operating at various locations in the Corpus Christi District including offshore locations, Corpus Christ, Texas who became totally or partially separated from employment on or after Federal 24, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 5th day of March 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–5848 Filed 3–12–93; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Consolidation Coal Company

[Docket No. M–93–18–C]

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.364(b) (weekly examination) to its Robinson Run No. 95 Mine (I.D. No. 46–01318) located in Harrison County, West Virginia. Due to deteriorating roof conditions, certain areas of the mine cannot be safely traveled. The petitioner proposes to establish airway check points to monitor for methane and the quantity of air in the affected area. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

2. W. Carter-ROAG Coal Company

[Docket No. M–93–19–C]

Carter-ROAG Coal Company, P.O. Box 2327, Elkins, West Virginia 26241 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Mine No. 1A (I.D. No. 46–06715) located in Randolph County, West Virginia. Due to deteriorating conditions, certain areas of the mine cannot be safely traveled. The petitioner proposes to establish evaluation points to monitor the air velocity and quality of air outby the affected area instead of traveling the return aircourse in its entirety. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

3. W. Carter-ROAG Coal Company

[Docket No. M–93–20–C]

Carter-ROAG Coal Company, P.O. Box 2327, Elkins, West Virginia 26241 has filed a petition to modify the application of 30 CFR 75.364(b)(1) (weekly examination) to its Mine No. 1A (I.D. No. 46–06715) located in Randolph County, West Virginia. Due to deteriorating conditions, certain areas of the mine cannot be safely traveled. The petitioner proposes to establish evaluation points to monitor the air velocity and quality of air outby the affected area instead of traveling the intake aircourse in its entirety. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

4. Peabody Coal Company

[Docket No. M–93–21–C]

Peabody Coal Company, P.O. Box 1990, Henderson, Kentucky 42420–1990 has filed a petition to modify the application of 30 CFR 75.1103–4 (automatic fire sensor and warning device systems; installations; minimum requirements) to its Camp No. 11 Mine (I.D. 15–08357) located in Union County, Kentucky. The petitioner proposes to install a carbon monoxide monitoring system along belt conveyor entries to identify the specific belt flights in case the early warning fire detection system is activated, and install a low-level carbon monoxide detection system in all belt entries as an early warning fire detection system. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would be mandatory standard.

5. Peabody Coal Company

[Docket No. M–93–22–C]

Peabody Coal Company, P.O. Box 1990, Henderson, Kentucky 42420–1990 has filed a petition to modify the application of 30 CFR 75.350 (aircourses and belt haulage entries) to its Camp No. 11 Mine (I.D. 15–08357) located in Union County, Kentucky. The petitioner proposes to install a carbon monoxide monitoring system in all belt entries used as intake aircourses, and install a low-level carbon monoxide detection system as an early warning fire detection system in all belt entries used as intake aircourses to ventilate working sections. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would be mandatory standard.

6. Monterey Coal Company

[Docket No. M–93–23–C]

Monterey Coal Company, P.O. Box 496, Carlinville, Illinois 62626 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires; trolley feeder wires, high-voltage cables and transformers) to its No. 1 Mine (I.D. No. 11–007260) located in Macoupin County, Illinois. The petitioner proposes to use high-voltage cables to power longwall equipment. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

7. Peabody Coal Company

[Docket No. M–93–24–C]

Peabody Coal Company, P.O. Box 1990, Henderson, Kentucky 42420–1990 has filed a petition to modify the application of 30 CFR 77.900 (low- and medium-voltage circuits serving portable or mobile phase alternating current equipment; circuit breakers) to its Hawthorn Mine (I.D. No. 12–00326) located in Greene County, Indiana. The petitioner propose to use a magnetic motor starter instead of tripping a circuit breaker for ground phase protection and undervoltage protection, use a circuit breaker for short circuit protection, and use the magnetic motor starter and circuit breaker for overload protection for serving portable or mobile phase alternating current equipment. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

8. Peabody Coal Company

[Docket No. M–93–25–C]

Peabody Coal Company, P.O. Box 1990, Henderson, Kentucky 42420–1990 has filed a petition to modify the application of 30 CFR 77.902 (low- and medium-voltage ground check monitor circuits) to its Hawthorn Mine (I.D. No. 12–00326) located in Greene County, Indiana. The petitioner proposes to provide ground check protection by dropping out a magnetic motor starter instead of tripping a circuit breaker, using the motor starter to provide undervoltage protection, using a circuit breaker for short circuit protection, and using the magnetic motor starter and circuit breaker for overload protection. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

9. Cliffco Enterprises, Inc.

[Docket No. M–93–26–C]

Cliffco Enterprises, Inc., P.O. Box 1470, Pikeville, Kentucky 41502 has filed a petition to modify the application of 30 CFR 75.1710 (canopies or cabs; electric face equipment) to its No. 2 Mine (I.D. No. 15–17204) located in Pike County, Kentucky. The petitioner proposes to use electric face equipment without canopies. The petitioner states that the use of canopies would be a danger to the equipment operator.

10. Cyprus Plateau Mining Corporation

[Docket No. M–93–27–C]

Cyprus Plateau Mining Corporation, P.O. Drawer PMC, Price, Utah 84501 has filed a petition to modify the application of 30 CFR 75.350 (aircourses and belt haulage entries) to its Star Point No. 2 Mine (I.D. No. 42–00171) located in Carbon County, Utah. The petitioner proposes to install a low-level carbon monoxide detection in all belt entries used as intake aircourses to ventilate active working places. The petitioner asserts that the proposed alternate method would provide at least the same

measure of protection as would the mandatory standard.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 14, 1993. Copies of these petitions are available for inspection at that address.

Dated: March 5, 1993.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 93–5849 Filed 3–12–93; 8:45 am]

BILLING CODE 4510–43–M

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

Meeting

AGENCY: Martin Luther King, Jr. Federal Holiday Commission.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the Martin Luther King, Jr. Federal Holiday Commission announces a forthcoming meeting of the Commission.

DATE: March 16, 1993.

TIME: 1 p.m.–3 p.m.

LOCATION: U.S. House of Representatives, Cannon House Office Building, room 311, Washington, DC. The public is invited.

FOR FURTHER INFORMATION CONTACT: Al Boutin, Director of Operations, telephone 404–730–3155 (Atlanta, GA).

Dated: March 8, 1993.

Al Boutin,

Director of Operations.

[FR Doc. 93–5796 Filed 3–12–93; 8:45 am]

BILLING CODE 4210–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93–023]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting change.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 7263, Notice Number 93–010, February 5, 1993.

PREVIOUSLY ANNOUNCED DATES AND ADDRESSES OF MEETING: March 17, 1993, 1 p.m. to 2:30 p.m.; National Aeronautics and Space Administration, 300 C Street SW., room 9H40, Washington, DC 20546–0001.

CHANGES IN THE MEETING: Date, time and address changed to March 18, 1993, 10:30 am to 12 Noon, National Aeronautics and Space Administration, 300 E Street, SW., room MIC 5, 5th floor, Washington, DC 20546–0001.

CONTACT PERSON FOR MORE INFORMATION: Mr. Arthur V. Palmer, Code Q–1, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–0914.)

Dated: March 8, 1993.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 93–5837 Filed 3–12–93; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506:

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on 202/606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated September 9, 1991, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* April 15–16, 1993.
   Time: 8:30 a.m. to 5 p.m.
   Room: 415.
   Program: This meeting will review applications submitted to Humanities Projects in Media program, Division of Public Programs, for the March 12, 1993 deadline.
2. *Date:* April 22–23, 1993.
   Time: 8:30 a.m. to 5 p.m.
   Room: 716.
   Program: This meeting will review applications submitted to Humanities Projects in Media program, Division of Public Programs, for the March 12, 1993 deadline.
3. *Date:* April 29–30, 1993.
   Time: 8:30 a.m. to 5 p.m.
   Room: 415.
   Program: This meeting will review applications submitted to Humanities Projects in Media program, Division of Public Programs, for the March 12, 1993 deadline.

David C. Fisher, Jr.,

Advisory Committee, Management Officer.

[FR Doc. 93–5850 Filed 3–12–93; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–424 and 50–425]

Georgia Power Company, et al.; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–68 and NPF–81 issued to Georgia Power Company (the licensee), for operation of the Vogtle Electric Generating Plant, Units 1 and 2, (Vogtle or the facility) located in Burke County, Georgia.

Environmental Assessment

Identification of Proposed Action

This Environmental Assessment is written in connection with the proposed core uprate for Vogtle in response to the

licensee's application for license amendments dated February 28, 1992, as supplemented June 26 and August 28, 1992, and February 12, 18, 23, and 25, 1993. The proposed action would increase the rated core power level for each of the two Vogtle units from the current level of 3411 Megawatts-thermal (MWt) to 3565 MWt, and upgrade the corresponding Nuclear Steam Supply System (NSSS) power from the current level of 3425 MWt to 3579 MWt. This uprate would represent an increase of approximately 4.5 percent over the current rated core power and NSSS thermal power.

The proposed action involves NRC issuance of license amendments to uprate the authorized power level by changing the operating licenses, including Appendix A of licenses (Technical Specifications). No changes are needed to Appendix B of the licenses (Environmental Protection Plan—Non-radiological).

The Need for the Proposed Action

The proposed action would increase the electrical output of each Vogtle unit by 50 Megawatts and, thus, would provide additional electric power to service commercial and domestic areas of The Southern Company grid (i.e., the Southern Electric System or SES). In its letter of February 18, 1993, the licensee explained that this additional power is needed to meet current and projected loads. Specifically, the licensee stated that:

> The Southern Electric System (SES) experienced substantial load growth during the 1980s. By the late 1980s, the system recognized that new sources would be needed in the early- and mid-1990s.
>
> Three of the five load-serving companies in the system filed for certification of new generating units in 1991 and 1992. The Alabama Public Service Commission certified the need for 720 MW of new capacity at the Greene County site for completion in 1995 and 1996. The Georgia Public Service Commission certified the need for 160 MW in 1994 for Savannah Electric and 480 MW of new capacity in 1994 and 1995. Georgia Power Company filed in early 1993 for an additional 160 MW of capacity in 1995 and released a request for proposals for up to 800 MW in 1996 and up to 800 MW in 1997 of independent power.
>
> All of these certifications and requests for proposals assumed the VEGP [Vogtle Electric Generating Plant] uprates will be successful, or more capacity would have been needed.

Environmental Impacts of the Proposed Action

In the "Environmental Statement Relating to Operation of Vogtle Electric Generating Plant, Units 1 and 2," (FES) dated March 1985, the NRC staff addressed radiological impacts for plant operation up to a maximum (or "stretch") core design output of 3565 MWt and corresponding NSSS stretch power output of 3579 MWt. Thus, the radiological impacts of the proposed action have already been addressed and determined not to present a significant risk nor to present a significant adverse impact on the quality of the human environment. The proposed increase in power involves no significant change in types or significant increase in the amount of any radiological effluents that may be released offsite which have not already been evaluated and found acceptable in the FES. Similarly, there would be no significant increase in individual or cumulative occupational radiation exposure.

The FES for Vogtle addressed the non-radiological environmental impacts based upon the current NSSS power level of 3425 MWt. To support the application for amendments to increase power level, the licensee re-evaluated relevant parameters from the Vogtle Environmental Report—Operating License Stage based upon operation at the proposed NSSS power level of 3579 MWt (see enclosure 4 of the licensee's submittal of February 28, 1992, as supplemented by the licensee's letter of February 18, 1993). The re-evaluation included environmental parameters associated with the following systems:

River Water Intake and Circulating Water Systems

In the re-evaluation, the licensee concluded that the proposed uprated power operation would not require an increase in the blowdown rate for the natural draft cooling towers because the circulating water system (CWS) design flow rate already envelopes uprated conditions. Changes in the temperature of the cooling tower blowdown would be negligible.

The CWS design flow rate is the primary basis for determining makeup water requirements for the natural draft cooling towers. Other factors affecting makeup requirements include tower performance and meteorological conditions such as dry bulb temperature and relative humidity.

The licensee found that the tower makeup water requirements for the uprate would be within the current design values since the existing CWS design flow rate of 509,600 gpm envelopes the proposed uprate conditions. The licensee's conclusion took into consideration the total heat loads that would be conveyed to the natural draft cooling tower due to the uprate. The existing cooling tower design heat loads enveloped the licensee's calculated condenser heat loads for the proposed uprate.

Based on the manufacturer's instructions, the licensee states that the maximum drift loss for the natural draft cooling towers is 0.03% of the circulating water flow. The licensee finds that the existing drift loss would envelope the proposed uprate since the CWS design flow would not change for the uprate. The licensee does not expect the natural draft cooling water chemistry to change for the proposed uprate since the design cycles of concentration are expected to be maintained.

Accordingly, the licensee concluded that the design makeup flow to the natural draft cooling towers would not increase due to the proposed uprating, and the intake canal velocity would not be significantly affected.

Groundwater Withdrawal System

The licensee's re-evaluation for the groundwater withdrawal system included withdrawal rates to supply the nuclear service cooling water (NSCW) cooling towers. The primary makeup to the NSCW tower basins is supplied from the makeup well water storage tank. Backup makeup water is also supplied from the river water intake. The current normal makeup requirements to each of the NSCW cooling towers varies from about 230 gpm to 400 gpm based on NSCW design flow rates and the cycles of concentration.

The NSCW makeup requirements are also a function of the design heat loads during normal plant operation. The licensee found that the NSCW design heat loads for normal operation after the power uprate would increase by about 7% due to an increase in the calculated heat load for the refueling spent fuel pool. The licensee based the evaluation of the design heat loads upon the Unit 2 spent fuel pool, which bounds the Unit 1 design, since the Unit 2 pool and plant fuel management scheme uses high-density spent fuel storage racks. The increase in spent fuel pool heat load is due to use of VANTAGE–5 fuel with its extended fuel cycle, the proposed increase in power level, and use of the Unit 2 high-density racks. The increase in makeup for the NSCW tower will be proportional to the increase in the NSCW heat load during normal operation. Therefore, the licensee concluded that the increase in makeup requirements for each of the two Vogtle units would be only about 7% (30 gpm) of the current design makeup requirements.

The licensee evaluated this projected increase of 30 gpm. The FES for Vogtle was based on a conservatively estimated

total groundwater usage of 840 gpm for the two units. The licensee has found from operating experience that actual total groundwater usage based on current data is about 750 gpm. The Permit to use Groundwater that was issued for the Vogtle facility by the Georgia Department of Natural Resources—Environmental Protection Division authorizes an average withdrawal rate of 5,500,000 gpd (3819 gpm). Thus, the expected 60 gpm withdrawal rate associated with the proposed power increase does not result in a total groundwater withdrawal rate which exceeds the 840 gpm used in the FES. Moreover, the previous conclusions in the FES remain valid for the proposed power increase.

The licensee's re-evaluation also included other systems that use groundwater. The licensee concluded that groundwater withdrawal to supply the water treatment plant and the fire protection system would not increase due to the proposed power uprate. The licensee also does not expect any significant increase in makeup requirements for the reactor coolant system, component cooling water system, condensate and feedwater system, turbine plant cooling water system, auxiliary steam system, or liquid radwaste system due to the proposed power uprate. Therefore, the licensee concluded that there would be no changes in groundwater withdrawal.

Other Systems

The licensee's re-evaluation considered the flow rate required by the radwaste dilution system due to the proposed power increase. The licensee does not expect increases in liquid radwaste quantities or activity levels that would increase the required radwaste dilution flows.

The licensee also re-evaluated the river water discharge system and concluded that there would be no significant changes to the discharge flow rate, velocity, temperature or thermal plume, or chemical composition due to the uprate. The licensee found that water discharge parameters subject to the NPDES Permit would not change from parameters evaluated in the FES. The licensee also found that the discharge characteristics on which the NPDES Permit was based would also not be affected by the power increase and, therefore, that no modification to the existing NPDES Permit was required.

From its evaluation summarized above, the licensee finds that the environmental effects of Vogtle operation as presented in the FES were based on conservative estimates of operating conditions such that the conclusions of the FES remain valid for operation at the proposed uprated conditions. The licensee finds that the plant operating parameters impacted by the proposed uprate would remain within the bounding conditions on which the conclusions of the FES are based.

The NRC staff has reviewed the licensee's re-evaluation of the potential non-radiological environmental impacts for the proposed action. On the basis of this review, the NRC staff finds that the non-radiological environmental impacts associated with the proposed small increase in power are essentially immeasurable and do not change the conclusion in the FES that the operation of Vogtle would cause no significant adverse impact upon the quality of the human environment.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological or non-radiological environmental impact.

Alternative to the Proposed Action

The principal alternative would be to deny the requested amendments. Denial would not significantly reduce the environmental impact of plant operations, but would restrict operation of the Vogtle facility to the currently licensed power level. Denial of the amendments would prevent the facility from generating the additional 50 MWe from each Vogtle unit that is needed for present and future system loads.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the "Final Environmental Statement Relating to Operation of Vogtle Electric Generating Plant, Units 1 and 2," dated March 1985.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and consulted with the Environmental Protection Division, Department of Natural Resources, for the State of Georgia. The State Liaison Officer acknowledged that the State of Georgia has no outstanding actions with respect to the proposed uprate and has no comment regarding the NRC's proposed action.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendments.

Based on the foregoing environmental assessment, the NRC staff concludes that the proposed action will not have a significant adverse effect on the quality of the human environment.

For further details with respect to this action, see the application for amendments dated February 28, 1992, and supplemental letters from the licensee dated June 26 and August 28, 1992, and February 12, 18, 23, and 25, 1993. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Dated at Rockville, Maryland, this 9th day of March, 1993.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–5879 Filed 3–12–93; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Review Group, Request for Comments on Draft Material

The Nuclear Regulatory Commission established a Regulatory Review Group under the Executive Director for Operations to conduct a broad examination of the regulatory framework and processes to identify: Areas of redundant regulation, overly burdensome regulation, areas where guidance and implementation verification processes may be overly prescriptive, areas where the regulations or regulatory guidance may be ambiguous, and suggest simplification and clarification of existing requirements and processes. The Review Group was officially established in late January and is scheduled to submit a report to the Commission in July 1993. An important element of the effort is solicitation of views from both the industry and the public regarding priority areas to be examined, issues of particular concern, and recommendations for improvement. The results of the request for comments are to be incorporated into the review effort. This notice is to announce the availability of draft material developed by the review group relevant to approach, depth, scope of review, and potential recommendations resulting from the review to date.

The material being made available for comment includes the charter as approved by the Commission and three sections which cover items two through six of the charter.

Section One

This section deals with the assessments of the regulations and

implementing guidance. Included is a summary of the approach being taken, data sheets developed on each rule evaluated to date and recommendations which include supporting guidance and processes. The draft recommendations were chosen based both on the review and the fact that the specific problem identified was not obviously being addressed by an existing program. The detailed survey of existing programs is now under way for comparison to identified issues and is expected to be available in sixty days. The purpose of this effort is to focus on the exact rule, guide or practice which may be considered flawed so that a specific resolution can be achieved. For example, generalities such as, "risk based regulation is the process which can provide both increased flexibility and safety" need to be placed in context. How would it be used? To replace what current requirement? How would it be promulgated? Comments are invited on all aspects of the review, but would be particularly useful on the level of detail of the review necessary to focus on specifics. Also recognizing that the Review Group is developing an agenda which will be turned over to the responsible offices for action, the level of detail needs to be sufficient for specific problem identification. It should also be recognized that additional review work is being done on some of the rules, hence the review forms may be revised later.

Section Two

This section deals with the analysis of specific licenses as a reflection of the implementation of rules and regulatory guidance at power plants. The approach is discussed as is the basis for the selection of the plants to be examined. The first plant, Seabrook, has been completed. Recommendations are included in the analysis based on this single review. Each of the selected plants will be analyzed in the same manner with the integration of all of the recommendations being completed in the final report. Comments are invited on all aspects of the review, but would particularly helpful if they address potential implementation priorities and strategies for the types of recommendations contained in the report. Most of the recommendations are considered safety neutral and therefore would be reductions in burden only. How should this be integrated into the priorities the Review Group has been asked to provide as part of its final report?

Section Three

A contributing factor to the establishment of the Review Group was industry's presentation to the Commission the topic of risk based regulation. How should Probabilistic Risk Analysis be applied in the regulatory setting? Building on the results described in the first two sections, the review group will develop specific recommendations where it may be beneficial to incorporate the approach into the process. While recognizing that the technology is currently heavily used by both the staff and industry in support of both generic and plant specific action, the Group is focusing on what may potentially be direct incorporation into the regulatory processes. Based on the initial issues found with the lack of flexibility in the area of Quality Assurance and the obvious possible application to Technical Specifications these two areas are being focused on. The application of Probabilistic Risk Analysis in graded Quality Assurance may have some potential for providing increased flexibility, reduced burden and a better safety focus. The cost effective applicability to Technical Specifications is not obvious. The significant benefits to be derived from the new Improved Standard Technical Specifications may be of such a magnitude that any further development must build from that basis and not from the existing plant specific requirements. As the group tries to put definition on exactly what risk based regulation is and how it would be incorporated into the regulatory structure more directly very specific comments are desired.

A Commission meeting is currently scheduled for March 26, 1993, for the Review Group to discuss progress and findings to date. In support of this meeting written comments are requested on the material by March 22, 1993. Comments received after this date will still be considered, but may not be fully evaluated and therefore not discussed on March 26, 1993. In addition, a public meeting will be held March 12, 1993, in room 2F–17/21, at 2 p.m., at the NRC headquarters building located at 11555 Rockville Pike, Rockville, MD. The purpose of the meeting will be for the Review Group to answer questions, receive comments, and provide clarification on the material provided for comment. Copies of the referenced material are available for inspection and/or copying for a fee in the NRC Public Document Room, 2102 L Street, NW. (Lower Level), Washington, DC.

Dated at Rockville, Maryland, this 5th day of March, 1993.

For the Nuclear Regulatory Commission.

Frank P. Gillespie,

Regulatory Review Group.

[FR Doc. 93–5750 Filed 3–12–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

GPU Nuclear Corporation and Jersey Central Power & Light Co.

Exemption

I

The GPU Nuclear Corporation and Jersey Central Power & Light Company (GPUN/the licensee) are the holders of Facility Operating License No. DPR–16, which authorizes operation of the Oyster Creek Nuclear Generating Station (the facility), at steady state reactor core power levels not in excess of 1930 megawatts thermal. This facility is a boiling water reactor located in Ocean County, New Jersey. The license provides, among other things, that Oyster Creek Nuclear Generating Station is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

II

Pursuant to 10 CFR 55.59(a)(1) and (c)(1), each licensed operator is required to successfully complete a requalification program developed by the licensee that has been approved by the Commission. This program is to be conducted for a continuous period not to exceed 24 months in duration and upon its conclusion must be promptly followed by a successive requalification program.

III

By letter dated January 4, 1993, the licensee requested an exemption under 10 CFR 55.11 from the requirements of 10 CFR 55.59(a)(1) and (c)(1). By letter dated January 20, 1993, GPUN provided additional information to the staff to support the exemption request. The schedular exemption requested will allow extending the current Oyster Creek Nuclear Generating Station requalification program duration from 24 to 32 months to allow the comprehensive written examination required by 10 CFR 55.59(a)(2) to be conducted by the NRC during August 1993. The requested exemption would constitute a one-time extension of the requalification program duration for those licensed operators whose last comprehensive written examination was administered on March 5, 1991.

The Code of Federal Regulations at 10 CFR 55.11 states that "The Commission may, upon application by an interested

person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property and are otherwise in the public interest."

IV

The Commission has determined that pursuant to 10 CFR 55.11, the exemption to 10 CFR 55.59 (a)(1) and (c)(1) is authorized by law and will not endanger life or property and is otherwise in the public interest. The logistical scheduling of the licensee's operators and staff necessary to support the comprehensive written examination during the 24 month requalification cycle would have a detrimental effect on the public interest due to potentially prolonging the current plant refueling outage and on-site acceptance testing of the newly certified plant referenced simulator. The extension of the current program duration to accommodate the administration of a written comprehensive examination in August 1993 will not have a negative impact on the overall process of upgrading operator knowledge. The affected licensed operators will continue to demonstrate and possess the required levels of knowledge, skills, and abilities needed to safely operate the plant throughout the transitional period via continuation of the current program. By conducting the NRC comprehensive written examination portion of the requalification examinations in August 1993, all of the affected licensed operators will have been examined within the 6-year term of their license.

Therefore, the Commission hereby grants GPUN an exemption on a one-time only basis from the scheduler requirements of 10 CFR 55.59 (a)(1) and (c)(1) to allow the current Oyster Creek Nuclear Generating Station requalification program duration to be extended beyond 24 months not exceeding 30 months and expiring on September 30, 1993. This extension would correspond with the NRC requalification examinations scheduled for August 1993. Since the maximum extension period for individual licensed operators is from March 1993 to September 30, 1993, an extension of a maximum of 6 months beyond the 24 month program duration is all that is warranted.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this Exemption will have no significant impact on the quality of the human environment (58 FR 12975).

This exemption is effective upon issuance. This exemption expires on September 30, 1993.

Dated at Rockville, Maryland this 8th day of March 1993.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–5881 Filed 3–12–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–32493–License No. 29–28685–01 EA 93–041]

Confirmatory Order Modifying License (effective immediately)

In the Matter of Radiation Oncology Center at Marlton, Marlton, New Jersey

I

Radiation Oncology Center at Marlton (licensee) is the holder of NRC License No. 29–28685–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 35. The license authorizes the licensee to possess iridium–192 sealed sources for use in an Omnitron International, Inc. Model 2000 high dose rate (HDR) after-loading brachytheraphy unit (HDR) for the treatment of humans. The license initially was issued on January 17, 1992, and is due to expire on January 31, 1997.

II

NRC Region I staff conducted a routine safety inspection of the subject license on February 2 and 4, 1993. During this inspection, apparent violations of NRC requirements related to the implementation of the licensee's radiological safety program were identified. Of particular concern to the NRC was the lack of radiation safety program oversight by the Radiation Safety Officer (RSO) in discharging her licensed responsibilities and the lack of knowledge demonstrated by the RSO/Authorized User and her staff of the license conditions and the routine and emergency operation of the HDR. The inspectors also determined that the iridium–192 source authorized under the NRC license was removed from the licensee's HDR unit by the manufacturer on February 2, 1993 and subsequently returned to the manufacturer for disposal on February 3, 1993.

III

As a result of concerns expressed by NRC Region I officials over the apparent violations, the licensee agreed to certain actions. By a confirmatory action letter (CAL) dated February 5, 1993, from Richard W. Cooper, II, Director, Division of Radiation Safety and Safeguards, NRC, Region I, to the licensee, the NRC confirmed that the licensee had agreed that:

1. It would not obtain any sources of radioactive material authorized under its license until specifically authorized in writing by the Director, Division of Radiation Safety and Safeguards, NRC, Region I.

2. By February 10, 1993, it would provide the NRC Region I office with a complete printout of the operational data stored in its Omnitron Model 2000 HDR computer memory, including error measures, and a written explanation for each individual code. In addition, by February 18, 1993, the licensee would submit to the NRC Region I office a report that assessed, for each patient treatment that it had performed using the HDR, whether a misadministration had occurred. In making this determination, the licensee, as a minimum, would compare the HDR computer data with the written patient prescription and calculated doses.

3. It would take actions required by 10 CFR part 35, including reporting and notification, if its review revealed that a misadministration had occurred.

The CAL provided that the issuance of the CAL did not preclude the issuance of an order formalizing the above commitments.

By letter dated February 9, 1993, the licensee reaffirmed its commitment not to receive any radioactive sources without authorization from Region I and submitted a printout of the operational data stored in its Omnitron Model 2000 HDR computer memory, including error messages, and a written explanation for each individual code. The licensee also stated that an audit of all treatments conducted at its facility would begin on February 12, 1993, and that the results of this audit, including any misadministrations identified, would be forwarded to the NRC. By letter dated February 12, 1993, the licensee submitted the results of the February 12, 1993 audit, concluding that they had no misadministrations. Both submittals required by Item 2 of the CAL have been received and are under staff review. The licensee also satisfied Item 3.

I find that the licensee's commitment as set forth in Item 1 of the February 5, 1993 letter is still necessary and conclude that with adherence to this commitment, the public health and safety is reasonably assured. For the reasons described above, I have determined that the public health and safety require that the licensee's commitment as set forth in Item 1 of the February 5, 1993 CAL be confirmed by this Order. Pursuant to 10 CFR 2.202, I have also determined that the public health and safety require that this Order

be immediately effective. The licensee consented to the issuance of this Confirmatory Order during a March 5, 1993 telephone call between Mr. Richard Cooper and Ms. Pamela Henderson of the NRC Region I Office and Dr. Horowitz, Radiation Safety Officer, acting on behalf of the licensee.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 30 and 35, it is hereby ordered, effective immediately, that license no. 29–28685–01 is modified as follows:

Pending further action by the NRC: (1) Any NRC-licensed material possessed by the licensee shall be placed and maintained in a locked, stored, and shielded condition; and (2) the licensee may not receive any NRC-licensed material. All other requirements of the license continue in force.

The Regional Administrator, Region I, may relax or rescind, in writing, the above condition upon a showing by the licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the licensee, may request a hearing within 20 days of its issuance. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406, and to the licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 1.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), 57 FR 20194 (May 12, 1992), any person other than the licensee adversely affected by this Order, may, in addition to demanding a hearing, at the time the hearing request is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An Answer or a Request for Hearing Shall not stay the Immediate Effectiveness of this Order.

Dated at Rockville, Maryland this 9th day of March 1993.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 93–5880 Filed 3–12–93; 8:45 am]

BILLING CODE 7590–01–M

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

Annual Selection Meeting

AGENCY: President's Commission on White House Fellowships.

ACTION: Notice of Annual Selection Meeting of the President's Commission on White House Fellowships. Closed to the Public.

SUMMARY: Notice is hereby given that the annual selection meeting of the President's Commission on White House Fellowships will be held at Mt. Washington Conference Center, Baltimore, Maryland, May 20 through May 23, 1993, beginning at 5 p.m.

The annual selection meeting is part of the screening process of the White House Fellowships program. During this four-day meeting, the applicants will be interviewed by members of the Presidential Commission. At the conclusion of this meeting, the Commissioners will recommend to the President those they propose be selected to serve as White House Fellows.

It has been determined by the Director of the Office of Personnel Management that because of the nature of the screening process, wherein personnel records and confidential character references must be used, which, if revealed to the public would constitute a clear invasion of the individual's privacy, the content of this meeting falls within the provisions of section 552b(c) of title 5 of the United States Code. Accordingly, this meeting is closed to the public.

DATES: The dates of the annual selection meeting of the President's Commission on White House Fellowships, which is closed to the public, are May 20–May 23, 1993.

FOR FURTHER INFORMATION CONTACT: Janet Kelliher, Administrative Officer, President's Commission on White House Fellowships, 712 Jackson Place, NW., Washington, DC 20503, (202) 395–4522.

Dated: February 23, 1993.

Brooke Shearer,

Director, President's Commission on White House Fellowships.

[FR Doc. 93–5742 Filed 3–12–93; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–19323; No. 811–3592]

Acacia National Variable Annuity A

March 9, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Acacia National Variable Annuity Account A ("Account A").

RELEVANT 1940 ACT SECTION: Order requested under section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Account A seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATES: The application was filed on December 3, 1992 and amended on February 4 and March 5, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 5, 1993, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Robert-John H. Sands, Esquire, Acacia National

Life Insurance Company, 51 Louisiana Avenue, NW., Washington, DC 20001 .

FOR FURTHER INFORMATION CONTACT: Kathleen Ujvari, Accountant, or Wendell M. Faria, Deputy Chief, on (202) 272–2060, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application, the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Acacia National Variable Annuity Account A, registered as a unit investment trust under the 1940 Act, is a separate account of Acacia National Life Insurance Company ("Depositor"). Account A was organized under the provisions of Virginia insurance law on August 31, 1982 for the purpose of issuing individual variable annuity contracts.

2. On November 3, 1982, Account A filed a notification of registration as an investment company on Form N–8A, a registration statement under the 1940 Act on Form N–8B–2 (File No. 811–3592), and a registration statement under the Securities Act of 1933 ("1933 Act") on Form S–6 (File No. 2–80155). The 1933 Act registration statement was declared effective on May 15, 1984.

3. Two remaining variable annuity contracts were surrendered on November 23, 1992, the proceeds paid from Account A upon surrender of those contracts were based upon the accumulation unit value as of that date.

4. Account A had no variable annuity contract owners as of December 31, 1992.

5. As of December 31, 1992, Account A had assets of $151,545 consisting of shares of Acacia Capital Corporation, a mutual fund.

6. As of December 31, 1992, there were no contractual liabilities for the surrender value of any outstanding variable annuity contracts.

7. Account A is not a party to any pending litigation or administrative proceedings.

8. As of June, 1992, Account A has not, for any reason, transferred any of its assets to a separate trust, the beneficiaries of whom are security holders of Account A.

9. Account A has not sold any new variable annuity contracts since April 1, 1991, and does not intend to do so in the future.

Conclusion

Account A requests an order pursuant to section 8(f) of the 1940 Act declaring that it has ceased to be an investment company.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5834 Filed 3–12–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before April 14, 1993. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3RD Street, SW., 5th Floor, Washington, DC. 20416, telephone: (202) 205–6629.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory, Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Application for Certificate of Competency—Small Purchase Actions

Form No.: SBA Form 1531

Frequency: On Occasion

Description of Respondents: Small Business Owners

Annual Responses: 1,500

Annual Burden: 3,000

Dated: March 10, 1993.

Cleo Verbillis,

Chief, Administrative Information Branch.

[FR Doc. 93–5858 Filed 3–12–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area 2635]

South Dakota; Declaration of Disaster Loan Area

Jerauld County and the contiguous counties of Aurora, Beadle, Brule, Buffalo, Hand, and Sanborn in the State of South Dakota constitute a disaster area as a result of damages caused by a fire which occurred on February 2, 1993 in the City of Wessington Springs. Applications for loans for physical damage may be filed until the close of business on May 7, 1993 and for economic injury until the close of business on December 8, 1993 at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.625
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 263505 and for economic injury the number is 787600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 8, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–5859 Filed 3–12–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area 2634]

South Dakota; Declaration of Disaster Loan Area

Sully County and the contiguous counties of Hughes, Hyde, and Potter in the State of South Dakota constitute a disaster area as a result of damages caused by a fire which occurred on January 1, 1993 in the City of Onida. Applications for loans for physical

damage may be filed until the close of business on May 7, 1993 and for economic injury until the close of business on December 8, 1993 at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Business and non-profit organizations without credit available elsewhere	4.000
Others (Including non-profit organizations) with credit available elsewhere	7.625
For Economic Injury:	
Business and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 263405 and for economic injury the number is 787500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 8, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–5860 Filed 3–12–93; 8:45 am]

BILLING CODE 8025–01–M

Los Angeles District Advisory Council; Public Meeting

The U.S. Small Business Administration Los Angeles District Advisory Council will hold a public meeting at 11 a.m., on Friday, April 23, 1993 at American Pacific State Bank, suite 1600, 15260 Ventura Boulevard, Sherman Oaks, California, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Michael A. Lee, District Director, U.S. Small Business Administration, 330 N. Brand Boulevard, suite 1200, Glendale, California 912033, (213) 894-2977.

Dated: March 8, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93-5861 Filed 3-12-93; 8:45 am]

BILLING CODE 8025-01-M

[Application Number: 99000078]

WestVen Limited Partnership; Application for a License to Operate as a Small Business Investment Company

An application for a license to operate as a limited partnership small business investment company (SBIC) under the provisions of section 301(c) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661, et seq.) has been filed by WestVen Limited Partnership (Applicant), 208 Capitol Street, Third Floor, Charleston, West Virginia 25301, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1992).

The partners and their respective partnership interest in the Applicant are as follows:

Name and address	Title	Partnership interest (percent)
Mylan Pharmaceuticals, Inc., 781 Chestnut Ridge Road, Morgantown, WV 26505.	Limited Partner	66
West Virginia Jobs Investment Trust, 208 Capitol St., 3rd Floor, Charleston, WV 25301.	Limited Partner	33
DM Associates, Inc., 208 Capitol Street, Charleston, WV 25301	Corporate General Partner & Investment Manager	1

The proposed officers, directors and owner of the DM Associates, Inc. are as follows:

Name and address	Position	Percentage of ownership
Thomas E. Loehr, 1 Chatwood Road, Charleston, WV 25304	President and Director	100
Anthony W. Mazelon, 344 Roxalana Hills Drive, Dunbar, WV	Secretary and Director	0
Arno John S. Paas, 813 Garden Street, Charleston, WV 25302	Director	0
John M. Ranson, 1511 Royal Oaks Road, Charleston, WV 25314	Director	0
Richard A. Rubin, 16 Birch Tree Lane, Charleston, WV 25314	Director	0

The Applicant proposes to begin operations with a capitalization of $2,500,000 and will be a source of equity capital and long-term loan funds for qualified small business concerns.

The Applicant intends to conduct its business operations primarily in the State of West Virginia.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owner and management, and the probability of successful operations of the Applicant under their management including profitability and financial soundness, in accordance with the Act and Regulations.

Notice is hereby given that any person may, no later than 30 days from the date of publication of this notice, submit written comments on the proposed Applicant. Any such communication shall be addressed to the Associate Administrator for Investment, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

A copy of this notice will be published in a newspaper of general circulation in Charleston, West Virginia.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 4, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–5862 Filed 3–12–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 1775]

Shipping Coordinating Committee Subcommittee on Safety of Life at Sea and Associated Bodies, Working Group on Flag State Implementation; Meeting

The Working Group on Flag State Implementation of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on April 6, 1993, at 9 a.m. in room 6319 at Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

This will be the first meeting of this Working Group following establishment of a new subcommittee on Flag State Implementation (FSI) at the sixty-first session of the Maritime Safety Committee. The purpose of the subcommittee is to identify ways to ensure effective and consistent global implementation of International Maritime Organization instruments. At this first meeting the immediate goals and objectives of the subcommittee will be discussed and in particular preparations for the 1st Session of the International Maritime Organization (IMO) Subcommittee on Flag State Implementation (FSI), which is scheduled for April 19 to 23, 1993.

Specific items of discussion will include: Guidelines for delegation of authority to bodies acting on behalf of flag states, minimum standards for classification societies, port state control measures and analysis of casualty statistics. Members of the public may attend this meeting up to the seating capacity of the room.

For further information on this FSI Working Group meeting, contact LCDR Keith Dabney at (202) 267–2988; U.S. Coast Guard Headquarters (G–MTH), 2100 Second Street, SW., Washington, DC 20593–0001.

Dated: March 2, 1993.

Bruce Carter,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 93–5777 Filed 3–12–93; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Bishop International Airport, Flint, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Bishop International Airport Authority for Bishop International Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Ernest Gubry, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET–ADO–650.5, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7280.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the Bishop International Airport are in compliance with applicable requirements of part 150, effective march 1, 1993.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing non-compatible uses and for the prevention of the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and related description submitted by the Bishop International Airport Authority. The specific maps under consideration are the noise exposure maps: Existing Off-Airport Land Uses by Contour and Jurisdiction Base Case (1988)—Figure 13.2–1 and Existing Off-Airport Land Uses by Contour and Jurisdiction Future Case (1995)—Figure 13.3–1, on pages 13–4 and 13–8, respectively, of the submission. The FAA has determined that these maps for Bishop International Airport are in compliance with applicable requirements. This determination is effective on March 1, 1993. The FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provision of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through the FAA's review of the noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations;

Federal Aviation Administration, Great Lakes Region, Airports Division Office, 2300 East Devon Avenue, room 269, Des Plaines, Illinois 60018

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111

Bishop International Airport Authority, Bishop International Airport, G–3425 W. Bristol Road, Flint, Michigan 48507.

Questions may be directed to the individual named above under the heading FOR FURTHER INFORMATION CONTACT.

Issued in Belleville, Michigan, on March 1, 1993.

Dean C. Nitz,

Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 93–5822 Filed 3–12–93; 8:55 am]

BILLING CODE 4910–13–M

Noise Exposure Map Notice; Kalamazoo/Battle Creek International Airport, Kalamazoo MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Kalamazoo County Board of Commissioners for Kalamazoo/Battle Creek International Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Ernest Gubry, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET–ADO–650.5, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7280.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the Kalamazoo/Battle Creek International Airport are in compliance with applicable requirements of part 150 effective March 1, 1993.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing non-compatible uses and for the prevention of the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and related description submitted by the Kalamazoo County Board of Commissioners. The specific maps under consideration are the noise exposure maps: 1990 Noise Exposure Map and 1995 Noise Exposure Map on the pages following page I–10 of the submission. The FAA has determined that these maps for Kalamazoo/Battle Creek International Airport are in compliance with applicable requirements. This determination is effective on March 1, 1993. The FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through the FAA's review of the noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Great Lakes Region, Airports Division Office, 2300 East Devon Avenue, room 269, Des Plaines, Illinois 60018

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111

Kalamazoo/Battle Creek International Airport, 5235 Portage Road, Kalamazoo, Michigan 49002.

Questions may be directed to the individual named above under the heading FOR FURTHER INFORMATION CONTACT.

Issued in Belleville, Michigan, on March 1, 1993.

Dean C. Nitz,

Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 93–5823 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–13–M

Acceptance of Noise Exposure Maps for Modesto City-County Airport, Modesto, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of Modesto, California, for the Modesto City-County Airport, Modesto, California, under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is February 26, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, Burlingame, California 94010–1303, Telephone (415) 876–2805.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the Modesto City-County Airport are in compliance with applicable requirements of part 150 effective February 26, 1993.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an

airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the city of Modesto, California. The specific maps under consideration are Exhibit V–1, "1990/91 Noise Exposure Map", and Exhibit V–2, "1995/96 Noise Exposure Map, in the submission. The FAA has determined that these maps for the Modesto City-County Airport are in compliance with applicable requirements. This determination is effective on February 26, 1993. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., room 617, Washington, DC 20591

Federal Aviation Administration, Western-Pacific Region, Airports Division, room 3012, 15000 Aviation Boulevard, Hawthorne, California 90261

Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, Burlingame, California 94010–1303

Mr. Howard L. Cooke, A.A.E., Airport Manager, Modesto City-County Airport, 617 Airport Way, Modesto, California 95354–3916.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Hawthorne, California on February 26, 1993.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 93–5825 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–13–M

Noise Exposure Map Notice Receipt of Noise Compatibility Program and Request for Review Long Island MacArthur Airport, Islip, NY

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Town of Islip for the Long Island MacArthur Airport (ISP), under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for ISP under part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before August 23, 1993.

EFFECTIVE DATE: The effective date of FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is February 24, 1993. The public comment period ends April 10, 1993.

FOR FURTHER INFORMATION CONTACT: Frank Squeglia, Environmental Specialist, FAA Eastern Regional Office, Airports Division, AEA-610, rm. 337, Fitzgerald Federal Building, JFK Int'l Airport, Jamaica, NY 11430, (718) 553–0902. Comments on the proposed noise compatibility program should be submitted to the above office

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the ISP Airport are in compliance with applicable requirements of Part 150, effective February 24, 1993. Further, the FAA is reviewing a proposed noise compatibility program for the airport which will be approved or disapproved on or before August 23, 1993. This notice also announces the availability of this program for public review and comment.

Under section 103 title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150 promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposed for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The Town of Islip submitted to the FAA on November 16, 1992, noise exposure maps, descriptions and other documentation which were produced

during an airport noise compatibility planning study from January 24, 1990, to November 16, 1992. It was requested that the FAA review this material as noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under Section 14(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the Town of Islip.

The specific maps under consideration are "Noise Exposure Map Summary 1989" (Figure 1.2) and "Noise Exposure Map 1994" (Figure 1.1). These figures are included in Volume I—Noise Exposure Map—of the part 150 study.

The FAA has determined that these maps for ISP are in compliance with applicable requirements. This determination is effective on February 24, 1993. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedure contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plan, or a commitment to approve a noise compatible program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative location of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under the part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator under section 105.21 of FAR part 150, that the statutory required consultation has been accomplished.

The FAA formally received the noise compatibility program for ISP, on November 16, 1992. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before August 23, 1993.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or are reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments other than those properly addressed to local land-use authorities, will be considered by the FAA to the extent practicable. The public comment period ends April 10, 1993. Copies of the noise exposure maps, the FAA's evaluation of the maps and the proposed noise compatibility program are available for examination at the following locations:

Eastern Regional Office, FAA, Fitzgerald Federal Building, JFK Int'l Airport, Airports Division, room 337, Jamaica, NY

New York Airports District Office, FAA 181 South Franklin Ave:, 3rd Floor, Valley Stream, NY 11581

Airport Manager, MacArthur Airport, 100 Arrival Ave., Airline Terminal Building, Ronkonkoma, NY 11779

Questions may be directed to the individual named above under the heading "FOR FURTHER INFORMATION CONTACT".

Issued in Jamaica, NY on February 22, 1993.

Louis P. DeRosa,

Manager, Airports Division, Eastern Region.

[FR Doc. 93–5820 Filed 3–12–93; 8:45 am]

BILLING CODE 4910-13-M

Aviation Rulemaking Advisory Committee; General Structures Harmonization Working Group

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of establishment of General Structures Harmonization Working Group.

SUMMARY: Notice is given of the establishment of the General Structures Harmonization Working Group of the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of the ARAC on transport airplane and engine issues.

FOR FURTHER INFORMATION CONTACT: Mr. William J. (Joe) Sullivan, Assistant Executive Director, Aviation Rulemaking Advisory Committee, Aircraft Certification Service (AIR-3), 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-9554; FAX: (202) 267-5364.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has established an Aviation Rulemaking Advisory Committee (ARAC) (56 FR 2190, January 22, 1991; and 58 FR 9230, February 19, 1993). One area the ARAC deals with is transport airplane and engine issues (56 FR 31995; July 12, 1991). These issues involve the airworthiness standards for transport airplanes, engines and propellers in parts 25, 33 and 35 of the Federal Aviation Regulations (14 CFR parts 25, 33 and 35) which are the responsibility of the FAA Director of Aircraft Certification.

The FAA announced at the Joint Aviation Authorities (JAA)-Federal Aviation Administration (FAA) Harmonization Conference in Toronto, Ontario, Canada, (June 2-5, 1992) that it would consolidate within the Aviation Rulemaking Advisory Committee structure an ongoing objective to "harmonize" the Joint Aviation Requirements (JAR) and the Federal Aviation Regulations (FAR). Coincident with that announcement, the FAA assigned to the ARAC those projects related to JAR/FAR 25, 33 and 35 harmonization which were then in the process of being coordinated between the JAA and the FAA. The harmonization process included the intention to present the results of JAA/FAA coordination to the public in the form of either a notice of proposed rulemaking or an advisory circular—an objective comparable to and compatible with that assigned to the Aviation Rulemaking Advisory Committee. The General Structures Harmonization Working Group is being formed to address general structures issues in JAR/FAR parts 25 identified below. The General Structures Harmonization Working Group will forward recommendations to the ARAC which will determine whether to forward them to the FAA.

Specifically, the Working Group's tasks are the following: The General Structures Harmonization Working Group is charged with making recommendations to the ARAC concerning the FAA disposition of the following subjects recently coordinated between the JAA and the FAA:

Task 1—Bird Strike Damage: Develop new or revised requirements for the evaluation of transport category airplane structure for in-flight collision with a bird, including the size of the bird and the location of the impact on the airplane (FAR 25.571, 25.631, 25.775, and other conforming changes).

Task 2—Safe Life Scatter Factor: Develop recommendations for new or revised advisory and guidance material concerning the safe life scatter factors (FAR 25.571).

Reports

A. Recommend time line(s) for completion of each task, including rationale, for consideration at the meeting of the ARAC to consider transport airplane and engine issues held following publication of this notice.

B. Give a detailed conceptual presentation on each task to the ARAC before proceeding with the work stated under item C and D, below.

C. Draft for the ARAC a notice of proposed rulemaking for Task 1 proposing new or revised requirements, a supporting economic analysis and other required analysis, advisory and guidance material, and any other collateral documents the Working Group determines to be needed.

D. Draft for the ARAC appropriate advisory and guidance material for Task 2.

E. Give a status report on each task at each meeting of the ARAC held to consider transport airplane and engine issues.

The General Structures Harmonization Working Group will be comprised of experts from those organizations having an interest in the tasks assigned. A Working Group member need not necessarily be a representative of one of the member organizations of the ARAC. An individual who has expertise in the subject matter and wishes to become a member of the Working Group should write the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the task, and the expertise he or she would bring to the Working Group. The request will be reviewed with the Chairs of the ARAC Transport Airplane and Engine Issues and the General Structures Working Group, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the information and use of the ARAC are necessary in the public interest in connection with the performance of duties of the FAA by law. Meetings of the ARAC to consider transport airplane and engine issues will be open to the public except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the General Structures Harmonization Working Group will not be open to the public except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of Working Group meetings will be made.

Issued in Washington, DC, on March 8, 1993.

William J. Sullivan,

Assistant Executive Director for Transport Airplane and Engine Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 93–5814 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–93–13]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 5, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mrs. Jeanne Trapani, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7624.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on March 5, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 26237.
Petitioner: MCI Communications.
Sections of the FAR Affected: 14 CFR 91.611.
Description of Relief Sought: To extend the termination date of Exemption No. 5332, which will expire July 31, 1993, and which allows MCI Communications to conduct certain ferry flights with one engine inoperative in its Falcon Trijet aircraft without obtaining a special flight permit for each flight.

Docket No.: 27076.
Petitioner: Rocky Mountain Helicopters, Inc.
Sections of the FAR Affected: 14 CFR 43.3(g)
Description of Relief Sought: To allow pilots employed by Rocky Mountain Helicopters, Inc., to remove and install externally mounted SX 5 or SX 16 Night Sun Search Lights to accommodate its air ambulance operations.

Dispositions of Petitions

Docket No.: 25589.
Petitioner: Bolivar Aviation.
Sections of the FAR Affected: 14 CFR 141.65.
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 5198, which allows Bolivar Aviation to recommend its graduates of its approved certification courses for airline transport pilot certificates and flight instructor certificates and ratings without having to take the FAA written test. Exemption No. 5198 also allows Bolivar Aviation to recommend graduates of its approved

certification courses for flight instructor certificates and ratings without taking the FAA's practical test.

Partial Grant, February 26, 1993, Exemption No. 5198B.

Docket No.: 26419.

Petitioner: DHL Airways, Inc.

Sections of the FAR Affected: 14 CFR 121.417, 121.503, 121.505, 121.511.

Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 5296, which expires April 30, 1993, and which allows DHL Airways, Inc., to comply with the flight and duty limitations contained in § 121.417, which apply to domestic air carriers, rather than the flight and duty time limitations that are applicable to supplemental air carriers. DHL Airways, Inc., is a supplemental air carrier, not a domestic air carrier.

Grant, February 26, 1993, Exemption No. 5296A.

Docket No.: 26591.

Petitioner: Mountain Bird, Inc. d/b/a Salmon Air Taxi.

Sections of the FAR Affected: 14 CFR 43.3(g).

Description of Relief Sought/ Disposition: To allow properly trained pilots employed by Salmon Air Taxi to convert the cabins of certain of its aircraft operated under part 135 from passenger to cargo configurations, and the converse, by removing and replacing passenger seats when such aircraft are specifically designed for that purpose.

Grant, March 1, 1993, Exemption No. 5610.

Docket No.: 26876.

Petitioner: Wings West Airlines, Inc.

Sectins of the FAR Affected: 14 CFR 121.371(a) and 121.378.

Description of Relief Sought/ Disposition: To allow Wings West Airlines, Inc., to use foreign original equipment manufacturers and repair agencies to perform repair and overhaul of certain parts and components on the British Aerospace 3200 Super Jetstream, SAAB 340B, and the Aerospatiale ATR72 aircraft operated by the petitioner.

Partial Grant, March 1, 1993, Exemption No. 5609.

Docket No.: 27191.

Petitioner: Northwest Airlines.

Sections of the FAR Affected: 14 CFR 121.99, and 121.351(a)

Description of Relief Sought/ Disposition: To allow Northwest Airlines to operate turbojet aircraft equipped with one high-frequency communication system.

Grant, February 25, 1993, Exemption No. 5607.

[FR Doc. 93–5818 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–13–M

Intent to Rule on Application to Use the Revenue From a Passenger Facility Charge (PFC) at the Huntsville International-Carl T. Jones Field Airport, Huntsville, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at the Huntsville International Carl T. Jones Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 14, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Airports District Office, 120 North Hangar Drive, suite B, Jackson, Mississippi 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Eugene B. Conrad, Jr. A.A.E., Executive Director of the Huntsville-Madison County Airport Authority at the following address: Huntsville-Madison County Airport Authority, 1000 Glenn Hearn Blvd., Box 20008, Huntsville, Alabama 35824.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Huntsville-Madison County Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Elton E. Jay, Principal Engineer, FAA Airports District Office, 120 North Hanger Drive, suite B, Jackson, Mississippi 39208–2306, telephone number 601–965–4628. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at the Huntsville International-Carl T. Jones Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 26, 1993, the FAA determined that the application to use the revenue from a PFC submitted by the Huntsville-Madison County Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 8, 1993.

The following is a brief overview of the application.

Level of the approved PFC: $3.00.

Actual charge effective date: June 1, 1992.

Estimated charge expiration date: November 1, 2008.

Total approved PFC revenue: $20,831,051.

Estimated PFC revenues to be used on projects in this application: $1,682,431.

Brief description of proposed projects: Runway 18L–36R extension, Acquire ARFF Vehicle, Improve Terminal Public Area, Replace Terminal Boilers.

Brief description of project withdrawn: Runway/Taxiway Signage Upgrade.

Class or classes of air carriers for which the FAA has approved exemption from collection of PFC: Air taxi/ commercial operators, certified air carriers, and certified route air carriers having fewer than 500 annual enplanements.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**".

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the office of the Huntsville Madison County Airport Authority.

Issued in Atlanta, Georgia, on March 4, 1993.

Dell T. Jernigan,

Manager, Planning and Development Branch, Southern Region.

[FR Doc. 93–5824 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee; Loads and Dynamics Harmonization Working Group

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of establishment of Loads and Dynamics Harmonization Working Group.

SUMMARY: Notice is given of the establishment of the Loads and Dynamics Harmonization Working Group of the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of the ARAC on transport airplane and engine issues.

FOR FURTHER INFORMATION CONTACT: Mr. William J. (Joe) Sullivan, Assistant Executive Director, Aviation

Rulemaking Advisory Committee, Aircraft Certification Service (AIR–3), 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267–9554; FAX: (202) 267–5364.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has established an Aviation Rulemaking Advisory Committee (ARAC) (56 FR 2190, January 22, 1991; and 58 FR 9230, February 19, 1993). One area the ARAC deals with is transport airplane and engine issues (56 FR 31995; July 12, 1991). These issues involve the airworthiness standards for transport airplanes, engines and propellers in parts 25, 33 and 35 of the Federal Aviation Regulations (14 CFR parts 25, 33 and 35) which are the responsibility of the FAA Director of Aircraft Certification.

The FAA announced at the Joint Aviation Authorities (JAA)-Federal Aviation Administration (FAA) Harmonization Conference in Toronto, Ontario, Canada, (June 2–5, 1992) that it would consolidate within the Aviation Rulemaking Advisory Committee structure an ongoing objective to "harmonize" the Joint Aviation Requirements (JAR) and the Federal Aviation Regulations (FAR). Coincident with that announcement, the FAA assigned to the ARAC those projects related to JAR/FAR 25, 33 and 35 harmonization which were then in the process of being coordinated between the JAA and the FAA. The harmonization process included the intention to present the results of JAA/FAA coordination to the public in the form of either a Notice of Proposed Rulemaking or an advisory circular—an objective comparable to and compatible with that assigned to the Aviation Rulemaking Advisory Committee. The Loads and Dynamics Harmonization Working Group is being formed to address loads and dynamics issues in JAR/FAR parts 25 identified below. The Loads and Dynamics Harmonization Working Group will forward recommendations to the ARAC which will determine whether to forward them to the FAA.

Specifically, the Working Group's tasks are the following: The Loads and Dynamics Harmonization Working Group is charged with making recommendations to the ARAC concerning the FAA disposition of the following subjects recently coordinated between the JAA and the FAA:

Task 1—General Design Loads

Develop new or revised requirements, and associated advisory and guidance material, for the general design loads for transport category airplanes (FAR 25.331, 25.335, 25.341, 25.345, 25.351, 25.371, 25.427, 25.483, 25.511, 25.561 and 25.963 and other conforming changes).

Task 2—Engine Torque and Gyroscopic Loads

Develop new or revised requirements, and associated advisory and guidance material, for determining the design loads for engine seizure conditions (FAR 25.361, 25.371 and other conforming changes).

Task 3—Flutter, Deformation and Fail-Safe Criteria:

Develop new or revised advisory and guidance material for flutter, deformation and fail-safe criteria (FAR 25.629).

Reports

A. Recommend time line(s) for completion of each task, including rationale, for consideration at the meeting of the ARAC to consider transport airplane and engine issues held following publication of this notice.

B. Give a detailed conceptual presentation on each task to the ARAC before proceeding with the work stated under items C and D, below. If tasks 1 and 2 require the development of more than one Notice of Proposed Rulemaking, identify what proposed amendments will be included in each notice.

C. Draft one or more Notices of Proposed Rulemaking for Tasks 1 and 2 proposing new or revised requirements, a supporting economic analysis and other required analysis, advisory and guidance material, and any other collateral documents the Working Group determines to be needed.

D. Draft appropriate advisory and guidance material for Task 3.

E. Give a status report on each task at each meeting of the ARAC held to consider transport airplane and engine issues.

The Loads and Dynamics Harmonization Working Group will be comprised of experts from those organizations having an interest in the tasks assigned. A Working Group member need not necessarily be a representative of one of the member organizations of the ARAC. An individual who has expertise in the subject matter and wishes to become a member of the Working Group should *write* the person listed under the caption "FOR FURTHER INFORMATION CONTACT" expressing that desire, describing his or her interest in the task, and the expertise he or she would bring to the Working Group. The request will be reviewed with the Chairs of the ARAC Transport Airplane and Engine Interest Issues and the Loads and Dynamics Working Group, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the information and use of the ARAC is necessary in the public interest in connection with the performance of duties of the FAA by law. Meetings of the ARAC will be open to the public except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the Loads and Dynamics Harmonization Working Group will not be open to the public except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of Working Group meetings will be made.

Issued in Washington, DC, on March 8, 1993.

William J. Sullivan,

Assistant Executive Director for Transport Airplane and Engine Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 93–5815 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

Applications for Modification of Exemptions or Applications to Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions or applications to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "X" denote a

modification request. Application numbers with the suffix "P" denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before March 30, 1993.

ADDRESSES COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
8965–X	Pressed Steel Tank Company, Inc., Milwaukee, WI (See Footnote 1)	8965
9969–X	G.C. Industries, Inc., Fremont, CA (See Footnote 2)	9969
10476–X	Syn-Tex B.A.G., Winnipeg, Manitoba, Canada (See Footnote 3)	10476
10486–X	Aeropres Corporation, Shreveport, LA (See Footnote 4)	10486
10775–X	Elkhart Plastics, Incorporated, Middlebury, IN (See Footnote 5)	10775
10916–X	Nalco Chemical Company, Naperville, IL (See Footnote 6)	10916

[1] To modify exemption to remove the maximum outside diameter requirement for non-DOT specification hoop wrapped cylinders for use in transporting Division 2.1 and 2.2 materials.

[2] To modify the exemption to authorize shipment of limited quantities of certain Division 2.1, 2.2, 2.3, 4.1, 5.1, 6.1 and Class 3 and 8 materials contained in specially designed packaging as essentially non-regulated.

[3] To modify exemption to provide for an alternative design bulk bag for use in transporting various hazardous materials classed as Division 4.1, 5.1, 6.1 and Class 8.

[4] To modify exemption to provide for rail as an additional mode and additional commodities classed as Class 2 material.

[5] To modify exemption to provide for cargo vessel as an additional mode of transportation for transporting various hazardous materials in non-DOT specification portable tanks.

[6] To modify exemption to provide for cargo vessel as an additional mode of transportation for use in transporting those materials authorized to be shipped in portable tanks meeting DOT Specification 57 except for non-metallic discharge valves.

Application	Applicant	Parties to exemptions
1862–P	Racine Fluid Power, Inc., Racine, WI	1862
6657–P	Midwest Airgas, Inc., Fairfield, IA	6657
6691–P	Knox Industrial Gases, Inc., Knox, IN	6691
8445–P	DowBrands L.P., Indianapolis, IN	8445
8445–P	Pollution Control Industries of Indiana, Inc., East Chicago, IL	8445
8451–P	BEI Defense Systems Company, Inc., Euless, TX	8451
8451–P	Inflation Systems, Inc., LaGrange, GA	8451
8451–P	Hitech, Inc., East Camden, AR	8451
8451–P	Holston Defense Corporation, Kingsport, TN	8451
8518–P	Chemical Waste Management, Inc., Benicia, CA	8518
8786–P	AVM, Inc., Marion, SC	8786
8966–P	Aqua Tri, Irvine, CA	8966
9271–P	Gateway Western Railway, Fairview Heights, IL	9271
9275–P	Haarmann & Reimer Corp., Springfield, NJ	9275
9275–P	Miles Inc., Pittsburgh, PA	9275
9275–P	Creations Aromatiques, Inc., Woodside, NY	9275
9275–P	Shaw Mudge & Company, Stamford, CT	9275
9607–P	Exxel/Atmos, Inc., Somerset, NJ	9607
9723–P	EOG Environmental, Inc., Milwaukee, WI	9723
9723–P	Clean Harbors Environmental Services, Inc., Quincy, MA	9723
9739–P	Pure Gro Company, Stockton, CA	9739
9769–P	Pollution Control Industries of Indiana, East Chicago, IL	9769
10001–P	CryoGas Corp., Syracuse, NY	10001
10441–P	Pollution Control Industries of Indiana, East Chicago, IL	10441
10631–P	U.S. Department of Defense, Falls Church, VA	10631

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC on March 9, 1993.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 93–5795 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–60–M

Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is

requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before April 14, 1993.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10965-N	Columbia Helicopters, Inc., Portland, OR.	49 CFR 173.119, 173.263, 175.320.	To authorize the transportation of bulk quantities of combustible liquid, Class 3, B and Division 2.3 materials in non-DOT specification polyethylene portable tanks. (mode 4)
10968-N	Stone Container Corporation, Panama City, FL.	49 CFR 174.67(i) and (j)	To authorize chlorine filled tank cars to remain attached during unloading without the physical presence of an unloader. (mode 2)
10969-N	Brights Associates, Inc., Tonawanda, NY.	49 CFR 173.304(a)(2), 173.34(d) and (e).	To authorize the manufacture, mark and sale of non-DOT specification full open head, steel salvage cylinders for overpacking damaged or leaking chlorine cylinders. (mode 1)
10970-N	Luxfer USA Limited, Riverside, CA.	49 CFR 173.302(a)(1), 173.304(a)(d), 175.3.	To authorize the manufacture, mark and sale of a fully overwrapped, aluminum-lined, composite cylinder meeting the design and qualification requirements of DOT FRP–1 standard for use in transporting various commodities classed as Division 2.1 and 2.2. (modes 1, 2, 3, 4, 5)
10971-N	Sun Company, Inc., Philadelphia, PA.	49 CFR 173., 173.29(a)(c)(2), 49 CFR.	To authorize a one-time shipment of two tank cars 112J340W and 105J400W which are overdue for value testing containing residue of liquefied petroleum gas, Division 2.1 (mode 2)
10972-N	International Compliance Center (USA), Ltd. Niagara Falls, NY.	49 CFR 173.27(c)	To authorize the manufacture, mark and sale of specially-designed flexible packaging which do not meet the pressure test requirements for shipment of liquid hazardous materials in Packing Group II and III in inner containers of combination packaging not exceeding 5 liters. (modes 4, 5)
10973-N	Richards—Gregory & Associates, Inc. Bolingbrook, IL.	49 CFR 173.119, 173.125, 173,245, 173,249, 173,249(a), 173,250(a), 173,256, 173,257, 173,262, 173.263, 173,264, 173.265, 173,266, 173.269, 173,272, 173.276, 173,277, 173.283, 173.287, 173.288, 173.289, 173,292, 173.297, 173.299(a), CFR 173.	To authorize the manufacture, mark and sale of composite portable tanks with a capacity up to 330 gallons, consisting of a rotationally molded polyethylene inner receptacle within a metal frame outer casing, for the shipment of certain hazardous materials. (modes 1, 2)
10974-N	International Paper/ Androscoggin Mill, Jay, ME.	49 CFR 174.67(i) and (j)	To authorize chlorine filled tank cars to remain connected during unloading without the physical presence of an unloader. (mode 2)
10975-N	Boise Cascade Corporation, Boise, ID.	49 CFR 174.67(i) and (j)	To authorize chlorine filled tank cars to remain connected during unloading without the physical presence of an unloader. (mode 2)
10976-N	Occidental Chemical Corporation, Dallas, TX.	49 CFR 173.29(a)(c)(2), 173.31(c)(1), 49 CFR.	To authorize the shipment of a DOT 111A1.00W2 tank car which is overdue for tank and safety valve test containing residue of sulfuric acid, Class 8. (mode 2)
10977-N	Federal Industries, Corporation, Plymouth, MN.	49 CFR 172.402(a)(2), 172.504(a) and Table 1, 173,25(a), 173.3, 175.3, 49 CFR 172.400.	To authorize the manufacture, mark and sale of specially-designed composite type packaging for shipment of small quantities of various flammable, corrosive, oxidizers, poison B liquids and solids to be shipped without labels. (modes 1, 2, 4)
10978-N	Southern Pacific Railroad, Houston, TX.	49 CFR 173.312(e)(1)	To authorize the shipment of a DOT Specification 111A100W3 tank car containing molten sulphur which was involved in a fire. (mode 2)
10979-N	Degussa Corporation, Ridgefield Park, NJ.	49 CFR 173.266(e)	To authorize the transportation of hydrogen peroxide, aqueous solutions, classed as Division 5.1 in polyethylene portable tanks meeting DOT Specification 57 in mixed loads. (mode 1)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10980–N	Daws Manufacturing Company, Inc., Pensacola, FL.	49 CFR 173.201, 173.202 and 173.203.	To authorize the manufacture, mark and sell of jericans constructed of additional aluminum with a capacity not to exceed 103 gallons for shipment of various Class 3 commodities. (mode 1)
10981–N	Atlas Powder International Ltd., Pearlington, MS.	49 CFR 172.101, 173.62 and 176.83.	To authorize the shipment of explosives, blasting, Type E (1.5D) in IM–102 portable tank containers stowed below deck on cargo vessels dedicated to the shipment of explosive. (modes 1, 3)

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on March 9, 1993.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 93–5794 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–60–M

[Docket No. P–90–1W; Notice 2]

Transportation of Natural and Other Gas by Pipeline; Grant of Waiver; Panhandle Eastern Corporation

The Panhandle Eastern Corporation (Panhandle) petitioned the Research and Special Programs Administration (RSPA) for a waiver from compliance with the repair requirements of 49 CFR 192.713(a). Panhandle wants to install a proprietary composite reinforced (CR) sleeve material (Clock Spring™ manufactured by Clock Spring Company of North America [Clock Spring Company], Long Beach, CA) as a full encirclement wrapped sleeve for the repair of imperfections and damages in steel pipe at six locations on its Line #2 in Fayette County, Ohio. Currently, under § 192.713(a), each imperfection or damage that impairs the serviceability of a segment of steel transmission line operating at or above 40 percent of specified minimum yield strength (SMYS) must be repaired by either cutting out the segment and replacing a cylindrical piece of pipe or by installing over the segment a full encirclement welded split sleeve.

Proposal and rationale submitted Panhandle

The proposed proprietary repair method consists of installing a CR sleeve material in coil form over the damaged area and holding it in place with an adhesive. The adhesive adheres to both the pipe surface and the adjacent layers of the coiled composite reinforcement. The CR sleeve does not require pretesting nor are there any welds to be nondestructively tested.

In its petition, Panhandle described five advantages of using CR sleeves. Panhandle believes that this new technology provides an excellent alternative to pipe replacement or the use of a full encirclement welded split sleeve for the repair of imperfections and damage in transmission pipe. The Gas Research Institute (GRI), through various contractors, has conducted extensive analyses and tests on CR sleeves and their component materials. Panhandle reports that laboratory tests and simulated field tests connected with the GRI development program have proven the strength of the sleeves. Panhandle also reports that, in actual field conditions and with numerous tests under the GRI program, Clock Spring Company has perfected and proven the installation methods for the CR sleeves. Computerized design criteria have been developed and verified by burst tests in which CR sleeves have been installed over large, deep simulated defects. In all but one atypical sleeve installation, failure occurred in full wall thickness of the unsleeved pipe body. The computer program is designed to verify whether or not the standard CR sleeve will reliably serve as a repair.

Savings using CR sleeves for the six repairs covered by the petition were estimated between $42,000 and $102,000.

Panhandle estimates that, on their complete system, annual savings could range between $2,000,000 and $5,000,000 per year.

Panhandle's waiver request includes a proposal to monitor the condition of the CR sleeves at designated intervals after installation. Panhandle will examine and take measurements of the CR sleeves and separate samples of sleeve materials to be buried adjacent to the sleeves. Two installed sleeves will be evaluated each at 2, 4, and 8 year intervals. Measurements will include strain gage readings of two CR sleeves at 6 month intervals to verify the expected absence of creep of the composite and the adhesive.

RSPA Analysis and Action

RSPA twice requested additional information to support the Panhandle waiver request. RSPA has reviewed the initial waiver application and subsequent submittals and finds the accumulated information satisfactory to support the waiver request. The information provided by Panhandle is available in the docket.

In addition to the advantages cited by Panhandle, RSPA finds that the ability to make a repair without welding eliminates several safety concerns. One is the possibility of leaking or pipeline failure attributable to residual stresses from welding or to hydrogen induced cracking associated with welding. The use of CR sleeves also eliminates the possibility of burning through the pipe wall while welding. Overall, RSPA believes the CR sleeve repair procedure is a safe alternative to either the welded split sleeve repair procedure or the pipe replacement procedure, both currently permitted by § 192.713(a).

In response to the petition and the justification contained in the petition and subsequent submittals, RSPA issued a Notice of Petition for Waiver inviting interested parties to comment (Notice 1) (57 FR 59198; December 14, 1992). In that notice, RSPA explained why granting a waiver using this new technology appears to provide at least the same level of integrity as replacement of pipe or installation of a full encirclement welded split sleeve.

Comments

Comments were received from 12 operators, 2 pipeline industry trade associations, and 2 firms providing services to the pipeline industry. All commenters strongly supported granting the waiver requested by Panhandle.

One of the service companies suggested an additional inspection of the installed CR sleeves only one year after installation. Panhandle proposed inspections 2, 4, and 8 years after

installation. In considering the data submitted in support of the petition, RSPA believes that inspection one year after installation is not necessary. The safety factor inherent in the CR sleeve design analysis is so large that strength is not a consideration. None of the properties or tests of the resin, composite, or adhesive indicate a reason to be concerned that it will deteriorate rapidly in service. Similar resins had served adequately for more than 20 years when removed from underground service as gasoline tanks.

Three operators cited specific substantial potential savings to be realized on their pipeline systems if they used CR sleeves in the manner proposed in the petition. The American Gas Association estimated the industry could save $6,500,000 annually by using CR sleeves in the manner proposed.

Many commenters commended RSPA for its positive response to adopting new technology and reducing pipeline maintenance costs while improving pipeline public and employee safety.

Action on petition

In accordance with the foregoing and by this order, RSPA finds that Panhandle's compliance with 49 CFR 192.713(a) is unnecessary for the installation of welded split sleeves as a permanent repair of six of the twelve corrosion anomalies cited in Line #2 in Fayette County, Ohio. The requested waiver would not be inconsistent with pipeline safety. Accordingly, Panhandle's petition for waiver from compliance with § 192.713(a) for six of the twelve corrosion anomalies is granted, on the conditions that Panhandle installs the CR sleeves using the procedure described in the documents supporting their petition, performs the inspections described in the petition, promptly reports to RSPA the results of the inspections and any unfavorable performance of the CR sleeves, and determines and reports to RSPA the cause of any unfavorable performance.

Issued in Washington, DC on March 10, 1993.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety, Research and Special Programs Administration.

[FR Doc. 93–5852 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–60–M

DEARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 183 (Rev. 5)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority of the Associate Chief Counsel (International) to grant relief for matters under its jurisdiction is further redelegated to the Technical Assistant.

The text of the delegation order appears below.

EFFECTIVE DATE: March 4, 1993.

FOR FURTHER INFORMATION CONTACT: Leslie B. van der Wal, CC:INTL:Br3, room 4555, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone (202) 622–3850 (not a toll-free call).

Order No. 183 (Rev. 5)
Effective date: 3–4–93
Extension of Time for Making Certain Elections

1. Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.9100–1, the Assistant Commissioner (Employee Plans and Exempt Organizations), the Associate Chief Counsel (Domestic), the Associate Chief Counsel (International), and the Associate Chief Counsel (Employee Benefits and Exempt Organizations) are authorized to grant, for cases within their respective jurisdictions, a reasonable extension of the time fixed by regulations, or by a revenue ruling, a revenue procedure, a notice, or an announcement published in the Internal Revenue Bulletin, for the making of an election or application for relief in respect of tax under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I, subject to the requirements of 26 CFR 301.9100–1.

2. Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.9100–1, the District Directors of Employee Plans and Exempt Organizations Key Districts are authorized to grant, for IRC 505(c) and 508 matters, a reasonable extension of time fixed by regulations for making an election or application for relief in respect of tax under subtitle A of the Code, subject to the requirements of 26 CFR 301.9100–1.

3. The § 301.9100–1 authority described in section 1 may be redelegated as follows:

a. For matters under the jurisdiction of the Assistant Commissioner (Employee Plans and Exempt Organizations), to the Director, Employee Plans Technical and Actuarial Division, and to the Director, Exempt Organizations Technical Division. This authority may be further redelegated by the Director, Employee Plans Technical and Actuarial Division, to the Assistant Director of that Division and to Branch Chiefs under the Director's supervision, but not below Branch Chiefs, and may be redelegated by the Director, Exempt Organizations Technical Division, to the Director's Executive Assistant and to Branch Chiefs under the Director's supervision, but not below Branch Chiefs.

b. For matters under the jurisdiction of the Associate Chief Counsel (Domestic), to his or her Deputy Associate Chief Counsels, and to the Assistant Chief Counsel (Corporate), the Assistant Chief Counsel (Financial Institutions and Products), the Assistant Chief Counsel (Income Tax and Accounting), the Assistant Chief Counsel (Passthroughs and Special Industries) and their respective Deputy Assistant Chief Counsels. However, the authority may be redelegated to Branch Chiefs.

c. For matters under the jurisdiction of the Associate Chief Council (Employee Benefits and Exempt Organizations), to the Deputy Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, the authority may be redelegated to the Assistant Chief Counsels (Employee Benefits and Exempt Organizations) and to Branch Chiefs.

d. For matters under the jurisdiction of the Associate Chief Counsel (International), to the Deputy Associate Chief Counsel (International) and to the Assistant Chief Counsels (International). However, the authority may be redelegated to the Technical Assistant and to Branch Chiefs.

4. The § 301.9100–1 authority described in section 2 may be redelegated no lower than Chief, Technical/Review Staff in EP/EO Key Districts.

5. Delegation Order No. 183 (Rev. 4) effective April 23, 1992, is superseded.

Dated: March 4, 1993.

Robert Wenzel,

Acting Chief Operations Officer.

[FR Doc. 93–5894 Filed 3–12–93; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 48
Monday, March 15, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting, Wednesday, March 17, 1993, See times below.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

MATTERS TO BE CONSIDERED:

10:00 a.m.—Closed to the Public

1. Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

2:00 p.m.—Open to the Public

2. Pride in Public Service

The Commission will present the Pride in Public Service Award to March's recipient.

3. Voluntary Standards/International Affairs Activities

The staff will brief the Commission on voluntary standards and international affairs activities conducted during the first quarter of fiscal year 1993.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 504–0800.

Dated: March 10, 1993.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 93–6030 Filed 3–11–93; 3:51 pm]

BILLING CODE 6355–01–M

NATIONAL WOMEN'S BUSINESS COUNCIL

ACTION: Notice of Hearing.

SUMMARY: In accordance with the Women's Business Ownership Act, Public Law 100–533 as amended, the National Women's Business Council announces a forthcoming hearing and meeting. The focus of this hearing will be women-owned businesses in international trade, particularly Latin America and the Pacific Rim. The hearing will include a series of expert roundtable discussions as well as testimony from women business owners regarding their achievements and barriers in the international arena. The official Council Meeting will focus on administrative issues.

DATE: March 24–26, 1993.

ADDRESS:

March 24, 1993—Camara Nacional de Comercio Servicios Y Turismo de Tijuana, X. Villarrutia 1211 Y Paseo Tijuana Zona Rio Tijuana, Baja California, Mexico

March 25–26, 1993—University of California, San Diego 9550 Gilman Drive, La Jolla, CA 92093

March 26, 1993 (Council Meeting)—Hyatt Rgency La Jolla 3777 La Jolla Village Drive, San Diego, CA 92122

STATUS: Open to the public.

CONTACT: For further information or to submit written testimony, contact Wilma Goldstein, Executive Director or Paula Breitweiser, Program Coordinator National Women's Business Council, 409 Third Street Suite 7425, Washington DC, 20024, (202) 205–3850. Deadline date for submission of written testimony is March 18, 1993.

Wilma Goldstein,

Executive Director, National Women's Business Council.

[FR Doc. 93–5957 Filed 3–11–93; 10:46 am]

BILLING CODE 6820–AB–M

Corrections

Federal Register
Vol. 58, No. 48
Monday, March 15, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 921185-3021]

Groundfish of the Bering Sea and Aleutian Islands Area (BSAI)

Correction

In rule document 93-4903 beginning on page 12336 in the issue of Thursday, March 4, 1993, make the following corrections:

1. On page 12337, in the 2d column, in the 11th line, "publication" should read "public".

2. On the same page, in the third column, in the third line, "OMB No. 0648-0123" should read "OMB No. 0648-0213".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Floodplain/Wetland Involvement Notification for Environmental Restoration Activities at the Department of Energy's Rocky Flats Plant Near Golden, Colorado

Correction

In notice document 93-2012 beginning on page 6273 in the issue of Wednesday, January 27, 1993, in the third column, under **ADRESSES**, in the seventh line, "California" should read "Colorado".

BILLING CODE 1505-01-D

federal register

Monday
March 15, 1993

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 882

Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 882

[Docket No. R-93-1639; FR-3431-I-01]

RIN 2506-AB44

Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule for the Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals amends the program's regulations at 24 CFR part 882, subpart H, to: (1) Conform the application process for this program with the new two-stage process to be used beginning in 1993 in all major HUD-administered competitive programs authorized by the Stewart B. McKinney Homeless Assistance Act; (2) conform the process for selecting homeless persons for participation in this program with the process used in other HUD-administered competitive McKinney Act programs by replacing waiting list requirements with a requirement for outreach to homeless persons living in emergency shelters or in places not designed for human habitation; (3) delete the provision prohibiting the use of housing owned by the PHA administering the Annual Contributions Contract under which assistance is to be provided, to conform the rule with section 548 of the National Affordable Housing Act (NAHA); (4) update the rule to reflect two amendments to the program made by section 127 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and previously implemented in notices of funds availability, which raised the minimum expenditure on rehabilitation necessary to qualify for the program to $3,000 per unit and limited the size of projects to 100 units; (5) add a provision emphasizing the responsibility of each recipient of assistance to maintain any records and make any reports that HUD may require in order to ensure adequate information upon which program results can be measured; and (6) clarify the definition of single room occupancy (SRO) housing and clarify that efficiency units may be used in the program but that the limit of HUD assistance in all cases is based upon applicable fair market rents for Moderate Rehabilitation SRO units.

DATES: Effective date: April 14, 1993. Comment due date: May 14, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, Washington, DC 20410-0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address. Comments sent by FAX are not acceptable.

FOR FURTHER INFORMATION CONTACT: James N. Forsberg, Director, Special Needs Assistance Programs; Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; (202) 708-4300; TDD for the hearing- or speech-impaired (202) 708-2565. (Telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 and were assigned OMB control number 2506-0131.

I. Background

The purpose of the Section 8 Moderate Rehabilitation for Single Room Occupancy (SRO) Program for Homeless Individuals is to provide rental assistance to homeless individuals in rehabilitated SRO housing. Under the SRO program, the Department awards assistance through a national competition. The program is authorized by title IV of the McKinney Act (42 U.S.C. 11401). The final rule for the program was published on November 7, 1989 (54 FR 46832). Several recent events necessitate amendments to the program regulations at 24 CFR part 882, subpart H.

II. Conformance With Other McKinney Act Programs

In a reorganization to consolidate all programs for homeless persons under one office, HUD has recently moved administration of the SRO program to the Office of Special Needs Assistance Programs under the Assistant Secretary for Community Planning and Development. Based on that office's experience in conducting competition for funds under McKinney Act programs and in response to comments received from providers of housing and services for homeless persons, the Department is simultaneously adopting a standardized assistance award process for its competitively-awarded McKinney Act funds.

Beginning with fiscal year 1993 funds, HUD will use a two-stage application process. At the first stage, applicants will be asked to provide information addressing the selection criteria. Proposals will be rated based on the selection criteria, and the highest-rated applications will be conditionally selected. Conditionally-selected applicants will then be requested to submit additional information concerning such matters as site control and financial feasibility. Applicants submitting the additional information in acceptable form within a specified time limit will be notified of the final approval of their applications.

This two-stage application process has several major advantages over the current process. First, it will allow applicants submitting the best proposals in terms of the selection criteria to work out technical issues, especially firm financial feasibility, after conditional project selection but prior to execution of the Agreement to Enter into a Housing Assistance Payments Contract. Applicants submitting weaker proposals will be saved the time and expense of addressing technical issues. Second, with HUD funds reserved for the projects, conditionally-selected applicants should be able to more easily secure financial commitments from other sources. In previous funding competitions, with no commitment of funding from HUD, great difficulty was often encountered in securing committed financing. Third, with completion of the competitive phase of the application process at the first stage, HUD staff will be able to work with conditionally-selected applicants during the second stage to meet the technical requirements.

To implement this new two-stage application process, and to describe this process using language that is essentially the same as that used for other HUD-administered competitive McKinney Act programs, § 882.805 (c) and (d) have been very substantially revised. The deletion of much of the detail in current paragraphs (c) and (d) is consistent with the manner in which similar paragraphs have been written in the rules for the other programs. The Department has found that describing application requirements in detail within the program rules overly restricts the ability of the Department to implement program improvements in a

timely manner based upon experience and comments from providers of housing and services for homeless persons. A new provision at § 882.805(b)(1)(i) provides that detailed application requirements will be contained in the application package. Details regarding selection criteria listed at § 882.805(b)(2) will be contained in the notice of funds availability (NOFA) published each year in the **Federal Register**. Comments regarding the application package or the selection criteria are welcomed and will be considered by the Department. Conforming changes have been made to § 882.805(f)(10).

In another action designed to increase consistency among HUD-administered competitive McKinney Act programs, the process for selecting homeless persons for participation in the SRO program is being changed by this rule to conform with the process used in the other programs. Existing § 882.808 requires that vacant units under contract be rented to homeless individuals referred by the PHA from its waiting list. This requirement for use of a PHA waiting list is deleted from the revised § 882.808. In place of the PHA waiting list process, the rule requires that PHAs and/or owners engage in outreach efforts to bring homeless individuals into the program, and that vacant units be rented directly to homeless individuals located through these outreach efforts. A conforming change has been made by deleting § 882.806(a)(5).

A number of factors justify this change. Section 441 of the McKinney Act indicates that assistance under the SRO program must be used only in connection with the moderate rehabilitation of units "for occupancy by homeless individuals." In contrast, in other Section 8 programs, homeless individuals are just one group among many that are eligible to be served. While a PHA waiting list is appropriate for the broader population to be served in other Section 8 programs, it has not been an effective selection method in the SRO program.

In a March 1990 study, HUD's Office of Policy Development and Research (PD&R) concluded that lists prepared by PHAs frequently became dated because homeless persons do not have stable residences and are hard to locate. PD&R found that a project sponsor frequently had to go through dozens of PHA-listed names to locate an appropriate tenant. A General Accounting Office report issued in August, 1992, found similar problems with the PHA waiting list requirement, and concluded that these waiting lists are impractical and less effective than other methods of locating homeless persons for tenancy. Consistent with these findings, project sponsors have repeatedly requested that the Department eliminate the PHA waiting list requirement for this program and allow for more flexibility in selection.

No other McKinney Act program administered by HUD requires that the recipient use a waiting list to refer homeless individuals to project owners. Instead, recipients are required to make sustained efforts to engage eligible homeless individuals so that they may be brought into the applicable program. This outreach effort provides the basis for tenant referral and selection. The change to § 882.808 will make the process used in the SRO program for homeless individuals consistent with other McKinney Act programs.

III. PHA-Owned Housing

Before enactment of the 1990 National Affordable Housing Act, the law prohibited Section 8 assistance for a unit owned or otherwise substantially controlled by the PHA that is administering the assistance under an Annual Contributions Contract (ACC) with HUD. The present program rules state this prohibition. However, the law was amended in 1990, and now specifically permits a PHA to contract with itself to receive Section 8 assistance for a project that it owns. The law provides that:

> A public housing agency may contract to make assistance payments to itself * * * as the owner of dwelling units if such agency is subject to the same program requirements as are applied to other owners. In such cases, the Secretary may establish initial rents within applicable limits. (Housing Act of 1937, section 8(a) (42 U.S.C. 1437f(a), as amended by section 248 of the National Affordable Housing Act of 1990.)

(This amendment became effective on enactment of the Housing and Community Development Act of 1992 (1992 Act). Section 150 of the 1992 Act provides that section 548 of the 1990 NAHA shall be effective notwithstanding the absence of any HUD regulations.)

Because of the statutory change, this interim rule removes the prior rule prohibiting use of PHA-owned housing. By Congressional direction, the PHA as administrator of program funding under the ACC may now enter into a Section 8 HAP contract with itself, or its instrumentality, as Section 8 owner. As required by the law, the rule provides, at § 882.803(e), that the PHA as owner of the assisted units is subject to the same "program requirements" that apply to other owners in the program. The rule confirms that PHA-owned housing is subject to the normal program prohibitions against use of ineligible housing, as described in § 882.803(a).

Since there is an inherent conflict between the PHA's proprietary interest as unit owner and the PHA's normal responsibility for approving owner rents, the rule provides that HUD must approve the base and contract rent calculations before execution of the Agreement and before execution of the HAP contract.

IV. HUD Reform Act Provisions

The rule is being updated to reflect changes required by section 127 of the HUD Reform Act, which have been implemented since enactment through inclusion in annual notices of funds availability.

At § 882.802 in the definition of "moderate rehabilitation," the minimum expenditure on rehabilitation necessary to qualify for the program is increased from $1,000 to $3,000 per unit. This same change is also made at § 882.805(f)(6).

A new § 882.805(c)(1) limits the size of projects to no more than 100 units.

V. Records and Reports

Section 882.808(p) is added to include in the rule the requirement that each recipient of assistance maintain any records and make any reports that HUD may require. This confirms and emphasizes the Department's authority to require such records and reports as are necessary for measuring program results. The Department plans to implement annual reporting requirements for the SRO program that are similar to those used in other HUD-administered competitive McKinney Act programs.

VI. Clarifications

Two sections in the existing rule are being clarified. First, the definition of SRO housing at § 882.802 is modified to clarify that an SRO unit may contain both food preparation and sanitary facilities, only one of these, or neither of these within the unit. Second, § 882.805(g)(4) is being modified to clarify that SRO program assistance may be used for efficiency units the owner chooses to rehabilitate for use in this program, but the gross rent for those units may not exceed 75 percent of the 0-bedroom Moderate Rehabilitation Fair Market Rent. The Department has been asked on many occasions to clarify these points.

VII. Further Rule Modifications

Section 1405 of the Housing and Community Development Act of 1992

(Pub. L. 102–550, approved October 28, 1992) (1992 Act) made several changes to the SRO program. In accordance with section 2 of that act, these changes took effect upon enactment. The most significant change was to make private non-profit organizations eligible to apply directly to HUD for assistance under the program and to administer assistance under the program. Because the existing program regulations are written solely in terms of PHA administration of the program, major changes in the regulations are needed to cover nonprofit administration. Those changes will be part of a proposed and final rulemaking process in the near future, rather than in this interim rule. Meanwhile, the NOFA for Fiscal Year 1993 will describe the statutory changes and state that private nonprofit organizations may apply directly to HUD for assistance under the SRO program provided that, for this year, they contract with a PHA to administer the program. Once the major changes to the regulations are completed, non-profits will be able to apply without the necessity of contracting with a PHA to administer the program.

VIII. Justification for Interim Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, this rule takes effect upon publication, with the public invited to submit comments that will be taken into consideration in developing a final rule.

This interim rulemaking its necessary as a step in implementing several major improvements in the processes used in HUD's McKinney Act competitions in time to affect competitions for Federal Fiscal Year 1993 funds. It also provides an opportunity for the Department to update and clarify certain SRO program requirements before another SRO competition is conducted.

One of the major improvements is the use for the first time of a single NOFA issued early in the Fiscal Year and covering the Supportive Housing program, the Shelter Plus Care program, and the SRO program. This combined NOFA will provide potential applicants with a complete schedule of the funding competitions, an up-to-date summary of the requirements of each program, a description of the new two-stage application process to be used in each of these programs, and a description of the application selection criteria that have been made more uniform across the three programs. It will allow potential applicants to coordinate public and private dollars and to determine which program will best serve their needs and which requirements they will be able to meet. These benefits of a combined NOFA are only possible if the Department is able to describe program requirements, application procedures, and selection criteria early in the year. Publishing this interim rule for the SRO program, in coordination with the publication of a legislatively-mandated interim rule for the new Supportive Housing program and a final rule for the Shelter Plus Care program, allows the Department to publish the combined NOFA in a timely manner.

Without publishing this interim rule, it would not be possible to adopt the new two-stage application process for the SRO program at the same time that this process is adopted for the other two programs. The existing application selection process described at § 882.805(d) would require that preliminary financial feasibility be considered in the rating of applications. The advantages of postponing consideration of financial feasibility until after applications are rated are described earlier in this interim rule preamble. By using an interim rule, the application burden can be lessened for SRO applicants this year and the two-stage process can be adopted uniformly and simultaneously in all three programs.

There are similar advantages to using an interim rule as a step in implementing a third major improvement in the competitive process. This improvement is the adoption of core selection criteria that are uniform across the three programs. Five of the selection criteria will now be virtually identical among the three programs, which will allow greater uniformity in the information that is required to be submitted in applications for the three programs. Uniform information will be requested regarding need for the project, applicant capacity, coordination with other programs, targeting to persons living on the streets and in emergency shelters, and quality of program design. This consistency will make it easier for potential applicants to understand program requirements and complete program applications. By using an interim rule, these core selection criteria can be implemented for the SRO program at the same time as they are being implemented for the Supportive Housing program and the Shelter Plus Care program. Consistency between the SRO program and the Shelter Plus Care program is particularly important because the Shelter Plus Care program includes within it an SRO component that is very similar to the separate Section 8 Moderate Rehabilitation SRO Program for Homeless Individuals.

Consistency among these programs is also a major reason that the Department is using this interim rule to replace the PHA waiting list process with sustained outreach efforts to bring homeless individuals into the program. Other reasons for this change are described earlier in this interim rule preamble. By implementing this change in the interim rule, a process that has proven to be ineffective and time-consuming can be eliminated now in favor of a process to be used consistently in all McKinney Act programs administered by HUD.

Issuing these major improvements to the SRO program in an interim rule provides HUD with the opportunity to revise, before another SRO competition is held, three provisions that were outdated by statutory changes made in 1989 and 1990. These provisions regarding PHA-owned housing, the minimum expenditure for rehabilitation per unit, and maximum project size were described earlier in this preamble. The interim rule also provides the opportunity to clarify, before another SRO competition is held, other provisions which have proven to be confusing to SRO applicants and recipients. These provisions concern the definition of single room occupancy housing and the use of efficiency units in the program, as discussed earlier.

Lastly, the interim rule provides HUD with the opportunity to emphasize the responsibility of each recipient of SRO assistance to maintain records and reports needed to ensure adequate information upon which program results can be measured. The Department intends to revise program reporting requirements this year to focus on program results and to increase consistency among reporting requirements for HUD-administered competitive McKinney Act programs.

IX. Other Matters

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it will not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based

enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW, Washington, DC 20410.

The General Counsel, as the designated official under Executive Order 12606, The Family, has determined that the Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals does not have a potential impact on the formation, maintenance, and general well-being of homeless families, since the program is designed for homeless individuals. Therefore, the rule is not subject to review under that Order.

The General Counsel has also determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, that this rule does not impose a significant additional burden on States or other public bodies. The amendments do not affect the relationship between the Federal government and the States and other public bodies or the distribution of power and responsibilities among various levels of government. Therefore the policy is not subject to review under Executive Order 12612.

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. Specifically, the rule governs the procedures under which HUD will make rental assistance available to nonprofits and PHAs for moderately rehabilitated single room occupancy units for homeless individuals.

This rule was not listed in the Department's Semiannual Agenda of Regulations published at 57 FR 51392 on November 3, 1992, under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 882

Housing Assistance Payments programs—housing and community development, Homeless, Lead poisoning, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, part 882 of title 24 of the Code of Federal Regulations is amended as follows:

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

1. The authority citation for part 882 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, and 1437f; 42 U.S.C. 3535(d). In addition, subpart H is issued under the authority of 42 U.S.C. 11401.

2. Section 882.802 is amended by revising the definitions of "McKinney Act," "Moderate Rehabilitation," and "Single Room Occupancy (SRO) housing" to read as follows:

§ 882.802 Definitions.

* * * * *

McKinney Act. The Stewart B. McKinney Homeless Assistance Act.

Moderate rehabilitation. Rehabilitation involving a minimum expenditure of $3,000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to upgrade to decent, safe and sanitary condition to comply with the Housing Quality Standards or other standards approved by HUD, from a condition below those standards (improvements being of a modest nature and other than routine maintenance.

Single Room Occupancy (SRO) housing. A unit for occupancy by one person, which need not but may contain food preparation or sanitary facilities, or both.

* * * * *

3. Section 882.803 is amended by removing paragraph (a)(2)(ii), redesignating paragraphs (a)(2)(iii) and (a)(2)(iv) as (a)(2)(ii) and (a)(2)(iii) respectively, and adding a new paragraph (e) to read as follows:

§ 882.803 Project eligibility and other requirements.

* * * * *

(e) *PHA-owned housing.* (1) A unit that is owned by the PHA which administers the assistance under the ACC (including a unit owned by an entity substantially controlled by the PHA) may only be assisted if:

(i) The unit is not ineligible under § 882.803(a); and

(ii) HUD approves the Base and Contract Rent Calculations prior to execution of the Agreement and prior to execution of the HAP Contract.

(2) The PHA as owner is subject to the same program requirements that apply to other owners in the program.

4. Section 882.804 is amended by revising paragraph (d) to read as follows:

§ 882.804 Other Federal requirements.

* * * * *

(d) The environmental review requirements of 24 CFR part 50, implementing the National Environmental Policy Act and related environmental laws and authorities listed in 24 CFR 50.4, are applicable to this program. Applicants must include in their application an assurance that the applicant will:

(1) Not enter into a contract for, or otherwise commit HUD or local funds for, acquisition, rehabilitation, conversion, lease, repair, or construction of property to provide housing under the program, prior to HUD's completion of the review and approval of the application;

(2) Supply HUD with information necessary for HUD to perform any applicable environmental review when requested under § 882.805(d)(1)(v); and

(3) Carry out mitigating measures required by HUD or ensure that alternate sites are utilized.

5. In § 882.805, paragraphs (a), (b), (c), (d), (f)(6), (f)(10) and (g)(4) are revised to read as follows:

§ 882.805 Application submission and approval.

(a) *Notice of fund availability.* Section 441 of the McKinney Act requires that HUD allocate the amounts made available for this program on the basis of a national competition to the applicants that best demonstrate a need for the assistance and the ability to undertake and carry out the program. When funds are made available for assistance, HUD will publish a Notice of Fund Availability (NOFA) inviting PHAs to submit applications for the program. PHAs have the discretion to select owners in accordance with their own procedures and policies, consistent with the requirements of this rule; such procedures and policies must be available to the public, upon request. The NOFA published by HUD will:

(1) Give the location for obtaining application packages. The application package will provide specific application requirements and guidance;

(2) Specify the date, time, and the place for submitting completed applications;

(3) State the amount and status of funding available under the NOFA;

(4) Describe the factors relative to each ranking criterion contained in paragraph (b)(3) of this section, and indicate the weight or relative importance of the criteria as they will be

applied to the funding round announced in the NOFA;

(5) Specify the timing and conditions for curing technical deficiencies in an application; and

(6) Provide other appropriate program information and guidance, including purpose, authority, and eligibility.

(b) *Application requirements and ranking criteria.*—(1) *Application requirements.* Applications for assistance must be submitted in the form prescribed by HUD in the application package, must meet the requirements of this part, and must be submitted within the time period established by HUD in the NOFA. HUD may reject any application not meeting requirements stated in the application, NOFA, or this part. HUD may reject applications from any applicant with an outstanding obligation to HUD that is in arrears or for which a payment schedule has not been agreed to, or whose response to an audit finding is overdue or unsatisfactory.

(2) *Comprehensive housing affordability strategy (CHAS).*—(i) *Certifications of consistency.* Except as provided in paragraph (b)(2)(ii) of this section, the applicant must submit a certification by the jurisdiction in which the proposed project will be located that the jurisdiction is following, and the applicant's application for funding is consistent with, the jurisdiction's HUD-approved CHAS. The certification must be made by the unit of general local government or the State, pursuant to the CHAS regulations at 24 CFR 91.1(b)(1)(ii), and as may be further described in the NOFA.

(ii) *Exception.* The CHAS certification is not required where the proposed project will be located on a reservation of an Indian tribe or the Insular Area of Guam, the U.S. Virgin Islands, American Samoa or the Northern Mariana Islands.

(iii) *Timing of CHAS certification submissions.* Unless otherwise set forth in the NOFA, the required certification must be submitted by the funding application submission deadline announced in the NOFA. The jurisdiction required to make the certification must therefore get its CHAS approved by HUD in time for the certification to be submitted by the applicable deadline, i.e., the funding application deadline announced in the NOFA, or, if the NOFA permits a later submission date for the certification, the later date. (HUD has 60 days to approve a CHAS.) However, in no event will an application be considered for funding if the required CHAS has not been submitted for HUD approval by the funding application deadline. All certifications must be signed by the public official responsible for submitting the CHAS to HUD, and must meet the requirements of the CHAS regulations at 24 CFR 91.80(a) and (b), "Consistency certification."

(3) *Ranking criteria.*—(i) *General.* Applications will be assigned a rating score and placed in ranked order, based upon the criteria listed in paragraph (b)(3)(ii) of this section. The factors to be considered under each criterion and the number of points possible under each criterion will be described in more detail in the NOFA published in the Federal Register for each funding round.

(ii) *Criteria.* HUD will award points for the following criteria:

(A) Ability of the applicant to develop and operate a project;

(B) Need for the type of project proposed by the applicant in the area to be served;

(C) Extent to which the proposed funding for supportive services will be available;

(D) Extent to which the applicant has demonstrated coordination with other Federal, State, local, private, and other entities serving homeless persons in the planning and operation of the project, to the extent practicable;

(E) Extent to which the project targets homeless persons living in emergency shelters or in places not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;

(F) Quality of the project; and

(G) Availability of vacant units in the project.

(c) *Selecting applications.*—(1) *General.* The highest-ranked applications will be conditionally selected in accordance with their ranked order, as determined under paragraph (b)(3) of this section, to the extent funds are available. However, no city or urban county may have projects receiving a total of more than 10 percent of the assistance to be provided under this program, and no project will be approved for more than 100 units. Applicants will be invited to provide additional information, as described in paragraph (d) of this section, as a prerequisite to approval by HUD.

(2) *Ties between applicants.* In the event of a tie between applicants, HUD will use need for the project to determine which application should be selected for potential funding.

(3) *Procedural error.* If HUD makes a procedural error in a funding competition, that, when corrected, would warrant funding of an otherwise eligible application, HUD may select that application for potential funding when sufficient funds become available.

(4) *Prohibition of disclosure of selection information.* The selection process for assistance under this part is subject to the prohibition of disclosure of covered information regarding the selection process, as described in 24 CFR part 4. Applicants for or recipients of assistance who have received covered selection information may be subject to sanctions, as determined to be appropriate.

(d) *Obtaining additional information and awarding assistance.* (1) *Additional information.* Applicants with the highest-ranked applications will be requested by HUD to submit additional project information. Such information may include:

(i) Documentation showing site control;

(ii) Description of the rehabilitation work to be done and a cost estimate for the work;

(iii) A listing of the sources of funding for the project and documentation of financing commitments;

(iv) Calculations showing the proposed rents for the project are feasible within the applicable fair market rent limitation established by HUD;

(v) Information to allow HUD to complete environmental reviews required under 24 CFR part 50; HUD may eliminate a proposal from consideration where the application would require an Environmental Impact Statement; and

(vi) Such other information, as specified by HUD in writing to the applicant, that confirms or clarifies information provided in the application.

(2) *Receipt of additional information.* The required additional information must be received in acceptable form by the deadline established by HUD in a notice of fund availability published in the **Federal Register**. HUD may remove any proposed project from further consideration for assistance if the required additional project information is not received in acceptable form by the established deadline.

(3) *Approval.* Following receipt of the additional information in acceptable form and provided that the environmental review indicates that the project is environmentally acceptable to HUD, HUD will notify the applicant that its application has been approved.

* * * * *

(f) * * *

(6) Determine that the $3,000 minimum amount of work requirement and other requirements in 24 CFR 882.504(c) (2) and (3) are met; * * *

(10) In the event that the PHA determines that any structure proposed

in its application is infeasible, or the PHA proposes to select a different structure for any other reason, the PHA must submit information for the proposed alternative structure to HUD for review and approval. HUD Headquarters will rate the proposed structure in accordance with the procedures in § 882.805(b)(3). The PHA may not proceed with processing for the proposed structure or execute an Agreement until HUD notifies the PHA that HUD has approved the proposed alternative structure and that all requirements have been met.

(g) * * *

(4) Contract Rents shall not include the costs of providing supportive services, transportation, furniture or other non-housing costs, as determined by HUD. SRO program assistance may be used for efficiency units selected for rehabilitation under this program, but the Gross Rent (Contract Rent plus any Utility Allowance) for these units will be no higher than for SRO units (i.e., 75% of the 0-bedroom Moderate Rehabilitation Fair Market Rent).

(Approved by the Office of Management and Budget under control number 2506–0131)

§ 882.806 [Amended]

6. Section 882.806 is amended by removing paragraph (a)(5).

§ 882.808 [Amended]

7. Section 882.808 is amended by revising paragraphs (a)(1) and (b)(3) and by adding a new paragraph (p), to read as follows:

§ 882.808 Management.

(a) *Outreach to homeless individuals and appropriate organizations.*—(1) *General.* The PHA or the Owner shall engage in outreach efforts to engage homeless individuals so that they may be brought into the program. As part of the outreach effort, the PHA or the Owner shall ask appropriate organizations for assistance in locating homeless individuals.

* * * * *

(b) * * *

(3) *Owner selection of individuals.* All vacant units under Contract shall be rented to homeless individuals located through PHA or Owner outreach efforts and determined by the PHA to be eligible. An Owner is responsible for tenant selection and may refuse any individual, provided the Owner does not unlawfully discriminate. Should the Owner reject an individual, and should the individual believe that the Owner's rejection was the result of unlawful discrimination, the individual may request the assistance of the PHA in resolving the issue and may also file a complaint with HUD's Office of Fair Housing and Equal Opportunity in accordance with 24 CFR 103.25. If the individual requests the assistance of the PHA and if the PHA cannot resolve the complaint promptly, the PHA should advise the individual that he or she may file a complaint with HUD, and provide the individual with the address of the nearest HUD Office of Fair Housing and Equal Opportunity.

* * * * *

(p) *Records and reports.* Each recipient of assistance under this subpart must keep any records and make any reports that HUD may require within the timeframe required.

(Approved by the Office of Management and Budget under control number 2506–0131)

Dated: February 8, 1993.

Henry G. Cisneros,

Secretary.

[FR Doc. 93–5687 Filed 3–12–93; 8:45 am]

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Part III

Environmental Protection Agency

40 CFR Parts 51 et al.
Determining Conformity of General Federal Actions to State or Federal Implementation Plans; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 93

[FRL-4604-8]

Determining Conformity of General Federal Actions to State or Federal Implementation Plans

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Clean Air Act (CAA) requires EPA to promulgate rules to ensure that Federal actions conform to the appropriate State implementation plan (SIP). Conformity to a SIP is defined in the CAA as amended in 1990 as meaning conformity to a SIP's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards (NAAQS) and achieving expeditious attainment of such standards. The Federal agency responsible for the action is required to determine if its actions conform to the applicable SIP. This document sets forth proposed rules governing the determination of conformity.

The EPA Administrator, with the concurrence of the Secretary of Transportation, is required to promulgate criteria and procedures for demonstrating and assuring conformity to the SIP of Federal highway and transit actions ("transportation conformity"). These proposed transportation conformity rules are set forth in 40 CFR part 51, subpart T, as proposed on January 11, 1993 (58 FR 3768) and in 40 CFR part 93, subpart A, as proposed in this document. The CAA also requires EPA to promulgate criteria and procedures for determining conformity of all other Federal actions to a SIP "general conformity"). These proposed general conformity rules will be set forth in 40 CFR part 51, subpart W, and 40 CFR part 93, subpart B, as proposed in this document.

DATES: Comments on the general conformity rules proposed today will be accepted until May 14, 1993. Comments on the transportation conformity rules proposed today, 40 CFR part 93, will be accepted until May 1, 1993. A public hearing is scheduled for April 22, 1993. Anyone who wants to present testimony about this proposal at the public hearing should, if possible, notify the contact person (see FOR FURTHER INFORMATION CONTACT) at least seven days prior to the day of the hearing. In addition, the comment period on the transportation conformity rules proposed on January 11, 1993, "Criteria and procedures for determining conformity to transportation plans," is reopened until May 1, 1993 and the above public hearing will include consideration of both of the conformity proposals.

ADDRESSES: Comments must be mailed (in duplicate, if possible) to Doug Grano, U.S. EPA, Office of Air Quality Planning and Standards (MD–15), Research Triangle Park, NC 27711. Copies of the comments and supporting information used in developing these proposed rules are contained in docket A–93–07. This docket is available for public inspection and review Monday through Friday from 8:30 a.m. to noon and from 1:30 p.m. to 3:30 p.m., except legal holidays. The docket is located at the EPA Air Docket Office (LE–131), room M1500, 401 M Street, SW, Washington, DC 20460. A reasonable charge may be assessed for photocopying of materials.

The public hearing will be held at the Government Services Administration auditorium at 7th and "D" Street, SW, Washington DC. To assist EPA in organizing the hearing, persons interested in attending the hearing or wishing to present oral testimony should contact Doug Grano in writing at the address below prior to the hearing.

FOR FURTHER INFORMATION CONTACT: Doug Grano: U.S. EPA, Office of Air Quality Planning and Standards (MD–15), Research Triangle Park, NC 27711, (919)541–3292.

SUPPLEMENTARY INFORMATION:

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I. Summary

The purpose of these proposed rules is to implement section 176(c) of the CAA, as amended (42 U.S.C. 7401 *et seq.*), which requires that all Federal actions conform to an applicable implementation plan developed pursuant to section 110 and part D of the CAA. Section 176(c) of the CAA specifies criteria and procedures for demonstrating and assuring conformity of Federal actions to a SIP. A Federal agency must make a determination that a Federal action conforms to the applicable SIP before the action is taken. In cases where Indian tribes are treated as states, the tribal implementation plan is the "applicable plan."

The proposed rules would revise part 51 of title 40 of the *Code of Federal Regulations*. Part 51 is entitled: "Requirements for preparation, adoption, and submittal of implementation plans." Revision to part 51 is necessary to require States to revise their implementation plans to include conformity requirements. Once the State plans are revised, the Federal agencies would be subject to those requirements.

In addition, the proposed rules would add a new part 93 to title 40 of the *Code of Federal Regulations*. This is necessary to make the conformity requirements apply to Federal agencies as soon as the rule is effective and in the interim period before the States revise their implementation plans. The part 93 rules proposed today are identical to the part 51 rules for conformity of general Federal actions in today's notice and for conformity of transportation plans in the January 11, 1993 notice, with one exception: they do not require a State to revise its implementation plan. Thus, while the preamble language cites only the part 51 sections, the discussion also applies to the same sections proposed for part 93. Today's action proposes the part 93 rules for conformity of general Federal actions and for conformity of transportation plans.

For the purpose of summarizing the proposed rules, they can be viewed as containing three major parts: applicability, procedure, and analysis. These are briefly described in the next three paragraphs.

The proposed rules apply in areas designated nonattainment for any of the criteria pollutants under the CAA: carbon monoxide (CO), lead (Pb), nitrogen dioxide, ozone, particulate matter (PM–10), and sulfur dioxide (SO_2). For purposes of applicability, the proposed rules offer two versions for comment. The "inclusive" version includes direct and indirect emissions of criteria pollutants or their precursors that are reasonably foreseeable and caused by a Federal action. The "exclusive" version is the same, except it excludes indirect emissions that the Federal agency has no control over. In general, the proposed rules apply to any Federal action except:

1. Those covered by the transportation conformity rule under 40 CFR part 51, subpart T;

2. Actions with associated emissions below specified de minimis levels; and

3. Certain other actions which are presumed to conform.

In addition to any other applicable procedural requirements, Federal agencies must make their conformity findings available for public review. Notice of draft and final conformity analyses must be provided directly to air quality regulatory agencies and to

the public by publication in a local newspaper.

The conformity analysis examines the impacts of the direct and indirect emissions from the Federal action. The proposed rules provide several options to satisfy air quality criteria and require the Federal action to also meet any applicable SIP requirements and emission milestones.

II. Background of the Proposed Rules

A. Clean Air Act Amendments of 1977

Conformity provisions first appeared in the CAA Amendments of 1977 (Public Law 95–95). Although these provisions did not define conformity, they provided that no Federal department could engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP after it has been approved or promulgated. Assurance of conformity was an affirmative responsibility of the head of each Federal agency. In addition, no Metropolitan Planning Organization (MPO) could give its approval to any project, program, or plan which did not conform to a State or Federal implementation plan. MPOs are responsible for carrying out the transportation planning process for urban areas under programs administered by the Department of Transportation (DOT). EPA promulgated regulations at 40 CFR 6.303 to implement the conformity provisions for EPA actions (44 FR 64177, November 6, 1979, as amended at 50 FR 26317, June 25, 1985).

The SIP is a plan which provides for implementation, maintenance, and enforcement of the NAAQS within each State. Each SIP includes enforceable emission limitations and other control measures as necessary to attain and maintain the NAAQS. "Applicable implementation plan" or "applicable SIP" means the portion (or portions) of the SIP or most recent revisions thereof, that have been approved by EPA under section 110 or Part D of the CAA or promulgated by EPA under section 110(c) of the CAA (Federal implementation plan) and that implements the relevant requirements of the CAA.

B. CAA Amendments of 1990

The CAA Amendments of 1990 expand the scope and content of the conformity provisions by defining conformity to an implementation plan. Conformity is defined in section 176(c) of the CAA as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards, and that such activities will not:

1. Cause or contribute to any new violation of any standard in any area,
2. Increase the frequency or severity of any existing violation of any standard in any area, or
3. Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The 1990 CAA Amendments tie conformity to attainment and maintenance of the NAAQS. Thus, a Federal action must not adversely affect the timely attainment and maintenance of the NAAQS or emission reduction progress rates leading to attainment. Some insight into the intent of the conformity provisions is provided in the report of the House Committee on Energy and Commerce on the original House bill to amend the CAA:

"Through the evaluation of the air quality impacts of proposed projects before they are undertaken, the conformity provision is intended to foster long range planning for the attainment and maintenance of air quality standards, and to assure that Federal agencies do not take or support actions which are in any way inconsistent with the effort to achieve NAAQS or which fail to take advantage of opportunities to help in the effort to achieve [the] NAAQS. The Committee expects that the new conformity provisions will be especially helpful in assuring that air quality considerations play a greater role in Federally supported transportation planning efforts, which can have a major impact on air quality and, in some severely polluted areas, are essential as part of the program for achieving [the] NAAQS" (H. Rep. 101–490, part 2, 101st Cong., 2d session, May 17, 1990, page 222).

It is clear from this statement and specific provisions in section 176(c) of the CAA that Congress envisions conformity in two parts: transportation and general Federal actions. Further, more emphasis has been placed on transportation conformity in terms of statutory requirements and Congressional direction.

The CAA Amendments include a new emphasis of reconciling the emissions from Federal actions with the SIP, rather than simply providing for the implementation of SIP measures. This integration of Federal actions and air quality planning is intended to protect the integrity of the SIP by helping to ensure that SIP growth projections are not exceeded, emissions reduction progress targets are achieved, and air quality attainment and maintenance efforts are not undermined.

In the development of these proposed rules, EPA involved several groups outside the Agency. These included environmental groups, the building industry, State and local air regulatory agencies, and the Federal agencies. Through meetings, conference calls, and correspondence these groups have discussed and reacted to various forms that the rule could take. In particular, EPA prepared staff-level draft versions of the rules in November 1991 and July, November and December 1992 and received substantial written comment on each draft. Those drafts and comments are contained in the docket for this action.

III. Description of the Proposal and Issues

A. Effective Dates:

The effective date will be 30 days after the final rulemaking notice is published. At that time, however, some projects that are dependent on Federal actions will have already commenced or completed their environmental analysis. Such projects would then be faced with the uncertainty of new conformity requirements that could not have been anticipated prior to the final rules being published. This uncertainty could threaten the viability of projects for which considerable time and funds already have been or are about to be invested. Therefore, EPA specifically invites comments on a transition provision for such projects.

One option, is to exempt Federal actions where the environmental analysis has been "commenced" prior to the effective date of the final rules. Alternatively, the exemption could be based on the "completion" of the environmental analysis. Environmental analysis would mean an analysis undertaken to determine whether or not a Federal action conforms to the applicable SIP or an analysis that specifically includes that task as part of the analysis. Such Federal actions still need a conformity determination, but they would not be subject to these specific rules.

B. Savings Clause

Notwithstanding any provision of these proposed rules once they are final, a determination that a Federal action is in conformance with the applicable SIP does not exempt the Federal action from any other applicable requirements, including requirements of the SIP, National Environmental Policy Act (NEPA), or the CAA. Pursuant to

sections 110(n)(1) and 193 of the CAA, once these proposed rules are final they would not supersede conformity requirements in existing SIPs, until such time as a SIP revision incorporating these regulations and amending any previously existing conformity provisions is approved by EPA.

C. Required SIP Revision

Section 176(c)(4)(A) of the CAA clearly requires EPA to promulgate criteria and procedures for determining conformity for both general and transportation activities. Section 176(c)(4)(C) of the CAA requires that "such procedures" shall include a requirement for State SIP submittals. For the following reasons, EPA believes that the statute requires SIP submittals for both general and transportation activities.

Nothing in section 176(c)(4)(C) of the CAA directly indicates that the reference to "such procedures" is limited only to the procedures relating to transportation activities. The language in section 176(c)(4)(C) of the CAA refers generally to "criteria and procedures for assessing the conformity of any plan, program, or project." Thus, the plain language refers to "any * * * project" which logically would include general conformity as well as transportation conformity projects. Similarly, section 176(c)(3) of the CAA uses general language when referring to paragraph (4)(C). However, when section 176(c)(3) of the CAA specifies requirements in paragraphs (A) and (B), the statute clearly spells out that it is "transportation plans and programs" and "transportation projects." The same specificity is used in section 176(c)(2)(A), (B), and (C) of the CAA. Thus, EPA believes that the statute's general language in paragraph (4)(C) requires SIP submittals for both general and transportation activities.

The fact that the Department of Transportation (DOT) receives the State's submittal for general as well as for transportation conformity is not illogical since DOT includes agencies whose actions can affect air quality, but which are not necessarily included in transportation plans and programs. For example, actions by the Federal Aviation Administration related to airport construction. In addition, many Federal agency actions outside of DOT will cause vehicular activity that may impact DOT programs.

While the responsibility to make the conformity determination is clearly that of the Federal agency, it is also clear that the State agency with responsibility for the SIP is integral to the process. The State agency, as described in this rule, is needed to establish and track the SIP's emission budget. The emissions budget is contained in the applicable SIP and is not a program that an individual Federal agency can manage since it involves tracking and analyzing actions of all Federal agencies as well as private actions, which, together, consume an area's emission budget. The State agency responsible for the SIP is the logical group to establish rules for and to manage this accounting. Thus, it is reasonable to conclude that the State should adopt conformity criteria and procedures for general Federal actions into its SIP.

Although the statute requires EPA to require States to submit their conformity SIP revisions by November 15, 1992, the Congressional intent was also that EPA would have promulgated final conformity rules by November 15, 1991. As fully described in the January 11, 1993 proposed rulemaking notice for transportation conformity, EPA believes that, in light of the delay in EPA promulgation of these rules, it is impossible for States to submit SIPs by November 15, 1992. Therefore, EPA is proposing to require that States should revise their SIPs within one year after EPA publishes final rulemaking on the conformity rule. This approach is consistent with the Congressional intent to provide States with a one-year timeframe to complete their rulemaking once EPA had established the criteria and procedures for the rules.

The issue has arisen whether States may set more stringent conformity provisions than are established in this proposal. EPA believes that this authority is provided by section 116 of the CAA which provides that States may adopt any air quality control regulation which is not less stringent than any Federal requirement. EPA also believes that section 176(c) of the CAA provides authority for States to impose differing requirements on Federal agencies than nongovernmental entities because section 176(c) of the CAA applies only to Federal agencies. Some Federal agencies, however, commented that this provision may be inconsistent with section 118 of the CAA. Section 118 of the CAA states that Federal agencies are to comply with air pollution requirements "in the same manner and to the same extent as any nongovernmental entity." Since the requirement is not imposed on any nongovernmental entity, these agencies argue that there does not appear to be a waiver of sovereign immunity in sections 118 or 176 of the CAA that would permit States to set more stringent requirements than those set by EPA. EPA specifically invites comments on this issue.

D. Contribute to a New Violation

Section 176(c) of the CAA prohibits any Federal action from causing or contributing to a new violation of a NAAQS. This clearly includes a prohibition on a Federal action which is expected to result in emissions that cause a NAAQS violation, without considering any other emission sources.

It is also possible that a portion of a nonattainment (or maintenance) area that does not now exceed the NAAQS may be projected through an air quality analysis to exceed the NAAQS at some future date. For example, growth or reductions in emissions in a metropolitan area may shift the location of the maximum ozone levels occurring in the area. If the ozone maximum is shifted to a location near the proposed Federal action, the Federal action could be considered to contribute to the projected new violation, but not cause the new violation. In such cases, the proposed rules require that the Federal action be shown to not increase the frequency or severity of the new violation, consistent with the statutory treatment of contributions to existing violations.

E. Federal Action

As used in this notice, a "Federal action" subject to the proposed general conformity rules means any activity engaged in by a department, agency, or instrumentality of the Federal government, or any activity that a department, agency or instrumentality of the Federal government supports in any way, provides financial assistance for, licenses, permits, or approves. An "instrumentality" of the Federal government includes those Federal entities which are not specifically linked to a "department" or "agency," including, for example, an independent Federal Commission. For purposes of general conformity, Federal actions do not generally include activities related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 *et seq.*) and covered under 40 CFR part 51, subpart T. Federal actions do not include project-level actions taken by State or regional non-federal agencies, including when acting in conjunction with or in order to implement a broad Federal program. For example, National Pollutant Discharge Elimination System (NPDES) permits issued by a State or regional water agency do not constitute Federal actions that may require a conformity finding under the proposed

rules. However, NPDES permits issued by EPA for specific projects would constitute Federal actions subject to the proposed rules.

Federal actions that could be affected by the general conformity requirements include, but are not limited to, the following:

1. Leasing of Federal land.
2. Outer Continental Shelf leases where section 328 of the CAA applies.
3. Granting a permit to use Federal land.
4. Pipeline construction.
5. Airport construction/modification.
6. Construction of ski resort on Federal land.
7. Canal/waterway diversion projects.
8. Construction of Federal office buildings.
9. Projects requiring Corps of Engineers fill permits.
10. Prescribed burning activities by Federal land managers.

F. Increase the Frequency or Severity

"Increase the frequency or severity" means to cause a location or region to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented. "More often" simply means for NAAQS that the absolute number of violations in a calendar year increases. Violations are defined in 40 CFR part 50. For example, if the ozone standard is expected to be violated on 7 days per year and, with the Federal action, would be expected to be violated on 8 days per year, then the action would not conform to the SIP. Since the ozone NAAQS is defined in terms of the number of days with hourly values above the standard, the frequency of days, rather than hours or some other period, should be used.

"A greater concentration" could be taken to mean any value greater than previously existed. This should be interpreted consistently with use of monitored or modeled data for attainment and maintenance demonstrations. In the case of monitored ozone data, measurements are made in parts per million to 2 significant figures. In the case of modeled data, if results are reported to 3 significant figures, then a difference in the third significant figure is considered to be a difference for purposes of conformity determinations.

G. Indirect Emissions

The CAA expressly prohibits Federal actions that would "support in any way" activity which does not conform to a SIP. Because this language is very broad, EPA believes indirect emissions must be included in any conformity determination, under either subpart T or W.

EPA is proposing two different definitions of "indirect emissions"—"inclusive" and "exclusive"—and inviting comment on both versions. The terms "caused by" and "reasonably foreseeable" are common to both definitions and are discussed below. As described below in "Indirect (Exclusive) Emissions," the phrase "and which the Federal agency has and will continue to maintain some authority to control" is added to make a second definition ("exclusive").

The critical issue that revolves around these two alternative approaches is the extent to which Federal agencies should be required to consider the effect of indirect emissions that may be caused by the Federal action, where the Federal agency has little or no control over these emissions. For example, a developer might request a permit from a Federal agency to develop a piece of Federal property for private use and the same person might also be developing private (or non-Federal) property in the same nonattainment/maintenance area for a related use. In cases where the Federal agency has clear authority to condition the permit with respect to both development actions and to assure through future oversight of the Federal land that the permit conditions are met, then EPA believes that these emissions are within the control of the Federal agency and should be considered in both determining applicability and in the conformity analysis.

In the "exclusive" version, indirect emissions do not include emissions that may be caused by a Federal action where the Federal agency has no authority to control the emissions. This approach would avoid creating situations where the Federal agency might consider imposing conditions on the project (mitigation) to demonstrate conformity, but where such conditions could be meaningless since there is no effective mechanism for enforcement by the Federal agency.

Each of these alternative approaches are discussed in greater detail below. In addition, EPA is specifically inviting comment on (but not proposing) the concept of requiring the "exclusive" option for purposes of applicability and the "inclusive" option for purposes of the conformity analyses.

Indirect (Inclusive) Emissions

Indirect emissions that would be considered "caused by" the Federal action are emissions from sources which are dependent upon the Federal action and would only be constructed and/or operated because of that Federal action. Such emissions include emissions from any onsite or offsite support facility which would not be constructed or increase its emissions except as a result of the Federal action. Indirect emissions also include emissions from mobile sources that are attracted to a facility, building, structure, or installation. For example, indirect emissions result from roads, parking facilities, retail, commercial and industrial facilities, airports, maritime ports, sports centers, and office buildings. These emissions should be included in a conformity determination if these facilities (or the increase in activity at these facilities) are caused by the Federal action.

Where mobile sources contribute indirect emissions, the Federal agency should attribute only those emissions that are caused by the Federal action. For example, not all the emissions from trips to and from a workplace or retail site are likely to be fully "caused" by the site itself. The road to and from the site, the origin and ultimate destination points of the trip, and other factors can be used to determine the portion of indirect emissions caused by the Federal action.

The indirect emissions that are "reasonably foreseeable" must be actually known at the time the conformity determination is required, though this would include emissions that would occur later in time and/or at a place other than the action itself. An agency is not required to speculate or guess at indirect emissions which are conceivable but not actually known. When a Federal action is accompanied by a development proposal such as an industrial park with an airport runway expansion, then descriptions contained in accompanying documents (e.g., employment and financial forecasts) should be considered reasonably foreseeable for purposes of this rule. When the Federal action is located or of a magnitude where related development is expected to occur based on experience with similar actions, then the related development is reasonably foreseeable. "Reasonably foreseeable" emissions include emissions described in an environmental analysis or environmental impact statement. Further, where the developer has made estimates of employment, industrial activity, tourist visitation or other measures in order to obtain financing or encourage investment, these estimates should not be considered speculative, but are reasonably foreseeable indirect emissions that should be considered in the conformity determination.

Certain types of Federal actions occur on the programmatic level rather than on a project level and the air quality and emissions impacts of these actions may not be reasonably foreseeable. For such Federal actions it might be impossible to accurately locate and quantify resultant emissions. For example, under title VI of the Clean Water Act, EPA awards capitalization grants to State Revolving Funds (SRFs) from which States may award loans and other forms of assistance, but not grants, for the construction of wastewater treatment plants. States have considerable discretion in identifying the projects that will receive SRF funding. (Nonetheless, each treatment works funded by an SRF must undergo an approved environmental review process that takes into account conformity with the applicable SIP.) Another example is certain block grants under the Housing and Urban Development program. In instances where a Federal action is on a programmatic level and it is impossible to accurately locate and quantify emissions and therefore impossible to accurately complete the air quality and emissions analysis specified in § 51.858, such emissions should not be considered reasonably foreseeable.

For purposes of defining "indirect emissions," development that is related to the Federal action only in a manner that provides daily services such as restaurants and banks and which are located off Federal property, may be considered incidental rather than indirect emissions under certain circumstances. Where such activities and emissions are expected to be small relative to other emissions from the Federal action and are difficult or impossible to precisely locate and quantify, an accurate air quality and/or emissions analysis is not possible. In such cases, emissions from the daily services activities may be considered incidental and not included as indirect emissions in the conformity analysis.

Section 110(a)(5)(A) of the CAA prohibits the Administrator from requiring a State to adopt a general indirect source review program. Taken alone, this language appears to restrict EPA's authority to regulate indirect emissions as part of the conformity rule. However, for Federally assisted indirect sources, section 110(a)(5)(B) of the CAA expressly allows the Administrator to promulgate, implement and enforce indirect source programs. The EPA believes that this language is consistent with the broad mandate in section 176(c) of the CAA to prohibit Federal agencies from taking actions which "support in any way" any activity which does not conform to an applicable SIP.

EPA is concerned that the conformity criteria and procedures be able to identify and prevent Federal actions that could cause new or worsen existing air quality violations. In reality, all emissions are important to air quality. If Federal agencies consider only part of the indirect emissions that are caused by their action, then the reasonably foreseeable impact of those Federal actions might not be evaluated. In such cases, it is possible that a Federal action could be taken which, together with other reasonably foreseeable emissions caused by the Federal action, could cause or contribute to a violation of an air quality standard. If a violation would occur, then a State would have to address these emissions through its permitting processes or a State would need to revise its SIP to correct the problem. To the extent that the CAA intends that the Federal action conform to the SIP, a strict interpretation of this intention would require that the conformity analyses should not be limited by consideration of only those emissions under the control of the Federal agency.

H. Indirect (Exclusive) Emissions

As noted above, EPA is proposing for comment two versions of the definition of indirect emissions. Thus, the term "indirect (inclusive/exclusive) emissions" is used in the regulatory section of this proposal to indicate where the dual proposal applies. After consideration of the comments, only one version of "indirect emissions" will be promulgated in the final rule. EPA believes this dual proposal approach is appropriate in consideration of the diverse comments received to date from various interest groups on draft versions of the rules and the need to receive full public comment on this critical aspect of the rules.

During the development of these rules, EPA received substantial and diverse comments from air regulatory agencies, the building industry, various Federal agencies, and environmental groups. The "inclusive" version described above is a broad definition of indirect emissions which has been supported primarily by the air regulatory agencies and environmental groups. The "inclusive" version, however, is viewed as unnecessarily broad by many of the other groups. For example, comments from the Department of Defense (DOD) indicate that the "inclusive" version would severely impact the ability of DOD to turn over valuable military assets to local communities to defray the economic impact of the base closure process.

In the "exclusive" version, indirect emissions are limited to those emissions "which the Federal agency has and will continue to maintain some authority to control." This approach is supported by many Federal agencies for use both in the applicability (§ 51.853) and the conformity determination (§ 51.858) portions of the proposed rules. Representatives of the building industry have stated that the rules should exclude consideration of indirect emissions entirely, but have also offered limited support for the "exclusive" version over the "inclusive" version. While the discussion below is limited to applicability, further discussion of this issue is included later in the conformity determination section.

In the development of these rules, EPA must establish procedures that identify the type of Federal actions covered. The "exclusive" approach includes an examination of the duties and responsibilities of Federal agencies. When the Federal agency owns or operates a facility, Federal responsibility for the direct and indirect emissions from that facility is clear. However, further down the spectrum of "assistance," where less and less Federal control may be found, a point may be reached where the Federal agency should not have the same degree of responsibility for assuring the conformity of emissions, especially the indirect emissions from that action.

The term "indirect emissions" is used in § 51.853, Applicability, to determine which Federal actions must complete a conformity determination. The "exclusive" version isolates certain types of Federal actions where the role and responsibility of the Federal agency itself is major; for example, in an action to lease Federal land for a specific use, the Federal agency has substantial authority and responsibility over the land use and, thus, should also be responsible for assuring that the leasing action conforms to the applicable SIP. By focussing on such major Federal actions, this approach would not require a conformity analysis for certain Federal actions that are necessary for, but incidental to, subsequent development by private parties; for example, a fill permit needed for one acre of a 1000 acre development on private land. The "exclusive" version specifically examines the extent of the Federal agency's ability to control indirect emissions and, in effect, reduces the scope of Federal actions that are subject to a conformity analysis.

In support of the "exclusive" version, many Federal agencies have stated that

it is unreasonable to withhold a conformity determination where it is impossible for the Federal agency to remedy the situation. In such cases, they argue that the State and/or local jurisdictions should regulate the activities outside the Federal agency's jurisdiction. On the other hand, some commenters have argued that reliance on State or local action to control these off-site activities could be viewed as requiring the State to amend the applicable SIP to conform to the Federal action, rather than a rule that reflects the plain language of section 176(c) of the CAA for the Federal action to conform to the applicable SIP.

In the "exclusive" version, indirect emissions do not include emissions that may be attributable to a Federal action where the Federal agency has no authority to control the emissions. This approach would avoid creating situations where the Federal agency might consider imposing conditions on the project (e.g., mitigation) to demonstrate conformity, but where such conditions could be meaningless since there is no effective mechanism for enforcement by the Federal agency. For example, a permitting action by the Army Corps of Engineers (COE) to dredge and fill an area would not include, for purposes of applicability (§ 51.853), any subsequent planned development of the area if the COE would not maintain any authority to control the subsequent activity. Only those emissions from the equipment used in the dredging and filling operation, support equipment, motor vehicle activity, and emissions from movement of the dredge material itself would be included in the applicability analysis (§ 51.853). If such emissions are below the de minimis levels described below for applicability purposes (§ 51.853), no conformity determination (§ 51.858) would be required for the issuance of the dredge and fill permit.

The following example clarifies situations under which the Federal agency maintains continuing control over future emissions that would, therefore, constitute indirect emissions of the Federal activity to be considered for purposes of determining applicability of the conformity rules. A Federal action to lease land to a private developer does not in itself have any direct air pollution emissions. The action does, however, make possible future activities by the private developer that could result in indirect air pollution emissions. This can be seen clearly in cases where the leasing action is accompanied by a description of future activities associated with the lease which would result in indirect emissions and where the lease contains emission limits imposed on the developer.

I. Applicability

After extensive review of the statutory provisions and the legislative history on this issue, EPA has concluded that a reasonable, and therefore permissible, reading of section 176(c) of the CAA is that it applies only to nonattainment areas and those attainment areas subject to the maintenance plans required by section 175A of the CAA. Further discussion of EPA's position on this issue is contained in the January 11, 1993 transportation conformity proposal (58 FR 3768).

Due to the very broad definition of Federal action in the statute and the number of Federal agencies subject to the conformity requirement, the number of individual conformity decisions required could be on the order of thousands per day. To avoid creating an unreasonable administrative burden, EPA believes that the conformity rules need a mechanism to focus the efforts of affected agencies on key actions, rather than all actions. EPA considered several options regarding which Federal actions should be subject to individual conformity determinations. In general, the following three options were considered:

1. All Federal actions need conformity determinations; however, through separate rulemaking actions, EPA would consider an agency's request for exclusion of certain categories of Federal actions with insignificant environmental impact;

2. Utilize the NEPA process to identify the key Federal actions that need individual conformity determinations; in particular, focus on the activities requiring environmental impact statements (EISs); and

3. Set a de minimis level in tons per year of new emissions under which activities would not need conformity determinations.

Option 1 above, by itself, would not necessarily reduce the number of conformity determinations required and it would create an additional burden to issue multiple rulemaking actions for individual agencies on their requests for exempt actions. Most importantly, it would not immediately focus conformity review on those large projects with the greatest likelihood of having a significant impact on air quality. (Note that the proposed rule does allow individual agencies to establish exemptions through subsequent rulemaking, as described below.)

The advantages of Option 2 are that it:

1. Builds upon an existing and longstanding requirement for Federal agencies to consider the environmental impacts of their actions;

2. The NEPA process has over the last 2 decades established a mechanism in each Federal agency that categorizes and identifies impacts of various actions by that agency;

3. Implementation of this option could be relatively simple since these Federal actions already undergo extensive environmental review; and

4. The conformity determination could easily dovetail into the NEPA process.

However the disadvantages of Option 2 are significant. Using only the EIS-level projects as a means of identifying Federal actions that require a conformity determination effectively prohibits use of this option for the following reasons. First, using the NEPA EIS process to identify Federal actions which require conformity determinations appears inconsistent with the scope of section 176(c) of the CAA. Federal actions deemed non-significant under NEPA will not always be the same set of Federal actions that have de minimis impacts on air quality. This is because the NEPA process considers multiple factors in determining whether the impacts of a project are "significant," such as: the balance of adverse and beneficial effects; impacts on public health; unique characteristics of the geographic area; controversy over the effects of the project on the quality of the environment; uncertainty of the potential risks; precedent of the action for future projects; cumulative impacts on the environment resulting from the project and associated projects; scientific, cultural, or historic resources that may be lost or destroyed as a result of the project; endangered or threatened species and critical habitat which may be adversely affected; or whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment (40 CFR 1508.27).

This multiplicity of factors considered in determining whether the impacts of a project are "significant" may cause projects which adversely impact only air quality to be classified as non-significant under NEPA and not require an EIS, while other projects which have no impact on air quality could be classified as significant due to the import of other, unrelated factors. The only way to avoid this result would be to skew the NEPA analysis and make air quality a premier factor taking precedence over all other factors—a modification that cannot be justified

under the prevailing NEPA law. Thus, because emission impacts deemed non-significant under NEPA are not necessarily equivalent to emission impacts which might be considered de minimis as proposed in these rules under section 176(c) of the CAA, NEPA does not provide a process which can satisfactorily guide conformity determinations under section 176(c) of the CAA.

Another problem with using the EIS as a screening mechanism for conformity determinations is that a conformity analysis would be required for all EIS-level projects, including those without the potential for significant air impacts. This would increase, rather than decrease, the administrative burden of Federal agencies to perform a conformity analysis on projects without a concomitant benefit to the protection of air quality.

The problem of fitting conformity determinations within the NEPA EIS framework is further exacerbated by some agencies' practice of conducting EISs at a programmatic level and then tiering subsequent environmental analyses (EAs) for site-specific projects (40 CFR 1502.20). This tiering of EISs and EAs poses significant obstacles to linking conformity decisions to EISs, since the more fact-specific and detailed decisions regarding construction or other activities which might have potential impact on air quality frequently arise at the EA stage, rather than in the more general programmatic EISs.

Option 3 attempts to meet the requirements of the statute by focusing on those Federal actions with the potential to have significant air quality impacts. It also attempts to narrow the administrative burden on Federal agencies while at the same time providing a logical process for selecting Federal actions that require a conformity determination.

The preliminary comments EPA has received on the process for screening Federal actions for potential conformity analyses have ranged from the desire to include all Federal activities, regardless of project size or emissions levels, to limiting conformity analyses to those Federal actions that require an EIS, to limiting conformity determinations to projects which are considered directly-emitting Federal actions and not those involving indirect emissions. The explanation under Option 2 describes the reasons for eliminating the EIS-level screening mechanism. The emphasis was subsequently placed on developing a meaningful way of selecting Federal actions for conformity review.

After extensive consultation with numerous Federal agencies, the Environmental Defense Fund (EDF), State and local air quality agencies, building industry representatives, and others, EPA decided that to adhere to the spirit of the statute while recognizing the administrative burdens, the most reasonable approach was to use a de minimis level similar to that specified by EPA for modifications to major stationary sources under the CAA preconstruction review programs. Consequently, the de minimis levels specified in § 51.853 were chosen to correspond to the emission rates defined in 40 CFR 51.165 (new source review) and 51.166 (prevention of significant deterioration) as "significant." These thresholds have been used for many years to identify cases where modifications to major stationary sources must undergo review. EPA is today proposing that individual conformity determinations be made for all Federal actions with total direct and indirect emissions greater than these de minimis levels.

The de minimis levels for emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOC) for ozone nonattainment areas classified serious or severe were, in effect, changed from 40 to 25 tons per year by the 1990 amendments to the CAA. Although the CFR has not yet been updated to reflect this change, EPA is proposing the 25 tons of VOC or NO_x per year value. In addition, the 1990 CAA amendments, in effect, changed the level for extreme ozone nonattainment areas from 40 to zero. As EPA believes a de minimis value is appropriate for purposes of conformity, analogy to the zero value is not helpful. Instead, the rule proposes a 10 tons per day value, which is consistent with the new CAA definition of a major stationary source in an extreme ozone nonattainment area.

Most Federal actions result in no direct or indirect air emissions. For such actions, the de minimis levels specified in the rule apply and, thus, no further analysis by the Federal agency is required as the action is presumed to conform. Additionally, paragraph (d) of § 51.853 allows a Federal agency to establish exemptions from the requirement to conduct conformity analyses (§ 51.858), as described further below. These provisions are intended to assure that these rules are not overly burdensome and Federal agencies would not spend undue time assessing actions that have little or no impact on air quality. Such actions include, for example, personnel actions, continuing activities with no substantial, adverse change from previous conditions that are associated with an on-going program or operation (including certain permit renewal actions), routine monitoring, etc.

In some cases, Federal actions affecting smaller projects alone or together with other smaller projects could have a significant impact on air quality. Ideally, to be able to adequately assess the cumulative impact of many smaller sources, it would be necessary to have a means of tracking all the projects and their respective emissions in each nonattainment or maintenance area. Currently, such a mechanism does not exist at the Federal level. States or local agencies which have or develop such a tracking system may include it in their conformity SIP rules.

Therefore, EPA is proposing an additional concept, that of "regionally significant actions," to capture those actions that fall below the de minimis emission levels, but have the potential to impact the air quality of a region. When the emissions impact from a Federal action does not exceed the tons per year cutoff for a Federal action requiring a conformity determination, but the total direct and indirect emissions from the Federal action represent 10 percent or more of a nonattainment area's total emissions for that pollutant, the action is defined by the proposed regulations as a regionally significant action and must go through a full conformity analysis. For example, some of the smaller PM–10 nonattainment areas in EPA's Region VIII may have total emissions inventories of less than 300 tons per year. A Federal action generating emissions of only 99 tons per year would be a significant contributor of emissions in such an area, and, therefore, should receive a full air quality analysis for conformity. EPA specifically invites comments and documentation on whether 10% is appropriate or whether some other percentage should be set.

In addition to Federal actions with de minimis emission levels that do not require conformity determinations, EPA has identified several types of Federal actions where EPA believes that conformity of such activities or a portion of such activities can be presumed. Federal actions identified under § 51.853, paragraph (c), are presumed to conform because the required air quality analyses that would be conducted under a conformity review must be completed to comply with other statutory requirements. That is, air quality analyses are required in the new source review programs under the CAA, the applicable or relevant and appropriate standards process under the

Comprehensive Environmental Response, Compensation, and Liability Act, and the State Revolving Fund Program under the Clean Water Act. EPA believes these analyses are adequate for purposes of conformity.

In some cases, a Federal action may include several direct and indirect emission sources, only some of which are covered under § 51.853, paragraph (c). In such cases, the proposed rule is intended to include all the direct and indirect emissions in the applicability determination (§ 51.853), but, if a conformity determination is required under § 51.858, that determination is not required to include the portion of direct and indirect emissions which are presumed to conform under § 51.853, paragraph (c). For example, assume that a Federal action includes construction of a new industrial boiler and a separate office building and assume that direct emissions from the boiler exceed the de minimis levels in § 51.853, but the direct and indirect emissions from the office building alone are less than the de minimis levels. In that case, the action, as a whole, would exceed the de minimis levels and, therefore, need a conformity determination. The conformity determination, however, would not need to examine the emissions from the boiler that are otherwise regulated under the preconstruction review programs of the CAA, but would examine other direct and indirect emissions from the action, including those associated with the office building.

Section 51.853, paragraph (d), identifies those actions that are presumed to conform unless the Federal agency determines otherwise based on its own information or after reviewing any information presented to the Federal agency. Section 51.853, paragraph (d)(1), lists "temporary Federal actions in response to national emergencies." This provision covers Federal activities which require extremely quick action on the part of the Federal agencies involved. Where the timing of such Federal activities makes it impossible to meet the requirements of this rule, EPA believes it is appropriate to presume conformity, unless the Federal agency has reason to believe that air quality impacts will be significant. Temporary national emergency activities include, for example:

1. Immediate responses to the release or discharge of oil or hazardous material in accordance with approved Spill Prevention and Response Plans or Spill Contingency Plans which are consistent with the requirements of the National Contingency Plan;

2. Actions that directly support operations of United States forces introduced into hostilities, introduced into situations where imminent involvement in hostilities is clearly indicated, or rendering emergency humanitarian relief; and

3. Actions to extinguish wildfires.

In addition, EPA believes that a Federal action to sell land should be presumed to conform. Section 131 of the CAA indicates that nothing in the CAA authorizes any Federal control of land use. Further, EPA believes that land sales do not "support" subsequent emission activity since they do not specifically approve, authorize or permit that activity. This approach is necessary to avoid speculation over the multitude of possible growth scenarios associated with a land sale, which could be further complicated by subsequent resale actions by private entities. Imposing conditions on land sale could restrict the ability of State and local agencies to determine the land use for future activities which may follow over the years the initial land use decisions.

The proposed rules also presume the conformity of air quality research activities where no environmental detriment is anticipated. Finally, the proposed rules allow each Federal agency to develop, through rulemaking, a list of Federal actions that are exempt from conformity review. The evidence supporting the proposed exemption should be described in the **Federal Register** and should document compliance with the criteria and procedures for such rulemaking, as outlined in § 51.853, paragraphs (d)-(f). Such exemptions are based on the premise that such projects are not expected to have significant air impacts. However, where the Federal agency concludes, based on its own information or that provided to it, that a particular action does have significant air impacts, a conformity determination would be required.

J. Conformity Analysis

In some cases, multiple Federal agencies may need to make a conformity determination for a related project. A Federal agency may either conduct its own conformity analysis or adopt the analysis of another agency, for example, the lead NEPA agency. A Federal agency must always make its own conformity determination. Allowing each Federal agency with responsibility for making a conformity determination to develop its own analysis or adopt that of another Federal agency, gives flexibility to the Federal agency and fulfills the agency's responsibility for making a conformity determination. A Federal agency retains the ability to conduct its own air analysis or use that of another Federal agency and make its own conformity decision. If an agency, due to one of its analyses, determines that the project does not conform, then it may not make a positive conformity determination. If there are differing conformity determinations for a Federal action by several Federal agencies involved, the respective agencies would have to reconcile their differences before the entire project could proceed.

If another Federal agency disagrees with a Federal agency's conformity determination, but does not itself have jurisdiction for the Federal action, then the Federal agency should provide written comments to the Federal agency with jurisdiction. The Federal agency with jurisdiction is required to consider the comments of other interested agencies under the proposed rules.

K. Reporting Requirements

The proposed rule requires a Federal agency to notify EPA and the State and local air quality agencies of draft conformity determinations. The expertise of the State and local air agencies should be sought when interpretation of the SIP is needed. Although the conformity determination is a Federal responsibility, the State and local agencies can provide important information. For example, the Federal agency would need to consult with the State and/or local agency to determine the status of an area's emissions budget.

L. Public Participation

EDF recommended that full Administrative Procedure Act (APA) notice and comment are needed for conformity determinations. On the other hand, many Federal agencies argued for minimal public participation. EPA believes that some public participation is needed as a matter of sound public policy and that sections 176(c) and 301 of the CAA provide ample authority to require some public participation. Many Federal actions will be of significant local interest, and local organizations may be uniquely able to provide useful information and analyses regarding the impacts of the proposed action.

In developing the public participation portion of the conformity rules, EPA has attempted to provide a meaningful opportunity for review and comment on the conformity determinations without imposing a significant new burden on the Federal agencies. These procedures are also generally consistent with those in the transportation conformity rule. EPA does not believe that it is appropriate for the agency to impose full APA rulemaking requirements

under section 176(c) of the CAA. To the extent the APA applies to Federal agency actions generally, such agencies must comply with the APA as appropriate. EPA specifically invites comments on alternatives to the public participation procedures described below.

Federal agencies making conformity determinations are required under the proposed rules to provide 45 days for written public comment prior to taking any formal action on a draft determination. This period may be concurrent with any other public involvement, such as occurs in the NEPA process or as otherwise required by the APA, where applicable.

In procedures that might extend beyond the usual NEPA process, conformity to a SIP must specifically involve the appropriate EPA Regional Office(s), State and local air quality agencies. The Federal agency must make available for review to all interested parties the draft determination and supporting materials which describe the analytical methods and conclusions relied upon in making the determination. The agency should provide, upon request, a description of significant assumptions, the source of data and assumptions not generated by the sponsoring agency, and a reconciliation of the estimates of population, employment, travel, and congestion with those currently in use in the air quality planning process.

M. Frequency of Conformity Determinations

A determination that a Federal action conforms to the applicable SIP must be made before the action is taken. The conformity determination, however, may expire if the action is not taken in a reasonable time period. EPA proposes that the conformity status of a general Federal action automatically lapses five years from the date of the initial determination if the Federal action has not been completed or if a continuous program has not been commenced to implement that Federal action in a reasonable time. "Commenced" as used here has the same general meaning as used in the Prevention of Significant Deterioration (PSD) program (40 CFR 51.166). EPA believes that conformity determinations should not be valid indefinitely, since the environment surrounding the proposed action will change over time.

N. Criteria for Determining Conformity of General Federal Actions

The definition of "indirect emissions" is critical to both the applicability (§ 51.853) and conformity determination (§ 51.858). The proposed rules are drafted with "inclusive" and "exclusive" versions of "indirect emissions" in order to propose two options for public comment with respect to applicability. The "inclusive" version broadens the scope of the rules relative to the "exclusive" version. As outlined above, this document proposes two alternative versions of indirect emissions with respect to the conformity determination. EPA specifically invites comments on these two alternatives.

The CAA establishes both air quality related criteria and emissions related criteria which must be met before an action can be determined to conform to the applicable SIP. The air quality criteria are required by section 176(c)(1)(B) (i) and (ii) of the CAA which state that the action must not cause or contribute to any new violation of any standard in any area or increase the frequency or severity of any existing violation of any standard in any area. The conformity regulation mirrors the statutory air quality criteria in § 51.858, paragraph (b). In addition, § 51.858, paragraph (a) provides alternative methods to meet the air quality criteria.

The emissions criteria are required by section 176(c)(1)(B)(iii) of the CAA which states that the action must not delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. The conformity regulation includes the CAA emissions criteria in § 51.858, paragraph (c). Paragraphs (c) and (d) of § 51.858 include additional requirements related to the emissions criteria.

O. Air Quality Criteria

Section 51.858, paragraph (a), specifies that both the air quality and emissions criteria must be met before a conformity determination can be made. The air quality criteria are in paragraphs (a) and (b) and the emissions criteria are in paragraph (c). Paragraphs (a)(1)–(5) identify five alternatives to meet the air quality criteria. If any one of the five alternatives is met, then the Federal action conforms to the air quality criteria.

Paragraph (a)(1) allows a Federal agency to rely on the previous air quality analysis completed by the State and incorporated in the applicable SIP. The applicable SIP is required to include for each criteria pollutant an attainment demonstration (air quality analysis). In some cases, the analysis may have specifically identified the project which is now the subject of a conformity determination and demonstrated that the area would achieve timely attainment, considering emissions from the project. In such cases and where the emissions attributed to the project in the SIP attainment demonstration are consistent with emissions anticipated from the proposed Federal action, then the Federal action conforms to the air quality criteria.

Paragraph (a)(2) allows, for ozone or nitrogen dioxide, a Federal agency to meet the air quality criteria by fully offsetting the direct and indirect emissions that result from the action. In this option, the Federal agency would complete an analysis that identifies the emissions increase that would result from the action. The analysis should identify emissions representative of the time period relevant for analysis of the subject pollutant and should represent maximum emissions from the project over that time period. Thus, for a project that would be fully operational in 1999 in an ozone nonattainment area, the emissions should be representative of a 1999 typical summer day since the ozone standard is directed at maximum daily 1-hour values and is typically highest during summer months. However, if there is reason to believe that emissions attributable to the project would be higher for an earlier or a subsequent milestone year or attainment deadline, emissions should be estimated for that year as well.

This general offset provision is appropriate for consideration of regional air quality effects and, thus, applies only for ozone and nitrogen dioxide. Although major stationary sources can cause nitrogen dioxide hotspots, a conformity determination is not required for such sources (§ 51.853, paragraph (c)(1)) since they are covered by the nonattainment new source review and PSD programs. Offsets are also allowed under these rules for the other pollutants, but must be accompanied by a hotspot analysis, as described in paragraph (a)(5)(iii).

Once the emissions to be offset have been determined, emission reductions from some existing source(s) need to be secured. Since the offsets are needed in order to avoid an emissions increase that could be inconsistent with the attainment or maintenance demonstration or reasonable further progress (RFP) requirements, the offsetting emission reductions must be beyond any existing SIP requirements. For example, in an ozone nonattainment area where an existing boiler emits 0.75 lbs NO_x/million Btu and the SIP requires the boiler to meet a 0.50 lbs NO_x/million Btu limit by 1996, any offsets would be calculated from the 0.50 limit. Any offsets must be

enforceable. For example, incorporation of the offset requirements in the applicable SIP would ensure the enforceability of the offsets. Alternatively, other enforcement measures may be used if they are equally enforceable, such as a permit condition may be. Additional information on emissions offsets can be found in EPA's economic incentive program guidelines which are currently under development.

Paragraph (a)(3) allows a Federal agency to meet the air quality criteria by conducting areawide and hotspot air quality modeling analyses. As stated in paragraph (b), the analyses must show that the action does not cause or contribute to any new violation or increase the frequency or severity of any existing violation of a standard in any area. EPA interprets "area" to mean the applicable nonattainment or maintenance area(s). EPA proposes that the air quality modeling analyses must be done in accordance with the procedural requirements specified in § 51.859.

In some cases, CO and/or PM–10 emissions have the potential to cause or contribute to violations of the standards only in the vicinity of the emissions source(s) since the areawide concentrations do not approach or exceed the NAAQS and/or emissions from the action are not "regionally significant." For these cases, the applicable SIP would not include an emissions budget for such projects and a local scale or "hotspot" air quality analysis is adequate to determine conformity with the air quality criteria. Accordingly, paragraph (a)(4)(i) allows a Federal agency to meet the air quality criteria based only on local scale air quality modeling analyses for such cases.

In other cases, CO and/or PM–10 concentrations approaching or exceeding the NAAQS occur over a wide portion of the nonattainment or maintenance area or the action is "regionally significant" and, thus, could affect concentrations over a wide portion of the area. In these cases, a regional scale analysis is needed in addition to a local or hotspot analysis to determine conformity with the air quality criteria for CO and/or PM–10. This requirement is contained in paragraph (a)(4)(ii).

As noted above, violations of the ozone and/or nitrogen dioxide NAAQS occur on a regional scale; e.g., over an entire nonattainment area. In general, the NO_x and VOC emissions that lead to formation of ozone and nitrogen dioxide occur over a broad area. The chemical transformations, especially for ozone, and the meteorological dispersion similarly occur on a regional scale, ultimately producing concentrations of ozone and nitrogen dioxide over the area as a whole. Thus, a regional scale air quality analysis is appropriate for these pollutants and a local scale analysis is not necessary. This requirement is contained in paragraph (a)(5).

Due to the complex interactions of the ozone precursors, the regional nature of the ozone and nitrogen dioxide problems, and limitations of current air quality models, it is not generally appropriate to use an air quality model to determine the impact on ozone or nitrogen dioxide concentrations from a single emission source or a single Federal action. Thus, alternative air quality analysis methods are also described in paragraphs (a)(5)(i)-(iv).

Paragraph (a)(5) allows emissions from a Federal action to be characterized in several parts. If each part of the action meets any one of the subparagraphs, then the action as a whole would be determined to meet the air quality criteria. For example, an action with emissions from vehicular and space heating sources could show that the vehicular emissions are fully offset and that the space heating emissions would not exceed the emissions budget.

Paragraph (a)(5)(i) provides that a Federal action conforms with the air quality criteria where emissions from the action, together with all other emissions in the attainment or nonattainment area, would not exceed the emissions budget contained in the applicable SIP. SIPs are intended to accommodate growth and where a project is demonstrated to conform to the air plan, the associated growth in emissions is appropriate. In order to determine the status of the emission budget at any time, an accounting system is needed to track the many factors included in the total emissions over an area or subarea. The tracking needs to be consistent with the State's RFP tracking and needs to account for source compliance with SIP limits, changes in emissions due to growth and other operational changes from minor and major new stationary sources, and emissions due to other economic growth. EPA believes that an individual Federal agency should not be required to manage an accounting system of this nature. Instead, since the State will have an accounting system in place to track RFP in nonattainment areas and will also have a system to assure maintenance of the NAAQS, the proposed conformity rule specifies that conformance with the emission budget should be determined by the State agency responsible for implementation of the SIP. Consequently, compliance with the air quality criteria through this alternative would only be available where the State takes the responsibility to manage such a tracking system.

Paragraph (a)(5)(i) is limited to cases where the applicable SIP contains an attainment or maintenance demonstration that was approved after 1990. Prior to 1990, SIPs did not generally establish emissions budgets or, if established, they will no longer remain valid in cases where the amended CAA requires a new attainment and/or maintenance demonstration. These new demonstrations will establish the appropriate emissions budget. The emissions budget must be consistent with the demonstration in the applicable SIP and may be established in the applicable SIP for all source categories in the entire (nonattainment or maintenance) area or individual emission budgets may be set in the applicable SIP for specific source categories or subregions in the area. Where the attainment demonstration specifies emission reductions of more than one precursor pollutant and, thus, establishes multiple emission budgets, the Federal action must not exceed any of these emission budgets. For example, in ozone nonattainment areas a State may adopt a demonstration that relies on emission reductions and, thus, sets emission budgets for both NO_x and VOC; then both emission budgets must be met in the conformity review.

Paragraph (a)(5)(ii) proposes that vehicular activity from a Federal action may be determined to conform with the air quality criteria if the Federal action and its vehicular activity is specifically included in the conforming transportation plan and transportation improvement program for the area. The transportation plan/program must previously have been found to conform to the applicable SIP as described in the proposed 40 CFR part 51, subpart T (58 FR 3768, January 11, 1993).

Paragraph (a)(5)(iii) proposes that where emissions from a Federal action or portion thereof are fully offset, the action may be determined to conform with the air quality criteria. Emissions offsets are generally discussed under paragraph (a)(2). Under paragraph (a)(5)(iii) it is also possible to offset only a portion of the emissions from the project as long as the remaining emissions meet the requirements of one of the other provisions of paragraph (a)(5).

Paragraph (a)(5)(iv) proposes to allow, in certain cases, a Federal action to be

determined to conform with the air quality criteria where the action would not increase emissions with respect to baseline emissions. EPA intends this provision to be temporary and, therefore, the proposed conformity rule limits it to cases where the applicable SIP does not contain an attainment or maintenance demonstration that was approved after 1990. In such cases, the applicable SIP would not yet include an appropriate emissions budget. This temporary provision is needed to allow conformity determinations to proceed prior to approval of new SIPs containing emission budgets. EPA believes that Congress envisioned the emissions budget concept to ultimately apply in most cases. This approach is similar to that contained in the proposed transportation conformity rules and consistent with the concept in section 176(c)(3) of the CAA.

For purposes of paragraph (a)(5)(iv), baseline emissions are defined as the total direct and indirect emissions that are estimated to have occurred during calendar year 1990 (the year for which updated emission inventories are required for all nonattainment areas by CAA sections 172(c)(3), 182(a)(1) (for ozone), 187(a)(1) (for carbon monoxide), 189(a)(1)(B) and the title I General Preamble (for PM–10), and 191 (for the other NAAQS pollutants)). Alternatively, any area for which a classification is promulgated in 40 CFR part 81 may define the baseline emissions as those estimated to have occurred during the calendar year (or, where the classification is based on multiple years, the most representative year) that is the basis for the classification. For example, EPA used 1987–1989 air quality data to classify most ozone nonattainment areas, consistent with the three year statistical standard. In these cases, the baseline emissions would be calculated by the most representative year from the years 1987–1989. This is described in paragraph (a)(5)(iv)(A).

Alternatively, EPA considered allowing a baseline year to be 1990 in all cases. That approach would not be reasonable for areas classified or designated in the future since such designations could occur well into the next century in which case 1990 would not be representative of the emissions associated with the air quality problem. EPA also considered allowing the baseline year to be any year prior to the proposed Federal action. However, this approach was rejected since it could allow, for example, an emissions source that had shutdown for many years or decades to be included in the baseline, which would not result in an accurate representation of the proposed Federal action's effect on the area's emissions. Since the purpose of this rule is to be consistent with the purpose of the SIP, which is attainment and maintenance of the NAAQS, the best choice of the baseline year should be related to the attainment and maintenance programs and the air quality levels at the time the area was designated or classified nonattainment.

The baseline emissions should be representative of the same general geographic area that is affected by the Federal action so that the relative change in emissions can be reasonably compared. Thus, if the Federal action may result in direct and indirect emissions due to development of 1000 acres, the baseline emissions should also examine direct and indirect emissions that occurred in the baseline year associated generally with the same 1000 acres.

The baseline emissions must be compared to future emissions which would be expected with the Federal action. Since attainment is a key goal of the SIP, the analysis should include the CAA mandated attainment deadline year. Some Federal actions may not be scheduled for completion until long after the attainment deadline. Other Federal actions may have more emissions on an annual basis during the construction phase than the emissions that characterize normal operating conditions. To cover these cases, the proposed future year analyses are:

1. The Clean Air Act mandated attainment year and
2. The year during which the total direct and indirect emissions from the action are expected to be the greatest on an annual basis.

Where a maintenance plan has been approved, the maintenance area would have an emissions budget and, thus, paragraph (a)(5)(iv) would not apply.

For all Federal actions that need air quality analyses to meet the criteria in paragraph (a), the analyses must show that the action does not cause or contribute to any new violation or worsen an existing violation of a standard. These requirements stem directly from section 176(c)(1)(B) of the CAA.

P. Emissions Criteria

The emission tests are required by section 176(c)(1)(B)(iii) of the CAA which states that the action must not: delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. These milestones include, where applicable, emission levels specified in the applicable SIP for purposes of:

1. Reasonable further progress (RFP);
2. A demonstration of attainment; or
3. A maintenance plan.

Further, any activity that would contradict in a negative manner any specific requirements, prohibitions, or commitments of the applicable SIP could delay timely attainment of a standard. Thus, an action does not conform unless it is in compliance with all relevant adopted rules, measures and other requirements specified in the applicable SIP. In general, a determination of conformity does not relieve the Federal agency from any other applicable requirements, including requirements of the CAA, SIP or NEPA. For example, a Federal action to permit a new airport may meet the air quality criteria specified in § 51.858, paragraph(b), but still may be found not to conform if some part of the airport operation, such as solvent use in the airport maintenance buildings, would not be in compliance with a solvent regulation in the applicable SIP. The proposed conformity regulation includes the emission tests in § 51.858, paragraph (c).

As proposed in § 51.858, paragraph (d), EPA believes that it is acceptable in some cases for Federal agencies to use the concept of tiering and analyze actions in a staged manner. Tiering is not acceptable for purposes of determining applicability, however, since that approach could undermine the rule if agencies chose to narrowly define their actions. Tiering is a reasonable approach when a very long term project is being considered since it is so difficult to forecast beyond a 20+ year timeframe. Projects that exceed the 15–20 year transportation planning program may consider the tiering approach. The initial conformity determination and subsequent conformity determinations should be consistent with the 15–20 year transportation planning. Where phased conformity determinations are done, no project may be initiated until a conformity determination has been made that covers all emissions from that phase of the project.

Q. Procedures For Determining Conformity

The proposed rules require conformity determinations to be based on the latest planning assumptions. All planning assumptions must be derived from the estimates of population, employment, travel, and congestion most recently approved by the MPO, where available. To the extent possible, these estimates should be consistent with those in the applicable SIP; where the assumptions in the conformity

determination and the SIP differ, the judgment of conformity will be more difficult.

EPA proposes that for PM–10, precursor pollutants (e.g., nitrogen oxides (NO_x), volatile organic compounds (VOC), and sulfur oxides) should be included in the conformity analyses where the applicable SIP's control strategy requires reductions in such precursor pollutants. For ozone, emissions of NO_x and VOC must be considered unless an area received an exemption under section 182(f) of the CAA or the control strategy in the approved maintenance plan does not include NO_x control measures, in which case only VOC emissions need to be considered. NO_x and VOC should not be added, but should be considered separately for purposes of determining applicability for ozone nonattainment areas.

R. Emission Projections

Total direct and indirect emission estimates must be projected, consistent with key dates with respect to the amended CAA, the project itself, and the applicable SIP. Thus, the analysis must include:

1. The Clean Air Act mandated attainment year or, if applicable, the farthest year for which emissions are projected in the maintenance plan;
2. The year during which the total direct and indirect emissions from the action are expected to be the greatest on an annual basis; and
3. Any year for which the applicable SIP specifies an annual emissions budget.

The above emission estimates are necessary in order to assure that the Federal action would not "delay timely attainment of any standard or any required interim emission reductions or other milestones in any area" (section 176(c)(1)(B)(iii) of the CAA). This provision links emissions from the action to the emission reduction targets required by the CAA to demonstrate RFP prior to the attainment date. Emission estimates are also needed to provide for determinations of conformity with respect to maintenance plans as required by section 176(c)(4)(B)(iii) of the CAA. For an action to conform to the applicable SIP, it must conform at all of the above times.

In some instances, a Federal action might reduce emissions for certain types of sources, while increasing emissions overall. For example, the construction of a new airport might result in a shortening of the length of the average trip to all regional airports and, thus, automobile emissions might be reduced. In such cases, the "net" emissions from the various direct and indirect sources should be used in the applicability and conformity analyses.

S. Air Quality Modeling

Air quality modeling is a part of each SIP. EPA has established rules and policies that require modeling for SIP and other purposes to be performed consistent with EPA guidance. By setting forth models, techniques and guidance, EPA promotes consistency and provides model users with a common basis for estimating pollutant concentrations, assessing control strategies and specifying emission limits. This guidance is required by the CAA and is periodically revised through a rulemaking process. Furthermore, EPA believes that the modeling techniques used in the SIP establish a standard for subsequent analyses that are intended to show conformity to the SIP. Therefore, this notice proposes that estimates of ambient concentrations must be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models (Revised)" (EPA publication no. 450/2–78–027R), including Supplements.

Where the EPA Guideline techniques are inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific lead agency program. EPA proposes that written approval of the EPA Regional Administrator must be obtained for any modification or substitution.

T. Mitigation Measures

If an action does not initially conform with the applicable SIP, then a plan for mitigation or for finding emission offsets could be pursued. Emission offsets are appropriate where an action (with or without mitigation measures) still results in emissions that do not otherwise conform to an applicable SIP. Mitigation measures, in contrast, reduce the potential impact of an action so that the action would result in less emissions. Assuming implementation of the mitigation measures, the conformity analysis (i.e., consistency with the emissions budget, air quality modeling, emission milestones, etc.) would consider a smaller amount of emissions associated with the action.

Any measures that are assumed to mitigate air quality impacts must be identified and the process for implementation and enforcement of such measures must be described. Mitigation measures must be reasonably certain to occur. Thus, public and/or private funding should be identified for the purposes of implementation. A showing that the planned mitigation measures will provide sufficient emissions reductions to completely mitigate the identified emissions impacts should be included as part of the conformity determination. If the Federal agency, other governmental agency, or private sponsor of the project fails to implement the mitigation measures committed to and found necessary in the conformity determination, then the conformity determination automatically becomes invalid and results in the revocation of all permits, approvals, and licenses originally supported by that conformity determination. This revocation would result in the need for a new conformity determination.

Mitigation measures should generally be included by the Federal agency in enforceable documents such as permit conditions. In some cases a SIP revision might be necessary to provide for Federal enforceability. As States adopt their own conformity rules, they may also adopt appropriate enforcement mechanisms as part of those rules. Such mitigation measures may need to be revised due to unforeseen circumstances that may arise as the action and/or related activity is completed. Where the revised mitigation measures are subject to public review and it is demonstrated that the revised measures continue to support the conformity determination, EPA proposes that such revision would be acceptable.

States may choose to make mitigation measures committed to by a project sponsor as part of a conformity determination automatically enforceable through the SIP. One possible mechanism for incorporating mitigation measures into the SIP is for States to include a generic provision in their conformity SIPs incorporating by reference the mitigation measures identified as necessary for making a conformity determination. Similar approaches have been used by EPA and State agencies for making permit conditions issued under PSD and new source review enforceable SIP measures.

IV. Economic Impact

In development of these rules, EPA has attempted to avoid the unnecessary administrative costs that could occur if Federal actions with minimal or no air quality impact are subject to the full analysis requirements of these rules. Thus, the rules set "de minimis" levels, exempt actions that are already required to complete equivalent air quality reviews by other rules, and allow

Federal agencies to identify and justify (through separate rulemaking) actions that should be presumed to conform.

The cost of determining conformity falls to Federal agencies and/or private sponsors of projects needing Federal action who will need to fund the analysis of the actions for air quality impact. In addition, State and local agencies may choose to participate in development and/or review of the analysis. To a large degree, this analysis already occurs through the NEPA process and, to that degree, no or very little added costs would occur. However, the conformity rules would result in additional analysis and cost in some cases.

The EPA estimates that 5,000 Federal actions may need to be reviewed annually for applicability of the conformity rule. The number of actions that require a conformity determination is estimated to be less than 100 per year, of which only about 10 are expected to require an extensive analysis. In total, the anticipated cost of the general conformity rules is estimated to be at most $1.8 million per year.

V. Public Participation

A. Comments and the Public Docket

Comments are invited on all aspects of these proposed rules. All comments should be directed to the contact person (see **FOR FURTHER INFORMATION CONTACT**). Copies of comments and other information are available in docket A–93–07 (see **ADDRESSES**).

B. Public Hearing

Anyone who wants to present testimony about this proposal at the public hearing (see **DATES**) should, if possible, notify the contact person (see **FOR FURTHER INFORMATION CONTACT**) at least seven days prior to the day of the hearing. The contact person should be given an estimate of the time required for the presentation of testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing for scheduling those who have not notified the contact earlier. This testimony will be scheduled on a first-come, first-served basis to follow the previously scheduled testimony. EPA requests that the statements or material presented identify for each issue whether it is the general conformity rules or the transportation conformity rules or both that are being addressed.

The hearing will be conducted informally and technical rules of evidence will not apply. The official records of the hearing will be kept open until the close of the comment period to allow submission of rebuttal and supplementary testimony. A written transcript of the hearing will be placed in the dockets for the general conformity (A–93–07) and transportation conformity (A–92–21) actions.

VI. Administrative Requirements

A. Administrative Designation

Under Executive Order 12291, EPA is required to judge whether a regulation is "major" and, therefore, subject to the requirement "to the extent permitted by law" to prepare a regulatory impact analysis in conjunction with the major regulation. Major rules are defined as those likely to result in the following:

1. An annual effect on the economy of $100 million or more.
2. A major increase in costs or prices for consumers or individual industries.
3. Significant adverse effects on competition, employment, investment, productivity, innovation, or international trade.

The EPA has determined that this action is not "major," and therefore, a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 and applicable EPA guidelines require Federal agencies to identify potentially adverse impacts of Federal regulations upon small entities. The EPA has determined that the regulation proposed today will not have a significant impact on a substantial number of small entities. This regulation directly affects only Federal agencies. Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. *et seq.*, I certify that this regulation does not have a significant impact on a substantial number of small entities. The EPA, however, invites any information which might affect this certification.

C. Reporting and Recordkeeping Requirements

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. The information collection request document has been prepared by EPA and a copy may be obtained from Sandy Farmer, Information Policy Branch (PM–223Y), US EPA, 401 M Street, SW, Washington, DC 20460, (202) 260–2744.

The average annual burden hours for the collection of information is approximately 1100 hours per respondent for about 85 percent of the respondents; and 470 hours per respondent for the other 15 percent of the respondents.

Comments regarding this collection of information may be sent to Chief, Information Policy Branch (PM–223), US EPA, 401 M Street, SW, Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked: Attention Desk Officer for EPA. The final rule will respond to any comments on the information collection requirements contained in this proposal.

D. Federalism Implications

There are no federalism effects associated with this rule.

List of Subjects in 40 CFR Parts 51 and 93

Administrative practice and procedures, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: March 8, 1993.

Carol Browner,

Administrator.

For the reasons set forth in the preamble, the Code of Federal Regulations, title 40, chapter I, is proposed to be amended as follows:

PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Part 51 is amended by adding a new subpart W to read as follows:

Subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans

Sec.

51.850 Prohibition.
51.851 State implementation plan (SIP) revision.
51.852 Definitions.
51.853 Applicability.
51.854 Conformity analysis.
51.855 Reporting requirements.
51.856 Public participation.
51.857 Frequency of conformity determinations.
51.858 Criteria for determining conformity of general Federal actions.
51.859 Procedures for conformity determinations of general Federal actions.
51.860 Mitigation of air quality impacts.

Subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans

§ 51.850 Prohibition.

(a) No department, agency or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan.

(b) A Federal agency must make a determination that a Federal action conforms to the applicable implementation plan in accordance with the requirements of this rule before the action is taken.

(c) Notwithstanding any provision of this Subpart, a determination that an action is in conformance with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, National Environmental Policy Act (NEPA), or the Clean Air Act (CAA).

§ 51.851 State implementation plan (SIP) revision.

(a) Each State must submit to the Environmental Protection Agency (EPA) a revision to its applicable implementation plan which contains criteria and procedures for assessing the conformity of Federal actions to the applicable implementation plan, consistent with this subpart. The State must submit the conformity provisions within 12 months after promulgation of this rule.

(b) The Federal conformity rules under this subpart and 40 CFR part 93, in addition to any existing applicable State requirements, establish the conformity criteria and procedures necessary to meet the CAA requirements until such time as the required conformity SIP revision is approved by EPA. A State's conformity provisions may contain criteria and procedures more stringent than the requirements described in these regulations. Following EPA approval of the State conformity provisions (or a portion thereof) in a revision to the applicable SIP, the approved (or approved portion of the) State criteria and procedures would govern conformity determinations and the Federal conformity regulations contained in 40 CFR part 93 would apply only for the portion, if any, of the State's conformity provisions that is not approved by EPA. In addition, any previously applicable SIP requirements relating to conformity remain enforceable until the State revises its SIP to specifically remove them from the SIP and that revision is approved by EPA.

§ 51.852 Definitions.

Terms used but not defined in this part shall have the meaning given them by the CAA, and EPA's regulations, in that order of priority.

Administrator means the Administrator of EPA.

Applicable implementation plan or applicable SIP means the portion (or portions) of the SIP or most recent revision thereof, which has been approved under section 110 of the CAA, or promulgated under section 110(c) of the CAA (Federal implementation plan), or promulgated or approved pursuant to regulations promulgated under section 301(d) of the CAA and which implements the relevant requirements of the CAA. It also includes any EPA-approved maintenance plan meeting the requirements of section 175A of the CAA.

Areawide air quality modeling analysis means an assessment on a scale that includes the entire nonattainment or maintenance area which uses an air quality dispersion model to determine the effects of emissions on air quality.

Cause or contribute to a new violation means a Federal action that:

(1) Causes a new violation of a national ambient air quality standard (NAAQS) at a location in a nonattainment or maintenance area which would otherwise not be in violation of the standard during the future period in question if the Federal action were not taken, or

(2) Contributes, in conjunction with other reasonably foreseeable actions, to a new violation in a manner that would increase the frequency or severity of a new violation of a standard in such area.

Criteria pollutant or standard means any pollutant for which there is established a NAAQS at 40 CFR part 50.

Direct Emissions means those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and occur at the same time and place as the action.

Emissions budget is that portion of the total allowable emissions defined in the applicable SIP for the purpose of meeting reasonable further progress milestones or attainment or maintenance demonstrations, for any criteria pollutant or its precursors.

EPA means the Environmental Protection Agency.

Federal action means any activity engaged in by a department, agency, or instrumentality of the Federal government, or any activity that a department, agency or instrumentality of the Federal government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 *et seq.*).

Federal agency means, for purposes of this rule, a Federal department, agency, or instrumentality of the Federal government.

Hotspot air quality modeling analysis means an assessment of localized impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, which uses an air quality dispersion model to determine the effects of emissions on air quality.

Increase the frequency or severity of any existing violation of any standard in any area means to cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.

Indirect (Exclusive) Emissions means those emissions of a criteria pollutant or its precursors that are caused by the Federal action, but may occur later in time and/or may be farther removed in distance from the action itself but are still reasonably foreseeable and which the Federal agency has and will continue to maintain some authority to control.

Indirect (Inclusive) Emissions means those emissions of a criteria pollutant or its precursors that are caused by the Federal action, but may occur later in time and/or may be farther removed in distance from the action itself but are still reasonably foreseeable.

Maintenance area means an area with a maintenance plan approved under section 175A of the CAA.

Maintenance plan means a revision to the applicable SIP, meeting the requirements of section 175A of the CAA.

Metropolitan Planning Organization (MPO) is that organization designated as being responsible, together with the State, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607. It is the forum for cooperative transportation decision-making.

Milestone has the meaning given in section 182(g)(1) of the CAA.

National ambient air quality standards (NAAQS) are those standards established pursuant to section 109 of the CAA and include carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO_2), ozone, particulate matter (PM–10), and sulfur dioxide (SO_2).

NEPA is the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Nonattainment Area means an area designated under section 107 of the CAA and described in 40 CFR part 81.

Regionally significant action means a Federal action whose direct and indirect (inclusive/exclusive) emissions of any pollutant represent 10 percent or more of a nonattainment or maintenance area's total emissions for that pollutant.

§ 51.853 Applicability.

(a) Conformity determinations for Federal actions related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 *et seq.*) must meet the procedures and criteria of 40 CFR part 51, subpart T, in lieu of the procedures set forth in this subpart.

(b) Conformity determinations for Federal actions not covered by paragraph (a) of this section are required for each Federal action with a total of direct and indirect (inclusive/exclusive) emissions of any of the following pollutants that would equal or exceed any of the rates in paragraphs (b)(1), (2), or (3) of this section, in the specified nonattainment area or maintenance area.

(1) For purposes of paragraph (b) of this section, the following rates apply in nonattainment areas (NAAs):

	Tons/ Year
Ozone (VOCs or NO_x):	
Serious NAAs	25
Severe NAAs	25
Extreme NAAs	10
Other ozone NAAs	40
Carbon monoxide:	
All NAAs	100
SO_2 and NO_2:	
All NAAs	40
PM–10:	
All NAAs	15
Pb:	
All NAAs	0.6

(2) For purposes of paragraph (b) of this section, the following rates apply in maintenance areas:

	Tons/ Year
Ozone (VOCs or NO_x), SO_2 and NO_2:	
All Maintenance Areas	40
Carbon monoxide:	
All Maintenance Areas	100
PM–10:	
All Maintenance Areas	15
Pb:	
All Maintenance Areas	0.6

(3) Where a State has established rates for the review of modifications to major stationary sources in their applicable SIP that are lower than those specified in, paragraph (b)(1) or (2) of this section, the lower rates shall apply for purposes of this paragraph. In no case may State thresholds for applicability be less stringent than those identified in paragraph (b) of this section.

(c) Notwithstanding the other requirements of this subpart, a conformity determination is not required for the following Federal actions or portion thereof if the action is subject to and meets any of the air quality requirements cited below, as such actions are presumed to conform:

(1) The portion of an action that includes major new or modified stationary sources that require a permit under the New Source Review (NSR) program (section 173 of the CAA) or the Prevention of Significant Deterioration program (title I, part C of the CAA);

(2) Response actions carried out under the Comprehensive, Environmental Response, Compensation, and Liability Act and associated regulations; and

(3) Sewage treatment works projects funded under the Clean Water Act.

(d) Notwithstanding the other requirements of this subpart, the following Federal activities are presumed to conform, unless the Federal agency determines otherwise based on its own information and after reviewing any information presented to the Federal agency:

(1) Temporary Federal actions in response to national emergencies;

(2) Actions for purposes of research, investigations, studies, demonstrations, or training, where no environmental detriment is incurred and/or the particular action furthers air quality research;

(3) Actions specified by individual Federal agencies that have met both criteria set forth in paragraphs (e)(1) or (e)(2) of this section, and EPA-established procedures set forth in paragraphs (f)(1) through (f)(3) and (g) of this section; and

(4) The sale of land from a Federal agency.

(e) The Federal agency must meet the criteria for establishing exemptions by fulfilling the requirements set forth in either paragraph (e)(1) or (e)(2) of this section:

(1) The Federal agency must clearly demonstrate using methods consistent with this rule that the total of direct and indirect (inclusive/exclusive) emissions from the type of activities which would be exempt from a conformity analysis would not:

(i) Cause or contribute to any new violation of any standard in any area;

(ii) Interfere with provisions in the applicable SIP for maintenance of any standard;

(iii) Increase the frequency or severity of any existing violation of any standard in any area; or

(iv) Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:

(A) A demonstration of reasonable further progress;

(B) A demonstration of attainment; or

(C) A maintenance plan; or

(2) The Federal agency must provide documentation that the total of direct and indirect (inclusive/exclusive) emissions from similar, previous actions taken by the Federal agency under the proposed exemption were below the emission rates for a conformity determination that are established in paragraph (b) of this section, and that future such actions would be below those rates.

(f) In addition to meeting the criteria for establishing exemptions set forth in paragraphs (e)(1) or (e)(2) of this section, the following procedures must also be complied with to exempt activities from a conformity analysis:

(1) The Federal agency must identify through publication in the **Federal Register** its list of proposed exemptions from conformity determinations and the basis for the proposed exemptions;

(2) The Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, the agency designated under section 174 of the CAA and the MPO and provide at least 45 days for the public to comment on the list of proposed exemptions;

(3) the Federal agency must document its response to all the comments received and make the comments, response, and final list of exemptions available to the public upon request; and

(4) the Federal agency must publish the final list of exemptions in the **Federal Register**.

(g) Notwithstanding the other requirements of this subpart, when the total of direct and indirect (inclusive/exclusive) emissions of any pollutant from a Federal action does not equal or exceed the rates specified in paragraph (b) of this section, but represents 10 percent or more of a nonattainment or maintenance area's total emissions of that pollutant, the action is defined as a regionally significant action and a

§ 51.858 conformity determination is required for the Federal action.

(h) Where an action otherwise exempted under paragraph (d)(3) of this section is a regionally significant action or does not in fact meet the criteria in paragraph (e) of this section, that action shall not be exempt.

(i) The provisions of this subpart shall apply in any area that:

(1) Is designated as a nonattainment area in 40 CFR part 81; or

(2) Has a maintenance plan as part of the applicable SIP;

§ 51.854 Conformity analysis.

Any Federal department, agency, or instrumentality of the Federal government taking an action subject to this subpart must make its own conformity determination consistent with the requirements of this subpart. In making its conformity determination, a Federal agency must consider comments from other interested parties. Where multiple Federal agencies have jurisdiction for various aspects of a project, a Federal agency may choose to adopt the analysis of another Federal agency or develop its own analysis in order to make its conformity determination.

§ 51.855 Reporting requirements.

(a) A Federal agency making a conformity determination under § 51.858 must provide to the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, the agency designated under section 174 of the CAA and the MPO a 45 day notice which describes the proposed action and the Federal agency's draft conformity determination on the action.

(b) A Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, the agency designated under section 174 of the Clean Air Act and the MPO within 45 days after making a final conformity determination under § 51.858. (Approved by the Office of Management and Budget under the control number – .)

§ 51.856 Public participation.

(a) A Federal agency must make available for review, upon request, to all interested parties its applicability analysis under § 51.853 and/or its draft conformity determination under § 51.858 with supporting materials which describe the analytical methods and conclusions relied upon in making the applicability analysis and/or draft conformity determination.

(b) A Federal agency must make public its draft conformity determination for a Federal action by placing a notice by prominent advertisement in the area affected by the action and by providing 45 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process.

(c) A Federal agency must document its response to all the comments received and make the comments and responses available to the public upon request within 45 days of the final conformity determination.

(d) A Federal agency must make public its final conformity determination for a Federal action by placing a notice by prominent advertisement in the area affected by the action within 45 days of the final conformity determination.

§ 51.857 Frequency of conformity determinations.

(a) The conformity status of a Federal action automatically lapses 5 years from the date of the initial determination unless the Federal action has been completed or a continuous program has been commenced to implement that Federal action within a reasonable time.

(b) Ongoing Federal activities at a given site showing continuous progress are not new actions and do not require periodic redeterminations so long as such activities are within the scope of the project as originally considered.

(c) As described in § 51.858, paragraph (d), Federal agencies may, in some cases, use the concept of tiering and make short-term conformity determinations for those impacts that are reasonably foreseeable and make conditional long-term conformity determinations which defer the conformity decision on long-range projects. In such cases the conformity determination of the long-term impacts of the action must be completed before any aspects of the project beyond those considered in the short-term conformity determination are taken by the Federal agency.

§ 51.858 Criteria for determining conformity of general Federal actions.

(a) An action required under § 51.853 to have a conformity determination for a specific pollutant, will be determined to conform to the applicable SIP if, for each pollutant that exceeds the rates in § 51.853, paragraph (b), or otherwise requires a conformity determination due to the total of direct and indirect (inclusive/exclusive) emissions from the action, the action meets the requirements of paragraph (c) of this section, and meets any of the following requirements:

(1) For any criteria pollutant, the total of direct and indirect (inclusive/exclusive) emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration;

(2) For ozone or nitrogen dioxide, the total of direct and indirect (inclusive/exclusive) emissions from the action are fully offset within the same nonattainment (or maintenance) area through a revision to the applicable SIP or a similarly enforceable measure that effects emission reductions so that there is no net increase in emissions of that pollutant;

(3) For any criteria pollutant, the total of direct and indirect (inclusive/exclusive) emissions from the action meet the requirements specified in paragraph (b) of this section, based on areawide air quality modeling analysis and, except for ozone and nitrogen dioxide, hotspot air quality modeling analysis;

(4) For CO or PM–10,

(i) The total of direct and indirect (inclusive/exclusive) emissions from the action meet the requirements specified in paragraph (b) of this section, based on hotspot air quality modeling analysis and

(ii) Where the action is a regionally significant action or where the applicable SIP includes an areawide emission budget for CO and/or PM–10, the total of direct and indirect (inclusive/exclusive) emissions from the action also meet the requirements of paragraph (a)(5) of this section; or

(5) For ozone or nitrogen dioxide, and for purposes of paragraph (a)(4)(ii) of this section, each portion of the action or the action as a whole meets any of the following requirements:

(i) Where EPA has approved a revision to an area's attainment or maintenance demonstration after 1990, the total of direct and indirect (inclusive/exclusive) emissions from the action are determined by the State agency responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would not exceed the emissions budget specified in the applicable SIP;

(ii) The action is specifically included in a current transportation plan and transportation improvement program which have been found to conform to the applicable SIP under 40 CFR part 51, subpart T;

(iii) The action fully offsets within the same nonattainment (or maintenance) area through a revision to the applicable SIP or an equally enforceable measure

that effects emission reductions equal to or greater than the total of direct and indirect (inclusive/exclusive) emissions from the action so that there is no net increase in emissions of that pollutant; or

(iv) Where EPA has not approved a revision to the relevant SIP attainment or maintenance demonstration since 1990, the total of direct and indirect (inclusive/exclusive) emissions from the action do not increase emissions with respect to the baseline emissions, as described below:

(A) The baseline emissions are the total of direct and indirect (inclusive/exclusive) emissions estimated to have occurred in the geographic area affected by the proposed Federal action during either calendar year 1990 or, if a classification is promulgated in 40 CFR part 81, the baseline emissions may be defined as those estimated to have occurred during the calendar year (or, where the classification is based on multiple years, the most representative year) that is the basis for the classification;

(B) The baseline emissions, without the action, must be compared to the total of direct and indirect (inclusive/exclusive) emissions from the action.

(b) The required air quality modeling analyses must:

(1) Reflect the total of direct and indirect (inclusive/exclusive) emissions from the action; and

(2) Show that the action does not:

(i) Cause or contribute to any new violation of any standard in any area; or

(ii) Increase the frequency or severity of any existing violation of any standard in any area.

(c) An action subject to this subpart may not be determined to conform to the applicable SIP unless the total of direct and indirect (inclusive/exclusive) emissions from the action is in compliance or consistent with all relevant requirements and milestones contained in the applicable SIP, such as elements identified as part of the reasonable further progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice requirements.

(d) For the purposes of making the conformity determination under this section, but not for purposes of determining applicability under § 51.853, Federal agencies may use the concept of tiering and:

(1) Make short-term (i.e., up to 15–20 years, consistent with transportation planning in the area) conformity determinations for those impacts that are reasonably foreseeable and

(2) Make conditional long-term conformity determinations which defer the conformity decision on long-range projects (i.e., beyond a 15–20 year timeframe) where the impacts are only speculative at the point in time of the short-term conformity determination; the Federal agency must make the long-term conformity determinations prior to the time that the decision to take any of those subsequent actions is made.

§ 51.859 Procedures for conformity determinations of general Federal actions.

(a) The analyses required under this subpart must be based on the latest planning assumptions.

(1) All planning assumptions must be derived from the estimates of population, employment, travel, and congestion most recently approved by the MPO where available.

(2) Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved in writing by the MPO or other agency authorized to make such estimates for the urban area.

(b) The analyses required under this Subpart must be based on the latest and most accurate emission estimation techniques available.

(1) For motor vehicle emissions, the most current version of the motor vehicle emissions model specified by EPA and available for use in the preparation or revision of SIPs in that State must be used for the conformity analysis.

(2) For non-motor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the "Compilation of Air Pollutant Emission Factors (AP–42)" must be used for the conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity analysis.

(c) The air quality modeling analyses required under this Subpart must be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the "Guideline on Air Quality Models (Revised)" (EPA publication No. 450/2–78–027R), including Supplements, unless:

(1) The Guideline techniques are inappropriate, in which case the model may be modified or another model substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program; and

(2) Written approval of the EPA Regional Administrator is obtained for any modification or substitution.

(d) The analyses required under this Subpart, except § 51.858, paragraph (a)(1), must be based on the total of direct and indirect (inclusive/exclusive) emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases:

(1) The CAA mandated attainment year or, if applicable, the farthest year for which emissions are projected in the maintenance plan;

(2) The year during which the total of direct and indirect (inclusive/exclusive) emissions from the action is expected to be the greatest on an annual basis; and

(3) Any year for which the applicable SIP specifies an annual emissions budget.

§ 51.860 Mitigation of air quality impacts.

(a) Any measures that are intended to mitigate air quality impacts must be identified and the process for implementation and enforcement of such measures must be described, including a funding commitment from the Federal agency or local sponsors as applicable and an implementation schedule containing explicit timelines for implementation.

(b) In instances where the Federal agency is licensing, permitting or otherwise approving the action of another governmental or private entity, approval by the Federal agency must be conditioned on the other entity meeting the mitigation measures set forth in the conformity determination.

(c) Any license, permit, or other written approval document issued by a Federal agency to the other governmental or private entity must contain the requirement that failure to implement the mitigation measures committed to in the conformity determination and found necessary to support the conformity determination will result in the automatic revocation of the conformity determination and cancellation of the license, permit or approval.

(d) When necessary because of changed circumstances, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination. Any proposed change in the mitigation measures is subject to the reporting requirements of § 51.856 and the public participation requirements of § 51.857.

3. A new part 93 is added to read as follows:

PART 93—DETERMINING CONFORMITY OF FEDERAL ACTIONS TO STATE OR FEDERAL IMPLEMENTATION PLANS

Subpart A—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act

Sec.
93.100 Purpose.
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93.160 Mitigation of Air Quality Impacts.

Authority: 42 U.S.C. 7506(c).

Subpart A—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act

§ 93.100 Purpose.

The purpose of this subpart is to implement section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 *et seq.*), and the related requirements of 23 U.S.C. 109(j), with respect to the conformity of transportation plans, programs, and projects which are developed, funded, or approved by the United States Department of Transportation (DOT), and by metropolitan planning organizations (MPOs) or other recipients of funds under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 *et seq.*). This subpart sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to an applicable implementation plan developed pursuant to section 110 and Part D of the CAA.

§ 93.101 Definitions.

Terms used but not defined in this subpart shall have the meaning given them by the CAA, titles 23 and 49 U.S.C., other Environmental Protection Agency (EPA) regulations, or other DOT regulations, in that order of priority.

Applicable implementation plan is defined in section 302(q) of the CAA and means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under section 110 of the CAA, or promulgated under section 110(c) of the CAA, or promulgated or approved pursuant to regulations promulgated under section 301(d) of the CAA and which implements the relevant requirements of the CAA.

CAA means the Clean Air Act, as amended.

Cause or contribute to a new violation for a project means to cause or contribute to a new violation of a standard at a location or over a region which would otherwise not be in violation of the standard during the future period in question, if the project were not implemented.

Control strategy implementation plan is the applicable implementation plan which contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy CAA requirements for demonstrations of reasonable further progress and attainment.

Control strategy period with respect to particulate matter less than 10 microns in diameter (PM_{10}), carbon monoxide (CO), nitrogen dioxide (NO_2), and/or ozone precursors (volatile organic compounds and oxides of nitrogen), means that period of time after EPA approves control strategy implementation plans containing strategies for controlling PM_{10}, NO_2, CO, and/or ozone, as appropriate. This period ends when a State submits and EPA approves a request under section 107(d) of the CAA for redesignation to an attainment area.

Design concept means the type of facility identified by the project, e.g., freeway, expressway, arterial highway, grade-separated highway, reserved right-of-way rail transit, mixed-traffic rail transit, exclusive busway, etc.

Design scope means the design aspects which will affect the proposed facility's impact on regional emissions, usually as they relate to vehicle or person carrying capacity and control, e.g., number of lanes to be constructed or added, length of project, signalization, access control including approximate number and location of interchanges, preferential treatment for high-occupancy vehicles, etc.

DOT means the United States Department of Transportation.

Emissions budget is that portion of the total allowable emissions defined in the applicable implementation plan for the purpose of meeting reasonable further progress milestones or attainment or maintenance demonstrations, for any criteria pollutant or its precursors, allocated by the applicable implementation plan to highway and transit vehicles.

EPA means the Environmental Protection Agency.

FHWA means the Federal Highway Administration of DOT.

FHWA/FTA project, for the purpose of this regulation, is any highway or transit project which is proposed to receive funding assistance and approval through the Federal-Aid Highway program or the Federal mass transit program, or requires Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) approval for some aspect of the project, such as connection to an interstate highway or deviation from applicable design standards on the interstate system.

FTA means the Federal Transit Administration of DOT.

Highway project is an undertaking to implement or modify a highway facility or highway-related program. Such an undertaking consists of all required phases necessary for implementation. For analytical purposes, it must be defined sufficiently to:

(1) Connect logical termini and be of sufficient length to address environmental matters on a broad scope;

(2) Have independent utility or significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and

(3) Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

Horizon year is a year for which the transportation plan describes the

envisioned transportation system according to § 93.106.

Hot-spot analysis is an estimation of likely future localized CO and PM_{10} pollutant concentrations and a comparison of those concentrations to the national ambient air quality standards. Pollutant concentrations to be estimated should be based on the total emissions burden which may result from the implementation of a single, specific project, summed together with future background concentrations (to include emissions from facilities or actions which have completed environmental review) expected in the area. The total concentration must be estimated and analyzed at appropriate receptor locations in the area substantially affected by the project.

Incomplete data area means any ozone nonattainment area which EPA has classified, in 40 CFR part 81, as an incomplete data area.

Increase the frequency or severity means to cause a location or region to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.

ISTEA means the Intermodal Surface Transportation Efficiency Act of 1991.

Maintenance area means any geographic region of the United States designated nonattainment pursuant to the CAA Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under section 175A of the CAA Amendments.

Metropolitan planning organization (MPO) is that organization designated as being responsible, together with the State, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607. It is the forum for cooperative transportation decision-making.

Milestone has the meaning given in section 182(g)(1) of the CAA.

National ambient air quality standards (NAAQS) are those standards established pursuant to section 109 of the CAA.

NEPA means the National Environmental Policy Act.

NEPA process completion, for the purposes of this regulation, with respect to FHWA or FTA, means the point at which there is a specific action to make a determination that a project is categorically excluded, to make a Finding of No Significant Impact, or to issue a record of decision on a Final Environmental Impact Statement under NEPA. Other recipients of funds under title 23 U.S.C. or the Federal Transit Act must establish and document project-level conformity in an environmental document submitted to FHWA or FTA prior to Federal completion of the NEPA process.

Nonattainment area means any geographic region of the United States which has been designated as nonattainment under § 107 of the CAA for any pollutant for which a national ambient air quality standard exists.

Non-federal TCM is any transportation control measure implemented by a State or local transportation agency which utilizes no Federal funding and requires no Federal approval.

Not classified area means any carbon monoxide nonattainment area which EPA has not classified.

Phase II of the interim period with respect to a pollutant or pollutant precursor means that period of time after the effective date of this rule, lasting until the relevant control strategy implementation plans are approved or promulgated by EPA.

Project means a highway project or transit project.

Regional-scale with respect to an actual or potential carbon monoxide, ozone, nitrogen dioxide, or particulate matter (less than 10 microns in diameter) national ambient air quality standard violation refers to a violation which occurs on a wide geographic scale due to emissions over a wide area, possibly over an extended period of time. This is in contrast to a hot-spot violation which occurs near a specific source and is predominantly due to recent emissions from that source being added to background concentrations.

Regionally significant, in the case of transportation facilities, means any facility with an arterial or higher functional classification, plus any other facility that serves regional travel needs (such as access to and from the area outside of the region, to major activity centers in the region, or to transportation terminals) and would normally be included in the modeling for the transportation network.

Rural area means any geographic region of the United States which has a population of less than 50,000 and which is not located within a Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area as defined by the United States Census Bureau.

Standard means a national ambient air quality standard.

Submarginal area means any ozone nonattainment area which EPA has classified as submarginal in 40 CFR part 81.

Transit is mass transportation by bus, rail, or other conveyance which provides general or special service to the public on a regular and continuing basis. It does not include school buses or charter or sightseeing services.

Transit project is an undertaking to implement or modify a transit facility or transit-related program; purchase transit vehicles or equipment; or provide financial assistance for transit operations. It would not include actions that are solely within the jurisdiction of local transit agencies, such as routes, schedules, or fares. It may consist of several phases. For analytical purposes, it must be defined inclusively enough to:

(1) Connect logical termini and be of sufficient length to address environmental matters on a broad scope;

(2) Have independent utility or independent significance, i.e., be a reasonable expenditure even if no additional transportation improvements in the area are made; and

(3) Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

Transitional area means any ozone nonattainment area which EPA has classified as transitional in 40 CFR part 81.

Transportation control measure (TCM) is any measure that is specifically identified and committed to in the applicable implementation plan that is either one of the types listed in section 108 of the CAA, or any other measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Notwithstanding the above, vehicle technology-based, fuel-based, and maintenance-based measures which control the emissions from vehicles under fixed traffic conditions are not TCMs for the purposes of this regulation.

Transportation improvement program (TIP) is a program of transportation projects drawn from or consistent with the transportation plan and developed pursuant to title 23 U.S.C. and the Federal Transit Act.

Transportation plan is the long-range plan which identifies facilities that should function as an integrated metropolitan transportation system and is developed pursuant to title 23 U.S.C. and the Federal Transit Act. It gives emphasis to those facilities that serve important national and regional transportation functions, and includes a financial plan that demonstrates how

the transportation plan can be implemented.

Transportation project is a highway project or a transit project.

§ 93.102 Applicability.

(a) *Action applicability.* Except as provided for in paragraph (c) of this section or § 93.112 conformity determinations are required for:

(1) The adoption, acceptance, or approval of transportation plans developed pursuant to 23 U.S.C. 134 or the Federal Transit Act by an MPO or DOT;

(2) The adoption, acceptance, or approval of TIPs developed pursuant to 23 U.S.C. 134 or the Federal Transit Act by an MPO or DOT; and

(3) The approval, funding, or implementation of FHWA/FTA projects.

(b) *Geographic Applicability.* The provisions of this subpart shall apply in all nonattainment and maintenance areas for transportation-related criteria pollutants. The transportation-related criteria pollutants are ozone, carbon monoxide, nitrogen dioxide, and particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The provisions apply with respect to emissions of the criteria pollutants themselves and to emissions of precursor pollutants, i.e., volatile organic compounds and nitrogen oxides in ozone areas, nitrogen oxides in nitrogen dioxide areas, and volatile organic compounds, nitrogen oxides, and PM_{10} in PM_{10} areas.

(c) *Limitations.* Projects subject to this regulation for which the NEPA process and a conformity determination have been completed by FHWA or FTA may proceed toward implementation without further conformity determinations. All phases of such projects which were considered in that action are also included, if those phases were for the purpose of funding, final design, right-of-way acquisition, construction, or any combination of these phases. However, any significant change in design concept and scope or a supplemental environmental document for air quality purposes shall also trigger a requirement for a new conformity determination of the project.

§ 93.103 Priority.

When assisting or approving any action with air quality-related consequences, FHWA and FTA shall give priority to the implementation of those transportation portions of an applicable implementation plan prepared to attain and maintain the NAAQS. This priority shall be consistent with statutory requirements for allocation of funds among States or other jurisdictions. Where other important factors are a consideration, transportation measures which are not included in the applicable implementation plan can be funded or implemented; however, transportation measures in the applicable implementation plan must retain a high priority and funding decisions must promote their timely implementation to the extent that funds are available.

§ 93.104 Frequency of conformity determinations.

(a) *Transportation plans.*

(1) Each new transportation plan must be found to conform based on the requirements of this rule and the applicable implementation plan prior to the transportation plan's adoption by the MPO.

(2) All transportation plan revisions must be found to conform based on the requirements of this rule and the applicable implementation plan, unless the revision merely adds or deletes exempt projects listed in § 68.112. The conformity determination must be based on the transportation plan and the revision taken as a whole.

(3) Conformity must be redetermined within 18 months of the following:

(i) March 15, 1993;

(ii) Any implementation plan submitted by a State which meets the completeness criteria, is approved by EPA, and which:

(A) establishes or revises a transportation-related emissions budget (as required by CAA sections 175A(a), 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 189(a)(1)(B), and 189(b)(1)(A); and sections 192(a) and 192(b), for nitrogen dioxide); or

(B) Adds, deletes, or changes TCMs; and

(iii) Any implementation plan promulgated by EPA which establishes or revises a transportation-related emissions budget or adds, deletes, or changes TCMs.

(4) In any case, conformity determinations must be made no less frequently than every three years.

(b) *Transportation improvement programs.*

(1) A new TIP must be found to conform based on the requirements of this rule and the applicable implementation plan prior to the TIP's approval.

(2) A TIP amendment requires a new conformity determination for the entire TIP prior to its approval, unless the amendment merely adds or deletes exempt projects listed in § 93.112.

(3) Conformity must be redetermined by the MPO and DOT within six months of the MPO's adoption of a new or revised transportation plan, unless the new or revised plan merely adds or deletes exempt projects listed in § 93.112.

(4) In any case, conformity determinations must be made no less frequently than every three years.

(c) *Projects.* FHWA/FTA projects must be found to conform prior to their approval.

§ 93.105 Consultation.

The implementation plan revision required under § 51.393 of this chapter shall include consultation procedures to be undertaken by MPOs, State departments of transportation, and DOT with State and local air quality agencies before making conformity determinations, and shall also include consultation procedures for ensuring an opportunity for public participation and review of draft transportation plans and TIPs prior to final action.

(a) *Interagency consultation procedures.* States shall provide in the implementation plan well-defined procedures whereby representatives of the MPOs; State and local air quality planning agencies; State and local transportation agencies; and other organizations with responsibilities for developing, submitting, or implementing provisions of an implementation plan required by the CAA consult with each other and with local or regional offices of EPA, FHWA, and FTA on the development of the implementation plan, the transportation plan, and the TIP. Interagency consultation procedures shall include, at a minimum:

(1) The roles and responsibilities assigned to each agency at each stage in the implementation plan development process and the transportation planning process, including technical meetings;

(2) The organizational level of regular consultation;

(3) A process for circulating (or providing ready access to) draft documents and supporting materials for comment prior to formal adoption or publication;

(4) The frequency of, or process for convening, consultation meetings and responsibilities for agenda formation;

(5) A process for escalating disagreements to higher organizational levels for settlement;

(6) The development of a list of the TCMs in the applicable implementation plan;

(7) A process involving the MPO, State and local air quality planning agencies, State and local transportation agencies, EPA, and DOT for evaluating and choosing a model (or models) and associated methods and assumptions to

be used in hot-spot analyses and regional air quality modeling;

(8) A process involving the MPO, State and local air quality planning agencies, and State and local transportation agencies for evaluating events which will trigger new conformity determinations in addition to those triggering events established in § 93.104;

(9) A process involving the MPO, State and local air quality planning and transportation agencies, EPA, and DOT for evaluating whether projects otherwise exempted from meeting the requirements of this subpart (see §§ 93.112 and 93.113) should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason;

(10) Where the metropolitan planning area does not include the entire nonattainment or maintenance area, a process involving the MPO and the State department of transportation for cooperative planning and analysis for purposes of determining conformity of all projects outside the metropolitan area and within the nonattainment or maintenance area; and

(11) A process for consulting on the design, schedule, and funding of research and data collection efforts and regional air quality model development by the MPO (e.g., household/travel transportation surveys).

(b) *Public consultation procedures.*

(1) Affected agencies making conformity determinations on plans, programs, and projects shall provide a reasonable opportunity for public review and comment prior to taking formal action on a conformity determination for all plans and TIPs, and on conformity determinations for projects where otherwise required by law.

(i) The agency shall publish the proposed procedures to be used for this requirement and allow 45 days for written public comment.

(ii) An agency which revises these procedures, as determined when the need arises by the agencies involved in the process, shall publish the new procedures and allow 45 days for written public comment.

(2) The MPO shall prepare a summary and analysis of written and oral comments before taking final action on conformity determinations subject to paragraph (b)(1) of this section.

(3) If the transportation plan or TIP to be submitted to DOT is significantly different than the one which was made available for public comment by the MPO and raises new material issues which interested parties could not reasonably have foreseen from the MPO notifications, then an additional opportunity for public comment on the revised plan or TIP must be provided.

(4) New public consultation procedures for plans and TIPs are being developed by DOT in response to requirements in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). When a DOT regulation on this subject is published in final form, its provisions will govern and the public consultation requirements contained in paragraph (b) of this section will cease to apply.

§ 93.106 Content of transportation plans.

(a) *Transportation plans adopted after January 1, 1995 in serious, severe, or extreme ozone nonattainment areas and in serious carbon monoxide nonattainment areas.* The transportation plan must specifically describe the transportation system envisioned for certain future years which shall be called horizon years.

(1) The agency or organization developing the transportation plan may choose any years to be horizon years, subject to the following restrictions:

(i) Horizon years may be no more than 10 years apart;

(ii) The first horizon year may be no more than 10 years from the base year used to validate the transportation demand planning model;

(iii) If the attainment year is in the time span of the plan, the attainment year must be a horizon year;

(iv) The last horizon year must be the last year of the plan's forecast period.

(2) For these horizon years:

(i) The plan shall quantify and document the demographic and employment factors influencing expected transportation demand, including land use forecasts, in accordance with implementation plan provisions and § 93.105;

(ii) The highway and transit system shall be described in terms of the regionally significant additions or modifications to the existing transportation network which the plan envisions to be operational in the horizon years. Additions and modifications to the highway network shall be sufficiently identified to indicate intersections with existing regionally significant facilities, and to determine their effect on route options between transportation analysis zones. Each added or modified highway segment shall also be sufficiently identified in terms of its design concept and design scope to allow modeling of travel times under various traffic volumes, consistent with the modeling methods for area-wide transportation analysis in use by the MPO. Transit facilities, equipment, and services envisioned for the future shall be identified in terms of design concept, design scope, and operating policies sufficiently to allow modeling of their user volumes. The description of additions and modifications to the transportation network shall also be sufficiently specific to show that there is a reasonable relationship between expected land use and the envisioned transportation system; and

(iii) Other future transportation policies, requirements, services, and activities, including intermodal activities, shall be described.

(b) *Moderate areas reclassified to serious.* Ozone or CO nonattainment areas which are reclassified from moderate to serious must meet the requirements of paragraph (a) of this section within two years from the date of reclassification.

(c) *Transportation plans for other areas.* Transportation plans for other areas must meet the requirements of paragraph (a) of this section at least to the extent it has been the previous practice of the MPO to prepare plans which meet those requirements. Otherwise, transportation plans must describe the transportation system envisioned for the future specifically enough to allow determination of conformity according to the criteria and procedures of § 68.109.

(d) *Savings.* The requirements of this section supplement other requirements of applicable law or regulation governing the format or content of transportation plans.

§ 93.107 Relationship of plan and TIP conformity with the NEPA process.

The degree of specificity required in the transportation plan and the specific travel network assumed for air quality modeling do not preclude the consideration of alternatives in the NEPA process or other project development studies. Should the NEPA process result in a project with design concept and scope significantly different from that in the plan or TIP, the project must meet the criteria in § 93.109 for projects not from a TIP before NEPA process completion.

§ 93.108 Fiscal constraints for transportation plans and TIPs.

(a) *Transportation plans.* The ISTEA requires that the transportation plan include a financial plan that demonstrates how the transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be available throughout the plan's timeframe, and recommends any

innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls, and congestion pricing.

(b) *TIPs.* The ISTEA requires that full funding must be reasonably anticipated to be available for a project, or an identified phase of a project, within the time period contemplated for completion of the project prior to its inclusion in a TIP. The ISTEA also requires a financial plan that demonstrates how the TIP can be implemented, indicates resources from public and private sources that are reasonably expected to be made available for its implementation, and recommends any innovative financing techniques to finance needed projects and programs.

§ 93.109 Criteria and procedures for determining conformity of transportation plans, programs, and projects.

Transportation plans, programs, and projects must satisfy the following criteria and procedures in order to be found to conform to the applicable implementation plan(s) for ozone, carbon monoxide (CO), nitrogen dioxide (NO_2), and particulate matter less than 10 microns in diameter (PM_{10}). The criteria for making conformity determinations may differ for plans, TIPs, and projects, for the time period in which the conformity determination is to be made, and for the relevant pollutant. An action may be found to conform to the purpose of the applicable implementation plan when the criteria in Table 1 are satisfied for the type of activity in the relevant time period, and when all applicable conformity requirements of implementation plans and of court orders for the area which pertain specifically to conformity determination requirements are fully satisfied. The procedures which correspond to each criterion in Table 1 are described in the paragraphs which follow.

TABLE 1.—CONFORMITY CRITERIA

PHASE II OF THE INTERIM PERIOD

Action	Criteria
Transportation Plan	a,b,c((c)(1)),j,o
TIP	a,b,c((c)(2)),m,p
Project (From a conforming plan and TIP)	a,b,d,e,f,g,k
Project (Not from a conforming plan and TIP)	a,b,c((c)(3)),d,f,g,k,n,q

CONTROL STRATEGY AND MAINTENANCE PERIODS

Action	Criteria
Transportation Plan	a,b,c((c)(1)),h
TIP	a,b,c((c)(2)),l
Project (From a conforming plan and TIP)	a,b,d,e,f,g
Project (Not from a conforming plan and TIP)	a,b,c((c)(3)),d,f,g,j

Notes:
a The conformity determination must be based on the latest planning assumptions.
b The conformity determination must be based on the latest emission estimation model available.
c See paragraphs (c)(1), (c)(2), and (c)(3) of § 93.109.
d There must be a currently conforming transportation plan and currently conforming TIP at the time of project approval.
e The project must come from a conforming plan and program.
f The project must not cause or contribute to any new localized CO or PM_{10} violations or increase the frequency or severity of any existing CO or PM_{10} violations in CO and PM_{10} nonattainment and maintenance areas.
g The project must comply with PM_{10} control measures in the applicable implementation plan.
h The transportation plan must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan.
i The TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan.
j Highway and transit projects which are not from a conforming plan and conforming TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan.
k The project must eliminate or reduce the severity and number of localized CO violations in CO nonattainment areas.
l The transportation plan must contribute to emissions reductions in ozone and CO nonattainment areas.
m The TIP must contribute to emissions reductions in ozone and CO nonattainment areas.
n The project which is not from a conforming plan and TIP must contribute to emissions reductions in ozone and CO nonattainment areas.
o The transportation plan must not increase emissions in PM_{10} and NO_2 nonattainment areas.
p The TIP must not increase emissions in PM_{10} and NO_2 nonattainment areas.
q The project which is not from a conforming plan and TIP must not increase emissions in PM_{10} and NO_2 nonattainment areas.

(a) *The conformity determination must be based on the latest planning assumptions.* This criterion applies during all periods. It is satisfied if the conformity determination, with respect to all other applicable criteria in this section, is based upon the most recent planning assumptions in force at the time of the conformity determination. Assumptions must be derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the MPO or other agency authorized to make such estimates and approved by the MPO. Conformity determinations must also include reasonable assumptions about transit service and increases in transit fares and road and bridge tolls over time.

(b) *The conformity determination must be based on the latest emission estimation model available.* This criterion applies during all periods. It is satisfied if the most current version of the motor vehicle emissions model specified by EPA for use in the preparation or revision of implementation plans in that State or area is used for the conformity analysis. EPA will consult with DOT to establish a grace period following the specification of any new model; any analysis begun during the grace period may use the previous version of the model. The grace period will be no less than three months and no more than 24 months after notice of availability is published in the **Federal Register**, depending on the degree of change in the model and the scope of re-planning likely to be necessary by MPOs in order to assure conformity. If the grace period

will be longer than three months, EPA will announce the appropriate grace period in the **Federal Register**.

(c) *The transportation plan, TIP, or project which is not from a conforming plan and TIP must provide for the timely implementation of TCMs from the applicable implementation plan.* This criterion applies during all periods.

(1) For transportation plans, this criterion is satisfied if:

(i) The transportation plan, in describing the envisioned future transportation system, provides for the timely completion or implementation of all TCMs in the applicable implementation plan which are eligible for funding under title 23 U.S.C. or the Federal Transit Act, consistent with schedules included in the applicable implementation plan; and

(ii) Nothing in the transportation plan interferes with the implementation of any TCM in the applicable implementation plan.

(2) For TIPs, this criterion is satisfied if:

(i) An examination of the specific steps and funding source(s) needed to fully implement each TCM indicates that TCMs which are eligible for funding under title 23 U.S.C. or the Federal Transit Act are on or ahead of the schedule established in the applicable implementation plan, or, if such TCMs are behind the schedule established in the applicable implementation plan, the MPO and DOT have determined that past obstacles to implementation of the TCMs have been identified and have been or are being overcome, and that all State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding of TCMs over other projects within their control, including projects in locations outside the nonattainment or maintenance area.

(ii) If TCMs in the applicable implementation plan have previously been programmed for Federal funding but the funds have not been obligated and the TCMs are behind the schedule in the implementation plan, then the TIP cannot be found to conform if the funds intended for those TCMs are reallocated to projects in the TIP other than TCMs. If there are no other TCMs in the TIP, the funds may be reallocated to projects which are eligible for Federal funding under ISTEA's Congestion Mitigation and Air Quality Improvement Program.

(iii) Nothing in the TIP may interfere with the implementation of any TCM in the applicable implementation plan.

(3) For transportation projects which are not from a conforming transportation plan and TIP, this criterion is satisfied if the project does not interfere with the implementation of any TCM in the applicable implementation plan.

(d) *There must be a currently conforming transportation plan and currently conforming TIP at the time of project approval.* This criterion applies during all periods. It is satisfied if the current transportation plan and TIP have been found to conform to the applicable implementation plan by the MPO and DOT according to the procedures of this subpart. Only one conforming transportation plan may exist in an area at any time; conformity determinations of previous transportation plans expire once the current plan is found to conform by DOT.

(e) *The project must come from a conforming plan and program.* This criterion applies during all periods. It is satisfied if there is a conforming transportation plan and program in place at the time of the conformity determination for the project.

(1) A project is considered to be from a conforming plan if:

(i) For projects which are required to be identified in the plan in order to satisfy § 93.106, the project is specifically included in the plan; or

(ii) For projects which are not required to be specifically identified in the plan, the project is identified in the plan, or is consistent with the policies and purpose of the plan and will not interfere with other projects specifically included in the plan.

(2) A project is considered to be from a conforming program if the project is included in the conforming TIP and the design concept and scope of the project were adequate at the time of the TIP conformity determination to determine its contribution to the TIP's regional emissions and have not changed significantly from those which were described in the TIP, or in a manner which would significantly impact use of the facility. Otherwise, the project must satisfy all criteria in Table 1 for a project not from a TIP.

(f) *The project must not cause or contribute to any new localized CO or PM_{10} violations or increase the frequency or severity of any existing CO or PM_{10} violations in CO and PM_{10} nonattainment and maintenance areas.* This criterion applies during all periods. It is satisfied if either:

(1) Consideration of local factors clearly demonstrates that new violations will not be created and the severity or number of existing violations will not be increased; or

(2) Hot-spot analysis demonstrates that no new local violations will be created and the severity or number of existing violations will not be increased as a result of the project.

(i) The model used shall be one selected as a result of consultation under § 93.105(a)(7).

(ii) Hot-spot analysis shall be performed according to the requirements of § 93.111.

(g) *The project must comply with PM_{10} control measures in the applicable implementation plan.* This criterion applies during all periods. It is satisfied if control measures (for the purpose of limiting PM_{10} emissions from the construction activities and/or normal use and operation associated with the project) contained in the applicable implementation plan are included in the plans, specifications, and estimates package for the project.

(h) The transportation plan must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan. This criterion applies during the control strategy and maintenance periods, except as provided in § 93.114. The total emissions of ozone precursors (VOC and NO_x), CO, or PM_{10} (and its precursors if the applicable implementation plan identifies transportation-related precursor emissions within the nonattainment area as a significant contributor to the PM_{10} nonattainment problem and establishes a budget for such emissions) expected from the transportation system as a result of implementing the new projects and activities contained in the plan or expected in the area must be estimated. This criterion is satisfied if the emissions are demonstrated to be less than or equal to each of the motor vehicle emissions budgets established in the applicable implementation plan for the milestone and attainment years. This demonstration requires that a regional emissions analysis be performed as follows:

(1) The emissions analysis methodology shall meet the requirements of § 93.110.

(2) The emissions analysis shall include all projects contained in the plan and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area. The emissions analysis may not include for emissions reduction credit any TCMs which have been delayed beyond the scheduled date(s) until such time as implementation has been assured. TCMs which require a State or local regulation in order to be implemented and which are not specifically identified in the applicable implementation plan may

not be included in the emissions analysis unless the regulation is already adopted by the enforcing jurisdiction.

(3) For areas with a transportation plan that meets the content requirements of § 93.106(a), the emissions analysis shall be performed for each horizon year. Emissions in milestone years which are between the horizon years may be determined by interpolation.

(4) For areas with a transportation plan that does not meet the content requirements of § 93.106(a), the emissions analysis shall be performed for years in the time span of the transportation plan provided they are not more than ten years apart and provided the analysis is performed for the last year of the plan's forecast period. If the attainment year is in the time span of the plan, the emissions analysis must also be performed for the attainment year. Emissions in milestone years which are between these analysis years may be determined by interpolation.

(i) *The TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan.* This criterion applies during the control strategy and maintenance periods, except as provided in § 93.114. The total emissions of ozone precursors (VOC and NO_x), CO, or PM_{10} (and its precursors if the applicable implementation plan identifies transportation-related precursor emissions within the nonattainment area as a significant contributor to the PM_{10} nonattainment problem and establishes a budget for such emissions) expected from the transportation system in general as a result of implementing the projects in the TIP and other expected projects must be estimated for the milestone and attainment years. Those estimates must be less than or equal to each of the motor vehicle emissions budgets for the milestone and attainment years in order for the TIP to conform.

(1) For areas with a conforming transportation plan that fully meets the content requirements of § 93.106(a), this criterion may be satisfied without additional regional analysis if:

(i) Each program year of the TIP is consistent with the Federal funding which may be reasonably expected for that year, and required State/local matching funds and funds for State/local funding-only projects are consistent with the revenue sources expected over the same period; and

(ii) The TIP is consistent with the transportation plan such that the regional emissions analysis already performed for the plan applies to the TIP also. This requires a demonstration that:

(A) The TIP contains all projects which must be started in the TIP's timeframe in order to achieve the highway and transit system envisioned by the plan in each of its horizon years;

(B) All TIP projects which add or modify regionally significant highway or transit facilities are part of the specific highway or transit system envisioned in the transportation plan's horizon years; and

(C) The design concept and scope of each regionally significant project in the TIP is not significantly different from that described in the transportation plan.

(iii) If the requirements in paragraphs (i)(1)(i) and (i)(1)(ii) of this section are not met, then:

(A) The TIP may be modified to meet those requirements; otherwise

(B) The transportation plan must be revised so that the requirements in paragraphs (i)(1)(i) and (i)(1)(ii) of this section are met. Once the revised plan has been found to conform, this criterion is met for the TIP with no additional analysis except a demonstration that the TIP meets the requirements of paragraphs (i)(1) (i) and (ii) of this section.

(2) For areas with a transportation plan that does not meet the content requirements of § 93.106(a), a regional emissions analysis must be performed for the TIP. This criterion may be satisfied if:

(i) The analysis methodology meets the requirements of § 93.110(b);

(ii) The analysis estimates emissions from the transportation system, including all projects contained in the proposed TIP, and all other regionally significant projects expected in the nonattainment or maintenance area in the timeframe of the transportation plan. The emissions analysis may not include for emissions reduction credit any TCMs which have been delayed beyond the scheduled date(s) established until such time as implementation has been assured. TCMs which require a State or local regulation in order to be implemented and which are not specifically identified in the applicable implementation plan may not be included in the emissions analysis unless the regulation is already adopted by the enforcing jurisdiction; and

(iii) the emissions analysis is performed for the last year of the plan's forecast period and any other years in the time span of the transportation plan which are not more than ten years apart. If the attainment year is in the time span of the plan, the emissions analysis must also be performed for the attainment year. Emissions in milestone years which are between these analysis years may be determined by interpolation.

(j) *Highway and transit projects which are not from a conforming plan and a conforming TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan.* This criterion applies during the control strategy and maintenance periods, except as provided in § 93.114. It is satisfied if emissions from the implementation of the project, when added to the emissions from the projects in the conforming transportation plan and TIP and all other regionally significant projects expected in the area, do not exceed the motor vehicle emissions budget in the applicable implementation plan in the milestone or the attainment years.

(1) For areas with a conforming transportation plan that meets the content requirements of § 93.106(a):

(i) This criterion may be satisfied without additional regional analysis if the project is included in the conforming transportation plan, even if it is not specifically included in the latest conforming TIP. This requires a demonstration that:

(A) Allocating funds to the project will not delay the implementation of projects in the transportation plan or TIP which are necessary to achieve the highway and transit system envisioned by the plan in each of its horizon years;

(B) The project is not regionally significant or is part of the specific highway or transit system envisioned in the transportation plan's horizon years; and

(C) The design concept and scope of the project is not significantly different from that described in the transportation plan.

(ii) If the requirements in paragraph (j)(1)(i) of this section are not met, a regional emissions analysis must be performed as follows:

(A) The analysis methodology shall meet the requirements of § 93.110;

(B) The analysis shall estimate emissions from the transportation system, including the proposed project and all other regionally significant projects expected in the nonattainment or maintenance area in the timeframe of the transportation plan. The analysis must include emissions from all previously approved projects which were not from a plan and TIP. The emissions analysis may not include for emissions reduction credit any TCMs which have been delayed beyond the scheduled date(s) established until such time as implementation has been assured. TCMs which require a State or local regulation in order to be

implemented and which are not specifically identified in the applicable implementation plan may not be included in the emissions analysis unless the regulation is already adopted by the enforcing jurisdiction; and

(C) The emissions analysis shall be performed for each horizon year. Emissions in milestone years which are between the horizon years may be determined by interpolation.

(2) For areas with a transportation plan that does not meet the content requirements of § 93.106(a), a regional emissions analysis must be performed for the project together with the conforming TIP and all other regionally significant projects expected in the nonattainment or maintenance area. This criterion may be satisfied if:

(i) The analysis methodology meets the requirements of § 93.110(b);

(ii) The analysis estimates emissions from the transportation system, including the proposed project, and all other regionally significant projects expected in the nonattainment or maintenance area in the timeframe of the transportation plan. The emissions analysis may not include for emissions reduction credit any TCMs which have been delayed beyond the scheduled date(s) established until such time as implementation is assured. TCMs which require a State or local regulation in order to be implemented and which are not specifically identified in the applicable implementation plan may not be included in the emissions analysis unless the regulation is already adopted by the enforcing jurisdiction; and

(iii) The emissions analysis is performed for the last year of the plan's forecast period and any other years in the time span of the transportation plan which are not more than ten years apart. If the attainment year is in the time span of the plan, the emissions analysis must also be performed for the attainment year. Emissions in milestone years which are between these analysis years may be determined by interpolation.

(k) *The project must eliminate or reduce the severity and number of localized CO violations in CO nonattainment areas.* This criterion applies during Phase II of the interim period only. It is satisfied with respect to existing localized CO violations if either:

(1) Consideration of local factors clearly indicates that existing CO violations will be eliminated or reduced in severity and number; or

(2) Hot-spot analysis indicates that existing CO violations will be eliminated or reduced in severity and number as a result of the project.

(i) The model used shall be one selected as a result of consultation under § 93.105(a)(7).

(ii) CO hot-spot analysis shall be performed according to the requirements of § 93.111.

(l) *The transportation plan must contribute to emissions reductions in ozone and CO nonattainment areas.* This criterion applies during Phase II of the interim period only, except as otherwise provided in § 93.114. It applies to the net effect on emissions of all projects contained in a new or revised transportation plan. This criterion may be satisfied if the regional emissions analysis is performed as follows:

(1) Determine the analysis years for which emissions are to be estimated. The first analysis year shall be no later than the first milestone year (1995 in CO nonattainment areas and 1996 in ozone nonattainment areas). The second analysis year shall be either the attainment year for the area, or if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year.

(2) Define the 'Baseline' scenario for each of the plan's horizon years to be the future transportation system that would result from current programs, composed of the following (except that projects listed in § 93.112 need not be explicitly considered):

(i) All in-place regionally significant highway and transit facilities, services and activities;

(ii) All ongoing travel demand management or transportation system management activities; and

(iii) Completion of all regionally significant projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition; come from the first three years of the previously conforming plan and/or TIP; or have completed the NEPA process.

(3) Define the 'Action' scenario for each of the plan's horizon years as the transportation system that will result in that year from the implementation of the proposed transportation plan, TIPs adopted under it, and other expected regionally significant projects in the nonattainment area. It will include the following (except that projects listed in § 93.112 need not be explicitly considered):

(i) All facilities, services, and activities in the 'Baseline' scenario;

(ii) Completion of all TCMs and regionally significant facilities, services, and activities specifically identified in the proposed plan which will be operational or in effect in the horizon year, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is identified in the applicable implementation plan;

(iii) All non-federal TCMs known to the MPO, but not included in the applicable implementation plan, which have been fully adopted and/or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the transportation plan;

(iv) The incremental effects of any non-federal TCMs known to the MPO, but not included in the applicable implementation plan, which were adopted and/or funded prior to the date of the last conformity determination on the transportation plan, but which have been modified since then to be more stringent or effective;

(v) Completion of all expected regionally significant highway and transit projects which are not from a conforming plan and TIP; and

(vi) Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the horizon year.

(4) Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the 'Baseline' and 'Action' scenarios and determine the difference in regional VOC emissions (for all ozone nonattainment areas) and CO emissions (for CO nonattainment areas) between the two scenarios. The analysis must be performed for each of the plan's horizon years according to the requirements of § 93.110. The analysis must address the periods between the analysis years and the periods between 1990, the first milestone year (1996 for ozone and 1995 for CO), and the first of the analysis years. Emissions in milestone years which are between the analysis years may be determined by interpolation. The regional analysis must show that the 'Action' scenario contributes to a reduction in emissions from the 1990 emissions by any nonzero amount.

(5) This criterion is met if the regional VOC emissions (for ozone nonattainment areas) and CO emissions (for CO nonattainment areas) predicted in the 'Action' scenario are less than the emissions predicted from the 'Baseline' scenario in each analysis year, and if this can reasonably be expected to be true in the periods between the first milestone year and the analysis years.

(m) *The TIP must contribute to emissions reductions in ozone and CO nonattainment areas.* This criterion

applies during Phase II of the interim period only, except as otherwise provided in § 93.114. It applies to the net effect on emissions of all projects contained in a new or revised TIP. This criterion may be satisfied if a regional emissions impact analysis is performed as follows:

(1) Determine the analysis years for which emissions are to be estimated. The first analysis year shall be no later than the first milestone year (1995 in CO nonattainment areas and 1996 in ozone nonattainment areas). The second analysis year shall be either the attainment year for the area, or if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year.

(2) Define the 'Baseline' scenario as the future transportation system that would result from current programs, composed of the following (except that projects listed in § 93.112 need not be explicitly considered):

(i) All in-place regionally significant highway and transit facilities, services and activities;

(ii) All ongoing travel demand management or transportation system management activities; and

(iii) Completion of all regionally significant projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition; come from the first three years of the previously conforming TIP; or have completed the NEPA process.

(3) Define the "Action" scenario as the future transportation system that will result from the implementation of the proposed TIP and other expected regionally significant projects in the nonattainment area. It will include the following (except that projects listed in § 93.112 need not be explicitly considered):

(i) All facilities, services, and activities in the "Baseline" scenario;

(ii) Completion of all TCMs and regionally significant facilities, services, and activities included in the proposed TIP, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is contained in the applicable implementation plan;

(iii) All non-federal TCMs known to the MPO, but not included in the applicable implementation plan, which have been fully adopted and/or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the TIP;

(iv) The incremental effects of any non-federal TCMs known to the MPO, but not included in the applicable implementation plan, which were adopted and/or funded prior to the date of the last conformity determination on the TIP, but which have been modified since then to be more stringent or effective;

(v) Completion of all expected regionally significant highway and transit projects which are not from a conforming plan and TIP; and

(vi) Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the horizon year.

(4) Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the "Baseline" and "Action" scenarios, and determine the difference in regional VOC emissions (for all ozone nonattainment areas) and CO emissions (for CO nonattainment areas) between the two scenarios. The analysis shall consider the period between 1990 and the analysis years and shall meet the requirements of § 93.110.

(5) This criterion is met if the regional VOC emissions (for ozone nonattainment areas) and CO emissions (for CO nonattainment areas) predicted in the "Action" scenario are less than the emissions predicted from the "Baseline" scenario in each analysis year, and if this can reasonably be expected to be true in the period between the analysis years. The regional analysis must show that the "Action" scenario contributes to a reduction in emissions from the 1990 emissions by any nonzero amount.

(n) *The transportation project which is not from a conforming plan and TIP must contribute to emissions reductions in ozone and CO nonattainment areas.* This criterion applies during Phase II of the interim period only, except as otherwise provided in § 93.114. This criterion is satisfied if a regional emissions impact analysis is performed which meets the requirements of paragraph (l) of this section and which includes the plan and project in the "Action" scenario. If the project which is not from a conforming plan and TIP is a modification of a project currently in the plan or TIP, the "Baseline" scenario must include the project with its original design concept and scope, and the "Action" scenario must include the project with its new design concept and scope.

(o) *The transportation plan must not increase emissions in PM_{10} and NO_2 nonattainment areas.* This criterion is satisfied if it is demonstrated that when the projects in the transportation plan and TIP and all other regionally significant projects expected in the area are implemented, the transportation system's total highway and transit emissions of PM_{10} in a PM_{10} nonattainment area (and transportation-related precursors of PM_{10} in nonattainment areas for which the Administrator has made a finding or approved a finding in the applicable implementation plan that such precursor emissions from within the nonattainment area are a significant contributor to the PM_{10} nonattainment problem) and of NO_X in an NO_2 nonattainment area will not be greater than 1990 levels. This criterion applies only during Phase II of the interim period. This criterion may be satisfied if the regional emissions analysis is performed as follows:

(1) Determine the 1990 regional emissions of PM_{10} (for PM_{10} nonattainment areas) and NO_X (for NO_2 nonattainment areas) from highway and transit sources.

(2) Determine the analysis years for which emissions are to be estimated. The first analysis year shall be no later than the first milestone year (1995 in NO_2 nonattainment areas and 1996 in PM_{10} nonattainment areas). The second analysis year shall be either the attainment year for the area, or if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year.

(3) Define the "Action" scenario in each of the analysis years as the transportation situation that will result in that year from the implementation of the proposed transportation plan and TIPs adopted under it. It will include the following (except that projects listed in § 93.112 and § 93.113 need not be explicitly considered):

(i) All in-place regionally significant highway and transit facilities, services and activities;

(ii) All ongoing travel demand management or transportation system management activities;

(iii) Completion of all regionally significant projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition; come from the first three years of the previously conforming plan and/or TIP; or have completed the NEPA process;

(iv) Completion of all TCMs and regionally significant facilities, services, and activities included in the proposed plan which will be operational or in effect in the horizon years, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the

enforcing jurisdiction or the TCM is identified in the applicable implementation plan;

(v) All non-federal TCMs known to the MPO, but not included in the applicable implementation plan, which have been fully adopted and/or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the transportation plan;

(vi) The incremental effects of any non-federal TCMs known to the MPO, but not included in the applicable implementation plan, which were adopted and/or funded prior to the date of the last conformity determination on the transportation plan, but which have been modified since then to be more stringent or effective; and

(vii) Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the horizon year.

(4) Estimate the emissions predicted to result in the attainment year from travel on the transportation systems defined by the 'Action' scenario.

(5) This criterion is met if the emissions from the 'Action' scenario in the attainment year are no greater than 1990 emissions of PM_{10} (for PM_{10} nonattainment areas) or NO_X (for NO_2 nonattainment areas) from highway and transit sources.

(p) *The TIP must not increase emissions in PM_{10} and NO_2 nonattainment areas.* This criterion is satisfied if it is demonstrated that when the projects in the transportation plan and TIP and all other regionally significant projects expected in the area are implemented, the transportation system's total highway and transit emissions of PM_{10} in a PM_{10} nonattainment area (and transportation-related precursors of PM_{10} in nonattainment areas for which the Administrator has made a finding or approved a finding in the applicable implementation plan that such precursor emissions from within the nonattainment area are a significant contributor to the PM_{10} nonattainment problem) and of NO_X in an NO_2 nonattainment area will not be greater than 1990 levels. This criterion applies only during Phase II of the interim period. This criterion may be satisfied if a regional emissions impact analysis is performed as follows:

(1) Determine the 1990 regional emissions of PM_{10} (for PM_{10} nonattainment areas) and NO_X (for NO_2 nonattainment areas) from highway and transit sources.

(2) Determine the analysis years for which emissions are to be estimated. The first analysis year shall be no later than the first milestone year (1995 in NO_2 nonattainment areas and 1996 in PM_{10} nonattainment areas). The second analysis year shall be either the attainment year for the area, or if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year.

(3) Define the 'Action' scenario in each of the analysis years as the transportation situation that will result in that year from the implementation of the proposed transportation plan and TIPs adopted under it. It will include the following (except that projects listed in § 93.112 and § 93.113 need not be explicitly considered):

(i) All in-place regionally significant highway and transit facilities, services and activities;

(ii) All ongoing travel demand management or transportation system management activities;

(iii) Completion of all regionally significant projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition; come from the first three years of the previously conforming TIP; or have completed the NEPA process;

(iv) Completion of all TCMs and facilities, services, and activities included in the plan and the proposed TIP, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is identified in the applicable implementation plan;

(v) All non-federal TCMs known to the MPO, but not included in the applicable implementation plan, which have been fully adopted and/or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the TIP;

(vi) The incremental effects of any non-federal TCMs known to the MPO, but not included in the applicable implementation plan, which were adopted and/or funded prior to the date of the last conformity determination on the TIP, but which have been modified since then to be more stringent or effective; and

(vii) Completion of all regionally significant non FHWA/FTA projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year.

(4) Estimate the emissions predicted to result in the attainment year from travel on the transportation systems defined by the 'Action' scenario. If the attainment year and the analysis year do not coincide, the regional emissions analysis must be performed for the first analysis year after the attainment year. The attainment year may then be considered by interpolating between 1990 and the analysis year. The regional emissions analysis shall meet the requirements of § 93.110.

(5) This criterion is met if the emissions from the 'Action' scenario in the attainment year are less than 1990 emissions of PM_{10} (for PM_{10} nonattainment areas) or NO_X (for NO_2 nonattainment areas) from highway and transit sources.

(q) *The transportation project which is not from a conforming plan and TIP must not increase emissions in PM_{10} and NO_2 nonattainment areas.* This criterion is met if a regional emissions impact analysis is performed which meets the requirements of paragraph (o) of this section and which includes the plan and project in the 'Action' scenario. If the project which is not from a conforming plan and TIP is a modification of a project currently in the plan or TIP, the 'Baseline' scenario must include the project with its original design concept and scope, and the 'Action' scenario must include the project with its new design concept and scope.

§ 93.110 Procedures for determining regional transportation-related emissions.

(a) *Serious, severe, and extreme ozone nonattainment areas and serious carbon monoxide areas after January 1, 1995.* Estimates of regional transportation-related emissions used to support conformity determinations must be made according to procedures which meet the requirements in paragraphs (a)(1) through (5) of this section.

(1) A network-based transportation demand model or models relating travel demand and transportation system performance to land-use patterns, population demographics, employment, transportation infrastructure, and transportation policies must be used to estimate travel within the metropolitan planning area of the nonattainment area. Such a model shall possess the following attributes:

(i) The modeling methods and the functional relationships used in the model(s) shall in all respects be in accordance with acceptable professional practice, and reasonable for purposes of emission estimation;

(ii) The network-based model(s) must be validated against ground counts for a base year that is not more than 10 years prior to the date of the conformity determination. Land use, population,

and other inputs must be based on the best available information and appropriate to the validation base year;

(iii) For peak-hour or peak-period traffic assignments, a capacity sensitive assignment methodology must be used;

(iv) Zone-to-zone travel times used to distribute trips between origin and destination pairs must be in reasonable agreement with the travel times which result from the process of assignment of trips to network links. Where use of transit currently is anticipated to be a significant factor in satisfying transportation demand, these times should also be used for modeling mode splits;

(v) Free-flow speeds on network links shall be based on empirical observations;

(vi) Peak and off-peak travel demand and travel times must be provided;

(vii) The model(s) must utilize and document a logical correspondence between the assumed scenario of land development and use and the future transportation system for which emissions are being estimated, but reliance on a formal land-use model is not specifically required;

(viii) A dependence of trip generation on the accessibility of destinations via the transportation system is not specifically required, unless the network model is capable of such determinations and the necessary information is available;

(ix) A dependence of regional economic and population growth on the accessibility of destinations via the transportation system is not specifically required, unless the network model is capable of such determinations and the necessary information is available; and

(x) Consideration of emissions increases from construction-related congestion is not specifically required.

(2) Highway Performance Monitoring System (HPMS) estimates of vehicle miles traveled shall be considered the primary measure of vehicle miles traveled within the portion of the nonattainment area and for the functional classes of roadways included in HPMS, for urban areas which are sampled on a separate urban area basis. A factor (or factors) shall be developed to reconcile and calibrate the network-based model estimates of vehicle miles traveled in the base year of its validation to the HPMS estimates for the same period, and these factors shall be applied to model estimates of future vehicle miles traveled. In this factoring process, consideration will be given to differences in the facility coverage of the HPMS and the modeled network description. Departure from these procedures is permitted with the concurrence of DOT and EPA.

(3) Reasonable methods shall be used to estimate nonattainment area vehicle travel on off-network roadways within the urban transportation planning area, and on roadways outside the urban transportation planning area.

(4) Reasonable methods in accordance with good practice must be used to estimate traffic speeds and delays in a manner that is sensitive to the estimated volume of travel on each roadway segment represented in the network model.

(5) Ambient temperatures shall be consistent with those used to establish the emissions budget in the applicable implementation plan. Factors other than temperatures, for example the fraction of travel in a hot stabilized engine mode, may be modified after interagency consultation according to § 68.105 of this subpart if the newer estimates incorporate additional or more geographically specific information or represent a logically estimated trend in such factors beyond the period considered in the applicable implementation plan.

(b) *Other situations.* (1) Procedures which satisfy some or all of the requirements of paragraph (a) of this section shall be used in all areas not subject to paragraph (a) of this section in which those procedures have been the previous practice of the MPO.

(2) Regional emissions may be estimated by methods which do not explicitly or comprehensively account for the influence of land use and transportation infrastructure on vehicle miles traveled and traffic speeds and congestion. Such methods may extrapolate historical VMT or may project future VMT by considering growth in population and historical growth trends for vehicle miles travelled per person. These methods must also consider future economic activity, transit alternatives, and transportation system policies.

(c) *PM_{10} from construction-related fugitive dust.*

(1) For areas in which the implementation plan does not identify construction-related fugitive PM_{10} as a contributor to the nonattainment problem, the fugitive PM_{10} emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.

(2) In PM_{10} nonattainment and maintenance areas with implementation plans which identify construction-related fugitive PM_{10} as a contributor to the nonattainment problem, the regional PM_{10} emissions analysis shall consider construction-related fugitive PM_{10} and shall account for the level of construction activity, the fugitive PM_{10} control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.

§ 93.111 Procedures for determining localized CO and PM_{10} concentrations.

(a) CO hot-spot analyses must be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the "Guideline on Air Quality Models (Revised)" (EPA Publication No. 450/2–78–027R), including Supplements, which is hereby incorporated by reference as it exists on the date of approval (a notice of any change will be published in the **Federal Register**), in the following cases unless, after the interagency consultation process described in § 93.105(a) and with the approval of the EPA Regional Administrator, it is determined to be inappropriate:

(1) In locations, areas, or categories of sites which are identified in the SIP as sites of current violation or possible current violation; and

(2) Where use of the "Guideline" models is practicable and reasonable given the potential for violations.

(b) In cases other than those described in paragraphs (a)(1) and (a)(2) of this section, other quantitative methods may be used if they represent reasonable and common professional practice. Where both "Guideline" and non-"Guideline" models are available, "Guideline" models must be given the greatest consideration.

(c) CO hot-spot analyses must include the entire project, and may be performed only after the major design features which will significantly impact CO concentrations have been identified. The background concentration must reflect emissions from all existing facilities and emissions expected from future projects which have completed environmental review.

(d) Hot-spot analysis assumptions must be consistent with those in the regional emissions analysis for those inputs which are required for both analyses.

(e) PM_{10} or CO mitigation or control measures shall be assumed in the hot-spot analysis only where there is a commitment in the NEPA document to incorporate such measures into the design and funding of the project.

(f) CO and PM_{10} hot-spot analyses are not required to consider construction-related activities which cause temporary and self-correcting increases in emissions. Each site which is affected

by construction-related activities shall be considered separately, using established "Guideline" methods. Temporary and self-correcting increases are defined as those which occur only during the construction phase and last five years or less at any individual site.

§ 93.112 Exempt projects.

Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 3 are exempt from the requirement that a conformity determination be made. Such projects may proceed toward implementation even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 3 is not exempt if the MPO in consultation with other agencies (see § 93.105(a)(8), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potentially adverse emissions impacts for any reason. States and MPOs must ensure that exempt projects do not interfere with TCM implementation.

Table 2.—Exempt Projects

Safety

Railroad/highway crossing
Hazard elimination program
Safer non-Federal-aid system roads
Shoulder improvements
Increasing sight distance
Safety improvement program
Traffic control devices and operating assistance other than signalization projects
Railroad/highway crossing warning devices
Guardrails, median barriers, crash cushions
Pavement resurfacing and/or rehabilitation
Pavement marking demonstration
Emergency relief (23 U.S.C. 125)
Fencing
Skid treatments
Safety roadside rest areas
Adding medians
Truck climbing lanes outside the urbanized area
Lighting improvements
Widening narrow pavements or reconstructing bridges (less than one travel lane)

Mass Transit

Operating assistance to transit agencies
Purchase of support vehicles
Rehabilitation of transit vehicles
Purchase of office, shop, and operating equipment for existing facilities
Purchase of operating equipment for vehicles (e.g., radios, fareboxes, lifts, etc.)
Construction or renovation of power, signal, and communications systems
Construction of small passenger shelters and information kiosks
Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures)
Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way
Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet
Construction of new bus or rail storage/maintenance facilities categorically excluded in 23 CFR part 771

Air Quality

Continuation of ride-sharing and van-pooling promotion activities at current levels
Bicycle and pedestrian facilities

Other

Engineering to assess social, economic, and environmental effects of the proposed action or alternatives to that action
Noise attenuation
Advance land acquisitions (23 CFR part 712 or 23 CFR part 771)
Acquisition of scenic easements
Plantings, landscaping, etc.
Sign removal

§ 93.113 Projects exempt from regional emissions analyses.

Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 3 are exempt from regional CO or VOC emissions analysis requirements. The local effects of these projects with respect to CO or PM_{10} concentrations must be considered to determine if a hot-spot analysis is required prior to making a project-level conformity determination. These projects may then proceed to the project development process even in the absence of a conforming plan and TIP. A particular action of the type listed in Table 3 is not exempt from regional emissions analysis if the MPO in consultation with other agencies (see § 93.105(a)(8)), the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potential regional impacts for any reason.

Table 3.—Projects Exempt From Regional Emissions Analyses

Intersection channelization projects
Intersection signalization projects
Interchange reconfiguration projects
Changes in vertical and horizontal alignment
Truck size and weight inspection stations
Bus transfer terminals

§ 93.114 Special provisions for nonattainment areas which are not required to demonstrate reasonable further progress and attainment.

(a) *Application.* This section applies in the following areas:

(1) Rural ozone nonattainment areas;
(2) Marginal ozone areas;
(3) Submarginal ozone areas;
(4) Transitional ozone areas;
(5) Incomplete data ozone areas;
(6) Moderate CO areas with a design value of 12.7 ppm or less; and
(7) Not classified CO areas.

(b) *Default conformity procedures.* The criteria and procedures in § 93.109(l)–(n) will remain in effect throughout the control strategy period for transportation plans, TIPs, and projects (not from a conforming plan and TIP) in lieu of the procedures in § 93.109(h)–(j), except as otherwise provided in paragraph (c) of this section.

(c) *Optional conformity procedures.* The State or MPO may voluntarily develop an attainment demonstration and corresponding motor vehicle emissions budget like those required in areas with higher nonattainment classifications. In this case, the State must submit an implementation plan revision which contains that budget and attainment demonstration. Once EPA has approved this implementation plan revision, the procedures in § 93.109(h)–(j) apply in lieu of the procedures in § 93.109(l)–(n).

Subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans

§ 93.150 Prohibition.

(a) No department, agency or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan.

(b) A Federal agency must make a determination that a Federal action conforms to the applicable implementation plan in accordance with the requirements of this rule before the action is taken.

(c) Notwithstanding any provision of this subpart, a determination that an action is in conformance with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, National Environmental Policy Act (NEPA), or the Clean Air Act (CAA).

§ 93.151 State Implementation Plan (SIP) Revision.

The Federal rules under 40 CFR part 93, in addition to any existing applicable State requirements, establish the conformity criteria and procedures necessary to meet the Clean Air Act requirements until such time as the State revises its applicable implementation plan and that revision is approved by EPA. A State's conformity provisions may contain criteria and procedures more stringent than the requirements described in 40 CFR part 93. Following EPA approval of

the State conformity provisions (or a portion thereof) in a revision to the applicable SIP, the approved (or approved portion of the) State criteria and procedures would govern conformity determinations and the Federal conformity regulations contained in part 93 would apply only for the portion, if any, of the State's conformity provisions that is not approved by EPA. In addition, any previously applicable SIP requirements relating to conformity remain enforceable until the State revises its SIP to specifically remove them from the SIP and that revision is approved by EPA.

§ 93.152 Definitions.

Terms used but not defined in this part shall have the meaning given them by the CAA, and EPA's regulations, in that order of priority.

Administrator means the Administrator of EPA.

Applicable implementation plan or applicable SIP means the portion (or portions) of the SIP or most recent revision thereof, which has been approved under section 110 of the CAA, or promulgated under section 110(c) of the CAA (Federal implementation plan), or promulgated or approved pursuant to regulations promulgated under section 301(d) of the CAA and which implements the relevant requirements of the CAA. It also includes any EPA-approved maintenance plan meeting the requirements of section 175A of the CAA.

Areawide air quality modeling analysis means an assessment on a scale that includes the entire nonattainment or maintenance area which uses an air quality dispersion model to determine the effects of emissions on air quality.

Cause or contribute to a new violation means a Federal action that:

(1) Causes a new violation of a national ambient air quality standard (NAAQS) at a location in a nonattainment or maintenance area which would otherwise not be in violation of the standard during the future period in question if the Federal action were not taken, or

(2) Contributes, in conjunction with other reasonably foreseeable actions, to a new violation in a manner that would increase the frequency or severity of a new violation of a standard in such area.

Criteria pollutant or standard means any pollutant for which there is established a NAAQS at 40 CFR part 50.

Direct Emissions means those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and occur at the same time and place as the action.

Emissions budget is that portion of the total allowable emissions defined in the applicable SIP for the purpose of meeting reasonable further progress milestones or attainment or maintenance demonstrations, for any criteria pollutant or its precursors.

EPA means the Environmental Protection Agency.

Federal action means any activity engaged in by a department, agency, or instrumentality of the Federal government, or any activity that a department, agency or instrumentality of the Federal government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 *et seq.*).

Federal agency means, for purposes of this rule, a Federal department, agency, or instrumentality of the Federal government.

Hotspot air quality modeling analysis means an assessment of localized impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, which uses an air quality dispersion model to determine the effects of emissions on air quality.

Increase the frequency or severity of any existing violation of any standard in any area means to cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.

Indirect (Exclusive) Emissions means those emissions of a criteria pollutant or its precursors that are caused by the Federal action, but may occur later in time and/or may be farther removed in distance from the action itself but are still reasonably foreseeable and which the Federal agency has and will continue to maintain some authority to control.

Indirect (Inclusive) Emissions means those emissions of a criteria pollutant or its precursors that are caused by the Federal action, but may occur later in time and/or may be farther removed in distance from the action itself but are still reasonably foreseeable.

Maintenance area means an area with a maintenance plan approved under section 175A of the CAA.

Maintenance plan means a revision to the applicable SIP, meeting the requirements of section 175A of the CAA.

Metropolitan Planning Organization (MPO) is that organization designated as being responsible, together with the State, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607. It is the forum for cooperative transportation decision-making.

Milestone has the meaning given in section 182(g)(1) of the CAA.

National ambient air quality standards (NAAQS) are those standards established pursuant to section 109 of the CAA and include carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO_2), ozone, particulate matter (PM–10), and sulfur dioxide (SO_2).

NEPA is the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Nonattainment Area means an area designated under section 107 of the CAA and described in 40 CFR part 81.

Regionally significant action means a Federal action whose direct and indirect (inclusive/exclusive) emissions of any pollutant represent 10 percent or more of a nonattainment or maintenance area's total emissions for that pollutant.

§ 93.153 Applicability.

(a) Conformity determinations for Federal actions related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 *et seq.*) must meet the procedures and criteria of 40 CFR part 93, subpart A, in lieu of the procedures set forth in this subpart.

(b) Conformity determinations for Federal actions not covered by paragraph (a) of this section are required for each Federal action with a total of direct and indirect (inclusive/exclusive) emissions of any of the following pollutants that would equal or exceed any of the rates in paragraphs (b)(1), (2), or (3) of this section, in the specified nonattainment area or maintenance area.

(1) For purposes of paragraph (b) of this section, the following rates apply in nonattainment areas (NAAs):

	Tons/ Year
Ozone (VOCs or NO_x):	
Serious NAAs	25
Severe NAAs	25
Extreme NAAs	10
Other ozone NAAs	50
Carbon monoxide:	
All NAAs	100
SO_2 and NO_2:	
All NAAs	100
PM–10:	
All NAAs	15

	Tons/ Year
Pb:	
All NAAs	0.6

(2) For purposes of paragraph (b) of this section, the following rates apply in maintenance areas:

	Tons/ Year
Ozone (VOCs or NO_x), SO_2 and NO_2:	
All Maintenance Areas	40
Carbon monoxide:	
All Maintenance Areas	100
PM–10:	
All Maintenance Areas	15
Pb:	
All Maintenance Areas	0.6

(3) Where a State has established rates for the review of modifications to major stationary sources in their applicable SIP that are lower than those specified in, paragraph (b)(1) or (2) of this section, the lower rates shall apply for purposes of paragraph (b) of this section. In no case may State thresholds for applicability be less stringent than those identified in paragraph (b) of this section.

(c) Notwithstanding the other requirements of this subpart, a conformity determination is not required for the following Federal actions or portion thereof if the action is subject to and meets any of the air quality requirements cited below, as such actions are presumed to conform:

(1) The portion of an action that includes major new or modified stationary sources that require a permit under the New Source Review (NSR) program (section 173 of the CAA) or the Prevention of Significant Deterioration program (title I, part C of the CAA);

(2) Response actions carried out under the Comprehensive, Environmental Response, Compensation, and Liability Act and associated regulations; and

(3) Sewage treatment works projects funded under the Clean Water Act.

(d) Notwithstanding the other requirements of this subpart, the following Federal activities are presumed to conform, unless the Federal agency determines otherwise based on its own information and after reviewing any information presented to the Federal agency:

(1) Temporary Federal actions in response to national emergencies;

(2) Actions for purposes of research, investigations, studies, demonstrations, or training, where no environmental detriment is incurred and/or the particular action furthers air quality research;

(3) Actions specified by individual Federal agencies that have met both criteria set forth in paragraphs (e)(1) or (e)(2) of this section, and EPA-established procedures set forth in paragraphs (f)(1) through (f)(3) and (g) of this section; and

(4) The sale of land from a Federal agency.

(e) The Federal agency must meet the criteria for establishing exemptions by fulfilling the requirements set forth in either paragraph (e)(1) or (e)(2) of this section:

(1) The Federal agency must clearly demonstrate using methods consistent with this rule that the total of direct and indirect (inclusive/exclusive) emissions from the type of activities which would be exempt from a conformity analysis would not:

(i) Cause or contribute to any new violation of any standard in any area;

(ii) Interfere with provisions in the applicable SIP for maintenance of any standard;

(iii) Increase the frequency or severity of any existing violation of any standard in any area; or

(iv) Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:

(A) A demonstration of reasonable further progress;

(B) A demonstration of attainment; or

(C) A maintenance plan; or

(2) The Federal agency must provide documentation that the total of direct and indirect (inclusive/exclusive) emissions from similar, previous actions taken by the Federal agency under the proposed exemption were below the emission rates for a conformity determination that are established in paragraph (b) of this section, and that future such actions would be below those rates.

(f) In addition to meeting the criteria for establishing exemptions set forth in paragraphs (e)(1) or (e)(2) of this section, the following procedures must also be complied with to exempt activities from a conformity analysis:

(1) The Federal agency must identify through publication in the **Federal Register** its list of proposed exemptions from conformity determinations and the basis for the proposed exemptions;

(2) The Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, the agency designated under section 174 of the CAA and the MPO and provide at least 45 days for the public to comment on the list of proposed exemptions;

(3) the Federal agency must document its response to all the comments received and make the comments, response, and final list of exemptions available to the public upon request; and

(4) the Federal agency must publish the final list of exemptions in the **Federal Register**.

(g) Notwithstanding the other requirements of this subpart, when the total of direct and indirect (inclusive/exclusive) emissions of any pollutant from a Federal action does not equal or exceed the rates specified in paragraph (b) of this section, but represents 10 percent or more of a nonattainment or maintenance area's total emissions of that pollutant, the action is defined as a regionally significant action and a § 93.158 conformity determination is required for the Federal action.

(h) Where an action otherwise exempted under paragraph (d)(3) of this section is a regionally significant action or does not in fact meet the criteria in paragraph (e) of this section, that action shall not be exempt.

(i) The provisions of this subpart shall apply in any area that:

(1) Is designated as a nonattainment area in 40 CFR part 81; or

(2) Has a maintenance plan as part of the applicable SIP;

§ 93.154 Conformity analysis.

Any Federal department, agency, or instrumentality of the Federal government taking an action subject to this subpart must make its own conformity determination consistent with the requirements of this subpart. In making its conformity determination, a Federal agency must consider comments from other interested parties. Where multiple Federal agencies have jurisdiction for various aspects of a project, a Federal agency may choose to adopt the analysis of another Federal agency or develop its own analysis in order to make its conformity determination.

§ 93.155 Reporting requirements.

(a) A Federal agency making a conformity determination under § 93.158 must provide to the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, the agency designated under section 174 of the CAA and the MPO a 45 day notice which describes the proposed action and the Federal agency's draft conformity determination on the action.

(b) A Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, the agency designated

under section 174 of the Clean Air Act and the MPO within 45 days after making a final conformity determination under § 93.158.

§ 93.156 Public participation.

(a) A Federal agency must make available for review, upon request, to all interested parties its applicability analysis under § 93.153 and/or its draft conformity determination under § 93.158 with supporting materials which describe the analytical methods and conclusions relied upon in making the applicability analysis and/or draft conformity determination.

(b) A Federal agency must make public its draft conformity determination for a Federal action by placing a notice by prominent advertisement in the area affected by the action and by providing 45 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process.

(c) A Federal agency must document its response to all the comments received and make the comments and responses available to the public upon request within 45 days of the final conformity determination.

(d) A Federal agency must make public its final conformity determination for a Federal action by placing a notice by prominent advertisement in the area affected by the action within 45 days of the final conformity determination.

§ 93.157 Frequency of conformity determinations.

(a) The conformity status of a Federal action automatically lapses 5 years from the date of the initial determination unless the Federal action has been completed or a continuous program has been commenced to implement that Federal action within a reasonable time.

(b) Ongoing Federal activities at a given site showing continuous progress are not new actions and do not require periodic redeterminations so long as such activities are within the scope of the project as originally considered.

(c) As described in § 93.158, paragraph (d), Federal agencies may, in some cases, use the concept of tiering and make short-term conformity determinations for those impacts that are reasonably foreseeable and make conditional long-term conformity determinations which defer the conformity decision on long-range projects. In such cases the conformity determination of the long-term impacts of the action must be completed before any aspects of the project beyond those considered in the short-term conformity determination are taken by the Federal agency.

§ 93.158 Criteria for determining conformity of general Federal actions.

(a) An action required under § 93.153 to have a conformity determination for a specific pollutant, will be determined to conform to the applicable SIP if, for each pollutant that exceeds the rates in § 93.153, paragraph (b), or otherwise requires a conformity determination due to the total of direct and indirect (inclusive/exclusive) emissions from the action, the action meets the requirements of paragraph (c) of this section, and meets any of the following requirements:

(1) For any criteria pollutant, the total of direct and indirect (inclusive/exclusive) emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration;

(2) For ozone or nitrogen dioxide, the total of direct and indirect (inclusive/exclusive) emissions from the action are fully offset within the same nonattainment (or maintenance) area through a revision to the applicable SIP or a similarly enforceable measure that effects emission reductions so that there is no net increase in emissions of that pollutant;

(3) For any criteria pollutant, the total of direct and indirect (inclusive/exclusive) emissions from the action meet the requirements specified in paragraph (b) of this section, based on areawide air quality modeling analysis and, except for ozone and nitrogen dioxide, hotspot air quality modeling analysis;

(4) For CO or PM–10,

(i) The total of direct and indirect (inclusive/exclusive) emissions from the action meet the requirements specified in paragraph (b) of this section, based on hotspot air quality modeling analysis and

(ii) Where the action is a regionally significant action or where the applicable SIP includes an areawide emission budget for CO and/or PM–10, the total of direct and indirect (inclusive/exclusive) emissions from the action also meet the requirements of paragraph (a)(5) of this section; or

(5) For ozone or nitrogen dioxide, and for purposes of paragraph (a)(4)(ii) of this section, each portion of the action or the action as a whole meets any of the following requirements:

(i) Where EPA has approved a revision to an area's attainment or maintenance demonstration after 1990, the total of direct and indirect (inclusive/exclusive) emissions from the action are determined by the State agency responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would not exceed the emissions budget specified in the applicable SIP;

(ii) The action is specifically included in a current transportation plan and transportation improvement program which have been found to conform to the applicable SIP under 40 CFR part 51, subpart T, or 40 CFR part 93, subpart A;

(iii) The action fully offsets within the same nonattainment (or maintenance) area through a revision to the applicable SIP or an equally enforceable measure that effects emission reductions equal to or greater than the total of direct and indirect (inclusive/exclusive) emissions from the action so that there is no net increase in emissions of that pollutant; or

(iv) Where EPA has not approved a revision to the relevant SIP attainment or maintenance demonstration since 1990, the total of direct and indirect (inclusive/exclusive) emissions from the action do not increase emissions with respect to the baseline emissions, as described below:

(A) The baseline emissions are the total of direct and indirect (inclusive/exclusive) emissions estimated to have occurred in the geographic area affected by the proposed Federal action during either calendar year 1990 or, if a classification is promulgated in 40 CFR part 81, the baseline emissions may be defined as those estimated to have occurred during the calendar year (or, where the classification is based on multiple years, the most representative year) that is the basis for the classification;

(B) The baseline emissions, without the action, must be compared to the total of direct and indirect (inclusive/exclusive) emissions from the action.

(b) The required air quality modeling analyses must:

(1) Reflect the total of direct and indirect (inclusive/exclusive) emissions from the action; and

(2) Show that the action does not:

(i) Cause or contribute to any new violation of any standard in any area; or

(ii) Increase the frequency or severity of any existing violation of any standard in any area.

(c) An action subject to this subpart may not be determined to conform to the applicable SIP unless the total of direct and indirect (inclusive/exclusive) emissions from the action is in compliance or consistent with all relevant requirements and milestones

contained in the applicable SIP, such as elements identified as part of the reasonable further progress schedules, assumptions specified in the attainment or maintenance demonstration, prohibitions, numerical emission limits, and work practice requirements.

(d) For the purposes of making the conformity determination under this section, but not for purposes of determining applicability under § 93.153, Federal agencies may use the concept of tiering and:

(1) Make short-term (i.e., up to 15–20 years, consistent with transportation planning in the area) conformity determinations for those impacts that are reasonably foreseeable and

(2) Make conditional long-term conformity determinations which defer the conformity decision on long-range projects (i.e., beyond a 15–20 year timeframe) where the impacts are only speculative at the point in time of the short-term conformity determination; the Federal agency must make the long-term conformity determinations prior to the time that the decision to take any of those subsequent actions is made.

§ 93.159 Procedures for conformity determinations of general Federal actions.

(a) The analyses required under this subpart must be based on the latest planning assumptions.

(1) All planning assumptions must be derived from the estimates of population, employment, travel, and congestion most recently approved by the MPO where available.

(2) Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, must be approved in writing by the MPO or other agency authorized to make such estimates for the urban area.

(b) The analyses required under this Subpart must be based on the latest and most accurate emission estimation techniques available.

(1) For motor vehicle emissions, the most current version of the motor vehicle emissions model specified by EPA and available for use in the preparation or revision of SIPs in that State must be used for the conformity analysis.

(2) For non-motor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the "Compilation of Air Pollutant Emission Factors (AP–42)" must be used for the conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity analysis.

(c) The air quality modeling analyses required under this subpart must be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the "Guideline on Air Quality Models (Revised)" (EPA publication no. 450/2–78–027R), including Supplements, unless:

(1) The Guideline techniques are inappropriate, in which case the model may be modified or another model substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program; and

(2) Written approval of the EPA Regional Administrator is obtained for any modification or substitution.

(d) The analyses required under this subpart, except § 93.158, paragraph (a)(1), must be based on the total of direct and indirect (inclusive/exclusive) emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases:

(1) The CAA mandated attainment year or, if applicable, the farthest year for which emissions are projected in the maintenance plan;

(2) The year during which the total of direct and indirect (inclusive/exclusive) emissions from the action is expected to be the greatest on an annual basis; and

(3) any year for which the applicable SIP specifies an annual emissions budget.

§ 93.160 Mitigation of air quality impacts.

(a) Any measures that are intended to mitigate air quality impacts must be identified and the process for implementation and enforcement of such measures must be described, including a funding commitment from the Federal agency or local sponsors as applicable and an implementation schedule containing explicit timelines for implementation.

(b) In instances where the Federal agency is licensing, permitting or otherwise approving the action of another governmental or private entity, approval by the Federal agency must be conditioned on the other entity meeting the mitigation measures set forth in the conformity determination.

(c) Any license, permit, or other written approval document issued by a Federal agency to the other governmental or private entity must contain the requirement that failure to implement the mitigation measures committed to in the conformity determination and found necessary to support the conformity determination will result in the automatic revocation of the conformity determination and cancellation of the license, permit or approval.

(d) When necessary because of changed circumstances, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination. Any proposed change in the mitigation measures is subject to the reporting requirements of § 93.156 and the public participation requirements of § 93.157.

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Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary

24 CFR Part 583

Supportive Housing Program; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 583

[Docket No. R-93-1631; FR-3379-I-01]

RIN 2506-AB45

Supportive Housing Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule implements the Supportive Housing Program, a program to provide assistance for housing and supportive services for homeless persons authorized by section 1403 of the Housing and Community Development Act of 1992 (Pub. L. 102-550, approved October 28, 1992) (the 1992 Act). This program replaces the Transitional Housing (24 CFR part 577), Permanent Housing for Handicapped Homeless (24 CFR part 578), and Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) (24 CFR part 579) programs.

DATES: Effective date: March 15, 1993. Comment due date: May 14, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, Washington, DC 20410-0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

FOR FURTHER INFORMATION CONTACT: James Forsberg, Director, Special Needs Assistance Programs, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; (202) 708-4300 or, TDD for hearing and speech-impaired, (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirement contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980, and approved under OMB control number 2506-0112.

Background

Section 1403 of the 1992 Act amended title IV of the Stewart B. McKinney Homeless Assistance Act by striking subtitles C and D (the Supportive Housing Demonstration and SAFAH, respectively), and replacing them with a new subtitle C, which authorizes the Supportive Housing Program. (The Supportive Housing Demonstration consisted of the Transitional Housing and the Permanent Housing for Handicapped Homeless programs.) The new Supportive Housing Program combines the features of the Demonstration programs and the SAFAH program into one single program of assistance to governmental entities and private nonprofit organizations to provide housing and supportive services to homeless persons.

Transitional Housing, Permanent Housing for Handicapped Homeless, and SAFAH projects previously approved under those program regulations (24 CFR parts 577, 578, and 579, respectively) will continue to be subject to those regulations. However, projects under the previous programs are eligible under the new Supportive Housing Program for renewed funding when their current funding ends.

Supportive Housing Program

Generally, under the new Supportive Housing Program, grants are available for acquisition, rehabilitation, new construction, leasing, operating costs in connection with supportive housing, and supportive services provided to homeless persons. Supportive housing may be transitional housing, permanent housing for homeless persons with disabilities, a particularly innovative project (or part of project) for, or alternative methods of, meeting the immediate and long-term needs of homeless individuals and families, and supportive services for homeless persons. Supportive services may be provided to homeless persons who do not reside in supportive housing. The 1992 Act requires that at least 25 percent of the funds appropriated for the program be used for homeless families with children, at least 25 percent for homeless persons with disabilities, and at least 10 percent for supportive services for homeless persons who do not reside in supportive housing.

Since the 1992 Act essentially combines the Transitional Housing, Permanent Housing for Handicapped Homeless Persons, and SAFAH programs, the interim rule for the new Supportive Housing Program retains most of the provisions of those programs' regulations. New features of the program include:

1. Applicants are eligible for all categories of funding. (Only States and Indian tribes were eligible applicants under the Permanent Housing for Handicapped Homeless program.) Eligible applicants are States, local governments, other governmental entities, Indian tribes, private nonprofit organizations, and community mental health associations that are public nonprofit organizations.

2. Leasing of structures and supportive services are eligible activities separate and apart from operation costs.

3. Recipients are required to involve homeless persons in policy and decisionmaking for the projects, as well as in constructing, rehabilitating, maintaining, and operating projects and providing supportive services through employment or volunteer efforts.

4. The match requirement for acquisition, rehabilitation, and new construction grants is still a one-for-one match, but is now to be provided by the recipient from cash sources only. The cash source may be from Federal, State, local, or private sources.

5. The occupancy charge for residents may be less than, but may not exceed, the amount determined under section 3(a) of the U.S. Housing Act of 1937.

6. On terminating assistance to any participant, recipients must provide a formal process that recognizes the right to due process of law.

The 1992 Act directs the Secretary to issue an interim rule within 90 days after enactment to carry out the program. After a 60-day public comment period, the Department is required to issue a final rule within 60 days after the comment period closes. The 1992 Act also provides that both the interim and final rules are to be effective upon issuance. Section 7(o) of the Department of Housing and Urban Development Act provides that no rule or regulation of HUD may become effective until after the expiration of the 30-day calendar period beginning on the day after the rule or regulation is published. However, since the 1992 Act provides that the interim and final rules implementing the new Supportive Housing Program are to be "effective upon issuance," this provision of section 7(o) does not apply to this rule.

A Notice of Funds Availability (NOFA) for the Supportive Housing program is being published elsewhere in today's Federal Register. This interim rule will govern the funding under that NOFA. A final rule for the program will be published before the 1994 funding round.

Other Matters

Information collection requirements in this rule have been reviewed by the Office of Management and Budget under the Paperwork Reduction Act and assigned OMB approval number 2506–0112.

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. The program has been designed to allow applicants to design programs that provide housing and supportive services to homeless families and individuals with as little regulation as possible under the existing law.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street SW., Washington, DC 20410.

The General Counsel, as the designated official under Executive Order 12606, The Family, has determined that some of the policies in this proposed rule may have a potential significant impact on the formation, maintenance, and general well-being of participating homeless families. Participation of families in the program can be expected to support family values, by helping families remain together; by enabling them to live in decent, safe, and sanitary housing; and by offering the supportive services that are necessary to acquire the skills and means to live independently in mainstream American society. Since the impact on the family is considered to be a beneficial one, no further review is necessary.

The General Counsel has also determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, Federalism, that the provisions in the rule requiring applicants to assume the responsibilities for environmental review, decisionmaking, and action under NEPA and other environmental authorities have Federalism implications. While the assignment of these responsibilities under section 104(g) of the Housing and Community Development Act of 1974 is discretionary with HUD, it is authorized by and clearly the intent of section 443 of the McKinney Act. Therefore, the policy is not subject to review under Executive Order 12612.

This rule was not listed in the Department's Semiannual Agenda of Regulations published at 57 FR 51392 on November 3, 1992, under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 583

Community facilities, Employment, Grant programs—housing and community development, Grant programs—social programs, Handicapped, Homeless, Indians, Mental health programs, Nonprofit organizations, Reporting and recordkeeping requirements, Technical assistance.

For the reasons stated in the preamble, chapter V of title 24 is amended by adding part 583, to read as follows:

PART 583—SUPPORTIVE HOUSING PROGRAM

Subpart A—General

Sec.
583.1 Purpose and scope.
583.5 Definitions.
583.10 Waivers.

Subpart B—Assistance Provided

583.100 Types and uses of assistance.
583.105 Grants for acquisition and rehabilitation.
583.110 Grants for new construction.
583.115 Grants for leasing.
583.120 Grants for supportive service costs.
583.125 Grants for operating costs.
583.130 Commitment of grant amounts for leasing, supportive services, and operating costs.
583.135 Administrative costs.
583.140 Technical assistance.
583.145 Matching requirements.
583.150 Limitations on use of assistance.
583.155 Comprehensive housing affordability strategy (CHAS).

Subpart C—Application and Grant Award Process

583.200 Notice of fund availability.
583.205 Grant award process.
583.210 Application requirements.
583.215 Rating criteria for applications.
583.220 Selecting applications.
583.225 Obtaining additional information and awarding grants.
583.230 Environmental review.
583.235 Renewal grants.

Subpart D—Program Requirements

583.300 General operation.
583.305 Term of commitment; repayment of grants; prevention of undue benefits.
583.310 Displacement, relocation, and acquisition.
583.315 Resident rent.
583.320 Site control.
583.325 Nondiscrimination and equal opportunity requirements.
583.330 Applicability of other Federal requirements.

Subpart E—Administration

583.400 Grant agreement.
583.405 Program changes.
583.410 Obligation and deobligation of funds.

Authority: 42 U.S.C. 11389; 42 U.S.C. 3535(d).

Subpart A—General

§ 583.1 Purpose and scope.

(a) *General.* The Supportive Housing program is authorized by title IV of the Stewart B. McKinney Homeless Assistance Act. The Supportive Housing program is designed to promote the development of supportive housing and supportive services, including innovative approaches to assist homeless persons in the transition from homelessness, and to promote the provision of supportive housing to homeless persons to enable them to live as independently as possible.

(b) *Components.* Funds under this part may be used for:

(1) Transitional housing to facilitate the movement of homeless individuals and families to permanent housing;

(2) Permanent housing that provides long-term housing for homeless persons with disabilities;

(3) Housing that is, or is part of, a particularly innovative project for, or alternative methods of, meeting the immediate and long-term needs of homeless persons; or

(4) Supportive services for homeless persons not provided in conjunction with supportive housing.

§ 583.5 Definitions.

As used in this part:

Applicant means a State, Indian tribe, metropolitan city, urban county,

governmental entity, private nonprofit organization, or community mental health association that is a public nonprofit organization, that is eligible to receive and submits an application for assistance under this part. Governmental entities include those that have general governmental powers (such as a city or county), as well as those that have limited or special powers (such as public housing agencies).

Comprehensive Housing Affordability Strategy (CHAS or housing strategy) means the housing strategy prepared by a jurisdiction and submitted to HUD in accordance with 24 CFR part 91.

Date of initial occupancy means the date that the supportive housing is initially occupied by a homeless person for whom assistance is provided under this part. If the assistance is for an existing homeless facility, the date of initial occupancy is the date that services are first provided to the residents of supportive housing with funding under this part.

Date of initial service provision means the date that supportive services are initially provided with funds under this part to homeless persons who do not reside in supportive housing. This is applicable only to projects funded under this part that do not provide supportive housing.

Disability means:

(1) A disability as defined in section 223 of the Social Security Act;

(2) Having a physical, mental, or emotional impairment that:

(i) Is expected to be of long-continued and indefinite duration;

(ii) Substantially impedes an individual's ability to live independently; and

(iii) Is of such a nature that such ability could be improved by more suitable housing conditions;

(3) A developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act; or

(4) The disease of acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agency for acquired immunodeficiency syndrome. This paragraph (4) may not be construed to limit eligibility under paragraphs (1), (2), and (3) of this definition or the provisions referred to in those paragraphs.

Homeless family with children means a homeless family that includes at least one parent or guardian and one child under the age of 18, a homeless pregnant woman, or a homeless individual in the process of securing legal custody of any person who has not attained the age of 18 years.

Homeless person means:

(1) An individual or family who lacks a fixed, regular, and adequate nighttime residence; and

(2) An individual or family who has a primary nighttime residence that is:

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(3) This term does not include any individual imprisoned or otherwise detained under an Act of the Congress or a State law.

HUD means the Department of Housing and Urban Development.

Metropolitan city means a city that is classified as a metropolitan city under section 102(a)(4) of the Housing and Community Development Act of 1974. In general, metropolitan cities are those cities that are eligible for an entitlement grant under 24 CFR part 570, subpart D.

New construction means the building of a structure where none existed or an addition to an existing structure that increases the floor area by more than 100 percent.

Operating costs means expenses incurred by a recipient operating supportive housing with respect to:

(1) Administration (including staff salaries), maintenance, repair and security for the supportive housing;

(2) Utilities, insurance, fuel, furnishings, and equipment for the supportive housing;

(3) Conducting an ongoing assessment of the supportive services needed by residents and the availability of such services;

(4) Relocation assistance under § 583.310, including payments and services; and

(5) Other costs associated with operating the supportive housing.

Outpatient health services means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management.

Permanent housing for homeless persons with disabilities means community-based housing for homeless persons with disabilities that provides long-term housing and supportive services for not more than—

(1) 8 such persons in a single structure or contiguous structures;

(2) 16 such persons, but only if not more than 20 percent of the units in a structure are designated for such persons; or

(3) More than 16 persons if the applicant demonstrates that local market conditions dictate the development of a large project and such development will achieve the neighborhood integration objectives of the program within the context of the affected community.

Private nonprofit organization means an organization, no part of the net earnings of which may inure to the benefit of any member, founder, contributor, or individual. The organization must:

(1) Have a voluntary board;

(2) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles, or designate an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting principles; and

(3) Practice nondiscrimination in the provision of supportive housing assistance in accordance with the authorities described in this part.

Project means a structure or structures (or portion of such structure or structures) that is acquired, rehabilitated, constructed, or leased with assistance provided under this part of with respect to which HUD provides technical assistance or assistance for operating costs, or supportive services. A project may provide supportive housing or supportive services in single room occupancy dwelling units which do not contain bathrooms or kitchen facilities and are appropriate for use as supportive housing or in projects containing some or all such dwelling units.

Recipient means any governmental or nonprofit entity that receives assistance under this part.

Rehabilitation means the improvement or repair of an existing structure or an addition to an existing structure that does not increase the floor area by more than 100 percent. Rehabilitation does not include minor or routine repairs.

State means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

Supportive housing means housing in conjunction with which supportive services are provided for homeless persons if:

(1) The housing is safe and sanitary and meets any applicable State and local housing codes and licensing requirements in the jurisdiction in

which the housing is located and the requirements of this part; and

(2) The housing is:

(i) Transitional housing;

(ii) Permanent housing for homeless persons with disabilities; or

(iii) Is, or is a part of, a particularly innovative project for, or alternative method of, meeting the immediate and long-term needs of homeless persons.

Supportive services means services, which may be designed by the recipient or program participants, designed to address the special needs of the homeless persons to be served by the project. Supportive services include:

(1) Establishing and operating a child care services program for homeless families;

(2) Establishing and operating an employment assistance program;

(3) Providing outpatient health services, food, and case management;

(4) Providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling;

(5) Providing security arrangements necessary for the protection of residents of supportive housing and for homeless persons using the housing or services;

(6) Providing assistance in obtaining other Federal, State, and local assistance available for such residents including mental health benefits, employment counseling, Veterans' benefits, medical assistance, but not including major medical equipment, and income support assistance, such as Supplemental Security Income benefits, Aid to Families with Dependent Children, General Assistance, and Food Stamps; and

(7) Other services as appropriate.

Transitional housing means housing that will facilitate the movement of homeless individuals and families to permanent housing within 24 months, or within a longer period as described in § 583.300(j).

Tribe means any Indian tribe, band, group, or nation, including Alaska Indians, Aleuts, and Eskimos and any Alaskan Native Village, of the United States, which is considered an eligible recipient under Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450) or was considered an eligible recipient under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 6701) before repeal of that Act. Eligible recipients under the Indian Self-Determination and Education Assistance Act are determined by the Bureau of Indian Affairs.

Urban county means a county that is classified as an urban county under section 102(a)(6) of the Housing and Community Development Act of 1974. In general, urban counties are those counties that are eligible for an entitlement grant under 24 CFR part 570, subpart D.

§ 583.10 Waivers.

Upon completion of a determination and finding of good cause by the Assistant Secretary for Community Planning and Development, HUD may waive any provision of this part in any particular case subject only to statutory limitations. Each waiver must be in writing, and must be supported by documentation of the facts and reasons that formed the basis for the waiver. HUD will publish a notice in the **Federal Register** informing the public of all waivers granted under this section and containing all relevant information concerning the waiver.

Subpart B—Assistance Provided

§ 583.100 Types and uses of assistance.

(a) *Grant Assistance.* Assistance in the form of grants is available for acquisition of structures, rehabilitation of structures, acquisition and rehabilitation of structures, new construction, leasing, operating costs for supportive housing, and supportive services, as described in §§ 583.105 through 583.125. Applicants may apply for more than one type of assistance.

(b) *Uses of grant assistance.* Grant assistance may be used to:

(1) Establish new supportive housing facilities or new facilities to provide supportive services;

(2) Expand existing facilities in order to increase the number of homeless persons served;

(3) Provide additional supportive services for residents of supportive housing or for homeless persons not residing in supportive housing;

(4) Purchase HUD-owned single family properties currently leased by the applicant for use as a homeless facility under 24 CFR part 291; and

(5) Continue funding supportive housing where the recipient has received funding under this part for leasing, supportive services, or operating costs.

(c) *Structures used for multiple purposes.* Structures used to provide supportive housing or supportive services may also be used for other purposes, except that assistance under this part will be available only in proportion to the use of the structure for supportive housing or supportive services.

(d) *Technical assistance.* HUD may offer technical assistance, as described in § 583.140.

§ 583.105 Grants for acquisition and rehabilitation.

(a) *Use.* HUD will grant funds to recipients to:

(1) Pay a portion of the cost of the acquisition of real property selected by the recipients for use in the provision of supportive housing or supportive services, including the repayment of any outstanding debt on a loan made to purchase property that has not been used previously as supportive housing or for supportive services;

(2) Pay a portion of the cost of rehabilitation of structures, including cost-effective energy measures, selected by the recipients to provide supportive housing or supportive services; or

(3) Pay a portion of the cost of acquisition and rehabilitation of structures, as described in paragraphs (a)(1) and (2) of this section.

(b) *Amount.* The maximum grant available for acquisition, rehabilitation, or acquisition and rehabilitation is the lower of:

(1) $200,000; or

(2) The total cost of the acquisition, rehabilitation, or acquisition and rehabilitation minus the applicant's contribution toward the cost.

(c) *Increased amounts.* In areas determined by HUD to have high acquisition and rehabilitation costs, grants of more than $200,000, but not more than $400,000, may be available.

§ 583.110 Grants for new construction.

(a) *Use.* HUD will grant funds to recipients to pay a portion of the cost of new construction, including cost-effective energy measures and the cost of land associated with that construction, for use in the provision of supportive housing. If the grant funds are used for new construction, the applicant must demonstrate that the costs associated with new construction are substantially less than the costs associated with rehabilitation or that there is a lack of available appropriate units that could be rehabilitated at a cost less than new construction. For purposes of this cost comparison, costs associated with rehabilitation or new construction may include the cost of real property acquisition.

(b) *Amount.* The maximum grant available for new construction is the lower of:

(1) $400,000; or

(2) The total cost of the new construction, including the cost of land associated with that construction, minus the applicant's contribution toward the cost of same.

§ 583.155 Grants for leasing.

(a) *General.* HUD will provide grants to pay (as described in § 583.130 of this

part) for the actual costs of leasing a structure or structures, or portions thereof, used to provide supportive housing or supportive services for up to five years.

(b)(1) *Leasing structures.* Where grants are used to pay rent for all or part of structures, the rent paid must be reasonable in relation to rents being charged in the area for comparable space. In addition, the rent paid may not exceed rents currently being charged by the same owner for comparable space.

(2) *Leasing individual units.* Where grants are used to pay rent for individual housing units, the rent paid must be reasonable in relation to rents being charged for comparable units, taking into account the location, size, type, quality, amenities, facilities, and management services. In addition, the rents may not exceed rents currently being charged by the same owner for comparable unassisted units, and the portion of rents paid with grant funds may not exceed HUD-determined fair market rents.

§ 583.120 Grants for supportive services costs.

(a) *General.* HUD will provide grants to pay (as described in § 583.130) for the actual costs of supportive services for homeless persons. Homeless persons receiving supportive services need not be residents of supportive housing. All or part of the supportive services may be provided directly by the recipient or by arrangement with public or private service providers.

(b) *Supportive services costs.* Costs associated with providing supportive services include salaries paid to providers of supportive services and any other costs directly associated with providing such services. For a transitional housing project, supportive services costs also include the costs of services provided to former residents of transitional housing to assist their adjustment to independent living. Such services may be provided for up to six months after they leave the transitional housing facility.

§ 583.125 Grants for operating costs.

(a) *General.* HUD will provide grants to pay a portion (as described in § 583.130) of the actual operating costs of supportive housing for up to five years.

(b) *Operating costs.* Operating costs are those associated with the day-to-day operation of the supportive housing. They also include the actual expenses that a recipient incurs for conducting on-going assessments of the supportive services needed by residents and the availability of such services. In addition, operating costs include relocation assistance under § 583.310, including payments and services.

(c) *Recipient share of operating costs.* Assistance for operating costs will be initially available for up to 75 percent of the total cost for two years and up to 50 percent of the total cost for the next three years. The recipient must pay the percentage of the actual operating costs not funded by HUD. At the end of each operating year, the recipient must demonstrate that it has met its share of the costs for that year.

§ 583.130 Commitment of grant amounts for leasing, supportive services, and operating costs.

Upon approval of an application for assistance for leasing, supportive services, or operating costs, HUD will obligate amounts for a period not to exceed five operating years. The total amount obligated will be equal to an amount necessary for the specified years of operation, less the recipient's share of operating costs.

(Approved by the Office of Management and Budget under OMB Control Number 2506–0112)

§ 583.135 Administrative costs.

(a) *General.* Up to five percent of any grant awarded under this part may be used for the purpose of paying costs of administering the assistance.

(b) *Administrative costs.* Administrative costs include the costs associated with accounting for the use of grant funds, preparing reports for submission to HUD, obtaining program audits, and similar costs related to administering the grant after the award. This does not include the costs of carrying out eligible activities under §§ 583.105 through 583.125.

§ 583.140 Technical assistance.

(a) *General.* HUD will set aside up to two percent of the amount available annually for the Supportive Housing program to provide technical assistance under this part.

(b) *Technical assistance.* Funds are available to organizations or individuals to provide applicants (or prospective applicants) and recipients with skills or knowledge to help them plan, develop, administer, and/or evaluate their supportive housing program or specific activities more effectively. The assistance may include, but is not limited to, written information such as papers, monographs, manuals, guides, and brochures; person-to-person exchanges; and training such as seminars, classes, workshops, and meetings.

(c) *Selection of providers.* From time to time, as HUD determines the need, HUD will advertise and competitively select providers to deliver assistance to Supportive Housing program recipients or applicants (or prospective applicants). HUD may enter into contracts, grants, or cooperative agreements, as appropriate, to implement the technical assistance.

§ 583.145 Matching requirements.

(a) *General.* The recipient must match the funds provided by HUD for grants for acquisition, rehabilitation, and new construction with an equal amount of funds from other sources.

(b) *Cash resources.* The matching funds must be cash resources provided to the project by one or more of the following: the recipient, the Federal government, State and local governments, and private resources.

(c) *Maintenance of effort.* State or local government funds used in the matching contribution are subject to the maintenance of effort requirements described at § 583.150(a).

§ 583.150 Limitations on use of assistance.

(a) *Maintenance of effort.* No assistance provided under this part (or any State or local government funds used to supplement this assistance) may be used to replace State or local funds previously used, or designated for use, to assist homeless persons.

(b) *Ineligible projects.* HUD will not assist a facility under this part if the project involves a structure that is assisted, or residents of the structure will receive assistance, under any of the following: the United States Housing Act of 1937 (*e.g.*, Section 8 Rental Assistance Payments program), section 202 of the Housing Act of 1959, section 221(d)(3) (BMIR) or section 236 of the National Housing Act, section 101 of the Housing and Urban Development Act, section 811 of the National Affordable Housing Act, or subtitle F, title IV of the Stewart B. McKinney Homeless Assistance Act.

(c) *Primarily religious organizations.* (1) *Provision of assistance.* (i) HUD will provide assistance to a recipient that is a primarily religious organization if the organization agrees to provide housing and supportive services in a manner that is free from religious influences and in accordance with the following principles:

(A) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(B) It will not discriminate against any person applying for housing or

supportive services on the basis of religion and will not limit such housing or services or give preference to persons on the basis of religion;

(C) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of housing and supportive services.

(ii) HUD will provide assistance to a recipient that is a primarily religious organization if the assistance will not be used by the organization to construct a structure, acquire a structure or to rehabilitate a structure owned by the organization, except as described in paragraph (c)(2) of this section.

(2) *Rehabilitation of structures owned by a primarily religious organization.* Rehabilitation grants may be used to rehabilitate a structure owned by a primarily religious organization, if the following conditions are met:

(i) The structure (or portion of the structure) that is to be rehabilitated with HUD assistance has been leased to a recipient that is an existing or newly established wholly secular organization (which may be established by the primarily religious organization under the provisions of paragraph (c)(3) of this section);

(ii) The HUD assistance is provided to the wholly secular organization (and not the primarily religious organization) to make the improvements;

(iii) The leased structure will be used exclusively for secular purposes available to all persons regardless of religion;

(iv) The lease payments paid to the primarily religious organization do not exceed the fair market rent of the structure before the rehabilitation was done;

(v) the portion of the cost of any improvements that benefit any unleased portion of the structure will be allocated to, and paid for by, the primarily religious organization;

(vi) The primarily religious organization agrees that, if the recipient does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay an amount equal to the residual value of the improvements to the secular organization, and the secular organization will remit the amount to HUD.

(3) *Assistance to a wholly secular private nonprofit organization established by a primarily religious organization.* (i) A primarily religious organization may establish a wholly secular private nonprofit organization to serve as a recipient. The wholly secular organization may be eligible to receive other forms of assistance available under this part.

(A) The wholly secular organization must agree to provide housing and supportive services in a manner that is free from religious influences and in accordance with the principles set forth in paragraph (c)(1)(i) of this section.

(B) The wholly secular organization may enter into a contract with the primarily religious organization to operate the supportive housing or to provide supportive services for the residents. In such a case, the primarily religious organization must agree in the contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with the principles set forth in paragraph (c)(1)(i) of this section.

(C) The rehabilitation grants are subject to the requirements of paragraph (c)(2) of this section.

(ii) HUD will not require the primarily religious organization to establish the wholly secular organization before the selection of its application. In such a case, the primarily religious organization may apply on behalf of the wholly secular organization. The application will be reviewed on the basis of the primarily religious organization's financial responsibility and capacity, and its commitment to provide appropriate resources to the wholly secular organization after formation. The requirement with regard to site control, described in § 583.320, may be satisfied if the primarily religious organization demonstrates site control and a commitment to transfer control of the site to the wholly secular organization after its formation. If such an application is selected for funding, the obligation of funds will be conditioned upon the establishment of a wholly secular organization that meets the definition of private nonprofit organization in § 583.5.

§ 583.155 Comprehensive housing affordability strategy (CHAS).

(a) *Applicants that are States or units of general local government.* The applicant must have a HUD-approved complete or abbreviated CHAS pursuant to the requirements of the CHAS regulations (24 CFR part 91), and must submit a certification that it is following, and the application for funding is consistent with, the HUD-approved CHAS.

(b) *Applicants that are not States or units of general local government.* The applicant must submit a certification by the jurisdiction in which the proposed project will be located that the jurisdiction is following, and the applicant's application for funding is consistent with, the jurisdiction's HUD-approved CHAS. The certification must be made by the unit of general local government or the State, pursuant to the CHAS regulations at 24 CFR 91.1(b)(1)(ii), and as may be further described in the NOFA.

(c) *Indian tribes and the Insular Areas of Guam, the U.S. Virgin Islands, American Samoa and the Northern Mariana Islands.* These entities are not required to have a CHAS or to make CHAS certifications. An application by an Indian tribe or other applicant for a project that will be located on a reservation of an Indian tribe will not require a certification by the tribe or the State. However, where an Indian tribe is the applicant for a project that will not be located on a reservation, the requirement for a certification under the preceding paragraph will apply.

(d) *Timing of CHAS certification submissions.* Unless otherwise set forth in the NOFA, the required certification must be submitted by the funding application submission deadline announced in the NOFA. The jurisdiction required to make the certification must therefore get its CHAS approved by HUD in time for the certification to be submitted by the applicable deadline, i.e., the funding application deadline announced in the NOFA or, if the NOFA permits a later submission date for the certification, the later date. (HUD has 60 days to approve a CHAS.) However, in no event will an application be considered for funding if the required CHAS has not been submitted for HUD approval by the funding application deadline. All certifications must be signed by the public official responsible for submitting the CHAS to HUD, and must meet the requirements of the CHAS regulations at 24 CFR 91.80(a) and (b), "Consistency certification."

Subpart C—Application and Grant Award Process

§ 583.200 Notice of fund availability.

When funds are made available for assistance, HUD will publish a notice of fund availability in the **Federal Register** in accordance with the requirements of 24 CFR part 12. The notice will:

(a) Give the location for obtaining application packages, which will provide specific application requirements and guidance;

(b) Specify the date, time, and place for submitting completed applications;

(c) State the amount and status of funding available under the notice;

(d) Describe the factors relative to each rating criterion contained in § 583.215, and indicate the weight or relative importance of the criteria as they will be applied to the funding round announced in the notice;

(e) Specify the timing and conditions for curing technical deficiencies in a reviewed application; and

(f) Provide other appropriate program information and guidance, including purpose, authority, and eligibility.

§ 583.205 Grant award process.

(a) *General.* The grant award process for assistance under this part consists of the following:

(1) Reviewing applications for eligibility for assistance;

(2) Rating applications (see § 583.215);

(3) Selecting applications (see § 583.220);

(4) Obtaining additional information and awarding grants (see § 583.225).

(b) *Prohibition of disclosure of selection information.* The selection process for assistance under this part is subject to the prohibition of disclosure of covered information regarding the selection process, as described in 24 CFR part 4. Applicants for or recipients of assistance who have received covered selection information may be subject to sanctions, as determined to be appropriate.

§ 583.210 Application requirements.

Applications for grants must be submitted in the form prescribed by HUD in the application package, must meet the requirements of this part, and must be submitted within the time period established by HUD in the notice of fund availability under § 583.200. HUD reserves the right to reject applications from any applicant with an outstanding obligation to HUD that is in arrears or for which a payment schedule has not been agreed to, or whose response to an audit finding is overdue or unsatisfactory.

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§ 583.215 Rating criteria for applications.

(a) *General.* Applications will be assigned a rating score and placed in ranked order, based upon the criteria listed in paragraph (b) of this section, and described in more detail in the notice of fund availability published in the **Federal Register** for each program funding round.

(b) *Criteria.* HUD will award points for the following criteria:

(1) Ability of the applicant to develop and operate a project;

(2) Innovative quality of the proposal;

(3) Need for the type of project proposed by the applicant in the area to be served;

(4) Extent to which the amount of assistance to be provided under this part will be supplemented with resources from other public and private sources;

(5) Cost effectiveness of the proposed project;

(6) Extent to which the applicant has demonstrated coordination with other Federal, State, local, private and other entities serving homeless persons in the planning and operation of the project;

(7) Extent to which the project targets homeless persons living in emergency shelters or in places not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; and

(8) Quality of the project.

§ 583.220 Selecting applications.

(a) *General.* The highest-ranked applications will be conditionally selected in accordance with their ranked order, as determined under § 583.215, to the extent funds are available, and consistent with the funding minimums described in paragraph (b) of this section. Each will be requested, as necessary, to provide additional project information, as described in § 583.225, as a prerequisite to a grant offer from HUD.

(b) *Funding minimums.* HUD will allocate not less than 25 percent to projects designed primarily to serve homeless families with children, not less than 25 percent to projects designed primarily to serve homeless persons with disabilities, and not less than 10 percent for supportive services not provided in conjunction with supportive housing. HUD will skip higher-ranked applications in a category for which the minimum percentage has already been achieved, if necessary, to achieve the minimum percentage for another category. If there are an insufficient number of approvable applications in a category to achieve its minimum percentage, the unused balance will be used for the next highest-ranked approvable applications in the competition.

(c) *Ties between applicants.* In the event of a tie between applicants, HUD will use the selection criterion in § 583.215(b)(3), need for the type of project proposed in the area to be served, to determine which application should be selected for potential funding.

(d) *Procedural error.* If HUD makes a procedural error in a funding competition that, when corrected, would warrant funding of an otherwise eligible application, HUD will select that application for potential funding when sufficient funds become available.

§ 583.225 Obtaining additional information and awarding grants.

(a) *Additional information.* Applicants with highest-ranked applications will be requested, as necessary, by HUD to submit additional project information, which may include:

(1) Documentation to show that the project is feasible;

(2) Documentation showing firm commitments for the cash match described in § 583.145;

(3) Documentation showing site control, as described in 583.320 of this part;

(4) Information necessary for HUD to perform an environmental review, where applicable, as described in § 583.230; and

(5) Such other documentation as specified by HUD in writing to the applicant, that confirms or clarifies information provided in the application.

(b) *Receipt of additional information.* The required additional information must be received in acceptable form within the timeframe established by HUD in a notice of fund availability published in the **Federal Register.** HUD reserves the right to remove any proposed project from further consideration for grant assistance if the required additional project information is not received in acceptable form by the established deadline.

(c) *Grant award.* Following receipt of the additional information in acceptable form (and, where HUD must perform the environmental review described in § 583.230, provided that the review indicates that the proposed project is environmentally acceptable to HUD), HUD will approve the application and send a grant agreement for execution to the applicant.

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§ 583.230 Environmental review.

(a) *Generally.* Project selection is subject to completion of an environmental review of the proposed site, and the project may be modified or the site rejected as a result of that review. The environmental effects must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4320) (NEPA) and the related environmental laws and authorities listed in HUD's implementing regulations at 24 CFR parts 50 or 58, depending on who is responsible for environmental review.

(b) *Responsibility for review.* (1) HUD will perform the environmental review, in accordance with part 50 of this title, for conditionally selected applications

received directly from private nonprofit organizations and governmental entities with special or limited purpose powers. HUD is not permitted to approve such applications prior to its completion of this review.

(2) Applicants that are States, metropolitan cities, urban counties, tribes, or other governmental entities with general purpose powers must assume responsibility for environmental review, decisionmaking, and action for each application for assistance in accordance with part 58 of this title. HUD is permitted to approve such applications subject to the completion of reviews by the applicant in accordance with part 58 of this title. Applicants performing these reviews may adopt relevant and adequate prior reviews conducted by HUD or another governmental entity if the reviews meet the particular requirements of the Federal environmental law or authority under which they would be adopted, and only under certain conditions (*e.g.*, a determination that no environmentally significant changes have occurred since the review was done). Applicants who adopt such relevant and adequate prior reviews may include the environmental certification and Request for Release of Funds with their applications.

(c) *Environmental review by HUD.* With regard to the environmental effects of applications for which HUD performs the review, HUD will undertake its review in accordance with the provisions of NEPA and the related authorities listed in 24 CFR 50.4. Any application subject to environmental review by HUD that requires an Environmental Impact Statement (EIS) (generally, an application that HUD determines would have a significant impact on the human environment, in accordance with the environmental assessment procedures at 24 CFR part 50, subpart E) will not be eligible for assistance under this part.

(d) *Environmental review by applicants.* (1) An applicant that is required under paragraph (b)(2) of this section to assume environmental review responsibility must include in its application an assurance that the applicant will assume all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official under NEPA and related authorities listed in 24 CFR part 58, including acceptance of jurisdiction of the Federal courts.

(2) The award is subject to completion of the environmental responsibilities set out in 24 CFR part 58 within a reasonable time period after notification of the award. (This provision does not preclude the applicant from enclosing its environmental certification and Request for Release of Funds with its application.)

(i) Upon completion of the requirements in 24 CFR part 58, applicants must certify the completion and submit a Request for Release of Funds. This submission is not required in cases in which the applicant determines, in accordance with 25 CFR part 58, that its program components are totally exempt.

(ii) HUD will not release funds if the recipient or any other party commits funds under this part (*i.e.*, incurs any costs or expenditures to be paid or reimbursed with HUD funds) before the recipient submits and HUD approves its Request for Release of Funds (when such submission is required).

(3) A general government applicant that believes that it does not have the legal capacity to carry out the responsibilities required by 24 CFR part 58 should contact the appropriate HUD field office for further instructions. Determinations of legal capacity will be made on a case-by-case basis.

§ 583.235 Renewal grants.

(a) *General.* Grants made under this part, and grants made under subtitles C and D (the Supportive Housing Demonstration and SAFAH, respectively) of the Stewart B. McKinney Homeless Assistance Act as in effect before October 28, 1992, may be renewed on a noncompetitive basis to continue ongoing leasing, operations, and supportive services for additional years beyond the initial funding period. To be considered for renewal funding for leasing, operating costs, or supportive services, recipients must submit a request for such funding in the form specified by HUD, must meet the requirements of this part, and must submit requests within the time period established by HUD.

(b) *Assistance available.* The first renewal will be for a period of time not to exceed the difference between the end of the initial funding period and ten years from the date of initial occupancy or the date of initial service provision, as applicable. Any subsequent renewal will be for a period of time not to exceed five years. Assistance during each year of the renewal period, subject to maintenance of effort requirements under § 583.150(a) may be for:

(1) Up to 50 percent of the actual operating and leasing costs in the final year of the initial funding period;

(2) Up to the amount of HUD assistance for supportive services in the final year of the initial funding period; and

(3) An allowance for cost increases.

(c) *HUD review.* (1) HUD will review the request for renewal and will evaluate the recipient's performance in previous years against the plans and goals established in the initial application for assistance, as amended. HUD will approve the request for renewal unless the recipient proposes to serve a population that is not homeless, or the recipient has not shown adequate progress as evidenced by an unacceptably slow expenditure of funds, or the recipient has been unsuccessful in assisting participants in achieving and maintaining independent living. In determining the recipient's success in assisting participants to achieve and maintain independent living, consideration will be given to the level and type of problems of participants. For recipients with a poor record of success, HUD will also consider the recipient's willingness to accept technical assistance and to make changes suggested by technical assistance providers. Other factors which will affect HUD's decision to approve a renewal request include the following: a continuing history of inadequate financial management accounting practices, indications of mismanagement on the part of the recipient, a drastic reduction in the population served by the recipient, program changes made by the recipient without prior HUD approval, and loss of project site.

(2) HUD reserves the right to reject a request from any organization with an outstanding obligation to HUD that is in arrears or for which a payment schedule has not been agreed to, or whose response to an audit finding is overdue or unsatisfactory.

(3) HUD will notify the recipient in writing that the request has been approved or disapproved.

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Subpart D—Program Requirements

§ 583.300 General operation.

(a) *State and local requirements.* Each recipient of assistance under this part must provide housing or services that are in compliance with all applicable State and local housing codes, licensing requirements, and any other requirements in the jurisdiction in which the project is located regarding the condition of the structure and the operation of the housing or services.

(b) *Habitability standards.* Except for such variations as are proposed by the recipient and approved by HUD,

supportive housing must meet the following requirements:

(1) *Structure and materials.* The structures must be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the residents from the elements.

(2) *Access.* The housing must be accessible and capable of being utilized without unauthorized use of other private properties. Structures must provide alternate means of egress in case of fire.

(3) *Space and security.* Each resident must be afforded adequate space and security for themselves and their belongings. Each resident must be provided an acceptable place to sleep.

(4) *Interior air quality.* Every room or space must be provided with natural or mechanical ventilation. Structures must be free of pollutants in the air at levels that threaten the health of residents.

(5) *Water supply.* The water supply must be free from contamination.

(6) *Sanitary facilities.* Residents must have access to sufficient sanitary facilities that are in proper operating condition, may be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.

(7) *Thermal environment.* The housing must have adequate heating and/or cooling facilities in proper operating condition.

(8) *Illumination and electricity.* The housing must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of residents. Sufficient electrical sources must be provided to permit use of essential electrical appliances while assuring safety from fire.

(9) *Food preparation and refuse disposal.* All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a sanitary manner.

(10) *Sanitary condition.* The housing and any equipment must be maintained in sanitary condition.

(11) *Fire safety.* (i) Each unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each occupied level of the unit. Smoke detectors must be located, to the extent practicable, in a hallway adjacent to a bedroom. If the unit is occupied by hearing-impaired persons, smoke detectors must have an alarm system designed for hearing-impaired persons in each bedroom occupied by a hearing-impaired person.

(ii) The public areas of all housing must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors. Public areas include, but are not limited to, laundry rooms, community rooms, day care centers, hallways, stairwells, and other common areas.

(c) *Meals.* Each recipient of assistance under this part who provides supportive housing for homeless persons with disabilities must provide meals or meal preparation facilities for residents.

(d) *Ongoing assessment of supportive services.* Each recipient of assistance under this part must conduct an ongoing assessment of the supportive services required by the residents of the project and the availability of such services, and make adjustments as appropriate.

(e) *Residential supervision.* Each recipient of assistance under this part must provide residential supervision necessary to facilitate the adequate provision of supportive services to the residents of the housing throughout the term of the commitment to operate supportive housing. Residential supervision may include the employment of a full- or part-time residential supervisor with sufficient knowledge to provide or to supervise the provision of supportive services to the residents.

(f) *Participation of homeless persons.* (1) Each recipient of assistance under this part must provide for the consultation and participation of not less than one homeless person or formerly homeless person on the board of directors or an equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this part. This requirement is waived if an applicant is unable to meet it and presents a plan, for HUD approval, to otherwise consult with homeless or formerly homeless persons in considering and making such policies and decisions. Participation of such a person on boards or policymaking entities who is also a participant in the program does not constitute a conflict of interest under § 583.330(e).

(2) Each recipient of assistance under this part must, to the maximum extent practicable, involve homeless individuals and families, through employment, volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating the project and in providing supportive services for the project.

(g) *Records and reports.* Each recipient of assistance under this part must keep any records and make any reports (including those pertaining to race, ethnicity, gender, and disability status data) that HUD may require within the timeframe required.

(h) *Confidentiality.* Each recipient that provides family violence prevention or treatment services must develop and implement procedures to ensure:

(1) The confidentiality of records pertaining to any individual services; and

(2) That the address or location of any project assisted will not be made public, except with written authorization of the person or persons responsible for the operation of the project.

(i) *Termination of housing assistance.* The recipient may terminate assistance to a participant who violates program requirements. Recipients should terminate assistance only in the most severe cases. Recipients may resume assistance to a participant whose assistance was previously terminated. In terminating assistance to a participant, the recipient must provide a formal process that recognizes the rights of individuals receiving assistance to due process of law. This process, at a minimum, must consist of:

(1) Written notice to the participant containing a clear statement of the reasons for termination;

(2) A review of the decision, in which the participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and

(3) Prompt written notice of the final decision to the participant.

(j) *Limitation of stay in transitional housing.* A homeless individual or family may remain in transitional housing for a period longer than 24 months, if permanent housing for the individual or family has not been located or if the individual or family requires additional time to prepare for independent living. However, HUD may discontinue assistance for a transitional housing project if more than half of the homeless individuals or families remain in that project longer than 24 months.

(k) *Outpatient health services.* Outpatient health services provided by the recipient must be approved as appropriate by HUD and the Department of Health and Human Services (HHS). Upon receipt of an application that proposes the provision of outpatient health services, HUD will consult with HHS with respect to the appropriateness of the proposed services.

(l) *Annual assurances.* Recipients who receive assistance only for leasing, operating costs or supportive services costs must provide an annual assurance for each year such assistance is received

that the project will be operated for the purpose specified in the application.

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§ 583.305 Term of commitment; repayment of grants; prevention of undue benefits.

(a) *General.* All recipients receiving assistance for acquisition, rehabilitation, or new construction must agree to operate the supportive housing or provide supportive services in accordance with this part for a term of at least 20 years from the date of initial occupancy or date of initial service provision. If HUD determines that a project is no longer needed for use as supportive housing or to provide supportive services and approves the use of the project for the direct benefit of low-income persons pursuant to a request for such use by the recipient operating the project, HUD may authorize the recipient to convert the project to such use.

(b) *Repayment of grant.* If the facility is not operated as supportive housing or to provide supportive services for homeless persons for 10 years following the date of initial occupancy or date of initial service provision, HUD shall require repayment of the entire amount of the grant used for acquisition, rehabilitation, or new construction, unless conversion of the project has been authorized under paragraph (a) of this section. If the supportive housing is used for such purposes for more than 10 years, the recipient's repayment amount will be reduced by 10 percentage points for each year beyond the 10-year period in which the project is used for supportive housing.

(c) *Prevention of undue benefits.* Except as provided in paragraph (d) of this section, upon any sale or other disposition of a project assisted with acquisition, rehabilitation, or new construction funds occurring before the expiration of the 20-year period, the recipient must comply with such terms and conditions as HUD may prescribe to prevent the recipient from unduly benefiting from such sale or disposition.

(d) *Exception.* A recipient will not be required to comply with the terms and conditions prescribed under paragraphs (b) and (c) of this section if the sale or disposition of the project results in the use of the project for the direct benefit of very low-income persons or if all the proceeds are used to provide supportive housing meeting the requirements of this part.

§ 583.310 Displacement, relocation, and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, recipients must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of supportive housing assisted under this part.

(b) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (f) of this section) must be provided relocation assistance at the levels described in, and in accordance with, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655) and implementing regulations at 49 CFR part 24.

(c) *Real property acquisition requirements.* The acquisition of real property for supportive housing is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(d) *Responsibility of recipient.* (1) The recipient must certify (*i.e.*, provide assurance of compliance) that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section, and must ensure such compliance notwithstanding any third party's contractual obligation to the recipient to comply with these provisions.

(2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. Such costs also may be paid for with local public funds or funds available from other sources.

(3) The recipient must maintain records in sufficient detail to demonstrate compliance with provisions of this section.

(e) *Appeals.* A person who disagrees with the recipient's determination concerning whether the person qualifies as a "displaced person," or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the recipient. A low-income person who is dissatisfied with the recipient's determination on his or her appeal may submit a written request for review of that determination to the HUD field office.

(f) *Definition of displaced person.* (1) For purposes of this section, the term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property permanently as a direct result of acquisition, rehabilitation, or demolition for supportive housing projects assisted under this part. The term "displaced person" includes, but may not be limited to:

(i) A person that moves permanently from the real property after the property owner (or person in control of the site) issues a vacate notice or refuses to renew an expiring lease, if the move occurs on or after:

(A) The date that the recipient submits to HUD an application for assistance that is later approved and funded, if the recipient has control of the project site; or

(B) The date that the recipient obtains control of the project site, if such control is obtained after the submission of the application to HUD.

(ii) Any person, including a person who moves before the date described in paragraph (f)(1)(i) of this section, if the recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the assisted project.

(iii) A tenant-occupant of a dwelling unit who moves permanently from the building/complex on or after the date of the "initiation of negotiations" (see paragraph (g) of this section) if the move occurs before the tenant has been provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions must include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

(A) The tenant's monthly rent before the initiation of negotiations and estimated average utility costs, or

(B) 30 percent of gross household income. If the initial rent is at or near the maximum, there must be a reasonable basis for concluding at the time the project is initiated that future rent increases will be modest.

(iv) A tenant of a dwelling who is required to relocate temporarily, but does not return to the building/complex, if either:

(A) A tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or

(B) Other conditions of the temporary relocation are not reasonable.

(v) A tenant of a dwelling who moves from the building/complex permanently after he or she has been required to move to another unit in the same building/complex, if either:

(A) The tenant is not offered reimbursement for all reasonable out-of-

pocket expenses incurred in connection with the move; or

(B) Other conditions of the move are not reasonable.

(2) Notwithstanding the provisions of paragraph (f)(1) of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if:

(i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State, or local or tribal law, or other good cause, and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(ii) The person moved into the property after the submission of the application and, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" (or for any assistance provided under this section), if the project is approved;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(3) The recipient may request, at any time, HUD's determination of whether a displacement is or would be covered under this section.

(g) *Definition of initiation of negotiations.* For purposes of determining the formula for computing the replacement housing assistance to be provided to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term "initiation of negotiations" means the execution of the agreement between the recipient and HUD, or selection of the project site, if later.

§ 583.315 Resident rent.

(a) *Calculation of resident rent.* Each resident of supportive housing may be required to pay as rent an amount determined by the recipient which may not exceed the highest of:

(1) 30 percent of the family's monthly adjusted income (adjustment factors include the number of people in the family members, medical expenses, and child care expenses);

(2) 10 percent of the family's monthly income; or

(3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is designated.

(b) *Use of rent.* Resident rent may be used in the operation of the project or may be reserved, in whole or in part, to assist residents of transitional housing in moving to permanent housing.

(c) *Fees.* In addition to resident rent, recipients may charge residents reasonable fees for services not paid with grant funds.

§ 583.320 Site control.

(a) *Site control.* (1) Where grant funds will be used for acquisition, rehabilitation, or new construction to provide supportive housing or supportive services, or where grant funds will be used for operating costs of supportive housing, or where grant funds will be used to provide supportive services except where an applicant will provide services at sites not operated by the applicant, an applicant must demonstrate site control before HUD will execute a grant agreement (e.g., through a deed, lease, executed contract of sale). If such site control is not demonstrated within one year after initial notification of the award of assistance under this part, the grant will be deobligated as provided in paragraph (c) of this section.

(2) Where grant funds will be used to lease all or part of a structure to provide supportive housing or supportive services, or where grant funds will be used to lease individual housing units for homeless persons who will eventually control the units, site control need not be demonstrated.

(b) *Site change.* (1) A recipient may obtain ownership or control of a suitable site different from the one specified in its application. Retention of an assistance award is subject to the new site's meeting all requirements under this part for suitable sites.

(2) If the acquisition, rehabilitation, acquisition and rehabilitation, or new construction costs for the substitute site are greater than the amount of the grant awarded for the site specified in the application, the recipient must provide for all additional costs. If the recipient is unable to demonstrate to HUD that it is able to provide for the difference in costs, HUD may deobligate the award of assistance.

(c) *Failure to obtain site control within one year.* HUD will recapture or deobligate any award for assistance under this part if the recipient is not in control of a suitable site before the expiration of one year after initial notification of an award.

§ 583.325 Nondiscrimination and equal opportunity requirements.

(a) *General.* Notwithstanding the permissibility of proposals that serve designated populations of disabled homeless persons, recipients serving a designated population of disabled homeless persons are required, within the designated population, to comply with these requirements for nondiscrimination on the basis of race, color, religion, sex, national origin, age, familial status, and disability.

(b) *Nondiscrimination and equal opportunity requirements.* Use of assistance under this part must comply with the following requirements:

(1)(i) Except as provided in paragraph (b)(1)(ii) of this section, the requirements of the Fair Housing Act (42 U.S.C. 3601–19) and implementing regulations at 24 CFR part 100; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1958–1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1.

(ii) The Indian Civil Rights Act (25 U.S.C. 1301 *et seq.*) applies to tribes when they exercise their powers of self-government, and to IHAs when established by exercise of such powers. When an IHA is established under State law, the applicability of the Indian Civil Rights Act will be determined on a case-by-case basis. Projects subject to the Indian Civil Rights Act must be developed and operated in compliance with its provisions and all implementing HUD requirements, instead of title VI and the Fair Housing Act and their implementing regulations.

(2) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8.

(3) The requirements of Executive Order 11246 (3 CFR 1964–65, Comp., p. 339) (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR chapter 60.

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic

Opportunities for Low- and Very Low-Income Persons).

(5) The requirements of Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971–1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 39) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138 (3 CFR, 1977 Comp., p. 393) (Women's Business Enterprise). Consistent with HUD's responsibilities under these Orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(c) *Procedures.* (1) If the procedures that the recipient intends to use to make known the availability of the supportive housing are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or handicap who may qualify for admission to the housing, the recipient must establish additional procedures that will ensure that such persons can obtain information concerning availability of the housing.

(2) The recipient must adopt procedures to make available information on the existence and locations of facilities and services that are accessible to persons with a handicap and maintain evidence of implementation of the procedures.

(d) *Accessibility requirements.* The recipient must comply with the new construction accessibility requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973, and the reasonable accommodation and rehabilitation accessibility requirements of section 504 as follows:

(1) All new construction must meet the accessibility requirements of 24 CFR 8.22 and, as applicable, 24 CFR 100.205.

(2) Projects in which costs of rehabilitation are 75 percent or more of the replacement cost of the building must meet the requirements of 24 CFR 8.23(a). Other rehabilitation must meet the requirements of 24 CFR 8.23(b).

§ 583.330 Applicability of other Federal requirements.

Use of assistance provided under this part must comply with the following additional requirements:

(a) Flood insurance. (1) The Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128) prohibits the approval of applications for assistance for acquisition or construction (including rehabilitation) for supportive housing located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(i) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than a year has passed since FEMA notification regarding such hazards; and

(ii) Flood insurance is obtained as a condition of approval of the application.

(2) Applicants with supportive housing located in an area identified by FEMA as having special flood hazards and receiving assistance for acquisition or construction (including rehabilitation) are responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

(b) The Coastal Barrier Resources Act of 1982 (16 U.S.C. 3501 *et seq.*) may apply to proposals under this part, depending on the assistance requested.

(c) Applicability of OMB Circulars. The policies, guidelines, and requirements of OMB Circular No. A–87 (Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments) and 24 CFR part 85 apply to the award, acceptance, and use of assistance under the program by governmental entities, and OMB Circular Nos. A–110 (Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations) and A–122 (Cost Principles Applicable to Grants, Contracts and Other Agreements with Nonprofit Institutions) apply to the acceptance and use of assistance by private nonprofit organizations, except where inconsistent with the provisions of the McKinney Act, other Federal statutes, or this part. (Copies of OMB Circulars may be obtained from E.O.P. Publications, Room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395–7332. (This is not a toll-free number.) There is a limit of two free copies.)

(d) Lead-based paint. Any residential property assisted under this part constitutes HUD-associated housing for the purposes of the Lead-Based Paint Poisoning Prevention Act and is, therefore, subject to 24 CFR part 35.

(e) Conflicts of interest. (1) In addition to the conflict of interest requirements in 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter. Participation by homeless individuals who also are participants under the program in policy or decisionmaking under § 583.300(f) does not constitute a conflict of interest.

(2) Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (e)(1) of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the program and the effective and efficient administration of the recipient's project. An exception may be considered only after the recipient has provided the following:

(i) For States and other governmental entities, a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) For all recipients, an opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(3) In determining whether to grant a requested exception after the recipient has satisfactorily met the requirement of paragraph (e)(2) of this section, HUD will consider the cumulative effect of the following factors, where applicable:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the project which would otherwise not be available;

(ii) Whether the person affected is a member of a group or class of eligible persons and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iii) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

(iv) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (e)(1) of this section;

(v) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vi) Any other relevant considerations.

(f) Use of debarred, suspended, or ineligible contractors. The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

(g) Audit. The financial management systems used by recipients under this program must provide for audits in accordance with 24 CFR part 44 or part 45, as applicable. HUD may perform or require additional audits as it finds necessary or appropriate.

(h) Davis-Bacon Act. The provisions of the Davis-Bacon Act do not apply to this program.

(i) Drug-free facilities. Recipients are subject to the requirements of sections 5151–5160 of the Drug-Free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR part 24.

Subpart E—Administration

§ 583.400 Grant agreement.

(a) *General.* The duty to provide supportive housing or supportive services in accordance with the requirements of this part will be incorporated in a grant agreement executed by HUD and the recipient.

(b) *Enforcement.* HUD will enforce the obligations in the grant agreement through such action as may be appropriate, including repayment of funds that have already been disbursed to the recipient.

§ 583.405 Program changes.

(a) *HUD approval.* (1) A recipient may not make any significant changes to an approved program without prior HUD approval. Significant changes include, but are not limited to, a change in the recipient, a change in the project site, additions or deletions in the types of activities listed in § 583.100 of this part approved for the program or a shift of more than 10 percent of funds from one approved type of activity to another, and a change in the category of participants to be served. Depending on the nature of the change, HUD may require a new certification of consistency with the CHAS (see § 583.155).

(2) Approval for changes is contingent upon the application ranking remaining high enough after the approved change to have been competitively selected for funding in the year the application was selected.

(b) *Documentation of other changes.* Any changes to an approved program that do not require prior HUD approval must be fully documented in the recipient's records.

§ 583.410 Obligation and deobligation of funds.

(a) *Obligation of funds.* When HUD and the applicant execute a grant agreement, funds are obligated to cover the amount of the approved assistance under subpart B of this part. The recipient will be expected to carry out the supportive housing or supportive services activities as proposed in the application.

(b) *Increases.* After the initial obligation of funds, HUD will not make revisions to increase the amount obligated.

(c) *Deobligation.* (1) HUD may deobligate all or parts of grants for acquisition, rehabilitation, acquisition and rehabilitation, or new construction:

(i) If the actual total cost of acquisition, rehabilitation, acquisition and rehabilitation, or new construction is less than the total cost anticipated in the application; or

(ii) If proposed activities for which funding was approved are not begun within three months or residents do not begin to occupy the facility within nine months after grant execution.

(2) HUD may deobligate the amounts for annual leasing costs, operating costs or supportive services in any year:

(i) If the actual leasing costs, operating costs or supportive services for that year are less than the total cost anticipated in the application; or

(ii) If the proposed supportive housing operations are not begun within three months after the units are available for occupancy.

(3) The grant agreement may set forth in detail other circumstances under which funds may be deobligated, and other sanctions may be imposed.

(4) HUD may:

(i) Readvertise the availability of funds that have been deobligated under this section in a notice of fund availability under § 583.200, or

(ii) Award deobligated funds to applications previously submitted in response to the most recently published notice of fund availability, and in accordance with subpart C of this part.

Dated: February 8, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

[FR Doc. 93–5689 Filed 3–12–93; 8:45 am]

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March 15, 1993

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary

24 CFR Part 582
Shelter Plus Care Program; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 582

[Docket No. R-93-1640; FR-2877-F-03]

RIN 2501-AB11

Shelter Plus Care Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This document is the final rule for the Shelter Plus Care program, which is authorized by title IV of the Stewart B. McKinney Homeless Assistance Act by the National Affordable Housing Act. The program provides rental housing assistance, in connection with supportive services funded from sources other than this program, to homeless persons with disabilities (primarily persons who are seriously mentally ill; have chronic problems with alcohol, drugs, or both; or have acquired immunodeficiency syndrome and related diseases) and their families. Initial guidelines for the program were published for public comment on February 4, 1991 (56 FR 4494). Revised guidelines and a notice of funding availability were published for public comment on December 5, 1991 (56 FR 63828 and 63842). The final rule includes amendments made to the program by the Housing and Community Development Act of 1992 (Pub. L. 102-550, approved October 28, 1992) as well as changes made in response to public comments.

EFFECTIVE DATE: April 14, 1993.

FOR FURTHER INFORMATION CONTACT: James N. Forsberg, Director, Special Needs Assistance Programs; Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; (202) 708-4300; (TDD for the hearing- or speech-impaired (202) 708-2565). (Telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 and were assigned OMB control number 2506-0118.

I. Introduction

The Shelter Plus Care (S+C) program is authorized under an amendment to the Stewart B. McKinney Homeless Assistance Act (McKinney Act) by the National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990) (NAHA) to provide rental housing assistance, in connection with supportive services funded from sources other than the S+C program, to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have AIDS and related diseases) and their families. On February 4, 1991, HUD published a Notice of Program Guidelines for the program (56 FR 4494), and invited the public to comment on the guidelines for consideration in drafting a final rule.

A second Notice was published on December 5, 1991 (56 FR 63828) announcing revised guidelines for the program. (A Notice of Funding Availability was also published on that date.) Although the revised guidelines contained some changes suggested by public comments to the February 4 guidelines, the Notice did not formally respond to the majority of the comments. The public was again invited to comment. This final rule responds to public comments received on both Notices.

The Housing and Community Development Act of 1992 (1992 Act) amended the McKinney Act, making changes to the program that have been incorporated into the final rule. The changes are as follows:

1. The former Homeless Rental Housing Assistance (HRHA) component was renamed Tenant-based Rental Assistance (TRA), and the Section 202 Rental Assistance component was renamed Sponsor-based Rental Assistance (SRA). (HUD had previously renamed those components in the revised guidelines, and the 1992 Act reflected those HUD-sponsored changes.) The reference to Sections 202 and 811 were removed, eliminating any connection between the HUD programs under those sections.

2. A new component—Project-based Rental Assistance (PRA)—was established. Under PRA, the recipient provides rental assistance to an owner of an existing structure for units occupied by eligible persons. The agreement must be for five years of assistance, or ten years if the units are rehabilitated at an expenditure from other than S+C funds of at least $3,000 for each unit to bring the unit into compliance with local codes.

3. Specific funding levels for each component were eliminated, allowing S+C funds to be used for any component as long as a minimum of ten percent is made available for each component.

4. Public housing agencies (PHAs) are now eligible applicants for all four components. In addition, the requirement for a joint application between a PHA and governmental entity for assistance under the SRO component was eliminated, and any eligible applicant may apply for assistance under the SRO component.

5. Community mental health centers established as public nonprofit organizations are included in the definition of a nonprofit organization under S+C.

6. Each recipient must have at least one homeless or formerly homeless person on the board of directors, or otherwise involved in consideration of policies and decisions.

7. To the maximum extent possible, recipients must involve homeless persons in employment, volunteer services, constructing, or rehabilitating property, and in providing supportive services.

8. Vacancy payments for all components are permitted for the month after the month in which the unit is vacated.

As a result of the Department's experience with the first S+C competition and with competitions for other McKinney Act programs, and in response to comments received, the Department has decided to modify the grant award process for these programs, including the S+C program. A two-stage application process has been adopted. At the first stage, applicants will provide information addressing the selection criteria, the proposals will be rated and the highest rated applications will be conditionally selected. Applicants that submitted the conditionally selected applications will then be requested to submit additional project information, if necessary. For example, under the SRO component, the additional information would address such requirements as site control and financial feasibility. The applicants will be notified of the deadline for receipt of the additional information (e.g., three months from the notification date). Grant award will follow receipt of the additional information in acceptable form. This change is reflected in the final rule.

II. Public Comments

HUD received 30 comments on the February 4, 1991 guidelines, and 12 comments on the December 5, 1991 revised guidelines. The comments were from governmental entities, public housing agencies (PHAs), and nonprofit organizations and advocacy groups for

homeless persons or persons with disabilities.

General

Comment: Some comments were directed to the overall program, with the commenters, in general, stating that they believe the program overlaps other HUD McKinney Act programs for the homeless, and will reduce resources for the other programs.

HUD response: The Department believes that the legislation authorizing the S+C program reflects that the homeless populations targeted by the program have been underserved by existing programs, and that the S+C program will ensure that these groups are served. The fear that the S+C program would reduce funding for other HUD McKinney Act programs is mislaid. Appropriations for fiscal year 1991, the year before the first appropriations for the S+C program, were $339 million. Appropriations for HUD McKinney Act programs increased to $450 million for fiscal year 1992, and increased again to $571 million for fiscal year 1993, with the increases due to the S+C program.

Comment: Several commenters stated that the names of the program components create confusion with other HUD programs.

HUD response: The names of the components used in the original guidelines for the program were taken from the original authorizing legislation. As discussed earlier in this preamble, the names of two of the components were changed by HUD's December 5, 1991 revised guidelines, as well as the 1992 Act.

Comment: One commenter maintained that S+C should be restructured, so that a transitional period with intensive services would be included whereby an individual once stabilized could be moved to other HUD programs, such as Supportive Housing for Persons with Disabilities or Mod Rehab SRO.

HUD response: HUD believes that the intent of the S+C program is to provide permanent housing, not to provide transitional housing alone. However, this does not mean that a participating family or individual must stay in the same housing on a permanent basis. Rather, recipients have the flexibility to design a housing program that fits the needs of its participants, which may include a range of housing types with differing levels of supportive services. This may include providing housing with intensive supportive services for a period of time followed by other housing in a more independent setting. However, an eligible participant must receive S+C rental assistance on a continual basis.

Comment: A few commenters stated that a minimum of 30 units for metropolitan areas may be a problem for small communities within a metropolitan area. They asked that waivers be offered to allow those communities to follow the nonmetropolitan minimum of 10 units.

HUD response: The Department has reconsidered this policy, and the final rule no longer requires a minimum number of units.

Eligible Applicants/SRA Sponsors

Comment: A few commenters suggested that nonprofit organizations should be allowed to apply directly for TRA and SRA funding, since those organizations recognize the need and are willing to coordinate efforts for housing while providing supportive services for their clients. Other commenters asked that PHAs be allowed to apply for the three components of the program, because they have experience in working with other agencies that provide supportive services.

HUD response: Under the 1992 Act amendments, States, units of general local government, Indian tribes, and PHAs are now eligible to apply for any of the components. With regard to nonprofit organizations, the Department has no authority to allow applicants other than those eligible under the statutory definition.

Comment: A commenter suggested that local government agencies be allowed to be sponsors under SRA. Two additional commenters asked for clarification whether community mental health centers or boards, which provide the majority of the mental health services in many States, may be either eligible applicants for any component of S+C or eligible sponsors under SRA.

HUD response: Section 482 of the McKinney Act, as amended by the 1992 Act, requires that SRA assistance be provided by a recipient (*i.e.*, a State, local government, Indian tribe, or PHA) through contracts with nonprofit organizations now includes community mental health centers established as public nonprofit organizations, in addition to private nonprofit organizations. The definition of sponsor at § 582.5 of the final rule follows the statutory definition.

Comment: One commenter recommended giving first priority to nonprofit housing organizations, cooperatively owned buildings, and those continuing their contracts with HUD, and another suggested limiting applicants to those eligible for the section 8 Certificate, section 8/SRO, and section 202/811 programs.

HUD response: The McKinney Act, as amended by the 1992 Act, specifies eligible applicants for the S+C program as States, local governments, Indian tribes, and PHAs.

Eligible Participants

Comment: A few commenters suggested that the definition of homeless should be amended to clarify that persons who are currently hospitalized, but were homeless immediately prior to institutionalization, are eligible for S+C assistance. Another commenter stated that the guidelines are unclear regarding evictions, and asked whether this includes persons who are being discharged from hospitals or released from jails.

HUD response: Persons who within the week are being evicted from their residences or discharged from institutions in which they have been residents for more than 30 consecutive days are considered homeless if they meet the following criteria:

(1) No subsequent housing has been identified when they must leave their current situation; and

(2) They lack the resources and support networks necessary to obtain access to housing.

Persons who were homeless (living on the street or in an emergency shelter) when they entered a hospital or other institution and spend 30 days or less in that facility are still considered homeless when they leave the institution.

Comment: One commenter stated that HUD's definition of homeless may adversely affect rural areas and smaller communities with no formal shelters.

HUD response: The definition of homeless is taken from section 103(a) of the McKinney Act. The S+C program is designed to serve the most hard-to-reach disabled street or emergency shelter population. Research demonstrates that a sizable portion of this vulnerable population resides in large urban centers, although any community with persons meeting the definition of eligible participants may apply.

Comment: Two commenters asked that the definition of persons with disabilities be amended to clarify that children of disabled adults are eligible to live in S+C housing. Another commenter believes that families with disabled children should also be eligible participants.

HUD response: The Department believes the definition of persons with disabilities is clear that family members of disabled adults, which includes their

children, are eligible to live in S+C housing if they are homeless. However, the statutory definition of persons with disabilities in section 811 of NAHA, which section 462(6) of the McKinney Act directs be used in the S+C program, provides that only disabled adults and their families are eligible participants, and the final rule follows this definition.

Comment: One commenter asked for clarification whether a person with AIDS is an eligible participant or if persons with AIDS must also meet the eligibility test for persons with disabilities used in the rule.

HUD response: Homeless persons with AIDS are one of the disabled groups particularly targeted by the S+C statute. However, the legislation in no way indicates that persons with AIDS are not required to meet the statutory definition of persons with disabilities. That definition, which is from section 811 of the NAHA, provides a three-prong test that all persons with disabilities, including AIDS, must meet, *i.e.*, the disability (1) is expected to be of long-continued and indefinite duration, (2) substantially impedes his or her ability to live independently, and (3) is of such a nature that the ability to live independently could be improved by more suitable housing conditions. HUD does not believe that this definition will be a barrier for persons with AIDS. In fact, an estimated one out of four participants in the first round of S+C grants will be a person with AIDS.

Comment: Two commenters argue that many homeless persons who live on the street may not be eligible under S+C because their longstanding problems will not be viewed as "medically disabling."

HUD response: As stated above in the discussion on persons with AIDS, all persons eligible for the program must meet the statutory test of persons with disabilities. The definition, which the Department believes is broad, states that a person is considered to have a disability if it is determined that he or she has a physical, mental, or emotional impairment that meets the three-prong test contained in section 811 of NAHA. HUD administers other programs directed to homeless persons who are not disabled.

Comment: One commenter stated that the term "seriously mentally ill" should be changed to "serious mental disorders." The commenter also questioned the applicability of the condition that a person's disability "would be improved by more suitable housing."

HUD response: In both cases, the wording is statutory and, therefore, is used in the final rule.

Comment: Some commenters expressed concern that the program targets outreach to the streets, and not to shelters. One commenter recommended that outreach efforts not be limited to persons in shelters or on the streets.

HUD response: HUD recognizes that many persons who are street dwellers also spend some time in shelters, and views persons on the streets or in emergency shelters as the primary target population of S+C. Section 582.325 of the final rule provides that the intent of outreach is to link underserved, disabled, homeless persons to S+C housing and supportive services. Although persons who are otherwise homeless may participate, the Department emphasizes persons in these circumstances because they generally have the greatest need for assistance and are the most difficult to reach.

Supportive Services

Comment: Some commenters requested that acute inpatient hospital care count toward the match of supportive services, since the availability of this service is a vital component of any comprehensive system of care.

HUD response: The Department recognizes that inpatient hospital care is a valuable and, at times, essential service. However, section 462(12) of the McKinney Act, which defines supportive services, specifically excludes inpatient acute hospital care.

Comment: A commenter questioned how HUD will evaluate the appropriateness of the supportive services plan, and suggested a Memorandum of Understanding between HUD and the Department of Health and Human Services as a basis for the review. Another commenter recommended that the rule require review of supportive services plans by State mental health agencies to assure that they meet the standards of the jurisdiction.

HUD response: In reviewing the supportive services plans of applicants, the Department consults with staff from the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, the Center for Mental Health Services, and the Health Resources and Services Administration. The Department does not agree that State mental health agencies should review plans of applicants. States, units of general local government, Indian tribes, and PHAs as eligible applicants must coordinate their housing and supportive service plans through many organizations and agencies in order to develop the required program plan, and, therefore, interagency dialogue occurs as a matter of course. Moreover, populations other than persons who are seriously mentally ill are served under this program, and requiring that applications be reviewed by State level agencies (*e.g.*, State substance abuse agencies, State AIDS agencies, or others) for all populations may adversely affect preparation time. Although HUD declines to include this requirement in the final rule, applicants may wish to seek review by such agencies.

Funding/Rental Assistance

Comment: Two commenters noted that the five- (TRA and SRA) and ten-year (SRO) funding periods under S+C fail to acknowledge the long-term need for assistance for the targeted population.

HUD response: At the present time, funding periods are established by the McKinney Act. However, if renewals are authorized in subsequent legislation, and funding is provided, HUD will make renewal grants available.

Comment: Some commenters were opposed to the 10 percent funding limitation on assistance available under S+C for any fiscal year for programs located within any one unit of general local government. One of those commenters felt that the limitation violates the autonomy given localities under the CHAS, while two others contended that the 10 percent limitation on funding per program component should be changed to 10 percent of entire funding for S+C. In addition, one commenter asked HUD to consider merging the separate funding streams to provide the flexibility intended by the program.

HUD response: The 10 percent limitation is a statutory provision. Initially, HUD applied the limitation in terms of each component so that the widest participation might be achieved. The separate funding streams also were statutory at that time. However, the 1992 Act eliminated separate funding for each component, so the 10 percent limitation now applies to the full amount of available funds.

Comment: A commenter suggested that S+C funding be directed to fund additional Section 8 certificates and vouchers for the same target population. The commenter argued that certificates and vouchers would be less costly administratively, more efficient, and more effective.

HUD response: The S+C program is authorized by the McKinney Act and

cannot be converted to the Section 8 programs, which are authorized by the U.S. Housing Act of 1937. Moreover, the Section 8 program has requirements that are not applicable to the population served under S+C, such as the fair share allocation plans and use of waiting lists.

Comment: A commenter suggested that access to Section 8 certificates and vouchers may be seriously curtailed for the disabled in the future, because HUD's Family Self-Sufficiency model mandates that recipients work toward economic independence, which, the commenter argued, is not an attainable goal for most disabled persons. The commenter is concerned that there will not be rental assistance programs available for persons with disabilities who are not homeless.

HUD response: Although S+C provides rental assistance in much the same way as the certificate and voucher programs, the assistance is targeted to a population that has been underserved by existing programs. Under the S+C program, supportive services are an integral part of the program to which participants are entitled. Certificate and voucher holders may receive supportive services, but their availability is dependent on the extent to which a public housing agency participates in the Family Self-Sufficiency program. The self-sufficiency requirements apply to new certificates and vouchers, and do not apply to "turnover" certificates and vouchers, which are still available to the general population.

The Department disagrees that rental assistance for disabled persons will be unavailable unless those persons are homeless. A program authorized by section 811 of the NAHA, Supportive Housing for Persons with Disabilities, is also targeted to persons with disabilities.

Comment: Several commenters believe that HUD should fund some part of the cost of supportive services because local organizations have difficulty raising supportive service dollars. One recommended that the rental assistance be accompanied by a per-unit subsidy for on-site services and supervision. Others argued that the supportive services match requirement is burdensome on applicants and may not justify the rental assistance.

HUD response: The supportive services match requirement of the S+C program is required by section 453 of the McKinney Act. However, the Department has attempted to facilitate the match by allowing Federal, State, and local resources to count toward the match. Moreover, supportive services may be either ongoing ones that the S+C participants will use or new services created especially for S+C participants. The results of the first S+C competition indicated that providing the supportive services match was not a problem. Applicants in that competition valued the supportive services to be provided at more than double the amount of rental assistance requested.

Comment: Several commenters argued that the Fair Market Rent (FMR) cap will prevent landlords in high cost areas from participating in the program. Some of these commenters maintained that recipients need more incentives and more flexibility in addressing this problem, while others maintained that rent levels are too low for urban areas. Three commenters inquired whether State or local funds may be used to provide a subsidy that exceeds the FMRs when reasonable rent can be demonstrated.

HUD response: The FMR cap is a statutory requirement for the TRA, SRA, and PRA components. The Mod Rehab FMR is used in the SRO component, similar to the "stand-alone" Mod Rehab SRO program governed under 24 CFR part 882.

FMRs are gross rent estimates, which include shelter rent and the cost of utilities, except telephone. The criteria used by HUD in developing the FMRs are:

(1) The 45th percentile rent of standard quality units (that is, the rent below which 45 percent of the units are distributed);

(2) Rents based on units occupied by recent movers (households who moved into their unit within two years of the date of the survey data used in the calculations); and

(3) Rents based on the survey data base that has been adjusted to exclude public housing units and recently completed rental housing units (those built within two years of the survey dates).

(See 24 CFR 888.113.)

Proposed FMRs are published annually in the **Federal Register** for public comment before final FMRs are established. In establishing FMRs, HUD uses the most accurate data available. Sources include census data, the Consumer Price Indices (CPI) for rental housing and utilities, American Housing Survey data, area-specific rent data submitted by public commenters, and data from Random Digit Dialing (RDD) telephone surveys of HUD Regions and selected FMR areas. Exception rents may also be approved by HUD, upon a request from a PHA, for up to 20 percent above the applicable FMR within a designated locality.

The FMR caps limit the amount of assistance that can be provided with S+C funds. However, recipients of S+C assistance may supplement the amount of rental assistance provided by HUD with additional funds from other sources, as long as the total rent paid is reasonable and provided that any resident rent payments are used to reduce the amount of rental assistance required from HUD. Any funds from other sources used to supplement the rental assistance will not count toward the supportive services match.

Comment: One commenter stated that operation, maintenance, and utility costs will likely increase over the life of the grant, and that the original grant amount will not cover these increases.

HUD response: The grant amount is based on the FMR for an area. In many areas, the rent for units may be less than the FMR, leaving a "cushion" for inflation or rising costs. Additionally, participants are required to pay a portion of their income for rent (see § 582.310), which will add to the cushion, especially as more participants receive public benefits or become employed.

Comment: Several commenters disputed the inconsistency in the way in which maximum rental assistance is calculated for the different components of the program.

HUD response: The way in which rental assistance is calculated is the same for TRA, SRA, and PRA (the number of units × the applicable FMR × the number of months). For SRO, the only difference in the calculation is the FMR used. In the case of SRO, the applicable FMR includes an allowance to amortize the debt required to pay for the rehabilitation. The FMR used for SRA, TRA, and PRA does not include this allowance.

Comment: One commenter stated that the requirement that rents charged for units not be "in excess of rents currently being charged" is a problem in a locality with rent control laws, where rents currently being charged are less than the market value. The commenter believes that landlords will be discouraged from renting units to a S+C program.

HUD response: The reasonableness of rents is determined in relation to comparable unassisted units. If a unit is subject to rent control, then the rent should be comparable to the rent charged in unassisted rent control units. However, if the rents of the proposed unit would not be controlled while assisted, then comparable units are units that are not subject to local rent controls.

Administrative Costs

Comment: A commenter maintained that the procedure for determining the amount of allowable administrative expenses should be consistent with section 8 regulations. Other commenters asked for guidance on the meaning of "up to seven percent of the amount of assistance awarded may be used to administer the housing assistance." One inquired whether an applicant may charge a preliminary per-unit fee of at least $500 to offset the costs of developing the program.

HUD response: Due to changes made by the 1992 Act, each of the four types of eligible applicants may now apply for any of the S+C components. Therefore, the Department is establishing a uniform percentage of grant funds (i.e., 8 percent) that may be used to administer the housing assistance. The rule also makes clear at § 582.105(e)(2) what is meant by administering housing assistance. None of these funds may be used for preliminary fees or for costs involved in administering the grant itself (e.g., the costs of preparing reports to HUD, recordkeeping, or conducting audits of the grant).

Comment: A commenter argued that the allowable administrative expenses need to be flexible, depending upon the level of service needs of a recipient. Smaller organizations tend to have higher administrative expenses because they cannot spread them out. Several other commenters added that government and nonprofit administrative expenses run in a range of 12 to 19 percent.

HUD response: The administrative expenses that come out of the HUD grant may only be used for costs involved in administering the housing assistance, and are not to be used for other costs of the recipient, such as administering the supportive services or the grant. Allowable administrative costs include processing rental payments to landlords, examining participant income, inspecting units for compliance with housing quality standards, and receiving participants into the program.

Match

Comment: Many commenters argued that supportive services commitments cannot be made over a five- or ten-year period, since funding streams must be assessed annually by governmental entities. Several of these commenters requested that "reasonable assurances" of funding for the full term of housing should be sufficient. Another commenter questioned how supportive services can be calculated over the life of the grant.

HUD response: The Department recognizes that it is unrealistic to expect firm commitments to be made over several years. The February 4, 1991 guidelines and the December 5, 1991 revised guidelines, only required that an applicant give reasonable assurances that the supportive services will be available for the full term of the housing assistance provided, rather than requiring firm commitments at the time of application for services beyond the first year. The rule at § 582.110(a) provides for applicants to certify that they will provide or ensure the provision of supportive services. With regard to how supportive services are to be calculated, applicants must estimate the cash value of the services that will be provided as match over the life of the grant.

Comment: Several commenters contended that not all participants will require supportive services during the entire period of housing assistance, and that there is no relationship between the amount of the rental assistance and the need for an equal amount of supportive services.

HUD response: The Department agrees that not all participants will require equal amounts of supportive services, and the intensity of need will vary from participant to participant at different times. Some participants may require fewer supportive services than the amount of rental assistance received, while others will require more. However, section 453 of the McKinney Act requires that recipients supplement the S+C rental assistance with an equal amount of funds for supportive services. This requirement is applied to the overall amount of S+C rental assistance and not on a participant-by-participant or year-by-year basis.

Comment: Two commenters asked for assistance in determining the value of a lease on a building used for the provision of supportive services. Another commenter argued that designating leased buildings in which supportive services are provided as eligible for match places those who own buildings at a disadvantage.

HUD response: Section 582.110(c)(4) of the final rule provides that only the portion of a leased building that serves S+C participants may be counted as the prorated share of the structure eligible for match. Section 453(a)(2) of the McKinney Act specifies that only the value of leases are eligible as a match.

Comment: Two commenters recommended making supportive services an eligible activity or including local housing resources as a source of the match.

HUD response: The McKinney Act clearly provides that the only eligible activity is rental housing assistance, to be matched by the recipient with supportive services equal in value.

Comment: Three commenters maintained that front desk coverage, food services, and State contributions for special services to Supplemental Security Income (SSI) payments should be counted toward match.

HUD response: Front desk coverage, food services, and State additions to SSI that are for specific supportive services, as well as any other supportive services that meet the definition of supportive services contained in § 582.5 of the rule, may be counted toward the match. However, entitlement benefits, including SSI, paid to all eligible individuals are not supportive services and may not count toward the match.

Comment: One commenter argued that HUD should permit institutions other than States and local governments to make commitments for service funding.

HUD response: The S+C program is structured so that supportive services or funding for the services may be provided by any Federal, State, local, or private programs. However, recipients (*i.e.*, States, local governments, Indian tribes, or PHAs) must ensure that the services are delivered as stipulated in the grant agreement.

Comment: A commenter stated that the match should not be tied to the amount of rental assistance, because it is unfair to cities with high housing costs and is not justified by the cost of providing services. The commenter asked that match be based on the number of units under contract.

HUD response: HUD has no discretion on this issue, because the method of determining the match is a statutory requirement. As stated earlier, the first S+C competition indicated that providing adequate match was not a problem. Applicants valued the supportive services to be provided at more than double the amount of rental assistance requested.

Eligible Housing/Housing Standards

Comment: A commenter maintained that the required inspection for housing quality standards (HQS) will result in inconsistencies and will increase the costs to recipients.

HUD response: Inspections for HQS are required by section 457 of the McKinney Act. Costs associated with inspections of units are eligible as administrative costs. Recipients may choose to contract for this service,

particularly if they do not have the staff or expertise to carry it out.

Comment: Several commenters requested that HUD permit S+C assistance to be used in structures receiving other HUD funds. Another commenter inquired whether Community Development Block Grant, Community Services Block Grant, HOME Investment Partnership, Low Income Housing Tax Credits, Federal Emergency Management Agency, and the Federal Home Loan Bank Board housing funding may be used in conjunction with an S+C project.

HUD response: Limitations on other Federal funding are imposed to avoid double or excessive Federal subsidies. Under the TRA, SRA, and PRA components, no units that will receive Federal funding for rental assistance or operating costs under other HUD programs (*e.g.*, Section 8 or Supportive Housing) may be used in the S+C program. In the SRO component, limitations on other Federal sources of funding are explained in 24 CFR 882.803(a)(2).

For the S+C program, CDBG and CSBG funding are not considered Federal funds. If a Low Income Housing Tax Credit is available, a unit assisted with the credit may be used in the S+C program, and there is no statutory prohibition against using HOME funds with S+C-assisted units. The use of any funding source with S+C depends upon the requirements in regulations governing the particular funds.

Comment: A commenter maintained that factors such as building density, physical plant, and cost standards should not be included in the regulations for S+C, since these factors hinder flexibility and responsiveness to local conditions.

HUD response: Although flexibility and responsiveness to local needs are important features of the S+C program, the Department has a duty to help ensure that appropriate housing is provided for the targeted population. Therefore, the rule provides plant (housing quality standards) and cost (reasonable rents) standards. As discussed elsewhere in the preamble, however, HUD recognizes that population densities and types of existing housing stock vary from community to community. Accordingly, the limitation on density (maximum number at a site) has been removed in the final rule.

Comment: A commenter argued that the requirement that all units be identified in an SRA application is unrealistic and unnecessary.

HUD response: Section 454(b)(12) of the McKinney Act requires that, in the case of assistance under the SRA component, an applicant identify a specific structure in which the sponsor proposes to house eligible persons. The Department recognizes that due to various market conditions, recipients may need to substitute other structures than those identified in the application. In cases where the identified structures are no longer available upon grant award, other structures may be used.

Comment: One commenter argued that allowing recipients under the TRA component to require a participant to live within a particular area conflicts with the Fair Housing Act's prohibitions against "steering."

HUD response: Section 462 of the McKinney Act provides that recipients may require participants to live within a particular geographic area for the entire period of their participation if necessary to assure that provision of supportive services is feasible. Enforcing fair housing for all persons is one of the Department's priorities, and, in administering the S+C program, the Department will not allow recipients to define "geographic area" in a way that violates the Fair Housing Act.

Comment: Two commenters objected to allowing 15 persons in a group home, arguing that more than eight disabled persons in a group home is contrary to the philosophy and experience of the disability community. On the other hand, another commenter expressed concern that group homes under the TRA and SRA components may not serve more than 15 persons on one site, and independent living units for severely mentally ill persons may not exceed 20 persons on one site. The commenter believes that, although these limits may be feasible for suburban and rural areas, they are not for densely populated urban areas.

HUD response: Because population densities and types of existing housing stock vary from community to community, the Department has decided to remove these limits in the final rule. State or local policies will determine what limits, if any, will be placed on the number of persons with disabilities living on one site.

Tenant Rent/Occupancy Agreements/ Termination

Comment: A commenter regarded the tenant rent of 30 percent of a participant's income to be too inflexible.

HUD response: Section 458 of the McKinney Act requires that each participant pay as rent an amount determined under section 3(a)(1) of the U.S. Housing Act of 1937, which provides for the 30 percent figure. Section 3(a)(1) rent is used in most HUD-associated programs, such as public and Indian housing, Section 8 programs, and other McKinney Act homeless programs.

Comment: Another commenter maintained that there should be a six-month waiting period before a participant's increased income is subject to a rent increase.

HUD response: Section 582.310(b)(2) of the final rule requires that tenant incomes be examined initially and at least annually thereafter. Under 24 CFR 813.107, which describes the method of calculating income for purposes of the participant's rent payment, an adjustment in the tenant rent must be made if a participant's income increases during the year.

Comment: One commenter suggested that any damage to property due to the actions of a S+C participant should be the responsibility of the applicant.

HUD response: A provision has been added to the final rule at § 582.105(f) that allows recipients to use grant funds, up to an amount equal to one month's rent, to pay for damage to property due to the action of a S+C participant.

Comment: Several commenters objected to the policy of allowing occupancy agreements to include a provision requiring the participant to engage in supportive services as a condition of participating in the S+C program. One commenter argued that supportive services literature consistently reflects the fact that voluntary program participation is much more likely to be successful than coerced participation.

HUD response: The statutory purpose of this program, contained in section 451 of the McKinney Act, is to provide rental housing assistance in connection with supportive services. The February 4, 1991 guidelines indicated that recipients could include provisions other than normal lease provisions in the occupancy agreement, and gave as an example a requirement to participate in supportive services. The December 5, 1991 revised guidelines modified this somewhat by indicating that a requirement to participate in supportive services is the only provision unrelated to occupancy that may be included. Section 582.315(b) of the final rule ratifies that policy and provides that a requirement for compliance with supportive service plans is the only provision unrelated to occupancy that may be added to a normal agreement. Whether to include such a provision in the occupancy agreement is left totally to the discretion of recipients. The rule is intended only to provide the authority to do so if they wish and is not intended to imply HUD supports or

urges the use of the provision in occupancy agreements.

Comment: Several commenters disagreed with requiring participants to agree to five- to ten-year contracts for supportive services under S+C.

HUD response: The commenters have misread the guidelines. The Department has never suggested an occupancy agreement between participant and the recipient or entity providing the housing of any greater length than one month as provided in § 582.315(a) of the final rule. If a recipient or entity providing the housing chooses to include a requirement for participation in supportive services in the agreement (discussed above), it may change the terms of the agreement with respect to this requirement as the needs of the participant changes.

Comment: Two commenters suggested that participants should be afforded the due process protection that public housing tenants receive when considered for termination. Another commenter outlined a seven-step procedure for strengthening due process for terminations.

HUD response: Section 461 of the McKinney Act provides that recipients may terminate assistance to participants who violate program requirements. Section 461 further provides that, if a recipient does choose to terminate assistance, it must provide a formal process that recognizes the due process rights of the participant. Section § 582.320(b) of the final rule outlines three requirements that a formal termination process must contain in order to meet what the Department believes are minimum standards to ensure that a participant is afforded due process. These three requirements are the minimum requirements under the S+C program regulations. The Department is confident that recipients will use good judgment in dealing with terminations.

Vacancy Payments

Comment: Several commenters argued that the vacancy payments are not sufficient for the program. One suggested that a small percentage of the rent subsidy should be set aside as a contingency against vacancies. Another stated that it is unrealistic in a tight market to expect an owner to keep housing open for the time it takes to process a new participant. Another commenter argued that the vacancy policy for the SRO component should be the same as that for the TRA and SRA components.

HUD response: The Department acknowledges the importance of maintaining the flow of rental payments to landlords, and has made changes to the final rule at § 582.105(d). For all components, HUD will cover the cost of rent for thirty days from the end of the month in which the unit was vacated. (The 1992 Act amended the program to make the SRO vacancy policy consistent with other components.) This policy attempts to strike a balance between the time involved in processing the participant and the desire to avoid any delay in providing housing to those in grave need.

Comment: Several commenters noted that the guidelines did not allow for temporary vacancies if hospitalization or other inpatient treatment is necessary for a participant. The commenters believe that this may be a common occurrence with the targeted population.

HUD response: HUD agrees with these commenters. Section 582.105(d)(2) of the final rule allows rental assistance to continue for a unit when the participant requires in-patient stays not exceeding 90 days for each occurrence.

Comprehensive Housing Affordability Strategy (CHAS)

Comment: One commenter argued that the consistency of a project with the CHAS should be evaluated during the review process.

HUD response: Section 454(b)(9) of the McKinney Act provides that certification of consistency with the appropriate CHAS is required as part of the application. During the application review process, HUD ensures that the appropriate certifications have been obtained.

Application Process/Selection Criteria

Comment: One commenter protested that the competitive application process is both time consuming and costly. Another noted specifically that the application process is too cumbersome for small towns and cities.

HUD response: Although a national competition is a statutory requirement, the Department has tried to balance the time and effort necessary for applicants to apply with HUD's responsibility to ensure that funds are made available to those organizations that display the most potential of fulfilling the mission of the program.

Comment: One commenter argued that the rating criteria of "service to hard-to-reach homeless persons" and "service to targeted disabilities" should receive more than 200 points each.

HUD response: Under the Program Guidelines, these two rating criteria constituted 40 percent of the points, which the Department believes placed significant weight on each of these factors.

Comment: Two commenters disputed the conclusion drawn from the 1987 Urban Institute study, referred to in the guidelines, that non-service users are mostly individuals. They argued that many families have a member with disabilities, and they should be included in the target population. Three other commenters felt that the use of the 1987 Urban Institute study should be evaluated for its effectiveness in supporting the use of two selection criteria (service to hard-to-reach homeless and service to targeted disabilities) to meet the requirement that 50 percent of funds be used for homeless individuals who are seriously mentally ill or substance abusers.

HUD response: The purpose of the S+C program, as stated in section 451 of the McKinney Act and § 582.1 of the final rule, is to serve homeless persons with disabilities and their families. Section 452(b) of the McKinney Act directs that, to the extent practicable, not less than 50 percent of funding should be used for homeless individuals who are seriously mentally ill or have substance abuse problems. HUD recognizes that the Urban Institute study is not the final word, and stated in section I(C) of the December 5, 1991 program guidelines that it would reconsider its approach if the first funding round did not result in meeting the 50 percent funding minimum of section 452(b). Information from the first competition shows estimate from applicants that exceed the minimum. Their estimates indicate that around 65 percent of the funding will go to serve individuals with the targeted disabilities.

Comment: One commenter asserted that disabled persons outside the targeted groups are disadvantaged by the selection criteria. Another maintained that failure to provide points in the selection process to applicants proposing to serve developmentally disabled persons in the selection process virtually eliminates them from eligibility.

HUD response: As provided in section 451 of the McKinney Act and noted in section I(C) of the December 5, 1991 revised guidelines, the program targets assistance to a part of the homeless population previously underserved by other McKinney Act programs, *i.e.*, primarily persons who are seriously mentally ill; have chronic problems with alcohol, drugs, or both; or have AIDS. The rating criteria are not intended to exclude homeless persons with other disabilities; rather, the criteria are designed to ensure that those

who are targeted by the statute as having been underserved are assured of receiving assistance. Eight of the 30 projects funded in the first S+C competition included persons with disabilities other than the disabilities targeted by the program.

Comment: One commenter stated that targeting the hard-to-reach homeless does not allow local prioritization by the agency operating the program, and that local providers would not choose to put these populations in permanent housing.

HUD response: HUD disagrees, and maintains that local providers readily will place this population in permanent housing since these units will be tied to comprehensive supportive services. This is supported by the projects funded in the first competition. Fifty percent of the persons served by these projects will be recruited from the streets and an additional 47 percent from emergency shelters.

Other Program Requirements

Comment: Two commenters suggested that floodplain review will be a barrier, will decrease funds for services, and will cause delay. Another commenter asked for clarification of why intermediate care facilities (ICFs) for the mentally retarded are considered differently for floodplain information.

HUD response: One of the Federal authorities in 24 CFR parts 50 and 58, the Department's environmental regulations, is Executive Order 11988, Floodplain Management (May 24, 1977). The Water Resources Council (WRC) Guidelines, which implement Executive Order 11988, require action, among other things, to reduce the risk of floods on human safety. An eight-step decisionmaking process, which is designed to involve the public in a determination whether there is a practicable alternative location for the proposed action, must be conducted for any proposed action in a 100-year flood plain. In the case of a "critical action," the WRC Guidelines require the eight-step process to be conducted when the proposed action is located in a 500-year floodplain. The eight-step process for critical actions in a 500-year floodplain is similar to the process conducted for any action in a 100-year floodplain.

A "critical action" is any activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons, or damage to property. In HUD's view, critical actions include activities that create, maintain, or extend the useful life of structures or facilities that are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events, *e.g.*, persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities, and retirement service centers.

Comment: Two commenters argued that anti-lobbying certifications for applicants, recipients, and sub-recipients are intrusive and burdensome.

HUD response: These certifications are required by 24 CFR part 87, which is HUD's promulgation of a government-wide rule implementing section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (Pub. L. 101–121) ("Byrd Amendment"). Section 319 amended title 31 of the United States Code, adding a new section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions." The S+C program is subject to the anti-lobbying requirements of the Byrd Amendment.

Comment: Two commenters argued that only one of the two conditions under § 582.330(a) should have to be met before a recipient, who has established a preference for one or more of the statutorily targeted populations, must consider other eligible persons. (The rule requires that other eligible populations should also be served unless the recipient can show there is sufficient demand by the targeted group and other eligible persons will not benefit from the primary supportive services provided.) Another commenter requested that HUD require recipients to consider only other eligible disabled persons when unable to locate an eligible person in the target group.

HUD response: The Department believes that the rule, which has not been changed, complies with fair housing and anti-discrimination rules. By requiring that both conditions are met, the Department ensures that the targeted population is served without discriminating against other persons with disabilities.

Comment: One commenter asked what is meant by maintaining a drug-free workplace, since persons to be served by the program are likely to use alcohol and drugs.

HUD response: The Drug-free Workplace Act of 1988, which has been implemented by HUD at 24 CFR part 24, subpart F, requires that all grantees of Federal agencies provide a certification that the grantee will provide a drug-free workplace. Under HUD's rule at 24 CFR 24.605(b)(4), a "drug-free workplace" means a site for the performance of work done in connection with a specific grant at which employees of the grantee are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance. The rule applies to employees of the recipient, not those being served by the recipient. However, HUD regulations for all programs for the homeless—including the S+C final rule at § 582.340(b)—require that recipients have a policy designed to ensure that the facilities for the homeless persons they serve are free from the illegal use, possession, or distribution of drugs or alcohol by its residents.

Components

Comment: A commenter requested that TRA assistance not follow a participant who leaves a group facility, because the viability of the facility would be jeopardized. Another asserted that a TRA recipient should not be able to require a participant to live in a particular setting.

HUD response: TRA is tenant-based assistance and is linked to a participant, rather than a facility or organization. Under section 472 of the McKinney Act, and § 582.100 of the final rule, a recipient may require a participant to live in a particular facility for up to a year where necessary to assure the availability of supportive services. Thereafter, the participant may only be required to live in a particular area if prescribed by the recipient, not a particular facility. HUD encourages recipients to exercise good judgment in implementing such a requirement, and to do so only when necessary.

Comment: One commenter recommended that HUD revise the rule to prohibit displacement in the SRO component, rather than require units to be vacant.

HUD response: The purpose of the S+C program, as stated in section 451 of the McKinney Act is to provide rental assistance for homeless disabled persons. For that reason, HUD has indicated at § 582.115 that current occupants of a unit are not homeless and, therefore, not eligible for assistance. It should be noted, however, that any person displaced by acquisition, rehabilitation, or demolition for any project under the S+C program is eligible for and must be provided relocation assistance at Uniform Relocation Act (URA) levels. Section 582.335 of the final rule sets out the requirements regarding relocation assistance.

Comment: Several commenters argued that the cap on renovation in the SRO component ($15,500 for fiscal year

1992) does not provide sufficient capital for renovation in high cost areas.

HUD response: In high cost areas, HUD may approve a higher per-unit cost up to an amount derived by applying the HUD-approved High Cost Percentage for Base Cities. In addition, the costs for the installation of fire and safety improvements are not subject to the cap.

Comment: A few commenters requested that HUD expand SRO eligibility to include couples or a parent and child, rather than limiting eligibility to individuals. These commenters argued that "single" refers to rooms, not persons.

HUD response: The definition of an SRO unit (a unit for occupancy by a single eligible individual) is based on section 8(n) of the U.S. Housing Act of 1937 and the legislative history of that amendment to section 8 by the Housing and Community Development Amendments of 1981. The McKinney Act directs that this component be based on section 8(n).

Comment: One commenter suggested that the SRO requirements on site control should match those of the McKinney Supportive Housing Demonstration.

HUD response: HUD agrees that the SRO site control requirements in the guidelines may have been too rigid, and believes those requirements may have contributed to the inadequate number of feasible SRO projects submitted in the first S+C competition. In response, as discussed at the beginning of this preamble, the Department is adopting a two-stage application process that will allow additional time for gaining control of the site and obtaining financing commitments.

III. Other Matters

Information collection requirements in this rule have been reviewed by the Office of Management and Budget under the Paperwork Reduction Act and assigned OMB approval number 2506–0118.

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it will not.

(1) Have an annual effect on the economy of $100 million or more;

(2) Cause a major increase in costs or prices for consumer, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. The program has been designed to allow applicants to design programs that provide housing and supportive services to homeless families and individuals with as little regulation as possible under the existing law.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5.30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington DC 20410.

The General Counsel, as the designated official under Executive Order 12606, The Family, has determined that some of the policies in this proposed rule may have a potential significant impact on the formation, maintenance, and general well-being of participating homeless families. Participation of families in the program can be expected to support family values, by helping families remain together; by enabling them to live in decent, safe, and sanitary housing; and by offering the supportive services that are necessary to acquire the skills and means to live independently in mainstream American society. Since the impact on the family is considered to be a beneficial one, no further review is necessary.

The General Counsel has also determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, Federalism, that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. The rule is designed to give States and localities as much flexibility as possible within the statutory requirements of the program.

This rule was listed as item number 1378 in the Department's Semiannual Agenda of Regulations published at 57 FR 51392 on November 3, 1992, under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program number for the Shelter Plus Care program is 14.238.

List of Subjects in 24 CFR Part 582

Grant programs—Handicapped, Homeless, Nonprofit organizations, Reporting and recordkeeping requirements.

Accordingly, title 24 of the Code of Federal Regulations is amended by adding part 582, to read as follows:

PART 582—SHELTER PLUS CARE

Subpart A—General

Sec.
582.1 Purpose and scope.
582.5 Definitions.
582.10 Waivers.

Subpart B—Assistance Provided

582.100 Program component descriptions.
582.105 Rental assistance amounts and payments.
582.110 Matching requirements.
582.115 Limitations on assistance.
582.120 Comprehensive housing affordability strategy (CHAS).

Subpart C—Application and Grant Award

582.200 Notice of fund availability.
582.205 Grant award process.
582.210 Application requirements.
582.215 Ranking criteria for applications.
582.220 Selecting applications.
582.225 Obtaining additional information and awarding grants.
582.230 Environmental review requirements.

Subpart D—Program Requirements

582.300 General operation.
582.305 Housing quality standards; rent reasonableness.
582.310 Resident rent.
582.315 Occupancy agreements.
582.320 Termination of assistance to participants.
582.325 Outreach activities.
582.330 Nondiscrimination and equal opportunity requirements.
582.335 Displacement, relocation and real property acquisition.
582.340 Other Federal requirements.

Subpart E—Administration

582.400 Grant agreement.
582.405 Program changes.
582.410 Obligation and deobligation of funds.

Authority: 42 U.S.C. 11403 note; 42 U.S.C 3535(d).

Subpart A—General

§ 582.1 Purpose and scope.

(a) *General.* The Shelter Plus Care program (S+C) is authorized by title IV of the Stewart B. McKinney Homeless

Assistance Act. S+C is designed to link rental assistance to supportive services for hard-to-serve homeless persons with disabilities (primarily those who are seriously mentally ill; have chronic problems with alcohol, drugs, or both; or have acquired immunodeficiency syndrome (AIDS) and related diseases) and their families. The program provides grants to be used for rental assistance for permanent housing for homeless persons with disabilities. Rental assistance grants must be matched in the aggregate by supportive services that are equal in value to the amount of rental assistance and appropriate to the needs of the population to be served. Recipients are chosen on a competitive basis nationwide.

(b) *Components.* Rental assistance is provided through four components described in § 582.100:

(1) Tenant-based Rental Assistance (TRA);

(2) Project-based Rental Assistance (PRA);

(3) Sponsor-based Rental Assistance (SRA); and

(4) Moderate Rehabilitation for Single Room Occupancy Dwellings (SRO).

Applicants may apply for assistance under any one of the four components, or a combination.

§ 582.5 Definitions.

As used in this part:

Acquired immunodeficiency syndrome (AIDS) and related diseases means the disease of AIDS or any conditions arising from the etiologic agent for AIDS.

Applicant means a State, unit of general local government, Indian tribe, or public housing agency (PHA).

Eligible person means a homeless person with disabilities (primarily persons who are seriously mentally ill; have chronic problems with alcohol, drugs, or both; or have AIDS and related diseases) and, if also homeless, the family of such a person. To be eligible for assistance, persons must be very low income, except that low-income individuals may be assisted under the SRO component in accordance with 24 CFR 813.105(b).

Fair market rent, or *FMR*, means the rent established by HUD in accordance with 24 CFR part 888, including utilities (except telephone), ranges and refrigerators, and all maintenance, management, and other services, that would be required to be paid in order to rent privately owned decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities in the market area. FMRs for existing housing are published annually in the **Federal Register**.

Homeless or homeless individual includes: (1) A family or individual who lacks a fixed, regular, and adequate nighttime residence; and

(2) A family or individual who has a primary nighttime residence that is—

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(ii) An institution that provides a temporary residence for persons intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The term "homeless" or "homeless individual" does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

HUD means the Department of Housing and Urban Development.

Indian tribe means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512).

Low income means an annual income not in excess of 80 percent of the median income for the area, as determined by HUD. HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low family incomes.

Nonprofit organization means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—

(1) Is organized under State or local laws;

(2) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(3) Complies with standards of financial accountability acceptable to the Secretary; and

(4) Has among its purposes significant activities related to the provision of decent housing that is affordable to low-income and moderate-income persons.

The term nonprofit organization also includes a community mental health center established as a public nonprofit organization.

Participant means an eligible person who has been selected to participate in S+C.

Person with disabilities means a household composed of one or more persons at least one of whom is an adult who has a disability.

(1) A person shall be considered to have a disability if such person has a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such a nature that such ability could be improved by more suitable housing conditions.

(2) A person will also be considered to have a disability if he or she has a developmental disability, which is a severe, chronic disability that—

(i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) Is manifested before the person attains age 22;

(iii) Is likely to continue indefinitely;

(iv) Results in substantial functional limitations in three or more of the following areas of major life activity:

(A) self-care,

(B) receptive and expressive language,

(C) learning,

(D) mobility,

(E) self-direction,

(F) capacity for independent living, and

(G) economic self-sufficiency; and

(v) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

Notwithstanding the preceding provisions of this paragraph, the term "person with disabilities" includes, except in the case of the SRO component, two or more persons with disabilities living together, one or more such persons living with another person who is determined to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this definition who were living, in a unit assisted under this part, with the deceased member of the household at the time of his or her death. (In any event, with respect to the surviving member or members of a household, the right to rental assistance under this part will terminate at the end of the grant period under which the deceased member was a participant.)

Public housing agency, or PHA, means any State, county, municipality, or other governmental entity or public

body (or agency or instrumentality thereof), including any Indian Housing Authority, which is authorized to engage in or assist in the development or operation of low income housing.

Recipient means an applicant approved to receive a S+C grant.

Secretary means the Secretary of HUD.

Seriously mentally ill means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

Single room occupancy (SRO) housing means a unit for occupancy by one person, which need not but may contain food preparation or sanitary facilities, or both.

Sponsor means a nonprofit organization which owns or leases dwelling units and has contracts with a recipient to make such units available to eligible homeless persons and receives rental assistance payments under the SRA component.

State means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, Palau, and any other territory or possession of the United States.

Supportive service provider, or service provider, means a person or organization licensed or otherwise qualified to provide supportive services, either for profit or not for profit.

Supportive services means assistance that—

(1) Addresses the special needs of eligible persons; and

(2) Provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health treatment, alcohol and other substance abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living.

Inpatient acute hospital care does not qualify as a supportive service.

Unit of general local government means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions recognized by the Secretary; the District of Columbia; and Palau.

Very low income means an annual income not in excess of 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes.

§ 582.10 Waivers.

Upon completion of a determination and finding of good cause, the Assistant Secretary of Community Planning and Development may waive any provision of this part in any particular case subject only to statutory limitations. Each waiver must be in writing, and must be supported by documentation of the facts and reasons that formed the basis for the waiver. HUD will publish a notice in the **Federal Register** informing the public of all waivers granted under this section and containing all relevant information concerning the waiver.

Subpart B—Assistance Provided

§ 582.100 Program component descriptions.

(a) *Tenant-based rental assistance (TRA).* Tenant-based rental assistance provides grants for rental assistance which permit participants to choose housing of an appropriate size in which to reside. Participants retain the rental assistance if they move. Where necessary to facilitate the coordination of supportive services, grant recipients may require participants to live in a specific area for their entire period of participation or in a specific structure for the first year and in a specific area for the remainder of their period of participation. Recipients may not define the area in a way that violates the Fair Housing Act or the Rehabilitation Act of 1973. The term of the grant between HUD and the grant recipient for TRA is five years.

(b) *Project-based rental assistance (PRA).* Project-based rental assistance provides grants for rental assistance to the owner of an existing structure, where the owner agrees to lease the subsidized units to participants. Participants do not retain rental assistance if they move. Rental subsidies are provided to the owner for a period of either five or ten years. To qualify for ten years of rental subsidies, the owner must complete at least $3,000 of eligible rehabilitation for each unit (including the unit's prorated share of work to be accomplished on common areas or systems), to make the structure decent, safe and sanitary. This rehabilitation must be completed with in 12 months of the grant award.

(c) *Sponsor-based rental assistance (SRA).* Sponsor-based rental assistance provides grants for rental assistance through contracts between the grant recipient and sponsor organizations. A sponsor may be a private, nonprofit organization or a community mental health agency established as a public nonprofit organization. Participants reside in housing owned or leased by the sponsor. The term of the grant between HUD and the grant recipient for SRA is five years.

(d) *Moderate rehabilitation for single room occupancy dwellings (SRO).* (1) The SRO component provides grants for rental assistance in connection with the moderate rehabilitation of single room occupancy housing units. Resources to initially fund the cost of rehabilitating the dwellings must be obtained from other sources. However, the rental assistance covers operating expenses of the rehabilitated SRO units occupied by homeless persons, including debt service to retire the cost of the moderate rehabilitation over a ten-year period.

(2) SRO housing must be in need of moderate rehabilitation and must meet the requirements of 24 CFR 882.803(a). Costs associated with rehabilitation of common areas may be included in the calculation of the cost for assisted units based on the proportion of the number of units to be assisted under this part to the total number of units.

(3) SRO assistance may also be used for efficiency units selected for rehabilitation under this program, but the gross rent (contract rent plus any utility allowance) for those units will be no higher than for SRO units (i.e., 75 percent of the 0-bedroom Moderate Rehabilitation Fair Market Rent).

(4) The requirements regarding maintenance, operation, and inspections described in 24 CFR 882.806(b)(4) and 882.808(n) must be met.

(5) *Governing regulations.* Except where there is a conflict with any requirement under this part or where specifically provided, the SRO component will be governed by the regulations set forth in 24 CFR part 882, subpart H.

§ 582.105 Rental assistance amounts and payments.

(a) *Eligible activity.* S+C grants may be used for providing rental assistance for housing occupied by participants in the program and administrative costs as provided for in paragraph (f) of this section, except that the housing may not be currently receiving Federal funding for rental assistance or operating costs under other HUD programs. Recipients may design a housing program that includes a range of housing types with

differing levels of supportive services. Rental assistance may include security deposits on units in an amount up to one month's rent.

(b) *Amount of the grant.* The amount of the grant is based on the number and size of units proposed by the applicant to be assisted over the grant period. The grant amount is calculated by multiplying the number of units proposed times the applicable Fair Market Rent (FMR) of each unit times the term of the grant.

(c) *Payment of grant.* (1) The grant amount will be reserved for rental assistance over the grant period. An applicant's grant request is an estimate of the amount needed for rental assistance. Recipients will make draws from the reserved amount to pay the actual costs of rental assistance for program participants. For TRA, on demonstration of need, up to 25 percent of the total rental assistance awarded may be spent in any one of the five years, or a higher percentage if approved by HUD, where the applicant provides evidence satisfactory to HUD that it is financially committed to providing the housing assistance described in the application for the full five-year period.

(2) A recipient must serve at least as many participants as shown in its application. Where the grant amount reserved for rental assistance over the grant period exceeds the amount that will be needed to pay the actual costs of rental assistance, due to such factor as contract rents being lower than FMRs and participants are being able to pay a portion of the rent, recipients may use the remaining funds for the costs of administering the housing assistance, as described in paragraph (e) of this section, for damage to property, as described in paragraph (f) of this section, for covering the costs of rent increases, or for serving a great number of participants.

(d) *Vacancies.* (1) If a unit assisted under this part is vacated before the expiration of the occupancy agreement described in § 582.315 of this part, the assistance for the unit may continue for a maximum of 30 days from the end of the month in which the unit was vacated, unless occupied by another eligible person. No additional assistance will be paid until the unit is occupied by another eligible person.

(2) As used in this paragraph, the term "vacate" does not include brief periods of inpatient care, not to exceed 90 days for each occurrence.

(e) *Administrative costs.* (1) Up to eight percent of the grant amount may be used to pay the costs of administering the housing assistance. Recipients may contract with another entity approved by HUD to administer the housing assistance.

(2) Eligible administrative activities include processing rental payments to landlords, examining participant income and family composition, providing housing information and assistance, inspecting units for compliance with housing quality standards, and receiving into the program new participants. This administrative allowance does not include the cost of administering the supportive services or the grant (*e.g.*, costs of preparing the application, reports or audits required by HUD), which are not eligible activities under a S+C grant.

(f) *Property damage.* Recipients may use grant funds in an amount up to one month's rent to pay for any damage to housing due to the action of a participant.

§ 582.110 Matching requirements.

(a) *Matching rental assistance with supportive services.* To qualify for rental assistance grants, an applicant must certify that it will provide or ensure the provision of supportive services, including funding the services itself if the planned resources do not become available for any reason, appropriate to the needs of the population being served and at least equal in value to the aggregate amount of rental assistance funded by HUD. The supportive services may be newly created for the program or already in operation, and may be provided or funded by other Federal, State, local, or private programs. Only services that are provided after the execution of the grant agreement may count toward the match.

(b) *Availability to participants.* Recipients must give reasonable assurances that supportive services will be available to participants for the entire term of the rental assistance. The value of the services provided to a participant, however, does not have to equal the amount of rental assistance provided that participant, nor does the value have to be equal to the amount of rental assistance on a year-to-year basis.

(c) *Calculating the value of supportive services.* In calculating the amount of the matching supportive services, applicants may count:

(1) Salaries paid to staff of the recipient to provide supportive services to S+C participants;

(2) The value of supportive services provided by other persons or organizations to S+C participants;

(3) The value of time and services contributed by volunteers at the rate of $10.00 an hour, except for donated professional services which may be counted at the customary charge for the service provided (professional services are services ordinarily performed by donors for payment, such as the services of health professionals, that are equivalent to the services they provide in their occupations);

(4) The value of any lease on a building used for the provision of supportive services, provided the value included in the match is no more than the prorated share used for the program; and

(5) The cost of outreach activities, as described in § 582.325(a) of this part.

§ 582.115 Limitations on assistance.

(a) *Current occupants.* Current occupants of the real property are not eligible for assistance under this part. However, as described in section 582.335, persons displaced as a direct result of acquisition, rehabilitation, or demolition for a project under the S+C program are eligible for and must be provided relocation assistance at Uniform Relocation Act levels.

(b) *Amount of assistance provided within a jurisdiction.* HUD will limit the amount of assistance provided within the jurisdiction of any one unit of local government to no more than 10 percent of the amount available.

(c) *Primarily religious organizations.* HUD will provide assistance to a recipient that contracts with a primarily religious organization, or a wholly secular organization established by a primarily religious organization, to provide, manage, or operate housing and supportive services if the organization agrees to provide the housing and services in a manner that is free from religious influences and in accordance with the following principles:

(1) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(2) It will not discriminate against any person applying for housing or supportive services on the basis of religion and will not limit such housing or services or give preference to persons on the basis of religion;

(3) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of housing and supportive services.

(d) *Maintenance of effort.* No assistance received under this part (or any State or local government funds used to supplement this assistance) may

be used to replace funds provided under any State or local government assistance programs previously used, or designated for use, to assist persons with disabilities, homeless persons, or homeless persons with disabilities.

§ 582.120 Comprehensive housing affordability strategy (CHAS).

(a) *Applicants that are States or units of general local government.* The applicant must have a HUD-approved complete or abbreviated CHAS pursuant to the requirements of the CHAS regulations (24 CFR part 91), and must submit a certification that it is following, and the application for funding is consistent with, the HUD-approved CHAS. If the applicant is a State, and the project will be located in a unit of general local government that is required to have, or has, a complete CHAS, or that is applying for Shelter Plus Care assistance under the same Notice of Fund Availability (NOFA) and will have an abbreviated CHAS with respect to that application, the State must also submit a certification by the unit of general local government that the State's application is consistent with the unit of general local government's HUD-approved CHAS.

(b) *Applicants that are PHAs.* The applicant must submit a certification by the jurisdiction in which the proposed project will be located that the jurisdiction is following, and the applicant's application for funding is consistent with, the jurisdiction's HUD-approved CHAS. The certification must be made by the unit of general local government or the State, pursuant to the CHAS regulations at 24 CFR 91.1(b)(1)(ii), and as may be further described in the NOFA.

(c) *Indiana tribes and the Insular Areas of Guam, the U.S. Virgin Islands, American Samoa and the Northern Mariana Islands.* These entities are not required to have a CHAS or to make CHAS certifications. An application by an Indian tribe or other applicant for a project that will be located on a reservation of an Indian tribe will not require a certification by the tribe or the State. However, where an Indiana tribe is the applicant for a project which will not be located on a reservation, the requirement for a certification under paragraph (b) of this section will apply.

(d) *Timing of CHAS certification submissions.* Unless otherwise set forth in the NOFA, the required certification must be submitted by the funding application submission deadline announced in the NOFA. The jurisdiction required to make the certification must therefore get its CHAS approved by HUD in time for the certification to be submitted by the applicable deadline, i.e., the funding application deadline announced in the NOFA or, if the NOFA pemits a later submission date for the certification, the later date. (HUD has 60 days to approve a CHAS.) However, in no event will an application be considered for funding if the required CHAS has not been submitted for HUD approval by the funding application deadline. All certifications must be signed by the public official responsible for submitting the CHAS to HUD, and must meet the requirements of the CHAS regulations at 24 CFR 91.80 (a) and (b), "Consistency certification."

Subpart C—Application and Grant Award

§ 582.200 Notice of fund availability.

When funds are made available for assistance under S+C, HUD will publish a Notice of Fund Availability (NOFA) in the **Federal Register** in accordance with the requirements of 24 CFR part 12. The NOFA will:

(a) Give the location for obtaining application packages, which will provide specific application requirements and guidance;

(b) Specify the date, time and the place for submitting completed applications;

(c) State the amount and status of funding available under the NOFA.

(d) Describe the factors relative to each ranking criterion contained in § 582.215 of this part, and indicate the weight or relative importance of the criteria as they will be applied to the funding round announced in the NOFA;

(e) Specify the timing and conditions for curing technical deficiencies in an application; and

(f) Provide other appropriate program information and guidance, including purpose, authority, and eligibility.

§ 582.205 Grant award process.

(a) *Process.* The grant award process for assistance under this part consists of reviewing applications for eligibility for assistance; ranking applications; conditionally selecting applications; and obtaining additional information and awarding grants.

(b) *Prohibition of disclosure of selection information.* The selection process for assistance under this part is subject to the prohibition of disclosure of covered information regarding the selection process, as described in 24 CFR part 4. Applicants for or recipients of assistance who have received covered selection information may be subject to sanctions, as determined to be appropriate.

§ 582.210 Application requirements.

Applications for grants must be submitted in the form prescribed by HUD in the application package, must meet the requirements of this part, and must be submitted within the time period established by HUD in the notice of fund availability under § 582.200 of this part. HUD reserves the right to reject applications from any applicant with an outstanding obligation to HUD that is in arrears or for which a payment schedule has not been agreed to, or whose response to an audit finding is overdue or unsatisfactory.

(Approved by the Office of Management and Budget under control number 2506–0118)

§ 582.215 Rating criteria for applications.

(a) *General.* Applications will be assigned a rating score and placed in ranked order, based upon the criteria listed in paragraph (b) of this section. The factors to be considered under each criterion and the number of points possible under each criterion will be described in more detail in the notice of fund availability published in the **Federal Register** for each funding round. Where an applicant requests assistance under more than one component, the components will not be separately rated, but rather the application will be rated as a whole.

(b) *Criteria.* HUD will award points for the following criteria:

(1) Ability of the applicant to develop and operate a project;

(2) Need for the type of project proposed by the applicant in the area to be served;

(3) Extent to which the proposed funding for supportive services will be available;

(4) Extent to which the applicant has demonstrated coordination with other Federal, State, local, private and other entities serving homeless persons in the planning and operation of the project, to the extent practicable;

(5) Extent to which the project targets homeless persons living in emergency shelters or in places not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;

(6) Quality of the project, including the extent to which it will serve the needs of homeless persons proposed to be served and will integrate participants into the community; and

(7) Extent to which the program will serve homeless persons who are seriously mentally ill, have chronic alcohol and/or drug abuse problems, or have AIDS and related diseases.

§ 582.220 Selecting applications.

(a) *General.* The highest-ranked applications will be conditionally

selected in accordance with their ranked order, as determined under § 582.215 of this part, to the extent funds are available, and consistent with the funding minimums described in paragraph (b) of this section. As necessary, applicants will be requested to provide additional information, as described in § 582.225 of this part, as a prerequisite to a grant offer from HUD.

(b) *Funding minimums.* HUD will award not less than 10 percent of the available funds for each component. HUD will skip higher-ranked applications in a component for which the minimum percentage has already been achieved, if necessary, to achieve the minimum percentage for another component. If there is an insufficient number of approvable applications in a component to achieve its minimum percentage, the unused balance will be used for the next highest-ranked approvable application(s) in the competition. In order to achieve geographic diversity, HUD will determine, after applications are rated and ranked under the criteria, whether each of the four Census Regions contains at least three fundable applications. If not, HUD will substitute the highest ranked application in the necessary Census Region for applications at the bottom of the list of tentatively selected projects.

(c) *Ties between applicants.* In the event of a tie between applicants, HUD will use need for the project to determine which application should be selected for potential funding.

(d) *Procedural error.* If HUD makes a procedural error in a funding competition that, when corrected, would warrant funding of an otherwise eligible application, HUD will select that application for potential funding when sufficient funds become available.

§ 582.225 Obtaining additional information and awarding grants.

(a) *Additional information.* Applicants with the highest-ranked applications will be requested, where necessary, by HUD to submit additional project information. For the SRO component such information may include:

(1) Documentation showing site control;

(2) Description of the rehabilitation work to be done and a cost estimate for the work;

(3) Where applicable, information necessary for HUD to perform an environmental review, as described in § 582.230 of this part;

(4) A listing of the sources of funding for the project and financing commitments;

(5) Calculations showing the proposed rents for the project are feasible and within the fair market rent limitation established by HUD; and

(6) Such other information, as specified by HUD in writing to the applicant, that confirms or clarifies information provided in the application.

(b) *Receipt of additional information.* The required additional information must be received in acceptable form by the deadline established by HUD in a notice of fund availability published in the **Federal Register**. HUD reserves the right to remove any proposed project from further consideration for grant assistance if the required additional project information is not received in acceptable form by the established deadline.

(c) *Grant award.* Following receipt of the additional information in acceptable form (and, where HUD must perform the environmental review described in § 582.230 of this part, provided that the environmental review indicates that the proposed project is environmentally acceptable to HUD), HUD will approve the application and send a grant agreement for execution to the applicant.

(Approved by the Office of Management and Budget under control number 2506–0118.)

§ 582.230 Environmental review requirements.

(a) *Responsibility for review.* (1) HUD will perform the environmental review, in accordance with part 50 of this title, for conditionally selected applications received from PHA applicants. HUD is not permitted to approve such applications prior to its completion of this review, nor is the PHA permitted to enter into a contract for, or otherwise commit HUD or local funds for, acquisition, rehabilitation, conversion, lease, repair, or construction of property to provide housing under the program, prior to HUD's completion of this review and approval of the application.

(2) Applicants that are States, units of general local government, or Indian tribes must assume responsibility for environmental review, decisionmaking, and action for each application for assistance in accordance with part 58 of this title. HUD is permitted to approve such applications subject to the completion of reviews by the applicant in accordance with part 58 of this title. Applicants performing these reviews may adopt relevant and adequate prior reviews conducted by HUD or another governmental entity if the reviews meet the particular requirements of the Federal environmental law or authority under which they would be adopted, and only under certain conditions (*e.g.*, a determination that no environmentally significant changes have occurred since the review was done). Applicants who adopt such relevant and adequate prior reviews may include the environmental certification and Request for Release of Funds with their applications.

(b) *Environmental review by HUD.* With regard to the environmental effects of applications for which HUD performs the review, HUD will undertake its review in accordance with the provisions of NEPA and the related authorities listed in 24 CFR 50.4. HUD may eliminate an application from consideration where the application would require an Environmental Impact Statement (EIS) (generally, an application that HUD determines would have a significant impact on the human environment, in accordance with the environmental assessment procedures at 24 CFR part 50, subpart E). PHA applicants must include in their application an assurance that the applicant will:

(1) Not enter into a contract for, or otherwise commit HUD or local funds for, acquisition, rehabilitation, conversion, lease, repair, or construction of property to provide housing under the program, prior to HUD's completion of the review and approval of the application;

(2) Supply HUD with information necessary for HUD to perform any applicable environmental review when requested under § 582.225(a); and

(3) Carry out mitigating measures required by HUD or ensure that alternate sites are utilized.

(c) *Environmental review by applicants.* (1) An applicant that is required under paragraph (a)(2) of this section to assume environmental review responsibility must include in its application an assurance that the applicant will assume all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official under NEPA and related authorities listed in 24 CFR 58.5.

(2) For applicants required to assume environmental review responsibility, the award of funding is subject to completion of the environmental responsibilities set out in 24 CFR part 58 within a reasonable time period after notification of the award. (This provision does not preclude the applicant from enclosing its environmental certification and Request for Release of Funds with its application.)

(i) Upon completion of the requirements in 24 CFR part 58, applicants must certify the completion and submit a Request for Release of

Funds. This submission is not required in cases in which the applicant determines, in accordance with part 58 that its program components are totally exempt.

(ii) HUD will not release grant funds if the recipient or any other party commits grant funds (i.e., incurs any costs or expenditures to be paid or reimbursed with such funds) before the grantee submits and HUD approves its Request for Release of Funds (when such submission is required).

Subpart D—Program Requirements

§ 582.300 General operation.

(a) *Participation of homeless individuals.* (1) Each recipient must provide for the consultation and participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policy-making entity of the recipient, to the extent that the entity considers and makes policies and decisions regarding any housing assisted under this part or services for the participants. This requirement is waived if the applicant is unable to meet the requirement and presents a plan, which HUD approves, to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions. Participation by such an individual who also is a participant under the program does not constitute a conflict of interest under section 582.340(e) of this part.

(2) To the maximum extent practicable, each recipient must involve homeless individuals and families, through employment, volunteer services, or otherwise, in constructing or rehabilitating housing assisted under this part and in providing supportive services required under § 582.215 of this part.

(b) *Ongoing assessment of housing and supportive services.* Each recipient of assistance must conduct an ongoing assessment of the housing assistance and supportive services required by the participants, and make adjustments as appropriate.

(c) *Adequate supportive services.* Each recipient must assure that adequate supportive services are available to participants in the program.

(d) *Records and reports.* (1) Each recipient must keep any records and, within the timeframe required, make any reports (including those pertaining to race, ethnicity, gender, and disability status data) that HUD may require.

(2) Each recipient must keep on file, and make available to the public on request, a description of the procedures used to select sponsors under the SRA component and buildings under the SRO, SRA, and PRA components.

(3) Each recipient must develop, and make available to the public upon request, its procedures for managing the rental housing assistance funds provided by HUD. At a minimum, such procedures must describe how units will be identified and selected; how the responsibility for inspections will be handled; the process for deciding which unit a participant will occupy; how participants will be placed in, or assisted in finding appropriate housing; how rent calculations will be made and the amount of rental assistance payments determined; and what safeguards will be used to prevent the misuse of funds.

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§ 582.305 Housing quality standards; rent reasonableness.

(a) *Housing quality standards.* Housing assisted under this part must meet the applicable housing quality standards (HQS) under 24 CFR 882.109 and, for SRO, under 24 CFR 882.803(b). Before any assistance will be provided on behalf of a participant, the recipient, or another entity acting on behalf of the recipient (other than the owner of the housing), must physically inspect each unit to assure that the unit meets the HQS. Assistance will not be provided for units that fail to meet the HQS, unless the owner corrects any deficiencies within 30 days from the date of the lease agreement and the recipient verifies that all deficiencies have been corrected. Recipients must also inspect all units at least annually during the grant period to ensure that the units continue to meet the HQS.

(b) *Rent reasonableness.* HUD will only provide assistance for a unit for which the rent is reasonable. For TRA, PRA, and SRA, it is the responsibility of the recipient to determine whether the rent charged for the unit receiving rental assistance is reasonable in relation to rents being charged for comparable unassisted units, taking into account the location, size, type, quality, amenities, facilities, and management and maintenance of each unit, as well as not in excess of rents currently being charged by the same owner for comparable unassisted units. For SRO, rents are calculated in accordance with 24 CFR 882.805(g).

§ 582.310 Resident rent.

(a) *Amount of rent.* Each participant must pay rent in accordance with section 3(a)(1) of the U.S. Housing Act of 1937, which is the highest of:

(1) 30 percent of the family's monthly adjusted income (adjustment factors include the number of people in the family, age of family members, medical expenses, and child care expenses);

(2) 10 percent of the family's monthly income; or

(3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is so designated; except that the gross income of a person occupying an intermediate care facility assisted under title XIX of the Social Security Act is the same as if the person were being assisted under title XVI of the Social Security Act.

(b) *Calculating income.* (1) Income of participants must be calculated in accordance with 24 CFR 813.106.

(2) Recipients must examine a participant's income initially, and at least annually thereafter, to determine the amount of rent payable by the participant. Adjustments to a participant's rental payment must be made as necessary.

(3) As a condition of participation in the program, each participant must agree to supply the information or documentation necessary to verify the participant's income. Participants must provide the recipient information at any time regarding changes in income or other circumstances that may result in changes to a participant's rental payment.

§ 582.315 Occupancy agreements.

(a) *Initial occupancy agreement.* Participants must enter into an occupancy agreement for a term of at least one month. The occupancy agreement must be automatically renewable upon expiration, except on prior notice by either party.

(b) *Terms of agreement.* In addition to standard lease provisions, the occupancy agreement may also include a provision requiring the participant to take part in the supportive services provided through the program as a condition of continued occupancy.

§ 582.320 Termination of assistance to participants.

(a) *Termination of assistance.* The recipient may terminate assistance to a participant who violates program requirements or conditions of occupancy. Recipients must exercise judgment and examine all extenuating circumstances in determining when violations are serious enough to warrant termination, so that a participant's

assistance is terminated only in the most severe cases. Recipients are not prohibited from resuming assistance to a participant whose assistance has been terminated.

(b) *Due process.* In terminating assistance to a participant, the recipient must provide a formal process that recognizes the rights of individuals receiving assistance to due process of law. This process, at a minimum, must consist of:

(1) Written notice to the participant containing a clear statement of the reasons for termination;

(2) A review of the decision, in which the participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and

(3) Prompt written notice of the final decision to the participant.

§ 582.325 Outreach activities.

Recipients must use their best efforts to ensure that eligible hard-to-reach persons are served by S+C. Recipients are expected to make sustained efforts to engage eligible persons so that they may be brought into the program. Outreach should be primarily directed toward eligible persons who have a nighttime residence that is an emergency shelter or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings (*e.g.*, persons living in cars, streets, and parks). Outreach activities are considered to be a supportive service, and the value of such activities that occur after the execution of the grant agreement may be included in meeting the matching requirement.

§ 582.330 Nondiscrimination and equal opportunity requirements.

(a) *General.* Recipients may establish a preference as part of their admissions procedures for one or more of the statutorily targeted populations (*i.e.*, seriously mentally ill, alcohol or substance abusers, or persons with AIDS and related diseases). However, other eligible disabled homeless persons must be considered for housing designed for the target population unless the recipient can demonstrate that there is sufficient demand by the target population for the units, and other eligible disabled homeless persons would not benefit from the primary supportive services provided.

(b) *Compliance with requirements.* (1) Recipients serving a designated population of homeless persons must, within the designated population, comply with the following requirements for nondiscrimination on the basis of race, color, religion, sex, national origin, age, familial status, and handicap:

(i) Except as provided in paragraph (ii) of this section, the requirements of the Fair Housing Act (42 U.S.C. 3601–19) and implementing regulations at 24 CFR part 100; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1958–1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1.

(ii) The Indian Civil Rights Act (25 U.S.C. 1301 *et seq.*) applies to tribes when they exercise their powers of self-government, and to IHAs when established by exercise of such powers. When an IHA is established under State law, the applicability of the Indian Civil Rights Act will be determined on a case-by-case basis. Projects subject to the Indian Civil Rights Act must be developed and operated in compliance with its provisions and all implementing HUD requirements, instead of title VI and the Fair Housing Act and their implementing regulations.

(2) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8.

(3) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Economic Opportunities for Low- and Very-Low-Income Persons.)

(4) The requirements of Executive Order 11246, as amended by Executive Orders 11375 and 12086 (3 CFR 1964–65, Comp., p. 339, 3 CFR 1966–1970 Comp., p. 684, and 3 CFR 1978 Comp., p. 230) (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR chapter 60; and the prohibitions against discrimination against handicapped individuals under section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 41 CFR chapter 60–741.

(5) The requirements of Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971–1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 39) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138 (3 CFR, 1977 Comp., p. 393) (Women's Business Enterprise). Consistent with HUD's responsibilities under these Orders, recipients must take efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(6) The accessibility requirements, reasonable modification, and accommodation requirements of the Fair Housing Act and of section 504 of the Rehabilitation Act of 1973, as amended.

(c) *Affirmative outreach.* (1) If the procedures that the recipient intends to use to make known the availability of the program are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or handicap who may qualify for assistance, the recipient must establish additional procedures that will ensure that interested persons can obtain information concerning the assistance.

(2) The recipient must adopt procedures to make available information on the existence and locations of facilities and services that are accessible to persons with a handicap and maintain evidence of implementation of the procedures.

(d) The accessibility requirements, reasonable modification, and accommodation requirements of the Fair Housing Act and of section 504 of the Rehabilitation Act of 1973, as amended.

§ 582.335 Displacement, relocation, and real property acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, recipients must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of supportive housing assisted under this part.

(b) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (f) of this section) must be provided relocation assistance at the levels described in, and in accordance with, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655) and implementing regulations at 49 CFR part 24.

(c) *Real property acquisition requirements.* The acquisition of real property for supportive housing is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(d) *Responsibility of recipient.* (1) The recipient must certify (*i.e.*, provide assurance of compliance) that it will

comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section, and must ensure such compliance notwithstanding any third party's contractual obligation to the recipient to comply with these provisions.

(2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. Such costs also may be paid for with local public funds or funds available from other sources.

(3) The recipient must maintain records in sufficient detail to demonstrate compliance with provisions of this section.

(e) *Appeals.* A person who disagrees with the recipient's determination concerning whether the person qualifies as a "displaced person," or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the recipient. A low-income person who is dissatisfied with the recipient's determination on his or her appeal may submit a written request for review of that determination to the HUD field office.

(f) *Definition of displaced person.* (1) For purposes of this section, the term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property permanently as a direct result of acquisition, rehabilitation, or demolition for supportive housing project assisted under this part. The term "displaced person" includes, but may not be limited to:

(i) A person that moves permanently from the real property after the property owner (or person in control of the site) issues a vacate notice or refuses to renew an expiring lease, if the move occurs on or after:

(A) The date that the recipient submits to HUD an application for assistance that is later approved and funded, if the recipient has control of the project site; or

(B) The date that the recipient obtains control of the project site, if such control is obtained after the submission of the application to HUD.

(ii) Any person, including a person who moves before the date described in paragraph (f)(1)(i) of this section, if the recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the assisted project.

(iii) A tenant-occupant of a dwelling unit who moves permanently from the building/complex on or after the date of the "initiation of negotiations" (see paragraph (g) of this section) if the move occurs before the tenant has been provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions must include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

(A) The tenant's monthly rent before the initiation of negotiations and estimated average utility costs, or

(B) 30 percent of gross household income. If the initial rent is at or near the maximum, there must be a reasonable basis for concluding at the time the project is initiated that future rent increases will be modest.

(iv) A tenant of a dwelling who is required to relocate temporarily, but does not return to the building/complex, if either:

(A) A tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or

(B) Other conditions of the temporary relocation are not reasonable.

(v) A tenant of a dwelling who moves from the building/complex permanently after he or she has been required to move to another unit in the same building/complex, if either:

(A) The tenant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move; or

(B) Other conditions of the move are not reasonable.

(2) Notwithstanding the provisions of paragraph (f)(1) of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if:

(i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State, or local or tribal law, or other good cause, and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(ii) The person moved into the property after the submission of the application and, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" (or for any assistance provided under this section), if the project is approved;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(3) The recipient may request, at any time, HUD's determination of whether a displacement is or would be covered under this section.

(g) *Definition of initiation of negotiations.* For purposes of determining the formula for computing the replacement housing assistance to be provided to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term "initiation of negotiations" means the execution of the agreement between the recipient and HUD, or selection of the project site, if later.

§ 582.340 Other Federal requirements.

(a) *OMB Circulars.*[1] (1) The policies, guidelines, and requirements of OMB Circular No. A–87 (Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments) and 24 CFR part 85 apply to the acceptance and use of assistance under the program by governmental entities, and OMB Circular Nos. A–110 (Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations) and A–122 (Cost Principles Applicable to Grants, Contracts and Other Agreements with Nonprofit Institutions) apply to the acceptance and use of assistance by private nonprofit organizations, except where inconsistent with provisions of the McKinney Act, other Federal statutes, or this part.

(2) The financial management systems used by recipients under this program must provide for audits in accordance with the provisions of 24 CFR part 44. Private nonprofit organizations who are subrecipients are subject to the audit requirements of 24 CFR part 45. HUD may perform or require additional audits as it finds necessary or appropriate.

(b) *Drug-free workplace and facilities.* Recipients are required to administer, in good faith, a policy designed to ensure that homeless facilities are free from the illegal use, possession, or distribution of drugs or alcohol by participants. Recipients must also certify that they

[1] Copies of OMB Circulars may be obtained from E.O.P. Publications, room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395–7332. (This is not a toll-free number.) There is a limit of two free copies.

will provide a drug-free workplace, in accordance with the Drug-free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR part 24, subpart F.

(c) *Anti-lobbying certification.* Recipients of Federal contracts, grants, and loans are prohibited from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government, in accordance with 24 CFR part 87. Applicants, recipients, and subrecipients of assistance exceeding $100,000 are required to certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance. Applicants, recipients, and subrecipients are also required to disclose whether nonappropriated funds have been spent or committed for lobbying activities if those activities would be prohibited if paid with appropriated funds. Substantial monetary penalties may be imposed for failure to file the required certification or disclosure.

(d) *Debarred or suspended contractors.* The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

(e) *Conflict of interest.* (1) In addition to the conflict of interest requirements in 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter. Participation by homeless individuals who also are participants under the program in policy or decisionmaking under § 582.300 of this part does not constitute a conflict of interest.

(2) Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (e)(1) of this section on a case-by-case basis when it determine that the exception will serve to further the purposes of the program and the effective and efficient administration of the recipient's project. An exception may be considered only after the recipient has provided the following:

(i) For States, units of general local governments, and PHAs, a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) For all recipients, an opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(3) In determining whether to grant a requested exception after the recipient has satisfactorily met the requirement of paragraph (e)(2) of this section, HUD will consider the cumulative effect of the following factors, where applicable:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the project which would otherwise not be available;

(ii) Whether the person affected is a member of a group or class of eligible persons and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iii) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

(iv) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (e)(1) of this section;

(v) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vi) Any other relevant considerations.

Subpart E—Administration

§ 582.400 Grant agreement.

(a) *General.* The grant agreement will be between HUD and the recipient. HUD will hold the recipient responsible for the overall administration of the program, including overseeing any subrecipients or contractors. Under the grant agreement, the recipient must agree to operate the program in accordance with the provisions of this part and other applicable HUD regulations.

(b) *Enforcement.* HUD will enforce the obligations in the grant agreement through such action as may be necessary, including recapturing assistance awarded under the program.

§ 582.405 Program changes.

(a) *Changes.* HUD must approve, in writing, any significant changes to an approved program. Significant changes that require approval include, but are not limited to, a change in sponsor , a change in the project site for SRO or PRA with rehabilitation projects, and a change in the type of persons with disabilities to be served. Depending on the nature of the change, HUD may require a new certification of consistency with the CHAS (see section 582.120).

(b) *Approval.* Approval for such changes is contingent upon the application ranking remaining high enough to have been competitively selected for funding in the year the application was selected.

§ 582.410 Obligation and deobligation of funds.

(a) *Obligation of funds.* When HUD and the applicant execute a grant agreement, HUD will obligate funds to cover the amount of the approved grant. The recipient will be expected to carry out the activities as proposed in the application. After the initial obligation of funds, HUD is under no obligation to make any upward revisions to the grant amount for any approved assistance.

(b) *Deobligation.* (1) HUD may deobligate all or a portion of the approved grant amount if such amount is not expended in a timely manner, or the proposed housing for which funding was approved or the supportive services proposed in the application are not provided in accordance with the approved application, the requirements of this part, and other applicable HUD regulations. The grant agreement may set forth other circumstances under which funds may be deobligated, and other sanctions may be imposed.

(2) HUD may readvertise, in a notice of fund availability, the availability of funds that have been deobligated, or may reconsider applications that were submitted in response to the most recently published notice of fund availability and select applications for funding with the deobligated funds. Such selections would be made in accordance with the selection process described in § 582.220 of this part. Any selections made using deobligated funds will be subject to applicable appropriation act requirements governing the use of deobligated funding authority.

(Approved by the Office of Management and Budget under control number 2506–0118)

Dated: February 8, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

[FR Doc. 93-5688 Filed 3-12-93; 8:45 am]

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March 15, 1993

Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary

Housing Programs for Homeless Persons; Fund Availability Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-93-3576; FR-3372-N-01]

Housing Programs for Homeless Persons: Fund Availability for Supportive Housing Program, Shelter Plus Care, and Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of fund availability (NOFA).

SUMMARY: This Notice announces the availability of approximately $515 million in funds for applications for assistance under three of the Department's programs for homeless persons:

(1) Supportive Housing;

(2) Shelter Plus Care; and

(3) Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals. The NOFA contains information concerning eligible applicants, the funding available under each program, the application package, and its processing.

DATES: An original completed application must be received by 5:15 p.m. Eastern Time on the date indicated as the applicable deadline for each program in the chart appearing in this NOFA. The application must be received in the Office of Special Needs Assistance Programs in Washington. Applications may not be sent by facsimile (FAX). The deadline given for each program is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the applicable deadline. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

FOR A COPY OF THE APPLICATION PACKAGE CONTACT: Application packages are available from the HUD field office listed at the end of this notice. Additional information regarding the submission of applications is included in the package.

ADDRESSES: An original completed application must be submitted to the following address: Department of Housing and Urban Development, Office of Special Needs Assistance Programs, 451 Seventh Street, SW., room 7262, Washington, DC 20410, Attention: Mr. James N. Forsberg. One or two copies of the application, as indicated in the chart, must also be sent to the HUD field office serving the area in which the applicant's project is located. A list of field offices appears at the end of this NOFA. Field office copies must be received by the application deadline as well, but a determination that an application was received on time will be made solely on receipt of the application at the Office of Special Needs Assistance Programs in Washington.

FOR FURTHER INFORMATION CONTACT: The HUD field office for the area in which the proposed project is located.

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this notice have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and have been assigned OMB control numbers 2506–0131, 2506–0112, and 2506–0118.

Introduction

This NOFA announces the availability of funds for assistance under the following programs: (1) Supportive Housing; (2) Shelter Plus Care; and (3) Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals (Section 8 SRO). (The Supportive Housing program is a newly authorized program under title IV of the Stewart B. McKinney Homeless Assistant Act (McKinney Act), as amended by section 1403 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved Oct 28, 1992) (1992 Act). The amendment removed the Supportive Housing Demonstration Program, which included the Transitional Housing and Permanent Housing for the Handicapped Homeless programs, and the Supplemental Assistance for Facilities that Assist the Homeless program (SAFAH), and combined many of the elements of those programs into the new Supportive Housing Program.)

In an effort to simplify the planning process for applicants, this combined NOFA covers all three programs. Although application deadlines, amounts available, eligible applicants, and eligible activities differ by program (as described later in this NOFA), HUD believes that applicants will be better served by having a complete schedule of funding available as early as possible for all of these programs. Applicants will thereby have an opportunity to coordinate resources needed for one or more program applications early in the fiscal year. With the combined NOFA, applicants can more easily determine which program will best serve their needs and which requirements they will be able to meet, and plan accordingly. The Department believes this will reduce the burden on applicants in the application process and allow both Federal and private dollars to be coordinated more effectively.

In addition, in order to encourage applicants to focus on submitting high-quality proposals and to save applicants who may not be funded from having to submit at the time of application information that is not necessary for rating, HUD is revising its application process. Conditional selections will be made based on the criteria described in the "Application Selection Process" section in this NOFA. Applicants who are conditionally selected will be notified of the additional information needed to confirm or clarify information provided in the application. Applicants will then have three months to submit such information.

Allocation Amounts and Submission Deadlines

Of the $515 million in funds available under this NOFA, $472 million were appropriated by the Department's appropriations act for fiscal year 1993 (Pub. L. 102–389, approved Oct. 6, 1992). The balance of $43 million represents funds carried over from Fiscal Year 1992. The approximate amount available for each competition as well as the application deadlines and where applications must be sent are specified in the chart below. Any unobligated funds from previous competitions or additional funds that may become available as a result of deobligation or recapture from previous awards may also be used to fund applications for the same program submitted in response to this NOFA

SCHEDULE OF COMPETITIONS FOR FISCAL YEAR 1993

Element	Supportive Housing	Shelter plus care	Section 8 SRO
Approximate funding for FY 1993	$100 Million	$300 Million	$115 Million
Applications due to HUD headquarters in Washington.	May 21, 1993, 5:15 PM, Eastern Time	July 9, 1993, 5:15 PM, Eastern Time	August 27, 1993, 5:15 PM, Eastern Time
Applications to be sent to	Original copy to headquarters in Washington; One copy to local field office.	Original copy to headquarters in Washington; Two copies to local field office.	Original copy to headquarters in Washington; Two copies to local field office.

Program Goals

The programs included in this NOFA have three common overall goals. These goals are to help homeless persons, primarily those living in places not ordinarily meant for human habitation or in emergency shelters, to (1) achieve residential stability; (2) increases their skill levels and/or income; and (3) obtain greater self-determination (i.e., more influence over decisions that affect their lives). These goals are reflected in the application package and selection criteria for each of the programs.

Residential stability refers to access to, and length of stay in, stable affordable housing. Achieving residential stability involves not only the availability of affordable, permanent housing, but also the success of the program in addressing the problems that led to the family or individuals becoming homeless. Those problems may involve mental illness, substance abuse, physical disabilities, unemployment, or other factors.

Increased skill level and/or income refers to the resources needed to enable persons to live as self-sufficiently as possible. For many homeless persons this involves actions to bridge the gap between current income and the cost of living. The gap could be closed through employment, a higher-paying job, or access to entitlement benefits. The likelihood of obtaining a job, a higher-paying job, could be enhanced through job or skills training, or enrolling in General Equivalency Diploma (GED) or higher education courses. For homeless persons with mental or physical disabilities that are so severe as to rule out outside employment, the goal of increased skill level and/or income may involve actions to increase self-sufficient in other ways (e.g., life skills training, increased income through employment within the project, or increased income through access to entitlement benefits).

Greater self-determination refers to increases in the influence that participants have on decisions that affect their lives. Those increases may result from such actions as involvement in the development of his or her individual housing and supportive services plan (including developing personal goals), participating in resident advisory council meetings or other involvement in the development of program rules and procedures, involvement in program implementation through such activities as employment and volunteer services, and choice in selecting service providers.

Measurable Objectives

To apply these goals to their proposed programs, applicants must establish and include in their applications measurable objectives for each of the three goals. Applicants must also describe how their proposed programs will help them achieve these goals.

Two examples of measurable objectives for the goal of residential stability are: 50 percent of Shelter Plus Care residents remain housed in permanent, affordable housing one year after moving into housing; 30 percent of transitional housing graduates will receive Section 8 rental housing assistance. An example of a measurable objective for the goal of increased skill level and/or income is: Incomes of 70 percent of families in Supportive Housing increase by at least 20 percent within twelve months of entry into the program. While the goal of greater self-determination is less quantifiable than the other two, measurable objectives can still be established. An example of such an objective is: 85 percent of residents participate in developing their individual housing and services plans within two months of entering the program.

The measurable objectives established by each applicant are expected to vary based on the specific needs and characteristics of the homeless persons supposed to be served as well as the specific program chosen. Where the population proposed to be served has multiple or particularly difficult problems that need to be addressed, objectives should reflect realistic expectations.

The highest ratings under the quality of project plan criterion discussed later in this NOFA will be awarded to applications containing project plans that describe specific measurable objectives for each of the common goals specified above, how the proposed plan of housing and services will help residents reach these goals, how the program's success will be evaluated, and how program modifications will be made, if necessary, as a result of this evaluation.

HUD will not consider the level of expectations described in the objectives in rating applications. That is, an application that contains realistic objectives reflecting the very dysfunctional nature of the population to be served will be treated the same as an application that contains more optimistic objectives reflecting a less dysfunctional population. HUD specifically does not want the process of establishing measurable objectives to lead applicants away from serving homeless persons with the most serious problems. HUD does want applicants for each program to adopt the three goals, carefully consider how they can achieve them through their proposed projects, establish measurable objectives to gauge whether they are achieving the goals and, if funded, periodically measure project results and, as necessary, make program adjustments.

Targeting

Because the resources available are limited, the Department is targeting resources to projects that will principally serve persons who are sleeping in emergency shelters (including hotels or motels used as shelter for homeless families), or places not meant for human habitation, such as cars, parks, sidewalks, or abandoned buildings. This includes persons who ordinarily live in such places but are in a hospital or other institution on a short-term basis (short-term is considered to be 30 consecutive days or less.) Applicants that target such homeless persons and that present a workable strategy for reaching these populations will receive the highest rating under the targeting selection criterion.

The Department also considers as homeless: (1) Persons who are graduating from transitional housing designed for homeless persons, and (2) persons who have been in institutions for more than 30 days and are within a week being released from institutions or

persons who are within a week being evicted from dwelling units, and lack the resources and support networks needed to obtain access to housing. However, to the extent that applicants propose to serve such homeless persons, points will not be received under the targeting selection criterion.

Program Descriptions

Each of the programs to be funded under this NOFA are described briefly. However, to understand fully the requirements of each program, potential applicants must read the applicable regulations. An interim rule for the Supportive Housing Program and a final rule for the Shelter Plus Care program, which are complete in themselves, are being published simultaneously with this NOFA. An interim rule amending the regulations for the Section 8 SRO program at 24 CFR part 882, subpart H, is also being published simultaneously with this NOFA; however, it must be read in conjunction with the regulations as they appear at 24 CFR part 882, subpart H. Funds made available through this NOFA are subject to these regulations.

Supportive Housing Program

Purpose

The purpose of the Supportive Housing Program is to promote the development and provision of supportive housing and/or appropriate supportive services, including innovative approaches to assist homeless persons in the transition from homelessness and to enable them to live as independently as possible.

Eligible Applicants

States, metropolitan cities, urban counties, other governmental entities, Indian tribes, private nonprofit organizations, and community mental health associations that are public nonprofit organizations.

Components

Supportive Housing funds may be used to provide: (1) Transitional housing designed to enable homeless persons and families to become as independent as possible and to move to permanent housing within a 24 month period, which may include up to 6 months of follow-up services after residents move to permanent housing; (2) community-based permanent housing for persons with disabilities provided in conjunction with appropriate supportive services designed to maximize the ability of such persons to live independently; (3) innovative supportive housing that is designed to meet the immediate and long-term needs of homeless individuals and/or families; or (4) supportive services for homeless individuals not provided in conjunction with supportive housing. Applicants who are applying for multiple components must submit separate applications unless the applicant considers the components to be mutually dependent, in which case they should be submitted in a single application.

Authority: The Supportive Housing Program is authorized by title IV, subtitle C, of the McKinney Act, as amended by section 1403 of the 1992 Act. An interim rule for the program is being published elsewhere in today's **Federal Register**. The funds made available under this NOFA are subject to the requirements of those regulations.

Allocation

A total of $150 million is available for Supportive Housing. However, approximately $50 million has been set-aside for the renewal of grants made under the former SAFAH program and Supportive Housing Demonstration Program, including both Transitional Housing and Permanent Housing for Handicapped Homeless, and for a technical assistance set-aside.

This NOFA is not an announcement for applications for renewal grants. Information concerning renewal grants for current grantees entering their last year of funding under the former SAFAH program or Supportive Housing Demonstration Program, including both Transitional Housing and Permanent Housing for the Handicapped Homeless, can be obtained from local HUD Field Offices.

In accordance with section 429 of the McKinney Act, as amended, HUD will allocate not less than 25 percent of the total available funds to projects that primarily serve homeless families with children, not less than 25 percent to projects that primarily serve homeless persons with disabilities and not less than 10 percent for supportive services not provided in conjunction with supportive housing. After applications are rated and ranked, based on the criteria described below, HUD will determine if the conditionally selected projects achieve these minimum percentages. If not, HUD will skip higher-ranked applications in a category for which the minimum percent has been achieved in order to achieve the minimum percent for this category. If there is an insufficient number of conditionally selected applications in a category to achieve its minimum percent, the unused balance will be used for the next highest-ranked approvable application in the competition.

Eligible Activities

The funds are available for assistance in the form of grants for: (1) Acquisition (2) rehabilitation; (3) new construction where the applicant demonstrates that the costs associated with new construction are substantially less than the costs associated with rehabilitation or the applicant provides evidence of lack of available appropriate units that could be rehabilitated at a cost less than new construction; (4) leasing costs; (5) operating costs; and (6) supportive services costs. Assistance for leasing, operating, and supportive services costs will be made for a period of up to five years. Applicants may apply for one or more than one eligible activity.

Applicants may not receive assistance to replace funds provided by any State or local government to assist homeless persons. A proposal for an existing project will be considered for assistance only if it will increase the number of homeless persons served or provide additional supportive services. HUD will only fund the portion of the project that will expand the program. Organizations that are currently leasing properties through the Single Family Property Disposition program may request funds to purchase the property to use for purposes eligible under this program.

Shelter Plus Care

Purpose

The purpose of the Shelter Plus Care (S+C) program is to provide long-term rental assistance, in connection with supportive services funded from sources other than this program, to homeless persons with disabilities. Assistance is targeted primarily to homeless persons who are living in places not ordinarily intended for human habitation or in emergency shelters and are seriously mentally ill; have chronic problems with alcohol, drugs, or both; or have acquired immunodeficiency syndrome (AIDS) and related diseases; and the families of such persons. The program is designed to allow applicants to provide housing in a variety of settings, such as group settings or individual units in the community. Housing also may be provided in one setting with intensive supportive services followed by more independent housing with fewer supportive services, provided that eligible participants receive rental assistance on a permanent basis. Appropriate supportive services designed to enable participants to achieve and maintain independent living must be made available to the proposed participants.

Eligible Applicants

States, units of general local government, public housing agencies (PHAs) and Indian tribes. Applicants other than States and State PHAs may submit only one S+C application. A State or State PHA may submit applications for more than one jurisdiction but must submit a separate application for each and may only submit one application for each jurisdiction. Applications may include proposals for one S+C component or for a combination of components. No one application may request more than $10 million.

Components

The S+C program provides long-term rental assistance through four components. The four components are:

(1) Tenant-based Rental Assistance (TRA), which provides grants for rental assistance over a five-year period. Participants reside in housing of their choice, except that, where necessary to facilitate the coordination of supportive services, grant recipients may require participants to live in a specific area for their entire period of participation or in a specific structure for the first year and in a specific area for the remainder of their period of participation.

(2) Sponsor-based Rental Assistance (SRA), which provides grants for rental assistance through contracts with sponsor organizations, over a five-year period. A sponsor may be a private, nonprofit organization or a community mental health agency established as a public nonprofit organization. Participants reside in housing owned or leased by the sponsor. Applicants must identify in their applications the nonprofit sponsor(s) and the housing site(s) to be provided.

(3) Project-based Rental Assistance (PRA), which provides grants for rental assistance, through contracts between the grant recipient and owners of existing structures, where the owners agree to lease the subsidized units to, or on behalf of, participants. Rental subsidies are provided for a period of five or ten years. To be eligible for 10 years of rental subsidies, the owner must complete, at his or her expense, at least $3,000 of rehabilitation for each unit (including the unit's prorated share of work to be accomplished on common areas or systems), to make the structure decent, safe and sanitary. The rehabilitation must be completed within 12 months of the date of the grant agreement.

(4) Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals (SRO), which provides grants for rental assistance in connection with the moderate rehabilitation of SRO housing units. Resources to fund the cost of rehabilitating the dwellings must be obtained from other sources. However, the rental assistance covers operating expenses of the rehabilitated SRO units, including debt service for rehabilitation financing, provided the monthly rental assistance per unit does not exceed the fair market rent for a rehabilitated SRO unit. Assistance is available for ten years. No single application may receive assistance for more than 100 units.

For purposes of this competition, applicant States, units of general local government and Indian tribes must subcontract with a PHA to administer the S+C/SRO assistance. At such time as a system is in place to allow applicants other than PHAs to administer the assistance, a subcontract will no longer be required. Unlike last year's competition, Appendices 31 and 34 of HUD Handbook 7420.3 will not be used to calculate base and contract rents or to determine eligible rehabilitation costs for the SRO component. This information will be specified in the application package and technical assistance materials.

Authority: The Shelter Plus Care program is authorized by title IV, subtitle F, of the McKinney Act (42 U.S.C. 11403), as amended by section 1406 of the 1992 Act. A final rule for the Shelter Plus Care program, which incorporates changes made by the 1992 Act, is being published elsewhere in today's **Federal Register**. Funds made available under this NOFA are subject to the requirements of that rule.

Allocation

Approximately $300 million is available for assistance under the Shelter Plus Care program. Unlike the 1992 S+C funding, separate allocations for each component have not been made. In accordance with section 459(a) of the McKinney Act, as amended by the 1992 Act, HUD will allocate at least 10 percent of the available funds for each component. After applications are rated and ranked, based on the criteria described below, HUD will determine if the conditionally selected projects achieve these minimum percentages. If necessary, HUD will skip higher-ranked applications for a component for which the minimum percent has been achieved in order to achieve the minimum percent for another component. If there is an insufficient number of approvable applications in a component to achieve its minimum percent, the unused balance will be used for the next highest-ranked approvable application in the competition.

Section 455(a)(2) of the McKinney Act includes geographic diversity as one of the selection criteria. In order to achieve geographic diversity, HUD will determine, after applications are rated and ranked, whether each of the four Census Regions contains at least three conditionally selected applications. If not, HUD will substitute the highest ranked approvable applications in the necessary Census Region for applications at the bottom of the list of conditionally selected applications.

Eligible Activities

S+C funds may be used only for rental assistance, including security deposits, and for costs related to administering the rental assistance. Up to eight percent of the amount awarded may be used for such administrative costs. Recipients must make available supportive services that are at least equal in value to the aggregate amount of rental assistance provided by the grant.

Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals

Purpose

The purpose of the Section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for Homeless Individuals is to provide rental assistance on behalf of homeless individuals in connection with the moderate rehabilitation of SRO dwellings. Resources to fund the cost of rehabilitating the dwellings must be obtained from other sources. However, the rental assistance covers operating expenses of the SRO housing, including debt service for rehabilitation financing, provided the monthly rental assistance per unit does not exceed the moderate rehabilitation fair market rent for an SRO unit, as established by HUD.

Eligible Applicants

Public housing authorities (PHA), Indian housing authorities (IHA), and private nonprofit organizations. Applicants must submit a separate application for each site for which assistance is requested. For purposes of this competition, private nonprofit organizations must subcontract with a PHA to administer the SRO assistance. At such time as a system is in place to allow nonprofit applicants to administer the assistance, a subcontract will no longer be required.

Authority: This program is authorized by section 441 of the McKinney Act (42 U.S.C. 11401), as amended by section 1405 of the 1992 Act. An interim rule amending the program regulations (24 CFR part 882, subpart H) is being published simultaneously with this NOFA. Funds made available under

this NOFA are subject to the requirements of the amended regulations.

Allocation

Approximately $115 million is available for assistance under the Section 8 SRO program. HUD estimates that this $115 million will assist approximately 2,000 units over the 10-year funding period. The national competition procedures established for the program by section 441 of the McKinney Act apply, rather than the "fair share" allocation procedures required for most assisted housing funds under section 213(d) of the Housing and Community Development Act of 1974. However, no city or urban county may have projects receiving a total of more than 10 percent of the assistance to be provided under this program. In addition, no single applicant shall receive assistance for more than 100 units.

Eligible Activities

SRO grants may only be used for rental assistance and for administering the rental assistance. The grant will be for a 10 year period.

The McKinney Act requires that first priority for occupancy of SRO moderate rehabilitation units shall be given to homeless individuals. This requirement, however, is not meant to eliminate the rights of current tenants to remain in the building after it is rehabilitated. Due to limited resources and considerations of relative need, HUD will only provide assistance for units that are vacant or units that are occupied by individuals eligible for section 8 assistance. However, in order to be considered for funding, at least 50 percent of the units to be assisted must be vacant. In addition, as the currently occupied assisted units become vacant, eligible homeless persons must be given first priority for such units.

Maximum and Minimum Cost Limits

Under the McKinney Act, HUD is required to publish the SRO per unit rehabilitation cost limit each year to take into account changes in construction costs. For purposes of Fiscal Year 1993 funding, the cost limitation is raised from $15,500 to $15,700 per unit to take into account increases in construction costs during the past 12-month period. This increase is made in accordance with 24 CFR 882.805(g), Initial contract rents.

Section 127 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989) revised the minimum amount of rehabilitation required. A unit to be assisted must need a minimum expenditure of $3,000 of eligible rehabilitation, including the unit's prorated share of work to be accomplished on common areas or systems.

Unlike previous Section 8 SRO program competitions, Appendices 31 and 34 of HUD Handbook 7420.3 will not be used to calculate base and contract rents or to determine eligible rehabilitation costs. This information will be specified in the application package and technical assistance materials.

Program Summary

The chart below summarizes key aspects of each of the programs discussed above.

Element	Supportive housing	Shelter plus care	Section 8 SRO
Authorizing legislation.	Subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act, as amended.	Subtitle F of title IV of the Steward B. McKinney Homeless Assistance Act, as amended.	Section 441 of the Stewart B. McKinney Homeless Assistance Act, as amended.
Implementing regulations.	24 CFR part 583 (Interim rule: March 15, 1993).	24 CFR part 582 (Final rule: March 15, 1993).	24 CFR part 882, subpart H, as amended March 15, 1993.
Eligible applicant(s)	• States • Units of general local government • Public housing agencies (PHAs) • Tribes • Private nonprofit organizations • CMHCs that are public nonprofit organizations	• States • Unites of general local government • Tribes • PHAs	• PHAs • Private nonprofit organizations.
Components	• Transitional housing • Permanent housing for disabled persons. • Innovative supportive housing • Supportive services not in conjunction with supportive housing	• Tenent-based • Sponsor-based • Project-based • SRO-based	• SRO housing.
Eligible activities	• Acquisition • Rehabilitation • New construction • Leasing • Operating costs • Supportive services	• Rental assistance	• Rental Assistance.
Eligible populations	• Homeless persons	• Homeless disabled individuals • Homeless disabled individuals and their families	• Homeless individuals. • Section 8 eligible current occupants.
Populations given special consideration.	• Homeless persons with disabilities • Homeless families with children	Homeless persons who: • Are seriously mentally ill • Have chronic problems with alcohol and/or drugs. • Have AIDS and related diseases	N/A
Initial term of assistance.	5 years	5 years: TRA, SRA, and PRA if no rehab. 10 years: SRO and PRA if rehab	10 years.

New Program Requirements

In addition to specific changes that are reflected in the above descriptions, there are several fiscal year 1993 legislative changes which affect the programs included in this NOFA. All programs are required to involve at least one homeless or formerly homeless person on the board of directors or an equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any project, supportive service, or assistance provided under the program. This requirement is waived if the applicant is unable to meet the requirements under the preceding sentence and presents a plan for HUD approval to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions. In addition, to the maximum extent practicable, recipients must involve homeless individuals and families, through employment, volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating the project and in providing supportive services. Further, Supportive Housing and Section 8 SRO recipients who are terminating assistance to participants because of a violation of program requirements must provide a formal process that recognizes the rights of individuals receiving assistance to due process of law. Shelter Plus Care recipients are already required to provide such a process.

Application Requirements and Comprehensive Housing Affordability Strategy

The specific application requirements will be specified in the application package for each program. This package includes all required forms and certifications, including those certifications required in connection with the Comprehensive Housing Affordability Strategy (CHAS), as follows:

Applicants That Are States or Units of General Local Government

The applicant must have a HUD-approved CHAS for FY 1993 and must submit a certification that it is following, and the application for funding is consistent with, the HUD-approved CHAS for FY 1993. (In the case of a State applicant for the Shelter Plus Care program, the State must also submit a certification by the unit of general local government in which the proposed project will be located that the State's application for funding is consistent with the unit of general local government's HUD-approved CHAS for FY 1993. This certification is only required, however, if the unit of general local government is required to have, or has, a complete CHAS, or if it is authorized to use an abbreviated CHAS and is applying for Shelter Plus Care assistance under this NOFA (and therefore has, or will have, an abbreviated CHAS for fiscal year 1993 for that program).)

Applicants That Are Not States or Units of General Local Government

The applicant must submit a certification by the jurisdiction in which the proposed project will be located that the jurisdiction is following, and the applicant's application for funding is consistent with, the jurisdiction's HUD-approved CHAS for FY 1993. The certification must be made by the unit of general local government if it is required to have, or has, a complete CHAS, or if it is authorized to use an abbreviated CHAS and is apply for the same program under this NOFA (and therefore has, or will have, an abbreviated CHAS for fiscal year 1993 for that program). Otherwise the certification may be made by the State, or if the project will be located in a unit of general local government authorized to use an abbreviated CHAS, by the unit of general local government if it is willing to prepare such a CHAS.

Indian Tribes and the Insular Areas of Guam, the Virgin Islands, American Samoa and the Northern Mariana Islands

These entities are not required to have a CHAS or to make CHAS certifications. An application by an Indian tribe or other applicant for a project which will be located on a reservation of an Indian tribe will not require a certification by the tribe or the State. However, where an Indian tribe is the applicant for a project which will not be located on a reservation, the requirement for a certification under the preceding paragraph will apply.

All CHAS certifications must be made by the public official responsible for submitting the CHAS to HUD. All CHAS certifications must be submitted as part of the application by the application submission deadline set forth in this NOFA, except as provided in the next paragraph. The required CHAS must therefore have been submitted more than 60 days before the application submission deadline, since HUD has 60 days to review and approve the CHAS. Where the certification of consistency is permitted to be submitted after the application submission deadline, as described in the next paragraph, the CHAS must be submitted for approval in time for the certification to be made by the later date. In no event will an application be considered if the CHAS has not been submitted for approval by the application submission deadline.

Due to the relatively short lead time for the Supportive Housing competition, if the required CHAS has been submitted by the application submission deadline but has not yet been approved by HUD, the deadline will not be applied to the certification of consistency. Instead, the application must include a written statement from the public official responsible for submitting the CHAS that the jurisdiction has submitted a CHAS for FY 1993 for HUD approval and that the application for funding is consistent with the CHAS. If HUD approves the CHAS, the required certification that the jurisdiction is following, and the application is consistent with, a HUD-approved CHAS for FY 1993 can be submitted at that time, if within the three month deadline for submission of additional project information. (See the section in this NOFA on Grant Award Process.) The grant will not be awarded unless the CHAS is approved and the required certification is made. If the grant is not awarded, the funds will be made available in the next competition for the applicable program. The CHAS regulations are published in 24 CFR part 91.

Application Selection Process

The Department will use the following review, rating, and ranking process for each of the four competitions to be conducted under this NOFA.

1. Review

Applications will be reviewed to ensure that they meet the following:

(a) Form, time and adequacy

Applications must be filed in the form prescribed by HUD in the application process and within the time established in this NOFA.

(b) Applicant eligibility

The applicant and project sponsor, if relevant, must be eligible to apply for the specific program.

(c) Eligible population to be served

The population proposed to be served must be homeless (or in the case of Section 8 SRO, either homeless or Section 8 eligible) and meet other eligibility requirements of the specific program.

(d) Eligible activities

The activities for which assistance is requested must be eligible under the specific program.

(e) Outstanding audit findings

No organization that receives assistance may have an outstanding obligation to HUD that is in arrears or for which a payment schedule has not been agreed to, or whose response to an audit is overdue or unsatisfactory.

(f) Fair housing and equal opportunity

Organizations that receive assistance through the application must be in compliance with applicable civil rights laws and Executive Orders.

(g) Vacancy rate

For the Section 8 SRO program, at least 50 percent of the units to be assisted at any one site must be vacant at the time of application.

2. Rating and Ranking

Applications will be rated and ranked, with a maximum of 1,000 points, based on the criteria listed in paragraphs 3 through 6 below. The five core selection criteria described in paragraph 3 apply to each of the programs covered by this NOFA and account for 850 of the 1,000 points in each competition. The remaining 150 points in each competition will be awarded under criteria that are specific to each of the programs, as described in paragraphs 4–6.

To be eligible for award, applicants must receive at least 500 points and must receive points under each of the core selection criteria except for criterion 3e, "Coordination with Other Programs." Shelter Plus Care applicants also must receive points under the two criteria specified in paragraph 5, "Services to Targeted Disabilities" and "Supportive Service Commitments". Supportive Housing applicants must also receive points under the "Cost Effectiveness" criterion specified in paragraph 4, and those Supportive Housing applicants that are applying as innovative supportive housing projects also must achieve points under the "Innovative quality of proposal" criterion specified in paragraph 4. Supportive Housing applicants do not have to receive points under the "Leveraging" criterion specified in paragraph 4 to be eligible for an award. Section 8 SRO applicants do not have to receive points under the program specific criteria specified in paragraph 6 to be eligible for an award. Whether or not an application is selected will depend on its overall ranking when compared to other applications for funding under the program.

For Shelter Plus Care and Supportive Housing, in cases where the applicant requests assistance for more than one project within one application, the projects will not be rated separately. Rather, the application will be rated as a whole. (For Section 8 SRO, only one project is allowed per application.) For all programs, in the event of a tie between applicants, the applicant with the highest total points for criterion 3(a), need, will be selected. In the event of a procedural error that, when corrected, would result in selection of an otherwise eligible applicant during the funding round under this NOFA, HUD may select that applicant when sufficient funds become available.

3. Core Selection Criteria

(a) Need

HUD will award up to 100 points based on the extent of need for the project in the community and the applicant's demonstrated understanding of the needs of the specific homeless population(s) proposed to be served. Ratings will be made based on the extent to which applicants demonstrate:

(1) Substantial unmet needs, particularly among the target population who are living in places not ordinarily meant for human habitation (e.g., streets) and in emergency shelters, based on reliable data from surveys of homeless populations, the Comprehensive Housing Affordability Strategy (CHAS), or other reports or data-gathering mechanisms that directly support claims made;

(2) An understanding of the homeless population to be served and its unmet housing and supportive service needs.

(b) Targeting to persons living on the streets and in emergency shelters

HUD will award up to 200 points based on:

(1) The extent to which the project will serve homeless families and/or individuals living in places not ordinarily meant for human habitation (e.g., streets, parks, abandoned buildings, automobiles, under bridges, in transportation facilities) and those who reside in emergency shelters; and

(2) The likelihood that proposed plans for outreach and selection of participants will result in these populations being served.

(c) Quality of project plan

HUD will award up to 300 points based on the extent to which the application presents a clear, well-conceived and thorough plan for assisting homeless persons achieve residential stability, increased skills and/or income, and more influence over decisions that affect their lives. Higher ratings will be assigned to those applications that clearly describe:

(1) How program participants will achieve residential stability, including how available supportive services will help participants reach this goal;

(2) How program participants will increase their skill level and/or income, including how available supportive services will help participants reach this goal;

(3) How program participants will be involved in making project decisions that affect their lives, including how they will be involved in selecting supportive services, establishing individual goals and developing plans to achieve these goals;

(4) For Supportive Housing applicants proposing to provide transitional housing, how permanent affordable housing will be identified and made available to participants upon leaving the transitional housing, and how participants will be provided necessary follow-up services to help them achieve stability in the permanent housing;

(5) How the service needs of participants will be assessed on an ongoing basis;

(6) How the proposed housing, if any, will be managed and operated;

(7) How participants will be assisted in assimilating into the community through access to neighborhood facilities, activities and services;

(8) How and when the progress of participants toward meeting their individual goals will be monitored and evaluated;

(9) How and when the effectiveness of the overall project in achieving its goals will be evaluated; and

(10) How the proposed project will be implemented in a timely fashion.

(d) Capacity

HUD will award up to 200 points based on the extent to which those who will be involved in carrying out the project have experience in activities similar to those proposed in the application. Ratings will be assigned based on the applicant's prior performance with any HUD McKinney Act grants and the extent to which the application demonstrates experience in the following areas:

(1) Engaging the participation of homeless persons living in places not ordinarily meant for human habitation and in emergency shelters;

(2) Assessing the housing and supportive service needs of homeless persons;

(3) Accessing housing and relevant supportive service resources;
(4) If applicable, contracting for and overseeing the rehabilitation or construction of housing;
(5) If applicable, operating housing for homeless persons;
(6) If applicable, administering a rental assistance program (including Supportive Housing applicants proposing to lease individual units);
(7) If applicable, providing supportive services for homeless persons;
(8) Monitoring and evaluating the progress of persons toward meeting their individual goals; and
(9) Evaluating the overall effectiveness of a program and using evaluation results to make program improvements.

(e) Coordination with other programs

HUD will award up to 50 points based on the extent to which applicants demonstrate that they have coordinated with Federal, State, local, private and other entities serving homeless persons in the planning and operation of the project. Such entities may include shelter, transitional housing, health care, or social service providers; providers funded through Federal initiatives (such as the PATH and ACCESS programs administered by the U.S. Department of Health and Human Services); local planning coalitions or provider associations; or other programs relevant to the local community. Higher points will be given to those applicants that can demonstrate that:
(1) They are part of an ongoing community-wide planning process which is designed to share information on available resources and reduce duplication among programs that serve homeless persons; and
(2) They have consulted directly with other providers regarding coordination of services for project participants.

4. Supportive Housing Additional Selection Criteria

(f) Leveraging

HUD will award up to 50 points based on the extent to which resources from other public and private sources, including cash and the value of third-party contributions, have been committed to support the project at the time of application. (NOTE: Any applicant who wishes to receive points under this criterion must submit documentation of leveraged resources which meets the requirements stated in the application. This is optional; applicants who cannot, or choose not to, provide firm documentation of resources as part of the application will forego any points for leveraging.)

(g) Cost effectiveness

HUD will award up to 50 points for cost effectiveness. Supportive housing projects will be rated based on the number of new supportive housing beds made available in relation to the amount of HUD funding requested for housing costs, when compared to other transitional or permanent housing projects, as applicable, and when adjusted for high-cost areas. Projects that, as their sole activity, are providing supportive services to homeless persons will be rated based on the amount requested from HUD for supportive services in relation to the project's total budget for supportive services.

(h) Innovative quality of proposal

HUD will award up to 50 points based on the innovative quality of the proposal, when compared to other applications and projects that have been funded in the past, in terms of:

(1) Helping the homeless population to be served to reach residential stability, increase their skill level and/or income and increase the influence they have over decisions that affect their lives;

(2) A clear link between the innovation(s) and its proposed effect(s); and

(3) Its ability to be used as a model for other similar projects.

Applicants who have indicated in their applications that they are applying under the innovative supportive housing component must receive points under this criterion to be eligible for award.

5. Shelter Plus Care Additional Selection Criteria

(f) Service to targeted disabilities

HUD will award up to 100 points based on the number of individuals to be served who are seriously mentally ill, have chronic alcohol and/or drug abuse problems, or have AIDS and related diseases in relation to the total number of people that will be served.

(g) Supportive service commitments

HUD will award up to 50 points based on the extent to which commitments to provide supportive services are available at the time of application. (Note: Applicants who are selected for funding will be required to provide supportive services at least equal in value to the aggregate amount of rental assistance over the term of the grant.)

Applicants must receive points under both of these criteria to be eligible for award.

6. Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals Additional Selection Criteria

(f) Availability of vacant units

HUD will award up to 100 points to SRO applicants based on the percentage of units (beyond the required 50 percent) proposed for assistance which are vacant at the time of application.

(g) Supportive service commitments

HUD will award up to 50 points based on the extent to which commitments to provide supportive services are available at the time of application. (Note: Any applicant who wishes to receive points under this criterion must submit documentation of supportive service resources which meet the requirements stated in the application. This is optional; applicants who cannot, or choose not to, will forego any points for this criterion.)

An applicant does not have to receive points under either of these criterion to be eligible for an award.

Grant Award Process

HUD will notify applicants with the highest ranked applications that can be funded with the dollars available for that competition that they have been conditionally selected. HUD expects to announce these selections within approximately 60 days of the application submission deadline. Such applicants will be subsequently notified of the additional project information necessary for grant award and the date of the three month deadline for submission of such information. If an applicant is unable to meet any conditions for grant award within the specified timeframe, HUD reserves the right not to award funds and to use the funds available in the next competition for the applicable program.

Technical Deficiencies

HUD will notify an applicant, in writing, of any curable technical deficiencies in the application. The applicant must submit corrections in accordance with the information specified in HUD's letter within 14 calendar days from the date of HUD's letter. If the applicant fails to submit the corrections within the 14-day cure period, HUD will disqualify the application.

Curable technical deficiencies are items that are not necessary for HUD review under the selection criteria (e.g., failure to submit a required certification). Applicants may not submit items that would improve the

substantive quality of the application after the application deadline.

Technical Assistance

In order to afford applicants every opportunity to submit a ratable application, prior to the application deadline, HUD field office personnel will be available to provide advice and guidance to potential applicants on application requirements and program policies. Following selection of applications, HUD field office personnel will be available to assist applicants in clarifying or confirming information that is a prerequisite to the offer of a grant agreement by HUD. However, between the application deadline and the announcement of selections, HUD will accept no information that would affect the rating or ranking of applications.

Other Matters

Paperwork Reduction Act

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB) under section 3540(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), and assigned OMB control numbers 2506–0131, 2506–0112, and 2506–0118.

Documentation and Public Access Requirements; Applicant/Recipient Disclosures: Section 102, HUD Reform Act

Documentation and Public Access Requirements

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the Notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR part 15, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have or will be spent on lobbying activities in connection with the assistance.

Prohibition Against Lobbying HUD Personnel

Section 112 of the Housing and Urban Development Reform Act of 1989 (Reform Act) added a new section 13 to the Department of Housing and Urban Development Act (42 U.S.C. 3531). Section 13 contains two provisions concerning efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence this award of assistance or the taking of a management action by the Department *and* those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance. Section 13 was implemented at 24 CFR part 86. Appendix A of the rule contains example of activities covered by the rule. Any questions concerning the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; (202) 708–3815 TDD/Voice. (This is not a toll-free number.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

Prohibition Against Advance Information on Funding Decisions

Section 103 of the Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulations implementing section 103 are at 24 CFR part 4. In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics at the address or telephone number in the preceding paragraph.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street SW., Washington, DC 20410.

Federalism Executive Order

The General Counsel, as the Designated Official under section 8(a) of Executive Order 12612, Federalism, has determined provisions in the Supportive Housing and Shelter Plus

Care program rules requiring governmental applicants to assume the responsibilities for environmental review, decisionmaking, and action under the National Environmental Policy Act and other environmental authorities has Federalism implications. While the assignment of these responsibilities under section 104(g) of the Housing and Community Development Act of 1974 is discretionary with HUD, it is authorized and clearly the intent of section 443 of the McKinney Act. Therefore, the policy is not subject to further review under the Order.

Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this document may have potential for significant impact on the formation, maintenance, and general well-being of the family. Funding under the NOFA will be used to provide housing and supportive services to homeless families. Participation of families in the programs can be expected to support family values through helping families remain together by enabling them to live in decent, safe, and sanitary housing and to acquire the skills and means to live independently in mainstream American society. Since the impact upon the family is considered beneficial, no further review under this Order is necessary.

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Dated: February 8, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

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federal register

Monday
March 15, 1993

Part VII

Department of Housing and Urban Development

Office of the Assistant Secretary

24 CFR Parts 905 and 968
Public and Indian Housing; Revised Comprehensive Improvement Assistance Program; Interim Rule and Notice of Funding Availability

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Public and Indian Housing

24 CFR Parts 905 and 968

[Docket No. R-93-1621; FR-3318-I-01]

Public and Indian Housing; Revised Comprehensive Improvement Assistance Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule amends 24 CFR parts 905 and 968 to establish a revised and simplified Comprehensive Improvement Assistant Program (CIAP) for public housing agencies (PHAs) and Indian housing authorities (IHAs) that own or operate fewer than 250 public or Indian housing units.

DATES: Effective Date: April 14, 1993. Comment due date: May 14, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of the General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours (weekdays 7:30 a.m. to 5:30 p.m.) at the above address.

Hearing or speech impaired individuals may call the Rules Docket Clerk's TDD number (202) 708–3259.

FOR FURTHER INFORMATION CONTACT: Janice D. Rattley, Director, Office of Construction, Rehabilitation and Maintenance, Public and Indian Housing, Department of Housing and Urban Development, room 4138, 451 Seventh Street, SW., Washington, DC 20410–5000, telephone (202) 708–1800.

Indian housing authorities may contact Dom Nessi, Director, Office of Indian Housing, Public and Indian Housing, Department of Housing and Urban Development, room 4140, 451 Seventh Street, SW., Washington, DC 20410–5000, telephone (202) 708–1015.

Hearing or speech impaired individuals may call HUD's TDD number (202) 708–4594. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Burden

The information collection requirements contained in this interim rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. The estimated public reporting burden for the collection of information requirements contained in this rule are set out in part IV, Findings and Certifications, of this document.

Comments regarding this burden estimate, or any other aspect of this collection of information, including suggestions for reducing the reporting burden, should be sent to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410–0500; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for HUD.

II. Background

Section 14 of the United States Housing Act of 1937 (42 U.S.C. 14371) ("the Act") established the Comprehensive Improvement Assistance Program (CIAP). The CIAP was designed to improve the physical condition of existing public and Indian housing developments, and to upgrade the management and operation of these developments to ensure that the developments continue to be available to serve low-income families. The Department promulgated regulations for the CIAP at 24 CFR parts 905 and 968, and these regulations have governed the modernization of public and Indian housing assisted under the Act.

(The reader should note that, hereafter, for ease of discussion, the preamble to this interim rule uses the terms "public housing" to refer to both public and Indian housing, and "HAs" or "housing agency," to refer to both PHAs and IHAs, unless otherwise stated. In addition, the term "development" is used to refer to "low-income projects," as defined at section 3(b)(1) of the Act.)

Over the last three years the Department has been streamlining and simplifying the CIAP in response to public comment on previous rulemaking, recent legislation and experience gained through program review/audit and monitoring. The Department's most recent rulemaking affecting CIAP was the result of the Cranston-Gonzalez National Affordable Housing Act of 1990 ("NAHA") and the Housing and Community Development Act of 1987 (Pub. L. 100–242) ("1987 Act"). The 1987 Act contained a provision which revised significantly the public housing modernization program. Section 119 of the 1987 Act established the new Comprehensive Grant Program (CGP) which was designed to govern the modernization needs of HAs that owned or operated 500 or more public housing units. The NAHA reduced the statutory threshold from 500 to 250 or more units beginning with funding for Federal Fiscal Year (FFY) 1993, established a formula process for allocating modernization funding for CGP, and contained other technical amendments affecting CGP and CIAP. Section 119, as amended by NAHA, limited CIAP applicability to HAs that owned or operated fewer than 250 public housing units.

The Department published a final rule implementing the CGP and revised CIAP regulations on February 14, 1992 (57 FR 5514). The February 14, 1992 rule amended the CIAP at 24 CFR part 968, subpart B, to limit its applicability to HAs that own or operate fewer than 500 public housing units (fewer than 250 units beginning in FFY 1993); added a new subpart C to part 968, which sets forth the new CGP for HAs that own or operate a total of 500 or more public housing units (250 or more units beginning in FFY 1993); and revised both the CIAP and CGP programs for purposes of implementing various technical and substantive program amendments contained in sections 509(b) through (f) of the NAHA.

Recent Departmental efforts to streamline and simplify the CIAP included a proposed rule published on October 27, 1988 (53 FR 43648) and a final rule published on December 21, 1989 (54 FR 52686).

The Department subsequently incorporated the streamlined CIAP into its consolidated rulemaking for the Indian housing program (*see* 24 CFR part 905, subpart I, of the interim rule published on June 18, 1990 at 55 FR 24722), and solicited public comment on those provisions. As a result of public comments received on the June 1990 interim rule, HUD included in the February 14, 1992 rule, amendments to the CIAP portion of the Indian Housing Consolidated rule. These amendments renamed part 905, subpart I, as "Modernization;" and reorganized subpart I into three undesignated headings: (1) The first heading contained provisions which are generally applicable to both the CIAP and CGP modernization under part 905, subpart I; (2) the second heading contained the streamlined CIAP requirements with amendments reflecting public comments received on the CIAP portions of the June 1990 Indian Housing Consolidated interim rule, and with modifications which limit the applicability of the CIAP to HAs that own or operate fewer than 500

Indian housing units (fewer than 250 units beginning in FFY 1993); and (3) the third heading added the new CGP for HAs that own or operate 500 or more Indian housing units (250 or more units beginning in FFY 1993). In addition, the rule revised both the CIAP and CGP programs under subpart I to implement various technical and substantive program amendments contained in sections 509 (b) through (f) of the NAHA, as well as section 516 of the NAHA which provided for the comprehensive modernization of a Mutual Help unit using a single CIAP or CGP grant.

The Department has decided to publish this rule as interim because it will increase efficiency, reduce unnecessary requirements, combine or simplify current requirements, and provide new flexibility for both participating HAs and HUD. This interim rule also implements two minor amendments made by sections 111(b) and 122(b) of the Housing and Community Development Act of 1992 (*i.e.*, it eliminates the single grant approach for the Mutual Help Program (discussed in III.B. below) and provides that a building which is assisted with Major Reconstruction of Obsolete Projects funding is not eligible for CIAP or CGP funding (discussed in III.D. below)). Many of the changes made are of a technical/clarifying nature. The major change made by this interim rule is to simplify the application process (HA preparation of the application and HUD review of the application), but it does not affect types of modernization activities funded. Publishing this rule as interim also ensures a timely and simplified funding process for FY 1993.

III. Simplification of CIAP

This interim rule attempts to simplify CIAP in several ways. Revisions are provided for application requirements, modernization types, application processing and implementation. The most significant change is in the way HUD plans to process CIAP applications. The interim rule provides increased efficiency, reduces unnecessary requirements and provides new flexibility for both the participating HAs and HUD. The changes to CIAP are the same for both public and Indian CIAP with the exception of the Mutual Help Program. Many of these changes are the result of recent meaningful dialogue with small HAs and experience gained through operating CIAP. Public comment is welcomed for additional simplification of CIAP.

A. Simplification of Procedures for Obtaining Approval of a Modernization Program

Currently, the process for receiving CIAP funds involves the following: (1) Fund assignment; (2) notice of fund availability (NOFA); (3) consultation with HUD, residents/homebuyers and local officials; (4) comprehensive plan for modernization; (5) CIAP application, including budget; (6) eligibility review; (7) processing groups; (8) project viability review; (9) technical review; (10) joint review; (11) environmental review; (12) funding decision (rating and ranking); (13) submission of any budget revisions; and (14) Field Office approval/disapproval letters. For a detailed explanation of these steps, see 24 CFR 905, subpart I; 24 CFR 968, subpart B; and Chapter 3 of Comprehensive Improvement Assistance Handbook 7485.1 REV–4, December 20, 1989. This interim rule eliminates, combines or simplifies many of these current requirements.

HUD expects that after modernization funds for a particular FFY become available, HUD would continue to publish in the **Federal Register** a NOFA and the time frame for submission for applications. HUD currently publishes CIAP NOFAs for this purpose and in the last two years these documents have been significantly improved to clearly describe eligibility, submission requirements, available amounts, technical review factors, application processing, how to apply and how selections will be made. The improvements to CIAP NOFAs are also intended to further promote fair competition in the program. NOFAs have also provided checklists to assist HAs in their application preparation.

This interim rule establishes a four step procedure for obtaining approval of a modernization program. These four steps are: (1) Application by HA; (2) completeness and eligibility review by HUD; (3) technical processing by HUD including rating and ranking; and (4) joint review by HA and HUD. This revised procedure is intended to further promote fair competition. Processing time and requirements in each of these steps is expected to be reduced.

The application is being simplified to require only the following: (1) A very general description of the HA development(s) including the current physical condition of the development(s) (pursuant to section 14(d)(1) of the United States Housing Act of 1937); (2) physical and management improvement needs (to meet the Secretary's standards in section 14(j) of the United States Housing Act of 1937); (3) general description of major work categories (e.g., kitchens, bathrooms) required to correct identified deficiencies and estimated costs as required by section 14(d)(4) of the United States Housing Act of 1937; and (4) a statement concerning consultation with local officials and residents, and viability of the development(s). The Department would like to simplify the process even more but is constrained by statutory requirements. The Department intends to implement these statutory requirements with a simplified one-page application form. This application will constitute a comprehensive assessment as required by section 14(d) (1) and (3) of the United States Housing Act of 1937.

The approach to be taken in the application form will result in a major reduction in the level of detail currently required in describing proposed modernization projects. The HA will have the option of including only the specific developments for which it is requesting funding or of including all its developments in its application. The consequences of not including all its developments in the CIAP application are that HUD may not, as a result of joint review, consider funding of any non-emergency work at excluded developments or subsequently approve use of leftover funds at excluded developments. The HA must evaluate and describe its modernization needs and the estimated costs for each development covered by the application. The benefits derived from including all its developments include the ability to revise specific work items among developments at joint review and the ability to use remaining funds upon completion of the modernization for other modernization needs of the developments covered by the application. HUD does not intend to substitute its judgement or limit the HA's discretion, but rather this is an attempt to provide the HAs with needed expertise and to combine HUD and HA resources in developing workable modernization projects.

Pursuant to section 14(d)(3) of the United States Housing Act of 1937, the application will identify management improvement needs either on a HA-wide basis or for a specific development(s) related to the following: (1) The management, financial, and accounting control systems of the HA (which are related to each development eligible for CIAP assistance); (2) the adequacy and qualifications of personnel employed by the HA (in the management and operation of such developments) for each category of

employment; and (3) the improvement of the efficacy of resident programs and services in HA developments, the security of each HA development and its residents, policies and procedures of the HA for the selection and eviction of residents in HA developments, and other policies and procedures of the HA relating to their developments. An HA may apply for funding of management improvements only; however, CIAP funding of management improvements is not intended to be an add-on to PFS (performance funding system, 24 CFR part 990), but to correct an identified deficiency, and will not be considered on a continuing basis.

The application will also identify a cost estimate for the equipment systems or structural elements which would normally be replaced over the remaining period of the contributions contract or during the 30-year period beginning on the date of submission of the application as required by section 14(d)(2) of the United States Housing Act of 1937.

In order to reduce paperwork and limit the application package to statutorily required items, HUD plans to eliminate the following: (1) Five-Year Funding Request Plan; (2) Modernization Organization and Staffing Plan; (3) HA Report on Cooperation Agreement; (4) Report on Project Implementation Schedule; and (5) Lead Toxicity Risk Assessment form (This was used by HUD to determine funding priority for lead-based paint testing, and is not the professional risk assessment referred to in section 14(a)(5) of the United States Housing Act of 1937 and this regulation, §§ 905.615(j)(2) and 968.210(j)(2)). The Board Resolution and Drug-Free Workplace certification will be due after funding selection at the time of CIAP budget submission. Deferral of the preparation of the CIAP budget until joint review will reduce unnecessary paperwork for HAs. HUD recognizes the limited staffing of small HAs, and wants to ensure that all HAs can apply for CIAP assistance using existing staff resources. Additionally, HAs will no longer be required to submit their narrative on the Technical Review Factors as part of the application. The narrative will be optional since HUD will be rating the overall needs of the HA, not individual developments. It is noted that the CIAP Budget and Implementation Schedule are not required unless the HA is selected for funding. The CIAP budget will satisfy the requirement for a Five-Year Plan and detail the estimated cost for making the improvements and replacements needs described in the application as required by section 14(d)(4) of the United States Housing Act of 1937.

HUD will ensure that documentation and other information regarding each application submitted pursuant to CIAP NOFAs are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulation at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to CIAP NOFAs in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

The second step for obtaining a CIAP grant is the completeness and eligibility review by HUD. To be acceptable for processing, an application must be received by the Field Office within the time period specified in the NOFA and must be complete and responsive. In order to determine whether an application is complete, responsive to the NOFA and acceptable for technical processing, the Field Office will perform an initial threshold review upon receipt of the application. To make this determination, the Field Office will use the following initial threshold criteria:

(1) The application was received by HUD at the appropriate address by the date and time specified in the NOFA and was complete. If an application is determined to be incomplete (*e.g.*, Executive Director failed to sign application, missing certifications or other related documents), the HA will be advised in writing of any correctable deficiencies or any inconsistencies. The missing information will be required to be submitted generally within the time specified in HUD's written notification. This is not additional time to substantially revise the application. Deficiencies which may be corrected at this time are inadvertently omitted documents or clarifications of previously submitted material and other changes which are not of such a nature as to improve the competitive position of the application; and

(2) HA acceptably corrected deficiencies (including furnishing missing certifications) within the time specified in the NOFA.

Once it is determined that the application is complete, the Field Office will perform an eligibility review to determine that:

(1) Based on the general description of its developments' condition and general statement of physical and management improvement needs and the Field Office's knowledge of the development's conditions, the work items, particularly emergency work items, appear to be eligible and needed;

(2) Each development for which work is proposed is at least three years old from the end of initial operating period (EIOP); and

(3) The HA has submitted the fiscal audit to the Regional Inspector General for Audit within one year after the end of the audit period, or has been granted an extension for submission, in conformance with the Single Audit Act requirements.

When certain conditions exist (*i.e.*, the HA owes funds to the Department as a result of excess development, modernization or operating funds previously provided and the HA has not repaid the funds, or has not entered into a repayment agreement, or is not meeting its obligations under a repayment agreement), the HA is eligible for processing for Emergency Modernization only. Where the HA has not complied with Fair Housing and Equal Opportunity (FHEO) requirements, or the HA has requested funding for more developments than realistically can be funded in the current FFY), the HA would be preliminarily evaluated on a reduced scope. Additionally, the HA must not have residual receipts to carry out the modernization activities for which it is applying nor may there be any duplication of funding.

The processing office will request that the FHEO Division of the Field Office provide information on any equal opportunity-related problems before funding decisions are made.

The third step for obtaining a CIAP grant is technical processing by HUD. After an application is determined to be complete and responsive to the NOFA and eligible for processing, the Field Office will categorize the eligible HAs and their developments into two processing groups (currently there are six groups): Group 1 for Emergency Modernization; and Group 2 for Other Modernization. HUD is also reducing the modernization types (currently eleven types) to Emergency and Other Modernization. Other Modernization is defined to include any non-emergency physical or management work item (including management improvement and planning costs which are single

item modernization projects), including previously separate modernization types (*i.e.*, special purpose modernization, comprehensive modernization, homeownership modernization, correction of physical disparities related to nondiscrimination, resolution of litigation, conversion of rental developments to homeownership, expediting of title transfers for existing homeownership developments, and lead-based paint modernization for testing and abatement).

This is a major simplification and designed to give CIAP agencies the same flexibility as CGP agencies. This change simplifies the application process (HA preparation of the application and HUD review of the application), but does not affect types of activities funded. The HA only needs to submit one application which includes needs which the Field Office will process under Group 1 or Group 2. However, the HA can submit Emergency Modernization applications at any time during a year, without regard to any processing schedule set forth in a NOFA. HA developments may be included in both groups and the same development may be in each group. Group 2 developments will be subject to the long-term viability and reasonable cost analysis.

In accordance with section 14(h) of the United States Housing Act of 1937, preference will be given to HAs which request assistance for developments having conditions which threaten the health or safety of the residents or having a significant number of vacant, substandard units; and which have demonstrated a capability of carrying out the activities proposed.

The Department gives preference to HA applications in Group 1 since such applications involve emergencies related to resident health and safety. Accordingly, such applications are not rated and ranked during technical processing and are automatically selected for joint review.

The Department also implements the statutory preferences within Group 2 applications. The Field Office rates the Group 2 HAs and developments (*i.e.*, Group 2 applications) against the technical review factors to determine relative ranking.

The technical review factors for assistance will now include: (1) Extent and urgency of need, including need to comply with statutory, regulatory or court-ordered deadlines; (2) extent of vacancies; (3) HA's modernization capability; (4) HA's management capability; (5) degree of resident involvement in HA operations; (6) degree of HA activity in resident initiatives, including resident management, economic development, and drug elimination efforts; (7) degree of resident employment; (8) local government support for proposed modernization; and (9) such additional factors as the Secretary determines necessary and appropriate.

The Regional Office will use geographical diversity, capability of the HAs to administer the modernization, and the Field Office recommendations to establish funding targets for each Field Office. The Field Office shall then identify for selection the highest ranking HA applications in Group 2 in descending order, and other Group 2 HAs with lower ranking applications but with high priority needs, which most reasonably approximate the amount of modernization which can be funded. High priority needs are non-emergency needs, but related to: Health or safety; vacant, substandard units; structural or system integrity; or compliance with statutory, regulatory or court-ordered deadlines. Again, all Group 1 applications will be automatically selected for joint review. Funds will be assigned to each Regional Office based on relative shares of need, as determined by field inspections conducted for the ABT study of modernization needs. The study sample was not designed to determine relative need at the Field Office level. Therefore, the Regional Office will have to establish funding amounts for each Field Office at two points, *i.e.*, a funding target at pre-joint review (after Field Office receipt of applications and Field Office rating and ranking) and a final amount at post-joint review (when funding decisions are made). The Field Office will make joint review selections and funding decisions within the target and final amounts established by the Regional Office. However, each Office of Indian Programs will be sub-assigned funds directly (*i.e.*, no competition with Public Housing Field Offices).

The fourth step for obtaining a CIAP grant is joint review. HUD will notify the HA whose application has been selected for further processing as to whether the joint reviewer will be conducted on-site or off-site (*e.g.*, by telephone or in-office meeting). The purpose of the joint review is to discuss the proposed modernization program, as set forth in the application, and determine the work items, if any, to be funded. If conducted on-site, the joint review will include an inspection of the proposed physical work. An HA will prepare for the joint review by preparing a draft CIAP budget, and reviewing the other items to be covered during the joint review, as prescribed by HUD. HUD intends to provide additional time in the processing schedule for HAs to prepare for joint review.

The HA will no longer submit the CIAP budget to HUD until after funding decisions are made and it is requested to do so by HUD. This change is an attempt to simplify the process and make it possible for the HA to prepare required documents using existing staff.

The Field Office will make viability and reasonable cost determinations during joint review as is done under CGP. In the revised CIAP (as in CGP), viability is assumed where unfunded hard cost does not exceed 90% of total development cost (TDC) limit, unless there is other evidence to the contrary. No computation of TDC limit will be required where estimated per unit hard cost for unfunded needs is equal to or less than the unit TDC for the smallest bedroom size at the development.

HAs not selected for joint review will be notified by letter stating the reasons, such as the low priority of its physical improvement needs relative to available funding. HAs will not be selected for joint review if residual receipts are available or if there is a duplication of funding. Where the reason is lack of management or modernization capability, the letter will state the specific deficiencies and what actions the HA will have to take or what level of management or modernization capability the HA will have to achieve by a specified time to be considered for funding in a subsequent FFY.

Upon completion of the joint review, HUD will adjust the amounts to be awarded, including processing groups (HUD ultimately determines whether an application is in Group 1 or 2), as necessary, based on information obtained at joint review (including the information received as a result of the FHEO review and completion of the environmental review), and announce the HAs selected for CIAP grants (subject to their submission of an approvable CIAP budget and any other required documents). HUD will request the funded HA to submit a CIAP budget, including an implementation schedule, a resolution by the HA Board of Commissioners (approving the CIAP budget and containing certifications required by HUD) and any other necessary documents. The Field Office will select all bona fide emergencies in Group 1 for funding before funding Group 2 applications.

After HUD approval of the CIAP budget, HUD and the HA will enter into an ACC Amendment in order for the HA to requisition modernization funds. The ACC Amendment will require low-income use of the housing for not less than 20 years from the date of the ACC

Amendment (subject to sale of homeownership units in accordance with the terms of the ACC). It should be noted that HUD has the authority to condition the ACC amendment (*e.g.*, to require an HA to hire a modernization coordinator or contract administrator to administer its modernization program).

HUD intends to streamline the ACC Amendment process by allowing Field Office program staff to complete and forward ACC Amendments to the HA with an approval letter, and by allowing HA Executive Directors, not Boards, to sign and return ACC Amendments to Field Offices for execution. This is identical to the ACC Amendment process in the CGP Program. An HA will also execute and file for record a Declaration of Trust as provided under the ACC to protect the rights and interests of HUD throughout the 20-year period during which the HA is obligated to operate its developments receiving modernization funds in accordance with the ACC, the Act, and HUD regulations and requirements.

Other processing related changes are clarifications that planning costs (either HA-wide general planning costs or architectural/engineering costs at a specific development) may be funded under the modernization type of Other Modernization. Coverage of eligible/ineligible costs is conformed to CGP. The resident and homebuyer participation provisions for CIAP have not been changed.

B. Other Simplifications and Revisions to CIAP

Section 122(b) of the Housing and Community Development Act of 1992 amended section 202(b)(2) of the United States Housing Act of 1937 by striking "single" in the second sentence. The effect of this amendment is to remove the current restriction on Mutual Help projects which limits substantial rehabilitation to a one-time grant. Mutual Help developments will now be eligible for the same physical and management improvements as rental developments. This change results in greatly increased flexibility for HAs. The approach will be on a work item basis rather than modernization type. HAs will now have the flexibility to chose between doing piecemeal modernization and making less costly but necessary repairs, or substantially rehabilitating Mutual Help units. This approach simplifies administration of the program for both HUD and HAs. It also simplifies often difficult problems on proration of costs between the homebuyer and the HA. As a result, homebuyers are not losing any previous opportunities for modernization, rather homebuyers remain eligible for modernization which can add up to comprehensive modernization, but which can be spread out as needed. Homebuyers should be in compliance with their financial requirements; however, certain statutorily required work (*e.g.*, lead-based paint abatement) can be performed regardless of homebuyer compliance. The administrative policy requirement that units must be ten years old for substantial rehabilitation is eliminated. Conforming changes pertaining to modernization of homeownership units have been made in parts 905 and 968 for Turnkey III.

The definitions of annual statement, Emergency modernization, major changes, modernization program, modernization project, partnership process in part 905 are revised to clearly indicate their applicability or use in CIAP or CGP programs. Definitions of management and modernization capability are added to parts 905 and 968 and replace the current definitions of lack of management and modernization capability. This is a more positive approach and recognizes either current capacity or the ability to acquire such capacity as a result of hiring or contracting professional expertise.

This interim rule also revises parts 905 and 968 by updating the displacement, relocation and acquisition requirements pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and by removing these requirements from the other Federal Laws or eligible costs sections and creating separate sections for these requirements (see new §§ 905.117, 905.120, 905.605(c), 905.923(a)(3), 905.925, new 968.108, and 968.310(1)). A significant change to the relocation requirements is found in §§ 905.117(h) and 968.108(h), definition of initiation of negotiations. For purposes of determining the formula for computing the replacement housing assistance to be provided to a resident who is displaced by rehabilitation or demolition, the term "initiation of negotiations" will mean 45 calendar days before the issuance of the invitation for bids for the project, or the start of force account work, whichever is applicable. Currently, initiation of negotiations is defined to mean at ACC amendment.

Changes are also made to §§ 905.642(f) and 968.235 which will require an HA to submit to HUD periodic progress reports and construction completion documents for prior HUD approval above a HUD-specified amount. This requirement is within HUD's authority under § 85.36, but is more specific than the requirements currently provided. HUD specifically requests public comment on these provisions in accordance with § 85.6(a). These requirements will only be imposed where the HA is experiencing severe implementation problems.

In implementing this revised program, semi-annual, rather than quarterly reporting regarding the status of fund obligation and expenditure and program progress is required. However, HUD reserves the right to require more frequent reporting when an HA is having implementation problems. HUD intends to provide more guidelines to Field Offices regarding assessing risk/establishing thresholds (*e.g.*, procurement, contract administration and budget revisions) and annual review of established thresholds, and emphasize strict Field Office adherence to established time frames for review. HUD intends to encourage Field Offices to simplify their correspondence practices in order to reduce response time.

HUD plans to prepare a revised handbook which will discuss the revised procedures in more detail and provide sample completed documents. In separate monitoring handbooks for public and Indian housing, HUD plans to revise Field Office monitoring requirements to incorporate risk assessment, revise the monitoring checklist, and clarify the Regional Office role to ensure that Field Offices are adhering to the processing schedule set forth in the NOFA or a revised schedule necessitated by local workload issues, and following standard program procedures in processing applications and making funding decisions.

HAs with previously approved CIAP grants (CIAP in progress) shall administer them under the new program regulations. It would be problematic for both HUD and HAs to administer their CIAP grants under two sets of requirements. HUD will continue to allow revisions to previously approved CIAP budgets.

C. Lead-based Paint Poisoning Prevention

This interim rule does not expressly amend the lead-based paint requirements at §§ 905.555 and 968.110(k) because the Department intends to publish a proposed rule addressing the amendments to the Lead-based Paint Poisoning Prevention Act in the Housing and Community Development Act of 1992. Until the lead-based paint provisions are amended, all references to previous

modernization types (except Emergency Modernization) should be interpreted to mean Other Modernization (this interim rule reduces the modernization types to Emergency Modernization and Other Modernization and eliminates comprehensive, special purpose and homeownership modernization types referred to in §§ 905.555 and 968.110(k)).

D. Major Reconstruction of Obsolete Projects (MROP)

Section 111(b) of the Housing and Community Development Act of 1992 amends section 14(c) of the United States Housing Act of 1937 and provides that a building which is assisted with MROP funding (under section 5(j)(2) of the United States Housing Act of 1937) is not eligible for CIAP funding. This amendment is reflected in § 968.101(b)(5). The Department requests public comment on the limits of this amendment. The Department will address the other amendments to MROP in future rulemaking.

IV. Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours (7:30 a.m. to 5 p.m. weekdays) in the Office of the Rules Docket Clerk, room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations issued by the President on February 17, 1961. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, or innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was listed as item 1499 under the Office of Public and Indian Housing in the Department's Semiannual Regulatory Agenda published on November 3, 1992 (57 FR 51392, 51435) under Executive Order 12291 and the Regulatory Flexibility Act.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule proposes revisions to the existing CIAP under which HAs receive modernization assistance from HUD on a competitive basis. HUD does not anticipate a significant economic impact on small entities since HAs will continue to carry out their modernization activities by entering into contracts for the work as they now do.

On February 26, 1990, the Department published an interim final rule (24 CFR part 87) advising recipients and subrecipients of Federal contracts, grants, cooperative agreements and loans of a new prohibition recently mandated by Congress, Section 319 of the Department of the Interior Appropriations Act (Pub. L. 101–121, approved October 23, 1989) generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific contract, grant, or loan. The interim final rule generally prohibits the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. In addition, the recipient must also file a disclosure if it has made or has agreed to make any payment with nonappropriated funds that would be prohibited, if paid with appropriated funds. IHAs established by an Indian Tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

The certification and disclosure requirements apply to all grants in excess of $100,000. All potential grantees are required to submit the certification, and to make the required disclosure if the grant amount exceeds $100,000. Potential grantees should refer to 24 CFR part 87 for the language for the certification and disclosure. The law provides substantial monetary penalties for failure to file the required certification or disclosure.

The information collection requirements for the CIAP were submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980 and have been approved and assigned OMB Control Number 2577–0044. Information on these requirements is provided as follows:

COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM (CIAP) PAPERWORK BURDEN HOURS

Description of Information Collection	Section of 24 CFR affected	No. of respondents	No. of responses per respondent	Total annual responses	Hours per response	Total hours
Local Official and Resident/Homebuyer Consultation Requirements.	968.220/905.18(j)	900	1	900	4.0	3600
Form HUD–52822, CIAP Application.	968.215/905.624	900	1	900	4.0	3600
Form HUD–50071, Certification for Contracts, Grants, Loans and Cooperative Agreements.	968.215/905.618(c)	900	1	900	0.25	225
SF–LLL, Disclosure of Lobbying Activities.	968.215(c)/905.618(c)	50	1	50	0.25	13
Form HUD–52825, CIAP Budget".	968.215(j)/905.618(j) ..	600	1	600	8.0	4800
Form HUD–52820, HA Board Resolution Approving CIAP Budget.	968.215(j)/905.618(j) ..	600	1	600	0.5	300

COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM (CIAP) PAPERWORK BURDEN HOURS—Continued

Description of Information Collection	Section of 24 CFR affected	No. of respondents	No. of responses per respondent	Total annual responses	Hours per response	Total hours
Form HUD–50070, Certification for a Drug-Free Workplace.	968.215(j)/905.618(j) ..	600	1	600	0.25	150
List of Participating Turnkey III Homeownership Units/Costs.	968.215(j)/905.618(j) ..	20	1	20	0.5	10
Form HUD–52825, CIAP Progress Report*.	968.250/905.651	600	2	1200	4.0	4800
Contracting Documents/Budget Revisions.	968.235 and 968.245/905.642 and 905.648.	600	6	3600	1.0	3600
Form HUD–53001, Actual Modernization Cost Certificate.	968.260/905.657	600	1	600	2.0	1200
Total Annual Paperwork Burden Hours.	.....	.....	.....	.....	.....	22,298

*Form HUD–52825 is a combined Budget/Progress Report.

This interim rule has been developed in accordance with Executive Order 12612, Federalism, and determined by the General Counsel not to have substantial, direct effects on HAs. The revised CIAP is consistent with federalism principles since it reduces unnecessary burdens on HAs. While the program is revised, the primary change is only in the way that HUD processes and reviews HA modernization activities, and not the modernization activities. Since participation by HAs is discretionary, the interim rule lacks the direct and substantial effects on HAs required for a policy with federalism implications under the Order.

This rule has been developed in accordance with Executive Order 12606, the Family. The rule does not have the potential for significant impact on family formation, maintenance, or general well-being, since its effect is limited to revising program procedures for HAs applying for discretionary grants. Families are not affected since HAs will continue to carry out modernization activities at public housing developments.

The Catalog of Domestic Assistance numbers for the programs affected by this rule are 14.146, 14.147, 14.850, 14.851, 14.852, and 15.141.

List of Subjects

24 CFR Part 905

Aged, Energy conservation, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Lead poisoning, Loan programs—housing and community development, Loan programs—Indians, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 968

Grant programs—housing and community development, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, parts 905 and 968 of title 24 of the Code of Federal Regulations are amended as follows:

PART 905—INDIAN HOUSING PROGRAMS

1. The authority citation for 24 CFR part 905 continues to read as follows:

Authority: 42 U.S.C. 1437aa–1437ee, 3535(d); 25 U.S.C. 450e(b).

2. The definitions at 24 CFR 905.102 are amended by (1) removing the definitions of: Comprehensive modernization, financial feasibility, homeownership modernization, lead-based paint modernization, special purpose management modernization, and special purpose modernization; (2) adding the definitions of: Emergency Modernization (CIAP), Other Modernization, Management capability, Modernization capability, and Reasonable cost; and (3) revising the definitions of: annual statement, major changes, modernization program, modernization project, and partnership process to read as follows:

§ 905.102 Definitions.

* * * * *

Annual statement. A statement submitted annually by an IHA to HUD of the activities and related costs it expects to fund with the Comprehensive Grant Program annual grant under subpart I of this part. An IHA may also elect to submit an annual statement covering work proposed for up to a two-year period, so that it can increase its flexibility in carrying out work items in the coming year.

* * * * *

Emergency Modernization (CIAP). A type of modernization program for a development that is limited to physical work items of an emergency nature, posing an immediate threat to the health or safety of residents or related to fire safety, which must be corrected within one year of CIAP funding approval.

* * * * *

Major changes. In the context of the Comprehensive Grant Program administered under subpart I of this part, major changes means additions, deletions or modifications of work items cumulatively totaling 10 percent or more of an IHA's annual grant allocation, excluding emergencies. Major changes require prior HUD approval. Any changes with respect to work items cumulatively totaling less than 10 percent of an IHA's annual grant allocation, excluding emergencies, do not require prior HUD approval, so long as the work is covered under the IHA's action plan. (See § 905.678(h).)

* * * * *

Management capability. An IHA has management capability if it is:

(1) Not designated as High Risk under § 905.135 or

(2) Designated as High Risk, but has a reasonable prospect of acquiring management capability which may include CIAP-funded management improvements. An IHA may be considered for funding of non-emergency physical improvements where it is making reasonable progress toward meeting the goals established in its management improvement plan under § 905.135.

* * * * *

Modernization capability. An IHA has modernization capability for CIAP if it is capable of effectively carrying out the proposed modernization improvements. Where an IHA does not have a funded modernization program in progress, HUD will determine whether the IHA has a reasonable prospect of acquiring modernization capability through hiring staff or contracting for assistance. See § 905.135.

Modernization program. An IHA's program for carrying out modernization, as set forth in the approved CIAP budget for modernization funds. See subpart I, CIAP.

Modernization project. The improvement of one or more existing Indian housing developments under a new number designated for that modernization program (CIAP). For each modernization project, HUD and the IHA shall enter into an ACC amendment, requiring low-income use of the housing for not less than 20 years from the date of the ACC amendment (subject to sale of homeownership units in accordance with the terms of the ACC).

* * * * *

Other Modernization (modernization other than emergency). A type of modernization program for a development that includes one or more physical work items, where HUD determines that the physical improvements are necessary and sufficient to extend substantially the useful life of the development, and/or one or more management work items (including planning costs), and/or testing, professional risk assessments, interim containment, and abatement of lead-based paint.

Partnership process. A specific and ongoing process that is designed to ensure that residents, resident groups, and the IHA work in a cooperative and collaborative manner to develop, implement and monitor the CIAP or Comprehensive Grant Program. At a minimum, an IHA shall ensure that the partnership process incorporates full resident participation in each of the required program components.

* * * * *

Reasonable cost. Total unfunded hard cost needs for a development that do not exceed 90 percent of the computed total development cost limit for a new development with the same structure type and number and size of units in the market area.

* * * * *

3. A new § 905.117 is added to read as follows:

§ 905.117 Displacement, relocation, and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, IHAs shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(b) *Temporary relocation.* Residents who will not be required to move permanently, but who must relocate temporarily (e.g., to permit rehabilitation), shall be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary housing and any increase in monthly rent/utility costs.

(2) Appropriate advisory services, including reasonable advance written notice of:

(i) The date and approximate duration of the temporary relocation;

(ii) The location of the suitable, decent, safe and sanitary housing to be made available for the temporary period;

(iii) The terms and conditions under which the resident may lease and occupy a suitable, decent, safe, and sanitary dwelling in the development following its completion; and

(iv) The provisions of paragraph (b)(1) of this section.

(c) *Relocation assistance for displaced persons.* (1) A "displaced person" (defined in paragraph (g) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601–4655) and implementing regulations at 49 CFR part 24.

(2) A comparable Indian housing unit, project-based Section 8 housing or a privately-owned dwelling made affordable by a Section 8 Rental Certificate or Housing Voucher, may qualify as a comparable replacement dwelling for a person displaced from an Indian housing unit.

(d) *Real property acquisition requirements.* The acquisition of real property for a development is subject to the URA and the requirements described in 49 CFR part 24, subpart B, whether the acquiring entity is organized under State law or Tribal law.

(e) *Appeals.* A person who disagrees with the IHA's determination concerning whether the person qualifies as a "displaced person," or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the IHA. A lower-income person who is dissatisfied with the IHA's determination on his or her appeal may submit a written request for review of that determination to the HUD Field Office.

(f) *Responsibility of IHA.* (1) The IHA shall certify (i.e., provide assurance of compliance, as required by 49 CFR part 24) that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section, and shall ensure such compliance notwithstanding any third party's contractual obligation to the IHA to comply with these provisions.

(2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. However such assistance also may be paid from funds available from other sources.

(3) The IHA shall maintain records in sufficient detail to demonstrate compliance with these provisions.

(g) *Definition of displaced person.* (1) For purposes of this section, the term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, demolition, or conversion of a unit to homeownership (Mutual Help Homeownership Opportunity (MH) Program) for a project assisted under this part or as a direct result of disposition in accordance with subpart M of this part. This includes any permanent, involuntary move for an assisted project including any permanent move from the development that is made:

(i) After notice to the person by the IHA or property owner to move permanently from the property, if the move occurs on or after:

(A) For the comprehensive improvement assistance program (CIAP) and the comprehensive grant program (CGP) under 24 CFR part 905, subpart I, 45 calendar days from before:

(*1*) The IHA issues the invitation for bids for the project or

(*2*) The start of force account work, whichever is applicable; or

(B) For the disposition or demolition of Indian housing under 24 CFR part 905, subpart M, the date of HUD approval of the IHA's proposal; or

(C) For other projects subject to this section, the date HUD approves the site for the project; or, if HUD site approval

is not required, the date the IHA approves the site for the project;

(ii) Before the date described in paragraph (g)(1)(i) of this section, if the IHA or HUD determines that the displacement resulted directly from acquisition, rehabilitation, demolition, or conversion for the assisted project; or

(iii) By a resident of a dwelling unit, if any one of the following three situations occurs:

(A) The resident moves after the "initiation of negotiations" and the move occurs before the resident is provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same development, under reasonable terms and conditions, upon its completion. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the amount determined in accordance with § 905.325 of this title; or

(B) The resident is required to relocate temporarily, does not return to the development, and either:

(*1*) The resident is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or

(*2*) Other conditions of the temporary relocation are not reasonable; or

(C) The resident is required to move to another dwelling unit in the same development but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.

(2) Notwithstanding the provisions of paragraph (g)(1) of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if:

(i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State, tribal, or local law, or other good cause, and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(ii) The person moved into the property after the date described in paragraph (g)(1)(i) of this section and, before commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that he or she will not qualify as a "displaced person" (or for assistance under this section) as a result of the project;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, demolition, or conversion for the project.

(3) The IHA may, at any time, ask HUD to determine whether a displacement is or would be covered by this section.

(h) *Definition of initiation of negotiations.* For purposes of determining the formula for computing the replacement housing assistance to be provided to a resident, the term "initiation of negotiations" means the following action:

(1) For the comprehensive improvement assistance program (CIAP) or comprehensive grant program (CGP) under 24 CFR part 905, subpart I, 45 calendar days before:

(i) The IHA's issuance of the invitation for bids for the project or

(ii) The start of force account work, whichever is applicable.

(2) For an IHA purchase through an arm's-length transaction as described in 49 CFR 24.101(a)(1), the seller's acceptance of the IHA's written offer to purchase the property.

(3) For an IHA purchase that does not qualify as an arm's-length transaction, the delivery of the initial written purchase offer from the IHA to the Owner of the property. However, if the IHA issues a notice of intent to acquire the property, and a person moves after that notice, but before the initial written purchase offer, the "initiation of negotiations" is the actual move of the person from the property.

(4) For disposition or demolition of Indian housing under Section M of this Part, HUD approval of the IHA's proposal; or

(5) For other programs under 24 CFR part 905, the notice to the occupant that he or she must move permanently, or, if there is no notice, the person's actual move from the property.

(Approved by Office of Management and Budget under OMB Control Number 2506–0121.)

4.–5. In § 905.120, existing paragraph (e) is removed, and the remaining paragraphs (f) through (i) are redesignated as paragraphs (e) through (h), respectively.

General Provisions

6. Section 905.600 is revised to read as follows:

§ 905.600 Purpose and applicability.

(a) *Purpose.* The purpose of this section is to set forth the policies and procedures for the Modernization program, authorizing HUD to provide financial assistance to Indian Housing Authorities (IHAs) to:

(1) Improve the physical condition and upgrade the management and operation of existing Indian housing developments;

(2) Assure that such developments continue to be available to serve low-income families;

(3) Assess the risks of lead-based paint poisoning through the use of professional risk assessments that include dust and soil sampling and laboratory analysis in all developments constructed before 1980 that are, or will be occupied by families; and

(4) Take effective interim measures to reduce and contain the risks of lead-based paint poisoning recommended in such professional risk assessments.

(b) *Applicability.* (1) The undesignated heading entitled, General Provisions, applies to all modernization under this subpart. The undesignated heading entitled, Comprehensive Improvement Assistance Program (CIAP), sets forth the requirements and procedures for the CIAP for IHAs that own or operate fewer than 250 Indian housing units. An IHA that qualifies for participation in the CGP is not eligible to participate in the CIAP. The undesignated heading entitled, Comprehensive Grant program (CGP), sets forth the requirements and procedures for the CGP for IHAs that own or operate 250 or more Indian housing units. For purposes of the 250 or more unit threshold for participation in the CGP, and for the formula allocation under § 905.601, an existing rental, Mutual Help or section 23 bond-financed unit under the ACC shall count as one unit; and a unit under the Turnkey III program shall count as one-fourth of a unit. An IHA that has already qualified to participate in the CGP because it owns or operates 250 or more units, may elect to continue to participate in the CGP so long as it owns or operates at least 200 units.

(2) This subpart applies to IHA-owned low-income Indian housing developments (including developments managed by a Resident Management Corporation pursuant to a contract with the IHA), and to Section 23 Leased Housing Bond-Financed developments, for which IHAs request assistance under the CIAP or CGP. This subpart also applies to the implementation of modernization programs which were approved before FFY 1992. Rental developments that are planned for conversion to homeownership under sections 5(h), 21, or 301 of the Act, but which have not yet been sold by an IHA, continue to qualify for assistance under

this part. This subpart does not apply to developments under the Section 23 Leased Housing Non-Bond Financed program, the Section 10(c) Leased program, or the Section 23 or Section 8 Housing Assistance Payments programs.

(c) *Transition.* Any amount that HUD has obligated to an IHA under CIAP must be used for the purposes for which the funding was provided, or for purposes consistent with an approved action plan submitted by the IHA under the CGP, as the IHA determines to be appropriate.

(d) See subpart A of this part for applicable requirements, other than the Act, that apply to modernization under this subpart.

7. Section 905.601 is amended by revising paragraphs (j) and (k)(1) to read as follows:

§ 905.601 Allocation of funds under section 14.

* * * * *

(j) *Calculation of number of units.* For purposes of determining under this section the number of units owned or operated by an IHA or PHA, and the relative modernization needs of IHAs and PHAs, HUD shall count as one unit each existing rental, Mutual Help and section 23 Bond-Financed unit under the ACC, except that it shall count as one-fourth of a unit each existing unit under the Turnkey III program.

(k) *Demolition, disposition and conversion of units.* (1) General. Where an existing unit under an ACC is demolished, disposed of, or converted into a larger or smaller unit, HUD shall not adjust the amount the IHA or PHA receives under the formula, unless more than one percent of the units are affected on a cumulative basis. Where more than one percent of the existing units are demolished, disposed of, or converted, HUD shall reduce the formula amount for the IHA or PHA over a 3-year period to reflect removal of the units from the ACC.

* * * * *

8. Section 905.602 is amended by revising paragraphs (a), (b) introductory text, (b)(i), (b)(2)(ii), (c) introductory text, and (d), adding new paragraph (f), to read as follows:

§ 905.602 Special requirements for Turnkey III and Mutual Help developments.

(a) *Turnkey III developments.* Promptly after HUD approval of the application, each Turnkey III homebuyer family shall execute an amendment to its Homebuyer Agreement, reflecting an increase in the purchase price of its home and an extension of the amortization period in accordance with paragraphs (b) and (c) of this section, except for:

(1) Eligible homeownership costs, as set forth in §§ 905.615(c)(1) and 905.666(d)(1);

(2) Substantial rehabilitation of a vacant or non-homebuyer occupied Turnkey III unit pursuant to §§ 905.615(c)(4) and 905.666(d)(3).

(b) *For Turnkey III developments that have purchase price schedules:*

(1) The amount of modernization cost attributable to the home, as shown in the HUD-approved application, shall be added to the homebuyer's purchase price as initially determined for Turnkey III developments.

(2) * * *

(ii) Be computed on the basis of the same interest rate as used for the current purchase price schedule.

* * * * *

(c) *For Turnkey III developments that do not have purchase price schedules:*

* * * * *

(d) *Mutual Help developments.* Modernization work on a Mutual Help unit shall not increase the purchase price or amortization period of the home.

* * * * *

(f) The homebuyer family must be in compliance with its financial obligations under its homebuyer agreement in order to be eligible for non-emergency physical improvements, with the exception of work necessary to meet statutory and regulatory requirements, (e.g., handicapped accessibility, lead-based paint testing, interim containment, professional risk assessment, and abatement) and the correction of development deficiencies. Notwithstanding the above requirement, an IHA may, with prior HUD Field Office approval, complete non-emergency physical improvements on any homeownership unit where the IHA demonstrates that, due to economies of scale or geographic constraints, substantial cost savings may be realized by completing all necessary work in a development at one time.

9. The undesignated heading above § 905.609, and §§ 905.609 through 905.618 are revised to read as follows:

Comprehensive Improvement Assistance Program for IHAs That Own or Operate Fewer Than 250 Indian Housing Units

§ 905.609 Purpose.

The purpose of the undesignated heading entitled, Comprehensive Improvement Assistance Program (CIAP), is to set forth the policies and procedures for the CIAP under which IHAs that own or operate fewer than 250 units of Indian housing may receive financial assistance for the modernization of Indian housing developments, including Emergency and Other Modernization. Funding for this program is provided under section 5(c) of the Act, pursuant to section 14(k) of the Act (see § 905.601 for the formula allocation process for the aggregate of CIAP agencies under this subpart).

§ 905.615 Eligible costs.

(a) *Demonstration of viability.* Except in the case of emergency work, an IHA shall only expend funds on a development for which the IHA has determined, and HUD agrees, that the completion of the improvements and replacements will reasonably ensure the long-term physical and social viability of the development at a reasonable cost, as defined in § 905.102.

(b) *Physical improvement costs for rental and Mutual Help developments.* Eligible costs include alterations, betterments, non-dwelling additions, replacements, and non-routine maintenance that are necessary to meet the modernization and energy conservation standards prescribed in § 905.603. The modernization standards include mandatory and development specific work. The mandatory standards may be exceeded only when the IHA and HUD determine that it is necessary or highly desirable for the long-term physical and social viability of the individual development. If demolition or disposition is proposed, the IHA shall comply with subpart M.

(c) *Turnkey III developments.* (1) General. Eligible physical improvement costs for existing Turnkey III developments are limited to work items under Emergency Modernization or Other Modernization which are not the responsibility of the homebuyer families, and which are related to health and safety, correction of development deficiencies, physical accessibility, energy audits and cost-effective energy conservation measures, or lead-based paint testing, interim containment, professional risk assessment and abatement. In addition, eligible costs include management improvements under the modernization type of Other Modernization. The cost of non-emergency health and safety work items shall increase the purchase price and amortization period for homebuyer families; other eligible costs shall not increase the purchase price and amortization period.

(2) Ineligible costs. Nonroutine maintenance or replacements, dwelling additions, and items that are the responsibility of the homebuyer families are ineligible costs.

(3) Exception for vacant or non-homebuyer-occupied Turnkey III units.

(i) Notwithstanding the requirements of paragraph (c)(1) of this section, an IHA may carry out Other Modernization in a Turnkey III development, whenever a Turnkey III unit becomes vacant or is occupied by a non-homebuyer family. An IHA that intends to use funds under this paragraph must identify in its CIAP application, the estimated number of units proposed for Other Modernization and subsequent sale. In addition, an IHA must certify that: The proposed modernization under this paragraph would result in bringing the identified units into full compliance with the homeownership objectives under the Turnkey III Program (see subpart G of this part); and the IHA has homebuyers who are both eligible for homeownership, in accordance with the requirements of this part, and who have demonstrated their intent to be placed into each of the Turnkey III units proposed for Other Modernization.

(ii) Before an IHA may be approved for Other Modernization of a unit under this paragraph, it must first deplete any Earned Home Payments Account (EHPA), or Non-Routine Maintenance Reserve (NRMR) pertaining to the unit, and request the maximum operating subsidy. Any increase in the value of a unit caused by its Other Modernization under this paragraph shall be reflected solely by its subsequent appraised value, and not by an automatic increase in its purchase price.

(d) *Demolition and conversion costs.* Eligible costs include:

(1) Demolition of dwelling units or non-dwelling facilities, where the demolition is approved by HUD under 24 CFR part 905, subpart M, and related costs, such as clearing and grading the site after demolition and subsequent site improvement to benefit the remaining portion of the existing development; and

(2) Conversion of existing dwelling units to different bedroom sizes or to non-dwelling use.

(e) *Management improvement costs.* (1) General. Management improvements that are development-specific or IHA-wide in nature are eligible costs where needed to upgrade the operation of the IHA's developments, sustain physical improvements at those developments or correct management deficiencies. Management improvements and planning costs may be funded as a single modernization project.

(2) Ineligible costs. An IHA's ongoing operating expenses, including direct provision of social services through either contract or force account labor, are ineligible management improvement costs. In addition, where an approved modernization program includes management improvements which involve ongoing costs, HUD is not obligated to provide continued funding or additional operating subsidy after the end of the implementation period of the management improvements. An IHA is responsible for finding other funding sources, reducing its ongoing management costs, or terminating the management activities.

(3) Eligible costs. Eligible costs include:

(i) General management costs. Eligible general management costs include, but are not limited to: management, financial, and accounting control systems of the IHA, rent collection and maintenance.

(ii) Economic development costs. Economic development activities, such as job training and resident employment, for the purpose of carrying out activities related to the eligible management and physical improvements are eligible costs, as approved by HUD. HUD encourages IHAs, to the greatest extent feasible, to hire residents as trainees, apprentices, or employees to carry out the modernization program under this subpart.

(iii) Resident management costs. Technical assistance to a resident council or resident management corporation (RMC), as defined in subpart O, in order to determine the feasibility of the resident management entity or assist in its formation is an eligible cost.

(iv) Resident homeownership costs. The study of the feasibility of converting rental to homeownership units, as well as the preparation of an application for conversion to homeownership, is an eligible cost.

(f) *Drug elimination costs.* Drug elimination activities involving management or physical improvements are eligible costs, as specified by HUD.

(g) *Administrative costs.* Administrative costs necessary for the planning (planning costs can be funded as a single modernization project), design, implementation and monitoring of the physical and management improvements are eligible costs, and include the following:

(1) The salaries of nontechnical and technical IHA personnel assigned full-time or part-time to modernization are eligible costs only where the scope and volume of the work are beyond that which could reasonably be expected to be accomplished by such personnel in the performance of their non-modernization duties. An IHA shall properly apportion to the appropriate program budget any direct charges for the salaries of assigned full- or part-time staff (*e.g.*, to the CIAP or operating budget);

(2) IHA contributions to employee benefit plans on behalf of nontechnical and technical IHA personnel are eligible costs in direct proportion to the amount of salary charged to the CIAP; and

(3) Other administrative costs, such as telephone and facsimile, as specified by HUD.

(h) *Architectural/engineering and consultant fees.* Fees for planning, preparation of needs assessments and other required documents, detailed design work, assistance in the preparation of construction and bid documents, lead-based paint professional risk assessments and testing are eligible costs.

(i) *Relocation and moving costs.* Relocation and other relocation assistance for permanent and temporary relocation are eligible costs, where this assistance is required by § 905.117.

(j) *Cost limitations.* (1) Management improvements. Management improvement costs shall not exceed 10 percent of the CIAP funds available to an Indian Field Office in a particular FFY.

(2) Planning costs. Planning costs are costs incurred before HUD approval of the CIAP application and which are related to developing the CIAP application or carrying out eligible modernization planning, such as detailed design work, preparation of solicitations, and lead-based paint professional risk assessment and testing Planning costs may be funded as a single modernization project. If an IHA incurs planning costs without prior HUD approval, an IHA does so with the full understanding that the costs may not be reimbursed upon approval of the CIAP application. Planning costs shall not exceed 5 percent of the CIAP funds available to an Indian Field Office in a particular FFY.

(3) Program benefit. Where the physical or management improvement will benefit programs other than Indian Housing, such as Section 8, local renewal, eligible costs are limited to the amount directly attributable to the Indian Housing Program.

(k) *Ineligible costs.* An IHA shall not make luxury improvements, or carry out any other ineligible activities, as specified by HUD.

§ 905.618 Procedures for obtaining approval of a modernization program.

(a) *HUD notification.* After modernization funds for a particular FFY become available, HUD shall publish in the **Federal Register** a notice

of funding availability (NOFA) and the time frame for submission of applications.

(b) *IHA consultation with local officials and residents/homebuyers.* An IHA shall develop the application in consultation with local officials and resident and homebuyers, as set forth in § 905.624.

(c) *IHA application.* An IHA shall submit to HUD an application, in a form prescribed by HUD, which shall include:

(1) A general description of IHA development(s) (including the current physical condition, for each development for which the IHA is requesting funds, or for all the IHA's developments) and physical and management improvement needs (to meet the Secretary's standards in § 905.603), general description of major work categories (*e.g.*, kitchens, bathrooms) required to correct identified deficiencies and estimated costs, including a statement concerning consultation with local officials and residents and viability of the development(s). The application will also identify a cost estimate for the equipment systems or structural elements which would normally be replaced over the remaining period of the annual contributions contract or during the 30-year period beginning on the date of submission of the application.

(2) For management improvements, the application must identify the following:

(i) The management, financial, and accounting control systems of the IHA;

(ii) The adequacy and qualifications of personnel employed by such IHA (in the management and operation of such developments) for each category of employment; and

(iii) The adequacy and efficacy of resident programs and services in such developments, the security of each such development and its residents, policies and procedures of the IHA for the selection and eviction of residents in such developments, and other policies and procedures of such IHA relating to such developments, as specified by the Secretary; and

(3) Any other documents, as may be required by HUD.

(d) *Completeness Review.* To be eligible for selection, an application must be received by the Field Office within the time period specified in the NOFA and must be complete. In order to determine whether an application is complete, responsive to the NOFA and acceptable for technical processing, the Field Office shall perform an initial completeness review upon receipt of the application. To make the above determination, the Field Office shall use the following criteria:

(1) The application was received by HUD at the appropriate address by the date and time specified in the NOFA and was complete and responsive (excluding exhibits which are certifications); or

(2) If an application is determined to be incomplete or to have missing certifications, the IHA shall be advised in writing of any deficiencies or any inconsistencies. The missing information is to be submitted within a specified period of time from the date of HUD's written notification. This is not additional time to substantially revise the application. Deficiencies which may be corrected at this time are inadvertently omitted documents or clarifications of previously submitted material and other changes which are not of such a nature as to improve the competitive position of the application. The IHA must acceptably correct deficiencies (including furnishing missing certifications) within the time specified in the NOFA.

(e) *Eligibility Review.* (1) Eligibility for processing. To be eligible for processing:

(i) Based on the general description of its developments' condition and general statement of physical and management improvement needs, and the Field Office's knowledge of the development's conditions, the work items, particularly emergency work items, must appear to be eligible and needed:

(ii) Each development for which work is proposed must be at least three years old from the end of initial operating period (EIOP); and

(iii) The IHA has submitted the fiscal audit to the Regional Inspector General for Audit within one year after the end of the audit period, or has been granted an extension for submission, in conformance with the Single Audit Act requirements.

(2) Eligibility review on reduced scope. When the following conditions exist, the IHA will be reviewed on a reduced scope:

(i) Where the IHA owes funds to the Department as a result of excess development, modernization or operating funds previously provided and the IHA has not repaid the funds, or has not entered into a repayment agreement, or is not meeting its obligations under a repayment agreement, the IHA is eligible for processing for Emergency Modernization only.

(ii) Where the IHA has not complied with Fair Housing and Equal Opportunity (FHEO) requirements as set forth in § 905.115, as evidenced by an action, finding or determination as described in (A)—(E) below, unless the IHA is implementing a voluntary compliance agreement or settlement agreement designed to correct the area(s) of noncompliance, the IHA is eligible for processing only for Emergency Modernization or for work needed to remedy civil rights deficiencies.

(A) A pending proceeding against the IHA based upon a Charge of Discrimination issued under the Fair Housing Act. A Charge of Discrimination is a charge under Section 810(g)(2) of the Fair Housing Act, issued by the Department's General Counsel or legally authorized designee;

(B) A pending civil rights suit against the IHA, referred by the Department's General Counsel and instituted by the Department of Justice;

(C) Outstanding HUD findings of IHA noncompliance with civil rights statutes and executive orders under § 905.115, or implementing regulations, as a result of formal administrative proceedings, unless the IHA is implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the area(s) of noncompliance;

(D) A deferral of the processing of applications from the IHA imposed by HUD under Title VI of the Civil Rights Act of 1964 and § 905.115, the Attorney General's Guidelines (28 CFR 50.3) and the HUD Title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1), or under Section 504 of the Rehabilitation Act of 1973 and HUD implementing regulations (24 CFR 8.57); or

(E) An adjudication of a violation under any of the authorities under § 905.115 in a civil action filed against the IHA by a private individual, unless the IHA is implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the area(s) of noncompliance.

(3) FHEO Division Review. The processing office shall request the appropriate FHEO Division of the Field or Regional Office to identify any IHAs with equal opportunity-related problems. After consulting with Regional FHEO, as appropriate, and reviewing its own files, the FHEO Division shall identify each IHA by the following categories and provide any other relevant information within the requested time frame:

(i) There are no known equal opportunity-related problems;

(ii) There are known equal opportunity-related problems, as identified; or

(iii) There are circumstances as set forth in paragraph (e)(2) of this section.

(f) *Technical processing.* When an application is determined to be complete and responsive to the NOFA and eligible for processing, technical processing, consisting of the following, shall be accomplished:

(1) The Field Office shall categorize the eligible IHAs and their developments into two processing groups: Group 1 for Emergency Modernization; and Group 2 for Other Modernization. IHA developments may be included in both groups and the same development may be in each group. The IHA only needs to submit one application which includes needs which the Field Office will process under Group 1 or Group 2. However, the IHA can submit Emergency Modernization applications whenever needed. Group 2 developments are subject to the long-term viability and reasonable cost analysis. Preference will be given to IHAs which request assistance for developments having conditions which threaten the health or safety of the residents or having a significant number of vacant, substandard units; and which have demonstrated a capability of carrying out the activities proposed. Within Group 2, the Secretary may give priority to compliance with statutory, regulatory, and court-ordered deadlines.

(2) The Field Office will evaluate the Group 2 IHAs and developments to determine eligibility and acceptability based on the technical review factors in paragraph (g) of this section. Based on these factors, the Field Office shall determine the applications which, in its judgment, are approvable. Selections then shall be made in accordance with paragraph (h) of his section.

(g) *Technical review factors.* The technical review factors for assistance include:

(1) Extent and urgency of need, including need to comply with statutory, regulatory, or court-ordered deadlines;

(2) Extent of vacancies;

(3) IHA's modernization capability;

(4) IHA's management capability;

(5) Degree of resident involvement in IHA operations;

(6) Degree of IHA activity in resident initiatives, including resident management, economic development, and drug elimination efforts;

(7) Degree of resident employment;

(8) Local government support for proposed modernization; and

(9) Such additional factors as the Secretary determines necessary and appropriate.

(h) *Rating and ranking.* The Field Office shall rate and rank each application in Group 2 on the basis of its assessment of the application using the technical review factors set forth in paragraph (g) of this section and in the NOFA. The Field Office shall identify for joint review selection the highest IHA ranking applications in Group 2 in descending order and other Group 2 HAs with lower ranking applications but with high priority needs, which most reasonably approximate the amount of modernization which can be funded. High priority needs are non-emergency needs, but related to: health or safety; vacant, substandard units; structural or system integrity; or compliance with statutory, regulatory or court-ordered deadlines. All Group 1 applications would be automatically selected for joint review.

(i) *Joint review.* HUD shall notify each IHA whose application has been selected for further processing as to whether the joint review will be conducted on-site or off-site (*e.g.*, by telephone or in-office meeting). The purpose of the joint review is to discuss the proposed modernization program, as set forth in the application, and determine the size of the grant, if any, to be awarded. Where the IHA has not included all its developments in the CIAP application, HUD may not, as a result of joint review consider funding any non-emergency work at excluded developments or subsequently approve use of leftover funds at excluded developments. An IHA will not be selected for joint review if it has residual receipts to carry out the modernization activities for which it is applying or if there is a duplication of funding. An IHA shall prepare for the joint review by preparing a draft CIAP budget, and reviewing the other items to be covered during the joint review, as prescribed by HUD. If conducted on-site, the joint review may include an inspection of the proposed physical work. IHAs not selected for joint review will be advised in writing of the reasons for nonselection.

(j) *HUD awards.* Upon completion of the joint review, HUD shall adjust the amounts to be awarded, as necessary, based on information obtained at Joint Review, including the information received as a result of the FHEO review and completion of the environmental review, and announce the IHAs selected for CIAP grants (subject to their submission of an approvable CIAP budget and any other required documents). HUD would request the funded IHA to submit a CIAP budget, including an implementation schedule, a resolution by the IHA Board of Commissioners (approving the CIAP budget and containing certifications required by HUD), and any other necessary documents).

(k) *ACC amendment.* After HUD approval of the CIAP budget, HUD and the IHA shall enter into an ACC amendment in order for the IHA to requisition modernization funds. The ACC amendment shall require low-income use of the housing for not less than 20 years from the date of the ACC amendment (subject to sale of homeownership units in accordance with the terms of the ACC). HUD has the authority to condition an ACC amendment (*e.g.*, to require an IHA to hire a modernization coordinator or contract administrator to administer its modernization program).

(l) *Declaration of trust.* An IHA shall execute and file for record a Declaration of Trust as provided under the ACC to protect the rights and interests of HUD throughout the 20-year period during which the IHA is obligated to operate its developments in accordance with the ACC, the Act, and HUD regulations and requirements.

(Approved by the Office of Management and Budget under control number 2577–0044).

§ 905.621 [Removed]

10. Section 905.621 is removed.

11. Section 905.624 is revised to read as follows:

§ 905.624 Resident and homebuyer participation.

(a) *Resident participation.* For a rental development only, the IHA shall establish a Partnership Process, as defined in § 905.102, to develop, implement and monitor the CIAP. Before submission of the application, an IHA shall consult with the residents, the resident organization or the RMC (see part 905, subpart 0) of the development being proposed for modernization regarding its intent to submit an application for CIAP funds. An IHA shall give residents a reasonable opportunity to present their views on the proposed modernization program and alternatives to it, and give full and serious consideration to resident recommendations. An IHA shall respond in writing to the residents, the resident organization or the RMC, indicating its acceptance or rejection of resident recommendations, consistent with HUD requirements and the IHA's own determination of efficiency, economy, and need. After HUD approval of the modernization program, an IHA shall inform the residents, the resident organization or the RMC of the approved work items and its progress during implementation. Where HUD

does not approve the modernization program, an IHA shall so inform the residents, the resident organization or the RMC.

(b) *Homebuyer participation.* Turnkey III and Mutual Help.

(1) For a homeownership development only, before submission of the application, an IHA shall consult with the homebuyer families of the development proposed for modernization regarding its intent to submit an application for CIAP funds and advising them of the effect of the proposed modernization on the terms of the homebuyer agreements. An IHA shall give the homebuyer families a reasonable opportunity to present their views on the proposed modernization program and alternatives to it, and give full and serious consideration to their recommendations. An IHA shall respond in writing to the homebuyer families, indicating its acceptance or rejection of their recommendations, consistent with HUD requirements and the IHA's own determination of efficiency, economy, and need. After HUD approval of the modernization program, an IHA shall inform the homebuyer families of the approved work items and its progress during implementation. Where HUD does not approve the modernization program, an IHA shall so inform the homebuyer families.

(c) Turnkey III developments.

(1) The IHA shall inform each homebuyer family that:

(i) It will have an opportunity to express its views and preferences with respect to the modernization of its home;

(ii) The purchase price and the amortization period will be increased as provided in § 905.602;

(iii) It will have an opportunity to participate in the final inspection of the work to determine completion in accordance with the requirements; and

(iv) Participation in the program is optional.

(2) An IHA shall provide each homebuyer family with a copy of the IHA's evaluation of its recommendations, the tentative decisions reached on the modernization program, the estimated cost of the proposed program, and the amount of the cost to be attributed to its home.

(3) If the homebuyer family decides to participate in the modernization program with respect to any of the proposed work items, it must agree in writing that its homebuyer agreement will be amended upon approval of the application to provide that, as a result of the amount of modernization cost attributed to its home, the purchase price and the amortization period will be increased as provided in § 905.602.

(4) Any homebuyer family may decline to participate without risk to the homebuyer status.

(5) The provisions of this paragraph (c) do not apply where modernization work will not increase the purchase price or amortization period of the home.

(Approved by the Office of Management and Budget under control number 2577–0044.)

§ 905.627 [Removed]

12. Section 905.627 is removed.

13. A new § 905.635 is added, to read as follows:

§ 905.635 Initiation of modernization activities.

After HUD has approved the modernization program and entered into an ACC amendment with the IHA, an IHA shall undertake the modernization activities and expenditures set forth in its approved CIAP budget in a timely, efficient and economical manner, subject to the following requirements.

(a) An IHA may undertake the activities using force account labor, only where specifically approved by HUD in the CIAP budget; and

(b) An IHA shall ensure that there is no duplication between the activities carried out with CIAP funds and the activities carried out with other funds.

§ 905.636 [Removed]

14. Section 905.636 is removed.

15. Section 905.639 is revised to read as follows:

§ 905.639 Fund requisitions.

An IHA shall requisition modernization funds against the approved CIAP budget in accordance with procedures prescribed by HUD.

16. Section 905.642 is revised to read as follows:

§ 905.642 Contracting requirements.

An IHA shall comply with the prevailing wage rate requirements in §§ 905.120 and 905.172, as well as the Indian Preference requirements in § 905.175. In addition, an IHA shall comply with State, Tribal and local laws and Federal requirements, as set forth in 24 CFR part 85, except as follows:

(a) *Architect/engineer and other professional services contracts.* Notwithstanding 24 CFR 85.36(g), an IHA shall comply with HUD requirements to either:

(1) Where the proposed contract amount exceeds the HUD-established threshold, submit the contract for prior HUD approval before execution or issuance; or

(2) Where the proposed contract amount does not exceed the HUD-established threshold, certify that the scope of work is consistent with any agreements reached with HUD, and that the amount is appropriate and does not exceed the HUD-approved CIAP budget amount.

(b) *Assurance of completion.* For each construction contract over $25,000, the contractor shall furnish a performance and payment bond for 100 percent of the contract price or, notwithstanding 24 CFR 85.36(h), a twenty percent cash escrow, or a twenty-five percent letter of credit or, as may be required by law, separate performance and payment bonds, each for fifty percent or more of the contract price.

(c) *Construction solicitations.* Notwithstanding 24 CFR 85.36(g), an IHA shall comply with HUD requirements to either:

(1) Where the estimated contract amount exceeds the HUD-established threshold, submit a complete construction solicitation for prior HUD approval before issuance; or

(2) Where the estimated contract amount does not exceed the HUD-established threshold, certify receipt of the required architect's/engineer's certification that the construction documents accurately reflect HUD-approved work and meet the modernization and energy conservation standards and that the construction solicitation is complete and includes all mandatory items.

(d) *Contract awards.* An IHA shall obtain HUD approval of the proposed award of a contract if the award exceeds the HUD-approved CIAP budget amount or if the procurement meets the criteria set forth in 24 CFR 85.36(g)(2) (i) through (iv). In all other instances, an IHA shall make the award without HUD approval after the IHA has certified that:

(1) The solicitation and award procedures were conducted in compliance with State, Tribal and local laws and Federal requirements;

(2) The award does not exceed the approved CIAP budget amount and does not meet the criteria in 24 CFR 85.36(g)(2) (i) through (iv) for prior HUD approval;

(3) The contractor is not on the Lists of Parties Excluded from the Federal Procurement or Nonprocurement Programs: and

(4) Where required, HUD clearance has been obtained for the award under previous participation procedures under paragraph (g) of this section.

(e) *Contract modifications.* Notwithstanding 24 CFR 85.36(g), except in an emergency endangering life

or property, an IHA shall comply with HUD requirements to either:

(1) Where the proposed contract modification exceeds the HUD-established threshold, submit the proposed modification for prior HUD approval before issuance; or

(2) Where the proposed contract modification does not exceed the HUD-established threshold, certify that the proposed modification is within the scope of the contract and that any additional costs are within the latest HUD-approved CIAP budget or otherwise approved by HUD.

(f) *Construction requirements.* An IHA may be required to submit to HUD periodic progress reports and construction completion documents for prior HUD approval above a HUD-specified amount.

(g) *Previous participation.* An IHA shall obtain HUD clearance under previous participation procedures for contract awards over a HUD-specified amount, which shall include verification that the contractor is not included on the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.

(Approved by the Office of Management and Budget under control number 2577–0044)

17. Sections 905.645 through 905.654 is revised to read as follows:

§ 905.645 On-site inspections.

It is the responsibility of the IHA, not HUD, to provide, by contract or otherwise, adequate and competent supervisory and inspection personnel during modernization, whether work is preformed by contract or force account labor and with or without the services of an architect/engineer, to assure work quality and progress.

§ 905.648 Budget revisions.

An IHA shall not incur any modernization cost in excess of the total HUD-approved CIAP budget. An IHA shall submit a budget revision, in a form prescribed by HUD, if the IHA plans (within the total approved CIAP budget) to incur modernization costs in excess of the approved CIAP budget amount for any development. An IHA also shall comply with HUD requirements to either:

(a) Submit the proposed CIAP budget revision for prior HUD approval if the IHA plans to delete or substantially revise approved work items, add new work items, or incur modernization costs in excess of the HUD-established threshold; or

(b) Certify that the revisions are necessary to carry out the approved work and do not result in the approved CIAP budget amount for any development being exceeded.

(Approved by the Office of Management and Budget under control number 2577–0044)

§ 905.651 Progress reports.

For each six-month period, beginning October 1, until completion of the modernization program or expenditure of all funds, an IHA shall submit a report, in a form prescribed by HUD, to the HUD Field Office. Where HUD determines that an IHA is having implementation problems, HUD may require more frequent reporting. The report shall include:

(a) Modernization fund obligations and expenditures and progress against the approved implementation schedule(s); and

(b) Management improvement progress, where applicable.

(Approved by the Office of Management and Budget under control number 2577–0044)

§ 905.654 HUD review of IHA performance.

HUD shall periodically review IHA performance in carrying out its approved modernization program to determine compliance with HUD requirements, the quality of an IHA's inspections as evidenced by the quality of work, and the timeliness of the work. Where deficiencies are noted, an IHA shall take corrective action, as directed by HUD.

18. A new § 905.657 is added, to read as follows:

§ 905.657 Fiscal closeout.

Upon completion or termination of a modernization program, the IHA shall submit the actual modernization cost certificate, in a form prescribed by HUD, to HUD for review, audit verification, and approval. An IHA shall immediately remit any excess funds provided by HUD. The audit shall follow the guidelines prescribed in 24 CFR part 44, Non-Federal Government Audit Requirements. If the audited modernization cost certificate indicates that there are still excess funds, an IHA shall immediately remit the excess funds as directed by HUD. If the audited modernization cost certificate discloses unauthorized or ineligible expenditures, an IHA shall take such corrective actions as HUD may direct.

(Approved by the Office of Management and Budget under control number 2577–0044)

19. Section 905.666 is amended by revising paragraphs (c) heading and (d) heading, and (d)(1), removing (d)(4), and renumbering (d)(5) as (d)(4) and revising it to read as follows:

§ 905.666 Eligible costs.

* * * * *

(c) *Physical improvement costs for rental and Mutual Help developments.*

* * *

(d) *Costs for Turnkey III developments.* (1) Eligible costs. Eligible physical improvement costs for existing Turnkey III developments are limited to work items which are not the responsibility of homebuyer families and which are related to health and safety, correction of development deficiencies, physical accessibility, energy audits and cost-effective energy conservation measures, and lead-based paint testing and abatement. In addition, management improvements are eligible modernization costs for existing homeownership developments. Costs of health and safety work items shall increase the purchase price and amortization period for homebuyer families, in accordance with § 905.602; other eligible costs shall not increase the purchase price and amortization period.

* * * * *

(4) The IHA must maintain records by unit of the work carried out under this section to permit HUD to review the extent to which Turnkey III units have been substantially rehabilitated.

* * * * *

20–21. Section 905.923(b)(3) is revised to read as follows:

§ 905.923 General requirements for approval of disposition or demolition.

* * * * *

(b) * * *

(3) A certification by the chief executive officer, or designee, that the unit of general government will comply with displacement, relocation, and real property acquisition policies described in § 905.117.

* * * * *

PART 968—PUBLIC HOUSING MODERNIZATION

22. The authority citation for 24 CFR part 968 is revised to read, as follows:

Authority: 42 U.S.C. 1437d, 1437*l*, 3535(d).

23. Section 968.101 is amended by adding paragraphs (b)(3), (4) and (5) and revising paragraph (c) to read as follows:

§ 968.101 Purpose and applicability.

* * * * *

(b) *Applicability.* * * *

(3) A section 23 Leased Housing Bond-Financed development is eligible for modernization only if HUD determines that the development has met the following conditions:

(i) The development was financed by the issuance of bonds;

(ii) Clear title to the development will be conveyed to or vested in the PHA at the end of the section 23 lease term;

(iii) There are no legal obstacles affecting the PHA's use of the property as public housing during the 20-year period of the modernization;

(iv) After completion of the modernization, the development will have a remaining useful life of at least 20 years and it is in the financial interest of the Federal Government to improve the development; and

(v) The development is covered by a cooperation agreement between the PHA and local governing body during the 20-year period of the modernization.

(4) A section 23 Leased Housing Bond-Financed development which has been conveyed to the PHA after the bonds have been retired is similarly eligible for modernization if the conditions specified under paragraph (b)(3) of this section have been satisfied.

(5) A building which is assisted under section 5(j)(2) of the Act (Major Reconstruction of Obsolete Projects) (MROP) is not eligible for section 14 funding (CIAP or CGP).

(c) *Transition.* Any amount that HUD has obligated to a PHA under CIAP must be used for the purposes for which the funding was provided, or for purposes consistent with an approved action plan submitted by the PHA under the CGP, as the PHA determines to be appropriate.

24. Section 968.102 is amended by revising paragraphs (a), (b) introductory text, (b)(1), (b)(2)(ii) and (c) introductory text and (d), and by adding paragraph (e) to read as follows:

§ 968.102 Special requirements for Turnkey III developments.

(a) Promptly after HUD approval of the application, each Turnkey III homebuyer family shall execute an amendment to its Homebuyer Agreement, reflecting an increase in the purchase price of its home and an extension of the amortization period in accordance with paragraph (b) and (c) of this section, except for:

(1) Eligible homeownership costs, as set forth in §§ 968.210(c)(1) or 968.310(d)(1); and

(2) Substantial rehabilitation of a vacant or non-homebuyer occupied Turnkey III unit pursuant to §§ 968.210(c)(3) or 968.310(d)(3).

(b) For Turnkey III developments that have purchase price schedules:

(1) The amount of modernization cost attributable to the home, as shown in the HUD-approved application, shall be added to the homebuyer's purchase price as initially determined for Turnkey III developments.

(2) * * *

(ii) Be computed on the basis of the same interest rate as used for the current purchase price schedule.

* * * * *

(c) For Turnkey III developments that do not have purchase price schedules:

* * * * *

(d) Modernization work on any Turnkey III units that have been paid off, even though not conveyed, by the time the CIAP application of CGP annual statement is submitted is ineligible. However, modernization work on any Turnkey III units that have not been paid off at the time the CIAP application or the CGP annual statement is submitted and that is included in the application or annual statement is eligible even where the units are subsequently paid off before the work is completed.

(e) The homebuyer family must be in compliance with its financial obligations under its homebuyer agreement in order to be eligible for non-emergency physical improvements, with the exception of work necessary to meet statutory and regulatory requirements, (e.g., handicapped accessibility, lead-based paint testing, interim containment, professional risk assessment, and abatement) and the correction of development deficiencies. Notwithstanding the above requirement, a PHA may, with prior HUD Field Office approval, complete non-emergency physical improvements on any homeownership unit where the PHA demonstrates that, due to economies of scale or geographic constraints, substantial cost savings may be realized by completing all necessary work in a development at one time.

25. The definitions of homebuyer agreement, partnership process, and PHMAP are removed from § 968.305 and added in alphabetical order to § 968.105, and are revised to read as follows:

§ 968.105 Definitions.

* * * * *

Homebuyer agreement. A Turnkey III Homebuyer Ownership Opportunity Agreement.

* * * * *

Partnership process. A specific and ongoing process that is designed to ensure that residents, resident groups, and the PHA work in a cooperative and collaborative manner to develop, implement and monitor the CIAP or CGP. At a minimum, a PHA shall ensure that the partnership process incorporates full resident participation in each of the required program components.

* * * * *

PHMAP. The Public Housing Management Assessment Program (PHMAP) is a process designed to allow HUD and the PHA to identify PHA management capabilities and deficiencies, and to lead to overall better management of the public housing program, in accordance with 24 CFR part 901.

* * * * *

26. A new § 968.108 is added to read as follows:

§ 968.108 Displacement, relocation, and real property acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, PHAs must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(b) *Temporary relocation.* Residents who will not be required to move permanently, but who must relocate temporarily (e.g., to permit rehabilitation), shall be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary housing and any increase in monthly rent/utility costs; and

(2) Appropriate advisory services, including reasonable advance written notice of:

(i) The date and approximate duration of the temporary relocation;

(ii) The location of the suitable, decent, safe, and sanitary housing to be made available for the temporary period;

(iii) The terms and conditions under which the resident may lease and occupy a suitable, decent, safe, and sanitary dwelling in the building/complex following completion of the project; and

(iv) The provisions of paragraph (b)(1) of this section.

(c) *Relocation assistance for displaced persons.* A "displaced person" (defined in paragraph (g) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601–4655) and implementing regulations at 49 CFR part 24. A "displaced person" shall be advised of his/her rights under the Fair Housing Act (42 U.S.C. 3601–19), and, if the representative comparable replacement dwelling used to establish the amount of the replacement housing

payment to be provided to a minority person is located in an area of minority concentration, such person also shall be given, if possible, referrals to comparable and suitable, decent, safe, and sanitary replacement dwellings not located in such areas.

(d) *Real property acquisition requirements.* The acquisition of real property for a development is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(e) *Appeals.* A person who disagrees with the PHA's determination concerning whether the person qualifies as a "displaced person," or the amount of the relocation assistance for which the person is eligible, may file a written appeal of that determination with the PHA. A lower-income person who is dissatisfied with the PHA's determination on his or her appeal may submit a written request for review of that determination to the HUD Field Office.

(f) *Responsibility of PHA.* (1) The PHA shall certify that it will comply (i.e., provide assurance of compliance, as required by 49 CFR part 24) with the URA, the regulations at 49 CFR part 24, and the requirements of this section and shall ensure such compliance, notwithstanding any third party's contractual obligation to the PHA to comply with these provisions.

(2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs. Such costs also may be paid for with funds available from other sources.

(3) The PHA shall maintain records in sufficient detail to demonstrate compliance with these provisions. The PHA shall maintain data on the race, ethnic, gender, and handicap status of displaced persons.

(g) *Definition of displaced person.* (1) For purposes of this section, the term *displaced person* means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. This includes any permanent, involuntary move for an assisted project, including any permanent move from the building/complex that is made:

(i) On or after the date of the "initiation of negotiations" (defined in § 968.108(h)), if the person is the resident of a dwelling and any one of the following three situations occurs:

(A) The resident has not been provided, before the move, a written notice offering the resident the opportunity to lease and occupy a suitable, decent, safe, and sanitary dwelling in the same building/complex upon completion of the project under reasonable terms and conditions. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the total tenant payment, as determined under 24 CFR 913.107; or

(B) The resident is required to relocate temporarily, does not return to the building/complex, and either:

(*1*) The resident is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or

(*2*) Other conditions of the temporary relocation are not reasonable; or

(C) The resident is required to move to another dwelling unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable; or

(ii) Before the "initiation of negotiations," if the PHA or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the assisted project;

(2) Notwithstanding the provisions of paragraph (g)(1) of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if:

(i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation of applicable Federal, State or local law, or other good cause, and the PHA determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(ii) The person moved into the property after the submission of the Annual Statement (CGP) or application (CIAP) and, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., that the person may be displaced or temporarily relocated) and the fact that he or she would not qualify as a "displaced person" (or for assistance under this section) as a result of the project;

(iii) The person is ineligible under 49 CFR 24.2(g)(2); or

(iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(3) The PHA may ask HUD, at any time, to determine whether a displacement is or would be covered by this section.

(h) *Definition of initiation of negotiations.* For purposes of determining the formula for computing the replacement housing assistance to be provided to a resident who is displaced by rehabilitation or demolition, the term *initiation of negotiations* means 45 calendar days before (1) the issuance of the invitation for bids for the project or (2) the start of force account work, whichever is applicable.

(Approved by Office of Management and Budget under OMB Control Number 2506–0121)

27. Section 968.110 is amended by revising paragraph (a), removing and reserving paragraph (g), and reads as follows:

§ 968.110 Other program requirements.

* * * * *

(a) *Civil rights compliance.* The PHA shall comply with the Fair Housing Act and 24 CFR part 100; section 503 of the Rehabilitation Act of 1973 and 41 CFR chapter 60–471; section 504 of the Rehabilitation Act of 1973 and 24 CFR part 8; the Americans with Disabilities Act, Title II and 28 CFR part 35; Architectural Barriers Act and 24 CFR part 41; Title VI of the Civil Rights Act of 1964 and 24 CFR part 1; the Age Discrimination Act of 1975 and 24 CFR part 146; section 109 of the Housing and Community Development Act of 1974 and 24 CFR part 6; section 3 of the HUD Act of 1968, Executive Order 11063 and 24 CFR part 107; and Executive Order 11246, as amended by Executive Order 11375 and 41 CFR chapter 60.

* * * * *

28. The table of contents for part 968, subpart B is revised, to read as follows:

Subpart B—Comprehensive Improvement Assistance Program (For PHAs That Own or Operate Fewer Than 250 Units)

Sec.

968.201 Purpose.
968.205 Definitions.
968.210 Eligible costs.
968.215 Procedures for obtaining approval of a modernization program.
968.220 Resident and homebuyer participation.
968.225 Initiation of modernization activities.
968.230 Fund requisitions.
968.235 Contracting requirements.
968.240 On-site inspections.
968.245 Budget revisions.
968.250 Progress reports.
968.255 HUD review of PHA performance.
968.260 Fiscal closeout.

Subpart B—Comprehensive Improvement Assistance Program (For PHAs That Own or Operate Fewer Than 250 Units)

29. Section 968.201 is revised to read as follows:

§ 968.201 Purpose.

The purpose of this subpart is to set forth the policies and procedures for the CIAP under which PHAs that own or operate fewer than 250 units receive financial assistance for the modernization of public housing developments. Funding for this program is provided under section 5(c) of the Act, pursuant to section 14(k) of the Act (see § 968.103 for the formula allocation process for the aggregate of CIAP agencies under this subpart). Modernization assistance is to:

(a) Improve the physical condition and upgrade the management and operation of existing public housing developments;

(b) Assure that such developments continue to be available to serve low-income families;

(c) Assess the risks of lead-based paint poisoning through the use of professional risk assessments that include dust and soil sampling and laboratory analysis in all developments constructed before 1980 that are, or will be occupied by families; and

(d) Take effective interim measures to reduce and contain the risks of lead-based paint poisoning recommended in such professional risk assessments.

§ 968.203 [Removed]

30. Section 968.203 is removed.

31. Section 968.205 is revised to read as follows:

§ 968.205 Definitions.

In addition to the definitions in § 968.105, the following definitions apply to this subpart:

Emergency Modernization. A type of modernization program for a development that is limited to physical work items of an emergency nature, posing an immediate threat to the health or safety of residents or related to fire safety, which must be corrected within one year of CIAP funding approval.

Management capability. A PHA has management capability if it is:

(1) Not designated as Troubled under part 901, Public Housing Management Assessment Program (PHMAP) or

(2) Designated as Troubled, but has a reasonable prospect of acquiring management capability which may include CIAP-funded management improvements. A PHA may be considered for funding of non-emergency physical improvements where it is making reasonable progress toward meeting the performance targets established in its memorandum of agreement under § 901.140.

Modernization capability. A PHA has modernization capability if it is:

(1) Not designated as Modernization Troubled under 24 CFR Part 901, PHMAP, or

(2) Designated as Modernization Troubled, but has a reasonable prospect of acquiring modernization capability which may include CIAP-funded management improvements and administrative support. A PHA may be considered for funding of non-emergency physical improvements where it is making reasonable progress toward meeting the performance targets established in its memorandum of agreement under § 901.140. Where a PHA does not have a funded modernization program in progress, HUD will determine whether the PHA has a reasonable prospect of acquiring modernization capability through hiring staff or contracting for assistance.

Modernization program. A PHA's program for carrying out modernization, as set forth in the approved CIAP budget for modernization funds.

Modernization project. The improvement of one or more existing public housing developments under a new number designated for that modernization program (CIAP). For each modernization project, HUD and the PHA shall enter into an ACC amendment, requiring low-income use of the housing for not less than 20 years from the date of the ACC amendment (subject to sale of homeownership units in accordance with the terms of the ACC).

Other Modernization (modernization other than emergency). A type of modernization program for a development that includes one or more physical work items, where HUD determines that the physical improvements are necessary and sufficient to extend substantially the useful life of the development, and/or one or more management work items (including planning costs), and/or testing, professional risk assessments, interim containment, and abatement of lead-based paint.

Reasonable cost. Total unfunded hard cost needs for a development that do not exceed 90 percent of the computed total development cost limit for a new development with the same structure type and number and size of units in the market area.

Work item. Any separately identifiable unit of work constituting a part of a modernization program.

32. Sections 968.210 through 968.235 is revised to read as follows:

§ 968.210 Eligible costs.

(a) *Demonstration of viability.* Except in the case of emergency work, a PHA shall only expend funds on a development for which the PHA has determined, and HUD agrees, that the completion of the improvements and replacements will reasonably ensure the long-term physical and social viability of the development at a reasonable cost, as defined in § 968.205.

(b) *Physical improvements.* Eligible costs include alterations, betterments, non-dwelling additions, replacements, and non-routine maintenance that are necessary to meet the modernization and energy conservation standards prescribed in § 968.115. The modernization standards include mandatory and development specific work. The mandatory standards may be exceeded only when the PHA and HUD determine that it is necessary or highly desirable for the long-term physical and social viability of the individual development. If demolition or disposition is proposed, a PHA shall comply with 24 CFR part 970.

(c) *Turnkey III developments*—(1) *General.* Eligible physical improvement costs for existing Turnkey III developments are limited to work items under Emergency Modernization or Other Modernization which are not the responsibility of the homebuyer families, and which are related to health and safety, correction of development deficiencies, physical accessibility, energy audits and cost-effective energy conservation measures, or lead-based paint testing, interim containment, professional risk assessment and abatement. In addition, eligible costs include management improvements under the modernization type of Other Modernization. The cost of non-emergency health and safety work items shall increase the purchase price and amortization period for homebuyer families; other eligible costs shall not increase the purchase price and amortization period.

(2) *Ineligible costs.* Nonroutine maintenance or replacements, dwelling additions, and items that are the responsibility of the homebuyer families are ineligible costs.

(3) *Exception for vacant or non-homebuyer-occupied Turnkey III units.*

(i) Notwithstanding the requirements of paragraph (c)(1) of this section, a PHA may carry out Other Modernization in a Turnkey III development, whenever a Turnkey III unit becomes vacant or is occupied by a non-homebuyer family. A PHA that intends to use funds under

this paragraph must identify in its CIAP application, the estimated number of units proposed for Other Modernization and subsequent sale. In addition, a PHA must certify that: the proposed modernization under this paragraph would result in bringing the identified units into full compliance with the homeownership objectives under the Turnkey III Program (see 24 CFR part 904); and the PHA has homebuyers who are both eligible for homeownership, in accordance with the requirements of 24 CFR part 904, and who have demonstrated their intent to be placed into each of the Turnkey III units proposed for Other Modernization.

(ii) Before a PHA may be approved for Other Modernization of a unit under this paragraph, it must first deplete any Earned Home Payments Account (EHPA) or Non-Routine Maintenance Reserve (NRMR) pertaining to the unit, and request the maximum amount of operating subsidy. Any increase in the value of a unit caused by its Other Modernization under this paragraph shall be reflected solely by its subsequent appraised value, and not by an automatic increase in its purchase price.

(d) *Demolition and conversion costs.* Eligible costs include:

(1) Demolition of dwelling units or non-dwelling facilities, where the demolition is approved by HUD under 24 CFR part 970, and related costs, such as clearing and grading the site after demolition and subsequent site improvement to benefit the remaining portion of the existing development; and

(2) Conversion of existing dwelling units to different bedroom sizes or to non-dwelling use.

(e) *Management improvement costs.* (1) General. Management improvements that are development-specific or PHA-wide in nature are eligible costs where needed to upgrade the operation of the PHA's developments, sustain physical improvements at those developments or correct management deficiencies. Management improvements and planning costs may be funded as a single modernization project.

(2) Ineligible costs. A PHA's ongoing operating expenses, including direct provision of social services through either contract or force account labor, are ineligible management improvement costs. In addition, where an approved modernization program includes management improvements which involve ongoing costs, HUD is not obligated to provide continued funding or additional operating subsidy after the end of the implementation period of the management improvements. A PHA is responsible for finding other funding sources, reducing its ongoing management costs, or terminating the management activities.

(3) Eligible costs. Eligible costs include:

(i) General management costs. Eligible general management costs include, but are not limited to: management, financial, and accounting control systems of the PHA, rent collection and maintenance.

(ii) Economic development costs. Economic development activities, such as job training, resident employment and contracting with resident businesses, for the purpose of carrying out activities related to the eligible management and physical improvements are eligible costs, as approved by HUD. HUD encourages PHAs, to the greatest extent feasible, to hire residents as trainees, apprentices, or employees to carry out the modernization program under this subpart, and to contract with resident-owned businesses for modernization work.

(iii) Resident management costs. Technical assistance to a resident council or resident management corporation (RMC), as defined in § 964.7 of this chapter, in order to determine the feasibility of the resident management entity or assist in its formation is an eligible cost.

(iv) Resident homeownership costs. The study of the feasibility of converting rental to homeownership units, as well as the preparation of an application for conversion to homeownership, is an eligible cost.

(f) *Drug elimination costs.* Drug elimination activities involving management or physical improvements are eligible costs, as specified by HUD.

(g) *Administrative costs.* Administrative costs necessary for the planning (planning costs can be funded as a single modernization project), design, implementation and monitoring of the physical and management improvements are eligible costs and include the following:

(1) The salaries of nontechnical and technical PHA personnel assigned full-time or part-time to modernization are eligible costs only where the scope and volume of the work are beyond that which could be reasonably expected to be accomplished by such personnel in the performance of their non-modernization duties. A PHA shall properly apportion to the appropriate program budget any direct charges for the salaries of assigned full- or part-time staff (*e.g.*, to the CIAP or operating budget);

(2) PHA contributions to employee benefit plans on behalf of nontechnical and technical PHA personnel are eligible costs in direct proportion to the amount of salary charged to the CIAP; and

(3) Other administrative costs, such as telephone and facsimile, as specified by HUD.

(h) *Architectural/engineering and consultant fees.* Fees for planning, preparation of needs assessments and other required documents, detailed design work, assistance in the preparation of construction and bid documents, lead-based paint professional risk assessments and testing are eligible costs.

(i) *Relocation costs.* Relocation and other assistance for permanent and temporary relocation are eligible costs, where this assistance is required by § 968.108.

(j) *Cost limitations.* (1) Management improvements. Management improvement costs shall not exceed 10 percent of CIAP funds available to a HUD Regional Office in a particular FFY.

(2) Planning costs. Planning costs are costs incurred before HUD approval of the CIAP application and which are related to developing the CIAP application or carrying out eligible modernization planning, such as detailed design work, preparation of solicitations, and lead-based paint professional risk assessment and testing. Planning costs may be funded as a single modernization project. If a PHA incurs planning costs without prior HUD approval, a PHA does so with the full understanding that the costs may not be reimbursed upon approval of the CIAP application. Planning costs shall not exceed 5 percent of the CIAP funds available to a HUD regional office in a particular FFY.

(3) Program benefit. Where the physical or management improvement will benefit programs other than Public Housing, such as Section 8 or local renewal, eligible costs are limited to the amount directly attributable to the Public Housing Program.

(k) *Ineligible costs.* A PHA shall not make luxury improvements, or carry out any other ineligible activities, as specified by HUD.

§ 968.215 Procedures for obtaining approval of a modernization program.

(a) *HUD notification.* After modernization funds for a particular FFY become available, HUD shall publish in the **Federal Register** a notice of funding availability (NOFA) and the time frame for submission of applications.

(b) *PHA consultation with local officials and residents/homebuyers.* A PHA shall develop the application in consultation with local officials and residents and homebuyers, as set forth in § 968.220.

(c) *PHA application.* A PHA shall submit to HUD an application, in a form prescribed by HUD, which shall include:

(1) A general description of PHA development(s) (including the current physical condition, for each development for which the PHA is requesting funds, or for all the PHA's developments) and physical and management improvement needs (to meet the Secretary's standards in § 968.115), general description of major work categories (*e.g.*, kitchens, bathrooms) required to correct identified deficiencies and estimated costs, including a statement concerning consultation with local officials and residents and viability of the development(s). The application will also identify a cost estimate for the equipment systems or structural elements which would normally be replaced over the remaining period of the annual contributions contract or during the 30-year period beginning on the date of submission of the application.

(2) For management improvements, the application must identify the following:

(i) the management, financial, and accounting control systems of the PHA;

(ii) the adequacy and qualifications of personnel employed by such PHA (in the management and operation of such developments) for each category of employment; and

(iii) the adequacy and efficacy of resident programs and services in such developments, the security of each such development and its residents, policies and procedures of the PHA for the selection and eviction of residents in such developments, and other policies and procedures of such PHA relating to such developments, as specified by the Secretary; and

(3) Any other documents, as may be required by HUD.

(d) *Completeness Review.* To be eligible for selection, an application must be received by the Field Office within the time period specified in the NOFA and must be complete. In order to determine whether an application is complete, responsive to the NOFA and acceptable for technical processing, the Field Office shall perform an initial completeness review upon receipt of the application. To make the above determination, the Field Office shall use the following criteria:

(1) The application was received by HUD at the appropriate address by the date and time specified in the NOFA and was complete and responsive (excluding exhibits which are certifications); or

(2) If an application is determined to be incomplete or to have missing certifications, the PHA shall be advised in writing of any deficiencies or any inconsistencies. The missing information is to be submitted within a specified period of time from the date of HUD's written notification. This is not additional time to substantially revise the application. Deficiencies which may be corrected at this time are inadvertently omitted documents or clarifications of previously submitted material and other changes which are not of such a nature as to improve the competitive position of the application. The PHA must acceptably correct deficiencies (including furnishing missing certifications) within the time specified in the NOFA.

(e) *Eligibility review.* (1) Eligibility for processing. To be eligible for processing:

(i) Based on the general description of its developments' conditions and general statement of physical and management improvement needs, and the Field Office's knowledge of the development's conditions, the work items, particularly emergency work items, must appear to be eligible and needed;

(ii) Each development for which work is proposed must be at least three years old from the end of initial operating period (EIOP); and

(iii) The PHA has submitted the fiscal audit to the Regional Inspector General for Audit within one year after the end of the audit period, or has been granted an extension for submission, in conformance with the Single Audit Act requirements.

(2) Eligibility for processing on reduced scope. When the following condition exist, the PHA will be reviewed on a reduced scope:

(i) Where the PHA owes funds to the Department as a result of excess development, modernization or operating funds previously provided and the PHA has not repaid the funds, or has not entered into a repayment agreement, or is not meeting its obligations under a repayment agreement, the PHA is eligible for processing for Emergency Modernization only.

(ii) Where the PHA has not complied with Fair Housing and Equal Opportunity (FHEO) requirements set forth in § 968.110(a), as evidenced by an action, finding or determination as described in (A)–(E) below, unless the PHA is implementing a voluntary compliance agreement or settlement agreement designed to correct the area(s) of noncompliance, the PHA is eligible for processing only for Emergency Modernization or for work needed to remedy civil rights deficiencies.

(A) A pending proceeding against the PHA based upon a Charge of Discrimination issued under the Fair Housing Act. A Charge of Discrimination is a charge under section 810(g)(2) of the Fair Housing Act, issued by the Department's General Counsel or legally authorized designee;

(B) A pending civil rights suit against the PHA, referred by the Department's General Counsel and instituted by the Department of Justice;

(C) Outstanding HUD findings of PHA noncompliance with civil rights statutes and executive orders under § 968.110(a), or implementing regulations, as a result of formal administrative proceedings, unless the PHA is implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the area(s) of noncompliance;

(D) A deferral of the processing of applications from the PHA imposed by HUD under Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3) and the HUD Title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1), or under Section 504 of the Rehabilitation Act of 1973 and HUD implementing regulations (24 CFR 8.57); or

(E) An adjudication of a violation under any of the authorities under § 968.110(a) in a civil action filed against the PHA by a private individual, unless the PHA is implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the area(s) of noncompliance.

(3) FHEO Division Review. The processing office shall request the appropriate FHEO Division of the Field or Regional Office to identify any PHAs with equal opportunity-related problems. After consulting with Regional FHEO, as appropriate, and reviewing its own files, the FHEO Division shall identify each PHA by the following categories and provide any other relevant information within the requested time frame:

(i) There are no known equal opportunity-related problems;

(ii) There are known equal opportunity-related problems, as identified; or

(iii) There are circumstances as set forth in paragraph (e)(2) of this section.

(f) *Technical processing.* When an application is determined to be complete and responsive to the NOFA and eligible for processing, technical processing, consisting of the following, shall be accomplished:

(1) The Field Office shall categorize the eligible PHAs and their developments into two processing groups: Group 1 for Emergency Modernization; and Group 2 for Other Modernization. PHA developments may be included in both groups and the same development may be in each group. The PHA only needs to submit one application which includes needs which the Field Office will process under Group 1 or Group 2. However, the PHA can submit Emergency Modernization applications whenever needed. Group 2 developments are subject to the long-term viability and reasonable cost analysis. Preference will be given to PHAs which request assistance for developments having conditions which threaten the health or safety of the residents or having a significant number of vacant, substandard units; and which have demonstrated a capability of carrying out the activities proposed. Within Group 2, the Secretary may give priority to compliance with statutory, regulatory or court-ordered deadlines.

(2) The Field Office will evaluate the Group 2 PHAs and developments to determine eligibility and acceptability based on the technical review factors in paragraph (g) of this section. Based on these factors, the Field Office shall determine the applications which, in its judgment, are approvable. Selections then shall be made in accordance with paragraph (h) of this section.

(g) *Technical review factors.* The technical review factors for assistance include:

(1) extent and urgency of need, including need to comply with statutory, regulatory or court-ordered deadlines;

(2) extent of vacancies;

(3) PHA's modernization capability;

(4) PHA's management capability;

(5) degree of resident involvement in PHA operations;

(6) degree of PHA activity in resident initiatives, including resident management, economic development, and drug elimination efforts;

(7) degree of resident employment;

(8) local government support for proposed modernization; and

(9) such additional factors as the Secretary determines necessary and appropriate.

(h) *Rating and ranking.* The Field Office shall rate and rank each application in Group 2 on the basis of its assessment of the application using the technical review factors set forth in paragraph (g) of this section and in the NOFA. The Regional Office shall consider geographical diversity, capability of the PHAs to administer the CIAP and Field Office recommendations to establish funding targets for each Field Office. The Field Office shall then identify for joint review selection the highest PHA ranking applications in Group 2 in descending order and other Group 2 HAs with lower ranking applications but with high priority needs, which most reasonably approximate the amount of modernization which can be funded. High priority needs are non-emergency needs, but related to: health or safety; vacant, substandard units; structural or system integrity; or compliance with statutory, regulatory or court-ordered deadlines. All Group 1 applications would be automatically selected for joint review.

(i) *Joint review.* HUD shall notify each PHA whose application has been selected for further processing as to whether the joint review will be conducted on-site or off-site (*e.g.*, by telephone or in-office meeting). The purpose of the joint review is to discuss the proposed modernization program, as set forth in the application, and determine the size of the grant, if any, to be awarded. Where the PHA has not included all its developments in the CIAP application, HUD may not, as a result of joint review, consider funding any non-emergency work at excluded developments or subsequently approve use of leftover funds at excluded developments. A PHA will not be selected for joint review if it has residual receipts to carry out the modernization activities for which it is applying or if there is a duplication of funding. A PHA shall prepare for the joint review by preparing a draft CIAP budget, and reviewing the other items to be covered during the joint review, as prescribed by HUD. If conducted on-site, the joint review may include an inspection of the proposed physical work. PHAs not selected for joint review will be advised in writing of the reasons for nonselection.

(j) *HUD awards.* Upon completion of the joint review, HUD shall adjust the amounts to be awarded, as necessary, based on information obtained at Joint Review, including the information received as a result of the FHEO review and completion of the environmental review, and announce the PHAs selected for CIAP grants (subject to their submission of an approvable CIAP budget and any other required documents). HUD would request the funded PHA to submit a CIAP budget, including an implementation schedule, a resolution by the PHA Board of Commissioners (approving the CIAP budget and containing certifications required by HUD), and any other necessary documents.

(k) *ACC amendment.* After HUD approval of the CIAP budget, HUD and the PHA shall enter into an ACC amendment in order for the PHA to requisition modernization funds. The ACC amendment shall require low-income use of the housing for not less than 20 years from the date of the ACC amendment (subject to sale of homeownership units in accordance with the terms of the ACC). HUD has the authority to condition an ACC amendment (*e.g.*, to require a PHA to hire a modernization coordinator or contract administrator to administer its modernization program).

(l) *Declaration of trust.* A PHA shall execute and file for record a Declaration of Trust as provided under the ACC to protect the rights and interests of HUD throughout the 20-year period during which the PHA is obligated to operate its developments in accordance with the ACC, the Act, and HUD regulations and requirements.

(Approved by the Office of Management and Budget under control number 2577–0044)

§ 968.220 Resident and homebuyer participation.

(a) *Resident participation.* For a rental development only, the PHA shall establish a Partnership Process, as defined in § 968.105, to develop, implement and monitor the CIAP. Before submission of the application, a PHA shall consult with the residents, the resident organization or the RMC (see part 964, subpart C of this chapter) of the development being proposed for modernization, regarding its intent to submit an application for CIAP funds. A PHA shall give residents a reasonable opportunity to present their views on the proposed modernization program and alternatives to it, and give full and serious consideration to resident recommendations. A PHA shall respond in writing to the residents, the resident organization or the RMC, indicating its acceptance or rejection of resident recommendations, consistent with HUD requirements and the PHA's own determination of efficiency, economy, and need. After HUD approval of the modernization program, a PHA shall inform the residents, the resident organization or the RMC of the approved work items and its progress during implementation. Where HUD does not approve the modernization program, a PHA shall so inform the

residents, the resident organization or the RMC.

(b) *Homebuyer participation.* (1) For a homeownership development only, before submission of the application, a PHA shall consult with the homebuyer families of the development being proposed for modernization regarding its intent to submit an application for modernization funds and advising them of the effect of the proposed modernization on the terms of the homebuyer agreements. A PHA shall give the homebuyer families a reasonable opportunity to present their views on the proposed modernization program and alternatives to it, and give full and serious consideration to their recommendations. A PHA shall respond in writing to the homebuyer families, indicating its acceptance or rejection of homebuyer families' recommendations, consistent with HUD requirements and the PHA's own determination of efficiency, economy, and need. After HUD approval of the modernization program, a PHA shall inform the homebuyer families of the approved work items and its progress during implementation. Where HUD does not approve the modernization program, a PHA shall so inform the homebuyer families.

(c) *Turnkey III developments.* (1) A PHA shall inform each homebuyer family that:

(i) It will have an opportunity to express its views and preferences with respect to the modernization of its home;

(ii) The purchase price and amortization period will be increased as provided in § 968.102;

(iii) It will have an opportunity to participate in the final inspection of the work to determine completion in accordance with the requirements; and

(iv) Participation in the program is optional.

(2) A PHA shall provide each homebuyer family with a copy of the PHA's evaluation of its recommendations, the tentative decisions reached on the modernization program, the estimated cost of the proposed modernization program, and the amount of the cost to be attributed to its home.

(3) If the homebuyer family decides to participate in the modernization program with respect to any of the proposed work items, it must agree in writing that its homebuyer agreement will be amended upon approval of the application to provide that, as a result of the amount of modernization cost attributed to its home, the purchase price and amortization period will be increased as provided in § 968.102.

(4) Any homebuyer family may decline to participate without risk to its homebuyer status.

(5) The provisions of this paragraph (c) of this section do not apply where modernization work will not increase the purchase price or amortization period of the home.

(Approved by the Office of Management and Budget under control number 2577–0044)

§ 968.225 Initiation of modernization activities.

After HUD has approved the modernization program and entered into an ACC amendment with the PHA, a PHA shall undertake the modernization activities and expenditures set forth in its approved CIAP budget in a timely, efficient and economical manner, subject to the following requirements:

(a) A PHA may undertake the activities using force account labor, only where specifically approved by HUD in the CIAP budget; and

(b) A PHA shall ensure that there is no duplication between the activities carried out with modernization funds and the activities carried out with other funds.

§ 968.230 Fund requisitions.

A PHA shall requisition modernization funds against the approved CIAP budget in accordance with procedures prescribed by HUD.

§ 968.235 Contracting requirements.

A PHA shall comply with the prevailing wage rate requirements in §§ 968.110 (e) and (f), and 968.120. In addition, a PHA shall comply with State and local laws and Federal requirements, as set forth in 24 CFR part 85, except as follows:

(a) *Architect/engineer and other professional services contracts.* Notwithstanding 24 CFR 85.36(g), a PHA shall comply with HUD requirements to either:

(1) Where the proposed contract amount exceeds the HUD-established threshold, submit the contract for prior HUD approval before execution or issuance; or

(2) Where the proposed contract amount does not exceed the HUD-established threshold, certify that the scope of work is consistent with any agreements reached with HUD, and that the amount is appropriate and does not exceed the HUD-approved CIAP budget amount.

(b) *Assurance of completion.* For each construction contract over $25,000, the contractor shall furnish a performance and payment bond for 100 percent of the contract price or, notwithstanding 24 CFR 85.36(h), a twenty percent cash escrow, or a twenty-five percent letter of credit or, as may be required by law, separate performance and payment bonds, each for fifty percent or more of the contract price.

(c) *Construction solicitations.* Notwithstanding 24 CFR 85.36(g), a PHA shall comply with HUD requirements to either:

(1) Where the estimated contract amount exceeds the HUD-established threshold, submit a complete construction solicitation for prior HUD approval before issuance; or

(2) Where the estimated contract amount does not exceed the HUD-established threshold, certify receipt of the required architect's/engineer's certification that the construction documents accurately reflect HUD-approved work and meet the modernization and energy conservation standards and that the construction solicitation is complete and includes all mandatory items.

(d) *Contract awards.* A PHA shall obtain HUD approval of the proposed award of a contract if the award exceeds the HUD-approved CIAP budget amount or if the procurement meets the criteria set forth in 24 CFR 85.36(g)(2) (i) through (iv). In all other instances, a PHA shall make the award without HUD approval after the PHA has certified that:

(1) The solicitation and award procedures were conducted in compliance with State or local laws and Federal requirements;

(2) The award does not exceed the approved CIAP budget amount and does not meet the criteria in 24 CFR 85.36(g)(2)(i) through (iv) for prior HUD approval;

(3) The contractor is not on the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs; and

(4) Where required, HUD clearance has been obtained for the award under previous participation procedures under paragraph (g) of this section.

(e) *Contract modifications.* Notwithstanding 24 CFR 85.36(g), except in an emergency endangering life or property, a PHA shall comply with HUD requirements to either:

(1) Where the proposed contract modification exceeds the HUD-established threshold, submit the proposed modification for prior HUD approval before issuance; or

(2) Where the proposed contract modification does not exceed the HUD-established threshold, certify that the proposed modification is within the scope of the contract and that any additional costs are within the latest

HUD-approved CIAP budget or otherwise approved by HUD.

(f) *Construction requirements.* A PHA may be required to submit to HUD periodic progress reports and construction completion documents for prior HUD approval above a HUD-specified amount.

(g) *Previous participation.* A PHA shall obtain HUD clearance under previous participation procedures for contract awards over a HUD-specified amount, which shall include verification that the contractor is not included on the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.

(h) *Contracting with resident-owned businesses.* A PHA may use an alternative procurement process when contracting with businesses owned in substantial part by public housing residents, as set forth in 24 CFR part 963.

(Approved by the Office of Management and Budget under control number 2577–0044)

§ 968.236 [Removed]

33. Section 968.236 is removed.

34. Sections 968.240 through 968.245 are revised to read as follows:

§ 968.240 On-site inspections.

It is the responsibility of the PHA, not HUD, to provide, by contract or otherwise, adequate and competent supervisory and inspection personnel during modernization, whether work is performed by contract or force account labor and with or without the services of an architect/engineer, to ensure work quality and progress.

§ 968.245 Budget revisions.

A PHA shall not incur any modernization cost in excess of the total HUD-approved CIAP budget. A PHA shall submit a budget revision, in a form prescribed by HUD, if the PHA plans (within the total HUD-approved CIAP budget) to incur modernization costs in excess of the HUD-approved CIAP budget amount for any development. A PHA also shall comply with HUD requirements to either:

(a) Submit the proposed CIAP budget revision for prior HUD approval if a PHA plans to delete or substantially revise approved work items, add new work items, or incur modernization costs in excess of the HUD-established threshold; or

(b) Certify that the revisions are necessary to carry out the approved work and do not result in the approved CIAP budget amount for any development being exceeded.

(Approved by the Office of Management and Budget under control number 2577–0044)

§ 968.246 [Removed]

35. Section 968.246 is removed.

36. Section 968.250 is revised to read as follows:

§ 968.250 Progress reports.

For each six-month period, beginning October 1, until completion of the modernization program or expenditure of all funds, a PHA shall submit a report, in a form prescribed by HUD, to the HUD Field Office. Where HUD determines that a PHA is having implementation problems, HUD may require more frequent reporting. The report shall include:

(a) Modernization fund obligations and expenditures and progress against the approved implementation schedule(s); and

(b) Management improvement progress, where applicable.

(Approved by the Office of Management and Budget under control number 2577–0044)

§ 968.251 [Removed]

37. Section 968.251 is removed.

38. Section 968.255 is revised to read as follows:

§ 968.255 HUD review of PHA performance.

HUD shall periodically review PHA performance in carrying out its approved modernization program to determine compliance with HUD requirements, the quality of a PHA's inspections as evidenced by the quality of the work, and the timeliness of the work. Where deficiencies are noted, a PHA shall take corrective action, as directed by HUD.

39. Section 968.260 is added, to read as follows:

§ 968.260 Fiscal closeout.

Upon completion or termination of a modernization program, a PHA shall submit the actual modernization cost certificate, in a form prescribed by HUD, to HUD for review, audit verification, and approval. A PHA shall immediately remit any excess funds provided by HUD. The audit shall follow the guidelines prescribed in 24 CFR part 44, Non-Federal Government Audit Requirements. If the audited modernization cost certificate indicates that there are still excess funds, a PHA shall immediately remit the excess funds as directed by HUD. If the audited cost certificate discloses unauthorized or ineligible expenditures, a PHA shall take such corrective actions as HUD may direct.

(Approval by the Office of Management and Budget under control number 2577–0044)

40. Section 968.310(d)(3)(ii) and (l) in subpart C is revised to read as follows:

§ 968.310 Eligible costs.

* * * * *

(d) *Costs for Turnkey III developments.* * * *

(3) *Exception for vacant or non-homebuyer-occupied Turnkey III units.* * * *

(ii) Before a PHA may be approved for the substantial rehabilitation of a unit under this paragraph, it must first deplete any Earned Home Payments Account (EHPA) or Non-Routine Maintenance Reserve (NRMR) pertaining to the unit, and request the maximum amount of operating subsidy. Any increase in the value caused by its substantial rehabilitation under this paragraph shall be reflected solely by its subsequent appraised value, and not by an automatic increase in its purchase price;

* * * * *

(l) *Relocation costs.* Relocation and other relocation assistance for permanent and temporary relocation are eligible costs, where this assistance is required by § 968.108.

* * * * *

Dated: March 5, 1993.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 93–5495 Filed 3–12–93; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-93-3577; FR-3427-N-01]

Notice of Funding Availability (NOFA) for Comprehensive Improvement Assistant Program (CIAP)

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

SUMMARY: This Notice informs Public Housing Agencies and Indian Housing Authorities (herein referred to as Has) that own or operate fewer than 250 units (and therefore are eligible to apply and compete for CIAP funds) of the availability for FY 1993 CIAP funding. Has with 250 or more units are entitled to receive a formula grant under the Comprehensive Grant Program (CGP) and are not eligible to apply for CIAP funds. This Notice contains information on the following:

(a) The purpose of the NOFA, and information regarding available amounts, eligibility, modernization types and processing groups, and selection criteria/ranking factors;

(b) Application processing, including how to apply and how selections will be made; and

(c) A summary of steps involved in the application process.

DATES: Applications are due on or before 3 p.m. local time on May 14, 1993 at the HUD Field Office with jurisdiction over the Public Housing Agency or Indian Housing Authority—Attention: Director, Public (or Indian) Housing Division.

FOR FURTHER INFORMATION CONTACT: Janice D. Rattley, Office of Construction, Rehabilitation and Maintenance, Department of Housing and Urban Development, 451 Seventh Street, SW., room 4138, Washington, DC 20410. Telephone (202) 708–1800. Hearing or speech-impaired persons may call HUD's TDD number, (202) 708–0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The collection of information requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1989 and have been assigned OMB control number 2577–0044.

I. Purpose and Substantive Description

(a) *Authority.* Sec. 14, United States Housing Act of 1937 (42 U.S.C. 14371); Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). An interim rule revising the CIAP regulation, 24 CFR Part 968, Subparts A and B, for PHAs and 24 CFR Part 905, Subpart I, for IHAs, and streamlining the program has been published.

(b) *Major Changes.* The CIAP has been streamlined to make it easier for smaller HAs to participate in the program and to give smaller HAs the same flexibility as CGP agencies. The CIAP Application has been simplified, the processing groups have been reduced to two (Group 1 and Group 2), and the modernization types have been reduced to two (Emergency and Other). Under the modernization type of "Other", the HA may apply for, and HUD may fund, a variety of need, ranging from a single physical or management work item to complete rehabilitation.

(c) *Allocation Amounts.* (1) *Total Available.* The FY 1993 HUD Appropriations Act Public Law 102–389, enacted October 6, 1992, made available $3,100,000,000 of budget authority for both the CIAP and CGP in the Annual Contributions Account. However, the Modernization program funding will be reduced by $49,735,379 to $3,050,264,621 resulting from the program's prorated share of the $236.3 million that is estimated to be recaptured to make up the full amount of the appropriation for the Annual Contributions Account during FY 1993. As the recaptures are realized, the individual categories within the account, such as the Modernization program, will be increased accordingly as provided in the Appropriations Act. Within the Modernization program, the following will be increased on a pro rata basis: Vacancy Reduction Program; Choice in Management; Inspection and Technical Assistance; Resident Management Technical Assistance; Comprehensive Grant Program; and Comprehensive Improvement Assistance Program. Subject to final Congressional action, the amount of funds available for the modernization program in FY 1993 is $3,143,582,564 ($3,050,264,621 plus $93,317,943 in carry-overs from FY 1992).

The $93,317,943 in carry-overs from FY 1992 are:

(a) $75,000,000 from the national reserve for emergencies and natural disasters under the CGP;

(b) $14,797,634 from the Lead-Based Paint (LBP) risk assessment set-aside, established in FY 1992;

(c) $1,986,290 from the CGP allocation due to one HA not applying and one HA not being approved;

(d) $971,983 from the set-aside for the indemnification of three PHAs (Albany, New York; Cambridge, Massachusetts; and Omaha, Nebraska) that are participating in the LBP Abatement Demonstration. The FY 1991 Appropriations Act extended the availability of these funds appropriated in FY 1990 from October 1, 1991 to October 1, 1998;

(e) $471,350 from the set-aside for resident homeownership technical assistance under Section 21(a)(2)(B) of the Act;

(f) $88,461 from the set-aside for resident management technical assistance and training under Section 20 of the Act; and

(g) $2,225 from the CIAP allocation.

The following set-asides have been established and will be implemented through separate NOFAs or Requests for Proposals, except where noted:

(a) $122,007,145 for the Vacancy Reduction Program;

(b) $75,000,000 for the statutorily required reserve for modernization needs resulting from natural and other disasters and from emergencies. This reserve is available only to CGP agencies and no NOFA will be issued;

(c) $49,196,429 for Choice in Management;

(d) $14,797,634 for LBP Risk Assessment, which will be made available to all HAs based on a competitive process;

(e) $10,331,250 for inspection of modernization units and provision of management and technical assistance for Troubled HAs;

(f) $5,000,000 for litigation; no NOFA will be issued;

(g) $4,762,122 for Resident Management technical assistance and training under Section 20 of the Act;

(h) $1,986,290 in FY 1992 carry-over from the CGP allocation, which may be used only for CGP;

(i) $971,983 for the indemnification of three PHAs (Albany, New York; Cambridge, Massachusetts; and Omaha, Nebraska) that are participating in the LBP Abatement Demonstration. No NOFA will be issued; and

(j) $351,230 for the LBP Abatement Demonstration. No NOFA will be issued.

The $2,859,178,481 balance is allocated as follows:

(a) The $2,859,178,481 balance is allocated between CIAP and CGP agencies based on the relative shares of backlog needs (weighted at 50%) and accrual needs (weighted at 50%). This allocation results in CIAP agencies receiving 11.25% or $321,626,128 and CGP agencies receiving 88.75% or $2,537,552,353 of the funds available.

(b) The $321,626,128 available to CIAP agencies is allocated between Public Housing at 93.59% or $301,009,893, and Indian Housing at 6.41% or $20,616,235.

(c) The following chart shows the total available amount minus all of the set-asides:

Original Appropriation	$3,100,000,000
Minus Adjustment to the Appropriation (see paragraph (c)(1) of this section) 502	49,735,379
Total	3,050,264,621
Plus Carry-over from FY 1992	93,317,943
Adjusted Total Appropriation for FY 1993	3,143,582,564
Set-Asides:	
Vacancy Reduction Program	122,007,145
CGP Emergency and Natural Disaster Reserve	75,000,000
Choice-in-Management	49,196,429
LBP Risk Assessment	14,797,634
Inspection and Technical Assistance	10,331,250
Litigation	5,000,000
Resident Management Technical Assistance	4,762,122
CGP Allocation from CGP Carry-Over	1,986,290
LBP Indemnification	971,983
LBP Abatement Demonstration	351,230
Total Set-Asides	284,404,083
Adjusted Total Appropriation for FY 1993	
Minus Set-Asides	2,859,178,481
CGP Allocation	2,537,552,353
CIAP Allocation	321,626,128

(2) *Assignment of Funds to Regional Offices.* FY 1993 CIAP funds will be assigned to the HUD Regional Offices based on relative shares of backlog and accrual need for CIAP agencies, as determined by field inspections conducted for the HUD-funded ABT study of modernization needs.

(i) *Backlog needs* are needed repairs and replacements of existing physical systems, items that must be added to meet the HUD modernization and energy conservation standards and State or local codes, and items that are necessary for the long-term viability of a specific housing development.

(ii) *Accrual needs* are needs that arise over time and include needed repairs and replacements of existing physical systems and items that must be added to meet the HUD modernization and energy conservation standards and State or local codes.

(3) *Subassignment of Funds to Non-Indian Field Offices.* In assigning funds to each Regional Office, Headquarters will not designate an amount to be subassigned to each non-Indian Field Office. Before Joint Review selections, the Field Office will consult with the Regional Office concerning the total dollar amount of its applications eligible for further processing. The Regional Office will determine the Joint Review funding target for each non-Indian Field Office by considering Field Office recommendations, PHA capability to administer the modernization, and the need for geographic diversity within the Region. After all Joint Reviews have been completed, the Field Office will consult with the Regional Office concerning the total dollar amount of its fundable applications. The Regional Office will subassign the CIAP funds to each Field Office based on its relative shares of modernization need, approvable applications, and PHA capability to carry out the modernization.

(i) The Field Office Manager or, in co-located offices, the Regional Public Housing Director, shall have authority to make Joint Review selections and CIAP funding approvals.

(ii) If additional funds for Public Housing CIAP become available, as set forth in paragraph (c)(1) of this section, Headquarters will allocate the funds to one or more Regional Offices based on their relative shares of modernization need, approvable applications, and PHA capability to carry out the modernization.

(iii) If a Regional Office does not receive sufficient fundable applications to use its allocation, Headquarters will reallocate the remaining funds to one or more Regional Offices based on approvable applications and PHA capability to carry out the modernization.

The following table shows the distribution of CIAP funds for PHAs, excluding IHAs, assigned by Headquarters to the Regional Offices as percentages of the total $301,009,893 available for Public Housing:

Region	Percent of public housing funds
Boston	6.4503
New York	6.2577
Philadelphia	4.5635
Atlanta	26.1436
Chicago	17.4109
Ft. Worth	20.8528
Kansas City	9.0812
Denver	3.4633
San Francisco	3.4003
Seattle	2.3765
Total	100.0000

(4) *Subassignment of Funds to Indian Field Offices.* In assigning funds to the appropriate Regional Office, Headquarters will designate an amount to be subassigned to the Field Office of Indian Program (OIP), covering Indian Housing and any Public Housing owned and operated by IHAs. Since each OIP

is subassigned funds directly, without competition with non-Indian Field Offices, the OIP has no pre-Joint Review funding target.

(i) The OIP Director shall have authority to make Joint Review selections and CIAP funding approvals.

(ii) If additional funds for Indian Housing CIAP become available, Headquarters will allocate the funds to one or more Field OIPs based on their relative shares of modernization need, approvable applications, and IHA capability to carry out the modernization.

(iii) If a Field OIP does not receive sufficient fundable applications to use its allocation, Headquarters will reallocate the remaining funds to one or more Field OIPs based on approvable applications and IHA capability to carry out the modernization.

The following table shows the distribution of CIAP funds for IHAs, assigned by Headquarters to the Regional Offices for subassignment to the OIPs percentages of the total $20,616,235 available for Indian Housing:

Indian office	Percent of Indian housing funds
Chicago (Region V)	14.0432
Oklahoma (Region VI)	7.1315
Denver (Region VIII)	13.1740
Phoenix (Region IX)	39.8998
Seattle (Region X)	20.2186
Anchorage (Region X)	5.5329
Total	100.0000

(d) *Eligibility.* HAs with fewer than 250 units are eligible to participate in the CIAP. After the HA's application is determined to be complete and accepted for review, the Field Office eligibility review shall determine if the application meets the basic eligibility requirements and, therefore, is eligible for processing.

(1) *Eligibility for Processing.* To be eligible for processing:

(i) *Work Item Eligibility and Need.* Based on the general description of the HA's developments and general statement of physical and management improvement needs, and the Field Office's knowledge of the developments' conditions, the work items, particularly emergency work items, appear to be eligible and needed.

(ii) *End of Initial Operating Period (EIOP).* Each development for which work is proposed is at least three years old from EICP.

(iii) *Status of Fiscal Audit.* The HA has submitted the fiscal audit to the Regional Inspector General for Audit within one year after the end of the audit period, or has been granted an extension for submission, in conformance with the Single Audit Act requirements.

(2) *Eligibility for Processing on Reduced Scope.* When the following conditions exist, the HA will be reviewed on a reduced scope:

(i) *Funds Owed the Department.* Where the HA owes funds to the Department as a result of excess development, modernization or operating funds previously provided and the HA has not repaid the funds, or has not entered into a repayment agreement, or is not meeting its obligations under a repayment agreement, the HA is eligible for processing for Emergency Modernization only.

(ii) *FHEO Compliance.* Where the HA has not complied with Fair Housing and Equal Opportunity (FHEO) requirements as evidenced by an action, finding or determination as described below, unless the HA is implementing a voluntary compliance agreement or settlement agreement designed to correct the area(s) of noncompliance, the HA is eligible for processing only for Emergency Modernization or for physical work needed to remedy civil rights deficiencies.

(A) A pending proceeding against the HA based upon a Charge of Discrimination issued under the Fair Housing Act. A Charge of Discrimination is a charge under section 810(g)(2) of the Fair Housing Act, issued by the Department's General Counsel or legally authorized designee;

(B) A pending civil rights suit against the HA, referred by the Department's General Counsel and instituted by the Department of Justice;

(C) Outstanding HUD findings of HA noncompliance with civil rights statutes and executive orders under § 968.110(a) or § 905.115, or implementing regulations, as a result of formal administrative proceedings, unless the HA is implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the area(s) of noncompliance;

(D) A deferral of the processing of applications from the HA imposed by HUD under title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3) and the HUD title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1), or under section 504 of the Rehabilitation Act of 1973 and HUD implementing regulations (24 CFR 8.57); or

(E) An adjudication of a violation under any of the authorities under § 968.110(a) or § 905.115 in a civil action filed against the HA by a private individual, unless the HA is implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the area(s) of noncompliance.

(e) *Selection Criteria and Ranking Factors.* After all CIAP applications are reviewed for eligibility, the Field Office shall categorize the eligible HAs and their developments into two processing groups: Group 1 for Emergency Modernization; and Group 2 for Other Modernization, as defined subparagraph (1) of this paragraph. HA developments may be included in both groups and the same development may be in each group. The HA only needs to submit one application which includes needs which the Field Office will process under either Group 1 or Group 2. For batching purposes, the Field Office may extract emergency work items from proposed Other Modernization.

(1) *Grouping Modernization Types.* (i) *Group 1, Emergency Modernization.* Developments having physical conditions of an emergency nature, posing an immediate threat to the health or safety of residents or related to fire safety, and which must be corrected within one year of CIAP funding approval. Funding is limited to physical work items and may not be used for management improvements. Emergency Modernization includes all LBP testing and abatement of units housing children under seven years old with elevated blood lead levels (EBLs) and all LBP testing and abatement of HA-owned day care facilities used by children under seven years old with EBLs. Group 1 developments are not subject to the technical review rating and ranking in subparagraphs (5) and (6) of this paragraph or the long-term viability and reasonable costs analysis in paragraph (k)(5) of this section.

(ii) *Group 2, Other Modernization.* Developments not having physical conditions of an emergency nature and located in HAs which have demonstrated a capability of carrying out the proposed modernization activities. Other Modernization includes one or more physical work items, where HUD determines that the physical improvements are necessary and sufficient to extend substantially the useful life of the development, and/or one or more development specific or HA-wide management work items (including planning costs), and/or testing, professional risk assessments, interim containment, and abatement of LBP. Therefore, eligibility or work under Other Modernization ranges from a single work item to the complete rehabilitation of a development. Group

2 developments are subject to the technical review rating and ranking in subparagraphs (5) and (6) of this paragraph and the long-term viability and reasonable cost analysis in paragraph (k)(5) of this section.

(2) *Assessment of HA's Management Capability.* As part of its technical review of the CIAP Application, the Field Office shall evaluate the HA's management capability. This assessment may be based on the compliance aspects of occupancy audits, engineering surveys, management reviews, CIAP monitoring reviews, etc., which are currently available within the Field Office, *and* on the performance review under the Public Housing Management Assessment Program (PHMAP) for PHAs or the Administrative Capability Assessment for IHAs, as follows:

(i) A PHA has management capability if it is (A) not designated as Troubled under part 901, PHMAP, or (B) designated as Troubled, but has a reasonable prospect of acquiring management capability which may include CIAP-funded management improvements. A PHA may be considered for funding of non-emergency physical improvements where it is making reasonable progress toward meeting the performance targets established in its memorandum of agreement under § 901.140.

(ii) An IHA has management capability if it is (A) not designated as High Risk under § 905.135 or (B) designated as High Risk, but has a reasonable prospect of acquiring management capability which may include CIAP-funded management improvements. An IHA may be considered for funding of non-emergency physical improvements where it is making reasonable progress toward meeting the goals established in its management improvement plan under § 905.135.

(3) *Assessment of HA's Modernization Capability.* As part of its technical review of the CIAP Application, the Field Office shall evaluate the HA's modernization capability, including the progress of previously approved modernization and the status of any outstanding findings from CIAP monitoring visits, as follows:

(i) A PHA has modernization capability if it is (A) not designated as Modernization Troubled under part 901, PHMAP, or (B) designated as Modernization Troubled, but has a reasonable prospect of acquiring modernization capability which may include CIAP-funded management improvements and administrative support. A PHA may be considered for funding of non-emergency physical improvements where it is making reasonable progress toward meeting the performance targets established in its memorandum of agreement under § 901.140. Where a PHA does not have a funded modernization program in progress, HUD will determine whether the PHA has a reasonable prospect of acquiring modernization capability through hiring staff or contracting for assistance.

(ii) An IHA has modernization capability if it is capable of effectively carrying out the proposed modernization improvements. Where an IHA does not have a funded modernization program in progress, HUD will determine whether the IHA has a reasonable prospect of acquiring modernization capability through hiring staff or contracting for assistance.

(4) *Technical Processing.* After the Field Office has categorized the eligible HAs and their developments into Group 1 and Group 2, the Field Office shall rate all Group 2 HAs on each of the technical review factors in subparagraph (5) of this paragraph. With the exception of the technical review factor of "extent and urgency of need", a Group 2 HA is rated on its overall HA application and not on each development. For the technical review factor of "extent and urgency of need", each development for which funding is requested by a Group 2 HA is scored; the development with the highest priority needs is scored the highest number of points, which is then used for the overall HA score on that factor. High priority needs are non-emergency needs, but related to: health or safety; vacant, substandard units; structural or system integrity; or compliance with statutory, regulatory or court-ordered deadlines.

(5) *Technical Review Factors.* The technical review factors for assistance are:

Technical review factors	Maximum points
Extent and urgency of need, including need to comply with statutory, regulatory or court-ordered deadlines	40
Extent of vacancies	10
HA's modernization capability	15
HA's management capability	15
Degree of resident involvement in HA operations	5
Degree of HA activity in resident initiatives, including resident management, economic development, and drug elimination efforts	5
Degree of resident employment	5
Local government support for proposed modernization	5
Total Maximum Score	100

(6) *Rating and Ranking.* After rating all Group 2 HAs on each of the technical review factors set forth in subparagraph (5) of this paragraph, the Field Office shall rank each Group 2 HA based on its total score. The Field Office shall then identify for the Regional Office the estimated dollar value of all proposed modernization recommended for funding, subject to confirmation of need and cost at Joint Review, which includes all Group 1 HAs, the highest ranking Group 2 HAs in descending order, and other Group 2 HAs with lower ranking applications, but with high priority needs.

(7) *Pre-Joint Review Funding Target.* After receipt of the Field Office estimates as set forth in subparagraph (6) of this paragraph, the Regional Office shall determine the Joint Review funding target for each non-Indian Field Office by considering Field Office recommendations, capability of the PHAs to administer the CIAP, and the need for geographic diversity within the Region. Since each OPI is subassigned funds directly, without competition with non-Indian Field Offices, the OIP has no Joint Review funding target.

(f) *Joint Review.* The purpose of the Joint Review is to discuss the proposed modernization program, as set forth in the application, and determine the size of the grant, if any, to be awarded.

(1) The non-Indian Field Office shall select HAs from the list sent to the Regional Office, including all Group 1 HAs, for Joint Review so that the total dollar value of all proposed modernization recommended for funding exceeds the Joint Review funding target by at least 15%. This will preserve the Field Office's ability to adjust cost estimates and work items as a result of Joint Review. In addition, the Indian Field Office shall select IHAs for Joint Review so that the total dollar value of all proposed modernization recommended for funding exceeds the subassignment amount by at least 15%.

(2) The Field Office shall notify each HA whose application has been selected for further processing as to whether the Joint Review will be conducted on-site or off-site (*e.g.*, by telephone or in-office meeting). An HA will not be selected for Joint Review if other funding is available (refer to section II(g)). HAs not selected for Joint Review will be advised in writing of the reasons for non-selection.

(3) Where the HA has not included all its developments in the CIAP Application, the Field Office may not, as a result of Joint Review, consider funding any non-emergency work at excluded developments or subsequently approve use of leftover funds at

excluded developments. Therefore, to provide maximum flexibility, the HA may wish to include all its developments in the CIAP Application.

(4) An HA shall prepare for the Joint Review by preparing a draft CIAP budget, and reviewing the other items to be covered during the Joint Review, such as the need for professional services, method of accomplishment of physical work (contract or force account labor), HA compliance with various Federal statutes and regulations, etc. If conducted on-site, the Joint Review may include an inspection of the proposed physical work.

(g) *HUD Awards.* The Field Office shall adjust the HAs, developments, and work items to be funded and the amounts to be awarded, on the basis of information obtained from Joint Reviews, environmental reviews, and FHEO review. Such adjustments are necessary where Joint Review determines that actual Group 1 emergencies and Group 2 high priority needs, HA priorities, or cost estimates vary from the HA's application. Such adjustments may preclude the Field Office from funding all of the higher ranked HA applications. However, where the information obtained from Joint Reviews, environmental reviews, and FHEO review does not substantially alter the information used to establish the rankings before Joint Review, the Field Office shall make funding decisions in accordance with its Joint Review recommendations and consideration of geographic diversity. The non-Indian Field Office shall inform the Regional Office of the total dollar value of the modernization to be funded, including all HAs in Group 1. Based on these estimates, with consideration of geographic diversity within the Region, the Regional Office shall provide a final funding amount for each non-Indian Field Office. Since each OIP is subassigned funds directly, without competition with non-Indian Field Offices, the OIP's final funding amount is equal to the subassigned amount. The Field Office shall then announce the HAs selected for CIAP grants, subject to their submission of an approvable CIAP budget and other required documents.

(h) *ACC Amendment.* After HUD approval of the CIAP budget, HUD and the HA shall enter into an ACC amendment in order for the HA to requisition modernization funds. The ACC amendment shall require low-income use of the housing for not less than 20 years from the date of the ACC amendment (subject to sale of homeownership units in accordance with the terms of the ACC). HUD has the authority to condition an ACC amendment (*e.g.*, to require an HA to hire a modernization coordinator or contract administrator to administer its modernization program).

(i) *Declaration of Trust.* An HA shall execute and file for record a Declaration of Trust as provided under the ACC to protect the rights and interests of HUD throughout the 20-year period during which the HA is obligated to operate its developments in accordance with the ACC, the Act, and HUD regulations and requirements.

(j) *"Fast Tracking" Applications.* Emergency applications do not have to be processed within the normal processing time allowed for other applications. Where an immediate hazard must be addressed, HA applications may be submitted and processed at any time during the year when funds are available. The Field Office shall "fast track" processing of these emergency requests so that fund reservation may occur as soon as possible.

(k) *Other Program Items.* (1) *Turnkey III Developments.* (i) *General.* Eligible physical improvement costs for existing Turnkey III developments are limited to work items under Emergency Modernization or Other Modernization which are not the responsibility of the homebuyer families *and* which are related to health and safety, correction of development deficiencies, physical accessibility, energy audits and cost-effective energy conservation measures, or LBP testing, interim containment, professional risk assessment and abatement. In addition, eligible costs include management improvements under the modernization type of Other Modernization. Work on any units which have been paid off, even though not conveyed, by the time the application is submitted is ineligible. The cost of non-emergency health and safety work items shall increase the purchase price and amortization period for homebuyer families; other eligible costs shall not increase the purchase price and amortization period.

(ii) *Ineligible Costs.* Nonroutine maintenance or replacements, dwelling additions, and items that are the responsibility of the homebuyer families are ineligible costs.

(iii) *Exception for vacant or non-homebuyer-occupied Turnkey III units.* (A) Notwithstanding the requirements of subparagraph (1)(i) of this paragraph, an HA may carry out Other Modernization in a Turnkey III development, whenever a Turnkey III unit becomes vacant or is occupied by a non-homebuyer family. An HA that intends to use funds under this paragraph must identify in its CIAP Application, the estimated number of units proposed for Other Modernization and subsequent sale. In addition, an HA must certify that: the proposed modernization under this paragraph would result in bringing the identified units into full compliance with the homeownership objectives under the Turnkey III Program; and the HA has homebuyers who are both eligible for homeownership, in accordance with the regulatory requirements, and who have demonstrated their intent to be placed into each of the Turnkey III units proposed for Other Modernization.

(B) Before an HA may be approved for Other Modernization of a unit under this paragraph, it must first deplete any Earned Home Payments Account (EHPA) or Non-Routine Maintenance Reserve (NRMR) pertaining to the unit, and request the maximum operating subsidy. Any increase in the value of a unit caused by its Other Modernization under this paragraph shall be reflected solely by its subsequent appraised value, and not by an automatic increase in its purchase price.

(2) *Mutual Help Developments.* Mutual Help developments are eligible for the same physical and management improvement costs as are rental developments. Work on any Mutual Help units which have been paid off, even though not conveyed, by the time the application is submitted is ineligible.

(3) *Professional Risk Assessment for LBP.* An additional $14,797,634 set-aside will be made available for Professional Risk Assessments under a separate NOFA and Processing Notice. HAs are strongly encouraged to apply for these funds to conduct professional risk assessments. However, if an HA is not successful in obtaining funding for such risk assessments from the set-aside, the HA may request a budget revision of previously approved, but unobligated CIAP funds to accomplish this work. Where the HA had a budget revision approved for this purpose in FY 1992, the HA may request FY 1993 funds to complete the items which were eliminated as a result of the budget revision.

(4) *In-Place Management (Interim Containment of LBP).* Where the results of the professional risk assessment recommend that the HA undertake in-place management measures, the HA is strongly encouraged to apply for CIAP funds to carry out such measures. However, if an HA is not successful in obtaining CIAP funds for in-place management measures, the HA may request a budget revision of previously approved, but unobligated CIAP funds to accomplish such measures. Where

the HA had a budget revision approved for this purpose in FY 1992, the HA may request FY 1993 funds to complete the items which were eliminated as a result of the budget revision.

(5) *Long-Term Viability and Reasonable Cost Analysis.* On Form HUD–52822, CIAP Application, the HA shall indicate whether the developments proposed for modernization have long-term viability, including prospects for full occupancy. During Joint Review, the Field Office shall determine whether any development proposed for Other Modernization has total unfunded hard cost needs exceeding 90% of the computed Total Development Cost (TDC) limit for a new development with the same structure type and number and size of units in the market area and whether the proposed modernization will contribute to ensuring the long-term viability of the development, including prospects for full occupancy. Unfunded hard cost needs exclude any prior year funding for the development.

(i) *Determination of Hard Cost Needs Exceeding 90%.* Where the estimated per unit hard cost for unfunded needs at a development is equal to or less than the unit TDC limit for the smallest bedroom size at that development for the appropriate structure type, the Field Office is not required to compute the TDC limit for the entire development; in such case, the Department has determined that the unfunded hard cost needs for the development do not exceed 90% of the TDC limit. Where the estimated per unit hard cost for unfunded hard cost needs at a development exceeds the unit TDC limit for the smallest bedroom size for that structure type or in all cases where there is only one bedroom size, the Field Office shall compute the TDC limit.

(ii) *At or Below the 90% Limit.* Where the estimate of unfunded hard cost needs for a development is 90% or less of the TDC limit, the Field Office is not required to prepare the viability analysis unless the Field Office or the HA determines that the development does not have long-term physical and social viability.

(iii) *Exceeding the 90% Limit.* Where the estimate of unfunded hard cost needs for a development exceeds 90% of the TDC limit, the Field Office has disapproval authority, but not approval authority. Where the Field Office determines that the following criteria have been met, the Field Office shall submit its recommendation for approval to the Regional Office for review and final decision.

(A) Any special or unusual conditions have been adequately explained, all work has been justified as necessary to meet the modernization and energy conservation standards and provide a modest, non-luxury development, reasonable cost estimates have been provided, and every effort has been made to reduce costs; and

(B) Rehabilitation of the existing development is more cost-effective in the long-term than construction or acquisition of replacement housing; or

(C) There are no practical alternatives for replacement housing.

(6) *Section 504 Compliance: Completion of Structural Changes.* Where the Section 504 Needs Assessment identified a need for accessible units, the HA was required to make structural changes to meet that need by July 11, 1992. In order to be eligible for FY 1993 CIAP non-emergency funding, the HA must have either completed any required structural changes or obtained an extension from HUD. Refer to PIH Notice 92–65 (PHA), dated December 14, 1992.

II. Application Process

(a) Section III(a) of this NOFA identifies all items necessary for submission as the CIAP Application. The HA may obtain the necessary forms from the Field Office.

(b) All completed applications must be submitted to the Field Office which covers the HA's jurisdiction.

(c) *Application Deadline.* The CIAP Application must be physically received by the local HUD Field Office by 3 p.m. local time on May 14, 1992. Faxed copies will *not* be considered official applications. The application deadline for this NOFA is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will not consider any application that is received after the application deadline. All applicants should take this into account and submit application materials as early as possible to avoid any risk brought about by unanticipated delays or delivery-related problems. This application deadline does not apply to applications for emergency funding, which may be submittted at any time when funds are available.

(d) *Consultation Requirements.* The HA shall develop the application in consultation with residents/homebuyers of the developments proposed for modernization, as set forth in §§ 968.215(b) and 968.220 for PHAs and §§ 905.618(b) and 905.624 for IHAs. The HA shall consult with appropriate local officials regarding how the proposed modernization may be coordinated with any local plans for neighborhood revitalization, economic development, drug elimination and expenditure of local funds, such as Community Development Block Grant funds.

(e) *Secretarial Initiatives.* (1) *General.* Consistent with Secretarial resident initiatives, §§ 968.220 or 905.624 require the HA to thoroughly involve residents in all aspects of the modernization process, including planning, implementation and monitoring. The regulations require the HA to have a Partnership Process for the involvement of residents that includes, but is not limited to:

(i) Notification of residents, resident organization, and resident management corporation (RMC) of the development(s) being proposed for modernization and request for resident recommendations;

(ii) Reasonable opportunity for residents to present their views on the proposed modernization and alternatives to it, and full and serious consideration to resident recommendations;

(iii) Written response to residents, indicating acceptance or rejection of resident recommendations, consistent with HUD requirements and the HA's own determination of efficiency, economy and need, with a copy to the Field Office at Joint Review; and

(iv) After HUD funding decisions, notification to residents of the approval or disapproval and, where requested, provision to residents of a copy of the HUD-approved CIAP budget.

(2) *Relationship to Technical Review Factors.* Resident priority programs to build resident capacity provide for self-sufficiency opportunities and empowerment shall be taken into consideration when scoring the HA at the technical review stage. Homeownership opportunities are encouraged as a vital part of CIAP. The initiatives which are listed below also are included in the technical review factors in section I(e)(5).

(i) Restoration of vacant units to occupancy;

(ii) Economic development and job training initiatives for residents;

(iii) Drug elimination;

(iv) Resident capacity-building and resident management;

(v) Homeownership; and

(vi) Fair housing and equal opportunity.

(f) *Use of Dwelling Units for Economic Self-Sufficiency Services and/or Drug Elimination Activities.* On August 24, 1990, the Department issued HUD Notice PIH 90–39 (PHA), concerning the eligibility for funding under the Performance Funding System of dwelling units used to promote economic self-sufficiency services for residents and anti-drug programs. CIAP

funds may be used to convert units for these purposes. Also refer to the Family Self-Sufficiency Program Guidelines (56 FR 49592, September 30, 1991).

(g) *Availability of Funding.* (1) Where available, authorized residual receipts or debt forgiveness replacement reserve funds shall be used in lieu of CIAP funds. Residual receipts may be retained for only two years.

(2) The HA shall not receive duplicate funding for the same work item or activity under any circumstance and shall establish controls to assure that an activity, program, or project that is funded under any other HUD program, shall not be funded by CIAP.

(3) Section 111(b) of the HCD Act of 1992 amends section 14(c) of the U.S. Housing Act of 1937 and provides that a building which is assisted with MROP funding is not eligible for CIAP funding.

III. Checklist of Application Submission Requirements

(a) *CIAP Application.* Within the established time frame, the HA shall submit to the Field Office, Attention: Director, Public or Indian Housing Division, the CIAP Application. The HA also shall send a copy of Form HUD–52822, CIAP Application, to appropriate local officials. The CIAP Application comprises the following documents and all HUD forms can be obtained in the local HUD Field Office:

(1) *Form HUD–52822, CIAP Application,* in an original and two copies, which includes:

(i) A general description of HA development(s), in priority order, (including the current physical condition, for each development for which the HA is requesting funds, or for all the HA's developments) and physical and management improvement needs (to meet the Secretary's standards in § 968.115 or § 905.603), general description of major work categories (*e.g.*, kitchens, bathrooms) required to correct identified deficiencies and estimated costs, including a statement concerning consultation with local officials and residents and long-term viability of the development(s). For example:

Development 1–1: 50 units of low-rent; 25 years old; physical needs are: new roofs, LBP testing, storm windows and doors, and electrical upgrading at estimated cost of $150,000.

Development 1–2: 40 units of low-rent; 20 years old; physical needs are: physical accessibility of 2 units, kitchen floors, shower/bathtub surrounds, fencing, and exterior lighting at estimated cost of $90,000.

Development 1–3: 35 units of Turnkey III; 15 years old; physical needs are: physical accessibility of 3 units and roof insulation at estimated cost of $50,000.

Development 1–4: 20 units of low-rent; 5 years old; no physical needs; no funding requested.

(ii) An estimate of the replacement cost of equipment systems or structural elements which would normally be replaced over the remaining period of the annual contributions contract or during the 30-year period beginning on the date of submission of the application.

(iii) For management improvements, the application must identify the following:

(A) the management, financial, and accounting control systems of the HA;

(B) the adequacy and qualifications of personnel employed by such HA (in the management and operation of such developments) for each category of employment; and

(C) the adequacy and efficacy of resident programs and services in such developments, the security of each such development and its residents, policies and procedures of the HA for the selection and eviction of residents in such developments, maintenance, and other policies and procedures of such HA relating to such developments.

(2) *Form HUD–50071, Certification for Contracts, Grants, Loans and Cooperative Agreements,* in an original only, required of RMCs, PHAs, and IHAs established under State law, applying for grants exceeding $100,000.

(3) *SF–LLL, Disclosure of Lobbying Activities,* in an original only, required of RMCs, and PHAs and IHAs established under State law, only where any funds, other than federally appropriated funds, will be or have been used to influence Federal workers, Members of Congress and their staff regarding specific grants or contracts.

(4) *At the option of the HA,* a narrative statement addressing any or all of the technical review factors in section I(d)(5).

(5) *At the option of the HA,* the HA may submit photographs or video cassettes showing the physical condition of the developments.

(b) *HA Submission of Additional Documents.* After Field Office funding decisions, the Field Office will provide written notification to the HA of funding approval, subject to HA submission of the following documents within the time frame prescribed by the Field Office:

(1) *Form HUD–52825, CIAP Budget,* which includes the implementation schedule(s), in an original and two copies.

(2) *Form HUD–50070, Certification for a Drug-Free Workplace,* in an original only.

(3) *Form HUD–52820, HA Board Resolution Approving CIAP Budget,* in an original only.

(4) *For each Turnkey III development approved* for modernization, the number of units to be included in the modernization program and, where applicable, the estimated cost attributed to each home, in an original only.

(c) *Application Deadline Date and Summary of FY 1993 CIAP Processing Steps.* See section II(c) for the deadline date for submission of the FY 1993 CIAP application. Dates for other processing steps will be established by each Field Office, in coordination with the Regional Office, to reflect local workload issues. The Field Office shall notify HAs of its processing schedule before the application deadline date.

Steps

1. HA submits CIAP Application.
2. Field Office conducts completeness review and requests corrections to deficient applications.
3. HA submits corrections to deficient applications within 21 calendar days of notification from Field Office.
4. Field Office conducts eligible review and technical review (rating and ranking).
5. Non-Indian Field Office consults with Regional Office and receives its Joint Review funding target.
6. Field Office makes Joint Review selections.
7. Field Office completes Joint Reviews and environmental reviews.
8. Non-Indian Field Office consults with Regional Office and receives its final funding amount.
9. Field Office makes funding decisions and forwards Congressional notifications to Headquarters.
10. Congressional notification is completed and Field Office notifies HA of funding decisions.
11. HA submits additional documents as required in paragraph (b) of this section.
12. Field Office completes fund reservations and forwards ACC amendment to HA for signature and return (by no later than September 30, 1993).
13. Field Office executes ACC amendment and HA begins implementation.

IV. Corrections to Deficient Applications

To be eligible for processing, the CIAP Application must be received by the Field Office within the time period specified in this NOFA and must be

complete. In order to determine whether an application is complete, responsive to the NOFA and acceptable for technical processing, the Field Office shall perform an initial completeness review, using the following criteria:

(a) The application was received by HUD at the appropriate address by the date and time specified in the NOFA and was complete and responsive (excluding exhibits which are certifications); or

(b) If an application is determined to be incomplete or to have missing certifications, the HA shall be advised in writing of any deficiencies or any inconsistencies. The missing information is to be submitted within a specified period of time from the date of HUD's written notification. This is not additional time to substantially revise the application. Deficiencies which may be corrected at this time are inadvertently omitted documents or clarifications of previously submitted material and other changes which are not of such a nature as to improve the competitive position of the application. The HA must acceptably correct deficiencies (including furnishing missing certifications) within 21 calendar days of notification from the Field Office.

(1) If Form HUD–52822, CIAP Application, is missing, the HA's application will be considered substantially incomplete and, therefore, ineligible for further processing.

(2) If Form HUD–50071, Certification for Contracts, Grants, Loans, and Cooperative Agreements, is missing or there is a technical mistake, such as no signature on a submitted form, the HA will be given an opportunity to correct the deficiency.

V. Other Matters

(a) *Environmental Impact.* A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 implementing section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410.

(b) *Federalism Executive Order.* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the provisions of this NOFA do not have "federalism implication" within the meaning of the Order.

(c) *Family Executive Order.* The General Counsel, as the Designated Official for Executive Order 12606, the Family, has determined that the provisions of this NOFA do not have the potential for significant impact on family formation, maintenance and general well-being within the meaning of the Order.

Section 102 of HUD Reform Act of 1989

On March 14, 1991, the Department published in the **Federal Register** a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (24 CFR part 12, 56 FR 11032). Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by the Department.

The following should be noted regarding the relationship of the CIAP to part 12:

1. Since HUD makes assistance under the program available on a competitive basis, HUD must:

—Ensure that documentation and other information regarding each application submitted to the Department are sufficient to indicate the basis upon which assistance was provided or denied. HUD must make this material available for public inspection for a five-year period (§ 12.14(b)). HUD will provide further guidance on how this material may be accessed in a later Notice published in the **Federal Register.**

—Publish a Notice in the **Federal Register** at least quarterly indicating the recipients of the assistance (§ 12.16(a)).

2. Subpart C of part 12 requires applicants that seek assistance from HUD for a specific project or activity must make the disclosures required under § 12.32. This subpart will be made effective through later publication of a Notice in the **Federal Register.** Since it will apply to applications solicited on or after the effective date of the Notice, this NOFA is not subject to its provisions.

Section 103 HUD Reform Act of 1989

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537b) was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics at (202) 708–3815 or for TDD/Voice, at (202) 708–1112. (These are not toll-free numbers.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters Counsel for the program to which the question pertains.

Section 112 HUD Reform Act of 1989

Section 13 of the Department of Housing and Urban Development Act contains two programs dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these effort—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The section restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule.

Any questions regarding the rule should be directed to Garry L. Phillips, Acting Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–3815; TDD: (202) 708–1112. (These are not toll-free numbers.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the HUD implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance.

(The Catalog of Federal Domestic Assistance Program number is 14.852)

Dated: February 16, 1993.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 93-5496 Filed 3-12-93; 8:45 am]

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Part VIII

Department of Housing and Urban Development

Office of the Assistant Secretary

24 CFR Parts 201, 203, and 234

Loan and Mortgage Insurance; Annual Update of Changes to the Maximum Limits: Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N–93–3579; FR–3443–N–01]

Loan and Mortgage Insurance; Changes to the Maximum Loan and Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots—Annual Update

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to FHA maximum loan and mortgage limits for high-cost areas.

SUMMARY: This Notice is the annual complete listing of areas eligible for "high-cost" loan and mortgage limits under certain of HUD's insuring authorities under the National Housing Act and each area's applicable limits. Loan and Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

EFFECTIVE DATE: March 15, 1993.

FOR FURTHER INFORMATION CONTACT: For single family: Morris Carter, Director, Single Family Development Division, room 9272; telephone (202) 708–2700. For manufactured homes: Robert J. Coyle, Director, Title I Insurance Division, room 9158; telephone (202) 708–2880, TDD, (202) 708–4594; 451 Seventh Street, SW., Washington, DC 20410. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA), 12 U.S.C. 1703 and 1709 *et seq.*, authorizes HUD to insure loans and mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and manufactured homes and lots in combination. The NHA permits HUD to adjust the maximum loan and mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition section 214 of the NHA provides for special high-cost limits for insured mortgages in Alaska, Guam, Hawaii, and the Virgin Islands.

The last comprehensive list of high-cost areas was published on August 1, 1991 (56 FR 36980), listing all areas eligible for "high-cost" loan and mortgage limits under certain of HUD's insuring authorities under the National Housing Act, and the applicable limits for each area. This document incorporates the changes published on December 27, 1991 (56 FR 66975); April 13, 1992 (57 FR 12715); September 24, 1992 (57 FR 44098); and December 30, 1992 (57 FR 62187); as well as new, increased, and expanded limits published for the first time in this document.

This document adds the following new areas, with applicable limits, to the high-cost list:

New Areas

Coos County, NH
Florence, SC MSA
Hickory-Morganton, NC MSA
Wilson County, NC
Daytona Beach, FL MSA
Naples, FL MSA
Canyon County, ID
Kankakee, IL MSA
Evansville-Henderson, IN-KY MSA
Muncie, IN MSA
Howard County, IN
Kokomo, IN MSA
Grand Traverse County, MI
Jackson, MI MSA
Leelanau County, MI
Wilson County, NC
Clinton County, NY
Iron County, UT
Yankton County, SD
McAllen-Edinburg-Mission, TX MSA
Grays Harbor County, WA
Lewis County, WA

This document also increases the existing limits for the following areas:

Increased Areas

Huntsville, AL MSA
Phoenix-Mesa, AZ MSA
Bakersfield, CA MSA
Chico-Paradise, CA MSA
Fresno, CA MSA
Modesto, CA MSA
Redding, CA MSA
Stockton-Lodi, CA MSA
Denver, CO PMSA
Wilmington-Newark, DE-MD-NJ PMSA
Gainesville, FL MSA
Fort Lauderdale, FL PMSA
Fort Meyers-Cape Coral, FL MSA
Miami, FL PMSA
Naples, FL MSA
Orlando, FL MSA
Tampa-St. Petersburg-Clearwater, FL MSA
Augusta-Aiken, GA-SC MSA
Atlanta, GA MSA
Honolulu, HI MSA
Chicago, IL PMSA
Kankakee, IL PMSA
Evansville-Henderson, IN-KY MSA
Gary, IN PMSA
Indianapolis, IN MSA
Kokomo, IN MSA
South Bend, IN MSA
Lawrence, KS MSA
Wichita, KS MSA
Carolina County, MD
Detroit, MI PMSA
Grand Rapids-Muskegon-Holland, MI MSA
Jackson, MI MSA
Kalamazoo-Battle Creek, MI MSA
Saginaw-Bay City-Midland, MI MSA
Minneapolis-St. Paul, MN-WI MSA
Kansas City, MO-KS MSA
Gallatin County, MT
Missoula County, MT
Charlotte-Gastonia-Rock Hill, NC-SC MSA
Fayetteville, NC MSA
Greensboro-Winston-Salem-High Point, NC MSA
Raleigh-Durham-Chapel Hill, NC MSA
Wilmington, NC MSA
Omaha, NE–IA MSA
Trenton, NJ PMSA
Las Vegas, NV–AZ MSA
Reno, NV MSA
Vineland-Millville-Bridgeton, NJ MSA
Buffalo-Niagara Falls, NY MSA
Niagara Falls, NY PMSA
Akron, OH PMSA
Canton-Massillion, OH MSA
Cincinnati, OH–KY–IN, PMSA
Cleveland-Lorain-Elyria, OH PMSA
Columbus, OH MSA
Dayton-Springfield, OH MSA
Hamilton-Middletown, OH PMSA
Lima, OH MSA
Toledo, OH MSA
Oklahoma City, OK MSA
Portland-Vancouver, OR–WA PMSA
Franklin County, PA
Philadelphia, PA–NJ PMSA
Pittsburgh, PA MSA
Reading, PA MSA
State College, PA MSA
Williamsport, PA MSA
Bayamon Municipio, PR
Mayaguez Municipio, PR
Trujillo Alto Municipio, PR
Charleston-North Charleston, SC MSA
Greenville-Spartanburg-Anderson, SC MSA
Knoxville, TN MSA
Memphis, TN–AR–MS MSA
Nashville, TN MSA
Dallas, TX PMSA
El Paso, TX MSA
Fort Worth-Arlington, TX PMSA
Galveston-Texas City, TX MSA
Houston, TX PMSA
San Antonio, TX MSA
Salt Lake City-Ogden, UT MSA
Charlottesville, VA MSA
Essex County, VA
Norfolk-VA Beach-Newport News, VA MSA
Richmond-Petersburg, VA MSA
Roanoke, VA MSA
Bremerton, WA MSA
Clallam County, WA
Island County, WA
Mason County, WA
Richland-Kennewick-Pasco, WA MSA
Seattle-Bellevue-Everett, WA PMSA
Skagit County, WA
Spokane, WA MSA
Tacoma, WA PMSA
Thurston County, WA

Finally, this update also reflects expanded MSAs and PMSAs as recently defined in the Office of Management and Budget (OMB) Bulletin 93–05, published December 28, 1992. (The

OMB Bulletin 93–05 is available for review at the Department of Housing and Urban Development, 451 Seventh Street, SW., room 9276, Washington, DC.) The following is a list of expanded MSAs and PMSAs:

Expanded Areas

Boston, MA-NH-ME-CT PMSA
Providence-Fall River-Warwick, RI-MA MSA
Hartford, CT MSA
Washington, DC-MD-VA-WV PMSA
Albany-Schenectady-Troy, NY MSA
Syracuse, NY MSA
New York-Newark, NY-NJ-PA PMSA
Rochester, NY MSA
Philadelphia, PA-NJ PMSA
Pittsburgh, PA MSA
Norfolk-VA Beach-Newport News, VA-NC MSA
Atlanta, GA MSA
Macon, GA MSA
Savannah, GA MSA
Mayaguez, PR MSA
Ponce, PR MSA
San Juan-Bayamon, PR MSA
Augusta-Aiken, GA-SC MSA
Huntsville, AL MSA
Raleigh-Durham-Chapel Hill, NC MSA
Knoxville, TN MSA
Memphis, TN-AR-MS MSA
Cincinnati, OH-KY-IN PMSA
Lexington, KY MSA
Orlando, FL MSA
Daytona Beach, FL MSA
Chicago, IL PMSA
Rockford, IL MSA
Cincinnati, OH-KY-IN PMSA
Cleveland-Lorain-Elyria, OH PMSA
Mansfield, OH MSA
Ann Arbor, MI PMSA
Grand Rapids-Muskegon-Holland, MI MSA
Kalamazoo-Battle Creek, MI MSA
Fort Wayne, IN MSA
Indianapolis, IN MSA
Lafayette, IN MSA
Louisville, KY-IN MSA
Minneapolis-St. Paul, MN-WI MSA
St. Louis, MO-IL PMSA
Dallas, TX PMSA
Longview-Marshall, TX MSA
Wichita Falls, TX MSA
Albuquerque, NM MSA
Houston, TX MSA
Fayette-Springdale-Rogers, AR MSA
New Orleans, LA MSA
Shreveport-Bossier City, LA MSA
Kansas City, MO-KS MSA
Springfield, MO MSA
Omaha, NE-IA MSA
Fresno, CA MSA
Las Vegas, NV-AZ MSA
Phoenix-Mesa, AZ MSA
Seattle, WA MSA
Portland-Vancouver, OR-WA PMSA
Boise City, ID MSA

These high-cost limits are effective March 15, 1993 and supersede other published amounts in effect, to the extent they are inconsistent with figures appearing in this document.

It should be noted that mortgage limits for any part of a county shall apply to the entire county.

List of Subjects

24 CFR Part 201

Health facilities, Historic preservation, Home improvement, Loan programs—housing and community development, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 203

Hawaiian Natives, Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 234

Condominiums, Mortgage insurance, Reporting and recordkeeping requirements.

These amendments appear in two parts. Part I explains how the high-cost limits are calculated for manufactured home and lot loans insured under Title I of the National Housing Act. Part II lists each high-cost area, with applicable limits for single family residences (including condominiums) insured under sections 203(b), 234(c) and 214 of the National Housing Act. Accordingly, the Department publishes the revised dollar limitations as follows:

National Housing Act High Cost Mortgage Limits

Part I. Method of Computing Limits Under Title I, National Housing Act

A. *Combination manufactured home and lot (excluding Alaska, Guam, Hawaii, and the Virgin Islands):* To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II by .80. However, in no case may this high-cost limit exceed $99,900 (185% of the base amount of $54,000). For example, Boston, MA-NH-ME-CT PMSA (Part), Bristol County (Part) has a one-family limit of $151,725. The combination home and lot loan limit is $99,900 ($54,800 × 185% = $99,900, which is less than $151,725 × .80 = $121,380).

B. *Lot only (excluding Alaska, Guam, Hawaii and the Virgin Islands):* To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one-family" column of Part II by .20. However, in no case may this high-cost limit exceed $24,975 (185% of the base of $13,500). For example, Boston, MA-NH-ME-CT PMSA (Part), Bristol County (Part) has a one-family limit of $151,725. The lot-only loan limit is $24,975 ($13,500 × 185% = $24,975, which is less than $151,725 × .20 = $30,345).

C. *Alaska, Guam, Hawaii and the Virgin Islands Limits:* The maximum dollar limits for Alaska, Guam, Hawaii and the Virgin Islands remain the same as provided for in the HUD **Federal Register** notice published on August 1, 1991 (56 FR 36980).

Accordingly, the dollar limits for Alaska, Guam, and Hawaii are as follows:

1. For manufactured homes: $56,700 ($40,000 × 140%).

2. For combination manufactured homes and lots: $75,600 ($54,000 × 140%).

3. For lots only: $18,900 ($13,500 × 140%).

D. *Limits in the Virgin Islands:* For the Virgin Islands, the maximum mortgage amount for a one-family residence has been increased under section 203(b) to 185% of the basic mortgage limit. Accordingly, the combination home and lot limit is $99,900 ($54,000 × 185%). The lot limit is $24,975 ($13,500 × 185%).

Part II. Accordingly, the Department is publishing the revised dollar limitations as follows:

Title II.—Updating of FHA Section 203(b), 234(c) and 214 Area Wide Mortgage Limits

MORTGAGE LIMITS

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
REGION I:				
HUD Regional Office: Boston Office				
Boston, MA-NH-ME-CT PMSA (Part):				
Bristol County (Part)	$151,725	$194,100	$234,600	$291,600
Essex County (Part)	.....	.....	.....	.....
Hamden County (Part)	.....	.....	.....	.....

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Middlesex County (Part)	.....	.....	.....	.....
Norfolk County (Part)	.....	.....	.....	.....
Plymouth County (Part)	.....	.....	.....	.....
Suffolk County (Part)	.....	.....	.....	.....
Worcester County (Part)	.....	.....	.....	.....
Pittsfield, MA MSA:				
Berkshire County (Part)	124,875	140,600	170,200	197,950
Providence-Fall River-Warwick, RI-MA PMSA:	.....	.....	.....	.....
Bristol County (Part)	151,725	194,100	234,600	291,600
Norfolk County (Part)	.....	.....	.....	.....
Worcester County (Part)	.....	.....	.....	.....
Springfield, MA MSA:				
Franklin County, MA (Part)	124,875	140,600	170,200	197,950
Hampshire County, MA (Part)	.....	.....	.....	.....
Hamden County, MA (Part)	151,875	194,100	234,600	291,600
HUD Field Office: Bangor Office				
Boston, MA-NH-ME-CT-PMSA (Part):				
York County, ME (Part)	151,725	194,100	234,600	291,600
Lewiston-Auburn, ME MSA:				
Androscoggin County	117,650	132,500	160,950	185,750
Portland, ME MSA:				
Cumberland County	111,050	125,000	151,850	175,250
Other areas:				
Kennebec County	74,100	83,450	101,400	117,000
Knox County	.....	.....	.....	.....
Lincoln County	95,000	107,000	130,000	150,000
Penobscot County	77,900	87,700	106,600	123,000
Sagadahoc County	99,750	112,350	136,500	157,500
HUD Field Office: Burlington Office				
Burlington, VT MSA:				
Chittenden County	120,650	135,850	165,100	190,500
Franklin County	118,750	133,750	162,500	187,500
Grand Isle County	.....	.....	.....	.....
Other Areas:				
Addison County	89,200	100,450	122,050	140,850
Bennington County	81,700	92,000	111,800	129,000
Lamoille County	80,750	90,950	110,500	127,500
Orange County	87,400	98,400	119,600	138,000
Rutland County	97,850	110,200	133,900	154,500
Washington County	90,000	101,300	122,650	142,650
Windham County	99,750	112,350	136,500	157,500
Windsor County	101,250	114,000	138,000	160,500
HUD Field Office: Hartford Office				
Boston, MA-NH-ME-CT PMSA (Part):				
Windham County, CT (Part)	151,725	194,100	234,600	291,600
Bridgeport, CT PMSA:				
Fairfield County (Part)	151,725	194,100	234,600	291,600
New Haven County (Part)	151,725	194,100	234,600	291,600
Danbury, CT PMSA:				
Fairfield County (Part)	151,725	194,100	234,600	291,600
Litchfield County (Part)	.....	.....	.....	.....
Hartford, CT MSA:				
Hartford County (Part)	151,725	194,100	234,600	291,600
Litchfield County (Part)	.....	.....	.....	.....
Middlesex County (Part)	.....	.....	.....	.....
New London County (Part)	.....	.....	.....	.....
Tolland County (Part)	.....	.....	.....	.....
Windham County (Part)	.....	.....	.....	.....
New Haven-Meriden, CT PMSA:				
Middlesex County (Part)	151,725	194,100	234,600	291,600
New Haven County (Part)	.....	.....	.....	.....
New London-Norwich, CT-RI MSA (Part):				
New London County (Part)	151,725	194,100	234,600	291,600
Windham County (Part)	151,725	194,100	234,600	291,600
Stamford-Norwalk, CT PMSA:				
Fairfield County (Part)	151,725	194,100	234,600	291,600
Waterbury, CT PMSA:				
Litchfield County (Part)	151,725	194,100	234,600	291,600
New Haven County (Part)	151,725	194,100	234,600	291,600

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
HUD Field Office: Manchester Office				
Boston, MA-NH-ME-CT PMSA: (Part):				
Hillsborough County, NH (Part)	151,725	194,100	234,600	291,600
Merrimack County (Part)				
Rockingham County (Part)				
Strafford County (Part)				
Nashua, NH PMSA:				
Hillsborough County (Part)	151,725	194,100	234,600	291,600
Rockingham County (Part)				
Other Areas:				
Belknap County	104,500	117,700	143,000	165,000
Carroll County	123,000	138,550	168,350	194,250
Cheshire County	104,500	117,700	143,000	165,000
Coos County	77,900	87,700	106,600	123,000
Grafton County	114,000	128,400	156,400	180,000
HUD Field Office: Providence Office				
Fall River, MA-RI PMSA (Part):				
Newport County (Part)	151,725	194,100	234,600	291,600
New London-Norwich CT-RI MSA (Part):				
Washington County (Part)	151,725	194,100	234,600	291,600
Providence-Fall River-Warwick, RI-MA PMSA:				
Bristol County, RI	151,725	194,100	234,600	291,600
Kent County (Part)				
Newport County (Part)				
Providence County (Part)				
Washington County (Part)				
REGION II:				
HUD Regional Office: New York Office				
New York-Newark, NY-NJ-PA PMSA (Part):				
Bronx County	151,725	194,100	234,600	291,600
Kings County				
Nassau County				
New York County				
Putnam County				
Queens County				
Richmond County				
Rockland County				
Suffolk County				
Westchester County				
Orange County, NY PMSA:				
Orange County (Part)	151,725	194,100	234,600	291,600
HUD Field Office: Albany Office				
Albany-Schenectady-Troy, NY MSA:				
Albany County	120,000	135,150	164,200	189,450
Montgomery County				
Rensselaer County				
Saratoga County				
Schenectady County				
Schoharie County				
Binghamton, NY MSA:				
Broome County	124,875	140,600	170,200	197,950
Tioga County				
Dutchess County, NY PMSA:				
Dutchess County	151,725	194,100	234,600	291,600
Syracuse, NY MSA:				
Cayuga County	91,950	103,550	125,800	145,150
Madison County				
Onondaga County				
Oswego County				
Utica-Rome, NY MSA:				
Herkimer County	91,150	102,650	124,700	143,900
Oneida County				
Other Areas:				
Clinton County	71,250	80,250	97,500	112,500
Columbia County	90,250	101,650	123,500	142,500
Green County	120,000	135,150	164,200	189,450
Sullivan County	76,000	85,600	104,000	120,000
Tompkins County	95,000	107,000	130,000	150,000
Ulster County	112,550	126,750	154,050	177,750
Warren County	101,250	114,000	138,000	160,500
Washington County	76,000	85,600	104,000	120,000

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
HUD Field Office: Buffalo Office				
Buffalo-Niagara Falls, NY PMSA:				
Erie County	94,500	106,400	129,300	149,200
Elmira, NY MSA:				
Chemung County	80,300	90,400	109,850	126,750
Niagara Falls, NY PMSA:				
Niagara Fall County	76,300	85,900	104,400	120,450
Rochester, NY MSA:				
Genesee County	101,650	114,450	139,100	160,500
Livingston County				
Monroe County				
Ontario County				
Orleans County				
Wayne County				
HUD Field Office: Camden Office				
Atlantic-Cape May, NJ PMSA:				
Atlantic County	136,800	154,050	187,200	216,000
Cape May County				
New York-Newark, NY-NJ PMSA (Part):				
Ocean City, NJ	151,725	194,100	234,600	291,600
Philadelphia, PA-NJ PMSA (Part):				
Burlington County, NJ	131,100	147,650	179,400	207,000
Camden County				
Gloucester County				
Salem County				
Trenton, NJ PMSA:				
Mercer County	135,200	152,250	185,000	213,450
Vineland-Millville-Bridgeton, NJ PMSA:				
Cumberland County	99,250	111,750	135,800	156,700
HUD Field Office: Newark Office				
New York-Newark, NY-NJ-PA PMSA (Part):				
Bergen County, NJ	151,725	194,100	234,600	291,600
Essex County, NJ				
Hudson County, NJ				
Hunterdon County, NJ				
Middlesex County, NJ				
Monmouth County, NJ				
Morris County, NJ				
Passaic County, NJ				
Somerset County, NJ				
Union County, NJ				
Warren County, NJ				
REGION III:				
HUD Regional Office: Philadelphia Office				
Allentown-Bethlehem-Easton, PA MSA (Part):				
Carbon County, PA	124,650	140,350	170,550	196,800
Lehigh County				
Northampton County				
Harrisburg-Lebanon-Carlisle, PA MSA:				
Cumberland County	106,200	119,600	145,300	167,650
Dauphin County.				
Lebanon County				
Perry County				
Lancaster, PA MSA:				
Lancaster County	121,600	136,950	166,400	192,000
New York-Newark, NY-NJ-PA PMSA:				
Pike County, PA	151,725	194,100	234,600	291,600
Philadelphia, PA-NJ PMSA (Part):				
Bucks County, PA	131,100	147,650	179,400	207,000
Chester County				
Delaware County				
Montgomery County				
Philadelphia County				
Reading, PA MSA:				
Berks County	98,800	111,250	135,200	156,000
Scranton-Wilkes-Barre-Hazleton, PA MSA:				
Columbia County	95,600	107,650	130,800	150,900
Lackawanna County				
Luzerne County				
Wyoming County				
State College, PA MSA:				
Centre County	92,150	103,750	126,100	145,500

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Williamsport, PA MSA:				
Lycoming County	75,300	84,600	103,000	118,850
York, PA MSA:				
York County	112,100	126,250	153,400	177,000
Other Areas:				
Adams County	112,100	126,250	153,400	177,000
Franklin County	76,000	85,600	104,000	120,000
Monroe County	95,600	107,650	130,800	150,900
Baltimore, MD PMSA:				
Baltimore City	151,725	194,100	234,600	291,600
Anne Arundel County	.....	.....	.....	.....
Baltimore County	.....	.....	.....	.....
Carroll County	.....	.....	.....	.....
Harford County	.....	.....	.....	.....
Howard County	.....	.....	.....	.....
Queen Anne's County	.....	.....	.....	.....
Hagerstown, MD PMSA:				
Washington County	97,750	110,050	133,750	154,300
Washington, DC-MD-VA-WV PMSA (Part):				
Charles County, MD	151,725	194,100	234,600	291,600
Calvert County	.....	.....	.....	.....
Frederick County	.....	.....	.....	.....
Wilmington-Newark, DE-MD PMSA (Part):				
Cecil County, MD	118,300	133,200	161,850	186,750
Other Areas:				
Caroline County	82,550	92,950	112,950	130,350
Garrett County	85,500	96,300	117,000	135,000
Kent County	104,500	117,700	143,000	165,000
St. Mary's County	104,500	117,700	143,000	165,000
Talbot County	101,250	114,000	138,000	160,500
Wicomico County	75,900	85,450	103,850	119,850
Worcester County	71,250	80,250	97,500	112,500
HUD Field Office: Charleston Office				
Charleston, WV MSA:				
Kanawha County	81,950	92,300	112,100	129,350
Putnam County	.....	.....	.....	.....
Huntington-Ashland, WV-KY-OH MSA (Part):				
Cabell County, WV	82,100	92,450	112,300	129,600
Wayne County	.....	.....	.....	.....
Parkersburg-Marietta, WV-OH MSA (Part):				
Wood County, WV	75,400	84,900	103,150	119,050
Steubenville-Weirton, WV-OH MSA:				
Brook County	74,250	83,600	101,600	117,200
Hancock County	.....	.....	.....	.....
Washington, DC-MD-VA-WV PMSA (Part):				
Berkeley County, WV	151,725	194,100	234,600	291,600
Jefferson County	.....	.....	.....	.....
Wheeling, WV-OH MSA (Part):				
Marshall County, WV	69,550	78,350	95,150	109,800
Ohio County	.....	.....	.....	.....
HUD Field Office: Pittsburgh Office				
Altoona, PA MSA:				
Blair County	83,550	94,100	114,300	131,900
Erie, PA MSA:				
Erie County	74,250	83,600	101,600	117,200
Johnstown, PA MSA:				
Cambria County	74,250	83,600	101,600	117,200
Somerset County	.....	.....	.....	.....
Pittsburgh, PA MSA:				
Allegheny County	99,750	112,350	136,500	157,500
Beaver County	.....	.....	.....	.....
Butler County	.....	.....	.....	.....
Fayette County	.....	.....	.....	.....
Washington County	.....	.....	.....	.....
Westmoreland County	.....	.....	.....	.....
HUD Field Office: Richmond Office				
Charlottesville, VA MSA:				
Albermarle County	109,250	123,050	149,500	172,500
Fluvanna County	.....	.....	.....	.....
Greene County	.....	.....	.....	.....
Charlottesville City	.....	.....	.....	.....

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Johnson City-Kingsport-Bristol, TN-VA MSA (Part):				
Bristol City, VA	85,400	96,150	116,850	134,800
Scott County	.....	.....	.....	.....
Washington County	.....	.....	.....	.....
Norfolk-VA Beach-Newport News, VA-NC MSA (Part):				
Chesapeake City	123,700	139,350	169,300	194,350
Gloucester County	.....	.....	.....	.....
Hampton City	.....	.....	.....	.....
James City County	.....	.....	.....	.....
Mathews County	.....	.....	.....	.....
Newport News City	.....	.....	.....	.....
Norfolk City	.....	.....	.....	.....
Poquoson City	.....	.....	.....	.....
Portsmouth City	.....	.....	.....	.....
Suffolk City	.....	.....	.....	.....
Virginia Beach City	.....	.....	.....	.....
Williamsburg City	.....	.....	.....	.....
York County	.....	.....	.....	.....
Richmond-Petersburg, VA MSA:				
Charles City County	114,000	128,400	156,000	180,000
Chesterfield County	.....	.....	.....	.....
Colonial Heights City	.....	.....	.....	.....
Dinwiddie County	.....	.....	.....	.....
Goochland County	.....	.....	.....	.....
Hanover County	.....	.....	.....	.....
Henrico County	.....	.....	.....	.....
Hopewell City	.....	.....	.....	.....
New Kent County	.....	.....	.....	.....
Petersburg City	.....	.....	.....	.....
Powhatan County	.....	.....	.....	.....
Prince George County	.....	.....	.....	.....
Richmond City	.....	.....	.....	.....
Roanoke, VA MSA:				
Botetourt County	103,100	116,100	141,050	162,750
Roanoke County	.....	.....	.....	.....
Roanoke City	.....	.....	.....	.....
Salem City	.....	.....	.....	.....
Washington, DC-MD-VA PMSA (Part):				
Clark County, VA	151,725	194,100	234,600	291,600
Culpeper County, VA	.....	.....	.....	.....
Fauquier County, VA	.....	.....	.....	.....
Fredericksburg City, VA	.....	.....	.....	.....
King George County, VA	.....	.....	.....	.....
Stafford County, VA	.....	.....	.....	.....
Spotsylvania, VA	.....	.....	.....	.....
Warren County, VA	.....	.....	.....	.....
State of Virginia:				
Caroline County	71,250	80,250	97,500	112,500
Essex County	75,950	85,500	103,900	119,900
Frederick County	92,150	103,750	126,100	145,500
Isle of Wight County	87,400	98,400	119,600	138,000
King William County	72,200	81,300	98,800	114,000
Louisa County	70,750	79,700	96,850	111,750
Madison County	76,000	85,600	104,000	120,000
Middlesex County	86,400	108,600	131,950	152,250
Montgomery County	74,550	83,950	102,050	117,750
Orange County	77,900	87,700	106,600	123,000
Rockingham County	82,650	93,050	113,100	130,500
Shenandoah County	80,350	90,100	109,500	126,380
All Other Areas:	68,300	76,900	93,500	107,900
HUD Field Office: Washington, DC Office				
Washington, DC-MD-VA PMSA (Part):				
District of Columbia	151,725	194,100	234,600	291,600
Montgomery County, MD	.....	.....	.....	.....
Prince Georges County, MD	.....	.....	.....	.....
Alexandria City, VA	.....	.....	.....	.....
Arlington County, VA	.....	.....	.....	.....
Fairfax County, VA	.....	.....	.....	.....
Falls Church City, VA	.....	.....	.....	.....
Loudoun County, VA	.....	.....	.....	.....
Manassas City, VA	.....	.....	.....	.....

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Manassas Park City, VA	.....	.....	.....	.....
Prince William County, VA	.....	.....	.....	.....
HUD Field Office: Wilmington Office				
Wilmington-Newark, DE-MD PMSA (Part):				
New Castle County, DE	118,300	133,200	161,850	186,750
Dover, DE MSA:				
Kent County	87,850	98,950	120,250	138,750
Other Areas:				
Sussex County	91,200	102,700	124,800	144,000
REGION IV:				
HUD Regional Office: Atlanta Office				
Albany, GA MSA:				
Dougherty County	74,250	83,600	101,600	117,200
Lee County	.....	.....	.....	.....
Atlanta, GA MSA:				
Barrow County	123,400	138,950	168,850	194,800
Bartow County	.....	.....	.....	.....
Carroll County	.....	.....	.....	.....
Cherokee County	.....	.....	.....	.....
Clayton County	.....	.....	.....	.....
Cobb County	.....	.....	.....	.....
Coweta County	.....	.....	.....	.....
De Kalb County	.....	.....	.....	.....
Douglas County	.....	.....	.....	.....
Fayette County	.....	.....	.....	.....
Forsyth County	.....	.....	.....	.....
Fulton County	.....	.....	.....	.....
Gwinnett County	.....	.....	.....	.....
Henry County	.....	.....	.....	.....
Newton County	.....	.....	.....	.....
Paulding County	.....	.....	.....	.....
Pickens County	.....	.....	.....	.....
Rockdale County	.....	.....	.....	.....
Spalding County	.....	.....	.....	.....
Walton County	.....	.....	.....	.....
Augusta-Aiken, GA-SC MSA:				
Columbia County, GA	96,450	108,600	131,950	152,250
Richmond County	.....	.....	.....	.....
Chattanooga, TN-GA MSA (Part):				
Catoosa County, GA	73,050	82,250	99,950	115,350
Dade County	.....	.....	.....	.....
Walker County	.....	.....	.....	.....
Macon, GA MSA:				
Bibb County	86,550	97,450	118,400	136,650
Houston County	.....	.....	.....	.....
Jones County	.....	.....	.....	.....
Peach County	.....	.....	.....	.....
Twiggs County	.....	.....	.....	.....
Savannah, GA MSA:				
Bryan County	102,900	115,850	140,800	162,450
Chatham County	.....	.....	.....	.....
Effingham County	.....	.....	.....	.....
Other Areas:				
Butts County	121,450	136,750	166,150	191,750
Clarke County	75,500	85,050	103,350	119,250
Dawson County	68,850	77,550	94,250	108,750
Glynn County	76,000	85,600	104,000	120,000
Hall County	85,500	96,300	117,000	135,000
McDuffie County	92,250	104,450	126,900	146,400
Muscogee County	75,000	84,450	102,600	118,400
Oconee County	75,500	85,050	103,350	119,250
Whitfield County	70,850	79,800	96,950	111,900
HUD Field Office: Birmingham Office				
Anniston, AL MSA:	.....	.....	.....	.....
Calhoun County	78,950	88,900	108,000	124,650
Birmingham, AL MSA:				
Blount County	102,700	115,650	140,500	162,150
Jefferson County	.....	.....	.....	.....
Shelby County	.....	.....	.....	.....
St. Clair County	.....	.....	.....	.....
Florence, AL MSA:				
Colbert County	77,150	86,850	105,550	121,800

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Lauderdale County	.....	.....	.....	.....
Gadsden, AL MSA:				
Etowah County	74,250	83,600	101,600	117,200
Huntsville, AL MSA:				
Limestone County	100,900	113,600	138,050	159,300
Madison County	.....	.....	.....	.....
Mobile, AL MSA:				
Baldwin County	90,700	102,150	124,150	143,250
Mobile County	.....	.....	.....	.....
Montgomery, AL MSA:				
Autauga County	84,500	95,150	115,650	133,400
Elmore County	.....	.....	.....	.....
Montgomery County	.....	.....	.....	.....
Tuscaloosa, AL MSA:				
Tuscaloosa County	94,300	106,200	129,050	148,900
Other Areas:				
Houston County	74,100	83,450	101,400	117,000
Morgan County	79,550	89,600	108,850	125,600
Walker County	102,700	115,650	140,500	162,150
HUD Field Office: Caribbean Office				
Caguas, PR PMSA:				
Aguas Buenas Municipio	93,050	104,800	127,300	146,900
Caguas Municipio	.....	.....	.....	.....
Cayey Municipio	.....	.....	.....	.....
Cidra Municipio	.....	.....	.....	.....
Gurabo Municipio	.....	.....	.....	.....
San Lorenzo Municipio	.....	.....	.....	.....
Mayaguez, PR MSA:				
Anasco Municipio	79,650	89,700	109,000	125,800
Cabo Rojo Municipio	.....	.....	.....	.....
Hormigueros Municipio	.....	.....	.....	.....
Sabana Grande Municipio	.....	.....	.....	.....
San German Municipio	.....	.....	.....	.....
Mayaguez Municipio	80,750	90,950	110,500	127,500
Ponce, PR MSA:				
Guayanilla Municipio	81,700	92,000	111,800	129,000
Juana Diaz Municipio	.....	.....	.....	.....
Penuelas Municipio	.....	.....	.....	.....
Ponce Municipio	.....	.....	.....	.....
Villalba Municipio	.....	.....	.....	.....
Yauco Municipio	.....	.....	.....	.....
San Juan-Bayamon, PR PMSA:				
Aguas Buenas Municipio	109,250	123,050	149,500	172,500
Bayamon Municipio	.....	.....	.....	.....
Barceloneta Municipio	93,050	104,800	127,300	146,900
Canovanas Municipio	.....	.....	.....	.....
Carolina Municipio	.....	.....	.....	.....
Catano Municipio	.....	.....	.....	.....
Ceiba Municipio	.....	.....	.....	.....
Comerio Municipio	.....	.....	.....	.....
Corozal Municipio	.....	.....	.....	.....
Dorado Municipio	.....	.....	.....	.....
Fajardo Municipio	.....	.....	.....	.....
Florida Municipio	.....	.....	.....	.....
Humacao Municipio	.....	.....	.....	.....
Juncos Municipio	.....	.....	.....	.....
Las Piedras Municipio	.....	.....	.....	.....
Loiza Municipio	.....	.....	.....	.....
Luquillo Municipio	.....	.....	.....	.....
Manati Municipio	.....	.....	.....	.....
Morovis Municipio	.....	.....	.....	.....
Naguabo Municipio	.....	.....	.....	.....
Naranjito Municipio	.....	.....	.....	.....
Rio Grande Municipio	.....	.....	.....	.....
San Juan Municipio	.....	.....	.....	.....
Toa Alta Municipio	93,050	104,800	127,300	146,900
Toa Baja Municipio	.....	.....	.....	.....
Vega Alta Municipio	.....	.....	.....	.....
Vega Baja Municipio	.....	.....	.....	.....
Yabucoa Municipio	.....	.....	.....	.....
Guaynabo Municipio	121,600	136,950	166,400	192,000

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Trujillo Alto Municipo	123,500	139,100	169,100	185,000
Virgin Islands:				
St. Croix	187,300	210,950	256,300	285,700
St. Thomas	.....	.....	.....	.....
St. John	.....	.....	.....	.....
HUD Field Office: Coral Gables Office				
Ft. Lauderdale, FL PMSA:				
Broward County	111,050	125,050	151,950	175,300
Ft. Myers, FL MSA:				
Lee County	112,100	126,250	153,400	177,000
Ft. Pierce-Port St. Lucie, FL MSA:				
Martin County	123,500	139,900	169,000	195,000
Miami, FL PMSA:				
Dade County	112,350	126,500	153,700	177,350
Punta Gorda, FL MSA:				
Charlotte County	75,050	84,500	102,700	118,500
West Palm Beach-Boca Raton, FL MSA:				
Palm Beach County	116,550	131,250	159,450	184,000
Other Areas:				
Collier County	100,700	113,400	137,800	159,000
Monroe County	124,875	140,600	170,200	197,950
Augusta-Aiken, GA-SC MSA: (Part):				
Aiken County, SC	96,450	108,600	131,950	152,250
Edgefield County	.....	.....	.....	.....
Charleston-North Charleston, SC MSA:				
Berkeley County	97,800	110,150	133,800	154,400
Charleston County	.....	.....	.....	.....
Dorchester County	.....	.....	.....	.....
Charlotte-Gastonia-Rock Hill, NC-SC MSA (Part):				
York County, SC	109,250	123,050	149,500	172,500
Columbia, SC MSA:				
Lexington County	97,350	109,600	133,200	153,700
Richard County	.....	.....	.....	.....
Florence, SC MSA:				
Florence County	75,900	85,450	103,850	119,850
Greenville-Spartanburg-Anderson, SC MSA:.				
Anderson County	90,250	101,650	123,500	142,500
Cherokee County	.....	.....	.....	.....
Greenville County	.....	.....	.....	.....
Pickens County	.....	.....	.....	.....
Spartanburg County	.....	.....	.....	.....
Myrtle Beach, SC MSA:				
Horry County	90,250	101,650	123,500	142,500
Other Areas:				
Beaufort County	94,050	105,900	128,700	148,500
Georgetown County	81,600	91,900	111,650	128,850
HUD Field Office: Greensboro Office				
Asheville, NC MSA:				
Buncombe County	102,450	115,350	140,150	161,750
Madison County	.....	.....	.....	.....
Charlotte-Gastonia-Rock Hill, NC–SC MSA (Part):				
Mecklenburg County, NC	109,250	123,050	149,500	172,500
Cabarrus County	.....	.....	.....	.....
Gaston County	.....	.....	.....	.....
Lincoln County	.....	.....	.....	.....
Rowan County	.....	.....	.....	.....
Union County	.....	.....	.....	.....
Fayetteville, NC MSA:				
Cumberland County	90,750	102,200	124,150	143,250
Greensboro—Winston-Salem—High Point, NC MSA:				
Alamance County	98,800	111,250	135,200	156,000
Davidson County	.....	.....	.....	.....
Davie County	.....	.....	.....	.....
Forsyth County	.....	.....	.....	.....
Guilford County	.....	.....	.....	.....
Randolph County	.....	.....	.....	.....
Stokes County	.....	.....	.....	.....
Yadkin County	.....	.....	.....	.....
Greenville, NC MSA:				
Pitt County	75,050	84,500	102,750	118,500

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Hickory-Morganton NC MSA:				
Alexander County	78,850	88,800	107,900	124,500
Burke County	.....	.....	.....	.....
Caldwell County	.....	.....	.....	.....
Catawba County	.....	.....	.....	.....
Norfolk-VA Beach-Newport News, VA–NC (Part):				
Currituck County, NC	123,750	139,350	169,300	194,350
Raleigh-Durham-Chapel Hill, NC MSA:				
Chatham County	121,600	136,950	166,400	192,000
Durham County	.....	.....	.....	.....
Franklin County	.....	.....	.....	.....
Johnston County	.....	.....	.....	.....
Orange County	.....	.....	.....	.....
Wake County	.....	.....	.....	.....
Wilmington, NC MSA:				
New Hanover County	94,100	105,950	128,750	148,550
Other Areas:				
Carteret County	70,300	79,150	96,200	111,000
Craven County	81,350	91,600	111,300	128,400
Dare County	109,250	123,050	149,500	172,500
Granville County	72,200	81,300	98,800	114,000
Henderson County	80,750	90,950	110,500	127,500
Iredell County	78,700	88,600	107,700	124,250
Moore County	93,100	104,850	127,400	147,000
Nash County	76,000	85,600	104,000	120,000
Transylvania County	80,750	90,950	110,500	127,500
Wilson County	70,200	79,050	96,050	110,850
HUD Field Office: Jackson Office				
Biloxi-Gulfport-Pascagoula, MS MSA:				
Hancock County	84,850	95,550	116,100	133,950
Harrison County	.....	.....	.....	.....
Jackson County	.....	.....	.....	.....
Jackson, MS MSA:				
Hinds County	94,950	106,900	129,900	149,950
Madison County	.....	.....	.....	.....
Rankin County	.....	.....	.....	.....
Memphis, TN–AR–MS MSA:				
Desoto County, MS	104,300	117,450	142,700	164,650
Other Areas:				
Lee County	76,000	85,600	104,000	120,000
Lowndes County	70,200	79,100	96,100	110,900
Oktibbeha County	73,300	82,600	100,350	115,800
Warren County	80,000	90,100	109,450	126,300
Daytona Beach, FL MSA (Part):				
Flagler County	83,600	94,150	114,400	132,000
Gainesville, FL MSA:				
Alachua County	98,150	110,500	134,300	154,950
Jacksonville, FL MSA:				
Clay County	87,650	98,950	120,250	138,750
Duval County	.....	.....	.....	.....
Nassau County	.....	.....	.....	.....
St. Johns County	.....	.....	.....	.....
Panama City, FL MSA:				
Bay County	96,750	108,950	132,350	152,750
Pensacola, FL MSA:				
Escambia County	91,950	103,550	125,900	145,150
Santa Rosa County	.....	.....	.....	.....
Tallahassee, FL MSA:				
Gadsden County	106,400	119,800	145,600	168,000
Leon County	.....	.....	.....	.....
Other Areas:				
Bradford County	98,150	110,500	134,300	154,950
HUD Field Office: Knoxville Office				
Chattanooga, TN–GA MSA (Part):				
Hamilton County, TN	82,650	93,050	113,100	130,500
Johnson City-Kingsport-Bristol, TN–VA MSA (Part):				
Carter County, TN	85,400	96,150	116,850	134,800
Hawkins County	.....	.....	.....	.....
Sullivan County	.....	.....	.....	.....
Unicoi County	.....	.....	.....	.....
Washington County	.....	.....	.....	.....

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Knoxville, TN MSA:				
Anderson County	98,230	110,600	134,400	155,100
Blount County	.....	.....	.....	.....
Knox County	.....	.....	.....	.....
Loudon County	.....	.....	.....	.....
Sevier County	.....	.....	.....	.....
Union County	.....	.....	.....	.....
Other Areas:				
Grainger County	98,230	110,600	134,400	155,100
Jefferson County	98,230	110,600	134,400	155,100
Marion County	73,050	82,250	99,950	115,350
Sequatchie County	73,050	82,250	99,950	115,350
HUD Field Office: Louisville Office				
Cincinnati, OH–KY–IN PMSA (Part):				
Boone County, KY	108,750	122,450	148,800	171,700
Campbell County	.....	.....	.....	.....
Gallatin County	.....	.....	.....	.....
Grant County	.....	.....	.....	.....
Kenton County	.....	.....	.....	.....
Pendleton County	.....	.....	.....	.....
Clarksville-Hopkinsville, TN–KY MSA (Part):				
Christian County, KY	76,750	86,400	105,100	121,150
Evansville-Henderson, IN–KY MSA (Part):				
Henderson County, KY	74,250	83,600	101,600	117,200
Huntington-Ashland, WV–KY–OH MSA (Part):				
Boyd County, KY	82,100	92,450	112,300	129,600
Greenup County	.....	.....	.....	.....
Lexington, KY MSA:				
Bourbon County	95,000	107,000	130,000	150,000
Clark County	.....	.....	.....	.....
Fayette County	.....	.....	.....	.....
Jessamine County	.....	.....	.....	.....
Madison County	.....	.....	.....	.....
Scott County	.....	.....	.....	.....
Woodford County	.....	.....	.....	.....
Louisville, KY–IN MSA (Part):				
Jefferson County, KY	91,650	103,200	125,400	144,700
Bullitt County	86,350	97,250	118,200	136,350
Oldham County	.....	.....	.....	.....
Owensboro, KY MSA:				
Davies County	74,250	83,600	101,600	117,200
Other Areas:				
Carter County	82,100	92,450	112,300	129,600
Shelby County	86,350	97,250	118,200	136,350
HUD Field Office: Memphis Office				
Memphis, TN-AR-MS MSA:				
Fayette County, TN	104,300	117,450	142,700	164,650
Shelby County	.....	.....	.....	.....
Tipton County	.....	.....	.....	.....
Other Areas:				
Madison County	77,750	87,600	106,400	122,800
HUD Field Office: Nashville Office				
Clarksville-Hopkinsville, TN-KY MSA (Part):				
Montgomery County, TN	76,750	86,400	105,000	121,150
Nashville, TN MSA:				
Cheatham County	118,650	133,600	162,350	187,300
Davidson County	.....	.....	.....	.....
Dickson County	.....	.....	.....	.....
Robertson County	.....	.....	.....	.....
Rutherford County	.....	.....	.....	.....
Sumner County	.....	.....	.....	.....
Williamson County	.....	.....	.....	.....
Wilson County	.....	.....	.....	.....
Other Areas:				
Maury County	76,500	86,150	104,650	120,750
HUD Field Office: Orlando Office				
Daytona Beach, FL MSA (Part):				
Volusia County	75,500	85,000	103,300	119,200
Orlando, FL MSA:				
Lake County	102,100	114,950	139,700	161,200
Orange County	.....	.....	.....	.....

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Osceola County				
Seminole County				
Melbourne-Titusville-Palm Bay, FL MSA:				
Brevard County	93,600	105,400	128,050	147,750
Other Areas:				
Indian River County	69,800	78,600	95,550	110,250
St. Lucie County	75,900	85,450	103,850	119,450
HUD Field Office: Tampa Office				
Lakeland-Winter Haven, FL MSA:				
Polk County	91,650	103,200	125,400	144,700
Sarasota-Bradenton, FL MSA:				
Manatee County	119,350	134,400	163,300	188,400
Sarasota County				
Tampa-St. Petersburg-Clearwater, FL MSA:				
Hernando County	84,550	95,200	115,700	133,500
Hillsborough County				
Pasco County				
Pinellas County	91,850	103,450	125,700	145,050
REGION V:				
HUD Regional Office: Chicago Office				
Chicago, IL PMSA:				
Cook County	151,725	194,100	234,600	291,600
De Kalb County				
Du Page County				
Grundy County				
Kane County				
Kendall County				
Lake County				
McHenry County				
Will County				
Davenport-Moline-Rock Island, IA-IL MSA:				
Henry County, IL	72,750	81,900	99,550	114,850
Rock Island County				
Kankakee, IL PMSA:				
Kankakee County	78,350	88,200	107,200	123,700
Rockford, IL MSA:				
Boone County	74,550	83,950	102,050	117,750
Ogle County				
Winnebago County				
HUD Field Office: Cincinnati Office				
Cincinnati, OH-KY-IN PMSA (Part):				
Brown County, OH	108,750	122,450	148,800	171,700
Clermont County				
Hamilton County				
Warren County				
Dayton-Springfield, OH MSA (Part):				
Greene County	104,950	118,200	143,600	165,700
Miami County				
Montgomery County				
Hamilton-Middletown, OH PMSA:				
Butler County	109,250	123,050	149,500	172,500
HUD Field Office: Cleveland Office				
Akron, OH PMSA:				
Portage County	92,050	103,650	125,950	145,300
Summit County				
Canton-Massillon, OH MSA:				
Carroll County	79,800	89,850	109,200	126,000
Stark County				
Cleveland-Lorain-Elyria, OH PMSA:				
Ashtabula County	99,750	112,350	136,500	157,500
Cuhahoga County				
Geauga County				
Lake County				
Lorain County				
Medina County				
Mansfield, OH MSA:				
Crawford County	70,950	79,900	97,050	112,000
Richland County				
Toledo, OH MSA:				
Fulton County	74,800	84,200	102,350	118,100
Lucas County				

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Wood County	.....	.....	.....	.....
HUD Field Office: Columbus Office				
Columbus, OH MSA:				
Delaware County	109,700	123,550	150,100	173,200
Fairfield County	.....	.....	.....	.....
Franklin County	.....	.....	.....	.....
Licking County	.....	.....	.....	.....
Madison County	.....	.....	.....	.....
Pickaway County	.....	.....	.....	.....
Dayton-Springfield, OH MSA (Part):				
Clark County	104,950	118,200	143,600	165,700
Huntington-Ashland, WV-KY-OH MSA (Part):				
Lawrence County, OH	82,100	92,450	112,300	129,600
Lima, OH MSA:				
Allen County	78,600	88,500	107,550	124,100
Auglaize County	.....	.....	.....	.....
Parkersburg-Marietta, WV-OH MSA (Part):				
Washington County, OH	82,900	93,350	113,400	130,850
Steubenville-Weirton, OH-WV MSA:				
Jefferson County	74,250	83,600	101,600	117,200
Wheeling, WV-OH MSA (Part)				
Belmont County, OH	76,500	86,150	104,650	120,750
Other Areas:				
Union County, OH	89,000	100,250	121,800	140,550
HUD Field Office: Detroit Office				
Ann Arbor, MI PMSA:				
Lenawee County	108,200	121,850	148,050	170,800
Livingston County	.....	.....	.....	.....
Washtenaw County	.....	.....	.....	.....
Detroit, MI PMSA (Part):				
Oakland County	103,550	116,600	141,700	163,500
Macomb County	.....	.....	.....	.....
Monroe County	.....	.....	.....	.....
St. Clair County	.....	.....	.....	.....
Wayne County	.....	.....	.....	.....
HUD Field Office: Flint Office				
Detroit, MI PMSA (Part):				
Lapeer County	103,550	116,600	141,700	163,500
Saginaw-Bay City-Midland, MI MSA:				
Bay County	83,500	94,000	114,250	131,800
Midland County	.....	.....	.....	.....
Saginaw County	.....	.....	.....	.....
HUD Field Office: Grand Rapids Office				
Grand-Rapids-Muskegon-Holland, MI MSA:				
Allegan County	89,250	100,500	122,100	140,900
Kent County	.....	.....	.....	.....
Muskegon County	.....	.....	.....	.....
Ottawa County	.....	.....	.....	.....
Jackson, MI MSA:				
Jackson County	74,250	83,600	101,600	117,200
Kalamazoo-Battlecreek, MI MSA:				
Calhoun County	78,850	88,800	107,900	107,900
Kalamazoo County	.....	.....	.....	.....
Van Buren County	.....	.....	.....	.....
Lansing-East Lansing, MI MSA:				
Clinton County	77,800	87,600	106,405	122,800
Eaton County	.....	.....	.....	.....
Ingham County	.....	.....	.....	.....
Other Areas:				
Grand Traverse County	70,850	79,800	96,950	111,900
Leelanau County	98,800	111,250	135,200	156,000
HUD Field Office: Indianapolis Office				
Bloomington, IN MSA:				
Monroe County	84,450	95,100	115,550	133,300
Cincinnati, OH–KY–IN PMSA				
Dearborn County, IN	108,750	122,450	148,800	171,700
Ohio County	.....	.....	.....	.....
Elkhart-Goshen, IN MSA:				
Elkhart County	80,250	90,400	109,850	126,750
Evansville-Henderson, IN–KY MSA:				
Posey County	74,250	83,600	101,600	117,200

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Vanderburgh County	———	———	———	———
Warrick County	———	———	———	———
Fort Wayne, IN MSA:				
Adams County	84,250	94,850	115,250	133,000
Allen County	———	———	———	———
Dekalb County	———	———	———	———
Huntington County	———	———	———	———
Wells County	———	———	———	———
Whitley County	———	———	———	———
Gary, IN PMSA:				
Lake County	81,900	92,00	112,050	129,300
Porter County	———	———	———	———
Indianapolis, IN MSA:				
Boone County	99,750	112,350	136,500	157,500
Hamilton County	———	———	———	———
Hancock County	———	———	———	———
Hendricks County	———	———	———	———
Johnson County	———	———	———	———
Madison County	———	———	———	———
Marion County	———	———	———	———
Morgan County	———	———	———	———
Shelby County	———	———	———	———
Kokomo, IN MSA:				
Howard County	71,400	83,450	101,400	117,000
Tipton County	———	———	———	———
Lafayette, IN MSA:				
Clinton County	87,400	98,400	119,600	138,000
Tippecanoe County	———	———	———	———
Louisville, KY–IN MSA (Part):				
Clark County, IN	86,350	97,250	118,200	136,350
Floyd County	———	———	———	———
Harrison County	———	———	———	———
Scott County	———	———	———	———
Muncie, IN MSA:				
Delaware County	70,200	79,050	96,050	110,850
South Bend, IN MSA:				
St. Joseph County	84,250	94,850	115,250	133,000
Other Areas:				
Allen County	79,650	89,700	109,000	125,750
Bartholomew County	85,000	95,750	116,350	134,250
Delaware County	70,200	79,050	96,050	110,850
Howard County	72,200	81,300	98,800	114,000
Warwick County	73,150	82,350	100,100	115,500
HUD Field Office: Milwaukee Office				
Appleton-Oshkosh-Neenah, WI MSA:				
Calument County	90,050	101,400	123,200	142,150
Outagamie County	———	———	———	———
Winnebago County	———	———	———	———
Duluth-Superior, MN–WI MSA (Part):				
Douglas County	74,250	83,600	101,600	117,200
Eau Claire, WI MSA:				
Chippewa County	76,250	85,500	104,300	120,350
Eau Claire County	———	———	———	———
Green Bay, WI MSA:				
Brown County	86,150	97,000	117,850	136,000
Kenosha, WI MSA:				
Kenosha County	84,850	95,550	116,100	133,950
La Crosse, WI–MN MSA (Part):				
La Crosse County	81,150	91,400	111,400	128,100
Madison, WI MSA:				
Dane County	93,300	105,050	127,650	147,300
Milwaukee-Waukesha, WI MSA:				
Milwaukee County	95,000	107,000	130,000	150,000
Ozaukee County	———	———	———	———
Washington County	———	———	———	———
Waukesha County	———	———	———	———
Minneapolis-St. Paul, MN–WA MSA (Part):				
Pierce County, WI	110,200	124,100	150,800	174,000
St. Croix County	———	———	———	———
Racine, WI PMSA:				
Racine County	88,350	99,500	120,900	139,500

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
HUD Field Office: Minneapolis-St. Paul Office				
Duluth-Superior, MN-WI MSA (Part):				
St. Louis County	74,250	83,600	101,600	117,200
Fargo-Moorhead, ND-MN MSA (Part):				
Clay County, MN	99,800	112,400	136,550	157,550
Grand Forks, ND-MN MSA (Part):				
Polk County, MN	101,050	113,800	138,250	159,550
La Crosse, WI-MN MSA (Part):				
Houston County, MN	81,150	91,400	111,400	128,100
Minneapolis-St. Paul, MN-WI MSA (Part):				
Anoka County, MN	110,200	124,100	150,800	174,000
Carver County	.....	.....	.....	.....
Chisago County	.....	.....	.....	.....
Dakota County	.....	.....	.....	.....
Hennepin County	.....	.....	.....	.....
Isanti County	.....	.....	.....	.....
Ramsey County	.....	.....	.....	.....
Scott County	.....	.....	.....	.....
Sherburne County	.....	.....	.....	.....
Washington County	.....	.....	.....	.....
Wright County	.....	.....	.....	.....
Rochester, MN MSA:				
Olmstead County	106,150	119,550	145,250	167,600
St. Cloud, MN MSA:				
Benton County	87,100	98,100	119,200	137,550
Stearns County	.....	.....	.....	.....
HUD Field Office: Springfield Office				
Bloomington-Normal, IL MSA:				
McLean County	79,500	89,500	108,750	125,500
Champaign-Urbana, IL MSA:				
Champaign County	99,950	112,600	136,800	157,850
Springfield, IL MSA:				
Menard County	74,250	83,600	101,600	117,200
Sangamon County	.....	.....	.....	.....
St. Louis, MO-IL PMSA (Part):				
Clinton County, IL	99,150	111,650	135,650	156,550
Jersey County	.....	.....	.....	.....
Madison County	.....	.....	.....	.....
Monroe County	.....	.....	.....	.....
St. Clair County	.....	.....	.....	.....
REGION VI				
HUD Regional Office: Fort Worth Office				
Abilene, TX MSA:				
Taylor County	86,600	97,500	118,500	136,700
Dallas, TX PMSA (Part):				
Denton County	110,650	124,600	151,400	174,700
Ellis County	.....	.....	.....	.....
Henderson County	.....	.....	.....	.....
Hunt County	.....	.....	.....	.....
Kaufman County	.....	.....	.....	.....
Ft. Worth-Arlington, TX PMSA:				
Johnson County	111,350	125,400	152,400	175,800
Parker County	.....	.....	.....	.....
Tarrant County	.....	.....	.....	.....
Hood County	.....	.....	.....	.....
Killeen-Temple, TX MSA:				
Bell County	88,500	99,650	121,100	139,700
Coryell County	.....	.....	.....	.....
Longview-Marshall, TX MSA (Part):				
Gregg County	81,300	91,550	111,250	128,350
Upshur County	.....	.....	.....	.....
San Angelo, TX MSA:				
Tom Green County	80,050	90,150	109,550	126,400
Sherman-Dension, TX MSA:				
Grayson County	95,750	107,800	131,000	151,150
Texarkana, TX-Texarkana, AR MSA (Part):				
Bowie County, TX	76,750	86,400	105,000	121,150
Tyler, TX MSA:				
Smith County	85,100	95,800	116,450	127,650
Waco, TX MSA:				
McLennan County	86,900	97,850	118,900	137,200

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Wichita Falls, TX MSA:				
Archer County	93,900	105,800	128,550	148,300
Wichita County				
HUD Field Office: Albuquerque Office				
Albuquerque, NM MSA:				
Bernalillo County	102,850	115,800	140,700	162,350
Sandoval County				
Valencia County				
Las Cruces, NM MDA:				
Don Ana County	74,250	83,600	101,600	117,200
Other Areas:				
Los Alamos County	107,800	121,400	147,550	170,250
McKinley County	79,300	89,300	108,550	125,250
Santa Fe County	120,650	135,850	165,100	190,500
HUD Field Office: Dallas Office				
Dallas, TX PMSA (Part):				
Collin County	114,950	129,450	157,300	181,500
Dallas County	110,650	124,600	151,400	174,700
Rockwall County				
HUD Field Office: Houston Office				
Beaumont-Port Arthur, TX MSA:				
Hardin County	80,800	91,000	110,550	127,550
Jefferson County				
Orange County				
Brazoria,TX PMSA:				
Brazoria County	90,000	101,300	122,650	142,650
Bryan-College Station, TX MSA:				
Brazos County	92,700	104,400	126,850	146,350
Galveston-Texas City, TX PMSA:				
Galveston County	145,300	163,650	198,800	229,400
Houston, TX PMSA:				
Chambers County	101,500	114,300	138,850	160,250
Ft. Bend County				
Harris County				
Liberty County				
Montgomery County				
Waller County				
Other Areas:				
Angelina County	88,400	77,700	93,600	108,000
HUD Field Office: Little Rock Office				
Fayetteville-Springdale-Rogers, AR MSA:				
Washington County	74,250	83,600	101,600	117,200
Benton County				
Memphis, TN-AR-MS MSA (Part):				
Crittenden County, AR	104,300	117,450	142,700	164,650
North Little Rock, AR MSA:				
Faulkner County	90,850	102,300	124,300	143,400
Lenoke County				
Pulaski County				
Saline County				
Texarkana, TX-Texarkana, AR MSA (Part):				
Miller County, AR	76,750	86,400	105,000	121,150
HUD Field Office: Lubbock Office				
Amarillo, TX MSA:				
Potter County	78,250	88,100	107,050	123,550
Randall County				
Lubbock, TX MSA:				
Lubbock County	96,200	108,350	131,600	151,850
Odessa-Midland, TX MSA:				
Midland County	101,250	114,000	138,000	160,500
Ector County				
HUD Field Office: New Orleans Office				
Baton Rouge, LA MSA:				
East Baton Rouge Parish	76,000	85,600	104,000	120,000
Livingston Parish				
West Baton Rouge Parish				
Lake Charles, LA MSA:				
Calcasieu Parish	85,900	96,750	117,500	135,600
New Orleans, LA MSA:				
Jefferson Parish	109,250	123,050	149,500	172,500
Orleans Parish				

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Plaquemines Parish				
St. Bernard Parish				
St. Charles Parish				
St. James Parish				
St. John the Baptist Parish				
St. Tammany Parish				
Lafayette, LA MSA:				
Lafayette Parish	76,000	85,600	104,000	120,000
Acadia Parish	74,250	83,600	101,600	117,200
St. Landry Parish				
St. Martin Parish				
Other Areas:				
Ascension Parish	76,000	85,600	104,000	120,000
HUD Field Office: Oklahoma City Office				
Lawton, OK MSA:				
Comanche County	74,250	83,600	101,600	117,200
Oklahoma City, OK MSA:				
Canadian County	88,200	99,300	120,650	139,250
Cleveland County				
Logan County				
McClain County				
Oklahoma County				
Pottawatomie County				
HUD Field Office: San Antonio Office				
Austin-San Marcos, TX MSA:				
Bastrop County	116,800	131,550	159,000	184,400
Caldwell County				
Hays County				
Travis County				
Williamson County				
Corpus Christi, TX MSA:				
Nueces County	81,450	91,750	111,450	128,600
San Patricio County				
El Paso, TX MSA:				
El Paso County	79,250	89,250	108,400	125,100
Laredo, TX MSA:				
Webb County	76,000	85,600	104,000	120,000
McAllen-Edinburg-Mission, TX MSA:				
Hidalgo County	82,850	93,300	113,350	130,800
San Antonio, TX MSA:				
Bexar County	91,000	102,450	124,500	143,650
Comal County				
Guadalupe County				
Wilson County				
Other Areas:				
Burnet County	76,000	85,600	104,000	120,000
Kendall County	79,500	89,500	108,750	125,500
HUD Field Office: Shreveport Office				
Alexandria, LA MSA:				
Rapids Parish	87,950	99,050	120,350	138,850
Longview-Marshall, TX MSA (Part):				
Harrison County, TX	81,300	91,550	111,250	128,350
Monroe, LA MSA:				
Ouachita Parish	82,550	92,950	112,950	130,300
Shreveport-Bossier City, LA MSA:				
Bossier Parish	89,350	100,600	122,250	141,050
Caddo Parish				
Webster Parish				
HUD Field Office: Tulsa Office				
Tulsa, OK MSA:				
Creek County	83,550	94,100	114,300	131,900
Osage County				
Rogers County				
Tulsa County				
Wagoner County				
REGION VII:				
HUD Regional Office: Kansas City Office				
Kansas City, MO-KS MSA:				
Johnson County, KS	97,350	109,600	133,200	153,700
Leavenworth County				
Miami County				

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Wyandotte County	.....	.....	.....	.....
Cass County, MO	97,350	109,600	133,200	153,700
Clay County	.....	.....	.....	.....
Clinton County	.....	.....	.....	.....
Jackson County	.....	.....	.....	.....
Lafayette County	.....	.....	.....	.....
Platt County	.....	.....	.....	.....
Ray County	.....	.....	.....	.....
Springfield, MO MSA:				
Christian County	74,250	83,600	101,600	117,200
Greene County	.....	.....	.....	.....
Webster County	.....	.....	.....	.....
St. Joseph, MO MSA:				
Andrew County	70,950	79,900	97,050	112,000
Buchanan County	.....	.....	.....	.....
HUD Field Office: Des Moines Office				
Cedar Rapids, IA MSA:				
Linn County	72,800	81,950	99,600	114,900
Davenport-Moline-Rock Island, IA-IL MSA (Part):				
Scott County, IA	77,400	87,150	105,900	122,200
Des Moines, IA MSA:				
Dallas County	75,800	85,400	103,750	119,700
Polk County	.....	.....	.....	.....
Warren County	.....	.....	.....	.....
Dubuque, IA MSA:				
Dubuque County	86,600	97,500	118,500	136,700
Omaha, NE-IA MSA (Part):				
Pottawattamie County, IA	86,650	97,550	118,550	136,800
Waterloo-Cedar Falls, IA MSA:				
Black Hawk County	78,950	88,950	108,050	124,700
Other Areas:				
Bremer County	78,950	88,950	108,050	124,700
Johnson County	75,900	85,450	103,850	119,850
HUD Field Office: Omaha Office				
Lincoln, NE MSA:				
Lancaster County	80,600	90,750	110,250	127,250
Omaha, NE-IA MSA (Part):				
Cass County, NE	86,650	97,550	118,550	136,800
Douglas County	.....	.....	.....	.....
Sarpy County	.....	.....	.....	.....
Washington County	.....	.....	.....	.....
HUD Field Office: St. Louis Office				
Columbia, MO MSA:				
Boone County	82,100	92,450	112,300	129,600
St. Louis, MO-IL PMSA (Part):				
Franklin County, MO	99,150	111,650	135,650	156,550
Jefferson County	.....	.....	.....	.....
Lincoln County	.....	.....	.....	.....
St. Charles County	.....	.....	.....	.....
St. Louis City	.....	.....	.....	.....
Warren County	.....	.....	.....	.....
St. Louis County	108,800	122,550	148,850	171,800
HUD Field Office: Topeka Office				
Lawrence, KS MSA:				
Douglas County	74,550	83,950	102,000	117,700
Topeka, KS MSA:				
Shawnee County	85,750	96,800	117,600	135,700
Wichita, KS MSA:				
Butler County	81,600	91,900	111,650	128,800
Harvey County	.....	.....	.....	.....
Sedgwick County	.....	.....	.....	.....
REGION VIII:				
HUD Regional Office: Denver Office				
Boulder-Longmont, CO PMSA:				
Boulder County	117,300	132,100	160,500	185,200
Colorado Springs, CO MSA:				
El Paso County	123,400	138,950	168,850	194,800
Denver, CO PMSA:				
Arapahoe County	111,600	125,650	152,700	176,200
Douglas County	.....	.....	.....	.....
Adams County	.....	.....	.....	.....

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Denver County				
Jefferson County				
Fort Collins-Loveland, CO MSA:				
Larimer County	116,750	131,450	159,750	184,300
Greeley, CO PMSA:				
Weld County	101,450	114,250	138,800	160,150
Pueblo, CO MSA:				
Pueblo County	81,800	92,100	111,900	129,150
Other Areas:				
Eagle County	124,875	140,600	170,200	197,950
Elbert County	88,900	100,100	121,650	140,350
Garfield County	88,350	99,500	120,900	139,500
Grand County	80,750	90,950	110,500	127,500
Gunnison County	83,100	93,600	113,750	131,250
Park County	80,750	90,950	110,500	127,500
Pitkin County	90,000	101,300	122,650	142,650
Routt County	90,000	101,300	122,650	142,650
Summit County	101,250	114,000	138,000	160,500
Teller County	80,750	90,950	110,500	127,500
State of Colorado	71,800	80,900	98,300	113,400
HUD Field Office: Casper Office				
Teton County	91,200	102,700	124,800	144,000
State of Wyoming	75,000	84,000	102,500	118,000
HUD Field Office: Fargo Office				
Fargo-Moorhead, ND-MN MSA (Part):				
Cass County, ND	99,800	112,400	136,550	157,950
Grand Forks, ND-MN MSA (Part):				
Grand Forks County	101,050	113,800	138,250	159,550
Other Areas:				
Burleigh County	70,750	79,700	96,850	111,750
Morton County				
HUD Field Office: Helena Office				
Billings, MT MSA:				
Yellowstone County	83,050	93,500	113,600	131,100
Great Falls, MT				
Cascade County	83,050	93,500	113,600	131,100
Gallatin County	85,400	96,150	116,850	134,850
Missoula County	83,600	94,150	114,400	132,000
State of Montana	75,500	85,050	103,350	119,250
HUD Field Office: Salt Lake City Office				
Provo-Orem, UT MSA:				
Utah County	99,750	112,350	136,500	157,500
Salt Lake City-Ogden, UT MSA:				
Davis County	98,800	107,850	131,050	151,200
Salt Lake County				
Weber County				
Other Areas:				
Box Elder County	82,650	93,050	113,100	130,500
Cache County	89,550	100,850	122,550	141,400
Iron County	71,250	80,250	97,500	112,500
Summit County	124,200	139,900	169,950	196,100
Wasatch County	74,100	83,450	101,400	117,000
Washington County	75,900	85,450	103,850	119,850
HUD Field Office: Sioux Falls Office				
Rapid City, SD MSA:				
Pennington County	75,000	84,000	102,500	118,000
Sioux Falls, SD MSA:				
Lincoln County	85,100	95,800	116,450	134,350
Minnehaha County				
Other Areas:				
Meade County	85,100	95,800	116,450	134,350
Yankton County	72,200	81,300	98,800	114,000
REGION IX:				
HUD Field Office: San Francisco Office				
Oakland, CA PMSA:				
Alameda County	151,725	194,100	234,600	291,600
Contra Costa				
Salinas, CA MSA:				
Monterey County	151,725	194,100	234,600	291,600
San Francisco, CA PMSA:				
Marin County	151,725	194,100	234,600	291,600

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
San Francisco County	.....	.....	.....	.....
San Mateo County	.....	.....	.....	.....
San Jose, CA PMSA:				
Santa Clara County	151,725	194,100	234,600	291,600
Santa Cruz-Watsonville, CA PMSA:				
Santa Cruz County	151,725	194,100	234,600	291,600
Santa Rosa, CA PMSA:				
Sonoma County	151,725	194,100	234,600	291,600
Vallejo-Fairfield-Napa, CA PMSA:				
Napa County	151,725	194,100	234,600	291,600
Solano County	.....	.....	.....	.....
Other Areas:				
Del Norte County	101,250	114,000	138,000	160,500
Humbolt County	.....	.....	.....	.....
Lake County	.....	.....	.....	.....
San Benito County	.....	.....	.....	.....
Mendocino County	123,500	139,100	169,000	195,000
HUD Field Office: Fresno Office				
Fresno, CA MSA:				
Fresno County	146,550	165,050	200,500	231,350
Madera County	.....	.....	.....	.....
Modesto, CA MSA:				
Stanislaus, County	130,950	147,450	179,150	208,750
Visalia-Tulare-Porterville, CA MSA:				
Tulare County	101,250	114,000	138,000	160,500
Other Areas:				
Kings County	101,250	114,000	138,000	160,500
Mariposa	.....	.....	.....	.....
Merced County	108,750	122,500	148,850	171,750
HUD Field Office: Honolulu Office				
Honolulu, HI MSA:				
Honolulu County	227,550	291,150	351,900	437,400
State of Hawaii	187,300	210,950	256,300	295,700
Territory of Guam	142,500	160,500	195,100	225,000
HUD Field Office: Las Vegas Office				
Las Vegas, NV-AZ MSA (Part):				
Clark County	119,700	134,800	163,800	189,000
Nye County	.....	.....	.....	.....
Other Areas:				
Lincoln County	75,000	84,000	102,500	118,000
HUD Field Office: Los Angeles Office				
Bakersfield, CA MSA:				
Kern County	140,500	158,200	192,250	221,800
Los Angeles-Long Beach, CA PMSA:				
Los Angeles County	151,725	194,100	234,600	291,600
Ventura, CA PMSA:				
Ventura County	151,725	194,100	234,600	291,600
Santa Barbara-Santa Maria-Lampoc, CA MSA:				
Santa Barbara County	151,725	194,100	234,600	291,600
San Luis Obispo-Atascadero-Paso Robles, CA MSA:				
San Luis Obispo County	124,875	140,600	170,200	197,950
HUD Field Office: Phoenix Office				
Las Vegas, NV–AZ MSA (Part):				
Mohave County, AZ	119,700	134,800	163,800	189,000
Phoenix-Mesa, AZ MSA:				
Maricopa County	107,800	121,400	147,500	170,200
Pinal County	.....	.....	.....	.....
Other Areas:				
Coconino County	89,300	100,550	122,200	141,000
Yavapai County	87,400	98,400	119,600	138,000
Yuma County	70,300	79,150	96,200	111,000
HUD Field Office: Reno Office				
Reno, NV MSA:				
Washoe County	125,600	141,450	171,850	198,300
Other Areas:				
Carson City County	95,950	108,050	131,300	151,500
Churchill County	85,500	96,300	117,000	135,000
Douglas County	101,300	114,100	138,600	159,950
Lyon County	77,400	87,200	105,950	122,250
Elko County	88,250	99,400	120,750	139,300
Esmeralda County	.....	.....	.....	.....

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Eureka County				
Humboldt County				
Lander County				
Mineral County				
Pershing County				
Storey County				
White Pine County				
HUD Field Office: Sacramento Office				
Chico-Paradise, CA MSA:				
Butte County	121,600	136,950	166,400	192,000
Redding, CA MSA:				
Shasta County	151,725	194,100	234,600	291,600
Sacramento, CA MSA:				
El Dorado County	151,050	170,100	206,700	238,500
Placer County				
Sacramento County				
Stockton-Lodi, CA MSA:				
San Joaquin County	151,725	194,100	234,600	291,600
Yolo, CA PMSA:				
Yolo County	151,050	170,100	206,700	238,500
Yuba City, CA MSA:				
Sutter County	101,250	114,000	138,000	160,500
Yuba County				
Other Areas:				
Alpine County	101,250	114,000	138,000	160,500
Amador County	118,750	133,750	162,500	187,500
Calaveras County	101,250	114,000	138,000	160,500
Colusa County				
Glenn County				
Lassen County				
Modoc County				
Plumas County				
Sierra County				
Siskiyou County				
Tehama County				
Trinity County				
Tuolumne County				
Nevada County				
HUD Field Office: San Diego Office	151,725	194,100	234,600	291,600
San Diego, CA MSA:				
San Diego County	151,725	194,100	234,600	291,600
Other Areas:				
Imperial County	101,250	114,000	138,000	160,500
HUD Field Office: Santa Ana Office				
Orange County, CA PMSA:				
Orange County	151,725	194,100	234,600	291,600
Riverside-San Bernadino, CA PMSA:				
Riverside County	151,525	170,650	207,350	239,250
San Bernadino County				
Other Areas:				
Inyo County	98,800	111,250	135,200	156,000
Mono County	75,000	84,000	102,500	118,000
HUD Field Office: Tucson Office				
Tucson, AZ MSA:				
Pima County	112,000	126,100	153,250	176,800
Other Areas:				
Cochise County	81,750	92,050	111,850	129,050
Santa Cruz	69,350	78,100	94,900	109,500
REGION X				
HUD Regional Office: Seattle Office				
Skagit County	85,250	96,000	116,650	134,600
Bellinghan, WA MSA:				
Whatcom County	119,900	135,050	164,100	189,350
Bremerton, WA MSA:				
Kitsap County	113,950	128,300	155,900	179,900
Olympia, WA MSA:				
Thurston County	102,100	115,000	139,750	161,250
Seattle-Bellevue-Everett, WA PMSA:				
Island County	143,450	161,550	196,300	226,500
Snohomish County				
King County	148,400	167,150	203,100	234,350

MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	1-family and condominium unit	2-family	3-family	4-family
Tacoma, WA PMSA:				
Pierce County	105,450	118,800	144,300	166,000
Yakima, WA MSA:				
Yakima County	83,350	93,850	114,050	131,600
Other Areas:				
Callam County	106,400	119,800	145,600	168,000
Chelan County	77,900	87,700	106,600	123,000
Cowlitz County	75,250	84,750	103,000	118,850
Douglas County	83,600	94,150	114,400	132,000
Grays Harbor County	69,350	78,100	94,900	109,500
Jefferson County	124,875	140,600	170,200	197,950
Lewis County	79,350	89,400	108,600	125,300
Mason County	80,750	90,950	110,500	127,500
San Juan County	151,725	194,100	234,600	291,600
Skagit County	104,500	117,700	143,000	165,000
HUD Field Office: Anchorage Office				
State of Alaska	135,000	151,950	183,950	213,950
HUD Field Office: Boise Office				
Boise City, ID MSA:				
Ada County	102,150	115,050	139,750	161,250
Canyon County	.....	.....	.....	.....
Other Areas:				
Blaine County	108,300	121,950	148,200	171,000
Bonneville County	76,000	85,600	104,000	120,000
Kootenai County	70,300	79,150	96,200	111,000
Latah County	75,500	85,050	103,350	119,250
HUD Field Office: Portland Office				
Eugene-Springfield, OR MSA:				
Lane County	89,000	100,200	121,750	140,500
Medford-Ashland, OR MSA:				
Jackson County	90,750	102,200	124,150	143,250
Portland-Vancouver, OR–WA MSA:				
Clackamas County	113,500	127,800	155,300	179,200
Clark County	.....	.....	.....	.....
Columbia County	.....	.....	.....	.....
Multnomah County	.....	.....	.....	.....
Washington County	.....	.....	.....	.....
Yamhill County	.....	.....	.....	.....
State of Oregon	85,200	95,950	116,600	134,550
HUD Field Office: Spokand Office				
Richland-Kennewick-Pasco, WA MSA:				
Benton County	94,800	106,750	129,700	149,650
Franklin County	.....	.....	.....	.....
Spokane, WA MSA:				
Spokane County	85,400	96,150	116,850	134,900

Dated: February 16, 1993.

James E. Schoenberger,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 93–5798 Filed 3–12–93; 8:45 am]

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Federal Register

Monday
March 15, 1993

Part IX

Department of Defense

Office of the Secretary

Base Closures and Realignments; Notice

DEPARTMENT OF DEFENSE BILLING CODE 3810-01

Office of the Secretary

TITLE: Base Closures and Realignments

AGENCY: Department of Defense (DoD)

ACTION: Recommended Base Closures and Realignments

SUMMARY: The Secretary of Defense is authorized to recommend military installations inside the United States for closure and realignment in accordance with title XXIX, Part A of the FY 1991 National Defense Authorization Act, as amended. He is required to publish his recommendations in the Federal Register by March 15th. The recommendations follow.

EFFECTIVE DATE: March 15, 1993

FOR A REPORT ON THE DOD RECOMMENDATIONS CONTACT: The Office of the Assistant Secretary of Defense for Public Affairs, Directorate of Public Communication, (703) 697-5737.

P.H. Means
OSD Federal Register
Liaison Officer
Department of Defense

March 11, 1993

THE SECRETARY OF DEFENSE
WASHINGTON, DC 20301-1000

12 MAR 1993

Honorable James Courter
Chairman
Defense Base Closure and Realignment Commission
1700 North Moore Street
Suite 1425
Arlington, VA 22209

Dear Mr. Chairman:

Pursuant to Public Law 101-510 as amended, I hereby transmit, as an enclosure to this letter, a list of military installations inside the United States that I recommend for closure or realignment on the basis of the force structure plan and final criteria established under that law. Also enclosed is a summary of the selection process that resulted in the recommendation for each installation, with a justification for each recommendation.

I am recommending the following actions:

Major base closures	31
Major base realignments	12
Smaller base or activity closures, realignments, disestablishments, or relocations	122
Total recommendations	165

These recommendations support our national goals of maintaining military effectiveness while drawing down the force, reducing the deficit, and reinvesting in America.

Our overall base closure policy is an important part of this effort. The policy has five compelling characteristics:

- It saves money that would otherwise go to unnecessary overhead.
- It supports military effectiveness by reducing the competition for ever scarcer resources.
- It is fair and objective.
- It hits bases overseas harder than those at home.
- It supports the investment necessary to foster economic growth.

But as we implement the policy, we recognize a special obligation to the people -- military and civilian -- who won the cold war. We will meet that obligation.

SAVING TAXPAYER DOLLARS AND MAINTAINING MILITARY EFFECTIVENESS

Closing military bases worldwide saves taxpayer dollars; permits DoD to invest properly in the forces and bases it keeps in order to ensure their continued effectiveness; and frees up valuable defense assets (people, facilities and real estate) for productive private sector reuse.

The defense budget will decline by more than 40 percent in real terms from 1985 to 1997, and military personnel in the United States will be reduced by 30 percent. Base closures have lagged behind this overall drawdown. No bases were closed until two years ago, following decisions made in the 1988 and 1991 rounds of base closures. Under those two rounds, domestic base structure was reduced by only nine percent, measured by plant replacement value.

Plant replacement value is what it would cost to replace all the buildings, pavements, and utilities at a base. We measure our progress in terms of plant replacement value because it is a better measure of magnitude than simply counting large bases and small bases equally.

Failure to close bases in line with reductions in budgets and personnel constitutes a double hit: Resources are drained into bases we don't need, and therefore are not available to buy the things we do need.

THE PLANNED 1993 ROUND OF CLOSURES WILL SAVE $3.1 BILLION PER YEAR

The following table shows the costs and savings associated with the 1993 closures and realignments:

Net costs in FY 1994 through 1996	$1.7 billion
Net savings in FY 1997 through 1999	$5.7 billion
Net savings during implementation	$4.0 billion
Annual savings thereafter($FY99)	$3.1 billion

The 1993 program, coupled with the previously approved 1988 and 1991 closures, will reduce the domestic base structure by about

15 percent (measured by replacement value). All three rounds of closures together, when complete in 1999, will produce $5.6 billion in annual recurring savings, measured in FY 1999 dollars.

BEING OBJECTIVE AND FAIR

Congress has given the Executive Branch extraordinary authority to close domestic bases, provided the Executive Branch follows the established rules strictly and keeps faith with the Congress.

This means using an objective, fair analytical process for closing bases that will withstand scrutiny by the Defense Base Closure and Realignment Commission, the General Accounting Office, Congress and the public. The process has worked well so far.

The Military Departments and Defense Agencies made their recommendations to me on February 22, 1993. The Joint Staff and the Office of the Secretary of Defense reviewed the recommendations and underlying analyses to ensure that the law and DoD policies were followed.

I am not recommending any base for closure that would conceivably be kept open under a revised force structure plan.

My recommendations are consistent with a six-year force structure plan. The plan DoD has used is the Bush Administration's "base force." The legal deadline for recommendations precluded us from making changes based on future force reductions not yet decided.

The "base force" has twelve active Army divisions; we will have room to station all of them. It has twelve carriers; we will have room to berth all of them. It has 1098 active Air Force fighters; we will have room to beddown all of them.

Unless the force structure is increased above the "base force," we will have all the bases we need.

I am confident, therefore, that future changes will decrease force structure, and will require more, not fewer, base closures than those I will recommend at this time.

While the recommendations stand on their own merits, it is important to note two additional points. First, with respect to maintenance depots, there was not sufficient time for the Office of

the Secretary of Defense to review all potential interservicing possibilities. I suggest that the Commission examine those possibilities. Second, some installations host non-defense government activities, and it was not possible to evaluate fully the net impact of the recommendations on those activities. I suggest that the Commission devote some attention to those potential impacts.

CONSIDERING REGIONAL IMPACTS CAREFULLY

I have carefully considered the regional economic impacts of these necessary, yet tough, closure decisions. In looking at the regional impacts, I considered the cumulative economic impact of previously approved closures and the ones I am recommending. I am concerned not only about the impacts at bases on our 1993 closure list, but also about the effects at bases closed by earlier rounds.

REDUCING OVERSEAS BASES EVEN MORE

DoD is reducing its military forces and its overseas base structure much more than in the U.S.

DoD has, to date, announced it will end or reduce its operations overseas at sites accounting for 28 percent of replacement value.

Our plan is to reduce the replacement value of the overseas base structure by 35-40% as we complete our reduction in personnel stationed overseas to about 200,000.

DoD base spending overseas will also decline dramatically, both because of troop reductions and because Japan and Korea are paying an increasing share of the costs of stationing U.S. forces there.

While DoD will continue to reduce its forward deployed forces, those forces have played a fundamental role in regions vital to the national interest. Permanently stationing and periodically deploying forces overseas have been key to averting crises and preventing war. They show our commitment, lend credibility to our alliances, enhance regional stability, provide crisis response capability, and promote U.S. influence and access throughout the world.

SUPPORTING THE REINVESTMENT NECESSARY TO RESTORE ECONOMIC GROWTH

Closing domestic bases and reducing DoD's weapons and equipment purchases are critical elements of a balanced defense drawdown -- one which will preserve a fully capable, albeit smaller, military.

Nationally, the drawdown in defense spending does not pose any extraordinary problems for the economy. The economic impact of the planned drawdown is actually smaller than the impacts after the Korean and Vietnam wars. However, the impacts are substantial in regions where the local economy depends heavily on defense spending.

There are three ways DoD can help support economic growth: investing in people, investing in industry, and investing in communities.

Investing in People

DoD can help support economic growth through a host of initiatives that will ease the transition for displaced workers (military, civilian and private sector):

o Military: DoD has a number of programs to ease the transition of military personnel into the civilian job market including separation bonuses, early retirement incentives, educational assistance, civil service employment preference and extended health benefits.

o Civilian: DoD eases the transition for the civilian work force through a number of programs including priority placement for other government jobs, out-placement referral for private sector jobs, joint participation with individual states in retraining programs, post-closure hiring preference with contractors, voluntary early retirement authority and separation pay incentives.

o Homeowners Assistance: DoD helps military and civilian homeowners who face a financial loss selling their homes when real estate values have declined as the result of a base closure decision.

o Private Sector: Many defense-related private employers have transition assistance programs for their employees who face layoffs. The Federal Government has a well-established role which

complements state and local government and private employer efforts, including initiatives under the Economic Dislocation and Worker Adjustment Assistance Act, the Worker Adjustment and Retraining Notification Act, the Employment Services Program, the unemployment insurance system, and the health benefits system. The Department of Defense is participating in the Interagency Task Force on Dislocated Workers to help focus additional attention on this critical area.

Investing in Industry

DoD can help support economic growth by promoting high-wage job growth through investment in dual-use technologies and by better integrating the commercial and military business sectors:

o Dual-use Technology: About $1 billion of FY 1993 DoD funds are for support of dual-use technologies.

o Industrial Base: DoD is looking to expand industry access to maintenance and overhaul work.

o Energy Conservation: DoD is encouraging energy conservation projects and is making such investments.

Investing in Communities

DoD can help support economic growth by promoting productive private sector reuse of base facilities and real estate no longer needed by defense.

History shows us that most local communities economically recover from base closures and actually end up better off, with more jobs and a more diverse economic base -- but in the past the recovery has been too slow and too costly.

DoD is developing a new reuse and reinvestment strategy with initiatives that will: close bases more quickly, thereby making them available for reuse more quickly; promote reuse opportunities, in concert with local community efforts; and, refocus DoD internally to consider, for the first time, the trade-offs between DoD needs and local community needs. The law gives me considerable authority to decide whether the land is sold or given away, and to whom it should go.

DoD's Office of Economic Adjustment (OEA) spearheads the President's Economic Adjustment Committee which focuses Federal assistance programs on adversely affected communities. OEA also gives planning assistance grants to affected communities. In addition, DoD funds ($80 million in FY 1993) will help the Economic Development Administration to assist communities.

DoD wants to ensure, wherever possible, that environmental cleanup is not a barrier to economic recovery. DoD has spent and will continue to spend significant defense resources on environmental restoration, but we will need help from Congress and the Environmental Protection Agency to streamline the process.

Lastly, we will create, in coordination with other Cabinet agencies, a new community economic redevelopment fund to help communities most affected by base closures. The fund will be used as a catalyst to spur new economic growth, especially where recovery would be difficult. Funding will be provided by setting aside a portion of the net savings from base closures.

I have sent identical letters, with enclosures, to the Chairmen of the House and Senate Armed Services and Appropriations Committees, and published this letter, with enclosures, in the Federal Register.

Sincerely,

List of Enclosures and Tables:

Enclosure:

DoD recommendations pursuant to P.L. 101-510: List of the military installations inside the United States recommended for closure or realignment, with a summary of the selection process that resulted in the recommendation for each installation, and the justification for each recommendation.

Tables:

Table 1: 1988 and 1991 Closures and Realignments
Table 2: Cumulative Reductions of Domestic Bases

Recommendations of the Secretary of Defense for Closure or Realignment of Military Installations Inside the United States

Introduction

The Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), as amended, permits the Secretary of Defense to publish in the Federal Register and transmit to the Congressional Defense Committees and the Defense Base Closure and Realignment Commission a list of military installations inside the United States that the Secretary recommends for closure or realignment on the basis of a six-year force structure plan and final (selection) criteria.

The Secretary is required by the law to include with the list of recommendations published and transmitted: (1) a summary of the selection process that resulted in the recommendation for each installation, and (2) the justification for each recommendation.

The law further specifies that the list of recommendations, selection process summaries and justifications be published and transmitted no later than March 15, 1993. The following report satisfies the legal requirements above.

The 1993 Department of Defense Selection Process

The Department of Defense began the 1993 base realignment and closure process in May of 1992. The Deputy Secretary of Defense memorandum of May 5, 1992, issued detailed policy, procedures, authorities and responsibilities for the 1993 process.

The Deputy Secretary: gave the Secretaries of the Military Departments and the Directors of the Defense Agencies the responsibility for submitting base closure and realignment recommendations; required that the recommendations follow the law, and DoD policies and procedures; and required that the recommendations be based on the six-year force structure plan and final criteria.

The Assistant Secretary of Defense for Production and Logistics was given the responsibility to oversee the 1993 process, and the authority to issue additional instructions.

The Assistant Secretary issued a series of DoD policy memoranda and established a steering committee of principals from the Military Departments, Defense Agencies, the Office of Joint Chiefs of Staff and the Department of Defense staff to oversee the process.

The Deputy Secretary's May 1992 memorandum provided the Military Departments and Defense Agencies with an interim force structure plan and selection criteria so they could begin their data collection and analyses. The Deputy Secretary issued the final selection criteria on December 10, 1992 and the final force structure plan on January 19, 1993.

The Secretaries of the Military Departments and Directors of the Defense Agencies submitted their base closure and realignment recommendations to the Secretary of Defense. The Assistant Secretary of Defense for Production and Logistics organized the Office of the Secretary of Defense review of the recommendations and provided a copy of the reports received from the Departments and Agencies to the Joint Staff for their review.

The Joint Staff reviewed the recommendations from a warfighting perspective to ensure they would not harm the military capabilities of the armed services. The Chairman of the Joint Chiefs of Staff supported the recommendations without objection.

Key staff elements of the Office of the Secretary of Defense reviewed the recommendations, from their perspective, to ensure they would not harm essential training and support capabilities.

The Assistant Secretary of Defense for Production and Logistics reviewed the recommendations to ensure: all eight selection criteria were considered; the recommendations were consistent with the force structure plan; the prescribed DoD policies and procedures were followed; and the analyses were objective and rigorous.

After careful review of the submissions, and after careful review of comments received from other offices within the Office of the Secretary of Defense, the Assistant Secretary of Defense for Production and Logistics provided his conclusions and recommendations to the Secretary of Defense. Included in the decision package for the Secretary was an analysis of the cumulative economic impact of the recommendations, factoring in the economic impact of previously approved 1988 and 1991 closures and realignments.

The Secretary approved the recommendations of the Military Departments and Defense Agencies, with the modifications recommended by the Assistant Secretary.

While the recommendations stand on their own merits, it is important to note two additional points. First, with respect to maintenance depots, there was not sufficient time for the Office of the Secretary of Defense to review all potential interservicing possibilities. The Secretary suggests that the Commission should examine those possibilities. Second, some installations host non-defense government activities, and it was also not possible to evaluate fully the net impact of the recommendatons on those activities. The Secretary suggests that the Commission devote some attention to those potential impacts.

The list of military installations inside the United States approved by the Secretary of Defense for closure or realignment follows. Summaries of the Military Department and Defense Agency selection processes, recommendations and justifications follow the list. Lastly, the 1991 Commission, in making recommendations to the President, raised four areas of special interest regarding: MCAS Tustin, CA; depot workload competition; hospitals; and the Defense Finance and Accounting Service. The Department's response to these Commission recommendations also follows.

1993 List of Military Installations Inside the United States for Closure or Realignment

Part I: Major Base Closures

Army

Ft McClellan, Alabama
Vint Hill Farms, Virginia

Navy

Naval Station Mobile, Alabama
Mare Island Naval Shipyard, Vallejo, California
Marine Corps Air Station El Toro, California
Naval Air Station Alameda, California
Naval Aviation Depot Alameda, California
Naval Hospital Oakland, California
Naval Station Treasure Island, San Francisco, California
Naval Supply Center Oakland, California
Naval Training Center San Diego, California
Naval Air Station Cecil Field, Florida
Naval Aviation Depot Pensacola, Florida
Naval Training Center Orlando, Florida
Naval Air Station Barbers Point, Hawaii
Naval Air Station Glenview, Illinois
Naval Electronic Systems Engineering Center, St. Inigoes, Maryland
Naval Air Station Meridian, Mississippi
Naval Air Station South Weymouth, Massachusetts
Naval Station Staten Island, New York
Aviation Supply Office, Philadelphia, Pennsylvania
Charleston Naval Shipyard, South Carolina
Naval Station Charleston, South Carolina
Naval Air Station Dallas, Texas
Naval Aviation Depot Norfolk, Virginia

Air Force

Homestead Air Force Base, Florida
K.I. Sawyer Air Force Base, Michigan
Newark Air Force Base, Ohio
O'Hare Int'l. Airport Air Force Reserve Station, Chicago Illinois

Defense Logistics Agency

Defense Electronics Supply Center, Dayton, Ohio
Defense Personnel Support Center, Philadelphia, Pennsylvania

Part II: Major Base Realignments

Army

Ft Monmouth, New Jersey
Letterkenny Army Depot, Pennsylvania
Tooele Army Depot, Utah
Ft Belvoir, Virginia

Navy

Naval Submarine Base, New London, Connecticut
Naval Surface Warfare Center (Dahlgren) White Oak Detachment
White Oak, Maryland
1st Marine Corps District, Garden City, New York
Naval Education and Training Center, Newport, Rhode Island
Naval Air Station Memphis, Tennessee

Air Force

March Air Force Base, California
McGuire Air Force Base, New Jersey
Griffiss Air Force Base, New York

Part III: Smaller Base or Activity Closures, Realignments, Disestablishments or Relocations

Army

None

Navy

Naval Civil Engineering Laboratory, Port Hueneme, California
Naval Facilities Engineering Command, Western Engineering Field Division, San Bruno, California
Planning, Estimating, Repair and Alterations (Surface) Pacific, San Francisco, California
Public Works Center San Francisco, California
Naval Electronic Security Sys. Engineering Ctr., Washington, D.C
Naval Hospital Orlando, Florida
Naval Supply Center Pensacola, Florida
Naval Surface Warfare Center - Carderock, Annapolis Detachment, Annapolis, Maryland
Navy Radio Transmission Facility, Annapolis, Maryland
Sea Automated Data Systems Activity, Indian Head, Maryland
Naval Air Facility Detroit, Michigan
Naval Air Facility, Midway Island

Submarine Maintenance, Engineering, Planning and Procurement, Portsmouth, New Hampshire
Naval Air Warfare Center - Aircraft Division, Trenton, New Jersey
DoD Family Housing Office, Niagara Falls, New York
Naval Air Technical Services Facility, Philadelphia, Pennsylvania
Planning, Estimating, Repair and Alterations (Surface) Atlantic (HQ), Philadelphia, Pennsylvania
Naval Electronic Systems Engineering Center, Charleston, South Carolina
Naval Hospital Charleston, South Carolina
Naval Supply Center Charleston, South Carolina
Naval Surface Warfare Center - Port Hueneme, Virginia Beach Detachment, Virginia Beach, Virginia
Navy Radio Transmission Facility, Driver, Virginia
Naval Undersea Warfare Center, Norfolk Detachment, Norfolk, Virginia
Planning, Estimating, Repair and Alterations (Surface) Atlantic, Norfolk, Virginia
Planning, Estimating, Repair and Alterations (CV), Bremerton, Washington

Navy National Capital Region (NCR) Activities

Security Group Command, Security Group Station, and Security Group Detachment, Potomac, Washington, DC
Bureau of Navy Personnel, Arlington, Virginia (including the Office of Military Manpower Management, Arlington, Virginia)
Naval Air Systems Command, Arlington, Virginia
Naval Facilities Engineering Command, Alexandria, Virginia
Naval Sea Systems Command, Arlington, Virginia
Naval Supply Systems Command, Arlington, Virginia (including Defense Printing Office, Alexandria, Virginia and Food Systems Office, Arlington, Virginia
Naval Recruiting Command, Arlington, Virginia
Tactical Support Office, Arlington, Virginia

Navy/Marine Reserve Activities

Naval Reserve Centers at:

Gadsden, Alabama
Montgomery, Alabama
Fayetteville, Arkansas
Fort Smith, Arkansas
Pacific Grove, California
Macon, Georgia
Terre Haute, Indiana
Hutchinson, Kansas
Monroe, Louisiana
New Bedford, Massachusetts

Pittsfield, Massachusetts
Joplin, Missouri
St. Joseph, Missouri
Great Falls, Montana
Missoula, Montana
Atlantic City, New Jersey
Perth Amboy, New Jersey
Jamestown, New York
Poughkeepsie, New York
Altoona, Pennsylvania
Kingsport, Tennessee
Memphis, Tennessee
Ogden, Utah
Staunton, Virginia
Parkersburg, West Virginia

Naval Reserve Facilities at:

Alexandria, Louisiana
Midland, Texas

Navy/Marine Corps Reserve Centers at:

Fort Wayne, Indiana
Billings, Montana
Abilene, Texas

Readiness Command Regions at:

Olathe, Kansas (Region 18)
Scotia, New York (Region 2)
Ravenna, Ohio (Region 5)

Defense Logistics Agency

Defense Distribution Depot Oakland, California
Defense Distribution Depot Pensacola, Florida
Defense Contract Management District Northcentral, Chicago, Illinois
Defense Logistics Service Center, Battle Creek, Michigan
Defense Contract Management District Midatlantic, Philadelphia, Pennsylvania
Defense Distribution Depot Letterkenny, Pennsylvania
Defense Logistics Agency Clothing Factory, Philadelphia, Pennsylvania
Defense Distribution Depot Charleston, South Carolina
Defense Distribution Depot Tooele, Utah
Defense Contract Management District West, El Segundo, California
Defense Reutilization and Marketing Service, Battle Creek, Michigan
Defense Industrial Supply Center, Pennsylvania

DoD Data Center Consolidation

Army Data Processing Centers

None

Navy Data Processing Centers

Facilities Systems Office, Port Hueneme, California
Fleet Industrial Support Center, San Diego, California
Naval Air Warfare Center, Weapons Division, China Lake, California
Naval Air Warfare Center, Weapons Division, Point Mugu, California
Naval Command Control & Ocean Surveillance Center, San Diego, California
Navy Regional Data Automation Center, San Francisco, California
Naval Computer and Telecommunications Station, San Diego, California
Bureau of Naval Personnel, Washington, DC
Naval Computer & Telecommunications Station, Washington, DC
Naval Air Station, Key West, Florida
Naval Air Station, Mayport, Florida
Naval Computer and Telecommunication Station Pensacola, Florida
Trident Refit Facility, Kings Bay, Georgia
Naval Computer & Telecommunications Area Master Station, EASTPAC Pearl Harbor, Hawaii
Naval Supply Center, Pearl Harbor, Hawaii
Enlisted Personnel Management Center, New Orleans, Louisiana
Naval Computer & Telecommunications Station, New Orleans, Louisiana
Naval Air Station, Brunswick, Maine
Naval Air Warfare Center, Aircraft Division, Patuxent River, Maryland
Aviation Supply Office, Philadelphia, Pennsylvania
Naval Supply Center, Charleston, South Carolina
Naval Air Station, Oceana, Virginia
Naval Computer & Telecommunications Area Master Station, Atlantic, Norfolk, Virginia
Navy Data Automation Facility, Corpus Christi, Texas
Navy Recruiting Command, Arlington, Virginia
Naval Supply Center, Norfolk, Virginia
Naval Air Station, Whidbey Island, Washington
Naval Supply Center, Puget Sound, Washington
Trident Refit Facility, Bangor, Washington

Marine Corps Data Processing Centers

Marine Corps Air Station, El Toro, California
Regional Automated Services Center, Camp Pendleton, California
Marine Corps Air Station, Cherry Point, North Carolina
Regional Automated Services Center, Camp Lejeune, North Carolina

Air Force Data Processing Centers

Regional Processing Center, McClellan AFB, California
Air Force Military Personnel Center, Randolph AFB, Texas
Computer Service Center, San Antonio, Texas
7th Communications Group, Pentagon, Arlington, Virginia

Defense Logistics Agency Data Processing Centers

Information Processing Center, Battle Creek, Michigan
Information Processing Center, Philadelphia, Pennsylvania
Information Processing Center, Ogden, Utah
Information Processing Center, Richmond, Virginia.

Defense Information Systems Agency Data Processing Centers

Defense Information Technology Service Organization, Indianapolis
Information Processing Center, Indiana
Defense Information Technology Service Organization, Kansas City
Information Processing Center, Kansas
Defense Information Technology Service Organization, Columbus
Annex (Dayton), Ohio

Part IV: Changes to Previously Approved BRAC 88/91 Recommendations

Army

Rock Island Arsenal, Alabama (AMCCOM remains at Rock Island, Illinois instead of moving to Redstone Arsenal, Alabama)

Presidio of San Francisco, California (6th Army relocates to NASA Ames, California vice Ft Carson, Colorado)

Letterkenny Army Depot, Pennsylvania (Systems Integration Management Activity-East remains at Letterkenny Army Depot, Pennsylvania vice Rock Island, Illinois)

Navy

Marine Corps Air Station Tustin, CA (Substitute NAS Miramar for Marine Corps Air Station 29 Palms as one receiver of Marine Corps Air Station Tustin's assets)

Hunters Point Annex to Naval Station Treasure Island, California (Retain no facilities, dispose vice outlease all property)

Naval Weapons Evaluation Facility, Albuquerque, New Mexico (retain as a tenant of the Air Force)

Naval Electronics Systems Engineering Center., San Diego, CA (Consolidate with Naval Electronics Systems Engineering Center, Vallejo, CA, into available Air Force space vice new construction)

Naval Mine Warfare Engineering Activity, Yorktown, VA (Realign to Panama City, Fl vice Dam Neck, VA)

Air Force

Castle Air Force Base, California (B-52 Combat Crew Training redirected from Fairchild AFB to Barksdale AFB and KC-135 Combat Crew Training from Fairchild AFB to Altus AFB).

Mather Air Force Base, California (940th Air Refueling Group redirected from McClellan AFB to Beale AFB).

MacDill Air Force Base, Florida (Airfield does not close. 482nd Fighter Wing (AFRES) is reassigned from Homestead AFB and operates the airfield. Joint Communications Support Element stays at MacDill vice relocating to Charleston AFB).

Chanute Air Force Base, Illinois (Metals Technology and Aircraft Structural Maintenance training courses from Chanute to Sheppard AFB redirected to NAS Memphis).

Rickenbacker Air National Guard Base, Ohio (Retain 121st Air Refueling Wing and the 160th Air Refueling Group in a cantonment area at Rickenbacker instead of Wright-Patterson AFB. Rickenbacker AGB does not close.)

Bergstrom Air Force Base, Texas (704th Fighter Squadron and 924th Fighter Group redirected from Bergstrom AFB to Carswell AFB cantonment area).

Carswell Air Force Base, Texas (Fabrication function of the 436th Training Squadron redirected from Dyess AFB to Luke AFB, maintenance training function redirected from Dyess AFB to Hill AFB).

Areas of Commission Special Interest

The 1991 Commission recommended that the Secretary of Defense propose for consideration in the FY 1992 or FY 1993 Defense Authorization Bill a fair-market exchange of land and facilities (at MCAS Tustin) for construction of military facilities at Twentynine Palms or Camp Pendleton. The Department submitted such language but the Congress did not pass it. The Secretary of Defense has made an additional recommendation for the 1993 Commission's consideration regarding MCAS Tustin.

The 1991 Commission recommended that the Secretary of Defense distribute the workload from the closing Sacramento Army Depot by competition, to ensure the most cost-effective distribution of work. The Army took the lead in a joint-service effort to develop the implementation plan, selection criteria and logical groupings of the thousands of items. The Army is conducting nine workload competitions. The first competition was completed in January 1993, with the last competition expected to be completed in December 1993 (two and one-half years after the 1991 Commission's recommendation). These competitions are expected to cost DoD $15 million, not including increased base operating support costs, because Sacramento Army Depot must remain in operation longer than planned. Results of the first competition have confirmed the Department's original conclusion that Tobyhanna Army Depot's rates are significantly lower than other depots.

Competition is an excellent tool, used judiciously, to spur innovation and allow managers to apply lessons learned from competition to their steady workload. Competition cannot achieve efficiencies in a depot maintenance system that may have up to 50 percent excess capacity.

The Commission recommended that DoD confer with Congress regarding DoD health care policies. It is DoD policy: to operate military hospitals primarily to support active-duty military personnel; to care for the needs of beneficiaries not served by military hospitals through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); to close military hospitals if the active-duty population served will reduce dramatically due to a base closure. The Department worked with the Congress on this issue as Congress considered passing Section 722 of the DoD Authorization Act for FY 1993. This section establishes a joint services working group on the provision of military health care at bases being closed or realigned. The working group is required to report on alternative means for continuing to provide accessible health care with respect to each closure and realignment. Congress did not restrict DoD's ability to close military hospitals.

The Commission recommended that DoD submit its consolidation plan for the Defense Finance and Accounting Service (DFAS). DFAS developed a plan for locating the consolidated workforce based on a site selection process called "Opportunity for Economic Growth (OEG)". The Secretary of Defense decided to reject the OEG process because he was not convinced that OEG is sound public policy. Instead, the Secretary directed that the DFAS consolidation continue to occur, for the time being, at the existing five large centers. At the same time, the Secretary will be reviewing options for a permanent consolidation of DFAS and will make a final decision in the months ahead. If the review indicates any part of a consolidation plan would require Base Closure Commission review, the Secretary will submit a recommendation to the 1995 Commission.

Department of the Army Selection Process

Introduction

The Army is reducing its force structure and tailoring its base structure in light of changes in the world situation and the reduction in resources devoted to national defense. By 1997, the Army will have 12 active divisions, 2 fewer than 1992. The end strength of the Army will decline by 14.4 percent, with the majority of that decline overseas, assuming the decline continues.

The Selection Process

The Army's base closure selection process was a structured three phase assessment. Phase I entailed grouping installations in like categories and analyzing them for military value, and identifying candidates to be studied by the Total Army Basing Study (TABS) group. In Phase II, the Army used analytical tools to identify and develop alternatives which result in the approved Department of the Army recommendations to the Secretary of Defense. Phase III provides support to the Office of the Secretary of Defense and the Defense Base Closure and Realignment Commission.

The first step in Phase I included a review of legislative and Departmental guidance to ensure that it was properly reflected in the Army's process. The study group then developed five measures to use in assessing the military value of Army installations. The Army determined that mission essentiality, mission suitability, operational efficiency, quality of life and expandability would provide the appropriate linkage to the DoD criteria. To add merit to these measures, weights were assigned to reflect the relative importance of each measure in order to assess the installations.

The Army then developed eleven categories of installations and grouped the installations by like missions, capabilities, and characteristics to facilitate the assessment of military value. Installations that are closing or inactivating as a result of 1988 and 1991 Commissions' recommendations were not included. Attributes were developed to support the measures of merit and weights assigned for each attribute to reflect their relative importance within the associated measure of merit.

To standardize data collection, specific guidance was provided to the major commands that defined the procedures, formats, measures, attributes, and weights to be used for assessing each installation's military value. Qualitative assessments of each installation's military value were also prepared. These assessments provided a starting point for evaluating the Army's base structure--they did not produce a decision on which bases should be closed or realigned.

The next part of the analysis identified study candidates. The DoD Force Structure, Army basing strategy, MACOM reshaping proposals, military value assessments, approved Defense Management Review Decisions, and other studies were used to formulate a set of possible candidates. The list of study candidates was approved by the Under Secretary of the Army and Vice Chief of Staff of the Army.

Next, the study candidates were examined to identify specific alternatives. Each alternative was developed, analyzed, refined, and documented based on feasibility, affordability, socioeconomic impacts, and environmental impacts. The Army analyzed each alternative using the Cost of Base Realignment Actions (COBRA) model, the DoD Office of Economic Adjustment impact model, and internal feasibility and affordability evaluations. Each alternative was presented to the Army's Program Budget Committee, the Select Committee comprised of the most senior military and civilian officials from the Army staff and Secretariat, and the Acting Secretary of the Army for review and approval of the recommendations.

The Acting Secretary of the Army, with the advice of the Chief of Staff of the Army, nominated bases to the Secretary of Defense for closure or realignment based on the DoD Force Structure Plan and the final criteria established under Public Law 101-510, as amended.

Fort George B. McClellan, Alabama

Recommendation: Close Fort McClellan. Relocate the U.S. Army Chemical and Military Police Schools and the Department of Defense Polygraph Institute (DODPI) to Fort Leonard Wood, Missouri. Transfer accountability for Pelham Range and other required training support facilities, through licensing, to the Army National Guard. Retain an enclave for the U.S. Army Reserves. Retain the capability for live-agent training at Fort McClellan.

Justification: Fort McClellan has the least amount of facilities and smallest population of any of the Army's individual entry training/branch school installations and was accordingly ranked ninth in a category of thirteen installations. Three of the thirteen installations tied for the thirteenth position and were later removed from further consideration as a result of a specific capability needed to support mission requirements. The tenth installation in this category was not considered for closure because it controls airspace, airfields, and aviation facilities which represent unique assets to the Army.

Collocation of the chemical, military police, and engineer schools provides substantial advantages for operational linkages among the three branches. These linkages enable the Army to focus on the doctrinal and force development of three key maneuver support elements. Synergistic advantages of training and professional development programs are: coordination, employment, and removal of obstacles; conduct of river crossing operations; internal security/nation assistance operations; operations in rear areas or along main supply routes; and counter drug operations. The missions of the three branches will be more effectively integrated.

Each school develops doctrine, training, leadership, organization and material products which are technical in nature and proponent specific. The only place to achieve integration is at the combined arms level. Using the opportunity to collocate these schools will assure synergistic solutions for current, emerging, and future challenges.

This recommendation is a change to the recommendation made to the 1991 Commission that was disapproved. The 1991 Commission rejected this recommendation because they found the Army substantially deviated from criterion 1 and criterion 2. Their rationale questioned the Army's decision to maintain the Chemical Decontamination Training Facility (CDTF) in caretaker status because it could contribute little, if any, to chemical defense preparedness and the CDTF could not be reactivated quickly.

The Army's proposal to close Fort McClellan differs in two respects. First, the DODPI will relocate to Fort Leonard Wood, Missouri, instead of Fort Huachuca, Arizona, and second, the Army will retain the capability to continue live-agent training.

Subsequent to the 1991 Commission's decision, the Army conducted an in-depth study of the value of live-agent training. The study affirmed its military value. The Army's nuclear, biological and chemical readiness training is interwoven throughout all training and included at all levels of command. Operations in a potentially hostile chemical environment are an integral part of individual and collective skills training, and routinely practiced during unit field training exercises. By maintaining the capability for chemical live-agent training at Fort McClellan, the Army will continue to provide realistic chemical preparedness training. A robust chemical/biological defense is a vital part of a three-pronged effort, including arms control and conventional/nuclear deterrence. The Army is the only service that conducts live-agent training; and it will continue this training. The Air Force has indicated its desire to collocate its disaster preparedness technical training with the Army's Chemical School at Fort Leonard Wood; the Army supports this initiative.

The Army provides live-agent training not only for Army personnel (approximately 4000 students per year), but also for other Services, the State Department, and even foreign countries (approximately 600 students per year). This training usually involves two days at the CDTF while other training is conducted at other facilities of the Chemical School. The CDTF will remain part of the Chemical School, even though it is being operated at another location. Although it is feasible to replicate this facility at Fort Leonard Wood, maintaining the existing facility affords the same capability without any additional construction.

Return on Investment: Total estimated one-time costs for this closure are approximately $111 million. Annual steady state savings are about $31 million, with a return on investment in three years.

Impacts: The closure of Fort McClellan will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 20 percent of the employment base in the Anniston Metropolitan Statistical Area, assuming no economic recovery. There is no significant environmental impact resulting from this closure. Pelham Range, the site of most of the contamination, will be retained. Environmental restoration will continue until complete. There are no known obstacles in the ability of the receiving community's infrastructure to support this recommendation.

Vint Hill Farms, Virginia

Recommendation: Close Vint Hill Farms. Relocate the maintenance and repair function of the Intelligence Material Management Center (IMMC) to Tobyhanna Army Depot, PA. Transfer the remaining elements of IMMC, the Signal Warfare Directorate, and the program executive officer (PEO) for Intelligence and Electronic Warfare (IEW) to Fort Monmouth, NJ.

Justification: Vint Hill Farms ranked low in military value within its category. With the departure of the military intelligence battalion and its consolidation at Fort Gordon, GA, Vint Hill Farms is underutilized. It was determined that Vint Hill Farms could be closed and its functions performed elsewhere. Closure of this installation supports the Army's basing strategy to consolidate similar functions and close small installations when feasible to do so. Moving its activities to Fort Monmouth enhances the synergistic effect of research and development for communication electronics and intelligence electronics warfare. Collocation at Fort Monmouth also facilitates the interaction between the Program Managers and Program Executive Officers that currently reside at Fort Monmouth, thereby creating greater military value in this category.

Consolidating research and development will achieve greater efficiencies in the areas of mission, mission overhead, and base operations. This allows the Army to reduce costs, giving the flexibility to put scarce resources into the research and development arena that significantly contributes to overall readiness.

Return on Investment: Total estimated one-time costs for this closure are approximately $72 million. Annual steady state savings are about $19 million, with a return on investment in three years.

Impacts: The closure of Vint Hill Farms will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 13 percent of the employment base in the Fauquier County Metropolitan Statistical Area, assuming no economic recovery. There are no known environmental impediments from this closure. Environmental restoration will continue until complete. There are no known obstacles in the ability of the receiving community's infrastructure to support this recommendation.

Fort Monmouth, New Jersey

Recommendation: Realign Fort Monmouth. Relocate the headquarters of U.S. Army Communications Electronic Command (CECOM) from leased space outside Fort Monmouth to Rock Island Arsenal, Illinois and transfer the Chaplain School to Fort Jackson, South Carolina. Consolidate activities to maximize utilization of main post Fort Monmouth. Dispose of excess facilities and real property at Evans and Charles Woods sub posts, as well as main post, Fort Monmouth.

Justification: Fort Monmouth ranks fourth out of twelve installations in military value. It is a small installation with elements located off base in costly leased space. Relocating the CECOM Headquarters, an administrative and logistical headquarters, from leased facilities located outside the main post of Fort Monmouth, New Jersey to permanent facilities at Rock Island Arsenal, Illinois allows the Army to terminate a lease of $15 million per year with additional savings of over $8 million per year in locality pay differential for the civilian workforce. At the same time it better utilizes the excess space identified at Rock Island. Separating the headquarters and administrative function from the research and development aspect of CECOM will not have an operational impact.

Rock Island Arsenal has the infrastructure to support and house the headquarters element of CECOM. Currently, Rock Island has administrative space to accommodate approximately 1,000 additional personnel and permanent building space that can be renovated to accommodate even more personnel. The computer system center on the arsenal is one of the Army's largest and can accommodate the needs of the headquarters.

The Rock Island community infrastructure can accommodate the new residents without the need to construct new schools, new water and sewer facilities or other public facilities. There is abundant housing at reasonable costs and excellent access to higher education, both at the graduate and undergraduate level.

Fort Jackson trains about one half of the basic trainees and is the largest recruit training center. It is also the home of the Soldier Support Center, which is relocating from Fort Benjamin Harrison. The report to the 1991 Commission describing the proposed closure of Fort Benjamin Harrison stated that the Army planned to collocate the Chaplain School with this Center eventually. The transfer of the Chaplain School to Fort Jackson benefits not only the Chaplain School's students, but also the large population of basic trainees who are beginning a new career in the Army, many of whom are separated from their families for the first time. The Chaplain School and its staff of chaplains will facilitate the trainees' transition to the Army life.

Return on Investment: Total estimated one-time costs for this realignment are approximately $93 million. Annual steady state

savings are about $20 million, with a return on investment in three years.

Impacts: The realignment of Fort Monmouth will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 3 percent of the employment base in the Monmouth County Metropolitan Statistical Area, assuming no economic recovery. This potential job loss is partially offset by the proposed movement of personnel to Fort Monmouth from Vint Hill Farms. There are no known environmental impediments from this realignment. Environmental restoration will continue until complete. There are no known obstacles in the ability of the receiving community's infrastructure to support this recommendation.

Letterkenny Army Depot, Pennsylvania

Recommendation: Realign Letterkenny Army Depot (LEAD) by reducing it to a depot activity and placing it under the command and control of Tobyhanna Army Depot, PA. Relocate the maintenance functions and associated workload to other depot maintenance activities, including the private sector. Retain the conventional ammunition storage mission and the regional Test Measurement and Diagnostic Equipment (TMDE) mission. Change the recommendation of the 1991 Commission regarding Letterkenny as follows. Instead of sending Systems Integration Management Activity East (SIMA-E) to Rock Island Arsenal, Illinois, as recommended by the 1991 Commission, retain this activity in place. Retain the SIMA-E and the Information Processing Center at Letterkenny until the Defense Information Systems Agency (DISA) completes its review of activities relocated under Defense Management Review Decision (DMRD) 918. The activities of the depot not associated with the remaining mission will be inactivated, transferred or otherwise eliminated. Missile maintenance workload will not consolidate at Letterkenny, as originally planned. However, Depot Systems Command will relocate to Rock Island Arsenal, where it will consolidate under the Industrial Operations Command there, as approved by the 1991 Commission.

Justification: The decision to realign LEAD was driven by the results of the Chairman, Joint Chiefs of Staff triennial review of roles and missions in the Department of Defense. As part of this review, the Chairman chartered the Depot Maintenance Consolidation Study. The study identified a significant amount of excess depot capacity and duplication among the Services.

The Army has concluded that the projected ground systems and equipment depot maintenance workload for fiscal year 1999 is not sufficient to maintain all of the ground systems and equipment depots.

In drawing the conclusion to downsize LEAD, the Army considered the following factors: relative military value of the depots; the future heavy force mix; reduced budget; workforce skills; excess capacity; ability of the depots to accommodate new workload levels; the proximity of the depots to the heavy forces in the U.S.; and the resulting savings.

SIMA-E performs computer systems design and data management functions for a variety of activities. This organization is transferring to the Defense Information Systems Agency (DISA) in 1993. Retention keeps this activity focused regionally upon the customer. SIMA-West is located in St. Louis and supports functions in the western portion of the U.S. DISA advised the Army that there were no advantages or savings from a relocation to Rock Island Arsenal, IL. Less than 25% of the work performed by SIMA-E is associated with the Industrial Operations Command at Rock Island Arsenal.

Return on Investment: Total estimated one-time costs for this realignment are approximately $106 million. Annual steady state savings are about $30 million, with an immediate return on investment.

Impacts: The realignment of Letterkenny Army Depot will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 7 percent of the employment base in the Franklin County Metropolitan Statistical Area, assuming no economic recovery. There are no significant environmental impediments from this realignment. Environmental restoration will continue until complete. There are no known obstacles in the ability of the receiving community's infrastructure to support this recommendation.

Tooele Army Depot, Utah

Recommendation: Realign Tooele Army Depot (TEAD) by reducing it to a depot activity and placing it under the command and control of Red River Army Depot, TX. Retain conventional ammunition storage and the chemical demilitarization mission. The depot workload will move to other depot maintenance activities, including the private sector. The activities of the depot not associated with the remaining mission will be inactivated, transferred or eliminated, as appropriate.

Justification: The decision to realign TEAD was driven by the results of the Chairman, Joint Chiefs of Staff triennial review of roles and missions in the Department of Defense. As part of this review, the Chairman chartered the Depot Maintenance Consolidation Study. The study identified a significant amount of excess depot capacity and duplication among the Services.

The Army has concluded that the projected ground systems and equipment depot maintenance workload for fiscal year 1999 is not sufficient to maintain all of the ground systems and equipment depots.

In drawing the conclusion to downsize TEAD, the Army considered the following factors: relative military value of the depots; the future heavy force mix; reduced budget; workforce skills; excess capacity; ability of the depots to accommodate new workload levels; the proximity of the depots to the heavy forces in the U.S.; and the resulting savings.

Return on Investment: Total estimated one-time costs for this realignment are approximately $74 million. Annual steady state savings are about $51 million, with an immediate return on investment.

Impacts: The realignment of Tooele Army Depot will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 28 percent of the employment base in the Tooele County Metropolitan Statistical Area, assuming no economic recovery. There is no significant environmental impediments from this realignment. Environmental restoration will continue until complete. There are no known obstacles in the ability of the receiving community's infrastructure to support this recommendation.

Fort Belvoir, Virginia

Recommendation: Realign Fort Belvoir as follows. Disestablish the Belvoir Research, Development and Engineering Center (BRDEC), Fort Belvoir, Virginia. Relocate the Supply, Bridging, Counter Mobility, Water Purification, and Fuel/Lubricant Business Areas to the Tank Automotive Research, Development and Engineering Center (TARDEC), Detroit Arsenal, Michigan. Transfer command and control of the Physical Security, Battlefield Deception, Electric Power, Remote Mine Detection/Neutralization, Environmental Controls and Low Cost/Low Observables Business Areas to the Night Vision Electro-Optics Directorate (NVEOD) of the Communication and Electronics Research, Development and Engineering Center (CERDEC), Fort Belvoir, Virginia.

Justification: In July 1992, the Secretary of the Army requested that the Army Science Board appoint a panel of members and consultants to conduct a review of the Army Materiel Command Research, Development and Engineering Center (RDEC) business plans. Specifically, the Secretary requested the panel determine which RDEC capabilities the Army can afford. The panel based its findings on an objective assessment of the missions, functions, business areas, core capabilities, customer needs and major fields of technical endeavor of each RDEC measured against at least the following criteria to determine which RDEC capabilities are essential and affordable:

- relevance to the Army customer;
- availability from other sources;
- R&D Quality;
- in-house cost and efficiency.

The study identified technical areas to be emphasized, deemphasized or eliminated. Areas identified for elimination are tunnel detection, materials, marine craft, topographic equipment, support equipment and construction equipment. The Army Science Board panel recommended the closure of the Belvoir RDEC and dispersal of the business areas that were not recommended for elimination.

The relocation of the Supply, Bridging, Counter Mobility, Water Purification, and Fuel/Lubricant business areas to TARDEC is consistent with the conclusions of the Army Science Board Study. There is a synergy between these functions and the mission of building military vehicles. For example, the Bridging area requires heavy vehicles such as tanks and heavy mobile logistics to move across demountable bridges and light spans. Supply, Fuel/ Lubricants and Counter Mobility also complement the mission of TARDEC. The relocation of the Fuel/Lubricant business area as part the DoD Project Reliance has commenced.

The transfer of operational control of the Physical Security, Battlefield Deception, Electric Power, Remote Mine Detection/Neutralization, Environmental Controls and Low Cost/Low

Observables Business Areas from the Belvoir RDEC to the Night Vision Electro-Optics Directorate (NVEOD) of the Communication and Electronics Research, Development and Engineering Center (CERDEC), also located in the same general area of Fort Belvoir supports the study recommendations, while avoiding any additional costs.

Return on Investment: Total estimated one-time costs for this action are approximately $11 million. Annual steady state savings are about $13 million, with an immediate return on investment.

Impacts: The realignment of Fort Belvoir will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is less than 1 percent of the employment base in the Washington, DC-Maryland-Virginia Metropolitan Statistical Area, assuming no economic recovery. There are no known obstacles in the ability of the receiving community's infrastructure to support this recommendation.

Rock Island Arsenal, Illinois

Recommendation: Change the recommendation of the 1991 Commission regarding Rock Island Arsenal, IL, as follows. Instead of sending the materiel management functions of U.S. Army Armament, Munitions and Chemical Command (AMCCOM) to Redstone Arsenal, Alabama, as recommended by the 1991 Base Closure Commission, reorganize these functions under Tank Automotive Command (TACOM) with the functions remaining in place at Rock Island Arsenal, IL.

Justification: Under the Commission's recommendation in 1991, the materiel management functions for AMCCOM's armament and chemical functions were to be transferred to Redstone Arsenal for merger with U.S. Army Missile Command (MICOM). The merger would have created a new commodity command to be called the Missile, Armament and Chemical Command (MACCOM). This merger allowed one national inventory control point (NICP) to be eliminated.

In December 1992, the Commander of Army Materiel Command (AMC) directed that the command's Core Competency Advocates (Logistics Power Projection, Acquisition Excellence, Technology Generation) review the creation of MACCOM to see if there was a more cost effective option to realign Redstone Arsenal. These competency advocates recommended that the AMCCOM's materiel management functions should remain in place as a subset of the NICP at TACOM. A closer alignment exists between the armaments and chassis functions than between armaments and missiles, making the reorganization under TACOM more beneficial and cost effective for the Army:

- AMCCOM performs approximately $50 million and 500 work years for Tank Automotive Command's research and development effort compared to only $9 million and 90 workyears for Missile Command.

- AMCCOM receives $29 million from TACOM versus $0.1 million from MICOM for sustainment.

- AMCCOM and TACOM jointly produce all tanks, howitzers, and infantry vehicles. AMCCOM and MICOM do not jointly produce any weapon systems.

- AMCCOM and TACOM use common contractors and universities.
- AMCCOM and TACOM jointly field, manage, and sustain common weapon systems.

- AMCCOM and TACOM share common business practices.

- Guns have their fire control sensors and computers in the vehicle and require extensive joint integration, as AMCCOM and TACOM do now. Missiles have their sensors and fire control in the missile and are easier to mount on a vehicle, as MICOM and TACOM do now.

The Army believes that the armament/chemical materiel management functions can be fully executed from Rock Island Arsenal without relocating. There is precedence for geographic dispersion of NICP functions. The U.S. Communications-Electronic Command NICP is currently performed at three separate sites.

Retention of this activity at Rock Island Arsenal, as a subordinate element of the TACOM NICP, avoids the expense of building new facilities at and relocating over 1,000 employees to Redstone Arsenal.

Return on Investment: Implementing this recommendation will avoid approximately $44 million while incurring no costs. Annual steady state savings of about $1 million are anticipated from efficiencies gained from additional reductions in personnel.

Impacts: There are no environmental or community infrastructure impediments from this recommendation

Presidio of San Francisco, California

Recommendation: Change the recommendation of the 1988 Commission regarding the Presidio of San Francisco, as follows. Relocate Headquarters, Sixth U.S. Army from Presidio San Francisco to NASA Ames, CA, instead of Ft Carson, CO, as originally approved by the Defense Secretary's Commission on Base Realignment and Closure in 1988.

Justification: The 1988 Base Closure Commission recommended closing the Presidio of San Francisco. As a result of this closure, the Army identified Fort Carson, Colorado, as the receiver of the 6th Army Headquarters. Since then, the 1991 Base Closure Commission recommended several closures and realignments in California that did not have the capacity to receive functions or personnel in the 1988 process. During the Army's capacity analysis they identified available space at NASA Ames (formerly NAS Moffett) which could accept the 6th Army Headquarters. As part of their analysis, the Army determined that the military value of retaining this headquarters within California is significantly enhanced as it provides the best available location necessary to exercise command and control of all the reserve units within its area of responsibility. These reasons are as follows:

(a) Seventy-five percent of the reserve units within Sixth Army's area of responsibility are located on the West Coast;

(b) The principle ports of debarkation for the West Coast are Seattle, Oakland, and Long Beach;

(c) The West Coast is prime territory for military assistance to civil authorities. It is the area with the highest probability of natural disaster and is an area where substantial drug enforcement missions are taking place;

(d) Timeliness/location is the critical element that may separate success from failure.

Additionally, recent experiences with Operation Desert Shield/ Desert Storm, natural disasters, and civil disturbances have pointed out the need to keep the headquarters on the West Coast.

Return on Investment: Total estimated one-time costs for this relocation is approximately $9 million. This relocation will avoid the expenditure of $36 million at Fort Carson.

Impacts: There is no significant environmental impacts resulting from this relocation. Environmental restoration will continue until complete. There are no known obstacles in the ability of the receiving community's infrastructure to support this recommendation.

Department of the Navy Selection Process

Introduction

By 1997, the Navy will have 12 aircraft carriers and 11 active carrier air wings -- one fewer aircraft carrier and one fewer carrier air wing than 1992. Navy battle force ships will decline from 466 to 425, a 9 percent reduction. The Navy will also have 53,000 fewer active duty personnel, a 10 percent reduction. The Marine Corps will undergo a 14 percent reduction in active duty personnel. These factors, which will continue to decline through 1999, require a reduction in the Navy and Marine Corps base structure.

The Navy's basing structure is focused primarily on homeporting active and reserve ships, and carrier air wings. The Marine Corps basing structure is focused primarily on support of the Marine Expeditionary Forces. The base structure also provides the requisite training, logistics, depot maintenance, housing and related support. Forward deployment operations, supported by a few overseas bases, and the domestic base structure allow Navy and Marine Corps forces to respond to the full spectrum of international conflict.

The Selection Process

The Secretary of the Navy established a Base Structure Evaluation Committee, responsible for preparing recommendations for closure or realignment of Naval installations. The Committee was tasked to develop categories of installations; determine whether excess capacity exists, and develop methodologies to reduce it. The Committee was responsible for evaluating return on investment, economic and community impacts, and for developing recommendations for closure or realignment to the Secretary of the Navy.

The Committee was supported by the Base Structure Analysis Team which developed data calls, recommended analytical methodologies and maintained the Base Structure Data Base. The Analysis Team developed the Navy's Internal Control Plan which specified organizational and documentation controls for managing the process. A key element of the Internal Control Plan was the involvement of the Naval Audit Service. The Audit Service served as a technical advisor to the Committee, validating the procedures used to build the database and auditing data to determine the method of collection, its accuracy, and the level of compliance throughout the chain of command. The Internal Control Plan also established the procedures necessary to create an audit trail to document the Navy process. One of the most significant controls was the requirement to keep minutes of each deliberative meeting of the Committee.

In accordance with PL 101-510, as amended, the Navy employed a "bottom to top" data certification policy. That meant that the

individual initially generating the data in response to a data call, executed the initial statutory certification and, thereafter, the data was recertified at each succeeding level of the chain of command before the data was provided to the Committee for inclusion in the database. The Navy's Audit Service and its General Counsel ensured compliance.

The Committee determined that installations fell into three categories: (1) providing support to military personnel (personnel); (2) providing weapon systems and material support (materials); and (3) providing shore support to Navy and Marine Corps operational forces (forces). Within these three categories, activities were grouped into a variety of subcategories. Several of these subcategories were divided into further sub-elements for purposes of analysis. Within these subcategories are the individual Navy or Marine Corps installations reviewed by the Committee.

At least two data calls were sent to each installation; one for data relating to capacity and the other for data relating to military value. These data calls were prepared by the Analysis Team with the assistance of technical experts in the various disciplines and approved by the Committee. The responses to the data calls, having been properly certified, were entered into the database and formed the sole basis for the Committee's recommendations.

The next step was to determine whether there was excess capacity in any given subcategory, and if so, to what extent. If there was no meaningful excess capacity in a subcategory, no installation in that subcategory was considered further for closure or realignment. If, on the other hand, a subcategory had sufficient excess capacity, the Committee evaluated the military value of each installation in the subcategory.

The capacity analysis used the certified data call responses to develop throughputs as the basic indicator of capacity. For example, the key indicator for training centers was the average number of students on board. Similarly, for operational air stations, the basic throughput indicator was the number of squadrons that could be hosted in terms of apron space, hangers and runways. A comparison was made between the maximum available throughput and that required by the DoD Force Structure Plan. When the available throughput exceeded the force structure requirement, the Committee determined there was excess capacity. In subcategories in which there was either no or minimal excess capacity, the Committee determined that further analysis for military value was not warranted.

Whenever the capacity analysis indicated the presence of more than minimal excess capacity within a particular subcategory, each installation in that subcategory was subjected to a military value analysis. The Committee categorized the four DoD military value criteria as readiness, facilities,

mobilization capability, and cost and manpower implications. For each of the four major categories of military value, the Committee assigned a weight so that the sum of the weights equalled 100, and these weights were applied to the military value analyses for each installation in the subcategories within that category.

The Analysis Team prepared a series of questions or statements which the Committee placed in one of three scoring bands depending on their level of importance. Each question or statement was then given a numerical scoring range, by the Committee, depending on the band in which it was placed (i.e., Band 1: 6-10 points; Band 2: 3-7 points; Band 3: 1-4 points). The Committee reviewed the responses from each installation within that subcategory. If the response contained data which affirmatively answered the subject matter, that installation received the weighted point total for that question. The total point score for each installation was determined by simple addition of the weighted-average points received.

The next step was to develop closure and realignment scenarios with the use of a computer model. The goal of the model was to find that set of installations in a subcategory which achieved the maximum reduction of excess capacity and, to the maximum extent practicable, resulted in an average military value equal to or greater than all installations currently in that subcategory.

Not all scenarios were limited to installations in a single subcategory. For instance, in the case of naval bases, berthing of ships was the prime throughput indicia for analysis. Since the Naval Air Station, Alameda, is the homeport for two aircraft carriers, it was also considered in the configuration analysis of the "naval bases" subcategory along with installations such as Naval Base, Norfolk.

Rules for the computer model were developed so that the model would not run unconstrained. For example, left to run without guidance, the model might identify a set of bases which eliminated excess capacity but which bore little resemblance to operational realities. Therefore, the model was given some rules, which, in the case of naval bases for example, included the rule that ships were to be split between the Atlantic and Pacific Fleets in the ratios reflected in the Fiscal Year 1994-1995 President's Budget Submission. In every case where rules were imposed, the Committee reviewed them stringently to ensure that only the minimum number of rules needed to operate the model were prescribed so the results would not be artificially skewed.

The computer model resulted in finding that mix of installations which resulted in the maximum reduction of excess capacity without regard to the installation's military value. If that mix resulted in an average military value which was less than that for the current list of installations, the computer was

asked to search for an alternative mix which raised the average military value with the minimum decrease in the reduction of excess capacity.

The computer models were the starting point for the application of military judgment in the analysis of potential closure or realignment scenarios. For example, in the configuration analysis for naval bases, the model satisfied its requirement to reduce capacity by identifying as excess the capacity at both of the Naval Station and the Submarine Base at Pearl Harbor. The Committee determined that, as a matter of naval presence in the Pacific theater, it was more important for military value to retain the forward capability in the Pacific than to achieve an absolute maximum reduction in excess capacity.

Sometimes the configuration analysis was not helpful. In the case of the two Marine Corps training bases, the two logistics bases, and the two recruit depots there is insufficient capacity in any one of those facilities to handle the requirements flowing from the DoD Force Structure Plan should the other be closed. In those instances, the Committee determined that further analysis was unwarranted.

Finally, the Committee evaluated the potential costs and savings, economic impact, community infrastructure and environmental impact on closure and realignment candidates (and any potential receiving locations) before making its nominations to the Acting Secretary of the Navy.

The Chief of Naval Operations, in his capacity as Acting Secretary of the Navy, with the advice of the Commandant of the Marine Corps, nominated bases to the Secretary of Defense for closure or realignment based on the force structure plan and the final criteria established under Public Law 101-510, as amended

Naval Station Mobile, Alabama

Recommendation: Close Naval Station, Mobile and relocate assigned ships to Naval Stations Pascagoula, Mississippi, and Ingleside, Texas, along with dedicated personnel, equipment and appropriate other support.

Justification: The berths at Naval Station, Mobile are excess to the capacity required to support the DoD Force Structure Plan. A comprehensive analysis of naval station berthing capacity was performed with a goal of reducing excess capacity to the maximum extent possible while maintaining the overall military value of the remaining naval stations. To provide berthing to support the projected force structure, the resulting mix of naval stations were configured to satisfy specific mission requirements, including: 100 percent aircraft carrier berthing in each fleet; ammunition ships at ESQD-approved berthing; one SSN/SSBN unique base complex per fleet; and maintenance of the Norfolk and San Diego fleet concentrations as part of the solution. The ships based at Naval Station Mobile can be relocated to other naval bases which have a higher military value. This realignment, combined with other recommended closures and realignments in the Atlantic Fleet, results in the maximum reduction of excess capacity while increasing the average military value of the remaining Atlantic Fleet bases.

Return On Investment: Total estimated one-time costs for this recommendation are $4.4 million. Annual recurring savings are $15.8 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $182.8 million.

Impacts: The closure of this naval station will have an impact on the local economy. The projected potential loss (both direct and indirect) is 0.6 percent of the employment base in the Mobile Metropolitan Statistical Area, assuming no economic recovery. There is no known community infrastructure impact at any receiving installation. There is no significant environmental impact resulting from this closure. Generation of hazardous wastes and pollutants will be eliminated. Environmental cleanup will be continued until complete.

Mare Island Naval Shipyard, Vallejo, California

Recommendation: Close the Mare Island Naval Shipyard (NSY). Relocate the Combat Systems Technical Schools Command activity to Dam Neck, Virginia. Relocate one submarine to the Naval Submarine Base, Bangor, Washington. Family housing located at Mare Island NSY will be retained as necessary to support Naval Weapons Station Concord.

Justification: The capacity of the Mare Island NSY is excess to that required to support the reduced number of ships reflected in the DoD Force Structure Plan. An analysis of naval shipyard capacity was performed with a goal of reducing excess capacity to the maximum extent possible while maintaining the overall military value of the remaining shipyards. Mare Island has the lowest military value of those shipyards supporting the Pacific Fleet, and its workload can be readily absorbed by the remaining yards which possess higher military value. The closure of Mare Island NSY, in combination with the Charleston NSY, allows the elimination of a greater amount of excess capacity while maintaining the overall value of the remaining shipyards at a higher military value level than that of the current configuration of shipyards. Other options either reduced capacity below that required to support the approved force levels, eliminated specific capabilities needed to support mission requirements or resulted in a lower military value for this group of activities.

Return On Investment: Total estimated one-time costs for this closure are $279.9 million. Annual recurring savings are $148.9 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $1,112 million.

Impacts: The closure of Mare Island NSY will have an impact on the local economy. The projected potential employment loss (both direct and indirect) is 11.7 percent of the employment base of the Vallejo-Fairfield-Napa Metropolitan Statistical Area (MSA), assuming no economic recovery. Additionally, other 1993 closure and realignment recommendations have a total impact of 4.9 percent on the adjacent Oakland MSA. There is no significant community infrastructure impact on receiving locations as a result of this closure. Generation of hazardous wastes and pollutants will be eliminated at Mare Island NSY. Emissions from several hundred controlled air emission sources will be eliminated, providing air emission "credits". This closure will eliminate the need to operate the industrial waste water treatment plant and for annual maintenance dredging.

Marine Corps Air Station El Toro, California

Recommendation: Close Marine Corps Air Station (MCAS) El Toro, California. Relocate its aircraft along with their dedicated personnel, equipment and support to Naval Air Station (NAS), Miramar, California and MCAS Camp Pendleton, California.

Justification: Naval and Marine air wings are projected to be reduced consistent with fleet requirements in the DoD Force Structure Plan, creating an excess in air station capacity. MCAS El Toro is recommended for closure since, of the jet bases supporting the Pacific Fleet, it has the lowest military value, has no expansion possibilities, is the subject of serious encroachment and land use problems, and has many of its training evolutions conducted over private property. The redistribution of aviation assets allows the relocation of Marine Corps fixed wing and helicopter assets to the NAS Miramar, in a manner which both eliminates excess capacity and avoids the construction of a new aviation facility at Marine Corps Air-Ground Combat Center, 29 Palms, California. In an associated action the squadrons and related activities at NAS Miramar will move to NAS Lemoore in order to make room for the relocation of the MCAS El Toro squadrons. This closure results in a new configuration of Naval and Marine Corps air stations having an increased average military value when compared to the current mix of air stations in the Pacific Fleet. Finally the Department of the Navy will dispose of the land and facilities at MCAS El Toro and any proceeds will be used to defray base closure expenses.

Return On Investment: This recommendation was considered as part of a package that included Pacific operational air stations. The COBRA data below applies to the operational air stations on the West Coast and in Hawaii, as follows: NAS Barbers Point, MCAS Kaneohe Bay, MCAS El Toro and NAS Miramar. The total estimated one-time costs for the recommendations are $898.5 million. Annual recurring savings are $173.9 million with an immediate return on investment. The Net Present Value of the costs and savings over a twenty year period is a savings of $1,374.2 million. In addition, this package avoids approximately $600 million in military construction at MCAS 29 Palms which is required to implement the 1991 Base Closure Commission's recommendation to close MCAS Tustin.

Impacts: The closure of this MCAS will have an impact on the local economy. The projected potential employment loss, both direct and indirect is 0.9 percent of the employment base of the Anaheim-Santa Ana Metropolitan Statistical Area assuming no economic recovery. There is no significant community infrastructure impact at any receiving installation. This closure will eliminate the generation of hazardous waste and pollutants and will remove special air space restrictions (such as military operating areas), and reduce noise levels and air emissions. Environmental cleanup efforts will continue until completed.

Naval Air Station Alameda, California

Recommendation: Close Naval Air Station (NAS), Alameda, California and relocate its aircraft along with the dedicated personnel, equipment and support to NASA Ames/Moffett Field, California and NAS North Island. In addition, those ships currently berthed at NAS Alameda will be relocated to the Fleet concentrations at San Diego and Bangor/Puget Sound/Everett. Disposition of major tenants is as follows: Navy Regional Data Automation Center, San Francisco realigns to NAS North Island; Ship Intermediate Maintenance Department disestablishes; the Naval Air Reserve Center and the Marine Corps Reserve Center relocate to leased space at NASA/Ames.

Justification: The projected carrier air wing reductions in the DoD Force Structure Plan require a significant decrease in air station and naval station capacity. NAS Alameda is recommended for closure as it has the lowest military value of those air stations supporting the Pacific Fleet. Given the numbers of aircraft "bedded down" at the air station, it has greatest amount of excess capacity. Also, given the need to eliminate excess ship berthing, its capacity is not required to meet force levels, since no more than five carrier berths are required on the West Coast; three at the fleet concentration in San Diego and two at Bangor/Puget Sound/Everett. Both the limited aircraft (primarily reserve) and ship assets at NAS Alameda can be readily absorbed at bases with a higher military value. This closure results in increase average military value of both the remaining air stations and naval stations in the Pacific Fleet.

Return On Investment: The total estimated one-time costs for this recommendation are $193.7 million. Annual recurring savings are $41.7 million with a return on investment in four years. The Net Present Value of the costs and savings over a twenty year period is a savings of $197.1 million.

Impacts: The closure of NAS Alameda will have an impact on the local economy. The projected potential employment loss both direct and indirect is 2.9 percent of the employment base in the Oakland, California Metropolitan Statistical Area (MSA) assuming no economic recovery. Other 1993 closure and realignment recommendations bring the total impact on Oakland, California MSA to 4.9 percent. There is no significant community infrastructure impact at any receiving installation. There will be no significant environmental impacts resulting from this action. Hazardous waste generation and pollutants will be eliminated. This closure will remove special air space restrictions (such as military operating areas), and reduce noise levels and air emissions. The indoor and outdoor hazardous waste storage facilities at NAS Alameda will be closed in accordance with applicable laws and regulations. Annual maintenance dredging and the dredging of the turning basin and entrance channel will be eliminated. Environmental cleanup efforts will continue until complete.

Naval Aviation Depot, Alameda, California

Recommendation: Close Naval Aviation Depot (NADEP), Alameda and relocate repair capability as necessary to other depot maintenance activities. This relocation may include personnel, equipment and support. The Depot workload will move to other depot maintenance activities, including the private sector.

Justification: Naval Aviation Depot, Alameda is recommended for closure because its capacity is excess to that required to support the DoD Force Structure Plan. Projected reductions require an almost 50 percent reduction in capacity in the Navy aviation depots. In determining the mix of aviation depots which would achieve the maximum reduction in excess capacity the Navy determined that there must be at least one aviation depot at a fleet concentration on each coast. The work performed at Naval Aviation Depot, Alameda can be performed at other aviation maintenance activities, including the private sector. The closure of NADEP Alameda will reduce excess capacity in this category and maintain or increase the average military value of the remaining depots.

Return On Investment: Total estimated one-time costs for this recommendation are $126.8 million. Annual recurring savings are $78.3 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $538.9 million.

Impacts: The closure of NADEP Alameda will have an impact on the local economy. The projected potential loss (both direct and indirect) is 0.8 percent of the employment base of the Oakland, California, Metropolitan Statistical Area (MSA), assuming no economic recovery. Other 1993 closure and realignment recommendations bring the total impact on this MSA, assuming no economic recovery, to 4.9 percent. There is no significant community infrastructure impact at any receiving installation. There will be no significant environmental impacts occasioned by this closure. Generation of hazardous wastes and pollutants will be eliminated, as will air emissions, which will result in air emission "credits".

Naval Hospital, Oakland, California

Recommendation: Close the Naval Hospital, Oakland and relocate certain military and civilian personnel to other Naval hospitals, and certain military personnel to the Naval Air Stations at Lemoore and Whidbey Island. The Deployable Medical Unit, Northwest Region, will relocate to Naval Hospital, Bremerton, Washington.

Justification: Naval Hospitals are situated and their size determined for location near operating forces whose personnel will require medical support in numbers significant enough to mandate a medical facility as large as a hospital. Given the extensive use of CHAMPUS, any Naval Hospital closure must be predicated upon the elimination of the operating forces which created a demand for the presence of a Naval Hospital in the first instance. In the San Francisco Bay area, the Naval Air Station, Alameda, Naval Shipyard, Mare Island and the supporting Public Works Center and Supply Center are being recommended for closure. Given the elimination of these operating force activities, closure of the Naval Hospital, Oakland is indicated as the military personnel previously supported are no longer in the area.

Return On Investment: Total estimated one-time costs for this recommendation are $57.5 million. Annual recurring savings are $41.5 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $286.4 million.

Impacts: The closure of Naval Hospital, Oakland will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 0.4 percent of the employment base in the Oakland, California, Metropolitan Statistical Area, assuming no economic recovery. The closure of the Naval Hospital will have a positive impact on the environment as a source of pollution will be eliminated. Environmental mitigation and restoration will continue until completed.

Naval Station Treasure Island, San Francisco, California

Recommendation: Close Naval Station, Treasure Island and relocate personnel, as appropriate to the Naval Station, San Diego, California; Naval Amphibious Base, Little Creek, Virginia; Naval Training Center, Great Lakes, Illinois and various Naval Reserve sites in California. Major tenants are impacted a follows: Naval Reserve Center San Francisco relocates to the Naval/Marine Corps Reserve Center, Alameda, California and REDCOM 20 relocates to the Naval Reserve Center, San Bruno, California. Naval Technical Training Center relocates to Fleet Training Center San Diego, Naval Amphibious School, Little Creek and Naval Training Center Great Lakes.

Justification: The DoD Force Structure Plan supports a decrease in naval station capacity. Naval Station, Treasure Island has a relatively low military value and its capacity is not required to support Navy requirements. The naval bases to which its activities will be relocated have higher military value to the Navy than does this naval station. A comprehensive analysis of naval station berthing capacity was performed with a goal of reducing excess capacity to the maximum extent possible while maintaining the overall military value of the remaining naval stations. To provide berthing to support the projected force structure, the resulting mix of naval stations was configured to satisfy specific mission requirements, including: 100 percent aircraft carrier berthing in each fleet; ammunition ships at ESQD-approved berthing; one SSN/SSBN unique base complex per fleet; and maintenance of the Norfolk and San Diego fleet concentrations. This closure, combined with other recommended closures and realignments in the Pacific Fleet, reduces excess capacity while increasing the average military value of the remaining Pacific Fleet bases.

Return on Investment: Total estimated one-time costs for the recommendation are $33.7 million. Annual recurring savings are $43.1 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty-year period is a savings of $330.7 million.

IMPACTS: The closure of this naval station will have an impact on the local economy. The projected potential loss (both direct and indirect) is 0.2 percent of the employment base in the San Francisco, CA, Metropolitan Statistical Area (MSA), assuming no economic recovery. Other 1993 closure and realignment recommendations bring the total impact on this MSA, assuming no economic recovery, to 1.1 percent. There is no significant community infrastructure impact at any receiving installation. There will be no significant environmental impacts occasioned by this closure, which also will permit the closure or alternative use of the recently improved 2.0 MGD wastewater treatment plant and will eliminate various air emissions, thus providing potential air emission "credits".

Naval Supply Center, Oakland, California

Recommendation: Close the Naval Supply Center (NSC) Oakland, including the Naval Supply Depot, Point Molate, and relocate two supply ships to the Naval Supply Center, San Diego. The Office of the Military Sealift Command, Pacific Division, relocates to leased space in the Oakland area.

Justification: NSC Oakland's capacity is excess to the requirements of the DoD Force Structure Plan. The principal customers of NSC Oakland; Naval Aviation Depot, Alameda; Naval Hospital, Oakland; Mare Island Naval Shipyard and Naval Station Treasure Island have also been recommended for closure. The workload of NSC Oakland will move with its customers to other locations.

Return on Investment: Total estimated one-time costs for this recommendation are $119.4 million. Annual recurring savings are $45.4 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $259.9 million.

Impacts: The closure of NSC Oakland will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 0.5 percent of the employment base in the Oakland Metropolitan Statistical Area (MSA), assuming no economic recovery. Other 1993 closure and realignment recommendations bring the total impact on the Oakland MSA to 4.9 percent. The closure of NSC Oakland will have a positive impact on the environment as a source of potential hazardous wastes and pollutants will be eliminated. Environmental mitigation and restoration will continue until completed.

Naval Training Center, San Diego, California

Recommendation: Close the Naval Training Center (NTC), San Diego and relocate certain personnel, equipment and support to NTC Great Lakes, and other locations, consistent with training requirements. Disposition of major tenants is as follows: Recruit Training Command relocates to NTC, Great Lakes; Branch Medical Clinic relocates to Submarine Base, San Diego; Naval Recruiting District relocates to Naval Air Station North Island; Service School Command (Electronic Warfare) relocates to Naval Training Center, Great Lakes; Service School Command (Surface) relocates to NTC Great Lakes; the remainder of the Service School Command relocates to NTC Great Lakes, Naval Air Station Pensacola, and Fleet Training Center, San Diego.

Justification: Projected manpower reductions contained in the DoD Force Structure Plan require a substantial decrease in naval force structure capacity. As a result of projected manpower levels, the Navy has two to three times the capacity required, as measured by a variety of indicators, to perform the recruit training function. The closure of NTC San Diego removes unneeded excess capacity and results in the realignment of training to a training center with a higher military value. The resulting consolidation at NTC Great Lakes not only results in the highest possible military value but also is the most economical alignment for the processing of personnel into the Navy. In addition, NTC San Diego has equipment and facilities which are more readily relocatable to another naval training center.

Return On Investment: The Naval Training Center recommendations were considered as a package and, as a result, the COBRA data set out below represents the costs and savings associated with the closure of both NTC San Diego and NTC Orlando. Total estimated one-time costs for the recommendation are $327.9 million. Annual recurring savings are $69.0 million with a return on investment in two years. The Net Present Value of costs and savings over a twenty year period is a savings of $323.9 million.

Impacts: The closure of NTC San Diego will have an impact on the local economy. The projected potential employment loss (both direct and indirect) is 0.7 percent of the employment base of the San Diego, California Metropolitan Statistical Area (MSA) assuming no economic recovery. However, because of other closures or realignments into this MSA, there will be a net 1.2 percent increase in employment. There is no significant community infrastructure impact at any receiving installation. There will be no significant environmental impacts resulting from this action. Hazardous waste and pollutants will be eliminated, as will air emissions, which will generate air emission "credits".

Naval Air Station Cecil Field, Jacksonville, Florida

Recommendation: Close Naval Air Station, Cecil Field and relocate its aircraft along with dedicated personnel, equipment and support to Marine Corps Air Station, Cherry Point, North Carolina; Naval Air Station, Oceana, Virginia, and Marine Corps Air Station, Beaufort, South Carolina. Disposition of major tenants is as follows: Marine Corps Security Force Company relocates to MCAS Cherry Point; Aviation Intermediate Maintenance Department relocates to MCAS Cherry Point; Air Maintenance Training Group Detachment, Fleet Aviation Support Office Training Group Atlantic, and Sea Operations Detachment relocate to MCAS Cherry Point and NAS Oceana.

Justification: Carrier air wings will be reduced consistent with fleet requirements in the DoD Force Structure Plan, creating an excess in air station capacity. Reducing this excess capacity is complicated by the requirement to "bed down" different mixes of aircraft at various air stations. In making these choices, the outlook for environmental and land use issues was significantly important. In making the determination for reductions at air stations supporting the Atlantic Fleet, NAS Cecil Field was selected for closure because it represented the greatest amount of excess capacity which could be eliminated with assets most readily redistributed to receiving air stations. The preponderance of aircraft to be redistributed from NAS Cecil Field were F/A-18s which were relocated to two MCAS on the East Coast, Beaufort and Cherry Point. These air stations both had a higher military value than NAS Cecil Field, alleviated concerns with regard to future environmental and land use problems and dovetail with the recent determination for joint military operations of Navy and Marine Corps aircraft from carrier decks. Some NAS Cecil Field assets are relocating to NAS Oceana, an air station with a lower military value, because NAS Oceana is the only F-14 air station supporting the Atlantic Fleet and had to be retained to support military operations of these aircraft. Its excess capacity was merely utilized to absorb the remaining aircraft from NAS Cecil Field.

Return On Investment: Total estimated one-time costs for the recommendation are $312.3 million. Annual recurring savings for both are $56.7 million, with a return on investment in six years. The Net Present Value of costs and savings over a twenty year period is a savings of $200.9 million.

Impacts: The closure of NAS Cecil Field will have an impact on the local economy. The projected potential employment loss (both direct and indirect) is 3.0 percent of the employment base of the Jacksonville Metropolitan Statistical Area assuming no economic recovery. Relocations to MCAS Cherry Point will require increased classroom space in the local schools. Remediation of this impact is included in the cost analysis. There are no significant environmental impacts resulting from this action. Hazardous waste and pollutant generation will be eliminated.

Similarly, this closure will remove special use air space restrictions (such as military operating areas) and reduce noise levels and air emissions. Environmental cleanup will continue until completed.

Naval Training Center, Orlando, Florida

Recommendation: Close the Naval Training Center (NTC), Orlando, and relocate certain personnel, equipment and support to NTC Great Lakes and other locations, consistent with DoD training requirements. Disposition of major tenants is as follows: Recruit Training Command relocates to NTC Great Lakes; the Nuclear Power School and the Nuclear "A" School relocate to the Submarine School at the Naval Submarine Base (NSB), New London; Personnel Support Detachment relocates to NTC Great Lakes; Service School Command relocates to Great Lakes; Naval Dental Clinic relocates to Great Lakes; Naval Education and Training Program Management Support Activity disestablishes.

Justification: The 1991 Commission rejected the recommendation to close NTC Orlando due to prohibitive closure costs. This recommendation encompasses the additional closure of NTC San Diego and proposes significantly reduced closure costs by taking advantage of facilities made available by the recommended realignment of NSB New London. Projected manpower reductions contained in the DoD Force Structure Plan require a substantial decrease in naval force structure. As a result of projected manpower levels the Navy has two to three times the capacity required, as measured by a variety of indicators, to perform the recruit training function. The closure of the NTC Orlando removes excess capacity and relocates training to a naval training center with a higher military value and results in an efficient collocation of the Submarine School, the Nuclear Power School and the Nuclear "A" School at the NSB, New London. The resulting consolidation at the NTC Great Lakes not only results in the highest possible military value for this group of military activities but also is the most economical alignment for the processing of personnel into the Navy. In addition, NTC Orlando has equipment and facilities which are more readily relocatable to another naval training center.

Return On Investment: The Naval Training Centers were considered as a package and, as a result, the COBRA data set out below represents costs and savings associated with the closure of both NTC Orlando and NTC San Diego. Total estimated one-time costs for the recommendation are $327.9 million. Annual recurring savings are $69.0 million with a return on investment in two years. The Net Present Value of costs and savings over a twenty year period is a savings of $323.9 million.

Impacts: The closure of NTC Orlando will have an impact on the local economy. The projected potential employment loss (both direct and indirect) is 2.1 percent of the employment base of the Orlando, Metropolitan Statistical Area, assuming no economic recovery. There is no significant community infrastructure impact at any receiving installation. There will be no significant environmental impacts resulting from this closure. Hazardous waste and pollutant generation will be eliminated, as will the generation waste water on the average of 1.13 million gallons per day.

Naval Aviation Depot, Pensacola, Florida

Recommendation: Close Naval Aviation Depot Pensacola (NADEP), and relocate repair capability as necessary to other depot maintenance activities. This relocation may include personnel, equipment and support. The Depot workload will move to other depot maintenance activities, including the private sector. The dynamic component and rotor blade repair facility will remain in place.

Justification: Naval Aviation Depot Pensacola is recommended for closure because its capacity is excess to that required to support the DoD Force Structure Plan. Projected reductions require an almost 50 percent reduction in capacity in the Navy aviation depots. In determining the mix of aviation depots which would achieve the maximum reduction in excess capacity the Navy determined that there must be at least one aviation depot at a fleet concentration on each coast. The work performed at Naval Aviation Depot, Pensacola can be performed at other aviation maintenance activities, including the private sector. The closure of NADEP Alameda will reduce excess capacity in this category and maintain or increase the average military value of the remaining depots.

Return On Investment: Total estimated one-time costs for the recommendation are $165.4 million. Annual recurring savings are $51.1 million with a return on investment in two years. The Net Present Value of costs and savings over a twenty year period is a savings of $341.2 million.

Impacts: The closure of this NADEP Pensacola will have an impact on the local economy. The projected potential loss (both direct and indirect) is 6.1 percent of the employment base of the Pensacola, Florida Metropolitan Statistical Area, assuming no economic recovery. However, because of other closures and realignments into this area, there will be a net 4.3 percent increase in employment. There is no significant community infrastructure impact at any receiving installation. There will be no significant environmental impacts occasioned by this closure. The NADEP depot is located on the property of Naval Air Station Pensacola, which is on EPA's National Priorities List. The closure of this depot will require that all hazardous industrial materials and waste be removed. Generation of hazardous wastes and pollutants will be eliminated, as will air emissions, which will result in air emission "credits".

Naval Air Station Barbers Point, Hawaii

Recommendation: Close the Naval Air Station (NAS) Barbers Point and relocate its aircraft along with their dedicated personnel and equipment support to Marine Corps Air Station (MCAS), Kaneohe Bay, Hawaii and NAS Whidbey Island, Washington. Retain the family housing as needed for multi-service use.

Justification: The NAS Barbers Point is recommended for closure because its capacity is excess to that required to support the reduced force levels contained in the DoD Force Structure Plan. The analysis of required capacity supports only one naval air station in Hawaii. NAS Barbers Point has a lower military value than MCAS Kaneohe Bay and its assets can be readily redistributed to other existing air stations. By maintaining operations at the MCAS, Kaneohe Bay, we retained additional capacity that air station provides in supporting ground forces. With the uncertainties posed in overseas basing MCAS Kaneohe Bay provides the flexibility to support future military operations for both Navy and Marine Corps and is of greater military value. In an associated move the F-18 and CH-46 squadrons at MCAS Kaneohe Bay will move to NAS Miramar to facilitate the relocation of the NAS Barbers Point squadrons. Finally the Department of the Navy will dispose of the land and facilities at NAS Barbers Point and any proceeds will be used to defray base closure expenses.

Return On Investment: This recommendation was considered as part of a package that included Pacific operational air stations. The COBRA data below applies to the operational air stations on the West Coast and in Hawaii, as follows: NAS Barbers Point, MCAS Kaneohe Bay, MCAS El Toro and NAS Miramar. The total estimated one-time costs for the recommendations are $898.5 million. Annual recurring savings are $173.9 million with an immediate return on investment. The Net Present Value of the costs and savings over a twenty year period is a savings of $1374.2 million. In addition this package avoids approximately $600 million in military construction at MCAS 29 Palms which is required to implement the 1991 Base Closure Commission's recommendation to close MCAS Tustin.

Impacts: The closure of NAS Barbers Point will have an impact on the local economy. The proposed potential employment loss (both direct and indirect) is 1.9 percent of the employment base of the Honolulu, Hawaii, Metropolitan Statistical Area, assuming no economic recovery. There is no significant community infrastructure impact at any receiving installation. There will be no significant environmental impacts resulting from this action. Hazardous waste generation and pollutants will be eliminated. This closure will remove special use air space restrictions (such as military operating areas) as well as elevated noise levels and air emissions. Ongoing environmental clean-up efforts will continue until completed.

Naval Air Station, Glenview, Illinois

Recommendation: Close the Naval Air Station (NAS), Glenview and relocate its aircraft and associated personnel, equipment and support to Navy Reserve, National Guard and other activities. Family housing located at NAS Glenview will be retained to meet existing and new requirements of the nearby Naval Training Center (NTC), Great Lakes. The Recruiting District, Chicago will be relocated to NTC Great Lakes. The Marine Corps Reserve Center activities will relocate as appropriate to Dam Neck, Virginia, Green Bay, Wisconsin, Stewart Army National Guard Facility, New Windsor, New York and NAS, Atlanta, Georgia.

Justification: Naval air forces are being reduced consistent with the fleet reductions in the DoD Force Structure Plan. Projected force levels for both active and reserve aviation elements leave the Department with significant excess capacity in the reserve air station category. Closure of NAS Glenview eliminates excess capacity at a base with a very low military value whose assets can be redistributed into more economical and efficient operations. This closure, combined with three others in this category, results in maximum reduction of excess capacity while increasing the average military value of the remaining reserve air stations. In arriving at the recommendation to close NAS Glenview, a specific analysis was conducted to ensure that there was demographic support for purposes of force recruiting in the areas to which the reserve aircraft are being relocated.

Return On Investment: Total estimated one-time costs for the recommendation are $14.1 million. Annual recurring savings are $31 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $313.4 million.

Impacts: The closure of NAS Glenview will have an impact on the local economy. The projected potential employment loss (both direct and indirect) is 0.1 percent of the employment base of the Chicago Metropolitan Statistical Area, assuming no economic recovery. There is no significant community infrastructure impact at any receiving installation. There will be no significant environmental impacts resulting from this action. Generation of hazardous wastes and pollutants will be eliminated. In addition, this closure will remove special use air space restrictions (such as military operations areas and military training areas), and reduce noise levels and air emissions.

Naval Electronic Centers

Recommendation: Close Naval Electronics Systems Engineering Center (NESEC) St. Inigoes, Maryland, disestablish NESEC Charleston, South Carolina and Naval Electronics Security Systems Engineering Center (NESSEC), Washington, DC. Consolidate the Centers into an East Coast NESEC at Portsmouth, Virginia. The ATC/ACLS facility at St. Inigoes and the Aegis Radio Room Laboratory will remain in place and will be transferred to Naval Air Systems Command.

Justification: This recommendation was rejected by the 1991 DoD Base Closure and Realignment Commission. In doing so, the Commission stated that DoD had failed to explore other alternative sites and because DoD failed to address asserted problems at Portsmouth with testing of radars and communication equipment. Several new factors, contributed to the renewal of this recommendation.

The DoD Force Structure Plan shows a significant further decrease in force structure from that in 1991, giving rise to additional excess capacity. The facilities at St. Inigoes, Maryland, once NESEC St. Inigoes relocates to Portsmouth, would be available to support the major relocation to the Patuxent River complex of the Naval Air Systems Command and several of its subordinate organizations. This move results in both substantial organizational efficiencies and economies and is a significant element of the Navy's compliance with the DoD policy to move activities out of leased space in the NCR into DoD owned facilities. The Portsmouth consolidation includes NESSEC Washington, DC resulting in an additional relocation from leased space in the NCR into DoD owned facilities. The Portsmouth consolidation also achieves a major reduction in excess capacity for these activities and with this consolidation in Portsmouth, the Navy Management Support Office can be consolidated at this Center. Without the Portsmouth consolidation, the benefits resulting from the synergy of consolidating the three centers would not be realized, and the reduction in excess capacity would be adversely impacted.

The Portsmouth consolidation utilizes as the magnet site for this consolidation the installation with the highest military value of all activities in the cluster. A review of the certified data call responses indicates that one of the reasons for this military value rating is NESEC Portsmouth's current capability to perform a broad range of testing functions on a wide variety of communications and radar systems, including the Submarine Broadcast System, Relocatable Over-the-Horizon Radar, Tactical Secure Voice, and the AN/SLQ-32(V) 1/2/3/4/5. At its Fleet Engineering Support Center is a completely integrated shipboard communications system that contains a sample of every communications receiver, transmitter, data link and ancillary terminal hardware in the LF through UHF frequency range. The

radar systems testing capability is enhanced by the AN/SSQ-74(V) Radar and Communications Signal Simulator with its associated antenna farm. These capabilities, particularly when joined with those of the other activities in this consolidation, gives the Navy a most formidable technical center which, because of the consolidation, will be able to function more economically and efficiently than these activities could if separate.

Return On Investment: Total estimated one-time costs for this recommendation are $147.3 million. Annual recurring savings are $32.3 million with a return on investment in three years. The Net Present Value of costs and savings over a twenty year period is a savings of $123.8 million.

Impacts: The closure, disestablishment and relocation, as appropriate, of these Naval technical centers will have impacts on the local economies. The projected potential employment losses (both direct and indirect) are 1.6 percent of the employment base of the Charleston, SC Metropolitan Statistical Area (MSA) assuming no economic recovery; 11.9 percent of the employment base of St. Mary's County, Maryland, except that, because of other relocations into this county, there will only be a net 1.8 percent decrease in employment; 0.03 percent of the employment base of the Washington, DC, MSA assuming no economic recovery; and 0.2 percent of the employment base of the Norfolk-Virginia Beach-Newport News, Virginia, MSA assuming no economic recovery. The consolidation at NESSEC, Portsmouth will have a positive impact on the environment as a source of pollution will be eliminated. Environmental mitigation and restoration will continue until completed.

Naval Air Station Meridian, Mississippi

Recommendation: Close Naval Air Station (NAS) Meridian. Relocate advanced strike training to Naval Air Station Kingsville, Texas. Relocate intermediate strike training and Naval Technical Training Center to NAS Pensacola, Florida.

Justification: Projected reductions contained in the Department of Defense Force Structure Plan require a substantial decrease in training air station capacity. When considering air space and facilities of all types of support aviation training, there is about twice the capacity required to perform the mission. The training conducted at the Naval Air Station, Meridian can be consolidated with similar training at the Naval Air Station, Kingsville and the Naval Air Station, Pensacola. This results in an economy and efficiency of operations which enhances the military value of the training and places training aircraft in proximity to over-water air space and potential berthing sites for carriers being used in training evolutions. Currently, for example, pilots training in Meridian fly to the Naval Air Station, Pensacola in order to do carrier landing training. The closure of Meridian and the accompanying closure of the Naval Air Station, Memphis, results in centralized aviation training functions at bases with a higher average military value than that possessed by the training air stations before closure. Both the Naval Air Station, Kingsville and the Naval Air Station, Pensacola have higher military value than the Naval Air Station, Meridian. The consolidation of the Naval Technical Training Center with its parent command, the Chief of Naval Education and Training, will provide for improvement in the management and efficiency of the training establishment and enhance its military value to the Navy.

Return On Investment: The total estimated one-time costs for both NAS Meridian and NAS Memphis recommendations are $274.1M. Annual recurring savings for both actions are $82.2M with a return on investment in two years. The Net Present Value of costs and savings over a twenty year period is $481.1M.

Impact: The closure of NAS Meridian will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 12.8 percent of the local employment base in Lauderdale County, assuming no economic recovery. There is no significant environmental impact at NAS Meridian as a result of this closure. Environmental cleanup will continue until complete. Relocation of advanced strike training to NAS Kingsville will result in additional noise impacts in the direction of the city of Kingsville. This may require adoption of noise abatement procedures until the ultimate transition of the TA-4 aircraft to the new T-45 which will significantly reduce noise impacts. Noise impacts will also be increased by relocation of intermediate strike training to NAS Pensacola and will require prudent management of aircraft operations to mitigate this impact on the local community.

Naval Air Station, South Weymouth, Massachusetts

Recommendation: Close Naval Air Station (NAS), South Weymouth and relocate its aircraft and associated personnel, equipment and support to Naval Air Stations Brunswick, Maine and New Orleans, Louisiana, Naval Station Mayport, Florida. The Marine Corps Reserve Center activities will relocate to Dam Neck, Virginia, Johnstown, Pennsylvania, Camp Pendleton, California, and NAS Willow Grove, Pennsylvania.

Justification: Naval air forces are being reduced consistent with fleet reductions in the DoD Force Structure Plan. Projected force levels for both active and reserve aviation elements leave the Department with significant excess capacity in the reserve air station category. The greater operational utility of active air stations and the decision to rely on reserve aviation elements in support of active operating forces place a higher military value on locating reserve aviation elements on active operating air bases to the extent possible. Closure of NAS South Weymouth allows the relocation of reserve P-3's to the major P-3 active operating base at NAS Brunswick, ME and distributes other assets to the active operating base at Mayport, FL and to a reserve air station with a higher military value. In arriving at the recommendation to close NAS South Weymouth, a specific analysis was conducted to ensure that there was demographic support for purposes of force recruiting in the areas to which the reserve aircraft are being relocated.

Return On Investment: Total estimated one-time costs for the recommendation are $23.0 million. Annual recurring savings are $25.9 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $252.1 million.

Impacts: The closure of NAS South Weymouth will have an impact on the local economy. The projected potential employment loss (both direct and indirect) is 0.1 percent of the employment base of the Boston-Lawrence-Salem-Lowell, Massachusetts, Metropolitan Statistical Area, assuming no economic recovery. There is no significant community infrastructure impact at any receiving installation. There will be no significant environmental impacts resulting from this action. Generation of hazardous wastes and pollutants will be eliminated. In addition, this closure will remove special use air space restrictions (such as military operations areas and military training routes), and reduce noise levels and air emissions.

Naval Station, Staten Island, New York

Recommendation: Close Naval Station Staten Island. Relocate its ships along with their dedicated personnel, equipment and support to Naval Stations, Norfolk, Virginia and Mayport, Florida. Disposition of minor tenants is as follows: Ship intermediate Maintenance Activity, New York relocates to Earle, New Jersey and Norfolk, Virginia; Recruiting District, New York disestablishes; Supervisor of Shipbuilding, Conversion and Repair (SUPSHIP), Brooklyn Detachment disestablishes.

Justification: The berthing capacity of Naval Station Staten Island is excess to the capacity required to support the DoD Force Structure Plan. A comprehensive analysis of naval station berthing capacity was performed with the goal of reducing excess capacity to the maximum extent possible while maintaining the overall military value of the remaining naval stations. To provide berthing to support projected force structure, the resulting mix of naval stations was configured to satisfy specific mission requirements, including: 100 percent aircraft carrier berthing in each fleet; ammunition ships at ESQD-approved berthing; one SSN/SSBN unique base complex per fleet; and maintenance of the Norfolk and San Diego fleet concentrations. The ships currently berthed at Naval Station Staten Island can be relocated to bases with higher military value. This closure, combined with other recommended closures and realignments in the Atlantic Fleet, results in the maximum reduction of excess capacity while increasing the average military value of the remaining Atlantic Fleet bases.

Return On Investment: Total estimated one-time savings for this closure exceed one-time costs by $1.7 million. Annual recurring savings are $58.5 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $660.9 million.

Impacts: The closure of Naval Station Staten Island will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 0.1 percent of the local employment base in the New York Metropolitan Statistical Area, assuming no economic recovery. There is no significant community infrastructure impact at either closing or receiving locations. This closure will eliminate the generation of hazardous wastes and the requirement to eliminate the hazardous material conforming storage facility. Ongoing environmental cleanup will continue as part of the closure process. There are no significant environmental impacts at either Naval Station Mayport or Naval Station Norfolk.

Aviation Supply Office, Philadelphia, Pennsylvania

Recommendation: Close the Aviation Supply Office (ASO), Philadelphia, Pennsylvania and relocate necessary personnel, equipment and support to the Ship Parts Control Center (SPCC), Mechanicsburg, Pennsylvania.

Justification: The reductions in the DoD Force Structure Plan equate to a significant workload reduction for the Navy's inventory control points. Since there is excess capacity in this category the Navy decided to consolidate their two inventory control points at one location. A companion consideration was the relocation of the Naval Supply Systems Command from its present location in leased space in the National Capital Region, to a location at which it could be collocated with major subordinate organizations. This major consolidation of a headquarters with its operational components can be accomplished at SPCC, Mechanicsburg with a minimum of construction and rehabilitation. The end result is a significantly more efficient and economical organization.

Return On Investment: This realignment was considered as part of a larger group of moves and the COBRA data set out below includes the following realignments from the National Capital Region and Philadelphia to SPCC Mechanicsburg: Naval Supply Systems Command, Aviation Supply Office, Defense Printing Systems Management Office and Food Service Systems Office. Total estimated one-time costs for the recommendation are $88.9 million. Annual recurring savings are $20.5 million with a return on investment in one year. The Net Present Value of costs and savings over a twenty year period is a savings of $102.8 million.

Impacts: The closure of this inventory control point will have an impact on the local economy. The projected potential employment loss (both direct and indirect) is 0.2 percent of the employment base of the Philadelphia, Pennsylvania, Metropolitan Statistical Area, assuming no economic recovery. There is no significant community infrastructure impact at the receiving installation. The closure of ASO will have a positive impact on the environment since a source of potential hazardous wastes and pollutants will be eliminated. Environmental mitigation and restoration will continue until complete.

Naval Shipyard, Charleston, South Carolina

Recommendation: Close the Naval Shipyard (NSY) Charleston.

Justification: NSY Charleston's capacity is excess to that required to support the number of ships in the DoD Force Structure Plan. An analysis of naval shipyard capacity was performed with a goal of reducing excess capacity to the maximum extent possible while maintaining the overall military value of the remaining shipyards. The closure of NSY Charleston, when combined with the recommended closure of NSY Mare Island, California, results in the maximum reduction of excess capacity, and its workload can readily be absorbed by the remaining yards. The elimination of another shipyard performing nuclear work would reduce this capability below the minimum capacity required to support this critical area. The closure of NSY Charleston, in combination with Mare Island NSY, allows the elimination of a greater amount of excess capacity while maintaining the overall value of the remaining shipyards at a higher military value level than that of the current configuration of shipyards. Other options either reduced capacity below that required to support the approved force levels, eliminated specific capabilities needed to support mission requirements or resulted in a lower military value for this group of activities.

Return On Investment: Total estimated one-time costs for this closure are $246.7 million. Annual recurring savings are $66.2 million with a return on investment in one year. The Net Present Value of costs and savings over a twenty-year period is a savings of $385.3 million.

Impact: The closure of NSY Charleston will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 5.2 percent of the local employment base in the Charleston Metropolitan Statistical Area (MSA), assuming no economic recovery. Other 1993 closure and realignment recommendations bring the total impact on the Charleston MSA to 15 percent. There is no significant community infrastructure impact at any receiving location resulting from this closure. Generation of hazardous wastes and pollutants will be eliminated. Currently, programmed environmental projects will be completed as part of the closure actions, which will also eliminate the need to operate the hazardous waste facilities and to do annual dredging.

Naval Station Charleston, South Carolina

Recommendation: Close Naval Station (NS), Charleston and relocate assigned ships to Naval Stations, Norfolk, Virginia; Mayport, Florida; Pascagoula, Mississippi; Ingleside, Texas and Submarine Base, Kings Bay, Georgia. Appropriate personnel, equipment and support, to include the drydock, will be relocated with the ships. Disposition of major tenants is as follows: Planning, Estimating, Repair and Alterations (PERA) relocates to Portsmouth, Virginia; the Naval Investigative Service Regional Office disestablishes; Ship Intermediate Maintenance Activity, Charleston disestablishes, and the Naval Reserve Center and REDCOM 7 relocate to leased space in the Charleston area; Fleet and Mine Warfare Training Center relocates to NS Ingleside, Fleet Training Center Mayport, and Fleet Training Center Norfolk; Submarine Training Facility Charleston disestablishes. Family housing located within the Charleston Navy complex will be retained as necessary to support the nearby Naval Weapons Station Charleston.

Justification: The piers and maintenance activity at NS Charleston are excess to the capacity required to support the DoD Force Structure Plan. A comprehensive analysis of naval station berthing capacity was performed with a goal of reducing excess capacity to the maximum extent while maintaining the overall military value of the remaining naval stations. To provide berthing to support projected force structure, the resulting mix of naval stations was configured to satisfy specific mission requirements, including: 100 percent aircraft carrier berthing in each fleet; ammunition ships at ESQD-approved berthing; one SSN/SSBN unique base complex per fleet; and maintenance of the Norfolk and San Diego fleet concentrations as part of the solution. The berths at the NS Charleston are excess to Navy requirements. The relocation of the 21 ships currently based at NS Charleston will allow the closure of this naval base and eliminate almost half of the excess berthing capacity in bases supporting the Atlantic Fleet. This realignment, combined with other recommended closures and realignments in the Atlantic Fleet results in the maximum reduction of excess capacity while increasing average military value of the remaining Atlantic Fleet Bases.

Return On Investment: Total estimated one-time costs for this recommendation are $185.0M. Annual recurring savings are $92.6M with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $748.1M.

Impacts: The closure of this naval station will have an impact on the local economy. The projected potential loss (both direct and indirect) is 7.0 percent of the employment base in the Charleston Metropolitan Statistical Area (MSA), assuming no economic recovery. Other 1993 closure and realignment recommendations bring the total impact on this MSA, assuming no

economic recovery, to 15 percent. There is no known community infrastructure impact at any receiving installation. There is no significant environmental impact resulting from this closure. Environmental cleanup will be continued until complete.

Naval Air Station, Dallas, Texas

Recommendation: Close the Naval Air Station (NAS), Dallas and relocate its aircraft and associated personnel, equipment and support to Carswell Air Force Base, Fort Worth, Texas. The following Navy and Marine Corps Reserve Centers relocate to Carswell Air Force Base: Naval Reserve Center, Dallas, Marine Corp Reserve Center, Dallas, Marine Corps Reserve Center (Wing) Dallas, and REDCOM 11.

Justification: Naval Air forces are being reduced consistent with the fleet reductions in the DoD Force Structure Plan. Projected force levels reflected for both active and reserve aviation elements leave the Navy with significant excess capacity in the reserve air station category. Closure of Naval Air Station, Dallas and reconstitution at Carswell Air Force Base provides the reserves with a significantly superior air base. The resulting air station, with Air Force reserve squadrons now as tenants, will remove the operational difficulties currently experienced at the Naval Air Station, Dallas, including flight conflicts with the civilian airport. This closure, combined with three others in this category, results in the maximum reduction of excess capacity in reserve air stations while increasing the average military value of the remaining bases in this category.

Return On Investment: Total estimated one-time costs for the recommendation are $24.0 million. Annual recurring savings are $5.2 million with a return on investment in five years. The Net Present Value of costs and savings over a twenty year period is a savings of $30.8 million.

Impacts: The closure of NAS Dallas will have an impact on the local economy. The projected potential employment loss (both direct and indirect) is 0.5 percent of the employment base of the Dallas, Texas Metropolitan Statistical Area assuming no economic recovery. There is no known community infrastructure impact at the receiving installation. There will be no significant environmental impacts as a result of this action. Generation of hazardous waste and pollutants will be eliminated. The hazardous waste storage facility operated by NAS Dallas will have to be closed in accordance with the requirements of the Part B permit. In addition, this closure will remove special use air space restrictions (such as military operating areas), and reduce noise levels and air emissions.

Naval Aviation Depot Norfolk, Virginia

Recommendation Close Naval Aviation Depot (NADEP), Norfolk and relocate repair capability as necessary to other depot maintenance activities. This relocation may include personnel, equipment and support. The Depot workload will move to other depot maintenance activities, including the private sector.

Justification: Naval Aviation Depot Norfolk is recommended for closure because its capacity is excess to that required to support the DoD Force Structure Plan. Projected reductions require an almost 50 percent reduction in capacity in the Navy aviation depots. In determining the mix of aviation depots which would achieve the maximum reduction in excess capacity, the Navy determined that there must be at least one aviation depot at a fleet concentration on each coast. The work performed at NADEP, Norfolk can be performed at other aviation maintenance activities, including the private sector. While the military value of the Naval Aviation Depot, Norfolk was not substantially less than that of the Naval Aviation Depots at Cherry Point and Jacksonville, those NADEPs possess unique features and capabilities which required their retention. The closure of NADEP Norfolk will reduce excess capacity in this category and maintain or increase the average military value of the remaining depots.

Return On Investment: Total estimated one-time costs for the recommendation are $172.5 million. Annual recurring savings are $108.2 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $748.5 million

Impacts: The closure of the NADEP Norfolk will have an impact on the local economy. The projected potential loss (both direct and indirect) is 1.9 percent of the employment base of the Norfolk-Virginia Beach-Newport News, Virginia Metropolitan Statistical Area (MSA) assuming no economic recovery. However, because of other closures and realignments into this area, there will be a net 0.7 percent increase in employment. There is no known community infrastructure impact at any receiving installation. There are no significant environmental impacts occasioned by this closure. Generation of hazardous wastes and pollutants will be eliminated, as will air emissions, which will result in air emission "credits".

Naval Submarine Base, New London, Connecticut

Recommendation: Realign Naval Submarine Base (NSB), New London by terminating its mission to homeport ships. Relocate berthed ships, their personnel, associated equipment and other support to the Submarine Base, Kings Bay, Georgia and the Naval Station, Norfolk, Virginia. This relocation is to include a floating drydock. Piers, waterfront facilities, and related property shall be retained by the Navy at New London, Connecticut. The Nuclear Submarine Support Facility, a major tenant, relocates to Kings Bay, Georgia and Norfolk, Virginia; and another major tenant, the Nuclear Power Training Unit, disestablishes.

Justification: Naval Submarine Base, New London's capacity is excess to that required to support the number of ships reflected in the DoD Force Structure Plan. A comprehensive analysis of naval station berthing capacity was performed with a goal of reducing excess capacity to the maximum extent possible while maintaining the overall military value of the remaining naval stations. To provide berthing to support the projected force structure, the resulting mix of naval stations was configured to satisfy specific mission requirements, including: 100 percent aircraft carrier berthing in each fleet; ammunition ships at ESQD-approved berthing; one SSN/SSBN unique base complex per fleet; and maintenance of the Norfolk and San Diego fleet concentrations. With a reduction in ships, the Navy requires one submarine base per Fleet. In view of the capacity at the Submarine Base, Kings Bay and the Naval Station, Norfolk, the submarines based at New London can be relocated to activities with a higher military value. The education and training missions being performed at the Submarine Base, New London will continue to be performed there and the Navy will retain piers, waterfront facilities and related property. This realignment, combined with other recommended closures and realignments in the Atlantic Fleet, results in the maximum reduction of excess capacity while increasing the average military value of the remaining Atlantic Fleet bases.

Return On Investment: Total estimated one-time costs for this realignment are $260 million. Annual recurring savings are $74.6 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $502.7 million.

Impacts: The realignment of Naval Submarine Base, New London will have an impact on the local economy. The projected potential employment loss (both direct and indirect) in the New London, CT-Norwich, CT-Rhode Island Metropolitan Statistical Area is 7.4 percent of the employment base, assuming no economic recovery. Potential community infrastructure impact was identified at Submarine Base, Kings Bay, Georgia, relating primarily to schools and roads. Costs of remediating these impacts were included in the return on investment calculations. This closure will result in a reduction in the generation of

hazardous wastes, which, because Naval Submarine Base, New London is on the National Priorities List, will have a positive impact on the on-going efforts to clean up the site. There will be no other significant environmental impacts from this closure.

Naval Surface Warfare Center Detachment White Oak, Maryland

Recommendation: Disestablish the White Oak Detachment of the Naval Surface Warfare Center (NSWC) (Dahlgren), located at White Oak, Maryland. Relocate its functions, personnel, equipment and support to NSWC-Dahlgren, Virginia. The property and facilities at White Oak will be retained for use by the Navy so that it may, among other things, relocate the Naval Sea Systems (NAVSEA) Command from leased space in Arlington, Virginia.

Justification: This technical center is recommended for closure because its capacity is excess to that required by the DoD Force Structure Plan. There is excess capacity in this category based on a comparison of budgeted workload during the period 1986-1995 and the FY 1995 budgeted workload. A review of the Navy budget displays a clear decline in the period 1995-1999. As the work declines, the excess capacity increases thereby requiring a reduction in facilities and personnel. The technical centers throughout the Department of the Navy currently have significant excess capacity as these technical centers were established and sized to support significantly higher naval force levels and require resource levels greatly in excess of those projected if all resources are to be fully employed. Given this excess capacity and the imbalance with force and resource levels, it is imperative to realign and compress wherever possible so that the remaining technical centers will have the greater military value to the Department of the Navy.

Return On Investment: Total estimated one-time costs for this recommendation are $74.M. Annual recurring savings are $22.3M with a return on investment in two years. The Net Present Value of costs and savings over a twenty year period is a savings of $103.3M. This includes the relocation of NAVSEA.

Impacts: The closure of NSWC-Dahlgren, will have an impact on the local economy. The projected potential employment loss, both direct and indirect is 1.0 percent of the employment base in this Metropolitan Area assuming no economic recovery. The closure of NSWC-Dahlgren will have a positive impact on the environment as a source of pollution will be eliminated. Environmental mitigation and restoration will continue until completed.

18T Marine Corps District
Garden City, New York

Recommendation: Close the 1st Marine District, Garden City, New York and relocate necessary personnel, equipment and support to the Defense Distribution Region East, New Cumberland, Pennsylvania. The Defense Contract Management Area Office, a present tenant in the facility occupied by this activity as its host, will remain in place and assume responsibility for this facility. The Marine Corps Reserve Center, Garden City will relocate to Fort Hamilton, New York.

Justification: The reductions in force structure require a reduction of capacity in administrative activities. Consolidation of this activity into a joint services organization will enhance its ability to discharge its mission most effectively and economically.

Return On Investment: Total estimated one-time costs for the recommendation are $6.3 million. Annual recurring savings are $1 million with a return on investment in six years. The Net Present Value of costs and savings over a twenty year period is a savings of $2.8 million.

Impacts: The closure and relocation of this activity will have an impact on the local economy. The projected potential employment loss (both direct and indirect) is 0.01 percent of the employment base of the Nassau-Suffolk, Metropolitan Statistical Area assuming no economic recovery. There is no known community infrastructure impact at any receiving installation. There are no environmental impacts occasioned by this closure and realignment. Any necessary environmental clean-ups will continue until competed.

Naval Education and Training Center, Newport, Rhode Island

Recommendation: Realign the Naval Education and Training Center (NETC) Newport and terminate the Center's mission to berth ships. Relocate the ships to Naval Station Mayport, Florida and Naval Station Norfolk, Virginia. Piers, waterfront facilities and related property shall be retained by NETC Newport. The Education and Training Center will remain to satisfy its education and training mission.

Justification: The piers and maintenance activity associated with NETC Newport are excess to the capacity required to support the DoD Force Structure Plan. A comprehensive analysis of naval station berthing capacity was performed with a goal of reducing excess capacity to the maximum extent possible while maintaining the overall military value of the remaining naval stations. To provide berthing to support the projected force structure, the resulting mix of naval stations was configured to satisfy specific mission requirements, including: 100 percent aircraft carrier berthing in each fleet; ammunition ships at ESQD-approved berthing; one SSN/SSBN unique base complex per fleet; and maintenance of the Norfolk and San Diego fleet concentrations. NETC Newport currently berths five ships which can be absorbed at other homeports with a higher military value. This realignment, combined with other recommended closures and realignments in the Atlantic Fleet, results in the maximum reduction of excess capacity while increasing the average military value of the remaining Atlantic Fleet bases.

Return On Investment: Total estimated one-time costs for this realignment are $23.5 million. Annual recurring savings are $4.3 million with a return on investment in two years. The Net Present Value of costs and savings over a twenty year period is a savings of $20.3 million.

Impacts: The realignment of NETC Newport will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 3.0 percent of the local employment base in Newport County, assuming no economic recovery. There is no known community infrastructure impact at any receiving location. Realignment of NETC Newport will eliminate sources of pollution and remove operational and future developmental constraints such as explosive safety arcs and electromagnetic radiation hazard areas. There are no significant environmental impacts at either Naval Station Mayport or Naval Station Norfolk.

Naval Air Station Memphis, Tennessee

Recommendation: Realign Naval Air Station (NAS) Memphis by terminating the flying mission and relocating its reserve squadrons to Carswell AFB, Texas. Relocate the Naval Air Technical Training Center to NAS Pensacola, Florida. The Bureau of Naval Personnel, currently in Washington DC, will be relocated to NAS Memphis as part of a separate recommendation.

Justification: Naval aviator requirements are decreasing as a result of carrier air wing and fleet reductions consistent with the DoD Force Structure Plan. The NAS Memphis capacity is excess to that required to train the number of student aviators required to meet fleet needs. The Navy analyzed its training air stations with a goal of reducing excess capacity to the maximum extent consistent with the decreasing throughput of students. Any remaining mix of air stations needed, at a minimum, to maintain the overall military value of the remaining bases, while allowing continuance of key mission requirements and maximized efficiency. These factors included availability of training airspace, outlying fields and access to overwater training. The inland location of NAS Memphis and lack of training airspace make it a primary candidate for closure. It's realignment combined with the recommended closure of NAS Meridian, Mississippi, reduces excess capacity while allowing consolidation of naval air training around the two air stations with the highest military value. The resulting configuration increases the average military value of the remaining training air stations and maximizes efficiency through restructuring around the two hubs, thus increasing the effectiveness of aviation training. Relocation of the Naval Air Technical Training Center fills excess capacity created by the closure of the Naval Aviation Depot and the Naval Supply Center at NAS Pensacola.

Return On Investment: The total estimated one-time costs for both the NAS Meridian and NAS Memphis recommendations are $274.1 million. Annual recurring savings for both actions are $82.2 million with a return on investment in two years. The Net Present Value of costs and savings over a twenty year period is a savings of $481.1 millon.

Impact: The realignment of NAS Memphis will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 3.1 percent of the local employment base in the Memphis Metropolitan Statistical Area (MSA), assuming no economic recovery. It should be noted, however, that because of other 1993 realignment actions into this MSA, the net decrease is 2.2 percent. Realignment of NAS Memphis will reduce noise impacts and hazardous wastes generation. It will also remove special use airspace restrictions. This realignment has no significant environmental or community impacts at either NAS Pensacola or Carswell AFB.

Naval Civil Engineering Laboratory (NCEL)
Port Hueneme, California

Recommendation: Close this technical center and realign necessary functions, personnel, equipment, and support at the Construction Battalion Center, Port Hueneme, California.

Justification: This technical center is recommended for closure because its capacity is excess to that required by the DoD Force Structure Plan. There is excess capacity in this category based on a comparison of budgeted workload during the period 1986-1995 and the FY 1995 budgeted workload. A review of the Navy budget displays a clear decline in the period 1995-1999. Thus, as the work declines, the excess capacity increases thereby requiring a reduction in facilities and personnel. The technical centers throughout the Department of the Navy currently have significant excess capacity as these technical centers were established and sized to support significantly higher naval force levels and require resource levels greatly in excess of those projected if all resources are to be fully employed. Given this excess capacity and the imbalance with force and resource levels, it is imperative to realign and compress wherever possible so that the remaining technical centers will have the greater military value to the Department of the Navy. The Department of the Navy will dispose of this property and any proceeds will be used to defray base closure expenses.

Return On Investment: Total estimated one-time costs for this recommendation are $27.0 million. Annual recurring savings are $7.4 million with a return on investment in two years. The Net Present Value of costs and savings over a twenty year period is a savings of $37.2 million.

Impacts: The closure of this activity will have an impact on the local economy. The projected potential employment loss, both direct and indirect is 0.04 percent of the employment base in this Metropolitan Statistical Area assuming no economic recovery. This closure will have a positive impact on the environment as a source of pollution will be eliminated. Environmental mitigation and restoration will continue until completed.

Naval Facilities Engineering Command
Western Engineering Field Division
San Bruno, California

Recommendation: Realign the Western Engineering Field Division, Naval Facilities Engineering Command (NAVFAC), San Bruno, California. Retain in place necessary personnel, equipment and support as a Base Realignment and Closure (BRAC) Engineering Field Activity under the management of the Southwestern Field Division, NAVFAC, San Diego, California.

Justification: The reduction in the force structure in the DoD Force Structure Plan and the closure of major naval activities in the San Francisco Bay area requires the realignment of this activity. The activity's capacity to handle NAVFAC's considerable responsibilities in dealing with environmental matters arising out of the 1993 round of base closures will remain in the same geographic area. The activity presently has such capacity. Retaining it for this purpose is a more economical and efficient alternative than relocating it to San Diego and then handling on-site problems on a travel status.

Return On Investment: Total estimated one-time costs for the recommendation are $0.8 million. Annual recurring savings are $1.3 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $8.0 million.

Impacts: The realignment of this naval activity will have an impact on the local economy. The projected potential employment loss (both direct and indirect) is 0.01 percent of the employment base of the San Francisco, California, Metropolitan Statistical Area assuming no economic recovery. There is no known community infrastructure impact at any receiving installation. There are no significant environmental impacts occasioned by this realignment. Any necessary environmental clean-ups will continue until completed.

Planning, Estimating, Repair and Alteration Centers (PERA)

Recommendation: Disestablish the following four technical centers and relocate necessary functions, personnel, equipment, and support at the Supervisor of Shipbuilding, Conversion and Repair, San Diego, California, Portsmouth, Virginia and Newport News, Virginia:

(PERA)-(CV), Bremerton, Washington,
(PERA)-(Surface) Atlantic, Norfolk, Virginia,
(PERA)-(Surface) Pacific, San Francisco, California,
(PERA)-(Surface) (HQ), Philadelphia, Pennsylvania.

Justification: These technical centers are recommended for disestablishment because their capacity is excess to that required by the DoD Force Structure Plan. There is excess capacity in this category based on a comparison of budgeted workload during the period 1986-1995 and the FY 1995 budgeted workload. A review of the Navy budget displays a clear decline in the period 1995-1999. Thus, as the work declines, the excess capacity increases thereby requiring a reduction in facilities and personnel. The technical centers throughout the Department of the Navy currently have significant excess capacity as these technical centers were established and sized to support significantly higher naval force levels and require resource levels greatly in excess of those projected if all resources are to be fully employed. Given this excess capacity and the imbalance with force and resource levels, it is imperative to realign and compress wherever possible so that the remaining technical centers will have the greater military value to the Department of the Navy.

Return On Investment: Estimated one-time costs of disestablishing PERA (CV) are $6.3 million. Annual recurring savings are $0.7 million with a return on investment in 12 years. The Net Present Value of costs and savings over a twenty year period is a savings of 0.7 million. Combined one-time costs for disestablishing the other three PERAs (Surface) are $8.8 million. Annual recurring savings are $2.3 million with a return on investment in four years. The Net Present Value of costs and savings over a twenty year period is a savings of $13.7 million.

Impacts: Disestablishing the PERAs will have an impact on the local economies in each locality. The projected potential employment loss, both direct and indirect for each locality is as follows:

0.4 percent in the Puget Sound, WA, SMA
0.01 percent in the Norfolk-Virginia Beach-Newport News SMA
0.09 percent in the Vallejo-Fairfield-Napa, CA, SMA
0.02 percent in the Philadelphia, PA-New Jersey, PSMA

Disestablishing these centers will have a positive impact on the environment as a source of pollution will be eliminated.

Public Works Center, San Francisco, California

Recommendation: Disestablish the Public Works Center (PWC) San Francisco.

Justification: PWC San Francisco's capacity is excess to that required by the DoD Force Structure Plan and, due to other Navy closures and realignments, its principal customer base has been eliminated.

Return On Investment: Total estimated one-time costs for this recommendation are $37.5 million. Annual savings are $27.1 million with an immediate return on investment. The Net Present Value of costs and savings over twenty year period is a savings of $180.2 million.

Impacts: Disestablishment of PWC San Francisco will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 0.3 percent of the employment base in the Oakland Metropolitan Statistical Area (MSA), assuming no economic recovery. Other 1993 closure and realignment recommendations bring the total impact on the Oakland MSA to 4.9 percent. The disestablishment of PWC will have a positive impact on the environment as a source of pollution will be eliminated. Environmental mitigation and restoration will continue until completed.

Naval Hospital, Orlando, Florida

Recommendation: Close the Naval Hospital, Orlando and relocate certain military and civilian personnel to other Naval Hospitals.

Justification: Naval Hospitals are situated and their size determined for location near operating forces whose personnel will require medical support in numbers significant enough to mandate a medical facility as large as a hospital. Given the extensive use of CHAMPUS, any Naval Hospital closure must be predicated upon the elimination of the forces which created a demand for the presence of a Naval Hospital in the first instance. The Naval Training Center, Orlando which was supported by the Naval Hospital, Orlando is being recommended for closure. Accordingly, the operating force support previously provided by the Naval Hospital, Orlando is no longer required and closure follows the decision to close the Naval Training Center.

Return On Investment: Total estimated one-time costs for this recommendation are $51.3 million. Annual recurring savings are $8.1 million with a return on investment in six years. The Net Present Value of costs and savings over a twenty year period is a savings of $21.9 million.

Impacts: The closure of Naval Hospital, Orlando will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 0.4 percent of the employment base in the Orlando, Florida Metropolitan Statistic Area, assuming no economic recovery. The closure of the Naval Hospital will have a positive impact on the environment as a source of pollution will be eliminated. Environmental mitigation and restoration will continue until completed.

Naval Supply Center, Pensacola, Florida

Recommendation: Disestablish the Naval Supply Center (NSC) Pensacola.

Justification: NSC Pensacola's capacity is excess to the requirements of the DoD Force Structure Plan. The principal customer of NSC Pensacola, the Naval Aviation Depot, Pensacola is also recommended for closure. The workload of NSC Pensacola will move with its customer's workload to receiving bases.

Return on Investment: Total estimated one-time costs for this recommendation are $7.9 million. Annual recurring savings are $6.7 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $62.8 million.

Impacts: The disestablishment of NSC Pensacola will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 0.3 percent of the employment base in the Pensacola Metropolitan Statistical Area (MSA), assuming no economic recovery. Other 1993 closure and realignment recommendations bring the total impact on the Pensacola MSA to a net gain of 4.3 percent. The disestablishment of NSC Pensacola will have a positive impact on the environment as a source of potential hazardous wastes and pollutants will be eliminated. Environmental mitigation and restoration will continue until completed.

Naval Surface Warfare Center Detachment Annapolis, Maryland

Recommendation: Disestablish the Naval Surface Warfare Center (NSWC), (Carderock) Annapolis, Maryland, and relocate the necessary functions, personnel, equipment and support to the Naval Surface Warfare Center (NSWC)-Carderock, Philadelphia Detachment, Philadelphia, Pennsylvania, and NSWC-Carderock, Bethesda, Maryland.

Justification: This technical center is recommended for disestablishment because its capacity is excess to that required by the DoD Force Structure Plan. There is excess capacity in this category based on a comparison of budgeted workload during the period 1986-1995 and the FY 1995 budgeted workload. A review of the Navy budget displays a clear decline in the period 1995-1999. Thus, as the work declines, the excess capacity increases thereby requiring a reduction in facilities and personnel. The technical centers throughout the Department of the Navy currently have significant excess capacity as these technical centers were established and sized to support significantly higher naval force levels and require resource levels greatly in excess of those projected if all resources are to be fully employed. Given this excess capacity and the imbalance with force and resource levels, it is imperative to realign and compress wherever possible so that the remaining technical centers will have the greater military value to the Department of the Navy.

Return On Investment: Total estimated one-time costs for this recommendation are $24.8 million. Annual recurring savings are $7.8 million with a return on investment in three years. The Net Present Value of costs and savings over a twenty year period is a savings of $30.8 million.

Impacts: The disestablishment of NSWC-Carderock, Annapolis Detachment will have an impact on the local economy. The projected potential employment loss, both direct and indirect is 0.05 percent of the employment base in this Metropolitan Statistical Area assuming no economic recovery. The disestablishment of NSWC-Carderock will have a positive impact on the environment as a source of pollution will be eliminated. Environmental mitigation and restoration will continue until completed.

Navy Radio Transmission Facility, Annapolis, Maryland

Recommendation: Disestablish the Navy Radio Transmission Facility (NRTF), Annapolis. The Navy shall retain the real property on which this facility resides.

Justification: This action is recommended to eliminate redundancy in geographic coverage in Naval telecommunications. Projected reductions contained in the DoD Force Structure Plan support a decrease in telecommunications capacity. South Atlantic VLF communications coverage is duplicated by the NRTF Annapolis and NCTS Puerto Rico, and the Mid-Atlantic VLF by NRTF Annapolis and NRTF Cutler, Maine. Since both the Puerto Rico and the Maine facilities also are the sole coverage for another geographic area, and since NRTF Annapolis is not, it could be disestablished without eliminating coverage. The property on which this the activity has been sited will be retained by the Navy to support educational requirements at the Naval Academy.

Return on Investment: Total estimated one-time costs for this recommendation are $0.5 million. Annual recurring savings are $0.1 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $6.4 million.

Impacts: There will be no net change in employment as a result of this action. The current staffing is scheduled for elimination as a result of planned force structure changes. There is no significant impact on the environment resulting from this closure.

Sea Automated Data Systems Activity (SEAADSA)
Indian Head, Maryland

Recommendation: Disestablish the Sea Automated Data Systems Activity (SEAADSA) and relocate necessary functions, personnel, equipment, and support at Naval Surface Warfare Center (NSWC) Indian Head, Maryland.

Justification: This technical center is recommended for disestablishment because its capacity is excess to that required by the DoD Force Structure Plan. There is excess capacity in this category based on a comparison of budgeted workload during the period 1986-1995 and the FY 1995 budget workload. A review of the Navy budget displays a clear decline in the period 1995-1999. Thus, as the work declines, the excess capacity increases thereby requiring a reduction in facilities and personnel. The technical centers throughout the Department of the Navy currently have significant excess capacity as these technical centers were established and sized to support significantly higher naval force levels and require resource levels greatly in excess of those projected if all resources are to be fully employed. Given this excess capacity and the imbalance with force and resource levels, it is imperative to realign and compress wherever possible so that the remaining technical centers will have the greater military value to the Department of the Navy.

Return On Investment: Total estimated one-time costs for this recommendation are $0.1 million. Annual recurring savings are $0.5 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $3.4 million.

Impacts: Disestablishing of SEAADSA will have an impact on the local economy. The projected potential employment loss, both direct and indirect is less than 0.01 percent of the employment base in this Metropolitan Statistical Area assuming no economic recovery. Disestablishing of SEAADSA will have a positive impact on the environment as a source of pollution will be eliminated. Environmental mitigation and restoration will continue until completed.

Naval Air Facility, Detroit, Michigan

Recommendation: Close Naval Air Facility (NAF), Detroit and relocate its aircraft and associated personnel, equipment and support to the Naval Air Station Jacksonville, Florida and Carswell Air Force Base, Fort Worth. The Mt. Clemons, Michigan Marine Corps Reserve Center will relocate to the Marine Corps Reserve Center, Twin Cities, Minnesota.

Justification: Naval air forces are being reduced consistent with fleet reductions in the DoD Force Structure Plan. Projected force levels reflected for both active and reserve aviation elements leave the Department with significant excess capacity in the reserve air station category. Given the greater operational activity of active air stations, and decisions to rely on reserve aviation elements in support of active operating forces, places a high military value on locating reserve aviation elements on active operating air bases to the extent possible. Closure of NAF Detroit will eliminate excess capacity at the reserve air base with the lowest military value and allow relocation of most of its assets to the major P-3 active force base at NAS Jacksonville. In arriving at the recommendation to close NAF Detroit, a specific analysis was conducted to ensure that there was demographic support for purposes of force recruiting in the areas to which the reserve aircraft are being relocated.

Return On Investment: Total estimated one-time costs for the recommendation are $4.9 million. Annual recurring savings are $10.3 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $103.2 million.

Impacts: The closure of NAF Detroit will have an impact on the local economy. The projected potential employment loss (both direct and indirect) is 0.05 percent of the employment base of the Detroit, Michigan Metropolitan Statistical Area, assuming no economic recovery. There is no significant community infrastructure impact at any receiving installation. There will be no significant environmental impacts resulting from this action. The closure will eliminate the generation of hazardous wastes and pollutants.

Naval Air Facility, Midway Island

Recommendation: Close Naval Air Facility (NAF), Midway Island.

Justification: The 1991 Commission Report, page 5-19, recommended the elimination of the mission at NAF Midway Island and its continued operation under a caretaker status. Based on the DoD Force Structure Plan, its capacity is excess to that needed to support forces in its geographic area. There is no operational need for this air facility to remain in the inventory even in a caretaker status. Therefore, the Navy recommends that NAF Midway be closed and appropriate disposal action taken.

Return On Investment: The one-time cost of this closure is $2.1 million. The annual recurring savings is $6.6 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $66.1 million.

Impacts: Because of the light economic activity at this geographic area, there will be no significant impact on the local economy resulting from this recommendation. Closure of this facility will perpetuate the restrictions incident to the designation by the U.S. Fish and Wildlife Service of Midway Atoll as an Overlay National Wildlife Refuge. All environmental clean-up efforts will continue until complete.

Submarine Maintenance, Engineering, Planning and Procurement (SUBMEPP), Portsmouth, New Hampshire

Recommendation: Disestablish the Submarine Maintenance, Engineering, Planning and Procurement (SUBMEPP), New Hampshire and relocate the necessary functions, personnel, equipment, and support at Supervisor of Shipbuilding, Conversion and Repair, Portsmouth Naval Shipyard, Kittery, Maine.

Justification: This technical center is recommended for disestablishment because its capacity is excess to that required by the DoD Force Structure Plan. There is excess capacity in this category based on a comparison of budgeted workload during the period 1986-1995 and the FY 1995 budget workload. A review of the Navy budget displays a clear decline in the period 1995-1999. Thus, as the work declines, the excess capacity increases thereby requiring a reduction in facilities and personnel. The technical centers throughout the Department of the Navy currently have significant excess capacity as these technical centers were established and sized to support significantly higher naval force levels and require resource levels greatly in excess of those projected if all resources are to be fully employed. Given this excess capacity and the imbalance with force and resource levels, it is imperative to realign and compress wherever possible so that the remaining technical centers will have the greater military value to the Department of the Navy.

Return On Investment: Total estimated one-time costs for this recommendation are $5.9 million. Annual recurring savings are $2.6 million with a return on investment in one year. The Net Present Value of costs and savings over a twenty year period is a savings of $18.5 million.

Impacts: The closure of SUBMEPP will have an impact on the local economy. The projected potential employment loss, both direct and indirect is less than 0.01 percent of the employment base in this SMA assuming no economic recovery. The disestablishment of SUBMEPP will have a positive impact on the environment as a source of pollution will be eliminated. Environmental mitigation and restoration will continue until completed.

Naval Air Warfare Center - Aircraft Division
Trenton, New Jersey

Recommendation: Close the Aircraft Division of the Naval Air Warfare Center (NAWC) Trenton, New Jersey and relocate appropriate functions, personnel, equipment and support to the Arnold Engineering Development Center, Tullahoma, Tennessee, and the Naval Air Warfare Center, Patuxent River, Maryland.

Justification: This technical center is recommended for closure because its capacity is excess to that required by the DoD Force Structure Plan. There is excess capacity in this category based on a comparison of budgeted workload during the period 1986-1995 and the FY 1995 budgeted workload. A review of the Navy budget displays a clear decline in the period 1995-1999. As the work declines, the excess capacity increases thereby requiring a reduction in facilities and personnel. The technical centers throughout the Department of the Navy currently have significant excess capacity as these technical centers were established and sized to support significantly higher naval force levels and require resource levels greatly in excess of those projected if all resources are to be fully employed. Given this excess capacity and the imbalance with force and resource levels, it is imperative to realign and compress wherever possible so that the remaining technical centers will have the greater military value to the Department of the Navy. The closure of the Trenton Detachment completes a realignment of NAWCS approved by the 1991 Defense Base Closure and Realignment Commission, with continuing reductions in forces being supported and in resource levels. Further consolidations are required so that we may have the most efficient and economic operation.

Return On Investment: Total estimated one-time costs for the recommendation are $50.1 million. Annual recurring savings are $17.8 million with a return on investment in two years. The Net Present Value of costs and savings over a twenty year period is a savings of $94.8 million.

IMPACTS: The closure of this naval technical center will impact the local economy. The projected potential employment loss (both direct and indirect) is 0.6 percent of the employment base of the Trenton, New Jersey Metropolitan Statistical Area assuming no economic recovery. The closure of this center will have a positive impact on the environment, as a source of pollution will be eliminated. Environmental mitigation and restoration will continue until completed.

DOD Family Housing and
Family Housing Office
Niagara Falls, New York

Recommendation: Close the DoD Family Housing Office and the 111 housing units it administers.

Justification: The force reductions in the DOD Force Structure Plan require reduction of support activities as well. This activity administers housing units which are old and substandard and expensive to maintain. These housing units are occupied by military personnel performing recruiting duties in the local area. The number of recruiting personnel will be drawing down, and those that remain will be able to find adequate housing on the local economy.

Return On Investment: Total estimated one-time costs for the recommendation are $0.1 million. Annual recurring savings are $1.5 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $15.5 million.

Impacts: This closure will have an impact on the local economy. The projected potential employment loss (both direct and indirect) is 0.04 percent of the employment base of the Niagara Falls Metropolitan Statistical Area assuming no economic recovery. There is no significant community infrastructure impact resulting from this closure. There are no significant environmental impacts occasioned by this closure. Any necessary environmental clean-ups will continue until completed.

Naval Air Technical Services Facility, Philadelphia, Pennsylvania

Recommendation: Close the Naval Air Technical Services Facility, Philadelphia and relocate certain personnel, equipment and support to the new Naval Air Systems Command Headquarters, Patuxent River, Maryland.

Justification: Projected reductions in the DoD Force Structure Plan results in a decrease in required technical center capacity. Budget levels and the number of operating forces being supported by technical centers continue to decline. The technical centers throughout the Department of the Navy currently have significant excess capacity as these technical centers were established and sized to support significantly higher force levels and require resource levels greatly in excess of those projected. Given this excess capacity and the imbalance with force and resource levels, it is imperative to realign and consolidate wherever possible so that the remaining technical centers will have the greater military value to the DoD. Closure of the Technical Services Facility eliminates excess capacity and allows the consolidation of necessary functions at the new headquarters concentration for the Naval Air Systems Command producing economies and efficiencies in the management of assigned functions. This consolidation will also incorporate the Depot Operation Center and the Aviation Maintenance Office currently at Patuxent River.

Return On Investment: This recommendation was considered as part of a package to support the new Naval Air Systems Command Headquarters and the COBRA data below applies to the following realignments at Naval Air Warfare Center - AD, Patuxent River, Maryland: Naval Air Systems Command, Naval Aviation Depot Operations Center, Naval Aviation Maintenance Office, and Naval Air Technical Services Facility. The total estimated one-time costs for this recommendation is $198.0 million. Annual recurring savings are $41.6 million with a return on investment in three years. The Net Present Value of the costs and savings is a savings of $169.4 million.

Impacts: The closure of this naval technical center will have an impact on the local economy. The projected potential employment loss (both direct and indirect) is 0.02 percent of the employment base of the Philadelphia, Pennsylvania, New Jersey Metropolitan Statistical Area assuming no economic recovery. The is no significant community infrastructure impact at any receiving installation. There will be no significant environmental impacts resulting from this action. Any necessary environmental clean-up efforts will be continued until completed.

Naval Hospital, Charleston, South Carolina

Recommendation: Close the Naval Hospital, Charleston and relocate certain military and civilian personnel to other Naval Hospitals.

Justification: Naval Hospitals are situated and their size determined for location near operating forces whose personnel will require medical support in numbers significant enough to mandate a medical facility as large as a hospital. Given the extensive use of CHAMPUS, any Naval Hospital closure must be predicated upon the elimination of the operating forces which created a demand for the presence of a Naval Hospital in the first instance. As a result of the closure of the Charleston Naval Station, the Charleston Naval Shipyard and the supporting Supply Center and Public Works Center, the active duty personnel previously supported by the Naval Hospital, Charleston, are no longer in the area to be supported. Closure of the Naval Hospital follows the closure of these activities supporting these operating forces.

Return On Investment: Total estimated one-time costs for this recommendation are $36.7 million. Annual recurring savings are $18.5 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $131 million.

Impacts: The closure of Naval Hospital, Charleston will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 1.1 percent of the employment base in the Charleston, SC Metropolitan Statistical Area, assuming no economic recovery. The closure of the Naval Hospital will have a positive impact on the environmental mitigation and restoration will continue until completed.

Naval Supply Center, Charleston, South Carolina

Recommendation: Disestablish the Naval Supply Center (NSC) Charleston.

Justification: NSC Charleston's capacity is excess to the requirements of the DoD Force Structure Plan. The principal customers of NSC Charleston, the Charleston Naval Shipyard and the Naval Station Charleston have been recommended for closure. The workload of NSC Charleston will move with its customer's workload to receiving bases.

Return on Investment: Total estimated one-time costs for this recommendation are $13.6 million. Annual recurring savings are $16.0 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $122.6 million.

Impacts: The disestablishment of NSC Charleston will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 0.4 percent of the employment base in the Charleston Metropolitan Statistical Area (MSA), assuming no economic recovery. Other 1993 closure and realignment recommendations bring the total impact on the Charleston MSA to 15 percent. The disestablishment of NSC Charleston will have a positive impact on the environment as hazardous wastes and pollutants will no longer be generated. Environmental mitigation and restoration will continue until completed.

Naval Surface Warfare Center, Detachment Virginia Beach, Virginia

Recommendation: Disestablish the Virginia-Beach Detachment of the Naval Surface Warfare Center, Port Hueneme and relocate its functions, personnel, equipment and support to the Fleet Combat Training Center, Dam Neck, Virginia.

Justification: This technical center is recommended for disestablishment because its capacity is excess to that required by the DoD Force Structure Plan. There is excess capacity in this category based on a comparison of budgeted workload during the period 1986-1995 and the FY 1995 budgeted workload. A review of the Navy budget displays a clear decline in the period 1995-1999. As the work declines, the excess capacity increases thereby requiring a reduction in facilities and personnel. The technical centers throughout the Department of the Navy currently have significant excess capacity as these technical centers were established and sized to support significantly higher naval force levels and require resource levels greatly in excess of those projected if all resources are to be fully employed. Given this excess capacity and the imbalance with force and resource levels, it is imperative to realign and compress wherever possible so that the remaining technical centers will have the greater military value to the Department of the Navy.

Return On Investment: Total estimated one-time costs for this recommendation are $2.0 million. Annual recurring savings are $7.0 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $47.8 million.

Impacts: The disestablishment of the Detachment, will have an impact on the local economy. The projected potential employment loss, both direct and indirect is 0.03 percent of the employment base in this Metropolitan Area assuming no economic recovery. The disestablishment of the Detachment will have a positive impact on the environment as a source of pollution will be eliminated. Environmental mitigation and restoration will continue until completed.

Navy Radio Transmission Facility, Driver, Virginia

Recommendation: Close the Navy Radio Transmission Facility (NRTF), Driver.

Justification: This closure is recommended to eliminate redundancy in geographic coverage in Naval telecommunications. Projected reductions contained in the DoD Force Structure Plan support a decrease in telecommunications capacity. Mid-Atlantic HF communications coverage is duplicated by the NRTF Driver and NTRF Saddle Branch, Florida.

Return on Investment: Total estimated one-time costs for this recommendation are $0.5 million. Annual recurring savings are $2.1 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $20.1 million.

Impacts: The closure of this transmission facility will have no impact on the local economy since current staffing is scheduled for elimination as a result of planned force structure changes. The closure of NRTF Driver will have a positive impact on the environment since the source of potential hazardous wastes and pollutants will be eliminated.

Naval Undersea Warfare Center Detachment
Norfolk, Virginia

Recommendation: Disestablish the Norfolk Detachment of the Naval Undersea Warfare Center (Newport) and relocate its functions, personnel, equipment and support at Naval Undersea Warfare Center (NUWC), Newport, Rhode Island.

Justification: This technical center is recommended for closure because its capacity is excess to that required by the approved DoD Force Structure Plan. There is excess capacity in this category based on a comparison of budgeted workload during the period 1986-1995 and the FY 1995 budgeted workload. A review of the Navy budget displays a clear decline in the period 1995-1999. Thus, as the work declines, the excess capacity increases thereby requiring a reduction in facilities and personnel. The technical centers throughout the Department of the Navy currently have significant excess capacity as these technical centers were established and sized to support significantly higher naval force levels and require resource levels greatly in excess of those projected if all resources are to be fully employed. Given this excess capacity and the imbalance with force and resource levels, it is imperative to realign and compress wherever possible so that the remaining technical centers will have the greater military value to the Department of the Navy.

Return On Investment: Total estimated one-time costs for this recommendation are $18.2 million. Annual recurring savings are $6.1 million with a return on investment in four years. The Net Present Value of costs and savings over a twenty year period is a savings of $38.4 million.

Impacts: The closure of NUWC, Norfolk Detachment, will have an impact on the local economy. The projected potential employment loss, both direct and indirect is 0.4 percent of the employment base in this Metropolitan Statistical Area assuming no economic recovery. The closure of NUWC Norfolk Detachment will have a positive impact on the environment as a source of pollution will be eliminated. Environmental mitigation and restoration will continue until completed.

National Capital Region (NCR) Activities

Recommendation: Realign Navy National Capital Region activities and relocate them as follows:

Naval Air Systems Command. **to**
Naval Air Station
Patuxent River, Maryland

Naval Supply Systems Command,
(including Food Service System Office, and
Defense Printing Management Systems Office) **to**
Ship Parts Control Center
Mechanicsburg, Pennsylvania

Bureau of Naval Personnel
(including Office of Military Manpower Management) **to**
Naval Air Station
Memphis, Tennessee

Naval Recruiting Command **to**
Naval Training Center
Great Lakes, Illinois

Naval Security Group Command,
(including Security Group Station, and
Security Group Detachment, Potomac) **to**
National Security Agency
Ft. Meade, Maryland

Tactical Support Office **to**
Commander-in-Chief
Atlantic Fleet
Norfolk, Virginia

Relocate the following National Capital Region activities from leased space to Government-owned space in one of these locations: Navy Annex, Arlington, Virginia; Washington Navy Yard, Washington, D.C.; 3801 Nebraska Avenue, Washington, D.C.; Marine Corps Combat Development Command, Quantico, Virginia; or the White Oak facility, Silver Spring, Maryland:

Naval Sea Systems Command
Naval Facilities Engineering Command
Space and Naval Warfare Systems Command
Office of the General Counsel
Office of the Judge Advocate General
Navy Field Support Activity
Office of the Secretary of the Navy
- * Legislative Affairs
- * Program Appraisal
- * Comptroller
- * Inspector General

* Information
Office of the Chief of Naval Operations
Office of Civilian Manpower Management
International Programs Office
Combined Civilian Personnel Office
Navy Regional Contracting Center
Naval Criminal Investigative Service
Naval Audit Service
Strategic Systems Programs Office
Office of the Deputy Chief of Staff (Installations & Logistics), U.S. Marine Corps
Office of the Deputy Chief of Staff (Manpower & Reserve Affairs), U.S. Marine Corps
Marine Corps Systems Command (Clarendon Office)

Justification: Current DoD policy is to consider relocating outside the NCR all activities whose mission did not require them to be in the NCR. Both NAVAIR and NAVSUP could be relocated to sites outside the NCR where they could be collocated with major subordinate activities. Additionally, Naval Sea Logistics Center, Mechanicsburg, Pennsylvania, also will consolidate, in place, at SPCC Mechanicsburg, thereby promoting logistics resource efficiencies. Further, BUPERS and the office responsible for the military boards, as well as the Naval Manpower Analysis Center, Chesapeake, Virginia, with a large percentage of enlisted personnel and junior officers, could achieve a material increase in the quality of life of their personnel by relocating to Memphis, Tennessee, a city, which being an airline hub, also offers easy ingress and egress. The Recruiting Command is being collocated with the Navy's recruit training center at Great Lakes, Illinois. The Security Group command and activities are being collocated at Fort Meade, Maryland, with the National Security Agency, the principal agency with whom they deal on a daily basis. Finally, the Tactical Support Activity is being collocated in Norfolk, Virginia, with one of its major customers, CINCLANTFLT.

All of the remaining NCR activities will be moved from their present facilities in leased commercial space to vacant Government-owned space in one of five locations: the Navy Annex; the Navy Yard; Nebraska Avenue; Quantico, Virginia; and White Oak, Maryland. These actions will terminate DON's reliance on use of leased space in the NCR.

Return On Investment: The total estimated one-time costs for the realignments of Naval Air Systems Command, Naval Aviation Depot Operations Center, Naval Training Systems Center, Naval Aviation Maintenance Office, and Naval Air Technical Services Facility to NAWC-AD, Patuxent River, Maryland are $198.0M. Annual recurring savings are $41.6M with a return on investment in three years. Net Present Value of the costs and savings is $169.4M.

Total estimated one-time costs for the realignments of the Naval Supply Systems Command, the Aviation Supply Office,

Defense Printing Systems Management Office, and Food Service Systems Office to the Ship Parts Control Center, Mechanicsburg, Pennsylvania, are $88.9M. Annual recurring savings are $20.5M with a return on investment in one year. The Net Present Value of costs and savings over a twenty year period is a savings of $102.8M.

Total estimated one-time costs for the realignments of the Bureau of Naval Personnel, the Office of Military Manpower Management, and the Naval Manpower Analysis Center to the Naval Air Station, Memphis, Tennessee, are $59.2M. Annual recurring savings are $20.2M with a return on investment in four years. The Net Present Value of costs and savings over a twenty year period is a savings of $118.2M.

Total estimated one-time costs for the realignment of the Naval Recruiting Command to NTC Great Lakes are $6.8M. Annual recurring savings are $1.4M with a return on investment in seven years. The Net Present Value of costs and savings over a twenty year period is a savings of $5.5M.

Total estimated one-time costs for the realignment of the Naval Security Group Command to Fort Meade, Maryland, are $6.6M Annual recurring savings are $9.7M with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $93.0M.

Total estimated one-time costs for the realignment of the Tactical Support Activity from its facilities both in the Washington Navy Yard and Silver Spring, Maryland, to Norfolk, Virginia; the realignment of the Naval Surface Warfare Center - Dahlgren, White Oak Detachment, to Dahlgren, Virginia; and the realignment of the Naval Sea Systems Command from leased space in Arlington, Virginia, to White Oak are $74.6 million. Annual recurring savings are $22.3 million with a return on investment in two years. The Net Present Value of costs and savings over a twenty year period is a savings of $103.3 million.

The costs incurred and savings accrued from the movement of activities out of leased space into Government-owned space were included in the return on investment calculations shown above.

Impacts: The closure and realignments discussed in this recommendation will have an impact on the local economy. The projected potential employment loss (both direct and indirect) for these combined actions is 0.8 percent of the employment base of the Washington, DC-Maryland-Virginia Metropolitan Statistical Area, assuming no economic recovery. The impact would be hardest felt in the Northern Virginia portion of that area. There is no significant impact at any receiving location. There are no significant environmental impacts resulting from these closures and realignments. Any necessary environmental remediation will continue until completed.

Stand-Alone Navy and Marine Corps Reserve Centers

Recommendation: Close the following reserve centers:

Navy/Marine Corps Reserve Centers at:

Fort Wayne, Indiana
Billings, Montana
Abilene, Texas

Naval Reserve Centers at:

Gadsen, Alabama
Montgomery, Alabama
Fayettesville, Arkansas
Fort Smith, Arkansas
Pacific Grove, California
Macon, Georgia
Terre Haute, Indiana
Hutchinson, Kansas
Monroe, Louisiana
New Bedford, Massachusetts
Pittsfield, Massachusetts
Joplin, Missouri
St. Joseph, Missouri
Great Falls, Montana
Missoula, Montana
Atlantic City, New Jersey
Perth Amboy, New Jersey
Jamestown, New York
Poughkeepsie, New York
Altoona, Pennsylvania
Kingsport, Tennessee
Memphis, Tennessee
Ogden, Utah
Staunton, Virginia
Parkersburg, West Virginia

Naval Reserve Facility at:

Alexandria, Louisiana
Midland, Texas

Readiness Command Districts at:

Olathe, Kansas (REDCOM 18)
Scotia, New York (REDCOM 2)
Ravenna, Ohio (REDCOM 5)

Justification: The DOD Force Structure Plan requires the reduction of reserve assets as it does active duty assets. These Reserve Centers are being closed because their capacity is excess to the projected Navy/Marine Corps requirements. In arriving at the recommendation to close the Reserve Centers, specific

analysis was conducted to ensure that there was either an alternate location available to accommodate the affected reserve population (e.g., realign with an existing reserve center), or demographic support for purposes of force recruiting in the areas to which units were being relocated. This specific analysis, conducted through the COBRA model, supports these closures.

Return On Investment: The total estimated one-time costs for the closure of these 33 Reserve Centers are $6.9 million. Annual recurring savings are $17.2 million. Twenty-seven of the recommendations obtain an immediate return on investment. The remaining recommendation obtain return on investment within a range of 4 to 10 years. The Net Present Value of costs and savings over a twenty-year period is a savings of $160.9 million.

Impacts: Because of the small size of these Naval and Marine Corps Reserve Centers, their closure will have a negligible impact on the various local economies. There is no known community infrastructure impact at any receiving installation. Likewise, these closures will have no significant environmental impacts.

Hunters Point Annex to Naval Station Treasure Island
San Francisco, California

Recommendation: Permit the Navy to dispose of this facility in any lawful manner, including outleasing.

Justification: The 1991 Commission Report, at page 5-18, recommended closing the Hunters Point Annex and outleasing the entire property, with provisions for continued occupancy of space for Supervisor of Shipbuilding, Conversion, and Repair; Planning, Engineering, Repair, and Alterations Detachment; and a Contractor-Operated test facility.

Force level reductions consistent with the DoD Force Structure Plan remove any long-term need to retain all of this facility for emergent requirements. The recommended closure of the major naval installations in this geographic area terminates any requirement for these facilities. The limitation of disposal authority to outleasing unnecessarily restricts the Navy's ability to dispose of this property in a timely and lawful manner.

Impacts: There are no significant economic impacts occasioned by this recommendation since the Navy is only seeking approval of having access to additional disposal authorities, the decision to dispose of this facility already having been made in 1991 Commission recommendations. Likewise, there are no environmental impacts in addition to those raised in previously. All environmental clean-up efforts will continue until complete.

Naval Weapons Evaluation Facility, Albuquerque, New Mexico

Recommendation: Permit a small detachment of the Weapons Division to remain after the closure of the Naval Weapons Evaluation Facility (NWEF) in order to provide liaison with the Sandia Laboratory of the Department of Energy.

Justification: This recommendation was originally intended as an exception to the 1991 recommendation to close NWEF Albuquerque but was not included in the specific DoD recommendations. The Navy has a continuing need for a detachment to provide liaison with the Sandia Laboratory and other agencies involved in nuclear programs in that geographic area. The detachment would remain as a tenant of Kirtland Air Force Base.

Impact: There are no significant economic or environmental impacts resulting from this recommendation, since the Navy is only leaving a small detachment in place.

Naval Electronic Systems Engineering Centers

Recommendation: Change the receiving location of the Naval Electronic Systems Engineering Center (NESEC) San Diego, California and the NESEC Vallejo, California to be Air Force Plant #19 in San Diego vice new construction at Point Loma, San Diego, California.

Justification: This is a change from the 1991 Commission action which called for closure of NESEC San Diego and relocation to Point Loma to form Naval Command, Control and Ocean Surveillance Center (NCCOSC). Air Force Plant #19 was operated by a contractor as an Air Force Government-Owned-Contractor-Owned and NESEC San Diego subleased space. Now the contractor has left and Air Force offered to transfer Plant 19 without reimbursement. Rehabilitation can be accomplished within the estimates of the BRAC 91 recommendations for both relocating NESEC's and avoid the serious environmental concerns attendant to new construction at Point Loma.

Return on Investment: The one time cost of this recommendation is $0.9 million. The annual recurring savings are $0.7 million with an immediate return on investment. The Net Present Value of costs and savings over a twenty year period is a savings of $5.9 million.

Impact: There is no additional impact on the local community beyond that identified in BRAC 91.

Naval Mine Warfare Engineering Activity
Yorktown, Virginia

Recommendation: Relocate the Naval Mine Warfare Engineering Activity (now the Naval Surface Warfare Center-Port Hueneme, Yorktown Detachment) to the Naval Surface Warfare Center-Dahlgren, Coastal Systems Station, Panama City, Florida.

Justification: In the 1991 Commission Report, the Naval Mine Warfare Engineering Activity (NMWEA), Yorktown, Virginia, was recommended for closure and realignment to facilities under the control of the Chief of Naval Educational and Training at Dam Neck, Virginia. The realignment has been accomplished through organizational changes and NMWEA is now the Yorktown Detachment of the Naval Surface Warfare Center-Port Hueneme. However, after BRAC 91, the needs of the educational and training community were such that the Dam Neck space is no longer available. Therefore, as part of BRAC 93 process, alternative receiving sites were explored. Because of the advisability of consolidating activities performing similar functions, and since the Naval Surface Warfare Center-Dahlgren, Coastal Systems Station, Panama City, Florida, has significant responsibilities in mine warfare R&D, COBRA data was requested. Because of the advantages of collocating this mine warfare engineering activity with another facility having substantial responsibilities in the same fields, and because it is less expensive than the BRAC 91 relocation to Dan Neck, Virginia, the Navy recommends that the receiving site for this activity be revised to Naval Surface Warfare Center-Dahlgren, Coastal Systems Station, Panama City, Florida, in lieu of Dam Neck, Virginia.

Return On Investment: Total estimated one-time savings exceed one-time costs for the recommendation by $5.7 million. Annual recurring savings are $1.1 million with a return on investment in one year. The Net Present Value of costs and savings over a twenty year period is a savings of $13.5 million.

Impacts: This recommendation will have an impact on the local economy. The projected potential employment losses (both direct and indirect) is 0.07 percent of the Norfolk-Virginia Beach-Newport News, Metropolitan Statistical Area assuming no economic recovery. There are no significant environmental impacts occasioned by this recommendation. All environmental clean-ups will continue until complete.

Department of the Air Force Selection Process

The Air Force 1993 selection process is essentially the same as was used in 1991. The Secretary of the Air Force appointed a Base Closure Executive Group of seven general officers and six comparable (Senior Executive Service) career civilians. Areas of expertise included environment; facilities and construction; finance; law; logistics; programs; operations; personnel and training; reserve components; and research, development and acquisition. The group met regularly from November 1992 to March 1993. Additionally, an Air Staff Base Closure Working Group was formed to provide staff support and detailed expertise to the Executive Group. General Officers from the Plans and Programs offices of the Major Commands (MAJCOM) met on several occasions with the Executive Group. They provided mission specific expertise and greater base-level detail where necessary. Also, potential cross-service utilization was identified by a special interservice working group.

The Executive Group developed a base closure Internal Control Plan which was approved by the Assistant Secretary of Defense (Production and Logistics) and the DoD Inspector General. This plan provides structure and guidance for all participants in the base closure process, including procedures for data gathering and certification.

The Executive Group reviewed all Active and Air Reserve Component (ARC) installations in the United States which met or exceeded the Section 2687, Title 10 U.S.C. threshold of 300 direct-hire civilians authorized to be employed. A comprehensive and detailed questionnaire was developed to gather data. The questionnaire was sent to each applicable base and the data was validated by each base, Major Command and the Air Staff. All data were evaluated and certified in accordance with the Internal Control Plan. As an additional control measure, the Air Force Audit Agency was tasked to review the Air Force process for consistency with the law and DoD policy and to ensure that the data collection and validation process was adequate.

A capacity analysis was also performed, including actual on-site surveys at 48 bases which evaluated the capability of a base to accommodate additional force structure and other activities (excess capacity) beyond what was programmed to be stationed at the base.

The Executive Group frequently challenged data based on their own substantial knowledge and experience. Additional, more detailed, or corrected data were provided where appropriate. All data used in the preparation and submission of information and recommendations concerning the closure or realignment of military installations were certified as to accuracy and completeness by appropriate officials at the base, MAJCOM, and Headquarters level. In addition, the Executive Group and the acting Secretary of the Air Force certified that all information used to support

the recommendations was accurate and complete to the best of their knowledge and belief. The results of the excess capacity analysis were used in conjunction with the approved DoD Force Structure Plan in determining base structure requirements. Also, the capacity analysis was used to identify cost effective opportunities to beddown activities and aircraft dislocated from bases recommended for closure or realignment.

The Secretary of the Air Force determined that further study was not needed for bases the Executive Group deemed mission essential or geographically key. The Executive Group then placed all the remaining bases in four categories based on the installation's predominant use. Capacity was analyzed by category based on a study of current base capacity and the future requirements imposed by the DoD Force Structure Plan. Some categories or subcategories were found to have no excess capacity and the Secretary of the Air Force determined that further study of these bases was not warranted. Categories or subcategories having some excess capacity but unreasonable cost to relocate or replicate essential continuing functions were also eliminated from further study.

All Active Component bases in the remaining categories were individually examined on the basis of the eight selection criteria established by the Secretary of Defense, and over 160 Air Force unique subelements which were developed by the Air Force to provide specific data points for each criterion.

The Air Reserve Component (ARC) category, comprised of Air National Guard (ANG) and Air Force Reserve (AFRES) bases, warrants further explanation. First, these bases do not readily compete against each other as ARC units enjoy a special relationship with their respective states and local communities. In fact, relocating Guard units across state boundaries is not a practical alternative. We must also give careful consideration of the recruiting needs of these units. Second, the DoD Force Structure Plan does not reduce the ARC force structure, so there is no apparent excess base structure and this category could have been excluded from further consideration. However, realignment of ARC units onto active installations or onto other ARC installations could prove cost effective. Therefore, the ARC category was examined for cost effective realignments to other bases.

Information, base groupings, and options resulting from the Executive Group analyses were presented to the Secretary of the Air Force and the Chief of Staff, in person, by the Executive Group on a number of occasions. Based on the DoD force structure plan and the final criteria, with consideration given to excess capacity, efficiencies in base utilization and evolving concepts of basing the force, the acting Secretary of the Air Force, with advice of the Air Force Chief of Staff, and in consultation with the Base Closure Executive Group, selected the bases recommended for closure and realignment.

Homestead Air Force Base, Florida

Recommendation: Homestead AFB, Florida, is recommended for closure. The 31st Fighter Wing will inactivate. All F-16s from the 31st Fighter Wing will remain temporarily assigned to Moody AFB, Georgia, and Shaw AFB, South Carolina. The Inter-American Air Forces Academy will move to Lackland AFB, Texas. The Air Force Water Survival School will be temporarily located at Tyndall AFB, Florida. Future disposition of the Water Survival School is dependent upon efforts to consolidate its functions with the US Navy. The 301st Rescue Squadron, Air Force Reserve (AFRES) will move to Patrick AFB, Florida. The 482nd Fighter Wing (AFRES) will move to MacDill AFB, Florida and convert to KC-135Rs. The NORAD alert activity will move to an alternate location. The 726th Air Control Squadron will relocate to Shaw AFB. The Naval Security Group will consolidate with other US Navy units. All DoD activities and facilities including family housing, the hospital, commissary, and base exchange facilities will close. All essential cleanup and restoration activities associated with Hurricane Andrew will continue until completed. If Homestead AFB resumes operations as a civilian airport, the NORAD alert facility may be rebuilt in a cantonment area.

Justification: There were several factors which resulted in the closure recommendation. First, the Air Force has one more small aircraft base than is required to support the fighter aircraft in the DoD Force Structure Plan. When the data were evaluated against all eight of the DoD selection criteria, Homestead AFB ranked low relative to the other bases in the small aircraft subcategory. While Homestead AFB's ranking rests on the combined results of applying the eight DoD selection criteria, one stood out: the excessive cost to rebuild Homestead, while other small aircraft bases required little or no new investment. The cost to close Homestead AFB is low, especially when measured against the high cost of reconstruction, and the long-term savings are substantial.

All small aircraft bases were considered equally in a process that conformed to the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), as amended, and the Department of Defense (DOD) guidance. Bases were evaluated against the eight DoD selection criteria and a large number of subelements specific to Air Force bases and missions. Data were collected and the criteria and subelements of the criteria applied by the Base Closure Executive Group (Executive Group), a group of seven general officers and six Senior Executive Service career civilians appointed by the Secretary of the Air Force. The decision to close Homestead AFB was made by the Secretary of the Air Force with advice of the Air Force Chief of Staff and in consultation with the Executive Group.

Return on Investment: The cost to close is estimated to be $75.1 million; the annual savings after closure are $75.4 million; the return on investment years based on the net present value

computations is 0 years. All dollar amounts are in constant FY 94 dollars.

Impacts: The Air Force will dispose of all property at Homestead AFB except a small parcel that may be needed for a NORAD alert facility. The closure of Homestead AFB will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 1.0 percent of the employment base in the Miami-Hialeah Metropolitan Statistical Area, assuming no economic recovery. The impact on the city of Homestead, Florida will be much more severe. Homestead AFB is in an air quality non-attainment area for ozone, and has significant soil contamination from fuels, lead, and pesticides. Homestead AFB is on the National Priorities List. Closure of Homestead AFB will result in generally positive environmental effects. Environmental restoration of Homestead AFB will continue until complete. The impact on the community infrastructure at receiving bases is not significant.

K.I. Sawyer Air Force Base, Michigan

Recommendation: K.I. Sawyer AFB, Michigan, is recommended for closure. The 410th Wing will inactivate. B-52H aircraft will transfer to Barksdale AFB, Louisiana. The Air Force will retire its B-52G aircraft instead of implementing the previous Base Closure Commission recommendation to transfer those aircraft from Castle AFB, California, to K.I. Sawyer AFB.

Justification: There are several factors which resulted in the above recommendation. The Air Force has four more large aircraft bases than are needed to support the number of bombers, tankers, and airlift assets in the DoD Force Structure Plan. The Air Force must maintain Minuteman III basing flexibility due to uncertainty with respect to START II. This requires the retention of the ballistic missile fields at Malmstrom AFB, Grand Forks AFB, Minot AFB, and F.E. Warren AFB. It is more economical to retain a bomber/missile base that must remain open for missiles than to maintain a bomber-only base. Therefore, based on the facts that K.I. Sawyer AFB does not support ballistic missile operations, that when all eight DoD criteria are applied K.I. Sawyer AFB ranks low, and that there is excess large aircraft base capacity, K.I. Sawyer AFB is recommended for closure.

All large aircraft bases were considered equally in a process that conformed to the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), as amended, and the Department of Defense (DoD) guidance. Each base was evaluated against the eight DoD selection criteria and a large number of subelements specific to Air Force bases and missions. Extensive data gathered to support the evaluation of each base under each criterion was reviewed by the Base Closure Executive Group (Executive Group), a group of seven general officers and six Senior Executive Service career civilians appointed by the Secretary of the Air Force. The decision to close K.I. Sawyer AFB was made by the Secretary of the Air Force with advice of the Air Force Chief of Staff and in consultation with the Executive Group.

Return on Investment: The cost to close is estimated to be $143.7 million; the annual savings after closure are $62.4 million; the return on investment years based on the net present value computations is 1 year. All dollar amounts are in constant FY 94 dollars.

Impacts: The closure of K.I. Sawyer AFB will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 14 percent of the employment base in the Marquette County Metropolitan Statistical Area, assuming no economic recovery. Closure of K.I. Sawyer will result in generally positive environmental effects.There is no significant environmental impact resulting from this closure. Environmental restoration of K.I. Sawyer AFB will continue until complete. The impact on the community infrastructure at receiving bases is not significant.

Newark Air Force Base, Ohio

Recommendation: Newark AFB, Ohio, is recommended for closure. The Aerospace Guidance and Metrology Center (AGMC) depot will be closed; some workload will move to other depot maintenance activities including the private sector. We anticipate that most will be privatized in place.

Justification: Due to significant reductions in force structure, the Air Force has an excess depot maintenance capacity of at least 8.7 million Direct Product Actual Hours (DPAH). When all eight criteria are applied to the bases in the depot subcategory, Newark AFB ranked low in comparison to the other five depot bases. The long-term military value of the base is low because it does not have an airfield and it is not a traditional Air Force base in any respect. Instead, it is a stand-alone, highly technical, industrial plant that is operated predominantly by a civilian work force. As a result, it is conducive for conversion to the private sector. The closure of Newark AFB will reduce the Air Force excess depot capacity by 1.7 million DPAH and is consistent with OSD guidance to reduce excess capacity, economize depot management, and increase competition and privatization in DoD.

All six Air Force depots were considered for closure equally in a process that conformed to the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), as amended, and Office of the Secretary of Defense (OSD) guidance. Each base hosting an Air Force depot was evaluated against the eight DoD selection criteria and a large number of subelements specific to Air Force bases, depots, and missions. Extensive data, gathered to support the evaluation of these bases under each criterion, was reviewed by the Base Closure Executive Group (Executive Group). The Executive Group is a group of seven general officers and six Senior Executive Service career civilians appointed by the Secretary of the Air Force (SECAF). SECAF made the decision to close Newark AFB with the advice of the Air Force Chief of Staff and in consultation with the Executive Group.

Return on Investment: The cost to close is estimated to be $31.3 million; the annual savings after closure are $3.8 million; the return on investment years based on the net present value computations is 8 years. All dollar amounts are in constant FY 94 dollars.

Impacts: The closure of Newark AFB will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 4.6 percent of the employment base in the Licking County Metropolitan Statistical Area, assuming no economic recovery. Newark AFB is in an air quality non-attainment area for ozone. Closure of Newark AFB will result in generally positive environmental effects. Environmental restoration of Newark AFB will continue until complete. The impact on the community infrastructure at receiving bases is not significant.

Community Preference Consideration in Closure and Realignment of Military Installations Section 2924. Public Law 101-510

O'Hare International Airport, Air Force Reserve Station, Illinois

Community Proposal: The City of Chicago has exercised its right under Section 2924 of P.L. 101-510 to propose that the O'Hare Air Reserve Station (ARS) be closed and the flying units moved to a new facility to be constructed at Rockford, Illinois. This provision of law mandates the Department give special consideration to the proposal. The City desires to acquire the property for aviation-related commercial use.

Recommendation: Close O'Hare ARS as proposed by the City of Chicago and relocate the assigned Air Reserve Component (ARC) units to the Greater Rockford Airport, or another location acceptable to the Secretary of the Air Force, provided the City can demonstrate that it has the financing in place to cover the full cost of replacing facilities, moving, and environmental cleanup, without any cost whatsoever to the federal government and that the closure/realignment must begin by July 1995 and be completed by July 1997. Chicago would also have to fund the full cost of relocating the Army Reserve activity, or leave it in place. If these conditions are not met, the units should remain at O'Hare IAP.

Justification: O'Hare Reserve Station is in the Northwest corner of O'Hare IAP, enjoying immediate access to two runways. Two ARC units are based there: the 928th Airlift Group (Air Force Reserve), with C-130s; and the 126th Air Refueling Wing (Air National Guard), with KC-135s. An Army Reserve Center is located adjacent to the base. In addition, a large Defense Logistics Agency (DLA) activity currently occupies a government owned, recently renovated office building on the base; however, DLA is recommending disestablishment of this activity to other locations as part of the 1993 base closure process.

In a 1991 land exchange agreement, intended to resolve all real property issues between the Air Force and the City of Chicago at O'Hare IAP, the City specifically agreed that it would seek no more land from the O'Hare ARS. The Air Force has advised the City that the ARC units are adequately housed at O'Hare, and there is no basis for moving them. There are no savings from moving; only costs. To justify this realignment under the DoD Base Closure Selection Criteria, all costs of closure/realignment would have to be funded entirely outside the federal government. (For example, no DoD or FAA funds). The relocation site would have to meet all operating requirements, such as runway length and freedom from noise-related operating limitations, and be close enough to Chicago that the units would not suffer major loss of personnel. The day-to-day operating costs at the relocation site would have to compare favorably with those at O'Hare IAP.

The City proposes that the ARC units move to Greater Rockford Airport, 55 miles northwest of O'Hare IAP. Virtually no facilities for the units exist at Rockford, so an entirely new base would have to be constructed. The airfield is constrained on two sides by the Rock River and flood plain. At least one runway will have to be extended for KC-135 operations. There appear to be noise and other environmental problems to resolve before a final determination of siting feasibility can be made.

Return on Investment: The COBRA model estimates that the cost to close is $361 million. This estimate is based on the City of Chicago consultant's estimate of construction costs at Rockford, and normal COBRA estimating factors for other costs. There are no apparent savings to offset this cost.

The proceeds from disposal of the real property, which might offset some of the cost, are difficult to estimate. If the airport property were sold at fair market value, the estimated proceeds would be about $33 million. The buildings may or may not be of use to a buyer. While some are new and all are usable for their current military use, their value to a commercial or civil aviation user are questionable. Demolition and disposal are estimated by the City's consultant to cost $25 million, which would be an offset to the land value. However, most of the O'Hare ARS qualifies as aviation-related property, which the City could obtain in a no-cost public benefit transfer under the Surplus Property Act of 1944, 50 U.S.C. App. 1622. The building, to be vacated by DLA is severable from the Reserve Base and does not appear to be aviation property. The net cost to close and realign is estimated to be in a range from $328 million to $361 million Since there are no savings in operational or other costs, the payback period is infinity.

The Air Force analysis of the proposal assuming Chicago or some other non-Federal source pays the full cost is as follows. The facilities at O'Hare ARS are adequate, with many new or recently renovated buildings. The recruiting base, the Chicago metropolitan area, is outstanding. There are no serious constraints on mission accomplishment, other than some air traffic control delays due to the dense commercial traffic. However, alert or other time-sensitive missions are not flown from O'Hare ARS. Since the base is adequate for its purpose, no savings would accrue from closing it. The aircraft remain in the force structure plan and the units are not planned for inactivation. In the case of the ANG, the governor's consent would be required to disband. Thus, closure of the base requires that both units be realigned.

The military value of an ARC base at Rockford, fully built up with all the necessary facilities, still does not exceed that of O'Hare. For retention of the mostly part-time ARC personnel it is not as good, due to the distance from the homes of currently assigned personnel. Some personnel losses and retraining must be anticipated, effecting unit readiness and adding to the cost. It is not clear that the Rockford area alone can provide a steady stream of volunteers large enough to man two large ARC units.

Recruiting from Chicago will still be required, but will be much harder due to the distance differential between O'Hare and Rockford.

Although the City of Chicago had previously stated that they did not expect the Air Force to fund relocation and facility replacement costs, the City has been unable to guarantee that it will pay the full cost of moving. However, in its most recent correspondence, the City has made the following commitment, "At this time, we wish to commit that all costs associated with our plan will be at no cost to the Department of Defense and that the City of Chicago, together with the host airport, will provide suitable replacement facilities on either a square foot for square foot basis or with more cost efficient functionally equivalent facilities. This commitment of full cost coverage is contingent upon securing necessary financing, which we continue to pursue, and the approval of our governing council body."

Acceptance of this proposal must be based on benefits to the City of Chicago. The proposed move would make some considerable space available for airport related activities at this intensively used air carrier airport. Therefore, if the City of Chicago could demonstrate that it has financing in place to cover the full cost of replacing facilities, moving and environmental cleanup, without any cost whatsoever to the federal government and that the closure/realignment could begin by July 1995, as required by Section 2904 (a) (3) of the Defense Base Closure and realignment Act of 1990, and the relocation could be completed by July 1997, the Air Force would not object to the proposal. The City would also have to fund the full cost of relocating the Army Reserve activity, or leave it in place. If these conditions are not met, the units should remain at O'Hare IAP.

March Air Force Base, California

Recommendation: March AFB, California, is recommended for realignment. The 22nd Air Refueling Wing will inactivate. The KC-10 (Active and Associate Reserve) aircraft will be relocated to Travis AFB, California. The Southwest Air Defense Sector will remain at March in a cantonment area pending the outcome of a NORAD sector consolidation study. If the sector remains it will be transferred to the Air National Guard (ANG). The 445th Airlift Wing Air Force Reserve (AFRES), 452nd Air Refueling Wing (AFRES), 163rd Reconnaissance Group (ANG) (becomes an Air Refueling Group), Air Force Audit Agency, and Media Center (from Norton AFB, California) will remain and the base will convert to a reserve base. Additionally, the Army Corps of Engineers Unit, US Customs Aviation Operation Center West, and the Drug Enforcement Agency aviation unit will remain.

Justification: There are several factors which resulted in the above recommendation. First, the Air Force has four more large aircraft bases than needed to support the number of bombers, tankers, and airlift assets in the DoD Force Structure Plan. Also, when all eight DoD criteria were applied to the large aircraft bases, March AFB ranked low. The Air Force plans to establish a large air mobility base (KC-10, C-5 and C-141 aircraft) on the west coast. When bases in the region (Beale AFB, California; Fairchild AFB, Washington; March AFB, California; McChord AFB, Washington; Malmstrom AFB, Montana; Travis AFB, California) were analyzed for this mission, Travis AFB ranked highest. March AFB currently requires a large active duty component to support a relatively small active duty force structure. The conversion of March AFB to a reserve base achieves substantial savings and the benefit of a large recruiting population for the Air Force Reserve is retained.

All large aircraft bases were considered equally in a process that conformed to the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), as amended, and the Department of Defense (DoD) guidance. Each base was evaluated against the eight DoD selection criteria and a large number of subelements specific to Air Force bases and missions. Extensive data, gathered to support the evaluation of each base under each criterion was reviewed by the Base Closure Executive Group (Executive Group), a group of seven general officers and six Senior Executive Service career civilians appointed by the Secretary of the Air Force. The decision to realign March AFB was made by the Secretary of the Air Force with advice of the Air Force Chief of Staff and in consultation with the Executive Group.

Return on Investment: The cost to realign is estimated to be $134.8 million; the annual savings after realignment are $46.9 million; the return on investment years based on the net present value computations is 2 years. All dollar amounts are in constant FY 94 dollars.

Impacts: The Air Force will dispose of all property not required within the revised boundaries of the reserve base and welcome joint use of the airfield with civil aviation or conversion to a civilian airport. The realignment of March AFB will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 1.6 percent of the employment base in the Riverside County Metropolitan Statistical Area, assuming no economic recovery. The realignment of March AFB will result in generally positive environmental effects. March AFB is in an air quality non-attainment area for ozone, carbon-monoxide, nitric-oxide, and particulates. Threatened and endangered species and critical habitat are present on-base. March AFB is on the National Priorities List. Environmental restoration of March AFB will continue until complete. The impact on the community infrastructure at receiving bases is not significant.

McGuire Air Force Base, New Jersey

Recommendation: McGuire AFB, New Jersey, is recommended for realignment. The 438th Airlift Wing will inactivate. Most of the C-141s will transfer to Plattsburgh AFB, New York. Fourteen C-141s will remain and transfer to the Air Force Reserve. The 514th Airlift Wing Air Force Reserve (AFRES), 170th Air Refueling Group Air National Guard (ANG), and 108th Air Refueling Wing (ANG) will remain and the base will convert to a Reserve base. The 913th Airlift Group (AFRES) will relocate from Willow Grove Naval Air Station, Pennsylvania, to McGuire AFB. The Air Force Reserve will operate the base.

Justification: There are several factors which result in the above recommendation. First of all, the Air Force has four more large aircraft bases than are needed to support the number of bombers, tankers, and airlift assets in the DoD Force Structure Plan. When all eight DoD criteria were applied, McGuire AFB ranked low when compared to the other bases in its category. Also, when McGuire AFB was compared specifically with other airlift bases, it still ranked low.

The Air Force plans to establish a large mobility base in the Northeast to support the new Major Regional Contingency (MRC) strategy. McGuire AFB was evaluated specifically as the location for this wing, along with other bases that met the geographical criteria and were available for this mission: Griffiss AFB, New York and Plattsburgh AFB, New York. Plattsburgh AFB ranked best in capability to support the air mobility wing due to its geographical location, attributes, and base loading capacity. Principal mobility attributes include aircraft parking space (for 70-80 tanker/airlift aircraft), fuel hydrants and fuel supply/storage capacity, along with present and future encroachment and airspace considerations.

When Plattsburgh AFB was compared directly with McGuire AFB, Plattsburgh AFB rated better in all of the mobility attributes. An air mobility wing at Plattsburgh AFB will eliminate many of the problems associated with operating at McGuire AFB, in the midst of the New York/New Jersey air traffic congestion. Basing the additional aircraft of an air mobility wing at McGuire AFB will add to that congestion. Plattsburgh AFB, on the other hand, has ample airspace for present and future training by an air mobility wing. Also, the FAA has long expressed a desire for civil use of McGuire AFB, which will ease the congestion at other airfields and terminal facilities in the New York and Philadelphia metropolitan areas. For these reasons, McGuire AFB was recommended for realignment and conversion to an Air Force Reserve Base.

The Air Reserve Component (ARC) forces at McGuire AFB represent a significant portion of the air refueling and airlift forces stationed there and they are well located for recruiting. By keeping the airfield open for military use, the parking and

fuel handling capacity at McGuire AFB remains available in future contingencies. The existing programmed Military Construction funds for the ANG KC-135 conversion will be used to establish the ARC cantonment at McGuire AFB.

The Air Force encourages conversion of the airfield to a civil airport. The ARC units will remain as tenants if McGuire AFB becomes a civil airfield. Civil operation will enhance the value of the base to the community and encourage reuse of the facilities not needed by the reserve units, and create jobs. It will also reduce the cost to the Air Force of operating its units at McGuire AFB.

All large aircraft bases were considered equally in a process that conformed to the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), as amended, and the Department of Defense (DoD) guidance. Each base was evaluated against the eight DoD selection criteria and a large number of subelements specific to Air Force bases and missions. Extensive data, gathered to support the evaluation of each base under each criterion was reviewed by the Base Closure Executive Group (Executive Group), a group of seven general officers and six Senior Executive Service career civilians appointed by the Secretary of the Air Force. The decision to realign McGuire AFB was made by the Secretary of the Air Force with advice of the Air Force Chief of Staff and in consultation with the Executive Group.

Return on Investment: The cost to realign is estimated to be $197.5 million; the annual savings after realignment are $47.5 million; the return on investment years based on the net present value computations is 4 years. All dollar amounts are in constant FY 94 dollars.

Impacts: The Air Force will dispose of all property outside the reduced base boundary and consider joint use of the airfield with civil aviation or conversion to a civil airport. The realignment of McGuire AFB will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 3.5 percent of the employment base in the Burlington County Metropolitan Statistical Area, assuming no economic recovery. There is moderate impact on community housing and the medical community at the new receiving base; however, this impact will be mitigated by Air Force constructed housing and an expansion of the base medical capabilities. McGuire AFB is in an air quality non-attainment area for ozone and is on the National Priorities List. The realignment of McGuire AFB will result in generally positive environmental effects. Environmental restoration of McGuire AFB will continue until complete.

Griffiss Air Force Base, New York

Recommendation: Griffiss AFB, New York, is recommended for realignment. The 416th Bomb Wing will inactivate. B-52H aircraft will transfer to Minot AFB, North Dakota, and Barksdale AFB, Louisiana. KC-135 aircraft from Griffiss AFB will transfer to Grand Forks AFB, North Dakota. The 485th Engineering Installation Group at Griffiss AFB will relocate to Hill AFB, Utah.

The Northeast Air Defense Sector will remain at Griffiss in a cantonment area pending the outcome of a NORAD sector consolidation study. If the Sector remains it will be transferred to the Air National Guard (ANG). Rome Laboratory will remain at Griffiss AFB in its existing facilities as a stand-alone Air Force laboratory. A minimum essential airfield will be maintained and operated by a contractor on an "as needed, on call" basis. The ANG will maintain and operate necessary facilities to support mobility/contingency/training of the 10th Infantry (Light) Division located at Ft Drum, New York, and operate them when needed. Only the stand-alone laboratory and the ANG mission will remain.

Justification: The Air Force has four more large aircraft bases than needed to support the number of bombers, tankers, and airlift assets in the DoD Force Structure Plan. When all eight DoD criteria are applied, Griffiss AFB ranked low compared to the other large aircraft bases. Based on this analysis, the application of all eight DoD selection criteria, and excess capacity which results from reduced force structure, Griffiss AFB is recommended for realignment.

The Air Force plans to establish a large air mobility base in the Northeast to support the new Major Regional Contingency (MRC) strategy. Griffiss AFB was evaluated specifically as the location for this wing, along with other bases that met the geographical criteria and were available for this mission: McGuire AFB, New Jersey and Plattsburgh AFB, New York. Plattsburgh AFB ranked best in capability to support the air mobility wing due to its geographical location, attributes and base loading capacity. Principal mobility attributes include aircraft parking space (for 70-80 tanker/airlift aircraft), fuel hydrants and fuel supply/storage capacity, along with present and future encroachment and airspace considerations.

The Rome Laboratory has a large civilian work force and is located in adequate facilities that can be separated from the rest of Griffiss AFB. It does not need to be closed or realigned as a result of the reductions in the rest of the base.

All large aircraft bases were considered equally in a process that conformed to the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), as amended, and the Department of Defense (DoD) guidance. Each base was evaluated

against the eight DoD selection criteria and a large number of subelements specific to Air Force bases and missions. Extensive data, gathered to support the evaluation of each base under each criterion was reviewed by the Base Closure Executive Group (Executive Group), a group of seven general officers and six Senior Executive Service career civilians appointed by the Secretary of the Air Force. The decision to realign Griffiss AFB was made by the Secretary of the Air Force with advice of the Air Force Chief of Staff and in consultation with the Executive Group.

Return on Investment: The cost to realign is estimated to be $120.8 million; the annual savings after realignment are $39.2 million; the return on investment years based on the net present value computations is 3 years. All dollar amounts are in constant FY 94 dollars.

Impacts: The Air Force will actively pursue conversion to a civil airport, and will dispose of all property not required at Griffiss AFB. The realignment of Griffiss AFB will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 7.6 percent of the employment base in the Utica-Rome Metropolitan Statistical Area, assuming no economic recovery. There is no significant environmental impact resulting from this closure. Generation of hazardous wastes and pollutants will be eliminated. Griffiss AFB is on the National Priorities List. Environmental restoration of Griffiss AFB will continue until complete. The impact on the community infrastructure at receiving bases is not significant.

Changes To
1988 Base Closure Commission Recommendations

Bases identified by the 1988 Base Closure Commission as receiving bases were evaluated by mission category along with all other bases in the United States. As part of this review, the 1988 Commission's realignment recommendations were evaluated against recent force structure reductions, as well as, opportunities to operate more efficiently and effectively. The Air Force recommended changes result from analysis of changing world order, other base closures, the threat and force structure plan, and budgetary reality. The Air Force continues to implement the closure of the five bases recommended by the 1988 Commission.

Chanute Air Force Base, Illinois

Recommendation: As part of the closure of Chanute AFB, Illinois, the Air Force recommends consolidating its 16 Metals Technology, Non-Destructive Inspection, and Aircraft Structural Maintenance training courses with the Navy at Naval Air Station (NAS) Memphis, Tennessee, and then move with the Navy when NAS Memphis closes. The 1991 Base Closure Commission recommended that these courses, along with 36 other courses, be transferred to Sheppard AFB, Texas.

Justification: On March 31, 1992, the DoD Inspector General recommended that the Air Force consolidate and collocate its 16 metals training courses with the Navy. There will be no Military Construction (MILCON) costs associated with temporarily relocating the specified training courses to NAS Memphis. This is considerably less than the $17.5 million in MILCON cost to relocate these courses to Sheppard AFB. As this training is now scheduled to move when NAS Memphis closes, the Air Force and Navy will work to achieve a cost effective approach until a more permanent site is found. Collocation of these courses with the Navy will achieve efficiencies and savings.

Impacts: There is no significant environmental impact resulting from this change. Environmental restoration of Chanute AFB will continue urtil complete. The impact on the community infrastructure at the new receiving base is not significant.

Changes To
1991 Base Closure Commission Recommendations

Bases identified by the 1991 Base Closure Commission as realignment receivers were evaluated by mission category along with all other bases in the United States. As part of this review, the 1991 Commission's realignment recommendations were evaluated against recent force structure reductions, as well as opportunities to operate more efficiently and effectively. The Air Force recommended changes result from analysis of changing world order, other base closures, threat and force structure plan, and budgetary reality. The Air Force continues to implement the closure and realignment of the bases recommended by the 1991 Commission.

Bergstrom Air Force Base, Texas

Recommendation: Change the recommendation of the 1991 Commission regarding Bergstrom AFB as follows: The 704th Fighter Squadron (AFRES) with its F-16 aircraft and the 924th Fighter Group (AFRES) support units will move to Carswell AFB, Texas and the cantonment area at Bergstrom AFB will close. The Regional Corrosion Control Facility at Bergstrom AFB will be closed by September 30, 1994, unless a civilian airport authority elects to assume the responsibility for operating and maintaining the facility before that date.

Justification: The 1991 Commission recommended the closure of Bergstrom AFB. The AFRES was to remain in a cantonment area. In reviewing AFRES plans for Bergstrom AFB, the Air Force found that considerable savings could be realized by realigning the Bergstrom AFRES units and aircraft to the Carswell AFB cantonment area. This realignment will result in savings in Military Construction (MILCON) funds, reduced manpower costs, and will not significantly impact unit readiness. The original 1991 realignment recommendation cost $12.5 million in MILCON to construct a cantonment area at Bergstrom AFB. Based on the best estimates available at this time, the cost of this change is $5.8 million in MILCON, for a projected savings of $6.7 million. This action will also result in net manpower savings.

Impacts: There is no significant environmental impact resulting from this change. Environmental restoration of Bergstrom AFB will continue until complete. The impact on the community infrastructure at the new receiving base is not significant.

Carswell Air Force Base, Texas

Recommendation: Change the recommendation of the 1991 Commission regarding Carswell AFB as follows: Transfer the fabrication function of the 436th Training Squadron (formerly 436th Strategic Training Squadron) to Luke AFB, Arizona and the maintenance training function to Hill AFB, Utah. The remaining functions of the 436th Training Squadron will still relocate to Dyess AFB, Texas. Final disposition of the base exchange and commissary will depend on the outcome of the Congressionally mandated base exchange and commissary test program.

Justification: The 1991 Commission recommended that the 436th Training Squadron be relocated to Dyess AFB as a whole. The proposed action will result in more streamlined and efficient training operations. Transferring the fabrication function to Luke AFB will avoid duplicating this function within Air Combat Command. The Hill AFB move will ensure that maintenance training is provided in a more efficient manner.

The original 1991 realignment cost was $1.8 million in Military Construction (MILCON). The cost for this redirect is $0.3 million MILCON, for a projected savings of $1.5 million MILCON.

Impacts: There is no significant environmental impact resulting from this change. Environmental restoration of Carswell AFB will continue until complete. The impact on the community infrastructure at the new receiving bases is not significant.

Castle Air Force Base, California

Recommendation: Change the recommendation of the 1991 Commission regarding Castle AFB as follows: Redirect the B-52 and KC-135 Combat Crew Training mission from Fairchild AFB, Washington to Barksdale AFB, Louisiana (B-52) and Altus AFB, Oklahoma (KC-135).

Justification: The force structure upon which the 1991 Commission based its recommendations has changed and B-52 force structure is being reduced. The Air Force currently plans to base a large number of B-52s at two locations, with Barksdale AFB serving as the hub for B-52 operations and training. Similarly, training for mobility operations is being centralized at Altus AFB. This redirect will reduce the number of training sites and improve efficiency of operations.

The original 1991 realignment recommendation cost $78.7 million in Military Construction (MILCON). The estimated cost for this redirect to Barksdale and Altus AFBs is $59.5 million in MILCON, for a projected savings of $19.2 million.

Impacts: There is no significant environmental impact resulting from this change. Environmental restoration of Castle AFB will continue until complete. The impact on the community infrastructure at the new receiving base is not significant.

MacDill Air Force Base, Florida

Recommendation: Change the recommendation of the 1991 Commission regarding MacDill as follows: The Air Force Reserve (AFRES) will temporarily operate the airfield as a reserve base; not open to civil use, until it can be converted to a civil airport. This will accommodate the recommended reassignment of the 482nd Fighter Wing (AFRES) from Homestead AFB to MacDill AFB and its conversion to KC-135 tankers. The Joint Communications Support Element (JCSE) will not be transferred to Charleston AFB, South Carolina as recommended in 1991, but, instead, will remain at MacDill AFB.

Justification: The 1991 Commission recommended a realignment and partial closure of MacDill AFB. Its F-16 training mission has been relocated to Luke AFB, Arizona, and the JCSE was to be relocated to Charleston AFB. Two unified commands, Headquarters Central Command and Headquarters Special Operations Command, were left in place. The airfield was to close.

Several events since 1991 have made a change to the Commission action appropriate. The closure of Homestead AFB requires the relocation of the 482nd Fighter Wing (AFRES). The best location for this unit, when converted to KC-135s, is MacDill AFB. The National Oceanographic and Atmospheric Administration (NOAA) aircraft element has relocated from Miami International Airport to MacDill AFB and would like to remain permanently. NOAA is prepared to pay a fair share of the cost of airport operations.

The AFRES's temporary operation of the airfield will have reduced operating hours and services. The 1991 Commission noted a number of deficiencies of MacDill AFB as a fighter base: "pressure on air space, training areas, and low level routes...not located near Army units that will offer joint training opportunities...[and]... ground encroachment." These are largely inapplicable to an AFRES tanker operation. Encroachment remains a problem, but the reduced number of flights and the increased compatibility of both tanker and NOAA aircraft with the predominant types of aircraft using Tampa International Airport make this viable. As an interim Reserve/NOAA airfield, use will be modest, and it will not be open to large-scale use by other military units.

The original 1991 realignment recommendation cost for the JCSE relocation was $25.6 million in MILCON. Retaining the JCSE at MacDill AFB avoids this cost.

Impacts: The Air Force will continue to encourage transition of the airfield to a civil airport, and, if successful, DoD units could remain as cost sharing tenants. The environmental impact and the impact on the community infrastructure is not significant.

Mather Air Force Base, California

Recommendation: Change the recommendation of the 1991 Commission regarding Mather AFB as follows: Redirect the 940th Air Refueling Group (AFRES) with its KC-135 aircraft to Beale AFB, California vice McClellan AFB, California. Because of the rapidly approaching closure of Mather AFB, the 940th will temporarily relocate to McClellan AFB, while awaiting permanent beddown at Beale AFB.

Justification: Moving the 940th Air Refueling Group (AFRES) to Beale AFB is more cost effective.

The original 1991 realignment cost was $33.7 million in Military Construction (MILCON). The estimated cost for this redirect is $12.5 million in MILCON, for a projected savings of $21.2 million.

Impacts: The environmental impact and the impact on the receiving community infrastructure are minimal. Environmental restoration at Mather AFB will continue until complete.

Rickenbacker Air National Guard Base (ANGB), Ohio

Recommendation: Change the recommendation of the 1991 Commission regarding Rickenbacker ANGB as follows: The 121st Air Refueling Wing (ANG) and the 160th Air Refueling Group (ANG) will move into a cantonment area on the present Rickenbacker ANGB, and operate as a tenant of the Rickenbacker Port Authority (RPA) on RPA's airport. The 907th Airlift Group (AFRES) will realign to Wright-Patterson AFB, Ohio as originally recommended. The 4950th Test Wing will still move to Edwards AFB, California.

Justification: The 1991 Commission recommended closing Rickenbacker ANGB, and realigning the 121st Air Refueling Wing (ANG), the 160th Air Refueling Group (ANG) and the 907th Airlift Group (AFRES) to Wright-Patterson AFB. These units were to occupy facilities being vacated by the 4950th Test Wing, which will move to Edwards AFB to consolidate test units.

The airfield at Rickenbacker is no longer a military responsibility, having been transferred by long term lease to the RPA in 1992. It will be conveyed in fee under the public benefit authority of the Surplus Property Act of 1944 when environmental restoration is complete. The State of Ohio has proposed that under current circumstances, more money could be saved by leaving the ANG tanker units at Rickenbacker ANGB than by moving it to Wright-Patterson AFB. The Air Force has carefully examined his analysis and concluded that it is correct. The current analysis is less costly than the original estimate of moving both Rickenbacker ANGB units to Wright-Patterson AFB, primarily because of the State's later burden-sharing proposal to lower the ANGS long-term operating costs at Rickenbacker.

In a related force structure move, in order to fully utilize the facilities at Wright-Patterson AFB, the Air Force recommends that the 178th Fighter Group move from the Springfield Municipal Airport, Ohio, to Wright-Patterson AFB, about 30 miles away. This unit will fit into the available facilities with little construction. The move will save approximately $1.1 million in base operating support annually based on economies of consolidating some ANG functions with AFRES and active Air Force functions at Wright-Patterson. Since the unit moves only a short distance, retention of current personnel should not be a problem.

The 4950th will still move to Edwards AFB, California from Wright-Patterson AFB, Ohio, to take advantage of the enhanced military value through the efficiency of consolidating test assets.

The original 1991 realignment cost was $37.9 million in Military Construction (MILCON). The cost for this redirect is $26.2 million in MILCON, for a projected savings of $11.7 million.

Impacts: The environmental impact and the impact on the receiving community infrastructure are minimal.

Defense Logistics Agency (DLA) Selection Process

The Director, DLA established a DLA Base Realignment and Closure Executive Group comprised of appropriate Heads of Headquarters Principal Staff Elements. The Executive Group included both executive level civilian and military personnel. The Deputy Director, DLA served as Chairman of the Executive Group. The Executive Group acted as senior advisors to direct the effort and recommend DLA activity realignments and closures for the Director's consideration.

A Working Group was established under the direction of the Executive Group. The Working Group was comprised of a core of full-time members and support staff from all pertinent DLA technical areas. The Working Group collected and analyzed certified data, developed and evaluated recommendations for the Executive Group's consideration, conducted sensitivity analyses, and compiled documentation to support the final DLA recommendations.

In an effort to evaluate DLA activities in a fair and consistent manner the Executive Group merged similar activities together for the purposes of analysis. Categories were derived from the general mission functions of DLA. As a result, DLA defined their five categories as Regional Headquarters, Defense Distribution Depots, Inventory Control Points, Service Support Centers and one-of-a-kind activities such as the Defense Clothing Factory.

After organizing DLA activities into general categories, studies were undertaken to determine the data requirements for conducting a comprehensive activity analysis within each category. Comprehensive data calls were designed to support the excess capacity; military value; and economic, environmental, and community analyses required by DoD guidance in accordance with the selection criteria and corresponding DLA Measures of Merit. The data was requested from Primary Field Level Activities (PFLA), Principal Staff Elements (PSE) within DLA Headquarters, and other governmental and commercial agencies.

The DLA Internal Control Plan for the collection and analysis of data was developed specifically for this effort. The plan provided overall policy guidance and procedures to ensure that data was: consistent and standardized, accurate and complete, certifiable as required by law, verifiable by HQ DLA PSE and PLFA functional managers, auditable by DLA internal review offices and external audit and inspection agencies, and replicable using documentation developed during data collection.

An Internal Control Checklist was developed and distributed as a working document to achieve the objectives of the Internal Control Plan, including the requirement for field commanders to certify the accuracy of their data. To further ensure the validity of field data, functional experts on the Working Group traveled to

selected activities and performed on-site reviews to confirm that accurate, quantifiable, and certifiable data was provided in response to data calls.

In developing the capacity analysis for each category, DLA considered projections for Military Service drawdowns as reflected in the DoD Force Structure Plan, discussed changes in basing and operations with the Military Services, and considered initiatives to improve DLA operational efficiencies and effectiveness.

DLA developed a series of objective questions for each DLA activity in order to determine the amount of physical space and throughput capacity currently available at each location. The data was used to quantify the extent to which an existing DLA facility may have been constrained by physical space, throughput, span of control, or production capability.

DLA analyzed military value to determine the relative ranking of an activity with respect to other installations in the same category, rather than to serve as a performance measure. Military value criteria (the first four DoD selection criteria) were given priority consideration in the assessment of DLA installations for realignment or closure. Since DLA provides support to the Military Services, the Agency is indirectly affected by Service projected force structure changes. Given this added complexity, the Executive Group agreed that more distinctive measures should be identified to assess the military value of DLA activities. Accordingly, DLA developed Measures of Merit to fully address the military value of its activities. DLA's four measures of merit included Mission Essentiality, Mission Suitability, Operational Efficiencies, and Expandability.

The next step in the process was to identify activities with the potential to be realigned or closed and eliminate the remaining activities from further consideration. The results of the excess capacity analysis and the military value review served as the basis for Executive Group decisions. Based on the analyses presented and the accumulated experience of the Executive Group, each DLA activity was reviewed, with further analysis as necessary, to identify potential prospects and eliminate other activities from further review.

Following the screening of DLA activities for excess capacity, military value, and elimination of certain activities from further consideration, scenarios were developed for closure and realignment. During the consideration of potential receiver sites for realignment and closure actions, opportunities for inter-Service/Defense Agency sharing were analyzed. Coordination with the Military Services and other Defense Agencies was vital in gathering data and developing realignment and closure alternatives.

The Working Group evaluated potential realignment scenarios using the COBRA model. The model assessed the relative economic value of realignment and closure alternatives in terms of costs,

savings and return on investment. The Executive Group considered community, infrastructure, and environmental impact in accordance with DoD policy guidance, and the DoD selection criteria for impacts.

The Director DLA reviewed the recommendations of the DLA Executive Group and forwarded his recommendations to the Assistant Secretary of Defense for Production & Logistics on February 22, 1993.

Defense Electronics Supply Center (Gentile AFS, Ohio)

Recommendation: Close the Defense Electronics Supply Center (DESC) (Gentile AFS), Dayton, Ohio, and relocate its mission to the Defense Construction Supply Center, Columbus, Ohio.

Justification: DESC is one of four hardware Inventory Control Points (ICP). It is currently the host at Gentile Air Force Station in Dayton, Ohio. The only other tenant at Gentile AFS is the Defense Switching Network (DSN). The base has a large number of warehouses (vacant since the depot closed in the mid-seventies) which require extensive renovation before they could be used as administrative office space. The Agency has no plans to re-open the Depot at this location.

The hardware ICPs are all similar in missions, organizations, personnel skills and common automated management systems. The ICP Concept of Operations which takes into account the DoD Force Structure Plan, indicates that consolidation of ICPs can reduce the cost of operations by eliminating redundant overhead operations. The Consumable Item Transfer will be completed in FY 94 and consolidation can begin after that transfer has been completed.

Consolidating DESC and DCSC at both Columbus and Dayton was considered. The Columbus location provided the best overall payback and could allow for the complete closure of Gentile Air Force Station, Dayton, Ohio. DCSC currently has approval for construction of a 700,000 square foot office building which should be completed in FY 96. This building will provide adequate space for expansion of the ICP. As a result of the closure of DESC, Gentile Air Force Station will be excess to Air Force needs. The Air Force will dispose of it in accordance with existing policy and procedure. It is the intent of the Air Force that the only other activity, a Defense Switching Network terminal phase out within the time frame of the DESC closure. If the terminal is not phased out during this period, it will remain as a stand alone facility.

Return on Investment: Total estimated one time cost for this action is $108 million. Annual steady state savings are $36.8 million with a return on investment in one year.

Impacts: Closing DESC will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 1.3 percent of the employment base in the Dayton-Springfield Metropolitan Statistical Area, assuming no economic recovery. Note: Other 1993 closure and/or realignment recommendations bring the total impact on the Dayton-Springfield Metropolitan Statistical Area to 1.2 percent. Potential environmental and community infrastructure impacts of consolidation of DESC with DCSC are minimal.

Defense Personnel Support Center and Defense Clothing Factory, Philadelphia, Pennsylvania

Recommendation: Close the Defense Personnel Support Center (DPSC), Philadelphia, Pennsylvania, and relocate its mission to the Defense Distribution Region East, New Cumberland, Pennsylvania. Close the Defense Clothing Factory, relocate the personnel supporting the flag mission, and use existing commercial sources to procure the clothing factory products.

Justification: DPSC is the host of this Army-permitted activity in Philadelphia, Pennsylvania. The installation also houses the Clothing Factory, the Defense Contract Management District Midatlantic,and other tenants with approximately 800 personnel. The decision to close the Clothing Factory is based on the premise that clothing requirements for the armed forces can be fulfilled cost-effectively by commercial manufacturers, without compromising quality or delivery lead time. DPSC was not reviewed as part of the ICP category since it manages a much smaller number of items which have a significantly higher dollar value than the hardware ICPs. The activity has no administrative space available, but does have a small number of buildable acres. Environmental problems at DPSC would make building or extensive renovations impossible for some time in the future.

With the movement of DCMD Midatlantic and the Clothing Factory out of DPSC, the Working Group examined options to either utilize the base as a receiver or move DPSC to another location. Scenarios were built so that activities moved to locations where excess space had been identified. DISC, currently a tenant at ASO which is recommended for closure by the Navy, was considered for possible realignment to DPSC. A scenario which realigned DPSC to ASO where DLA would assume responsibility for the base was analyzed. Another, which split the three commodities at DPSC between DGSC and DCSC was also examined.

The distribution depot at New Cumberland has available buildable acres. Additionally, another recommendation moves DISC, a hardware ICP from Philadelphia to New Cumberland. This allows several activities to be consolidated. The presence of three ICPs and major DLA facilities in the area will create significant opportunities for savings and efficiencies in the future. As a result of the closure of DPSC, the property will be excess to Army needs. The Army will dispose of it in accordance with existing policy and procedure.

Return on Investment: Total estimated one time cost for these closures is $173.0 million. Annual steady state savings are $90.6 million with an immediate return on investment.

Impacts: Closing DPSC and the Clothing Factory will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 0.4 percent of the employment base in the Philadelphia Metropolitan Statistical Area, assuming no economic recovery. Note: Other 1993 closure and/or realignment recommendations bring the total impact on the Philadelphia Metropolitan Statistical Area to 0.8 percent.

The closure will ultimately result in a reduction in air emissions, wastewater discharges, and solid waste.

Defense Distribution Depot Oakland, California

Recommendation: Disestablish Defense Distribution Depot Oakland, CA (DDOC), and relocate the primary mission to Defense Distribution Depot Tracy, CA (DDTC), Defense Distribution Depot Sharpe, CA (DDSC), and Defense Distribution Depot San Diego, CA (DDDC). Slow moving or inactive materiel remaining at DDOC at the time of closure will be relocated to other available storage space within the DoD Distribution System.

Justification: The decision to realign DDOC was driven by the Navy's decision to close Oakland Navy Base and Naval Air Station Alameda. The closure of the Navy Supply Center at Oakland (fleet support) and the Naval Aviation Depot at Alameda removed the customer base from Oakland. This closure along with substandard facilities contributed to the decision to realign the distribution mission out of Oakland. DDOC rated 14 out of 29 in the military value matrix. Except for two depots, all depots rated lower than DDOC are collocated with a maintenance depot. The other two depots exceed Oakland's throughput capacity and storage space.

Return on Investment: This disestablishment is in combination with the recommended disestablishment of the Tooele, McClellan, Charleston, Pensacola, and Letterkenny distribution depots. Combined estimated one-time costs for these disestablishments is $137.0 million. Annual steady-state savings are $31.2 million with a return on investment in two years.

Impacts: The disestablishment of Defense Distribution Depot Oakland will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 0.1 percent of the employment base in the Oakland Metropolitan Statistical Area, assuming no economic recovery. Note: Other 1993 closure and/or realignment recommendations bring the total impact on the Oakland Metropolitan Statistical Area to 4.9 percent. There will be no significant environmental or community infrastructure impacts.

Defense Distribution Depot Pensacola, Florida

Recommendation: Disestablish Defense Distribution Depot Pensacola, FL (DDPF), and relocate the mission to Defense Distribution Depot Jacksonville, FL (DDJF). Slow moving and/or inactive materiel remaining at DDPF at the time of the disestablishment will be relocated to available storage space within the DoD Distribution System.

Justification: The decision to disestablish DDPF was driven by the Navy's decision to close the Naval Supply Center and Naval Aviation Depot, Pensacola, eliminating DDPF's customer base. The loss of customer base along with sufficient storage space in the DoD distribution system drove the disestablishment. DDPF rated 10 out of 29 in the military value matrix. All depots rated lower than DDPF are collocated with their primary customer, a maintenance depot.

Return on Investment: This disestablishment is in combination with the recommended disestablishment of the Tooele, McClellan, Charleston, Oakland, and Letterkenny distribution depots. Combined estimated one-time costs for these disestablishments is $137.0 million. Annual steady-state savings are $31.2 million with a return on investment in two years.

Impacts: The disestablishment of Defense Distribution Depot Pensacola will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 0.2 percent of the employment base in the Pensacola Metropolitan Statistical Area, assuming no economic recovery. Note: Other 1993 closure and/or realignment recommendations increase the employment base in the Pensacola Metropolitan Statistical Area by 4.2 percent. There will be no significant environmental or community infrastructure impacts.

Defense Contract Management District Midatlantic, Philadelphia, Pennsylvania, and Defense Contract Management District Northcentral, Chicago, Illinois

Recommendation: Disestablish Defense Contract Management District Midatlantic (DCMDM) and Defense Contract Management District Northcentral (DCMDN), and relocate the missions to DCMD Northeast, DCMD South and DCMD West.

Justification: The Defense Contract Management Districts perform operational support and management oversight of 105 Defense Contract Management Area Operations (DCMAOs) and Defense Plant Representative Offices (DPROs). Since the establishment of the DCMDs a number of DCMAOs and DPROs have been disestablished thereby reducing the span of control responsibility of the five DCMDs. Based on the assumptions derived from the DoD Force Structure Plan it is anticipated that the DCMD span of control will not increase in future years. This allows for the reconfiguration of the DCMDs by realigning responsibility for the operational activities, thereby reducing the number of headquarters facilities which perform operational support and management oversight. All plant and area operations would continue to be under geographically aligned Districts. The Military Value analysis resulted in the recommendation to disestablish the midatlantic and northcentral activities and relocate their missions to the three remaining districts.

Return on Investment: Total estimated one time costs for this closure are $18.7 million. Annual steady state savings are $20.1 million with an immediate return on investment.

Impacts: Disestablishment of DCMD Midatlantic will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 0.0002 percent of the employment base in the Philadelphia Metropolitan Statistical Area, assuming no economic recovery. Note: Other 1993 closure and/or realignment recommendations bring the total impact on the Philadelphia Metropolitan Statistical Area to 0.8 percent

The disestablishment of DCMD Northcentral will have a similar negligible impact on the local economy in the Chicago Metropolitan Statistical Area. The projected potential employment loss, both direct and indirect, is 0.0002 percent of the employment base in the Chicago Metropolitan Statistical Area, assuming no economic recovery.

There are no significant environmental or community infrastructure impacts resulting from these actions.

Defense Logistics Service Center and Defense Reutilization and Marketing Service, Battle Creek, Michigan

Recommendation: Disestablish the Defense Logistics Services Center (DLSC) and collocate its mission with the Defense Construction Supply Center (DCSC), Columbus, Ohio.

Relocate the Defense Reutilization and Marketing Service, Battle Creek, Michigan, to the Defense Construction Supply Center (DCSC), Columbus, Ohio. DCSC will provide all necessary support services for the relocated personnel. Two separate functional areas, Logistics Information Management and Logistics Information Distribution, will be assigned to the DLA Inventory Control Point (ICP) to accommodate the operational mission areas now performed by DLSC.

Justification: With the implementation of DMRD 918, "Defense Information Infrastructure Resource Plan," the responsibility for Central Design Activity (CDA) and Information Processing Centers (IPC) were assigned to the Defense Information Technology Service Organization. As a result of the realignment the continued need of DLSC as a stand alone organization was evaluated. By consolidating functions at a DLA ICP, all support services can be performed by the receiving activity. Some of the functions currently being performed by DLSC NATO Codification personnel can be distributed among the remaining DLA hardware centers, thereby consolidating similar functions. This relocation also places HQ DRMS Battle Creek, Michigan, and Operations East, Columbus, Ohio, with a DLA Inventory Control Point to facilitate overall materiel management. Savings result from moving DLSC and DRMS from GSA-leased space.

Return on Investment: Total estimated one time cost for these actions is $33.9 million. Annual steady state savings are $55.6 million with an immediate return on investment.

Impacts: Disestablishing DLSC and relocating DRMS will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 2.2 percent of the employment base in the Battle Creek Metropolitan Statistical Area, assuming no economic recovery. Potential environmental and community infrastructure impacts of these actions are minimal.

Defense Distribution Depot Letterkenny, Pennsylvania (DDLP)

Recommendation: Disestablish Defense Distribution Depot Letterkenny, Pennsylvania (DDLP) and relocate the depot's functions and materiel to Defense Distribution Depot Tobyhanna, PA (DDTP), Defense Distribution Depot Anniston, AL and Defense Distribution Depot Red River, TX (DDRT). Active consumable items will be moved to Defense Depot New Cumberland, PA, and Defense Depot Mechanicsburg, PA. Any remaining materiel will be placed in available storage space within the DoD Distribution System.

Justification: The decision to disestablish DDLP was driven by the Army decision to realign the Letterkenny Army Depot and consolidate its depot maintenance functions with those existing at Tobyhanna Army Depot, PA, Anniston Army Depot, AL, and Red River Army Depot, TX. Realignment of DDLP's primary customer and substandard facilities drive the decision to relocate the distribution mission to DDRT. DDLP rated 25 out of 29 in the military value matrix. All depots rated lower than DDLP are collocated with their primary customer, a maintenance depot.

Return on Investment: This disestablishment is in combination with the recommended disestablishment of the Tooele, Oakland, Charleston, Pensacola, and McClellan distribution depots. Combined estimated one-time costs for these disestablishments is $137.0 million. Annual steady-state savings are $31.2 million with a return on investment in two years.

Impacts: The disestablishment of Defense Distribution Depot Letterkenny will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 1.1 percent of the employment base in the Franklin County Metropolitan Statistical Area, assuming no economic recovery. Note: Other 1993 closure and/or realignment recommendations bring the total impact on the Franklin County Metropolitan Statistical Area to 8.9 percent. There will be no significant environmental or community infrastructure impacts.

Defense Distribution Depot Charleston, South Carolina

Recommendation: Disestablish Defense Distribution Depot Charleston, SC (DDCS), and relocate the mission to Defense Distribution Depot Jacksonville, FL (DDJF). Slow moving and/or inactive materiel remaining at DDCS at the time of the realignment will be relocated to available storage space within the DoD Distribution System.

Justification: The decision to realign DDCS was driven by the Navy's decision to close several naval activities in Charleston, SC ,eliminating DDCS's customer base. The loss of customer base along with sufficient storage space in the DoD distribution system drove the disestablishment. DDCS rated 6 out of 29 in the military value matrix. All depots rated lower than DDCS are collocated with their primary customer, a maintenance depot.

Return on Investment: This disestablishment is in combination with the recommended disestablishment of the Tooele, McClellan, Pensacola, Oakland, and Letterkenny distribution depots. Combined estimated one-time costs for these disestablishments is $137.0 million. Annual steady-state savings are $31.2 million with a return on investment in two years.

Impacts: The disestablishment of Defense Distribution Depot Charleston will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 0.2 percent of the employment base in the Charleston Metropolitan Statistical Area, assuming no economic recovery. Note: Other 1993 closure and/or realignment recommendations bring the total impact on the Charleston Metropolitan Statistical Area to 15 percent. There will be no significant environmental or community infrastructure impacts.

Defense Distribution Depot Tooele, Utah

Recommendation: Disestablish Defense Distribution Depot Tooele, Utah (DDTU). Relocate the depot's functions/materiel to Defense Distribution Depot Red River, TX (DDRT). Any remaining materiel will be placed in available space in the DoD Distribution System.

Justification: The decision to disestablish DDTU was driven by the Army decision to realign Tooele Army Depot and consolidate its depot maintenance functions with those existing at Red River Army Depot. The realignment of DDTU's primary customer and the substandard facilities drive the decision to disestablish DDTU and relocate its functions and materiel to DDRT. DDTU rated 18 out of 29 in the military value matrix. With the exception of one depot (Columbus, Ohio), lower rated depots are collocated with their primary customer, a maintenance depot. The Columbus depot has almost twice the storage capacity and four times the issue throughput capacity as DDTU.

Return on Investment: This disestablishment is in combination with the recommended disestablishment of the Letterkenny, Oakland, Charleston, Pensacola, and McClellan distribution depots. Combined estimated one-time costs for these disestablishments is $137.0 million. Annual steady-state savings are $31.2 million with a return on investment in two years.

Impacts: The disestablishment of Defense Distribution Depot Tooele will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 3.4 percent of the employment base in the Tooele County Metropolitan Statistical Area, assuming no economic recovery. Note: Other 1993 closure and/or realignment recommendations bring the total impact on the Tooele County Metropolitan Statistical Area to 34.1 percent. There will be no significant environmental or community infrastructure impacts.

Defense Contract Management District West, El Segundo, California

Recommendation: Relocate the Defense Contract Management District West (DCMD West), El Segundo, CA, to Long Beach Naval Shipyard, Los Angeles, CA.

Justification: The DCMD West is currently located in GSA-leased administrative space in El Segundo, CA. Significant savings will result by moving the organization from GSA space to a building on Government property at Long Beach Naval Station, CA. A number of available DoD properties were considered as potential relocation sites. The Naval Shipyard was selected because it does not involve the payment of Personnel Change of Station (PCS) costs. This move may require new construction to provide a building to receive the DCMD West.

Return on Investment: Total estimated one time costs for this relocation are $12.4 million. Annual steady state savings are $6.0 million with an immediate return on investment. The estimated one time cost includes the potential cost of construction, should that be required.

Impacts: Relocating DCMD West will have no negative impact on the local economy since it is an intra-area move. However, DCMD West is receiving personnel as a result of the overall DCMC consolidation. There is no significant environmental or community infrastructure impact resulting from this relocation.

Defense Industrial Supply Center, Philadelphia, Pennsylvania

Recommendation: Relocate the Defense Industrial Supply Center (DISC), a hardware Inventory Control Point (ICP), located in Philadelphia, Pennsylvania, to New Cumberland, Pennsylvania.

Justification: DISC is a tenant of the Navy's Aviation Supply Office (ASO) located in Philadelphia. With the Navy decision to close ASO during BRAC 93, DISC must either be relocated or remain behind and assume responsibility for the base.

The Executive Group considered options where square footage or buildable acres existed. Also, only locations where ICPs currently exist were considered.

Collocation with DCSC, DESC and DGSC were also considered. DGSC has buildable acres but no space available. DESC has warehouse space and DCSC will have administrative space in 1997. However, with the recommended closures of DESC and realignment with DCSC, the additional move of DISC to DCSC was considered too risky. Scenarios were run splitting DISC among the remaining hardware centers and splitting DISC between DCSC and DGSC. Both options were considered too risky because proposed moves split managed items to multiple locations.

Locating DISC at Defense Distribution Region East, a DLA activity located at New Cumberland, Pennsylvania, and the presence of three ICPs and major DLA facilities in the area will create significant opportunities for savings and efficiencies in the future. The relocation of DISC to New Cumberland provides the best payback for DoD. The relocation allows the Navy to close and dispose of ASO.

Return on Investment: Total estimated one time cost for this relocation is $95.6 million. Annual steady state savings are $20.7 million with a return on investment in four years.

Impacts: Relocating DISC will have an impact on the local economy. The projected potential employment loss, both direct and indirect, is 0.2 percent of the employment base in the Philadelphia Metropolitan Statistical Area, assuming no economic recovery. Note: Other 1993 closure and/or realignment recommendations bring the total impacts on the Philadelphia Metropolitan Statistical Area to 0.8 percent. The potential environmental impacts of relocating DISC to New Cumberland are minimal and there are no community infrastructure impediments.

Defense Information Systems Agency (DISA) Selection Process

As a first step in the consolidation process, the Director of the Defense Information Technology Services Office (DITSO) established the DoD Data Center Consolidation Planning Team to develop a Data Processing Center (DPC) consolidation plan. The Planning Team adopted a site selection process that calls for identifying the existing sites that have the greatest potential for serving as consolidated DPCs. The methodology involved the following steps:

- o Identify the candidate DPCs
- o Validate site information and apply ranking criteria
- o Determine the total data processing requirement
- o Determine the appropriate number of megacenters
- o Develop a technical plan for migration of DoD data processing workload from the existing DPCs to the megacenters

The methodology carefully considered the risks associated with both site selection and consolidation. The plan builds on the work done by the Services in support of Defense Management Report Decision 924. Site selection risk has been further reduced by conducting a sensitivity analysis on the site selection criteria.

The methodology for ranking the megacenters involved a two step process. First, the criteria for selecting a megacenter site were identified. These criteria were then weighted according to their importance as a discriminator in the ranking of sites, with the total weights adding to 100 percent. The criteria fell into three broad categories: 1) Facilities criteria, which account for 50 percent of the total weight, 2) Security criteria, which account for 35 percent of the total weight, and 3) Operations criteria which account for 15 percent of the total weight. Each site could receive a total of ten points for each of the criteria. The points assigned were then multiplied by the weight factor for each criterion and summed to determine the score for each potential megacenter site.

Thirty-six megacenter candidates were scored against the criteria to establish a candidate ranking. Site visits were made to validate the Service-supplied data.

The number of megacenters required was determined by totaling the processing workload requirements of all sites to be consolidated and distributing these requirements, beginning with the top-ranked site, until all the requirements were satisfied. A sensitivity analysis was performed to determine how much the site ranking order depended n the weights assigned to each criterion and the inclusion or exclusion of a specific criteria.

DoD Data Center Consolidation

Recommendation: Execute a DoD-wide Data Center Consolidation Plan that disestablishes 44 major data processing centers (DPCs) by consolidating their information processing workload into fifteen standardized, automated "megacenters" located in existing DoD facilities.

The 44 DPCs recommended for disestablishment are located at the following DoD installations:

Navy Sites

NCTS San Diego, CA
NSC Puget Sound, WA
NSC Norfolk, VA
NAWC AD Patuxent River, MD
NAWC WD Point Mugu, CA
NSC Pearl Harbor, HI
NAS Whidbey Island, WA
TRF Kings Bay, GA
NAS Key West, FL
NAS Oceana, VA
NCTAMSLANT Norfolk, VA
NCTS New Orleans, LA
CRUITCOM Arlington, VA
NARDAC San Francisco, CA
NCCOSC San Diego, CA
NSC Charleston, SC
ASO Philadelphia, PA
NCTS Pensacola, FL
NAWC WD China Lake, CA
FISC San Diego, CA
FACSO Port Hueneme, CA
TRF Bangor, WA
NAS Brunswick, ME
NAS Mayport, FL
EPMAC New Orleans, LA
BUPERS Washington, DC
NCTS Washington, DC
NCTAMS EASTPAC Pearl Harbor, HI
NAVDAF Corpus Christi, TX

Marine Corps Sites

MCAS Cherry Point, NC
RASC Camp Pendleton, CA
RASC Camp Lejeune, NC
MCAS El Toro, CA

Air Force Sites

CPSC San Antonio, TX
AFMPC Randolph AFB, TX
7th CG, Pentagon, VA
RPC McClellan AFB, CA

Defense Logistics Agency Sites

IPC Battle Creek, MI
IPC Philadelphia, PA
IPC Ogden, UT
IPC Richmond, VA.

Defense Information Systems Agency Sites

DITSO Indianapolis IPC, IN
DITSO Columbus Annex (Dayton), OH
DITSO Kansas City IPC, KS

Recommended Megacenter Locations

- Columbus, Ohio
- Ogden, Utah
- San Antonio, Texas
- Rock Island, Illinois
- Montgomery, Alabama
- Denver, Colorado
- Warner-Robins, Georgia
- Huntsville, Alabama
- Mechanicsburg, Pennsylvania
- Dayton, Ohio
- St. Louis, Missouri
- Oklahoma City, Oklahoma
- Jacksonville, Florida
- Chambersburg, Pennsylvania
- Cleveland, Ohio

Justification: A DPC is an organizationally defined set of dedicated personnel, computer hardware, computer software, telecommunications, and environmentally conditioned facilities whose primary function is to provide computer processing support for customers. The DPCs to be closed were transferred from the Military Departments and Defense Agencies to the Defense Information Systems Agency (DISA) under the guidelines of Defense Management Report Decision (DMRD) 918. Rapid consolidation of these facilities is necessary to accommodate a significant portion of the DMRD 918 budget savings totaling $4.5 billion while continuing to support the mission and functions of DoD at the required service levels.

Consolidation of DPCs is one of several cost saving initiatives underway within DISA. Best industry practice in the private sector has established the viability and desirability of this approach. It will position DoD to more efficiently support common data processing requirements across Services by leveraging information technology and resource investments to meet multiple needs. In the long term, it will increase the Military Departments' and Defense Agencies' access to state-of-the-art technology while requiring fewer investments to support similar Service needs. This is an aggressive plan that will ultimately position DoD to support business improvement initiatives, down-sizing, and streamlining through the efficient use and deployment of technology. DISA has undertaken an extensive evaluation of candidate megacenters to ensure that the facilities, security, and ongoing operations will support an efficient and flexible Defense Information Infra-structure capable of meeting the requirements of the Defense community.

During the evaluation process the IPC at McClellan Air Force Base rated high enough to be selected as a megacenter site. However, with the Air Force's recommendation to close McClellan Air Force Base the McClellan IPC was removed from further consideration.

Return on Investment: Total estimated one time cost for this recommendation is $408 million. Annual steady state savings are $290 million with an immediate return on investment.

Impacts: The consolidation will have minimal impact on the communities and environment at both the existing and target DPC sites.

Table 1 - BASE CLOSURE AND REALIGNMENT RECAP

Baseline: Base Structure Report (495-U.S. includes 10 territories and possessions)

1988 Commission

16 Closures

Chanute AFB, IL
Mather AFB, CA
Pease AFB, NH
George AFB, CA
Norton AFB, CA
Naval Station Brooklyn, NY
Phila Naval Hosp, PA
Naval Station Galveston, TX
Naval Station Lake Charles, LA
Presidio of San Francisco, CA
Fort Sheridan, IL
Jefferson Proving Ground, IN
Lexington Army Depot, KY
Army Material Tech Lab, MA
Fort Douglas, UT
Cameron Station, VA

11 Realignments

Naval Station Puget Sound, WA
Pueblo Army Depot, CO
Umatilla Army Depot, OR
Fort Dix, NJ
Fort Bliss, TX
Fort Meade, MD
Fort Monmouth, NJ
Fort Huachuca, AZ
Fort Holabird, MD
Fort Devens, MA
Fort McPherson, GA

1991 Commission

26 Closures

Fort Ben Harrison, IN
Fort Devens, MA
Fort Ord, CA
Sacramento Army Depot, CA
Hunters Point Annex, CA
Tustin MCAS, CA
Chase Field NAS, TX
Moffett NAS, CA
Naval Station Long Beach, CA
Naval Station Philadelphia, PA
Philadelphia Naval Shipyard, PA
Naval Station Puget Sound, WA
NAV ELEC SYS ENGR CTR, San Diego, CA
Bergstrom AFB, TX
Carswell AFB, TX
Eaker AFB, AR
England AFB, LA
Grissom AFB, IN
Loring AFB, ME
Lowry AFB, CO
Myrtle Beach AFB, SC
Richards-Gebaur ARS, MO
Rickenbacker AGB, OH
Williams AFB, AZ
Wurtsmith AFB, MI
Castle AFB, CA

19 Realignments

MacDill AFB, FL
Beale AFB, CA
AVSCOM/TROSCOM, MO
Fort Chaffee, AR
Fort Polk, LA
Letterkenny Army Depot, PA
Rock Island Arsenal, IL
NAVAIR Eng Ctr, Lakehurst, NJ
NAVAIR Devel Ctr, Warminster, PA
NAVAIR Propul Ctr, Trenton, NJ
NAV ORD STA, Indian Head, MD
NAV ORD STA, Louisville, KY
NAV Avionics Ctr, Indianpolis, IN
NAV Costal Sys Ctr, Panama City, FL
NAV Surf Wpns Ctr, White Oak, MD
NAV Undsea Warfre Eng Sta, Keyport, WA
NAV Wpns Ctr, China Lake, CA
NAV Wpns Sup Ctr, Crane, IN
Pac Misle Tst Ctr, Point Mugu, CA

Table 2A - Major Domestic Closures

	U.S. Bases	BRAC 88	BRAC 91	BRAC 93	Bases Remaining	Reduction
Army	109	-7	-4	-2	96	12%
Navy/USMC	168	-4	-9	-23	132	21%
Air Force	206	-5	-13	-4	184	11%
Defense Agencies	12	0	0	-2	10	17%
Totals	495	-16	-26	-31	422	15%

Table 2B - Major Domestic Realignments

	BRAC 88	BRAC 91	BRAC 93	Bases Affected
Army	10	5	4	19
Navy/USMC	1	12	5	18
Air Force	0	2	3	5
Defense Agencies	0	0	0	0
Totals	11	19	12	42

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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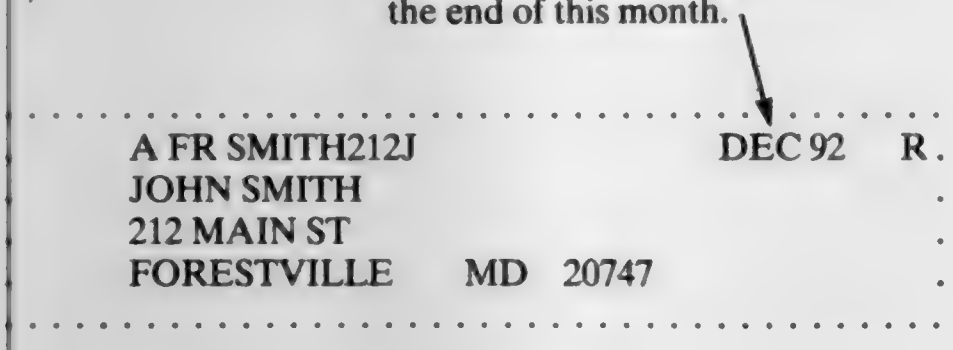

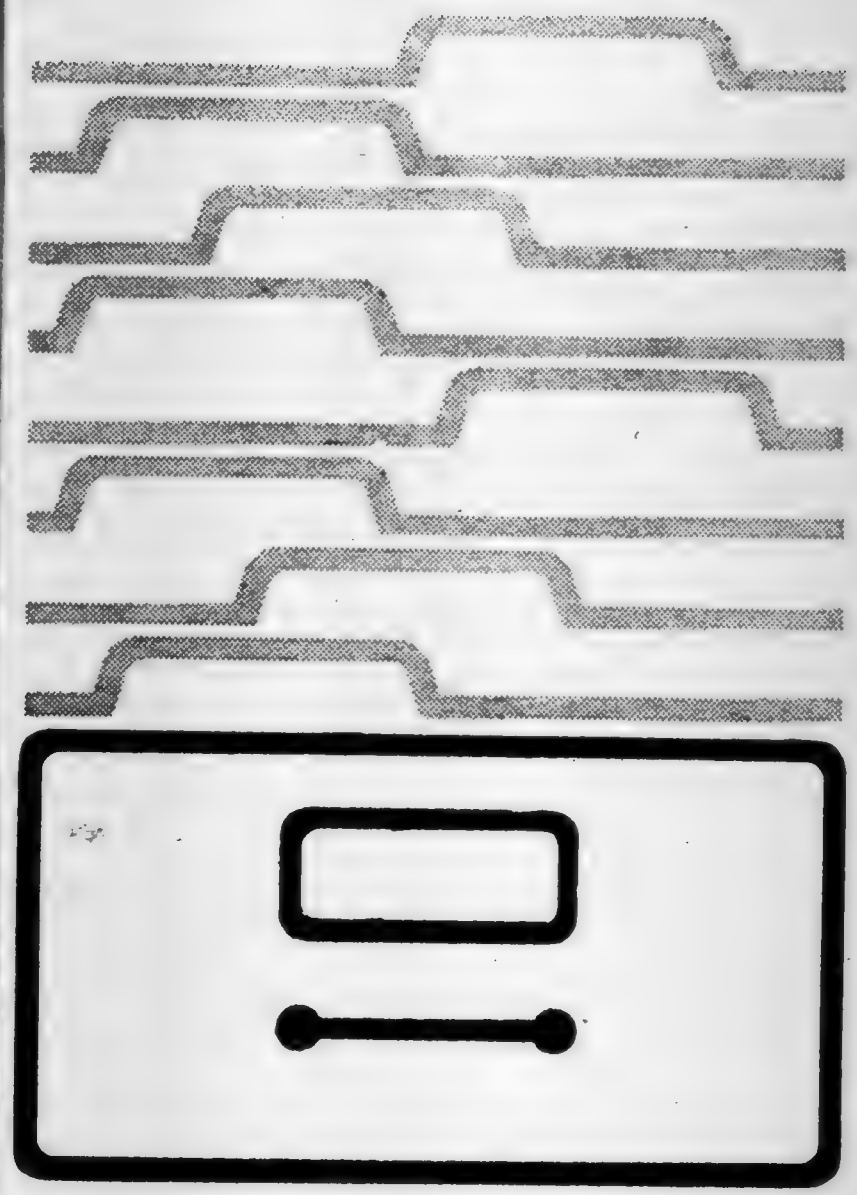

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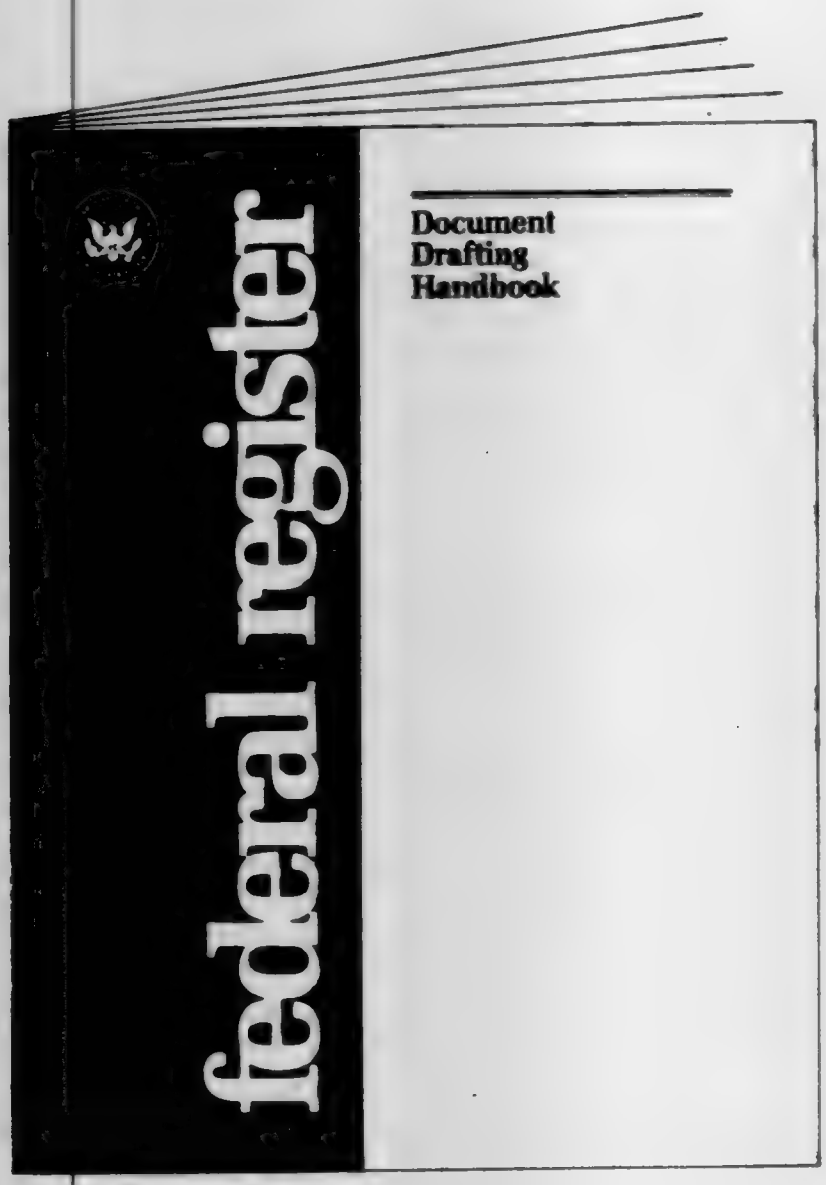

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Rules and Regulations

Federal Register
Vol. 58, No. 49
Tuesday, March 16, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 208, 209, and 274a

[INS No. 1347C–92; AG Order No. 1651–93]

RIN 1115–AC93

Fees for Processing Certain Asylee/Refugee Related Applications; Correction

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule; correction of effective date.

SUMMARY: On March 3, 1993, the Immigration and Naturalization Service published at 58 FR 12146 a final rule entitled "Fees for Processing Certain Asylee/Refugee Related Applications". The effective date for that rule was incorrectly cited as March 18, 1993. The correct effective date is April 2, 1993.

EFFECTIVE DATE: April 2, 1993.

FOR FURTHER INFORMATION CONTACT: Barbara Atherton, Chief, Fee Analysis and Operations Branch, Immigration and Naturalization Service, 425 I Street NW., room 6240, Washington, DC 20536, telephone (202) 514–2677.

Dated: March 11, 1993.

Stuart M. Gerson,

Acting Attorney General.

[FR Doc. 93–6113 Filed 3–12–93; 12:36 pm]

BILLING CODE 4410–10–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 102

Privacy Act of 1974; Implementation

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988 (Act), established a system to regulate the use of computer matching conducted by federal agencies. Specifically, the Act provides that computer matching involving federal data can be conducted only pursuant to matching agreements entered into by the agency providing the data to be matched and the agency receiving the data. Further, the Act provided authority for the establishment of a Data Integrity Board at each federal agency conducting or participating in a computer matching program. This rule implements the Act by incorporating, verbatim, the language of the statute into SBA's regulations.

DATES: This rule shall be effective March 16, 1993.

FOR FURTHER INFORMATION CONTACT: Beverly K. Linden; Chief, Freedom of Information/Privacy Act; Office of Hearings and Appeals; U.S. Small Business Administration; Washington, DC 20416; (202) 653–6460.

SUPPLEMENTARY INFORMATION: The Act established a system to regulate the use of computer matching conducted by federal agencies. Computer matching is the computerized comparison of records for the purpose of establishing or verifying eligibility for a federal benefit program or for recouping payments or delinquent debts owed under such programs. However, matches performed for statistical, research, law enforcement, tax, and certain other purposes were not covered by Public Law 100–503. This rule implements the Act by incorporating, verbatim, the language of the statute into SBA's regulations.

Essentially, the Act, and this rule, provide that computer matching involving federal data can be conducted pursuant to matching agreements entered into by the agency providing the data to be matched and the agency receiving the data. Pursuant to Public Law 100–503, matching agreements must specify the purpose and legal authority for the matching program, describe the nature of the match and the expected results, include procedures for notifying individuals affected by the match and verifying the information matched, and the agreement must describe how the records will be protected. With respect to verification and notice, the Act makes clear that matching agreements state that information resulting from a computer matching program must be independently verified before any adverse action can be taken and that individuals must be given notice and an opportunity to contest any finding resulting from a computer match.

In addition, the Act requires that each federal agency involved in a computer matching program establish a Data Integrity Board made up of senior agency officials. The Board's purpose is to review and approve computer matching programs and matching agreements. Further, the Board will evaluate compliance of computer matching programs with both statutory and regulatory requirements, as well as file an annual report with the Office of Management and Budget.

In order to implement these statutory mandates, SBA is including the language of section 2 and 4 of the Act into its Privacy Act regulations. This language will be added as a new § 102.27 of title 13, Code of Federal Regulations.

Due to the fact that this rule simply inserts statutory language into the current regulation, SBA is not required to determine if it constitutes a major rule for purposes of Executive Order 12291, to determine if it has a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), to do a Federalism Assessment pursuant to Executive Order 12612, or to determine if this rule imposes an annual recordkeeping or reporting requirement on 10 or more persons under the Paperwork Reduction Act (44 U.S.C. ch. 35). For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

SBA is publishing this regulation as a final rule without opportunity for public comment pursuant to 5 U.S.C. 553(b)(B). SBA believes public comment on this rule to be unnecessary as the rule merely incorporates, verbatim, the language of a constitutionally enacted statute in its program regulations.

List of Subjects in 13 CFR Part 102

Privacy.

For the reasons set forth above, SBA is amending part 102 of title 13, Code of Federal Regulations, as follows.

PART 102—[AMENDED]

1. The authority citation for part 102 subpart B continues to read as follows:

Authority: Privacy Act of 1974 (Pub. L. 93–579), 88 Stat. 1896 (5 U.S.C. 552a).

§§ 102.27 through 102.36 [Redesignated as §§ 102.28 through 102.37]

2. Part 102 of Title 13, Code of Federal Regulations, is amended by redesignating §§ 102.27 through 102.36 as §§ 102.28 through 102.37, respectively, and by adding a new § 102.27 under undesignated center heading "Disclosures" to read as follows:

Disclosures

§ 102.27 Matching Program procedures.

(a) *Matching agreements.* SBA shall not disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between SBA and the recipient agency or non-Federal agency specifying:

(1) The purpose and legal authority for conducting the program;

(2) The justification for the purpose and the anticipated results, including a specific estimate of any savings;

(3) A description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

(4) Procedures for providing individualized notice at the time of application, and periodically thereafter as directed by the Data Integrity Board, that any information provided by any of the above may be subject to verification through matching programs to:

(i) Applicants for and recipients of financial assistance or payments under Federal benefit programs, and

(ii) Applicants for and holders of positions as Federal personnel;

(5) Procedures for verifying information produced in such matching program as required by paragraph (c) of this section.

(6) Procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

(7) Procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

(8) Prohibitions on duplication and redisclosure of records provided by SBA within or outside the recipient agency or non-Federal agency, except where required by law or essential to the conduct of the matching program;

(9) Procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program by SBA, including procedures governing return of the records to SBA or destruction of records used in such programs;

(10) Information on assessments that have been made on the accuracy of the records that will be used in such matching programs; and

(11) That the Comptroller General may have access to all records of a recipient agency or non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

(b) *Agreement specifications.* A copy of each agreement entered into pursuant to paragraph (a) of this section shall be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Governmental Operations of the House of Representatives and be available upon request to the public.

(1) No such agreement shall be effective until 30 days after the date on which a copy is transmitted.

(2) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

(3) Within three months prior to the expiration of such an agreement, the Data Integrity Board may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if:

(i) Such program will be conducted without any change; and

(ii) Each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

(c) *Verification.* In order to protect any individual whose records are used in matching programs, SBA and any recipient agency or non-Federal agency may not suspend, terminate, reduce, or make a final denial of any financial assistance or payment under the Federal benefit program to such individual, or take other adverse action against such individual as a result of information produced by such matching programs, until such information has been independently verified.

(1) Independent verification requires independent investigation and confirmation of any information used as a basis for an adverse action against an individual including, where applicable:

(i) The amount of the asset or income involved,

(ii) Whether such individual actually has or had access to such asset or income or such individual's own use, and

(iii) The period or periods when the individual actually had such asset or income.

(2) SBA and any recipient agency or non-Federal agency may not suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program, or take other adverse action as a result of information produced by a matching program,

(i) Unless such individual has received notice from such agency containing a statement of its findings and informing the individual of the opportunity to contest such findings, and

(ii) Until the subsequent expiration of any notice period provided by the program's law or regulations, or 30 days, whichever is later. Such opportunity to contest may be satisfied by notice, hearing, and appeal rights governing such Federal benefit program. The exercise of any such rights shall not effect any rights available under the Privacy Act.

(3) SBA may take any appropriate action otherwise prohibited by the above if SBA determines that the public health safety may be adversely affected or significantly threatened during the notice period required by paragraph (c)(2)(ii) of this section.

(d) *Sanctions.* Notwithstanding any other provision of law, SBA may not disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if SBA has any reason to believe that the requirements of paragraph (c) of this section, or any matching agreement entered into pursuant to paragraph (b) of this section, or both, are not being met by such recipient agency.

(1) SBA shall not renew a matching agreement unless,

(i) The recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

(ii) SBA has no reason to believe that the certification is inaccurate.

(e) *Data Integrity Boards.* SBA shall establish a Data Integrity Board to oversee and coordinate the implementation of the matching program. The Board shall consist of senior officials designated by the Administrator, to include the Inspector General (who shall not serve as Chairman), and the senior official

responsible for the implementation of the Privacy Act. The Board shall:

(1) Review, approve and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with paragraph (a) of this section and with all relevant statutes, regulations and guidance;

(2) Review all matching programs in which SBA has participated during the year, determine compliance with applicable laws, regulations, guidelines, and Agency agreements, and assess the costs and benefits of such programs;

(3) Review all recurring matching programs in which SBA has participated during the year, for continued justification for such disclosures;

(4) Compile an annual report, to be submitted to the Administrator and OMB and made available to the public on request, describing the matching activities of SBA, including—

(i) Matching programs in which SBA has participated;

(ii) Matching agreements proposed that were disapproved by the Board;

(iii) Any changes in membership or structure of the Board in the preceding year;

(iv) The reasons for any waiver of the requirement described below for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

(v) Any violations of matching agreements that have been alleged or identified and any corrective action taken; and

(vi) Any other information required by OMB to be included in such report;

(5) Serve as clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

(6) Provide interpretation and guidance to Agency components and personnel on the requirements for matching programs;

(7) Review Agency recordkeeping and disposal policies and practices for matching programs to assure compliance with the Privacy Act; and

(8) Review and report on any Agency activities that are not matching programs.

(f) *Cost-benefit analysis.* Except as provided in paragraphs (e) (2) and (3) of this section, the Data Integrity Board shall not approve any written agreement for a matching program unless SBA has completed and submitted to such Board a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective. The Board may waive these requirements if it determines, in writing, and in accordance with OMB guidelines, that a cost-benefit analysis is not required. Such an analysis also shall not be required prior to the initial approval of a written agreement for a matching program that is specifically required by statute.

(g) *Disapproval of matching agreements.* If a matching agreement is disapproved by the Data Integrity Board, any party to such agreement may appeal to OMB. Timely notice of the filing of such an appeal shall be provided by OMB to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(1) OMB may approve a matching agreement despite the disapproval of the Data Integrity Board if OMB determines that—

(i) The matching program will be consistent with all applicable legal, regulatory and policy requirements;

(ii) There is adequate evidence that the matching agreement will be cost-effective; and

(iii) The matching program is in the public interest.

(2) The decision of OMB to approve a matching agreement shall not take effect until 30 days after it is reported to the committees described in Subsection g above.

(3) If the Data Integrity Board and the OMB disapprove a matching program proposed by the Inspector General, the Inspector General may report the disapproval to the Administrator and to the Congress.

Dated: February 16, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–5580 Filed 3–15–93; 8:45 am]

BILLING CODE 8025–01–M

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13 CFR Part 102

Privacy Act of 1974; Implementation

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is hereby amending its regulation concerning the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, SBA is making several technical corrections to the current regulation in order to conform the rules to administrative and procedural changes.

DATES: This rule shall be effective March 16, 1993.

FOR FURTHER INFORMATION CONTACT: Beverly K. Linden; Chief, Freedom of Information/Privacy Act; Office of Hearings and Appeals; U.S. Small Business Administration; Washington, DC 20416; (202) 653–6460.

SUPPLEMENTARY INFORMATION: SBA is making several necessary technical amendments to its regulation implementing the Privacy Act of 1974. First, the rule states, in § 102.26, that SBA will report an accounting of disclosures biennially, rather than annually, to the Office of Management and Budget in order for such information to be included in the President's report to Congress. Next, this rule corrects SBA's address in § 102.30. Third, the rule revises § 102.33 by referencing the Office of Personnel Management as opposed to the former Civil Service Commission. The rule increases the fee waiver amount in § 102.34 to $15.00. Finally, the rule amends § 102.35 to reference the current system of record numbers, revised on February 26, 1991, 56 FR 8008, corresponding to the information which is exempted under the Privacy Act.

Due to the fact that this rule governs matters of agency organization, management, and personnel and makes no substantive change to the current regulation, SBA is not required to determine if it constitutes a major rule for purposes of Executive Order 12291, to determine if it has a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), to do a Federalism Assessment pursuant to Executive Order 12612, or to determine if this rule imposes an annual recordkeeping or reporting requirement on 10 or more person under the Paperwork Reduction Act (44 U.S.C. ch. 35). For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

SBA is publishing this regulation governing agency organization, practice, and procedure as a final rule without opportunity for public comment pursuant to 5 U.S.C. 553(b)(A).

List of Subjects in 13 CFR Part 102

Privacy.

For the reasons set forth above, SBA is amending part 102 of title 13, Code of Federal Regulations, as follows.

PART 102—[AMENDED]

1. The authority citation for part 102, subpart B continues to read as follows:

Authority: Privacy Act of 1974 (Pub. L. 93–579), 88 Stat. 1896 (5 U.S.C. 552a).

2. Section 102.26 is amended by revising paragraph (c) to read as follows:

§ 102.26 Accounting of disclosures.

* * * * *

(c) A biennial report will be prepared by the Privacy Officer, for submission to the Office of Management and Budget, disclosing statistics on all of the above. A copy of this report will be available in the Freedom of Information/Privacy Acts Office.

3. Section 102.30 is amended by revising paragraph (a) to read as follows:

§ 102.30 Requests for correction or amendment of record.

(a) Any individual may request the Agency to amend a record pertaining to him or her. The request should be made to the Systems Manager concerned or, if this individual is not known, to the Privacy Acts Officer, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

* * * * *

§ 102.33 [Amended]

4. Section 102.33(a) is amended by removing the words "Civil Service Commission" each time it appears and adding the words "Office of Personnel Management" in lieu thereof.

§ 102.34 [Amended]

5. Section 102.34(c) is amended by removing the term "$5" and adding the term "$15" in lieu thereof.

6. Section 102.36(a) is revised to read as follows:

§ 102.36 Specific exemptions.

(a) Systems of record subject to investigatory material exemption under 5 U.S.C. 552a(k)(2), or 5 U.S.C. 552a(k)(5), or both.

(1) Audit Report—SBA 015, a system containing investigations concerning the use of funds by recipients of disaster home loans;

(2) Litigations and Claims Files—SBA 070, a system containing information concerning recipients of disaster home loans and other individuals who are parties to lawsuits or claims involving SBA;

(3) Personnel Security Files—SBA 100, a system containing background information on active and inactive SBA employees;

(4) Security and Investigations Files—SBA 120, a system which contains information on individuals seeking or receiving SBA assistance, individuals involved in business or other organizations seeking or receiving such assistance, representatives or applicants for SBA assistance, members of Advisory Councils and SCORE/ACE volunteers;

(5) Office of Inspector General Referrals—SBA 125, a system containing information relating to referrals for investigation of possible misconduct by SBA employees, and individuals involved in seeking or obtaining SBA assistance;

(6) Investigations Division Management Information System—SBA 130, a system containing information on applicants, participants, contractors, grantees, and other governmental entities involved in SBA programs, SBA employees who have been investigated, members of Advisory Councils or SCORE/ACE volunteers; and

(7) Standards of Conduct—SBA 140, a system containing information concerning outside employment and financial interest of SBA employees, conduct of SBA employees, and related matters.

* * * * *

Dated: February 16, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–5581 Filed 3–15–93; 8:45 am]

BILLING CODE 8025–01–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 221

Israel Loan Guarantee Standard Terms and Conditions

AGENCY: Agency for International Development (A.I.D.).

ACTION: Final rule.

SUMMARY: Title 22 U.S.C. 2186 authorizes the issuance of guarantees against losses incurred in connection with loans to Israel made as a result of Israel's extraordinary humanitarian effort to resettle and absorb immigrants into Israel. Pursuant thereto, the United States of America, acting through the Agency for International Development ("A.I.D."), may guarantee up to $10 billion in original principal amount of loans to Israel during the period beginning October 1, 1992 and ending September 30, 1998. The Standard Terms and Conditions set forth in this part shall apply to guarantees issued pursuant to title 22 U.S.C. 2186.

EFFECTIVE DATE: March 16, 1993.

FOR FURTHER INFORMATION CONTACT: Michael G. Kitay, Assistant General Counsel, Agency for International Development, Washington DC 20523–0030, Telephone: 202/647/6504.

SUPPLEMENTARY INFORMATION: From time to time over the next six years, the Government of Israel will be seeking loans for the purposes set forth above. The loans will be guaranteed by A.I.D. with the full faith and credit of the United States Government pledged for the performance of such obligations. The purpose of these rules is to set forth the terms and conditions of the A.I.D. guarantee and the procedures to be followed to make claims under the A.I.D. guarantee. The publication of this rule will avoid a cumbersome repetitive procedure whereunder at each instance of borrowing, A.I.D. would enter into a separate Contract of Guarantee with each new lender. Once this rule becomes effective, a simple cross reference to the CFR rule in a guarantee legend signed on the back of each Eligible Note as defined will suffice to advise noteholders and their assignees of their contractual rights against A.I.D. as guarantor.

This rulemaking document is not subject to rulemaking under 5 U.S.C. 553 or to regulatory analysis under Executive Order 12291 because it involves a foreign affairs function of the United States.

As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. The provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3520) (1982) do not apply. An environmental impact statement is not required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

List of Subjects in 22 CFR Part 221

Foreign relations, Foreign aid, Guaranteed loans.

Accordingly, a new part 221 is added to title 22, Chapter II of the Code of Federal Regulations as follows:

PART 221—ISRAEL LOAN GUARANTEE STANDARD TERMS AND CONDITIONS

Subpart A—Definitions

Sec.

221.1 Definitions.

Subpart B—The Guarantee

221.11 The guarantee.
221.12 Guarantee eligibility.
221.13 Non-impairment of the guarantee.
221.14 Transferability of guarantee; note register.
221.15 Fiscal agent obligations.

Subpart C—Procedure for Obtaining Compensation

221.21 Event of default, application for compensation; payment.
221.22 No acceleration of eligible notes.
221.23 Payment to A.I.D. of excess. Received by a noteholder.
221.24 Subrogation of A.I.D.

Subpart D—Covenants

221.31 Prosecution of claims.
221.32 Change in agreements.

Subpart E—Administration

221.41 Arbitration.
221.42 Notice.
221.43 Governing law.

Appendix A to Part 221—Application for Compensation.

Authority: 22 U.S.C. 2186.

Subpart A—Definitions

§ 221.01 Definitions.

Wherever used in these standard terms and conditions:

(a) *A.I.D.* means the United States Agency for International Development or its successor with respect to the guarantee authorities contained in title III, chapter 2 of part I of the Foreign Assistance Act of 1961, as amended (the "Act").

(b) *Eligible Note(s)* means [a] Notes[s] meeting the eligibility criteria set out in § 221.12 hereof.

(c) *Noteholder* means the owner of an Eligible Note who is registered as such on the Note Register of Eligible Notes required to be maintained by the Fiscal Agent.

(d) *Borrower* means the Government of Israel, on behalf of the State of Israel.

(e) *Defaulted payment* means, as of any date,

(1) In respect of any current coupon Eligible Note, any interest amount and/or principal amount not paid when due, and

(2) In respect of any zero-coupon Eligible Note, any maturity amount not paid when due.

(f) *Further guaranteed payments* means the amount of any loss suffered by a Noteholder by reason of the Borrower's failure to comply on a timely basis with any obligation it may have under an Eligible Note to indemnify and hold harmless a Noteholder from taxes or governmental charges or any expense arising out of taxes or any other governmental charges relating to the Eligible Note in the country of the Borrower.

(g) *Loss of investment* respecting any Eligible Note means an amount in Dollars equal to the total of the:

(1) Defaulted Payment unpaid as of the Date of Application,

(2) Further Guaranteed Payments unpaid as of the Date of Application, and

(3) Interest accrued and unpaid at the rate(s) specified in the Eligible Note(s) on the Defaulted Payment and Further Guaranteed Payments, in each case from the date of default with respect to such payment to and including the date on which full payment thereof is made to the Noteholder.

(h) *Application for compensation* means an executed application in the form of Appendix A to this part which a Noteholder, or the Fiscal Agent on behalf of a Noteholder, files with A.I.D. pursuant to § 221.21 of this part.

(i) *Applicant* means a Noteholder who files an Application for Compensation with A.I.D., either directly or through the Fiscal Agent acting on behalf of a Noteholder.

(j) *Date of application* means the effective date of an Application for Compensation filed with A.I.D. pursuant to § 221.21 of this part.

(k) *Business day* means any day other than a day on which banks in New York, New York are closed or authorized to be closed or a day which is observed as a federal holiday in Washington, DC, by the United States Government.

(l) *Guarantee payment date* means a Business Day not more than three (3) Business Days after the related Date of Application.

(m) *Person* means any legal person, including any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

Subpart B—The Guarantee

§ 221.11 The guarantee.

Subject to these terms and conditions, the United States of America, acting through A.I.D., agrees to pay to, or upon the instructions of, any Noteholder on each Guarantee Payment Date compensation in Dollars equal to such Noteholder's Loss of Investment under its Eligible Note; provided, however, that no such payment shall be made to any Noteholder, for any such loss arising out of fraud or misrepresentation for which such Noteholder is responsible or of which it had knowledge at the time it became such Noteholder.

This Guarantee shall apply to each Eligible Note registered on the Note Register required to be maintained by the Fiscal Agent.

§ 221.12 Guarantee eligibility.

(a) Eligible Notes only may be guaranteed hereunder. Notes in order to achieve Eligible Note status must be signed on behalf of the Borrower, manually or in facsimile, by a duly authorized representative of the Borrower; and they must contain a guarantee legend incorporating these Standard Terms and Conditions signed on behalf of A.I.D. by either a manual signature or a facsimile signature of an authorized representative of A.I.D., together with a certificate of authentication manually executed by a Fiscal Agent whose appointment by the Borrower is consented to by A.I.D. in a Fiscal Agency Agreement (the "Fiscal Agent").

(b) A.I.D. shall designate, in a certificate delivered to the Fiscal Agent, the Person(s) whose signature shall be binding on A.I.D. The certificate of authentication of the Fiscal Agent issued pursuant to the Fiscal Agency Agreement shall, when manually executed by the Fiscal Agent, be conclusive evidence binding on A.I.D. that a Note has been duly executed on behalf of the Borrower and delivered.

§ 221.13 Non-impairment of the guarantee.

The full faith and credit of the United States of America is pledged to the performance of this Guarantee. The Guarantee shall not be affected or impaired by any defect in the authorization, execution, delivery or enforceability of any agreement or other document executed by a Noteholder, A.I.D., the Fiscal Agent or the Borrower in connection with the transactions contemplated by this Guarantee. This non-impairment of the guarantee provision shall not, however, be operative with respect to any amount with respect to any loss arising out of fraud or misrepresentation for which the claiming Noteholder, is responsible or of which it had knowledge at the time it became a Noteholder.

§ 221.14 Transferability of guarantee; Note register.

A Noteholder may assign, transfer or pledge an Eligible Note to any Person. Any such assignment, transfer or pledge shall be effective on the date that the name of the new Noteholder is entered on the Note Register required to be maintained by the Fiscal Agent pursuant to the Fiscal Agency Agreement. A.I.D. shall be entitled to treat the Persons in whose names the Eligible Notes are registered as the owners thereof for all purposes of this Guarantee and A.I.D. shall not be affected by notice to the contrary.

§ 221.15 Fiscal agent obligations.

Failure of the Fiscal Agent to perform any of its obligations pursuant to the Fiscal Agency Agreement shall not impair any Noteholder's rights under this Guarantee, but may be the subject of action for damages against the Fiscal Agent by A.I.D. as a result of such failure or neglect. A Noteholder may appoint the Fiscal Agent to make

demand for payment on its behalf under this Guarantee.

Subpart C—Procedure for Obtaining Compensation

§ 221.21 Event of default; application for compensation; payment.

At any time after an Event of Default, as this term is defined in an Eligible Note, any Noteholder hereunder, or the Fiscal Agent on behalf of a Noteholder hereunder, may file with A.I.D. an Application for Compensation in the form provided in Exhibit A. A.I.D. shall pay or cause to be paid to any such Applicant any compensation specified in such Application for Compensation that is due to the Applicant pursuant to the Guarantee as a Loss of Investment not later than three (3) Business Days after the Date of Application. In the event that A.I.D. receives any other notice of an Event of Default, A.I.D. may pay any compensation that is due to any Noteholder pursuant to a Guarantee, whether or not such Noteholder has filed with A.I.D. an Application for Compensation in respect of such amount.

§ 221.22 No acceleration of Eligible Notes.

Eligible Notes shall not be subject to acceleration by A.I.D., the Noteholder or any other party.

§ 221.23 Payment to A.I.D. of excess amounts received by a Noteholder.

If a Noteholder shall, as a result of A.I.D. paying compensation under this Guarantee, receive an excess payment, it shall refund the excess to A.I.D.

§ 221.24 Subrogation of A.I.D.

In the event of payment by A.I.D. to a Noteholder under this Guarantee, A.I.D. shall be subrogated to the extent of such payment to all of the rights of such Noteholder against the Borrower under the related Note.

Subpart D—Covenants

§ 221.31 Prosecution of claims.

After payment by A.I.D. to an Applicant pursuant to § 221.21, A.I.D. shall have exclusive power to prosecute all claims related to rights to receive payments under the Eligible Notes to which it is thereby subrogated. If a Noteholder continues to have an interest in the outstanding Eligible Notes, such a Noteholder and A.I.D. shall consult with each other with respect to their respective interests in such Eligible Notes and the manner of and responsibility for prosecuting claims.

§ 221.32 Change in agreements.

No Noteholder will consent to any change or waiver of any provision of any document contemplated by this Guarantee without the prior written consent of A.I.D.

Subpart E—Administration

§ 221.41 Arbitration.

Any controversy or claim between A.I.D. and any noteholder arising out of this Guarantee shall be settled by arbitration to be held in Washington, DC in accordance with the then prevailing rules of the American Arbitration Association, and judgment on the award rendered by the arbitrators may be entered in any court of competent jurisdiction.

§ 221.42 Notice.

Any communication to A.I.D. pursuant to this Guarantee shall be in writing in the English language, shall refer to the Israel Loan Guarantee Number inscribed on the Eligible Note and shall be complete on the day it shall be actually received by A.I.D. at the Office of Housing and Urban Programs, Bureau for Private Enterprise, Agency for International Development, Washington, DC 20523–0030. Other addresses may be substituted for the above upon the giving of notice of such substitution to each Noteholder by first class mail at the address set forth in the Note Register.

§ 221.43 Governing law.

This Guarantee shall be governed by and construed in accordance with the laws of the United States of America governing contracts and commercial transactions of the United States Government.

Appendix A to Part 221—Application for Compensation

[_____]

Agency for International Development, International Development Cooperation Agency, Washington, DC 20523.
Ref: Guarantee dated as of _____, 19____:

Gentlemen:

You are hereby advised that payment of $_____(consisting of $_____of principal, $_____of interest and $_____in Further Guaranteed Payments, as defined in § 221.01(f) of the Standard Terms and Conditions of the above-mentioned Guarantee) [(consisting of $_____maturity amount and $_____in Further Guaranteed Payments, as defined in § 221.01(f) of the Standard Terms and Conditions of the above-mentioned Guarantee)] [1] was due on _____, 19____, on $_____principal [maturity] [1] amount of Notes held by the undersigned of the Government of Israel, on behalf of the State of Israel (the "Borrower"). Of such amount $_____was not received on such date and has not been received by the undersigned at the date hereof. In accordance with the terms and provisions of the above-mentioned Guarantee, the undersigned hereby applies, under § 221.21 of said Guarantee, for payment of $_____, representing $_____, the principal amount of the presently outstanding Note(s) of the Borrower held by the undersigned that was due and payable on _____and that remains unpaid, and $_____, the interest amount on such Note(s) that was due and payable by the Borrower on _____and that remains unpaid, [$_____, the maturity amount of such Note that was due and payable on _____and that remains unpaid] [2] and $_____in Further Guaranteed Payments,[3] plus accrued and unpaid interest thereon from the date of default with respect to such payments to and including the date payment in full is made by you pursuant to said Guarantee, at the rate of _____% per annum, being the rate for such interest accrual specified in such Note. Such payment is to be made at [state payment instructions of Noteholder.]

[Name of Applicant]

By _____
Name _____
Title _____
Dated _____

[1] Alternate language for zero-coupon Eligible Notes.

[2] Alternate language for zero-coupon Eligible Notes.

[3] In the event the Application for Compensation relates to Further Guaranteed Payments, such Application must also contain a statement of the nature and circumstances of the related loss.

Dated: March 11, 1993.

Peter M. Kimm,

Director, Office of Housing and Urban Programs, Agency for International Development.

[FR Doc. 93–6026 Filed 3–15–93; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8357]

RIN 1545–AI79

Certain Cash or Deferred Arrangements and Employee and Matching Contributions Under Employee Plans; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the final regulations (T.D. 8357), which were published Thursday, August 15, 1991 (56 FR 40507), relating to certain cash or deferred arrangements (CODAs) and employee and matching contributions under employee plans.

EFFECTIVE DATE: August 15, 1992.

FOR FURTHER INFORMATION CONTACT: Catherine Livingston Fernandez, 202–622–6030, (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The final regulation that is the subject of this correction replaces all of the 1988 proposed and final regulations on these subjects, and the amendments to regulations under section 401 (k) and (m) of the Internal Revenue Code of 1986, issued on May 14, 1990.

The correction contained in paragraph 13 of the corrections to final regulations published on March 25, 1992 (57 FR 10289) and the correcting amendment published on Thursday, December 17, 1992 (57 FR 59915) contain inaccurate corrections. This document supersedes those corrections and reflects the intended correction to provisions under regulation § 1.401(k)–1(f)(3)(ii) as published on August 15, 1991.

Need for Correction

As published, T.D. 8357 contains an error which may prove to be misleading and is in need of clarification.

List of Subjects for 26 CFR 1.401–0 through 1.419A–2T

Bonds, Employee benefit plans, Income taxes, Pensions, Reporting and recordkeeping requirements, Securities, Trusts and trustees.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *.

Par. 2. In § 1.401(k)–1(f)(3)(ii), the first and second sentences in the concluding text are revised to read as follows:

§ 1.401(k)–1 Certain cash or deferred arrangements.

* * * * *

(f) * * *

(3) * * *

(ii) * * *

Recharacterized excess contributions continue to be treated as employer contributions that are elective contributions for all other purposes under the Code, including sections 401(a) (other than 401(a)(4) and 401(m)), 404, 409, 411, 412, 415, 416, and 417. Thus for example, recharacterized excess contributions remain subject to the requirements of paragraph (c) of this section; must be deducted under section 404; and are treated as employer contributions described in section 415(c)(2)(A) and § 1.415–6(b). * * * * * * * * *

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–5890 Filed 3–15–93; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1 93–005]

Safety Zone: Providence River, Providence, RI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Providence River. This action is necessary to protect the maritime community from the hazards to navigation associated with the extreme shoaling that has taken place within the Providence River channel.

EFFECTIVE DATE: This regulation becomes effective at 8 a.m., February 19, 1993 and terminates at 12:01 a.m. December 31, 1993 unless terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT Petig of Marine Safety Office Providence at (401) 528–5335.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation were Lieutenant W. Petig, Project Manager for the Coast Guard, Captain of the Port Providence; and Lieutenant Commander J. Stieb, Project Counsel for the First Coast Guard District Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to any potential hazards. The Captain of the Port, Providence, intends to submit for publication a final rule which would impose a Regulated Navigation Area (RNA) over the Providence River. Because the RNA requires considerable time to implement, this safety zone is necessary to safeguard users of this waterway from the hazards involved with heavy shoaling. When the RNA becomes effective this safety zone will be cancelled.

Background and Purpose

On February 2, 1993 the Captain of the Port, Providence, received a copy of a letter addressed to Governor Bruce Sundlun, Governor of Rhode Island, from the Navigation Division of the New England Division of the Army Corps of Engineers. Accompanying the letter were the results of a hydrographic survey of the Providence River Federal navigation channel conducted during the summer and fall months of 1992 and completed in January of 1993. This survey shows that mid-channel shoaling of 3 to 8 feet is taking place in the northern section of the channel. The northern section of the channel is also experiencing shoaling along the outer edges. In this area the shoaling is from 6 to 10 feet and is significantly narrowing the available channel for deep draft vessels. This extreme shoaling is a hazard to navigation for deep draft commercial traffic entering and leaving the Port of Providence. This temporary rule is initiated to offset the inherent risks imposed on safe navigation due to shoaling and to allow commercial navigation to continue. This rule is designed to protect the Port of Providence from any deep draft vessel casualty due to shoaling that may result in a grounding or associated casualty leading to loss of life, injury, property loss, oil or hazardous material discharge, blockage of the channel or other such related disastrous effects.

Discussion of Comments and Changes

A comment period will be opened starting with the publication of this rule in the **Federal Register** and continuing for a period of 30 days. Comments should be mailed to Captain of the Port, Providence, John O. Pastore Federal Building, Providence, RI 02903–1790 or may be delivered to the above address between 8 a.m. and 4 p.m. Monday thru Friday except Federal holidays. Persons submitting comments should include their name and address, identify this rulemaking (CGD1 93–005) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped self addressed postcard or envelope. The Coast Guard plans no public hearing. The Coast Guard will consider all comments received during the

comment period. It may amend the Safety Zone based on the comments received and will consider all comments in drafting the RNA.

Regulatory Evaluation

This rule is not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a Regulatory Evaluation is unnecessary. The regulations enacted do not preclude commercial operators from utilizing the Port of Providence. The volume of commercial traffic utilizing this waterway is such that the costs incurred due to delays because of one-way traffic are considered minimal.

Small Entities

For the reasons discussed in the Regulatory Evaluation, the Coast Guard expects the economic impact of his rule to be minimal on all entities. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this final rule did not have sufficient federalism implication to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under section 2.B.2.C of Commandant Instruction M16475.1B, it is an action under the Coast Guard's statutory authority to protect public safety and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

Regulations

For the reasons set out in the preamble, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new section 165.T01–005 is added to read as follows:

§ 165.T01–005 Safety Zone: Providence River, Providence, RI.

(a) Location: The following area has been declared a safety zone: All waters of the Providence River Channel from Conimicut Light (LLNR 16835) to Fuller Rock Light (Channel Light 42, LLNR 17120).

(b) Effective Date: This regulation becomes effective at 8 a.m., February 19, 1993 and terminates at 12:01 a.m., December 31, 1993, unless sooner by the Captain of the Port.

(c) Regulations: (1) All commercial vessels transiting the Providence River Channel shall be limited to maximum draft of 35 feet at average mean low water. Vessels with drafts between 35 feet and 38 feet may transit the Providence River Channel at times other than mean low water provided there is sufficient depth under the keel to prevent the possibility of grounding. Any commercial vessel with a draft in excess of 38 feet will require specific permission of the Captain of the Port, Providence. For vessels requiring this permission, advance notification must be made to, and approval received from, the Captain of the Port, Providence, 48 hours in advance of the scheduled transit time.

(2) Commercial vessels over 65 feet in length are prohibited from passing, meeting, or overtaking in the Providence River Channel from Gaspee Point (Providence River Channel Lighted buoys 25 and 26, LLNR 16955 and 16960) to Fuller Rock Light (Channel Light 42, LLNR 17120).

(3) Commercial vessels over 65 feet in length are prohibited from passing, meeting, or overtaking in Conimicut Point Reach (Conimicut Light, LLNR 16835 to Channel Lighted Buoys 19 and 20, LLNR 16860 and 16865).

(4) Commercial vessels over 65 feet in length inbound for berths up the Providence River Channel planning to transit this safety zone are required to make Securite calls on VHF channels 13 and 16 at the following geographic locations: Pilot's Station, Abeam of Castle Hill, Approaching the Newport bridge, South of Prudence Island, Abeam of Sandy Point, Abeam of Popasquash Point, Approaching the Southern End of Rumstick Neck Reach, Abeam of Conimicut Point Light (LLNR 16835), Abeam of Gaspee Point, and Abeam of Sabin's Point (harbor limit).

(5) Commercial vessels over 65 feet in length outbound for sea down the Providence River Channel transiting through this safety zone are required to make Securite calls on VHF channels 13 and 16 at the following geographic locations: one half hour prior to departure of the berth, at departure from the berth, Abeam of Sabin's Point (harbor limit), Abeam of Gaspee Point, Abeam of Conimicut Light (LLNR 16835), Approaching the Southern End of Rumstick Neck Reach, Abeam of Popasquash Point, Abeam of Sandy Point, South of Prudence Island, Approaching the Newport Bridge, and Abeam of Castle Hill.

(6) Commercial vessels under 65 feet in length and all recreational vessels when meeting within the Providence River Safety Zone shall keep out of the way of oncoming deep draft commercial vessel traffic.

(7) The Captain of the Port, Providence, may authorize a deviation from any of these regulations if it is found that the proposed operation can safely be conducted.

(d) Enforcement: Violations of these Safety Zone Regulations should be report to the Captain of the Port, Providence, at (401) 528–5335. Persons in violation of these regulations will be subject to civil penalty under 33 CFR 165.23(d).

Dated: February 17, 1993.

H.D. Robinson,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 93–6001 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840–AB47

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends subparts G and H of the Student Assistance General Provisions to add the Office of Management and Budget (OMB) control numbers to certain sections of the regulations. Those sections contain information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved.

EFFECTIVE DATE: These regulations are effective on March 16, 1993.

FOR FURTHER INFORMATION CONTACT: Fred J. Marinucci, Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW., room 4083, Washington, DC 20202. Telephone (202) 401–2732. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m. Eastern time.

SUPPLEMENTARY INFORMATION: On December 17, 1992, final regulations for the Student Assistance General Provisions were published in the **Federal Register** at 57 FR 60032. The effective date of certain sections of these regulations was delayed until information collection requirements contained in those sections were approved by OMB under the Paperwork Reduction Act of 1980, as amended. OMB approved the information collection requirements in the regulations on January 26, 1993.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined under 5 U.S.C. 553(b)(B), that proposed rulemaking is unnecessary and contrary to the public interest and that a delayed effective date is not required under 5 U.S.C. 553(d)(3).

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Student aid.

Dated: March 9, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary amends part 668 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1141, unless otherwise noted.

§ 668.90 [Amended]

2. Section 668.90 is amended by revising the OMB control number following the section to read as follows:

* * * * *

(Approved by the Office of Management and Budget under control number 1801–0003)

* * * * *

§ 668.98 [Amended]

§ 668.124 [Amended]

3. Sections 668.98 and 668.124 are amended by adding the OMB control number at the end of these sections to read as follows:

* * * * *

(Approved by the Office of Management and Budget under control number 1801–0003)

* * * * *

[FR Doc. 93–5929 Filed 3–15–93; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA18–1–5657; A–1–FRL–4558–6]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Logan Airport and East Boston Parking Freeze

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Massachusetts. The intent of the SIP revision is to reduce vehicular emissions of carbon monoxide, hydrocarbons and nitrogen oxides. These pollutants contribute to the carbon monoxide and ozone air pollution problems in the Boston urbanized area. This SIP revision amends the Logan Airport Parking Freeze by regulating employee spaces as well as commercial spaces, by promoting transportation control measures, by increasing the permitted number of commercial spaces by 2,000 spaces, and by allowing the number of commercial spaces to increase in direct proportion to the number of employee parking spaces permanently removed from use at the airport. The SIP revision also establishes a new parking freeze area to include parts of East Boston adjacent to Logan Airport. The provisions of the East Boston Parking Freeze cap the numbers of "Rental Motor Vehicle" parking spaces and of "Park and Fly" parking spaces at 1989 levels, and encourage the transfer of such parking spaces from East Boston to Logan Airport.

This action approves the changes to the Massachusetts SIP. This action is being taken in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on April 15, 1993.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 7th floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Robert Judge, (617) 565–3233.

SUPPLEMENTARY INFORMATION: On November 6, 1990 (55 FR 46684), EPA published a Notice of Proposed Rulemaking (NPR) for the Commonwealth of Massachusetts. The NPR proposed approval of a revision to the Massachusetts Department of Environmental Protection (DEP) State Implementation Plan (SIP) amending the Logan Airport Parking Freeze, 310 CMR 7.30, and inserting provisions for an East Boston Parking Freeze at 310 CMR 7.31. The formal SIP revision was submitted by Massachusetts on August 4, 1989, December 6, 1989 and March 23, 1990.

Background

The Logan Airport Parking Freeze program was established on June 12, 1975 when EPA promulgated an amendment to the transportation control plan regulations for the Metropolitan Boston Intrastate Air Quality Control Region (40 FR 25152). The parking freeze was developed as one part of a comprehensive strategy to reduce air pollution caused by automobile emissions. The Boston Metropolitan Planning Organization (MPO) submitted to Massachusetts DEP the Logan Airport Parking Freeze program to be incorporated in the 1979 SIP (45 FR 61293) and again in the 1982 SIP (48 FR 51480). The Massachusetts Port Authority (Massport) was delegated the authority to implement the Logan Airport Parking Freeze by the Commonwealth of Massachusetts on October 8, 1975. Since the delegation, Massport has operated the program and submitted reports to EPA describing the implementation of the parking freeze.

The proposed SIP revision was submitted by the Boston MPO to the Massachusetts DEP in November of 1988. DEP proposed regulations in July of 1989 and held a hearing in August of 1989. A technical amendment regarding the boundary of the East Boston freeze area was proposed in December of 1989 and a hearing was held in January of 1990. In submittals to EPA dated August 4, 1989, December 6, 1989 and March 23, 1990, the Massachusetts DEP proposed the revision to its SIP.

Summary of SIP Revision

Types of Parking Spaces Included in the Freeze

The SIP revision affects commercial and employee parking spaces at Logan Airport, and Park and Fly and Rental Motor Vehicle parking spaces in most of East Boston. By contrast, the 1982 SIP parking freeze regulated only commercial parking spaces at Logan Airport. Because each motor vehicle generates air pollution regardless of the type of parking space it uses, it is appropriate to regulate a greater array of airport-related parking uses.

Numbers of Parking Spaces

This SIP revision limits the number of commercial and employee parking spaces at Logan Airport to 19,315. Of these, no more than 7,100 spaces may be used as employee spaces (defined as parking spaces provided for use by employees of Massport and Massport tenants). The SIP revision increases the number of commercial parking spaces (defined as parking spaces provided for a fee) previously allowed at Logan Airport by 2,000, for a total of 12,215. The SIP revision also encourages Massport to eliminate employee spaces at the airport by relocating them outside the Logan Airport freeze area, and/or by promoting the use of alternate transportation by employees. Massport is required to develop and implement a plan targeting the elimination of 2,000 employee parking spaces. The number of commercial spaces at Logan Airport can be increased beyond 12,215 by a number equal to the number of permanently eliminated employee parking spaces. In addition, the SIP revision creates a category of restricted use parking spaces. These spaces can only be made available free of charge to Logan Airport travellers and visitors, for a maximum of ten days per calendar year during extreme peak travel periods. Each year, Massport must report on the use of restricted use parking spaces by dates, locations and numbers. If restricted use parking spaces are used on more than ten days in a calendar year, Massport must submit a plan and schedule for initiating actions to eliminate the future need for restricted parking spaces.

In the East Boston Parking Freeze area, the SIP revision will freeze the number of Park and Fly parking spaces (defined as privately owned and operating off-street parking spaces provided for use by Logan Airport travelers and visitors) and Rental Motor Vehicle spaces (off-street parking spaces for rental/leased passenger motor vehicles at a facility owned, operated, and/or leased by a motor vehicle rental company). The number of permitted Park and Fly and Rental Motor Vehicle spaces is frozen as of November 24, 1989, and documented by an inventory prepared by the City of Boston and submitted to Massachusetts DEP. The SIP revision also encourages the transfer of Park and Fly and Rental Motor Vehicle spaces from East Boston onto Logan Airport.

Parking Freeze Areas

The original parking freeze area encompassing Logan Airport has been maintained. The SIP revision also establishes a new parking freeze area covering all of East Boston, excepting two northern parcels. The 1982 SIP only included Logan Airport in the airport-related parking freeze area. As a result, airport-related parking activities have developed in East Boston outside of Logan Airport, increasing traffic congestion and air pollution.

Transportation Management Programs

The 1982 SIP included limited transportation control measures for Logan Airport. Over the past several years, Massport has voluntarily implemented several transportation management programs, such as the water shuttle to Boston and bus service to remote lots south and west of Boston. The SIP revision requires Massport to make all reasonable efforts to identify, analyze and implement specific transportation management programs which discourage vehicle travel to Logan Airport. These measures and programs include fringe parking lots, water shuttle service, mass transit improvements and pricing strategies. (The provisions of 310 C.M.R. 7.30(8)(a) are not included in the SIP revision.) Each year, Massport will submit a status report on the transportation management programs to the City of Boston, the Boston Metropolitan Planning Organization, Massachusetts DEP and EPA.

Air Quality Impacts

The SIP revision is designed to reduce vehicle miles of travel (VMT) by restricting the numbers of certain types of parking spaces serving Logan Airport and by encouraging alternative means of travel to Logan Airport. Employees and travelers will be encouraged to use alternative transportation to Logan Airport, leading to reduced VMT in the area. Reduced local and regional VMT will improve traffic flow. And reductions in carbon monoxide and ozone levels should be achieved.

In particular, improvements in air quality may be expected to result from the following measures. First, the limitation on employee parking spaces at Logan Airport will restrict the growth of employee-related VMT. Second, the slight increase in the number of commercial spaces at Logan can be expected to ease the "drop-off/pick-up" phenomenon. Third, the expanded geographic area of the parking freeze will limit the proliferation of rental and Park and Fly lots at the airport's borders in East Boston. Finally, the transportation management programs will require Massport to continue to encourage alternative modes of travel to Logan Airport.

The SIP revision caps the number of employee parking spaces at Logan Airport, and allows Massport to exchange employee spaces at Logan Airport for commercial spaces. Traffic studies by Massport have revealed that employee spaces generate more vehicle trips to and from Logan Airport per day than commercial spaces. Capping and reducing the number of such spaces therefore limits VMT. In addition, the existing parking freeze has had the unanticipated effect of vastly increasing passenger drop-off and pick-up, resulting in twice as many vehicle trips as would occur if each passenger drove to the airport. The increase of 2000 commercial spaces at the airport, coupled with the program for exchanging employee spaces for commercial spaces and with continuing improvements in alternate means of access to the airport, should lessen the drop-off/pick-up phenomenon.

Capping rental and Park and Fly spaces in East Boston will limit the availability of commercial airport parking in East Boston and of rental cars, and thereby tend to encourage airport passengers to use public transportation to and from the airport. This is expected to lead to a reduction in VMT. And the implementation of improved transportation management programs will tend to ensure that alternative, effective, and affordable

modes of transportation to Logan Airport will be available. Convenient and reliable transportation other than automobiles is essential to minimizing airport-related VMT.

Based on its review of the Commonwealth's submissions and the comments received, EPA concludes that this SIP revision meets the requirements of the Clean Air Act. EPA is therefore approving the Massachusetts SIP revision for the Logan Airport Parking Freeze and the East Boston Parking Freeze.

Public Comment

EPA received four letters of public comment on the proposed approval of the revision to the Massachusetts State Implementation Plan published in the **Federal Register** on November 6, 1990 (55 FR 46684). A summary of the comments and EPA's responses can be found below. A memorandum summarizing these comments and EPA's responses is available at the addresses listed above.

Comments: Massport and CLF fully support the Logan revision as submitted and urge EPA to swiftly adopt the proposed regulation.

Response: EPA concurs with the comments.

Comments: Mayor Raymond L. Flynn comments that the parking freeze area should be expanded to include the Suffolk Downs and DeMatteo properties.

Response: As EPA has stated in previous comments, it would be beneficial to expand the freeze and we will encourage DEP to do so in the future. However, the existing freeze will have benefits not withstanding its limited scope. EPA believes that the establishment of the freeze on privately owned Park and Fly lots and rental lots in the East Boston area as described in the Notice of Proposed Rulemaking will be beneficial to air quality compared to the existing freeze. While the addition of the Suffolk Downs and the DeMatteo properties would have a slightly beneficial impact on air quality, the revision as submitted will reduce overall Vehicle Miles Traveled and therefore have a direct improvement on air quality.

Comments: The following comments were submitted by Park N Fly, Inc.:

1. The revision has no rational basis.

2. The revision cannot accomplish the air quality benefits that it is intended to produce.

3. The revision will allow Massport to establish "remote" lots in East Boston, Suffolk Downs and Revere.

4. The revision failed to consider alternative uses of the PNF site. Combined with an increase in air traveler parking spaces and the transfer of employee parking spaces this will result in the degradation of CO air quality and may result in the violation of the CO ambient air quality standard.

5. The revision will increase the "drop-off/pick-up" phenomenon.

6. The revision is not legally enforceable because it lacks statutory authority and goes beyond a "freeze."

7. The revision fails to meet EPA requirements for completeness.

8. The proposed transfer of PNF spaces to Logan effects a taking of property without just compensation, and depresses the value of the land for the purpose of lowering the eminent domain compensation to be paid by the Commonwealth for a portion of the affected property.

9. The revision violates MEPA by allowing increased commercial parking, which is part of a planned expansion of the airport subject to MEPA.

10. Subsection (5) and (6) of § 7.30 and subsections (4) and (5) of § 7.31 of the revision are void for vagueness in that they do not describe in detail the procedures for the transfer of Park and Fly and Motor Vehicle Rental spaces from East Boston to Logan Airport.

11. The SIP revision usurps the City of Boston's zoning powers, since it is a land use restriction rather than a parking "freeze."

Response: 1. The inclusion of employee parking in the Logan Airport freeze and the capping of Park and Fly and Rental Motor Vehicle parking in East Boston are measures reasonably calculated to reduce VMT. The effects required of Massport to develop and promote public transportation management programs will also help divert travellers and visitors from private vehicles toward alternate modes of access. The absence of reliable air quality modeling by Massport and the Department of Environmental Protection does not undermine EPA's belief that these measures will produce some level of benefit. Finally, the air quality assessment submitted by the commenter is limited in scope and does not provide a sufficient basis to negate the anticipated benefits of the proposed measures.

Response: 2. Air quality improvements can be achieved by the proposed SIP revision for the following reasons. First, the inclusion of all airport-related parking spaces will impose a limit on the number of parking spaces available. Second, the area of the parking freeze will be expanded. Finally, the transportation management programs will provide alternative modes of travel to Logan Airport.

The proposed SIP revision encourages the transfer of employee spaces at Logan Airport to commercial spaces. Traffic studies have revealed that employee spaces generate more vehicle trips to and from Logan Airport than commercial spaces, therefore, a reduction in VMT would be associated with such a transfer. In addition, the implementation of transportation management programs will ensure that alternative modes of transportation to Logan Airport are available. Convenient and reliable transportation, other than automobiles, is essential to minimizing VMT.

This action will have a beneficial effect on air quality by reducing vehicle travel and emissions of carbon monoxide, hydrocarbons and nitrogen oxides in the Boston urbanized area. The relocation of commercial spaces onto Logan is a direct transfer with employee parking spaces, not an increase. In addition, these transferred spaces will then be subjected to the cap, along with the new cap imposed on employee spaces. The net impact should be air quality benefits. Although no air quality modeling analysis was completed by DEP, the capping of employee and commercial spaces within Logan and the capping of Park and Fly and Rentals in East Boston strongly suggests overall reductions in VMT, based on traffic data taken from a Logan Ground Access study. This reduction in VMT is directly associated with a benefit to air quality.

The revision caps two kinds of parking uses within the East Boston area: privately owned Park and Fly lots and Rental lots. This stabilizes congestion within the East Boston area. In addition, the revision does not cap Rental spaces within Logan. This will encourage Rental spaces to relocate to Logan, which will in turn generate less VMT and hence benefit air quality.

Response: 3. EPA believes that if Massport establishes "remote" lots in East Boston, Suffolk Downs and Revere, employees who live north of Logan will be encouraged to use these lots due to the cap on employee spaces within Logan. This will reduce VMT in three ways: (1) Employees will be traveling a shorter distance; (2) the employee spaces that are converted to commercial spaces on Logan will generate less daily VMT, and the additional parking will attract drop-off/pick-up travelers to commercial spaces; and (3) fewer employees driving all the way into Logan will reduce congestion in and around Logan.

Massport reports that if the EZ access & DeMatteo lots are used for employee parking, at 750 spaces first shift, 500

2nd shift, 0 3rd shift, there will be a 4% reduction in Rt. 1–A S. daily traffic and a 4% reduction in Rt. 1–A N. traffic. This will reduce daily VMT by 5,232. This results in a predicted HC reduction of 9.5 KG/D and a CO reduction of 133 KG/D.

The Mass. MPO states that for each employee space converted to commercial use, there is an average reduction of 15 VMT/D. Therefore, the conversion of 1000 spaces yields a 15,000 VMT/D reduction. This equals a 27 KG/D HC reduction. For every 1000 spaces converted, a reduction of 400 vehicles at the Sumner Tunnel during an 8-hr period is realized. This will reduce queuing, and therefore a 0.1–0.3 ppm CO reduction for 8-hr levels.

Response: 4. PNF's microscale air quality analysis prepared by Engineering-Science, Inc. consists of six different scenarios for the year 2010. The first three assume the Central Artery/Third Harbor Tunnel is constructed, the last three assume it is not.

Scenario 1 assumes that the Park and Fly operation remains on Bremen St. Scenario 2 assumes that Park and Fly spaces are relocated to the airport and airport employee parking is relocated to Suffolk Downs. It then assumes that a commuter parking lot will be located on the Park and Fly property on Bremen St. as an alternate use of the existing facility. Scenario 3 assumes that Park and Fly spaces are relocated to the airport and airport employee parking is relocated to Suffolk Downs. It then assumes that 522,500 gross square feet of retail development is constructed on the Park and Fly property on Bremen St. as an alternate use of the existing facility.

EPA considers this analysis to be of limited utility for analyzing the proposed revision, because it is based on various hypothetical land uses that may never occur. Based on the analysis data, even if such alternatives did take place, only one receptor out of twelve indicated a significant negative change in air quality (scenario 3).

Response: 5. EPA believes that a slight increase in commercial parking spaces at Logan, the availability of restricted use parking on up to ten days per year, the exchange of employee parking spaces for commercial spaces that have a lower daily turnover rate, and the encouragement of alternative transportation management programs, will address the drop-off/pick-up phenomenon. As to the travel survey submitted by Rizzo Assoc., Inc., a one day, dual location, survey of 234 people is not likely to represent the behavior of the majority of air travelers using Logan.

Response: 6. The Clean Air Act does not prohibit the Commonwealth from attempting to phase out certain types of parking spaces in East Boston in addition to freezing the number of such spaces. It is within the Commonwealth's statutory authority to do so under State law and under the Clean Air Act. Furthermore, EPA has concluded that the various provisions of the SIP revision will contribute to the Clean Air Act's goals of ozone and carbon monoxide attainment.

Response: 7. EPA has determined that the Commonwealth's submittal of the SIP revision is complete and complies with paragraph 2.2 of appendix V, 40 CFR part 51.

Response: 8. Restrictions on an owner's use of land do not effect an impermissible taking of property without just compensation if viable economic uses of the land remain. Under these circumstances, the land will have many remaining viable economic uses after the transfer of Park and Fly spaces to Logan. Furthermore, air pollution regulations promulgated to protect the public health, safety, and welfare are appropriate exercises of the police power and do not effect an impermissible taking.

Finally, compensation paid by the Commonwealth for a taking by eminent domain will establish that the property has remaining financial value.

Response: 9. EPA has no evidence to indicate that the SIP revision is part of an airport expansion plan subject to MEPA. This comment would appropriately be directed to the Massachusetts Executive Office of Environmental Affairs under the MEPA process.

Response: 10. The SIP revision provides that the Boston Air Pollution Control Commission (BAPCC) and Massport must develop and implement a plan for the relocation of Park and Fly spaces and Rental Motor Vehicle spaces from East Boston to Logan Airport. Further, the BAPCC was charged with submitting such a plan to the Department of Environmental Protection, the Boston Metropolitan Planning Organization, Massport, and to EPA by June 30, 1990. Subsequently, by December 31, 1990, the BAPCC was required to amend the "Procedures and Criteria for Issuance of Parking Freeze Permits" required by 40 CFR 52.1135(f) to delineate the procedures for the transfer of spaces to Logan Airport. Accordingly, the SIP revision provides specific and adequate procedures for the development of a program for the transfer of spaces.

Response: 11. The East Boston Parking Freeze provisions of the SIP revision are directed at reducing emissions from mobile sources of air pollution. They may have similar effects in practice to certain types of zoning, but these similarities are incidental. Both EPA and the Commonwealth of Massachusetts have the statutory authority to promulgate such air pollution regulations.

Final Action

EPA is approving the Logan Airport Parking Freeze and the East Boston Parking Freeze as a revision to the Massachusetts SIP. Today's action makes final the action proposed on November 6, 1990 (55 FR 46684).

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in

relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 17, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 21, 1993.

Paul Keough,

Acting Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(94) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(94) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on August 4, 1989, December 6, 1989 and March 23, 1990.

(i) Incorporation by reference.

(A) Letter from the Massachusetts Department of Environmental Protection dated August 4, 1989, December 6, 1989 and March 23, 1990 submitting a revision to the Massachusetts State Implementation Plan.

(B) Massachusetts' Air Pollution Control Regulations 310 CMR 7.30 (excluding 310 CMR 7.30(8)(a)), and 310 CMR 7.31 entitled, "MB Massport/Logan Airport Parking Freeze" and "MB City of Boston/East Boston Parking Freeze" respectively, effective in the State of Massachusetts on 11/24/89, and technical amendments to that regulation submitted by the Massachusetts Department of Environmental Protection on March 23, 1990, effective 3/30/90.

(ii) Additional materials.

(A) Appendix 5D, Baseline and Future Case CO Compliance Modeling, dated June 1986.

(B) Policy Statement Regarding the Proposed Amendment to the Logan Airport Parking Freeze, dated November 14, 1988.

For the State of Massachusetts:

3. In § 52.1167, table 52.1167 is amended by adding new state citations for 310 CMR 7.30 and 310 CMR 7.31 to read as follows:

§ 52.1167 EPA-approved Massachusetts state regulations.

* * * * *

TABLE 52.1167.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
•	•	•	•	•	•	•
310 CMR 7.30 ...	Massport/Logan Airport Parking Freeze.	8/04/89, 12/6/89, 3/23/90.	March 16, 1993	[Insert *FR* citation from published date].	94	Applies to the parking of motor vehicles on Massport property.
•	•	•	•	•	•	•
310 CMR 7.31 ...	City of Boston/East Boston Parking Freeze.	8/04/89, 12/6/89, 3/23/90.	March 16, 1993	[Insert *FR* citation from published date].	94	Applies to the parking of motor vehicles within the area of East Boston.
•	•	•	•	•	•	•

[FR Doc. 93–5912 Filed 3–15–93; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 55

[FRL–4604–1]

Codification of Corresponding Onshore Area Designations and Notice of Convening Proceeding for Reconsideration of Certain Corresponding Onshore Area Designations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Codification and convening proceeding for reconsideration.

SUMMARY: This action announces that EPA is convening a reconsideration proceeding under section 307(d) of the Clean Air Act ("the Act"), regarding the COA designations for OCS platforms Habitat, Henry, Hillhouse, Houchin, Hogan and Union A, B, and C. The COA for these platforms is currently the Santa Barbara County Air Pollution Control District (Santa Barbara County APCD). The reconsideration proceeding will determine whether this COA designation should be changed. The effectiveness of these COA designations will not be stayed in the interim, however. The affected OCS sources will therefore be required to comply with the OCS rules for the Santa Barbara County APCD, according to the deadlines set forth in section 328(a) of the Clean Air Act. In addition, this document codifies final action taken by the Administrator designating corresponding onshore areas ("COAs") for all existing OCS sources. This action was taken concurrent with the final rulemaking promulgating the Outer Continental Shelf ("OCS") Air Regulations, and was published in the preamble to that rule on September 4, 1992.

EFFECTIVE DATE: September 4, 1993.

ADDRESSES: Material relevant to the COA designations for the OCS Platforms listed above can be found in EPA docket A–91–76. This docket is available for public inspection and copying at the following locations: (1) U.S. Environmental Protection Agency, Region 9, Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA, 94105, and (2) U.S. Environmental Protection Agency, 401 M Street SW. Washington, DC, 20460. These locations are open to the public Monday through Friday, 9 a.m. to 5 p.m., excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, (415) 744–1195, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background Information

On September 4, 1992, EPA promulgated the OCS rule (40 CFR part 55) in the **Federal Register** (57 FR 40792). The rule was promulgated pursuant to Section 328 of the Clean Air Act, and established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. The rule applies to all OCS sources located offshore of the states except for those located in the Gulf of Mexico west of 87.5 degrees longitude.

Section 328 requires that for such sources located within 25 miles of a state's seaward boundary, the requirements must be the same as would be applicable if the sources were located in the COA. The COA is defined in the Act as with respect to any OCS source, the onshore attainment or nonattainment area that is closest to the source, unless the Administrator determines that another area with more stringent requirements with respect to the control and abatement of air pollution may reasonably be expected to be affected by such emissions. Such determination shall be based on the potential for air pollutants from the OCS source to reach the other onshore area and the potential of such air pollutants to affect the efforts of the other onshore area to attain or maintain any Federal or State ambient air quality standard or to comply with the provisions of part C of title I. Section 328(a)(4)(B). The Act requires new sources (as defined in Section 111(a) of the Act) to comply with the OCS rule immediately upon promulgation, and existing sources to comply 24 months thereafter, or by September 4, 1994.

The Administrator designated the COAs for all existing and proposed OCS sources offshore of California in the preamble to the final rule. 57 FR 40796–40797. Union Oil Company of California, Pacific Operators, Inc. d.b.a. Pacific Operators Offshore, Inc. and Texaco Exploration and Production Inc. (collectively, "Unocal") and Ventura County have filed petitions for reconsideration with EPA, asking EPA to reconsider the COA designations for OCS Platforms Habitat, Henry, Hillhouse, Houchin, Hogan and Union A, B and C. Ventura and Unocal have also filed petitions for review in the D.C. and Ninth Circuits, but these cases have been stayed for 90 days pending EPA's review of their petitions for reconsideration. *Ventura County Air Pollution Control District* v. *U.S. EPA*, No. 92–1572 (D.C. Cir. November 3, 1992); *Ventura County Air Pollution Control District* v. U.S. EPA, No. 92–70730 (9th Cir. Nov. 3, 1992); *Union Oil Co.* v. *U.S. EPA*, No. 92–1570 (D.C. Cir. Nov. 2, 1992); *Union Oil Co.* v. *U.S. EPA, No. 70727 (9th Cir. Nov. 3, 1992.* In addition, Santa Barbara County has filed a petition for review of the OCS rule in the D.C. Circuit, *Santa Barbara County Air Pollution Control District* v. *EPA*, No. 92–1569 (Nov. 2, 1992), and has intervened in the Unocal and Ventura actions.

II. Final Action To Be Codified

In the preamble to the proposed OCS rule, 56 FR 63774, 63780 (December 5, 1991), EPA proposed that the nearest onshore area ("NOA") be the COA for all existing and proposed OCS sources offshore of California, including the eight platforms listed above. EPA stated that it planned to finalize these designations on the date of promulgation of the OCS rule, so that sources would "have adequate time to determine the applicable requirements, install necessary controls, and receive the required permits, and the proposed sources will be given early notice of the requirements with which they must comply." *Id.*

EPA finalized these designations in the preamble to the final rule. 57 FR 40797. EPA found that although some comments had been submitted during the comment period, none contained a stringency analysis, which EPA found to be a "key criterion for requesting COA designation," *id.*, because Section 328 allows EPA to designate an area other than the NOA as the COA only if the other area has more stringent requirements for the control of air pollution than the NOA. EPA neglected, however, to include these designations in part 55. EPA therefore is now codifying the final action taken on these designations in a new section 55.15, which is attached to this notice.

III. Final Action To Be Reconsidered

On November 2 and 3, 1992, Ventura County and Unocal, respectively, filed petitions for reconsideration of the COA designations for the eight platforms listed above. Although petitioners cite the Administrative Procedures Act, 5 U.S.C. Sec. 553(e), as the basis for their right to petition for reconsideration, the final action at issue here was taken concurrently with the OCS rulemaking, which the Administrator determined to be subject to the requirements of section 307(d) of the Clean Air Act. 56 FR 63774.

Section 307(d)(7)(B) provides that if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within such time [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule, the Administrator shall convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed * * *. Such reconsideration shall not postpone the effectiveness of the rule. The effectiveness of the rule may be stayed during such reconsideration, however, by the Administrator or the court for a period not to exceed three months. Petitioners argue that they did not have enough time to comment on the COA designation within the comment period, that Ventura did eventually submit a letter which included all the necessary information showing that Ventura should have been designated the COA for the platforms in question, and that EPA should in any event have designated Ventura as the COA because it has more stringent requirements than Santa Barbara.

EPA acknowledges that Ventura eventually submitted the documentation to EPA, although not within the comment period and not in time for EPA to give the materials consideration before taking final action on the COA designations. (Ventura's papers were submitted the day before EPA went to closure on the OCS package.) EPA finds, however, that it was impracticable for Ventura and Unocal to raise fully their objections within the comment period of the proposed rule. EPA makes this finding in large part because these were the first COA designations made by

EPA, and they were made according to a new statutory provision and a new rule. Moreover, they were made at the same time as the OCS rule was promulgated, so that the parties involved had not only to comment on the designations but also on the rule. EPA expects, however, in the future that parties seeking a COA designation of an area that is not the NOA will make their requests and demonstrations within the times set forth in § 55.5 of the OCS rule. As stated in the rule, if these deadlines are not met the NOA will automatically become the COA. Moreover, EPA does not intend to extend the thirty-day period for comment on proposed designations under § 55.5(f). EPA believes such time to be ample, especially since any proposed designation will already be 60 days after the COA demonstration.

In addition, EPA finds that Ventura's and Unocal's concerns are of central relevance to EPA's action, since if EPA finds their arguments on the merits to be persuasive EPA will revise its COA designations for the OCS sources in question.

EPA, therefore, is today convening a proceeding for reconsideration of its COA designation for the eight OCS platforms identified above because they were the first COA designations. EPA will examine the material submitted by Ventura County Air Pollution Control District, Union Oil, and Santa Barbara County Air Pollution Control District in evaluating its determination as to the COA designation of these platforms. EPA will follow the notice and comment procedures of section 307(d) of the Clean Air Act and will publish a proposed decision on reconsideration and consider comment before taking appropriate final action. If the reconsideration results in a change in the COA designation for any of the sources, EPA will revise 40 CFR 55.15 accordingly.

EPA will not, however, stay the effectiveness of the current COA designation pending a decision on reconsideration. Consequently, the OCS sources in question here will remain subject to the Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources, unless and until EPA changes the COA designation. EPA views this position as essential to ensure that the OCS sources in question will not go unregulated. At the same time, EPA believes that this position will not cause undue hardship to the sources, especially because they have themselves indicated a willingness to face a short delay in the designation of the appropriate COA, both by filing petitions for reconsideration of EPA's designation and by requesting a delay of that designation in their comments on the proposed rule. See 57 FR 40797. Regardless of the outcome of this reconsideration proceeding as to the COA designation, sources are required to be in compliance by September 4, 1994 as provided in the statute. 42 U.S.C. 7627(a).

List of Subjects in 40 CFR Part 55

Administrative practice and procedures, Air pollution control, Outer Continental Shelf, Ozone, Sulfur oxides, Nitrogen dioxide, Particulate matter, Hydrocarbons, Nitrogen oxides, Intergovernmental relations, Reporting and Recordkeeping requirements, Permits.

Dated: March 5, 1993.

Carol M. Browner,

Administrator.

Part 55 of title 40 of the Code of Federal Regulations is amended as follows:

PART 55—OUTER CONTINENTAL SHELF AIR REGULATIONS

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401, et seq.) as amended by Pub. L. 101–549.

2. Part 55 is amended by adding § 55.15 to read as follows:

§ 55.15 Specific designation of corresponding onshore areas.

(a) California.

(1) The South Coast Air Quality Management District is designated as the COA for the following OCS facilities: Edith, Ellen, Elly, and Eureka.

(2) The Ventura County Air Pollution Control District is designated as the COA for the following OCS facilities: Grace, Gilda, Gail and Gina.

(3) The Santa Barbara County Air Pollution Control District is designated as the COA for the following OCS facilities: Habitat, Hacienda, Harmony, Harvest, Heather, Henry, Heritage, Hermosa, Hidalgo, Hillhouse, Hogan, Houchin, Hondo, Irene, Independence (formerly Iris), the OS and T, and Union A, B, and C.

(b) [Reserved]

[FR Doc. 93–5869 Filed 3–15–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7566]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 457, Lanham, MD 20706, (800) 638–7418.

FOR FURTHER INFORMATION CONTACT: James Ross MacKay, Acting Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646–2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 11291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
New Eligibles—Emergency Program			
South Dakota: Humboldt, town of Minnehaha County.	460118	Feb. 1, 1993	
Tennessee: McEwen, city of Humphreys County	470308	....do	July 2, 1976.
Ohio: Fayette County, unincorporated areas	390164	Feb. 17, 1993	Dec. 9, 1977.
Illinois: Deer Park, village of Lake County	171028	....do	
New Eligibles—Regular Program			
Florida: Crestview, City of Okaloosa County [1]	120597	Feb. 3, 1993	
Missouri:			
Foristell, city of St. Charles and Warren Counties.	290902	Feb. 24, 1993	Dec. 15, 1982.
Laclede County, unincorporated areas	290811	....do	Apr. 17, 1985.
Reinstatements—Regular Program			
Pennsylvania: Jessup, township of Susquehanna County.	422084	Jan. 22, 1976, Emerg.; May 17, 1989, Reg.; May 17, 1989, Susp.; February 10, 1993, Rein.	May 17, 1989.
Mississippi: Lauderdale County unincorporated areas.	280224	May 28, 1975, Emerg.; Sept. 29, 1989, Reg.; May 4, 1992, Susp.; Feb. 10, 1993, Rein.	Aug. 29, 1989.
Oklahoma: Delaware Tribe of Western Oklahoma, Caddo County..	400512	Oct. 18, 1985, Emerg.; Jan. 18, 1988, Reg.; Dec. 16, 1992, Susp.; Feb. 18, 1993, Rein.	Sept. 27, 1991.
South Carolina: Union, city of Union County	450186	June 19, 1975, Emerg.; July 16, 1981, Reg.; July 16, 1981, Susp.; February 18, 1993, Rein.	July 16, 1981.
New York:			
Ausable, town of Clinton County	360165	Feb. 24, 1977, Emerg.; May 15, 1985, Reg.; Nov. 4, 1992, Susp.; Feb. 19, 1993, Rein.	May 15, 1985.
Brunswick, town of Rensselaer County	361130	Aug. 26, 1977, Emerg.; June 4, 1980, Reg.; Nov. 4, 1992, Susp.; Feb. 19, 1993, Rein.	June 4, 1980.
Diana, town of Lewis County	360364	June 13, 1983, Emerg.; Sept. 24, 1984, Rein.; Nov. 4, 1992, Susp.; Feb. 19, 1993, Rein.	Sept. 24, 1984.
Franklin, town of Franklin County	361397	June 18, 1982, Emerg.; Sept. 24, 1984, Rein.; Nov. 4, 1992, Susp.; Feb. 19, 1993, Rein.	Do.
Harrisville, village of Lewis County	361451	May 16, 1983, Emerg.; Sept. 24, 1984, Rein.; Nov. 4, 1992, Susp.; Feb. 19, 1993, Rein.	Do.
Regular Program Conversions			
Region IV			
North Carolina: Mecklenburg County, unincorporated areas.	370158	Feb. 3, 1993, suspension withdrawn	Feb. 3, 1993.
Region V			
Illinois:			
Aroma Park, village of Kankakee County	170740	....do	Do.
Kankakee County, unincorporated areas	170336	....do	Do.
Kankakee, city of Kankakee County	170339	....do	Do.
Momence, city of Kankakee County	170340	....do	Do.

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
Sun River Terrace, village of Kankakee County.	171015	.....do	Do.
Indiana: Warrick County, unincorporated areas ..	180418	.....do	Do.
Michigan:			
Greenbush, township of Alconia County	260001	.....do	Do.
Pinconning, township of Bay County	260025	.....do	Do.
Sims, township of Arenac County	260015	.....do	Do.
Region VI			
Texas: San Diego, city of Duval and Jim Wells Counties.	481199	.....do	Do.
Region VII			
Kansas: St. George, city of Pottawatomi County	200274	.....do	Do.
Region IV			
Georgia: Chattooga County, unincorporated areas.	130035	Feb. 17, 1993, suspension withdrawn	Feb. 17, 1993.
Region V			
Michigan: Alpena, township of Alpena County ...	260011	.....do	Do.
Wisconsin:			
Biron, village of Wood County	555545	.....do	Do.
Nekoosa, city of Wood County	550516	.....do	Do.
Port Edwards, village of Wood County	555572	.....do	Do.

[1] The City of Crestview has adopted Okaloosa County's (#120173) Flood Insurance Study and Flood Insurance Rate Map that became effective on July 15, 1985 for flood insurance purposes.
Code for reading third column: Energ.-Emergency; Reg.-Regular; Susp.-Suspension, Rein.-Reinstatement.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Issued: March 10, 1993.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93–5995 Filed 3–15–93; 8:45 am]

BILLING CODE 6718–21–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[DA 93–226]

Declaratory Ruling Concerning Arrangements Between Applicants for the Interactive Video and Data Service

AGENCY: Federal Communications Commission.

ACTION: Declaratory ruling.

SUMMARY: The Private Radio Bureau has adopted a Memorandum, Opinion and Order to deny the request for a declaratory ruling filed by Mr. Marcos Rodriguez, Jr. (Rodriguez motion) on January 29, 1993. The Rodriguez motion sought a declaration approving the proposed formation of a business organization by and between applicants to operate an Interactive Video and Data Service (IVDS) system in the Dallas, Texas, market. IVDS is a personal radio service in which licensees may provide a variety of radio-based interactive services to the public.

EFFECTIVE DATE: April 15, 1993.

FOR FURTHER INFORMATION CONTACT: Marc S. Martin, (202) 632–6497, Private Radio Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Private Radio Bureau's Memorandum, Opinion and Order, DA 93–228, adopted February 24, 1993; and released March 4, 1993. The full text of this Memorandum, Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Center, room 230, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, 1919 M Street, room 246, Washington, DC 20554, telephone (202) 337–1433.

Summary of Memorandum, Opinion and Order

1. Mr. Marcos Rodriguez, Jr. is an applicant for an IVDS system license in, among other areas, the Dallas, Texas, market. The Rodriguez motion for a declaratory ruling concerned the following proposed private agreement or contract: certain parties that have individually applied for an IVDS system license in the Dallas, Texas, market would enter in an agreement which binds them to form a new legal entity if one of the parties to the contract is made a tentative selectee by an IVDS lottery. Under the agreement, the party to the contract that is selected by an IVDS lottery would retain control of the license while the other parties would acquire an ownership interest therein on a pro rata basis. Further, the Rodriguez motion states that the agreement would not permit any party to hold an interest in more than one IVDS system license in the same market. Mr. Rodriguez queried whether his proposed agreement is permissible under the established IVDS rules and policies.

2. It is not the policy or past practice of the Private Radio Bureau to issue declaratory rulings on the acceptability of particular private management contracts. Nevertheless, because of the potential negative impact that confusion in this area could have on implementation of IVDS, the Bureau addressed this issue.

3. At issue was whether it is permissible for the IVDS applicants to enter into a contract or agreement whereby if one of the parties to the agreement becomes a tentative selectee, the other parties to the agreement would acquire an ownership interest in the IVDS license. In developing rules and policies for IVDS we were guided by our experience in other radio services where licenses generally are decided by lottery. Our experience in these cases has been that (1) there is a growing problem with the filing of speculative applications, (2) agreements such as the one proposed Mr. Rodriguez makes filing applications more attractive to those who wish only to speculate and (3) the usefulness of settlement agreements in situations where there is a high volume of applications is far outweighed by the problems they cause.

4. In the R&O establishing IVDS the Commission noted the importance of minimizing speculative applications and adopted criteria to achieve this end. Three of the criteria applied here. First, the Commission stated in the text of the R&O that "[a]n [IVDS] applicant may not have any interest in another pending application for the same service area." Second, it adopted a rule that a licensee may have no ownership interest in, financial interest in, or exercise *de facto* control over, both frequency segments in the same service area. Third, it adopted a rule prohibiting the transfer of an IVDS license until the system construction benchmarks were met. Mr. Rodriguez's agreement is clearly at variance with the policy articulated in the R&O against applicants having an interest in another pending application in the same IVDS service area. Further, despite the claim of the Rodriguez motion, the agreement has the potential to violate the rule against any party holding an interest in more than one IVDS frequency segment in the same area. Finally, under Mr. Rodriguez's proposal, a new legal entity would be created. This would appear to violate the intent of the rule prohibiting license transfer before construction benchmarks are met.

5. Accordingly, the Bureau has concluded that Mr. Rodriguez's proposal as described herein for the IVDS service is not permitted. This position is consistent with the Commission's approach to other private radio services and the Multipoint Distribution Service (MDS), a point-to-multipoint service, where there has been an emphasis on reducing speculative applications. Therefore, it is ordered that the request for a declaratory ruling filed by Mr. Marcos Rodriguez, Jr. is denied, effective thirty days after publication in the Federal Register.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 93-5899 Filed 3-15-93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 88-06, Notice No. 21]

RIN 2127-AC43

Federal Motor Vehicle Safety Standards; Side Impact Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This rule amends Federal Motor Vehicle Safety Standard No. 214, Side Impact Protection, to provide procedures for conducting quasi-static tests of the strength of certain doors on light trucks, multipurpose passenger vehicles (MPV) and buses with a gross vehicle weight rating (GVWR) of 4,545 kilograms (kg) (10,000 pounds) or less. The particular types of doors addressed by this notice are doors with contoured lower edges, doors with decorative or protective molding attached, double cargo doors, and doors which have no windows. The changes in this notice are intended to ensure that the weaker parts of these doors are tested without interference from the pillars or door frames.

DATES: This rule is effective September 1, 1994. Any petitions for reconsideration of this rule must be received by NHTSA not later than April 15, 1993.

ADDRESSES: Any petition for reconsideration should refer to Docket Number 88-06, Notice 21, and be submitted to: NHTSA Docket Section, room 5109, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Kanianthra, Chief, Side and Rollover Crash Protection Division, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, (202) 366-4924.

SUPPLEMENTARY INFORMATION:

Background

Federal Motor Vehicle Safety Standard No. 214, Side Impact Protection, currently applicable only to passenger cars, specifies quasi-static side door strength requirements to minimize occupant injuries that occur as a result of a vehicle's side structure being pushed into the passenger compartment during a side impact crash. Standard No. 214 requires each door to resist a crush force that is applied inward against the door's outside surface in a laboratory test. This force is applied by means of a piston-driven vertical steel cylinder or semi-cylinder (hereinafter referred to as cylinder or loading cylinder) that is aligned with the middle of the door.

The standard fixes the position of the cylinder in relation to the front and rear edges of a door by specifying that the cylinder's longitudinal axis is to be located opposite the midpoint of a horizontal line drawn across the span of the door, 127 millimeters (mm) (5 inches) above the lowest point of the door. The bottom of the cylinder is to be aligned with the line drawn 127 mm (5 inches) above the door's lowest point, and the top of the cylinder is to extend above the bottom edge of the window opening by at least 13 mm (0.5 inches). These procedures are intended to ensure that the loading cylinder is positioned as near as possible to the center of the door panel.

There are several reasons for locating the loading cylinder in the center of the door panel. First, the center of the door panel is the weakest region and therefore where the greatest intrusion into the passenger compartment in a side impact crash is most likely to occur. The standard seeks to ensure an adequate level of crush strength and thereby limit intrusion at the door's midpoint so that, if an impact occurs elsewhere on the door panel, the door's strength will be at least as great in that off-center location. Second, the standard specifies this positioning of the cylinder to ensure that the cylinder is positioned sufficiently far from the door frame and vehicle structures, such as the pillars, located next to the edges of the door to prevent those components from distorting the test results.

To meet the door strength requirements of Standard No. 214, manufacturers customarily reinforce a car's side doors with horizontal metal beams. The door beams are designed to transmit crash forces through the door's hinges and lock mechanism to the pillar structures located fore and aft of each door in most body styles and vehicle types.

On June 14, 1991, NHTSA issued a final rule extending the quasi-static test requirements for side door strength to trucks, buses and MPVs with a GVWR of 4,545 kilograms (kg) (10,000 pounds) or less (LTVs), except walk-in vans (56 FR 27427; June 14, 1991). That final rule, which established an effective date of September 1, 1993, specified that LTV side door strength be tested

according to the same test procedure that currently applies to cars.

The final rule did not resolve questions which commenters on the proposal preceding the June 1991 final rule raised regarding the appropriateness of using the car test procedure for testing certain types of LTV side doors. Specifically, some manufacturers expressed concern about how to test four types of doors: Doors with contoured lower edges (i.e., doors whose straight bottom edges are unusually small), double cargo doors, doors with no windows, and doors with decorative or protective molding. The primary concern was that in testing such doors, following the car test procedures would not ensure that the loading cylinder would be located at the weakest part of contoured doors. Further, passenger car door test procedures as applied to double cargo doors, doors with decorative or protective molding, and doors without windows, were not specified.

To provide the public with an opportunity to comment on the agency's tentative resolution of those issues, NHTSA issued an NPRM on January 15, 1992 (57 FR 1716) (hereinafter NPRM), proposing to amend the quasi-static side door strength test procedures for the four types of doors.

Summary of the Proposal

In the NPRM, NHTSA proposed to amend Standard 214 to address these four types of doors.

(1) Contoured Doors

For contoured doors, as well as all other car and LTV doors other than double cargo doors, NHTSA proposed to align the loading cylinder so that the longitudinal axis of the cylinder would be aligned with the midpoint of a horizontal line drawn across the widest portion of the door. For all contoured doors, as well as all other doors, the agency proposed that the bottom of the cylinder be located in the lowest horizontal plane such that the lateral projection of the bottom of the cylinder would be at least 127 mm (5 inches) from any edge of the door panel. These procedures were intended to ensure that the cylinder would be positioned in the approximate center of such doors.

(2) Double Cargo Doors

Such doors were defined in the NPRM as "a pair of hinged doors with the lock and latch mechanisms located where the door lips overlap." NHTSA proposed to treat such doors as a single system so that the doors would be tested simultaneously. NHTSA proposed to position the loading cylinder so that its longitudinal axis would be positioned laterally opposite the midpoint of a horizontal line drawn across the two doors at their widest point. As already noted, the cylinder would also be located such that every point on the lateral projection of the bottom surface of the cylinder would be at least 127 mm (5 inches) from the bottom edge of the door panels, exclusive of any decorative or protective moldings.

(3) Windowless Doors

The current procedures are premised on there being a window in each door. They provide that the upper edge of the loading cylinder is to extend at least 13 mm (0.5 inches) above the bottom edge of the window opening. To accommodate doors that have no windows, NHTSA proposed that the upper edge of the cylinder would be positioned for those doors at the same height above the ground as the cylinder would be positioned in testing the front side door with windows, of the same vehicle.

(4) Doors With Decorative or Protective Moldings

Currently, Standard 214 provides that the bottom edge of the loading cylinder is to be aligned at the midpoint of a horizontal line drawn across the door, 127 mm (5 inches) above the lowest point of the door. In addition to proposing a new procedure for locating the bottom of the cylinder, NHTSA proposed also to provide that the lowest point of a vehicle's door would be the lowest point on the outer door panel itself, exclusive of any decorative or protective molding extending below the door panel's bottom edge.

Summary of Comments

Fourteen comments were received from motor vehicle manufacturers and public interest groups in response to the NPRM. Twelve were submitted by vehicle manufacturers, one by a trade association, and one by a public interest organization. Ten of the vehicle manufacturers opposed the new testing procedures for contoured doors, primarily because they were concerned that in its new position, the cylinder would miss the door beam and frame structure in some of their cars and LTVs. They said that this would necessitate raising the door beam, which would in turn necessitate relocation of the latch and hinge mechanisms, and possibly even require redesign of the doors. Such relocations/redesigns could call for the use of additional materials which could result in added weight and increased costs. Commenters were also concerned that the new position of the cylinder would jeopardize their efforts to comply with the new dynamic strength requirements for cars as well as compliance with other safety standards. Two commenters asserted that NHTSA had not conclusively proven that such changes are necessary. Further, five stated that if these new procedures were adopted, additional lead time ranging from three to four years would be needed to implement the new procedures.

Commenters generally concurred with the balance of the proposal, i.e., the proposed test procedures for double cargo doors, windowless doors, and doors with decorative or protective molding. However, three commenters suggested that decorative or protective molding be included in determining the lowest point of a door.

Notice Delaying Effective Date

On July 13, 1992, NHTSA responded to a petition by General Motors for the reconsideration of the June 1991 final rule by publishing a new final rule delaying the effective date for the extension of the quasi-static side impact protection requirements to LTVs (57 FR 30917). The agency had specified in the June 1991 final rule that all LTVs comply with those requirements as of September 1, 1993. In the July 1992 final rule, the agency amended the effective date to phase-in compliance over a two-year period. Ninety percent of each manufacturer's LTVs produced on or after September 1, 1993, but before September 1, 1994, must comply with those requirements. Further, the agency excluded from the requirements certain doors on LTVs manufactured during that one year period: All double cargo doors, all windowless doors and certain contoured doors. Effective September 1, 1994, all side doors on all LTVs must comply.

Summary of the Final Rule

After careful consideration of all comments on the January 1992 NPRM and other available information, NHTSA has decided to proceed with specifying test procedures for unusual or odd-shaped doors. One of the most significant differences between the final rule and the NPRM is that the final rule retains, for cars, the existing procedures for aligning the longitudinal axis of the cylinder and for determining the location of the bottom of the cylinder. The final rule also revises the new procedures regarding the location of the longitudinal axis and bottom of the cylinder so that the positioning of the cylinder for contoured doors in LTVs will be unchanged in many instances. For contoured LTV doors that are

relatively wide at their bases and for double cargo doors, the same procedures specified for cars will be applicable. For LTV contoured doors that are relatively narrow, the longitudinal axis of the loading cylinder will be positioned as follows: If the horizontal line drawn 127 mm (5 inches) above the bottom edge of the door panel measures less than 559 mm (22 inches) long, the line is moved vertically up the side of the door panel until the line measures at least 559 mm (22 inches). The longitudinal axis of the loading cylinder will then be placed at the midpoint of that line. The agency has adopted without change the new test procedures for windowless doors. The proposed revision of Figure 1 showing the cylinder positioning for cars has not been adopted since the existing test procedures have been retained for cars.

The effective date of the new test procedures is September 1, 1994. That date was selected because it coincides with the date that the provisions of Standard 214 become applicable to LTVs having these specially shaped doors.

Contoured Doors

The issue of the test procedure as applied to contoured doors was originally raised by Mitsubishi Motors Corporation (Mitsubishi) in a July 1989 letter to this agency. That company inquired about the appropriate positioning of the loading cylinder in testing doors whose lower edges are not at all points parallel to the door sill. Mitsubishi specifically had in mind the front door of a forward control van. The lower edge of that door is curved upward to accommodate the front wheel well. Mitsubishi pointed out that under the current procedure, when the straight portion of the bottom edge of a door across which the horizontal line is drawn (127 mm (5 inches) above the lowest point of the door) is relatively narrow, the loading cylinder would be positioned too close to the front or rear edge of the door. Indeed, in some cases, the straight portion of the bottom edge of the door might be so narrow that its width is nearly the same as the diameter of the loading cylinder.

NHTSA tentatively concluded that this result was undesirable because the main purpose of the quasi-static door strength test is to use the loading cylinder to evaluate the crush strength of the door panel without the cylinder's engaging the door frame or the vehicle structures next to or behind the door edge, thereby distorting the test results. Accordingly, NHTSA proposed, for contoured doors, as well as all other car and LTV doors except double cargo doors, that the loading cylinder be aligned so that its longitudinal axis would be opposite the midpoint of a horizontal line drawn across the widest portion of the door. For contoured doors, as well as all other doors, the agency proposed that the bottom of the cylinder would be positioned such that the lateral projection of the bottom of the cylinder on the door would be at least 127 mm (5 inches) from any edge of the door panel, including any point on the contoured edge. These proposed new procedures were intended to ensure that the cylinder would be positioned to test the weakest part of the door.

Chrysler Corporation (Chrysler), American Suzuki Motor Corporation (Suzuki), Mitsubishi, Ford Motor Company (Ford), Rover Group North American Engineering Office (Rover), Honda Motor Company, Inc. (Honda), Nissan Research & Development, Inc. (Nissan), Toyota Motor Corporate Services of North America, Inc., (Toyota), General Motors Corporation (GM), and Fiat Automotive R&D, USA (Fiat) opposed the proposed new procedures on the basis that changing the position of the loading cylinder as proposed would cause the cylinder to miss the side door beam in some car and LTV doors. Therefore, in order to maintain compliance of their vehicles with the existing side door strength requirements for cars and the future requirements for LTVs, it would be necessary to relocate the beam upward in space currently occupied by window, latch, and hinge mechanisms. In some cases, they said that it would be necessary to redesign the affected doors, with consequent increase in design, tooling, materials, testing, and certification costs as well as an increase in weight.

The proposed procedure was not intended to result in the cylinder's being placed so high that it would miss door beams during the testing of side doors. Such results in the case of cars are inappropriate since the potential problem of mislocation of the cylinder is limited to LTV door designs. To ensure that this result does not occur, the agency has decided to limit the applicability of the new procedure to LTVs only. NHTSA has decided to limit further the applicability of the new procedure by applying it to only those contoured LTV doors with relatively narrow bottoms. The new procedure will apply to those doors only if the horizontal line 127 mm (5 inches) above the bottom of the door is less than 559 mm (22 inches) long.

The reason for choosing 559 mm (22 inches) as the break point is explained below. NHTSA considers it essential that the edges of the loading cylinder be positioned a minimum of 127 mm away from any edge of the door being tested in order to avoid contacting any reinforcing structures that could distort the test results. Since paragraph S4(b) specifies that the loading cylinder is to be 305 mm (12 inches) in diameter, the horizontal line across the door on which the bottom edge of the cylinder is to be placed must measure at least 559 mm (22 inches) (the sum of the loading cylinder's 305 mm (12 inch) diameter, plus 127 mm (5 inches) of clearance on either side of the cylinder).

If the line 127 mm (5 inches) above the bottom edge of the door is not at least 559 mm long (22 inches), the line is moved vertically up the side of the door panel to the first height at which the line reaches a length of 559 mm (22 inches). The cylinder is positioned so that its longitudinal axis is opposite the midpoint of that line.

The bottom of the cylinder is placed in the lowest horizontal plane such that every point of the lateral projection of the cylinder on the door is at least 127 mm (5 inches), horizontally and vertically, from any edge of the door.

With the cylinder positioned in this manner, there should be very little, if any, necessity for manufacturers to relocate door beams in LTVs. If any door beam relocation is necessary, it would be necessary in only a very few vehicle models and would be very slight. It would not interfere with the latch, window, or hinger mechanisms or hardware.

Thus, the concerns expressed by commenters regarding such matters as extensive beam relocation and strengthening and door redesign in cars and LTVs will not be realized.

Chrysler, Suzuki, GM, Toyota, Nissan, Fiat and Mercedes-Benz of North America, Inc. (Mercedes) commented that repositioning of the loading cylinder would require relocation of the door beam upward, thereby placing it near the thorax impact area, increasing the chance of injury. They contended that this relocation would be especially counterproductive to developing protection to comply with the new dynamic side impact strength requirements for cars and may jeopardize compliance with other safety requirements, such as those relating to frontal crash performance.

The new dynamic side impact requirements were added to Standard No. 214 by a final rule published in the **Federal Register** on October 30, 1990 (55 FR 45722). They become effective

September 1, 1996. These requirements specify that a passenger car must provide protection in a crash test in which the target car is struck in either side by a moving deformable barrier, simulating another vehicle. Instrumented test dummies are placed in the front and rear outboard seating positions on the struck side of the car to measure the potential for injuries to the thorax and pelvis of occupants.

The agency reiterates that this final rule does not epply the new test procedure to passenger car doors, but only to certain LTV doors. Accordingly, the new test procedure announced in this final rule will not interfere with efforts to comply with the dynamic side impact protection requirements of Standard 214. Further, NHTSA believes that the new procedures will not interfere with any other safety requirements currently in effect.

Suzuki and GM commented that NHTSA was incorrect in assuming that the weakest region of the door is at the midpoint of a horizontal line drawn across the widest part of the door. Suzuki contended that the actual weakest part of the door is at the midpoint between the hinge axis and the door latch mechanism. GM said that the weakest region should correspond with the center of the door opening.

NHTSA stated in the NPRM that the center of the door panel is the weakest region of the door. This statement logically followed from the assumption that the point farthest from any edge or supporting frame would be the weakest. While Suzuki and General Motors may be at least partially correct in their assertions, the locations they specify are both very close to the midpoint of the widest part of the door. Thus, positioning the loading cylinder at the center of the door panel would be appropriate for all the suggested locations for the weakest region. NHTSA believes that the positioning of the loading cylinder in the lowest horizontal plane such that the lateral projection of the cylinder's bottom is at least 127 mm (5 inches), vertically and horizontally, from the nearest door edge will ensure that the cylinder is located so that the weakest part of the door will be tested and an accurate evaluation of the strength of the door will be obtained. Testing that region will ensure that the rest of the door panel performs adequately. As previously stated, the new positioning of the loading cylinder announced in this notice would affect only a certain few LTV models. Most vehicles would continue to use the existing procedures.

Chrysler and General Motors commented that the new procedures would not take into account wheel houses, step wells, and other side door structures which they believed could be helpful in meeting side door strength requirements.

NHTSA understands that wheel houses, step wells, and other vehicle structures may have bracing and support structures which, theoretically, may be helpful in strengthening side door protection. NHTSA believes that it is appropriate to position the cylinder so as to allow some, but not all of these structures to affect the test results. The loading cylinder should be positioned so that the wheel house does not affect the results of the strength tests since, in many vehicles, people in the passenger compartment are located away from the wheel house. Step wells, on the other hand, are usually located in or near passenger compartment areas. Indeed, the step wells in some LTVs extend above the bottoms of the doors. In such cases, engaging the step wells is unavoidable when testing the doors. This is appropriate since a colliding vehicle would engage the same structures behind a side door. NHTSA believes that the procedure for determining the location of the bottom of the cylinder will ensure that the contribution of step wells is taken into account.

Ford and GM commented that NHTSA did not prove a safety need for amending the quasi-static side door strength test procedures, that any such amendments would be impractical and inappropriate, and that the new procedures would not relate to real-world collisions. Toyota suggested that if NHTSA has any accident data demonstrating a need for these amendments to Standard 214, the agency should make such data public.

NHTSA believes that these comments were premised on application of the new test procedures to cars and many LTVs. Since the procedures, as adopted in this final rule, have been substantially limited in their applicability, the agency believes that the comments are largely moot. Further, NHTSA believes that it abundantly demonstrated a safety need for and the practicability of extending the side door strength requirements of Standard 214 to LTVs in the June 1991 final rule (see especially Safety Need, at 56 FR 27428, *et seq.*). NHTSA also believes, however, that the test procedure must be correctly applied to all doors to ensure that the requirements of the standard are met.

Doors with Decorative or Protective Molding

The current test procedures in Standard 214 provide that the bottom edge of the loading cylinder is to be placed in the same horizontal plane containing the horizontal line drawn across the door panel, 127 mm (5 inches) above the "lowest point of the door." By letter to NHTSA dated August 8, 1990, Mazda Research & Development of North America, Inc. (Mazda) inquired whether, for purposes of positioning the loading cylinder as provided in S4(c)(2), the lowest point of the door would be the bottom of the door panel itself or whether it would include the bottom of any attached molding that extended below the bottom edge of the door. NHTSA responded that door molding is considered part of the door, therefore, the "lowest point of the door" would be measured from the lowest part of any attached door molding.

NHTSA was not comfortable with having to interpret the Standard in that way, however, because if molding extends below the bottom of the door panel, the line 127 mm (5 inches) above the lowest point would be less than 127 mm (5 inches) above the bottom of the door panel. In that position, the loading cylinder might be too low because it might engage the sill or floor structure and lead to distorted test results. In the NPRM, therefore, NHTSA proposed to amend S4(c)(2) to exclude any decorative or protective molding when making the measurement necessary to place the horizontal line 127 mm (5 inches) above the bottom edge of the door.

In its comments, Ford agreed that decorative and non-structural moldings should be excluded in determining loading cylinder placement. Ford said, however, that NHTSA should not disregard the possible use of structural moldings, that is, moldings that enhance structural support as well as being decorative. Ford foresees that such structural moldings could ultimately replace typical door beam designs currently in use and would be an integral part of the door strength in meeting both dynamic and quasi-static strength requirements. GM also agreed with NHTSA's proposals regarding molding, but asked whether all molding was to be removed before testing and whether the 127 mm (5 inch) measurement should be made from the bottom of the door's supporting frame.

NHTSA has concluded that moldings that are not an integral part of the door panel, i.e., are not permanently affixed thereto so as to become a part of the door panel, are to be removed from doors for the purpose of making the 127 mm (5 inch) measurement. An example of molding that is not permanently affixed is molding affixed only by clips or clamps. That will ensure that the

loading cylinder will be properly positioned for testing the doors. However, even if removed to make the measurement, the molding is to be in place during the testing since the agency believes that a door should be tested as it will exist in the real world.

Double Cargo Doors

In the NPRM, NHTSA proposed to test double cargo doors as a single system instead of testing each door individually. "Double cargo doors" refers to a pair of hinged doors with the lock and latch mechanisms located where the doors meet. The NPRM proposed that the longitudinal axis of the loading cylinder would be placed laterally opposite the midpoint of a horizontal line drawn across the widest part of the door system. Further, the cylinder would be located in the lowest horizontal plane such that every point on the lateral projection on the door panels of the bottom surface of the cylinder would be at least 127 mm (5 inches) from any edge of the door panels, exclusive of any decorative or protective molding.

The agency proposed to treat double cargo doors as a single system because the quasi-static door strength test should be conducted at the weakest region of the door system opening, i.e., where the greatest intrusion is likely to occur. NHTSA believed that, given the structures and the latching mechanisms found in cargo doors, the double cargo door system is weakest at its midpoint, regardless of whether the doors are equal in size and meet in the center of the door system opening.

Ford did not object to the NHTSA proposal to treat double cargo doors as a single system. Ford expressed concern, however, that certain models of its LTVs have step wells inside the vehicle that measure 216 mm (8½ inches) high for the front door and 241 mm (9½ inches) high for the back door. Thus, when the double opening cargo doors are subjected to the test procedure of Standard 214 where the bottom of the loading cylinder is placed 127 mm (5 inches) above the bottom of the door, the inside step is contacted before the loading cylinder has traveled the specified 457 mm (18 inches). To meet the requirements of Standard 214, therefore, Ford asserted it would be required to redesign both front and rear doors of the affected vehicles. Ford indicated, however, that contact with the floor step increases the side crush resistance of the door, thereby helping to reduce intrusion into the passenger compartment.

The agency proposed in the NPRM that in testing double cargo doors, the longitudinal axis of the loading cylinder would be positioned laterally opposite the midpoint of a horizontal line drawn across the span of the two doors at the widest point. Further, the cylinder would be located in the lowest horizontal plane such that every point on the lateral projection of the bottom surface of the cylinder on the door would be at least 127 mm (5 inches) from the bottom edge of the door panels, exclusive of any decorative or protective moldings. Given the width and rectangular shape of most double cargo doors, positioning a cylinder in accordance with this procedure would result in placing the bottom of the cylinder in the horizontal plane 127 mm (5 inches) above the bottom edge of the door.

In the interest of simplifying its regulatory language, the agency is specifying in the final rule that the bottom of the cylinder is to be in the same horizontal plane as a horizontal line drawn across the span of the two doors 127 mm (5 inches) above the bottom edge of the doors, exclusive of any decorative or protective molding that is not permanently affixed to the door panel. The same horizontal line is to be used in positioning the longitudinal axis of the loading cylinder. Given the rectangular shape of the cargo doors, use of the midpoint of that line is likely to produce a result very similar to that from using the midpoint of a line across the widest part of the doors. Accordingly, the cylinder is to be positioned opposite the midpoint of the line drawn horizontally 127 mm (5 inches) above the bottom edge of the doors.

Following this procedure will ensure that the lateral projection of the bottom surface of the cylinder on the doors is at least 127 mm (5 inches) from the bottom edge of the door panels. In that position, the loading cylinder will likely contact a step that is inside the door. As the agency has already indicated above, it believes that this is appropriate since a colliding vehicle would strike the same structures.

GM suggested that these double doors be referred to as "double side doors" instead of "double cargo doors." In its rulemaking regarding the application of Standard 214 to LTVs, NHTSA has been using the term "double cargo doors" in referring to LTV rear side doors, whether usable for cargo or passengers or both. GM said, however, that the term "double cargo doors" suggests that such doors are used exclusively for cargo. The agency did not intend that its term be interpreted in that way. It has decided, therefore, to adopt GM's suggestion and substitute the term "double side doors" for the term "double cargo doors."

Windowless Doors

Finally, the NPRM addressed the issue of positioning the loading cylinder with respect to side doors having no windows. Standard 214 currently requires that the upper end of the loading cylinder be placed at least 13 mm (0.5 inches) above the bottom edge of the window opening. No positioning is specified for doors without windows. NHTSA therefore proposed that, in such cases, the upper end of the loading cylinder be positioned at the same height above the ground as the cylinder would be positioned when testing a front door with a window in the same vehicle.

GM, the only commenter to address this proposal, concurred with it. Therefore, this provision has been adopted as proposed.

Other Comments from Manufacturers

Volkswagen (VW) had no specific comments concerning the proposals in the NPRM, but suggested that NHTSA review the overall fatality and injury reduction benefits of the dynamic side impact test to determine whether the quasi-static door strength test is still meaningful or necessary. VW suggested that removal of the quasi-static test would reduce redundancy in testing and reduce the economic burden of such testing.

In issuing the final rule for dynamic side impact protection in passenger cars, NHTSA stated it was retaining the quasi-static door strength requirement for cars since the protection resulting from the application of that requirement to cars is effective in single vehicle crashes against fixed objects. The agency believes that retention of the requirement is still appropriate for cars. The dynamic requirement will supplement the quasi-static requirement by improving the protection of occupants from serious thoracic injuries in multi-vehicle collisions.

The Recreation Vehicle Industry Association (RVIA) generally supported NHTSA's proposals, but believed that NHTSA did not go far enough. RVIA asked NHTSA to exclude vehicles modified to accommodate persons with disabilities and other multi-stage vehicles for which the final stage manufacturer is not able to "pass through" the chassis manufacturer's certification for the side door strength requirements. RVIA stated that having to comply with the current requirements of Standard 214 would make manufacturers of recreational vehicles unable to continue producing the wide

variety of vehicle configurations demanded by consumers. RVIA said that if NHTSA does not agree to exclude those vehicles, RVIA requested a one year extension of the effective date.

In its comment on the NPRM of December 22, 1989, which proposed to extend the side strength requirements of Standard 214 to LTVs, RVIA requested that NHTSA exclude motor homes, vans, and van conversions from those requirements. RVIA argued that occupants of such vehicles sit above the most likely points of initial side impact and that those vehicles are larger and structurally stronger than passenger cars, thus providing more side impact protection than passenger cars. NHTSA disagreed that motor homes, vans, and van conversions should be excluded and therefore included them in the final rule of June 4, 1991. NHTSA pointed out that LTVs have side impacts with poles and trees, that those objects are normally taller than LTVs and its occupants' seating heights and that the weight of a vehicle does not have a strong effect on the risk of injury to vehicle occupants in side impact crashes. NHTSA further noted that the types of LTVs specified by NHTSA use the same roads at the same times as other LTVs, and are therefore subject to the same safety risks as those other LTVs. NHTSA stated that it was not aware of any special design characteristics of the vehicles specified by RVIA that would reduce such risks, nor did RVIA or any other commenter identify any particular characteristics of such vehicles that would make it more difficult for them to meet the side door strength requirements than for any other LTVs. Finally, NHTSA noted that the cost of installing side door beams in those vehicles would not exceed the cost of installing beams in any other LTVs. Thus, NHTSA perceived no basis for excluding such vehicles from the side door strength requirements.

NHTSA believes that same rationale applies as well to vehicles modified to accommodate persons with disabilities and multistage vehicles, whether or not the final stage manufacturer is able to pass through the certification of the chassis manufacturer. RVIA submitted nothing indicating that these vehicles have any lesser safety need than any other LTVs. Further, NHTSA is unaware of any data indicating that is the case. NHTSA is also not aware of any reason why most, if not all, final stage manufacturers would not be able to pass through the certifications of the chassis manufacturers.

With regard to an extension of the effective date of the provisions of this final rule, many of the doors on the vehicles of concern to RVIA are the same as those for which NHTSA granted a delay in the effective date in the July 13, 1992, final rule. Further, as in the case of motor homes, van conversions, vehicles modified to accommodate the disabled, etc., only those vehicles with seating reference points that are within 254 mm (10 inches) of the vehicle doors are subject to the side strength requirements of Standard 214. Finally, on those very few vehicles that are not covered by the effective date delay and that have seating reference points within 254 mm (10 inches) of the doors, manufacturers still have the benefit of the phase-in for at least ten percent of their vehicle production which was also granted in the July 13, 1992 final rule. Accordingly, vehicles modified to accommodate persons with disabilities and multi-stage vehicles are included in the requirements of this final rule and the final rule of June 14, 1991. NHTSA believes that the vehicles of concern to RVIA are covered either by exclusion from Standard 214 requirements or by extension of the effective date previously granted in the final rule of July 13, 1992.

Advocates for Highway and Auto Safety (AHAS) had no specific comments on the NPRM, but suggested that the current dynamic test for passenger cars using the moving deformable barrier will not suffice for evaluation of door strength in violent intrusions that occur in pole and tree impacts. They said that NHTSA should conduct a full scale crash test for testing protection from intrusions by narrow fixed objects.

The issue raised by AHAS is not only beyond the scope of this rulemaking proceeding, but does not relate to the subject of this proceeding, the quasi-static requirement. The issue relates instead to the dynamic test which applies to passenger cars only and is intended to address vehicle-to-vehicle crashes. NHTSA notes that the quasi-static requirements, which will continue to apply to cars, already provide a certain amount of protection from intrusions by narrow fixed objects. NHTSA notes further that the issue of new requirements to address pole/tree intrusions was addressed in previous rulemaking. See ANPRM of August 19, 1988, 53 FR 31712).

August 1992 Letter from Rover Group

As indicated above, in response to a petition from GM for reconsideration of the June 1991 final rule, NHTSA published a final rule in July 1992 delaying the effective date for the extension of the side door strength requirements to LTVs. The delay applied to a percentage of all LTVs and to certain types of unusually configured doors on all LTVs. Among the doors affected by the delay were contoured doors for which the ratio of the width of the lowest portion of the door to the width of the door at its widest point is not greater than 0.5.

On August 12, 1992, Rover Group submitted a letter stating that the current Range Rover vehicle has contoured rear doors that have a ratio slightly greater than 0.5, thus were not included among the doors for which the effective date was delayed by the July 1992 final rule. Rover Group indicated that it has redesigned those contoured doors to meet the current Standard No. 214 requirements which become effective September 1, 1993. That company expressed concern that the application of any significantly different test procedures to these doors as a result of the proposals in the January 1992 NPRM could render its new design and tooling obsolete. Rover Group stated that if this occurred, it could have significant cost impacts on the company. Rover Group believed that different procedures might be applied to its doors if the January 1992 NPRM resulted in a final rule basing the applicability of the new test procedures on a new criterion which, unlike the 0.5 ratio of the July 1992 final rule, included instead of excluded the Rover doors.

NHTSA notes that the use of the 0.5 ratio in the July 1992 final rule was not intended as a signal concerning the final action the agency would take on the January 1992 NPRM. The existing Standard No. 214 test procedure only created problems for contoured doors which have a significant degree of contour. In order to delay the effective date for those doors and not ones that have only a small degree of contour, it was necessary to define which doors were subject to the delay. The agency selected the 0.5 ratio to ensure that the effective date was delayed for contoured doors which have a significant degree of contour.

While today's final rule will apply a different test procedure to the Range Rover's rear doors effective September 1, 1994, that does not necessarily mean that Rover Group will need to redesign those doors. Those new procedures differ significantly from the ones on which the Rover Group based its July 1992 letter. Under the procedure adopted today, the cylinder will likely be positioned closer to where it is positioned under the "current" procedure (the one that applies to the Range Rover's rear doors effective September 1, 1993 and the one for

which those doors have been redesigned) than where it would have been positioned under the procedure proposed in the January 1992 NPRM. As discussed above, the agency believes that, with the cylinder positioned in the manner specified in this final rule, there should be very little, if any, necessity for manufacturers to relocate door beams in most LTVs. The agency believes further that it is likely that Rover Group will either not have to redesign the door at all or, at most, make only a minor design change.

Effective Date

In its initial comment on the January 1992 NPRM, Rover Group suggested an effective date of not earlier than September 1, 1995 for these amendments. However, they also suggested that it would be appropriate to delay changes of this magnitude until the dynamic test procedures become effective for cars (September 1, 1996). GM and Mercedes suggested an effective date of September 1, 1996 (the NPRM proposed an effective date of September 1, 1993). Honda suggested an effective date four years after the date of publication of the final rule. Fiat requested that NHTSA reconsider the effective date, although they made no specific recommendation. These commenters believed that they could not meet the September 1, 1993 effective date because the necessary beam relocations, door redesigns, and retesting could not be accomplished by then.

In the NPRM, NHTSA proposed an effective date of September 1, 1993, for the amendments in this final rule to coincide with the effective date of the final rule of June 14, 1991, making the quasi-static side impact requirements applicable to LTVs (56 FR 27427). However, as noted above, NHTSA responded to a petition for reconsideration from GM by establishing a brief phase-in period for those requirements and extended by one year, i.e., until September 1, 1994, the effective date of the requirements applicable to double side doors, windowless doors, and certain contoured doors (57 FR 30917). To be consistent with the effective date of those other related requirements, NHTSA establishes an effective date of September 1, 1994, for the new procedures specified in this final rule. NHTSA believes that this date is realistic and practicable. Comments suggesting that the effective date would be impracticable were premised on the application of the new procedure to passenger cars as well as LTVs and on significant changes being required in LTV doors. As noted above, the changes made in this final rule have removed the bases for those suggestions.

This final rule does not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (Safety Act), 15 U.S.C. 1392(d), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance applicable only to vehicles procured for the state's own use. Section 105 of the Safety Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has examined the impacts of this final rule and has determined that it is not major within the meaning of E.O. 12291. NHTSA has further determined that this rulemaking is not significant within the meaning of the Department of Transportation's regulatory policies and procedures. This rule does not impose any new performance requirements. Instead, it simply specifies the details for testing certain LTVs with unusual door configurations for compliance with Standard No. 214's quasi-static test requirements for side door strength. Those requirements were extended to LTVs in a previous rulemaking. The agency notes that the special procedures for these unusually configured doors will not be any more expensive than the testing of normally configured doors. NHTSA believes that, as explained earlier in this preamble, the procedures specified in this notice will affect only a few LTV models. Further, the agency also believes that relocation of door beams will be necessary in only some of those few models. Even then, the necessary relocations should be slight. The manufacturers of those models should be able to make those relocations easily and without affecting any other hardware in the doors. Consequently, the agency has determined that the impact would be so minimal that a full regulatory evaluation is not required.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this final rule on small entities. Based on this evaluation, I certify that the amendments in this final rule will not have a significant economic impact on a substantial number of small entities.

As stated above, the amendments promulgated by this final rule provide additional details concerning the quasi-static side door test procedures of Standard No. 214 as applied to LTVs with doors of unusual configurations. The new test procedures are not expected to have any significant effect on compliance costs since they affect only a limited number of LTVs and do not apply to passenger cars. Further, the new procedures should not significantly affect the efforts of manufacturers to develop means of ensuring that LTVs comply with the quasi-static side impact requirements by September 1, 1994. Finally, the amendments should not affect the purchase price of LTVs and thus should not significantly affect small organizations and governmental units. Accordingly, no regulatory flexibility analysis has been prepared.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, Public Law 96–511, the agency notes that there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will have no significant impact on the quality of the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 12612, and the agency has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegations of authority at 49 CFR 1.50.

§ 571.214 Standard No. 214, Side impact protection.

2. S2.1 as added at 56 FR 27437, June 14, 1991 and revised at 57 FR 30921 July 13, 1992, effective Sept. 1, 1993, is further revised to read as follows:

S2.1 *Definitions.*

Contoured means, with respect to a door, that the lower portion of its front or rear edge is curved upward, typically to conform to a wheel well.

Double side doors means a pair of hinged doors with the lock and latch mechanisms located where the door lips overlap.

Walk-in van means a van in which a person can enter the occupant compartment in an upright position.

3. S4 is amended by revising paragraphs (b) and (c) to read as follows:

S4. *Test Procedures.*

* * * * *

(b) Prepare a loading device consisting of a rigid steel cylinder or semicylinder 305 mm (12 inches) in diameter with an edge radius of 13 mm (½ inch). The length of the loading device shall be such that—

(1) For doors with windows, the top surface of the loading device is at least 13 mm (½ inch) above the bottom edge of the door window opening but not of a length that will cause contact with any structure above the bottom edge of the door window opening during the test.

(2) For doors without windows, the top surface of the loading device is at the same height above the ground as when the loading device is positioned in accordance with paragraph (b)(1) of this section for purposes of testing a front door with windows on the same vehicle.

(c) Locate the loading device as shown in Figure 1 (side view) of this section so that—

(1) Its longitudinal axis is vertical.

(2) Except as provided in paragraphs (c)(2) (i) and (ii) of this section, its longitudinal axis is laterally opposite the midpoint of a horizontal line drawn across the outer surface of the door 127 mm (5 inches) above the lowest point of the door, exclusive of any decorative or protective molding that is not permanently affixed to the door panel.

(i) For contoured doors on trucks, buses, and multipurpose passenger vehicles with a GVWR of 4,545 kg (10,000 pounds) or less, if the length of the horizontal line specified in (c)(2) is not equal to or greater than 559 mm (22 inches), the line is moved vertically up the side of the door to the point at which the line is 559 mm (22 inches) long. The longitudinal axis of the loading device is then located laterally opposite the midpoint of that line.

(ii) For double side doors on trucks, buses, and multipurpose passenger vehicles with a GVWR of 4,545 kg (10,000 pounds) or less, its longitudinal axis is laterally opposite the midpoint of a horizontal line drawn across the outer surface of the double door span, 127 mm (5 inches) above the lowest point on the doors, exclusive of any decorative or protective molding that is not permanently affixed to the door panel.

(3) Except as provided in paragraphs (c)(3) (i) and (ii) of this section, its bottom surface is in the same horizontal plane as the horizontal line drawn across the outer surface of the door 127 mm (5 inches) above the lowest point of the door, exclusive of any decorative or protective molding that is not permanently affixed to the door panel.

(i) For contoured doors on trucks, buses, and multipurpose passenger vehicles with a GVWR of 4,545 kg (10,000 pounds) or less, its bottom surface is in the lowest horizontal plane such that every point on the lateral projection of the bottom surface of the device on the door is at least 127 mm (5 inches), horizontally and vertically, from any edge of the door panel, exclusive of any decorative or protective molding that is not permanently affixed to the door panel.

(ii) For double side doors, its bottom surface is in the same horizontal plane as a horizontal line drawn across the outer surface of the double door span, 127 mm (5 inches) above the lowest point of the doors, exclusive of any decorative or protective molding that is not permanently affixed to the door panel.

* * * * *

Issued on March 8, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93–5682 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of 90-Day Finding on Petition To List the Virgin Spinedace as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for two petitions to add the Virgin spinedace (*Lepidomeda mollispinis mollispinis*) to the List of Endangered and Threatened Wildlife. The Service finds that the petitioners presented substantial information indicating that the requested action to list the fish as endangered may be warranted.

DATES: The finding announced in this notice was made on March 4, 1993. Comments and materials need to be submitted by June 14, 1993, to be considered in the 12-month finding.

ADDRESSES: Information, comments, or questions concerning the Virgin spinedace petition may be submitted to the State Supervisor, Ecological Services, U.S. Fish and Wildlife Service, 2060 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104. The petition, finding, and supporting data are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert D. Williams, State Supervisor, at the above address, telephone 801/975–3630.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that the U.S. Fish and Wildlife Service (Service) make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If the finding is positive, the Service also is required to promptly commence a review of the status of the involved species.

The Service announces a 90-day finding on two petitions requesting the Service to list as endangered the Virgin spinedace (*Lepidomeda mollispinis mollispinis*) throughout its range and initiates a status review.

A petition dated June 15, 1992, was received by the Service on July 13, 1992, from Mr. Mark Holden, President, Bonneville Chapter of the American Fisheries Society, to list the Virgin spinedace (*Lepidomeda mollispinis mollispinis*) as an endangered species throughout its range. Additionally, the petitioners requested that critical habitat be designated. The petitioners submitted information on the biology, distribution, and threats of the fish. The

petitioners's determination of the need to list the Virgin spinedace was based largely on the report by Valdez *et al.* (1990).

A second petition dated August 17, 1992, was received on August 19, 1992, from the Southern Utah Wilderness Alliance. It also requested the Service to list the Virgin spinedace as endangered and to designate critical habitat. The basis for their petition was the report by Valdez et al. (1990). No new biological information was presented.

The historical range of the Virgin spinedace extended from the East Fork of the Virgin River to at least Bunkerville, Nevada (Cross 1975). However, most of the historical habitat occurs within Utah. The species' distribution in Utah has declined by 40 percent from 233 kilometers (145 miles) to 140 kilometers (87 miles). The only population that still occurs outside of Utah is a small population in the Virgin River near Littlefield, Arizona (Valdez et al. 1990, 1992). In recent surveys of the Arizona portion of the Virgin River, only one Virgin spinedace was collected from the mainstem Virgin River (Michael Herder, Bureau of Land Management, pers. comm., 1992).

During the same survey, no Virgin spinedace were collected in Nevada (Donn Siebert, Bureau of Land Management, pers. comm., 1992).

The major factors that have contributed to the decline of the Virgin spinedace include flow depletion/dewatering, water diversion, habitat fragmentation, increased sedimentation, degraded water quality, and invasion by nonnative species.

After reviewing the petitions, reviewing references cited therein, and making personal contact with Bureau of Land Management personnel concerning results of ongoing surveys, the Service finds that the petitions to list the Virgin spinedace present substantial information indicating the requested action may be warranted. Within 1 year from the date the petitions were received, a finding as to whether the petitioned action is warranted is required by section 4(b)(3)(B) of the Act.

In regard to the petitioners' request that critical habitat be designated, the designation of critical habitat is not a petitionable action under the Act. However, if the 12-month finding determines that the petitioned action to list the Virgin spinedace is warranted, then the designation of critical habitat would have to be addressed in the subsequent proposed rule to list the species.

References Cited

Cross, J.N. 1975. Ecological distribution of the fishes of the Virgin River (Utah, Arizona, Nevada). M.S. thesis, Univ. Nevada, Las Vegas. 114 pp.

Valdez, R.A., W.J. Masslich, R. Radant, and D. Knight. 1990. Status of the Virgin spinedace (*Lepidomeda mollispinis mollispinis*) in the Virgin River drainage, Utah. Project report prepared for the Utah Division of Wildlife Resources, Salt Lake City, Utah. Contract No. 90-0633, Amendment No. 1. BIO/WEST Report No. PR-197-1. 43 pp.

Valdez, R.A., W.J. Masslich, and R. Radant. 1992. Status of the Virgin spinedace (*Lepidomeda mollispinis mollispinis*) in the Virgin River drainage, Utah. Proceedings of the Desert Fishes Council, 23:14 (Abstract only).

Author

The primary author of this proposed rule is Robert D. Williams (see **ADDRESSES** above).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: March 4, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93-5964 Filed 3-15-93; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Parts 611 and 685

[Docket No. 920942-3013]

RIN 0648-AF12

Pelagic Fisheries of the Western Pacific Region

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule recommended by the Western Pacific Fishery Management Council (Council) to revise requirements for making and identification of gear used by operators of domestic and foreign pelagic longline fishing vessels operating under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP). The change requires operators of permitted longline vessels to mark all longline floats and buoys, whether deployed in the exclusive economic zone (EEZ) or possessed on board the vessel. The regulations previously required operators of permitted longline fishing vessels to mark floats and buoys only when attached to deployed longline gear; this limited the effectiveness of the regulations. The final rule also allows for the confiscation of unmarked longline gear that is found deployed in the EEZ. This will reduce the likelihood of abandoned gear impacting other fisheries or protected species.

EFFECTIVE DATE: April 15, 1993.

ADDRESSES: Copies of the documentation recommending this action by the Council and of the previous Environmental Assessments/Regulatory Impact Reviews for Amendments 2 and 3 to the FMP establishing the original longline permit and gear making requirements may be obtained from the Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, Hawaii 96813.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, NMFS, at (310) 980-4034; or Alvin Z. Katekaru, NMFS, at (808) 955-8831.

SUPPLEMENTARY INFORMATION: Abandoned longline gear poses a threat to endangered and threatened species (primarily marine mammals and turtles), and increases the possibility of gear conflicts with other fisheries. The FMP prohibits longline fishermen from fishing in closed areas around the main Hawaiian Islands, the Northwestern Hawaiian Islands (NWHI), and Guam and its offshore banks. Operators of domestic longliners are presently required to mark each of their longline buoys and floats with the vessel's official number when the gear is deployed in the EEZ. Previous foreign fishing regulations require the marking of the terminal ends of deployed longline gear with the permitted vessel's international radio call sign; non-deployed and non-terminal deployed buoys and floats are not required to be marked. Concerned about the effective enforcement of closed areas under the regulations, representatives of enforcement agencies recommended that: (1) All buoys and floats on board a permitted longline vessel be marked, not only those deployed, thereby discouraging the use of unmarked gear; and (2) the official number be marked in a color that contrasts with the background material, making visual identification easier. The Council agreed with this recommendation and

requested that it be implemented through the rulemaking procedures of the FMP. This final rule implements those recommendations.

The Council recommended additional language in the rule to authorize the Secretary of Commerce (Secretary) or an authorized officer to dispose of any unmarked gear found deployed in the EEZ in violation of the FMP. This provision already exists for foreign gear that is unmarked or incorrectly identified, and is extended to domestic longline gear. The final regulations state that longline gear not marked in compliance with these regulations and found in the EEZ would be considered unclaimed or abandoned property and may be disposed of in the appropriate manner.

It is noted that operators of foreign longline fishing vessels that do not have permit authorization to engage in fishing in the EEZ must have all its fishing gear stowed while in transit through the EEZ under appendix L to subpart A of 50 CFR part 611.

The proposed rule was published in the Federal Register at 57 FR 47040 (October 14, 1992). No comments were received on the proposed rule. Only one change was made in the final rule. In 50 CFR part 685.12(a), the word "permitted" was inserted between "each" and "vessel" to make clear that the rule applies to operators of vessels which have longline fishing permits issued under this part. The rule is not intended to apply to all vessels that may have longline gear on board, e.g., cargo vessels or vessels merely in transit through the EEZ without longline-caught fish on board the vessel. It is also noted that 50 CFR part 611 has been amended under a separate action that was published in the Federal Register at 57 FR 48564 (October 27, 1992) since publication of the proposed rule. The heading for 50 CFR 611.81 appears in this final rule as revised by that action.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary for the conservation and effective management of the pelagic resources of the western Pacific region and is consistent with the Magnuson Fishery Conservation and Management Act and other applicable law.

The Assistant Administrator has determined that the rule is categorically excluded from the requirements to prepared an environmental impact statement (EIS) or environmental assessment (EA) under 6.02c.3(f) of NOAA Administrative Order 216–6. EAs have been prepared for subsequent amendments to the FMP, including the amendment establishing permits, logbooks, gear marking, and other requirements for longline vessels. Since this action makes minor changes in regulations that already exist, there is no need for an EIS or an EA.

Biological Opinions and results of informal consultations under the Endangered Species Act pertaining to the pelagic longline fishery have concluded that, with the conservation and management measures in effect under the FMP, the fishery is not likely to jeopardize the continued existence of listed species or result in the adverse modification of critical habitat. This final rule may actually have a positive impact since there should be greater compliance with the area closures in the NWHI as well as a reduction in abandoned gear. Therefore, I have determined that additional consultations are not required for this action.

The Assistant Administrator determined that this is not a "major rule" requiring a regulatory impact analysis under E.O. 12291.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

This rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

The Regional Director of the Southwest Region, NMFS, determined that this action will not affect the coastal zone of any state with an approved coastal zone management program. This determination was sent to the state agencies with coastal zone management responsibilities in Hawaii, Guam, American Samoa, and the Northern Mariana Islands. None of the agencies commented on the determination within the statutory time period.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

The final rule may have a positive effect on the conservation of marine mammals in the NWHI to the extent that there is greater compliance with area closures in the NWHI as well as a reduction in abandoned gear.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 685

American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, National Mariana Islands.

Dated: March 9, 1993.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR parts 611 and 685 are amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

2. In § 611.81, paragraph (d) is revised to read as follows:

§ 611.81 Pacific pelagic species fishery.

* * * * *

(d) *Vessel and gear identification.* (1) The operator of each FFV must comply with the vessel and gear identification requirements of § 611.5.

(2) Longline gear identification. In addition to the gear marking requirements contained in § 611.5(c),

(i) The operator of each FFV must ensure that the vessel's international radio call sign be affixed to each of the vessel's longline buoys and floats, whether attached to a deployed longline or possessed on board the vessel; and

(ii) Markings must be legible and permanent, and must be of a color that contrasts with the background material.

* * * * *

PART 685—PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

3. The authority citation for part 685 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. Section 685.12 is revised to read as follows:

§ 685.12 Longline gear identification.

(a) *Identification.* The operator of each permitted vessel in the fishery management area must ensure that the official number of the vessel be affixed to every longline buoy and float, including each buoy and float that is attached to a radar reflector, radio antenna, or flag marker, whether attached to a deployed longline or possessed on board the vessel. Markings must be legible and permanent, and must be of a color that contrasts with the background material.

(b) *Enforcement action.* Longline gear not marked in compliance with paragraph (a) of this section and found

deployed in the EEZ will be considered unclaimed or abandoned property, and may be disposed of in any manner considered appropriate by the Secretary or an authorized officer.

[FR Doc. 93–5908 Filed 3–15–93; 8:45 am]
BILLING CODE 3510–22–M

50 CFR Part 675

[Docket No. 911215–2328]
RIN 0648–AD50

Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule by correcting an erroneous citation and by correcting regulatory text to clarify that fishing for Community Development Quota (CDQ) pollock by vessels that would otherwise be considered part of the offshore component will be allowed in the Catcher Vessel Operational Area (CVOA) when directed fishing for pollock by the offshore component is prohibited.

EFFECTIVE DATE: January 19, 1993.

FOR FURTHER INFORMATION CONTACT: David Ham, Fishery Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands Area (BSAI) are managed by the Secretary of Commerce (Secretary) in accordance with the BSAI Fishery Management Plan (FMP). The FMP was prepared by the Council under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations for the foreign fishery at 50 CFR 611.93 and for the U.S. fishery at 50 CFR part 675. General regulations that also pertain to U.S. fisheries appear at 50 CFR part 620.

Regulations implementing Amendment 18 to the BSAI FMP (57 FR 23321, June 3, 1992) established the CVOA during the pollock nonroe (or "B") season in the BSAI from June 1 through December 31, 1992. The purpose of establishing the CVOA was to reduce the preemption of the inshore catcher vessel fleet in the CVOA by the catcher/processor fleet.

On November 23, 1992 (57 FR 54936), NMFS published final regulations implementing the pollock CDQ program for 1992 through 1995. Public comment 2 on page 54938 of the final rule proposed that the CDQ regulations allow the harvesting of CDQ pollock within the CVOA. NMFS concurred with this comment because it would not interfere with the purpose of the CVOA, and would enhance the benefits of the CDQ program. Accordingly, the regulations at § 675.22(g), promulgated under Amendment 18, were revised in the CDQ final regulations to allow fishing for CDQ pollock in the CVOA by vessels that would otherwise be considered part of the offshore component at times when directed fishing by the offshore component is prohibited. This provision was applicable only until December 31, 1992, because Amendment 18 established the CVOA through December 31, 1992.

Regulations implementing revised Amendment 18 (57 FR 61326, December 24, 1992) continued the "B" season CVOA provision through December 31, 1995, for preemption purposes. However, due to a drafting oversight, the provision to allow CDQ fishing in the CVOA was not included. Therefore, this document corrects § 675.22(g) to allow CDQ fishing in the CVOA, as intended, when directed fishing for pollock by the offshore component is prohibited.

The final rule implementing revised Amendment 18 also contained an error in a citation in the § 675.22(g) introductory text. The existing language states that the second seasonal allowance of pollock is defined in paragraph (a)(2)(ii) of § 675.22. However, this definition is not contained in § 675.22(a)(2)(ii), but in § 675.20(a)(2)(ii). This error is corrected in this document. For clarity, § 675.22(g) is set out in its entirety.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

In rule document 92–31210 beginning on page 61326 in the issue of Thursday, December 24, 1992, make the following correction:

1. The authority citation for 50 CFR part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. On page 61341, in the third column, under amendatory instruction 9, paragraph (g) of § 675.22 is corrected to read as follows:

§ 675.22 Time and area closures.

* * * * *

(g) *Catcher vessel operational area (applicable through December 31, 1995).* Processor vessels in the "offshore component", defined at § 675.2 of this part, may not catch pollock in excess of the directed fishing standard for pollock during the second seasonal allowance of pollock, defined in § 675.20(a)(2)(ii) of this part, in the Bering Sea subarea south of 56°00′ N. latitude, and between 163°00′ and 168°00′ W. longitude.

(1) Processor vessels in the "offshore component" that do not catch groundfish but process pollock that is caught in a directed fishery for pollock by catcher vessels, may operate within this area to process the second seasonal allowance of pollock.

(2) Offshore processor vessels that catch or process groundfish in directed fisheries for species other than pollock may operate within this area.

(3) Offshore processor vessels that catch or process pollock may conduct directed fishing for pollock in this area if such directed fishing is performed pursuant to a CDP approved by the Secretary, and if such directed fishing is otherwise prohibited to these vessels in the Bering Sea subarea.

Dated: March 10, 1993.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 93–5943 Filed 3–15–93; 8:45 am]
BILLING CODE 3510–22–M

50 CFR Part 675

[Docket No. 921185–3021]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Apportionment of reserve; request for comments.

SUMMARY: NMFS announces that amounts of the reserve are apportioned to the fishery for pollock in the Aleutian Islands subarea (AI), and to the fisheries for Pacific cod and Atka mackerel in the Bering Sea and Aleutian Island management area (BSAI). This action is necessary to allow harvest of the total allowable catch (TAC) of the above species.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), March 11, 1993, through 12 midnight, A.l.t., December 31, 1993. Comments must be received by March 31, 1993.

ADDRESSES: Comments should be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, Alaska 99802–1668, or be delivered to 9109 Mendenhall Mall Road, Federal

Building Annex, Suite 6, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The Director of the Alaska Region, NMFS, has determined that the initial TACs specified for pollock in the AI, and Pacific cod and Atka mackerel in the BSAI, need to be supplemented from the non-specific reserve in order to continue operations. Therefore, in accordance with § 675.20(b), NMFS apportions: 3,870 metric tons (mt) from the reserve to the pollock TAC in the AI, resulting in a revised AI pollock TAC of 47,730 mt; 24,675 mt from the reserve to the Pacific cod TAC in the BSAI, resulting in a revised BSAI Pacific cod TAC of 164,500 mt; and 4,800 mt from the reserve to the Atka mackerel TAC in the BSAI, resulting in a revised Atka mackerel TAC of 32,000 mt. The revised apportionments of pollock to the inshore and offshore components in the AI are 16,706 mt to the inshore component and 31,024 mt to the offshore component pursuant to § 675.20(a)(2)(iii):

These apportionments are consistent with § 675.20(a)(2)(i) and do not result in overfishing of a target species or the "other species" category, as the revised TACs are equal to or less than specifications of acceptable biological catch.

Classification

This action is taken under 50 CFR 675.20 and is in compliance with E.O. 12291.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public comment as well as delaying the effective date of this action is impracticable and contrary to the public interest. NMFS expects to reach the TAC for pollock in the AI, and Pacific cod and Atka mackerel in the BSAI, within the next 30 days. Without this apportionment, U.S. groundfish fishermen would have to discard bycatches of groundfish resulting in needless economic waste of valuable fishery resources. Under § 675.20(b)(2), interested persons are invited to submit written comments on this apportionment to the above address until March 31, 1993.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 11, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–5941 Filed 3–11–93; 1:46 pm]

BILLING CODE 3510–22–M

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50 CFR Part 675

[Docket No. 921185–3021]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Atka mackerel in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the Atka mackerel total allowable catch (TAC) in the BSAI.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t), March 11, 1993, through 12 midnight, A.l.t., December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(2) the Atka mackerel initial TAC for the BSAI was established by the final notice of groundfish specifications (58 FR 8703, February 17, 1993) as 27,200 metric tons (mt) and later increased by apportionment from the non-specific reserve to 32,000 mt.

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the Atka mackerel TAC in the BSAI soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 31,000 mt, with consideration that 1,000 mt will be taken as incidental catch in directed fishing for other species in the BSAI. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the BSAI, effective from 12 noon, A.l.t., March 11, 1993, through 12 midnight, A.l.t., December 31, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under 50 CFR 675.20 and complies with E.O. 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 11, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Services.

[FR Doc. 93–5942 Filed 3–11–93; 1:47 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 49
Tuesday, March 16, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 68

United States Standards for Beans

AGENCY: Federal Grain Inspection Service, USDA.[1]

ACTION: Proposed rule.

SUMMARY: Notice is hereby given that the United States Standards for Beans are currently under review. The Federal Grain Inspection Service (FGIS) believes these standards are meeting the needs of producers, warehouse managers, shippers, and all others who handle or market beans. No changes to these standards are planned at this time. Public comments are being requested before a final decision is made.

DATES: Comments must be received by May 17, 1993.

ADDRESSES: Written comments must be submitted to George Wollam, FGIS, USDA, Room 0632 South Building, P.O. Box 96454, Washington, DC 20090–6454; FAX (202) 720–4628.

All comments received will be made available for public inspection in room 0632 USDA South Building, 1400 Independence Avenue, SW., Washington, DC, during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: George Wollam, address as above, telephone (202) 720–0292.

SUPPLEMENTARY INFORMATION: The review of the United States Standards for Beans, found at 7 CFR 68.101 through 68.142, is being conducted according to the requirements of Executive Order 12291.

On January 22, 1992, FGIS published in the **Federal Register** (57 FR 2482) a request for public comment on the review of the United States Standards for Beans. Interested parties were invited to submit written comments and/or recommendations concerning official standards and whether to establish criteria for thresher-run beans. During the 90-day comment period, four comments were received from National and State bean marketing and inspection associations. Three commenters did not support establishing criteria for inspecting thresher-run beans or changing the standards. The fourth commenter did not address the subject of the notice. No changes to these standards are planned. Comments including data, views, and arguments concerning this review are solicited from interested persons.

Authority: Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et seq.*).

Dated: February 25, 1993.

David R. Galliart,

Acting Administrator.

[FR Doc. 93–5791 Filed 3–15–93; 8:45 am]

BILLING CODE 3410–EN–M

[1]The authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), concerning inspection and standardization activities related to grain and similar commodities and products thereof has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.5).

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 92–196–1]

Change in Disease Status of France Because of Rinderpest and Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to declare France free of rinderpest and foot-and-mouth disease (FMD). There have been no outbreaks of FMD in France since 1981, and we have determined that rinderpest has not existed there since 1870. We are also proposing to add France to a list of countries that, although declared free of rinderpest and FMD, are subject to special restrictions on the importation of their meat and other animal products into the United States. This proposed revision would remove the prohibition on the importation into the United States, from France, of ruminants and fresh, chilled, and frozen meat from ruminants, and would relieve restrictions on the importation, from France, of milk and milk products from ruminants.

France is not declared to be free of hog cholera and swine vesicular disease. Therefore, even if this proposal is adopted, the importation from France of swine and fresh, chilled, and frozen meat from swine would continue to be restricted because of these diseases. Similarly, certain restrictions on the importation, from France, of ruminant meat and edible products from ruminants would remain in effect because bovine spongiform encephalopathy exists in France. We are also proposing to add France to the list of countries from which the importation into the United States of llamas and alpacas is restricted.

DATES: Consideration will be given only to comments received on or before April 15, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 92–196–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead (202–690–2817) to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Chief Staff Veterinarian, Import-Export Products Staff, VS, APHIS, USDA, room 753, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7885.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as "the regulations") govern the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various diseases, including rinderpest, foot-and-mouth disease (FMD), bovine spongiform encephalopathy (BSE), African swine fever, hog cholera, and swine vesicular disease (SVD). These are dangerous and destructive communicable diseases of ruminants and swine.

Section 94.1(a)(1) of the regulations provides that rinderpest or FMD exists in all countries of the world except those listed in § 94.1(a)(2), which are declared to be free of both diseases. We are proposing to add France to that list.

We will consider declaring a country to be free of rinderpest and FMD if there have been no reported cases of the diseases in that country for at least the previous 1-year period and no vaccinations for rinderpest or FMD have been administered to swine or ruminants in that country for at least the previous 1-year period. In the case of France, rinderpest has not existed since 1870, there have been no outbreaks of FMD since 1981, and vaccinations for FMD were discounted in 1990.

France has applied to the U.S. Department of Agriculture (USDA) to be recognized as free of rinderpest and FMD. The Animal and Plant Health Inspection Service (APHIS) has reviewed the documentation submitted by the government of France in support of its request. In addition, a team of APHIS officials recently conducted an on-site evaluation of the animal health program in France in regard to the FMD situation in that country. The evaluation consisted of a review of the capability of France's veterinary services, laboratory and diagnostic procedures, vaccination practices, and the administration of laws and regulations to ensure against the introduction of FMD into France through the importation of animals, meat, and animal products. The APHIS officials conducting the on-site evaluation concluded that France is free of FMD. Details concerning the on-site evaluation are available upon written request from the person listed under **FOR FURTHER INFORMATION CONTACT.**

Based on the information discussed above, we believe that France qualifies for listing in § 94.1(a)(2) of the regulations as a country declared free of rinderpest and FMD. This action would remove the prohibition on the importation, from France, of ruminants and fresh, chilled, and frozen meat from ruminants, and would relieve restrictions on the importation, from France, of milk and milk products from ruminants. Importations, from France, of swine and fresh, chilled, or frozen meat from swine would continue to be restricted under 9 CFR part 94 because France has not been declared free of hog cholera and SVD. Similarly, the importation, from France, of ruminant meat and edible products from ruminants would continue to be restricted under § 94.18 because BSE exists in France.

Special Restrictions

We also propose to add France to the list in § 94.11(a) of countries declared to be free of rinderpest and FMD that are subject to special restrictions on the importation of their meat and other animal products into the United States. The countries listed in § 94.11(a) are subject to these special restrictions because they:

(1) Supplement their national meat supply by importing fresh, chilled, or frozen meat of ruminants or swine from countries that are designed in § 94.1(a) as infected with rinderpest or FMD;

(2) Have a common land border with countries designated as infected with rinderpest or FMD; or

(3) Import ruminants or swine from countries designated as infected with rinderpest or FMD under conditions less restrictive than would be acceptable for importation into the United States.

France supplements its national meat supply by the importation of fresh, chilled, and frozen meat of ruminants and swine from countries designated in § 94.1(a)(1) as countries in which rinderpest or FMD exists. In addition, France has common land borders with Belgium, Germany, Italy, and Switzerland, which are designated in § 94.1(a)(1) as countries in which rinderpest or FMD exists. Further, France imports live ruminants and swine from countries not recognized as free of FMD under conditions less restrictive than would be acceptable for importation into the United States. As a result, even though France appears to qualify for designation as a country free of rinderpest and FMD, the meat and other animal products produced in France may be commingled with the fresh, chilled, or frozen meat of animals from a country in which rinderpest and FMD exists, resulting in an undue risk of introducing rinderpest or FMD into the United States.

Therefore, we are proposing that meat and other animal products of ruminants and swine, and the ship stores, airplane meals, and baggage containing these meat or animal products imported into the United States from France be subject to the restrictions specified in § 94.11 of the regulations, in addition to other applicable requirements of title 9, chapter III. The special restrictions placed on meat and meat products of ruminants and swine in § 94.11 generally require that the meat be: (1) Prepared in an inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act; and (2) Accompanied by an additional certificate, issued by an animal health official of the national government of the country declared free of the disease, assuring that the meat and meat products have not been commingled with or exposed to meat or other meat products originating in, imported from, or transported through a country infected with rinderpest or FMD, and are otherwise handled in accordance with the requirements of § 94.11.

We also propose to add France to the list in § 94.1(d)(1) of countries in which rinderpest or FMD had been known to exist and that were declared free of rinderpest and FMD on or after September 28, 1990. All countries in which rinderpest or FMD has been known to exist that have been declared free of rinderpest and FMD on or after September 28, 1990, must be added to this list. Adding France to this list would restrict the importation of llamas and alpacas from France into the United States, unless in accordance with 9 CFR 92.435.

Miscellaneous

In addition to the proposed changes set forth above, we would also revise § 94.1(a)(2) so that the countries listed in that paragraph are set forth in alphabetical order. This proposed change would make the list easier to read and remove the potential for confusion. In addition, this proposed change would make the list consistent with similar lists in part 94, which are currently set forth in alphabetical order As part of this proposed revision, we would list the country of Trinidad and Tobago, which is incorrectly listed as two separate entities in the current regulations, as a single country. Similarly, The Bahamas is currently listed incorrectly as "Bahama Islands" in §§ 94.1, 94.11, 94.12, and 94.13, so we would correct the error in each of those sections.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule, if adopted, would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-

based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

This proposed rule, if adopted, would add France to the list in part 94 of countries declared to be free of rinderpest and FMD. This action would remove the prohibition on the importation into the United States, from France, of ruminants and fresh, chilled, and frozen meat from ruminants, and would relieve restrictions on the importation, from France, of milk and milk products from ruminants. This action would not relieve restrictions on the importation of live swine and fresh, chilled, and frozen meat of swine from France because France is still considered to be affected with hog cholera and SVD. Similarly, this action would not relieve certain restrictions on the importation, from France, of ruminant meat and edible products from ruminants because BSE exists in France.

Based on available information, the Department does not anticipate a major increase in exports of ruminants and fresh, chilled, or frozen meat of ruminants from France into the United States as a result of this proposed rule.

The value of total U.S. imports of cattle in 1991 was $951.6 million, and the value of total U.S. imports of sheep in 1991 was about $1.6 million. The United States did not import any cattle or sheep from France during 1991. In fact, no cattle or sheep were imported into the United States from any country in Western Europe during 1991 (USDA, Economic Research Service [ERS], "Foreign Agricultural Trade of the United States: Calendar Year 1991 Supplement," 1992). Clearly, Western Europe is not a source of ruminants for the United States, and it is unlikely that declaring France free of rinderpest and FMD would have any effect on the existing trade patterns.

In 1991, only 0.0002 percent of all beef and veal imported into the United States was imported from France (USDA, ERS, "Foreign Agricultural Trade of the United States: Calendar Year 1991 Supplement," 1992). Overall, France is a net importer of fresh, chilled, and frozen meat and meat extracts (Food and Agriculture Organization, "Trade Yearbook," 1990). Given France's general excess demand for meat products and the small percentage of its meat exports that we anticipate would be sent to the United States, it is unlikely that declaring France free of rinderpest and FMD would significantly change existing patterns of trade. Therefore, any effect on domestic meat prices or supplies would be insignificant.

As with the ruminants and meat products discussed above, the Department does not anticipate a major increase in exports of milk and milk products from France into the United States as a result of this proposed rule. The importation into the United States of all dairy products, except for casein and other caseinates, is restricted by quotas. Although the importation of casein into the United States is not regulated by quotas, world prices of casein are competitively set. The United States does not produce casein, but does import more than half of the casein produced in the world. The regulations currently allow casein and other caseinates to be imported into the United States from countries where rinderpest or FMD exists if the importer has applied for and obtained written permission from the Administrator. The eight APHIS-approved producers of casein in France provided approximately 7 percent of the casein imported into the United States from France in 1991 (USDA, ERS, "Foreign Agricultural Trade of the United States: Calendar Year 1991 Supplement," 1992). Declaring France free of rinderpest and FMD, thus removing the requirement for written permission from the Administrator, is not expected to have any effect on the amount of casein imported into the United States from France because the current restrictions do not substantially impede imports.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted and approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control number is 0579–0015.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), VELOGENIC VISCEROTROPIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. § 94.1, paragraph (a)(2) would be revised to read as follows:

§ 94.1 Countries where rinderpest or foot-and-mouth disease exists; importations prohibited.

(a) * * *

(2) The following countries are declared to be free of both rinderpest and foot-and-mouth disease: Australia, The Bahamas, Barbados, Bermuda, British Honduras (Belize), Canada, Channel Islands, Chile, Costa Rica, Denmark, Dominican Republic, El Salvador, Fiji, Finland, France, Great Britain (England, Scotland, Wales, and Isle of Man), Greenland, Guatemala, Haiti, Honduras, Iceland, Ireland, Jamaica, Japan, Mexico, New Zealand, Nicaragua, Northern Ireland, Norway, Panama, Panama Canal Zone, Papua New Guinea, Poland, Territory of St. Pierre and Miquelon, Sweden, Trinidad and Tobago, and Trust Territory of the Pacific Islands.

* * * * *

§ 94.1 [Amended]

3. In § 94.1, paragraph (d)(1) would be amended by adding "and France" immediately after "Chile".

§ 94.11 [Amended]

4. In § 94.11, paragraph (a), the first sentence would be amended by removing "Bahama Islands," and adding, in its place, "The Bahamas," and by adding "France," immediately after "Finland,".

§ 94.12 [Amended]

5. In § 94.12, paragraph (a), the first sentence would be amended by removing "Bahama Islands," and adding, in its place, "The Bahamas,".

§ 94.13 [Amended]

6. In § 94.13, the introductory text, the first sentence would be amended by removing "Bahama Islands," and adding, it its place, "The Bahamas,".

Done in Washington, DC, this 10th day of March 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–5986 Filed 3–15–93; 8:45 am]

BILLING CODE 3410–34–M

Food Safety and Inspection Service

9 CFR Part 391

[Docket No. 92–030P]

Fee Increase for Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry products inspection regulations to increase the fees charged by FSIS to provide overtime and holiday inspection, voluntary inspection, identification, certification, or laboratory services to meat and poultry establishments. The fee increase would reflect the increased costs of providing these services due primarily to the increase in salaries of Federal employees allocated by Congress under the Federal Employees Pay Comparability Act of 1990.

DATES: Comments must be received on or before March 31, 1993.

ADDRESSES: Send written comments to the Policy Office, Attention: Linda Carey, FSIS Hearing Clerk, Room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700. Oral comments as provided under the Poultry Products Inspection Act should be directed to Mr. William L. West, (202) 720–3367. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. William L. West, Director, Budget and Finance Division, Administrative Management, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700, (202) 720–3367.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule is issued in conformance with Executive Order 12291 and has been determined not to be a "major rule." It will not result in an annual effect on the economy of $100 million or more; in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. The fee increases reflect a small increase in costs to establishments that elect to utilize certain inspection services.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed rule is not intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This proposed rule is not intended to have retroactive effect unless so specified in the **EFFECTIVE DATE** section of this preamble. Prior to any judicial challenge to the provisions, all applicable administrative procedures must be exhausted. Under the Federal Meat and Poultry Products Inspection Acts, the administrative procedures are set forth in 7 CFR part 1.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The fees provided for in this document reflect only a minimal increase in the costs currently borne by those entities which elect to utilize certain inspection services.

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent to the Policy Office and should refer to the docket number that appears in the heading of this document. Any person desiring an opportunity for oral presentation of views as provided under the Poultry Products Inspection Act must make such request to Mr. West so that arrangements may be made for such views to be presented. A record will be made of all views orally presented. All comments submitted in response to this action will be available for public inspection in the Policy Office from 9 a.m. to 12:30 p.m. and 1:30 to 4 p.m., Monday through Friday.

Background

Mandatory inspection by Federal inspectors of meat and poultry slaughtered and/or processed at official establishments is provided for under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*). Such inspection is required to ensure the safety, wholesomeness, and proper labeling of meat and poultry products; and the ordinary costs of it are borne by the U.S. Government. However, costs for these inspection services performed on holidays or on an overtime basis may be incurred to accommodate the business needs of particular establishments. Any or all of these costs which are not a part of the mandatory inspection service are recoverable by the Government.

Section 307.5 (9 CFR 307.5) of the meat inspection regulations provides that FSIS shall be reimbursed for the cost of meat inspection on holidays or on an overtime basis at the rate specified in § 391.3, currently $29.72 per inspector hour. Similarly, § 381.38 (9 CFR 381.38) of the poultry products inspection regulations provides that FSIS shall be reimbursed for the cost of poultry inspection on holidays or on an overtime basis at the rate specified in § 391.3, currently $29.72 per inspector hour. The fee set forth in § 391.3 would be increased to $30.72 per inspector hour.

FSIS also provides a range of voluntary inspection services (9 CFR 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5); the costs of which are totally recoverable by the Government.

These services, provided under Subchapter B—Voluntary Inspection and Certification Service—are provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*) to assist in the orderly marketing of various animal products and byproducts not subject to the Federal Meat Inspection Act or the Poultry Products Inspection Act.

The basic hourly rate for providing such certification and inspection service is currently $29.00 per inspector hour as specified in § 391.2. The overtime and holiday hourly rate is currently $29.72 as specified in § 391.3. The rate for laboratory services is currently $49.80 per hour as specified in § 391.4. The hourly rates for these services would be increased to $29.84, $30.72, and $51.80, respectively.

Each year the fees for certain services rendered to operators of official meat and poultry establishments, importers, or exporters by FSIS are reviewed; and a cost analysis, is performed to

determine if such fees are adequate to recover the cost of providing the services.[1] The analysis relates to fees charged in connection with overtime and holiday inspection, voluntary inspection, identification, certification, or laboratory services. The fees to be charged for these services have been determined by an analysis of data on the current cost of these services, by anticipated costs associated with changes in operations of the program, by increases in those costs due to an increase in the salaries of Federal employees allocated by Congress under the Federal Employees Pay Comparability Act of 1990, and by other increases affecting Federal employees, such as costs for benefits.

Based on the Agency's analysis of the increased costs in providing these services, FSIS proposes to increase the fees relating to such services. These increased costs are a result of the pay raise of 3.7 percent for Federal employees effective January 1993, the increasing number of employees covered by the Federal Employees Retirement System in 1993 which is subject to the Federal Insurance Contributions Act (FICA) tax, and the increased health insurance costs

List of Subjects in 9 CFR Part 391

Fees and charges, Meat inspection, Poultry products inspection.

For the reasons set out in the preamble, 9 CFR part 391 is proposed to be amended as set forth below.

PART 391—FEES AND CHARGES FOR INSPECTION SERVICES

1. The authority citation for part 391 would continue to read as follows:

Authority: 21 U.S.C. 601 *et seq.*, 460 *et seq.*; 7 CFR 2.17 (g) and (i), 2.55; 7 U.S.C. 394, 1622, and 1624.

2. Sections 391.2, 391.3, and 391.4 would be revised to read as follows:

§ 391.2 Base time rate.

The base time rate for inspection services provided pursuant to §§ 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5 shall be $29.84 per hour, per program employee.

§ 391.3 Overtime and holiday rate.

The overtime and holiday rate for inspection services provided pursuant to §§ 307.5, 350.7, 951.8, 351.9, 352.5, 354.101, 355.12, 362.5, and 381.38 shall be $30.72 per hour, per program employee.

§ 391.4 Laboratory services rate.

The rate for laboratory services provided pursuant to §§ 350.7, 351.9, 352.5, 354.101, 355.12, and 362.5 shall be $51.80 per hour, per program employee.

Done at Washington, DC, on: March 10, 1993.

Kenneth C. Clayton,

Acting Assistant Secretary Marketing and Inspection Services.

[FR Doc. 93–5914 Filed 3–15–93; 8:45 am]

BILLING CODE 3410–DM–M

[1] The cost analysis is on file with the FSIS Hearing Clerk. Copies may be requested free of charge from the FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

Radiological Criteria for Decommissioning of NRC-Licensed Facilities; Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of workshop.

SUMMARY: The Nuclear Regulatory Commission (NRC) is preparing to initiate an enhanced participatory rulemaking on establishing the radiological criteria for the decommissioning of NRC-licensed facilities. The Commission intends to enhance the participation of affected interests in the rulemaking by soliciting commentary from these interests on the rulemaking issues before the staff develops the draft proposed rule. The Commission plans to conduct a series of workshops to solicit commentary from affected interests on the fundamental approaches and issues that must be addressed in establishing the radiological criteria for decommissioning. The fourth workshop will be held in Dallas, Texas on March 23 and 24, 1993 and will be open to the public.

DATES: March 23, 1993 from 9 a.m. to 5:45 p.m.; March 24, 1993, from 8:30 a.m. to 4 p.m. In addition, the staff of the Nuclear Regulatory Commission and the Environmental Protection Agency will be available the evening before the workshop, Monday, March 22, 1993, from 7 p.m. to 9 p.m. to provide information on the intent and format of the workshop and to receive comments from members of the public who may not be able to attend the workshop. The workshop agenda also provides for scheduled opportunities throughout the workshop for the public to comment on the rulemaking issues and the workshop discussions. The scheduled public comment periods include: 12:15 p.m.–12:45 p.m.; 3:15 p.m.–3:30 p.m.; and 5:15 p.m.–5:45 p.m. on Tuesday, March 23; and 10 a.m.–10:15 a.m.; 12 p.m.–12:30 p.m.; and 2:45 p.m.–3:15 p.m. on Wednesday, March 24. All sessions will be held at the Doubletree Hotel at Campbell Center, 8250 North Central Expressway, Dallas, Texas, 214–691–8700.

As discussed later in this notice, the workshop discussions will focus on the issues and approaches identified in a Rulemaking Issues Paper prepared by the NRC staff. The Commission will accept written comments on the Rulemaking Issues Paper from the public, as well as from workshop participants. Written comments should be submitted by May 28, 1993.

ADDRESSES: Send written comments on the Rulemaking Issues Paper to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attn: Docketing and Service Branch. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland between 7:45 a.m. and 4:15 p.m. on Federal workdays. The Rulemaking Issues Paper is available from Francis X. Cameron (See **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, Special Counsel for Public Liaison and Waste Management, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555, Telephone: 301–504–1642.

SUPPLEMENTARY INFORMATION:

Background

The NRC has the statutory responsibility for protection of health and safety related to the use of source, byproduct, and special nuclear material under the Atomic Energy Act. The NRC believes that one portion of this responsibility is to ensure the safe and timely decommissioning of nuclear facilities which it licenses and to provide guidance to licensees on how to plan for and prepare their sites for decommissioning. Once licensed activities have ceased, licensees are required to decommission their facilities so that their licenses may be terminated. This requires that the radioactivity in land, groundwater, buildings, and equipment resulting from the licensed operation be reduced to levels that allow the property to be released for unrestricted use. Licensees must then demonstrate that all facilities have been properly decontaminated and that radioactive material has been transferred to authorized recipients.

Confirmatory surveys are conducted by NRC, where appropriate, to verify that sites meet NRC radiological criteria for decommissioning.

The types of nuclear fuel cycle facilities that will require decommissioning include nuclear power plants; non-power (research and test) reactors; fuel fabrication plants, uranium hexafluoride production plants, and independent spent fuel storage installations. In addition there are currently about 24,000 materials licensees. About one-third of these are NRC licensees, while the remainder are licensed by Agreement States acting under the authority of the Atomic Energy Act, section 274. These licensees include universities, medical institutions, radioactive source manufacturers, and companies that use radioisotopes for industrial purposes. About 50% of NRC's 7,500 materials licensees use either sealed radioactive sources or small amounts of short-lived radioactive materials. Decommissioning of these facilities should be relatively simple because there is usually little or no residual radioactive contamination. Of the remaining 50%, a small number (e.g. radioactive source manufacturers, radiopharmaceutical producers, and radioactive ore processors) conduct operations that could produce substantial radioactive contamination in portions of the facility. These facilities, like the fuel cycle facilities identified above, must be decontaminated before they can be safely released for unrestricted use.

Several hundred NRC and Agreement State licenses are terminated each year. The majority of these licenses involve limited operations, produce little or no radioactive contamination, and do not present complex decommissioning problems or potential risks to public health or the environment from residual contamination. However, as the nuclear industry matures, it is expected that more and more of the larger nuclear facilities that have been operating for a number of years will reach the end of their useful lives and be decommissioned. Therefore, both the number and complexity of facilities that will require decommissioning is expected to increase.

The Commission believes that there is a need to incorporate into its regulations radiological criteria for termination of licenses and release of land and structures for unrestricted use. The intent of this action would be to provide a clear and consistent regulatory basis for determining the extent to which lands and structures must be decontaminated before a site can be decommissioned. The Commission believes that inclusion of criteria in the regulations would result in more efficient and consistent licensing actions related to the numerous and frequently complex site decontamination and decommissioning activities anticipated in the future. A rulemaking effort would also provide an opportunity to reassess the basis for the residual contamination levels contained in existing guidance in light of changes in basic radiation protection standards and decommissioning experience obtained during the past 15 years.

The new criteria would apply to the decommissioning of power reactors, non-power reactors, fuel reprocessing plants, fuel fabrication plants, uranium hexafluoride production plants, independent spent fuel storage installations, and materials licenses. The criteria would apply to nuclear facilities that operate through their normal lifetime, as well as to those that may be shut down prematurely. The proposed criteria would not apply to uranium (other than source material) mines and mill tailings, high-level waste repositories, or low-level waste disposal facilities.

Until the new criteria are in place, the Commission intends to proceed with the decommissioning of nuclear facilities on a site-specific basis as the need arises considering existing criteria. Case and activity-specific risk decisions will continue to be made as necessary during the tendency of this process.

The Enhanced Participatory Rulemaking

The Commission believes it is desirable to provide for early and comprehensive input from affected interests on important public health and safety issues, such as the development of radiological criteria for decommissioning. Accordingly, the Commission is initiating an enhanced participatory rulemaking to establish these criteria. The objective of the rulemaking is to enhance the participation of affected interests in the rulemaking by soliciting commentary from these interests on the rulemaking issues before the NRC staff develops the draft proposed rule. The NRC staff will consider this commentary in the development of the draft proposed rule, as well as document how these comments were considered in arriving at a regulatory approach. The Commission believes that this will be an effective method for illuminating the decision making process on complex and controversial public health and safety issues. This approach will ensure that the important issues have been identified; will assist in identifying potential information gaps or implementation problems; and will facilitate the development of potential solutions to address the concerns that affected interests may have in regard to the rulemaking.

The early involvement of affected interests in the development of the draft proposed rule will be accomplished through a series of workshops. A workshop format was selected because it will provide representatives of the affected interests with an opportunity to discuss the rulemaking issues with one another and to question one another about their respective positions and concerns. Although the workshops are intended to foster a clearer understanding of the positions and concerns of the affected interests, as well as to identify areas of agreement and disagreement, it is not the intent of the workshop process to attempt to develop a consensus agreement on the rulemaking issues. In addition to the commentary from the workshop participants, the workshops will be open to the public and the public will be provided with the opportunity to comment on the rulemaking issues and the workshop discussions at discrete intervals during the workshops.

The workshops were initially announced in the **Federal Register** on December 11, 1992 (57 FR 58727). The complete schedule for the workshops is:

January 27 and 28, 1993—Chicago, Illinois
February 23 and 24, 1993—San Francisco, California
March 12 and 13, 1993—Boston, Massachusetts
March 23 and 24, 1993—Dallas, Texas
April 13 and 14, 1993—Philadelphia, Pennsylvania
April 29 and 30, 1993—Atlanta, Georgia
May 6 and 7, 1993—Washington, DC

The normal process for conducting Commission rulemakings is NRC staff development of a draft proposed rule for Commission review and approval, publication of the proposed rule for public comment, consideration of the comments by the NRC staff, and preparation of a draft final rule for Commission approval. In the enhanced participatory rulemaking, not only will comments be solicited before the NRC staff prepares a draft proposed rule, but the mechanism for soliciting these early comments will also provide an opportunity for the affected interests and the NRC staff to discuss the issues with each other, rather than relying on the traditional one-to-one written correspondence with the NRC staff. After Commission review and approval of the draft proposed rule that is developed using the workshop commentary, the general process of

issuing the proposed rule for public comment, NRC staff evaluation of comments, and preparation of a draft final rule for Commission approval, will occur.

Participants

In order to have a manageable discussion among the workshop participants, the number of participants in each workshop must be limited. Based on discussions with experts on workshop facilitation, the NRC staff believes that the optimum size of the workshop group is fifteen to twenty participants. Due to differing levels of interest in each region, the actual number of participants in any one workshop, as well as the number of participants that represent a particular interest in any one workshop, may vary. Invitations to attend the workshops will be extended by the NRC staff using several selection criteria. First, to ensure that the Commission has the benefit of the spectrum of viewpoints on the issues, the NRC staff is attempting to achieve the participation of the full range of interests that may be affected by the rulemaking. The NRC staff has identified several general interests that will be used to select specific workshop participants—state governments, local governments, tribal governments, Federal agencies, citizens groups, nuclear utilities, fuel cycle facilities, and non-fuel cycle facilities. In addition to these interests, the staff also plans to invite representatives from the contracting industry that performs decommissioning work and representatives from professional societies, such as the Health Physics Society and the American Nuclear Society. The NRC anticipates that most of the participants will be representatives of organizations. However, it is also possible that there may be a few participants who, because of their expertise and influence, will participate without any organizational affiliation.

The second selection criterion is the ability of the participant to knowledgeably discuss the full range of rulemaking issues. The NRC staff wishes to ensure that the workshops will elicit informed discussions of options and approaches, and the rationale for those options and approaches, rather than simple statements of opinion. The NRC staff's identification of potential participants has been based on an evaluation of such factors as the extent of a potential participant's experience with a broad range of radiation protection issues and types of nuclear facilities, specific experience with the decommissioning issue, and the extent of a potential participant's substantive comment and participation on previous Commission regulatory or licensing actions.

The third criterion emphasizes participation from organizations within the region encompassed by the workshop. As much as practicable, those organizations that primarily operate within the region, as opposed to regional units of national organizations, will have priority in terms of participating in the corresponding regional workshops. Organizations with a national standing will be part of the "national" workshop to be held in Washington, DC.

Workshop Format

To assure that each workshop addresses the issues in a consistent manner, the workshops will have a common pre-defined scope and agenda focused on the Rulemaking Issues Paper discussed below. However, the workshop format will be sufficiently flexible to allow for the introduction of any additional issues that the participants may want to raise. At each workshop, the NRC staff will begin each discussion period with a brief overview of the rulemaking issues to be discussed and the remainder of the workshop will be devoted to a discussion of the issues by the participants. The workshop commentary will be transcribed and made available to participants and to the public.

Personnel from the Keystone Center, a nonprofit organization located in Keystone, Colorado, will serve as neutral facilitators for each workshop. The facilitators will chair the workshop sessions and ensure that participants are given an opportunity to express their viewpoints, assist participants in articulating their interests, ensure that participants are given the opportunity to question each other about their respective viewpoints, and assist in keeping the discussion moving at a pace that will allow all major issue areas to be addressed.

Rulemaking Issues Paper

The NRC staff has prepared a Rulemaking Issues Paper to be used as a focal point for the workshop discussions. This paper, which will be distributed to participants in advance of the workshops, sets forth in neutral terms the issues that must be addressed in the rulemaking, as well as background information on the nature and extent of the problem to be addressed. In framing the issues and approaches discussed in the Rulemaking Issues Paper, the NRC staff has attempted to anticipate the variety of views that exist on these approaches and issues. The paper will provide assistance to the participants, as they prepare for the workshops, suggest the workshop agenda, and establish the level of technical discussion that can be expected at the workshops. The workshop discussions are intended to be used by the staff in developing the draft proposed rule. Prior to the workshops no staff positions will be taken on the rulemaking approaches and issues identified in the Rulemaking Issues Paper. As noted earlier, to the extent that the Rulemaking Issues Paper fails to identify a pertinent issue, this may be corrected at the workshop sessions.

The discussion of issues is divided into two parts. First are two primary issues dealing with: (1) The objectives for developing radiological criteria; and (2) application of practicality considerations. The objectives constitute the fundamental approach to the establishment of the radiological criteria, and the NRC staff has identified four distinct possibilities including: (1) Risk Limits, which is the establishment of limiting values above which the risks to the public are deemed unacceptable, but allows for criteria to be set below the limit using practicality considerations; (2) Risk Goals, where a goal is selected and practicality considerations are used to establish criteria as close to the goal as practical; (3) Best Effort, where the technology for decontamination considered to be the best available is applied; and (4) Return to Preexisting Background, where the decontamination would continue until the radiological conditions were the same as existed prior to the licensed activities.

Following the primary issues are several secondary issues that are related to the discussions of the primary issues, but which the NRC staff believe warrant separate presentations and discussions. These secondary issues include the time frame for dose calculation, the individuals or groups to be protected, the use of separate criteria for specific exposure pathways such as groundwater, the treatment of radon, and the treatment of previously buried materials.

The Rulemaking Issues Paper will be provided to each potential workshop participant. Additional copies will be available to members of the public in attendance at the workshop. Copies will also be available from the NRC staff contact identified above. In addition to the comments on the Rulemaking Issues Paper provided at the workshops, the Commission is also receptive to the submittal of written comments on the

rulemaking issues, as noted under the heading DATES.

Dated at Rockville, MD this 10th day of March 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–5969 Filed 3–15–93; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–199–AD]

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Lockheed Model L–1011–385 series airplanes. This proposal would require inspections of the cargo door components for cracks and corrosion; and modification, rework, or replacement of discrepant parts. This proposal is prompted by the data gathered during the investigation of a cargo door on a transport category airplane that opened while the airplane was in flight, resulting in an explosive decompression of the airplane. The actions specified by the proposed AD are intended to prevent a cargo door from opening during flight, which could result in rapid decompression of the airplane.

DATES: Comments must be received by May 10, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–199–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Lockheed Western Export Company (LWEC), Dept. 693, Zone 0755, 86 South Cobb Drive, Marietta, Georgia 30063. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office (ACO), 1669 Phoenix Parkway, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Atlanta Aircraft Certification Office (ACO), Flight Test Branch, ACE–160A, FAA, Small Airplane Directorate, 1669 Phoenix Parkway, Atlanta, Georgia 30349; telephone (404) 991–3915; fax (404) 991–3606.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–199–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–199–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In February 1989, the cargo door of a Boeing Model 747 series airplane opened while the airplane was in flight, resulting in an explosive decompression of the airplane. During the investigation of this accident, it became apparent that the latching, locking, and warning systems of the cargo door were probably a factor in its opening in flight.

In June 1989, the Air Transport Association (ATA) of America sponsored a conference to focus on continued structural airworthiness of non-plug type cargo doors. A "Cargo Door Task Force" was established, including representatives from operators, manufacturers, and the FAA, to review the design, manufacture, maintenance, and operation of outward opening cargo doors on all transport category airplanes. One objective of the Task Force was to select service bulletins to be recommended for mandatory accomplishment in order to enhance safety.

The FAA has reviewed and approved the following Lockheed service bulletins that were recommended for mandatory action by the Task Force:

Lockheed Service Bulletin 093–52–155, Revision 1, dated October 23, 1989, describes procedures for a one-time visual inspection to detect excessive thickness of the shims installed under the hinges of the C–1A cargo door, and modification of discrepant parts.

Lockheed Service Bulletin 093–53–252, Revision 2, dated April 25, 1989, describes procedures for inspections of the lower sill latch fittings and the serrated plates of the C–1A cargo door to detect cracks, corrosion, and proper heat treatment. It also describes procedures for modification, rework, or replacement of discrepant parts.

The procedures described in these service bulletins are intended to positively address cracking and corrosion conditions identified in Lockheed Model L–1011–385 series airplanes that, if not corrected, could lead to a cargo door opening while the airplane is in flight, which could result in rapid decompression of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require inspections to detect excessive thickness of the shims installed under the hinges of the C–1A cargo door. It would also require an inspection to detect cracks and corrosion of the lower sill latch fittings and the serrated plates of the C–1A cargo door, and to determine the heat treatment condition of the serrated plates.

Discrepant parts would be required to be modified, reworked, or replaced. These actions would be required to be accomplished in accordance with the service bulletins described previously.

There are approximately 106 Lockheed Model L–1011–385 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 32 airplanes of U.S. registry would be affected by this proposed AD, that it

would take approximately 1.5 work hours per airplane to accomplish the proposed actions on airplanes listed in Lockheed Service Bulletin 093–52–155, and approximately 7 work hours to accomplish the proposed actions on airplanes listed in Lockheed Service Bulletin 093–53–252, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $27,280, or $853 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Lockheed: Docket 92–NM–199–AD.

Applicability: Model L–1011–385–1, –385–1–14, –385–1–15, and –385–3 series airplanes; as listed in Lockheed Service Bulletin 093–52–155, Revision 1, dated October 23, 1989, and Lockheed Service Bulletin 093–53–252, Revision 2, dated April 25, 1989; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the cargo door latching mechanism, which could lead to the cargo door opening during flight and resulting in rapid decompression of the airplane, accomplish the following:

(a) For airplanes listed in Lockheed Service Bulletin 093–52–155, Revision 1, dated October 23, 1989: Prior to the accumulation of 8,000 total landings, or within 1,800 landings after the effective date of this AD, whichever occurs later, perform a one-time visual inspection to detect excessive thickness of the shims installed under the hinges of the C–1A cargo door in accordance with Lockheed Service Bulletin 093–52–155, Revision 1, dated October 23, 1989.

(1) If any shim is found that exceeds 0.125 inch for single leg hinges, or 0.140 inch for double leg hinges, prior to further flight, install a structural doubler on the hinge and a new shim, in accordance with the procedures described in the service bulletin.

(2) If any shim is found that equals or is less than 0.125 inch for single leg hinges, or 0.140 inch for double leg hinges, no further action is required for that shim.

(b) For airplanes listed in Lockheed Service Bulletin 093–53–252, Revision 2, dated April 25, 1989: Prior to the accumulation of 8,000 total landings or within 1,800 landings after the effective date of this AD, whichever occurs later, inspect the lower sill latch fittings and serrated plates of the C–1A cargo door for cracks and corrosion, in accordance with Lockheed Service Bulletin 093–53–252, Revision 2, dated April 25, 1989. Additionally, perform a hardness test to determine the condition of the heat treatment of the serrated plates.

Note: Lockheed Service Bulletin 093–53–252, Revision 2, dated April 25, 1989, refers to Lockheed Service Modification/Kit Drawing 1646587, Revision C, dated August 14, 1987, for additional information concerning the inspection procedures, corrosion limit specifications, crack limit specifications, and modifications relative to the requirements of this paragraph.

(1) If any cracked latch fitting is found, prior to further flight, replace the latch fitting with a serviceable part.

(2) If any corroded latch fitting is found, prior to further flight, replace the latch fitting with a serviceable part. However, if the latch fitting is of a condition suitable for refurbishment, as referred to in the service bulletin, it may be refurbished and reused.

(3) If any cracked serrated plate is found, prior to further flight, replace it with a serviceable part. However, if the cracked serrated plate is determined to be suitable for reuse, as referred to in the service bulletin, it may be reinstalled for an additional 1,000 landings only, at which time it then must be replaced.

(4) If no crack or corrosion is found in any serrated plate, prior to further flight, apply cadmium plating to the plate in accordance with the service bulletin.

(5) If any serrated plate is found with improper heat treatment, prior to further flight, reprocess the plate or replace the plate with a serviceable part in accordance with the service bulletin.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 10, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–5933 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 92–NM–204–AD]

Airworthiness Directives; de Havilland, Inc., Model DHC–7 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–7 series airplanes. This proposal would require modification of the wing inboard leading edge and support structure. This proposal is prompted by reports of incidents involving corrosion and fatigue cracking in commuter-class airplanes that are approaching or have exceeded their economic design goal. These incidents have jeopardized the airworthiness of the affected airplanes. The actions specified by the proposed AD are intended to prevent degradation of the structural capabilities of the affected airplanes.

DATES: Comments must be received by May 10, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–204–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Sol Maroof, Aerospace Engineer, Airframe Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791–6220; fax (516) 791–9024.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–204–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–204–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA sponsored a conference on aging airplanes in June 1988, which was attended by representatives from the aviation industry from around the world. It became obvious that, because of the tremendous increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes rather than retiring them, increased attention needed to be focused on this aging fleet and maintaining its continued operational safety.

The FAA, in concert with the Regional Airline Association (RAA); several U.S. and non-U.S. operators of de Havilland airplanes; Transport Canada Aviation, which is the airworthiness authority for Canada; and de Havilland, Inc.; has agreed to undertake the task of identifying and implementing procedures to ensure continuing structural airworthiness of aging commuter-class airplanes. This group reviewed selected service bulletins, applicable to de Havilland Model DHC–7 series airplanes, to be recommended for mandatory rulemaking action to ensure the continued operational safety of these airplanes.

The group reviewed and recommended de Havilland Service Bulletin 7–57–14, dated June 25, 1982, for mandatory rulemaking action. The service bulletin describes procedures for modification of the wing inboard leading edge and support structure (Modification No. 7/1632) to ensure that structural strength is maintained. Accomplishment of this modification involves checking the rivets along the lower surface of the front spar datum for integrity, and replacing any defective rivets found; and installing new closing diaphragms, butt straps, seal assemblies, and leading edge seals.

The procedures described in this service bulletin are intended to positively address conditions of fatigue cracking and rivet failure in the wing inner leading edge and support structure on de Havilland Model DHC–7 series airplanes that, if not corrected, could degrade the structural integrity of the wing.

Transport Canada Aviation classified this service bulletin as mandatory and issued Canadian Airworthiness Directive CF–91–05, dated April 15, 1991, in order to assure the continued airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the wing inboard leading edge and support structure. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 4 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 32 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be supplied by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $7,040, or $1,760 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will

not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

De Havilland, Inc.: Docket 92–NM–204–AD.

Applicability: Model DHC–7 series airplanes; serial numbers 3 through 37, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the wing inboard leading edge and support structure (Modification No. 7/1632), in accordance with de Havilland Service Bulletin 7–57–14, dated June 25, 1982.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 10, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–5936 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 92–CE–52–AD]

Airworthiness Directives; Piper Aircraft Corporation PA–31 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Piper Aircraft Corporation (Piper) PA–31 series airplanes. The proposed action would require replacing the main landing gear (MLG) actuator reinforcement bracket. The Federal Aviation Administration (FAA) has received reports of cracked MLG actuator reinforcement brackets on several of the affected airplanes, and a report of the MLG extending, when not selected and while the airplane was in flight. The actions specified by the proposed AD are intended to prevent the MLG from extending, when not selected and while the airplane is in flight, because of actuator reinforcement bracket failure, which could result in substantial damage to or loss of control of the airplane.

DATES: Comments must be received on or before May 28, 1993.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–CE–52–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Piper Aircraft Corporation, Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Perry, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–2910; Facsimile (404) 991–3606.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92–CE–52–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–CE–52–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received reports of cracked MLG actuator reinforcement brackets on several Piper PA–31 series airplanes, and a report of the MLG extending, when not selected and while the airplane was in flight.

In an effort to prevent these conditions from occurring, Piper has designed and manufactured MLG actuator reinforcement brackets of improved design. Piper Service Bulletin (SB) No. 923, dated August 16, 1989, specifies procedures for installing these new MLG actuator reinforcement brackets.

After examining the circumstances and reviewing all available information related to the incidents described above including the referenced part

improvement and service information, the FAA has determined that AD action should be taken to prevent the MLG from extending, when not selected and while the airplane is in flight, because of actuator reinforcement bracket failure.

Since an unsafe condition has been identified that is likely to exist or develop in other Piper PA-31 series airplanes of the same type design, the proposed AD would require replacing any MLG actuator reinforcement bracket having part number (P/N) 40776-00 with a MLG actuator reinforcement bracket of improved design, P/N 73786-02. The proposed actions would be accomplished in accordance with Piper SB No. 923, dated August 16, 1989.

The compliance time of the proposed AD is presented in both hours time-in-service (TIS) and calendar time. Operators in commuter service can put up to 200 hours TIS in one calendar month while a general aviation operator may not utilize the airplane 200 hours TIS in one calendar year. The proposed calendar time compliance would allow commuter operators the option of accomplishing the proposed actions to coincide with regularly scheduled maintenance, while allowing general aviation operators adequate hours TIS to accomplish the proposed action.

The FAA estimates that 2,448 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 4 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $308 per airplane. On the basis of these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,292,544.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Piper Aircraft Corporation: Docket No. 92-CE-52-AD.

Applicability: The following Model and serial number airplanes, certificated in any category:

Models	Serial Nos.
PA-31-300, PA-31-310, and PA-31-325.	31-2 through 31-8312019.
PA-31-350	31-5001 through 31-8452021.
PA-31-350 T-1020	31-8253001 through 31-8553002.
PA-31P	31P-1 through 31P-7730012.
PA-31P-350	31P-8414001 through 31P-8414050.
PA-31T	31T-7400001 through 31T-8120104.
PA-31T1	31T-7804001 through 31T-1104017.
PA-31T2	31T-8166001 through 31T-1166008.
PA-31T3 T-1040	31T-8275001 through 31T-5575001.

Compliance: Required within the next 200 hours time-in-service after the effective date of this AD or the next 6 calendar months after the effective date of this AD, whichever occurs later, unless already accomplished.

Note 1: The calendar month compliance time is utilized to allow commuter operators the option of accomplishing the actions to coincide with regularly scheduled maintenance.

To prevent the main landing gear (MLG) from extending, when not selected and while the airplane is in flight, because of actuator reinforcement bracket failure, which could result in substantial damage to or loss of control of the airplane, accomplish the following:

(a) Replace any MLG actuator reinforcement bracket having part number (P/N) 40776-00 with a new MLG actuator reinforcement bracket, P/N 73786-02, in accordance with the INSTRUCTIONS section of Piper Service Bulletin No. 923, dated August 16, 1989.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on March 10, 1993.

Bobby W. Sexton,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-5939 Filed 3-15-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 39

[Docket No. 92-ANE-11]

Airworthiness Directives; Textron Lycoming ALF502R Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Textron Lycoming ALF502R series turbofan engines. This proposal would reduce the service life for the No. 2 stage turbine disk, reduce the service lives for No. 1 and No. 3 through No. 7 stage compressor rotor disks, and require a scheduled removal of these disks from

service. This proposal is prompted by reports of cracks in disks returned from the field and in disks tested by the manufacturer. The actions specified by the proposed AD are intended to prevent disk failure resulting in a possible uncontained engine failure.

DATES: Comments must be received by May 17, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–ANE–11, 12 New England Executive Park, Burlington, Massachusetts 01803–5299.

Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Textron Lycoming, 550 Main Street, Stratford, Connecticut 06497. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Mark A. Rumizen, Aerospace Engineer, Engine Certification Branch, ANE–142, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803–5299, telephone (617) 273–7087; fax (617) 270–2412.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications recieved on or before the closing date for comments, specified above, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92–ANE–11." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–ANE–11, 12 New England Executive Park, Burlington, Massachusetts 01803–5299.

Discussion

The FAA has received reports of cracks in disks returned to the manufacturer and in factory tested disks on Textron Lycoming ALF502R series turbofan engines. The cracks appear in the No. 2 stage turbine disk, and the No. 1 and No. 3 through No. 7 stage compressor rotor disks. Cracks were discovered in the bolt hole area of several No. 2 stage turbine disks and in the rim dovetail area of several No. 1 and No. 3 through No. 7 stage compressor rotor disks. Subsequent analysis and testing of these disks has revealed a lower fatigue life than originally calculated. This condition, if not corrected, could result in disk failure resulting in a possible uncontained engine failure.

This proposal would reduce the service life for the No. 2 stage turbine disk, reduce the service lives for No. 1 and No. 3 through No. 7 stage compressor rotor disks, and require a scheduled removal of these disks from service. This schedule has been developed based on examination of disks returned from the field and on crack propagation testing and analysis.

The FAA has reviewed and approved the technical contents of Textron Lycoming Service Bulletin (SB) ALF502R 72–281, dated February 7, 1992, which contains a schedule for removal of the No. 2 stage turbine disk, and the No. 1 and No. 3 through No. 7 stage compressor rotor disks.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would reduce service life for the No. 2 stage turbine disk, and reduce the service lives of No. 1 and No. 3 through No. 7 stage compressor rotor disks, and require a scheduled removal of these disks from service. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 700 Textron Lycoming ALF502R series turbofan engines of the affected design in the worldwide fleet. The FAA estimates that 200 engines installed on aircraft of U.S. registry would be affected by this proposed AD. The required reduction in service life would cost $41,400 per engine based on the cost of a new disk prorated over the reduced service life as compared to the current service life. The total cost impact of the proposed AD on U.S. operators is estimated to be $8,280,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Textron Lycoming: Docket No. 92–ANE–11.

Applicability: Textron Lycoming ALF502R series turbofan engines installed on but not limited to British Aerospace BAe–146 aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent No. 2 stage turbine disk, and No. 1 and No. 3 through No. 7 stage compressor rotor disk, failure resulting in possible uncontained engine failure, accomplish the following:

(a) Remove from service No. 2 stage turbine disks, P/Ns 2–121–058–18, 2–121–058–20, and 2–121–058–R24, in accordance with the schedule defined in paragraph B(1) of Table 1 of Textron Lycoming Service Bulletin (SB) ALF502R 72–281, dated February 7, 1992.

(b) Remove from service No. 1 stage compressor rotor disks, P/N 2–101–331–04, in accordance with paragraph A(1) of Table 1 of Textron Lycoming SB No. ALF502R 72–281, dated February 7, 1992.

(c) Remove from service No. 3 stage compressor rotor disks, P/Ns 2–101–263–02, 2–101–263–05, 2–101–263–06, 2–101–263–09, and 2–101–263–R10, in accordance with paragraph A(2) of Table 1 of Textron Lycoming SB No. ALF502R 72–281, dated February 7, 1992.

(d) Remove from service No. 4 stage compressor rotor disks, P/Ns 2–100–042–03, 2–100–042–07, 2–100–042–09, and 2–100–042–R08, in accordance with paragraph A(3) of Table 1 Textron Lycoming SB No. ALF502R 72–281, dated February 7, 1992.

(e) Remove from service No. 5 stage compressor rotor disks, P/Ns 2–100–043–01, 2–100–043–07, 2–100–042–09, and 2–100–043–R08, in accordance with paragraph A(4) of Table 1 of Textron Lycoming SB No. ALF502R 72–281, dated February 7, 1992.

(f) Remove from service No. 6 stage compressor rotor disks, P/Ns 2–100–044–01, 2–100–044–05, 2–100–044–07, and 2–100–044–R06, in accordance with paragraph A(5) of Table 1 of Textron Lycoming SB No. ALF502R 72–281, dated February 7, 1992.

(g) Remove from service No. 7 stage compressor rotor disks, P/Ns 2–100–045–01, 2–100–045–05, 2–100–045–07, and 2–100–045–R06, in accordance with paragraph A(6) of Table 1 of Textron Lycoming SB No. ALF502R 72–281, dated February 7, 1992.

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative means of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(i) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on February 24, 1993.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–5988 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 92–NM–205–AD]

Airworthiness Directives; de Havilland, Inc., Model DHC–7 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all de Havilland Model DHC–7 series airplanes. This proposal would require replacement of six MS rivets with high-strength Hi-Lok fasteners, in the drag strut attachment fitting of the nose landing gear. This proposal is prompted by reports of incidents involving corrosion and fatigue cracking in commuter-class airplanes that are approaching or have exceeded their economic design goal. These incidents have jeopardized the airworthiness of the affected airplanes. The actions specified by the proposed AD are intended to prevent degradation of the structural capabilities of the affected airplanes.

DATES: Comments must be received by May 10, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–205–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Sol Maroof, Aerospace Engineer, Airframe Branch, ANE–172, FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791–6220; fax (516) 791–9024.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–205–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–205–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In June 1988, the FAA sponsored a conference on aging airplane issues, which was attended by representatives of the aviation industry from around the world. It became obvious that, because of the tremendous increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes rather than retiring them, increased attention needed to be focused on this aging fleet and maintaining its continued operational safety.

The FAA, in concert with the Regional Airlines Association (RAA); several U.S. and non-U.S. operators of the affected airplanes; Transport Canada Aviation, which is the airworthiness authority for Canada; and de Havilland, Inc.; has agreed to undertake the task of identifying and implementing procedures to ensure continued structural airworthiness of aging commuter-class airplanes. This group reviewed selected service bulletins, applicable to de Havilland Model DHC–7 series airplanes, to be recommended for mandatory rulemaking action to ensure the continued operational safety of these airplanes.

The group reviewed and recommended de Havilland Service Bulletin 7–53–32, dated March 15, 1991, for mandatory rulemaking action. This service bulletin describes procedures for replacement of six MS rivets with high-strength Hi-Lok fasteners in the drag strut attachment fitting of the nose landing gear. Transport Canada Aviation classified the service bulletin as mandatory and issued Canadian Airworthiness Directive CF–91–31, dated August 16, 1991, in order to assure the continued airworthiness of these airplanes in Canada.

The FAA also has reviewed and approved de Havilland Service Bulletin 7–53–31, dated December 15, 1989, that describes procedures for installation of a new outer drag strut attachment fitting, Modification 7/1328, in the nose landing gear. Installation of Modification 7/1328 may be accomplished in lieu of rivet replacement. This service bulletin has been revised by Notice of Status Change 7–53–31–1, dated April 20, 1990, that defines proper lug thickness as 0.650 inch for incorporation of Modification Number 7/1328. Transport Canada Aviation has not classified this service bulletin or notice of status change as mandatory.

The procedures described in these service bulletins are intended to positively address conditions identified in de Havilland Model DHC–7 series airplanes that, if not corrected, could result in failure of the drag strut attachment fitting in the nose landing gear.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require replacement of six MS rivets with high-strength Hi-Lok fasteners in the drag strut attachment fitting of the nose landing gear. For airplanes having certain serial numbers, a new outer drag strut attachment fitting may be installed in lieu of the rivet replacement. The actions would be required to be accomplished in accordance with the service bulletins and notice of status change described previously.

The FAA estimates that 48 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 24 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. The cost of parts is expected to be negligible. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $63,360, or $1,320 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

De Havilland, Inc.: Docket 92–NM–205–AD.

Applicability: All Model DHC–7 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent degradation of the structural capabilities of the affected airplanes, accomplish the following:

(a) For all affected airplanes: Within 6 months after the effective date of this AD, replace the six MS rivets with hi-strength Hi-Lok fasteners, Modification 7/2572, in the drag strut attachment fitting of the nose landing gear, in accordance with de Havilland Service Bulletin 7–53–32, dated March 15, 1991.

(b) For airplanes having serial numbers 3 through 27, inclusive: Installation of a new outer drag strut attachment fitting, Modification 7/1328, in accordance with de Havilland Service Bulletin 7–53–31, dated December 15, 1989, as revised by Notice of Status Change 7–53–31–1, dated April 20, 1990, constitutes an acceptable alternative method of compliance with the requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 10, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–5935 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 92–NM–69–AD]

Airworthiness Directives; de Havilland, Inc., Model DHC–7 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–7 series airplanes. This proposal would require inspection of certain rivets on the ground spoiler actuator attachment brackets to ensure the integrity of the rivets and to detect fuel leakage; and modification of the ground spoiler actuator attachment brackets. This proposal is prompted by reports of incidents involving corrosion and fatigue cracking in commuter-class airplanes that are approaching or have exceeded their economic design goal. These incidents have jeopardized the airworthiness of the affected airplanes. The actions specified by the proposed AD are intended to prevent degradation of the structural capabilities of the affected airplanes.

DATES: Comments must be received by May 10, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–69–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Sol Maroof, Aerospace Engineer, Airframe Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; telephone (516) 791–6220; fax (516) 791–9024.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–69–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–69–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In June 1988, the FAA sponsored a conference on aging airplane issues, which was attended by representatives of the aviation industry from around the world. It became obvious that, because of the tremendous increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes rather than retiring them, increased attention needed to be focused on this aging fleet and maintaining its continued operational safety.

The FAA, in concert with the Regional Airline Association (RAA); several U.S. and non-U.S. operators of de Havilland airplanes; Transport Canada Aviation, which is the airworthiness authority for Canada; and de Havilland, Inc.; has agreed to undertake the task of identifying and implementing procedures to ensure continuing structural airworthiness of aging commuter-class airplanes. This group reviewed selected service bulletins, applicable to de Havilland Model DHC–7 series airplanes, to be recommended for mandatory rulemaking action to ensure the continued operational safety of these airplanes.

The group reviewed and recommended de Havilland Service Bulletin 7–57–12, dated January 15, 1982, for mandatory rulemaking action. The service bulletin describes procedures to perform a one-time inspection of the lower two securing rivets on the left- and right-hand ground spoiler actuator attachment brackets to ensure the integrity of the rivets and to detect signs of fuel leakage. The service bulletin also describes procedures for modification of the ground spoiler actuator attachment brackets (Modification no. 7/1827) to give added strength to the attachment. This modification involves removing the rivets, enlarging the two bracket holes, securing the bracket with bolts, washers, and nuts, and sealing the fasteners inside the fuel tank bay to prevent fuel leakage.

The intent of this service bulletin is to address reports of the lower two rivets that secure the ground spoiler actuator attachment brackets to the wing structure becoming loose. This condition, if not corrected, degrades the integrity of the ground spoiler actuator attachment bracket.

Transport Canada Aviation classified this service bulletin as mandatory and issued Canadian Airworthiness Directive CF–91–13, dated May 13, 1991, in order to assure the continued airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this

type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a one-time inspection of the lower two securing rivets on the left- and right-hand ground spoiler actuator attachment brackets to ensure the integrity of the rivets and to detect signs of fuel leakage; and modification of the ground spoiler attachment brackets. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 15 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. The cost for required parts would be minimal. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,650, or $110 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

De Havilland, Inc.: Docket 92–NM–69–AD.

Applicability: Model DHC–7 series airplanes; serial numbers 1 through 30, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure, accomplish the following:

(a) Within 6 months after the effective date of this AD, perform a one-time inspection of the lower two securing rivets on the left- and right-hand ground spoiler actuator attachment brackets to ensure the integrity of these rivets and to detect signs of fuel leakage, in accordance with de Havilland Service Bulletin 7–57–12, dated January 15, 1982.

(1) If any loose or damaged rivet is found, or if there is evidence of fuel leakage, prior to further flight, modify the ground spoiler actuator attachment brackets (Modification No. 7/1827), in accordance with the service bulletin.

(2) If no loose or damaged rivet and no evidence of fuel leakage is found, within 6 months after accomplishing the inspection required by paragraph (a) of this AD, modify the ground spoiler actuator attachment brackets (Modification No. 7/1827), in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 10, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–5934 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–13–D

14 CFR Part 71

[Airspace Docket No. 93–ANE–15]

Proposed Revocation of Control Zone; Fort Devens, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would revoke the control zone for Moore Army Air Field (AAF), Fort Devens, Massachusetts. This action is prompted by the closing of the air traffic control tower (ATCT) at Moore AAF. This action is necessary because due to the ATCT at Moore AAF closing, weather observation reports are no longer available.

DATES: Comments must be received on or before April 30, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, Air Traffic Division, New England Region, Docket No. 93–ANE–15, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299.

The docket may be examined in the Office of the Assistant Chief Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299, weekdays, except Federal holidays, between the hours of 8 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Charles M. Taylor, Airspace Specialist, System Management Branch, ANE–530, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (617) 270–2428. fax: (617) 272–0395.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed under ADDRESSES. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a

self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ANE–15." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, ANE–7, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke the control zone at Moore Army Air Field (AAF), Fort Devens, Massachusetts. One of the requirements for establishing a control zone is the availability of weather observation and reporting. As of January 31, 1993, the air traffic control tower (ATCT) at Moore AAF closed, and weather observations are no longer taken at Moore AAF. Therefore, the FAA is proposing to revoke the Fort Devens, Massachusetts, control zone. Control zones are published in § 71.171 of FAA Order 7400.7A, dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The Fort Devens, MA control zone would be removed subsequently from the Order.

The FAA has determined that this proposed regulation involves only an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small business entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Incorporation by reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963, Comp. p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.171 Designation of Control Zones

* * * * *

ANE MA CZ Fort Devens Massachusetts [Removed]

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Issued in Burlington, Massachusetts, on March 3, 1993.

Francis J. Johns,

Manager, Air Traffic Division, New England Region.

[FR Doc. 93–5989 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

RIN 0960–AD65

Supplemental Security Income for the Aged, Blind, and Disabled; Reliable Information Which is Currently Available for Determining Benefit Amounts in the Supplemental Security Income Program

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Social Security Act (the Act) provides that if the Secretary of the Department of Health and Human Services (the Secretary) determines that reliable information is currently available concerning the income of an individual, the Secretary may use that information to determine an individual's current month's supplemental security income (SSI) benefit amount. This method of determining SSI benefit amounts is an exception to the use of income from a prior month, known as retrospective monthly accounting (RMA). This proposed rule provides that the Secretary, in exercising her discretionary authority, has determined that no reliable information exists which is currently available for determining SSI benefit amounts for a current month using any method other than RMA.

DATES: To be sure that your comments are considered, we must receive them no later than April 15, 1993.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21235, or delivered to 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m., on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965–1762.

SUPPLEMENTARY INFORMATION: As ordered by the United States District Court for the Southern District of Ohio, Eastern Division, in the case of *Gould,*

et al. v. *Sullivan*, No. C2–87–984 (S.D. Ohio October 2, 1992), we are proposing a rule concerning reliable information for determining benefits in the SSI program pursuant to section 1611(c)(4) of the Act.

We published final regulations on November 26, 1985 (50 FR 48563), implementing various provisions in section 1611(c) of the Act. Section 1611(c)(1) of the Act provides that an individual's eligibility for SSI benefits is to be determined based on income, resources, and other relevant characteristics from the current month. The SSI benefit amount for a month is to be determined on the basis of income and other characteristics in the first or, if the Secretary so chooses, the second month preceding the month of eligibility. The final regulations provided that generally the income and other characteristics in the second month preceding the month of eligibility are to be used for determining the amount of SSI benefits.

Section 1611(c)(3) of the Act provides that an increase in Social Security (title II) benefits over the amount payable for the first preceding month, or at the Secretary's election, the second preceding month, will be counted in determining the amount of an SSI benefit for the first month or, at the Secretary's election, the second month in which there is an SSI benefit increase due to a cost-of-living adjustment (COLA) made under section 1617 of the Act. The final regulations, published November 26, 1985 (50 FR 48563), provided for counting an increase from a COLA or recomputation in Social Security benefits for January and February as income in the month received to determine the SSI benefit amounts for January and February.

Section 1611(c)(4)(A) of the Act provides that if the Secretary determines, at her discretion, that reliable information is currently available about an individual's income and other circumstances for a month, the Secretary, at her discretion, may determine the SSI benefit amount for that month on the basis of that information rather than based on income and other characteristics from the first or second prior month as required under RMA pursuant to section 1611(c)(1) of the Act. If the Secretary determines that reliable information is currently available and she further determines that she may use it to affect the current SSI benefit amount, section 1611(c)(4)(B) requires the Secretary to issue regulations prescribing the circumstances in which the information may be used to determine the SSI benefit amount. However, under section 1611(c)(4), the Secretary, at her discretion, may continue to use RMA even if she identifies reliable information which is currently available.

With respect to recipients, the optional computation under section 1611(c)(4)(A) of the Act would, in comparison to RMA, be advantageous in some circumstances and disadvantageous in others. Consider for illustrative purposes only, what would happen if the Secretary were to determine that all title II income information, as opposed to only COLA and recomputation increases discussed above, is reliable and currently available and is to be used to determine the current month's benefit.

Title II income above $20 serves to reduce the SSI benefit dollar-for-dollar. A reduction in the ongoing title II benefit amount will result in an increase in the SSI benefit, and, conversely an increase in the title II benefit will result in a reduction in the SSI benefit. Under RMA, the effects of changes in title II income other than COLA or recomputation increases are generally delayed 2 months. For example, an SSI recipient who is receiving title II mother's benefits whose benefits terminate because she no longer has a child in her care would continue to receive a reduced SSI benefit for 2 months after the termination of the title II income. Conversely, an SSI recipient who becomes entitled to a title II mother's benefit will continue to receive an unreduced SSI benefit for 2 months after the title II benefit begins, and her SSI benefit would not be reduced until the third month following title II entitlement.

Under this current month accounting approach, title II income would affect the SSI benefit as of the month the income is received. The mother whose title II benefit terminates would receive increased SSI in the month following termination. The SSI recipient who subsequently becomes entitled to a title II benefit would have her SSI benefit reduced effective with the month she begins receiving the title II benefit.

Statistically valid sample data indicate that using current month accounting for title II income would be disadvantageous to more SSI recipients than it would advantage. Of the approximately 29,800 recipients whose title II income started or stopped in September 1992, 51.3 percent would have received less in total SSI benefits using current month accounting rather than RMA, 8.7 percent would have received more, and 39.9 percent would have seen no effect. Of the approximately 9,400 recipients whose countable title II income increased or decreased in September 1992, 83 percent would have received less in total SSI benefits using current month accounting, while 17 percent would have received more.

For purposes of RMA, we are defining "reliable information" in these proposed regulations as payment information maintained on a computer system of records by the government agency determining the payments (e.g., Department of Veterans Affairs, the Office of Personnel Management for Federal civil service information, and the Railroad Retirement Board). Because this is actual payment information which is verified by the custodial agency, it is correct virtually all the time. We define the term "currently available information" as information that is available to the Secretary within the time required for us to compute and issue a correct SSI benefit for the month the information is pertinent.

When we published the regulations on November 26, 1985 (50 FR 48563), to reflect various provisions of section 1611(c) of the Act, we discussed the section 1611(c)(4) exception (50 FR 48565) using the following language:

> These regulations do not include a rule to determine a current month's benefit based on reliable information which is currently available. The Secretary has this matter under consideration, and is not exercising this authority at this time.

After publication of the final rules, we examined information regarding other Federal and State benefit programs to determine whether these sources could provide us reliable information which is currently available to be used for determining SSI benefit amounts. The following explains what we determined as a result of this examination.

We maintain computer interfaces only with some Federal agencies, such as the Department of Veterans Affairs, the Office of Personnel Management for Federal civil service information, and the Railroad Retirement Board. We receive this benefit information through computer interface after these other agencies prepare their payment tapes for the Treasury Department to use in issuing benefit checks or making electronic deposits. These interfaces provide us with information with respect to income and other circumstances. We use this information to maintain the SSI records for eligible individuals.

The district court in *Gould* directed the Agency in publishing a regulation concerning section 1611(c)(4) to consider whether the situations of Aid to Families with Dependent Children

(AFDC) recipients prior to April 1, 1988, should be covered by such a rule. With respect to these individuals, we considered the availability of reliable information regarding their AFDC payments. We have never maintained computer interfaces with State agencies including those administering the AFDC benefit programs. Therefore, based on our proposed definition, reliable information regarding AFDC, has not been and is not currently available to us.

The Privacy Act, 5 U.S.C. 552a(p), requires that if the computer match data would cause SSA to take an adverse action against an individual (i.e., to reduce, suspend, terminate or deny payments), SSA must notify the individual of our findings, including the data and their source, and defer the adverse action until the expiration of any time period established for the program by statute or regulation for the individual to respond to the notice (10 days in the SSI program) to give the individual the opportunity to challenge the accuracy of the data. Because of the time required for the receipt of the data and individual notification and appeal rights, data we receive from these other agencies in January, for example, cannot adversely affect an individual's payment until March at the earliest. Thus, based on our proposed definition, we cannot consider this computer interface information to be currently available for determining the SSI benefit amount.

In addition to the computer interfaces with other agencies, we maintain a computer interface with title II records within SSA. The title II interface does not require special electronic matching and is not subject to the Privacy Act requirements discussed above. In certain situations, the title II interface provides information for making correct payment for a particular month under sections 1611(c)(2) and 1611(c)(3). For example, data for the COLA increase of title II benefits are received in time to make reductions in the SSI benefits for the month the increase is effective.

However, our regulations provide, based on the *Goldberg* v. *Kelly* court case, that before SSA can reduce, suspend or terminate an SSI payment, we must issue a written notice to the individual informing him or her of the event and providing the opportunity to appeal. If an adverse change is posted on an SSI claimant's record after the 10th day of the month, due to computer system constraints, we are unable to reduce the SSI payment for the next month. This creates an overpayment for the individual. Because of the advance notice requirements and systems limitations, only changes posted to the SSI record by the 10th of the month before the payment month affect the payment. Because of the various increases and decreases in title II benefits occurring throughout the month, approximately one-half of the changes are posted by the 10th of the month before the payment month. For the other one-half of the cases involving changes, based on our proposed definition the information is not currently available for SSA's system to make timely changes in order to avoid causing an overpayment or an underpayment. It would be inequitable to treat title II income differently in the computation of an SSI payment based on when in the month the income was received because such differing treatments could lead to different SSI benefit amounts for two individuals with identical title II income in a particular month.

Based on the foregoing review and examination of computer interface information, the Secretary has determined that no information exists which is reliable and currently available to use in computing SSI benefit amounts pursuant to section 1611(c)(4). Therefore, the regulations propose that the Secretary exercise her discretion by declining to determine the SSI benefit amount for a current month using a method other than RMA, as allowed under section 1611(c)(4) of the Act.

We are proposing to amend § 416.420 to define the terms "reliable information" and "currently available information" and to state that the Secretary has determined that there exists no reliable information which is currently available to use for determining SSI benefit amounts.

SSA has recently undertaken a comprehensive examination of the SSI program by reviewing its fundamental structure and purpose. Twenty-one experts in public policy were involved in this examination. The report on this examination was published in the **Federal Register** on September 4, 1992, at 57 FR 40732, and public comments were due December 3, 1992.

Accounting issues were thoroughly dealt with in this examination, and the report contains a number of options to deal with perceived problems under RMA. We will be considering the public comments received with a view toward suggesting legislative changes where appropriate.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 since the costs are expected to be negligible, and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

This regulation imposes no new reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities because it affects only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 93.807, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: March 4, 1993.

Louis D. Enoff,

Principal Deputy Commissioner of Social Security.

Approved: March 11, 1993.

Donna E. Shalala,

Secretary of Health and Human Services.

Part 416 of Chapter III of title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

1. The authority citation for subpart D of part 416 continues to read as follows:

Authority: Secs. 1102, 1611 (a), (b), (c), and (e), 1612, 1617, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382 (a), (b), (c), and (e), 1382a, 1382f, and 1383.

2. Section 416.420 is amended by revising paragraph (a) and redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

§ 416.420 Determination of benefits; general.

* * * * *

(a) *General rule.* We use the amount of your countable income in the second month prior to the current month to determine how much your benefit amount will be for the current month. We have determined that no reliable information exists which is currently available to compute benefits on a

current basis as is explained in paragraph (c) of this section. However, if you have been receiving an SSI benefit and receiving a Social Security insurance benefit and the latter is increased on the basis of the cost-of-living adjustment or because your benefit is recomputed, we will compute the amount of your SSI benefit for January, the month of an SSI benefit increase, by including in your income the amount by which your Social Security benefit in January exceeds the amount of your Social Security benefit in November. Similarly, we will compute the amount of your SSI benefit for February by including in your income the amount by which your Social Security benefit in February exceeds the amount of your Social Security benefit in December.

Example 1. Mrs. X's benefit amount is being determined for September (the current month). Mrs. X's countable income in July is used to determine the benefit amount for September.

Example 2. Mr. Y's SSI benefit amount is being determined for January (the current month). Mr. Y has Social Security income of $100 in November, $100 in December, and $105 in January. We find the amount by which his Social Security income in January exceeds his Social Security income in November ($5) and add that to his income in November to determine the SSI benefit amount for January.

* * * * *

(c) *Reliable information which is currently available for determining benefits.* The Secretary has determined that no reliable information exists which is currently available to use in determining benefit amounts.

(1) *Reliable information.* For purposes of this section "reliable information" means payment information that is maintained on a computer system of records by the government agency determining the payments (e.g., Department of Veterans Affairs, Office of Personnel Management for Federal civil service information and the Railroad Retirement Board).

(2) *Currently available information.* For purposes of this section "currently available information" means information that is available at such time that it permits us to compute and issue a correct benefit for the month the information is pertinent.

* * * * *

[FR Doc. 93-6025 Filed 3-15-93; 8:45 am]

BILLING CODE 4190-29-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA8-1-5542; AD-FRL-4603-3]

Approval and Promulgation of State Implementation Plans: Washington

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The EPA proposes approval of the State implementation plan (SIP) revision submitted by the State of Washington for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10). The implementation plan was submitted by the State to satisfy certain federal Clean Air Act requirements for an approvable moderate nonattainment area PM-10 SIP for Kent, Washington.

DATES: Comments on this proposed action must be postmarked by April 15, 1993.

ADDRESSES: Comments should be addressed to: George Lauderdale, Environmental Protection Agency, Air & Radiation Branch, Docket No. WA8-1-5478, 1200 Sixth Avenue, AT-082, Seattle, Washington 98101.

Copies of the State's submittal and other information are available for inspection during normal business hours at the following location:

Air and Radiation Branch (WA8-1-5478), U.S. Environmental Protection Agency, 1200 Sixth Avenue, AT-082, Seattle, Washington 98101.

State of Washington Department of Ecology, 4224 Sixth Avenue SE., Rowe Six, Building No. 4, Lacey, Washington 98504.

FOR FURTHER INFORMATION CONTACT: George Lauderdale, U.S. Environmental Protection Agency, 1200 Sixth Avenue, AT-082, Seattle, Washington 98101, Telephone (206) 553-6511.

SUPPLEMENTARY INFORMATION:

1. Background

The Kent, Washington, area was designated nonattainment for PM-10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.[1] See 56 FR 56694 (November 6, 1991). The air quality planning requirements for moderate PM-10 nonattainment areas are set out in subparts 1 and 4 of part D, title I of the Act.[2] The EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under title I of the Act, including those State submittals containing moderate PM-10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of title I advanced in today's proposal and the supporting rationale. In today's rulemaking action on the Washington moderate PM-10 SIP for the Kent nonattainment area, EPA is proposing to apply its interpretations taking into consideration the specific factual issues presented. Additional information supporting EPA's action on this particular area is available for inspection at the address indicated above. EPA will consider any timely submitted comments before taking final action on today's proposal.

Those States containing initial moderate PM-10 nonattainment areas (those areas designated nonattainment under section 107(d)(4)(B)) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology—RACT) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

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[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101-549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. sections 7401, *et seq.*

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM-10 nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the "General Preamble" and, as appropriate, in today's notice and supporting information.

4. Provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Some provisions are due at a later date. States with initial moderate PM–10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992 (see section 189(a)). Such States also must submit contingency measures by November 15, 1993 which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline (see section 172(c)(9) and 57 FR 13543–44).

II. Today's Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–66). In today's action, EPA is proposing to grant approval of the plan revision submitted to EPA for Kent, Washington, on November 5, 1990 as revised by addenda submitted on December 27, 1990 and November 15, 1991 (hereafter generally referred to as a single submittal). EPA is proposing to approve the submittal because it appears to meet all of the applicable requirements of the Act. EPA invites public comment on the action.

A. Analysis of State Submission

1. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[3] Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing. The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). The EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

The State of Washington Department of Ecology (WDOE) and the Puget Sound Air Pollution Control Agency (PSAPCA) held a joint public hearing to entertain public comment on the Kent implementation plan on December 8, 1988. WDOE adopted the implementation plan for the area on November 3, 1990 and the plan was submitted to EPA on November 5, 1990. The plan was subsequently revised by addenda submitted on December 27, 1990 and November 15, 1991. WDOE held appropriate public hearings prior to submittal each of the addenda to entertain public comment. The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). A letter dated February 13, 1992 was forwarded to the WDOE indicating the completeness of the submittal and the next steps to be taken in the review process.

2. PM–10 Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. Because the submission of the emissions inventory is a necessary adjunct to an area's attainment demonstration (or demonstration that the area cannot practicably attain) the emissions inventory must be received with the demonstration (see 57 FR 13539).

WDOE submitted an emissions inventory for the base year of 1986 and the attainment year of 1991. The emission inventory identified three major source categories contributing to particulate matter concentrations in the valley. These are, in descending order of greatest contribution, fugitive emissions from a single point source, Salmon Bay Steel (which has since ceased operation); vehicle resuspended dust; and residential wood combustion. WDOE has determined all other sources to be insignificant.

As noted below, Salmon Bay Steel, the only heavy industrial facility in Kent, has ceased operations. WDOE originally projected a 99% reduction of process fugitive emissions from Salmon Bay Steel. Subsequently, WDOE submitted information to EPA indicating that, for the following reasons, the shutdown of Salmon Bay Steel is permanent and enforceable: (1) Salmon Bay Steel is no longer considered a "Registered Source" under the Puget Sound Air Pollution Control Agency's (PSAPCA) regulations (Section 5.05) (2) the deadline for requesting to bank emission reduction credits has expired (3) any new source occupying the facility must obtain a registration and would be subject to PSAPCA's new source review provisions and (4) any new major source must implement, among other things, the lowest achievable emission rates (LAER) and provide emission offsets.

Emissions inventories are generally required to incorporate allowable emissions from point sources, because this approach takes into consideration possible increases from existing sources allowed by their permits or registrations. The plan used actual emissions as opposed to allowable emissions for Salmon Bay Steel. However, since the source is permanently shut down, this is a moot issue. Thus, EPA believes it is reasonable to ascribe a 100% emission reduction credit to this source.

EPA is proposing to approve the emissions inventory because it generally appears to be accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area consistent with the requirements of sections 172(c)(3) and 110(a)(2)(K) of the Clean Air Act.[4] For further details the reader is referred to the Technical Support Document (TSD) corresponding with this action, which is available at the EPA address indicated above.

3. RACM (Including RACT)

As noted, the initial moderate PM–10 nonattainment areas must submit provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993 (see sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–45 and 13560–61). The PSAPCA initiated a voluntary woodsmoke curtailment program

[3] Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

[4] The EPA issued guidance on PM–10 emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 PM–10 SIP Development Guideline. The guidance provided in this document appears to be consistent with the Act.

throughout its jurisdictional area, including Kent, in the winter of 1987–88. The program changed to mandatory curtailment beginning with the 1988–89 heating season, pursuant to WAC 173–433 and the PSAPCA Regulation I, Article 13. The curtailment program is a two stage plan. At Stage I, which is imposed when ambient PM–10 levels reach 75 μg/m³, the use of uncertified stoves and fireplaces are banned. At Stage II, imposed when PM–10 levels reach 105 μg/m³, all wood heating (fireplaces, certified and uncertified woodstoves) is prohibited. The program exempts homes with no other source of heat. WDOE and PSAPCA regulations contain additional controls, including the prohibition of all fuels except dry, seasoned wood in woodheating devices. Plume opacity for woodheating devices is limited to 20%, with brief allowances for fire starting and stoking. PSAPCA serves as the primary enforcement agency for the curtailment and opacity portions of the control program. Both the PSAPCA and WDOE administer public education programs targeted at residential wood burning. Throughout the State, WDOE also enforces its ban on the sale of uncertified woodstoves.

The strength and depth of the legislated woodsmoke program, and the size and historical effectiveness of the agencies involved, demonstrates to EPA's satisfaction that the Kent area is achieving a sufficiently compliance rate to justify the 70% emission reduction credit. A more detailed analysis of the Washington woodsmoke curtailment plan is contained in the TSD. The Kent emission inventory identified industrial fugitive emissions and resuspended road dust as the significant contributors of fugitive dust emissions. PSAPCA's fugitive dust regulation (Regulation I, section 9.15) was designed to reduce fugitive dust from commercial and industrial activities and also to reduce road dust. PSAPCA requires "Best Available Control Technology (BACT)" for all fugitive dust sources.

As previously stated, WDOE projected a 99% reduction of process fugitive emissions from Salmon Bay Steel, the only heavy industrial facility in Kent. Since the source has ceased operations, and EPA considers the shut down to be enforceable, EPA believes it is reasonable to ascribe a 100% emission reduction credit to this source.

The plan uses an emission reduction credit of 37% from resuspended road dust. The plan proposes that the PSAPCA will undertake a cooperative effort with the City of Kent to achieve the reduction in resuspended road dust. The City of Kent has cooperated with the PSAPCA in undertaking several major street improvements, which included grading, paving, and the installation of curbs and gutters to reduce the reentrained road dust problem. Extensive improvements were made to the West Valley Highway, the major arterial road bisecting the nonattainment area.

The permanent and enforceable shutdown of Salmon Bay Steel and the residential wood combustion control measures will assure attainment of the PM–10 NAAQS in this area by 1991. EPA has indicated that for some sources in areas which demonstrate attainment, available control measures may not be "reasonably" available if their implementation would not expedite attainment any sooner (See 57 FR 13543). Because this area demonstrates attainment by 1991 with other available control measures, the implementation of RACM in Kent does not require the resuspended road dust measures. However, PSAPCA's Regulation 9.15 BACT requirement for fugitive dust sources should nevertheless provide an additional margin of safety for any uncertainty associated with the attainment demonstration and, further, should help maintain the PM–10 NAAQS in this area. Thus, while it is unnecessary, to quantify the actual emissions reductions that will be realized from the road dust control measures, EPA intends to approve the measures for their additional SIP strengthening effect.

The Kent area is not significantly impacted by prescribed burning or more traditional stationary sources of PM–10 (other than the now permanently closed Salmon Bay Steel Company). Where sources of PM–10 contribute insignificantly to the PM–10 problem in the area, EPA's policy is that it would be unreasonable (and would not constitute RACM) to require the sources to implement potentially available control measures. 57 FR 13540. EPA believes the significant sources of PM–10 in the area have been reasonably controlled. Thus, EPA believes it would be unreasonable to require other de minimis sources of PM–10 in the area to implement potentially available control measures or technology. Further, EPA believes implementation of such additional controls in this area would not expedite attainment and, therefore, are not "reasonably" required. 57 FR 13543.

A more detailed discussion of the individual source contributions, their associated control measures and an explanation as to why certain available control measures were not implemented, can be found in the Technical Support Document (TSD). EPA has reviewed the State's explanation and associated documentation and concluded that it adequately justifies the control measures to be implemented. The implementation of the State of Washington's PM–10 nonattainment plan control strategy will result in the attainment of the PM–10 NAAQS as expeditiously as practicable and no later than December 31, 1994. By this notice, EPA is proposing to approve RACM (including RACT) the control strategy in its entirety.

4. Demonstration

As noted, the initial moderate PM–10 nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see section 189(a)(1)(B) of the Act). The General Preamble sets out EPA's guidance on the use of modeling for moderate area attainment demonstrations (57 FR 13539). Alternatively, if the State does not submit a demonstration of attainment, the State must show that attainment by December 31, 1994 is impracticable (section 189(a)(1)(B)(ii)).

The PSAPCA in conjunction with WDOE conducted an attainment demonstration in the Kent, Washington, nonattainment area using the WYNDvalley dispersion model, which is a non-guideline model. The WYNDvalley model was used due to very low wind speeds during historical exceedances. During review of the plan, EPA conducted a rollback analysis, which was later concurred on by WDOE, to verify the results of the dispersion model because use of the WYNDvalley model in this case did not fully meet all EPA criteria. The rollback analysis was therefore used pursuant to EPA's policy on modified demonstrations of attainment. "PM–10 SIP Attainment Demonstration Policy for Initial Moderate Nonattainment Areas" issued by John Calcagni on March 4, 1991. EPA's policy on modified demonstrations states that in circumstances where an initial moderate nonattainment area has completed or can complete its demonstration by November 15, 1991 consistent with existing guidance, an attainment demonstration based on the existing guidance should be submitted. However, in those situations where time constraints, inadequate resources, inadequate data bases, lack of model for some unique situations, and other unavoidable circumstances would leave an initial moderate nonattainment area unable to submit an attainment

demonstration within the short timeframe provided by the newly revised law, then a modified demonstration based on that policy statement may be submitted. (see 57 FR 13539). Note that EPA's policy recommends specific documentation that should accompany modified demonstrations.

The rollback analysis was also undertaken because of slight differences between the original attainment year emission inventory used in the dispersion modeling and the corrected inventory submitted in 1991 as an addendum to the plan. EPA's analysis verified that the results of the dispersion modeling were reliable, and that the minor difference in inventories would not significantly affect expected attainment year values. The rollback analysis confirmed that, with the corrected inventory, attainment was demonstrated in Kent and would be maintained in future years. The 24-hour PM–10 NAAQS is 150 micrograms/cubic meter ($\mu g/m^3$), and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$ is equal to or less than one (see 40 CFR 50.6). The annual PM–10 NAAQS is 50 $\mu g/m^3$, and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50 $\mu g/m^3$(id.). The demonstration predicted that the 24-hour design concentration in the attainment year of 1991 will be below 125 $\mu g/m^3$, thus demonstrating attainment of the 24-hour PM–10 NAAQS. Ambient data show that the area has never approached an exceedance of the annual standard. Since no violations of the annual NAAQS have been noted with the current emissions inventory and since the inventory was "rolled back" to show attainment of the 24-hour NAAQS, no violations of the annual NAAQS are likely. Nevertheless, WDOE prepared and submitted a rollback analysis which demonstrated that the annual standard was, indeed, attained in 1991 and will be maintained until at least 1994. Therefore, EPA believes that WDOE has adequately demonstrated that the annual standard has been attained in the Kent nonattainment area.

The control strategy used to achieve these design concentrations is summarized in the section titled "RACM (including RACT)". For a more detailed description of the attainment demonstration and the control strategy used, see the TSD.

5. PM–10 Precursors

The control requirements which are applicable to major stationary sources of PM–10, also apply to major stationary sources of PM–10 precursors unless EPA determines such sources do not contribute significantly to PM–10 levels in excess of the NAAQS in that area (see section 189(e) of the Act). The General Preamble contains guidance addressing how EPA intends to implement section 189(e) (see 57 FR 13539–13540 and 13541–13542).

The emissions inventory for the Kent nonattainment area did not reveal any significant major or minor stationary sources of PM–10 precursors. Consequently, EPA believes that stationary sources of precursors provide an insignificant contribution to the Kent, Washington, ambient PM–10 concentration and EPA is proposing to grant the area the exclusion from PM–10 precursor control requirements authorized under section 189(e) of the act. Note that while EPA is proposing to make a general finding for this area, today's proposed finding is based on the current character of the area including, for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of precursors in the area. EPA intends to issue future guidance addressing such potential changes in the significance of precursor emissions in an area.

6. Quantitative Milestones and Reasonable Further Progress (RFP)

The PM–10 nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every three (3) years until the area is redesignated attainment and which demonstrate RFP, as defined in section 171(1), toward attainment by December 31, 1994 (see section 189(c) of the Act). Reasonable further progress is defined in section 171(1) as such annual incremental reductions in emissions of the relevant air pollutant as are required by Part D or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

In implementing RFP for this initial moderate area, EPA has reviewed the attainment demonstration and control strategy for the area to determine whether annual incremental reductions, different from those provided in the SIP, should be required in order to ensure attainment of the PM–10 NAAQS by December 31, 1994 (see section 171(1)). The State of Washington's PM–10 SIP for Kent demonstrates attainment in 1991 and maintenance through 1994, and therefore satisfies the initial quantitative milestone requirement (see 57 FR 13539) and RFP.

7. Enforceability Issues

All measures and other elements in the SIP must be enforceable by WDOE and EPA (see sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). EPA criteria addressing the enforceability of SIP's and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C)).

WDOE's control measures and regulations for control of Particulate Matter, which are contained in the SIP, are addressed above under the section headed "RACM (including RACT)." These control measures apply to the types of activities identified in that discussion including, for example, fugitive emissions from a single point source (which, as discussed above, EPA believes has permanently and enforceably ceased operations); vehicle resuspended road dust; and residential wood combustion. The SIP provides that the affected activities will be controlled throughout the entire nonattainment area.

Consistent with the attainment demonstration described above, the SIP requires that all the applicable SIP provisions must be implemented by December 10, 1993 (section 189(a)(1)(C). In addition to the applicable control measures, this includes the applicable record-keeping requirements which are addressed in the supporting technical information.

The TSD contains further information on enforceability requirements including enforceable emission limitations; a description of the rules contained in the SIP and the source types subject to them; test methods and compliance schedules; malfunction provisions; excess emission provisions; correctly cited references of incorporated methods/rules; and reporting and recordkeeping requirements. The local air pollution control agency, PSAPCA, has the primary responsibility for implementing the measures in the plan. PSAPCA has many compliance inspectors and, as discussed further in the TSD, EPA considers PSAPCA's staffing level adequate to assure that the Kent attainment plan is fully implemented. As a necessary adjunct of its enforcement program, PSAPCA also has broad powers to adopt rules and regulations, issue orders, require access to records and information, and receive

and disburse funds. WDOE has adequate authority to implement and enforce the plan in event PSAPCA fails to make a good faith effort to implement the regulations.

8. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIP's that demonstrate attainment must include contingency measures (see generally 57 FR 13543–13544). These measures must be submitted by November 15, 1993 for the initial moderate nonattainment areas. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures must take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to make RFP or attain the PM–10 NAAQS by the applicable statutory deadline.

The Kent, Washington, plan does not contain contingency measures. In a section referring to contingency measures, it describes measures that will achieve reductions beyond those achieved by the control strategy. However, these measures are not contingent upon Kent's failure to attain the NAAQS or meet RFP, and will be implemented regardless of attainment status. They are therefore not approvable as meeting the contingency measure requirements of section 172. The State must submit a SIP revision containing approvable contingency measures by November 15, 1993. Since this element was not due with the November 15, 1991 moderate PM–10 nonattainment area SIP requirements, EPA will not take action on it at this time.

III. Implications of Today's Action

EPA is proposing to approve the plan revision submitted to EPA for the Kent, Washington, nonattainment area on November 5, 1990 as subsequently revised by addenda submitted on December 27, 1990 and November 15, 1991. Among other things, the State of Washington Department of Ecology has demonstrated that the Kent moderate PM–10 nonattainment area will attain the PM–10 NAAQS by December 31, 1994.

As noted, additional submittals for the initial moderate PM–10 nonattainment areas are due at later dates. EPA will determine the adequacy of any such submittals as appropriate.

IV. Request for Public Comments

EPA is requesting comments on all aspects of today's proposal. As indicated at the beginning of this notice, EPA will consider any comments postmarked by April 15, 1993.

V. Administrative Review

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, and Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 29, 1993.

Dana A. Rasmussen,

Regional Administrator.

[FR Doc. 93–5983 Filed 3–15–93; 8:45 am]

BILLING CODE 6560–50–P

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[Ex Parte No. MC–212]

Review of Motor Tariff Regulations—1993

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed rulemaking.

SUMMARY: The Commission is instituting this proceeding to seek public comment on whether certain tariff filing requirements should be modified. These requirements include the tariff numbering requirements; the rule numbering requirements; the periodic tariff reissuing requirement; separate publication of surcharges; tariff check sheets requirement; and the requirement for listing of items in supplements to bound tariffs. In addition, the Commission seeks public comment on whether special requirements should be adopted for non-alternating rates.

DATES: Comments are due on May 17, 1993.

ADDRESSES: Send comments (an original and 10 copies) referring to Ex Parte No. MC–212 to: Interstate Commerce Commission, Office of the Secretary, Case Control Branch, Washington DC 20423.

FOR FURTHER INFORMATION CONTACT: Thomas A. Mongelli, (202) 927–5150 or Charles E. Langyher, (202) 927–5160 [TDD for hearing impaired: (202) 927–5721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington DC 20423. Telephone: (202) 927–7428. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Regulatory Flexibility

Pursuant to 5 U.S.C. 605(b), we conclude that our proposed action in this proceeding will not have a significant economic impact on a substantial number of small entities. The purpose of this proceeding is to determine whether certain existing tariff requirements should be modified. Unless these requirements are substantially revised, carriers may be required to cancel and/or refile affected tariffs. However, the economic impact upon carriers of a requirement to cancel and/or refile certain tariffs is not likely

to be significant within the meaning of the Regulatory Flexibility Act (Act), nor is it likely to be felt by a substantial number of other small entities such as shippers. Moreover, several of these tariff requirements are likely to aid small entities (both shippers and carriers) in their ability to compete by enhancing their ability to use the tariffs on file with the Commission. However, we welcome any comments regarding the small entities considerations embodied in the Act.

Environmental Statement

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10761(a) and 10762.

List of Subjects in 49 CFR Part 1312

Motor carriers, Moving of household goods, Pipelines.

Decided: February 24, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5998 Filed 3–15–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB56

Endangered and Threatened Wildlife and Plants; Reopening of Public Comment Period on Proposed Critical Habitat Designation for the Delta Smelt

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reopening of public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), gives notice that the public comment period is reopened on the proposed determination of critical habitat for the delta smelt (*Hypomesus transpacificus*). The reopening of the comment period will allow all interested parties to submit written comments on the proposal.

DATES: The comment period on the proposal is opened until April 30, 1993. Any comments received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: Written comments and materials concerning this proposal should be sent to the U.S. Fish and Wildlife Service, 2800 Cottage Way, room E–1803, Sacramento, California 95825–1846. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Nadine R. Kanim (see **ADDRESSES**) at 916/978–4866.

SUPPLEMENTARY INFORMATION:

Background

The delta smelt is a small, translucent, slender-bodied fish in the Osmeridae family, endemic to the upper Sacramento-San Joaquin estuary in the San Fransico Bay area of California. Except during the spawning period, this fish is adapted to living in estuarine habitat at the freshwater-saltwater interface, where salinities do not exceed two parts per thousand. Abundance estimates indicate that the entire delta smelt population has experienced nearly a 90 percent decline over the last 20 years. The species is threatened by a variety of impacts, including reduced water outflows from the Sacramento and San Joaquin Rivers due to drought, water exports, and diversions; a more frequent upstream shift of the species' range resulting in restriction of available food supply and habitat; entrainment in water diversion structures; water pollution; and introduction of exotic species.

A proposal to list the delta smelt as a threatened species and to designate its critical habitat was published on October 3, 1991 (56 FR 50075). Critical habitat was proposed for areas of all water and all submerged lands below ordinary high water and the entire water column bound by and contained within Suisun Bay (including the contiguous Grizzly and Honker Bays), the length of Montezuma Slough, portions of the Sacramento River, portions of the Sacramento-San Joaquin estuary (known as the Delta), portions of the San Joaquin River, and the contiguous water bodies in between (a complex of bays, dead-end sloughs, channels typically less than four meters deep, marshlands, etc.), California. Please refer to the October 3, 1991, proposed rule for a map of the proposed critical habitat. The public comment period opened effective the date of publication of the proposed rule (October 3, 1991) and closed on January 31, 1992.

The Service published a notice of public hearing on December 19, 1991 (56 FR 65877). Public Hearings were conducted in California on January 9, 1992, in Sacramento; on January 14, 1992, in Santa Monica; and on January 16, 1992, in Visalia. At each meeting, testimony was taken from 1 p.m. to 4 p.m. and from 6 p.m. to 9 p.m.

The final rule to list the delta smelt as a threatened species was published on March 5, 1993 at 58 FR 12854. The final rule postponed the decision on critical habitat determination for up to one year (October 3, 1993) in accordance with section 4(b)(6)(C)(ii) of the Act. The economic analysis necessary to determine critical habitat is still in progress. Reopening the comment period will allow the Service to consider any information that previously had not been submitted in its decision of whether or not to designate critical habitat. Critical habitat information may be submitted until the end of the comment period on April 30, 1993.

Author

The primary author of this notice is Nadine R. Kanim (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: March 9, 1993.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–5963 Filed 3–15–93; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 58, No. 49
Tuesday, March 16, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–607]

Commercial Grade Amorphous Silica Filament Fabric From Japan, Determination Not To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of determination not to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty order on commercial grade amorphous silica filament fabric from Japan.

EFFECTIVE DATE: March 16, 1993.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION: The Department of Commerce (the Department) may revoke an antidumping duty order, pursuant to section 353.25(d)(4)(iii) of the Department's regulations, if no interested party has requested an administrative review for four consecutive annual anniversary months and no interested party objects to the revocation or requests an administrative review.

We had not received a request to conduct an administrative review of the antidumping duty order on commercial grade amorphous silica filament fabric from Japan (52 FR 35750, September 23, 1987) for the last four consecutive annual anniversary months. Therefore, pursuant to the Department's regulations, on September 10, 1992, we published in the **Federal Register** (57 FR 41471) a notice of intent to revoke the order and served written notice of the intent to revoke to each interested party on the Department's service list.

On September 28, 1992, the Haveg Division of Ametek Inc. and HITCO, petitioners, objected to our intent to revoke the order. Therefore, because interested parties objected to the revocation, we no longer intend to revoke this antidumping duty order.

Dated: March 8, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–5907 Filed 3–15–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–201–809]

Postponement of Final Antidumping Duty Determination: Certain Cut-to-Length Carbon Steel Plate from Mexico

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice.

EFFECTIVE DATE: March 16, 1993.

FOR FURTHER INFORMATION CONTACT: N. Gerard Zapiain or Robin Gray, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3793.

Postponement of Final Determination

On February 4, 1993, the Department of Commerce (the Department) published an affirmative preliminary determination of sales at less than fair value of certain cut-to-length carbon steel plate from Mexico. On February 12, 1993, Altos Hornos de Mexico, S.A. de C.V. (AHMSA) requested that the Department postpone the final determination until not later than 135 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2) of the Tariff Act of 1930, as amended (the Act).

Pursuant to 19 CFR 353.20(b), if exporters who account for a significant proportion of exports of the merchandise under investigation request an extension subsequent to an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. AHMSA, the only respondent in this proceeding, represents a significant proportion of exports of cut-to-length carbon steel plate (cut-to-length plate) from Mexico to the United States. Accordingly, we are postponing our final determination as to whether sales of cut-to-length plate from Mexico have been made at less than fair value until not later than June 21, 1993.

This notice is published pursuant to section 735(d) of the Act and 19 CFR 353.20(b)(2).

Dated: February 24, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–5906 Filed 3–15–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–580–816]

Preliminary Negative Critical Circumstances Determinations; Countervailing Duty Investigations of Certain Steel Products From Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 16, 1993.

FOR FURTHER INFORMATION CONTACT: Kris Campbell or Michael Rill, Office of Antidumping Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4794 or 482–4733, respectively.

Preliminary Critical Circumstances Determinations

The Department preliminarily determines that critical circumstances do not exist with respect to the investigations of certain hot-rolled carbon steel flat products, corrosion-resistant carbon steel flat products, and cut-to-length carbon steel plate from Korea. There was no allegation of critical circumstances concerning the investigation of certain cold-rolled carbon steel flat products.

Background

On January 12, 1993, petitioners [1] amended their petition to allege the

[1] Petitioners include National Steel Corporation, LTV Steel Company, Inland Steel Industries, Bethlehem Steel Corporation, U.S. Steel Group—a unit of USX Corporation, Armco Steel Company, Geneva Steel, Gulf States Steel of Alabama, Sharon

existence of critical circumstances, as defined by 19 U.S.C. 1671b(e) (section 703(e) of the Tariff Act of 1930, as amended ("the Act")), with respect to imports of certain hot-rolled carbon steel flat products, corrosion-resistant carbon steel flat products, and cut-to-length carbon steel plate. For the scope of the products covered by this investigation, please see Appendix 1 of the Department's preliminary determinations in this investigation. 57 FR 57761, 57771 (Preliminary Affirmative Countervailing Duty Determinations and Alignment of Final Countervailing Duty Determinations with Final Antidumping Duty Determinations: Certain Steel Products from Korea, December 7, 1992). On January 25, 1993, respondents [2] issued a reply to these allegations.

Analysis of Allegations

In determining if there is a reasonable basis to believe or suspect the existence of critical circumstances, the Department must consider whether: (1) The alleged subsidy is inconsistent with the Agreement,[3] and (2) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period. If either of these conditions is not met, critical circumstances do not exist. 19 U.S.C. 1671b(e) (section 703(e) of the Act).

Concerning the first condition, there are restrictions regarding both the nature and the size of a subsidy that is "inconsistent with the Agreement." First, the Department's regulations limit the analysis of the first condition to "export subsidies." 19 CFR 355.16(a)(1). In the Comments to the Final Rule, the Department explained that this limitation was adopted in order to adhere to the critical circumstances standard delineated in Article 5(9) of the Agreement, which explicitly requires that the subject merchandise benefit from "export subsidies." ITA Countervailing Duties, Final Rule, 53 FR 52306, 52312 (December 27, 1988). In addition, we have consistently maintained that the aggregate net subsidy at issue must be at least 0.5 percent ad valorem in order to issue an affirmative determination. See 19 CFR 355.7. This standard applies to any preliminary or final determination, including the present preliminary critical circumstances determination.

In the current investigation, we have preliminarily determined that respondents have benefited from three export subsidies: (1) Reserve for export loss; (2) reserve for overseas market development; and (3) deduction from overseas entertainment expenses. The aggregate net subsidy for these benefits is 0.01 percent for both hot-rolled carbon steel flat products and corrosion-resistant carbon steel flat products, and 0.06 percent for cut-to-length plate. Since each of these aggregate figures is significantly below the 0.5 percent *de minimis* standard, the first prong of the critical circumstances test is not met with respect to any of the relevant classes or kinds of merchandise. The second prong of the critical circumstances test ("massive imports") therefore need not be examined.

Accordingly, we preliminarily determine that critical circumstances do not exist for hot-rolled carbon steel flat products, corrosion-resistant carbon steel flat products, and cut-to-length plate from Korea.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the International Trade Commission (ITC) of our determinations. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to these determinations. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Compliance, Import Administration.

If our final determinations are affirmative, the ITC will make its final determinations within 45 days after the Department makes its final determinations.

Public Comment

Written comments concerning these preliminary critical circumstances determinations should be included with any briefs that are submitted in connection with the country-specific hearing for this case. If written comments are received on this issue, the critical circumstances determinations will be addressed at the country-specific hearing. Since investigations involving the same classes or kinds of merchandise subject to these investigations from various other countries are currently being conducted, we will publish a briefing and hearing schedule in the **Federal Register** after receipt of all requests for hearings in these investigations.

These determinations are published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: March 8, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–5905 Filed 3–15–93; 8:45 am]

BILLING CODE 3510–DS–F

Steel Corporation, WCI Steel, La Clede Steel Company, and Lukens Steel Company.

[2] Respondents include the Government of Korea, steel producers Pohang Iron and Steel Company, Union Steel Manufacturing Company, Dongkuk Steel Mill Company, and Dongbu Steel Mill Company, and trading companies Hyundai Corp., Samsung Company, Ssangyong Corp., Sunkyung Corp., Hyosung Corp., Dongbu Corp., Keoyang Company, and Dongkuk Industries.

[3] The use of the term "Agreement" refers to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade.

National Institute of Standards and Technology

Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of government owned inventions available for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government, as represented by the Department of Commerce, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: Bruce E. Mattson, National Institute of Standards and Technology, Office of Technology Commercialization, Division 222, Building 221, room B256, Gaithersburg, Maryland 20899; Fax: 301–869–2751. Any request for information should include the NIST Docket No. for the relevant invention(s) as indicated below.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

NIST Docket No. 92–023

Title: Sample Cell for Infrared Spectrophotometry

Description: A sample cell for infrared spectrophotometry comprises a sample holder for holding a sample to be analyzed by infrared spectrophotometry, a cool air passageway and a vortex tube. The sample cell allows infrared spectrophotometry of volatile fluids while avoiding vaporization and bubble formation. This invention is significantly easier and less

cumbersome than current methods of maintaining a sample at lower temperatures.

NIST Docket No. 92–032

Title: Method and Apparatus for Visualization of Internal Stresses in Solid Non-Transparent Materials by elastoacoustic Technique

Description: A process and apparatus for visualization of internal stresses in solid materials by an acoustic microscope connected to an acoustic lens. This invention has several advantages over current methods of evaluating internal stresses. Current methods such as the speed of sound method or X-ray diffraction are limited to measurement of surface stresses; in addition, X-ray diffraction and neutron diffraction allow measurement of strain at a given point, but they do not, as a practical matter, allow mapping of the stresses. The invention described here allows the mapping and imaging of the stresses in a material, theoretically, at any depth.

NIST Docket No. 92–037

Title: Use of B-Hydroxyhistidine, 4-(1-Hydroxy-1-alkyl) imidazole or Derivatives Thereof as Bidentate Ligand for Use in Chelating Agents

Description: B-hydroxyhistidine, 4-(1-hydroxy-1-alky) imidazole or derivatives thereof can be used as a bidentate ligands in the chelation of iron (III), Cr (III), Ga (III) and the actinides (IV), such as plutonium 238. B-hydroxyhistidine is a pyoverdine-type siderophore produced by Pseudomonas fluorescens 244. The ligands may be useful in developing new chelating materials for use in chelation therapy, waste clean-up, and other areas where specific metal-ion chelation is needed.

Dated: March 9, 1993.

Raymond G. Kammer,

Acting Director.

[FR Doc. 93–6004 Filed 3–15–93; 8:45 am]

BILLING CODE 3510-13-M

Computer System Security and Privacy Advisory Board; Meeting Cancellation

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of meeting cancellation.

SUMMARY: Notice is hereby given that the meeting of the Computer System Security and Privacy Advisory Board, previously announced for March 17–18, 1993, has been cancelled.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn McNulty, Associate Director for Computer Security, Computer Systems Laboratory, National Institute of Standards and Technology, Building 225, room B154, Gaithersburg, MD 20899, telephone: (301) 975–3240.

Dated: March 9, 1993.

Raymond G. Kammer,

Acting Director.

[FR Doc. 93–6005 Filed 3–15–93; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Issuance of an emergency modification to Scientific Research Permit No. 747 (P45H).

On August 8, 1991 (56 FR 40312), the U.S. Fish and Wildlife Service (USFWS) was issued Permit No. 747 under the authority of the Endangered Species Act of 1973 (U.S.C. 1531–1543) and the NMFS regulations governing endangered fish and wildlife (50 CFR parts 217–227).

Notice is hereby given that on March 3, 1993, as authorized by the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), NMFS issued an emergency Modification to Permit No. 747.

Permit 747 currently authorizes scientific research on and captive propagation of Sacramento River winter-run chinook (*Oncorhynchus tshawytscha*), including the capture of up to 20 adults per year for broodstock purposes, the incubations of up to 35,000 of their eggs, and the rearing of the resulting juveniles for release into the upper Sacramento River. These activities are permitted through December 31, 1995.

The emergency modification authorizes the permittee to collect and sacrifice up to 450 coded-wire tagged and adipose fin clipped juvenile winter-run chinook salmon released from the USFWS's Coleman National Fish Hatchery on January 27, 1993.

An emergency modification is necessary to allow the USFWS to verify, in 1993, juvenile growth rate and the size criteria used to identify juvenile winter-run chinook salmon in the Sacramento—San Joaquin Delta.

Issuance of this emergency Modification was based on a finding that such Modification: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the listed species which is the subject of this Modification; (3) is consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This emergency Modification was also issued in accordance with and is subject to parts 217–227 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits and modifications. This emergency Modification will be valid only until June 30, 1993, or until superseded by changes made as a result of comments.

Written data or views, or requests for a public hearing on this modification request, should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Highway, room 8268, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application/modification summary are those of the applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

The application, Permit, emergency Modification and supporting documentation are available for review by interested persons in the following offices (by appointment):

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Highway, suite 8268, Silver Spring, MD 20910 (301/713–2232); and

Director, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., suite 4200, Long Beach, CA 90802–4213 (310/980–4016).

Dated: March 3, 1993.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–5946 Filed 3–15–93; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Application for scientific research permit (P79F).

Notice is hereby given that Drs. C. Leo Ortiz, Burney J. Le Boeuf, and Daniel P. Costa, Institute of Marine Sciences, University of California, Santa Cruz, CA 95064, have applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal

Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The applicants request a Permit to continue and extend a long term study on the behavior, physiology, and life history characteristics of the northern elephant seal (*Mirounga angustirostris*). Up to 19,575 (up to 3,915 annually) animals may be handled over a five-year period. No intentional lethal takes are requested. The entire population of the area to be studied (*i.e.*, approximately 5000 animals) may be harassed incidental to the proposed activities. Permission is also requested to import/export biological specimens of northern elephant seals and southern elephant seals (*Mirounga angustirostris*). Activities will be conducted at all times of the year in the immediate environs of Ano Nuevo, CA, 30 km north of Santa Cruz, CA and at the Long Marine Laboratory, University of California, Santa Cruz, CA.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application, should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., Room 7324, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, Marine Fisheries Service, NOAA, 1335 East-West Hwy., Suite 7324, Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, National Marine Fisheries Service, NOAA, 501 W. Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213 (310–980–4016).

Dated: March 9, 1993

Nancy Foster, Ph.D.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–5937 Filed 3–15–93; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Request for modification of permit No. 717(P77#44).

Notice is hereby given that the National Marine Mammal Laboratory, Alaska Fisheries Science Center, Northwest Region, 7600 Sand Point Way, N.E. BIN C15700—Building 1, Seattle, WA 98115–0070, requested a modification to Permit No. 717, issued on October 22, 1990 (55 FR 35923), as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Permit No. 717 currently authorizes the capture, handling, tagging, hot-branding, instrumentation, and subsequent recapture of California sea lions. The applicant is now requesting authorization to administer low doses of valium to recaptured adult females in order to reduce possible stress incurred as a result of handling.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this modification request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Suite 7324, Silver Spring, MD 20910 (301/713–2289);

Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, N.E., BIN C15700—Building 1, Seattle, WA 98115–0070 (206/526–6150); and

Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802, (310/980–4016).

Dated: March 9, 1993.

Nancy Foster,

Office of Protected Resources.

[FR Doc. 93–5938 Filed 3–15–93; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirements Submitted to OMB for Review

AGENCY: Department of Defense.

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable form, and Applicable OMB Control Number: Professional Qualifications, Medical and Peer Reviewers, CHAMPUS Form 780, 0704–0313

Type of Request: Reinstatement

Average Burden Hours Minutes Per Response: 15 minutes

Responses Per Respondent: 1

Number of Respondents: 60

Annual Burden Hours: 15

Annual Responses: 60

Needs and Uses: The information collection requirement is necessary to obtain and record the professional qualifications of medical and peer reviewers utilized within CHAMPUS. The form is included as an exhibit in an appeal or hearing case file as evidence of the reviewer's professional qualifications to review the medical documentation contained in the case file

Affected Public: Businesses or other for-profit and small businesses or organizations

Frequency: On occasion

Respondent's Obligation: Voluntary

OMB Desk Officer: Mr. Joseph F. Lackey

Written comments and recommendations on the proposed information collection should be sent to Mr. Lackey at the Office of Management and Budget, Desk Officer for DoD, room 3002, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

March 11, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–5962 Filed 3–15–93; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Environmental Assessment for Realignment Actions at Cape St. George, FL

AGENCY: United States Army, Department of Defense.

ACTION: Finding of no significant impact.

SUMMARY: The Department of the Army has prepared an Environmental Assessment (EA) that evaluates the impact of the assignment of the Cape St. George Military Reservation, Little St. George Island, Florida, to the U. S. Department of the Interior and its conveyance to the State of Florida Department of Natural Resources, in accordance with the Base Closure and Realignment Act of 1988 (Public Law 100–526).

Because of the interest expressed in the property by the Department of the Interior (DOI), and the unique location of the site, only the no-action alternative was considered in addition to the proposed action.

Under the proposed action, the DOI would acquire control of the Cape St. George Reservation property in order to further transfer it to the State of Florida. The State of Florida, through the Board of Trustees of the Internal Improvement Trust Fund, currently owns Little St. George Island except for the Army and Coast Guard properties. The Florida Department of Natural Resources (DNR), Division of Marine Resources, Bureaus of Sanctuaries and Research Reserves manages the entire island as a research reserve. The military reservation is an integral part of DNR's management of the reserve. The DNR would continue its management practices if the site was transferred to the state.

The goal of the proposed action is the highest and best use of the Cape St. George reservation site. The primary land uses after disposal would be the same as the current primary land uses: Environmental education, historic interpretation, ecological research, and low-impact public recreation.

The EA determined the proposed action would have no significant impact upon the quality of air, surface water, groundwater, wildlife, threatened or endangered species, wetlands, unique habitats or cultural resources. Environmental and socioeconomic analyses, along with coordination with responsible environmental agencies, have determined that the relative impacts associated with the proposed action are not significant. Consequently, an environmental Impact Statement (EIS) will not be prepared.

DATES: Comments must be received within 30 days from the publishing date of this notice.

ADDRESSES: The EA and FNSI can be obtained by contacting the U.S. Army Corps of Engineers, Mobile District, Attn: Mr. Jack Mallory, P.O. Box 2288, Mobile, AL 36628, or call (205) 690–2723.

FOR FURTHER INFORMATION CONTACT: Send all comments to: Mr. Jack Mallory, U.S. Army Corps of Engineers, Mobile District, P.O. Box 2288, Mobile, AL, 36628 or call (205) 690–2723.

Dated: March 11, 1993.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety, & Occupational Health), OASA (IL&E).

[FR Doc. 93–5975 Filed 3–15–93; 8:45 am]

BILLING CODE 3710-08-M

Draft Programmatic Environmental Impact Statement for Joint Training Exercise Roving Sands at Fort Bliss, TX and NM and White Sands Missile Range, NM

AGENCY: United States Army, Department of Defense.

ACTION: Notice of availability.

SUMMARY: Interested parties are hereby notified that the District Engineer, U.S. Army Corps of Engineers, Forth Worth District, has prepared a Draft Programmatic Environmental Impact Statement (DPEIS) for the U.S. Army Forces Command (FORSCOM) regarding Joint Training Exercise Roving Sands (RS) proposed to be conducted at Fort Bliss and White Sands Missile Range. This EIS addresses the next five RS exercises as well as potential uses of RS sites by 3rd Armored Cavalry Regiment and 11th Air Defense Artillery (ADA) Brigade.

PROPOSED ACTION: Roving Sands is an annual training exercise coordinated by the Chairman, Joint Chiefs of Staff, sponsored by FORSCOM, and executed by the 11th ADA Brigade. This DPEIS covers the next five RS training exercises. The exercise will take place on and above the following areas: Fort Bliss, Texas and New Mexico; White Sands Missile Range, Holloman Air Force Base, and Roswell, New Mexico. Most of the ground activity will occur on established Fort Bliss training areas. As many as 10,000 Army, Air Force, Navy, and Marine personnel will participate in the exercise with about 200 aircraft and 3,000 wheeled vehicles. Roving Sands is scheduled to be conducted in the third quarter (April-June) of Fiscal Year 1993. The exercise will last approximately three weeks. Actual force employment and field training will be approximately 11 days.

This action does not involve a discharge of dredged or fill material into waters of the United States or wetlands, and no evaluation into section 404(b)(1) of the Clean Water Act is required. Cultural and biological surveys have been conducted to satisfy pertinent statutory and regulatory requirements pertaining to historical and archeological resources as well as threatened and endangered species and critical habitats. Therefore, no threatened or endangered species or cultural resources would be affected by this action. Advance planning has been used to avoid any sites which are environmentally sensitive.

SUPPLEMENTARY INFORMATION: The public is encouraged to comment on the DPEIS. Copies of the DPEIS are available upon written request to the U.S. Army Corps of Engineers, Fort Worth District, Planning Division, Post Office Box 17300, Fort Worth, Texas 76102–0300, or at the Environmental Resources Branch Office, room 13A20, 819 Taylor Street, Fort Worth, TX 76102–0300. Written comments will be accepted and considered for 30 days after the date of this notice.

FOR FURTHER INFORMATION CONTACT: Questions regarding this proposal may be directed to Mr. Arver Ferguson, Jr., telephone (817) 334–3246, CESWF–PL–RE, 819 Taylor Street Box 17300, Fort Worth, Texas 76102–0300.

Dated: March 11, 1993.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety & Occupational Health), OASA(I,L&E).

[FR Doc. 93–5974 Filed 3–15–93; 8:45 am]

BILLING CODE 3710-08-M

Final Environmental Impact Statement for Army Realignments at Redstone Arsenal, AL

AGENCY: United States Army, Department of Defense.

ACTION: Notice of availability.

SUMMARY: In accordance with Public Law 101–510, the Defense Base Closure and Realignment Act of 1990, the Defense Base Closure and Realignment Commission recommended the realignment of the Materiel Readiness Support Activity from Lexington-Bluegrass Army Depot, Kentucky; the Logistics Control Activity from the Presidio of San Francisco, California, and the Armament and Chemical elements of the Armament, Munitions and Chemical Command from Rock Island Arsenal, Illinois, to Redstone Arsenal, Alabama. These recommendations became law on October 2, 1991. Subject document focuses on the environmental and socioeconomic impacts and mitigations associated with the construction and site decisions for the facilities to accommodate the new activities at Redstone Arsenal.

No long-term adverse ecological or environmental health effects are expected due to construction of the required facilities. The increase in population, caused by the realignment of the above mentioned logistics functions is expected to have a net positive impact on the local economy. The preferred alternative sites for the proposed construction projects are not expected to significantly impact environmental resources.

A scoping meeting was held in Huntsville, Alabama, on December 12, 1991. Public notices requesting input and comments from the public were issued in the regional area surrounding Redstone Arsenal. A Draft Environmental Impact Statement (DEIS) was published in October 1992. Comments received from the public in response to the DEIS have been addressed in the Final Environmental Impact Statement.

DATES: Written public comments and suggestions received by April 19,1993 will be considered prior to publishing the Army's Record of Decision.

ADDRESSES: Copies of the Final Environmental Impact Statement can be obtained by writing to the United States Army Corps of Engineers, Mobile District, ATTN: CESAM–PD–E, 109 Saint Joseph Street, P.O. Box 2288, Mobile, Alabama 36628–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Glen Coffee at (205) 690–2729.

Dated: March 11, 1993.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA (IL&E).

[FR Doc. 93–5967 Filed 3–15–93; 8:45 am]

BILLING CODE 3710–08–M

Technology and Patent Application Available for Licensing and Announcement of Opportunity for a Cooperative Research and Development Agreement (CRDA)

AGENCY: U.S. Army Armament Research, Development and Engineering Center, DOD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army, U.S. Army Armament Research, Development and Engineering Center, announces the availability of non-exclusive, exclusive, or partially exclusive licensing of technology for automated inspection of manufactured products. The technology is applicable to digitized signals acquired by sensors proximate to the manufacturing area, of such non-destructive energy as visible light, infrared, microwave, x-ray, gamma ray, sound, ultrasound, electronic or magnetic, and may be multi-dimensional in nature. Analysis techniques are offered for the sensed signals which include elaborate algorithms to evaluate manufacturing success including spreadsheet-like image analysis and ANN (artificial neutral networks). A CRT displays the results of the analysis.

In addition, the following related patent application is available for licensing: Serial Number 07/929,217, filed August 13, 1992, Docket DAR–47–91, entitled "System for Analyzing Measurement Data", by Paul D. Wilson. Licenses shall comply with 35 U.S.C. 209 and 27 CFR part 404.

The U.S. Army is also seeking a partner or partners for a Cooperative Research and Development Agreement (CRDA) relative to further mutual development of the above-mentioned technology between the government and private industry, and use of same in royalty bearing commercial products.

DATES: Written objections must be filed within 30 days from the date of publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: For further information contact Mr. Edward Goldberg, Chief Patent Counsel, SMCAR–GC, U.S. Army Armament Research, Development and Engineering Center, Picatinny Arsenal, NJ 07806–5000, Telephone: (201) 724–6590 or DSN 880–6590.

Kenneth L. Denton,

Army Federal Liaison Officer.

[FR Doc. 93–5953 Filed 3–15–93; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Defense Science Board Task Force on FY 1994–99 Future Years Defense Plan (FYDP); Meeting

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on FY 1994–99 Future Years Defense Plan (FYDP) will meet in closed session on March 10–11, March 15–16, and March 25, 1993 at the Pentagon, Arlington, Virginia. For budgetary purposes, the Secretary of Defense has requested this work on a priority basis, therefore, the short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Director, Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will provide an independent assessment of the management and financial plans of the Department of Defense. The Task Force will review the overall health of the FY 1994–99 FYDP that was prepared by the Bush Administration. It will identify any major management challenges or serious underfunding problems.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. app. II, (1988)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: March 11, 1993.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–5961 Filed 3–15–93; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Indian Education National Advisory Council; Meeting

AGENCY: National Advisory Council on Indian Education, Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a

forthcoming meeting of the National Advisory Council on Indian Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIME: March 24–26, 1993, from 9 a.m. to approximately 5 p.m. each day.

ADDRESSES: The meeting will be held at the Ramada Hotel Old Town, 901 North Fairfax Street, Alexandria, Virginia, 22314, (703) 683–6000.

FOR FURTHER INFORMATION CONTACT: Robert K. Chiago, Executive Director, National Advisory Council on Indian Education, 330 C Street, SW., room 4072, Switzer Building, Washington, DC 20202–7556. Telephone: 202/205–8353.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 5342 of the Indian Education Act of 1988 (25 U.S.C. 2642). The Council is established to, among other things, assist the Secretary of Education in carrying out responsibilities under the Indian Education Act of 1988 (Part C, title V, Pub. L. 100–297) and to advise Congress and the Secretary of Education with regard to federal education programs in which Indian children or adults participate or from which they can benefit.

Under section 5342(a)(2) of the Indian Education Act, the Council is directed to review applications for assistance and to make recommendations to the Secretary of Education with respect to their approval. The duly authorized Proposal Review Committee of the Council will meet in closed session starting at approximately 9 a.m. and will end at approximately 5 p.m. each day during the proposal review session. The agenda will include reviewing grant applications from individuals for assistance under the fellowship program authorized by Subpart 2 of the Indian Education Act of 1988.

The discussion during the review process may disclose sensitive information about applicants, funding level requests and the names and comments of expert reviewers. Such discussion would disclose commercial or financial information obtained from a person and is privileged or confidential and would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (4) and (6) of section 552b(c) of the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b(c)).

Records are kept of all Council proceedings, and are available for public inspection. A summary of activities of this closed meeting which are informative to the public consistent with the policy of title 5 U.S.C. 552b shall be available for public inspection within 14 days of the meeting at the office of the National Advisory Council on Indian Education located at 330 C Street, SW., room 4072, Washington, DC 20202–7556 from the hours of 9 a.m. to 4:30 p.m Monday through Friday, except holidays.

Dated: March 3, 1993.

Robert K. Chiago,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 93–5898 Filed 3–15–93; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No.: 84.219]

Student Literacy Corps and Student Mentoring Corps Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: To provide grants to institutions of higher education (IHEs) to promote the development of literacy corps programs and mentoring corps programs to be operated by IHEs in public community agencies in the communities in which such institutions are located. This program supports the strategy for moving the Nation toward the National Education Goals, especially Goals Two, Three and Five, which call for increasing the high school graduation rate, increasing academic competency and adult literacy and lifelong learning.

Eligible Applicants: Institutions of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, as amended, including branch campuses of the institutions.

Deadline for Transmittal of Applications: May 3, 1993.

Deadline for Intergovernmental Review: July 1, 1993.

Applications Available: March 19, 1993.

Available Funds: $5,270,496.

Estimated Range of Awards: Up to $100,000.

Estimated Average Size of Awards: $95,000.

Estimated Number of Awards: 55.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the EDGAR selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 (a) and (c) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Plan of Operation. (34 CFR 75.210(b)(3)). Fifteen points are added to this criterion for a possible total of 30 points.

For Applications or Information Contact: Darlene B. Collins, U.S. Department of Education, 400 Maryland Avenue, SW., room 3022, ROB–3, Washington, DC 20202–5251. Telephone: (202) 708–6128 or 708–7389. Individuals who are hearing-impaired may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1138–1138e.

Dated: March 10, 1993.

Maureen A. McLaughlin,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 93–5932 Filed 3–15–93; 8:45am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Grant Award to Tufts University

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7, is announcing its intention to award a grant to Tufts University for continuing research efforts in support of the DOE Office for Building Technologies programs. The Tufts project seeks to develop and improve electrochromic windows for building and vehicle applications.

ADDRESSES: Questions regarding this announcement may be addressed to the U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, Colorado 80401, Attention: John W. Meeker, Contract Specialist. The Contracting Officer is Paul K. Kearns.

SUPPLEMENTARY INFORMATION: The proposed basic research will contribute to the DOE mission by identifying and solving the materials and optics problems associated with developing practical electrochromic windows for electrical control of radiant energy

transfer in building and vehicle windows. Successful completion of this research would advance the goal of commercialization of electrochromic window technology. Deploying this window technology will reduce energy use in buildings which, in the U.S., accounts for about 40% of annual national energy consumption. Approximately one-sixth of that energy is wasted by unwanted radiation transfer through windows.

DOE has performed a review in accordance with 10 CFR 600.7 and has determined that the activity to be funded is necessary to satisfactorily complete the current research. DOE funding for the Grant is estimated at $238,947 and the anticipated period of performance is twelve (12) months. Tufts will share in the grant in the amount of $110,785.

Issued in Chicago, Illinois, on March 1, 1993.

Alan E. Smith,

Director, Operations Management Support Division.

[FR Doc. 93–5999 Filed 3–15–93; 8:45 am]

BILLING CODE 6450–01–M

Cooperative Agreement Award to the University of Massachusetts

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7, is announcing its intention to award a cooperative agreement to the University of Massachusetts for continuing research efforts in support of the DOE Office for Building Technologies programs. This project seeks to improve the methods used to calculate fenestration system (windows, skylights, etc.) U-values and solar heat gain coefficients.

ADDRESSES: Questions regarding this announcement may be addressed to the U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, Colorado 80401, Attention: John W. Meeker, Contract Specialist. The Contracting Officer is Paul K. Kearns.

SUPPLEMENTARY INFORMATION: The proposed research will contribute to the DOE mission by helping to identify and develop accurate, unbiased procedures for evaluating and comparing window thermal performance. Successful completion of this research would advance the goal of having testing procedures that give a reliable picture of window thermal performance characteristics. Displaying this information on window labels will enable people to make informed choices when purchasing window systems. This will lead to reduced energy use in buildings which, in the U.S., accounts for about 40% of annual national energy consumption. Approximately one-sixth of that energy is wasted by unwanted radiation transfer through windows.

DOE has performed a review in accordance with 10 CFR 600.7 and has determined that the activity to be funded is necessary to satisfactorily complete the current research. DOE funding for the Grant is estimated at $106,000 and the anticipated period of performance is twelve (12) months.

Issued in Chicago, Illinois, on March 2, 1993.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 93–6000 Filed 3–15–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER93–191–000, et al.]

Electric Rate, Small Power Production, and Interlocking Directorate Filings; Alabama Power Company, et al.

March 9, 1993.

Take notice that the following filings have been made with the Commission:

1. Alabama Power Co.

[Docket No. ER93–191–000]

Take notice that on February 26, 1993, Alabama Power Company (APCo) submitted additional documentation and information pertaining to certain reimbursements by Alabama Municipal Electric Authority and by Alabama Electric Cooperative, Inc. for modifications to APCo's transmission facilities resulting from requests by those customers pursuant to the terms and conditions of the Agreement for Partial Requirements Service and Complementary Services and the Agreement for Transmission Service to Distribution Cooperative Members of Alabama Electric Cooperative, respectively. This additional documentation and information was submitted in compliance with a letter from the Director of the Division of Applications dated January 27, 1993, finding certain deficiencies in the original submittal.

Comment date: March 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Fitchburg Gas and Electric Light Co.

[Docket No. ER93–414–000]

Take notice that on March 1, 1993, Fitchburg Gas and Electric Light Company (Fitchburg) filed with the Commission a service agreement between Fitchburg and Central Vermont Public Service Corporation (Central Vermont) for the sale of up to 14 MW (winter maximum) of capacity and associated energy from Fitchburg #7. This is a service agreement under Fitchburg's FERC Electric Tariff, Original Volume No. 2, which was accepted for filing by the Commission in Docket No. ER92–88–000 on September 30, 1992. The capacity rate to be charged Central Vermont is below the maximum capacity charges set forth in the Tariff, and the energy rate is that established in the Tariff. Fitchburg requests that service commence as of May 1, 1993. A notice of cancellation was also filed.

Fitchburg states that copies of the filing were served on Central Vermont and the Massachusetts Department of Public Utilities.

Comment date: March 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Texas-New Mexico Power Co.

[Docket No. ER93–145–000]

Take notice that on February 24, 1993, Texas-New Mexico Power Company (TNP) filed an Amendment No. 1 to a Microwave Communications Agreement between itself and El Paso Electric Company (EPE) dated October 18, 1988 (Agreement). The purpose of the Agreement is to provide for a mutually beneficial exchange of microwave communication channels to facilitate utility communications in southern New Mexico. TNP requests that the Agreement, as so amended, be permitted to become effective as of October 18, 1988, as provided therein.

Comment date: March 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Empire District Electric Co.

[Docket No. ER93–393–000]

Take notice that on February 25, 1993, Empire District Electric Company (Empire) tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 26 between Empire and Southwestern Gas & Electric Company.

Comment date: March 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Kansas Gas and Electric Co.

[Docket No. ER93–395–000]

Take notice that on February 25, 1993, Kansas Gas and Electric Company (KG&E) tendered for filing a proposed change in its Federal Power Commission Electric Service Tariff No. 93. KG&E states that the proposed change is to reflect the amount of transmission capacity requirements required by Western Resources, Inc. under Service Schedule M to Rate Schedule No. 93 for the period June 1, 1993 through May 31, 1994.

Copies of this filing were served upon Western Resources, Inc. and the Kansas Corporation Commission.

Comment date: March 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Central Illinois Public Service Co.

[Docket No. ER93–418–000]

Take notice that on March 2, 1993, Central Illinois Public Service Company (CIPS) tendered for filing the First Amendment (Amendment) to the Power Supply Agreement (Agreement) between CIPS and Illinois Municipal Electric Agency (IMEA). The Amendment extends the term of the Agreement and service schedules thereunder.

Copies of the filing have been served on the IMEA and the Illinois Commerce Commission.

Comment date: March 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Washington Water Power Co.

[Docket No. ER93–389–000]

Take notice that on February 22, 1993, Washington Water Power Company (WWP) tendered for filing a Notice of Termination of the following agreements:

Other party	Type of agreement	FERC No.	Termination date
California Dept of Water Resources.	Standby energy sale.	166	4/10/91
Sierra Pacific Pacific Power Company.	Standby energy sale.	167	4/10/91
Western Area Power Administration.	Non-firm energy sale.	140	6/9/92

Comment date: March 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. El Paso Electric Co.

[Docket No. ER93–423–000]

Take notice that on March 3, 1993 El Pasco Electric Company (EPE) filed an agreement between itself and the Texas-New Mexico Power Company, dated October 18, 1988 and amended February 19, 1993. The purpose of the Agreement is to provide for a mutually beneficial exchange of microwave communication channels to facilitate utility communications in southern New Mexico. No transmission or energy services are provided by either party under this Agreement. No transmission or energy services are provided by either party under this Agreement. The amendment was executed in response to requests by the FERC Staff in order to (1) ensure a standard of operation and maintenance and (2) set a cap on contributions-in-aid according to a cost formula. EPE requests that the Agreement, as amended, be permitted to become effective as of October 18, 1988, its date of execution, pursuant to FERC's order allowing an amnesty for the filing of contributions-in-aid in Florida Power Corporation, Docket No. E ER93–4–000.

Comment date: March 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. New York State Electric & Gas Corp.

[Docket No. ER93–421–000]

Take notice that on March 2, 1993, New York State Electric Gas Corporation (NYSEG) tendered for filing a Rate Schedule and six Supplements relating to an agreement for the installation, ownership and maintenance by NYSEG of certain facilities at its Coopers Corners and Fraser Substations in connection with the construction by the Power Authority of the State of New York (NYPA) of its Marcy South Transmission Lines. NYSEG has requested as of December 8, 1983, Supplement No. 1 as of September 27, 1984, Supplement 4 as of July 1, 1988, Supplement No. 5 as of July 1, 1989 and Supplement No. 6 as of July 1, 1990, Supplement No. 7 as of July 1, 1991 and Supplement No. 8 as of July 1, 1992.

NYSEG states that a copy of this filing has been served by mail upon NYPA and upon the Public Service Commission of the State of New York.

Comment Date: March 23, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5980 Filed 3–15–93; 8:45 am]

BILLING CODE 5717–01–M

[Docket No. CP93–225–000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

March 9, 1993.

Take notice that on February 25, 1993, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, field in Docket No. CP93–225–000 a request pursuant to §§ 157.205 and 157.211(a)(2) of the Commission's Regulations under the Natural Gas Act for authorization to construct and operate a sales tap, under the blanket certificate issued in Docket No. CP82–430–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

United states that natural gas deliveries will be made through the proposed tap in Jefferson Davis County, Mississippi to Entex, Inc. (Entex), a jurisdictional sales customer, pursuant to United's DG Rate Schedule. According to United, it currently makes natural gas sales to Entex in its McComb-Summit billing area under a service agreement dated October 1, 1991. United further states that the volumes proposed to be delivered to Entex at the new tap will be within the currently effective entitlements of 2,353 MMBtu per day for the McComb-Summit billing area.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) a motion to intervene or notice of intervention and

pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the date after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7(c) of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–5976 Filed 3–15–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4604–3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 15, 1993.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Emission Defect Information and Voluntary Emission Recall Reports (EPA ICR No. 282.03; OMB No. 2060–0048). This ICR requests renewal of the existing clearance.

Abstract: Motor vehicle and engine manufacturers must submit reports and keep records of their voluntary recall campaign to EPA. Manufacturers must inform EPA of emission nonconformities which prompted the recall. They must submit reports for six consecutive quarters of specific emission defects, and parameters affected by the defects, in 25 or more vehicles of a model year in actual use. Manufacturers must also keep records of their recalls, causes for each recall, and how the emission defects are corrected. EPA uses these data to ensure compliance with Federal regulations, and if necessary, to enforce Federal emission standards.

Burden Statement: The public reporting burden for this collection of information is estimated to average 4 hours per response for reporting, and 26 hours annually per recordkeeper. This estimate includes the time needed to review instructions, search the existing data sources, gather the data needed and review the collection of information.

Respondents: Manufacturers of motor vehicles and motor vehicle engines

Estimated Number of Respondents: 12.

Estimated Total Annual Burden on Respondents: 1379 hours.

Frequency of Collection: Quarterly.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW.,Washington, DC 20460.

and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW.,Washington, DC 20530.

Dated: March 9, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–5996 Filed 3–15–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4603–2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 15, 1993.

FOR FURTHER INFORMATION OR TO OBTAIN COPY OF THIS ICR, CONTACT: Ms. Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standards (NSPS) for Municipal Waste Combustors (Subpart Ea)–Reporting and Recordkeeping Requirements (EPA ICR No. 1506.04; OMB No. 2060–0210). This is a request for renewal of a currently approved information collection.

Abstract: These standards apply to municipal waste combustor (MWC) units with a capacity greater than 225 megagrams per day (250 tons per day) of municipal solid waste or refuse-derived fuel, for which construction, modification, or reconstruction commenced after December 20, 1989. Owners or operators of such units must provide EPA, or the delegated State regulatory authority, with one-time notifications and reports, and must keep records, as required of all facilities subject to the general NSPS requirements. In addition, facilities subject to this subpart must install continuous monitoring systems (CMS) to monitor specified operating parameters to ensure that good combustion practices are implemented on a continuous basis. Owners or operators must submit quarterly and annual compliance reports. The notifications and reports enable EPA or the delegated State regulatory authority to determine that best demonstrated technology is installed and properly operated and maintained, and to schedule inspections.

Burden Statement: The public reporting burden for this collection of information is estimated to average 249 hours per response for reporting, and 320 hours per recordkeeper annually. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Owners or operators of municipal waste combustors larger than 250 tons per day capacity.

Estimated Number of Respondents: 63.

Estimated Number of Responses Per Respondent: 4.

Estimated Total Annual Burden on Respondents: 82,892 hours.

Frequency of Collection: One-time notifications and reports for new facilities; quarterly and annual compliance reports.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Mr. Chris Wolz, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: March 9, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–5995 Filed 3–15–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL 4606–3]

Clean Air Act; Acid Rain Provisions

AGENCY: Environmental Protection Agency.

ACTION: Notice of privately offered allowances for the 1993 EPA SO_2 allowance auctions and announcement of the 1993 direct sale.

SUMMARY: Pursuant to Title IV of the Clean Air Act and 40 CFR Part 73, the EPA is responsible for implementing a program to reduce emissions of sulfur dioxide (SO_2), a precursor of acid rain. The centerpiece of the SO_2 control program is the allocation of transferable allowances, or authorizations to emit SO_2, which are distributed in limited quantities for existing utility units and which eventually must be held by virtually all utility units to cover their SO_2 emissions. These allowances may be transferred among polluting sources and others, so that market forces may govern their ultimate use and distribution, resulting in the most cost-effective sharing of the emissions control burden.

EPA is directed under Section 416 of the Act to conduct annual sales and auctions of a small portion of allowances (2.8%) withheld from the total allowances allocated to utilities each year. Sales and auctions are expected to stimulate and support such a market in allowances and to provide a public source of allowances, particularly to new units for which no allowances are allocated. In the Fall of 1992, EPA delegated the administration of the EPA allowance auctions and sales to the Chicago Board of Trade (CBOT). The auctions and sales will be conducted under the regulations governing the auctions and sales which were promulgated on December 17, 1991 (40 CFR Part 73, Subpart E). Today, the Acid Rain Division is giving notice of (1) the total amount of allowances that will be auctioned in the first annual SO_2 allowance auctions, which are scheduled for March 29, 1993, and (2) the start date of the 1993 direct sale. Notice of the date of the first annual SO_2 allowance auctions was previously given in the February 3, 1993 **Federal Register**, cite 58 FR 6962.

Auctions. Anyone can participate in the EPA auctions, and bidders are not restricted as to the quantity or price of their bid. Allowances sold at the auctions will be sold to the highest bidder until no allowances remain. The 1993 auctions will consist of one "spot" auction and one "advance" auction. Allowances sold in the spot auction are useable for compliance beginning in 1995. Allowances sold in the advance auction are useable for compliance beginning in 2000. The Act directs EPA to sell in the 1993 auctions any spot or advance allowances that are offered by any Phase I or Phase II utility. However, offered allowances will be sold after the allowances that were withheld from the utilities, so offered allowances will consequently be sold at a lower price than the withheld allowances. Owners of offered allowances may set a minimum price for their allowances. The number of withheld allowances and offered allowances that are being sold in the 1993 auctions are listed in the table below. Bid Forms for the 1993 auctions must be received by the CBOT by the close of business on March 23, 1993.

ALLOWANCES TO BE SOLD IN THE 1993 AUCTIONS

Origin of allowances	Spot auction (first useable 1995)	Advance auction (first useable 2000)
EPA	50,000	100,000
Offered	95,010	30,500
Total	145,010	130,500

Direct Sale. Anyone can participate in the EPA direct sale, and buyers are not restricted as to the quantity of their purchase request. The 1993 direct sale will consist of one "advance" sale in which 25,000 allowances, first useable beginning in the year 2000, will be available for purchase. These allowances will be sold for $1,610.10 each (this amount reflects the $1,500 required price adjusted annually for inflation). The 1993 direct sale will run from June 1, 1993 to January 31, 1994. EPA will accept Direct Sale Application Forms during this time period, depending on availability of allowances. Buyers should not send payment with their form; after EPA receives a Direct Sale Application Form, it will convey, in writing, the exact price for allowances and payment instructions. Allowances from the direct sale will be sold on a first come, first served basis.

ADDRESSES: U.S. EPA Acid Rain Division (6204J), 401 M St., S.W., Washington, DC 20460 Attn: Auctions and Sales. Chicago Board of Trade, 141 W. Jackson Blvd., Suite 2240, Chicago, IL 60604 Attn: EPA Auctions.

Forms needed to participate in the EPA auctions and direct sales are available from the Acid Rain Division at (202) 233–9170.

FOR FURTHER INFORMATION CONTACT: The Acid Rain Hotline at (617) 674–7377. Information on bidding in the 1993 EPA auctions can be found in the brochure "How to Bid in the EPA SO_2 Allowance Auctions;" general information on the EPA auctions and sales can be found in the "Acid Rain Program Allowance Auctions and Direct Sales" fact sheet. These publications can be obtained by calling the Acid Rain Hotline or by writing to EPA at the address listed above.

Dated: March 10, 1993.

Brian J. McLean,

Director, Acid Rain Division.

[FR Doc. 93–5984 Filed 3–15–93; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–977–DR]

Arizona; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arizona (FEMA–977–DR), dated January 19, 1993, and related determinations.

EFFECTIVE DATE: March 6, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective March 6, 1993.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–5959 Filed 3–15–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–980–DR]

Georgia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency [FEMA].

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Georgia [FEMA–980–DR), dated March 4, 1993, and related determinations.

EFFECTIVE DATE: March 4, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 4, 1993, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *er seq.*), as follows:

I have determined that the damage in certain areas of the State of Georgia, resulting from tornadoes, high wind, and heavy rain on February 21–22, 1993, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Georgia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period precribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Melvin J. Schneider of the Federal Emergency Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Georgia to have been affected adversely by this declared major disaster: The counties of Bartow, Cobb, Hall, Heard, Meriwether, Pike, Polk, and Walton for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William Tidball,

Acting Director.

[FR Doc. 93–5958 Filed 3–15–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–981–DR]

Washington; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Washington (FEMA–981–DR), dated March 4, 1993, and related determinations.

EFFECTIVE DATE: March 4, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 4, 1993, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Washington, resulting from severe storms and high winds and January 20–21, 1993, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Washington.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance with be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint John Kainrad of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Washington to have been affected adversely by this declared major disaster: The Counties of Snohomish, King, Pierce, Thurston, Lewis, Mason, and Wahkiakum for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Acting Director.

[FR Doc. 93–5956 Filed 3–15–93; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL RESERVE SYSTEM

Prestige Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 9, 1993.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Prestige Financial Corp., Flemington, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Prestige State Bank, Flemington, New Jersey.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Associated Banc-Corp, Green Bay, Wisconsin; to acquire 100 percent of the voting shares of Wausau Financial Corporation, Wausau, Wisconsin, and thereby indirectly acquire Citizens Bank & Trust, Wausau, Wisconsin.

Board of Governors of the Federal Reserve System, March 10, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-5927 Filed 3-15-93; 8:45 am]

BILLING CODE 6210-01-F

SUN Bancorp, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 5, 1993.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. SUN Bancorp, Inc., Selinsgrove, Pennsylvania; to engage *de novo* through its subsidiary, Pennsylvania SUN Life Insurance Company, in domestic life and disability reinsurance limited to ensuring the payment of the outstanding balance due on the extension of credit pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. These activities will be conducted in the State of Pennsylvania.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. LeMars Bancorporation, Inc., Le Mars, Iowa; to engage *de novo* in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Pacific Capital Bancorp, Salinas, California; to engage *de novo* in making loans or other extensions of credit, directly and for its own account to persons or entities in its market area, pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in Salinas, California, Watsonville, California and the greater Monterey, California peninsula area.

Board of Governors of the Federal Reserve System, March 10, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-5928 Filed 3-15-93; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[Docket No. 9233]

Harold A. Honickman, et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the 1991 consent order by allowing the respondents and the Brooklyn Beverage Acquisition Corp. to acquire non-carbonated soft drink assets without prior Commission approval. The Commission concluded that modifying the order was warranted to eliminate unintended coverage.

DATES: Consent Order issued July 25, 1991. Modifying Order issued March 2, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Joseph Eckhaus, FTC/S–2115, Washington, DC 20580. (202) 326–2665.

SUPPLEMENTARY INFORMATION: In the Matter of Harold A. Honickman, et al., The prohibited trade practices and/or corrective actions, as set forth at 56 FR 38446, are changed, in part, as indicated in the summary.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18.

Donald S. Clark,

Secretary.

[FR Doc. 93–5981 Filed 3–15–93; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Office of Acquisition Policy (VP), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090–0205, GSAR Part 523: Environmental, Conservation, Occupational Safety, and Drug-Free Workplace. Hazardous material information clause requires a contractor to identify items to be delivered which are hazardous substances and to provide specific information concerning the shipment of that material.

ADDRESSES: Send comments to Ed Springer, GSA Desk Officer, room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

Annual Reporting Burden:

Respondents: 1,590; *annual responses:* 1; *average hours per response:* 0.33; *burden hours:* 530.

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad, (202) 501–1224.

Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 501–

[1] Copies of the Modifying Order are available from the Commission's Public Reference Branch, H–130, 6th & PA., Ave., NW., Washington, DC 20580.

2691, or by faxing your request to (202) 501–2727.

Dated: March 8, 1993.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 93–5947 Filed 3–15–93; 8:45 am]

BILLING CODE 6820–61–M

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Office of Acquisition Policy (VP), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to approve information collection, GSAR 538: Submission and Distribution of Authorized GSA Schedule Pricelists. After award, GSA Multiple Award Schedule Contractors are required to submit and distribute paper copies of their authorized GSA Schedule Pricelist. The clause also requires Contractors to submit the pricelist to the Contracting Officer, on an electronic media.

ADDRESSES: Send comments to Ed Springer, GSA Desk Officer, room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

Annual Reporting Burden:

Respondents: 3250; *annual responses:* 1; *average hours per response:* 54.9; *burden hours:* 178,585.

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad, (202) 501–1224. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), 7102, GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 501–2691, or by faxing your request to (202) 501–2727.

Dated: March 8, 1993.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 93–5948 Filed 3–15–93; 8:45 am]

BILLING CODE 6820–01–M

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Office of Commodity Management (FC), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to approve information collection, Market Research Questionnaire. Market research questionnaires are used to gather information which is necessary to develop and/or revise Federal specifications or other purchase descriptions.

ADDRESSES: Send comments to Ed Springer, GSA Desk Officer, room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

Annual Reporting Burden:

Respondents: 25; *annual responses:* 1; *average hours per response:* .5; *burden hours:* 12.5.

FOR FURTHER INFORMATION CONTACT: John T. Miller, (703) 305–6930. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), 7102, GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 501–2691, or by faxing your request to (202) 501–2727.

Dated: March 8, 1993.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 93–5949 Filed 3–15–93; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection Under OMB Review

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for authority to continue use of an existing information collection titled: "State Corrective Action Plans for the Aid to Families with Dependent Children (AFDC) Program". This request was previously approved under OMB Control Number 0970–0027.

ADDRESSES: Copies of the information collection request may be obtained from Steve Smith, Office of Information Systems Management, ACF, by calling (202) 401–6964.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Kristina Emanuels, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: State Corrective Actions Plans For The Aid To Families With Dependent Children (AFDC) Programs

OMB No.: 0970–0027

Description: This information collection is under the general authority of section 408 of the Social Security Act which gives the Secretary of the Department of Health and Human Services the authority to require corrective action plans (CAP) for error rate levels in public funds appropriated for State-administered financial assistance to the Aid to Families with Dependent Children (AFDC) programs. This collection of information is also authorized by 45 CFR 205.40. These final regulations govern the revised Quality Control (QC) system for the (AFDC) program established by section 408 of the Social Security Act, as added by section 8004 of the Omnibus Budget Reconciliation Act (OBRA) of 1989.

As provided by these regulations, all States are required to analyze the error rate levels in State and Federal assistance payments and take the necessary corrective action.

The corrective action plans system is ACF's major management tool for measuring the accuracy of payments and the level of Federal funding under the AFDC assistance programs, and for obtaining the data needed to analyze and improve performance in paying benefits. These two objectives are achieved by the Office of Family Assistance, ACF, by a continuous review of statistically valid and reliable State samples of AFDC cases.

Annual Number of Respondents: 13

Annual Frequency: 1

Average Burden Hours Per Response: 160

Total Burden Hours: 2,080

Dated: February 19, 1993.

Larry Guerrero,

Deputy Director, Office of Information System Management.

[FR Doc. 93–5945 Filed 3–15–93; 8:45 am]

BILLING CODE 4130–01–M

Agency Information Collection Under OMB Review

AGENCY: Administration for Children, Youth and Families, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the

Office of Management and Budget (OMB) a request for approval of new information collection titled: "Study of the Impact on Service Delivery of Families with Substance Abuse Problems". This information collection is submitted by the Evaluation Branch within the Administration on Children, Youth and Families of the Administration for Children and Families.

ADDRESSES: Copies of the information collection request may be obtained from Steve Smith, Office of Information Systems Management, ACF, by calling (202) 401–9235.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Kristina Emanuels, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: Study of the Impact on Service Delivery of Families with Substance Abuse Problems

OMB No.: New request

Description: The primary purpose of the this study is to provide information to the Administration on Children, Youth and Families (ACYF) that will guide future policy and programmatic decisions and improve the overall quality and effectiveness of its service delivery programs. The information to be collected concerns the nature and dimensions of the effects of alcohol and other drug (AOD) abuse problems on ACYF-funded programs, specifically Head Start, Head Start Parent-Child Centers, the Comprehensive Child Development Program, the Child Abuse and Neglect State Grant Program, the Federal Foster Care Program, the Adoption Assistance Program, and the Runaway and Homeless Youth (RHY) Program.

If this study is not conducted, ACYF administrators will not have documentation of the impact of AOD abuse on ACYF-funded programs. Since these data will describe the nature and the dimension of the problem and the variations in impact across program areas, the various bureaus of ACYF will be able to respond to the problems that specifically affect the programs they administer.

Annual Number of Respondents: 3,330
Frequency: 1
Average Burden Hours Per Response: .61
Total Burden Hours: 2,045

Dated: January 15, 1993.

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 93–5944 Filed 3–15–93; 8:45 am]

BILLING CODE 4310–01–M

Food and Drug Administration

[GN 2015]

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970), as amended most recently in pertinent parts at 57 FR 20115, May 11, 1992; 56 FR 47098, September 17, 1991; 57 FR 54241, November 17, 1992; 53 FR 8978 March 18, 1988; 49 FR 10175, March 19, 1984; 56 FR 50126, October 3, 1991; 48 FR 54129, November 30, 1983; 55 FR 20533, May 17, 1990; and 52 FR 3352, February 3, 1987) is amended to reflect the transfer of the functions relating to equal employment opportunities (EEO) from the Offices of Management to the Offices of the Center Directors. The major components involved are listed as follows: The Office of Regulatory Affairs, the Center for Biologics Evaluation and Research, the Center for Drug Evaluation and Research, the Center for Devices and Radiological Health, the Center for Veterinary Medicine, and the National Center for Toxicological Research. This reorganization will assure the appropriate level of attention to the functions relating to EEO by placing them separately and independently from all other functions within the major organizational components to which they provide services. The Office of Regulatory Affairs functions do not need to be revised as they are currently sufficient to encompass these functions. In addition, the Center for Food Safety and Applied Nutrition is not addressed in this proposal because the transfer of EEO functions was covered in the reorganization approved by the Secretary, HHS, on November 6, 1992.

Section HF–B, Organization and Functions is Amended as Follows

1. Delete subparagraph (f–1) under the *Office of Operations (HFA9), Office of Regulatory Affairs (HFA4), Office of Resource Management (HFA4A)* in its entirety and insert a new subparagraph (f–1) reading as follows:

(f–1) Office of Regulatory Resource Management (HFA4A). Serves as the Agency lead office, in cooperation with the Office of Health Affairs, in initiating, coordinating, and offering specific regulatory bilateral agreements and Memoranda of Understanding (MOU's) to foreign countries.

Provides policy direction to other Agency components in the initiation, development, and recommendation of specific domestic regulatory bilateral agreements and MOU's with other governments.

Provides technical input for the Office of Regulatory Affairs quality assurance program as it pertains to assuring the consistency and adequacy of field investigational and inspectional operations.

Develops proposed overall field manpower allocations and long- and short-range operational program plans; identifies management data requirements for information systems; analyzes and evaluates field performance data and overall accomplishments.

Advises the Associate Commissioner and the Regional Food and Drug Directors on all areas of management, including financial management, management analysis, and administrative operations.

Designs, develops, and manages a comprehensive career development and training program for Office of Regulatory Affairs Headquarters and field and State employees.

Develops and implements nationwide information storage and retrieval systems for data originating in the field offices.

2. Delete subparagraphs (p–1) and (p–2) under the *Office of Operations (HFA9), Center for Biologics Evaluation and Research (HFB),* in their entirety and insert the following new subparagraphs:

(p–1) Office of the Center Director (HFB1). Promulgates, plans, administers, coordinates, and evaluates overall Center scientific, regulatory, and management programs, plans and policies.

Provides leadership and direction for all Center activities and cooperation with other Agency components and outside organizations.

Coordinates and directs the Center management, planning, and evaluation systems to assure optimum utilization of Center personnel, financial resources, and facilities.

Plans and coordinates the Center's Equal Employment Opportunity Program.

(p–2) Office of Management (HFB12). Monitors the development and operation of planning systems for Center activities and resource allocations and

advises the Center Director on Center administrative policies and guidelines and information systems and services.

Directs and counsels Center managers through program evaluation and technological forecasting.

Plans and directs Center operations for financial and personnel management and administrative management services.

Directs Center organization, management, and information systems.

Manages studies designed to improve processes and resource allocations in the Center.

Advises the Center on contract and grant proposals.

3. Delete subparagraphs (n–1) and (n–1–i) under the *Office of Operations (HFA9), Center for Drug Evaluation and Research (CDER)* in their entirety and insert new subparagraphs reading as follows:

(n–1) Office of the Center Director (HFN1). Promulgates, plans, administers, coordinates, and evaluates overall Center scientific, management, and regulatory programs, plans, and policies.

Provides leadership and direction for all Center activities.

Coordinates and directs the Center management, planning, and evaluation systems, to assure optimum utilization of Center manpower, financial resources, and facilities.

Plans and coordinates the Center's Equal Employment Opportunity Program.

(n–1–i) Office of Management (HFN12). Monitors the development and operation of planning systems for Center activities and resource allocations and advises the Center Director on Center administrative policies and guidelines and information systems and services.

Directs and counsels Center managers through program evaluation and technological forecasting.

Plans and directs Center operations for financial and personnel management, employee development and training, and office services.

Directs Center organization, management, and information systems, and provides library services.

Manages studies designed to improve processes and resource allocations in the Center.

Advises the Center on contract and grant proposals.

Provides coordination for receipt and distribution of initial drug applications and other related documents.

Prepares, develops, and coordinates Center and Agency responses to drug-related requests under the Freedom of Information (FOI) Act, the Privacy Act, and other statutes.

4. Delete subparagraphs (m-1) and (m-1-i) under the *Office of Operations (HFA9), Center for Veterinary Medicine (HFV)* in their entirety and insert new subparagraphs reading as follows:

(m-1) Office of the Center Director (HFV1). Directs overall Center activities and coordinates and establishes Center policy in the areas of research, management, scientific evaluation, and compliance, surveillance.

Approves new animal drug applications and issues notices of withdrawal of new animal drug approvals when the opportunity for a hearing has been waived.

Authorizes for use as edible products animals treated with investigational drugs and terminates exemptions for investigational trials.

In conjunction with appropriate Agency officials in the foods area, provides FDA policy development and direction on environmental impact matters.

Plans and coordinates the Center's Equal Employment Opportunity Program.

(m-1-i) Office of Management (HFV1A). Provides guidance and leadership in the analysis, planning, coordination and evaluation of administrative management activities including: Personnel; facilities; property; budget formulation and execution; program analysis; management analysis; communications, including freedom of information, training, and education; procurement; automated data processing; travel; and messenger services to Center officials.

Plans, develops, and implements Center management policies. Provides leadership and direction for the management and administrative interface with the Office of the Assistant Secretary for Health (OASH), the Department of Health and Human Services (DHHS), and other Federal agencies.

Serves as Center interface with Agency, OASH, and DHHS on budget issue resolutions.

Performs analyses, program assessments, or special studies of key issues relative to policy review and oversight. Directs a variety of short-range and long-range special projects or assignments of substantial significance to the Center.

Implements internal control reviews in accordance with OMB, DHHS and Agency guidelines. Provides direction in the preparation of responses to the Office of Inspector General and the General Accounting Office regarding audits and investigation.

Directs the Center's outreach efforts to consumers, professionals, and the industry in communicating the program goals and priorities of the Center.

5. Delete subparagraphs (o-1) and (o-1-i) under the *Office of Operations (HFA9), Center for Devices and Radiological Health (HFW)* in their entirety and insert new subparagraphs reading as follows:

(o-1) Office of the Center Director (HFW1). Provides leadership and direction for, and evaluation and coordination of, the activities of the Center.

Provides advice and consultation to the Commissioner and other Agency officials on policy matters concerning radiological health and medical device activities.

Recommends changes in legislative authority to the Office of the Commissioner.

Establishes policy in the areas of education and communications and formulates strategies for developing and disseminating educational and programmatic information to health professionals, consumers, and other government agencies.

Manages a tracking system for the control and monitoring of the Director's correspondence and provides management support for the coordination of meetings involving the Center Director and Deputy Center Director.

Plans and coordinates the Center's Equal Employment Opportunity Program.

(o–1–i) Office of Management Services (HFW11). Advises the Center Director in regard to all administrative management matters.

Plans, develops, and implements Center management policies and programs concerning manpower management, financial management, personnel management, contracts and grants management, conference management, employee development and training, occupational safety, organization, management analysis, and general office services support.

Develops and implements the Center's long-range, strategic, and operational plans.

Develops and applies evaluation techniques to measure the effectiveness of Center programs.

Provides general information and technical publication services to the Center.

Plans, conducts, and coordinates Center committee management activities.

6. Delete subparagraph (q–1) under the *Office of Science (HFAH), National Center for Toxicological Research (HFT)* in its entirety and insert a new subparagraph reading as follows:

(q–1) Office of the Director (HFT1). Provides leadership and direction to assure the efficient and effective planning, performance, and evaluation of Center activities.

Provides leadership and direction to all Center research activities.

Provides for scientific intelligence between the Center and all related interests in toxicological research, including the National Academy of Sciences, the National Science Foundation, and the worldwide academic, scientific, and medical communities consort; acts as principal liaison with the Director of the National Toxicology Program.

Coordinates Center programs with similar in-house, grant, and contract programs of the Food and Drug Administration, the Environmental Protection Agency, the National Institutes of Health, the National Toxicology Program, and other government toxicological research laboratories.

Monitors and evaluates performance of contractors supporting Center activities.

Plans and coordinates the Center's Equal Employment Opportunity Program.

Dated: March 1, 1993.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 93–5960 Filed 3–15–93; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Availability of Funds for Grants To Provide Outpatient Early Intervention Services With Respect to HIV Disease

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of available funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that for fiscal year (FY) 1993 approximately $47.5 million is available for discretionary grants to provide outpatient early intervention services with respect to human immunodeficiency virus (HIV) disease. These grants are awarded under the provisions of subpart II and subpart III of part C of title XXVI of the Public Health Service (PHS) Act, as amended by the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, Public Law 101–381 (42 U.S.C. 300ff–51—300ff–67).

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting health priorities. This grant program is related to the following priority areas: Increase the proportion of HIV-infected persons who are tested; increase the proportion of primary health care providers who provide age-appropriate HIV counseling; and increase the proportion of family planning and primary health care providers who provide a comprehensive HIV program. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone 202–783–3238).

ADDRESSES: Application kits (Form PHS 5161–1 with revised face sheet HHS Form 424, as approved by the Office of Management and Budget (OMB) under control number 0937–0189) may be obtained from, and completed applications should be mailed to, the appropriate PHS Regional Grants Management Officer (RGMO) (see Appendix). The RGMO can also provide assistance on business management issues.

DATES: In order to have received consideration, applications for noncompeting continuation grants with January 1 budget start dates, were received by the RGMO by September 1, 1992. These applicants were given individual notice of this deadline. Applications for both competing and noncompeting continuation grants with September 30 budget start dates, must be received by the appropriate RGMO by June 1, 1993. Applications will be considered to be "on time" if they are either: (1) Received on or before the established deadline date, or (2) sent on or before the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.) Late applications will not be considered for funding and will be returned to the applicant.

FOR FURTHER INFORMATION CONTACT: For general program information and technical assistance, contact Enrique Fernandez, M.D., HIV Program Director, Division of Programs for Special Populations, Bureau of Primary Health Care (BPHC), at 5600 Fishers Lane, Rockville, Maryland 20857 (telephone 301–443–8113).

SUPPLEMENTARY INFORMATION:

Number of Awards

It is anticipated that a total of 136 grants will be awarded ($47.5 million), of which 40 ($12.7 million) will be for noncompeting continuation grants with January 1 budget start dates, and 26 ($9.4 million) will be for competing continuations and 70 ($25.4 million) will be for noncompeting continuations with September 30 budget start dates.

The range of project support is approximately $100,000–$500,000. The budget period will be for 12 months. Continuation awards for any future years will be made subject to the availability of funds and satisfactory performance in past budget years toward meeting the goals and objectives of the project.

Eligible Applicants

Eligible applicants are public entities and nonprofit private entities that are: Migrant health centers under section 329 of the PHS Act; community health centers under section 330 of the PHS Act; health care for the homeless grantees under section 340 of the PHS Act; family planning grantees under section 1001 of the PHS Act other than States; comprehensive hemophilia diagnostic and treatment centers; federally-qualified health centers under section 1905(*l*)(2)(B) of the Social Security Act; or public and private nonprofit entities that currently provide comprehensive primary care services to populations at risk of HIV disease.

Funding under this grant program is intended to increase the capacity and accessibility of the specified entities to offer a higher quality and a broader scope of HIV-related early intervention services to a greater number of people in their service areas who are at risk of HIV infection. The program must provide the services specified in the statute (sections 2651, 2661, 2662) and may provide for a set of other optional services.

The required services to be provided under this grant are:

- Comprehensive individual counseling regarding HIV disease according to specific statutory mandates for the content and conduct of pretest counseling, counseling of those with negative test results, counseling of those with positive results, and with attention to the appropriate setting for all counseling;
- Testing individuals with respect to HIV disease, in laboratories certified under the Clinical Laboratories Improvement Amendments, including tests to confirm the presence of the disease, tests to diagnose the extent of

the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

• Referral to appropriate providers of health and support services, including, as appropriate to entities funded under parts A and B of title XXVI of the PHS Act, to biomedical research facilities, community-based organizations or other entities that offer experimental treatment for HIV disease, and to grantees under 2671 in the case of pregnant women;

• Other clinical and diagnostic services regarding HIV disease, and periodic medical evaluations of individuals with the disease;

• Providing therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease; and

The optional services that may be included if they can be shown to be essential to the delivery of care are:

• Outreach, case-management, and counseling for eligibility for other health services.

Applicants, or providers acting under an agreement with the applicant, must be participating and qualified providers under the State Medicaid plan approved under title XIX of the Social Security Act; a waiver procedure is available from BPHC. Grantees are required to maximize service reimbursements from private insurance, Medicare, other Federal programs, and other third-party payment sources.

The applicant must agree that the services provided will conform to the assurances and agreements required under the statute that:

• The applicant will participate in an HIV care consortium established pursuant to part B, title XXVI, if such a consortium exists.

• Hemophilia services will be provided through the network of regional comprehensive hemophilia diagnostic and treatment centers.

• The applicant will ensure confidentiality of patient information.

• Testing will be provided only after obtaining a statement that the testing is done after counseling has been conducted and that the decision of the individual to undergo testing is voluntarily made.

• Opportunities for anonymous testing will be provided.

• Individuals seeking services will not have to undergo testing as a condition of receiving other health services.

• The applicant will maintain its FY 1993 expenditures for early intervention services at the same level as existed in FY 1992.

• A sliding fee schedule with the limits established in the statute will be utilized.

• Funds will not be expended for services covered, or which could reasonably be expected to be covered, under any State compensation program, insurance policy, or under any Federal or State health benefits program, or by an entity that provides health services on a prepaid basis.

• Funds will be expended only for the purposes awarded, and such procedures for fiscal control and fund-accounting, as may be necessary, will be established.

• Counseling programs shall not be designed to directly promote or encourage injecting drug use or sexual activity, homosexual or heterosexual; shall be designed to reduce exposure to, and transmission of, HIV disease by providing accurate information; and shall provide information on the health risks of promiscuous sexual activity and injecting drug use.

• A limit of 5 percent of the grant funds will be imposed for administrative expenses. Funds may not be expended for construction, inpatient care, residential care, or cash payments to recipients of services.

• The HIV Client and Program Profile which has been formally established as the Minimum Data Set (MDS) for BPHC, will be submitted every 6 months.

Criteria for Evaluation

A. Non-Competing Continuations

HRSA will consider the extent to which the grantee displays satisfactory and substantial progress towards meeting the objectives proposed and funded in the previous year, as well as documents and addresses any significant changes that have occurred over the past budget year. This will include:

• Documented continued need for early intervention services in the community including additional preventive and primary care services to those at-risk for HIV infection, including women, children, and minorities, and persons with HIV infection, barriers to meeting those needs with the existing service provider system, and other information (i.e., epidemiological and health resources data).

• A well functioning HIV early intervention services program especially emphasizing the scope of counseling and testing, referral, primary care prevention, diagnostic and treatment services, and optional outreach, case-management, or eligibility assistance services provided by the applicant.

• Appropriateness of management and staffing plans.

• Appropriateness and adequacy of the proposed budget.

• Resolution of problems and obstacles in program implementation.

• Effective collaboration with city/county/State health department HIV prevention activities supported by the Centers for Disease Control and with State Care Consortia funded under section 2613 of the PHS Act: description of efforts to achieve consistency with priorities of the HIV Planning Council in the cities funded under title XXVI of the PHS Act and programs funded by other PHS agencies.

• Progress in implementing the program evaluation plan related to impact and quality of care.

B. Competing Continuations

In its review of applications for competing projects, BPHC will consider the extent to which:

• The need in the community, based on the 2-year period preceding the proposed grant period, for additional preventive and primary care services to those at-risk for HIV infection, including women, children, and minorities, and persons with HIV infection, barriers to meeting those needs with the existing service provider system, and other information (i.e. epidemiological and health resources data) that makes a compelling case for the grant requested as specified in section 2653 of the PHS Act.

• Adequacy of the existing, plus intended, scope of counseling and testing, referral, primary care prevention, diagnostic and treatment services, and optional outreach, case-management, or eligibility assistance services provided by the applicant.

• Appropriateness and adequacy of the proposed budget.

• Extent to which actions taken assure effective collaboration with city/county/State health department HIV prevention activities supported by the Centers for Disease Control and with State Care Consortia funded under section 2613 of the PHS Act; extent to which efforts are consistent with priorities of the HIV Planning Council in the cities funded under title XXVI of the PHS Act and programs funded by other PHS agencies.

• Progress in implementing the program evaluation plan related to impact and quality of care.

Other Grant Information

The Grant Program to Provide Outpatient Early Intervention Services with Respect to HIV Disease has been determined to be a program which is subject to the provisions of Executive Order 12372, as implemented by 45 CFR part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available under this notice will contain a listing of States which have chosen to set up a review system and will provide a State-point-of-contact (SPOC) in the State for the review. Applicants (other than federally-recognized Indian tribal Governments) should contact their SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the application deadline date. The BPHC does not guarantee to accommodate or explain State process recommendations it receives after that date.

This program is subject to the Public Health System Reporting Requirements. Reporting requirements have been approved by the Office of Management and Budget—0937–0195. Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal Application receipt due date:

a. A copy of the face page of the application (SF–424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies. Grants will be administered in accordance with HHS Regulations in 45 CFR part 92 for State and local governments, or 45 CFR part 74 for other grantees.

The OMB Catalog of Federal Domestic Assistance number for this program is 93.918.

Dated: March 11, 1993.

Robert G. Harmon,

Administrator.

Appendix

Regional Grants Management Officers

Region I: Mary O'Brien, Grants Management Officer, PHS Regional Office I, John F. Kennedy Federal Building, Boston, MA 02203 (617) 565–1482

Region II: Steven Wong, Grants Management Officer, PHS Regional Office II, Room 3300, 26 Federal Plaza, New York, NY 10278 (212) 264–4496

Region III: Marty Bree, Grants Management Officer, PHS Regional Office III, P.O. Box 13716, Philadelphia, PA 19101 (215) 596–6653

Region IV: Wayne Cutchens, Grants Management Officer, PHS Regional Office IV, Room 1106, 101 Marietta Tower, Atlanta, GA 30323 (404) 331–2597

Region V: Lawrence Poole, Grants Management Officer, PHS Regional Office V, 105 West Adams Street, 17th Floor, Chicago, IL 60603 (312) 353–8700

Region VI: Joyce Bailey, Grants Management Officer, PHS Regional Office VI, 1200 Main Tower, Dallas, TX 75202 (214) 767–3885

Region VII: Michael Rowland, Grants Management Officer, PHS Regional Office VII, Room 501, 601 East 12th Street, Kansas City, MO 64106 (816) 426–5841

Region VIII: Jerry F. Wheeler, Grants Management Officer, PHS Regional Office VIII, 1961 Stout Street, Denver, CO 80294 (303) 844–4461

Region IX: Linda Gash, Grants Management Officer, PHS Regional Office IX, 50 United Nations Plaza, San Francisco, CA 94102 (415) 556–2595

Region X: James Tipton, Grants Management Officer, PHS Regional Office X, Mail Stop RX 20, 2201 Sixth Avenue, Seattle, WA 98121 (206) 553–7997.

[FR Doc. 93–5954 Filed 3–15–93; 8:45 am]

BILLING CODE 4165-15-M

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the following National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications, contract proposals, and/or cooperative agreements. These applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Names of Panel: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

Dates of Meeting: March 26, 1993.

Time of Meeting: 8 a.m. until adjournment.

Place of Meeting: Contact Dr. Semmes for place of meeting.

Agenda: Review of applications received in response to RFA DC–93–01.

Contact Person: Dr. Marilyn Semmes, Scientific Review Administrator, NIDCD/SRB, Executive Plaza South, room 400B, Bethesda, Maryland 20892, (301) 496–8683.

This notice is being published less than 15 days prior to the meetings due to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Other Communicative Disorders)

Dated; March 10, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–5920 Filed 3–15–93; 8:45 am]

BILLING CODE 4140-01-M

National Institute on Deafness and Other Communication Disorders; Meeting of the Ad Hoc Language and Language Impairments Subcommittee of the National Deafness and Other Communication Disorders Advisory Board

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Ad Hoc Language and Language Impairments Subcommittee of the National Deafness and Other Communication Disorders Advisory Board on April 29, 1993. The meeting will take place from 8 a.m. to 4 p.m. in Conference Room 9, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting will be open to the public from 8 a.m. to 1 p.m. to discuss changes in the scientific field of language and language impairments since the Research Plan was written, compare the research portfolio of the

Institute with the priorities in the Research Plan to determine areas of emphasis and levels of activity, and to identify gaps and to suggest new initiatives in preparation for the updating of the language and language impairments section of the Research Plan. Attendance by the public will be limited to the space available.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 1 p.m. until adjournment for the discussion and recommendation of individuals to serve on a scientific panel to update the language and language impairments section of the Research Plan. These discussions could reveal personal information concerning these individuals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the Subcommittee's meeting and a roster of members may be obtained from Ms. Mirene Boerner, Acting Executive Director, National Deafness and Other Communication Disorders Advisory Board, Building 31, Room 3C08, National Institutes of Health, Bethesda, Maryland 20892, (301) 402–1129, upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Acting Executive Director in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173, Biological Research Related to Deafness and Communication Disorders)

Dated: March 9, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–5921 Filed 3–15–93; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of C.I. Direct Blue 15

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on the toxicology and carcinogenesis studies of C.I. Direct Blue 15, used as a dye to color textiles, paper, plastic, rubber, and leather.

Twenty-two month toxicology and carcinogenesis studies were conducted by administering to male and female rats doses of 0, 630, 1250, or 2500 ppm C.I. Direct Blue 15 in distilled drinking water for 96 weeks. There were 70 rats per control group, 45 rats per low-dose group, 75 rats per mid-dose group, and 70 rats per high-dose group.

Under the conditions of these 22-month drinking water studies, there was clear evidence of carcinogenic activity [1] of C.I. Direct Blue 15 (desalted industrial grade) in male F344/N rats, as indicated by benign and malignant neoplasms of the skin, Zymbal's gland, preputial gland, liver, oral cavity, and small and large intestine. Increased incidences of mononuclear cell leukemia and neoplasms of the brain may have been related to chemical administration. There was clear evidence of carinogenic activity of C.I. Direct Blue 15 in female F344/N rats, as indicated by benign and malignant neoplasms of the skin, Zymbal's gland, clitoral gland, liver, oral cavity, small and large intestine, and uterus, and by mononuclear cell leukemia.

The study scientist for this bioassay is Dr. June K. Dunnick. Questions or comments about the contents of this Technical Report should be directed to Dr. Dunnick at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541–4811.

Copies of Toxicology and Carcinogenesis Studies of C.I. Direct Blue 15 in F344/N Rats (Drinking Water Studies) (TR 397) are available without charge from Central Data Management, NIEHS, MD A0–01, P.O. Box 12233, Research Triangle Park, NC 27709; telephone (919) 541–3419 or (919) 541–0977.

Dated: March 10, 1993.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 93–5922 Filed 3–15–93; 8:45 am]

BILLING CODE 4140–01–M

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of 4,4′-Diamino-2,2′-Stilbenedisulfonic Acid, Disodium Salt

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on the toxicology and carcinogenesis studies of 4,4′-diamino-2,2′-stilbenedisulfonic acid, disodium salt, used in the synthesis of dyes and optical brighteners or fluorescent whitening agents. Fluorescent whitening agents are added to paper, leather, fabrics, plastics, and detergents to enhance colors and whiteness.

Two-year toxicology and carcinogenesis studies were conducted by administering 4,4′-diamino-2,2′-stilbenedisulfonic acid, disodium salt, to groups of 60 rats and 60 mice of each sex in feed for 7 days a week for up to 103 weeks. Rats received feed containing 0, 12,500, or 25,000 ppm and mice received feed containing of 0, 6,250 or 12,500 ppm of the chemical.

Under the conditions of these 2-year feed studies, there was no evidence of carcinogenic activity [1] of 4,4′-diamino-2,2′-stilbenedisulfonic acid, disodium salt, in male or female F344/N rats receiving 12,500 or 25,000 ppm. There was no evidence of carcinogenic activity of 4,4′-diamino-2,2′-stilbenedisulfonic acid, disodium salt, in male or female B6C3F1 mice receiving 6,250 or 12,500 ppm.

The study scientist for this bioassay is Dr. James R. Hailey. Questions or comments about the contents of this Technical Report should be directed to Dr. Hailey at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541–0294.

Copies of Toxicology and Carcinogenesis Studies of 4,4′-diamino-2,2′-stilbenedisulfonic Acid, Disodium Salt in F344/N Rats and B6C3F1 Mice (Feed Studies) (TR 412) are available without charge from Central Data Management, NIEHS, MD A0–01, P.O. Box 12233, Research Triangle Park, NC 27709; telephone (919) 541–3419 or (919) 541–0977.

Dated: March 10, 1993.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 93–5923 Filed 3–15–93; 8:45 am]

BILLING CODE 4140–01–M

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of HC Yellow 4

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on the toxicology and carcinogenesis studies of HC Yellow 4, used in semipermanent hair dyes.

[1] The NTP uses five categories of evidence of carcinogenic activity observed in each animal study: two categories for positive results ("clear evidence" and "some evidence"), one category for uncertain findings ("equivocal evidence"), one category for no observable effect ("no evidence"), and one category for studies that cannot be evaluated because of major flaws ("inadequate study").

[1] The NTP uses five categories of evidence of carcinogenic activity observed in each animal study: two categories for positive results ("clear evidence" and "some evidence"), one category for uncertain findings ("equivocal evidence"), one category for no observable effect ("no evidence"), and one category for studies that cannot be evaluated because of major flaws ("inadequate study").

Two-year toxicology and carcinogenesis studies were conducted by feeding groups of 70 male rats diets containing 0, 2,500 or 5,000 ppm HC Yellow 4 and feeding groups of 70 female rats and 70 mice of each sex diets containing 0, 5,000 or 10,000 ppm HC Yellow 4 for up to 2 years.

Under the conditions of these 2-year feed studies, there was equivocal evidence of carcinogenic activity [1] of HC Yellow 4 in male F344/N rats based on the increased incidence of pituitary gland adenomas and hyperplasia. The male rats may have been able to tolerate a slightly higher dose of the chemical. There was no evidence of carcinogenic activity of HC Yellow 4 in female F344/N rats given 5,000 or 10,000 ppm. There was no evidence of carcinogenic activity of HC Yellow 4 in male or female B6C3F1 mice given 5,000 or 10,000 ppm.

There was a chemical-related increase in the incidence of thyroid gland pigmentation and follicular cell hyperplasia in mice.

The study scientist for this bioassay is Dr. Kamal M. Abdo. Questions or comments about the contents of this Technical Report should be directed to Dr. Abdo at P. O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541–7819.

Copies of Toxicology and Carcinogenesis Studies of HC Yellow 4 in F344/N Rats and B6C3F1 Mice (Feed Studies) (TR 419) are available without charge from Central Data Management, NIEHS, MD A0–01, P. O. Box 12233, Research Triangle Park, NC 27709; telephone (919) 541–3419 or (919) 541–1371.

Dated: March 10, 1993.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 93–5924 Filed 3–15–93; 8:45 am]

BILLING CODE 4140–01–M

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Quercetin

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on the toxicology and carcinogenesis studies of quercetin, a member of a group of naturally occurring compounds, the flavonoids. Quercetin is found in various food products and plants, including fruits, seeds, vegetables, tea, coffee, bracken fern and natural dyes.

Two-year toxicology and carcinogenesis studies were conducted by administering quercetin to groups of 70 male and 70 female rats at concentrations of 0, 1,000, 10,000 or 40,000 ppm quercetin in feed.

Under the conditions of these 2-year feed studies, there was some evidence of carcinogenic activity [1] of quercetin in male F344/N rats based on an increased incidence of renal tubule cell adenomas. There was no evidence of carcinogenic activity of quercetin in female F344/N rats receiving 1,000, 10,000 or 40,000 ppm. The incidence of renal tubule hyperplasia and the severity of nephropathy were increased in exposed male rats.

The study scientist for this bioassay is Dr. June K. Dunnick. Questions or comments about the contents of this Technical Report should be directed to Dr. Dunnick at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541–4811.

Copies of Toxicology and Carcinogenesis Studies of Quercetin in F344/N Rats (Feed Studies) (TR 409) are available without charge from Central Data Management, NIEHS, MD A0–01, P.O. Box 12233, Research Triangle Park, NC 27709; telephone (919) 541–3419 or (919) 541–0977.

Dated: March 10, 1993.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 93–5925 Filed 3–15–93; 8:45 am]

BILLING CODE 4140–01–M

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Resorcinol

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on the toxicology and carcinogenesis studies of resorcinol, used in the manufacture of adhesives and dyes and as an ingredient in pharmaceutical preparations for the topical treatment of skin conditions.

Two-year toxicology and carcinogenesis studies were conducted by administering doses of 0, 112, or 225 mg/kg resorcinol in deionized water by gavage to groups of 60 male rats and 60 mice of each sex. Female rats received dose levels of 0, 50, 100, or 150 mg/kg resorcinol.

Under the conditions of these 2-year gavage studies, there was no evidence of carcinogenic activity [1] of resorcinol in male F344/N rats given 112 or 225 mg/kg or female F344/N rats given 50, 100, or 150 mg/kg. There was no evidence of carcinoge Zic activity of resorcinol in male or female B6C3F1 mice given 112 or 225 mg/kg.

Clinical signs suggestive of a chemical-related effect on the central nervous system, including ataxia, recumbency, and tremors, were observed in rats and mice in the 2-year studies.

Copies of Toxicology and Carcinogenesis Studies of Resorcinol in F344/N Rats and B6C3F1 Mice (Gavage Studies) (TR 403) are available without charge from Central Data Management, NIEHS, MD A0–01, P.O. Box 12233, Research Triangle Park, NC 27709; telephone (919) 541–3419 or (919) 541–0977.

Dated: March 10, 1993.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 93–5926 Filed 3–15–93; 8:45 am]

BILLING CODE 4140–01–M

[1] The NTP uses five categories of evidence of carcinogenic activity observed in each animal study: two categories for positive results ("clear evidence" and "some evidence"), one category for uncertain findings ("equivocal evidence"), one category for no observable effect ("no evidence"), and one category for studies that cannot be evaluated because of major flaws ("inadequate study").

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–940–03–4210–02]

Notice of Public Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management has prepared a draft report to Congress concerning the history, as well as current and future administration, of road rights-of-way granted under the provisions of Revised Statute 2477 (R.S. 2477). This statute was repealed with the enactment of the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579), but valid existing rights were retained. The draft addresses the impacts of current and

potential claims of R.S. 2477 rights-of-way, possible alternative methods for assessing the validity of such claims and alternatives to obtaining rights-of-way.

SUPPLEMENTARY INFORMATION: Conference Report 102–901, which accompanied the 1993 Appropriations Act for the Department of Interior and related agencies, directed the Department of the Interior to report to the appropriate Congressional committees on the following aspects of management of the R.S. 2477 rights-of-way.

- The likely impacts of current and potential claims under R.S. 2477 on: the management of federal lands, access to federal, private, state and Indian & native lands, access to multiple use activities.
- The current status claims under R.S. 2477.
- Possible alternatives for assessing the validity of claims under R.S. 2477.
- Possible alternatives to obtaining rights-of-way.

This draft report will be available for public review and comment on March 18, 1993. A series of public meetings will be held to discuss the draft report: April 6, 1–3 p.m. and 6–9 p.m., Sacramento Inn, 1401 Arden Way, Sacramento, California; April 7, 4–8 p.m., BLM Conference Room, Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah; April 9, 10–2 p.m. Las Vegas Library, 833 Las Vegas Blvd. No., Las Vegas, Nevada; April 12, 2–4 and 7–9 p.m., BLM Conference Room, Boise, District Office, 3948 Development Avenue, Boise, Idaho; April 15, 9:30–11:30 a.m. and 1–3 p.m., Noel Wien Library Auditorium, 1215 Cowles Avenue, Fairbanks, Alaska; and April 16, 12–4 p.m., ZJ Loussac Library Conference Room, 3600 Denali Street, Anchorage, Alaska.

The public comment period will end on April 16, 1993. Comments received after this date may not be included in the final report submitted to Congress.

Written comments should be addressed to Ted Stephenson, R.S. 2477 Project, Utah State Office BLM, P.O. Box 45155, Salt Lake City, UT 84145–0155.

FOR FURTHER INFORMATION CONTACT: Ted Stephenson or Terry Catlin, R.S. 2477 Project, Utah State Office BLM, P.O. Box 45155, Salt Lake City, Utah 84145–0155; Telephone (801) 539–4100.

Ted D. Stephenson,

R.S. 2477 Task Force Leader.

[FR Doc. 93–5901 Filed 3–15–93; 8:45 am]

BILLING CODE 4310–DQ–M

[AZ–030–4210–06; A–27587, A–27588, A–27589]

Notice of Proposed Withdrawal and Opportunity for a Public Meeting; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service (FS) has filed applications A–27587, A–27588 and A–27589 to withdraw from location and entry under the mining laws only, appoximately 1,277.00 acres of National Forest System lands. The withdrawals as proposed are for the Charcoal Kiln Historic Site, the Grapevine Springs Botanical Area and the Lynx Creek Indian Ruin. The withdrawals will be made subject to valid existing rights. Existing improvements are located at the Charcoal Kiln Historic Site and the Lynx Creek Indian Ruin and presently have an estimated value of $50,000 and $45,000 respectively. No improvements are located at the Grapevine Springs Botanical Area.

These applications are in compliance with the regulations found in 43 CFR 2310.1–2 and the Prescott National Forest Plan. Publication of this notice closes the land for up to 2 years from location and entry under the United States mining laws only. Other uses applicable to National Forest System lands will continue to be allowed.

DATES: Comments and requests for a meeting should be received on or before June 14, 1993.

ADDRESSES: Comments and meeting requests should be sent to the Arizona State Director, Bureau of Land Management (BLM), 3707 North 7th Street, Phoenix, Arizona 85014, or P.O. Box 16563, Phoenix, Arizona 85011–6563.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM, Arizona State Office, 602–640–5509.

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture, Forest Service, filed applications A–27587, A–27588 and A–27589 to withdraw the following described lands from location and entry under the United States mining laws only. Other uses applicable to National Forest System lands will be allowed to continue. The withdrawals will be issued subject to valid existing rights. The withdrawals are for three sites located as described below:

Gila and salt River Meridian, Arizona; (Prescott National Forest)

A–27587, Charcoal Kiln Historic Site, (77.00) acres)
T. 12½ N., R. 1 W.,
Sec. 21, Lots 4 & 5.
T. 13 N., R. 1 W.,
Sec. 33, SE¼SW¼.
A–27588, Grapevine Springs Botanical Area, (1,040.00 acres)
T. 12½ N., R. 1 W.,
Sec. 26, S½SW¼,
Sec. 35, All,
Sec. 36, S½NW¼, SW¼, W½SE¼.
A–27589, Lynx Creek Indian Ruin, (160.00 acres)
T. 13 N., R. 1 W.,
Sec. 5, E½SW¼, W½SE¼.

All applications aggregate approximately 1,277.00 acres in Yavapai County.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with any or all of the proposed withdrawals. All interested persons who desire a public meeting for the purpose of being heard on any of the proposed withdrawals must submit a written request to the undersigned officer within 90 days from the date of publication of this notice.

Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with any or all of the proposed withdrawals may present their views in writing to the undersigned officer of the Bureau of Land Management.

The applications will be processed in accordance with regulations as set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the applications are denied, cancelled or the withdrawals are approved prior to the date.

The temporary segregations on the land in conjunction with these applications shall not affect the administrative jurisdiction over it.

John H. Stephenson,

Acting Deputy State Director, Lands and Renewable Resources.

[FR Doc. 93–5952 Filed 3–15–93; 8:45 am]

BILLING CODE 4310–33–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before

March 6, 1993. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by March 31, 1993.

Antoinette J. Lee,

Acting Chief of Registration, National Register.

CALIFORNIA

Alameda County

Edwards, George C. Stadium, Jct. of Bancroft Way and Fulton St., UC Berkeley campus, Berkeley, 93000263

Los Angeles County

Baldwin Hills Village, 530 Rodeo Rd., Los Angeles, 93000269

Marin County

Sausalito Woman's Club, 120 Central Ave., Sausalito, 93000272

Napa County

Goodman, George E., Mansion, 1120 Oak St., Napa, 93000261

Goodman, George E., Jr., House, 492 Randolph St., Napa, 93000270

Manasse, Edward G., House, 495 Coombs St., Napa, 93000271

Orange County

Orange Intermediate School—Central Grammar School, 370 N. Glassell St., Orange, 93000282

Santa Clara County

Miller—Melone Ranch, 12795 Saratoga—Sunnyvale Rd., Saratoga, 93000260

Southern Pacific Depot, 65 Cahill St., San Jose, 93000274

CONNECTICUT

Litchfield County

Sharon Historic District, Roughly, Main St. from Low Rd. to jct. with Mitchelltown, Amenia Union and W. Woods Rds., Sharon, 93000257

FLORIDA

Palm Beach County

Via Mizner, 337—339 Worth Ave., Palm Beach, 93000256

GEORGIA

Bibb County

East Macon Historic District, Roughly bounded by Emery Hwy., Coliseum Dr., and Clinton, Fletcher and Fairview Sts., Macon, 93000281

LOUISIANA

Jefferson Davis Parish

Funk House, 523 Cary Ave., Jennings, 93000267

Ilgenhurst, 402 W. Nezpique, Jennings, 93000273

Twitchell House, 803 Cary Ave., Jennings, [redacted]

MARYLAND

Prince George's County

Bellamy, Raymond W., House, 2819 Cheverly Ave., Cheverly, 93000265

MINNESOTA

St. Louis County

East Howard Street Commercial Historic District, 101—510 E. Howard St., Hibbing, 93000255

MISSOURI

St. Louis Independent City

Negro Masonic Hall, 3615—3619 Dr. Martin Luther King Blvd., St. Louis (Independent City), 93000262

MONTANA

Chouteau County

Teton River Crossing on the Whoop-Up Trail (Whoop-Up Trail of Northcentral Montana MPS), Address Restricted, Carter vicinity, 93000275

Pondera County

Froggie's Stopping Place on the Whoop-Up Trail (Whoop-Up Trail of Northcentral Montana MPS), Address Restricted, Conrad vicinity, 93000277

Toole County

Rocky Springs Segment of the Whoop-Up Trail (Whoop-Up Trail of Northcentral Montana MPS), Address Restricted, Kevin vicinity, 93000278

NEW MEXICO

Colfax County

Maxwell—Abreu and North (Martinez) Houses (Rayado Ranch MPS), Jct. of NM 121 and Rayado Creek Rd., NW corner, Cimarron vicinity, 93000253

Sierra County

Hillsboro High School, Jct. of Elenora St. and First Ave., SE corner, Hillsboro, 93000254

Socorro County

Archeological Site No. LA 1069 (Pueblo IV Sites of the Chupadera Arroyo MPS), Address Restricted, Bingham vicinity, [redacted]

Archeological Site No. LA 1070 (Pueblo IV Sites of the Chupadera Arroyo MPS), Address Restricted, Bingham vicinity, 93000244

Archeological Site No. LA 1071 (Pueblo IV Sites of the Chupadera Arroyo MPS), Address Restricted, Bingham vicinity, 93000245

Archeological Site No. LA 1072 (Pueblo IV Sites of the Chupadera Arroyo MPS), Address Restricted, Bingham vicinity, 93000246

Archeological Site No. LA 1073 (Pueblo IV Sites of the Chupadera Arroyo MPS), Address Restricted, Bingham vicinity, 93000247

Archeological Site No. LA 1074 (Pueblo IV Sites of the Chupadera Arroyo MPS), Address Restricted, Bingham vicinity, [redacted]

Archeological Site No. LA 1075 (Pueblo IV Sites of the Chupadera Arroyo MPS), Address Restricted, Bingham vicinity, 93000249

Archeological Site No. LA 1076 (Pueblo IV Sites of the Chupadera Arroyo MPS), Address Restricted, Bingham vicinity, 93000250

Archeological Site No. LA 1181 (Pueblo IV Sites of the Chupadera Arroyo MPS), Address Restricted, Bingham vicinity, 93000251

Archeological Site No. LA 1201 (Pueblo IV Sites of the Chupadera Arroyo MPS), Address Restricted, Bingham vicinity, 93000252

NEW YORK

Dutchess County

Bogardus—DeWindt House, 16 Tompkins Ave., Beacon, 93000280

Suffolk County

Congregational Church of Patchogue, 95 E. Main St., Patchogue, 93000279

TEXAS

Cameron County

Palmito Ranch Battlefield, Between TX 4 (Boca Chica Hwy.) and the Rio Grande, approximately 12 mi. E of Brownsville, Brownsville vicinity, 93000266

VERMONT

Addison County

Witherell Farm (Agricultural Resources of Vermont MPS), Town Hwy. 74 (Witherell Rd.) W of Lakeview and St. Genevieve cemeteries, Shoreham Township, Shoreham vicinity, 93000241

Orange County

May, Asa, House, Town Hwy. 4 (Blood Brook Rd.) SE of West Fairlee Center, West Fairlee Township, West Fairlee vicinity, 93000240

Windsor County

Raymond, Isaac M., Farm (Agricultural Resources of Vermont MPS), Jct. of Woodstock Town Hwys. 95 and 18, Woodstock Township, Woodstock vicinity, 93000242

WISCONSIN

DANE COUNTY

Lake View Sanatorium, 1204 Northport Dr., Madison, 93000258

Sauk County

Marshall Memorial Hall, 30 Wisconsin Dells Pkwy. S., Lake Delton, 93000264

Taylor County

Medford Free Public Library (Public Library Facilities of Wisconsin MPS), 104 E. Perkins St., Medford, 93000259

[FR Doc. 93–5913 Filed 3–15–93; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–342]

Certain Circuit Board Testers; Commission Decision To Extend Administrative Deadline for Completion of the Temporary Relief Proceedings; Setting of New Administrative Deadline

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend by one week the administrative deadline for completion of temporary relief proceedings in the above-captioned investigation. The new administrative deadline is March 17, 1993.

ADDRESSES: Copies of the nonconfidential version of the ID and all other non-confidential documents filed in connection with this investigation are, or will be, available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3104. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: On September 25, 1992, Integri-Test, Corp. (Integri-Test) filed a complaint and a motion for temporary relief with the Commission alleging violations of section 337 in the importation and sale of certain circuit board testers allegedly covered by certain claims of Integri-Test's U.S. Letters Patent 4,565,966 (the '966 patent). The notice of investigation instituting an investigation based on Integri-Test's complaint was published in the **Federal Register** on November 2, 1992. 57 FR 49490. Bath Scientific Ltd. of the United Kingdom and BSL North America of Massachusetts were named as respondents. Pursuant to Commission interim rule 210.24(e)(8) (19 CFR 210.24(e)(8)), the Commission also provisionally accepted Integri-Test's motion for temporary relief.

On January 11, 1993, the ALJ issued an ID denying complainant's motion for temporary relief. On January 19, 1993, the parties filed written comments concerning the ID. Parties filed reply comments on January 25, 1993. No government agency comments were received.

On February 1, 1993, the Commission determined to designate the temporary relief phase of the investigation "more complicated" because the ALJ's ID was based on incomplete and/or erroneous legal analyses and did not contain sufficient factual findings to support a denial of relief. In order to ensure sufficient time to supplement the findings of fact made in the ID and to issue an opinion in support of its determination, the Commission set an administrative deadline of March 10, 1993, for completion of the investigation. 58 FR 7746 (February 5, 1993).

This action is taken under authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

Issued: March 10, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–5918 Filed 3–15–93; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC–212A]

Monitoring of Motor Tariff Filings

Congress has appropriated additional resources to the Commission for the purpose of monitoring and enforcing our tariff filing standards and requirements.[1] With these added resources, we intend to increase our monitoring and enforcement efforts by screening new tariff filings to detect those which fail to comply with our regulatory standards and requirements, and by examining existing tariffs for violations.

Tariffs that fail to comply will be subject to rejection. Increased Commission action to obtain compliance should assist in preventing substantively unlawful provisions from becoming effective and ensuring that tariffs are not needlessly difficult to use and understand. We will initially focus our monitoring upon the most egregious tariff deficiencies. These include the following:

[1] Specifically, our fiscal year 1993 appropriation provides funding for an additional eight staff-years for our Office of Tariffs, to enable us to respond to Congress' concern that our motor carrier tariff filing standards be adequately enforced. See Senate Report No. 102–351, dated July 30, 1992, Senate Committee on Appropriations.

(1) Failure to Participate in Governing Tariffs

Our regulations require that a carrier issuing or participating in a particular tariff also participate in all other tariffs which are "referred to" or which govern that tariff, 49 CFR 1312.27(e), by executing either a concurrence or power of attorney, 49 CFR 1312.4(d). Otherwise, the tariff provision which depends upon the provisions of such other tariffs is void as a matter of law and cannot be applied, 49 CFR 1312.4(d). This requirement ensures that carriers maintain control over their own rates and do not delegate the ratemaking function in any way to others without knowledge of, and formal agreement to, any and all provisions (including revisions) governing their rates. Some carriers have failed to comply with this requirement, thereby engendering considerable confusion and resulting in litigation over the applicable rates for their services.[2] Increasing monitoring of compliance with this requirement will limit the potential for similar cases in the future.

(2) Pricing Based on Ineffective, or Obsolete Rate Levels

Another source of confusion as to the rate specified in a tariff is when a tariff establishes a price (usually a discount) that is based on obsolete rate levels. For example, suppose a carrier filed a tariff, to take effect January 1, 1993, which provided: "Shipments moving for the account of XXXXX will be charged for at the class rate level in effect January 1, 1990 less a discount of 40%." Suppose also that the tariff containing the January 1, 1990 class rate level had been canceled and replaced, so that the current class rate tariff is different than the base rates referred to in the new tariff filing. This appears to violate 49 U.S.C. 10761(a), which provides that a carrier may not provide service unless "the rate for the transportation or service is contained in a *tariff that is in effect* * * *" (emphasis added). We will not permit a reference to an obsolete rate level where we are aware of it.

[2] *See, e.g., Jasper Wyman & Son et al.—Pet. for Declaratory Order*, 8 I.C.C.2d 246 (1992), *appeal pending sub. nom. Overland Express, Inc.* v. *ICC & USA*, No. 92–1037 (D.C. Cir., filed Feb. 13, 1992); *Wonderoast, Inc.—Transp. Systems International, Inc.*, 8 I.C.C.2d 272 (1992), *aff'd sub nom., Thomas G. Lovett, Jr., Trustee for the Bkrptcy Est. of Transp. Systems International, Inc.* v. *Wonderoast*, Adv. No. 4–89–292 (Bankr. D. Minn. June 26, 1992; *Freightcor Services, Inc.* v. *Vitro Packaging, Inc.*, 969 F.2d 1563 (5th Cir. 1992), *cert. denied* (Jan. 12, 1993).

(3) Unlawful Tariff Rules, Regulations, and/or practices

More generally, we will not knowingly permit a tariff filing that would be unlawful on its face under existing statutory and regulatory requirements or that would be facially defective (for patent vagueness or ambiguity, for example).

FOR FURTHER INFORMATION CONTACT: Thomas A. Mongelli, (202) 927–5150, or Charles E. Langyher, (202) 927–5160. [TDD for hearing impaired: (202) 927–5721]

Decided: February 24, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–5997 Filed 3–15–93; 8:45 am]

BILLING CODE 7035–01–M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (P.L. 92–463); 86 Stat. 770) notice is hereby given of a public meeting to be held in Boston, Massachusetts, on Wednesday in the Federal Reserve Bank of Boston, 600 Atlantic Avenue, in the New England Room, and on Thursday at the Omni Parker House, 60 School Street, in the Kennedy Room.

DATES: Wednesday, March 31, 1993 2 p.m.–4 p.m.; Thursday, April 1, 1993 9 a.m.–12 p.m.

STATUS: The meeting is to be open to the public.

MATTERS TO BE DISCUSSED: The purpose of this public meeting is to enable the Commission members to discuss progress on the research agenda, future research, and budget and administrative matters.

FOR FURTHER INFORMATION CONTACT: Barbara C. McQuown, Director, National Commission for Employment Policy, 1522 K Street, NW., suite 300, Washington, DC 20005, (202) 724–1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established pursuant to title IV–F of the Job Training Partnership Act (P.L. 97–300). The Act charges the Commission with the broad responsibility of advising the President, and the Congress on national employment issues.

The meeting will be open to the public. Handicapped individuals wishing to attend should contact the Commission so that appropriate accommodations can be made.

Anyone wishing to submit comments prior to the meeting, should do so by C.O.B. March 29, and they will be included in the record. Minutes of the meeting will be available for public inspection at the Commission's headquarters, 1522 K Street, NW., suite 300, Washington, DC 20005.

Signed at Washington, DC, this 10th day of March, 1993.

Barbara C. McQuown,

Director, National Commission for Employment Policy.

[FR Doc. 93–5968 Filed 3–15–93; 8:45 am]

BILLING CODE 4510–23–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Economics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Date and Time: April 1–3, 1993, 9 a.m. to 6 p.m.

Place: Rooms 543 and 523, 1800 G Street, NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Daniel Newlon, Program Director for Economics, Division of Social, Behavioral, and Economics Research, room 336, National Science Foundation, 1800 G Street NW., Washington, DC 20550, Telephone: (202) 357–9675.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 10, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–5904 Filed 3–15–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–280 and 50–281]

Virginia Electric & Power Co., Surry Power Station, Units 1 and 2; Environmental Assessment

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to the Virginia Electric and Power Company (the licensee), for the Surry Power Station, Unit Nos. 1 and 2, located in Surry County, Virginia.

Environmental Assessment

Identification of Proposed Action

The proposed amendments would revise Technical Specification (TS) to allow one of two service water flow paths to the main control and emergency switchgear rooms air conditioning condensers to be removed from service for system maintenance. This is accomplished by specifying an Action Statement for operable service water flow paths to the main control and emergency switchgear rooms air conditioning condensers governed by TS 3.14.C. A Limiting Condition for Operation (LCO) permitting one train to be out of service for 24 hours prior to HOT SHUTDOWN and an additional 48 hours prior to COLD SHUTDOWN will be used in lieu of the requirements of TS 3.0.1.

The Need for the Proposed Action

The proposed change is necessary to facilitate system maintenance without shutting down the plants as currently required by the TS.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the TS to allow the removal of one of the above cited service water flow paths from service for a limited period of time and has found them to be acceptable. Without such operational flexibility, the current TS would require shutting down both Surry units, since both units share a common control room and air conditioning system. Routinely performing maintenance of this system will increase the reliability of the service water supply to the main control and emergency switchgear rooms' air conditioning condensers. Since an adequate supply of service water is being maintained by the redundant service water train, the existing analysis envelope remains bounding, hence there is not a significant increase in the probability or consequences of an accident. No changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this action would result in no significant environmental impact.

With regard to potential non-radiological impacts, the proposed changes to the Technical Specifications involve systems located within the restricted area as defined in 10 CFR Part 20. They do not affect non-radiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendments.

The Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing was published in the **Federal Register** on December 10, 1992 (57 FR 58523). No request for hearing or petition for leave to intervene was filed following this notice.

Alternatives to the Proposed Action

Since the Commission has concluded that the environmental effects of the proposed action are not significant, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendments. This would not reduce the environmental impacts of plant operation and would result in no benefits to the public.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Surry Power Station, Units 1 and 2.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendments.

Based upon the foregoing environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendments dated November 10, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Rockville, Maryland, this 9th day of March, 1993.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–5971 Filed 3–15–93; 8:45 am]

BILLING CODE 7590–01–M

Toledo Edison Company, et al.

[Docket No. 50–346]

Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 178 to Facility Operating License No. NPF–3, issued to The Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company (the licensee), which revised the Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment was effective as of the date of its issuance.

The amendment revised the Technical Specification sections for reactivity control systems related to group heights for safety and regulating rod groups and for position indicator channels, thereby allowing more operational flexibility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on August 5, 1992 (57 FR 34598). No request for hearing or petition for leave to intervene was filed following this notice.

For further details with respect to this action see (1) the application for amendment dated April 30, 1992 (2) Amendment No. 178 to License No. NPF–3, (3) the Commission's related Safety Evaluation dated March 8, 1993 and (4) the Environmental Assessment dated February 3, 1993 (58 FR 8068). All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III/IV/V.

Dated at Rockville, Maryland this 8th day of March 1993.

For the Nuclear Regulatory Commission.

Jon B. Hopkins, Sr.

Project Manager, Project Directorate III–3, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–5792 Filed 3–15–93; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF GOVERNMENT ETHICS

Senior Executive Service Performance Review Board: Updating

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the updated OGE Performance Review Board.

EFFECTIVE DATE: March 16, 1993.

FOR FURTHER INFORMATION CONTACT: Robert E. Lammon, Associate Director for Administration, Office of Government Ethics, 1201 New York Avenue NW., suite 500, Washington, DC 20005–3917, telephone (202/FTS) 523–5757.

SUPPLEMENTARY INFORMATION: 5 U.S.C. 4314(c) (1)–(5), requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management at 5 CFR part 430, subpart C and § 430.307 thereof in particular, one or more Senior Executive Service (SES) performance review boards. In order to insure an adequate level of staffing and to avoid a constant series of recusals, the members of the OGE board are being drawn primarily from the SES ranks of other agencies because OGE itself now has only four SES members. The board shall review and evaluate the initial appraisal of OGE senior executives' performance by the supervisor, along with any recommendations in each instance to the appointing authority relative to the performance of the senior executive. This notice updates the membership of OGE's SES Performance Review Board that was published in the **Federal Register** on July 23, 1990, at 55 FR 29927.

Approved: March 8, 1993.

Stephen D. Potts,

Director, Office of Government Ethics.

The following have been selected as regular members of the Performance Review Board of the Office of Government Ethics:

Donald E. Campbell [Chair], Deputy Director, Office of Government Ethics
Gary J. Edles, General Counsel, Administrative Conference of the United States
Llewellyn M. Fischer, General Counsel, Merit Systems Protection Board
Gabriele Paone, Deputy Agency Ethics and Audit Coordination Official, Department of the Interior
Sandra Shapiro, Associate General Counsel, Department of Health and Human Services

[FR Doc. 93–6002 Filed 3–15–93; 8:45 am]
BILLING CODE 6345–01–U

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

March 1, 1993.

This report is submitted in fulfillment of the requirement of section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) requires a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to Congress.

This report gives the status of 12 deferrals contained in three special messages for FY 1993. These messages were transmitted to Congress on October 1, and December 30, 1992, and on February 26, 1993.

Rescissions

As of the date of this report, no rescission proposals are pending before the Congress.

Deferrals (Attachments A and B)

Attachment A provides the status of the $3,669.8 million in budget authority being deferred from obligation as of March 1, 1993. Attachment B provides the status of each deferral reported during FY 1993.

Information from Special Messages

The special messages containing information on the deferrals that are covered by this cumulative report are printed in the **Federal Registers** cited below:

57 FR 46730, Friday, October 9, 1992

58 FR 3368, Friday, January 8, 1993

(The third special message for FY 1993 had not been printed in the **Federal Register** as of the date of this report)

Leon E. Panetta,

Director.

ATTACHMENT A.—STATUS OF FY 1993 DEFERRALS

	Amounts (in millions of dollars)
Deferrals proposed by the President	4,467.5
Routine Executive releases through March 1, 1993	−797.7
Overturned by the Congress	
Currently before the Congress	3,669.8

ATTACHMENT B.—STATUS OF FY 1993 DEFERRALS—AS OF MARCH 1, 1993

[Amounts in thousands of dollars]

Agency/bureau/account	Deferral No.	Amounts transmitted: Original request	Amounts transmitted: Subsequent change (+)	Date of message	Releases (−): Cumulative OMB/agency	Releases (−): Congressionally required	Congressional action	Cumulative adjustments (+)	Amount deferred as of 3–1–93
Funds Appropriated to the President									
International security assistance economic support fund.	D93–1	492,736		10–1–92					
	D93–1A		1,492,774	12–30–92	602,449				1,383,062
Foreign military financing grants	D93–8	1,487,000		12–30–92					1,487,000
Foreign military financing program	D93–9	149,200		12–30–92	138,997				10,203
Agency for International Development:									
Demobilization and transition fund.	D93–2	13,750		10–1–92					13,750
International disaster assistance, executive.	D93–10	63,823		2–26–93	7,068				56,755
Sub-Saharan Africa assistance, executive.	D93–11	67,188		2–26–93	14,000				53,188
Department of Agriculture									
Forest Service:									
Cooperative work	D93–3	364,582		10–1–92	33,151				331,431
Expenses, brush disposal	D93–4	40,241		10–1–92					
	D93–4A		5,835	12–30–92					46,076
Timber salvage sales	D93–12	222,994		2–26–92					222,994
Department of Defense—Civil									
Wildlife Conservation, Military Reservations:									
Wildlife conservation, Defense	D93–5	2,175		10–1–92					2,175
Department of Health and Human Services									
Social Security Administration limitation on administrative expenses.	D93–6	7,267		10–1–92					7,267

ATTACHMENT B.—STATUS OF FY 1993 DEFERRALS—AS OF MARCH 1, 1993—Continued

[Amounts in thousands of dollars]

Agency/bureau/account	Deferral No.	Amounts transmitted		Date of message	Releases (−)		Congressional action	Cumulative adjustments (+)	Amount deferred as of 3–1–93
		Original request	Subsequent change (+)		Cumulative OMB/agency	Congressionally required			
Department of State									
Bureau for Refugee Programs:									
United States emergency refugee and migration assistance fund.	D93–7	10,123	.....	10–1–92	.....	.....	.....	.....	.....
	D93–7A	.....	47,761	12–30–92	2,000	.....	.....	.....	55,884
Total, deferrals		2,921,080	1,546,371	.....	797,665	0	.....	0	3,669,786

[FR Doc. 93–6003 Filed 3–15–93; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF PERSONNEL MANAGEMENT

Request for Clearance of New Form RI 38–117

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for clearance of a new information collection. Form RI 38–117, Rollover Election, is designed to collect information from each payee affected by the change in the Federal income tax code, Public Law 102–318, so that OPM can make payment in accordance with the wishes of the payee. RI 38–118, Rollover Information, is a cover letter for RI 38–117; the information letter explains the election. More detailed information is provided on RI 37–22, Special Tax Notice Regarding Rollovers.

The estimated number of respondents is 12,000. We estimate it will take 30 minutes to complete this form. The annual burden is 6,000 hours.

For copies of this proposal, contact C. Ronald Trueworthy on (703) 908–8550.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Operations Support Division, Retirement & Insurance Group, U.S. Office of Personnel Management, 1900 E Street NW., room 3349, Washington, DC 20415

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Chief Administrative Management Branch (202) 606–0616.

U.S. Office of Personnel Management.

Patricia W. Lattimore,

Acting Director.

[FR Doc. 93–5902 Filed 3–15–93; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–31970; File No. 4–208]

Intermarket Trading System; Order Approving an Amendment to the ITS Plan Revising the Pre-Opening Rule

March 9, 1993.

On October 16, 1992, the Intermarket Trading System ("ITS") submitted to the Securities and Exchange Commission ("Commission") an amendment to the restated ITS Plan pursuant to section 11A of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78k–1, and Rule 11Aa3–2 thereunder.[1] The purpose of the amendment is to clarify the use of a cancellation notification under the ITS pre-opening rule. Notice of the proposal appeared in the **Federal Register** on November 10, 1992.[2] The Commission received no comments on the proposal. For the reasons discussed below, the Commission is approving the proposal.

The proposal amends the ITS pre-opening application rule to clarify the use of a cancellation notification (designated as "CXL") sent after a pre-opening notification.[3] Under the amendment, a cancellation notification will indicate that the security will open within the applicable price change, including the price range contained in the original pre-opening notification.[4]

Security	Consolidated closing price	Applicable price change (more than)
Network A ..	Under $15 ..	⅛ point.
	$15 or over.*.	¼ point.
Network B ..	Under $5	⅛ point.
	$5 or over ..	¼ point.

*If the previous day's consolidated closing price of a Network A eligible security exceeded $100 and the security does not underlie an individual stock option contract listed and currently trading on a national securities exchange, the applicable price change is one point.

[1] The ITS is a National Market System ("NMS") plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3–2. The ITS was designed to facilitate intermarket trading in exchange-listed equity securities based on current quotation information emanating from the linked markets. Securities Exchange Act Release No. 19456 (January 27, 1983), 48 FR 4938.

Participants to the ITS Plan include the American Stock Exchange, Inc. ("AMEX"), the Boston Stock Exchange, Inc. ("BSE"), the Chicago Board Options Exchange, Inc. ("CBOE"), the Cincinnati Stock Exchange, Inc. ("CSE"), the Midwest Stock Exchange, Inc. ("MSE"), the National Association of Securities Dealers, Inc. ("NASD"), the New York Stock Exchange, Inc. ("NYSE"), the Pacific Stock Exchange, Inc. ("PSE"), and the Philadelphia Stock Exchange, Inc. ("PHLX").

[2] Securities Exchange Act Release No. 31396 (November 2, 1992), 57 FR 53530.

[3] The pre-opening rule prescribes that if an ITS market maker anticipates that the opening transaction in the stock will be at a price that represents a change from the security's previous day's consolidated closing price by more than the "applicable price change," the market maker shall notify other participant markets by sending a pre-opening notification through ITS. See ITS Plan, section 7(a). See also infra note 4.

The pre-opening rule also applies whenever an "indication of interest" is sent to the CTA plan processor prior to the reopening of trading of an ITS security following a trading halt, even if the anticipated price is not greater than the applicable price change. See ITS Plan, section 7(a). See also Securities Exchange Act Release No. 27472 (November 24, 1989), 54 FR 49829.

[4] The ITS Plan defines "applicable price changes" as:

ITS Plan, Section 7(a).

The amendment applies to the situation where an ITS market maker has sent a cancellation notification following the initial pre-opening notification, and subsequently receives additional orders indicating the security will open within the price range of the original pre-opening notification. Under the current pre-opening rule, a cancellation notification represents that the market maker will open the security within the applicable price change, but outside the price range of the original pre-opening application.

For example, a market maker sends a pre-opening notification of 30–30½ for a stock that closed at 30. Subsequent to sending the notification, the market maker receives sell orders indicating that the stock will be opened at 29⅞. The market maker then sends a cancellation notification—which, by definition, means that the stock will open at 29⅜ or 29⅞. The market maker then receives more buy orders and opens the stock at 30, which is outside the 29⅜ or 29⅞ prices. The pre-opening rule does not currently address this situation.

As revised, the CXL notification procedure will operate as follows:

The CTA close in a stock is 30. A pre-opening notification is sent with any one of the following price ranges: 30–30½; 30⅛–30⅝; or, 30¼–30¾. It is then determined that the stock will open at 29⅜ or 29⅞ and the market maker sends a cancellation notification. If it is subsequently determined that stock will open at 30, 30⅛, or 30¼, under the amendment the market maker will not be required to reindicate the stock. The amendment will conform the pre-opening rule to commonly understood practice among the ITS participant markets.

The Commission finds that approval of the amendment is consistent with the Act, in particular, with sections 11A(a)(1)(C)(ii) and (D) which provide for fair competition among the ITS participants and their members, and the linking of all markets for qualified securities through communications and data processing facilities which foster efficiency, enhance competition, increase the information available to brokers, dealers, and investors, facilitate the offsetting of investors orders, and contribute to the best execution of such orders. The Commission also finds the amendment consistent with Rule 11Aa3–2(c)(2) which requires the Commission to determine that the amendment is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system or otherwise in furtherance of the Act.

The pre-opening application enables an ITS market maker who wishes to open his or her market in an ITS stock to obtain any pre-opening interest in that stock of other market markers registered in that stock in other participant markets. This enables ITS market makers to participate as either principal or as agent in the opening transaction in a stock in another participant market, and thus, enables execution of limited price orders that may otherwise go unexecuted. The instant filing should prevent confusion in the pre-opening process by clarifying the use of a cancellation notification sent after a pre-opening notification.

For the foregoing reasons, the Commission finds that the ITS amendment is consistent with the Act and the rules and regulations thereunder applicable to the ITS and, in particular, Sections 11A(a)(1)(C)(ii) and (D) of the Act and Rule 11Aa3–2(c)(2).

It is Therefore Ordered, Pursuant to section 11A(a)(3)(B) of the Act, that the amendment be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(29).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5910 Filed 3–15–93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–31969; International Series Release No. 525; File No. SR–CBOE–93–08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Listing of Options on Country Funds

March 9, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 3, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to provide for the listing and trading of options on the securities issued by registered closed-end management investment companies that invest in securities of issuers located in a particular foreign country ("Country Funds").

The text of the proposal is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

By order dated August 29, 1991, the Commission approved uniform proposals by the options exchanges to revise the criteria that a security must satisfy in order to be eligible to underlie a standardized individual equity option.[1] In footnote eleven of that order, the Commission stated that the "Exchanges must file separate rule changes pursuant to section 19(b) of the Act for options on securities other than common stock."

The purpose of the current proposal is to request Commission approval of uniform criteria for listing options on securities issued by Country Funds. The proposed criteria would permit the CBOE, without further Commission approval, to list options on securities issued by Country Funds that meet the Exchange's initial listing criteria provided: (1) The Exchange has in place an effective surveillance sharing agreement with the primary exchange in the home country on which the securities held in the Country Fund's portfolio are traded; or (2) the Commission otherwise authorizes the listing.

[1] Securities Exchange Act Release No. 29628 (August 29, 1991), 56 FR 43949.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and section 6(b)(5) in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and the national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE believes that the proposed rule change will not impose an inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 6, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-5909 Filed 3-15-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-31976; File No. SR-GSCC-92-18]

Self-Regulatory Organizations; Government Securities Clearing Corp.; Notice of Filing of a Proposed Rule Change Relating to Amendments to Rules on Financial Reporting Requirements

March 10, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 28, 1992, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify section 5 of GSCC's Rule 2 to enhance GSCC's financial reporting standards and to provide greater consistency with the Commission's uniform net capital rule.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to enhance GSCC's financial responsibility standards and to provide greater symmetry between those standards and the Commission's net capital rule. GSCC proposes to accomplish this purpose by incorporating the essence of the notice provisions of paragraph (e)(1) of the net capital rule[3] into its rules.

The failure in 1990 of Drexel Burnham Lambert, Inc. led to various legislative and regulatory changes. Among them were the amendments adopted by the Commission to its net capital rule to give the Commission the ability to restrict capital flows from registered broker-dealers to affiliates during periods of distress.

The amendments address the Commission's concern that significant amounts of equity capital could be withdrawn from a broker-dealer between reporting periods without notification to the Commission or to the broker-dealer's designated examining authority. Such capital withdrawals might indicate that the broker-dealer is experiencing financial difficulty, that its equity is being improperly appropriated for the benefit of its owners, or that its owners are being favored to the detriment of customers and other creditors.

The amendments to the Commission's net capital rule, among other things, require a registered broker-dealer to notify the Commission and its designated examining authority (i.e., generally, the NYSE or NASD) two business days before the occurrence of any withdrawal of equity capital that exceeds thirty percent of the broker-dealer's excess net capital and two business days after withdrawals that exceed twenty percent of the broker-dealer's excess net capital.

In order to enhance GSCC's surveillance capabilities, GSCC would amend its rules to impose on each member that is subject to the Commission's net capital rule the requirements that it: (1) Notify GSCC of the fact it has provided to its regulators a capital withdrawal notice on the day that it does so and (2) provide a copy of such notice to GSCC on that day. This new requirement would not affect the relatively few GSCC members that are not subject to the net capital rule such as banks or broker-dealers that are

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[2] 17 CFR 200.30-3(a)(12) (1992).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.15c3-1 (1992).

[3] 17 CFR 240.15c3-1(e)(1) (1992).

subject to the Treasury Department's liquid capital rule.

The proposed rule change will strengthen GSCC's rules relating to financial surveillance and financial responsibility, which are designed to protect GSCC and its members. Thus, GSCC believes that the proposed rule changes are consistent with the requirements of the Act, particularly section 17A of the Act, and the rules and regulations thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments on the proposed rule change have not yet been solicited or received. Members will be notified of the rule filing, and comments will be solicited by an Important Notice. GSCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to the file number SR–GSCC–92–18 and should be submitted by April 6, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5976 Filed 3–15–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31975; File No. SR–MSE–93–04]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Midwest Stock Exchange, Inc., Relating to an Extension of the Pilot Program for Stopped Orders in Minimum Variation Markets

March 10, 1993.

Pursuant to section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 17, 1993, the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The MSE has requested accelerated approval of the proposal. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSE proposes to extend the pilot program for stopped orders in minimum variation markets for an additional three (3) month period. This is the first requested extension of the pilot, originally approved by the Commission on January 14, 1992.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend an MSE pilot program for an additional three months which established procedures regarding the execution of "stopped" market orders[4] in minimum variation markets (usually an ⅛th point spread market). The Exchange also has a policy regarding the execution of stopped market orders generally.[5] However, the Exchange believed that it was necessary to establish a separate policy for executing stopped market orders when there is a minimum variation market.

The Exchange's current policy regarding the execution of stopped orders is to execute them after the next primary market sale on a "next no better" basis.[6] In a minimum variation market, the MSE believes this policy frequently causes the anomalous result of requiring the execution of all pre-existing orders even if those orders are not otherwise entitled to be filled.[7] The

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[4] 17 CFR 200.30–3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] See Securities Exchange Act Release No. 30189 (January 14, 1992), 57 FR 2821 (January 22, 1992) (order approving MSE pilot program for stopped orders in minimum variation markets).

[4] When a specialist agrees to "stop" a market order at a specified price, the specialist guarantees the purchase or sale of the securities at the price or its equivalent in the amount specified. See MSE Article XX, Rule 28.

[5] Prior to the commencement of the pilot program, Exchange Rules required specialists to grant stops if an out-of-range execution would result, regardless of the spread. The term "out-of-range" means either higher or lower than the price range in which the security traded on the primary market during a particular trading day.

[6] "Next or no better" means that a customer who requests a stop at a specific price will not do any worse than that price and could do better.

[7] For example, assume the market in ABC stock is 20–20⅛; 50 × 50 (i.e. 5000 shares are bid at a price of 20 and 5000 shares are offered at a price of 20⅛). A customer places an order with the MSE specialist to buy 100 shares of ABC at the market. The specialist stops the order at 20⅛ (effectively guaranteeing that the customer bought the 100 shares at 20⅛ or at a better price to be determined) and the MSE specialist includes the order in his quote by bidding the 100 shares at 20. A transaction

Exchange's pilot program procedures will prevent unintended results by requiring the execution of stopped market orders in minimum variation markets after a transaction takes place in the primary market at the stopped price or higher, or after the applicable MSE share volume is exhausted. In no event will a stopped order be executed at a price inferior to the stopped price.[8] The pilot program procedures will continue to benefit customers because they might receive a better price than the stop price, yet it also protects MSE specialists by eliminating their exposure to executing potentially large amounts of bids or offers when such executions would otherwise not be required under Exchange rules.

2. Statutory Basis

The proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that no burdens will be placed on competition as a result of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the MSE. All submissions should refer to File No. SR–MSE–93–04 and should be submitted by April 6, 1993.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the MSE proposal to extend the pilot program for stopped orders in minimum variation markets for an additional three (3) month period is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with section 6(b)(5)[9] and section 11(b)[10] of the Act. Section 6(b)(5) requires, among other things, that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. Section 11(b) permits a specialist to effect only market or limited price transactions on the exchange as broker. The Commission believes that approving the proposal to extend, for an additional three months, the pilot program which amends MSE Article XX, Rule 37, should further the objectives of section 6(b)(5) and section 11(b) through the use of procedures designed to provide a revised policy for the execution of stopped orders, in minimum variation markets, while still providing the possibility of price improvement to customers whose orders are granted a stop.

As discussed in the original order approving the MSE pilot procedures for stopping stock in minimum variation markets, the Commission has been concerned about the practice of stopping stock for a number of years. Specifically, the Commission has voiced concern that the practice of stopping orders may cause customer limit orders on the book to be bypassed by the stopped orders, thereby compromising the specialist's fiduciary obligation to orders on the book.[11] Nevertheless, the Commission has allowed the practice of stopping stock in markets where the spread is twice the minimum variation because the possible harm to orders on the book would be offset by the possibility of price improvement to the stopped order when the spread between the bid and offer is reduced.[12] The Commission also has approved on-going New York Stock Exchange, Inc. ("NYSE") and American Stock Exchange, Inc. ("Amex") pilot programs which permit NYSE and Amex specialists, respectively, to stop stock in minimum variation markets under certain limited circumstances where there is an imbalance on the opposite side from the order being stopped, and the imbalance is of sufficient size, given the characteristics of the security, to suggest the likelihood of price improvement.[13]

The MSE has had a policy for the execution of orders in minimum variation markets. MSE Rule 37, Article XX, requires that a specialist grant a stop if requested by an MSE member firm if the execution would occur outside of the primary market range for the day. Thus, this rule generally operates to ensure that MSE customers receive executions on the MSE that are no worse than if executed on the primary market. While the pilot program adds new procedures for

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at 20⅛ would be out-of-range, and would therefore be a transaction at a price higher than any effected on the primary market that day. If the next sale on the primary exchange is for 100 shares at 20, MSE policy, prior to the initiation of the pilot procedures, required the specialist to execute the stopped market order at 20. However, because the stopped market order does not have time or price priority, its execution would have triggered the requirement for the MSE specialist to execute all pre-existing bids (in this case 5,000 shares) based on the Exchange's rules of priority and precedence. This would have been so, even though the pre-existing bids were not otherwise entitled to be filled.

In the above example, if there had been no stopped order, Exchange Rule 37 (Article XX) would have required the MSE specialist to fill orders at the limit price only if such orders would have been filled had they been transmitted to the primary market. Therefore, the 100 share print at 20 in the primary market would have caused at most 100 of the 5,000 share limit order to be filled on the MSE. However, because the MSE's policy regarding stopped orders would have required the 100 share stopped market order to be filled, all pre-existing bids at the same price would have been filled in accordance with Exchange Rule 16 (Article XX).

[8] Exchange Rule 28 (Article XX) states:

An agreement by a member or member organization to "stop" securities at a specified price shall constitute a guarantee of the purchase or sale by him or it of the securities at the price or its equivalent in the amount specified.

If an order is executed at a less favorable price than that agreed upon, the member or member organization which agreed to stop the securities shall be liable for an adjustment of the difference between the two prices.

[9] 15 U.S.C. 78f(b)(5) (1988).

[10] 15 U.S.C. 78k(b) (1988).

[11] See Securities Exchange Act Release No. 30189, *supra* note 3. The discussion in that order is incorporated by reference into this order. See also SEC, Report of the Special Study of Securities Markets of the Securities and Exchange Commission, H.R. Doc. 95, 88th Cong., 1st Sess., Pt. 2 (1963).

[12] See New York Stock Exchange, Inc., Rule 116.30; American Stock Exchange, Inc., Rule 109(c).

[13] See Securities Exchange Act Release No. 28999 (March 21, 1991), 56 FR 12984 (March 28, 1991) (File No. SR–NYSE–90–48); Securities Exchange Act Release No. 30482 (March 16, 1992), 57 FR 10198 (March 24, 1992) (File No. SR–NYSE–92–02) and Securities Exchange Act Release No. 30603 (April 17, 1992), 57 FR 15340 (April 27, 1992) (File No. SR–Amex–91–05).

stopping stock, the MSE has limited this practice to situations where the specialist stopping orders would not violate his or her fiduciary obligation to orders on the book. As discussed above, the pilot procedures provide that the stopped market orders will be executed in minimum variation markets if the primary market trades at the stopped price (thus, creating a new range for the day in the primary market which includes the stopped price), or if all of the displayed bid (in the case of stopped orders to buy) or offer (in the case of stopped orders to sell) has been exhausted on the MSE.

The Commission believes that the proposal is consistent with section 11(b) of the Act. Section 11(b) was designed, in part, to address potential conflicts of interest which may arise as a result of the specialist's dual role as agent and principal in executing transactions. In particular, Congress intended to prevent specialists from unduly influencing market trends through their knowledge of market interest from the specialist's book and their handling of discretionary agency orders.[14] The Commission has stated that, pursuant to section 11(b), all orders other than market or limit orders are discretionary and therefore cannot be accepted by specialists.[15] In our order approving the initiation of the MSE pilot program for stopping orders in minimum variation markets, the Commission stated its belief that, under the pilot, a specialist's treatment of stopped orders as equivalent to limit orders is appropriate, and consistent with section 11(b) of the Act because the orders would be automatically executed after a transaction takes place on the primary market at the stopped price. The Commission, therefore, believes that the requirements imposed on the specialist for granting stops in minimum variation markets under the MSE pilot procedures provide sufficient guidelines to ensure that the specialist implements the procedures in a manner consistent with his or her Section 11(b) market making obligations.

The Commission believes that the proposal is consistent with rule 11b–1(a)(2)(ii) of the Act.[16] Rule 11b–1(a)(2)(ii) requires that a specialist engage in a course of dealings for his or her account that assists in the maintenance, so far as practicable, of a fair and orderly market. The Commission believes that the proposal should further the objectives with Rule 11b–1(a)(2)(ii), because the procedures should help the specialist to provide an opportunity for price improvement to the customer whose order is granted a stop, without requiring execution of pre-existing bids or offers when such executions otherwise would not be required under Exchange rules.

The Commission believes that it is appropriate to extent the pilot program procedures for an additional three months in order to provide both the Commission and the Exchange an opportunity to study the effects of the revised procedures. At the same time, the pilot program should provide a benefit to investors through the possibility of price improvement to customers whose orders are granted stops in minimum variation markets. In our order approving these procedures on a pilot basis, the Commission specifically requested that the MSE monitor the operation of the revised procedures during the pilot program and report its findings to the Commission. The Commission stated that the report should include, among other things, the MSE's findings with respect to the percentage of stopped orders that are executed at the stop price and the percentage of such orders that receive a price that is better than the stop price. The Commission stated that the report also should contain an analysis of the impact on orders on the book resulting from the execution of stopped orders at a price that is better than the stopped price to determine if orders are being bypassed.

The MSE submitted its report to the Commission on March 2, 1993.[17] This report indicates that, during February, 1993, 3,700 market orders were stopped in a minimum variation market.

According to the MSE, 90% of these orders received improved execution prices and the remaining orders received the price they would have received if the order had not been stopped. The MSE also studied three days in February, 1993, specifically to see if there were orders at the stopped price that did not get executed because of the pilot procedures. According to the MSE, during those three days, when stopped orders received an improved price, there was an order at the stopped price that was not executed at the time 26% of the time.

The Commission is approving the use of the pilot procedures for an additional three months to allow the Commission an opportunity to review the MSE's data and to allow the Commission an opportunity to request any additional information from the MSE concerning the pilot program.[18] The Commission expects that the MSE will continue to monitor the operation of the pilot program procedures, using the criteria described above, during the course of the pilot extension. The Commission requests that the MSE submit a second report concerning its use of the pilot procedures by April 30, 1993.

The Commission finds good cause for approving the proposed rule change prior the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval is appropriate because it will allow the pilot to continue while the Commission examines the data to determine if the pilot should be extended for an additional period of time. Further, the substance of the proposal has been noticed previously in the **Federal Register** for the full statutory period and the Commission did not receive any comments on it.[19]

It is therefore ordered, Pursuant to section 19(b)(2)[20] that the proposed rule change is hereby approved for a three month period expiring on June 10, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

[FR Doc. 93–5979 Filed 3–15–93; 8:45 am]

BILLING CODE 8010–01–M

[14] See H.R. No. 1383, 73rd Cong., 2d Sess. 22, S.Rep. 792, 73rd Cong., 2d Sess. 18 (1934).

[15] See, e.g., SEC, Special Study of the Securities markets, H.R. Doc. No. 95, 88th Cong., 1st Sess., Pt. 2, 72 (1963).

[16] 17 CFR 240.11b–1(a)(2)(ii) (1992).

[17] See letter from Roger D. Hendrick, MSE, to Sharon Lawson, Commission, dated March 1, 1993.

[18] While the Commission continues to believe that careful review of the procedures is warranted, the MSE has advised the Commission that no surveillance investigations have been initiated, and there have been no member or customer complaints received by the Exchange, regarding the operation of the pilot. See letter from Daniel J. Liberti, MSE, to Betsy Prout, Commission, dated February 22, 1993.

[19] See Securities Exchange Act Releases No. 29958 (November 18, 1991), 56 FR 59309 (November 25, 1991) (notice of proposed rule change by MSE to initiate pilot procedures for stopping stock in minimum variation markets, File No. SR–MSE–91–10). No comments were received on the proposal.

[20] 15 U.S.C. 78s(b)(2)(1988).

[21] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–31973; File No. SR–NASD–93–08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc., Clarifying NASD Authority To Suspend or Terminate Nasdaq National Market System Securities When the Issuer of Such Securities Files for Bankruptcy

March 10, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 18, 1993,

the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Schedule D to the By-Laws—Part III

* * * * *

Sec. 4. Quantitative Maintenance Criteria

* * * * *

(d) Bankruptcy and/or Liquidation

Should an issuer file under any of the sections of the Bankruptcy Act or announce that liquidation has been authorized by its board of directors and that it is committed to proceed, *the Association may suspend or terminate the issuer's securities* [its securities shall not remain designated] unless it is determined that the public interest and the protection of investors would be served by continued designation.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis For, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, part II, section 3(a) of Schedule D to the NASD By-Laws ("Schedule D") provides that the Association "may" suspend and/or terminate the inclusion of an otherwise qualified Nasdaq security if the issuer of such security files for protection under any provision of the federal bankruptcy laws. Part III, section 4(d) of Schedule D contains a similar requirement applicable to Nasdaq National Market System ("Nasdaq NMS") securities and provides that if a Nasdaq NMS issuer files under any sections of the Bankruptcy Act, its securities "shall" not remain designated unless it is determined that the public interest and the protection of investors would be served by continued designation.[1] While the language of the above two sections differs, in practice, the NASD reviews both Nasdaq and Nasdaq NMS issuers that have filed under federal bankruptcy laws in a similar manner. Specifically, if an Nasdaq or Nasdaq NMS company in bankruptcy is unable to provide to NASD staff within five calendar days current financial information, including a balance sheet and statement of operations, the company's securities are delisted. Requests for exceptions to the above Nasdaq and Nasdaq NMS listing requirements are reviewed by the NASD on a case-by-case basis. If the NASD determines that the public interest and the protection of investors would be served by continued designation of either Nasdaq or Nasdaq NMS security, then a "Q" symbol is attached to the trading symbol of bankrupt companies to disclose to the public that the issuer has filed for bankruptcy protection.

Upon review, the NASD believes that the term "shall" in Part III, Section 4(d) of Schedule D could be misconstrued to imply that the filing for bankruptcy by a Nasdaq NMS issuer will effect an automatic delisting of such issuer's securities from Nasdaq NMS without recourse to a case-by-case NASD review as currently provided to issuers of securities designated in Nasdaq. The NASD, therefore, proposes to eliminate any such misinterpretation of current language by replacing the term "shall" with the term "may" under part III, section 4(d) of Schedule D applicable to Nasdaq NMS issuers, to make that section consistent with the provisions of Section 3(a) of Part II of Schedule D, which provides that the NASD "may" terminate bankrupt Nasdaq companies.

The NASD is requesting that the proposed rule change be effective within 45 days of SEC approval.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act, which requires that the rules of the association perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest in that the proposed rule change clarifies for investors that when a Nasdaq NMS issuer files for bankruptcy under the Bankruptcy Act, the security is not automatically delisted, but instead the NASD commences a review of the company to determine what action best serves the public interest and the protection of investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at

[1] Part III, Section 4(d) of Schedule D also provides the NASD with authority to withdraw the issuer's securities from NMS if the company announces that liquidation has been authorized by its board of directors and that it is committed to proceed.

the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by April 5, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5977 Filed 3–15–93; 8:45 am]

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[Release No. 34–31972; File No. SR–NASD–93–04]

Self-Regulatory Organizations; Filing of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Issuer Disclosure of Material Information to the Public and to the NASD

March 10, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 3, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

SCHEDULE D TO THE NASD BY-LAWS

* * * * *

PART II—QUALIFICATION REQUIREMENTS FOR NASDAQ SECURITIES

Sec. 1 Qualification Requirements for Domestic and Canadian Securities

* * * * *

(c)

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[(15) The issuer shall make prompt disclosure to the public through the press of any material information that may affect the value of its securities or influence investors' decisions and shall, prior to the release of the information, provide notice of such disclosure to the NASD Market Surveillance Section. The issuer shall provide full and prompt responses to all requests for information by the NASD.]

(15) The issuer shall provide full and prompt responses to requests by the NASD for information related to unusual market activity or to events that may have a material impact on trading of its securities in the NASDAQ System.

(16) Except in unusual circumstances, the issuer shall make prompt disclosure to the public through the news media of any material information that would reasonably be expected to affect the value of its securities or influence investors' decisions and shall, prior to the release of the information, provide notice of such disclosure to the NASD Market Surveillance Department.

Subsections (16)–(17) are renumbered (17)–(18) respectively.

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Sec. 2 Qualification Requirements for Non-Canadian Foreign Securities and American Depositary Receipts

* * * * *

(e)

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[(14) The issuer shall make prompt disclosure to the public in the United States through international wire services or similar disclosure media of any material information that may affect the value of its securities or influence investors' decisions and shall, prior to the release of the information, provide notice of such disclosure to the NASD Market Surveillance Section. The issuer shall provide full and prompt responses to all requests for information by the NASD.]

(14) The issuer shall provide full and prompt responses to requests by the NASD for information related to unusual market activity or to events that may have a material impact on trading of its securities in the NASDAQ System.

(15) Except in unusual circumstances, the issuer shall make prompt disclosure to the public in the United States through international wire services or similar disclosure media of any material information that would reasonably be expected to affect the value of its securities or influence investors' decisions and shall, prior to the release of the information, provide notice of such disclosure to the NASD Market Surveillance Department.

Subsections (15)–(16) are renumbered (16)–(17) respectively.

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[NOTIFICATION TO NASD OF NEWS RELEASES]

DISCLOSURE OF MATERIAL INFORMATION

Schedule D requires *that, except in unusual circumstances,* NASDAQ *issuers* [companies to] disclose promptly to the public through the [press] *news media* any material information which [may] *would reasonably be expected to* affect the value of their securities or influence investors' decisions and that NASDAQ *issuers* [companies] notify the NASD of the release of any such information prior to its release to the public through the [press] *news media.* The Board of Governors recommends that NASDAQ *issuers* [companies] provide such notification at least ten minutes before such release.[1] *Under unusual circumstances issuers are not required by Schedule D to make public disclosure of material events; for example, where it is possible to maintain confidentiality of those events and immediate public disclosure would prejudice the ability of the company to pursue its corporate objectives. However, NASDAQ issuers remain obligated to disclose this information to the NASD upon request pursuant to Subsection 1(c)(15) or Subsection 2(e)(14) of this Part II to Schedule D.*

Whenever unusual market activity takes place in a NASDAQ issuer's securities, the issuer normally should determine whether conditions requiring corrective action exist and, if so, should take whatever action is appropriate. If rumors or unusual market activity indicate that information on impending developments has become known to the investing public, a clear public announcement may be required as to the state of negotiations or development of issuer plans. Such an announcement may be required, even though the matter has not yet been presented to the issuer's Board of Directors for consideration. It may also be appropriate, in certain circumstances, to publicly deny false or inaccurate rumors which are likely to have, or have had, an effect on the trading in its securities or would likely have an influence on investment decisions.

Trading Halts

[The purpose of this recommendation is to assist in maintaining a stable and orderly market for NASDAQ securities. One of the methods used by the NASD to accomplish such is the institution of NASDAQ trading halts.] A trading halt benefits current and potential shareholders by halting [the] *all* trading [of] *in any NASDAQ* securities [through the NASDAQ System] until there has been an opportunity for the information to be disseminated to the public. This decreases the possibility of some investors acting on information known

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[1] Notification may be provided directly to the NASD Market Surveillance Department by telephone (1–800–537–3929, (301) 590–6411, or from 7 p.m. to 7 a.m. ET (301) 590–6413). Information communicated orally should be confirmed promptly in writing.

to them but which is not known to others. A trading halt normally lasts *until* one half hour after the appearance of the news on wire services[,] but it may last longer if a determination is made that the news has not been adequately disseminated. A trading halt provides the public with an opportunity to evaluate the information and consider it in making investment decisions. It also alerts the marketplace to the fact that news has been released.

The NASD's Market Surveillance Department monitors real time trading in all NASDAQ securities during the trading day for price and volume activity. In the event of certain price and volume movements, the Market Surveillance Department may contact an issuer and its market makers in order to ascertain the cause of the unusual market activity. The Market Surveillance Department treats the information provided by the issuer and other sources in a highly confidential manner, and uses it to assess market activity and assist in maintaining fair and orderly markets. A NASDAQ listing includes an obligation to disclose to the Market Surveillance Department information that the issuer is not otherwise disclosing to the investing public or the financial community. On occasion, changes in market activity prior to the issuer's release of material information may indicate that the information has become known to the investing public. Depending on the nature of the event and the issuer's views regarding the business advisability of disclosing the information, the Market Surveillance Department may work with the issuer to accomplish a timely release of the information. Furthermore, depending on the materiality of the information and the anticipated effect of the information on the price of the issuer's securities, the Market Surveillance Department may advise the issuer that a temporary trading halt is appropriate to allow for full dissemination of the information and to maintain an orderly market. The institution of a temporary trading halt pending the release of information is not a reflection on the value of the securities halted. Such trading halts are instituted, among other reasons, to insure that material information is fairly and adequately disseminated to the investing public and the marketplace, and to provide investors with the opportunity to evaluate the information in making investment decisions.

The Market Surveillance Department is required to keep non-public information, including denial of rumors, confidential and to use such information only for regulatory purposes.

Material information which [might] *would* reasonably be expected to affect the value of the securities of a*n issuer* [company] or influence investors' decisions would include information regarding [corporate] *issuer* events of an unusual and/or nonrecurrent nature. The following list of events, while not an exhaustive summary of all situations in which disclosure to the NASD should be considered, may be helpful in determining whether information is material. It should also be noted that every development that might be reported to the NASD in these areas would not necessarily be deemed to warrant a trading halt.

- a merger, acquisition or joint venture;
- a stock split or stock dividend;
- earnings and dividends of an unusual nature;
- the acquisition or loss of a significant contract;
- a significant new product or discovery;
- a change in control or a significant change in management;
- a call of securities for redemption;
- the public or private sale of a significant amount of additional securities;
- the purchase or sale of a significant asset;
- a significant labor dispute;
- establishment of a program to make purchases of the [company's] *issuer's* own shares;
- a tender offer for another [company's] *issuer's* securities; and
- an event requiring the filing of a current report under the Securities Exchange Act of 1934.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Proposed Rule Change to Subsections 1(c)(15) and 2(e)(14) to Part II of Schedule D Subdividing Subsection 1(c)(15)

Subsection 1(c)(15) of part II to Schedule D of the NASD By-Laws currently provides that a Nasdaq domestic or Canadian issuer [2] is required to make prompt disclosure to the public through the press of any material information that may affect the value of its securities or influence investors' decisions and shall, prior to the release of the information, provide notice of such disclosure to the NASD Market Surveillance Department. The above subsection also provides that such an issuer shall provide full and prompt responses to all requests for information by the NASD. The NASD is proposing to qualify the issuer duty in revised Subsection 1(c)(16) to disclose material information to the public with a "reasonable" shareholder standard for purposes of determining when material information would be expected to affect the value of the issuer's securities or influence investors' decisions. The NASD is also proposing to add an "unusual circumstance" exception to the reporting of such material information to the public. In comparison, the NASD is not proposing to qualify the issuer's duty to respond to requests by the NASD for information with a "reasonable" shareholder standard and, instead, is proposing to include in new Subsection 1(c)(15) the requirement that Nasdaq issuers respond to NASD requests for information related to unusual market activity or to events that "may have a material impact" on the trading of its securities in the Nasdaq System. The NASD, therefore, believes that the separation of Subsection 1(c)(15) into two subsections will help clarify for issuers the difference between these two provisions.

Subdividing Subsection 2(e)(14). Under Subsection 2(e)(14) of Part II to Schedule D of the NASD By-Laws, Nasdaq non-Canadian foreign issuers and American Depositary Receipts ("ADRs") are subject to requirements

[2] Qualification requirements for Nasdaq securities contained under Part II of Schedule D also apply to Nasdaq National Market System ("Nasdaq NMS") securities. For purposes of this rule change, the term "issuer" therefore applies to issuers of securities designated on either the Regular Nasdaq System or the Nasdaq NMS. For purposes of this rule filing, the term issuer also applies both to corporations and to limited partnerships.

equivalent to the requirements imposed by Subsection 1(c)(15) on Nasdaq domestic and Canadian issuers, as described above. The NASD is proposing changes to the provisions contained in subsection 2(e)(14) which are substantially equivalent to the changes proposed above to the provisions contained in subsection 1(c)(15). The NASD, therefore, believes it is appropriate to separate the provisions under subsection 2(e)(14) in the same manner and for the same reasons as is proposed above for subsection 1(c)(15). As proposed, the requirement for Nasdaq non-Canadian foreign issuers and ADRs to respond to NASD requests for information would be contained under subsection 2(e)(14), and the requirement for such issuers to disclose material information to the public and provide prior notification to the NASD of such disclosure would be contained under subsection 2(e)(15).

Responding to NASD requests for information. Currently, Nasdaq issuers are required under subsections 1(c)(15) and 2(e)(14) to part II of Schedule D to provide full and prompt responses to "all requests for information" by the NASD. As a practical matter, the NASD only makes request to issuers for information relating to unusual market activity or to events that may have a material impact on the trading of the issuer's securities in the Nasdaq System.[3] The NASD believes it should amend its rules to reflect the current practice and scope of NASD requests to issuers for information. Therefore, the NASD is proposing that Subsections 1(c)(15) and 2(e)(14) to part II of schedule D require the issuer to provide full and prompt responses to requests by the NASD for information related to unusual market activity or to events that may have a material impact on trading of its securities in the Nasdaq System.[4] The NASD believes that the proposed rule change will enhance its ability to provide oversight of the Nasdaq System by clarifying the NASD's authority to request information from issuers for regulatory purposes.

Prompt Disclosure of Material Information to the Public. Currently, Nasdaq issuers are required under Subsection 1(c)(15) and 2(e)(14) of Part II to Schedule D to make prompt disclosure to the public through the press[5] of any material information that may affect the value of its securities or influence investors' decisions. The U.S. Courts of Appeals have stated that, absent circumstances requiring immediate disclosure, the specific timing of corporate disclosure of material information should be left to the good faith business judgment of management.[6] Specifically, the Second Circuit in *SEC* v. *Texas Gulf Sulphur Co.*, 401 F.2d 833 (2d Cir. 1968) stated that "we do not suggest that any material facts must be disclosed immediately; the timing of disclosure is a matter for the business judgment of the corporate officers entrusted with the management of the corporation within the affirmative disclosure requirements promulgated by the exchanges and the SEC." Current rules of the national exchanges also recognize that immediate disclosure of material information is not always required.[7]

Upon review, the NASD recognizes that unusual circumstances may exist wherein it would be appropriate for an issuer not to immediately disclose material information to the public; for example, in the area of negotiations leading to mergers, acquisitions, and stock splits when it is possible to maintain the confidentiality of the discussions, when SEC rules or regulations do not require prompt disclosure, and when other circumstances do not arise that would impose an issuer duty to make prompt public disclosure. In such cases, it is recognized that premature disclosure of material information may be detrimental to the interest of investors. The NASD is, therefore, proposing to include in new Subsections 1(c)(16) and Subsection 2(e)(15) of Part II to Schedule D the phrase "except under unusual circumstances" to provide an exception to the issuer's obligation to make prompt public disclosure of material information. The NASD believes that the proposed rule change is appropriate and would be in the interest of the public investors.[8]

Determination of Materiality. Current Subsections 1(c)(15) and 2(e)(14) require an issuer to publicly disclose material information that "may affect" the value of its securities or influence investors' decisions. The NASD believes this rule language should be modified to reflect current NASD practice that the determination of whether material information would affect the value of the issuer's securities or influence investors' decisions is based on a "reasonable" shareholder standard.[9] The NASD is, therefore, proposing to replace the phrase "may affect" in proposed new Subsections 1(c)(16) and 2(e)(15) of Part II to Schedule D with the phrase "would reasonably be expected." The NASD also proposes that the phrase "would reasonably be expected" replace the phrase "might reasonably be expected" in the last paragraph of the Notification Section that provides guidance on what material information would affect the value of securities of a company or influence investors' decisions.[10]

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[3] In comparison, both the New York Stock Exchange ("NYSE") and the American Stock Exchange ("AMEX") rules and listing agreements require listed companies to furnish the exchanges with such information as the exchange may reasonably demand. See, NYSE Company Manual Section 202.4 and AMEX Guide Section 404.

[4] NASD staff provide determinations regarding issuer compliance with Nasdaq qualifications criteria, which determinations are subject to appeal pursuant to Article IX of the NASD's Code of Procedure. NASD staff would provide a determination of issuer compliance with the proposed rule change including a determination on the existence of the separate elements contained with the requirement such as the existence of "unusual market activity" or "events that may have a material impact on the trading of its securities in the Nasdaq System."

[5] Non-Canadian foreign issuers and ADRs are similarly required to make prompt disclosure through international wire services or similar disclosure media pursuant to Section 2(e)(14) to Part II of Schedule D.

[6] *Kohler* v. *Kohler Co.*, 319 F.2d 634, 641 (7th Cir. 1963); *SEC* v. *Texas Gulf Sulphur Co.*, 401 F.2d 833, 850 n.12 (2d Cir. 1968).

[7] With respect to public disclosure of information, NYSE rules indicate that negotiations leading to mergers, acquisitions, stock splits and other such corporate actions may be withheld from public disclosure where it is possible to maintain the confidentiality of those discussions. Additional guidance is provided on circumstances during which disclosure may be withheld and events that should trigger disclosure. See, NYSE Manual, Section 202.01. In comparison, AMEX rules state that a listed company is required to make immediate public disclosure of all material information concerning its affairs, except in unusual circumstances. See AMEX Guide, Section 401(a). It is further stated that occasionally, circumstances may arise in which, provided that complete confidentiality is maintained, a company may temporarily refrain from publicly disclosing material information. Two such situations are noted: (i) When immediate disclosure would prejudice the ability of the company to pursue its corporate objectives; and (ii) when the facts are in a state of flux and a more appropriate moment for disclosure is imminent. AMEX rules also state that these situations, however, are limited and constitute an infrequent exception to the normal requirement of immediate disclosure. See, AMEX Guide, Section 402 at 3552.

[8] The NASD's proposed standard for determining whether an exception is available from the requirement of prompt disclosure is not intended to be identical to standards under federal case law or other self-regulatory organization rules, but will be decided on a case-by-case basis. See, discussion below of proposed rule change to Notification Section.

[9] For comparison, certain leading case law finds that an admitted fact is material if there is a substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote (See, *TSC Industries, Inc.* v. *Northway, Inc.*, 426 U.S. 438,96 S.Ct. 2126, 48 L. Ed. 2d 757 (1976)), or whether to purchase or sell securities (See, *Basic Incorporated* v. *Levinson, et al.*, 485 U.S. 224, 108 S. Ct. 978,99 (1988)).

[10] With respect to public disclosure of information, the NYSE generally states that a listed company is expected to release quickly to the public any news or information which might reasonably be expected to materially affect the market for its securities. See, NYSE Company

Pre-Notification to the NASD of public release of material information. Under subsection 1(c)(15) and subsection 2(e)(14) to part II of Schedule D, Nasdaq issuers are required to provide the NASD with prior notice of the release of material information to the public. The NASD has not amended this requirement which is contained in new Subsections 1(c)(16) and 2(e)(15).

Proposed Rule Change to the Notification Section

Heading of the notification section. The current heading of the Notification Section is NOTIFICATION TO NASD OF NEWS RELEASES. The NASD proposes to replace this heading with the phrase DISCLOSURE OF MATERIAL NEWS to better describe the subject matter of the provisions contained therein.

Guidance Regarding the "Unusual Circumstances" Exception to Proposed Subsections 1(c)(16) and 2(e)(15) to Part II of Schedule D. The NASD proposes to provide further guidance regarding the term "except in unusual circumstances" that is contained under new subsections 1(c)(16) and 2(e)(15) of the proposed rule change by amending the first paragraph of the Notification Section to add a new sentence which states that under unusual circumstances, issuers are not required by Schedule D to make public disclosure of material events; for example, where it is possible to maintain confidentiality of those events and immediate disclosure would prejudice the ability of the issuer to pursue its issuer objectives.

The NASD is also proposing to clarify in a second new sentence to the first paragraph of the Notification Section that information not required to be disclosed to the public pursuant to the above-described "unusual circumstances" exception must still be disclosed by the issuer to the NASD pursuant to subsection 1(c)(15) or subsection 2(e)(14) to part II of Schedule D.

Clarification of issuer obligations regarding unusual market activity and rumors. The NASD believes that the Nasdaq issuer disclosure requirement contained in new Subsections 1(c)(16) and 2(e)(15) of Part II to Schedule D imposes certain responsibilities on a Nasdaq issuer in connection with unusual market activity in the issuer's securities or rumors regarding the issuer. The NASD noted that the SEC has taken a position that under certain circumstances, unusual market activity may require public disclosure.[11] The NASD is, thereof, proposing to amend the Notification Section to provide guidance to Nasdaq issuers on such issuer responsibilities by inserting a new paragraph into the Notification Section.[12] The new proposed second paragraph of the Notification Section provides that whenever unusual market activity takes place in a Nasdaq issuer's securities, the issuer normally should determine whether conditions requiring corrective action exist and, if so, should take whatever action is appropriate. The second and third sentences of the proposed second paragraph are intended to provide guidance as to those situations where it may be appropriate for an issuer to make public announcements regarding unusual market activity or rumors. It is stated that if rumors or unusual market activity indicate that information on impending developments has become known, a clear public announcement may be required as to the state of negotiations or development of issuer plans. It is emphasized that such an announcement may be required, even though the matter has not yet been presented to the issuer's Board of Directors for consideration. It is also stated that it may be appropriate in certain circumstances to publicly deny false or inaccurate rumors which are likely to have, or have had, an effect on the trading in its securities, or would likely have a bearing on investment decisions.

New Subheading: TRADING HALTS

The NASD proposes to insert the subheading "TRADING HALTS" after the second paragraph of the Notification Section to reflect that the subsequent paragraphs deal with trading halts and other subject matter related to trading halts, including the function of the Nasdaq Market Surveillance Department.

Clarification of Nasdaq Market Surveillance Department Function. The NASD believes that further clarification regarding the function of the Nasdaq Market Surveillance Department and the purpose of trading halts would be helpful to Nasdaq issuers. The NASD proposes to insert a new fourth paragraph into the Notification Section to describe the functions of the NASD Market Surveillance Department as well as the inter-relationship between a Nasdaq issuer and the NASD Market Surveillance Department with respect to the occurrence of unusual market activity in the issuer's securities and the timely release of information and a temporary trading halt.

The NASD also believes clarification is appropriate regarding the confidentiality of information that issuers provide to the Market Surveillance Department pursuant to Subsection 1(c)(15) and Subsection 2(e)(14) to Part II of Schedule D. As amended, a new, fifth paragraph has been inserted into the Notification Section providing that the Market Surveillance Department is required to keep non-public information provided by a Nasdaq issuer, including denial of rumors, confidential and to use such information only for regulatory purposes.

Other Changes. The NASD proposes to replace the term "press" contained under proposed Subsection 1(c)(16) and contained in the Notification Section with the term "news media". The NASD is also proposing to replace the term "NASD Market Surveillance Section" with the term "NASD Market Surveillance Department".

The NASD believes the first two sentences of the first paragraph under the proposed "Trading Halts"

Manual, Section 202.05. AMEX rules state that a company is required to make immediate public disclosure of all material information concerning its affairs, except in unusual circumstances. See AMEX Guide, Section 401(a).

[11] In SEC Release No. 34–18271 (November 19, 1981), the SEC stated: "In those instances * * * where there are indications that information may have become selectively available to certain persons who are trading in a corporation's securities, disclosure is especially significant in order to apprise the marketplace of the material information and substantially reduce the opportunity for such persons to profit from such trading.

If the company learns of unusual trading activity in its stock and such activities are occurring at a time when the company has failed promptly to disclose corporate information, it should realize that its nondisclosure may be assisting persons with access to such information to take unfair advantage of the company's other shareholders. This is particularly true where the company knows or has reason to believe that material non-public information has been made selectively available to certain market participants and that this selective availability may be the cause of unusual market activity."

[12] In comparison, NYSE rules state that disclosures should be made when market activity indicates that information on impending developments has leaked out; if rumors are in fact false or inaccurate; if rumors are correct or there are developments; or to dispel unfounded rumors which result in unusual market activity or price variations. See, NYSE Company Manual, Section 202.03. It is also stated that where the market appears to reflect undisclosed information, the company will normally be requested to make the information public immediately. See NYSE Company Manual, Section 202.04. AMEX rules state that a listed company is expected to make an inquiry to determine whether rumors or other conditions requiring corrective action exist, and if so, to take whatever action is appropriate, and if after such review the unusual market action remains unexplained, it may be appropriate for the company to issue a "no news" release. See, AMEX Guide Section 401(d) and 402(d). AMEX rules also provide guidance regarding: (i) What action is required if rumors occur while material information is being temporarily withheld; (ii) what rumors and reports must be clarified and confirmed; and (iii) the significance of unsual market activity from the standpoint of disclosure. See AMEX Guide, Section 402, pages 3553–3556.

subheading in the Notification Section are unnecessary. The NASD proposes to delete these two sentences.

Finally, the NASD is also proposing to replace the terms "company" and "corporate" with the term "issuer" throughout the Notification Section to provide conformity with Part II to Schedule D of the NASD By-Laws.

It is anticipated that the effective date of the rule change will be no more than 45 days after the publication of a Notice to Issuers announcing the approval of the rule change. The Notice to Issuers announcing the approval of the proposed rule change will be published no more than 45 days following Commission approval. However, the NASD will amend this rule filing to request an appropriate effective date prior to SEC approval.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[13] which requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, in that the proposed rule change clarifies Nasdaq issuer disclosure requirements to the public and to the NASD Market Surveillance Department regarding material news, unusual market activity and rumors, and temporary trading halts, and also clarifies the confidentiality of issuer non-public information provided to the Market Surveillance Department.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

[13] 15 U.S.C. 78o–3.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by April 6, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5966 Filed 3–15–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31967; International Series Release No. 524; File No. SR–PHLX–93–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Foreign Currency Option Fees

March 9, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 28, 1993, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX proposes to amend its Schedule of Fees and Charges to provide for exemptions from foreign currency option transition charges for registered traders and specialists respecting transactions executed during the foreign currency option evening trading segment from 6 p.m. (e.s.t.) to 3 a.m. (e.s.t.) and exemptions from the foreign currency option comparison charge for registered traders during the same period. The text of the proposed rule change is available at the Office of the Secretary, PHLX, and at the Commision.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organizations has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Effective at the beginning of business on the evening trading segment for foreign currency options on Monday, February 15, 1993, the PHLX proposes to exempt all registered traders or registered options traders ("ROTs") and specialists from foreign currency option transaction charges and ROTs from the foreign currency option comparison charge for all transactions executed during the evening trading segment from 6 p.m. (e.s.t.) to 3 a.m. (e.s.t.) in order to promote their market participation during this trading segment. The PHLX's other foreign currency option transaction and comparison charges as well as other

miscellaneous charges will remain unchanged.

The purpose of the proposed rule change is to amend the PHLX Schedule of Fees and Charges. The revisions reflect an intention of the PHLX to promote and encourage additional market participation by ROTs and specialists during the evening trading segment in foreign currency options. The proposed exemption addresses the burdens imposed upon members and member organizations respecting staffing and participating in the foreign currency option evening trading segment on the PHLX trading floor.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(4), in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PHLX. All submissions should refer to File No. SR–PHLX–93–04 and should be submitted by April 6, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–5911 Filed 3–15–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended March 5, 1993

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48675.

Date filed: March 5, 1993.

Parties: Members of the International Air Transport Association.

Subject: TC 23 Mail Vote 615–1, TC MV/P0196, Central Africa to South Asian Subcontinent Fares.

Proposed Effective Date: April 15, 1993

Docket Number: 48676.

Date filed: March 5, 1993.

Parties: Members of the International Air Transport Association.

Subject: TC 3 Mail Vote 619, Reso 010R (New), Japan Korea Fares.

Proposed Effective Date: March 29, 1993.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–5917 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–62–M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended March 5, 1993

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48673.

Date filed: March 4, 1993.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 1, 1993.

Description: Application of Servicios Aerolineas Mexicanas, S.A. de C.V., pursuant to section 402 of the Act and subpart Q of the Regulations, applies for a Foreign Air Carrier Permit to provide charter foreign air transportation of persons and accompanying baggage to points in the United States and points in Mexico, and subject to applicable Regulations of the Department of Transportation, between points in the United States and other points worldwide.

Docket Number: 48682.

Date filed: March 5, 1993.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 2, 1993.

Description: Application of Salair, Inc., pursuant to section 401(d)(1) of the Act and subpart Q of the Regulations, requests authority to engage in interstate scheduled air transportation of persons, property and mail: Between any point in any State in the United States or District of Columbia, or any Territory or Possession of the United States, and any other point in any State of the United States or District of Columbia or any Territory or Possession of the United States.

Docket Number: 48678.

Date filed: March 5, 1993.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 2, 1993.

Description: Application of United Air Lines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, for an amendment to United's Certificate of Public

Convenience and Necessity for Route 603 to authorize United to serve transatlantic points which are named on its Certificate of Public Convenience and Necessity for Route 57 but which are not named in Route 603 and to other wise integrate transatlantic authorities on Route 603 with other certificate and exemption authority held by United consistent with applicable international agreements.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–5916 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–62–M

Office of the Secretary

[Order 93–3–13]

Fitness Determination of S.M.A. Airlines, Inc. d/b/a Skymaster d/b/a Atlantic North Airlines

AGENCY: Department of Transportation.

ACTION: Notice of commuter air carrier fitness determination—Order to show cause.

SUMMARY: The Department of Transportation is proposing to find S.M.A. Airlines, Inc., d/b/a Skymaster d/b/a Atlantic North Airlines fit, willing, and able to provide commuter air service under section 419(e) of the Federal Aviation Act and to receive in transfer the commuter air carrier authority issued to R.I.C., Inc. d/b/a Skymaster Air Taxi d/b/a Skymaster by Order 89–6–37, June 22, 1989.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P–56, Department of Transportation, 400 Seventh Street, SW., room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than March 22, 1993.

FOR FURTHER INFORMATION CONTACT:

Carol Woods, Air Carrier Fitness Division (P–56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2340.

Dated: March 9, 1993.

Patrick V. Murphy,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 93–5915 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

Pilot and Aviation Maintenance Technician Shortage Blue Ribbon Panel; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting change.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 7032, February 3, 1993.

PREVIOUSLY ANNOUNCED DATES AND LOCATION OF MEETING: March 11, 1993, 8 a.m. to 11:30 a.m.; Holiday Inn, Maple Room, 800 Rainier Ave. South, Renton, Washington 98055.

CHANGES IN THE MEETING: The meeting date has been changed to April 13, 1993, 9 a.m. to 12 p.m. The meeting location has been changed to room 1010 (The McCracken Room), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Daniel C. Beaudette, Executive Director, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8558.

Daniel C. Beaudette,

Executive Director of the Pilot and Aviation Maintenance Technician Shortage Blue Ribbon Panel.

[FR Doc. 93–5990 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application to Impose and Use Passenger Facility Charge (PFC) at Eagle County Regional Airport, Eagle, CO.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to rule and application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Eagle County Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 15, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan E. Wiechmann, Manager, Denver Airports District Office, DEN-ADO, Federal Aviation Administration, 5440 Roslyn, Suite 300, Denver, CO 80216–6026.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jack D. Lewis, County Manager, Eagle County, Colorado, at the following address: 500 Broadway, P.O. Box 850, Eagle, CO 81631.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Board of County Commissioners, Eagle County under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 286–5525; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 5440 Roslyn, suite 300; Denver, Colorado 80216–6026. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Eagle County Regional Airport, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 9, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Eagle County, Colorado was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 18, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: September 1, 1993

Proposed charge expiration date: March 31, 1998

Total estimated PFC revenue: $572,609.00

Brief description of proposed project: Airport planning studies; purchase safety equipment and building; land acquisition; expand air carrier apron; grade runway 25 safety area; install taxiway guidance signs.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., suite 540, Renton, WA 98005–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Eagle County Regional Airport.

Issued in Renton, Washington, on March 9, 1993.

Edward G. Tatum,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 93–5991 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use Passenger Facility Charge (PFC) at Friedman Memorial Airport, Hailey, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Friedman Memorial Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 15, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager, Seattle Airports District Office, SEA–ADO, Federal Aviation Administration, 1601 Lind Avenue SW., suite 250, Renton, WA 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Todd G. Wirthlin, Director of Aviation, Friedman Memorial Airport, Hailey, Idaho, at the following address: P.O. Box 929, Hailey, Idaho 83333.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Blaine County Airport Commission, Blaine County under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra M. Simmons, Civil Engineer, (206) 227–2656; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW., suite 250; Seattle, Washington 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Friedman Memorial Airport, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 9, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Blaine County, Idaho was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 29, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00
Proposed charge effective date:
September 1, 1993
Proposed charge expiration date:
August 31, 1997
Total estimated PFC revenue:
$188,000.00

Brief description of proposed project: Terminal construction project; runway lighting and signage; airport master plan/noise contour maps; non-destructive pavement testing.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 on demand air taxi/commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Friedman Memorial Airport.

Issued in Renton, Washington on March 9, 1993.

Edward G. Tatum,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 93–5992 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application to Use Passenger Facility Charge (PFC) at Great Falls International Airport, Great Falls, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a previously approved PFC at Great Falls International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 15, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: David P. Gabbert, Manager, Helena Airports District Office, HLN–ADO, Federal Aviation Administration, FAA Building, room 2, Helena, MT 59601.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. M.J. Attwood, Airport Director of the Great Falls International Airport, Great Falls, Montana, at the following address: 2800 Terminal Drive, Great Falls, Montana 59404–5599.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Great Falls International Airport under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. David P. Gabbert, (406) 449–5271; Helena Airports District Office, HLN–ADO; Federal Aviation Administration; FAA Building, room 2; Helena, Montana 59601. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use a PFC at Great Falls International Airport, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 9, 1993, the FAA determined that the application to use the revenue from a previously approved PFC submitted by Great Falls International Airport Authority, Great Falls, Montana was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 9, 1993.

The following is a brief overview of the application.

Revenue to be used: $157,500.00
Brief description of proposed project:
Airport fire station

Brief description of impose-and-use and impose-only application approved August 28, 1992

Level of the approved PFC: $3.00

Approved charge effective date: November 1, 1992

Charge expiration date: July 1, 2002

Total revenue to be collected: $3,010,900.00

Impose-only revenue to be collected: $157,500.00

Class or classes of air carriers which are not required to collect PFCs: Air taxis and charter carriers operating only as on demand carriers which do not provide regularly scheduled air transportation service.

Any person may inspect the application in person at the FAA office listed above under FOR FURTHER INFORMATION CONTACT and at the FAA regional Airports office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Great Falls International Airport.

Issued in Renton, Washington, on March 9, 1993.

Edward G. Tatum,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 93–5993 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Marin County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed project in Marin County, California.

FOR FURTHER INFORMATION CONTACT: Mr. John Schultz, Chief, District Operations–A, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95812–1915, Telephone: (916) 551–1314.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans), will prepare an Environmental Impact Statement (EIS) for a proposal to close the gap in the High Occupancy Vehicle Lanes (HOVL) on State Route 101, Postmile 8.4/12.7, from Lucky Drive in the Town of Corte Madera to San Pedro Road in the City of San Rafael. Besides the two northbound and southbound HOV lanes, the proposed work includes construction of northbound and southbound auxiliary lanes and improvements to the Route 101/580 Interchange and a new interchange near Irene Street. The purpose of the project is to relieve congestion through Corte Madera and central San Rafael and allow for continuous traffic flow along the existing HOV lanes to the north and south. The project has been broken into four segments for funding purposes. Segment #1 is from Lucky Drive to Bellam Boulevard. Segment #2 is from Bellam Boulevard to Mission Avenue. Segment #3 is from Mission Avenue to San Pedro Road. Segment #4 is on Route 580 from Postmile 3.73 to Route 101 and includes a new interchange near Irene Street. Segment #3 has an east or west side widening alternative with a six foot median, which will be maintained throughout the entire project limits. Segment #3 is the only funded portion. The EIR/EIS will evaluate three project alternatives. Alternative 1 is the ultimate geometrics (Year 2010) for all four segments with and without Light Rail Transit (LRT) on the Northwestern Pacific Railroad (NWPRR) right of way. Alternate 2 is Segment #3 only, for the year 2000; for the year 2010 Segment #3 will be analyzed with and without LRT on the NWPRR right of way. Alternate 3 is the No Build for the year 2000 and 2010. Two bike path alternatives are also included in this HOVL Gap Closure project.

The scoping process includes the distribution of the Notice of Preparation to each responsible and trustee agency pursuant to the California Environmental Quality Act, publication of the Notice of Intent in the **Federal Register**, and a scoping meeting to be held in the City of San Rafael during the Spring of 1993. This scoping meeting will be advertised in advance in local newspapers.

Public meetings will also be held during the course of the environmental studies to inform and receive input from the public. A Draft Environmental Impact Statement will be circulated for public and agency review and comment followed by a public hearing. Public notice will be given regarding the time and place of the meetings and hearing.

To ensure that the full range of issues related to the proposed action are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address previously provided in this document

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on March 2, 1993.

John Schultz,

Chief, District Operations–A, Sacramento, California.

[FR Doc. 93–5950 Filed 3–15–93; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

[Docket No. 93–16; Notice 1]

Notice of Receipt of Petition for Determination that Nonconforming 1969 Mercedes-Benz 250C Passenger Cars are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1969 Mercedes-Benz 250C passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1969 Mercedes-Benz 250C that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is April 15, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle

Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 [of the Act], and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

ICI International Inc. of Orlando, Florida (ICI) (Registered Importer No. R–90–003) has petitioned NHTSA to determine whether 1969 Mercedes-Benz 250C (Model ID 114.021) passenger cars are eligible for importation into the United States. The vehicle which ICI believes is substantially similar is the 1969 Mercedes-Benz 250C (Model ID 114.023) that was manufactured for importation into and sale in the United States and certified by its manufacturer, Daimler Benz A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner stated that it carefully compared the non-U.S. certified version of the 250C to its U.S. certified counterpart, and found that the two vehicles are substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

ICI submitted information with its petition intended to demonstrate that the non-U.S. certified 1969 model 250C, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1969 model 250C is identical to its U.S. certified counterpart with respect to compliance with Standard Nos. 101 *Controls and Displays*, 102 *Transmission Shift Lever Sequence. . .*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 111 *Rearview Mirrors*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 201 *Occupant Protection in Interior Impact*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 208 *Occupant Crash Protection*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, and 301 *Fuel System Integrity*.

Petitioner also contends that the non-U.S. certified 250C is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 202 *Head Restraints:* installation of head restraints at each outboard front seating position.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: April 15, 1993.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 9, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–5994 Filed 3–15–93; 8:45 am]

BILLING CODE 4910-59-M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 49
Tuesday, March 16, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:30 a.m., Friday, March 19, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3297, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 12, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–6092 Filed 3–12–93; 11:01 am]

BILLING CODE 6210–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 12:00 noon, Monday, March 22, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 12, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–6175 Filed 3–12–93; 2:47 pm]

BILLING CODE 6210–01–M

INTERSTATE COMMERCE COMMISSION

Commission Conference

TIME AND DATE: 10:00 a.m., Tuesday, March 23, 1993.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, N.W., Washington, DC 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Ex Parte No. 444, *Electronic Filing of Tariffs.*

Finance Docket No. 31862, *International Brotherhood of Electrical Workers, Local Union 465—Petition for Declaratory Order—San Diego Trolly, Inc.*

Ex Parte No. 394 (Sub-No. 10), *Railroad Rates on Recyclables—Exemptions.*

CONTACT PERSONS FOR MORE INFORMATION: Alvin H. Brown or A. Dennis Watson, Office of External Affairs, Telephone: (202) 927–5350, TDD: (202) 927–5721.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–6167 Filed 3–12–93; 2:17 pm]

BILLING CODE 7503–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of March 15, 22, 29, and April 5, 1993.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of March 15

Monday, March 15

9:30 a.m.
Discussion on Full Power Operating License for Comanche Peak (Unit 2) (Public Meeting)
(Contact: Suzanne Black, 301–504–1318)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Environmental and Resources Conservation Organization's Petition for Reconsideration of CLI–93–03 (Rancho Seco) (Tentative)
(Contact: Margaret Doane, 301–504–2001)

2:00 p.m.
Briefing on License Renewal Issues (Public Meeting)
(Contact: William Travers, 301–504–1117)

Week of March 22—Tentative

Friday, March 26

10:00 a.m.
Briefing on Progress of NRC Regulatory Review (Public Meeting)
(Contact: Frank Gillespie, 301–504–1275)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of March 29—Tentative

Tuesday, March 30

10:00 a.m.
Briefing on Status of Technical Specification Improvement Program (Public Meeting)
(Contact: Chris Grimes, 301–504–1161)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of April 5—Tentative

Tuesday, April 6

10:00 a.m.
Briefing by IIT on Unauthorized Forced Entry into the Protected Area at TMI–1 (Public Meeting)
(Contact: Sam Collins, 817–860–8183)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: By a vote of 5–0 on March 9, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rule that "Affirmation of 'Amendments to 10 CFR Parts 50 and 52 on Training and Qualification of Nuclear Power Plant Personnel' and 'Petition for Late Intervention in the Comanche Peak Unit 2 Operating License Proceeding'" (Public Meeting) be held on March 9, and on less than one week's notice to the public.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: March 11, 1993.

Andrew L. Bates,

Chief, Operations Branch, Office of the Secretary.

[FR Doc. 93–6168 Filed 3–12–93; 2:18 pm]

BILLING CODE 7590–01–M

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Federal Register

Tuesday
March 16, 1993

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule To List the Mexican Spotted Owl as a Threatened Species

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB 56

Endangered and Threatened Wildlife and Plants; Final Rule To List the Mexican Spotted Owl as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines the Mexican spotted owl (*Strix occidentalis lucida*) to be a threatened species under the authority of the Endangered Species Act of 1973, as amended (Act). This medium-sized bird is found from parts of central Colorado and Utah south through Arizona, New Mexico, and western Texas, then south through northwestern Mexico to the State of Michoacan. It commonly inhabits mountains and canyons containing dense, multi-storied forests with closed canopies. The Mexican spotted owl is threatened by destruction and modification of habitat caused by timber harvest and fires, increased predation associated with habitat fragmentation, and lack of adequate protective regulations. This rule implements the protection and recovery provisions afforded by the Act for this subspecies. Designation of critical habitat is prudent, but is not determinable at this time.

EFFECTIVE DATE: April 15, 1993.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Ecological Services Field Office, 3530 Pan American Highway NE., suite D, Albuquerque, New Mexico 87107.

FOR FURTHER INFORMATION CONTACT: Field Supervisor at the above address (505/883–7877).

SUPPLEMENTARY INFORMATION:

Background

The Mexican spotted owl is one of three spotted owl subspecies recognized by the American Ornithologists' Union (AOU) (1975:285; 1983:xiii). It was described from a specimen collected at Mount Tancitaro, Michoacan, Mexico, and named *Syrnium occidentale lucidum* (Nelson 1903). The spotted owl was later assigned to the genus *Strix* (Ridgway 1914). Specific and subspecific names were changed to conform to taxonomic standards and became *Strix occidentalis lucida*. Monson and Phillips (1981) regard spotted owls in Arizona as *Strix occidentalis hauchucae*, noting they are paler than *S. o. lucida* from Mexico; however, this taxonomic treatment is not followed by the AOU (1983).

The Mexican spotted owl (*S. o. lucida*) is distinguished from the California (*S. o. occidentalis*) and northern (*S. o. caurina*) subspecies chiefly by geographic distribution and plumage. Generally, the background coloration of the Mexican spotted owl is a darker brown than the California and northern subspecies. The plumage spots are larger, more numerous and whiter in *S. o. lucida*, giving it a lighter appearance overall.

Using starch-gel electrophoresis to examine genetic variability among the three spotted owl subspecies, Barrowclough and Gutierrez (1990) found *S. o. lucida* to be distinguishable from the two other subspecies by a significant difference in allelic frequency at one locus. They concluded that this genetic variation, which suggests prolonged geographic isolation of the Mexican subspecies, indicates that the Mexican spotted owl may represent a species distinct from the California and northern spotted owls.

The Mexican spotted owl has the largest geographic range of the three spotted owl subspecies. Its range extends from the southern Rocky Mountains in Colorado and the Colorado Plateau in southern Utah, southward through Arizona and New Mexico and, discontinuously, through the Sierra Madre Occidental and Oriental to the mountains at the southern end of the Mexican Plateau. There are no estimates of the owl's historic population size. Its historic range and present distribution are thought to be similar. Unless otherwise noted, the terms spotted owl, owl, owls and owlet in this document refer to the Mexican spotted owl.

Utah—The earliest spotted owl record in Utah was from Zion National Park (ZNP) in June 1928 (Hayward *et al.* 1976). The most northerly owl occurrence in the Southwest was recorded September 6, 1958, in the Book Cliffs of northeastern Utah (Behle 1981), where there were two additional unconfirmed reports in 1992 (S. Linner, Service, pers. comm., 1992). The most significant population of spotted owls in Utah occurs in ZNP. Surveys conducted between 1987 and 1990 recorded 6 pairs and 3 single birds (Gutierrez and Rinkevich 1991).

Spotted owls appear to be largely absent from higher elevations in Utah. Records include a 1958 sighting in an aspen grove (Behle 1981), a 1990 calling response at 10,000 feet elevation on the Manti-LaSal National Forest (U.S. Forest Service (Forest Service), *in litt.*, 1990), and a radio-tagged juvenile that moved from its natal territory in ZNP to mixed conifer in the Dixie National Forest 12–15 miles to the northeast (S. Linner, pers. comm., 1992).

Current spotted owl records (*i.e.*, those recorded since 1988) for Utah total 26 pairs and 19 single birds (S. Linner, *in litt.*, 1992).

Colorado—Twenty historic records of spotted owls exist for Colorado (Reynolds 1989); 13 have been accepted as valid by the Colorado Rare Birds Committee. These records were from the San Juan Mountains in southwestern Colorado and from the Front Range as far north as the vicinity of Denver.

Current spotted owl records for Colorado total 2 pairs and 10 single birds.

Arizona—Few early spotted owl records exist for Arizona. The earliest record is of a pair nesting in a cottonwood tree northwest of Tucson in 1872. A pair was found in the foothills of the Huachuca Mountains in 1890 (Bendire 1892).

The historic and current distribution of spotted owls in Arizona coincide, except for the current absence of owls from lower elevation riparian forests. Bendire (1892) found a pair of spotted owls nesting in cottonwoods northwest of Tucson in 1872, and Willit found them in lowland riparian areas in the vicinity of Roosevelt Lake (Salt River) in the 1910s (Phillips *et al.* 1964). These records suggest spotted owls may have formerly occurred in low elevation riparian habitats.

Spotted owls are known from the Colorado Plateau in northern Arizona, the basin and range mountains of the southeastern part of the state, and the rugged transition zone between these provinces in central and east central Arizona. The largest concentration of spotted owls in Arizona occurs in the central and east central forests along the Mogollon Rim, in the White Mountains, and on the volcanic peaks near Flagstaff. This region takes in all or part of five national forests and two Indian reservations. The number of owls reported by various agencies at the end of 1990 from the Mogollon Rim, the White Mountains and the volcanic peaks near Flagstaff totaled 124 pairs and 77 single birds.

Current spotted owl records for Arizona total 153 pairs and 108 single birds.

New Mexico—There are numerous early spotted owl records for New

Mexico. Prior to 1928, spotted owls were known from most of the major New Mexico mountain ranges including the Sangre de Cristo, Jemez, Manzano, Sacramento, Mogollon, Tularosa, San Francisco, San Mateo, and Black Range. Many records from southwest New Mexico were the result of the work of J.S. Ligon, who collected throughout New Mexico from about 1910 through 1930. Ligon observed spotted owls over an extensive range in New Mexico and Arizona, but found them most frequently in south central and southwest New Mexico and at similar latitudes in Arizona (Ligon 1926). Recent historic records documented spotted owls from most other mountain ranges in New Mexico (Ligon 1961, Hubbard 1978).

Current spotted owl records for New Mexico total 129 pairs and 85 single birds.

Texas—All Texas spotted owl records are from the Guadalupe Mountains near the New Mexico border. An owl was first reported in 1901 (Bailey 1928). A pair of owls was observed in the Guadalupe Mountains in 1988 (National Park Service (NPS), *in litt.*, 1990).

Current spotted owl records for Texas total 1 pair of birds.

Mexico—Information on spotted owl occurrence in Mexico is somewhat limited. Nevertheless, specimen and sight records obtained over the past 120 years provide a fair understanding of the owl's general distribution and at least an indirect assessment of relative abundance.

A survey of major museum collections found spotted owl specimens from Mexico collected from about 1870 through 1961, which represented 14 locations in 7 states, as follows: Sonora, 4 specimens from 4 sites; Chihuahua, 13 from 5 sites; Jalisco, 2 from 1 site; Michoacan, 1 from 1 site; Guanajuato, 1 from 1 site; San Luis Potosi, 2 from 1 site; and Nuevo Leon, 1 from 1 site. Sight records exist for an additional 4 localities in Sonora, 3 localities in Chihuahua, and 1 location each from Durango and Coahuila. No specimens were collected in the latter 2 states. A total of 23 owl locations in Mexico were known in 1991 (Service 1991a). The great majority of specimens and sight records were concentrated near the U.S. border in northeastern Sonora and northwestern Chihuahua, with large gaps in the known distribution and very few records south and east of there. Field notes from several trips to various mountain ranges in Mexico during the period 1952–1954 and 1983 (J. Marshall, Smithsonian Institution, *in litt.*, 1992) included observations of owls in 7 mountain ranges in Sonora, one mountain range in Chihuahua, and at one site each in Jalisco, Nuevo Leon, and Coahuila. The New Mexico Department of Game and Fish (NMDGF) is currently funding an owl study in the San Juanito-Creel area of west-central Chihuahua. One pair and four single birds have been found so far in that study. Although accurate numbers of owls in Mexico are not known, the available evidence suggests the species has always been uncommon in that country.

Current spotted owl records for Mexico total 1 pair and 4 additional single birds located in the NMDGF Study (R. Valdez, New Mexico State University, pers. comm., 1992), and 1 additional pair (J.A. Olivo-Martinez, Secretaria de Agricultura Y Recursos Hidraulicos, Subdelegacion Forestal, *in litt.*, 1990).

From 1988 to 1990, spotted owl records for the southwestern United States and Mexico totaled 294 pairs and 214 singles (802 birds). During 1991, 120 additional management territories were established on national forests in New Mexico and Arizona (Forest Service, *in litt.*, 1992).

An estimate of the total spotted owl population in the southwestern United States was derived primarily from data supplied by the Forest Service (Fletcher 1990) and data available in other Forest Service documents. Data considered in the calculations included total estimated timberland within national forests in Arizona and New Mexico, total estimated timberland outside national forests in Arizona and New Mexico, estimated suitable spotted owl habitat on national forests in Arizona and New Mexico, spotted owl sightings on national forests in Arizona and New Mexico, acres searched for spotted owls on national forests in Arizona and New Mexico, site pair occupancy rates reported from formal monitoring on three national forests in Arizona and New Mexico, and records of owl occurrences in Utah and Colorado. These data allowed the Service to estimate a 1990 population of Mexican spotted owls in the southwestern United States of 806 pairs and 548 singles. The total estimated population was 2,160 owls (Service 1991a). Data supplied in response to the proposed rule were too incomplete to produce a revised estimate of the total Mexican spotted owl population in the southwestern United States. Data are insufficient to make an estimate of the total Mexican spotted owl population in Mexico.

The Mexican spotted owl occupies a variety of vegetative habitats but these usually contain certain common characteristics (Ganey *et al.* 1988, Ganey and Balda 1989b, Fletcher 1990). These characteristics include high canopy closure, high stand density, and a multilayered canopy resulting from an uneven-aged stand. Other characteristics include downed logs, snags, and mistletoe infection that are indicative of an old grove and absence of active management. Much of the owl habitat is characterized by steep slopes and canyons with rocky cliffs.

The vegetative communities occupied by the Mexican spotted owl consist primarily of warm-temperate and cold-temperate forests, and, to a lesser extent, woodlands and riparian deciduous forest. The mixed-conifer community appears to be most frequently used.

Mixed-conifer forests contain several species of overstory trees. The most common are white fir (*Abies concolor*), Douglas fir (*Pseudotsuga menziesii*), and ponderosa pine (*Pinus ponderosa*). Less common species are southwestern white pine (*P. strobiformis*), limber pine (*P. Flexilis*), aspen (*Populus tremuloides*), and corkbark fir (*Abies lasiocarpa* var. *arizonica*).

The understory of mixed-conifer provides important roosting sites for Mexican spotted owls. The understory usually contains the same conifer species found in the overstory plus Gambel's oak (*Quercus gambelii*), maples (*Acer grandidentatum* and *A. glabrum*), and New Mexico locust (*Robinia neomexicana*). Montane riparian canyon bottoms used by owls in the mixed-conifer zone may contain box elder (*Acer negundo*), narrowleaf cottonwood (*Populus angustifolia*), maples (*Acer* spp.), and alders (*Alnus* spp.).

The vegetative communities used by the owl vary across its range. In southeastern Arizona, habitat use is approximately equally split between mixed-conifer and Madrean Evergreen Forest and Woodland (Ganey and Balda 1989b), which occurs below the mixed-conifer zone. There are two series of Madrean Evergreen Woodland: the upper oak-pine occurs at 5,500 to 7,200 feet, and the lower evergreen oak (encinal) occurs at 5,000 to 6,500 feet. Within these vegetative zones, and particularly at lower elevations, Mexican spotted owls are usually found in steep, forested canyons with rocky cliffs.

At the northern edge of their range in northeastern Arizona, southwestern Colorado, and Utah, Mexican spotted owls may occur year-round at 4,400 to 6,800 feet within the pinon-juniper zone (*Pinus edulis* and *Juniperus osteosperma*) below mixed-conifer forests. These habitats often include narrow, shady, cool canyons in

sandstone slickrock (Gutierrez and Rinkevich 1990; NPS, *in litt.*, 1990). Although no studies have been completed, most of the owl's activities during the breeding season are believed to occur within the canyons. Owls roost in riparian vegetation of canyon bottoms, on ledges, or cavities in the slickrock canyon walls (D.W. Willey, NPS, *in litt.*, 1990, Gutierrez and Rinkevich, 1991). Results of the first seasons of an ongoing telemetry study in canyon habitats in southern Utah and Colorado showed that during fall and winter 46 percent of owl locations occurred on mesa-tops, benches and warm slopes above the canyons. Movement out of the canyons indicates a shift during winter from summer-use areas inside the canyons and on cool slopes, to warmer areas (Willey 1992).

The habitat characteristics of high canopy closure, high stand density, a multi-layered canopy, uneven-aged stands, numerous snags, and downed woody matter are best expressed in old-growth mixed-conifer forests (usually more than 200 years old). These characteristics may also develop in younger stands that are unmanaged or minimally managed, especially when the stands contain remnant large trees or patches of large trees from earlier stands. Ganey and Balda (1988) found an average of 995 acres of old-growth forest within the 2,092-acre average home range for three pairs of radio-monitored owls in northern Arizona. Fletcher (1990) reported an average of 154 acres of old-growth forest within the management territories (MTs) of 359 spotted owls or owl pairs in Arizona and New Mexico. Management territories averaged 2,055 acres and were established around owl roost or nest sites based on Forest Service biologists' best judgment of suitable habitat.

Habitats suitable for owl nesting appear to be more restricted than those required for foraging or roosting. Areas with high canopy closure and at least a few old-growth trees are usually selected for nesting. Fletcher (1990) analyzed the characteristics of 22 nest sites in Arizona and New Mexico. Nesting occurred most frequently in the mixed-conifer community type (16) followed by the pine-oak community type (3). The remaining three nest sites occurred in riparian (2) and white fir (1) communities. The mixed-conifer and pine-oak community types were used significantly more than expected based on availability. No nests were found in the ponderosa pine community type in this study although it makes up 40 percent of Forest Service estimated suitable habitat in Arizona and New Mexico. Witches'-broom and tree stick platforms were the most frequently used nesting substrates (12); tree cavities, mostly in Gambel's oak, were also used frequently (8), and two nests were on cliff ledges. Tree species used were Douglas fir (9), Gambel's oak (6), white fir (3), and ponderosa pine (1). Except for the one ponderosa pine, the trees were of moderate to large diameter and height for their species. Most trees were on moderate to steep slopes at elevations ranging from 6,000 to 8,000 feet. Most nest trees occurred on northern or eastern facing slopes indicating a preference for the cooler portion of the habitat.

Limited information is available on the reproductive biology of the Mexican spotted owl. Owls most commonly lay eggs in April (Ligon 1926; Johnson and Johnson 1985, Skaggs 1988), but eggs have been found as early as March 2 (Skaggs 1988). Clutch size varies from 1 to 3 eggs (rarely 4) with most broods containing 1 or 2 owlets (Bendire 1892, Ganey and Balda 1988). However, broods of 3 occur occasionally in southern New Mexico where Skaggs (1988) reported 2 of 13 broods contained 3 owlets.

The incubation period is approximately 30 days and most eggs hatch by the end of May. Incubation is carried out solely by the female. Males provide food for the female and young until the owlets are about 2 weeks old. The female then assists in capturing food for the young (Johnson and Johnson 1985).

The female roosts at the nest until 3 to 6 days before the young fledge. Most owlets fledge in June, 34–36 days after hatching (Ganey and Balda 1988). Owlets are unable to fly when they first leave the nest. Owlets become increasingly proficient at flight throughout the summer and are "semi-independent" by late August or early September although juvenile begging calls have been heard as late as September 30 (Ganey and Balda 1988). Young are fully independent by early October.

A wide range of reproductive rates has been observed between years. Reproductive success on the Coconino, Lincoln, and Santa Fe National Forests was determined by formal monitoring in 1989 and 1990 (Fletcher 1990), and during 1991 on the Gila and Coconino National Forests (Olson *et al.* 1991). In 1989, 39 monitored pairs had an average fecundity (female offspring per pair) of 0.67. In 1990, 18 monitored pairs had an average fecundity of 0.06 female young per pair. In 1991, on the Coconino National Forest, the mean fecundity of 18 paired females was 0.75, and on the Gila National Forest, mean fecundity of 19 paired females was 0.74. The low reproductive rate in 1990 was likely attributable to drought conditions affecting prey availability. Conversely, 1991 was an abnormally wet year which may have resulted in exceptionally favorable conditions for the owls. These disparate data identify the magnitude of variation in productivity through time. Ganey and Balda (1988), in a non-systematic study of nesting success in Arizona from 1984 through 1987 found a reproductive rate of 0.32 female young per pair. Skaggs and Raitt (1988) found a reproductive rate of 0.20 female young per pair during one nesting season on the Lincoln National Forest. No data are available on dispersal and age specific survival of the Mexican spotted owl. During 1991, 3 of 18 paired females on the Coconino National Forest, and 3 of 19 on the Gila National Forest were subadults (Olson *et al.* 1991). No other demographic data are available for the Mexican spotted owl.

The initial information on Mexican spotted owl home range characteristics, size, and use resulted from a telemetry study conducted in northern Arizona on 8 radio-tagged spotted owls (Ganey and Balda 1989a). Home range size for single owls varied from 702 to 2,386 acres, with an average size of 1,601 acres. The combined home ranges occupied by pairs averaged 2,092 acres. An average of 66 percent of a pair's home range was used by both owls. The areas of overlap were the nest area, the primary roost, and the foraging areas. Within the home range, owls appear to have core areas that are consistently used. Core areas of individuals (*i.e.*, where 60 percent of radio responses occurred) averaged 336 acres, and core areas for pairs averaged 398 acres. High use areas tended to correspond to steep slopes (Ganey and Balda 1988). Although seasonal movements varied between owls, most remained within their summer home ranges throughout the year. On the Lincoln National Forest, the mean home range size of 4 pairs was 2,909 acres during winter and spring 1990–1991 (Kroel and Zwank 1991). In Utah, Willey (1992) telemetered 5 male owls from ZNP, Canyonlands National Park, and Capitol Reef National Monument. The mean home range size for the 3 owls from ZNP was 598 acres compared with 1,544 for the other 2 owls.

The diet of the Mexican spotted owl includes a variety of mammals, birds, reptiles, and insects with mammals making up the bulk of the diet throughout the owl's range. Woodrats (*Neotoma* spp.) are the most important prey, especially in rock canyon country (Johnson and Johnson 1985, Ganey and

Balda 1988, Gutierrez and Rinkevich 1991, Ganey 1992).

Ganey and Balda (1988) observed that Mexican spotted owls hunted mainly by moving from tree to tree, spending from a few seconds to several hours watching and listening for prey. Because spotted owls launch their attack at relatively short distances from their prey, a multistoried forest with many potential perches is advantageous to owls seeking food.

Spotted owls have plumage similar to boreal-zone owls, apparently as an adaptation for periods of winter temperatures. They are inefficient at dissipating body heat. Apparently to compensate for this inefficiency, they roost and nest in areas of mature forest with a dense multilayered canopy, often on a north slope, near water, or in a canyon that receives cold air drainage. Such sites are 1 to 6 degrees Celsius cooler than other nearby habitat (Barrows and Barrows 1978, Barrows 1981).

Hawks and great horned owls (*Bubo virginianus*) prey on Mexican spotted owls. Great horned owls were the suspected predators of 3 radio-tagged Mexican spotted owls (Ganey and Balda 1988, Skaggs 1990). There is some habitat overlap between the 2 species, but great horned owls occur most often in areas of low relief in selectively logged forest or along meadow edges, whereas spotted owls occur mainly on steep slopes containing dense forest. Johnson and Johnson (1985, 1990) and Phillips *et al.* (1964) reported circumstantial evidence indicating that Mexican spotted owls abandon habitat invaded by great horned owls.

Young *Strix* owls suffer from avian predation (Southern 1970, Gutierrez *et al.* 1985). Young northern spotted owls are especially vulnerable during development, following fledging, and during early dispersal (Forsman *et al.* 1984, Gutierrez *et al.* 1985, Miller and Meslow 1985). Skaggs (1988) observed a red-tailed hawk (*Buteo jamaicensis)* almost succeed in capturing a Mexican spotted owl. A red-tailed hawk was the suspected predator of a Mexican spotted owl in a radio-monitoring study (Skaggs 1990).

Federal, State, Indian, and private lands contain habitat for the Mexican spotted owl. The Forest Service, Bureau of Indian Affairs (BIA), NPS, and Bureau of Land Management (BLM) are the Federal land managing agencies. Efforts to estimate suitable habitat and survey for owls have varied between agencies with the most intensive work being done by the Forest Service.

In 1990, the Forest Service estimated that it managed 4,698,807 acres of suitable owl habitat (Fletcher 1990; Forest Service, Pike and San Isabel National Forest, *in litt.*, 1990; Forest Service, Intermountain Region, *in litt.*, 1990) on 18 national forests. Along with presently suitable habitat, the Forest Service estimated another 1,040,000 acres of Arizona and New Mexico national forest lands were capable of becoming suitable in the next 10 to 100 years (Fletcher 1990). These lands were suitable in the past but became unsuitable due to timber harvest or natural causes. Timber harvest accounted for the loss of 816,000 acres and natural causes accounted for the loss of 221,000 acres. The Forest Service estimated 79 percent of these lands will require 50+ years to return to suitable owl habitat.

The Forest Service began Mexican spotted owl inventories in New Mexico and Arizona in 1988. Inventories in Colorado and Utah began in 1990. As of 1990, just over 2,000,000 acres had been inventoried (Fletcher 1990; Forest Service, Pike and San Isabel National Forest, *in litt.*, 1990; Forest Service, Intermountain Region, *in litt.*, 1990). Approximately 70 percent of the surveys were on lands available for timber harvest.

Forest Service inventories through 1990 resulted in the establishment of 517 owl MTs in Arizona and New Mexico with each MT representing the occurrence of either a single owl or pair of owls. Approximately half the MTs were established from confirmed nest or roost localities; the other half were established only from night calling responses. On lands unavailable for timber harvest, only 30 percent of the MTs were established from confirmed nest or roost localities. There were 318 MTs (61 percent) on lands available for timber harvest and 199 MTs (39 percent) on lands not available for timber harvest. Among the MTs on lands not available for timber harvest, 102 were on lands unsuitable for timber harvest, 39 were on lands withdrawn from timber harvest, and 58 were on lands such as wilderness areas (Fletcher 1990). The Forest Service reported 620 MTs for Arizona and New Mexico national forests as of 1992, but provided no new information about the area inventoried or distribution of owl MTs by types of land use.

There are potentially up to 878,000 acres of spotted owl habitat on Indian reservations. However, the actual amount of habitat is likely much lower because estimates supplied by the BIA Forestry Divison were developed mostly from timber-type maps containing little information about understory conditions or slope. Also, habitat estimates for the Mescalero Apache, Jicarilla Apache, Southern Ute, and Zuni reservations represent the total commercial forest land for those reservations; no potential habitat estimates were supplied.

Formal owl surveys were conducted on 71,200 acres on four Indian reservations in 1990 and 15 owls were located. In 1990 a total of 5 pairs and 22 single owls were known to occur on Indian reservations. (BIA, Albuquerque Area Office, *in litt.*, 1990; BIA, Navajo Area Office, *in litt.*, 1990; BIA, Phoenix Area Office, *in litt.*, 1990).

A total of 734,000 acres of potential owl habitat occurs on BLM lands in Colorado, Utah, Arizona, and New Mexico (BLM, Colorado State Office, *in litt.*, 1990; BLM, Utah State Office, *in litt.*, 1990; BLM, New Mexico State Office, *in litt.*, 1990; Ted Cordery, Arizona BLM, pers. comm., 1992).

In 1992, a total of 1 pair and 5 single owls were known from BLM lands in Colorado, Utah, Arizona, and New Mexico. There were 6 pairs and 4 singles in Utah, 1 pair and 3 singles in Colorado, and no owls in New Mexico or Arizona.

Most owl habitat on national parks and monuments consists of steep shaded canyons in the northern part of the owl's range. It is difficult to estimate acreage for this type of habitat. The NPS estimated that 23 parks and monuments in the Southwest contained between 238,000 and 438,000 acres of owl habitat (NPS, Southwest Region, *in litt.*, 1990; NPS, Rocky Mountain Region, *in litt.*, 1990; J. Ray, NPS, Grand Canyon National Park, pers. comm., 1990).

In 1990, a total of 8 pairs and 16 single owls were known from NPS lands (NPS, Southwest Region, *in litt.*, 1990; NPS, Rocky Mountain Region, *in litt.*, 1990; J. Ray, NPS, pers. comm., 1990).

Between 177,400 and 202,400 acres of New Mexico State lands contain forests and canyons that could be suitable owl habitat. However, no owl surveys had been conducted as of 1992 (Greg Fitch, New Mexico Forestry Division, pers. comm., 1992). In Arizona, no suitable owl habitat is known to occur on State lands controlled by the Arizona Game and Fish Department (AGFD). No present or historic owl localities are known from State lands in New Mexico or Arizona. No information was obtained on suitable owl habitat on State lands in Utah and Colorado. However, 1 pair was recorded on Utah state lands during 1992.

Ganey and Balda (1988) surveyed throughout Arizona for spotted owls from 1984 through 1987. They reported 3 of 146 owl sites were on private lands, but provided no locations or habitat

information. Skaggs (1988) reported that 7 owl records from southern New Mexico during the period 1900 to 1987 were from private lands. These records from Hidalgo County in southwest New Mexico were from the Animas Mountains, which are on private land. Spotted owls are reported currently present in the Animas Mountains (P. Melhop, Nature Conservancy, pers. comm., 1992).

Suitable spotted owl habitat reported by Federal and State agencies in 1990 totalled about 6,815,557 acres. The Forest Service reported 4,698,807 acres (69 percent), BIA 878,000 acres (13 percent), BLM 711,000 acres (10 percent), NPS between 238,100 and 437,600 acres (about 5 percent), and the State of New Mexico between 177,400 and 202,400 acres (about 3 percent). An estimate of 5,000 acres of suitable owl habitat on private lands is much less than 1 percent of the total.

The proportion of total habitat for each agency is probably fairly accurate. However, the total acreage of suitable habitat is likely overestimated. The error is a consequence of inadequate information on land status and disagreement about the types of communities that provide suitable habitat. For instance, the Forest Service included many acres of the ponderosa pine community type in its estimate of suitable habitat. These acres were excluded from the Service estimate. Several agencies expressed uncertainty about the accuracy of their habitat estimates.

From the data provided by various agencies, it is impossible to develop an accurate estimate of total suitable owl habitat. The Service's best estimate excludes most of the ponderosa pine community type for New Mexico and Arizona national forests because this community type was found to be used insignificantly by nesting and roosting owls. However, it may constitute important wintering or foraging habitat. The Forest Service does consider ponderosa pine forest to be suitable habitat when it has the correct structural attributes (K.W. Fletcher, Forest Service, pers. comm., 1992), but the forest stand maps and inventory databases do not separate suitable from unsuitable stands in ponderosa pine. Forest Service owl inventory data place approximately 50 management territories in ponderosa pine habitat which would add 100,000 acres to the suitable habitat base in Arizona and New Mexico (Forest Service, *in litt.*, 1992). Although the ponderosa pine community type might also be excluded for Colorado national forests and Indian reservations, this was not done because figures from those sources did not report habitat by community type. The Service estimate of total suitable Mexican spotted owl habitat in the United States is 5,489,734 to 5,714,734 acres.

Ninety-one percent of Mexican spotted owls known at the end of 1990 occurred on national forests, 4 percent occurred on Indian reservations, 4 percent occurred on national parks, and 1 percent occurred on BLM lands. Because the Service has received only incomplete 1991 and 1992 survey data, it is not possible to identify exact percentages since 1990.

Management direction for lands with owl habitat varies by agency. A management emphasis for timber production is in force on much of Forest Service and BIA managed land. Much BLM owl habitat is managed primarily for wildlife and recreation but is still available for natural resource extraction, including oil, gas, minerals, and timber. NPS lands are managed for recreation and preservation of natural values. State lands in blocks large enough to support owl populations are usually game management areas. Management of private lands providing owl habitat is unknown.

Forest Service management plans call for suitable timber land in the Southwest to be managed as even-aged stands using a system called shelterwood management. The shelterwood management system begins in a timber stand 100 or more years old with a series of commercial harvests culminating in a regeneration cut. This cut removes most of the timber but leaves some trees to provide shade and a seed source for the newly developing stand. After a new stand of young trees is established in 10 to 40 years, a commercial harvest called a removal cut removes the sheltering overstory trees. Young stands receive pre-commercial thinning to maintain tree spacing for maximum growth. When trees reach commercial size, stands are periodically thinned with commercial harvests called intermediate cuts. There are usually 1 to 3 intermediate cuts prior to the next regeneration cut.

About 95 percent of the Forest Service commercial timber in the Southwest is planned for management under the shelterwood system. Commercial forests on the Navajo Indian Reservation are being converted to shelterwood management (James Carter, BIA, pers. comm., 1990). Other commercial forests on Indian lands in the Southwest are managed as uneven-aged stands by use of selective logging.

Previous Service Actions

On December 22, 1989, the Service received a petition submitted by Dr. Robin D. Silver requesting the listing of the Mexican spotted owl as an endangered or threatened species under the Act. On February 27, 1990, the Service found that the petition presented substantial information indicating that listing might be warranted and initiated a status review.

Section 4(b)(3) of the Act requires the Secretary of the Interior to reach a final decision on any petition accepted for review within 12 months of its receipt. In conducting its review, the Service published a notice in the **Federal Register** (55 FR 11413) on March 28, 1990, requesting public comments and biological data on the status of the Mexican spotted owl. In addition, a status review team of 5 Service biologists and 1 biologist each from the AGFD and the New Mexico Department of Game and Fish (NMDGF) was established. This team organized all comments and information received in response to the March 28 notice as well as other information gathered or in the Service's files.

On December 6, 1990, the team completed a draft status review report on the Mexican spotted owl. On February 20, 1991, the Service made a finding, based on the contents of the report, that listing the Mexican spotted owl, pursuant to section 4(b)(3)(B)(i) of the Act, was warranted. Notice of this finding was published in the **Federal Register** on April 11, 1991.

The entire spotted owl species (*Strix occidentalis*) was listed on the Service's Animal Notice of Review (54 FR 554; January 6, 1989) as a Category 2 species. A Category 2 species is one for which listing may be appropriate but additional biological information is needed to support a proposed rule. The information gathered in the status review for the Mexican spotted owl contributed to the information needed for a decision to propose this subspecies for listing. A proposed rule to list the Mexican spotted owl as threatened without critical habitat was published in the **Federal Register** on November 4, 1991 (56 FR 56344).

Summary of Comments and Recommendations

In the November 4, 1991, proposed rule (56 FR 56344) and associated notifications, all interested parties were requested to submit factual reports or information that might bear on whether the owl should be listed. The comment period originally closed on March 3, 1992, but was reopened from May 11,

1992 to September 1, 1992 (57 FR 20073; May 11, 1992) to allow submission of additional comments. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting public comment were published in Arizona in the Mesa Tribune, Scottsdale Progress, Tucson Citizen, Navajo-Hopi Observer, Eastern Arizona Courier, Lake Powell Chronicle, Kingman Booster-Spirit, Sierra Vista Daily Herald Dispatch, Copper County News, Verde Independent Bugle, Red Rock News, Williams News, Prescott Sun, Holbrook Tribune News & Snowflake Herald, Round Valley Paper, Silver Creek Dispatch, White Mountain Independent, Arizona Daily Sun, Arizona Republic, Arizona Daily Star, in New Mexico in the Albuquerque Journal, Silver City Daily Record, Santa Fe New Mexican, Carlsbad Current Argus, Alamogordo News, in Utah in The Daily Spectrum, Reaper, Salt Lake Tribune, and in Colorado in the Durango Herald, and Rocky Mountain News. The inclusive dates of publication were January 15, 1992 to February 11, 1992 for the initial comment period and hearings and from June 17, 1992 to July 1, 1992 for the second comment period.

Because of anticipated widespread public interest, the Service held 6 public hearings which were announced in the proposed rule. Interested parties were contacted and notified of the hearings. A notice of the hearing dates and locations was published in the **Federal Register** on January 2, 1992 (57 FR 35). Approximately 883 people attended the hearings. About 68 people attended the hearing in Santa Fe, New Mexico; 42 in Alamogordo, New Mexico; 71 in Silver City, New Mexico; 60 in Tucson, Arizona; 545 in Flagstaff, Arizona; and 97 in Cedar City, Utah. Transcripts of these hearings are available for inspection (see **ADDRESSES**).

A total of 1,541 written comments were received at the Service's Ecological Services Field Office in Albuquerque, New Mexico: 149 supported the proposed listing; 1,384 opposed the proposed listing; and 8 either commented on information in the proposed rule but expressed neither support nor opposition, provided additional information only, or were non-substantive or irrelevant to the proposed listing.

Oral or written comments were received from 142 parties at the hearings: 33 supported the proposed listing, and 109 opposed the proposed listing.

In total, oral or written comments were received from 12 Federal and State agencies and officials, 25 local officials, and 1,670 private organizations, companies, and individuals. All comments, both oral and written, received during the comment period are addressed in the following summary. Comments of a similar nature are grouped into a number of general issues. These issues and the Service's response to each are discussed below.

Issue 1: The Service does not have adequate population trend data to support the conclusion that the Mexican spotted owl is threatened and should be listed under the Act.

Response: The Service concludes, as detailed in the "Summary of Factors" section, that there is sufficient evidence that the status of the Mexican spotted owl meets the standards required for it to receive protection under the Act. The Service studied the trends in habitat loss to determine the effects to the population of the Mexican spotted owl. Approximately 20 percent of owl habitat has been rendered no longer suitable, with one-half of this habitat loss occurring within the last decade, representing a habitat loss rate close to 1 percent year. Forest plans for the next decade for the 11 national forests in New Mexico and Arizona call for continued conversion of habitat to a non-suitable condition at a rate of 0.4 percent per year. The habitat lost under a shelterwood harvest system is permanently maintained in a condition not suitable as owl habitat. This loss of habitat will, in time, result in the endangerment of the owl. Forest plans govern forest practices, and as long as they are in effect, the Service cannot ignore their content.

Issue 2: The habitat requirements of the owl are not adequately understood to justify the Service contention that shelterwood timber management makes habitat unsuitable for owl use. Owls occur in a variety of habitat types across a broad elevational range. Owls require open stands and second-growth, and are not old-growth dependent.

Response: The owl uses a variety of forest types ranging from deciduous riparian woodlands, through pinon-juniper, pine-oak, mixed conifer, and spruce fir. Elevations used usually range from 6,500 to 9,500 feet. Most surveys have been associated with timber sales, and when evaluated with surveys in wilderness areas, other reserved lands, and non-Forest Service land, they present adequate data to characterize habitat. There are common characteristics of almost all occupied forested habitat (Ganey and Balda 1988, Ganey and Balda 1989a, Ganey and balda 1989b, Kroel and Zwank 1991). The characteristics include a significant component of mature trees, high canopy closure, multiple storied forest structure, and abundant dead and down woody material. Single-storied, even-aged stands produced under shelterwood management do not retain the habitat characteristics found in occupied owl habitat. Surveys have not determined occupancy in habitat following significant stand modifying timber harvest. Favorable roost and nest sites are seldom found in significantly altered stands.

Issue 3: Habitat definition is biased because surveys are driven by timber sales. Conversely, old-growth has not been surveyed.

Response: Owl survey efforts have been prioritized to proposed activity sites primarily to determine absence or presence of owls and "clear" those areas. However, a significant and increasing amount of survey effort is directed at reserved lands such as wilderness, stands allocated for old-growth management, and non-activity areas including steep slopes, canyon environments and other areas minimally or not suited for timber harvest. Surveys have examined mature and old-growth habitat on all of the national forests in the Southwest Region.

Issue 4: Ponderosa pine forests are utilized as habitat, and should be adequately protected. Conversely, ponderosa pine forests are not owl habitat, and need not be protected.

Response: The Forest Service estimates the ponderosa pine community type provides 40 percent of habitat in Arizona and New Mexico national forests. Of 22 nest sites for which sufficient data were available to analyze, none occurred in the ponderosa pine type. Of 83 day roost sites with sufficient data to analyze, only one occurred in the ponderosa pine type (Fletcher 1990). The pine-oak community type, which provides only 8 percent of the estimated owl habitat, had 18 percent of the nest sites and 19 percent of the roost trees. Therefore, the pure ponderosa pine type appears to provide only marginal conditions for nest and roost sites. However, where this habitat intergrades with other habitats such as mixed conifer and canyons, it may be used for foraging. Additionally, the habitat may be important for seasonal elevational movements and winter habitat.

Issue 5: Data are inadequate to determine how the Mexican spotted owl uses habitat in southern Utah.

Southwestern Colorado does not include any owl habitat.

Response: Studies in canyon habitats in southern Utah have provided some of the best data available on habitat use and movements by the Mexican spotted owl. Gutierrez and Rinkevich (1991) and Rinkevich (1991a, 1991b) examined distribution, density and food habits of Mexican spotted owls at Zion National Park and on surrounding BLM lands during the period May 1989–August 1990. They found owls at nine different locations within Zion National Park. Their analysis of habitat characteristics identified high humidity, multiple vegetative strata, narrow canyons and high quantities of ground litter as habitat correlates with the presence of Mexican spotted owls. In contrast to forested habitats, canyon habitats frequently contain relatively little or no forest stands other than riparian stringers. Mammals comprised 99 percent of the owl's diet, and bushy-tailed woodrats (*Neotoma cinerea*) comprised 67 percent of the biomass identified at Zion National Park. The bushy-tailed woodrat and the desert woodrat (*N. lepida*) comprised 98 percent of the biomass in the owl's diet on NPS and BLM lands in southern Utah. Surveys in Colorado indicate that owls use canyon habitat types similar to those in Utah. The known range extends from Mesa Verde and the San Juan Mountains northward along the Front Range of central Colorado (Reynolds 1990, Willey 1992).

Issue 6: Data on demography, dispersal and other life history characters are inadequate to allow the development of a population viability model. The presence of single birds on territories should be seen as a warning that the population is in decline because it shows that birds are not able to acquire mates.

Response: There are not adequate data to develop a population viability analysis. Demography studies and other studies to acquire the data necessary to complete a population viability analysis require several years, depending on the longevity of the species. Studies designed to obtain these data are being conducted on the Coconino, Gila and Lincoln National Forests. It will be several years before they produce the necessary data. Single birds on territories may be a cause for concern where singletons reside alone on territories for multiple years as they do at some sites in northern New Mexico. In the southern mountain ranges, where owls are more abundant, additional surveys frequently find that pairs are present, or the unmated birds are subadults. The presence of subadults on territories probably indicates an expanding population. When population data are available, the stability of the populations will be analyzed.

Issue 7: Data on prey base or prey habitat relationships are not available. Spotted owl occurrence is limited by prey availability, not forest environment.

Response: The Service believes that, as with other species, owl populations are limited by prey availability, environment, stochastic events, and other factors. There have been several prey analyses completed at this time including studies on the Coconino National Forest (Ganey 1992), several national forests in New Mexico and Arizona (Duncan 1992), Capitol Reef National Park (Wagner *et. al.* 1982), Zion National Park (Kertell 1977, Rinkevich 1991a) and Bureau of Land Management lands surrounding Zion National Park (Rinkevich 1991b). These studies all have shown that Mexican spotted owls feed on mammals, birds, reptiles and insects. Mammals, woodrats (*Neotoma* spp.) in particular, account for most of the biomass consumed. Another study in progress on the Lincoln National Forest (Pat Ward, Forest Service, pers. comm., 1992) has identified *Peromyscus maniculatus* and *Microtus* spp. as important prey on that forest.

The spotted owl is described as a "perch and dive" predator. Hunting behavior consists of moving from tree to tree, spending a few seconds to several hours watching and listening for prey (Ganey and Balda 1988). Owls have been observed to launch attacks from perches less than 5 meters in height. Because spotted owls dive relatively short distances to their prey, a multi-storied forest with many potential perches is essential to successful foraging. Spotted owls infrequently forage in shrub-sapling habitats, probably due to difficulty in hunting effectively in dense ground cover. California spotted owls also avoid meadows or large open expanses, despite potentially large numbers of prey available (Barrows 1980). The occurrence of spotted owls in canyon habitat with a minimal forest component suggests that the topographical and physical structure of canyons may substitute for the multi-storied structural characteristics of forested habitat (Gutierrez and Rinkevich 1991, Willey 1992).

Issue 8: The Service did not consider the range and population size of the Mexican spotted owl in Mexico.

Response: The proposed rule did consider the range in Mexico, but as pointed out, there is very little information about the owl in Mexico. Sightings in Mexico have been rare despite the fact that many of the observers were explicitly looking for unusual birds, including owls, to collect. The rarity of the sightings suggest that the birds are uncommon in Mexico. The Service is also concerned about the potential for the development of large-scale timber operations in Mexican spotted owl habitat in Mexico. For example, a project proposed by the World Bank would extract four billion board feet from the Barranca del Cobre area of the Sierra Madre Occidental in southern Chihuahua. In 1992, the Service began a cooperative Mexican spotted owl research project with Mexican biologists in this area.

Issue 9: No data are available on owl populations on Indian reservations.

Response: Limited data are available on owls on Native American lands. Until recently, surveys for owls were infrequent on these lands. However, in many cases, that situation has changed and surveys are being conducted. Currently, an estimated 13 percent of owl habitat, and 5 percent of known owls occur on Native American lands. These figures were included in the Service estimate of the total Mexican spotted owl population throughout the southwest.

Issue 10: Loss of riparian habitat has not impacted owls at higher elevations.

Response: Riparian woodlands in the Southwest prior to the twentieth century may have satisfied many of the structural and thermal requirements of owl nest and roost sites. Dense cottonwood canopies and willow/mesquite understories may provide the necessary multi-storied structure and cool microclimate. High diversity and abundance of prey items in these habitats may have made them suitable breeding sites. Loss of riparian habitat has been most extensive at low and middle elevations. In the last century, Arizona has lost 90 percent of its low elevation riparian habitat (Bulmer and Thornburg 1988), and New Mexico has lost 33 percent of its wetlands, including low elevation riparian habitat (Dahl 1990, State of Arizona 1990). The importance of low and mid-elevation riparian woodlands to the owl is unknown. Less high elevation, montane riparian habitat has been lost than lower elevation habitat, with correspondingly lower impacts to owls.

Winter use of low elevation riparian habitat has been documented (Bendire 1892, Phillips *et al.* 1964). Its importance as a seasonal portion of the home range is unclear. Riparian habitat also may provide significant dispersal

corridors between the semi-isolated montane habitat regions. Current studies of dispersal and winter elevational movements will identify the extent and importance of riparian habitat for the owl.

Issue 11: Landscape fragmentation in the southwestern United States is natural and should not adversely affect a species that has evolved in that environment.

Response: Landscapes in the southwestern United States are naturally heterogenous. The natural heterogeneity often leads to isolation of small populations that are individually at greater risk of extinction than larger populations with similar rates of immigration and emigration. Fragmentation of contiguous blocks of habitat further reduces effective population sizes with attendant increases in extinction risk. Because fragmentation results in smaller local populations, even species that are adapted to fragmented landscapes may be jeopardized by additional man-caused fragmentation. Carey *et al.* (1992) demonstrated that northern spotted owls required and traversed significantly more terrain in heavily fragmented ares than in lightly fragmented areas. The consequent expansion of territories in heavily fragmented habitat appeared to adversely impact social structure, as evidenced by the proportion of adult-subadult pairs, degree of adult nomadism, and overlap among home ranges of pairs. Gutierrez and Pritchard (1992), in a study on the insular ecology of the California spotted owl, a subspecies occurring in small populations on isolated mountain ranges, also found that owls in isolated populations experienced lower survival rates and had a greater proportion of subadults. There are no studies on the effects of habitat fragmentation on the Mexican spotted owl.

Issue 12: Disjunct sub-populations on "sky islands" (montane environments) demonstrate that genetic isolation is apparently not a limiting factor to the Mexican spotted owl, and suggests at least minimal dispersion between mountain ranges.

Response: Genetic isolation may not be a limiting factor, but its importance is not known at this time. Currently, one study is investigating the extent of dispersal and the phylogenetic and population affinities of spotted owls. Additional research is needed in other portions of the sub-species range.

Issue 13: The Service states that the populations of great horned owls and red-tailed hawks in New Mexico and Arizona have increased by more than 2 percent annually for the last 22 years. The actual data reported in breeding birds surveys show that great horned owls have increased 2.6 percent annually in Arizona and decreased 4.1 percent annually in New Mexico. In the last ten years red-tailed hawks had an insignificant annual increase of 0.2 percent in Arizona. Furthermore, there is no evidence that these population changes are related to forest fragmentation as suggested in the proposed rule.

Response: The trend data reported in the proposed rule were from a summary of Breeding Bird Survey (BBS) routes in Region 2 (New Mexico, Arizona, Texas, Oklahoma) of the Service, not New Mexico and Arizona. The figures for the 1966–1992 BBS summary are as follows: in New Mexico, great horned owls (*Bubo virginianus*) had a statistically non-significant decline of 2.2 percent per year, and red-tailed hawks (*Buteo Jamaicensis*) had a significant increase of 5.6 percent per year; in Arizona, great horned owls had a non-significant increase of 1.1 percent per year, and red-tailed hawks had a significant increase of 4.3 percent. During the ten-year period of 1982-1991, red-tailed hawks in Arizona showed a non-significant 0.6 percent annual decrease, and in New Mexico, a non-significant 3.3 percent annual increase. During the same period, great horned owls in Arizona showed a non-significant decrease of 2.6 percent per year, and in New Mexico, a significant annual decrease of 11.3 percent. Looking only at the mountainous physiographic unit that includes the upper portion of the Mogollon Rim in Arizona, the Mogollon Mountains and Sacramento Mountains in New Mexico, for the 1982-1991 period, great horned owls showed a significant 4.2 percent annual decline, and red-tailed hawks increased significantly at a rate of 8.6 percent annually. A non-significant rate of change is the same as no change at all. In fact, breeding bird surveys are not a good way to estimate populations of large hawks and owls, because they infrequently nest near roads, and in the case of owls, are nocturnal.

Issue 14: The consequences of human impacts on the environment are impossible to predict and we should not be too eager to interfere with the evolutionary process.

Response: There are frequently unanticipated effects on the environment from human activities, but unfortunately they are not often beneficial to rare species. In most cases these effects result in declining populations and even extinctions. In the case of the Mexican Spotted owl, reduction of habitat is most likely to be harmful to the species because of direct reductions in population size with attendant increase in the probability of extinction. In promulgating the Endangered Species Act, Congress sought to prevent extinction as a consequence of economic growth and development untempered by adequate concern and conservation. Such human activities are additive to and beyond normal ecological processes that may result in extinction.

Issue 15: Increased spotted owl roadkills and use of marginal habitat indicated abundance.

Response: There is no information on trends of spotted owl roadkills as no systematic sampling method has been devised for translating the roadkill reports into relative abundance. The habitat in question may not provide for nesting and roosting, but may be important for foraging and wintering. Research is underway to address the uses of habitats considered atypical for the owl.

Issue 16: The Service neglected the Mexican spotted owl study by Dames and Moore (1990).

Response: The Service evaluated the study and found that it did not contain any information contrary to that in other owl habitat research. The study was inconclusive regarding habitat selection between core and outside-core areas. The second conclusion reached in the study, concerning differences between habitats utilized, supported the accepted view that there is considerable variation in habitat attributes within owls' home ranges. The experimental design sampled only habitat considered suitable and was inadequate to show differences between suitable and unsuitable owl habitat.

Issue 17: The Service has not considered the habitat reserved in areas such as wilderness and old growth allocations,

Response: The Service evaluated the relative threats to the portion of the population subject to past and future habitat loss, and concluded that habitat loss affected a significant part (59 percent of the total owl population.

Issue 18: The listing proposal was based on Ganey's flawed data.

Response: Ganey has conducted some of the most extensive research on the Mexican spotted owl, and is considered an authority on the species. His published studies, which the Service has cited, are available for public and peer review. The Service has not found Ganey's experimental design or conclusions to be flawed.

Issue 19: The Service should submit its findings to peer review.

Response: The data and information that were used to evaluate the petition, compile the status review, and determine the threats detailed in the proposed rule, are all referenced in the status review and proposed rule. The proposed rule, which was published in the **Federal Register** on November 4, 1991, is similar to a draft document. The extensive comment periods provided opportunities for peer review by both the scientific community and the interested public. The comments addressed here summarize that review. Where information was presented in error in the proposed rule, or where new information was provided, the comment information has been incorporated into this final rule.

Issue 20: Service biologists who wrote the status review and proposed rule are not trained in silviculture or forestry, and therefore have no business analyzing silvicultural practices.

Response: The Service biologists who wrote the status review and proposed rule are primarily trained in ecology and wildlife biology; however, some do have training in silviculture. The purpose of the review was to evaluate the effects of habitat change on the Mexican spotted owl, not to evaluate the assumptions of the silviculture treatments and whether the treatments would result in the foresters' desired future conditions. The Service assumed that those conditions would be met. A threat to the owl was identified based on the incompatibility of the desired conditions with maintenance of owl habitat.

Issue 21: The Mexican spotted owl is a subspecies, not a species, so it cannot be listed.

Response: Section 3(15) of the Act defines species to include "any subspecies of fish or wildlife or plants", and the criterion of a listable population as "any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature". The Mexican subspecies of the spotted owl does not overlap the ranges of either of the other two subspecies. Furthermore, Barrowclough and Gutierrez (1990) conducted a genetic analysis of the three subspecies and found no variation between the coastal subspecies. However, their data do indicate that the Mexican spotted owl is distinct and has been genetically isolated from the other two subspecies for a long period of time. That study provided information supporting the determination that the Mexican spotted owl meets the taxonomic criteria for listing under the Act.

Issue 22: Current protection guidelines under Forest Service Interim Directive No. 2 are excessive/adequate/inadequate. Unoccupied habitat is important.

Response: The Service is concerned that management of national forests to protect individual owls or pairs of owls, by designating individual management territories, does not provide adequate protection for the species. The Service is concerned that forest fragmentation between management territories may increase rates of predation, reduce the amount of habitat available for recruitment of owls into new territories, and reduce the ability of dispersing owls to move across the forests. Because the size of the management territories is based on the mean of a small sample of home ranges, adequate habitat may not be provided by current management guidelines. At this time, it is not known to what extent owls move from their management territories during winter. If habitat surrounding management territories is not maintained, and owls require it, even seasonally, the birds may not survive. In telemetry studies in Arizona and Utah, 2 of 5, and 1 of 5 Mexican spotted owls, respectively, moved off their territories during winter and returned prior to breeding in the spring (Ganey and Balda 1989b, Willey 1992). Management for the northern spotted owl is developed around large blocks of habitat, referred to in the northern spotted owl draft recovery plan as Designated Conservation Areas. The management plan for the California spotted owl calls for management of high quality and low quality habitat on a forest-wide basis (Verner *et al.* 1992). The Service believes that either of these strategies are preferable to the single territory management under the current Region 3 (Arizona and New Mexico) Forest Service Interim Directive No. 2.

Issue 23: The sizes of management territories and core areas established by the Forest Service are excessive/inadequate.

Response: The Forest Service derived its estimate of management territories and cores based on Ganey and Balda's (1988) study, which at the time, was the only study that provided information on home range size for the Mexican spotted owl. The study sampled mixed conifer forest habitat use by radio-monitored owl pairs. Additional sampling in mixed conifer forest has been done by Kroel and Zwank (1991) with similar results. The Forest Service use of the average rather than maximum size, or the mean size plus two standard deviations for the establishment of management territory size, resulted in management territories that meet size and habitat requirements for only about 50 percent of owl pairs. Core area size was determined by delineating an activity area in which 60 percent of radio signals occurred, and centering the area around the known roost, nest or detection locations. The use of averages probably underestimates the size of activity areas for a significant portion of the population.

Issue 24: Owl habitat on BLM and State land is inadequately protected.

Response: The timber programs on BLM and State lands in the southwest are small and are not considered a threat to the owl. Most owl habitat on BLM lands is mixed-conifer and hardwood riparian stringers in canyons, so it is unlikely to be used for commercial timber production. Proposed actions on BLM lands follow a clearance and impact analysis conducted in accordance with the Endangered Species Act and the National Environmental Policy Act (BLM, *in litt.*, 1992). Any activity that may affect a listed species triggers consultation with the Service. Additional policies for each state BLM office further limit activities. However, the policies are too general to ensure adequate spotted owl protection on BLM lands.

The State of Arizona lists the Mexican spotted owl as threatened (AGFD 1988). The State of New Mexico is considering adding the owl to its endangered species list. However, protection by both states is limited to the capture, handling, transportation, and take of the owl as regulated by game laws and special licenses for live wildlife, and only affects recreation, hunting, and scientific investigation. The owl has no endangered species status or special protection in Colorado, Texas, or Utah.

Issue 25: The Endangered Species Act requires management of single species. What happens when there is a conflict with other sensitive or listed species? For example, northern goshawk and Mexican spotted owl management needs conflict.

Response: The Endangered Species Act does not stipulate single species management. The Act states section 2(b): "The purposes of this act are to provide a means whereby the ecosystems upon which endangered species and threatened species may be conserved * * *" However, because the northern goshawk (*Accipiter gentilis*) is not a listed species and the owl will be listed as threatened, if a conflict arises, the owl's needs will take precedence. The Service believes that if the national forests are managed as natural ecosystems, a variety of habitats will be maintained that will provide for both of these as well as other species.

Issue 26: The Mexican spotted owl should be listed as endangered. Emergency listing is needed.

Response: The Act defines an endangered species as one that is in danger of extinction. A threatened species is one that is likely to become endangered in the foreseeable future. At this time there is no indication that the owl is presently in danger of extinction. However, because of conversion of habitat identified in the proposed rule, it is likely to become endangered in the foreseeable future unless habitat management changes are implemented. Thus, the species fits the category of threatened, but not endangered. Emergency listing is not justified unless the threats to the species create an emergency posing a significant risk to the well-being of the species, such as large population losses or extinction.

Issue 27: The Service illegally delayed the Mexican spotted owl listing process.

Response: The Service regrets the delay in completing the listing process for this species.

Issue 28: Critical habitat is mandated by the Endangered Species Act, and it should be added in the final rule listing the owl.

Response: At the time of publication of the proposed rule the Service believed that the designation of critical habitat was not prudent because it appeared that consultation under the jeopardy standard in section 7 of the Act would provide the same level of protection for the species as would be derived from the designation of critical habitat. Because consultation would apply forest-wide, and would not be limited to areas within critical habitat boundaries, the Service concluded that designating critical habitat would not provide any additional benefit to the species. Subsequently, however, the Service's experience in informal conferences with the Forest Service under section 7(a)(4) has demonstrated this conclusion was mistaken and that section 7 consultation under the jeopardy standard is not adequate as the sole means to protect the owl and its habitat. Therefore, this final rule calls for designation of critical habitat. However, critical habitat is not determinable at this time.

Issue 29: Conferences on forest activities should be initiated immediately.

Response: Under section 7(a)(4) of the Act, the action agency, in this case the Forest Service, is responsible for determining whether a proposed action is likely to jeopardize a species proposed for listing and, if so, for initiating an informal conference with the Service on the proposed action. The Forest Service has decided that no proposed actions in National Forests in New Mexico and Arizona meet this standard and so has not requested conferences. However, now that the owl is listed, the Forest Service is required, under section 7(a)(2) to request formal consultation on any action that may affect the owl. The Service expects such consultations to be initiated in the immediate future.

Issue 30: Economic considerations should be given more weight when communities may be affected. The Service did not follow legal procedures in the listing process. It failed to consult with county governments as required by Executive Order 12291.

Response: The Act identifies 5 factors which are considered to determine whether a species should be listed as threatened or endangered. These are: the present or threatened destruction, modification or curtailment of its habitat or range; over-utilization for commercial, recreational scientific or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms, and other natural or man-made factors affecting the species continued existence. The Act requires that only scientific and commercial data may be used to make that determination, and prohibits the Service from considering economic factors. As a result, Executive Order 12291 does not apply to rulemakings to list species under the Act. However, because economics are considered in the designation of critical habitat, the Service will comply with Executive Order 12291 in designating critical habitat for the owl.

Issue 31: The Service needs to ensure public input before listing the Mexican spotted owl. The Service is required to notify counties and other affected parties to solicit their input prior to listing a species under the Act. The Service failed to meet this obligation.

Response: The Service has fully met or surpassed the requirements of the Administrative Procedure Act and the Endangered Species Act for public notification. On December 22, 1989, the Service received a petition to list the Mexican spotted owl as threatened or endangered under the Endangered Species Act of 1973, as amended. The Service evaluated the information in the petition and other materials in making a finding that the petition may be warranted. An announcement of the 90-day finding was published in the **Federal Register** on March 28, 1990 (55 FR 11413). That same announcement also stated that the Service was initiating the status review of the species. The **Federal Register** is the instrument that must be used by all Federal agencies for such notices. Additionally, the Service sent notices of the petition finding and the status review initiation on April 9, 1990, to newspapers in New Mexico, Arizona, Utah and Colorado. Following the completion of the status review and the 12-month finding by the Service that the petitioned action was warranted, the Service provided public notice in the **Federal Register** on April 11, 1991 (56 FR 14678). The Service published the proposal to list the owl as threatened in the **Federal Register** on November 4, 1991 (56 FR 56344) with a 120-day public comment period open until March 3, 1992. The notice of six proposed public hearings was published in the **Federal Register** on January 2, 1992 (57 FR 35). Legal notices of the proposed public hearings were again sent to newspapers throughout the southwest and to all agencies and individuals who had previously expressed interest in the owl at the time of the proposal to list. In addition to the notices, regional news releases dated October 21, 1991, and January 7, 1992, were released. The Service held six public hearings to solicit information from the public on the proposal to list the owl. The hearings were held in Santa Fe, Alamogordo and Silver City, New Mexico, on January 21–23, 1992; in Tucson and Flagstaff, Arizona, and Cedar City, Utah, on February 4–6, 1992, respectively. Notices of the proposed rule and solicitation for comments were sent to affected counties and government agencies in February. The notice for a second public comment period open from May 11 to September 1, 1992, was published in the **Federal Register** on May 11, 1992 (57 FR 20073). More than 1,500 letters addressing the listing of the owl were received during the comment periods. The correspondence and comments received at the public hearings have been evaluated in the decision whether to list the owl.

Issue 32: Those who are advocating listing the Mexican spotted owl as a threatened species are a vocal minority with an agenda to remove the human species from public lands. Mexican spotted owl protection under the Act is an environmentalist trick to destroy local rural economies.

Response: The Service cannot speak for the motivation of those individuals who petitioned or who advocate listing the Mexican spotted owl as a threatened species under the Endangered Species Act. Advocate motivation was not considered when the Service proposed to list the owl, and is not considered when a final determination is made on whether or not to list. As stated above, the Service considers only scientific and commercial information relating to the

five factors for listing in making its determination.

Issue 33: The covert purpose of listing the Mexican spotted owl is to force the Forest Service to alter its silvicultural practices. Listing is an excuse for the Service to take over management of public lands managed by other agencies.

Response: The Service has determined that listing of the Mexican spotted owl is warranted based on the available scientific and commercial information relating to the five factors for listing. Even-aged management applied extensively on public lands has been identified as the major threat to the species. Removal of this threat will entail modification of these silviculture practices. However, the land management agencies—Forest Service, Bureau of Land Management, Bureau of Indian Affairs and National Park Service—will continue to be managers of land under their respective jurisdictions.

Issue 34: Habitat loss rates are negligible.

Response: The Forest Service estimates 40 percent of the habitat that has been lost was lost since 1980 (Fletcher 1990). This represents a loss of habitat at a rate of 0.98 percent per year over the last decade. The Service estimate of habitat loss in the next decade, based on forest plan schedules, is 0.4 percent per year. This rate of habitat loss is of great concern because continued shelterwood management will prevent its return to suitability.

Issue 35: Harvest rates are declining, and thus, are not a threat to the owl.

Response: Timber harvest rates remain a controversial issue. The Service is concerned about the current level and intensity of timber harvest. Forest plans on five national forests in Arizona and New Mexico are presently being reviewed by the Forest Service because of concern the allowable sale quantity (ASQ) can not be sustained while meeting other forest plan standards and guidelines. The timber volume sold gradually increased from 334 million board feet (MMBF) in 1971 to 447 MMBF in 1986 and slowly decreased to 282 MMBF in 1991. The reductions in harvest in 1991 and 1992 reflected difficulties met in adjusting to new management practices, including conservation of owl habitat. The future short-term projected sale volume is about 300 MMBF annually (L. Henson, Forest Service, *in litt.*, 1992). Mexican spotted owl habitat faces destruction and modification at a rate close to that of the past decade. Based on information in forest plans, the Forest Service predicts timber demand will increase 30 percent over the next 50 years and that national forests will attempt to meet the demand. If this increase is realized, future harvest entry and corresponding owl habitat loss will be greater than the estimates derived from projected even-age treatments and harvest volume.

Issue 36: Forest management practices have improved the quality and increased the acreage of Mexican spotted owl habitat.

Response: In some areas, railroad logging removed vast quantities of timber at the beginning of the twentieth century. The quality of those sites for Mexican spotted owls prior to treatment probably varied, but the pre-treatment situation is unclear and subject to debate (White 1985, Covington and Moore 1992). Following treatment, most of these areas did not provide suitable conditions for Mexican spotted owls. On some forests, most notably the Lincoln National Forest in New Mexico, some of these sites do provide suitable habitat for owls today. In these instances, the habitat has improved. These sites have had little or no management other than fire suppression since they were railroad logged. The trees were mostly too small to harvest until recently. Although these forest stands primarily consist of young trees, there are small groups of older trees in most stands of owl habitat. These older trees provide an important component of owl habitat because most summer day roost and nest trees are found in such older groups. The Service is concerned that timber harvest programs which focus on forest health usually target older trees for removal, despite their value to wildlife such as the Mexican spotted owl.

Issue 37: The national forests are in a healthy condition because of sound forestry practices.

Response: The national forests of the southwest are generally in good health. However, many old-growth stands have been removed, and many stands now date from this century. With the notable exception of the Lincoln National Forest, the majority of Mexican spotted owls are clearly associated with mature to old-growth stands of pine-oak or mixed conifer. Those stands contain the largest, oldest and most valuable trees for the timber industry. They are also often infected with dwarf mistletoe, which is perceived as a threat to forest health. This combination has resulted in great pressure to remove the oldest remaining stands in the name of forest health. However, these stands are extremely valuable to the Mexican spotted owl and other wildlife species, and are in short supply. The Service believes that, until there are more mature stands that provide high quality habitat, the remaining mature and old-growth stands should be retained in their present condition. Development of management techniques to remove serious infection foci, to thin, and to prevent the threat of habitat destroying wildfires while retaining habitat suitability is possible.

Issue 38: Forest resource mismanagement has impacted ecosystem health.

Response: Ecosystem health means different things to different people. Management during the previous century has had a variety of effects on forest ecosystems. Stands of old-growth have been removed and replaced with young trees which are sometimes of different species. Some wildlife species now have less habitat available than before, and their populations have declined, while other species are more abundant. Fire suppression during the past 80 years has resulted in many stands exhibiting high tree density and competition that suppresses tree growth. Fire suppression has also resulted in extensive tracts of small trees at high density that are now dangerously susceptible to stand destroying wildfires. Some of these consequences are beneficial to the Mexican spotted owl, and others are, or may be, harmful. Given the paucity of information on the needs of the Mexican spotted owl, the Service encourages research which will identify management that will benefit the owl and other species.

Issue 39: Timber management and fire suppression are needed to maintain forest health.

Response: As stated in the previous comment, forest health means different things to different people. Forest Service management has attempted to limit the spread of parasites and disease through silvicultural treatments with varying degrees of success. According to the Forest Service, and in accord with epidemiological theory, stands that have higher tree densities are most susceptible to parasites, disease and stand destroying wildfires. Fire suppression has been widely practiced by the Forest Service resulting in an important suite of problems in forest health, timber productivity, and fire danger. The present condition of forest ecosystems will, in many cases, require management to restore natural processes. The Service encourages the Forest Service to continue research and development of management techniques that will mimic natural forest ecosystem processes. The Service also believes that new ideas and techniques should be tested for unexpected adverse effects prior to wholesale adoption.

Issue 40: The Service incorrectly interprets that habitat made "capable" (temporarily not suitable) is lost habitat.

Response: The Service considers habitat made "capable" by even-age timber harvest methods to be habitat lost indefinitely. The shelterwood system is the even-age harvest method primarily used by the Forest Service in Region 3. For example, a regenerating, middle-aged stand of "capable" habitat might be within 50 years of recovering to a condition suitable as owl habitat. Under the shelterwood system, the stand will receive intermediate cuts before then, which will prevent its return to suitable condition. Ultimately, the stand will receive another regeneration cut where all but a few of the overstory trees are removed. Thus, after the critical attributes of owl habitat have been lost, shelterwood acres are held in even-age conditions perpetually unless silvicultural management is altered or deferred. Suitability as owl habitat is never recovered or, at best, is recovered only briefly before the forest is re-entered and returned to "capable" status.

Issue 41: More than one half of shelterwood timber management is in ponderosa pine forest that is not suitable for Mexican spotted owls. Shelterwood management is in decline in Region 3 and does not threaten owl habitat.

Response: The conversion of complex structured forest stands to even-aged stands was identified by the Service (1991a, 1991b) as the greatest threat facing the Mexican spotted owl. Half of all shelterwood management is occurring in unsuitable forest (primarily pure ponderosa pine) habitat, and the other half in suitable forest habitat. The Service has determined habitat loss trends from current forest plans which provide the only available data on timber harvest trends into the future. An estimated 0.4 percent of Mexican spotted owl habitat will be made unsuitable each year in the future. Because timber harvest will occur in stands that are most valuable to owls, a serious threat exists to Mexican spotted owl persistence. The Forest Service considers that pure ponderosa pine habitat is suitable habitat when it has multi-storied structure. Thus, even-age management in this forest type may also pose a threat to the owl. The capability of most ponderosa pine stands to meet owl habitat needs is limited by young stand age and possibly other limitations, such as low prey densities and inappropriate thermal conditions. However, pure ponderosa pine stands may be capable of developing complex structure, and thus represent important potential habitat for the future. Shelterwood management will prevent pure ponderosa pine from attaining its potential as owl habitat.

Issue 42: The Mexican spotted owl can be found in selectively harvested areas. Uneven-aged timber harvest management is needed to protect owl habitat.

Response: The overall effects of selective harvest methods on the owl are currently unknown. Selective harvest methods probably have lesser impacts on habitat than do large-scale even-aged techniques. The Service understands that Indian reservations (with the exception of the Navajo Reservation) primarily use individual tree selection harvest methods. Owls do occur on these Native American lands, but systematic surveys have only recently been initiated. Historically, the Lincoln National Forest has been harvested in a manner that retained some of the structural components of owl habitat and allowed for a relatively rapid return to a suitable condition. Selective harvest techniques and their attendant effects on owl habitat should be examined as alternatives to current harvest techniques. However, the use of selective harvest must be experimentally implemented and closely monitored to determine appropriate intensities of harvest prior to wholesale application.

Issue 43: The Service overestimated the amount of steep slope logging in the southwest. Steep slope logging is insignificant at this time, and because of economic considerations, will never be important.

Response: The Service utilized forest plans to identify the extent and likely impact of steep-slope logging in owl habitat. At the beginning of this century most of the gentle topography was intensively logged. Forests that remained intact were largely on steep slopes which probably served as refugia while the railroad-logged forests regrew. Today, much of the best owl habitat, which consists of mature and old-growth forest, occurs on steep slopes. Additionally, analyses of nest sites in New Mexico and Arizona indicate that steep slopes are preferentially selected by owls for nest and roost sites. Because steep slopes were minimally logged, the largest and most desirable trees occur in these areas. Forest plans on 5 of 11 Arizona and New Mexico forests allow cable or skyline logging of steep slopes. The Service considers steep slope logging to constitute a serious threat to the owl.

Issue 44: Forests should be managed on a longer harvest rotation cycle.

Response: The Service agrees. At this time, most of the timber produced in New Mexico and Arizona comes from forests that are managed under an even-aged system and harvested with a rotation cycle of 120 years or less. This cycle may maximize timber production but will not provide enough time for stands to reach the mature to old-growth conditions characteristic of forested spotted owl habitat. Region 3 of the Forest Service has recognized that a 120-year cycle is too short in its management guidelines for the northern goshawk (Reynolds *et al.* 1991), and, in discussions with the Service, has stated its intention to adopt longer rotation cycles across the Region.

Issue 45: The Service states that diminishing yields of ponderosa pine are causing the Forest Service to increase harvest rates in mixed conifer in order to maintain timber output at present levels. No data or references are cited to support this allegation.

Response: The Forest Service has estimated that approximately 50 percent of current timber yields could be obtained from harvest in unsuitable owl habitat. Therefore, any additional volume must come from other forest types, including mixed conifer, which compose owl habitat. The proportions vary among forests.

Issue 46: The Service implies that timber yields in ponderosa pine are diminishing. There are no data to support this allegation. In Arizona there is considerable effort to harvest smaller diameter ponderosa pine. This has made large volumes of ponderosa pine available and resulted in improvements in forest health and reduced fire risk.

Response: The Service recognizes that a tremendous production of small diameter ponderosa pine exists in Arizona and New Mexico. Forest Service silviculturalists have informed Service biologists that they consider increasing densities of small ponderosa pine a serious threat to forest health as well as a fire hazard. They report that they have had difficulty finding a market for these small products, and because most mills are not tooled to handle small logs, harvest is concentrated on larger trees. Forest Service data (Henson, *in litt.*, 1992) show decreased availability of large trees. Therefore, yields of ponderosa pine are expected to decrease unless greater use is made of small diameter trees.

Issue 47: The timber industry needs to retool its mills to handle smaller, second growth trees. Large trees in the Southwest are not a renewable resource.

Response: According to Forest Service data, the growing stock level (GSL) on

national forests in New Mexico and Arizona currently exceeds 700 MMBF per year, and the planned 1992 harvest will be less than 300 MMBF. Part of the reason for the difference is that much of the growth occurs in young dense stands that cannot be efficiently harvested or marketed at this time. The decrease of late successional forests has reduced the availability of large trees, and the GSL is almost entirely concentrated in the young tree size classes. If the timber industry could develop a market for small trees, a tremendous resource would be available. As more mills are retooled to handle small trees the need to remove large trees from Mexican spotted owl habitat will diminish. The Service encourages this change in harvest emphasis.

Issue 48: The decline of the timber industry is related/unrelated to Mexican spotted owl habitat protection.

Response: The Forest Service estimated (Fletcher 1990) 59 percent (1,977,226 acres) of owl habitat is available for timber harvest. Protection of occupied owl territories has precluded the harvest of some of this suitable timber acreage, particularly in forests with a high density of territories such as the Lincoln National Forest. However, as suggested by communication from the AGFD (*in litt.*, 1990) and Forest Service memos (Forest Service, *in litt.*, 1989, *in litt.*, 1989, *in litt.*, 1989, *in litt.*, 1990, *in litt.*, 1990), ASQ levels are not sustainable. The Region 3 Forest Service ASQ is based on suitable timber acreage, rather than viable timber acreage. Accelerated harvest, accelerated stand reentries, inappropriate harvest methods, and a harvest rotation cycle of 120 years or less promoted forest ecosystem health problems which resulted in jeopardy to species dependent on late successional forest habitat.

The timber extraction industry in the Southwest has declined and experienced reductions in jobs over the long term. The decline is unrelated to the Mexican spotted owl or other threatened, endangered and sensitive species issues. Employment in the timber industry in New Mexico and Arizona has declined since the mid-1950s in real numbers as well as in percentage of the labor force. In 1956, timber harvest and sawmills employed about 3,672 people. Between 1956 and 1978 employment rose and fell between 2,500 and 4,000 people. In the late 1970s, employment in the timber industry peaked at 4,281. The numbers then dropped in the early 1980s as the lumber market fell. The level of employment reached a low of 2,009 employees in 1985 (several years prior to the adoption by the Forest Service of Interim Directive No. 1 in 1989 and No. 2 in 1990). By 1986, the market had recovered, and the New Mexico timber industry began to produce lumber at the same volumes it had in the late 1970s, but employment never recovered. By 1988, the employment figure stood at 2,400 people. Restructuring and automation in the industry had permanently eliminated more than 1,000 jobs (L. Krahl, Forest Trust, Santa Fe, New Mexico, *in litt.*, 1991).

Issue 49: Listing the owl and protecting its habitat will limit recreational access.

Response: The owl is being listed primarily due to the threat of loss of suitable habitat as a result of even-age timber harvest systems. Recreational use of national forests and other public lands would not be limited to any great extent as a result of the listing action. As with protection of other sensitive species, a small number of conflicts between needs of the owl and human recreation may be expected. These conflicts would be site-specific and would not affect any comprehensive recreational programs.

Issue 50: The national forests should be managed for multiple-use. The forest should be managed for all animals, not simply a single species.

Response: The Service agrees.

Issue 51: Forest Service inventories now indicate 620 Mexican spotted owl territories. This is an increase of 103 over the 517 indicated in the listing proposal. The Forest Service attributes the increase to new inventories conducted primarily in proposed timber sale areas. About 25–30 percent of the Forest Service inventory has been done in wilderness or other areas withdrawn from timber production.

Response: This new information is incorporated into the final rule.

Issue 52: The listing proposal stated that the forest plan management emphasis is timber production. In fact most analysis areas in Forest Service forest plans have management emphases other than timber and none are entirely timber oriented. When carrying out projects within a given management emphasis, decisions result from site specific environmental analysis required for timber sales. In these decisions, high timber emphasis is almost never selected for implementation on the ground.

Response: Although timber production *per se* may not be the management emphasis for many of the Forest Service's timber sales, timber harvest is the result, and treatments that result in even-aged stands destroy habitat for owls regardless of the emphasis.

Issue 53: The Forest Service forest plans not make irreversible and irretrievable commitments of resources.

Response: The Service understands this.

Issue 54: Forest plans provide guidelines, not hard rules for management.

Response: The Forest Service has been discussing alternative silviculture practices for use in Mexican spotted owl habitat, but, at this time, there is no binding direction to eliminate even-aged management. Forest Service timber sales during 1992 on the Apache-Sitgreaves, Carson, and Lincoln National Forests and the Environmental Analysis for the Region 3 1992 timber program continue to call for even-aged management in terms of shelterwood seed cuts and overstory removal cuts. The forests continue to manage for a 120-year harvest rotation cycle, as called for in forest plans. The forest plans for the Lincoln and Santa Fe National Forests call for harvest on steep slopes with cable logging techniques. All of these practices were identified by the Service (1991a, 1991b) as likely to jeopardize the continued existence of the Mexican spotted owl. Until policy changes are made formally, the Service believes that guidance provided in forest plans will continue to be followed.

Issue 55: Forest plans have a limited lifetime and cannot be extrapolated 50 to 100 years into the future.

Response: Forest plans set the policy for management on the national forests for the duration for which they are written, usually 10 to 15 years. The Forest Service is not committed to following forest plan guidelines beyond the lifetime of the plan. Conversely, the Forest Service is also not obligated to reverse its policy in subsequent plans. The management of forests with average tree lifetimes in excess of 200 years demands long-term management planning. Such long term planning is implied in the shelterwood silviculture method recommended in Region 3 forest plans. Because no other direction for management is proposed for the future, and until formal policies change, the Service believes that it must assume that practices recommended in forest plans will continue.

Issue 56: Estimates are made in the proposal on the changing of suitable owl habitat to capable and the length of time needed to regain suitability. These are in need of modification based on what the Forest Service has learned about the stand conditions where many of the owls live, analysis of stand growth patterns and the recognition that multi-

storied stand structure does not always mean wide differences in tree age. Projections of 100 years and upward for regaining suitability of modified owl habitat appear to be a large part of the rationale for the listing proposal.

Response: Two aspects of the recovery from "capable" to suitable habitat were considered in the proposed rule. If shelterwood management is continued, management will be directed at retaining the even-aged structure through pre-commercial and commercial thinning and other intermediate cuts followed by partial overstory and final removal cuts. These management treatments will result in maintaining stands in even-aged, simple structured condition as long as management continues. Time is required for even-aged stands to attain the complex canopy structure that is most used by Mexican spotted owls. If trees are left after regeneration cuts, complex structure will occur more rapidly than with complete overstory removal. In addition, if those trees left are the oldest and largest, complexity will be restored at an accelerated rate.

Issue 57: The estimates of time of recovery in the Forest Service data cited in the listing proposal (Fletcher 1990) were extremely conservative and made when views tended towards a need for "old growth conditions". However, Ganey and Balda (1988) found that, when owls had various foraging habitats available, only 2 of 6 owls used old growth more than in proportion to availability. Additionally, estimates in the report by Fletcher were made by a variety of individuals on the various national forests without review of experts in forest growth and silviculture. Forest Service timber stand data evaluated since the report by Fletcher shows that much occupied suitable owl habitat is relatively young, multi-storied stands. Detailed examination of stand data on the Lincoln National Forest shows owl territories comprised of many stands that meet criteria for suitability as habitat but are immature, dating from the extensive logging that took place in the 1920s and 1930s.

The Lincoln National Forest was almost completely logged over in the first 40 years of this century. Based on the historical record, most of this forest would have been considered unsuitable for spotted owls (under today's standards) by 1940. The harvest was made with cuts equivalent to clearcuts, seed tree cuts, or shelterwood seed cuts. Some logging has continued ever since. The record is also clear that the spotted owl was abundant to the point of near saturation of the forested area by the late 1980's. Although we do not have good records of when Mexican spotted owls appeared in number (or for that matter that they ever were scarce) it is certain that suitability was regained in substantially less than 60 years following timber cutting that was much more extensive than modern management predicts for the future.

Response: Ganey and Balda (1988) identified non-random use of old-growth stands for two pairs of owls. The remaining owls had mature and old-growth stands available, and they used those stands in proportion to their abundance on their territories. In the Lincoln, Gila, Coconino, Apache-Sitgreaves and Tonto National Forest, owls are found most consistently where mature and old-growth stands of mixed conifer or pine-oak are present. Based on the investory figures that are summarized in Appendix 8 of the Forest Service comments, significant numbers of trees were left after cutting on the Lincoln National Forest. Appendix 8 shows approximately 15 percent of the stand density index in Mexican spotted owl cores is made up of trees greater than 18 inch diameter at breast height. Even on the Lincoln National Forest with its high site index, these trees date from prior to 1900. The assertion is made that suitable habitat has returned to areas that were heavily harvested as late as 1940. Most of the heavy logging on the Lincoln occurred early in the century. Thus, most stands have had more than 80 years to recover. Eighty years is a period consistent with Fletcher (1990) and the Service (1991a, 1991b) expectation for the time required for habitat to recover to suitable condition after being made "capable."

Issue 58: The proposal implies that all the steep slopes on five national forests are fully subject to logging. It also states that these slopes have not been logged in the past. Neither assertion is correct. The amount of steep slope logging is now limited to a very small fraction of the steep slopes on the national forests in question. Further, the best population of spotted owls known to exist occurs on the Lincoln National Forest where most steep slopes were logged using steam powered cable yarders and crawler tractors in the first 40 years of this century. Many timbered, steep slopes elsewhere in the Southwest were logged in the early part of this century and to a much lesser degree since then. The photographic records indicate that the methods of harvest on steep slopes were most nearly like shelterwood seed cuts, seed tree cuts, and clearcuts.

Response: The Service has not stated that all steep slopes on five national forests are fully subject to logging. What the Service did assert (Service 1991b, pp 56349) was "Forest plans for 5 of the 11 New Mexico and Arizona national forests now contain provisions to allow cable or skyline logging on slopes greater than 40 percent. The Gila National Forest Plan (Forest Service 1986a) suggests total timber harvest for that forest could be maintained at the present 30 MMBF per year ASQ by entering steep slopes, with as much as 50 percent of the forest's total timber volume coming from this habitat in five decades." The population of owls on the Cloudcroft and Mayhill Districts of the Lincoln National Forest is high. Steep slopes in these districts were harvested during the early decades of this century, but enough habitat probably remained on steep slopes to sustain the species while the trees on the gentler slopes grew back. Large, old trees that date from before 1900 remain today on most spotted owl territories on the Lincoln National Forest. The presence of these large old trees leads to the conclusion that the forest was not harvested as completely as is generally believed. On the Gila, Coconino, Tonto, and Apache-Sitgreaves National Forests the greatest Mexican spotted owl concentrations occur in canyons and on steep slopes which have experienced less intensive harvests than the flatter surrounding terrain (Forest Service, *in litt.*, 1992).

Issue 59: The proposal states that Mexican spotted owl habitat faces destruction at a rate equal to or exceeding that of recent decades. The assertion is without merit. The record clearly shows that Mexican Spotted owl habitat is not facing destruction, but is improving with each passing year.

The current amount of timber harvested and programmed for harvest is not increasing but rather is considerably less than that of recent decades. The timber sold in each of the 3 years since 1989 was less than any of the preceding 20 years. Timber sales are projected to be about 300 MMBF which is less than the levels of more than 400 MMBF in the late 1980s.

Response: The Service is not concerned with the rate of harvest; it is concerned about the rate of conversion of suitable habitat to a condition that will not support Mexican spotted owls. Even-aged management, as identified in Region 3 forest plans, has only been in widespread use since about the mid-1970s, so harvests prior to that time are not an issue. As stated in the Mexican spotted owl status review (Service 1991a) and the proposed rule (Service 1991b), past and projected management under the shelterwood system is identified as leading to increased rates of habitat conversion into the

foreseeable future. Furthermore, there is no documentation of future direction that obligates or directs the forests to reverse that trend. Figures provided by the Forest Service show an increase in harvest, region-wide, from 334 MMBF in 1971 to 447 MMBF in 1986, followed by a decrease to 282 MMBF in 1991. The reductions in harvest in 1991 and 1992 reflect difficulties met in adjusting to new management practices.

Issue 60: Habitat conditions are much improved over that recorded in early descriptions and surveys. In the mixed conifer type, they indicate that it was variously thinned by fire and/or that fire had swept enormous areas, killing nearly all the trees in the burned areas. Many of these burns supported good cover of aspen or young conifers. Pearson in 1931 noted some aspen stands and prairies within the mixed conifer zone without young conifers and questioned if they really would succeed to mixed conifer. Today, little evidence of such conditions remain due primarily to control of fire losses and ecological succession. Enormous areas of aspen stands no longer exist and young conifer stands have matured substantially. Forest Service forest inventories indicate that most aspen stands remaining in the southwest have an understory of conifers that will eventually replace them. Meadow conditions persist within the mixed conifer type, but these too are being replaced by conifers and none remain so extensive in area that could be described as prairies. Almost all meadows in the mixed conifer zone show evidence of conifer invasion at their margins.

The listing proposal presents no evidence to show that there has been a recent decline in Mexican spotted owl habitat. While it is true that every year some suitable habitat has been changed to capable, there is also a substantial regrowth of areas into suitability. Information from forest inventories indicates that a net gain in suitable habitat for Mexican spotted owl is occurring. It is certain that this has occurred on the Lincoln National Forest and the ecological changes reflected in forest inventories make it clear that such changes have occurred throughout the Region. The table in Appendix 7 of the Forest Service Region 3 comment letter summaries forest inventory information showing how rapidly change is occurring. Comparing inventories from 1962 and 1987–1988, it shows that in Arizona and New Mexico the acreage of mixed conifer (generally considered suitable habitat) has increased by [not included] acres or 81 percent. This equates to approximately 40 thousand acres per year. Proportioned at the ratio of commercial forest land ownership, about 24,006 acres would be attributable to Forest Service lands and exceeds the area of suitable habitat annually impacted by Forest Service timber sale programs. This is a strong indication that suitable habitat for the Mexican Spotted Owl is increasing rather than decreasing.

Response: Appendix 7, provided by the Forest Service, shows an increase in mixed conifer habitat at the expense of aspen and ponderosa pine stands. However, it does not demonstrate increases in suitable habitat. Much of the increase in mixed conifer is a result of invasion of ponderosa pine by young white fir. These stands will not have attributes of suitable Mexican spotted owl habitat for many years. If fire suppression is relaxed, many of these stands will revert back to pure ponderosa pine, or aspen, forest types that are not generally suitable for Mexican spotted owls. The assertion that the Service has not presented any evidence of Mexican spotted owl habitat loss is in error. In the status review and in the proposed rule (Service 1991a, 1991b) the Service cites Forest Service data which show a loss of 10 percent of suitable Mexican spotted owl habitat between 1980 and 1990.

Issue 61: Forest Service inventory comparisons show an increase of 1,920,000 acres (210 percent) in forested area classified as wilderness or other areas permanently reserved from timber cutting on the national forests in Arizona and New Mexico. These forested areas are not subject to logging. In a more specific example, a recent comparison of inventory information on the Apache-Sitgreaves National Forest for a mid-1970's inventory and a 1988 inventory shows the following information. Timber lands increased from 812,000 acres to 823,000 acres (+1 percent). Total live stems per acre increased from 650 to 854 (31 percent) and cubic foot volume increased from 800 million cubic feet to 1.3 billion cubic feet (64 percent). In contrast, the description of this forest in 1904 contained the following: "throughout the area in which yellow pine predominated the amount of litter and underbrush is very small, the forest floor being very clean, with a scanty covering of humus".

Response: The Service recognized the withdrawal of timberlands in its analysis of impacts to the owl. The increase in stem density, mentioned above, does not identify an increase in suitable habitat. It indicates an increase in the acreage in seedling/sapling size trees on the forest, which result from removal of mature and old-growth overstory. Contrary to the implication that this increased density is indicative of improved conditions, it indicates that suitable habitat is being converted to unsuitable.

Issue 62: Like the mixed conifer forests, ponderosa pine forest were much less dense in the past than they are today.

Response: This comment is difficult to respond to because no evidence has been presented to indicate that mature and old-growth mixed conifer stands are more dense today than they were previous to timber management. As indicated in the preceding comment, the increase in average stem density is a result of replacing old stands with regenerating stands of seedlings and saplings. Young stands composed of small trees can sustain considerably higher densities than stands composed of large old trees.

Issue 63: Early descriptions characterize ponderosa pine forests as open forests. Such descriptions indicate the average condition had always been unsuitable as owl habitat and less dense than the ponderosa pine forest we have today. This is additional evidence that the modern, denser ponderosa pine forests on capable habitat are progressing towards suitable habitat rather than away from it.

Response: The assertion that forests were open has been supported for ponderosa pine, not mixed conifer. Open stands of pure ponderosa pine do not have the attributes of suitable Mexican spotted owl habitat, and dense even-aged stands of ponderosa pine usually lack those characteristics.

Issue 64: The long history of partial cutting, extensive areas of forests reserved from cutting and successful fire control in Region 3 has allowed ecological succession to increase the conifer cover. It has increased the proportion of mixed conifer species such as white fir at the expense of successional tree species such as aspen and ponderosa pine. The experience is in accordance with expectations developed from ecological studies where mixed conifers and aspen occur. Neither aspen nor ponderosa pine are well suited to regenerating under shaded conditions. Ponderosa pine in the Southwest has tended to increase in extent and density at its ecotone with grasslands and oak due to grazing and fire. Both of these trends continue to increase the potential suitability for owl habitat in part because the current and projected timber sale program is too small in amount and the disturbances associated with the timber harvests are not severe enough to mimic the wild

fires that had historically maintained the early successional cover types in the southwestern forest ecosystems.

Response: The Service agrees with the Forest Service that widespread fire suppression has caused many changes in forest community types. The Service also is in general agreement with the Forest Service efforts to identify management practices which emulate and will return the forests to natural ecological processes. Pure aspen and pure ponderosa pine stands may have been more widespread in the past than they are today because of the factors identified above. However, mixed conifer and pine oak are also community types that occur naturally, usually on wetter sites than those occupied by pure ponderosa pine. Because mixed conifer and pine oak occur on wetter sites they experienced less frequent fires, with resultant higher density stands. As noted above in the Forest Service comments, when fires occurred naturally in mixed conifer they were often stand destroying and succeeded by aspen. Current and historical fire suppression efforts are largely responsible for the demise of aspen in southwestern forests but may be of little importance in controlling tree density *per se* in mixed conifer.

Issue 65: The listing proposal fails to consider that the net annual growth of sawtimber (gross growth minus mortality and defect) on national forests in Region 3 is 701 million board feet. This growth does not include wood products such as posts and cordwood. However, the timber sale program does include such convertible products. The total sale program is projected to be 310 million board feet in 1993 and to remain at this low level until the needs of sensitive species such as the Mexican spotted owl indicate otherwise. It includes about 60 million board feet equivalent of other wood products, mostly pinyon-juniper firewood and posts cut from non-suitable owl habitat and pulpwood less than 9 inches in diameter sold by the cord. The current annual increase in timber volume in the forests is approximately the difference between the 701 million board feet of growth in sawtimber and the sale of about 250 (310 minus 60 other wood products) million board feet of sawtimber. This difference is the excess over and above depletion from logging, fire, and pathogens and has produced a net increase in volume in the forest for each or the last five decades. Because the timber sale program has been significantly reduced beginning between (date not provided) and 1990. The increase in inventory is expected to be by even greater margins in the future. The excess of timber growth can only manifest itself as an increase in tree size, an increase in stand density or both, all of which favors spotted owl habitat. About half of the sawtimber sold is expected to come from potentially suitable owl habitat and about half of the growth as well. If so, the net effect in suitable owl habitat will be improvement not worsened habitat for Mexican spotted owls.

Response: The Service does not disagree with the Forest Service that there is timber available on national forests for harvest. The concern for the owl is that the Forest Service harvests are focused, not on small sawtimber that is found in stands of unsuitable habitat, but rather on the oldest stands that are most important to the owl. In addition, the harvest techniques proposed in suitable Mexican spotted owl habitat by the Forest Service are not benign to the owl. They have essentially the same effect as stand destroying fires. They convert mature, complexly structured forests into young stands with simple structure that are no longer suitable for Mexican spotted owls. The acreage of mature and old-growth forests on suitable timberlands were not presented in this comment letter, but in the Service's reviews of the 1992 timber sale programs on the Apache-Sitgreaves, Carson, Santa Fe, Lincoln and Tonto National Forests it was clear that such stands are under-represented across the landscape. The Service encourages the Forest Service to increase its stand allocations to maintain old-growth and mature forests.

Issue 66: The listing proposal cited estimates of timber offered and sold in the report by Fletcher (1990). This report did not include the substantial reductions in sales offered and sold that were subsequently modified to eliminate cutting that would adversely affect owls or goshawks. When owls or goshawks are found, the Forest Service continues to cancel portions of timber sales that were included in past statistics of offered or sold timber. Based on interpretation of forest plans, the listing proposal projects an annual rate of loss of suitable habitat of 0.4 percent. However, the proposal ignores the record of actual practice which has been and will continue to be substantially less than the upper limits set forth in the forest plans. The proposal dwells exclusively on erroneously projected potential habitat losses and ignores the record of growth and ecological changes which, as shown above, indicates a net improvement in spotted owl habitat is occurring rather than destruction or an increased rate of loss.

Response: The Service acknowledges that the Forest Service has eliminated, reduced, or modified many timber sale activities in Region 3, particularly in 1992. However, the Environmental Assessment for the Region 3 1992 timber program (Forest Service, *in litt.*, 1992) still contains activities that will convert suitable habitat to even-age, and that will maintain even-age conditions in stands that were formerly converted from suitable habitat. Final environmental impact statements on individual timber sales on the Carson and Lincoln National Forests (Forest Service 1992a, 1992b) also retain even age treatments in suitable habitats. Furthermore, the Forest Service does not have any formal published policy direction that will prevent it from continuing or resuming these practices in the future.

Issue 67: The proposal states that allowable sale quantities (ASQ) were not scientifically derived. The allowable sale quantities were based on models of timber growth derived from scientific studies (Edminster 1978). The projections match experienced growth and growth on research plots much more closely than could reasonably be attributed to chance. As noted in the background discussion, the variance with planning criteria is related to evolving standards and criteria that can change rapidly in today's world. Standards for spotted owls and goshawks are two recent examples that continue to develop. Further, ASQ functions as an upper limit on timber sales not as a minimum to be achieved. The record indicates that Region 3 has operated its timber program at a level substantially less than the allowable sale quantity and will continue to do so.

Response: Whether the ASQ amounts were scientifically derived or not, they were sufficiently incorrect on five forests to require review and modification (D. Jolly, Forest Service, *in litt.*, 1990) by the Forest Service. Furthermore, at a meeting with the Forest Service (August 14, 1992), the Service was told that Region 3 of the Forest Service has a goal for 1993 and beyond of 300 MMBF per year.

These ASQ levels are primarily from growth estimates on suitable timberland. They do not account for the extent of acreage set aside for such allocations as old-growth management or threatened, endangered or sensitive species habitat protection. Forest Service data indicate the remaining suitable timberland (viable timberland) is currently estimated to be about two-thirds of the figure used to calculate ASQ. The viable timber growth is estimated as less than one-half the

growth used to calculate the ASQ levels identified in current forest plans. In other words, the current ASQ level is allowing harvests at twice the viable level, and thus is biologically unsound and unsustainable. In addition to negative impacts to the owl from even-aged management, the Service considers the excessive ASQ levels to constitute a serious threat to sustainability of owl habitat.

Issue 68: The proposal speculates that demand projections show an increase in future decades and that means future habitat loss at even greater rates than the proposal projects. Aside from the data that indicated that habitat can be expected to increase rather than decrease, an increase in timber demand does not mean an increase in supply from the national forests. The record clearly indicates a willingness of the Forest Service to limit the availability of timber supply from its land in the face of high demand for it. The concept of sensitive species and development of guidelines to meet their needs were initiated by means of the forest plans prior to petitions for listing to the Fish and Wildlife Service. The effects of identifying sensitive species in the forest plans and applying management guidelines contained in the Forest Service manual was overlooked in the way the listing proposal portrayed the content and probable effects of the forest plan guidance.

Response: The Service understands that forest plans provide management guidance to the forests. Service interpretations of forest plans is based upon their content, not on how they may be altered at some time in the future.

Issue 69: Fragmentation was stated as a problem but appears to be a declared one without a clear statement of reasons of how the proposed activities would do this. Projections of perceived effects of shelterwood cutting are simply declared to have this effect. There is no statement that this has indeed occurred and our view is that the fabric of the whole forest is largely intact. Although there are openings in the forest canopy, they are not dominant, not substantially out of scale with the landscape and probably less abundant than before the era of fire control. The photographic record of early day scenes from the Lincoln National Forest and elsewhere in the Southwest indicate this to be true (Glover 1984, Glover 1990, Glover and Hereford 1990). The small amount of and timing control of timber harvests that are likely to occur will not result in habitat fragmentation.

Response: When trees are removed from a forest, the canopy is opened up. This results in a change or discontinuity in the forest. If enough trees are removed, the habitat may change so that it becomes suitable for species that would not otherwise have occurred there. These new species may be plants, animals, fungi, protists, or procaryotes. When changes in habitat result in new conditions which allow invasion by species that would not normally occur there, the formerly homogeneous habitat is fragmented. When the forest receives a shelterwood regeneration cut or a final removal cut the overstory changes in a manner that is visible to humans. There are also correlated changes in the fauna from which biologists may infer that a habitat change has occurred. This is a form of fragmentation. When large areas of mature and old growth, or young dense forest habitat, like that which is identified as suitable on the Lincoln National Forest, are fragmented, the incidence of red tailed hawks and great horned owls may increase, and both of those species are implicated predators of Mexican spotted owls. Fragmentation may also remove acreage that can be used by the owls, resulting in lower density. This has been demonstrated for the northern spotted owl (Carey *et al.* 1992).

Issue 70: The listing proposal makes some assumptions about present and future conditions in Mexico. Forest Service experience indicates the listing proposal misrepresents the situation there. Much of the forest is inaccessible, isolated economically, and likely to remain so. There are many steep canyons and the people there do not have ready access to technology needed to conduct steep slope logging. The lands are not suitable for agriculture and not subject to conversion to other uses. Where forestry is practiced, most logging is done with horses and mules with partial cutting methods and natural regeneration is abundant. There is little waste. Fire control has improved. They also manage their young stands at higher stand densities than is the usual practice in the United States. Widespread deforestation is not a reasonable expectation. The listing proposal essentially writes off the Mexican spotted owl and its habitat in Mexico on the basis of assumptions that are incorrect, inadequately supported by data, or are misrepresentative of the situation there. The listing proposal misrepresents both the speed of change and perhaps the direction in which the habitat is changing.

Response: The Service reviewed available literature and notes taken by biologists on Mexican spotted owls in Mexico, and solicited information from the Mexican Government. The available information all indicated that the Mexican spotted owl is rare throughout its range in Mexico. In addition, other species which are dependent on the same kinds of forest habitat, the imperial woodpecker, the thick-billed parrot and the maroon-fronted parrot are either extinct or in decline, largely because of habitat alteration and pressures from increased human populations. The Secretaria de Desarrollo Urbano y Ecologia, Mexico, stated that the species is considered rare and imperilled by the Mexican government (Graciela de la Garza Garcia, Secretaria de Desarrollo Urbano y Ecologia *in litt.*, 1990)

Issue 71: As noted in the listing proposal, under the threat category of over-utilization for commercial, recreational, scientific or educational purposes, the major effect appears to be scientific research. Research, not conducted by the Forest Service, is permitted by special use permits issued by the national forests in which the research occurs. Forest Service permits cover any stand disturbing activities, camp sites, or other exclusive uses of national forest resources necessary in conducting the research. In addition permits from state and federal wildlife agencies may be required depending on how the work affects the birds themselves. We have not noted major changes in educational or recreational uses of the spotted owl although it may occur in the future. We are aware of two pairs of owls and their fledglings that have been subject to many "show me" trips throughout the 1992 breeding season and appear to have suffered no ill effects. Young were successfully raised by both pairs this year.

Response: The Service does not disagree with this comment. This issue is of minor consequence for the Mexican spotted owl and did not influence the listing decision.

Issue 72: The proposal cites upward great horned owl population trends over the last 22 years as a concern. The Forest Service shares the concern about predation. However, it disagrees with the proposal which flatly declares that this is evidence that the stands are opening up. This is conjecture, not evidence. The evidence based on records and measurements of timber stands themselves indicates the opposite to be true (Covington and Moore 1992).

Response: Covington and Moore's work was in ponderosa pine, and the Service acknowledges that tree density in ponderosa pine has increased as a result of fire suppression. The increased closure within mixed conifer stands is a result of tree growth and is not an

issue. The Service concern is that imposition of management which might be appropriate for pure ponderosa pine stands, generally not suitable habitat, with removal of forest overstory in suitable Mexican spotted owl habitat may expose the owls to increased rates of predation by creating conditions that are suitable for great horned owls and red-tailed hawks. The Service is also concerned that these openings may increase exposure to parasites and or diseases, which the owls would not otherwise encounter. See Service responses to Issue 11 and 13 above.

Issue 73: Thirty years ago the great horned owl and hawks in general were commonly considered as varmints and it was not uncommon for hunters and other rural residents to shoot them at every opportunity. Both are now protected species. Chlorinated hydrocarbon pesticides were found to have adverse effects on reproduction on birds of prey and these are no longer in use. Such factors could have a bearing on long term upward population trends for both the red-tailed hawk and great horned owls cited as predators of spotted owls. Even if they do not, such assertions are no more speculative than those cited in the listing proposal and illustrate that there are certainly many factors involved in populations of predator species. The conclusions reached in the proposal about open stand conditions are incorrect and inconsistent with the historical record.

Response: The causes of increased populations of red-tailed hawks and great horned owls are not an issue. The Service's concern is that when the Forest Service opens gaps in the forest canopy in suitable Mexican spotted owl habitat it creates opportunities for increased contact between these species and Mexican spotted owls. The result of increased contact is likely to be increased predation on the Mexican spotted owls. Juvenile Mexican spotted owls are particularly vulnerable to predation when their exposure increases.

Issue 74: The listing proposal also takes issue with existing Forest Service regulatory mechanisms. The Forest Service has issued a Notice of Intent to prepare an environmental impact statement and decision which will amend forest plans to include guidelines that will be developed in a conservation strategy for the Mexican spotted owl. This will close the loop and all of our control mechanisms will include consistent information. Management has been responsive to a rapidly changing and growing body of information. All Forest Service units are consistently applying the latest guidelines. The net result has been a dramatic shift in the way timber sales are designed. This further supports the Forest Service's earlier discussion about why decisions on owl habitat cannot be made based on assumptions about forest plan implementation. Actual practice reflects an extraordinary commitment to owl habitat protection that has been responsive to new information as it develops. The regulatory mechanism implemented within the Forest Service through its guidelines and directives assures the continued existence of the spotted owl throughout its range in Region 3. This is certainly true within the relatively short time needed to develop and implement a conservation strategy. There is also a strong record of Forest Service effort to develop new information, sponsor research and to spend millions of dollars on spotted owl inventories prior to project implementation. The information will be used to further develop direction for the management of the spotted owl and its habitat. This is a very reasonable approach in light of the long term ecological changes that are improving owl habitat, especially when combined with the over-estimation of the amount and nature of disturbance to habitat that was outlined in the listing proposal.

Response: The Service recognizes and appreciates the efforts that the Forest Service has taken to reduce the impacts of its management on the Mexican spotted owl. However, the Service does not believe that the Forest Service's interim directives provide adequate protection to guarantee the long-term existence of the owl across its range. The Forest Service has not yet been able to develop and adopt a conservation strategy that the Service believes will adequately protect the owl.

Issue 75: The proposal cites the effect of forest fires as a concern in loss of habitat. The Forest Service shares this concern and acknowledges that fire can be expected to destroy habitat for the Mexican Spotted owl more completely, in large areas, for longer periods of time than do any of the management practices it proposes to implement as discussed in preceding sections. Unlike timber management and other activities, the Forest Service cannot control where fires occur and therefore cannot avoid owl habitat or nesting areas. Wildfires and the activities needed to suppress them cannot be scheduled to avoid the breeding season for the bird and almost always occur during this time. Of particular concern is that fires in steep, dense, or multi-storied stands of mixed species are difficult to fight and tend to be large and stand consuming. Forest Service recent experience with the Dude fire on the Tonto National Forest certainly bears out this observation with the total loss of five owl territories for the foreseeable future.

Response: The Service has identified wildfires as the cause of some loss of suitable habitat in New Mexico and Arizona. The Service disagrees with the Forest Service assertion that the losses will be of longer duration than the forestry practices promulgated in the forest plans. As stated previously (Service 1991a, 1991b), as long as shelterwood management is maintained it will prevent habitat from returning to suitability. Additionally, the Forest Service noted that 221,000 acres (5 percent) of suitable habitat has been converted to unsuitable condition by fires in recent years (Fletcher 1990). If recent years means the past 20 years, then suitable habitat has been converted at the rate of 0.25 percent per year. If the period was longer than 20 years (some of these acres were burned 50 years ago), the annual burn would be smaller and the rotation length longer. A burn rate of 0.25 percent per year translates to a rotation cycle of approximately 400 years which is close to many estimates of the age of virgin old-growth mixed conifer stands in the southwest. This rate of burning would also result in approximately 20 percent of mixed conifer habitat being in aspen at any given time.

Issue 76: In mixed conifer, the predominant tree species is white fir, easily killed by fire, as is white pine and blue spruce. The fire resistance of Douglas-fir is not high enough to survive fire in a dense multi-storied stand. Forest lands also have experienced long term loss of site occupancy by trees in shrub fields on the Lincoln National Forest and elsewhere created by high intensity fire in mixed conifer stands that had shrubs or oak in the understory. Even the fire resistant ponderosa pine often suffers stand destroying fire intensities when grown in dense, multi-storied stands. Experience and scientific information also indicates that extensive tree mortality due to bark beetles can be expected if stand density is uncontrolled. Loss of significant amounts of habitat to bark beetles such as Ipps, mountain pine beetle, western pine beetle, roundheaded pine beetle, Douglas-fir beetle, and Scolytus beetles is certain and these losses are likely to be associated with drought periods when soil moisture is not adequate to support a high density of trees. Numerous researchers have reported an increasing risk of bark beetle epidemics with increasing stand density, increasing tree diameter and high

moisture stress. It is also expected that defoliation by spruce budworm will be a chronic problem. This insect is strongly associated with multi-storied stand of white fir and Douglas-fir throughout the southwest. Management toward dense, multi-storied stand conditions in ponderosa pine and Douglas-fir has and will continue to increase the intensity of dwarf mistletoe infection.

This parasitic plant spreads by expelling seed that fall on nearby and understory trees. This parasite reduces growth eventually killing the tree and preventing the small trees from ever reaching large sizes and greatly reducing stand density. High levels of infection eventually eliminate high stand densities and large trees and this makes the stand unsuitable as spotted owl habitat. Open stands of small infected trees can be expected to persist indefinitely until replaced by means of a stand destroying event such as fire or clearcutting. If timber and prescribed fire activities are completely foregone in owl habitat, dwarf mistletoe infestation can be expected to intensify over time. Two region-wide surveys for dwarf mistletoe conducted thirty years apart indicate that this has happened in recent history as modern forests have become more dense and have been managed through harvest methods that emphasize partial cutting. In 1950's surveys, 30 percent of the commercial forest acres were found to be infected, and in the 1980's it was 39 percent.

The listing proposal underestimates the vulnerability of extensive areas of dense, multi-storied stands to sudden and catastrophic losses of habitat to fire, insects or disease. Likewise it overlooks the beneficial effect of a diversity of stand conditions and cover type mixes that are essential to stable ecosystems needed by the Mexican spotted owl and other wildlife species. The listing proposal ignores the consequences of allowing an excess of timber growth over removal to persist indefinitely. Short term and uncertain improvement in spotted owl habitat is being proposed that assures extensive, catastrophic losses of habitat in the longer term.

Response: The Service has not underestimated the vulnerability of the forests to fire, pests and disease. The Service recognizes the importance of fire ecology in forested habitats. Moreover, the Service appreciates that the function of fires differs among different forest community types. The Service analysis of fire in mixed conifer is that it will result in longer lived forests with greater structural and species diversity than what will be attained under current Forest Service management guidelines. Under current guidelines, mixed conifer stands will be destroyed 3.3 times as frequently (every 120 years as opposed to every 400 years) by regeneration cuts as they would be if natural fire is permitted to determine stand longevity. Parasites and diseases are also an integral part of forest ecosystems and contribute to the maintenance of species diversity and structural diversity in forests. The increases in parasite and diseases intensity is compared to younger stands, not naturally occurring old-growth forests. If mixed conifer stands are composed of multiple species, the close juxtaposition of many tree species will impede the transmission of parasites and diseases which are species specific. The Service reiterates, it is not advocating that management of forests and timber harvests must stop. There is a tremendous resource increment available for harvest, but that resource does not reside in the already over-harvested mature and old-growth stands that are needed by the Mexican spotted owl. It is in the young forest stands often identified as vegetation structural stage three. If the Forest Service adapted its sale program to harvest small saw-timber which is over-abundant, and to retain mature and old-growth stands until they are adequately represented across the landscape, a significant threat to owl habitat would be removed.

Issue 77: The predominant reason for proposing listing of the Mexican spotted owl by the Service was the perceived current and projected future loss of suitable habitat. The Forest Service has shown clearly that: (a) Changes from suitable to capable habitat have been minimized with a net gain in suitable habitat being much more probable than a net loss of habitat; (b) there is no present or projected over-utilization of the bird for recreational, scientific or educational purposes; (c) Forest Service actions have not had and will continue to have no measurable effect on diseases and predation of the owls; (d) Regulatory mechanisms are in place to assure that habitat for the owl will be protected; (e) emphasis on short term gains in habitat will assure substantial and uncontrolled future losses of spotted owl habitat.

Response: The Service does not agree that suitable habitat is being gained faster than lost. Service analysis of Forest Service data indicate that the forest increment is occurring mostly in stands that are not yet suitable for owls and that harvest is aimed at the very limited mature and old-growth stands. When combined with even-aged management practices identified in the forest plans, there is a steady loss of suitable habitat into the foreseeable future.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Mexican spotted owl should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*), and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to 1 or more of the 5 factors described in section 4(a)(1). These factors and their application to the Mexican spotted owl (*Strix occidentalis lucida*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Recent surveys have shown Mexican spotted owls occur most frequently in forests with distinct "mature forest" characteristics. Owls are usually associated with forested mountains and canyons containing dense uneven-aged stands with a closed canopy, as is typically found in the mixed-conifer community type. Although these characteristics are mostly found in mixed-conifer forests, ponderosa pine/Gambel's oak forests are also used if they are old enough to exhibit a high incidence of large cavity trees, broken tops, numerous snags, and a heavy accumulation of downed woody material.

Significant portions of Mexican spotted owl habitat have been lost or modified. Several factors are responsible and represent continually increasing pressures from local and regional human populations. Cumulatively, they have reduced spotted owl habitat significantly throughout its range.

Fletcher (1990) provided an estimate of spotted owl habitat loss on Forest Service lands in Arizona and New Mexico, expressing it as habitat "made capable." He defined "capable habitat" as habitat that was "* * * suitable at some time in the past and became unsuitable due to natural or man-caused events * * * and it is capable of becoming suitable Mexican spotted owl habitat at some time in the future." An estimated 1,037,000 acres of owl habitat have been converted from suitable to capable. Of this, 816,000 acres (78.7 percent) were due to human activities (primarily timber harvest) and 221,000 acres (21.3 percent) were due to natural causes (primarily fire).

Fletcher (1990) also provided an analysis of the length of time required for capable habitat to return to suitable. However, recovery periods for the habitat "made capable" due to timber harvest (78.7 percent) are irrelevant because any acreage placed under the even-aged shelterwood management system used on Forest Service timberlands in the Southwest must be considered indefinitely unsuitable as spotted owl habitat. For example, a regenerating, middle-aged stand of "capable" habitat might be within 50 years of returning to suitable status. Under the shelterwood system, the stand will receive intermediate cuts before then, which sets back the time to return to suitable conditions. Ultimately, the stand will be re-entered with another regeneration cut where all but a few trees are removed. Thus, after the critical attributes of owl habitat have been lost, shelterwood acres are held perpetually as "capable habitat" unless silvicultural management is altered. Suitability as owl habitat is never recovered or, at best, is recovered only briefly before the forest is re-entered and returned "capable" status. Therefore, all past and projected acres of owl habitat placed under shelterwood management are considered lost indefinitely as owl habitat. According to current forest plans, and assuming that present management direction continues, about 95 percent of Forest Service commercial timberland in the Southwest is projected for management using the shelterwood system. Commercial timberland on the Navajo Indian Reservation is being converted to shelterwood management. Commercial timberland on other Indian reservations in the Southwest is managed predominately through selective logging to produce uneven-aged stands (S. Haglund, BIA, pers. comm., 1992).

Fletcher (1990) reported 3,365,000 acres of currently suitable habitat exist in New Mexico and Arizona national forests. Conversion of 1,037,000 acres from suitable to capable represents a 23.5 percent loss of suitable habitat over an unspecified, but recent, number of years. Forty percent of the loss occurred since 1980 (Fletcher 1990), which represents a rate of habitat loss of approximately 10 percent in the last decade on Arizona and New Mexico national forests.

Data are not available on owl habitat loss from lands other than Arizona and New Mexico national forests. National forests in Arizona and New Mexico account for approximately 90 percent of known owl locations.

There are some indications that the spotted owl historically ranged into middle and low elevations in well developed riparian woodland communities. Bendire's (1892) location for nesting owls northwest of Tucson was in the extensive historical riparian gallery forests of the Santa Cruz River and its major tributaries. His sighting near the confluence of the Santa Cruz River, Rillito Creek, and Canada del Oro was also at the base of the Santa Catalina Mountains which contain typical conifer forest habitat currently occupied by owls.

Riparian woodlands in the Southwest prior to the twentieth century may have satisfied many of the structural and thermal requirements of owl nest and roost sites. Dense cottonwood canopies and willow/mesquite understories could have provided a multistoried structure and cool microclimate. The historical presence of surface water below these gallery forests probably ameliorated the surrounding desert thermal regime. The high diversity and abundance of potential prey items may have made these middle and low elevation riparian habitats suitable breeding locations.

Duncan (1990) documented a recent breeding season owl location in a mid-elevation riparian area, also in southeastern Arizona. Single owls have been observed in winter in mid-elevation riparian areas in central Arizona (J. Ganey, Nothern Arizona University, pers. comm., 1989; T. Lister, AGFD, pers. comm., 1989). Winter locations at low elevations have also been recorded in New Mexico (Skaggs, New Mexico State University, pers. comm., 1989). These contemporary records suggest riparian habitats could indeed have provided suitable owl habitat in the past.

Southwestern national forests primarily use the shelterwood harvest technique, which manages for even-aged stands. Thus, the uneven-aged, multistoried stands comprising primary owl roost and nest sites will be converted to unsuitable even-aged stands with reduced structural diversity if management practices remain unchanged.

Forest plans for 5 of the 11 New Mexico and Arizona national forests now contain provisions to allow cable or skyline logging on slopes greater than 40 percent. The Gila National Forest Plan (Forest Service 1986a) suggests total timber harvest for the forest could be maintained at the present 30 MMBF per year ASQ by entering steep slopes, with as much as 50 percent of the forest's total timber volume coming from steep slope habitats in 5 decades. The Lincoln National Forest Plan (Forest Service 1986b) specifies 5,054 acres of steep-slope logging during the 10 years covered by the plan, and the Sante Fe National Forest Plan (Forest Service 1987) calls for harvest of 1.5 MMBF annually by skyline logging. The Apache-Sitgreaves and Tonto National Forests do not identify specific plans for cable logging, but the practice is not precluded in the forest plans.

Most steep slopes have not been harvested to any significant degree in the Southwest in the past. Steep slopes typically provide superior spotted owl habitat by virtue of the owl's preference for the topography, rock outcrops and/or cliffs, and the generally cooler microclimates often supporting multilayered mixed-conifer forest. Steep slopes may be particularly important in maintaining owl populations where they occur at the lower elevational limits of the owl's range. Steep slopes and deep canyons often provide pockets of mixed-conifer within wider areas dominated by vegetation considered inferior as spotted owl habitat (e.g. ponderosa pine or pinyon-juniper). Thus, harvest of steep slopes could impact habitat that is very limited and critical to maintaining spotted owls in an area.

Entering steeper slopes will result in a larger proportion of harvest in mixed-conifer, the primary owl habitat. Historically, timber harvest in the Southwest was concentrated in the high value, easily accessed ponderosa pine forests on relatively flat or rolling terrain on plateaus or mesa tops. With continued timber demands and decreased availability of that resource in large tree sizes, harvest is now moving increasingly into mixed-conifer and steep terrain.

According to current forest plans, in the 10-year planning period from 1987 through 1996, Arizona and New Mexico national forests will enter 7.48 percent of harvest-suitable land with regeneration cuts (this is the cut in the shelterwood management system that removes the largest volume of wood per acre and initiates regeneration of a new stand from tree seedlings). At this harvest rate, in 100 years 74.8 percent of harvest-suitable acres will be placed under the even-aged shelterwood system and many of these acres will receive subsequent intermediate cuts to thin the stands for maintenance of maximum timber productivity. Of the estimated suitable owl habitat on Arizona and New Mexico national forests, 59 percent (1,987,000 acres) is available for harvest (Fletcher 1990). Assuming equal distribution across forest types, 74 percent of this figure represents a 44 percent loss of total suitable owl habitat (1,486,267 of 3,365,000 acres) on national forest lands

in Arizona and New Mexico. Based on information in forest plans, the Forest Service predicts forest timber demand will increase 30 percent in 50 years. If this increase is realized, future harvest entry and corresponding owl habitat loss will be considerably greater than these figures indicate.

Timber harvest rates remain controversial in southwestern forests. While the Forest Service (Fletcher 1990) reported yearly decreases in total numbers of acres entered from 1980 through 1990 in New Mexico and Arizona national forests, average board feet harvested per acre has increased each year from approximately 2,750 board feet per acre to almost 4,000 board feet per acre. Forest plans are being reviewed by the Forest Service on 5 national forests in Arizona and New Mexico because of concern the ASQ can not be maintained while meeting other forest plan standards and guidelines. The Coconino, Apache-Sitgreaves, and Kaibab National Forests reduced the volume of timber offered for sale by about 15 percent while conducting these reviews (D. Jolly, *in litt.*, 1990). It is unknown how forest management recommendations from the reviews will affect rates of spotted owl habitat loss.

The Service (1991a, 1991b) and the AGFD have repeatedly expressed concern that current ASQs are not biologically realistic figures, as have Forest Service District Rangers and others (Forest Service, *in litt.*, 1989a, 1989b, 1989c, 1990a, 1990b). The concerns are that biological diversity, timber yield and other values are not being sustained as required by the National Forest Management Act. If harvests are too intensive in owl habitat, the habitat will be opened too much and become degraded. At a meeting with the Forest Service on August 14, 1992, the Service was told that the Forest Service intends to meet a region-wide timber harvest of 300 MMBF in 1993 and future years.

Forest plans indicate recreational use of most national forests will increase significantly in future decades. This use will increase various activities that often occur in owl habitat. The severity of impact will vary with the type of activity (e.g. road and trail building, camping, picnicking, shooting, hiking, hunting, skiing, and ORV-riding). Cumulatively, these activities may affect local owl populations and their habitat near public access areas.

Specific data on habitat loss in Mexico are not available. The few owls recorded were, as in the United States, closely associated with relatively undisturbed, forested mountains and canyons. The protection once afforded the species in Mexico by the remote rugged habitat is disappearing due to a rapidly growing human population, expanding road system, and increased mechanization of harvest techniques.

An estimated 2,191,000 acres of habitat, or 39 percent of the total currently suitable Mexican spotted owl habitat in the United States, is not available for timber harvest. However, these lands are often scattered small units incapable by themselves of supporting a viable spotted owl population. Within Forest Service lands in Arizona and New Mexico, Fletcher (1990) reported 1,378,000 acres of suitable owl habitat is not available for harvest. Fifty-three percent of this land is on 2 forests (Gila National Forest, 453,000 acres; Santa Fe National Forest, 288,000 acres). There are about 550,000 acres of spotted owl habitat in national forest wilderness areas in New Mexico and Arizona. No information is available regarding the amount of owl habitat in wilderness areas in Utah and Colorado..

Except for Forest Service wilderness areas, NPS lands are the only other contiguous units of habitat excluded from timber harvest. The NPS reported that an estimated 238,000 to 438,000 acres of spotted owl habitat is managed to preserve natural values. The wide range in the estimate reflects NPS uncertainty about which habitats are actually suitable for owls. This is partly because known NPS owl habitat is predominantly in canyonlands, which are often at the northern limits of the Mexican spotted owl's range where owl occurrence is more difficult to predict.

Bureau of Land Management lands have been harvested minimally, if at all, in the past. Pressure to harvest timber on BLM lands could increase if available timber in national forests decreases.

Habitat fragmentation is often the result of conversion of forest habitat from large contiguous tracts into smaller parcels through the creation of openings. Fragmentation may isolate stands from one another. Most Forest Service timber harvest in the Southwest is done in relatively small cutting units using even-aged management under the shelterwood system (Fletcher 1990). The spotted owl is an interior forest bird largely dependent on uneven-aged forests. By modifying and fragmenting uneven-aged forests, timber harvest as currently practiced in the Southwest will likely decrease habitat suitability for supporting self-sustaining and well distributed populations of the spotted owl (Green 1988, Harris 1984, Harris *et al.* 1982, Meslow *et al.* 1981, Thomas *et al.* 1988).

At a large scale, fragmentation may isolate larger contiguous populations into increasingly smaller and more isolated clusters of breeding pairs by reducing the overall quality of available suitable nesting, roosting, and foraging habitat. In addition to reducing total owl numbers, this isolation may create genetic problems that result from inbreeding as well as dispersal problems. A portion of the overall Mexican spotted owl population already exists in relatively isolated clusters of birds in the Colorado Plateau canyonlands of the north and the basin-and-range mountains of the south. These sections of the owl's range fall outside the relatively contiguous and more densely populated habitat of south-central Arizona and New Mexico. Habitat fragmentation for this core population in central Arizona and New Mexico could have serious implications for the stability of the spotted owl population as a whole.

Small-scale fragmentation will erode the quality of home range habitat for individual owls (Carey *et al.* 1992). Fragmentation on a cutting-unit level can degrade habitat for spotted owls by affecting prey availability, interfering with the owl's primary hunting technique, and destroying the crucial microclimate attributes of the nest/roost sites. Simultaneously, this level of fragmentation will likely enhance habitat quality for spotted owl predators such as great horned owls and red-tailed hawks. Increased predation may combine with decreased nesting success (due to habitat degradation and reduced prey availability, especially in the first weeks after owlets have hatched) to severely impact the Mexican spotted owl.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The greatest potential for overutilization of the Mexican spotted owl is through scientific activities that will likely increase with increasing interest and funds available for owl studies. In one instance, the NMDGF (*in litt.*, 1990) withdrew a permit to capture and radio-tag several owls because simultaneous Forest Service owl surveys documented their scarcity. The permit was revoked after it became apparent that the owl population was too small to support the research activities. These situations may become more common for the spotted owl, which sometimes exists in small populations on isolated mountain ranges.

Recreational (bird watching), educational (classroom field trips), and

public relations (agency "show me" trips for public and press) activities are also likely to increase as this owl becomes better known. The owl is relatively easy to observe from close distances. Numerous authors have noted the bird's affinity for secluded old-growth habitat infrequently visited by man. Except for a few individuals, the owls' tolerance of frequent human disturbance is unknown (Johnson and Johnson 1990).

C. Disease or Predation

Great horned owls are a suspected major cause of mortality in Mexican spotted owls (Ganey and Balda 1988, Skaggs 1990). The two species are sympatric, but habitat use has probably separated them ecologically. However, present forest management is changing traditional spotted owl habitat to resemble the "open" forest typically used by great horned owls. Such management usually results in patches distributed throughout the forest (fragmentation), which creates edge (ecotone) suitable to the great horned owl and increases the likelihood of contact between the two species. Spotted owls appear to avoid areas used by great horned owls (Johnson and Johnson 1985, 1990).

D. The Inadequacy of Existing Regulatory Mechanisms

Under the Migratory Bird Treaty Act (MBTA) it is unlawful to pursue, hunt, take, capture, or kill in any manner any migratory bird. Although the Mexican spotted owl remains in its summer range throughout the year, it is included on the list of birds protected under the MBTA.

An interagency agreement with the purpose of ensuring population viability of the spotted owl (*Strix occidentalis*), including the Mexican spotted owl, was signed by the Service, BLM, NPS, and Forest Service on August 12, 1988 (U.S. Department of Interior 1988). Under this agreement, each agency agreed to manage its land to provide owl habitat, to carry out habitat and population inventories sufficient to indicate long term trends, and to carry out research activities sufficient to provide empirical information on the validity of planning assumptions. The degree to which this agreement has been implemented has varied among agencies. Coordination among agencies under the agreement has been minimal.

Only the State of Arizona recognizes the owl as a threatened species (AGFD 1988). Capture, handling, transportation, and take of the owl are regulated by game laws and special licenses for live wildlife. Thus, Arizona only regulates hunting, recreation, and scientific investigation. New Mexico is considering placing the owl on its list of endangered species at this time.

Most Federal agencies have policies to protect state threatened or endangered species and some agencies also protect species that are candidates for Federal listing. The National Park Service Organic Act protects all wildlife on national parks and monuments. However, these general policies lack standards and guidelines that can be used to measure policy success. Until agencies develop specific protection guidelines, evaluate them for adequacy, and test them through implementation, it is uncertain whether any general agency policies will adequately protect the Mexican spotted owl.

Specific management policies for the spotted owl have been developed by BLM in Colorado and New Mexico. The policy in Colorado states, "* * * In areas with a confirmed nest or roost site, surface management activities will be limited and will be determined on a case by case basis to allow as much flexibility as possible outside of the core area." Management policy in New Mexico states that habitat core areas and territories of appropriate size will be established and preserved wherever owls are found. These policies are too general to ensure the spotted owl will be adequately protected on BLM lands.

Spotted owl protection guidelines have been developed by only one Indian nation. The guidelines for the Mescalero Apache Reservation establish a 72-acre buffer zone around owl roost or nest sites. No management activities can occur within the buffer zone during the reproductive season. After the reproductive season, the buffer is reduced to a 150-foot radius (5.1 acres) around significant roost areas and a 200-foot radius (9 acres) around nests. It is unclear these guidelines provide significant protection for spotted owl pairs, which have an average home range of more than 2,000 acres.

Detailed guidelines for spotted owl management have been developed by the Forest Service Southwest Region. The guidelines were first issued as Mexican spotted owl Interim Directive No. 1 (ID No. 1) in June, 1989, and reissued as Mexican spotted owl Interim Directive No. 2 (ID No. 2) in June, 1990. The guidelines expired December 26, 1991, but the Forest Service is continuing to manage under ID No. 2. The IDs apply only to national forests in New Mexico and Arizona. No spotted owl management guidelines have been developed for Colorado or Utah national forests. The IDs require establishment of a Mexican Spotted Owl Management Territory (MT) around each spotted owl nest or roost site. Each MT (except those on the Gila and Lincoln National Forests) has a core area of 450 acres and an overall size of 2,000 acres. Activities within the core area are limited to road construction. Within the MT, activities, including timber harvest, are limited to a maximum of 775 acres. The intent of the guidelines is to retain at least 1,000 acres of suitable habitat within the MT after proposed management activities are identified and located. Forest Service estimates indicate suitable habitat within MTs currently averages 1,150 acres.

The MT size and entry limitations were based on average home range values found by Ganey and Balda (1988) for radio-monitored birds. Ganey and Balda's work was the only study of its type for the Mexican spotted owl when ID No. 2 was adopted. The Forest Service uses average rather than maximum values for MT size, thereby establishing MTs that are expected to meet size and habitat requirements for only about 50 percent of spotted owls.

Application of the IDs has not been uniform on all forests. Guidelines on two forests were modified. ID No. 1 reduced the core area size to 300 acres for the Lincoln National Forest. ID No. 2 established a core area size of 450 acres for all forests but reduced the overall territory size to 1,500 acres for the Lincoln and Gila National Forests. Both forests have significant owl populations which have resulted in severe conflicts with planned timber harvest volumes. The IDs provide no protection for unoccupied suitable owl habitat.

E. Other Natural or Manmade Factors Affecting the Owl's Continued Existence

Forest fires have destroyed approximately 221,000 acres of suitable spotted owl habitat in New Mexico and Arizona national forests in recent years (Fletcher 1990). This acreage represents a loss of approximately 5 percent of the 4,402,000 acres Fletcher (1990) considered spotted owl habitat, and approximately 21 percent of the owl habitat recently made unsuitable. Fletcher estimated that 79 percent of the lost acres would require more than 50 years to return to suitable habitat. The future incidence of fire can be expected to remain fairly constant.

Malicious and accidental harm to spotted owls has rarely been documented. Several road-killed owls have been found in Arizona and New Mexico, perhaps reflecting increasing human activities in owl habitat. No reports of accidental shooting are known. Malicious harm to owls has not

been documented. However, as conflicts over spotted owls and forest management increase, and the methods for locating owls become widely known, the potential for malicious harm will increase.

The barred owl has undergone rapid range expansion over the past 20 years into the range of the northern spotted owl (Hamer 1988) and has replaced the northern spotted owl in some areas (Forsman *et al.* 1984). The barred owl has taken advantage of habitat modifications, such as those resulting from present forest management (fragmentation), to expand its range into areas where it may compete with the spotted owl. There are no records of barred owls in the U.S. range of the Mexican spotted owl, but the range and numerical expansion of the great horned owl and red-tailed hawk in the Southwest suggest that the barred owl could do the same. The Mexican subspecies of the barred owl (*Strix varia sartori*) is known from much of the Mexican spotted owl's historic range in central Mexico (AOU 1983); the ecological relationship between the two there is unknown. The potential for interbreeding between Mexican spotted owls and barred owls merits concern and monitoring where the two species overlap. Such interbreeding is reported with the northern spotted owl (K. Fletcher, Forest Service, pers. comm., 1990).

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Mexican spotted owl (*Strix occidentalis lucida*) as threatened throughout its range. Suitable habitat for this subspecies has been reduced by timber harvest and fires. Habitat fragmentation as a consequence of forest management practices increases the threat of predation and inhibits dispersal. An estimated 2,160 Mexican spotted owls exist. Endangered status would no be appropriate because the available data do not indicate that extinction throughout all or a significant portion of the range is an imminent possibility.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that the Secretary of Interior designate critical habitat at the time a species is determined to be endangered or threatened, to the maximum extent prudent and determinable. In the proposed rule for this listing, the Service stated that designating critical habitat for the Mexican spotted owl was not prudent. This decision was based on the conclusion that because habitat destruction was the principal threat to the owl, the jeopardy standard for the species under section 7 of the Act would be as stringent as the adverse modification of critical habitat would be if critical habitat were designated. The Service thus found it would not be prudent to designate critical habitat, because this would provide no additional conservation benefit to the species. The Service has since concluded that designation of critical habitat for the Mexican spotted owl will indeed provide benefits to the species greater than those provided by listing alone. Primarily, the designation of critical habitat will facilitate management and recovery planning by the Forest Service and other agencies in a way that could not be accomplished solely through listing.

Although the Service has concluded that designation of critical habitat is prudent, it also finds that critical habitat is not presently determinable. The Service's regulations (50 CFR 424.12(a)(2)) state that critical habitat is not determinable if information sufficient to perform required analyses of the impacts of the designation is lacking or if the biological needs of the species are not sufficiently well known to permit identification of the area as critical habitat. Although considerable knowledge of Mexican spotted owl habitat needs has been gathered in recent years, maps in sufficient detail to accurately delineate these areas on the ground are not presently available. The Service has initiated the studies needed to ascertain critical habitat areas and will publish, in the **Federal Register**, a final rule to designate critical habitat for the Mexican spotted owl by November 4, 1993.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, state, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and authorizes recovery plans for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The U.S. Forest Service and some Indian nations have active timber sale programs in the Southwest. The BLM also participates in timber sale programs to a lesser degree. Because habitat loss and modification resulting from timber harvesting activities represent primary threats to the Mexican spotted owl, most timber sales administered by Federal agencies will be subject to section 7 consultation. Other actions that may affect the Mexican spotted owl such as road building, trail building, pipeline construction, powerline construction, mining, or construction of recreation facilities will likely require section 7 consultation between the Service and the appropriate Federal agency.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For

threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the intent of the Act.

On June 28, 1979, the order Strigiformes, which includes all owls, was included in appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The effect of this listing is that export permits are generally required before international shipment may occur. Such shipment is strictly regulated by CITES party nations to prevent effects that may be detrimental to the species' survival. Generally, the export cannot be allowed if it is primarily for commercial purposes.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from the Field Supervisor, New Mexico Ecological Services Field Office, (see **ADDRESSES** section).

Authors

The primary authors of this final rule are Dr. Jack Cully (see **ADDRESSES** section) and Dr. William Austin, U.S. Fish and Wildlife Service, Ecological Services Field Office, 3616 West Thomas Road, suite 6, Phoenix, Arizona 58019 (602/379–4720).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "Birds", to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
BIRDS							
•	•	•	•	•	•	•	•
Mexican spotted owl	*Strix occidentalis lucida*	U.S.A. (NM, AZ, TX, CO, UT), Mexico.	NA	T	494	NA	NA
•	•	•	•	•	•	•	•

Dated: January 6, 1993.

John F. Turner,

Director, Fish and Wildlife Service.

[FR Doc. 93–5782 Filed 3–15–93; 8:45 am]

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federal register

Tuesday
March 16, 1993

Part III

Department of Education

Fund for Innovation in Education (FIE): Innovation in Education Program; Field-Testing and Demonstrations of New or Improved Assessments of K–12 Student Academic Performance; Notice

DEPARTMENT OF EDUCATION

Fund for Innovation in Education (FIE): Innovation in Education Program—Field-Testing and Demonstrations of New or Improved Assessments of K–12 Student Academic Performance

AGENCY: Department of Education.

ACTION: Notice of proposed priority for fiscal years 1993 and 1994.

SUMMARY: Under the Fund for Innovation in Education: Innovation in Education Program, the Secretary of Education proposes a priority for fiscal years 1993 and 1994 for projects that will support field-testing and demonstrations of new or improved assessments of student academic performance in kindergarten through grade 12 (K–12). This action is part of an overall strategy to support systemic reform; that is, changes in practices and requirements throughout the educational system to enable all children to achieve the National Education Goals. Other components of the strategy are the establishment of World Class Standards by professional organizations in mathematics, history, geography, science, English, civics, the arts, and foreign languages, and the establishment of curriculum frameworks for grades K–12 to move students toward those standards.

DATES: Comments must be received on or before April 15, 1993.

ADDRESSES: All comments concerning this proposed priority should be addressed to Janice K. Anderson, U.S. Department of Education, 555 New Jersey Avenue NW., room 522, Washington, DC 20208–5524.

FOR FURTHER INFORMATION CONTACT: Sherrin Marshall, U.S. Department of Education, 555 New Jersey Avenue, NW., room 522, Washington, DC 20208–5524. Telephone: (202) 219–1496. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The Secretary's Fund for Innovation in Education (FIE): Innovation in Education Program supports programs and projects that show promise of identifying and disseminating innovative educational approaches at the elementary and secondary levels. The third National Education Goal states that "American students will leave grades four, eight, and twelve having demonstrated competency in challenging subject matter including English, mathematics, science, history, and geography; and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our modern economy." A system of improved assessments tied to standards in all of these disciplines, as well as civics, the arts, and foreign languages, is necessary to help measure students' progress.

The feasibility of setting national standards and their effectiveness in encouraging State and local reform have been demonstrated by a number of national professional organizations. In 1989, the National Council of Teachers of Mathematics developed national standards for what students should know and be able to do in mathematics. While there do not exist fully developed national standards for K–12 in English, science, history, geography, civics, foreign languages, and the arts, considerable work is being done by a variety of organizations toward development of such standards. Projects are underway in history, by the National Center for History in the Schools at UCLA; science, by a coalition of science groups including the National Academy of Sciences, the American Association for the Advancement of Science, and the National Science Teachers' Association; civics, by the Center for Civic Education; geography, by the National Council of Geographic Education, in coordination with the Association of American Geographers, the National Geographic Society, and the American Geographical Society; English, by the Center for the Study of Reading, in coordination with the National Council of Teachers of English and the International Reading Association; the arts, by Music Educators National Conference, in coordination with the American Alliance for Theater and Education, the National Art Education Association, and the National Dance Association; and foreign languages, by the American Council on the Teaching of Foreign Languages.

Efforts are similarly underway for the development of State curriculum frameworks in these subject areas. These frameworks will embody coherent, non-repetitive curricula designed to ensure that all children study challenging subject material in every grade, K–12. Along with the frameworks, model guidelines for effective approaches to teacher education, certification, and recertification are being developed, all based on world-class standards.

In its report of January 24, 1992, the National Council on Education Standards and Testing, a congressionally created group charged with investigating the desirability and feasibility of national standards and improved assessments, called for the development of such standards and an accompanying system of assessments as urgently needed steps in reforming American education. Representatives of the President, the Secretary, and the Congress served as members of the Council.

The Council recommended a system of multiple assessments linked to the national standards that would have two major components: (1) Individual student assessments and (2) large-scale assessments of representative samples of students from which inferences about the quality of programs or educational systems could be made. The National Assessment of Educational Progress is an example of a large-scale assessment that is used to monitor educational systems.

This priority is directed toward the first component of a system of multiple assessments: Assessments of individual students, attending either public or private schools, that provide information to students, parents, and teachers about student progress toward achieving national standards. Some schools, localities, and States, as well as organizations, have developed assessments that show promise of being valid and useful measures of student academic performance. The proposed priority would support demonstrations of these instruments and approaches; that is, field-testing and replication in a number of differing locales with rigorous documentation and evaluation of their effectiveness. Under the proposed priority State educational agencies (SEAs), local educational agencies (LEAs), institutions of higher education (IHEs), private schools, and other public and private agencies, organizations and institutions, working alone or in cooperation with other eligible applicants, will apply for funding to support the objectives and activities described in this notice.

The Secretary will announce the final priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority.

Priority

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority: Field-Testing and Demonstration of New or Improved Assessments of Kindergarten through Grade 12 Student Academic Performance.

Projects will be supported that field-test innovative assessment methods, practices, and strategies to measure student learning in core subjects, particularly at the fourth, eighth and twelfth grade levels.

Projects must include all of the following elements:

(a) Provision for measuring learning outcomes linked to high standards and challenging curricula in one or more of the following subjects: English, mathematics, science, history, geography, civics, the arts, and foreign languages.

(b) Provision for developing and implementing strategies for widespread field testing of the assessment instruments and approaches, including those that are sensitive to student differences, in a variety of school settings.

(c) Provision for collaboration with teachers and specialists in both subject matter and assessment to ensure that the assessments are thoroughly integrated with curricular goals and objectives.

(d) Provision for qualified personnel specifically trained to administer, score, and interpret the assessments of student learning outcomes and to evaluate the quality of those assessments.

(e) Provision for thoroughly evaluating the assessment strategy or strategies so as to document cost-effectiveness and quality in measuring different levels of student achievement, in a manner that will allow others to use project results.

Applications must contain a description of the assessment innovation or innovations to be demonstrated and rationale for selection, including information about prior use in other settings and research findings.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 522, 555 New Jersey Avenue NW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations

The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Program Authority: 20 U.S.C. 3151.

(Catalog of Federal Domestic Assistance Number: 84.215H Secretary's Fund for Innovation in Education: Innovation in Education Program)

Dated: February 12, 1993.

Richard W. Riley,

Secretary of Education.

[FR Doc. 93–5930 Filed 3–15–93; 8:45 am]

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Federal Register

Tuesday
March 16, 1993

Part IV

Department of Education

Life Skills for Prisoners; Notice Inviting Applications for Awards

DEPARTMENT OF EDUCATION

[CFDA No.: 84.255A]

Life Skills for State and Local Prisoners Program; Inviting Applications for New Awards for Fiscal Year (FY) 1993

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, regulations, and instructions needed to apply for a grant under this competition.

Purpose of Program: The Life Skills for State and Local Prisoners Program provides financial assistance for establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for reintegration of adult prisoners into society.

The Life Skills for State and Local Prisoners Program directly supports National Education Goal 5—ensuring that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Eligible Applicants: A State correctional agency, local correctional agency, State correctional education agency, or local correctional education agency is eligible for a grant under this program.

Definitions: "Life skills" includes self-development, communication skills, job and financial skills development, education, interpersonal and family relationship development, and stress and anger management.

"Local correctional agency" means any agency of local government that provides corrections services to incarcerated adults.

"Local correctional education agency" means any agency of local government, other than a local correction agency, that provides educational services to incarcerated adults.

"State correctional agency" means any agency of State government that provides corrections services to incarcerated adults.

"State correctional education agency" means any agency of State government, other than a State correctional agency, that provides educational services to incarcerated adults.

Deadline for Transmittal of Applications: May 15, 1993.

Deadline for Intergovernmental Review: July 16, 1993.

Available Funds: $4,910,400 for the first 12 months. Funding for the second and third 12 months is subject to availability of funds and to a grantee meeting the requirements of CFR 75.253.

Estimated Range of Awards: $100,000–$300,000 (funding for first 12 months).

Estimated Average Size of Awards: $204,600.

Estimated Number of Awards: 24.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months (3 twelve-month grant cycles).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR Part 75 (Direct Grant Programs).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR Part 82 (New Restrictions on Lobbying).

(8) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR Part 86 (Drug-Free Schools and Campuses).

(b) The regulations for this program in 34 CFR part 490 (as published in the June 5, 1992 **Federal Register** (57 FR 24107)).

Invitational Priority: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects that propose to increase the ability of incarcerated adults to read, write, and speak in English, compute, and solve problems at levels of proficiency necessary to function on the job and in society, to achieve one's goals, and to develop one's knowledge and potential.

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for new grants under this competition.

The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses.

The program regulations in 34 CFR 490.20(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the reserved 15 points as follows:

Program Factors (34 CFR 490.21(a)). Ten points are added to this criterion for a possible total of 25 points.

Educational Significance (34 CFR 490.21(b)). Five points are added to this criterion for a possible total of 20 points.

In addition to the points awarded under the selection criteria in 34 CFR 490.21, the program regulations in 34 CFR 490.22 provide that the Secretary awards up to five points to applications for projects that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(a) *Program factors.* (25 points) The Secretary reviews the application to determine the quality of the proposed project, including the extent to which the application includes—

(1) A clear description of the services to be offered; and

(2) Life skills education designed to prepare adult offenders to reintegrate successfully into communities, schools, and the workplace.

(b) *Educational significance.* (20 points) The Secretary reviews each application to determine the extent to which the applicant proposes—

(1) Project objectives that contribute to the improvement of life skills;

(2) To use unique and innovative techniques to produce benefits that address life skills problems and needs that are of national significance; and

(3) To demonstrate how well those national needs will be met by the project.

(c) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the project includes specific intended outcomes that—

(i) Will accomplish the purposes of the program;

(ii) Are attainable within the project period, given the project's budget and other resources;

(iii) Are susceptible to evaluation;

(iv) Are objective and measurable; and

(v) For a multi-year project, include specific objectives to be met, during

each budget period, that can be used to determine the progress of the project toward meeting its intended outcomes;

(3) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective and intended outcome during the period of Federal funding; and

(5) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or disabling condition.

(d) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are clearly explained and appropriate to the project;

(2) Will determine how successful the project is in meeting its intended outcomes, including an assessment of the effectiveness of the project in improving life skills of prisoners. To the extent feasible, the assessment must include a one-year post-release review, during the grant period, to measure the success of the project with respect to those prisoners who received services and were released. The assessment must involve comparison of the project to other existing education and training programs or no treatment for individuals, as appropriate. The evaluation must be designed to produce findings that, if positive and significant, can be used in submission of an application to the Department's Program Effectiveness Panel. To assess program effectiveness, consideration may be given to implementing a random assignment evaluation design. (Review criteria for the Program Effectiveness Panel are provided in 34 CFR 786.12.);

(3) Provide for an assessment of the efficiency of the program's replication efforts, including dissemination activities and technical assistance provided to other projects;

(4) Include formative evaluation activities to help assess program management and improve program operations; and

(5) To the extent possible, are objective and produce data that are quantifiable.

(e) *Demonstration and dissemination.* (10 points) The Secretary reviews each application to determine the efficiency of the plan for demonstrating and disseminating information about project activities and results throughout the project period, including—

(1) High quality in the design of the demonstration and dissemination plan;

(2) Identification of target groups and provisions for publicizing the project at the local, State, and national levels by conducting or delivering presentations at conferences, workshops, and other professional meetings and by preparing materials for journal articles, newsletters, and brochures;

(3) Provisions for demonstrating the methods and techniques used by the project to others interested in replicating these methods and techniques, such as by inviting them to observe project activities;

(4) A description of the types of materials the applicant plans to make available to help others replicate project activities and the methods for making the materials available; and

(5) Provisions for assisting others to adopt and successfully implement the project or methods and techniques used by the project.

(f) *Key personnel.* (5 points)

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications, in relation to the objectives and planned outcomes of the project, of the project director;

(ii) The qualifications, in relation to the objectives and planned outcomes of the project, of each of the other key personnel to be used in the project, including any third-party evaluator;

(iii) The time that each person referred to in paragraphs (f)(1) (i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disabling condition.

(2) To determine personnel qualifications under paragraphs (f)(1) (i) and (ii) of this section, the Secretary considers experience and training in project management and in fields related to the objectives and planned outcomes of the project.

(g) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which the budget—

(1) Is cost effective and adequate to support the project activities;

(2) Contains costs that are reasonable and necessary in relation to the objectives of the project; and

(3) Proposes using non-Federal resources available from appropriate employment, training, and education agencies in the State to provide project services and activities and to acquire project equipment and facilities.

(h) *Adequacy of resources and commitment.* (5 points)

(1) The Secretary reviews each application to determine the extent to which the applicant plans to devote adequate resources to the project. The Secretary considers the extent to which—

(i) Facilities that the applicant plans to use are adequate; and

(ii) Equipment and supplies that the applicant plans to use are adequate.

(2) The Secretary reviews each application to determine the applicant's commitment to the project, including the extent to which—

(i) Non-Federal resources are adequate to provide project services and activities, especially resources of the public and private sectors; and

(ii) The applicant has the capacity to continue, expand, and build upon the project when Federal assistance ends.

Intergovernmental Review of Federal Programs: This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on September 21, 1992 (57 FR 43525–43526).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA No. 84.255A, U.S. Department of

Education, room 4161, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Instructions for Transmittal of Applications: (a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and six copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.255A), Washington, DC 20202–4725, or

(2) Hand deliver the original and six copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.255A), room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC 20202–4725.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The CFDA number—and suffix letter, if any—of the competition under which the application is being submitted, must be indicated on the outside of the envelope and in Item 10 of the application for Federal assistance (Standard Form 424).

Application Instructions and Forms: To apply for an award under this program competition, your application must be organized in the following order and include the following five parts:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)).

Part II: Budget Information.

Part III: Budget Narrative.

Part IV: Program Narrative.

Part V: Additional Assurances and Certifications:

a. Assurances—Non-Construction Programs (Standard Form 424B).

b. Certification regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and Instructions.

c. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and Instructions.

Note: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

d. Disclosure of Lobbying Activities (Standard Form LLL–A) (if applicable) and Instructions, and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

All forms and instructions are included as Appendix A of this notice. Questions and answers pertaining to this program are included, as Appendix B, to assist potential applicants.

All applicants must submit one *original signed application*, including ink signatures on all forms and assurances and six *copies of the application*. Please mark each application as original or copy.

No grant may be awarded unless a *completed* application form has been received.

For Further Information Contact: Christopher Koch, U.S. Department of Education, 400 Maryland Avenue, SW. (room 4512—MES), Washington, DC 20202–7242. Telephone (202) 205–5621. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1211–2.

Dated: March 8, 1993.

Ricky Takai,

Acting Assistant Secretary, Office of Vocational and Adult Education.

BILLING CODE 4000–01–U

APPENDIX A

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit
Address (give city, county, state, and zip code)	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State — H. Independent School Dist
B. County — I. State Controlled Institution of Higher Learning
C. Municipal — J. Private University
D. Township — K. Indian Tribe
E. Interstate — L. Individual
F. Intermunicipal — M. Profit Organization
G. Special District — N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

a. _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 2 5 5

TITLE: LIFE SKILLS FOR STATE AND LOCAL PRISONERS

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	A	B	C
1. Personnel			
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Costs/Stipends			
11. TOTAL, Federal Funds Requested (lines 8 through 10)			

SECTION B - Cost Sharing Summary (if appropriate)

	A	B	C
1. Cash Contribution			
2. In-Kind Contribution (only costs specifically for this project)			
3. TOTAL, Cost Sharing (Rate %)			

NOTE: For FULLY-FUNDED PROJECTS use Column A to record the first 12-month budget period; Column B to record the remaining months of the project; and Column C to record the total.

For MULTI-YEAR PROJECTS use Column A to record the first 12-month budget period; Column B to record the second 12-month budget period; and Column C to record the third 12-month budget period.

SECTION C - Budget Estimates (Federal Funds Only) For Balance of Project

	Budget Periods			
	Second	Third	Fourth	Fifth

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. Personnel: Show salaries to be paid to project personnel.

2. Fringe Benefits: Indicate the rate and amount of fringe benefits.

3. Travel: Indicate the amount requested for both inter- and intra-State travel of project staff. Include funds for at least one trip for two people to attend a project director's meeting in Washington, D.C.

4. Equipment: Indicate the cost of non-expendable personal property that has a useful life of more than one year and a cost of $300 or more per unit ($5,000 or more if State, Local, or Tribal Government).

5. Supplies: Include the cost of consumable supplies and materials to be used during the project.

6. Contractual: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment; and (2) sub-contracts.

7. Other: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.

8. Total, Direct Cost: Show the total for lines 1 through 7.

9. Indirect Costs: Indicate the rate and amount of indirect costs. NOTE: For training grants, the indirect cost rate cannot exceed 8%.

10. Training/Stipend Cost: (if allowable)

11. TOTAL, Federal Funds Requested: Show total for lines 8 through 10.

SECTION B - Cost Sharing Summary

Indicate the actual rate and amount of cost sharing when there is a cost sharing requirement. If cost sharing is required by program regulations, the local share required refers to a percentage of TOTAL PROJECT COST, not of Federal funds.

SECTION C - Budget Estimates (Federal Funds Only) for Balance of Project

If the project period exceeds 12 months, include cost estimates for the continuation budget periods, as appropriate. This SECTION does not apply to projects that are full-funded.

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Instructions for Part III—Budget Narrative

The budget narrative should explain, justify, and, if needed, clarify your budget summary. For each line item (personnel, fringe benefits, travel, etc.) in your budget, explain why it is there and how you computed the costs.

Please limit this section to no more than five pages. Be sure that each page of your application is numbered consecutively.

Instructions for Part IV—Program Narrative

The program narrative will comprise the largest portion of your application. This part is where you spell out the who, what, when, where, why, and how of your proposed project.

Although you will not have a form to fill out for your narrative, there is a format. This format is the selection criteria. Because your application will be reviewed and rated by a review panel on the basis of the selection criteria, your narrative should follow the order and format of the criteria.

Before preparing your application, you should carefully read the legislation and regulations of the program, eligibility requirements, information on any priority set by the Secretary, and the selection criteria for this competition.

Your program narrative should be clear, concise, and to the point. Begin the narrative with a one page abstract or summary of your proposed project. Then describe the project in detail, addressing each selection criterion in order.

The Secretary strongly requests you to limit the program narrative to no more than 30 double-spaced, typed pages (on one side only), although the Secretary will consider your application if it is longer. Be sure to number consecutively all pages in your application.

You may include supporting documentation as appendices. Be sure that this material is concise and pertinent to this program competition.

You are advised that—

(a) The Department considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels. (34 CFR 75.217)

(b) The technical review panel evaluates each application solely on the basis of the established technical review criteria. Letters of support contained in the application will strengthen the application only if they contain commitments that pertain to the established technical review criteria, such as commitment and resources.

Additional Materials

Instructions for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 90 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project, OMB 1830–0512, Washington, DC 20503.

(Information collection approved under OMB control number 1830–0512. Expiration date: 12/31/95.)

BILLING CODE 4000-01-U

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the Natior Historic Preservation Act of 1966, as amended U.S.C. 470), EO 11593 (identification anu protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3),

Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

_____

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90, which are obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known:* Congressional District, *if known:*	Congressional District, *if known:*
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable:* _____
8. Federal Action Number, *if known:*	9. Award Amount, *if known:* $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI):*	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI):*

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply):*	13. Type of Payment *(check all that apply):*
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply):* ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16.	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____

Federal Use Only:

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Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page ____ of ____

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Standard Form - LLL-A

ASSURANCE

I assure that I will report annually to the Secretary on the participation rate, cost, and effectiveness of the program and any other aspect of the program on which the Secretary may request information.

(signature of authorized representative) (date)

BILLING CODE 4000-01-C

Appendix B

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants the Department has assembled the following most commonly asked questions.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and apply to all applications. Waivers for individual applications cannot be granted regardless of the circumstances.

Q. How many copies of the application should I submit and must they be bound?

A. Our new policy calls for an original and six copies to be submitted. The binding of applications is optional.

Q. We just missed the deadline for the XXX competition. May we submit under another competition?

A. Yes, however, the likelihood of success is not good. A properly prepared application must meet the requirements of the competition to which it is submitted.

Q. I'm not sure which competition is most appropriate for my project. What should I do?

A. We are happy to discuss any questions with you and provide clarification on the unique elements of the various competitions.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand that this previous contact is not required, nor will it in any way influence the success of an application.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 3 to 4 months of the application closing date, depending on the number of applications received and the number of competitions with closing dates at about the same time.

Q. Once my application has been reviewed by the review panel, can you tell me the outcome?

A. No. Every year we are called by a number of applicants who have legitimate reasons for needing to know the outcome of the review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc. Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the review with anyone.

Q. Will my application be returned if I am not funded?

A. We no longer return unsuccessful applications. Thus, applicants should retain at least one copy of the application.

Q. Can I obtain copies of reviewers' comments?

A. Upon written request, reviewers' comments will be mailed to unsuccessful applicants.

Q. Is travel allowed under these projects?

A. Travel associated with carrying out the project is allowed. Because we may request the project director of funded projects to attend an annual project directors meeting, you may also wish to include a trip or two to Washington, DC in the travel budget. Travel to conferences is sometimes allowed when it is for purposes of dissemination.

Q. If my application receives high scores from the reviewers, does that mean that I will receive funding?

A. Not necessarily. It is often the case that the number of applications scored highly by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of all the applications and other relevant factors, determines the applications that can be funded.

Q. What happens during negotiations?

A. During negotiations technical and budget issues may be raised. These are issues that have been identified during the panel and staff reviews that require clarification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because there is inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all negotiation issues have been resolved.

Q. How do I provide an assurance?

A. Except for SF–424B, "Assurances—Non-Construction Programs," simply state in writing that you are meeting a prescribed requirement.

Q. Where can copies of the **Federal Register**, program regulations, and Federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 783–3238. When requesting copies of regulations or statutes, it is helpful to use the specific name, public law number, or part number. The material referenced in this notice should be referred to as follows:

(1) Life Skills for State and Local Prisoners Program (CFDA No.: 84.255A).

(2) Education Department General Administrative Regulations (EDGAR) 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

(3) 34 CFR part 490—Life Skills for State and Local Prisoners Program (57 FR 24107-24109).

(4) 34 CFR part 460—Adult Education—General Provisions.

(5) National Literacy Act Amendments Pub. L. 102–103, title III, sec. 313, Aug. 17, 1991, 105 Stat. 505.

[FR Doc. 93–5931 Filed 3–15–93; 8:45 am]

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federal register

Tuesday
March 16, 1993

Part V

Department of the Interior

Bureau of Indian Affairs

Absentee Shawnee Tribe of Oklahoma Alcohol Regulations; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Absentee Shawnee Tribe of Oklahoma Alcohol Regulations

February 26, 1993.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Resolution No. L–AS–91–68, was duly adopted by the Executive Committee of the Absentee Shawnee Tribe of Oklahoma on June 12, 1991. This Ordinance provides for the regulation of the sale, possession, consumption, distribution and manufacture of liquor in the area of Indian Country under the jurisdiction of the Absentee Shawnee Tribe of Oklahoma.

DATES: This Ordinance is effective as of March 16, 1993.

FOR FURTHER INFORMATION CONTACT: Branch of Judicial Services, Division of Tribal Government Services, 1849 C St., NW., mail-stop 2611–MIB, Washington, DC 20240–4001; telephone (202) 208–4400.

SUPPLEMENTARY INFORMATION: The Ordinance reads as follows: The Absentee Tribe of Oklahoma Executive Committee deems it essential to the health, security and general welfare of the Tribe and its members to enact a comprehensive liquor ordinance relating to the sale and distribution of liquor products and confering a tax upon such sale and distribution on the tribal trust lands of the Absentee Shawnee Tribe of Oklahoma.

1–01 Title and Purpose

1–01.01—This document shall be known as the Absentee Shawnee Tribe of Oklahoma Alcohol Regulations. These regulations are enacted to regulate the sale and distribution of liquor and beer products on Tribal Trust lands of the Absentee Shawnee Tribe of Oklahoma, and to generate revenues to fund needed tribal programs and services.

1–02 Definitions

1–02.01—Unless otherwise required by the context, the following words and phrases shall have the designated meanings:

(1). *Tribe* shall mean the Absentee Shawnee Tribe of Oklahoma, 2025 South Gordon Cooper Drive, Shawnee, Oklahoma, 74801.

(2). *Executive Committee* shall mean the Absentee Shawnee Tribe of Oklahoma Executive Committee as constituted by Article IV, Section 2 of the Constitution of the Absentee Shawnee Tribe of Oklahoma.

(3). *Tribal Trust Lands* shall mean the lands and waters lying within the boundaries of the property described below:

The jurisdiction of the Absentee Shawnee Tribe shall extend to all tribally owned land and all restricted or trust land belonging to tribal members within the boundary of the reservation established by Agreement dated June 26, 1980, and ratified by the Act of March 3, 1891 (26 Stat. 1091), and such other land, or interest in land, which may be subsequently acquired.

(4). *Member* shall mean any person whose name appears on the official roll of the Absentee Shawnee Tribe of Oklahoma.

(5). *Commercial Sale* shall mean the transfer, exchange or barter, in any way or by any means whatsoever, for a consideration by any person, association, partnership, or corporation, of liquor and/or beer products.

(6). *Wholesale Price* shall mean the established price for which liquor and/or beer products are sold to the Absentee Shawnee Tribe of Oklahoma or to any licensed operator by the manufacturer or distributor, exclusive of any discount or other reduction.

(7). *Alcohol* is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance.

(8). *Beer* means any beverage obtained by the alcohol fermentation of an infusion or decoction of pure hops, or pure extract of hops, and malt and sugar in pure water containing not more than 6% of alcohol by weight.

(9). *Liquor Outlet* shall mean a Tribally licensed retail sales business selling liquor or beer on Tribal Trust lands.

(10). *Operator* shall mean an enrolled member of the Absentee Shawnee Tribe of Oklahoma, an enrolled member of another federally recognized Tribe of American Indians, or other person properly licensed by the Absentee Shawnee Tribe of Oklahoma to operate a liquor and/or beer outlet.

(11). *Commission* shall mean the Tax Commission of the Absentee Shawnee Tribe of Oklahoma.

1–03 Licensing of Liquor and/or Beer Outlet

1–03.01—Licensing. The Absentee Shawnee Tax Commission shall have jurisdiction over liquor and beer licensing. The Commission is empowered to:

(1). Administer these Regulations by exercising general control, management, and supervision of all liquor and/or beer sales, places of sale and sales outlets as well as exercising all powers necessary to accomplish the purposes of these Regulations.

(2). Adopt and enforce rules and regulations in furtherance of the purposes of these Regulations and in the performance of its administrative functions.

(3). Each application for license must be advertised by the Commission in at least one major publication in the county where the business is to be located. The application also must be posted in at least two (2) public places for twenty (20) calendar days, during which time any protests must be made to be valid.

1–04 Nature of Outlet

1–04.01—Nature of Outlet. Each liquor and/or beer outlet, licensed hereunder shall be managed by an operator pursuant to a license granted by the Absentee Shawnee Tax Commission.

1–05 Application for Liquor and/or Beer Outlet License

1–05.01—Application. Any enrolled member of the Absentee Shawnee Tribe of Oklahoma, an enrolled member of a federally recognized Tribe, or other person may apply to the Commission for liquor and/or beer outlet license.

1–05.02—Processing of Application. The Commission shall receive and process applications, and be the official representative of the Tribe and Executive Committee in matters relating to liquor and beer excise tax collections and related matters. The Commission, or its authorized representative, shall obtain additional information as deemed appropriate. If the Commission, or its authorized representative, is satisfied that the applicant is a suitable and reputable person, the Commission or its authorized representative, may issue a license for the sale of liquor and beer products.

1–05.03—Application Fee. Each application shall be accompanied by a non-refundable application charge or fee of Twenty-Five Dollars and No Cents ($25.00).

1–05.04—The Absentee Shawnee Tax Commission will be responsible for

approval or disapproval of all applications.

(1). Guidelines for Zoning.

(a) No license will be issued for a business within 300 feet of a church.

(b) No license will be issued for a business within 300 feet of a school.

(c) No license will be issued to a convicted felon.

(d) The Absentee Shawnee Tax Commission has full power to deny any applicant for any of the above and/or for any other reason where it would be to the detriment of the Tribe.

1–06 Liquor and Beer Licenses

1–06.01—Upon approval of an application, the Commission shall issue the applicant a liquor and/or beer outlet license for one (1) year from the date of issuance. This license shall not be transferable. It shall be renewable at the discretion of the Commission by submission of the licensee of subsequent application form and payment of application fee as provided in Section 1–05.

1–07 Regarding Sales by Liquor Wholesalers and Transport of Liquors Upon Tribal Trust Lands

1–07.01—Right of Commission to Scrutinize Suppliers. The operator of any licensed outlet shall keep the Commission informed in writing of the identity of suppliers and/or wholesalers who supply or are expected to supply stock to the outlet(s). The Commission may, at its discretion, for any reasonable cause, limit or prohibit the purchase of said stock from a supplier or wholesaler.

1–07.02—Freedom of Information From Suppliers. Operators shall in their purchase of stock and in their business relations with suppliers, cooperate with and assist the free flow of information and data to the Commission from suppliers relating to the sales to and business arrangements between the suppliers and operators. The Commission may, at its discretion, require the receipts from the suppliers of all invoices, bills of lading, billings or other documentary receipts of sales to the operator.

1–08 Sales by Retail Operators

1–08.01—Commission Regulations. The Commission shall adopt procedures which shall supplement these Regulations and facilitate their enforcement. These procedures shall include limitations on sales to minors, where liquor may be consumed, persons not allowed to purchase alcoholic beverages, hours and days when outlets may be open for business, and other appropriate matters and controls.

1–08.02—Sales to Minors. No operator shall give, sell or otherwise supply liquor to any person under twenty-one (21) years of age either for his or her own use or his or her parents or for the use of any other person.

1–08.03—Consumption of Liquor Upon Licensed Premises. No operator shall permit any person to open or consume liquor on his or her premises or any premises adjacent thereto in his or her control; PROVIDED, the Commission may, at its discretion, identify specific locations upon Tribal Trust lands where beer may be consumed.

1–08.04—Conduct on Licensed Premises.

(1). No operator shall be disorderly, boisterous or intoxicated on the licensed premises or on any public premises adjacent thereto which are under his or her control, nor shall he or she permit any disorderly, boisterous or intoxicated person to be thereon; nor shall he or she use or allow the use of profane or vulgar language thereon.

(2). No operator or employee shall consume liquor of any kind while working on the licensed premises.

(3). No operator shall permit suggestive, lewd, or obscene conduct or acts on his or her premises. For the purpose of this section, suggestive, lewd, or obscene acts or conduct shall be those acts or conduct identified as such by the laws of the Absentee Shawnee Tribe of Oklahoma.

1–08.05—Employment of Minors. No person under the age of twenty-one (21) years shall be employed in any service in connection with the sale or handling of liquor, either on a paid or voluntary basis, except as otherwise provided herein. Employees eighteen (18) years of age or older may sell or handle beer or wine not to be consumed on the premises provided that there is direct supervision by an adult twenty-one (21) years of age or older.

1–08.06—Display of License. Any operator issued a license shall frame, under glass, and display the license on the premises.

1–08.07—Operator's Premises Open to Commission Inspection. The premises of all operators, including vehicles used in connection with liquor sales, shall be open at all times to inspection by the absentee Shawnee Tax Commission or its designated representative.

1–08.08—Operators Records. The originals or copies of all sales slips, invoices, and other memoranda covering all purchases of liquor by operators shall be kept on file in the retail premises of the operator purchasing the same for at least five (5) years after each purchase, and shall be filed separately and kept apart from all other records and, as nearly as possible, shall be filed in consecutive order and each month's records kept separate so as to render the same readily available for inspection and checking. All canceled checks, bank statements and books of accounting covering or involving the purchase of liquor, and all memoranda, if any, showing payment of money for liquor other than by check, shall be likewise preserved for availability for inspection and checking.

1–08.09—Records Confidential. All records of the Absentee Shawnee Tribe of Oklahoma Tax Commission showing purchase of liquor by any individual or group shall be confidential and shall not be inspected except by members of the Commission or its authorized representative.

1–08.10—Conformity with State Law. Operators shall comply with State of Oklahoma liquor standards to the extent required by 18 U.S.C. 1161. Tribal licensees are subject to all of the enumerated prohibited acts contained in 37 Okl. St. Ann. 537, and failure of the operator to observe state law will subject said licensee to federal prosecution under 18 U.S.C. 1161.

1–09 Tribal Excise Tax Imposed Upon Distribution of Liquor

1–09.01—Tribal Excise Tax. The Commission shall by resolution, include a provision for the taxing of sales of liquor and beer products to the consumer or purchasers. Such tax shall be in amounts equal to at least 5% of all retail sales prices, but the Commission may establish tax rates in excess of 5% for any given class of merchandise.

1–09.02—Added To Retail Price. The excise tax levied hereunder shall be added to the retail selling price of liquor and beer products sold to the ultimate consumer.

1–10 Liability for Bills

1–10.01—Liability for Bills. The Tribe shall have absolutely no legal responsibility for any unpaid bills owed by a liquor and/or beer outlet to a wholesale supplier or any other person.

1–11 Other Business by Operator

1–11.01—Other Business by Operator. An operator may conduct another business simultaneously with managing a liquor and/or beer outlet, PROVIDED, such other business must be approved prior to initiation by majority vote of the Absentee Shawnee Tribe of Oklahoma Executive Committee. Said other business may be conducted on the same premises as a liquor and/or beer outlet, but the operator shall be required to

maintain subsidiary books of account to insure accountability of liquor and/or beer sales and other business operations.

1–11.02—Excise Taxes For Other Business. The Absentee Shawnee Tax Commission may make provision for an excise or sales tax to be charged customers or purchasers of items held for sale on such other business.

1–12 Tribal Liability and Credit

1–12.01—Operators are forbidden to represent or give the impression to any supplier or person with whom he or she does business that he or she is an official representative of the Tribe or the Tax Commission authorized to pledge Tribal credit or financial responsibility for any of the expenses of his or her business operation. The operator shall hold the Absentee Shawnee Tribe of Oklahoma harmless from all claims and liability of whatever nature. The Commission shall revoke an operator's outlet license(s) if said outlet(s) is(are) not operated in a businesslike manner or if it(they) does(do) not remain financially solvent or does not pay its(their) operating expenses and bills before they become delinquent.

1–12.02—Insurance. The operator shall maintain at his or her expense adequate insurance covering liability, fire, theft, vandalism, and other insurable risks. The Tax Commission or the Executive Committee may establish, as a condition of any license, the required insurance limits and any additional coverage deemed advisable.

1–13—Audit and Inspection

1–13.01—All of the books and other business records of the outlet shall be available for inspection and audit by the Commission or its authorized representative at any reasonable time.

1–13.02—Bond for Tax. The tax, together with reports on forms to be supplied by the Commission, shall be remitted to the Tribal office monthly unless otherwise specified, in writing, by the Commission. The operator shall furnish a satisfactory bond to the Tribe in an amount to be specified by the Tax Commission guaranteeing his or her payment of taxes.

1–14 Revocation Of Operator's License

1–14.01—Revocation of Operator's License. Failure of an operator to abide by the provisions of these Regulations and any additional regulations or requirements imposed by the Commission, will constitute grounds for revocation of the operator's license as well as enforcement of the penalties provided in 1.15.

(1). To appeal having license revoked for reasons other than violation of the rules of this ordinance, operator may use the same procedures as outlined in Sub-Chapter 1.3 Rules of the Absentee Shawnee Tax Commission, to wit:

(a) Appeal to the Tax Commission;

(b) Appeal to the Tribal Court;

(c) Appeal to the Tribal Supreme Court;

(d) Appeal to the U.S. Federal Court.

(2). The Tax Commission will be required to submit substantive proof to revoke any license issued by the Commission. The burden of proof is upon the Tax Commission to substantiate any and/or all charges.

1–15 Violation—Penalties

1–15.01—Any person violating these Regulations shall be guilty of an offense and subject to a fine of not less than fifty dollars ($50.00) and not to exceed a maximum of two hundred and fifty dollars ($250.00). Any operator who violates the provisions set forth herein shall forfeit all of the remaining stock in the outlet(s). The Tribe shall be empowered to seize forfeited products.

1–16 Separability

1–16.01—If any provision of the Regulations in its application to any person or circumstance is held invalid, the remainder of the Regulations and their application to other persons or circumstances is not affected.

Stan Speaks,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 93–5940 Filed 3–15–93; 8:45 am]

BILLING CODE 4310–02–M

federal register

Tuesday
March 16, 1993

Part VI

Department of Transportation

Federal Aviation Administration

Draft Environmental Impact Statement; Changes in Aircraft Flight Program Over the State of New Jersey; Reopening of Comment Period

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 26987]

Draft Environmental Impact Statement; Changes in Aircraft Flight Patterns Over the State of New Jersey; Reopening of Comment Period

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Reopening of comment period.

SUMMARY: On November 12, 1992, the FAA issued a Draft Environmental Impact Statement (DEIS) to assess the impact of changes in aircraft flight patterns caused by the implementation of the Expanded East Coast Plan (EECP) over the State of New Jersey for public review and comment. The DEIS evaluates the EECP and alternatives to its continued use.

In December, 1992, the FAA extended the final date for public comment from January 22, 1993 to March 5, 1993 because of the technical complexity of the DEIS. The FAA is reopening the comment period on March 15, 1993, for 90 days in response to a request from the New Jersey Citizens for Environmental Research (NJCER) and a joint request from the Governor of New Jersey, and the Chairman of the Port Authority of New York and New Jersey. The 90 day extension should facilitate public review. This extension will also enable the New Jersey Citizens Against Aircraft Noise to obtain technical assistance to assess the DEIS using the $50,000 provided under the Department of the Transportation Fiscal Year 1993 Appropriations Act, Public Law 102–388.

COMMENT PERIOD: The comment period is reopened on March 15, 1993 to extend until June 14, 1993.

ADDRESSES: Written comments on the document should be addressed to: Federal Aviation Administration, Office of the Chief Counsel: Docket Number 26987, 800 Independence Avenue SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION: The FAA will consider and respond to all comments within the scope of the DEIS. The most useful comments are those which provide facts and analyses to support the reviewer's recommendations or conclusions. The FAA cannot assure that any comments received after the close of the comment period will be considered or addressed in the Final EIS. The FAA will issue a final EIS that includes corrections, clarifications and responses to comments on the DEIS.

Issued in Washington, DC on March 11, 1993.

Daniel C. Beaudette,

Acting Deputy Associate Administrator for Air Traffic.

[FR Doc. 93–5987 Filed 3–12–93; 8:45 am]

BILLING CODE 4910–13–M

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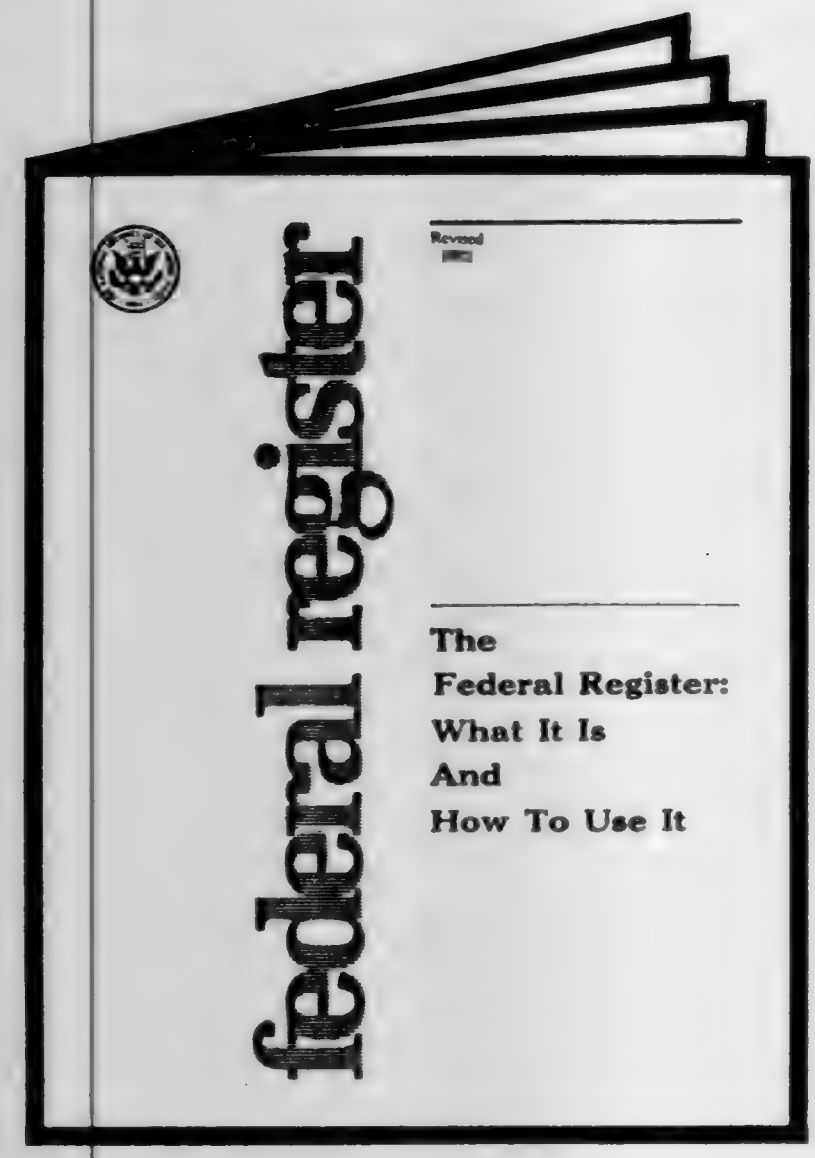

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Federal Register
Vol. 58, No. 50
Wednesday, March 17, 1993

Presidential Documents

Title 3—

The President

Memorandum of March 4, 1993

Delegation of Authority on Congressional Report Concerning Nuclear Reactor Safety Initiatives

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including Section 301 of Title 3 of the United States Code, I hereby delegate to the Secretary of State all functions vested in me by Section 3202(c) of the National Defense Authorization Act for Fiscal Year 1993 (P.L. 102–484). These functions shall be exercised in consultation with appropriate departments and agencies.

The Secretary of State is authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, March 4, 1993.

[FR Doc. 93–6299
Filed 3–15–93; 1:33 pm]
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Rules and Regulations

Federal Register
Vol. 58, No. 50
Wednesday, March 17, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 92-088-2]

User Fees—Exemption of Certain Aircraft From Aircraft Inspection Fees; Phytosanitary Certificates for Reexport of Low Value Commercial Shipments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning user fees for commercial aircraft by making aircraft that have 64 or fewer seats and that require little or no inspection exempt from the per-aircraft inspection fee. This action ensures that we are charging similar fees for similar aircraft by expanding the former exemption of commuter aircraft with 30 or fewer seats, which require little or no inspection, to include larger commuter aircraft that also require little or no inspection. We are also setting a user fee for the issuance of phytosanitary certificates for reexport of low value commercial shipments. This action allows exporters of low value commercial shipments to pay a lower user fee for issuance of these certificates than exporters of regular commercial shipments.

EFFECTIVE DATE: March 17, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Don R. Thompson, Operations Officer, Port Operations, PPQ, APHIS, USDA, room 638, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8646.

SUPPLEMENTARY INFORMATION:

Background

Aircraft Inspection Fees

In a final rule published in the Federal Register on January 9, 1992, and made effective on February 9, 1992 (57 FR 755–773, Docket No. 91–135), we amended the regulations in 7 CFR part 354 (referred to below as the regulations) to, among other things, impose an aircraft inspection fee of $76.75 for each commercial aircraft arriving at a U.S. port and subject to inspection under 7 CFR part 330 or 9 CFR chapter I, subchapter D. We exempted certain categories of commercial aircraft from the fee, including "(a)ny aircraft with 30 or fewer seats, which is not carrying cargo and which is not equipped to offer inflight food service" (§ 354.3(e)(2)(iv)).

On May 20, 1992, we received a petition submitted by American Airlines, also on behalf of Executive Airlines, Flagship Airlines, Henson Aviation, Paradise Island Airlines, and the Regional Airline Association, to amend § 354.3(e)(2)(iv) of the regulations to exempt any aircraft with 64 or fewer seats from the $76.75 user fee. The Animal and Plant Health Inspection Service (APHIS) carefully reviewed the arguments set forth in the petition, and proposed that the regulations be amended. The "30 or fewer seats" exemption was intended to exempt commuter aircraft that require little or no inspection from the per-aircraft inspection fee. We now believe that, in order to exempt the intended aircraft, we must expand the exemption to commuter aircraft with 64 or fewer seats.

Therefore, in a document published in the Federal Register on December 1, 1992 (57 FR 56862–56864, Docket No. 92–088–1), we proposed to amend the regulations to exempt commuter aircraft with 64 or fewer seats from the per-aircraft inspection fee. We also proposed some further provisions to ensure that little or no inspection would be required of these aircraft.

Phytosanitary Certificates

In the same document, we proposed to set a user fee of $19 for the issuance of phytosanitary certificates for reexport of low value commercial shipments. Previously, all phytosanitary certificates for reexport of commercial shipments carried a fee of $30. Issuing a certificate for a regular commercial shipment generally requires more services by APHIS personnel than issuing a certificate for a low value commercial shipment. We proposed a user fee of $19 for reexport of low value commercial shipments to ensure that exporters of low value commercial shipments are charged an amount more appropriate for the services they receive.

Miscellaneous

Additionally, in the same document, we proposed to make a nonsubstantive editorial change to correct a typographical error.

Comments on the proposed rule were required to be received on or before December 31, 1992. We received 10 comments by the closing date. Nine of the commenters addressed the part of the proposal concerned with aircraft inspection fees, and they were all in favor of the proposal. However, three of these commenters went on to request that the proposed expansion of the aircraft exemption be made effective retroactively in order to reimburse airlines operating commuter aircraft with 31 to 64 seats for the aircraft inspection fees they have paid from February 9, 1992, to the present.

Unfortunately, we cannot grant this request. As stated above, the final rule that imposed the aircraft inspection fee (Docket No. 91–135, effective February 9, 1992), exempted certain categories of commercial aircraft from the fee, including "(a)ny aircraft with 30 or fewer seats, which is not carrying cargo and which is not equipped to offer inflight food service." The proposal to that rule was published in the Federal Register on August 7, 1991, and comments were considered on the proposal if they were received on or before September 6, 1991. We received 176 letters of comment on the August 7, 1991, proposal, including many from various airlines. However, we received no comments regarding the "30 or fewer seats" exemption from the aircraft inspection fees. Therefore, we believed that the "30 or fewer seats" exemption was adequate to exempt the intended aircraft. It was not until we received the petition submitted by American Airlines that we were informed that the exemption should be expanded to include commuter aircraft with 64 or fewer seats. This petition was not

received until May 20, 1992, more than 3 months after the effective date of the final rule. We believe that APHIS has acted promptly in response to the petitioners' request for an expanded exemption. Since the petitioners had the opportunity to comment on the August 7th proposed rule, but waited until the final rule had been in effect for 3 months before they petitioned us, we do not believe any reimbursement of fees paid is warranted.

The tenth comment was in response to the part of the proposal concerning phytosanitary certificates for reexport of low value commercial shipments. The commenter did not believe that the proposed $19 fee will be low enough for small businesses, and requested that we amend the regulations so that certain small businesses "will be charged at the rate for one phytosanitary certificate for a reexport phytosanitary certificate, irregardless of the number of reexport items in the shipment." Apparently, this commenter misunderstands the system for issuing phytosanitary certificates. Only one phytosanitary certificate is required per shipment, no matter how many items are in the shipment. Even if one shipment includes items originating in different countries, only one phytosanitary certificate is required. Each item would be listed on the certificate, as well as the country of origin of each item; but, as long as the items are being shipped to the same destination, only one phytosanitary certificate is required. Therefore, as in the example given by the commenter, if a shipper is reexporting "nine to 10 items from different countries in one box whose total value is $25.00," the shipper will pay $19 for the issuance of a phytosanitary certificate that will cover all the items in the box.

The commenter also requested that we add "a special rate for small companies that have fewer than five full time employees and less than 1 million dollars per year of gross sales." The user fees for phytosanitary certificates are not based on either the number of people employed by the company or the gross sales of the shipping company. The fees are based on the cost of the services provided to the shipper for the issuance of the phytosanitary certificate. As stated in the proposed rule, we believe it is appropriate to lower the fee for low value commercial reexport shipments because they require fewer services from APHIS personnel than regular commercial reexport shipments—this is the basis for the $19 fee. We cannot lower the fee any further because, even if a shipment is worth only $1, it still must be inspected and issued a phytosanitary certificate before it may be reexported. These services provided cost the U.S. Government $19, regardless of the number of people employed by the company or the annual gross sales of the company.

Based on the rationale set forth in the proposal and in this document, we are adopting the provisions of the proposal as a final rule without change.

Effective Date

This is a substantive rule that relieves restrictions, and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Aircraft Inspection Fee

This rule expands the present exemption of commuter aircraft with 30 or fewer seats, which require little or no inspection, to include commuter aircraft with 64 or fewer seats that also require little or no inspection. By broadening the exemption, virtually all U.S. commuter air services are exempt from the user fee charge. There are a few commuter aircraft operations that use slightly larger planes. However, these businesses operate primarily between Canada and the United States. Since Canadian routes are already exempt under the current regulations, these aircraft are not affected by this regulatory change.

The Small Business Administration defines a small entity in the air transportation industry as one with fewer than 1,500 employees. It appears that most of the entities potentially affected by this regulatory change are considered small. While it was not possible to determine the exact number of affected commuter airlines, it has become clear that a major segment of these airline operations transports passengers and small amounts of cargo in and out of Florida and Puerto Rico from the Bahamas and other destinations in the Caribbean. Information is submitted to APHIS from various private commuter airlines indicates that the $76.75 user fee has had a significant impact on the smaller airlines, making it difficult for them to compete with larger commercial airline companies. For example, passengers travelling on commuter-size aircraft ultimately pay a share of the total user fee that is 11 times greater than the share paid by passengers travelling on a 400-seat B747. This per-passenger cost differential makes it difficult for the small commuter airlines to compete with larger airlines for business. The commuter airlines submitting information indicated that broadening the exemption will result in over 23,000 flights annually that will no longer be subject to the user fee. The cost savings will be more than $1.4 million annually.

Phytosanitary Certificates

This rule also establishes a user fee for the issuance of phytosanitary certificates for reexport of low value commercial shipments. This fee is lower than the fee charged for issuance of phytosanitary certificates for reexport of commercial shipments. APHIS currently charges $30 for such certificates for commercial shipments, and issues approximately 8,800 of these certificates annually. Approximately 10 percent of these reexport certificates are for low value commercial shipments. Since the resources needed to inspect low value commercial shipments are not as great as they are for regular commercial shipments, it seems inappropriate to charge the same fee. Thus, APHIS is amending the regulations in order to charge $19 for issuance of phytosanitary certificates for reexport of low value commercial shipments. The $11 difference will result in a total savings of approximately $9,680 annually to those entities requiring such certificates.

In general, both rule changes ease the regulatory burden that APHIS user fees place on small entities. These rule changes are appropriate when considering the differences in resources required for APHIS inspection services for small commercial commuter aircraft and low value cargo.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This document contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

List of Subjects in 7 CFR Part 354

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

Accordingly, the regulations in 7 CFR part 354 are amended as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

1. The authority citation for part 354 continues to read as follows:

Authority: 7 U.S.C. 2260, 21 U.S.C. 136 and 136a; 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 354.3, paragraphs (e)(2) introductory text and (e)(2)(iv) are revised to read as follows:

§ 354.3 User fees for certain international services.

* * * * *

(e) * * *

(2) The following categories of commercial aircraft are exempt from paying an APHIS user fee:

* * * * *

(iv) Any passenger aircraft with 64 or fewer seats, which is not carrying the following cargo: Fresh fruits, fresh vegetables, plants, unprocessed plant products, cotton or covers, sugarcane, or fresh or processed meats; and which does not offer meal service other than beverages and prepackaged snacks that do not contain meats derived from ruminants, swine, or poultry or fresh fruits and fresh vegetables. Aircraft exempt from the user fee under this paragraph would still be subject to the garbage handling requirements found in 7 CFR part 330.400 and 9 CFR part 94.5;

* * * * *

3. In § 354.3, paragraph (g)(5)(iii) is revised to read as follows:

§ 354.3 User fees for certain international services.

* * * * *

(g) * * *

(5) * * *

(iii)(A) $30 for a certificate for reexport of a commercial shipment; or

(B) $19 for a certificate for reexport of a low value commercial shipment, if the following criteria are met:

(*1*) The items being shipped are identical to those identified on the phytosanitary certificate;

(*2*) The shipment is accompanied by an invoice which states that the items being shipped are worth less than $1,250; and

(*3*) The shipper requests that the user fee charged be based on the low value of the shipment;

* * * * *

Done in Washington, DC, this 11th day of March 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–6143 Filed 3–16–93; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Part 1106

[DA–93–01]

Milk in the Southwest Plains Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends a certain provision of the Southwest Plains Federal milk order. The provision suspended is the requirement that producers "touch-base" at a pool plant with at least one day's production during the month before their milk is eligible for diversion to an unregulated manufacturing plant. This provision was suspended for the same period in 1992. This suspension is necessary to insure that dairy farmers who have historically supplied the Southwest Plains market will continue to have their milk priced under the Southwest Plains order, thereby receiving the benefits that accrue from pooling. In addition, this suspension is necessary to prevent the uneconomic and inefficient movement of milk under the order.

EFFECTIVE DATE: February 1, 1993 through August 31, 1993.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued February 9, 1993; published February 16, 1993 (58 FR 8559).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. This action does not preempt any state or local laws, regulations, or policies, unless they represent an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation impose in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Notice of proposed rulemaking was published in the **Federal Register** (58 FR 8559) on February 16, 1993, concerning the proposed suspension for February 1993 through August 1993, of the "touch-base" requirement that one

day's production of a producer's milk be physically received at a pool distributing plant during the month to be eligible for diversion to a nonpool plant. The public was afforded the opportunity to comment on the notice by submitting written data, views and arguments by February 23, 1993. One written comment was received that discussed the nature of the proposed suspension. The comment included full support of the suspension of rule, as published in the **Federal Register**.

After consideration of all relevant material, including the proposal in the notice, the comment received, and other available information, it is hereby found and determined that the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1106.13, paragraph (d)(1) in its entirety.

Statement of Consideration

This action suspends a certain provision of the Southwest Plains Federal milk order from February 1, 1993, through August 31, 1993. This action suspends the requirement that producers must deliver to a pool plant at least one day's production during the month in order for the remainder of their milk to be eligible for diversion to an unregulated manufacturing plant. This provision was suspended for the same period in 1992. This suspension is necessary to insure that dairy farmers who have historically supplied the Southwest Plains market will continue to have their milk priced under the Southwest Plains order, thereby receiving the benefits that accrue from pooling. This suspension thus will avoid uneconomic and inefficient movement of milk for the sole purpose of establishing eligibility for pooling under the order.

The suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association operating under the Southwest Plains order. Mid-Am requested the suspension to prevent the uneconomic and inefficient movement of milk for the sole purpose of pooling the milk of producers historically associated with the Southwest Plains Order. Mid-Am also filed comments supporting the proposed suspension.

Producer receipts under the Southwest Plains Order were 1.6% higher on an average daily basis in 1992 compared to 1991. Class I utilization in 1992 was 38.7%, which was lower than the Class I utilization in 1991 and 1990 of 39.8% and 41.7%, respectively.

It is projected that there will be ample supplies of direct-ship producer milk which is located in the general area of the Southwest Plains distributing plants to meet their fluid milk needs. Therefore, there is no need for producers historically associated with the Southwest Plains Order, but whose farms are more distant from distributing plants, to be received one time during the month at such plants for the sole purpose of meeting pooling requirements. Instead, their milk can more economically be diverted directly to manufacturing plants in the production area.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area, in that such action is necessary to permit the continued pooling of the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. One comment in support of the suspension was received.

Therefore, good cause exists for making this order effective less than 30 days from date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1106

Milk marketing orders.

It is therefore ordered, that the following provision in title 7, part 1106, § 1106.13, paragraph (d)(1) of the Southwest Plains order is hereby suspended from February 1, 1993, through August 31, 1993.

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. The authority citation for 7 CFR part 1106 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1106.13 [Temporarily suspended in part].

2. In § 1106.13, paragraph (d)(1) is suspended in its entirety.

Dated: March 11, 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–6049 Filed 3–16–93; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150–AE57

Policy and Procedure for NRC Enforcement Actions; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy Statement: Modification.

SUMMARY: The NRC is modifying its Enforcement Policy to describe more fully the circumstances in which it may exercise enforcement discretion.

DATES: This modification is effective on March 17, 1993. Comments received by April 16, 1993 will be considered. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received during the 30-day period following issuance.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:45 a.m. and 4:15 p.m. Federal workdays.

Copies of comments received may be examined at: the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Office of Enforcement, telephone (301) 504–2741 or J. Randall Hall, Office of Nuclear Reactor Regulation, telephone (301) 504–1336, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION:

Background

In July 1985, the NRC staff issued internal guidance to address situations where a reactor licensee's compliance with a Technical Specification (TS) or other license condition may cause an unnecessary plant transient or unnecessarily prevent plant startup and where, in such instances, the temporary exercise of discretion by the NRC not to enforce compliance may be appropriate. That guidance has been revised

periodically with the latest revision having been made in February 1990.

The circumstances in which the NRC staff may exercise enforcement discretion have been generally described in section VII of the Enforcement Policy (10 CFR part 2, appendix C). In order to consolidate the description of all circumstances where enforcement discretion may be exercised into one location, the Commission has determined that a discussion of the possibility of enforcement discretion for TS or other license condition compliance should also be placed in section VII of the Enforcement Policy. In addition, Section VIII of the Enforcement Policy is being modified to make it clear that actions taken by licensee employees pursuant to such an exercise of discretion will not result in enforcement action against the individuals involved. Finally, to reflect the information collection requirements of this change, 10 CFR 2.8 is being amended to reference that fact.

The Commission believes that the exercise of enforcement discretion in this area is warranted to avoid unnecessary plant transients, to reduce both operational and shutdown risk, and to avoid unnecessary delays in plant startup where the course of action involves minimal or no safety impact and the NRC staff is clearly satisfied that the exercise of discretion is consistent with the public health and safety.

Exercise of enforcement discretion is appropriate only where the exercise of discretion is temporary and nonrecurring. The appropriate Regional Administrator or his designee might exercise discretion where the expected noncompliance is of such short duration that a license amendment could not be issued before the need no longer exists, making it impractical to amend the license. It may also be appropriate to exercise discretion for the brief period of time it requires the NRC staff to process an emergency or exigent TS amendment under the provisions of 10 CFR 50.91(a) (5) or (6). Enforcement discretion in these cases would be exercised by the Director, Office of Nuclear Reactor Regulation, or his designee.

A licensee who requests the NRC to forego enforcement of a TS or other license condition must document the safety basis for the request, including an evaluation of the safety significance and potential consequences of the proposed course of action, a description of compensatory measures, a justification for the duration of the request, the basis for the licensee's conclusion that the request does not have a potential adverse impact on the public health and safety, and does not involve adverse consequences to the environment, and any other information the NRC staff deems necessary before making a decision to exercise discretion.

In each case where the NRC staff has decided to exercise its enforcement discretion, enforcement action will normally be taken for the root causes, to the extent violations were involved, that led to the noncompliance at issue. Such enforcement action is intended to emphasize that licensees should not rely on the NRC's authority to exercise enforcement discretion as a routine substitute for compliance or for requesting a license amendment.

Since this action concerns a general statement of policy, no prior notice is required and, therefore, this modification to the Enforcement Policy is effective March 17, 1993.

Paperwork Reduction Act Statement

This Policy Statement contains information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*). These requirements were approved by the Office of Management and Budget under control number 3150–0136.

The public reporting burden for this collection of information is estimated to average 40 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019, (3150–0136) Office of Management and Budget, Washington, DC 20503.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

Accordingly, the NRC is adopting the following amendments to 10 CFR part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. In § 2.8, paragraph (b) is revised to read as follows:

§ 2.8 Information collection requirements: OMB approval.

* * * * * *

(b) The approved information collection requirements contained in this part appear in appendix C.

3. In appendix C, a heading reading "Table of Contents" is added directly before the table of contents and a new heading for Section VII.C is added to the Table of Contents to read:

Appendix C—General Statement of Policy and Procedure for NRC Enforcement Actions

Table of Contents

* * * * *

C. Exercise of Discretion for an Operating Facility

* * * * *

4. In Appendix C, Section VII. is added to read as follows:

VII. Exercise of Discretion

* * * * *

C. Exercise of Discretion for an Operating Facility

On occasion, circumstances may arise where a licensee's compliance with a Technical Specification (TS) Limiting Condition for Operation or with other license conditions would involve an unnecessary plant transient or performance of testing, inspection, or system realignment that is inappropriate with the specific plant conditions, or unnecessary delays in plant startup without a corresponding health and safety benefit. In these circumstances, the NRC staff may choose not to enforce the applicable TS or other license condition. This enforcement discretion will only be exercised if the NRC staff is clearly satisfied that the action is consistent with protecting the public health and safety. A licensee seeking the exercise of enforcement discretion must provide a written justification, or in circumstances where good cause is shown, oral justification followed as soon as possible by written justification, which documents the safety basis for the request and provides whatever other information the NRC staff deems necessary in making a decision on whether or not to exercise enforcement discretion.

The appropriate Regional Administrator, or his designee, may exercise discretion where the noncompliance is temporary and nonrecurring when an amendment is not practical. The Director, Office of Nuclear Reactor Regulation, or his designee, may exercise discretion if the expected noncompliance will occur during the brief period of time it requires the NRC staff to process an emergency or exigent license amendment under the provisions of 10 CFR 50.91(a)(5) or (6). The person exercising enforcement discretion will document the decision.

For an operating plant, this exercise of enforcement discretion is intended to minimize the potential safety consequences of unnecessary plant transients with the accompanying operational risks and impacts or to eliminate testing, inspection, or system realignment which is inappropriate for the particular plant conditions. For plants in a shutdown condition, exercising enforcement discretion is intended to reduce shutdown risk by, again, avoiding testing, inspection or system realignment which is inappropriate for the particular plant conditions, in that, it does not provide a safety benefit or may, in fact, be detrimental to safety in the particular plant condition. Exercising enforcement discretion for plants attempting to startup is less likely than exercising it for an operating plant, as simply delaying startup does not usually leave the plant in a condition in which it could experience undesirable transients. In such cases, the Commission would expect that discretion would be exercised with respect to equipment or systems only when it has at least concluded that, notwithstanding the conditions of the license: (1) The equipment or system does not perform a safety function in the mode in which operation is to occur; (2) the safety function performed by the equipment or system is of only marginal safety benefit, provided remaining in the current mode increases the likelihood of an unnecessary plant transient; or (3) the TS or other license condition requires a test, inspection or system realignment that is inappropriate for the particular plant conditions, in that it does not provide a safety benefit, or may, in fact, be detrimental to safety in the particular plant condition.

The decision to exercise enforcement discretion does not change the fact that a violation will occur nor does it imply that enforcement discretion is being exercised for any violation that may have led to the violation at issue. In each case where the NRC staff has chosen to exercise enforcement discretion, enforcement action will normally be taken for the root causes, to the extent violations were involved, that led to the noncompliance for which enforcement discretion was used. The enforcement action is intended to emphasize that licensees should not rely on the NRC's authority to exercise enforcement discretion as a routine substitute for compliance or for requesting a license amendment.

Finally, it is expected that the NRC staff will exercise enforcement discretion in this area infrequently. Although a plant must shut down, refueling activities may be suspended, or plant startup may be delayed, absent the exercise of enforcement discretion, the NRC staff is under no obligation to take such a step merely because it has been requested. The decision to forego enforcement is discretionary. Where enforcement discretion is to be exercised, it is to be exercised only if the NRC staff is clearly satisfied that such action is warranted from a health and safety perspective.

* * * * *

5. Appendix C, Section VIII is amended by revising the last example under the paragraph involving individual enforcement actions. For the convenience of the user, the introductory paragraph concerning individual enforcement actions is reprinted without change.

VIII. Enforcement Actions Involving Individuals

* * * * *

Listed below are examples which could result in enforcement actions involving individuals, licensed or unlicensed. If the actions described in these examples are taken by a licensed operator or taken deliberately by an unlicensed individual, enforcement action may be taken directly against the individual. However, violations involving willful conduct not amounting to deliberate action by an unlicensed individual in these situations may result in enforcement action against the licensee that may impact the individual. The situations include, but are not limited to, violations that involve:

* * * * *

Willfully taking actions that violate Technical Specification Limiting Conditions for Operation or other license conditions (enforcement action for a willful violation will not be taken if that violation is the result of action taken following the NRC's decision to forego enforcement of the Technical Specification or other license condition or if the operator meets the requirements of 10 CFR 50.54 (x), i.e., unless the operator acted unreasonably considering all the relevant circumstances surrounding the emergency.)

* * * * *

Dated at Rockville, Maryland, this 10th day of March 1993.

For The Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–6155 Filed 3–16–93; 8:45 am]

BILLING CODE 7590-01-P

FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 1993–11]

Transfers of Funds From State to Federal Campaigns

AGENCY: Federal Election Commission.

ACTION: Revised implementation plan for new rule governing state to federal transfers.

SUMMARY: On January 8, 1993 the Commission republished the text of a new rule governing transfers of funds from state to federal campaigns, and announced that this rule had been retransmitted to Congress for legislative review. 58 FR 3474 (January 8, 1993). The new rule prohibits the transfer of funds from state to federal campaign committees. This rule is still pending before Congress. However, the Commission has revised its plan for implementing the rule. Further information is provided in the supplementary information that follows.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On January 8, 1993, the Commission republished the text of a new rule governing transfers between state and federal campaign committees, and announced that this rule had been retransmitted to Congress for legislative review. 58 FR 3474 (January 8, 1993). The new rule at 11 CFR 110.3(d) will prohibit transfers of funds or other assets from a candidate's campaign committee or account for any nonfederal election to his or her principal campaign committee or other authorized committee for a federal election.

Section 438(d) of title 2, United States Code, requires that any rule or regulation prescribed by the Commission to carry out the provisions of title 2 be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative

days before it is finally promulgated. The new rule was retransmitted to Congress on January 5, 1993. As of March 11, 1993, the rule was still before Congress undergoing legislative review.

The Commission's January 8, 1993 Retransmission Notice indicated that the Commission expected to be able to make this rule effective on April 1, 1993. However, because the legislative review period has not yet expired, the Commission will be unable to make the rule effective on April 1 as originally intended.

If the Commission were to follow its usual procedure, the rule's effective date would be sometime during the second or third week of April. However, since publication of the Retransmission Notice, several special elections have been scheduled for this two week time period and for other dates between now and June 8. The Commission recognizes that making the rule effective on a date in such close proximity to these special elections could have an inequitable effect.

Therefore, the Commission has revised its plan for implementing this regulation. The Commission is publishing this notice in order to inform committees that are operating in reliance on the January notice.

Under the revised implementation plan, the Commission will delay the effective date of the rule until July 1, 1993. This will avoid further complication with special elections planned for April, May and June. When the legislative days expire in late March or early April, the Commission will publish a notice in the **Federal Register** confirming the July 1 effective date.

The rule will prohibit all transfers from state campaign committees to federal campaign committees after July 1, 1993. Campaign committees that transfer funds before July 1 and use those funds for special elections held before that date will not be affected by this rule. Those transfers are governed by the Commission's prior rule at 11 CFR 110.3(c)(6).

Campaign committees that transfer funds before July 1, 1993 in anticipation of an election held after that date have not violated the rule. However, in order to prevent active commingling of federal and nonfederal campaign funds in the candidate's federal campaign account, any funds or assets transferred from a nonfederal committee that remain in the federal campaign account on July 1, 1993 must be removed from that account before July 31, 1993. Committees should use the identification method described in 11 CFR 110.3(c)(5)(ii) to determine which nonfederal funds are still in the campaign account as of July 1 and must be removed. Failure to remove those funds before July 31, 1993 will be a violation of the rule.

The rule applies to transfers from any nonfederal campaign committee, including campaign committees for any state or local office. For the purposes of this notice, the terms "nonfederal" and "state" are interchangeable, so that, where the term "state campaign committee" is used, it also includes campaign committees for any state or local office.

Dated: March 11, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93-6027 Filed 3-16-93; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-CE-37-AD; Amendment 39-8514; AD 93-05-10]

Airworthiness Directives; Piper Aircraft Corporation PA-32R Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Piper Aircraft Corporation (Piper) PA-32R series airplanes. This action requires inspecting, possibly repairing, and modifying the airframe and engine mount supporting structure. The Federal Aviation Administration (FAA) has received several reports of cracks developing in the engine mount cluster welds near the upper nose gear drag brace bushings on the affected airplanes. The actions specified by this AD are intended to prevent the inability to retract or extend the nose landing gear, which could result in substantial damage to or loss of control of the airplane.

DATES: Effective April 30, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 30, 1993.

ADDRESSES: Service information that applies to this AD may be obtained from the Piper Aircraft Corporation, Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Perry, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991-2910; Facsimile (404) 991-3606.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to certain Piper PA-32R series airplanes was published in the **Federal Register** on August 18, 1992 (57 FR 37118). The action proposed to require (1) inspecting the engine mount structure for cracks, and repairing any cracked structure; (2) modifying the airframe structure to strengthen the landing gear and engine mount attach areas; and (3) inspecting and possibly reinforcing the nose gear actuator attachment bracket. The proposed actions would be accomplished in accordance with Piper Service Bulletin No. 955, dated March 3, 1992, and the instructions to Engine Mount Drag Link Installation Kit, Piper Part No. 766-252 (for turbocharged models); or Engine Mount Drag Link Installation Kit, Piper Part No. 766-253 (for normally aspirated models).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter proposes a method for repairing the engine mount structure as compliance for the repair portion of paragraph (a) of the proposed AD. Paragraph (a) specifies that the engine mount would be repaired if cracks are found. The proposed repair method specifies replacing certain engine mount tubes and installing gussets on particular areas of the engine mount. Piper Service Letter (SL) 799 specifies procedures for installing gussets. Service history of the affected airplanes in compliance with Piper SL 799 revealed that cracks were still forming at the engine mount structure. The FAA does not concur that the proposed repair method should be incorporated into the proposed AD, which remains unchanged as a result of this comment. However, the FAA will still evaluate alternative methods of compliance submitted through procedures specified in the AD, and will incorporate any such method found to provide an equivalent level of safety.

Another commenter objects to the wording that a cracked engine mount will lead to separation of the engine from the airplane. The FAA has re-examined this statement and has changed the wording in the SUMMARY section of the AD preamble and the actual AD of the final rule to "* * * prevent the inability to retract or extend the nose landing gear, which could result in substantial damage to or loss of control of the airplane".

This commenter also suggests that the operator have the option of repetitively inspecting the engine mount for cracks, and repairing any cracks, as an alternative to the cost of installing the proposed modification kit. This alternative would include installing gussets on the engine mount in accordance with Piper SL 799. The FAA proposed the airframe and engine mount structure modification specified by Piper SB 955 in the notice of proposed rulemaking (NPRM) because of reports of engine mount cracking on airplanes where the procedures specified in Piper SL 799 were incorporated. Based on this service history and all available information, the FAA does not concur with the gusset installation and repetitive inspection alternative and maintains that the accomplishment of the proposed modification is a more efficient means of preventing cracked engine mounts. The proposed AD remains unchanged as a result of this comment.

A commenter states that this action could have a significant cost impact upon a number of small entities. The FAA does not concur. By definition, a small entity is a small business or a small not-for-profit organization that is independently owned or operated, or a small governmental jurisdiction. Individual persons are not considered small entities. Operators of aircraft for hire must own at least 9 aircraft to be considered a small entity, and then, if scheduled flight operators, must meet a fleet (for aircraft under 60 seating capacity) cost impact of $46,900. This would require a small business entity to own at least 24 of the affected airplanes (turbocharged) to incur a significant cost impact. According to records obtained by the FAA, no scheduled operators own more than 21 of the affected airplanes. For unscheduled operators, the significant impact threshold would be $3,300 per airplane. This action would cost $1,120 (15 workhours times $55 per hour plus $295 for parts) per normally aspirated airplane, and $1,980 (15 workhours times $55 per hour plus $330 for parts) per turbocharged airplane. Therefore, this action would not impose a significant cost impact upon any small business entities by definition.

After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the changes described above and minor editorial corrections. The FAA has determined that these minor changes and corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 1,968 normally aspirated airplanes and 803 turbocharged airplanes in the U.S. registry will be affected by this AD, that it will take approximately 15 workhours per normally aspirated airplane and 30 workhours per turbocharged airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $295 per normally aspirated airplane and $330 per turbocharged airplane. On the basis of these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,794,100 ($2,204,160 for normally aspirated airplanes plus $1,589,940 for turbocharged airplanes).

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

93–05–10 **Piper Aircraft Corporation:** Amendment 39–8514; Docket No. 92–CE–37–AD.

Applicability: The following model and serial number airplanes, certificated in any category:

Model	Serial Nos.
PA–32R–300	32R–7680001 through 32R–7680068.
PA–32RT–300	32R–7885001 through 32R–7985105.
PA–32RT–300T	32R–7887001 through 32R–7987126.
PA–32R–301	32R–8013001 through 32R–8613005 and 3213001.
PA–32R–301T	32R–8029001 through 32R–8629006 and 3229001.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

Note 1: The compliance times referenced in this AD take precedence over those cited in the referenced service information.

To prevent the inability to retract or extend the nose landing gear, which could result in substantial damage to or loss of control of the airplane, accomplish the following:

(a) Inspect the engine mount as specified in and in accordance with the Instructions: Part I section of Piper Service Bulletin (SB) No. 955, dated March 3, 1992. Prior to further flight, repair any cracks in accordance with Piper SB No. 955.

(b) Modify the airframe structure and strengthen the landing gear and engine mount attach areas in accordance with the instructions contained in either Engine Mount Drag Link Installation Kit, Piper Part No. 766–252 (for turbocharged models); or Engine Mount Drag Link Installation Kit, Piper Part No. 766–253 (for normally aspirated models). These kits are referenced in Piper SB No. 955, dated March 3, 1992.

(c) Inspect the nose gear actuator attachment bracket for correct rivet dimensions in accordance with the Instructions: Part III section of Piper SB No. 955, dated March 3, 1992. If any rivets are found that are not of the dimensions referenced in Piper SB No. 955, prior to further flight, reinforce the nose gear actuator attachment bracket in accordance with the referenced service information.

(d) If the parts that are required to accomplish the modification specified in paragraph (b) of this AD have been ordered, but are not available from the manufacturer, reinspect the engine mount as required by paragraph (a) of this AD at intervals not to exceed 100 hours TIS until parts become available.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta Aircraft Certification Office.

(g) The inspections required by this AD shall be done in accordance with Piper Service Bulletin No. 955, dated March 3, 1992. The modification required by this AD shall be done in accordance with the instructions to Engine Mount Drag Link Installation Kit, Piper Part No. 766–252 (for turbocharged models); or Engine Mount Drag Link Installation Kit, Piper Part No. 766–253 (for normally aspirated models), which are referenced in Piper Service Bulletin No. 955. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment (39–8514) becomes effective on April 30, 1993.

Issued in Kansas City, Missouri, on March 10, 1993.

Bobby W. Sexton,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–6086 Filed 3–16–93; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Tiamulin Liquid Concentrate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Fermenta Animal Health Co. The NADA provides for the use of tiamulin liquid concentrate in the preparation of medicated drinking water to treat swine dysentery and pneumonia.

EFFECTIVE DATE: March 17, 1993.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8644.

SUPPLEMENTARY INFORMATION: Fermenta Animal Health Co., 10150 North Executive Hills Blvd., Kansas City, MO 64153, filed NADA 140–916 which provides for the use of tiamulin liquid concentrate in the preparation of medicated drinking water for the treatment of swine dysentery associated with *Treponema hyodysenteriae* and swine pneumonia due to *Actinobacillus pleuropneumoniae*. The drug is also approved as a soluble powder for the same indications. The NADA is approved as of January 29, 1993, and the regulations are amended in 21 CFR part 520 by amending § 520.2455 and by adding new § 520.2456 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Current § 520.2455 *Tiamulin* is amended by revising the section heading as *Tiamulin soluble powder*, and in paragraph (d)(2)(i) the name *Haemophilus pleuropneumoniae* is changed to *Actinobacillus pleuropneumoniae*, the current scientific name of the causative agent, and in paragraph (d)(2)(ii) the last sentence is revised to add another approved ionophore, narasin, so the sentence will be consistent with the related sentence in new § 520.2456 (i.e., tiamulin liquid concentrate).

Section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)) provides a 3-year period of exclusivity to this original NADA beginning January 29, 1993, because it contains reports of new clinical or field investigations essential to the approval of the application.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm.1-23, 12420 Parklawn Dr., Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 520.2455 is amended by revising the section heading; by removing in paragraph (d)(2)(i) the name "*Haemophilus pleuropneumoniae*"and adding in its place the name "*Actinobacillus pleuropneumoniae*"; and by adding in paragraph (d)(2)(ii) the word "narasin" after the word "lasalocid".

§ 520.2455 Tiamulin soluble powder.

* * * * *

3. New § 520.2456 is added to read as follows:

§ 520.2456 Tiamulin liquid concentrate.

(a) *Specifications.* A liquid concentrate containing 12.3 percent tiamulin used to make a medicated drinking water containing 227 milligrams or 681 milligrams of tiamulin per gallon.

(b) *Sponsor.* See 054273 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.738 of this chapter.

(d) *Conditions of use in swine—(1) Amount.* Dysentery: 3.5 milligrams of tiamulin per pound of body weight daily. Pneumonia: 10.5 milligrams of tiamulin per pound of body weight daily.

(2) *Indications for use.* For treatment of swine dysentery associated with *Treponema hyodysenteriae* and swine pneumonia due to *Actinobacillus pleuropneumoniae* susceptible to tiamulin.

(3) *Limitations.* Use for 5 consecutive days. When a dose is 3.5 milligrams per

pound of body weight daily, withdraw medication 3 days before slaughter. When a dose is 10.5 milligrams per pound of body weight daily, withdraw 7 days before slaughter. Prepare fresh medicated water daily. Not for use in swine over 250 pounds body weight. Use as only source of drinking water. Do not allow consumption of feeds containing polyether ionophores (e.g., monensin, lasalocid, narasin, or salinomycin) as adverse reactions may occur.

Dated: March 2, 1993.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 93–6089 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 529

Certain Other Dosage Form New Animal Drugs; Gentamicin Intrauterine Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Agri Laboratories, Ltd. The ANADA provides for the use of a generic gentamicin solution (100 milligrams/milliliter (mg/mL)) for control of bacterial infections of the uterus (metritis) of horses and as an aid in improving conception in mares with uterine infections caused by bacteria sensitive to gentamicin.

EFFECTIVE DATE: March 17, 1993.

FOR FURTHER INFORMATION CONTACT: Larry D. Rollins, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8612.

SUPPLEMENTARY INFORMATION: Agri Laboratories, Ltd., P.O. Box 3103, St. Joseph, MO 64503, is the sponsor of ANADA 200–037, which provides for the use of a generic gentamicin solution (100 mg/mL) for control of bacterial infections of the uterus (metritis) in horses and as an aid in improving conception in mares with uterine infections caused by bacteria sensitive to gentamicin.

Approval of ANADA 200–037 for Agri Laboratories, Ltd.'s, Gentamicin Solution (100 mg/mL gentamicin) is as a generic copy of Schering's Gentocin Solution (100 mg/mL gentamicin sulfate) in NADA 046–724. The ANADA is approved as of February 8, 1993, and the regulations are amended in 21 CFR 529.1044a to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 529

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 529 is amended as follows:

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 529 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 529.1044a [Amended]

2. Section 529.1044a *Gentamicin sulfate intrauterine solution* is amended in paragraph (b) by revising "No. 000061" to read "Nos. 000061 and 057561".

Dated: March 2, 1993.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 93–6037 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 9F3730/R1183; FRL–4573–3]

RIN 2070–AB78

Pesticide Tolerances for Amitraz

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide/miticide amitraz and its metabolites in cottonseed, eggs, and poultry. The regulation to establish a maximum permissible level for residues of amitraz was requested in a petition submitted by the Nor-Am Chemical Co.

EFFECTIVE DATE: This regulation becomes effective March 17, 1993.

ADDRESSES: Written objections, identified by the document control number, [PP 9F3730/R1183], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis H. Edwards, Jr., Product Manager (PM) 19, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6386.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of May 19, 1989 (54 FR 21664), which announced that Nor-Am Chemical Co., Wilmington, DE 19803, had submitted pesticide petition (PP) 9F3730 to EPA proposing to amend 40 CFR part 180 by establishing permanent tolerances under section 408 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a, for the residues of the insecticide/miticide amitraz (*N'*-[2,4-dimethylphenyl]-*N*-[[(2,4-dimethylphenyl)-imino]methyl]-*N*-methylmethanimidamide) and its metabolites *N*-(2,4-dimethylphenyl)-*N*-methyl formamide and *N*-(2,4-dimethylphenyl)-*N*-methylmethanimidamide (both calculated as the parent) in cottonseed at 1.0 part per million (ppm) and in eggs at 0.01 ppm, poultry fat and meat at 0.01 ppm, and poultry meat-byproducts at 0.05 ppm when present as a result of application to cotton.

No requests for referral to an advisory committee were received in response to the notice of filing. The toxicological

data considered in support of these tolerances include the following toxicity studies:

1. A 2-year rat feeding/carcinogenicity study which was negative for carcinogenic effects under the conditions of the study and which had a NOEL of 50 ppm (2.5 mg/kg/bwt) for noncarcinogenic effects.

2. A three-generation rat reproduction study with a NOEL of 15 ppm (1.5 mg/kg/bwt); rat and rabbit teratology studies which were negative at doses up to 12 mg/kg/bwt and 25 mg/kg/bwt, respectively.

3. A 2-year mouse oncogenicity study which demonstrated an increase in the incidence of hepatocellular tumors in female mice, and a 2-year dog feeding study with a NOEL of 0.25 mg/kg/bwt which demonstrated increased blood glucose and slight hypothermia after dosing. The reference dose (RfD), based on the 2-year dog feeding study with a NOEL of 0.25 mg/kg/bwt and a 100-fold uncertainty factor, is calculated to be 0.0025 mg/kg of body weight/day.

The 2-year mouse oncogenicity study which showed an increase in the incidence of hepatocellular tumors in female mice was referred to the Agency's Carcinogen Assessment Group (CAG) for evaluation. CAG (1986) concluded that amitraz should be classified as a possible human carcinogen, Group C. This classification is based on the Agency's "Guidelines for Carcinogen Risk Assessment" published in the **Federal Register** of September 24, 1986 (51 FR 33992). In its evaluation, CAG gave consideration to the following information:

1. The positive carcinogenic effects were found in only one species, the mouse.

2. Tumors were discovered mostly in animals at the scheduled terminal sacrifice.

3. The rat was negative for oncogenic effects at doses as high as 200 ppm.

4. There is no positive epidemiological carcinogenicity data for amitraz.

On February 12, 1986, the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) completed a review of the data base for the Group C classification of amitraz. The SAP concluded that the weight of evidence was inadequate to clearly categorize amitraz. Amitraz has also been determined to be negative in the gene mutation, host-mediated, and dominant-lethal test systems. Studies such as the Ames bacterial test, a mouse lymphoma assay, and an unscheduled DNA synthesis in human embryonic cells have been conducted with amitraz, also with negative results. For these reasons, the SAP disagreed with the Agency classification and recommended that amitraz be classified as a Group D carcinogen (not classifiable as to human carcinogenicity).

Despite the SAP's recommendation, the Agency continued to regulate amitraz as a class C carcinogen, without quantification of the risk. However, in late 1990, the Agency decided to reexamine the weight-of-the-evidence regarding the carcinogenic potential of amitraz. The "C" classification was reaffirmed, but quantification of potential human cancer risk, using a low-dose extrapolation model (Q^*_1), was recommended. This decision was based on the fact that amitraz was associated with the induction of multisite benign and malignant tumors in different strains of male and female mice. Some of these tumors (hepatocellular tumors) are considered relatively uncommon in female $B_6C_3F_1$ mice.

The Agency prepared a dietary risk assessment for amitraz in support of the honey/beeswax tolerance recently established (57 FR 53566, Nov. 12, 1992). The resulting dietary risk was calculated to be 3.0×10^{-6} (for the honey/beeswax use, plus pears, cattle, and swine). The Agency also noted that the basic registrant, Nor-Am, had submitted a label amendment to increase the preslaughter interval on swine from 1 to 3 days. This label amendment has been accepted by the Agency, and results in a smaller residue contribution from the use of amitraz on swine. This has lowered the dietary risk for the established uses from 3.0×10^{-6} to 2.2×10^{-6}. The Agency believes that the addition of 0.3×10^{-6} from the use on cotton will still keep the overall risk (2.5×10^{-6}) within the negligible risk range.

The calculated reference dose (RfD) for humans is 0.0025 mg/kg/bwt/day. This is based on a 2-year dog feeding study with a NOEL of 0.25 mg/kg/bwt and a 100-fold uncertainty factor. The anticipated residue contribution (ARC) for this chemical utilizes 1.75 percent of the RfD (also revised due to the change in the preslaughter interval for swine discussed above). The proposed tolerances will contribute 0.000007 mg/kg/bwt/day to the human diet utilizing an additional 0.28 percent of the RfD. This results in a total utilization of 2.03 percent of the RfD. The nature of the residue in plants and livestock is adequately understood.

The analytical method is gas chromatography using electron detection. There are currently no actions pending against continued registration of this chemical.

Based on the above information the Agency concludes that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at theaddress given above. 40 CFR 178.20 The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. 40 CFR 178.25. Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the objector. 40 CFR 178.27. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested. 40 CFR 178.32.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements

Dated: March 5, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.287 is amended in the table therein by adding and alphabetically inserting the following commodities, to read as follows:

§ 180.287 Amitraz; tolerances for residues.

* * * * *

Commodity	Parts per million
. . . . .	
Cottonseed	1.0
Eggs	0.01
. . . . .	
Poultry fat/meat	0.01
Poultry meat byproducts	0.05
. . . . .	

[FR Doc. 93-6146 Filed 3-16-93; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 0F3918/R1184; FRL-4575-6]

RIN No. 2070-AB78

Pesticide Tolerances for Dimethenamid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of the herbicide dimethenamid, 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide, in or on the raw agricultural commodities (RAC) corn grain, corn fodder, and corn forage at 0.01 part per million (ppm). This regulation to establish the maximum permissible level of residues of the herbicide in or on these commodities was requested in a petition submitted by Sandoz Agro, Inc.

EFFECTIVE DATE: This regulation becomes effective March 17, 1993.

ADDRESSES: Written objections, identified by the document control number, [PP 0F3918/R1184], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-305-5540).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of April 3, 1991 (56 FR 13642), which announced that Sandoz Agro, Inc., 1300 East Touhy Ave., Des Plaines, IL 60018, had submitted a pesticide petition (PP 0F3918) to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish tolerances for the residues of the herbicide 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide in or on the raw agricultural commodities (RACs) corn forage, corn silage, corn grain, and corn stover at 0.01 ppm. Sandoz Agro, Inc., subsequently editorially amended PP 0F3918 to read dimethenamid, 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide in or on the raw agricultural commodities corn grain, corn fodder, and corn forage at 0.01 ppm. There were no comments or requests for referral to an advisory committee received in response to this notice of filing.

The data submitted in the petitions and all other relevant material have been evaluated. The toxicology data considered in support of the tolerances include:

1. A rat acute oral study with an LD_{50} of 2.14 grams (g)/kilogram (kg), males, 1.30 g/kg females, and 1.57 g/kg combined.

2. A 13-week rat feeding study with a no-observed-effect level (NOEL) of 500 ppm (33.5 milligrams (mg)/kg/day for males and 40.1 mg/kg/day for females, based on food consumption).

3. A 13-week dog-feeding study with a NOEL of 100 ppm (2.5 mg/kg/day).

4. A 21-day rabbit dermal study with a NOEL of 50 mg/kg with mild irritant effect at all dose levels.

5. A carcinogenicity study in mice with no carcinogenic effects observed at any dose level under the conditions of the study, and a systemic NOEL of 300 ppm (40.8 mg/kg/day for males and 40.1 mg/kg/day for females, based on food consumption), and a systemic lowest effect level (LEL) of 1,500 ppm (205 mg/kg day for males and 200 mg/kg/day for females due to food consumption) due to elevated liver weights.

6. A rat chronic feeding/carcinogenicity study with a NOEL of 100 ppm (5 mg/kg/day) and a LEL of 700 ppm (35 mg/kg/day) due to decreased food consumption. Under the conditions of the study, limited evidence of carcinogenicity was observed based on the occurrence of increased benign liver cells in males and ovarian tubular adenomas in females at the 1,500-ppm dose groups, which are discussed further below.

7. A 1-year dog feeding study with a NOEL of 250 ppm (9.6 mg/kg/day) and with a LEL = 1,250 ppm (49 mg/kg/day for liver changes).

8. A two-generation reproduction study in rats with a parental and reproductive NOEL of 500 ppm (36 mg/kg/day for males and 40 mg/kg/day for females) and with a LEL of 2,000 ppm (150 mg/kg/day for males and 160 mg/kg/day for females) due to reduction of body weight and of food consumption, increases in liver weights, and significant reductions in pup weight during lactation.

9. A rabbit developmental study with a maternal NOEL of 37.5 mg/kg/day and a LEL of 75 mg/kg/day due to decreased body weight and food consumption and abortion/premature delivery, and with a developmental NOEL of 75 mg/kg and a LEL of 150 mg/kg/day due to a low incidence of abortion/premature delivery and hyoid also angulated changes.

10. A rat developmental study with a maternal NOEL of 50 mg/kg/day and a LEL of 215 mg/kg due to excess salivation, increased liver weight, and reduced body weight gain and food consumption, and with a developmental NOEL of 215 mg/kg/day and a LEL of 425 mg/kg due to increased resorptions.

11. An Ames mutagenicity assay negative with and without activation, an *in vitro* chromosomal aberration using CHO cells positive with and without activation, an unscheduled DNA synthesis in rat hepatocytes unequivocally positive in one *in vitro* assay and negative in another *in vitro* assay. A dominant-lethal study to further evaluate the mutagenic mechanism is due 2 years after the date of the conditional registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The Agency has concluded that the available data provide limited evidence of the carcinogenicity of dimethenamid in rats and has classified the pesticide as a Category C carcinogen (possible human carcinogen with limited evidence of carcinogenicity in animals) in accordance with Agency guidelines, published in the Federal Register of September 24, 1986 (51 FR 33992). Based on a review of the Health Effects Division Peer Review Committee for Carcinogenicity of the Office of Pesticide Programs, the Agency has determined that a quantitative risk assessment is not appropriate for the following reasons:

1. The tumor response was primarily due to a significantly increasing trend for benign and/or malignant liver tumors in males and due to a significantly increasing trend for ovarian tubular adenomas in female rats in the high dose only (1,500 ppm).

2. The chemical was not carcinogenic when administered in the diet to mice at dose levels ranging from 30 to 3,000 ppm.

Based on this evidence, EPA concludes that dimethenamid poses a negligible cancer risk to humans.

The standard risk assessment approach of using the Reference Dose (RfD) based on systemic toxicity was applied to dimethenamid. Using a 100-fold safety factor and the NOEL of 5 mg/kg bwt/day determined by the most sensitive species from the 2-year rat feeding study, the RfD is 0.05 mg/kg/day. The theoretical maximum residue contribution (TMRC) from the proposed tolerances is 4 X 10^{-6} mg/kg bwt/day and utilizes 0.007 percent of the RfD for the overall U. S. population. The exposure of the most highly exposed subgroup in the population did not utilize a significantly greater amount of the RfD. No previous tolerances have been established for dimethenamid.

The metabolism of dimethenamid in plants is adequately understood. There is no reasonable expectation of secondary residues occurring in meat, milk, and eggs from tolerances associated with this petition.

An adequate analytical method, gas chromatography, is available for enforcement purposes. Because of the long lead time from establishing these tolerances to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 242, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-305-4432).

The pesticide is considered useful for the purposes for which the tolerances are sought. Based on the information and data considered, the Agency concludes that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fees provided by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, and the requestor's contentions on each such issue, and a summary of the evidence relied upon by the objection (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: there is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve on or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: March 5, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In subpart C, by adding new § 180.464, to read as follows:

§ 180.464 Dimethenamid; tolerances for residues.

Tolerances are established for residues of the herbicide dimethenamid, 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide, in or on the following raw agricultural commodities:

Commodity	Parts per million
Corn, grain	0.01
Corn, fodder	0.01
Corn, forage	0.01

[FR Doc. 93–6147 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 268

[FRL–4559–8]

Land Disposal Restrictions for Third Third Scheduled Wastes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule amendment.

SUMMARY: On June 1, 1990, EPA published regulations promulgating Congressionally-mandated prohibitions on land disposal of certain hazardous wastes. EPA then issued technical corrections to these regulations in a March 6, 1992 technical amendment, including corrections relating to the applicability of the deactivation standard to reactive sulfide wastes and the applicability of the dilution prohibition to reactive cyanide wastes. In this action, EPA is suspending portions of the language in the March 6, 1992 technical amendment relating to the applicability of the deactivation standard to reactive sulfide wastes and the applicability of the dilution prohibition to reactive cyanide wastes until June 17, 1993. This action is being taken because, after reviewing the situation, EPA decided that a compliance period was necessary. This action provides for a three month compliance period.

EFFECTIVE DATE: This rule is effective March 17, 1993.

ADDRESSES: The RCRA docket is open from 9:30 to 3:30, Monday through Friday, excluding Federal holidays, and is located at the following address: EPA RCRA Docket (OS–305), room M–2427, 401 M Street SW., Washington, DC 20460. The public must make an appointment to review docket materials by calling (202) 260–9327. Refer to Docket number F–92–13C3 FFFFF when making appointments to review any background documentation for this correction. The public may copy a

maximum of 100 pages of material from any one regulatory docket at no cost; additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 (toll free) or (703) 920–9810 in the Washington, DC metropolitan area. For technical information contact Michelle Prejean, Office of Solid Waste, 401 M Street SW., Washington, DC 20460, (703) 308–8434.

SUPPLEMENTARY INFORMATION:

I. Basis for Today's Amendment

On March 6, 1992, the Agency issued a technical amendment to the Third Third Land Disposal Restrictions rule (see 57 FR 8086, March 6, 1992). Among other things, that amendment corrected inconsistencies between the regulatory and preamble language in the Third Third final rule relating to cyanide and sulfide reactive wastes managed in surface disposal units (i.e. disposal units other than underground injection wells). It has come to the attention of the Agency that those corrections, in part, should not have been made effective immediately. EPA is, therefore, suspending portions of the language affecting cyanide and sulfide reactive wastes until June 17, 1993.

II. Background

On June 1, 1990, EPA published the Third Third land disposal restriction rule; this rule established prohibitions and treatment standards for all remaining wastes that were hazardous at the time of the 1984 amendments to the Resource Conservation and Recovery Act (RCRA), but were not yet prohibited (see 55 FR 22520, June 1, 1990). Included among these wastes were wastes that exhibit the characteristic of reactivity because of their cyanide or sulfide content.

Consistent with its proposal, EPA stated in the preamble to the Third Third final rule that the Agency considers both cyanide and sulfide reactive wastes to be toxic wastes for which dilution is an inappropriate method of treatment when the wastes are managed in surface disposal units (see 55 FR 22661, June 1, 1990; 57 FR 8087, March 6, 1992). Due to inadvertent drafting errors, however, EPA failed to codify the prohibition in actual regulatory language that would eventually appear in the Code of Federal Regulations (CFR). In light of this, the Agency issued a technical amendment to correct this omission (57 FR 8086, March 6, 1992).

In the technical correction notice, EPA promulgated two amendments dealing with the cyanide and sulfide reactive wastes that are managed in surface disposal units. With respect to reactive sulfide wastes, the corrected rule states that the deactivation standard does not include dilution as a method of treatment. For reactive cyanide wastes, the correction states that reactive cyanide wastes remain subject to the dilution prohibition contained in 40 CFR 268.3, and thus, that the exceptions to the dilution prohibition found in § 268.3(b) for wastewaters treated in Clean Water Act treatment systems (i.e. surface impoundments ultimately discharging to a navigable water or to a POTW) were not available to these cyanide wastes (57 FR 8083, March 6, 1992).

It appears, however, that EPA's intentions with respect to reactive cyanide and sulfide wastes that are managed in Clean Water Act treatment systems with impoundments were not clearly articulated. (Compare 55 FR 22666 (preamble), 55 FR 22686 (rule) and 55 FR 22701 (rule); see also letter of Chemical Manufacturers Association, May 4, 1992 to Sylvia Lowrance, Director of EPA's Office of Solid Waste documenting uncertainty among some members of the regulated community.)

Under these circumstances, the Agency believes that equitable considerations dictate the need to reassess when the March 6 technical corrections should become effective. In lieu of the immediate effective date prescribed in the March 6 notice itself, a three month compliance period appears to be more appropriate given the confusion in the Third Third rule regarding whether the treatment standard for reactive sulfide and cyanide wastes that are subsequently managed in surface impoundments can be satisfied by dilution.

It should be noted that the DC Circuit recently issued its opinion in the case addressing the validity of the Third Third rules. *Chemical Waste Management* v. *EPA*, No. 90–1230, (September 25, 1992) (to be reported at 976 F. 2d 2). The court, among other things, vacated treatment standards for certain ignitable and corrosive wastes because these treatment standards allowed dilution as the sole means of treatment and thus did not assure treatment of hazardous constituents that might be present in these wastes. Slip op. at 25–28. Suspending language in the Third Third technical correction notice with regard to reactive cyanide and sulfide wastewaters might be viewed as allowing dilution, rather than treatment that removes or destroys cyanides and sulfides, and would thus be inconsistent with the logic of the opinion. The opinion, however, is not yet in effect because the court has not issued its mandate. In order to avoid any inconsistency, EPA is stating that should the court's mandate be issued anytime during the 3 months that this regulatory language is suspended, the court's mandate will supersede the suspension.

EPA also notes that the March 6 amendments are in some respects more stringent than necessary to comply with the opinion. The opinion indicates that dilution is not normally an acceptable means of treating hazardous constituents in characteristics wastes, but does allow characteristic wastes to be diluted and managed in surface impoundments "as long as the toxicity of the waste discharged from the facility is minimized or eliminated consistent with RCRA." Slip op. at 6. For cyanide and sulfide reactive wastes that are to be managed in surface impoundments, however, the rules discussed in this notice require section 3004(m) treatment before placement in the impoundment, and prohibit dilution as a means of achieving these standards.

The Agency does not understand there to be any similar confusion with regard to dilution of nonwastewater reactive cyanide and sulfide wastes. Reactive cyanide nonwastewaters cannot be diluted impermissibly to meet the treatment standards, as established in the Third Third final rule (see §§ 268.3(a), 268.43, and 55 FR 22666, June 1, 1990). With respect to sulfide nonwastewaters, the omission of a dilution prohibition in the Third Third final rule was clearly at odds with the Agency's stated intent and the Agency accordingly corrected this omission in the March 6 technical amendments.

III. Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. Due to the nature of this regulation (technical correction), it is not "major"; therefore, no Regulatory Impact Analysis is required.

List of Subjects in 40 CFR Part 268

Hazardous Waste, Reporting and recordkeeping requirements, Hazardous debris.

Dated: January 8, 1993.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

§ 268.3 [Amended]

2. In § 268.3 paragraph (b), the following language: ". . . or unless the waste is a D003 reactive cyanide wastewater or nonwastewater.", is suspended until June 17, 1993.

§ 268.42 [Amended]

3. In § 268.42(a) Table 2, the following language, which is under the heading Waste Code and under the entry of D003 Reactive Sulfides Wastewaters, " * * * but not including dilution as a substitute for adequate treatment.", is suspended until June 17, 1993.

[FR Doc. 93–6149 Filed 3–16–93; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 271

[FRL–4558–3]

Alabama; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Alabama has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Alabama's revisions consist of the provisions contained in Radioactive Mixed Waste, a Non-HSWA III requirement, Non-HSWA Cluster VI, and most of HSWA Cluster I without Corrective Action. These requirements are listed in Section B of this notice. The Environmental Protection Agency (EPA) has reviewed Alabama's applications and has made a decision, subject to pubic review and comment, that the Alabama hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Alabama's hazardous waste program revisions. Alabama's applications for program revisions are available for public review and comment.

DATES: Final authorization for Alabama's program revision shall be effective May 17, 1993 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Alabama's program revision application must be received by the close of business, April 16, 1993.

ADDRESSES: Copies of Alabama's program revision application is available during normal business hours at the following addresses for inspection and copying: Alabama Department of Environmental Management, 1751 Congressman W.L. Dickinson Drive, Montgomery, Alabama 36130, (205) 271–7737; U.S. EPA Region IV, Library, 345 Courtland Street, NE., Atlanta, Georgia 30365; (404) 347–4216. Written comments should be sent to Leonard Nowak, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Leonard W. Nowak, Acting Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365; (404) 347–2234.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98–616, November 8, 1984, hereinafter "HSWA") allow States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–268 and 124 and 270.

B. Alabama

Alabama initially received final authorization for its base RCRA program, effective on December 22, 1987. Alabama has received authorization for revisions to its program on January 28, 1992, and July 12, 1992. On April 5, 1990, Alabama submitted a program revision application for additional program approvals. Today, Alabama is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Alabama's application and has made an immediate final decision that Alabama's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modification to Alabama. The public may submit written comments on EPA's immediate final decision up until April 16, 1993.

Copies of Alabama's application for this program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of Alabama's program revision shall become effective May 17, 1993, unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period.

If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision, or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

Alabama is today seeking authority to administer the following Federal requirements, promulgated on November 8, 1984–June 30, 1987, and July 1, 1989–June 30, 1990.

Federal requirements	HSWA or FR notice	Promulgation	State authority
Radioactive mixed waste	51 FR 24504	7/3/86	335–14–2–.01.
Dioxin waste listing and Management standards.	55 FR 26986	1/14/85	335–14–2–.01(5)(e) 1&2; 335–14–2–.01(7)(b)1&3; 335–14–2–.04(1)(d); 335–14–2.–04(2); 355–14–2–.04(4)(f); 335–14–2–Application III; Table 1,3; 335–14–2–Application VII; 335–14–5–.09c&d; 335–14–5–.10(5)c&d; 335–14–5–.11(2)(c); 335–14–5–.12(10)(a); 335–14–5–.14(a&b); 335–14–5–.15(4)(a); 335–14–6–.01(1)(d)(1); 335–14–6–.15(3)a&b; 335–14–6–.16(4)a&b; 335–14–8–.02(5)(b)7; 335–14–8–.02(7)(g); 335–14–8–.02(8)(1); 335–14–8–.02(9)(i); 335–14–8–.02(11)(i); 335–14–8–.02(12)(j).
Paint filter test	50 FR 18370	4/30/85	335–14–5–.02(4)(b)6; 335–14–5–.14(15(c).
HSWA codification rule	50 FR 28702	7/15/85	
Small quantity generators			335–14–2–.01(5)(b)(f)(g)(h) and 4(i)(j).
Delisting			335–14–1–.03(2)(a,c,d,e,&m).
Household waste			335–14–2–.01(4)(6)1.
Waste minimization			335–14–3–.04(2)(a) 6,7,8,9.
Location standards for salt domes, salt beds, underground mines and caves.			335–14–3–Appendix I.
Liquids in landfills			335–14–5–.14–(15).
Dust suppression			335–14–7–.03(4).
Double liners			335–14–5–.11(2)a–e; 335–14–5–.14(2)a–h; 335–14–6–.11(2)a–e; 335–14–6–.14(2)(a)–(e).
Ground water monitoring			335–14–.06(1)(b); 335–14–5–.11(3)(7)(9); 335–14–5–.12(3)(4)(5)(11).
Cement kilns			335–14–2–.01–(6)(a); 335–14–2–.04(4); 335–14–7–.04(2)(b)1.
Fuel labeling			335–14–7–.04(5)(d).
Pre-construction ban			335–14–8–.02(1)(f)1,3.
Permit life			335–14–8–.04–(2)(a)6.
Omnibus provision			335–14–8–.03(3)(b).
Interim status			335–14–8–.02(1)a–e; 335–14–8–.03(1)(j)2; 335–14–8–.07(1)(a)(d); 335–14–8–.07(4) (c–f).
Research & Development permits			335–14–8–.02(1)(a); 335–14–8–.06(4).
Hazardous export			335–14–3–.05(1)(d).
Exposure information			335–14–8–.02(1)(c)(j).
Listing of TDI, TDA, and DNT wastes	50 FR 42936	10/23/85	335–14–2–.04(3)(4)(f); 335–14–2–Appendix III, VII, & VIII.
Listing of spent solvents	50 FR 53315	12/31/85	335–14–2–.04(2).
Listing of spent solvents; correction	50 FR 2702	1/21/86	335–14–2–.04(2).
Listing of EDB waste	51 FR 5327	2/13/86	335–14–2–.04(3); 335–14–2–Appendix III & VII.
Listing of four spent solvents	51 FR 6537	2/25/86	335–14–2–.04(2); 335–14–2–.04(4)(f); 335–14–2–Appendix III, VII & VIII.
Generators of 100–1000kg hazardous waste.	51 FR 10146	3/24/86	335–14–1–.02(1); 335–14–2–.01(1)(1)(a)1; 335–14–2–.01(5)(a–j); 335–14–2–.04(4)(f); 335–14–3–.02(1)(e); 335–14–3–.03(5)(a,d,e,f); 335–14–3–.04(5); 335–14–4–.02(1)(h); 335–14–8–.02(1)(c)1(iii).
Codification rule; technical correction	51 FR 19176	5/28/86	335–14–6–.14(15)(d).
Biennial report; correction	51 FR 28556	8/6/86	335–14–5–.05(6)(h–j).
Exports of hazardous waste	51 FR 28664	8/6/86	335–14–2–.01(5)(f)3; 335–14–2–.01(5)(g)3; 335.14–2–.01(6)(a)(3.(i); 335–14–3–.04(2)(a); 335–14–3–.05(1–9); 335–14–3–.06(1)(a–c); 335–14–3–.07(1); 335–14–3–Appendix I; 335–14–4–.02(1)(a,c,e,f,g).
Standards for generators waste minimization certifications.	51 FR 35190	10/1/86	335–14–3–Appendix I.
Listing of EBDC	51 FR 37725	10/24/86	335–14–2–.04(3); 335–14–2–Appendix III & VII.
Land disposal restrictions	51 FR 40572	11/7/86	335–14–1–.01(1)(a)(a–b).
Land disposal restrictions; corrections	52 FR 21010	6/4/87	335–14–1–.01(2)(a–b); 335–14–1–.01(3); 335–14–2–.01(1)(a); 335–14–2–.01(4)(c&d); 335–14–2–.01(5)(b–g); 335–14–2–.01(6)(a)3,(c)1,(7)(a); 335–14–2–.03(1)(b); 335–14–3–.04(1)(c); 335–14–3–.01(2)(d); 335–14–4–.01(3); 335–14–5–.01(1)(h); 335–14–5–.02(4(a)1,(b)4,6,7; 335–14–5–.05(4); 335–14–6–.02&.05(4); 335–14–9–.01(1); 335–14–9–.01(2)(a&b); 335–14–9–.01(3),(4),(6),(7); 335–14–9–.03–.05; 335–14–9–Appendix I, II; 335–14–8–.02(5)(b)21; 335–14–8–.03(3)(b)1; 335–14–8–.03(o)1–4.
Identification listing of hazardous waste; technical correction.	53 FR 27162	7/19/88	335–14–2–.01(5)(e)(f).
Farmer exemptions; technical correction	53 FR 27164	7/19/88	335–14–3–.01(1)(b,d,g)4; 335–14–6–.01(1)(c)8; 335–14–9–.01(1)(c)5; 335–14–8–.01(1)(c)2.(ii).
Delay of closure period for hazardous waste facilities.	54 FR 33376	8/14/89	335–14–5–.02(4)(a)1,3.(i),(b)1; 335–14–5–.07(3)(d)2; 335–14–5–.07(4)(a–e); 335–14–5–.08(3)(a)3,4.
Mining waste exclusion I (Bevil amendment).	54 FR 36592	9/1/89	355–14–2–.01(3)(a)2.(i),(iii); 355–14–2–.01(4)(b)7.
Testing and monitoring activities	54 FR 40260	9/29/89	355–14–1–.02(2) Appendix III.
Mining waste exclusion II	55 FR 2322	1/23/90	355–14–2–.01(4)(b)(7); 355–14–3–.02(4)(e).

Federal requirements	HSWA or FR notice	Promulgation	State authority
Modification of F019 listing	55 FR 5340	2/14/90	355–14–2–.04(2).
Testing & monitoring activities; correction	55 FR 8948	3/9/90	355–14–1–.02(2); 355–14–2–Appendix III.
Criteria for toxic waste (technical amendment).	55 FR 18726	5/4/90	355–14–2–.02(2)(a)3.
Land disposal restrictions for third third scheduled wastes (clarifying amendment to § 261.33(c)).	55 FR 22520	6/1/90	355–14–2–.03(5)(b); 355–14–2.04(2); 355–14–2–.04(4)(c); 355–14–2–Appendix VII.
Standards for hazardous waste storage and treatment tank systems; correction.	51 FR 29430	8/15/86	355–14–5–.10(1)(a)(b); 355–14–5–.10(1)(a)(b); 355–14–5–.10(2)(a)&(b).
Listing of spent pickle liquor; correction	51 FR 33612	9/22/86	355–14–2–.04(3).
Revised manual SW–846 amended incorporation by reference.	52 FR 8072	3/16/87	355–14–1–.02(2).
Closure/post-closure care for interim status surface impoundments.	52 FR 8704	3/19/87	355–14–6–.11(9)(a)1,2(b)1,2, and 3.

Alabama is not authorized to operate the Federal program on Indian Lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that Alabama's applications for these program revisions meet all of the statutory and regulatory requirements established by RCRA. Accordingly, Alabama is granted final authorization to operate its hazardous waste program as revised.

Alabama now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitations of its program revision application and previously approved authorities. Alabama also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Alabama's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926, 6974(b)).

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 93–6023 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 271

[FRL–4606–4]

Minnesota: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Minnesota has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA) of 1976 as amended. The Environmental Protection Agency (EPA) has reviewed Minnesota's application and has reached a decision, subject to public review and comment, that these hazardous waste program revisions satisfy all the requirements necessary to qualify for final authorization. Thus, EPA intends to grant final authorization to Minnesota to operate its expanded program, subject to authority retained by EPA under the Hazardous and Solid Waste Amendments of 1984 (November 8, 1984, hereinafter "HSWA").

DATES: Final authorization for Minnesota's program revisions shall be effective May 17, 1993, unless EPA publishes a prior **Federal Register** (FR) action withdrawing this immediate final rule. All comments on Minnesota's final authorization must be received by 4:30 p.m. central time on April 16, 1993. If an adverse comment is received, EPA will publish either: (1) A withdrawal of this immediate final rule; or (2) a document containing a response to the comment which either affirms that the immediate final decision takes effect or reverses the decision.

ADDRESSES: Copies of Minnesota's final authorization application are available during 9 a.m. to 4 p.m. at the following addresses for inspection and copying: Ms. Carol Nankivel, Supervisor, Rules Unit, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, Minnesota 55155, Phone 612/297–8369; Ms. Christine Klemme, U.S. EPA, Region V, Office of RCRA, 77 W. Jackson, 7th Floor, Chicago, Illinois 60604, Phone 312/886–3715. Written comments should be sent to Ms. Christine Klemme, Program Management Branch, Office of RCRA, 77 W. Jackson, HRM–7J, Chicago, Illinois 60604, Phone 312/886–3715.

FOR FURTHER INFORMATION CONTACT: Christine Klemme, Minnesota Regulatory Specialist, U.S. Environmental Protection Agency, Region V, Office of RCRA, Program Management Branch, Regulatory Development Section, HRM–7J, 77 W. Jackson, Chicago, Illinois 60604, (312) 886–3715.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. For further explanation, see section C of this notice.

In accordance with 40 CFR 271.21(a), revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessary because of changes to EPA's regulations in 40 CFR parts 124, 260 through 268 and 270.

B. Minnesota

Minnesota initially received final authorization for its base RCRA program effective on February 11, 1985 (see 50 FR 3756, January 28, 1985). Effective on September 18, 1987; June 23, 1989; August 14, 1990; August 23, 1991; and May 18, 1992, (see 52 FR 27199, July 20, 1987; 54 FR 16361, April 24, 1989; 55 FR 24232, June 15, 1990; 56 FR 28709, June 24, 1991; and 56 FR 9501, March 19, 1992, respectively), Minnesota received authorization for additional program revisions.

Minnesota was previously granted authorization on June 23, 1989, for a provision addressing RCRA sections 3004(t)(2) and (3). Those provisions create a Federal cause of action for any person with a claim arising from conduct for which financial assurances are required under RCRA. This action may be asserted directly against the guarantor of the assurances if: (1) The owner or operator of the facility is in bankruptcy or other similar proceedings under Federal law, or (2) the person with the claim is not likely to obtain jurisdiction over the facility owner/operator in either Federal or State court. Since, by its terms, section 3004(t) makes this cause of action always available in Federal court, section 3004(t) is not delegable to States, and EPA cannot authorize States for it.

States are welcome to create parallel causes of action viable in State courts, but to the extent that States do so, the State cause of action cannot limit the availability of the Federal action. Therefore, EPA is rescinding its authorization of Minnesota for this provision.

Minnesota submitted an additional complete revision application on February 2, 1993. EPA reviewed this application and made an immediate final decision that Minnesota's hazardous waste program revision satisfies all the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant Minnesota final authorization for this additional program revision.

On May 17, 1993, (unless EPA publishes a prior FR action withdrawing this immediate final rule), Minnesota will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the following provisions of the Federal program:

Federal Requirement	Analogous State Authority
*Land Disposal Restrictions for First Third Scheduled Wastes, August 17, 1988, (53 FR 31138), as amended February 27, 1989, (54 FR 8264).	MN 7045.0458(2), 7045.0478(3), 7045.0564(2), 7045.0584(3), 7045.0665(1), 7045.1300(3), 7045.1310(1), 7045.1315, 7045.0075(9), 7045.1320, 7045.1325, 7045.1330, 7045.1333, 7045.1350, 7045.1355, 7045.1358, 7045.1360, 7045.1380; effective 4/20/92.
Changes to Interim Status Facilities for Hazardous Waste Permits, March 7, 1989, (54 FR 9596).	MN 7001.0100, 7001.0190, 7001.0520(7), 7001.0650(5), 7001.0720; effective 4/20/92.
*Land Disposal Restriction Amendments to First Third Scheduled Wastes, May 2, 1989, (54 FR 18836).	MN 7045.1358, (1–3); effective 4/20/92.
*Land Disposal Restrictions for Second Third Scheduled Wastes, June 23, 1989, (54 FR 26594).	MN 7045.1340 (1) (2), & (3), 7045.1355(3), 7045.1358, 7045.1360(1); effective 4/20/92.
*Land Disposal Restrictions: Correction, September 6, 1989, (54 FR 36967), as amended June 13, 1990, (55 FR 23935).	MN 7045.0665(1), 7045.1300, 7045.1308, 7045.1315, 7045.1330(2), 7045.1333(1) & (4), 7045.1380; effective 4/20/92.
*Land Disposal Restrictions for Third Third Scheduled Wastes, June 1, 1990, (55 FR 22520).	MN 7045.0020; 7045.0065; 7045.0131, 7045.0135, 7045.0139, 7045.0214(2), 7045.0292(1), 7045.0458(1), 7045.0532(8), 7045.0534(8), 7045.0536(9), 7045.0538(8) & (12), 7045.0552(1), 7045.0564, 7045.0630(7), 7045.0632(5), 7045.0634(7), 7045.0638(5) & (9), 7045.1300, 7045.1305, 7045.1309, 7045.1315, 7045.1335, 7045.1339, 7045.1355, 7045.1358, 7045.1359, 7045.1360; effective 4/20/92.
Land Disposal Restrictions for Third Third Scheduled Wastes: Technical Amendments, January 31, 1991, (56 FR 3864).	MN 7045.0020, 7045.0065, 7045.0070, 7045.0129, 7045.0131(1), 7045.0135(2), 7045.0214(2), 7045.0292, 7045.1300, 7045.1309, 7045.1315, 7045.1335, 7045.1339, 7045.1350, 7045.1355, 7045.1358, 7045.1360; effective 4/20/92.

*Indicates HSWA provisions.

EPA shall administer any RCRA hazardous waste permits or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization, and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization. EPA has previously suspended issuance of permits for the other provisions on February 11, 1985, September 18, 1987, June 23, 1989, August 14, 1990, August 23, 1991, and May 18, 1992, the effective dates of Minnesota's final authorization for the RCRA base program, and for subsequent program revisions.

Minnesota is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that Minnesota's program revision application meets all the statutory and regulatory requirements established by RCRA and its amendments. Accordingly, EPA grants Minnesota final authorization to operate its hazardous waste program as revised. Minnesota currently has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program and its amendments. This responsibility is subject to the limitations of its program revision applications and previously approved authorities. Minnesota also has primary enforcement responsibilities, although EPA retains the right to conduct

inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

E. Codification

EPA codifies authorized State programs in 40 CFR part 272. The purpose of codification is to provide notice to the public of the scope of the authorized program in each State. Codification of the Minnesota program will be completed at a later date.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Minnesota's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

Lists of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926 and 6974(b)).

Dated: March 3, 1993.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 93–6150 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6959

[AK–932–4210–06; F–14870]

Withdrawal of Public Lands for Kaktovik Village Selection; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws approximately 4,243 acres of public lands located within the Arctic National Wildlife Refuge from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, pursuant to section 22 of the Alaska Native Claims Settlement Act. This action also reserves the lands for selection by the Kaktovik Inupiat Corporation, the village corporation for Kaktovik. This withdrawal is for a period of 120 days; however, any lands selected shall remain withdrawn by the order until conveyed. Any lands described herein that are not selected by the corporation will remain withdrawn as part of the Arctic National Wildlife Refuge pursuant to the Alaska National Interest Lands Conservation Act.

EFFECTIVE DATE: March 17, 1993.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by section 22(j)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1621(j)(2) (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands located within the Arctic National Wildlife Refuge are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws and are hereby reserved for selection under section 12 of the Alaska Native Claims Settlement Act, 43 U.S.C. 1611 (1988), by the Kaktovik Inupiat Corporation, the village corporation for Kaktovik:

Umiat Meridian

T. 7 N., R. 36 E., (Unsurveyed)
secs. 3, 4, 7, 9, 10, 18 and 19.

The areas described aggregate approximately 4,243 acres, which excludes acres of lakes which are 50 acres or more.

2. This order constitutes final withdrawal action by the Secretary of the Interior under section 22(j)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1621(j)(2) (1988), to make lands available for selection by the Kaktovik Inupiat Corporation to fulfill the entitlement of the village for Kaktovik under section 12 and section 14(a) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1611 and 1613 (1988). The lands selected by Kaktovik Inupiat Corporation will not be conveyed unless expressly authorized by an act of Congress, pursuant to section 1302(h)(2) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3192 (1988). When the surface estate of the selected lands is conveyed to Kaktovik Inupiat Corporation, the subsurface estate in those lands will be conveyed to the Arctic Slope Regional Corporation.

3. Prior to conveyance of any of the lands withdrawn by this order, the lands shall be subject to administration by the Secretary of the Interior under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this withdrawal.

4. This withdrawal will terminate 120 days from the effective date of this order; provided, any land selected shall remain withdrawn pursuant to this order until conveyed. Any lands described in this order not selected by the corporation shall remain withdrawn as part of the Arctic National Wildlife Refuge, pursuant to section 304 of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 668(dd) (1988).

5. It has been determined that this action is not expected to have any significant effect on subsistence uses and needs pursuant to section 810(c) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3120(c) (1988) and this action is exempted from the National Environmental Policy Act of 1969, 83 Stat 852, by section 910 of the ANILCA, 43 U.S.C. 1638 (1988).

Dated: March 5, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93–6015 Filed 3–16–93; 8:45 am]

BILLING CODE 4310–JA–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–2766.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

The modified base (100-year) flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
California:					
Riverside	City of Riverside (Docket No. 7054).	Nov. 27, 1992 and Dec. 4, 1992, *The Press Enterprise.*	Hon. Terry Frizzel, mayor, city of Riverside 3900 Main St., Riverside, CA 92522.	Oct. 28, 1992	060260
San Diego	Unincorporated areas (Docket No. 7056).	Nov. 23, 1992 and Nov. 30, 1992, *San Diego Union Tribune.*	Hon. George F. Bailey, chairman, San Diego County Board of Supervisors, 1600 Pacific Highway, San Diego, CA 92101.	Nov. 16, 1992.	060284
Solano	City of Fairfield (Docket No. 7054).	Nov. 2, 1992 and Nov. 9, 1992, *The Daily Republic.*	Hon. Gary Falati, mayor, city of Fairfield, 1000 Webster Street, Fairfield, CA 94533.	Oct. 28, 1992	060370

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Solano	Unincorporated areas (Docket No. 7054).	Nov. 2, 1992 and Nov. 9, 1992, *The Daily Republic.*	Hon. Lee Simmons, chairperson, Solano County Board of Supervisors, 580 Texas St., Fairfield, CA 94533.	Oct. 28, 1992	D60631
Florida:					
Broward (FEMA Docket No. 7052).	City of Pompano Beach.	Oct. 22, 1992 and Oct. 29, 1992, *The Pompano Ledger.*	Hon. Nate Braverman, mayor of the city of Pompano Beach, 100 West Atlantic Blvd., Pompano Beach, FL 33060.	Sept. 23, 1992.	120055 F
Broward (FEMA Docket No. 7052).	City of Tamarac	Oct. 7, 1992 and Oct. 14, 1992, *Sun-Sentinel.*	Hon. Larry Bender, mayor of the city of Tamarac, Broward County, 7525 Northwest 88th Ave., Tamarac, FL 33321.	Sept. 25, 1992.	120058 F
Pinellas (FEMA Docket No. 7049).	City of Gulfport	Aug. 6, 1992 and Aug. 13, 1992, *St. Petersburg Times.*	Robert E. Lee, manager of the city of Gulfport, Pinellas County, 2401 53d St. South, Gulfport, FL 33707.	July 27, 1992	125108 C
Pinellas (FEMA Docket No. 7052).	City of St. Petersburg	Sept. 25, 1992 and Oct. 2, 1992, *St. Petersburg Times.*	Hon. David Fischer, mayor of the city of St. Petersburg, Pinellas County, P.O. Box 2842, St. Petersburg, FL 33731.	Sept. 16, 1992.	125148 B
Georgia:					
Glynn (FEMA Docket No. 7054).	Unincorporated areas	Oct. 26, 1992 and Nov. 2, 1992, *The Brunswick News.*	E.C. Tillman, chairman of the Glynn County Commission, P.O. Box 879, Brunswick, GA 31521.	Oct. 19, 1992	130092 D
Illinois:					
Cook (FEMA Docket No. 7046).	Village of Orland Park	July 16, 1992 and July 23, 1992, *Orland Park Star.*	Hon. Frederick T. Owens, mayor of the Village of Orland Park, Cook County, 14700 South Ravinnia Ave., Orland Park, IL 60462.	June 17, 1992.	170140 D
Cook and Will (FEMA Docket No. 7046).	Village of Tinley Park	July 16, 1992 and July 23, 1992, *Tinley Park Star.*	Hon. Edward J. Zabrocki, mayor of the Village of Tinley Park, Cook and Will Counties, 16250 Oak Park Ave. Tinley Park, IL 60477.	June 17, 1992.	170169 E
Indiana:					
Lake (FEMA Docket No. 7054).	Town of Dyer	Oct. 29, 1992 and Nov. 5, 1992, *Post-Tribune.*	Michael J. Kapitan, president of the council for the town of Dyer, One Town Square, Dyer, IN 45311.	Oct. 19, 1992	18129 C
Tennessee:					
Shelby (FEMA Docket No. 7046).	City of Germantown	Aug. 6, 1992 and Aug. 13, 1992, *Germantown News.*	Hon. Charles Salvaggio, mayor of the City of Germantown, 1930 Germantown Rd. P.O. Box 38809, Germantown, TN 38183–0809.	June 5, 1992	470353 C
Virginia:					
Prince William (FEMA Docket No. 7054).	Unincorporated areas	Oct. 21, 1992 and Oct. 28, 1992, *The Prince William Journal* and the *Potomac News.*	Kathleen Seefeldt, chairwoman of the Prince William County Board of Supervisors, 1 County Complex Court, Prince William, VA 22192–9201.	Oct. 1, 1992	510119 B
Stafford (FEMA Docket No. 7054).	Unincorporated areas	Oct. 20, 1992 and Oct. 27, 1992, *Potomac News.*	C.M. Williams, Jr., administrator for Stafford County, P.O. Box 339, Stafford, VA 22554–0339.	Sept. 30, 1992.	510154 B

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: March 9, 1993.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93–6104 Filed 3–16–93; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Base (100-year) flood elevations and modified base (100-year) flood elevations are made final for the communities listed below.

The base (100-year) flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each

community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20427, (202) 646–2766.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) gives notice of the final determinations of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the Federal Register.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ARIZONA	
Gila Bend (town), Maricopa County (FEMA Docket No. 7057)	
Gila Bend Canal:	
Approximately 300 feet east of the intersection of Old U.S. Highway 80 and Papago Street	‡3
Approximately 100 feet east of the intersection of Watermelon Road and Gila Bend Canal	‡2
Maps are available for review at the Town Administration Office, 644 West Pima Street, Gila Bend, Arizona.	
St. Johns (town), Apache County (FEMA Docket No. 7050)	
Little Colorado River:	
Approximately 5,800 feet downstream of U.S. Highway 666	*5,655
Approximately 100 feet downstream of U.S. Highway 666	*5,679
At the upstream corporate limits located approximately 4,100 feet upstream of U.S. Highway 666	*5,700
Maps are available for review at Apache County Development Community Services, 75 West Cleveland, St. Johns, Arizona.	
FLORIDA	
Charlotte County (unincorporated areas) (FEMA Docket No. 7050)	
Morningstar Waterway:	
At mouth	*9
Just downstream of Bachmann Boulevard	*15
Dorchester Waterway:	
At mouth	*10
Just downstream of Bachmann Boulevard	*13
Haverhill Waterway:	
At mouth	*10
Just downstream of Bachmann Boulevard	*19
Alligator Creek:	
Just upstream of CSX railroad	*8
Just upstream of Alfred Boulevard	*22
South Prong Alligator Creek:	
At mouth	*15
Just downstream of Jones Loop Road	*21
Myrtle Slough:	
At mouth	*5
Just downstream of County Highway 74	*20
Tributary 1 to Myrtle Slough:	
At mouth	*19
Just downstream of County Highway 74	*25
Shell Creek:	
Just upstream of CSX railroad	*8
About 1.0 mile upstream of confluence of Tributary 1 to Shell Creek	*13
Tributary 1 to Shell Creek:	
At mouth	*11
Just downstream of Prairie Creek Boulevard	*25
Prairie Creek:	
At mouth	*9
About 2.1 miles upstream of Washington Loop Road	*16
Lee Branch:	
At mouth	*8
Just downstream of U.S. Highway 17	*14
Maps available for inspection at the Zoning Department, 18500 Murdock Circle, Port Charlotte, Florida.	
GEORGIA	
Fannin County (unincorporated areas) (FEMA Docket No. 7047)	
Mineral Springs Creek:	
At the confluence with Weaver Creek	*1,580
Approximately 1.5 miles upstream of Aska Road	*1,671
Weaver Creek:	
Approximately 650 feet upstream of the confluence with Toccoa River	*1,553
Approximately 280 feet upstream of the confluence of Mineral Springs Creek	*1,585
Maps available for inspection at the Fannin County Courthouse, Land Development Office, Blue Ridge, Georgia.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
KENTUCKY	
Covington (city), Kenton County (FEMA Docket No. 7050)	
Banklick Creek:	
At mouth	*499
About 0.55 mile upstream of Bullock Pen Road	*525
Licking River: Within community	*499
Maps available for inspection at the Engineering Department, City Hall, 638 Madison Avenue, Covington, Kentucky.	
Ft. Wright (city), Kenton County (FEMA Docket No. 7050)	
Banklick Creek:	
About 2.16 miles downstream of Interstate 275	*499
About 0.82 mile upstream of State Route 17	*503
Banklick Creek Tributary:	
At mouth	*499
About 600 feet downstream of State Route 17	*503
Horse Branch:	
At mouth	*499
About 600 feet downstream of Interstate 275	*503
Horse Branch Tributary:	
At mouth	*499
About 790 feet upstream of SPCA Shelter Road	*506
Maps available for inspection at the City Hall, 409 Kyles Lane, Ft. Wright, Kentucky.	
MISSISSIPPI	
Rankin County (unincorporated areas) (FEMA Docket No. 7050)	
Turtle Creek:	
About 700 feet upstream of mouth	*308
About 0.98 mile upstream of mouth	*315
Hog Creek:	
About 2300 feet upstream of Illinois Central railroad	*290
About 3800 feet upstream of Luckney Road	*341
Hog Creek Tributary:	
At mouth	*312
Just downstream of Luckney Road	*331
Mill Creek:	
About 400 feet upstream of Spillway Road	*302
Just downstream of State Highway 471	*352
Mill Creek Tributary:	
At mouth	*316
Just Downstream of private road	*328
Plummer Slough:	
Just upstream of State Highway 471	*303
About 3200 feet upstream of Oakdale Road	*324
Pelahatchie Creek:	
Just upstream of State Highway 471	*303
About 2.86 miles upstream of confluence of Clark Creek	*315
Clark Creek:	
At mouth	*309
Just downstream of Stull Road	*339
Clark Creek Tributary:	
At mouth	*314
About 3600 feet upstream of Mt. Helen Road	*332
Spring Branch:	
About 3300 feet upstream of mouth	*306
About 3100 feet upstream of Church Road	*331
Pelahatchie Creek Tributary:	
Just downstream of State Highway 25	*306
About 3100 feet upstream of Hollybush Road	*325
Pearl River (Ross Barnett Reservoir):	
Downstream of State Highway 43	*300
Upstream of State Highway 43	*301
Pearl River:	
At county boundary	*251
About 9.0 miles upstream of State Highway 25	*286
Maps available for inspection at the Rankin County Tax Assesor's Office, 105 North Street, Brandon, Mississippi.	
NEW YORK	
Southold (town), Suffolk County (FEMA Docket No. 7048)	
Atlantic Ocean (Block Island Sound): Approximately .6 mile east northeast of Plum Gut Harbor	*9
Atlantic Ocean (Long Island Sound): Northern shoreline of Plum Island	*15
Maps available for inspection at the Southold Town Hall, Building Department, 53095 Main Road, Southold, New York.	
NORTH CAROLINA	
Cherokee County (unincorporated areas) (FEMA Docket No. 7053)	
Hiawassee River:	
Approximately 0.5 mile downstream of confluence of Peachtree Creek	*1,559
Approximately 300 feet upstream of County Route 1548	*1,591
Maps available for inspection at the County Commissioner's Office, Peachtree Street, Murphy, North Carolina.	
OHIO	
Bellville (village), Richland County (FEMA Docket No. 7055)	
Clear Fork Mohican River:	
About 1,150 feet downstream of Hines Avenue	*1,118
Just upstream of Abandoned Railroad	*1,131
Maps available for inspection at the Village Hall, 142 Park Place, Bellville, Ohio.	
Mount Gilead (village), Morrow County (FEMA Docket No. 7055)	
Whetstone Creek:	
About 0.5 mile downstream of Cardington Road	*1,049
Just downstream of State Route 95	*1,091
Maps available for inspection at the Municipal Building, 72 West High Street, Mt. Gilead, Ohio.	
PENNSYLVANIA	
Buckingham (township), Wayne County (FEMA Docket No. 7055)	
Delaware River:	
At corporate limits	*873
At confluence of East and West Branches Delaware River	*904
West Branch Delaware River:	
At confluence with Delaware River	*904
At corporate limits	*938
Maps available for inspection at the home of Ms. Marilyn Ryan, Township Secretary, Star Route, 20 Jenco Road, Lake Como, Pennsylvania.	
TENNESSEE	
Nashville and Davidson County (city) (FEMA Docket No. 7050)	
Collins Creek:	
At mouth	*515
About 750 feet upstream of Interstate 24	*526
Mill Creek Tributary A:	
At mouth	*492
Just downstream of Una-Antioch Pike	*519
Just upstream of Una-Antioch Pike	*526
About 4860 feet upstream of Radar Ridge	*557
Mill Creek Tributary B:	
At mouth	*496
Just downstream of Private Dam	*508
Just upstream of Private Dam	*511
About 500 feet upstream of Una-Anticoch Pike	*527
Sims Branch:	
At mouth	*418
Just downstream of Perimeter Place Drive	*432
Just upstream of Perimeter Place Drive	*438
Just downstream of Interstate Route 40	*449
About 0.5l mile upstream of Haywood Lane	*500
Sorghum Branch:	
At mouth	*476
Just upstream of Paragon Mills Road	*484
About 0.5 mile upstream of Haywood Lane	*560
Flat Creek:	
At mouth	*559
Just upstream of Harding Pike	*585
About 1100 feet upstream of Coronada Entrance Road	*671
Stoners Creek:	
At mouth	*425
At county boundary	*462
Scotts Hollow:	
At mouth	*474
Just downstream of Lebanon Pike	*475
Just upstream of Lebanon Pike	*481
At county boundary	*511
Scotts Creek:	
At mouth	*444
At county boundary	*488
Overall Creek:	
At mouth	*407
Just upstream of River Road Pike	*410
Just downstream of U.S. Highway 70	*452
Humcane Creek:	
About 4700 feet downstream of U.S. Route 41	*510
Just upstream of CSX Railroad Spur	*574
West Branch Humcan Creek:	
At mouth	*575
About 650 feet upstream of Hall Quaker Boulevard	*580
West Fork Browns Creek:	
At mouth	*489
Just downstream of Battery Lane	*560
Just upstream of Battery Lane	*565

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Just upstream of Sawanee Road	*503
Pages Branch:	
At mouth	*413
About 450 feet downstream of Interstate 65	*413
About 300 feet upstream of Interstate 65	*429
Just downstream of Jones Avenue	*504
Just upstream of Jones Avenue	*511
Just downstream of Oakwood Drive	*523
Just upstream of Oakwood Drive	*531
About 1150 feet upstream of Oakwood Drive	*556
Pages Branch Tributary A:	
At mouth	*467
Just downstream of Dellway Avenue	*492
Just upstream of Dellway Avenue	*497
About 475 feet upstream of Jones Avenue	*575
Pages Branch Tributary B:	
About 650 feet downstream of Brooklyn Avenue	*478
About 600 feet upstream of Brooklyn Avenue	*512
Maps available for inspection at the Department of Public Works, 720 South 5th Street, Nashville, Tennessee.	
Rogersville (city), Hawkins County (FEMA Docket No. 7053)	
Crockett Creek:	
Approximately 350 feet downstream of West Hills Drive	*1,167
Approximately 0.2 mile upstream of State Route 70	*1,337
Maps available for inspection at the Rogersville City Hall, 106 East Kyle, Rogersville, Tennessee.	
Sullivan County (unincorporated areas) (FEMA Docket No. 7050)	
South Fork Holston River (Near South Holston Dam):	
About 3200 feet downstream of State Highway 358	*1413
At Tailrace of South Holston Dam	*1496
Maps available for inseception at the Planning and Zoning Department, Blountville, Tennessee.	
Williamson County (unincorporated areas) (FEMA Docket No. 7053)	
Little East Fork:	
Just upstream of county boundary	*588
About 1,000 feet upstream of Old Charlotte Pike West	*662
Lynnwood Branch:	
About 450 feet downstream of Meadowgreen Drive	*613
About 200 feet upstream of Farmington Road	*658
Beech Creek:	
About 1,400 feet downstream of Highland Road	*666
About 3,400 feet upstream of Manly Lane	*742
Carnright Creek:	
At confluence with Harpeth River	*584
Just upstream of Beech Creek Road	*651
Maps available for inspection at the County Planning Department, 1320 West Main Street, Suite 125, Franklin, Tennessee.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
WISCONSIN	
Eau Claire County (unincorporated areas) (FEMA Docket No. 7053)	
Chippewa River:	
At county boundary	*761
About 1,850 feet upstream of Interstate 94	*775
Sherman Creek:	
About 1.3 miles downstream of Cameron Street	*808
Just downstream of West Vine Street	*855
Just upstream of West Vine Street	*862
At county boundary	*897
Lake Eau Claire: Along shoreline	*911
Elk Creek:	
About 2,100 feet upstream of Elk Lake Dam	*807
About 3,400 feet downstream of Paquet Drive	*811
Eau Claire River:	
Just upstream of Lake Altoona Dam	*810
Just upstream of confluence of Skimile Creek	*813
Maps available for inspection at the County Courthouse, 721 Oxford Avenue, Eau Claire, Wisconsin.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: March 9, 1993.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93–6105 Filed 3–16–93; 8:45 am]

BILLING CODE 6718–03–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 5

[Gen. Docket No. 90–217; FCC 93–116]

Establishment of Procedures To Provide a Preference to Applicants Proposing an Allocation for New Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for further reconsideration.

SUMMARY: This action affirms the Commission's pioneer's preference rules, concluding that the Commission is permitted to award a qualified entity a license that is not subject to competing applications. The objective of the action is to encourage parties to propose innovations and new services that use the spectrum.

EFFECTIVE DATE: March 17, 1993.

FOR FURTHER INFORMATION CONTACT: Rodney Small, telephone (202) 653–8116.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Final Rule in General Docket 90–217, FCC 93–116, adopted February 24, 1993, and released March 8, 1993.

The action is taken in response to two petitions for reconsideration of the Commission's previous Memorandum Opinion and Order in FCC 92–57, released February 26, 1992, 57 FR 7879 (March 5, 1992).

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Summary of Final Rule

1. In this Memorandum Opinion and Order, the Commission denies petitions for further reconsideration of its pioneer's preference rules filed by TRW, Inc. (TRW) and Loral Qualcomm Satellite Services, Inc. (Loral).[1] Specifically, the Commission affirms that the rules are consistent with the Supreme Court's *Ashbacker* decision, which provides that two *bona fide* applications that are mutually exclusive are entitled to comparative consideration.[2]

2. The pioneer's preference rules established a two-track system for processing applications for certain new services. Specifically, an applicant that demonstrates that it has developed an innovative proposal that leads to the establishment of a service not currently provided or an enhancement of an existing service will be placed on a pioneer's preference track, and will not be subject to competing applications. Thus, if otherwise qualified, such an applicant will receive a license. Other applicants, including both those that unsuccessfully applied for a preference and those that did not, will compete for the remaining licenses on a separate track.

3. The rules are designed to further the statutorily recognized public interest goal of encouraging the development of new technologies and services. However, TRW and Loral argued that

[1] In addition, PerTel, Inc. requested clarification that a tentative pioneer's preference may be awarded in connection with a further notice of proposed rule making as well as a notice of proposed rule making. The Commission hereby clarifies that, since a further notice falls within the category of a notice, it is covered by the rule.

[2] *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327, 333 (1945).

the rules are inconsistent with their right to comparative consideration of their license applications under *Ashbacker*. The Ashbacker-based legal argument made by TRW and Loral was supported by the National Association of Broadcasters. Opposing arguments were submitted by Mobile Telecommunication Technologies Corporation, Motorola, Inc., and American Personal Communications.

4. The Commission affirms that the pioneer's preference rules are a valid exercise of its rulemaking authority. It is well-established that an agency may limit *Ashbacker* or other statutory hearing rights by rules establishing threshold eligibility standards designed to serve the public interest. The pioneer's preference rules establish threshold eligibility for participating on a pioneer's preference track. Applicants demonstrating that they meet the requirements for a preference will be placed on this track and not be subject to competing applications. Applicants who do not meet the requirements for a preference or who did not request a preference will be placed on a separate track and compete for the remaining licenses. Having determined in a rulemaking proceeding that it serves the public interest to reward innovators by placing them on a separate track for a license, the Commission is not required to relitigate this determination in each specific case.

5. The Commission also affirms its conclusion that there is a strong public interest basis for the pioneer's preference rules. The rules will encourage innovation and more rapid delivery of new services and technologies to the public. This result effectuates congressional goals explicitly incorporated into the Communications Act.

6. In sum, the Commission concludes that its pioneer's preference rules do not violate *Ashbacker* and are fully justified under applicable case law.

Ordering Clauses

7. Accordingly, *it is ordered that* the petitions for further reconsideration filed by TRW, Inc. and Loral Qualcomm Satellite Services, Inc. are denied.

8. *It is further ordered that* the Petition for Clarification filed by PerTel, Inc. is granted.

9. *It is further ordered that* the Motion for Leave to File Supplement to Petition for Reconsideration filed by TRW, Inc. is granted.

10. *It is further ordered that* this proceeding is terminated.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–6094 Filed 3–16–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 64

[CC Docket No. 86–309; FCC 92–529]

Telecommunications Service off the Island of Puerto Rico

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Commission received five petitions seeking reconsideration of the Puerto Rico Order in which the Commission found that the domestic and international Puerto Rico off-island markets should be opened to competition and that PRTC should be allowed to enter these markets subject to certain conditions designed to ensure fair competition. In this Order, the Commission affirmed the Commission's prior decisions in this proceeding. The Commission also clarified the requirements concerning the provision of customer proprietary network information (CPNI) by PRTC and provided an alternative method to meet these requirements.

EFFECTIVE DATE: April 16, 1993.

FOR FURTHER INFORMATION CONTACT: Rose Crellin, Policy and Program Planning Division, Common Carrier Bureau, (202) 632–1292.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, FCC 92–529, adopted November 25, 1992, and released December 31, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc. 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800.

Summary of Memorandum Opinion and Order

1. In the *Puerto Rico Order*, the Commission concluded that the public interest would be served by allowing PRTC to enter off-island markets, and the Commission established a number of requirements concerning the provision of interim access to multiple carriers, and the expeditious implementation of full equal access comparable to that provided on the mainland.

2. The parties filing petitions for reconsideration requested that the Commission reconsider its decisions regarding: (1) PRTC market entry: (2) rates for interim access; (3) nonstructural safeguards; (4) interim access procedures; and (5) Commission procedures.

3. The Commission reaffirmed its conclusion that competitive entry in the Puerto Rico off-island domestic and international markets is feasible and in the public interest. The Commission stated its view that the open entry decision in the MTS and WATS Market Structure proceeding included the Puerto Rico domestic off-island market, although the Commission also found that competitive entry in this market is independently justified by the record in this proceeding and the Commission's experience observing the benefits of interstate competition on the mainland.

4. In the *Puerto Rico Order*, the Commission declined to establish a discount for interim access PRTC provides to other IXCs in Puerto Rico. That Order concluded that a discount was not appropriate because AT&T's overall access advantage was not sufficient to warrant a differential in access charges, and because the Commission's policy providing a discount to other IXCs on the mainland was established in a context altogether different from that before the Commission in Puerto Rico. The Commission here reaffirmed its finding in that order that differences between premium and non-premium access on the mainland are far greater than differences between premium and non-premium access in Puerto Rico. Accordingly, the Commission reaffirmed its decision in the *Puerto Rico Order* to require other IXCs to pay premium charges for interim access in Puerto Rico.

5. As a consequence of the provision of off-island service by TLD in place of integrated provision of off-island service by PRTC, as originally proposed, the Commission decided to modify the Commission's CPNI requirements for PRTC. Accordingly, PRTC may satisfy the Commission's CPNI requirements in either of two ways. As set forth in the *Puerto Rico Order*, PRTC can comply with the CPNI requirements that apply to the BOCs. Alternatively, PRTC can treat TLD in exactly the same manner that it treats other off-island IXCs, *i.e.*, withholding all individual CPNI unless disclosure is authorized by the customer. Thus, under the latter approach, CPNI must be released to all off-island carriers including TLD on the

same terms and conditions. If, however, PRTC wants to make CPNI information more readily available to TLD, then it must comply with the requirements established in the *Puerto Rico Order*.

6. Within 60 days of the release of this Order, PRTC must notify the Commission of the CPNI alternative it has selected. If PRTC has decided not to adopt a "prior authorization" approach for TLD, it must submit a revised CPNI plan at this time as well. The PRTC CPNI Plan should conform to the changes, clarifications, and implementing requirements we established for the BOCs in prior orders. PRTC's submittal in response to this requirement will be placed on public notice, and subject to comments by interested parties. The Commission delegated authority to review and act on the PRTC submittal to the Chief, Common Carrier Bureau.

7. The Commission also reaffirmed that: (1) PRTC's CPNI does not include information concerning off-island services used by customers; (2) PRTC should ensure that information about other off-island carriers' customers is not made available to PRTC (or TLD) off-island personnel; and (3) each off-island carrier including PRTC (or TLD) will be able to obtain from PRTC full information about the off-island services that the off-island carrier provides to its customers. In addition, the Commission reaffirmed the network information disclosure requirements established in the *Puerto Rico Order*.

8. Many of the concerns about interim access presented by the parties involved the question of whether PRTC would receive superior interconnection or service because of its position as a LEC. Based on the record, the Commission concluded that the interim access structure approved in the *Puerto Rico Order* was fair and reasonable given facilities constraints. In light of PRTC's responses to the concerns raised by the other off-island carriers, the Commission concluded that PRTC's (now TLD's) interim access was not superior to that of the other off-island carriers.

9. Finally, the Commission concluded that its actions in this proceeding, which results from the court's remand in *All America Cables and Radio*, satisfy the statutory standard of Section 402(h) and are entirely consistent with the terms of the court's remand. In its decision, the court found that the Commission had not developed a record sufficient to support competitive entry in the off-island markets. The Commission stated that since the remand was based on this conclusion that the existing record was inadequate, the court, in remanding the case "for further proceedings not inconsistent with this opinion," clearly expected the Commission to conduct further proceedings concerning competitive entry in the Puerto Rico off-island markets. The Commission also concluded that the Commission's use of rulemaking procedures to govern further proceedings on PRTC entry into the off-island market was a reasonable exercise of the Commission's discretion, and comports with the traditional use of rulemaking procedures to develop general market entry policies in other proceedings. Finally, the Commission concluded that the issues considered in this proceeding are entirely appropriate for resolution in a rulemaking proceeding since those issues involve the general terms and conditions for future competitive entry in the off-island Puerto Rico market by all carriers.

Ordering Clauses

10. Accordingly, *It is ordered*, pursuant to Sections 4(i), 4(j), 201, 202, 214, 308-310, 319 and 405 that the Petitions for Reconsideration ARE GRANTED to the extent indicated herein and ARE *Otherwise denied*.

11. *It is further ordered*, That the late comments filed by MCI Corporation, Inc. ARE ACCEPTED.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–6011 Filed 3–16–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB66

Endangered and Threatened Wildlife and Plants; Endangered Status for Eight Freshwater Mussels and Threatened Status for Three Freshwater Mussels in the Mobil River Drainage

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the upland combshell *(Epioblasma metastriata)*, southern acornshell *(Epioblasma othcaloogensis)* Coosa moccasinshell *(Medionidus parvulus)*, southern clubshell *(Pleurobema decisum)*, dark pigtoe *(Pleurobema furvum)*, southern pigtoe *(Pleurobema georgianum)*, ovate clubshell *(Pleurobema perovatum)*, and triangular kidneyshell *(Ptychobranchus greeni)* to be endangered species; and the fine-lined pocketbook *(Lampsilis altilis)*, orange-nacre mucket *(Lampsilis perovalis)*, and Alabama moccasinshell *(Medionidus acutissimus)* to be threatened species under the authority of the Endangered Species Act of 1973, as amended. These 11 species are found in localized portions of the Mobile River drainage in Alabama, Georgia, Mississippi and Tennessee. Critical habitat may be prudent but is not now determinable. This determination implements the protection of the Endangered Species Act of 1973, as amended, for these 11 freshwater mussels.

EFFECTIVE DATE: April 16, 1993.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jackson Field Office, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Jackson, Mississippi 39213.

FOR FURTHER INFORMATION CONTACT: Paul Hartfield at the above address (telephone 601/965–4900)

SUPPLEMENTARY INFORMATION:

Background

The Mobile River basin drains approximately 43,700 square miles and is the largest Gulf Coast drainage east of the Mississippi River. The basin is composed of seven major river systems: The Mobile Delta (Mobile and Tensaw Rivers), Tombigbee, Black Warrior, Alabama, Cahaba, Coosa, and Tallapoosa Rivers and their tributaries. These rivers drain a variety of physiographic provinces, including the Appalachian Plateau, Alabama Valley and Ridge, Piedmont Upland, and East Gulf Coastal Plain. The basin's size, diversity of habitat, and geographical isolation have resulted in a high degree of variation and endemism in the unionid mussel fauna. The 11 species addressed in this rule are known to have been collected from the Mobile drainage within the past 20 years and are believed to currently exist in the drainage. Historic distributions are based on the scientific literature, technical reports, and museum records. The names used in this rule follow mollusk nomenclature suggested by the American Fisheries Society (Turgeon *et al.* 1988).

The upland combshell (*Epioblasma metastriata* (Conrad 1838)) is a bivalve mollusk that rarely exceeds 60 millimeters (mm) (2.4 inches (in.)) in length. The shells are rhomboidal to

quadrate in outline and are sexually dimorphic. Males are moderately inflated with a broadly curved posterior ridge. Females are considerably inflated, with a sharply elevated posterior ridge that swells broadly post-ventrally forming a well-developed sulcus (the groove anterior to the posterior ridge). The posterior margin of the female is broadly rounded and comes to a point anterior to the posterior extreme. Periostracum (the epidermis) color varies from yellowish-brown to tawny, and may or may not have broken green rays, or small green spots. Hinge teeth are well-developed and heavy. Johnson (1978) considered the upland combshell to be a variation of the southern combshell (= penitent mussel, *Epioblasma penita*) and synonymized the two. Stansbery (1983a) recognized consistent morphological differences between the two and considered both species to be valid taxa. The upland combshell is distinguished from the southern combshell by the diagonally straight or gently rounded posterior margin of the latter, which terminates at the post-ventral extreme of the shell (Stansbery 1983a). The U.S. Fish and Wildlife Service (Service) recognizes *Unio metastriatus* Conrad and *Unio compactus* Lea as synonyms of *Epioblasma metastriata*.

The upland combshell was described from the Mulberry Fork of the Black Warrior River near Blount Springs, Alabama. The historic range included the Black Warrior River and tributaries (Mulberry Fork and Valley Creek); Cahaba River and tributaries (Little Cahaba River, Buck Creek); and the Coosa River and tributaries (Choccolocco Creek, Etowah, Conasauga, and Chatooga Rivers). The present range has declined substantially and this species now appears to be restricted to the Conasauga River in Georgia. It is possible that small populations may exist in portions of the upper Black Warrior and Cahaba River drainages. Hurd (1974) did not find the upland combshell during a 1971–73 mussel survey of the Coosa River drainage. However, he noted that Stansbery and Athearn had collected the species from that drainage during a 1966–68 survey. The most recent record from the Coosa River drainage is a Conasauga River collection of a single specimen by a Service biologist in 1988 (Richard Biggins, U.S. Fish and Wildlife Service, pers. comm., 1990). Pierson (1991) did not locate the species during his 1990 survey of the Coosa River drainage. The most recent records of the upland combshell in the Cahaba River drainage were made by Baldwin (1973). He reported the species to be greatly reduced as compared to a 1938 Cahaba River survey by van der Schalie. Pierson (1991) failed to find the species during a 1990 survey of the Cahaba River drainage. The most recent Black Warrior River drainage collections of the upland combshell were made by H.H. Smith in the early 1900's. More recent surveys of the drainage, conducted in 1974 (J. Williams, U.S. Fish and Wildlife Service, *in litt.*), 1980–82 (R. Hanley, Greenville, SC, *in litt.* 1990), 1985 (Dodd *et al.* 1986), and 1990 (Hartfield 1991), did not encounter the species.

The southern acornshell (*Epioblasma othcaloogensis* (Lea 1857)) is a small species that may grow up to 30 mm (1.2 in.) in shell length. The shells are round to oval in outline and sexually dimorphic, with a swollen posterior ridge in females. The periostracum is smooth, shiny, and yellow in color. Johnson (1978) included *Epioblasma othcaloogensis* in his synonymy of *Epioblasma penita*, and considered the southern acornshell to be an ecomorph of the latter. Stansbery (1983a) believed *Epioblasma othcaloogensis* was distinct, and belonged in a different subgenus. The southern acornshell is distinguished from the upland combshell and the southern combshell by its smaller size, round outline, a poorly developed sulcus, and its smooth, shiny, yellow periostracum. The Service recognizes *Unio othcaloogensis* Lea and *Unio modicellus* Lea as synonyms of *Epioblasma othcaloogensis*.

The southern acornshell was described from Othcalooga Creek, Gordon County, Georgia. Historically, the species occurred in the upper Coosa River system, including the Conasauga River, Cowan's Creek, and Othcalooga Creek. Collections from the Cahaba River above the fall line have also been reported. The present range of the southern acornshell appears to be restricted to streams in the Coosa River drainage in Alabama and Georgia. The most recent collections from this drainage were by Stansbery and Athearn in 1966–68 (Hurd 1974) and by Hurd (1974). However, he continued presence of the species in the Coosa River drainage has not been recently confirmed (Biggins, pers. comm., 1990; Williams, pers. comm., 1991; Pierson 1991). Several Cahaba River records exist in the literature and museum collections. The most recent of these was made by van der Schalie (1938), who collected two specimens from the Cahaba River at Lily Shoals in Bibb County which he tentatively identified as southern acornshells. Several specimen lots taken by Smith during the early 1990's from the Cahaba River tributary of Buck Creek, Shelby County, Alabama, are in the Florida Museum of Natural Science mollusk collection. Surveys of the Cahaba River drainage by Baldwin (1973) and Pierson (1991) have not relocated the species in that drainage.

The fine-lined pocketbook (*Lampsilis altilis* (Conrad 1834)) is a medium-sized mussel, suboval in shape, and rarely exceeds 100 mm (4 in.) in length. The ventral margin of the shell is angled posteriorly in females, resulting in a pointed posterior margin. The periostracum is yellow-brown to blackish and has fine rays on the posterior half. The nacre is white, becoming iridescent posteriorly. The fine-lined pocketbook can be distinguished from a similar species, the orange-nacre mucket (*Lampsilis perovalis*) by its more elongate shape, thinner shell, white nacre, pointed posterior, and ray ornamentation. The Service recognizes *Unio altilis* Conrad, *Unio clarkianus* Lea, and *Unio gerhardtii* Lea as synonyms of *Lampsilis altilis*.

The fine-lined pocketbook was described from the Alabama River near Claiborne, Monroe County, Alabama. This species was historically recorded from the Sipsey and Buttahatchee Rivers in the Tombigbee River drainage; Black Warrior River and tributaries (Sipsey Fork, Brushy and Capsey Creeks); Cahaba River and Tributaries (Little Cahaba and Buck Creeks); Alabama River and a secondary tributary, Tatum Creek; Chewacla and Opintlocco Creeks in the Tallapoosa River drainage; and the Coosa River and tributaries (Choccolocco and Talladega Creeks).

The current distribution of the fine-lined pocketbook appears to be limited to the headwaters of the Sipsey Fork of the Black Warrior River drainage; Tatum Creek in the Alabama River drainage; Little Cahaba River in the Cahaba River drainage; Conasauga River in the Coosa River drainage and one site in the main channel; and Chewacla and Opintlocco Creeks in the Tallapoosa drainage.

The species has not been reported from the Tombigbee River drainage since H.H. Smith's early 1900 collections from the Buttahatchee and Sipsey Rivers (Stansbery 1983b). Dodd *et al.* (1986) made collections of this species from the Black Warrior River tributaries Sipsey Fork, Brushy and Capsey Creeks in 1985. The species had not been reported from the Black Warrior River since the early 1900's. The species was not relocated during a 1990 survey of those streams by Service biologists (Hartfield 1991); however, Service and Forest Service biologists

recently encountered localized populations of the fine-lined pocketbook in the Sipsey Fork tributaries of Rush and Brushy Creeks (Butler *in litt.* 1992). Malcolm Pierson (Alabama Power Company, pers. comm., 1992) has also found the species at several locations in the Black Warrior River tributary North River. Baldwin's (1973) survey of the Cahaba River drainage reported the fine-lined pocketbook to be fairly abundant in the main channel and tributaries. Hanley (*in litt.* 1990) collected a single shell from the Cahaba River in 1979, and Watters (*in litt.* 1992) collected two living specimens in the Little Cahaba in 1986. Pierson (1991), however, did not encounter the species during his Cahaba River survey. The most recent Alabama River records of the species are the type collections in 1834. However, R. Hanley (*in litt.* 1990) collected two shells of the fine-lined pocketbook in 1981 from Tatum Creek, a tributary of Bogue Chitto Creek in the Alabama River drainage. Hurd (1974) recorded collections of the fine-lined pocketbook from 24 sites in the Coosa River drainage. Pierson's (1991) more recent survey of 15 sites in the Coosa River drainage found weathered dead shells in a short reach of the main channel below Jordan Dam, and fresh dead shells in a reach of the Conasauga River. Watters (*in litt.* 1992) collected live specimens from the Conasauga River in Tennessee in 1987, and fresh dead shells from the same locality in 1991. Pierson (1991) also found the species in Chewacla and Opintlocco Creeks in the Tallapoosa River drainage. Van der Schalie (1938), Baldwin (1973) and Williams (*in litt.* 1991) reported that the fine-lined pocketbook primarily inhabited small river and creek habitats. With the exception of Pierson's (1991) recent Coosa and Conasauga River records, this species may have been eliminated from most river habitat throughout its range. Currently, it appears to be restricted to creek habitat.

The orange-nacre mucket (*Lampsilis perovalis* (Conrad 1834)) is a medium-sized mussel, 50–90 mm (2–3.6 in.) in length. The shell is oval in shape, moderately thick, and inflated. The posterior margin of the shell of mature females is obliquely truncate. The nacre is usually rose colored, pink, or occasionally white. Its periostracum varies from yellow to dark reddish brown, and with or without green rays. Hurd (1974) included the orange-nacre mucket under *Lampsilis altilis*; however, he provided no justification for his synonymy. Stansbery (1983b) and Hanley (1983) have presented information that indicates both species deserve recognition. As noted previously, this species may be distinguished from the fine-lined pocketbook, *Lampsilis altilis*, by subtle shell characters, including shell shape and nacre color. When present, the rays are generally much wider in the orange-nacre mucket than they are in the fine-lined pocketbook. The Service recognizes the following names as synonyms of *Lampsilis perovalis*:

Unio perovalis Conrad
Unio doliaris Lea
Unio placitus Lea
Unio spillmani Lea

The orange-nacre mucket was described from the Alabama River near Clairborne, Monroe County, Alabama. It is historically known from Lubbub Creek, Buttahatchee, Sipsey and East Fork Tombigbee Rivers in the Tombigbee River drainage; Brushy Creek, Mulberry and Sipsey Forks in the Black Warrior River drainage; the Alabama River; and the Little Cahaba River in the Cahaba River drainage. The species continues to occur in the Buttahatchee River and in a short reach of the East Fork Tombigbee River (Hartfield and Jones 1989, 1990), the headwaters of the Sipsey Fork (Dodd *et al.* 1986) and in the Sipsey and Little Cahaba Rivers (Pierson 1991). A recent survey by Service biologists indicates the orange-nacre mucket may have been eliminated from the Mulberry Fork of the Black Warrior River (Hartfield 1991). The species has not been reported from the Alabama River since its description. Limited searches by Service biologists tend to confirm its absence from this river.

The Alabama moccasinshell (*Medionidus acutissimus* (Lea 1831)) is a small, delicate species, approximately 30 mm (1.2 in.) in length. The shell is narrowly elliptical, thin, with a well-developed, acute, posterior ridge terminating in an acute point on the posterior ventral margin. The posterior slope is finely corrugated. The periostracum is yellow to brownish yellow, with broken green rays across the entire surface of the shell. The thin nacre is translucent along the margins and salmon-colored in the umbos (beak cavity). The Alabama moccasinshell is distinguished from a similar species, the Coosa moccasinshell (*Medionidus parvulus*) by its acute posterior ridge, sharply pointed posterior apex, salmon colored nacre, and smaller size. The Service recognizes *Unio acutissimus* Lea and *Unio rubellinus* Lea as synonyms of *Medionidus acutissimus*.

The Alabama moccasinshell was described from the Alabama River, Alabama. Literature and collection records of the species are known from the Alabama River; Tombigbee River and tributaries (Luxapalila Creek, Buttahatchee and Sipsey Rivers); Black Warrior River and tributaries (Mulberry Fork, Brushy Creek); Cahaba River; and Coosa River and tributaries (Talladega, Choccolocco Creeks, Chatooga River). The species occurs in the Luxapalila Creek, Buttahatchee and Sipsey Rivers in the Tombigbee River drainage; the headwaters of the Sipsey Fork (Brushy Creek) in the Black Warrior River drainage; and the Conasuaga River. It has not been found in the Tombigbee River since construction of the Tennessee-Tombigbee Waterway. Dodd *et al.* (1986) collected the species from Brushy Creek, a Sipsey Fork tributary in the Black Warrior River drainage. The Alabama moccasinshell was collected in 1992 from the Brushy Creek and Rush Creek, another Sipsey Fork tributary (Butler, *in litt.* 1992). The last known collections in the Cahaba River drainage were in 1973 (Baldwin 1973). In 1974, Hurd (1974) collected only four lots from the Coosa River drainage. Service biologists collected a single specimen from the Conasauga River in 1990. Pierson (1991) did not find the species in the Coosa River drainage.

The Coosa moccasinshell (*Medionidus parvulus*) (Lea 1860)) is a small species occasionally exceeding 40 mm (1.6 in.) in length. The shell is thin and fragile, elongate and elliptical to rhomboidal in outline. The posterior ridge is inflated, smoothly rounded, terminating in a broadly rounded point; the posterior slope is finely corrugated. The periostracum is yellow-brown to dark brown and has fine green rays. The nacre is blue, occasionally with salmon-colored spots. As noted previously, the Coosa moccasinshell can be distinguished from the Alabama moccasinshell by its size, broadly rounded posterior ridge and apex, and nacre color. The Service recognizes *Unio parvulus* Lea as equivalent to *Medionidus parvulus*. The Coosa moccasinshell was described from the Coosa River, Alabama, and the Chatooga River, Georgia. The species has been collected from the Cahaba River; the Sipsey Fork of the Black Warrior River; and the Coosa River and tributaries (Choccolocco Creek, Chatooga, Conasauga and Little Rivers). In 1985, a Service biologist (J. Pulliam) collected a single specimen in the headwaters of the Sipsey Fork (Black Warrior River drainage). The most recent collection from the Little River is a single specimen taken by Hanley (*in litt.* 1990) in 1981. The existence of the Conasauga

River population has been confirmed by Pierson (1991) and a collection made by Service biologists in 1990. Watters (*in litt.* 1992) reports collecting live specimens from the Conasauga River in 1987 and 1991. Other Coosa River drainage records have not been recently confirmed. Mussel surveys in the Cahaba River by van der Schalie (1938), Baldwin (1973) and Pierson (1991) did not find the species.

The southern clubshell (*Pleurobema decisum* (Lea 1831)) is a medium-sized mussel about 70 mm (2.8 in.) long, with a thick shell, and heavy hinge plate and teeth. The shell outline is roughly rectangular, produced posteriorly with the umbos terminal with the anterior margin, or nearly so. The posterior ridge is moderately inflated and ends abruptly with little development of the posterior slope at the dorsum of the shell. The periostracum is yellow to yellow-brown with occasional green rays or spots on the umbo in young specimens. The southern clubshell is distinguished from a closely related species, the black clubshell (=Curtus' pearly mussel, *Pleurobema curtum*) by its elongate shape, lighter color, and the presence of a well-defined sulcus in the latter species. The Service recognizes the following names as synonyms of *Pleurobema decisum:*

Unio decisus Lea
Unio anaticulus Lea
Unio crebrivittatus Lea
Unio pallidovulvus Lea

The southern clubshell was described from the Alabama River, Alabama. Except for the Mobile Delta, this species was formerly known from every major stream system in the Mobile River basin. This includes the Alabama River and Bogue Chitto Creek; Tombigbee River and tributaries (Buttahatchee, East Fork Tombigbee, and Sipsey Rivers and Bull Mountain, Luxapalila, and Lubbub Creeks); Black Warrior River; Cahaba and Little Cahaba Rivers; two Tallapossa tributaries, Uphapee and Chewacla Creeks; and the Coosa River and tributaries (Oostanaula, Conasauga, Etowah, Chatooga, and Coosawattee Rivers and Kelly, Talladega and Shoal Creeks). Currently, the species is known in Bogue Chitto Creek in the Alabama River drainage; Buttahatchee, East Fork Tombigbee and Sipsey Rivers in the Tombigbee River drainage; and Chewacla Creek in the Tallapossa River drainage. The most recent Coosa River drainage records are -from the late 1960's and 1970's in the Conasauga River, and Shoal and Kelly Creeks. The most recent Cahaba River drainage records were Baldwin's (1973) collections in the Cahaba River. Pierson (1991) was unable to confirm the continued existence of the species in either the Coosa or Cahaba River drainages.

The dark pigtoe (*Pleurobema furvum* (Conrad 1834)) is a small- to medium-sized mussel, occasionally reaching 60 mm (2.4 in.) in length. The shell is oval in outline, and moderately inflated. Beaks are located in the anterior portion of the shell. The posterior ridge is abruptly rounded and terminates in a broadly rounded, subcentral, posterior point. The periostracum is dark, reddish brown with numerous and closely spaced, dark growth lines. The hinge plate is wide and the teeth are heavy and large, especially in older specimens. The nacre approaches white in the umbos, and is highly iridescent on the posterior margin. Specimens of the dark pigtoe are occasionally confused with the Warrior pigtoe, *Pleurobema rubellum* (Conrad 1834). This confusion can be attributed to a paucity of recent specimens of either species, and an incorrect association of the nomenclature with specimens. The Warrior pigtoe is a smaller species, suborbicular in outline, with the beaks more centrally located, and with pink or purplish nacre. The dark pigtoe may also be confused with old specimens of the southern pigtoe, *Pleurobema georgianum*. The latter is more elliptical in outline, is not as pointed posteriorly, and is more compressed than the dark pigtoe. Its hinge plate and teeth are smaller than those of the black pigtoe. The southern pigtoe has yellow to yellow-brown periostracum, and occasionally has broken green rays along the posterior slope and ridge. It has a white nacre. The Service recognizes *Unio furvus* Conrad as equivalent to *Pleurobema furvum.*

The dark pigtoe was described from the Black Warrior River, Alabama. The historic distribution of the dark pigtoe was probably restricted to the Black Warrior River above the fall line. Dodd *et al.* (1986) collected this species, misidentified as *Pleurobema rubellum* (Hartfield pers. obs., February 1990), from the headwaters of the Sipsey Fork in 1985. Shells from this population were collected by a Service biologist in 1990 (Hartfield 1991). Badly weathered specimens were also found in the Locust Fork of the Black Warrior River near the Jefferson-Blount County line. Butler (*in litt.* 1992) found two live specimens in the Sipsey Fork tributary Rush Creek in 1992. Fresh dead shells of the species have also been recently collected from the North River above Lake Tuscaloosa (Stuart McGregor, Geological Survey of Alabama, personal communication 1991; Pierson, personal communication 1992).

The southern pigtoe (*Pleurobema georgianum* (Lea 1841)) is a small- to medium-sized mussel occasionally exceeding 60 mm (2.4 in.) in length. The shell is elliptical to oval in outline and somewhat compressed. The posterior slope is smoothly rounded. The pseudocardinal teeth are small but well-developed, and the nacre is white. The periostracum is yellow to yellow-brown. Growth lines are numerous and may be dark brown. Small specimens may have green spots at the growth lines along the posterior ridge and near the umbo. As discussed for the previous species, older specimens of the southern pigtoe may be confused with the dark pigtoe, *Pleurobema furvum*. The Service recognizes *Unio georgianus* as equivalent to *Pleurobema georgiana.*

The southern pigtoe was described from the upper Coosa River drainage in Georgia. The historic distribution appears to have been restricted to the Coosa River drainage. Service biologists have examined museum records of this species from the Coosa River, Shoal Creek, and the Chatooga and Conasauga Rivers. The most recent records of the species include a single specimen taken by a Service biologist (Richard Biggins) from the Conasauga River in 1990; two live specimens in 1987, and a single fresh dead specimen in 1991 by Watters (*in litt.* 1992). Hurd (1974) reported collecting seven lots of southern pigtoes, and examined 35 museum lots from the Coosa River and its tributaries. However, Pierson (1991) did not encounter the species in the Coosa River drainage.

The ovate clubshell (*Pleurobema perovatum* (Conrad 1834)) is a small to medium-sized mussel that rarely exceeds 50 mm (2.0 in.) in length. The shell is oval to elliptical in shape, and has nearly terminal, inflated umbos. The posterior ridge is well-developed, broadly rounded, and often concave. The posterior slope is produced well beyond the posterior ridge. Periostracum color varies from yellow to dark brown, and occasionally has broad green rays that may cover most of the umbo and posterior ridge. The nacre is white. Due to the nearly terminal umbos in some specimens, ovate clubshells may be mistaken for young southern clubshells (*Pleurobema decisum*). They may be distinguished from the latter by their thinner shells, and a gently sloping, well developed posterior slope The Service recognizes the following names as synonyms of *Pleurobema perovatum:*

Unio perovatus Conrad

Unio nux Lea
Unio cinnamonicus Lea
Unio pinkstoni Wright
Unio concolor Lea
Unio flavidulus Lea
Unio johannis Lea

The ovate clubshell was described from small streams in Greene County, Alabama. The species occurred in the Tombigbee River and tributaries (Buttahatchee and Sipsey Rivers; Luxapalila, Coalfire and Lubbub Creeks); Black Warrior River and tributaries (Locust Fork; Village, Prairie, Big Prairie, Brushy and Blackwater Creeks); Alabama River; Cahaba River and the tributary Buck Creek; Chewacla, Uphapee and Opintlocco Creeks in the Tallapoosa drainage; and the Coosa River and tributaries (Conasauga and Etowah Rivers, and Holly Creek). Currently, the species is known from the Buttahatchee and Sipsey Rivers in the Tombigbee River drainage; Blackwater Creek and Locust Fork in the Black Warrior drainage; and Chewacla Creek in the Tallapoosa drainage (Dodd *et al.* 1986, Hartfield and Jones 1989, Pierson 1991). The most recent records from the Coosa drainage are two lots collected by Hurd (1974). The ovate clubshell was last collected in the Cahaba River in 1978 by Hanley (*in litt.* 1990). Pierson (1991) did not find the ovate clubshell in the Coosa River drainage or the Cahaba River drainage.

The triangular kidneyshell (*Ptychobranchus greeni* (Conrad 1834)) is oval to elliptical in outline, and may approach 100 mm (4.0 in.) in length. The shell is generally compressed, and may be flattened ventral to the umbos. The posterior ridge is broadly rounded and terminates in a broad round point post-ventrally. The pseudocardinal teeth are heavy, and the laterals are heavy, gently curved and short. The periostracum is straw-yellow in young specimens, but becomes yellow-brown in older ones. It may have fine and wavy, or wide and broken, green rays anterior to the posterior ridge. This species is morphologically variable and may be confused with some species in *Pleurobema*. Ecomorphs of this species are best identified by a process of elimination. The Service recognizes the following names as synonyms of *Ptychobranchus greeni:*

Unio greenii Conrad
Unio brumbleyanus Lea
Unio brumbyanus Lea
Unio foremanianus Lea
Unio woodwardius Lea
Unio woodwardianus Lea
Unio tenacrus Lea
Unioflavescens Lea
Unio simplex Lea

The triangular kidneyshell was described from the headwaters of the Black Warrior River, Alabama. The historic range includes the Black Warrior River and tributaries (Mulberry Fork, Locust Fork, North and Little Warrior Rivers, Brushy Creek, Sipsey Fork); Cahaba River; and the Coosa River and tributaries (Choccolocco Creek; Chatooga, Conasauga, and Etowah Rivers). The species is currently known from the headwaters of the Sipsey Fork and Little Warrior River in the Black Warrior River drainage (Dodd *et al.* 1986, Hartfield 1991); and in the Conasauga River in the Coosa drainage (Pierson 1991). The triangular kidneyshell was last collected from the Cahaba River in 1979 by Hanley (*in litt.* 1990). Recent surveys have failed to find other historically known populations (Hartfield 1991; Pierson 1991; J. Williams, pers. comm., 1991).

All of these mussels are usually found on stable gravel and sandy-gravel substrates in high quality lotic habitats. Little else is known of the habitat requirements of these species. Their life histories are presumed to follow that of other, better known, related species. Sexes in unionid mussels are usually separate. Males release sperm into the water column, which enter the incurrent siphons of females through normal respiratory and feeding activities. Eggs are held in the females gills' where they may come into contact with the sperm. Fertilized eggs develop into larva called glochidia. Mature glochidia are released into the water column and they must find and attach to the gills or fins of a suitable host fish species. Once attached, they metamorphose to a juvenile mussel. The duration of the parasitic stage varies with water temperature, mussel species, and perhaps host species. After metamorphosis, the juvenile mussels release from the host. To survive, they must drop onto a suitable substrate (Oesch 1984). Host species and duration of the parasitic stage are unknown for the mussel species in this rule.

The orange-nacre mussel (*Lampsilis perovalis*) was included as a category 2 species in the May 22, 1984, **Federal Register** (49 FR 21675). This species was again included as a category 2 species in the January 6, 1989, **Federal Register** (54 FR 578–579), along with the upland combshell (*Epioblasma metastriata*), southern combshell (*E. othcaloogensis*), and fine-lined pocketbook (*Lampsilis altilis*). Category 2 species are those for which there is some evidence of vulnerability, but for which there are not enough data to support listing proposals at the time the notice is published. There are no Service actions in the public record for any of the other species in this rule prior to publication of the proposed rule in the **Federal Register** (56 FR 58339) on November 19, 1991.

Summary of Comments and Recommendations

In the November 19, 1991, proposed rule (56 FR 58339) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in *The Clarion-Ledger*, Jackson, Mississippi, on December 6, 1991; the *Mobile Press Register*, Mobile, Alabama, on December 7, 1991; *The Atlanta Constitution*, Atlanta, Georgia, the *Commercial Dispatch*, Columbus, Mississippi, and the *Montgomery Advertiser*, Montgomery, Alabama, on December 8, 1991.

A total of eight letters were received during the comment period, and are covered in the following summary. The Mississippi Department of Wildlife, Fisheries and Parks expressed support for listing the four species with portions of their range in Mississippi and offered no position on the remaining species. The University of Georgia, Museum of Natural History indicated concurrence with the need for protection for the four species with portions of their range in Georgia, and offered no position on the others. One Federal agency commented but offered no positions on the listing. Letters of support for the listing were received from two individuals. One individual commented on taxonomy, range, and abundance of species as presented in the proposal without taking a position on the listing. A second letter was received from this commenter containing additional records for several of the species. A private organization raised an issue, but did not take a position on the proposal.

Comments of a similar nature or point have been grouped into a number of general issues. These issues and the Service's response to each are discussed below:

Issue 1: Listing may impact agricultural practices by prohibiting the use of certain agricultural chemicals in the range of these species, therefore, a takings analysis under Executive Order 12630 is required.

Response: The Service agrees that Executive Order 12630 may require preparation of Takings Implication Assessments (TIA) for some species

listings pursuant to the Act. However, since the Act precludes consideration of economic factors during listing decisions, consideration of takings implications will follow publication of this final rule.

Issue 2: Two commenters believe that critical habitat designation is required to protect the species.

Response: Changes in State regulations concerning the harvest of commercial mussels has diminished the threat of incidental take since publication of the proposed rule, and the Service now considers that designation of critical habitat may be prudent but is not now determinable. This issue is addressed under "Critical Habitat" in this rule.

Issue 3: Restoration and preservation plans should be developed for these species.

Response: Section 4(f) of the Act requires the Service to develop and implement plans for the conservation and survival of listed species. The Service's goal is to develop a recovery plan within 2½ years after a species is listed.

Issue 4: One commenter disagreed with the taxonomy and range of *Lampsilis altilis* and *Lampsilis perovalis* as discussed in the proposed rule. He considered these species allopatric, that is, there is no overlap of range; recognized at least one subspecies for each; and believed the type locality for *L. perovalis* in error. He also provided additional records for several of the species.

Response: The commenter provided no substantive evidence to support his taxonomic opinions. The Service has used the best available scientific data and conferred with recognized experts in its assessment of these species' taxonomy, range, and status. However, when a species is listed, any existing or subsequently described subspecies are also protected under the Act. Upon a request by the Service for additional information regarding his distribution records, this individual provided records from 1987 to live specimens of two *Lampsilis altilis*, two *Pleurobema georgianum*, and four *Medionidus parvulus* from the Conasauga River, Bradley County, Tennessee; records from 1991 of one fresh dead individual of each of those species taken from the same locality; and a record from 1986 of two live *Lampsilis altilis* from the Little Cahaba River, Bibb County, Alabama. These records support the range and distribution of these species as discussed in the rule (see Background, above).

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the 11 species in this rule should be added to the Federal List of Endangered and Threatened Wildlife. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the upland combshell (*Epioblasma metastriata*), southern acornshell (*Epioblasma othcaloogensis*), Coosa moccasinshell (*Medionidus parvulus*), southern clubshell (*Pleurobema decisum*), dark pigtoe (*Pleurobema furvum*), southern pigtoe (*Pleurobema georgianum*), ovate clubshell (*Pleurobema perovatum*), triangular kidneyshell (*Ptychobranchus greeni*), fine-lined pocketbook (*Lampsilis altilis*), orange-nacre mucket (*Lampsilis perovalis*), and Alabama moccasinshell (*Medionidus acutissimus*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Habitat modification, sedimentation, and water quality degradation represent the major threats to the 11 species discussed above. None of the species are known to tolerate impoundments. More than 1000 miles of large and small river habitat in the Mobile River drainage has been impounded for navigation, flood control, water supply, and/or hydroelectric production purposes. Impoundments adversely affect riverine mussels by: killing them during construction and dredging; suffocation by accumulating sediments; lowered food and oxygen availability by the reduction of water flow; and the local extirpation of host fish. Other forms of habitat modification such as channelization, channel clearing and de-snagging, and gravel mining result in stream bed scour and erosion, increased turbidity, reduction of groundwater levels, sedimentation, and changes in the aquatic community structure. Sedimentation may cause direct mortality by deposition and suffocation (Ellis 1936) and eliminate or reduce recruitment of juvenile mussels (Negus 1966). Suspended sediments can also interfere with feeding (Denis 1984). Activities that historically and currently cause sedimentation of streams and rivers in the drainages where these mussel species occur include: channel modification, agriculture, forestry, mining, and industrial and residential development.

Other types of water quality degradation from both point and non-point sources affect these mussel species. Stream discharge from these sources may result in decreased dissolved oxygen concentration, increased acidity and conductivity, and other changes in water chemistry which may impact mussels and/or their host fishes. Point sources of water quality degradation include municipal and industrial effluents, and coalbed methane produced water discharge. Non-point sources include runoff from cultivated fields, pastures, private wastewater effluents, agricultural feed-lots and poultry houses, active and abandoned coal mine sites, and highway and road drainage.

The orange-nacre mucket, Alabama moccasinshell, southern clubshell, and ovate clubshell have been found in the Tombigbee River and some of its tributaries (van der Schalie 1981; Hartfield and Jones 1989, 1990; U.S. Army Corps of Engineers 1975). Six lock and dams, constructed by the U.S. Army Corps of Engineers (COE) between Coffeeville, Alabama, and Aberdeen, Mississippi, have impounded the Tombigbee River. Almost 300 miles of free-flowing riverine habitat has been eliminated. The lower portions of the Sipsey, Buttahatchee, and East Fork Tombigbee Rivers have also been affected by these impoundments. The COE (1990) estimated that approximately 200 linear miles of streams had been channelized in the Tombigbee River basin by Federal agencies, and an additional 321 miles of future channel modifications were authorized.

The southern clubshell has been collected from Bull Mountain Creek in the upper Tombigbee River drainage (Pierson 1991). The canal section of the Tennessee-Tombigbee Waterway (Waterway) bisected Bull Mountain Creek, impounding and isolating a portion of the stream that provided habitat for this species.

The East Fork Tombigbee River provides habitat for the southern clubshell and orange-nacre mucket in a short reach between the confluence of Bull Mountain Creek and the Waterway's Lock B spillway (Hartfield and Jones 1989). Bull Mountain Creek flood flows have been redirected by the Waterway from the natural creek drainage at the upper end of this reach to the Lock B spillway at the lower end

This change in the hydrological regime will eventually result in the accumulation of finer sediments over the gravel substrates above the spillway that the mussels now occupy (COE 1988). Western tributaries draining into the East Fork Tombigbee River have been channelized, have degraded, and as a result, have contributed almost two million tons of sediment into the river annually (COE 1989). Sedimentation of the upper river has resulted in channel blockage in the near past. The COE currently conducts annual channel maintenance in the East Fork Tombigbee River above the mussel habitat. This maintenance project may contribute to siltation in that portion of the river that provides mussel habitat.

The Buttahatchee river provides habitat for the orange-nacre mucket, Alabama moccasinshell, southern clubshell and ovate clubshell (Hartfield) and Jones 1990). However, these species have been eliminated from the lower reach of the river (below U.S. Highway 45) by impoundment of the Tombigbee River and stream capture by gravel mines (Hartfield and Jones 1990). Above Highway 45, the mussels are affected by runoff from abandoned kaolin mines. These mines are estimated to deliver as much as 27,000 tons of fine sediments into the system per year (COE 1990). The COE has been authorized to do a 59 mile channel modification project in the Buttahatchee River (COE 1977) that would impact existing mussel habitat.

Luxapalila Creek provided habitat for the southern clubshell near its confluence with the Tombigbee River (Pierson 1991). This portion of the creek has been affected by impoundment of the Waterway. It has also been dredged and channeled for flood control. The Alabama moccasinshell has been collected from the middle reaches of the Luxapalila Creek in Mississippi (Hartfield, pers. obs., 1984), as has the southern clubshell, orange-nacre mucket, and the ovate clubshell (Jones, *in litt.*, 1992) The COE (1985) has been authorized and funded to do channel modification and desnagging for flood control in this portion of Luxapalila Creek. Upstream of the Alabama State line, the creek has been extensively channelized, has aggraded, and has sedimentation problems.

The lower half of Sipsey River in Tuscaloosa and Greene Counties, Alabama, provides habitat for the orange-nacre mucket, southern clubshell, and ovate clubshell (Pierson 1991). Historic populations of these species and the fine-lined pocketbook in the upper half of the drainage (van der Schalie 1981) have not been recently found (Hartfield, pers. obs.). The Alabama Department of Environmental Management (ADEM) has received permit applications for discharge of produced waters from coalbed methane wells into the Sipsey River. The effect of these discharges on mussel survival and reproduction is unknown. The COE (1977) has been authorized to modify 84.5 miles of Sipsey River channel. This action will impact existing mussel habitat.

The Black Warrior River basin provided habitat for the upland combshell, fine-lined pocketbook, orange-nacre mucket, Alabama moccasinshell, Coosa moccasinshell, southern clubshell, dark pigtoe, ovate clubshell and triangular kidneyshell (van der Schalie 1981, Hartfield 1991). Mussel surveys over the past 20 years suggest some of these species may be extirpated, and others have been severely restricted in distribution (Hartfield 1991). More than 170 miles of the main channel of the Black Warrior River, and portions of its lower tributaries, have been impounded by a series of four locks and dams. None of these species have been collected from the main channel of the Black Warrior River, or its coastal plain tributaries, for at least 20 years (Williams, pers. comm., 1990; Hartfield 1991). The effects of the upper-most structure, John Hollis Bankhead Lock and Dam, extend at least 20 miles into the lower Locust Fork and over 40 miles into the lower Mulberry Fork.

North River, a Black Warrior River tributary, provided habitat for the triangular kidneyshell (van der Schalie 1981). At least 30 miles of the North River was impounded in 1969 by the City of Tuscaloosa to create a municipal water supply. This impoundment, as well as point and non-point pollution, has apparently eliminated most riverine mussel species from the North River (Hartfield 1991). In 1992, however, fresh dead shells of the dark pigtoe were collected from a free-flowing portion of the river above Lake Tuscaloosa (Stuart McGregor, Geological Survey of Alabama, pers. comm., 1991).

Another tributary of the Black Warrior River, Sipsey Fork, was impounded by Alabama Power Company in 1961 for hydroelectric generation. This impoundment has affected over 60 miles of river and stream habitat. The Coosa and Alabama moccasinshells exist in a short reach of the unimpounded headwaters of the Sipsey Fork (Hartfield 1991). The fine-lined pocketbook, orange-nacre mucket, dark pigtoe, and triangular kidneyshell have recently been collected from the same portion of the Sipsey Fork, as well as from an unimpounded headwater reach of its tributary, Brushy Fork (Dodd *et al.* 1986, Hartfield 1991). Service and Forest Service biologists recently discovered live populations of the fine-lined pocketbook, dark pigtoe, and Alabama moccasinshell in another Sipsey Fork tributary, Rush Creek (Butler *in litt.*, 1992).

Additional smaller impoundments have also been constructed in the Black Warrior River drainage, and other major impoundments are planned. The Birmingham Water Works and Sewer Board is planning to construct a dam on the Locust Fork near the Blount-Jefferson County line that would impound about 3000 acres. Construction of this reservoir will likely impact the only location where the ovate clubshell and triangular kidneyshell have recently collected in the main channel of the Locust Fork (Dodd *et al.* 1986).

Pollution is a major problem in the Black Warrior River basin. Pollution sources are located throughout the area, but are particularly concentrated in and around the Birmingham-Jefferson County area. Organic pollution from poultry and cattle feedlot operations has been implicated in the decline of native mollusks of the free-flowing Mulberry and Locust Forks in Cullman and Blount Counties (Hartfield 1991). The upper Black Warrior River basin is underlaid by the Black Warrior and Plateau coal fields. Surface coal mines have had a significant impact on the aquatic resources of the basin. Acidification, increased mineralization, and sediment loading from surface mines has resulted in the local exclusion of fish species (Mettee *et al.* 1989b). The enforcement of recent, more stringent, mining regulations has reduced the impact of mines in compliance with the new regulations. However, past mining practices, mines that are not in compliance, and abandoned mines may still be contributing sediment and chemical pollution to the streams in this portion of the basin.

The Alabama River drainage provided historic habitat for the fine-lined pocketbook, orange-nacre mucket, Alabama moccasinshell, southern clubshell, and ovate clubshell (Conrad 1834; Lea 1831, 1860). Dredging of the Alabama River channel began in 1878 and has continued to the present. Locks and dams on this river were completed in the 1960's, impounding more than 200 miles of the main channel from Claibourne, Alabama, to the confluence of the Coosa and Tallapossa Rivers. Many Alabama River tributaries in the impounded portion of the drainage are affected in their lower reaches by backwater. Of the species listed above,

only the fine-lined pocketbook (Tatum Creek) and the southern clubshell (Bogue Chitto Creek) have been recently confirmed to continue to exist in the Alabama River drainage (Hanley, *in litt.*, 1990; Pierson 1991).

The upland combshell, southern combshell, fine-lined pocketbook, Alabama moccasinshell, Coosa moccasinshell, southern clubshell, southern pigtoe, ovate clubshell, and triangular kidneyshell were known from the Coosa River and tributaries (Hurd 1974). Recent records of these seven species in the Coosa River drainage are from the Conasauga River above Dalton, Georgia. Only one species, the fine-lined pocketbook mussel, has recently been collected in the Coosa River (Pierson 1991). Approximately 230 river miles of the Coosa River have been impounded for hydropower by a series of six dams. The Coosawattee River has been impounded in Murray and Gilmer Counties, Georgia, and a dam on the Etowah River in Bartow County, Georgia, has impounded a significant portion of that drainage.

Hurd (1974) noted the local extirpation of historically known mussel communities from several streams due to water quality degradation. These streams included the Conasauga River below Dalton, Georgia, the Chatooga River and Tallaseehatchee Creek. These waters were polluted by textile and carpet mill wastes. He also noted that the unionid fauna had been extirpated, perhaps because of organic pollution and siltation, from the Etowah River, Talladega and Swamp Creeks, and from many of the lower tributaries of the Coosa River.

None of the 11 species considered in this review are known to have been collected in the Tallapoosa River. However, three species (fine-lined pocketbook, southern clubshell, ovate clubshell) are known from the Uphapee Creek and its tributary, Chewacla Creek, in the Tallapoosa River drainage (Jenkinson 1973, Pierson 1991). Uphapee Creek populations of the southern clubshell and the ovate clubshell have not been recently confirmed. Sand and gravel mining operations along Uphapee Creek have caused an increase in siltation and shifting sand in the stream channel (Pierson 1991). All three species, however, have been recently collected in Chewacla Creek (Pierson 1991).

The upland combshell, southern acornshell, fine-lined pocketbook, orange-nacre mucket, Alabama moccasinshell, Coosa moccasinshell, southern clubshell, ovate clubshell and triangular kidneyshell were known from the Cahaba River system (van der Schalie 1938, Baldwin 1973). Of these nine species, the fine-lined pocketbook (Watters, *in litt.*, 1992) and the orange-nacre mucket (Pierson 1991) have been recently found in the drainage. The most recent records of the southern acornshell, ovate clubshell and the Coosa moccasinshell were made by van Schalie (1938). Van der Schalie also noted that the southern clubshell was the most abundant species of *Pleurobema* encountered in the Cahaba River drainage at that time. Baldwin (1973) reported an apparent decline in the numbers of southern clubshells in the Cahaba River since van der Schalie's earlier collections. In 1990, Pierson (1991) found only a few badly weathered and eroded southern clubshell shells from two locations in the Cahaba River drainage. Baldwin's (1973) collections of the upland combshell, Alabama moccasinshell and triangular kidneyshell are the most recent records of these species in the drainage.

Water quality degradation is a major problem in the Cahaba River basin (Pierson 1991). There are 10 municipal wastewater treatment plants, 35 surface mining areas, one coalbed methane operation and 67 other permitted discharges in the Cahaba River Basin (ADEM, *in litt.*, 1990). Water quality in the drainage is also affected by siltation from surface mining, road construction, and site preparation for drilling operations. No major impoundments have been constructed in the main channel of the Cahaba River. However, the lowermost reach of the river has been affected by the impoundment of the Alabama River, and one headwater channel, the Little Cahaba River, has been impounded as a water supply for the City of Birmingham. Current plans to enlarge this impoundment have the potential to alter low water flows in the upper river.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

These species may be dislodged from the substrate, or taken in routine commercial mussel harvest. Although a dramatic increase in the price of shell has caused an increase in the number of commercial shellers in Tennessee and Alabama, and pressure to open the waters of Mississippi and Georgia to commercial harvest, the small rivers and streams where these species occur have not traditionally supported a commercial mussel harvest. As these species become more uncommon, the interest of scientific and recreational collectors increases. Populations of the mussels considered in this rule are generally localized, exposed during low flow periods, and are vulnerable to take for fish bait, curiosity, or vandalism.

C. Disease or Predation

Diseases of freshwater mussels are virtually unknown. However, an unidentified disease may be implicated in a series of localized mussel dieoffs that occurred primarily in the Mississippi River basin during the past ten years. Juvenile and adult mussels are prey items for some invertebrate predators and parasites, and provide prey for a few vertebrate predators. Predation by native animals is a normal aspect of the population dynamics of a healthy mussel population. However, Neves and Odum (1989) have suggested that muskrat predation may jeopardize the recovery of some endangered mussels and might cause local extirpation of rare mussel species. Muskrat predation on mussels has been observed in all of the drainage where these 11 mussel species are found.

D. The Inadequacy of Existing Regulatory Mechanisms

None of these species are given any special consideration when project impacts are reviewed for compliance with existing State and Federal environmental laws and regulations. All the States where these species occur require scientific collecting permits. However, enforcement of these permit requirements is difficult.

E. Other Natural or Manmade Factors Affecting its Continued Existence

The ranges of these species have been fragmented by reservoirs, resulting in the isolation of populations within and among drainages. Isolation may also cause a decrease in genetic diversity and reduce the reproductive and recruitment potential. All extant populations of these species are susceptible to extirpation by a single catastrophic event, such as a chemical spill or major channel modification.

These endemic Mobile basin mussels would be adversely affected by the loss of the fish hosts essential to their parasitic glochidial stage. Although their fish hosts are unknown, the host is usually a specific component of the ecosystem where the mussel species is found. Impoundment, water quality degradation, and siltation have been identified as factors in the fragmentation, isolation and local extirpation of fish species in the Mobile River basin (Mettee *et al.* 1989a, 1989b; Boschung 1989; Pierson *et al.* 1989).

The rapid spread of the introduced asiatic clam, *Corbicula fluminea*, may impact the native bivalve mussels in the

Mobile River basin. This species may actively compete with native mussels for space and nutrients (Clarke 1988). Hurd (1974) was concerned that the introduction of the asiatic clam would disrupt the cyclical prey-predator balance between muskrats and native mussels. Prior to the introduction of the asiatic clam, muskrat predation on native mussels was probably naturally regulated by the migration of muskrats when the mussel populations declined. Hurd suggested the high reproductive and growth potential of asiatic clams might eliminate the need for muskrats to migrate when native mussel numbers decreased. Consequently, predation pressure would continue regardless of the abundance of native mussels. He was also concerned that large numbers of asiatic clams would allow the muskrat population to expand, thus increasing predatory pressure on native mussels. Recently, it has been noted that in many drainages the only shells found in muskrat middens are asiatic clams (Hartfield 1991, Pierson 1991).

Another highly competitive exotic species, the zebra mussel, *Dreissena polymorpha*, may also pose a threat to several of these species. The zebra mussel has been rapidly expanding its range, and has recently been discovered in the Tennessee River at Savannah, Tennessee (Williams, pers. comm., 1992). It is highly likely this species will invade the Mobile River drainage via the Tennessee-Tombigbee Waterway. The East Fork Tombigbee River provides a refugium for the Tombigbee River mussel fauna, including the southern clubshell and orange-nacre mucket. This stream receives flow augmentation from the Tennessee-Tombigbee Waterway. Barge traffic also has the potential to introduce the zebra mussel into the Black Warrior and Alabama Rivers.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these 11 species of freshwater mussels in making this determination. Based on this evaluation, the preferred action is to list the upland combshell (*Epioblasma metastriata*), southern combshell (*Epioblasma othcaloogensis*), Coosa moccasinshell (*Medionidus parvulus*), southern clubshell (*Pleurobema decisum*), dark pigtoe (*Pleurobema furvum*), southern pigtoe (*Pleurobema georgianum*), ovate clubshell (*Pleurobema perovatum*), and triangular kidneyshell (*Ptychobranchus greeni*) as endangered. It is also the preferred action to list the fine-lined pocketbook (*Lampsilis altilis*), orange-nacre mucket (*Lampsilis perovalis*), and the Alabama moccasinshell (*Medionidus acutissimus*) as threatened. Endangered status is appropriate for eight of these species because of the loss of habitat to impoundment, channelization and water quality degradation, and the increased vulnerability to take. The currently known populations of these species are fragmented, isolated, and threatened by channel modification projects and water quality degradation. The remaining three species are confronted with similar threats, but are more widely distributed throughout their historical range making threatened status more appropriate. Critical habitat is not being designated at this time as discussed below.

Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas containing the physical and biological features essential to the conservation of the species and which may require special management considerations or protection. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary. Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is proposed to be endangered or threatened. Service regulations (50 CFR 424.12(a)(2)) state that critical habitat is not determinable if information sufficient to perform required analysis of the impacts of the designation is lacking or if the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. Section 4(b)(2) of the Act requires the Service to consider economic and other relevant impacts of designating a particular area as critical habitat on the basis of the best scientific data available. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of its inclusion, unless to do so would result in the extinction of the species.

In the proposed rule, the designation of critical habitat was considered to be not prudent for any of these 11 mussel species due to the threat of incidental take, particularly during harvest of commercial mussel species. Commercial harvest pressure had been increasing due to high shell prices and increased competition.

Since publication of the proposal to list these species, the threat of take incidental to commercial harvest has diminished. The State of Alabama has implemented regulation changes that close areas to commercial harvest where these 11 species are known to occur. Portions of the species' ranges in the States of Mississippi, Georgia and Tennessee are also closed to commercial harvest. All States where these species occur require scientific collecting permits, and are under cooperative agreement with the Service to manage and protect federally listed species. Consideration of these developments has resulted in a finding that designation of critical habitat may be prudent, but is not now determinable.

Section 4(b)(6)(C) of the Act provides that a concurrent critical habitat determination is not required and that the final critical habitat designation may be postponed for 1 additional year beyond the period specified in section 4(b)(6)(A), if the Service finds that a prompt determination of endangered or threatened status is essential to the conservation of the species. The Service believes that a prompt determination of endangered status for the upland combshell, southern combshell, Coosa moccasinshell, southern clubshell, dark pigtoe, southern pigtoe, ovate clubshell, triangular kidneyshell, and threatened status for the fine-lined pocketbook, orange-nacre mucket, and Alabama moccasinshell, is essential to their conservation. Listing these species will provide immediate protection while also allowing the Service additional time to evaluate critical habitat needs. The Service is attempting to identify occupied and potential habitat and to ascertain the biological needs of these 11 mussels. Once maps of occupied and potential habitat have been prepared and a recovery plan developed, the Service will make a decision on designation of critical habitat and assess whether designation of critical habitat is prudent. In assessing critical habitat, the Service will consider the mussels' biological requirements such as host fish, substrate stability, water quality, and instream flow needs that are essential to the conservation of the mussels and that may require special management considerations or protection. Adequate protection of these species' habitat will be provided during the interim through the recovery process, the section 7 consultation process, and section 9 prohibitions on take.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal,

State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal involvement is expected to include the Environmental Protection Agency through the Clean Water Act's provisions for pesticide registration and waste management actions. The Corps of Engineers will consider these species in project planning and operation and during the permit review process. The Federal Highway Administration will consider impacts of federally funded bridge and road construction when known habitat may be impacted. Continuing urban development within the drainage basins may involve the Farmers Home Administration and their loan programs. The Soil Conservation Service will consider the species during project planning and under their farmer's assistance programs.

The Act and implementing regulations found at 50 CFR 17.21 for endangered species, and 17.21 and 17.31 for threatened species set forth a series of general prohibitions and exceptions that apply to all endangered or threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered or threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23 and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. Since these species are not in trade, no permit requests are expected.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Complex Field Supervisor (see **ADDRESSES** section).

Author

The primary author of this rule is Paul Hartfield (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "CLAMS", to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
•	•	•	•	•	•	•	
Acornshell, southern .	*Epioblasma othcaloogensis.*	U.S.A. (AL, TN, GA)	NA	E	495	NA	NA
•	•	•	•	•	•	•	
Clubshell, ovate	*Pleurobema perovatum.*	U.S.A. (AL, GA, MS, TN).	NA	E	495	NA	NA
•	•	•	•	•	•	•	
Clubshell, southern ...	*Pleurobema decisum*	U.S.A. (AL, GA, MS, TN).	NA	E	495	NA	NA
•	•	•	•	•	•	•	
Combshell, upland	*Epioblasma metastriata.*	U.S.A. (AL, GA, TN)	NA	E	495	NA	NA

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
•	•	•	•	•	•	•	•
Kidneyshell, triangular.	*Ptychobranchus greeni.*	U.S.A. (AL, GA, TN)	NA	E	495	NA	NA
•	•	•	•	•	•	•	•
Moccasinshell, Alabama.	*Medionidus acutissimus.*	U.S.A. (AL, GA, MS)	NA	T	495	NA	NA
•	•	•	•	•	•	•	•
Moccasinshell, Coosa	*Medionidus parvulus*	U.S.A. (AL, GA, TN)	NA	E	495	NA	NA
•	•	•	•	•	•	•	•
Mucket, orange-nacre	*Lampsilis perovalis* ..	U.S.A. (AL, MS)	NA	T	495	NA	NA
•	•	•	•	•	•	•	•
Pigtoe, dark	*Pleurobema furvum* .	U.S.A. (AL)	NA	E	495	NA	NA
•	•	•	•	•	•	•	•
Pigtoe, southern	*Pleurobema georgianum.*	U.S.A. (AL, GA, TN)	NA	E	495	NA	NA
•	•	•	•	•	•	•	•
Pocketbook, fine-lined.	*Lampsilis altilis*	U.S.A. (AL, GA)	NA	T	495	NA	NA
•	•	•	•	•	•	•	•

Dated: March 1, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–6162 Filed 3–16–93; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 920789–3017]

RIN 0648 AE27

Atlantic Surf Clam and Ocean Quahog Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend the regulations implementing the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP). This rule will: (1) Require vessel owners or operators to notify NMFS prior to departure and provide information including vessel name, vessel permit number, date and time of departure, species targeted, and date and time of expected landing; (2) add a provision that all surf clams or ocean quahogs landed under the notification requirements specified above would be deemed to be landed from the exclusive economic zone (EEZ); (3) make it illegal to fish for, retain, or land surf clams and ocean quahogs on the same trip; (4) make it illegal to fish for, retain, or land surf clams on a trip designated by a vessel operator as being an ocean quahog fishing trip or ocean quahogs on a designated surf clam fishing trip; and (5) require that any owner or operator who discontinues a fishing trip in the EEZ must return to port and offload any catch of surf clams or ocean quahogs harvested in the EEZ prior to commencing fishing operations in the waters under the jurisdiction of any state. The intended effect of this rule is to enhance enforcement, provide more accurate tracking of individual quotas, and allow for adequate monitoring of the fishery.

EFFECTIVE DATE: April 15, 1993.

ADDRESSES: Copies of the Regulatory Impact Review and Environmental Assessment for Amendment 8 may be obtained from John C. Bryson, Mid-Atlantic Fishery Management Council, room 2115 Federal Building, 300 South New Street, Dover, DE 19901–6790.

Comments regarding the burden-hour estimates or any other aspect of the collection-of-information requirements contained in this final rule should be sent to the Northeast Regional Director, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930, and the Office of Management and Budget (Attention NOAA Desk Officer), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Myles A. Raizin, Resource Policy Analyst, (508–281–9104).

SUPPLEMENTARY INFORMATION: A final rule implementing Amendment 8 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fishery was published on June 14, 1990 (55 FR 24184), with the regulations becoming fully effective on September 30, 1990. Existing § 652.9(a) allows the Regional Director, by publication of a notice in the **Federal Register**, to specify notification requirements that vessel owners or operators would have to comply with prior to departure from port or return from a fishing trip for surf clams or ocean quahogs. A proposed rule to implement these notification requirements was published in the **Federal Register** on October 27, 1992 (57 FR 48589). The comment period ended November 25, 1992.

This rule requires vessel owners or operators to provide the following information accurately to the Office of Law Enforcement nearest the point of offloading prior to the departure of their vessel from the dock to fish for surf clams or ocean quahogs in the EEZ:

(1) The name of the vessel;

(2) The NMFS permit number assigned to the vessel;

(3) The expected date and time of departure from port;

(4) Whether the trip will be directed on surf clams or ocean quahogs;

(5) The expected date, time and location of landing; and

(6) The name of the individual providing notice.

NMFS will monitor enforcement efforts under the notification requirements for a 1-year period following publication of the final rule to determine its effectiveness. At that time, the Regional Director, in consultation with the Council, will decide whether to withdraw, amend, or continue the notification requirement.

Changes From the Proposed Rule to the Final Rule

This rule adds some language to clarify the intent of the notification requirements with respect to cancelled or discontinued fishing trips in §§ 652.8(c)(22) and (652.9(d). Similar language appeared in the preamble to the proposed rule but is more appropriately cast in the final rule as a regulatory provision. Thus, if it becomes necessary to cancel, postpone, or discontinue a trip due to bad weather, mechanical breakdown, or other circumstance, the vessel owner or operator must immediately contact the Office of Law Enforcement to which the original notification was provided. If a trip in the EEZ is discontinued, the vessel owner or operator must offload any EEZ harvested surf clams or ocean guahogs prior to commencing fishing operations in State waters. This provision will enable the vessel owners or operators to harvest surf clams or ocean quahogs from State waters without having them be counted against their Federal allocation by operation of § 652.9(c).

In § 652.8, existing paragraph (c)(20) was redesignated as paragraph (c)(22) in the proposed rule, but is now redesignated as paragraph (c)(23) in this final rule, and new paragraph (c)(22) is added in the final rule.

In § 652.9, paragraph (b) in the proposed rule is paragraph (c) in this final rule and new paragraphs (b) and (d) are added to this final rule.

Comments and Responses

Eight sets of comments were received during the public comment period. All commenters were opposed to the proposed notification requirements.

Comment: There is no protection from false or malicious reporting.

Response: NMFS realizes that false or malicious reporting is a potential weakness of an any reporting system. However, NMFS' experience with the reporting system in place under the moratorium that preceded the implementation of Amendment 8 leads to the conclusion that such a possibility is extremely remote. In administering the reporting system for allowable days at sea and the bad weather make-up day for over a decade, there was not one instance in which false or malicious reporting was encountered. The considerable experience that NMFS enforcement agents have with administering a vessel notification system coupled with the small number of vessels in the fishery should enable them to discern instances of false or malicious reporting. If false or malicious reporting is discovered, those involved will be prosecuted to the extent permitted by law.

Comment: There is no need for notification requirements during the months that the New Jersey inshore fishery is closed.

Response: NMFS recognizes that these notification requirements will have the greatest impact in New Jersey where surf clams caught in the EEZ have been landed using State of New Jersey tags. However, there are a number of other inshore fisheries that may be claimed by unscrupulous operators to mask fishing operations in the EEZ. If law enforcement agents are unable to ascertain on a real time basis when vessels are fishing and the ports at which they will be landing, their ability to enforce the individual transferable quota management regime will be seriously compromised. These requirements will aid enforcement in its investigation of vessels that may be in violation of the regulations put forth in 50 CFR part 652. NMFS enforcement agents have testified that surveillance activities at processing plants and docks are the most productive form of enforcement activity. Attempts to use random surveillance have kept agents occupied for hours and have proven to be economically inefficient. By having prior knowledge as to where landings may occur, enforcement agents will use their limited resources in the most efficient manner.

Comment: This action will lead to a duplication of reporting effort since logbook reporting is mandatory in the fishery.

Response: The intent of this rule is to give enforcement agents prior knowledge of fishing activities to enhance surveillance operations. The data reported via these notification requirements are immediately accessible, whereas logbook data may take several days to be entered into the logbook system. Thus, logbook data is inappropriate to serve the needs of law enforcement.

Comment: Two minutes is an unrealistic reporting time.

Response: This collection of information required modification of existing collections under OMB #0648–0202 to reflect the reporting burden (2 minutes per response). A request to collect this information has been approved by the Office of Management and Budget. A phone call to provide the necessary information should not take longer than 2 minutes.

Comment: NMFS ignored the Industry Panel's compromise position, which was approved by the Council.

Response: In January 1992, upon urging of the industry, NMFS withdrew a notice imposing notification requirements for this fishery. At that time, the industry's sole complaint was that the 24-hour notice before departure provision was unfair. The Regional Director listened to arguments, both pro and con, regarding these notification requirements at two Council meetings where the Industry Panel and NMFS enforcement agents were present. In addition, NMFS has accepted public comment on the proposed rule to implement these requirements. Based on this record and the importance of maintaining the integrity of the individual transferable allocation scheme, the Regional Director concluded that it was more prudent than not to implement the current notification requirements.

Comment: With new $100,000.00 limits on fines and a proposal to allow the sanctioning of individual transferable allocations, the penalties may be major for a minor violation.

Response: NMFS General Counsel assesses penalties for violations based on several factors. Minor and unintentional violations of notification requirements will not carry the maximum fine. Sanctions of allocation for certain violations have been discussed, but the Office of General Counsel has made no determinations on this matter. The imposition of the maximum penalty occurs only in the instance of an offense committed successively or in the case of an egregious resource violation. Intentional violations of the notification requirements will be and should be treated more severely.

Comment: The notification requirements remove the flexibility of processors to schedule trips quickly and create a safety hazard for crews.

Response: This comment was justified with respect to the previous notifications requirement that required 24-hour notice of departure. This requirement was withdrawn. Since vessels may now call anytime before departure on days they decide to fish, notification requirements do not cause scheduling and safety problems.

Comment: One commenter argued that these requirements would affect his

operation since he fishes in several areas and lands product in both Massachusetts and New Jersey ports depending upon market price.

Response: NMFS agrees that this commenter's operations may be inconvenienced by the implementation of notification requirements. However, this individual's method of operation is an exception to the general operations of vessels participating in this fishery. It is still possible to operate efficiently within the constraints of the notification requirements.

Comment: One commenter complained that there are only two inspectors to cover a large area in Wickford, Rhode Island; therefore, most of the call-ins will be to an answering machine.

Response: NMFS enforcement agents at each location will be responsible for administering their notification programs. If answering machines are the most efficient method to gather this information, then they may be used to facilitate the program. Providing the information required to a law enforcement answering machine fully complies with the regulation.

Comment: These notification requirements do not allow vessels to react in a timely manner to changes in the weather that may force them to fish inshore after calling in an EEZ trip. One commenter described a situation where a vessel could steam northeast from Atlantic City for 50 miles, encounter bad weather and be forced to return to port instead of steaming due west to a closer inshore bed. The vessel will lose 7 hours of fishing time at a cost of $5,600 per trip. Two or three hundred trips will be affected each year.

Response: NMFS recognizes that situations will arise where the call-in provision may be burdensome. However, these situations are the exception rather than the norm. NOAA weather forecasts are highly reliable, and in times of uncertainty, most vessel operators would not risk fishing far offshore. NMFS believes that the number of trips affected will not be substantial. In any event, the regulations do not require a vessel owner or operator to return to the same port from which the vessel departed. If a fishing trip is discontinued, a vessel could return to a port nearer the inshore fishing grounds, provided proper notification is provided to the Office of Law Enforcement to which the original notification was provided.

Classification

The Regional Director has determined that this rule is necessary for the conservation and management of the surf clam and ocean quahog fishery and is consistent with the Magnuson Fisheries Conservation and Management Act and other applicable law.

The Regional Director has determined that this rule is consistent with the FMP.

The Assistant Administrator for Fisheries, NOAA, has determined that this rule, which would revise the language in the regulations implementing the FMP, as amended, does not alter the scope or intent of the FMP or the conclusions arrived at in the regulatory impact review (RIR), and regulatory flexibility analysis (RFA) for Amendment 8 to the FMP, or its implementing regulations. Therefore, this rule is consistent with E.O. 12291 and the Regulatory Flexibility Act.

This action is categorically excluded by NOAA Directive 02–10 from the requirement to prepare an environmental assessment (EA). The action does not alter or affect the human environment and is taken to enhance programmatic functions associated with the FMP, as amended; specifically, the functions of enforcement of the regulations and monitoring of the individual quotas.

Copies of the RIR, EA, and RFA for Amendment 8 may be obtained from the Mid-Atlantic Fishery Management Council (see **ADDRESSES**).

The notification requirement is a new collection-of-information subject to the Paperwork Reduction Act. The collection of this information required modification of existing collections under OMB #0648–0202 to reflect the reporting burden (2 minutes per response). The Office of Management and Budget has approved the request to collect this information. Send any comments regarding this burden hour estimate and any other aspect of this collection-of-information requirement to Richard B. Roe, Northeast Regional Director, NMFS, and to the Office of Management and Budget (Attention: NOAA Desk Officer) (see **ADDRESSES**).

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

The Regional Director determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management programs of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and North Carolina. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. Massachusetts, Delaware, Rhode Island, New Hampshire, and New York agreed with the determination. None of the other states commented within the statutory time period, and, therefore, consistency is automatically inferred.

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements

Dated: March 10, 1993

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 652 is amended as follows:

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

1. The authority citation for part 652 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 652.8, existing paragraph (c)(19) is revised, existing paragraph (c)(20) is redesignated as paragraph (c)(23), and new paragraphs (c)(20), (c)(21) and (c)(22) are added to read as follows:

§ 652.8 Prohibitions.

* * * * *

(c) * * *

(19) Fish for surf clams or ocean quahogs in the EEZ without giving prior notification or fail to comply with any of the notification requirements specified in § 652.9;

(20) Fish for, retain, or land surf clams and ocean quahogs in or from the EEZ on the same trip;

(21) Fish for, retain, or land ocean quahogs in or from the EEZ on a trip designated as a surf clam fishing trip under § 652.9(a)(4), or fish for, retain, or land surf clams in or from the EEZ on a trip designated as an ocean quahog fishing trip under § 652.9(a)(4); or

(22) Fail to offload any surf clams or ocean quahogs harvested in the EEZ from a trip discontinued pursuant to § 652.9 prior to commencing fishing operations in waters under the jurisdiction of any State.

* * * * *

3. In § 652.9, existing paragraph (a) is revised, existing paragraphs (b) and (c) are redesignated as paragraphs (e) and (f), and new paragraphs (b), (c), and (d) are added to read as follows:

§ 652.9 Facilitation of enforcement.

(a) *Notification requirements.* Vessel owners or operators are required to provide the following information accurately prior to the departure of their vessel from the dock to fish for surf clams or ocean quahogs in the EEZ:

(1) The name of the vessel;
(2) The NMFS permit number assigned to the vessel;
(3) The expected date and time of departure from port;
(4) Whether the trip will be directed on surf clams or ocean quahogs;
(5) The expected date, time and location of landing; and
(6) The name of the individual providing notice.

(b) Vessel owners or operators are required to call the Office of Law Enforcement nearest to the point of offloading at the following locations to provide the information required above:

Rockland, ME—(207) 594–7742
Otis AFB, MA—(508) 563–5721
Wakefield, RI—(401) 789–8022
Brielle, NJ—(908) 528–3315
Marmora, NJ—(609) 390–8303
Salisbury, MD—(301) 749–3545
Newport News, VA—(804) 441–6760

(c) All landings of surf clams or ocean quahogs from a trip for which notification was provided under this section are deemed to have been harvested in the EEZ and will count against the annual individual allocation.

(d) Owners or operators that have given notification of a fishing trip under this section who decide to cancel or postpone the trip prior to departure must immediately provide notice of cancellation by telephone to the Office of Law Enforcement to which the original notification was provided. A separate notification shall be provided for the next fishing trip. Owners or operators that discontinue a fishing trip in the EEZ must immediately provide notice of discontinuance by telephone to the Office of Law Enforcement to which the original notification was provided. The owner or operator providing notice of discontinuance shall advise of any changes in landing time or port of landing. The owner or operator discontinuing a fishing trip in the EEZ must return to port and offload any surf clams or ocean quahogs prior to commencing fishing operations in the waters under the jurisdiction of any state.

* * * * *

[FR Doc. 93–6039 Filed 3–16–93; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 58, No. 50
Wednesday, March 17, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1098

[Docket No. AO–184–A55; DA–93–03]

Milk in the Nashville, Tennessee Marketing Area; Extension of Time for Conducting Referendum on Proposed Amended Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for conducting referendum on proposed rule.

SUMMARY: This document extends the time for conducting the referendum on a proposed amended milk order for the Nashville, Tennessee, marketing area. Many independent dairy farmers who market their milk under the order requested the additional time to return ballots.

DATES: The referendum period is extended to March 25, 1993.

ADDRESSES: Ballots should be sent to the referendum agent, Arnold M. Stallings, Market Administrator, P.O. Box 18030, Louisville, Kentucky 40261–0030.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–4829.

SUPPLEMENTARY INFORMATION: Prior documents in the proceeding:

Advance Notice of Proposed Rulemaking: Issued March 29, 1990; published April 3, 1990 (55 FR 12369).

Notice of Hearing: Issued July 11, 1990; published July 17, 1990 (55 FR 29034).

Recommended Decision: Issued November 6, 1991; published November 22, 1991 (56 FR 58972).

Final Decision: Issued February 5, 1993.

Notice is hereby given that the time for completing the referendum on the proposed amended Nashville, Tennessee, milk order is extended two weeks from the date of issuance of this notice. The proposed amended order was included in the Final Decision document issued February 5, 1993. A referendum order was included in that document and it afforded 30 days to complete the referendum.

This notice is issued pursuant to the provision of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

List of Subjects in 7 CFR Part 1098

Milk marketing orders.

The authority citation for 7 CFR part 1098 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Dated: March 11, 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–6050 Filed 3–16–93; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150—AE31

Specific Licensing of Exports of Certain Alpha-Emitting Radionuclides and Byproduct Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its general licenses for the export of special nuclear material, source material, and byproduct material. The amendments are necessary to conform the export controls of the United States to international export control guidelines and treaty obligations. The NRC also is proposing that appendix A to part 110 be restructured for clarification and to emphasize the distinction between nuclear reactor equipment controlled by the NRC and the Department of Commerce.

DATES: Comment period expires April 16, 1993. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, 20852 between 7:45 am and 4:15 pm Federal workdays.

Copies of comments received may be examined at: the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Elaine O. Hemby, Office of International Programs, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–2341, or Joanna M. Becker, Office of the General Counsel, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–1740.

SUPPLEMENTARY INFORMATION:

Introduction

The Nuclear Regulatory Commission (NRC) is proposing to amend its export licensing regulations to conform with the export control guidelines of the international Nuclear Suppliers Group (NSG), the International Atomic Energy List of the Coordinating Committee for Multilateral Export Controls (COCOM), and a treaty obligation between the United States and Canada. The NRC would amend its general licenses for the export of dispersed tritium, bulk tritium, americium-242m, californium-249, californium-251, curium-245, curium-247, and the following alpha-emitting radionuclides: special nuclear material—plutonium-238; source material—thorium-227, thorium-228, uranium-232; and byproduct material—actinium-225, actinium-227, californium-248, californium 250, californium-252, curium-242, curium-243, curium-244, polonium-208, polonium-209, polonium-210, radium-223, including compounds and mixtures containing these radionuclides with a total alpha activity of 1 curie per kilogram or greater. The alpha-emitting radionuclides when contained in devices in quantities of less than 100 millicuries of alpha activity per device would continue to be generally licensed for export. Export of the alpha-emitting

radionuclides to member states of the NSG would continue to be generally licensed, but export to other countries would require a specific license. Each exporter covered by these regulations would have to meet the new requirements, as well as existing regulations.

The NRC also proposes revision of appendix A to part 110, which covers the nuclear reactor equipment under the NRC export licensing authority. The proposed revision would aid exporters and U.S. agencies regulating exports in determining the reactor equipment under the NRC jurisdiction.

The following is a summary of the proposed changes and the reasons for the changes:

(1) In the spring of 1992, the international Nuclear Suppliers Group (NSG), in which the United States participates, established common export control guidelines applicable to nuclear-related, dual-use commodities to prevent the proliferation of nuclear weapons. The NRC has licensing authority over two items on the NSG control list, alpha-emitting radionuclides and tritium. The remaining items are subject to the licensing controls of the Department of Commerce and are contained on a list referred to as the Nuclear Referral List. The proposed rule would conform U.S. controls for exports of alpha-emitting radionuclides and tritium to the NSG control list.

To reduce additional requirements imposed on U.S. exporters resulting from the general license revisions, the NRC proposes new general licenses to permit (1) exports of small quantities of alpha-emitting radionuclides to most countries, (2) exports of any quantity of alpha-emitting radionuclides to the member states of the NSG, and (3) exports of dispersed tritium when contained in a product or device in quantities of not more than 40 curies of tritium to the member states of the NSG. The following changes are proposed:

In § 110.21, which describes the general licenses for the export of special nuclear material, paragraphs (a)(3) and (b)(1) would be revised to remove plutonium-238 and new paragraphs would be added for the export of plutonium-238 under general license when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

In § 110.22, which describes the general licenses for the export of source material, paragraphs (a)(1), (a)(2), (b), and (c) would be revised to remove uranium-232, thorium-227, and thorium-228 and new paragraphs would be added for the export of uranium-232, thorium-227, and thorium-228 under general license when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

In § 110.23, which describes the general licenses for the export of byproduct material, paragraph (a)(1) would be revised to add actinium-225, actinium-227, californium-248, californium-250, californium-252, curium-242, curium-243, curium-244, polonium-208, polonium-209, and radium-223 to the list of byproduct material which may not be exported under general license except as authorized in that section. The general license for polonium-210, an alpha-emitting radionuclide, would be revised to clarify that polonium-210 when contained in static eliminators may not exceed 100 millicuries per device or a total of 100 curies per individual shipment. The general license in paragraph (c) covering the export of bulk tritium would be removed. A new general license would be added as paragraph (c) for the export of tritium in dispersed form to NSG member states, not to exceed 40 curies per item. The general license for tritium in luminescent safety devices installed in aircraft would be changed to specify a limit of 40 curies per light source for this purpose. Some changes would be made of an editorial nature to the general licenses for americium-241, neptunium-237, and tritium in dispersed form to present the provisions in a clear manner.

A new § 110.30 to subpart C would be established that is comprised of the member states of the NSG. The NSG member countries would continue to be eligible recipients under the general licenses for alpha-emitting radionuclides in any quantity and for dispersed tritium when contained in a product or device in quantities of not more than 40 curies of tritium.

(2) Because a new § 110.30 would be added, some changes would be required in other sections of part 110. Sections 110.30 and 110.31 would be redesignated as § 110.31 and § 110.32, and the references to §§ 110.30 and 110.31 in § 110.7 would be changed to § 110.31 and § 110.32 to be consistent, as would the reference to § 110.31 in § 110.30. In § 110.20, the references in paragraphs (a) and (f) to general license sections would be revised to add § 110.30.

(3) Section 110.22(b) would be revised further to reduce the total quantity of Canadian-origin natural uranium which can be exported under general license to any one country from 1,000 kilograms to 500 kilograms per year. The reduced quantity would provide assurances against inadvertent violation of the U.S.-Canada Agreement for Cooperation.

(4) Section 110.23(a)(1) would be amended to conform the NRC's export regulations with the export guidelines of the Coordinating Committee for Multilateral Export Controls (COCOM), in which the United States participates. The amendment would add americium-242m, californium-249, californium-251, curium-245 and curium-247 to the list of byproduct material which may not be exported under general license except as authorized in that section.

(5) Appendix A to part 110 would be amended to clarify the nuclear reactor equipment subject to the NRC licensing authority. Paragraphs (8) and (9) would be redesignated as paragraphs (9) and (10), and a new paragraph (8) would be added to cover "reactor control rods", as specific nuclear reactor equipment under the licensing authority of the NRC, but not constituting a utilization facility. Paragraph (10), covering other specially designed or prepared equipment and components controlled by the NRC, would be revised by adding the phrase "that are especially relevant from the standpoint of export control, as determined by the Commission, except for the items licensed by the Department of Commerce pursuant to 15 CFR Part 799." The revision is intended to call attention to the licensing interface with the Department of Commerce in respect to exports of incidental reactor equipment and dual-use items.

(6) In § 110.26(a), the reference to paragraph (9) of appendix A would be changed to paragraph (10) of appendix A, as would the reference to paragraph (9) of appendix A in the footnote to § 110.42.

The provisions of the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking and opportunity for public participation, do not apply, pursuant to 5 U.S.C. 553(a)(1) because the amendments which follow involve a foreign affairs function of the United States. However, because of the importance of the requirements on affected exporters, this proposed rule is being issued and comments received will be considered in the development of the final rule. Accordingly, the NRC encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described as a categorical exclusion under 10 CFR 51.22 (c)(1) and (c)(2). Therefore, neither an environmental

impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

The public reporting burden for this collection of information is estimated to average less than 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019, (3150–0036 and 3150–0027) Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has considered alternatives to as well as the costs and benefits of the proposed rule and has concluded that the rule would have a minimum impact on the affected exporters. The export controls of the international Coordinating Committee for Multilateral Export Controls (COCOM) and the international Nuclear Suppliers Group (NSG) list certain alpha-emitting radioisotopes, bulk tritium compounds, and the byproduct material americium-242m, californium-249 and -251, and curium-245 and -247. The NRC has regulatory authority under the Atomic Energy Act over these materials, and its current regulations permit a person to export these materials to most countries under general license provisions. To implement the export controls of COCOM and the NSG, in which the United States participates, it is necessary for the NRC to amend the general license regulations in §§ 110.21 through 110.23 for the export of special nuclear material, source material, and byproduct material. This will mean that a person previously using these general license provisions as providing authority to export may be required to submit specific export license applications. There are no alternatives for achieving the stated objective. The proposed rule would satisfy the U.S. Government's international and treaty obligations.

Based on data obtained from the Department of Energy's national laboratories and industry sources, the proposed general license changes should have a minimal impact on the public since most commercial activity for alpha-emitting radionuclides could continue under general licenses that would be developed to permit exports in small quantities to most countries and in any quantity to the twenty-six eligible countries. The NRC is not aware of any appreciable U.S. export traffic in alpha-emitting radionuclides that would not be covered by the proposed general licenses. Likewise, laboratory personnel indicate that the effect of deleting the bulk tritium general license should be minimal because tritium in bulk form is typically exported in large quantities which already require specific licenses. The foregoing discussion constitutes the regulatory analysis for this proposed rule.

Regulatory Flexibility Certification

Based upon the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule would not affect the export of alpha-emitting radionuclides to those countries where the principal commercial activity exists or to other countries in de minimis quantities. Likewise, the effect of the proposed rule on small shipments of bulk tritium should be minimal. In all, the proposed amendments of the general licenses contained in Part 110 are expected to result in fewer than ten new export licenses per year.

Any small entity subject to this regulation which determines that, because of its size, it is likely to bear a disproportionate adverse economic impact should notify the Commission.

Backfit Analysis

The NRC has determined that a backfit analysis is not required for this proposed rule because these amendments do not include any provisions that would require backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Incorporation by reference, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR part 110.

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

1. The authority citation for part 110 is revised to read as follows:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 5, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243).

Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d., 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553.

§ 110.7 [Amended]

2. In § 110.7, second sentence, the reference to "§ 110.30", where it appears twice, is revised to read "§ 110.31" and the reference to "§ 110.31" is revised to read "§ 110.32".

§ 110.20 [Amended]

3. In § 110.20, paragraph (a), the reference to "110.29" is revised to read "110.30" and the reference to "§§ 110.30–110.31" is revised to read "§§ 110.31–110.32", and in the first sentence of paragraph (f), the phrase "§§ 110.21 through 110.26, 110.28, and 110.29" is revised to read "§§ 110.21 through 110.26, 110.28, 110.29, and 110.30".

4. In § 110.21, paragraphs (a)(3) and (b)(1) are revised and new paragraphs (a)(4) and (c) are added to read as follows:

§ 110.21 General license for the export of special nuclear material.

(a) * * *

(3) Special nuclear material, other than plutonium-238, in sensing components in instruments, if no more than 3 grams of enriched uranium or 0.1 gram of plutonium or U–233 are contained in each sensing component.

(4) Plutonium-238 when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

(b) * * *

(1) Special nuclear material, other than plutonium-238, in individual shipments of 0.001 effective kilograms or less (e.g., 1.0 gram of plutonium, U–233 or U–235, or 10 kilograms of 1 percent enriched uranium), not to exceed 0.1 effective kilogram per year to any one country.

* * * * *

(c) A general license is issued to any person to export plutonium-238 to any country listed in § 110.30 in individual shipments of 1 gram or less, not to exceed 0.1 effective kilogram per year to any one country.

5. In § 110.22, paragraphs (a) (1), (2), (b), and (c) are revised and new paragraphs (a) (3), (4), and (d) are added to read as follows:

§ 110.22 General license for the export of source material.

(a) * * *

(1) Uranium or thorium, other than uranium-232, thorium-227, and thorium-228, in any substance in concentrations of less than 0.05 percent by weight.

(2) Thorium, other than thorium-228, in incandescent gas mantles or in alloys in concentrations of 5 percent or less.

(3) Thorium-227 and thorium-228 when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

(4) Uranium-232 when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

(b) A general license is issued to any person to export uranium or thorium, other than uranium-232, thorium-227, or thorium-228, in individual shipments of 10 kilograms or less to any country not listed in § 110.28 or § 110.29, not to exceed 1,000 kilograms per year to any one country or 500 kilograms per year to any one country when the uranium or thorium is of Canadian origin.

(c) A general license is issued to any person to export uranium or thorium, other than uranium-232, thorium-227, or thorium-228, in individual shipments of 1 kilogram or less to any country listed in § 110.29, not to exceed 100 kilograms per year to any one country.

(d) A general license is issued to any person to export uranium-232, thorium-227 and thorium-228 in individual shipments of 10 kilograms or less to any country listed in § 110.30, not to exceed 1,000 kilograms per year to any one country or 500 kilograms per year to any one country when the uranium or thorium is of Canadian origin.

6. Section 110.23 is revised to read as follows:

§ 110.23 General license for the export of byproduct material.

(a) A general license is issued to any person to export the following to any country not listed in § 110.28:

(1) All byproduct material (see Appendix F to this part), other than actinium-225, actinium-227, americium-241, americium-242m, californium-248, californium-249, californium-250, californium-251, californium-252, curium-242, curium-243, curium-244, curium-245, curium-247, neptunium-237, polonium-208, polonium-209, polonium-210, radium-223, and tritium, unless authorized in the general licenses in paragraphs (a)(2) through (a)(10), (b), and (c) of this section.

(2) Americium-241, except that exports exceeding one curie per shipment or 100 curies per year to any country listed in § 110.29 must be contained in industrial process control equipment or petroleum exploration equipment in quantities not to exceed 20 curies per device or 200 curies per year to any one country.

(3) Actinium-225 and actinium-227 when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

(4) Californium-248, californium-250, and californium-252 when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

(5) Curium-242, curium-243, and curium-244 when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

(6) Neptunium-237 in individual shipments of 1 gram or less, not to exceed 10 grams per year to any one country.

(7) Polonium-208 and polonium-209 when contained in devices in quantities of less than 100 millicuries of alpha activity per device.

(8) Polonium-210 when contained in devices in quantities of less than 100 millicuries of alpha activity per device, except that exports of polonium-210 when contained in static eliminators must not exceed 100 millicuries of alpha activity per eliminator or 100 curies per individual shipment.

(9) Tritium in any dispersed form (e.g., luminescent light sources, luminescent paint, accelerator targets, calibration standards, labeled compounds) when in quantities of 10 curies or less per item, not to exceed 1,000 curies per shipment or 10,000 curies per year to any one country.

(10) Tritium in luminescent safety devices installed in aircraft when in quantities of 40 curies or less per light source.

(b) A general license is issued to any person to export to any country listed in § 110.30, actinium-225, actinium-227, californium-248, californium-250, californium-252, curium-242, curium-243, curium-244, polonium-208, polonium-209, polonium-210, and radium-223, except that polonium-210 when contained in static eliminators must not exceed 100 curies per individual shipment.

(c) A general license is issued to any person to export to any country listed in § 110.30, tritium in any dispersed form (e.g., luminescent light sources, luminescent paint, accelerator targets, calibration standards, labeled compounds) when in quantities of 40 curies or less per item, not to exceed 1,000 curies per shipment or 10,000 curies per year to any one country.

§ 110.26 [Amended]

7. In § 110.26(a), the reference to "paragraphs (5) through (9) of appendix A" is revised to read "paragraphs (5) through (10) of appendix A".

§§ 110.30 and 110.31 [Redesignated as §§ 110.31 and 110.32]

8. Sections 110.30 and 110.31 are redesignated as § 110.31 and § 110.32.

9. A new § 110.30 is added to read as follows:

§ 110.30 Countries that are Member States of the Nuclear Suppliers Group.

Australia
Austria
Belgium
Bulgaria
Canada
Czech Republic
Denmark
Finland
France
Germany
Greece
Hungary
Ireland
Italy
Japan
Luxembourg
Netherlands
Norway
Poland
Portugal
Romania
Russia
Slovak Republic
Spain
Sweden
Switzerland
United Kingdom

§ 110.31 [Amended]

10. In § 110.31, in paragraph (d), the reference to "§ 110.31" is revised to read "§ 110.32".

§ 110.42 [Amended]

11. In § 110.42, in the second sentence of footnote 2, the reference to "paragraphs (5) through (9) of appendix A" is revised to read "paragraphs (5) through (10) of appendix A".

12. Appendix A to part 110 is revised to read as follows:

Appendix A to Part 110—Illustrative List of Nuclear Reactor Equipment Under NRC Export Licensing Authority

(1) Reactor pressure vessels—metal vessels, as complete units or as major shop-fabricated parts therefor, specially designed or prepared to contain the core of a nuclear reactor and capable of withstanding the operating pressure of the primary coolant;

(2) Reactor primary coolant pumps—pumps specially designed or prepared for circulating the primary coolant in a nuclear reactor;

(3) On-line reactor fuel charging and discharging machines—manipulative equipment specially designed for inserting or removing fuel in a nuclear reactor capable of on-load operation (CANDU type);

(4) Complete reactor control rod system—rods specially designed or prepared for the control of the reaction rate in a nuclear reactor, including the neutron absorbing part and the support or suspension structures therefor;

(5) Reactor pressure tubes—tubes specially designed or prepared to contain fuel elements and the primary coolant in a nuclear reactor at an operating pressure in excess of 50 atmospheres;

(6) Zirconium tubes—zirconium metal and alloys in the form of tubes or assemblies of tubes specially designed or prepared for use in a nuclear reactor;

(7) Reactor internals—core support structures, control and rod guide tubes, thermal shields, baffles, core grid plates and diffuser plates specially designed or prepared for use in a nuclear reactor;

(8) Reactor control rods—exported separately from those described in paragraph (4) of this appendix;

(9) Reactor control rod drive mechanisms, including detection and measuring equipment to determine flux levels; and

(10) Other specially designed or prepared items within or attached directly to the reactor vessel, the equipment which controls the level of power in the core, and the components which normally contain or come in direct contact with or control the primary coolant of the reactor core that are especially relevant from the standpoint of export control, as determined by the Commission, except for items licensed by the Department of Commerce pursuant to 15 CFR part 799.

Dated in Rockville, Maryland, this 22nd day of February, 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 93–5970 Filed 3–16–93; 8:45 am]

BILLING CODE [illegible]

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Domestic Exchange-Traded Commodity Options; Recordkeeping Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to amend Rule 1.37, 17 CFR 1.37, by deleting the requirement that futures commission merchants ("FCMs"), introducing brokers ("IBs"), and clearing members keep, for each commodity option account, a record indicating an occupational code and a symbol indicating whether an option customer is commercial or non-commercial. The requirement that this information be kept was included in the Commission's rules as part of the pilot program for the reintroduction of domestic exchange-traded options. In light of the infrequent use of this information, especially since exchange trading of commodity options was made permanent, the Commission believes that it is now appropriate to delete this recordkeeping requirement.

DATES: Comments must be received by April 16, 1993.

ADDRESSES: Comments should be sent to Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, and should make reference to "Revision to Rule 1.37."

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254–6990.

SUPPLEMENTARY INFORMATION:

Commission Rule 1.37 generally required that certain information be kept by FCMs, IBs and clearing members concerning commodity futures and option accounts. Among the information which must be maintained is the name and address of the person for whom a commodity futures or option account is carried, the principal occupation or business of that person, and the name of any other person guaranteeing the account or exercising trading control of the account. For commodity options accounts, information must also be kept showing the name of the person who has solicited the account and is responsible for it, an occupational code, from a list promulgated by the Commission, and a symbol identifying the option customer as a commercial or noncommercial for each option position carried. 17 CFR 1.37(a).

The requirement that option accounts be identified by occupational code and that they be identified by code as commercial/noncommercial was added as part of the pilot program for the introduction of exchange-traded options. At the outset of the program, the Commission anticipated that it would make several market-wide surveys to ascertain the nature of option market participants. Accordingly, the Commission mandated that this occupational information be kept so that the necessary information could be readily collected with as minimal a cost as possible. By specifying the necessary information in advance, the information to be required by these surveys could be anticipated and would be provided more readily. See, 46 FR 54500, 54513 (Nov. 3, 1981). This provision was retained at the termination of the pilot option program in light of the Commission's intention to collect future survey information in machine-readable form. It was anticipated that this would provide a relatively cost-efficient means to conduct such surveys. See, 51 FR 17464, 17471 (May 13, 1986).

Since the termination of the pilot option program, however, such market-wide surveys have been rare. In fact, only one survey has been conducted which made use of this occupational code information. This survey was undertaken in 1987 by the Commission in connection with its study of the cattle market. Other surveys conducted during this period, such as one involving trading by commodity pools did not rely on this occupational information.

In light of the infrequent use of this information, a commenter on another proposed rule suggested that the cost of continued compliance with this requirement, which is applicable only to options positions, outweighs the benefit of the rule. This commenter, a futures industry association, stated that:

> [T]he collection and storing of this data on a regular basis is expensive and burdensome. Its original purpose when approved as part of the options pilot program was to provide information on which periodic evaluations of the economic purpose of options markets could be undertaken. After ten years we think that the economic purpose underlying options contracts has been established, and there is no reason to conduct such periodic evaluations of options contracts. Moreover, if these 1.37(a) recordkeeping requirements were also deleted, the Commission would still retain the ability to request the information directly from the exchanges or through the 'special call' procedures found in

CFTC Rule 21.02 on an "as needed" basis. We believe this is a less costly alternative to the current requirement of making such records a routine part of an FCMs' permanent files.

The Commission agrees that this suggestion has merit. In light of the infrequent requests that the Commission has made for such information, it believes that the FCMs, Ibs and contract market members who may be directly affected by future requests for this information should be free to make a business determination whether they wish to keep such information as part of their permanent records, or whether they wish to amass the required occupational information in response to future special calls.

As the commenter observed, the Commission retains the authority to issue special calls for this information under Commission rule 21.02, 17 CFR 21.02. As an aid to those FCMs that have an automated system for incorporating this information into their permanent records, and wish to continue to do so, the Commission will continue to update and publish its list of occupational codes.[1] In this regard, FCMs must assess the cost and disruption that the manual compilation of the required information may entail if the Commission were to issue a special call in the future versus the cost to it of maintaining current systems, especially where those systems are automated.

For the reasons discussed above, the Commission is proposing to delete from Rule 1.37 the requirements that the appropriate occupational code and a symbol indicating whether the option customer is a commercial or noncommercial be included in the permanent records of the FCM, introducing broker and member of a contract market. The Commission is also proposing a technical amendment clarifying the requirement that the records kept by such futures commission merchants, introducing brokers, and members of a contract market show the name of the person who has solicited and is responsible for each option customer's account. This amendment clarifies that the requirement can be satisfied not only by showing the name of the person who solicited and is responsible for the account, but also by an account numbering, or other coding, system which will identify the name of that person. Many FCMs have in place such account numbering systems which can be used to identify the person who has solicited and is responsible for an account. The Commission believes that identification of individuals who have solicited and are responsible for option accounts in this manner is consistent with routine business practices.

[1] The last update of the list of occupational codes was published by the Commission in the **Federal Register** on September 4, 1992. 57 FR 40645.

Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of these rules on small entities. The Commission has previously determined that "FCMs" and similar entities are not "small entities" for purposes of the RFA. 47 FR 18618 (April 30, 1982). These proposed rules modify certain recordkeeping requirements for FCMs, IBs and members of contract markets. The proposed amendment does not impose and additional burdens, but rather, alleviates already existing obligations. Accordingly, if promulgated, these rules would have no significant impact on a substantial number of small entities. For the above reasons, and pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Acting Chairman, on behalf of the Commission, hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities. However, the Commission particularly invites comments from any firms or other persons which believe that the promulgation of these proposed rule amendments might have a significant impact upon their activities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, ("PRA") imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the Act the Commission has submitted these amended rules and their associated information collection requirements to the Office of Management and Budget ("OMB").

OMB approved the collection of information associated with this rule on April 10, 1991, and assigned OMB control number 3038–0024. The Commission does not expect the burden associated with this collection to significantly change since many FCMs may voluntarily continue to collect the information. The burden associated with this entire collection is as follows:

Average Burden Hours per Response—124.13
Number of Respondents—489
Frequency of Response—On occasion

The burden associated with this specific rule is as follows:

Average Burden Hours per Response—11.625
Number of Respondents—189
Frequency of Response—On occasion

Persons wishing to comment on the estimated paperwork burden associated with these amended rules should contact Gary Waxman, Office of Management and Budget, room 3228, N.E.O.B., Washington, DC 20503. Copies of the information collection submission to OMB are available from Joe F. Mink, C.F.T.C. Clearance Officer, 2033 K Street, NW., Washington, DC 20581, (202) 254–9735.

List of Subjects in 17 CFR Part 1

Commodity options, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4c, 4g, and 8a of the Act, 7 U.S.C. 6c, 6g, and 12a (1988), the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for part 1 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 9, 12, 12a, 12c, 13a–1, 13a–2, 16, 19, 21, 23 and 24, unless otherwise noted.

2. Section 1.37 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.37 Customer's or option customer's name, address, and occupation recorded; record of guarantor or controller or account.

(a) Each futures commission merchant, introducing broker, and member of a contract market shall keep a record in permanent form which shall show for each commodity futures or option account carried or introduced by it the true name and address of the person for whom such account is carried or introduced and the principal occupation or business of such person as well as the name of any other person guaranteeing such account or exercising any trading control with respect to such account. For each such commodity option account, the records kept by such futures commission merchant, introducing broker, and member of a contract market must also show the name of the person who has solicited

and is responsible for each option customer's account or assign account numbers in such a manner to identify that person.

* * * * *

Issued in Washington, DC, this 11th day of March, 1993, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93-6040 Filed 3-16-93; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

Alaska Federal Subsistence Board Meeting

AGENCY: Forest Service, Department of Agriculture, U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of meeting and request for public comment.

SUMMARY: The Alaska Federal Subsistence Board will hold meetings to discuss business relative to management of the Federal subsistence management program on Federal public lands. The primary area of discussion will be the Federal subsistence seasons, bag limits, methods, and means for the 1993–1994 regulatory year.

The public is invited to attend and participate in the proceedings. Public testimony will be accepted at this meeting. A substantive portion of each meeting will be open to the public; however, some of the meeting may be closed to the public.

DATES: April 5–9, 1993.

ADDRESSES: The meeting will be held in Anchorage, Alaska, beginning at 8:30 each morning. The location will be announced via local and Statewide media.

FOR FURTHER INFORMATION CONTACT: Richard S. Pospahala, Office of Subsistence Management, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503; telephone (907) 786–3447, or Norman Howse, Assistant Director, Subsistence, USDA, Forest Service, Alaska Region, Post Office Box 21628, Juneau, Alaska 99802–1628; telephone (907) 586–8890.

SUPPLEMENTARY INFORMATION: As empowered by 36 CFR 242.18 and 50 CFR 100.18, the Board will meet to discuss and take action on the proposals submitted during the public comment period for Federal subsistence seasons, bag limits, methods, and means for the 1993–1994 regulatory year.

On September 17, 1992, a proposed rule was published in the **Federal Register** (57 FR 43074–43105). The purpose of that publication was to initiate the formal process to develop Federal regulations pertaining to subsistence taking of fish and wildlife for Federal public lands in Alaska during the 1993–94 regulatory year (July 1, 1993–June 30, 1994) The public comment period on the proposed rule closed November 16, 1992. Ten public hearings were held during October 1992, at various locations in the State to provide opportunity for the public to propose changes to the 1993–94 regulations.

Subsequently, the public comments were compiled in the form of a proposal booklet and distributed for public review and comment. The public was requested to submit any comments on the proposal booklet by February 13, 1993. The proposal booklet and public comments will be reviewed by agency staff prior to the Board meeting. The April meeting provides the public opportunity to review the proposals and draft regulations and involvement in the establishment of final regulations. The Board will review the staff recommendations and act on the proposals at the meeting.

Dated: March 1, 1993.

Ronald B. McCoy,

Interim Chair, Federal Subsistence Board.

[FR Doc. 93-5741 Filed 3-16-93; 8:45 am]

BILLING CODE 4310-55-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-7063]

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (100-year) flood elevations and proposed base flood elevation modifications for the communities listed below. The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–2766.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for each community listed, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood

Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Impact Analysis

This proposed rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subject in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements. Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. Section 67.4 is proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Arizona	City of Chandler, Maricopa County.	Flooding behind Southern Pacific Spur.	Approximately 100 feet southeast of the intersection of Southern Pacific Spur and West Tremaine Drive.	None	*1,212
			At the intersection of Santan Street and Sacramento Street.	None	*1,217
			Just east of the intersection of Germann Road and Southern Pacific Spur.	None	*1,218
			Approximately 200 feet northeast of the intersection of Chandler Heights Road and Southern Pacific Spur.	None	*1,217
			Approximately 500 feet east of the intersection of Riggs Road and Southern Pacific Spur.	None	*1,216
		Flooding behind Southeast branch and Southern Pacific Spur.	Approximately 1,500 feet southeast of the intersection of Chandler Heights Road and Southern Pacific Spur.	None	*1,219
		Flooding behind Consolidated Canal East Branch.	Approximately 200 feet south and 300 feet east of Chandler Heights Road and Consolidated Canal East Branch.	None	*1,221
			Just south of the intersection of McQueen Road and Consolidated Canal East Branch.	None	*1,228
			Approximately 700 feet south of the intersection of Germann Road and Consolidated Canal East Branch.	None	*1,229
			Just northeast of the intersection of Willis Road and Consolidated Canal East Branch.	None	*1,231
			Just northeast of the intersection of Pecos Road and Consolidated Canal East Branch.	None	*1,233
		Flooding behind Consolidated Canal East Branch.	Approximately 2,800 feet south and 700 feet east of the intersection of Ray Road and Cooper Road.	None	*1,236

Maps are available for review at the Department of Public Works, 200 East Commonwealth Avenue, Chandler, Arizona.

Send comments to The Honorable Coy Payne, Mayor, City of Chandler, 25 South Arizona Place, Suite 301, Chandler, Arizona 85225.

Arizona	Coconino County, Unincorporated Areas.	Oak Creek	Approximately 4,435 feet downstream of the confluence with Munds Canyon Creek.	*4,485	*4,485
			Approximately 3,820 feet downstream of the confluence with Munds Canyon Creek.	*4,496	*4,500
			Approximately 3,000 feet downstream of the confluence with Munds Canyon Creek.	*4,513	*4,519
			Approximately 1,050 feet downstream of the confluence with Munds Canyon Creek.	*4,552	*4,552

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps are available for review at Coconino County, Department of Community Development, 219 East Cherry, Flagstaff, Arizona. Send comments to The Honorable Paul J. Babbit, Jr., Chairman, Coconino County Board of Supervisors, Administrative Center, 219 East Cherry, Flagstaff, Arizona 86001.					
Arizona	Town of Gilbert, Maricopa County.	Flooding behind Southern Pacific Railroad.	Approximately 200 feet south of the intersection of McQueen Road and Baseline Road.	#2	*1,213
			At Guadalupe Road	#2	*1,220
			Just downstream of Western Canal	#2	*1,226
			Approximately 200 feet west of the intersection of Western Canal and Oak Street.	#2	*1,231
			Approximately 500 feet east of the intersection of Southern Pacific and Roosevelt Water Conservation District Canal.	None	*1,322
			At Power Road	None	*1,332
		Flooding behind Southern Pacific Spur.	Approximately 200 feet southeast of the intersection of Southern Pacific Spur and Baseline Road.	None	*1,212
			Approximately 500 feet southeast of the intersection of Elliot Road and Southern Pacific Spur.	None	*1,214
		Flooding behind Consolidated Canal East Branch.	Approximately 400 feet north of the intersection of Ray Road and 131st Street.	None	*1,239
			Approximately 2,000 feet southwest along Consolidated Canal from the intersection of Southern Pacific and Consolidated Canal East Branch.	None	*1,240
			At the intersection of Elliot Road and Lindsay Road.	None	*1,243
			Just southeast of the intersection of Baseline Road and Consolidated Canal East Branch.	None	*1,247
		Flooding behind Eastern Canal.	Approximately 1,200 feet south and 300 feet west of the intersection of Germann Road and Lindsay Road.	None	*1,260
			Approximately 600 feet south of the intersection of Ray Road and Eastern Canal.	None	*1,267
			Approximately 1,000 feet east of the intersection of Southern Pacific and Eastern Canal.	None	*1,271
			Approximately 400 feet south of the intersection of Guadalupe Road and Eastern Canal.	None	*1,278
			Approximately 2,000 feet north of the intersection of Guadalupe Road and Eastern Canal.	None	*1,279
			Just south of the intersection of Baseline Road and South Greenfield Road.	None	*1,281
Maps are available for review at the Engineering Department, Municipal Center, 1025 South Gilbert Road, Gilbert, Arizona. Send comments to The Honorable Larry Morrison, Acting Mayor, Town of Gilbert, 1025 South Gilbert Road, Gilbert, Arizona 85234.					
Arizona	City of Mesa, Maricopa County.	Flooding Behind Southern Pacific Railroad.	At Power Road	None	*1,332
			At the intersection of Sossaman Road and Germann Road.	None	*1,356
Maps are available for review at the Engineering Department, 20 East Main Street, Suite 400, Mesa, Arizona. Send comments to the Honorable Willie Wong, Mayor, City of Mesa, P.O. Box 1466, Mesa, Arizona 85211.					
Arizona	Town of Queen Creek, Maricopa County.	Flooding Behind Southern Pacific Railroad.	Approximately 200 feet southeast of the intersection of Sossaman Road and Southern Pacific.	None	*1,356
			Just east of the intersection of Southern Pacific and Ellsworth Road.	None	**1,396
			At Signal Butte Road	None	*1,437

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps are available for review at the Planning Department, Town Hall, 22350 South Ellsworth Road, Queen Creek, Arizona. Send comments to The Honorable Mark Schnepf, Mayor, Town of Queen Creek, P.O. Box 650, Queen Creek, Arizona 85242.					
Arizona	City of Tucson	Flowing Wells Wash and Navajo Wash.	Approximately 350 feet downstream of Fort Lowell Road.	*2,300	*2,296
			Just upstream of Fort Lowell Road	*2,301	*2,301
			Approximately 150 feet upstream of Oracle Road.	*2,329	*2,329
			At Altos Avenue	*2,348	*2,348
			Approximately 800 feet downstream of Mountain Avenue.	*2,368	*2,368
		Wilson Wash	Approximately 200 feet upstream of East Fort Lowell Road.	*2,369	*2,369
			At Olsen Avenue	None	*2,387
			At Glenn Street	None	*2,401
			Just upstream of Water Street	None	*2,416
			Just downstream of East Grant Road	None	*2,419
		Cemetery Wash	Approximately 70 feet upstream of Erma Avenue.	None	*2,310
			At Fairview Avenue	None	*2,316
			Approximately 70 feet downstream of Oracle Road.	*2,327	*2,327
			Just downstream of Stone Avenue	*2,339	*2,335
		Christmas Wash	Approximately 100 feet upstream of Roger Road.	*2,351	*2,351
			Just downstream of East Prince Road	*2,371	*2,373
			Just downstream of Fort Lowell Road	*2,396	*2,396
			Just downstream of Country Club Road	*2,402	*2,402
		Columbus Wash and Midway Wash.	Approximately 200 feet upstream of the confluence with Alvernon Wash.	*2,412	*2,412
			At the intersection of Desert Avenue and Blacklidge Drive.	*2,424	*2,421
			Approximately 50 feet upstream of Monte Vista Drive.	*2,433	*2,332
			Just upstream of East Grant Road	*2,453	*2,453
			Approximately 70 feet downstream of East Pima Street.	None	*2,472
			At East Speedway Boulevard	None	*2,490
			Just downstream of East Fifth Street	None	*2,505
		Van Buren Wash	At the confluence with Alamo Wash	None	*2,490
			Approximately 50 feet downstream of Waverly Place.	None	*2,493
			At East Pima Street	None	*2,500
			Just downstream of Bellevue Street	None	*2,513
			Just downstream of East Speedway Boulevard.	None	*2,518
		Sahuara Wash	At the confluence with Alamo Wash	None	*2,503
			Just upstream of East Pima Street	None	*2,509
			Approximately 50 feet downstream of Fairmount Street.	None	*2,516
			Just downstream of East Speedway Boulevard.	None	*2,522
		El Rio Wash	At the confluence with Silvercroft Wash	*2,309	*2,309
			Just downstream of El Rio Drive	None	*2,311
			Approximately 100 feet upstream of Riverview Boulevard.	None	*2,321
			Just downstream of Speedway Boulevard	None	*2,325
		Bronx Wash	At the confluence with Santa Cruz River	*2,318	*2,318
			Approximatley 150 feet upstream of Interstate Highway 10.	None	*2,333
			Just downstream of Miracle Mile Road	None	*2,356
			At Seventh Avenue	None	*2,373
			Just downstream of North First Avenue	None	*2,399
		High School Wash	At Second Avenue	*2,387	*2,387
			Just upstream of Martin Avenue	*2,425	*2,425
			At Wilson Avenue	*2,446	*2,444
			Approximately 150 feet upstream of Wilson Avenue.	*2,448	*2,446
		Rolling Hills Wash	At the confluence with Pantano Wash	*2,618	*2,618
			Just downstream of Samoff Drive	None	*2,653

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Just upstream of Olympic Club Drive	None	*2,702
			At Cathy Avenue	None	*2,746
			Approximately 300 feet upstream of Kevin Drive.	None	*2,802
		Este Wash	At the confluence with Tanque Verde Creek.	None	*2,569
			Just upstream of Bonanza Avenue	None	*2,614
			Just downstream of Fifth Avenue	None	*2,656
			Approximatley 40 feet upstream of East 22nd Street.	None	*2,830
			Just downstream of Houghton Road	None	*2,843

Maps are available for review at the Department of Transportation, Engineering Division, Floodplain Section, 201 North Stone Avenue, Tucson, Arizona.

Send comments to the Honorable George Miller, Mayor, City of Tucson, 255 West Alameda, P.O. Box 27210, Tucson, Arizona 85710–7210.

California	City of Richmond, Contra Costa County.	Rheem Creek	At the confluence with San Pablo Bay	#6	*6
			Just upstream of Southern Pacific Railroad.	*16	*17
			At Atchison, Topeka and Santa Fe Railroad Bridge.	*23	*21

Maps are available for review at the Building Regulations Department, 2600 Barrett Avenue, Richmond, California.

Send comments to The Honorable George Livingston, Mayor, City of Richmond, 2600 Barrett Avenue, P.O. Box 40406, Richmond, California 94804.

California	City of Sacramento, Sacramento County.	American River	Just upstream of the confluence with the Sacramento River.	*31	*31
			Just upstream of State Highway 160	*32	*36
			Approximately 8,000 feet upstream of Business Interstate 80.	*37	*42
			Approximately 2,000 feet upstream of H Street.	*41	*46
			Approximately 700 feet downstream of Watt Avenue.	*46	*52
		American River (Detailed flooding adjacent to the River).	At the intersection of N Street and 28th Street.	None	*26
			At the intersection of W Street and 33rd Street.	None	*26
			At the intersection of 35th Street and Folsom Boulevard.	None	*28
			At the intersection of 41st Street and M Street.	None	*30
			At the intersection of D Street and 46th Street.	None	*32
			Just north of the intersection of Business Route 80 and the Southern Pacific Railroad.	None	*43
			At the intersection of Callister and Carlson Drive.	None	*44
			Approximately 3,000 feet south of the intersection of Arden Way and Challenge Way.	*34	*44
			At the intersection of Jordan Way and Jed Smith Drive.	None	*45
			At the intersection of Julliard Drive and Occidental Drive.	None	*48
			At the Mossglen Circle	None	*49
		Arcade Creek ..	Just upstream of the confluence with Natomas East Main Drainage Canal.	*32	*36
			Approximately 1,300 feet upstream of Rio Linda Boulevard.	*33	*37
			Just upstream of Marysville Boulevard	*39	*40
		Deep Ponding	At the intersection of Deer Gren Drive and Red Deer Way.	#1	*15

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 1,000 feet west of the intersection of Archean Way and Deer Creek Drive.	None	*15
			At the intersection of Decathalon Circle and Archean Way.	*13	*15
			Approximately 500 feet west of the intersection of Deer Gren Drive and Red Deer Way.	None	*15
			Approximately 800 feet west of Black Trail Drive and Deer Gren Drive.	None	*15
			At the intersection of Deer Lake Drive and Evalita Way.	None	*15
			Approximately 300 feet east of the intersection of Deer Water Way and Sea Meadow Way.	*12	*15
			Approximately 800 feet southeast of the intersection of Deer Lake Drive and Sea Forest Way.	*12	*15
			At the intersection of Amina Way and Chinquapin Way.	*12	*15
			Approximately 2,000 feet southwest of the intersection of Emhardt Avenue and Franklin Boulevard.	None	*15
			Approximately 3,000 feet southwest of the intersection of Emhardt Avenue and Franklin Boulevard.	None	*15
			Approximately 400 feet southwest of the intersection of Emhardt Avenue and Franklin Boulevard.	None	*15
			Approximately 400 feet north of the intersection of Eddington Court and Euler Way.	#2	*15
			At the intersection of Deer Creek Drive and Decathlon Circle.	#2	*15
			Approximately 200 feet south of the intersection of Mack Road and Archean Way.	*14	*15
			South of the intersection of Deer Lake Drive and De la Vina Way.	*12	*15
			Approximately 300 feet east of the intersection of Deer Water Way and Deer Lake Drive.	*12	*15
			Approximately 50 feet southwest of the intersection of Valley Hi Drive and Chinquapin Way.	None	*15
			Approximately 800 feet south of the intersection of Deer Lake Drive and Sea Forest Way.	*12	*15
			At the intersection of Valley Hi Drive and Halker Way.	None	*15
			Approximately 1,000 feet south of the intersection of La Coruna Drive and Valley Hi Drive.	*13	*15
			Approximately 8,000 feet south of the intersection of 23rd Street and Craig Avenue.	*14	*15
			At the intersection of Meadowview Road and 24th Street.	None	*18
			At the intersection of Meadowgate Drive and Winner Way.	None	*18
			At the intersection of Golfview Drive and Mangrum Avenue.	None	*18
			At the intersection of Greenhaven Drive and Pocket Road.	None	*19
			At the intersection of Havenside Drive and Florin Road.	None	*19
			At the intersection of Riverside Boulevard and Park Riviera Drive.	None	*19
			At the intersection of 26th Avenue and Euclid Avenue.	None	*19

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			At the intersection of Freeport Boulevard and Wentworth Avenue.	None	*24
			At the intersection of 9th Avenue and 33rd Street.	None	*24
			At the intersection of P Street and 19th Street.	None	*24
			At the intersection of Truxel Road and West El Camino Avenue.	None	*33
			At the intersection of Del Paso Road and El Centro Road.	None	*33
			At the intersection of Orchard Lane and West El Camino Avenue.	None	*33
			At the intersection of Bercut Drive and Richards Boulevard.	None	*35
			At the intersection of North 12th Street and Sitka Street.	None	*35
			At the intersection of Bell Court Avenue and Englewood Street.	None	*36
			At the intersection of Taylor Street and Interstate Highway 880.	None	*36
			At the intersection of Norwood Avenue and Las Palmas Avenue.	None	*36
			Approximately 2,000 feet west of the intersection of 20th Street and A Street.	None	*38
			At the intersection of Response Road and Heritage Lane.	None	*41
		Dry Creek	Just upstream of the confluence with Natomas East Main Drainage Canal.	*33	*38
			Approximately 8,700 feet upstream of the confluence with Natomas East Main Drainage Canal.	*38	*38
		Lower Magpie Creek	Approximately 500 feet upstream of Natomas East Main Drainage Canal.	*20	*36
			Just downstream of Rio Linda Boulevard .	*33	*36
		Morrison Creek	Approximately 300 feet upstream of Elk Grove Florin Road.	None	*47
		Natomas East Drainage Canal.	Just upstream of the confluence with Natomas Main Drainage Canal.	*9	*33
			Just downstream of Elkhorn Boulevard	*12	*33
		Natomas East Main Drainage Canal.	Approximately 1,000 feet upstream of Northgate Boulevard.	*32	*35
			Just downstream of Interstate 880	*32	*37
			Approximately 2,500 feet upstream of Main Avenue.	*33	*38
			Just downstream of the City of Sacramento Corporate Limits.	*33	*38
		Natomas Main Drainage Canal.	Just upstream of Garden Highway	*8	*33
			Just upstream of Interstate 880	*9	*33
		Natomas West Drainage Canal.	Just upstream of the confluence with Natomas Main Drainage Canal.	*9	*33
			Just downstream of Del Paso Road	*12	*33
		Robla Creek	Just upstream of the confluence with Natomas East Main Drainage Canal.	*34	*38
			Just upstream of Rio Linda Boulevard	*39	*39
		Sacramento River	Approximately 4,000 feet downstream of Sleepy River Way.	*24	*26
			Approximately 200 feet upstream of Evros River Court.	*26	*27
			Approximately 1,200 feet upstream of 43rd Avenue.	*28	*29
			Approximately 1,000 feet upstream of Darnel Way.	*29	*30
			Approximately 3,000 feet upstream of I Street.	*31	*31
		Shallow Flooding	Approximately 500 feet southeast of the intersection of Arden Way and Challenge Way.	None	#2
			At the intersection of Woodbine Avenue and 47th Avenue.	None	#2

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 500 feet north of the intersection of 47th Avenue and Romack Circle.	None	#3
			At the intersection of Kitchner Avenue and Zelda Way.	None	#3
			At the intersection of Edna Street and 24th Street.	None	#3
			At the intersection of Alvarado and Rivera Drive.	None	#2
			At the intersection of Arcade Boulevard and Clay Street.	None	#1
			Approximately 1,500 feet north of the intersection of Tunis Road and Barroe Drive.	None	#2
			Approximately 800 feet south of the intersection of Arden Way and Evergreen Street.	None	#1
		Unionhouse Creek	Just upstream of the confluence with Morrison Creek.	*14	*15
			Approximately 400 feet downstream of Franklin Boulevard.	*15	*15
Maps are available for review at the Department of Public Works, Engineering Division, 927 10th Street, Room 100, Sacramento, California. Send comments to The Honorable Joe Serna, Jr., Mayor, City of Sacramento, 915 I Street, Room 101, Sacramento, California 95814.					
California	Sacramento County, Unincorporated Areas.	American River	Just downstream of Northrop Avenue	*38	*42
			Approximately 1,000 feet downstream of Watt Avenue.	*45	*52
			Approximately 14,000 feet upstream of Watt Avenue.	*53	*58
			Approximately 22,000 feet upstream of Watt Avenue.	*60	*60
			Approximately 7,000 feet downstream of the confluence with Carmichael Creek.	*64	*66
			Approximately 1,900 feet upstream of the confluence with Carmichael Creek.	*73	*76
			Approximately 5,500 feet upstream of the confluence with Carmichael Creek.	*75	*80
			Approximately 9,700 feet upstream of the confluence with Carmichael Creek.	*85	*86
			Approximately 500 feet downstream of Sunrise Boulevard.	*95	*92
			Approximately 6,600 feet upstream of Sunrise Boulevard.	*95	*102
			Approximately 300 feet downstream of Hazel Avenue.	*102	*106
			Approximately 300 feet upstream of Hazel Avenue.	*104	*118
			Just upstream of Nimbus Dam	*126	*126
		American River (Detailed Flooding Adjacent to the River).	At the intersection of Ethan Drive and El Camino Drive.	None	*41
			At the intersection of Keith Way and Violet Street.	None	*41
			At the intersection of Fair Oaks Boulevard and Munroe Street.	None	*44
			At the intersection of the Southern Pacific Railroad and Reith Court.	None	*49
			At the intersection of Watt Avenue and La Riviera Drive.	None	*50
			At the intersection of Manlove Road and Folsum Boulevard.	None	*50
			At the intersection of Estates Drive and American River Drive.	None	*55
			At the intersection of American River Drive and Whitehall Way.	None	*55

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 200 feet east of the intersection of Hunstman Drive and Mayhew Road.	None	*56
			At the intersection of Mayhew Road and Folsum Road.	None	*56
			Approximately 7,000 feet downstream of Hazel Avenue, South Overbank.	None	*102
		American River (Shallow Flooding).	Approximately 8,000 feet upstream of Watt Avenue, south overbank.	None	#1
			Approximately 8,000 feet upstream of Watt Avenue and approximately 2,000 feet south of the southern overbank.	None	#1
			Approximately 8,000 feet upstream of Watt Avenue and south of Folsum Boulevard.	None	#2
			Approximately 9,000 feet upstream of Watt Avenue, South Overbank.	None	#3
			Approximately 9,000 feet upstream of Watt Avenue, and approximately 2,000 feet south of the southern overbank.	None	#3
			Approximately 1,500 feet downstream of the Nimbus Dam, South Overbank.	None	#2
		Carmichael Creek	Just upstream of the confluence with the American River.	*70	74
			Approximately 900 feet downstream of Palm Drive.	*74	*74
		Chicken Ranch Slough	Approximately 1,100 feet downstream of Hurley Way.	*33	*44
			Just downstream of Hernando Road	*43	*44
		Deep Ponding	At the intersection of Beach Lake Road and Interstate Route 5.	*14	*15
			At the intersection of the Western Pacific Railroad and Laguna Creek.	*14	*15
			At the intersection of the two unnamed roads approximately 6,000 feet east of Interstate Route 5.	None	*15
			Approximately 2,000 feet southeast of the intersection of Unionhouse Creek and the Western Pacific Railroad.	None	*15
			Approximately 200 feet southeast of the intersection of Unionhouse Creek and the Western Pacific Railroad.	#13	*15
			At the intersection of Stonecrest Avenue and Interstate Route 5.	None	*18
			Approximately 3,000 feet west of the intersection of Sacramento Boulevard and Franklin Boulevard.	None	*24
			Just east of the Franklin Boulevard Elkhorn Boulevard and Garden Parkway.	None	*33
			At the intersection of Delta Road and Walnut Road.	None	*33
			At the intersection of Elverta Road and Powerline Road.	None	*33
			At the intersection of El Centro Road and Elverta Road.	None	*33
			Approximately 2,500 feet east of the intersection of Elverta Road and Natomas East Drainage Canal.	None	*33
			At the intersection of Interstate Route 5 and School house Road.	None	*33
			At the intersection of Del Paso Road and Powerline Road.	None	*33
			At the intersection of Meister Way and Powerline Road.	None	*33
			At the intersection of the private drive and Elkhorn Boulevard.	None	*33
			Just west of the intersection of Garden Highway and San Juan Road.	None	*33

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 2,000 feet west of the intersection of Elverta Road and the Western Pacific Railroad.	None	*33
			Just west of the intersection of Sorento Road and Del Paso Road.	None	*33
		Dry Creek	Approximately 800 feet west of 2nd Street, along 4th Street.	None	*36
			Approximately 500 feet downstream of Rio Linda Boulevard.	#2	*38
			Approximately 400 feet west of the intersection of Ascot Avenue and 2nd Avenue.	*35	*38
			At the intersection of Ascot Avenue and 2nd Avenue.	None	*38
			Approximately 1,000 feet south of the intersection of E Street and 2nd Avenue.	None	*38
		Dry Creek North	500 feet west of the confluence with Dry Creek.	None	*39
			Approximately 500 feet upstream of the confluence with Dry Creek, West Overbank.	None	*39
			Just upstream of Marysville Avenue, North Overbank.	None	*40
		Natomas East Drainage Canal.	Just upstream of Elkhorn Boulevard	*12	*33
			Just downstream of the Sacramento County Corporate Limits.	*16	*33
		Natomas East Main Drainage Canal.	Approximately 7,300 feet downstream of Elkhorn Avenue.	*33	*36
			Just downstream of the confluence with Natomas East Main Drainage Canal Tributary #3.	*33	*36
			Approximately 5,800 feet upstream of the confluence with Natomas East Main Drainage Canal Tributary #1.	*33	*39
		Natomas East Main Drainage Canal (Shallow Flooding).	Approximately 2,500 feet downstream of Elkhorn Boulevard, West Overbank.	None	#2
			At Elkhorn Avenue, West Overbank	None	#2
			Approximately 1,300 feet upstream of Elkhorn Boulevard, West Overbank.	None	#2
			Approximately 4,500 feet upstream of Elverta Road, West Overbank.	None	#2
		Natomas East Main Drainage Canal Tributary #1.	Just upstream of the confluence with Natomas East Main Drainage Canal.	*33	*38
			Just downstream of Rio Linda Boulevard .	*38	*38
		Natomas East Main Drainage Canal Tributary #2.	Just downstream of the Western Pacific Railroad.	*33	*38
			Just downstream of Elwyn Avenue	*38	*38
		Natomas East Main Drainage Canal Tributary #3.	Just upstream of the confluence with Natomas East Main Drainage Canal.	*33	*38
			Just downstream of West 2nd Street	*38	*38
		Natomas Main Drainage Canal.	Just upstream of the Sacramento County Corporate Limits.	*9	*33
		Natomas North Drainage Canal.	Approximately 2,000 feet downstream of the Access Road.	*23	*33
			Just downstream of the Sacramento County Corporate Limits.	*23	*33
		Natomas West Drainage Canal.	Just upstream of the confluence with Natomas Main Drainage Canal.	*9	*33
			Just downstream of Elkhorn Boulevard	*14	*33
		Sacramento River	Approximately 200 feet upstream of Freeport Bridge.	*24	*25
			Approximately 5,000 feet upstream of Freeport Bridge.	*24	*26
			Approximately 4,000 feet downstream of Interstate Route 80.	*30	*31
			Approximately 5,000 feet upstream of San Juan Road.	None	*32

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 6,000 feet upstream of Powerline Road.	None	*33
			Approximately 5,000 feet downstream of Interstate Highway 5.	None	*35
			Approximately 4,500 feet downstream of Elkhorn Boulevard.	None	*36
			Just upstream of Elkhorn Boulevard	None	*37
			Approximately 5,000 feet upstream of Elverta Road.	None	*38
		Shallow Flooding	Approximately 1,000 feet northwest of the intersection of 47th Avenue and Franklin Avenue.	None	#1
		Strong Ranch Slough	Approximately 2,400 feet downstream of Howe Avenue.	*33	*44
			Just downstream of Wyda Way	*43	*44

Maps are available for review at the Department of Public Works, Water Resources Division, 827 Seventh Street, Room 301, Sacramento, California.

Send comments to The Honorable Grantland Johnson, Chairman, Sacramento County Board of Supervisors, 700 H Street, Room 2450, Sacramento, California 95814.

California	City of San Pablo, Contra Costa County.	Rheem Creek	Just upstream of Giant Highway	*24	*24
			Just upstream of 12th Street	*28	*28
		Along Giant Road from Standard Oil Tank to Rheem Creek.	Rheem Creek Bridge at Giant Road	*23	*26
			At Miner Avenue	*28	*28

Maps are available for review at the Building Department, Number One Alvarado Square, San Pablo, California.

Send comments to The Honorable Joe Gomes, Mayor, City of San Pablo, Number One Alvarado Square, San Pablo, California 94806.

California	Sutter County Unincorporated Areas.	Cross Canal (Distance upstream of confluence with Sacramento River).	Just upstream	None	*39
			Approximately 10,000 feet	None	*40
			Approximately 20,000 feet	None	*40
			Approximately 28,000 feet	None	*40
		Curry Creek	Approximately 1,500 feet downstream of the Union Pacific Railroad.	*38	*41
			Just upstream of the Union Pacific Railroad.	*38	*41
			Just downstream of Pleasant Grove Road	*39	*41
			Approximately 2,000 feet upstream of Pleasant Grove Road.	*40	*41
			Approximately 3,000 feet upstream of Pleasant Grove Road.	*41	*41
		Deep Ponding	At the intersection of Riego Road and Power Line Road.	None	*33
			At the intersection of Pacific Avenue and Riego Road.	None	*33
			At the intersection of Sankey Road and Power Line Road.	None	*33
			At the intersection of Sankey Road and Pacific Avenue.	None	*33
			Just south of the intersection of Howsley Road and Route 70/90.	None	*33
		Howsley Creek	Approximately 5,000 feet downstream of the Union Pacific Railroad.	*37	*40
			Approximately 1,000 feet downstream of the Union Pacific Railroad.	*38	*40
			Approximately 1,000 feet upstream of the Union Pacific Railroad.	*39	*40
			Approximately 3,800 feet upstream of the Union Pacific Railroad.	*41	*41
		Natomas East Main Drainage Canal.	Approximately 5,800 feet downstream of Riego Road.	None	*39
			Approximately 1,000 feet downstream of Riego Road.	None	*39

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 5,000 feet upstream of Riego Road.	None	*40
			Approximately 7,500 feet upstream of Riego Road.	None	*40
		Natomas East Main Drainage Canal (Shallow Flooding).	Approximately 5,000 feet downstream of Riego Road, west overbank.	None	#3
			Approximately 3,000 feet downstream of Riego Road, west overbank.	None	#2
			Approximately 1,500 feet downstream of Riego Road, west overbank.	None	#2
			Approximately 2,000 feet upstream of Riego Road, west overbank.	None	*2
			Approximately 4,500 feet upstream of Riego Road, west overbank.	None	#3
			Approximately 6,000 feet upstream of Riego Road, west overbank.	None	#3
			Approximately 7,500 feet upstream of Riego Road, west overbank.	None	#1
			Approximately 1,000 feet downstream of Sankey Road.	None	#2
		Pleasant Grove Creek	Approximately 4,000 feet downstream of the Union Pacific Railroad.	*38	*41
			Approximately 500 feet upstream of the Union Pacific Railroad.	*39	*41
			Approximately 1,400 feet upstream of Fifield Road.	*41	*41
		Pleasant Grove Creek Canal (Shallow Flooding).	Just downstream of Sankey Road, west overbank.	None	#1
		Pleasant Grove Creek Bypass.	Approximately 2,000 feet downstream of the Union Pacific Railroad.	*38	*40
			Approximately 500 feet upstream of the Union Pacific Railroad.	*39	*40
			Approximately 2,500 feet upstream of the Union Pacific Railroad.	*40	*41
			Approximately 3,800 feet upstream of the Union Pacific Railroad.	*41	*41
		Pleasant Grove Creek Canal.	Just downstream of Howsley Road	*37	*40
			Approximately 400 feet upstream of Fifield Road.	*38	*41
			Approximately 200 feet downstream of Keys Road.	*38	*41
			Just downstream of Sankey Road	*38	*41
		Sacramento River	Approximately 5,000 feet downstream of Riego Road.	None	*38
			Approximately 1,000 feet upstream of the confluence with Cross Canal.	None	*39
		Yolo Bypass	Just downstream of the Freemont Weir ...	None	*36
			Just upstream of the Freemont Weir	None	*39

Maps are available for review at the Sutter County Department of Public Works, Planning Department, 1160 Civic Center Boulevard, Suite A, Yuba City, California.

Send comments to The Honorable Pete Licari, Chairperson, Sutter County Board of Supervisors, 1160 Civic Center Boulevard, Yuba City, California 95993.

California	City of West Sacramento Yolo County.	Sacramento River	Approximately 36,000 feet downstream of Tower Bridge.	None	*28
			Approximately 26,000 feet downstream of Tower Bridge.	None	*29
			Approximately 13,500 feet downstream of Tower Bridge.	None	*30
			Approximately 4,000 feet upstream of Tower Bridge.	None	*31
			Approximately 1,400 feet downstream of Interstate 80.	None	*31
		Deep Ponding	At the intersection of Bevan Avenue and Jefferson Boulevard.	None	*25

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			At the intersection of Interstate Highway 80/National Highway 40 and Harbor Boulevard.	None	*25
			Approximately 1,500 feet north of the intersection of Enterprise Boulevard and Lake Road.	None	*27
			At the intersection of F Street and Fifth Street.	None	*28
			At the intersection of Reed Avenue and Interstate Highway 80.	None	*30
		Sacramento River Deep Watership Channel.	Approximately 24,000 feet downstream of Jefferson Boulevard.	None	*25
			Approximately 32,000 feet downstream of Jefferson Boulevard.	None	*25
		Yolo Bypass	Approximately 17,000 feet downstream of Interstate Highway 80/National Highway 40.	None	*26
			Approximately 3,500 feet downstream of Interstate Highway 80/Interstate Highway 40.	None	*27

Maps are available for review at the Department of Public Works, Community Development Department, 1951 South River Road, West Sacramento, California.

Send comments to The Honorable Greg Potnick, Mayor, City of West Sacramento, P.O. Box 966, West Sacramento, California 95691.

Colorado	City of Greenwood Village, Arapahoe County.	Goldsmith Gulch	Approximately 650 feet downstream of East Orchard Road.	*5,643	*5,643
			Just upstream of East Orchard Road	*5,667	*5,670
			At the corporate limits just upstream of South Dayton Street.	*5,672	*5,670

Maps are available for review at the Planning and Zoning Department, City Hall, City of Greenwood Village, 6060 South Quebec Street, Greenwood Village, Colorado,

Send comments to The Honorable Rollin Barnard, Mayor, City of Greenwood Village, 6060 South Quebec Street, Greenwood Village, Colorado 80111–4591.

Colorado	Town of Wellington Larimer County.	Boxelder Creek	At County Road 62	*5,184	*5,180
			At Burlington Northern Railroad	*5,190	*5,185
			Just upstream of Cleveland Avenue	*5,200	*5,194
			Approximately 1,000 feet downstream of County Road 64.	*5,212	*5,205
			Approximately 450 feet upstream of County Road 64.	*5,218	*5,213

Maps are available for review at Town Hall, 3735 Cleveland Street, Wellington, Colorado.

Send comments to The Honorable Walt Kuemmerlin, Mayor, Town of Wellington, P.O. Box 127, Wellington, Colorado 80549.

Georgia	DeKalb County (Unincorporated Areas).	Peavine Creek	Approximately 1,800' upstream of Old Briarcliff Road.	*847	*846
			Approximately 400' downstream	*857	*856
			Approximately 100' downstream of Oxford Road.	*857	*858
			Approximately 100' downstream of Durand Falls Drive.	*923	*924

Send comments to Ms. Liane Levetan, Chief Executive Officer of DeKalb County, 1300 Commerce Drive, Decatur, Georgia 30030.

Idaho	Canyon County Unincorporated Areas.	Boise River	Approximately 1,300 feet upstream of the confluence with the Snake River.	None	*2,187
			Approximately 200 feet downstream of Hexon Road.	*2,211	*2,212
			Just downstream of Parma-Roswell Road (State Highway 18).	*2,224	*2,223
			Approximately 400 feet downstream of U.S. Highway 95.	*2,246	*2,245
			Just downstream of Notus-Greenleaf Road.	*2,297	*2,297

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
		Mill Slough	Approximately 100 feet upstream of Union Pacific Railroad.	*2,396	*2,396
			Approximately 900 feet downstream of Canyon-Ada County Line.	*2,451	*2,451
			At the upstream corporate limits of City of Middleton.	*2,398	*2,398
			Approximately 1,700 feet upstream of the upstream Corporate Limits of City of Middleton.	None	*2,400

Maps are available for review at the Department of Planning and Zoning, 1115 Albany, Caldwell, Idaho.

Send comments to The Honorable Walter Opp, Chairman, Canyon County Board of Commissioners, 1115 Albany, Caldwell, Idaho 83605.

Idaho	City of Middleton, Canyon County.	Boise River	At the west corporate limits located approximately 1,300 feet to the west of Whiffin Lane.	*2,381	*2,380
			At the confluence of Mill Creek	*2,384	*2,383

Maps are available for review at City Hall, City of Middleton, 15 North Dewey, P.O. box 176, Middleton, Idaho.

Send comments to The Honorable Leon Swigert, 15 North Dewey, P.O. Box 176, Middleton, Idaho 83644.

Idaho	City of Notus, Canyon County.	Boise River	Approximately 6,100 feet downstream of Notus-Greenleaf Road.	None	*2,287
			At the intersection of Alpine Avenue and First Street.	*2,295	*2,295
			At Notus-Greenleaf Road	*2,297	*2,297
			Approximately 1,450 feet upstream of Notus-Greenleaf Road.	None	*2,300

Maps are available for review at City Hall, 375 Notus Road, Notus, Idaho.

Send comments to the Honorable Greg Kadel, Major, City of Notus, 375 Notus Road, P.O. Box 257, Notus, Idaho 83656.

Idaho	City of Parma, Canyon County.	Boise River	Along Main Street 1,200 feet west of Roswell Boulevard, just north of the railroad.	*2,219	*2,217
			At Parma Airport	*2,224	*2,223
			At the extreme southeastern corner of the City of Vista.	*2,228	*2,226

Maps are available for review at City Hall, 305 North Third Street, Parma, Idaho.

Send comments to The Honorable Patricia Romanko, Mayor, City of Parma, 305 North Third Street, P.O. Box 608, Parma, Idaho 83660.

Mississippi	Smith County (Unincorporated Areas).	Lyon Creek	At confluence with Leaf River	None	*250
			Approximately 2.4 miles upstream of State Highway 37.	None	*289
		Tributary of Lyon Creek	At confluence with Lyon Creek	None	*251
			Approximately 1,250 feet upstream of State Highway 28.	None	*297
		Leaf River	Approximately 1.0 mile downstream of confluence of Lyon Creek.	None	*247
			Approximately 1.4 miles upstream of State Highway 28.	None	*257

Maps available for inspection at the Smith County Office Building, Tax Assessor's Office, Raleigh, Mississippi.

Send comments to Mr. Benjie Ford, President of the Smith County Board of Supervisors, P.O. Box 792, Taylorsville, Mississippi 39168.

Mississippi	Taylorsville, Town (Smith County).	Tributary of Lyon Creek	Approximately 1,600 feet downstream of Norris Street.	None	*257
			Approximately 200 feet upstream of the Illinois Central Railroad.	None	*277
		Leaf River	Affecting southeast corner	None	*251
			Affecting northeast corner	None	*257

Maps available for inspection at the Taylorsville Town Hall, Building Official's Office, 125 Eaton Street, Taylorsville, Mississippi.

Send comments to The Honorable Dennis Robinson, Mayor of the Town of Taylorsville, Smith County, P.O. Box 385, Taylorsville, Mississippi 39168.

Missouri	City of Herculaneum, Jefferson County.	Bonacher Creek	Just upstream of Gravel Road	*418	*418

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Just upstream of relocated Coachman Drive.	*419	*425
			At the confluence of Bonacher Tributary ..	*429	*429
Maps are available for review at No. 1 Parkwood Court, Herculaneum, Missouri.					
Send comments to The Honorable Tom Robart, Mayor, City of Herculaneum, No. 1 Parkwood Court, Herculaneum, Missouri 63048.					
Missouri	City of Rolla, Phelps County.	Burgher Branch	Approximately 70 feet upstream of the corporate limits.	*967	*967
			Approximately 100 feet upstream of Soest Road.	*990	*993
			Approximately 120 feet upstream of 10th Street.	*1,015	*1,015
			Just downstream of Old St. James Road .	*1,057	*1,058
			Approximately 0.57 mile upstream of old St. James Road.	N/A	*1,085
		East Fork of Burgher Branch.	At the confluence with Burgher Branch	*987	*987
			Approximately 60 feet upstream of Soest Road.	*992	*991
			Approximately 80 feet upstream of 10th Street.	*1,022	*1,024
		Burgher Branch Tributary .	Approximately 270 Feet upstream of the confluence with Burgher Branch.	*1,000	*1,002
			Just downstream of Holloway Street	*1,044	*1,046
			Approximately 100 feet downstream of Iowa Street.	*1,055	*1,055
		Dutrocarter Creek	At the corporate limits, located approximately 900 feet downstream of State Highway "0".	*976	*977
			Just upstream of Pete Avenue	*1,030	*1,031
			Approximately 100 feet upstream of State Highway 72.	*1,050	*1,050
			Approximately 80 feet downstream of Burlington Northern Railway.	*1,064	*1,069
		Delble Branch	At the confluence with Dutrocarter Creek	None	*980
			Just upstream of State Highway "0"	None	*985
			At the corporate limits located approximately 0.25 mile upstream of State Highway "0".	None	*992
		Spring Creek Tributary	At the limit of detailed study located at the downstream most corporate limits.	*963	*963
			Just downstream of Meadow Brook Drive	*973	*973
			Approximately 50 feet downstream of Vichy Road.	*990	*991
			At the upstream limit of detailed study, located approximately 0.4 mile upstream of Vichy Road.	N/A	*1,019
Maps are available for review at City Hall, City of Rolla, 102 West 9th Street, Rolla, Missouri.					
Send comments to the Honorable Floyd Ferrell, Mayor, City of Rolla, 102 West 9th Street, P.O. Box 979, Rolla, Missouri 65401.					
Missouri	City of West Plains, Howell County.	North Fork Howell Creek ..	At the confluence with Howell Creek	*964	*964
			Just upstream of Thornburgh Street	*970	*969
			Approximately 1,700 feet upstream of Thornburgh Street (streamside/landside of levee).	*973/N/A	*973/*972
			Approximately 600 feet downstream of Burlington Northern Railroad (streamside/landside of levee).	*976/N/A	*975/*972
			Just downstream of Burlington Northern Railroad.	*978	*976
		South Fork Howell Creek .	Approximately 2,700 feet upstream of Outer Road.	*1,018	*1,018
			Just upstream of Unnamed Road	None	*1,023
			Approximately 800 feet upstream of Unnamed Road.	None	*1,026
		Burton Branch	Approximately 1,000 feet upstream of Davis Drive.	*1,011	*1,011

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 600 feet upstream of Harrison Road.	*1,022	*1,021
			Approximately 4,000 feet upstream of U.S. Highway 63.	None	*1,031

Maps are available for review at the City Hall, 1910 Holiday Lane, West Plains, Missouri.

Send comments to The Honorable Harry B. Kelly, Mayor, City of West Plains, P.O. Box 710, West Plains, Missouri 65775.

North Carolina	Charlotte, City, Mecklenburg County.	Taggart Creek	Approximately 1,000 feet upstream of the confluence with Sugar Irwin Creek.	*605	*604
			Approximately 300 feet downstream of Mulberry Church Road.	*686	*687

Maps available at Charlotte City Hall, 600 East 4th Street, Charlotte, North Carolina 28202.

Send comments to the Honorable Richard Vinroot, Mayor of the City of Charlotte, Mecklenburg County, 600 East 4th Street, Charlotte, North Carolina 28202.

North Carolina	Winston-Salem, City (Forsyth County).	Hanes Park Branch	Just downstream of Buena Vista Road	*808	*800
			Approximately 1,300 feet upstream of Robinhood Road.	*829	*830
		Monarcas Creek	Just downstream of Bethabara Road	*801	*801
			Just upstream of Bethabara Road	*808	*807
			Just downstream of North Cliffe Drive	*822	*822
			Just upstream of North Cliffe Drive	*823	*829
			Just upstream of University Parkway	*840	*840

Maps are available for inspection at the Building Inspector's Office, 100 Liberty Walk, Winston-Salem, North Carolina.

Send comment to The Honorable Martha Wood, Mayor of the City of Winston-Salem, Forsyth County, P.O. 2511, Winston-Salem, North Carolina 27102–2511.

North Dakota	City of Forest River, Walsh County.	Forest River	Approximately 2,400 feet downstream of Burlington Northern Railroad.	*860	*858
			Just upstream of County Road 6	*865	*863
			Approximately 3,500 feet upstream of Soo Line Railroad.	*868	*865

Maps are available for review at the First American Bank, Main Street, Forest River, North Dakota.

Send comments to The Honorable Lee Ferguson, Mayor, City of Forest River, P.O. Box 128, Forest River, North Dakota 58233.

North Dakota	City of Forest River, Walsh County.	Forest River	Approximately 2,400 feet downstream of Burlington Northern Railroad.	*860	*858
			Just upstream of County Road 6	*865	*863
			Approximately 3,500 feet upstream of Soo Line Railroad.	*868	*865

Maps are available for review at the First American Bank, Main Street, Forest River, North Dakota.

Send comments to The Honorable Lee Ferguson, Mayor, City of Forest River, P.O. Box 128, Forest River, North Dakota 58233.

North Dakota	City of Grafton, Walsh County.	Park River	At Field Road extended, approximately 6,660 feet downstream of Burgamott Avenue.	None	*824
			At Burgamott Avenue	None	*824
			Just downstream of Hill Avenue extended	None	*830
			Approximately 8,020 feet upstream of Kittson Avenue.	None	*831

Maps are available for review at the Department of Public Works, City of Grafton, 5 East Fourth Street, Rolla, North Dakota.

Send comments to The Honorable Jeff Peterson, Mayor, City of Grafton, 5 East Fourth Street, P.O. Box 578, Grafton, North Dakota 58237.

Rhode Island	Johnston, Town, Providence Co.	Pocasset River	At downstream of corporate limits	*81	*76
			0.8 mile upstream of Interstate Route 295 (southbound).	None	*255
		Woonasquatucket River	Approximately 250 feet upstream of Manton Avenue.	*70	*69
			At upstream corporate limits	*116	*115

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps are available for inspection at the Johnston Town Hall, 1385 Harford Avenue, Johnston, Rhode Island.					
Send comments to The Honorable Ralph R. Arusso, Mayor of the Town of Johnston, Providence County, 1385 Harford Avenue, Johnston, Rhode Island 02919.					
Rhode Island	North Smithfield, Town (Providence County).	Crook Fall Brook	At confluence with Blackstone River	None	*116
			Approximately 630' upstream of Old Great Road.	None	*279
Maps are available for inspection at the Town Clerk's Office, Memorial Town Building, 1 Main Street, Slatersville, Rhode Island.					
Send comments to Mr. Kenneth M. Bianchi, Town of North Smithfield Administrator, Providence County, Memorial Town Building, 1 Main Street, Slatersville, Rhode Island 02876.					
Tennessee	Anderson County (Unincorporated Areas).	Hinds Creek	Approximately 0.83 mile downstream of confluence of Buffalo Creek.	None	*836
			At downstream side of Mountain Road	None	*848
		Buffalo Creek	At confluence with Hinds Creek	None	*840
			Approximately 0.48 mile upstream of Park Road.	None	*971
Maps are available for inspection at the Planning and Zoning Office, Anderson County Courthouse, 100 North Main Street, Clinton, Tennessee.					
Send comments to Mr. David Bolling, Anderson County Executive, Anderson County Courthouse, 100 North Main Street, Room 208, Clinton, Tennessee 37716.					
Tennessee	Norris, City (Anderson County).	Buffalo Creek	At a point approximately 0.4 mile downstream of U.S. Route 441.	None	*905
			Approximately 225 feet upstream of State Route 61.	None	*930
Maps are available for inspection at the Norris Community Building, 20 Chestnut Drive, Norris, Tennessee.					
Send comments to The Honorable Richard Dyer, Mayor of the City of Norris, Anderson County, Norris Community Building, 20 Chestnut Drive, Norris, Tennessee 37828.					
Utah	Carbon County	Price River	At the confluence with Cardinal Wash	*5,462	*5,462
			Approximately 200 feet upstream of 400 East Street.	*5,486	*5,490
			Approximately 500 feet, downstream of the confluence of Gordon Creek.	*5,586	*5,586
			Approximately 2,800 feet upstream of Third West Street and North of Highway 6.	None	*5,517
		Meads Wash	At the upstream side of Highway 6	*5,478	*5,487
			At the Denver and Rio Grande Western Railroad.	*5,496	*5,499
			Approximately 2.3 miles upstream of the Denver and Rio Grande Western Railroad.	None	*5,672
Maps are available for review at the Planning and Zoning Department, 65 South First East, Price, Utah.					
Send comments to The Honorable Neil Breinholt, Chairman, Carbon County Board of Commissioners, 120 East Main Street, Price, Utah 84501					
Utah	City of Price, Carbon County.	Price River	Approximately 400 feet downstream of Carbon Avenue.	*5,492	*5,498
			Just downstream of 300 West Street	*5,506	*5,506
			Approximately 600 feet upstream of 100 North Street.	*5,524	*5,530
			At the intersection of 300 South Street and Seventh West Street.	*5,517	*5,517
			Approximately 200 feet north of the intersection of 100 North Street and Price River Drive.	None	*5,528
		Meads Wash	Approximately 1,050 feet downstream of 400 South Street.	*5,500	*5,502
			Just upstream of 100 North Street	*5,560	*5,570
			Approximately 1,300 feet upstream of 800 North Street.	*5,657	*5,660

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps are available for review at the Department of Public Works, 432 West 600 South, Price, Utah. Send comments to The Honorable Lou Colosimo, Mayor, City of Price, 185 East Main Street, Price, Utah 84501.					
Utah	City of St. George, Washington County.	Fort Pierce Wash	Approximately 3,300 feet downstream of Fort Pierce Drive.	*2,552	*2,552
			Approximately 1,400 feet downstream of Fort Pierce Drive.	*2,556	*2,561
			Approximately 100 feet upstream of Fort Pierce Drive.	*2,568	*2,569
			Approximately 2,350 feet upstream of Fort Pierce Drive.	*2,578	*2,578
Maps are available for review at the Office of the City Engineer, 175 East 200 North, St. George, Utah. Send comments to The Honorable Karl F. Brooks, Mayor, City of St. George, 175 East 200 North, St. George, Utah 84770.					
Virginia	Bristol, City, Independent City.	Little Creek	Upstream side of State Street	*1,672	*1,670
			0.85 mile upstream of Church Street	*1,726	*1,727
Maps are available for inspection at the Department of Community Development and Planning, 1201 Oakview Avenue, Bristol, Virginia. Send comments to The Honorable James Richter, Mayor of the City of Bristol, 497 Cumberland Avenue, Bristol, Virginia 24201.					
Virginia	Pulaski, Town, Pulaski County.	Peak Creek	Approximately 0.6 mile downstream of the confluence of Thorn Spring Branch.	None	*1,865
		Tract Fork	At upstream side of Commerce Street	*1,933	*1,934
			At the confluence with Peak Creek	*1,917	*1,918
		Sproules Run	At upstream side of Altoona Road	*1,930	*1,929
			At the confluence with Peak Creek	*1,908	*1,909
			Approximately 0.10 mile downstream of U.S. Route 11 (5th Street).	*1,901	*1,904
Maps are available for inspection at the Town Engineer's Office, 42 1st Street, N.W., Pulaski, Virginia. Send comments to The Honorable Gary Hancock, Mayor of the Town of Pulaski, Pulaski County, P.O. Box 660, Pulaski, Virginia 24301.					

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: March 9, 1993.

Francis W. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93–6106 Filed 3–16–93; 8:45 am]

BILLING CODE 6718–03–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[MM Docket No. 93–48, FCC 93–123]

Radio Broadcast Services; Children's Television Programming

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; notice of inquiry.

SUMMARY: This Notice of Inquiry seeks comment on issues relating to children's programming by broadcast television licensees. The Notice discusses licensees' difficulty in understanding and implementing the Commission's requirements concerning children's television. The Notice seeks comment on whether and in what manner the Commission's Rules might be revised to more clearly identify the levels and types of programming necessary in the long term to adequately serve the educational and informational needs of children. The Notice responds to the enactment of the Children's Television Act of 1990 by Congress. The Commission issued the Notice on its own motion.

DATES: Comments are due by April 23, 1993, and reply comments are due by May 24, 1993.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Barbara A. Kreisman, Mass Media Bureau, Video Services Division, (202) 632–6993.

SUPPLEMENTARY INFORMATION: This is the Commission's Notice of Inquiry in MM Docket No. 93–48, adopted and released on March 2, 1993.

The complete text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center, room 239, at the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Notice of Proposed Rulemaking

1. The Commission adopted policies and rules implementing the Children's Television Act of 1990 [1] (CTA) in Report and Order in FCC 91–113, released on April 9, 1991, 56 FR 19611 (April 29, 1991), recon. granted in part, MO&O in FCC 91–248, released on August 26, 1991, 56 FR 42707 (August 29, 1991). The CTA and our implementing rules impose both an affirmative children's programming obligation on broadcasters and restrict the amount of commercial time that may be placed in children's programming. We have now reviewed more than 320 television license renewal applications subject to the CTA's requirements. The majority of these applications demonstrated adequate efforts to meet the

[1] Pub. L. No. 101–437, 104 Stat. 996–1000, codified at 47 U.S.C. Sections 303a, 303b, 394.

programming needs of children given that very limited portions of the applicants' license terms were subject to the CTA.[2] At the same time, however, we want to ensure that broadcasters having significantly longer periods remaining in their license terms be aware of Congress' intent to expand and improve the level of educational and informational programming directed at children. Accordingly, we initiate this proceeding to seek comment on whether and in what manner our rules and policies might be revised to more clearly identify the levels and types of programming necessary in the long term to adequately serve the educational and informational needs of children.

2. **Background.** The CTA's objectives were to increase the amount of educational and informational broadcast television programming available to children and to protect children from over-commercialization of programming.[3] A review of the CTA's legislative history reflects Congressional concern as to the amount and type of children's television programming and the limited time periods during which children's programming is broadcast. Congress explained that time periods designated for "children's programming" are often filled with reruns of adult or family comedy, variety, or dramatic programs.[4] Congress noted that, on the average, each of the networks air an after-school special one day a month during the school year and that independent stations tend to offer programs to children during the week that consist of animated cartoons, often with commercial products associated with them.[5]

3. Accordingly, Congress directed the Commission to review at renewal, among other things, whether television broadcasters have served the educational and informational needs of children.[6] The legislative history of the CTA suggests that programming that furthers children's positive development in any way, including serving their cognitive/intellectual or social/emotional needs, could qualify as part of broadcasters' efforts to meet this obligation. Examples of such material were given and included programs like "Fat Albert and the Cosby Kids", which dealt in a meaningful way for children with issues such as drugs, divorce, friendship and child abuse.[7] For additional examples see the Commission's Report and Order, *supra*, at para. 26.

4. Pursuant to our rules implementing the objectives of the CTA,[8] starting on October 1, 1991, television station licensees were required to respond to the educational and informational needs of children 16 years of age and under through their stations' overall programming, including programming specifically designed to serve such needs. In accordance with the CTA's legislative history, however, no minimum amount of such programming has been prescribed. Nor has any programming that does, in fact, serve children's educational and informational needs been excluded from consideration in demonstrating compliance with the CTA. Short segment programming, including vignettes and public service announcements, live action, animated and general audience programs, whether network, syndicated or locally produced, can all be relied upon as contributing to a licensee's programming efforts on behalf of children. Thus, as Congress intended, television licensees enjoy substantial discretion both in determining whether a particular program qualifies as educational and informational and in fixing the level or amount of children's programming that it will air. Plainly, however, that discretion is not unlimited. We have, for example, stated that some standard-length programs specifically designed to serve the educational and informational needs of children must be aired to fulfill a licensee's obligations under the CTA.[9] Moreover, it seems clear that Congress intended, in adopting the CTA, to increase the amount of educational and informational programming aimed expressly at the child audience.[10]

5. **Discussion.** At the outset, we acknowledge the substantial difficulty inherent in adequately particularizing broadcasters' children's programming obligations while also affording licensees the discretion that Congress intended to reserve to them in meeting that obligation. To this point, consistent with Congress' express preference for avoiding quantitative standards and for relying on licensee judgment in meeting children's programming needs, we have consistently favored statements of purpose over specific regulatory requirements. We continue to believe that licensees must, for the most part, themselves define the appropriate scope of their service to children in their communities. At the same time, of course, we are obliged to review the adequacy of that service at renewal. In light of our experience in reviewing renewal applications that are subject to the CTA's programming requirements and in evaluating the efforts licensees have documented to meet those requirements, we believe that refinement of our implementation of the CTA may be warranted.

6. For example, an informal comparison of the children's television programming listed in recently filed renewal application exhibits with Congressional findings set forth in the CTA's legislative history, suggests little change in available programming that addresses the needs of the child audience.[11] The number of hours and time slots devoted to children's programming do not appear to have substantially changed. Further, with few exceptions, the "educational and informational" programming broadcast appears to be those same few programs set forth in the legislative history for illustrative purposes. Moreover, while practically all licensees filing renewal applications in the current renewal cycle have identified some regularly scheduled, standard-length children's programming aired during their license terms, the amount of such programming is, in some cases, very limited.[12] Many of these licensees place substantial reliance on short-segment vignettes and public service announcements to satisfy their CTA obligations.[13] Finally, some

[2] Television license renewal applications filed since February 1992 have been reviewed under the CTA criteria. To date, therefore, renewal applicants have, at most, had one year of their five year license terms subject to CTA requirements.

[3] Children's Television Act of 1969, Senate Committee on Commerce, Science, and Transportation, S. Rep. No. 227, 101st Cong., 1st Sess. 22 (1989) (Senate Report).

[4] *Senate Report* at 8.

[5] *Id.*

[6] For purposes of the programming obligations imposed by the CTA, the Commission has defined children as individuals aged 16 or under.

[7] See Senate Report at 7.

[8] The rules are 47 C.F.R. Sections 73.520 and 73.671.

[9] Children's Television Reconsideration Order, 6 FCC Rcd 5093, 5101 (1991).

[10] See, *e.g.*, Senate Report at 1.

[11] We acknowledge the possibility that program suppliers may not yet have made available significant amounts of standard-length programming expressly directed to the educational and informational needs of children because the obligation to air it and the demand generated by that obligation are relatively recent developments. To the extent that this "supply shortage" explains the slow growth to date in "core" children's programming by broadcasters, we seek specific comment on whether the supply of such "core" programming will resolve itself as long as broadcasters clearly understand and express their children's programming needs.

[12] "Standard-length" programs are generally understood to be at least one half-hour long. To date, some licensees filing renewal applications in the current renewal cycle identified as little as one such standard-length "core" children's program aired on a weekly basis.

[13] Other activities in support of children's programming, including support for other stations' broadcast efforts or non-broadcast activities that assist or supplement broadcast material, may also

licensees are proffering such animated programs as "The Flintstones" and "G.I. Joe" as informational and educational, asserting that such programs include a variety of generalized pro-social themes.

7. We do not believe that this level of performance is, in the long term, consistent with the objectives underlying the CTA. We wish to make clear that we do not attribute the programming performance suggested by our renewal experience to date to any unwillingness to comply or any intentional disregard for their programming responsibilities on the part of broadcasters. Rather, we believe that broadcasters may remain uncertain as to the scope of their programming obligations and that this uncertainty may largely explain the apparent lack of growth in children's programming. Indeed, where the CTA has imposed specific, palpable performance standards—as it has with respect to commercial time limits in children's programming—broadcasters' compliance rate appears to be quite high.[14] We conclude that both the Commission and licensees might benefit from futher efforts to exemplify and define the CTA's programming requirements. Accordingly, we believe it is appropriate to again address some of the more difficult issues raised by the statute and out rules and to inquire how we might better guide broadcasters in discharging their children's programming obligations. We seek comments, therefore, on the broad range of implementation and compliance issues suggested by the foregoing discussion as well as on the following, specific preliminary views.

8. First, we believe that broadcasters should place their primary reliance in establishing compliance with the CTA on standard-length programming that is specifically designed to serve the educational and informational needs of children, and should accord short-segment programming secondary importance in this regard. Standard-length programming is scheduled and therefore available to the child audience at predictable times. This is especially important to parents who may be more directly involved in screening the television viewing of younger children. Second, to avoid definitional problems, we believe it may be appropriate to specify that the primary objective of qualifying "core" children's programming should be educational and informational, with entertainment as a secondary goal. In other words, we believe broadcasters should focus on programming that has as its *explicit* purpose service to the educational and informational needs of children, with the implicit purpose of entertainment, rather than the converse.[15] This may help to avoid potentially misplaced reliance by licensees on entertainment programming that is asserted to be informational or educational based principally on a "wrap-around" pro-social message.[16]

9. We also seek comment on whether, to provide clearer guidance to licensees and to facilitate renewal review by the Commission, we should adopt staff processing guidelines specifying an amount and type of children's programming that would permit staff grant of a license renewal application meeting the guideline, while applications not satisfying the processing criteria would be subject to further review. If so, what should such guidelines be (*e.g.*, one hour per week or one hour during the week and one hour during the weekend of standard-length, informational and educational programming)? How should a standard be affected by the amount, scheduling and quality of the standard-length material that is aired or by the broadcast of other programming that Congress acknowledged could contribute to meeting children's needs, but that does so indirectly (*e.g.*, family programming or children's entertainment programming that carries a secondary educational, ethical or information message)? Would such an approach violate Congress' expressed intention to avoid a minimum quantitative programming test? In this latter regard, it should be noted that failure to meet the guideline would not necessarily result in any sanction or nonrenewal; rather it would determine the intensity of Commission scrutiny. On the other hand, we have acknowledged, in other contexts, that processing guidelines in the renewal area can take on the force of a rule, at least in the perception of licensees.[17]

10. We seek comment on the foregoing matters and on any related issues that may assist us in better implementing the requirements and underlying objectives of the Children's Television Act.

Procedural Matters

11. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before April 23, 1993, and reply comments on or before May 24, 1993. All relevant and timely comments will be considered by the Commission before taking further action in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comment and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original and nine copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission. Washington, DC 20554.

12. For further information concerning this Notice of Inquiry, contact Barbara A. Kreisman (202–632–6993), Mass Media Bureau, Video Services, Division, Federal Communications Commission, Washington, DC 20554.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–6013 Filed 3–16–93; 8:45 am]

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be relied upon in meeting a licensee's children's programming obligations.

[14] Commission review of advertising practices in children's programming have so far found compliance rates exceeding 90%. For example, in January 1992, the Commission conducted field audits of some 141 television stations and 27 cable systems to determine compliance with the commercial time restrictions. All but 10 of the stations or systems sampled clearly complied with the limitations, a better than 94% overall compliance rate. More recently, the Commission conducted a further audit of commercial time use in children's programming by television stations and cable systems, the results of which are not yet final. Preliminary figures, however, again suggest that overall compliance rates will exceed 90%.

[15] This clarification should help licensees and the Commission to avoid the difficult and subjective task of distinguishing the relative educational merits of some programs identified approvingly in the legislative history (*e.g.*, Pee Wee's Playhouse, The Smurfs, Winnie the Pooh, see Senate Report at 7–8) and those listed in some renewal applications as educational (*e.g.*, The Flintstones or The Jetsons).

[16] "Wrap around" refers to the practice of inserting a pro-social message at the beginning and end of an "entertainment" program in an effort to make it qualify as "educational and informational." We do not suggest, of course that entertainment programming with a secondary informational or educational message cannot contribute to a broadcaster's children's programming efforts. Such material cannot, however, satisfy the "core" standard-length programming element of the programming obligation imposed by the CTA.

[17] See, *e.g.*, Notice of Proposed Rulemaking in MM Docket No. 83–313 (Television Deregulation), 94 FCC 2d 678, 696 (1983)

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47 CFR Part 1

[CC Docket No. 92–275, FCC 92–514]

New Service Reporting Requirements Under Price Cap Regulation

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under its notice, the Commission proposed to reduce the frequency with which price cap carriers must file certain reports regarding their offering of new interstate services. The Commission also proposed to clarify the duration of these reporting requirements. The Commission made these proposals because it tentatively concluded that substitution of annual reports for the current quarterly reports would be equally useful and less of a burden on both these carriers and the Commission. Accordingly, the Commission sought comment of its proposals and invited parties to submit alternative proposals.

DATES: Comments must be filed on or before March 29, 1993, and reply comments must be filed on or before April 13, 1993.

FOR FURTHER INFORMATION CONTACT: Allen A. Barna, Common Carrier Bureau, (202) 632–6917 or Mary Brown, Common Carrier Bureau (202) 632–6387.

SUPPLEMENTARY INFORMATION:

Background

This is a summary of the Commission's notice of proposed rulemaking, 8 FCC Rcd 438 (1993) (notice), adopted November 17, 1992, and released January 19, 1993. The notice proposes certain changes in the obligations of dominant interexchange carriers and certain local exchange carriers to file reports regarding their new services. In a subsequent Public Notice (DA 93–289), released March 11, 1993, the Commission extended the comment and reply comment periods to the dates listed above. For dominant interexchange carriers, the Commission established the current quarterly reporting requirement in its Report and Order and Second Further Notice, 4 FCC Rcd 2873, 3127 (para. 528) (1989); 54 FR 19836, 19846 [May 8, 1989]. For local exchange carriers subject to price cap regulation, the Commission established a similar reporting requirement in its Second Report and Order, 5 FCC Rcd 6786, 6825 (para. 321) (1990); 55 42375 [October 19, 1990].

The collection of information proposed in the notice has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc. 2100 M Street, NW., suite 140, Washington, DC 20037. Persons wishing to comment on this collection of information should direct their comments to Jonas Neihardt, (202) 395–4814, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503. A copy of any comments filed with the Office of Management and Budget should also be sent to the following address at the Commission: Federal Communications Commission, Paperwork Reduction Project, Records Management Division, 1919 M Street, NW., room 416, Washington, DC 20554. For further information on these matters, contact Judy Boley, (202) 632–7513.

Title: Price Cap Rules.
OMB Number: 3060–0421.
Action: Proposed Revision.
Respondents: Businesses or others for profit.
Frequency of Proposed Response: Annually.
Estimated Annual Burden: 13 responses; 20 hours per response; 260 hours total
Needs and Uses: The notice solicits public comment on the Commission's proposal to reduce the frequency with which price cap carriers must file certain reports regarding their offering of new interstate services. Such carriers are currently required to file quarterly reports comparing actual revenues and costs for these services with earlier projections. The Commission also proposes to clarify the duration of this reporting requirement.

Additional Information: The full text of the notice is available for inspection and copying during normal business hours in the Commission's Reference Center (room 230), 1919 M Street, NW., Washington, DC. The complete text of the notice may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037. Interested parties may file formal comments in accordance with the above pleading cycle. Informal comments may be filed with the Chief, Common Carrier Bureau, Federal Communications Commission, 1919 M Street, NW., room 500, Washington, DC 20554.

Summary of Notice of Proposed Rulemaking

1. By this notice, the Commission proposed to reduce the frequency with which price cap carriers must file certain reports regarding their offering of new interstate services. Such carriers are currently required to file quarterly reports comparing their actual results with their earlier forecasts. The Commission tentatively concluded that this requirement should be modified to require annual rather than quarterly reports. The Commission also proposed to clarify the duration of this reporting requirement.

2. While the information contained in these quarterly reports is useful for evaluation purposes, the Commission tentatively concluded that annual reports that separately report on each new service would be equally useful and less burdensome on both carriers and the Commission. Also, to assure that the Commission will continue to receive these reports for a reasonable period after such new services are introduced, the Commission tentatively concluded that the obligation of price cap carriers to file these new service reports should terminate after the third such report. The Commission seeks comment on these proposals and invites parties to submit alternate proposals.

Initial Regulatory Flexibility Analysis

3. In its notice, the Commission certified that the Regulatory Flexibility Act of 1980 does not apply to these proposed changes to the rules regarding new service reports by price cap carriers because such changes, if promulgated, would not have a significant economic impact on a substantial number of small business entities as defined by section 601(3) of that Act. Carriers that would be affected by such changes generally are large corporations or affiliates of such corporations.

4. The Secretary shall send a copy of the notice, including the Commission's Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* 1981)).

Ex Parte

5. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally, 47 CFR 1.1202, 1.1203, and 1.1206(a).

Ordering Clauses

6. Accordingly, *it is ordered*, That, pursuant to sections 1, 4, 201–205, 218, and 403 of the Communications Act as amended, 47 U.S.C. 151,154, 201–205, 218, 220, and 403, a notice of proposed rulemaking is hereby provided as explained herein.

7. *It is further ordered*, That, pursuant to Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, comments shall be filed with the Secretary, Federal Communications Commission, Washington, DC 20554, on

or before March 29, 1993, and reply comments shall be filed with the Secretary on or before April 13, 1993. In addition, parties should file two copies of any such pleadings with the Tariff Division, Common Carrier Bureau, room 518, 1919 M Street, NW., Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the International Transcription Service, Inc., the Commission's duplicating contractor, at 2100 M Street, NW., suite 140, Washington, DC 20037.[1]

List of Subjects in 47 CFR Part 1

Communications common carriers, Price cap regulation, Price cap tariff filing and review procedures, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-6095 Filed 3-16-93; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 64

[CC Docket No. 93-22; FCC 93-87]

Interstate Pay-Per-Call Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopted this Notice of Proposed Rule Making and Notice of Inquiry (NPRM/NOI) to initiate a proceeding to establish regulations and gather information necessary to develop recommendations to Congress as mandated by the Telephone Disclosure and Dispute Resolution Act, Pub. L. No. 102-556 (1992) (to be codified at 47 U.S.C. 228) (TDDRA). This action was taken to amend the Commission's existing rules pertaining to interstate pay-per-call services to implement the requirements of the TDDRA. The proposals set forth in the NPRM/NOI are intended to maximize telephone subscribers' protection against fraudulent and abusive practices without unduly burdening common carriers and providers of legitimate pay-per-call services.

DATES: Comments must be submitted on or before April 19, 1993. Reply comments must be submitted on or before May 4, 1993.

[1] The notice lists Downtown Copy Center as the Commission's duplicating contractor. However, several days after the release of the notice, International Transcription Service, Inc., became the duplicating contractor

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Mary Romano, Enforcement Division, Common Carrier Bureau, 202-632-4887.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making and Notice of Inquiry in CC Docket No. 93-22 [FCC 93-87], adopted February 11, 1993 and released March 10, 1993. The full text of the Notice of Proposed Rule Making and Notice of Inquiry is available for inspection and copying during normal business hours in the FCC Reference Center, room 239, 1919 M Street, NW., Washington, DC. The full text of this Notice of Proposed Rule Making and Notice of Inquiry may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800.

Summary of Notice of Proposed Rule Making and Notice of Inquiry

1. On February 11, 1993, the Commission adopted a Notice of Proposed Rule Making and Notice of Inquiry in CC Docket No. 93-22 (released March 10, 1993; FCC 93-87) (NPRM/NOI) proposing changes to rules governing the provision of interstate pay-per-call services. Pay-per-call services (also know as "audiotext" or "900" services) provide telephone users a variety of information services for which they are charged rates different from, and usually higher than, the normal transmission rates charged for ordinary telephone calls. In 1991, the Commission adopted rules governing the provision of interstate pay-per-call services in response to numerous consumer complaints regarding fraudulent and deceptive practices. The Telephone Disclosure and Dispute Resolution Act, Pub. L. No. 102-556 (1992) (to be codified at 47 U.S.C. 228) (TDDRA) requires that both the Commission and the Federal Trade Commission (FTC) adopt new pay-per-call regulations by July 25, 1993. The NPRM/NOI proposes changes to the Commission's existing rules necessary to implement the TDDRA.

2. The NPRM/NOI proposes to modify the definition of pay-per-call services to conform with that prescribed by the TDDRA; § 64.1501 of the proposed rules contains the new definition repeated virtually verbatim from the statute.

3. Under the proposed rules any common carrier who assigns pay-per-call numbers must require, by contract or tariff, that information providers who use such numbers to offer pay-per-call programs comply with both the Commission's regulations and those adopted by the FTC under the TDDRA. As mandated by the TDDRA, the proposed rules require carriers to terminate any programs not in compliance with applicable regulations.

4. Since the TDDRA requires the FTC to adopt rules requiring information providers to begin their pay-per-call programs with an introductory message, or preamble, designed to inform callers about the nature and cost of the services they have reached, the NPRM/NOI proposes to delete the Commission's preamble rule. Thus, regulation of pay-per-call preambles would shift from the commission to the FTC. Nonetheless, the proposed broad compliance rule will require common carriers to ensure that all the pay-per-call programs they carry begin with a preamble complying with FTC regulations.

5. The NPRM/NOI proposes a new rule to implement the Commission's obligation under the TDDRA to designate particular "area codes" (service access codes) and/or "prefixes" (office codes) to be used by common carriers who assign pay-per-call telephone numbers. The NPRM/NOI proposes to require common carriers to assign interstate pay-per-call programs exclusively to telephone numbers beginning with the 900 service access code (900-xxx-xxxx). Although the Commission has not proposed the imposition of more specific office code designation requirements, parties are invited to discuss whether such a system would increase consumer protection without unduly burdening common carriers and legitimate information providers.

6. The proposed rules continue the prohibition on disconnection of any telephone subscriber's basic communications services for failure to pay interstate pay-per-call charges. Consistent with the TDDRA, the NPRM/NOI proposes to expand the Commission's rules to include a prohibition against service interruptions since the term "disconnection" may imply only final termination of service whereupon the telephone number of the delinquent subscriber may be reassigned to another customer. In addition, the NPRM/NOI proposes to protect subscribers against service interruptions or disconnection charges for collect audiotext calls that have not been paid. The Commission believes that such a provision is necessary to address increasing numbers of complaints regarding collect audiotext calls which numerous complainants have indicated they received without taking any action to request the call and for which charges

often appear to be excessive. In addition, the proposed rules state that common carriers may transmit collect audiotext calls only when the called party has taken affirmative action clearly indicating that it accepts the charges for the collect services.

7. The proposed rules continue the obligation of local exchange carriers to offer their subscribers the option of blocking access to 900 services where technically feasible. However, the NPRM/NOI proposes to modify current blocking provisions to comply with the requirements of the TDDRA. Under the TDDRA, subscribers are to be afforded a period of 60 days after the Commission's rules take effect or 60 days after new telephone service is initiated to order pay-per-call blocking at no charge. The NPRM/NOI proposes that this system replace the Commission's current rule whereby residential subscribers are entitled to a free block on a one-time basis at any time. The proposed rules also incorporate the TDDRA's requirement that the free blocking option be extended to commercial subscribers. In addition to proposing these specific modifications of blocking provisions, the NPRM/NOI also invites parties to address questions raised by the TDDRA as to whether the blocking of, or presubscription to, specific pay-per-call services is technically and economically feasible. Current provisions, which the NPRM/NOI does not propose to change, require only an across-the-board block of all 900 services.

8. The NPRM/NOI proposes to adopt virtually verbatim the TDDRA's restrictions on the use of 800 numbers for pay-per-call purposes. As required by the TDDRA, the proposed rules prohibit the use of 800 numbers in any manner that would result in a caller to an 800 number being (1) charged for completion of the call; (2) connected to a pay-per-call service; (3) charged for any information conveyed during the call unless the caller either has a preexisting agreement authorizing such charges or authorizes charges to a credit card number disclosed during the call; or (4) called back collect to receive audio information services or simultaneous voice conversation services. On April 30, 1992, the National Association of Attorneys General (NAAG) filed a petition seeking a Commission ruling on issues concerning the interplay between 800 number services and pay-per-call services. The Commission treated the petition as a request for rule making (RM–7990) and collected comments on NAAG's proposals from interested parties. This record compiled by the Commission with respect to the NAAG petition will be incorporated in this larger proceeding in CC Docket No. 93–22.

9. The TDDRA enlarges the information disclosure and dissemination obligations of common carriers who assign telephone numbers for pay-per-call purposes and the NPRM/NOI proposes rule changes to incorporate the new requirements. In addition to providing the name, address, and customer service telephone number for information providers whose programs are transmitted by a carrier, the carrier must also provide, upon request, a list of all its pay-per-call numbers along with a brief description of each service represented by such numbers. Common carriers who not only assign pay-per-call numbers but also provide pay-per-call billing and collection services have additional consumer education obligations. Such carriers must establish local or toll free telephone numbers to answer questions and provide information on subscribers' rights and obligations with respect to use of pay-per-call services. Names and mailing addresses of information providers using the carrier's facilities to offer pay-per-call services are to be available over this number. In addition, billing carriers must provide to each subscriber, within 60 days after issuance of the Commission's final pay-per-call regulations, a disclosure statement explaining the rights and obligations of both the subscriber and carrier, including the subscriber's rights to obtain blocking and not to be billed for any programs not offered in compliance with the TDDRA and the Commission's and FTC's implementing regulations. Bills for pay-per-call services issued by a common carrier must display the toll free pay-per-call information number. Charges for pay-per-calls must be shown on the bill separately from local and long distance charges. Any billing must show the date, time, and duration of the call, along with the type of service being charged for. The NPRM/NOI proposes rules to implement these explicit requirements of the TDDRA. In addition, the NPRM/NOI proposes that carriers who bill subscribers for collect audiotext calls be required to separate such charges included on a telephone bill from local and long distance charges in the same manner specified for pay-per-call charges. Consistent with the TDDRA, the NPRM/NOI proposes that carriers who perform pay-per-call billing and collection services be required to forgive charges or issue refunds when either the Commission or the carrier determines that a pay-per-call program has been conducted in violation of federal law or federal pay-per-call regulations. Carriers who assign pay-per-call numbers but do not provide billing and collection, must ensure, by contract or tariff, that the information providers or their billing and collection agents have in place their own corresponding procedures for the issuance of refunds or forgiveness of charges.

10. The NPRM/NOI proposes to satisfy the TDDRA's requirement to specify means by which common carriers and providers of pay-per-call services may take affirmative steps to protect themselves against nonpayment of legitimate charges by adopting a rule that recognizes the right of a carrier or information provider to block pay-per-call programs from numbers assigned to subscribers who have incurred, but not paid, legitimate pay-per-call charges.

11. While the TDDRA recognizes the rights of common carriers to recover their costs of complying with the statute and the Commission's implementing regulations, they are expressly prohibited from recovering such costs from local or long distance telephone ratepayers. Thus, the NPRM/NOI invites commenters to consider what type of system should be imposed to enable carriers to recover their costs from information providers. The NPRM/NOI asks commenters to address both how compliance costs can be identified, and how those costs, once isolated, can be excluded from local and long distance rates. Among the recovery mechanisms commenters may discuss are designation of a discrete rate element, imposition of a surcharge on 900 access or other charges on interexchange carriers who transmit pay-per-call programs and information providers, referral of separation implications to a Federal-State Joint Board and adoption of new part 69 rules, and addition of a new part 32 account.

12. Under the TDDRA, any carrier assigning a pay-per-call number to an information provider that it knows, or reasonably should know, is engaged in soliciting charitable contributions must obtain proof of the tax exempt status of any person or organization for which contributions are solicited. The NPRM/NOI proposes to satisfy this verification requirement by requiring carriers to obtain IRS recordation of a grant of tax exempt status for each pay-per-call program soliciting charitable contributions.

13. The TDDRA requires the Commission to report to Congress by October 28, 1993 as to the desirability of extending pay-per-call regulations to "persons that provide, for a per-call

charge, data services that are not pay-per-call services." Parties are invited to provide views that will be considered by the Commission in drafting the recommendations to Congress. Since the range of data services at issue here is not apparent, parties are asked to first describe current data services that are not within the statutory definition of pay-per-call, and, second, identify the costs and benefits that an extension of the regulations would entail.

14. Consistent with the requirements of the TDDRA, the proposals set forth in the NPRM/NOI are intended to foster a marketplace environment in which providers of pay-per-call services compete based on the merits of their services rather than by capitalizing on consumer confusion and lack of knowledge.

15. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, the Commission has determined that the proposals contained in the NPRM/NOI may have some impact on small entities due to the proposed consumer education and cost recovery requirements mandated by the TDDRA. Public comment is requested on the initial regulatory flexibility analysis set out in the full NPRM/NOI. A copy of the analysis is being sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

16. This notice and comment rulemaking proceeding is non-restricted. Section 1.1206(a) of the Commission's rules, 47 CFR 1.1206(a), contains provisions governing permissible *ex parte* contacts.

Ordering Clauses

17. Accordingly, It is *Ordered*, pursuant to sections 1, 4(i), 4(j), 201–205, 218 and 228 of the Communications Act, 47 U.S.C. 151, 154(i), 154(j), 201–205, 218 and 228, that a Notice of Proposed Rule Making is Issued, proposing amendment of 47 CFR part 64 as set forth in the proposed rules below.

18. It is further *Ordered*, pursuant to sections 1, 4(i), 4(j), 201–205, 218 and 228 of the Communications Act, 47 U.S.C. 151, 154(i), 154(j), 201–205, 218 and 228, that a Notice of Inquiry is Issued, soliciting comment on the extension of pay-per-call regulations to data services that do not fall within the statutory definition of pay-per-call services.

19. It is further *Ordered*, that the Petition filed by the National Association of Attorneys General is Granted, to the extent set forth herein.

20. It is further *Ordered*, pursuant to §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, that all interested parties may file comments on the matters discussed in this Notice and on the proposed rules contained in the appendix by April 19, 1993. Reply comments are due by May 4, 1993. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants wish each Commissioner to have a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

List of Subjects in 47 CFR Part 64

Communications common carriers, Computer technology, Telephone.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Proposed Rules

It is proposed that part 64 of title 47 of the Code of Federal Regulations be amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 is revised to read as set forth below, and all other authority citations are removed.

Authority: 47 U.S.C. 154. Interpret or apply 47 U.S.C. 201, 218, 226, 228.

Sec. 64.301 also issued under 47 U.S.C. 201, 214, 303, 308.

Sec. 64.501 also issued under 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317.

Sec. 64.702 also issued under 47 U.S.C. 154, 201–205, 403, 404, 410.

§§ 64.709 through 64.716 [Removed]

2. Subpart G of part 64 is amended by removing §§ 64.709 through 64.716 inclusive.

3. A new subpart O of part 64 is added to read as follows:

Subpart O—Interstate Pay-Per-Call and 800 Services

Sec.

64.1501 Definition of Pay-Per-Call Services.
64.1502 Limitations on the Provisions of Pay-Per-Call Services.
64.1503 Termination of Pay-Per-Call Programs.
64.1504 Restrictions on the Use of 800 Numbers.
64.1505 Restrictions on Collect Telephone Calls.
64.1506 Number Designation.
64.1507 No Disconnection or Interruption of Service for Failure to Remit Pay-Per-Call or Similar Service Charges.
64.1508 Blocking Access to 900 Service.
64.1509 Disclosure and Dissemination of Pay-Per-Call Information.
64.1510 Billing and Collection of Pay-Per-Call Charges.
64.1511 Forgiveness of Charges and Refunds.
64.1512 Involuntary Blocking of Pay-Per-Call Services.
64.1513 Verification of Charitable Status.
64.1514 Generation of Signalling Tones.
64.1515 Recovery of Costs.

Authority: 47 U.S.C. 228.

Subpart O—Interstate Pay-Per-Call and 800 Services

§ 64.1501 Definition of Pay-Per-Call Services.

(a) The term "pay-per-call services" means any service

(1) In which any person provides or purports to provide

(i) Audio information or audio entertainment produced or packaged by such person;

(ii) Access to stimultaneous voice conversation services; or

(iii) Any service, including the provision of a product, the charge for which are assessed on the basis of the completion of the call;

(2) For which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call; and

(3) Which is accessed through use of a 900 telephone number.

(b) Such term does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or any service the charge for which is tariffed, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service.

§ 64.1502 Limitations on the Provision of Pay-Per-Call Services.

Any common carrier assigning to a provider of pay-per-call service a telephone number shall require, by contract or tariff, that such provider

comply with the provisions in this subpart and of titles II and III of the Telephone Disclosure and Dispute Resolution Act (Pub. L. No. 102–556) (TDDRA) and the regulations prescribed by the Federal Trade Commission pursuant to those titles.

§ 64.1503 Termination of Pay-Per-Call Programs.

Any common carrier assigning to a provider of pay-per-call service a telephone number shall specify by contract or tariff that pay-per-call programs not in compliance with § 64.1502 shall be promptly terminated following notice to the information provider.

§ 64.1504 Restrictions on the Use of 800 Numbers.

Common carriers shall prohibit, by tariff or contract, the use of any telephone number beginning with an 800 service access code, or any other telephone number advertised or widely understood to be toll free, in a manner that would result in

(a) The calling party being assessed, by virtue of completing the call, a charge for the call;

(b) The calling party being connected to a pay-per-call service;

(c) The calling party being charged for information conveyed during the call unless the calling party has a preexisting agreement to be charged for the information or discloses a credit or charge card number and authorizes a charge to that credit or charge card number during the call; or

(d) The calling party being called back collect for the provision of audio information services or simultaneous voice conversation services.

§ 64.1505 Restrictions on Collect Telephone Calls.

No common carrier shall provide transmission services billed to the subscriber on a collect basis for audio information services or simultaneous voice conversation services unless the called party has taken affirmative action clearly indicating that it accepts the charges for the collect service.

§ 64.1506 Number Designation.

Any common carrier assigning telephone numbers shall limit such assignments for interstate pay-per-call programs to telephone numbers beginning with a 900 service access code.

§ 64.1507 No Disconnection or Interruption of Service for Failure to Remit Pay-Per-Call or Similar Service Charges.

No common carrier shall disconnect or interrupt in any manner, or order the disconnection or interruption of, a telephone subscriber's local exchange or long distance telephone service as a result of that subscriber's failure to pay interstate pay-per-call service charges or charges for interstate collect calls providing audio information services or simultaneous voice conversation services.

§ 64.1508 Blocking Access to 900 Service.

(a) Local exchange carriers must offer to their subscribers, where technically feasible, an option to block interstate 900 services. Blocking is to be offered at no charge to—

(1) All telephone subscribers for a period of 60 days after the effective date of these regulations; and

(2) Any subscriber who subscribes to a new telephone number for a period of 60 days after the new number is effective.

(b) For blocking requests not within the one-time option or outside the 60 day time frames, and for unblocking requests, local exchange carriers may charge, pursuant to their interstate end-user tariffs, a reasonable one-time fee. Requests by subscribers to remove 900 service blocking must be in writing.

§ 64.1509 Disclosure and Dissemination of Pay-Per-Call Information.

(a) Any common carrier assigning a telephone number to a provider of pay-per-call services shall make readily available, at no charge, to Federal and State agencies and all other interested persons

(1) A list of the telephone numbers for each of the pay-per-call services it carries;

(2) A short description of each such service;

(3) A statement of the total cost or the cost per minute and any other fees for each such service; and

(4) A statement of the pay-per-call service provider's name, business address, and business telephone number.

(b) Any common carrier assigning a telephone number to a provider of pay-per-call and offering billing and collection services to such provider shall

(1) Establish a local or toll-free telephone number to answer questions and provide information on subscribers' rights and obligations with regard to their use of pay-per-call services and to provide to callers the name and mailing address of any provider of pay-per-call services offered by that carrier; and

(2) Provide to all its telephone subscribers, either directly or through contract with any local exchange carrier providing billing and collection services to that carrier, a disclosure statement setting forth all rights and obligations of the subscriber and the carrier with respect to the use and payment of pay-per-call services, including the right of a subscriber to obtain blocking in accordance with § 64.1507 and, under § 64.1509(a), not to be billed. Such disclosure statements must be forwarded to

(i) All telephone subscribers within 60 days after issuance of these regulations;

(ii) All new subscribers; and

(iii) All subscribers requesting service at a new location.

§ 64.1510 Billing and Collection of Pay-Per-Call Charges.

Any common carrier assigning a telephone number to a provider of pay-per-call services and offering billing and collection services to such provider shall

(a) Ensure that a subscriber is not billed for pay-per-call services that such carrier knows or reasonably should know were provided in violation of the regulations set forth in this subpart or prescribed by the Federal Trade Commission pursuant to titles II or III of the TDDRA or any other federal law.

(b) In any billing to telephone subscribers that includes charges for any pay-per-call service or collect call providing audio information service or simultaneous voice conversation service

(1) Display any charges for pay-per-call services or collect audiotext services in a part of the bill that is identified as not being related to local and long distance telephone charges;

(2) Specify, for each pay-per-call or collect audiotext charge made, the amount of the charge, and the date, time, and duration of the call; and

(3) Identify the local or toll-free number established in accordance with § 64.1508(b)(1).

§ 64.1511 Forgiveness of Charges and Refunds.

(a) Any carrier providing billing and collection services to a provider of pay-per-call services or collect audiotext services shall forgive pay-per-call charges or issue refunds for such charges when the Commission or that carrier, upon written or oral protest or on its own motion, determines that a pay-per-call program or collect audiotext call has been offered in violation of federal law or the regulations that are either set forth in this subpart or prescribed by the Federal Trade Commission pursuant to titles II or III of the TDDRA. Carriers shall observe the record retention requirements set forth in 47 CFR 42.6 of

this chapter except that relevant records shall be retained by carriers beyond the Part 42 of this chapter requirement when a complaint is pending at the time the specified time period expires.

(b) Any carrier assigning a telephone number to a provider of pay-per-call services but not providing billing and collection services to such provider shall, by tariff or contract, require that the provider and/or its billing and collection agents have in place procedures whereby charges are forgiven and refunds issued for charges incurred in connection with pay-per-call programs that have been offered in violation of federal law or the regulations that are either set forth in this subpart or prescribed by the Federal Trade Commission pursuant to titles II or III of the TDDRA.

§ 64.1512 Involuntary Blocking of Pay-Per-Call Services.

Nothing in this subpart shall preclude a common carrier or information provider from blocking or ordering the blocking of its pay-per-call programs from numbers assigned to subscribers who have incurred, but not paid, legitimate pay-per-call charges.

§ 64.1513 Verification of Charitable Status.

Any common carrier assigning a telephone number to a provider of pay-per-call services that the carrier knows or reasonably should know is engaged in soliciting charitable contributions shall obtain verification that the entity or individual for whom contributions are solicited has been granted tax exempt status by the Internal Revenue Service.

§ 64.1514 Generation of Signalling Tones.

No common carrier shall assign a telephone number for any pay-per-call service that employs broadcast advertising which generates the audible tones necessary to complete a call to a pay-per-call service.

§ 64.1515 Recovery of Costs.

No common carrier shall recover its cost of complying with the provisions of this subpart from local or long distance ratepayers.

[FR Doc. 93–6012 Filed 3–16–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 68

Petition for Waiver of Hearing-Aid Compatibility Requirements for Goodwill Industries of Seattle, WA

February 22, 1993.

AGENCY: Federal Communications Commission.

ACTION: Notice of petition for waiver.

SUMMARY: This document advises interested persons that Goodwill Industries of Seattle, Washington has filed a petition for waiver of the hearing-aid compatibility requirements and the Federal Communications Commission invites comments.

DATES: Comments regarding the Goodwill petition may be filed on or before March 5, 1993. Reply comments are due by March 25, 1993.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Robert Kimball (202) 634–1860.

SUPPLEMENTARY INFORMATION: On February 9, 1993, pursuant to 47 CFR 1.3, Goodwill Industries of Seattle petitioned the Commission for a waiver of the hearing-aid compatibility requirement of 47 CFR 68.4 and 68.112 for its location at 1400 South Lane Street, Seattle, Washington 98144. See report and order, released June 4, 1992, 7 FCC Rcd 3472. Copies of the petition, and comments when filed, may be inspected and copied at the Common Carrier Bureau, Domestic Facilities Division Reference Room, room 6220, 2025 M Street NW., Washington, DC, Monday through Thursday from 8:30 a.m. to 3 p.m. Copies are also available from ITS, Inc., 1919 M St., NW. Washington, DC. (202) 632–7513. Comments regarding the Goodwill petition may be filed on or before March 5, 1993. Reply comments are due by March 25, 1993. For general information on how to file comments, parties should contact the FCC Consumer Assistance and Information Division at (202) 632–7000.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–5215 Filed 3–16–93; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 58, No. 50
Wednesday, March 17, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

[CN-93-003]

National Advisory Committee on Cotton Marketing Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Advisory Committee on Cotton Marketing will meet on Wednesday, March 31, 1993, beginning at 8:00 a.m. at the Dallas/Forth Worth Airport, Hyatt Regency Hotel (west building).

The primary purpose of the meeting is to make recommendations for establishing a schedule of price support loan premiums and discounts for a new cotton classification procedure which will identify separately the leaf and color components of grade. This procedure will be effective for grading the 1993 cotton crop. The committee will also review progress in implementing previous recommendations and consider additional steps that may be needed to improve the efficiency of the U.S. cotton marketing system. This meeting is open to the public, and written comments may be submitted in advance or following the meeting to Jesse F. Moore, Director, Cotton Division.

FOR FURTHER INFORMATION CONTACT: Jesse F. Moore, Director, Cotton Division, AMS, USDA, P.O. Box 96456, Washington, DC 20090–6456; (202) 720–3193.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Cotton Marketing was initially established in 1988 by the Secretary of Agriculture to review the cotton marketing system and to recommend ways of improving its efficiency. Notice of this meeting is provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463).

Dated: March 11, 1993.

L.P. Massaro,

Acting Administrator.

[FR Doc. 93–6144 Filed 3–16–93; 8:45 am]

BILLING CODE 3410–02–M

Cooperative State Research Service

Committee on Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972, (Public Law 92–463, 86 Stat. 770–776), the Cooperative State Research Service announces the following meeting:

Name: Committee of Nine.

Date: May 11, 1993. May 12–13, 1993.

Time: 1 p.m.–5 p.m. 8:30 a.m.–5 p.m.

Place: Room 10A, Aerospace Building, 901 D Street, SW, Washington, DC.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State Agricultural Experiment Stations.

Contact Person for Agenda and More Information: Dr. Walter R. Woods, Executive Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Room 346, Aerospace Building, Washington, DC 20250, Telephone: 202–401–6040.

Done at Washington, DC, this 5th day of March, 1993.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 93–6141 Filed 3–16–93; 8:45 am]

BILLING CODE 3410–22–MT

COMMISSION ON CIVIL RIGHTS

New Hampshire State Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire State Advisory Committee will be convened at 2 p.m. and adjourn at 5 p.m. on Friday, April 9, 1993, in the Sheraton Tara Wayfarer Inn, 121 S. River Road, Bedford, New Hampshire 03110–6736. The purpose of the meeting is (1) to update Committee members and the public on the Commission; and (2) to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Sylvia F. Chaplain (603–964–9241) or John I. Binkley, Director, ERO, (202–376–7533), or TDD (202–376–8116). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the regional office at least (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 5, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–6021 Filed 3–16–93; 8:45 am]

BILLING CODE 6335–01–M

South Carolina Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Carolina Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 5 p.m. on Wednesday, April 7, 1993, at the Courtyard by Marriott, Meeting Room A, 347 Zimalcrest in Columbia, South Carolina. The purpose of the meeting is to: (1) To discuss the status of the Commission and SACs; (2) to discuss civil rights progress and/or problems in the State; and (3) to review and discuss the draft report on Racial Tensions in South Carolina.

Persons desiring additional information, or planning a presentation

to the Committee should contact Robert L. Knight, Civil Rights Analyst, Southern Regional Office of the U.S. Commission on Civil Rights at (404/730–2476, TDD 404/730–2481). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Southern Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 5, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–6022 Filed 3–16–93; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review of Final injury determination pursuant to paragraph 41(a) of the Special Import Measures Act respecting Gypsum Board Originating in or Exported from the United States of America made by the Deputy Minister of National Revenue, Revenue Canada, Customs and Excise published in the Canada Gazette on January 30, 1993. The Requests for Panel Review were filed with the Canadian Section on February 23, 1993.

SUMMARY: On February 23, 1993 The National Gypsum Company (Gold Bond Building Products Division) filed a Request for Panel Review with the Canadian Section of the Binational Secretariat pursuant to Article 1904 of the United-States Canada Free Trade Agreement. Panel review was requested of the final affirmative injury determination made by the Deputy Minister of National Revenue, Revenue Canada for Customs and Excise respecting Gypsum Board Originating in or Exported from the United States of America. The Binational Secretariat has assigned Case Number CDA–93–1904–02 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1989, the Government of the United States and the Government of Canada established Rules of Procedure for Article 1904 Binational Panel Reviews ("Rules"). These Rules were published in the **Federal Register** on December 30, 1988 (53 FR 53212). The Rules were amended by Amendments to the Rules of Procedure for Article 1904 Binational Panel Reviews, published in the **Federal Register** on December 27, 1989 (54 FR 53165). The Rules were further amended and a consolidated version of the amended Rules was published in the **Federal Register** on June 15, 1992 (57 FR 26698). The panel review in this matter will be conducted in accordance with these Rules, as amended.

Rule 35(2) requires each Secretary of the FTA Binational Secretariat to publish a notice that a first Request for Panel Review has been received. A first Request for Panel Review was filed with the Canadian Section of the Binational Secretariat, pursuant to Article 1904 of the Agreement, on February 23, 1993, requesting panel review of the final injury determination described above.

Rule 35(1)(c) of the Rules provides that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is March 25, 1993);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is April 13, 1993); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: March 11, 1993.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 93–6047 Filed 3–16–93; 8:45 am]

BILLING CODE 3510–GT–M

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews: Notice of Completion of Panel Review

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review of the final affirmative determination made by the U.S. Department of Commerce, International Trade Administration, Import Administration, in an administrative review of the antidumping order respecting Replacement Parts for Self-propelled Bituminous Paving Equipment from Canada, Secretariat File No. USA–90–1904–01.

SUMMARY: Pursuant to the Memorandum Opinion and Order of the Binational Panel dated December 28, 1992, the Panel Review of the final determination described above was completed on January 28, 1993.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: On May 24, 1991, the Binational Panel issued a decision which affirmed in part and remanded in part Commerce's May 15, 1990 determination. Commerce filed a redetermination on remand on December 20, 1991. On May 15, 1992, the panel issued a second decision which affirmed in part and remanded in part Commerce's redetermination on remand. On July 30, 1992, Commerce issued a second redetermination on remand, which the panel affirmed in part and remanded in part on October 28, 1992. The Department filed its final redetermination on remand on November 30, 1992, which the panel affirmed on December 28, 1992. The Secretariat was instructed to issue a

Notice of Completion of Panel Review on the 31st day following the issuance of the Order, if no Request for an Extraordinary Challenge was filed. No. such request was filed. Therefore, on the basis of the Panel Order and Rule 80 of the Article 1904 Panel Rules, the Panel Review was completed and the panelists discharged from their duties effective January 28, 1993.

Dated: March 10, 1993.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 93-6051 Filed 3-16-93; 8:45 am]

BILLING CODE 3510-GT-M

Minority Business Development Agency

Business Development Center Applications: Richmond, VA

AGENCY: Minority Business Development Agency; Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the U.S. Department of Commerce's Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is $169,125 in Federal funds and a minimum of $29,846 in non-Federal (cost-sharing) contributions. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The period of performance will be from August 1, 1993 to July 31, 1994. The MBDC will operate in the Richmond, Virginia geographic service area.

The award number for this MBDC will be 03-10-93001-01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, State and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially be regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000. False information on the application can be grounds for denying or terminating funding.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities. If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards. If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Applicants also should be notified that notwithstanding any verbal assurance that they may have received, there is no obligation on the part of DOC to cover pre-award costs.

In accordance with OMB Circular A-129 "Managing Federal Credit Programs," no award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either: The delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to DOC are made.

Applicants are subject to Governmental Debarment and Suspension (Non-procurement) requirements as stated in 15 CFR part 26.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

Notification must be provided that all non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of

1988 (Pub. L. 100–690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a pre-condition for receiving Federal grant or cooperative agreement awards.

15 CFR, part 28, is applicable and prohibits recipients of Federal contracts, grants, and cooperative agreements from using appropriated funds for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a specific contract, grant or cooperative agreement. Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" and, when applicable, the SF–LLL, "Disclosure of Lobbying Activities," are required. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions Form CD–512, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient of subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

CLOSING DATE: The closing date for submitting an application is April 26, 1993. Applications must be postmarked on or before April 26, 1993. Proposals will be reviewed by the Washington Regional Office. The mailing address for submission of RFA responses is:

Washington Regional Office, Minority Business Development Agency, 1255 22nd Street, NW., suite 701, Washington, DC 20037.

A pre-application conference to assist all interested applicants will be held on April 5, 1993, 1 p.m. at the following address: The Federal Building, 400 North 8th Street, Conference Room Number 7230, Richmond, Virginia 23240.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. To order a Request for Application (RFA) and to receive additional information, contact: Gina A. Sanchez, Regional Director of the Washington Regional Office on (202) 377–1356 or U.S. Department of Commerce, Minority Business Development Agency, 1255 22nd Street, NW., suite 701, Washington, DC 20037.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: March 9, 1993.

Dennis Drayson,

Acting Regional Director, Washington Regional Office.

[FR Doc. 93–6024 Filed 3–16–93; 8:45 am]

BILLING CODE 3510–21–M

National Institute of Standards of Technology

[Docket No. 930102–3002]

Continuation of Fire Research Grants Program

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Announcing NIST continuation of fire research grants program.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE NAME AND NUMBER: Measurement and Engineering Research Standards (MERS); 11.609.

SUMMARY: The purpose of this notice is to inform potential applicants that the Fire Research Program, National Institute of Standards and Technology, is continuing its Fire Research Grants Program. Previous notices of this research grant program were published in the **Federal Register** on February 20, 1991 (46 FR 13250), November 19, 1984 (49 FR 45636), May 6, 1986 (51 FR 16730), June 5 ,1987 (52 FR 21342) June 6, 1988 (53 FR 20675), May 31, 1989 (54 FR 23243), July 23, 1990 (FR 90–17041), May 7, 1991 (FR 91–10717), and April 22, 1992 (FR 57–14695). (Catalog of Federal Domestic Assistance No. 11.609 "Measurement and Engineering Research and Standards.").

CLOSING DATE FOR APPLICATIONS: None.

ADDRESSES: Applicants must submit one signed original plus two (2) copies of the proposal along with the Grant Application, Standard Form 424 (Rev. 4–88) as reference under the provisions of OMB circular A–110 to: Building and Fire Research Laboratory, Attention: Sonya Cherry, Building 226, room B206, National Institute of Standards and Technology, Gaithersburg, Maryland 20899–0001.

FOR FURTHER INFORMATION CONTACT: Sonya Cherry, (303) 975–6854.

ELIGIBILITY: Academic institutions, non-Federal agencies, and independent and industrial laboratories.

SUPPLEMENTARY INFORMATION: As authorized by section 16 of the Act of March 3, 1901, as amended (15 U.S.C. 278f), the NIST Building and Fire Research Laboratory conducts directly and through grants and cooperative agreements, a basic and applied fire research program. This program has been in existence for several years at approximately $1.5 million per fiscal year. No increase in funds has taken place. The Fire Research Program is limited to innovative ideas which are generated by the proposal writer on what research to carry out and how to carry it out. Proposals will be considered for research projects from one to three years. When a proposal for a multi-year grant is approved, funding will be provided for only the first year of the program. If an application is selected for funding, DoC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DoC. All grant proposals submitted must be in accordance with the programs and objectives listed below

Program Objections

a. Fire Protection Applications

Researches, develops and demonstrates the application to building fire problems of fire protection analytical (computerized) tools and methods of assessing the ignition and burning rate of contents of buildings. This includes: Developing a performance based fire code and methods of assessing fire risk; developing methods of evaluating and predicting the performance of and interactions between building fire safety design features; developing an understanding of the burning rate of furniture and other building contents; developing a date base that provides the necessary input to users of the analytical tools; and operating the Fire Research information Services which supports the entire laboratory staff and the fire community and has an on-line bibliographic data base.

b. Fire Modeling

Performs research on and develops analytical models for the quantitative prediction of the consequences of fires and the means to assess the accuracy of those models. This includes: Creating advanced, usable models for the calculation of the effluent from building fires; modeling the spread of fire over

furniture and building elements such as walls; developing field and zone modeling techniques to predict the movement of fire effluent in buildings and the effectiveness of fire sensors; and developing a protocol for determining the accuracy of both the algorithms used in the fire models as well as the comprehensive models themselves.

c. Large Fire Research

Performs research on and develops techniques to measure, predict the behavior of, and mitigate large fire events. This includes: Understanding the mechanisms of large fires that control the gas phase combustion, burning rate, thermal and chemical emissions, transport processes; developing techniques for computer simulation; developing field measurement techniques to assess the near and far field impact of large fires and their plumes; performing research on the use of combustion for environmental cleanup; predicting the performance and environmental impact of fire protection measures and fire fighting systems and techniques; developing and operating the Fire Research Program large scale experiment facility.

d. Smoke Dynamics Research

Produces scientifically sound principles, metrology, data, and predictive methods for the formation/evolution of smoke components in flames for use in understanding and predicting general fire phenomena. This includes: Research on the effects of within-flame and post-flame fluid mechanics on the formation and emission of smoke, including particulates, aerosols, and combustion gases; understanding the mechanistic pathway for soot from chemical inception to post-flame agglomerates; developing calculation methods for the prediction of the yields of CO (and eventually other toxicant) as a function of fuel type, availability of air, and fire scale.

e. Materials Fire Research

Performs research to understand fundamentally the mechanisms that control the ignition, flame spread, and burning rate of materials and the chemical and physical characteristics that affect these aspects of flammability; develops methods of measuring and predicting the response of a material to a fire. This includes: Characterizing the burning rates of charring and non-charring polymers and composites; delineating and modeling the enthalpy and mass transfer mechanisms of materials combustion; and developing computational molecular dynamics and other mechanistic approaches to understand the relationships between polymer structure and flammability.

f. Fire Sensing and Extinguishment

Develops understanding, metrology, and predictive methods to enable high-performance fire sensing and extinguishment systems; devises new approaches to minimizing the impact of unwanted fires and the suppression process. This includes: Research for the identification and *insitu* measurements of the symptoms of pending and nascent fires or explosions, and the consequences of suppression; devising or adapting monitors for these variables and creating the intelligence for timely interpretation of the data; determining mechanisms for deflagration and detonation suppression by advanced agents and principles for their optimal use; modeling the extinguishment process; and developing performance measures for the effectiveness of suppression system design.

Proposal Review Process

All proposals are assigned to the appropriate group leader of the eight programs listed above for review, including external peer review, and recommendations on funding. Both technical value of the proposal and the relationship of the work proposed to the needs of the specific program are taken into consideration in the group leader's recommendation to the Deputy Director. Applicants should allow up to 60 days processing time. Proposals are evaluated for technical merit by at least three professionals from NIST, the Building and Fire Research Laboratory, or technical experts from other interested government agencies and in the case of new proposals, experts from the fire research community at large.

Evaluation Criteria

a. Rationality—0–20

b. Qualification of Technical Personnel—0–20

c. Resources Availability—0–20

d. Technical Merit of Contribution—0–40

The results of these evaluations are transmitted to the group leader of the appropriate research unit in the Building and Fire Research Laboratory who prepares an analysis of comments and makes a recommendation. The Building and Fire Research Laboratory will also consider compatibility with programmatic goals and financial feasibility.

Paperwork Reduction Act

The SF–424 mentioned in this notice is subject to the requirements of the Paperwork Reduction Act and has been approved by OMB under Control No. 0348–0006.

Applicants are reminded that a false statement may be grounds for denial or termination of funds and grounds for possible punishment by fine or imprisonment.

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full,

2. A negotiated repayment schedule is established and at least one payment is received, or

3. Other arrangements satisfactory to DoC are made;

Recipients and subrecipents are subject to all applicable Federal laws and Federal and DoC policies, regulations, and procedures applicable to Federal financial assistance awards. Applicants are reminded of the following:

1. *Past Performance.* Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

2. *Preaward Activities.* Any costs applicants incur prior to an award being made do so solely at the risk of not being reimbursed by the Government. Regardless of any verbal assurance that may have been received, by the applicant, there is no obligation on the part of DoC to cover pre-award costs.

3. *Name Check Review.* All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

4. *Primary Applicant Certifications.* All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and.

(1). *Nonprocurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

(2) *Drug Free Workplace.* Grantees (as defined at 15 CFR part 26, subpart F,

"Governmentwide Requirement for Drug-Free Workplace (Grants)"and the related section of the certification form;

(3) *Anti-Lobbying.* Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form which applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

(4) *Anti-Lobbying Disclosures.* Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

5. *Lower Tier Certifications.* Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to the Department. SF–LLL submitted by any tier recipient or subrecipient should be submitted to the Department in accordance with the instructions contained in the award document.

Applicants are also reminded of the applicability of Executive Order 12372, "Intergovernmental Review of Federal Programs."

Dated: March 12, 1993.

Raymond G. Kammer,

Acting Director.

[FR Doc. 93–6157 Filed 3–16–93; 8:45 am]

BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Federative Republic of Brazil

March 12, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: April 1, 1993.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated September 15 and 19, 1988, as amended and extended, between the Governments of the United States and the Federative Republic of Brazil establishes limits for the period beginning on April 1, 1993 and extending through March 31, 1994. The limits for Categories 225 and 300/301 have been reduced for carryforward used during the previous agreement period.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State (202) 647–3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 12, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1992; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated September 15 and 19, 1988, as amended and extended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 1, 1993, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Brazil and exported during the twelve-month period beginning on April 1, 1993 and extending through March 31, 1994, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Aggregate Limit 200–239, 300–369, 400–469 and 600–670, as a group. Sublevels in the aggregate	363,575,935 square meters equivalent.
218	4,475,708 square meters.
219	14,546,051 square meters.
225	7,329,140 square meters.
300/301	5,726,499 kilograms.
313	41,176,514 square meters.
314	6,154,099 square meters.
315	18,462,297 square meters.
317/326	16,783,905 square meters.
334/335	120,439 dozen.
336	66,911 dozen.
338/339/638/639	1,204,403 dozen.
342/642	254,529 dozen.
347/348	869,847 dozen.
350	134,949 dozen.
361	909,993 numbers.
363	19,421,455 numbers.
369–D [1]	433,774 kilograms.
410/624	8,951,417 square meters of which not more than 2,548,456 square meters shall be in Category 410.
433	17,690 dozen.
443	83,679 numbers.
445/446	89,302 dozen.
604	424,906 kilograms of which not more than 324,750 kilograms shall be in Category 604–A [2].
607	3,945,559 kilograms.
647/648	401,468 dozen.
669–P [3]	1,445,915 kilograms.

[1] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[2] Category 604–A: only HTS number 5509.32.0000.

[3] Category 669–P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

Imports charged to these category limits for the periods April 1, 1992 through March 31, 1993 and July 29, 1992 through March 31, 1993 (Category 443) shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and the Federative Republic of Brazil.

The conversion factor for Categories 338/339/638/639 is 10 square meters per dozen.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93-6045 Filed 3-16-93; 8:45 am]

BILLING CODE 3510-DR-F

New Visa Stamp and Commercial Invoice for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Thailand

March 12, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs authorizing the use of a new visa stamp and commercial invoice.

EFFECTIVE DATE: April 15, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Effective on April 15, 1993, the Government of Thailand will begin issuing a new visa stamp, with a hologram on it, on a new commercial invoice to accompany shipments of textile products, produced or manufactured in Thailand and exported from Thailand on and after April 15, 1993. Goods exported from Thailand during the period April 15, 1993 through May 14, 1993 shall be permitted entry if accompanied by either the old visa stamp, or the new visa stamp with hologram on the new commercial invoice. Goods exported after May 14, 1993 must be accompanied by the new visa stamp with hologram on the new commercial invoice. The new invoice will be on a special paper that has non-photocopyable markings, and will be issued by the Government of Thailand.

See 57 FR 2713, published on January 23, 1992.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 12, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 16, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand for which the Government of Thailand has not issued an appropriate visa.

Effective on April 15, 1993, you are directed to amend the January 16, 1992 directive to provide for the use of a new visa stamp with a hologram on it and a new commercial invoice to accompany shipments of textile products, produced or manufactured in Thailand and exported from Thailand on and after April 15, 1993. Facsimiles of the new visa stamp with hologram and the new commercial invoice are enclosed with this letter.

Goods produced or manufactured in Thailand and exported from Thailand during the period April 15, 1993 through May 14, 1993 shall be permitted entry if accompanied by either the old visa stamp, or the new visa stamp with hologram on the new invoice. Merchandise exported from Thailand after May 14, 1993 which is not accompanied by the new visa stamp with hologram on the new commercial invoice shall be denied entry.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

BILLING CODE 3510-DR-F

1. EXPORTER NAME & ADDRESS	COMMERCIAL INVOICE	
XXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXX	2. REGISTERED EXPORTER NO. / REFERENCE NO. XXXXXXXXXXX	3. INVOICE NO XXXXXXXXXXX DATE XXXXXXXXXXXXX
4. IMPORTER/CONSIGNEE NAME & ADDRESS XXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXX	5. COUNTRY OF ORIGIN THAILAND	6. QUOTA YEAR XXXX
	7. CATEGORY / SUB CATEGORY XXXX	8. CATEGORY UNIT XXXXXXXXXX
9. VESSEL/FLIGHT NO. AND DATE OF SHIPMENT XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	10 FINAL DESTINATION UNITED STATES OF AMERICA	11 PORT OF ENTRY XXXXXXXXX
	12. TERM OF PAYMENT XXXXXXXXXXXXXXXXXXXXXXXX	

13. MARKS & NUMBERS	NUMBER OF PACKAGES	DESCRIPTION OF GOODS & RELATED INFORMATION	14. QUANTITY	15. UNIT PRICE (FOB U S $)	16 TOTAL VALUE (FOB U S $)
XXXXXXXXXXXX XXXXXXXXXXX	XXXXXX	XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX	XXXXXX XXXXXX	XXXXXXXX	XXXXXXXXXX

ORIGINAL
SPECIMEN

18. COMPETENT AUTHORITY STAMP & SIGNATURE	17 DECLARATION BY MANUFACTURER / EXPORTER : I / WE HEREBY DECLARE THAT THE ABOVE PARTICULARS ARE TRUE AND CORRECT
00146 THAILAND TEXTILE VISA NO. 3TH 105897 CATEGORY QUANTITY 341 c/150=1pc2 SIGNATURE DATE 23 FEB 1993	AUTHORIZED SIGNATURE NAME XXXXXXXXXXXXXXXXXXX DESIGNATION XXXXXXXXXXXXXXX COMPANY 'S STAMP DATE XXXXXXXXXXXXXXXXXXXXX

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[FR Doc. 93-6090 Filed 3-16-93; 8:45 am]
BILLING CODE 3510-DR-C

DEPARTMENT OF DEFENSE

Department of the Navy

CNO Executive Panel; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Domestic Issues Task Force will meet March 22, 1993, from 8 a.m to 1 p.m., at Stanford University, Stanford, California, and March 23, 1993, from 8 a.m. to 11 a.m., at Pan Heuristics, Los Angeles, California.

The purpose of this meeting is to continue efforts to forcast emerging economic and futuristic trends with subject matter experts, and the effect of those trends on the Navy of the future.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22303-0268, Phone (703) 756-1205.

Dated: March 8, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-6019 Filed 3-16-93; 8:45 am]

BILLING CODE 3810-AE-F

CNO Executive Panel; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Domestic Issues Task Force will meet April 7-8, 1993, from 9 a.m. to 5 p.m., in Alexandria, Virginia.

The purpose of this meeting is to continue efforts to forecast emerging demographic and sociological trends and their effect on the Navy of the future. The agenda of the meeting will consist of discussions of key issues related to domestic changes in response to demographic, sociological, cultural, and political phenomena.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: March 8, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-6020 Filed 3-17-93; 8:45 am]

BILLING CODE 3810-AE-F

CNO Executive Panel; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel National Defense Forces Task Force will meet April 13-14, 1993, from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia.

The purpose of this meeting is to provide framework for the place of naval forces in U.S. national defense. The entire agenda for the meeting will consist of discussion of key issues regarding the future threat assessment.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the Executive Panel, 4401 Ford Avenue, suite 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: March 9, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-6042 Filed 3-16-93; 8:45 am]

BILLING CODE 3810-AE-F

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, March 24, 1993. The hearing will be part of the Commission's business meeting which is open to the public and scheduled to begin at 1 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

An informal conference session among the Commissioners and staff will be open for public observation at 10 a.m. at the same location and will include discussions on DRBC-States' contracts; proposed nonpoint source regulations for Special Protection Waters; the upper Delaware ice jam project and status of compliance of Blair and Sons, Inc.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *Holdover Project: Wilmington Suburban Water Corporation D-91-72 CP.* A surface water supply project that entails an increase of withdrawal at the applicant's existing White Clay Creek intake adjacent to its Stanton water treatment plant. The applicant provides water to portions of northern New Castle County and requests an increase in its water withdrawal from 16 million gallons per day (mgd) to 30 mgd. The project is located just off First State Boulevard in Stanton, New Castle County, Delaware. This hearing continues that of February 17, 1993.

2. *Weatherly Municipal Authority D-80-80 CP RENEWAL-2.* An application for the renewal of a ground water withdrawal project to supply up to 12 million gallons (mg)/30 days of water to the applicant's distribution system from Well Nos. 1, 2 and 3. Commission approval on February 24, 1988 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 12 mg/30 days. The project is located in Weatherly Borough, Carbon County, Pennsylvania.

3. *W.R. Grace and Company D-82-31 RENEWAL-2.* An application for the renewal of a ground water withdrawal and return project to: supply up to 2.4 mg/30 days of water to the applicant's manufacturing facility from Well No. 1 and return non-contact cooling water to the ground via injection Well No. 2. Commission approval on February 24, 1988 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 2.4 mg/30 days. The project is located in Quakertown Borough, Bucks County and is in the Southeastern Pennsylvania Ground Water Protected Area.

4. *Town of Clayton D-84-34 CP RENEWAL-2.* An application for the renewal of a ground water withdrawal project to supply up to 8.5 mg/30 days of water to the applicant's distribution system from Well Nos. 1, 2R and 3. Commission approval on September 22, 1987 was limited to five years. The applicant requests that the total withdrawal from all wells be increased from 7.5 mg/30 days to 8.5 mg/30 days. The project is located in the town of Clayton, Kent County, Delaware.

5. *City of Coatesville Authority D-86-82 CP (Revision-1).* An application to revise Decision "h" of Docket D-86-82 CP to extend the time period to complete improvements to the Octoraro (McCrea) Water Treatment Plant. The project, an expansion of service area and interbasin transfer, was approved by the Commission September 26, 1990 and required completion of the McCrea Water Treatment Plant modification by June 1, 1993. The applicant has requested an extension until September 1, 1994. The project involves importation and exportation of Susquehanna and Delaware River Basin

waters and the entire service area is located within Pennsylvania.

6. *South Whitehall Township Authority D–91–82 CP.* An application for approval of a ground water withdrawal project to supply up to 18.36 mg/30 days of water to the applicant's distribution system from new Well No. 14, and to retain the existing withdrawal limit from all wells of 60 mg/30 days. The project is located in South Whitehall Township, Lehigh County, Pennsylvania.

7. *Matrix Realty, Inc. (Commonwealth National Country Club) D–92–32.* A combined surface and ground water withdrawal project to supply a maximum of 5.0 mg/30 days of water for irrigation of the applicant's golf course. New Well No. CW–1 will supplement a pond located on an unnamed tributary to Park Creek approximately 400 feet northeast of the intersection of Babylon and Rt. 463. Water will be withdrawn from the pond and used to irrigate approximately 77.5 acres. The project is located in Horsham Township, Montgomery County and is in the Southeastern Pennsylvania Ground Water Protected Area.

8. *Waltz Golf Farm D–92–49.* A golf course irrigation project that entails withdrawal of surface water via an intake proposed at an existing man-made pond on Landis Creek. The applicant proposes to withdraw approximately 9.0 mg/30 days (0.3 mgd) to irrigate approximately 165 acres of the proposed golf course. The project intake pond and golf course are located off state Route 422 (Ridge Pike) and Limerick Road in Limerick Township, Montgomery County, Pennsylvania.

9. *Childers Products Company, Inc. D–92–61.* A ground water remediation project that entails withdrawal of 86,000 gallons per day of contaminated ground water and treatment for removal of volatile organic compounds via an air stripper at the applicant's construction products manufacturing plant site. Five recovery wells will be used to control the contaminate migration and four wells will be used for injection of the decontaminated ground water back to the aquifer. The project is located in Bristol Township, Bucks County, Pennsylvania and is situated just west of Beaver Dam Road and east of 3–M Airport near the community of Edgely.

10. *U.S. Department of the Army D–93–1 CP.* A project to replace the existing Fort Dix and McGuire Air Force Base (AFB) sewage treatment plants (STPs) with a single new tertiary level STP capable of treating 4.6 mgd, on an average monthly basis. Only the existing Fort Dix STP settling tanks will be reused, after modification, for emergency off-line storage. The new STP will serve only Fort Dix and McGuire AFB and will be located on the site of the existing Fort Dix STP situated just to the east of Texas Avenue on Sunrise Road, Fort Dix, Pemberton Township, Burlington County, New Jersey. The new STP will discharge to ground water via 12 infiltration lagoons to be located just to the west of Juliustown-Browns Mills Road, in Pemberton Township, Burlington County, New Jersey.

11. *Star Enterprise D–93–4.* An application to replace the withdrawal of water from Well No. P–16 in the applicant's water supply system which has become an unreliable source of supply. The applicant requests that the total withdrawal from all wells remain limited to 180 mg/30 days. The project is located in New Castle County, Delaware.

12. *New Castle County Department of Public Works D–93–6 CP.* A proposed regional wastewater treatment facility and spray irrigation project to serve the Middletown-Odessa-Townsend (MOT) area of southern New Castle County, Delaware. The treatment plant will be situated just south of Old Corbit Road and just east of an unamed tidal tributary of the Appoquinimink River, a tributary of the Delaware River in Water Quality Zone 5. The proposed plant will provide 1.7 mgd secondary biological treatment capacity via a facultative lagoon system and discharge 1.2 mgd, after disinfection, for spray irrigation on an adjacent application area of approximately 152 acres. Also, 0.5 mgd will be discharged to the Appoquinimink River after tertiary filtration. The existing MOT plant, located just north of the proposed plant, will continue to operate and discharge 0.65 mgd to the Appoquinimink River until the proposed plant is operational, after which it will be decommissioned.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: March 9, 1993.

Susan M. Weisman,

Secretary.

[FR Doc. 93–6041 Filed 3–16–93; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF ENERGY

Morgantown Energy Technology Center; Financial Assistance Award; (Award of Grant)

AGENCY: U.S. Department of Energy (DOE), Morgantown Energy Technology Center.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.7(b)(2)(i) Criteria (H), the DOE, Morgantown Energy Technology Center (METC) gives notice of its plans to award a grant to The Sarkeys Energy Center at the University of Oklahoma, Norman, Oklahoma 73019, in the amount of approximately $600,000, of which $250,000 will be funded by the DOE. The total project period will be for an estimated six (6) months.

FOR FURTHER INFORMATION CONTACT: D. Denise Riggi, I–07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507–0880, Telephone: (304) 291–4241. Procurement Request No. 21–93MC30084.000.

SUPPLEMENTARY INFORMATION: The purpose of the grant is to provide financial assistance to the Sarkeys Energy Center for conducting a feasibility study which will develop a validated conceptual model of the proposed standard gas production reporting systems applicable to individual states. Federally sponsored efforts are critical to expanding natural gas markets which address environmental concerns and reduce our nation's dependency on oil. By providing financial support, DOE expects to ultimately stimulate utilization of natural gas reserves by addressing serious information deficiencies that must be overcome to permit the smooth operation and expansion of domestic natural gas markets.

Issued in Washington, DC, March 9, 1993.

Louie L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 93–6159 Filed 3–16–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER93–419–000, et al.]

Gulf Power Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

March 10, 1993.

Take notice that the following filings have been made with the Commission:

1. Gulf Power Company

[Docket No. ER93–419–000]

Take notice that on March 1, 1993, Gulf Power Company (Gulf Power) tendered for filing Notices of Cancellation of supplemental agreements for Escambia River Cooperative, Inc., Gulf Coast Electric Cooperative, Inc., and West Florida Electric Cooperative Association.

Comment date: March 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Union Electric Company

[Docket No. ER93–420–000]

Take notice that on March 1, 1993, Union Electric Company (Union) tendered for filing a request that the agreements accepted for filing in Docket No. ER91–331–000, designated as AP&L Rate Schedules 128, 129 and 130 be given Union designations.

Comment date: March 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. San Diego Gas & Electric Company

[Docket No. ER93–424–000]

Take notice that on March 4, 1993, San Diego Gas & Electric Company (SDG&E) tendered for filing and acceptance, pursuant to 18 CFR § 35.12, the Coordination of Services Agreement (Agreement) between SDG&E and Louis Dreyfus Electric Power, Inc.

The Agreement provides for the purchase, sale, or exchange of surplus capacity and/or energy, and the purchase and sale of transmission service.

SDG&E requests that the Commission allow the Agreement to become effective May 1, 1993 or at the earliest possible date.

Copies of this filing were served upon this Public Utilities Commission of the State of California and LDEP.

Comment date: March 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. PacifiCorp

[Docket No. ER93–4264–000]

Take notice that PacifiCorp., on March 4, 1993, tendered for filing, in accordance with 18 CFR 35.13 of the Commission's Rules and Regulations, Exhibit A (Revision No. 16, effective September 30, 1992) to the February 25, 1976 Transmission Agreement (PacifiCorp Rate Schedule FPC No. 123), between PacifiCorp and Tri-State Generation and Transmission Association, Inc. (TriState).

Exhibit A to the Transmission Agreement is revised annually in accordance with article 6(b) of the Transmission Agreement, and specifies the projected maximum integrated demand in kilowatts which Tri-State desires to have transmitted to defined Points of Delivery for a four-year rolling period.

PacifiCorp respectfully requests that a waiver of the prior notice requirements 18 CFR 35.3 be granted pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations and that an effective date of September 30, 1992 be assigned, this date being consistent with the provisions of article 6(b) of the Transmission Agreement.

Copies of this filing were supplied to Tri-State and the Wyoming Public Service Commission.

Comment date: March 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6082 Filed 3–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP93–226–000, et al.]

Columbia LNG Corporation, et al.; Natural Gas Certificate Filings

March 10, 1993.

Take notice that the following filings have been made with the Commission:

1. Columbia LNG Corporation

[Docket No. CP93–226–000]

Take notice that on February 26, 1993, Columbia LNG Corporation ("Columbia LNG"), 20 Montchanin Road, Wilmington, Delaware 19807, filed in Docket No. CP93–226–000, an application pursuant to section 7(b) of the Natural Gas Act (NGA) for authorization and approval to abandon service to Columbia Gas Transmission Corporation ("Columbia Transmission") under Columbia LNG's Rate Schedule LNG and to abandon transportation service to Washington Gas Light Company ("WGL") under Columbia LNG's Rate Schedule X–2. Additionally, pursuant to section 7(c) of the NGA, 15 U.S.C. 717f(c), subpart A of part 157 of the Commission's Regulations, 18 CFR 157.5, *et seq.* (1992), subpart F of part 157 of the Commission's Regulations, 18 CFR 157.201 *et seq.* (1992), and subpart G of part 284 of the Commission's Regulations, 18 CFR 284.221 *et seq.* (1992), Columbia LNG requests the following:

(1) Authorization to construct a liquefaction unit at the Cove Point Terminal to liquefy natural gas for storage;

(2) Authorization to recommission its terminal located at Cove Point, Calvert County, Maryland ("Cove Point Terminal");

(3) Issuance of a blanket certificate with pre-granted abandonment to provide a peaking service, firm, and interruptible LNG terminalling services, and firm and interruptible transportation services; and

(4) Issuance of a blanket construction certificate, all as more fully set forth in the application that is on file with the Commission and open to the public inspection.

Columbia LNG is proposing to provide an assortment of services that involve the use of its Cove Point terminal and pipeline. In order to provide the peaking service, Columbia LNG will construct a liquefaction unit at Cove Point capable of liquefying up to 20,000 Mcf of gas per day. Additionally, Columbia LNG will recommission the onshore terminal facilities at Cove Point in order to store and vaporize LNG.

The peaking customers will provide natural gas for liquefaction and storage during an injection season (April 1 through December 14) pursuant to a delivery schedule to be established prior to the beginning of each injection season. During the withdrawal season (December 15 through March 15) and at any other time on a reasonable efforts basis, Columbia LNG will withdraw the LNG from storage, vaporize it, and

deliver the vaporized natural gas to the peaking customers. Each customer will be permitted to withdraw up to its Maximum Daily Peaking Quantity ("MDPQ") during any consecutive 10-day period. All receipts from and deliveries to the peaking customers will be at points along the Cove Point pipeline. Columbia LNG will charge market-based rates for the peaking services.

Additionally, Columbia LNG proposes to provide a firm LNG terminalling service pursuant to which Columbia LNG will unload tankers and provide equivalent quantities of natural gas, less retainage, to terminalling customers at delivery points long the Cove Point pipeline. Columbia LNG will also provide terminalling services on an interruptible basis. As in the case of the peaking service, terminalling services will be offered on the basis of market-based rates.

When LNG is being received at the Cove Point terminal for the account of terminalling customers, the LNG stored for the account of the peaking customers will be provided either by displacement or by peaking customer purchases of LNG from the LNG terminalling customer. The proposed tariffs specifically permit such purchases in lieu of liquefaction. The terminalling service would therefore give the peaking customer the opportunity to expand the number of days that the service would be available during the winter through purchases of LNG to replace previously withdrawn LNG storage quantities.

To efficiently utilize the terminal's existing LNG storage capacity, the terminalling and peaking customers will jointly use the terminal's storage capacity with safeguards being provided to ensure the integrity of the peaking service.

Finally, Columbia LNG will offer firm and interruptible transportation service on the Cove Point Pipeline. The rates to be charged for the transportation services will be cost based.

Columbia LNG states that all services will be provided on an open-access, non-discriminatory basis and that it has structured its services to be in compliance with Order No. 636 to the greatest extent practicable. Columbia LNG is requesting blanket certificate authorization under subpart G of part 284 of the Commission's Regulations to provide the services. Capacity for each firm service will be bid in an open season commencing 10 business days after the Commission's publication of notice of this application in the **Federal Register** and continuing until 4 p.m., Eastern time on the 10th business day following the commencement of open season. The terms of the open season are set forth in more detail in the Application and on the term sheets that Columbia LNG will make available to any interested part by contacting: L. Michael Bridges, President, Columbia LNG Corporation, (302) 429–5303.

Columbia LNG states that the offering of the peaking service is conditioned upon it receiving sufficient customer subscription at an adequate price to permit it to economically undertake the necessary recommissioning and new construction. The offering of the terminalling services is conditioned upon Columbia LNG (i) implementing the peaking service and (ii) receiving a subscription for firm terminalling service at a price and quantity adequate to permit Columbia LNG to economically undertake the necessary recommissioning for this service.

The proposed services are discussed more fully in the Application and in the *pro forma* tariff sheets included with the filing.

In conjunction with the offering of the new services, Columbia LNG proposes to abandon sales of vaporized LNG to Columbia Transmission provided under Rate Schedule LNG of its FERC Gas Tariff, Original Volume 1 and to abandon interruptible transportation to WGL provided under Rate Schedule X–2 of its FERC Gas Tariff, Original Volume 2. Columbia LNG states that it has not provided service to Columbia Transmission under Rate Schedule LNG since deliveries of LNG were interrupted in 1980 and that Columbia Transmission has entered into an agreement to terminate service. Columbia LNG states that Rate Schedule X–2 specifically provides that service thereunder terminates with the commencement of LNG deliveries to the Cove Point terminal and that transportation will continue to be available to WGL under Columbia LNG's open access firm and interruptible transportation rate schedules as proposed in its Application.

The estimated cost for the proposed facilities is $54.4 million for the Peaking & Terminalling and $40.0 million for Peaking only.

Financing for Capital Costs, including the liquefaction facility and for recommissioning of existing onshore and offshore facilities, will be supported by a pledge of revenues from both peak shaving and firm terminalling customer contracts. In addition, Columbia LNG's existing assets will be available to be pledged to provide additional support for the new debt issued. To further support the new debt to be issued by Columbia LNG, it is expected that all, or a portion, of Columbia LNG's currently outstanding debt owed to the Columbia Gas system, Inc., of $41.7 million, would be surordinated to all new debt issued.

Comment date: March 31, 1993, in accordance with Standard Paragraph F at the end of this notice.

2. Williams Natural Gas Company

[Docket No. CP93–224–000]

Take notice that on February 25, 1993, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93–224–000 a request pursuant to sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon sales service to City of Plevna, Kansas, under its blanket certificate issued in Docket No. CP82–479–000, pursuant to section 7(b) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Williams states that in 1991 Peoples Natural Gas Company (Peoples) acquired the Plevna system and that Peoples is now requesting that effective on December 31, 1992, Williams abandon the sale of gas for resale to Plevna. It is indicated that the facilities would remain in place to allow Peoples to continue to provide service to Plevna.

Comment date: April 26, 1993, in accordance with Standard Paragraph G at the end of this notice.

3. CNG Transmission Corporation

[Docket No. CP93–229–000]

Take notice that on March 4, 1993, CNG Transmission Corporation (CNG) 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP93–229–000, a request pursuant to sections 157.205 and 157.211 of the Commission's Regulations for authorization under its blanket certificate issued in Docket No. CP82–537–000, to construct a new sales/transportation tap and appurtenant facilities to serve a new delivery point to Niagara Mohawk Power Corporation (Niagara Mohawk), a local distribution company in Rensselaer, New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

As a link in the chain of transportation and deliveries, CNG states that it must construct a tap and regulation station with about 1600 feet of 8 inch connection pipeline by tapping into its TL–470 pipeline and constructing 1600 feet of connecting pipeline to interconnect with Niagara

Mohawk's facilities near Rensselaer, and install a regulation equipment along with various auxiliary installations at the point of interconnection. Niagara Mohawk, as stated by CNG, has obtained state authorization to construct approximately 1.8 miles of 8 inch pipeline to reach the Cogen Plant currently under construction and would ultimately deliver the gas to the plant.

Total estimated cost of CNG's facilities to be constructed is $700,000.

Comment date: April 26, 1993, in accordance with Standard Paragraph G at the end of this notice.

4. Florida Gas Transmission Company

[Docket No. CP93-230-000]

Take notice that on March 5, 1993, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP93-230-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon certain metering facilities and approximately 0.4 mile of 12-inch lateral under the authorization issued in Docket No. CP82-553-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

FGT states that Florida Power & Light (FPL) has requested FGT to remove the original metering facilities which served as the Lauderdale delivery point and was replaced with dual metering facilities serving as the Lauderdale "A" and "B" delivery points. It is stated that all facilities are located in Broward County, Florida.

FGT proposes to abandon and remove the original Lauderdale metering facilities. In addition, FGT proposes to abandon approximately 0.4 mile of the 12-inch Ft. Lauderdale Lateral. FGT states that it will cut and remove approximately 10-feet at each end of the lateral. According to FGT, the remaining pipe will be water filled, capped and abandoned in place. FGT states that it does not propose to reassign or realign any entitlements, nor rearrange any existing facilities. In addition, it is stated that the proposed abandonment will not result in the abandonment of any existing service to FGT's customers, nor will it disadvantage FGT's existing customers.

Comment date: April 26, 1993, in accordance with Standard Paragraph G at the end of this notice.

Panhandle Eastern Pipe Line Company

[Docket No. CP93-231-000]

Take notice that on March 5, 1993, Panhandle Eastern Pipe Line (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed an application with the Commission in Docket No. CP93-231-000 pursuant to section 7(b) of the Natural Gas Act (NGA) for an order permitting and approving the abandonment of certain certificated exchange agreements with Northern Natural Gas Company (Northern), all as more fully set forth in the application which is open to the public for inspection.

Panhandle requests permission and approval to abandon services under its FERC Rate Schedules E-6 and E-13 with Northern. Panhandle indicates that abandonment of these exchange services would have no detrimental impact upon Northern. Panhandle also states that Northern filed a separate application with the Commission in Docket No. CP93-223-000 to abandon its corresponding services for Panhandle.

No facilities would be abandoned in this proposal.

Comment date: March 31, 1993 in accordance with Standard Paragraph F at the end of the notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-6084 Filed 3-16-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD93-05286T North Dakota-2]

State of North Dakota; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

March 10, 1993.

Take notice that on March 8, 1993, the Oil and Gas Division of the North Dakota Industrial Commission (North Dakota), submitted the above-referenced notice of determination pursuant to section 271.703(c)(3) of the Commission's regulations, that the Red River Formation, underlying certain lands in McKenzie County, North Dakota, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application is described as all of Section 20, Township 152 North, Range 95 West.

The notice of determination also contains North Dakota's findings that the referenced portion of the Red River Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in

accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93-6081 Filed 3-16-93; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. PP-86]

Record of Decision and Notice of Issuance of Presidential Permit PP-86 to Washington Water Power Company

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Publication of Record of Decision and Notice of Issuance of Presidential Permit PP-86 to Washington Water Power Company to construct an international electrical interconnection.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued Presidential Permit PP-86 to the Washington Water Power Company (WWP). The Presidential permit grants WWP the authorization to construct, connect, operate, and maintain a double-circuit 230-kilovolt (kV) electric transmission line across the international border between the United States and Canada where it will interconnect with similar facilities to be constructed by British Columbia Hydro and Power Authority (B.C. Hydro). The Record of Decision appears below.

Record of Decision. In conjunction with the above mentioned Presidential permit, FE is hereby issuing a Record of Decision (ROD) pursuant to the regulations of the Council on Environmental Quality implementing the procedural provisions of the National Environmental Policy Act of 1969 (NEPA)[1] and DOE's (NEPA) compliance regulations.[2]

Environmental Document. This ROD is based on a review of the final Environmental Impact Statement (EIS) titled, "Washington Water Power/B.C. Hydro Transmission Interconnection Project," DOE/EIS 0141 issued on November 20, 1992. In this document, DOE considered the environmental impacts associated with granting or denying the Presidential permit as well as granting the Presidential permit but requiring construction along alternative transmission line corridors. Under the alternative of not granting the Presidential permit, various alternative power supply options which the applicant might take were considered. None of these alternatives or the alternative transmission line corridors considered proved to be preferable to granting the Presidential permit for construction along the proposed route.

As a condition for granting the requested Presidential permit, WWP will be required to adopt all mitigation measures identified in Table 2-5 and section 4.9 of the final EIS.

A copy of Presidential Permit PP-86 is available for public inspection and copying at the Department of Energy, room 3F-090, forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION ON THE PERMITTING PROCESS CONTACT: William H. Freeman, Office of Fuels Programs (FE-52), Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-087, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-5883.

FOR FURTHER INFORMATION ON THE DOE NEPA PROCESS CONTACT: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH-25), U.S. Department of Energy, Forrestal Building, Room 3E-080, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4600 or 1-800-472-2756.

SUPPLEMENTARY INFORMATION: On October 15, 1987, the Washington Water Power Company filed an application with the DOE for a Presidential permit pursuant to Executive Order 10485, as amended by Executive Order 12038, to construct, connect, operate, and maintain a double-circuit 230-kV overhead transmission line which would cross the U.S. international border near the city of Trail, British Columbia, and the town of Northport, Washington, and extend to the planned Marshall substation located in the vicinity of Spokane, Washington. In the application, WWP described the proposed line as approximately 118 miles in length (from the international boundary to Marshall substation) and would require all new rights-of-way. The two circuits would be capable of transmitting 800 to 1,200 megawatts, (MW) of firm capacity from British Columbia to the Pacific Northwest.

In reviewing this application, the DOE determined that granting the Presidential permit for the proposed interconnection would constitute "a major federal action significantly affecting the quality of the human environment" within the meaning of NEPA. Consequently, the DOE has prepared an EIS to assess the environmental impacts associated with granting or denying the permit.

In May 1988, DOE conducted scoping meetings in Spokane, Colville, and Newport, Washington, to identify major issues and concerns that should be addressed in the EIS. In January 1990, the DOE published and distributed approximately 650 copies of a draft EIS to interested individuals and agencies. Following this distribution, public hearings to obtain comments on the draft EIS were held in Spokane, Colville and Newport, Washington, in February 1990. A total of 56 speakers presented comments at the public hearings, and DOE received 71 written comments during the 72-day public comment period. Substantive comments and responses associated with the draft EIS are presented in the final EIS.

On March 2, 1991, WWP formally notified DOE that it was amending its Presidential permit application. In this amendment, WWP revised the proposed route of the project to the extent that the new proposed route would now terminate at WWP's existing Beacon substation, located northeast of Spokane, instead of WWP's originally proposed termination point at the planned Marshall substation, located southwest of Spokane. The amendment shortened the overall route by 25.7 miles but added approximately 5.6 miles of previously constructed route to the project.

As a result of this change in the project, DOE prepared a supplement tc the draft EIS that addressed the environmental impacts associated with a new 5.6 mile section of the route. The supplemental draft EIS also compared the new proposed route (international boundary to Beacon Substation) to the other alternatives previously analyzed in the draft EIS, including the originally proposed route which extends from the international boundary to the proposed Marshall Substation. DOE published and distributed approximately 500 copies of the supplemental draft EIS to individuals and agencies in February 1992. A 68-day comment period allowed interested parties to submit comments on the contents of the document and the overall project. DOE received a total of 20 written comments during and following the comment period. Substantive comments and responses to concerns raised about the supplemental draft EIS are presented in the final EIS. DOE published and distributed 500 copies of the final EIS on November 13, 1992.

Pursuant to the Council on Environmental Quality (CEQ)

[1] 42 U.S.C. 4321 *et seq.*

[2] 57 FR 15122 (April 24, 1992), to be codified at 10 CFR part 1021.

regulations implementing the procedural provisions of NEPA and DOE's regulations for compliance with NEPA, FE is issuing this ROD on the application for a Presidential permit filed by WWP.

Description of Alternatives

On November 20, 1992 (54 FR 54789), DOE issued a final EIS titled, "Washington Water Power/B.C. Hydro Transmission Interconnection Project", DOE/EIS–0141. Section 2 of this document contains an analysis of the alternatives considered by DOE in reaching its decision to grant Presidential Permit PP–86:

1. Grant the Presidential permit as requested.

2. Grant the Presidential permit but require the use of alternative transmission corridors and/or designs. (Five alternative transmission corridors and five variations of those routes were considered.)

3. Take no action—deny the Presidential permit request. Under this alternative it is assumed that the applicant would choose to implement a number of alternative actions:

(a) Do not construct the transmission line and do not implement alternative supply or demand measures. (Maintain status quo)

(b) Utilize energy supply alternatives. (Cogeneration and small power production, utility purchases/exchanges, combustion turbines, conventional coal plants, hydro system improvement, fluidized bed, energy storage, fuel cells, geothermal hydro, nuclear, solar, wind, and fuel substitution)

(c) Modify domestic transmission system alternatives. (WWP 115–kV Sunset-Kettle Falls, BPA Bell-Boundary 230–kV circuits, 500–kV transmission, underground transmission, and superconducting transmission)

Basis for Decision

Executive Order 10485, as amended by Executive Order 12038, authorizes the DOE to grant a Presidential permit to construct, connect, operate, and maintain an electric transmission line which crosses the U.S. international border if it is determined that the issuance of the permit is in the public interest.

The DOE has concluded that the proposed project by WWP satisfies the criteria presently used to determine consistency with the public interest, namely: (1) The project must not impair the reliability of the electric power supply system in the U.S.; (2) DOE's decision making process must include due consideration of the environmental impacts of the Federal action in order to satisfy the requirements of the National Environmental Policy Act of 1969; and (3) the project must receive the favorable recommendation of the Secretary of State and the Secretary of Defense.

The Acting Assistant Secretary for Fossil Energy has determined that the construction, connection, operation, and maintenance of the proposed transmission line by WWP would not impair the reliability of the U.S. electric power supply system. A staff analysis dated November 27, 1992, in support of this finding has been made a part of the docket in this proceeding. Also, the Secretary of State by letter dated January 11, 1993, and the Secretary of Defense by letter dated January 14, 1993, have concurred in the granting of Presidential Permit PP–86.

In compliance with the provisions of NEPA, DOE prepared an EIS to address the environmental impacts associated with the proposed action and its alternatives. The information presented in the EIS suggests that the issuance of the Presidential permit would result in small incremental impacts in Washington State since much of the new transmission line is within established transmission line corridors and adjacent to existing transmission lines.

The final EIS discusses in detail, construction activities, including clearing and control of vegetation, loss or alteration of wildlife habitat, displacement and/or disturbance of wildlife, disturbance of aquatic resources, release of gaseous pollutants and dust, and disruption of agricultural activities. Based on those discussions and the conclusions reached, DOE finds that any environmental impacts created due to construction activities would be minimal and of short duration. The document also discusses in detail the potential environmental impacts from operation and maintenance of the transmission facilities, including collision of birds with structures, visual intrusion of additional lines within the transmission corridor, and possible health and safety effects associated with the electromagnetic environment in close proximity to the proposed line. Based on these discussions and the conclusions reached, the DOE finds that any environmental impacts caused by operation and maintenance of the facilities would be minor and incremental in nature.

DOE evaluated five alternative transmission line routes (Proposed Route, Eastern Alternative, Western Alternative, Northern Crossover Alternative, and the Southern Crossover Alternative); five route variations (Boundary Dam Variation, Orchard Prairie Variation, Chattaroy Variation, Marshall Variation, and Onion Creek Variation); and two route options (Eastern Route Option and Western Route Option). None of these routes or variations was found to be environmentally preferable to the proposed route.

The proposed route would consist of a new double-circuit 230–kV transmission line constructed between WWP's existing Beacon Substation and the United States-Canada international boundary. The proposed route is 102.2 miles in length and crosses Stevens, Pend Oreille, and Spokane Counties. The Boundary Dam and Orchard Praire Variations and the Eastern and Western Route Options are associated with this route. To minimize impacts to the extent practicable, WWP has developed a variety of environmental protection procedures which are presented in the final EIS. In addition, the DOE has identified specific mitigation measures which are also presented in the final EIS. Should the proposed interconnection be permitted, WWP has committed to both the protection procedures and the mitigation measures.

The final EIS discusses the significant impacts that would remain, following the implementation of the aforementioned mitigation measures (i.e., unavoidable adverse impacts). For the proposed route, unavoidable adverse impacts would include the removal of 8.5 acres of forested wetlands and the removal of 7 residences. No unavoidable adverse impacts are associated with either the Boundary Dam or Orchard Prairie Variations or the segments of the proposed route replaced by these variations.

The Eastern Alternative is the same route as that described for the proposed route, traveling from the United States-Canada boundary south to Mead. The Eastern Alternative then proceeds west, turning south at Four Mound Prairie, and terminates at the planned substation site near Marshall. The Eastern Alternative is 127.9 miles in length and crosses Stevens, Pend Oreille, and Spokane Counties. The Boundary Dam, Chattaroy, and Marshall Variations and the Eastern and Western Route Options are associated with this route.

For the Eastern Alternative, unavoidable adverse impacts would include the removal of 9.4 acres of forested wetlands, a total of 12 residences, and 2 major inhabited buildings. Neither the Boundary Dam Variation nor the segment of the Eastern Alternative that it would replace would

result in unavoidable adverse impacts. The Chattaroy Variation would cross the Little Spokane River Natural Area, resulting in unavoidable adverse impacts from the removal of 0.6 acre of forested wetland, the increase in the potential for bald eagle collisions, the reduction in 0.6 mile of the recreation area naturalness, the violation of 0.6 mile of land use policies prohibiting transmission line ROWs, and long-term visual impacts for 0.4 mile of the variation. Unavoidable adverse impacts associated with the segment of the Eastern Alternative replaced by this variation would include the removal of 1 residence and 1 major inhabited building. Both the Marshall Variation and the segment of the Eastern Alternative replaced would affect two residences, resulting in unavoidable adverse impacts from each of these route segments. Unavoidable adverse impacts affiliated with the Eastern Route Option and the Western Route Option in comparison to the segments of the Eastern Alternative replaced would be the same as those discussed for the proposed route.

The Western Alternative originates at the international boundary and travels south, paralleling the Columbia River, within the Columbia and Colville River Valleys and terminates at the planned Marshall Substation. The Western Alternative is 121.1 miles in length and crosses Stevens, Lincoln, and Spokane Counties. The Onion Creek and Marshall Variations are associated with the Western Alternative.

Unavoidable adverse impacts for the Western Alternative would include the removal of 21.2 acres of forested wetlands; removal of 7 residences; removal of 1 major inhabited building; and significant, long-term visual impacts for 14.5 miles of this alternative route. No unavoidable adverse impacts would be associated with the Onion Creek Variation. However, the segment of the Western Alternative replaced would result in unavoidable adverse impacts from exceeding 5.9 miles of the visual quality objectives. The unavoidable adverse impacts affiliated with the Marshall Variation and the segment of the Western Alternative replaced would be the same as those described for the Eastern Alternative.

The Northern Crossover and Southern Crossover Alternatives are crossover routes from the proposed route to the Western Alternative. Both of these alternatives cross Stevens, Pend Oreille, Lincoln, and Spokane Counties; terminate at the planned Marshall Substation; and are affiliated with the Boundary Dam and Marshall Variations. The lengths of the Northern and Southern Crossover Alternatives total 126.9 miles and 142.7 miles, respectively.

Use of the Northern Crossover Alternative would include the removal of 15.2 acres of forested wetland, the clearance of 9.1 acres of old growth forest, the removal of 8 residences, the removal of 1 major inhabited building, and the exceeding of applicable visual quality objectives for 1.8 miles of the route alternative, resulting in unavoidable adverse impacts to these resources. Unavoidable adverse impacts associated with the Boundary Dam and Marshall Variations and the segments of the Northern Crossover Alternative replaced would be the same as the impacts discussed when comparing these variations to the proposed route and Eastern Alternative.

Unavoidable adverse impacts for the Southern Crossover Alternative would include the removal of 9.1 acres of forested wetlands, the loss of 7.6 acres of old growth forest, the removal of 10 residences, and the removal of 1 major inhabited building. Unavoidable adverse impacts associated with the Boundary Dam and Marhsall Variations and the segments of the Southern Crossover Alternative replaced would be the same as the impacts discussed when comparing these variations to the proposed route and Eastern Alternative.

Under the No Action Alternative, DOE would not issue a Presidential permit for the proposed interconnection, and the transmission line would not be constructed. WWP would have to develop other sources of energy to meet increases in demand for electricity. The "maintain status quo" alternative would not provide the needed generating capacity and would result in greater air quality degradation due to the continued use of fossil fuels for electric generation.

If the DOE were to deny the Presidential permit, WWP could take other actions (supply alternatives and demand side options) to meet future demand for electricity. However, among the alternatives available to WWP (as stated in the Description of Alternatives) none were deemed to be viable alternatives to the proposed action.

In evaluating the suitability of conservation, WWP estimates annual savings of approximately 48 MW under average demand by the year 2000. Since the proposed action and the incorporation of conservation measures are not mutually exclusive, the proposed project does not preclude further pursuance of these programs.

The increased use of cogeneration and small power production (CSPP) was not considered to be a viable alternative to the proposed action because of questionable reliability in some of the resource additions. CSPPs are, for the most part, non-dispatchable. This means that WWP does not have the contractual option to shut down those resources when it is economical to do so. Furthermore, WWP does not have complete control over when, where or if these alternative supply sources are developed. Potential limitations also exist in WWP's system. In some cases, significant transmission system upgrades would be required to handle the interconnection of CSPPs.

In order for purchases/exchanges from other U.S. utilities to be a viable alternative to the proposed action, a reliable transmission system is required. Having access to, and/or ownership of, an interconnection facilitates the transfer of power between utilities. This alternative would have similar environmental impacts as the proposed action since additional domestic transmission lines would need to be constructed in order to deliver the energy to the region.

In evaluating the use of combustion turbines, the units typically have been used only to meet peaking loads. The main concern in using combustion turbines as an energy resource is the uncertain future supply and cost of fuel. WWP operates the 68-MW Northeast Combustion facility in north Spokane. The site has space for an additional unit, plus space for an add-on boiler to convert the simple cycle units to combined cycle. However, combustion turbines are not economically competitive with the proposed interconnection for providing up to 800 MW of firm power. The use of combustion turbines was not considered to be a viable alternative to the proposed action.

Building central-station powerplants would be costlier than the proposed action, could not be implemented in the required time period, and possibly could result in greater environmental impacts than the proposed action due to the increased thermal emissions from both fossil-fired and nuclear units, and the increased combustion emissions from fossil-fired units.

Load management programs are a part of the average energy and peak energy resource strategies of WWP and are helpful tools in shifting energy load from heavy on-peak to off-peak hours. However, load management cannot replace the capacity of the proposed interconnection and is not predictable enough to supply future energy needs. Load management, therefore, is not a viable alternative to the proposed action. As the need for peak energy

increases in the future, WWP is committed to evaluating load management further.

Making improvements to the existing hydro system is not a viable alternative to the proposed action. WWP has a large capital investment in existing plant facilities and is striving for maximum efficiency and potential from the existing generating units. The preliminary estimate of WWP's hydro system improvement potential is between 18 and 36 MW. Once ongoing studies are finalized, any hydro system improvements will be completed if they are shown to be cost effective. Any benefits derived from this alternative also would be incremental and not dependent upon the completion or cancellation of the proposed action.

Fluidized bed combustion is in a period of refinement in the electrical generation industry. The DOE, the manufacturing industry, and various trade groups have been the major contributors to fluidized bed research and development. Fluidized bed generation plants are currently constructed through 100–MW size. The small plants can be built in a shorter period of time rather than being locked into one site for many years, as with a large generating facility. Because of its claimed versatility, excellent emissions control, and fuel utilization characteristics, fluidized bed generation could be a promising energy resource of the future. But, it is currently too small in plant size and too experimental in nature to be considered an alternative to the proposed interconnection.

The use of nonconventional generating facilities (energy storage, fuel cells, geothermal, solar, wind, fuel substitution) was not considered to be a viable alternative to the proposed action because they do not meet the stated purpose of the proposed interconnection to provide a transmission path for peaking capacity and energy transfers between the B.C. Hydro system and the WWP system.

Alternative electrical designs and the potential for upgrading existing transmission line interconnections also were taken into consideration. The upgrades, additions, and alternative transmission designs examined and discussed below were not considered to be viable alternatives to the proposed action for the reasons outlined below:

(a) WWP operates a single circuit 115–kV line between Sunset Substation in Spokane County and the Kettle Falls Generating Station near Colville in Stevens County. Potential use of the 115–kV facility includes conversion to 230–kV and/or expansion of the existing right-of-way. The alternative was rejected because of the prohibitive cost and the degrading of system reliability.

(b) Bonneville Power Administration (BPA) operates four circuits (three 230–kV and one 115–kV) between Boundary Dam in northern Pend Oreille County and Bell Substation in northeast Spokane. Bell-Boundary #1 and #2 are separate 230–kV circuits located within the same transmission corridor in Spokane and Pend Oreille Counties. Bell-Boundary #3 and #4 circuits are located in Pend Oreille, Stevens, and Spokane Counties; circuit #3 is operated at 230–kV, while circuit #4 is operated at 115–kV for service to local distribution loads. The existing circuits at Bell-Boundary #1 and #2 are not capable of carrying the additional 600 to 1,000 MW transfers proposed by WWP for the B.C. Hydro Interconnection; therefore additional circuits would be required. The cost and time required to completely tear down the existing circuits and erect new structures does not make the Bell-Boundary 230–kV circuits a viable alternative to the proposed project.

(c) A new 500-kV single-circuit facility termination at the Bell Substation was considered as an option to the double-circuit 230-kV proposal. An uncompensated single-circuit 500-kV line transfers only 190 MW of a scheduled 1,000 MW between B.C. Hydro and WWP during heavy winter loading conditions. The remaining 810 MW flows on the existing B.C. Hydro-BPA 500-kV interconnection as inadvertent (loop) flow. This alternative is unacceptable from the standpoint of impacts to both the BPA and B.C. Hydro systems.

(d) Undergrounding as an alternative for the proposed interconnection would present concerns and serious drawbacks in the areas of cost, reliability, energy losses, and environmental consequences.

(e) The recent development of materials which show superconducting characteristics at increasingly feasible temperatures may lead to many industrial and utility applications of superconductors in the future. It is not anticipated, however, that such technology will be developed in a time frame necessary to be utilized on the proposed interconnection.

Decision

The Acting Assistant Secretary for Fossil Energy has determined that the issuance of Presidential Permit PP–86 is in the public interest and has reached this decision after determining that the issuance of the subject Presidential permit was the most environmentally preferred action among those alternatives considered in the final EIS. However, since the environmental impacts associated with the granting of the Presidential permit were predicated on the implementation of numerous mitigative measures identified in the final EIS, issuance of the subject Presidential permit will be conditioned on WWP implementing all mitigative measures identified in the final EIS.

Copies of this Record of Decision and the Presidential Permit PP–86 will be made available, upon request, for public inspection and copying at the Department of Energy, room 3F–090, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Issued in Washington, DC, on March 8, 1993.

Jack S. Siegel,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 93–6161 Filed 3–16–93; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Proposed Implementation of Special Refund Procedures; Republication.

The Office of Hearings and Appeals of the Department of Energy announces proposed procedures for the disbursement of $302,541.89 (plus accrued interest) that Whitaker Oil Company remitted to the DOE pursuant to a consent order. The funds will be distributed in accordance with the DOE's special refund procedures, 10 CFR part 205, Subpart V. This notice replaces the notice previously published in the February 17, 1993 **Federal Register** (58 FR 8758) in which the attached Proposed Decision and Order was inadvertently omitted.

DATES AND ADDRESSES: Comments must be filed in duplicate by April 16, 1993 in the **Federal Register** and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should be conspicuously display a reference to Case Number LEF–0052.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Stacy M. Crowell, Staff Analyst, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–2860 (Dugan), (202) 586–4921 (Crowell).

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute monies that have been remitted by Whitaker Oil Company to the DOE to settle possible pricing violations with respect to its sale of diesel fuel, kerosene, toluene, and xylene. The DOE is currently holding $302,541.89 in an interest-bearing escrow account pending distribution.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized. Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of the publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal holidays, in the Public Reference room of the Office of Hearings and Appeals, located in room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: March 9, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

Special Refund Procedures

Name of Firm: Whitaker Oil Company.
Date of Filing: October 1, 1992.
Case Number: LEF–0052.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR part 205, subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on October 1, 1992. The petition requests that OHA formulate and implement procedures for the distribution of funds received pursuant to an Agreed Judgment entered into by DOE and Whitaker Oil Company of Atlanta, Georgia (Whitaker).

I. Background

Whitaker was a "reseller-retailer" as defined in 6 CFR 150.352 and 10 CFR 212.31. Accordingly, during the period from August 1973 to January 28, 1981, Whitaker was subject to the Mandatory Petroleum Price Regulations, 10 CFR part 212, subpart F, and antecedent regulations at 6 CFR part 150, subpart L. As a result of an ERA audit, the ERA alleged that Whitaker violated the price regulations in sales of motor gasoline, diesel fuel, kerosene, toluene, and xylene during a five month period from November 1973 through March 1974 (the audit period). The auditors determined that, during this period, the firm made sales at prices in excess of the maximum lawful selling price (MLSP) permitted by the regulations. Consequently, the ERA issued a Proposed Remedial Order (PRO) to Whitaker on February 24, 1982, alleging pricing violations in the sales of motor gasoline, diesel fuel, kerosene, toluene, and xylene. After considering the firm's objections to the PRO, the DOE issued a final Remedial Order on April 10, 1985. *Whitaker Oil Co.*, 13 DOE ¶ 83,004, *aff'd*, 31 FERC ¶ 61,292 (1985). In the Remedial Order, the DOE modified the PRO to take account of retroactive exception relief which Whitaker received with regard to its motor gasoline sales. See *Whitaker Oil Co.*, 12 DOE ¶ 81,024 (1985). The Remedial Order further reduced the alleged overcharges in accordance with the ERA's position that the equal application rule should not be applied to audits occurring before September 1, 1974, and also found that Whitaker could not be liable for alleged overcharges attributable to the sale of xylene during the months of February and March 1974.

On February 25, 1990, an Agreed Judgment was entered in the U.S. District Court for the Northern District of Georgia with respect to the Remedial Order issued to Whitaker by the DOE. This Judgment settled all claims and liabilities concerning Whitaker's compliance with the Federal petroleum price and allocation regulations governing the marketing of petroleum products during the period August 18, 1973 through January 28, 1981. Specifically, Whitaker agreed to remit $280,000, plus interest, to the DOE for deposit in an interest bearing escrow account. Whitaker has remitted $302,541.89 to the DOE in full satisfaction of that agreement. In addition, as of November 30, 1992, $19,431.54 in interest had accrued on the amount paid by Whitaker.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR part 205, subpart V. It is the DOE policy to use the subpart V process to distribute such funds. For a more detailed discussion of subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, see *Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*). After reviewing the record in the present case, we have concluded that a subpart V proceeding is an appropriate mechanism for distributing the Whitaker settlement fund. We therefore propose to grant the ERA's petition and assume jurisdiction over distribution of the fund.

III. Proposed Refund Procedures

A. Refund Claimants

Insofar as possible, the settlement fund should be distributed to those customers of Whitaker who were injured by the alleged overcharges. Those Whitaker customers who purchased products covered by the Remedial Order during the ERA audit period are the purchasers we have identified as those most likely to have been injured. In this case, the ERA audit files specifically identify Whitaker's customers by name and record the amounts of products purchased by each customer. They do not, however, contain sufficient data which would indicate the dollar amount of the alleged overcharges paid by individual customers of each of the products. We are thus able to use the information contained in the audit files for guidance as to the identity of Whitaker's customers and the volumes of product they purchased, but are unable to apportion the settlement fund based on the specific overcharges incurred by each customer as we have done in some prior refund proceedings. See, e.g., *Howard Oil Co.*, 15 DOE ¶ 85,072 (1986). Consequently, we propose to use the volumetric approach described below as the mechanism for determining refund amounts. A list of the customers named in the audit files will be published as an appendix to the final Decision and Order implementing the Whitaker refund procedures. We propose to accept refund applications from customers who can document their monthly purchases of diesel fuel, kerosene, and/or toluene from Whitaker during the period from November 1973 through March 1974. Purchasers of xylene may apply for refunds based on their records of monthly purchases from Whitaker during the period from November 1973 through January 1974. If an applicant does not have records to establish a specific gallonage claim, it may elect to rely on information in the ERA audit files regarding its level of purchases, if such information exists for the firm.[1]

1. *Showing of Injury.* As in prior refund proceedings, we propose to require claimants who were resellers (including retailers and refiners) of refined petroleum products purchased from Whitaker to demonstrate that during the audit period they would have maintained their prices for the petroleum products at the same level had the alleged overcharges not occurred. While there are a variety of ways to make this showing, a reseller should generally demonstrate that, at the time it purchased the product from Whitaker, market conditions would not permit it to increase its prices to pass through to its customers the additional costs associated with the alleged overcharges. See *Atlantic Richfield Co./Odessa L.P.G. Transport* 21 DOE ¶ 85,384 (1991); *Gulf Oil Corp./Anderson & Watkins, Inc.* 21 DOE ¶ 85,380 (1991). In addition, the reseller will be required to show that it had a "bank" of unrecovered costs in order to demonstrate that it did not recover the increased costs associated with the alleged overcharges by increasing its own prices. The maintenance of a bank does not, however, automatically

[1] We recognize that other parties not identified by the DOE audit may be entitled to a portion of the settlement fund. Such claimants will be required to submit documentation which establishes that they purchased diesel fuel, kerosene, toluene and/or xylene from Whitaker during the period covered by the ERA audit and the volume of those purchases.

establish injury. See *Tennsco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982).

2. Small claims presumption. We further propose to adopt a small claims presumption of injury which has been used in many previous special refund cases. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of Whitaker petroleum products. For example, such firms may have limited accounting and data-retrieval capabilities and therefore may be unable to produce the records necessary to prove the existence of banks of unrecovered costs, or that they did not pass on the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past we have adopted a small claims presumption to assure that the costs of filing and processing a refund application do not exceed the benefits. See, e.g., *Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). We propose that any reseller claiming a refund of $10,000 or less need only document its purchase volumes rather than make a detailed showing of injury in order to be eligible to receive a refund. See *Texaco Inc.*, 20 DOE ¶ 85,147 (1990).

3. Medium-range refiner, reseller and retailer claimants. We also propose that in lieu of making a detailed showing of injury, a reseller claimant whose allocable share exceeds $10,000 may elect to receive as its refund either $10,000 or 40 percent of its allocable share up to $50,000, whichever is larger.[2] The use of this medium-range presumption of injury reflects our conviction that these larger claimants were likely to have experienced some injury as a result of the alleged overcharges. In some prior special refund proceedings, we have performed detailed economic analysis in order to determine product-specific level of injury. See, e.g., *Getty Oil Co.*, 15 DOE ¶ 85,064 (1986). However, in *Gulf Oil Corp.*, 16 DOE ¶ 85,381 (1987), we determined that based upon the available data, it was accurate and more efficient to adopt a single presumptive level of injury of 40 percent for all medium-range claimants, regardless of the refined product that they purchased, based upon the results of our analyses in prior proceedings. We believe that approach generally to be sound, and we therefore propose to adopt a 40-percent presumptive level of injury for all medium-range claimants in this proceeding. Consequently, an applicant in this group will only be required to provide documentation of its purchase volumes of the specified Whitaker petroleum products during the refund period in order to be eligible to receive a refund of $10,000 or 40 percent of its total allocable share, up to $50,000, whichever is greater.[3]

4. End-users. As in many other refund proceedings, we are making a finding that end-users or ultimate consumers whose businesses are unrelated to the petroleum industry were injured by the alleged overcharges covered by the Agreed Judgment. Unlike regulated firms in the petroleum industry, members of this group were generally not subject to price controls during the audit period, and were not required to keep records which justified selling price increases by reference to cost increases. See, e.g., *Marion; Thornton Oil Corp.*, 12 DOE ¶ 85,112 (1984). For these reasons, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of this special refund proceeding. See *Office of Enforcement*, 10 DOE ¶ 85,072 (1983); see also *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). We therefore propose that end-users of Whitaker petroleum products need only document their purchase volumes to make a sufficient showing that they were injured by the alleged overcharges.[4]

5. Regulated firms and cooperatives. We further propose that, in order to receive a full volumetric refund, a claimant whose prices for goods and services are regulated by a governmental agency, e.g., a public utility, or by terms of a cooperative agreement, needs only to submit documentation of purchases used by itself or, in the case of a cooperative, sold to its members. However, a regulated firm or a cooperative whose allocable share is greater than $10,000 will also be required to certify that it will pass any refund received through to its customers or member-customers, provide us with a full explanation of how it plans to accomplish the restitution, and certify that it will notify the appropriate regulatory body or membership group of the receipt of the refund. See Dorchester Gas Corp., 14 DOE ¶ 85,240 at 88,451 (1986). This requirement is based upon the presumption that, with respect to a regulated firm, any overcharges would have been routinely passed through to its customers. Similarly, any refunds received should be passed through to its customers. With respect to a cooperative, in general, the cooperative agreements which control prices would ensure that the alleged overcharges, and similarly refunds, would be passed through to its member-customers. Accordingly, these firms will not be required to make a detailed demonstration of injury.

6. Spot purchasers. We also propose to adopt a rebuttable presumption that resellers which made only spot purchases of Whitaker petroleum products suffered no injury. Spot purchasers tend to have considerable discretion in where and when to make purchases and therefore would not have made spot purchases of Whitaker's product at increased prices unless they were able to pass through the full amount of the alleged overcharges to their own customers. See Vickers, 8 DOE at 85,396–97. Accordingly, any reseller claimant who was a spot purchaser must submit evidence to rebut the spot purchaser presumption and establish the extent to which it was injured by the spot purchase(s). See Saber Energy, Inc./Mobil Oil Corp., 14 DOE ¶ 85,170 (1986).

7. $15 Minimum. We also propose to establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. See Uban Oil Co., 9 DOE ¶ 82,541 (1982); see also 10 CFR. § 205.286(b).

B. Calculation of Refund Amounts

As stated above, the ERA audit files document Whitaker's customers' names and gallons of product purchased. The data are not specific enough to permit us to apportion the settlement fund based on the overcharges experienced by each customer. Therefore, we propose to use a volumetric refund methodology to distribute the settlement funds in this proceeding. The volumetric refund presumption assumes that the alleged overcharges by a firm were spread equally over all gallons of product marketed by that firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable, however. A claimant which believes that it suffered a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. See Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co., 12 DOE ¶ 85,054 at 88,164 (1984).

Under the volumetric methodology we plan to adopt, a claimant will be eligible to receive a refund equal to the number of gallons of diesel fuel, kerosene, toluene and/or xylene purchased from Whitaker during the months specified for each of those products in Part III A of this Proposed Decision, multiplied by the volumetric factor. The volumetric factor in this case equals $0.0618 per gallon.[5] In addition, successful

[2] Based on the volumetric refund level proposed in Part III B, claimants who purchased more than 161,812 gallons of Whitaker refined petroleum products during the audit period (medium-range claimants) may elect to utilize this presumption.

[3] A claimant who attempts to make a detailed showing of injury in order to obtain 100 percent of its allocable share but, instead, provides evidence that leads us to conclude that it passed through all of the alleged overcharges or is eligible for a refund of less than the applicable presumption-level refund, will receive a refund which reflects the level of injury established in its Application. No refund will be approved if its submission indicates that it was not injured as a result of its purchases from Whitaker. See *Exxon Corp.*, 17 DOE ¶ 85,590 at 89,150 n. 10 (1988).

[4] It is apparent from the audit files that some of Whitaker's customers were firms which were regulated under the Mandatory Petroleum Price Regulations but may have used the products as end-users in affiliated operations, such as petrochemical plants. The OHA has determined that a firm owned by an oil company can be considered an end-user if its business activities are unrelated to the petroleum industry. See *Gulf Oil Corp./Ashland Oil, Inc.*, 20 DOE ¶ 85,214 (1990); see also *Gulf Oil Corp./Kerr-McGee Corp.*, 13 DOE ¶ 85,204 (1984).

[5] The volumetric factor in the present case is computed by dividing the settlement amount ($302,541.89) by the 4,895,449 gallons of diesel fuel, kerosene, toluene, and/or xylene which the ERA audit files indicate Whitaker sold during the months of the refund period.

claimants will receive a proportionate share of the accrued interest.

IV. Conclusion

Refund applications in this proceeding should not be filed until the issuance of a final Decision and Order. Detailed procedures for filing applications will be provided in the final Decision and Order. Before disposing of any of the funds received, we intend to publicize the distribution process and to provide an opportunity for any affected party to file a claim. In addition to publishing copies of the proposed and final Decisions in the **Federal Register**, copies of the final Decision will be provided to the Whitaker customers for whom we have addresses.

Any funds that remain after all first stage claims have been decided will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. The Secretary has delegated these responsibilities to the OHA. Any funds in the Whitaker escrow account that the OHA determines will not be needed to effect direct restitution to injured Whitaker customers will be distributed in accordance with the provisions of PODRA.

It is therefore ordered that:

The refund amount remitted to the Department of Energy by Whitaker Oil Company pursuant to the Agreed Judgment executed on February 25, 1990 will be distributed in accordance with the foregoing Decision.

[FR Doc. 93–6048 Filed 3–16–93; 8:45 am]

BILLING CODE 6450–01–P

Western Area Power Administration

Floodplain Statement of Findings for the Sterling Substation Transformer and Fuse Replacement Project

AGENCY: Department of Energy (DOE), Western Area Power Administration (Western).

ACTION: Floodplain statement of findings.

SUMMARY: This is a Floodplain Statement of Findings for the Sterling Substation Transformer and Fuse Replacement Project prepared in accordance with 10 CFR Part 1022. Western proposes to modify structures and equipment, in addition to installing oil spill containment equipment, at the Sterling Substation in a floodplain located in Logan County, Colorado. Western prepared a floodplain and wetlands assessment describing the effects, alternatives, and measures designed to avoid or minimize potential harm to or within the affected floodplain. Western will endeavor to allow 15 days of public review after publication of the statement of findings before implementing the proposed action.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Jones, Western Area Power Administration, Loveland Area Office, P.O. Box 3900, Loveland, CO 80539–3003, (303) 490–7200.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN/WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Carol M. Borgstrom, Director, Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: This is a floodplain statement of findings for the Sterling Substation Transformer and Fuse Replacement Project prepared in accordance with 10 CFR part 1022. A notice of floodplain and wetlands involvement was published in the **Federal Register** (FR) on July 22, 1992, 57 FR 32527. DOE is proposing to modify structures and equipment and provide oil spill containment at the existing Sterling Substation (see figure 1). The action is proposed to be located in the floodplain due to the current location of the substation in the floodplain, and because a relocation of the substation outside the floodplain would require relocation of several transmission and distribution lines. Such an extensive relocation of facilities would not be practicable. Alternatives to the proposed action are relocating the substation, which would be very expensive and would will require transmission line or construction crossings in the floodplain, and no action, which would result in unacceptable system reliability and oil spill containment conditions at the site. The proposed action does conform to applicable State or local floodplain protection standards.

All construction would be confirmed to the area within the fenced substation boundaries so no floodplain or wetland vegetation would be removed or otherwise affected by the project. Construction is not expected to affect current drainage patterns, flood storage volume, or water quality of the South Platte River. Oil spill containment equipment installed at the facility would help protect South Platte River water quality.

DOE will endeavor to allow 15 days of public review after publication of the statement of findings prior to implementing the proposed action.

Issued at Golden, Colorado, March 5, 1993.

William H. Clagett,

Administrator.

BILLING CODE 6450–01–M

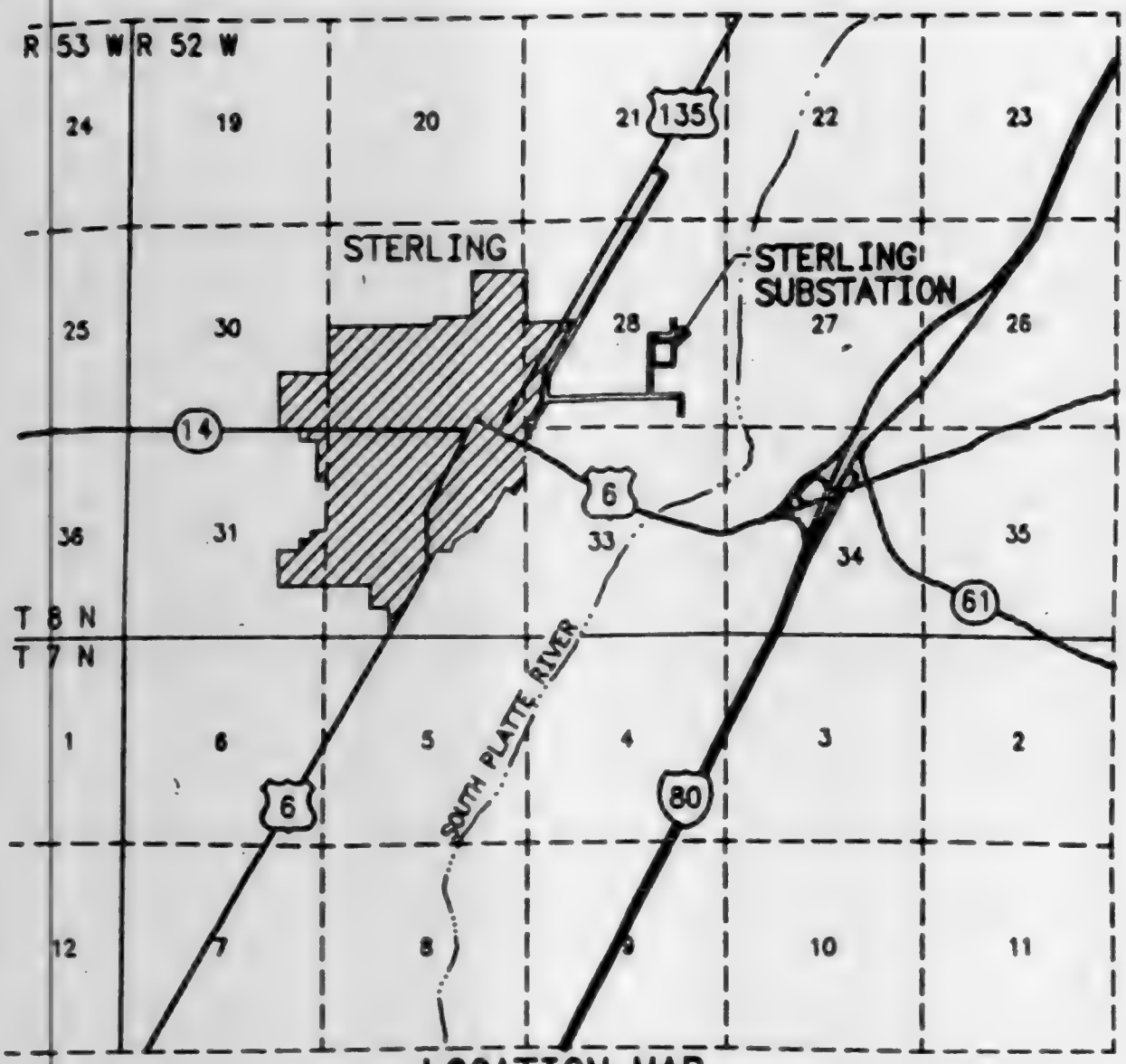

LOCATION MAP
STERLING SUBSTATION TRANSFORMER REPLACEMENT
AND OIL SPILL CONTAINMENT

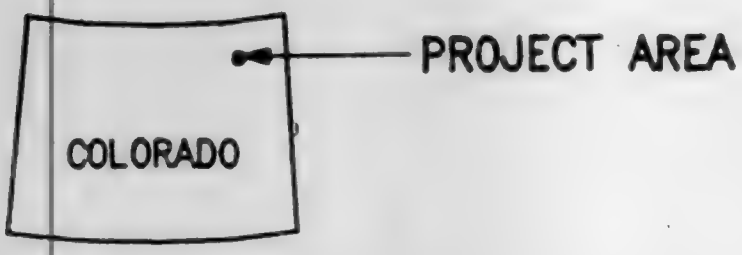

FIGURE 1
LOCATION MAP

[FR Doc. 93–6160 Filed 3–16–93; 8:45 am]
BILLING CODE 6450–01–C

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4604–4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this notice announces the Office of Management and Budget's (OMB) responses to Agency PRA clearance requests.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer (202) 260–2740.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency PRA Clearance Requests

OMB Approvals

EPA ICR No. 0940.08; Ambient Air Quality Networks-Monitoring and Quality Precision Data; was approved 01/15/93; OMB No. 2060–0084; expires 01/31/96.

EPA ICR No. 0795.07; Notification of Chemical Exports—TSCA Section 12(B); was approved 01/14/93; OMB No. 2070–0030; expires 04/30/93.

EPA ICR 1237.06; Standards for the Use or Disposal of Sewage Sludge at 40 CFR 503; was approved 01/07/93; OMB No. 2040–0157; expires 01/31/96.

EPA ICR No. 1569.02; State Coastal Nonpoint Program Development and Approval Guidance and Guidance Specifying Management Measures to Control Coastal Nonpoint Pollution (Coastal Zone); was approved 01/08/93; OMB No. 2040–0153; expires 01/31/96.

EPA ICR No. 1154.03; NESHAP for Benzene Emissions from Bulk Transfer Operations—Part 61, Subpart BB; was approved 01/22/93; OMB No. 2060–0182; expires 01/31/96.

EPA ICR No. 0163.04; TSCA Inspection-Related Forms; was approved 01/27/93; OMB No. 2070–007; expires 05/31/93.

EPA ICR No. 1446.03; Polychlorinated Bihpenyls, Notification and Manifesting of PCB Waste Activities and Records of PCB Storage and Disposal; was approved 02/05/93; OMB No. 2070–0112; expires 02/28/96.

EPA ICR No. 0275.05; Preaward Compliance Review Report for all Applicants Requesting Federal Financial Assistance; was approved 01/26/93; OMB No. 2090–0014; expires 01/31/96.

EPA ICR No. 0575.05; Health and Safety Data Reporting, Submission of Lists and Copies of Health and Safety Studies; was approved 02/17/93; OMB No. 2070–0004; expires 02/28/96.

The ICRs listed below received four months clearance; and the approval period supersedes the three months extension contained in the Information Collection Worksheets granted for these ICRs on December 30, 1992: EPA ICR No.0261.08; Notification of Hazardous Waste Activities; OMB No. 2050–0028, EPA ICR No. 0262.04; RCRA Hazardous Waste Permit Application and Modification, Part A; OMB No. 2050–0034, EPA ICR 1571.02; General Hazardous Waste Facility Standards; OMB No. 2050–0120 and, EPA ICR No. 1573.02; Part B Permit Application, Permit Modifications and Special Permits; OMB No. 2050–0009. The expiration date is 6/30/93.

OMB Extensions of Expiration Dates

EPA ICR No. 0597; Tolerance Petitions and New Inert Ingredient Clearance; OMB No 2070–0024; expiration date extended to 05/31/93.

EPA ICR No. 1506; Standards of Performance for New Stationary Sources Municipal Waste Combustors; OMB No. 2060–0210; expiration date extended to 04/30/93.

EPA ICR No. 0662; NSPS for Equipment Leaks of VOC in the Synthetic Organic Chemical Manufacturing Industry; OMB No. 2060–0012; expiration date extended to 04/30/93.

EPA ICR No. 1335; TSCA Section 8(A) Comprehensive Assessment Information Rule (CAIR); OMB No. 2010–0019; expiration date extended to 04/30/93.

EPA ICR No. 1547; The Pesticides Enforcement and Applicator Certification Cooperative Agreements Output; OMB No. 2070–0113; expiration date extended to 05/31/93.

EPA ICR No 1504; Phases 4 and 5 of the Pesticide Registration Process; OMB No. 2070–0107; expiration date extended to 03/31/93.

EPA ICR No. 1080; National Emission Standards for Hazardous Air Pollutants, Amendment to Benzene Rule for Coke By-Product Recovery Plants; OMB No. 2060–0185; expiration date extended to 03/31/93.

EPA ICR No. 1188; Significant New Use Rules for Existing Chemicals; OMB No. 2070–0038; expiration date extended to 05/31/93.

Dated: March 11, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–6151 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4606–5]

Conservation Verification Protocols

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of the Conservation Verification Protocols: A guidance document for electric utilities affected by the Acid Rain Program of the Clean Air Act Amendments of 1990.

SUMMARY: On January 11, 1993 EPA published the Acid Rain Core Rules in the **Federal Register** (58 FR 3590). Included in these rules is the Allowance System Rule's provision for the Conservation and Renewable Energy Reserve (40 CFR part 73, subpart F), and the Permits Rule's provision for Reduced Utilization of Phase I affected units (40 CFR 72.43 and 72.91).

The Conservation and Renewable Energy Reserve is a special pool of 300,000 total SO_2 emission allowances deducted from the Phase II (year 2000–2009) allocations and made available to utilities that meet electric demands with either qualified demand-side conservation measures or renewable energy resources. Congress established this Reserve to provide an early "jump start" to energy efficiency and renewable energy strategies for reducing SO_2 emissions. The Rule includes the criteria that an electric utility must meet in order to qualify for a share of these Reserve allowances, which will be issued on a first-come, first served basis beginning July 1, 1993 (§ 73.82(g)(1)). Energy savings obtained by a utility from qualified conservation measures must be verified either by a State Public Utilities Commission based on deferral criteria provided in the Rule, or by use of EPA's Conservation Verification Protocols, or another method.

The Reduced Utilization provision allows for the use of demand-side and supply-side energy conservation to lower SO_2 emissions at Phase I affected units in 1995–1999. The energy savings from Reduced Utilization must also be verified in each year that energy conservation measures contribute to the Reduced Utilization. A utility that uses energy conservation for Reduced Utilization may verify its energy savings with the EPA's Conservation Verification Protocols or with a procedure prescribed by its State Public Utility Commission, if applicable, or with another method.

In the Preamble to the final Acid Rain Core Rules, EPA stated its intention to publish the Conservation Verification Protocols (58 FR 3590, 3618 (1993)). Today's Notice indicates the Agency's fulfillment of that commitment. The

Conservation Verification Protocols are a set of procedures by which a utility may verify electricity saved from its energy conservation programs. The preferred approach is to infer energy savings through the measurement and evaluation of energy use at 75 percent confidence, although a simpler stipulated savings approach and the use of engineering estimates are available in some cases.

AVAILABILITY OF PROTOCOLS: Copies of the Conservation Verification Protocols are available to the public. Any member of the public wishing to obtain a copy of these Protocols is requested to call EPA's Acid Rain Division, 202–233–9187. This document is also available for public review in EPA Air Docket Number A–90–39 in room 1500 of EPA Headquarters, 401 M Street, SW., Washington, DC. Hours of inspection are 9:30 a.m. to 12 noon and 1:30 to 3:30 p.m., Monday through Friday.

ADDITIONAL QUESTIONS: Questions concerning the Conservation Verification Protocols may be directed to Barry Solomon, Acid Rain Division, Office of Air and Radiation (6204–J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Telephone: (202) 233–9166; Telefax: (202) 233–9585.

Paul M. Stolpman,

Acting Director, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 93–6152 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–P

[FRL 4606–8]

National Advisory Council for Environmental Policy and Technology of the Policy Integration Project; Open Meetings on March 31, May 5, and May 19, 1993; Lead Subcommittee

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463) the Environmental Protection Agency gives notice of three meetings of the Lead Subcommittee of the Policy Integration Project of the National Advisory Council for Environmental Policy and Technology (NACEPT), an external policy advisory committee to the Administrator of EPA. The meetings will take place March 31 from 9 a.m. to 5 p.m., May 5 from 8:30 a.m. to 5 p.m., and May 19 from 9 a.m. to 5 p.m. The March 31 meeting will take place at the Radisson Park Terrace hotel located at 1515 Rhode Island Avenue, NW., Washington, DC. For further information on the locations of the other meetings, contact either Ms. Fletcher or Mr. Otis at the phone numbers and addresses listed at the end of this notice.

EPA has long realized that the policy and budget decisions of many Federal agencies have the potential to affect the quality of the environment. Therefore, the achievement of many of the nation's environmental goals requires coordinated activity across Federal agencies. While the National Environmental Policy Act (NEPA) requires analysis of the environmental consequences of specific federal projects, these considerations are not required in more general policy making and in budgeting. The Science Advisory Board realized this when it recommended in "Reducing Risk: Setting Priorities and Strategies for Environmental Protection" (SAB–EC–90–021) that "EPA should increase its efforts to integrate environmental considerations into broader aspects of public policy in as fundamental a manner as are economic concerns."

To help incorporate environmental considerations into policy making functions across the Federal Government and to help coordinate the activities of Federal agencies that affect the environment, EPA is launching the Policy Integration Project under the aegis of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT, a 50 member advisory committee composed of representatives from business and industry, state and local governments, labor, academia, environmental advocacy organizations, and others, provides EPA with independent assessments of environmental policies and programs. Since the subject of the Policy Integration Project is the policy making functions of the Federal Government as a whole, EPA believes experts that are not tied to the particular perspective of a given Federal agency will approach this problem with the broad view necessary to make recommendations for government-wide action. NACEPT has been chosen to lead this project since it can draw on the experience of a variety of experts outside the Federal Government. NACEPT also will provide a vehicle for bringing together inter-related parties and receiving input from the general public.

The Policy Integration Project will convene subcommittees to address four broad issues: Lead exposure; nutrient and sediment loadings to water bodies; wetlands; and global climate change. These issues were selected for discussion because they involve significant risk to public health or to the environment, and they are affected by the policies of a variety of Federal agencies. The four subcommittees will examine the policy levers available across the Federal government to achieve environmental goals in each of these areas. A larger steering committee will be formed to examine more generally the issue of integrating environmental policy considerations into the policy making functions of the Federal government.

The Lead Subcommittee intends to develop recommendations to the Administrator on improving and coordinating government efforts to reduce public exposures to lead. The subcommittee will examine different policies of the Federal government for reducing lead exposure and it will examine the efficiency, equity, and feasibility of options for implementing them. The subcommittee also will recommend areas of future research that could increase understanding of lead health effects, exposure, and exposure reduction. The subcommittee will consider the following topics: occupational lead poisoning prevention; source reduction in the industrial lead environment; lead use reduction and product substitution; management of lead wastes, Superfund sites, and lead contaminated soils; abatement of lead based paint hazards; reducing lead in drinking water; and screening and treatment services for underserved, high-risk populations.

All meetings will be open to the public, with limited seating available on a first-served basis. At the March 31 meeting the subcommittee will discuss its workplan, review Federal activities that effect lead exposure, and discuss issues that could be addressed in an initial report to the Administrator on near-term opportunities for reducing lead exposures. Members of the public will not have an opportunity to speak at this meeting. At the May 5 meeting members of the public will have the opportunity to make 5-minute oral presentations. The subcommittee is particularly interested in hearing oral presentations on the following topics: moving from case identification to primary lead exposure prevention; abatement of lead based paint hazards; populations at high risk of lead poisoning; abating occupational lead hazards; and research needed to prevent lead poisoning. At the May 19 meeting the subcommittee will review and discuss the public comments and submitted materials and discuss the near term issues report.

Written Comments: Members of the public are invited to provide written comments for consideration by the subcommittee by no later than May 5. Submit 20 copies of written statements to: Andrew Otis, EPA Office of Policy, Planning, and Evaluation (PM–219),

U.S. EPA, 401 M St. SW., Washington, DC 20460 (phone 202/260–4332). Copies of material provided to or developed by the subcommittee may be obtained from Mr. Otis at the above address.

Oral Statements: Members of the public are invited to make 5 minute oral statements at the May 5 meeting. To reserve a space on the agenda, persons wishing to make a brief oral presentation must contact Donna A. Fletcher, Designated Federal Official, Office of Cooperative Environmental Management (A101–F6), U.S. EPA, Washington, DC 20460 (phone 202/260–6883, fax 202/260–6882) no later than April 23. Speakers should provide 20 copies of a written statement to Ms. Fletcher at the time of the meeting for distribution to the members of the subcommittee. Oral statements should supplement the written statements.

For Further Information: Any member of the public wishing further information concerning the meeting should contact either Mr. Otis or Ms. Fletcher at their respective phone numbers and addresses shown above.

Dated: March 12, 1993.

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 93–6156 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL 4606–7]

National Technical Workshop: "PCBs in Fish"

AGENCY: U.S. Environmental Protection Agency.

ACTION: Workshop.

SUMMARY: Notice is hereby given that the Environmental Protection Agency is sponsoring a national technical workshop titled: "PCBs in Fish Tissues." It will be held on May 10–11, 1993 at the Grand Hyatt Washington at Washington Center. Polychlorinated biphenyls (PCBs) are a family of man-made chemicals that are widely distributed throughout the environment. The analysis of PCBs in fish tissues involves a complex set of considerations regarding PCB toxicity information, laboratory analytical techniques, exposure data, etc. This national technical workshop will examine how human health assessments of this ubiquitous chemical may be affected by current PCB analytical issues for fish tissues.

The workshop's purpose is to provide a forum for an exchange of the latest information between the users of PCB fish data and the generators of that data. Workshop segments will include: Introduction and Overview of PCBs in Fish Tissues; Human Health Effect of PCBs; Laboratory Analytical Methods currently in use; and Case Studies of Human Health Assessments for PCBs in Fish.

FOR FURTHER INFORMATION CONTACT: Conference arrangements for EPA's PCB Workshop are being coordinated by OGDEN Environmental. For registration forms, general program information, and travel assistance call OGDEN's Conference service line at (703) 246–0596, Monday–Friday from 9 a.m. to 5 p.m. e.s.t. Please register early, space is limited.

For more detailed program information, contact Mr. Rick Hoffman of EPA at (202) 260–0642.

Dated: March 9, 1993.

Arnold M. Kuzmack,

Acting Director, Office of Science and Technology, Office of Water, U.S. Environmental Protection Agency.

[FR Doc. 93–6154 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–M

[PP 1G2454/T636; FRL 4575–2]

Acetochlor; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for the total combined residues of the herbicide acetochlor, and from the sum of its EMA-(2-ethyl-6-methyl aniline) yeilding metabolites and its HEMA-(2-(1-hydroxymethyl)-6-methyl aniline] metabolites (when calculated as acetochlor) in or on certain raw agricultural commodities.

DATES: These temporary tolerances expire May 1, 1995.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: , Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, 703–305–6800.

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the **Federal Register** of August 7, 1991 (56 FR 37547), announcing the renewal of temporary tolerances for the total combined residues of the herbicide acetochlor [*N*-(ethoxymethyl)-2-methyl-6-ethyl-2-chloro-acetanilide] and from the sum of its EMA-(2-ethyl-6-methyl aniline) yeilding metabolites and its HEMA-(2-(1-hydroxymethyl)-6-methyl aniline] metabolites (when calculated as acetochlor) in or on the raw agricultural commodities field corn, grain at 0.04 part per million (ppm) and field corn, fodder, and forage at 0.50 ppm. These tolerances were issued in response to pesticide petition (PP) 1G2454, submitted by Monsanto Company, 700 14th St., NW., suite 1100, Washington, DC 20005.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit 524-EUP-56, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active herbicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Company must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire May 1, 1995. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances

or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: March 5, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93-5985 Filed 3-16-93; 8:45 am]

BILLING CODE 6560-50-F

[OPP-50756; FRL-4573-6]

Receipt of Notification to Conduct Small-Scale Testing of a Genetically Engineered Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application (NMP No. 959630-NMP-E) from The Boyce Thompson Institute for Plant Research (BTI) of intent to conduct small-scale field testing of a genetically engineered microbial pesticide. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting public comments on this application.

DATES: Written comments must be received on or before April 16, 1993.

ADDRESSES: Comments in triplicate, must bear the docket control number OPP-50756 and be submitted to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked, will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and all written comments will be available for public inspection in rm. 246 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 18, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 213, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703-305-7690).

SUPPLEMENTARY INFORMATION: An application for an NMP has been received from The Boyce Thompson Institute for Plant Research of Tower Road, Ithaca, New York 14853-1801. This NMP application EPA file symbol is 959630-NMP-E. The proposed small-scale field trials involve the introduction of a genetically engineered isolate of the baculovirus pesticide *Lymantria dispar* nuclear polyhedrosis virus (LdMNPV). The test will be conducted to evaluate the co-occlusion baculovirus strategy in a forest ecosystem and will be designed to evaluate the survival capacity and assess the spread of this genetically altered baculovirus pesticide. This strategy involves an engineered virus constructed to lack a polyhedrin gene (poly-minus) and therefore produces only nonoccluded virus particles which are environmentally unstable. By co-infection of individual host cells with the poly-minus engineered virus and a wildtype virus (contains a polyhedrin gene), polyhedrin protein is produced by the wildtype virus which occludes (and protects) both types of virus particles.

The primary difference between the proposed test and the 1989 release is the insertion and expression of the bacterial lacZ gene in the recombinant LdMNPV. The proposed released site which is to be located at the Otis Air National Guard Base on Cape Cod, MA (at least one mile away from any fresh water sources) will consist of 20 closely grouped oak trees. A total of 200 spun bound polyester bags will be attached to the tree limbs. Each bag will contain approximately 500 viral treated gypsy moth eggs and 500 untreated eggs. Following hatch, check bags will be closely monitored to ensure that at least 90 percent of the larvae become infected. Intensive monitoring is planned for 2 years after the release. By the end of the second year, it is anticipated that recovery if the recombinant virus will be at a low level.

Dated: March 5, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93-5865 Filed 3-16-93; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Policy Statement To Address the Problem of the Use of Large-Value Funds Transfers for Money Laundering

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Statement of policy .

SUMMARY: The Federal Financial Institutions Examination Council (Council) is issuing this policy statement to address the problem of the use of large-value funds transfers for money laundering. The law enforcement community both within the United States and abroad has a growing interest in money laundering through funds transfer systems. The Council supports law enforcement's efforts to identify and prosecute money laundering activities involving large-value funds transfer systems. The Council encourages financial institutions to support law enforcement efforts in this area by including, to the extent practical, complete originator and beneficiary information when sending payment orders, including payment orders sent through Fedwire, CHIPS, and SWIFT.

The FFIEC recommended to its five member agencies that they adopt this Statement of Policy. The FRB, FDIC, NCUA, OCC and OTS have done so.

EFFECTIVE DATE: The FFIEC adopted the policy statement on December 8, 1992.

SUPPLEMENTARY INFORMATION:

Background

The President of the United States has joined with the leaders of other nations to sponsor a Financial Action Task Force (FATF).[1] The FATF is primarily developing international guidelines to facilitate the identification and prosecution of money laundering activities. Historically, law enforcement efforts to curtail money laundering activities have focused on the identification and documentation of currency-based transactions; however, recent investigations have focused on

[1] The FATF was formed as a direct initiative by the Heads of State of Governments of seven major industrialized countries and the President of the European Communities during an economic summit in July 1989. The total membership of FATF now stands at 28 countries, with the primary representation being law enforcement.

the use of funds transfer systems. The FATF has developed recommendations to provide more complete information about the parties to a funds transfer. This information is useful for law enforcement investigations.

FATF Recommendations

The FATF recommends that the text of every payment order include: the name, address, and account number of the person who initiated the first payment order in the funds transfer (the originator); the beneficiary's name and address, and when possible, account number should also be provided in the message text. The FATF also recommends that the identity of the first bank that accepts a payment order from a nonbank should be noted and retained through all subsequent processing of the funds transfer. (The FATF recognizes that the originator and beneficiary information specified in its recommendations may not be provided in transfers originated in some countries because of provisions contained in local laws.)

In this context, SWIFT and CHIPS have recently issued statements encouraging their participants to include the information specified by the FATF recommendations in funds transfers processed through those systems. The Bank of England has also encouraged financial institutions in the United Kingdom to provide complete originator and beneficiary information when using national, international, and proprietary message transfer systems.

To that extent practicable, the Council encourages all domestic banking offices to implement the FATF recommendations when sending a payment order over any funds transfer system, including Fedwire, CHIPS, SWIFT, and any proprietary networks.

With respect to Fedwire, the Council recognizes that the Fedwire format limits the amount of information that can be included in a Fedwire funds transfer. While the Federal Reserve System is exploring changes to the Fedwire format, those changes would require time to implement. In the interim, the Council encourages originating banks to ensure that the nonbank originator, beneficiary, and any instructing bank information is included in each Fedwire funds transfer to the extent possible given the limited size of the Fedwire format and the need to give priority to information necessary for payment processing.

Information concerning the originator and beneficiary may be recorded in the payment order text. For example, if an originator requests depository institution A to transfer funds over Fedwire to a beneficiary of depository institution B, and either the originator or beneficiary information is lengthy and exceeds the space fields specified for originator or beneficiary information, to the extent practicable, the remaining information may be included in the message text in optional fields that may otherwise not be used for that particular payment order.

When a payment order is received by a bank through one funds transfer system and then executed through another funds transfer system; to the extent practical, information on the originator of the payment order received by the intermediary bank should be included in the payment order sent by the intermediary bank. For example, when a SWIFT message is received by an intermediary bank and subsequently sent to the beneficiary's bank via Fedwire, the originator information on the SWIFT message should be carried forward as space permits to the Fedwire message. If the originator information is lengthy and exceeds the space available in the specified fields, to the extent practical, the remaining information may be included in the message text in optional fields that otherwise will not be used for that particular payment order.

Dated: March 11, 1993.

Joe M. Cleaver,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 93-6044 Filed 3-16-93; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL MARITIME COMMISSION

Trans-Pacific Freight Conference of Japan; Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 206-008600-010.

Title: Agreement No. 8600—Policy Level Agreement.

Parties: Trans-Pacific Freight Conference of Japan, Japan-Atlantic and Gulf Freight Conference.

Synopsis: The proposed amendment changes the name of the Agreement from Agreement No. 8600—Policy Level Agreement to Agreement No. 8600—Japan-U.S. Policy Level Agreement, in order to reflect its application in the trade from Japan to the United States. The amendment also specifically names the conferences as the parties to the Agreement, replacing the ambiguous reference to member lines. Further, it also makes technical and procedural changes to other articles within the Agreement.

Dated: March 11, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93-6046 Filed 3-16-93; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Energy-Related Epidemiologic Research: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee for Energy-Related Epidemiologic Research.

Times and Dates: 8 a.m.–5 p.m., April 1, 1993; 8 a.m.–3:15 p.m., April 2, 1993.

Place: Sheraton Suites Hotel, 801 North St. Asaph Street, Alexandria, Virginia 22314.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: This committee is charged with providing advice and recommendations to the Secretary of Health and Human Services (HHS), the Assistant Secretary for Health, the Director, CDC, and the Administrator, Agency for Toxic Substances and Disease Registry (ATSDR), on the establishment of a research agenda and the conduct of a research program pertaining to energy-related analytic epidemiologic studies. The committee will take into consideration information and proposals provided by the

Department of Energy (DOE), the Advisory Committee for Environment Safety and Health which was established by DOE under the guidelines of a Memorandum of Understanding between HHS and DOE, and other agencies and organizations, regarding the direction HHS should take in establishing the research agenda and in the development of a research plan.

Matters To Be Discussed

The Advisory Committee for Energy-Related Epidemiologic Research will meet to discuss data access, document declassification, and criteria for evaluations/decisions. The National Center for environmental Health (HCEH) will make presentations on:

(1) Proposed radiation epidemiology research;
(2) Proposed environmental dose reconstruction research;
(3) Prioritization of site specific research;
(4) Public involvement;
(5) Molecular epidemiology; and
(6) Air pollution.

Presentations will be made by ATSDR and an update of projects will be provided by the National Institute for Occupational Safety and Health.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Nadine Dickerson, Program Analyst, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4700 Buford Highway, NE. (F–35), Atlanta, Georgia 30341–3724, telephone 404/488–7040, FAX 404/488–7044.

Dated: March 11, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–6078 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–18–M

Availability of Draft USPHS Guidelines for Prevention of Transmission of HIV Through Transplantation of Human Tissue and Organs

AGENCY: Centers for Disease Control and Prevention (CDC), Public Health Service (PHS), Department of Health and Human Services.

ACTION: Notice of availability and request for comments.

SUMMARY: This notice announces the availability for review and comment of a draft document entitled "USPHS Guidelines for Prevention of Transmission of HIV Through Transplantation of Human Tissue and Organs," prepared by CDC and other USPHS agencies including the Food and Drug Administration (FDA), the Health Resources and Services Administration (HRSA), and the National Institutes of Health (NIH).

DATES: To ensure consideration, written comments on this draft document must be received on or before May 17, 1993.

ADDRESSES: Requests for copies of the draft guidelines for prevention of HIV transmission through transplantation must be submitted to the CDC National AIDS Clearinghouse, P.O. Box 6003, Rockville, Maryland 20849–6003, telephone (800) 458–5231. Written comments on this draft document should be sent to the Technical Information Activity, Division of HIV/AIDS, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), Mailstop E–49, 1600 Clifton Road, NE., Atlanta, Georgia 30333, for receipt by May 17, 1993.

FOR FURTHER INFORMATION CONTACT: Technical Information Activity, Division of HIV/AIDS, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), Mailstop E–49, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

SUPPLEMENTARY INFORMATION: Existing guidelines for prevention of HIV transmission through organ or tissue transplantation have reduced markedly the transmission of HIV via these routes. However, an instance of transmission of HIV from a screened, HIV-antibody-negative organ and tissue donor to several recipients has raised questions about the need for additional Federal oversight of organ and tissue transplantation. A USPHS workgroup, convened to address this problem, concluded that existing guidelines should be reviewed and revised, and asked that CDC be the lead agency for this process. Adequate Federal regulations, recommendations, and guidelines, which are not addressed in this document, are already in place for blood and plasma. This document addresses issues for other tissues and organs including donor screening and testing; quarantine of tissue; inactivation or elimination of infectious organisms in organs and tissues prior to transplantation; timely detection, reporting, and tracking of potentially infected tissues, organs, and recipients; and recall of stored tissue from donors found after donation to have been infected.

Dated: March 10, 1993.

Walter R. Dowdle,

Deputy Director, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–6079 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–18–P

Food and Drug Administration

[Docket No. 93F–0028]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 3,6-bis(4-chlorophenyl)-2,5-dihydro- pyrrolo[3,4-c]pyrrole-1,4-dione (C.I. Pigment Red 254) as a colorant in polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9511.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B4349) has been filed by Ciba-Geigy Corp., 315 Water St., Newport, DE 19804–2434. The petition proposes to amend the food additive regulations in § 178.3297 *Colorants for polymers* (21 CFR 178.3297) to provide for the safe use of 3,6-bis(4-chlorophenyl)-2,5-dihydro- pyrrolo[3,4-c]pyrrole-1,4-dione (C.I. Pigment Red 254) as a colorant in polymers intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: March 8, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–6033 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92F-0449]

Hanover Foods Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a petition has been filed on behalf of Hanover Foods Corp. proposing that the food additive regulations be amended to provide for the safe use of calcium disodium EDTA (ethylenediaminetetraacetate) to promote color retention in additional varieties of beans.

FOR FURTHER INFORMATION CONTACT: Nega Beru, Center for Food Safety and Applied Nutrition (HFS-206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9519.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3A4347) has been filed on behalf of Hanover Foods Corp., P.O. Box 334, Hanover, PA 17331. The petition proposes to amend the food additive regulations in § 172.120 *Calcium disodium EDTA* (21 CFR 172.120) to provide for the safe use of calcium disodium EDTA to promote color retention in additional varieties of beans. The additive is currently approved for use in dried lima beans (cooked, canned) and processed dry pinto beans to promote color retention.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: March 8, 1993.

Fred R. Shank,

Center for Food Safety and Applied Nutrition.

[FR Doc. 93-6034 Filed 3-16-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92E-0470]

Determination of Regulatory Review Period for Purposes of Patent Extension; Actinex® Cream

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Actinex® Cream and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Karin L. Bolte, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Actinex® Cream. Actinex® Cream (masoprocol) is indicated for the topical treatment of actinic (solar) keratoses. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Actinex® Cream (U.S. Patent No. 4,695,590) from Block/Chemex, G.P., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated December 29, 1992, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Actinex® Cream represented the first commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Actinex® Cream is 3,607 days. Of this time, 2,363 days occurred during the testing phase of the regulatory review period, while 1,244 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective*: October 22, 1982. FDA has verified the applicant's claim that October 22, 1982, was the date the investigational new drug application became effective.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: April 10, 1989. The applicant claims April 7, 1989, as the date the new drug application (NDA) for Actinex® Cream (NDA 19-940) was initially submitted. However, FDA records indicate that NDA 19-940 was initially submitted on April 10, 1989.

3. *The date the application was approved*: September 4, 1992. FDA has verified the applicant's claim that NDA 19-940 was approved on September 4, 1992.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 712 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before May 17, 1993, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before September 13, 1993, for a

determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 10, 1993.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 93–6036 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92E–0507]

Determination of Regulatory Review Period for Purposes of Patent Extension; Desogen®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Desogen® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Karin L. Bolte, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Desogen®. Desogen® (desogestrel and ethinyl estradiol) is indicated for the prevention of pregnancy in women who elect to use oral contraceptives as a method of contraception. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Desogen® (U.S. Patent No. 3,927,046) from Akzona, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated December 31, 1992, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Desogen® represented the first commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Desogen® is 1,427 days. Of this time, 716 days occurred during the testing phase of the regulatory review period, while 711 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* January 15, 1989. FDA has verified the applicant's claim that January 15, 1989, was the date the investigational new drug application (IND) became effective.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* December 31, 1990. FDA has verified the aplicant's claim that December 31, 1990, was the date the new drug application (NDA) for Desogen® (NDA 20–071) was initially submitted.

3. *The date the application was approved:* December 10, 1992. FDA has verified the applicant's claim that NDA 20–071 was approved on December 10, 1992.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,504 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before May 17, 1993, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before September 13, 1993, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 10, 1993.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 93–6035 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92N-0442]

Evaluation of Evidence for Carcinogenicity of Butylated Hydroxyanisole (BHA); Announcement of Study; Request for Scientific Data and Information; Announcement of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Life Sciences Research Office (LSRO) of the Federation of American Societies for Experimental Biology (FASEB) is about to undertake a reexamination of scientific data on possible carcinogenic effects of butylated hydroxyanisole (BHA) in animals. BHA is widely used as an antioxidant in foods. It is currently listed as a generally recognized as safe (GRAS) ingredient for use in food, a direct and indirect food additive for other uses, and a prior-sanctioned ingredient for use in food-packaging material. The agency has requested that LSRO/FASEB review scientific information and data that suggest an association between BHA ingestion and cancer in animals and provide an up-to-date, publicly available report on its findings.

To assist in the preparation of its scientific report, LSRO/FASEB is inviting the submission of scientific data and information bearing on this topic. LSRO/FASEB will provide an opportunity for oral presentations at an open meeting.

DATES: LSRO is holding a public meeting on this topic on April 15, 1993. The meeting will begin at 9 a.m. Requests to make oral presentations at the open meeting must be submitted in writing and received by March 29, 1993. Written presentations of scientific data, information, and views should be submitted on or before April 15, 1993.

ADDRESSES: Submit written requests to make oral presentations of scientific data, information, and views at the open meeting to the Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814-3998, and to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Two copies of the scientific data, information, and views should be submitted to each office. The meeting will be held in the Chen Auditorium, Lee Bldg., FASEB (address above).

FOR FURTHER INFORMATION CONTACT: Sue Ann Anderson or Elwood O. Titus, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, 301-530-7030, or Ronald J. Lorentzen, Office of Policy, Planning and Strategic Initiatives, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-8753.

SUPPLEMENTARY INFORMATION: FDA has a contract (223-92-2185) with FASEB concerning the analysis of scientific issues that bear on the safety of foods and cosmetics. The objective of this contract is to provide information to FDA on general and specific issues of scientific fact associated with the analysis of human nutrition.

BHA is listed as a GRAS ingredient in 21 CFR 182.3169. BHA is regulated as a direct and indirect food additive in a number of food additive regulations (e.g., 21 CFR 172.110, 173.340, and 175.105). BHA is also codified as a prior-sanctioned ingredient for use in food-packaging material in 21 CFR 181.24.

The Select Committee on GRAS Substances of LSRO/FASEB, as part of FDA's update of GRAS safety assessments, independently reviewed health aspects of BHA in 1978. Since that evaluation, increased incidence of forestomach tumors in laboratory rodents has been reported to be associated with very high levels of BHA in the diet. Further, an increase in liver tumors associated with exposure to high levels of BHA has been observed in tests with a small hermaphroditic fish (*Rivulus* sp.). The scientific validity of these tests and the toxicological relevance of the model systems remain to be established firmly. Comprehensive reviews of the data and discussion of model test systems were presented in 1983, in the Report of the Working Group on the Toxicology and Metabolism of Antioxidants, prepared collaboratively by scientists from the United States, the United Kingdom, Canada, and Japan under the aegis of the U. S./U. K./Canada Tripartite Agreement. A subsequent review of data by D. B. Clayson et al. appeared more recently (see Ref. 1). Additional information may be found in FDA Docket Nos. 90F-0285 and 90P-0289.

Members of the public have also raised concerns about the use of BHA. In the **Federal Register** of November 29, 1990 (55 FR 49576), FDA published a notice of filing of a food additive petition and a citizen petition, submitted by Glenn Scott, requesting that the food additive regulations, the GRAS regulation, and the prior sanction regulation be amended to prohibit the use of BHA in foods. An extension of the comment period to April 29, 1991, was issued on January 30, 1991 (56 FR 3480).

FDA is announcing that it has asked FASEB, as a task under contract 223-92-2185, to provide FDA's Center for Food Safety and Applied Nutrition with an up-to-date review of the extent, strength and reliability of available scientific evidence that relates ingestion of BHA to subsequent occurrence of cancer in animals. In response to this request, FASEB has directed its LSRO to obtain state-of-the-art scientific information bearing on the relationship of BHA ingestion to cancer in animals and the methodologies by which such relationships are established. The LSRO/FASEB will undertake a study and prepare a documented scientific report that summarizes the available information.

The objectives of this evaluative report include: (1) Characterization of the experimental protocols used with various laboratory animals and fish with regard to the validity, quality, and appropriateness of dosage regimens, types of carcinogenic responses, time to tumor, number of studies, number of animals, number of species studied, etc.; (2) identification and evaluation of the extent of scientific understanding of the mechanism(s) that are associated with animal carcinogenicity which may result from BHA ingestion; (3) characterization of the above scientific evidence in terms of its support of the hypothesis that increased tumor incidence in animals is secondary to other reproducible responses to BHA ingredients; (4) determination of the existence of a dose-response relationship and/or a threshold of tumor induction that is related to quantity and length of time of ingestion. If such a relationship can be hypothesized from extant data, the strength and reliability, and consistency of scientific data, will be assessed critically; (5) examination and evaluation of the available scientific data in regard to possible genotoxic effects resulting from BHA ingestion. Interpretation, if possible, of these data in terms of their relationship to the possibility of a threshold for the observed effects and in terms of the biological implications of metabolic and physiological effects ascribable to BHA ingestion; and (6) preparation of a comprehensive final report which documents and summarizes the results of the evaluation.

The FDA and FASEB are announcing that the LSRO/FASEB will hold a public meeting on this topic on April 15, 1993. The meeting will begin at 9 a.m. It is

anticipated that the public meeting will last 1 day, depending on the number of requests to make oral presentations. Requests to make oral presentations at the open meeting must be submitted in writing and received by March 29, 1993. Written requests to make oral presentations of scientific data, information, and views at the open meeting should be submitted to the Life Sciences Research Office, Federation of American Societies for Experimental Biology (address above) and to the Dockets Management Branch (address above). Two copies of the material to be presented shall be submitted to each office before the date of the open meeting.

FDA and FASEB are also inviting submission of written presentations of scientific data, information, and views. These materials should be submitted on or before April 15, 1993. Two copies of the written materials shall be submitted to each office.

Pursuant to its contract with FDA, FASEB will provide the agency with a scientific report on these issues on or before March 29, 1994.

Reference

The following reference has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Clayson, D. B. et al., *1990 Annual Review of Pharmacology and Toxicology*, 30:441–463.

Dated: March 11, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–6088 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Emergency Medical Services for Children; Demonstration Grants

AGENCY: Health Resources and Services Administration (HRSA).

ACTION: Notice of availability of funds.

SUMMARY: The HRSA in collaboration with the National Highway Traffic Safety Administration (NHTSA) announces fiscal year (FY) 1993 funds are available for grants authorized under section 1910 of the PHS Act. These discretionary grants will be made to States or accredited schools of medicine to support projects for the expansion and improvement of emergency medical services for children (EMSC). Funds appropriated by Public Law 102–394 will be used for this purpose. Under the EMSC program authority, awards are made for project periods of up to 2 years.

The NHTSA participated with the HRSA in developing the program priorities announced under the EMSC program for FY 1993. The NHTSA will share the Federal monitoring responsibilities for EMSC awards made during FY 1993 as well as continue to provide ongoing technical assistance and consultation in regard to the required collaboration/linkages between applicants and their Highway Safety Offices and Emergency Medical Services Agencies for the State(s). Grantees funded under this program are expected to work collaboratively with the State trauma systems planning and development projects funded by the Bureau of Health Resources Development, HRSA.

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS led national activity for setting priority areas. The EMSC grant program will directly address the Healthy People 2000 objectives related to emergency medical services and trauma systems linking prehospital, hospital, and rehabilitation services in order to prevent trauma deaths and long-term disability. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone 202 783–3238).

ADDRESSES: Grant applications for Emergency Medical Services for Children Demonstration Grants (PHS form #5161–1, approved under OMB #0937–0189) must be obtained from and submitted to: Grants Management Branch, Office of Program Support, Maternal and Child Health Bureau, Health Resources and Services Administration, room 18–12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1440.

DATES: The application deadline date is April 16, 1993. Competing applications will be considered to be on time if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline date and received in time for orderly processing. (Applicants should request a legibly dated receipt from a commercial carrier or U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late competing applications not accepted for processing or those sent to an address other than specified in the **ADDRESSES** section will be returned to the applicant.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information should be directed to Jean Athey, Ph.D., Division of Maternal, Infant, Child and Adolescent Health, Maternal and Child Health Bureau, Health Resources and Services Administration, room 18A–39, Parklawn Building, 5600 Fishers Lane Rockville, Maryland 20857, telephone 301 443–4026. Requests for technical or programmatic information from NHTSA should be directed to Garry Criddle, R.N., C.D.R. USCG/USPHS, Department of Transportation, NHTSA EMS Division, NTS–42, 400 7th Street SW., Washington, DC 20590, telephone 202 366–5440. Requests for information concerning business management issues should be directed to: John Gallicchio, Grants Management Officer (GMO), Maternal and Child Health Bureau, at the address listed in the **ADDRESSES** section. In addition, national resource centers are available to provide technical assistance and support to applicants, particularly in the areas of:

(1) Understanding EMSC terminology;

(2) Developing a manageable approach to EMSC implementation;

(3) Obtaining local support for the grant application process;

(4) Facilitating development of community linkages for a collaborative effort; and

(5) Identifying products of previously-funded EMSC projects of interest to potential applicants. Applicants may contact: James Seidel, M.D., Ph.D. or Deborah Henderson, R.N., M.A., National EMSC Resource Alliance, Research and Education Institutue, Harbor/UCLA Medical Center, 1001 West Carson Street, suite S, Torrance, CA 90502, telephone 310 328–0720; or Jane Ball, R.N., Dr. P.H., EMSC National Resource Center, Children's National Medical Center, Emergency Trauma Services, 111 Michigan Avenue, NW., Washington, DC 20010, telephone 202 745–5188.

SUPPLEMENTARY INFORMATION:

Program Background and Objectives

The Emergency Medical Services for Children statute (Section 1910 of the PHS Act, as amended) establishes a program of two-year grants to States and accredited medical schools for demonstration projects for the

expansion and improvement of emergency medical services for children who need treatment for trauma or critical care. For purposes of this grant program, the term "State" includes the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Northern Mariana Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia. The term "school of medicine" for purposes of this program is defined as having the same meaning as set forth in section 701(4) of the PHS Act (42 U.S.C. 292a(4)). "Accredited" in this context has the same meaning as set forth in section 701(5) of the PHS Act (42 U.S.C. 292a(5)).

It is the intent of this grant program to stimulate further development or expansion of ongoing efforts in the States to reduce the problems of life-threatening pediatric trauma and critical illness. The Department does not intend to award grants which would duplicate grants previously funded under the Emergency Medical Services Systems Act of 1972 or which would be used simply to increase the availability of emergency medical services funds allotted to the State under the Preventive Health Services Block Grant.

Funding Categories

There will be two categories of funding competition this year. The first category is that of implementation grants for the purpose of initiating or improving the capacity of a State's Emergency Medical Services program to address the particular needs of children. Implementation grants are to be demonstrations of the use of existing research-based knowledge, state-of-the-art systems development approaches, and the experience and products of previous EMSC grantees in meeting program goals. Budget requests for these grants should not exceed $250,000 per award for a one year budget period. Project periods are up to two years. Up to five grants will be awarded. For this competition, applications from States (and medical schools within those States) which have not as yet received support under this program will receive preference for funding. This means that approved applications from States (and medical schools within those States) with no previous EMSC program support will be funded before approved applications from outside this group.

The second category is that of targeted issues grants on topics of importance to EMSC. These grants are intended to address specific, focused issues related to the development of EMSC capacity. Topics for this category may include, but are not limited to, strategies for reducing the emotional toll of childhood emergencies on the child, family, and provider; information systems development; evaluation; injury prevention; training of medical control and dispatch; and public education. Budget requests for this activity should not exceed $150,000 per award per year for a one year budget period. Project periods are up to two years. Up to four grants will be funded.

These categories are not being proposed for public comment. The first category—implementation grants—continuously funded since FY 1986, is being extended for funding again in FY 1993 because of continuing and documented demand from or within States that have not benefited from this assistance to improve the capacity of State EMSC services. The suggested topics for the second category were selected based on consultation with national experts, EMSC grantees, and other Federal program staff.

Availability of Funds

Approximately $4,700,000 is available for grants under the EMSC program, of which approximately $1,700,000 will be used for new grants. We estimate funding up to five new grants in the first category, not to exceed $250,000 per grant, for a one year budget period. Up to four new grants, not to exceed $150,000 per grant, for a one year budget period will be funded in the second category. Project periods for both categories are up to two years. The remaining funds will be used for continuation support of the 15 existing EMSC projects.

Special Concerns

The MCHB places special emphasis on improving service delivery to children from culturally identifiable populations who have been disproportionately affected by barriers to accessible care. This means that EMSC projects are expected to serve and appropriately involve in project activities members of ethnoculturally distinct groups, unless there are compelling programmatic or other justifications for not doing so. The MCHBs intent is to insure that project outcomes are of benefit to culturally distinct populations and to insure that the broadest possible representation of culturally distinct and historically under-represented groups is supported through programs and projects sponsored by the MCHB.

This same special emphasis applies to improving service delivery to children with special health care needs.

Consistent with the statutory purpose of the program and with particular attention to children from culturally distinct populations and children with special health care needs, the Department will review applications in the preceding funding categories as competing applications and will fund those which, in the Department's view, best meet the purposes of the EMSC program and address achievement of applicable Healthy People 2000 objectives related to emergency medical services and trauma systems.

Eligible Applicants

Applications for funding under section 1910 will be accepted from States and accredited schools of medicine. Applications which involve more than a single State will also be accepted. Applicants are encouraged to seek the participation and support of interested entities within the State, such as local government and health and medical organizations in the private sector, including local or regional trauma centers, in developing the proposed project.

Review Criteria

The review of applications will take into consideration the following criteria:

—The adequacy of the applicant's description of the problem of pediatric trauma and critical illness in the grant locale. The adequacy of sections of the application devoted to the special problems of (a) handicapped children and families; and (b) minority children and families (including Native Americans).

—The appropriateness of project objectives and outcomes in relation to the specific nature of the problems identified by the applicant.

—The soundness (in relation to the state of the art), appropriateness, comprehensiveness, cost effectiveness and responsiveness of the proposed methodology for achieving project goals and outcome objectives.

—The soundness of the plan for evaluating progress in achieving project objectives and outcomes.

—The evidence provided by the applicant of:

(1) Collaboration and coordination with other participants in the EMSC continuum including, but not limited to the State Emergency Medical Services agency, the State Maternal and Child Health agency, the State Highway Safety Office, state and local professional organizations, private sector voluntary organizations, business organizations, parent advocacy groups, consumer or community representatives, hospital

organizations and [especially] any other ongoing federally funded projects in EMS, trauma systems development, injury prevention, and rural health; and

(2) Integration of EMSC systems into the primary care delivery system.

—The soundness of the applicant's plans for fiscal management, effective use of personnel, and ability to complete the proposal within the proposed grant period.

—The extent to which the applicant proposes to employ products and expertise of EMSC programs from other States, especially of current and former grantees of the Federal EMSC program.

—The extent to which the project gives special emphasis to the issues identified in the **Special Concerns** section of this notice.

Allowable Costs

The MCHB may support reasonable and necessary costs of EMSC Demonstration Grant projects within the scope of approved projects. Allowable costs may include salaries, equipment and supplies, travel, contracts, consultants, and others, as well as indirect costs. The MCHB adheres to administrative standards reflected in the Code of Federal Regulations, 45 CFR parts 92 and 74.

Public Health System Reporting Requirements

The second category of this program, targeted issue grants, is subject to the Public Health System Reporting Requirements. Reporting requirements have been approved by the Office of Management and Budget—0937–0195. Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based non-governmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

a. A copy of the face page of the application (SF 424)

b. A summary of the project PHSIS, not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

Executive Order 12372

This program has been determined to be a program which is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs by appropriate health planning agencies, as implemented by 45 CFR part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available under this notice will contain a listing of States which have chosen to set up such a review system and will provide a single point of contact (SPOC) in the States for review. Applicants (other than federally-recognized Indian tribal governments) should contact their State SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the application deadline for new and competing awards. The granting agency does not guarantee to "accommodate or explain" for State process recommendations it receives after that date. (See part 148, Intergovernmental Review of PHS Programs under Executive Order 12372 and 45 CFR part 100 for a description of the review process and requirements).

OMB Catalog of Federal Domestic Assistance

The OMB Catalog of Federal Domestic Assistance number is 93.127.

Dated: March 11, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–6076 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–15–P

Special Project Grants; Maternal and Child Health (MCH) Services; MCH Community Integrated Service Systems (CISS) Set-Aside Program

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Maternal and Child Health Bureau (MCHB), HRSA, announces that fiscal year (FY) 1993 funds are available for Maternal and Child Health (MCH) Community Integrated Service Systems (CISS) Set-Aside Program grants. To support development and expansion of successful community integrated service systems, Congress has emphasized six categories of approach in subparagraphs (A) through (F) of section 501(a)(3) of the Social Security Act: maternal and infant home visiting activities in which, among other services, case management services are provided in the home; activities designed to increase the participation of obstetricians and pediatricians under both the MCH Services Block Grant and Medicaid programs; integrated maternal and child health service delivery (i.e., one-stop shopping) systems; MCH activities conducted under the direction of a not-for-profit hospital; MCH activities targeted to serve rural populations; and outpatient and community based services activities (including day care services) for children with special health care needs (CSHCN). The CISS promotion projects are intended to be conducted within the context of overall State efforts to develop comprehensive, community based systems of services and are to focus on unmet needs and service gaps identified in the State's MCH Services Block Grant plan. In the 15 communities in the Nation with HRSA-administered Healthy Start grants, CISS projects must be coordinated with Healthy Start program efforts.

It is anticipated that approximately $1.6 million will be available to support approximately 10 new projects. Award size will vary, averaging $160,000 per grant for a one year budget period. Awards will be made for varying project periods of up to 4 years. Funds for the MCH CISS Set-Aside Program are authorized in fiscal years in which total appropriated funds for the MCH Services Block Grant exceed $600 million. Funds are appropriated by Public Law 102–394. Applicants are advised that continued support of grants awarded under this announcement beyond FY 1993 is subject to limits in the authorizing legislation and the appropriation of funds. Projects funded under the MCH CISS Set-Aside Program are selected and administered under the same procedures and practices as are currently in effect with regard to MCH Special Projects of Regional and National Significance (SPRANS) set-aside activities. The regulation implementing the MCH SPRANS Set-Aside Program was published in the March 5, 1986, issue of the **Federal Register** at 51 FR 7726 (42 CFR Part 51a).

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention

objectives and goals of Healthy People 2000, a PHS-led national activity for setting priority areas. The MCH CISS program addresses the Healthy People 2000 objectives related to improving maternal, infant, child and adolescent health and developing service systems for children at risk of chronic and disabling conditions. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0 or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office Washington, DC 20402–9325 (telephone: 202–783–3238).

ADDRESSES: Grant applications for the MCH CISS Set-Aside Program (PHS form #5161–1, approved under OMB #0937–0189) must be obtained from and submitted to: Chief, Grants Management Branch, Office of Program Support, Maternal and Child Health Bureau, Health Resources and Services Administration, room 18–12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1440. Potential applicants should specify the project category for which the application is requested.

DATES: The application deadline date is May 18, 1993. Competing applications will be considered to be on time if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline date and received in time for orderly processing. (Applicants should request a legibly dated receipt from a commercial carrier or U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing or those sent to an address other than specified in the **ADDRESSES** section will be returned to the applicant.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information should be directed to Audrey H. Nora, M.D., M.P.H., Director, Maternal and Child Health Bureau, HRSA, Room 18–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone 301–443–2170. Requests for information concerning business management issues should be directed to: John Gallicchio, Grants Management Officer (GMO), Maternal and Child Health Bureau, at the address listed in the **ADDRESSES** section.

Project periods for grantees begin October 1, 1993.

SUPPLEMENTARY INFORMATION:

Program Background and Objectives

Current Title V law specifies a number of programs and projects for which the Secretary is authorized to expend appropriated funds directly. These activities are funded through two distinct Federal "set-asides" under the MCH Services Block Grant, made up of monies obligated directly by the Secretary. The first set-aside, for SPRANS, is designed to fund programs and projects which contribute to improving the health of mothers, children, and CSHCN; MCH research and training; genetic disease testing, counseling and information services; and hemophilia diagnostic and treatment centers. The second set-aside, for the CISS program, is the set-aside covered by this announcement. It was established under section 502(b)(1)(A) of the Act by the Omnibus Budget Reconciliation Act of 1989. It authorizes the Secretary to retain 12.75 percent of amounts above $600 million appropriated for a fiscal year to fund projects employing one or more of the approaches to development and expansion of community integrated service systems set out in subparagraphs (A) through (F) of section 501(a)(3) of the Act:

—Maternal and infant home visiting programs in which, among other services, case management services are provided in the home.
—Projects designed to increase the participation of obstetricians and pediatricians under both the MCH Services Block Grant and Medicaid programs.
—Integrated maternal and child health service delivery (i.e., one-stop shopping) systems.
—MCH centers operated under the direction of not-for-profit hospitals.
—MCH projects to serve rural populations.
—Outpatient and community based services programs (including day care services) for CSHCN.

Purpose

This grant program is intended to support development and expansion of community integrated service systems employing six designated community-oriented strategies which show promise of promoting greater access to family centered, culturally competent, and coordinated care for pregnant women and children. Projects in this category are expected to be integrated into the general plan to improve the health of mothers and children submitted by each State's MCH program in order to receive title V funds. Proposed project activities must be compatible with State efforts to develop comprehensive, community based systems of services to improve the health of women, infants, children, adolescents, and CSHCN. These elements of systems are described more fully in the program guidance included in the application packet.

Priorities

At the request of Congress, priority will be given to funding projects which can demonstrate: (1) A high likelihood of having continuing support beyond the federal grant period; and (2) strong community-based public/private organizational collaboration, including participation of the local (county/municipal) health department, the State MCH program, and, where they exist, community and migrant health centers. This means that in determining scores for ranking the funding of applications, merit reviewers will assign scores based on the extent to which applicants address these program priorities in addition to the review criteria listed below.

Availability of Funds

Approximately $1.6 million is available under the MCH CISS Set-Aside Program to support up to 10 projects at an average of $160,000 per award for a one year budget period. Awards will be made for project periods of up to 4 years. Applicants are advised that continued support of grants awarded under this announcement beyond FY 1993 is subject to conditions in the authorizing legislation and the appropriation of funds.

Special Concerns

Projects supported under the MCH CISS Set-Aside Program are expected to be part of community-wide, comprehensive initiatives, to reflect appropriate coordination of primary care and public health activities, and to target HRSA resources effectively to fill gaps in the Nations health system for mothers and children. This applies specifically to projects in the 15 communities in the Nation which have received grants from HRSA under the President's *Healthy Start* initiative. Grantees in these communities providing services related to activities of a *Healthy Start* program are expected to coordinate their projects with *Healthy Start* program efforts. Healthy Start communities include: Aberdeen Area Indian Nations, NE/ND/SD; Baltimore, MD; Birmingham, AL; Boston, MA; Chicago, IL; Cleveland, OH; Detroit, MI;

Lake County, IN; New Orleans, LA; New York, NY; Oakland, CA; Philadelphia, PA; Pittsburgh, PA; PeeDee Region, SC; Washington, DC.

In its administration of the MCH Services Block Grant, the MCHB places special emphasis on improving service delivery to women and children from culturally identifiable populations who have been disproportionately affected by barriers to accessible care. This means that MCH CISS projects are expected to serve and appropriately involve in project activities members of ethno-culturally distinct groups, unless there are compelling programmatic or other justifications for not doing so. The MCHB's intent is to ensure that project outcomes are of benefit to culturally distinct populations and to ensure that the broadest possible representation of culturally distinct and historically underserved groups is supported through programs and projects sponsored by the MCHB.

Consistent with the statutory purpose and with particular attention to involvement of women and persons from culturally distinct populations, the Department will review applications as competing applications and will fund those which, in the Department's view, best meet the purposes of the MCH CISS Set-Aside Program and address the achievement of applicable *Healthy People 2000* objectives in communities with demonstrated need.

Eligible Applicants

Any public or private entity, including an Indian tribe or tribal organization (as defined at 25 U.S.C. 450b), is eligible to apply for MCH CISS Set-Aside Program project grants. Projects are intended to facilitate the development of systems of services in communities. However, because the projects need to be consistent with State systems development efforts and because State assistance will be required to improve local systems, a defined role for the State MCH/CSHCN agency and the support of the agency are essential. Projects must also promote community/State partnerships. Governmental and nonprofit community agencies and State agencies are encouraged to apply.

Review Criteria

Review panels composed mainly of nonfederal members will evaluate applications for awards. Specific requirements for each project category will be reflected in the program guidance included in the application packet. The following review criteria will be used to review all applications:

—The importance of the proposed project to the advancement of maternal and child health and the strength of the evidence that the purpose, goals and objectives of the proposal are important within the community project area, are consistent with the needs assessment in the State's MCH Services Block Grant plan and may have application in other States or regions.

—Compatibility of proposed project activities with State efforts to develop comprehensive, community based systems of services with regard to:

(a) Population(s) served;
(b) Community based services;
(c) Comprehensive services;
(d) Coordinated services;
(e) Family centered care; and
(f) Culturally competent care.

—Involvement in the application of the local health department, State MCH program, and, where applicable, community/migrant health centers.

—Clarity of the health problem statement, its potential for improving the health status of pregnant women and/or infants and children and quality of the analysis of the problem and its causal or contributing factors.

—Clarity of the goals and objectives of the project and their linkage to the identified problem. The project objectives should be time-framed and measurable. They should have a reasonable potential for impacting the stated problem.

—The quality and feasibility of the project plan or methodology and its relation to the project's goals and objectives. This includes the adequacy of the approaches and activities that will be used to achieve the objectives and the degree to which the approaches are technically sound and appropriate to the project goals and objectives.

—The quality of the plan for tracking project activities. The proposed methods for tracking each project activity and collecting the appropriate information are feasible and economical.

—The quality of the plan to measure achievement of project goals and objectives.

—The capacity of the applicant to carry out the proposed project and the degree to which budget items are realistic and adequate to plan, implement and evaluate the project. Capacity of the applicant refers to qualified personnel and other resources sufficient to carry out the proposed project methodology. The budget should reflect appropriate financial support for the proposed project activities for the project period. Justification of each budget item should be provided.

—The extent to which the project places special emphasis on improving service delivery to women and children from culturally identifiable populations who have been disproportionately affected by barriers to accessible care and the extent to which the project ensures that members of culturally distinct groups are appropriately represented in the activities of approved grants and cooperative agreements.

—In communities with Healthy Start projects, a commitment by applicants whose projects are related to activities of a Healthy Start program to coordinate their projects with Healthy Start program efforts.

—Within the context of community based systems of services, a commitment to collaborate with State MCH/CSHCN programs, primary care plans, public health, and prevention programs in the respective State(s), and other related programs.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

(a) A copy of the face page of the application (SF 424).

(b) A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State and local health agencies.

Executive Order 12372

The Maternal and Child Health Services Block Grant program has been determined to be a program which is not subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs.

The OMB Catalog of Federal Domestic Assistance number is 93.110.

Dated: March 11, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–6075 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–15–P

Program Announcement and Proposed Funding Priorities for Grants for Health Education and Training Centers for Fiscal Year 1993

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1993 Grants for the Health Education and Training Centers (HETC) Program under the authority of section 746(f) (previously section 781(f)) of the Public Health Service Act (the Act), as amended by the Health Professions Education Extension Amendments of 1992, Pub. L. 102–408, dated October 13, 1992.

Public Law 102–408 makes the following revisions to the HETC program.

The former section 781(f) has been changed to section 746(f). Substantive changes include the addition of Florida as a "border" State and new requirement relative to the participation of schools of public health located in the service area of the HETC.

Comments are invited on the proposed funding priorities stated below.

Approximately $2.8 million is available in FY 1993 to award approximately 12 competitive grants averaging $230,000.

Previous Funding Experience

Previous funding experience is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. There was no competitive cycle for this program in FY 1992. In FY 1991, HRSA reviewed one application for this grant program. The application was approved and funded. In FY 1990, HRSA reviewed 22 applications for this grant program. Of those applications, 68 percent were approved and 32 percent were not recommended for further consideration. Fifteen grant projects, or 100 percent of the approved grant applications, were funded.

Eligibility and Purpose

Eligible applicants are schools of allopathic or osteopathic medicine, or the parent institution on behalf of these schools, or a consortium of them. Assistance is for planning, developing, establishing, maintaining, and operating Health Education and Training Centers. Such support is designed to improve the supply, distribution, quality, and efficiency of personnel providing health services in the State of Florida or (in the United States) along the border between the United States and Mexico or providing, in other urban and rural areas (including frontier areas) of the United States, health services to any population group, including Hispanic individuals and recent refugees, that has demonstrated serious health care needs. Assistance is also to encourage health promotion and disease prevention through public education.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS led national activity for setting priority areas. The Health Education and Training Centers (HETC) Program is related to the priority area of Education and Community-Based Programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock. No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs and programs which provide comprehensive primary care services to the underserved.

Statutory Project Requirements

Each project must meet the following requirements:

(a) Establish and advisory group comprised of health service providers, educators and consumers from the service area and of faculty from participating schools;

(b) Develop a plan for carrying out the Health Education and Training Centers Program, after consultation with the advisory group required in items (a) above;

(c) Enter into contracts, as needed, with other institutions or entities to carry out the plan as required in item (b) above;

(d) Enter into a contract or other written agreement with one or more public or nonprofit private entities in the State which have expertise in providing health education to the public;

(e) Be responsible for the evaluation of the program;

(f) Evaluate the specific service needs for health care personnel in the service area;

(g) Assist in the planning, development, and conduct of training programs to meet the needs determined under item (f) above;

(h) Conduct or support not less than one training and education program for physicians and one program for nurses for at least a portion of the clinical training of such students;

(i) Conduct or support training in health education services, including training to prepare community health workers to implement health education programs in communities, health departments, health clinics, and public schools that are located in the service area;

(j) Conduct or support continuing medical education programs for physicians and other health professionals (including allied health personnel) practicing in the service area;

(k) Support health career educational opportunities designed to provide student residing in the service area with counseling, education, and training in the health professions;

(l) With respect to the Border HETCs, assist in coordinating their activities and programs with any similar activities and programs carried out in Mexico along the border between the United States and Mexico;

(m) Make available technical assistance in the service area in the aspects of health care organization, financing and delivery;

(n) In the case of any school of public health located in the service area of the HETC, to permit any such school to participate in the program of the center if the school makes a request to so participate; and

(o) Encourage health promotion and disease prevention through health education in the service area.

Grant Funds

Grants are to assist in meeting the costs of the program which cannot be met from other sources. The following restrictions apply to all funding:

(a) Not less than 75 percent of the total funds provided to a school or schools of allopathic or osteopathic medicine must be spent in the development and operation of the health education and training center in the service area of such program;

(b) To the maximum extent feasible, the grantee will obtain from non-Federal sources the amount of the total

operating funds for the HETC program which are not provided by HRSA;

(c) No grant or contract shall provide funds solely for the planning or development of an HETC program for a period in excess of two years;

(d) Not more than 10 percent of the annual budget of each program may be used for the renovation and equipping of clinical teaching sites; and

(e) No grant or contract shall provide funds to be used outside the United States except as HRSA may prescribe for travel and communications purposes related to the conduct of a border Health Education and Training Center.

Applicants may apply for up to 3 years of support for a project period.

Statutory Definitions

Border Health Education and Training Center means an entity that is a recipient of an award under section 746(f)(1) and that is carrying out (or will carry out) the purpose of the program as described under Eligibility and Purpose above.

Community Health Center means an entity as defined in section 330 (a) and (b) of the Act and regulations at 42 CFR 51c.102(c).

Health Education and Training Center or "center" means an entity that is the recipient of an HETC grant under section 746(f)(1).

Migrant Health Center means an entity as defined in section 329(a) of the Act and in regulations at 42 CFR 56.102(g)(1).

Service area means the geographic area designated for the center to carry out the HETC program, as designated by HRSA. It is located entirely within the State in which the center is located.

School of Medicine or Osteopathic Medicine means a school as described in section 799 and which is accredited as provided in section 799(E) of the Act.

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

These terms are discussed in more detail in program application materials.

Definitions

The following Definitions, Project Requirements, Criteria for Designating Geographic Service Areas, Review Criteria, Funding Priorities and Formula for Allocating Border Area Funds will be used in FY 1993. These were established in FY 1990 after public comment (at 55 FR 31237, dated August 1, 1990) and the Administration is extending them in FY 1993.

Close proximity to the Border means a county, in a State, any portion of which lies within three hundred (300) miles of the Border between the United States and Mexico.

Frontier area means those areas with a population density of less than seven individuals per square mile.

Health professional means any physician, dentist, optometrist, podiatrist, pharmacist, nurse, nurse practitioner, nurse midwife, physician assistant or allied health personnel.

Project Requirements

In order to assure effective program administration and assessment, the following requirements will be used in addition to the above listed statutory project requirements.

Each grantee must:

(a) Have a project director who holds a faculty appointment at an allopathic or osteopathic medical school and who is responsible for the overall direction of the project;

(b) Provide faculty to assist in the conduct of community-based educational programs and training activities;

(c) Be responsible for the quality of the community-based educational programs and training activities, and the evaluation of trainees;

(d) Provide for active participation of individuals who are associated with the administration of the medical school, and staff and faculty members of departments of family medicine, internal medicine, pediatrics, and obstetrics and gynecology; and

(e) Provide an annual evaluation of the project, including an assessment of the educational programs and the trainees.

Considerations for Designating Geographic Service Areas

The following considerations will be used in designating geographic service areas:

1. Low-income population for the specific county(ies) in the service areas;
2. Percent change in low-income population for the specific county(ies);
3. Ratio of primary care physicians per 100,000 population for the specific county(ies); and
4. Infant mortality rate for the specific county(ies) in the service area.

Review Criteria

The Health Resources and Services Administration will review applications taking into consideration the following criteria:

1. The potential effectiveness of the proposed project in carrying out the intent of section 746(f);
2. The extent to which the proposed project adequately provides for the project requirements;
3. The extent to which the proposed project explains and documents the need for the project in the geographic area to be served, including relevant socioeconomic and cultural characteristics of the population to be served;
4. The administrative and management capability of the applicant to carry out the proposed project in a cost-effective manner;
5. The evaluative strategy to assess the project and the trainees in terms of effectiveness and proposed outcomes;
6. The extent of coordination of HETC training and education with similar activities in the areas involved; and
7. The potential of the proposed project to continue on a self-sustaining basis.

Other Considerations

In addition, the following funding factors may be applied in determine the funding of approved applications:

A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of applications.

A funding priority is defined as the favorable adjustment of aggregate review scores of individual approved applications when applications meet specified objective criteria.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Statutory Funding Preference

In making awards for FY 1993, the Secretary shall make available 50 percent of the appropriated funds for approved applications for border health education and training centers in the State of Florida and (in the United States) along the border between the United States and Mexico. The remaining 50 percent shall be made available for approved applications for HETCs from non-border areas (both urban and rural). If funds remain available after all approved applications in one category are funded, the balance shall be utilized for approved applications in the other category. This addresses the statutory funding requirements while allowing maximum flexibility in the use of funds.

Proposed Funding Priorities for Fiscal Year 1993

It is proposed to give a funding priority to:

1. Applicants which propose to implement HETC training programs for a minimum of 50 underrepresented minority trainees annually in Health Professional Shortage Areas (HPSAs) or Medically Underserved Areas (MUAs). The term "underrepresented minorities" means, with respect to a health profession, racial and ethnic populations that are underrepresented in the health profession relative to the number of individuals who are members of the population involved. For this program, it means American Indians or Alaskan Natives, Blacks, Hispanics, and, potentially, various subpopulations of Asian individuals. Applicants must evidence that any particular subgroup of Asian individuals is underrepresented in a specific discipline. This funding priority is proposed to encourage the training of minority health professionals and local people from areas with health care access problems. These individuals, following training, are most likely to provide much needed care in the shortage areas to predominantly minority populations. A specific number of trainees (50) was established for this funding priority to ensure that the priority is quantifiable, measurable, and outcome oriented. This figure will encourage applicants to focus their training efforts and resources to attract and train minority students in health personnel shortage areas. A minimum of 50 trainees is considered reasonable, given the range of training programs conducted, the historical performance of projects with built-in incentives for increases and the geographic areas served by HETCs.

2. Applicants which propose to implement a substantial Public Health training experience (of 4 to 8 weeks for a minimum of 25 trainees, annually) in one or more of the following training sites: (1) Facilities operated by a State or local health department; (2) a Migrant Health Center designated under section 329 of the PHS Act; (3) a Community Health Center designated under section 330 of the PHS Act; or (4) hospitals or other health care facilities of the Indian Health Service. If such training sites are unavailable in a proposed HETC service area, applicants may propose comparable public health training experiences (e.g., a 4 to 8 week community health project supervised by a rural preceptor). Trainees participating in activities described in Priority Nos. 1 and 2 may include: students pursuing health professions education, medicine, nursing; students pursuing nurse practitioner, certified nurse midwifery, or physician assistant training; residents (in family medicine, general internal medicine, general pediatrics, or preventive medicine); community health worker trainees (indigenous to the area); dentists, nurses, physicians, or environmental health personnel pursuing a training program in Public Health.

3. Applications which propose to have as part of the advisory group, as described in section 746(f)(4), at least one designated representative from a health department in the area being served.

Funding priorities Nos. 2 and 3 promote and provide a strong incentive to actively involve state or local health departments. These programs are designed to assure that health professions trainees are prepared to provide the public health services necessary to meet the National Health Objectives for the Year 20000 and are also consistent with the Bureau and the Public Health Service strategic directions and objectives to strengthen public health education and service systems at the State and local levels.

Border Area Funding

Section 746(f) requires that certain criteria relative to the service area be considered by the Secretary in the establishment of a formula for allocating funds for each approved application for a border health education and training center. Specifically, these criteria are:

1. The low-income population, including Hispanic individuals, and the growth rate of such population in the State of Florida and along the border between the United States and Mexico;

2. The need of the low-income population referenced in Item 1 above for additional personnel to provide health care services along such border and in the State of Florida; and

3. The most current information concerning mortality and morbidity and other indicators of health status for such population.

Formula for Allocating Border Area Funds

Considering the criteria in the statute, the following formula will be used for allocating Border Area funds in FY 1993, to be applied to each of the counties included in the service area of the center on behalf of which the application is made:

$P \times (1+C) \times N \times I \times 100{,}000 = F$

Where: (P)=Low-income population in the county; (C)=Percent change of population in the county; (N)=Need for primary care physicians in the county; (I)=Infant mortality rate in the county; (F)=Factor for each county in close proximity to the border.

By statute, the entire State of Florida is eligible for this allocation.

For this program (HETC), project support recommended for future years will be subject to enabling legislation, appropriations, satisfactory progress, adjustment (up or down) based upon changes in data utilized in the above formula, and any changes in the scope of the project, as approved.

Formula Definitions and Data Sources

(P) "Low-income population": The population in the county classified by the United States Bureau of the Census as having an average income at or below 125 percent of the poverty level.

Data Source: U.S. 1990 Census Population, Department of Commerce, Bureau of the Census

(C) "Percent change of population": The number of births minus the number of all deaths, plus or minus net migration in the county, divided by the 1990 county population.

Data Source: County and City Data Book, 1990, U.S. Bureau of the Census.

(N) "Need for primary care physicians": The ratio of primary care physicians per 100,000 population in all 236 counties in close proximity to the border, and all 67 counties in the State of Florida, divided by the ratio of primary care physicians to 100,000 population in the county.

Data Source: Area Resource File (ARF) System, U.S. Department of Health and Human Services (year: most recent ARF data available annually)

(I) "Infant mortality rate": The 5-year infant mortality rate for the county, divided by the average of the 5-year infant mortality rate in all 236 counties in close proximity to the border and all 67 counties in the State of Florida.

Data Source: Area Resource File (ARF) System, U.S. Department of Health and Human Services (most recent data available: 1984–1988)

(F) "Factor for each county": A factor for each of the 236 counties in close proximity to the border and each of the 67 counties in the State of Florida is calculated from the formula. The factor will be recalculated each year to reflect more recent data. The calculated factor of each county is aggregated for a multi-county service area.

For the purposes of allocating border area funds, the 236 counties in close proximity (within 300 miles) of the border between the United States and Mexico are located in the four States contiguous to the border: Arizona, California, New Mexico, and Texas. All

67 counties located in the State of Florida are also included.

Additional Information

Interested persons are invited to comment on the proposed funding priorities. The comment period is 30 days. All comments received on or before April 16, 1993, will be considered before the final funding priorities are established. No funds will be allocated or final selections made until a final notice is published stating when the final funding priorities will be applied.

Written comments should be addressed to: Marc L. Rivo, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C–25, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Medicine, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Application Requests

Requests for application materials, questions regarding grants policy and business management issues should be directed to: Ms. Jacquelyn Whitaker (D–39 PB), Grants Management Specialist, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6857, FAX: (301) 443–6343.

Completed applications should be returned to the Grants Management Office at the above address.

If additional programmatic information is needed, please contact: Ms. Cherry Y. Tsutsumida, Chief, AHEC and Special Programs Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C–03, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6950, FAX: (301) 443–8890.

The application deadline date is April 23, 1993.

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or
2. Postmarked on or before the deadline and received in time for submission to the independent review group.

A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing. Late applications not accepted for processing will be returned to the applicant.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget (OMB). The OMB clearance number is 0915–0060.

The program, Grants for Health Education and Training Centers, is listed at 93.189 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: March 11, 1993.

Robert H. Harmon,

Administrator.

[FR Doc. 93–6031 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–15–M

Program Announcement for Centers of Excellence in Minority Health Professions Education for Fiscal Year 1993

The Health Resources and Services Administration (HRSA) announces that applications for fiscal year (FY) 1993 for Grants for Centers of Excellence (COE) in Minority Health Professions Education will be accepted under the authority of section 739 (previously section 782), title VII of the Public Health Service Act (the Act), as amended by the Health Professions Education Extension Amendments of 1992, Public Law 102–408, dated October 13, 1992.

Public Law 102–408 makes the following revisions to this program:

Section 782 has been renumbered as section 739 of the Act.

Schools of osteopathic medicine have been added to the list of schools eligible for support. A grant made for a fiscal year may not be made in an amount that is less than $500,000 for each center. Accompanying legislative language states that this minimum award amount applies to new and continuing centers funded in FY 1993.

The FY 1993 appropriation provides $23.5 million for this program. Of this amount, $12.0 million will be used to continue support to four multi-year Historically Black Colleges and Universities (HBCUs) projects funded in previous years. In addition, a $700,000 continuation commitment has been made to an Other Center of Excellence. It is projected that $10.8 million will be available for Hispanic, Native American and Other COEs ($6.9 million for Hispanic and Native American Centers of Excellence which would support approximately 13 new centers and $3.9 million which would support seven new Other Centers of Excellence).

Previous Funding Experience

Previous funding experience information is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. In fiscal year 1992, a total of 21 new COE projects, averaging $229,548, was awarded.

Purposes

Grants for eligible Historically Black Colleges and Universities (HBCUs), Hispanic, Native American and Other Centers of Excellence may be used by the schools for the following purposes:

1. To establish, strengthen, or expand programs to enhance the academic performance of minority students attending the school;
2. To establish, strengthen, or expand programs to increase the number and quality of minority applicants to the school;
3. To improve the capacity of such school to train, recruit, and retain minority faculty;
4. With respect to minority health issues, to carry out activities to improve the information resources and curricula of the school and clinical education at the school; and
5. To facilitate faculty and student research on health issues particularly affecting minority groups.

Applicants must address the five legislative purposes.

In addition, grants for eligible HBCUs as described in section 799(1)(A) and which have received a contract under section 788B of the Act (Advanced Financial Distress Assistance) for FY 1987 may also be used to develop a plan to achieve institutional improvements, including financial independence, to enable the school to support programs of excellence in health professions education for minority individuals, and to provide improved access to the library and informational resources of the school.

Eligibility

Section 739 authorities the Secretary to make grants to schools of medicine, osteopathic medicine, dentistry and pharmacy for the purpose of assisting the schools in supporting programs of

excellence in health professions education for Black, Hispanic and Native American individuals, as well as for HBCUs as described in section 799(1)(A) and which have received a contract under section 788B of the Act (Advanced Financial Distress Assistance) for FY 1987.

To qualify as a COE, a school is required to:

1. Have a significant number of minority individuals enrolled in the school, including individuals accepted for enrollment in the school;

2. Demonstrate that it has been effective in assisting minority students of the school to complete the program of education and receive the degree involved;

3. Show that it has been effective in recruiting minority individuals to attend the school, including providing scholarships and other financial assistance to such individuals, and encouraging minority students of secondary educational institutions to attend the health professions school; and

4. Demonstrate that it has made significant recruitment efforts to increase the number of minority individuals serving in faculty or administrative positions at the school.

These entities must be located in any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

Other Requirements

For Hispanic Centers of Excellence, the health professions schools must agree to give priority to carrying out the duties with respect to Hispanic individuals.

Regarding Native American Centers of Excellence, the health professions school must agree to:

1. Give priority to carrying out the duties with respect to Native Americans;

2. Establish a linkage with one or more public or nonprofit private institutions of higher education whose enrollment of students has traditionally included a significant number of Native Americans for purposes of identifying potential Native American health professions students of the institution who are interested in a health professions career and facilitating their educational preparation for entry into the health professions school; and

3. Make efforts to recruit Native American students, including those who have participated in the undergraduate program of the linkage school, and assist them in completing the educational requirements for a degree from the health professions school.

With respect to meeting these requirements, a grant for a Native American Center of Excellence may be made not only to a school of medicine, osteopathic medicine, dentistry, or pharmacy that individually meets eligibility conditions but also to such school that has formed a consortium of schools that collectively meet conditions, without regard to whether the schools of the consortium individually meet the conditions. The consortium would be required to consist of the school seeking the grant and one or more schools of medicine, osteopathic medicine, dentistry, pharmacy, nursing, allied health, or public health. The schools of the consortium must have entered into an agreement for the allocation of the grant among the schools. Each of the schools must have agreed to expend the grant in accordance with requirements of this program. Each of the schools of the consortium must be part of the same institution of higher education as the school seeking the grant or be located not farther than 50 miles from the school.

To quality as an Other Minority Health Professions Education Center of Excellence, a health professions school (i.e., a school of medicine, osteopathic medicine, dentistry, or pharmacy) must have an enrollment of underrepresented minorities above the national average for such enrollments of health professions schools.

To receive support, applicants must meet the requirements of the program regulations which are located at 42 CFR part 57, subpart V.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS led national activity for setting priority areas. The Centers of Excellence Program is related to the priority area of Educational and Community-Based Programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Statutory Requirements

Duration of Grants

Payments under grants for Centers of Excellence may not exceed 3 years, subject to annual approval by the Secretary and to the availability of appropriations for the fiscal year involved.

Maintenance of Effort

A health professions school receiving a grant will be required to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the school for the fiscal year preceding the fiscal year for which the school receives such a grant.

Statutory Definitions

Health professions schools mean schools of medicine, osteopathic medicine, dentistry and pharmacy, as defined in section 739(h) and as accredited in section 799(1)(E) of the Act. For purposes of the HBCUs, this definition means those schools described in section 799(1)(A) of the Act and which have received a contract under section 788B of the Act (Advanced Financial Distress Assistance) for fiscal year 1987.

Native Americans means American Indians, Alaskan Natives, Aleuts, and Native Hawaiians.

Program of Excellence means any programs carried out by a health professions school with funding under section 739 Grants for Centers of Excellence in Minority Health Professions Education.

Other Definitions

The following definitions established in fiscal year 1991 after public comment, 56 FR 22440, dated May 15, 1991, are being continued in fiscal year 1993. Osteopathic medicine was added by Public Law 102–408.

"A significant number of minority individuals enrolled in the school" means that to be eligible to apply for a Hispanic COE, a medical, osteopathic medicine, dental school must have at least 25 enrolled Hispanic students. Schools of pharmacy must have at least 20 enrolled Hispanic students. To apply as a Native American COE, an eligible medical or dental school must have at

least eight enrolled Native American students and a school of pharmacy or osteopathic medicine must have at least five enrolled Native American students. To be eligible to apply for an Other Minority Health Professions Education COE, an eligible school must have above the national average of underrepresented minorities (medicine 13%, osteopathic medicine 8%, dentistry 15%, pharmacy 11%) enrolled in the school. These numbers represent the critical mass necessary for a viable program. A viable program is one in which there is a sufficient number of students to warrant a Center of Excellence level educational program. Data from relevant professional associations include sharp differentiation in target group numbers among schools. Stated numerical levels are just above the median for schools reporting a critical mass necessary for a viable program. The requirement that schools applying for Other Minority Health Professions Education Centers have an enrollment of underrepresented students that is above the national average for that discipline is statutory.

"Effectiveness in Providing Financial Assistance" will be evaluated by examining the data on scholarships and other financial aid provided to the targeted group in relation to the scholarships and financial aid provided to the total school population.

"Effectiveness in Recruitment" will be evaluated by examining the first-year and total enrollments of targeted students in relation to the first-year and total enrollments for the entire school.

"Effectiveness in Retaining Students" will be determined by retention rates for targeted group and academic and non-academic support systems operative for the target group of students at the school.

Hispanic means a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish origin.

Minority means an individual whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black, or Hispanic.

Underrepresented Minority means, with respect to a health profession, racial and ethnic populations that are underrepresented in the health profession relative to the number of individuals who are members of the population involved. This definition encompasses Blacks, Hispanics, Native Americans, and, potentially, various subpopulations of Asian individuals. Applicants must evidence that any particular subgroup of Asian individuals is underrepresented in a specific discipline.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The degree to which the applicant can arrange to continue the proposed project beyond the federally-funded project period;
2. The degree to which the proposed project meets the purposes described in the legislation;
3. The relationship of the objectives of the proposed project to the goals of the plan that will be developed.
4. The administrative and managerial ability of the applicant to carry out the project in a cost effective manner;
5. The adequacy of the staff and faculty to carry out the program;
6. The soundness of the budget for assuring effective utilization of grant funds, and the proportion of total program funds which come from non-Federal sources and the degree to which they are projected to increase over the grant period;
7. The number of individuals who can be expected to benefit from the project; and
8. The overall impact the project will have on strengthening the school's capacity to train the targeted minority health professionals and increase the supply of minority health professionals available to serve minority populations in underserved areas.

Application Requests

Application materials will be sent to projects funded in FY 1992 and to those who request them.

Requests for grant application materials and questions regarding grants policy and business management issues should be directed to: Ms. Diane Murray (D–34), Grants Management Specialist, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6857, FAX: (301) 443–6343.

Completed applications should be returned to the Grants Management Office at the above address.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

The application deadline date is April 16, 1993. Applications shall be considered as meeting the deadline if they are either:

(1) *Received* on or before the deadline date, or

(2) *Postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark.

Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to the applicant.

To obtain specific information regarding the aspects of this grant program, direct inquiries to: Mr. Darl Stephens, Chief, Program Coordination Branch, Bureau of Disadvantaged Assistance, Bureau of Health Professions, HRSA, Parklawn Building, Room 8A–09, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–4493; FAX: (301) 443–5242.

This program is listed at 93.157 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12732, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: March 11, 1993.

Robert H. Harmon,

Administrator.

[FR Doc. 93–6029 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

Division of Research Grants; Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of meetings of the Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel.

The meetings will be closed in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications and Small Business Innovation Research Program Applications in the various areas and disciplines related to behavior and neuroscience. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research

Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7534, will furnish summaries of the meetings and rosters of panel members.

Meetings To Review Individual Grant Applications

Scientific Review Administrator: Dr. Jane Hu (301) 496–7550.
Date of Meeting: March 22, 1993.
Place of Meeting: Westwood Bldg., room 309, NIH, Bethesda, MD (Telephone Conference).
Time of Meeting: 1 p.m.

Scientific Review Administrator: Dr. Peggy McCardle (301) 496–7640.
Date of Meeting: April 6, 1993.
Place of Meeting: Westwood Bldg., room 305, NIH, Bethesda, MD (Telephone Conference).
Time of Meeting: 11:30 a.m.

Scientific Review Administrator: Dr. Leonard Jakubczak (301) 496–7251.
Date of Meeting: April 16, 1993.
Place of Meeting: Pooks Hill Marriott, Bethesda, MD.
Time of Meeting: 8:30 a.m.

Scientific Review Administrator: Dr. Leonard Jakubczak (301) 496–7251.
Date of Meeting: April 19, 1993.
Place of Meeting: Westwood Bldg., room 325C, NIH, Bethesda, MD (Telephone Conference).
Time of Meeting: 2 p.m.

Scientific Review Administrator: Dr. Leonard Jakubczak (301) 496–7251.
Date of Meeting: April 20, 1993.
Place of Meeting: Westwood Bldg., room 325C, NIH, Bethesda, MD (Telephone Conference).
Time of Meeting: 2 p.m.

Meetings To Review Small Business Innovation Research Program Applications

Scientific Review Administrator: Dr. Keith Murray (301) 496–7058.
Date of Meeting: March 24–25, 1993.
Place of Meeting: Omni Georgetown Hotel, Washington, DC.
Time of Meeting: 9 a.m.

This notice is being published less than 15 days prior to the meetings due to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 11, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–6169 Filed 3–16–93; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

State Offices of Rural Health Grant Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Office of Rural Health Policy, Health Resources and Services Administration (HRSA), announces that applications are being accepted for matching grants to States for the purpose of improving health care in rural areas through the operation of State Offices of Rural Health. This program is authorized by section 338J of the Public Health Service Act, 42 U.S.C. 254r, as added by Pub. L. 101–597, and awards will be made from funds appropriated under Public Law 102–394 (HHS Appropriations Act for FY 1993). It is anticipated that up to $300,000 will be available to support the first year of new grants under this program, and $2.1 million will be available to support continuation of existing grants.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The State Offices of Rural Health Program is related to the priority areas of Educational and Community-Based Programs as well as Clinical Preventive Services. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–C) or Health People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, (Telephone (202) 783–3238).

DATES: Application deadline for this program is May 30, 1993. Applications must be received by the Grants Management Officer at the address shown below.

Applications shall be considered as meeting the deadline if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for orderly processing. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be acceptable as proof of timely mailing. Late applications will be returned to the sender.

ADDRESSES: Requests for grant application kits and guidance should be directed to: Opal McCarthy, Grants Management Office (GMO), Bureau of Primary Health Care, HRSA, PHS, U.S. Department of Health and Human Services, 12100 Parklawn Drive, Rockville, Maryland 20857, (Telephone (301) 443–5414). The GMO can also provide information on business management issues.

Requests for technical or programmatic information should be directed to Jerry Coopey, Director of Government Affairs, Office of Rural Health Policy, HRSA, PHS, U.S. Department of Health and Human Services, Room 9–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (Telephone (301) 443–0835).

The standard application form and general instructions for completing applications (Form PHS–5161–1, OMB #0937–0189) have been approved by the Office of Management and Budget.

SUPPLEMENTARY INFORMATION:

Program Objectives

The purpose of the program is to improve health care in rural areas by making matching grants to States to support the operation of State Offices of Rural Health.

These federal funds are available to all States whether or not they have previously established an office or "focal point" for rural health.

To receive a Federal grant, each State must agree that its Office of Rural Health will carry out at least the following activities: (1) Establish and maintain a clearinghouse for collecting and disseminating information on rural health care issues, research findings relating to rural health care, and innovative approaches to the delivery of health care in rural areas, (2) coordinate the activities carried out in the State that relate to rural health care, including providing coordination for the purpose of avoiding redundancy in such activities; (3) identify Federal and State programs regarding rural health, and provide technical assistance to public and nonprofit private entities regarding participation in such programs, and (4) submit an annual report regarding its activities. In addition to these required activities, a State Office of Rural Health may use Federal grant funds for activities which support, but do not directly fund, the recruitment and retention of health professionals to serve in rural areas. Consideration will be given to applicants that demonstrate a commitment to this discretionary activity. The Secretary, DHHS, views this as an important program activity which can produce tangible results.

The State (e.g. Department of Health, Governor's Office, State University) can

conduct the required and any discretionary activities directly or through grants or contracts to other public or nonprofit private entities (e.g. Private Universities, Area Health Education Centers, Foundations).

States, however, may not use grant funds to (1) provide health care (2) duplicate activities for which Federal funds are being used under the State primary care association, cooperative agreement and State loan repayment programs, (3) purchase medical equipment, vehicles, or real property, or (4) conduct certificate of need activities. In addition, not more than 10 percent of grant funds may be expended on research.

To encourage States to commit their own resources toward improving rural health care, this program requires a minimum non-Federal match to support the establishment and operation of State Offices of Rural Health. For the first fiscal year of participation, States must match at least $1 for each $3 of Federal funds; $1 for each $1 in the second year; and $3 for each $1 in the third year. In the first year, the State match can be 100 percent in-kind. In the second year at least 50 percent must be in cash, and in the third year solely in cash. Rules regarding in-kind and in cash State contributions are found in 45 CFR, part 92.

To assure that each State Office of Rural Health has the resources to carry out its minimum responsibilities, a State must make sure that the Office has a total budget of not less than $50,000.

Eligible Applicants

The fifty States.

Review Consideration

Grant applications will be evaluated on the basis of the following criteria:

(1) The extent to which the application is responsive to the requirements and purposes of the program.

(2) The extent to which the applicant has developed measurable goals, objectives, and an evaluation plan for the required, and any discretionary, activities

(3) The extent to which the Office is coordinated with, and has the cooperation of, other health entities and activities within the State.

(4) The strength of the applicant's plans for administrative and financial management of the Office.

(5) The reasonableness of the budget proposed for the Office.

(6) The likelihood that the Office will be continued after Federal grant support is completed.

Other Award Information

A total of up to $2.4 million will be available to support this grant program in this, its third year. Approximately $2.1 million will fund 42 continuation grants in their second and third years, and up to $300,000 will be available to fund the first year of new grants. Although difficult to predict, it is expected that approximately 8 grants will be awarded to first year projects. Grant applications should be submitted for a three-year project period. While support for additional years is contingent upon satisfactory performance and the availability of funds for this program, States should be aware that continued participation will require an increase in their contribution. Only one grant application will be accepted from each State and it must indicate approval by the Governor.

Executive Order 12372

The State Office of Rural Health Grant Program has been determined to be a program which is subject to the provisions of Executive Order 12372 concerning intra-governmental review of Federal programs, as implemented by 45 CFR part 100. Executive Order 12372 sets up a system for State and local government review of proposed Federal assistance applications. A current list of SPOCs, including their names, addresses, and telephone numbers is included in the application kit. Applicants (other than federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. All SPOC recommendations should be submitted to Opal McCarthy, Grants Management Office, Bureau of Primary Health Care, 12100 Parklawn Drive, Rockville, Maryland 20857, (301) 443–5414. The due date for State process recommendations is 60 days after the application deadline date for new and existing awards. The granting agency does not guarantee to "accommodate or explain" for State process recommendations it receives after that date. (See Part 148, Intergovernmental Review of PHS Programs under Executive Order 12372 and 45 CFR part 100 for a description of the review process and requirements.)

The OMB Catalog of Federal Domestic Assistance number is 93.913.

Dated: March 12, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–6087 Filed 3–16–93; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Meeting of Exxon Valdez Oil Spill Public Advisory Group

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior is announcing a public meeting of the Exxon Valdez Oil Spill Public Advisory Group to be held on April 16, 1993, at 10 a.m., in the first floor conference room, 645 "G" Street, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Affairs, 1689 "C" Street, suite 119, Anchorage, Alaska, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Group was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska*, Civil Action No. A91–081 CV. This meeting will include:

(1) A review of restoration plan alternatives and the status of the comprehensive plan;

(2) A review of the status of habitat protection activities; and

(3) A review of the proposed 1994 work plan.

Dated: March 12, 1993.

Jonathan P. Deason,

Director, Office of Environmental Affairs.

[FR Doc. 93–6139 Filed 3–16–93; 8:45 am]

BILLING CODE 4310–RG–M

Bureau of Land Management

[CA–060–02–4410–08]

Amendment to Notice of Availability of Proposed South Coast Resource Management Plan and Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: To amend a notice of availability which gave an incorrect address for submission of protest letters.

SUMMARY: An incorrect address for submission of protest letters was published in the notice of availability for the South Coast Proposed Resource Management Plan and Final Environmental Impact Statement (ES control #93–5), published in the **Federal Register** on March 3, 1993 (58 FR 12249). Written protests are to be submitted to the Director and not to the District Manager as stated in the original notice. Any protests that have been sent to the District Manager will automatically be forwarded to the Director.

DATES: All protests must be postmarked no later than April 5, 1993.

ADDRESSES: Written protests should be mailed to: Director (760), Bureau of Land Management, 1800 C Street, NW. Washington, 20240.

FOR FURTHER INFORMATION CONTACT: David McIlnay, Acting Area Manager, 63–500 Garnet Ave., P.O. Box 2000, Palm Springs—South Coast Resource Area; phone (619) 251–0812.

Dated: March 11, 1993.

David McIlnay,

Acting Area Manager, Palm Springs—South Coast Resource Area.

[FR Doc. 93–6165 Filed 3–16–93; 8:45 am]

BILLING CODE 4310–40–M

[AK–967–4230–15; AA–6978–A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(b), will be issued to Kootznoowoo Incorporated for approximately 40 acres. The lands involved are within the Tongass National Forest, Alaska.

T. 78 S., R. 88 E., Copper River Meridian, Alaska

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the JUNEAU EMPIRE. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 (907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until April 16, 1993, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of KCS Adjudication.

[FR Doc. 93–6014 Filed 3–16–93; 8:45 am]

BILLING CODE 4310–JA–M

[ES–020–03–4110–05]

Notice of Availability of a Draft Environmental Impact Statement (DEIS) on a Proposed Exploratory Well, Broward County, FL

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of a Draft Environmental Impact Statement (DEIS) on a proposed exploratory well in Broward County, Florida.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, a DEIS has been prepared under the direction of the Bureau of Land Management (BLM), Jackson District and the Bureau of Indian Affairs (BIA), Eastern Area Office analyzing a proposed exploratory well on the Federal Miccosukee Indian Reservation in Broward County, Florida. The DEIS was prepared by the consulting firm of Dames & Moore of Boca Raton, Florida. A copy of the DEIS or summary is available upon request to the BLM, Jackson District Office. Public reading copies are available at the following locations:

Bureau of Land Management, Office of Public Affairs, Main Interior Building, room 5600, 18th & C Streets, NW., Washington, DC 20240.

Bureau of Land Management, 5411 Briarwood Drive, suite 404, Jackson, Mississippi 39206.

Bureau of Indian Affairs, 3701 N. Fairfax Drive, suite 260, Arlington, Virginia 22203.

Broward County Public Library, Government Documents Division, 100 South Andrews Avenue,Ft. Lauderdale, Florida 33301.

Leon County Library, 200 West Park Avenue, Tallahassee, Florida 32301.

Palm Beach County Library, 3650 West Summit Blvd., West Palm Beach, Florida 33406.

State Library of Florida, Document Section, R.A. Gray Building, Tallahassee, Florida 32399.

DATES: Written commens will be accepted until May 18, 1993. Oral and/or written comments may also be presented at a public hearing to be held on April 14, 1993 beginning at 6 p.m. at the Greater Fort Lauderdale-Broward County Convention Center, 1950 Eisenhower Blvd., Fort Launderdale, Florida. Representatives of BLM, BIA and Dames & Moore will be available on an informal basis from 2 to 4:30 p.m. to discuss the proposal with interested individuals.

ADDRESSES: Requests for a copy of the DEIS or summary and/or written comments on the document should be sent to the District Manager, Bureau of Land Management, 411 Briarwood Drive, suite 404, Jackson, Mississippi 39206; ATTN: Robert V. Abbey.

FOR FURTHER INFORMATION CONTACT: Robert V. Abbey (BLM) (601) 977–5400 or Jim Harriman (BIA) (703) 235–3177.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

On January 17, 1991, Shell Western E&P Inc. submitted an "Application for Permit to Drill" for an exploratory well to the BLM. The proposed well is on the Miccosukee Indian Reservation in Broward County, Florida. The well is identified as the SWEPI Miccosukee 3–1 and is designed to test oil and gas potential. The site is located directly north of Interstate 75 and west of the L–28 Canal adjacent to Water Conservation Area 3A.

2. Alternatives

The DEIS analyzes potential impacts associated with drilling and testing of the exploration well. The analysis considers several alternate drill sites and road routes. Technological and environmental constraints limit the reasonable alternatives to the proposed well site and access route, two alternative access road routes and the No Action Alternative. The agencies preferred alternative is the Proposed Action with recommended mitigation measures.

3. Public Participation

The public was invited on March 22, 1991 to identify issues and concerns specifically related to the proposed drilling. This public comment period ended on May 3, 1991. A public meeting was held January 23, 1992 at the Fort Launderdale Airport Hilton, 1870 Griffin Road, Dania, Florida. The meeting was held to accept oral and written comments concerning the proposal. This comment period ended on Febuary 14, 1992. A Notice of Intent to prepare an Environmental Impact Statement was announced on April 16,

1992 and an additional comment period was opened until May 18, 1992.

Dated: March 8, 1993.

Robert V. Abbey,

Jackson District Manager, BLM.

[FR Doc. 93-6016 Filed 3-16-93; 8:45 am]

BILLING CODE 4310-GJ-M

[NM-030-03-3130-10; NMNM 82703]

Issuance of Exchange Conveyance Documents and Order Providing for Opening of Public Land in Catron County; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 15,447.73 acres of public land out of Federal ownership. This action will also open 12,292.93 acres of reconveyed land to the operation of the public land laws.

FOR FURTHER INFORMATION CONTACT: Harlen Smith, Socorro Resource Area Manager, 198 Neal Ave., Socorro, New Mexico 87801.

SUPPLEMENTAL INFORMATION: The United States issued exchange conveyance documents to the persons listed below on March 13, 1992, for the following described land in Socorro, Catron, and Sierra Counties, New Mexico, pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716). Both surface and mineral estates were conveyed to Eunice Dean Nunn, Wilma H. and Truman V. Hatley, and Billy Frank Shivers; surface estate only was conveyed in the remaining land:

New Mexico Principal Meridian

T. 7 S., R. 3 W.,
Sec. 31, lot 3, NE¼SW¼, and N½SE¼.
T. 7 S., R. 4 W.,
Sec. 9 lot 1;
Sec. 13 lots 1 and 4, inclusive, 6, 7, W½NE¼, and E½W½;
Sec. 14, lots 1 to 4, inclusive;
Sec. 21, lot 1;
Sec. 22, lot 1;
Sec. 23, NE¼;
Sec. 27, lots 1 to 5, inclusive;
Sec. 28, lots 1 to 4, inclusive;
Sec. 33, lots 1 to 4, inclusive;
Sec. 34, lots 1, 2, 3, W½NE¼, SE¼NE¼, and E½NW¼;
Sec. 35, lot 1, N½NE¼, and NE¼NW¼;
Sec. 36, lots 1 to 4, inclusive.
T. 8 S., R. 4 W.,
Sec. 9, NE¼SE¼;
Sec. 26, SE¼.

Containing 1,541.94 acres conveyed to Eunice Dean Nunn.

T. 8 S., R. 4 W.,
Sec. 35, S½S½SE¼.
T. 9 S., R. 4 W.,
Sec. 1, lots 2, 3, 4, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Sec. 3, S½NE¼;
Sec. 4, lot 1 and N½NE¼SW¼;
Sec. 11, N½SW¼NE¼ and SE¼NE¼.

Containing 718.56 acres conveyed to Wilma H. and Truman V. Hatley.

T. 3S., R. 9 W.,
Sec. 26, S½;
Sec. 27, S½;
Sec. 28, S½;
Sec. 29, S½;
Sec. 30, lots 3, 4, E½SW¼, and SE¼.

Containing 1,502.61 acres conveyed to Marvin Ake.

T. 2 S., R. 4 W.,
Sec. 21, lots 3, 4, 5, SW¼NE¼, and W½NW¼.

Containing 217.10 acres conveyed to James Neal Gregg.

T. 3 N., R. 11 W.,
Sec. 12.

Containing 640.00 acres conveyed to Carole Newberry Roberson.

T. 2 S., R. 5 W.,
Sec. 26, lot 1.

Containing 4.01 acres conveyed to T3 Ranch, Inc. (NSL).

T. 8 S., R. 10 W.,
Sec. 1, lots 1, 2, 3, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 12, S½.
T. 9 S., R. 10 W.,
Sec. 4, N½, W½SW¼, and SE¼SW¼.
T. 9 S., R. 11 W.,
Sec. 14, NE¼NW¼.
T. 8 S., R. 12 W.
Sec. 21, E½NE⅛ and SE¼SE¼.

Containing 1,399.87 acres conveyed to Mary O'Boyle English.

T. 4S., R. 6 W.,
Sec. 5, lot 3, NE¼NW¼, S½NW¼, and SW¼;
Sec. 6, lots 1, 2, S½NE¼, and SE¼.
T. 3 S., R. 12 W.,
Sec. 34, SW¼NW¼;
Sec. 35, E½SE¼.

Containing 761.04 acres conveyed to Elliott Gonzales McMaster.

T. 7S., R. 8 W.,
Sec. 27;
Sec. 33, W½W½;
Sec. 34, E½W½;
Sec. 35, S½NW¼ and S½.
T. 8 S., R. 8 W.,
Sec. 5, E½SE¼ and SW¼;
Sec. 8, W½SE¼ and SE¼SE¼.
T. 8 S., R. 9 W.,
Sec. 1, lot 4, SW¼NW¼, and SW¼.

Containing 1,960.35 acres conveyed to Clay Wesley Henderson.

T. 3 N., R. 17 W.,
Sec. 17, S½, S½.

Containing 160.00 acres conveyed to Viola L. Orona.

T. 2 N., R. 12 W.,
Sec. 18, lots 2, 3, 4, SE¼NW¼, and NE¼SW¼.
T. 2 N., R. 13 W.,
Sec. 24, N½NE¼, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼.

Containing 526.03 acres conveyed to Vera L. and Marvin J. Davis.

T. 7 S., R. 8 W.,
Sec. 30, lot 4, SE¼SW¼, and S½SE¼.
T. 7 S., R. 9 W.,
Sec. 15, N½N½;
Sec. 17, S½;
Sec. 25, N½N½, NW¼SW¼, E½SW¼, and SE¼.

Containing 1,077.37 acres conveyed to William Rowland Edwards, Jr.

T. 1 N., R. 16 W.,
Sec. 22, W½NW¼;
Sec. 34, E½SE¼.
T. 2 S., R. 18 W.,
Sec. 3, lots 1, 2, S½NE¼, and SE¼;
Sec. 9, SE¼;
Sec. 10, NE¼ and S½.

Containing 1,120.76 acres conveyed to James Oliver Williams.

T. 3 S., R. 8 W.,
Sec. 7, lots 1, 2, 3, N½NE¼, E½NW¼, and NE¼SW¼.
T. 3 S., R. 9 W.,
Sec. 11;
Sec. 12, N½, and N½S½;
Sec. 28, N½;
Sec. 29, N½;
Sec. 30, lots 1, 2, NE¼, and E½NW¼.
T. 3 S., R. 10 W.,
Sec. 25, NE¼.

Containing 2,558.98 acres conveyed to John T. Hand.

T. 2 N., R. 15 W.,
Sec. 9, S½.

Containing 320.00 acres conveyed to Phyllis and James Edward Carroll.

T. 8 S., R. 4 W.,
Sec. 35, NE¼, N½SE¼, and N½S½SE¼.

Containing 280.00 acres conveyed to Billy Frank Shivers.

T. 1 N., R. 3 W.,
Sec. 26, SW¼SW¼;
Sec. 35, NW¼.

Containing 200.00 acres conveyed to Patsy K. and Ed Ross Ligon.

T. 10. S., R. 4 W.,
Sec. 1, lots 2, 3, 4, SW½NE¼, S½NW¼, and NW¼SE¼.

Containing 359.11 acres conveyed to Velma Inez Kleitz, Philip Rex Kleitz, and Beryl Lamar Kleitz.

In exchange for the above-described land, Shepard and Associates, Public Land Exchange, conveyed to the United State the surface and mineral estate in the SW¼SE¼, Sec. 11, T. 8 S., R. 15 W., NMPM, Catron County, and the surface estate only in the following land located within Catron County, New Mexico:

New Mexico Principal Meridian

T. 7 S., R. 13 W.,
Sec. 32;
Sec. 34, S½;
Sec. 36.
T. 8 S., R. 13 W.,
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 3, 4, S½NW¼, and SW¼;
Sec. 4, lots 1, 2, S½NE¼, and SE¼;
Sec. 5, S½, S½NE¼, and SE¼NW¼;
Sec. 8, lots 2 to 6, inclusive;
Sec. 9, N½;

Sec. 16, NE¼NE¼, E½NW¼NE¼, W½NE¼NW¼, NW¼NW¼, S½N½, and S½;
Sec. 19, NE¼SE¼, and S½SE¼;
Sec. 20, E½NE¼, SW¼NE¼, and S½;
Sec. 21;
Sec. 28;
Sec. 29, lots 1 to 16, inclusive;
Sec. 30, lots 5 to 20, inclusive E½W½, and E½;
Sec. 31, lots 1 to 4, inclusive, NE¼, and E½W½;
Sec. 32, NE¼, E½NW¼, SW¼NW¼, and S½;
Sec. 33.
T. 7 S., R. 14 W.,
Sec. 36.
T. 8 S., R. 14 W.,
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, NE¼SW¼;
Sec. 12;
Sec. 13, N½ and N½S½;
Sec. 14, N½ and N½S½.
Containing 12,292.93 acres.

The purpose of this exchange was to acquire non-Federal land which has high public values for wilderness, recreation, scenic, wildlife habitat and geologic resources. The land was acquired in support of the Pelona Mountain Special Management Area, the Continental Divide National Scenic Trail and the Continental Divide Wilderness Study Area. The public interest was served through completion of this exchange.

The values of the Federal public land and the non-Federal land in the exchange were appraised at $681,400 and $625,000, respectively. An equalization payment in the amount of $56,400 was paid to the United States.

At 9 a.m. on April 16, 1993, the land reconveyed to the United States shall be open to the operation of the public land laws, generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All applications received at or prior to 9 a.m. on April 16, 1993, shall be considered as simultaneously filed at the time. Those received thereafter shall be considered in the order of filing.

Dated: March 5, 1993.

Monte G. Jordan,

State Director.

[FR Doc. 93–6018 Filed 3–16–93; 8:45 am]

BILLING CODE 4310–FB–M

[AZ–920–03–4212–13; AZA 22643]

Arizona, Exchange of Public and Private Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of exchange documents.

SUMMARY: Notice is hereby given of the completion of an exchange between the United States and Jeffrey Menges. The United States transferred 125.49 acres and Mr. Menges transferred 160.00 acres, all in Greenlee County, Arizona.

FOR FURTHER INFORMATION CONTACT: Evelyn Stob, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 640–5534.

SUPPLEMENTARY INFORMATION: On December 3, 1992, the Bureau of Land Management transferred the following described lands, containing 125.49 acres, to Mr. Menges pursuant to section 206 of the Federal Land Policy and Management Act, 1976:

Gila and Salt River Meridian, Arizona

T. 5 S., R. 29 E.,
Sec. 36, lots 7 to 8, inclusive.
T. 5 S., R. 30 E.,
Sec. 31, lots 3, 10 and 12.
Containing 125.49 acres.

In exchange, Mr. Menges conveyed the following described lands, containing 548.64 acres, to the United States by General Warranty Deed:

Gila and Salt River Meridian, Arizona

T. 5 S., R. 29 E.,
Sec. 33, S½S½

The total value of the Federal land was $18,800; the value of the private land was $14,400. Mr. Menges paid an equalization payment of $4,400 to the United States.

The lands received in this exchange have become public land. They will not be available for location under the mining laws of application for sale, entry or mineral leasing until such availability is published in the **Federal Register**.

Mary Jo Yoas,

Chief, Branch of Lands Operations.

[FR Doc. 93–6017 Filed 3–16–93; 8:45 am]

BILLING CODE 4310–32–M

[WY–010–4331–08]

Notice of Intent to Conduct a Planning Review of the Cody Resource Management Plan (RMP) and Request for Public Participation, Concerning an Important Dinosaur Discovery in Big Horn County, WY

SUMMARY: The Bureau of Land Management (BLM), Cody Resource Area, invites the public to identify concerns to be addressed in a review of the Cody RMP and the management implications, needs, and issues associated with the discovery of an *Allosaurus* skeleton in Big Horn County, Wyoming.

FOR FURTHER INFORMATION CONTACT: Interested parties may obtain further information by contacting Tom Hare or Jim Chase, Planning Review Team Leaders, at the Cody Resource Area Office, Bureau of Land Management, P.O. Box 518, 1002 Blackburn Avenue, Cody, Wyoming 82414, telephone (307) 587–2216.

To be placed on the Worland BLM District mailing list, contact Margy Tidemann, Worland District Office, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401, telephone (307) 347–9871.

SUPPLEMENTARY INFORMATION: A review of the Cody RMP is being conducted to evaluate the management implications, needs, and issues associated with the discovery of an *Allosaurus* skeleton on BLM administered public lands in the Cody Resource Area. The discovery was made approximately one year after the approval of the Cody RMP and a review of the RMP is needed to evaluate the adequacy of existing management prescriptions for the protection of paleontological resources and related values in the discovery area. The planning review is to also identify the need for any changes in existing management or any additional management actions to be prescribed for the area. Management options to be considered in the review area include possible designation of the area as an Area of Critical Environmental Concern (ACEC), and possible closure of the area to the staking of mining claims and mining activity. The planning review will include opportunities for public participation. If necessary, the Cody RMP will be amended.

About 5,500 acres of BLM-administered public lands, around and including the *Allosaurus* discovery site, in Big Horn County, Wyoming, will be the focus of the planning review.

The National Environmental Policy Act (NEPA) environmental analysis process will be used in developing a multiple-use management prescription for the discovery area and in making other management decisions for the area (for example, closure to mineral location, ACEC designation, the need to amend the Cody RMP).

The date, the following planning issues have been identified: (1) The need to protect important paleontological resources from being damaged by potential surface-disturbing activities in the area of the dinosaur discovery, including possible mining claim and mining-related activities; (2) the need to protect important paleontological resources from unauthorized collection in the area; (3)

the need to consider special management needs and a possible ACEC designation in the area; and (4) management of the area for research, public education, recreation, and other land uses. The public, including other Federal Agencies and State and local Government, is invited to identify other issues and management opportunities that should be addressed in the planning review and to comment on those identified by the BLM staff. The BLM will not conduct any inventory specifically for the purposes of the planning review. Existing, available resource information and data, including ongoing paleontological research by major universities, will be relied upon for the review. However, the BLM is requesting from the public any available resource data and information that may be used to further define issues, update the resource data base or to identify resource data needs, help define land use and resource management options and alternatives for the area, and to analyze the environmental consequences of management options and alternatives.

Public participation activities will be initiated with two open houses. The first will be held Thursday, April 1, 1993, from 1 p.m. to 8 p.m., at the BLM Cody Resource Area office, 1002 Blackburn Avenue, Cody, Wyoming. The second will be held on Friday, April 2, 1993, from 2 p.m. to 8 p.m., at the Greybull Museum, 325 Greybull Avenue, Greybull, Wyoming. Notice of additional public participation activities to be conducted during the planning review process, will be provided through news releases and mailings to individuals, interest groups, and agencies that are included on the Worland BLM District mailing list.

If the planning review results in the need to amend the Cody RMP, other public participation requirements will include a public review, comment and protest period on the NEPA analysis documentation of the review and any proposed amendments to the Cody RMP. These activities will also be announced through the news media and mailings.

Dated: March 8, 1993.

Ray Brubaker,

State Director, Wyoming.

[FR Doc. 93–6080 Filed 3–16–93; 8:45 am]

BILLING CODE 4310–22–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–643 (Preliminary)]

Defrost Timers From Japan; Import Investigation

Determination

On the basis of the record[1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of defrost timers for residential refrigerators, provided for in subheading 9107.00.40 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On January 19, 1993, a petition was filed with the Commission and the Department of Commerce by Paragon Electric Co., Inc., Two Rivers, WI, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of defrost timers for residential refrigerators from Japan. Accordingly, effective January 19, 1993, the Commission instituted antidumping investigation No. 731–TA–643 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 27, 1993 (58 FR 6296). The conference was held in Washington, DC, on February 9, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on March 5, 1993. The views of the Commission are contained in USITC Publication 2609 (March 1993), entitled "Defrost Timers from Japan: Determination of the Commission in Investigation No. 731–TA–643 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

By order of the Commission.

Issued: March 8, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–6117 Filed 3–16–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 701–TA–314 through 317 (Final) and Investigations Nos. 731–TA–552 through 555 (Final)]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From Brazil, France, Germany, and the United Kingdom; Import Investigation

Determinations

On the basis of the record[1] developed in the subject investigations, the Commission unanimously determines, pursuant to section 705(b) of the Tariff Act of 1930 (the Act) (19 U.S.C. 1671d(b)), that an industry in the United States is materially injured by reason of imports from Brazil, France, Germany, and the United Kingdom of certain hot-rolled lead and bismuth carbon steel products, provided for in subheadings 7213.20.00, 7213.31.30, 7213.31.60, 7213.39.00, 7214.30.00, 7214.40.00, 7214.50.00, 7214.60.00 and 7228.30.80 of the Harmonized Tariff Schedule of the United States (HTS),[2] that have been found by the Department of Commerce to be subsidized by the Governments of those countries.

The Commission also unanimously determines, pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured by reason of imports from Brazil, France, Germany, and the United Kingdom of certain hot-rolled lead and bismuth carbon steel products, provided for in subheadings 7213.20.00, 7213.31.30, 7213.31.60, 7213.39.00, 7214.30.00, 7214.40.00, 7214.50.00 7214.60.00 and 7228.30.80 of the HTS, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] For purposes of these investigations, the subject hot-rolled lead and bismuth carbon steel products are hot-rolled products of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of these investigations are other alloy steels, except steels classified as such by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, selenium, or tellurium. Also excluded are semifinished steels and flat-rolled carbon steel products.

Background

The Commission instituted these investigations effective November 2, 1992, and November 13, 1992, following preliminary determinations by the Department of Commerce that imports of certain hot-rolled lead and bismuth carbon steel products from Brazil, France, Germany, and the United Kingdom were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673(b)). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the **Federal Register** of November 19, 1992 (57 FR 54607) and December 9, 1992 (57 FR 58220). The hearing was held in Washington, DC, on February 2, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on March 10, 1993. The views of the Commission are contained in USITC Publication 2611 (March 1993), entitled "Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from Brazil, France, Germany, and the United Kingdom: Determinations of the Commission in Investigations Nos. 701–TA–314 through 317 (Final) and 731–TA–552 through 555 (Final) Under the tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.

Issued: March 11, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–6118 Filed 3–16–93; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32253]

The Belt Railway Co. of Chicago (Trackage Rights Exemption); Norfolk and Western Railway Co.

Norfolk and Western Railway Company has agreed to grant trackage rights to the Belt Railway Company of Chicago (BRC) between Belt Junction and WI Junction, in Chicago IL, a total distance of approximately 1 mile. BRC will use the trackage rights as a bridge route, and for the local interchange of cars in Chicago, IL. The trackage rights became effective March 10, 1993.[1]

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Woodrow M. Cunningham, The Belt Railway Company of Chicago, 6900 South Central Avenue, Chicago, IL 60638.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: March 12, 1993.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–6110 Filed 3–16–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32262]

Exemption; Gregory B. Cundiff—Continuance in Control Exemption—Rio Valley Railroad, Inc.

Gregory B. Cundiff has filed a notice of exemption to continue in control of Rio Valley Railroad, Inc. (Rio Valley) upon its becoming a carrier. Rio Valley, a noncarrier, has concurrently filed a notice of exemption in Finance Docket No. 32261, Rio Valley Railroad, Inc.—Lease and Operation Exemption—Missouri Pacific Railroad Company, to lease and operate 49.12 miles of line owned by Missouri Pacific Railroad Company (MP) in the State of Texas.[1] Rio Valley expected that transaction to be consummated on or after March 4, 1993.

Mr. Cundiff currently controls two class III rail carriers: (1) Railroad Switching Service of Missouri, Inc., which operates approximately 4 miles of line in the St. Louis, MO, switching district; and (2) Texas Railroad Switching, Inc., which operates 55 miles of line between Gardendale and Carrizo Springs, TX. He states that: (1) The properties operated by these railroads do not connect with the properties being acquired by Rio Valley; (2) the continuance in control is not a part of a series of anticipated transactions that would connect the three railroads with each other or any other railroad in their corporate family; and (3) the transaction does not involve a class I carrier. The transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees adversely affected by the transaction will be protected by the conditions set forth in New York Dock. Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Thomas F. McFarland, Jr., Belnap, Spencer, McFarland & Herman, 20 North Wacker Drive, suite 3118, Chicago, IL 60606–3101.

Decided: March 12, 1993.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–6108 Filed 3–16–93; 8:45 am]

BILLING CODE 7035–01–M

[1] To qualify for an exemption under 49 CFR 1180.2(d), a railroad must file a verified notice of the transaction with the Commission at least a week before the transaction is consummated. See 49 CFR 1180.4(g). In this proceeding, the parties filed their verified notice of exemption on March 3, 1993, and stated that the transaction had been consummated on February 24, 1993. However, counsel for the parties has clarified that February 24, 1993, was the date the parties executed their agreement, not the consummation date. According to counsel, the parties did not consummate the transaction prior to the effective date.

[1] The MP segments to be leased by Rio Valley include: (1) The Mission Industrial Lead track extending 41 miles between milepost 1.0, near Harlingen, and milepost 42.0, near Mission, and (2) the Hidalgo Industrial Lead track extending 8.12 miles between milepost 0.0, near Mission, and milepost 8.12, near Hidalgo.

[Finance Docket No. 32247]

Fox River Valley Railroad Corp. (Trackage Rights Exemption); Chicago and North Western Transportation Co.

Chicago and North Western Transportation Company (C&NW) has agreed to grant overhead trackage rights to Fox River Valley Railroad Corporation (FRVR) over a 1.7-mile rail line between milepost 4.00 at Duck Creek, WI, and milepost 5.70 at Howard, WI. FRVR will use these trackage rights to reach the outer limits of the Industrial Park, at Howard, WI,[1] to serve the

[1] FRVR has access to the Industrial Park by virtue of its status as successor in interest to a

[illegible]

interests of its customer, GenCorp, located at the Village of Howard Industrial Park, in Howard, WI. The trackage rights became effective February 11, 1993.[2]

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Charles A. Spitulnik and Alicia M. Serfaty, Hopkins & Sutter, 888 Sixteenth Street, NW., suite 700, Washington, DC 20006.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: February 19, 1993.

Note: This notice of exemption is corrected to reflect the correct dates in footnote 2 from January 4, 1993 to February 4, 1993, and December 18, 1993 to December 18, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–6107 Filed 3–16–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32261]

Rio Valley Railroad, Inc. (Lease and Operation Exemption); Missouri Pacific Railroad Co.

Rio Valley Railroad, Inc. (Rio Valley), a noncarrier, has filed a notice of exemption to lease and operate 49.12 miles of line owned by Missouri Pacific Railroad Company (MP) in Cameron and Hidalgo Counties, TX.[1] The involved MP segments include: (1) The Mission Industrial Lead track extending 41 miles between milepost 1.0, near Harlingen, and milepost 42.0, near Mission; and (2) the Hidalgo Industrial Lead track extending 8.12 miles between milepost 0.0, near Mission, and milepost 8.12, near Hidalgo.[2] Rio Valley will become a class III rail carrier. The parties expected to consummate the proposed transaction on or after March 4, 1993, the effective date.

Any comments must be filed with the Commission and served on: Thomas F. McFarland, Jr., Belnap, Spencer, McFarland & Herman, 20 North Wacker Drive, suite 3118.

This notice is filed under 49 CFR 1150.31. If the notice of exemption contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 12, 1993.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–6109 Filed 3–16–93; 8:45 am]

BILLING CODE 7035–01–M

Construction Agreement between CANW and the Escanaba & Lake Superior Railroad dated November 27, 1985, which provided for joint access to the Industrial Park.

[2] To qualify for an exemption under 49 CFR 1180.2(d), a railroad must file a verified notice of the transaction with the Commission at least a week before the transaction is consummated. See 49 CFR 1180.4(g). In this proceeding, the parties filed their verified notice of exemption on February 4, 1993, and stated that the transaction had been consummated on December 18, 1992. However, counsel for the parties has clarified that December 18, 1992, was the date the parties executed their agreement, not the consummation date. According to counsel, the parties did not consummate the transaction prior to the effective date.

[1] This proceeding is related to Finance Docket No. 32262, in which Gregory B. Cundiff has concurrently filed a notice of exemption to continue in control of Rio Valley when it becomes a carrier upon consummation of the transaction described in this notice.

[2] The line to be leased by Rio Valley connects with the line of Border Pacific Railroad Company (Border Pacific), at Mission, TX. The existing interchange agreement between Border Pacific and MP will be assigned to Rio Valley.

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Order Modification Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent order modification in *United States* v. *New Boston Coke Corporation*, Civil Action No. C–1–84–1427 was lodged on March 9, 1993, with the United States District Court for the Southern District of Ohio. Defendant New Boston Coke Corporation owns and operates a coke battery located in New Boston, Ohio. The proposed consent order modification requires the defendant to bring this facility into compliance with the benzene National Emissions Standards for Hazardous Air Pollutants. The consent order modification also modifies the injunctive measures and deadlines in a 1986 consent order that required defendant to bring the facility into compliance with the federally-enforceable Ohio State Implementation Plan (Ohio SIP). The defendant shall also pay a civil penalty of $250,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *New Boston Coke Corporation*, D.J. reference #90–5–2–1–710A.

The proposed consent decree may be examined at the office of the United States Attorney for the Southern District of Ohio, 220 U.S. Post Office/Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202; the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois; and at the Environmental Enforcement Section Document Center, 1120 G Street NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $8.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Myles E. Flint,

Acting Assistant Attorney General, Environmental and Natural Resources Division.

[FR Doc. 93–6009 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *City of Niagara Falls*, Civil Action No. Civ–81–363C, was lodged on March 8, 1993 with the United States District Court for the Western District of New York. The proposed Consent Decree concerns the City of Niagara Fall's failure to comply with a prior Consent Decree addressing the City's noncompliance with its National Pollutant Discharge Elimination System permit and other requirements of the Clean Water Act, 33 U.S.C. 1251 *et seq.*, at its publicly owned treatment works (POTW).

Under the terms of the Consent Decree, the City of Niagara Falls is required to covey all existing flows during dry weather in the Falls Street Tunnel portion of its POTW to the Wastewater Treatment Plant (WWTP) for treatment prior to discharge to the

Niagara River, and to certify that its discharge does not exceed residual chlorine and fecal coliform limitations contained in its National Pollutant Discharge Elimination System permit. As part of the Consent Decree the City and intervenor Industrial Liaison Committee of the Niagara Falls Area Chamber of Commerce have agreed to accept and not challenge a proposed new permit for the City's WWTP.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Niagara Falls,* D.J. reference 90–5–1–1–1342.

The proposed Consent Decree may be examined at the office of the United States Attorney, Western District of New York, 502 United States Courthouse, 68 Court Street, Buffalo, New York 14202: at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and at the Consent Decree Library, 1120 G Street, NW., Washington, DC 20005, (202) 624–0982. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $4.75 (25 per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–6008 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to CERCLA

Notice is hereby given that a proposed consent decree in *United States* v. *U.T. Alexander et al.,* Civil Action No. G–86–267, was lodged on March 1, 1993 with the United States District Court for the Southern District of Texas.

This enforcement action was filed under Sections 106 and 107 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9606 and 9607, on July 18, 1986, against twenty four generators and transporters in the Texas City, Texas area. The complaint seeks injunctive relief and reimbursement of costs incurred by the United States in responding to the release or threat of release of a hazardous substance from the Motco (formerly Petro Processors) site in Lamarque, Texas. This final consent decree requires the six defendants, including Amoco Chemical Company, Amoco Production Company, Marathon Oil Company, Monsanto Company, Quantum Chemical Corporation and Texas City Refining, Inc., to pay the United States past and future response costs for the remediation of the MOTCO Site after August 31, 1991 and implement the remedy set forth in the two Records of Decision.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *U.T. Alexander, et al.,* DOJ Ref. # 90–11–3–74.

The proposed consent decree may be examined at the Office of the United States Attorney, Southern District of Texas 515 Rusk Avenue, Third Floor, Houston, Texas 77002; the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202–2733; and at the Consent Decree Library, 1120 G Street, NW. 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $25.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Myles E. Flint,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–6006 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—Advanced Display Manufacturers of America

Notice is hereby given that, on December 29, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Advanced Display Manufacturers of America ("ADMA") has filed written notifications on behalf of ADMA and American Display Consortium simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Electro-Plasma Inc., Milbury, OH; Magnascreen, Pittsburgh, PA; OIS Optical Imaging Systems, Troy, MI; Photomus Imaging, Northwood, OH; Planar Systems, Inc., Beaverton, OR; Plasmaco, Inc., Highland, NY; Standish Industries, Inc., Lake Mills, WI; and Tektronix Incorporated, Beaverton, OR. All aforementioned companies entered into an agreement dated September 8, 1992, to engage in cooperative research to develop technology applicable to the design, production, testing and manufacture of advanced displays.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–6007 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—Low Emission Paint Research and Development Partnership

Notice is hereby given that, on February 16, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), General Motors Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Chrysler Corporation, Highland Park, MI; Ford Motor Company, Dearborn, MI; and General Motors Corporation, Detroit, MI.

The parties intend to identify opportunities for joining aspects of their independent research and development efforts pertaining to low emission paint technologies for motor vehicles, including but not limited to powder paint and application devices and processes. The objectives are to avoid duplication of effort and expense in research in this area; collect, exchange and, where appropriate, license paint technology research information; coordinate the scientific investigations

of each party into selected paint technologies; develop and test prototype paints and systems and perform further acts allowed by the Act that would advance the partnership's objectives.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-6010 Filed 3-16-93; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Lakshmi N. Murty Achalla, M.D.; Denial of Application for Registration

On November 5, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Lakshmi N. Murty Achalla, M.D., of Poughquag, New York, proposing to deny his application, executed on April 1, 1991 for registration as a practitioner. The statutory basis for the Order to Show Cause was that Respondent's registration would be inconsistent with the public interest, as set forth in 21 U.S.C. 823(f).

The Order to Show Cause was served on Dr. Murty Achalla on November 9, 1992. More than thirty days have passed since the Order to Show Cause was received by Dr. Murty Achalla. The Drug Enforcement Administration has received no response from Dr. Murty Achalla or anyone purporting to represent him.

Pursuant to 21 CFR 1301.54(d), the Administrator finds that Dr. Murty Achalla has waived his opportunity for a hearing. Accordingly, under the provision of 21 CFR 1301.54(e), the Administrator enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The Administrator finds that on March 24, 1987, Dr. Murty Achalla was arrested by Pennsylvania state narcotics agents for offering a bribe of $1,500.00 and 100 Percocet tablets, a Schedule II controlled substance, to a potential witness against him in another alleged illegal drug transaction. As a result, on August 3, 1987, he was convicted in the Court of Common Pleas of the 41st Judicial District of Pennsylvania, upon a plea of guilty, of one felony count of unlawfully dispensing a controlled substance. Dr. Murty Achalla was sentenced to three years probation, fined, and ordered to surrender his controlled substances privileges, and to undergo psychiatric treatment and enter an impaired physician program. Subsequently, on August 14, 1989, the Pennsylvania State Board of Medicine suspended his license to practice medicine on the basis of his conviction of a felony.

The Administrator may deny an application for registration if he determines that such registration would be inconsistent with the public interest. Pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate State licensing board or disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct as may threaten the public health or safety."

It is well established that these factors are to be considered in the disjunctive, i.e., the Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. Henry J. Schwarz, Jr., M.D., Docket No. 88-42, 54 FR 16422 (1989).

The Administrator concludes that Dr. Murty Achalla has demonstrated improper dispensing practices with respect to controlled substances, has been convicted of a felony offense related to controlled substances, has violated Federal and State laws relating to controlled substances, and has engaged in conduct which resulted in the suspension of his state medical license.

Dr. Murty Achalla, although given the opportunity to request a hearing or to submit a written statement, has failed to do either. Thus the facts recited above stand uncontroverted. Based on those facts, the Administrator concludes that his registration would be inconsistent with the public interest and that his application for registration must be denied.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application for registration, executed by Lakshmi N. Murty Achalla, M.D., on April 1, 1991, be, and it hereby is, denied. This order is effective March 17, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93-6133 Filed 3-15-93; 8:45 am]

BILLING CODE 4410-09-M

Ruggero Angiolicchio, M.D.; Denial of Application for Registration

On November 5, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Ruggero Angiolicchio, M.D., of New York, New York, and Pasadena, California, proposing to deny his application, executed on May 5, 1989, for registration as a practitioner. The statutory basis for the Order to Show Cause was that Respondent's registration would be inconsistent with the public interest, as set forth in 21 U.S.C. 823(f).

The Order to Show Cause was served on Dr. Angiolicchio on November 9, 1992. More than thirty days have passed since the Order to Show Cause was received by Dr. Angiolicchio. The Drug Enforcement Administration has received no response from Dr. Angiolicchio or anyone purporting to represent him.

Pursuant to 21 CFR 1301.54(d), the Administrator finds that Dr. Angiolicchio has waived his opportunity for a hearing. Accordingly, under the provision of 21 CFR 1301.54(e), the Administrator enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The Administrator finds that on July 18, 1977, the New York State Board of Regents found that Dr. Angiolicchio self-prescribed the Schedule II controlled substance Demerol, failed to keep proper records for the disposal of narcotics, engaged in fraud and deceit in the practice of medicine by obtaining narcotics for his own use, been addicted to narcotics, and engaged in unprofessional conduct. As a result, Dr. Angiolicchio's New York State license to practice medicine was suspended for nine months, with the execution of suspension stayed.

The Administrator further finds that on April 4, 1983, the State of California, Board of Medical Quality Assurance, revoked Dr. Angiolicchio's medical license. This action was based on charges of unprofessional conduct during the period April through September, 1980, when Dr. Angiolicchio improperly prescribed, without a valid medical purpose, the Schedule II controlled substances Tuinal and Ritalin to state undercover officers.

On November 22, 1983, before the United States District Court of the Central District of California, Dr. Angiolicchio was convicted, upon his plea of guilty, of two felony counts of conspiracy to distribute controlled substances under 21 U.S.C. 846 and distribution of controlled substances under 21 U.S.C. 841(a)(1). These charges reflected Dr. Angiolicchio's conduct in operating a weight loss clinic from which he and a partner prescribed large amounts of stimulants such as Preludin and Ritalin, in conjunction with sedatives such as Quaalude and Tuinal, without a valid medical purpose. Dr. Angiolicchio was sentenced to two years imprisonment and five years probation.

The Administrator may deny an application for registration if he determines that such registration would be inconsistent with the public interest. Pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate State licensing board or disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct as may threaten the public health or safety."

It is well established that these factors are to be considered in the disjunctive, i.e., the Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

The Administrator concludes that Dr. Angiolicchio has a history of improperly dispensing practices with respect to controlled substances, that he has been convicted of felony offenses related to controlled substances, that he has violated Federal and State laws relating to controlled substances, and that his conduct involving the prescribing of controlled substances for other than valid medical purposes, and his conduct resulting in sanctions imposed against his State medical licenses pose a threat to the public health and safety.

Dr. Angiolicchio, although given the opportunity to request a hearing or to submit a written statement, has failed to do either. Thus the facts recited above stand uncontroverted. Based on those facts, the Administrator concludes that Respondent's registration would be inconsistent with the public interest and that his application for registration must be denied.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application for registration, executed by Ruggero Angiolicchio, M.D. on May 25, 1989, be, and it hereby is denied. This order is effective March 17, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–6136 Filed 3–16–93; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 5, 1993, The Binding Site, Inc., 5889 Oberlin Drive, suite 101, San Diego, California 92121, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Lysergic acid diethylamide (7315).	I
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Methadone (9250)	II
Morphine (9300)	II

The firm plans to import derivatives of the above listed substances in milligram quantities for labelling with enzymes, fluorophores and radioisotopes for immunoassays.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 16, 1993.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 11, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–6112 Filed 3–16–93; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration

By Notice dated January 28, 1993, and published in the **Federal Register** on February 9, 1993, (58 FR 7817), Dupont Pharmaceuticals, The Dupont Merck, Pharmaceutical Company, 1000 Stewart Avenue, Garden City, New York 11530, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Thebaine (9333)	II
Oxymorphone (9652)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse

Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application for registration submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: March 11, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–6131 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

Sam F. Moore, D.V.M., Revocation of Registration

On October 8, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Sam F. Moore, D.V.M., 916 F Avenue, Lawton, Oklahoma 73501, proposing to revoke his DEA Certificate of Registration, AM3030424, and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f). The proposed action was predicated on Dr. Moore's lack of authorization to handle controlled substances in the State of Oklahoma. 21 U.S.C. 824(a)(3).

The Order to Show Cause also alleged that Dr. Moore's continued registration would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f) and 21 U.S.C. 824(a)(4); that Dr. Moore was convicted of a felony related to controlled substances, as that term is used in 21 U.S.C. 824(a)(2), in the District Court, Comache County, State of Oklahoma, on September 8, 1976; and that Dr. Moore materially falsified an application for a DEA Certificate of Registration submitted on June 20, 1991, pursuant to 21 U.S.C. 824(a)(1).

The Order to Show Cause was served on Dr. Moore in person. More than thirty days have passed since the Order to Show Cause was received by Dr. Moore and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Sam F. Moore, D.V.M., is deemed to have waived his opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that Dr. Moore's veterinary license was revoked by the State Board of Veterinary Medical Examiners, State of Oklahoma, effective January 22, 1992. This revocation was based upon a finding that Respondent ordered numerous controlled substances between October 1989 and August 1991 and failed to account for the disposition of such controlled substances. Based upon the revocation of Dr. Moore's veterinary license, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, State of Oklahoma, suspended Dr. Moore's controlled substance registration. Consequently, Dr. Moore is no longer authorized to prescribe, dispense, administer or otherwise handle controlled substances in any schedule in the State of Oklahoma.

The Administrator concludes that the DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without State authority to handle controlled substances. See 21 U.S.C. 823(f). The Administrator and his predecessors have consistently so held. See Howard J. Reuben, M.D., 52 FR 8375 (1987); Ramon Pla, M.D., Docket No. 86–54, 51 FR 41168 (1986); Dale D. Shahan, D.D.S., Docket No. 85–57, 51 FR 23481 (1986); and cases cited therein.

Since Dr. Moore lacks State authorization to handle controlled substances, it is not necessary for the Administrator to decide the issue of whether Dr. Moore's continued registration is inconsistent with the public interest at this time, or whether his registration should be revoked based upon the aforementioned felony conviction in the State of Oklahoma or upon the falsification of his application for a DEA Certificate of Registration.

No evidence of explanation or mitigating circumstances has been offered by Dr. Moore. Therefore, the Administrator concludes that Dr. Moore's DEA Certificate of Registration must be revoked.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AM3030424, previously issued to Sam F. Moore, D.V.M., be, and it hereby is, revoked, and any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective March 17, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–6135 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substance Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 10, 1993, Noramco of Delaware, Inc., Division McNeilab, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CRR), and must be filed no than April 16, 1993.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21

CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 11, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–6132 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 16, 1993, Noramco of Delaware, Inc., Division McNeilab, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substance listed below:

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II
Hydocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 16, 1993.

Dated: March 11, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–6111 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

John David Perzik, M.D.; Revocation of Registration

On October 23, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to John David Perzik, M.D. of San Jose, California, proposing to revoke his DEA Certificate of Registration, AP4555768, and deny any pending applications for registration as a practitioner. The statutory basis for the Order to Show Cause was that Dr. Perzik's continued registration would be inconsistent with the public interest, as set forth in 21 U.S.C. 824(a)(4).

The Order to Show Cause was served on Dr. Perzik on November 3, 1992. More than thirty days have passed since the Order to Show Cause was received by Dr. Perzik. The Drug Enforcement Administration has received no response from Dr. Perzik or anyone purporting to represent him.

Pursuant to 21 CFR 1301.54(d), the Administrator finds that Dr. Perzik has waived his opportunity for a hearing. Accordingly, under the provision of 21 CFR 1301.54(e), the Administrator enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The Administrator finds that during the period November 1983 through January 1986, Dr. Perzik allegedly conspired to conduct a clandestine prescription drug distribution business for predominantly non-controlled steroids. Additionally, on May 14, 1991, an eight felony count information was filed in the Superior Court for the State of California in and for the County of Contra Costa against Dr. Perzik. This information alleged that Dr. Perzik, during the period September 11, through December 5, 1990, had unlawfully sold, transported and/or issued prescriptions for the controlled substances stanozolol and fluoxymesterone, without a valid medical purpose. At the time, these were controlled substances under California law and now are Schedule II controlled substances federally.

On July 25, 1991, before the United States District Court for the Northern District of California, Dr. Perzik was convicted, upon a plea of guilty, of one felony count of a violation of 18 U.S.C. 371, for conspiracy to defraud the United States, particularly the Food and Drug Administration, by interfering and obstructing their lawful function to ensure, *inter alia*, that prescription drugs (steroids) are dispensed pursuant to a lawful prescription; and of one felony count of violating 21 U.S.C. 331(a) and 333(a)(2), by introducing a prescription drug, Methandrostenolone, into commerce without a valid prescription. Dr. Perzik was sentenced to four years imprisonment on the Federal convictions.

The Administrator also finds that in September 1992, the Medical Board of California held a hearing to determine whether cause for disciplinary action existed against Dr. Perzik. Dr. Perzik was found to have violated the State Health and Safety Code and the Business and Professions Code on account of actions resulting in his Federal felony convictions and his sale and distribution of large quantities of steroids without a valid medical purpose. As a result, Dr. Perzik's license to practice medicine in the State of California was revoked effective February 28, 1993.

The Administrator may revoke or suspend a DEA Certificate of Registration under 21 U.S.C. 824(a), upon a finding that the registrant:

(1) Has materially falsified any application filed pursuant to or required by this subchapter or subchapter II of this chapter;

(2) Has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State relating to any substance defined in this subchapter as a controlled substance;

(3) Has had his State license or registration suspended, revoked, or denied by competent state authority and is no longer authorized by state law to engage in the manufacturing, distribution, or dispensing of controlled substances or has had the suspension, revocation, or denial of registration recommended by competent state authority;

(4) Has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section;

(5) Has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320A–7(a) of title 42.

Pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate State licensing board or disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct as may threaten the public health or safety.

It is well established that these factors are to be considered in the disjunctive,

i.e., the Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

The Administrator concludes that Dr. Perzik has engaged in illegal dispensing practices with respect to controlled substances, that he has violated Federal and State laws relating to controlled substances, and that his conduct as evidenced by his convictions under Federal food and drug laws and by the revocation of his California medical license poses a threat to the public health and safety.

Dr. Perzik, although given the opportunity to request a hearing or to submit a written statement, has failed to do either. Thus the facts recited above stand uncontroverted. Based on those facts, the Administrator concludes that his registration would be inconsistent with the public interest and that his registration must be revoked.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AP4555768, previously issued to John David Perzik, M.D., be, and it hereby is, revoked, and any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective April 16, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–6137 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 3, 1993, Lonza Riverside, 900 River Road, Conchohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
4-Methoxyamphetamine (7411)	I
Amphetamine (1100)	II
Phenylacetone (8501)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 16, 1993.

Dated: March 11, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–6114 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 92–09]

Charles H. Ryan, M.D., Revocation of Registration

On August 3, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Charles H. Ryan, M.D., at New Road, Vincentown, New Jersey proposing to revoke his DEA Certificate of Registration, AR5421425. The proposed action was predicated on Dr. Ryan's lack of authorization to handle controlled substances in the State of New Jersey.

By letter dated September 22, 1992, Respondent requested a hearing on the issue raised in the Order to Show Cause. The matter was placed on the docket of Administrative Law Judge Paul A. Tenney. On October 20, 1992, the Government filed a motion for summary disposition. On October 21, 1992, Judge Tenney issued an order which allowed the Respondent fourteen days from the date of the order in which to file a response to the Government's motion. Respondent failed to file a timely response. On November 9, 1992, Judge Tenney issued his Opinion and Recommended Decision, granting the Government's motion for summary disposition and recommending revocation of Respondent's DEA Certificate of Registration. No exceptions were filed and, on December 9, 1992, the administrative law judge transmitted the record in this matter to the Administrator. After careful consideration of the record, the Administrator adopts the administrative law judge's opinion and recommended decision.

The Administrator finds that on March 31, 1991, the Respondent's state registration to handle controlled substances expired. Consequently, Respondent is without authority to handle controlled substances in the State of New Jersey. The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Bobby Watts, M.D.*, 53 FR 11919 (1988); *Wingfield Drugs, Inc.*, 52 FR 27070 (1987); *Robert F. Witek, D.D.S.*, 52 FR 47770 (1987); and cases cited therein.

Since there is no dispute about Respondent's lack of authority to handle controlled substances in the State of New Jersey, the administrative law judge properly granted the Government's motion for summary disposition. When no question of fact is involved, or when the facts are agreed upon, a plenary, adversarial administrative proceeding with the full panoply of due process rights is not obligatory. See *Philip E. Kirk, M.D.*, 48 FR 32887 (1983), *aff'd sub nom Kirk* v. *Mullen*, 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AR5421425, previously issued to Charles H. Ryan, M.D., be, and it hereby is, revoked. The Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective April 16, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–6134 Filed 3–16–93; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 91–30]

Gary E. Stanford, M.D., Revocation of Registration

On July 19, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to Gary E. Stanford, M.D. (Respondent) of Detroit, Oregon proposing to revoke his DEA Certificate of Registration, AS8564925, as a practitioner under 21 U.S.C. 824(a)(4), and to deny any pending applications under 21 U.S.C. 823(f).

The statutory basis for seeking the revocation of the registration was that Respondent's continued registration would be inconsistent with the public interest, as set forth in 21 U.S.C. 823(f) and in 21 U.S.C. 824(a)(4) for reason that on August 15, 1985, Respondent's license to practice medicine in Oregon was restricted for six months as a result of his conviction for negligent homicide; that on August 19, 1986, Respondent's license to practice medicine in Illinois was suspended indefinitely; that on December 21, 1987, the Washington State Medical Board denied his application to practice medicine due to unprofessional conduct; that between 1983 and 1985, the Respondent diverted cocaine from Oregon hospital emergency rooms; that Respondent wrote prescriptions, without a valid medical purpose, for himself and his girlfriend; and that while medical director of Firstcare Medical Center, Respondent failed to maintain proper inventory, receiving and dispensing records, and improperly destroyed controlled substances.

Respondent, by counsel, filed a request for hearing on the issues raised by the Order to Show Cause, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held in Portland, Oregon on February 25–27, 1992.

On October 28, 1992, in her Opinion and Recommended Ruling, the administrative law judge recommended that Dr. Stanford's DEA Certificate of Registration be revoked and that any pending applications for renewal be denied. Both the Government and Respondent filed exceptions in response to Judge Bittner's opinion. On December 7, 1992, the administrative law judge transmitted the record to the Administrator.

The Administrator has carefully considered the entire record in this matter and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

Gary E. Stanford, M.D., currently possesses DEA Certificate of Registration, AS8564925, as a practitioner in Schedule II through V controlled substances and is employed at a medical center in Roseburg, Oregon. As background, the administrative law judge found that Respondent, a board certified emergency medicine physician, received his medical degree from the University of Illinois in 1977, and was a resident and staff physician in Illinois until 1983. Respondent moved to Oregon where he worked at various hospitals, subsequently worked at Firstcare urgent care clinic, and then went into private practice in Detroit, Oregon until 1992.

The Government offered evidence that the Respondent had used cocaine for emergency room treatment procedures in quantities that appeared to be excessive. There was testimony that the Respondent signed out quantities of cocaine that exceeded patient requirements. The Government also maintained that numerous patients received treatment with cocaine with recorded dosages that appeared excessive. The Respondent testified that his use of topical cocaine solutions (TAC) was appropriate, and that some degree of waste was to be expected. Respondent offered medical journal articles and the testimony of another emergency room physician in support of his position.

The Government offered evidence that Respondent had forged a nurse's initials on an emergency room narcotics log in order to acquire cocaine for his own use. Respondent testified that this entry was simply a confusion of the initials for medical doctor (MD) and those initials of a hospital nurse. The Government also presented testimony that Respondent personally used both street and pharmaceutical cocaine with friends and relatives. The Respondent testified that he had used street cocaine socially with friends, had never used pharmaceutical cocaine, and had stopped his own cocaine abuse in 1985 without any treatment. The Government also alleged that the Respondent administered Valium to his girlfriend, against her will. Respondent testified that he had administered the drug, but that he felt it was medically appropriate treatment.

The Government presented evidence on the death of the Respondent's girlfriend; his subsequent conviction of negligent homicide and sentencing; and the resultant actions against Respondent's medical license by the Illinois and Oregon Medical Boards. The Government also presented evidence concerning the denial of Respondent's application for a medical license by the Washington State Medical Board.

The Government presented evidence on security and recordkeeping violations involving the handling of controlled substances at Firstcare Medical Center where Respondent had been employed as medical director. Witnesses on behalf of the Respondent presented evidence that many of the discrepancies had been corrected and new procedures adopted.

The Government presented evidence that Respondent's probation officer found him in possession of a prescription bottle containing various pills, including the Schedule IV controlled substances Serax and Xanax. The State of Oregon, through its Circuit Court, issued an order extending Respondent's probation on grounds that he had "used or possessed controlled substances in violation of his conditions of probation". Respondent testified that he had used these substances at the suggestion of his court-appointed psychiatrist in order to help him sleep, and had not used them to excess. Respondent subsequently served and completed his probation.

On the issue of rehabilitation, the Respondent presented evidence that during his probation he attended therapy, entered a Health Professionals Recovery Program, entered a residential therapy program, and is currently under supervision by the Oregon State Medical Board. Witnesses testified on the Respondent's behalf and concluded in part that he was at low risk for relapse for cocaine, and moderate risk for relapse to alcohol.

The Government argued that Respondent had admitted to personal abuse of controlled substances and that he failed to show that his rehabilitation was complete. The Respondent contended that no state board recommended that his DEA registration be revoked; there was no evidence that his experience in dispensing controlled substances is contrary to the public interest; he was not convicted of any crime related to controlled substances; he has complied with all laws regarding controlled substances for at least the last six years; and there is no evidence of other conduct that threatens the public health or safety.

The administrative law judge found that Respondent was a well-respected emergency room physician who performed much needed services in Detroit, Oregon; that the Respondent's use of pharmaceutical cocaine in emergency room work was a medically accepted method for anesthesia and vasoconstriction and that the Government failed to show the contrary; that the affidavits and evidence indicating that Respondent may have diverted cocaine from his hospital employment were given little weight and that the Government failed to show by a preponderance of the evidence that diversion of cocaine occurred; that Respondent's testimony regarding the alleged falsification of controlled substances records was credible; that Dr. Stanford, in his capacity as medical director of Firstcare, was not

responsible for those violations of DEA regulations that occurred at that facility; that Respondent admitted a history of abuse of alcohol, recreational use of cocaine, and other controlled substances for other than a legitimate medical purpose over several years; that Respondent had made a significant start in rehabilitation by completing a residential phase of treatment, individualized therapy, group therapy and 12-step meetings; and that Respondent had significant support from his wife, employer and others, and had tested negative on his urine screenings. The administrative law judge also found that Respondent did not seek treatment on his own initiative until October 1991, and the only indication of remission from cocaine use in 1985 is the Respondent's own testimony; that according to one witness, the Respondent was strengthening his support system and that his prognosis for recovery is good, but that he is only in the early months of recovery, and his risk of relapse to alcohol, his primary drug of choice, is moderate; that the Respondent took the controlled substances Serax and Xanax, in violation of his probation agreement. The administrative law judge found that Respondent, at best, carelessly complied with the terms of his probation, or at worst, knowingly violated them.

Lastly, the Respondent argued that he was entitled to an award of attorney fees under 5 U.S.C. 504 on grounds that the charges against the Respondent were either unsubstantiated or an improper basis for revocation of a DEA registration. The administrative law judge found that the Respondent failed to meet the statutory conditions precedent for the award of fees and found no merit to his request.

The Administrator may revoke or suspend a DEA Certificate of Registration under 21 U.S.C. 824(a), or deny any application under 21 U.S.C. 823(f), if he determines that the continued registration would be inconsistent with the public interest.

Pursuant to 21 U.S.C. 823(f), "[i]n determining the public interest, the following factors will be considered:

(1) The recommendation of the appropriate State licensing board or disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct as may threaten the public health or safety."

It is well established that these factors are to be considered in the disjunctive, i.e., the Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

Of the stated factors, the administrative law judge found that 21 U.S.C. 823(f) (1), (2), (4), and (5) are applicable to this case. The first factor is relevant in light of State actions by Illinois and Oregon against his medical license, and the denial of his application to practice medicine in Washington. The second and fourth factors are relevant in light of allegations of Respondent's use of pharmaceutical cocaine in his emergency department practice. The fourth factor is also relevant in light of Respondent's personal use of cocaine, allegations regarding falsification of a hospital record, and allegations concerning his accountability for an office supply of controlled substances while medical director at Firstcare. The fifth factor is relevant insofar as Respondent pled guilty to criminally negligent homicide and later violated terms of probation.

The administrative law judge concluded that Respondent's being in the early stages of rehabilitation, his illegal use of controlled substances from approximately 1980 to 1985, and his violation of probation in 1988 establish that the Respondent's registration is not in the public interest and, as a result, his registration should be revoked.

The administrative law judge further recommended that if after the passage of one year from the final disposition of the case, the Respondent files a new application for registration, and if his rehabilitation efforts have continued successfully, investigation of that application should be expedited, and favorable consideration should be given to the application.

The Administrator adopts the opinion and recommended ruling, findings of fact, conclusions of law and decision of the administrative law judge in its entirety.

The Government filed a single exception to the opinion and recommended ruling in which it asserted that subsequent to the hearing Dr. Stanford submitted an application for registration on behalf of Wilt's Emergency Service and Transport, Inc., dba Medic-4 Ambulances. Although such evidence was not previously placed on the record, as an administrative matter, such application is considered as a pending application of the Respondent for purposes of this action.

Respondent filed a listing of 29 exceptions, a memorandum of law, and supporting exhibits. These exceptions include contentions regarding the exclusion of evidence, the admissibility of hearsay, argument on the conclusions of the administrative law judge, and proposed additional findings by the Respondent. A number of these arguments were placed before the administrative law judge and ruled upon during the proceeding. Since Respondent's hearing was conducted in accordance with applicable statute and regulation, the Administrator declines to adopt Respondent's Exceptions 1–11, 13–17, 19–22, 24, and 26–27. The Administrator does concur with Respondent's Exception 12, relating to the consideration of a document not in evidence, and did not consider the document in rendering this final order. The Administrator further finds that Respondent's actions in complying with the terms of his probation, as well as his rehabilitative potential, either as to his potential for abuse of controlled substances or alcohol, are relevant to the public interest inquiry. Accordingly, the Administrator rejects any contrary contention as noted in exceptions 18, 23 and 28. The Administrator also rejects, as the administrative law judge has done previously, the Respondent's contention in Exception 25 that the DEA is limited in its public interest inquiry to consider only those adverse State licensure actions which involve controlled substances. Lastly, Respondent proposed in Exception 29 that any DEA action be stayed for five years pending Respondent's successful compliance with an agreement with the State of Oregon. Since the issue before the Administrator is whether the Respondent's continued registration is in the public interest, no such stay will be granted.

Based on the foregoing, Dr. Stanford's continued registration is inconsistent with the public interest. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AS8564925, previously issued to Gary Eugene Stanford, M.D., be, and it hereby is, revoked, and that any pending applications for registration be, and they hereby are, denied. This order is effective April 16, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93-6136 Filed 3-16-93; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from February 5, 1993, through February 19, 1992. The last biweekly notice was published on February 17, 1993 (58 FR 6992).

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Directives Review Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 2, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The

final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: November 16, 1992

Description of amendment request: The proposed amendment would revise Technical Specification 3.6.3.4, "Suppression Pool Makeup (SPMU) System," to allow continued operation with a reduced upper containment pool water level when the minimum required suppression pool water level is increased to compensate. The revision will allow for maintenance in portions of the upper containment pool. The proposed amendment also clarifies the requirements for the upper containment pool gate positions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The function of the upper containment pool (UCP) as part of the suppression pool makeup (SPMU) system is to provide a source of makeup water to the suppression pool (SP), subsequent to the occurrence of a LOCA [loss of coolant accident], in order to maintain the required horizontal vent coverage and provide an adequate suppression pool heat sink to ensure the primary containment internal pressure and temperature stays within design limits.

The proposed Action statement and Surveillance Requirement to permit reductions in the upper containment pool level, maintains the same "effective upper containment pool water volume" as the current design basis, the difference being that some of this "effective UCP water volume" has been relocated to the suppression pool as additional volume needed beyond that required to meet the minimum suppression pool low water level requirement of Limiting Condition for Operation 3.6.3.1.a. The probability of a LOCA occurring has not increased as a result of the proposed changes since the probability of a LOCA is unaffected by a relocation of the UCP water. The consequences of a LOCA are also not changed because under normal operating conditions the upper containment pool level is maintained within the required limits by the administrative controls imposed through the SPMU system Technical Specification Action and Surveillance Requirements. This change simply extends that approach by providing an additional Action and Surveillance Requirement to ensure that both the upper containment pool and suppression pool are maintained within their proposed respective limits (which ensure that the effective UCP water volume is maintained) when the upper containment pool is below its normal level. The proposed surveillance requirement ensures that the same "effective upper containment pool water volume" is always maintained. Therefore, there is no change in the overall water volume available as a heat sink for long-term cooling, no reduction in containment performance, and hence no change in consequences for any postulated LOCA.

There is also no change in the probability of occurrence of an inadvertent SPMU system dump, since no change has been made to the system design or initiating circuitry. This change clarifies that the fuel transfer tube pool gate is not required to be installed, but that it may be left in place, if desired, to allow for maintenance of equipment within the fuel transfer tube pool. With the gate installed the same amount of UCP water is available as was assumed in the current inadvertent dump analysis, therefore there is no change in consequences. With the gate removed there would be a slight increase in the volume of water contained in the UCP which would be dumped in the event of an inadvertent upper containment pool dump. However, there is a very small likelihood of an inadvertent UCP dump due to the necessity to have a LOCA permissive signal in conjunction with a low-low suppression pool level signal or the completion of a 30-minute time delay. The total volume would only actually be increased if the dump were to occur when the suppression pool is at its high water level (with maximum differential pressure). Even if a UCP dump were to occur, a bounding analysis (for up to ten feet of water in the drywell) for the drywell piping and components wetted in this event under worst case conditions has demonstrated that there would be no safety concerns. This analysis was reviewed and agreed with by the NRC as documented in Section 10.1 of Appendix R to Supplement 8 of the Safety Evaluation Report for Perry (NUREG-0887). Therefore, removing the fuel transfer tube pool gate during Operational Conditions 1,2, and 3 does not impose a significant increase in consequences, regarding a drywell flooding transient, while it does provide a positive benefit in that extra water would be

made available to provide for the long-term energy absorption within the suppression pool.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated because no design changes or new or different modes of operation are proposed for the plant. Operation under the proposed Action statement and Surveillance Requirement (determined to be acceptable on the basis discussed above) does not constitute a different mode of operation since adequate monitoring of both the suppression pool and upper containment pool levels is required by the Technical Specification Surveillance Requirements under both normal and reduced UCP water level conditions. The required upper containment pool gate positions are also controlled by Surveillance Requirements. The proposed Action statement and Surveillance Requirements on pool levels and gate positions ensure that the same (or greater) "effective upper containment pool volume" is available following an UCP dump, which is equivalent to the current design basis, therefore, the proposed changes do not create the possibility of a new or different accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The design basis of the suppression pool makeup system is to provide a makeup volume from the UCP following an UCP dump, that together with the suppression pool volume (between the normal low water level (LWL) and the minimum post-accident water level) is sufficient to account for all conceivable post-accident entrapment volumes, to ensure the long-term energy sink capabilities of the suppression pool and maintain the two foot minimum water coverage over the uppermost horizontal vents. This capability is currently enforced by maintaining the water level within the suppression pool above the LWL (through Specification 3.6.3.1) and maintaining the upper containment pool above its minimum water level (through Specification 3.6.3.4). Adding Action statements and Surveillance Requirements to provide an alternative way of maintaining the same volume of water between the upper containment pool and the suppression pool does not reduce, but rather maintains the same margins of safety, provided that both the suppression pool and the upper containment pool levels are properly controlled. The water level values chosen, and enforced through the new Action and Surveillance Requirement meet both sets of requirements and consequently do not reduce the margin of safety. As described in the answer to question 1, a very unlikely set of circumstances has to occur to initiate an upper containment pool dump, and even if a dump were to occur, a bounding analysis for the drywell piping and components wetted in this event under worst case conditions has demonstrated that there would be no safety concerns. Therefore, removing the fuel transfer tube pool gate during Operation Conditions 1, 2, and 3 does not impose a significant reduction in the margin of safety, regarding a drywell flooding transient, while it does provide a positive benefit in that extra water would be made available to provide for the long-term energy absorption within the suppression pool (which would increase the margin of safety in this respect).

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of amendment request: November 5, 1992

Description of amendment request: The proposed amendment would delete the Technical Specification requirements to perform additional surveillances when the associated redundant components and/or subsystems have been found to be inoperable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

This change does not result in any hardware or operating procedure changes. The components covered by these Technical Specifications are not assumed to be initiators of any analyzed event. The components are assumed to be mitigators of analyzed events. This change redefines the method for demonstrating OPERABILITY of the remaining equipment when a component is declared inoperable. The requirement to maintain the remaining equipment OPERABLE is retained, ensuring the equipment is available to mitigate analyzed events. Since the equipment remains OPERABLE, redefining the method by which the equipment is demonstrated OPERABLE does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed change will only redefine the method by which remaining equipment is verified OPERABLE when a component is declared inoperable. Redefining the method by which equipment is demonstrated OPERABLE does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

This change eliminates the requirement to perform surveillances on equipment when a component is declared inoperable. Instead, this change allows credit to be taken for normal periodic surveillances as a demonstration of OPERABILITY and availability of the remaining components. The periodic frequencies specified to demonstrate OPERABILITY of the remaining components have been shown to be adequate to ensure equipment OPERABILITY. As stated in NRC Generic Letter 87-08, "It is overly conservative to assume that systems or components are inoperable when a surveillance requirement has not been performed. The opposite is in fact the case; the vast majority of surveillances demonstrate that systems or components in fact are operable." Therefore, reliance on the specified surveillance intervals does not result in a reduced level of confidence concerning the equipment availability. In addition, the current surveillance requirements for the affected components are more comprehensive than the current testing requirements being deleted. Therefore, the normal surveillance requirement approach can be judged to be an equivalent or more reliable testing program as compared to the requirements being deleted. Thus, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

NRC Project Director: James E. Dyer

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: December 8, 1992

Description of amendment request: The proposed amendments would

revise the Technical Specifications (TS) to: (1) extend the frequency of the Reactor Protection System (RPS) instrument channel tests in Table 4.1-1 from monthly to every 45 days on a staggered test basis, (2) add the definition of "staggered test basis" to TS Section 1.5, and (3) remove the time limitation in Table 3.5.1-1 on placing one RPS channel in bypass and one channel in the tripped condition. Also, the Bases would be revised to be consistent with the above changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Duke Power Company has made the determination that [...] operation of the facility in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated:

Each accident analysis addressed within the Oconee Final Safety Analysis Report (FSAR) has been examined with respect to the change proposed within this amendment request. The probability of any Design Basis Accident (DBA) is not affected by this change, nor are the consequences of a DBA affected by this change since extension of the RPS on-line test interval and removal of limitations on placing one RPS channel in trip and one RPS channel in bypass based on an NRC approved Topical Report are not considered to be an initiator or contributor to any accident analysis addressed in the Oconee FSAR. Plant specific provisions of the associated NRC SER regarding drift data have been met. The probability of any DBA is not affected by this change, nor are the consequences of a DBA affected by this change since addition of the definition of "staggered test basis" is not considered to be an initiator or contributor to any accident analysis...addressed in the Oconee FSAR.

(2) Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

Operation of ONS in accordance with these Technical Specifications will not create any failure modes not bounded [by] previously evaluated accidents. Consequently, this change will not create the possibility of a new or different kind of accident from any kind of accident previously evaluated.

(3) Involve a significant reduction in a margin of safety:

The Technical Specifications will continue to require the RPS trip setpoints [to] remain within the assumptions of the accident analysis, thus preserving existing margins of safety. Therefore, there will be no significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: David B. Matthews

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2 (ANO-1&2), Pope County, Arkansas

Date of amendment request: November 10, 1992

Brief description of amendment: The proposed amendment would revise the Administrative Controls of the Technical Specifications (TSs) for each unit to change the qualifications of the Plant Safety Committee (PSC) to be independent of position titles. The proposed amendment would also incorporate the Technical Review and Control Process to facilitate procedure revision, change the approval authority for procedures to a more appropriate level of management and correct a typographical error.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The change in the PSC composition qualification requirements is administrative in nature. The proposed changes do not affect assumptions contained in the plant safety analyses, the physical design or operation of the plants. TS that preserve the safety analyses assumptions of ANO-1 and ANO-2 are not affected by the changes. The same level of expertise applied to the PSC review function will remain with the approval of the proposed changes. There will be no loss in PSC effectiveness due to the proposed changes. The typographical error correction in the ANO-1 TS is purely administrative in nature, and has no affect on plant safety.

The addition of the Technical Review and Control Process to the TS provides an additional method for the technical review and approval of selected station procedures, while maintaining an equivalent level of thoroughness consistent with that established by the PSC. An independent technical review, conducted by an individual whose qualification and knowledge encompass the area affected by the procedure, combined with the added expertise contributed by the cross-disciplinary review will establish an equivalent level of review to that provided by the PSC. The Technical Review and Control Process will be controlled by station administrative procedures which will continue to be reviewed by the PSC, thereby allowing PSC oversight of the process.

Approval of procedures reviewed by the Technical Review and Control Process may be performed by the department head responsible for the affected procedure, after ensuring all necessary procedure reviews and cross-disciplinary reviews have been completed. Additionally, the General Manager, Plant Operations has the option of designating a higher approval authority for any procedure or block of procedures.

The procedures governing plant operation will continue to ensure that the plant parameters are maintained within acceptable limits. Procedure changes will be reviewed and approved at a level commensurate with their importance to nuclear safety and, where appropriate, an interdisciplinary review will be required. All modifications, tests, and experiments that affect nuclear safety will continue to be reviewed by the PSC. Also, the PSC will continue to review the Plant Security Plan, Emergency Plan, and Fire Protection Program.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed changes are administrative in nature. No physical alterations of plant configuration or changes to setpoints or operating parameters are proposed. The level of position qualifications of the PSC members are not reduced in the TS. The same quality of PSC review is maintained by this proposed change.

Because no new equipment is being introduced, and no equipment is being operated in a manner inconsistent with its design, the probability of equipment malfunction is not increased. The applicable procedures governing the operation of installed equipment will receive reviews and approvals at a level commensurate with their importance to nuclear safety and, where appropriate, an interdisciplinary review will be required. This provides an equivalent level of review to that provided by the PSC. The PSC will continue to review all modifications, tests, and experiments that affect nuclear safety ensuring a continuing commitment to nuclear safety by ANO management.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

[Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety.]

The proposed changes are administrative in nature and do not relate to or modify the safety margins defined in and maintained by the TS. The change does not alter ANO's commitment to maintain a management structure that contributes to the safe operation and maintenance of the plants. No position qualifications are being reduced in the TS. The level and quality of PSC review is maintained because there will be no change in the collective expertise on the PSC.

The independent review of those items important to nuclear safety by the PSC will continue with these changes.

The initial conditions utilized in the accident analyses remain unchanged. The methodologies used for the safety analyses are not affected by this change. Sufficient controls are included in the proposed review methodology to ensure that the plant conditions and equipment availability required to support the integrity of the analyses, and hence the margin to safety, will continue to be maintained.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: George T. Hubbard, (Acting)

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: George T. Hubbard, (Acting)

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: February 11, 1993

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) 6.0, "Administrative Controls" of the Turkey Point Units 3 and 4 relating to the qualifications of the plant Operations Manager. Presently, TS 6.2.2.h. requires the Operations Supervisor to hold a Senior Reactor Operator (SRO) License and TS 6.2.2.i. requires that the Operations Manager either hold or have held a SRO License on the Turkey Point plants or on a similar plant. The licensee proposes to revise the TS to require that either the Operations Manager or the Operations Supervisor hold an active SRO License on the Turkey Point plants. Accordingly, the proposed changes would delete TS 6.2.2.i. and revise TS 6.2.2.h. to read "The Operations Manager or the Operations Supervisor shall hold a Senior Reactor Operator License." Consistent with the proposed TS 6.2.2.h. change, the phrase in TS 6.3.1, "...the Operations Manager whose requirement for a Senior Reactor Operator License is as stated in Specification 6.2.2.h..." would be editorially revised to read "...the Operations Manager or Operations Supervisor whose requirement for a Senior Reactor Operator License is as stated in Specification 6.2.2.h..."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes being proposed are administrative in nature, address organizational issues, and do not affect assumptions contained in plant safety analyses, the physical design and/or operation of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions.

The individual Florida Power & Light Company (FPL) chooses to fill the position of Operations Manager will have extensive educational and management-level nuclear power experience meeting the criteria of standard ANSI N18.1-1971. The Operations Supervisor and Nuclear Plant Supervisors maintain SRO Licenses on Turkey Point. The current Technical Specifications do not require the Operations Manager to hold an active SRO License at Turkey Point. In fact, the current Technical Specifications permit the Operations Manager to have held an SRO License on a similar plant (i.e. another pressurized water reactor). Since the proposed change will continue to require that at least one individual in the operations organization off-shift management chain of command hold an SRO License at Turkey Point, there will be no change in the operations management operational experience at Turkey Point.

Additionally, the proposed changes do not impact nor change, in any way, the minimum on-shift manning or qualifications for those individuals responsible for the actual licensed operation of the facility.

Based on the above, the proposed changes do not affect the probability or consequences of accidents previously analyzed.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The changes being proposed are administrative in nature and do not affect assumptions contained in plant safety analyses, the physical design and/or operation of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions. The proposed changes address organizational and qualifications issues related to the criteria used for assignment of individuals to the operations organization off-shift management chain of command. In light of the above, and since the proposed changes do not impact nor change, in any way, the minimum on-shift manning or qualifications for those individuals responsible for the actual licensed operation of the facility, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed changes address organizational and qualifications issues related to the criteria used for assignment of individuals to the operations organization off-shift management chain of command. The proposed changes do not impact nor change, in any way, the minimum on-shift manning or qualifications for those individuals responsible for the actual licensed operation of the facility. FPL's operating organization at Turkey Point Plant is shown on Figure 1-2, Appendix A of the NRC-approved FPL Topical Quality Assurance Report (TQAR). Since changes to the TQAR are governed by 10 CFR 50.54(a)(3), any changes to the TQAR that reduce commitments previously accepted by the NRC require approval by the NRC prior to implementation. FPL will continue to inform the NRC of any organizational changes affecting Turkey Point Plant.

While the Operations Manager is responsible for the plant's operating organization, his responsibilities also include management of the plant's Health Physics and Chemistry departments. The on-shift operations organization is supervised and directed by the Operations Supervisor, who is currently required by Technical Specification 6.2.2.h. to hold a Senior Reactor Operator License. Since the Technical Specifications do not require that the Operations Manager maintain an SRO License (nor even that the incumbent has ever held a Senior Reactor Operator License at Turkey Point), the other qualifications guidance of standard ANSI N18.1-1971, as required by Turkey Point Technical Specification 6.3.1, *FACILITY STAFF QUALIFICATIONS*, will ensure that the individual filling the Operations Manager position has the requisite education and experience for the management position. As a result, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Floride International University, University Park, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: April 16, 1991, as supplemented by letter of January 6, 1993

Description of amendments request: The proposed amendments would make changes to the Technical Specifications (TS) in accordance with the guidance of Generic Letter (GL) 90-06. Specifically, TS 3.4.9.3, "Overpressure Protection System," TS 3.4.11, "Relief Valves - Operating," and the applicable bases would be changed to reflect guidance contained in GL 90-06 regarding power operated relief valves (PORVs) and low-temperature overpressure protection (LTOP), with some exceptions and modifications to reflect plant-specific design features. The changes would require different actions for a PORV that is inoperable because of excessive leakage rather than any other reason, and add additional surveillances to be conducted in Mode 3 for verifying PORV operability. The changes also allow the use of a blocked open PORV as a suitable vent path in low pressure conditions as well as apply a more conservative allowable outage time for a single LTOP channel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does not involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed [TS] changes in this submittal generally adopt the PORV and overpressure protection [TS] proposed by the staff in Generic Letter 90-06 with three exceptions, and also with minor modifications necessary to reflect the plant-specific design features of Cook Nuclear Plant. The staff's proposed [TS] will result in an increase in PORV and block valve reliability as well as additional LTOP. Since the proposed [TS] changes augment or preserve the requirements contained in the current Cook Nuclear Plant [TS], and since the three exceptions to GL 90-06 retain the current [TS] requirements, it is concluded that the proposed [TS] changes do not involve a significant increase in the probability or consequences of an accident previously analyzed in Chapter 14, "Safety Analysis," of the Updated FSAR [Final Safety Analysis Report] for Cook Nuclear Plant.

(2) Does not create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated.

The proposed [TS] changes either retain or enhance the LCOs, action statements, and surveillance requirements of the current Cook Nuclear Plant [TS]. It is concluded, therefore, that the proposed [TS] changes do not create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated in Chapter 14, "Safety Analysis," of the UFSAR.

(3) Does not involve a significant reduction in a margin of safety.

The proposed [TS] changes either retain or enhance the LCOs, action statements, and surveillance requirements of the current Cook Nuclear Plant [TS]. It is concluded, therefore, that the proposed [TS] changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: L. B. Marsh

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: May 1, 1992

Description of amendments request: The proposed amendments would make changes to the Technical Specifications (TS) in accordance with the guidance of Generic Letter (GL) 90-09. The changes would revise the visual inspection surveillance requirements and the acceptance criteria associated with TS-related snubbers. Additionally, the changes would remove the snubber component lists contained in TSs in accordance with the guidance contained in GL 84-13.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes do not result in any physical change to the facility which could cause an increase in the probability or consequences of any previously evaluated accident. The requested changes incorporate the alternative inspection schedule provided by the NRC in Generic Letter 90-09, dated December 11, 1990, and remove the snubber component lists from the [TS] in accordance with the guidance set forth in Generic Letter 84-13, dated May 3, 1984.

As determined by the NRC, the alternative schedule for visual inspections maintains the same confidence level as the existing schedule and, therefore, does not affect the probability or consequences of an accident previously evaluated.

The removal of the snubber component lists from the [TS] will not alter the existing [TS] requirements nor change the components to which they apply. The lists being removed from the [TS]s will be placed under administrative control and a 10 CFR 50.59 evaluation will be required for changes in snubber quantities, types, or location. The editorial changes to the [TS] will not affect the probability or consequences of an accident in any way, they merely reflect the shifting of page numbers. Therefore, the proposed amendment does not involve a change in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed amendment does not create the possibility of a new or different kind of accident previously evaluated. The proposed amendment does not result in any physical change to the plant or method of operating the plant from that allowed by the [TS]. No new failure modes have been defined for any system or component nor has any new limiting single failure been identified.

The NRC has generically reviewed the proposed changes and has determined that the alternative snubber visual inspection interval maintains the same confidence level in snubber operability. Therefore, the proposed change does not create the possibility of a new or different kind of accident.

The removal of snubber component lists will not alter existing [TS] requirements or those components to which they apply. No physical changes are being made to the facility as a result or in support of the removal of the component lists. Since the requirements for the components will remain the same, this proposed amendment will not affect the outcome of previously evaluated accidents. A 10 CFR 50.59 review will be performed for changes to the administrative snubber list to ensure that an unreviewed safety question, such as a new accident, does not result from future changes in the list. The editorial changes to the [TS] will not affect the previously evaluated accidents since they do not change the meaning of any [TS]. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Involve a significant reduction in a margin of safety.

The proposed amendment does not involve a significant reduction in the margin of safety. As stated above, the proposed amendment incorporates the alternative [TS] requirements for visual inspections of snubbers provided by the NRC in Generic Letter 90-09 and removes the snubber component lists from the [TS] in accordance with the guidance set forth in Generic Letter 84-13.

The NRC has previously reviewed these changes and determined that the alternative visual inspection interval maintains the same confidence level in snubber operability. The removal of the component lists from the [TS] will not alter the existing [TS] requirements nor change the components to which they apply. The component lists will be incorporated into plant procedures that are subject to the change control provisions for plant procedures specified in the administrative controls section of [TS]. Since neither the list of components nor the requirements that those components are required to meet are changing, the margin of safety is not affected.

The editorial changes made to refine the [TS] will not affect the margin of safety. Consequently, the proposed amendment, including both changes, does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: November 11, 1992

Description of amendments request: The proposed amendments would increase the tolerances for the main steam safety valves to within three percent of set point for both units as contained in Table 4.7-1 (Unit 1) and Table 3.7-4 (Unit 2) of Technical Specification (TS) 3.7.1.1 "Safety Valves." The amendments would also modify Unit 2 TS 3.5.2 to provide a limitation to the allowable thermal power when a safety injection cross-tie valve is closed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

Based on the analyses presented in Attachment 4, [Westinghouse Report SECL-91-429, Rev. 1, "Donald C. Cook Units 1 and 2, Main Steam Safety Valve Lift Setpoint Tolerance Relaxation≥] all of the applicable LOCA and non-LOCA design basis acceptance criteria are satisfied. Although increasing the valve setpoint [tolerances] may result in an [increased steam release to the environment]... in the event of a steam generator tube rupture [that is] above the current UFSAR [Updated Final Safety Analysis Report] value foundin Chapter 14.2.4 for both units by approximately 0.2 percent, the analysis indicates that the calculated doses are within a small fraction of the [10 CFR 100] dose guidelines. The evaluation also concludes that the existing mass releases used in the offsite dose calculations for the remaining transients (i.e., steam line break, rod ejection) are still applicable.

There are no hardware modifications to the valves and, therefore, there is no increase in the probability of a spurious opening of a MSSV. Sufficient margin exists between the normal steam system operating pressure and the valve setpoints with the increased tolerance to preclude an increase in the probability of actuating the valves.

Based on the above, there is no significant increase in the probability of an accident previously evaluated in the UFSAR or in the dose consequences.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

Increasing the lift setpoint tolerance on the MSSVs [main steam safety valves] does not introduce a new accident initiator mechanism. No new failure modes have been defined for any system or component important to safety nor has any new limiting single failure been identified. No accident will be created that will increase the challenge to the MSSVs and result in increased actuation of the valves. Therefore, the possibility of a new or different kind of accident than any already evaluated in the UFSAR is not created.

(3) Involve a significant reduction in a margin of safety.

As discussed in the safety evaluation (Attachment 4), the proposed increase in the MSSV lift setpoint tolerance will invalidate neither the LOCA nor the non-LOCA conclusions presented in the UFSAR accident analyses of record. The new loss of load/turbine trip analysis concluded that all applicable acceptance criteria are still satisfied. For all the UFSAR non-LOCA transients, the DNB design basis, primary and secondary pressure limits, and dose limits continue to be met. Peak cladding temperatures remain below the limits specified in 10 CFR 50.46 for normal operation and when the thermal power is reduced to compensate for closure of the safety injection cross tie valves as required by the proposed Technical Specifications. The calculated doses resulting from a steam generator tube rupture event remain within a small fraction of the 10 CFR 100 permissible releases. Thus, there is no reduction in the margin to safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: L. B. Marsh

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: December 16, 1992

Description of amendments request: The proposed amendments would allow the use of digital instrumentation in the reactor protection system. The amendments would add conditions to the Unit 1 and 2 licenses stating that the licensee is authorized to use digital signal processing instrumentation in the reactor protection system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The Foxboro SPEC 200 and SPEC 200 MICRO lines of instrumentation are designed to mitigate anticipated operational occurrences and design basis accidents by actuating the reactor trip and engineered safeguards signals credited in the Cook Nuclear Plant safety analyses (see Attachment 5, Report No. 2985-WGS-03, "SPEC 200/SPEC 200 MICRO Hardware and Firmware System Description"). This instrumentation is designed to monitor and process signals for temperature, pressure, fluid flow, and fluid level (see Attachment 5, Report No. 2985-HEI-01, "Summary Report for Response Time Evaluations," and Report No. 2985-SKF-01, "Technical Specification Compliance Assessment"). While it is a form, fit and functional replacement for the existing Foxboro reactor protection system instrumentation, its reliability and availability is better than that of the present instrumentation (see Attachment 5, Report No. 2985-HEI-15, "Reliability and MTBF Analysis"). As such, in the highly unlikely event that the new instrumentation experiences a failure, the consequences will not exceed those caused by a failure of the

existing system. The new instrumentation's failure modes and effects are discussed in Attachment 5 in Report No. 2985-HEI-14, "Failure Modes and Effects Analysis Protection Set 1 Foxboro SPEC 200."

Since the ability of the reactor protection system to detect faults and initiate protective action is not reduced and since the FSAR analyses remain bounding as indicated above, the probability or consequences of accidents previously analyzed are not increased.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The Foxboro SPEC 200 and SPEC 200 MICRO instrumentation is designed to mitigate anticipated operational occurrences and design basis events by actuating reactor trip or engineered safeguards signals credited in the safety analyses. The instrumentation is designed to monitor and process signals for temperature, pressure, fluid flow, and fluid levels. It is a form, fit and functional replacement for the existing Foxboro analog instrumentation.

To ensure that the equipment will perform as required, extensive measures have been taken to ensure that the response of the new instrumentation is enveloped by the design basis accident analyses contained in Chapter 14 of the Cook Nuclear Plant FSAR. This is demonstrated, in part, in reports that are summarized in Attachment 5 including: Report No. 2985-VDV-01, "Reactor Protection Functional Diversity Assessment;" Report No. 2985-HEI-01, "Summary Report for Response Time Evaluations;" and Report No. 2985-SKF-01, "Technical Specification Compliance Assessment".

Application of the Foxboro instrumentation in the Cook Nuclear Plant reactor protection system includes, among other things, such considerations as single failure, independence, functional diversity, and separation criteria. In addition, the response of the instrumentation during events such as station blackout and design basis earthquake was assessed. The reports contained in Attachment 5 summarize these efforts.

An analysis of the response times of the instrumentation indicates that they will be bounded by the existing FSAR analyses and existing Cook Nuclear Plant technical specification limits (see Attachment 5, Report No. 2985-HEI-01, "Summary Report for Response Time Evaluations").

With regard to the application of digital technology in the Cook Nuclear Plant reactor protection system, a battery of EMI/RFI evaluations was performed, as discussed in Report No. 2985-HEI-03, "Preliminary EMI/RFI Evaluation." These evaluations concluded that the EMI/RFI environment at Cook Nuclear Plant is suitable for the application of this type of equipment.

The SPEC 200 and SPEC 200 MICRO have been designed, verified, and validated to be in compliance with the protection system functional requirements. This statement is supported by Report No. 2985-DPS-01, "Functional Requirement Summary," and Report No. 2985-HHH-01, "Qualification Compliance," both of which are provided in Attachment 5. Additionally, reliability studies of the instrumentation, as well as the verification and validation studies and the equipment qualification programs, indicate that the susceptibility of the reactor protection system to common mode failure mechanisms will be reduced. (See Attachment 5, Report No. 2985-HEI-15, "Reliability and MTBF Analysis.")

A failure of the digital instrumentation will not create a new or different accident. In the highly unlikely event that the new reactor protection system instrumentation should fail, the consequences experienced would be equivalent to those experienced if the existing equipment failed. (See Attachment 5, Report No. 2985-HEI-14, "Failure Modes and Effects Analysis Protection Set 1 Foxboro SPEC 200," and Report No. 2985-VDV-01, "Reactor Protection Functional Diversity Assessment.")

Consequently, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated for the Cook Nuclear Plant.

(3) Involve a significant reduction in a margin of safety.

The proposed change will not reduce a margin of safety. The accuracy and reliability of the reactor protection system will be improved with the installation of the Foxboro SPEC 200 and SPEC 200 MICRO instrumentation (see Attachment 5, Report No. 2985-HEI-15, "Reliability and MTBF Analysis"). The various reactor trip and engineered safeguard actuation circuits continue to provide signals to automatically open the reactor trip breakers or actuate engineered safeguards equipment, as applicable, whenever a condition monitored by the reactor protection system or the engineered safeguards features actuation system reaches a preset or calculated level. In addition to redundant channels and trains, the protection system will continue to monitor numerous system variables, thereby providing protection system functional diversity (see Attachment 5, Report No. 2985-VDV-01, "Reactor Protection Functional Diversity Assessment").

In addition, since it is assumed that our overall response times and setpoint and allowable values will continue to remain bounding (see Attachment 5, Report No. 2985-HEI-01, "Summary Report for Response Time Evaluations," and Report No. 2985-SKF-01, "Technical Specification Compliance Assessment"), the results and conclusions of the accident analyses remain valid, as supported by Report No. 2985-VDV-01, "Reactor Protection Functional Diversity Assessment," contained in Attachment 5. Response time testing performed as part of the factory acceptance testing will verify that the response times assumed in the accident analyses are not exceeded.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: L. B. Marsh

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: January 29, 1993

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) by changing the surveillance interval for the Source Range Monitor (SRM) functional test from daily to weekly. In a previous TS amendment the surveillance interval was erroneously changed to daily.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1) The proposed change does not increase the probability or consequences of an accident occurring because it merely corrects an error and restores the appropriate surveillance interval for the SRM functional test. No other changes are proposed.

2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because this change to the surveillance interval merely corrects a previous error and is consistent with DAEC and NRC guidance.

3) The margin of safety will not be reduced since the change corrects an error as noted above and therefore does not affect the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: John N. Hannon

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: February 1, 1993.

Description of amendment request: The proposed amendment would revise the technical specifications (TS) for the Cooper Nuclear Station (CNS) to (1) incorporate the NRC staff position on leak detection per the guidance of Generic Letter 88-01 and its supplement, (2) incorporate the NRC staff position on inservice inspection schedules, methods, personnel, and sample expansion per the guidance of Generic Letter 88-01 and its supplement, and (3) make administrative changes where certain system names are replaced by system names which are more consistent with those used in other portions of the TS and the implementing surveillance procedures.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The first proposed change addresses the NRC position on leak detection, delineated in Generic Letter 88-01. This change imposes a 2 gpm limit on the increase of unidentified reactor coolant leak rate over a 24-hour period, establishes specific operability requirements for drywell sump flow measuring systems, and increases the frequency of Reactor Coolant System (RCS) leakage checks. This proposed change provides more stringent criteria for the early detection of unidentified leakage within primary containment. This additional restriction will enhance the ability to detect leaks in the reactor coolant pressure boundary, thereby reducing the potential for a significant failure of the pressure boundary. Additional requirements regarding the drywell sump flow measuring systems will provide added assurance that the sumps will always be available for the early detection of unacceptable leakage during plant operations. This change incorporates additional restrictions into the plant Technical Specifications and does not involve the modification or addition of any plant hardware, nor does it involve a change in those plant settings that affect plant operation responses. The District concludes that this proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The second proposed change addresses the NRC position on inservice inspection methods and personnel, delineated in Generic Letter 88-01. This change involves the addition of a statement that commits the station to conducting the inservice inspection program in accordance with the guidance of Generic Letter 88-01, in regard to schedule, methods, personnel, and sample expansion. This change incorporates additional restrictions into the plant Technical Specifications and does not result in any plant modifications or change in plant hardware. The augmented inservice inspection program, for piping identified in Generic Letter 88-01, does not affect plant operations. However, adoption of this augmented inservice inspection program should provide added assurance that piping, susceptible to Intergranular Stress Corrosion Cracking, will maintain integrity throughout all modes of plant operation. Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The third proposed change involves the replacement of various terms (system names) used to refer to the drywell air sampling system and the sump flow measuring systems with the terms "drywell air sampling system" and "sump flow measuring systems", respectively. The purpose of this change is to utilize system names that are consistent with those used in other parts of the Technical Specifications and the applicable implementing surveillance procedures. This proposed change is administrative in nature and does not involve a change in plant operations, plant modification, or a change in plant hardware. Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility for a new or different kind of accident from any accident previously evaluated?

The first proposed change addresses the NRC position on leak detection, delineated in Generic Letter 88-01, by establishing new requirements for restricting unidentified leak rate increases, increasing the surveillance frequency for RCS leakage, and establishing specific operability requirements for the drywell sump flow measuring systems. Cooper Nuclear Station (CNS) is analyzed for large, unisolatable leaks in primary containment and leakage is carefully monitored to reduce the probability of this occurring. This proposed change provides additional restrictions on operation with increasing leakage or inoperable monitoring equipment. Since this change does not result in a change to the design, operation, maintenance, or testing of the plant, a new mode of operation or failure is not created. Therefore, the proposed change does not create the possibility for a new or different kind of accident from any accident previously evaluated.

The second proposed change addresses the NRC position on inservice inspection methods and personnel, delineated in Generic Letter 88-01. This change adds a statement that requires piping, identified in Generic Letter 88-01, to undergo inservice inspection in accordance with NRC guidelines. This change does not result in the addition or modification of any structure, system, or component, and does not introduce or change any mode of plant operation. Therefore, the District concludes that the proposed change does not create the possibility for a new or different kind of accident from any accident previously evaluated.

The third proposed change involves the replacement of various terms (system names) used to refer to the drywell air sampling system and the sump flow measuring systems in order to utilize system names that are consistent with those used in other parts of the Technical Specifications and the applicable implementing surveillance procedures. This proposed change is administrative in nature and does not introduce a change in the way Technical Specifications are interpreted or implemented. This change does not result in the addition, deletion, or modification of any structure, system, or component, and does not introduce or change any mode of plant operation. Therefore, the District concludes that the proposed change does not create the possibility for a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change create a significant reduction in the margin of safety?

The first proposed change addresses the NRC position on leak detection, delineated in Generic Letter 88-01. This proposed change provides additional restrictions to the rate of leakage increase allowed to the primary containment from unidentified sources, along with additional testing frequency requirements. These additional requirements enhance the ability for early detection of small leaks in the reactor coolant pressure boundary, thereby reducing the potential for significant failure of the pressure boundary. This change also includes the establishment of specific operability requirements for the drywell sump flow measuring system. This change will provide additional assurance that the sumps are available for the monitoring of RCS leakage. There are no changes to the plant hardware and no changes to plant safety setpoint settings resulting from this change. Therefore, this proposed change does not create a significant reduction in the margin of safety.

The second proposed change addresses the NRC position on inservice inspection methods and personnel, delineated in Generic Letter 88-01. This proposed change involves the inclusion of piping, identified in Generic Letter 88-01, into the CNS in-service inspection program per the guidance provided in the Generic Letter. This proposed change incorporates additional restrictions into the plant Technical Specifications and there are no modifications to plant hardware or changes to the plant safety setpoint settings. Therefore, this proposed change does not create a significant reduction in the margin of safety.

The third proposed change involves the replacement of various system names used to refer to the drywell air sampling system and the sump flow measuring systems. This proposed change is administrative in nature. It involves no hardware changes, plant modifications, or changes in plant operations. There are no changes to the plant safety setpoint settings. Therefore, this proposed change does not create a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68602-0499

NRC Project Director: George T. Hubbard, Jr. (acting)

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: April 3, 1992, as supplemented January 12, 21, and 22, 1993

Description of amendment request: The amendment would revise the Surveillance Requirements (SRs) in the Technical Specifications (TS) for the Standby Liquid Control (SLC) system to substitute the pertinent requirements from the draft improved Standard TS provided in NUREG-1433.

The initial information supporting a finding of no significant hazards consideration was provided in the licensee's original application dated April 3, 1992, and confirmed in the licensee's January 12, 1993, submittal. The verification of SLC system operability focuses on maintaining or recovering the required temperature of the sodium pentaborate solution, and not on the means of achieving the solution temperature required to prevent precipitation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The revised proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The revised proposed SR to verify that the SLC system pump suction line is unblocked does not delineate a specific flow path. The current TS SR specified flow path from the SLC system storage tank to the test tank creates a large amount of liquid waste requiring special handling as a result of the post test pipe flushing. An alternative testing method would be to pump solution from the storage tank to a test drain. This would reduce the amount of piping and equipment subjected to the flow of the sodium pentaborate solution and the subsequent required flushing. Accordingly, the result of performing the proposed SR would be equivalent to performing the current SR; affected heat traced piping would continue to be verified unblocked. The revised proposed SR deletes the prescribed method specified in the current and originally proposed TS, and thereby allows flexibility in the methods employed to perform this SR verification. The revised proposed SR also includes a clarification of the period during which this SR is required to be performed if the piping temperature drops below the low temperature limit (i.e., 70°F).

The revised proposed SR changes include deletion of the required demonstration of SLC system storage tank heater operability. This proposed change is based upon the ultimate objective of determining SLC system operability as a function of the temperature of the sodium pentaborate solution in the storage tank, which the TS will continue to require to be checked daily, and not on the method of achieving this verification. Specifically, the storage tank heaters are the "A" heater, a 10KW cycling heater (i.e., controlling solution temperature between 75°F and 85°F), and the "B" heater, a 40KW manually operated heater used primarily during solution mixing activities. The storage tank is located within heated spaces of the Reactor Enclosure that are normally maintained at or above the "A" heater low temperature activation setpoint of 75°F. Furthermore, low storage tank solution temperature (i.e., 70°F) is alarmed in the Main Control Room.

In addition, the revised proposed SR includes clarification of the period within which the verification of solution concentration is required to be performed after water or boron is added to the storage tank, or if the solution temperature drops below 70°F.

This clarification is based on the recognition of realistic time limits to perform actions to preclude precipitation of the sodium pentaborate. Based on the above discussion, our previous conclusion that the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated remains unchanged.

2. The revised proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The revised proposed changes tot he SLC system SRs do not add or delete any equipment, and do not involve any systems or equipment that would create an accident. Therefore, our previous conclusion that the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated remains unchanged.

3. The revised proposed TS changes do not involve a significant reduction in [a] margin of safety.

The revised proposed changes to the SLC system SRs do not involve physical changes to the system, and continue to provide an equivalent level of assurance that the SLC system will be capable of performing its safety function. Therefore, our previous conclusion that the proposed changes do not reduce the margin of safety remains unchanged.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-278, Peach Bottom Atomic Power Station, Unit No 3, York County, Pennsylvania

Date of application for amendment: January 28, 1993

Description of amendment request: The licensee proposes to modify Section 1.1.A of the Peach Bottom Atomic Power Station, Unit 3 Technical Specifications. The proposed change would revise the safety limit minimum critical power ratio (MCPR) for two recirculation loop and single recirculation loop operation to 1.07 and 1.08 respectively. The change is requested to accommodate installation and use of a new fuel type, GE-11 fuel, during the Cycle 10 operation. Unit 3, Cycle 10 is expected to begin in November of 1993.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

PECo [Philadelphia Electric Company] proposes that the changes to the MCPR Safety Limits do not involve significant hazards considerations for the following reasons.

i) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. Because the MCPR Safety Limits are operational thresholds analytically selected using proven methods, they cannot, themselves, initiate an accident. The probability of occurrence of transients is determined by the frequency of operator errors and equipment failures, not by the adequacy of the MCPR Safety Limits selected. Because the proposed MCPR safety limits have been selected such that no fuel damage is calculated to occur during the most severe moderate frequency transient events, they will ensure that the consequences of these events are not increased. The response of the plant to transients will be within the bounds

of the discussion in Chapter 14 and Appendix G of the Updated Final Safety Analysis Report since the proposed MCPR Safety Limits will accomplish the same objectives as the previous limits.

ii) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed MCPR Safety Limits have been selected such that the design basis is satisfied. The MCPR Safety Limits are operational thresholds analytically selected using proven methods; therefore, they cannot, themselves, initiate an accident. An improperly selected limit could result in fuel damage, which is a consequence of previously evaluated accidents. Thus, no new or different type of accident could be created by revising the limits.

iii) The proposed changes do not involve a significant reduction in a margin of safety because the proposed MCPR Safety Limits have been selected such that the design basis is satisfied and such that the conservatism described in the Bases for the Fuel Cladding Integrity Safety Limit TS are maintained. Thus, margins of safety with the proposed MCPR Safety Limits are the same as with the previous limits.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 5, 1993

Description of amendment request: The licensee has requested a change in the Technical Specification fuel storage criticality criteria. The development of new fuel designs has resulted in fuel bundles with higher average enrichment and more burnable poisons than the design used as the basis for the existing TS requirement. The existing and the proposed TS criteria are used to ensure compliance with the requirement to have fuel storage k-eff less than or equal to 0.95. The licensee proposes to replace the existing TS 5.5.D that "The average fuel assembly loading shall not exceed 17.3 grams U-235 per axial centimeter of total active fuel height of the assembly" with a requirement that states "The spent fuel storage racks are designed and shall be maintained with fuel assemblies having a maximum k-infinity of 1.362 in the nominal reactor core configuration at cold conditions." The licensee contends the proposed criteria is more appropriate to new fuel designs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Licensee proposes that this application does not involve a significant hazards consideration for the following reasons:

i) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change replaces the method of assuring the compliance with the storage reactivity criterion. The existing fuel enrichment criteria is converted to a k-infinity criteria by computing the in-core k-infinity of the exact same lattice type used by the rack supplier in the original fuel storage criticality analysis. Since the proposed change does not affect operations, equipment, or any safety related activity, current accident precursors are unaffected. Therefore, there is no increase in the probability or consequences of an accident previously evaluated.

ii) The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not make any physical changes to the plant or changes to operating procedures. Therefore, implementation of the proposed change will not affect the design function or configuration of any component or introduce any new operating scenarios or failure modes or accident initiation. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

iii) The proposed change does not involve a significant reduction in a margin of safety.

Replacing the method by which the fuel storage criticality is assured does not affect any safety related equipment activity or equipment. Therefore, the proposed change does not reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: October 14, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3/4.7.5, "Control Room Emergency Air Cleanup System," and associated Bases, to delete requirements for duct heaters and diverting valves, and to incorporate modifications in the Action statement, Surveillance Requirements (SR), and Bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The proposed TS change will not result in a significant increase in the probability or consequences of any accident previously evaluated. The proposed TS change clarifies the ACTION statements when each unit is in a different operational MODE, and will not decrease the ability of the control room emergency air cleanup system (CREACUS) to perform its intended function of protecting the control room operators from a postulated uncontrolled release of radioactivity or toxic gas. The proposed TS change also modifies the surveillance requirements for the CREACUS, including deleting duct heaters that are not required and removing reference to diverting valves that do not exist in the system. The licensee states that the duct heaters are not needed to maintain the relative humidity below the required level, and the reliability and performance of the CREACUS will not be affected by the proposed changes in the surveillance requirements. The staff concludes that the licensee's analysis of the impact of these modifications to the CREACUS

surveillance requirements appears to satisfy this standard of 10 CFR 50.92(c)

2. The proposed TS change will not create the possibility of a new or different kind of accident from any previously evaluated. The CREACUS is utilized to protect the control room operators from certain accident scenarios, and its operation will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The operation of the facility in accordance with this proposed TS change will not result in a significant reduction in a margin of safety. The discussion in Item 1 above contains the staff's evaluation of the licensee basis for concluding that the reliability and performance will not be adversely affected by the proposed TS change. This conclusion also means that no significant decrease in any margin of safety will result from this proposed TS change.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 30, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3/4.3.2, "Engineered Safety Feature Actuation System Instrumentation," and TS 3/4.3.3, "Radiation Monitoring Instrumentation." This amendment request, identified as Proposed Change Number 405, would eliminate the TS requirements and ESFAS circuitry for the Control Room Isolation System (CRIS) particulate/iodine channel. The licensee has reviewed the design basis for the CRIS particulate/iodine channel and determined that it is not necessary for this channel to perform an Engineered Safety Feature Actuation System (ESFAS) function.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change would eliminate the ESFAS technical specification requirements and ESFAS circuitry of the CRIS particulate/iodine radmonitor channel. The function of the particulate/iodine channel is to detect airborne radioactivity entering the control room normal ventilation supply and initiate a CRIS signal. The CRIS signal realigns the ventilation system to a configuration that is capable of maintaining a suitable control room environment following a Design Basis Accident. Since the CRIS particulate/iodine channels are only used following an accident, the probability of occurrence of an accident previously evaluated would not be affected by the proposed change.

CRIS instrumentation is credited in the [Updated Final Safety Analysis Report] UFSAR for two design basis events: a steam generator tube rupture and a [Fuel Handling Accident] FHA inside containment. Eliminating the particulate/iodine channel would not alter the ESFAS function of the CRIS signal. The response time of the CRIS particulate/iodine channel has been evaluated in comparison with the CRIS gaseous channels. The gaseous channels would respond to initiate a CRIS signal faster than the particulate/iodine channels.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change would eliminate ESFAS technical specification requirements and ESFAS circuitry of CRIS instrumentation used solely for the purpose of protecting the control room during a design basis accident. Eliminating the particulate/iodine channel would not alter the ESFAS function of the CRIS system. With the exception of eliminating these two channels, the proposed change would not alter the design of the interface between CRIS instrumentation and existing plant equipment. CRIS functions would continue to be performed by the redundant gaseous channels of the airborne radmonitors. Operation of the facility in accordance with this proposed change would not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change would eliminate ESFAS technical specification requirements and ESFAS circuitry of the CRIS particulate/iodine channel. During all credible accidents which require CRIS actuation, the gaseous radmonitor channels would initiate the required safety function. Since the proposed change would not alter the response of the gaseous channels, operation of the facility in accordance with the proposed change would not involve a significant reduction in a margin of safety.

CRIS instrumentation is credited in the UFSAR for two design basis events: a steam generator tube rupture and a FHA inside containment. Eliminating the particulate/iodine channels would not alter the ESFAS function of the CRIS signal. The response time of the particulate/iodine channel has been evaluated in comparison with the CRIS gaseous channel. The gaseous channels would respond to initiate a CRIS signal faster than the particulate/iodine channels. Since for both design basis events, the response of the redundant gaseous channels would initiate a CRIS signal faster than would the particulate/iodine channel, operation of the facility in accordance with this proposed change would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 30, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3.3.3.1, "RADIATION MONITORING." This amendment request, identified as Proposed Change Number 416, would increase the required number of plant vent stack wide range noble gas radiation monitors from 1 to 2 when either Unit 2 or 3 is in Mode 1, 2, or 3. When either Unit 2 or 3 is in Mode 4 and the other unit is in Mode 4, 5, or 6, either the plant vent stack monitor (2/3RT-7808) or both wide range gas monitors (2RT-7865-1 and 3RT-7865-1) will be required. Editorial clarifications are also made.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the

issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This proposed change increases the number of wide range noble gas plant vent stack radiation monitors from one to two. The proposed TS will require that whenever Unit 2 or Unit 3 is in Mode 1, 2, or 3, both plant vent stack effluent pathways will be continuously monitored. In Mode 4 either the normal plant vent stack monitor (2/3RT-7808) or both 2RT-7865-1 and 3RT-7865-1 will be required. This proposed change does not reduce the requirements for any radiation monitor credited in the UFSAR for mitigation of the consequences of any previously evaluated accident. Therefore, this proposed change will not increase the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This proposed change increases radiation monitoring requirements using existing qualified equipment. This proposed change neither adds new equipment nor changes the configuration or operation of the plant. Therefore, no new or different kind of accident is created from any previously evaluated.

3. Will operation of the facility in accordance with this proposed amendment involve a significant reduction in a margin of safety?

Response: No.

This proposed change increases the operability requirements for wide range noble gas plant vent stack radiation monitors. This proposed change is limited to the requirements of [Plant Vent Stack] PVS radiation monitoring with 2RT-7865-1 and 3RT-7865-1 which are not identified with any margin of safety. Therefore, this proposed change will not significantly reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 30, 1992

Description of amendment requests: The licensee proposes to include a new Technical Specification (TS) 3/4.7.3.1, "Component Cooling Water Safety Related Makeup System," and its associated Bases, in the San Onofre Units 2 and 3 Technical Specifications. This TS amendment request, identified as Proposed Change Number 418, is being submitted to support the installation (during the Units 2 and 3 Cycle 7 refueling outages) of a safety related Seismic Category I source of emergency makeup water for the Component Cooling Water (CCW) System.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No

The CCW Safety Related Makeup System provides an assured water supply to the CCW in case of a Design Basis Event. As such, the proposed Technical Specifications describe a new system which will ensure that the CCW remains OPERABLE following a Design Basis Event. Therefore, this proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No

The changes proposed herein improve the reliability of the CCW system by providing it with a safety related makeup. Therefore, this proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

Operation of the facility in accordance with the proposed change will not be altered as a result of the proposed change. The purpose of this change is to ensure the CCW will continue to perform its functions in case of a [Design Basis Event] [DBE] without reliance on the non-Seismic I Nuclear Service Water System. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 31, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3.2.1, "LINEAR HEAT RATE," and TS 3.2.4, "DNBR MARGIN," and the corresponding Bases. This amendment request, identified as Proposed Change Number 325, increases the ACTION time from 1 hour to 4 hours when the Core Operating Limit Supervisory System (COLSS) is out of service. During the 4-hour ACTION period, new Surveillance Requirements will verify every 15 minutes that no adverse trend in departure from nucleate boiling ratio (DNBR) margin or linear heat rate (LHR) will occur. In addition, new power reduction requirements are proposed when the Limiting Conditions for Operability cannot be met from "HOT STANDBY" to "less than or equal to 20% Rated Thermal Power."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This proposed change distinguishes between the action requirements applicable when COLSS is either in service or out of service. If COLSS is in service the actions and time requirements remain unchanged. When COLSS is not available the action time is increased from 1 hour to 4 hours. The purpose of these TS changes is to provide a reasonable opportunity for appropriate

corrective actions when the COLSS becomes inoperable.

The TS [Limiting Conditions for Operation] LCOs for DNBR margin and LHR are more restrictive when operating without the COLSS due to [Core Protection Calculators] CPC uncertainties and the overpower margin reserved to ensure that specified acceptable fuel design limits are not exceeded in the event of anticipated operational occurrences. Consequently, when COLSS becomes inoperable the existing DNBR margin limits based on CPC information can only be satisfied by either a power reduction or by restoring the COLSS to service. By itself, a loss of COLSS or returning the COLSS to service does not affect plant operation and does not affect the actual DNBR or the LHR. In addition, a loss of the COLSS does not immediately mean that the actual core power should be changed. Therefore, during normal operation within the COLSS [Power Operating Limits] POLs, if there are no indications that the actual DNBR margin or LHR has degraded, the required overpower margin discussed in chapter 15 of the [Updated Final Safety Analysis Report] UFSAR will continue to be maintained.

When either TS 3.2.1 or TS 3.2.4 is not satisfied compensatory actions will provide additional assurance that the actual DNBR margin and LHR do not exceed the safety limits stated in the UFSAR. The new [surveillance requirements] SR will ensure that DNBR margin and LHR are monitored every 15 minutes and appropriate action is taken if an adverse trend is noted when COLSS is out of service and the LHR and DNBR TS LCOs are not met.

The primary consideration in extending the COLSS out of service time limit is the remote possibility of a slow, undetectable transient that degrades the DNBR margin or LHR within the 4 hour action time and is then followed by an anticipated operational occurrence or accident. The plant parameters monitored by COLSS which could affect DNBR margin and LHR include [Reactor Coolant System] RCS flow rate as determined from reactor coolant pump shaft speed, axial power distribution, cold leg temperature, reactor core power, RCS pressure, and azimuthal tilt. Of these parameters, the CPC's directly incorporate measured values for reactor core power, RCS flow rate as determined from reactor coolant pump shaft speed, RCS pressure, and cold leg temperature into the calculations of DNBR and LHR. Therefore, any degradation of conditions with respect to these parameters is expected to be evident in the equivalent CPC margins.

San Onofre is stable with respect to azimuthal power tilt within any 4 hour time period. The only credible events affecting azimuthal tilt are an inadvertent drop or misalignment of a Control Element Assembly (CEA). The probability of an undetected dropped or misaligned CEA is remote within any four hour time period and beyond the basis of LCO monitoring. In addition, a CEA calculator indicating light and alarm will alert operators that corrective action is required if this situation were to occur. Thus, during the proposed 4 hour action statement any degradation of azimuthal tilt is unlikely and would be quickly and positively identified.

Axial xenon oscillations are a normal consequence of the San Onofre Unit 2 and 3 core designs, particularly near the end of a fuel cycle. The resultant axial core power fluctuations are strictly controlled to insure efficient fuel burnup. As a result, axial power shape is strictly maintained by existing procedures well within the limits assumed in the safety analysis. Typically, axial shape control will maintain the [Axial Shape Index] ASI within 0.05 ASI units of the Equilibrium Shape Index (ESI).

Typically, one full xenon oscillation will take approximately 26 hours. Since operating procedures will be revised to require CPC calculated LHR and DNBR to be monitored every 15 minutes, any significant change in ASI will be identified. Therefore, due to the attention given the axial power distribution when COLSS is in service and the increased LHR and DNBR monitoring when COLSS is not in service, it is unlikely that a change in ASI during the 4 hour ACTION period of steady plant operation would either be undetected or lead to a condition outside the range of initial conditions assumed in the safety analysis.

This proposed change does not modify either the LHR or DNBR Limiting Conditions for Operation (LCOs). The core power distribution during all phases of normal operation and anticipated operational occurrences will remain bounded by the initial conditions assumed in chapter 15 of the safety analysis. The COLSS calculated POLs and the CPC based LHR and DNBR operating limits will remain unchanged. Therefore, this proposed change will not significantly increase the probability or consequences of an accident previously evaluated.

This proposed change increases the core power limit if LHR and DNBR limits are not restored within the applicable action time, from "HOT STANDBY" to "less than or equal to 20% of Rated Thermal Power (RTP). This administrative change provides consistency with the existing TS applicability statements. The increased power level allows in-core and ex-core neutron detectors to provide meaningful data for COLSS trouble shooting and operability determination without decreasing any safety margin.

Therefore, this change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This proposed change is limited to administrative limits, does not involve any physical change to plant systems, and the COLSS and CPC software is not altered. This change will not affect any safety-related equipment used in the mitigation of anticipated operational occurrences or design basis accidents. The only significant change resulting from this amendment will be to the [Operating Instructions] OIs used when COLSS is out of service. These OI changes will be reviewed and implemented in accordance with 10 CFR 50.59 and TS Administrative Controls. The DNBR and LHR LCOs are not affected by these changes. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed amendment involve a significant reduction in a margin of safety?

Response: No.

TS LCOs 3.2.1 and 3.2.4 ensure that operation of the reactor is within the range of conditions assumed in the Safety Analysis. When COLSS is unavailable, the new SR will monitor DNBR margin and LHR using the CPCs to ensure that the DNBR margin and LHR have not degraded and no anticipated operational occurrence or postulated accident will result in core conditions exceeding Specified Acceptable Fuel Design Limits or the maximum peak cladding temperature of 2200°F specified by 10 CFR 50.46. Therefore, the analysis as described in Chapter 15 of the UFSAR remains bounding. For these reasons, this change will not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: November 24, 1992

Description of amendment request: The proposed amendment would revised Technical Specification Section 15.3.10, "Control Rod and Power Distribution Limits." The first sentence of Specification 15.3.10.A.5 currently reads: "When the reactor is in the hot shutdown condition or during any approach to criticality, except for physics tests, the critical rod position shall not be lower than the inserton limit for zero power." The proposed amendment would change this sentence to read: "During any approach to criticality, except for physics tests, the

critical rod position shall not be lower than the insertion limits for zero power."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of this facility under the proposed Technical Specification will not create a significant increase in the probability or consequences of an accident previously evaluated. This proposed change modifies Specification 15.3.10.A.5 by removing its applicability when the reactor is in hot shutdown. The intent of this section is to prevent the occurrence of a reactor criticality below the control rod insertion limits. Under the proposed amendments, the intent of this section will still be maintained because sufficient actions to ensure that a criticality only occurs above the control rod insertion limits are still required to be performed before a critical approach can be commenced. Additionally, the proposed changes will not minimize the existing controls for the hot shutdown mode of operation. Specification 15.3.10.A.3 adequately addresses the hot shutdown condition in its consideration of shutdown margin requirements. There is no physical change to the facility, its systems, or its operation. Thus, an increased probability or consequences of an accident previously evaluated cannot occur.

Operation of this facility under the proposed Technical Specification will not create the possibility of a new or different kind of accident from any accident previously evaluated. This proposed change modifies Specification 15.3.10.A.5 by removing its applicability when the reactor is in hot shutdown. The intent of this section is to prevent a reactor criticality below the control rod insertion limits. Under the proposed amendments, the intent of this section will be maintained. Sufficient actions to ensure that criticality only occurs above the control rod insertion limits are still required before a critical approach can be commenced. Additionally, the proposed changes will not minimize the existing controls for the hot shutdown mode operation. Specification 15.3.10.A.3 adequately addresses the hot shutdown condition in its consideration of shutdown margin requirements. There is no physical change to the facility, its systems, or its operation. Thus, a new or different kind of accident cannot occur.

Operation of this facility under the proposed Technical Specification will not create a significant reduction in a margin of safety. This proposed change modifies Specification 15.3.10.A.5 by removing its applicability when the reactor is in hot shutdown. The intent of this section is to prevent a reactor criticality below the control rod insertion limits. Under the proposed amendments, the intent of this section will be maintained. Sufficient actions to ensure that a criticality only occurs above the control rod insertion limits are still required to be performed before a critical approach can be commenced. Additionally, the proposed changes will not minimize the existing controls for the hot shutdown mode of operation. Specification 15.3.10.A.3 adequately addresses the hot shutdown condition in its consideration of shutdown margin requirements.

There is no physical change to the facility, its systems, or its operation. Thus, a significant reduction in a margin of safety cannot occur.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: January 14, 1993

Description of amendment request: The proposed amendment would revise Technical Specification 15.3.1.E, "Maximum Reactor Coolant Oxygen and Chloride and Fluoride Concentration for Power Operation." Item 2 under this specification limits the concentration of chloride and fluoride each to 0.15 ppm. The amendment would separate this into two parts, one for chloride, the other for fluoride. The limits would not be changed.

The amendment would also revise the action statement by changing the times in which actions must be taken. The current action statement requires action only when oxygen and either chloride or fluoride exceed specified limits. As revised, action would be taken when any one of the three parameters exceeds its specified limit. Under the existing specification, if normal operation specifications are not achieved within 24 hours, the reactor is to be brought to a hot shutdown condition within an unspecified time period. The amendment would specify that this be done within 8 hours. The current specification continues with a requirement that, if the system is not brought to within specifications within an additional 24 hours, the system is to be brought to a cold shutdown condition in an unspecified time period. The amendment would specify that this period to achieve cold shutdown be 12 hours.

The specification is reworded to tie all actions to the time of discovery of the out-of-specification condition.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1

Operation of the Point Beach Nuclear Plant in accordance with the proposed license amendment does not result in a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment assures that timely corrective action is taken for an out-of-specification reactor coolant chemistry condition. Control of oxygen, chloride, and fluoride contaminants helps insure the long-term integrity of the reactor coolant pressure boundary, fuel clad, and reactor vessel internals. Degradation caused by an out-of-specification chemistry condition is time-dependent and therefore does not present an immediate safety concern. Any degradation will be detected by existing inspection programs and procedures. It is appropriate to allow a reasonable, though limited period of time, in which to correct the condition while maintaining the plant operating. Fuel damage and loss of coolant accidents, including a steam generator tube rupture, are the principal accidents involving reactor coolant system materials analyzed in the updated Final Safety Analysis Report (FSAR). Reactor coolant chemistry is not analyzed as a contributing factor to these events. Therefore, the probability or consequences of any accident previously evaluated will not significantly increase.

Criterion 2

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not result in or from a physical change to the facility or a significant change in its operation. Corrective action will be taken expeditiously to correct any out-of-specification chemistry condition. Therefore, operation of the facility in accordance with this amendment cannot result in a new or different type of accident than any presently analyzed.

Criterion 3

The proposed amendment does not involve a significant reduction in a margin of safety.

Controlling oxygen, chlorides, and fluorides within specified limits insures the functional integrity of the reactor coolant system material under all operating conditions. Degradation due to out-of-specification chemistry conditions is a slow, time-dependent process. The out-of-specification conditions do not present an immediate concern as to the integrity of the reactor coolant system materials and the fuel cladding. A limited period of time to correct the condition, 24 hours, will not cause significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon

Previously Published Notices of Consideration of Issuance of Amendments to Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: January 15, 1993, as supplemented January 21, 1993

Description of amendment request: The amendment would revise the Technical Specifications, Section 4.7.10.e, by extending the surveillance requirement frequency for the snubber functional tests by allowing a one-time extension to the current 18-month surveillance, plus the additional 25 percent allowed by Technical Specification 4.0.2.

Date of publication of individual notice in **Federal Register:** February 5, 1993 (58 FR 7265).

Expiration date of individual notice: March 8, 1993

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Georgia Power Company, et al., Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: February 2, 1993 (This amendment request supersedes previous August 31, 1992, request as noticed in the **Federal Register** September 30, 1992, 57 FR 45084)

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 4.8.1.1.2.h.7 and its associated footnote to remove the requirement to have the diesel generators perform the LOOP/ESFAS test within 5 minutes after completing the 24-hour test and substitute the requirement to start the diesel generator in accordance with TS 4.8.1.1.2.a.4 within 5 minutes after the 24-hour test.

Date of publication of individual notice in **Federal Register:** February 18, 1993 (58 FR 8999)

Expiration date of individual notice: March 22, 1993

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830

Notice of Issuance of Amendment to Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: October 30, 1991

Brief description of amendment: The amendment revised Technical Specification 3.3.2-2 by adding new isolation signals for the Reactor Water Cleanup (RWCU) system and by revising the existing setpoint for the delta-flow timer isolation signal. The new signals will initiate an RWCU system isolation based on high temperature or high delta-temperature in containment rooms where the "cold" portion of the RWCU piping is located. The RWCU delta-flow timer setpoint was extended from 45 seconds to 10 minutes.

Date of issuance: February 8, 1993

Effective date: February 8, 1993

Amendment No. 46

Facility Operating License No. NPF-58. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 11, 1991 (56 FR 64649). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 8, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: April 20, 1992

Brief description of amendment: The amendment removes certain fire protection related items from Oyster Creek Nuclear Generating Station Technical Specifications and relocates them in the Fire Protection Program to the Updated Final Safety Analysis Report. This amendment was requested in accordance with the guidance provided in Generic Letter 86-10 and 88-12.

Date of issuance: February 18, 1993

Effective date: February 18, 1993

Amendment No.: 161

Facility Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 13, 1992 (57 FR 20511) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 18, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of applications for amendment: August 9, 1991, and October 29, 1991

Brief description of amendment: The amendment revises the Technical Specifications Bases addressing the minimum borated water storage volumes to ensure adequate shutdown margin exist with respect to the loss of coolant accident (LOCA) linear heat rate allowable limits. Technical Specifications Figure 3.5-2M, "LOCA Limited Maximum Allowable Linear Heat Rate," is revised to reflect the Babcock & Wilcox reevaluations of generic linear heat rate limits. In accordance with the intent of NRC Generic Letter 88-16, this figure is removed from the TMI-1 Technical Specifications and incorporated into the TMI-1 Core Operating Limits Report.

Date of issuance: February 11, 1993

Effective date: February 11, 1993

Amendment No.: 168

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notices in Federal Register: August 5, 1992 (57 FR 34583) and December 9, 1992 (57 FR 58246) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 11, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Date of application for amendment: June 24, 1992

Brief description of amendment: The amendment revises the requirements for the number of licensed Senior Reactor Operators required to be stationed for Refueling Operations, in accordance with 10 CFR 50.54.

Date of issuance: February 11, 1993

Effective date: February 11, 1993

Amendment No.: 169

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 14, 1992 (57 FR 47138) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 11, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Date of application for amendment: August 25, 1992

Brief description of amendment: The amendment change revises the Technical Specifications to allow receipt, storage, and transfer of reactor fuel enriched to as high as 5.0 weight percent with U-235.

Date of issuance: February 17, 1993

Effective date: February 17, 1993

Amendment No.: 170

Facility Operating License No. DPR-50. Amendment revised Technical Specifications.

Date of initial notice in Federal Register: October 14, 1993 (57 FR 47139) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 17, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: July 27, 1992

Brief description of amendment: The amendment revises the Technical Specifications for reactor vessel water level as follows:

• Provides in Section 3.3.3.6 separate actions when either one or two channels of reactor vessel water level monitoring are not operable.

• Adds a definition to Table 3.3-10 of an operable channel.

• Clarifies Table 4.3-7 that an electronic calibration from the Inadequate Core Cooling cabinets is the appropriate surveillance for the reactor vessel water level instrumentation.

Date of issuance: February 18, 1993

Effective date: February 18, 1993

Amendment No.: 76

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 2, 1992 (57 FR 40217) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 18, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of amendments request: January 21, 1992

Description of amendments request: The amendments revise surveillance tests intervals for engineered safety feature systems pumps and valves to be consistent with the Standard Technical Specifications.

Date of issuance: February 5, 1993

Effective date: February 5, 1993

Amendment Nos.: 104 and 97

Facility Operating License Nos. DPR-42 and DPR-60. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 1, 1992 (57 FR 11112) and January 6, 1993 (58 FR 597) for clarification. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 5, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: September 29, 1992

Brief description of amendment: The amendment revised the Technical Specifications to incorporate the following changes:

(1) The frequency of pressurizer safety valve set pressure checks (specified in Table 4.1-3) was changed to accommodate operation on a 24-month cycle.

(2) The frequency of pressurizer safety valve position indicator calibration and testing (specified in Table 4.1-1) was changed to accommodate operation on a 24-month cycle.

(3) The frequency of the PORV and PORV block valve operability testing (specified in Table 4.1-3) was changed to accommodate operation on a 24-month cycle.

(4) The frequency of the PORV position indicator testing for both the limit switch and acoustic monitor and the PORV position indicator calibration for the acoustic monitor (specified in Table 4.1-1) was changed to accommodate operation on a 24-month cycle. In addition, the limit switch calibration requirement was deleted.

(5) The frequency of the reactor vessel head vent operability check (specified in Table 4.1-3) was changed to accommodate operation on a 24-month cycle.

These changes followed the guidance provided in Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle."

Date of issuance: February 9, 1993

Effective date: February 9, 1993

Amendment No.: 127

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 28, 1992 (57 FR 48825) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 9, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Texas Utilities Electric Company, Docket No. 50-445, Comanche Peak Steam Electric Station, Unit No. 1, Somervell County, Texas

Date of amendment requests: April 2, 1991, and August 31, 1992. The August 31, 1992 application was supplemented by letters dated October 29, 1992, and December 14, 1992.

Brief description of amendment: This amendment modifies the technical specifications by: (1) adding action requirements for the engineered safety features actuation system instrumentation loss of power function, (2) changing the Unit 1 TS to the Combined TS for Units 1 and 2, (3) revising the TS for the station service water system to reflect two operational units, (4) removing the option of performing a containment reduced pressure test in lieu of a containment peak pressure test during preoperational, periodic and supplemental tests, (5) revising the safety limits and limiting conditions for operation related to departure from nucleate boiling ratio to make them applicable to both Unit 1 and 2, (6) changing the pressure/temperature limits for both Unit 1 and 2 and making the new limits applicable for 16 effective full power years, (7) revising the heatup/cooldown curves and power operated relief valve setpoints for low temperature overpressure protection, and (8) adding a TS and associated bases for the feedwater isolation valve pressure/temperature limit.

Date of issuance: January 29, 1993

Effective date: January 29, 1993, to be implemented upon issuance of low power license for Unit 2.

Amendment No.: Amendment No. 14

Facility Operating License No. NPF-87: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 25, 1992, December 21, 1992, and December 23, 1992 (57 FR 555595, 57 FR 55596, 57 FR 55597, 57 FR 60544 and 57 FR 61121). No significant hazards consideration comments received: No

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019.

Notice of Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration and Opportunity for Hearing (Exigent or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event,

the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By April 2, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above. Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be

granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-277, Peach Bottom Atomic Power Station, Unit No. 2, York County, Pennsylvania

Date of application for amendment: February 2, 1993, as supplemented by letter dated February 8, 1993

Brief description of amendment: The amendment changed the Technical Specifications Section 3.6.D.2 to allow operation with the pressure relief function of safety relief valves inoperable. The amendment is to remain in effect until the next outage of sufficient duration requiring a drywell entry to allow the licensee to repair the valve. The amendment shall expire no later than February 28, 1994.

Date of issuance: February 12, 1993

Effective date: As of its date of issuance and is to remain in effect until the next outage of sufficient duration requiring a drywell entry. The amendment shall expire no later than February 28, 1994.

Amendment No.: 172

Facility Operating License No. DPR-44: This amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes. The NRC published a public notice of the proposed amendment, issued a proposed finding of no significant hazards consideration and requested that any comments on the proposed no significant hazards consideration be provided to the staff by the close of business on February 12, 1993. The notice was published in the York Daily Record, York Dispatch, Lancaster New Era and the Lancaster Intelligencer-Journal on February 5, 1993. The notice was also published in the Cecil Whig on February 9, 1993, and in the Bel Air Aegis on February 10, 1993. No comments have been received.

The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of Pennsylvania and final no significant hazards consideration determination are contained in a Safety Evaluation dated February 12, 1993.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Project Director: Charles L. Miller

Dated at Rockville, Maryland, this 24th day of February 1993.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 93-5973 Filed 3-16-93; 8:45 am]

BILLING CODE 7590-01-F

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Environment & Public Health Panel Sponsors Tour of Yucca Mountain Area

Pursuant to its authority under section 5051 of Public Law 100-203, the Nuclear Waste Policy Amendments Act of 1987, the Nuclear Waste Technical Review Board's Panel on Environment & Public Health will sponsor a tour of Yucca Mountain, Nevada, on April 19, 1993. The tour will visit areas of interest and relevance to the Department of Energy's (DOE) Yucca Mountain environmental program. A site at Yucca Mountain currently is being characterized by the DOE for its suitability as the possible location of a permanent repository for civilian spent fuel and defense high-level waste.

The tour, which will begin at 7:30 a.m. at the Yucca Mountain Project Information Office in Las Vegas and last until approximately 4:30 p.m., is open to the public. Those wishing to participate must register in advance by calling Frank Randall at the Board's offices in Arlington, Virginia; telephone (703) 235-4473. When calling, please have the following information: full name, home address, social security number, date of birth, place of birth, and name of the company or organization you represent. Reservations must be made by April 1, 1993, for U.S. citizens, and by March 19, 1993, for non-U.S. citizens. Non-U.S. citizens must bring their passports and an alien registration card (if living in the United States) when attending the tour. All other participants must bring photo identification (driver's license, etc.).

Those attending from out of town may book rooms for Sunday night, April 18, at the Sunrise Suites, 4575, E. Boulder Highway, Las Vegas, Nevada 89121; telephone; telephone (702) 369-2451. Ask for the block reserved for the Nuclear Waste Technical Review Board.

Those attending from out of town may book rooms for Sunday night, April 18, at the Sunrise Suite, 4575 E. Boulder Highway, Las Vegas, Nevada 89121; telephone (702) 369-2451. Ask for the block reserved for the Nuclear Waste Technical Review Board.

For further information, contact Frank Randall, External Affairs, Nuclear Waste Technical Review Board, 1100 Wilson Boulevard, Suite 910, Arlington, Virginia 22209; telephone (703) 235-4473; FAX (703) 235-4495.

Dated: March 12, 1993.

William Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 93-6116 Filed 3-16-93; 8:45 am]

BILLING CODE 8820-AM-M

Meeting of Full Board in Reno, NV

Pursuant to the Nuclear Waste Technical Review Board's authority under section 5051 of the Nuclear Waste Policy Amendments Act (NWPAA) of 1987 (Pub. L. 100-203), the Board will hold its spring meeting April 21-22, 1993, in Reno, Nevada. The Board is interested in reviewing the *process* through which difficult technical issues bearing on site-suitability and licensing are resolved. Using the issues of groundwater infiltration and future climates, which are complex to evaluate and involve uncertainty, presentations will address four distinct areas: (1) Defining the process, (2) the status of current studies, (3) the use of models and quality assurance, and (4) issue resolution—a summary session. The meeting, which is open to the public, will be held at the Holiday Inn, 1000 East 6th Street, Reno, Nevada 89512; telephone (702) 786-5151.

The Board has invited representatives from the DOE's Office of Civilian Radioactive Waste Management (OCRWM), the U.S. Geological Survey, the Yucca Mountain Site Characterization Project Office, Lawrence Berkeley Laboratory, Sandia National Laboratories, and industry consultants to make presentations during the meeting.

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987 (NWPAA) to evaluate the technical and scientific validity of activities undertaken by the DOE in its program to manage the disposal of the nation's spent nuclear fuel. In that same legislation, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, for its suitability as a potential location for a permanent repository for disposal of that spent fuel.

Transcripts of the meeting will be available on a library-loan basis from

Ms. Victoria Reich, Board Librarian, beginning June 7, 1993. For further information, contact Paula N. Alford, Director, External Affairs, 1000 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235–4473; (FAX) 703–235–4495.

Dated: March 11, 1993.

William D. Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 93–6032 Filed 3–16–93; 8:45 am]

BILLING CODE 6820–AM–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–31976; File No. SR–MSTC–93–04]

Self-Regulatory Organization; Midwest Securities Trust Company; Notice of Filing of Proposed Rule Change by Midwest Securities Trust Company Revising Its By-Laws With Respect to the Indemnification of Directors and Officers

March 10, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 8, 1993, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–MSTC–93–04) as described in Items I, II, and III below, which Items have been prepared primarily by the self-regulatory organization. The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

MSTC proposes to amend Article VI of its By-Laws regarding indemnification of directors and officers. The proposed rule change (1) ensures that directors and officers will be indemnified to the fullest extent permitted by Illinois law, (2) promotes recruitment and retention of such person, and (3) simplifies the wording of the existing rule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of an basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to revise the subject MSTC By-Law to indicate that indemnification will be available to MSTC directors and officers to the fullest extent permitted by Illinois law. The proposed rule change would facilitate MSTC's efforts to recruit and maintain competent directors, officers, and employees. The proposed rule change would also simplify the wording of the existing rule and eliminate awkward language in the existing rule which specifies particular situations where directors, officers, and employees may *not* be indemnified. The approach used in the proposed rule change is similar to the approach used in the comparable Midwest Stock Exchange, Inc. ("MSE") and Midwest Clearing Corporation ("MCC") By-Laws where indemnification of directors and officers is permitted to the fullest extent permitted by Delaware law.[2]

The proposed rule change is consistent with Section 17A(b)(3)(C)[3] of the Act in that it helps to assure the fair representation of shareholders and participants in the selection of directors and the administration of MSTC.

B. Self-Regulatory Organization's Statement on Burden on Competition

MSTC believes that no burdens will be placed on competition as a result of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–MSTC–93–04 and should be submitted by April 7, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6120 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31977; File No. SR–CBOE–92–42]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to an Agreement With the Board of Trade of the City of Chicago

March 10, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 4, 1993 the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] See Article X of the MSE Constitution and Article VI of the MCC By-Laws.

[3] 15 U.S.C. § 78q–1(b)(3)(C) (1988).

change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE requests approval of a revised version of CBOE Rule 3.16(c) and an agreement dated September 1, 1992 ("Agreement") between the Board of Trade of the City of Chicago ("CBOT") and CBOE interpreting the right of full members of the CBOT to become members of CBOE pursuant to paragraph (b) of Article Fifth of CBOE's Certificate of Incorporation ("Article Fifth(b)").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Article Fifth(b) provides, in part, that CBOT members shall be entitled to become members of CBOE upon application therefore, notwithstanding any limitations on the number of CBOE members and without the necessity of acquiring that membership for consideration or value from CBOE, its members, or otherwise. The appropriate interpretation of Article Fifth(b) has been the subject of some disagreement between the CBOE and the CBOT and their respective members, however. In view of these disagreements, the CBOE and the CBOT considered it appropriate to resolve these matters and thereby avoid the costs, delays and uncertainties of legal proceedings that might otherwise ensue. To that end, the CBOE and the CBOT have entered into the Agreement, interpreting the right of certain CBOT members to exercise the right to become members of CBOE pursuant to Article Fifth(b). The principal terms of the Agreement are summarized below.

The Agreement provides that only an individual who is an "Eligible CBOT Full Member" or an "Eligible CBOT Full Member Delegate" is a member of the CBOT within the meaning of Article Fifth(b). The Agreement defines the term "Eligible CBOT Full Member," in pertinent part, to mean an individual who is a holder of one of the 1,402 existing CBOT full memberships (and only those memberships) who is in possession of all trading rights and privileges appurtenant to such CBOT full membership. The term "Eligible CBOT Full Member Delegate," in turn, is defined to mean the individual to whom a CBOT full membership is delegated (leased) and is who is in possession of all trading rights and privileges appurtenant to such CBOT full membership. For purposes of the Agreement, a trading right and privilege appurtenant to a CBOT full membership is the right and privilege of a CBOT full membership which entitles a holder or a delegate (*i.e.*, a lessee of a CBOT membership) to trade as principal and broker for others in all contracts traded on the CBOT, whether by open outcry, by electronic means, or otherwise, during any segment of a trading day when trading is authorized, as well as every other right or privilege granted, assigned or issued by the CBOT after September 1, 1992 to holders of CBOT full memberships as a class (but excluding any right or privilege which is the subject of an option that is granted, assigned or issued by the CBOT to a CBOT full member and which is not exercised by that CBOT full member).

The CBOT has agreed that it will maintain an effective record of every trading right and privilege granted, assigned or issued in respect of each CBOT full membership and every delegation or lease of any CBOT full membership (or of any trading right or privilege appurtenant thereto) to make such records available to CBOE promptly upon reasonable request therefor. In furtherance of these and other provisions of the Agreement, the CBOT has agreed to amend its rules and regulations to reflect these terms. The text of the proposed CBOT rule change is set forth as an exhibit to the Agreement, as is the text of the proposed revision to CBOE Rule 3.16(c), as further discussed below.

For its part, the CBOE has agreed that all "Exerciser Members"—*i.e.*, "Eligible CBOT Full Members" or "Eligible CBOT Full Member Delegates" who have exercised their right to become CBOE members pursuant to Article Fifth(b)—have the same rights and privileges of CBOE regular membership as do other "CBOE Regular Members," with the qualification that an "Exerciser Member" does not have the right to transfer (whether by sale, lease, gift, bequest or otherwise) his or her CBOE regular membership or any of the trading rights and privileges appurtenant thereto.

An "Exerciser Member" has the right to purchase or participate in the offer or distribution of any optional or additional CBOE membership or trading right or privilege offered or distributed by the CBOE after September 1, 1992 to other CBOE "Regular Members," as a class, on the same terms and conditions as other "CBOE Regular Members." In such a case, the Agreement expressly provides that any such additional membership, trading right, or privilege would be separately transferable by the "Exerciser Member" on the same basis as it may be separately transferable by other "CBOE Regular Members." Similarly, in the event that CBOE were to make a cash or property distribution to "CBOE Regular Members" as a class which has the effect of diluting the value of a CBOE membership, the Agreement stipulates that any such distribution is to be made on the same terms and conditions to "Exerciser Members."

CBOE has further agreed to establish a reasonable record date for any such offer, distribution or redemption and, solely for such purpose, to waive all membership dues, fees and other charges and all qualification requirements, other than those that may be imposed by law, that may be applicable to the application for CBOE membership of each "Eligible CBOT Full Member" and "Eligible CBOT Full Member Delegate" who wishes to exercise the rights conferred by Article Fifth(b). (Any such waiver would be effective only during the period commencing on the date on which CBOE, acting pursuant to the Agreement, gives notice to CBOT of such offer, distribution, or redemption and ending on the date that individual participates in such offer, distribution, or redemption.) In such circumstances, an "Exerciser Member" for whom dues, fees and other charges and qualification requirements have been waived will not have any rights as a CBOE member other than to participate in that offer, distribution or redemption. Further, the CBOE membership of each such "Exerciser Member" will terminate immediately following the time that individual participates in that offer, distribution or redemption.

As noted, CBOE has agreed to revise its Rule 3.16(c) in the form and manner set forth in an exhibit to the Agreement. Revised Rule 3.16(c) gives effect to the Agreement by declaring that for purposes of Article Fifth (b), the term

"member of the Board of Trade of the City of Chicago" is interpreted to mean an individual who is either an "Eligible CBOT Full Member" or an "Eligible CBOT Full Member Delegate," as those terms are defined in the Agreement, and shall not mean any other person. In addition, revised Rule 3.16(c) implements the anti-dilution provisions, the notice requirements, and the fee and qualification waivers of the Agreement.

The CBOE previously has submitted to the Commission proposed versions of Rule 3.16(c) intended to address this same subject matter in File Nos. SR–CBOE–90–11 and SR–CBOE–90–21. File No. SR–CBOE–90–11 was withdrawn on June 27, 1990. File No. SR–CBOE–21 will be withdrawn effective upon both the approval of the Agreement and revised Rule 3.16(c) as submitted herein.

The proposed rule change is consistent with section 6 of the Securities Exchange Act of 1934, in general, and provides a fair and reasonable means of interpreting Article Fifth (b) that is not designed to permit unfair discrimination between brokers or dealers.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed amendments will not impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–CBOE–92–42 and should be submitted by April 7, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6120 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31982; File No. SR–MSTC–93–01]

Self-Regulatory Organizations; Midwest Securities Trust Company; Notice of Proposed Rule Change Relating to the Processing of Trade in Uniquely Denominated Securities

March 11, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 27, 1993, Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by MSTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

MSTC proposes to apply the computer logic of its existing call bond system to permit the processing of partial calls of uniquely denominated securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MSTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MSTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to allow MSTC to make eligible for its services uniquely denominated callable securities. A uniquely denominated security is one which has a trading denomination in an increment that is not an integral multiple of its minimum denomination. Uniquely denominated securities occur when the issuer has authorized the issuance of certificates and/or trading in a minimum, base denomination (such as $100,000) and larger denominations that are not integral multiples of the base denomination (such as $105,000, $110,000, and $115,000). Without the proposed rule change, application of MSTC's existing call lottery system to partial calls of uniquely denominated issues could reduce unintentionally participants' positions below the minimum base denomination.

Current MSTC procedures are unable to support the procedures necessary to process these partial calls and could reduce a participant's position below the minimum base denomination. The proposed rule change will permit MSTC's lottery procedures for the subject securities to allocate fairly and equitably the called quantity among participants while avoiding, where feasible, leaving participants with positions below the base denomination or converting participants' positions from an integral to a non-integral multiple of the base denomination. This change will give MSTC the ability to make these securities eligible for its services.

The proposed rule change is consistent with the requirements of section 17A(b)(3)(A) of the Act in that it promotes efficiency in the clearance and settlement of securities transactions.

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[1] 17 CFR 200.30–3(a)(12) (1992).

[1] 15 U.S.C. 78s(b)(1) (1988).

B. Self-Regulatory Organization's Statement on Burden on Competition

MSTC does not believe that the proposed rule change will impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning to foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of MSTC. All submissions should refer to File No. SR–MSTC–93–01 and should be submitted by April 7, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[2]

[2] 17 CFR 200.30–3(a)(12) (1992).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6121 Filed 3–16–93; 8:45 am]

BILLING CODE 8015–01–M

[Release No. 34–31983; File No. SR–NSCC–93–01]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Clearing Fund Requirements

March 11, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on January 6, 1993, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule changes would modify NSCC's rules by eliminating the right of Clearing Members to use municipal securities to collateralize their clearing fund indebtedness and to impose more specific standards for NSCC's retention of clearing funds deposits upon the retirement of a Member.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Termination of Using Municipal Securities to Collateralize Clearing Fund Indebtedness

NSCC currently permits Members to collateralize their clearing fund indebtedness with Treasury securities, municipal securities and letters of credit. Municipal securities are generally less marketable than Treasury securities and carry a higher haircut when pledged to a bank. NSCC's rules permit NSCC to pledge clearing fund collateral for liquidity purposes. By permitting Members to collateralize their clearing fund indebtedness with municipal securities, NSCC is unnecessarily restricting its liquidity resources. In order to maximize NSCC's resources, NSCC's management has determined that Members should no longer be permitted to pledge municipal securities to meet their clearing fund indebtedness. Accordingly, NSCC proposes to amend NSCC Rule 4 (Clearing Fund) to eliminate the capability of Members to use municipal securities as clearing fund collateral. Upon approval of this change, NSCC will give Members who currently use this form of collateral six months to substitute the municipal securities with other acceptable forms of collateral.

2. Retention of Clearing Fund Deposits of a Retired Member

NSCC also proposes to amend NSCC Rule 4 to impose more definitive standards for the retention of clearing fund deposits upon the retirement of a Member. Members with short positions in the continuous net settlement system are debited for dividend amounts (both cash and shares) on payable date. (Members with long positions are credited with corresponding amounts.)

NSCC states that on occasion, an issuer may fail to timely disseminate dividend information in a timely manner. Consequently, when these announcements are ultimately made, the appropriate debits are charged back to the Members who had short positions on the date the dividend amount should have been debited. If a Member has retired, NSCC has the right to collect the dividend from the Market since it was an obligation for which it was responsible while it was a Member. If NSCC retains clearing fund deposits or obtains a guarantee, NSCC faces minimal or no risk from these late dividend obligations.

Currently, NSCC Members who retire are obligated to provide an acceptable guarantee or their clearing fund deposit is retained for ninety days. However, there is no time limit within which issuers may make late dividend announcements. Based on recent experience with aged dividend claims, NSCC believes that, in the absence of a guarantee, it is appropriate to retain Clearing Fund deposits for a period of two years for Members with direct

[1] 15 U.S.C. 78s(b)(1) (1988).

accounts at The Depository Trust Company ("DTC"). For sponsored account Members, NSCC faces an additional exposure from claims due to bad deposits made at DTC prior to retirement. To protect itself from risks of this type, as well as late dividend announcements, DTC has the right to retain a retired DTC participant's deposit for a period of four years. Accordingly, NSCC will retain clearing fund deposits of sponsored account Members for the same period of time, in the absence of a guarantee.

The rule change will codify NSCC's practice of requiring a guarantee upon retirement. In the absence thereof, the rule will provide that NSCC will retain the greater of: (i) 25% of the Member's average deposit over the previous 12 months, or (ii) $100,000; or, for Members with deposits of less than $100,000, their entire deposit.

NSCC believes that the proposed rule changes will provide NSCC with better control over its clearing fund assets both during membership and after retirement. Thus, these changes are consistent with the requirements of the Act and the rules and regulations thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule changes will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has notified its Members of the proposed changes to its Procedures and to date has received no written comments. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designated up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be approved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–93–01 and should be submitted by April 7, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6122 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31980; File No. SR–OCC–93–02]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to the Processing of Late Exercise Requests

March 11, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 17, 1993, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–OCC–93–02) as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[2] 17 C.F.R. § 200.30–3(a)(12) (1992).

[1] 15 U.S.C. § 78s(b)(1) (1988).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend OCC's late exercise fee schedule cut-off times to reduce the trade submission deadline from 10 p.m. to 9 p.m. on trading days when combined reported trade volume for all participant exchanges is 850,000 contracts or fewer.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend OCC late exercise fee schedule cut-off times to advance the deadline from 10 p.m. to 9 p.m. when combined reported trade volume for all participant exchanges is 850,000 contracts or fewer. The late exercise processing deadline will remain at 10 p.m. on any day when combined reported trade volume for all participant exchanges exceeds 850,000 contracts.

1. Current Late Exercise Processing Standards

On July 1, 1991, the Commission approved OCC's proposal to amend Section (e) of OCC rule 801 [Exercise of Options].[3] As amended, rule 801(e) provides OCC with the authority to permit Clearing Members to file, revoke, or modify exercise notices after 7 p.m. for the purpose of correcting *bona fide* errors. Authority to accept or reject such "late instructions" is vested in the OCC's Chairman or the President or any delegatee of the Chairman or President.

Once a late instruction is accepted, rule 801(e) requires the Clearing Member that submits such an instruction to pay a late filing fee[4] and

[2] All times in this proposal are Central Time.

[3] Securities Exchange Act Release No. 29390 (July 1, 1991), 56 FR 31454 [File No. SR–OCC–90–03] (order approving late exercise notices).

[4] The current fees for filing late exercise notices are: $500 between 7 p.m. and 10 p.m., $2,000

Continued

to explain in writing within two business days the circumstances which led to the submission of the late instruction. The fees for late instructions are currently imposed on a schedule that increases the further into the processing cycle the instruction is received.

The purpose of the July 1, 1991, amendment of Rule 801(e) was to provide an incentive for Clearing Members to reduce the number of Clearing Member errors relating to the processing of exercise notices. This objective was achieved via the graduated fee schedule currently reflected in rule 801(e). The earlier that late exercises are submitted, the easier and less costly it is for OCC to process these exercises. Late exercises submitted prior to the start of OCC's critical processing [5] can be accommodated through standard processing or through restore and recovery mechanisms. Late exercises submitted after the start of critical processing, however, require use of supplemental assignment procedures, a process that is manually intensive and costly, requiring special handling by both OCC and the assigned Clearing Member. As post-critical processing is not automated, settlement must be effected in a broker to broker mode with the assigned member incurring additional costs. As a result of this disparity in cost and effort relating to late exercise requests, OCC's July 1, 1991, amendment proposed that the fee schedule in rule 801(e) be modified to differentiate between corrections received prior to the start of critical processing and those received afterwards thereby providing a financial incentive for Clearing Members to identify errors earlier in OCC's processing cycle.

From the time the Commission approved that amendment, OCC has processed only three requests for late exercises, and all three were received prior to 10 p.m. This represents significant improvement when compared to results for years prior to the amendment.[6] The virtual elimination of submissions after the start of critical processing prompted OCC to further analyze its late exercise rules. OCC has concluded that the reduction in Clearing Member late submission requests has been the result of three factors: (1) Clearing Member implementation of exercise notice versus trade input reconciliations; (2) the implementation of intraday trade comparison systems by participant exchanges; and (3) reduced trading volumes.

2. Proposal To Amend Late Exercise Processing Schedule

OCC now faces a problem in that it is typically ready to process exercises by 9 p.m., but it is required to wait until 10 p.m. due to the possibility of receiving a late exercise request. On most processing days when trading volume is not particularly heavy, this unnecessarily inconveniences OCC staff. Based on a review of participant exchange cut-off-time procedures for submission of trade data and distribution times for first pass reports, OCC has determined that the trend of participant exchanges to distribute trade comparison reports earlier is generally a function of reduced trading volume. On those days when transaction volume is exceptionally heavy, OCC has found that the participant exchanges have informal procedures in place that afford such exchanges additional time to process transactions.

Further, based on this review OCC has concluded that moving the late exercise cut-off time associated with a $2,000 fee from 10 p.m. to 9 p.m. is feasible except under the most extreme, high volume conditions. The participant exchange that takes the most amount of time to process trade data normally distributes first pass reports by 8 p.m. even under high volume conditions. This would leave members adequate time to reconcile the output prior to 9 p.m. on most business days.

The proposed rule change would amend OCC's late exercise fee schedule cut-off times to advance the deadline from 10 p.m. to 9 p.m. when combined reported trading volume for all participant exchanges is 850,000 contracts or fewer. As the participant exchanges may require additional time to submit trade reports to OCC when volume is particularly heavy, the late exercise processing deadline will remain 10 p.m. on any day when combined reported trade volume for all participant exchanges exceeds 850,000 contracts.

OCC believes that the proposed rule change is consistent with the purposes and requirements of section 17A of the Act,[7] as amended, because it promotes the protection of public investors and the public interest by providing an incentive for Clearing Members to identify exercise errors early in OCC's processing cycle.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC believes that the proposed rule change would not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

OCC has not solicited or received any comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to such period that the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should

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between 10 p.m. and the start of critical processing, and $10,000 per line item listed on the exercise notice after the start of critical processing.

The term "critical processing" means that main portion of OCC processing that follows the preliminary processing and that once started cannot be shut down. OCC's critical processing typically begins between 10 p.m. and midnight.

[5] See, *supra*, note 4.

[6] In the two years prior to the July 1, 1991, amendment to OCC Rule 801(e), *supra* note 2, OCC processed twenty-one requests, seven of which were received after the completion of critical processing.

[7] 15 U.S.C. 78q–1 (1988).

refer to File No. SR–OCC–93–02 and should be submitted by April 7, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6123 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31981; File No. SR–OCC–93–01]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Scheduling of Board Meetings

March 11, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 8, 1993, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would provide OCC's Board of Directors (sometimes referred to as the "Board") with greater flexibility with respect to the scheduling of regular meetings.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC's current By-Laws require the Board of Directors to hold regular meetings on a monthly basis. The By-laws further require that regular meetings in even-numbered months be held at OCC's offices in Chicago, Illinois, and regular meetings in odd-numbered months be held at OCC's offices in New York, New York, unless the Board shall provide otherwise by resolution with respect to a particular meeting.

Over time, OCC has found that it is difficult to convene all of the Directors on a monthly basis. Moreover, it is costly and time consuming for OCC to prepare an agenda and staff for such frequent meetings of the Board. Furthermore, OCC has determined that less frequent meetings of the Board are sufficient to accomplish the business of OCC. Accordingly, the proposed By-law change eliminates the monthly meeting requirement and allows the Board of Directors to schedule regular meetings at such times as the Board shall from time to time provide by resolution.

The proposed By-Law change also would allow for more flexibility with respect to the site of the Board's regular meetings. OCC no longer believes that it is necessary for the Board to alternate meeting sites between Chicago and New York. The practice was originally adopted in order to make it more convenient for the Member Directors who resided in New York to attend the meetings. However, OCC's Member Directors now reside in all parts of the country. Accordingly, OCC believes that the Board of Directors should have the authority to select an appropriate site for each meeting. The proposed By-Law change grants that authority by allowing the Board to meet at such places as it shall from time to time provide by resolution.

OCC believes that the proposed By-Law change is consistent with section 17A of the Act, as amended, because it assures fair participation in the administration of the clearing organization's affairs.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the File No. SR–OCC–93–1 and should be submitted by April 7, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6124 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19328; 812–8296]

The Alliance Fund, Inc., et. al.; Notice of Application

March 11, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

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[8] 17 CFR 200.30–2(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 200.30–3(a)(12) (1991).

APPLICANTS: The Alliance Fund, Inc., Alliance Balanced Fund, Inc., Alliance Bond Fund, Inc., Alliance Global Small Cap Fund, Inc., Alliance Growth and Income Fund, Inc., Alliance International Fund, Inc., Alliance Mortgage Securities Income Fund, Inc., Alliance Mortgage Strategy Trust, Inc., Alliance Multi-Market Strategy Trust, Inc., Alliance Municipal Income Fund, Inc., Alliance New Europe Fund, Inc., Alliance North American Government Income Trust, Inc., Alliance Premier Fund, Inc., Alliance Quasar Fund, Inc., Alliance Short-Term Multi-Market Trust, Inc., and other registered open-end investment companies that are part of the same group of investment companies, and (a) whose investment adviser is the Adviser (as defined below) or an investment adviser that is under common control with the Adviser, (b) whose principal underwriter is the Distributor (as defined below) or a principal underwriter that is under common control with the Distributor, (c) which hold themselves out to investors as being related for purposes of investment and investor service, and (d) whose shares are divided into up to three classes of securities whose sales load, contingent deferred sales charge ("CDSC"), rate of distribution services fees, exchange privileges, conversion feature and differences in voting rights are identical to those applicable to one or more of the Class A, Class B and/or Class C shares as described in the application (the "Funds");[1] Alliance Capital Management L.P. (the "Adviser"); and Alliance Fund Distributors, Inc. (the "Distributor").

RELEVANT ACT SECTIONS: Order requested pursuant to section 6(c) of the Act to amend previous orders which granted applicants exemptive relief from the provisions of section 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek to amend prior orders (the "Prior Orders") that permit the Funds to offer up to three classes of shares and to impose a CDSC on certain redemptions of one class of shares and to waive that CDSC in certain circumstances. The amendment would permit the Funds to assess a CDSC on certain redemptions of an additional class of shares and to waive that CDSC is certain cases.

FILING DATE: The application was filed on March 4, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 5, 1993, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of the date of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 1345 Avenue of the Americas, New York, New York 10105.

FOR FURTHER INFORMATION CONTACT: James E. Anderson, Staff Attorney, at (202) 272–7027, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation.)

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Each Fund is an open-end management investment company registered under the Act. The Adviser serves as each Fund's investment adviser and the Distributor acts as principal underwriter of the Funds' shares. Each Fund presently is authorized to offer three classes of shares: A class of shares subject to a front-end sales load and a rule 12b–1 plan distribution fee at an annual rate of up to 0.75% of the average daily net asset value of such shares ("Class A Shares"); a class of shares subject to a CDSC and a rule 12b–1 plan distribution fee at an annual rate of up to 1% of the average daily net asset value of such shares ("Class B Shares"); and a class of shares subject to rule 12b–1 distribution fee at an annual rate of up to 1%, but without either a front-end sales load or CDSC ("Class C Shares").[2] None of the Funds currently offer Class C Shares.

2. Applicants propose to modify their present triple distribution system to enable the Funds to impose a CDSC on redemptions of Class C Shares (the "Class C CDSC") if such shares are redeemed within a specified period of time following their purchase (typically the length of such period will be one year, but it can be shorter or longer). The amount of the Class C CDSC will generally be limited to 1% (but can be higher or lower percentage) of the dollar amount of the shares subject to Class C CDSC.

3. The Class C CDSC will be assessed on an amount equal to the lesser of current market value or the cost of the shares being redeemed so that no sales charge will be imposed on increases in net asset value above the original purchase price. No Class C CDSC will be imposed on Class C shares derived from the reinvestment of dividends or capital gains distributions. In determining whether a Class C CDSC is applicable with respect to a redemption of shares, it will be assumed (unless the shareholder otherwise specifically directs) that the shares being redeemed are those that will result in the lowest possible charge to the investor.

4. The Class C CDSC will be waived on redemptions: (a) Following the death or disability, as defined in section 72(m)(7) of the Internal Revenue Code, as amended ("IRC"), of a shareholder; (b) in connection with certain distributions from an individual retirement account, a custodial account maintained pursuant to IRC section 403(b)(7), or a qualified pension or profit-sharing plan; (c) of shares purchased by present or former Directors/Trustees of the Fund, by the relatives of any such person, by any trust, individual retirement account or retirement plan account for the benefit of any such person or relative, or by the estate of any such person or relative; (d) in connection with the exercise of the exchange privilege among the Class C Shares of the Funds; and (e) in connection with the exchange of Class C Shares of a Fund held by a qualified plan for Class A shares (as described in the following paragraph). The Funds will waive the Class C CDSC upon redemption of Class C Shares under the same circumstances as they are currently permitted under the prior

[1] For purposes of this application, a registered investment company of the same group of investment companies as the Funds includes such a company organized in the future, and such a company that is currently registered whose board of directors or trustees in the future determine to establish a similar multi-class distribution system.

[2] Applicants originally obtained exemptive relief to offer two classes of shares and impose a CDSC, Investment Company Act Release Nos. 17295 (Jan. 8, 1990) (notice) and 17330 (Feb. 2, 1990) (order). Applicants original order was amended to delete certain conditions, Investment Company Act Release Nos. 18734 (May 27, 1992) (notice) and 18805 (June 23, 1992) (order), and to permit applicants to offer a third class of shares and to modify their rule 12b–1 service fees, Investment Company Act Release Nos. 19203 (Dec. 31, 1992) (notice) and 19235 (Jan. 26, 1993) (order).

orders to waive the CDSC upon redemptions of Class B Shares.[3]

5. Class C Shares of a Fund generally will be exchangeable at net asset value for Class C Shares of other Funds. If the aggregate net asset value of shares of all Funds held by a qualified plan reaches the minimum amount at which an investor in a Fund may purchase Class A Shares of the Fund at net asset value without a front-end sales load on or before December 15 in any year, all Class B and Class C Shares of the Fund held by such plan may be exchanged at net asset value, without any sales charge, for Class A Shares of the Fund shortly before the end of the calendar year.

6. At the time the Prior Order was issued, it was contemplated that the proceeds from the distribution fees attributable to the Class C Shares would be used by the Distributor to pay trail or maintenance commissions to financial intermediaries during the first year after sale and during subsequent years so long as the shares remain outstanding. It is now contemplated that financial intermediaries selling Class C Shares may be compensated by the Distributor with a commission at the time of sale, and with trail or maintenance commissions beginning with the first year after sale and so long thereafter as the shares remain outstanding.

Applicants' Legal Conclusion

Modification of the Prior Order to permit the assessment of a Class C CDSC upon certain redemptions of the Class C Shares and the waiver of the Class C CDSC on certain of those redemptions would be in the best interests of the shareholders of the Funds. Thus, granting the requested order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Condition

Applicants agree that any order granting the requested relief shall be subject to the following condition:

Applicants will comply with the provisions of proposed Rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted, or amended.

[3] The Division of Investment Management notes that the circumstances under which the Funds may waive the CDSC are described more fully in the notice of the Funds' prior application, Investment Company Act Release No. 19203 (Dec. 23, 1992).

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6125 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19325; 811–5124]

Axe-Houghton Funds, Inc.; Notice of Application

March 11, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Axe-Houghton Funds, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on December 17, 1992 and amended on March 5, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 6, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o USF&G Investment Management Group, Inc., 100 Light Street, Baltimore, Maryland 21202.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Barry D. Miller, Senior Special Counsel, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Maryland corporation, is an open-end diversified management investment company that may issue more than one series of common stock with each series representing a separate investment portfolio. On June 26, 1990, applicant registered under the Act and filed a registration statement on Form N–1A pursuant to section 8(b) of the Act. A registration statement under the Securities Act of 1933 was filed on June 26, 1990 for the following series: Axe-Houghton Income Fund ("Axe Income"), Axe-Houghton Fund B ("Axe Fund B"), Axe-Houghton Insured Tax-Exempt Fund ("Insured"), Axe Core International ADR Fund ("ADR"), and Axe-Houghton Growth Fund ("Axe Growth"). The registration statement was declared effective and the initial public offering commenced on September 19, 1990.

2. As of July 31, 1991, Insured had approximately 25 public shareholders owning less than 1% of its net assets; its remaining assets were held by USF&G Corporation and its affiliates ("USF&G"). At a meeting held on September 5, 1991, applicant's board of directors determined that offers and sales of Insured's shares should cease and that public shareholders should be notified. Thereafter, all public shareholders of Insured were contacted by letter and were requested to redeem their shares. As of November 18, 1991, all shareholders of Insured other than USF&G had redeemed their shares. The aggregate amount paid to redeeming public shareholders of Insured was approximately $259,000.

3. As of April 30, 1992, ADR had approximately 30 public shareholders owning less than 1% of its net assets; its remaining assets were held by USF&G. At a meeting held on May 28, 1992 applicant's board of directors determined that offers and sales of ADR's shares should cease and that public shareholders should be notified. Thereafter, all public shareholders of ADR were contacted by letter and were requested to redeem their shares. As of July 31, 1992, all shareholders of ADR other than USF&G had redeemed their shares. The aggregate amount paid to redeeming public shareholders of ADR was approximately $155,000.

4. The redemption price paid to each redeeming shareholder of Insured and ADR was the net asset value per share next determined after receipt of the redemption request. Following the redemption of the public shareholders, portfolio investments of Insured and ADR were liquidated, all liabilities paid or provided for, and the net assets of each were distributed to USF&G upon redemption of its shares of Insured and ADR and in complete liquidation of each.

5. In connection with the liquidation of ADR and Insured, all securities were sold. Brokerage commissions were incurred after the redemption of all public shareholders and were therefore paid entirely by USF&G and not by the public shareholders.

6. On June 24, 1992, applicant's board of directors approved an agreement and plan of reorganization (the "Plan") with (a) T. Rowe Price New Income Inc. (the "Price Income"), on behalf of Axe Income, (b) T. Rowe Price Balanced Fund, Inc. ("Price Balanced"), on behalf of Axe Fund B, and (c) T. Rowe Price New America Growth Fund ("Price Growth"), on behalf of Axe Growth. (Collectively, Price Income, Price Balanced, and Price Growth are the "Price Funds.") On July 15, 1992, applicant mailed proxy materials to its shareholders. At a meeting held on August 26, 1992, applicant's shareholders approved the Plan.

7. On August 31, 1992, Axe Income, Axe Fund B, and Axe Growth transferred substantially all of their assets to the corresponding Price Fund in exchange for shares of the Price Funds having an aggregate net asset value equal to the aggregate value of the assets so transferred as of the close of regular trading on the New York Stock Exchange on August 28, 1992, the business day immediately preceding the closing date of the reorganization transaction (the "Valuation Date"). The Price Funds did not assume nor was it otherwise responsible for any liabilities of applicants. The number of Price Fund shares issued to applicant in the exchange was determined by dividing the aggregate value of applicant's assets transferred by the net asset value per share of the Price Funds as of the close of regular trading on the Valuation Date. Shareholders of Axe Income received 0.580 shares of Price Income for each of share held; shareholders of Axe Fund B received 0.904 shares of Price Balanced for each share held; and shareholders of Axe Growth received 0.310 shares of Price Growth for each share held. Immediately after the exchange applicant distributed to its shareholders of record as of the close of business on the Valuation Date the full and fractional shares of the Price Fund received in the exchange.

8. Unamortized organization expenses and all expenses incurred in connection with the liquidation of ADR and Insured and the reorganization, other than the meeting fees of the independent directors for the special joint meetings of the boards of directors of USF&G's family of mutual funds held in connection with the reorganization and other reorganizations, were borne by USF&G Corporation. The special meeting fees were allocated among six USF&G mutual funds (including Axe Income, Axe Fund B, and Axe Growth, but not including Insured and ADR) on the basis of their relative net assets.

9. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

10. On November 10, 1992, articles of dissolution of applicant were accepted for record by the State Department of Assessments and Taxation of Maryland, and applicant was dissolved as a Maryland corporation.

11. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-6126 Filed 3-16-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19324; 811-1487]

Capital Corporation of America; Application for Deregistration

March 11, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Capital Corporation of America.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on June 8, 1992, and amended on August 28, 1992, and February 24, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 5, 1993 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 225 South 15th Street, Philadelphia, PA 19102.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504-2263, or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Pennsylvania corporation and a closed-end management investment company registered under the Act. On June 28, 1967, applicant filed a registration statement pursuant to section 8(b) of the Act. On the same date, applicant filed a registration statement under the Securities Act of 1933 on Form N-5. That registration statement became effective on approximately September 17, 1970, and on such date the public offering of applicant's shares commenced. Applicant has engaged in no other public offering of its shares.

2. Applicant was engaged in business as a licensed small business investment company ("SBIC") and was primarily engaged in making loans to small business organizations in accordance with the Small Business Investment Act of 1958. Applicant ceased making new investments in small business concerns in June 1990 and has since been engaged in winding up its affairs in an orderly manner. Applicant relinquished its license to operate as an SBIC on February 10, 1992, when it repaid its outstanding obligations to the Small Business Administration.

3. Applicant has not held itself out to the public as being engaged in the business of investing in securities since June 1990. Applicant is not engaged in the business of investing, reinvesting, owning, holding, or trading in securities, and does not own investment securities having a value exceeding forty percent of the value of applicant's total assets. Further, applicant does not propose to engage in such activities or to acquire any securities.

4. As of January 31, 1993, applicant had $104,700 in assets, consisting of cash and direct interest in real estate. As

of the same date, applicant had total liabilities of $1,000.

5. As of March 31, 1992, applicant had net operating loss carryovers of approximately $780,000, expiring in various amounts through the year 2005. Applicant's board of directors intends to dissolve applicant unless prior to dissolution applicant's board of directors is able to sell applicant or a majority of its shares to a company that can utilize applicant's net operating loss carryovers, or otherwise acquire applicant or a controlling interest therein, in which case they will do so. Otherwise, the board of directors will proceed to solicit a vote of stockholders to dissolve applicant and distribute its net assets to its stockholders in accordance with the Pennsylvania law, which provides that all shareholders will share ratably in all net assets available for distribution.

6. As conditions to any order of deregistration, applicant undertakes (a) to limit its expenses to those necessary to conduct its business and those attendant to a reorganization or acquisition of applicant, including a sale, merger, consolidation, or other reorganization, and (b) in the event it is unable to consummate any reorganization or sale by not later than December 31, 1996, applicant's board of directors will take the actions necessary to solicit a vote of applicant's shareholders to dissolve applicant and distribute its net assets to shareholders as described above.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-6127 Filed 3-16-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19326; 811-6163]

Chancellor Funds, Inc.; Notice of Application

March 11, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Chancellor Funds, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The Application was filed on December 29, 1992 and amended on March 5, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 6, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o USF&G Investment Management Group, Inc., 100 Light Street, Baltimore, MD 21202.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Barry D. Miller, Senior Special Counsel, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized as a corporation under the laws of the State of Maryland. On August 31, 1990, applicant registered under the Act and filed a registration statement pursuant to section 8(b) of the Act. Also on August 31, 1990, a registration statement under the Securities Act of 1933 was filed relating to shares of applicant's Chancellor Growth and Income Fund series and Chancellor Fixed Income Reserve series. (Collectively, the Chancellor Growth and Income Fund and the Chancellor Fixed Income Reserve Fund series are referred to as the "funds.") The registration statement was declared effective and the initial public offering commenced on November 20, 1990.

2. As of April 30, 1992, USF&G Corporation and its affiliates ("USF&G") owned in excess of 99% of the net assets of applicant. At a meeting held on May 28, 1992, applicant's board of directors determined that continued operation of applicant would not be viable and that further offers and sales of shares of the funds should cease. It was further determined by the board of directors that public shareholders should be advised of the events and given the opportunity to redeem their shares at net asset value. Thereafter, all public shareholders were contacted by letter and requested to redeem their shares.

3. As of July 31, 1992, all shareholders of the funds, other than USF&G, had redeemed their shares. The redemption price paid to each redeeming shareholder was the net asset value per share next determined after receipt of his or her redemption request, computed as provided in the current prospectuses of the funds. The aggregate amount paid to redeeming public shareholders of the Chancellor Growth and Income Fund was approximately $194,000 and the aggregate amount paid to redeeming public shareholders of the Chancellor Fixed Income Reserve Fund was approximately $51,500. Following the redemption of all public shareholders, USF&G redeemed its share of the funds, the remaining portfolio investments of applicant were liquidated, all liabilities were paid or provided for, and the net assets were distributed to USF&G upon redemption of its shares in complete liquidation of applicant.

4. All unamortized organization expenses were borne by USF&G. All expenses, including legal, accounting, and other general and administrative expenses, relating to the liquidation of the funds and the winding-up of the affairs of applicant were borne by USF&G.

5. The liquidation of the portfolios did not occur until all public shareholders had redeemed their shares. Thereafter, all securities were sold. All brokerage commissions in connection with the sale of securities were incurred after the redemption of all public shareholders, and were therefore paid entirely by USF&G and not by the public shareholders.

6. At April 30, 1992, applicant had the following securities outstanding: 2,534,628 shares of the Chancellor Growth and Income fund having an aggregate net asset value of $32,441,003 and a per share net asset value of $12.80; and 2,503,502 shares of the Chancellor Fixed Income Reserve Fund having an aggregate net asset value of $25,745,900 and a per share net asset value of $10.28. At April 30, 1992, USF&G held shares of Chancellor Growth and Income Fund and Chancellor Fixed Income Reserve Fund with a value of approximately $32.3 million and $25.7 million, respectively, or 99.4% and 99.8% of the net assets of the funds, respectively.

7. There are no securityholders to whom distributions in complete

liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

8. On November 10, 1992, articles of dissolution of applicant were accepted for record by the State Department of Assessments and Taxation of Maryland, and applicant was dissolved as a Maryland corporation.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6128 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19327; 811–6164]

USF&G Tax-Exempt Money Market Funds, Inc.; Notice of Application

March 11, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: USF&G Tax-Exempt Money Market Funds, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on December 29, 1992 and amended on March 5, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 6, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o USF&G Investment Management Group, Inc., 100 Light Street, Baltimore, MD 21202.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Barry D. Miller, Senior Special Counsel, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized as a corporation under the laws of the State of Maryland. On August 31, 1990, applicant registered under the Act and filed a registration statement pursuant to section 8(b) of the Act. Also on August 31, 1990, a registration statement under the Securities Act of 1933 was filed. The registration statement was declared effective and the initial public offering commenced on November 20, 1990.

2. As of August 31, 1991, USF&G Corporation and its affiliates ("USF&G") owned 99% of the net assets of applicant. At a meeting held on September 5, 1991, applicant's board of directors determined that continued operation of applicant would not be viable and that further offers and sales of shares of applicant should cease. It was further determined by the board of directors that public shareholders should be advised of the events and given the opportunity to redeem their shares at net asset value. Thereafter, all public shareholders were contacted by letter and requested to redeem their shares.

3. As of October 31, 1991, all shareholders of applicant, other than USF&G had redeemed their shares. The redemption price paid to each redeeming shareholder was the net asset value per share next determined after receipt of his or her redemption request, computed as provided in the current prospectus of applicant. The aggregate amount paid to redeeming public shareholders was approximately $100,000. Following the redemption of all public shareholders, USF&G redeemed its shares of applicant, the remaining portfolio investments of applicant matured or were liquidated, all liabilities were paid or provided for, and the net assets were distributed to USF&G upon redemption of its shares and in complete liquidation of applicant.

4. All unamortized organization expenses were borne by USF&G. All expenses, including legal, accounting, and other general and administrative expenses, relating to the liquidation of the fund and the winding-up of the affairs of applicant were borne by USF&G.

5. The liquidation of the portfolios did not occur until all public shareholders had redeemed their shares. Thereafter, all securities matured or were sold. No brokerage commissions were incurred in connection with the sale of the securities.

6. At August 31, 1991, applicant had 10,099,197 shares of the fund outstanding with an aggregate net asset value of $10,099,197 and a per share net asset value of $1.00. As of the same date, USF&G held shares of applicant with a value of approximately $10.0 million or 99.0% of the net assets of the fund.

7. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

8. On November 10, 1992, articles of dissolution of applicant were accepted for record by the State Department of Assessments and Taxation of Maryland, and applicant was dissolved as a Maryland corporation.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6129 Filed 3–16–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review; Reno Cannon International Airport, Reno, NV

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted for Reno Cannon International Airport, Reno, Nevada, under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) (hereinafter referred to as "the Act") and 14 CFR

part 150 by Reno Cannon International Airport District. This Program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR part 150 for Reno Cannon International Airport were in compliance with applicable requirements effective February 22, 1993. The proposed noise compatibility program will be approved or disapproved on or before September 1, 1993.

EFFECTIVE DATE: The effective date of the start of FAA's review of the noise compatibility program is March 5, 1993. The public comment period ends May 4, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, Planning/Programming Section Supervisor, Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, Burlingame, California 94010–1303, Telephone (415) 876–2805. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for Reno Cannon International Airport that will be approved or disapproved on or before September 1, 1993. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the noise compatibility program for Reno Cannon International Airport, effective on August 3, 1990. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before September 1, 1993.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., room 617, Washington, DC 20591

Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, Burlingame, California 94010–1303

Mr. Robert C. White, Executive Director, Airport Authority of Washoe County, Box 12490, Reno, Nevada 89510.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Hawthorne, California on March 5, 1993.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 93–6098 Filed 3–16–93; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–93–14]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before April 6, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mrs. Joanne Trapani, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7624.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on March 11, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 25776
Petitioner: Lynch Flying Service, Inc.
Sections of the FAR Affected: 14 CFR 43.3(g)
Description of Relief Sought: To allow appropriately trained and certificated pilots employed by Lynch Flying Service, Inc., to remove and replace passenger seats, ambulatory stretchers, and base assemblies in its Cessna 400 Series aircraft when such are being used in air ambulance service.

Docket No.: 25974
Petitioner: Air Transport Association
Sections of the FAR Affected: 14 CFR 47.49 and 91.27
Description of Relief Sought: To extend the termination date of Exemption No. 5318, which expires July 30, 1993, and which allows Air Transport Association to temporarily operate

registered, airworthy aircraft within the United States without the actual registration or airworthiness certificates on board.

Docket No.: 26990
Petitioner: Mr. Tim Meidinger
Sections of the FAR Affected: 14 CFR 45.29(b)(1)
Description of Relief Sought: To allow Mr. Meidinger to refurbish a Champion Model 7GCAA, N6726N airplane to include 3-inch registration marks in lieu of the required 12-inch marks.

Docket No.: 27126
Petitioner: Columbia Helicopters, Inc.
Sections of the FAR Affected: 14 CFR 29.1459, 91.609(a), and 135.152(b)
Description of Relief Sought: To allow Columbia Helicopters, Inc., to operate their Boeing Vertol 234 helicopters configured for a maximum of 20 seats without a flight recorder installed while contracted to the U.S. Government or State agencies in support of fire suppression operations.

Docket No.: 27161
Petitioner: Air Transport Association
Sections of the FAR Affected: 14 CFR 121.417(c)(2)(ii)(B)
Description of Relief Sought: To relieve Air Transport Association member airlines from the requirement to train crewmembers, initially and every 24 calendar months, on the transfer of aircraft slide/raft packs from one door to another.

Docket No.: 27184
Petitioner: AOPA Air Safety Foundation
Sections of the FAR Affected: 14 CFR 61.197(c)
Description of Relief Sought: To allow AOPA Air Safety Foundation to conduct a 16-hour flight instructor refresher clinic instead of the required minimum 24 hours of ground or flight instruction, or both.

Dispositions of Petitions

Docket No.: 23147
Petitioner: Boeing Commercial Airplane Group
Sections of the FAR Affected: 14 CFR 91.515(a)(1)
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 4783 to allow Boeing Commercial Airplane Group to permit noise measurement tests, Ground Proximity Warning System research and development, and FAA certification flight tests at altitudes lower than 1,000 feet above the surface.
Grant, March 4, 1993, Exemption No. 4783C

Docket No.: 25620
Petitioner: Hamilton Aviation
Sections of the FAR Affected: 14 CFR 145.37(b)
Description of Relief Sought/ Disposition: To allow Hamilton Aviation to apply for a Class IV airframe rating without complying with the permanent housing requirements of the FAR.
Denial, March 5, 1993, Exemption No. 5611

Docket No.: 26976
Petitioner: U.S. Coast Guard and Dept. of Transportation
Sections of the FAR Affected: 14 CFR 91.119(c)
Description of Relief Sought/ Disposition: To allow permanent relief for operations over other-than-congested areas at an altitude less than 500 feet, and in the case of operations over open water or sparsely populated areas, at a distance closer than 500 feet to any person, vessel, vehicle, or structure for the purpose of rescuing and aiding persons and protecting and saving property.
Partial Grant, March 4, 1993, Exemption No. 5614

Docket No.: 27029
Petitioner: Northern Crossings Aviation
Sections of the FAR Affected: 14 CFR 43.3(g)
Description of Relief Sought/ Disposition: To allow Mr. Tiberio DeSousa, owner and pilot for Northern Crossings Aviation, to remove and reinstall passenger seats in company aircraft used in part 135 operations whenever a certificated mechanic is not available.
Grant, March 4, 1993, Exemption No. 5612

[FR Doc. 93–6091 Filed 3–16–93; 8:45 am]
BILLING CODE 4910–13–M

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held from April 19 through April 22, 1993, from 8:30 a.m. to 5 p.m. each day.

ADDRESSES: The meeting will be held in the MacCracken Room at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy E. Halpin, Executive Director, ATPAC, Air Traffic Rules and Procedures Service, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3725.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. 2), notice is hereby given of a meeting of the ATPAC to be held from April 19 through April 22, 1993, in the MacCracken Room at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

The agenda for this meeting will cover: a continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of minutes.
2. Discussion of agenda times.
3. Discussion of urgent priority items.
4. Report from Executive Director.
5. Old Business.
6. New Business.
7. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify the person listed above not later than April 16, 1993. The next quarterly meeting of the FAA ATPAC is planned to be held from July 12–16, 1993, the Montreal, CN. Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on March 11, 1993.

Paul H. Strybing,
Manager, Procedures Division, ATP–100.

[FR Doc. 93–6093 Filed 3–16–93; 8:45 am]
BILLING CODE 4910–13–M

Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Monthly Notice of PFC Approvals and Disapprovals. In February 1993, there were five applications approved.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Blair County Airport Authority, Altoona, Pennsylvania.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $198,000.
Earliest Permissible Charge Effective Date: May 1, 1993.
Duration of Authority to Impose: February 1, 1996.
Class of Air Carriers Not Required to Collect PFC's: Part 135 non-scheduled operators.
Determination: Approved. The FAA has determined that the proposed class accounts for less than 1 percent of the airport's total annual enplanements.
Brief Description of Projects Approved to Impose and Use: Land acquisition for airport entrance road, construct airport entrance road, north apron rehabilitation, T-hangar access taxiways, terminal improvements-phone II.
Brief Description of Projects Approved to Impose Only: Land acquisition for approach protection, acquisition of aviation easements, design runway 2/20 improvements, design runway 12/30 improvements, environmental assessment for airfield improvements.
Decision Date: February 5, 1993.
FOR FURTHER INFORMATION CONTACT: Larry W. Walsh, Harrisburg Airports District Office, (717) 975–3423.

Public Agency: Jackson Municipal Airport Authority, Jackson, Mississippi.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $1,918,855.
Earliest Permissible Charge Effective Date: May 1, 1993.
Duration of Authority to Impose: April 1, 1995.
Class of Air Carriers Not Required to Collect PFC's: None.
Brief Description of Projects Approved to Impose and Use at Jackson International Airport (JAN): Rehabilitate energy management system-terminal, matching share on Airport Improvement Program (AIP) project-east runway.
Brief Description of Projects Approved for Collection at JAN and Use at Hawkins Field Airport (HKS): Conduct HKS master plan update, environmental assessment for runway 16/34 extension.
Brief Description of Projects Disapproved at JAN: Fuel farm clean-up/restoration.
Determination: This project is not AIP eligible under appendix 2 of FAA Order 5100.38A. Therefore, this project is not PFC eligible. Environmental assessment for runway extension.
Determination: This project is not AIP eligible, at this time, under paragraph 521b(2) of FAA Order 5100.38A. Insufficient justification has been submitted to the FAA to support a runway extension. The FAA has determined an environmental assessment for the proposed extension is premature and not presently AIP eligible. Therefore, this project is not PFC eligible.
Decision Date: February 10, 1993
FOR FURTHER INFORMATION CONTACT: Elton E. Jay, Jackson Airports District Office, (601) 965–4628.

Public Agency: Sonoma County, Santa Rosa, California.
Application Type: Impose and Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $110,500.
Earliest Permissible Charge Effective Date: May 1, 1993.
Duration of Authority to Impose: April 1, 1995.
Class of Air Carriers Not Required to Collect PFC's: None.
Brief Description of Projects Approved to Impose and Use: Update airport master plan, airport security, drainage, taxiway, roadway, and ramp improvements.
Brief Description of Project Withdrawn: Approach zone resident relocation.
Determination: Sonoma County withdrew this project from its application by letter to the FAA dated July 30, 1992.
Decision Date: February 19, 1993.
FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, San Francisco Airports District Office, (415) 876–2778.

Public Agency: City of San Jose, San Jose, California.
Application Type: Use PFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $25,728,826.
Charge Effective Date: September 1, 1992.
Duration of Authority to Impose: August 1, 1995.
Class of Air Carriers Not Required to Collect PFC's: Previously approved in June 11, 1992, decision.
Brief Description of Projects Approved to Use PFC Revenue: Runway 12R/30L extension, sign program.
Decision Date: February 22, 1993
FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, San Francisco Airports District Office, (415) 876–2778.

Public Agency: City of San Angelo, San Angelo, Texas.
Application Type: Impose and Use FFC Revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $873,716.
Earliest Permissible Charge Effective Date: May 1, 1993.
Duration of Authority to Impose: November 1, 1998.
Class of Air Carriers not Required to Collect PFC's: Part 135 air charters who operated aircraft with a seating capacity of less than 10 passengers.
Determination: Approved. The FAA has determined that the proposed class accounts for less than 1 percent of the airport's total annual enplanements.
Brief Description of Projects Approved to Impose and Use: Overlay and groove runaway 3–21, south general aviation area pavement, groove, runway 18–36, and signage improvements including distance remaining signs, environmental assessment for runway extensions, master plan update, upgrade existing runway 18–36 and taxiway P lighting, overlay taxiway C.
Brief Description of Projects Approved to Impose Only: Perimeter/emergency road, extend runway 36 and parallel taxiway (phase 1) and runway 3–21, relocate instrument landing system/approach light system for runway 3, security upgrade, land acquisition, extend taxiways, access roads, and fencing for general aviation development (phase 1).
Decision Date: February 24, 1993.
FOR FURTHER INFORMATION CONTACT: William Perkins, Southwest Region Airports Division, (817) 624–5979.

Issued in Washington, DC on March 11, 1993.

Lowell Johnson,

Manager, Airports Financial Assistance Division.

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED

State, airport, city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date[1]
Alabama:					
Huntsville Intl—Carl T. Jones Field, Huntsville	03/06/1992	$3	$20,831,051	06/01/1992	11/01/2008
Muscle Shoals Regional, Muscle Shoals	02/18/1992	3	104,100	06/01/1992	02/01/1995
Arizona:					
Flagstaff Pulliam, Flagstaff	09/29/1992	3	2,463,581	12/01/1992	01/01/2015
California:					
Arcata, Arcata	11/24/1992	3	188,500	02/01/1993	05/01/1994
Inyokern, Inyokern	12/10/1992	3	127,500	03/01/1993	08/01/1995
Metropolitan Oakland International, Oakland	06/26/1992	3	8,736,000	09/01/1992	08/01/1993
Palm Springs Regional, Palm Springs	06/25/1992	3	44,612,350	10/01/1992	06/01/2019
Sacramento Metropolitan, Sacramento	01/26/1992	3	24,045,000	04/01/1993	03/01/1996
San Jose International, San Jose	06/11/1992	3	25,728,826	09/01/1992	08/01/1995
San Luis Obispo County—McChesney Fie, San Luis Obispo	11/24/1992	3	502,437	03/01/1993	02/01/1995
Lake Tahoe, South Lake Tahoe	05/01/1992	3	928,747	08/01/1992	03/01/1997
Colorado:					
Colorado Springs Municipal, Colorado Springs	12/22/1992	3	5,622,000	03/01/1993	02/01/1996
Denver International (New), Denver	04/28/1992	3	2,330,734,321	07/01/1992	01/01/2026
Walker Field, Grand Junction	01/15/1993	3	1,812,000	04/01/1993	03/01/1998
Steamboat Springs/Bob Adams Field, Steamboat Springs	01/15/1993	3	1,887,337	04/01/1993	04/01/2012
Telluride Regional, Telluride	11/23/1992	3	200,000	.....	11/01/1997
Florida:					
Southwest Florida Regional, Fort Myers	08/31/1992	3	257,673,262	11/01/1992	06/01/2015
Key West International, Key West	12/17/1992	3	945,937	03/01/1993	12/01/1995
Marathon, Marathon	12/17/1992	3	153,556	03/01/1993	06/01/1995
Orlando International, Orlando	11/27/1992	3	167,574,527	02/01/1993	02/01/1998
Pensacola Regional, Pensacola	11/23/1992	3	4,715,000	02/01/1993	04/01/1996
Sarasota-Bradenton, Sarasota	06/29/1992	3	38,175,000	09/01/1992	09/01/2005
Tallahassee Regional, Tallahassee	11/13/1992	3	8,617,154	02/01/1993	12/01/1998
Georgia:					
Savannah International, Savannah	01/23/1992	3	39,501,502	07/01/1992	03/01/2004
Valdosta Regional, Valdosta	12/23/1992	3	260,526	03/01/1993	10/01/1997
Idaho:					
Idaho Falls Municipal, Idaho Falls	10/30/1992	3	1,500,000	01/01/1993	01/01/1998
Twin Falls-Sun Valley Regional, Twin Falls	08/12/1992	3	270,000	11/01/1992	05/01/1998
Illinois:					
Greater Rockford, Rockford	07/24/1992	3	1,177,348	10/01/1992	10/01/1996
Capital, Springfield	03/27/1992	3	682,306	06/01/1992	05/01/1994
Iowa:					
Dubuque Regional, Dubuque	10/06/1992	3	108,500	01/01/1993	05/01/1994
Louisiana:					
Baton Rouge Metropolitan, Ryan Field, Baton Rouge	09/28/1992	3	9,823,159	12/01/1992	12/01/1998
Maryland:					
Baltimore-Washington International, Baltimore	07/27/1992	3	141,866,000	10/01/1992	09/01/2002
Massachusetts:					
Worcester Municipal, Worcester	07/28/1992	3	2,301,382	10/01/1992	10/01/1997
Michigan:					
Detroit Metropolitan-Wayne County, Detroit	09/21/1992	3	640,707,000	12/01/1992	06/01/2009
Delta County, Escanaba	11/17/1992	3	158,325	02/01/1993	08/01/1996
Kent County International, Grand Rapids	09/09/1992	3	12,450,000	12/01/1992	05/01/1998
Marquette County, Marquette	10/01/1992	3	459,700	12/01/1992	04/01/1996
Pellston Regional Airport of Emmet C, Pellston,	12/22/1992	3	440,875	03/01/1993	06/01/1995
Minnesota:					
Minneapolis-St. Paul International, Minneapolis	03/31/1992	3	66,355,682	06/01/1992	08/01/1994
Mississippi:					
Golden Triangle Regional, Columbus	05/08/1992	3	1,693,211	08/01/1992	09/01/2006
Gulfport-Biloxi Regional, Gulfport-Biloxi	04/03/1992	3	384,028	07/01/1992	12/01/1993
Hattiesburg-Laurel Regional, Hattiesburg-Laurel	04/15/1992	3	119,153	07/01/1992	01/01/1998
Key Field Meridian	08/21/1992	3	122,500	11/01/1992	06/01/1994
Missouri:					
Lambert-St. Louis International, St. Louis	09/30/1992	3	84,607,850	12/01/1992	03/01/1996
Montana:					
Great Falls International, Great Falls	08/28/1992	3	3,010,900	11/01/1992	07/01/2002
Helena Regional, Helena	01/15/1993	3	1,056,190	04/01/1993	12/01/1999
Missoula International, Missoula	06/12/1992	3	1,900,000	09/01/1992	08/01/1997
Nevada:					
McCarran International, Las Vegas	02/24/1992	3	944,028,500	06/01/1992	02/01/2014
New Hampshire:					
Manchester, Manchester	10/13/1992	3	5,461,000	10/01/1993	03/01/1997

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CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State, airport, city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date[1]
New Jersey:					
Newark International, Newark	07/23/1992	3	84,600,000	10/01/1992	08/01/1995
New York:					
Greater Buffalo International, Buffalo	05/29/1992	3	189,873,000	08/01/1992	03/01/2026
Tompkins County, Ithaca	09/28/1992	3	1,900,000	01/01/1993	01/01/1999
John F. Kennedy International, New York	07/23/1992	3	109,980,000	10/01/1992	08/01/1995
Laguardia, New York	07/23/1992	3	87,420,000	10/01/1992	08/01/1995
Westchester County, White Plains	11/09/1992	3	27,883,000	02/01/1993	06/01/2022
North Dakota:					
Grand Forks International, Grand Forks	11/16/1992	3	1,016,509	02/01/1993	02/01/1997
Ohio:					
Akron-Canton Regional, Akron	06/30/1992	3	3,594,000	09/01/1992	08/01/1996
Cleveland-Hopkins International, Cleveland	09/01/1992	3	34,000,000	11/01/1992	11/01/1995
Port Columbus International, Columbus	07/14/1992	3	7,341,707	10/01/1992	03/01/1994
Oklahoma:					
Lawton Municipal, Lawton	05/08/1992	2	334,078	08/01/1992	01/01/1996
Tulsa International, Tulsa	05/11/1992	3	6,450,000	08/01/1992	08/01/1994
Oregon:					
Portland International, Portland	04/08/1992	3	17,961,850	07/01/1992	07/01/1994
Pennsylvania:					
Allentown-Bethlehem-Easton, Allentown	09/28/1992	3	3,778,111	11/01/1992	04/01/1995
Erie International, Erie	07/21/1992	3	1,997,885	10/01/1992	06/01/1997
Philadelphia International, Philadelphia	06/29/1992	3	76,169,000	09/01/1992	07/01/1995
University Park, State College	08/28/1992	3	1,495,974	11/01/1992	07/01/1997
Tennessee:					
Memphis International, Memphis	05/28/1992	3	26,000,000	08/01/1992	12/01/1994
Nashville International, Nashville	10/09/1992	3	143,358,000	01/01/1993	02/01/2004
Texas:					
Killeen Municipal, Killeen	10/20/1992	3	243,339	01/01/1993	11/01/1994
Midland International, Midland	10/16/1992	3	35,529,521	01/01/1993	01/01/2013
Virginia:					
Charlottesville-Albemarle, Charlottesville	06/11/1992	2	255,559	909/01/1992	11/01/1993
Charlottesville-Albemarle, Charlottesville	12/21/1992	2	255,559	09/01/1992	11/01/1993
Washington:					
Seattle-Tacoma International, Seattle	08/13/1992	3	28,847,488	11/01/1992	01/01/1994
Yakima Air Terminal, Yakima	11/10/1992	3	416,256	02/01/1993	04/01/1995
West Virginia:					
Morgantown Muni-Walter L. Bill Hart, Morgantown	09/03/1992	3	55,500	12/01/1992	01/01/1994
Wisconsin:					
Austin Straubel International, Green Bay	12/28/1992	3	8,140,000	03/01/1993	03/01/2003
Guam:					
Guam International Air Terminal, Agana	11/10/1992	3	5,632,000	02/01/1993	06/01/1994
Puerto Rico:					
Rafael Hernandez, Aguadilla	12/29/1992	3	1,053,000	03/01/1993	01/01/1999
Mercedita, Ponce	12/29/1992	3	965,000	03/01/1993	01/01/1999
Luis Munoz Marin International, San Juan	12/29/1992	3	49,768,000	03/01/1993	02/01/1997
Virgin Islands:					
Cyril E. King, Charlotte Amalie	12/08/1992	3	3,871,005	03/01/1993	02/01/1995
Alexander Hamilton, Christiansted St. Croix	12/08/1992	3	2,280,465	03/01/1993	05/01/1995

[1]The estimated charge expiration date is subject to change due to the rate of collection and actual allowable project costs.

[FR Doc. 93–6100 Filed 3–16–93; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Bishop International Airport, Flint, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Bishop International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 16, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James L. Rice II, A.A.E., Airport Director of the Bishop International Airport Authority at the following address: Bishop International Airport, G–3425 West Bristol Road, Flint, Michigan 48507.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Bishop

International Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Dean C. Nitz, Manager, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7300. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Bishop International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 4, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Bishop International Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 24, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: August 1, 1993

Proposed charge expiration date: July 30, 2030

Total estimated PFC revenue: $32,296,450

Brief description of proposed project(s):

1. Terminal Construction
2. East Air Carrier Apron
3. Terminal Access Roadway Phase I and Phase II
4. West Ramp and Demolition Terminal Building
5. Terminal Security System
6. Land Acquisition Bristol Road Right-Of-Way

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: All Air-Taxi and other non-scheduled part 135 Carriers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Bishop International Airport Authority.

Issued in Chicago, Illinois, on March 9, 1993.

W. Robert Billingsley,

Manager, Airports Division, Great Lakes Region.

[FR Doc. 93–6102 Filed 3–16–93; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Dane County Regional Airport, Madison, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Dane County Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 16, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Minneapolis Airports District Office, 6020 28th Avenue South, room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Peter Drahn, Director of the Dane County Regional Airport at the following address: 4000 International Lane, Madison, Wisconsin 53704.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Dane under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Franklin D. Benson, Manager, Minneapolis Airports District Office, 6020 28th Avenue South, room 102, Minneapolis, Minnesota 55450, (612) 725–4221. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Dane County Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 4, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Dane County Regional Airport was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 25, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: July 1, 1993

Proposed charge expiration date: December 31, 1997

Total estimated PFC revenue: $6,746,000

Brief description of proposed project(s):

Project to Impose and Use PFC

Expansion of the terminal building

Projects Only to Impose a PFC

Expansion of terminal roadway;

Construction of Runway 3/21;

Expansion of west air carrier ramp;

Rehabilitation of airfield pavement.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: On-demand FAR 135 Air Taxi operators operating aircraft with less than fifteen seats.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Dane County Regional Airport.

Issued in Des Plaines, Illinois on March 9, 1993.

W. Robert Billingsley,

Manager, Airports Division, Great Lakes Region.

[FR Doc. 93–6101 Filed 3–16–93; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Gogebic County Airport, Ironwood, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Gogebic County Airport under the provisions of the Aviation Safety and Capacity Expansion

Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 16, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Joseph Braspenick, Airport Manager, of the Gogebic, Michigan, at the following address: Gogebic-Iron Airport Board, E–5560 Airport Road, Ironwood, Michigan 44938.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Gogebic under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Dean C. Nitz, Manager, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7300. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Gogebic County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 24, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by County of Gogebic, Michigan was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 25, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 1993.

Proposed charge expiration date: November 30, 1998.

Total estimated PFC revenue: $77,976.00.

Brief description of proposed projects: Rehabilitate Runway 9/27; Reconstruct Runway 9/27 surface treatment; Rehabilitate Runway 9/27 lighting (HIRL); Install airfield signs; Install MITL (Taxiways "A", "B" and "J").

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 operators who file FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Gogebic County Airport, Ironwood, Michigan.

Issued in Des Plaines, Illinois, on March 9, 1993.

W. Robert Billingsley,

Manager, Airports Division, Great Lakes Region.

[FR Doc. 93–6103 Filed 3–16–93; 8:45 am]

BILLING CODE 4910–13–M

McCarran International Airport, Las Vegas, NV; Intent of Rule on Application

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Intent of Rule on Application to Impose a Passenger Facility Charge (PFC) at Las Vegas McCarren International Airport, Las Vegas Nevada.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to impose a PFC at Las Vegas McCarran International Airport, Las Vegas, Nevada, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 16, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Western-Pacific Region, Airports Division, AWP–600, P.O. Box 92007, WWPC, Los Angeles, Ca 90009, or
San Francisco Airports District Office, 831 Mitten Road Rm. 210, Burlingame, CA 94010–1303.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert N. Broadbent, Director of Aviation, County of Clark, at the following address: P.O. Box 11005 Las Vegas, Nevada 89111.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the county of Clark under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, room 210, Burlingame, CA. 94010–1303, Telephone: (415) 876–2805. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Las Vegas McCarren International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 9, 1993, the FAA determined that the application to impose and impose and use the revenue from a PFC submitted by the county of Clark was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 11, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1993 per existing authority.

Proposed charge expiration date: June 1, 2013 or upon collection of approved PFC revenue.

Total estimated PFC revenue: $944,028,500 per existing authority.

Brief description of proposed projects:

1. Use of revenue for projects previously approved for impose only: Project 1003, Land Acquisition—Topaz Subdivision; Project 1005, Land Acquisition—LDN 70 Enterprise; Project 1009, Land Acquisition—LDN 70 Pecos/Sunset Area; Project 931, Flood Control Projects.

2. Impose and use PFC revenue: Project 2001—NEPA Environmental Assessment—Extension of Runway 7L–25R.

3. Impose Only: Project 2001—Design and Construction—Extension of Runway 7L–25R.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Carriers who file Form 1800–31 AND carry less than 2500 passengers per year.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the county of Clark.

Issued in Los Angeles, California on March 10, 1993.

Herman C. Bliss,

Manager, Airports Division, Western Pacific Region.

[FR Doc. 93–6099 Filed 3–16–93; 8:45 am]

BILLING CODE 4910–13–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the item entitled Unfinished Dance Mural by Henri Matisse to be included in the exhibit, "Great French Paintings from the Barnes Foundation: Impressionist, Post-Impressionist, and Early Modern" imported from abroad for the temporary exhibition without profit within the United States is of cultural significance. This item is imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the item at the National Gallery of Art, Washington, DC, beginning on or about May 2, 1993, to on or about September 26, 1993, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: March 12, 1993

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 93–6230 Filed 3–16–93; 8:45 am]

BILLING CODE 8230–01–M

Culturally Significant Objects Imported for Exhibition Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit "Teotihuacan: City of the Gods" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the M.H. de Young Memorial Museum, San Francisco, California, beginning on or about May 26, 1993, to on or about October 31, 1993, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: March 12, 1993.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 93–6229 Filed 3–16–93; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

[1] A copy of this list may be obtained by contacting Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202/619–6975; the address is room 700, U.S. Information Agency, 301–4th Street, SW., Washington, DC 20547.

ADDRESSES: Copies of the proposed information collections and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before April 16, 1993.

Dated: March 10, 1993.

By direction of the Secretary:

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information, Resources Policies and Oversight.

Extension

1. Claim Under Loan Guaranty, VA Form 26–1874
2. This form is used by lenders and holders of VA guaranteed home loans as the notification to VA of default on such loans. The information obtained is essential to VA determinations concerning the amount owed the holder under the guaranty.
3. Businesses or other for-profit—Small businesses or organizations
4. 31,284 hours
5. 1 hour
6. On occasion
7. 31,284 respondents

Reinstatement

1. VA MATIC Authorization, VA Form 29–0532 and 29–0532–1
2. This form is used by the insured to authorize VA to make automatic dedications from the insured's bank account to pay insurance premiums.
3. Individuals or households
4. 1,500 hours
5. 30 minutes
6. On occasion
7. 3,000 respondents

[FR Doc. 93–6163 Filed 3–16–93; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 50
Wednesday, March 17, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 13299.

PREVIOUSLY ANNOUNCED DATE AND TIME OF THE MEETING: March 15, 1993 at 10:00 a.m.

CHANGE IN THE MEETING: The meeting has been rescheduled for Wednesday, March 17, 1993 at 10:00 a.m.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,
Secretary.
[FR Doc. 93–6316 Filed 3–15–93; 2:26 pm]
BILLING CODE 6730–01–M

COMMITTEE ON EMPLOYEE BENEFITS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 2:30 p.m., Monday, March 22, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of a survey of Federal Reserve System benefits conducted by Hewitt and Wyatt.
2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: March 15, 1993.

William W. Wiles,
Secretary of the Board.
[FR Doc. 93–6322 Filed 3–15–93; 3:17 pm]
BILLING CODE 6210–01–M

COMMITTEE ON EMPLOYEE BENEFITS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 3:00 p.m., Monday, March 22, 1993, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. The Committee's agenda will consist of matters relating to (a) the general administrative policies and procedures of the Retirement Plan, Thrift Plan, Long-Term Disability Income Plan, and Insurance Plan for Employees of the Federal Reserve System; (b) general supervision of the operations of the Plans; (c) the maintenance of proper accounts and accounting procedures in respect to the Plans; (d) the preparation and submission of an annual report on the operations of each of such Plans; and (e) the maintenance and staffing of the Office of the Federal Reserve Employee Benefits System; and (f) the arrangement for such legal, actuarial, accounting, administrative, and other services as the Committee deems necessary to carry out the provisions of the Plans. Specific items include: (1) Technical and administrative changes to the Thrift Plan; (2) Thrift Plan recordkeeping system; and (3) discussion of the Mission Statement for the Office of Employee Benefits.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: March 15, 1993.

William W. Wiles,
Secretary of the Board.
[FR Doc. 93–6323 Filed 3–15–93; 3:17 pm]
BILLING CODE 6210–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 12:30 P.M., Thursday, March 25, 1993.

PLACE: John Fitzgerald Kennedy Library, Columbia Point, Boston, Massachusetts 02125, (617) 929–4523.

STATUS: Open.

BOARD BRIEFINGS:

1. Central Liquidity Facility Report and Report on CLF Lending Rate.
2. Insurance Fund Report.
3. Information System Vendor Review Program.
4. Legislative Update.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Proposed Rule: Amendment to Section 701.12, NCUA's Rules and Regulations, Supervisory Committee Audits and Verifications.
3. Final Rule: Amendment to Section 748.1(c), NCUA's Rules and Regulations, Requirement to File Criminal Referral Forms.
4. Final Rule: Amendment to Section 791.18(c), NCUA's Rules and Regulations, Public Availability of Meeting Records and Other Documents.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,
Secretary of the Board.
[FR Doc. 93–6331 Filed 3–15–93; 3:58 pm]
BILLING CODE 7535–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 9:30 a.m., Tuesday, March 23, 1993.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, N.W., Washington, D.C. 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Administrative Action under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
3. Request from State for Exemption from Section 701.21(h), NCUA's Rules and Regulations. Closed pursuant to exemptions (9)(A)(ii) and (9)(B).
4. Requests from Credit Unions for Waivers from Part 704, NCUA's Rules and Regulations. Closed pursuant to exemption (8).
5. Administrative Actions under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,
Secretary of the Board.
[FR Doc. 93–6330 Filed 3–15–93; 3:58 pm]
BILLING CODE 7535–01–M

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federal register

Wednesday
March 17, 1993

Part II

Environmental Protection Agency

40 CFR Part 80

Volatility Regulations for Gasoline and Alcohol Blends; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL-4592-4]

RIN 2060-AC97

Volatility Regulations for Gasoline and Alcohol Blends

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action revises the gasoline and alcohol blend volatility regulations promulgated on March 22, 1989 and June 11, 1990. The revisions are based on the experience the Agency has gained enforcing these regulations, suggestions from the regulated industry and other interested parties received prior to the NPRM, and comments submitted in response to the NPRM. The revisions include changes to the liability provisions, including amendments to the defenses to liability, the addition of a test exemption section to allow the use of high volatility gasoline during the control period for research or emissions certification, and changes to the appendix D sampling procedures and the appendix E tests for determining Reid Vapor Pressure. Changes to EPA's volatility regulations due to the Clean Air Act Amendments of 1990 have been addressed in a separate rulemaking promulgated on December 12, 1991.

EFFECTIVE DATE: This regulation becomes effective April 16, 1993. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register April 16, 1993.

ADDRESSES: Materials relevant to this rulemaking were placed in the Public Docket No. A-85-21 by EPA until January 16, 1992. On January 16, 1992, a new docket number was established, Public Docket No. A-92-03, and all material relevant to this rulemaking have been transferred to this docket. The docket is located at the Air Docket, room M-1500, Waterside Mall, 401 M Street, SW., Washington, DC 20460. The docket may be inspected between 8:30 am and 12 noon and between 1:30 pm and 3:30 pm on weekdays. As provided by 40 CFR part 2, a reasonable fee may be charged for photocopying docket materials.

FOR FURTHER INFORMATION CONTACT: Joseph R. Sopata, Chemist, Fuels Section, Field Operations and Support Division (6406J), EPA, 401 M Street SW., Washington, DC 20460. Telephone: (202) 233-9034.

SUPPLEMENTARY INFORMATION:

I. Introduction

This final rule revises the volatility regulations for gasoline and alcohol blends found at 40 CFR 80.27 and 80.28. The volatility regulations set forth maximum summertime commercial gasoline volatility levels which provide that gasoline Reid Vapor Pressure (RVP) starting in 1989 [1] may not exceed 10.5 pounds per square inch (psi), 9.5 psi, or 9.0 psi, and beginning in 1992 [2], 9.0 psi or 7.8 psi, depending on the area of the country and the month.[3] The volatility regulations also set forth liability provisions, including defenses to liability, and sampling and test procedures for determining RVP.

EPA promulgated these volatility regulations after finding that increasing the volatility of gasoline would cause an increase in evaporative emissions, which are volatile organic compounds (VOC's), a precursor for the formation of ozone. These gasoline related emissions are currently a major contributor to the nation's serious ground level ozone problem, which harms public welfare and human health.

II. Public Participation

A Notice of Proposed Rulemaking, "Volatility Regulations for Gasoline and Alcohol Blends," (56 FR 52315) was published in the **Federal Register** on October 18, 1991. In this notice, EPA proposed revisions to its volatility regulations. The proposed revisions included changes to the liability provisions, including amendments to the defenses to liability, the addition of a test exemption section to allow the use of high volatility gasoline during the control period for research or emissions certification, and changes to the appendix D sampling procedures and the appendix E tests for determining Reid Vapor Pressure. EPA proposed these revisions because EPA believes that these revisions would improve the operation of the volatility program, based on EPA's experience in enforcing the volatility regulations and based on suggestions that EPA has received from the regulated industries and other interested parties. Comments were received from the American Petroleum Institute, UIC, Inc., General Motors Corporation, Unocal Refining and Marketing Division, Pennzoil Company, Amoco Oil Company, Conoco Incorporated, Shell Oil Company, CITGO Petroleum Corporation, Marathon Oil Company, Tropicana Energy Company, and the American Society for Testing and Materials (ASTM).

EPA has carefully reviewed all of the comments. In general, they were supportive, although many suggested modifications to the NPRM. The following sections review the substantive issues raised and provide EPA's response. Major issues addressed include: liability of more than one party, testing exemption, presumptively liable parties at carrier facilities, presumptively liable parties at unbranded facilities, refiner/importer test result defense, defenses to presumptive liability for carriers, distributors, and ethanol blenders, container closure specifications, sampling when a tank has recently been loaded or unloaded, size of sample containers, apparatus for beaker or bottle sampling, nozzle extension devices, spacer for nozzle sampling, sampling open tanks, sampling closed tanks, test method to be used to determine compliance with the volatility regulations, gauge method cleaning procedure, sampling method preference, analysis of ethanol content and the determination of compliance. Minor comments not addressed in the preamble are addressed in a memorandum to the Air Docket (Docket No. A-92-03).

III. Analysis of Comments

1. *Liability of More than One Party*

For the reasons set forth in the NPRM, EPA proposed to revise 40 CFR 80.27(c) to make it clear that more than one party of a particular type can be held liable for a violation. For example, if there is more than one distributor in the chain of distribution, all such distributors can be held liable. There were no comments directly on this issue.

One commenter, however, stated an objection to the basic principal in the volatility regulations that all persons in the chain of distribution are presumptively liable if non-conforming

[1] 54 FR 11868 (March 22, 1989). A corrections notice concerning these regulations was published on June 27, 1989 (54 FR 27016). A revision of the New Mexico volatility standards was published on August 14, 1989 (54 FR 33218).

[2] A final rule, Volatility Regulations for Gasoline and Alcohol Blends Sold in Calendar Years 1992 and Beyond, was published on June 11, 1990 (55 FR 23658).

[3] A direct final rule making revisions to these regulations was published on June 25, 1990 (55 FR 25833). A final rule was published on May 6, 1991 (56 FR 20546) regarding a change in the RVP areas in Texas. A final rule was published on August 2, 1991 regarding a change in the RVP areas in Arizona (56 FR 37020). Based on the 1990 Clean Air Act Amendments, a final rule was published on December 12, 1991, regarding a change in volatility areas for certain areas in ozone attainment (56 FR 64704). Finally, a Temporary Direct Final Rule was published on May 12, 1992 (57 FR 20202) changing the standard for the Denver-Boulder area for 1992 from 7.8 psi to 9.0 psi.

gasoline is found. The commenter believes that most persons in the distribution chain have no control over the gasoline and, therefore, should not be held responsible for violations.

The presumption of liability for parties in the distribution chain was established in the original volatility rulemaking published on March 22, 1989. Comments, if any, were appropriately received and addressed at the time of that rulemaking. As this rulemaking does not address or amend EPA's basic policy regarding liability of persons in the chain of distribution, comments referring to such policy are beyond the scope of this rulemaking. We note, however, that parties in the distribution chain are only presumed liable for a violation. A party will not be deemed liable if it can establish a defense as provided in the regulations.

The revision to 40 CFR 80.27(c) is being promulgated as proposed.

2. Testing Exemption

For the reasons set forth in the NPRM, the Agency proposed a testing exemption to allow the use of high volatility gasoline for research or emissions certification during the volatility control season.

The proposal set forth regulations requiring that an applicant demonstrate that a proposed test program meet four specified requirements and included a detailed list of the information that would be required to be submitted with a request for a testing exemption. A testing exemption would be granted to the applicant upon a demonstration that all of the regulatory requirements had been met. It would be issued in the form of a memorandum of exemption signed by the applicant and the Administrator (or his delegate). Violation of a term or condition of the exemption would void the exemption *ab initio*. The violating party would thus be liable for violations of § 80.27(a), which are enforceable under section 211(d) of the Act. This is similar to the manner in which section 203(b)(1) testing exemptions are granted and enforced.

The Agency received four comments on the proposed list of information to be submitted, including comments regarding what information can reasonably be expected to be submitted from an applicant prior to the initiation of a test program. One commenter agreed with EPA's formalized proposal for granting testing exemptions. Another commenter realized the need for a formalized process, but stated that the proposal was too complex. One commenter opposed the proposal on the grounds that testing and research facilities already take the necessary precautions when using high RVP fuel in research and development, and thus that a testing exemption is unnecessary. Two commenters pointed out a typographical error in the preamble of the NPRM. An appropriate purpose for an exemption is limited to research or emissions certification, not research on emissions certification. The correct word, "or," was used in the proposed language for 40 CFR 80.27(e).

The Agency believes that the requirements for obtaining a testing exemption are not overly burdensome or complex. The Agency recognizes that some research and development organizations take special precautions when using high RVP fuels. However, this does not render a testing exemption program unnecessary. Without such a program, there is no lawful mechanism for dispensing high volatility fuel to motor vehicles during the control season.

One commenter stated it should be sufficient for a party to notify EPA of its intent to conduct such testing, with approval automatically granted unless EPA responds otherwise within 30 days. Based on EPA's experience with testing exemptions, additional information is often required to complete an application, so time limits on EPA's response to initial applications are not appropriate. EPA will be expeditious in its review of all testing exemption applications.

One commenter stated that it is unreasonable for EPA to request results of test programs affected by the rule (§ 80.27 (e)(1)(ii) and (e)(6)(iv)). As part of EPA's monitoring of the testing exemption program, EPA believes it is appropriate to have access to the results of the test program, because providing the results to EPA provides further assurance that the test program is, indeed, for legitimate test purposes. If such information is claimed to be confidential business information, EPA will treat it as confidential.

The testing exemption rule at 40 CFR 80.27(e) is being promulgated as proposed.

3. Presumptively Liable Parties at Carrier Facilities

For reasons set forth in the NPRM, the Agency proposed to extend presumptive liability to distributors and resellers for violations found at a carrier facility. No comments were received on this issue. Therefore, this new liability provision for violations found at carrier facilities at § 80.28(b)(4) is being promulgated as proposed, and, as proposed, referenced at 40 CFR 80.28(g)(3).

4. Presumptively Liable Parties at Unbranded Facilities

For reasons set forth in the NPRM, the Agency proposed to extend presumptive liability to refiners and importers for violations found at unbranded retail and wholesale purchaser-consumer facilities.

A few commenters opposed extending presumptive liability to refiners and importers for violations found at unbranded retail and wholesale purchaser-consumer facilities. These commenters argued that refiners and importers do not have the control over unbranded facilities that they do over branded facilities. They argued further that unbranded facilities generally sell gasoline from different suppliers and that a refiner or importer should not be liable for gasoline that has been physically commingled with gasoline produced or imported by another refiner or importer. They asserted that it would be almost impossible for a refiner to test and retain enough samples to provide a meaningful defense to the presumption of liability for violations found at unbranded retail or wholesale purchaser-consumer facilities.

The volatility regulations currently provide that, when a violation is found at an unbranded distributor or ethanol blender facility, the actual refiner(s) or importer(s) of the gasoline is presumptively liable for violations found at those facilities. The extension of the presumption of liability to refiners and importers for violations found at unbranded retail and wholesale purchaser-consumer facilities merely parallels the treatment of refiners and importers for violations found at unbranded distributor or ethanol blender facilities.

To defend against a violation found at an unbranded distributor or ethanol blending facility, a refiner or importer currently must demonstrate that the violation was not caused by him, his employee or agent, and provide test results showing that the gasoline determined to be in violation was in compliance when it was delivered to the next party in the distribution system. Under the final rule promulgated today, the same defense elements are required of refiners and importers for violations found at unbranded retail and wholesale purchaser-consumer facilities.

EPA does not believe that the new rule will be more burdensome for refiners than the existing rule providing for presumptive liability for violations found at unbranded distributor and ethanol blender facilities. Refiners and importers do not exercise any more control over unbranded distributor or

ethanol blender facilities than they do over unbranded retail or wholesale purchaser-consumer facilities, and distributors and ethanol blenders also commingle products before distribution to downstream parties. Under the existing regulations, the refiner or importer tests the gasoline before it is delivered to the next party in the distribution system to protect itself against liability for violations at other downstream facilities. Such test results may also be used to defend against a violation found at an unbranded retail or wholesale purchaser-consumer facility.

It should be noted, in recognition of the fact that refiners have greater control over branded facilities, that the regulations provide for more stringent defense elements for violations found at branded facilities than for violations found at unbranded facilities.

One commenter objected to the presumption of liability on the part of any supplier for gasoline sold at unbranded stations. This commenter asserted that unbranded retailers purchase gasoline from many suppliers and that all suppliers should not be held responsible for the actions of one supplier.

The presumption of liability for distributors and ethanol blenders for gasoline sold at unbranded retail stations was established in the original volatility rulemaking published on March 22, 1989, and is not affected by this rulemaking. Comments, if any, regarding the presumption of liability on the part of these parties for violations found at unbranded stations were appropriately received and addressed at the time of the original rulemaking and are beyond the scope of this rulemaking. However, in response to the commenter's concern, EPA notes that these suppliers are only presumed liable for a violation found downstream. The regulations provide that a distributor or ethanol blender can rebut the presumption if it can show that it did not cause the violation and that it had an effective oversight program in place.

The commenter also asked why EPA has provided no guidelines for an acceptable oversight program, and asserted that it is unreasonable to expect a transporter to sample each load and perform expensive tests to establish a defense against future violations.

The oversight program defense element for transporters also was established in the original volatility rulemaking published on March 22, 1989. Comments, if any, regarding this defense element were appropriately received and addressed at the time of that rulemaking and are beyond the scope of this rulemaking. We note, however, that distributors, carriers, and ethanol blenders are not required to test each load of gasoline. The defense for these parties for violations found downstream requires evidence of an oversight program, such as periodic sampling and testing of the gasoline, and not the testing of each load of gasoline. We also note that the volatility regulations provide general guidance as to what constitutes an acceptable oversight program (i.e., periodic sampling and testing of the gasoline). EPA believes, however, that each party's oversight program should be evaluated on an individual basis to allow parties flexibility in developing and conducting their programs.

The regulation at 40 CFR 80.28(f)(5) is being promulgated as proposed. The reference to 40 CFR 80.28(f)(5) at 40 CFR 80.28(g)(2) is being promulgated as proposed.

5. Refiner/Importer Test Results Defense

For the reasons set forth in the NPRM, the Agency proposed continuing its policy which stated that where a refiner or importer is presumed liable for a violation at downstream facilities, it could meet its burden of proving the test element of its defense [4] if it has a test result that is at least 0.5 psi below the applicable volatility standard, and the violation is not more than 0.5 psi above the standard, and there is no reason to believe that the party's results are invalid. The Agency believes that this policy has been helpful in encouraging prudent industry compliance assurance measures and, in light of the variability of the RVP test methods, provides a refiner or importer with the assurance that it will be able to meet the test element of its defense if it has a test result that is significantly below the standard, provided that EPA's test result is not significantly above the standard. EPA believes that, even with minor irregularities or problems in the facility testing program, the 0.5 psi threshold provides sufficient confidence that the gasoline's RVP did not exceed the applicable standard when it left the refinery or importer facility.

Several commenters opposed this enforcement policy because they believe it changes the enforcement policy contained in the Phase II volatility regulations published on June 11, 1990 (55 FR 23660), which provides that EPA will take enforcement action only when it measures the RVP of the gasoline at more than 0.3 psi RVP greater than the applicable standard, provided that the responsible party measured the RVP of the gasoline at or below the applicable standard.

The commenters' objections are misplaced. The policy contained in the Phase II volatility regulations sets an enforcement tolerance that EPA will apply in bringing an enforcement action against any party for an apparent violation. For example, if EPA measures a sample of gasoline at 9.3 psi or less in an area with a 9.0 psi standard, it will not bring an enforcement action for the violation, provided that the refiner measured the gasoline's RVP at or below 9.0 psi and no other party has test result(s) which, when averaged with the refiner's test results, indicates the gasoline is above 9.0 psi. If, however, EPA measures the gasoline above 9.3 psi, it will bring an enforcement action.

The enforcement policy contained in the proposed rulemaking, in contrast, pertains to the test evidence that a refiner or importer can present to defend against the presumption of liability for a violation found at a downstream facility. Under the current volatility regulations, in any case in which a refiner or importer is presumed liable for a violation detected at a carrier's facility, an unbranded distributor facility, or an unbranded ethanol plant, the refiner or importer can establish a defense by presenting (among other things) test results showing that the gasoline in question was in compliance with the applicable standard when it was delivered to the next party in the distribution system (see 40 CFR 80.28(g)(2)(ii)). Similarly, when a refiner is presumed liable for a violation detected at a branded distributor facility, reseller facility, ethanol blending plant, retail outlet, or wholesale purchaser-consumer facility, it can establish a defense by presenting (among other things) test results showing that the gasoline determined to be in violation was in compliance with the applicable standard when it was transported from the refinery (see 40 CFR 80.28(g)(4)(i)).

The 0.5 psi enforcement policy merely provides one way in which a refiner or importer may satisfy the test requirement of its defense. If, for example, EPA measures gasoline at a downstream facility to be above 9.3 psi (but not more than 9.5 psi) in an area with a 9.0 psi standard and brings an enforcement action, the refiner or importer will be deemed to have fulfilled the test requirement of its

[4] Depending on the downstream facility where the violation was found, the refiner or importer must show either that the gasoline in question was in compliance with the applicable standard when it was delivered to the next party in the distribution system or that the gasoline in question was in compliance with the applicable standard when it was transported from the facility.

defense if it has a test result that is 8.5 psi or below (provided there is no reason to believe that the party's test result is invalid). As indicated above, this policy assures the refiner or importer that it will be able to meet the test element of its defense if it has tested its fuel in good faith and with appropriate procedures and has obtained a test result that is significantly below the standard, even if EPA tests the gasoline to be above the standard (so long as EPA's test result is not significantly above the standard).

Some commenters indicated that they believe the 0.5 psi enforcement policy is overly restrictive. EPA does not agree that the policy is overly restrictive, since a refiner or importer is not precluded from satisfying the test requirement of its defense if it does not have a test result that is 0.5 psi or more below the standard. The party may satisfy this defense element by presenting other test results showing that the gasoline met the applicable standard. Whether such test results will satisfy the test requirement of the defense will be determined on a case-by-case basis. In evaluating a party's test evidence, the Agency will consider the quality of the party's testing program, such as whether multiple samples were tested and whether the party's laboratory ran correlation tests with EPA's or another laboratory.

As discussed above, however, if EPA's test results indicate that the gasoline is more than 0.5 psi above the standard, the refiner or importer will not be deemed to have fulfilled the test requirement of its defense based solely on a test result showing that the gasoline was 0.5 psi or more below the standard. The refiner or importer, nevertheless, may be able to fulfill the test requirement based on the totality of its testing evidence and the quality of its testing program.

The Agency also proposed that refiners and importers may use methods other than the method contained in appendix E for defense purposes, if adequate correlation is demonstrated to Method 3. No adverse comments were received on the proposal to allow the use of other methods. See section 16 of this document for comments concerning Method 3. 40 CFR 80.28(g) (2)(ii) and (4)(i) are being promulgated with some changes from the proposed language to emphasize the importance of correlating to Method 3.

One commenter questioned how "adequate correlation" would be determined, and noted that the industry is involved in a number of correlation activities. The Agency is prepared to provide guidance. See section 16 of this document. Obviously, any correlation determination must have a sound basis and be defensible.

6. Carrier, Distributor and Ethanol Blender Defenses to Presumptive Liability

For the reasons set forth in the NPRM, the Agency proposed to revoke the documentation requirement which was stricken by the court in *National Tank Truck Carriers* v. *EPA*, 907 F.2d 177 (D.C. Cir. 1990). The Agency proposed to rely on other elements of the affirmative defense required under the regulations, which were upheld by the court. The other elements of the defense are demonstration of an oversight program for monitoring gasoline volatility, and demonstration that the violation was not caused by the defendant, his employees or agents.

No comments were received on this issue. The liability provision concerning the defense for Carriers, Distributors and Ethanol Blenders at 40 CFR 80.28 (g) is being promulgated as proposed.

7. Container Closure Specifications

As stated in the NPRM, the Agency believes that the specification for container closure in section 4.2 of appendix D is incomplete because no performance specifications were set for container closures. The purpose of the container closure provision is to prevent the loss of vapors through the cap and container. Test data obtained on phenolic screw caps with a teflon coated liner on Boston Round Bottles have been placed in the docket, and show these caps to be satisfactory in preventing such loss of vapors.

However, EPA will allow other container closure caps to be used if such devices are shown to be satisfactory through testing. The Agency is requiring that testing, as described in the test data submitted to the docket, be performed on caps to be used for container closure. The advantage of using a performance specification on container closures is the flexibility it allows. The Agency and industry are able to evaluate and use better and less expensive materials as they are made available. The Agency proposed to revise section 4.2 in appendix D to require that a certain performance be shown through specified testing procedures before a new cap may be used under the sampling regulations.

One commenter interpreted the container specifications in the proposal as a burden on the industry and that a more workable approach would be for the manufacturer of the container closure to evaluate its product.

The intent of the proposal was to establish a more complete, but reasonable, performance specification for closures. No testing is mandatory, since an acceptable closure, a phenolic screw cap with a teflon coated liner, is identified in the regulation. However, the regulation affords the flexibility of using other closures if adequate testing shows them to be satisfactory. Manufacturers and users of other closures may wish to cooperate in having the test performed. As there were no other adverse comments, the regulation at 40 CFR part 80, appendix D, 4.2, is being promulgated as proposed.

8. Sampling When a Tank Has Recently Been Loaded or Unloaded

In the NPRM, the Agency commented that part of the note following section 6 of appendix D could be misleading. The note states that metal or conductive objects should not be lowered into a tank or suspended in a compartment or tank which is being filled or immediately after cessation of pumping. A waiting period of one minute is recommended to allow for the relaxation of any electrostatic charge. The Agency proposed to make two changes to the note. The first revision would provide that no object or material (not just metal or conductive) be lowered into a tank which is being filled or which has just recently been filled. The second revision would increase the waiting period to allow the electrostatic charge to relax enough to put objects safely into the tank from one to 5 minutes, to assure safety in extraordinary circumstances.

One commenter stated that tank sampling safety guidelines should be consistent with API Document 2003, which deals with static electricity. The document states that "if a flammable atmosphere is suspected, a 30-minute delay should be observed after loading of static-accumulating materials into large storage or ships' tanks before hand gauging or sampling is performed * * * In smaller volume vessels, such as tank trucks or tank cars, particle settling should not be a problem, and normal charge relaxation should occur. In loading smaller volume vessels where flammable vapor conditions can exist, some companies require delays of 1 minute or more before gauging or sampling of static accumulating fuels. Longer waiting periods may be appropriate for very low conductivity liquids, such as very clean solvents and chemical grade hydrocarbons. If completely nonconductive hand gauging or sampling devices are used, no waiting period is required."

In view of the information contained in the API Document 2003, EPA has further revised the note following section 6 of appendix D. For small volume vessels such as tank cars and tank trucks, a 5-minute delay time is recommended after loading of static-accumulating materials before hand gauging or sampling is performed. For large storage or ship tanks, a 30-minute delay time is recommended after loading of static-accumulating materials before hand gauging or sampling is performed. EPA has reviewed the delay time static electricity data for large and small volume vessels in the API Document 2003, and EPA is confident that the API data are reasonable.

9. Size of Sample Containers

For reasons presented in the NPRM, the Agency proposed to amend appendix D, section 12.2, to allow for a minimum sample container size of 4 ounces (oz), in lieu of one quart. Comments were also requested on an appropriate limit on the size of the sample container opening.

Two commenters favored the use of 4 oz sample containers as long as they do not preclude the use of larger sample containers. One commenter questioned whether a 4 oz sample container can obtain a sample that is representative of the full quantity of the tank. No comments were received on the size of the opening of the sample container.

The review of data developed by EPA (Docket #A–92–03, Category III–B, Number 1, Raw Data for Tank Sampling and Nozzle Sampling for 1 quart and 4 oz sample bottles) showed that there was a slight difference in results between tank sampling with 4 oz sample bottles when compared to tank sampling with 1 quart bottles. There was no difference in results when nozzle sampling was performed with 4 oz and 1 quart sample bottles. Therefore, appendix D, section 12.2 is revised to allow the use of containers of not less than 1 quart nor more than two gallons capacity when sampling tanks by the all-levels or running sampling methods, and to allow the use of containers of not less than 4 oz nor more than two gallons capacity for the nozzle sampling procedure.

10. Apparatus for Beaker or Bottle Sampling

For the reasons set forth in the NPRM, the Agency proposed to list recommended sample container opening diameters for smaller bottles. Only one comment was received on this issue, which is discussed in the next section. The Agency at this time recommends smaller diameters when sampling at greater sampling depths. One way to obtain a smaller diameter with a 1 quart bottle with a 0.75 inch diameter is with a restrictor cap, a "cap with a restricted orifice". At greater sampling depths, a sampling bottle with a 0.75 inch diameter fills at a fast rate, thus going over 70–85% full. A "cap with a restricted orifice" slows the rate of fill of the sample, thus making it easier to achieve a 70–85% full sample. The Agency has decided not to make any further recommendation, pending further investigation.

11. Nozzle Extension Devices

Since the Agency proposed to use smaller sample bottles in the NPRM, an additional nozzle extension device was needed. Therefore the Agency proposed to add Figure 7b to appendix D.

One commenter stated that it is unclear how sampling using the 4 oz bottles will be conducted with the nozzle extension shown. The nozzle extension has a minimum outside diameter (OD) of 0.75 inches, while the NPRM calls out the recommended sample container restrictor caps for 4 oz bottles as 0.28 inches. The commenter asked if modifications to the nozzle extension device would be allowed to accommodate the smaller containers.

EPA recognizes the fact that the 4 oz bottles with 0.28 inch openings will not fit on the nozzle extension device. The nozzle extension device proposed in the NPRM was designed to be used with a large diameter opening (38 mm) 4 oz bottle and not a 4 oz bottle with a 0.28 inch opening diameter. Section 11.5.1 allows modifications to Figure 7b that would allow the use of a 4 oz bottle with a 0.28 inch opening diameter. Figure 7b is being added as proposed.

12. Spacer for Nozzle Sampling

In the NPRM, for Figure 6 in appendix D, the Agency proposed for safety reasons that the spacer for the nozzle sampler be composed of non-ferrous (non-sparking) material instead of steel. No comments were received. Thus the changes to Figure 6 and section 11.5.1 in appendix D are being made as proposed.

13. Nozzle Sampling Procedure

For the reasons set forth in the NPRM, the Agency proposed to add an additional retail sampling procedure. With this additional procedure the old section 11.5.2 of appendix D would be changed to 11.5.2.1 and the new section would be 11.5.2.2. In both sections 11.5.2.1 and 11.5.2.2 the Agency proposed to allow the sample container to be filled from 70 to 85 percent.

Since no other comments were received for this issue, sections 11.5.2.1 and 11.5.2.2 of appendix D are being promulgated as proposed.

14. Sampling Open Tanks

For the reasons set forth in the NPRM, the Agency proposed to revise section 12.4 of appendix D such that the requirement to pour off the sample from 70–80 percent full will be changed to a requirement to pour off the sample to 70–85 percent full. No adverse comments were received and section 12.4 of appendix D is being promulgated as proposed, with the exception that a reference to section 11.2, inadvertently omitted in the proposal, has been reinstated.

According to one commenter, the regulations should state that all sampling must comply in all respects with local and state regulations, such as local fire codes. This comment pertains to sampling procedures that were established in the original volatility rulemaking published on March 22, 1989. Comments, if any, regarding these procedures were appropriately received and addressed at the time of that rulemaking and are beyond the scope of this rulemaking. However, in response to the commenters concern, EPA notes that safety factors were considered in formulating the sampling procedures set forth in the volatility regulations. We also note that the sampling procedures are in accordance with both the National Fire Protection Association Code (No. 30) and the Uniform Fire Code (section 104(a)), which permit a certain class of flammable liquids, which includes gasoline, to be dispensed into glass containers of up to one quart capacity. These codes also permit liquids in this class to be stored in glass containers of up to one gallon capacity if the required liquid purity would be affected by storage in metal containers, or if the liquid would cause excessive corrosion of the metal container. The Department of Transportation regulations also permit flammable liquids in this class to be transported in glass containers of up to one quart capacity (49 CFR 173.119(7)).

15. Sampling Closed Tanks

For the reasons set forth in the NPRM, Section 12.5, in appendix D, was proposed to be revised to make it consistent with the changes in the corrections notice on June 27, 1989 (54 FR 27016). No comments were received, and section 12.5, in appendix D, is being promulgated as proposed.

16. Test Method to be Used to Determine Compliance with the Volatility Regulations

For the reasons set forth in the NPRM, the Agency proposed a new test method to be used to determine compliance with the volatility regulations and asked for comment on four options involving the new test method and the two test methods currently contained in appendix E. For option 1, the Agency considered requiring the use of the new test method and removing Methods 1 and 2 from appendix E. Once promulgated, the Agency would use the new method for enforcement testing and would specifically be using the Grabner field unit. A correlation equation was proposed to convert the total vapor pressure measured by the Grabner instrument to RVP. The equation correlates the Grabner to the Digital Herzog. (The Agency has concluded that, based on the Mobil Round Robin monthly correlation study, the Digital Herzog is the most precise instrument of the instruments in the regulations. Data from the Mobil Round Robin monthly correlation and data from which the correlation equation was derived have been placed in the Air Docket (Docket No. A–92–03).) EPA would consider allowing the use of other methods that correlated with method 3 for defense testing.

With option 2, the Agency would continue to use the methods in appendix E for testing of samples for enforcement, but would allow the use of other test methods not in the regulations if adequate correlation were demonstrated for defense testing. For option 3, the regulations would continue to include Methods 1 and 2, and the new method would be added as Method 3, with correction factors for all but the Digital Herzog Method 2. With option 4, the Agency would adopt the California Air Resources Board (CARB) automated method and correlate all of the existing test methods to the CARB automated method.

The following is a summary of the comments received on the testing options. Four commenters preferred the use of option 3 because, according to the commenters, this option would not require refiners to make additional capital investments for new laboratory equipment. One of the four commenters stated that this preference was contingent on EPA's use of the 1988 ASTM correlation equation and recommended that EPA allow the use of the Southwest Research Institute (SwRI) instrument. One commenter preferred option 4 because this option would allow California refiners to test fuels using a single test method (CARB's test method). Three commenters preferred option 1, one commenter noting that options 3 and 4 would create inconsistent testing and would result in confusion. One of the three asked for the adoption of the 1988 ASTM correlation equation and another of the three asked for the use of the SwRI instrument because, according to the commenters, the SwRI instrument is in widespread use in the refining industry and it is demonstrated to have accuracy comparable to that of the Grabner methods. One commenter preferred options 1 through 3 with the preference contingent that EPA allow the use of the UIC, Inc./Herzog instrument. One commenter preferred either option 1 or option 2. According to the commenter, option 2 would facilitate a desirable improvement in the volatility testing methodology. Two of the above commenters believed that industry should be allowed the use of all of the current methods listed in addition to new technology in order to provide more flexibility to the regulated industry.

The Grabner method is viewed by EPA as the best method for enforcement because it is as precise as the best method currently in the regulations and will increase lab to lab precision. This conclusion is supported by data from the Mobil Round Robin monthly correlation which has been placed in the Air Docket (Air Docket A–92–03). Thus, EPA has chosen option 1 for its enforcement testing. (To avoid confusion, the new method has been designated "Method 3.") Furthermore, most of the industry is converting to the Grabner or similar instruments because of its ease of use, comparable instrumentation cost, and lower operating costs. Because the flexibility will exist for the regulated industry to use any test method for defense testing as long as it is demonstrated to EPA that adequate correlation to Method 3 exists, EPA believes that the adoption of option 1 will not impose any significant burden on the regulated industry.

Two commenters stated that EPA's use of the Grabner correlation equation correlated to the Digital Herzog method would impose a burden to those still using the Dry Manual method (Method 1). These commenters recommended a Grabner correlation equation correlated to the Dry Manual method which was generated from data from the 1988 ASTM study, instead of the proposed equation in the NPRM, relating the Grabner instrument to the Digital Herzog method. These commenters stated that a bias of 0.1–0.2 psi exists between these two correlation equations and that this bias would impose a burden. For the same reason, two other commenters stated that EPA's use of the Grabner correlation equation correlated to the Digital Herzog method, which was generated from the 1991 ASTM vapor pressure test correlation program, would impose a burden to the regulated industry. These commenters recommended a correlation equation for the Grabner correlated to the Dry Manual method that was generated from data from the 1991 ASTM study.

EPA agrees that those employing the Dry Manual method have enjoyed a slight advantage since the beginning of the program in 1989, because this method does result in a pressure measurement slightly lower than the other methods. However, the Agency does not believe it is reasonable or fair to continue to allow this bias when the more precise and easier to operate Grabner (and related) instruments are becoming the industry standard. While the Dry Manual method may still be employed, it now must be correlated to Method 3.

Several commenters recommended slightly different correlation equations based on different correlation programs, in order to convert the pressure value obtained by Method 3 to RVP as obtained by either the Digital Herzog method or the Dry Manual method. The correlation equation proposed in the NPRM was based only on data from the EPA Ann Arbor laboratory. The 1988 ASTM Round Robin Program and the 1991 ASTM Vapor Pressure Test Methods Round Robin Program (VPTMRRP) were based on larger sets of data from more than one laboratory. According to the 1991 ASTM VPTMRRP, several concerns were encountered in the balloting process for adopting ASTM ES–14 and ES–15 (Emergency Standards for new vapor pressure test methods) as official ASTM standards. These were primarily based upon concerns with inadequate fuels representation in the 1988 Round Robin Program from which the precision figures were calculated. The subcommittee D2.08 resolution at the 1990 December ASTM meeting sought to address these negatives via a more elaborate round robin program. A task force was formed and charged with the responsibility to design, conduct, and manage this program for completion in 1991. This program is known as the 1991 ASTM VPTMRRP. Because the data are more extensive, the 1991 ASTM VPTMRRP provides correlation equations which are more representative than the 1988 ASTM Round Robin Program.

The correlation equation derived from the EPA data and the correlation equation derived from the 1991 ASTM VPTMRRP both have advantages and disadvantages in correlating the Grabner method to the Digital Herzog method. The advantages of the 1991 ASTM VPTMRRP are that it uses a larger set of data, and that more instruments and laboratories were utilized in the program. However, the utilization of more laboratories increases the chances of error in the program and thus in the derivation of the correlation equation from that program. Another concern with the 1991 ASTM VPTMRRP is that the program grouped different instrument models under a "method" and then developed a correlation equation relating that "method" to other "methods" (each of which also contained more than one specific instrument model). Since under Method 3 the correlation equation in question is to be used by EPA in the making of enforcement determinations where the measurements will be made by specific instrument models, equations and precision figures developed from the grouped instruments may not be as appropriate as equations developed from only the specific models used by EPA. Another concern associated with the data from which the 1991 ASTM VPTMRRP correlation equation was derived was that the program found a substantial number of outliers. In some cases the magnitude of deviation from the central tendency of the data set led to questions about whether samples had been labeled correctly. This problem casts some doubt on the credibility of the correlation equations and the precision figures associated with them. An advantage of the EPA-derived equation is that only one laboratory has performed the analysis, thus eliminating lab-to-lab variation. A disadvantage is that the data set is smaller.

Based on the above discussion, the Agency has concluded that the correlation equation as proposed in the NPRM is more appropriate than the one derived from the 1991 ASTM VPTMRRP. In any event, the difference between the two equations is small.

The correlation equation for the Grabner method in the final rule is the same as proposed. EPA has chosen the equation that correlates to the Digital Herzog equipped with transducers because it is more precise, and technically closer to the specified test condition of 1 part by volume air saturated sample at 32–34 °F to 4 parts by volume air at 100 °F. The present methods that use gauges, Method 1 and Method 2 using Herzogs with gauges, have varying and larger unspecified volumes at unspecified temperatures than Method 2 using the Digital Herzogs with transducers. EPA believes the varying and larger unspecified volumes at unspecified temperatures are the largest source of bias between laboratories that use the gauge methods and that this bias is not easily addressed or corrected.

EPA will recognize correlations from regulated parties if the correlations are established directly with EPA's test laboratory. As mentioned earlier, any test method may be used for defense as long as adequate correlation is demonstrated to Method 3 (i.e., any vapor pressure defense test method could be used if adequate correlation exists directly to Method 3, which can then be converted to Reid Vapor Pressure by use of the EPA Grabner correlation equation). Examples of the Dry Manual and Digital Herzog (gauge and transducer) test procedures and their respective correlation equations to Method 3 may be requested from the United States Environmental Protection Agency, Attention: Carl Scarbro, 2565 Plymouth Road, Mail Code SDSB–12, Ann Arbor, MI, 48105.

One commenter stated that he observed differences in results between the field (portable) Grabner testing instrument and the laboratory Grabner testing instrument. EPA has not observed differences in results between the laboratory Grabner instrument and the field Grabner instrument. The data of the 1991 ASTM correlation testing program show that there is no difference between the laboratory Grabner and the field Grabner results. These data are available for inspection at the public docket. Based on these data, EPA concludes that the field and laboratory Grabner testing instruments give equivalent results when they are operated in accordance with the requirements of Method 3.

A minor change was made to the wording of section 4.1 of Method 3 to eliminate the possible use of chemicals of lower purity for quality control determinations. This revision of section 4.1 makes it consistent with section 7.3 of Method 3. Section 6 of Method 3 was changed to reflect an allowable sample container's capacity of 70–85%, not 70–80%, in order to be consistent with section III, 13. of this preamble.

The following are editorial comments that were received in response to the NPRM. Two commenters stated that a typographical error occurred in paragraph 7.1.3 of Method 3: that "* * * latitude adjusted mercury barometer" should read "* * * altitude-adjusted mercury barometer." In fact, the barometers on pressure measurement devices are latitude adjusted mercury barometers. Thus, this will remain as in the NPRM. One commenter stated that the equation for mean measured pressure given in section 7.3.2 is in error. A summation sign (Σ) should be inserted in front of x_i/n. EPA agrees and has made the correction in the final rule. One commenter noted that in section 7.3 of Method 3 the word "volumes" should be "values", and EPA has made the correction. The title for Method 3 has been revised. Otherwise, Method 3 is promulgated as proposed.

17. Gauge Method Cleaning Procedure

In the NPRM, the Agency stated that it found a possible source of error in the gauge method (Method 1) cleaning procedure. [section 8.5 of Method 1, appendix E]. Prior to the NPRM, EPA received comments stating that measured vapor pressure declines for pure compounds due to condensed liquid in the gauge. In cases where a decrease in the measured vapor pressure resulted from pure compounds condensing in the gauge, the gauges were cleaned in accordance with the EPA and ASTM methodologies. The commenter applied a pulsed vacuum in addition to the regular cleaning procedure. We did not propose a change to the regulations, but asked for comments on possible solutions.

One commenter stated that the possible source of error in the gauge method cleaning procedure was identified during the preparation for a 1989 member round robin on the EPA Method 1 vapor pressure test method. It appeared that liquid was remaining trapped in the gauge. As a result, a modification to the EPA procedure, to expel the liquid, was included with the instructions for all round robin participants. Because Option 1 has been chosen, EPA shall not revise its regulations for the gauge method cleaning procedure to account for this problem; however, EPA will place the appropriate changes in a memorandum to the Air Docket (Docket No. A–92–03). Recent cyclopentane experiments in the API laboratory indicate that these changes are warranted. Any contaminant in the gauge can cause the next RVP measurement to be inaccurate.

18. Sampling Method Preference

In the direct final rule published on June 25, 1990 at 55 FR 25833, the Agency discussed sampling method preference. At that time the preferred method of taking a sample from a storage tank was the "all-levels sample." Since the publication of those revisions, the Agency has received comments

indicating that a "running sample" should be used when tank sampling instead of the "all-levels sample". The Agency requested comments on this issue in the notice of proposed rulemaking.

One commenter stated that an "all-levels sample" provides an accurate and reproducible sampling technique, and that "running" or "all-levels" sampling should give essentially the same result if correct procedures are followed. The Agency agrees and also believes that if either method of sampling (i.e., "running" or "all-levels") is completed in the correct manner, they both will yield essentially the same results. The note in section 12.4, which indicates a sampling preference has been revised to read when using a single sample, either an "all-levels" or "running" sample are the preferred methods of choice.

Another commenter stated that an "all-levels sample" can be difficult to take, especially if the gasoline tank contains a depth of 25 feet or more of product. This commenter preferred multiple spot samples as "they provide indication of stratification and greater statistical significance".

One commenter pointed out that the "all-levels sample" is difficult to take when stratification occurs in the tank and recommended upper, middle and lower spot sampling. Where there is a question as to whether a tank's contents has stratification layers in it, EPA recommends that the regulated party, in their oversight defense testing program, complete either "running" or "all-level" sampling, along with upper, middle, and lower spot sampling. Section 12.4 has been revised to include this language when there exists the question of stratification in tanks.

19. Analysis of Ethanol Content

One commenter expressed concern about EPA's enforcement of ethanol content and subsequent RVP testing results. The commenter stated that outside labs have indicated that the methods used by EPA may not give proper results on ethanol content if there are alcohols in the base gasoline. He asked if EPA has the enforcement power to assess fines to blenders that have complied with the regulations by volume, but not by later tests that have been taken by EPA.

In response, EPA notes that it is the responsibility of the blender to (1) ensure that the base gasoline to which the ethanol is added is free of other alcohols, and, (2) in order to qualify for the 1 psi RVP exemption, ensure that the ethanol volume is 9% to 10% in the final fuel. The procedures in 40 CFR part 80, appendix F for the determination of alcohol content are accurate and precise. Any concerns regarding ethanol blends and the one pound psi allowance are more properly directed to the final rule published on December 12, 1991 (56 FR 64704).

The commenter also stated that ASTM is recognized as the official body for testing and not EPA, and that EPA should be forced to participate in many correlation programs. While ASTM is a voluntary consensus standard organization, the legal responsibility for crafting regulatory testing standards for volatility is solely EPA's. EPA also notes that it has participated in many testing correlation programs. The Agency has participated in the Mobil correlation program, the Great Lakes correlation program, UIC correlation program, to name a few, and in at least one correlation program with the commenter.

20. Determination of Compliance

Since option 1 has been chosen by EPA, 40 CFR 80.27(b) has been revised to reflect the fact that only one testing methodology (Method 3 in appendix E) is used in the determination of compliance to the standards listed in 40 CFR 80.27(a).

IV. Paperwork Reduction Act

The information collection requirements contained in the volatility rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2060–0178. Public recordkeeping burden is estimated to be approximately 1 hour a year per facility. It is not anticipated that the revisions being promulgated today will have any impact on the recordkeeping burden. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223Y, U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

V. Administrative Designation and Regulatory Analysis

Under Executive Order 12291, EPA must judge whether an action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This final rule is not major because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The effects of this action are to revise the volatility regulations by clarifying some parts of the liability provisions, amending the defenses to liability, adding a test exemption section, and revising the sampling and testing procedures. These revisions do not add any burden to the regulated industry. Under these circumstances, this rule is not likely to result in the conditions described in Executive Order 12291.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB and any EPA response to OMB's comments are available in the public docket for this rulemaking.

VI. Impact on Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant impact on a substantial number of small entities so as to require a Regulatory Flexibility Analysis. For all the reasons described in section IV and in the Volatility Rule (54 FR 11883) this final rule will not have a significant impact on small entities in the regulated industry. There are no additional reporting requirements in the final regulations. Therefore, there is no significant impact on small entities. Therefore, I certify that this regulation will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 80

Fuel additives, Gasoline, Incorporation by reference, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: January 19, 1993.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended to read as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211(c), 211(h) and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7414, 7545(c), 7545(h) and 7601(a).

2. Section 80.27 is amended by revising paragraphs (b) and (c) and by adding a new paragraph (e) to read as follows:

§ 80.27 Controls and prohibitions on gasoline volatility.

* * * * *

(b) *Determination of Compliance.* Compliance with the standards listed in paragraph (a) of this section shall be determined by use of one of the sampling methodologies as specified in appendix D of this part and the testing methodology specified in appendix E of this part.

(c) *Liability.* Liability for violations of paragraph (a) of this section shall be determined according to the provisions of § 80.28. Where the terms refiner, importer, distributor, reseller, carrier, ethanol blender, retailer, or wholesale purchaser-consumer are expressed in the singular in § 80.28, these terms shall include the plural.

* * * * *

(e) *Testing exemptions.* (1)(i) Any person may request a testing exemption by submitting an application that includes all the information listed in paragraphs (e)(3), (4), (5) and (6) of this section to:

Director (6406J), Field Operations and Support Division, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

(ii) For purposes of this section, "testing exemption" means an exemption from the requirements of § 80.27(a) that is granted by the Administrator for the purpose of research or emissions certification.

(2)(i) In order for a testing exemption to be granted, the applicant must demonstrate the following:

(A) The proposed test program has a purpose that constitutes an appropriate basis for exemption;

(B) The proposed test program necessitates the granting of an exemption;

(C) The proposed test program exhibits reasonableness in scope; and

(D) The proposed test program exhibits a degree of control consistent with the purpose of the program and the Environmental Protection Agency's (EPA's) monitoring requirements.

(ii) Paragraphs (e)(3), (4), (5) and (6) of this section describe what constitutes a sufficient demonstration for each of the four elements in paragraphs (e)(2)(i)(A) through (D) of this section.

(3) An appropriate purpose is limited to research or emissions certification. The testing exemption application must include a concise statement of the purpose(s) of the testing program.

(4) With respect to the necessity that an exemption be granted, the applicant must demonstrate an inability to achieve the stated purpose in a practicable manner, during a period of the year in which the volatility regulations do not apply, or without performing or causing to be performed one or more of the prohibited activities under § 80.27(a). If any site of the proposed test program is located in an area that has been classified by the Administrator as a nonattainment area for purposes of the ozone national ambient air quality standard, the application must also demonstrate an inability to perform the test program in an area that is not so classified.

(5) With respect to reasonableness, a test program must exhibit a duration of reasonable length, effect a reasonable number of vehicles or engines, and utilize a reasonable amount of high volatility fuel. In this regard, the testing exemption application must include:

(i) An estimate of the program's duration;

(ii) An estimate of the maximum number of vehicles or engines involved in the test program;

(iii) The time or mileage duration of the test program;

(iv) The range of volatility of the fuel (expressed in Reid Vapor Pressure (RVP)) expected to be used in the test program; and

(v) The quantity of fuel which exceeds the applicable standard that is expected to be used in the test program.

(6) With respect to control, a test program must be capable of affording EPA a monitoring capability. At a minimum, the testing exemption application must also include:

(i) The technical nature of the test program;

(ii) The site(s) of the test program (including the street address, city, county, state, and zip code);

(iii) The manner in which information on vehicles and engines used in the test program will be recorded and made available to the Administrator;

(iv) The manner in which results of the test program will be recorded and made available to the Administrator;

(v) The manner in which information on the fuel used in the test program (including RVP level(s), name, address, telephone number, and contact person of supplier, quantity, date received from the supplier) will be recorded and made available to the Administrator;

(vi) The manner in which the distribution pumps will be labeled to insure proper use of the test fuel;

(vii) The name, address, telephone number and title of the person(s) in the organization requesting a testing exemption from whom further information on the request may be obtained; and

(viii) The name, address, telephone number and title of the person(s) in the organization requesting a testing exemption who will be responsible for recording and making available to the Administrator the information specified in paragraphs (e)(6)(iii), (iv), and (v) of this section, and the location in which such information will be maintained.

(7) A testing exemption will be granted by the Administrator upon a demonstration that the requirements of paragraphs (e)(2), (3), (4), (5) and (6) of this section have been met. The testing exemption will be granted in the form of a memorandum of exemption signed by the applicant and the Administrator (or his delegate), which shall include such terms and conditions as the Administrator determines necessary to monitor the exemption and to carry out the purposes of this section. Any violation of such a term or condition shall cause the exemption to be void.

* * * * *

3. Section 80.28 is amended as follows:

a. Paragraphs (b)(1), (b)(2) and (f)(3) are revised;

b. Paragraphs (b)(3) and (f)(4) are revised;

c. Paragraphs (b)(4) and (f)(5) are added;

d. Paragraph (g)(1)(i) is removed, paragraph (g)(1)(iii) is redesignated as new paragraph (g)(1)(i) and revised; and paragraph (g)(1)(ii) is revised;

e. Paragraphs (g)(2) introductory text, (g)(2)(ii), and (g)(3) introductory text are revised;

f. Paragraph (g)(3)(ii) is removed, paragraph (g)(3)(iii) is redesignated as new paragraph (g)(3)(ii) and revised;

g. Paragraph (g)(4)(i) is revised;

h. Paragraph (g)(6)(ii) is removed and paragraphs (g)(6)(iii) and (g)(6)(iv) are redesignated as new paragraphs (g)(6)(ii) and (g)(6)(iii), respectively and revised; and

i. Paragraph (g)(7) is revised, to read as follows:

§ 80.28 Liability for violations of gasoline volatility controls and prohibitions.

* * * * *

(b) * * *

(1) The carrier, except as provided in paragraph (g)(1) of this section;

(2) The refiner (if he is not an ethanol blender) at whose refinery the gasoline was produced or the importer at whose import facility the gasoline was imported, except as provided in paragraph (g)(2) of this section;

(3) The ethanol blender (if any) at whose ethanol blending plant the gasoline was produced, except as provided in paragraph (g)(6) of this section; and

(4) The distributor and/or reseller, except as provided in paragraph (g)(3) of this section.

* * * * *

(f) * * *

(3) The carrier (if any), if the carrier caused the gasoline to violate the applicable standard;

(4) The ethanol blender (if any) at whose ethanol blending plant the gasoline was produced, except as provided in paragraph (g)(6) of this section; and

(5) The refiner (if he is not an ethanol blender) at whose refinery the gasoline was produced and/or the importer at whose import facility the gasoline was imported, except as provided in paragraph (g)(2) of this section.

(g) * * *

(1) * * *

(i) That the violation was not caused by him or his employee or agent; and

(ii) Evidence of an oversight program conducted by the carrier, such as periodic sampling and testing of incoming gasoline, for monitoring the volatility of gasoline stored or transported by that carrier.

(2) In any case in which a refiner or importer would be in violation under paragraphs (b)(2), (d)(3), or (f)(5) of this section, the refiner or importer shall not be deemed in violation if he can demonstrate:

* * * * *

(ii) Test results using the sampling and testing methodologies set forth in appendices D and E of this part, or any other test method where adequate correlation to Method 3 of appendix E of this part is demonstrated, which show evidence that the gasoline determined to be in violation was in compliance with the applicable standard when it was delivered to the next party in the distribution system.

(3) In any case in which a distributor or reseller would be in violation under paragraph (b)(4), (c)(1), (d)(1), (e)(2), or (f)(2) of this section, the distributor or reseller shall not be deemed in violation if he can demonstrate:

* * * * *

(ii) Evidence of an oversight program conducted by the distributor or reseller, such as periodic sampling and testing of gasoline, for monitoring the volatility of gasoline that the distributor or reseller sells, supplies, offers for sale or supply, or transports.

(4) * * *

(i) Test results using the sampling and testing methodologies set forth in appendices D and E of this part, or any other test method where adequate correlation to Method 3 of appendix E of this part is demonstrated, which show evidence that the gasoline determined to be in violation was in compliance with the applicable standard when transported from the refinery.

* * * * *

(6) * * *

(ii) Evidence of an oversight program conducted by the ethanol blender, such as periodic sampling and testing of gasoline, for monitoring the volatility of gasoline that the ethanol blender sells, supplies, offers for sale or supply or transports; and

(iii) That the gasoline determined to be in violation contained no more than 10% ethanol (by volume) when it was delivered to the next party in the distribution system.

(7) In paragraphs (g)(1)(i), (g)(2)(i), (g)(3)(i), (g)(4)(ii), (g)(5), and (g)(6)(i) of this section, the respective party must demonstrate by reasonably specific showings, by direct or circumstantial evidence, that it or its employee or agent did not cause the violation.

* * * * *

4. Appendix D to part 80 is amended by revising sections 4.2, 6.3 note, 11.5.1, 11.5.2, 12.2, 12.4, 12.5, and Figure 6 and by adding sections 4.2.1, 11.5.2.1 and 11.5.2.2 and 7b to read as follows:

Appendix D to Part 80—Sampling Procedures for Fuel Volatility

* * * * *

4.2 *Container closure.* Closure devices may be used as long as they meet the following test: The quality of closures and containers must be determined by the particular laboratory or company doing the testing through the analysis of at least six sample pairs of gasoline and gasoline-oxygenate blends. The six sample pairs must include at least one pair of ethanol at 10 percent and one pair of MTBE at 15 percent. The second half of the pair must be analyzed in a period of no less than 90 days after the first. The data obtained must meet the following criteria and should be made available to the EPA upon request;

n=number of pairs

d=duplicate bottle's-initial bottle's vapor pressure

t=student t statistic; the double sided 95% confidence interval for n−1 degrees of freedom

$$\Sigma\, d/n \pm (2)^{1/2} * t * ((\Sigma\, d^2 - (\Sigma\, d)^2/n)/(n-1))^{1/2} > 0.38 \text{ psi}$$

4.2.1 Screw caps must be protected by material that will not affect petroleum or petroleum products. A phenolic screw cap with a teflon coated liner may be used, since it has met the requirements of the above performance test upon EPA analysis.

* * * * *

6.3 * * *

Note: When taking samples from tanks suspected of containing flammable atmospheres, precautions should be taken to guard against ignitions due to static electricity. No object or material should be lowered into or suspended in a compartment of a tank which is being filled. A recommended waiting period of no less than five minutes after cessation of pumping will generally permit a substantial relaxation of the electrostatic charge for small volume vessels such as tank cars and tank trucks; under certain conditions a longer period may be deemed advisable. A recommended waiting period of no less than 30 minutes will generally permit a substantial relaxation of the electrostatic charge for large volume vessels such as storage tanks or ship tanks; under certain conditions a longer period may be deemed advisable.

* * * * *

11.5.1 *Apparatus.* Sample containers conforming with section 4.1 should be used. A spacer, if appropriate (figure 6), and a nozzle extension device similar to that shown in figures 7, 7a, or 7b shall be used when nozzle sampling. The nozzle extension device does not need to be identical to that shown in figures 7, 7a, or 7b but it should be a device that will bottom fill the container with a minimum amount of vapor loss.

11.5.2 *Retail sampling procedure*

11.5.2.1 If a nozzle extension as found in figure 7 or 7a is used, 3 gallons of gasoline should first be dispensed from the pump nozzle to purge the pump hose and nozzle. Then a small amount of product should be dispensed through the nozzle extension into the sample container to rinse the sample container. A pump nozzle spacer (figure 6) may be used if the pump is a vapor recovery type. Rinse the sample container and discard the waste product into an appropriate container. Insert the nozzle extension (figure 7 or 7a) into the sample container and insert the pump nozzle into the extension with slot over the air bleed hole (when using figure 7). Fill the sample container slowly through the nozzle extension to 70–85 percent full (figure 8). Remove the nozzle extension. Cap the sample container at once. Check for leaks. Discard the sample container and re-sample if leak occurs. If the sample container is leak tight, label the container and deliver it to the laboratory.

11.5.2.2 If a nozzle extension as found in figure 7b is used, 3 gallons of gasoline should first be dispensed from the pump nozzle to purge the pump hose and nozzle. Then screw a dry and dirt free 4 oz sample bottle container onto the bottle filling fixture. Insert the nozzle into the nozzle extension. Insert the discharge end of the modified nozzle extension into a gasoline safety can or into the filler neck of a vehicle. Obtain the sample by pumping at least 0.2 gallon through the sampler. Remove the sample bottle from the fixture. The sample must be 70–85 percent

full. Cap the sample container at once. Check for leaks. Discard the sample container and re-sample if a leak occurs. If the sample container is leak tight, label the container and deliver it to the laboratory.

12.2 *Sample containers.* For nozzle sampling, use containers of not less than 4 ounces (118 ml) nor more than two gallons (7.6 liters) capacity, of sufficient strength to withstand the pressure to which they may be subjected, and of a type that will permit replacement of the cap or stopper with suitable connections for the transfer of the sample to the gasoline chamber of the vapor pressure testing apparatus. For running or all-level sampling procedures, use containers of not less than one quart (0.9 liter) nor more than two gallons (7.6 liters) capacity. Open-type containers have a single opening which permits sampling by immersion. Closed-type containers have two openings, one in each end (or the equivalent thereof), fitted with valves suitable for sampling by purging.

12.4 *Sampling open tanks.* Use clean containers of the open type when sampling open tanks and tank cars. An all-levels or a running sample obtained by the bottle procedure described in 11.2 is recommended. When the question exists of stratification of the contents of the tank, it is recommended that either a running or all-levels sample be taken along with upper, middle, and lower spot sampling. Before taking the sample, flush the container by immersing it in the product to be sampled. Then obtain the sample immediately. The sample must be 70–85 percent full. Close the container promptly and confirm it is not leaking. Label the container and deliver it to the laboratory.

12.5. *Sampling closed tanks.* Containers of the closed type may be used to obtain samples from closed or pressure tanks. Obtain the sample using the purging procedure described in 12.6.

* * * * *

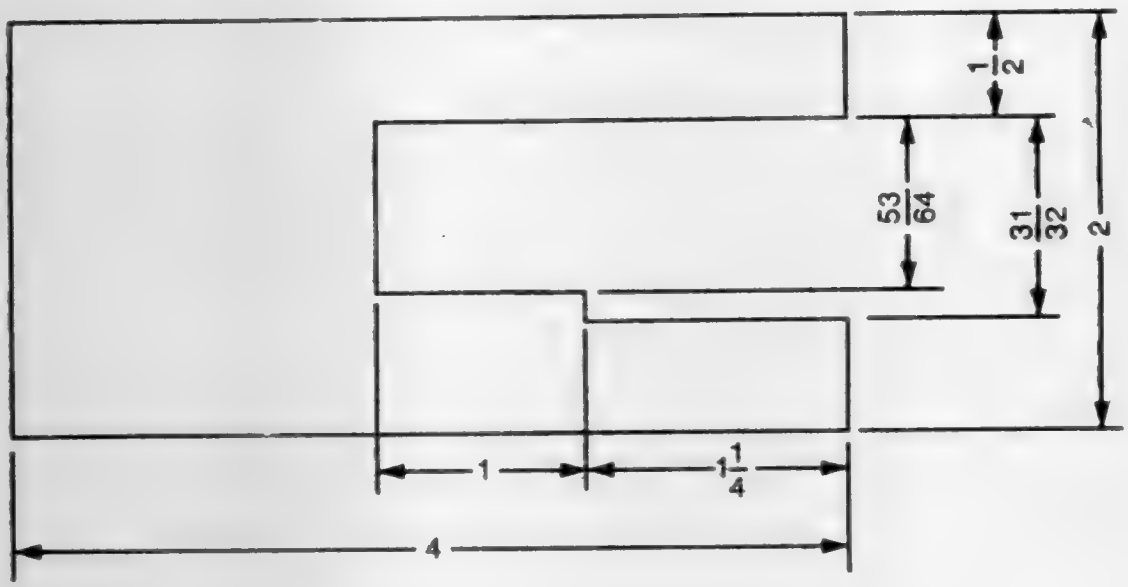

Make from 1/4 Inch flat stock (recommend non-ferrous material)
All dimensions in inches
Scale: 1inch = 1 inch
Break all edges and corners

Figure 6. Spacer for Nozzle Sampling

BILLING CODE 6560-50-P

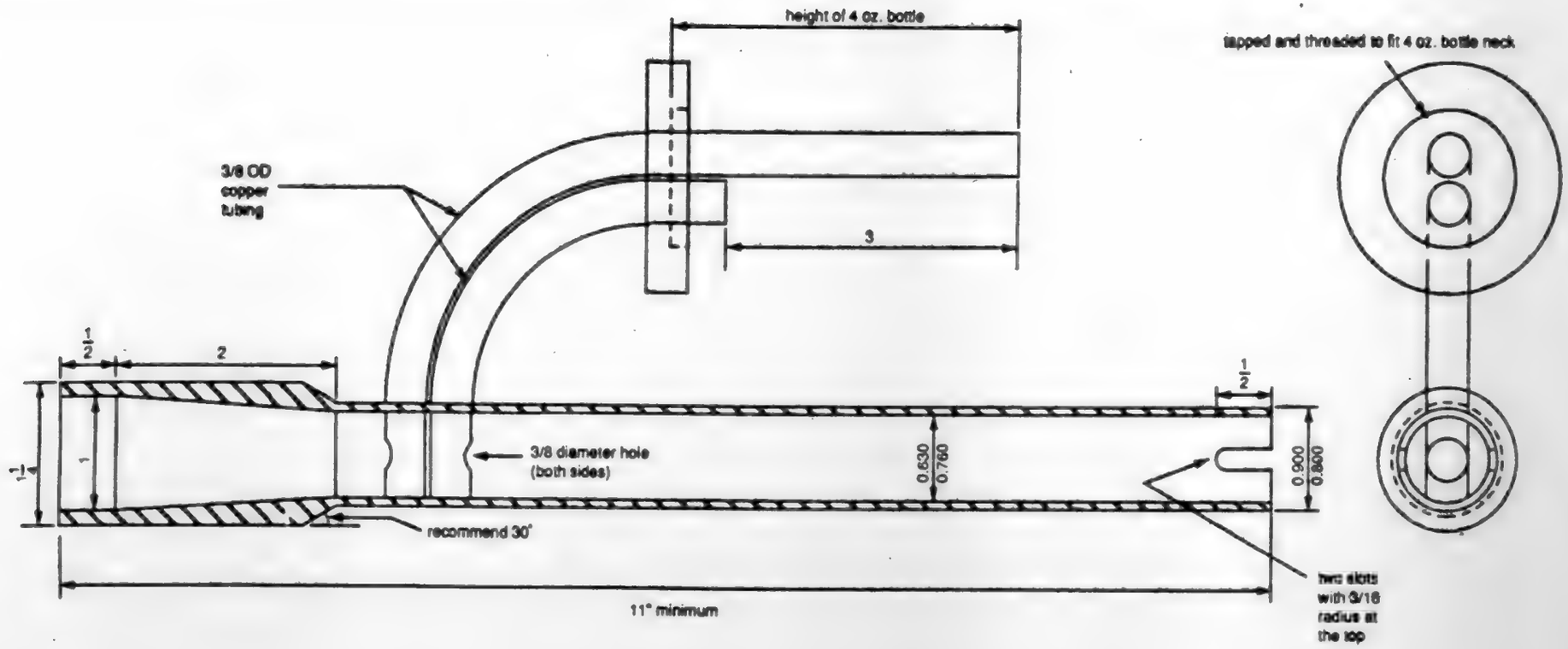

All dimensions in inches
All decimal dimensions represent minimum and maximum
Tolerance for all other dimensions is ± 1/32"
Made of non-ferrous material, uneffected by gasoline
Scale: 0.700 inch = 1 inch

Figure 7b. Nozzle Extension for Nozzle Sampling with 4 ounce bottle

BILLING CODE 6560-50-C

* * * * *

5. Appendix E to part 80 is revised as follows:

Appendix E—Test for Determining Reid Vapor Pressure (RVP) of Gasoline and Gasoline-Oxygenate Blends

Method 3—Evacuated Chamber Method

1. Scope.

1.1 This method covers the determination of the absolute pressure, measured against a vacuum of a gasoline or gasoline-oxygenate blend sample saturated with air at 32–40 °F (0–4.5 °C). The absolute (measured) pressure is observed with a system volume ratio of 1 part sample and 4 parts evacuated space at 100 °F (37.8 °C).

1.2 The values stated in pounds per square inch absolute are standard.

2. Summary of method.

2.1 A known volume of air-saturated fuel at 32–40 °F is introduced into an evacuated, thermostatically controlled test chamber, the internal volume of which is or becomes five times that of the total test specimen introduced into the test chamber. After the injection the test specimen is allowed to reach thermal equilibrium at the test temperature, 100 °F (37.8 °C). The resulting pressure increase is measured with an absolute pressure measuring device whose volume is included in the total of the test chamber volume. The measured pressure is the sum of the partial pressures of the sample and the dissolved air.

2.2 The total measured pressure is converted to Reid vapor pressure by use of a correlation equation (see Section 9).

3. Apparatus.

3.1 The apparatus shall employ a thermostatically controlled test chamber which is capable of maintaining a vapor-to-liquid ratio between 3.95 and 4.05 to 1.00.

3.2 The pressure measurement device shall have a minimum operation range from 0 to 15 psia (0 to 103 kPa) with a minimum resolution of 0.05 psia (0.34 kPa). The pressure measurement device shall include any necessary electronic and readout devices to display the resulting reading.

3.3 The test chamber shall be maintained at 100±0.2 °F (37.8±0.1 °C) for the duration of the test except for the time period after sample injection when the sample is coming to equilibrium with test temperature of 100±0.2 °F (37.8±0.1 °C).

3.4 A thermometer that meets the specification ASTM 18 F (18 C) or a platinum resistance thermometer shall be used for measuring the temperature of the test chamber. The minimum resolution for the temperature measurement device is 0.2 °F (0.1 °C) and an accuracy of ±0.2 °F (±0.1 °C).

3.5 The vapor pressure apparatus shall have a provision for the introduction of the test specimen into the evacuated or to be evacuated test chamber and for the cleaning or purging of the chamber following the test.

3.6 If a vacuum pump is used, it must be capable of reducing the pressure in the test chamber to less than 0.01 psia (0.07 kPa). If the apparatus uses a piston to induce a vacuum in the sample chamber the residual pressure shall be no greater than 0.01 psia (0.07 kPa) upon full expansion of the test chamber devoid of any material at 100±0.2 °F (37.8±0.1 °C).

3.7 Ice water or air bath for chilling the sample to a temperature between 32–40 °F (0–4.5 °C).

3.8 Mercury barometer, 0 to 17.4 psia (0 to 120 kPa) range.

3.9 McLeod vacuum gauge, to cover at least the range of 0 to 5 mm Hg (0 to 0.67 kPa). Calibration of the McLeod gauge is checked as in accordance with Annex A6 of ASTM test Method D 2892–84, (Standard test method for distillation of Crude Petroleum (15–Theoretical Plate Column)). ASTM D–2892–84 is incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103. Copies may be inspected at the U.S. Environmental Protection Agency, Air Docket Section, room M–1500, 401 M Street, SW., Washington, DC 20460 or at the Office of the Federal Register, 800 North Capitol Street, NW., Washington, DC.

4. *Reagents and materials.*

4.1 *Quality control standards.* Use chemicals of at least 99% purity for quality control standards. Unless otherwise indicated, it is intended that all reagents conform to the specifications of the committee on Analytical Reagents of the American Chemical Society where such specifications are available (see section 7.3). Specifications for analytical reagents may be obtained from the American Chemical Society, 1155 16th Street, NW., Washington, DC 20036.

4.1.1 2,2,4-trimethylpentane

4.1.2 2,2-dimethylbutane

4.1.3 3-methylpentane

4.1.4 n-pentane

4.1.5 acetone

4.2 n-pentane (commercial grade-95% pure)

5. *Handling of samples.*

5.1 The sensitivity of vapor pressure measurements to losses through evaporation and the resulting change in composition is such as to require the utmost precaution in the handling of samples. The provisions of this section apply to all samples for vapor pressure determinations.

5.2 Sample in accordance with 40 CFR part 80, appendix D.

5.3 Sample container size. The minimum size of the sample container from which the vapor pressure sample is taken is 4 ounces (118 ml). It will be 70 to 85% filled with sample.

5.4 *Precautions.*

5.4.1 Determine vapor pressure as the first test on a sample. Multiple analyses may be performed, but must be evaluated given the stated precision for the size of the sample container, and the order in which they were run in relation to the initial analysis.

5.4.2 Protect samples from excessive heat prior to testing.

5.4.3 Leaking samples should be replaced if possible. Analysis results from leaking sample containers must be marked as such.

5.4.4 Samples that have separated into two phases should be replaced if possible. Analysis results from samples that have phase separated must be marked as such.

5.4.5 Sample handling temperature. In all cases, cool the sample to a temperature of 32–40° F (0–4.5° C) before the container is opened. To ensure sufficient time to reach this temperature, directly measure the temperature of a similar liquid at a similar initial temperature in a like container placed in the cooling bath at the same time as the sample.

6. *Preparation for test.*

6.1 *Verification of sample container filling.* With the sample at a temperature of 32–40 °F (0–4.5 °C), take the container from the cooling bath, wipe dry with an absorbent material, unseal it, and examine its ullage. The sample content, as determined by use of a suitable gauge, should be equal to 70 to 85 volume % of the container capacity.

6.1.1 Analysis results from samples that contain less than 70 volume % of the container capacity must be marked as such.

6.1.2 If the container is more than 85 volume % full, pour out enough sample to bring the container contents within the 70 to 85 volume % range. Under no circumstance may any sample poured out be returned to the container.

6.2 Air saturation of the sample in the sample container. With the sample at a temperature of 32–40 °F (0–4.5 °C), take the container from the cooling bath, wipe dry with an absorbent material, unseal it momentarily, taking care to prevent water entry, re-seal it, and shake it vigorously. Return it to the bath for a minimum of 2 minutes. Repeat the air introduction procedure twice, for a total of three air introductions to completely saturate the sample.

6.3 Prepare the instrument for operation in accordance with the manufacturer's instructions.

6.3.1 *Instruments with vacuum pumps.* Clean and dry the test chamber as required to obtain a sealed test chamber pressure of less than 0.01 psi (0.07 kPa) for 1 minute. If the pressure exceeds this value check for and resolve in the following order; residual sample or cleaning solvent, sample chamber leaks, and transducer calibration.

6.3.2 *Instruments without vacuum pumps.* The sample purges the sample chamber through a series of rinses before the analysis occurs. Errors due to leaks in the plunger, piston seals, or carryover from previous samples or standards may give erratic results (see Note of section 6.3.2). The operator must run a quality control standard for at least one in twenty analyses or once a day to determine if there is carryover from previous analyses or if leaks are occurring.

Note: When using a self cleaning apparatus some residual product may be carried over into subsequent analyses. Carryover effect should be investigated when conducting sequential analyses of dissimilar materials, especially calibration standards. Inaccuracies caused by carryover effect should be resolved using testing procedures designed to minimize such interferences.

6.4 If a syringe is used for the physical introduction of the sample specimen, it must be either clean and dry before it is used or it may be rinsed out at least three times with the sample. When cleaning the syringe, the rinse may not be returned to the sample container. The syringe must be capable of obtaining, upon filling with the sample charge, a quantity of sample that has an entrained gas volume of less than 3% of the necessary sample volume.

7. *Calibration*

7.1 *Pressure measurement device.*

7.1.1 Check the calibration of the pressure measurement device daily or until the stability of the device is documented as having less than or equal to 0.03 psi (0.2 kPa) drift per unit of the appropriate calibration period. When calibration is necessary, follow the procedures in sections 7.1.2 through 7.1.4.

7.1.2 Connect a properly calibrated McLeod gauge to the vacuum source line to the test chamber. Apply vacuum to the test chamber. When the McLeod gauge registers a pressure less than 0.8 mm Hg (0.1 kPa) adjust the pressure measurement device's zero control to match to within ±0.01 psi (0.07 kPa) of the McLeod Gauge.

7.1.3 Open the test chamber to the atmosphere and observe the pressure measurement device's reading. Adjust the pressure measurement devices span control to within ±0.01 psi (0.07 kPa) of a temperature and latitude adjusted mercury barometer.

7.1.4 Repeat steps 7.1.2 and 7.1.3 until the instrument zero and barometer readings read correctly without further adjustments.

7.2 *Thermometer.* Check the calibration of the ASTM 18 F (18 C) thermometer or the platinum resistance thermometer used to monitor the test chamber at least every six months in accordance ASTM E1–86, (Standard Specification for ASTM Thermometers). ASTM E1–86 is incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103. Copies may be inspected at the U.S. Environmental Protection Agency, Air Docket Section, room M–1500, 401 M Street, SW., Washington, DC 20460 or at the Office of the Federal Register, 800 North Capitol Street, NW., Washington, DC. Check the reading of the thermometer against a National Institute of Standards and Technology traceable thermometer.

7.3 *Quality assurance.* The instrument's performance must be checked at least once per day using a quality control standard listed in section 4.1. In the case of the non-vacuum pump instruments the frequency is stated in section 6.3.2. The standards must be chilled to the same temperature, have the same ullage, and saturated with air in the same manner as the samples. Record total measured pressure and compare against the following reference values:

Compound	Lower control limit	Upper control limit
2,2,4-trimethylpentane	2.39 psia (16.5 kpa)	3.03 psi (20.9 kpa)
3-methylpentane	6.86 psia (47.3 kpa)	7.26 psi (50.1 kpa)
acetone	7.97 psia (55.0 kpa)	8.12 psi (56.0 kpa)
2,2-dimethylbutane	10.64 psia (73.4 kpa)	10.93 psi (75.4 kpa)
n-pentane	16.20 psia (111.7 kpa)	16.40 psi (113.1 kpa)

If the observed pressure does not fall between the reference values, check the instrument for leaks and its calibration (Section 7).

7.3.1 Other compounds, gasolines, and gasoline blends may be used as control standards as long as these materials have been statistically evaluated for their mean total measured pressure using an instrument that conforms to this procedure.

7.3.2 The control limits can be calculated with the following formula:

Mean measured pressure

$$\overline{X}=\frac{\sum x_i}{n}$$

Standard Deviation

$$S_{x_i}=\frac{\sum x_i^2-(\sum x_i)^2/n}{(n-1)\,]^{0.5}}$$

Upper Control Limit (UCL)

$$UCL=X+(t_{n-1,0.975})*(S_x)$$

Lower Control Limit (LCL)

$$LCL=X-(t_{n-1,0.975})*(S_x)$$

where: x_i is the individual analyses of the control standard, n is the number of analyses (for a new instrument or a new control standard this should be at least ten analyses); $(t_{n-1,0.975})$ is the two-tailed student t statistic for n-1 degrees of freedom for 95% of the expected data from the analysis of the standard.

8. *Procedure.*

8.1 Remove the sample from the cooling bath or refrigerator, dry the exterior of the container with absorbent material, unseal, and insert the transfer tube, syringe, or transfer connection (see section 6). Draw an aliquot (minimize gas bubbles) of sample into a gas tight syringe or transfer the sample using tubing or transfer connection and deliver this test specimen to the test chamber as rapidly as possible. The total time between opening the chilled sample container and inserting/securing the syringe or transfer connection into the sealed test chamber shall not exceed one minute.

8.2 Follow the manufacturer's instructions for injection of the test specimen into the test chamber, and for the operation of the instrument to obtain a total measured vapor pressure result for the test specimen.

8.3 Set the instrument to read the test results in terms of total measured pressure. If the instrument is capable of calculating a Reid Vapor Pressure equivalent value ensure that only the parameters in section 9.2 are used.

9. *Calculation and record of result.*

9.1 Note the total measured vapor pressure reading for the instrument to the nearest 0.01 psi (0.07 kPa). For instruments which do not automatically display a stable pressure value, manually note the pressure indicator reading every minute to the nearest 0.01 psi (0.07 kPa). When three successive readings agree to within 0.01 psia (0.07 kPa) note the final result to the nearest 0.01 psia (0.07 kPa).

9.2 Using the following correlation equation, calculate the Reid Vapor Pressure (RVP) that is equivalent to the total measured vapor pressure obtained from the instrument, in order to compare the vapor pressure standards set out in 40 CFR 80.27. Ensure that the instrument reading in this equation corresponds to the total measured pressure and has not been corrected by an automatically programmed correction factor.

RVP psi=(0.956 * X)−0.347

RVP kPa=(0.956 * X)−2.39

where: X=total measured vapor pressure in psi or kPa

9.3 Record the RVP to the nearest 0.01 psi (0.07 kPa) as the official test result.

9.4 EPA will use the above method as the official vapor pressure test method. EPA will recognize correlations from regulated parties if the correlations are established directly with EPA's test laboratory. Any test method may be used for defense as long as adequate correlation is demonstrated to this method (i.e., any vapor pressure defense test method could be used if adequate correlation exists directly to this method, which can then be converted to Reid Vapor Pressure by use of the EPA Grabner correlation equation in section 9.2 of this method).

[FR Doc. 93–5683 Filed 3–16–93; 8:45 am]

BILLING CODE 6560–50–P

federal register

Wednesday
March 17, 1993

Part III

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 56 and 57
Safety Standards for Explosives at Metal and Nonmetal Mines; Proposed Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

RIN 1219–AA17

Safety Standards for Explosives at Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of public hearing; close of record.

SUMMARY: In response to a request from the mining community, the Mine Safety and Health Administration (MSHA) will hold a public hearing on its October 16, 1992, proposed rule addressing its safety standards for explosives at metal and nonmetal mines. The hearing will address the major issues raised by commenters in response to the proposed rule. The hearing will be held in Washington, DC.

DATES: All requests to make oral presentations for the record should be submitted at least 5 days before the hearing date. Immediately before the hearing, any unalloted time will be made available to persons making late requests. The public hearing will be held on Thursday, April 15, 1993, in Washington, DC. The hearing will begin at 9 a.m. The public record for the rulemaking will close on May 7, 1993.

ADDRESSES: The hearing will be held at the following location: Frances Perkins Department of Labor Building, room N3437 C and D, 200 Constitution Avenue, NW., Washington, DC 20210. Send requests to make oral presentations to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION: On January 18, 1991, MSHA published a final rule in the **Federal Register** (56 FR 2070) revising its safety standards for explosives at metal and nonmetal mines. On October 16, 1992 (57 FR 47524), MSHA published a proposed rule addressing certain stayed provisions of the January 18, 1991, final rule. The proposed rule defines "blast site," "magazine," and "storage facility." It also addresses the storage of packaged blasting agents, the location of explosive material storage facilities, vehicles transporting explosive material, primer protection, loading and blasting, double trunklines in nonelectric initiation systems, excessive temperatures, and burning explosive material. The Agency initially scheduled the written comment period on the proposed rule to close on December 15, 1992. In response to requests from the mining community, on November 25, 1992, MSHA extended the comment period to January 29, 1993 (57 FR 55491).

The purpose of the public hearing is to receive relevant comments and to answer questions concerning the proposed standards. The hearing will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence or cross examination will not apply, the presiding MSHA official may exercise discretion to ensure the orderly progress of the hearing and may exclude irrelevant or unduly repetitious material and questions.

The hearing will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations. The hearing panel will be available to address relevant questions. At the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. In the interests of conducting a productive hearing, MSHA will schedule speakers in a manner that allows all points of view to be heard as effectively as possible.

Verbatim transcripts of the proceedings will be prepared and made a part of the rulemaking record. Copies of the hearing transcripts will be made available to the public for review.

MSHA will also accept for the record additional written comments and other appropriate data from any interested party, including those not presenting oral statements. Written comments and data submitted to MSHA will be included in the rulemaking record. To allow for the submission of any post-hearing comments, the record will remain open until May 7, 1993.

Issues

Commenters posed various questions about provisions contained in the proposed rule. Of greatest concern to commenters are the issues discussed below. MSHA specifically requests further comment on these issues in addition to any other aspects of the proposed rule.

The standards in part 56 apply to all surface metal and nonmetal mines; those in part 57 apply to underground and surface areas of underground metal and nonmetal mines.

A. Definition of "Blast Site"

The proposed rule defined "blast site" as a 50-foot (15.2 meter) perimeter where safety precautions must be taken during the loading of blastholes. As an alternative, the proposed rule would permit the "blast site" to consist of a minimum distance of 30 feet (9.1 meters) in all directions from loaded holes if the 30-foot (9.1 meter) perimeter is demarcated with a barrier or berm.

Some commenters agreed with the proposed definition; however, commenters suggested, for clarity, that MSHA define the terms "berm" and "barrier" within the explosives standards. As mentioned in the preamble to the proposed rule, MSHA considers a "barrier" to be a material object or objects that separate, keep apart, or demarcate based on the definition in Webster's New International Dictionary, 179, 3rd ed. 1966. MSHA believes that the term "barrier" has a commonly accepted meaning; therefore, there is no need for a separate definition in the explosives standards.

For purposes of the explosives standards, MSHA intends for a "berm" to be a type of barrier that would clearly demarcate the blast site. However, to avoid confusion with the term "berm" in subpart H, of parts 56 and 57 which defines a "berm" as capable of impeding the passage of a vehicle over the bank of an elevated roadway, MSHA is considering deleting "berm" from the proposed "blast site" definition and using "barrier." A "barrier" would be a "berm" as long as the berm clearly demarcates the blast site. MSHA solicits comments on whether the term "berm" should be removed from the blast site" definition.

Another commenter suggested that MSHA modify the definition to allow a "posted warning sign" as an alternative to a berm or barrier. A few commenters stated that the 50-foot (15.2 meter) and 30-foot (9.1 meter) distances were arbitrary and provided no additional level of safety to miners.

One commenter recommended that MSHA clarify that unloaded blastholes are not a part of the "blast site" unless they are within the 50-foot (15.2 meter) or 30-foot (9.1 meter) distance.

Some commenters recommended that MSHA adopt the "blast site" definition found in the Institute of Makers of Explosives (IME) Safety Library Publication No. 12, 1991 edition. As mentioned in the preamble to the proposed rule, MSHA's 50-foot (15.2 meter) perimeter requirement was based on the IME document. However, MSHA added the 30-foot (9.1 meter) alternative

in response to commenters who felt that MSHA's "blast site" definition was too restrictive. MSHA solicits additional data or evidence which may support an alternative definition for "blast site."

B. Location of Explosive Material Storage Facilities

MSHA proposed to delete paragraph (a)(1) of §§ 56/57.6131. This stayed provision requires that storage facilities for explosive material be located in accordance with Appendix I to Subpart E-MSHA Tables of Distances. MSHA believes that applying the separation of distances to occupied buildings and other structures on mine property would cause serious compliance problems for some operators.

Some commenters suggested that MSHA retain the table of distances; however, several other commenters agreed with MSHA's proposal to delete the table of distances since the Agency has no technical data to support the selected distances. MSHA solicits further comment on this issue.

C. Loading and Blasting

Under proposed §§ 56/57.6306, once loading begins, MSHA would permit at the blast site only those activities directly related to the blasting operation and the activities of surveying, stemming, and reopening of holes, provided that reasonable care is exercised. Haulage activity would be permitted near the base of the highwall being loaded provided no other haulage access exists. MSHA believes that prohibiting activities unrelated to the loading and blasting process minimizes the risk of miners coming into contact with explosive material or being injured by an unplanned event.

Most commenters agreed with the proposal. However, a few commenters noted that the revised standard is too restrictive since it would severely limit non-blasting activities within the blast site. Non-blasting activities mentioned included haulage, road construction, drilling and mining. MSHA solicits additional comment on what non-blasting activities could be safely undertaken at the blast site. Data to support such a position would be extremely useful.

MSHA would also require that loading be continuous except where adverse circumstances necessitate an interruption in loading. If the interruption in the loading procedure were expected to exceed 72 hours, the operator would have to notify the appropriate MSHA district office before the end of the 72 hours. MSHA believes that the proposed rule responds to the hazards associated with leaving explosive materials in blastholes for a prolonged time period.

Although commenters supported the continuous loading requirement of the proposed rule, they questioned whether MSHA had supporting data to demonstrate that the notification requirement would enhance safety. These commenters recommended deleting this requirement.

In addition, MSHA would also require that blasts be initiated without delay. If the time between the completion of loading and connection of circuits were expected to exceed 72 hours, the operator would have to notify the appropriate MSHA district office before the end of the 72 hours. MSHA's intent is to have the loaded circuits connected and fired as soon as practicable.

Commenters supported the requirement that blasts be initiated without delay; however, commenters again recommended deletion of the notification requirement due to lack of supporting data.

Some commenters recommended revising the proposed rule to require that haulage or other travel be suspended on all subsequent shifts if the time between the completion of loading and connection of circuits extends from one shift to the next. The commenter suggested that MSHA make exceptions for travel in response to emergency situations or for the final connection of circuits.

D. Non-electric Initiation Systems

MSHA proposed to delete paragraph (a) of §§ 56/57.6501. This stayed provision requires the use of double trunklines or loop systems to help prevent misfires when blasting with any nonelectric system. MSHA intended that this requirement would ensure multiple initiation paths, providing for the contingency that a cut-off of one lead would not disable the blasting sequence. However, the Agency is seeking additional data related to this issue.

A majority of the commenters agreed that deleting paragraph (a) would not diminish miner safety. However, some commenters supported the provision stating that the double-trunkline or loop system is a more reliable system.

Dated: March 11, 1993.

Edward C. Hugler,

Acting Assistant Secretary for Mine Safety and Health.

[FR Doc. 93–6097 Filed 3–16–93; 8:45 am]

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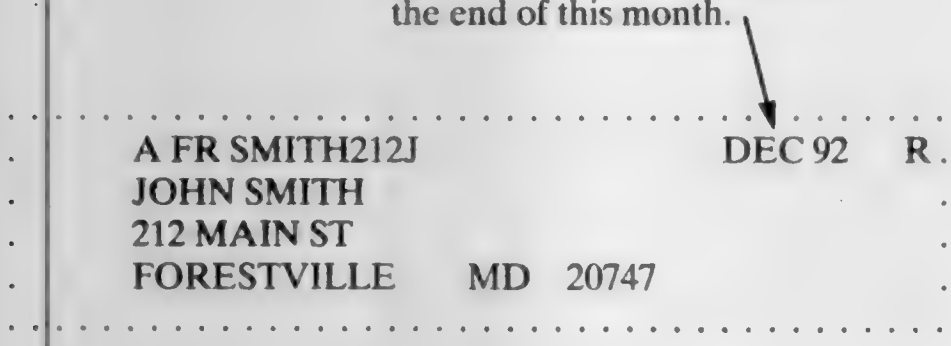

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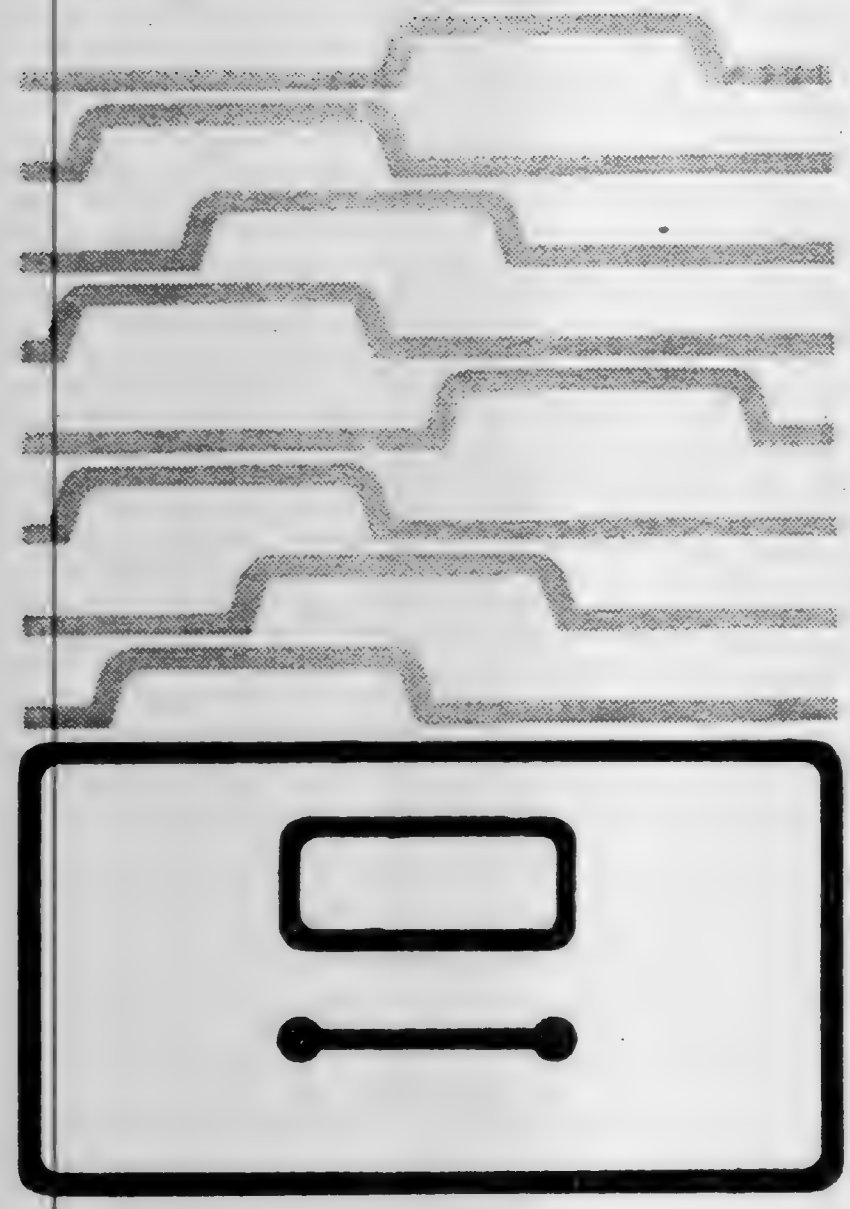

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Parts 1421 and 1434

RIN 0560–AC95

Price Support Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the regulations with respect to the price support loan programs for grains and similarly handled commodities, including oilseeds (canola, mustard seed, rapeseed, safflower seed, soybeans, and sunflower seed); and honey, respectively, which are conducted by the Commodity Credit Corporation (CCC) in accordance with the Agricultural Act of 1949, as amended, (the 1949 Act) and other acts. The amendments made by this interim rule will provide greater clarity, enhance the administration of CCC programs by providing uniformity between CCC price support programs, eliminate obsolete provisions, and more appropriately reflect loan eligibility quality requirements for producers of the 1992 and subsequent year crops of minor oilseeds.

DATES: Interim rule effective March 18, 1993. Comments must be received on or before April 19, 1993 in order to be assured of consideration.

ADDRESSES: Submit comments to Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013–2415; telephone 202–720–7641. Comments received may be inspected between 9 a.m. and 4:30 p.m., Monday through Friday, except holidays, in room 3623, South Agriculture Building, USDA, 14th Street and Independence Avenue, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Burdetta Rossow, Program Specialist, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, DC 20013–2415; telephone 202–720–8374.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Secretary's Memorandum 1512–1

This interim rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and it has been determined "nonmajor" because these program provisions will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Federal Assistance Program

The title and number of the Federal assistance program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are Commodity Loans and Purchases—10.051.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable because the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of human environment.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, and 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

Public reporting burden for the information collections contained in this regulation with respect to price support programs is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. The information collections have previously been cleared under the current regulations by OMB, and assigned numbers 0560–0087 and 0560–0129. In accordance with the provisions of 44 U.S.C. chapter 35, the information collection requirements will be resubmitted to OMB for expedited review. ASCS has requested OMB to review the requirements by April 1, 1993.

Comments

Since producers are currently making decisions regarding commodities which may be pledged as collateral for CCC price support loans, it has been determined that it is impractical and contrary to the public interest for CCC to comply with any further rulemaking requirements with respect to amending the eligibility requirements. Therefore, the provisions of this interim rule are effective upon publication in the **Federal Register**. Comments are requested, however, and will be taken into consideration when developing the final rule. This interim rule will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Background

The 1949 Act sets forth the statutory authority for CCC price support programs. CCC price support programs are intended to stabilize market prices and provide interim financing and assistance to producers in the orderly marketing of eligible commodities.

This interim rule amends regulations found at 7 CFR parts 1421 and 1434 to provide rules for administering CCC price support programs for the 1992 through 1995 crop years.

This interim rule has been reviewed pursuant to Executive Order 12778. To

the extent State and local laws are in conflict with these regulatory provisions, it is the intent of CCC that the terms of the regulations prevail. The provisions of this interim rule are not retroactive. Prior to any judicial action in a court of competent jurisdiction, administrative review under 7 CFR part 780 must be exhausted.

This interim rule revises § 1421.4(i) and removes § 1434.5 to delete the restrictions on the use of agents. Producers may now designate as agent, persons who have an interest in storing, processing, or merchandising a commodity that is otherwise eligible for price support loan or loan deficiency payment (LDP).

This interim rule revises § 1421.4(i) to provide that two or more producers may obtain a joint LDP with respect to commodities which are stored commingled in the same farm storage facility or which are stored in an approved or unapproved warehouse, providing acceptable documentation is shown jointly to such producers. Additionally, each producer who is a party to a joint LDP will be jointly and severally responsible and liable for the breach of the obligations set forth in the LDP documents.

This interim rule amends § 1421.5(b)(1) to add an exception that was inadvertently omitted. In addition, § 1421.5 (b)(2)(i) and (b)(2)(ii) are amended to reflect that the determination of grade and grading factors for canola shall be based on the Official United States Standards for Grain. Also, § 1421.5(b)(4)(ii) is amended to correct an error.

Sections 1421.5(c)(2) and 1434.4 (a) and (b) are amended to clarify that the producer must retain control, title, and risk of loss and beneficial interest in the commodity. To be considered eligible to receive a CCC price support commodity loan or LDP, as applicable, on an eligible commodity, a producer must have beneficial interest in such commodity on the date the price support loan or LDP is requested and maintain beneficial interest in such commodity throughout the time the commodity remains under loan. Beneficial interest is defined as having control of the commodity, risk of loss, and title to the commodity.

If the producer enters into a contract that provides for an advance payment, the producer is considered to have lost beneficial interest at the time the payment is made, unless the contract is an option to purchase contract and the contract includes the language contained in § 1421.5(c)(2)(i) or 1434.4(b)(2)(i), as applicable. If the producer enters into a contract that provides that upon delivery, the buyer takes control of the commodity, beneficial interest is lost at the time of delivery for sale or processing and the producer would not be considered eligible for price support loan or LDP after delivery of the commodity. If the producer enters into a contract that provides that control of the commodity transfers to the buyer at the time of shipping, beneficial interest is considered to have been lost at the time of loading for shipment.

If the producer enters into a contract that provides, to the buyer of the commodity, an option to direct the producer to pledge the commodity to CCC for a price support loan or to obtain LDP, the producer shall be considered to have divested beneficial interest in the commodity when the contract was signed. Accordingly, the producer shall be ineligible for price support loan or LDP on such commodity.

Additionally, if the producer enters into a contract that provides that upon delivery of the harvested commodity to the buyer, the buyer takes control of the commodity, beneficial interest is lost at the time of delivery to the buyer. In some cases, the harvested commodity is delivered directly to the buyer as it is harvested and the producer would not be eligible for price support loan or LDP. However, in such instances, the producer may be eligible for LDP at the LDP rate in effect on the day the commodity was delivered to the buyer, processor, or miller, if a request for LDP was made on or before the day of harvest.

This interim rule amends §§ 1421.5(c)(2) and 1434.4(b)(2) to clarify that a producer shall not be considered to have divested the beneficial interest in the commodity if the producer retains control, title, and risk of loss in the commodity. In addition, §§ 1421.5(c)(2) and 1434.4(b)(2) are amended to clarify that when either § 1421.5(c)(2)(i) or 1434.4(b)(2)(i), as applicable, is part of any contract, beneficial interest shall not be considered divested if any payment is made to the producer.

Section 1421.5(d)(2) has been amended to clarify the maturity date of a loan for which the loan collateral has previously been pledged for a loan and is subsequently repledged for another loan.

Section 1421.5(e)(3) has been added to allow county offices to verify the accuracy of production evidence provided by the producer. This is necessary to determine compliance with the eligibility requirements for loans repaid at the lower loan repayment level and for LDP's.

Sections 1421.5(f) and 1434.4(f) are amended to clarify the period of time which producers have to provide evidence of production after receipt of a loan or LDP. In addition, section 1421.5(f) is amended to clarify the types of acceptable production evidence.

Section 1421.5(i) is amended to limit the total loan, purchase agreement, or LDP quantity to 100 percent of the quantity for which the loan, purchase, or payment is made.

This interim rule amends §§ 1421.8(a) and 1434.9(a) (1) and (2)(i) to remove the reference to commercial warehouses and the reference to collateral stored in leased space. In addition, § 1421.8(a)(1) has been removed and § 1434.9(a)(1) has been amended to remove the requirement that a lease agreement for leased space must be provided. Section 1421.8(a)(2) has been removed and § 1434.9(a)(1) has been amended to remove the provision that a lien waiver from the lessor of the storage structure may be required. In addition, § 1421.8(c) is amended to correct an error.

A final rule was published in the **Federal Register** on May 2, 1991, (56 FR 20101) which amended regulations found at 7 CFR part 1421 with respect to the price support program for oilseeds. This program is conducted by CCC in accordance with the 1949 Act, as amended. The final rule specified minimum quality requirements, based on the Official United States Standards for Grain and known industry standards and practices, for the oilseeds to be eligible for CCC price support loan.

Subsequent to issuance of CCC's final rule in May 1991, the Federal Grain Inspection Service established U.S. Standards for canola (see final rule published in the **Federal Register** on January 29, 1992, (57 FR 3271) as well as program directives for sunflower seed used for a purpose other than to extract oil, mustard seed, rapeseed, and safflower seed. CCC is adopting the U.S. Standards for canola which, in turn, requires several revisions to current eligibility requirements. A review of the aforementioned program directives, which establish uniform procedures for the analysis of quality factors, also show that CCC's price support eligibility criteria with respect to quality factors is incomplete. The review disclosed that, in one instance, the recording of the quality factor as an actual count should be reported as a percentage.

Section 1421.9 provides for the kind of information that must be shown on warehouse receipts tendered to CCC for price support loan. Section 1421.9 is being amended as follows:

(1) Paragraphs (f)(2)(iv)(A), (f)(2)(vi)(C), (f)(2)(viii)(C), and

(f)(2)(ix)(B) will require that the grade be shown.

(2) Paragraph (f)(2)(viii) will require that the (a) gross weight in pounds and net bushels; (b) protein content; (c) garlic bulblet count; and (d) other grading factors be shown.

(3) Paragraph (f)(2)(xi) will require that the percentage of conspicuous admixture be shown.

(4) Paragraph (f)(2)(xii) will require that the count of garlic bulbs be shown.

(5) Paragraph (f)(2)(xiii) will require that the count of (a) stones; (b) other damage; and (c) sprout damage be shown and removes the designation "WIJS" from the iodine value factor.

(6) Paragraph (f)(2)(xiv)(B)(5) will (a) show that the percentages for the factors "admixture", "seed size passing through a 14/64 sieve", and "sclerotinia bodies" be shown; (b) remove the factor "foreign material"; and (c) show that a count must be shown for the factors "animal filth", "glass", and "unknown foreign substance".

(7) Paragraph (g)(2)(iv)(A) is amended to correct the factor to be used to adjust commodities for excess moisture.

This interim rule amends § 1421.12(d) to remove the requirement that the assessment for soybean promotion research and consumer information shall be deducted from the loan proceeds and provides that such assessment shall be deducted at the time CCC acquires the commodity.

This interim rule removes §§ 1421.13 and 1434.19 to delete the requirement that an indemnity be paid to CCC if a producer insures a farm-stored commodity and an indemnity is paid thereon.

This interim rule amends §§ 1421.14(b) and 1421.15 to correct typographical errors.

This interim rule revises §§ 1421.16 and 1434.23 to add the revised administrative actions for violations to be the same for cases involving incorrect certification, unauthorized removal, and unauthorized disposition of commodities pledged as collateral for CCC price support loans or for which LDP is requested.

This interim rule revises §§ 1421.17 and 1434.23 to remove the reference for requiring a lien waiver on quantities involved in unauthorized removal or unauthorized disposition.

This interim rules amends the introductory text of § 1421.17(a) (2) and (3) to provide that, in addition to reducing the quantity for a price support loan to protect CCC's collateral position, the loan rate determined for a loan may be reduced to reflect discounts for quality. This interim rule amends § 1421.17(b)(1) and the introductory text of § 1421.20(a) to allow producers additional flexibility for storage of farm-stored loan collateral. Producers may designate additional storage structures on the farm which will allow them to move loan collateral between designated structures without prior written approval from the county committee. Also, this interim rule amends § 1421.17(c) to eliminate duplication. Section 1421.17(c)(1) is amended to change the maximum loan quantity the producer may transfer to a warehouse-stored loan. In addition, this interim rule amends §§ 1421.17(e) and 1434.22(e) to clarify that the producer's certification be provided on Form CCC–666 LDP for LDP purposes. Sections 1421.17 (f)(1)(i) through (i) have been removed and inserted in § 1421.16.

Section 1421.18 provides for the quantity and quality of the commodity that may be pledged as collateral for a warehouse-stored loan. Section 1421.18(b) is being amended as follows:

(1) Paragraph (2) will require that barley must grade No. 5 or better.

(2) Paragraph (5) will require that rice (a) must be long, medium, or short grain rice; (b) cannot be parboiled or glutinous or be a special grade; and (c) must not grade infested or smutty.

(3) Paragraph (7)(i) will require that grain sorghum grade No. 4 or better.

(4) Paragraph (9)(iv) will require that wheat must not grade infested or have moisture in excess of 13.5 percent.

(5) Paragraph (10) will require that canola (a) must grade U.S. No. 2 or better; (b) must contain not less than 35 percent oil content; (c) must not grade infested or have moisture in excess of 10 percent; (d) must not contain in excess of 15 garlic bulbs per 500 grains; and (e) gross weight must be reduced to reflect dockage and admixture.

(6) Paragraph (12) will show that mustard seed must not (a) grade musty, sour, heating, or COFO; (b) exceed 0.5 percent for the factor "conspicuous admixture"; and (c) contain more than the following count of other material per 500 grams: (i) 3.0 for "animal filth," (ii) 0 for "glass," and, (iii) 1.0 for "unknown foreign substance."

(7) Paragraph (13) will show that rapeseed: (a) must not grade musty, sour, heating, or COFO; (b) must not exceed 0.1 percent for the factor "sclerotinia bodies"; (c) must not contain more than the following count of other material per 500 grams: (i) 3.0 for "animal filth," (ii) 0 for "glass," and, (iii) 1.0 for "unknown foreign substance," (d) must not contain less than 45 percent erucic acid; (e) must not contain in excess of 15.0 garlic bulbs per 500 grams, and (f) gross weight must be reduced to reflect dockage and admixtures.

(8) Paragraph (14) will show that safflower seed must not: (a) grade "musty," "sour," "heating," or "COFO"; (b) exceed the following percentages: (i) 0.05 for "stones", (ii) 3.0 for "other-damaged", and (iii) 3.0 for "sprout-damaged", and (c) contain less than 80 or more than 155 iodine value.

(9) For sunflower seed used for a purpose other than to extract oil, paragraph (15)(ii) will show that the sunflower seed: (a) must not contain more than the following count of other material per 600 grams: (i) for "animal filth", 3; (ii) for "glass", 0; (iii) for "unknown foreign substance", 1; (b) the reporting unit for the factor "sclerotinia bodies" has been changed from an actual count to a percentage level; (c) must not grade "musty," "sour," "heating," or "COFO"; and (d) gross weight must be reduced to reflect dockage, pass through 14/64 sieve, and the presence of admixtures.

This interim rule revises § 1421.19(a) to provide that CCC will not accept delivery of a quantity of a commodity in excess of 110 percent of the outstanding loan quantity and to provide that the producer is responsible for obtaining replacement warehouse receipts for quantities in excess of the eligible quantity for delivery.

This interim rule revises § 1421.20(b) to provide that CCC may allow a producer to lock-in a loan repayment rate under the marketing loan repayment provisions in accordance with § 1421.25 when the producer requests CCC to release loan collateral for sale on Form CCC–681–1 so that the proceeds from such sale can be used to repay the loan indebtedness.

In addition, §§ 1421.20(c)(1)(ii) and 1434.24(d) are amended to remove a reference to a deleted section.

This interim rules amends § 1421.22(d) to add a provision that was inadvertently omitted. This provision requires the producer with a loan on farm-stored collateral to agree to store such collateral on the farm for a period of 60-days after the maturity date of such loan without cost to CCC if CCC is unable to take delivery of the commodity. If the producer is required to store loan collateral more than 60 days after the maturity date of such loan, CCC will pay to the producer a storage payment upon delivery of the collateral to CCC based on the storage rate applicable to the delivery point.

This interim rule amends § 1421.25(a) for rice to clarify the determination of the loan repayment rate whenever the prevailing world market price is less than 70 percent of the loan level

determined by CCC for the national average milling yield. In addition, §§ 1421.25 and 1434.24(e)(2) are amended to remove the provisions that allowed CCC to accept a locked-in loan repayment level for farm-stored loans when the commodity was not being sold. Producers may lock in a repayment rate if the commodity will be delivered for sale to a buyer.

This interim rule amends §§ 1421.29(b)(3) and 1434.26(b)(3) to clarify that for LDP, the producer must file a Form CCC–666 LDP and a request for payment on Form CCC–700 or, for approved cooperative marketing associations, Form CCC–701 on the quantity of eligible commodity. Section 1421.29(f) has been amended to clarify the amount of increase in LDP based on the quantity when production evidence is provided. In addition, § 1421.29(h) is added to provide that the producer must have beneficial interest in the quantity of the commodity according to § 1421.5(c) on the date the commodity is harvested to be considered eligible for LDP. Section 1421.29(h)(1) is added to provide that for producers who will lose beneficial interest at the time of delivery for sale or processing to a warehouse, buyer, processor, or cooperative, that the producer in such cases shall file a Form CCC–666 LDP before or on the day of harvest at the county office of the county responsible for administering programs for the farm on which the commodity was produced, and that such application shall be applicable through the end of the applicable announced repayment period for the commodity. Section 1421.29(h)(2) is added to provide that documentation for the quantity of the applicable commodity for which the producer will lose beneficial interest during the announced repayment period be provided to the county office by the producer by the close of business the next business day following the last day of the applicable announced repayment rate period. Section 1421.29(h)(3) is added to provide that: (a) the producer shall file a request for payment at the appropriate county office for the eligible production delivered during the applicable period on Form CCC–700; and (b) the payment rate for the commodity for which the eligible evidence is submitted, shall be the rate in effect on the date Form CCC–666 LDP was filed in the county office.

This interim rule amends § 1421.29 by adding paragraph (i) to provide that an eligible producer may enter into an agreement with CCC on or before harvest of an eligible commodity to lock in the LDP rate for the quantity based on the date the quantity was delivered to a processor, buyer, warehouse, or cooperative.

This interim rule amends § 1421.203 to eliminate the references to an obsolete CCC form.

This interim rule amends § 1421.210(b)(5)(iv) to add the revised administrative actions for liquidated damages applicable to the quantity of collateral not replaced.

This interim rule amends § 1421.214 to correct typographical and grammatical errors.

This interim rule amends § 1434.3(a) to clarify the definition of an eligible honey producer.

This interim rule amends § 1434.3 (f) and (g) to add references to LDP's that were inadvertently omitted.

This interim rule amends § 1434.6(a) to correct a typographical error.

This interim rule amends § 1434.7 (b)(1) and (b)(2) to include apple, basswood, blueberry, and snowberry as floral sources for table honey and cranberry, loosestrife, and yaupon as floral sources for nontable honey. In addition, paragraph (c) is amended to provide that CCC will waive the requirement that honey be stored in approved containers if the producer does not obtain a loan and requests an LDP. Typographical errors were also corrected.

This interim rule amends § 1434.10 (a) and (e) to correct errors.

This interim rule amends § 1434.15(c) to add that loans and LDP's may be based on 100 percent of the net quantity specified on disposition evidence if, provided within the 30 calendar day deadline as applicable for loans and LDP's.

This interim rule amends § 1434.16(a)(1) to include provisions for LDP's.

This interim rule amends § 1434.22(a) for clarity. In addition, this interim rule amends § 1434.22(e) to include the provisions for LDP's. Also, this interim rule removes §§ 1434.22 (f) and (g) which have been inserted in § 1434.23, and adds a new paragraph (f) which was moved to this section from § 1434.23.

This interim rule amends § 1434.24 to correct an error.

This interim rule amends § 1434.25(a)(2)(i) to provide that the quantity of honey to be delivered to CCC for honey stored on the farm shall be limited to 110 percent of the outstanding loan quantity and the number of containers represented by the outstanding loan quantity on the loan.

This interim rule amends § 1434.26 to add references to the CCC forms used for LDP's and to clarify the maximum quantity for LDP.

This interim rule amends § 1434.27(c) to add paragraphs (1) and (2) to provide that the settlement value of ineligible honey inadvertently accepted by CCC shall be the lesser of the loan rate adjusted for premiums and discounts or the market value as of the date of delivery as determined by CCC.

This interim rule amends § 1434.32 to: (a) delete a definition of "chattel mortgage"; (b) revise the definition for "Crop year"; and (c) add needed definitions for "Loan deficiency quantity" and "Loan quantity".

List of Subjects

7 CFR Part 1421

Grains, Loan programs/agriculture, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Soybeans, Surety bonds, Warehouses.

7 CFR Part 1434

Honey, Loan programs/agriculture, Price support programs, Reporting and recordkeeping requirements, Warehouses.

Accordingly, 7 CFR parts 1421 and 1434 are amended as follows:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1. The authority citation for 7 CFR part 1421 is revised to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1441z, 1444f–1, 1445b–3a, 1445c–3, 1445e, and 1446f; 15 U.S.C. 714b and 714c.

2. Section 1421.4 is amended by revising paragraph (i) to read as follows:

§ 1421.4 Eligible producers.

* * * * *

(i) (1) Two or more producers may obtain a single joint loan deficiency payment with respect to commodities which are stored in the same farm storage facility. Two or more producers may obtain individual loan deficiency payments with respect to their share of the commodity which is stored commingled in a farm storage facility with commodities owned by other producers. All producers who store a commodity in a farm storage facility in which commodities for which a loan deficiency payment has been requested shall be liable for any damage incurred by CCC with respect to incorrect certification of such commodities in accordance with § 1421.16.

(2) Two or more producers may obtain a single joint loan deficiency payment with respect to commodities which are stored in an approved or unapproved warehouse if the acceptable documentation representing an eligible

commodity for which a loan deficiency payment is requested is shown jointly to such producers.

(3) Each producer who is a party to a joint loan deficiency payment will be jointly and severally responsible and liable for the breach of the obligations set forth in the loan deficiency payment documents and in the applicable regulations in this subpart.

3. Section 1421.5 is amended by:

A. Revising paragraphs (b)(1), (b)(2)(i), (b)(2)(ii), (b)(4)(ii), (c)(2) introductory text, (c)(2)(i) and (d)(2),

B. Adding paragraph (e)(3), and

C. Revising paragraphs (f) and (i) to read as follows:

§ 1421.5 General eligibility requirements.

* * * * *

(b) (1) Commodities must be tendered to CCC by an eligible producer and must be eligible, in existence, and in approved storage at the time of disbursement of loan, loan deficiency payment, or purchase agreement proceeds. The commodity must not have been sold, nor any sales option on such commodity granted, to a buyer under a contract which provides that the buyer may direct the producer to pledge the commodity to CCC as collateral for a price support loan or to obtain a loan deficiency payment. Such commodities must also be merchantable for food, feed, or other uses determined by CCC and must not contain mercurial compounds, toxin producing molds, or other substances poisonous to humans or animals.

(2) * * *

(i) With respect to barley, canola, corn, flaxseed, grain sorghum, oats, rice, rye, soybeans, sunflower seed for extraction of oil, and wheat, shall be based upon the Official United States Standards for Grain and the Official United States Standards for Rice as applied to rough rice whether or not such determinations are made on the basis of an official inspection. The costs of an official grade determination may be paid by CCC.

(ii) With respect to a crop of mustard seed, rapeseed, safflower seed, and sunflower seed used for a purpose other than to extract oil, shall be based on quality requirements established and announced by CCC, whether or not such determinations are made on the basis of an official inspection. The costs of an official quality determination may be paid by CCC. The quality requirements which are used in administering the price support program for the oilseeds in this paragraph are available in State and county ASCS offices.

* * * * *

(4) * * *

(ii) A bushel of corn shall be 56 pounds of corn;

* * * * *

(c) * * *

(2) A producer shall not be considered to have divested the beneficial interest in the commodity if the producer retains control, title, and risk of loss in the commodity, including the right to make all decisions regarding the tender of such commodity to CCC for price support, and the producer:

(i) Executes an option to purchase whether or not a payment is made by the potential buyer for such option to purchase with respect to such commodity if all other eligibility requirements are met and the option to purchase contains the following provision:

* * * * *

(d) * * *

(2) The commodity reoffered as security for the subsequent loan shall have the same maturity date as the original loan.

(e) * * *

(3) Permission to inspect, examine, and make copies of the records and other written data as deemed necessary to verify the eligibility of the producer and commodity.

(f) Producers who redeem loan collateral to receive a loan deficiency payment for a commodity in accordance with paragraph (e) of this section must provide evidence of production acceptable to CCC before the final loan availability date of the crop year for such commodity following the crop year for which the loan or loan deficiency payment was made. Production evidence includes but is not limited to:

(1) Evidence of sales,

(2) Loan summary or assembly sheets,

(3) Warehouse receipts issued by a warehouse that is approved according to § 1421.8(b) or by a warehouse that is not approved, and

(4) Quantities determined by measurement at CCC's discretion.

* * * * *

(i) CCC shall limit the total loan quantity for a loan disbursement, purchase quantity for a purchase agreement or loan deficiency quantity for a loan deficiency payment disbursement based on a subsequent increase in the quantity of eligible commodity by the final loan available date to 100 percent of the outstanding quantity of such loan, purchase agreement, or loan deficiency payment application. A producer may obtain a separate loan, loan deficiency payment, or purchase agreement before the final loan availability date for the commodity for quantities in excess of 100 percent of such quantity if such quantities are an otherwise eligible commodity.

4. Section 1421.8 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1421.8 Approved storage.

(a) Approved farm storage shall consist of a storage structure located on or off the farm (excluding public warehouses) which is determined by CCC to be under the control of the producer and to afford safe storage of the commodity pledged as collateral for a price support loan. As many be determined and announced by the Executive Vice President, CCC, approved farm storage may also include on-ground storage, temporary storage structures, or other storage arrangements.

* * * * *

(c) The approved storage requirements provided in this section may be waived by CCC if the producer requests a loan deficiency payment pursuant to the loan deficiency payment provisions contained in § 1421.29.

5. Section 1421.9 is amended by:

A. Revising paragraphs (f)(2)(iv)(A), (f)(2)(vi)(C), (f)(2)(viii)(A), (f)(2)(viii)(C), (f)(2)(viii)(G), and (f)(2)(viii)(H),

B. Adding a new paragraph (f)(2)(viii)(I),

C. Redesignating paragraphs (f)(2)(ix)(B) through (G) as (f)(2)(ix)(C) through (H),

D. Adding a new paragraph (f)(2)(ix)(B),

E. Revising paragraph (f)(2)(xi)(E)(*5*),

F. Redesignating paragraph (f)(2)(xii)(F)(*1*) through (*3*) as (f)(2)(F)(xii)(*2*) through (*4*),

G. Adding a new paragraph (f)(2)(xii)(F)(*1*),

H. Adding paragraphs (f)(2)(xiii)(E)(*5*) through (*7*),

I. Revising paragraph (f)(2)(xiii)(G),

J. Revising paragraphs (f)(2)(xiv)(B)(*5*) and (*6*),

K. Removing paragraphs (f)(2)(xiv)(B)(*7*) through (*12*), and

L. Revising introductory text of paragraph (g)(2)(iv)(A) to read as follows:

§ 1421.9 Warehouse receipts.

* * * * *

(f) * * *

(2) * * *

(iv) * * *

(A) Grade (including special grades);

* * * * *

(vi) * * *

(C) Grade (including special grades);

* * * * *

(viii) * * *

(A) Gross weight in pounds and net bushels; * * *

(C) Grade (including special grades);
* * * * *
(G) Protein content;
(H) A bulblet count, if indicated "garlicky"; and
(I) Any other grading factor when such factor (not test weight) determines the grade.
(ix) * * *
(B) Grade (including special grades);
* * * * *
(xi) * * *
(E) * * *
(5) Conspicuous admixture;
* * * * *
(xii) * * *
(F) * * *
(1) Garlic bulbs;
(2) Animal filth;
(3) Glass; and
(4) Unknown foreign substance.
(xiii) * * *
(E) * * *
(5) Stones;
(6) Other damaged;
(7) Sprout-damaged;
* * * *
(G) Iodine Value.
(xiv) * * *
(B) * * *
(5) Percentage of:
(*i*) Admixtures;
(*ii*) Heat damage;
(*iii*) Insect damage;
(*iv*) Black seeds;
(*v*) Seed size passing through a 14/64 sieve;
(*vi*) Sclerontinia bodies;
(*vii*) Total of frost damage, badly weathered damage, diseased damage, otherwise materially damaged, immature;
(6) Count of:
(*i*) Animal filth;
(*ii*) Glass; and
(*iii*) Unknown foreign substance.
* * * * *
(c) * * *
(2) * * *
(iv) * * *
(A) For the following commodities, 1.3 times the percentage difference between the moisture content of the commodity received and the following percentages for the specified commodity:
* * * * *

6. Section 1421.12(d) is revised to read as follows:

§ 1421.12 Fees, charges, and interest.
* * * * *

(d) For each crop of soybeans, the producer, as defined in the Soybean Promotion, Research, and Consumer Information Act (7 U.S.C. 6301), shall remit to CCC an assessment which shall be determined at the time CCC acquires the commodity, and shall be at a rate equal to one-half of one percent of the amount determined in accordance with § 1421.19.
* * * * *

§ 1421.13 [Removed and Reserved]

7. Section 1421.13 is removed and reserved.

8. Section 1421.14(b) is revised to read as follows:

§ 1421.14 Offsets.
* * * * *

(b) If the producer is indebted to CCC or to any other agency of the United States and such indebtedness is listed on the county claim control record, amounts due the producer under the regulations in this subpart after deductions made for amounts provided in paragraph (a) of this section shall be applied as provided in part 3 of this title and part 1403 of this chapter, to such indebtedness.

9. Section 1421.15 is revised to read as follows:

§ 1421.15 Loss or damage to the commodity.

The producer is responsible for any loss in quantity or quality of the commodity placed under a farm-stored loan or warehouse-stored loan. CCC shall not assume any loss in quantity or quality of the loan collateral.

10. Section 1421.16 is revised to read as follows:

§ 1421.16 Personal liability of the producers.

(a) When a producer obtains a commodity loan or requests a loan deficiency payment, the producer agrees:

(1) When signing Form CCC–677, Farm Storage Note and Security Agreement that the producer will not:

(i) Provide an incorrect certification of the quantity for farm-stored loan, or

(ii) Remove or dispose of a quantity of commodity which is collateral for a CCC farm-stored loan without prior written approval from CCC in accordance with § 1421.20.

(2) When signing Form CCC–700, Loan Deficiency Payment Application and Certification or for cooperative marketing associations approved according to part 1425 of this chapter, Form CCC–701, Cooperative Loan Deficiency Payment Application and Certification, that the producer will not provide an incorrect certification of the quantity for loan deficiency payment purposes.

(3) That violation of the terms and conditions of the Form CCC–677, Form CCC–700, or Form CCC–701, as applicable, will cause harm or damage to CCC in that funds may be disbursed to the producer for a quantity of a commodity which is not actually in existence or for a quantity on which the producer is not eligible.

(b) The violations in accordance with paragraph (a) of this section are defined as follows:

(1) Incorrect certification is the certifying of a quantity of a commodity for the purpose of obtaining a farm-stored commodity loan or a loan deficiency payment in excess of the quantity eligible for such loan or loan deficiency payment.

(2) Unauthorized removal is the movement of any loan quantity from the storage structure in which the commodity was stored or structures which were designated when the loan was approved to any other storage structure whether or not such structure is located on the producer's farm without prior written authorization from the county committee in accordance with § 1421.20.

(3) Unauthorized disposition is the conversion of any loan quantity pledged as collateral for a farm-stored loan without prior written authorization from the county committee in accordance with § 1421.20.

(c) The producer and CCC agree that it will be difficult, if not impossible, to prove the amount of damages to CCC for the violations in accordance with paragraph (b) of this section. Accordingly, if the county committee determines that the producer has violated the terms and conditions of Form CCC–677, Form CCC–700, or Form CCC–701, as applicable, the producer shall pay to CCC as liquidated damages an amount computed by multiplying the quantity applicable to the violation by:

(1) For the first offense, if the county committee determines the producer acted in good faith when the violation occurred, 20 percent of the loan rate applicable to the loan note or the loan deficiency payment rate;

(2) For the second offense, if the county committee determines the producer acted in good faith when the violation occurred, 50 percent of the loan rate applicable to the loan note or the loan deficiency payment rate;

(3) For any offense other than the first or second offense including any offense for which the county committee cannot determine the producer acted in good faith when the violation occurred, 50 percent of the loan rate applicable to the loan note or the loan deficiency payment rate.

(d) For first and second offenses, if the county committee determines that a producer acted in good faith when the

violation occurred, the county committee shall:

(1) Require repayment of the loan principal applicable to the loan quantity incorrectly certified or the loan quantity removed or disposed or for loan deficiency payment, the loan deficiency payment rate applicable to the loan deficiency quantity incorrectly certified, and charges plus interest applicable to the amount repaid; and

(2) Assess liquidated damages in accordance with paragraph (c) of this section. If the producer fails to pay such amount within 30 calendar days from the date of notification, the county committee shall:

(i) Cancel the applicable liquidated damages assessed in accordance with paragraph (c) of this section;

(ii) Deny future farm-stored loans and loan deficiency payments without production evidence for twenty-four months after the date the violation is discovered; and

(iii) Call the applicable farm-stored loan involved in the violation, or for loan deficiency payment, require repayment of the loan deficiency payment and charges plus interest.

(e) For cases other than the first or second offense or any offense for which the county committee cannot determine that the producer acted in good faith when the violation occurred, the county committee shall:

(1) Deny future farm-stored loans and loan deficiency payments without production evidence for twenty-four months after the date the violation is discovered; and

(2) Call the farm-stored loan involved in the violation, or for loan deficiency payment, require repayment of the loan deficiency payment and charges plus interest.

(f) The county committee:

(1) May waive the administrative actions taken in accordance with paragraphs (c)(1) and (d) of this section if the county committee determines that:

(i) The violation occurred inadvertently, accidentally, or unintentionally; or

(ii) The producer acted to prevent spoilage of the commodity.

(2) Shall not consider the following acts as inadvertent, accidental, or unintentional:

(i) Movement of loan collateral off the farm;

(ii) Movement of loan collateral from one storage structure to another on the farm; and

(iii) Feeding the loan collateral.

(3) Shall furnish a copy of its determination to the State committee, and the Administrator. If the determination of the county committee is not disapproved by either the State committee or the Administrator of ASCS, or a designee, within 60 calendar days from the date the determination is received, such determination shall be considered to have been approved.

(g) If, for any violation in accordance with paragraph (b) of this section, the county committee determines that CCC's interest is not or will not be protected, the county committee shall call any or all of the producer's farm-stored loans, and deny future farm-stored loans and loan deficiency payments without production evidence for twenty-four months after the date the violation is discovered. Depending on the severity of the violation, the county committee may deny future farm-stored loans and loan deficiency payments without production evidence for additional twelve-month periods.

(h) If the county committee determines that the producer has committed a violation in accordance with paragraph (b) of this section, the county committee shall notify the producer in writing that:

(1) The producer has 15 calendar days to provide evidence and information regarding the circumstances which caused the violation, to the county committee, and

(2) Administrative actions will be taken in accordance with paragraph (d) or (e) of this section.

(i) If the loan is called in accordance with this section, the producer may not repay the loan at the lower of the loan repayment rate in accordance with § 1421.25 and may not utilize the provisions of part 1470 of this chapter with respect to such loan.

(j) Producers who have been refused a farm-stored loan under provisions of this section may apply for a warehouse-stored loan.

(k)(1) If a producer:

(i) Makes any fraudulent representation in obtaining a loan, purchase agreement, or loan deficiency payment, maintaining, or settling a loan; or

(ii) Disposes or moves the loan collateral without the approval of CCC, such loan shall be payable upon demand by CCC. The producer shall be liable for:

(A) The amount of the loan, purchase agreement, or loan deficiency payment;

(B) Any additional amounts paid by CCC with respect to the loan, purchase agreement, or loan deficiency payment;

(C) All other costs which CCC would not have incurred but for the fraudulent representation, the unauthorized disposition or movement of the loan collateral; and

(D) Interest on such amounts; and

(1) With regard to amounts due for a loan, the payment of such amounts may not be satisfied by the forfeiture of loan collateral to CCC of commodities with a settlement value that is less than the total of such amounts; or

(2) By repayment of such loan at the lower loan repayment rate as prescribed in § 1421.25.

(2) Notwithstanding any provisions of the note and security agreement, if a producer has made any such fraudulent representation or if the producer has disposed of, or moved, the loan collateral without prior written approval from CCC in accordance with § 1421.20, the value of such collateral delivered to or removed by CCC shall be determined by CCC on the following basis:

(i) With respect to farm-stored loans, the lower of:

(A) The market value of the commodity, as determined by CCC, as of the date of delivery to, or removal by, CCC; or

(B) The loan settlement value of the commodity.

(ii) With respect to warehouse-stored loans, the lower of:

(A) The market value of the commodity at the close of market on the final date for repayment; or

(B) The loan settlement value of the commodity.

(iii) Notwithstanding the provisions of paragraphs (l)(2) (i) and (ii) of this section, if CCC sells the loan collateral in order to determine the market value of the commodity, the value of the commodity shall be the lower of:

(A) The sales price of the commodity less any costs incurred by CCC in completing the sale; or

(B) The loan settlement value of the commodity.

(l)(1) If a producer makes any fraudulent representation with respect to obtaining a purchase agreement or delivery of a commodity in accordance with such an agreement, the producer shall be liable for the following amounts and the payment of such amounts may not be satisfied by the delivery, in accordance with such an agreement, of commodities to CCC with a settlement value that is less than the total of such amounts:

(i) The purchase amount paid to the producer by CCC;

(ii) All other costs which CCC would not have incurred but for the producer's fraudulent representation; and

(iii) Interest which has accrued with respect to such amounts.

(2) If a producer has made any such fraudulent representation, the value of the commodity shall be the lowest of the following, as determined by CCC:

(i) The market value of the commodity, as determined by CCC, at

the close of the market on the date of delivery to CCC;

(ii) The sales price of the commodity less any costs incurred by CCC if the commodity is sold by CCC in order to determine the market value of the commodity; or

(iii) The basic support rate applicable to the commodity.

(m) A producer shall be personally liable for any damages resulting from a commodity delivered to or removed by CCC containing mercurial compounds, toxin producing molds, or other substances poisonous to humans or animals.

(n) If the amount disbursed under a loan or purchase agreement, or in settlement thereof, or loan deficiency payment exceeds the amount authorized by this part, the producer shall be liable for repayment of such excess and charges, plus interest.

(o) If the amount collected from the producer in satisfaction of the loan is less than the amount required in accordance with this part, the producer shall be personally liable for repayment of the amount of such deficiency and charges, plus interest.

(p) In the case of joint loans or loan deficiency payments, the personal liability for the amounts specified in this section shall be joint and several on the part of each producer signing the note or loan deficiency payment application.

11. Section 1421.17 is amended by:

A. Revising the introductory text of paragraphs (a)(2) and (a)(3),

B. Revising paragraphs (b)(1), (c) introductory text, (c)(1), (e), and (f) to read as follows, and

C. Deleting paragraphs (g), (h), and (i).

§ 1421.17 Farm-stored commodities.

(a) * * *

(2) With respect to all other commodities, the State committee, when authorized by DASCO, may establish a loan percentage which does not exceed a percentage established by CCC or may apply quality discounts to the loan rate, each year for each commodity on a Statewide basis or for specified areas within the State. Before requesting to establish a different loan percentage, or to apply quality discounts, the State Committee shall consider conditions in the State or areas within a State to determine if the loan percentage should be reduced below the maximum loan percentage or the quality discounts should be applied to the basic county loan rate to provide CCC with adequate protection. Loans disbursed based upon loan percentages previously lowered and loan rates adjusted for quality shall not be altered if conditions within the State or areas within the State change to substantiate removing such reductions; percentages established or loan rates adjusted for quality in accordance with this section shall apply only to new loans and not to outstanding loans. The factors to be considered by the State committee in determining loan percentages or the necessity to apply quality discounts shall include but are not limited to:

* * * * *

(3) The loan percentages established by the State committee, when approved by DASCO, may be reduced by the county committee when authorized on an individual farm, area, or producer basis when determined to be necessary in order to provide CCC with adequate protection. The factors to be considered by the county committee in reducing the loan percentages shall include but not be limited to:

* * * * *

(b) * * *

(1) The producer, when requesting a loan shall designate all structures that may be used for storage of the loan collateral. In such cases, the producer is not required to obtain prior written approval from the County Committee before moving loan collateral from one designated structure to another designated structure. In all other instances, if the producer intends to move loan collateral from a designated structure to another undesignated structure, the producer must request prior approval from the County Committee. Such approval shall be evidenced on Form CCC–687–1 and the eligible or ineligible commodity must be measured by a representative of the county office, at the producer's expense, before commingling; or

* * * * *

(c) Upon request by the producer before transfer, the county committee may approve the transfer of a quantity of a commodity which is pledged as collateral for a farm-stored loan to a warehouse-stored loan at any time during the loan period.

(1) Liquidation of the farm-stored loan or part thereof shall be made through the pledge of warehouse receipts for the commodity placed under warehouse-stored loan and the immediate payment by the producer of the amount by which the warehouse-stored loan is less than the farm-stored loan or part thereof and charges plus interest. The loan quantity for the warehouse-stored loan cannot exceed 110 percent of the loan quantity for the farm-stored loan.

* * * * *

(e) The quantity of a commodity pledged as security for a farm-stored loan or for which a loan deficiency payment is requested may be determined on the basis of the quantity of the commodity which an eligible producer certifies in writing on Form CCC–666 for a loan and Form CCC–666 LDP for a loan deficiency payment is eligible to be pledged as collateral and is otherwise available for loan or loan deficiency payment purposes.

(f) If the county committee determines, by measurement or otherwise, that the actual quantity serving as collateral for a loan is less than the loan quantity, the county committee shall take the actions specified in § 1421.16.

12. Section 1421.18 is amended by:

A. Revising paragraphs (b)(2), (b)(5), (b)(7)(i), (b)(9)(iv), (b)(10), (b)(12)(ii), and (b)(12)(iv)(D),

B. Revising the introductory text of paragraph (b)(12)(v),

C. Revising paragraphs (b)(13)(iii) and (b)(13)(iv)(D)(*3*),

D. Revising the introductory text of paragraph (b)(13)(v),

E. Revising paragraphs (b)(13)(vi) and (b)(13)(vii),

F. Adding paragraph (b)(13)(viii),

G. Revising paragraph (b)(14)(iii),

H. Adding paragraphs (b)(14)(iv)(F) through (b)(14)(iv)(H),

I. Revising the introductory text of paragraph (b)(14)(v),

J. Revising paragraph (b)(14)(vi),

K. Adding paragraph (b)(15)(ii)(D)(*5*),

L. Revising paragraphs (b)(15)(ii)(E) through (b)(15)(ii)(G) to read as follows:

§ 1421.18 Warehouse-stored loans.

* * * * *

(b) * * *

(2) Barley must grade No. 5 or better; and

* * * * *

(5) (i) Rice must be long grain, medium grain, or short grain rough rice and must grade No. 5 or better; and

(ii) The rice must not have moisture in excess of 14.0 percent unless a supplemental certificate is provided in accordance with § 1421.9;

(iii) The rice may not grade parboiled or glutinous or be a special grade; and

(iv) The rice must not grade "Infested" or "Smutty" unless a supplemental certificate is provided in accordance with § 1421.9.

* * * * *

(7) (i) Grain sorghum must grade No. 4 or better and

* * * * *

(9) * * *

(iv) The wheat must not grade "Infested" or have moisture in excess of 13.5 percent unless a supplemental

certificate is provided in accordance with § 1421.9.

* * * * *

(10) (i) Canola must grade U.S. No. 2 or better except that:

(ii) The canola must contain not less than 35 percent oil content;

(iii) The canola must not grade "Infested" or have moisture in excess of 10.0 percent unless a supplemental certificate is provided in accordance with § 1421.9;

(iv) The canola must not contain in excess of 15.0 garlic bulbs per 500 grams; and

(v) The canola gross weight must be adjusted downward to reflect dockage and for the presence of any admixtures.

* * * * *

(12) * * *

(ii) The mustard seed must not grade "Musty"; "Sour"; "Heating"; "COFO";

* * * * *

(iv) * * *

(D) For conspicuous admixture, 0.5 percent;

* * * * *

(v) The mustard seed must not contain more than the following count of other material per 500 grams:

* * * * *

(13) * * *

(iii) The rapeseed must not grade "Musty"; "Sour"; "Heating"; "COFO";

(iv) * * *

(D) * * *

(3) For sclerotinia bodies, 0.1 percent;

* * * * *

(v) The rapeseed must not contain more than the following count of other material per 500 grams:

* * * * *

(vi) The rapeseed must not contain less than 45 percent erucic acid;

(vii) The rapeseed must not contain in excess of 15.0 garlic bulbs per 500 grams; and

(viii) The rapeseed gross weight must be adjusted downward to reflect dockage and for the presence of any admixtures.

(14) * * *

(iii) The safflower seed must not grade "Musty"; "Sour"; "Heating"; "COFO";

(iv) * * *

(F) For stones, 0.05 percent;

(G) For other-damaged, 3.0 percent;

(H) For sprout-damaged, 3.0 percent;

(v) The safflower seed must not contain more than the following count of other material per 600 grams;

* * * * *

(vi) The safflower seed must not contain less than 80 or more than 155 iodine value; and

* * * * *

(15) * * *

(ii) * * *

(D) * * *

(5) Sclerotinia bodies, 1.0 percent;

(E) The sunflower seed must not contain more than the following count of other meterial per 600 grams;

(1) For animal filth, 3;

(2) For glass, 0;

(3) For unknown foreign substance, 1;

(F) The sunflower seed must not grade "Musty"; "Sour"; "Heating"; "COFO"; and

(G) The sunflower seed gross weight must be adjusted downward to reflect undersized seed, passing through a 14/64 sieve, dockage, and for the presence of any admixtures.

13. Section 1421.19(a) is revised to read as follows:

§ 1421.19 Liquidation of loans.

(a) If a producer does not pay to CCC the total amount due in accordance with a loan, CCC shall have the right to acquire title to the loan collateral and to sell or otherwise take possession of such collateral without any further action by the producer. With respect to farm-stored loans, the producer may, as CCC determines, deliver the collateral for such loan in accordance with instructions issued by CCC. CCC will not accept delivery of any quantity of a commodity in excess of 110 percent of the outstanding farm-stored loan quantity. If a quantity in excess of 110 percent of the outstanding farm-stored loan quantity is shown on the warehouse receipt or other documents, the producer shall provide replacement warehouse receipts and delivery documents. If the warehouse receipt and such other documents applicable to the settlement are not replaced showing only the quantity eligible for delivery, CCC shall provide for such corrected documents and apply charges for such service, if any, to the producer's account as charges for settlement on the loan.

* * * * *

14. Section 1421.20 is amended by:

A. Revising the introductory text of paragraph (a), and

B. Revising paragraphs (b) and (c)(1)(ii) to read as follows:

§ 1421.20 Release of the commodity pledged as collateral for a loan.

(a) A producer, when requesting a loan shall designate specific storage structures on Form CCC–677, in accordance with § 1421.17(b)(1). The producer is not required to request prior approval before moving loan collateral between such designated structures. Movement of loan collateral to any other structures not designated on CCC–677, or the disposal of such loan collateral without prior written approval of the county committee, shall subject the producer to the administrative actions specified in § 1421.16. A producer may at any time obtain the release, in accordance with this section, of all or any part of the commodity remaining as loan collateral by paying to CCC, with respect to the quantity of the commodity released:

* * * * *

(b) CCC may allow a producer to establish a loan repayment rate determined in accordance with § 1421.25(a)(1)(ii) or (b)(2) on Form CCC–681–1, provided the producer complies with all terms and conditions set forth on Form CCC–681–1. If a producer fails to repay a loan within the time period prescribed by CCC in accordance with the terms and conditions of Form CCC–681–1 and the commodity pledged as collateral for such loan has been delivered to a buyer in accordance with Form CCC–681–1, Authorization for Delivery of Loan Collateral for sale, such producer may not repay the loan at the level that is less than the loan level determined in accordance with § 1421.25 (a)(1)(ii) or (b)(2).

(c) (1) * * *

(ii) If CCC so announces, an amount less than the principal amount of the loan and charges plus interest under the terms and conditions specified by CCC at the time the producer redeems the commodity pledged as collateral for such loan in accordance with § 1421.25. Each partial release of the loan collateral must cover all of the commodity represented by one warehouse receipt. Warehouse receipts redeemed by repayment of the loan shall be released only to the producer. However, such receipts may be released to persons designated in a written authorization which is filed with the county office by the producer within 15 days prior to the date of repayment.

* * * *

15. Section 1421.22(d) is added to read as follows:

§ 1421.22 Settlement.

* * * * *

(d) A producer may be required to retain and store the commodity that is pledged as collateral for a loan for a period of 60 days after the maturity date of a loan without any cost to CCC if CCC is unable to take delivery of the commodity. If CCC is unable to take delivery of the commodity within the 60-day period after the loan maturity date, the producer shall be paid a storage payment upon delivery of the commodity to CCC. The storage payment shall be computed at the

storage rate stated in the applicable CCC storage agreement for the commodity in effect at the delivery point where the producer delivers the commodity. The period for earning such storage payment shall begin the day following the expiration of the 60-day period after such maturity date and extend through the earlier of:

(1) The final date of actual delivery, or

(2) The final date for delivery as specified in the delivery instructions issued to the producer by the county office.

16. Section 1421.25 is amended by:

A. Revising the introductory text of paragraph (a)(1),

B. Revising paragraph (a)(1)(ii)(A), and

C. Removing paragraph (d), and redesignating paragraphs (e) and (f) as (d) and (e) respectively, to read as follows:

§ 1421.25 Market price repayments.

(a) * * *

(1) A producer may repay a loan for a 1992 and subsequent crop of rice at a level that is the lesser of:

* * * * *

(ii) * * *

(A) The loan level determined for such crop minus the loan level determined at a national average milling yield as determined by CCC for such crop multiplied by 70 percent of the loan level determined at a national average milling yield as determined by CCC for such crop for the 1992 and subsequent crop years; or

* * * * *

17. Section 1421.29 is amended by:

A. Redesignating paragraph (b)(3) as (b)(4),

B. Adding a new paragraph (b)(3),

C. Revising paragraph (f), and

D. Adding paragraphs (h) and (i) to read as follows:

§ 1421.29 Loan deficiency payments.

* * * * *

(b) * * *

(3) File a Form CCC–666 LDP, unless producer enters into an agreement according to § 1421.29(i), and a request for payment on Form CCC–700, or, for cooperative marketing associations approved in accordance with part 1425 of this chapter, Form CCC–701, for a quantity of an eligible commodity;

* * * * *

(f) CCC will make the loan deficiency payment in accordance with paragraph (d) of this section. Notwithstanding any provisions in this part, a loan deficiency payment may be based on 100 percent of the net eligible quantity specified on acceptable evidence of production of the commodity certified as eligible for loan deficiency payment if such production evidence is provided for such commodity. If such production evidence is provided, CCC shall limit such increase in loan deficiency payment quantity to 110 percent of the quantity certified as eligible for such payment.

* * * * *

(h) If the producer has beneficial interest in a quantity of the commodity in accordance with § 1421.5(c) on the date the commodity is harvested but will lose beneficial interest in such commodity at the time of delivery to warehouse, buyer, or processor, the producer may in such cases:

(1) File a Form CCC–666 LDP at the county office which, in accordance with part 719 of this title, is responsible for administering programs for the farm on which the commodity was produced that will include all the eligible commodity harvested, beginning on such date the CCC–666 LDP is filed through the end of the applicable announced repayment rate period for the applicable commodity. The applicable announced repayment rate period is the amount of time from the announcement of a repayment rate until the effective time of the next repayment rate announcement for the applicable commodity.

(2) Provide production evidence to the county office by the close of business the next business day following the last day of the applicable announced repayment rate period. If such production evidence is not available to the producer, the producer may provide and CCC may accept evidence of the gross weight of the applicable commodity delivered during the applicable period. In such cases, payment shall not be made until production evidence according to § 1421.5(f) is provided.

(3) File a request for payment for the eligible production delivered during the applicable period on Form CCC–700 or Form CCC–701, as applicable, when acceptable production evidence in accordance with § 1421.5(f) can be provided to the county office. The loan deficiency payment rate in accordance with § 1421.29(c) shall be the payment rate in effect on the date Form CCC–666 LDP was filed.

(i) If the producer enters into an agreement with CCC on or before the date of harvesting a quantity of an eligible commodity and the producer has the beneficial interest in such quantity as specified in accordance with § 1421.5(c) on the date the commodity was harvested, the loan deficiency payment rate applicable to such commodity would be the loan deficiency payment rate based on the date the commodity was delivered to the processor, buyer, warehouse, or cooperative. In such cases, the producer must meet all the other requirements in paragraph (b) of this section on or before the final date to apply for a loan deficiency payment in accordance with § 1421.5.

18. Section 1421.203 is revised to read as follows:

§ 1421.203 Reserve quantity.

The maximum quantity of wheat and feed grains stored under the FOR program shall be determined and announced annually by CCC. Such limitation shall be announced by the date specified in § 1421.201(b). In order to ensure that such quantities are not exceeded and to ensure regional equity, CCC may require producers to file an offer with CCC on a form prescribed by CCC which includes a statement of the quantity of grain which is pledged as collateral for a regular price support loan which such eligible producers intend to place in the FOR loan program. Such forms must be filed with the county office which disbursed such regular price support loan. If the total quantities specified on such form show that the quantity intended by such producers will likely exceed the maximum quantity, CCC may apply a uniform factor to the quantity producers intend to place in the FOR so that the maximum quantity is not exceeded. If such a form is required, producers who fail to file such form with respect to a commodity that would otherwise be eligible for entry into the FOR loan program, such grain shall not be eligible for FOR loan entry. All such forms must be filed by a producer.

(a) For wheat, by January 31 of the year following the year in which the crop is normally harvested, and

(b) For corn, grain sorghum, barley, and oats, by April 30 of the year following the year in which the crop is normally harvested.

19. Section 1421.210(b)(5)(iv) is revised to read as follows:

§ 1421.210 Commingling and replacement of wheat and feed grains.

* * * * *

(b) * * *

(5) * * *

(iv) Liquidated damages computed by multiplying the quantity not replaced by 50 percent of the loan rate applicable to the loan note.

* * * * *

20. Section 1421.214 is revised to read as follows:

§ 1421.214 Unauthorized removal and unauthorized disposition.

(a) Producers obtaining a FOR loan shall agree not to move or dispose of the collateral pledged as security for such FOR loan without obtaining prior written approval for such action from the county committee in accordance with § 1421.20. In addition to the regulations in § 1421.16, if there are any liens or encumbrances on the commodity, waivers that fully protect the interest of CCC must be obtained even though the liens or encumbrances are satisfied from the loan proceeds and no additional liens or encumbrances shall be placed on the commodity. If such waivers cannot be obtained, CCC shall call the loan.

(b) Unauthorized removal is the movement of any loan collateral from the storage structure in which the grain was stored when the FOR loan was approved to any other storage structure which may or may not be located on the producer's farm without prior written approval from the county committee in accordance with § 1421.20. In such cases, the regulations at § 1421.16 shall be applicable.

(c) Unauthorized disposition is the conversion of collateral under FOR loan including feeding of such collateral without prior written approval from the county committee in accordance with § 1421.20. In such cases, the regulations at § 1421.16 shall be applicable.

PART 1434—HONEY

21. The authority citation for 7 CFR part 1434 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425a, 1446h, 4601 et seq.; 15 U.S.C. 714b and 714c.

22. Section 1434.3 is amended by revising paragraphs (a), (f), and (g) to read as follows:

§ 1434.3 Eligible producers.

(a) An eligible producer shall be a person (i.e., an individual, partnership, association, corporation, estate, trust, or other legal entity) who:

(1) Extracts honey as an owner or sharecropper;

(2) Meets the eligibility requirements prescribed in 7 CFR part 12;

(3) Shares in the risk of producing the honey; and

(4) Has a beneficial interest in the honey in accordance with § 1434.4.

* * * * *

(f)(1) Two or more eligible producers may obtain a joint loan or loan deficiency payment on eligible honey produced and extracted by them if such honey is commingled and stored in the same eligible containers. In such cases, producers may not, in lieu of obtaining a joint loan or loan deficiency payment, obtain an individual loan or loan deficiency payment on such honey.

(2) Two or more producers may obtain a joint loan or loan deficiency payment if the warehouse receipt is issued jointly to such producers. Each producer who is a party to a joint loan or loan deficiency payment will be jointly and severally responsible and liable for the breach of the obligations set forth in the loan or loan deficiency payment documents and in the applicable regulations in this part.

(g) Except as provided in § 1434.10, loans or loan deficiency payments on warehouse stored honey may be made to a warehouseman who tenders to CCC, in the capacity as a producer, in accordance with paragraph (a) of this section, warehouse receipts issued by such warehouseman on honey where the issuance and pledge of such warehouse receipts is permitted under State law.

* * * * *

23. Section 1434.4 is amended by:

A. Revising paragraph (a),

B. Revising the introductory text of paragraph (b)(1), (b)(2), and (b)(2)(i), and

C. Revising paragraph (f) to read as follows:

§ 1434.4 Eligibility requirements.

(a) In order to obtain price support and loan deficiency payments on eligible honey, a producer must request a price support loan or loan deficiency payment no later than March 31 of the year following the year in which the honey was produced and extracted. March 31 is the final loan availability date.

(b) (1) To be eligible for price support, the beneficial interest in the honey must be in the producer tendering the honey as security for a loan or loan deficiency payment and must always have been in the producer or in such producer and a former producer whom the producer succeeded before such honey was extracted. The honey must not have been sold, nor any sales option on such honey granted, to a buyer under a contract which provides that the buyer may direct the producer to pledge the honey to CCC as collateral for a price support loan or to obtain a loan deficiency payment. Honey obtained by gift or purchase shall not be eligible to be tendered to CCC for price support. However, heirs shall be eligible for price support and loan deficiency payments as producers whether such succession occurs before or after extraction of honey, if such heirs:

* * * * *

(2) A producer shall not be considered to have divested the beneficial interest in the honey if the producer retains control, title, and risk of loss in the honey, including the right to make all decisions regarding the tender of such honey to CCC for price support, and the producer:

(i) Executes an option to purchase whether or not a payment is made by the potential buyer for such option to purchase with respect to such honey if all other eligibility requirements are met and the option to purchase contains the following provision:

* * * * *

(f) Producers who receive a loan deficiency payment for honey in accordance with paragraph (e) of this section must provide evidence of disposition of the honey acceptable to CCC by the final loan availability date of the crop year for such commodity following the crop year the loan or loan deficiency payment was made.

* * * * *

§ 1434.5 [Removed and Reserved]

24. Section 1434.5 is removed and reserved.

25. Section 1434.6 is amended by revising the title and paragraph (a) to read as follows:

§ 1434.6 Availability, disbursement, and maturity.

(a) A producer must request price support and loan deficiency payments on honey stored on the farm at the county office of the county where the honey is stored. A producer shall request price support and loan deficiency payments on honey stored in an approved warehouse at the county office of the county where the warehouse is located or at the county office of the county where the producer is headquartered. An approved cooperative marketing association must request price support and loan deficiency payments at the county office for the county in which the principal office of the cooperative is located unless the State committee designates some other county office. In the case of an approved cooperative marketing association having operations in two or more States, requests may be made at the county office for the county in which its principal office for each such State is located.

* * * * *

26. Section 1434.7 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1434.7 Eligible honey.

* * * * *

(b) Honey from the floral sources listed below and honey having similar

flavor shall be eligible for price support and shall be classed as follows:

(1) Table honey means any honey having a good flavor of the predominant floral source which can be readily marketed for table use in all parts of the country. Such sources include alfalfa, apple, basswood, bird's-foot trefoil, blackberry, blueberry, brazil brush, catsclaw, Chinese tallow, clover, cotton, fireweed, gallberry, huajillo, knapweed (American), lima bean, mesquite, orange, raspberry, sage, saw palmetto, snowberry, sourwood, soybean, star thistle (barnaby's thistle), sunflower, sweet clover, tupelo, vetch, western wild buckwheat, wild alfalfa, and similar mild flavors or blends of mild-flavored honeys as determined by the Director, Cotton, Grain, and Rice Price Support Division, ASCS.

(2) Nontable honey means honey having a predominant flavor of limited acceptability for table use even though such honey may be considered suitable for table use in areas in which it is produced. Such honeys include those with a predominant flavor of aster, athel, avocado, Brazilian pepper, buckwheat (except western wild buckwheat), cabbage palmetto, Christmas berry, cranberry, dandelion, eucalyptus, goldenrod, heartsease (smartweed), horsemint, kiawe, loosestrife, macadamia, mangrove, manzanita, mint, partridge pea, rattan vine, safflower, salt cedar (Tamarix Gallica) spanish needle, spikeweed, titi, toyon, tulip popular, wild cherry, yaupon, and similarly-flavored honey or blends of such honeys as determined by the Director, Cotton, Grain, and Rice Price Support Division, ASCS.

(c) The honey must be packed in metal containers of a capacity of not less than 5 gallons or greater than 70 gallons. All containers shall meet the requirements of the Federal Food, Drug, and Cosmetic Act, as amended, and regulations issued thereunder. However, the container requirements provided in this paragraph (c) will be waived by CCC if a producer agrees to forgo obtaining a price support loan, and pursuant to the loan deficiency payment provisions contained in § 1434.26, and within a time period specified by CCC.

* * * * *

27. Section 1434.9 is amended by revising paragraphs (a)(1) and (a)(2)(i) to read as follows:

§ 1434.9 Approved storage.

(a) * * *

(1) Approved farm storage shall consist of a storage structure located on or off the farm (excluding public warehouses) which is determined by CCC to be under the control of the producer and to afford safe storage for honey pledged as collateral for a price support loan. Producers may also obtain loans on honey packed in eligible containers and stored on leased space in facilities owned by third parties in which the honey of more than one person is stored if the honey which is to be pledged as collateral for a loan and which is stored on such leased space is segregated from all other honey. Each container of the segregated quantity of honey shall be marked with the producer's name, loan number, and lot number so as to identify the honey from other honey stored in the structure.

(2) * * *

(i) A warehouse for which a CCC Honey Storage Agreement is in effect and which is approved for price support purposes, or

* * * * *

28. Sections 1434.10(a) and (e) are revised to read as follows:

§ 1434.10 Warehouse receipts.

(a) Warehouse receipts representing honey stored in an approved warehouse to be pledged as collateral for a loan or, delivered in satisfaction of a loan, or for loan deficiency payment must meet the requirements of this section, and all other provisions of this part, and CCC program documents. For warehouse stored honey, a separate warehouse receipt must be submitted for each class, color, floral source, quality, and grade of honey tendered to CCC.

* * * * *

(e) If the warehouse receipt is issued for honey which is owned by the warehouseman either solely, jointly, or in common with others, the fact of such ownership shall be stated on the receipt. In States where the pledge of warehouse receipts issued by a warehouseman on the warehouseman's honey is invalid under State law, the warehouseman may offer the honey to CCC for loan if such warehouse is licensed and operating under the United States Warehouse Act.

* * * * *

29. Section 1434.15(c) is revised to read as follows:

§ 1434.15 Determination of quantity.

* * * * *

(c) Notwithstanding any provision in this section:

(1) Loans may be based on 100 percent of the net quantity specified on acceptable evidence of disposition of the honey pledged as collateral for the loan if:

(i) The producer:

(A) Is repaying the loan at the lower loan repayment rate in accordance with § 1434.24(e)(1)(ii), and the proceeds of the disbursement will be applied to the loan amount as a repayment; and

(B) Provides disposition evidence to CCC within 30 calendar days, as applicable, the expiration date of Form CCC–681–1 or date quantity for loan sold that had not been released with Form CCC–681–1; and

(ii) CCC determines that such quantity represents the quantity for the number of containers of honey pledged as collateral for the loan when the loan was disbursed.

(2) Loan deficiency payments may be based on 100 percent of the net quantity specified on acceptable evidence of disposition of the honey certified as eligible for loan deficiency payment if:

(i) The producer provides disposition evidence to CCC within 30 calendar days from date the quantity for loan deficiency payment is sold; and

(ii) CCC determines that such quantity represents the quantity for the number of containers of honey initially certified for the loan deficiency payment when such payment was made.

30. Section 1434.16(a)(1) is revised to read as follows:

§ 1434.16 Determination of quality.

(a)(1) Loans and loan deficiency payments on farm stored honey will be made on the basis of the floral source and color of the honey as declared and certified by the producer on Form CCC–666 (Honey) (Farm Stored Honey Loan Certification and Worksheet) for loans and Form CCC–666 LDP (Loan Deficiency Payment Certification and Worksheet) for loan deficiency payments at the time honey is pledged as collateral for a loan or at the time the loan deficiency payment application is made. The producer is also required to declare and certify on the Farm Stored Honey Loan Certification and Worksheet or Loan Deficiency Payment Certification and Worksheet the color and class (table or nontable) of the honey at the time the honey is pledged as collateral for a loan or at the time the loan deficiency payment application is made.

* * * * *

§ 1434.19 [Removed and Reserved]

31. Section 1434.19 is removed and reserved.

32. Section 1434.22 is amended by:

A. Revising paragraph (a),

B. Revising the introductory text of paragraph (b),

C. Revising paragraphs (e) and (f) to read as follows, and

D. Removing paragraph (g):

§ 1434.22 Quantity for loans.

(a) The amount of a loan on the quantity of eligible honey either stored

on the farm or packaged in eligible containers and stored identity-preserved in an approved warehouse shall be based on a percentage of the net weight of such quantity certified by the producer for farm stored honey or such quantity specified on the warehouse receipt representing such honey which is pledged as security for the loan. Such percentage ("loan percentage"), shall be established by the State committee, which shall not exceed a percentage established by CCC, of the certified quantity of the eligible honey stored in approved farm storage and covered by the note and security agreement.

(b) The maximum loan percentage may be lowered by the county committee on an individual basis when determined to be necessary in order to provide CCC with adequate protection. The county committee shall consider:

* * * * *

(e) The quantity of honey pledged as collateral for a loan on honey stored on the farm or for which a loan deficiency payment is requested is based on the quantity of honey which an eligible producer certifies in writing on Form CCC–666 (Honey) for a loan and Form CCC–666 LDP for a loan deficiency payment is eligible if the honey is in approved farm storage and is otherwise available for loan or loan deficiency payment purposes.

(f) Upon request by the producer before the transfer, the county committee may authorize the transfer of honey pledged as collateral for a loan or part thereof for honey stored in an approved warehouse to a loan on honey stored on the farm.

(1) Quantities pledged as collateral for a loan for honey stored on the farm shall be determined by a representative of the county office before approving the loan on the honey stored on the farm.

(2) The producer must immediately repay the amount by which the loan on the honey stored on the farm is less than the loan for the honey stored in an approved warehouse and charges plus interest on the shortage.

(3) Such loans on farm-stored honey shall be made in the manner prescribed herein and the maturity date shall be the maturity date applicable to the loan which was transferred.

33. Section 1434.23 is revised to read as follows:

§ 1434.23 Incorrect certification, unauthorized removal and unauthorized disposition.

(a) When a producer obtains a loan or requests a loan deficiency payment, the producer agrees:

(1) When signing Form CCC–677, Farm Storage Note and Security Agreement that the producer will not:

(i) Provide an incorrect certification of the quantity, or

(ii) Remove or dispose of a quantity of honey which is collateral for a CCC farm-stored loan without prior written approval from CCC in accordance with § 1434.24.

(2) When signing Form CCC–700, Loan Deficiency Payment Application and Certification, or for cooperative marketing associations approved in accordance with part 1425 of this chapter, Form CCC–701, Cooperative Loan Deficiency Payment Application and Certification, that the producer will not provide an incorrect certification of the quantity for loan deficiency payment purposes.

(3) That violation of the terms and conditions of the Form CCC–677, Form CCC–700, or Form CCC–701, as applicable, will cause harm or damage to CCC in that funds may be disbursed to the producer for a quantity which is not actually in existence or for a quantity on which the producer is not eligible.

(b) The violations in accordance with paragraph (a) of this section are defined as follows:

(1) Incorrect certification is the certifying of a quantity of a commodity for the purpose of obtaining a farm-stored commodity loan or a loan deficiency payment in excess of the quantity eligible for such loan or loan deficiency payment.

(2) Unauthorized removal is the movement of any loan quantity from the storage structure in which the commodity was stored when the loan was approved to any other storage structure whether or not such structure is located on the producer's farm without prior written authorization from the county committee in accordance with § 1434.24.

(3) Unauthorized disposition is the conversion of any loan quantity pledged as collateral for a farm-stored loan without prior written authorization from the county committee in accordance with § 1434.24.

(c) The producer and CCC agree that it will be difficult, if not impossible, to prove the amount of damages to CCC for the violations in accordance with paragraph (b) of this section. Accordingly, if the county committee determines that the producer has violated the terms and conditions of Form CCC–677, Form CCC–700, or Form CCC–701, as applicable, the producer shall pay to CCC as liquidated damages an amount computed by multiplying the quantity applicable to the violation by:

(1) For the first offense, if the county committee determines the producer acted in good faith when the violation occurred, 20 percent of the loan rate applicable to the loan note or the loan deficiency payment rate;

(2) For the second offense, if the county committee determines the producer acted in good faith when the violation occurred, 50 percent of the loan rate applicable to the loan note or the loan deficiency payment rate; and

(3) For any offense other than the first or second offense, including any offense for which the county committee cannot determine the producer acted in good faith when the violation occurred, 50 percent of the loan rate applicable to the loan note or the loan deficiency payment rate.

(d) For first and second offenses, if the county committee determines that a producer acted in good faith when the violation occurred, the county committee shall:

(1) Require repayment of the loan principal applicable to the loan quantity incorrectly certified or the loan quantity removed or disposed or for loan deficiency payment, the loan deficiency payment rate applicable to the loan deficiency quantity incorrectly certified, and charges plus interest applicable to the amount repaid; and

(2) Assess liquidated damages in accordance with paragraph (c) of this section. If the producer fails to pay such amount within 30 calendar days from the date of notification, the county committee shall:

(i) Cancel the applicable liquidated damages assessed in accordance with paragraph (c) of this section;

(ii) Deny future farm-stored loans and loan deficiency payments without production evidence for twenty-four months after the date the violation is discovered; and

(iii) Call the applicable farm-stored loan involved in the violation, or for loan deficiency payment, require repayment of the loan deficiency payment and charges plus interest.

(e) For cases other than the first or second offense or any offense for which the county committee cannot determine that the producer acted in good faith when the violation occurred, the county committee shall:

(1) Deny future farm-stored loans and loan deficiency payments without production evidence for twenty-four months after the date the violation is discovered; and

(2) Call the farm-stored loan involved in the violation, or for loan deficiency payment, require repayment of the loan deficiency payment and charges plus interest.

(f) The county committee:

(1) May waive the administrative actions taken in accordance with paragraphs (c)(1) and (d) of this section if the county committee determines that:

(i) The violation occurred inadvertently, accidentally, or unintentionally; or

(ii) The producer acted to prevent spoilage of the commodity.

(2) Shall not consider the following acts as inadvertent, accidental, or unintentional:

(i) Movement of loan collateral off the farm;

(ii) Movement of loan collateral from one storage structure to another on the farm; and

(iii) Feeding the loan collateral.

(3) Shall furnish a copy of its determination to the State committee, and the Administrator. If the determination of the county committee is not disapproved by either the State committee or the Administrator of ASCS, or a designee, within 60 calendar days from the date the determination is received, such determination shall be considered to have been approved.

(g) If, for any violation in accordance with paragraph (b) of this section, the county committee determines that CCC's interest is not or will not be protected, the county committee shall call any or all of the producer's farm-stored loans and deny future farm-stored loans and loan deficiency payments without production evidence for twenty-four months after the date the violation is discovered. Depending on the severity of the violation, the county committee may deny future farm-stored loans and loan deficiency payments without production evidence for additional twelve-month periods.

(h) If the county committee determines that the producer has committed a violation in accordance with paragraph (b) of this section, the county committee shall notify the producer in writing that:

(1) The producer has 15 calendar days to provide evidence and information regarding the circumstances which caused the violation, to the county committee, and

(2) Administrative actions will be taken in accordance with paragraph (d) or (e) of this section.

(i) If the loan is called in accordance with this section, the producer may not repay the loan at the lower of the loan repayment rate in accordance with § 1434.24(a)(2)(ii) and may not utilize the provisions of part 1470 of this chapter with respect to such loan.

(j) Producers who have been refused a loan for honey stored on the farm under provisions of this section may apply for a loan for honey stored in an approved warehouse.

34. Section 1434.24 is amended by revising the title and paragraphs (a)(3), (d), and (e)(2) to read as follows:

§ 1434.24 Release of the honey pledged as collateral for a loan.

(a) * * *

(3) When the proceeds of a sale of honey are needed to repay all or part of a loan, the producer must request and obtain prior written approval of the county committee on a form prescribed by CCC in order to remove a specified quantity of the honey from storage. Any such approval shall be subject to the terms and conditions set forth in the applicable form, copies of which may be obtained by producers at the county office. Any such approval shall not constitute a release of CCC's security interest in the commodity or release the producer from liability for any amounts due and owing to CCC with respect to the loan indebtedness if full payment of such amounts is not received by CCC. CCC may allow a producer to establish a loan repayment rate determined in accordance with § 1434.24(e)(1)(ii), on Form CCC–681–1, provided the producer complies with all terms and conditions set forth on such form. If a producer fails to repay a loan within the time period prescribed by CCC and such commodity pledged as loan collateral has been delivered to a buyer in accordance with Form CCC–681–1, Authorization for Delivery of Loan Collateral for Sale, such producer may not repay the loan at the level that is less than the loan level determined in accordance with § 1434.24(e)(1)(ii).

* * * * *

(d) For honey stored in an approved warehouse, each partial release must cover all of the honey represented by one warehouse receipt. Warehouse receipts redeemed by the producer by repayment of the loan as provided in this paragraph (d) shall be released only to the producer. However, such warehouse receipts maybe released to persons designated in a written authorization filed with the county office by the producer within 15 days prior to the date of repayment.

(e) * * *

(2) CCC shall determine and announce the repayment levels for each crop of honey as determined by CCC.

35. Section 1434.25 is amended by:

A. Revising paragraph (a)(2)(i), and

B. Removing paragraph (f), and

C. Redesignating paragraphs (g) and (h) as paragraphs (f) and (g) respectively, to read as follows:

§ 1434.25 Liquidation of loans.

(a) * * *

(2) * * *

(i) For honey stored on the farm, 110 percent of the outstanding loan quantity and shall be limited to the number of containers represented by the outstanding loan quantity on the loan. CCC may allow the delivery of honey in excess of 110 percent of the outstanding loan quantity but only to the extent that such quantity was stored in the containers containing honey pledged as collateral for the loan.

* * * * *

36. Section 1434.26 is amended by:

A. Redesignating paragraph (b)(3) as (b)(4),

B. Adding a new paragraph (b)(3),

C. Removing paragraph (e) and redesignating paragraph (f) as paragraph (e), and

D. Revising redesignated paragraph (e) to read as follows:

§ 1434.26 Loan deficiency payments.

* * * * *

(b) * * *

(3) File a Form CCC–666 LDP and a request for payment on Form CCC–700, or for approved cooperative marketing associations, Form CCC–701 for a quantity of eligible honey;

* * * * *

(e) Notwithstanding any provisions in this section, loan deficiency payments may be based on 100 percent of the net quantity specified on acceptable evidence of disposition of the honey certified as eligible for a loan deficiency payment if CCC determines that such quantity represents the quantity for the number of containers of honey initially certified for the loan deficiency payment when the payment was made.

37. Section 1434.27(c) is revised to read as follows:

§ 1434.27 Settlement.

* * * * *

(c)(1) If ineligible honey is inadvertently accepted by CCC, the settlement value shall be the lesser of:

(i) The loan rate adjusted for premiums and discounts, or

(ii) The market value as of the date of delivery as determined by CCC.

(2) The provisions of § 1434.21 shall be applicable to settlement on ineligible honey where there has been a fraudulent representation on the part of the producer.

* * * * *

38. Section 1434.32(b) is amended to remove the definition of "Chattel mortgage", to revise the definition for "Crop year", and to add the definitions for "Loan deficiency quantity" and "Loan quantity", to read as follows:

§ 1434.32 Definitions.

* * * * *

(b) * * *

Crop year. The crop year shall be the calendar year in which honey is extracted. The loan season starts April 1 and continues through March 31 of the following year.

Loan deficiency quantity. The loan deficiency quantity is the eligible quantity which was certified by the producer as eligible to be pledged as collateral for a price support loan, for which the producer elected to forgo obtaining price support

Loan quantity. The loan quantity is the quantity on which the price support loan was disbursed shown on the note and security agreement.

* * * * *

Signed this 10 day of March, 1993 in Washington, DC.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93–6213 Filed 3–17–93; 8:45 am]

BILLING CODE 3410–05–M

Farmers Home Administration

7 CFR Part 1944

Congregate Housing Services Program, Interim Common Rule; Correction

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim common rule; Correction.

SUMMARY: On December 8, 1992 (57 FR 58042), the Department of Agriculture, Farmers Home Administration, and the Department of Housing and Urban Development, (HUD), published in the **Federal Register**, an interim common rule that implemented section 802 of the National Affordable Housing Act and section 604 of the Housing and Community and Development Act of 1992. The purpose of this document is to correct typographical errors contained in the table of contents for 7 CFR part 1944, subpart F of the published Farmers Home Administration interim common rule.

EFFECTIVE DATE: December 8, 1992.

FOR FURTHER INFORMATION CONTACT: For general information concerning Farmers Home Administration Congregate Housing Services, contact Sue M. Harris, Senior Loan Officer Farmers Home Administration, U.S. Department of Agriculture, 14th & Independence Avenue SW., room 5343, Washington DC 20250, telephone (202) 720–1606. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: Accordingly, in FR Doc. 92–29240, an interim common rule published in the **Federal Register** on December 8, 1992 (57 FR 58042), the table of contents for 7 CFR part 1944, subpart F, is corrected to read as follows:.

On page 58054, in the third column, in the table of contents for 7 CFR part 1944, subpart F, "§§ 1944.254 (_____.245), 1944.260 (_____.300), and 1944.262 (_____.305)", are corrected to read, §§ 1944.264 (_____.245), 1944.266 (_____.300), and 1944.268 (_____.305)", respectively.

Dated: March 5, 1993.

Sharron S. Longino,

Acting Administrator, Farmers Home Administration.

[FR Doc. 93–6234 Filed 3–17–93; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1944

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 700

[Docket No. R–93–1617; FR–2990–O–02]

RIN 2501–AB34

Congregate Housing Services Program; Interim Common Rule; Addition of OMB Approval Number

AGENCY: Farmers Home Administration, USDA and the Department of Housing and Urban Development (HUD).

ACTION: Addition of OMB approval number.

SUMMARY: On December 8, 1992 (57 FR 58042), the Departments published in the **Federal Register**, an interim common rule that implemented section 802 of the National Affordable Housing Act and section 604 of the Housing and Community Development Act of 1992. Under the authorizing legislation, the Congregate Housing Services Program (CHSP) provides assistance in the form of supportive services, rehabilitation of public and common areas and retrofitting of dwelling units for eligible residents.

This document will announce an OMB approval number for related sections in both rules that contained information collection requirements, as was indicated in the Paperwork Burden section of the preamble of the published interim common rule.

DATES: Effective date of the common interim rule: December 8, 1992.

Effective date of the OMB approval number: January 14, 1993.

FOR FURTHER INFORMATION CONTACT: For general information concerning the Congregate Housing Services Program (CHSP), contact Jerold S. Nachison, Housing for the Elderly and Handicapped People Division, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., room 6122, Washington, DC 20410, telephone (202) 708–3291.

For general information concerning Farmers Home Administration congregate housing services, contact Sue M. Harris, Senior Loan Officer, Farmers Home Administration, U.S. Department of Agriculture, 14th & Independence Avenue, SW., room 5343, Washington, DC 20250, telephone (202) 720–1606.

Hearing or speech impaired individuals may call HUD's TDD number (202) 708–4594. (The telephone numbers listed above are not toll-free.)

SUPPLEMENTARY INFORMATION: On December 8, 1992 (57 FR 58042), the Departments published in the **Federal Register**, an interim common rule between the Farmers Home Administration (USDA) and the Department of Housing and Urban Development (HUD), that implemented section 802 of the National Affordable Housing Act and section 604 of the Housing and Community and Development Act of 1992. The information collection requirements contained in that rule were submitted to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). OMB has approved the information collection requirements under control number 2502–0485.

Therefore, the interim common rule is amended as set forth below:

Department of Agriculture

Farmers Home Administration

List of Subjects in 7 CFR Part 1944

Farm labor housing, Migrant labor, Nonprofit organizations, Public housing, Rent subsidies, and Rural rental housing.

Accordingly, chapter XVIII of title 7 of the Code of Federal Regulations, subpart F to part 1944, is amended to read as follows:

PART 1944—HOUSING

1. The authority citation for 7 CFR part 1944 continues to read:

Authority: 42 U.S.C. 1480; 42 U.S.C. 8011; 5 U.S.C. 301, Sec. 604 of Pub. L. 102–550, 7 CFR 2.23; and 7 CFR 2.70.

2. Sections 1944.258 (_____.225), 1944.266 (_____.300), 1944.284 (_____.420), and 1944.286 (_____.425) are amended by adding the OMB control number at the end of each section, to read as follows:

(Approved by the Office of Management and Budget under control number 2502–0485).

Dated: March 5, 1993.

Sherren S. Longino,

Acting Administrator, Farmers Home Administration.

Department of Housing and Urban Development

List of Subjects in 24 CFR Part 700

Aged, Grant programs—housing and community development, Handicapped, Low and moderate income housing, Nutrition, Public housing, Rent subsidies, Reporting and recordkeeping requirements, and Supportive services.

Accordingly, 24 CFR part 700 is amended to read as follows:

PART 700—[AMENDED]

1. The authority citation for 24 CFR part 700 continues to read as follows:

Authority: Sec. 802, National Affordable Housing Act (42 U.S.C. 8011) and Sec. 604, Housing and Community Development Act of 1992 (Pub. L. 102–550).

§§ 700.225, 700.330, 700.420, and 700.425 [Amended]

2. Sections 700.225, 700.300, 700.420, and 700.425 are amended by adding the OMB control number at the end of each section, to read as follows:

(Approved by the Office of Management and Budget under control number 2502–0485)

Dated: March 12, 1993.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 93–6233 Filed 3–17–93; 8:45 am]

BILLING CODE 4210–32–M

FEDERAL ELECTION COMMISSION

11 CFR Part 201

[Notice 1993–12]

Ex Parte Communications

AGENCY: Federal Election Commission.

ACTION: Change in date of public hearing.

SUMMARY: The Commission previously announced that it would hold a public hearing on its interim regulations governing ex parte communications, if there were a sufficient number of persons interested in testifying on these regulations. The Commission has now decided to hold the hearing, but to change the date previously suggested. The hearing will be held on April 1, 1993.

DATES: The Commission will hold the hearing on the interim rules governing ex parte communications on April 1, 1993 at 2 p.m.

ADDRESSES: The hearing will be held at the Federal Election Commission, Ninth Floor Hearing Room, 999 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219–3690 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: On December 9, 1992, the Commission published interim regulations at 11 CFR part 201 addressing ex parte communications. 57 FR 58133. Subsequently, the Commission announced that a public hearing would be scheduled for March 31, 1993 if a sufficient number of commenters expressed interest in testifying. 58 FR 6875 (Feb. 3, 1993).

Based on the responses received to date, the Commission has decided to hold the hearing, but to change the date tentatively announced. The hearing on the interim rules on ex parte communications will be held on April 1, 1993 at 2 p.m.

Dated: March 15, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93–6317 Filed 3–17–93; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[No. 93–16]

RIN 1550–AA41

Savings Association Membership in the Federal Home Loan Bank System

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS), as primary Federal regulator of all savings associations, adopts a rule that will, after two years, remove the regulatory requirement that all savings associations have and maintain Federal Home Loan Bank (FHLBank) membership. The two-year transition period is intended to allow for an orderly transition to voluntary membership.

EFFECTIVE DATE: This rule is effective on April 19, 1993, and expires on April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Richard Blanks, Counsel (Banking and Finance), (202) 906–7037, Deborah Dakin, Assistant Chief Counsel, (202) 906–6445, or Karen Solomon, Deputy Chief Counsel, (202) 906–7240; Chief Counsel's Office; Robyn Dennis, Program Manager, (202) 906–5751; or John C. Price, Jr., Acting Assistant Director for Policy, (202) 906–5745; Policy; Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Home Loan Bank System (Bank System) was designed in the 1930s as a source of long-term funding for savings associations. Thrifts have historically used the Bank System to obtain advances to fund long-term, fixed-rate mortgages and to manage interest rate risk. The advent of adjustable rate mortgage products, the rapid growth of the secondary mortgage market, and, finally, the post-FIRREA [1] restructuring of the thrift industry and the Bank System all suggest the need to re-examine the relationship between the FHLBanks and their members.[2]

OTS believes that the regulatory barriers to thrifts' withdrawal from the FHLBank System should be removed, effective two years after its promulgation of a final rule. During the two-year transition period, OTS will continue to require both federally and state-chartered thrifts to be FHLBank members. After two years, Federal thrifts will continue to be subject to the statutory membership requirement of 12 U.S.C. 1426(e) and 1464(f) unless the Congress acts to change these statutes. State-chartered thrifts, however, will be free to withdraw voluntarily from the FHLBank System subject only to the

[1] The Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law No. 101–73, 103 Stat. 183 (Aug. 9, 1989).

[2] For a more detailed discussion of the reasons supporting a re-examination of the relationship between the Bank System and the thrift industry, see OTS Testimony by Jonathan L. Fiechter Concerning the Federal Home Loan Bank System, Subcommittee of Housing and Community Development of the Committee on Banking, Finance, and Urban Affairs, U.S. House of Representatives, June 11, 1992.

current statutory prohibition on re-entry for ten years.

While there may be reasons to require all thrifts to be FHLBank members indefinitely, OTS recognizes that the financial services business has changed dramatically and that distinctions among institutions based upon charter type are blurring. Thrifts that convert to a commercial bank or a savings bank charter are not subject to the mandatory membership requirement. OTS has concluded that voluntary membership is the preferable policy for the longer term. OTS intends the two-year moratorium to provide time for a smooth transition to voluntary membership to the extent currently authorized by statute. In addition, OTS expects that, during that time, the Congress will take up the broader issues of FHLBank System reform, including the question of voluntary membership for all members.

II. Description of the Proposal

On March 12, 1992, OTS published a proposal to adopt a rule requiring FHLBank membership for both Federally chartered and state-chartered savings associations. 57 FR 8733 (March 12, 1992). The focus of the regulatory text was narrow. It was designed to clarify that Federal and state-chartered savings associations would be subject to the same requirement for membership in the Bank System. The proposed rule did not contain a provision causing it to expire after two years.

The scope of the preamble discussion and the comment solicitation were broad, however, and were intended to encourage discussion of the larger issues related to mandatory membership. OTS set forth several factors that it thought should influence the decision whether to require FHLBank membership of all savings associations. These factors included: Safety and soundness concerns; the fundamental role assigned by statute to the FHLBanks both for funding the resolution of the thrift crisis and for funding the FIRREA-mandated Affordable Housing Program; and the importance of maintaining a "level playing field" between Federal and state-chartered associations with respect to FHLBanks membership.

OTS solicited comment on a number of issues related to the Bank System's relationship with its savings association members. The proposal contained specific questions on the Bank System's role as a source of liquidity to the thrift industry; on its role in helping thrifts to manage interest rate risk; on the consequences of competition for FHLBanks in lines of business undertaken by thrifts (including the purchase of mortgage loans and the issuance of mortgage backed securities); and, finally, on whether mandatory membership is appropriate even if FHLBanks stock dividends decline below a thrift's cost of funds.

The comment period on the proposal closed on May 11, 1992. OTS subsequently reopened the comment period until July 15, 1992, and, on that same date, held a public hearing on its mandatory FHLBank membership proposal.[3] In its June 12 notice, OTS raised additional issues for comment, including the future of the Bank System in light of the enactment of the Federal Deposit Insurance Corporation Improvement Act;[4] the costs and benefits associated with mandatory or voluntary membership; and the appropriate treatment of Savings Association Insurance Fund (SAIF) members who change charters as a result of so-called "Oakar" or "Sasser" transactions.[5]

III. Comment Summary

A. Description of Comments

The OTS received a total of 42 comment letters on the proposed rule. Commenters included twenty-three savings associations, six financial institution trade associations, one state regulatory agency, one trade association, several FHLBanks, and the Federal Housing Finance Board (FHFB).

The public hearing on this matter was held on July 15, 1992. Six individuals participated in the hearing: One representative from the Federal Housing Finance Board; two individuals representing the same savings association; one person from a group representing state thrift regulators; and two from other trade associations. This summary reflects written comments received during both the initial comment period (March 12–May 11, 1992) and the additional comment period (June 12–July 15, 1992) as well as the views expressed at the public hearing.

Thirty commenters opposed the proposal. Two commenters, however, supported the proposal without reservation, and four supported it as a necessary interim measure to protect the FHLBanks from declining membership and a drain on earnings pending a permanent resolution of the issue. Most commenters favored voluntary membership for all savings associations, regardless of charter type, accompanied by major legislative changes to the Bank System. The changes recommended by the commenters included limiting the FHLBanks' Resolution Funding Corporation (REFCORP) obligation as a percentage of earnings, or shifting the REFCORP obligation to SAIF.

Voluntary Membership. Several commenters said that, although they opposed mandatory membership, they would not leave the Bank System if given the option. Commenters also cited the number of Bank Insurance Fund (BIF) members that are voluntary members as evidence that the Bank System can survive without mandatory membership.

Some argued that voluntary membership would force the FHLBanks to be competitive in their payment of dividends, pricing structure and services offered. Two commenters suggested that FIRREA's ten-year prohibition on returning to the Bank System was adequate to insure that a member's decision to leave was well considered. One commenter suggested that this prohibition be shortened to five years, which was its duration before FIRREA.

One commenter thought that the proposal conflicted with recent proposed legislation intended to modernize the Bank System that included a provision for voluntary membership for all thrifts.[6] In addition, the commenter noted that other recent legislative proposals for the reform of the regulation of government sponsored enterprises[7] could result in a number of studies of the FHLBank System and suggested that the OTS delay any final rule until completion of such studies.

Safety and Soundness. Several commenters challenged the OTS's argument that mandatory membership furthers the safety and soundness of the thrift industry by helping institutions manage liquidity and interest-rate risk. These commenters stated that the OTS did not substantiate a link between FHLBank membership and safety and soundness. Several commenters suggested that mandatory membership

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[3] 57 FR 24994 (June 12, 1992).

[4] Public Law No. 102–242, 105 Stat. 2236 (1991).

[5] See 12 U.S.C. 1815(d)(2)(G), (d)(3). A "Sasser" transaction occurs when a savings association converts to the charter of a commercial or savings bank but retains Savings Association Insurance Fund (SAIF) insurance. "Oakar" transactions include combinations where a SAIF-insured savings association merges with a Bank Insurance Fund (BIF) insured bank.

[6] Among other things, H.R. 4073 would have amended section 8(e) of the FHLBA to allow Federal associations to withdraw from membership and thus would have created Systemwide voluntary membership. Furthermore, H.R. 4073 would have reduced from ten to five years the period required before a member that had withdrawn could resume membership.

[7] After the close of the comment period, the Federal Housing Enterprises Financial Safety and Soundness Act was enacted as title XIII of the Housing and Community Development Act of 1992, Public Law No. 102–550, 106 Stat. 3672 (1992).

is actually unsafe and unsound because it requires thrifts to make an investment in FHLBank stock that may not be generating adequate return on the thrift's investment dollar given the current market and declining FHLBank earnings. A few commenters suggested that the OTS could adopt different liquidity requirements for non-FHLBank members.

Dual Banking System. Several commenters did not think it appropriate for the OTS to require membership for state-chartered thrifts. These commenters suggested that distinctions based on charter type are appropriate given that a dual banking system currently exists. A few commenters suggested that if the OTS wanted to level the playing field between federal and state charters, the OTS should drop the membership requirement for federals.

Competition. A few commenters expressed concern that, in the future, the business of the FHLBanks may come more closely to resemble that of the existing government-sponsored enterprises like the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. If so, then in some lines of business the FHLBanks may compete with the thrift industry. They may, for example, be able to access funds more cheaply than thrifts and, with those funds, buy mortgages and issue mortgage-backed securities. If competition develops between the thrift industry and the FHLBanks in certain lines of business, the thrift industry would in effect be required, through mandatory membership, to support its competitors.

Legality of OTS Regulation. One commenter questioned OTS's role in requiring FHLBank membership. The commenter cited FIRREA changes that removed the supervision of the FHLBank System from the OTS's regulatory jurisdiction and concluded that the OTS has no legal basis to promulgate a rule requiring bank membership.

Oakar and Sasser Transactions. Two commenters specifically suggested that the OTS not require FHLBank membership for SAIF-insured institutions that change charters as a result of Oakar and Sasser transactions.

The FHFB urged the OTS to remove this condition because the FHLBA does not require mandatory membership by institutions with the charter types resulting from these transactions. While section 6(e) of the FHLBank Act prohibits Federal savings associations from withdrawing from FHLBank membership, it does not apply to institutions with other types of charters. The FHFB concludes that it has no authority to prohibit a savings association that has converted to a commercial bank or state savings bank charter from withdrawing from membership.

REFCORP Obligation. Several commenters suggested that the crux of the mandatory membership requirement was to ensure that the REFCORP payments would continue as required. These commenters expressed the need for legislation to cure the problem as opposed to mandatory membership. One commenter suggested that the burden be shifted to all taxpayers, while most commenters suggested changes that would still require the burden to be on the thrift industry. Several commenters suggested an "exit fee" be charged to all institutions that leave the FHLBank System as a way to ensure fulfillment of their REFCORP obligation.

FHLBank Services. Most commenters agreed that FHLBanks provide substantial services to financial institutions. However, several commenters pointed out that the FHLBanks are not the only providers of these services. Commenters stated that not all thrifts (even Federally-chartered thrifts that are required to be FHLBank members) use the services provided by the Bank System.

B. OTS Response

1. Legal Authority

Since the creation in the 1930s of the Bank System and of Federal deposit insurance for both Federally and state-chartered savings associations, all Federally insured savings associations have been required to be members of a FHLBank. The requirement is statutory for Federal savings associations;[8] for state-chartered associations, it is a condition of deposit insurance first imposed by the Federal Savings and Loan Insurance Corporation (FSLIC) and now enforced by the OTS.[9]

Moreover, as the primary Federal regulatory of all savings associations,[10] OTS is required to ensure the safe and sound operation of all savings associations.[11] The OTS's authority to require all savings associations, including state-chartered associations, to belong to a FHLBank accordingly also derives from its regulatory and supervisory powers to ensure safety and soundness for individual institutions and industry-wide.

2. Other Issues

Originally, FHLBank membership was a critical source of liquidity for savings associations, because the bulk of their portfolios consisted of long-term mortgage loans. As set forth more extensively in the preamble to the proposal.[12] the Bank System continues to serve a number of important roles for both individual savings associations and for the thrift industry and its housing mission as a whole. These include liquidity management, interest-rate risk management, funding for REFCORP, and an Affordable Housing Program to assist members in financing affordable housing-related projects.

Voluntary, rather than mandatory, membership in the FHLBanks, for both Federally and state-chartered savings associations, could be consistent with the safe and sound operation of the thrift industry as a whole. As discussed above, however, the applicable statutes do not authorize voluntary membership for all thrifts.

The OTS recognizes that the uncertainty created by change in this membership requirement, in the absence of Congressional action on the larger issues related to the Bank System's role, could adversely affect the Bank System and thus the safety and soundness of the thrift industry as a whole. Redemption of the capital stock of withdrawing members would diminish the capital of the FHLBanks, having an uncertain effect on the remaining members' capital investment, and could threaten the value of the FHLBank stock that Federal thrifts are required to hold by statute. As a result, the safety and soundness of remaining members could be adversely affected.

Many of the comments received have substantial merit. OTS has concluded

[8] Section 5(f) of the Home Owner's Loan Act (HOLA) provides that every Federal savings association "shall become automatically" a member of a FHLBank upon receipt of its charter. Federal associations "shall qualify" for FHLBank membership "in the manner provided in the Federal Home Loan Bank Act with respect to other members." 12 U.S.C. 1464(f). Section 6(e) of the Federal Home Loan Bank Act (FHLBA) precludes Federal associations from voluntarily withdrawing from FHLBank membership. 12 U.S.C. 1426(e). Section 6(h) of the FHLBA provides that any institution that withdraws from FHLBank membership may not be readmitted for a period of ten years. 12 U.S.C. 1426(h).

[9] Section 401(h) of FIRREA carries forward "all orders, resolutions, determinations, and regulations" of the Federal Home Loan Bank Board and the FSLIC until they are affirmatively superseded by the appropriate successor agency. 12 U.S.C. 1437 note. The OTS and the Federal Deposit Insurance Corporation have jointly published a notice providing that the OTS may enforce conditions that were originally imposed in connection with the approval of applications for FSLIC insurance of accounts. See Allocation of Regulations and Orders Pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 54 FR 41359, 41361 (Oct. 6, 1989).

[10] 12 U.S.C. 1813(q)(4).

[11] 12 U.S.C. 1462a(b)(3), 1463(a)(1), 1463(a)(3).

[12] 57 FR 8732, 8733 (March 12, 1992)

that voluntary membership is the preferable policy for the longer term and that removal of the regulatory barriers to thrifts' withdrawal from the FHLBank System should be implemented, subject to a two-year transition period.

IV. Description of Final Rule

Today's final regulation requires all savings associations to obtain and maintain FHLBank membership. This regulation represents a formalization or codification of current requirements (which are currently imposed by statute for Federally chartered thrifts and as a matter of OTS policy for state-chartered institutions). However, this final rule will expire in two years.

This transition period serves a dual purpose. First, it provides the Congress, which is considering proposals regarding the future role of the Bank System, an opportunity to address the question of voluntary membership for Federal thrifts and related issues. This transition period will preserve the *status quo* and avoid piecemeal changes that could result in adverse effects on the safety and soundness of the industry as a whole and will ensure continuation of REFCORP funding by all SAIF members as Congress intended.[13]

However, in light of the FHFB's conclusion that it lacks the authority to require institutions that convert to or merge into banks in Sasser or Oakar amendment transactions to retain or apply for membership in the FHLBank System, the OTS has determined to discontinue imposing the condition that the resulting institution in such transactions retain FHLBank stock. In addition, in cases where the condition has already been imposed, the OTS will not object if a bank seeks to redeem its FHLBank stock and terminate its FHLBank membership.

Executive Order 12291

The Office has determined that this regulation does not constitute a "major rule" because it merely restates existing requirements in regulatory form. Therefore, it does not require the preparation of a final regulatory impact analysis.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, it is certified that this rule will not have a significant economic impact on a substantial number of smaller entities because it merely restates existing requirements in regulatory form. Accordingly, a Regulatory Flexibility Act Analysis is not required.

[13] 12 U.S.C. 1441b.

List of Subjects in 12 CFR Part 563

Accounting, Advertising, Crime, Currency, Flood insurance, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

Accordingly, the Office of Thrift Supervision hereby amends part 563, subchapter D, chapter V, title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 563—[AMENDED]

1. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467, 1468, 1817, 1818, 3806; 42 U.S.C. 4106; Pub. L. 102–242, sec. 306, 105 Stat. 2236, 2335 (1991).

2. Section 563.49 is added to read as follows:

§ 563.49 Membership in a Federal Home Loan Bank.

Each savings association shall obtain membership in a Federal Home Loan Bank and subsequently maintain such membership. No savings association may voluntarily withdraw from membership in a Federal Home Loan Bank; provided, however, that this section will expire on April 19, 1995.

Dated: February 11, 1993.

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Acting Director.

[FR Doc. 93–6231 Filed 3–17–93; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–235–AD; Amendment 39–8518; AD 93–03–14]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that currently requires repetitive inspections to detect cracks and corrosion in (1) forward and aft bottle bore fuse pins, and (2) aft bulkhead fuse pins in the diagonal braces of the inboard and outboard engine struts; and replacement of pins, if necessary. That AD also provides terminating action for the repetitive inspections of forward bottle bore fuse pins in the diagonal braces of the inboard and outboard engine struts. The actions specified in that AD are intended to prevent failure of the engine support structure and the inability of the strut to carry required engine operational loads. This amendment corrects a part number and a paragraph reference cited in the existing AD. In all other respects, the requirements of the existing AD are unchanged. This action is necessary to ensure that affected operators accomplish the appropriate repetitive inspections and that the correct parts are inspected.

DATES: Effective March 18, 1993.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of February 5, 1993 (58 FR 480, January 6, 1993).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Backman, Aerospace Engineer, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2776; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: On December 24, 1992, the FAA issued AD 93–01–05, Amendment 39–8459 (58 FR 480, January 6, 1993), to require repetitive inspections to detect cracks and corrosion in (1) forward and aft bottle bore fuse pins, and (2) aft bulkhead fuse pins in the diagonal braces of the inboard and outboard engine struts; and replacement of pins, if necessary. That AD also provides terminating action for the repetitive inspections of forward bottle bore fuse pins in the diagonal braces of the inboard and outboard engine struts. That action was prompted by numerous reports of cracks and corrosion in certain fuse pins in the diagonal braces of the inboard and outboard engine struts. The actions required by that AD are intended to prevent failure of the engine support structure and the

inability of the strut to carry required engine operational loads.

Since the issuance of AD 93–01–05, the FAA has become aware of a paragraph reference cited in that AD that must be corrected. Paragraph (d) of AD 93–01–05 refers operators to the "repetitive inspections required by paragraph (b)." The FAA finds that, in order to ensure that the appropriate repetitive inspections are accomplished, paragraph (d) must be corrected to refer operators to the "repetitive inspections required by paragraph (c)."

In addition, the FAA has determined that, in order to ensure that operators inspect the correct parts, a part number referred to in paragraphs (a)(1) and (a)(2) of the existing AD must be corrected. Those paragraphs incorrectly reference part number "69B904010–1, –3, –4, –600." The FAA has revised those paragraphs to reference the correct part number, "69B90410–1, –3, –4, –600."

Action is taken herein to correct these errors and to correctly add the AD as an amendment to § 39.13 of the Federal Aviation Regulations (FAR). The effective date of the rule remains.

Paragraphs (a) through (f) of this amendment restate the requirements of AD 93–01–05, Amendment 39–8459. If the requirements of AD 93–01–05 have been accomplished previously, that accomplishment constitutes compliance with the requirements of this AD and those actions are not required to be repeated.

The final rule is being reprinted in its entirety for the convenience of affected operators.

Since this action only corrects references in rule, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8459 (58 FR 480, January 6, 1993), and by adding a new airworthiness directive (AD), amendment 39–8518, to read as follows:

93–03–14 Boeing: Amendment 39–8518. Docket 92–NM–235–AD. Supersedes AD 93–01–05, Amendment 39–8459.

Applicability: All Model 747 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the engine support structure and the inability of the strut to carry required engine operational loads, accomplish the following:

(a) For all Model 747 series airplanes, except JT9D–70-equipped airplanes: Inspect the forward bottle bore fuse pins in the rear diagonal brace of the inboard nacelle struts in accordance with paragraph (a)(1) or (a)(2) of this AD.

(1) Within 100 landings after August 5, 1981 (the effective date of AD 79–22–03 R3, Amendment 39–4176), unless accomplished already within the last 250 landings, but not to exceed 1,200 landings from the previous inspection: Remove the retainer bolt and end caps from the fuse pins, part numbers 65B94182–3, 69B90410–1, –3, –4, –600, and 69B89612–3, and perform a visual inspection of the fuse pins to detect cracks in the machined shear section, in accordance with Boeing Service Bulletin 747–54–2066, dated November 7, 1979; Revision 1, dated October 10, 1980; or Revision 2, dated July 16, 1982. Repeat that inspection thereafter at intervals not to exceed 350 landings until the inspection required by paragraph (e) of this AD is accomplished.

(2) Within 100 landings after August 5, 1981 (the effective date of AD 79–22–03 R3, Amendment 39–4176), unless accomplished already within the last 1,100 landings, but not to exceed 1,200 landings from the previous inspection: Remove the retainer bolt and end caps from the fuse pins, part numbers 65B94182–3, 69B90410–1, –3, –4, –600, and 69B89612–3, and perform an ultrasonic inspection of the fuse pins to detect cracks in the machined shear section, in accordance with Boeing Service Bulletin 747–54–2066, dated November 7, 1979; Revision 1, dated October 10, 1980; or Revision 2, dated July 16, 1982. Repeat that inspection thereafter at intervals not to exceed 1,200 landings until the inspection required by paragraph (e) of this AD is accomplished.

(b) After February 5, 1993 (the effective date of AD 93–01–05, Amendment 39–8459), perform the repetitive inspections required by paragraph (a) of this AD only in accordance with the ultrasonic inspection method referenced in paragraph (a) of this AD.

(c) For Model 747 series airplanes listed in Boeing Service Bulletin 747–54–2101, dated April 11, 1983: Prior to the accumulation of 5,000 landings, or within 350 landings after January 9, 1984 (the effective date of AD 83–24–05, Amendment 39–4775), whichever occurs later, perform a visual or an ultrasonic inspection for cracks in the aft bottle bore fuse pin bore in recessed shear plane areas, in accordance with Boeing Service Bulletin 747–54–2101, dated April 11, 1983; or Revision 1, dated June 1, 1984. Repeat that inspection thereafter at intervals not to exceed 350 landings (if the previous inspection was visual) or 1,200 landings (if the previous inspection was ultrasonic) until the inspection required by paragraph (f) of this AD is accomplished.

(d) After February 5, 1993 (the effective date of AD 93–01–05, Amendment 39–8459), perform the repetitive inspections required by paragraph (c) of this AD only in accordance with the ultrasonic inspection method referenced in paragraph (c).

(e) For diagonal brace forward bottle bore fuse pins: Perform an ultrasonic inspection to detect cracks and a detailed visual inspection to detect corrosion in the forward bottle bore fuse pins located in the diagonal braces on the inboard and outboard engine struts from each end of the pin, in accordance with Boeing Alert Service Bulletin 747–54A2153, dated December 23, 1992, at the time specified in paragraph (e)(1) of this AD. Accomplishment of this inspection terminates the repetitive inspection requirements of paragraph (a) of this AD.

Thereafter, repeat these inspections at intervals not to exceed 1,000 landings.

(1) Inspect all engine positions at the later of the times specified in paragraphs (e)(1)(i) and (e)(1)(ii) of this AD:

(i) Prior to the accumulation of 3,000 landings after February 5, 1993 (the effective date of AD 93–01–05, Amendment 39–8459), or within 3 years since pin installation, whichever occurs first. Or

(ii) Within 90 days after February 5, 1993 (the effective date of AD 93–01–05, Amendment 39–8459).

Note: This AD does not require that these inspections be performed on forward 15–5 steel fuse pins or forward H–11 steel bolts in the diagonal brace.

(2) If any crack or corrosion is found as a result of the inspections required by paragraph (e) of this AD, prior to further flight, replace the cracked or corroded pin with a forward 15–5 steel fuse pin, in accordance with Boeing Alert Service Bulletin 747–54A2153, dated December 23, 1992. Installation of a forward 15–5 steel fuse pin constitutes terminating action for the repetitive inspections required by paragraph (e) of this AD.

(f) For diagonal brace aft bottle bore fuse pins and aft bulkhead fuse pins: Perform an ultrasonic inspection to detect cracks, and a detailed visual inspection to detect corrosion, in the aft bottle bore and aft bulkhead fuse pins in the diagonal brace on the inboard and outboard engine struts from each end of the pin, in accordance with Boeing Alert Service Bulletin 747–54A2153, dated December 23, 1992, at the time specified in paragraph (f)(1) of this AD. Accomplishment of this inspection terminates the repetitive inspection requirements of paragraph (c) of this AD.

(1) Inspect all engine positions at the later of the times specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD:

(i) Prior to the accumulation of 3,000 landings February 5, 1993 (the effective date

of AD 93–01–05, Amendment 39–8459), or within 3 years since pin installation, whichever occurs first; or

(ii) Within 90 days after February 5, 1993 (the effective date of AD 93–01–05, Amendment 39–8459).

(2) If any crack is found as a result of the inspections required by paragraph (f) of this AD, prior to further flight, replace the cracked pin with an aft bulkhead fuse pin, in accordance with Boeing Alert Service Bulletin 747–54A2153, dated December 23, 1992. Thereafter, accomplish the initial inspection required by paragraph (f) of this AD on the newly-installed aft bulkhead fuse pin.

(3) If any corrosion is found as a result of the inspections required by paragraph (f) of this AD, prior to further flight, accomplish paragraph (f)(3)(i) or (f)(3)(ii) of this AD, as applicable.

(i) If corrosion is found in any aft bottle bore fuse pin: Replace with an aft bulkhead fuse pin, in accordance with Boeing Alert Service Bulletin 747–54A2153, dated December 23, 1992.

(ii) If corrosion is found in any aft bulkhead fuse pin: Accomplish paragraph (f)(3)(ii)(A), (f)(3)(ii)(B), or (f)(3)(ii)(C) of this AD, as applicable.

(A) If the amount of corroded material that must be removed exceeds the limit specified in Figure 8 of the service bulletin, replace the corroded fuse pin with an aft bulkhead fuse pin, in accordance with the service bulletin. Thereafter, accomplish the initial inspection required by paragraph (f) of this AD on the newly-installed aft bulkhead fuse pin.

(B) If the amount of corroded material that must be removed is more than light, and equal to or less than the limit specified in Figure 8 of the service bulletin, rework the corroded fuse pin, or replace the corroded fuse pin with an aft bulkhead fuse pin, in accordance with the service bulletin. "Light" corrosion is characterized by discoloration or pitting to a depth of not more than 0.001-inch maximum. This type of corrosion can be removed normally by light hand sanding. A fuse pin that has been reworked in accordance with Figure 8 of the service bulletin must be replaced with an aft bulkhead fuse pin prior to the accumulation of 3,000 landings on the pin, or 3 years since the pin was reworked and reinstalled, whichever occurs first.

(C) If the corrosion is light, remove the corroded material from the fuse pin in accordance with the service bulletin. Thereafter, accomplish the repetitive inspections required by paragraph (f)(4) of this AD.

(4) Repeat the inspections required by paragraph (f) of this AD at the intervals specified in paragraph (f)(4)(i) or (f)(4)(ii) of this AD, as applicable:

(i) For aft bottle bore fuse pins: Repeat at intervals not to exceed 1,000 landings.

(ii) For aft bulkhead fuse pins: Repeat at intervals not to exceed 2,000 landings.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(h) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(i) The inspections, replacement, and repair shall be done in accordance with the following Boeing service bulletins, as applicable, which contain the specified effective pages:

Service bulletin referenced and date	Page nos.	Revision level shown on page	Date shown on page
747–54–2066, November 7, 1979	1–7	Original	Nov. 7, 1979.
747–54–2066, Revision 1, October 10, 1980	1–27	1	Oct. 10, 1980.
747–54–2066, Revision 2, July 16, 1982	1–17, 20, 27	2	July 16, 1982.
	18–19, 21–26	1	Oct. 10, 1980.
747–54–2101, April 11, 1983	1–27	Original	April 11, 1983.
747–54–2101 Revision 1, June 1, 1984	1–23	1	June 1, 1984.
747–54A2153, December 23, 1992	1–56	Original	Dec. 23, 1992.

This incorporation by reference was previously approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, as of February 5, 1993 (58 FR 480, January 6, 1993). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on March 18, 1993.

Issued in Renton, Washington, on March 12, 1993.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–6244 Filed 3–17–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 92–NM–223–AD; Amendment 39–8517; AD 93–05–13]

Airworthiness Directives; Boeing Model 747–400 and 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747–400 and 767 series airplanes equipped with Rolls Royce engines, that currently requires repetitive visual inspections of the power feeder connector at each engine firewall to detect signs of arcing, deterioration, unusual hardness or softness, and cracking of the elastomer insert; and the replacement of any damaged connectors found. The actions required by that AD are intended to prevent undetected fires in the engine strut caused by ignition of fuel or fuel vapors near an overheated connector. This amendment continues to require those repetitive inspections, and replacement, if necessary, and corrects the applicability of the AD to remove certain Model 767 series airplanes that are not affected by the addressed unsafe condition. This action is necessary to ensure that only affected airplanes are inspected.

DATES: Effective March 18, 1993.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of December 30, 1992 (57 FR 59285, December 15, 1992).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the

Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen S. Oshiro, Aerospace Engineer, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2793; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: On December 7, 1992, the FAA issued AD 92–27–02, Amendment 39–8435 (57 FR 59285, December 15, 1992), to require repetitive visual inspections of the power feeder connector at each engine firewall to detect signs of arcing, deterioration, unusual hardness or softness, and cracking of the elastomer insert; and the replacement of any damaged connectors found. That action was prompted by reports of damage to strut firewall power feeder connectors on Boeing Model 747–400 and 767 series airplanes. The actions required by that AD are intended to prevent undetected fires in the engine strut caused by ignition of fuel or fuel vapors near an overheated connector.

Since the issuance of that AD, the FAA has become aware of the fact that the applicability of the AD must be revised so that certain affected Model 767 series airplanes are correctly identified with an alphanumeric designation. Specifically, a reference to "variable number 120" that was listed in the applicability statement of AD 92–27–02 should have been listed as "VN130." Additionally, the applicability must be corrected to indicate that Model 767 series airplanes having variable numbers VN125 through VN129, inclusive, are not affected by the requirements of the AD.

The FAA has determined that, in order to ensure that only airplanes subject to the addressed unsafe condition are inspected, the portion of the applicability statement of AD 92–27–02 that identifies affected Model 767 series airplanes must be revised to read as follows: "* * * Model 767 series airplanes having variable numbers VN111 through VN124, inclusive, and variable numbers VN130 through VN132, inclusive."

The FAA notes that the portion of the existing applicability statement that identifies affected Model 747 series airplanes is correct and has not changed.

Action is taken herein to correct these errors and to correctly add the AD as an amendment to § 39.13 of the Federal Aviation Regulations (FAR).

Paragraph (a) of this AD restates the requirements of AD 92–27–02. If the requirements of AD 92–27–02 have been accomplished previously, that accomplishment constitutes compliance with the requirements of this AD and those actions are not required to be repeated.

The requirements of this AD are considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

The final rule is being reprinted in its entirety for the convenience of affected operators.

Since this action only corrects the applicability of a rule by deleting certain operators that are not affected by the requirements rule, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8435 (57 FR 59285, December 15, 1992), and by adding a new airworthiness directive (AD), amendment 39–8517, to read as follows:

93–05–13 Boeing: Amendment 39–8517. Docket 92–NM–223–AD. Supersedes AD 92–27–02, Amendment 39–8435.

Applicability: Model 747–400 series airplanes having line positions up to and including 958, inclusive, equipped with Rolls Royce engines and electrical power feeder connectors at engine firewalls; and Model 767 series airplanes having variable numbers VN111 through VN124, inclusive, and variable numbers VN130 through VN132, inclusive, equipped with Rolls Royce engines and electrical power feeder connectors at engine firewalls; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent undetected fires in the engine strut, accomplish the following:

(a) Within 30 days after December 30, 1992 (the effective date of AD 92–27–02, Amendment 39–8435), perform a visual inspection of the power feeder connector at each engine firewall to detect signs of arcing, deterioration, unusual hardness or softness, and cracking of the elastomer insert, in accordance with Boeing Alert Service Bulletin 747–24A2190, dated November 16, 1992 (for Model 747–400 series airplanes); or Boeing Alert Service Bulletin 767–24A0088, dated November 16, 1992 (for Model 767 series airplanes); as applicable.

(1) If any damaged connector is found, prior to further flight, replace it in accordance with the applicable service bulletin. Prior to the accumulation of 1,200 flight hours on the new connector, perform the inspection required by paragraph (a) of this AD. Thereafter, repeat that inspection at intervals not to exceed 800 flight hours until the connector is replaced again.

(2) If no damage is found and no connector is replaced, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 800 flight hours.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspections and replacement shall be done in accordance with Boeing Alert Service Bulletin 747–24A2190, dated November 16, 1992; or Boeing Alert Service Bulletin 767–24A0088, dated November 16, 1992; as applicable. This incorporation by reference was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, as of December 30, 1992 (57 FR 59285, December 15, 1992). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 18, 1993.

Issued in Renton, Washington, on March 12, 1993.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–6243 Filed 3–17–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 92-ASO-19]

Revision of Control Zone and Transition Area, Dyersburg, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the Dyersburg, TN Control Zone and Transition Area. A new standard instrument approach procedure (SIAP) has been developed to serve Runway 4 at the Dyersburg Municipal Airport based on the Nally Dunston Non-directional Radio Beacon (NDB). This action eliminates an arrival area extension to the control zone west of the airport which is no longer required while adding an arrival extension southwest of the airport for the planned NDB SIAP. Also, the existing transition area is enlarged in the vicinity of the airport to contain instrument flight rules (IFR) aeronautical operations.

EFFECTIVE DATE: 0901 UTC, May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Alfred P. Smith, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On November 9, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to eliminate an arrival area extension to the control zone west of the airport and to add an arrival area extension southwest of the airport. Additionally, the transition area would be enlarged in the vicinity of the airport (57 FR 58421). This action provides additional controlled airspace in the vicinity of the Dyersburg Municipal Airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice except that the NDB identified as Dyersburg is corrected to Nally Dunston. Control Zones and Transition Areas are published in §§ 71.171 and 71.181 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The coordinates for this airspace docket are based on North American Datum 83. The Control Zone and Transition Area listed in this document will be revised subsequently in the Handbook.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revises the Control Zone by eliminating an arrival area extension to the west and adding an arrival area extension to the southwest of the Dyersburg Municipal Airport. The Transition Area is enlarged in the vicinity of the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control Zones, Incorporation by reference, Transition areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69l

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation of Transition Areas

* * * * *

ASO TN TA Dyersburg, TN
Dyersburg Municipal Airport, TN
(lat. 35°59'55"N, long. 89°24'22"W)
Dyersburg VORTAC (lat. 36°01'07"N, long. 89°19'04"W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Dyersburg Municipal Airport and within 3.1 miles each side of the Dyersburg VORTAC 078° radial, extending from the 7-mile radius to 7 miles east of the VORTAC; excluding that airspace within the Dyersburg, TN Control Zone during the specific dates and times it is effective.

* * * * *

Section 71.171 Designation of Control Zones

* * * * *

ASO TN CZ Dyersburg, TN
Dyersburg Municipal Airport, TN
(lat. 35°59'55"N, long. 89°24'22"W)
Nally Dunston NDB (lat. 35°59'42"N, long. 89°24'21"W)

Within a 4.1-mile radius of Dyersburg Municipal Airport and within 2.5 miles each side of the Nally Dunston NDB 231° bearing, extending from the 4.1-mile radius to 7 miles southwest of the NDB. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Issued in East Point, Georgia, on February 23, 1993.

Don Cass,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 93-6245 Filed 3-17-93; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 52

[T.D. 8370]

RIN 1545-A008; 1545-AP32; 1545-AP84

Excise Tax on Chemicals That Deplete the Ozone Layer and on Products Containing Such Chemicals; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to the final regulations [T.D. 8370] which were published Monday, November 4, 1991 (56 FR 56303). The regulations relate to excise tax on chemicals that deplete the ozone layer and on products containing such chemicals.

EFFECTIVE DATE: November 4, 1991.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, (202) 622-3130 (not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains correcting amendments to the final regulations

relating to the tax on chemicals that deplete the ozone layer and on products containing such chemicals.

Need for Correction

As published, T.D. 8370 contains errors in the Imported Products Table, Part I and Part II, as shown, that if not corrected, might cause confusion to taxpayers and practioners.

List of Subjects in 26 CFR Part 52

Chemicals, Excise taxes, Petroleum.

PART 52—ENVIRONMENTAL TAXES

Accordingly, 26 CFR part 52, is corrected by making the following amendments:

Paragraph 1. The authority citation for part 52 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *.

Par. 2. In § 52.4682–3(f)(6), part I of the table is revised to read as follows:

§ 52.4682–3 Imported taxable products.

* * * * *

(f) * * *

(6) * * *

IMPORTED PRODUCTS TABLE

Product name	Harmonized tariff schedule heading	ODC	ODC weight
Part I—Products that are mixtures containing ODCs:			
Mixtures containing ODCs, including but not limited to:			
—anti-static sprays			
—automotive products such as "carburetor cleaner," "stop leak," and "oil charge"			
—cleaning solvents			
—contact cleaners			
—degreasers			
—dusting sprays			
—electronic circuit board coolants			
—electronic solvents			
—ethylene oxide/CFC–12			
—fire extinguisher preparations and charges			
—flux removers for electronics			
—insect and wasp sprays			
—mixtures of ODCs			
—propellants			
—refrigerants			

Par. 3. In § 52.4682–3(f)(6), the last two entries in part II of the table are revised to read as follows:

§ 52.4682–3 Imported taxable products.

* * * * *

(f) * * *

(6) * * *

Product name	Harmonized tariff schedule heading	ODC	ODC weight
Part II—Products in which ODCs are used for purposes of refrigeration or air conditioning, creating an aerosol or form or manufacturing electronic components:		.....	
*	*	*	*
Electronic items not otherwise listed in the Table:			
Included in HTS chapters 84, 85, 90		CFC–113 ..	0.0004 pound/ $1.00 of entry value.
Not included in HTS chapters 84, 85, 90[3]		CFC–113 ..	0.0004 pound/ $1.00 of entry value.

* * * * *

Dale D. Goode,
Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93-5765 Filed 3-17-93; 8:45 am]
BILLING CODE 4910-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192, 193, and 195

[Docket No. PS-131]

RIN 2137 AC13

Update of Standards Incorporated by Reference

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule updates existing references to voluntary specifications and standards to reflect more recent published editions of each document. Many currently referenced editions are outdated and some are out-of-print. This final rule will enable pipeline operators to utilize current technology, materials, and practices, thereby reducing costs and enhancing economic growth consistent with the President's goals of regulatory review.

EFFECTIVE DATE: This final rule takes effect April 19, 1993.

FOR FURTHER INFORMATION CONTACT: Christina M. Sames, (202) 366-4561, regarding the contents of this final rule; or the Dockets Unit, (202) 366-4453, for copies of this final rule or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

In a January 28, 1992, memorandum, President Bush wrote to Department and agency heads about the need to reduce the burden of government regulation. The President was concerned that regulations which do not keep pace with new technologies and innovations impose needless costs and impede economic growth.

In response to the President's memorandum, DOT published a notice requesting public comment on the Department's regulatory programs (57 FR 4745; February 7, 1992). Commenters were asked to identify regulations which substantially impede economic growth, may no longer be necessary, are unnecessarily burdensome, impose needless costs or red tape, or overlap or conflict with other DOT or Federal regulations. The deadline for submitting comments was March 2, 1992.

RSPA received comments from 39 persons and organizations about its pipeline safety regulations. Most of the comments came from regulated pipeline companies, pipeline trade associations and state pipeline safety agencies. In response to these comments, RSPA will publish several Notices of Proposed Rulemakings (NPRMs) concerning changes to miscellaneous gas, liquefied natural gas, hazardous liquid and carbon dioxide pipeline safety standards. RSPA expects these changes to provide clarity, eliminate unnecessary or overly burdensome requirements, and foster economic growth. A NPRM titled "Regulatory Review: Gas Pipeline Safety Standards" (57 FR 39572; August 31, 1992) and a future NPRM titled "Regulatory Review: Hazardous Liquid and Carbon Dioxide Pipeline Safety Standards" reference this "Update of Standards Incorporated by Reference."

Among its comments to the DOT notice, the Interstate Natural Gas Association of America (INGAA) recommended RSPA update references to voluntary standards to reflect the latest published editions of those standards. INGAA stated it was essential the references be kept current in order to allow operators to take advantage of the latest editions of specifications and standards.

Parts 192, 193, and 195 incorporate by reference all or portions of 44 different documents containing practices, codes, standards, and specifications developed and published by technical organizations. Many of the editions currently referenced are now out-of-print or obsolete. Since later published editions utilize or are based on up-to-date technology, some aspects of pipeline design and construction may be unnecessarily burdened by requiring compliance with earlier referenced editions.

To avoid this unnecessary burden and allow operators to take advantage of the technological improvements in methods and materials, this final rule updates references to documents to later published editions of those documents. The later editions referenced are set forth below by name and date in amendments to appendixes A and B of part 192, appendix A of part 193, and § 195.3.

Summary of Editorial Changes

Besides adopting later published editions of documents incorporated by reference, this final rule also makes the following associated editorial changes to parts 192, 193, and 195.

General

In parts 192, 193, and 195, all references to NFPA are amended to read ANSI/NFPA.

In parts 192, 193, and 195, all references to ANSI are amended to read ASME/ANSI.

In parts 192 and 195, all references to ASTM A 333 are amended to read ASTM A 333/A 333M.

The address for the American National Standards Institute (ANSI) has been changed. The correct address is 11 West 42nd Street, New York, NY 10036. Parts 192, 193, and 195 are amended to reflect this change.

The address for the American Petroleum Institute (API) has been changed. The correct address is 1220 L Street, NW., Washington, DC 20005. Parts 192, 193, and 195 are amended to reflect this change.

The address for the Manufacturers Standardization Society of the Valve and Fittings Industry (MSS) has been changed. The correct address is 127 Park Street, NE., Vienna, VA 22180. Parts 192 and 195 are amended to reflect this change.

The address for the National Fire Protection Association (NFPA) has been changed. The correct address is 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101. Parts 192 and 193 are amended to reflect this change.

Part 192

Section 192.7(b) is clarified by adding "400 Seventh Street SW.," after "Administration" and "in accordance with 5 U.S.C. 552(a) and 1 CFR part 51" after the second "Federal Register."

Section 192.11(a) is amended by removing "NFPA Standards" from the term "NFPA Standards No. 58 and No. 59" and adding "ANSI/NFPA" in its place.

Section 192.55(e) is amended by removing the word "Standard" and adding "Specification" in its place.

Section 192.65(a) is amended by removing the 1972 edition date of API Recommended Practice 5L1. This edition has been superseded and the latest edition is referenced in appendix A of part 192. Section 192.65(a) is also amended by deleting "* * *, except that before February 25, 1975, the transportation may be performed in accordance with the 1967 edition of API RP5L1." This wording no longer serves a useful purpose and the deletion will help clarify the current regulation.

Section 192.153(a) is clarified by adding "Division 1" after "section VIII."

Section 192.153(b) is clarified by adding "section VIII, Division 1, or

section VIII, Division 2 of" prior to "the ASME Boiler and Pressure Vessel Code."

Section 192.177(b)(1) and appendix A are amended by removing the term "ASTM A 372" and adding "ASTM A 372/A 372M" in its place.

Section 192.281, paragraphs (b)(2) and (d)(1), are amended by removing the word "Specification" and adding "Designation" in its place.

The American Society for Testing and Materials has amended and redesignated paragraphs 8.6 and 8.7 of ASTM D 2513 to paragraphs 6.6 and 6.7. Section 192.283(a)(1)(i) is amended to reflect this change.

Section 192.283(a)(1)(ii) is amended by removing the title to paragraph 8.5 of ASTM D 2517, "Minimum Hydrostatic Burst Pressure," and adding "Short-Term Rupture Strength (Minimum Hoop Stress)" in its place.

Section 192.283(b)(1) is amended by removing "–77a" from "D638–77a." The 1977a edition of ASTM D 638 has been superseded and the latest edition is referenced in appendix A of part 192.

Part 192, appendix A, is amended to include "ASME Boiler and Pressure Vessel Code, Section VIII, Division 2—Pressure Vessels Alternative Rules." This standard was inadvertently omitted.

Part 192, appendix A, is amended by removing standards NFPA 30, "Flammable and Combustible Liquids Code," and NFPA 59A, "Storage and Handling of Liquefied Petroleum Gases." These standards are no longer referenced in part 192.

Part 193

The American National Standards Institute has discontinued specification ANSI A 58.1, "Building Code Requirements for Minimum Design Loads in Buildings and Other Structures." The American Society of Civil Engineers has replaced ANSI A 58.1 with standard ASCE 7–88, "Minimum Design Loads for Buildings and Other Structures." Sections 193.2067(b)(1), 193.2109(c), and appendix A of part 193 are amended to reflect this change.

Section 193.2013(b) is amended by adding "These materials have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51." after the first sentence.

Section 193.2141(a) is amended by removing "7–62" and adding "7–6.2" in its place.

The American Concrete Institute has discontinued specification ACI–311–75, "Recommended Practice for Concrete Inspection," and in its place has published: (1) ACI–311.4R–88, "Guide for Concrete Inspection," and (2) ACI–311.5R–88, "Batch Plant Inspection and Field Testing of Ready-Mixed Concrete." Section 193.2307(b) and appendix A of part 193 are amended to reflect this change.

The American National Standards Institute has amended and redesignated specification ANSI B31.3, section 337, to section 345. Section 193.2319(b) is amended to reflect this change.

Section 193.2321(d) is amended by removing "0.7.6" and adding "Q.7.6" in its place.

The American Petroleum Institute has amended API Standard 620, sections Q8 and Q9, to sections Q8, Q9, and Q10. Section 193.2327(a) is amended to reflect this change.

The National Fire Protection Association has amended and redesignated specification NFPA 70, section 500–4, to section 500–5. Sections 193.2433(a)(2) and 193.2805(a)(2) are amended to reflect this change.

Section 193.2805(a)(2) is amended by removing "MFPA" and adding "ANSI/NFPA" in its place.

Part 193, appendix A, is amended by removing the address listed for the International Conference of Building Officials and inserting in its place 5360 South Workman Mill Road, Whittier, CA 90601.

Part 193, appendix A, is amended by adding the address for the American Society of Civil Engineers (ASCE). The address is 345 East 47th Street, New York, NY 10017–2398.

Marking of Fittings

Section 192.63(a)(1) requires pipeline fittings to be marked according to the specifications to which the fitting was manufactured. Thermoplastic fittings made according to the 1987 edition of ASTM D 2513 (the edition part 192 currently incorporates by reference) that are intended for use at elevated temperatures (greater than 73 °F (23 °C)) must be marked to identify certain temperature ratings. However, the 1990c edition of ASTM D 2513, which this final rule incorporates by reference as an update of the 1987 edition, does not require this elevated temperature marking. RSPA believes this temperature marking is still essential to ensure that thermoplastic fittings designed for use at lower temperatures are not incorrectly used at elevated temperatures. Therefore, § 192.63(a)(1) has been amended to reference the 1987 edition for the purpose of marking thermoplastic fittings.

Final Rule

Because this final rule merely updates existing references to voluntary standards to later published editions of these standards, it does not significantly affect compliance or enforcement burdens. Therefore, prior notice and opportunity for public comment are unnecessary; and, under 5 U.S.C. 503, the changes to Parts 192, 193, and 195 are final, effective as stated above under "Effective Date."

Impact Assessment

The final rule is not major under Executive Order 12291. That Order defines a major rule as one that has an annual effect on the economy of $100 million, major increase in costs, or a significant adverse effect on the economy. In addition, the final rule is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

RSPA estimates this final rule will result in an estimated annual savings of $3,750,000 for the natural gas pipeline industry, $95,000 for the liquefied natural gas pipeline industry, and $179,000 for the hazardous liquid pipeline industry with no adverse effect on safety. These amounts are based on an estimated annual savings per operator of $50 per updated standard incorporated by reference. These savings would come largely from the use of new and improved technology.

Regulatory Flexibility Act

RSPA certifies under Section 605 of the Regulatory Flexibility Act that this final rule will not have a significant economic impact on a substantial number of small entities.

E.O. 12612

RSPA has analyzed this action in accordance with principles and criteria of Executive Order 12612 (52 FR 41685; October 26, 1987), and has determined that it does not have sufficient Federalism implications to warrant preparing a Federalism Assessment.

List of Subjects

49 CFR Part 192

Incorporation by reference, Natural gas, Pipeline safety.

49 CFR Part 193

Incorporation by reference, Liquefied natural gas (LNG), Pipeline safety.

49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Incorporation by references, Petroleum, Pipeline safety.

In consideration of the foregoing, RSPA amends 49 CFR parts 192, 193, and 195 as follows:

PART 192—[AMENDED]

1. The authority citation for part 192 continues to read as follows:

Authority: 49 App. U.S.C. 1672 and 1804; 49 CFR 1.53.

2. Section 192.7(b) is revised to read as follows:

§ 192.7 Incorporation by reference.

* * * * *

(b) All incorporated materials are available for inspection in the Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC, and at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. These materials have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. In addition, the incorporated materials are available from the respective organizations listed in Appendix A to this part.

* * * * *

§ 192.11 [Amended]

3. Section 192.11(a) is amended by removing the term "NFPA Standards" and adding "ANSI/NFPA" in its place.

§ 192.55 [Amended]

4. Section 192.55(e) is amended by removing the word "Standard" and adding "Specification" in its place.

5. Section 192.63 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 192.63 Marking of materials.

(a) Except as provided in paragraph (d) of this section, each valve, fitting, length of pipe, and other component must be marked—

(1) As prescribed in the specification or standard to which it was manufactured, except that thermoplastic fittings must be marked in accordance with the 1987 edition of ASTM D 2513; or

* * * * *

6. Section 192.65(a) is revised to read as follows:

§ 192.65 Transportation of pipe.

* * * * *

(a) The transportation is performed in accordance with API RP 5L1.

* * * * *

§ 192.113 [Amended]

7. Section 192.113 is amended by removing the term "ASTM A 333" and adding "ASTM A 333/A 333M" in its place.

§ 192.147 [Amended]

8. In § 192.147, paragraphs (a) and (c) are amended by removing the term "ANSI" and adding "ASME/ANSI" in its place.

9. In § 192.153, paragraphs (a) and (b) introductory text are revised to read as follows:

§ 192.153 Components fabricated by welding.

(a) Except for branch connections and assemblies of standard pipe and fittings joined by circumferential welds, the design pressure of each component fabricated by welding, whose strength cannot be determined, must be established in accordance with paragraph UG–101 of section VIII, Division 1, of the ASME Boiler and Pressure Vessel Code.

(b) Each prefabricated unit that uses plate and longitudinal seams must be designed, constructed, and tested in accordance with section VIII, Division 1, or section VIII, Division 2 of the ASME Boiler and Pressure Vessel Code, except for the following:

* * * * *

10. Section 192.163(e) is revised to read as follows:

§ 192.163 Compressor stations: design and construction.

* * * * *

(e) *Electrical facilities.* Electrical equipment and wiring installed in compressor stations must conform to the National Electrical Code, ANSI/NFPA 70, so far as that code is applicable.

§ 192.177 [Amended]

11. Section 192.177(b)(1) is amended by removing the term "A 372" and adding "A 372/A 372M" in its place.

§ 192.279 [Amended]

12. Section 192.279 is amended by removing the word "ANSI" and adding "ASME/ANSI" in its place.

§ 192.281 [Amended]

13. In § 192.281, paragraphs (b)(2) and (d)(1) are amended by removing the word "Specification" and adding "Designation:" in its place.

14. In § 192.283, paragraphs (a)(1)(i), (a)(1)(ii), and (b)(1) are revised to read as follows:

§ 192.283 Plastic Pipe; qualifying joining procedures.

(a) * * *

(1) * * *

(i) In the case of thermoplastic pipe, paragraph 6.6 (Sustained Pressure Test) or paragraph 6.7 (Minimum Hydrostatic Burst Pressure (Quick Burst)) of ASTM D 2513; or

(ii) In the case of thermosetting plastic pipe, paragraph 8.5 (Short-Term Rupture Strength (Minimum Hoop Stress)) or paragraph 8.9 (Sustained Static Pressure Tests) of ASTM D 2517.

* * * * *

(b) * * *

(1) Use an apparatus for the test as specified in ASTM D 638 (except for conditioning).

* * * * *

15. Appendix A to part 192 is revised to read as follows:

Appendix A—Incorporated by Reference

I. List of Organizations and Addresses

A. American National Standards Institute (ANSI), 11 West 42nd Street, New York, NY 10036.

B. American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005.

C. The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, NY 10017.

D. American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103–1187.

E. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NW., Vienna, VA 22180.

F. National Fire Protection Association (NFPA), 1 Batterymarch Park, P.O. 9101, Quincy, MA 02269–9101.

II. Documents Incorporated by Reference (Numbers in Parentheses Indicate Applicable Editions)

A. American Petroleum Institute (API):

1. API Specification 5L "Specification for Line Pipe" (40th edition, 1992).

2. API Recommended Practice 5L1 "Recommended Practice for Railroad Transportation of Line Pipe" (4th edition, 1990).

3. API Specification 6D "Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)" (20th edition, 1991).

4. API Standard 1104 "Welding of Pipelines and Related Facilities" (17th Edition, 1988).

B. The American Society of Testing and Materials (ASTM):

1. ASTM Designation: A 53 "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless" (A 53–90b).

2. ASTM Designation: A 106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (A 106–91).

3. ASTM Designation: A 333/A 333M "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service" (A 333/A 333M–91a).

4. ASTM Designation: A 372/A 372M "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels" (A 372/A 372M–91a).

5. ASTM Designation: A 381 "Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High-Pressure Transmission Systems" (A 381–89).

6. ASTM Designation: A 671 "Standard Specification for Electric-Fusion-Welded

Steel Pipe for Atmospheric and Lower Temperatures" (A 671–89a).

7. ASTM Designation: A 672 "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (A 672–89b).

8. ASTM Designation: A691 "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures" (A 691–89a).

9. ASTM Designation: D 638 "Standard Test Method for Tensile Properties of Plastics" (D 638–91).

10. ASTM Designation: D 2513 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings" (D 2513–87 edition for § 192.63(a)(1), otherwise D 2513–90c edition).

11. ASTM Designation: D 2517 "Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings" (D 2517–81, reapproved 1987).

C. The American Society of Mechanical Engineers (ASME):

1. ASME/ANSI B16.1 "Cast Iron Pipe Flanges and Flanged Fittings" (1989).

2. ASME/ANSI B16.5 "Pipe Flanges and Flanged Fittings" (1988 with October 1988 Errata and ASME/ANSI B16.5a–1992 Addenda).

3. ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 "Pressure Vessels" (1992 with Interpretations, Volume 30, dated July 1992).

4. ASME Boiler and Pressure Vessel Code, Section VIII, Division 2 "Pressure Vessels: Alternative Rules" (1992 with Interpretations, Volume 30, dated July 1992).

5. ASME Boiler and Pressure Vessel Code, Section IX "Welding and Brazing Qualifications" (1992 with Interpretations, Volume 30, dated July 1992).

D. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):

1. MSS SP–44 "Steel Pipe Line Flanges" (1991).

2. [Reserved]

E. National Fire Protection Association (NFPA):

1. ANSI/NFPA 58 "Standard for the Storage and Handling of Liquefied Petroleum Gases" (1992).

2. ANSI/NFPA 59 "Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants" (1992).

3. ANSI/NFPA 70 "National Electrical Code" (1993).

16. Section I of appendix B to part 192 is revised to read as follows:

Appendix B—Qualification of Pipe

I. Listed Pipe Specifications (Numbers in Parentheses Indicate Applicable Editions)

API 5L—Steel pipe (1992).
ASTM A 53—Steel pipe (1990b).
ASTM A 106—Steel pipe (1991).
ASTM A 333/A 333M—Steel pipe (1991a).
ASTM A 381—Steel pipe (1989).
ASTM A 671—Steel pipe (1989a).
ASTM A 672—Steel pipe (1989b).
ASTM A 691—Steel pipe (1989a).
ASTM D 2513—Thermoplastic pipe and tubing (1990c).
ASTM D 2517—Thermosetting plastic pipe and tubing (1981, reapproved 1987).

* * * * *

PART 193—[AMENDED]

17. The authority citation for part 193 continues to read as follows:

Authority: 49 App. U.S.C. 1671 *et seq.*; and 49 CFR 1.53.

§§ 193.2005, 193.2073, 193.2147, 193.2149, 193.2213, 193.2427, 193.2811, 193.2813, 193.2817, 193.2819, 193.2821 [Amended]

18. Part 193 is amended by removing the term "NFPA" wherever it appears in the following sections and adding in its place "ANSI/NFPA":

Sections 193.2005(c), 193.2073(b), 193.2147, 193.2149(c), 193.2213, 193.2427(d), 193.2811, 193.2813, 193.2817(b) introductory text, 193.2819(a), 193.2819(d), 193.2819(f), and 193.2821(b).

§§ 193.2113, 193.2123, 193.2127, 193.2229, 193.2315, 193.2321 [Amended]

19. Part 193 is amended by removing the word "ANSI" wherever it appears in the following sections and inserting in its place "ASME/ANSI":

Sections 193.2113(b); 193.2123(a); 193.2127(a), 193.2127(d), 193.2127(e); 193.2229(b)(3), 193.2315(d), and 193.2321(b).

20. Section 193.2013(b) is revised to read as follows:

§ 193.2113 Incorporation by reference.

* * * * *

(b) All incorporated materials are available for inspection in the Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC, and at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. These materials have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. In addition, the incorporated materials are available from the respective organizations listed in appendix A to this part.

* * * * *

§ 193.2067 [Amended]

21. Section 193.2067(b)(1) is amended by removing the term "ANSI A 58.1, 1972 edition" and adding "ASCE 7–88" in its place.

§ 193.2109 [Amended]

22. Section 193.2109(c) is amended by removing the term "ANSI A 58.1" and adding "ASCE 7–88" in its place.

23. Section 193.2141 is revised to read as follows:

§ 193.2141 Electrical Systems.

(a) Each operator shall select and install electrical equipment and wiring for components in accordance with ANSI/NFPA 70 and, where applicable, section 7–6.2 of ANSI/NFPA 59A.

(b) Electrical grounding and bonding must be in accordance with section 7–7.1.1 of ANSI/NFPA 59A.

(c) Protective measures for stray or impressed currents must be provided in accordance with section 7–7.3 of ANSI/NFPA 59A.

24. Section 193.2307(b) is revised to read as follows:

§ 193.2307 Inspection.

* * * * *

(b) In addition to the requirements of paragraph (a) of this section, the construction of concrete storage tanks must be inspected in accordance with ACI 311.4R–88 or ACI 311.5R–88.

* * * * *

25. Section 193.2319(b) is revised to read as follows:

§ 193.2319 Strength tests.

* * * * *

(b) For piping, the test required by paragraph (a) of this section must include a pressure test conducted in accordance with section 345 of ASME/ANSI B31.3, except that test pressures must be based on the design pressure. Carbon and low alloy steel piping must be pressure tested above their nil ductility transition temperature.

* * * * *

§ 193.2321 [Amended]

26. Section 193.2321(d) is amended by removing "0.7.6" and adding "Q.7.6" in its place.

27. Section 193.2327(a) is revised to read as follows:

§ 193.2327 Storage tank tests.

(a) In addition to other applicable requirements of this subpart, storage tanks for cryogenic fluids with internal design pressures of not more than 15 psig must be tested in accordance with sections Q8, Q9, and Q10 of API 620, appendix Q, as applicable.

* * * * *

28. Section 193.2433(a)(2) is revised to read as follows:

§ 193.2433 Sensing devices.

(a) * * *

(2) Detect the presence of fire or combustible gas in areas determined in accordance with section 500–5 of ANSI/NFPA 70 to have a potential for presence of flammable fluids.

* * * * *

29. Section 193.2805(a)(2) is revised to read as follows:

§ 193.2805 Fire prevention plan.

(a) * * *

(2) Those areas, as described in section 500–5 of ANSI/NFPA 70, where the potential exists for the presence of flammable fluids in an LNG plant. Determinations made under this paragraph must be kept current.

* * * * *

30. Appendix A to part 193 is revised to read as follows:

Appendix A—Incorporated by Reference

I. List of Organizations and Addresses

A. American Concrete Institute (ACI), Box 19150, Redford Station, Detroit, MI 48219–0150.

B. American Gas Association (AGA), 1515 Wilson Boulevard, Arlington, VA 22209.

C. American National Standards Institute (ANSI), 11 West 42nd Street, New York, NY 10036.

D. American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005.

E. American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, NY 10017.

F. National Fire Protection Association (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269–9101.

G. International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, CA 90601.

H. American Society of Civil Engineers (ASCE), 345 East 47th Street, New York, NY 10017–2398.

II. Documents Incorporated by Reference. (Numbers in Parentheses Indicate Applicable Editions)

A. American Concrete Institute (ACI):

1. ACI Standard 311.4R–88 "Guide for Concrete Inspection" (1988).

2. ACI Standard 311.5R–88 "Batch Plant Inspection and Field Testing of Ready-Mixed Concrete" (1988).

B. American Gas Association (AGA):

1. "Evaluation of LNG Vapor Control Methods" (October 1974).

2. "Purging Principles and Practices" (1975).

C. American Society of Civil Engineers (ASCE):

1. ASCE 7–88 "Minimum Design Loads for Buildings and Other Structures" (1990).

D. American Petroleum Institute (API):

1. API Specification 6D "Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)" (20th edition, 1991).

2. API Standard 620 "Design and Construction of Large, Welded, Low-Pressure Storage Tanks" (8th edition, 1990).

3. API Standard 1104 "Welding of Pipelines and Related Facilities" (17th edition, 1988, except the appendix).

E. American Society of Mechanical Engineers (ASME):

1. ASME/ANSI B31.3 "Chemical Plant and Petroleum Refinery Piping" (1990 with ASME/ANSI B31.3a–1990, B31.3b–1991, and B31.3c–1992 Addenda and Special Errata issued December 31, 1990).

2. ASME/ANSI B31.5 "Refrigeration Piping" (1987 with ASME/ANSI B31.5b–1991 and B31.5c–1992 Addenda).

3. ASME/ANSI B31.8 "Gas Transmission and Distribution Piping Systems" (1989 with ASME/ANSI B31.8a–1990, B31.8b–1990, B31.8c–1992 Addenda and Special Errata issued July 6, 1990 and Special Errata (Second) issued February 28, 1991).

4. ASME Boiler and Pressure Vessel Code, Section I "Power Boilers" (1992 with Interpretations, Volume 30, dated July 1992).

5. ASME Boiler and Pressure Vessel Code, Section IV "Heating Boilers" (1992 with Interpretations, Volume 30, dated July 1992).

6. ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 "Pressure Vessels" (1992 with Interpretations, Volume 30, dated July 1992).

7. ASME Boiler and Pressure Vessel Code, Section VIII, Division 2 "Pressure Vessels: Alternative Rules" (1992 with Interpretations, Volume 30, dated July 1992).

8. ASME Boiler and Pressure Vessel Code, Section IX "Welding and Brazing Qualifications" (1992 with Interpretations, Volume 30, dated July 1992).

F. International Conference of Building Officials:

1. "Uniform Building Code" (UBC) (1991).

G. National Fire Protection Association (NFPA):

1. ANSI/NFPA 30 "Flammable and Combustible Liquids Code" (1990).

2. ANSI/NFPA 37 "Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines" (1990).

3. ANSI/NFPA 51B "Standard for Fire Prevention in Use of Cutting and Welding Processes" (1989).

4. ANSI/NFPA 59A "Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)" (1972 edition for § 193.2005(c), otherwise 1990 edition).

5. ANSI/NFPA 70 "National Electrical Code" (1993).

PART 195—[AMENDED]

31. The authority citation for part 195 continues to read as follows:

Authority: 49 App. U.S.C. 2002; and 49 CFR 1.53.

32. In § 195.3, paragraphs (b) and (c) are revised to read as follows:

§ 195.3 Matter incorporated by reference.

* * * * *

(b) All incorporated materials are available for inspection in the Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC, and at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. These materials have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. In addition, materials incorporated by reference are available as follows:

(1) American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005.

(2) The American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, NY 10017.

(3) Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street, NE., Vienna, VA 22180.

(4) American National Standards Institute (ANSI), 11 West 42nd Street, New York, NY 10036.

(5) American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103–1187.

(c) The full title for the publications incorporated by reference in this part are as follows. Numbers in parenthesis indicate applicable editions:

(1) American Petroleum Institute (API):

(i) API Specification 5L "Specification for Line Pipe" (40th edition, 1992).

(ii) API Specification 6D "Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)" (20th edition, 1991).

(iii) API Standard 1104 "Welding of Pipelines and Related Facilities" (17th edition, 1988).

(2) American Society of Mechanical Engineers (ASME):

(i) ASME/ANSI B16.9 "Factory-Made Wrought Steel Buttwelding Fittings" (1986).

(ii) ASME/ANSI B31.4 "Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols" (1989 with ASME B31.4a–1991 Addenda).

(iii) ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 "Pressure Vessels" (1992 with Interpretations, Volume 30, dated July 1992).

(iv) ASME Boiler and Pressure Vessel Code, Section IX "Welding and Brazing Qualifications" (1992 with Interpretations, Volume 30, dated July 1992).

(3) Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):

(i) MSS SP–75 "Specification for High Test Wrought Butt Welding Fittings" (1988).

(4) American Society for Testing and Materials (ASTM):

(i) ASTM Designation: A 53 "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless"; (A 53–90b).

(ii) ASTM Designation: A 106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (A 106–91).

(iii) ASTM Designation: A 333/A 333M "Standard Specification for

Seamless and Welded Steel Pipe for Low-Temperature Service" (A 333/A 333M–91a).

(iv) ASTM Designation: A 381 "Standard Specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems" (A 381–89).

(v) ASTM Designation: A 671 "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures" (A 671–89a).

(vi) ASTM Designation: A 672 "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (A 672–89b).

(vii) ASTM Designation: A 691 "Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures" (A 691–89a).

§ 195.106 [Amended]

33. Section 195.106(e) is amended by removing the term "ASTM A 333" and adding "ASTM A 333/A 333M" in its place.

§§ 195.110 and 195.118 [Amended]

34. Sections 195.110(a) and 195.118(a) are amended by removing the word "ANSI" and adding "ASME/ANSI" in its place.

Issued in Washington, DC on February 23, 1993.

Rose A. McMurray,

Acting Administrator for the Research and Special Programs Administration.

[FR Doc. 93–6257 Filed 3–17–93; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 921220–3040]

RIN 0648–AD18

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Approval of a fishery management plan amendment; final rule; final 1993 specifications of Pacific halibut bycatch mortality allowances; closures.

SUMMARY: NMFS announces the approval of Amendment 21 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). NMFS is also implementing a regulatory amendment that establishes Pacific halibut bycatch mortality limits for trawl and non-trawl gear fisheries in the Bering Sea and Aleutian Islands Area (BSAI). This action is taken under authority of Amendment 21. Apportionments of the halibut bycatch mortality limits as bycatch allowances among fisheries and seasons for 1993 also are specified. NMFS is announcing closures of specified fisheries for vessels using trawl gear. These actions are intended to promote management and conservation of groundfish and other fish resources and to further the goals and objectives contained in the FMP.

EFFECTIVE DATE: March 17, 1993.

ADDRESSES: The final rule was analyzed as part of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) prepared for Amendment 21 to the FMP. Individual copies of Amendment 21 and the EA/RIR/FRFA may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510 (telephone 907–271–2809).

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fisheries Management Division, Alaska Region, NMFS, at 907–586–7228.

SUPPLEMENTARY INFORMATION: Domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) of the BSAI are managed by the Secretary of Commerce in accordance with the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations appearing at 50 CFR 611.93 for the foreign fishery and 50 CFR part 675 for the U.S. fishery. General regulations that also pertain to U.S. fisheries appear at 50 CFR part 620.

Amendment 21 was approved by the Secretary on February 9, 1993, under section 304(b) of the Magnuson Act. This amendment establishes FMP authority to (1) establish Pacific halibut bycatch mortality limits for trawl and non-trawl gear fisheries in regulations rather than in the FMP and change bycatch mortality limits through a regulatory amendment process; and (2) apportion annually the non-trawl halibut bycatch mortality limit among fisheries and seasons as bycatch allowances. A notice of availability of Amendment 21 was published in the **Federal Register** on November 16, 1992 (57 FR 54045), and invited comments on the amendment through January 11, 1993. No written comments were received.

A proposed rule was published in the **Federal Register** on December 22, 1992 (57 FR 60788), that would establish halibut bycatch mortality limits for trawl and non-trawl gear in 1993 and beyond under authority provided by Amendment 21 to the FMP. Public comment on the proposed rule was invited through January 19, 1993. No written comments were received during the comment period.

The final rule establishes Pacific halibut mortality limits for trawl and non-trawl gear at 3,775 metric tons (mt) and 900 mt, respectively. These limits are set forth in regulations at § 675.21(a) and will remain effective until revised under a future regulatory amendment. A full description of Amendment 21 to the FMP and the justification for the halibut mortality limits implemented under this action are presented in the December 22, 1992, **Federal Register** publication of the proposed rule (57 FR 60788).

The halibut bycatch mortality allowances implemented for the 1993 BSAI trawl and non-trawl fisheries, and seasonal allowances thereof, are listed in Table 1. Regulations under § 675.21(b)(1) authorize the apportionment of the trawl halibut mortality bycatch limit to seven trawl fishery categories (midwater pollock, Greenland turbot/arrowtooth flounder/sablefish, rock sole/other flatfish, yellowfin sole, rockfish, Pacific cod, and pollock/Atka mackerel/"other species"). The final rule (§ 675.21(b)(2)) also authorizes the apportionment of the non-trawl halibut mortality limit among three non-trawl fishery categories (Pacific cod hook-and-line, groundfish pot gear fisheries, and other non-trawl). For purposes of this rule, non-trawl gear means hook-and-line, jig, longline, and pot-and-line gear.

TABLE 1.—FINAL SEASONAL APPORTIONMENTS OF THE 1993 PACIFIC HALIBUT BYCATCH MORTALITY ALLOWANCES FOR THE BERING SEA AND ALEUTIAN ISLANDS AREA (BSAI) TRAWL AND NON-TRAWL FISHERIES.

Fishery	Seasonal bycatch mortality allowances (mt halibut)
BSAI Trawl	
Yellowfin sole	
May 01–Jul. 31	230
Aug. 01–Dec. 31	362
Total	592
Rock sole/"other flatfish"	
Jan. 01–Apr. 03	428
Apr. 04–Jul. 03	80
Jul. 04–Dec. 31	80

TABLE 1.—FINAL SEASONAL APPORTIONMENTS OF THE 1993 PACIFIC HALIBUT BYCATCH MORTALITY ALLOWANCES FOR THE BERING SEA AND ALEUTIAN ISLANDS AREA (BSAI) TRAWL AND NON-TRAWL FISHERIES.—Continued

Fishery	Seasonal bycatch mortality allowances (mt halibut)
Total	588
Turbot/arrowtooth flounder/sablefish	
Jan. 01–Jul. 03	0
Jul. 04–Dec. 31	137
Total	137
Rockfish	
Jan. 01–Apr 03	0
Apr. 04–Jul. 03	81
Jul. 04–Dec 31	120
Total	201
Pacific cod	
Jan. 01–Dec. 31	1,000
Pollock/Atka mackerel/ "other species"	
Jan. 01–Apr. 15	314
Apr. 16–May 31	0
Jun. 01–Dec. 31	943
Total	1,257
Total BSAI Trawl	3.775
BSAI Non-trawl (Jan. 01–Dec. 31)[1]	
Pacific cod hook & line	825
Other non-trawl	75
Total BSAI Non-Trawl	900

[1] Groundfish pot gear fisheries are exempted from halibut bycatch restrictions during the 1993 fishing year.

Assumed Mortality Rates

For purposes of monitoring the fishery halibut bycatch mortality allowances specified in Table 1, the Director, Alaska Region, NMFS (Regional Director), will use observed halibut bycatch rates and reported and observed groundfish catch to project when a fishery's halibut bycatch mortality allowance is reached. The Regional Director will monitor the fishery bycatch mortality allowances using assumed mortality rates that are based on the best information available, including that contained in the final annual Stock Assessment and Fishery Evaluation (SAFE) reports.

The best information available on assumed halibut mortality rates is based on 1990 and 1991 observer data. A summary of the analysis of 1991 data is contained in the final 1993 SAFE report dated November 1992. Copies of the final SAFE report are available from the Council (see **ADDRESSES**). At its December 1992 meeting, the Council reviewed available information on observed mortality rates, including the recommendations of its Scientific and Statistical Committee (SSC). In general, the BSAI trawl and pot gear fisheries experienced a decline in observed mortality rates from 1990 through 1991 However, this trend could not be determined for the Pacific cod hook-and-line or other non-trawl gear fisheries. Assuming the declining trend of observed mortality rates in the BSAI trawl and pot gear fisheries will continue, the Council recommended that the assumed mortality rates for trawl and pot gear fisheries be based on observed mortality rates from the most recent year from which data are available (i.e., 1991). The Council concurred with the SSC's recommendation that an average of 1990 and 1991 data be used to determine assumed mortality rates for the Pacific cod hook-and-line gear and other non-trawl gear fisheries because a trend in mortality rates could not be identified. The Council's specific recommendations for assumed mortality rates are listed in Table 2.

The Regional Director has determined that the Council's recommendations for assumed mortality rates for the 1993 fisheries are based on the best information available. NMFS will use the mortality assumptions listed in Table 2 to monitor fishery bycatch mortality allowances until such time that new information becomes available that warrants a change in these assumptions.

TABLE 2.—ASSUMED MORTALITY RATES FOR THE BERING SEA AND ALEUTIAN ISLANDS GROUNDFISH FISHERIES BASED ON 1990 AND 1991 OBSERVER DATA[1].

Fishery	Assumed mortality rate
BSAI trawl fisheries:	
Midwater pollock	0.80
Atka mackerel, rock sole, yellowfin sole, other flatfish	0.70
Pacific cod, bottom pollock, rockfish	0.60
Arrowtooth flounder, Greenland turbot, sablefish, and "other species"	0.40
BSAI Non-trawl fisheries:	
Pot gear fisheries	0.05
Pacific cod Hook-and-line	0.18
Other non-trawl	0.18

[1] Mortality rate assumptions are subject to change pending new information that warrant a change in these assumptions.

Apportionments of Pacific Halibut Mortality Limits Among Fisheries and Seasons

At its December 1992 meeting, the Council recommended apportionments of the halibut bycatch mortality limits to specified fisheries based on the anticipated bycatch mortality of halibut during the 1993 fishing year and the assumption that halibut bycatch mortality limits established in this final rule would be approved and implemented. The Council's recommended apportionments are listed in Table 1. In general, the fishery bycatch mortality allowances listed in Table 1 reflect the recommendations made to the Council by its Advisory Panel (AP). These recommendations were based on 1992 bycatch amounts, anticipated 1993 harvest of groundfish by trawl and non-trawl gear, best available information on assumed mortality rates, and anticipated changes in fishery bycatch needs pending approval of the halibut bycatch mortality limits implemented under this final rule. The Council recommended that groundfish pot gear fisheries be exempt from halibut bycatch restrictions for the 1993 fishing year. Groundfish catches by pot gear in the BSAI have been small to date, and totaled only 13,800 mt during 1992. The halibut bycatch mortality associated with this groundfish catch was only 5 mt, based an assumed halibut mortality rate of 5 percent.

NMFS concurs with the Council's recommendations. With respect to the trawl fishery bycatch allowances and seasonal apportionments thereof, NMFS' concurrence is consistent with its approval of the trawl fishery bycatch allowances and seasonal apportionments thereof implemented under the final 1993 initial specifications of groundfish and prohibited species catch allowances (58 FR 8703, February 17, 1993). The halibut bycatch allowances specified for trawl gear fisheries in the final 1993 specifications notice were based on the halibut bycatch mortality allowances listed in Table 1. The justification and determinations by the Council and NMFS supporting the 1993 trawl fishery bycatch mortality allowances and seasonal apportionments are the same as those discussed in the preamble for the final 1993 initial specifications (58 FR 8703).

The proposed rule (57 FR 60788, December 22, 1992), specified a seasonal apportionment of the bycatch mortality allowance for the Pacific cod hook-and-line fishery of 825 mt. At its December 1992 meeting, the Council reconsidered the proposed seasonal apportionment of the halibut bycatch mortality allowance specified for the Pacific cod hook-and-line gear fishery and recommended that the full amount of the 825 mt halibut bycatch mortality allowance specified for this fishery in 1993 be made available at the beginning of the fishing year. The Council's recommendation was based on a recommendation by its AP and public

input during the December 1992 Council meeting. The Council anticipates that the current harvest capacity of the trawl and non-trawl gear fisheries will allow for the full harvest of the 1993 Pacific cod directed fishing allowance during the first part of the year, when catch per unit of effort is high and historical halibut bycatch rates are low. The Council determined that the Pacific cod hook-and-line gear fishery would produce the largest economic return by having the opportunity to fish the resource early in the year. Consequently, the Council recommended that all the halibut bycatch mortality allowance apportioned to the Pacific cod hook-and-line gear fishery be made available at the beginning of the 1993 fishing year.

NMFS concurs with the Council's recommendations for the seasonal apportionment of the halibut bycatch mortality allowances specified for the non-trawl gear fisheries. In taking this action, NMFS also concurs with the Council's belief that directed fishing for Pacific cod likely will be closed to all gear prior to June 1993 because the directed fishing allowance will have been reached. To support the seasonal apportionments of halibut bycatch mortality limits listed in Table 1, the Regional Director is authorized to close specified fisheries for periods of time when no halibut bycatch mortality allowances are apportioned to support directed fishing.

Specific Changes From the Proposed Rule in the Final Rule

Paragraphs 675.21(c)(1) (i), (ii), (iii), (iv), and (c)(2) and 675.21(d) are revised to clarify that when the halibut or crab bycatch allowance for a species category has been, or so is about to be, reached, directed fishing is prohibited with a specific gear type for the entire set of species within a fishery category. If there is more than one species or species group within the affected fishery category, the species/species groups are treated as a single, unified "species group" for purposes of applying the directed fishing standards. Therefore, a "species group" for purposes of the directed fishing standards may be different than "species group" for purposes of specifying TAC. The retained amounts of all fish covered by the fishery category are not counted separately by species, but are aggregated to determine whether the vessel is being used to "directed fish" for fish within the fishery category.

Closures

Under authority provided at § 675.21(c), NMFS is prohibiting vessels using trawl gear from engaging in directed fishing for (1) Greenland turbot in the BSAI from May 1, 1993, through July 3, 1993; (2) sablefish in the Bering Sea and Aleutian Islands management area through July 3, 1993; and (3) rockfish in the BSAI through April 3, 1993. These closures are effective March 17, 1993 and supersede similar closures that were implemented under the halibut bycatch allowances specified in the notice of final 1993 groundfish specifications and bycatch allowances (58 FR 8703, February 17, 1993).

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that the final rule is necessary for the conservation and management of the groundfish fishery off Alaska and is consistent with the Magnuson Act and other applicable laws.

The Council prepared an environmental assessment (EA) for Amendment 21 and this final rule that discusses the impacts on the environment as a result of implementation of this rule. The Assistant Administrator concluded that no significant impact on the human environment will result from its implementation. A copy of the EA is available from the Council (see **ADDRESSES**).

The Assistant Administrator determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the RIR prepared by the Council. A copy of the EA/RIR/FRFA may be obtained from the Council (see **ADDRESSES**).

The Council prepared a final regulatory flexibility analysis (FRFA), which concludes that this rule will have a significant economic impact on a substantial number of small entities. A copy of this analysis is available from the Council (see **ADDRESSES**).

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

NMFS determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination was submitted for review by the responsible State agency under section 307 of the Coastal Zone Management Act. Consistency is inferred because the appropriate State agency did not reply within the statutory time period.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

The Regional Director determined that fishing activities conducted under this rule will not affect endangered or threatened species in a way that was not already considered in previous section 7 consultations and biological opinions. Therefore, no further section 7 consultation is required for the implementation of these measures.

The Regional Director also determined that fishing activities conducted under this rule will have no adverse impact on marine mammals.

This rule implements halibut mortality limits and associated fishery bycatch mortality allowances that will allow greater amounts of groundfish to be harvested in the BSAI trawl fisheries relative to the amounts that may be harvested under the bycatch allowances specified in the notice of final 1993 groundfish specifications and bycatch allowances (58 FR 8703, February 17, 1993). Since these provisions relieve restrictions, under Section 553(d)(1) of the Administrative Procedure Act (APA), they are being made effective upon the date of filing for public inspection with the Office of the Federal Register. This rule also imposes a new restriction—a halibut bycatch mortality limit for non-trawl gear. The Assistant Administrator pursuant to section 553(d)(3) of the APA, finds good cause for making this provision effective upon the date of filing for pubic inspection with the Office of the Federal Register also. To delay the effective date of this provision until 30 days after publication could prevent NMFS from closing fisheries that have attained their specified bycatch mortality allowance. As a result, the same fishery conservation and management problem that the halibut bycatch mortality limits were intended to resolve, would occur. Therefore, delaying the effectiveness of this provision for 30 days would be contrary to the public interest.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

William W. Fox, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 675 is amended as follows:

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

1. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 675.2, a new definition of "non-trawl gear" is added in alphabetical order to read as follows:

§ 675.2 Definitions.

* * * * *

Non-trawl gear means hook-and-line, jig, longline, and pot-and-line gear.

* * * * *

3. In § 675.21, paragraph (b)(4) is removed, existing paragraphs (b)(2) and (b)(3) are redesignated as paragraphs (b)(3) and (b)(4), respectively, new paragraph (b)(2) is added, and paragraph (b) heading, redesignated paragraphs (b)(3) (ii) and (iii), and existing paragraphs (a), (b)(1), (c)(1) and (2), and (d) are revised to read as follows:

§ 675.21 Prohibited species catch (PSC) limitations.

(a) *PSC limits.* (1) The PSC limit of red king crab caught while conducting any trawl fishery for groundfish in Zone 1 during any fishing year is 200,000 red king crabs.

(2) The PSC limit of Tanner crabs (*C. bairdi*) caught while conducting any trawl fishery for groundfish in Zone 1 during any fishing year is one million animals.

(3) The PSC limit of Tanner crabs (*C. bairdi*) caught while conducting any trawl fishery for groundfish in Zone 2 during any fishing year is three million animals.

(4) The primary PSC limit of Pacific halibut caught while conducting any trawl fishery for groundfish in the Bering Sea and Aleutian Islands Management Area during any fishing year is an amount of Pacific halibut equivalent to 3,300 mt of halibut mortality.

(5) The secondary PSC limit of Pacific halibut caught while conducting any trawl fishery for groundfish in the Bering Sea and Aleutian Islands Management Area during any fishing year is an amount of Pacific halibut equivalent to 3,775 mt of halibut mortality.

(6) The PSC limit of Pacific herring caught while conducting any domestic trawl fishery for groundfish in the Bering Sea and Aleutian Islands Management Area is 1 percent of the annual eastern Bering Sea herring biomass. The PSC limit will be apportioned into annual herring PSC allowances, by target fishery, and will be published along with the annual herring PSC limit in the **Federal Register** with the proposed and final specifications defined in § 675.20(a)(7) of this part.

(7) The PSC limit of Pacific halibut caught while conducting any non-trawl fishery for groundfish in the Bering Sea and Aleutian Islands Management Area during any fishing year is an amount of Pacific halibut equivalent to 900 mt of halibut mortality.

(b) *Apportionment of PSC limits to fisheries*—(1) *Apportionment to trawl fishery categories.* NMFS, after consultation with the Council, will apportion each PSC limit set forth in paragraphs (a)(1) through (a)(6) of this section into bycatch allowances for fishery categories specified in paragraph (b)(1)(iii) of this section, based on each category's proportional share of the anticipated incidental catch during a fishing year of prohibited species for which a PSC limit is specified and the need to optimize the amount of total groundfish harvested under established PSC limits. The sum of all bycatch allowances of any prohibited species will equal its PSC limit.

(i) For purposes of this section, the trawl PSC limits for red king crab, *C. bairdi* Tanner crab, and Pacific halibut will be apportioned to the fishery categories listed at paragraphs (b)(1)(iii) (B) through (F) of this section. Any amount of red king crab, *C. bairdi* Tanner crab, or Pacific halibut that is incidentally taken in the midwater pollock fishery, as defined at paragraph (b)(1)(iii) (A) of this section, will be counted against the bycatch allowances specified for the pollock/Atka mackerel/"other species" category defined at paragraph (b)(1)(iii)(F) of this section.

(ii) For purposes of this section, the PSC limit for Pacific herring will be apportioned to the fishery categories listed at paragraphs (b)(1)(iii) (A) through (F) of this section.

(iii) For purposes of apportioning trawl PSC limits among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those groundfish species or species groups for which a TAC has been specified under § 675.20.

(A) *Midwater pollock fishery.* Fishing with trawl gear during any weekly reporting period that results in a catch of pollock that is 95 percent or more of the total amount of groundfish caught during the week.

(B) *Flatfish fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rock sole, "other flatfish," and yellowfin sole that is greater than the retained amount of any other fishery category defined under paragraph (b)(1)(iii) of this section.

(*1*) *Yellowfin sole fishery.* Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under paragraph (b)(1)(iii)(B) of this section and results in a retained amount of yellowfin sole that is 70 percent or more of the retained aggregate amount of rock sole, "other flatfish," and yellowfin sole.

(*2*) *Rock sole/"other flatfish" fishery.* Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under paragraph (b)(1)(iii)(B) of this section and is not a yellowfin sole fishery as defined under paragraph (b)(1)((iii)(B)(*1*) of this section.

(C) *Greenland turbot/arrowtooth flounder/sablefish fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Greenland turbot, arrowtooth flounder, and sablefish that is greater than the retained amount of any other fishery category defined under paragraph (b)(1)(iii) of this section.

(D) *Rockfish fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rockfish species of the genera *Sebastes* and *Sebastolobus* that is greater than the retained amount of any other fishery category defined under paragraph (b)(1)(iii) of this section.

(E) *Pacific cod fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Pacific cod that is greater than the retained amount of any other groundfish fishery category defined under paragraph (b)(1)(iii) of this section.

(F) *Pollock/Atka mackerel/"other species."* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of pollock other than pollock harvested in the midwater pollock fishery defined at paragraph (b)(1)(iii)(A) of this section, Atka mackerel, and "other species" that is greater than the retained amount of any other fishery category defined under paragraph (b)(1)(iii) of this section.

(*2*) *Apportionment to non-trawl fishery categories.* (i) The Secretary, after consultation with the Council, may apportion the halibut PSC limit for non-trawl gear set forth in paragraph (a)(7) of this section into bycatch allowances for fishery categories specified in paragraph (b)(2)(ii) of this section, based on each category's proportional share of the anticipated bycatch mortality of halibut during a fishing year and the need to optimize the amount of total groundfish harvested under the non-

trawl halibut PSC limit. The sum of all halibut bycatch allowances will equal the halibut PSC limit specified at paragraph (a)(7) of this section.

(ii) For purposes of apportioning the non-trawl halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those groundfish species for which a TAC has been specified under § 675.20.

(A) *Pacific cod hook-and-line fishery.* Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of Pacific cod that is greater than the retained amount of any other groundfish species.

(B) *Groundfish pot gear fishery.* Fishing with pot gear under restrictions set forth in § 675.24(b) during any weekly reporting period that results in a retained catch of groundfish.

(C) *Other non-trawl fisheries.* Fishing for groundfish with non-trawl gear during any weekly reporting period that results in a retained catch of groundfish and does not qualify as a Pacific cod hook-and-line fishery or a groundfish pot gear fishery.

(3) * * *

(ii) Unused seasonal apportionments of fishery bycatch allowances made under paragraph (b)(3)(i) of this section will be added to its respective fishery bycatch allowance for the next season during a current fishing year.

(iii) If a seasonal apportionments of a fishery bycatch allowances made under paragraph (b)(3)(i) of this section is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from its respective apportionment for the next season during a current fishing year.

* * * * *

(c) * * *

(1) *Attainment of a trawl bycatch allowance for red king crab, C. bairdi Tanner crab, or Pacific halibut.* (i) *Zone 1 red king crab or C. bairdi Tanner crab bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(1)(iii)(B) through (F) of this section will catch the Zone 1 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* Tanner crab specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of Zone 1 to directed fishing for the species and/or species group that comprises that fishery category (which together constitute a species or species group for purposes of the directed fishing standards) for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using non-pelagic trawl gear.

(ii) *Zone 2 red king crab or C. bairdi Tanner crab bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs(b)(1)(iii)(B) through (F) of this section will catch the Zone 2 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* Tanner crab specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of Zone 2 to directed fishing for the species and/or species group that comprises that fishery category (which together constitute a species or species group for purposes of the directed fishing standards) for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using non-pelagic trawl gear.

(iii) *Primary halibut bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(1)(iii)(B) through (F) of this section in the Bering Sea and Aleutian Islands Management Area will catch the primary halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of Zones 1 and 2H to directed fishing for the species and/or species group that comprises that fishery category (which together constitute a species or species group for purposes of the directed fishing standards) for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using non-pelagic trawl gear.

(iv) *Secondary halibut bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the trawl fishery categories listed in paragraphs (b)(1)(iii) (B) through (F) of this section in the Bering Sea and Aleutian Islands Management Area will catch the secondary halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of the entire Bering Sea and Aleutian Islands Management Area to directed fishing for the species and/or species group that comprises that fishery category (which together constitute a species or species group for purposes of the directed fishing standards) for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using non-pelagic trawl gear.

(2) *Attainment of a trawl bycatch allowance for Pacific herring.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(1)(iii) (A) through (F) of this section in the Bering Sea and Aleutian Islands Management Area will catch the herring bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of the Herring Savings Areas to directed fishing for the species and/or species group that comprises that fishery category (which together constitute a species or species group for purposes of the directed fishing standards) except that:

(i) When the midwater pollock fishery category reaches its specified bycatch allowance, or seasonal apportionment thereof, the Herring Savings Areas are closed to directed fishing for pollock with trawl gear; and

(ii) When the pollock/Atka mackerel/"other species" fishery category reaches its specified bycatch allowance, or seasonal apportionment thereof, only the Herring Savings Areas are closed to directed fishing for pollock by trawl vessels using non-pelagic trawl gear.

(d) *Attainment of a Pacific halibut non-trawl fishery bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the non-trawl fishery categories listed in paragraphs (b)(2)(ii) (A) through (C) of this section will catch the Pacific halibut bycatch allowance, or season apportionment thereof, specified for that fishery category under paragraph (b) of

this section, NMFS will publish in the **Federal Register** the closure of the entire Bering Sea and Aleutian Islands Management Area to directed fishing with the relevant gear type for the species and/or species group that comprises that fishery category (which together constitute a species or species group for purposes of the directed fishing standards).

[FR Doc. 93–6166 Filed 3–17–93; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 58, No. 51
Thursday, March 18, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Part 104

[Notice 1993–13]

Recordkeeping and Reporting Requirements—Best Efforts

AGENCY: Federal Election Commission.

ACTION: Change in date of public hearing.

SUMMARY: The Commission previously announced that it would hold a public hearing on its proposed rules governing treasurers' best efforts to obtain and report certain contributor information, if there were a sufficient number of persons interested in testifying on these regulations. The Commission has now decided to hold the hearing, but to change the date previously suggested. The hearing has been rescheduled for March 31, 1993.

DATES: The Commission will hold the best efforts hearing on March 31, 1993 at 10 a.m.

ADDRESSES: The hearing will be held at the Federal Election Commission, Ninth Floor Hearing Room, 999 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219–3690 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: On September 24, 1992, the Commission published proposed regulations at 11 CFR 104.7(b) regarding several possible changes to the regulations requiring treasurers of political committees to exercise best efforts to obtain, maintain and report the complete identification of contributors donating over $200 per calendar year. See 57 FR 44137. In response to the comments received, the Commission published a subsequent announcement that a public hearing would be held on March 24, 1993 if there were a sufficient number of persons interested in testifying. 58 FR 4110 (Jan. 13, 1993)

Based on the responses received to date, the Commission has decided to hold the hearing, but to change the date tentatively announced. The hearing on the best efforts provisions will be held on March 31, 1993, at 10 a.m.

Dated: March 15, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93–6318 Filed 3–17–93; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM93–4–000]

Standards for Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations

Issued March 10, 1993.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of informal conferences.

SUMMARY: The Federal Energy Regulatory Commission (Commission) will be holding informal conferences to assess the progress of the industry in developing uniform standards (relating to the release of pipeline capacity) for Electronic Bulletin Boards that interstate natural gas pipelines are required to maintain under the Commission's regulations.

DATES: The dates of the conferences will be announced by future notices.

ADDRESSES: Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (202) 208–1283

Brooks Carter, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. (202) 208–0666

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200 or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

Notice of Informal Conferences

March 10, 1993.

On February 26, 1993, the Commission held a technical conference to determine the progress made by the industry in developing uniform electronic bulletin board (EBB) standards. As a result of that conference, the Commission believes that while the industry has made progress in resolving disagreements concerning standardization, more progress is needed.

The Commission believes that, as a first step toward using EBBs as part of a competitive natural gas market, the following must be resolved to ensure efficiently operating capacity release markets:

(1) Standards for information and common terminology in order to ensure a viable capacity release market.[1]

(2) Standards for files with common data formats, which can be "downloaded" by customers.[2]

[1] See, e.g., the type of information the Interstate Natural Gas Association of America (INGAA) proposed in its written comments for the February 26, 1993 technical conference. Initial Comments filed January 11, 1993; Reply Comments filed January 29, 1993, in Docket No. RM93–4–000.

[2] The issues here include standardized identifiers to facilitate the comparison of capacity releases among pipelines, such as standard codes to identify pipeline receipt and delivery points; standard methods to access these files independent of the

(3) Communication protocols that will enable users to transfer information using readily available, off-the-shelf communication programs.

At the February 26, 1993 technical conference, the participants expressed a willingness to establish a broad industry-wide working group to reach consensus on standards which pipelines will implement. The Commission believes such an effort encompassing all segments of the industry would be beneficial. The Commission intends to adopt standards in these areas and prefers that the industry reach consensus on the standards to be adopted. To facilitate the development of consensus standards, the Commission is directing its staff to convene informal conferences involving all segments of the industry to discuss standards development in the three areas listed above. The Commission emphasizes the purpose of these conferences is not to consider issues such as the manner in which information is displayed on EBB menus or the type of hardware and software utilized by the pipelines.

The Commission expects the development of standards in these areas to be an iterative process and staff may need to convene multiple conferences. Staff will establish the dates, procedures, and format for the conferences by separate notice.

Based on the comments at the February 26, 1993 conference, the Commission believes that a consensus on the three areas discussed above can be reached by July 1, 1993. Staff is directed to ensure that a report on the results of the conferences is made by that date.

By direction of the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93-6083 Filed 3-17-93; 8:45 am]

BILLING CODE 6717-01-M

display format of the EBB; standard procedures for notifying EBB users of files and bulletins added to the EBB since the user was last "logged" onto the EBB.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[INTL-941-86; INTL-656-87; INTL-704-87]

RIN 1545-AI33; RIN 1545-AC06; RIN 1545-AL35

Treatment of Shareholders of Certain Passive Foreign Investment Companies; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to the notice of proposed rulemaking (INTL-941-86; INTL-656-87; INTL-704-87), which was published in the **Federal Register** for Wednesday, April 1, 1992 (57 FR 11024). The proposed rules relate to the taxation of shareholders of certain passive foreign investment companies (PFICs) upon payment of distributions by such companies or upon disposition of the stock of such companies.

FOR FURTHER INFORMATION CONTACT: Gayle E. Novig, (202-622-3880, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of these corrections contains proposed Income Tax Regulations (26 CFR part 1) under sections 1291, 1293, 1295, and 1297 of the Internal Revenue Code of 1986. These provisions were added to the Internal Revenue Code of 1986 by section 1235 of the Tax Reform Act of 1986 (Pub. L. 99-514, 100 Stat. 2320), and amended by section 1012(p) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100-647, 102 Stat. 3342).

Need for Correction

As published, the proposed regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed regulations (INTL-941-86; INTL-656-87; INTL-704-87), which was the subject of FR Doc. 92-6705, is corrected as follows:

1. On page 11025, column 1, in the preamble under the heading **SUMMARY**, third line from the top of the column, the language "Miscellaneous Act of 1988." is corrected to read "Miscellaneous Revenue Act of 1988.".

2. On page 11025, column 2, in the preamble under "Overview of Statute", third line from the bottom of the first paragraph, the language "generally is foreign personal holding" is corrected to read "generally is foreign personal holding company".

3. On page 11026, column 1, in the preamble under "Overview of Statute", second full paragraph, line 10, the language "distributions), and on any disposition by" is corrected to read "distribution), and on any disposition by".

4. On page 11028, column 1, in the preamble under the heading "Indirect Distributions", last paragraph in the column, line 4, the language "deduction) § 1.1291-6(d)(3) (section" is corrected to read "deduction) and § 1.1291-6(d)(3) (section".

5. On page 11030, column 2, in the preamble under the heading "Effect of the Election", first paragraph, line 9, the language "stock as of the beginning of that year" is corrected to read "fund stock as of the beginning of that year".

6. On page 11031, column 2, in the preamble under the heading "List of Subjects", the language "26 CFR 1.361-1 through 1.367(3)-2T" is corrected to read "26 CFR 1.361-1 through 1.367(e)-2T".

§ 1.1291-1 [Corrected]

7. On page 11036, column 1, § 1.1291-1(i), line 8, the language "Qualified Fund, for each PFIC of which" is corrected to read "Qualified Electing Fund, for each PFIC of which".

§ 1.1291-2 [Corrected]

8. On page 11037, column 1, § 1.1291-2(b)(3), under *Example.*, line 7 from the bottom of that paragraph, the language "Pursuant to § 1.1291-2(b)(3)(1), the $100" is corrected to read "Pursuant to § 1.1291-2(b)(3)(i), the $100".

9. On page 11038, column 1, § 1.1291-2(d)(3)(iii), line 1, the language "(iii) The following example illustrates" is corrected to read "(iii) *Example.* The following example illustrates".

10. On page 11040, column 2, § 1.1291-2(e)(4), paragraph (iv) of *Example 3.*, fourth line from the bottom of that paragraph, the language "portion of the excess allocated to 1988," is corrected to read "portion of the excess distribution allocated to 1988.".

§ 1.1291-4 [Corrected]

11. On page 11044, column 2, § 1.1291-4(e), paragraph (ii)(A) of *Example 2.*, line 4, the language "The increase in for the portion of the excess" is corrected to read "The increase in tax for the portion of the excess".

§ 1.1291–5 [Corrected]

11a. On page 11046, column 2, § 1.1291–5(c), in the undesignated paragraph preceding paragraph (c)(3), line 1, the text *"Carryovers disallowed.* The amount" is corrected to read "(2) *Carryovers disallowed.* The amount".

12. On page 11046, column 2, § 1.1291–5(c)(3), paragraph (ii) of *Example.*, last line of the paragraph, the language "and 5(i)(C) will not be performed." is corrected to read "and 5(A)(3) will not be performed.".

§ 1.1291–6 [Corrected]

13. On page 11048, column 3, § 1.1291–6(c)(1)(i), second line from the bottom of the paragraph, the language "acquiring corporation in a section" is corrected to read "acquiring foreign corporation in a section".

14. On page 11049, column 1, § 1.1291–6(c)(2)(i), in the concluding paragraph following paragraph (c)(2)(i)(C), first line, the language "This paragraph (c)(2) does not apply" is corrected to read "This paragraph (c)(2)(i) does not apply".

15. On page 11049, column 1, § 1.1291–6(c)(2)(iii)(B), is corrected to read as follows:

* * * * *

(c) * * *

(2) * * *

(iii) * * *

(B) *Exception.* Gain is recognized to a shareholder on the transfer of stock of a section 1291 fund to the shareholder's domestic estate if, pursuant to the terms of the will, the section 1291 fund stock may be transferred to either a foreign beneficiary or a trust established in the will.

* * * * *

16. On page 11050, column 1, § 1.1291–6(e), line 11, the language "pursuant to the paragraph (c) of this" is corrected to read "pursuant to paragraph (c) of this".

17. On page 11050, column 3, § 1.1291–6(f), under *Example 6.*, line 2, the language "stock of FC, a corporation that is both" is corrected to read "stock of FC, a corporation that is both a".

§ 1.1291–9 [Corrected]

18. On page 11053, column 3, § 1.1291–9(e), line 13, the language "1992 and included the deemed dividend" is corrected to read "1992, and included the deemed dividend".

§ 1.1291–10 [Corrected]

19. On page 11054, column 2, § 1.1291–10(b)(2)(i), second line from the bottom of that paragraph, the language "before May 1, 1992 is the first day of the" is corrected to read "before May 1, 1992, is the first day of the".

20. On page 11054, column 2, § 1.1291–10(b)(2)(ii), line 5, the language "election after May 1, 1992 is the first day" is corrected to read "election after May 1, 1992, is the first day".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–5766 Filed 3–17–93; 8:45 am]

BILLING CODE 4830–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 25

[CC Docket No. 92–76, FCC 93–28]

Licensing Policies and Procedures, Domestic Common Carrier Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On January 14, 1993, the Commission adopted a Notice of Proposed Rulemaking seeking comments on its proposed new rules to govern the licensing and regulation of "non-voice non-geostationary mobile-satellite service" (NVNG MSS) systems. The proposed technical and service rules are intended to facilitate the implementation and regulation of new domestic satellite services.

DATES: Comment date: April 26, 1993; Reply comment date: May 26, 1993.

ADDRESSES: Comments and replies may be mailed to the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kristi L. Kendall, Common Carrier Bureau, (202) 634–7058.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted January 14, 1993, and released February 10, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554. A complete text of this decision also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037. Persons wishing to comment on this collection of information should direct their comments to Jonas Neihardt, (202) 395–4814, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503. A copy of any comments filed should also be sent to the following address at the Commission: Federal Communications Commission, Records Management Division, room 234, Paperwork Reduction Project, Washington, DC 20554. For further information, contact Judy Boley, (202) 632–7513.

Title: Licensing Policies and Procedures for Low Earth Orbit Satellites Operating Below 1 GHz, CC Docket No. 92–76.

OMB Number: None.

Action: Proposed new collection.

Respondents: Businesses or others for profit, including small businesses.

Frequency of Response: On occasion, semi-annually.

Estimated Annual Burden: On a semi-annual basis: 8 responses; 8 hours per response; 64 hours total. On a one-time basis: 4 applications; 1000 hours per application; 4000 hours total.

Needs and Uses: The Notice of Proposed Rulemaking solicits public comments on the Commission's proposals to modify Parts 2 and 25 for rules and policies to govern new non-voice, non-geostationary mobile-satellite systems. Applicants interested in providing low-earth orbit mobile satellite services in frequencies below 1 GHz are potential respondents. Information will be used by the Commission to determine eligibility for licensing of, and to monitor ongoing compliance and performance of, such systems.

As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document.

Summary of Notice of Proposed Rulemaking

The Commission has allocated certain electromagnetic frequencies below 1 GHz to use by a new "non-voice, non-geostationary mobile-satellite service" (NVNG MSS). This Notice of Proposed Rulemaking proposes rules that will allow the licensing and operation of competitive NVNG MSS systems.

A. System Design Requirements

A stated objective in this proceeding has been to establish regulations and policies that will allow multiple entrants into the NVNG MSS market, to the maximum extent possible. While sharing of the available spectrum with future systems is possible, it appears that only actual operating experience in the frequency bands will make possible a realistic determination of the size and type of future system(s) that can be accommodated. Since sharing among the existing applicants appears feasible, and since some room appears to exist for future entrants, we believe it is unnecessary to mandate an accessing and modulation technique to be used in this service, or to otherwise divide the allocated spectrum in a particular manner among the applicants. Such requirements would unduly inhibit the flexibility of the commercial applicants to design and operate systems in the manner that they deem most appropriate. We therefore propose to require NVNG MSS applicants to identify the exact frequencies to be used by each system, including specific frequencies for feeder link operations. These frequencies will then be assigned to the operators in the licensing process.

B. Spectrum Efficiency Requirements

The spectrum efficiency of a non-geostationary satellite system is difficult to establish on a normative basis. In the geostationary fixed-satellite services, spectrum efficiency may be reasonably assured by a requirement that satellites adhere to a state-of-the-art equipment, full-frequency reuse standard. Non-geostationary satellite services, however, may employ state-of-the-art equipment, but the non-directional mobile earth station antennas they use may prevent them from providing efficient services compared with those provided by, for example, the fixed-satellite service which uses directional antennas; nor will the imposition of requirements such as service coverage (*i.e.* a requirement that a system provide domestic coverage for a specific percentage of time) necessarily ensure the efficient provision of NVNG MSS services. The imposition of minimum domestic coverage requirements would require the Commission to estimate an applicant's commercial plans: Certain types of services require a high percentage of coverage time to be effectively provided, and some do not. Accordingly, we believe that adoption of a specific spectrum efficiency proposal is inadvisable.

We intend, however, to examine carefully future applications for new systems and applications for replacement systems to ensure that such systems will be operated efficiently in light of technical and other conditions existing at the time of filing. To assist us in making such determinations, and to monitor the evolution and operation of this new service, we propose a rule that imposes a semi-annual reporting requirement on all NVNG MSS licensees. This proposed rule essentially solicits the following information: The status of satellite construction and launch, a description of any significant space station outages, a description of system utilization and identification of satellites taken out of service.

C. Feeder Link Requirements

We do not believe that it will be possible for NVNG MSS systems to share feeder link frequencies with each other or with their mobile operations. Accordingly, we do not propose to adopt rules that address feeder links separately. Applicants will determine the location of feeder links within the allocated spectrum on a coordinated basis with other authorized NVNG MSS satellite providers and with other users of the band.

D. Space Station Application Requirements

The Commission proposes adoption of a new rule listing the space station application filing, and certain operating, requirements for NVNG MSS systems. In addition to referencing the information already required of satellite applicants by § 25.114, the proposed section calls for information regarding the number of proposed space stations, the altitude(s), argument(s) of perigee, service arc(s), right ascension of ascending node(s), and eccentricity and inclination of the system's space stations. The proposed rule also requires applicants to file information demonstrating that their systems will not cause unacceptable interference into any authorized NVNG MSS system.

This proposed section further requires NVNG MSS applicants to identify power flux densities produced at the Earth's surface by each space station in certain frequency bands. This will allow a determination of whether coordination with terrestrial services is required under footnotes 599A and 647X of § 2.106 of the Commission's Rules. Applicants must also identify measures they will employ to protect radio astronomy services in the adjacent 150.05–153 MHz and 406.1–410 MHz bands.

Finally, because certain inadvertently retransmitted terrestrial signals could cause harmful interference to the coprimary services sharing the downlink frequency band, we propose a new § 25.142(a)(3) which stipulates that an applicant must demonstrate that no signal received by a satellite from a source outside of the system shall be retransmitted.

E. Financial Qualifications

The Commission traditionally requires satellite applicants to demonstrate their financial ability to construct, launch and operate their systems. Examination of an applicant's financial qualifications ensures that the orbit-spectrum resource is not tied by entities unable to fulfill their plans, discourages the filing of speculative applications that occupy Commission resources, and promotes the prompt availability of service to the public. We have noted, however, that this general principle must be considered in the context of the specific service to be provided. NVNG MSS is a new, innovative and as yet commercially unproven service. Applicants without substantial internal assets may have difficulty obtaining the financing necessary to construct, launch and operate a large system years before that system is to be operational.

We therefore propose to require an applicant to show that it is financially capable of constructing, launching and operating a portion of its system prior to authorization. It appears that the system operators will be able to perform certain of their proposed services, such as remote environmental data collection, wildlife or vehicle tracking, and routine messaging from remote areas, for example, with as few as two satellites. We thus propose that NVNG MSS applicants demonstrate that they have current assets, or irrevocable commitments, sufficient to meet the costs of constructing, launching and operating a minimum two-satellite system for one year.

F. System License and License Terms

Geostationary satellites are licensed individually at specific orbit locations for terms of ten years. In the NVNG MSS, however, an individual satellite is unlikely to be able to perform the proposed functions of the entire system. Instead, a minimum number of satellites must be launched and operational before an NVNG MSS system can completely fulfill its purpose. In view of the generally large number of identical space stations proposed by the applicants, we believe that a "blanket" system authorization may result in reduced administrative costs and processing delays. Accordingly, we propose that NVNG MSS applicants be

authorized to construct, launch and operate a system consisting of a specified number of technically identical space stations. We do not propose to require separate applications for authority to replace space stations during the license term with technically identical counterparts. Rather, we suggest that a licensee certify to the Commission, at least 30 days prior to launch, that (1) it intends to launch a space station that is technically identical to those authorized by the Commission and (2) launch of this space station will not cause the licensee to exceed the number of operating space stations authorized.

We further propose to issue a permit for the construction and launch of the proposed space station system and, when the first of those space stations is launched and ready to transmit, to license the entire NVNG MSS system for a period of ten years commencing upon the date that the authorization is granted. The authority to operate any additional or replacement satellites launched within that ten year time frame would likewise expire at the end of the system authorization.

The applicants have suggested that we include a rule embodying a replacement expectancy, pursuant to which an existing operator will receive system replacement authority absent any egregious conduct on its part. As we have stated before, we believe that, given the large capital investment necessary to develop and operate satellite systems, there should be some assurance that operators will be able to continue to serve their customers. However, the Commission may be unable to grant replacement system licenses in the future because of changed international agreements or domestic policy. Further, such a codified expectancy would prematurely tie us to a set of criteria for replacement authorization that may prove inappropriate as the service develops. Accordingly, we do not propose to include a replacement expectancy rule at this time. We do intend generally to authorize replacement systems to successful applicants as long as the desired frequencies remain available for use by U.S. systems with comparable technical characteristics.

We are also proposing imposition of a filing window for system replacement authorization that will require licensees to file system renewal applications no earlier than 90 days, and no later than 30 days, prior to the end of the seventh year of the existing system license. This filing deadline would allow ample time for the Commission to act upon replacement system applications and would allow the licensee sufficient opportunity to implement its next generation system promptly upon expiration of its existing system license. This deadline would further serve to give notice to future applicants that an existing licensee will or will not be seeking replacement system authority and thus allow them to prepare their applications accordingly.

G. Milestones

We propose to require permittees to proceed with the construction and launch of their entire proposed systems in compliance with specified milestones. These milestones will ensure that NVNG MSS systems are being implemented in a timely manner and will allow the maximum number of NVNG MSS systems to be accommodated and operational to the benefit of users. We propose, as a general matter, that each permittee begin construction of the first two satellites of its system within one year of grant of the construction permit, and begin construction of the remaining satellites within three years of grant. Construction of the first two satellites must be completed within four years of grant, and the entire proposed system must be launched and operational within six years of grant. Since system size and/or complexity may differ substantially among applicants, however, we do not propose to codify these exact milestone limits. Instead, milestones will be included in the authorization of each individual NVNG MSS permittee/licensee. Failure to fulfill these conditions will render the system's authorization null and void.

H. Transceiver Application Requirements

Rather than requiring individual NVNG MSS transceivers to be licensed, we propose that a flexible blanket licensing approach be adopted. Under such an approach, either the space station system licensee, or a service vendor, would hold the authorization and responsibility for a specified number of technically identical units. In light of the large costs and burdens involved in issuing individual licenses for potentially thousands of units, we believe that blanket licensing is an efficient and effective method of authorization. The license term for a blanket authorization will be ten years from the date of grant, and requests for authority to include additional transceivers in the authorization will be treated as minor modifications thereto.

We also propose to codify a requirement that an end user must obtain the authorization of the space station operator, either directly or through an authorized vendor, before the user may transmit to that system. Once an end user has obtained authority to transmit to and access a particular system, we propose that the transceiver operations of that authorized user be deemed to fall within the blanket earth station license held by that space station operator or vendor. We believe that this approach will facilitate international roaming by users while still protecting domestic interests in an interference-free electromagnetic environment.

With respect to awarding earth station licenses, we propose that an NVNG MSS applicant for a mobile unit or gateway earth station authorization demonstrate in its application that transceiver operations will not cause unacceptable interference into other authorized users of the spectrum. This demonstration will be based on existing information that is publicly available at the Commission at the time of filing. We also propose to vest the responsibility for resolving any interference incidents with the earth station licenses.

As a final matter, the frequency band from 108 to 137 MHz, used for civil and military aeronautical safety communications and navigation, is adjacent to the 137 to 138 MHz band to be used by the NVNG mobile-satellite service as a downlink band. Depending upon the specific design, the receiver portion of the portable transceiver may emit unintentional radiation in the 108 to 137 MHz band. Because of this interference potential, we propose a labeling rule to ensure that the hand-held transceivers, or devices that contain transceivers, are not be operated on board civil aircraft.

I. Domestic Coordination

We believe that it would be impractical and unduly burdensome to require existing authorized users to coordinate their systems with each new NVNG MSS applicant. However, the coordination process should work to accommodate new entrants to the extent possible. As in the domestic fixed-satellite service, we propose to require all applicants to provide technical information sufficient to demonstrate compatibility with existing authorized users. Potential coordination conflicts can thus be identified in the application process. We do not propose to require the results of domestic coordination to be filed with the Commission. We further propose that the coordination of space and earth stations with the Federal government, through the existing NTIA/IRAC mechanism, must be completed before construction authorization.

J. Regulatory Treatment

Finally, we propose to permit domestic NVNG MSS applicants to elect to provide services on either a common carrier or non-common carrier basis. To the extent that licensees choose to provide services on a common carriage basis, we propose that they be classified as non-dominant carriers, and therefore subject to streamlined tariff filing and facilities authorization procedures under Parts 61 and 63 of the Commission's Rules. Should the licensees choose to provide services on a common carrier basis, the foreign-ownership limitation in Section 310(b) of the Communications Act could apply.

List of Subjects

47 CFR Part 2

Communications common carriers.

47 CFR Part 25

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93-6254 Filed 3-17-93; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 32

[Common Carrier Docket No. 89-360; FCC 93-129]

Statement of Financial Accounting Standards No. 96, Accounting for Income Taxes

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has adopted a Further Notice of Proposed Rulemaking which proposes to amend part 32 of its rules to incorporate the liability method of accounting for income taxes into the Uniform System of Accounts for Telecommunications Companies. This action will bring the method of accounting for income taxes in line with the generally accepted method of accounting for income taxes prescribed for the American business community.

DATES: Comments must be filed on or before May 3, 1993 and reply comments must be filed on or before May 18, 1993.

FOR FURTHER INFORMATION CONTACT: Thaddeus Machcinski, Common Carrier Bureau, Accounting and Audits Division, 202-634-1861.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Further Notice of Proposed Rulemaking in CC Docket No. 89-360, adopted March 2, 1993 and released March 11, 1993. The complete text of this Further Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC, and may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., at (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Synopsis of Further Notice of Proposed Rulemaking

1. This Further Notice of Proposed Rulemaking (FNPRM) proposes to amend part 32 to incorporate the new accounting procedures for income taxes prescribed in Statement of Financial Accounting Standards No. 109 (SFAS-109) and to establish new accounts that would properly implement those procedures. The FNPRM modifies the Commission's Notice of Proposed Rulemaking (NPRM) released on August 18, 1989 (54 FR 35899, August 30, 1989) which proposed to incorporate Statement of Financial Accounting Standards No. 96 (SFAS-96), "Accounting for Income Taxes" into part 32. Modification was necessary because the FASB reconsidered (SFAS-96) and as a result superceded it with the issuance SFAS-109.

2. The FNPRM would add three new accounts to the Uniform System of Accounts to incorporate the requirements of SFAS-109 into Part 32. The new accounts are Account 1437, Recoverable regulatory deferred charge; Account 4341, Net deferred tax liability adjustments; and Account 4361, Deferred regulatory liability. These new accounts would be employed to reflect the adjustments to deferred tax balances that are necessary as a result of adopting SFAS-109. These accounts are essentially the same as those contained in the NPRM. We did, however, change the title of Accounts 1437 and 4341 to reflect that the first account is an asset and to drop the reference to noncurrent in the latter account since it was unnecessary. We also eliminated an account that was in the original proposal. Account 7251, Deferred tax liability adjustment-net was eliminated in the FNPRM because it is no longer needed to record operating loss and investment tax credit carryforwards.

3. Other modifications in the FNPRM pertain to the elimination of vintage year detail for Account 4341 and we make it explicit that the effects of state and local income taxes are to be covered by our requirements implementing SFAS-109.

4. Finally, due to the change in the regulatory environment since the issuance of our original NPRM, we seek comment on the relevance of SFAS-109 accounting in the new regulatory environment.

Regulatory Flexibility Analysis Statement

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the Act does not apply to this rulemaking proceeding because there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. Carries providing interstate services affected by the proposed rule amendment generally are large corporations or affiliates of such corporations.

6. The Secretary shall send a copy of this Further Notice of Proposed Rulemaking, including the certification, to the Chief, Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, (1981)).

7. Accordingly, it is ordered that, pursuant to Sections 1, 4(i), 201-205, 218, 220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201-205, 218, 220, 403, notice of hereby given of the proposed amendments to part 32 of the Commission's rules, 47 CFR part 32, described in this Further Notice of Proposed Rulemaking.

List of Subjects in 47 CFR Part 32

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Uniform system of accounts.

Rule Changes

Part 32, chapter I of the Title 47, Code of Federal Regulations, is proposed to be amended as follows:

PART 32—UNIFORM SYSTEM OF ACCOUNTS FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for part 32 would continue to read as follows:

Authority: Secs. 4(i), 4(j) and 220 as amend; 47 U.S.C. 154(i), 154(j), and 220 unless otherwise noted.

2. Section 32.22 would be amended by revising paragraphs (a), (c), (d) and (f) to read as follows:

§ 32.22 Comprehensive interperiod tax allocation.

(a) Companies shall apply interperiod tax allocation (tax normalization) to all book/tax temporary differences which would be considered material for published financial report purposes. Furthermore, companies shall also apply interperiod tax allocation if any item or group of similar items when aggregated would yield debit or credit entries which exceed or would exceed 5 percent of the gross deferred income tax expense debits or credits during any calendar year over the life of the temporary difference. The tax effects of book/tax temporary differences shall be normalized and the deferrals shall be included in the following accounts:

4100 Net Current Deferred Operating Income Taxes
4110 Net Current Deferred Nonoperating Income Taxes
4340 Net Noncurrent Deferred Operating Income Taxes
4350 Net Noncurrent Deferred Nonoperating Income Taxes

* * * * *

(c) Subsidiary records shall be used to reduce the deferred tax assets contained in the above accounts when it is more likely than not (a likelihood of more than 50 percent) that some portion or all of the deferred tax asset will not be realized. The amount recorded in the subsidiary record should be sufficient to reduce the deferred tax asset to the amount that is more likely than not to be realized.

(d) The records supporting the activity in the deferred income tax accounts shall be maintained in sufficient detail to identify the nature of the specific temporary differences giving rise to both the debits and credits to the individuals accounts.

* * * * *

(f) The tax differentials to be normalized as indicated herein shall also encompass the additional effect of state and local income tax changes on Federal income taxes produced by the provision for deferred state and local income taxes for book/tax temporary differences related to such income taxes.

* * * * *

1. Section 32.103 would be amended to add account 1437 in numerical order to the list of accounts to read as follows:

§ 32.103 Balance sheet accounts for other than regulated-fixed assets to be maintained.

BALANCE SHEET ACCOUNTS

Account title	Class A account	Class B account
* * * * *		
Recoverable Regulatory Deferred Charge	1437	1437

* * * * *

4. Section 32.1437 would be added to read as follows:

§ 32.1437 Recoverable regulatory deferred charge.

This account shall include amounts of probable future revenue for the recovery of future increases in taxes payable.

5. Section 32.4000 would be amended to add accounts 4341 and 4361 in numerical order to the list of accounts and a general heading for the table to read as follows:

§ 32.4000 Instructions for balance sheet accounts—liabilities and stockholders' equity.

* * * * *

BALANCE SHEET ACCOUNTS

Account title	Class A account	Class B account
Net Deferred Liability Adjustments	4341	4341
* * * * *		
Deferred Regulatory Liability	4361	4361

* * * * *

6. Section 32.4100(d) would be revised to read as follows:

§ 32.4100 Net current deferred operating income taxes.

* * * * *

(d) The classification of deferred income taxes as current or noncurrent shall follow the classification of the asset or liability that gave rise to the deferred income tax. If there is no related asset or liability, classification shall be based on the expected turnaround of the temporary difference.

* * * * *

7. Section 32.4110(g) would be revised to read as follows:

§ 32.4110 Net current deferred nonoperating income taxes.

* * * * *

(g) The classification of deferred income taxes as current or noncurrent shall follow the classification of the asset or liability that gave rise to deferred income tax. If there is no related asset or liability, classification shall be based on the expected turnaround of the temporary differences.

* * * * *

8. Section 32.4340 (a) and (d) would be revised to read as follows:

§ 32.4340 Net noncurrent deferred operating income taxes.

(a) This account shall include the balance of income tax expense related to noncurrent items from regulated operations which have been deferred to later periods as a result of comprehensive interperiod tax allocation related to temporary differences that arise from regulated operations.

* * * * *

(d) The classification of deferred income taxes as current or noncurrent shall follow the classification of the asset or liability that gave rise to the deferred income tax. If there is no related asset or liability, classification shall be based on the expected turnaround of the temporary difference.

* * * * *

9. Section 32.4341 would be added to read as follows:

§ 32.4341 Net deferred tax liability adjustments.

(a) This account shall include the portion of deferred income tax charges and credits pertaining to Accounts 32.1437, Recoverable Regulatory Deferred Charge and 32.4361 Deferred Regulatory Liability.

(b) This account shall be used to record adjustments to the accumulated deferred tax liabilities recorded in Accounts 4100 and 4340 for:

(1) Tax effects of temporary differences accounted for under the flow-through method or treated as permanent differences.

(2) Reclassification attributable to changes in tax rates (Federal state and local).

(3) The tax effects of carryforward net operating losses and carryforward investment tax credits expected to reduce future taxes payable that are reported in published financial statements.

(4) Reversals of the tax effects of carryforward net operating losses and carryforward investment tax credits previously recorded in this account at the time they become recognized as reductions in current taxable income and current taxes payable on tax returns.

(c) This account shall be exempt from the vintage year detail record requirements of § 32.22(e)(2).

10. Section 32.4350 (a) and (g) would be revised to read as follows:

§ 32.4350 Net noncurrent deferred nonoperating income taxes.

(a) This account shall include the balance of income tax expense (Federal, state, and local) that has been deferred to later periods as a result of comprehensive interperiod allocation related to nonoperating temporary differences.

* * * * *

(g) The classification of deferred income taxes as current or noncurrent shall follow the classification of the asset or liability that gave rise to the deferred income tax. If there is no related asset or liability, classification shall be based on the expected turnaround of the temporary difference.

* * * * *

11. Section 32.4361 would be added to read as follows:

§ 32.4361 Deferred regulatory liability.

This account shall include amounts of probable future revenue reductions attributable to future decreases in taxes payable. As reductions occur, amounts recorded in this account shall be reduced with a debit entry and a credit entry to Account 4341, Net Deferred Tax Liability Adjustments.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–6096 Filed 3–17–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB75

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for a Florida Plant, Jacquemontia Reclinata

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list the beach jacquemontia, *Jacquemontia reclinata*, as an endangered species pursuant to the Endangered Species Act of 1973 (Act), as amended. This vine is native to coastal barrier islands in southeast Florida from Miami northward to Palm Beach County. The vast majority of the habitat originally occupied by this species has been destroyed by urban development. This proposal, if made final, would implement the protection and recovery provisions afforded by the Act for *Jacquemontia reclinata*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by May 17, 1993. Public hearing requests must be received by May 3, 1993.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, suite 120, Jacksonville, Florida 32216. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Michael M. Bentzien, Assistant Field Supervisor, at the above address (telephone: 904–791–2580 or FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

Jacquemontia reclinata was described as a new species by Homer D. House based on specimens collected by John Kunkel Small and Joel J. Carter on "Bull Key, opposite Lemon City, in November, 1903" (Small 1905). Lemon City (also called Little Haiti) is in the City of Miami, on Biscayne Bay 3 miles north of downtown; Bull Key was located at northern Miami Beach. House's treatment of this as a distinct species was upheld by Robertson (1971). Although Small (1933) considered this plant's range to extend into the West Indies, Austin (1979) considers it endemic to the east coast of Florida.

Jacquemontia reclinata is a perennial vine whose stems are about 1 meter (3 feet) long and usually sprawl on the ground (i.e., are reclinate), though the stems may twine on other plants. The leaves are fleshy, with smooth margins and are elliptic to rounded egg-shaped, 1–3 centimeters (0.4–1 inch) long, with the leaf tips blunt or indented. Younger leaves and stems are pubescent enough to appear whitish. The flowers are in the axils of the leaves, in groups or solitary. The flower's outer sepals have tiny hairs along their margins—a character that separates this species from *Jacquemontia curtissii*. The white corolla is shaped like a broad funnel or is nearly flat, 2.5–3 centimeters (1–1.2 inches) in diameter, with five broad lobes. The fruit is a capsule. This is the only species of *Jacquemontia* found near the beaches of southeastern Florida (Austin 1979). The other species of *Jacquemontia* in southern Florida (exclusive of the Florida Keys) is *Jacquemontia curtissii*, which inhabits pinelands and has hairless sepals and narrower leaves that are not fleshy. Two more species of *Jacquemontia* occur in the Florida Keys (Small 1933).

Jacquemontia reclinata is restricted to the barrier islands of the southeastern Florida coast. Information on its distribution has been assembled from the Florida Natural Areas Inventory (FNAI) database, a careful recent survey of Florida's coastal upland vegetation communities (Johnson et al. 1990), a subsequent survey by Daniel Austin (1991), and reports to the Florida Natural Area Inventory by Carol Lippincott (Fairchild Tropical Garden) and Theodore O. Hendrickson (Fort Lauderdale). A specimen identified as *Jacquemontia reclinata* from ten miles west of the town of Hobe Sound was collected in a cypress swamp; the specimen is probably *Stylisma villosa* (Austin 1991). Olga Lakela and others made numerous collections of this plant from Jupiter Island in Palm Beach and Martin Counties, but the species can no longer be relocated. Austin (1991) confirmed that local naturalists have not seen the plant on the island, which is largely manicured residential area, and that it is not known to occur at Blowing Rocks Preserve or at Hobe Sound National Wildlife Refuge. *Jacquemontia reclinata* was collected at South Coral Cove Park, Jupiter Island, Palm Beach County, in 1962 but was not relocated in 1990; the park had suffered severe beach erosion and had a large number of Australian pines (*Casuarina equisetifolia*) that could shade out native species (Johnson et al. 1990).

Jacquemontia reclinata is presently known to occur at 11 sites, 10 of them publicly owned, in the following counties: Palm Beach (8 sites), Broward (2 sites), Dade (1 site). All but one of the sites are public parks or recreation areas operated by State, county, or local governments. The only site in private ownership is in Broward County, and had just one plant (Johnson et al. 1990; Austin 1991; T. Hendrickson, Fort Lauderdale, *in litt.* to Florida Natural Areas Inventory, 1991).

Jacquemontia reclinata is an inhabitant of disturbed or sunny areas in the tropical maritime hammock (hardwood forest) or the coastal strand vegetation, typically with sea grape (*Coccoloba uvifera*) and other shrubs and dwarfed trees. It usually occurs with more or less weedy plants such as Madagascar periwinkle (*Catharanthus roseus*) and sand spurs (*Cenchrus*). It occasionally occurs in the beach dune community with sea oats (*Uniola paniculata*) (Johnson et al. 1990; A. Johnson, FNAI, *in litt.*, 1990; Austin 1991; Lippincott 1990).

The possible historic role of hurricanes in opening up bare sites for *Jacquemontia reclinata* to colonize can be estimated from the effects of human-induced disturbances and the effects of the August 1992 hurricane (Andrew) at populations at Key Biscayne and the restored dunes at Miami beach. The remnants of South Florida's strand vegetation have been heavily affected by invading exotic plants, including Australian pine (*Casuarina equisetifolia*), carrotwood (*Colubrina asiatica*), and Brazilian pepper (*Schinus terebinthifolius*). Native understory plants generally do not persist beneath these invaders.

Jacquemontia reclinata has been successfully propagated from seed at Fairchild Tropical Garden and is thriving in cultivation at the Garden. It appears that reintroductions of this species can be conducted relatively easily, as shown by a pilot project in Dade County (C. Lippincott, Fairchild Tropical Garden, *in litt.*, 1990, 1991).

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to the Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report as a petition in the context of section 4(c)(2) (now section 4(b)(3) of the Act, as amended, and of its intention to review the status of the plant taxa contained within. *Jacquemontia reclinata* was included in these documents as a threatened species. On December 15, 1980, the Service published a notice of review for plants (45 FR 82480), which included *Jacquemontia reclinata* as a category 1 candidate (a taxon for which the Service currently has on file substantial data on biological vulnerability and threats to support proposing to list it as an endangered or threatened species). A supplement to the notice of review published on November 28, 1983 (48 FR 53640) changed this species to a category 2 candidate (a taxon for which data in the Service's possession indicates listing is possibly appropriate); the species retained category 2 status in a notices of review published September 27, 1985 (50 FR 39526) and February 21, 1990 (55 FR 6184).

Section 4(b)(3)(B) of the Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Jacquemontia reclinata* because the Service had accepted the 1975 Smithsonian report as a petition. In each October from 1983 through 1989, the Service found that the petitioned listing of this species was warranted but precluded by other listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. Publication of this proposal constitutes the final petition finding.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Jacquemontia reclinata* House (beach jacquemontia) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

The barrier islands of the Florida east coast in the range of *Jacquemontia reclinata* from Jupiter Island to Key Biscayne (a distance of 85 miles) are entirely urbanized, except for a few small parks and private estates. Johnson et al. (1990) inventoried all tracts of coastal vegetation of 10 or more acres in southeast Florida. They found only 24 such tracts in the known range of *Jacquemontia reclinata*, 5 of them entirely or mostly in private ownership. These tracts have approximately 214 acres of beach strand vegetation in public ownership, 26 acres in private ownership, as well as 66 acres of maritime hammock, all in public ownership. The beach strand and maritime hammock vegetation is the primary habitat of *Jacquemontia reclinata;* the destruction of the vast majority of this habitat and modifications to the remnants (for parking lots, pedestrian routes, picnic areas, and other park uses) as well as loss to beach erosion at some sites (Johnson et al. 1990, Pilkey et al. 1984) seriously threatens the continued existence of the species.

Habitat degradation due to invasion of exotic plant species, including Australian pine, Brazilian pepper, and carrotwood has adversely affected *Jacquemontia reclinata*. A site in northern Plam Beach County is being overgrown by Brazilian pepper; another *Jacquemontia* colony was nearly destroyed between 1970 and 1991 by the expansion of a large stand of carrotwood (Austin 1991). Mowing, possible herbicide use, and other park maintenance practices also threaten *Jacquemontia reclinata*, especially because it occurs with weedy herbaceous plants and grasses.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

None known.

C. Disease or Predation

Not applicable.

D. The Inadequacy of Existing Regulatory Mechanisms

Jacquemontia reclinata is listed as an endangered species under the Preservation of Native Flora of Florida law (section 581.185–187, Florida Statutes), which regulates taking, transport, and sale of plants but does not provide habitat protection. The Endangered Species Act will provide additional protection through sections 7 and 9, recovery planning, and the Act's additional penalties for taking of plants in violation of Florida law.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The limited geographic distribution, the fragmentation of remaining habitat into small segments isolated from each other, and the small sizes of *Jacquemontia reclinata* populations make it doubtful that any of the existing populations are viable (for an example of a population viability analysis for a plant, see Menges (1990)). Typically, only a few *Jacquemontia* plants are present at a given site (Johnson et al. 1990; D. Austin, Florida Atlantic Univ., pers. comm., 1991). As a result, germplasm conservation (seed storage or a garden population) appears essential. Additionally, the southeast Florida coast is subject to frequent hurricanes.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose the rule. Based on this evaluation, the preferred action is to list *Jacquemontia reclinata* as an endangered species. As discussed under Factor E, this species is likely to become extinct throughout its range within the foreseeable future, exceeding the Act's requirements for listing as an endangered species.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species. All of the populations of *Jacquemontia reclinata* are very small and localized, typically only several plants. All but one are in public parks. If critical habitat were designated, it would need to be described in great detail, specifying exact locations of populations so as to exclude park facilities and vegetation unsuited to this species. Although Federal listing as endangered would provide penalties in addition to those provided in Florida law against unauthorized removal of *Jacquemontia reclinata* plants from parks, such prohibitions against take are difficult to enforce, and publication of critical habitat descriptions and maps would only add to the threats faced by this species.

Designation of critical habitat could help focus the attention of park managers and other county or local authorities to the importance of conserving habitat for this plant in parks, but experience with endangered plants such as Amorpha crenulata (crenulate lead-plant) in Dade County and *Asimina tetramera* (four-petal pawpaw) in Palm Beach County shows that park managers are responsive to the needs of endangered plants without critical habitat being designated. One park in Palm Beach County has Florida scrub jays (threatened), *Asimina tetramera* (endangered), and *Jacquemontia reclinata;* the two listed species appear to be effectively protected without designation of critical habitat.

Because *Jacquemontia reclinata* occurs primarily in public parks, the Fish and Wildlife Service will work directly with park managers and other public officials to ensure the conservation of this species. In addition, the Coastal Barrier Resource System (designated pursuant to the Coastal Barrier Resources Act, Pub. L. 97–348) protects the only privately owned, otherwise unprotected tract known to be inhabited by *Jacquemontia reclinata.* Protection of this species' habitat will be addressed through the recovery process and through the Section 7 consultation process. The existing protection provided for *Jacquemontia reclinata* habitat, combined with the potential for problems with take, leads to the conclusion that designating critical habitat for this plant would provide no benefit to the plant beyond listing, and might increase threats to it. For this reason, the Service considers designation of critical habitat not to be prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to pay any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The populations of *Jacquemontia reclinata* on public lands in its range will require careful management and a carefully managed program of propagation, germplasm conservation and augmentation of existing populations. Fairchild Tropical Garden and the Center for Plant Conservation have begun such a program. Control or extirpation of exotic pest plants such as Australian pine and Brazilian pepper may be necessary to protect existing populations of *Jacquemontia reclinata* or to restore former habitat.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62 and 17.63 for endangered plants, set forth a series of general prohibitions and exceptions for all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale listed species in interstate or foreign commerce, or to remove and reduce to possession these species from areas under Federal jurisdiction. In addition, for endangered plants, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances.

It is anticipated that few trade permits will be sought or issued because *Jacquemontia reclinata* is currently not sold or traded across state lines. Sale or distribution of cultivated specimens within Florida does not require a Federal permit. Intrastate trade could eventually occur, however; this species is desirable for use in oceanfront parks and may be used in oceanfront landscaping. Requests for copies of the regulations on listed plants and inquiries regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairax Drive, room 432, Arlington VA 22203 (703/358–2104).

Public Comments Solicited

The Service intends that any final rule resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the

reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the ranges, distributions, and population sizes of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Jacksonville, Florida, Field Office (see ADDRESSES section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References Cited

Austin, D.F. 1979. Beach jacquemontia, *Jacquemontia reclinata*. P. 36 *in* Rare and endangered biota of Florida, vol. 5: plants. D.B. Ward, ed. University Presses of Florida. xxix +175 pp.

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Lippincott, C.S. 1990. Status report on *Jacquemontia reclinata* at Hugh Taylor Birch State Recreation Area, Broward County, Florida. Report to Florida Natural Areas Inventory, Tallahassee. Unpaged.

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Pilkey, O.H., Jr., D.C. Sharma, H.R. Wanless, L.J. Doyle, O.H. Pilkey, Sr., W.J. Neal, and B.L. Gruver. 1984. Living with the east Florida shore. Duke Univ. Press, Durham NC. xv + 259 pp.

Robertson, K.R. 1971. A revision of the genus *Jacquemontia* (Convolvulaceae) in North and Central America and the West Indies. Ph.D. Dissertation, Washington University, St. Louis, MO. 285 pp.

Small, J.K. 1905. Additions to the flora of subtropical Florida. Bull. New York Bot. Garden 3:419–440.

Small, J.K. 1933. Manual of the Southeastern flora. Univ. of North Caroline Press, Chapel Hill. 1554 pp.

Author

The primary author of this proposed rule is Mr. David Martin (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Convolvulaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Convolvulaceae—Morning-glory family:						
• •	•	•	•	•	•	•
Jacquemontia reclinata	Beach jacquemontia	U.S.A. (FL)	E		NA	NA
• •	•	•	•	•	•	•

Dated: March 3, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–6305 Filed 3–17–93; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AB–75

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant Auerodendron Pauciflorum

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Auerodendron pauciflorum* (no common name) to be an endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. This evergreen shrub is endemic to Puerto Rico, where only 10 individuals are known to exist in the limestone hills of Isabela in the northwestern part of the island. The primary threat to the species is habitat destruction from development. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for *Auerodendron pauciflorum*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by May 17, 1993. Public hearing requests must be received by May 3, 1993.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622. Comments and materials received will be available for public inspection, by appointment, during normal business hours at this office, and at the Service's Southeast Regional Office, suite 1282, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Silander at the Caribbean Field Office address (809/851–7297).

SUPPLEMENTARY INFORMATION:

Background

Auerodendron pauciflorum was first discovered by Mr. Roy Woodbury in 1976 in the limestone hills of Isabela and northwestern Puerto Rico. It was later described by Alain Liogier in 1982. This was also the first record of this genus in Puerto Rico.

Auerodendron pauciflorum is an evergreen shrub or small tree which may reach up to 5 meters in height. The leaves are opposite or subopposite, ovate to ovate-elliptic, 6 to 15 centimeters long and 3.5 to 6 centimeters wide, glabrous, and with minute black glandular dots. Paired ovate-triangular, ciliate stipules, 1.5 millimeters long, are present at the base of the petiole. Two to three flowers are borne in the leaf axils. The peduncles vary from 5 to 7 millimeters in length and the pedicels from 6 to 7 millimeters in length. The calyx tube is broadly campanulate, 2 millimeters long and 3 millimeters wide. The fruit is unknown at the present time (Proctor 1991).

Auerodendron pauciflorum is restricted to the semi-evergreen forests (subtropical moist forest life zone) of the limestone hills of Isabela in northwestern Puerto Rico at elevations of less than 100 meters. Only ten individual plants are known from the edges of these limestone cliffs (Proctor 1991). Hills in the area of the known populations were destroyed for the construction of the existing Highway 2. The area is privately owned and presently under intense development pressure for rural, urban and tourist development. The construction of a resort development, including 7 hotels, 5 golf courses, 36 tennis courts and 1,300 housing units is proposed for the area.

Auerodendron pauciflorum was recommended for listing by Dr. George Proctor and Dr. Alain Liogier during a September 1988 meeting concerning the revision of the candidate plant species list in Puerto Rico and the U.S. Virgin Islands. It was subsequently included as a Category 1 species (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in the February 21, 1990 (55 FR 6184) notice of review.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Auerodendron pauciflorum* Alain are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Auerodendron pauciflorum is found on privately owned land currently subject to intense pressure for rural, urban and tourist development. Hills in this area were destroyed for the construction of Highway 2. A large resort complex is currently proposed for the area. Limestone hills are continuously being leveled for the production of construction material. These factors, as well as random cutting and the harvesting of yams, have apparently contributed to the decline of the species and continue to threaten the remaining individuals.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Taking for these purposes has not been a documented factor in the decline of this species.

C. Disease or Predation

Disease and Predation Have Not Been Documented as Factors in the Decline of This Species

D. The Inadequacy of Existing Regulatory Mechanisms

The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Auerodendron pauciflorum* is not yet on the Commonwealth list. Federal listing would provide immediate protection

and, if the species is ultimately placed on the Commonwealth list, enhance its protection and possibilities for funding needed research.

E. Other Natural or Manmade Factors Affecting its Continued Existence

One of the most important factors affecting the continued survival of this species is its limited distribution. Because so few individuals are known to occur in a limited area, the risk of extinction is extremely high. The fruit has not been described and seedlings have not been observed in the field.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Auerodendron pauciflorum* as endangered. Only 1 population consisting of 10 individuals is known to exist. Deforestation for rural, urban, and tourist development are imminent threats to the survival of the species. Therefore, endangered rather than threatened status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for this species are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. The number of individuals of *Auerodendron pauciflorum* is sufficiently small that vandalism and collection could seriously affect the survival of the species. Publication of critical habitat descriptions and maps in the **Federal Register** would increase the likelihood of such activities. The Service believes that Federal involvement in the areas where these plants occur can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will also be addressed through the recovery process and through the Section 7 jeopardy standard.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, required Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for *Auerodendron pauciflorum*, as discussed above. Federal involvement is not anticipated where the species is known to occur.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. In addition, for endangered plants, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any Commonwealth law or regulation, including Commonwealth criminal trespass law. Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits for *Auerodendron pauciflorum* will ever be sought or issued, since the species is not known to be in cultivation and is uncommon in the wild. Requests for copies of the regulations on listed plants and inquires regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, room 432, Arlington, Virginia 22203 (703/358–2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Auerodendron pauciflorum*;

(2) The location of any additional populations of *Auerodendron pauciflorum*, and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of these species; and

(4) Current or planned activities in the subject areas and their possible impacts on *Auerodendron pauciflorum*.

Final promulgation of the regulation of *Auerodendron pauciflorum* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Caribbean Field

Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References Cited

Liogier, A. 1982. *Auerodendron pauciflorum* Alain. Phytologia 50(3):164–166.

Proctor, G. R. 1981. Status report on *Auerodendron pauciflorum* Alain. Unpublished status report submitted to the U.S. Fish and Wildlife Service, Boquerón, Puerto Rico. 8 pp.

Author

The primary author of this proposed rule is Ms. Susan Silander, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851–7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Rhamnaceae, to the list of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species							
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Rhamnaceae—Buckthorn family:						
*	*	*	*	*	*	*
Auerodendron pauciflorum.	None	U.S.A. (PR)	E		NA	NA
*	*	*	*	*	*	*

Dated: March 3, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–6304 Filed 3–17–93; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 930229–3029]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: The Secretary of Commerce (Secretary) requests public comments on a proposed rule and on several alternatives to that rule (see "Other options" below). The proposed rule would establish a procedure for annually allocating the U.S. Pacific whiting harvest guideline or quota between fishing vessels that (1) either catch and process at sea or catch and deliver to at-sea processors, and (2) deliver to processors located on shore. The rule also would provide a process to redistribute to the at-sea processing sector any amounts of the initial shoreside allocation that is determined not to be needed by the shoreside sector. Under this rule, the 1993 Pacific whiting harvest guideline of 142,000 metric tons (mt) would be allocated by initially limiting to 52,400 mt the amount of Pacific whiting that can be processed at sea in the Exclusive Economic Zone (EEZ). The remainder of the harvest guideline, 89,600 mt, initially would be available for shoreside processing. In the opinion of the Pacific Fishery Management Council (Council), this action would promote the goals and objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP) by preserving historical harvesting opportunities for fishing vessels that do not process, by preventing preemption of shoreside processing operations by at-sea processors, and by contributing to the stabilization of the economic climate for shoreside processing of whiting by providing reasonable certainty of processing a substantial portion of the allowable harvest regardless of its size.

DATES: Comments are invited until April 1, 1993.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070; or E. Gary Matlock, Acting Director, Southwest Region, National Marine Fisheries Service, 501 W. Ocean Blvd., suite 4200, Long Beach, CA 90802–4213. Information relevant to this proposed rule has been compiled in aggregate form and is available for public review during business hours at the Office of the NMFS Northwest Regional Director. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) can be obtained from the Pacific Fishery Management Council, 2000 SW First Avenue, suite 420, Portland, Oregon 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Rodney R. McInnis at 310–980–4030.

SUPPLEMENTARY INFORMATION:

Proposed Rule

NOAA is issuing a proposed rule based on a recommendation of the

Council for a long-term framework to allocate the annual Pacific whiting harvest guideline or quota between the shoreside and at-sea industry sectors. The proposed rule does not include the part of the Council's recommendation that called for a 30,000-mt reserve to be set aside initially each year with a priority for use by the shoreside processing sector.

The rule would allocate the annual Pacific whiting harvest guideline between fishing vessels that (1) either catch and process at sea or catch and deliver to at-sea processors (at-sea processing sector), and (2) deliver to processors located on shore (shoreside processing sector). Under this process, the Regional Director, in preparing the annual specifications, would apply the following formula to the harvest guideline or quota, to determine the allocation for the year. Vessels delivering to shoreside processors would be allocated the first 50,000 mt of the whiting harvest guideline or quota (hereafter referred to as the harvest guideline). The next 30,000 mt of the harvest guideline would be available for the at-sea processing sector. When the harvest guideline is above 80,000 mt, a sliding scale formula would be used to allocate between the sectors. Under the sliding scale, the first 10,000 mt of the harvest guideline above 80,000 mt (i.e., any amount between 80,000 and 90,000 mt) would be divided 90 percent to the shoreside processing sector and 10 percent to the at-sea processing sector. The next 10,000 mt (i.e., any portion of the harvest guideline between 90,000 and 100,000 mt) would be allocated 80 percent shoreside and 20 percent at sea. The next 10,000 mt would be allocated 70 percent shoreside and 30 percent at-sea, and so on until the shoreside amount of any increase drops to zero when the harvest guideline reaches 170,000 mt. When the harvest guideline is 170,000 mt, the shoreside processing sector allocation would be 95,000 mt and the portion available for at-sea processing would be 75,000 mt.

The initial allocations to the two sectors operationally are different. The initial allocation to the shoreside processing sector operates as a true allocation, which guarantees a certain amount of whiting for the shoreside processing sector, subject only to the redistribution of unneeded allocation. The allocation to the at-sea processing sector operates as a limit on at-sea processing, not as a guaranteed allocation. Thus, although unlikely, if the shoreside sector utilized its entire initial allocation prior to the at-sea processing sector reaching its limit, the shoreside processing sector could continue to operate as long as whiting landings are permitted under the annual harvest guideline.

According to this process, when the annual harvest guideline is between 50,000 and 80,000 mt, the initial at-sea processing limit would be equal to or less than 30,000 mt. If the harvest guideline is less than 50,000 mt, there would be no initial allocation to at-sea processors.

The Regional Director would determine if the shoreside processing sector will need all its initial allocation, and on September 1 or as soon as practicable thereafter, would make available to the at-sea processing sector any portion of the shoreside processing allocation that is determined to be unneeded by the shoreside sector in the current year.

The effect of this proposed action is to provide a high level of economic protection at all future stock sizes to shoreside processing plants, the vessels that deliver whiting to shoreside plants, and the communities in which they are located. Thus, at low stock sizes, the majority of the harvesting and processing opportunities are provided to the shoreside sector. Conversely, greater harvesting and processing opportunities are provided for the at-sea processing fleet only at higher stock sizes. Due to the lack of any identifiable new large year class, Pacific whiting stock sizes are expected to continue to decline and remain below the expected long-term average during the next several years.

At its November 1992 meeting, the Council recommended essentially the same allocation plan proposed in this rule except that, under the Council's proposal, any portion of the harvest guideline between 50,000 mt and 80,000 mt would be set aside as a "reserve" with priority for use by the shoreside processing sector. Under the Council's proposal, the first 50,000 mt would be allocated to the shoreside sector; the next 30,000 mt would be in reserve with priority for shoreside; the next 30,000 mt would be for the at-sea sector; and the sliding scale would have applied harvest guidelines between 110,000 mt and 200,000 mt.

NOAA is not proposing the Council's recommendation to establish a reserve because: (1) The Council did not provide documentation or analysis that demonstrated that the additional increment of shoreside processing preference provided by the 30,000-mt reserve was necessary to meet the statement of purpose and need for the proposed action or the goals and objectives of the FMP; and (2) the additional increment of shoreside preference is likely to encourage additional investment in the shoreside processing sector, when it is apparent that all processing sectors of the whiting industry are already overcapitalized.

The Council believes that a degree of protection for the shoreside processing sector is necessary (1) to prevent preemption of harvesting and processing opportunities for shoreside processors and the catcher vessels that deliver whiting to shoreside plants; (2) to protect whiting harvest opportunities for the traditional whiting catcher vessels that are expected initially to receive "A" permits under the Council's limited entry program; (3) to minimize transfers of effort from the whiting fishery to the already overcapitalized fisheries for other traditional groundfish stocks; (4) to contribute to the stabilization of the West Coast fishing industry by providing alternative harvesting and processing opportunities to declining salmon and other groundfish fisheries; and, (5) to provide economic development and employment opportunities in depressed coastal communities.

Other Options

NOAA is soliciting comments not only on the Council's recommendation (with a 30,000-mt reserve) and the proposed rule (without the reserve), but on other options that may be available under the FMP framework and the Magnuson Act. They include:

1. Omit the Reserve and the Sliding Scale From the Formula

If the 30,000-mt reserve and the sliding scale were both omitted from the Council's recommended formula, 50,000 mt would be allocated initially to vessels that deliver to the shoreside sector, and the remainder would be available for the at-sea processing sector. The September 1 allocation release provision would remain. For 1993, under this scenario, 50,000 mt would initially be allocated to the shoreside sector, and 92,000 mt would be available to the at-sea sector. The shoreside allocation would be slightly below the harvest of 56,000 mt by that sector in 1992.

2. Prorate the 1992 Allocations

Another approach may be to "freeze" the allocations at the percentages approved by NOAA for the beginning of the 1992 fishery. The initial allocation plus reserve for the shoreside sector was 52.7 percent of the harvest guideline; the initial at-sea limit was 47.3 percent. For 1993, 52.7 percent of the 142,000 mt guideline would result in 74,800 mt initially allocated to shoreside, with the

September 1 release of unneeded allocation. The at-sea sector would initially be limited to 67,200 mt.

3. Disapprove the Entire Council Recommendation

Another option open to NOAA is to disapprove the Council's recommendation entirely. Because the season begins in April, a decision not to implement any allocation stemming from the Council's recommendation would mean an "Olympic" style fishery, with no constraint on competition between the two sectors.

The following table compares these these options with the proposed rule and the Council's recommendation for the 1993 fishing season (amounts are in metric tons; any reserve is combined with the shoreside sector):

Sector	Proposed rule	Council proposal	Option 1	Option 2	Option 3
Shoreside	89,600 (63.1%)	105,200 (74.1%)	50,000 (35.2%)	74,800 (52.7%)	None.
At-sea	52,400 (36.9%)	36,800 25.9%	92,000 (64.8%)	67,200 (47.3%)	None.

NOAA is also considering whether the allocation framework should be permanent, as recommended by the Council, or should sunset in 1 to 3 years.

Background

The domestic and foreign groundfish fisheries in the EEZ off the coasts of Washington, Oregon, and California are managed by the Secretary according to the FMP prepared by the Council under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP is implemented by regulations for U.S. fishermen at 50 CFR part 663. General regulations applicable to U.S. fishermen are at 50 CFR part 620. The FMP has been amended six times. Amendment 4 contains a framework process (the socioeconomic framework) that provides the authority, guidelines, and criteria for recommending management measures to the Secretary that address social and economic conditions within the fishery. These measures can be implemented by regulation, without further amending the FMP, through the procedures contained in Amendment 4.

Pacific whiting is the largest groundfish resource managed by the Council, and makes up over 50 percent of the potential annual groundfish harvest. Prior to 1980, this species was harvested primarily by foreign fishing vessels. Foreign directed fishing for whiting ended in 1989 when all the available whiting were allocated to U.S. fishermen, mostly for delivery of raw fish to foreign processing vessels under joint venture arrangements. By mid-1990 it was clear that over-capacity of the harvesting and processing sectors in the Alaska groundfish fisheries was causing shorter fishing seasons and that participants were looking for alternative resources, both inside and outside Alaska.

In September of 1990, a survey of domestic annual processing (DAP) needs for Pacific whiting off Washington, Oregon, and California was conducted by the Northwest Region, NMFS. The survey indicated that, for the first time, the entire 1991 Pacific whiting quota could be taken by U.S. at-sea processors between the Alaska A and B pollock seasons and after the Alaska pollock quota had been taken. Although the shoreside processing industry had expressed its intention to increase whiting production from its 1990 level of about 8,000 mt to 36,000 mt in 1991, the Council was concerned that the new high-capacity catcher/processors, with no previous significant history in the Pacific whiting fishery off Washington, Oregon, and California, would displace many of those vessels that historically harvested the U.S. catch, and would preempt existing opportunities and future development for the shoreside whiting processing industry.

As a result, the Council recommended, and the Secretary approved, a proposal to allocate the 228,000-mt 1991 Pacific whiting quota 104,000 mt to catcher/processors and 88,000 mt to fishing vessels that do not process (including vessels that delivered whiting both to shoreside plants and to motherships), with 36,000 mt reserved for either group, but with shoreside processing needs having priority access (56 FR 43718, September 4, 1991). The actual 1991 harvest was 117,000 mt by factory trawlers, 80,000 mt delivered to motherships, and 21,000 mt delivered to shoreside processors.

In November 1991, the Council recommended a different allocation of the whiting resource in 1992. Under the Council's recommended allocation, the shoreside processing sector would have been allocated up to 110,000 mt of the harvest guideline (including a 30,000-mt reserve) with the remainder available for at-sea processing. No vessel would be allowed to both catch and process whiting. NMFS disapproved this recommendation and the Council prepared a second recommendation in March 1992, which was implemented by emergency rule on April 15, 1992, and expired on October 15, 1992. Under this allocation, no more than 98,800 mt of whiting initially could be processed at sea, 80,000 mt was allocated to vessels delivering to shoreside processors, and 30,000 mt was retained in reserve with a priority for use by the shoreside sector. On September 4, the 30,000-mt reserve was released to at-sea processing operations and on October 1, 24,000 mt of the initial shoreside allocation was made available for at-sea processing. In 1992, factory trawlers again harvested 117,000 mt, motherships received 36,000 mt and 56,000 mt was delivered to shoreside processing plants.

Discussion

The Council believes that, without some action directly to allocate the resource or substantially to reduce harvesting or processing efficiency by the at-sea harvesting/processing fleet, that sector of the industry will preempt the shoreside sector (vessels and processors) in 1993 and future years. The Council feels this is both unfair to the catcher vessels that have harvested whiting in the past and deleterious to the West Coast fishing industry as a whole. Preemption of the shore-based whiting fishery would result in the loss of revenues and income to coastal communities. This revenue source is important to maintain the viability of the seafood processing sector that purchases salmon, rockfish, flatfish, shrimp, crab and other species in addition to whiting and supports the fishing-based portion of the coastal economy.

The preemptive power of the at-sea sector will be moderated somewhat in 1994 when the license limitation

program is implemented. Limited entry will not necessarily reduce processing capacity, however, except to the extent that some factory trawlers choose not to participate in the whiting fishery without an opportunity to harvest as well as process.

The Council concluded there is substantial overcapitalization of both the harvesting and processing sectors with respect to Pacific whiting. Limited entry will help address overcapitalization of the harvesting sector in 1994 and beyond, but will probably not eliminate the need for active management of this fishery. Overcapitalization of the processing sector will still exist, however, and the at-sea processing fleet could still preempt the supply of whiting to shoreside processors. This would disrupt the distribution of economic benefits to the coastal communities. At high harvest guideline levels, this problem would be reduced, but in the immediate future it appears that harvest guidelines will continue to decline.

The Council concluded that it would be best to balance the needs of competing interests by providing for a greater share of the needs of the shoreside processing sector at low stock sizes and giving a greater share to the at-sea processing sector at higher stock sizes. In doing this, the Council rejected compromising its limited entry goals, maintained priority for the initial "limited entry fleet" in 1993, and attempted to stretch harvest opportunities over as long a season as possible. This is intended to ensure a large portion of the harvest guideline will be available for harvest by vessels that will initially qualify for trawl "A" endorsements under the license limitation program.

The Council also is concerned that preemption of harvesting opportunities for coastal whiting catcher boats will result in those vessels transferring additional fishing effort into the traditional groundfish fisheries for rockfish, sablefish, and flatfish, which already are fully utilized. Increased effort in the non-whiting groundfish fishery could result in shortened seasons and more restrictive trip limits for all groundfish fishing vessels, could economically disadvantage many fishermen, and could exacerbate the current problem of excessive discards and wastage attributed to restrictive regulations. To the extent that the Council can maintain employment for the traditional joint venture fishing vessels in the Pacific whiting fishery, adverse impacts on the other groundfish fisheries will be lessened.

NMFS economists prepared a cost/benefit analysis for the Council in order to make the determinations under E.O. 12291. These economists used data from various sources including cost and production surveys for 1992. Information was collected on key variables including catch, ex-vessel prices, operating costs, product recovery rates, primary production (e.g., surimi), and secondary production (e.g., fish meal). Unfortunately, one key variable, the price of whiting surimi, was inestimable. World surimi markets are in such a state of oversupply that little shoreside and at-sea whiting surimi had been sold at the time the analysis was conducted. Therefore, there were insufficient data to determine average shoreside and at-sea prices. As a result, at-sea and shoreside whiting surimi prices were assumed equal as there was insufficient evidence to indicate otherwise. The cost information collected showed similar unit costs for both sectors. However, the cost/benefit results show a very small advantage for the alternative recommended by the Council due to more efficient waste utilization by shoreside plants. But even these results as noted by the Council's Scientific and Statistical Committee economists and NMFS economists are clouded by the accuracy of input data, the inability to extrapolate long-run costs and benefits from data based on a single year of operation, and inability to quantify the impacts of limited entry. This is one of the reasons that NOAA is considering options to the Council's proposed long-term formula for allocating whiting.

NOAA's consideration of the Council's recommendation focused on the following key issues:

1. *Preemption of shoreside processing by domestic at-sea processors.*

The combined daily production rate of the at-sea fleet (factory trawlers, mothership-processors, and catcher boats that deliver to either or both) is estimated to be over nine times that of the shoreside sector of the industry. Unrestricted participation by the at-sea sector likely could result in harvest of the entire whiting harvest guideline in as few as 28 days. Such a fishery would concentrate the entire whiting harvest into the early part of the year, reduce fishing opportunities for the groundfish fleet that initially will qualify for permits under the license limitation program, possibly impact other groundfish stocks primarily through induced effort shifts, reduce revenues to coastal communities, and preempt whiting processing opportunities for shoreside groundfish processors.

Therefore, it is reasonable to conclude that some level of protection for shoreside processors and the catcher vessels that deliver to them may be justified. Otherwise, the competitiveness of shoreside processing plants would be seriously harmed due to preemption of product flow and early closure of the season.

2. *Increase of the allocation to shoreside processors.*

As illustrated in the table below, the Council's recommendation, including the reserve, likely would result in a major reallocation from the 1992 division of the harvest in 1993 and 1994 if harvest guidelines continue to decline as expected.

Year	Shoreside		At sea		Total
1992	56,000 mt	27%	153,000 mt	73%	209,000 mt
1993	105,200 mt	74%	36,800 mt	26%	142,000 mt
1994	80,000 mt	80%	20,000 mt	20%	100,000 mt

An important issue is whether establishing a reserve at harvest guidelines between 50,000 and 80,000 mt is necessary to meet the goals and objectives of the FMP, and to satisfy the needs expressed in the EA/RIR/IRFA.

The EA/RIR/IRFA indicates that at the maximum demonstrated operating capacity of the existing shoreside processing plants in 1992 of approximately 500 mt per day, the existing shoreside plants could process about 90,000-95,000 mt over a full season. This assumes that all plants will operate at full capacity for the full season. That may or may not be realistic, depending upon the distribution of whiting and their availability to shoreside catcher boats, and depending upon market factors. The Council's recommendation, including the 30,000 mt reserve, protects up to 125,000 mt for the shoreside sector, depending on the stock size. At this

maximum level of protection, the Council's proposal appears to encourage further investment in an already overcapitalized fishery.

The Council's recommendation reflects its judgment that both socially and economically greater benefits are derived from protecting and encouraging the growth and development of the whiting industry with its base in local coastal communities rather than allowing these benefits to flow to a transient fleet of relatively new entrants to the fishery. However, the Council's basic proposal without the additional shoreside preference afforded by the reserve would provide significant growth from the 1992 level of shoreside processing at most stock sizes, would allow full utilization of existing shoreside processing capacity at average or higher stock sizes, as well as meet the other expressed purposes of a shoreside allocation such as protecting the traditional catcher vessels that will initially qualify for limited entry permits.

Implementation of the Council's recommendation except for the reserve would result in an initial shoreside preference of about 2:1 at low stock sizes, and a maximum shoreside preference of 95,000 mt at average or higher stock sizes, which is consistent with current estimates of the maximum processing capacity of existing shoreside plants. Eliminating the reserve would discourage further investment in processing capacity for the whiting fishery, which is overcapitalized. The following table shows the allocations that would occur in 1993 and 1994, compared to the 1992 harvest, as a result of the action proposed by this regulation.

Year	Shoreside		At sea		Total
1992	56,000 mt	27%	153,000 mt	73%	209,000 mt
1993	89,600 mt	63%	52,400 mt	37%	142,000 mt
1994	67,000 mt	67%	33,000 mt	33%	100,000 mt

Any Pacific whiting harvested or processed in state ocean waters (0–3 nautical miles offshore) will be counted toward the EEZ limits.

In addition, NOAA proposes the following definitions of shoreside and at-sea processing to facilitate implementation and enforcement of the management scheme:

(1) *At-sea processing* means processing that takes place on a vessel or other platform that floats and is capable of being moved from one location to another, whether shoreside or at sea; and

(2) *Shoreside processing* means processing that takes place in a facility which is permanently fixed to land.

Classification

This proposed rule is published under authority of the Magnuson Act, 16 U.S.C. 1801 *et seq.*, and was prepared at the request of the Pacific Fishery Management Council. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has initially determined that this proposed rule is necessary for management of the Pacific coast groundfish fishery and that it is consistent with the Magnuson Act and other applicable law.

The Council prepared an Environmental Assessment (EA) for this proposed rule (contained in the EA/RIR/IRFA), and concluded that there will be no significant impact on the environment. You may obtain a copy of the EA from the Council (see **ADDRESSES**).

The NMFS issued Biological Opinions under the ESA on August 10, 1990, November 26, 1991, and August 28, 1992 pertaining to the impacts of the groundfish fishery, and particularly the whiting fishery, on listed species. The opinions concluded that implementation of the FMP would not jeopardize the continued existence of any of the species considered. The proposed rule, if implemented, would not result in biological impacts different from those discussed in the three Biological Opinions. Because the impacts of this proposed action fall within the scope of the impacts considered in previous Biological Opinions, additional consultations are not required for this action.

The Assistant Administrator initially has determined that this is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The proposed action will not have a cumulative effective on the economy of $100 million or more nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises. A supplementary cost/benefit analysis prepared for this rule by NMFS economists indicates that this proposed rule should result in an increase in net benefits from the status quo of $61 million over the long term. The net effect of this rule will be to distribute the total revenues generated from the fishery between communities supported by the at-sea processors and those supported by shoreside processing plants and by U.S. fishing vessels that deliver to either at-sea processors or to shoreside plants.

This proposed rule, if adopted, could have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* As a result an IRFA was prepared by the Council and is available from the Council (see **ADDRESSES**). According to the IRFA, an average of 32 vessels per year landed whiting to shoreside processors during the 1986–90 period. In 1991, 14 catcher vessels made deliveries to at-sea processors. Those catcher vessels that are equipped to harvest whiting and transport it to shore will stand to benefit from this action, while those equipped to deliver solely at sea may find their opportunities reduced.

This proposed rule contains no collection-of-information requirement subject to the Paperwork Reduction Act.

The NMFS has determined that this rule is consistent to the maximum extent practicable with the approved coastal zone management programs of the States of Washington, Oregon, and California. Letters have been sent to the three states requesting their review and comment.

This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fisheries, Fishing, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 12, 1993.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 663 is proposed to be amended as follows:

PART 663—PACIFIC COAST GROUNDFISH FISHERY

1. The authority citation for part 663 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 663.2 is amended by adding, in alphabetical order, the definitions of "at-sea processing", "processing" or "to process", and "shoreside" as follows:

§ 663.2 Definitions.

* * * * *

At-sea processing means processing that takes place on a vessel or other platform that floats and is capable of being moved from one location to another, whether shoreside or on the water.

* * * * *

Processing or *to process* means the preparation or packaging of groundfish to render it suitable for human consumption, industrial uses or long-term storage, including but not limited to cooking, canning, smoking, salting, drying, filleting, freezing, or rending into meal or oil, but does not mean heading and gutting unless additional preparation is done.

* * * * *

Shoreside processing means processing that takes place in a facility that is fixed permanently to land.

* * * * *

3. In § 663.7, paragraphs (n) and (o) are added as follows:

§ 663.7 Prohibitions.

* * * * *

(n) Process Pacific whiting in the fishery management area during times or in areas where at-sea processing is prohibited.

(o) Take and retain, or receive (except as cargo), Pacific whiting on a vessel in the fishery management area that already possesses processed Pacific whiting onboard, during times or in areas where at-sea processing is prohibited.

4. In § 663.23 paragraph (b)(4) is added as follows:

§ 663.23 Catch restrictions.

* * * * *

(b) * * *

(4) *Pacific Whiting—Allocation.* (i) *Initial Allocations.* Every year the Regional Director will determine the initial allocation of the Pacific whiting harvest guideline or quota according to the following. The entire amount of the harvest guideline or quota between zero and 50,000 mt will be allocated for harvest only by vessels delivering to shoreside processors. The entire amount of the harvest guideline or quota between 50,000 and 80,000 mt will be available for at-sea processing. The sliding scale formula set forth in paragraph (b)(4)(ii) of this section will be used to allocate that portion of the harvest guideline or quota between 80,000 mt and 170,000 mt. Any portion of the harvest guideline or quota above 170,000 mt will be available for at-sea processing. Any portion of the harvest guideline or quota not allocated for harvest only by vessels delivering to shoreside processors will be available to any fishing vessel operating in accordance with this part, without regard to the place of processing.

(ii) *Sliding Scale Formula.* Allocation of that portion of the Pacific whiting harvest guideline or quota between 80,000 and 170,000 mt will be determined according to the sliding scale formula set forth below. Using the sliding scale, set percentages are applied to each 10,000-mt increment, or portion thereof, of the harvest guideline or quota, to calculate the allocation for harvest only by vessels delivering shoreside.

SLIDING SCALE

10,000-mt increment	Percentage to shoreside
80,001 to 90,000 mt	90
90,001 to 100,000 mt	80
100,001 to 110,000 mt	70
110,001 to 120,000 mt	60
120,001 to 130,000 mt	50
130,001 to 140,000 mt	40
140,001 to 150,000 mt	30
150,001 to 160,000 mt	20
160,001 to 170,000 mt	10

(iii) *September Assessment.* Any amount of the initial allocation that the Regional Director determines will not be needed by shoreside processors during the remainder of the fishing year may be made available for at-sea processing on September 1 or as soon as practicable thereafter.

(iv) *Prohibition Against At-sea Processing.* When the Regional Director determines that the Pacific whiting available for at-sea processing has been fully utilized, or is about to be fully utilized, and an announcement has been issued pursuant to paragraph (b)(4)(vi) of this section, further at-sea processing of Pacific whiting is prohibited, and further taking and retaining, or receiving (except as cargo) of Pacific whiting by a vessel with processed whiting on board is prohibited. Such prohibition will be effective until additional Pacific whiting is determined to be available for at-sea processing, and an announcement has been issued under paragraph (b)(4)(vi) of this section.

(v) *Estimates.* Estimates of the amount of Pacific whiting processed may be based on actual amounts processed, projections of amounts that will be processed, or a combination of the two. Estimates of the amount of Pacific whiting needed by shoreside processors after September 1 will be based on the best information available to the Regional Director from state catch and landings data, the survey of domestic processing capacity and intent, testimony received at Council meetings, and/or other relevant information. Only Pacific whiting taken, retained, and processed in U.S. waters shoreward of the outer boundary of the fishery management area will count toward the limit on whiting and available for at-sea processing.

(vi) *Announcements.* The initial limit on at-sea processing of Pacific whiting will be announced with the annual specifications. The Assistant Administrator for Fisheries, NMFS, will announce any reapportionment of the allocation not needed by shoreside processors in the **Federal Register** on September 1, or as soon as practicable thereafter. The Assistant Administrator also will announce in the **Federal Register** when a limit for at-sea processing has been reached, or is about to be reached, specifying a time after which further at-sea processing of Pacific whiting in the fishery management area will be prohibited. In order to prevent exceeding the limits or underutilizing the resource, adjustments may be made effective immediately by actual notice to fishers and processors (by phone, fax, Northwest Region computerized bulletin board (contact 206–526–6128), letter, press release, and/or U.S. Coast Guard Notice to Mariners (monitor channel 16 VHF), followed by publication in the **Federal Register**, in which instance public comment will be sought for a reasonable period of time thereafter. If insufficient time exists to consult with the Council, the Regional Director will inform the Council in writing of actions taken.

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[FR Doc. 93–6227 Filed 3–12–93; 5:08 pm]

BILLING CODE 3510-22-M

50 CFR Part 663

[Docket No. 930345–3045]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: The Secretary of Commerce (Secretary) requests comments on a proposed rule to restrict fishing operations in the Pacific whiting fishery to minimize the impact of the Pacific whiting fishery on Pacific salmon stocks. The rule would be issued under the authority of proposed Amendment 7 to the Pacific Coast Groundfish Fishery management Plan (FMP). A decision on approval of Amendment 7 is scheduled on or before March 26, 1993. Restrictions on fishing operations to minimize the bycatch of Pacific salmon are necessary because many Pacific salmon stocks appear to be at record low levels, and some stocks may not meet escapement goals even in the absence of any commercial or recreational salmon harvest. This rule would also change the yearly start of the regular season on the Eureka subarea South of the Oregon border from April 15 to March 1 to allow small-scale harvest of whiting when the fish are in that area.

DATES: Written comments on the proposed rule must be received on or before April 1, 1993.

ADDRESSES: Comments should be sent to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700–Bldg. 1, Seattle, WA 98115–0070, or Dr. Gary Matlock, Acting Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., suite 4200, Long Beach, CA 90802–4213. Copies of the environmental assessment/regulatory impact review (EA/RIR) may be obtained from Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW. First Avenue, Portland OR 97201–5344.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140 or Rodney R. McInnis at 310–980–4040.

SUPPLEMENTARY INFORMATION:

Background

In 1991, the Pacific whiting (whiting) fishery was completely "Americanized." The joint venture fishery (U.S. catcher vessels delivering whiting to foreign processing vessels at sea), which in the previous year had taken over 93 percent of the whiting quota, was completely displaced by domestic processors, praticularly catcher/processors and motherships. The domestic fleet is not subject to the same regulations and conditions as joint venture and foreign operations. The domestic whiting fishery is able to operate south of 39° N. latitude, an area that had been prohibited to foreign processing vessels. Those areas were closed to foreign processing vessels primarily due to concerns over the bycatch of salmon and rockfish and for national security reasons. Similarly, domestic catcher vessels can fish from 0–200 nautical miles (nm) offshore, whereas foreign trawl vessels could only fish seaward of 12 nm.

Whiting are found in fishable concentrations off California in the spring. The fishery generally follows the stock as it migrates northward until it is predominantly in Canadian waters or disperses offshore in the fall. The domestic fishery (particularly the at-sea processing sector) is capable of more intense fishing (higher effort in different and more localized areas) than occurred in the past, raising questions about the bycatch of salmon in the whiting fishery.

Salmon Conservation Problems

Severe conservation problems have been documented for Sacramento River winter-run chinook salmon, Snake River fall and spring/summer chinook, and Snake River Sockeye salmon. Snake River sockeye are currently listed as endangered and the other stocks as threatened under the Endangered Species Act (ESA). The ESA requires formal biological consultation to ensure the groundfish fishery does not jeopardize their existence (Section 7 Consultation—Biological Opinion "Fishing Conducted under the Pacific Coast Groundfish Fishery Management Plan for the California, Oregon, and Washington Groundfish," NMFS, August 28, 1992).

Klamath River fall chinook salmon also are of concern. In each of the past 3 years, the escapement of naturally produced Klamath River fall chinook has failed to meet the spawning escapement goal floor (35,000 natural adults) specified in the Fishery Management Plan for the Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California. The natural spawning escapement was only 13,200 adults in 1990 and 11,100 adults in 1991. For 1992, it was projected that the stock would not meet the spawning escapement floor even with no ocean salmon fisheries. The Pacific Fishery Management Council's (Council) Salmon Technical Team (STT) reported: "Although questions have been raised about the appropriateness of the 35,000 floor, the STT continues to believe that adult natural spawning escapements significantly below this level will increase the danger of jeopardizing the long-term productivity of the Klamath fall chinook stock during this period of apparent low freshwater and marine survival." ("Preseason report III analysis of Council-adopted management measures for 1992 ocean salmon fisheries.")

In response to this situation, the Council recommended that, in 1992, no commercial salmon fishery be allowed between Florence, Oregon, and Point Arena, California, and that recreational fisheries in this area be regulated under chinook quotas for the first time. The total 1992 chinook harvest in the recreational salmon fishery between Florence, Oregon, and Point Arena, California, is estimated at about 13,000 fish. A review of the Klamath River fall chinook stock is being undertaken to determine if the stock is overfished, as defined by the FMP.

Incidence of Salmon in the Whiting Fishery

In 1991, the coastwide incidence of salmon by the at-sea processing sector of the whiting fishery was about 0.03 salmon per metric ton (mt) of whiting. The Council's goal is to keep the incidence to below 0.05. However, localized areas experienced a higher rate, most notably the Eureka subarea, which had a 0.07 rate in 1991, both well below the Council's goal.

The incidence of salmon in the spring 1992 whiting fishery for at-sea processors was 0.0135 salmon per mt of whiting, compared with 0.0321 in 1991, both well below the Council's goal. The salmon bycatch from the September 1992 fishery was equally low. Bycatch in the October fishery preliminarily was estimated to be much higher, but the data are under review and after further refinement the actual rate may change. The bycatch of salmon by at-sea processing operations for all of 1992 is well below the Council's 0.05 goal. At shoreside processing plants in the State of Oregon (through October 20, 1992), 238 salmon were observed in 23,651 mt of whiting, for an incidental rate of 0.0101 salmon per mt in observed trips.

The bycatch of salmon could have been low in 1992 for a number of reasons. Some salmon stocks were clearly less abundant, and atypically warm water ("El Nino") may have affected their availability. The cooperation of whiting fishermen in avoiding salmon undoubtedly was a major factor. Restrictions similar to

those proposed in this action were imposed by emergency rule in 1992 and are believed to have contributed to the lower bycatch rate.

Restrictions in 1992 to Minimize the Bycatch of Salmon

To address concerns about bycatch in the whiting fishery, a number of restrictions were imposed last year. First, an April 15 start of the regular season was set (57 FR 2851, January 24, 1992) to prevent large-scale effort shifts south of 39° N. latitude. Although the April 15 start of the regular season was intended to reduce potential impacts on some salmon stocks, particularly Sacramento winter-run chinook salmon, further review of the fishery data for 1991 indicated that the bycatch of other salmon stocks, most notably Klamath River fall chinook, could be reduced further without undue hardship on the whiting fishery. Several other restrictions were imposed by emergency rule in 1992 for the primary purpose of minimizing the bycatch of salmon in the whiting fishery (57 FR 14663, April 22, 1992). These restrictions prohibited: (1) Fishing for whiting at night (midnight to ½ hour after official sunrise); (2) fishing for whiting shoreward of 100 fathoms (fm) in the Eureka subarea (except for a 2,000-pound (907-kilogram) trip limit); (3) fishing for whiting in the Columbia River and Klamath River Salmon Conservation Zones; and (4) at-sea processing of whiting (which prevented harvest by catcher vessels delivering to at-sea processors) south of 42°00′00″ N. latitude (42°). Because emergency rules may remain in effect no longer than 180 days after initial publication in the **Federal Register**, these bycatch restrictions expired on October 19, 1992. Consequently, an FMP amendment has been proposed to provide the authority to continue to take such actions in the future.

Amendment 7

Amendment 7 to the FMP would authorize regulations restricting the groundfish fishery for the purpose of addressing conservation concerns for non-groundfish species. The Council adopted Amendment 7 at its November 1992 meeting and submitted it for review by the Secretary in December 1992. Implementation of the management measures in this proposed rule is contingent on Secretarial approval of Amendment 7. Secretarial action on Amendment 7 will probably occur on March 26, 1993, 95 days after the receipt date. In order to make these management measures effective by the start of the regular whiting season, public review of this proposed rule must occur concurrently with the review of Amendment 7.

This rule proposes prohibiting: (1) At-sea processing of whiting south of 42°; (2) fishing for whiting at night (midnight to ½ hour after official sunrise); (3) fishing for whiting shoreward of 100 fm in the Eureka subarea (42°–40°30′00″ N. lat.), except that small amounts of whiting may be retained if within a trip limit, which may be imposed and revised as a routine management measure; and (4) fishing for whiting in the Columbia River and Klamath River Salmon Conservation Zones. These are the same restrictions as implemented by emergency rule in 1992 except that the prohibition against night fishing would apply only south of 42°, not coastwide. In addition, small trip landing and frequency limits would be designated as "routine" for whiting caught shoreward of the 100-fm contour in the Eureka subarea (see the discussion on restricting fishing for whiting shoreward of 100 fm in the Eureka subarea). The Council has recommended an initial trip limit for 1993 of 10,000 pounds (4.5 mt), the same as allowed before and after the regular season that starts in the spring. A minor modification also is proposed to the start of the regular season, so that the "regular" whiting season could begin on March 1 between 42°–40°30′00″ N. latitude. However, it would remain April 15 elsewhere off Washington, Oregon, and California.

The rationale for these actions is generally the same as announced in: (1) The 1992 emergency rule to implement bycatch restrictions in the whiting fishery (57 FR 14663, April 22, 1992), (2) the rule setting the April 15 whiting season (57 FR 2851, January 24, 1992); and (3) the rule establishing routine trip landing and frequency limits for whiting before and after the large-scale target season (58 FR 11984, March 2, 1993). These reasons are summarized below.

Prohibit At-Sea Processing South of 42°

To minimize the salmon bycatch in the southern part of the Eureka subarea, the area of highest salmon bycatch, the Council recommended continuation of the prohibition against processing whiting at sea south of 42°, which had been implemented by emergency rule in 1992. This would keep the high-capacity at-sea processing fleet, which took more than 30,000 mt of whiting in a single week in 1992, to more northerly fishing areas where salmon interception historically has been lower. It also would keep these operations away from Cordell Bank and the Gulf of Farallones, where there were high bycatch of chilipepper rockfish (more than 500 mt) in 1991. Operations in those areas are also capable of producing high bycatch of bocaccio.

The prohibition on at-sea processing south of 42° would prevent the largest potential impact on Klamath River fall chinook and Sacramento winter-run chinook. Because of the mobility of these vessels, a shift to more northern waters is not expected to limit the at-sea processing sector's ability to catch whiting, although it may slow their initial operations somewhat if whiting are not fully dispersed along the coast. In 1992, while fishing under this restriction (among others), the at-sea processing sector was able to operate at record high rates.

The Council did not intend this restriction to apply to the shore-based whiting fishery because, unlike the at-sea processing fleet, shoreside processing plants are at fixed locations and depend on whiting caught locally instead of being able to follow the whiting as they migrate north. Shore-based vessels need to stay within approximately 12 hours of processing plants to maintain quality of the fish. Extending the prohibition of California shore-based operations south of 42° would virtually eliminate them from the fishery, while protecting only a small amount of salmon and rockfish.

In addition, the amount of whiting expected to be delivered to shoreside processing plants south of 42°, to date less than 10,000 mt in an entire year, is considerably less than the at-sea processing fleet, which potentially could harvest three times as much in a single week. Accordingly, the potential salmon bycatch by the shore-based fishery is expected to be small.

Prohibit Night Fishing South of 42°

The initial analysis of the 1991 catch rate of salmon by time of day (determined by the time that the net was beginning to be retrieved, or "haulback") indicated that salmon were most likely to be taken in the whiting fishery between midnight and 6 a.m. coastwide. Consequently, fishing during nighttime hours was prohibited by emergency rule in 1992.

A new analysis, based on more rigorous scientific procedures and refined data, reexamined the unexpanded observer data from the 1991 fishery, north and south of 42°. (The data were analyzed in 3-hour increments, with the time measured at the midpoint of the tow.) After reviewing the revised analysis at its November 1992 meeting, the Council concurred with its Groundfish Management Team that bycatch rates were not reliably different by time of day north of 42°. South of 42°, however,

the higher rate of salmon bycatch at night appears to be statistically significant. The Council therefore recommended applying this restriction only south of 42°, not coastwide. As in 1992, "night" is defined as the period between midnight and one-half hour after official sunrise.

Operators of shore-based vessels fishing south of 42° are not disadvantaged because they traditionally have had a daylight fishery, but this restriction does preclude the possibility of a night fishery developing. This action, in conjunction with the prohibition against at-sea processing operations south of 42°, prevents a potential problem from developing without imposing undue hardship on the existing whiting fishery.

Restrict Fishing for Whiting Shoreward of the 100-Fm Contour in the Eureka Subarea

Another pattern evident from the analysis of the historical salmon bycatch data is the tendency for bycatch rates to be higher in shallower, nearshore areas. An analysis of the bycatch rate inside and outside of the 100-fm contour in the Eureka subarea from 1988 to 1990 indicated that salmon bycatch rates were 9 to 16 times higher shoreward of the 100-fm contour. The 1991 fishery by the at-sea processing sector occurred almost entirely seaward of 100 fm. Concerned that a shift in the whiting fishery to more nearshore waters could increase the bycatch of Klamath River salmon and other stocks above 1991 levels, the 1992 emergency rule prohibited large-scale target fishing for whiting inside of 100 fm in the Eureka subarea (by both the shore-based and at-sea fleets).

A biological opinion required by the ESA for "Fishing Conducted under the Pacific Coast Groundfish Fishery Management Plan for the California, Oregon, and Washington Groundfish Fishery" was issued by NMFS on August 28, 1992. It specified as a condition of its incidental take statement that fishing for whiting be limited inside of 100 fm in the Eureka subarea because the available information indicates that bycatch rates are generally higher in nearshore areas. This restriction is not applied to the rest of the coast because previous analyses of depth-related effects in the whiting fishery were specific to the Eureka subarea. This proposed rule would provide for continuation of this restriction as required under the "incidental take" provisions of the biological opinion. This provision may be changed in the future, but will require additional analysis supporting the change, and will require reconsultation under the ESA.

Trip Limit for Whiting Caught Inside of 100-fm in the Eureka Subarea

Recognizing that bycatch of whiting taken while fishing for other species occurs inside of 100 fm in the Eureka subarea, and that there are small bait fisheries and fresh-fish markets for whiting, the proposed rule would allow small incidental or target fisheries. Whiting are ubiquitous and thus are caught incidentally in other fisheries conducted in areas closed to the whiting fishery. There is little market for this bycatch, if any, since whiting must be handled swiftly and carefully to maintain product quality. Therefore, there is little incentive to land whiting bycatch, and few are landed or recorded. The Council recognized that there is little reason to require a fishing vessel operator to disrupt normal operations to sort and discard whiting caught unavoidably while fishing for other species. Consequently, the Council recommended implementation of a small trip limit to accommodate bycatch of whiting in other fisheries. Since whiting is not the target species in this case, there is no relevance to the bycatch of salmon in the whiting fishery, and there is no impact on the level of salmon taken incidentally in the whiting fishery.

The Council also acknowledged that small target trips are made to supply the fresh fish market in southern California (generally less than 500 pounds (0.23 mt) per trip, often on a daily basis), and that larger but less frequent trips are made to supply bait fisheries (as large as 50,000 pounds (23 mt) off Oregon). These small whiting fisheries have very little impact on the total landings of whiting (probably less than 1 percent of the total harvest guideline). The whiting from these fisheries that enter the fresh fish markets have a high unit value, and the income from whiting is important to these operations. Whiting taken in bait fisheries enables other fisheries (particularly for sablefish or hagfish) to be conducted. Shore-based processors have stated that there are few landings in the bait fishery in the Eureka subarea. However, there are no data available to provide an exact amount. The impact of the small target fisheries on the salmon resource is believed to be negligible, if measurable.

Available data from the State of California do not differentiate between catches made shallower, or deeper than, 100 fathoms in the Eureka subarea, so the Council assumed similar patterns in this area as along the rest of the coast. It is critical that any trip limit intended to minimize the bycatch of salmon be designed so as not to encourage an increase in the level of target fishing for whiting (generally more than 20 mt per trip shoreside and 40 mt at-sea) or in the bycatch of salmon. It is also critical that this trip limit be modified quickly if necessary to protect salmon stocks in the Eureka subarea. For these reasons, the Council recommended that the trip limit be designated as "routine" (under 50 CFR 663.23) and initially set at 10,000 pounds (4.5 mt), at the same level and based on the same analysis as the initial 1993 trip limit for whiting caught before and after the regular season (58 FR 11984, March 2, 1993). This limit is expected to have no measurable impact on the salmon resource, is a compromise between the disparate needs of the fresh fish and bait fisheries, and should adequately accommodate the bycatch of whiting in non-whiting fisheries.

Routine management measures, which are codified at 50 CFR 663.23, generally are specific for certain species and gear types and may be modified quickly after consideration at a single Council meeting as long as the changes are for the same reason and within the scope of the analysis performed when the measure originally was designated as routine. These routine trip landing or frequency limits would be imposed for some of the some reasons identified at 50 CFR 663.23(c)(1)(ii) for "routine" landing and trip frequency limits applied to other commercial groundfish fisheries: to minimize disruption of traditional fishing and marketing patterns; to reduce discards; to discourage target fishing while allowing small incidental catches to be landed; and to allow small fisheries to operate outside the normal season. Routine trip limits are announced in the **Federal Register**. Accordingly, if this proposed rule is implemented, the first routine management measure that is being considered would provide that no more than 10,000 pounds (4.5 mt) of whiting may be taken and retained inside of the 100-fm contour in the Eureka subarea and possessed, or landed, per vessel per fishing trip.

Close the Klamath and Columbia River Conservation Zones to Fishing for Whiting

Immature and mature salmon of a particular stock of concern generally are dispersed widely in the ocean. However, they may at times be found in heavier concentrations near the mouths of major rivers or their river of origin. For this reason, the ocean areas immediately adjacent to the mouths of

the Klamath and Columbia Rivers have generally been closed to commercial and recreational salmon fishing. Establishing these same closures for the whiting fishery should help protect against the potential for any unusually high occurrence of salmon bycatch of a particular stock of concern (in this case, Snake River fall and spring/summer chinook, and Klamath River fall chinook).

The Klamath River Salmon Conservation Zone extends approximately 6 nm north and 6 nm south of the Klamath River mouth and 12 nm seaward. The Columbia River Salmon Conservation Zone is roughly a square, 6 nm on each side, off the mouth of the Columbia River. Operators of whiting vessels voluntarily agreed not to operate in these relatively small areas in 1991, and were prohibited from doing so by emergency rule in 1992.

These closures would minimize the likelihood of a potential biological problem and would help address the perception that large-scale at-sea processors are harvesting returning, depressed salmon stocks. Closure of these small areas to the whiting fishery may not directly benefit the salmon resource because to date these areas have not been heavily exploited by the whiting fishery. However, these closures pose no hardship on the whiting fleet and could prevent a bycatch problem from arising in these areas in future years.

Regular Season Start Dates

This proposed rule would set the yearly start date for the regular fishery (i.e., the fishery that is not constrained by trip limits except inside 100 fm in the Eureka subarea) at March 1 between 42° and 40°30′00″ N. lat., and continue the start of the regular season at April 15 for the rest of the coast. Since at-sea processing would be prohibited south of 42°, only the relatively small shore-based fishery would open early. This fishery is the only one that is extremely disadvantaged by the April 15 start of the regular season and, because of its small scale, would not have a large take of salmon and rockfish or concentrate the fishery early in the season. The Pacific whiting season traditionally started in March or April, but no regulation prevented the fishery from starting earlier. An earlier, large-scale fishery would increase effort in southern California waters near the Cordell Bank and Gulf of the Farallones National Marine Sanctuaries, where whiting aggregate before their northward migration and where chilipepper and bocaccio rockfish also are found. Sacramento winter-run chinook salmon also are found in more southern waters. To prevent the development of large-scale operations in southern waters earlier in the year, an April 15 start of the regular season was established for all components of the whiting fishery in 1992 (57 FR 2851, January 24, 1992). The April 15 start of the regular season was intended to start the fishery when whiting were more dispersed along their northward migration so the impact of the fishery would be more dispersed.

Shore-based processors in Eureka and Crescent City, California, are the southernmost ports with a recorded history of processing whiting. Whiting generally are available early in the spring (sometimes in March) and migrate to the north (often out of fishing range in August) in the Eureka subarea. This pattern is more pronounced when ocean waters are atypically warm (El Nino), as occurred in 1992. A large portion of the whiting stock had already migrated out of fishing range for Eureka and Crescent City by the time the season opened on April 15, 1992.

California processors annually have used less than 6 percent of the harvest guideline. The proportion that they would take between March and April 15 would be substantially less. However, a substantial amount of the California whiting production is ordinarily harvested before April 15. In 1988 and 1991, California processors took more than 30 percent of their annual harvest in March and April (through April 30). Consequently, the Council decided to modify the April 15 start of the regular season only for that segment of the fishery in the Eureka subarea south of 42° (42°–40°30′00″ N. latitude), which accommodates the Eureka/Crescent City whiting fishery. The April 15 start for the large-scale target season (the "regular" season, during which the only trip limit is on whiting taken inside of 100 fm in the Eureka subarea) remains along the rest of the coast, preceded and followed by small trip limits. An earlier start of the regular season for the entire coast south of 42° was not recommended for the same reasons provided in the initial EA/RIR establishing the April 15 season—primarily concern over salmon bycatch and, to a lesser extent, rockfish bycatch levels.

In its statement to the Council in July 1992, the Council's Groundfish Management Team stated its belief that a start of the regular season for shore-based processing between March 1 and April 15 was supportable and within the scope of the EA/RIR previously prepared for setting the April 15 coastwide start of the regular season for all users. Consequently, this change still is consistent with the original intent of setting a spring start of the regular season, to minimize the bycatch of salmon and rockfish and disperse the impacts of the fishery along the coast. This change serves to minimize the impact on the small shore-based California whiting fishery, which was burdened the most by the April 15 start of the regular season, while preserving the main benefit of the spring start of the regular season.

Consistency With Amendment 7

The Council's goal in November 1992 was that any action selected to protect salmon in the whiting fishery must be reasonably expected to minimize the bycatch of salmon and/or must not impose undue hardship on the whiting fishery. It also must conform with the following provisions of Amendment 7, if approved:

> Where conservation problems have been identified for nongroundfish species and the best scientific information shows that the groundfish fishery has a direct impact on the ability of that species to maintain its long-term reproductive health, the Council may consider establishing management measures to control the impacts of groundfish fishing on those species. Management measures may be imposed on the groundfish fishery to reduce fishing mortality of a nongroundfish species for documented conservation reasons. The action will be designed to minimize disruption of the groundfish fishery, in so far as consistent with the goal to minimize the by-catch of non-groundfish species, and will not preclude achievement of a quota, harvest guideline, or allocation of groundfish, if any, unless such action is required by other applicable law.

At its November 1992 meeting, the Council determined that, unless constrained by the regulations proposed in this action, the potential bycatch of salmon in the whiting fishery could have a direct impact on the ability of certain depressed salmon stocks (e.g., Klamath River fall chinook, Sacramento River winter-run chinook, Snake River fall chinook) to maintain their long-term reproductive health. The proposed measures have been designated to minimize disruption to the groundfish fishery and will not prevent the achievement of the whiting harvest guideline or allocations to any sector of the fishery.

Classification

This proposed rule is published under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act), 16 U.S.C. 1801 *et seq.*, and was prepared at the request of the Council. The Assistant Administrator for Fisheries, NOAA (Assistant

Administrator), initially has determined that this proposed rule is necessary for the conservation and management of the Pacific coast groundfish fishery and that it is consistent with the Magnuson Act and other applicable law.

An environmental assessment and regulatory impact review (EA/RIR) for this proposed rule concluded that there will be no significant impact on the human environment. You may obtain a copy of the EA/RIR from the Council (see **ADDRESSES**).

NMFS issued three Biological Opinions under the ESA on August 10, 1990, November 26, 1991, and August 28, 1992, pertaining to the impacts of the groundfish fishery, and particularly the whiting fishery, on listed species. The opinions concluded that implementation of the FMP would not jeopardize the continued existence of any of the species considered. The proposed rule, if implemented, would not result in biological impacts different from those discussed in the three Biological Opinions. Because the impacts of this proposed action fall within the scope of the impacts considered in previous Biological Opinions, additional consultations are not required for this action.

The Assistant Administrator initially has determined that this is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The proposed action will not have a cumulative effect on the economy of $100 million or more, nor will it result is a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises. This conclusion is based on the EA/RIR prepared for this rule, which indicates that the gross revenues generated from the whiting fishery are not expected to differ substantially as a result of the proposed actions.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (RFA). This proposed rule would ease the restrictions on California shore-based processors and protect salmon stocks of concern while minimizing the impact on the whiting industry. These management measures are not expected to prevent any segment of the whiting fishery from taking its allocation, if any, and are less restrictive than imposed by emergency rule in 1992 during which a successful fishery was prosecuted by most participants. Therefore, these actions would not result in a significant economic impact on a substantial number of small entities under the RFA.

This proposed rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

The Council has initially determined that this proposed rule is consistent to the maximum extent practicable with the approved coastal zone management programs of the States of Washington, Oregon, and California. This initial determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 12, 1993.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 663 is proposed to be revised as follows.

PART 663—PACIFIC COAST GROUNDFISH FISHERY

1. The authority citation for part 663 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 663.23(b)(3) is revised to read as follows:

§ 663.23 Catch restrictions.

* * * * *

(b) * * *

(3) *Pacific whiting*—(i) *Season.* The regular season for Pacific whiting begins on March 1 between 42°00′00″ N. and 40°30′00″ N. latitude, and on April 15 north of 42°00′00″ N. latitude and south 40°30′00″ N. latitude. Before and after the regular season, trip landing or frequency limits may be imposed under paragraph (c) of this section.

(ii) *Closed areas.* Pacific whiting may not be taken and retained in the following portions of the fishery management area:

(A) *Klamath River Salmon Conservation Zone:* The ocean area surrounding the Klamath River mouth bounded on the north by 41°38′48″ N. latitude (approximately 6 nautical miles north of the Klamath River mouth), on the west by 124°23′00″ W. longitude (approximately 12 nautical miles from shore), and on the south by 41°26′48″ N. latitude (approximately 6 nautical miles south of the Klamath River mouth);

(B) *Columbia River Salmon Conservation Zone:* The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nautical miles due west from North Head along 46°18′00″ N. latitude to 124°13′18″ W. longitude, then southerly along a line of 167 True to 46°11′06″ N. latitude and 124°11′00″ W. longitude (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty;

(iii) *Eureka subarea trip limits.* Trip landing or frequency limits may be established, modified, or removed under 50 CFR 663.23(c)(1)(i)(I) specifying the amount of Pacific whiting that may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100-fathom contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka subarea (from 40°00′00″ N. lat. to 40°30′00″ N. lat.).

(iv) *At-sea processing.* Pacific whiting may not be processed at sea south of 42°00′00″ N. latitude (Oregon-California border).

(v) *Time of day.* Pacific whiting may not be taken and retained by any vessel in the fishery management area south of 42°00′00″ N. latitude between 0001 hours to one-half hour after official sunrise (local time). During this time, trawl doors must be on board the vessel and the trawl must be attached to the trawl doors. Official sunrise is determined, to the nearest 5° latitude, in The Nautical Almanac issued annually by the Nautical Almanac Office, United States Naval Observatory, and available from the U.S. Government Printing Office.

[FR Doc. 93–6220 Filed 3–12–93; 5:08 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 51
Thursday, March 18, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

March 12, 1993.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection;

(2) Title of the information collection;

(3) Form number(s), if applicable;

(4) How often the information is requested;

(5) Who will be required or asked to report;

(6) An estimate of the number of responses;

(7) An estimate of the total number of hours needed to provide the information;

(8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Revision

- *Agricultural Marketing Service*

Reporting and Recordkeeping Requirements Under Regulations (Other Than Rules of Practice) Under the Perishable Agricultural Commodities Act, 1930.

FV–211, FV–231.

Businesses or other for-profit; 139,895 responses; 161,539 hours.

John D. Flanagan, (202) 270–2195.

- *Agricultural Stabilization and Conservation Service*

7 CFR parts 701–Conservation and Environmental Programs.

FIP–11, FIP–12, ASCS–18, ACP–153, 153A, 310, 311, and 245.

On occasion.

Farms; 2,918,650 responses; 726,130 hours.

Priscilla L. Wright, (202) 720–5783.

- *Farmers Home Administration*

7 CFR parts 1980–D, Rural Housing Loans.

FmHA 1980–11, 12, 13, 16, 17, 18, 20, 21, 1980–80, 81.

Recordkeeping; On occasion; Monthly; Quarterly.

Individuals or households; State or local governments; businesses or other for-profit; small businesses or organizations; 65,723 responses; 33,378 hours.

Jack Holston, (202) 720–9736.

Extension

- *Agricultural Marketing Service*

Reporting Requirements Under 7 CFR part 51, Regulations Governing Inspection, Certification and Standards for Fresh Fruits, Vegetables, and Other Products.

FV–237, FV–292.

On occasion.

State or local governments; businesses or other for-profit; 212,206 responses; 6,341 hours.

Douglas D. Shearer, (202) 720–2482.

New Collection

- *Rural Electrification Administration*

Lien Accommodations and Subordinations.

On occasion.

Small businesses or organizations; 220 responses; 330 hours.

Charles R. Miller, (202) 720–0424.

Reinstatement

- *Food and Nutrition Service*

Report of the Emergency Food Assistance Program (TEFAP).

Administrative Costs.

FNS–667.

Quarterly.

State or local governments; 275 responses; 963 hours.

Lynn M. Rodgers, (703) 305–2048.

- *Food and Nutrition Service*

Coupon Account and Destruction Report.

Form FNS–471.

On occasion.

State or local governments; 123,312 responses; 40,331 hours.

David Walters, (703) 305–2385.

Larry K. Roberson,

Deputy Department Clearance Officer.

[FR Doc. 93–6214 Filed 3–17–93; 8:45 am]

BILLING CODE 3410–01–M

Forest Service

California Spotted Owl—Sierran Province—Management Direction for National Forests in California

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The USDA Forest Service will prepare an environmental impact statement for amendments to the Regional Guide for the Pacific Southwest Region and 10 Forest Plans in the Sierran Province in accordance with the requirements of 36 CFR 219.19. The amendments will establish longer-term standards and guidelines to maintain viability of the California spotted owl.

DATES: Comments concerning the analysis should be received in writing by May 3, 1993.

ADDRESSES: Send written comments to Katherine Clement, Director, Land Management Planning, 630 Sansome Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: Katherine Clement, Director, Land Management Planning, (415) 705–1834.

SUPPLEMENTARY INFORMATION: The environmental impact statement will establish standards and guidelines for maintaining viable populations of California spotted owls in accordance with the requirements of 36 CFR 219.19.

In the Sierran Province, California spotted owl habitat is known to be present on 10 National Forests (Modoc, Lassen, Plumas, Tahoe, Eldorado, Stanislaus, Sierra, Sequoia, Inyo, and Lake Tahoe Basin Management Unit).

On January 13, 1993, the Regional Forester for the Pacific Southwest Region adopted interim standards and guidelines for management of the California spotted owl by amendment to the Pacific Southwest Regional Guide and 10 Forest Plans. Adoption of the interim standards and guidelines was based on the California Spotted Owl Sierran Province Interim Guidelines Environmental Assessment, which described alternative management

strategies for the Sierran population of the California spotted owl and the potential environmental effects of their implementation. The interim standards and guidelines will reman in effect until a longer-term strategy to maintain viability of the owl is analyzed and adopted as a result of this current process, about 2 years.

In June 1991 an Interagency California Spotted Owl Steering Committee (Steering Committee) was chartered. The Steering Committee is co-chaired by the Regional Forester, Pacific Southwest Region, USDA Forest Service, and the Secretary, the Resources Agency, State of California. The Steering Committee appointed a Technical Assessment Team in July 1991 and a Policy Implementation Planning Team in November 1991. The Technical Assessment Team was chartered to produce a report on the California spotted owl covering the current situation of the owl and its habitat, biological needs, and strategies for conservation of the owl. Its report, The California Spotted Owl: A Technical Assessment of its Current Status, was released in draft form on May 8, 1992, and recently issued in final form. The Policy Implementation Planning Team was chartered to produce a report evaluating alternative institutional approaches for conservation of the owl while minimizing economic, environmental, and social costs. The Policy Implementation Planning Team's report is expected to be released in spring 1993.

This notice of intent initiates the development of an environmental impact statement for amending Regional guidance and 10 Forest Plans to adopt longer-term standards and guidelines to maintain viability of the California spotted owl, in accordance with 36 CFR part 219. The reports of the Technical Assessment Team and Policy Implementation Planning Team, and monitoring results from timber sale and fuel treatment projects using the interim standards and guidelines, are to be used as a basis for the longer-term strategy. This longer-term strategy is expected to be in effect until additional California spotted owl research results become available from ongoing and new research over the next 5 or more years.

Integration of spotted owl standards and guidelines with other provisions of the 10 affected Forest Plans will take place through subsequent Forest Plan amendments or revisions as appropriate. Each National Forest must analyze its own management situation and capabilities to determine effects of California spotted owl standards and guidelines on multiple-use goals and objectives of the Forest Plan. Plan adjustments may include re-allocation of land to prescriptions and management areas; modification of standards and guidelines for other affected resources; and establishment of new allowable timber sale quantities. Integration of spotted owl standards and guidelines may make some other provisions of existing Forest Plans redundant and may provide opportunities to mitigate adverse socioeconomic effects. Amendments or revisions are expected to be initiated by affected Forests over the next 2 years. Plan amendments for purposes other than integration of spotted owl standards and guidelines may be made by some Forests as part of the normal Plan implementation and monitoring process.

Written comments from the public should be submitted as indicated at the beginning of this notice. Comments would be most useful if sent by the date specified and if they clearly address the issues and alternatives related to the proposed action—establishment of longer-term standards and guidelines to maintain viability of the California spotted owl.

Alternatives that may be considered include continued use of the standards and guidelines adopted in the January 13, 1993. Decision Notice; alternatives recommended in the Policy Implementation Planning Team report; and alternatives that were considered but not evaluated in detail in the Interim Guidelines Environmental Assessment. These alternatives may include more specific fuel treatment guidelines, quantifiable standards aimed at reducing the threat of wildfires to California spotted owl habitat, a landscape level strategy, and a modified group selection strategy.

Preliminary issues connected with the proposal to establish longer-term standards and guidelines for the California spotted owl include: effects on spotted owls and other species, on timber supply, on riparian resources, and on wildlife severity and occurrence; impacts of forest insect and disease infestations on the attainment of management goals; and socioeconomic effects.

The comment period on the draft environmental impact statement will be 90 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. Public meetings used as a method of public involvement during preparation and review of the draft environmental impact statement will be announced in newspapers of general circulation in the geographic area of such meetings well in advance of scheduled dates.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 90-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningful consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The responsible official for this environmental impact statement and decision is F. Dale Robertson, Chief, USDA Forest Service, P.O. Box 96090, Washington, DC 20090–6090.

A draft environmental impact statement is expected to be available for agency and public review by April 1994, and a final environmental impact statement should be available by October 1994.

Dated: March 15, 1993.

Mark A. Reimers,

Deputy Chief, Programs and Legislation.

[FR Doc. 93–6306 Filed 3–17–93; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Arizona and California Advisory Committees

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Arizona and California Advisory Committee to the Commission will convene at 8 a.m. and adjourn at 5 p.m. on April 16, and from 8:30 a.m. to 2 p.m. on April 17, 1993, at the Holiday Inn, at the Embarcadero, (Coastal Ballroom), 1355 North Harbor Drive, San Diego, California 92101. The purpose of the meeting is to collect information on U.S./Mexico border-related civil rights issues.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairpersons, Manuel Pena and Michael Carney or Philip Montez, Director of the Western Regional Office (213) 894–3437, (TDD 213/894–0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 10, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–6287 Filed 3–17–93; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Notice of Public Meeting of the Illinois Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee to the Commission will be held from 9 a.m. until 5 p.m. on Friday, April 9, 1993 at the Radisson Plaza Ambassador West, 1300 North State Parkway, Chicago, Illinois. The purpose of the meeting is to review the draft report, "Police Protection of the African American Community in Chicago", and to discuss other civil rights issues of interest to the Advisory Committee.

Persons desiring additional information should contact Faye M. Lyon, Committee Chairperson at (815) 965–9595 or Constance M. Davis, Regional Director of the Midwestern Regional Office, U.S. Commission on Civil rights, at (312) 353–8311. Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 10, 1993.

Carol Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–6288 Filed 3–17–93; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Notice of Public Meeting of the Louisiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Louisiana Advisory Committee to the U.S. Commission on Civil Rights will meet on April 1, 1993, from 6 p.m. until 8 p.m. at the Holiday Inn Crowne Plaza, 333 Poydras Street, New Orleans, Louisiana 70130. The purpose of the meeting is to discuss program planning for future Committee projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Division (816) 426–5253, (TTY 816/426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 10, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–6289 Filed 3–17–93; 8:45 a.m.]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Case No. 91–61]

Action Affecting Export Privileges; William Hardimon

Order

In the Matter of William Hardimon.

The Office of Antiboycott Compliance, Bureau of Export Administration, U.S. Department of Commerce ("Department"), having determined to initiate administrative proceedings pursuant to section 11(c) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401–2420 (1991)) (the "Act"),[1] and part 788 of the Export Administration Regulations (currently codified at 15 CFR parts 768–799 (1991)) (the "Regulations"), against William Hardimon ("Hardimon"), formerly Senior Vice President of Colonial Beef Company ("Colonial"), resident in the United States, based on allegations set forth in the Proposed Charging Letter, dated November 25, 1992, incorporated herein by this reference, that between August 1988 and November 1989, Hardimon violated part 769 of the Regulations, promulgated to implement the Act, in that Hardimon, a United States person as defined in the Regulations, with respect to Hardimon's activities in the interstate or foreign commerce of the United States, with intent to comply with, further or support an unsanctioned foreign boycott: (1) On four occasions refused to do business with a person known or believed to be restricted from having any business relationship with or in a boycotting country pursuant to a request from or on behalf of a boycotting country, (2) furnished information about another person's business relationship with a person who is known or believed to be restricted from having any business relationships with or in a boycotting country, activities prohibited by §§ 769.2(a) and 769.2(d) of the Regulations, and not excepted; and (3) failed to report to the Department his receipt of a boycott-related request as required by § 769.6 of the Regulations; and

The Department and Hardimon having entered into a Consent Agreement whereby Hardimon has agreed to settle this matter by the imposition by the Department of a civil penalty in the amount of $54,000 and by accepting a six month denial of his export privileges to Kuwait and Saudi Arabia; and

The Assistant Secretary for Export Enforcement having approved the terms of the Consent Agreement;

It is therefore ordered that,

First, a civil penalty in the amount of $54,000 is assessed against Hardimon.

Second, Hardimon shall pay the Department the sum of $30,000 in accordance with the following schedule:

[1] The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) invoked the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991)), continuing in effect the Regulations and the provisions of the Act.

A payment of $10,000 shall be made within 20 business days of the signing of this Order; a second payment of $10,000 shall be made not later than January 31, 1994; and a third payment of $10,000 shall be made not later than January 31, 1995. The remaining $24,000 of the civil penalty imposed shall be suspended provided that, for a period of five years from the date of the signing of this Order, Hardimon is in compliance with the Regulations and the Order and has made timely payments of the scheduled amounts. Payments shall be made in the manner specified in the attached instructions. Failure to make a payment on or before any of the specified dates shall constitute a violation of this Order;

Third, all outstanding individual validated licenses in which Hardimon appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Hardimon's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to distribution licenses, are hereby revoked.

Fourth, for a period ending six months from the date of the entry of this Order, Hardimon is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving commodities or technical data exported or to be exported from the United States, in whole or part, and subject to the Regulations, to Kuwait and Saudi Arabia. Without limiting the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation, directly or indirectly in any manner or capacity: (a) As a party or representative of a party to any export license application submitted to the Department; (b) in the preparation or filing with the Department of any export license application or request for reexport authorization, or of any document to be submitted therewith; (c) in obtaining from the Department or using any validated or general export license, reexport authorization or other export control document; (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, to be exported from the United States and subject to the Regulations; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data;

Fifth, as provided in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of export Licensing, in consultation with the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or other wise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

Sixth, the Proposed Charging Letter, the Consent Agreement and this Order shall be made available to the public.

Seventh, a copy of this Order shall be served on Hardimon. This Order shall be published in the **Federal Register**.

This Order is effective immediately.

Entered this 11th day of February, 1993.

Douglas E. Lavin,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 93–6180 Filed 3–17–93; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–122–820, A–122–821]

Amendment of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Jean Kemp, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3793.

SUMMARY: We are amending our preliminarily determination for the above-mentioned investigation to correct for significant ministerial errors. The amended estimated weighted-average margins for the above-mentioned investigation are shown in the "Suspension of Liquidation" section of this notice.

AMENDED PRELIMINARY DETERMINATIONS: In accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act), on January 26, 1993, the Department made its preliminary determinations that certain cold-rolled carbon steel flat products (cold-rolled steel) from Canada are being sold in the United States at less than fair value (58 FR 7085, February 4, 1993).

After publication of our preliminary determinations, petitioners and respondents alleged that the Department committed certain ministerial errors in calculating the preliminary margins. We have reviewed these allegations and have found that errors having a significant effect on the margins were committed in the preliminary determination on cold-rolled steel for the following companies:

CANADA

Company	Product
Cold Metal Products, Ltd. (CMP).	Cold-rolled steel.
Stelco, Inc.	Cold-rolled steel.

The specific analyses of the ministerial error allegations are included in memoranda which are contained in the relevant case files in the Central Records Unit, Room B–099, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Suspension of Liquidation

The estimated margins and the All Others rate have changed as indicated below. In accordance with section 733(d)(2) of the Tariff Act of 1930, as amended, the Department will direct customs to continue to require a cash deposit or posting of a bond on all entries equal to the corrected estimated amounts by which the foreign market value of the subject merchandise exceeds the United States price as shown below. The corrected margins are as follows:

CANADA

[Cold-Rolled Steel]

Producer/manufacturer/exporter	Weighted-average margin percentage
CMP	5.33

CANADA—Continued

[Cold-Rolled Steel]

Producer/manufacturer/exporter	Weighted-average margin percentage
Stelco	11.38
All others	9.99

Dated: March 12, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–6315 Filed 3–17–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–580–814]

Amendment of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 18, 1993.

FOR FURTHER INFORMATION CONTACT: Leon McNeill, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4733.

SUMMARY: We are amending our preliminary determination for the above-mentioned investigation to correct for significant ministerial errors. The amended estimated weighted-average margins for the above-mentioned investigation are shown in the SUSPENSION OF LIQUIDATION section of this notice.

AMENDED PRELIMINARY DETERMINATION: In accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act), on January 26, 1993, the Department made its preliminary determination that certain hot-rolled carbon steel flat products (Hot-rolled steel) are being sold in the United States at less than fair value (58 FR 7106, February 4, 1993).

After publication of our preliminary determination, the respondent in this investigation, Pohang Iron and Steel Company, Ltd. (POSCO), alleged that the Department committed certain ministerial errors in calculating its preliminary margin. We have reviewed these allegations and have found that errors having a significant effect on the margins were committed. The specific analyses of the allegations are included in a memorandum which is contained in the relevant case files in the Central Records Unit, room B–099, 14th St. and Constitution Ave., NW., Washington, DC 20230.

SUSPENSION OF LIQUIDATION: The estimated margin and the All Others rate have changed as indicated below. In accordance with section 733(d)(2) of the Act, the Department will direct Customs to continue to require a cash deposit or posting of a bond on all entries equal to the corrected estimated amounts by which the foreign market value of the subject merchandise exceeds the United States price as shown below. The corrected margins are as follows:

KOREA

[Hot-Rolled Steel]

Producer/manufacturer/exporter	Weighted-average margin percentage
POSCO	22.20
All others	22.20

Dated: March 10, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–6188 Filed 3–17–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–091]

Large Electric Motors From Japan; Determination Not To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty order on large electric motors from Japan.

EFFECTIVE DATE: March 18, 1993.

FOR FURTHER INFORMATION CONTACT: Elisabeth Urfer, or Leon McNeill, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION: On December 9, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 58180) its intent to revoke the antidumping duty order on large electric motors from Japan (45 FR 84994, December 24, 1980). The Department may revoke an antidumping duty order if the Secretary of Commerce concludes that it is no longer of interest to interested parties pursuant to § 353.25(d)(4)(iii) of the Department's regulations (19 CFR 353.25(d)(4)(iii)).

We had not received a request to conduct an administrative review of this order for the last four consecutive annual anniversary months and therefore published a notice of intent to revoke pursuant to § 353.25(d)(4)(i) of the Department's regulations (19 CFR 353.25(d)(4)(i)).

On December 30, 1992, the National Electrical Manufacturers Association, the petitioners in this case, objected to our intent to revoke this order. Therefore, we no longer intend to revoke the order.

Dated: March 11, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–6314 Filed 3–17–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–475–810]

Notice of Postponement of Preliminary Antidumping Duty Determination: Pads for Woodwind Instrument Keys From Italy

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: March 18, 1993.

FOR FURTHER INFORMATION CONTACT: John Gloninger, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at (202) 482–2778.

POSTPONEMENT: On March 5, 1993, Prestini Musical Instruments, Inc. (Prestini), the petitioner in this investigation, requested pursuant to 19 CFR 353.15(c) that the Department of Commerce (the Department) postpone the preliminary antidumping duty determination on Pads for Woodwind Instrument Keys from Italy. Prestini requested that the date for the preliminary determination be extended from March 30, 1993, until April 13, 1993. The Department finds no compelling reasons to deny the request and is, accordingly, postponing the date of the preliminary antidumping duty determination until April 13, 1993.

This notice is published pursuant to section 733(c)(2) of the Tarrif Act of 1930, as amended and 19 CFR 353.15(d).

Dated: March 10, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–6189 Filed 3–17–93; 8:45 am]

BILLING CODE 3510–DS–M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 93–001. *Applicant:* Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. *Instrument:* Mass Spectrometer, Model API I/LC. *Manufacturer:* PE Sciex Instruments, Canada. *Intended Use:* The instrument will be used for the analysis of fullerene mixtures now being generated in benzene-oxygen-argon flames in Department of Energy sponsored research. It is also required for the study of unstable fullerene isomers recently discovered in these flames, and for the study of large fullerenes, up to ~200 carbon atoms, whose possible existence have only recently become known. In addition, the information obtained during the research will be used for educational purposes. *Application Received by Commissioner of Customs:* January 8, 1993.

Docket Number: 93–002. *Applicant:* University of Rhode Island, Department of Ocean Engineering, Narragansett, RI 02882–1197. *Instrument:* Multi-sensor Core Logger. *Manufacturer:* GEOTECK, United Kingdom. *Intended Use:* The instrument will be used to analyze sediment core samples in a non-destructive fashion. It will allow a number of geotechnical and geophysical measurements to be obtained on seabed cores or terrestrial boring samples while they are still in the sampling tubes. The instrument will be also be used extensively by undergraduates and graduate students in the laboratory sections of the following courses:

(1) OCE-410: Basic Ocean Measurements.
(2) OCE-581: Experimental Geomechanics.
(3) OCE/CVE-582: Seabed Geotechnics.
(4) OCG-541: Principles of Marine Geology and Geophysics.
(5) OCG-542: Principles of Marine Geology and Geophysics.
(6) OCG-693Q: Geomagnetism and Paleomagnetism.

Application Received by Commissioner of Customs: January 26, 1993.

Docket Number: 93–003. *Applicant:* University of California, Berkeley, Department of Astronomy, 601 Campbell Hall, Berkeley, CA 94720. *Instrument:* Blackbody Furnace with Internationally Accredited Absolute Reference. *Manufacturer:* National Physical Laboratory, United Kingdom. *Intended Use:* The instrument will be used to provide a cross-reference between infrared spectra obtained of stars during flight against an airworthy "blackbody" cavity in order to characterize fully the output radiation from the cavity actually flown. *Application Received by Commissioner of Customs:* January 26, 1993.

Docket Number: 93–005. *Applicant:* Centers for Disease Control and Prevention, NCEH DEHLS, Mail Stop F–19, CHAM Building 17, room 2113, Atlanta, GA 30333. *Instrument:* Mass Spectrometer, Model API III. *Manufacturer:* PE/Sciex, Canada. *Intended Use:* The instrument will be used for a variety of analyses, generally of components present at trace levels in biological matrices, in support of U.S. Public Health Service programs in clinical chemistry and toxicology. The primary application of the instrument will be the determination of cotinine in serum. *Application Received by Commissioner of Customs:* February 1, 1993.

Docket Number: 93–006. *Applicant:* University of Wisconsin-Milwaukee, P.O. Box 413, Milwaukee, WI 53201. *Instrument:* Light Isotope Ratio Mass Spectrometer, Model Delta S. *Manufacturer:* Finnigan MAT GmbH, Germany. *Intended Use:* The instrument will be used to study the ratio of $^{13}C/^{12}C$ and $^{15}N/^{14}N$ in samples collected from the natural environment. These ratios will be used to study biogeochemical processes as they occur in nature. *Application Received by Commissioner of Customs:* January 29, 1993.

Docket Number: 93–007. *Applicant:* U.S. Department of Agriculture, Agricultural Research Service, Contracting and Assistance Division, ADP & Major Equipment Branch, 6303 Ivy Lane, room 750, Greenbelt, MD 20770–1433. *Instrument:* Mass Spectrometer and Elemental Analyzer System, Model OPTIMA. *Manufacturer:* VG Isogas Ltd., United Kingdom. *Intended Use:* The instrument will be used for investigations of solid soil and plant samples and liquid water or extracted samples used for the study of transformations of N and C in soil-plant-water agroecosystems. *Application Received by Commissioner of Customs:* February 1, 1993.

Docket Number: 93–008. *Applicant:* University of California, Los Angeles, Department of Physics, Knudsen Hall, 405 Hilgard Avenue, Los Angeles, CA 90024–1547. *Instrument:* Backward Wave Type Millimeter Wave Spectrometer. *Manufacturer:* International Center for Scientific Culture World Laboratory, CIS. *Intended Use:* The instrument will be used to characterize different materials for their microwave/millimeter wave properties. This research instrument will also be used for training of scientists in the course Physics 599. *Application Received by Commissioner of Customs:* February 4, 1993.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93–6313 Filed 3–17–93; 8:45 am]

BILLING CODE 3510–DS–F

Minority Business Development Agency

[Project I.D. No. 06–10–93006–01]

Business Development Center Applications; El Paso MBDC

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Cancellation.

SUMMARY: The above solicitation was previously advertised on Monday, March 1, 1993. This solicitation has been cancelled.

(Catalog of Federal Domestic Assistance 11.800 Minority Business Development)

Dated: March 10, 1993.

Melda Cabrera,

Regional Director, Dallas Regional Office.

[FR Doc. 93–6179 Filed 3–17–93; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Hawaii Bottomfish Advisory Panel (Panel) will hold a public meeting on March 30, 1993, at the Paki Hale, 3840 Paki Avenue, Honolulu, HI. The meeting will be held from 1 p.m. until 5 p.m.

The Panel will discuss, and possibly make recommendations to the Council regarding, the following:

(1) Development of an amendment to the Bottomfish and Seamount Groundfish Fishery Management Plan that would establish a Federal minimum size for opakapaka of 17 inches, for both the Northwestern Hawaiian Islands and Main Hawaiian Islands, and require all bottomfish to be landed with heads and tails on;

(2) Management needs and options for other bottomfish species;

(3) 1992 annual report;

(4) Problems related to fishery interactions (e.g., with porpoises, taape, kahala, etc.);

(5) Data collection from non-commercial fishermen; and

(6) Other topics as necessary.

For more information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 541–1974.

Dated: March 12, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–6225 Filed 3–17–93; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Hawaii Pelagics Advisory Panel (Panel) will hold a public meeting on April 1, 1993, at the Garden Lanai, Ala Moana Hotel, 410 Atkinson Drive, Honolulu, HI. The meeting will be held from 10 a.m. until 5 p.m.

The Panel will discuss, and possibly make recommendations to the Council regarding, the following:

(1) Draft Amendment #7 to the Pelagics Fishery Management Plan, which will establish management measures to replace the longline entry moratorium when it expires in April 1994;

(2) Summary of data analyses and public comment regarding possible restrictions in the Hawaii pelagic handline fishery; and

(3) Other topics as necessary.

For more information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 541–1974.

Dated: March 12, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–6226 Filed 3–17–93; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of request to modify Permit No. 723 (P77#45).

Notice is hereby given that the NMFS Southwest Fisheries Science Center, P.O. Box 271, La Jolla, California 92038–0271, has applied in due form for a Modification to Permit No. 723 (P77#45) to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The Applicant is currently authorized to capture up to 120 harbor seals (*Phoca vitulina*) with hoop nets or with a rocket net, fit them with radio-flipper tags on each of the two rear flippers, and weigh, sex, and release them. The Applicant now requests authorization to freeze-brand each of the up to 120 radio-tagged animals over the remaining one-year period that the Permit is valid.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data, views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Highway, Room 7324, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, suite 7324, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213 (310/980–4016).

Dated: March 12, 1993.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–6266 Filed 3–17–93; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Restraint Limit and Guaranteed Access Level for Certain Cotton Textile Products Produced or Manufactured in Panama

March 12, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit and guaranteed access level for the new agreement year.

EFFECTIVE DATE: April 1, 1993.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these levels, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile Agreements, effected by exchange of notes dated March 16, 1992 and April 10, 1992; and November 22, 1991 and November 29,

1991 between the Governments of the United States and Panama establish an import limit and guaranteed access level for cotton textile products in Categories 347/348 for the period beginning on April 1, 1993 and extending through March 31, 1994.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992).

Requirements for participation in the Special Access Program are available in **Federal Register** notice 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; 54 FR 50425, published on December 6, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOUs, but are designed to assist only in the implementation of certain of their provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 12, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1992; pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated March 16, 1992 and April 10, 1992, between the Governments of the United States and Panama; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 1, 1993, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 347/348, produced or manufactured in Panama and exported during the twelve-month period beginning on April 1, 1993 and extending through March 31, 1994, in excess of 742,000 dozen.

Imports charged to this category limit for the period April 1, 1992 through March 31, 1993, shall be charged against that level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

The limit set forth above is subject to adjustment in the future pursuant to the provisions of the Bilateral Textile Agreement, effected by exchange of notes dated March 16, 1992 and April 10, 1992.

Additionally, pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated November 22, 1991 and November 29, 1991, between the Governments of the United States and Panama; and under the terms of the Special Access Program, as set forth in 51 FR 21208 (June 11, 1986), 52 FR 26057 (July 10, 1987) and 54 FR 50425 (December 6, 1989), effective on April 1, 1993, a guaranteed access level of 400,000 dozen is being established for properly certified textile products assembled in Panama from fabric formed and cut in the United States in Categories 347/348 for the twelve-month period beginning on April 1, 1993 and extending through March 31, 1994.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification and Export Declaration in accordance with the provisions of the certification requirements established in the directive of January 16, 1992 shall be denied entry unless the Government of Panama authorizes the entry and any charges to the appropriate specific limit. Any shipment which is declared for entry under the Special Access Program but found not to qualify shall be denied entry into the United States.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–6190 Filed 3–17–93; 8:45 am]

BILLING CODE 3510-DR-F

Request for Public Comments on Bilateral Textile Consultations With the Government of the People's Republic of China on Certain Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products

March 12, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6703. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On February 24, 1993, under the terms of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of February 2, 1988, as amended, between the Governments of the United States and the People's Republic of China, the United States Government requested consultations with the Government of the People's Republic of China with respect to women's and girls' man-made fiber, silk blend and other vegetable fiber suits in Categories 644/844.

The U.S. Government has decided to implement a limit for the prorated period beginning on February 24, 1993 and extending through December 31, 1993.

A summary market statement concerning Categories 644/844 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 644/844, under the agreement with the the Government of the People's Republic of China, or to comment on domestic production or availability of products included in Categories 644/844, is invited to submit 10 copies of such comments or information to J. Hayden Boyd, Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of the People's Republic of China.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Categories 644/844. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—China

Category 644/844—Women's and Girls' Man-Made Fiber, Silk Blend and Non-Cotton Vegetable Fiber Suits

February 1993

Import Situation and Conclusion

U.S. imports of women's and girls' man-made fiber, silk blend, and non-cotton vegetable fiber suits, Category 644/844, from China surged to 3,280,515 units (273,376 dozen) in 1992, forty-nine percent above the 2,199,151 units (183,263 dozen) imported in 1991 and twice the 1,647,930 units (137,327 dozen) imported in 1990. China is the largest supplier of Category 644/844 imports to the U.S. market with shipments accounting for 45 percent of total Category 644/844 imports in 1992.

The sharp and substantial increase in Category 644/844 imports from China is causing a real risk of disruption in the U.S. market for women's and girls' man-made fiber, silk blend, and non-cotton vegetable fiber suits.

U.S. Production, Import Penetration, and Market Share

U.S. production of suits for the women's and girls' man-made fiber, silk blend, and non-cotton vegetable fiber market fluctuated erratically between 1987 and 1992, rising in 1988, followed by a decline in 1989, then increasing in 1990 and 1991 and turning down again in 1992. U.S. production fell in 1992 to 593,000 dozen in the year ending September 1992, 3 percent below the year ending September 1991 level. In contrast, U.S. imports of women's and girls' man-made fiber, silk blend, and non-cotton vegetable fiber suits, Category 644/844, increased in every year since 1987. U.S. imports more than doubled between 1987 and 1991, increasing from 273,000 dozen in 1987 to 563,000 dozen in 1991. This increase continued in 1992, as U.S. imports of women's and girls' man-made fiber, silk blend, and non-cotton vegetable fiber suits increased another 8 percent reaching a record level 608,380 dozen in 1992.

The ratio of imports to production rose from 61 percent in 1987 to 85 percent in 1991. This increase continued in 1992, with the ratio of imports to production reaching 95 percent during the year ending September 1992. The domestic manufacturers' share of the U.S. market fell from 62 percent in 1987 to 54 percent in 1991. This decline continued in 1992, with the domestic manufacturers' share of the U.S. market falling to 51 percent in the year ending September 1992.

Duty-Paid Value and U.S. Producers' Price

Approximately 78 percent of Category 644/844 imports from China during 1992 entered the U.S. under HTSUSA number 6204.19.3090—Women's and girls' suits of non-cotton vegetable fiber. These suits entered the U.S. at landed duty-paid values substantially below U.S. producers' prices for comparable suits.

Committee for the Implementation of Textile Agreements

March 12, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 23, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the People's Republic of China and exported during the period which began on January 1, 1993 and extends through December 31, 1993.

Effective on March 19, 1993, you are directed to move Category 644 from Group II to Group IV.

Also effective on March 19, 1993, you are directed to establish a limit for man-made fiber, silk blend and other vegetable fiber textile products in Categories 644/844, produced or manufactured in China and exported during the period beginning on February 24, 1993 and extending through December 31, 1993 at a level of 2,838,200 numbers.[1]

Textile products in Categories 644/844 which have been exported to the United States on and after February 24, 1993 shall be subject to the Group IV limit established in the directive dated December 23, 1992.

Textile products in Categories 644/844 which have been exported to the United States prior to February 24, 1993 shall not be subject to the limit established in this directive.

Import charges will be adjusted at a later date.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93-6191 Filed 3-17-93; 8:45 am]

BILLING CODE 3510-DR-F

[1] The limit has not been adjusted to account for any imports exported after February 23, 1993.

DEPARTMENT OF DEFENSE

Office of the Secretary

Cosmetic Surgery for Non-Active Duty Beneficiaries for Fiscal Year 1993

Notice is hereby given that the reimbursement rates for elective cosmetic surgery are the same rates, depending upon the procedure performed, that were published in an Office of Deputy Comptroller (Management Systems) memorandum, dated September 29, 1992, subject: "FY 1993 Reimbursable Rates." TAB H of the memorandum contains the rates for Inpatient, Outpatient and Dental Care for FY 1993. Active duty members who elect such surgery will be charged the rates as shown below. Active duty members requiring cosmetic surgery for mission-related injuries will not be charged. Copies of referenced memorandum may be obtained from the Office of Deputy Comptroller, Pentagon, room 3E825, Washington, DC 20301-1100

REIMBURSEMENT RATES FOR ELECTIVE COSMETIC SURGERY PROCEDURES[1]

Column 1	Column 2	Column 3	Column 4
Procedure	Number[2] of procedures	Common procedure terminology (CPT)	FY 1993 charge
Mammaplasty[3]	14–18	19325	Same day surgery—$448.
Mastopexy	4–5	19316	Inpatient surgical care service rate $958 per day of hospitalization.
Facial Rhytidectomy	5–9	15824	Inpatient surgical care service rate $958 per day of hospitalization.
Blepharoplasty	9–14	15820	Same day surgery—$448.
Mentoplasty	2–4	21208	Same day surgery—$448.
Abdominoplasty	5–7	15831	Inpatient surgical care service rate $958 per day of hospitalization.
Lipectomy, suction per region[4]	8–10	15876	Same day surgery—$448.
Rhinoplasty	6–11	30400	Same day surgery—$448.
Scar Revisions Beyond CHAMPUS	[5]30–40	[6]1578__	Single outpatient visit $94 per episode of treatment.
Mandibular or Maxillary Repositioning	5–6	21194	Inpatient surgical care service rate $958 per day of hospitalization.
Minor Skin Lesions	[5]30–40	[6]1578__	Single outpatient visit $94 per episode of treatment.
Dermabrasion	4–5	15780	Same day surgery—$448.
Hair Restoration	4–5	15775	Inpatient surgical care service rate $958 per day of hospitalization.
Removing Tatoos	[5]8–10	15780	Single outpatient visit $94 per episode of treatment.
Chemical Peel	4–5	15790	Same day surgery—$448.
Arm/Thigh Dermolipectomy	5–6	1583__	Inpatient surgical care service rate $958 per day of hospitalization.
Brow Lift	2–3	15839	Same day surgery—$448.

Notes

[1] These rates will be charged dependents of active duty members, retirees, and their dependents and survivors. For this purpose, active duty includes Guard and Reserve members on active duty for training.

[2] The number of procedures is a guide to the number of treatments associated with the cosmetic surgery procedure in column 1, and is applicable to an inclusive episode of treatment. The patient shall be charged the rate specified in column 4 for an episode of care consisting of the number of procedures specified in column 2. The charges for elective cosmetic surgery are the interagency reimbursement rates in TAB H (Inpatient, Outpatient and Dental Care) of ODC(MS) memorandum, dated September 29, 1992, subject: "FY 1993 Reimbursable Rates." The specific rates are published annually in the **Federal Register**.

[3] The patient will be responsible for the cost of the implant(s). The implants and procedures used for the augmentation mammaplasty are in compliance with Federal Drug Administration guidelines.

[4] Each regional lipectomy will carry a separate charge. Regions include head and neck, abdomen, flanks, and hips.

[5] These procedures are inclusive in the minor skin lesions. However, CHAMPUS separates them as noted here. All charges which are the equivalent to column 4 are for the entire treatment regardless of the number of visits required.

[6] The attending physician will complete the common procedure terminology code to indicate the appropriate procedure followed during cosmetic surgery.

Dated: March 15, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–6250 Filed 3–17–93; 8:45 am]

BILLING CODE 3810–01–M

Availability of DoD 5025.1–I, "DoD Directives System Annual Index"

AGENCY: Office of the Secretary, DoD.

ACTION: Notice.

SUMMARY: This document is to inform the public and Government Agencies of the availability of DoD 5025.1–I, "DoD Directives System Annual Index," dated January 1993. It is available, at cost, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone (703) 487–4650. The NTIS accession number for the Index is PB93–959514.

FOR FURTHER INFORMATION CONTACT: Ms. P. Toppings, Directives Division, Correspondence and Directives Directorate, Washington Headquarters Services, Washington, DC 20301–1155, telephone (202) 697–4111.

Dated: March 12, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–6249 Filed 3–17–93; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Military Traffic Management Command; Rules and Accessorial Services for the Movement of Department of Defense Freight Traffic by Motor Carrier

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice of proposed change.

SUMMARY: The Military Traffic Management Command, for the Department of Defense, proposes to amend the procedures used to acquire rates and charges for the movement of overweight and over dimensional shipments by commercial motor carrier. This proposed amendment is the cancellation of Items 416 Overweight Permit Shipments (OW) and 417 Over-dimensional Permit Charge (OD), shown in MTMC Military Freight Traffic Rules Publication (MFTRP) No. 1A. These items provide individual states rates for OD/OW shipments that require special permits. Upon cancellation of items 416 and 417, carriers who move DOD OD/OW shipments will build the projected permit charges into their line-haul transportation rates. Those carriers who need to submit separate tenders showing OD/OW movements charges incorporated in the rates, would do so before the effective date of the amendment. Forward comments to the HQ Military Traffic Management Command, ATTN: MTIN-NG, room 629, 5611 Columbia Pike, Falls Church, Virginia 22041–5050, or telephone (703)

756–1585. Carriers who may not have a copy of MFRTP No. 1A can be obtained from the above address.

EFFECTIVE DATE: 12 April 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Blaise J. Guzzardo or Ms. Leesha A. Saunders, Military Traffic Management Command, ATTN: MTIN-NG, 5611 Columbia Pike, Falls Church, VA 22041-5050, telephone (703) 756–1585.

SUPPLEMENTARY INFORMATION: Recently, many carriers have complained that permit charges shown in the MFTRP No. 1A are outdated and causing considerable financial loss for OD/OW shipments. OD/OW carriers are paid based on the rates that appear in items 416 and 417 of the MFTRP No. 1A. These charges are based on individual state permit fees. Only the state permit fees alter as much as twice a year. Keeping the rules publications up-to-date with individual state permit fees have proven to be an impossible task. To reflect corresponding permit fees, MTMC would have to update the rules publication several times a year. Also, CONUS Freight Management (CFM) System cannot accurately program these fees to support pre-audit.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–6290 Filed 3–17–93; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the San Diego Emergency Storage Reservoir Project, San Diego County, California

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The San Diego County Water Authority (Authority) proposes to build a storage facility for the county of San Diego capable of providing emergency storage volume of 100,000–143,000 acre-feet, sufficient to enable the county to endure up to a 6-month interruption of imported water supply without having to reduce water use by more than 25 percent from a level where best management practices for conservation are fully utilized. An emergency disruption of supply could be caused by major earthquakes, flooding or prolonged drought. Implementation of this project will require a department of the Army permit pursuant to section 404 of the Clean Water Act. The Corps of Engineers, as lead Federal agency for this project, has determined that an Environmental Impact Statement will be required prior to deciding whether to issue a permit for the project. The environmental document will be a joint Environmental Impact Statement/ Environmental Impact Report (EIS/EIR), with the San Diego County Water Authority serving as lead state agency under the California Environmental Quality Act (CEQA). Five alternative sites in San Diego County, plus the no-action alternative, are currently proposed for evaluation in the DEIS: Guejito Reservoir site east of Valley Center; Moosa Canyon Reservoir site west of Valley Center; San Vincent Reservoir site north of Lakeside (an expansion of the existing San Vicente Reservoir; Lake Wohlford Reservoir site (an expansion of the existing Lake Wohlford); and Pamo Valley Reservoir site on Santa Usabel Creek in Pamo Valley.

FOR FURTHER INFORMATION CONTACT: Comments and questions concerning the project should be directed to: Ms. Elizabeth White, U.S. Army Corps of Engineers, Los Angeles District, Regulatory Branch, San Diego Field Office, 9868 Scranton Road, suite 1 30, San Diego, CA 92121, telephone (619) 455–9422.

SUPPLEMENTARY INFORMATION: The Authority was formed in 1944 to provide special governmental powers to design, construct and operate the water conveyance facilities needed to supply imported water from the Metropolitan Water District of Southern California (MWD) to the Authority's member agencies within San Diego County.

Water storage in San Diego County is provided primarily by 19 reservoirs, most of which were constructed to capture and store local runoff for water supply. Because local sources produce an average of only 60,000 acre-feet per year, San Diego County must import over 90 percent of its annual water supply. About 2.5 million people are currently served by the Authority through 23 water distribution agencies. During an emergency event, San Diego County residents and businesses would have to depend on water supplies stored within the Authority service area until its system could be reconnected to either the State Water Project (SWP) or MWD's storage system.

The 6-month level of emergency service that the Authority is seeking to provide is equivalent to a 60 percent level under existing water use conditions, and is subdivided into a 2-month and a 6-month objective. The 2-month objective would supply water needs in the event of an interruption of service of Authority aqueducts in the vicinity of the Elsinore fault or at the San Luis Rey River; adequate storage facilities would be developed south of the San Luis Rey River to provide two months' peak water demand between the years 2010 and 2030, considering a reduction of 25 percent by emergency rationing after full implementation of best management practices. The 6-month objective would supply water needs in the event of service interruptions of the Colorado River and State Water Project aqueducts feeding the MWD system; adequate storage facilities would be developed to supply 6 months' peak water demand expected between the years 2010 and 2030, considering a reduction of 25 percent by emergency rationing after full implementation of best management practices. The MWD has estimated that its delivery systems could be repaired in 6 months after a major earthquake along the San Andreas fault.

Potentially significant issues to be analyzed in depth in the DEIS include: Hydrology, geology and soils, transportation and circulation, public safety, air and energy, noise; biology, paleontology, land use, socioeconomics, visual and cultural resources.

SCOPING PROCESS. Federal, State and local agencies and other interested parties are encouraged to send their written comments during the scoping process to Ms. White at the address given. A scoping meeting will not be held. However, comments provided to the Authority during the EIR scoping process will be considered during the Federal review process.

The draft EIS/EIR is expected to be available for public review in early 1994.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–6291 Filed 3–17–93; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

[CFDA NO.: 265A]

State Vocational Rehabilitation Unit In-Service Training; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: To provide grants for in-service training to State vocational rehabilitation unit personnel in areas essential to effective management or in skill areas to improve the provision of vocational rehabilitation services. The training may (1) address recruitment and retention of qualified rehabilitation professionals; (2) provide for succession planning; (3)

provide for leadership development and capacity building; and (4) provide training on the Rehabilitation Act Amendments of 1992 (1992 Amendments) to the Rehabilitation Act of 1973.

Supplementary Information: This notice replaces a previous notice concerning this program published in the Department's Combined Application Notice in the **Federal Register** on September 21, 1992 (57 FR 43524). The 1992 Amendments (Pub. L. 102–569) to the Rehabilitation Act of 1973 had not been enacted at the time the previous notice was published.

The 1992 Amendments require that at least 15 percent of the funds available for training under title III of the Act be allocated to designated State agencies to be used, directly or indirectly, for projects addressing the purposes listed in the "Purpose of Program" section of this notice. The Department is preparing a notice of proposed rulemaking to establish regulations for these new provisions.

This notice invites applications from all designated State rehabilitation agencies. The Department intends to make all new awards in FY 1993 to provide a fair and equitable allocation of the increased level of funds available for in-service training projects as authorized in the 1992 Amendments.

As in prior years, the Department will allot available funds to Regional Offices of the Rehabilitation Services Administration (RSA) based on the total staff employed in designated State agencies in each region. Determination of the level of award for individual agencies under this program in FY 1993 will be based on a combination of the following factors: The size of the designated State agency in terms of total staff employed, as reported in the most recent RSA–2 data form, level of funding in fiscal year 1992, and the quality of the application as determined through the peer review process. No designated State agency, however, will receive less than one-third of one percent of the sums made available in FY 1993 for this program.

For the purposes of this program, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau. Each of these jurisdictions will be allotted not less than one-eighth of one percent of the sums made available for this program in FY 1993.

Eligible Applicants: Designated State Rehabilitation Agencies.

Deadline For Transmittal of Applications: May 24, 1993.

Deadline For Intergovernmental Review: July 26, 1993.

Applications Available: March 22, 1993.

Available Funds: $5,673,799.

Estimated Range of Awards: $7,092–$395,210.

Estimated Average Size of Awards: $69,193.

Estimated Number of Awards: 82.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 385 and 388.

For Applications: Applications will be sent directly by the Department to eligible applicants. If an eligible applicant has not received an application seven days after the date applications become available, the applicant may request an application by telephone by calling (202) 205–9343. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service on 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m. Eastern time.

For Further Information Contact: Robert Werner, room 3322, Switzer Building, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–2649. Telephone: (202) 205–8291.

Program Authority: Section 304 of the Rehabilitation Act, as amended by Pub. L. 102–569.

Dated: March 12, 1993.

William L. Smith,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 93–6239 Filed 3–17–93; 8:45 am]

BILLING CODE 4000–01–U

[CFDA No. 84.256]

Territories and Freely Associated States Educational Grant Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of the Program: The program provides financial assistance for educational purposes to local educational agencies in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

Deadline For Transmittal of Applications: May 25, 1993.

Deadline For Intergovernmental Review: July 26, 1993.

Applications Available: April 25, 1993.

Available Funds: $3,625,621.

Estimated Range of Awards: $350,000–$450,000.

Estimated Average Size of Awards: $450,000.

Estimated Number of Awards: 9.

Note: The Department is not bound by any estimates in this notice.

Project Period: 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85 and 86; and

(b) The regulations for this program in 34 CFR part 282, as published in the **Federal Register** on January 19, 1993 (58 FR 5174).

For Applications or Information Contact: Zulla Toney, U.S. Department of Education, 400 Maryland Avenue, SW., room 2131, Washington, DC 20202–6140. Telephone (202) 401–1154. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern Time.

Program Authority: 20 U.S.C. 2711(a)(3).

Dated: March 10, 1993.

Mary Jean LeTendre,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 93–6240 Filed 3–17–93; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Office of Environment, Safety and Health

Environment, Safety and Health Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Environment, Safety and Health Advisory Committee.

Date and Time: Wednesday, March 24–25, 1993, 2 p.m.

Place: The Hyatt Arlington, 1325 Wilson Boulevard, Arlington, Virginia 22209.

Contact: Geoffrey Judge, Designated Federal Official, or Loretta Young, U.S. Department of Energy, Office of Environment, Safety and Health (EH–50), room 7A–075, Washington, D.C. 20585, Telephone: 202/586–9024.

Purpose of the Committee: To provide advice and guidance to the Department of Energy on matters relating to environment, safety and health at DOE facilities.

Purpose of the Meeting: To gather information regarding Environment, Safety

and Health activities at the Department of Energy.

Tentative Agenda:

Day 1—March 24, 1993

2 pm–4 pm General Business with Committee Members
- Questions/Issues for Environment, Safety and Health Advisory Committee to deal with
- Update on Environment, Safety and Health Activities at Department of Energy

4 pm–5 pm Public Input and Public Comment

Day 2—March 25, 1993

9 am–11 am Report of the Sub-Committee on Occupational Safety and Health

11 am–12 am Report of the Sub-Committee on Radiological Control Policy

12 pm–1:30 pm Lunch

1:30 pm–3 pm Report of the Sub-Committee on Epidemiology and Health Surveillance

3 pm–3:30 pm Report of the Environmental Sub-Committee

Public Participation: The meeting is open to the public. The Chairperson is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Loretta Young at the address or telephone number listed above. Requests must be received at least five business days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Persons wishing to attend the public meeting should provide their names and social security numbers to (202) 586–9024 by March 17, 1993. This notice is being published less than 15 days in advance of the meeting due to certain programmatic issues which had to be resolved prior to publication in the **Federal Register.**

Transcript: Available for public review and copying at the Public Reading Room, room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on March 15, 1993.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 93–6278 Filed 3–17–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. JD93–05465T Texas–124]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

March 11, 1993.

Take notice that on March 8, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Travis Peak Formation, Carthage (Travis Peak-Reed) Field, underlying a portion of Panola County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is in Railroad Commission District No. 6 and includes portions of the M. Romero Survey (A–1), T. Applewhite Survey (A–40) and N. Thompson Survey (A–690).

The notice of determination also contains Texas' findings that the referenced portion of the Travis Peak Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary

[FR Doc. 93–6195 Filed 3–17–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–05466T Texas–125]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

March 11, 1993

Take notice that on March 8, 1993, the Railroad Commission of Texas (Texas) submitted the above-reference notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Vicksburg F Sand Formation, Lopez Ranch and Lips Ranch Fields, underlying a portion of Brooks County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area lies in Railroad Commission District No. 4. The area occupies approximately 3,270 acres in the "La Encantada" Jose Manuel & Luciano Chapa Survey, Abstract A–97, the Juan Garza Diaz Survey, Abstract A–192 and the "El Perdido" Pedro Garcia Survey, Abstract A–215. The following Texas RRC designated fields are included in the area: Lopez Ranch (Vicksburg F1), Lopez Ranch (Vicksburg F1,N) and Lopez Ranch (Vicksburg F2).

The notice of determination also contains Texas' findings that the referenced portion of the Vicksburg F Sand Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR § 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6196 Filed 3–17–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–05463T Texas–122]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

March 11, 1993

Take notice that on March 8, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Wilcox Formation, Upper Asche Sands, underlying a portion of Zapata County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is in Railroad Commission District No. 4 and includes the north half of the J.M. Lummus A–300 Survey.

The notice of determination also contains Texas' findings that the referenced portion of the Wilcox Formation, Upper Asche Sands meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and

275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93-6199 Filed 3-17-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD93-05464T Texas-123]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

March 11, 1993.

Take notice that on March 8, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Frio 3 Sand Formation, Duncan Slough Field, underlying a portion of Matagorda County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is in Railroad Commission District No. 3. The boundary of this area is described by connecting the four points described as follows by beginning at point #1 and proceeding in a counterclockwise fashion within the Christopher G. Fox A-18 Survey:

Point #1: 7,300' FWL and 2,375' FSL of Survey
Point #2: 13,000' FWL and 2,550' FSL of Survey
Point #3: 14,800' FWL and 0' FNL of Survey
Point #4: 7,750' FWL and 0' FNL of Survey

The notice of determination also contains Texas' findings that the referenced portion of the Frio 3 Sand Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93-6202 Filed 3-17-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-211-029]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

March 11, 1993.

Take notice that CNG Transmission Corporation (CNG), on March 5, 1993, filed the following tariff sheets to its FERC Gas Tariff, Original Volume No. 2A:

Original Sheet Nos. 527 through 661

CNG states that the purpose of this filing is to implement the Commission's order issued on May 7, 1991 in Docket Nos. RP88-211-000 and CP91-554-000, to provide restructured storage service under the GSS and GSS-II Rate Schedules for specified customers.

CNG states that copies of the filing were served on CNG's affected customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 18, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-6198 Filed 3-17-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-215-004]

Columbia Gas Transmission Corp.; Report of Refunds

March 11, 1993.

Take notice that Columbia Gas Transmission Corporation (Columbia) on March 1, 1993, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Refund Report made in accordance with the Commission's order issued January 21, 1993, in Docket Nos. RP92-215-000 and RP92-215-001.

Columbia states that on January 29, 1993, Columbia made lump sum refunds to its jurisdictional sales customers for the period September 1, 1992 through December 31, 1992 in the amount of $4,388,736.50 ($4,343,332.04 principal and $45,404.46 interest) in the above referenced docket.

Columbia states that the refunds were made in accordance with the terms of the January 21, 1993 Commission order issued in the above referenced docket.

Columbia states that copies of the detail of each customer's refund calculation have been mailed to each respective jurisdictional customer and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 18, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-6194 Filed 3-17-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-143-019]

Great Lakes Gas Transmission Limited Partnership; Proposed Changes in FERC Gas Tariff

March 11, 1993.

Take notice that Great Lakes Gas Transmission Limited Partnership ("Great Lakes"), on March 8, 1993, tendered to the Federal Energy Regulatory Commission ("Commission") for filing as part of its FERC Gas Tariff, the following revised tariff sheets, generally to be effective on November 1, 1991:

First Revised Volume No. 1

Fifth Substitute Twenty-Fourth Revised Sheet No. 4
Fifth Substitute Fortieth Revised Sheet No. 47(i)

Original Volume No. 2

Fifth Substitute Twenty-Sixth Revised Sheet No. 53
Fifth Substitute Eighteenth Revised Sheet No. 77
Second Substitute Fourth Revised Sheet No. 78
Fifth Substitute Fourteenth Revised Sheet No. 151
Fifth Substitute Eleventh Revised Sheet No. 223
Fifth Substitute Eleventh Revised Sheet No. 245
Fifth Substitute Fifth Revised Sheet No. 269
Fifth Substitute Eleventh Revised Sheet No. 284
Sixth Substitute Sixth Revised Sheet No. 603
Third Substitute Third Revised Sheet No. 604
Fifth Substitute Fourth Revised Sheet No. 665

Fifth Substitute Fourth Revised Sheet No. 905
Fifth Substitute Third Revised Sheet No. 905
Fifth Substitute Fourth Revised Sheet No. 906
Third Substitute First Revised Sheet No. 1003

Original Volume No. 3

Sixth Substitute Fourth Revised Sheet No. 2
Second Substitute Fifth Revised Sheet No. 2[1]
Sixth Substitute Fourth Revised Sheet No. 3
Third Substitute Fifth Revised Sheet No. 3[1]
Second Substitute Alternate Sixth Revised Sheet No. 3[2]

Great Lakes states that the purpose of its filing is to implement the partial settlement in Great Lakes' current general rate case, as approved by the Commission on February 3, 1993.[3] The proposed tariff sheets are said to be identical to the *pro forma* tariff sheets included at appendix A of the partial settlement above.

Great Lakes states that copies of this filing were posted and served on all of its customers, upon the Public Service Commissions of the States of Minnesota, Michigan, and Wisconsin, and upon all parties listed on the service list maintained by the Commission's Secretary in this proceeding.

Any person desiring to protest said filing should file a protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 18, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6204 Filed 3–17–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP92–50–004 and CP90–406–008]

High Island Offshore System; Notice of Compliance Tariff Filing

March 11, 1993.

Take notice that High Island Offshore System ("HIOS"), on March 5, 1993, tendered to the Federal Energy Regulatory Commission ("Commission") for filing as part of its FERC Gas Tariff, First Revised Volumes No. 1, Sixth Revised Sheet No. 8A.

The tariff sheet is proposed to be effective January 1, 1993.

HIOS states that on January 12, 1993, it filed tariff sheets to comply with the Commission's letter order issued December 28, 1992, in High Island Offshore System, Docket Nos. RP92–50–001 and CP90–406–000 wherein HIOS was required to file tariff sheets reflecting the termination of its capacity brokering program effective January 1, 1993. As HIOS explained at that time, a new tariff Sheet 8A was no longer necessary because of the elimination of the capacity brokering program. HIOS further states the Commission's Staff has since informed HIOS that tariff sheet No. 8A should be included in the tariff, in spite of the elimination of the capacity brokering program.

HIOS also states that copies of this filing were posted and served on all of its shippers, and upon all parties listed on the service list maintained by the Commission's Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 18, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6201 Filed 3–17–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–304–000]

Milford Power Limited Partnership; Notice of Filing

March 12, 1993.

Take notice that on February 19, 1993, Milford Power Limited Partnership (Milford Power) tendered for filing an amendment to its December 30, 1992 filing in this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 25, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6205 Filed 3–17–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–67–064]

Texas Eastern Transmission Corp.; Report of Refunds

March 11, 1993.

Take notice that on February 1, 1993, Texas Eastern Transmission Corporation (Texas Eastern) filed a refund report with the Federal Energy Regulatory Commission (Commission) in accordance with the Stipulation and Agreement (settlement) filed on December 17, 1991, approved by the Commission's March 18, 1992 order issued in Docket No. RP88–67–050, *et al.*

Texas Eastern states that on January 29, 1993, Texas Eastern made refunds to its jurisdictional customers pursuant to Article VI of the settlement. The refunds were necessitated by Texas Eastern's recovery of costs associated with the environmental assessment and remediation costs related to the polychlorinated biphenyl (PCB) contamination of its system, and sites adjacent to its system.

Texas Eastern states that copies of the refund summary and detailed calculations of the individual refund amounts were sent to each of Texas Eastern's affected customers and state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before March 18, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are

[1] Proposed to be effective as of January 1, 1992.

[2] Proposed to be effective as of May 1, 1992.

[3] See, Great Lakes Gas Transmission Limited Partnership, "Order Approving Settlement" Docket No. RP91–143–000, *et al.* (issued February 3, 1993).

on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6192 Filed 3–17–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–119–015]

Texas Eastern Transmission Corp.; Report of Refunds

March 11, 1993.

Take notice that on November 2, 1992, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing its refund report in accordance with Article II of its August 19, 1991 Stipulation and Agreement as supplemented on December 10, 1991, as approved by Commission order on settlement issued April 15, 1992.

Texas Eastern states that the report summarizes repayment amounts Texas Eastern made on October 30, 1992, to its jurisdictional sales customers who were subject to the settlement.

Texas Eastern states that copies of the refund summary and detailed calculations of the individual refund amounts were sent to each of Texas Eastern's affected customers and respective state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 18, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6193 Filed 3–17–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA90–1–29–007 and TA91–1–29–003]

Transcontinental Gas Pipe Line Corp.; Report of Refunds

March 11, 1993.

Take notice that on November 25, 1992, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing with the Federal Energy Regulatory Commission (Commission) a refund report and supporting workpapers in accordance with the Commission's October 26, 1992 letter order issued in Docket No. TA90–1–29–006 and TA91–1–29–002.

Transco states $6,929,746.84 was refunded to its customers on November 25, 1992, after recalculating to deferred gas costs in its Account No. 191 for the period May 1989 through October 1989. Such amount is comprised a carrying charge adjustment of $2,158,614.84 plus a pre-existing balance of $4,771,132.00.

Transco states that copies of the report were sent to each of Transco's affected customers and respective state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 18, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6197 Filed 3–17–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–137–014]

Transcontinental Gas Pipe Line Corp.; Notice of Filing

March 11, 1993.

Take notice that Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing on March 5, 1993 Fourth Substitute Original Sheet No. 374 to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheet is proposed to be effective September 1, 1992.

TGPL states that the purpose of the instant filing is to revise Section 41 of the General Terms and Conditions of TGPL's Volume No. 1 Tariff in compliance with ordering paragraph (B) of the Commission's "Order on Rehearing" issued February 18, 1993 in Docket No. RP92–137–010. Such order directed TGPL to file revised tariff sheets which provide that TGPL will only track electric power costs related to electric compressor use and not all transmission electric power costs.

TGPL states that copies of the instant filing are being mailed to customers, State Commissions and other interested parties to Docket No. RP92–137. In accordance with the provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at TGPL's main office of 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 18, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6200 Filed 3–17–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–2–35–000]

West Texas Gas, Inc.; Notice of Filing

March 11, 1993

Take notice that on March 2, 1993, West Texas Gas, Inc. ("WTG") filed Sixth Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective April 1, 1993. This tariff sheet and the accompanying explanatory schedules constitute WTG's quarterly PGA filing submitted in accordance with the Commission's purchased gas adjustments regulations.

WTG states that copies of the filing were served upon WTG's customers and interested state commissions.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 214. Such motions or protests should be filed on or before March 18, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-6203 Filed 3-17-93; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 93-25-NG]

Amerada Hess Corp., Order Granting Blanket Authorization to Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Amerada Hess Corporation blanket authorization to export to Canada up to 30 Bcf of natural gas over a period of two years beginning on the date of the first delivery.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 12, 1992.

Anthony J. Como,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-6276 Filed 3-17-93; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 93-19-NG]

Tenngasco Corp.; Application For Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed on February 10, 1993, by Tenngasco Corporation (Tenngasco) requesting blanket authorization to export up to 100 Bcf of natural gas to Mexico over a two-year period. The authorization would begin on the date of first delivery after February 28, 1993, the expiration date of Tenngasco's existing export authorization granted by DOE/FE Opinion and Order No. 312 on April 28, 1989 (1 FE ¶ 70,221). Tenngasco proposes to export the gas either on its own behalf, or as an agent for others, and states that it will use existing pipeline facilities, and will submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, April 19, 1993.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Susan K. Gregersen, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-070, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-0063.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION:

1. Background

Tenngasco, a Delaware corporation with its principal place of business in Houston, Texas, is a wholly-owned subsidiary of Tenneco Corporation. Tenngasco's export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy to promote competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those who may oppose this application, should comment on these matters as they relate to the requested export authority. Tenngasco asserts there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Anyone who wants to become a party to this proceeding and to have their written comments considered as the basis for the decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Tenngasco's application is available for inspection and copying in the Office of Fuels Programs docket room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on March 12, 1993.

Anthony J. Como,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–6275 Filed 3–17–93; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92–151–NG]

Unigas Energy, Inc., Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an Order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Unigas Energy, Inc. (Unigas) blanket authorization to import up to 290 Bcf of natural gas from Canada over a two-year term, beginning on the date of first import delivery after April 7, 1993, the date Unigas' current authorization expires.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 12, 1993.

Anthony J. Como,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–6277 Filed 3–17–93; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on Advanced Television Service, Planning Subcommittee Meeting

A meeting of the Planning Subcommittee of the Advisory Committee on Advanced Television Service will be held on:

April 2, 1993, 2 p.m., Commission Meeting Room (room 856), 1919 M Street NW., Washington, DC.

The purpose of this meeting is to receive the reports of the Subcommittee's working parties and to review the plans for the remaining work to be accomplished.

The agenda for the meeting is as follows:

1. Call to Order by the Chairman.
2. Adoption of the Minutes of the Ninth Meeting.
3. Introductory Remarks.
4. Status Reports by the Working Party Chairs.
5. Review of further work to be accomplished.
6. Other Business.
7. Adjournment.

This meeting is open to the public.

Parties may submit written statements prior to or at the time of the meeting. Oral statements and discussion will be permitted under the direction of the Subcommittee Chairman.

Any questions regarding this meeting should be directed to Joseph A. Flaherty at (212) 975–2213 or William Hassinger at (202) 632–6460.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–6182 Filed 3–17–93; 8:45 am]

BILLING CODE 6712–01–M

[DA 93–291]

Comments Invited on South Dakota Public Safety Plan

March 12, 1993.

The Commission has received the public safety radio communications plan for South Dakota (Region 38).

In accordance with the Commission's Memorandum Opinion and Order in General Docket 87–112, Region 38 consists of the state of South Dakota. (General Docket No. 87–112, 3 FCC Rcd 2113 (1988)).

In accordance with the Commission's Report and Order in General Docket No. 87–112 implementing the Public Safety National Plan, interested parties may file comments on or before April 21, 1993 and reply comments on or before May 6, 1993. (See Report and Order, General Docket No. 87–112, 3 FCC Rcd 905 (1987), at paragraph 54.)

Commenters should send an original and five copies of comments to the Secretary, Federal Communications Commission, Washington, DC 20554 and should clearly identify them as submissions to PR Docket 93–57 South Dakota-Public Safety Region 38.

Questions regarding this public notice may be directed to Betty Woolford, Private Radio Bureau, (202) 632–6497 or Ray LaForge, Office of Engineering and Technology, (202) 653–8112.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–6252 Filed 3–17–93; 8:45 am]

BILLING CODE 6712–01–M

[DA 93–292]

Comments Invited on Tennessee Public Safety Plan

March 12, 1993.

The Commission has received the public safety radio communications plan for Tennessee (Region 39).

In accordance with the Commission's Memorandum Opinion and Order in General Docket 87–112, Region 39 consists of the state of Tennessee. (General Docket No. 87–112, 3 FCC Rcd 2113 (1988)).

In accordance with the Commission's Report and Order in General Docket No. 87–112 implementing the Public Safety National Plan, interested parties may file comments on or before April 21, 1993 and reply comments on or before May 6, 1993. (See Report and Order, General Docket No. 87–112, 3 FCC Rcd 905 (1987), at paragraph 54.)

Commenters should send an original and five copies of comments to the Secretary, Federal Communications Commission, Washington, D.C. 20554 and should clearly identify them as submissions to PR Docket 93–58 Tennessee-Public Safety Region 39.

Questions regarding this public notice may be directed to Betty Woolford, Private Radio Bureau, (202) 632–6497 or Ray LaForge, Office of Engineering and Technology, (202) 653–8112.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–6251 Filed 3–17–93; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for renewal of license of Station WNCN (FM) (104.3 MHz), New York, New York; and for a construction permit for a new FM station on 104.3 MHz at New York, New York:

Applicant, city/ state	File No.	MM docket No.
A. GAF Broadcasting Company, Inc.; New York, N.Y.	BRH–910201WL	93–54
B. Class Entertainment and Communications, L.P.; New York, N.Y	BPH–910430ME	.....
C. The Fidello Group, Inc.; New York, N.Y.	BPH–910502MQ	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the following issues whose headings are set forth below. The text of each issue has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, published May 29, 1986. The letter shown before each applicant's name above it used below to signify whether the issue applies to that particular applicant.

Issue Heading and Applicant(s)

1. Environmental Impact, C
2. City Coverage, C
3. Comparative, All
4. Ultimate, All

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an appendix to this Notice. A copy of the complete Hearing Designation Order in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036. (Telephone (202) 452–1422).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 93–6255 Filed 3–17–93; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station.

Applicant, city/ state	File No.	MM docket No.
A. Martha J. Huber; New Albany, IN.	BPH–911114ME	93–51
B. Adams Rib, Inc.; New Albany, IN.	BPH–911115MA	.....
C. Rita Reyna Brent; New Albany, IN.	BPH–911115MC	.....
D. D.E.K.W. Communications, Inc.; New Albany, IN.	BPH–911115MF	.....
E. Midamerica Electronics Service, Inc.; New Albany, IN.	BPH–911115ML	.....
F. Station Communications, Inc.; New Albany, IN.	BPH–911115MU	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding heading at 51 FR 19,347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Comparative, A, B, C, D, E, F
2. Ultimate, A, B, C, D, E, F

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., suite 140, Washington, DC 20037 (telephone 202–857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 93–6256 Filed 3–17–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection submitted to OMB for Review

Notice of Information Collection Submitted to OMB for Review and Approval Under the Paperwork Reduction Act of 1980

AGENCY: Federal Deposit Insurance Corporation.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: New collection.
Title: Prompt Corrective Action.
Form Number: Not applicable.
OMB Number: New Collection.
Expiration Date of OMB Clearance: Not applicable.
Respondents: FDIC-insured institutions.
Frequency of Response: On occasion.
Number of Respondents: 195
Number of Responses Per Respondent: 1.
Total Annual Responses: 195.
Average Number of Hours Per Response: 4.
Total Annual Burden Hours: 780.
OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0000, Washington, DC 20503.
FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
Comments: Comments on this collection of information are welcome and should be submitted before April 19, 1993.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The prompt corrective action provisions of the Federal Deposit Insurance Corporation Improvement Act of 1991 require or permit the FDIC and other federal financial institutions regulators to take certain supervisory actions when FDIC-insured institutions fall within one of five categories. This collection consists of applications required to obtain the prior approval of the FDIC before an FDIC-supervised institution

can engage in certain activities or to obtain an exception from the FDIC to restrictions that would otherwise be imposed.

Dated: March 12, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–6206 Filed 3–17–93; 8:45 am]

BILLING CODE 6714–01–M

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager; Update Listing of Financial Institutions in Liquidation

AGENCY: Federal Deposit Insurance Corporation.

SUMMARY: The Federal Deposit Insurance Corporation (Corporation) has adopted a policy statement concerning 12 U.S.C. 1825(b)(2) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and 28 U.S.C. 2410(c). The policy statement and an initial listing of financial institutions in liquidation were published in the July 2, 1992 edition of the **Federal Register**. The following is a list of financial institutions which have been placed in liquidation since the January 26, 1993 publication.

FEDERAL DEPOSIT INSURANCE CORPORATION ACTIVE INSTITUTIONS IN LIQUIDATION ALPHA LISTING (NAME)

Institution name city/ state	Date closed region	Ref. No.
American Bank of Haltom City, Haltom City, TX.	02/04/93, Dallas.	4563
Atlanta C.O.—CP, Atlanta, GA.	01/15/93, Chicago.	3964
Columbia National Bank, Santa Monica, CA.	01/22/93, San Francisco.	4561
Jefferson National Bank, Watertown, NY.	02/26/93, New York.	4565
The Planters National Bank of Rosebud, Rosebud, TX.	02/25/93, Dallas.	4564
1st National Bank of Vermont, Bradford, VT.	01/29/93, New York.	4562

Dated: March 12, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–6207 Filed 3–17–93; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Ranvar Corporation, 1732 NW. 82nd Ave., Miami, FL 33126, Officers: Pedro D. Rangel, President, Diana Rangel, Vice President.

U.S. International Transport, Inc., 6508 NW. 82nd Ave., Miami, FL 33166, Officers: Edward Fabelo, President, Zenaida Rodriguez, Vice President, Manuel O. Fabelo, Secretary.

Logistics International, Inc., 703 Lockhaven Drive, Houston, TX 77073, Officers: Thomas James Dugas, President/ Stockholder, Terri Seagle Dugas, Secretary/ Stockholder.

Alpine Express Corporation, 5261 W. Imperial Hwy., Los Angeles, CA 90045, Officers: Steve P. Hsu, President, Betty Lim, Chief Financial Officer.

Foremost International Cargo Services, Inc., 1101 W. Ocean Blvd., suite H, Long Beach, CA 90802, Officer: Anthony C. Chiu, President.

Global International Forwarder, Inc., 210 Newark Ave., Lyndhurst, NJ 07071, Officer: Marguerite L. Larsen, President.

Pacific Multi-Modal Express International, Freight Forwarding System, 8614 Woodley Ave., unit 204, Sepulveda, CA 91343, Mary A.L. Santos-Galleno, Sole Proprietor.

KCI Customs Brokers, Inc., 6555 NW. 36th St., suite 328, Miami, FL 33166, Officers: Richard L. Knowles, President, Patricia L. Knowles, Vice President.

Jose Mateus, 132 Wardwell Road, Mineola, NY 11501, Sole Proprietor.

Dated: March 15, 1993.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–6248 Filed 3–17–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

[File No. 901 0069]

Dominican Santa Cruz Hospital, et al.; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the California non-profit corporations from acquiring, without prior Commission approval, all or any significant part of a general acute care hospital in Santa Cruz County, CA. The consent agreement would also prohibit, for ten years, the respondents from transferring any hospital in the county to a non-respondent prior to filing with the Commission an agreement by the transferee to be bound by the order.

DATES: Comments must be received on or before May 17, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: David Newman, San Francisco Regional Office, Federal Trade Commission, 901 Market St., suite 570, San Francisco, CA. 94103. (415) 744–7920.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the matter of Dominican Santa Cruz Hospital, a corporation, and Catholic Healthcare West, a corporation. File No. 901–0069.

Agreement Containing Consent Order

The Federal Trade Commission having initiated an investigation into the acquisition of Community Hospital of Santa Cruz by Dominican Santa Cruz Hospital ("Dominican") and Catholic Healthcare West ("CHW"), and it now appearing that Dominican and CHW, hereinafter sometimes collectively referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist;

It is hereby agreed by and between Dominican and CHW, by their duly authorized officers and their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Dominican is a nonprofit corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office, principal place of business and mailing address at 1555 Soquel Avenue, Santa Cruz, California 95065–1794.

2. Proposed respondent CHW is a nonprofit corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office, principal place of business and mailing address at 1700 Montgomery Street, San Francisco, California 94111.

3. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days, and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this agreement containing the agreed-to order shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they may be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered that for purposes of this order, the following definitions shall apply:

A. "Dominican" means Dominican Santa Cruz Hospital (a California corporation), its directors, trustees, officers, agents, employees, and representatives, and its subsidiaries, divisions, affiliates, successors and assigns.

B. "CHW" means Catholic Healthcare West (a California corporation), its directors, trustees, officers, agents, employees, and representatives, and its subsidiaries, divisions, affiliates, successors and assigns.

C. "General acute care hospital," herein referred to as "hospital," means a health facility, other than a federally owned facility, having a duly organized governing body with overall administrative and professional responsibility, and an organized medical staff, that provides or is licensed to provide 24-hour impatient care, as well as outpatient services, and having as a function the provision of impatient services for medical diagnosis, treatment, and care of physically injured or sick persons with short-term or episodic health problems or infirmities; "hospital" does not include any skilled nursing facility, mental health or psychiatric facility, rehabilitation facility, chemical dependency facility or other chronic care facility.

D. To "acquire a hospital" means to directly or indirectly acquire the whole or any part of the stock, share capital, equity or other interest in or any assets of any hospital, or enter into any arrangement to obtain direct or indirect ownership, management or control of any hospital or any part thereof, including but not limited to the lease of or management contract for a hospital, or the acquisition of the right to designate directly or indirectly the directors or trustees of a hospital. To "acquire a hospital" excludes entering into any arrangement to construct a new hospital if a construction permit for such hospital has not been issued by the California Office of Statewide Health Planning and Development at the time such an arrangement is entered into.

E. "Affiliate" means any entity whose management and policies are controlled or directed in any way, directly or indirectly, by the entity of which it is an affiliate.

II.

It is ordered that, for a period of ten (10) years from the date this order becomes final, neither Dominican nor CHW shall, without the prior approval of the Federal Trade Commission, acquire any hospital in Santa Cruz County, California; and

It is further ordered that, for a period of ten (10) years from the date this order becomes final, neither Dominican nor CHW shall permit all or any substantial part of any hospital owned or operated by either Dominican or CHW in Santa Cruz County, California, to be acquired by any other person unless the acquiring person files with the Federal Trade Commission a written agreement to be bound by the provisions of this order, which agreement shall be a condition precedent to the acquisition;

Provided, however, that no acquisition shall be subject to this Paragraph II of this order if the fair market value of (or, in the case of a purchase acquisition, the consideration to be paid for) the hospital or part thereof to be acquired does not exceed two million dollars ($2,000,000).

III.

It is further ordered that respondent Dominican and CHW, upon written request of the staff of the Federal Trade Commission, made to Dominican or CHW, for the purpose of determining or

securing compliance with this order, and subject to any legally recognized privilege, shall permit duly authorized representatives of the Commission:

A. Reasonable access during Dominican's or CHW's office hours, in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, reports, and other records and documents in Dominican's or CHW's possession or control that relate to any matter contained in this order; and

B. An opportunity, subject to Dominican's and CHW's reasonable convenience, to interview officers or employees of Dominican or CHW, who may have counsel present, regarding such matters; and

It is further ordered that annually beginning on the first anniversary of the date this order becomes final and continuing for nine (9) years thereafter, Dominican shall submit a verified report demonstrating the manner in which it has complied and is complying with this order.

IV.

It is further ordered that Dominican and CHW shall notify the Commission at least thirty (30) days prior to any proposed change, such as dissolution, assignment, sale resulting in the emergence of a successor corporation or association, or the creation or dissolution of subsidiaries or affiliates, which may affect compliance obligations arising out of this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from Catholic Healthcare West ("CHW") and Dominican Santa Cruz Hospital ("Dominican") (hereinafter collectively referred to as "respondents"). The agreement would settle a proposed complaint by the Federal Trade Commission that respondents' acquisition of a competing hospital in Santa Cruz, California, violated Section 7 of the Clayton Act.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or issue and serve the agreement's proposed order.

The Proposed Complaint

The administrative complaint which the Commission proposes to issue would charge that the respondents operate Dominican Santa Cruz Hospital, a general acute care hospital in Santa Cruz, California, and related health care facilities. On March 8, 1990, respondents agreed to acquire and did acquire substantially all of the assets of AMI-Community Hospital of Santa Cruz ("Community"), another general acute care hospital in Santa Cruz. The proposed complaint alleges that Dominican and Community were competitors in the market for general acute care hospital services in Santa Cruz County, California. That market, according to the proposed complaint, was already highly concentrated, and entry by new competitors would be difficult. The complaint charged that the effect of the acquisition may be substantially to lessen competition or to tend to create a monopoly in the Santa Cruz County hospital market, in violation of section 7 of the Clayton Act.

The Proposed Consent Order

The first paragraph of the proposed order defines the respondents subject to the order, and certain other terms used in the order.

Paragraph II would prohibit respondents from acquiring, without the prior approval of the Federal Trade Commission, all or any significant part of a general acute care hospital in Santa Cruz County, California. This provision would give the Commission authority to prohibit any substantial combination of the general acute care hospital operations of respondents with those of any other general hospital in Santa Cruz County, unless respondents convinced the Commission that a particular transaction would not endanger competition in the Santa Cruz County hospital market. Paragraph II would also prohibit, for ten years, respondents from transferring any hospital in Santa Cruz County to a non-respondent without first filing with the Commission an agreement by the transferee to be bound by the order

Paragraph II would not cover acquisitions where the value of the acquired assets is $2 million or less.

Paragraph II of the proposed order requires respondents to make annual reports to the Federal Trade Commission, and to make certain documents and personnel available to the Commission upon request, so the Commission may verify compliance with the order. Finally, Paragraph IV of the proposed order requires respondents to notify the Commission at least thirty days before any proposed change in corporate structure that may affect compliance with the order.

The purpose of this analysis is to invite public comment concerning the proposed order, to assist the Commission in its determination whether to make the order final. This analysis is not intended to constitute an official interpretation of the agreement and the proposed order or to modify their terms in any way.

The agreement is for settlement purposes only and does not constitute an admission by respondents that their acquisition violated the law, as alleged in the Commission's proposed compliant.

Donald S. Clark,

Secretary.

Statement of Chairman Janet D. Steiger In Support of Accepting Proposed Consent Agreement

In the Matter of *Dominican Santa Cruz Hospital*, File No. 901–0069

Respondent Dominican Santa Cruz Hospital acquired the assets of its principal competitor, AMI-Community Hospital, in March, 1990, in what I have reason to believe was a violation of section 7 of the Clayton Act. The Commission has voted to resolve this matter by accepting a consent agreement, subject to final approval, that requires Dominican and its parent, Catholic Healthcare West, to seek prior approval of any further hospital acquisitions in the Santa Cruz County, California, market.

The facts of this case provide sufficient reason to believe that this acquisition violates section 7 of the Clayton Act. Ordinarily, such facts would lead the Commission to seek a preliminary injunction in federal district court. However, the acquisition was not reportable under the Hart-Scott-Rodino Act, and was consummated before Commission staff was able to open an investigation to explore the competitive effects of the acquisition. Consequently, the Commission never had the opportunity to consider seeking a preliminary injunction under Section 13(b) of the FTC Act to prevent the acquisition from being consummated.

Under these circumstances, the Commission is left with less effective or more costly remedial options.[1] Divestiture of the acquired hospital is not an appealing remedy. The acquired hospital has been converted to a skilled nursing/rehabilitative care facility—it no longer operates as a hospital—and

[1] These, of course, are the circumstances that Congress sought to obviate through the Hart-Scott-Rodino Act.

the costs of conversion back to a hospital would, even under the best of circumstances, be substantial, with no guarantee of success. In addition, subsequent to the acquisition, Sutter Health, a major Northern California hospital chain, announced plans to construct an acute care hospital in Santa Cruz, which would restore a third hospital competitor in the market.[2] The very real prospect that Sutter will enter this market, before a divestiture decree could be obtained through litigation and a willing buyer found, is an additional factor weighing against the pursuit of a divestiture order.[3] Thus, although divestiture may be an appropriate remedy in many cases where the Commission is unable to obtain a pre-consummation injunction, the facts of this case suggest that the Commission's resources would not be well spent on pursuing divestiture here.

Respondents have agreed to accept an order that requires them to seek prior approval of hospital acquisitions in the Santa Cruz County market. The order includes within the definition of "hospital" any facility for which the State of California's Office of Statewide Healthcare Planning and Development has issued a building permit, even if the hospital has not been completed. Thus, it would prevent respondents from acquiring Sutter's interest in its proposed site once Sutter has obtained permission from the State of California to begin construction.

As a practical matter, this very unusual case presents the Commission with three choices: To close a case in which there is reason to believe that the law has been violated; to issue an administrative complaint under part III of the Commission's Rules; or to accept the proposed negotiated consent agreement. The first choice, ignoring an apparent violation of law, clearly is unacceptable. The second choice, issuing a complaint, does not appear to be in the public interest under the specific circumstances of this case. Because divestiture is problematic here, it is entirely possible that the Commission would obtain nothing more than the relief contained in this consent order after expending scarce enforcement resources in protracted litigation. The third choice, accepting the proposed consent agreement, makes the clear statement that the Commission will not ignore what it has reason to believe are violations of law, and imposes a reasonable remedy given the specific circumstances facing the Commission.

Dissenting Statement of Commissioner Mary L. Azcuenaga

I have reason to believe that Dominican Santa Cruz Hospital's acquisition of AMI–Community Hospital was anticompetitive. I would have supported an action to enjoin the transaction before it was consummated in March 1990. In light of the competitive situation in this market, I share Commissioner Yao's concern that the consent order does not provide an adequate remedy.

Dissenting Statement of Commissioner Dennis A. Yao

I agree with the majority that Dominican Santa Cruz Hospital's acquisition of AMI-Community Hospital is likely to be anticompetitive. I do not believe that this anticompetitive problem can be solved with the relief the Commission is today approving, and I have reason to believe that issuance of an administrative complaint would be appropriate in this matter. Because I believe that something more than a requirement that Dominican obtain prior approval of future acquisitions is needed here, I dissent from the Commission's decision.

This merger, consummated in March 1990, combines two major acute care hospitals in Santa Cruz County, California, and leaves Dominican as the dominant hospital, with more than 70% of a clearly defined geographic market (bounded by mountains and ocean). Only one competitor remains in the market, Watsonville Hospital, located in a more rural area approximately 14 miles south of Santa Cruz. There is considerable evidence that suggests that this merger may be anticompetitive. Dominican has argued for efficiencies from converting Community into a skilled nursing/rehabilitative care facility. However, neither hospital's physical plant was so small as to raise concerns that either was operating pre-merger below minimum efficient scale and, in my view, the asserted efficiencies are clearly insufficient to offset the likely anticompetitive effects.

Other activities subsequent to the merger also raise possible antitrust concern. Dominican is participating with the only other hospital left in the county, Watsonville Hospital, in a joint venture—Santa Cruz Physicians Services, Inc., a physicians' group, that contemplates negotiating with HMO's and other third-party payers for the provision of medical services. While the exact parameters of this recently-formed joint venture have not been fully investigated yet and thus the joint venture may not be anticompetitive in its own right, serious antitrust issues are raised any time the only two hospitals in a market are involved in a joint venture concerning marketing of medical services.

An argument supporting possible restoration of competition in Santa Cruz County is based on the publicly announced plans of Sutter Health Systems to open a 30-bed hospital specializing in baby deliveries and non-acute surgeries by 1995. There are two reasons to be skeptical of the sufficiency and timeliness of Sutter's possible procompetitive effects. First, the limited scope of procedures that Sutter plans to perform at the center may make its presence in the market, should it ever actually enter, insufficient to defeat a collusive price increase by Dominican and Watsonville in acute care services. Second, unlike most plans for entry, entry in this hospital market requires licensing and other approvals, making entry more problematic. Indeed, there is a question whether Sutter will ever enter as an inpatient hospital.[1]

Admittedly complicating the possibility of obtaining greater relief here is that Dominican, shortly after the merger, converted Community into a skilled nursing/rehabilitative care facility. That conversion is now largely complete and presents the Commission with a problem. Reconversion,

[2] Sutter's planned 30-bed hospital, while smaller than AMI-Community, is expected to be a state-of-the-art facility that may pose a competitive check on a unilateral exercise of market power by Dominican or on the possibility of coordination between Dominican and Watsonville Community Hospital, which currently is Dominican's only competitor in the relevant market.

[3] While Sutter's plans are not so far advanced that its entry is inevitable, several factors suggest that Sutter is likely to enter. First, it has committed substantial funds by acquiring a site for its proposed hospital. Second, Sutter has entered into negotiations for a contract with the County of Santa Cruz to provide care for indigent county residents. Third, Sutter's experience as a hospital company in Northern California enhances the likelihood that it will be able to enter the market successfully.

[1] Although Sutter's announcement was made nearly a year ago, there is little concrete evidence that Sutter is any closer to actually entering as an inpatient hospital. The California Office of Statewide Health Planning and Development, which must review Sutter's construction plans, has not yet received plans from Sutter for the construction of this hospital. Zoning and other approvals are still required from the county. Finally, the county may face some conflicting incentives in determining whether to approve Sutter. Last year, Dominican signed a new long-term contract with the county for indigent patient care in which, *inter alia*, Dominican promised to provide $5.5 million in free medical services—but only so long as no other hospital is built in northern Santa Cruz County. While Dominican may have a good business reason for inserting such a clause, this clause could present the county—which has the power to approve Sutter—with a tough dilemma: allowing Sutter to enter and renegotiating the contract or receiving $5.5 million in free medical care.

reestablishment of a physician network and divestiture may be expensive, but may not be prohibitively so. The costs of converting Community back to an acute care hospital may not be overly burdensome as Community's physical structure has not been altered and it still retains a license for 84 acute care beds. Another possibility could be to require divestiture without reconversion on the theory that, since Community is still licensed for 84 acute care beds, a new owner of Community could easily re-enter the acute care market, if economically sensible. Still another possibility could be a stronger consent that might reduce the prospects that the merger will be anticompetitive.[2]

In sum, because I believe that something more than a prior approval requirement for future acquisitions is needed here, I respectfully dissent.

[FR Doc. 93-6312 Filed 3-17-93; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Financial Management; Agency Information Collection Under OMB Review

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for approval of a previously approved information collection titled: "Child Support Enforcement Program Quarterly Report of Collections". This request was previously approved under OMB No. 0970-0013 which expired on 28 February 1993.

ADDRESSES: Copies of the Information Collection request may be obtained from Steve Smith of the Office of Information Systems Management, ACF, by calling (202) 401-6964.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Kristina Emanuels, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395-7316.

Information on Document

Title: Child Support Enforcement Program Quarterly Report of Collections Form OCSE-34

OMB No.: 0980-0013.

Description: This information collection is authorized by sections 403(b)(2)(c), 452(a)(6), 452(a)(10)(A), 454(10), and 458 of title IV-D of the Social Security Act. The purpose for the information collection requested on form OCSE-24, Child Support and Enforcement Program Quarterly Report of Collections, is to compile accurate and aggregated information of all amounts collected and disbursed in collecting child and spousal support and of the costs incurred in collecting such amounts by the States. Section 452(a)(6) of the Social Security Act requires the Secretary of the Department of Health and Human Services to maintain a full record of this information as reported by the States for use in the annual report to the Congress. The information will also enable the Administration for Children and Families to compute incentive payments to States as required by Section 458 of the Social Security Act.

Annual Number of Respondents: 54.

Annual Frequency: 4.

Average Burden Hours Per Response: 8.

Total Burden Hours: 1,728.

Dated: February 26, 1993.

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 93-6292 Filed 3-17-93; 8:45 am]

BILLING CODE 4130-01-M

Food and Drug Administration

[Docket No. 86F-0255]

Buckman Laboratories, Inc.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 5B3835) proposing that the food additive regulations be amended to provide for the safe use of poly(oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride) as an antimicrobial agent in starch in the manufacture of paper and paperboard products for food-contact use.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9500.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of July 22, 1986 (51 FR 26308), FDA announced that a food additive petition (FAP 5B3835) had been filed by Buckman Laboratories, Inc., 1256 North McLean Blvd., P.O. Box 8305, Memphis, TN 38108. This petition proposed that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of poly(oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride) as an antimicrobial agent in starch in the manufacture of paper and paperboard products for food-contact use. Buckman Laboratories Inc., has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: March 9, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93-6173 Filed 3-17-93; 8:45 am]

BILLING CODE 4160-01-F

Health Care Financing Administration

Notice of Hearing: Reconsideration of Disapproval of Arkansas State Plan Amendments (SPAs)

AGENCY: Health Care Financing Administration, HHS.

ACTION: Notice of Hearing.

SUMMARY: This notice announces an administrative hearing on April 22, 1993 at 10 a.m. in room 910A, 1200 Main Tower Building, Dallas, Texas, to reconsider our decision to disapprove Arkansas SPAs 91-59 and 91-61.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk by April 2, 1993.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, 1849 Gwynn Oak Avenue, Meadowwood East Building, Groundfloor, Baltimore, Maryland 21207. Telephone: (410) 597-3013.

[2] Prior approval or prior notification requirements could be placed on potentially anticompetitive joint ventures. For example, in *University Health, Inc.*, Docket No. 9246 (Sept. 9, 1992) (final consent order), the Commission required that the respondent give the commission prior notification of certain joint ventures. Also, restrictions could be placed on conduct by Dominican that might make entry of Sutter more difficult (*e.g.*, if Dominican sought to bar doctors at its hospitals from attending patients at Sutter), without impinging on activity that would be protected under the *Noerr-Pennington* immunity doctrine.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Arkansas State plan amendments (SPAs) numbers 91–59 and 91–61.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Health Care Financing Administration (HCFA) is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

Arkansas SPAs 91–59 and 91–61 propose, among other things, to impose a combined limit on six separate Medicaid services. Under the proposal, the Arkansas Medicaid plan will cover up to a maximum of 12 visits per year which recipients may use to receive physician services, medical and surgical services of a dentist, podiatrist services, optometrist services, Federally qualified health center (FQHC) services, and rural health clinic (RHC) services. Additional physician, FQHC, and RHC services may be available if requested by the provider.

The issues in this matter are whether the State's proposal complies with: (1) Medicaid requirements relating to amount, duration, and scope of services in regulations at 42 CFR 440.230; (2) comparability of services requirements in sections 1902(a)(10)(B) and 1902(a)(10)(C)(i)(II) of the Act and in regulations at 42 CFR 440.240; and (3) the mandatory service requirements in section 1902(a)(10)(A) of the Act and in regulations at 42 CFR 440.210.

Medicaid regulations at 42 CFR 440.230(a) require a State plan to specify the amount, duration, and scope of each available service. HCFA believes, as a result of the proposed limit, the Arkansas plan does not provide this required information because the number of visits covered under one service category will vary with the use of any visits under the other five service categories. For example, when a recipient visits a physician to receive a covered service, the amount of services otherwise covered under the other five service categories will correspondingly be reduced.

In addition, HCFA believes this same characteristic which permits services under one service category to vary with the use of services under another benefit may violate 42 CFR 440.230(b). Regulations at 42 CFR 440.230(b) require that each Medicaid service must be sufficient in amount, duration, and scope to reasonably achieve its purpose. Because the number of visits covered under one service category will depend on the use of other Medicaid services, HCFA believes that it cannot make a determination regarding the sufficiency of each benefit. In some cases, the plan might make 12 visits available under a Medicaid service category. However, in other cases, the plan may not make any visits available. Although the State provided a report on service utilization, HCFA found the report inadequate to document sufficiency because it does not indicate the extent to which each service meets the needs of Medicaid recipients.

HCFA believes Arkansas' proposed limitations also violate 42 CFR 440.230 (c) and (d). The former provision prohibits a State agency from arbitrarily denying or reducing the amount, duration, or scope of a required service solely because of an individual's diagnosis, type of illness, or condition. Under the proposed limit, the amount, duration, or scope of a required Medicaid service may be reduced, in some cases, solely because of a recipient's health condition which requires the use of some other Medicaid service. For example, the amount, duration, and scope of required physician, RHC, and FQHC services will be reduced in cases where an individual has a foot problem and obtains a covered podiatrist service. The latter provision, 42 CFR 440.230(d), permits a State to establish appropriate limits on a service based on medical necessity or utilization control criteria. The proposed limit, however, does not appear to be based on either criteria. The limit does not purport to exclude any medical services on the grounds that they are not medically necessary. Also, the limit does not appear to be a control over the utilization of covered services since services will be reduced even though recipients have never used them.

HCFA believes the proposed limitations on services may also deny recipients access to mandatory Medicaid services in violation of section 1902(a)(10)(A) of the Act and regulations at 42 CFR 440.210. To fulfill these requirements, a State plan must make certain Medicaid services, including physician, RHC and FQHC services available to categorically needy recipients. Since the 12 visit allotment applies to some mandatory Medicaid services as well as certain optional Medicaid services, it is possible for recipients, depending on their particular health needs, to exhaust their allotted visits without obtaining any of the mandatory services. Where this occurs, the plan would prevent these recipients from obtaining any of the mandatory services that may become necessary unless requested by the provider and approved by the State. If the provider does not request additional visits or the request is denied by the State, mandatory services will not be available to certain categorically needy recipients in violation of section 1902(a)(10)(A) of the Act and regulations at 42 CFR 440.210.

HCFA believes the proposed limit also violates Medicaid comparability requirements at section 1902(a)(10)(B), 1902(a)(10)(C)(i)(II) of the Act, and in regulations at 42 CFR 440.240. To satisfy these requirements, the plan must provide that services available to any categorically needy recipient are not less in amount, duration, and scope than those available to a medically needy recipient. Also, the plan must provide that the services available to any categorically needy individual are equally available to all categorically needy individuals and that services available to any medically needy individual are equally available to all individuals within a covered medically needy group. Under the proposal, the allotment of visits covered under each Medicaid service category are not necessarily equal for individuals belonging to the same eligibility group. Categorically needy recipients may also receive less services under one Medicaid service category than a medically needy recipient receives.

The notice to Arkansas announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mr. A. Jack Reynolds
Director
Arkansas Department of Human Services
P.O. Box 1437, Slot 329
Little Rock, Arkansas 72203–1437

Dear Mr. Reynolds:

I am responding to your request for reconsideration of the decision to disapprove Arkansas State Plan Amendments (SPAs) 91–59 and 91–61.

These amendments would impose a combined limit on six separate Medicaid services. Under the proposal, the Arkansas Medicaid plan will cover up to a maximum of 12 visits per year which recipients may use to receive physician services, medical and surgical services of a dentist, podiatrist services, optometrist services, Federally qualified health center (FQHC) services, and rural health clinic (RHC) services. Additional physician, FQHC, and RHC visits may be available if requested by the provider.

The issues in this matter are whether the State's proposal complies with: (1) Medicaid requirements relating to amount, duration, and scope of services in regulations at 42 CFR 440.230; (2) comparability of services in sections 1902(a)(10)(B), 1902(a)(10)(C)(i)(II) of the Act, and in regulations at 42 CFR 440.240; and (3) the mandatory service requirements in section 1902(a)(10)(A) of the Act and in regulations at 42 CFR 440.210.

I am scheduling a hearing on your request for reconsideration to be held on April 22, 1993 at 10 a.m. in room 910A, 1200 Main Tower Building, Dallas, Texas. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR part 430.

I am designating Mr. Stanley Katz as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (410) 597–3013.

Sincerely,

William Toby, Jr.,

Acting Deputy Administrator.

(Section 1116 of the Social Security Act) (42 U.S.C. section 1316); 42 CFR section 430.18)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: March 11, 1993.

William Toby, Jr.,

Acting Deputy Administrator, Health Care Financing Administration.

[FR Doc. 93–6187 Filed 3–17–93; 8:45 am]

BILLING CODE 4120–03–M

Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), Federal Register, Vol. 55, No. 181, pp. 38395, dated September 18, 1990, is amended to reflect a change within the Office of National Health Statistics. The specific change establishes the Division of Survey Analysis (DSA). DSA will plan and manage the Medicare Current Beneficiary Survey. The Division of Health Projections and Surveys is deleted in its entirety. The Division of Health Cost Analysis is amended to delete reference to the national health expenditures age estimates function.

The specific amendments to Part F are described below:

Section FH.20.B.2.a., Division of Health Projections and Surveys (FHG41) and FH.20.B.2.b., Division of Health Cost Analysis (FHG42) are deleted in their entirety and replaced with the following:

a. Division of Survey Analysis (FHG43)

- Plans and manages the Medicare Current Beneficiary Survey. Provides all the in-house activities needed for survey management, data analysis, and coordination and information dissemination.
- Conducts and evaluates surveys containing information relevant to the health care system.
- Develops, maintains, and analyzes the statistical reliability and representation of the Medicare Current Beneficiary Survey. Assures that sample replenishment reflects population and sub-group profiles.
- Develops and provides analysis of the survey methodology and techniques in conjunction with the survey contractor. Establishes an interdisciplinary approach to data collection, manipulation and analysis and interpretation.
- Provides technical analysis and data for Agency, Department, or Administration initiatives.
- Responds to requests for information and analysis on the health sector as it relates to survey data.

b. Division of Health Cost Analysis (FHG42)

- Maintains the National Health Accounts. Provides an interdisciplinary approach to data collection, manipulation and analysis, and interpretation of national, and regional health use, costs and payment sources, both public and private.
- Estimates and disseminates annual national health expenditures estimates, periodic estimates of health expenditures by region or State, and produces quarterly "health indicators" measures.
- Provides technical support for HCFA regulatory processes, especially those related to payment systems or reform.
- Provides technical analysis and data for Agency, Department, or Administration initiatives.
- Responds to requests for information and analysis on the health sector and its relationship to the general economy.

Dated: February 25, 1993.

Robert A. Streimer,

Associate Administrator for Management.

[FR Doc. 93–6186 Filed 3–17–93; 8:45 am]

BILLING CODE 4120–03–M

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Public Health Service (PHS) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program ("the Program"), as required by section 2112(b)(2) of the PHS Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program generally, contact the Clerk, United States Court of Federal Claims, 717 Madison Place, NW., Washington DC 20005, (202) 219–9657. For information on the Public Health Service's role in the Program, contact the Administrator, Vaccine Injury Compensation Program, 6001 Montrose Road, room 702, Rockville, MD 20852, (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq*, provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to PHS. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as

appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table set forth at section 2114 of the PHS Act. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a partial list of petitions received by PHS on October 1, 1990.

Section 2112(b)(2) also provides that the special master "shall afford all interested persons an opportunity to submit relevant, written information" relating to the following:

1. The existence of evidence "that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition," and

2. Any allegation in a petition that the petitioner either:

(a) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table (see section 2114 of the PHS Act) but which was caused by" one of the vaccines referred to in the Table, or

(b) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine" referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading "For Further Information Contact"), with a copy to PHS addressed to Director, Bureau of Health Professions, 5600 Fishers Lane, room 8–05, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Merrie Marcy, Kingston, Pennsylvania, Claims Court Number 90–3226 V.
2. Delbert Pettyjohn on behalf of Christina Pettyjohn, Deceased, Ottumwa, Iowa, Claims Court Number 90–3227 V.
3. Laraine Kubiak on behalf of Paul Kubiak, Crystal Lake, Illinois, Claims Court Number 90–3228 V.
4. Lentz Waugh, Statesville, North Carolina, Claims Court Number 90–3229 V.
5. Diana Runyon on behalf of Tara Lynn Runyon, Vero Beach, Florida, Claims Court Number 90–3230 V.
6. Mark Hall on behalf of Andrew Hall, Deceased, Las Cruces, New Mexico, Claims Court Number 90–3231 V.
7. Christine Fennell on behalf of Brittany Fennell, Seguin, Texas, Claims Court Number 90–3232 V.
8. Sherman Vaughan, Malad City, Idaho, Claims Court Number 90–3233 V.
9. Cathy Abbott on behalf of Shawn Abbott, Annapolis, Maryland, Claims Court Number 90–3234 V.
10. Michael Barr on behalf of David Barr, Berkeley, California, Claims Court Number 90–3235 V.
11. Khamtane Siripakdi on behalf of Jason Siripakdi, Honolulu, Hawaii, Claims Court Number 90–3236 V.
12. Marion Brown, Philadelphia, Pennsylvania, Claims Court Number 90–3237 V.
13. Richard Cox on behalf of David Cox, Fairhope, Alabama, Claims Court Number 90–3239 V.
14. June Kendall, Craig AFB, Alabama, Claims Court Number 90–3239 V.
15. Gayla Smith on behalf of Marilyn Smith, Morgan County Park, Illinois, Claims Court Number 90–3240 V.
16. Betsy Blattmachr on behalf of Jeffrey Blattmachr, Hempstead, New York, Claims Court Number 90–3241 V.
17. Debra Valenti-Epstein on behalf of Andrew Valenti-Epstein, Philadelphia, Pennsylvania, Claims Court Number 90–3242 V.
18. Elizabeth Schell on behalf of John Rutledge, Fort McPherson, Georgia, Claims Court Number 90–3243 V.
19. Loretta Nobles on behalf of Nicholas Nobles, Russellville, Arkansas, Claims Court Number 90–3244 V.
20. Mary Wade on behalf of Marcus Wade, Richmond, Virginia, Claims Court Number 90–3245 V.
21. Velda Welcher on behalf of Kimberly McSorely, Mt. Pleasant, Iowa, Claims Court Number 90–3246 V.
22. Michael Brockman on behalf of Karissa Brockman, Claremore, Oklahoma, Claims Court Number 90–3247 V.
23. Walter Rechtlich, New Orleans, Louisiana, Claims Court Number 90–3248 V.
24. Billy Overcash, Kermit, Texas, Claims Court Number 90–3249 V.
25. David Hahler on behalf of Eric Hahler, Deceased, Aberdeen, South Dakota, Claims Court Number 90–3250 V.
26. Roy Lee Lundy, Jackson, Ohio, Claims Court Number 90–3251 V.
27. Christine Dahlgren on behalf of Cynthia Dahlgren, Fenton, Michigan, Claims Court Number 90–3252 V.
28. Jerry and Susan Pearson, Everett, Washington, Claims Court Number 90–3253 V.
29. Christopher Rechtlich, New Orleans, Louisiana, Claims Court Number 90–3254 V.
30. Britine O'Connell, Des Moines, Iowa, Claims Court Number 90–3255 V.
31. Nancy Jones on behalf of Andrew Jones, Corpus Christi, Texas, Claims Court Number 90–3256 V.
32. Ann Wood, Albuquerque, New Mexico, Claims Court Number 90–3257 V.
33. Michael Arft on behalf of Brandy Arft, Joplin, Missouri, Claims Court Number 90–3258 V.
34. Tonya Gillaspy on behalf of Joann Gillaspy, Nucla, Colorado, Claims Court Number 90–3259 V.
35. Claud Angel on behalf of Ruth Angel, Columbus, Ohio, Claims Court Number 90–3260 V.
36. Carolyn Caruso on behalf of Thomas Caruso, Slidell, Louisiana, Claims Court Number 90–3261 V.
37. John Walker on behalf of Peter Walker, Denver, Colorado, Claims Court Number 90–3262 V.
38. Teddi Williamson, Richmond, Kentucky, Claims Court Number 90–3263 V.
39. Carole Leomporra on behalf of Annie Leomporra, Wayzata, Minnesota, Claims Court Number 90–3264 V.
40. Christian Ruggiero, Mound, Minnesota, Claims Court Number 90–3265 V.
41. Joyce Depriest on behalf of Mindy Phelps, Deceased, Lincoln, Nebraska, Claims Court Number 90–3266 V.
42. Jack and Linda Ladyman on behalf of Heath Ladyman, Madison, Wisconsin, Claims Court Number 90–3267 V.
43. Patricia Falvello, Hazleton, Pennsylvania, Claims Court Number 90–3268 V.
44. Larry Parsons on behalf of Melanie Parsons, Deceased, Wallace, Idaho, Claims Court Number 90–3269 V.
45. Margaret Jirik on behalf of Andrew Weisel, Reno, Nevada, Claims Court Number 90–3270 V.
46. Judith Gray, Denver, Colorado, Claims Court Number 90–3271 V.
47. Karrie Huzenlaub, Houston, Texas, Claims Court Number 90–3272 V.
48. Toni Partin, Baton Rouge, Louisiana, Claims Court Number 90–3273 V.

49. Gerard B. Costello on behalf of Gerard F. Costello, Philadelphia, Pennsylvania, Claims Court Number 90–3274 V.

50. Linda McDonald on behalf of Brittany McDonald, Parkville, Missouri, Claims Court Number 90–3275 V.

51. Dennis McHugh on behalf of Kelly McHugh, Buffalo, New York, Claims Court Number 90–3276 V.

52. Cariann Di Roma, Plainview, New York, Claims Court Number 90–3277 V.

53. Homer Guysinger on behalf of Ricky Guysinger, Chillicothe, Ohio, Claims Court Number 90–3278 V.

54. Terri Smith, Chesapeake, Virginia, Claims Court Number 90–3279 V.

55. Emma Harvard, Philadelphia, Pennsylvania, Claims Court Number 90–3280 V.

56. Patricia Borst, Jamaica, New York, Claims Court Number 90–3281 V.

57. Rhonda Rogers on behalf of Kalina Rogers-Murray, Pelican, Alaska, Claims Court Number 90–3282 V.

58. Kathleen Garrett on behalf of Bobby Garrett, Oklahoma City, Oklahoma, Claims Court Number 90–3283 V.

59. Arthur Leifer on behalf of Isaac Leifer, Deceased, Brooklyn, New York, Claims Court Number 90–3284 V.

60. Linda Sheppard on behalf of Rondell Sheppard, Kansas City, Missouri, Claims Court Number 90–3285 V.

61. Anne McKniff, Chester, Pennsylvania, Claims Court Number 90–3286.

62. Julie Albany, Burlington, Massachusetts, Claims Court Number 90–3287 V.

63. Henrietta Chavez on behalf on Yvonne Chavez, Deceased, Montebello, California, Claims Court Number 90–3288 V.

64. Clarence Stone, Alva, Oklahoma, Claims Court Number 90–3289 V.

65. Mary Najvar on behalf of Monica Najvar, Longview, Texas, Claims Court Number 90–3290.

66. Deborah La Manna on behalf of Danielle La Manna, Staten Island, New York, Claims Court Number 90–3291.

67. Leo Woronowicz on behalf of Joshua Woronowicz, Houston, Texas, Claims Court Number 90–3292 V.

68. Brenda Jimes on behalf of Christina Jimes, Bossier City, Louisiana, Claims Court Number 90–3293 V.

69. Barbara Belsito on behalf of Karen Belsito, Cherry Hill, New Jersey, Claims Court Number 90–3294 V.

70. Carol Hewett, Bradford, Pennsylvania, Claims Court Number 90–3295 V.

71. Judith Nicholson on behalf of Stacie Nicholson, Erie, Pennsylvania, Claims Court Number 90–3296 V.

72. Jacqueline Hagberg on behalf of Troy Hagberg, Minneapolis, Minnesota, Claims Court Number 90–3297 V.

73. Dorothy Weber on behalf of Cynthia Weber, Omaha, Nebraska, Claims Court Number 90–3298 V.

74. Phyllis Schmidt on behalf of Jennifer Baker, Sacramento, California, Claims Court Number 90–3299 V.

75. Robert Hillman on behalf of Kathleen Hillman, Wright-Patterson AFB, Ohio, Claims Court Number 90–3300 V.

76. Paul Neveux, Concord, New Hampshire, Claims Court Number 90–3301 V.

77. John McLean on behalf of Michael McLean, Baton Rouge, Louisiana, Claims Court Number 90–3302 V.

78. Heidi Dorman on behalf of John Harshman, Milwaukie, Oregon, Claims Court Number 90–3303 V.

79. Dorothy Fatigate on behalf of Frank Fatigate, Poughkeepsie, New York, Claims Court Number 90–3304 V.

80. Dennis Sakowski on behalf of Stephanie Sakowski, Cordova, Alaska, Claims Court Number 90–3305 V.

81. Cindi D. Ackerman on behalf of Jeffrey Ackerman, Thornton, Colorado, Claims Court Number 90–3306 V.

82. Kathleen Chiaravalle on behalf of Kristie Chiaravalle, Smithtown, New York, Claims Court Number 90–3307 V.

83. Zanea Powell, Tampa, Florida, Claims Court Number 90–3308 V.

84. Thomas Doughty on behalf of Scott Doughty, Tampa, Florida, Claims Court Number 90–3309 V.

85. Robert Gallequillos on behalf of Chad Gallequillos, Clarksville, Arkansas, Claims Court Number 90–3310 V.

86. Deanna Atkins on behalf of DeMarcus Collins, Versailles, Kentucky, Claims Court Number 90–3311 V.

87. James Butzine on behalf of Sarah Butzine, Clarkston, Michigan, Claims Court Number 90–3312 V.

88. Richard L. Santoro on behalf of Richard J. Santoro, Cleveland, Ohio, Claims Court Number 90–3313 V.

89. Charles Henkel on behalf of Kristy Henkel, Waynesboro, Virginia, Claims Court Number 90–3314 V.

90. Charles Schindler, Port Huron, Michigan, Claims Court Number 90–3315 V.

91. Cindy Ashton on behalf of Angela Ashton, Jacksonville Beach, Florida, Claims Court Number 90–3316 V.

92. Betty Schuld on behalf of Lisa Schuld, Westland, Michigan, Claims Court Number 90–3317 V.

93. Darcy Heston on behalf of Jana Heston, Topeka, Kansas, Claims Court Number 90–3318 V.

94. Clyde and Shirley Shaw on behalf of David Shaw, Seattle, Washington, Claims Court Number 90–3319 V.

95. Russell Williams on behalf of Valian Williams, Albany, New York, Claims Court Number 90–3320 V.

96. Karen Villagran, Tarzana, California, Claims Court Number 90–3321 V.

97. Tamotu Mulitauaopele, American Samoa, Claims Court Number 90–3322 V.

98. Gary Miller, Eugene, Oregon, Claims Court Number 90–3323 V.

99. Joseph Myers on behalf of Michael Myers, Deceased, Carmichael, California, Claims Court Number 90–3324 V.

100. Jacqueline Carroll, Friendswood, Texas, Claims Court Number 90–3325 V.

101. Gary Fischer on behalf of Robert Fischer, New City, New York, Claims Court Number 90–3326 V.

102. Michele Connor on behalf of Charles Connor, Jr., San Antonio, Texas, Claims Court Number 90–3327 V.

103. Deborah Allison on behalf of Jeremiah Allison, Denton, Texas, Claims Court Number 90–3328 V.

104. Charles Channell on behalf of Whitney Channell, Nashville, Tennessee, Claims Court Number 90–3329 V.

105. John and Bonnie Nicholson on behalf of Sandy Nicholson, San Diego, California, Claims Court Number 90–3330 V.

106. Kelley Correa, Waverly, Iowa, Claims Court Number 90–3331 V.

107. Calvert Lewallen on behalf of Timothy Lewallen, Tucson, Arizona, Claims Court Number 90–3332 V.

108. Derek Clarke on behalf of Andrew Clarke, Deceased, Honolulu, Hawaii, Claims Court Number 90–3333 V.

109. Pamela Jackson on behalf of Krystle Peale, Deceased, Columbia, South Carolina, Claims Court Number 90–3334 V.

110. Edrene Smith on behalf of Sarah Smith, Chicago, Illinois, Claims Court Number 90–3335 V.

111. Peter Futro on behalf of Sara Futro, Aurora, Colorado, Claims Court Number 90–3336.

112. Michael Lampe on behalf of Rachael Lampe, Bryan, Texas, Claims Court Number 90–3337 V.

113. Shelia Haupt, Cocoa Beach, Florida, Claims Court Number 90–3338 V.

114. Paul Henderson, Chillicothe, Ohio, Claims Court Number 90–3339 V.

115. Merlin Lehman on behalf of Timothy Lehman, Bloomington, Illinois, Claims Court Number 90–3340 V.

116. John Berry, Altoona, Pennsylvania, Claims Court Number 90–3341 V.

117. Beverly Virgen on behalf of Faith Maestas, Colorado Springs, Colorado, Claims Court Number 90–3342 V.

118. Donna Herbold on behalf of Betsy Herbold, Deceased, Anoka, Minnesota, Claims Court Number 90–3343 V.

119. Kathy Rohrscheib, Pontiac, Michigan, Claims Court Number 90–3344 V.

120. Kathy Williams on behalf of Carol Williams, Deceased, Houston, Texas, Claims Court Number 90–3345 V.

121. Frank Copelin on behalf of Melanie Copelin, Blue Bell, Pennsylvania, Claims Court Number 90–3346 V.

122. Dawn Wilson on behalf of Gloria Wilson, Deceased, Fairborn, Ohio, Claims Court Number 90–3347 V.

123. Dawn Wilson on behalf of Kenneth Wilson, Deceased, Dayton, Ohio, Claims Court Number 90–3348 V.

124. Dawn Wilson on behalf of Kimberly Wilson, Deceased, Las Vegas, Nevada, Claims Court Number 90–3349 V.

125. George Schilling on behalf of Brett Schilling, Chadron, Nebraska, Claims Court Number 90–3350 V.

126. John Cowan on behalf of Faith Cowan, Littleton, Colorado, Claims Court Number 90–3351 V.

127. Norris Walton, Tulsa, Oklahoma, Claims Court Number 90–3352 V.

128. Kenneth Worthington, Trumann, Arkansas, Claims Court Number 90–3353 V.

129. Terrence Walton, Tulsa, Oklahoma, Claims Court Number 90–3354 V.

130. Stella and Maynard Hagemeyer on behalf of Mel Hagemeyer, Dayton, Ohio, Claims Court Number 90–3355 V.

131. Donald Konieczko on behalf of Dawn Marie Konieczko, Erie, Pennsylvania, Claims Court Number 90–3356 V.

132. Linda F. Strecener on behalf of Linda A. Tyler, Arab, Alabama, Claims Court Number 90–3357 V.

133. Per Biorn on behalf of Leif Biorn, Copenhagen, Denmark, Claims Court Number 90–3358 V.

134. Sharon N. Lewis, New Orleans, Louisiana, Claims Court Number 90–3359 V.

135. Dorothy Evans on behalf of Cara Evans, Lexington, Kentucky, Claims Court Number 90–3360 V.

136. Patricia Elsener on behalf of Katie Elsener, Altus, Oklahoma, Claims Court Number 90–3361 V.

137. Lyle Childs on behalf of Ralph Childs, Tempe, Arizona, Claims Court Number 90–3362 V.

138. Maria Salamon on behalf of Stephen Salamon, Jr., Fairfield, Connecticut, Claims Court Number 90–3363 V.

139. Michael and Laura Robinson on behalf of Megan Robinson, Ontario, California, Claims Court Number 90–3364 V.

140. Sharon Ikeler on behalf of Brandon Ikeler, Deceased, Euless, Texas, Claims Court Number 90–3365 V.

141. Martha Gonzales on behalf of Jose Gonzales, Jr., Miami Beach, Florida, Claims Court Number 90–3366 V.

142. Donna Kucharek on behalf of Bobbie Jo Kucharek, Gaylord, Michigan, Claims Court Number 90–3367 V.

143. James Hatton on behalf of Jannita Hatton, Columbia, Tennessee, Claims Court Number 90–3368 V.

144. Carletta Jozefacki, Milwaukee, Wisconsin, Claims Court Number 90–3369 V.

145. Rose Bonn on behalf of Joseph Bonn, Smithtown, New York, Claims Court Number 90–3370 V.

146. Robin Spaulding, Fort Belvoir, Virginia, Claims Court Number 90–3371 V.

147. Eddie Lewis on behalf of Randall Lewis, Warren, Arkansas, Claims Court Number 90–3372 V.

148. Raymond Fabec on behalf of Brian Fabec, Baton Rouge, Louisiana, Claims Court Number 90–3373 V.

149. Charisse Ritter on behalf of Tasha Williams, Deceased, Pittsburgh, Pennsylvania, Claims Court Number 90–3374 V.

150. George Pinegar on behalf of Vanessa Pinegar, La Porte, Texas, Claims Court Number 90–3375 V.

151. Patricia McLaren on behalf of Laura McLaren, Lake Oswego, Oregon, Claims Court Number 90–3376 V.

152. Harry Uland, Denton, Texas, Claims Court Number 90–3377 V.

153. Joyce Reeves on behalf of Stephen Reeves, Brookhaven, Mississippi, Claims Court Number 90–3378 V.

154. Adrian Tyson, Mobile, Alabama, Claims Court Number 90–3379 V.

155. Rebecca Leonard on behalf of Skye Leonard, Thousand Oaks, California, Claims Court Number 90–3380 V.

156. Willie and Doris Brown on behalf of Sarah Brown, Alexandria, Louisiana, Claims Court Number 90–3381 V.

157. Jacquelyn Hood on behalf of Jack Ross, San Diego, California, Claims Court Number 90–3382 V.

158. Gloria Nhambiu on behalf of Jaime Nhambiu, Philadelphia, Pennsylvania, Claims Court Number 90–3383 V.

159. Gloria Nhambiu on behalf of Jennifer Nhambiu, Philadelphia, Pennsylvania, Claims Court Number 90–3384 V.

160. Gloria Nhambiu on behalf of Julio Nhambiu, Philadelphia, Pennsylvania, Claims Court Number 90–3385 V.

161. Larry Smith on behalf of Andrew Smith, Lexington, Kentucky, Claims Court Number 90–3386 V.

162. Ruby Chestnut, Knoxville, Alabama, Claims Court Number 90–3387 V.

163. Idiala Soto on behalf of Moses Rodriguez, Chicago, Illinois, Claims Court Number 90–3388 V.

164. Anthony Beltich on behalf of Titania Beltich, Clinton, Ohio, Claims Court Number 90–3389 V.

165. Leon Breuer on behalf of Tziporah Breuer, Monsey, New York, Claims Court Number 90–3390 V.

166. Mary Barber on behalf of Dawn Timmerman, Deceased, Dunkirk, New York, Claims Court Number 90–3391 V.

167. Otis Jackson on behalf of Cornelius Jackson, Deceased, Warrenton, Virginia, Claims Court Number 90–3392 V.

168. Tara Thompson on behalf of Tamica Thompson, Deceased, Washington, DC., Claims Court Number 90–3393 V.

169. Margaret A. Harrington on behalf of Margaret R. Harrington, Wadesboro, North Carolina, Claims Court Number 90–3394 V.

170. Linda Neess on behalf of Dayna Neess, La Porte, Indiana, Claims Court Number 90–3395 V.

171. Joseph Prothe on behalf of Marla Prothe, Shawnee Mission, Kansas, Claims Court Number 90–3396 V.

172. Donna Miles on behalf of Kathryn Miles, Liverpool, New York, Claims Court Number 90–3397 V.

173. Manuel Salinas on behalf of Richardo Salinas, Irving, Texas, Claims Court Number 90–3398 V.

174. Charles Colquitt on behalf of Antonio Colquitt, Shreveport, Louisiana, Claims Court Number 90–3399 V.

175. Deborah Davis on behalf of Lowell Davis, Ellijay, Georgia, Claims Court Number 90–3400 V.

176. Joyce Gonzales, Albuquerque, New Mexico, Claims Court Number 90–3401 V.

177. Lea Berkman, Cleveland, Ohio, Claims Court Number 90–3402 V.

178. Bonnie Vengilio on behalf of Christina Vengilio, Pittsburgh, Pennsylvania, Claims Court Number 90–3403 V.

179. Leslie Jernberg, Richfield, Minnesota, Claims Court Number 90–3404 V.

180. Margaret Goode-Garner, Jackson, North Carolina, Claims Court Number 90–3405 V.

181. Virginia Klinkner, Los Angeles, California, Claims Court Number 90–3406 V.

182. Agnes Chuck, Honolulu, Hawaii, Claims Court Number 90–3407 V.

183. Linda Scott on behalf of Ann Scott, Gadsden, Alabama, Claims Court Number 90–3408 V.

184. Sandra Turner on behalf of Robert Turner, Mont Belvieu, Texas, Claims Court Number 90–3409 V.

185. Ralph Harrison on behalf of Lurlia Harrison, Winchester, Kentucky, Claims Court Number 90–3410 V.

186. Christine Howe on behalf of Aaron Howe, Medford, Massachusetts, Claims Court Number 90–3411 V.

187. Dennis Jacob on behalf of Jennifer Jacob, Deceased, Burbank, Illinois, Claims Court Number 90–3412 V.

188. Edward Chernich, Denham Springs, Louisiana, Claims Court Number 90–3413 V.

189. Martha Proctor, Charleston, South Carolina, Claims Court Number 90–3414 V.

190. Clifton Nobles on behalf of Jory Nobles, Mangham, Louisiana, Claims Court Number 90–3415 V.

191. Gerald Neill on behalf of Kasie Neill, Ardmore, Oklahoma, Claims Court Number 90–3416 V.

192. Russell Shirley, Bainbridge, Georgia, Claims Court Number 90–3417 V.

193. LuAnne Valk on behalf of Melanie Valk, Grand Rapids, Michigan, Claims Court Number 90–3418 V.

194. David Jackson on behalf of Justin Jackson, Deceased, Hawthorne, Nevada, Claims Court Number 90–3419 V.

195. Kelli Wade, Albion, Michigan, Claims Court Number 90–3420 V.

196. Robert Hussey, Elko, Nevada, Claims Court Number 90–3421 V.

197. Sandra Hanson, Moscow, Idaho, Claims Court Number 90–3422 V.

198. Paul Kundrick on behalf of Joseph Kundrick, St. Clair Shores, Michigan, Claims Court Number 90–3423 V.

199. Robert Dumond on behalf of Matthew Dumond, Methuen, Massachusetts, Claims Court Number 90–3424 V.

200. Nicholas Wittner on behalf of Brian Wittner, Detroit, Michigan, Claims Court Number 90–3425 V.

Robert G. Harmon,

Administrator.

[FR Doc. 93–6181 Filed 3–17–93; 8:45 a.m.]

BILLING CODE 4160–15–M

National Institutes of Health (NIH)

Meeting of the Acquired Immunodeficiency Syndrome Program Advisory Committee (APAC)

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the NIH Acquired Immunodeficiency Syndrome (AIDS) Program Advisory Committee on April 7–8, 1993, at the National Institutes of Health (NIH), Bethesda, MD. The meeting will take place on April 7 from 9 a.m. to 5 p.m., and on April 8 from 9 a.m. to 1 p.m. in Building 31, C Wing, Conference Room 10. The meeting will be open to the public.

The purpose of the Twelfth Meeting will be to examine research priorities of the NIH AIDS research program. Specifically, the APAC will address recent developments in AIDS vaccines and therapies, the NIH Revitalization Act of 1993, HIV-related behavioral

research emphasizing scientific methodologies and recent findings, and relevant issues associated with the changing epidemic of AIDS and related research in women and adolescents. Deborah S. Fountain, Committee Management Officer, Office of AIDS Research, NIH, Building 31, room 5C02, 9000 Rockville Pike, Bethesda, MD 20892, phone (301) 496–0358, fax (301) 402–7769, will furnish the meeting agenda, roster of committee members, and substantive program information upon request. Any individual who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Fountain at the above location no later than March 31, 1993.

Dated: March 10, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–6172 Filed 3–17–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Drug Abuse; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of an advisory committee of the National Institute on Drug Abuse for April 1993.

The Extramural Science Advisory Board will discuss NIDA's program areas, intramural program and NIDA publications. This meeting will be open on the date indicated below; however, attendance by the public will be limited to space available.

A summary of the meeting and a roster of committee members may be obtained from: Ms. Camilla L. Holland, NIDA Committee Management Officer, National Institutes of Health, Parklawn Building, room 10–42, 5600 Fishers Lane, Rockville, MD 20857 (telephone: 301/443–2755).

Substantive program information may be obtained from the contact whose name, room number, and telephone number are listed below.

Committee Name: Extramural Science Advisory Board, NIDA.

Meeting Date: April 1–2, 1993.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Open: April 1–2, 9 a.m. to 5 p.m.

Contact: Jacqueline P. Downing, Room 10A–55, Parklawn Building, Telephone (301) 443–1056.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the contact person named above in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs)

Dated March 10, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–6171 Filed 3–17–93; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute Meeting (President's Cancer Panel)

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the President's Cancer Panel, National Cancer Institute, April 1, 1993, at the University of California, San Francisco, Milberry Union Conference Center, 500 Parnassus Avenue, San Francisco, California.

This meeting will be open to the public on April 1, 1993, 8:30 a.m. to 12:30 p.m. The topic will be "Breast Cancer Specialized Program of Research Excellence (SPORE) at the University of California at San Francisco and the relationship with areas breast cancer patient organizations."

Milberry Union Conference Center is located on the campus of the University of California, San Francisco, Tel. (415) 476–2035. For program information, contact Ms. Nora Winfrey, (301) 496–1148 or fax (301) 402–1508.

Ms. Iris Schneider, Acting Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, room 11A48, National Institutes of Health, Bethesda, Maryland 20892 (301) 496–5534 will provide a roster of the Panel members and substantive program information upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Iris Schneider on (301) 496–5534 in advance of the meeting.

Dated: March 10, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–6170 Filed 3–17–93; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D–93–1022; FR–3499–D–01]

Field Office Manager, Columbus Field Office; Designation and Delegation of Authority

Designation of Field Office Manager. Each of the officials appointed to the following positions is designated to serve as Acting Field Office Manager during the absence, disability, or vacancy in the position of the Field Office Manager, with all the powers, functions, and duties redelegated or assigned to the Field Office Manager; provided, that no official is authorized to serve as Acting Field Office Manager unless all officials listed before him in this designation are unavailable to act by reason of absence, disability, or vacancy in the position.

1. Deputy Field Office Manager.
2. Director, Housing Development Division.
3. Director, Housing Management Division.
4. Chief Counsel.
5. Director, Public Housing Division.
6. Director, Community Planning and Development Division.

Effective date: This designation and delegation shall be effective as of March 1, 1993.

Robert W. Dolin,

Field Office Manager, Columbus Field Office.

[FR Doc. 93–6237 Filed 3–17–93; 8:45 am]

BILLING CODE 4210–01–M

Office of Administration

[Docket No. N–93–3593]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as

described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information:

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submissions will be required;

(7) An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and

(9) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 4, 1993.

Kay Weaver,

Acting Director, IRM Policy and Management Division.

Proposal: Housing Education and Organizational Support.

Office: Community Planning and Development.

Description of the Need for the Information and its Proposed Use: The information is needed to identify eligible nonprofit intermediary organizations to receive funds; and once awards have been made, to assess the recipients' technical assistance plans and quarterly reports..

Form Number: SF–424 and 424B.

Respondents: Non-Profit Institutions.

Frequency of Submission: Quarterly.

Reporting Burden:

	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Applicants	122		1		40		4,880
Recordkeeping (Awardees)	28		1		50		1,400

Total Estimated Burden Hours: 6,280.

Status: Revision.

Contact: Cythia Hernan, HUD, (202) 708–1367, Angela Antonelli, OMB, (202) 395–6880.

Dated: March 4, 1993.

[FR Doc. 93–6235 Filed 3–17–93; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–93–3594; FR–3498–N–01]

Debenture Recall

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice announces a debenture recall of certain Federal Housing Administration debentures, in accordance with authority provided in the National Housing Act.

FOR FURTHER INFORMATION CONTACT: Richard Keyser, room 9138, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1591. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Pursuant to section 207(j) of the National Housing Act, 12 U.S.C. 1713(j), and in accordance with HUD regulations at 24 CFR 207.259(e)(3), the Federal Housing Commissioner, with approval of the Secretary of the Treasury, announces the call of all Federal Housing Administration debentures with coupon rates of 7 percent or higher, except for those debentures subject to "debenture lock agreements," that have been registered on the books of the Federal Reserve Bank of Philadelphia, and are, therefore, "outstanding" as of March 31, 1993. The date of the call is July 1, 1993. To insure timely payment, debentures should be presented to the Federal Reserve Bank of Philadelphia by March 31, 1993.

The debenture will be redeemed at par plus accrued interest. Interest will cease to accrue on the debentures as of the call date. Final interest on any called debentures will be paid with the principal at redemption.

During the period from the date of this notice to the call date, debentures that are subject to the call may not be used by the mortgagee for a special redemption purchase in payment of a mortgage insurance premium.

No transfer or denominational exchange of debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after April 1, 1993. This does not affect the right of the holder of a debenture to sell or assign the debenture on or after this date. Payment of final principal and interest due on July 1, 1993, will be made to the registered holder or assignee.

Instructions for the presentation and surrender of debentures for redemption will be provided to holders by the Department.

Dated: March 12, 1993.

James E. Schoenberger,

Associate General Deputy Assistant, Secretary for Housing.

[FR Doc. 93–6286 Filed 3–17–93; 8:45 am]

BILLING CODE 4210–27–M

Office of the Regional Administrator—Regional Housing Commissioner

[Docket No. D–93–1021; FR–3493–D–01]

Acting Manager, Region IV (Atlanta); Designation for Knoxville Office

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Manager for the Knoxville Office.

EFFECTIVE DATE: January 20, 1993.

FOR FURTHER INFORMATION CONTACT: Charles A. Lipthrott, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, room 634, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303–3388, 404–331–5199.

Designation of Acting Manager for Knoxville Office

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence of, or vacancy in the position of, the Manager, with all the powers,

functions, and duties redelegated or assigned to the Manager: Provided, That no official is authorized to serve as Acting Manager unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Deputy Manager.
2. Director, Housing Development Division.
3. Director, Housing Management Division.
4. Director, Community Planning and Development Division.
5. Director, Public Housing Division.
6. Chief Counsel.
7. Director, Fair Housing and Equal Opportunity Division.
8. Director, Administration Division.

This designation supersedes the designation effective April 12, 1988 (53 FR 26319, July 12, 1988).

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971)).

This designation shall be effective as of January 20, 1993.

Richard B. Barnwell,

Manager, Knoxville Office.

Richard W. Compton,

Deputy Regional Administrator, Regional Housing Commissioner, Office of the Regional Administrator.

[FR Doc. 93–6238 Filed 3–17–93; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–745541.

Applicant: SJM Biological Consultants, San Diego, CA

The applicant requests an amendment to their permit to take (live-trap) and relocate Stephen's kangaroo rats (*Dipodomys stephensi*) from occupied to unoccupied habitat on the Fallbrook Naval Weapons Annex, Fallbrook, California.

PRT–776352.

Applicant: Omaha's Henry Doorly Zoo, Omaha, NE

The applicant requests a permit to make multiple exports and imports of captive born black-footed ferrets (*Mustela nigripes*) to the Metropolitan Toronto Zoo, Ontario, Canada for enhancement of propagation and survival of the species.

PRT–776448.

Applicant: Gene Pfeiffer, Evansville, IN

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive-herd maintained by Mr. Govern Ciskei, Queenstown, South Africa, for the purpose of enhancement of survival of the species.

PRT–768251.

Applicant: Biosearch Wildlife Surveys, Santa Cruz, CA

The applicant requests a permit to take (live-trap and release, and/or harass) Fresno kangaroo rats (*Dipodomys nitratoides exilis*) and San Joaquin kit foxes (*Vulpes macrotis mutica*) in Madera County, California, to determine the presence or absence of each species.

PRT–774724.

Applicant: Larry Bowling, Gretna, LA.

The applicant requests a permit to purchase in interstate commerce one male clouded leopard (*Neofelis nebulosa*) from Jim Fouts, Tanganyika Wildlife Company, Wichita, Kansas, for enhancement of propagation and survival of the species. The animal is anticipated to be born in early Spring 1993, to a clouded leopard owned by Jim Fouts.

PRT–775136.

Applicant: Snakes Alive!, Davis Creek, CA.

The applicant requests a permit to export one male and three female captive hatched Indian pythons (*Python molurus molurus*) to Martin M. Gay, Essex, England, Untied Kingdom, for enhancement of propagation and survival of the species.

PRT–775531.

Applicant: Marco Peters, Venice, FL.

The applicant requests a permit to export and reimport two male captive born tigers (*Panthera tigris*) for enhancement of propagation and survival of the species.

PRT–758175.

Applicant: Griffith Wildlife Biology, Galmuet, MI.

The applicant requests a permit to take (live capture and release, and/or harass) least Bell's vireos (*Vireo bellii pusillus*) in the counties of San Diego and Orange, California, to assess population.

PRT–775686.

Applicant: San Diego Wild Animal Park, Escondido, CA.

The applicant requests a permit to import one female captive born Somali wild ass (*Equus africanus somalicus*) from Tierpark, Am Tierpark, Berlin, Germany, for enhancement of propagation and survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: March 12, 1993.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 93–6242 Filed 3–17–93; 8:45 am]

BILLING CODE 4310-55-M

Meetings: Klamath River Basin Fisheries Task Force

AGENCY: Department of the Interior, U.S. Fish and Wildlife Service.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath River Basin Fisheries Task Force, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public.

DATES: The Klamath River Fisheries Task Force will meet from 1 p.m. to 5 p.m. and from 7 p.m. to 10 p.m. on Tuesday, March 30, and from 8 a.m. to 5 p.m. on Wednesday, March 31, 1993.

PLACE: The meeting location for the time periods of 1 p.m. to 5 p.m. on March 30, and 8 a.m. to 5 p.m. on March 31, 1993, will be at Molatore's Restaurant, 100 Main Street, Klamath Falls, Oregon. The evening session from 7 p.m. to 10 p.m. will be held at the Klamath County Commissioners' Hearing Chambers, 305 Main Street, Klamath Falls, Oregon.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006, Yreka, California 96097–1006, telephone (916) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Task Force, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639). The Task Force will meet March 30–31, 1993, to receive public comments on the draft amendment to the Long Range Plan for the Klamath River Basin Conservation Area Fishery Restoration Program. The amendment seeks to incorporate the upper Klamath River Basin (area defined as the mainstem Klamath River and all tributaries, upstream from Iron Gate Reservoir) into its planning area. During the afternoon session on March 30, the Task Force will hear a report from the U.S. Bureau of Reclamation's Klamath River Project Manager on the 1993 operations plan. Resource users' views on water management and fishery restoration issues will be given by representatives of the agriculture community and the Klamath Tribe. The evening session on March 30 is set aside solely to listen to public comment on the draft amendment document. On March 31, the Task Force will hear status reports on the Klamath River instream flow study proposal by the U.S. Department of the Interior, the green sturgeon study by the Hoopa Valley Tribe, the hatchery/wild stock review committee efforts, the hatchery committee efforts, and the Klamath River Information System development project; will discuss the Fiscal Year 1994 Request For Proposals and how to identify specific restoration work needed and translate that into work projects; will hear reports from all participating entities on what attempts will be made in Fiscal Year 1994 to implement the long-range plan's policies and objectives; and will hear a brief report on the effectiveness of all Federally funded Klamath River Fishery Restoration Program projects from Fiscal Years 1989–1992. The Task Force will make recommendations on the level of involvement with the U.S. Department of the Interior instream flow study; how to incorporate preference criteria for employment groups identified in the Klamath River Basin Fishery Resources Restoration Act; and how to identify immediate needs for restoration work and effect an annual Federal work plan that reflects those needs.

Dated: March 9, 1993.

Marvin L. Plenert,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–6293 Filed 3–17–93; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

Salmon District Advisory Council: Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District Advisory Council will meet on Wednesday, April 14, 1993, in the New Junior High School Building, Main Street, Challis, Idaho. The meeting will convene at 10 a.m.

SUPPLEMENTARY INFORMATION: The meeting is held in accordance with Public Laws 92–463 and 94–579. The purpose for the meeting is to discuss the BLM water rights objections, the status of the Challis Resource Management Plan and Wild and Scenic River Study, and current Salmon District issues.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11 a.m. and 11:30 a.m. or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the Salmon District Office by April 9, 1993.

Summary minutes to the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting. Notification of oral statements and requests for summary minutes should be sent to Roy S. Jackson, District Manager, Salmon District BLM, Box 430, Salmon, Idaho 83467.

Dated: March 9, 1993.

Robert W. Heidemann,

Associate District Manager.

[FR Doc. 93–6303 Filed 3–17–93; 8:45 am]

BILLING CODE 4310–GG–M

[MT–930–4210–04; MTM 74602]

Notice of Conveyance of Certain Lands in Beaverhead County, Montana, and Order Providing for Opening of Public Land in Beaverhead County; MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order will open lands reconveyed to the United States in an exchange under the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq. (FLPMA), to the operation of the public land laws, including the mining laws and the mineral leasing laws, as specified. The first parcel of land will be used for grazing and wildlife habitat. The second parcel of land that was acquired in the exchange by the National Park Service is located within Yellowstone National Park. The public interest was well served through completion of this exchange.

EFFECTIVE DATE: April 30, 1993.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2935.

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that pursuant to section 206 of FLPMA the following described surface and mineral estate was transferred to the State of Montana.

Principal Meridian, Montana

T. 10 S., R. W.,
Sec. 34, S½.

Total acreage conveyed: 320.00 acres.

2. In exchange for the above selected land, the United States acquired the following described surface and mineral estate from the State of Montana.

Principal Meridian, Montana

A. Acquired by Bureau of Land Management

T. 11 S., R. 6 W.,
Sec. 7, SE¼NW¼.

containing 40.00 acres, more or less.

B. Acquired by National Park Service

T. 9 S., R. 8 E.,

Sec. 16, government lot 9, excepting therefrom those lands patented to the Northern Pacific Railway Company under state patent No. 509, dated July 11, 1904, for the main track of the Park branch of the Northern Pacific Railroad, which contained 3.10 acres more or less; leaving a net remainder of 16.4 acres more or less. containing 16.4 acres, more or less.

3. The value of the Federal public land was appraised at $30,400 and the state land was appraised at $61,200. The $30,800 balance due to the State was equalized through a previous exchange with the State of Montana.

4. At 9 a.m. on April 30, 1993, the lands described in paragraph 2.A. above that were conveyed to the Bureau of Land Management, United States will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on April 30, 1993, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. At 9 a.m. on April 30, 1993, the lands described in paragraph 2.A. above will be opened to location and entry under the United States mining laws and to the operation of the mineral

leasing laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

6. The lands described in paragraph 2. B. above are not open to any of the public land laws, mining laws, or mineral leasing laws.

Dated: March 9, 1993.

James Binando,

Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 93–6294 Filed 3–17–93; 8:45 am]

BILLING CODE 4310–DN–M

[ID–060–03–4210–04; IDI–29536]

Realty Action; Exchange of Public Land in Bonner County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; exchange of public lands in Bonner County, Idaho.

SUMMARY: This Notice is to advise the public that the Emerald Empire Resource Area, Coeur d'Alene District of the Bureau of Land Management has determined that the following described lands are suitable for disposal by exchange to The Nature Conservancy of Idaho under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Boise Meridian, Idaho

T.56N., R.2E. (Howe Mountain),
Sec. 17, SE¼SW¼, S½S½NW¼SE¼, SW¼SE¼
Sec. 20, lots 1,2,3,7, SE¼NE¼, NE¼SE¼
Sec. 21, lots 2,3,8,9
Sec. 29, lot 13
T.55N., R.3E.,
Sec. 30, lot 1
T.57N., R.1W.,
Sec. 35, lot 3, unpatented portion of SE¼ SW¼ and SE¼

The area described above contains approximately 568.335 acres in Bonner County.

In exchange for these lands, the United States will acquire the following described lands from The Nature Conservancy of Idaho:

Boise Meridian, Idaho

T.56N., R.1E.,
Sec. 7, south 322 feet of lot 2, lots 3, 6, 7, and 8, NW¼SW¼, west 530 feet of SW¼NE¼

The area described above contains approximately 200.44 acres of private land in Bonner County.

The purpose of the land exchange is to benefit the public interest by obtaining important resource values. The public lands to be exchanged are isolated and difficult to manage parcels with limited resource values. The private lands being offered have important values for access, wildlife, and recreation that merit acquisition for public ownership. There are no grazing leases, grazing permits, or range improvements on any of the above described lands. The exchange is consistent with the Bureau of Land Management land use plans and the public interest will be well served by completing this exchange. Final determination on disposal will await completion of an environmental analysis, which will be made available to the public. The value of the lands to be exchanged will be approximately equal.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. All valid existing rights, including any right-of-way, easement, permit or lease of record.

2. A reservation to the United States of a right-of-way for ditches and canals constructed by the authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976. As provided by regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant. The segregative effect of this Notice will terminate upon issuance of patent or in two years, whichever occurs first.

ADDRESSES: Detailed information concerning the exchange is available for review at the Coeur d'Alene District Office, 1808 North Third Street, Coeur d'Alene, Idaho 83814.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager at the above address. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: March 9, 1993.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 93–6178 Filed 3–17–93; 8:45 am]

BILLING CODE 4310–GG–M

[NM–030–03–3110–10–G203; NMNM 69994–16, et al.]

Issuance of Exchange Conveyance Documents; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States issued exchange documents to The Nature Conservancy pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716) as follows:

On December 20, 1990, an exchange document was issued for the surface and mineral estates in and under the following described land in Dona Ana County, New Mexico:

New Mexico Principal Meridian

NMNM 69994–16

T. 23 S., R. 1 E.,
Sec. 28, E½E½E½NE¼SW¼ and E½NE¼SE¼SW¼;
Sec. 33, E½NE¼NE¼NW¼.
Containing 15.00 acres.

On January 9, 1991, two exchange documents were issued for the surface and mineral (excluding geothermal) estates in and under the following described land located in Dona Ana County, New Mexico:

New Mexico Principal Meridian

NMNM 69994–18

T. 24 S., R. 3 E.,
Sec. 21, SE¼SW¼ and S½SE¼;
Sec. 28, NE¼ and E½NW¼.
Containing 360.00 acres.

NMNM 69994–20

T. 25 S., R. 3 E.,
Sec. 34, lots 3, 4, and 5.
Containing 100.00 acres.

On January 22, 1991, an exchange document was issued for the surface

and mineral estates in and under the following described land in Otero County, New Mexico:

New Mexico Principal Meridian

NMNM 69994–17

T. 16 S., R. 10 E.,
Sec. 5, lots 22, 24, 27, and 29.
Containing 42.51 acres.

In exchange for the surface and mineral estates in the above-described land, the United States acquired the surface and mineral estates in land located within Hidalgo and Grant Counties, New Mexico, and the surface estate in land located within Eddy County, New Mexico, described as follows:

New Mexico Principal Meridian

NMNM 69994–21

T. 19 S., R. 19 W.,
Sec. 18, those lands in the S½SE¼ and SE¼SW¼, less those lands more particularly described by metes and bounds, as recorded on December 30, 1991, in the Grant County Clerk's office in Book 229, pages 6728–6731;
Sec. 19, lot 4.
Containing 130.476 acres.

NMNM 69994–22

T. 19 S., R. 19 W.,
Sec. 15, those lands in the S½NE¼, and NW¼SE¼, and those portions of the NE¼SW¼, SE¼SW¼, and SW¼SE¼ more particularly described by metes and bounds, as recorded on March 30, 1992, in the Grant County Clerk's office in Book 229, pages 7290–7292.

NMNM 69994–23

T. 25 S., R. 24 E.,
Sec. 25, those lands in the W½NW¼, less those lands north and west of that certain Eddy County Road 418 more particularly described by metes and bounds, as recorded on January 3, 1992, in the Eddy County Clerk's office in Book 112, pages 258–261;
Sec. 26, those portions of the E½ and E½W½ lying southerly and easterly of that certain Eddy County Road 418 and more
particularly described by cadastral survey dated August 3, 1990, as recorded on January 3, 1992, in the Eddy County Clerk's office in Book 112, pages, 258–261;
Sec. 35, N½NE¼, SW¼NE¼, and E½NW¼.
Containing 451.97 acres.

NMNM 69994–24

T. 19 S., R. 20 W.,
Sec. 21, SE¼SE¼;
Sec. 25, E½NE¼.
Containing 120.00 acres.

The purpose of the exchange was to acquire non-Federal land which has high public values for wildlife habitat and recreation.

Dated: March 10, 1994.

Larry L. Woodard,

State Director.

[FR Doc. 93–6295 Filed 3–17–93; 8:45 am]

BILLING CODE 4310–FB–M

[OR 36198; OR–000–03–4212–04; GP3–142]

Realty Action; Proposed Modified Competitive Sale

The following described public land has been examined and determined to be suitable for transfer out of Federal ownership by modified competitive sale under the authority of sections 203 and 209 of the Federal Land Policy and Management Act of 1976, as amended (90 Stat. 2750; 43 U.S.C. 1713 and 90 Stat. 2757; 43 U.S.C. 1719), at not less than the appraised fair market value:

Willamette Meridian, Oregon,

T. 15 S., R. 5 W.,
Sec. 6, Lot 5.

The above-described parcel contains 1.46 acres in Benton County.

The parcel will not be offered for sale until at least 60 days after publication of this notice in the **Federal Register**. The fair market value of the parcel has not yet been determined. Anyone interested in knowing the amount may request this information from the address shown below.

The above-described land is hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above-cited statute, for 270 days or until title transfer is completed or the segregation is terminated by publication in the **Federal Register**, whichever occurs first.

The parcel is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency. No significant resource values will be affected by this transfer. Because of the parcel's relative small size, its best use is to merge it with one of the adjoining ownerships. Use of the modified competitive sale procedures will avoid an inappropriate land ownership pattern. The sale is consistent with the Westside Management Framework Plan and the public interest will be served by offering this land for sale.

The parcel is being offered only to Terry W. and Jacqueline L. Williams (owners of Tax Lot 500, Map 15–5–5), Jean R. Rothacher (owner of Tax Lot 600, Map 15–5–5), Monte J. and Cynthia E. Anderson (contract purchasers of Tax Lot 100, Map 15–5–6), and Edward J. and Patricia L. Boardrow (owners of Tax Lot 1201, Map 15–5–6), using modified competitive sale procedures authorized under 43 CFR 2711.3–2.

Sealed written bids, delivered or mailed, must be received by the Bureau of Land Management, Salem District Office, 1717 Fabry Road SE., Salem, Oregon 97306, prior to 11 a.m. on the date of the sale (to be announced). Each bid must be accompanied by a certified check, postal money order, bank draft or cashier's check, made payable to the Bureau of Land Management, for not less than the appraised fair market value and shall be enclosed in a sealed envelope clearly marked, in the lower left-hand corner, "Bid for Public Land Sale OR 36198". The written sealed bids will be opened and declared at the sale.

The terms, conditions, and reservations applicable to the sale are as follows:

1. The high bidder will be required to submit proof that he is a U.S. citizen and is at least 18 years of age or more.

2. The mineral interests being offered for conveyance have no known mineral value. A bid will also constitute an application for conveyance of the mineral estate, in accordance with Section 209 of the Federal Land Policy and Management Act. All qualified bidders must include with their bid a nonrefundable $50.00 filing fee for the conveyance of the mineral estate.

3. The patent will be subject to:

a. Rights-of-way for ditches or canals will be reserved to the United States under 43 U.S.C. 945.

b. All valid existing rights and reservations of record.

If the land identified in this notice is not sold, the sale will be re-offered on a competitive basis. A revised notice will be published for the re-offering.

Detailed information concerning the sale is available for review at the Salem District Office, address above.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Alsea Area Manager, Salem District Office, at the above address. Any adverse comments will be reviewed by the Salem District Manager, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

John H. Mears,

Alsea Area Manager.

[FR Doc. 93–6296 Filed 3–17–93; 8:45 am]

BILLING CODE 4310–33–M

[OR-102-03-4210-05, OR 46908]

Realty Action: Sales, Public Lands; Douglas County, OR

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of non-competitive sale of a land parcel in Douglas County, Oregon.

SUMMARY: The Bureau of Land Management is considering the sale of a .05 acre parcel of land which is difficult and uneconomical to manage. The parcel will be offered to the adjacent landowner.

DATES: Comments must be submitted on or before May 3, 1993.

ADDRESSES: Comments may be mailed to District Manager, Bureau of Land Management, Roseburg District, 777 N.W. Garden Valley Blvd., Roseburg, OR 97470.

FOR FURTHER INFORMATION CONTACT: Cathie Jensen, Realty Specialist at the Roseburg address given above, telephone (503) 440-4930.

SUPPLEMENTARY INFORMATION: The following-described revested Oregon and California Railroad Grant land is suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat 2750, 43 U.S.C. 1713) at no less than the appraised fair market value:

Willamette Meridian

T. 29 S., R. 8 W.
Sec. 31, Lot 8; Douglas County, Oregon.

No significant resource values will be affected by this disposal. The sale is consistent with Bureau planning. The sale involves a .05 acre parcel which is difficult and uneconomical to manage and is not suitable for management by another Federal department or agency. The sale will also resolve a non-willful unauthorized occupancy. The public interest would best be served by offering this land for sale.

Direct Sale Procedure

The parcel identified by Serial No. OR 46908 is being offered using direct sale procedures (43 CFR 2711-3.3). The land will be sold at fair market value to adjacent landowner Beulah B. Burton.

Terms and Conditions of This Sale

Beulah B. Burton will be required to submit a deposit of either cash, bank, draft, money order, or any combination for not less than 20 percent of the appraised value. The remainder of the full appraised price must be submitted prior to the expiration of 180 days from date of sale. Failure to submit the remainder of the full appraised price shall result in the cancellation of the sale and forfeiture of the 20 percent deposit.

1. Mineral interest will be conveyed to purchaser at appraised value. The sale will also constitute an application for conveyance of the mineral estate in accordance with section 209 of the Federal Land Policy and Management Act, 43 U.S.C. 1719. The purchaser must include with their bid deposit a nonrefundable $50.00 filing fee for the conveyance of the mineral estate.

2. Rights-of-way for ditches and canals will be reserved to the United States under 43 U.S.C. 945.

3. Patent will be issued subject to all valid existing rights and reservations of record.

4. The BLM may accept or reject any and all offers or withdraw any land or interest in land from sale if, in the opinion of the Authorized Officer, consummation of the sale would not be fully consistent with the Federal Land Policy and Management Act or other applicable laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register,** interest parties may submit comments to the District Manager, Bureau of Land Management, Roseburg District, 777 N.W. Garden Valley Blvd., Roseburg, Oregon 97470. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, the realty action will become the final determination of the Department of the Interior.

Dated: March 11, 1993.

Gordon L. Cheniae,

Acting District Manager.

[FR Doc. 93-6297 Filed 3-17-93; 8:45 am]

BILLING CODE 4310-33-M

[NM-920-4210-06; NMNM-84801]

Cancellation of Proposed Withdrawal; New Mexico

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service has canceled its application for a proposed withdrawal of 4,886.58 acres of National Forest System lands for protection of the East Fork of the Jemez Wild and Scenic River and to protect high recreation values. The temporary segregative effect of this proposed withdrawal expired on December 14, 1992. This action will terminate the proposed withdrawal. The land has been and remains open to mineral leasing.

EFFECTIVE DATE: March 18, 1993.

FOR FURTHER INFORMATION CONTACT: Georgiana E. Armijo, BLM New Mexico State Office, P.O. Box 27115, Santa Fe, New Mexico 87502-0115, 505-438-7594.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Withdrawal was published in the **Federal Register**, 55 FR 51510, December 14, 1990, which segregated the land described therein for up to 2 years from location and entry under the general mining laws, subject to valid existing rights. The 2-year segregation expired on December 14, 1992. The Forest Service has canceled its application. The lands are described as follows:

New Mexico Principal Meridian

Santa Fe National Forest

T. 18 N., R. 3 E.,
Sec. 1, lots 5 to 16, inclusive, S½NE¼, and SE¼SE¼ (excluding that portion designated as the East Fork of the Jemez Wild and Scenic River as described in Pub. L. 101-306 of June 6, 1990);
Sec. 2, lot 1, S½NE¼, E½SW¼NW¼, SE¼NW¼SW¼NW¼, SW¼SW¼NW¼, SE¼NW¼, N½SW¼, E½E½SE¼SW¼, E½SE¼, N½NW¼SE¼, N½S½NW¼SE¼, SW¼SW¼NW¼SE¼, W½W½SW¼SE¼, SE¼SW¼SW¼SE¼, and S½SE¼SW¼SE¼ (excluding that portion designated as the East Fork of the Jemez Wild and Scenic River as described in Pub. L. 101-306);
Sec. 3, lot 8, SW¼NW¼, W½SE¼NW¼, W½SW¼, W½E½SW¼, and NE¼SE¼ (excluding that portion designated as the East Fork of the Jemez Wild and Scenic River as described in Pub. L. 101-306);
Sec. 4, lots 3 to 6, inclusive, S½N½, SW¼, NE¼SE¼, and S½SE¼ (excluding that portion designated as the East Fork of the Jemez Wild and Scenic River as described in Pub. L. 101-306);
Sec. 5, lots 8 to 10, inclusive, S½NE¼, and SE¼ (excluding that portion designated as the East Fork of the Jemez Wild and Scenic River as described in Pub. L. 101-306);
Sec. 10, S½NW¼NE¼, SW¼NE¼, NW¼NE¼NW¼, S½NE¼NW¼, NW¼NW¼, S½NW¼, SW¼, SW¼NE¼NE¼SE¼, W½NE¼SE¼, W½SE¼NE¼SE¼, SE¼SE¼NE¼SE¼, W½SE¼, and SE¼SE¼ (excluding that portion designated as the East Fork of the Jemez Wild and Scenic River as described in Pub. L. 101-306);
Sec. 12, E½;
Sec. 13, N½N½;
Sec. 14, lots 1 and 2, and N½NW¼.
T. 18 N., R. 4 E.,
Sec. 3, lots 17 and 18, and lots 22 to 24, inclusive (excluding that portion designated as the East Fork of the Jemez Wild and Scenic River as described in Pub. L. 101-306);
Sec. 4, lots 9 to 16, inclusive, and lots 19 to 24, inclusive (excluding that portion

designated as the East Fork of the Jemez Wild and Scenic River as described in Pub. L. 101–306);
Sec. 5, lots 9 to 17, inclusive, and lots 21 to 28, inclusive (excluding that portion designated as the East Fork of the Jemez Wild and Scenic River as described in Pub. L. 101–306);
Sec. 6, lot 7, and lots 12 to 26, inclusive (excluding that portion designated as the East Fork of the Jemez Wild and Scenic River as described in Pub. L. 101–306);
Sec. 7, lots 2, 3, 4, 6, and 7, E½, and E½W½;
Sec. 8, SE¼SE¼NE¼NE¼, NW¼NW¼NW¼NE¼, SE¼NE¼, NE¼NE¼NE¼NW¼, S½NE¼NE¼NW¼, NW¼NW¼NE¼NW¼, E½SW¼NE¼NW¼, SE¼NE¼NW¼, W½NW¼, SE¼NW¼, N½SW¼, NE¼SE¼, and S½S½;
Sec. 9, E½, NE¼NW¼, SE¼NE¼NW¼NW¼, S½NW¼NW¼, S½NW¼, and SW¼ (excluding that portion designated as the East Fork of the Jemez Wild and Scenic River as described in Pub. L. 101–306);
Sec. 10, NW¼;
Sec. 17, N½N½;
Sec. 18, lot 1, N½NE¼ and NE¼NW¼.

The areas described aggregate approximately 4,886.58 acres in Sandoval County.

Dated: March 10, 1993.

Larry Woodard,

State Director.

[FR Doc. 93–6298 Filed 3–17–93; 8:45 am]

BILLING CODE 4310–FB–M

Minerals Management Service

Outer Continental Shelf Advisory Board Gulf of Mexico Regional Technical Working Group Meeting

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Gulf of Mexico Regional Technical Working Group (RTWG) Meeting.

SUMMARY: Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463). The Gulf of Mexico RTWG meeting will be held April 7–8, 1993, at the Minerals Management Service office located at 1201 Elmwood Park Boulevard, Jefferson, Louisiana.

The meeting will be held beginning at 9 a.m. on April 7. Agenda items are as follows:

- Roundtable Discussion.
- LSU National Resource Mapping, Hurricane Andrew and Greenhill spill Update.
- LSU National Resource Mapping.
- Texas GIS Data Dictionary.
- Overview—OPA '90.
- Environmental Studies.

Agenda items for April 8 are as follows:

- NPDES Permitting Monitoring Requirements.
- Discussion and Reports on Environmental Studies.

FOR FURTHER INFORMATION: This meeting is open to the public. Individuals wishing to make oral presentations to the committee concerning agenda items should contact Ms. Ann Hanks of the Gulf of Mexico OCS Regional Office at (504) 736–2589 by March 22, 1993. Written statements should be submitted by March 29, 1993, to Ms. Hanks at 1201 Elmwood Park Boulevard, Jefferson, Louisiana 70123–2394.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico RTWG is one of six such Committees that advises the Director of the Minerals Management Service on technical matters of regional concern regarding offshore prelease and postlease sale activities. The RTWG membership consists of representatives from Federal Agencies, the coastal States of Alabama, Florida, Louisiana, Mississippi, and Texas, the petroleum industry, the environmental community, and other private interests.

Dated: March 1, 1993.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 93–6300 Filed 3–17–93; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–319–332, 334, 336–342, 344, 347–353 and 731–TA–573–579, 581–592, 594–597, 599–609, and 612–619 (Final)

Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, the Republic of Korea (Korea), Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: March 12, 1993.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger (202–205–3183), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION: On December 7, 1992, and February 4, 1993, the Commission instituted the subject investigations and established a schedule for their conduct (57 FR 60247, December 18, 1992; 58 FR 8974, February 18, 1993). Subsequently, the Department of Commerce extended the date for its final determinations in the investigations from April 12, 1993 to June 21, 1993 (58 FR 7071, February 4, 1993, *e.g.*). The Commission, therefore, is revising its schedule in the investigations to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than June 17, 1993; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on June 24, 1993; the prehearing staff report will be placed in the nonpublic record on June 11, 1993; the deadline for filing prehearing briefs is June 18, 1993; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on June 29 & 30, 1993; and the deadline for filing posthearing briefs is July 7, 1993.

For further information concerning these investigations see the Commission's notice on investigations cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

By order of the Commission.

Issued: March 12, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–6261 Filed 3–17–93; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Information Collection Under Review

March 12, 1993.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C.

chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jefferson B. Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Don Wolfrey, on (202) 514–4115 or facsimile: (202) 514–1534. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Don Wolfrey, DOJ Clearance Officer, SPS/JMD/850 WCTR, Department of Justice, Washington, DC 20530.

New Collection

(1) Victim Assistance Agency Survey.

(2) Office of Justice Programs.

(3) Every Several Years.

(4) State or local governments and non-profit institutions.

This survey will be used to document the status of victim assistance agencies operating at the federal, state, and local levels, particularly the training needs and programs for these agencies.

(5) 248 annual responses at .5 hours per response.

(6) 124 annual burden hours.

(7) Not applicable under 3504(h)

Public comment on these items is encouraged.

Don Wolfrey,

Department Clearance Officer, Department of Justice.

[FR Doc. 93–6184 Filed 3–17–93; 8:45 am]

BILLING CODE 4410–18–M

Information Collections Under Review

March 15, 1993.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jefferson B. Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Don Wolfrey, on (202) 514–4115 or facsimile: (202) 514–1534. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Don Wolfrey, DOJ Clearance Officer, SPS/JMD/850 WCTR, Department of Justice, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Guidelines for the State Reimbursement Program for Incarcerated Mariel Cubans.

(2) Office of Justice Programs.

(3) Once.

(4) State or local governments. Mariel Cuban data is required for the Immigration and Naturalization Service to determine whether specific inmates are indeed Mariels and for the Department of Justice/Bureau of Justice Assistance to determine the number of months of incarceration in order to establish reimbursement amounts.

(5) 38 annual responses at 40 hours per response.

(6) 1,520 annual burden hours.

(7) Not applicable under 35004(h).

Public comment on these items in encouraged.

Dated: March 15, 1993.

Don Wolfrey,

Department Clearance Officer, Department of Justice.

[FR Doc. 93–6253 Filed 3–17–93; 8:45 am]

BILLING CODE 4410–18–M

Antitrust Division

Pursuant to the National Cooperative Research Act of 1984—Open Software Foundation, Inc.

Notice is hereby given that, on February 1, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Open Software Foundation, Inc. ("OSF") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The additional notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new, non-voting members of OSF are as follows: Telefonaktiebolaget LM Ericsson, Stockholm, SWEDEN; CTP, Inc., Cambridge, MA; Queensland University of Technology, Brisbane, AUSTRALIA; Bell Atlantic Systems Group, Inc., Frazer, PA; University of Indonesia, Jakarta, INDONESIA; National Cheng Kung University, Tainan, Taiwan, CHINA; Government Communications Headquarters, Cheltenham, ENGLAND; Bailey Controls Company, Wickliffe, OH; MCI Telecommunications, Colorado Springs, CO; University of

New Hampshire, Durham, NH; and Landmark Systems Corporation, Vienna, VA. No new voting members have been added as of this filing.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OSF intends to file additional written notifications disclosing all changes in membership.

On August 8, 1988, OSF and the Open Software Foundation Institute, Inc. (the "Institute") filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 7, 1988, (53 FR 34594).

The last notification was filed with the Department on November 17, 1992. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on January 12, 1993 (58 FR 3980).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-6301 Filed 3-17-93; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) a request for expedited clearance, by March 31, 1993, of the following proposal for the collection of information under the provision of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted by March 25, 1993.

ADDRESSES: Send comments to Mr. Steve Semenuk, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503; (202-395-7316). In addition, copies of such comments may be sent to Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401).

FOR FURTHER INFORMATION CONTACT: Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401).

SUPPLEMENTARY INFORMATION: The Endowment requests the review of a revision of a currently approved collection of information. This entry is issued by the Endowment and contains the following information: (1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h). Grantees of the National Endowment of the Arts that receive Endowment funds for the purpose of subgranting are required to forward lists of proposed subgrants and related information to the Endowment for review and approval. The lists will be accompanied by a description of the actual selection process (limited to one paragraph), the review criteria against which subgrant recommendations were evaluated, and names and primary professional affiliation of those (e.g., panelists) involved in making the subgrant recommendations. The lists may also be accompanied by a copy of the complete application from those proposed for a subgrant, as necessary.

Title: Additional Terms & Conditions for Organizations Receiving Support for Subgranting.

Frequency of Collection: On occasion.

Respondents: Endowment grantees that conduct subgranting.

Use: Grant administration and oversight.

Estimated Number of Respondents: 40.

Average Burden Hours Per Response: 4.

Total Estimated Burden: 160.

Judith E. O'Brien,

Management Analyst, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 93-6177 Filed 3-17-93; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis in Biological and Critical Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Dates and Times: March 31, 1993—8:30 a.m.-5 p.m.

Place: Conference Room, National Science Foundation, 1800 G Street, NW., room 1133, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Edward H. Bryan, Program Director, BCS, room 1132, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Telephone: (202) 357-7737.

Purpose of Meeting: To review proposals for NYI in the Biological and Critical Systems Division.

Agenda: To review and evaluate NYI proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 15, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-6267 Filed 3-17-93; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Chemistry; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Dates and Times: April 8, 1993, 9 a.m.-5 p.m., April 9, 1993, 9 a.m.-3 p.m.

Place: Room 540, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Kenneth G. Hancock, Director, Division of Chemistry, room 340, National Science Foundation, 1800 G Street, NW., Washington, DC 20550. Telephone: (202) 357-7947.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research and education in chemistry.

Agenda: Long range planning for the Division of Chemistry, review of current activities, and discussion of new programs and procedures.

Dated: March 15, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-6268 Filed 3-17-93; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Environmental Biology; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Dates and Times: April 5 & 6, 1993.

Place: Room 500c, 1110 Vermont Ave., NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: James T. Callahan, Program Director, Long Term Projects in Environmental Biology, room 215, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–9596.

Purpose of Meeting: To provide advice and recommendations for National Science Foundation Young Investigator nominations/applications submitted to NSF for financial support.

Agenda: To review and evaluate National Science Foundation Young Investigator nominations/applications as part of the selection process for awards.

Reason for Closing: The applications being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the nominations. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 15, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–6282 Filed 3–17–93; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Date and Time: April 5, 1993, 8:30 a.m.–5 p.m., April 6, 1993, 8:30 a.m.–12 noon.

Place: Santa Fe Institute, 1600 Old Pecos Trail, Santa Fe, New Mexico 87501.

Type of Meeting: Open.

Contact Person: Ms. Rowena Peacock, National Science Foundation, room 512, 1800 G Street, NW., Washington, DC 20550, Telephone: (202) 357–5136. Anyone planning to attend this meeting should notify Ms. Peacock no later than March 26, 1993.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight concerning NSF's Mathematical, Physics, Astronomy, Materials and Chemistry programs.

Agenda: Monday, April 5, 1993: 8:30 a.m.–5 p.m. Welcome and Introductions, Concerns/Issues for NSF/US in the 1990s, Strategic Plans for the Directorate.

Tuesday, April 6, 1993: 8:30 a.m.—12 noon, Organizational Boundaries/ Interdisciplinary Issues.

Dated: March 15, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–6269 Filed 3–17–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mechanical and Structural Systems; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following four meetings.

Name: Special Emphasis Panels in Mechanical and Structural Systems.

Date and Time: April 12–13, 1993; 8:30 a.m. to 5 p.m.

Place: Rooms 1242 and 1243, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Contact Person: Dr. Ken P. Chong, Program Director, Structural Systems and Building Processes, Telephone: (202) 357–9542.

Date and Time: April 8–9, 1993; 8:30 a.m. to 5 p.m.

Place: Rooms 500 C and 500D, National Science Foundation, 1110 Vermont Avenue, NW., Washington, DC 20550.

Contact Person: Dr. Jerome Sackman, Program Director, Mechanics and Materials Program, Telephone: (202) 357–9542.

Date and Time: April 8–9, 1993; 8:30 a.m. to 5 p.m.

Place: Rooms 500C and 500D, National Science Foundation, 1110 Vermont Avenue, NW., Washington, DC 20550.

Contact Person: Dr. Huseyin Sehitoglu, Program Director, Mechanics and Materials Program, Telephone: (202) 357–9542.

Date and Time: April 12, 1993; 8:30 a.m. to 5 p.m.

Place: State Plaza Hotel, 2117 E Street, NW., Washington, DC 20037.

Contact Person: Dr. Devendra Garg, Program Director, Dynamic Systems and Control Program, Telephone: (202) 357–9542.

Types of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for various programs within the Division of Mechanical and Structural Systems as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. The matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 15, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–6270 Filed 3–17–93; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Social Psychology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: April 7–9, 1993; 9 a.m.–5 p.m.

Place: National Science Foundation, 1800 G Street, NW, Washington, DC, room 1243.

Type of Meeting: Part-Open.

Contact Person: Dr. Jean B. Intermaggio, Program Director for Social Psychology, SBER, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–9485.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Open session: April 9, 1993; 9 a.m.–11 a.m. To discuss trends and opportunities in Social Psychology.

Closed session: April 7–8 1993; 9 a.m.–5 p.m. To review and evaluate social psychology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 15, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–6271 Filed 3–17–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Regulatory Information Conference

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The objectives of the conference are to give the licensees and the public insights into our approach to safety regulations and to provide a forum for feedback from those in attendance on their concerns about our overall approach, as well as feedback on differences that may exist on technical issues. NRC staff will provide information regarding on-going programs and potential new initiatives as a basis for discussion.

Discussions will proceed from general (i.e., the plenary sessions) to specific (i.e., the breakout sessions), with emphasis on plant operations and the NRC view of these operations based on experience in carrying out its regulatory mission. Four plenary sessions are planned, three of which will be followed by breakout sessions that will include presentations by the NRC staff and industry representatives.

DATES: The conference will be held May 4–5, 1993.

ADDRESSES: The conference will be held at The Holiday Inn Crowne Plaza Hotel, 1750 Rockville Pike, Rockville, Maryland 20852. Telephone: (301) 468–1100 or 1–800–638–5963. (Refer to Group 2127).

FOR FURTHER INFORMATION CONTACT: Anna May Heycraft, NRC Conference Coordinator, by facsimile on 301–504–3707 or by phone on 301–504–3075.

PARTICIPATION: This conference is open to the general public; however, advance registration is required by April 14, 1993. The following is the preliminary program for the conference:

Tuesday, May 4, 1993 (8:30 a.m.–5:30 p.m.)

1. Introductory and Opening Remarks (NRC Chairman Ivan Selin)
2. Morning Plenary Session: Regulatory Trends
3. Breakout Sessions:
   a. SALP Program Modification
   b. Emergency Preparedness—Lessons Learned from Hurricane Andrew
   c. Qualification of Electrical Equipment & Fatigue
   d. Decommissioning
4. Post-Luncheon Speaker: Commissioner James R. Curtiss
5. Afternoon Plenary Session: Operational Safety Issues
6. Breakout Sessions:
   a. Motor Operated Valve Testing (GL 89–10)
   b. Advanced Light Water Reactor Design Certification
   c. Reactor Pressure Vessel Issues
   d. Digital Instrumentation and Control Systems
7. Dinner Speaker: Commissioner E. Gail de Planque

Wednesday, May 5, 1993 (8 a.m.–5 p.m.)

1. Morning Speaker: James M. Taylor, NRC Executive Director for Operations
2. Morning Plenary Session: Regulatory Review Group
3. Breakout Sessions:
   a. Fire Barrier Testing
   b. Analysis of Operating Events
   c. Enforcement and Office of Investigation Issues
   d. 10 CFR 20 Implementation
4. Post-Luncheon Speaker: Commissioner Kenneth C. Rogers
5. Breakout Sessions:
   a. Steam Generator Issues
   b. Accident Precursor Analysis
   c. Inspections—Commercial Grade and Service Water
   d. Operator Licensing Rule Change
6. Afternoon Plenary Session: License Renewal
7. Closing: Dr. Thomas E. Murley, Director, Office of Nuclear Reactor Regulation

Note: There will be a question and answer period after each session each day.

Next year's conference is scheduled for May 3–4, 1994, at the Mayflower Hotel, Washington, DC.

Dated in Rockville, Maryland this 11th day of March 1993.

For the Nuclear Regulatory Commission.

Richard H. Wessman,

Chief, Planning, Program, and Management Support Branch, Program Management, Policy Development, and Staff Analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 93–6307 Filed 3–17–93; 8:45 am]

BILLING CODE 7590–01–M

Availability of Draft Staff Technical Position on Consideration of Fault Displacement Hazards in Geologic Repository Design

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission is announcing the availability of the draft staff technical position (STP) on "Consideration of Fault Displacement Hazards in Geologic Repository Design."

DATES: The comment period expires June 16, 1993.

ADDRESSES: Send comments to David L. Meyer, Chief, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, Nuclear Regulatory Commission, Washington, DC 20555. Copies of this document may be obtained free of charge upon written request to Anne E. Garcia, Repository Licensing and Quality Assurance Project Directorate, Division of High-Level Waste Management, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, Mail Stop 4-H-3, Washington, DC 20555. Telephone 301/504–2438. A copy of this draft STP is also available for public inspection and/or copying at the NRC Public Document Room, 2120 "L" (Lower Level), NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Dr. Keith I. McConnell, Geology and Engineering Branch, Division of High-Level Waste Management, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, Mail Stop 4–H–3, Washington, DC 20555. Telephone 301/504–2532.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission Staff Technical Position (STP) on "Investigations to Identify Fault Displacement Hazards and Seismic Hazards at a Geologic Repository" (see NUREG–1451) outlined an acceptable approach by which faults (or fault zones) of possible regulatory concern to the geologic repository are identified and investigated. In the approach described in the STP, those faults that are considered to be of possible regulatory concern to the geologic repository are ones that are subject to displacement (i.e., stratigraphic offset) and that may affect the design or performance of structures, systems, and components important to safety or important to waste isolation, and/or may provide significant input into models used in assessments of design or performance of structures, systems, and components important to safety or important to waste isolation.

The STP addresses those situations in which faults of regulatory concern (designated as "Type I" faults in NUREG–1451) exist or are assumed to exist at the location of systems, structures, and components important to safety or important to waste isolation. Specifically, this STP recognizes the acceptability of designing the geologic repository to take into account the attendant effects (e.g., displacement) of faults of regulatory concern and expresses the staff's views on what is needed from the U.S. Department of Energy (DOE) if it chooses to locate structures, systems, and components important to safety or important to waste isolation in areas that contain "Type I" faults (e.g., faults with Quaternary-age displacement). Therefore, DOE should seek early resolution of fault-related design and performance issues, at the staff level, before submitting a license application to construct and operate a geologic repository.

Dated at Rockville, Maryland this 10th day of March, 1993.

For the Nuclear Regulatory Commission.

B.J. Youngblood,

Director, Division of High-Level Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 93–6308 Filed 3–17–93; 8:45 am]

BILLING CODE 7590–01–M

Baltimore Gas & Electric Co.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

[Docket No. 50–317]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. 53, issued to Baltimore Gas & Electric Company (the licensee), for operation of the Calvert Cliffs Nuclear Power Plant No. 1 located in Calvert County, Maryland.

The proposed amendment would revise Technical Specifications (TS) 3/4.2, "Power Distribution Limits," and 3/

4.3, "Instrumentation," to relax the requirements for the number and distribution of operable incore detectors. The incore detectors are required to verify that the core power distribution is consistent with the safety assumptions used in the safety analyses and to protect the current power distribution TS limits. The proposed changes would also apply penalties to the values measured by the incore detectors prior to their comparison with TS limits to assure that the TS limits monitored by the incore detectors will continue to be valid.

Specifically, footnotes will be added to the following TS and will be applicable for only the remainder of the Calvert Cliffs Nuclear Power Plant, Unit 1, Operating Cycle 11, as follows:

TS 3.2.2.1, Total Planar Radial Peaking Factor, Limiting Condition For Operation (LCO), 3.2.3, Total Integrated Radial Peaking Factor LCO; and 4.2.1.4.b.1, Surveillance Requirements Incore Detecting Monitoring System will have footnotes indicating that when the percentage of operable incore detector locations (strings) fall below 75%, the measured values will be increased by 1% prior to being compared to the TS limits.

TS 4.2.1.4.a, Surveillance Requirements for incore Detector Monitoring System; 4.2.2.1.2.b, Total Planar Radial Peaking Factor; and 4.2.3.2.b, Total Integrated Radial Peaking Factor, will have footnotes indicating that when the percentage of operable incore detector locations (strings) falls below 75% the full core power distribution mapping frequency will be increased to at least once per 15 days of accumulated operation while in Operating Mode 1.

TS 3.3.3.2.a, Monitoring Instrumentation LCO, for monitoring Azimuthal Power Tilt will have a footnote which supersedes the current requirement. The current requirement for two quadrant symmetric incore detector segment groups at each axial location is changed to a total of eight quadrant symmetric incore detector segment groups. The current requirement for at least two azimuthal power tilt values at each detector segment axial elevation is changed to at least one azimuthal power tilt value at each detector segment axial elevation and at least two azimuthal power tilt values at three detector segment axial elevations.

TS 3.3.3.2.b.1, Monitoring Instrumentation LCO, for recalibration of the Excore Neutron Monitoring Flux Detector System; and 3.3.3.2.C.1, Monitoring Instrumentation, for monitoring the Unrodded Planar Radial Peaking Factor, the Unrodded Integrated Radial Peaking Factor, or the linear heat rare will have footnotes which will change the minimum number of operable detector segments and strings from 75% to 60%.

The licensee states that exigent circumstances pursuant to 10 CFR 50.91 exist with respect to the need for consideration of the proposed amendment. The need for this change could not have been foreseen in that 19 of the 45 incore detector strings were replaced during the previous outage and one was removed and not replaced due to mechanical problems. Each of the incore detector strings consists of 4 rhodium neutron detectors (or referred to as detector segments) which are located at 20, 40, 60 and 80% of the core height. Prior to reaching 100% power following the refueling outage, 20 detectors had failed. There have been 8 additional failures since reaching 100% power. All 28 of these detector failures were in the group of new detector strings installed during the outage. Adding the 4 detectors which were not replaced, 32 of the 180 available detectors (17.8%) are inoperable. The TS require that 75% of the detector strings be operable and specific groups be operable for azimuthal power tilt monitoring.

The licensee has performed a Root Cause Analysis, but was unable to identify the cause of the detector failures nor account for the unexpected large number of failures of the newly installed detectors. The licensee further notes that it is impossible to predict when, or if, additional incore detector failures will occur. The time between failures has varied from as much as 62 days to as little as 10 days. Due to the uncertainty in the failure history of the incore detectors during the current operating cycle of Unit 1, the licensee believes that there is insufficient time to allow for the normal 30 day public comment period for the requested amendment. On this basis, the staff finds that a condition of exigency exists and is providing a notice period of 15 days in this notice for the receipt of comments.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change has been evaluated against the standards in 10 CFR 50.92 and has been determined to not involve a significant hazards consideration, in that operation of the facility in accordance with the proposed amendments:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change would relax requirements for the number and distribution of operable incore detectors. The safety function of the incore detectors is to verify that the core power distribution is consistent with the assumptions used in the safety analyses. Sufficient measurements will be required to adequately verify compliance with power distribution Technical Specification limits. Penalties will be applied to the values measured by the incore detectors prior to comparison with the Technical Specifications limits when the number of operable detector strings falls below the current requirement. This will ensure that all current Technical Specification and fuel design limits are protected and the core power distribution assumptions in all analyses remain valid. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new difference type of accident from any accident previously evaluated.

The proposed change does not represent a change in the configuration or operation of the plant. The current Technical Specifications limits measured by the incore detector system will still be met. Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Would not involve a significant reduction in a margin of safety.

The proposed changes will continue to protect the current power distribution Technical Specification limits. When the number of operable incore detector strings falls below the current Technical Specification requirement, a penalty will be added to the measured values before they are compared with the Technical Specification limits. This penalty has been shown by prior analysis to be greater than the increased uncertainty. This penalty ensures that the Technical Specifications limits monitored using the incore detectors will continue to be protected. Therefore, the proposed change

does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 19, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Calvert County Library, Prince Frederick, Maryland. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message

addressed to Robert A. Capra: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to D. A. Brune, Esq., General Counsel, Baltimore Gas and Electric Company, P.O. Box 1475, Baltimore, Maryland 21203, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 9, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, located at Calvert County Library, Prince Frederick, Maryland.

Dated at Rockville, Maryland, this 11th day of March.

For the Nuclear Regulatory Commission.

Daniel G. McDonald,

Senior Project Manager, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–6309 Filed 3–17–93; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Railroad Job Vacancies
(2) *Form(s) submitted:* _____
(3) *OMB Number:* 3220–0122
(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval
(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(6) *Frequency of response:* On occasion
(7) *Respondents:* Businesses or other for-profit, Small businesses or organizations
(8) *Estimated annual number of respondents:* 250
(9) *Total annual responses:* 750
(10) *Average time per response:* .16667 hours
(11) *Total annual reporting hours:* 125
(12) *Collection description:* Under Section 12(k) of the Railroad Unemployment Insurance Act, the Railroad Retirement Board maintains a list of railroad job vacancies available with rail carriers. The collection obtains notice of the job vacancies. The information is used to find jobs for individuals separated from railroad employment.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312–751–4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 93–6302 Filed 3–17–93; 8:45 am]

BILLING CODE 7905–01–M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; Carmel Valley Ranch/Open Space, Monterey County, CA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Carmel Valley Ranch/Open Space, Monterey County, California, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 16, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Jack Carney, Resolution Trust Corporation, c/o Oak Tree/Landmark, 79–9999 Old Avenue 52, La Quinta, CA 92253, (619) 564–8105; Fax: (619) 564–8126.

SUPPLEMENTARY INFORMATION: The Carmel Valley Ranch/Open Space property is located on Old Ranch Road in Carmel, Monterey County, California. The property is undeveloped and dedicated open space. The property has recreational value and is contiguous with the Monterey County Peninsula Park District's Garland Ranch Regional Park. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a–3). This property may be marketed to the broader market during this 90-day notice and subsequent 90-day negotiation period, if applicable.

Characteristics of the property include: The Carmel Valley Ranch/Open Space property consists of approximately 1,200 acres of undeveloped land located off of Robinson Canyon Road at Carmel Valley Road. The property consists of steep wooded and brush lands containing a mixture of oak, pine and redwood forest with riding and hiking trails. Much of the site has slopes exceeding 30 percent.

Property size: Approximately 1,200 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before June 16, 1993, by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 16, 1993, to Mr. Jack Carney at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

Re: Carmel Valley Ranch/Open Space

Federal Register Publication Date: _____[insert Federal Register publication date]

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration of entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: March 12, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93-6217 Filed 3-17-93; 8:45 a.m.]

BILLING CODE 6714-01-M

Coastal Barrier Improvement Act; Property Availability; Carmel Valley Ranch/Residential, Monterey County, CA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Carmel Valley Ranch/Residential, Monterey County, California, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 16, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Jack Carney, Resolution Trust Corporation, c/o Oak Tree/Landmark, 79-9999 Old Avenue 52, La Quinta, CA 92253, (619) 564-8105; Fax (619) 564-8126.

SUPPLEMENTARY INFORMATION: The Carmel Valley Ranch/Residential property is located on Old Ranch Road in Carmel, Monterey County, California. The property consists of approximately 218 acres of undeveloped land. The property has recreational value and is contiguous with the Monterey County Peninsula Park District's Garland Ranch Regional Park. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3). This property may be marketed to the broader market during this 90-day notice and subsequent 90-day negotiation period, if applicable.

Characteristics of the property include: The Carmel Valley Ranch/Residential property consists of approximately 218 acres of undeveloped land located off of Robinson Canyon Road at Carmel Valley Road. The property consists of steep wooded and brush lands with riding and hiking trails and is also contiguous with 1,200 acres of dedicated open space known as the Carmel Valley Ranch/Open Space property. Much of the site has slopes exceeding 30 percent.

Property size: Approximately 218 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before June 16, 1993, by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 16, 1993, to Mr. Jack Carney at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

Re: Carmel Valley Ranch/Residential

Federal Register Publication Date: _____[insert Federal Register publication date]

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101-591, section 10(b)(2) (12 U.S.C. 1441a-3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: March 12, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93-6218 Filed 3-17-93; 8:45 am]

BILLING CODE 6714-01-M

Coastal Barrier Improvement Act; Property Availability; Giannini Land, Riverside County, CA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Giannini Land, Riverside County, California, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 16, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Jack Carney, Resolution Trust Corporation, c/o Oak Tree/Landmark, 79-9999 Old Avenue 52, La Quinta, CA 92253, (619) 564-8105; Fax (619) 564-8126.

SUPPLEMENTARY INFORMATION: The Giannini Land Property is located approximately 1,000 feet west of the intersection of Jefferson Street and Avenue 54, Riverside County, California. The property has recreational value and is adjacent to the Carrizo Canyon Ecological Reserve managed by the California Department of Fish and Game. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3). This property may be marketed to the broader market during this 90-day notice and subsequent 90-day negotiation period, if applicable.

Characteristics of the property include: The Giannini Land property consists of approximately 127 acres of undeveloped desert mountainous areas. The property is adjacent to the Carrizo Canyon Ecological Reserve which is managed by the State of California. Some of the parcels within the Reserve are owned by the Bureau of Land Management. The All American Coachella Canal parallels the east property line of the site bordering the golf resort known as PGA West.

Property size: Approximately 127 acres.

Written notice is serious interest in the purchase or other transfer of the property must be received on or before June 16 1993, by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 16, 1993, to Mr. Jack Carney at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

RE: Giannini Land

Federal Register Publication Date: June 16, 1993.

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife, refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: March 12, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–6219 Filed 3–17–93; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability; Kiawah Island Resort/Ocean Course, Charleston County, SC

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Kiawah Island Resort/Ocean Course, located on Kiawah Island, Charleston County, South Carolina, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 16, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Jack Carney, Resolution Trust Corporation, c/o Oak Tree/Landmark, 79–9999 Old Avenue, 52, La Quinta, CA 92253, (619) 564–8105; Fax (619) 564–8126.

SUPPLEMENTARY INFORMATION: The Kiawah Island Resort/Ocean Course property is located on Ocean Course Drive on Kiawah Island, South Carolina. The property contains a fully developed 18 hole golf course and habitat for the federally threatened loggerhead sea turtle. The property has recreational value and is located within the M07 Coastal Barrier Unit known as Bird Key Complex. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a-3). This property may be marketed to the broader market during this 90-day notice and subsequent 90-day negotiation period, if applicable.

Characteristics of the property include. The Kiawah Island Resort/Ocean Course property consists of approximately 220 acres located on the eastern tip of Kiawah Island. The entrance to the property is approximately 8 miles from the town limits on Ocean Course Drive. The property is a developed golf course containing a 12,000 square foot clubhouse with a pro shop and restaurant, and a golf maintenance facility.

Property size: Approximately 220 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before June 16, 1993, by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 16, 1993, to Mr. Jack Carney at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

Re: Kiawah Island Resort/Ocean Course

FEDERAL REGISTER Publication Date: March 18, 1993.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, Section 10(b)(2), (12 U.S.C. 1441a-3(b)(2).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: March 12, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–6220 Filed 3–17–93; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability; Kiawah Island Resort/Seabrook, Charleston County, SC

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Kiawah Island Resort/Seabrook, located on Seabrook Island, Charleston County, South Carolina, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 16, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Jack Carney, Resolution Trust Corporation, c/o Oak Tree/Landmark, 79–9999 Old Avenue 52, La Quinta, CA 92253, (619) 564–8105; Fax (619) 564–8126.

SUPPLEMENTARY INFORMATION: The Kiawah Island Resort/Seabrook property is located at the end of Oyster Catcher Court, 416 feet from Rolling Dune Road, Charleston County, South Carolina. The property contains habitat for the federally threatened loggerhead sea turtle and the least tern. The property is also located within the M08 Coastal Barrier Unit Known as Captain Sams Inlet. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a–3). This property may be marketed to the broader market during this 90-day notice and subsequent 90-day negotiation period, if applicable.

Characteristics of the property include: The Kiawah Island Resort/Seabrook property consists of approximately 51 acres of undeveloped land located on the far eastern end of Seabrook Island, South Carolina. The property is primarily coastal dunes vegetated with palmetto trees and live oaks.

Property size: Approximately 51 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before June 16, 1993, by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 16, 1993, to Mr. Jack Carney at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

Re: Kiawah Island Resort/Seabrook

Federal Register Publication Date: March 18, 1993.

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: March 12, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–6221 Filed 3–17–93; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability; Oak Tree West, Riverside County, CA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Oak Tree West, Riverside County, California, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 16, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Jack Carney, Resolution Trust Corporation, c/o Oak Tree/Landmark, 79–9999 Old Avenue 52, La Quinta, CA 92253, (619) 564–8105; Fax (619) 564–8126.

SUPPLEMENTARY INFORMATION: The Oak Tree West property is located in La Quinta, Riverside County, California. The property is located south of Avenue 52 and west of Jefferson Street and north of Avenue 54 and west to the Santa Rosa Mountains. The property has recreational value and is adjacent to the Carrizo Canyon Ecological Reserve managed by the California Department of Fish and Game. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a–3). This property may be marketed to the broader market during this 90-day notice and subsequent 90-day negotiation period, if applicable.

Characteristics of the property include: The Oak Tree West property consists of approximately 749 acres of undeveloped desert mountainous areas and some existing citrus groves. The property is adjacent to the Carrizo Canyon Ecological Reserve which is managed by the State of California. Some of the parcels within the Reserve are owned by the Bureau of Land Management.

Property size: Approximately 749 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before June 16, 1993, by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 16, 1993 to Mr. Jack Carney at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

Re: Oak Tree West

Federal Register Publication Date: June 16, 1993.

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, Section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: March 12, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–6222 Filed 3–17–93; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability; Orinda Oaks, Contra Costa County, CA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Orinda Oaks, Contra Costa County, California, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 16, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Steven Reid, Resolution Trust Corporation, Dallas Field Office, 3500 Maple Avenue, Riverchon Plaza, 18th Floor, Dallas, TX 75219–3935, (214) 443–4738; Fax (214) 443–4825.

SUPPLEMENTARY INFORMATION: The Orinda Oaks property is located south of Donald Drive, east of Hall Drive and north of Moraga Way in Orinda, Contra Costa County, California. The property has recreational value and is contiguous with the Orinda City Park managed by the City of Orinda. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a–3).

Characteristics of the property include: The Orinda Oaks property consists of over 50 acres of undeveloped land with a topography of steep rolling hills.

Property size: Approximately 50 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before

June 16, 1993, by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 16, 1993, to Mr. Steven Reid at the above ADDRESSES and in the following form:

Notice of Serious Interest

Re: Orinda Oaks

Federal Register Publication Date: _____[insert Federal Register publication date]

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: March 12, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–6223 Filed 3–17–93; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability; Rancho La Quinta Partners, Riverside County, CA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Rancho La Quinta Partners, Riverside County, California, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until June 16, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Jack Carney, Resolution Trust Corporation, c/o Oak Tree/Landmark, 79–9999 Old Avenue 52, La Quinta, CA 92253, (619) 564–8105; Fax (619) 564–8126.

SUPPLEMENTARY INFORMATION: The Rancho La Quinta Partners property is located in La Quinta, Riverside County, California, on the south side of Avenue 52 at Washington Street. The property contains habitat for several federally listed endangered species, is within the boundary of a State Game Refuge and is adjacent to lands managed by the Bureau of Land Management. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a-3). This property may be marketed to the broader market during this 90-day notice and subsequent 90-day negotiation period, if applicable.

Characteristics of the property include: The Rancho La Quinta Partners property contains a residence on about 3 acres of land, citrus groves on approximately 12 acres, a desert mountainous area of approximately 300 acres, the east La Quinta storm water retention basin (Coachella Valley Water District) of approximately 81 acres, and the remaining 353 acres is undeveloped desert land. The property contains the Hacienda Del Gato (John Marshall) Ranch (c. 1902) and may be of cultural significance.

Property size: Approximately 749 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before June 16, 1993, by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by June 16, 1993, to Mr. Jack Carney at the above ADDRESSES and in the following form:

Notice of Serious Interest

Re: Rancho La Quinta Partners

Federal Register Publication Date: _____[insert Federal Register publication date]

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: March 12, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–6224 Filed 3–17–93; 8:45 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–31986; File No. 265–18]

Market Transactions Advisory Committee; Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of the Securities and Exchange Commission ("Commission") Market Transactions Advisory Committee.

SUMMARY: This is to give notice that the Securities and Exchange Commission Market Transactions Advisory Committee will meet on April 2, 1993, in room 1C30 at the Commission's main offices, 450 Fifth Street NW., Washington, DC, beginning at 1 p.m. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Jack Drogin, Division of Market Regulation at (202) 504–2542, or Ari Burstein, Division of Market Regulation at (202) 504–2933; Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. app 10a, the Securities and Exchange Commission Market Transactions Advisory Committee ("Committee") hereby gives notice that it will meet on April 2, 1993, in room 1C30 at the Commission's main offices, 450 Fifth Street NW., Washington, DC, beginning at 1 p.m. The meeting will be open to the public.

The Committee was formed under section 17A(f) of the Securities Exchange Act of 1934. The Committee's responsibilities include assisting the Commission in identifying State and Federal laws that may impede the safe and efficient clearance and settlement of securities transactions and in advising the Commission on the use of the Commission's authority under the

Market Reform Act of 1990 to adopt uniform federal rules regarding the transfer and pledge of securities.

The purpose of the meeting will be to discuss the progress of the Committee's subgroups and to plan the continued progression of the Committee's work. In addition, the Committee will discuss the status of the project to revise Article 8 of the Uniform Commercial Code undertaken by the National Conference of Commissioners on Uniform State Laws and the Commission's proposed Rule 15c6–1 that would establish three business days, instead of five business days, as the standard settlement timeframe for broker-dealer transactions ("T+3").

Dated: March 11, 1993.

Jonathan G. Katz,

Advisory Committee Management Officer.

[FR Doc. 93–6209 Filed 3–17–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31985; File No. SR–BSECC–92–01]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Boston Stock Exchange Clearing Corporation Relating to the Rescission of its Signature Guarantee Program

March 11, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 22, 1992, the Boston Stock Exchange Clearing Corporation ("BSECC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

BSECC seeks to rescind its Signature Guarantee Program. Members instead must comply independently with Rule 17Ad–15 under the Act[2] regarding the issuance and acceptance of signature guarantees.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to rescind the BSECC's Signature Guarantee Program and its guarantee of accepting a member's signature guarantee under the Signature Guarantee Program against any loss which an institution may suffer by reason of such guarantee. The decision to rescind BSECC's Signature Guarantee Program arose in response to new Rule 17Ad–15.[3] Members seeking to guarantee signatures should join a signature guarantee program that complies with the requirements of Rule 17Ad–15 under the Act.[4]

The basis under the Act for the proposed rule change is Section 17A(b)(1)(F)[5] in that the rescission of the current rule is designed to protect investors and the public interest, and it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed rule change is also consistent with Section 17A(b)(1)(A) of the Act[6] in that it will foster the prompt and accurate clearance and settlement of securities transactions by facilitating the signature guarantee process and related activities.

B. Self-Regulatory Organization's Statement on Burden on Competition

BSECC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

BSECC has not solicited, and does not intend to solicit, comments on this proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of BSECC. All submissions should refer to file number SR–BSECC–92–01 and should be submitted by April 8, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6210 Filed 3–17–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31993; File No. SR–CBOE–93–12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Listing of Reduced-Value Options on the Standard & Poor's 500 Stock Index

March 12, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 18, 1993, the Chicago Board Options Exchange,

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.17Ad–15 (1992).

[3] *Id.*

[4] *Id.*

[5] 15 U.S.C. 78q–1(b)(1)(F).

[6] 15 U.S.C. 78q–1(b)(1)(A).

Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend Exchange Rule 24.9, "Terms of Index Option Contracts," to allow the Exchange to list and trade reduced-value options equal to one-tenth of the value of the Standard & Poor's ("S&P") 500 Stock Index ("SPX"). The CBOE also proposes to amend Exchange Rule 24.9, Interpretation .01, to provide that the proposed reduced-value SPX options shall have a strike price interval of no less than $2.50.

The text of the proposal is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The CBOE proposes to amend Exchange Rule 24.9 to allow the Exchange to list and trade reduced-value options equal to one-tenth of the value of the SPX. Specifically, the CBOE proposes to add Interpretation .09 to Exchange Rule 24.9, which will state that the current value of the reduced-value SPX options shall be one-tenth (1/10th) the value of the underlying index reported by the reporting authority. The CBOE also proposes to amend Exchange Rule 24.9, Interpretation .01, to provide that the proposed reduced-value SPX options shall have a strike price interval of no less than $2.50.

Consistent with Exchange rule 24.9, "Terms of Option Contracts," the CBOE proposes to list reduced-value SPX options expiring in the same quarterly cycle as full-value SPX options and to list expirations in the current and next two succeeding calendar months.[1] The Options Price Reporting Authority ("OPRA") has represented that the additional options series introduced as a result of the proposal should have no material impact on OPRA's capacity, and the CBOE has represented that both the CBOE and OPRA have the necessary systems capacity to support the new series which would result from the proposed rule change.[2]

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and with Section 6(b)(5), in particular, in that it will permit trading in reduced-value SPX options to take place on the Exchange pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days after the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 8, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6273 Filed 3–17–93; 8:45 am]

BILLING CODE 8010-01-M

[1] Thus, in January the CBOE would list reduced-value SPX options that expire in January, February, March, June, September and December. When the January option expires, the Exchange would list the February, March, April, June, September and December expirations. The listing cycle would be continued in this fashion throughout the year.

[2] See Memorandum from Joseph P. Corrigan, Executive Director, OPRA, to Joseph Levin, CBOE, dated February 16, 1993, and letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, Commission, dated February 16, 1993.

[3] 17 CFR 200.30–3(a)(12) (1992).

[Release No. 34–31984; File No. SR–GSCC–92–13]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving Proposed Rule Change Facilitating the Collection of Voluntary Fees for the Public Securities Association

March 11, 1993.

On October 20, 1992, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–GSCC–92–13) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] The proposed rule change establishes procedures that will enable GSCC to facilitate the collection of voluntary fees for the Public

[1] 15 U.S.C. 78s(b)(1).

Securities Association ("PSA"). The Commission published notice of the proposed rule change in the Federal Register on December 3, 1992.[2] No comments were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change amends GSCC's rules by: (1) Adding the term "PSA" to Rule 1 and defining the term to mean the Public Securities Association; (2) renumbering present Rule 26 as Rule 25; (3) adding new Rule 26 to allow GSCC to collect voluntary fees for the PSA; and (4) revising Rule 29 to allow for the release of certain clearing data to facilitate the collection of voluntary fees for the PSA.

A. Background

GSCC has been requested by PSA's Primary Dealers Committee to assist in its collection of a volume sensitive fee to fund a portion of PSA's Government Division's expenses. GSCC believes that it is in the best interest of its members, the vast majority of whom are also PSA members, for GSCC to help collect fees on behalf of PSA's Government Division. The PSA, which represents the interests of the entire Government securities industry, has indicated to GSCC the need to ensure a stable source of funding for its Government Division. The costs and administrative burden to GSCC of establishing and maintaining this collection process are expected to be minimal.

B. Funding Proposal

The key aspects of PSA's funding proposal are as follows. Each month GSCC will collect $100,000 from dealer Comparison System and Netting System members on a *pro rata* basis based on the par value of submitted trades with a cap, initially to be $5,500, for any single member. The $100,000 aggregate amount will be subject to change by PSA with sufficient prior notice to GSCC. For Netting System members, GSCC will add the amount of the PSA fee to such members' funds-only settlement obligations on the same day of the month (the tenth business day) that those members are billed for GSCC fees. Members belonging only to the Comparison System also will be charged the PSA fee at the same time they are billed for GSCC fees (by mail by the fifth business day of the month) which must be paid via Fedwire by the tenth business day of the month. The funds collected will be remitted to PSA at the end of each calendar quarter. The float earned by GSCC will be used to defray programming, administration, and other costs related to the collection of PSA fees. In addition, GSCC may require reimbursement for PSA for certain of the programming and operational costs that it incurs prior to implementation of the funding plan.[3]

The proposed arrangement also will be subject to several conditions and understandings. GSCC members will participate in the funding program on a voluntary basis and can indicate that they do not wish to be assessed for PSA fees. GSCC members that participate in the funding program will be subject to a minimum monthly fee to be set by PSA. Initially, this minimum monthly fee will be $100. GSCC members, however, that do not indicate in advance to GSCC that they no longer wish to participate in the funding program will not be penalized by GSCC for not paying an assessed amount. GSCC also will not guarantee payment to PSA of any particular amount. Rather, it will remit only those funds actually received from members. There will be a presumption that a shortfall in a payment received from members on the tenth business day of the month was caused by the nonpayment of the member's PSA fee, up to the amount of such fee. Finally, PSA will agree both to maintain the confidentiality of the data provided by GSCC as well as any information on members' activity that might possibly be inferred as a result of this arrangement, and to not use the information provided by GSCC for any purpose other than the collection of PSA fees.

II. Discussion

The Commission believes that GSCC's proposed rule change is consistent with section 17A of the Act and, specifically, with sections 17A(b)(3) (A) and (F) thereunder.[4] Sections 17A(b)(3) (A) and (F) of the Act require that a clearing agency be organized and its rules be designed to enable it to facilitate the prompt and accurate clearance and settlement of securities transactions. In addition, section 17A(a)(1) encourages the adoption of efficient and effective procedures for the clearance and settlement of securities transactions.

The Commission believes that GSCC's proposal will promote the efficient collection of voluntary fees on behalf of PSA's Government Division. By assisting in the collection of the volume sensitive fee, GSCC will help ensure a more stable source of funding for PSA's Government Division. The proposed procedure is also consistent with industry efforts in this area. The Depository Trust Company and the MBS Clearing Corporation both currently help provide such a collection source on behalf of PSA for its Money Market Committee and Mortgage-Backed Securities Division, respectively. The change, therefore, is consistent with sections 17A(b)(3) (A) and (F) of the Act and the rules and regulations thereunder in that it will facilitate the prompt and accurate clearance and settlement of securities transactions.

As previously discussed, under the proposed funding procedures for the collection of PSA fees, GSCC will collect the required amounts from members on a *pro rata* basis based on the par value of submitted trades with cap, initially to be $5,500, for any single member. In addition, members will participate in the funding program on a voluntary basis and can indicate that they do not want to be assessed for PSA fees. GSCC members that do not indicate in advance to GSCC that they no longer wish to participate in the funding program will not be penalized by GSCC for not paying an assessed amount. Accordingly, the Commission believes that the funding proposal is also consistent with the requirements of section 17A(b)(3)(D) of the Act which requires that the rules of the clearing agency provide for the equitable allocation of reasonable dues, fees and other charges among its participants.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act, and in particular with section 17A of the Act, and with the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change (File No. SR–GSCC–92–13) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6211 Filed 3–17–93; 8:45 am]

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[2] Securities Exchange Act Release No. 31466 (November 23, 1992), 57 FR 57252.

[3] In this regard, the GSCC Board has determined that it is appropriate for GSCC to absorb some of its initial programming, administrative, and other costs related to the establishment of the collection procedure.

[4] 15 U.S.C. 78q–1(b)(3) (A) and (F).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(12).

[Release No. 34-31878; File No. SR-GSCC-93-15]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Netting of Zero Coupon Government Securities

March 10, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 17, 1992, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow GSCC to continue to include book-entry zero coupon government securities in its netting system.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(a) On January 31, 1991, the Commission approved on a temporary basis, until April 30, 1992, a proposed rule change (File No. SR-GSCC-90-06) to expand GSCC's netting service to include zero coupon government securities ("zeros").[2] The Commission extended its temporary approval of the proposal until March 31, 1993.[3] By this filing, GSCC requests that such authority be made permanent by the Commission, or, in the alternative, that the Commission further extend on a temporary basis GSCC's authority to net zeros.

In its approval order of January 31, 1991, the Commission stated that it was approving the proposed rule change on a temporary basis "[i]n light of the significance of this proposal to GSCC and its clearing members, and in light of the probability that GSCC's methodology for risk analysis will be modified at a future date * * *"[4] The Commission indicated that "[I]t believes that GSCC's method of determining the applicable margin factors [for zeros] is reasonable in light of the lack of historical data on which to base the margin assessment."[5] The Commission noted, however, its concern about "the accuracy with which GSCC's current methodology reflects the historical and implied volatility of zeros."[6]

Since the approval order was issued, GSCC has gained almost one year's experience in the netting of zeros without incurring any problems. GSCC's margining process for zeros remains conservative and prudent, and now has the benefit of the use of GSCC's internal price volatility data base. Moreover, as described below, GSCC has modified and improved its risk assessment systems in various respects. In view of the above, GSCC believes that its method for margining zeros is an appropriate one.

1. Use of GSCC's Internal Price Volatility Data Base to Assess the Adequacy of GSCC's Margin Factors

As GSCC noted in its original rule filing, it is not aware of any satisfactory third party source of historical price volatility data on zeros from which to establish applicable margin factors. GSCC stated in that filing that it intended to develop and maintain its own historical price volatility data base for zeros, as it does for all other securities eligible for the net.

GSCC has collected over one year's worth of its own price volatility data for zeros; this data base is sufficient for use in assessing and monitoring the adequacy of its margin factors for zeros. GSCC hereby represents that the information contained in this data base will be considered on a periodic basis by the Membership and Standards Committee of GSCC's Board of Directors ("Board") in reviewing the sufficiency of GSCC's margin factors for zeros.

2. Continued Use of a Conservative Margining Process

In making zeros eligible for its net, GSCC recognized that these securities require different considerations from a margining perspective than do other Treasury securities ("non-zeros") because zeros generally are subject to greater price volatility than are non-zeros with the same maturity. Thus, GSCC will continue to maintain a separate margin factor schedule for zeros which takes into account, based on data contained in the Treasury Department's liquid capital standards, the greater price volatility presented by zeros in general and the greater price volatility which arises as the remaining maturity of a zero increases.

The currently applicable margin percentages for zeros range from being the same as those for non-zeros on the short end of the maturity spectrum to two-and-a-half times that applicable to non-zeros on the longest end of the maturity spectrum. GSCC's internal price volatility data for zeros indicates that these percentages for zeros are prudent and conservative, particularly on the long end of the maturity spectrum where the greatest exposure exists for GSCC.

3. Strengthening of GSCC's Margining Process Generally

Since the initial approval order was issued, GSCC has filed a proposed rule change (file No. SR-GSCC-91-04)[7] to implement a number of changes to its margining and funds collection processes that will further strengthen those processes. Certain of these changes will complement GSCC's process for mitigating the risk arising from guaranteeing net settlement positions in zeros and ensure that this risk is minimal.

In view of GSCC's positive experience in the netting of zeros, the conservative nature of its margining process for zeros, its ability to use internal price volatility data to assess the adequacy of its margin factors for zeros, and the general strengthening of GSCC's margining process, GSCC believes that its method for margining zeros is an appropriate one and that its authority to net zeros should be made permanent.

(b) The proposed rule change will help further GSCC's ability to ensure orderly settlement in the government

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[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 28842 (January 31, 1991), 56 FR 5032.

[3] Securities Exchange Act Release Nos. 30661 (April 30, 1992), 57 FR 19654 (approving the proposal through July 31, 1992); 31065 (August 21, 1992), 57 FR 39255 (approving the proposal through October 30, 1992); 31383 (November 5, 1992), 57 FR 52809 (approving the proposal through March 31, 1993).

[4] Securities Exchange Act Release No. 28842, note 2 *supra*.

[5] *Id.*

[6] *Id.*

[7] Securities Exchange Act Release No. 30135 (December 31, 1991), 57 FR 942 (notice of filing of the proposed rule change).

securities marketplace by expanding the scope of government securities eligible for its netting system. Thus, it is consistent with Section 17A of the Act and the rules and regulations thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change have not been solicited or received. Members will be notified of the proposed rule change and comments will be solicited by an Important Notice. GSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR–GSCC–92–15 and should be submitted by April 8, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6212 Filed 3–17–93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–31992; File No. SR–OCC–92–8]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change Relating to OCC's Clearing Management and Control System

March 12, 1993.

On March 17, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] a proposed rule change (File No. SR–OCC–92–8) to approve on a permanent basis an enhancement to OCC's Clearing Management and Control System ("C/MACS")[2] that the Commission previously had approved on a temporary basis.[3] The Commission published notice of this proposed rule change in the **Federal Register** on May 26, 1992.[4] No public comments were received. For the reasons discussed below, the Commission is approving the proposed rule change on a permanent basis.

I. Description

On January 29, 1991, the Commission approved OCC's proposed rule change establishing a pilot program for an enhancement to OCC's C/MACS. The enhancement provides clearing members on-line access to clearing reports.[5] Such access is accomplished through existing C/MACS equipment and, therefore, is subject to existing C/MACS security procedures.[6] Electing clearing members may access reports from their most recent and second most recent trade activity date that OCC makes available on-line.

Generally, OCC will not send hard copy versions of reports to clearing members who choose to use the on-line reporting inquiry function except to the extent necessary to perfect OCC's issuer's liens.[7] OCC will provide hard copy reports to any participating clearing member that wishes to continue to receive them. In the event of a disruption in the on-line system, OCC will make alternative arrangements to provide clearing members with the information generally provided through C/MACS.[8]

The proposed rule change amends OCC's By-Laws and Rules to reflect that OCC's obligation to provide reports to clearing members is fulfilled when OCC makes those reports available in OCC's database for those members who elect to stop receiving hard copy reports. OCC also will maintain audit trails verifying when the reports were made available, who accessed them, and the time they were accessed to provide OCC with assurance that the reports were delivered in a timely manner.

The proposal also adds two new supplements to the Agreement For OCC Services specifying the contractual terms for use of the on-line system. The first supplement specifies the rights and responsibilities of OCC and the clearing member whose reports are to be shown on-line. The second supplement is between OCC and a managed clearing member[9] and specifies the rights and

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[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] C/MACS is an on-line system through which OCC and its clearing members communicate post-trade data such as clearing reports, exercise notices, and position adjustments.

[3] Securities Exchange Act Release No. 28836 (January 29, 1991), 56 FR 4884 (File No. SR–OCC–90–06).

[4] Securities Exchange Act Release No. 30708 (May 18, 1992), 57 FR 22005.

[5] OCC provided on-line access to over ninety-five clearing reports. Included are the Daily Margin Summary Report and the Daily Position Summary Report.

[6] OCC's sign-on procedures help to ensure that C/MACS users are protected from unauthorized destruction, disclosure, or alteration of data in C/MACS. These procedures require all users to have an OCC-assigned log-on number, which identifies an individual as an authorized user, and user password, which is validated against the log-on number when a user signs onto the system. The system prompts users to change their passwords every thirty days.

[7] For an issuer's lien on a security to be valid against a purchaser, the right of the issuer to the lien must be noted on the security certificate if the security is certificated. If the security is uncertificated, evidence of the issuer's lien must be noted in the "initial transaction statement" sent to th purchaser, the registered owner, or the registered pledgee. Uniform Commercial Code § 8–103. OCC will continue to issue the "initial transaction statement" containing a notation of OCC's lien. OCC also will perfect its lien by filing the initial transaction statement with the appropriate state of office in the debtor's principal place of business.

[8] If OCC is unable to provide reports through C/MACS by 6 a.m., it will deliver clearing reports to members who have elected to use the electronic reporting system by other means such as facsimile transmission or manual distribution of hard copy.

[9] A managing clearing member is a clearing member that has entered into an agreement with another clearing member, the managed clearing

responsibilities of OCC, the managed clearing member, and the managing clearing member.

II. Discussion

The Commission believes that OCC's proposal is consistent with the Act and in particular with sections 171(a)(1)(C) and (b)(3)(F) thereunder.[10] In section 17A(a)(1)(C) of the Act, Congress expressed its finding that new communications and data processing techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement. In this regard, the Commission believes that OCC's C/MACS proposal facilitates the prompt and accurate clearance and settlement of securities transactions by facilitating the electronic communication of current transaction information to clearing members.

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to ensure the safeguarding of securities and funds that are in its custody or under its control or for which it is responsible. As previously explained, the Commission believes that OCC's proposal does promote the prompt and accurate clearance and settlement of securities transactions. Furthermore, the Commission believes the proposal is consistent with OCC's statutory safeguarding obligation for three reasons. First, OCC has taken precautions to perfect and preserve its issuer's lien.[11] Second, OCC has designed procedures to prevent unauthorized access to clearing members reports.[12] Third, OCC has developed audit trails and contingency plans to protect against disruption to clearing members if on-line reports are not made available on a timely basis to OCC members.

Since the approval of OCC's on-line report inquiry system on a pilot basis, OCC has offered this service to all clearing members. OCC represents that since this system was installed, OCC has not experienced any system failures, and clearing member response to the system has been highly favorable. The on-line report inquiry system has proven to be a more efficient means of making clearing reports available to clearing members.

member, whereby the managing clearing member will access C/MACS to obtain reports, notices, and other items on behalf of the managed clearing member.

[10] 15 U.S.C. 78q-1(a)(1)(C) and (b)(3)(F) (1988).

[11] See supra note 7 and accompanying text.

[12] See supra note 6 and accompanying text.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act and in particular with section 17A thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (File No. SR–OCC–92–8) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6274 Filed 3–17–93; 8:45 am]

BILLING CODE 8010–01–M

[13] 15 U.S.C. 78s(b)(2), (1988).

[14] 17 CFR 200.30–3(a)(12) (1992).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

March 12, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Galen Health Care, Inc.
Common Stock, $.01 Par Value (File No. 7–10352)
Hospitality Franchise Systems, Inc.
Common Stock, $.01 Par Value (File No. 7–10353)
Income Opportunity Fund 2000, Inc.
Common Stock, $.10 Par Value (File No. 7–10354)
Insteel Industries, Inc.
Common Stock, No Par Value (File No. 7–10355)
Maybelline, Inc.
Common Stock, $.01 Par Value (File No. 7–10356)
McDonalds Corp.
Depositary Shares (rep. 1/2000 sh. 7.72% Cum. Pfd. Stk. Ser. E) (File No. 10357)
Medchem Products, Inc.
Common Stock, $.01 Par Value (File No. 7–10358)
MuniYield New York Insured Fund III Inc.
Common Stock, $.10 Par Value (File No. 7–10359)
Nuveen Insured Florida Premium Income Municipal Fund
Shares of Beneficial Interest, $.01 Par Value (File No. 7–10360)
Nuveen Insured New York Premium Income Municipal Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10361)
Nuveen Insured Premium Income Municipal Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10362)
Nuveen Michigan Premium Income Municipal Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10363)
Nuveen Insured New Jersey Premium Income Municipal Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10364)
Nuveen Pennsylvania Insured Premium Income Municipal Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–10365)
Phillips Gas Co.
Ser. A 9.32% Cm. Pfd. Stock (File No. 7–10366)
Student Loan Corp.
Common Stock, $.01 Par Value (File No. 7–10367)
Tejas Gas Corp.
Common Stock, $.25 Par Value (File No. 7–10368)
United States Banknote Corp.
Common Stock, $.01 Par Value (File No. 7–10369)
Waterhouse Investor Services, Inc.
Common Stock, $.01 Par Value (File No. 7–10370)
Western Gas Resources, Inc.
$2.28 Cum. Pfd., $.10 Par Value (File No. 7–10371)
William Coal Seam Gas Royalty Trust
Trust Units (File No. 7–10372)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 2, 1993, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary,

[FR Doc. 93–6285 Filed 3–17–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

March 12, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Advest Group
9% Con. Sub. Debs due 3/15/98 (File No. 7–10373)
Advo, Inc.
Common Stock, $.10 Par Value (File No. 7–10374)
Audre Recognition Systems, Inc.
Common Stock, No Par Value (File No. 7–10375)
Castle & Cooke Homes, Inc.
Common Stock, No Par Value (File No. 7–10376)
Dr. Pepper/Seven-Up Companies, Inc.
11½% Notes due 11/1/2002 (File No. 7–10377)
LTV Corporation
Cum. Conv. Prfd A (File No. 7–10378)
Manufactured Home Communities, Inc.
Common Stock, $.01 Par Value (File No. 7–10379)
Eastern American Natural Gas Trust
Dep. Units (evidenced by Secure Principal Energy Receipts) (File No. 7–10380)
Piccadilly Cafeterias, Inc.
Common Stock, No Par Value (File No. 7–10381)
Saga Communications, Inc.
Class A Common Stock, $.01 Par Value (File No. 7–10382)
Storage Technology Corp.
$3.50 Conv. Exch. Pfd. Stk, $.01 Par Value (File No. 7–10383)
Galen Health Care
Common Stock, $.01 Par Value (File No. 7–10384)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 2, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–6279 Filed 3–17–93; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–6137]

Issuer Delisting; Application to Withdraw from Listing and Registration; American Pacific Corporation, Common Stock, $.10 Par Value

March 12, 1993.

American Pacific Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Pacific Stock Exchange, Inc. ("PSE" or "Exchange").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, its Common Stock is currently listed on the PSE and traded on the National Market System of the National Association of Securities Dealers Automated Quotation System ("NASDAQ/NMS"). The Common Stock is and has been included in the Automated Quotation System of the NASDAQ/NMS. The Common Stock will continue to be included in the NASDAQ/NMS after withdrawal from listing on the PSE.

According to the Company, in making the decision to withdraw the Common Stock from listing on the PSE, the Company considered the direct and indirect costs and expenses attendant upon maintaining the listing of the Common Stock on the PSE. The Company does not see any particular advantage to it or its shareholders in the continued listing of its Common Stock and believes that continued listing may adversely affect the market for the Common Stock.

Any interested person may, on or before April 2, 1993, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–6283 Filed 3–17–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19330; 811–3284]

CBC Cornerstone Funds; Notice of Application for Deregistration

March 12, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: CBC Cornerstone Funds.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on December 9, 1992, and amended on March 3, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 5, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified for a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 230 Park Avenue, New York, NY 10169.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272–2511, or C. David Messman, Branch Chief, (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application

may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a Massachusetts business trust and consisting of four series: The U.S. Treasury Money Market Fund, the Prime Money Market Fund, the National Tax Free Money Market Fund, and the New York Tax Free Money Market Fund (the "Portfolios"). All of the Portfolios are diversified except for the New York Tax-Free Money Market Fund, which is non-diversified. On October 13, 1981, applicant registered under the Act by filing a Notification of Registration. On this same date, applicant filed a registration statement pursuant to section 8(b) of the Act, and pursuant to the Securities Act of 1933, to register an indefinite number of shares. Applicant's registration statement was declared effective on March 4, 1982. An initial public offering was commenced on February 4, 1985.

2. On June 17, 1992, applicant's Board of Trustees approved an Agreement and Plan of Reorganization (the "Plan") between applicant and The Hanover Funds, Inc. ("Hanover").[1] On August 18, 1992, proxy materials relating to the Plan were distributed to applicant's shareholders. At a special meeting held on September 30, 1992, holders of a majority of the outstanding shares of each of the Portfolios approved the Plan.

3. On September 30, 1992 (the "Closing Date"), applicant transferred each of the Portfolio's assets and liabilities to a corresponding portfolio of Hanover in exchange for shares of the corresponding Hanover portfolio. Such exchange was based on an exchange ratio determined by dividing the net asset value per share of each of applicant's Portfolios by the net asset value per share of the corresponding Hanover portfolio. Applicant's shareholders then received a *pro rata* distribution of shares of the corresponding Hanover portfolio received by each Portfolio in the reorganization.

4. On the Closing Date, the Portfolios had aggregate net asset values as follows: The U.S. Treasury Money Market Fund—$948,720,941; the Prime Money Market Fund—$301,474,569; the National Tax Free Money Market Fund—$46,937,993; and the New York Tax Free Money Market Fund—$64,405,226.

5. Chemical Banking Corporation (or one or more of its affiliates) paid the expenses related to the reorganization, which totaled approximately $442,000. Such expenses consisted of legal, printing, audit, and proxy solicitation expenses, but not registration fees on the Hanover portfolio shares, which were borne by each such portfolio.

6. At the time of filing of the application, applicant had no assets or liabilities. Applicant has no shareholders and is not a party to any litigation or administrative proceedings. Applicant is not engaged in, and does not propose to engage in, any business activities other than those necessary for the winding up of its affairs.

7. Applicant is in the process of dissolving under the laws of the Commonwealth of Massachusetts.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-6208 Filed 3-17-93; 8:45 am]

BILLING CODE 8010-01-M

[1] Applicant and Hanover are affiliated persons of each other within the meaning of the Act, and relied on rule 17a-8 under the Act to effect the reorganization. Pursuant to rule 17a-8, applicant's Board of Trustees and Hanover's Board of Directors (including in each case a majority of the trustees or directors who are not interested persons of either applicant or Hanover) determined that participation in the reorganization was in the best interest of applicant and Hanover, and that the interests of existing shareholders of the applicant and Hanover would not be diluted as a result of the reorganization.

[File No. 1-8660]

Issuer Delisting; Application to Withdraw from Listing and Registration; Hubco, Inc., Common Stock, No Par Value

March 12, 1993.

Hubco, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, its Board of Directors (the "Board") unanimously approved resolutions on January 12, 1993, to withdraw the Company's Common Stock from listing on the American Stock Exchange ("Amex") and, instead, list such Common Stock on the National Association of Securities Dealers Automated Quotations/National Market Systems ("NASDAQ/NMS"). According to the Company, the decision of the Board followed a lengthy study of the matter, and was based upon the belief that listing of the Common Stock on NASDAQ/NMS will be more beneficial to its stockholders than the present listing on the Amex because:

(1) The Company believes that the NASDAQ/NMS system of competing market-makers will result in increased visibility and sponsorship for the Common Stock than is presently the case with the single specialist assigned to the stock on the Amex;

(2) The Company believes that the NASDAQ/NMS system will offer the Company's stockholders more liquidity than that presently available on the Amex and less volatility in quoted prices per share when trading volume is slight;

(3) The Company believes that the NASDAQ/NMS system will offer the opportunity for the Company to secure its own group of market-makers and, in doing so, expand the capital base available for trading in its Common Stock; and

(4) The Company believes that firms making a market in the Company's Common Stock on the NASDAQ/NMS system will be inclined to issue research reports concerning the Company, thereby increasing the number of firms providing institutional research and advisory reports.

Any interested person may, on or before April 2, 1993 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-6284 Filed 3-17-93; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (Parker & Parsley Petroleum Company, Common Stock, $.01 Par Value; Rights to Purchase Common Stock) File No. 1–10695

March 12, 1993.

Parker & Parsley Petroleum Company ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

According to the Company, in addition to being listed on the Amex, its common stock and rights are listed on the New York Stock Exchange, Inc. ("NYSE"). The Company's common stock and rights commenced trading on the NYSE at the opening of business on January 13, 1993 and concurrently therewith such stock was suspended from trading on the Amex.

In making the decision to withdraw its common stock and rights from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock and rights on the NYSE and on the Amex. The Company does not believe that trading of its common stock on both national exchanges is in the best interests of the Company or its stockholders and believes that dual listing would fragment the market for its common stock and rights.

Any interested person may on or before April 2, 1993 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–6281 Filed 3–17–93; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (United States Banknote Corp., Common Stock, $0.01 Par Value) File No. 1–3410

March 12, 1993.

United States Banknote Corp. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities and Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Accordingly to the Company, in addition to being listed on the Amex, its common stock is listed on the New York Stock Exchange, Inc. ("NYSE"). The Company's common stock commenced trading on the NYSE at the opening of business on December 7, 1992 and concurrently therewith such stock was suspended from trading on the Amex.

According to the Company, in making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant in maintaining the dual listing of its common stock on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading of its common stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before April 2, 1993 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–6280 Filed 3–17–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Investment Advisory Council; Notice of Meeting

Time and Date: 9 a.m.—4 p.m., Thursday, April 15, 1993.

Place: The meeting will be held in the Administrator's Conference Room on the seventh floor of SBA headquarters at 409 3rd Street, SW., Washington, DC.

Purpose: The meeting is being held to present the proposed regulatory changes, implementing title IV of Public Law 102–366, to the Council and to discuss the impact of these changes on Small Business Investment Companies (SBICs) and Specialized Small Business Investment Companies (SSBICs).

For further information, contact Maureen C. Glebes, room 6300, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, telephone (202) 205–6510.

Dated: March 10, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–6185 Filed 3–17–93; 8:45 am]

BILLING CODE 8025–01–M

San Francisco District Advisory Council; Public Meeting

The U.S. Small Business Administration San Francisco District Advisory Council will hold a public meeting at 10 a.m. on Wednesday, March 31, 1993, at the Sacramento Commercial Bank Conference Room, 525 "J" Street, Sacramento, California, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. J. Mark Quinn, Acting District Director, U.S. Small Business Administration, 211 Main Street, 4th Floor, San Francisco, California 94105–1988, (415) 744–6801.

Dated: March 11, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–6183 Filed 3–17–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

March 12, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557–0160.

Form Number: None.

Type of Review: Extension.

Title: Community Reinvestment Act.

Description: This information collection is required by the Community Reinvestment Act. National banks are encouraged to help meet the credit needs of their communities, including low- and moderate-income neighborhoods. The public and the Office of the Comptroller of the Currency (OCC) use the information to assess the bank's community lending record.

Respondents: Businesses or other for-profit, small businesses or organizations.

Estimated Number of Recordkeepers: 3,650.

Estimated Burden Hours Per Respondent: 68 hours.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 248,000 hours.

Clearance Officer: John Ference (202) 874–4697, Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93–6215 Filed 3–17–93; 8:45 am]

BILLING CODE 4810–33–M

Public Information Collection Requirements Submitted to OMB for Review

March 11, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0021.

Form Number: IRS Form 709–A.

Type of Review: Extension.

Title: United States Short Form Gift Tax Return.

Description: Form 709–A is used to report gifts that would be taxable except that they are "split" between husband and wife. The form is a simplified version of Form 709, designed to relieve these gift/taxpayers of the burden of filing Form 709. IRS uses the information to assure that "gift-splitting" was properly elected.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 45,000.

Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—13 minutes.
Learning about the law or the form—11 minutes.
Preparing the form—14 minutes.
Copying, assembling, and sending the form to the IRS—20 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 43,650 hours.

OMB Number: 1545–0441.

Form Number: IRS Forms 6559 and 6559A.

Type of Review: Revision.

Title: Transmitter Report and Summary of Magnetic Media (Form 6559); Continuation Sheet for Form 6559 (Form 6559A).

Description: Forms 6559 and 6559A are used by filers of Form W–2 wage and tax data to transmit filings on magnetic media. Social Security Administration (SSA) and Internal Revenue Service (IRS) need signed jurat and summary data for processing purposes. Forms are used primarily by large employers and tax filing services (service bureaus).

Respondents: State or local governments, Farms, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents: 100,000.

Estimated Burden Hours Per Respondent:

Form	Hours per response
6559	15 minutes
6559A	15 minutes

Frequency of Response: Annually.

Estimated Total Reporting Burden: 30,000 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92–6216 Filed 3–17–92; 8:45 am]

BILLING CODE 4810–01–M

Public Information Collection Requirements Submitted to OMB for Review

March 12, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Special Request: The Department of the Treasury is requesting a less than 60-day review and approval of Bureau of the Public Debt Form PD F 1832 in order to get the attached newly-revised version to its book-entry customers as soon as possible.

Bureau of the Public Debt

OMB Number: 1535–0059

Form Number: PD F 1832

Type of Review: Revision

Title: Special Form of Assignment for U.S. Registered Definitive Securities

Description: Information is collected for the assignment of U.S. Registered Definitive Securities for requested transactions such as conversion to book-entry, reissue of securities for a new owner, conversion to bearer securities or redemption. It is completed by the owner or the authorized representative of the owner (executor, trustee, business official, etc.).
Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Federal agencies or employees, non-profit institutions, small businesses or organizations
Estimated Number of Respondents: 10,000
Estimated Burden Hours Per Response: 15 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 2,500 hours
Clearance Officer: Vicki S. Ott (304) 420–6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, West VA 26106–1328
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 93–6272 Filed 3–17–93; 8:45 am]
BILLING CODE 4810-35-M

Customs Service

[T.D. 93–16]

Extension of Unimar, Inc., International's Customs Gauger Approval and Laboratory Accreditations to Include a New Site Located in Brownsville, TX

AGENCY: U.S. Customs Service, Department of the Treasury.
ACTION: Notice of the extension of Unimar, Inc., International's Customs gauger approval and accreditations to include a new site in Brownsville, Texas.

SUMMARY: Unimar Inc., International of Houston, Texas, a Customs approved gauger and accredited laboratory under § 151.13 of the Customs Regulations (19 CFR 151.13), has been given an extension of its Customs gauger approval and laboratory accreditations to include a new site in Brownsville, Texas. Specifically, the extension given to the Brownsville site will include the approval to gauge petroleum and petroleum products, organic compounds in bulk and liquid form and animal and vegetable oils; and accreditations to perform the following laboratory analyses: API Gravity, water by distillation and sediment by extraction.
SUPPLEMENTARY INFORMATION: Part 151 of the Customs Regulations for the acceptance at Customs Districts of laboratory analyses and gauging reports for certain products from Customs accredited commercial laboratories and approved gaugers. Unimar, Inc., International, a Customs-approved commercial gauger and accredited laboratory, has applied to Customs to extend its Customs gauger approval and certain laboratory accreditations to its Brownsville, Texas facility. Review of the qualifications of Unimar, Inc., International's Brownsville site shows that the extension is warranted and, accordingly, has been granted.
EFFECTIVE DATE: March 5, 1993.
FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Special Assistant for Commercial and Tariff Affairs, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave., NW, Washington, DC 20229 (202–927–1060).

Dated: March 12, 1993.
J.E. Harrell,
Acting Director, Office of Laboratories and Scientific Services.
[FR Doc. 93–6174 Filed 3–17–93; 8:45 am]
BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "The Great Age of British Watercolors 1750–1880" (see list)[1], imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, DC, beginning on or about May 9, 1993, to on or about July 25, 1993, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: March 12, 1993.
R. Wallace Stuart,
Acting General Counsel.
[FR Doc. 93–6232 Filed 3–17–93; 8:45 am]
BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202/619–5078, and the address is room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

Donated Book Assistance Awards

AGENCY: United States Information Agency.
ACTION: Request for Proposals.

SUMMARY: Subject to the availability of funds, the Book Promotion Branch of the U.S. Information Agency will provide limited assistance awards to non-profit U.S. institutions and organizations in the private sector to administer donated books projects during FY '93. All interested organizations wishing to compete for awards to administer one or several of the following projects are invited to request detailed proposal guidelines. The proposals will be evaluated by a review panel and recommendations for awards will be based on professional staff assessment of relevant qualifications and compliance with established criteria.
DATES: *Deadline for proposals:* All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on April 29, 1993. Faxed documents will not be accepted, nor will documents postmarked on April 29, 1993 but received at a later date. It is the possibility of each grant applicant to ensure that proposals are received by the above deadline.
Duration: The duration of the award will be twelve months. No funds may be expended until the award agreement is signed. Awards should begin September 1, 1993.
ADDRESSES: The original and fourteen copies of the completed application, including required forms, should be submitted by the deadline to: U.S. Information Agency, Ref: Donated Book Assistance Awards, Grants Management Division, E/XE, room 336, 301 4th Street, SW., Washington, DC 20547.
FOR FURTHER INFORMATION CONTACT: Interested U.S. organizations/institutions should contact Ms. Carol Nelson at the U.S. Information Agency, room 320, 301 4th Street, SW., Book Program Division, E/CBP, Washington, DC 20547, tele: (202) 619–4895 to

request detailed application packets, which include award criteria additional to this announcement, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information.

SUPPLEMENTARY INFORMATION: To be eligible for consideration an organization must be incorporated in the U.S. as a 501(c) (3), not-for-profit organization as determined by the IRS, and be able to demonstrate expertise in administering the project(s) on which it is bidding. An organization may apply for awards to administer more than one regional project. Grants awarded to eligible organizations with less than four years experience in conducting international exchange programs will be limited to $60,000.

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life.

Regional Projects

Africa

One or more assistance awards, totaling approximately $62,500 for this region, will be made to a non profit organization(s) to help defray costs for distributing appropriate donated books to Cameroon, Eritrea, Ethiopia, Ghana, Kenya, Liberia, Malawi, Namibia, Nigeria, South Africa, Tanzania, Uganda, Zambia and any other countries in sub-Sahara Africa designated by the Agency. Donated book shipments for this region must consist of at least 75% new materials and no more than 25% used materials in subject areas requested by each country and that are consistent with Agency guidelines. The books shipped to recipient countries should be in subject areas that stress democratic values, market oriented economics, American civilization with particular emphasis on American history, legal system, government, literature, arts, education, science and technology, foreign policy, TEFL and English teaching. The books will be distributed to needy students and teachers in secondary schools, universities, research centers and institutes. The award recipient, prior to the shipment of any books, must identify a local consignee/distributor in each recipient country who will be responsible for handling in-country logistics, processing and distribution. To ensure that books selected for shipment comply with requests of each recipient country, the award recipient must send annotated book lists in advance, including number of titles available in different instructional levels, to the overseas recipient institution(s) for selection and approval. The award recipient must also notify USIA (E/CBP) when shipment is made to the recipient country, providing all pertinent shipping information, i.e. ETD, shipping line, vessel, size of shipment, consignee, ETA, etc.

Middle East

One or more assistance awards, totaling approximately $6,000 for this region, will be made to a non profit organization(s) to help defray costs for distributing appropriate donated books to Sudan. Donated book shipments for this region must consist of at least 75% new materials and no more than 25% used materials in subject areas requested by each recipient country and that are consistent with Agency guidelines. The books shipped to recipient countries should be in subject areas that stress democratic values, market oriented economics, literature, arts, education, TEFL and English teaching. The books will be distributed to needy students and teachers in secondary schools, universities, research centers and institutes. Prior to the shipment of any books, the award recipient must identify a consignee who will be responsible for handling in-country processing and distribution. To ensure that books selected for shipment comply with requests of each recipient country, the awards recipient must send annotated book lists in advance, including number of titles available in different instructional levels, to the overseas recipient institution(s) for selection and approval. The award recipient must also notify USIA (E/CBP) when shipment is made to the recipient country, providing all pertinent shipping information, i.e., ETD, shipping line, vessel, size of shipment, consignee, ETA, etc.

East Asia

One or more assistance awards, totaling approximately $12,000 for this region, will be made to help defray costs for distributing appropriate donated books to the Philippines. Donated book shipments for this region must consist of at least 75% new materials and no more than 25% used materials in subject areas requested by the recipient country and that are consistent with Agency guidelines. The books shipped to recipient countries should be in subject areas that stress democratic values, market oriented economics, American civilization with particular emphasis on American history, legal system, government, literature, arts, education, science and technology, foreign policy, TEFL and English teaching. The books will be distributed to needy students and teachers in secondary schools, universities, research centers and institutes. Prior to the shipment of any books, the award recipient must identify a consignee who will be responsible for handling in-country processing and distribution. To ensure that books selected for shipment comply with requests of each recipient country, the award recipient must send annotated book lists in advance, including number of titles available in different instructional levels, to the overseas recipient institution(s) for selection and approval. The award recipient must also notify USIA (E/CBP) when shipment is made to the recipient country, providing all pertinent shipping information, i.e. ETD, shipping line, vessel, size of shipment, consignee, ETA, etc.

Eastern Europe and the Baltic Region

One or more assistance awards, totaling approximately $200,000 for this region, will be made to help defray costs for distributing appropriate donated books to Croatia, Macedonia, Slovenia, Poland, Hungary, Czech Republic, Slovak Republic, Romania, Bulgaria, Albania, Estonia, Latvia and Lithuania. Donated books in subject areas requested by each country must be distributed with funds from this award. Book shipments for this region must consist of at least 75% new material and no more than 25% used materials. The books shipped to recipient countries should be in subject areas than stress democratic values, market oriented economics, American civilization with particular emphasis on American history, legal system, government, literature, arts, education, foreign policy, TEFL, English teaching, and current science and technology (Note: Shipments containing current science and technology titles may not exeed 25% of the total number of books shipped to any one country). The books will be distributed to needy students and teachers in secondary schools, universities, research centers and institutes. Prior to the shipment of any books, the award recipient must identify a local consignee/distributor who will be responsible for handling in-country logistics, processing and distribution. To ensure that books selected for shipment comply with requests of each recipient country, the award recipient must send annotated book lists in advance, including number of titles available in different instructional levels, to the overseas recipient institution(s) for selection and approval. The award recipient must also notify

USIA (E/CBP) when shipment is made to the recipient country, providing all pertinent shipping information, i.e. ETD, shipping line, vessel, size of shipment, consignee, ETA, etc.

The NIS Countries

One or more assistance awards, totaling approximately $100,000 for this region, will be made to help defray costs for distributing appropriate donated books to Russia, Ukraine, Belarus, Kazakhstan, Kyrgyzstan and Uzbekistan. Donated books in subject areas requested by each country must be distributed with funds from this award. Book shipments for this region must consist of at least 75% new material and no more than 25% used materials. The books shipped to recipient countries should be in subject area that stress democratic values, market oriented economics, American civilization with particular emphasis on American history, legal system, government, literature, arts, education, foreign policy, TEFL, English teaching, and current science and technology (Note: Shipments containing current science and technology titles may not exceed 25% of the total number of books shipped to any one country). The books will be distributed to needy students and teachers in secondary schools, universities, research centers and institutes. Prior to the shipment of any books, the award recipient must identify a local consignee/distributor who will be responsible for handling in-country logistics, processing and distribution. To ensure that books selected for shipment comply with requests of each recipient country, the award recipient must send annotated book lists in advance, including number of titles available in different instructional levels, to the overseas recipient institution(s) for selection and approval. The award recipient must also notify USIA (E/CBP) when shipment is made to the recipient country, providing all pertinent shipping information, i.e. ETD, shipping line, vessel, size of shipment, consignee, ETA, etc.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the appropriate geographic area office and the budget and contracts offices. Proposals may also be reviewed by the Agency's Office of the General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

In addition to general E Bureau review criteria, technically eligible applications will be competitively reviewed according to the following criteria:

1. Procurement

—Applicant's ability to procure and ship the types of books in the instructional levels that are compatible with Agency guidelines and the needs of recipient countries.

2. Distribution

—Applicant's previous experience or demonstrated potential in conducting a quality controlled and high impact program in the selected region.

—The reliability/feasibility of the distribution network planned through individual contacts, public and private institutions, or through joint planning and coordination with USIS posts in the potential recipient countries/region.

—Applicant's ability to demonstrate that arrangements have been made in advance to handle all transportation, warehousing, process and book distribution costs in the recipient country(s).

—The percentage of cost-sharing (in-kind contribution or currency equivalent) applicant will contribute to the program. Administrative vs program costs ratio.

—Applicant's ability to implement a workable reporting system to ensure that book transaction data is routinely transmitted to recipient country and Agency (e.g. aggregate number of books, annotated lists of titles and/or packing lists, name of author, volume or edition, place of publication, publisher, date, shipping information, etc.) prior to the shipment of books.

3. Program Evaluation

—Applicant's plans for evaluating the effective administration of the program both in the U.S. and overseas. Applicant's ability to measure quality control and program impact in the recipient countries.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about July 31, 1993. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: March 11, 1993.

Barry Fulton,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 93-6158 Filed 3-17-93; 8:45 am]

BILLING CODE 8230-01-M

Public and Private Non-Profit Organizations in Support of International Educational and Cultural Activities

AGENCY: United States Information Agency.

ACTION: Request for proposals.

SUMMARY: The Office of Citizen Exchanges (E/P) of the Bureau of Educational and Cultural Affairs of the United States Information Agency (USIA) announces a request for proposals from not-for-profit organizations to conduct two initiative grant exchange programs designed to encourage increased private sector commitment to and involvement in international exchanges between the U.S. and the American Republics. All international participants will be nominated by USIA personnel overseas. Interested applicants are urged to read the complete **Federal Register** announcement before addressing inquires to the Office or submitting their proposals.

Announcement Number: The announcement number is E/P-93-9. Please refer to this number in all correspondence and telephone calls to Agency.

DATES: Deadline for Proposals: All copies must be received at the U.S. Information Agency by 4 p.m. Washington, DC, time on Friday, April 30, 1993. Faxed documents will not be accepted, nor will documents postmarked April 30, 1993 but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadlines.

ADDRESSES: The original and 14 copies of the completed application, including

required forms, should be submitted by the deadline to: U.S. Information Agency, REF: Citizen Exchange: Initiative Grant Competition FY–93–9, Office of Grants Management (E/XE), room 336, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions should contact the Office of Citizen Exchanges (E/P), room 224, USIA, Washington, DC 20547, telephone: (202) 619–5326, to request detailed application packets which include award criteria additional to this announcement, all necessary forms, and guidelines for preparing proposals, including specific budget preparation guidance. Please specify the name of USIA Program Officer Ben Cromer on all inquires and correspondence.

SUPPLEMENTARY INFORMATION: Pursuant to the Bureau's authorizing legislation, "programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life."

Democracy vs. Corruption: A USIA/AID Project for Latin American Opinion Leaders

The Office of Citizen Exchanges (E/P) of the United States Information Agency proposes the development of a two-way exchange program to support and motivate anti-corruption efforts in Latin America. This program will include case studies from around the world to help key Latin American opinion leaders in the fight against official corruption, leading to future cooperation and continued exchange of experiences among participants in the U.S. and Latin America. This exchange will consist of two components: A symposium to be held in South America with a follow-on trip to the United States.

The symposium will take place in Quito, Ecuador, in September or October, 1993. The participants will include three opinion leaders from each Spanish-speaking country in Latin America, in addition to Brazil. The group will be comprised of one media leader; one government leader; and one leader from a civic, professional, or other organization. There will be three official participants from the host country, Ecuador. Moreover, up to 30 additional local participants will be invited to attend as observers and will take part in small group discussions.

Political Party Strengthening in El Salvador

The Office of Citizen Exchanges (E/P) of the United States Information Agency proposes the development of a two-way exchange program to aid democracy building in El Salvador. This exchange will begin with a ten-day U.S. seminar/study tour for approximately 15 leaders of Salvadoran political parties to observe and discuss political party building in a democratic society. The program should address the workings of political parties at all levels, particularly the state and local level which is most relevant to the situation in El Salvador. The primary focus should be on practical techniques for conducting credible political campaigns.

Pantanal/Everglades Exchange Program

The Office of Citizen Exchanges (E/P) of the United States Information Agency proposes the development of a two-way exchange program designed to expand opportunities for American and Brazilian environmental specialists to study the similarities and differences between the Brazilian Pantanal, the world's largest wetland, and the Florida Everglades. Emphasizing cooperation between the U.S. and Brazil, this exchange will stress the importance of wetlands to the ecosystem and discuss effective water and wildlife management of wetlands. The program will encompass one or more consultation and research visits to both countries by American and Brazilian wetlands specialists.

This project will be executed by a U.S. not-for-profit institution which, through its proposal, illustrates extensive experience and success in coordinating international exchange programs for senior-level foreign visitors. Institutions which have substantive working relationships with potential cosponsoring Brazilian institutions are strongly encouraged to apply.

Funding

Competition for USIA funding is keen. The selection of grantee institutions will depend on program substance, cross-cultural sensitivity, the applicant's familiarity with environmental themes and ability to carry out the program successfully. Since USIA grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of financial and in-kind support.

A proposal's cost-effectiveness is a major consideration in the review process.

Funds requested from USIA cannot exceed $175,000 for support of the Democracy vs. Corruption Project and the Pantanal/Everglades Exchange Program; and $110,000 for support of the Political Party Strengthening Project. However, organizations with less than four years of successful experience in managing international exchange programs are limited to grants of $60,000.

Application Requirements

Proposals must be structured in accordance with the instructions contained in the application package.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. Proposals are reviewed by USIS posts and by USIA's Office of American Republics and the Office of Contracts. Proposals may also be reviewed by the Agency's Office of the General Counsel.

Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer. The award of any grant is subject to the availability of funds.

The Government reserves the right to reject any or all applications received. USIA will not pay for design and development costs associated with submitting a proposal. Applications are submitted at the risk of the applicant; should circumstances prevent award of a grant, all preparation and submission costs are at the applicant's expense.

USIA will not award funds for activities conducted prior to the actual grant award.

Review Criteria

USIA will consider proposals based on the following criteria:

1. Quality of Program Idea

Proposals should exhibit originality, substance, rigor, and relevance to Agency mission. They should demonstrate the matching of U.S. resources to a clearly defined need.

2. Institution Reputation/Ability Evaluations

Institutional grant recipients should demonstrate potential for program excellence and/or track record of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts (M/KG). Relevant evaluation

results of previous projects are part of this assessment.

3. Project Personnel

Personnel's thematic and logistical expertise should be relevant to the proposed program. Resumes should be relevant to the specific proposal and no longer than two pages each.

4. Program Planning

Detailed agenda and relevant work plan should demonstrate substance and logistical capacity.

5. Thematic Expertise

Proposal should demonstrate expertise in the subject area.

6. Cross-Cultural Sensitivity/Area Expertise

Evidence of sensitivity to historical, linguistic, and other cross-cultural factors; relevant knowledge of geographic area.

7. Ability to Achieve Program Objectives

Objectives should be reasonable, feasible, and flexible. Proposal should clearly demonstrate how the grantee institution will meet the program's objectives.

8. Multiplier Effect

Proposed programs should strengthen long-term mutual understanding, to include maximum sharing of information and establishment of long-term institutional and individual ties.

9. Cost-Effectiveness

Costs to USIA per exchange participant (American and foreign) should be kept to a minimum, and all items proposed for USIA funding should be necessary and appropriate to achieve the program's objectives.

10. Cost-Sharing

Proposals should maximize cost-sharing through other private sector support as well as institution direct funding contributions.

11. Follow-on Activities

Proposals should provide a plan for continued exchange activity (without USIA support) which ensures that USIA supported programs are not isolated events.

12. Project Evaluation

Proposals should include a plan to evaluate the activity's success.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about July 19, 1993. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: March 12, 1993.

Barry Fulton,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 93–6264 Filed 3–17–93; 8:45 am]

BILLING CODE 8230–01–M

Exchange Program Promoting Public Education on the Rule of Law for African Audiences; Public and Private Non-Profit Organizations in Support of International Educational and Cultural Activities

ACTION: Request for proposals.

SUMMARY: The Office of Citizen Exchanges (E/P) of the Bureau of Educational and Cultural Affairs announces a competitive grants program for non-profit organizations to develop a multi-phased exchange program for jurists, educators, journalists and civic group leaders from Kenya, Malawi, Tanzania and Uganda who are concerned with educating their publics on the rule of law. The program will be conducted in English.

Interested applicants are urged to read the complete **Federal Register** announcement before addressing inquiries to the Office or submitting their proposals. After the RFP deadline, the Office of Citizen Exchanges may not discuss this competition in any way with applicants until the final decisions are made.

ANNOUNCEMENT NUMBER: This Announcement number is E/P–93–15. Please refer to the title given above and this number in all correspondence or telephone calls to USIA.

DATES: Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington DC time on Friday, May 21, 1993. Faxed documents will not be accepted, nor will documents postmarked May 21, 1993 but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by this deadline. Grant activity should begin after August 1, 1993.

ADDRESSES: The original and 14 copies of the completed application and required forms should be submitted by the deadline to: U.S. Information Agency, Ref: E/P–93–15, Office of Grants Management (E/XE), 301 Fourth Street, SW., room # 336, Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions should contact the Office of Citizen Exchanges (E/P), room 224, USIA, 301 Fourth Street SW., Washington DC 20547, fax (202) 619–4350, to request detailed Application Packages which include all necessary forms and guidelines for RFP proposals, including specific budget preparation. Please specify the name of USIA Program Specialist Charlotte Peterson on all inquiries and correspondence.

Background/Objectives of This Program

Decades of one-party rule in much of Africa have undermined the credibility of legal systems, which have afforded ordinary citizens little or no protection against arbitrary interference by the government. Successful transition to multi-party democratic government will require more than simply holding elections and drafting a Constitution. The only true guarantee of citizen rights is a political culture characterized by respect for the law, in which the rules of the game are observed by all.

In the target countries, large numbers of citizens lack even rudimentary knowledge of their rights and obligations under the law, much less the confidence that the law can and will protect their rights. This is especially true of rural populations, many of whom are poor and uneducated.

Project proposals should focus on the primacy of the rule of law in democratic societies. In particular, considerable attention should be given to various ways of informing citizens of their basic rights and freedoms under law, and how those rights can be vindicated. Citizen responsibilities under the rule of law should also be addressed.

The project should involve professionals from a range of disciplines within the target countries who are in positions to educate the public about the law, including judges, lawyers, human rights activists, educators, journalists and leaders of civic organizations.

By opening a dialogue between Africans and Americans with similar professional concerns, there will be a sharing component to the program which should provide Africans with

models and examples to use in their home countries to improve citizen respect for, and confidence in, the law.

Thematically, the project should:

—Introduce overseas participants to the U.S. Constitution and legal system, concentrating in particular on human rights, the independence of the judiciary and the right to legal redress;

—Discuss and analyze the cultural underpinnings of American democratic values and respect for the law, and assess ways in which they differ or are similar to, aspects of the cultures of the target countries;

—Emphasize the multiplicity of institutions and groups which contribute to educating the American public on democratic values, the rule of law and respect for the law;

—Allow for direct observation of various models of U.S. education on the rule of law, and the rights of citizens under the law. Models could include elementary and secondary school civics education, judicial and bar association outreach programs, projects undertaken by non-governmental human rights groups and voluntary citizens' groups, and media contributions;

—Provide opportunities for African participants to discuss, among themselves and with U.S. counterparts, how U.S. approaches to informing citizens on the rule of law might be applicable in their home countries;

—Facilitate cross-disciplinary and cross-national networking among African participants to help coalesce various constituencies wishing to promote public education on the rule of law.

USIA is interested in supporting programs which will lay the groundwork for new and continuing links between American and African professional organizations and non-governmental organizations and encourage the further growth and development of democratic institutions. Proposals which are overly ambitious and those which are very general will not be competitive. Therefore, institutions should provide strong evidence of their ability to accomplish a few tasks exceptionally well. Other structural or procedural objectives recommended include:

—An initial needs assessment visit of two or more weeks duration by American specialists to the target countries, during which some or all of the participants for the U.S. phase, as well as programmatic needs for that phase, could be identified through consultations with United States Information Service offices in the region;

—A study tour in the United States of at least three weeks duration, with a mini-internship/attachment component, for a group of approximately 12 jurists, human rights and civic group leaders, educators and journalists with a shared desire for improving public knowledge of the rule of law and public confidence in the legal system;

—An intensive regional workshop in one of the target countries (at least one week in duration) to explore various channels and models for public education on the rule of law and assist African professionals in establishing multi-faceted programs of public education;

—Exploring the possibility of followup programs beyond the scope of this grant which might include U.S. internships and extended learning programs of six weeks' to three months' duration for a small number of African participants in the regional workshop (with the understanding that no USIA funding is guaranteed).

—Development of institutional links in the private or independent sectors which continue beyond the duration of USIA funding support, preferably with funding commitments;

—Coordination, in the design of these programs, with U.S. Information Service offices overseas, and with foreign government officials and private sector leaders with direct knowledge and experience in public education on the rule of law;

—The development and distribution of written, audio, and video instructional materials to complement and enhance the program.

Participants

The grantee should provide the names of American participants and brief, relevant biographical data. American participants should be selected on the basis of their experience and expertise in advocating the rule of law and promoting citizen awareness of their rights and responsibilities under the law, as well as respect for the legal system. Experience in communicating to foreign audiences and general knowledge of the current status of the developing legal systems in these countries is highly desirable.

All participants from Kenya, Malawi, Tanzania and Uganda will be proficient speakers of English nominated by the USIS offices in participating countries, although recommendations from the grantee institution are welcome. The USIS offices will facilitate the issuance of visas and other program-related materials.

Programmatic Considerations

Pursuant to the legislation authorizing the Bureau of Educational and Cultural Affairs, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life.

USIA will give priority to proposals from U.S. organizations with relevant institutional contacts in Kenya, Malawi, Tanzania and Uganda. Partner institutions are encouraged to provide cost-sharing or significant in-kind contributions such as local housing and transportation, interpreting, translating and other local currency costs. These institutions are also encouraged to assist with the organization of various program activities.

The grantee will be responsible for most arrangements associated with this program. These include selecting speakers, themes, and topics for discussion; organizing a coherent progression of activities; providing international and domestic travel arrangements for all foreign participants and U.S. domestic travel for escort-interpreters; making lodging and local transportation arrangements for visitors; orienting and debriefing participants; preparing any necessary support materials; and working with host institutions and individuals to achieve maximum program effectiveness.

At the start of the U.S. portion of the program, the grantee should conduct an orientation session for the visiting delegation which addresses substantive details of the program as well as geographic, historical, and cross-cultural factors which they should consider to enhance program success.

Recommendations for Program Structure and Focus

An initial needs assessment trip to the target countries by U.S. consultants could involve meetings with counterpart organizations or professionals per recommendations of USIS posts, which would help the grantee in designing seminars and tours for U.S. visits during the second phase of the program. The second phase could then be geared specifically toward the current level of citizen awareness of the law and the legal system, and would thus be better tailored to the needs of the African participants.

To prepare foreign participants for their U.S. study tour, E/P encourages the grantee to develop a set of materials that would be sent to USIS offices overseas for distribution to selected participants

well in advance of their departure for the U.S. These briefing materials might include a tentative project outline with clearly defined goals and objectives; relevent background information on democracy in the U.S. and the importance of rule of law as a basis for that democracy; a list of U.S. participants and lecturers, including the activities in which they are involved which are relevant to the objective of the program; a copy of the U.S. Constitution and amendments thereto which might be used as a reference for some of the seminars; a discussion of the centrality of the media as it acts to influence the views and actions of American citizens.

The second phase would be a U.S. study tour for an interdisciplinary group of professionals from the four target countries. Following a general orientation, participants could visit two or three cities in different regions of the U.S. to meet with counterparts dealing with public education on legal rights. Visits could be arranged to such organizations as bar associations; civil rights organizations; domestic or international human rights organizations, including their public affairs offices; elementary or secondary school civics classes; school board meetings which include consideration of curricula; and publications/periodicals devoted in whole or in part to explaining the law to law people.

In order to give foreign participants a firsthand experience of public education on the law in the U.S. context, USIA strongly recommends an internship or job shadowing component for approximately one week of the U.S. visit. It would be valuable to match each foreign participant with an American counterpart from a similar professional field. An educator might be paired with a civics teacher or a state department of education official responsible for civics curricula; and a journalist might be placed with a U.S. journalist who specializes in coverage of legal or constitutional issues, or with a press spokesperson of an appropriate NGO.

During the U.S. phase, one or more sessions should be devoted to planning for workshops in Africa.

The third and final phase of the program would take place in Africa. Collaborating with some or all of the African participants in the U.S. phase of the program, grantee would invite an expanded group of professionals to attend a workshop in a central location (possibly Arusha, Tanzania). Grantee and African collaborators would develop a program based on topics identified in the U.S. phase. U.S. consultants assisted by returnees from the U.S. phase of the program would lead workshop sessions.

The workshop should be highly interactive in nature. The schedule could emphasize panels and roundtable discussions and a combination of plenary sessions (to discuss existing programs and elicit general ideas on new approaches) and working groups on professional and national lines (to discuss concrete approaches and prepare action plans).

Upon conclusion of the program the grantee will be required to submit a report to E/P summarizing results of the entire program. Also, at this time the grantee and collaborating organizations abroad should define possible follow-on programs for further development of methods and practices for public information and education on the rule of law, thereby fulfilling E/P's desire to fund programs with a multiplier effect. Discussions and plans could focus on possible internships for members of African civic organizations, citizen advocacy groups, or legal professionals, for example, in the United States.

Scope

Proposals should be developed for audiences from all four target countries and may also be designed to selected sub-audiences identified by their thematic expertise or degree of public contact and information about the place of the citizen in the democratic legal system.

Other Logistical Considerations

Program monitoring and oversight will be provided by appropriate USIA elements. Per Diem support from host institutions during an internship component is strongly encouraged. However, for all programs which include internships, a non-profit grantee institution which receives funds from corporate or other cosponsors should then use those monies to provide food, lodging, and pocket money for the participants. In no case could the intern receive a wage or "be hired" by the sponsoring institution. Internships should also have an American studies/values orientation component at the beginning of the exchange program in the U.S. Grantee institutions should try to maximize cost-sharing in all facets of their program design, and to stimulate U.S. private sector (foundation and corporate) support. Please note: U.S. government funds may not be used for entertainment.

Additional Guidelines and Restrictions

Bureau grants are not given to support projects whose focus is limited to technical issues, or for research projects, or for developing publications for dissemination in the United States, for individual student exchanges, for film festivals or exhibits. Neither does the Office of Citizen Exchanges provide scholarships or support for long-term (a semester or more) academic studies. Competitions sponsored by other Bureau offices are also announced in the **Federal Register** and may have different application requirements as well as different objectives.

Funding

Competition for USIA funding support is keen. The final selection of a grantee institution will depend on assessment of proposals according to the review criteria delineated below.

USIA will consider funding up to $200,000 for this program. Any proposal whose request to USIA exceeds this limit will be considered technically ineligible. **Note:** Organizations with less than four years of successful experience in managing international exchange programs are limited to $60,000.

USIA will consider funding the following project costs:

1. International and domestic air fares; visas; transit costs (e.g., airport taxes); ground transportation costs.

2. Per diem: For the U.S. program, organizations have the option of using a flat $140/day for international participants or the published Federal Travel Regulations per diem rates for individual American cities. **Note:** Accompanying staff must use the published federal per diem rates, not the flat rate. For activities in the Middle East and South Asia, the Standard Government Travel Regulations per diem rates must be used.

3. Book and cultural allowance: Participants are entitled to a one-time book allowance of $50 plus a cultural allowance of $150/person. Escort interpreters are reimbursed for actual expenses incurred while accompanying participants to cultural events.

4. Consultants: May be used to provide specialized expertise or to make presentations. Honoraria should not exceed $250 per day. Subcontract organizations may also be used, in which case the written contract(s) must be included in the proposal.

5. Room rental, which generally should not exceed $250 per day.

6. Materials development: Proposals may contain costs to purchase, develop and translate materials for participants.

7. One working meal per project: Per capita cost may not exceed $15–20 per lunch and $20–30 per dinner. Invited guests may not exceed participants by two to one.

8. A return travel allowance: $70 for each participant which is to be used for incidental expenditures incurred during international travel.

9. Other costs necessary for the effective administration of the program, including salaries for grant organization employees, benefits, and other direct and indirect costs per detailed instructions in application package. Note: the 22% limitation of "administrative costs" included in previous announcements does not apply to this RFP.

Please note: All delegates will be covered under the terms of a USIA-sponsored health insurance policy. The premium is paid by USIA directly to the insurance company.

Application Requirements

Proposals must be structured in accordance with the instructions contained in the Application Package. Confirmation letters from U.S. and foreign co-sponsors noting their intention to participate in the program will enhance a proposal.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the Application Package.

Eligible proposals will be forwarded to panels of USIA officers for advisory review. Proposals will be reviewed by USIS posts and by USIA's Office of African Affairs. Proposals may also be reviewed by the Office of General Counsel or other Agency offices. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer. The award of any grant is subject to availability of funds.

The U.S. Government reserves the right to reject any or all applications received. USIA will not pay for design and development costs associated with submitting a proposal. Applications are submitted at the risk of the applicant; should circumstances prevent award of a grant, all preparation and submission costs are at the applicant's expense. USIA will not award funds for activities conducted prior to the actual grant award.

Review Criteria

USIA will consider proposals based on the following criteria:

1. Quality of Program Idea

Proposals should exhibit originality, substance, rigor, and relevance to the Agency mission. They should demonstrate the matching of U.S. resources to a clearly defined need.

2. Institutional Reputation and Ability

Applicant institutions should demonstrate their potential for excellence in program design and implementation and/or provide documentation of successful programs. If an applicant is a previous USIA grant recipient, responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts will be considered. Relevant substantive evaluations of previous projects may also be considered in this assessment.

3. Project Personnel

The thematic and logistical expertise of project personnel should be relevant to the proposed program. Resumes or C.V.s should be summaries which are relevant to the specific proposal and no longer than two pages each.

4. Program Planning

A detailed agenda and relevant work plan should demonstrate substantive rigor and logistical capacity.

5. Thematic Expertise

Proposal should demonstrate the organization's expertise in the subject area which promises an effective sharing of information.

6. Cross-Cultural Sensitivity and Area Expertise

Evidence should be provided of sensitivity to historical, linguistic, religious, and other cross-cultural factors, as well as relevant knowledge of the target geographic area/country.

7. Ability to Achieve Program Objectives

Objectives should be realistic and feasible. The proposal should clearly demonstrate how the grantee institution will meet program objectives.

8. Multiplier Effect

Proposed programs should strengthen long-term mutual understanding and contribute to maximum sharing of information and establishment of long-term institutional and individual ties.

9. Cost-Effectiveness

Costs to USIA per exchange participant (American and foreign) should be kept to a minimum, and all items proposed for USIA funding should be necessary and appropriate to achieve the program's objectives.

10. Cost-Sharing

Proposals should maximize cost-sharing through other private sector support as well as direct funding contributions and/or in-kind support from the prospective grantee institution and its partners.

11. Follow-on Activities

Proposals should provide a plan for continued exchange activity (without USIA support) which ensures that USIA-supported programs are not isolated events.

12. Project Evaluation

Proposals should include a plan to evaluate the activity's success. USIA recommends that the proposal include a draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives. Grantees will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency which contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the U.S. Government. Awards cannot be made until funds have been fully appropriated by Congress and allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about July 26, 1993. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: March 12, 1993.

Barry Fulton,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 93–6265 Filed 3–17–93; 8:45 am]

BILLING CODE 8230–01–M

Local and Regional Self-Government Training Programs in Russia, Ukraine and Kyrgyzstan

AGENCY: United States Information Agency.

ACTION: Request for proposals.

SUMMARY: The Office of Citizen Exchanges (E/P) of the Bureau of

Educational and Cultural Affairs of the United States Information Agency (USIA) announces a request for proposals from not-for-profit organizations to conduct Local and Regional Self-Government Training programs in Russia, Ukraine and Kyrgyzstan. Interested applicants are urged to read the complete **Federal Register** announcement before addressing inquiries to the Office or submitting their proposals.

ANNOUNCEMENT NUMBER: The announcement number is E/P–93–16. Please refer to this number in all correspondence and telephone calls to Agency.

DATES: Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on April 30, 1993. Faxed documents will not be accepted, nor will documents postmarked April 30, 1993, but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline. Grant activity should begin after September 1, 1993.

ADDRESSES: The original and 14 copies of the completed application, including required forms, should be submitted by the deadline to: U.S. Information Agency, REF: Citizen Exchange: Local and Regional Self-Government Training Competition E/P–93–16, Office of Grants Management (E/XE), room 336, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions should contact Molly Raymond, Division Chief for Russia/Eurasia, Office of Citizen Exchanges (E/PN), room 216, USIA, Washington, DC, 20547, telephone: (202) 619–5326. To obtain detailed application packets which include award criteria additional to this announcement, all necessary forms, and guidelines for preparing proposals, including specific budget preparation guidance, please mail your request to the Program Officer or fax your request to (202) 619–4350.

SUPPLEMENTARY INFORMATION: Pursuant to the Bureau's authorizing legislation, "programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life."

Local and Regional Self-Government Training Programs for Russia, Ukraine and Kyrgyzstan

This announcement requests proposals for two types of training programs to strengthen local and regional self-government in Russia, Ukraine and Kyrgyzstan. The two types of programs are described below.

Program One: For Russia, Ukraine and Kyrgyzstan

USIA is interested in proposals that provide a practical experience in the United States for citizens of these three countries. The purpose of the exchange is to examine relationships between executive and legislative branches of government and relationships between federal, regional, and local levels of government. Planning trips by American organizers to coordinate with in-country institutional partners and to conduct short-term seminars (not to exceed ten days with a principal purpose of selecting participants) will be eligible for funding.

Geographic Focus

USIA's exchange priorities are for the following regions or cities:

Russia—Priority will be given to projects with Yekaterinburg, Chelyabinsk, Volga River cities, Tuymen Province, Karelia, and the Russian Far East. USIA will not fund projects that take place in Moscow. Russian institutional partners must be located in the particular cities/regions of the project; USIA will not fund projects that use Moscow-based institutions as organizational partners.

Ukraine—Kiev, Lviv, Kharkiv, Donetsk, and Odessa.

Kyrgyzstan—Bishkek and Osh.

Program Content

Participants in each project should be from the same country and ideally from the same region or city. Applicants may submit proposals with multiple projects, but each country project should be designed as a "stand-alone," with its own budget and time line, following the guidelines of this announcement and technical package. The Agency will exercise its option of funding none, one, or more than one project in multiple project submissions.

Topics for the training programs might include: Role of executive and legislative branches in formulating budgets; revenue sharing; regulatory functions of regional, state and local officials; role of government authorities at various levels in promoting business and industry as well as regulating it.

Each project may include a mix of activities for the participants: Internships in local or regional government offices; study tours; and short-term, non-technical training. The emphasis should be on practical observation of how local and regional governments operate in the United States. U.S. programs should be at least four weeks in duration. USIA is not interested in programs that are largely academic in nature (classroom lectures, structured course work, participation in existing academic courses) and confined to an American university setting.

USIA recognizes that on-the-job internships require a level of English language fluency that many of the most promising participants may not have. USIA will give priority to proposals that demonstrate creativity in their program design by "clustering" participants in small groups for intensive observation programs in one or more sites, traveling seminars using accompanying American experts to provide context, or other program models designed to overcome the language barrier while at the same time offering the participants as close to a practical exchange experience as possible. For projects with non-English speakers, USIA will supply interpreters from the State Department's Division of Language Services.

Scale of Projects Funded Under Program One

Project proposals for less than $225,000 will receive preference.

Program Two: Internship Program in Local and Regional Government for Russia and Ukraine

USIA is interested in proposals from American institutions to administer a special internship program in local and regional government in the United States for Russians from the Volga Valley region, Yekaterinburg, Khabarovsk, and Vladivostok, and for Ukrainians from Kiev and Kharkiv. The selection processes for the Russian and Ukrainian internship programs are different and are described separately below.

Participants are local and regional government officials, both elected and appointed, from the areas listed above. According to guidelines in the Freedom Support Act, grantee organizations should aim for forty percent (40%) of the slots going to women. In general, they will be young up-and-coming mid-career officials who will be able to translate their practical experiences in the U.S. to their situations at home. Russian and Ukrainian participants will be required to have a working knowledge of English.

Russia: Selection Process

The "first cut" at identifying Russian participants for U.S. internships will be done by the U.S. Embassy in Moscow and by American government specialists on long-term assignments for USIA. These specialists will work in

cooperation with local Peace Corps volunteers in the Volga Valley region and in Khabarovsk and Vladivostok. Once a preliminary pool of Russian candidates has been identified, the grantee institution will be expected to send representatives to these regions, to confer with the American specialists, interview candidates to evaluate suitability, language skills, and expectations of candidates. USIA will be evaluating institutional applicants' ability to work in partnership with the American local government experts assigned to these regions.

Ukraine: Selection Process

The grantee institution will be expected to conduct the entire selection process from development of selection criteria, the application procedure, and review process. The grantee institution will also be responsible for all logistics involved in arranging travel of participants to the United States.

The U.S. Internship Program

The program is envisioned as a long-term (3 to 6 month) practical training program in the United States. For three-month programs, internship placements may take place in up to two sites; for programs of four months or longer, up to three placements are acceptable.

The American grantee institution will be expected to match the interests of the potential participant with appropriate host institutions. In most cases, these should be state and local government offices.

USIA encourages applicants to design internship placements that "cluster" groups of interns in one U.S. locale. Applicants may wish to look to sister city pairings or otherwise choose U.S. sites that are particularly relevant for the Russian and Ukrainian cities involved.

Scale of the Program

For the Russian internship program, USIA expects to award one or two grants not exceeding a total of $450,000. for Ukraine, USIA will award approximately $275,000 for the internship program. Organizations should consider the following rough per capita cost guidelines when developing a budget for a proposal.

—Housing and per diem: Approximately $3,000/mo. per intern. Proposals that use homestays or otherwise reduce this per capita cost figure will receive favorable consideration.
—Travel—international and domestic (US and NIS): $2,700.
—Book and cultural allowances: $350.

Funding

Competition for USIA funding is keen. USIA will judge proposals for the Training Program and for the Internship Program on program substance, cross-cultural sensitivity, and ability to organize and carry out the myriad of operational tasks required to make exchange programs successful. Since USIA grant assistance constitutes only a portion of total project funding, proposals should provide concrete evidence of other sources of financial and in-kind support.

A proposal's cost-effectiveness is a major consideration in the review process.

Organizations with less than four years of successful experience in managing international exchange programs are limited to grants of $60,000.

The following program and administrative items are eligible for consideration for funding:

1. International and domestic air fares; transit costs; ground transportation costs.

2. Per diem. Organizations should use the published federal per diem rates for individual American cities for foreign participants and accompanying staff.

3. Escort-Interpreters. Interpretation in the United States is provided by the State Department's Language Services Division. USIA grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain a flat $140/day per diem for each State Department interpreter, as well as home-program-home air transportation of $400 per interpreter and any US travel expenses during the program itself. Salary expenses are covered centrally and are not part of a grantee's budget proposal.

4. Book and Cultural allowances. Participants are entitled to a one-time book allowance payment of approximately $200 and a cultural allowance of $150 per person. Accompanying staff do not get these benefits. Escort interpreters are reimbursed for actual expenses incurred for accompanying participants to cultural events.

5. Consultants. Consultants from outside the grantee organizations may be used to provide specialized expertise or to make presentations. Daily honoraria generally do not exceed $250/day. Subcontracting organizations may also be used. The written agreement between the prospective grantee and subcontractor must be included in the proposal. Principal administrative responsibility should reside with prospective grantee institutions, not subcontractors or consultants.

6. Materials development. Proposals may contain costs to purchase, develop and translate materials for participants.

7. Room rental, generally not to exceed $250/day.

8. One working meal per project. Per capita costs may not exceed $15–20 for a lunch and $20–30 for a dinner. Number of invited guests may not exceed number of participants by more than a factor of two. This includes room rental if applicable.

9. A return travel allowance of $70 for each participant which will be used for incidental expenditures incurred during international travel. All participants will be covered under the terms of a USIA-sponsored health insurance policy. The premium is paid directly by USIA to the insurance company.

10. Other costs necessary for the effective administration of the program, including salaries for grant organization employees, benefits, and other direct and indirect costs per detailed instructions in application package.

Note: The 22% limitation of "administrative costs" included in previous announcements does not apply to this RFP.

Application Requirements

Proposals must be structured in accordance with the instructions contained in the application package.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. Proposals are reviewed by USIS posts and by USIA's Office of European Affairs and the Office of Contracts. Proposals may also be reviewed by the Agency's Office of the General Counsel.

Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

The award of any grant is subject to the availability of funds.

The Government reserves the right to reject any or all applications received. USIA will not pay for design and development costs associated with submitting a proposal. Applications are submitted at the risk of the applicant; should circumstances prevent award of a grant, all preparation and submission costs are at the applicant's expense.

USIA will not award funds for activities conducted prior to the actual grant award.

Review Criteria

USIA will review proposals based on their conformance with the objectives of the RFP and on the following criteria:

1. Quality of Program Idea

Proposals should exhibit originality, substance, rigor, and relevance to the USIA mission. They should demonstrate the match of U.S. resources to a clearly defined need.

2. Institutional Ability/Capacity/Record

Interested institutions should demonstrate their potential for program excellence and/or provide documentation of successful programs. If an organization is a previous USIA recipient, responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by the Office of Contracts (M/KG) will be considered. Relevant program evaluation of previous projects may also be considered in this assessment.

3. Project Personnel

Personnel's thematic and logistical expertise should be relevant to the proposed program. Resumes should be relevant to the specific proposal and no longer than two pages each.

4. Program Planning

Detailed agenda and relevant work plan should demonstrate substance and logistical capacity.

5. Thematic Expertise

Proposal should demonstrate the organization's expertise in the subject area.

6. Cross-Cultural Sensitivity/Area Expertise

Evidence of sensitivity to historical, linguistic, and other cross-cultural factors; relevant knowledge or geographic area.

7. Ability to Achieve Program Objectives

Objectives should be realistic and attainable. Proposal should clearly demonstrate how the grantee institution will meet the program's objectives.

8. Multiplier Effect

Proposed programs should strengthen long-term mutual understanding, to include maximum sharing of information and establishment of long-term institutional and individual ties.

9. Cost-Effectiveness

Cost to USIA per exchange participant (American and foreign) should be kept to a minimum, and all items proposed for USIA funding should be necessary and appropriate to achieve the program's objectives.

10. Cost-Sharing

Proposals should maximize cost-sharing through other private sector support as well as direct funding contributions and/or in-kind support from the prospective grantee institution.

11. Follow-on Activities

Proposals should provide a plan for continued exchange activity (without USIA support) which ensures that USIA-supported programs are not one-time events.

12. Project Evaluation

Proposals should include a plan to evaluate the activity's success.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through individual USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about July 1, 1993. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: March 12, 1993.

Barry Fulton,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 93–6263 Filed 3–17–93; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Cooperative Studies Evaluation Committee; Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) as amended, by section 5(c) of Public Law 94–409 that a meeting of the Cooperative Studies Evaluation Committee will be held at the Holiday Inn Palo Alto, 625 El Camino Real, Palo Alto, CA on April 13 and 14, 1993. The session on April 13 is scheduled to begin at 7:30 a.m. and end at 5:05 p.m. and on April 14 from 7:30 a.m. to 10:15 a.m. The meeting will be for the purpose of reviewing two new clinical trials, one in chronic obstructive pulmonary disease (COPD) and one in β-blocker on congestive heart failure and the progress of three on-going studies in digitalis, in antiarrhythmic therapy and in rheumatic diseases.

The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public up to the seating capacity of the room from 7:30 a.m. to 8 a.m. on both days to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. Ping Huang, Coordinator, Cooperative Studies Evaluation Committee, Department of Veterans Affairs, Washington, DC (202–535–7154), prior to March 31, 1993.

The meeting will be closed from 8 a.m. to 5:05 p.m. on April 13, 1993 and from 8 a.m. to 10:15 a.m. on April 14, 1993, for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Public Law 92–463, as amended by section 5(c) of Public Law 94–409, and 5 U.S.C. 552b(c)(6). During this portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research protocols, and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: March 6, 1993.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 93–6258 Filed 3–17–93; 8:45 am]

BILLING CODE 8320–01–M

Voluntary Service National Advisory Committee; Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that the Executive Committee, Department of Veterans Affairs Voluntary Service (VAVS) National Advisory Committee (NAC) will meet March 22–24, 1993, at the Pier Sixty Six Hotel, 2301 SE 17th Street Causeway, Fort Lauderdale, Florida. This meeting

is scheduled in the Hollow Square meeting room on March 22 and March 23, 1993, from 8 a.m.–5 p.m. and on March 24, 1993, from 8 a.m.–12 p.m.

The VAVS NAC consists of 57 organizations which provide volunteers who assist veterans, primarily in VA health care facilities. The VAVS NAC advises the Under Secretary for Health on how to coordinate and promote volunteer activities within VA health care facilities and voluntarism matters. The Executive Committee consists of 19 representatives from the NAC member organizations and acts as the NAC governing body between the NAC Annual Meetings. Business topics for the Executive Committee meeting include: VAVS progress since the 1992 Annual NAC Meeting; 1993 NAC Annual Meeting planning; 1994 Annual Meeting site review and 1995 site discussion; and, Subcommittee reports.

The Executive Committee meeting is open to the public and individuals interested in attending are encouraged to contact Mr. Ed Rose, Administrative Officer, Voluntary Service (161A), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC, 20420 (202) 535–7405.

Dated: March 1, 1993.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 93–6259 Filed 3–17–93; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 51
Thursday, March 18, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

DEPARTMENT OF AGRICULTURE
RURAL TELEPHONE BANK, USDA

ACTION: Staff Briefing for the Board of Directors.

TIME AND DATE: 3 p.m., Tuesday, March 23, 1993.

PLACE: Room 0305-South Building, Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The staff briefing will consist of matters relating to: (1) the mechanics of privatization, and (2) the status of unadvanced loan funds. In addition, the Board of Directors may discuss matters relating to program legislation and meeting notices.

ACTION: 10th Biennial Stockholder Meeting.

TIME AND DATE: 10 a.m., Wednesday March 24, 1993.

PLACE: Columbia Foyer, Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the stockholder meeting:

1. Call to Order.
2. Establishment of a quorum of stockholders, present in person or by proxy.
3. Approval of Minutes of September 27, 1990, stockholder meeting.
4. Secretary's annual report on loans approved during FY 1992.
5. Treasurer's annual report on FY 1992.
6. Committee report on privatization of the RTB.
7. Committee report on prepayments.
8. New business.
9. Adjournment.

ACTION: Regular Meeting of the Board of Directors.

TIME AND DATE: Immediately after the meeting of the stockholders (approximately 11 a.m.), Wednesday, March 24, 1993.

PLACE: Columbia Foyer, Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the Board of Directors meeting:

1. Call to Order.
2. Approval of Minutes of November 6, 1992, Board meeting.
3. Report on loans approved in the first quarter of FY 1993.
4. Review of first quarter, FY 1993, financial statements.
5. Report on requests for waiver of prepayment premium.
6. Report of ad hoc committee on privatization of the RTB, if necessary.
7. Report of ad hoc committee on prepayments, if necessary.
8. Review composition of newly formed equity account.
9. Consideration of a resolution to amend the methodology for determining allowance for losses.
10. Consideration of raising the TIER requirement for RTB loans.
11. Consideration of draft 21st Annual Report of the Board of Directors, FY 1992.
12. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Matthew P. Link, Assistant Secretary, Rural Telephone Bank (202) 720–0530.

Dated: March 15, 1993.

James B. Huff, Sr.,

Governor, Rural Telephone Bank.

[FR Doc. 93–6378 Filed 3–16–93; 2:24 pm]

BILLING CODE 3410–15–M

UNITED STATES COMMISSION ON CIVIL RIGHTS

DATE AND TIME: March 26, 1993, 9 a.m.

PLACE: U.S. Commission on Civil Rights, 629 Ninth Street, NW, Room 540, Washington, DC 20425.

STATUS: Open to the Public.

March 26, 1993

Commissioner Briefing

Briefing on District of Columbia Voter Representation

Business Meeting Agenda

I. Approval of Agenda
II. Approval of Minutes of February 26, 1993 Meeting
III. Announcements
IV. Appointments to the Delaware Advisory Committee
V. *Campus Tensions in Vermont: Search for Solutions in the Nineties*
VI. Approval of Media Study Proposal
VII. Los Angeles Hearing Resolution
VIII. Staff Director's Report
IX. Future Agenda Items

Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact Betty Edmiston, Administrative Services and Clearinghouse Division (202) 376–8105 (TDD 202–376–8116), at least five (5) working days before the scheduled date of the meeting.

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Emma Monroig,

Solicitor.

[FR Doc. 93–6366 Filed 3–16–93; 11:38 am]

BILLING CODE 6335–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Thursday, March 25, 1993, 2 p.m. (Eastern Time).

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 "L" Street, NW., Washington, DC 20507.

STATUS: Part of the Meeting will be open to the public and part of the Meeting will be closed.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Vote(s)
2. Report on Commission Operations
3. Interim Procedural Regulations Implementing Sections 320 & 321 of The Civil Rights Act of 1991.

Closed Session

1. Litigation Authorization: General Counsel Recommendations

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 663–7100 (voice) and (202) 663–4494 (TTD) at any time for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–7100.

Dated: March 16, 1993.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 93–404 Filed 3–16–93; 2:05 pm]

BILLING CODE 6750–06–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on

Tuesday, March 23, 1993, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Discussion Agenda

Memorandum and resolution re: Statement of Policy regarding treatment of security interest after appointment of the Corporation as conservator or receiver of Federally-insured depository institutions.

Memorandum and resolution re: Amendment to the Bank Insurance Fund Recapitalization Schedule; Impact of current economic condition on the adequacy of assessment rates.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 — 17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 898–6745 (Voice); (202) 898–3509 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: March 16, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–6421 Filed 3–16–93; 3:22 pm]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, March 23, 1993 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particualr employee.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 93–6405 Filed 3–16–93; 2:35 pm]

BILLING CODE 6715–01–M

FEDERAL HOUSING FINANCE BOARD

TIME AND DATE: 8:30 a.m., Wednesday, March 24, 1993.

PLACE: Board Room Second Floor, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

Matters To Be Considered

Portions Open to the Public

The Board will consider the following:

1. Monthly Report—District Banks Directorate
   - A. Financial Report
   - B. Membership Report
2. Housing Finance Directorate
   - A. Approval of First Round 1993 Affordable Housing Program Applications
   - B. Approval of Interim Final Rule on Affordable Housing Program Maximum Subsidy Limitations
3. Examination and Regulatory Oversight Division
   - A. Advances Regulations
   - 1. Approval of Final Rule
   - 2. Approval of Interim Final Rule on Advances to Non-Member Mortgagees
   - 3. Notification to Finance Board that a Proposed Rule on Advances to Capital Deficient and Tangibly Insolvent Members will be Presented in April
   - B. Financial Management Policy
   - 1. Review and Action on Staff Recommendation Regarding the MBS Sunset Provision
   - 2. Review and Approval of Procedures to Monitor and Resolve Exceptions to Policy

Portions Closed to the Public

The Board will consider the following:

1. Approval of the February Board Minutes
2. Office of Finance Business Plan
3. Federal Home Loan Bank Presidents' 1992 Incentive Compensation Awards
4. District Bank Stock Transactions
5. Housing Finance Directorate
   - A. Review and Action on Staff Recommendation Regarding Retroactive Treatment of 20% Rule Projects
6. FHLBank of Cincinnati Proposed Foundation
7. Office of Policy and Research
   - A. Review of testimony and other materials, and final preparation for the March 25 and 26 Bank System Study Hearing

The above matters are exempt under one or more of sections 552b(c)(6), (8), (9)(A) and (9)(B) of title 5 of the United States Code.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Executive Secretary to the Board, (202) 408–2837.

Philip L. Conover,

Managing Director.

[FR Doc. 93–6367 Filed 3–16–93; 11:39 am]

BILLING CODE 6725–01–M

UNITED STATES INSTITUTE OF PEACE

DATE/TIME: Thursday March 25, 1993; 9:00 a.m. to 5:30 p.m.

LOCATION: 1550 M Street, NW. (Conference Room, First Floor) Washington, DC.

STATUS: (Open Session)—portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub. Law. 98–525.

AGENDA: Approval of minutes of the Fifty-Seventh Meeting of the Board of Directors; Chairman's Report; President's Report; Program Reports.

CONTACT: Mr. Gregory McCarthy, Director, Public Affairs and Information, Telephone: 202/457–1700.

Dated: January 19, 1993.

Ms. Bernice J. Carney,

Director, Office of Administration, United States Institute of Peace.

[FR Doc. 93–6340 Filed 3–16–93; 9:55 am]

BILLING CODE 3155–01–M

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federal register

Thursday
March 18, 1993

Part II

Securities and Exchange Commission

17 CFR Parts 200 et al.

Electronic Data Gathering, Analysis, and Retrieval System, et al.; Final Rules

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 201, 202, 210, 228, 229, 230, 232, 239, 240, 249, 260, and 269

[Release Nos. 33–6977; 34–31905; 35–25745; 39–2300; IC–19283] File No. S7–6–93]

RIN: 3235–AC48

Rulemaking for EDGAR System

AGENCY: Securities and Exchange Commission.

ACTION: Interim rules and solicitation of comments.

SUMMARY: The Securities and Exchange Commission ("Commission") has adopted rules to implement the operational phase of its Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system by mandating and accommodating electronic filing. The rules set forth in this release will apply to electronic submissions processed by the Division of Corporation Finance, and in some cases, to those processed by the Division of Investment Management. Specified amendments also affect paper filings. The Commission also is adopting the Financial Data Schedule provisions with a deferred effective date, and soliciting further public comment on those provisions. Separate releases contain additional amendments relating to electronic submissions processed by the Division of Investment Management and to payment of fees into the Commission's lockbox depository.

Mandated electronic filing is scheduled to begin on April 26, 1993 for the EDGAR Transitional Filers and selected volunteers, including specified third party filings with respect to such registrants. Phase-in of all registrants is expected to be completed by mid-1996.

DATES: *Effective dates:* These rules are effective on April 26, 1993, and apply to filings on or after that date, except the provisions relating to Financial Data Schedules (§ 228.601(a)(1), § 228.601(b)(27), § 228.601(c), § 229.601(a)(1), § 229.601(b)(27), § 229.601(c), § 232.401, § 232.402, Form S–2 (§ 239.12(h)(2)), Form S–3 (§ 239.13(a)(7)(i)) and Form S–8 (§ 239.16b(b)(2))), which are effective on November 1, 1993.

Comments: Comment letters on the Financial Data Schedule provisions should be received by May 17, 1993.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Mail Stop 6–9, Washington, DC 20549, and should refer to File No. S7–6–93.

FOR FURTHER INFORMATION CONTACT: Barbara C. Jacobs or James R. Budge, at (202) 272–2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission has adopted rules and amendments to implement the EDGAR system,[1] in which most filings and related correspondence processed by the Division of Corporation Finance and the Division of Investment Management will be submitted electronically by direct transmission, magnetic tape or diskette.[2] In addition, the Commission has adopted a schedule to bring registrants into the EDGAR system.[3] Phase-in is scheduled to begin on April 26, 1993 and be completed by mid-1996. Most submissions made by third parties relating to a registrant, such as Schedules 13D, will be required to be submitted electronically once the subject registrant is an electronic filer.

To take advantage of the efficiencies of electronic submission and processing, the Commission has adopted new Regulation S–T governing electronic submissions[4] and has amended a number of rules, regulations, schedules and forms under:

(1) The Rule on Organization and Program Management;[5]

(2) The Regulation Concerning Information and Requests;[6]

(3) the Rules of Practice;[7]

(4) the Rules on Informal and Other Procedures;[8]

(5) Regulation S–X;[9]

(6) Regulation S–B;[10]

(7) Regulation S–K;[11]

(8) the Rules and Regulations;[12] under the Securities Act of 1933 ("Securities Act");[13]

(9) The Forms under the Securities Act;[14]

(10) The Rules, Regulations and Schedules[15] under the Securities Exchange Act of 1934 ("Exchange Act");[16]

(11) The Forms under the Exchange Act;[17]

(12) The Rules[18] under the Trust Indenture Act of 1939[19] ("Trust Indenture Act"); and

(13) The Forms under the Trust Indenture Act.[20] In addition, the Commission has adopted new Form TH, Notification of Reliance on Temporary Hardship Exemption.[21]

In spring 1992, the Commission revised the EDGAR Temporary Rules ("amended Temporary Rules") in order to facilitate the transition of EDGAR Pilot participants that elected to convert to the operational EDGAR system in summer 1992 in advance of their mandated phase-in date.[22] Those who

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[1] The technical formatting requirements for electronic filings are set forth in the EDGAR Filer Manual. As used in this Release, the term "EDGAR Filer Manual" means the version of the EDGAR Filer Manual that has been published and adopted by the Commission prior to mandated phase-in of registrants.

[2] In addition to this Release, three companion releases are being issued today. The first [Release No. IC–19284] ("the companion Investment Company release") contains rules specific to electronic submissions made by investment companies under the Investment Company Act of 1940 ("Investment Company Act") [15 U.S.C. 80a–1 *et seq.*] and institutional investment managers under section 13(f) of the Exchange Act [15 U.S.C. 78m(f)], and includes the phase-in schedule for investment companies. The second [Release No. 35–25746] ("the companion PUHCA release") contains rules specific to electronic submissions made by public utility holding companies and their subsidiaries under the Public Utility Holding Company Act of 1935 ("PUHCA") [15 U.S.C. 79a *et seq.*], and includes the phase-in schedule for PUHCA filings by such companies. The third [Release No. 33–6980] ("the companion lockbox release") relates to the payment of filing fees, by both paper and electronic filers, to the Commission's lockbox depository at Mellon Bank in Pittsburgh, Pennsylvania pursuant to Rule 3a [17 CFR 202.3a] of the Rules Relating to Informal and Other Procedures.

[3] See appendix B—Division of Corporation Finance Phase-In Schedule, *infra*. Section 35A(c)(5) of the Exchange Act [15 U.S.C. 78*ll*(c)(5)] requires that mandated filings from a "significant test group" of registrants be received and reviewed by the Commission for at least six months before final adoption of any rule requiring electronic filing by registrants. Accordingly, the interim EDGAR rules and phase-in schedule adopted today will govern electronic submissions by the "significant test group." After the "significant test group" has successfully filed for at least six months, the Commission will adopt final EDGAR rules modified to reflect the experience gained during the period, together with a revised phase-in schedule, if necessary. See Section III.A, *infra*.

[4] 17 CFR part 232.

[5] 17 CFR part 200, subpart A.

[6] 17 CFR Part 200, Subpart D.

[7] 17 CFR Part 201, Subpart A.

[8] 17 CFR Part 202.

[9] 17 CFR Part 210.

[10] 17 CFR Part 228.

[11] 17 CFR Part 229.

[12] 17 CFR Part 230.

[13] 15 U.S.C. 77a *et seq.*

[14] 17 CFR Part 239.

[15] 17 CFR Part 240.

[16] 15 U.S.C. 78a *et seq.*

[17] 17 CFR Part 249.

[18] 17 CFR Part 260.

[19] 15 U.S.C. 77aaa *et seq.*

[20] 17 CFR Part 269.

[21] 17 CFR 239.65, 249.447, 259.604, 269.10 and 274.404.

[22] See Release No. 33–6933 (April 20, 1992) [57 FR 18210] for rules relating to filings processed by the Division; Release No. IC–18664 (April 20, 1992) [57 FR 18223] for rules relating to investment companies and institutional investment managers; and Release No. 35–25520 (April 20, 1992) [57 FR 18229] for rules relating to public utility holding companies. The EDGAR Temporary Rules originally

elected to do so are referred to as "Transitional Filers." In connection with the amended Temporary Rules, the Commission adopted revisions to Forms ID,[23] ET,[24] and SE[25] to permit Transitional Filers to use the operational EDGAR system. These forms have been amended again for use in the operational EDGAR system by mandated electronic filers. The amended EDGAR Temporary Rules will be rescinded on April 26, 1993, the date upon which mandated electronic filing commences.

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Appendix A—Timetable for Implementation of EDGAR Division of Corporation Finance Filings

Appendix B—Division of Corporation Finance Listing of Filers by Company Name

I. Executive Summary

On April 26, 1993, mandated electronic filing is scheduled to commence for Transitional Filers and selected volunteers, including specified third party filings with respect to such registrants. Phase-in of all domestic registrants is expected to be completed by mid-1996.

To implement the EDGAR system, the Commission published for comment proposed new rules and revisions to certain existing rules and forms, as well as a proposed phase-in schedule of registrants, in summer 1992.[26] The proposals were designed to mandate and accommodate submissions in electronic format, as well as to update current rules to take advantage of the efficiencies of electronic submission and processing.[27] Electronic filing will result in a number of benefits to filers, the Commission, investors and other members of the public.[28]

The Commission received 53 letters of comment from a variety of corporations, professional associations, securities firms, and self-regulatory organizations.[29] Of these commenters, 11 were EDGAR Pilot filers (and are Transitional Filers). In general, commenters supported the concept of electronic filing. Most of the commenters offered suggestions for modification of the proposals to provide efficiencies and cost savings to public companies and provide reasonable benefits to the public as well as the staff. Many commenters focused on the treatment of exhibits and annual reports to security holders in the operational EDGAR system. A number of changes have been made in response to these comments.

Electronic submissions will be governed principally by Regulation S–T, which contains rules prescribing requirements and procedures relating to electronic submissions. Regulation S–T is complemented by amendments to certain existing regulations and forms,

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were adopted in Release No. 33–6539 (June 27, 1984) [49 FR 28044]; Release 35–23704 (May 23, 1985) [50 FR 23287]; Release No. IC–14733 (September 23, 1985) [50 FR 40479]. They are as follows: Securities Act Rule 499 [17 CFR 230.499]; Exchange Act Rules 12b–37 [17 CFR 240.12b–37] and 13f–2(T) [17 CFR 240.13f–2(T)]; PUHCA Rule 111 [17 CFR 250.111]; Trust Indenture Act Rule 0–12 [17 CFR 260.0–12]; and Investment Company Act Rule 0–11 [17 CFR 270.0–11].

[23] 17 CFR 239.63, 249.445, 259.602, 269.7, and 274.402.

[24] 17 CFR 239.62, 249.446, 259.601, 269.6, and 274.401.

[25] 17 CFR 239.64, 249.444, 259.603, 269.8, and 274.403.

[26] Securities Act Release No. 6944 (July 23, 1992) [57 FR 35070], as corrected at 57 FR 38352 ("Proposing Release"). Three companion releases also were issued on the same day. The first [Release No. IC–18863] contained rules specific to electronic submissions made by investment companies under the Investment Company Act and institutional investment managers under section 13(f) of the Exchange Act, and included the phase-in schedule for investment companies. The second [Release No. 35–25588] contained rules specific to electronic submissions made by public utility holding companies and their subsidiaries under PUHCA, and included the phase-in schedule for PUHCA filings by such companies. The third [Release No. 33–6947] related to the payment of filing fees, by both paper and electronic filers, to the Commission's lockbox depository at Mellon Bank in Pittsburgh, Pennsylvania pursuant to Rule 3a of the Rules Relating to Informal and Other Procedures.

[27] Preparatory to proposing specific rules, in 1986 the Commission issued for public comment an advance notice of proposed rulemaking ("Advance Notice") [Release No. 33–6651 (June 26, 1986) [51 FR 24155]].

[28] See sections II.B.1 and VII of the Proposing Release. See also section VII, *infra*.

[29] The comment letters, as well as the comment summary prepared by the staff, are available for inspection and copying in the Commission's Public Reference Room (see File No. S7–21–92).

including Regulation C[30] and Form 10–K.[31] In a change from the proposed rules, however, specific changes applicable to electronic filers have been grouped in Regulation S–T, similar to the aggregation of disclosure rules in Regulation S–K, to the extent practicable. In connection with the new electronic filing rules and amendments, electronic filers should consult the EDGAR Filer Manual, which provides details on technical formatting requirements for electronic submissions. The most recent version of the EDGAR Filer Manual was disseminated in June 1992. It is anticipated that an updated version of the EDGAR Filer Manual will be issued in March 1993, after adoption by the Commission.[32]

The rules provide that, with specified exemptions, all Commission filings by or with respect to phased-in registrants must be in electronic format. Circumstances involving both paper and electronic filers, such as business combinations, are specifically addressed. Electronic filers that obtain an exemption from the provisions of Regulation S–T for specified submissions[33] and filers that are not phased in will file in paper in accordance with existing provisions of the Commission's regulations and forms.

Under Regulation S–T, exhibits filed in paper before the filer becomes subject to mandated filing will not have to be refiled in electronic format. Once the filer becomes subject to mandated filing, any new exhibits will have to be filed electronically. In a change from the proposals, where an electronic amendment is filed to an exhibit previously filed in paper, only the amendment will be required in electronic format; the previously filed paper exhibit to which the amendment relates will not have to be refiled electronically, except for the articles of incorporation and by-laws of the registrant.

Magnetic tapes and diskettes will be received, as proposed, during the Commission's current hours for receipt of paper filings, namely, 8 a.m. to 5:30 p.m. Eastern Time. In contrast, direct transmission filers will be permitted to transmit until 10 p.m. Eastern Time, but any direct transmission filing that commences after 5:30 p.m. Eastern Time, if accepted, will be considered filed as of the next business day. A direct transmission filing commencing on or before 5:30 p.m. Eastern Time, if accepted, will be considered filed on that business day. Under the proposal, Schedules 13D and certain cash tender offer filings would have been considered filed on that business day only if accepted by 5:30 p.m. Eastern Time. In light of comments received, however, this requirement has been eliminated from the rules adopted today.

Under EDGAR, required signatures will be submitted in typed form, as proposed. This approach eliminates the practical problems associated with personal identification numbers ("PINs") used in the EDGAR Pilot. Signature requirements for electronic filings remain the same as for paper format documents in all other respects. In a change from the proposals, however, filers must retain a manually signed signature page or other document authenticating, acknowledging or otherwise adopting the signatures that appear in typed form within an electronic filing, to be made available to the Commission or its staff upon request for a period of five years.

The EDGAR rules include a safe harbor against liability for errors in, or omissions from, documents in electronic format[34] resulting solely from electronic transmission errors beyond the control of the electronic filer. The safe harbor has been modified from the proposals to require the electronic filer to take corrective action as soon as reasonably practicable after becoming aware of the error or omission.

Two hardship exemptions have been adopted that would permit a filing or other submission to be made in paper rather than electronic format. First, a temporary exemption will be available to electronic filers, generally for unanticipated technical difficulties in submitting an electronic document. Under the exemption, the filing may be made in paper, but then must be followed by an electronic copy so that the electronic database will be complete. Unlike the proposal, which required that a request for a temporary hardship exemption be acted upon by the staff, the temporary hardship exemption has been restructured so that an electronic filer may obtain an automatic exemption simply by filing the subject document in paper under cover of new Form TH, Notification of Reliance on Temporary Hardship Exemption. No staff involvement is required. Second, a continuing exemption will be available to electronic filers under limited circumstances for a specific filing or group of filings. Unlike the temporary hardship exemption, the staff must act upon a written application for a continuing hardship exemption. If the exemption is granted, a submission may be made in paper, with no requirement for a subsequent electronic copy in most cases. In addition to the two hardship exemptions, the rules, as proposed, permit an electronic filer to request an adjustment of the filing date of an electronic document when the electronic filer encounters technical problems beyond its control which prevents electronic submission by the due date specified by the applicable form or rule.

Because of difficulties associated with sending and displaying graphic and image material in electronic submissions, the proposed rules provided that neither paper nor electronic filers would be required to submit copies of their annual reports to security holders, which often contain such material, for the information of the Commission, if their Form 10–K reports included all information required by the proxy rules to be included in the annual report to security holders. Upon reconsideration of the value of the annual report to security holders to the public and the staff, the Commission has determined to retain the requirement that registrants submit copies of this document to the Commission for its information. These copies would continue to be furnished in paper, unless a phased-in registrant opted to use electronic format. In response to comment, the proposed treatment of information incorporated by reference from an annual report to security holders into a filing also has been modified. Only those portions that are incorporated by reference must be filed electronically, rather than the entire annual report, as proposed.

Rules regarding disclosure concerning graphic and image information in electronic submissions have been adopted substantially as proposed. The rules provide that an appendix to the electronic format document must list all graphic and image information appearing in the paper format document and provide a fair and accurate narrative description of such information. If, however, the substantive information conveyed by the graphic and image

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[30] 17 CFR 230.400 *et seq.*

[31] 17 CFR 249.310.

[32] Testing for mandated filing (Release 3.0) may begin on April 12, 1993.

[33] The term "submission," as used in this release, means one or more documents that are transmitted or delivered to the Commission in electronic format. A submission could include, for example, a Form 10–K, exhibits, and related correspondence. The term "submission" also may include a portion of a document that is transmitted or delivered to the Commission in electronic format, such as a modular submission.

[34] The term "electronic format" means the computerized format of a document prepared in accordance with the EDGAR Filer Manual. See Rule 11(g) of Regulation S–T.

information presented in the paper format document is described narratively in the body of the document, the appendix to the electronic format document listing the graphic and image information will simply contain a cross-reference to the narrative discussion. In response to comment, a safe harbor provision for the narrative description of the material contained in the electronic filing has been adopted.

Under Regulation S–T, a modular submission procedure has been provided, as proposed. Information intended to become part of more than one filed document, such as financial statements, could be submitted electronically one time, retained as non-public information on EDGAR, and subsequently included, at the filer's direction, in as many filings as the filer designated.

A similar feature that could be used to submit information on the EDGAR system for subsequent inclusion in an electronic filing is segmented filing. Various segments of a document to be filed with the Commission could be submitted to the EDGAR non-public data storage area up to six days in advance of the anticipated filing date. On the anticipated filing date, the electronic filer then would submit a master segment instructing EDGAR to assemble the desired filing from the previously submitted segments and file it. Unlike modules, segments may be used only once. Neither modular submissions nor segments will be deemed "filed" or subject to liability under the federal securities laws until the filer includes the information in an electronic filing.

As required by the Securities and Exchange Commission Authorization Act of 1987 ("EDGAR Authorization Act"),[35] the rules, as proposed, require all electronic filers, including Transitional Filers, to submit copies of electronic filings to the Commission in paper format for a one-year period or for such shorter period of time that the Commission determines is appropriate. Although the Commission is constrained by this requirement, it may be able to shorten the period if it determines that statutory conditions are satisfied.[36]

Rules requiring electronic registrants to submit "Financial Data Schedules" similar to those used in the EDGAR Pilot have been adopted with a deferred effective date in order to permit adequate time for system programming.[37] The Schedules include specified financial data extracted from the financial statements, schedules and disclosures pursuant to industry guides, placed in formatted schedules and identified with special tags to facilitate retrieval of the information by EDGAR. This will enable the EDGAR system to perform numerous functions with the data automatically, such as the calculation of financial ratios or the identification of companies with certain financial characteristics. In response to commenters' concerns, a number of modifications have been made to the Schedules in order to facilitate their preparation. Further comment is solicited on the revised requirement.

Several minor changes that affect paper filers as well as electronic filers have been adopted as proposed.[38] For example, registrants will submit amendments to Exchange Act filings under cover of the form amended rather than filing such amendments under cover of Form 8.[39] Registrants will designate amendments by adding the letter "A" after the form title, e.g., "Form 10–K/A." With respect to amendments to Exchange Act filings, registrants and third-party filers will have to file complete disclosure items as amended, rather than only revised words or lines. As another example, a new cover page will be required to be filed by paper and electronic filers with proxy and information statements; the cover page will identify the nature of the filings and set forth fee information.

While the Commission is adopting today requirements to furnish a Financial Data Schedule, any interested persons wishing to submit comments on the Financial Data Schedule provisions are requested to do so by May 17, 1993. Persons submitting written comments should file three copies thereof with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comment letters should refer to File No. S7–6–93. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

II. Background

A. EDGAR Pilot System

Development of an electronic disclosure system was undertaken by the Commission in 1983, and construction of a pilot system ("EDGAR Pilot") to develop and test an electronic system was commenced in May 1984. The first filings were received in the EDGAR Pilot on September 24, 1984, and through the closing of the Pilot, the Commission received over 116,000 electronic filings from over 1,800 filers.[40] Under the EDGAR Pilot, documents were submitted to and accepted by the Commission through three different media: direct transmission over telephone lines using asynchronous or bisynchronous modems,[41] diskettes, and magnetic tapes.[42] On July 14, 1992, the EDGAR Pilot was closed and the next day the Pilot participants became the first filers to submit live filings on the operational system.

B. The EDGAR System

1. Background

Development and implementation of an electronic system was authorized as part of the Securities and Exchange Commission Authorization Act of 1987 ("EDGAR Authorization Act"). In accordance with that authorization, on January 4, 1989, the Commission awarded a contract to build the EDGAR system to BDM International, Inc. ("BDM").[43] In addition to developing and implementing EDGAR, BDM also developed a filer assistance software package known as EDGARLink to aid filers in the creation and transmission of electronic format documents.[44]

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[35] Securities and Exchange Commission Authorization Act of 1987, Public Law 100–181, 101 Stat. 1249 (1987) [amending Exchange Act Section 35 (15 U.S.C. 78kk) and adding section 35A (15 U.S.C. 78*ll*)].

[36] See Section V.D.1, *infra*.

[37] Registrants will be required to comply with the Financial Data Schedule provisions for filings on or after November 1, 1993.

[38] See Section V.F, *infra*.

[39] 17 CFR 249.460. Form 8 has been rescinded under the rules adopted today.

[40] They included a wide range of filings made pursuant to the Securities Act, the Exchange Act, PUHCA, the Trust Indenture Act, and the Investment Company Act. As of July 14, 1992, the date the EDGAR Pilot was closed, there were 228 companies whose filings are processed by the Division and 303 companies whose filings are processed by the Division of Investment Management participating in the EDGAR Pilot. In addition, over 1,300 registered investment companies have filed their semi-annual reports on Form N–SAR electronically via EDGAR.

[41] See n. 47 and 48 of the Proposing Release for a discussion of the terms asynchronous and bisynchronous.

[42] In most cases, direct transmission filing is the most efficient filing method, as it eliminates the cost of physically delivering filings to Washington, DC and the consequent potential for delay. In the EDGAR Pilot, the trend moved overwhelmingly from diskette filing to direct transmission. Magnetic tape submissions were acceptable in the EDGAR Pilot and are acceptable in EDGAR, but this transmission method has limited usefulness to those filers who normally make only one or two submissions at a time.

[43] Other parties to the contract include Mead Data Central, Inc., Bowne & Company, Disclosure Information Services, Inc., and CompuServe, Inc.

[44] EDGARLink is intended to facilitate preparation, validation and transmission of EDGAR filings using IBM-compatible personal computers operating on DOS 3.2 or higher, which should permit its use with the more popular systems.

Continued

Enhancements to EDGAR will be developed and implemented on an ongoing basis.

The EDGAR contract with the Commission provides for specified services to be sold by the EDGAR contractor at fees regulated pursuant to the contract. The services currently proposed[45] may differ from those ultimately offered depending upon whether there is sufficient subscriber interest to justify each service, *i.e.*, revenues for the service must be sufficient to cover the cost of providing the service plus a reasonable rate of return to the dissemination subcontractor. The subscription price of each regulated product or service will be determined independently; revenues from one product or service will not be used to offset the cost of any other product or service.

On May 1, 1991, the operational EDGAR system was officially opened for test submissions by EDGAR Pilot participants.[46] As noted above, the new EDGAR system began receiving live filings submitted by the former EDGAR Pilot participants on July 15, 1992. Through January 31, 1993, over 7,510 live filings submitted by Transitional Filers had been accepted and disseminated.

2. Structure of the EDGAR System

Registrants and third party filers will be required to submit a completed Form ID, the uniform application for access codes to file on EDGAR,[47] prior to becoming subject to mandated filing. Upon receipt of the completed Form ID, the Commission will send to the filer EDGARLink, the filer assistance software, the EDGAR Filer Manual,[48] and the necessary EDGAR identification numbers and passwords.

EDGARLink will enable the filer to test the submission prior to direct transmission in order to identify many of the technical, formatting and other problems that may result in suspension of the submission. EDGARLink also can be used for checking diskettes prior to submission; however, before using EDGARLink, the documents must be converted to ASCII format.[49] Although use of EDGARLink is not required, filers should find it useful in preparing a document for direct transmission.[50]

As in the EDGAR Pilot, a filer may submit an electronic format document via direct transmission, diskette, or magnetic tape. In order to make a direct transmission, a modem, telephone line, and the associated communications software are required. EDGARLink incorporates asynchronous communication software. The filer needs to have only the asynchronous modem and a telephone line. Filers wishing to use bisynchronous communications also must have the modem, a telephone line, and the appropriate communications software.

All direct transmission submissions must be in ASCII format. Filings on diskettes, however, also may be submitted in any of the word processing languages specified in the EDGAR Filer Manual.[51] Such submissions will be translated to ASCII format by EDGAR.[52] If a diskette filer elects not to use one of the designated word processing programs, it must file the submission in ASCII format. Filers choosing this alternative must use an MS-DOS-based[53] word processing language that provides as one of its functions a means of converting document files to an ASCII file. Magnetic tape submissions must be in ASCII or EBCDIC format.[54]

Initially, EDGARLink will support Hayes compatible asynchronous modems, *i.e.*, those supporting the full AT command set, at speeds from 1200 to 9600 baud. Other modems may be added to the list in the future.

[45] The "Level I magnetic tape" subscription provides subscribers with overnight delivery of magnetic tapes containing all filings accepted on or before 5:30 p.m. the previous business day.

With a "Level I broadcast" subscription, accepted filings for that business day will be transmitted to the subscriber in a continuous electronic stream in order of priority. The subscriber must have sufficient computer capacity to receive the filings in this manner and also must provide the communications line to EDGAR and appropriate line termination equipment. Overnight delivery of magnetic tapes of the filings will be available to Level I broadcast subscribers at an additional charge.

The "Level I interactive" subscription will provide the subscriber with on-line access to all filings that were accepted during the three most recent business days, including the current business day. Filings selected by the subscriber can be downloaded via a communications link and viewed on equipment provided by the dissemination subcontractor as part of the subscription. The subscription also includes overnight delivery of magnetic tapes of all filings accepted on or before 5:30 p.m. the previous business day.

A "Level II" subscription will provide access to one of six different subsets of accepted filings by overnight delivery of a magnetic tape. The magnetic tapes will contain filings which were accepted the previous business day on or before 5:30 p.m. in the following areas: (1) Periodic and other Exchange Act filings by exchange-listed and over-the-counter domestic companies (Forms 10–K, 10–Q, 8–K, 10, 10–KSB, 10–QSB, 10–SB and proxy and information statements); (2) filings made pursuant to the Williams Act (Schedules 13D, 13G, 14D–1, 14D–9, 13E–3, and 13E–4); (3) annual and quarterly reports of all domestic companies filed pursuant to the Exchange Act (Forms 10–K, 10–Q, 10–KSB and 10–QSB) whether or not listed on an exchange or quoted on NASDAQ; (4) Securities Act registration statements; (5) stock ownership reports (Forms 3, 4, 5, 144 and 13F; Schedules 13D and 13G); and (6) periodic reports filed under the Investment Company Act, Forms N–SAR–A, N–SAR–B and N–SAR–U.

In a change from the contemplated services noted in the Proposing Release, it has been determined to combine three subsets of the Level II subscription relating to periodic and other Exchange Act filings by domestic companies listed on the New York Stock Exchange, the American Stock Exchange or traded over-the-counter into a single offering, namely subset (1). See Section II.B.1 of the Proposing Release.

With respect to subset (5) of the Level II subscription, Forms 3, 4, 5, and 144 [17 CFR 249.103, 249.104, 249.105 and 239.144] will not be filed electronically, subject to future rulemaking.

There are no limitations on the resale of any of the information contained in Level I or Level II subscriptions.

[46] The most recent version of the EDGARLink software was disseminated in June 1992 (Release 2.1). See Section I, *supra*. It is anticipated that an updated version of the EDGAR Filer Manual and EDGARLink software (Release 3.0) will be issued in March 1993.

[47] See Sections III.D.3 and VI.A, *infra*, for a discussion of Form ID. Forms ID may be obtained through the Public Reference Room. The EDGAR Filer Manual also contains a copy of Form ID. Transitional Filers will not be required to submit new Forms ID once mandated filing commences.

[48] See Section V.A, *infra*, regarding the EDGAR Filer Manual. Upon receipt of the completed Form ID, the Commission will send the EDGAR Filer Manual and EDGARLink software at no cost to filers if they are scheduled to begin mandated filing within three months.

[49] ASCII, "American Standard Code for Information Interchange," represents letters, numbers, a blank space, and a limited number of symbols. When properly translated to ASCII, word processing codes for features such as underlining and bold-face are removed and codes indicating indentation and tabbing are replaced by the appropriate number of spaces on a line. Codes indicating new pages are replaced by the appropriate number of blank lines. If the software does not completely remove these codes, then these word processing codes must be removed manually.

[50] EDGARLink will inform the filer of word processing codes that need to be removed manually and assist the filer in removing them. The EDGARLink software will contain a "correction script" feature that will allow filers to correct errors that suspended a filing without having to resubmit the entire filing. Alternatively, if EDGARLink is not used, a filer could submit a test or live filing and if the word processing codes had not been successfully removed, the filer would receive a suspension message. The filer would then be required to make any corrections and resubmit the entire filing.

[51] The EDGAR Pilot system, as originally established, allowed filing of diskettes prepared on a variety of different types of word processors and personal computers. However, many of these products no longer exist. EDGAR will continue to support recent editions of a variety of widely-used systems, both personal computer based word processing software, such as WordPerfect versions 4.2, 5.0, and 5.1, Microsoft Word MacIntosh 1.5, Microsoft Word MS DOS 3.2, Multimate and Multimate Advantage, as well as stand-alone word processing systems. For a listing of the currently acceptable types of systems, see the EDGAR Filer Manual.

[52] Some features of word processing software packages may not translate readily into ASCII format and should be avoided in preparing documents for submission on diskette or otherwise. See the EDGAR Filer Manual.

[53] MS-DOS is the disk operating system of the Microsoft Corporation that operates on IBM-compatible personal computers.

[54] EBCDIC is an acronym for "Extended Binary Coded Decimal Interchange Code." EBCDIC is a code that is used in connection with IBM mainframe computer equipment.

The EDGAR system will consist of three subsystems: (1) Receipt and Acceptance; (2) Analysis and Review; and (3) Dissemination. The Receipt and Acceptance subsystem will receive all electronically formatted submissions; automatically check, among other things, for certain items in the submission header,[55] proper formatting, proper filing fees, and form type;[56] notify the filer whether the submission has been accepted or suspended and, if suspended, the reason; hold suspended submissions for six business days until they are corrected or resubmitted;[57] and forward accepted submissions to the Analysis and Review subsystem and the public portions of such submissions to the Dissemination subsystem.

The Analysis and Review subsystem is the means by which the Commission staff receives and examines documents on-line. Public EDGAR filings are accessible in the Commission's public reference rooms, as well as through disseminators.[58] The Dissemination subsystem will be managed by Mead Data Central Inc. and overseen by the Commission. Non-public submissions, such as correspondence accompanying filings, will be available to the Commission staff only, not to the public, subject to requests under the Freedom of Information Act ("FOIA").[59]

III. Electronic Filing; Related Rules

A. Mandated Filers and Volunteers

Domestic registrants[60] whose filings are processed by the Division will be brought onto the EDGAR system in a series of discrete groups.[61] Section 35A(c)(5) of the Exchange Act[62] requires that mandated filings from a "significant test group" of registrants be received and reviewed by the Commission for at least six months before the final adoption of any rule requiring electronic filing by registrants. As noted in the Proposing Release, the "significant test group" will be phased in between April and December 1993, in four groups or installments. Transitional Filers and selected volunteers will commence mandated electronic filing on April 26, 1993 (Group CF–01). The next group (Group CF–02), consisting of approximately 700 registrants whose filings are processed by the Division of Corporation Finance, will begin mandated electronic filing on July 19, 1993.[63] The third (Group CF–03) and fourth (Group CF–04) installments of the "significant test group" will consist of approximately 700 and 900 registrants, respectively, whose filings are processed by the Division.

The interim EDGAR rules and phase-in schedule adopted today will govern electronic submissions by the "significant test group." After the "significant test group" has successfully filed for at least six months, the Commission will adopt final EDGAR rules modified to reflect the experience gained during that period, together with a revised phase-in schedule, if necessary. Registrants will then be phased in, in groups of approximately 1500, every three months (except for the first calendar quarter of each year), with any new registrants[64] or others not named in the phase-in schedule included in the last group phased in. Most filings made by third parties relating to a registrant, such as proxy contest materials, tender offer materials, and beneficial ownership filings,[65] will be required to be submitted electronically once the subject registrant becomes an electronic filer.[66]

Before submitting a mandated electronic filing, each registrant, and each third party making filings with respect to that registrant, must submit a completed Form ID[67] to the Commission in order to receive necessary identification and password codes for filing on EDGAR.[68] Filers are strongly encouraged to submit the Form ID three to six months prior to becoming subject to mandated electronic filing in order to allow them the opportunity to become familiar with EDGAR procedures and prepare test filings. Special arrangements for expedited processing of Forms ID will be made for third party filers who did not know of their electronic filing obligations in advance.

Registrants are encouraged to test file on EDGAR prior to their mandated filing date.[69] The procedures for test filing are detailed in the EDGAR Filer Manual. Telephone lines for direct transmission testing will be available. Acceptance and suspension messages resulting from a test submission will be available immediately to electronic mail subscribers.[70] Electronic filers that elect not to subscribe to the electronic mail service will receive these messages via first-class U.S. mail.

Once a public utility holding company becomes an electronic filer, its subsidiaries will be required to make PUHCA filings in electronic format.[71] Subsidiaries of phased-in public utility holding companies will be permitted, but not required, to file Corporation Finance filings, as well as PUHCA filings, in electronic format before their Corporation Finance phase-in date.

Volunteers will be permitted only on a limited basis, particularly during the "significant test group" period, in order to assure that there is sufficient Commission filer support staff to answer questions and provide assistance to newly phased-in electronic filers. For example, the Commission may permit subsidiaries of a parent filing on EDGAR to volunteer in order to facilitate the conversion of the parent-subsidiary

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[55] A submission header contains key information about the electronic submission. See Section III.D.4, *infra*, for a discussion of headers.

[56] See Section III.D.2.b, *infra*, for a discussion of acceptance processing.

[57] Error messages will be sent through either the electronic mail service if the filer is a subscriber or the United States mail. A filer may elect to modify the original filing based on information provided in the message or recheck the filing on EDGARLink and prepare and submit a corrected filing or a correction script. This action must be taken with six business days because if a suspended filing is not corrected or resubmitted within this period, it will be removed from the system's file of pending incoming submissions. The Commission's filer support staff will have prompt access to suspended documents and will be available to instruct a filer in making any necessary corrections.

[58] Of course, paper copies of public filings will continue to be available through the public reference rooms upon the payment of scheduled fees.

[59] 5 U.S.C. 552.

[60] Foreign private issuers, including those that choose to use domestic forms, may be required to file electronically at some future date.

[61] See appendix B, *infra*. As proposed, paragraph (m) has been added to Rule 30–1 of the rules governing Commission organization [17 CFR 200.30–1], delegating authority to the Division of Corporation Finance to grant or deny a request by a registrant to participate in a phase-in group other than the group established by the Commission for that registrant. Requests should be sent to Sylvia Reis, Assistant Director—CF EDGAR Policy, Division of Corporation Finance, Mail Stop 3–8, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, (202) 272–3691.

[62] 15 U.S.C. 78*ll*(c)(5).

[63] See appendix A for specific phase-in dates for other groups.

[64] After phase-in is completed, any entity, except for a foreign government or foreign private issuer, that makes a registered offering under the Securities Act or that becomes subject to the reporting requirements of the Exchange Act will be required to file electronically, absent a hardship exemption.

[65] Forms 3, 4, 5 and 144 will not be filed in electronic format at this time.

[66] As Transitional Filers are volunteers from July 15, 1992 to the commencement of mandated electronic filing, a third party making a filing relating to one of these registrants may submit it in electronic format, but is not required to do so. Once Transitional Filers are subject to mandated electronic filing, third party filers will be required to file electronically.

[67] See Rule 10(b) of Regulation S–T. Transitional Filers are not required to submit new Forms ID once mandated filing commences.

[68] Identification and password codes are discussed in Section III.D.3, Identification and Login Procedures, *infra*.

[69] See Section III.D.5, *infra*, for a further discussion of testing. Filing agents also are encouraged to test file on EDGAR.

[70] See Section V.E, *infra*, for a discussion of the optional EDGAR electronic mail/bulletin board system.

[71] See the companion PUHCA Release.

structure in one step, or in a shorter period of time than that specified in the phase-in schedule. As another example, the Commission may allow foreign private issuers, foreign governments, and others to file electronically. Priority will be given to foreign private issuers that wish to volunteer for electronic filing so as to facilitate transnational capital formation in increasingly global securities markets.[72] Once permitted to file on EDGAR, volunteers will be treated as mandated electronic filers, subject to the same rules as filers that are mandated to be phased in, and not permitted to make required filings in paper except pursuant to a hardship exemption.

In order to provide flexibility for filers entering the electronic system, the rules, as proposed, provide that where the first mandated filing of a phased-in registrant is a Form 10–K or Form 10–KSB,[73] the Form 10–K or Form 10–KSB may, at the option of the registrant, be submitted in paper format.[74]

B. Scope and Format of Rules; Regulation S–T

Electronic filing via EDGAR will be governed principally by Regulation S–T.[75] The rules in Regulation S–T prescribe the general requirements and procedures for electronic filing. In the Proposing Release, comment was solicited on the structure of the rules and in particular, whether the modification of the numerous existing rules, forms and schedules was useful to filers or whether it would be preferable to streamline the changes applicable to the electronic filers by grouping them together in Regulation S–T. Upon consideration of the comments received, specific changes applicable to electronic filers have been grouped together in Regulation S–T, to the extent practicable. Accordingly, Regulation S–T has been reorganized and a number of provisions have been moved from the rules, forms and schedules. For example, the requirement that signatures to or within any electronic submission be typed, rather than manual, has been centralized in Regulation S–T.[76] As another example, the provision that an electronic format document, submitted in the manner prescribed by the EDGAR Filer Manual, will satisfy any requirement that more than one copy of such document be filed with or provided to the Commission, has been added to Regulation S–T.[77] In addition, headnotes have been added to the existing rules and regulations advising electronic filers that they should be read in conjunction with Regulation S–T as, for electronic filings, Regulation S–T supersedes many provisions relating to paper documents. This approach should assist filers in familiarizing themselves with the electronic filing rules in an expeditious manner. Paper filings will continue to be governed by existing provisions of the regulations, which will remain in effect even after phase-in is completed since paper filings will be required, or permitted, in limited circumstances.[78]

C. Mandated, Permitted, and Excluded Electronic Submissions

1. Mandated Electronic Submissions

a. Filings and other documents. The rules adopted today provide, as proposed, that all documents, including filings, correspondence and supplemental information,[79] except as discussed below, submitted by or relating to registrants under the Securities Act, the Exchange Act and the Trust Indenture Act must be submitted electronically in accordance with the phase-in schedule in appendix B.[80] Once phased in, a registrant will not be permitted to file in paper except: pursuant to a hardship exemption; if it is required to file a Schedule 13D or 13G relating to a registrant not yet phased in; or if it commences a proxy contest or cash tender offer for a registrant not yet phased in.[81] Once a registrant is required to file electronically, most filings made by third parties relating to the registrant, such as proxy materials, tender offer materials, and beneficial ownership materials will be required to be submitted electronically, absent a hardship exemption.[82]

Once a filer becomes subject to the mandated electronic filing rules, any documents, including amendments and supplements to documents previously filed in paper, will be required to be filed in electronic format, absent a hardship exemption. For example, if a registrant files a Form S–1 registration statement in paper, and then is phased in, subsequent filings relating to the registration statement, such as pre- and post-effective amendments and Rule 424 filings, would be filed electronically, as well as the associated correspondence.[83]

Filings and other documents filed by or relating to a registrant not yet phased in generally will not be permitted to be made electronically. Exceptions have been provided for joint registration statements involving electronic and paper registrants;[84] filings relating to cash tender offers or proxy contests involving a paper bidder and an electronic target;[85] Schedules 13D/G filed by an individual or a not yet phased-in registrant with respect to an electronic registrant,[86] mergers, exchange offers and other business combinations involving a Securities Act

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[72] As foreign private issuers and foreign governments may be accepted as volunteer EDGAR filers, the Proposing Release contained proposed amendments to forms filed by foreign private issuers and foreign governments to include electronic filing paragraphs similar to those proposed for forms filed by domestic issuers. In view of the streamlined approach taken in the rules adopted today, however, these provisions have been grouped in Regulation S–T to the extent practicable. For a discussion of other topics relating to foreign issuers, see: Section III.C.1.c, *infra* (third party filings made by foreign individuals, foreign private issuers, or foreign governments); Section III.C.3.d, *infra* (foreign language documents and symbols); and Section IV.D.2, *infra* (Financial Data Schedules).

[73] 17 CFR 249.310b. On July 30, 1992, the Commission adopted an integrated disclosure system for "small business issuers." Securities Act Release No. 6949 (July 30, 1992) [57 FR 36442]. The simplified disclosure requirements for small business issuers are contained in Regulation S-B. New forms, including Form 10–KSB, were created to satisfy registration, annual and quarterly reporting obligations under the Securities Act and the Exchange Act. Modifications have been made to the EDGAR rules as adopted in order to address such new forms and Regulation S–B.

[74] Rule 101(a)(3) of Regulation S–T.

[75] The entire text of Regulation S–T, including those sections applicable to entities whose filings are subject to review by the Division of Investment Management, is found *infra*.

[76] Rule 302 of Regulation S–T. For further information, see Section IV.F.1, *infra*.

[77] Rule 309(b) of Regulation S–T.

[78] Paper filings may be permitted pursuant to a hardship exemption, as discussed in Section III.E, *infra*. Further, certain types of filings will continue to be submitted in paper, as discussed in Section III.C.3, *infra*.

[79] See Section IV.F.2, *infra*, for a discussion of the proposed treatment of supplemental information.

[80] Rule 101 of Regulation S–T.

[81] Rule 901(c)(1) of Regulation S–T. See Section III.C.2, *infra*.

[82] Rule 901(b) of Regulation S–T. See Section III.E, *infra*, regarding hardship exemptions.

[83] Restatement of the amended document will not be required unless it is the first required electronic amendment to the text of a previously filed paper Schedule 13D or 13G, as discussed in Section IV.F.4, *infra*, or unless it is an amendment to the registrant's charter or by-laws, as discussed in Section III.C.1.d, *infra*.

[84] Where a registration statement is submitted by co-registrants (for example, pursuant to Securities Act Rule 140 [17 CFR 230.140]) one of whom files electronically and the other of whom files in paper, the registration statement will be required to be filed electronically. Rule 901(c)(3) of Regulation S–T.

Similarly, as an employee benefit plan ("plan") will be treated as a co-issuer on Form 11–K [17 CFR 249.311] with the issuer of the securities offered to employees pursuant to the plan, the plan will be required to file the Form 11–K in electronic format once the issuer was phased in. Rule 901(c)(3) of Regulation S–T.

[85] The converse situation, an electronic bidder commencing a cash tender offer or proxy contest for a paper target, is discussed in Section III.C.2, *infra*.

[86] The converse situation, an electronic registrant filing a Schedule 13D/G with respect to a not yet phased-in registrant, is discussed in Section III.C.2, *infra*.

registration statement filed by a paper filer seeking to acquire an electronic target; and cash mergers involving a joint proxy statement filed by a paper and an electronic filer.[87] In these circumstances, the status of the electronic filer controls, requiring the paper bidder or acquiror to make filings relating to the particular transaction in electronic format, absent a hardship exemption.[88]

If filings are made in paper in violation of the mandated electronic filing requirements, the rules provide certain penalties: The inability to use Securities Act forms incorporating by reference Exchange Act reports, the inability to incorporate the paper filing by reference, and the tolling of certain tender offer dates, as discussed below.[89]

b. Filings made by individuals. Individuals are required to make several types of filings pursuant to existing regulations.[90] As the Commission believes that filings by individuals are essential to the EDGAR database, the rules provide that third party filings relating to an electronic registrant, whether made by an entity or an individual, domestic or foreign, must be made in electronic format.[91]

Initially, Forms 3, 4, 5, and 144, which generally are filed by individuals, will be exempt from electronic filing. However, the Commission anticipates that the electronic filing of these reports will be the subject of future rulemaking.

c. Third party filings made by foreign entities or individuals. While foreign private issuers and foreign governments are not subject to mandated electronic filing, comment was solicited as to whether foreign individuals or entities making third party filings, such as Schedule 13D or tender offer filings with respect to domestic issuers that had been phased in, should be required to file electronically. Commenters generally believed that they should be subject to the same third party filing requirements as domestic filers. Further, several commenters noted that foreign entities or individuals making third party filings with respect to domestic issuers that had been phased in would likely retain U.S. counsel and U.S. printers to assist in their filings. Accordingly, the Commission has determined, as proposed, to require foreign individuals or entities as well as domestic parties, to make such filings in electronic format, absent a hardship exemption.

d. Exhibits. Under the rules adopted today, the objective of ensuring a complete EDGAR electronic database has been balanced against the burden to registrants of converting and refiling previously filed exhibits in electronic format. Under Regulation S–T, exhibits filed in paper prior to the time the filer becomes subject to mandated electronic filing will not have to be refiled in electronic format.[92] Such exhibits may continue to be incorporated by reference into electronic filings.[93] Once the filer becomes subject to mandated electronic filing, any new exhibits will have to be filed in electronic format, absent a hardship exemption.[94]

When an electronic amendment is filed to an exhibit previously filed in paper, the proposed rules would have required that the entire exhibit be restated, or alternatively, that both the original exhibit and the amendment be filed in electronic format. Numerous commenters criticized the proposal in view of the substantial burdens and expenses associated with converting the initial exhibit into electronic format. Accordingly, in a desire to alleviate these concerns, the rules adopted today only require that the amendment be filed in electronic format; the previously filed paper exhibit to which the electronic amendment relates will not have to be refiled electronically, except for the articles of incorporation or by-laws of the registrant.[95]

Comment was solicited in the Proposing Release as to whether documents that are not frequently amended, such as the articles of incorporation and bylaws, should be required to be refiled in electronic format at the time a registrant becomes subject to mandated electronic filing even if the documents are not being amended at that time. Comment also was solicited as to whether there is a need to require electronic refiling of paper exhibits with finite duration, such as merger agreements, upon amendment. The first issue generated substantial criticism from commenters. Many commenters remarked that the conversion of these exhibits to electronic format would entail substantial time and expense at a time when they were familiarizing themselves with the new electronic filing rules. In light of these concerns, the rules do not include such a provision at this time. With respect to the latter issue, however, amendments to paper exhibits, whether or not of finite duration, will have to be filed in electronic format, absent a hardship exemption, as the Commission has determined not to exempt any particular type of exhibit from electronic filing. However, consistent with the approach outlined above, no restatement upon amendment is required except for the articles of incorporation or by-laws of the registrant. Of course, if it wishes, an electronic filer may refile a complete restatement of the exhibit or both the amendment and the exhibit to which it relates in electronic format.

The Proposing Release noted that the proposed exhibit filing approach should afford filers sufficient time to prepare electronic exhibits upon becoming

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[87] Cash mergers involving a single proxy statement would follow the general rules as explained above.

[88] Rule 901(c)(2) of Regulation S–T.

[89] See Section III.E.2 and IV.C, *infra*.

[90] For example, individuals as well as entities file Schedules 13D and 13G and statements pursuant to the proxy and tender offer rules. See Exchange Act Rules 13d-1(a) and (b) [17 CFR 240.13d-1(a) and 240.13d-1(b)]; Exchange Act Rule 14a-6 [17 CFR 240.14a-6]; Exchange Act Rule 14a-11 [17 CFR 240.14a-11]; and Exchange Act Rules 14d-3 and 14d-9 [17 CFR 240.14d-3 and 240.14d-9].

[91] Rule 901(b) of Regulation S–T. See Section III.C.1.d, *infra*.

[92] Rule 102(e) of Regulation S–T provides that after the date which is three years following a registrant's phase-in date, any incorporation by reference by a registered investment company or a business development company must relate only to documents that have been electronically filed unless a hardship exemption has been granted. See the companion Investment Company release. Although the requirement is currently applicable only to investment companies, the Commission may, at a later time, extend this requirement to other registrants.

[93] Rule 303 of Regulation S–T.

[94] Rule 102(a) of Regulation S–T. In the EDGAR system, registrants may file an exhibit in paper under cover of Form SE pursuant to a hardship exemption. See section III.E, *infra*.

Whenever an exhibit is filed in paper pursuant to a hardship exemption, the filer will be required by Item 601(a) of Regulation S–K [17 CFR 229.601(a)] and Rule 102(d) of Regulation S–T to place the letter "P" next to the listed exhibit in the exhibit index, indicating that the exhibit was in paper format. If an exhibit previously filed in paper pursuant to a temporary hardship exemption was submitted electronically, as required, as an electronic confirming copy, the rules require the notation "CE" to be placed next to that exhibit's entry in the exhibit index, indicating that the exhibit has been electronically filed as a confirming electronic exhibit and is therefore available on the EDGAR database.

[95] See the companion Investment Company release for exceptions relating to investment companies.

When the first amendment is made to either the articles of incorporation or by-laws after a registrant has become subject to mandated electronic filing, a complete copy of the document, as amended, will have to be filed in electronic format. See Item 601(b)(3) of Regulations S–B [17 CFR 228.601(b)(3)] and S–K [17 CFR 229.601(b)(3)], which now require that the articles of incorporation or by-laws of a paper registrant be refiled upon amendment. For ease of locating the articles of incorporation and by-laws, the Commission has separated by number, as proposed, the requirements of Item 601 of Regulations SB and S–K to Item 601(b)(3)(i) (articles of incorporation) and Item 601(b)(3)(ii) (by-laws). See Sections IV.D.2 and V.F.2, *infra*, for other changes to Item 601 of Regulations S–B and S–K. Some commenters noted discrepancies between the Item 601 exhibit numbers and those set forth in the EDGAR Filer Manual. With the adoption of these changes to Item 601, the discrepancies are eliminated.

subject to mandated electronic filing.[96] It also noted, however, that the format of certain exhibits may be difficult to convert to electronic format.[97] As discussed above, the Commission has determined not to exempt any particular types of exhibits from electronic filing. However, registrants may, of course, seek a continuing hardship exemption, if appropriate.

Comment also was solicited in the Proposing Release as to whether registrants should be required to file electronic format summaries of any exhibits filed in paper to ensure the completeness of the EDGAR database. As commenters expressed opposition to this proposal on a variety of grounds, including potential liability, filing burdens, and the limited value of such information, the proposal has not been adopted.

As discussed in detail below,[98] exhibits for which a temporary or continuing hardship exemption has been granted may be submitted to the Commission in paper under cover of Form SE. The Temporary Rules have permitted paper documents that constitute a part of an otherwise direct transmission filing to be submitted to the Commission before or on the date of filing.[99] In the case of Williams Act filings, the paper documents were permitted to be filed the business day after the electronic filing as well, without delaying acceptance of the electronic filing.[100]

In contrast to the Temporary Rules, however, proposed Form SE would have required the paper document to be filed with the Commission only on the same day the electronic format filing to which it relates is filed. Upon consideration of the comments received, particularly as to the logistical problems associated with coordinating the filing of an electronic exhibit with a paper filing, new Form SE will permit exhibits filed in paper pursuant to a temporary or continuing hardship exemption to be filed up to six business days before or on the date of filing the electronic format document.[101] New Form SE, as proposed, will afford no additional flexibility for filing paper exhibits to Williams Act filings. If a paper exhibit under cover of Form SE is unexpectedly delayed beyond the date of filing of the electronic document, the electronic filing still will be accepted, as the automated acceptance procedures cannot detect the presence or absence of a paper document. However, the filing will be incomplete, and an amendment will be required in order to add the exhibit.

As noted in the Proposing Release, certain Commission forms are not currently subject to the exhibit requirements of Regulation S–K.[102] Rather, these forms have specific exhibit requirements unique to each form. Such exhibits may not be easily located in the EDGAR database. Filers should either file these types of exhibits under analogous subparagraphs of Item 601 of Regulation S–K, to the extent an analogue exists, or under paragraph <EX–99> of Item 601 of Regulation S–K. Sub-exhibit designations to <EX–99> and descriptive explanations of the exhibits in the exhibit index are encouraged. For example, loan agreements to a Schedule 13E–3[103] could be designated as <EX–99.1>. The exhibit index could then identify the exhibit as "Loan agreement to Schedule 13E–3, initially filed on XYZ date."[104]

With the exception of Financial Data Schedules,[105] if an exhibit contains an error that precludes its acceptance, the related filing will not be accepted. Rather, the entire filing, including exhibits, will be suspended and the filer so notified. The filer will then have six business days to correct or resubmit the filing.[106]

2. Permitted Electronic Submissions

In general, whether a filing is made electronically depends on whether the registrant to which the filing relates is an EDGAR filer. However, the rules provide alternatives in certain situations where one party is a paper filer and the other is an electronic filer. If an electronic filer is required to file a Schedule 13D or 13G with respect to a paper filer, the rules provide, as proposed, that the electronic filer will be permitted, but not required, to file the Schedule in electronic format.[107] If an electronic bidder commences a cash tender offer or proxy contest for a paper target, the rules provide, as proposed, that the electronic bidder will be permitted, but not required, to file all materials relating to that transaction in electronic format.[108] If the electronic bidder elects to file in electronic format, the paper target also will be given the choice to file in electronic format in order to ensure a "level playing field" between the parties. If the electronic bidder elects to file in paper, the paper target also will be required to file in paper. If the electronic bidder files in electronic format and the paper target elects to file in electronic format, under the proposed rules, the paper target would have been deemed phased in so that future filings by the paper target would be required to be in electronic format. Comment was solicited as to whether the paper target making such an election should be required to file in electronic format with respect to the particular proxy contest or cash tender offer only. In the interest of fairness and in view of the fact that this type of situation will only arise until 1996 when all filers are phased in, the rules adopted today provide that a paper target making such an election will be required to file in electronic format with respect to the particular proxy contest or cash tender offer only.[109]

If an electronic filer engages in an exchange offer, merger or other business combination involving a Securities Act registration statement, such as a Form S–4,[110] to acquire a paper filer, the rules provide, as proposed, that the electronic filer must make all filings in electronic format. If the paper target makes any filing, such as a Schedule 14D–9,[111] it will be permitted, but not required, to file in electronic format.[112] As with proxy contests and cash tender offers,

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[96] If an exhibit has been re-keyed for electronic filing, the substance of the electronic exhibit must be the same as that of the original paper exhibit. Of course, formatting differences between the two versions will exist.

[97] See Section IV.F.8, *infra*, for a discussion of special treatment for plan financial statements and schedules required to be filed on Form 11–K, the annual report for employee benefit plans, prepared in accordance with the financial reporting requirements of the Employee Retirement Income Security Act of 1974 ("ERISA") [29 U.S.C. 1001 *et seq.*].

[98] Section III.E, *infra*. See also Section VI.C, *infra*, relating to Form SE.

[99] See Amended Securities Act Rule 499(e)(2) [17 CFR 230.499(e)(2)], Exchange Act Rule 12b–37(e)(2) [17 CFR 240.12b–37(e)(2)], and Trust Indenture Act Rule 0–12(e)(2) [17 CFR 260.0–12(e)(2)].

[100] Exchange Act Rule 12b-37.

[101] Electronic exhibits may be submitted up to six business days in advance of the remainder of the filing through the use of the segmented filing procedure. See Section IV.A, *infra*.

[102] Examples of such forms include Williams Act filings, such as Schedules 13D [17 CFR 240.13d–101] and 14D–1 [17 CFR 240.14d–100], certain Exchange Act forms filed by foreign governments and foreign private issuers, such as Forms 18 [17 CFR 249.218] and 20–F [17 CFR 249.220f], as well as Trust Indenture Act Form T–3 [17 CFR 269.3].

[103] 17 CFR 240.13e–100.

[104] In contrast to the EDGAR Pilot, an exhibit index should be placed in the body of a filing (in the same place an index would be located in a paper filing) rather than in a separate document.

[105] See Section IV.D.2, *infra*.

[106] See generally Section III.D.2.b, *infra*, for a discussion of acceptance processing.

[107] Rule 901(c)(4) of Regulation S–T.

[108] Rule 901(c)(1) of Regulation S–T. The converse situation, namely, a paper bidder commencing a tender offer or proxy contest for an electronic target, is discussed in Section III.C.1.a, *supra*.

[109] *Id.*

[110] 17 CFR 239.25.

[111] 17 CFR 240.14d–101.

[112] Rule 901(c)(2) of Regulation S–T. The converse situation, namely, a paper filer seeking an exchange offer, merger or other business combination with an electronic target, is discussed in Section III.C.1.a, *supra*.

and in a change from the proposed rules, if the paper target elects to file in electronic format, the target must file in electronic format for the particular exchange offer, merger, or other business combination only.

In addition to the filings discussed above, four other documents will be permitted, but not required, to be provided to the Commission in electronic format: solicitation materials submitted to the Commission under cover of Notice of Exempt Solicitation;[113] annual reports to security holders that are furnished to the Commission for its information;[114] the performance graph required in a registrant, proxy or information statement relating to an annual meeting of security holders at which directors are to be elected (or special meeting or written consents in lieu of such meeting);[115] and plan financial statements and schedules prepared in accordance with the financial reporting requirements of ERISA filed to Form 11–K.[116]

3. Excluded Electronic Submissions

As described in more detail below, the rules do not permit the electronic submission of:

(1) Confidential treatment applications;

(2) Preliminary proxy or information statements relating to Item 14 of Schedule 14A (Mergers, consolidations, acquisitions and similar matters), if confidential treatment is desired;

(3) Supplemental information, if the submitter requests that the information be returned after staff review, and/or the submitter requests that the information be protected from public disclosure under FOIA pursuant to a request for confidential treatment;[117]

(4) Shareholder proposal submissions;

(5) No-action and interpretive requests;

(6) Forms SR;[118]

(7) Trust Indenture Act applications for exemptive relief;

(8) Forms 3, 4, and 5;

(9) Regional Office filings;

(10) Filings relating to offerings exempt from Securities Act registration;[119]

(11) Sales literature;

(12) Foreign language documents and symbols;

(13) Exchange Act filings submitted to the Division of Market Regulation; and

(4) documents submitted pursuant to the Rules of Practice that relate primarily to investigations and litigation.

a. Confidential treatment applications. Confidential treatment applications will continue to be submitted in paper rather than via EDGAR, so that filers will have an opportunity to become familiar with electronic filing procedures.[120] When a confidential treatment application is filed, the electronic filer will be required to file in electronic format the redacted document that is the subject of the confidential treatment application. For example, if an electronic filer desires confidential treatment of the pricing information in a material contract[121] required to be filed with its Form 10–K, then the electronic filer will submit the Form 10–K in electronic format, redacting the pricing information from the contract that is filed as an exhibit and submit the confidential treatment application including the redacted information, in paper.[122] Care should be taken to redact the confidential information properly, because if an electronic filer inadvertently includes material for which confidential treatment was requested in its electronic submission, the material will be disseminated publicly and thus no longer will be entitled to confidential treatment.

If the confidential treatment application is denied and all appeal rights are exhausted,[123] the material for which confidential treatment had been requested (*i.e.*, the previously redacted material), must be filed electronically as an amendment. If the filer fails to do so, the Commission will make the information publicly available in paper.

b. Certain preliminary proxy materials. In the Proposing Release, it was contemplated that preliminary proxy materials and information statements would be filed electronically, but would not be disseminated to the public until definitive materials were filed. However, with the adoption of the new proxy rules pursuant to the Commission's general reexamination of the proxy process,[124] all preliminary proxy materials and information statements are deemed public upon filing, except those relating to a business combination governed by Item 14 of Schedule 14A,[125] which may be afforded confidential treatment upon appropriate marking of the filed materials.[126] Consistent with the treatment of other confidential treatment material discussed above, registrants who desire confidential treatment of such preliminary proxy materials or information statements should file them in paper, marked as provided in the revised proxy rules.[127] If filed electronically, all preliminary proxy material and information statements will be treated as public and will be immediately disseminated.[128]

c. Regional office filings and offerings exempt from Securities Act registration. Currently, the following documents are, or may be, submitted to the

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[113] 17 CFR 240.14a–103. On October 16, 1992, the Commission adopted an exemption from the proxy rules filing requirements for solicitations made by qualified persons who do not seek proxy authority in connection with the solicitation. If such solicitation is in writing, the provision would require that certain persons owning over $5 million in the registrant's securities submit the distributed material to the Commission under cover of Notice of Exempt Solicitation. See Release No. 34–31326 (October 16, 1992) [57 FR 48276]. While the Proposing Release stated that such material would be required to be submitted in electronic format, the rules as adopted give filers the option to do so. Rule 101(b)(2) of Regulation S–T.

[114] Rule 101(b)(1) of Regulation S–T. See Section IV.B, *infra*, for further information regarding annual reports to security holders.

[115] Item 402(*l*) of Regulation S–K [17 CFR 229.402(*l*)]. Rule 304(d) of Regulation S–T. See Section IV.E.1, *infra*.

[116] 17 CFR 249.311. Rule 311(c) of Regulation S–T. See Section IV.F.6, *infra*.

[117] See discussion in Section IV.F.2, *infra*.

[118] 17 CFR 239.61.

[119] This category includes filings made pursuant to Regulation A [17 CFR 230.251 *et seq.*], Regulation B [17 CFR 230.300 *et seq.*], Regulation D [17 CFR 230.501 *et seq.*], Regulation E [230.601 *et seq.*] and Regulation F [17 CFR 230.651 *et seq.*], as well as filings on Form 144.

[120] Rule 101(c)(1)(i) of Regulation S–T. See also amendments to Securities Act Rule 406 [17 CFR 230.406] and Exchange Act Rule 24b–2 [17 CFR 240.24b–2]. As noted above, requests for confidential treatment under the FOIA pursuant to Rule 83 of the Commission's Regulation concerning Information and Requests [17 CFR 200.83] and supplemental information requested to be returned to the submitter also are excluded from electronic submission. See Section IV.F.2, *infra*.

[121] Item 601(b)(10) of Regulation S–K [17 CFR 229.601(b)(10)].

[122] As with a paper document, the redacted electronic document will contain notations identifying the specific information for which confidential treatment was requested. For example, a filer could state that sales figure information had been omitted by identifying the section heading and stating "(Confidential treatment has been requested)" in the location of the redacted sales figure information.

[123] Applications for review of a confidential treatment denial, submitted pursuant to Rule 26 of the Commission's Rules of Practice [17 CFR 201.26], also would be excluded from electronic submission.

[124] See Release No. 34–31326 (October 16, 1992).

[125] Confidential treatment cannot be requested if the proxy statement relates to a matter or proposal subject to Rule 13e–3 [17 CFR 240.13e–3] or a roll-up transaction as defined in Item 901(c) of Regulation S–K [17 CFR 229.901(c).]

[126] Exchange Act Rule 14a–6(e)(2) [17 CFR 240.14a–6(e)(2)]. The filed material must be marked "Confidential, For Use of Commission Only."

[127] If the initial preliminary proxy materials or information statement is afforded confidential treatment, all subsequent revisions made prior to filing of definitive material will be afforded confidential treatment as well, so long as the material is filed in paper.

[128] On November 13, 1992, a letter explaining the impact of the new proxy and executive compensation rules was mailed to Transitional Filers under the signature of Mauri Osheroff, Associate Director-Regulatory Policy, Division of Corporation Finance.

Commission's Regional Offices: Form SB–2;[129] Form 1–A,[130] the Regulation A[131] offering statement; Form 1–F notification statements;[132] and competitive bidding registration statements.[133] Regional Office filings may not be made in electronic format at this time.[134]

Registration statements on Form SB–2 filed at the Commission's Headquarters are treated in the same manner as those filed on Form S–1, in that the registration statement will be filed in paper before the small business issuer becomes subject to mandated electronic filing and in electronic format after the registrant has become an electronic filer. As Form SB–2 is available to Exchange Act reporting companies as well as companies making their initial public offerings, these registrants may be listed in any of the phase-in groups.

Form 1–A will continue to be filed in paper either at the Commission's Headquarters or the appropriate Regional Office.[135] Other filings relating to offerings exempt from Securities Act registration, such as Form D notices[136] and Form 144, which are filed at the Commission's Headquarters, also are excluded from electronic submission.

In particular, the rules do not provide for electronic filing of offerings of fractional undivided interests in oil and gas rights made under Regulation B as these filings contain extensive graphic materials, which are not easily accommodated by the electronic filing system. Moreover, as noted in the Proposing Release, given the limited number and size of these filings,[137] there does not appear to be a substantial need for the electronic filing and dissemination of this information.

There are no current plans to require the filing of documents relating to exempt offerings in electronic format, except for Form 144.

d. Foreign language documents and symbols. Foreign language documents are excluded from electronic filing, as proposed.[138] If a foreign language document is required to be filed, for example, as an exhibit to a filing on Form F–1[139] or F–6,[140] then a document that is a fair and accurate English translation of the foreign language document must be filed and a representation to that effect must be included and signed by a designated officer of the filer.[141] The rules adopted today also require that upon request any foreign language document required to be filed must be provided to the Commission or the staff.[142]

To ensure the widest possible dissemination and use of the EDGAR data, the rules also prohibit, as proposed, the use of representative symbols for foreign currency, such as the symbols for pounds and yen, as these symbols may not be recognizable by all forms of printers. Accordingly, electronic filers are required to express foreign currency denominations in English words or letters in their electronic format documents rather than representative symbols;[143] however, consideration is being given to whether in the future, EDGAR will be able to accept representative symbols for foreign currency.

e. Forms SR; sales literature; forms 3, 4, and 5; shareholder proposal submissions; no-action and interpretive letter requests; formal exemptive requests pursuant to Exchange Act Section 12(h); and exemptive requests and applications pursuant to the Trust Indenture Act. As proposed, the following documents are excluded from electronic submission via EDGAR: Forms SR;[144] sales literature;[145] Forms 3, 4, 5, and 144; shareholder proposal submissions pursuant to Exchange Act Rule 14a-8(d) and related correspondence pursuant to Exchange Act Rule 14a-8(e);[146] no-action and interpretive letter requests;[147] formal exemptive requests pursuant to Section 12(h) of the Exchange Act;[148] and exemptive requests and applications pursuant to the Trust Indenture Act.[149] No plans currently exist for the electronic filing of these documents, except for Forms 3, 4, and 5.

f. Other excluded electronic submissions. Documents that relate primarily to enforcement investigations or litigation[150] as well as Exchange Act filings that are processed by the Division of Market Regulation[151] also have been excluded from electronic submission as proposed.[152] No plans currently exist for the electronic filing of these documents.

D. Filing Procedures and Related Rules

1. Hours of Operation

Currently, the Commission receives and accepts paper filings between the hours of 8 a.m. and 5:30 p.m. Eastern Time,[153] Monday through Friday, except for holidays. In the EDGAR Pilot, filings on diskettes and magnetic tapes were received, and most acceptance processing occurred, during those hours. Direct transmission filings made on the Pilot were permitted between 7:30 a.m. and 7 p.m. Eastern Time[154] on

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[129] 17 CFR 239.10. On July 30, 1992, the Commission repealed Form S–18 [17 CFR 239.28] and replaced it with new Form SB–2 [17 CFR 239.10]. Release No. 33–6949 (July 30, 1992) [57 FR 36442].

[130] 17 CFR 239.90.

[131] 17 CFR 230.251–230.264.

[132] 17 CFR 239.300.

[133] 17 CFR 230.445.

[134] Small business issuers may file initial public offerings on Form SB–2 in the Regional Office that is closest to their principal place of business (except that no filings may be made in the Philadelphia Regional Office) or at the Commission's Headquarters. Small business issuers that are making repeat offerings on Form SB–2 must file their registration statements at the Commission's Headquarters.

[135] In Release No. 33–6949, the Commission modified Regulation A to permit Form 1–A to be filed either at the Commission's Headquarters or an appropriate Regional Office.

[136] 17 CFR 239.500.

[137] The number of Regulation B filings for the past five fiscal years ending September 30 were as follows: 1992–2; 1991–2; 1990–6; 1989–8; and 1988–4.

[138] Rule 306(a) of Regulation S–T. Documents furnished to the Commission by foreign private issuers pursuant to Rule 12g3–2(b) [17 CFR 240.12g3–2(b)] will continue to be submitted in paper.

[139] 17 CFR 239.31.

[140] 17 CFR 239.36.

[141] Rule 306(a) of Regulation S–T.

[142] *Id.* Forms 18 [17 CFR 249.218] and 18–K [17 CFR 249.318] filed by foreign governments require that a copy of the latest annual budget of the registrant as presented to its legislative body be filed as an exhibit and that this document need not be translated into English. As EDGAR cannot accept foreign language documents, amendments to these forms provide that if an English version of the budget has been prepared, it must be filed electronically. If, however, no such version has been prepared, the foreign language budget document must be provided to the Commission or the staff upon request. See Note to Rule 306 of Regulation S–T.

[143] Rule 306(b) of Regulation S–T and amendment to Rule 3–20 of Regulation S–X [17 CFR 210.3–20].

[144] Form SR indicates the use of proceeds in an initial public offering.

[145] Item 19 of Securities Act Industry Guide 5 [17 CFR 229.801(e)].

[146] Rule 14a–8(d) and (e) [17 CFR 240.14a–8(*d*) and 240.14a–8 (e)].

[147] 17 CFR 200.81.

[148] 15 U.S.C. 78*l*(h).

[149] Applications for exemptive relief may be submitted pursuant to: Section 304(c) [15 U.S.C. 77ddd(c)] on Form T–4 [17 CFR 269.4]; section 304(d) [15 U.S.C. 77ddd(d)]; or section 310(b) [15 U.S.C. 77jjj(b)] of the Trust Indenture Act.

[150] 17 CFR 201.1 *et seq.*

[151] Forms 1 [17 CFR 249.1], 1–A [17 CFR 249.1a], 25 [17 CFR 249.25], 26 [17 CFR 249.26], 27 [17 CFR 249.27], 28 [17 CFR 249.28], BD [17 CFR 249.501], BDW [17 CFR 249.501a], 7–M[17 CFR 249.507], 8–M [17 CFR 249.508], 9–M [17 CFR 249.509], 10–M [17 CFR 249.510], X–17A–5 [17 CFR 249.617], X–17A–19 [17 CFR 249.635], X–15AA–1 [17 CFR 249.801], X–15Aj–1 [17 CFR 249.802], X–15AJ–2 [17 CFR 249.803], 19B–4 [17 CFR 249.819], SIP [17 CFR 249.1001], MSD [17 CFR 249.1100], MSDW [17 CFR 249.1110], X–17F–1A [17 CFR 249.1200], TA–1 [17 CFR 249b.100], TA-W [17 CFR 249b.101], TA–2 [17 CFR 249b.102] and CA–1 [17 CFR 249b.200].

[152] Rule 101(c) of Regulation S–T.

[153] The term "Eastern Time" means "Eastern Standard Time" or "Eastern Daylight Saving Time," whichever is applicable.

[154] The 7 p.m. time represented the cut-off time for the commencement of new transmissions. The

Commission business days. Direct transmission filing sessions that commenced after 5:30 p.m. Eastern Time, if accepted, received the next business day's filing date.

The Commission has determined to retain the existing hours of 8 a.m. to 5:30 p.m. Eastern Time for receipt of diskette and magnetic tape filings,[155] and to revise filing hours to 8 a.m. to 10 p.m. Eastern Time for receipt of direct transmission filings, as proposed.[156] As noted in the Proposing Release, the 10 p.m. Eastern Time limit reflects the request of filers for extended hours and the need to provide time for maintenance of the EDGAR system and sufficient Commission filer support staff to respond to filer questions during this extended period. While acceptance procedures will be automated in EDGAR,[157] the Commission intends to make filer support staff available between 8 a.m. and 10 p.m. Eastern Time to assist filers with issues that may arise in accessing the system and during the acceptance process. Although a few commenters on the proposed rules urged that the system be available for the receipt of filings 24 hours a day, these extended filing hours are not currently feasible, as time is required for system maintenance, including the performance of backup procedures. Current budgetary constraints also limit the availability of filer support staff.

As noted in the Proposing Release, direct transmission submissions may not be commenced after 10 p.m. Eastern Time. Further, direct transmissions in process at 10 p.m. will be disconnected. If a filing within an electronic multi-filing submission is interrupted because the transmission was disconnected at 10 p.m., that filing must be resubmitted in its entirety the next business day, together with any other filings in the submission whose transmission was not completed the night before. Accordingly, a direct transmission filer should determine that it has sufficient time to transmit the complete submission before 10 p.m. Eastern Time.[158]

2. Receipt and Acceptance

a. Date of filing. The proposed rules provided that the date of filing[159] for electronic filings, pursuant to the Securities Act, Exchange Act and Trust Indenture Act, except for certain cash tender offer[160] and Schedule 13D filings, would have been the business day on which the filing was received, if: (i) The filing was submitted on or before 5:30 p.m. Eastern Time;[161] (ii) the required filing fee was paid in the manner prescribed;[162] and (iii) all requirements of the Acts and rules applicable to such filing have been complied with and the filing conforms to the applicable technical standards regarding electronic format.[163] As noted in the Proposing Release, these requirements mirror the requirements applicable to paper filings.[164]

Comment was solicited as to whether Schedule 13Ds and certain cash tender offer filings should receive a filing date corresponding to the transmission date only if such filings had been received and accepted on or before 5:30 p.m. Eastern Time, given their importance to the market. Commenters noted that this proviso would create uncertainty on the part of filers, since the time of acceptance would not be within their control. Accordingly, the date of filing rule has been adopted as proposed, except that Schedule 13D and cash tender offer filings will be treated like all other filings.

Although automated acceptance processing of some filings submitted on or before 5:30 p.m. Eastern Time may not be completed until after 5:30 p.m., they will nonetheless receive a filing date corresponding to the date of receipt, provided that the conditions for acceptance are met. Electronic filings made via direct transmission commencing after 5:30 p.m. Eastern Time will receive the next business day's filing date, provided that the requisite conditions are met. As proposed, where multiple filings are submitted in a single direct transmission, each filing will be treated separately in determining the date of filing. For example, if the first filing was commenced before 5:30 p.m., but the other filings in the transmission commenced after 5:30 p.m., the first would receive the filing date corresponding to the date of receipt, provided all other conditions were satisfied, but the others would receive the next day's date as the filing date.[165]

If the transmission of a filing is interrupted for any reason, requiring the filing to be resubmitted later, the filing date will be based on the date and time of the resubmission session that corrects the problem.[166] If resubmission is required due to difficulties beyond the filer's control, the filer may request the staff to adjust the filing date to the date and time of the initial submission.[167]

If a filing contains errors preventing its acceptance as initially submitted,[168] it will be placed in a suspense file for up to six business days, as proposed. This period appears to be reasonable, given the need to limit the data stored on the Commission's electronic system and the fact that error messages will be available immediately to those filers who subscribe to the EDGAR electronic mail service, enabling such filers to take advantage of the full six business day

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EDGAR Pilot system permitted completion of any transmission commenced on or before the cut-off time, including delivery of additional filings in the same transmission. The EDGAR Pilot hours of operation were not changed for Transitional Filers.

[155] Rule 12(b) of Regulation S–T. Existing hours for the receipt of paper filings—8 a.m. to 5:30 p.m. Eastern Time, Monday through Friday, except for holidays—will be retained. The Commission also will retain its regular office hours of 9 a.m. to 5:30 p.m. Eastern Time, Monday through Friday, except holidays, as official business hours for purposes other than receipt of filings.

[156] Rule 12(c) of Regulation S–T. See revisions to Securities Act Rule 110 [17 CFR 230.110], Exchange Act Rule 0–2 [17 CFR 240.0–2] and Trust Indenture Act Rule 0–5 [17 CFR 260.0–5].

[157] See Section III.D.2.b, *infra*, regarding acceptance processing.

[158] The following may assist filers in determining the length of time required to transmit ten pages: 9600 baud modem—30 to 60 seconds; 4800 baud modem—1 to 2 minutes; 2400 baud modem—2 to 4 minutes; and 1200 baud modem—4 to 8 minutes.

[159] The term "filed" as applied to electronic filings has the same legal meaning and effect as it does with respect to filings in paper format. For example, statutory time periods relating to filing dates will continue to commence on the date of filing.

[160] Filings on Schedule 13E–4, Schedule 14D–1, and Schedule 14D–9.

[161] Diskettes and magnetic tapes must be received by 5:30 p.m. Eastern Time. In contrast, the direct transmission of a filing need only be commenced, not completed, on or before 5:30 p.m. Eastern Time. If a registrant commenced a direct transmission of a transmittal letter with a Form 10–K prior to 5:30 p.m., the entire submission would receive that day's date, even if the transmission of Form 10–K itself began after 5:30 p.m., so long as that submission satisfied all other applicable conditions.

[162] See section III.D.7, infra, regarding filing fees.

[163] Rule 13(a) of Regulation S–T.

[164] The language regarding "all requirements of the Acts and rules applicable to such filing" is the current requirement under Securities Act Rules 456 and 474 [17 CFR 230.456 and 230.474] and Exchange Act Rule 0–3 [17 CFR 240.0–3]. This provision does not give the staff discretion to deny a particular filing date based, for example, upon the staff's view that disclosure in a filing may be materially misleading in violation of Exchange Act Rule 10b–5 [17 CFR 240.10b–5] or another anti-fraud rule. The requirement that the filing conform to specified technical standards is analogous to one of the provisions for acceptance of paper filings. See Securities Act Rule 403 [17 CFR 230.403].

[165] Multiple filings submitted on magnetic tape or diskette under cover of Form ET receive different treatment, as their date of filing depends upon when the Form ET is received and accepted.

[166] The EDGARLink software will include a "restart" feature that will permit a filer to resume an interrupted direct transmission session, from the point of interruption, within 15 minutes from the time the interruption occurred. Use of the "restart" function will not constitute a resubmission for purposes of determining the date of receipt or the date of filing.

[167] See Rule 13(b) of Regulation S–T and Section III.E.4, *infra*, regarding adjustment of filing date.

[168] See Section III.D.2.b, *infra*, regarding the Commission's proposed acceptance processing system, for discussion of filings that have been suspended.

period to correct their filings.[169] A filing in suspense will be considered filed as of the business day on which it was corrected or resubmitted in a form that was accepted. If a filing in suspense is not corrected, using EDGARLink, the filer assistance software, or resubmitted and accepted within six business days, it will be deleted from the system's file of pending submissions.[170] After that, the Commission's filer support staff will not have access to the document to provide assistance and there will be no further ability to correct the filing.

b. Acceptance processing. As noted in the Proposing Release, acceptance procedures will be automated in the EDGAR system, and acceptance will begin promptly after receipt of an electronic document,[171] except in unusual situations, such as during peak filing times.[172] Staff will be available between 8 a.m. and 10 p.m. Eastern Time to assist filers in accessing the system and to answer questions associated with the acceptance of filings. Under the terms of the EDGAR contract, acceptance processing must begin no later than two hours after receipt of direct transmission of time-sensitive filings such as Schedules 13D, tender offers and proxy contests,[173] and acceptance processing of non-sensitive filings must begin no later than four hours after receipt.[174]

A filing will be accepted when EDGAR verifies electronically that the filing conforms to specified electronic formatting requirements, and, with respect to a Securities Act filing, that the required fee has been paid. Verification of compliance with applicable technical requirements regarding format will consist of confirmation that the filing is presented in the format prescribed by the then current EDGAR Filer Manual.[175] Once EDGAR has completed these processes, an acceptance message will be sent to the filer.

Failure to comply with certain technical format requirements will result in suspension of the filing until the formatting problems are corrected. For example, an electronic submission will be suspended if the number of documents actually submitted is greater than the number specified in the submission header, since an extra document might have been submitted in error.[176]

In certain instances, although a filing has formatting or other errors, it will be accepted, and a message will be sent to the filer. For example, if a submission contains fewer documents than the number specified in the submission header, then the submission may be accepted, but the acceptance message will indicate that there is a discrepancy between the number of documents received by EDGAR and the number of documents specified. In addition, circumstances may arise in which a document containing a limited number of invalid symbols will be accepted as submitted, with a circumflex symbol (^) substituted for each invalid symbol in the document disseminated, if the staff concurs.[177]

While there will be staff available to assist filers in electronic filing and address issues relating to electronic errors, it is not anticipated that the Commission staff will respond orally to inquiries regarding the status of filings. Filers may subscribe to the EDGAR electronic mail service to receive notices of the acceptance or suspension of a filing on a real-time basis as soon as the process is complete.[178] Filers who do not subscribe to the EDGAR electronic mail service will be advised of the results of acceptance processing through first-class U.S. mail. If the filing is accepted, the acceptance notice also will advise the filer whether the filing contains any errors which should be avoided in the future but which are not of sufficient magnitude to result in suspension. If the filing is suspended, the notice of suspension will specify the problems that caused the suspension, including non-payment of a fee, so that the filer can correct[179] or resubmit the filing within six business days.[180]

c. Date of dissemination. Generally, as noted in the Proposing Release, public filings will be received, accepted and disseminated electronically on the same day.[181] For example, filings that are accepted on or before 5:30 p.m. will be available to all Level I subscribers upon acceptance.[182] Magnetic tapes of these filings will be delivered overnight to Level I interactive, magnetic tape Level I, and Level II subscribers.[183] These filings also will be accessible by the Commission staff and the public through the Commission's public reference room terminals on their date of acceptance.

Public filings received on or before 5:30 p.m., but accepted after 5:30 p.m., will be deemed filed the day of receipt and will be disseminated that evening to interactive Level I subscribers and broadcast Level I subscribers as well as to the Commission staff and the Commission public reference room open after 5 p.m. Eastern Time.[184] These

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[169] Filers who do not subscribe to the EDGAR electronic mail service will receive suspension messages via first-class U.S. mail. It is anticipated that the availability of EDGARLink and the provisions for testing filings will reduce the number of filing errors. See Section III.D.5, *infra*, for a discussion of testing procedures.

[170] The Commission's filer support staff will have prompt access to suspended documents and will be able to instruct a filer in making any necessary corrections. It is anticipated that the availability of EDGARLink and the provisions for test filings will reduce the number of filing errors. See Section III.D.5, *infra*, for a discussion of testing procedures.

[171] Direct transmission filers will receive a receipt message identifying the date and time that submission receipt began. The message will state that the submission has not yet been accepted or filed, and that a notice will be furnished when the filing has been accepted. See Rule 13 of Regulation S–T regarding date of filing and Section III.D.2.a, *supra*.

[172] Peak filing times are those periods in which the Commission routinely receives a high volume of filings, often in excess of 2000 on a day. Examples of current peak periods include: (1) March 31, when Forms 10–K are filed for calendar year-end companies; and (2) February 14, May 15, August 14, and November 14, 45 days after quarterly periods when Forms 10–Q are filed.

[173] The contract requirements for the start of acceptance processing for time-sensitive filings do not cover filings submitted on tape or diskette. It is recommended that filers of time-sensitive documents file via direct transmission in order to ensure the most prompt treatment available.

[174] However, when the Commission's daily filing rate exceeds 2000 filings ("peak periods"), acceptance processing of filings on magnetic tape and diskette may be deferred overnight.

[175] See Section V.A, *infra*, for a discussion of the EDGAR Filer Manual.

[176] Another example of an error that will cause a filing to be suspended is a failure to identify the dollar amount and type of securities to be registered under the Securities Act by not inserting the dollar values and tag <EQUITY>, <DEBT> or <CONVERTIBLE> in the submission header, as appropriate.

[177] If a filing contains any invalid symbol, the filing will be suspended and a suspension message will be sent to the filer regarding the nature and extent of the invalid symbols. A filer may elect to correct the error using EDGARLink or resubmit a corrected filing. Alternatively, if a filer wishes not to correct the invalid symbol because the invalid symbol does not affect the substantive disclosure in the filing, then the filer may contact the Commission's filer support staff. If upon review of the document the filer support staff determines that the filing cannot be accepted and disseminated in an intelligible and readable format, the filer will be required to correct the error(s) or resubmit a corrected filing.

[178] See Section V.E, *infra*, for a discussion of the electronic mail/bulletin board system.

[179] The EDGARLink software contains a "correction script" feature that will allow filers to correct errors that cause the filing to be suspended without resubmitting the entire filing. The date of filing will be based upon the date and time of the correction of the errors.

[180] Each time a correction script is used or a filing is resubmitted, the six-business-day period begins anew.

[181] Non-public submissions, for example, correspondence will not be disseminated.

[182] See Section II.B.1, *supra*, for a description of the EDGAR subscription services being offered.

[183] The cut-off time for accepted filings to be placed on magnetic tape for Level I and Level II subscribers is 5:30 p.m. Eastern Time in order to guarantee tape copy and overnight delivery.

[184] The filings will not be available through the public reference rooms at Commission Headquarters and the New York Regional Office, which close at 5 p.m. Eastern Time, until the following business day. However, due to time zone

filings will be included with filings accepted the next business day for overnight magnetic tape delivery to interactive Level I, magnetic tape Level I, and Level II subscribers.

Filings received and accepted after 5:30 p.m. will be deemed filed the next business day, which also will be the date on which they will be disseminated to Level I subscribers and included in the magnetic tapes.

3. Identification and Log-In Procedures

In order to submit documents electronically, EDGAR access codes and passwords are required. Registrants, third party filers, and their agents are required to submit a Form ID, the uniform application for access codes to file on EDGAR, to the Commission.[185] Upon receipt of the completed Form ID, the Commission will mail the EDGAR access codes and passwords and in addition furnish a copy of the EDGAR Filer Manual as well as EDGARLink, the filer assistance software.[186]

In some cases it may be essential to obtain the access codes and passwords on very short notice, for example, where a third party has just decided to engage in a proxy contest or tender offer. If necessary, the Form ID may be sent to the Commission by facsimile or courier. The staff will process the Form ID expeditiously and issue an initial set of numbers to the potential filer by facsimile or to a registrant's courier after having made a confirming telephone call to the contact person listed on the Form ID.

Form ID must be used to request the following access codes: Central Index Key ("CIK") numbers,[187] passwords,[188] and CIK confirmation codes ("CCC").[189] Form ID also must be used to obtain a password modification authorization code ("PMAC"), a non-public code which allows a filer to change the password on-line if it was compromised or at the filer's option to insure continued protection.[190] The identification procedures provide a means to ensure the accurate identification of each registrant, third party filer, or agent.[191]

As noted in the Proposing Release, special procedures for assigning CIKs, passwords and CCCs are required for electronic filing where new entities are formed following effectiveness of a Securities Act registration statement, as with asset backed securities offerings, including collateralized mortgage offerings, serial offerings, limited partnership offerings, and other similar offerings. For example, with asset backed securities offerings, the originator of the offering files an initial registration statement using its CIK number, password and CCC. The originator then files a Rule 424 prospectus[192] using its CIK number, password and CCC when a new legal entity is formed to take down tranches of securities covered by the registration statement. The submission header to the Rule 424 prospectus must identify the new legal entity as being distinct from the registrant by using the tag <SERIAL>. Upon receipt of the Rule 424 prospectus with the tag <SERIAL> in its header, EDGAR will assign both a CIK number and a file number to the new legal entity and advise the originator of the offering of these new numbers as part of the acceptance message.[193] The new legal entity is required to submit a manually signed Form ID to obtain its password and other identifying codes for use in connection with subsequent filings.

4. Headers

Headers contain key information about the electronic submission. They are a critical element in any electronic communication, as they identify for the computer the data being transmitted and provide other necessary instructions to facilitate proper processing. Headers must be precise, complete and prepared according to strict guidelines in order to be understood by the computer. Each electronic submission will contain two types of headers, a submission header and a document header for each document transmitted, *e.g.*, a cover letter, a registration statement, and each exhibit. The detailed requirements for EDGAR headers are set forth in the EDGAR Filer Manual.[194]

5.Testing

Filers are urged to submit test filings in order to become familiar with the electronic filing system. If the EDGARLink software is used,[195] a filer may test at its workstation without needing to submit any filings to EDGAR. Alternatively, the filer may elect to submit test filings to EDGAR, as described further in the EDGAR Filer Manual.

In the Proposing Release, comment was solicited as to whether EDGAR should, as proposed, treat an electronic filing, without any identification as to test or live filing, as a live rather than as a test filing. Under the proposed system, if a filer failed to identify filings as test, EDGAR would treat them as official filings and if they contained no suspendable errors, the filings would be accepted and the public portions, if any, would be publicly disseminated. Several commenters suggested that filings without any identification as to test or live filing should be treated as test in order to prevent inadvertent public dissemination. However, the Commission has determined to adopt the system as proposed, primarily because if unidentified filings are treated as test, then filings that are otherwise timely filed will be rejected for lack of a <LIVE> tag. Accordingly, filers should be extremely cautious

differences, these filings will be available in the public reference room at the Chicago Regional Office during its regular business hours.

[185] Registrants should submit a Form ID between three and six months in advance of the mandated phase-in date.

[186] Upon receipt of the completed Form ID, the Commission will send the EDGAR Filer Manual and EDGARLink software at no cost to filers if they are scheduled to begin mandated filing within three months. Otherwise, filers will be required to obtain a copy of the materials for a nominal charge through the Public Reference Room at the Commission's Headquarters.

[187] Under the current paper system, the Commission assigns a unique CIK number to each registrant, as a means of identifying the entity making a filing. These numbers are publicly available in any of the Commission's public reference rooms. In EDGAR, CIK numbers will be assigned to all registrants, third party filers and agents. As under the current system, the numbers will be publicly available.

[188] Identifying codes, such as CIKs and passwords, consist of a series of numbers, letters and/or special characters or a combination of all three. In direct transmission filing, the public login CIK must be matched to the non-public password of the registrant, third party filer, or agent or access to EDGAR will be denied. The use of two, rather than one, identifiers improves accuracy of identification. Moreover, when a registrant or third party filer is involved, the second identifier is particularly crucial as the login CIK is publicly available.

[189] CCCs are non-public codes that are used in the submission header to confirm the identity of the registrant or third party filer. The CCC must be matched with the registrant's or third party filer's CIK number, as appropriate, or the filing will not be permitted to proceed.

[190] Forms ID also may be used to change the password and the CCC. Asynchronous filers are encouraged to use the EDGAR on-line facility to change their passwords and CCCs in lieu of submitting a Form ID to the Commission. The capability of making on-line changes to access codes is restricted to filers using asynchronous terminals due to inherent limitations of bisynchronous communication. In all cases, a Form ID must be submitted to the Commission in order to change the PMAC.

[191] A complete discussion of the identification procedures can be located in Section III.D.3 of the Proposing Release as well as in the EDGAR Filer Manual.

[192] 17 CFR 230.424.

[193] Currently, the Commission assigns a unique CIK number and file number to each new legal entity upon the filing of a Rule 424 prospectus.

[194] A complete discussion of headers can be found in Section III.D.4 of the Proposing Release.

[195] The test features of the EDGARLink software should assist filers in testing filings. The EDGARLink software can be used not only to check new equipment or software but also to assure that there are no errors prior to submitting a "live" filing.

about properly identifying any test filing. Filers may use the <TEST> tag in filings on tape, diskette, or via direct transmission. Alternatively, filers using asynchronous direct transmission (EDGARLink or non-EDGARLink) may log in explicitly to send a test. The EDGARLink choice is "Transmit Test Filing to SEC"; the non-EDGARLink option is "Test Filing." Using either of these special log-in choices causes the system to transmit a special "test" marker with the filing(s). The filing(s) submitted as test will be error-checked but will not be "accepted" or disseminated even if correct.

6. Safe Harbor

The proposed rules included a safe harbor which provided that an electronic filer would not be subject to the liability and anti-fraud provisions of the federal securities laws with respect to an error or omission in a document resulting solely from the good faith transmission of such document via EDGAR, whether by magnetic tape, diskette or direct transmission, so long as the error or omission was corrected no more than five business days after the electronic filer became aware of the error or omission.[196] Commenters overwhelmingly favored the concept of a safe harbor for electronic transmission errors resulting from elements outside of their control. The adopted rule has been revised to make it clear that the safe harbor applies only in such circumstances.[197] It is not available where an electronic filer makes typographical errors or other mistakes while preparing an electronic format document for transmission.

While the proposal would have established a five business day period for filing a required electronic amendment, a facts and circumstances approach has been adopted. Accordingly, the safe harbor will be available with respect to an error or omission in an electronic filing that results solely from electronic transmission errors beyond the control of the filer where the error or omission is corrected by the filing of an amendment in electronic format as soon as reasonably practicable after the filer becomes aware of the error.

[196] Rule 103 of Regulation S–T. The Rule would limit a registrant's liability under Securities Act Sections 11, 12, and 17 [15 U.S.C. 77k, 77*l*, and 77q]; Exchange Act Sections 10, 14, 18, and 20 [15 U.S.C. 78j, 78n, 78r and 78t]; PUHCA Section 16 [15 U.S.C. 79p]; Trust Indenture Act Section 323 [15 U.S.C. 77www] and Investment Company Act Section 34(b) [15 U.S.C. 80a–33] if the conditions of the Rule are met.

[197] Rule 103 of Regulation S–T.

7. Filing Fees; Lockbox

As was true in the EDGAR Pilot, Transitional Filers who make direct electronic submissions are required to use the Commission's lockbox depository[198] for the payment of filing fees.[199] Lockbox fee payment also is available, on an optional basis, for filers who submit electronic filings on diskette or magnetic tape, as well as for paper filers.[200]

As proposed, the rules adopted today require all electronic filers to pay fees via the lockbox at the U.S. Treasury designated lockbox depository maintained by the Commission at the Mellon Bank in Pittsburgh, Pennsylvania. This requirement will be phased in along with electronic filing. Thus, a fee paid with respect to any electronic filing, whether by direct transmission, tape or diskette, will be paid via the lockbox. The lockbox procedures are intended to facilitate Commission compliance with United States Treasury Regulations[201] promulgated under the Deficit Reduction Act of 1984,[202] which require federal agencies to achieve same-day or next-day deposit of monies. A rule in Regulation S–T[203] requires electronic filers to pay filing fees in accordance with the lockbox procedures, including those pertaining to documents filed in paper pursuant to a hardship exemption.

The Securities Act requires that the filing fee be paid "at the time of filing" and "accompany" the filing.[204] A Securities Act registration statement (including a Securities Act filing by an investment company) will be deemed filed as of its date of receipt provided that all of the conditions of acceptance are satisfied,[205] including verification of fee payment at the lockbox.[206] If payment is not confirmed until the day following receipt by the Commission, the filing will be assigned a filing date as of the date of confirmation of payment, not the date of receipt.[207] If payment cannot be verified, the filing will be placed in a suspense file for up to six business days and the filer will be so notified. If the filer corrects the problem within the six day period and fee payment is confirmed, the filing will be considered filed as of the business day on which verification occurs. A suspended filing that has not been corrected and accepted within the six day period will be deleted from the system's file of pending submissions. In such cases, the filing must be resubmitted with the appropriate fee and accepted.

Filers should be aware that fee payments made via wire transfer will be verified on a near real-time basis (every 15 minutes), while those made by check will be verified on a daily basis. Accordingly, a filer may wish to pay fees with respect to a time-sensitive Securities Act registration statement by wire transfer in order to expedite acceptance processing.[208]

[198] The Commission maintains a U.S. Treasury designated lockbox at Mellon Bank in Pittsburgh, Pennsylvania.

[199] See amended Securities Act Temporary Rule 499(d)(1)(ii) [17 CFR 230.499(d)(1)(ii)], Exchange Act Temporary Rule 12b–37(d) [17 CFR 240.12b–37(d)] and Trust Indenture Act Temporary Rule 0–12(d) [17 CFR 260.0–12(d)]. See also Rule 3a of the Rules Relating to Informal and Other Procedures.

[200] *Id.*

[201] Management of Federal Agency Receipts and Operation of the Cash Management Improvements Fund, 31 CFR part 206.

[202] Deficit Reduction Act of 1984, Public Law 98–369, 98 Stat. 494, 1152 (1984).

[203] Rule 13(c) of Regulation S–T and note thereto.

[204] 15 U.S.C. 77f(b) and (c).

[205] See Section III.D.2.a, *supra*, regarding date of filing. As in the EDGAR Pilot, all Securities Act filings (including Securities Act filings by investment companies) made by direct transmission by Transitional Filers are deemed filed as of the date of receipt and acceptance if the Commission staff confirms the fee payment at the lockbox by the close of that business day. See Merrill, Lynch, Pierce, Fenner & Smith, Inc., response of the Office of Chief Counsel, Division of Investment Management, available February 27, 1987. While this interpretive letter related specifically to Rule 24f–2 [17 CFR 270.24f–2] notices, the position taken has been applied to all Securities Act filings.

[206] Fees paid by certified check, money order, or wire transfer to the lockbox are considered received by the Commission at the time of verification of their receipt at the lockbox. Rule 3(a) of the Rules Relating to Informal and Other Procedures.

As currently, acceptance of registration statements or pre-effective amendments to registration statements under the Securities Act that increase the number of securities registered is conditioned on confirmation that the required fee has been paid. Filings under the Exchange Act, including tender offer filings, also will be checked for fee payment, although acceptance will not be conditioned on confirmation of such payment. However, the filer will be billed for any amount that is due on an Exchange Act filing.

[207] Payment will be confirmed when the Commission is notified that the filer's account has been credited with sufficient funds to cover the required fee.

[208] Information with respect to check payments received at the lockbox is relayed to the Commission's computers at 2 p.m. Eastern Time each business day. The payment information received in the daily download reflects checks received by the lockbox before 2 p.m. Eastern Time of the prior business day. Consequently, if a registrant submits an electronic Securities Act filing on Monday and pays the required fee by a check that reaches the lockbox prior to 2 p.m. Friday, the filing will be deemed filed on that day, provided all other conditions of acceptance are satisfied. If the check reaches the lockbox after 2 p.m. on Friday, the filing will be deemed filed on Tuesday, the date of fee payment confirmation.

E. Hardship Exemptions and Adjustment of the Filing Date

1. General

Regulation S–T includes three provisions to address difficulties in the electronic submission of documents: a temporary hardship exemption; a continuing hardship exemption; and an adjustment of the filing date.[209] Delegated authority to the Director of the Division to grant or deny requests made pursuant to the continuing hardship exemption and the adjustment of the filing date provisions also has been provided.[210]

2. Temporary Hardship Exemption and Form TH

As proposed, the rules provide for a temporary hardship exemption when an electronic filer experiences unanticipated technical difficulties preventing the timely preparation and submission of an electronic filing.[211] Examples of such technical problems might include a storm that interrupts power to the filer's area or problems with the filer's computer equipment that had been used previously to transmit either test or required electronic filings successfully.

A number of structural changes have been made to the temporary hardship exemption in response to comment. First, the proposed rules would have required the Commission, or the staff acting pursuant to delegated authority, to grant a request made by an electronic filer after determining that the request was appropriate and consistent with the public interest and the protection of investors. In recognition of the fact that requiring staff consideration of such requests could present practical difficulties for both the Commission staff and filers, particularly with respect to filing problems encountered late in the day, the rules provide that an electronic filer may obtain the exemption simply by filing the subject document in paper under cover of Form TH, Notification of Reliance on Temporary Hardship Exemption,[212] which will be a public form, like Form 12b–25.[213] Although no staff involvement is required to obtain a temporary hardship exemption, Division staff will monitor its use. Abuse of the system will result in the rule being changed.

In a change from the proposals, the electronic filer will be required to file in paper the document for which the exemption is sought no later than one business day after the date the filing was to be made.[214] In addition, Form TH, rather than the request, must include the following information: (1) The reasons for the requested exemption; (2) a description of the nature and extent of the temporary technical difficulties experienced by the electronic filer in attempting to submit the document in electronic format; (3) a description of the extent to which the electronic filer has successfully submitted documents previously in electronic format with the same hardware and software, for test or required filings; and (4) a description of the burden and expense that would be involved to use alternative means to make the electronic submission.[215]

The official filing for purposes of the federal securities laws will be the microfiche copy generated by the Commission of the paper format document that accompanies the Form TH. The cover page of the paper filing must contain the following legend in capital letters: IN ACCORDANCE WITH RULE 201 OF REGULATION S–T, THIS (SPECIFY DOCUMENT) IS BEING FILED IN PAPER PURSUANT TO A TEMPORARY HARDSHIP EXEMPTION.[216] If the request pertains to documents filed pursuant to section 13(a) or 15(d) of the Exchange Act and the filing is submitted in paper within the time period mandated by the temporary hardship exemption rule, the paper filing will be deemed filed by its required due date.[217]

To assure the completeness of the EDGAR database, the rule requires the filer to submit a copy of the document in electronic format within six business days of submitting the filing in paper format (rather than in three business days as proposed).[218] The electronic format copy must contain the following statement in capital letters: THIS DOCUMENT IS A COPY OF THE (SPECIFY DOCUMENT) PREVIOUSLY FILED ON (DATE) PURSUANT TO A RULE 201 TEMPORARY HARDSHIP EXEMPTION.[219]

The rule provides that, as proposed, for those Securities Act registration statements that incorporate by reference Exchange Act periodic reports, use of the form is conditioned upon the electronic filer having submitted all required electronic filings, including confirming electronic copies with respect to those reports.[220] This condition applies without regard to the length of time that has elapsed since the failure to submit a required confirming electronic copy of an incorporated periodic report, as proposed. An electronic filer will have to be current in making required electronic filings, rather than both current and timely,[221] so that a filer could file all of its required electronic filings just prior to filing a privileged form.

Further, Regulation S–T prohibits electronic filers from incorporating by reference any document filed in paper in violation of the mandated electronic filing requirements, or any document filed in paper pursuant to a temporary hardship exemption for which a confirming electronic copy has not been

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[209] A filer may request an exemption or a filing date adjustment, or both. Electronic filers, like paper filers, may file a Form 12b–25 [17 CFR 249.322] to notify the Commission of their inability to timely file all or any portion of a Form 10–K and Form 10–KSB, Form 20–F [17 CFR 249.220f], Form 11–K [17 CFR 249.311], N–SAR, or Form 10–Q [17 CFR 249.308a] and Form 10–QSB [17 CFR 249.308b], but only where their inability to file the subject report in a timely manner is unrelated to electronic submission. Form 12b–25 and Rule 12b–25 [17 CFR 240.12b–25] have been revised to note that the form should not be filed if a temporary hardship exemption has been sought. In such case, the electronic filer will be required to make the filing in paper and submit an electronic confirming copy of the subject document within the time periods specified. Rule 201 of Regulation S–T.

[210] Rule 30–1(k) (adjustment of filing date) and Rule 30–1(*l*) (exemptions) of the Commission's Rules of Organization; Conduct and Ethics; and Information & Requests. The authority may be subdelegated to other Division staff as appropriate.

[211] Rule 201 of Regulation S–T.

[212] Three copies of this form must be filed.

[213] Where a temporary hardship exemption is obtained only for an exhibit, the exhibit must be filed in paper under cover of Form SE and be accompanied with Form TH.

[214] As proposed, the paper document would have been required to have been filed as promptly as possible, but no later than one business day after the due date of the filing. The rule adopted today has been modified, as not all filings for which the exemption may be sought have due dates.

[215] The proposed temporary hardship exemption request would have required the same information.

[216] Rule 201(a)(2) of Regulation S–T. Manual signatures will not be required for documents submitted in paper pursuant to the temporary exemption, as delays resulting from obtaining the signatures could undermine the flexibility the exemption is intended to provide. See Section III.F, *infra*, regarding signatures. However, other rules pertaining to paper filings, such as the required number of copies, must be complied with.

[217] Rule 201(a)(4) of Regulation S–T.

[218] Rule 201(b) of Regulation S–T. Related materials, such as correspondence, will not have to be resubmitted electronically.

[219] The submission header of the electronic confirming copy must specify the file number assigned to the paper filing and include the <CONFIRMING-copy> tag.

[220] Rule 303 of Regulation S–T. See changes to Securities Act Forms S–2, S–3, S–8, [17 CFR 239.16b], F–2, and F–3. The amendments also affect Forms S–4 [17 CFR 239.25] and F–4 [17 CFR 239.34], as a registrant must be eligible to use Forms S–3 or F–3 in order to incorporate by reference periodic reports into Form S–4 and F–4. Similarly, registrants must be eligible to use Form S–2 or Forms S–3 in order to incorporate by reference periodic reports into a proxy or information statement pursuant to Item 14 of Schedule 14A. Of course, the requirement to have submitted all required electronic filings, including confirming electronic copies with respect to those reports, applies only to the filer's own filings, rather than its third party filings, if any.

[221] Cf., e.g., General Instruction I.C. to Form S–3.

submitted.[222] Finally, amendments to the tender offer rules[223] provide that where a bidder who is an electronic filer, without a hardship exemption, fails to file in electronic format a Schedule 13E–4 or Schedule 14D–1 tender offer statement with the related offering documents, as well as any amendments to such documents, the period for which the tender offer must remain open is tolled for the period of noncompliance.[224] If the bidder files the foregoing documents in paper pursuant to a temporary hardship exemption, the minimum offering period will be tolled if the confirming electronic copy is not filed within the six day period established in the temporary hardship exemption rule; tolling will continue until the confirming electronic copy is filed.

3. Continuing Hardship Exemption

The rules, as proposed, provide that an electronic filer may apply in writing for a continuing hardship exemption from the electronic filing provisions if the filer is unable to submit all or part of a filing, or group of filings, in electronic format because of undue burden and expense or impracticability.[225] The exemption might be appropriate, for example, for filings of a company under the protection of a bankruptcy court where electronic filing may be burdensome, or for voluminous material contracts of an acquired company, the conversion of which would present undue hardship to the acquiror. Unlike the temporary hardship exemption, the continuing hardship exemption does not require that the paper filing be shortly followed up by an electronic copy. The Commission anticipates that grants of the continuing hardship exemption will be circumscribed as narrowly as possible, given the ease of submitting electronic filings generally and the need to ensure the completeness of the EDGAR database.[226]

The electronic filer, as proposed, will be required to submit a written application to the Commission for a continuing hardship exemption ten business days prior to the required due date of the filing or the proposed filing date, as appropriate, or within such other shorter period as may be permitted. Factors to be addressed include: (1) The reasons for not submitting electronically all or part of the document, or group of documents, as well as justification for the time period requested; (2) the reasons that the necessary hardware and software are not available without unreasonable burden and expense; and (3) the burden and expense involved to employ alternative means to file the electronic document.[227] As with the temporary hardship exemption, comment was solicited as to whether the request should be public or non-public. The rules adopted today provide that the applications will be treated like correspondence and thus not routinely available to the public, subject to requests under FOIA. The rule specifically provides that the application for a continuing hardship exemption is not deemed granted until the applicant is notified by the Commission or the staff.[228] If the filer is notified that the request is granted, the paper filing must be made on the required due date as specified in the applicable form, rule or regulation, or the proposed filing date, as appropriate. The grant of the continuing hardship exemption will not exempt the filer from the filing requirements of applicable forms or other provisions of the federal securities laws.[229] The paper document must contain the following legend in capital letters at the top of the cover page: IN ACCORDANCE WITH RULE 202 OF REGULATION S–T, THIS (SPECIFY DOCUMENT) IS BEING FILED IN PAPER PURSUANT TO A CONTINUING HARDSHIP EXEMPTION.[230]

If the Commission, or the staff acting pursuant to delegated authority, denies the application, then the electronic filer must file the required filing in electronic format on the required due date or the proposed filing date or such other date as may be permitted.[231]

Subject to the terms and conditions that the staff may impose, a continuing hardship exemption may be granted, in limited instances, for a finite time period.[232] In such case, the electronic filer could be required to file the document that is the subject of the exemption in electronic format at the conclusion of such period.

4. Adjustment of Filing Date

Current rules permit the staff, pursuant to delegated authority, to adjust the filing date of an electronically submitted document where acceptance of the filing is delayed because of equipment malfunction or other technical problem.[233] The Division has exercised its discretion to adjust filing dates where transmission has been delayed due to malfunction in the Commission's system or where receipt was delayed because of technical difficulties experienced by the filer in transmitting a filing.

These provisions, as proposed, are replaced by a similar rule[234] which permits an electronic filer to request an adjustment of the filing date of an electronic document,[235] regardless of the electronic medium, when the electronic filer encounters technical problems beyond its control which prevented electronic submission by the due date specified by the applicable form or rule.[236] Generally, adjustments of filing dates would only be appropriate for documents filed pursuant to section 13(a) or 15(d) of the Exchange Act. As noted in the Proposing Release, the Commission generally would not adjust a filing date pertaining to a transactional filing, such as a tender offer filing or a

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[222] Rule 303 of Regulation S–T. As proposed, rules relating to incorporation by reference would have been amended to include such a provision. However, consistent with the restructuring of the electronic filing rules, the applicable provisions have been centralized in Regulation S–T.

[223] See changes to Exchange Act Rules 13e-4 [17 CFR 240.13e-4] and 14e-1 [17 CFR 240.14e-1]. As proposed, Rule 14d-7 [17 CFR 240.14d-7], relating to withdrawal rights, also would have been amended. However, such an amendment is unnecessary, since both withdrawal and pro ration rights are available until the termination of the offer and thus would be tolled for the period of noncompliance pursuant to the proviso in Rule 14e-1.

[224] If the documents are filed in paper pursuant to a hardship exemption, the offering periods commence when the paper documents are filed.

[225] Rule 202 of Regulation S–T.

[226] If a registrant needs more time to prepare for mandated electronic filing than would be allowed prior to its phase-in date, it may apply to the Division of Corporation Finance for a deferral of that date. The request will be considered pursuant to delegated authority. *See* Section III.A., *supra*.

[227] Rule 202(b) of Regulation S–T.

[228] Rule 202(a)(1) of Regulation S–T.

[229] For example, if an electronic filer is granted a continuing hardship exemption for its Form 10–K, the filer will still be required to file its Form 10–K in paper format 90 days after the fiscal year end covered by the report. *See* General Instruction A to Form 10–K.

[230] If a continuing hardship exemption is granted with respect to an exhibit only, the exhibit must be filed in paper under cover of Form SE.

[231] Rule 202(a)(2) of Regulation S–T.

[232] Rule 202(d) of Regulation S–T.

[233] This authority is delegated to the Director of the Division pursuant to Rules 30–1(a)(9), 30–1(e)(4) and 30–1(f)(11) of the Commission's Rules of Organization; Conduct and Ethics; and Information and Requests [17 CFR 200.30–1(a)(9), (e)(4) and (f)(11)], which were adopted in conjunction with the EDGAR Temporary Rules.

[234] Rule 13(b) of Regulation S–T.

[235] Rules 30–1(a)(9), (e)(4) and (f)(11) have been rescinded and replaced by Rule 30–1(k), which delegates authority to the Director of the Division to adjust the filing date of a filing submitted pursuant to Regulation S–T.

[236] Consistent with practice in the EDGAR Pilot and during the Transitional Period, electronic filers are permitted to request the adjustment orally and to follow up with a written request. The written requests will be treated as correspondence, and thus non-public, subject to requests under FOIA.

Securities Act registration statement. Although back-up measures have been instituted to assure EDGAR will be fully operational at all required times, if a situation did arise that resulted in delay on the EDGAR system, the Commission could adjust the filing date.

F. Signatures

1. Background

The Temporary Rules governing the EDGAR Pilot defined the term "signed" to mean the entry, in the form of a magnetic impulse or other form of computer data compilation, of any symbol or series of symbols executed, adopted or authorized as a signature.[237] In the EDGAR Pilot, two methods of signatures were used, depending on the filing medium. Electronic filings made on diskette or magnetic tape contained conformed signature pages and manually signed copies of the signature pages, opinions and consents were submitted under cover of temporary Form ET. In contrast, submissions by direct transmission used personal identification numbers ("PINs"). PINs are unique sets of characters assigned by the Commission which represent the signatures of persons required to sign a form or document such as officers, directors, accountants and experts.[238]

2. Requirements in EDGAR

All commenters who addressed the issue of signatures supported both the proposal that signature requirements would be satisfied if the signatory's name appears in typed form and the proposed elimination of PINS, which were used in the EDGAR Pilot. Accordingly, the rules adopted today, like the rules applicable to Transitional Filers, provide that statutory and non-statutory signature requirements are satisfied if the signatory's name appears in typed form. Thus, the term "signature" is defined as the electronic entry in the form of a magnetic impulse or other form of computer data compilation of any letter or series of letters comprising a name, executed, adopted or authorized as a signature.[239] Typed signatures will be required under all statutes and rules for all media of electronic submission. Typed signatures also are adequate for all related materials submitted via EDGAR, such as correspondence, acceleration requests, and applications. This approach eliminates both the practical problems associated with PINs and the need to revise the signature requirements found in various rules and forms, which will remain the same as for paper filings.[240] The security controls in the EDGAR system for access and transmission should help guarantee the viability of a typed signature system.

Commonly accepted legal principles provide that the term "signature" means any symbol executed or adopted by a party with the present intention to authenticate a writing.[241] A signature may be written by hand, stamped, typewritten and engraved, among other means.[242] The current definition of "signed" under the EDGAR Temporary Rules applicable to Transitional Filers comports with these principles, as does the definition of "signed" under the adopted rule.[243] By requiring that the symbol be entered physically into the document, the present intention to authenticate would be demonstrated.

In the Proposing Release, the rules and forms under the various Acts were proposed to be amended by adding provisions alerting electronic filers to the typed signature requirement.[244] However, consistent with the objective of streamlining changes applicable to electronic filers by grouping them together in Regulation S–T, signature rules are only set forth in Regulation S–T.

Comment was solicited in the Proposing Release on the necessity or usefulness of requiring filers to retain a manually signed document to be made available to the Commission and others upon request, and if so, whether three years, five years or some longer time, such as ten years, should be specified. Commenters were divided on the necessity of such a requirement. Some commenters believed that policies relating to retention of manually signed pages should be set by the company, and that companies most likely will retain them as a means of internal control. Others stated that filers should be required to maintain a manually signed conforming copy of the signature page of an electronically filed document for evidentiary purposes. Upon reconsideration, the Commission has determined to mandate the retention of a manually signed signature page or other document authenticating, acknowledging or otherwise adopting the signatures that appear in typed form within an electronic filing, to be made available to the Commission or its staff upon request, for a period of five years.[245] Further, the signature authorization must be executed before or at the time the electronic filing is made.

In a change from the proposals, manual signatures are required for Form SE, the form for submission of paper exhibits, except where the Form SE pertains to an exhibit filed pursuant to a temporary hardship exemption. In that case, the signatures to the Form SE may be typed in order to avoid exacerbating timing difficulties.[246] Form ID retains the requirement for manual signatures, as proposed, as this form initiates a filer's access to the EDGAR system.

3. Powers of Attorney and Consents

Section 7 of the Securities Act requires, with limited exceptions, the filing of a written consent of any expert named in the registration statement as having prepared or certified any part of the registration statement, or named as having prepared or certified a report or valuation for use in connection with the registration statement.[247] In the EDGAR Pilot, the majority of participants filed manually signed powers of attorney or consents of experts in paper under temporary Form SE for all media of electronic submission.

The Proposing Release solicited comment regarding any continuing need for PINs in the context of expert signatures, particularly with respect to accountants' consents and accountants' reports, or whether there is any other means for independent professionals to have their signatures verified. The overwhelming majority of commenters believed that typed signatures should be adequate for powers of attorney and consents. Accordingly, the requirement that signatures be in typed form is

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[237] *See* former Securities Act Temporary Rule 499(b)(7) [17 CFR 230.499(b)(7)], incorporated into Securities Act Temporary Rule 499(d)(2), effective July 15, 1992, for the Transitional Filers.

[238] Temporary Form ID, adopted by the Commission for PIN applications, required that the applicant agree that "execution, adoption or authorization to enter the PIN * * * constitutes * * * the applicant's signature."

[239] Rule 302 of Regulation S–T.

[240] Manual signatures will continue to be required for paper filings, except that they will not be required for documents submitted in paper pursuant to the temporary hardship exemption. See section III.E.2, *supra*.

[241] See, for example, the Uniform Commercial Code § 1–201(39).

[242] Black's Law Dictionary, 6th ed. (1990), pages 1381–1382.

[243] Securities Act Temporary Rule 499(d)(2) and Rule 302 of Regulation S–T.

[244] See section IV.F.1, *infra*.

[245] Rule 302(b) of Regulation S–T. The retention requirement pertains to all required signatures in a filing, for example, signature pages to Securities Act registration statements. Conversely, there is no retention requirement for signatures not required by the federal securities statutes and regulations, such as those to a material contract filed pursuant to Item 601(b)(10) of Regulation S–B [17 CFR 228.601(b)(10)] or Regulation S–K [17 CFR 229.601(b)(10)].

[246] See section III.E.2, *supra*, for discussion of hardship exemptions.

[247] 15 U.S.C. 77g.

applicable to powers of attorney and consents of experts.[248]

IV. Presentation and Entering of Information

A. Modular Submissions and Segmented Filings

The EDGAR Pilot used a modular submission procedure successfully for several years.[249] This procedure allows electronic filers to submit information that is intended to become a part of more than one filed document to a nonpublic EDGAR data storage area and then transfer the information to an official electronic filing, as desired. In the EDGAR Pilot, this submission method was restricted to investment companies; however, under the operational EDGAR system, all electronic filers that subscribe to the optional EDGAR electronic mail service may use modular submissions.[250] This feature eliminates the need for submission of duplicative information, which is of particular value when substantially similar information is required in more than one filing.[251]

Commenters found the function of modular submissions to be useful and desirable. For example, an electronic filer could use the modular submission procedure to file the description of business as one modular document, the description of property as a second modular document, audited year end financial statements and management's discussion and analysis as a third modular document, disclosure on directors, executive officers and control persons as a fourth modular document, and exhibits as a fifth modular document. The electronic filer then could file a Form S–1 registration statement which instructs the EDGAR system to insert each of the five modular documents into specified places in the Form S–1. With respect to an annual proxy statement, the electronic filer could request that only the directors, executive officers, and control persons disclosure module be included in a specified location in the proxy statement.

Since modular submissions require closer coordination and more prompt communications between EDGAR and the filer than other submissions, the rule governing modular submissions specifies that only those electronic filers that subscribe to the EDGAR electronic mail service may make modular submissions.[252] Such filers will be allowed up to ten modular submissions in the non-public EDGAR data storage area at any time, not to exceed a total of one megabyte of digital information (approximately 300 double-spaced typed pages).[253] If an electronic filer attempts to submit a modular filing which, if accepted, would cause either of these limits to be exceeded, EDGAR will suspend the modular submission and notify the electronic filer by electronic mail. After six business days, the modular submission held in suspense will be deleted from the EDGAR system.[254] No time periods have been set with respect to the use of modular submissions; the data included in the submission must remain current enough to satisfy the requirements of the filing in which it is included.

Inasmuch as EDGAR will not permit parts of modular submissions to be extracted and used separately, an entire modular submission must be used. If updating is required, or changes are made for other reasons, an entirely new modular submission must be substituted for the previously existing one.

The modular submission will not constitute an official filing[255] or be deemed "filed" for purposes of the federal securities laws.[256] However, once the filer includes a modular submission in a particular filing, all pertinent liability provisions of the federal securities laws will apply to the information.[257]

The EDGAR filer could use the modular submission in any number of official filings. The use of information from a modular submission would not be a form of incorporation by reference.[258] Unlike incorporation by reference, which includes disclosure from one required filing in another required filing by an express statement describing the inclusion, the text of the modular submission would be physically set forth in the designated location in the required filing. As a result, both the electronic and microfiche copy of the filing, as well as any paper printouts, would be complete.

Another feature designed to assist filers in submitting voluminous data is segmented filing. Material submitted as segments may originate from several different geographic locations using different transmission media, and may be submitted over a period of six business days in advance of the anticipated filing date.[259] The filer instructs the EDGAR system as to the order of presentation of the segments, and submits the "master segment" last. EDGAR's acceptance of the master segment triggers the construction of the filing from the "master segment" and previously submitted subordinate segments. The filing date of a segmented filing will be the date upon which the filing is assembled and satisfies the requirements of Rule 12(a) of Regulation S–T. The electronic and microfiche copy of the filing and the Commission's official microfiche and any paper printouts will be complete filings.

If the filer identifies incorrectly the names of segments to be included in a filing, the filing will not be constructed. Electronic mail messages will be sent upon receipt of each segment. Imperfect segments will have to be resubmitted in their entirety.

As with modular submissions, all EDGAR filers that subscribe to the optional EDGAR electronic mail service may submit segmented filings. In contrast to modules, there is no limit to the size of any segment, nor to the number of segments which may be used to create a filing. Segments, however, are to be used only once and remain on the database only for six business days, after which time they will be removed.

Like modular submissions, segments do not constitute an official filing and are not deemed "filed" for purposes of the federal securities laws. However, once the filer submits the master segment for a particular filing, all applicable liability provisions of the federal securities laws apply to the newly created filing.

Modular submissions and segments not included in a filing will not be available to the public.[260] The Proposing Release indicated that the Commission may be required to release modules or segments to the public pursuant to a request under FOIA if an exemption under that Act is not available. The Commission continues to be of the view that there is an issue whether modules

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[248] See generally Rule 302 of Regulation S–T.

[249] This procedure was referred to as the "reference filing procedure." Procedures used in the EDGAR Pilot appeared in the EDGAR Pilot User Manual (1988) at paragraph 147.

[250] This procedure became available to Transitional Filers under the amended Temporary Rules beginning July 15, 1992.

[251] It is estimated that despite its restricted use in the EDGAR Pilot, modular submissions eliminated the need to transmit over one million duplicative pages of information.

[252] Rule 501 of Regulation S–T.

[253] Rule 501(a)(2) of Regulation S–T.

[254] *Id.*

[255] See paragraph (m) of Rule 11 of Regulation S–T for a definition of official filing.

[256] See Securities Act section 11 [15 U.S.C. 77k], Exchange Act section 18 [15 U.S.C. 78r] and Trust Indenture Act Section 323 [15 U.S.C. 77www].

[257] Rule 501(c)(3) of Regulation S–T.

[258] See Section IV.C, *infra*, for a discussion regarding the incorporation by reference rules.

[259] Rule 501(b) of Regulation S–T. For example, voluminous exhibits could be sent in advance of a filing, or financial statements could be sent from the offices of the registrant's auditors.

[260] Rule 501(c)(1) of Regulation S–T

and segments are "agency records" subject to FOIA requests. If a court of competent jurisdiction determines that they are in fact "agency records," a FOIA exemption may be available under appropriate circumstances.

In the EDGAR Pilot, direct transmission filers had the option to file pricing amendments to registration statements in two parts to facilitate filing and acceptance at the time of pricing.[261] As noted in the Proposing Release, given the limited number of times this procedure was used in the EDGAR Pilot and as the need to file most pricing amendments in cash offerings has been obviated by Securities Act Rule 430A,[262] the two-part filing system will not be available in EDGAR. However, segmented filing can be used to achieve similar results.

B. Annual and Quarterly Reports to Security Holders

Currently, registrants subject to the proxy rules are required to furnish to the Commission, for its information, copies of their annual report to security holders, including financial statements and information required by the proxy rules.[263] In recognition of the fact that the annual report to security holders may be difficult to transmit electronically due to the format and graphics commonly associated with such documents, the Proposing Release solicited comment as to whether both paper and electronic filers should be relieved from the obligation to send copies of their annual reports to security holders to the Commission for its information if their Form 10–K reports included all of the information required to be disclosed in the annual report to security holders under the proxy rules. If the Form 10–K did not include all of the required disclosure, the proposed rules provided that registrants would have continued to be subject to the requirement to furnish a copy of their annual reports to security holders to the Commission in paper or electronically, depending on the status of the registrant.

In general, commenters supported the proposal to eliminate the requirement to submit annual reports to security holders to the Commission for its information if the Form 10–K included all the required information. Upon reconsideration of the issue, however, in light of the material in the annual report to security holders that does not appear in the Form 10–K, such as the president's letter, the Commission has decided to retain the Rule 14a–3 and 14c–3 requirement, as well as the corresponding Form 10–K, 10–KSB, and 8–A requirements.[264] When the annual report to security holders is not part of a filing, it may be furnished to the Commission in paper, or in electronic format[265] if the registrant so wishes.[266]

Registrants will continue to have the option of using information contained in the annual report to security holders in their annual reports filed with the Commission on Form 10–K or Form 10–KSB, either by incorporating all or portions of the annual report to security holders by reference[267] or by filing with the Commission and distributing to security holders a combined Form 10–K or Form 10–KSB and annual report to security holders.[268] The proposed rules would have required a registrant who chose to incorporate by reference into a Form 10–K information from an annual report to security holders to file in electronic format the entire annual report to security holders as an exhibit to the Form 10–K. However, commenters overwhelmingly criticized this approach because of the practical difficulties and expense that would be involved in putting this document into electronic format. In light of these concerns, the rules adopted today require only those portions of the annual report to security holders that are incorporated by reference into the filing to be filed electronically as an exhibit.[269] If the integrated report to security holders is used, any portion of an annual report to security holders filed with the Commission in combination with the required information of Form 10–K or 10–KSB must be filed electronically.[270]

Registrants may continue to incorporate by reference the annual report to security holders (and, in certain cases, the quarterly report to security holders), or portions thereof, into filings other than the Form 10–K or 10–KSB, such as registration statements on Forms S–2 or S–4.[271] Consistent with the above approach, if an electronic filer incorporates by reference its annual report to security holders or any portion thereof into a Commission filing, or the annual report to security holders was deemed to be soliciting material in a proxy contest,[272] then only those portions that constitute part of an official filing will have to be filed electronically with the Commission.[273] Similar provisions apply to the quarterly report to security holders when incorporated by reference. Further, as proposed, Form S–2 has been amended to give both paper and electronic filers the option to deliver with the prospectus the Form 10–K or 10–KSB rather than the annual report to security holders.[274]

As proposed, the provisions that request managements of registrants to

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[261] Procedures used in the EDGAR Pilot for two-part pricing amendments appear in the EDGAR Pilot User Manual (1988) at paragraph 143.

[262] 17 CFR 230.430A.

[263] Exchange Act Rules 14a–3 and 14c–3 [17 CFR 240.14a–3 and 240.14c–3]. Pursuant to the requirements of Form 10–K and Form 10–KSB, Section 15(d) filers also furnish the Commission with any copies of their annual reports to security holders and proxy materials sent to more than ten security holders. *See* caption "Supplemental information to be Furnished with Reports Filed Pursuant to Section 15(d) of the Act, by Registrants Which Have Not Registered Securities Pursuant to Section 12 of the Act." Annual reports to security holders also are required exhibits to Form 8–A [17 CFR 249.208a].

[264] Rule 29 under PUHCA [17 CFR 250.29] and the annual report filed by registered holding companies on PUHCA Form U5S [17 CFR 259.5a] will continue to require that the annual reports to security holders be submitted in paper. *See* the companion PUHCA Release. In contrast, investment companies must submit their annual reports to security holders in electronic format. *See* the companion Investment Company Act Release.

[265] If a registrant elects to submit the annual report to security holders to the Commission in electronic format, the <SUBMISSION> <TYPE> and <DOCUMENT> <TYPE> values are <AR/S>. In contrast, when it is incorporated by reference into a filing, it should be filed as an exhibit pursuant to Item 601(b)(13) of Regulations S–K [17 CFR 229.601(b)(13) and 17 CFR 228.601(b)(13), respectively].

[266] A registrant's obligation to distribute to shareholders the annual report to security holders is unaffected. Registrants also may continue, under specified circumstances, to include the Rule 14a–3 information in an appendix to its proxy statement rather than distribute it in an annual report to security holders. See letter re *General Motors Corp.*, avail. Jan. 20, 1987.

[267] *See* General Instruction G to Form 10–K and General Instruction C to Form 10–KSB.

[268] *See* Exchange Act Rule 14a–3(d) [17 CFR 240.14a–3(d)], General Instruction H to Form 10–K and General Instruction D to Form 10–KSB.

[269] *See* Item 601(b)(13) of Regulations S–K and S–B. Annual reports to security holders are not subject to liability as filings under sections 13(a), 14(a), 14(b), 15(d) or 18 of the Exchange Act [15 U.S.C. 78m(a), 78n(a), 78n(b), 78o(d) and 78r] except to the extent incorporated by reference into reports and statements filed thereunder. Of course, annual reports to security holders are subject to the anti-fraud provisions of the federal securities laws.

[270] *See* General Instruction H(3) to Form 10–K and General Instruction F(3) to Form 10–KSB. Graphic material that is part of the Form 10–K annual report will be treated in the manner discussed in section IV.E, *infra*.

[271] *See* Item 12 of Form S–2 and Items 13 and 16 of Form S–4; *see also* Item 14 of Schedule 14A, General Instruction D to Form 10–Q and General Instruction C to Form 10–QSB.

[272] *See* Exchange Act Rule 14a–11(d) [17 CFR 240.14a–11(d)].

[273] In connection with the incorporation by reference of the annual report to security holders, *see* revisions to Form S–2, Item 12(c); Form S–4, Items 13(c) and 16; Note D of Schedule 14A of the Exchange Act [17 CFR 240.14a–101]; and Exchange Act Rule 14a–11(d).

[274] This option also would be available for Form S–2 level disclosure on Form S–4 and Schedules 14A and 14C. *See* Section V.F.1, *infra*.

indicate in a transmittal letter whether the financial statements in the annual report to security holders furnished to the Commission reflect a change from the preceding year in any accounting principles or practices or in the method of applying any such principles or practices[275] has been moved to an instruction in Form 10–K and Form 10–KSB.[276] These changes will enable the staff to locate the information readily.

C. Incorporation by Reference

To ensure that the electronic database under EDGAR is as complete as possible, Regulation S–T[277] prohibits electronic filers from incorporating by reference any document filed in paper in violation of the mandated electronic filing requirements, or any document filed in paper pursuant to a temporary hardship exemption for which a confirming electronic copy has not been submitted.[278]

As noted in the Proposing Release, documents filed in paper before a registrant became subject to mandated electronic filing may remain in paper format and be incorporated by reference into an electronic filing except as otherwise provided. For example, a registration statement on Form S–3 filed in electronic format may incorporate by reference a Form 10–K, Form 10–KSB, Form 10–Q or Form 10–QSB filed in paper before the registrant became subject to mandated electronic filing.[279]

D. Financial Data Schedule

1. Background

As discussed in the Proposing Release, "data tagging," the basis for Financial Data Schedules, requires identification of specific information in a manner that permits the data to be readily identified and extracted by the electronic system.[280] For example, if the system can identify specific items of financial information, financial ratios can be calculated automatically by computer, and searches of the database can be made for registrants with specific financial characteristics. Filings submitted on EDGAR in free-form textual format, similar to the format of paper filings, are not amenable to such analysis without manual re-entering of the data. The use of data tagging in the Financial Data Schedules, however, provides such capability.

The EDGAR Pilot tested the following methods of identifying critical financial data: voluntarily submitted data tagged schedules based upon Article 5 of Regulation S–X;[281] and a prototype artificial intelligence ("AI") project, the Financial Statement Analyzer. Although the AI project correctly computed 94% of the standard financial ratios contained in a sample of 30 balance sheets, income statements and related footnotes, the Commission currently does not have sufficient resources to test and fully develop the AI technology on a large scale.

2. Financial Data Schedule Overview

The Commission has adopted the proposed requirement that electronic filers furnish a Financial Data Schedule when such filers are required to file financial statements with the Commission. However, in order to address commenters' concerns, as well as to make the Financial Data Schedule more useful to the staff and other users of the information, the rules adopted today reflect a number of changes from the proposals that are discussed in detail below.

The effective date of the Financial Data Schedule requirements has been delayed in order to provide additional time for system programming.[282] While the Commission is adopting today requirements to furnish a Financial Data Schedule, interested parties are encouraged to submit written comments on the form and content of the Schedule in order to aid the Commission in its ongoing evaluation and development of this new financial information functionality. Persons submitting written comments are requested to do so by May 17, 1993 and should file three copies with Jonathan Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Comment letters should refer to File No. S7–6–93. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

The primary change to the proposed Financial Data Schedule requirements is that the adopted rules will require a Schedule to be filed as an exhibit to any registration statement, report or other document filed with the Commission that includes updated annual or interim financial statements (otherwise than through incorporation by reference),[283] rather than require the submission of Financial Data Schedules in connection with filings made on specified forms, as proposed. A newly phased in electronic filer will be required to furnish the Financial Data Schedule with its first mandated electronic filing that includes financial statements, not incorporated by reference from an earlier filing, with information reflecting the most recent fiscal year and/or interim year to date contained in such financial statements to be included in the Schedule. In most cases, Exchange Act reporting companies that are mandated electronic filers will furnish a Schedule in connection with each Form 10–K and Form 10–Q filing; however, if a filing containing updated financial statements not represented in a previously filed Financial Data Schedule is made before the Form 10–K or 10–Q is filed, that filing will be the one to include the schedule.[284]

The Financial Data Schedule will set forth specific financial information from the registrant's financial statements, schedules and other disclosure requirements, such as industry guides. The Commission has adopted the proposal that the Financial Data Schedule be in the public domain, but not be deemed "filed" for purposes of liability under the federal securities laws.[285] Financial Data Schedules will be furnished as exhibits pursuant to

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[275] See Rules 14a–3(c) and 14c–3(b).

[276] General Instruction D(3) to Form 10–K and General Instruction C(3) to Form 10–KSB. Thus, the information will relate to Form 10–K or 10–KSB, and will be provided in the transmittal letter accompanying such filing rather than in the letter accompanying the annual report to security holders.

[277] Rule 303 of Regulation S–T. As proposed, rules relating to incorporation by reference would have been amended to include such a provision. However, consistent with the restructuring of the electronic filing rules, the applicable provisions have been centralized in Regulation S–T. *See* Section III.E.2, *supra*, regarding the temporary hardship exemption.

[278] Filers are permitted, however, to incorporate a paper document during the six business day period before the electronic confirming copy is required.

[279] Rule 303 of Regulation S–T.

[280] Data tags will be used in the EDGAR system in a variety of ways other than in the Financial Data Schedule. For a general discussion of tagging, see section V.B, *infra*.

[281] 17 CFR 210.5–01, 210.5–02, 210.5–03, and 210.5–04.

[282] Registrants will be required to comply with the Financial Data Schedule provisions for filings on or after November 1, 1993.

[283] Generally, a Financial Data Schedule will not have to be filed by Exchange Act reporting companies in connection with a Form S–2, S–3 or S–8 registration statement because the financial statements relating to those forms are incorporated by reference from a Form 10–K filing that includes a Financial Data Schedule. In the rare instance where updated financial statements are furnished in connection with those forms, a Financial Data Schedule will be required; consequently, the exhibit tables of Item 601 of Regulations S–K and S–B indicate a Financial Data Schedule requirement in connection with Form S–2, S–3 and S–8.

[284] For example, if a calendar year-end company files a registration statement on April 30 containing March 31 interim financial statements, a Financial Data Schedule for the quarter would be filed as an exhibit to the registration statement. The subsequently filed Form 10–Q for the quarter ending March 31 would not be required to include a Financial Data Schedule.

[285] See section IV.D.4, *infra*, for further discussion regarding liability for the Financial Data Schedule.

Item 601 of Regulations S–K and S–B,[286] which will facilitate the Commission's comment and amendment process.[287] The items to be included in the Financial Data Schedule, derived from financial statements, schedules and other disclosures, are set out in appendices to Item 601(c) of Regulations S–K and S–B. The specific instructions for preparing the Schedules will be contained in a version of the EDGAR Filer Manual adopted before the effective date of the requirement.

Unlike other exhibits, failure to file a required Financial Data Schedule, or the inclusion of an error in the Schedule that would preclude its acceptance, will not prevent the filing to which it relates from being accepted by EDGAR.[288] If not subsequently amended to add the Schedule, however, the filing will be considered incomplete, thereby rendering Forms S–2, S–3, and S–8 unavailable to the issuer.[289] In addition, accelerated effectiveness will not be available for registration statements that do not include required Financial Data Schedules.

Comment was solicited as to whether it would be more appropriate to permit electronic filers to use Forms S–2, S–3 and S–8 if they had filed all required Financial Data Schedules for a limited period such as three, five or seven years prior to filing the registration statement or such shorter period as the registrant has been subject to the Financial Data Schedule filing requirements. Upon consideration of the issue, the Commission has determined that no time limit should be adopted, given the importance of the information to the electronic database.

The Commission also requested comment regarding whether Financial Data Schedules should be required for foreign private issuers and, if so, whether the Financial Data Schedules should include financial information based on the foreign accounting principles or the reconciled information, or both. Further, comment was solicited as to whether foreign private issuers, who under current rules generally must present financial information in the currency of the country in which they are incorporated or organized, may present a translation of financial statements into United States dollars for the most recent fiscal year and any subsequent interim period.[290] Because electronic filing by foreign private issuers and foreign governments will be optional, resulting in an incomplete database relating to foreign filers, and because substantial resources would be required to accept and use electronic information furnished by such filers, the Commission has determined not to require foreign private issuers and foreign governments to furnish Financial Data Schedules at this time. As the Commission gains experience with electronic filings made by such entities, further consideration will be given to adopting Financial Data Schedules that would be appropriate for them.

Finally, Rule 15d–2[291] provides that if a Securities Act registration statement does not contain certified financial statements for the registrant's last full fiscal year (or for the life of the registrant if less than a full fiscal year) preceding the fiscal year in which the registration statement became effective, the registrant must file a special report furnishing certified financial statements for such last full fiscal year or other period, as appropriate. A special report is required to be filed under cover of the facing sheet of the form appropriate for annual reports (generally Form 10–K). Comment was requested as to whether these special reports should include a Financial Data Schedule for the most recent fiscal period presented, or be presented in the Financial Data Schedule furnished with the registrant's first annual report. As adopted, the Financial Data Schedule is required to be furnished with the special report in the same manner as any other filing on a Form 10–K. Thus, the Financial Data Schedule is required to be furnished for the latest fiscal year included in the special report.

3. Data Required in Schedule

In the EDGAR Pilot, the data tagged schedule contained specific financial items required in financial statements pursuant to Regulation S–X.[292] Substantially similar items are included in the EDGAR Financial Data Schedule required to be filed by commercial and industrial companies.[293] Companies in specialized industries will be required to file Financial Data Schedules reflecting financial data relevant to their industry. The Schedules applicable to these companies refer not only to specific items in Regulation S–X but also to specific items in the Commission's Securities Act and Exchange Act Industry Guides. For example, with respect to bank holding companies, the Financial Data Schedule items[294] have been taken from a combination of items appearing in the registrant's financial statements required by Article 9 of Regulation S–X[295] and from data required under Securities Act and Exchange Act Industry Guide 3 (Statistical disclosure by bank holding companies).[296] Similar information also will be required with respect to savings and loan holding companies. With respect to insurance companies, the Financial Data Schedule items have been taken from items in the registrant's financial statements required by Article 7 of Regulation S–X and from data required under Securities Act Industry Guide 6 and Exchange Act Industry Guide 4 (Disclosures concerning unpaid claims and claim adjustment expenses of

[286] On July 30, 1992, the Commission adopted Regulation S–B to govern filings made by small business issuers. See Release No. 33–6949 (July 30, 1992) [57 FR 36442]. Because the small business initiatives had not been adopted at the time the Proposing Release was issued, the Proposing Release included provisions for Financial Data Schedules only in Regulation S–K, which previously had been applicable to small business issuers. The rules adopted today include amendments to Regulation S–B Item 601 that reflect the changes proposed to Regulation S–K.

Since a Financial Data Schedule may be required to be filed in connection with any form identified in the exhibit tables of Item 601 of Regulations S–K and S–B, each form is marked on those tables as requiring the exhibit, with the exception of forms filed only by foreign private issuers and foreign governments, who, in a change from the proposals discussed below, will not be required to file Financial Data Schedules.

[287] If a document requiring a Financial Data Schedule is filed in paper pursuant to a temporary hardship exemption, the Schedule should not be filed in paper, but should be included with the subsequently filed confirming electronic copy. See section III.E.2, *supra*, for more information about temporary hardship exemptions.

[288] See Section III.C.1.d, *supra*.

[289] This is similar to the treatment of issuers who fail to submit a confirming electronic copy of a filing that is the subject of a temporary hardship exemption, as discussed in section III.E.2, above.

The adopted provisions also affect Form S–4, since a registrant must be eligible to use Form S–3 in order to incorporate periodic reports by reference into Form S–4. Similarly, registrants must be eligible to use Form S–2 or S–3 in order to incorporate by reference periodic reports into the proxy statement pursuant to Item 14 of Schedule 14A.

The proposals also would have conditioned use of Forms F–2 and F–3 on the furnishing of required Financial Data Schedules. However, as discussed below, foreign private issuers and foreign governments will not be required to furnish Financial Data Schedules at this time.

[290] Regulation S–X Item 3–20(b) [17 CFR 210.3–20(b)].

[291] Exchange Act Rule 15d–2 [17 CFR 240.15d–2].

[292] The schedule items were drawn from Article 5 of Regulation S–X, which relates to commercial and industrial companies.

[293] These items, and their references to financial statement items, are enumerated in the Appendices to Item 601(c) of Regulations S–K and S–B.

[294] These items, consisting of balance sheet, income statement and industry guide figures and their financial statement and schedule references, are enumerated in the Appendices to Item 601(c) of Regulations S–K and S–B, as are the items required for insurance companies and broker-dealers, as discussed below.

[295] 17 CFR 210.9–01, 210.9–02, 210.9–03, 210.9–04, 210.9–05, 210.9–06, and 210.9–07.

[296] 17 CFR 229.801(c) and 229.802(c).

property-casualty insurance underwriters).[297]

The use of existing financial items in Regulation S–X that are essentially identical to items included in financial statements prepared in conformity with generally accepted accounting principles and the use of items in the Industry Guides obviates the need to develop a definition for the specified items. However, the Financial Data Schedules based on Articles 5, 7 and 9 of Regulation S–X may not be appropriate or useful with respect to broker-dealer or investment banking firms and may be difficult for such companies to prepare. Accordingly, the rules provide, as proposed, that these companies may elect to file an alternative Financial Data Schedule.[298] This Schedule has been substantially revised from the one proposed to reflect commenters' concerns. The items listed in the alternative Schedule for such entities are based on standard financial statement formats included in accounting and auditing guides published by the AICPA and thus will provide sufficient uniformity without the need to refer to specific rules or other requirements.

Certain registrants include financial information from more than one Article of Regulation S–X in their consolidated financial statements. For example, a registrant that is a manufacturer and has an insurance company subsidiary may present financial information not only from commercial and industrial operations pursuant to Article 5 of Regulation S–X, but also from insurance company subsidiary operations pursuant to Article 7 of Regulation S–X, Securities Act Industry Guide 6, and Exchange Act Guide 4. In order to address a commenter's concerns, the adopted rules provide that a registrant that presents disaggregated information about non-homogeneous industry operations on the face of its primary financial statements will have the option to file Financial Data Schedule information that is relevant to each industry in which it has significant operations, along with specified aggregated information.[299] Alternatively, such a registrant may aggregate financial information into a single format prepared in accordance with the Regulation S–X Article relating to the registrant's primary business.

Comment was solicited as to whether there are other types of entities, for example, real estate limited partnerships and utilities, for which the proposed Financial Data Schedule based on Article 5 of Regulation S–X may not elicit appropriate information and may be difficult for such entities to prepare. Commenters have indicated a preference for Financial Data Schedules adapted to specific industries. As adopted, the Financial Data Schedule provisions include a requirement that public utility companies and public utility holding companies follow the same format for the Financial Data Schedule required in connection with annual reports filed under the Public Utility Holding Act. A line item for property, plant and equipment has been added to the Article 5 schedule, which, taken together with other information in the Schedule, will facilitate its use by real estate companies.

Although financial statements of small business issuers in registration statements on Form SB–2 are prepared in accordance with generally accepted accounting principles (GAAP) rather than Regulation S–X, it is not anticipated that the preparation of Financial Data Schedules will impose significant burdens, as all of the Financial Data Schedule items are commonly found in GAAP. Comment was solicited as to whether there were specific items of information in the proposed Financial Data Schedules that would be burdensome for small business issuers to include. No commenters addressed this question. Accordingly, the Regulation S–B requirements for the content of Financial Data Schedules are the same as those of Regulation S–K.

As stated above, a newly phased in electronic filer will be required to furnish the Financial Data Schedule with its first mandated electronic filing that includes financial statements not incorporated by reference from an earlier filing. The Proposing Release requested comment concerning whether the initial Financial Data Schedule should require information for all historic periods for which financial statements are included in the registration statement or periodic report or only for the most recent financial reporting period. As the majority of commenters who addressed this issue urged, the initial Financial Data Schedule will require data only for the most recent fiscal year or interim year to date period, or both (if included in a registration statement to which the Schedule relates), for which financial statements have not been filed previously.[300] Over a period of years, a database of annual and quarterly information will accumulate, but development of three years of information will not be required upon entry into the system.

Where information in financial statements is restated, *e.g.*, to reflect an acquisition accounted for as a pooling of interests, an accounting principle change, a reorganization or recapitalization, or the correction of an error, the rules require the filing of an amended or restated Financial Data Schedule, as proposed.[301] The document header to the Financial Data Schedule would specify that information in the Schedule had been restated or amended.

The Commission requested comment on the proposed Financial Data Schedule system, particularly with respect to the use of formatted schedules to tag the required data, the data proposed to be included in such schedules, whether there is any need at the outset to include additional information from the Securities Act and Exchange Act Industry Guides and the treatment of restatements. Many of the comments focused on the burden of developing financial information for the Financial Data Schedules that exceeds the requirements for information included in financial statements. As a result of these concerns, the schedules have been revised to permit greater aggregation and flexibility and to omit the requirement to disclose separately amounts that have been aggregated or combined in the financial statements. Other than the property, plant and equipment line item that was added to the Article 5 Schedule to facilitate its use by real estate companies, as noted above, no additional line items are being adopted in the final rule, except where necessary to replace one or more detailed or unclear items.

As stated in the Proposing Release, consideration has been given to whether the Financial Data Schedules also should require *pro forma* financial information, *i.e.*, financial information prepared to show the effect on a registrant's historical financial statements of a proposed or consummated transaction, such as a business combination or an acquisition

[297] 17 CFR 229.801(f) and 229.802(d).

[298] Item 601(c)(5)(iv) of Regulation S–K and Item 601(c)(5)(iv) of Regulation S–B.

[299] See Appendix A to Item 601(c) of Regulations S–K and S–B.

[300] If the first filing to be made after a registrant becomes subject to the electronic filing requirements is a Form 10–K or Form 10–KSB, it may be filed in paper. Financial Data Schedules are required only in electronic filings. Accordingly, it is likely that many electronic filers will file an initial Financial Data Schedule as an exhibit to Form 10–Q or 10–QSB.

[301] Item 601(c)(3)(iii) of Regulations S–K and S–B.

or disposition of a business.[302] Initially the Commission will exclude *pro forma* information from the Financial Data Schedule requirement for filers subject to review by the Division of Corporation Finance, as proposed.[303] Thus, financial information reflecting the consummation of acquisitions or dispositions of a business will be reflected in the Financial Data Schedules filed with the first quarterly or annual report filed after consummation of the transaction.

4. Liability for the Financial Data Schedule

Commenters expressed support for the proposed measures to address liability concerns associated with the Financial Data Schedules because of the public availability of the data outside the context of the full financial statements and footnotes. The rules, like the proposal, permit registrants to qualify an item in the Financial Data Schedule by referencing notes to the Financial Data Schedule or notes to the financial statements[304] or placing a qualifying legend on the Financial Data Schedule.[305]

The Commission also is adopting the proposed safe harbor provision[306] stating that any item provided in the Schedule, in accordance with the rules governing the Schedule, will not be subject to liability under the federal securities laws, except to the extent that the financial statements and other information from which the data were extracted violated the federal securities laws. The rules also provide, as proposed, that Financial Data Schedules are not deemed "filed" for purposes of Section 11 of the Securities Act, Section 18 of the Exchange Act, or Section 323 of the Trust Indenture Act, or otherwise subject to the liabilities of such sections.[307] Finally, the adopted rules clarify that while an exhibit, a Financial Data Schedule does not constitute part of a registration statement.

E. Graphic and Image Material

1. General

While most information filed with the Commission is textual and financial material, limited graphic and image material, such as pictures, graphs and company logos ("graphic material"), is contained in documents submitted to the Commission and disseminated in paper. As noted in the Proposing Release, because of difficulties associated with sending and interpreting graphics and image material in electronic submissions, EDGAR will initially not accommodate electronic submission of graphic material.[308]

The graphic and image rules, as proposed, require electronic filers to list in an appendix any omitted graphic material and provide a fair and accurate narrative description of such material.[309] If the substantive information conveyed by the omitted graphic material is narratively described in all material respects in the body of the electronic filing,[310] the appendix simply will list the omitted material and cross-reference the section of the filing containing the description of such material. Unlike the EDGAR Pilot requirements, electronic filers will not be required to describe differences relating to corporate logos, pagination, color, or type size and style.[311]

Recent amendments to the executive compensation rules[312] require most registrants to file a performance graph with the Commission[313] that compares the registrant's cumulative total shareholder return over a five-year period with returns on, respectively, a broad equity market index, and either a published industry index or registrant-determined peer or peer group (or in the alternative, a group comprised of issuer(s) with similar market capitalizations), in proxy or information statements relating to an annual meeting of security holders at which directors are to be elected (or special meeting or written consents in lieu of such meeting).[314] At this time, the performance graph cannot be translated readily into a set of characters that EDGAR can process.

Accordingly, Transitional Filers were informed that they may provide the performance graph information to the Commission in one of two ways.[315] First, the performance graph may be furnished to the Commission in paper under cover of Form SE. Alternatively, the information contained in the performance graph may be furnished in the electronically submitted document, preferably through use of a chart that would provide the data points and describe and interpret the data in the required graph.[316] At the same time the electronic proxy or information statement containing the performance graph data is filed with the Commission, a supplemental copy of the paper document containing the graph as disseminated should be submitted to the appropriate Division Branch Chief when the electronic filing is made. Currently, the staff is working to determine the optimal way in which to provide for the electronic submission of the

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[302] The requirements for the preparation of *pro forma* financial information are contained in Article 11 of Regulation S–X [17 CFR 210.11–01, 210.11–02, and 210.11–03].

[303] Item 601(c)(1)(v) of Regulations S–K and S–B. *Pro forma* financial information will be required in Financial Data Schedules submitted pursuant to PUHCA. *See* the companion PUHCA release.

[304] Item 601(c)(3)(ii) of Regulations S–K and S–B.

[305] *See* Item 601(c)(3)(i) of Regulations S–K and S–B, which permit registrants to place the following legend on their Financial Data Schedules: This schedule contains summary financial information extracted from [identify specific financial statements] and is qualified in its entirety by reference to such [identify filing].

[306] Item 601(c)(1)(iii) of Regulations S–K and S–B.

[307] Rule 402 of Regulation S–T and Item 601(c)(1)(iii) of Regulations S–K and S–B. Information in the Financial Data Schedules taken from financial statements, schedules and disclosures in response to industry guides, will continue to be subject to liability under Sections 12(2) [15 U.S.C. 771(2)] and 17(a) [15 U.S.C. 77q(a)] of the Securities Act and Section 10(b) [15 U.S.C. 78j(b)] of the Exchange Act, except as provided in the safe harbor provision.

[308] *See* section IV.B, *supra*, addressing the treatment of annual reports to security holders.

[309] Rule 304 of Regulation S–T. Ordinarily, the appendix will be placed at the end of the pertinent document. If the document is disseminated to security holders, it should be placed at the end of such document. For example, if Part I of a Form S–1 registration statement contained a map, then the appendix must be placed at the end of the prospectus rather than of the registration statement.

[310] Filers can describe graphs, for example, foreign currency prices measured against U.S. dollars, in narrative form through the use of charts that provide the data points and describe and interpret the data.

[311] The Temporary Rules were amended to be substantially similar to the rules adopted today. See Securities Act Rule 499(d)(3), Exchange Act Rule 12b–37(d) and Trust Indenture Act Rule 0–12(d), as amended, effective July 15, 1992.

[312] Release No. 33–6962 (October 16, 1992) [57 FR 48126], as corrected in Release No. 33–6966 (November 9, 1992) [57 FR 53985].

[313] Item 402(*l*) of Regulation S–K.

[314] The performance graph measures the cumulative total return on a dividend-reinvested basis from the "measurement point," which is established by reference to the market close on the last trading day before the beginning of the registrant's fifth preceding fiscal year. To construct each of the required return lines, registrants must assume a $100 investment in the registrant's stock (or in the basket of stocks represented by a given index), thereby determining how many shares of its own stock (or of shares in the index) can be purchased at the prevailing market price at the measurement point. Any dividends must be reinvested in additional shares of the registrant's stock (or in the basket of stocks represented by a given index) at the then-prevailing market price at the frequency with which the dividends are paid. The value of the investment as of each point plotted on a given return line is the number of shares held at that point times the then-prevailing market price.

[315] On November 13, 1992, a letter explaining the impact of the new executive compensation and proxy rules was mailed to Transitional Filers under the signature of Mauri Osheroff, Associate Director—Regulatory Policy, Division of Corporation Finance.

[316] If this alternative is chosen, the paper version of the proxy or information statement disseminated to security holders would, of course, contain the required line graph. See the letter referred to in the previous footnote for an example of performance graph information presented in a chart.

performance graph. Until further notice, the foregoing options will continue.[317]

The Commission has eliminated the current requirements in Forms 8–A and 18[318] that copies of securities certificates be filed, as proposed. This revision applies to both electronic and paper filers.

2. Liability and Retention Period

The graphic material disseminated to shareholders in paper will be deemed to be part of the electronically filed document for purposes of the liability and anti-fraud provisions of the federal securities laws.[319] In response to comment, a safe harbor has been included in the graphic and image rules.[320] The safe harbor provides that to the extent descriptions of graphic and image material in an electronic filing or appendix thereto represent a good faith effort to fairly and accurately describe omitted graphic and image material, they will not be subject to the liability and anti-fraud provisions of the federal securities laws. As proposed, electronic filers will be required to retain copies of a paper document containing graphic and image material for five years after the filing date of the document or date appearing on the document, whichever is later.[321] Copies of the retained documents must be furnished to the Commission or staff upon request.

F. Rule and Form Changes Facilitating Electronic Filing

1. General

The rules adopted today reflect substantial restructuring. Unlike the proposed rules, specific changes applicable to electronic filers have been grouped together in Regulation S–T, to the extent practicable, rather than being added to many of the current regulations, forms and schedules. This approach should assist filers in familiarizing themselves with the electronic filing requirements.

Rather than amending current forms to add various electronic filing paragraphs, Regulation S–T has been expanded to clarify that the following requirements applicable to paper filings do not apply to filings in electronic format: The requirement to submit multiple copies of documents to the Commission;[322] the requirement that documents submitted to the Commission be signed manually;[323] requirements relating to type size, font, and legibility;[324] and requirements regarding paper size, type size, sequential page numbering, and binding.[325] Furthermore, Regulation S–T contains alternatives to presenting text in required bold-face type or red ink[326] and states that foreign currency denominations must be expressed in words or letters in the English language in electronic filings and not in representative symbols.[327]

Amendments pertaining to definitions have been adopted as proposed. Regulation S–T includes definitions that reflect electronic filing requirements.[328] The terms "electronic filer" and "electronic filing" have been added to rules under the Securities Act,[329] the Exchange Act,[330] and the Trust Indenture Act.[331] Further, the definition of terms in Regulation C under the Securities Act has been expanded to state that the term "graphic communications," which appears in the definition of "write," or "written" in section 2(9) of the Securities Act,[332] includes magnetic impulse or other forms of computer data compilation.[333] The changes outlined below also facilitate electronic filing.[334]

2. Supplemental Information

Electronic filers will be required to submit supplemental information in paper format, as proposed, if return of the information after staff review was requested and/or the information was the subject of a confidential treatment request under Rule 83, which would protect it from public disclosure under FOIA.[335] Supplemental information that is submitted in electronic format will be retained in the non-public EDGAR storage area along with all other correspondence, but may be reachable by members of the public pursuant to FOIA requests, as in the case with paper correspondence.

3. Fee Tables

To facilitate verification that required fees are paid, both paper and electronic registrants are required to disclose in a note to existing fee tables the basis for fee calculations in connection with the registration of securities pursuant to the Securities Act.[336] Moreover, as proposed, cover pages containing fee tables will be added to proxy and information statements.[337] Paper and electronic filers are required to reflect in notes to the proxy and information statement fee tables any offset fees[338] that have been paid with other filings and identify such filings.

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[317] Rules 304(d) and 311(b) of Regulation S–T.

[318] 17 CFR 249.218.

[319] This is not the case under the provision of the amended Temporary Rules relating to graphic materials [17 CFR 230.499(d)(3)].

[320] Rule 304(b) of Regulation S–T.

[321] Rule 304(c) of Regulation S–T. The five-year period comports with the signature retention period of Rule 302(b) of Regulation S–T. The amended Temporary Rules do not contain a similar provision.

[322] Rule 309 of Regulation S–T.

[323] Rule 302 of Regulation S–T.

[324] Rule 306 of Regulation S–T.

[325] Rule 309 of Regulation S–T. As a result of the restructuring, only limited amendments have been made to the forms.

[326] Rule 307 of Regulation S–T.

[327] Rule 306 of Regulation S–T.

[328] See generally, Rule 11 of Regulation S–T. For example, Rule 11(m) defines the term "official filing" to mean a microfiche copy, prepared in compliance with the Commission's administrative regulations and other requirements, of a registration statement, report or other document filed under the federal securities laws, regardless of filing medium, and exclusive of header information, tags and any other technical information required in an electronic filing. The term "original," when used or implied in the federal securities laws, rules, regulations or forms, is defined in Rule 11(n) to include the writing itself or any counterpart intended to have the same effect by a person executing or issuing it; if data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, would be an original.

[329] Securities Act Rule 100(a)(6) and (7) [17 CFR 230.100(a)(6) and (7)].

[330] Exchange Act Rule 0–1(a)(5) and (6) [17 CFR 240.0–1(a)(5) and (6)].

[331] Trust Indenture Act Rule 0–2(g) and (h) [17 CFR 260.0- 2(g) and (h)].

[332] 15 U.S.C. 77(b)(9).

[333] Definition of "graphic communications" in Securities Act Rule 405 [17 CFR 230.405]. This is the same as in the Temporary Rules, both before and after amendment. See, e.g., amended Securities Act Rule 499(c)(8) [17 CFR 230.499(c)(8)].

[334] Two proposals have not been adopted. First, the Proposing Release contained a proposal that would have amended the Exchange Act Form 10–K exhibit requirement to require electronic and paper filers to provide an exhibit that describes each class of the registrant's equity securities, excluding convertible debt securities, registered under Exchange Act Section 12 or 15(d) [15 U.S.C 78o(d)]. Commenters who addressed the issue were unanimously opposed to this proposal. In light of these concerns as well as the minimal relevance of the proposal to electronic filing, the provision has not been adopted. Second, the proposals would have amended Schedule 13E–3 to require all filers, both paper and electronic, that incorporate a preliminary proxy or information statement into a Schedule 13E–3 to resubmit, with the definitive copy of the Schedule, current versions of all exhibits previously filed on a non-public basis. Recent amendments to the proxy rules render this issue moot. See Release No. 34–31326 (October 17, 1992) [57 FR 48276].

[335] Supplemental information is submitted pursuant to Securities Act Rule 418 [17 CFR 230.418], Exchange Act Rule 12b–4 [17 CFR 240.12b–4] and Rule 83 of the Commission's Regulation Concerning Information and Requests [17 CFR 200.83]. See also Rule 101 of Regulation S–T.

[336] Registrants will be required to specify the paragraph of Securities Act Rule 457 [17 CFR 230.457] relied upon to calculate the registration fee, as proposed.

[337] Exchange Act Rules 14a–6(m) and 14c–5(b). The fee tables reference Exchange Act Rule 0–11 [17 CFR 240.0–11]. Additional information unrelated to fees also will have to be disclosed on the cover pages. See section IV.F.7, *infra*.

[338] See the fee offset provisions of Securities Act Rule 457(b) [17 CFR 230.457(b)] and Exchange Act Rule 0–11(a)(2) [17 CFR 240.0–11(a)(2)].

4. Schedules 13D and 13G

In recognition of the importance of Schedules 13D and 13G to the investing community, under the rules adopted today, a Schedule 13D or 13G or amendment thereto must be filed electronically if the company to which the schedule relates has been phased in to EDGAR. As a result, situations may arise where a Schedule 13D or 13G that was initially filed in paper must be amended electronically because the registrant becomes subject to the electronic filing requirements subsequent to filing of the Schedule but prior to filing of the amendment.

As proposed, both the text and the exhibits to the Schedule would have had to be restated electronically upon amendment. Several commenters maintained that this requirement was unduly burdensome. Accordingly, the rules provide, in a change from the proposals, that only the text of the Schedule 13D or 13G, as amended, will have to be filed in electronic format.[339] Either the text must be restated in its entirety or the original Schedule 13D or 13G and all amendments must be filed electronically. Consistent with the general treatment of amendments to paper exhibits in EDGAR, only new exhibits and amendments to paper exhibits will have to be filed electronically; exhibits that had been initially filed in paper will not have to be refiled in electronic format.

5. Proxy and Information Statements

As proposed, a new cover page will be required in connection with all Schedule 14A and 14C proxy and information statements.[340] The Schedule 14A and 14C cover pages require filers to: (a) indicate whether a preliminary proxy statement or definitive proxy statement (or, regarding Schedule 14A filers, soliciting material pursuant to Rules 14a–11(a) or 14a–12) is being filed; (b) name the registrant to which the proxy statement relates as well as the name of the file if different; and (c) provide filing fee information.[341]

As discussed earlier,[342] electronic filers must file preliminary proxy or information statements relating to Item 14 of Schedule 14A (Mergers, consolidations, acquisitions and similar matters) in paper where confidential treatment is desired.[343] If Item 14 material is filed electronically, it will be treated as public material. Further, solicitation materials submitted to the Commission under cover of Notice of Exempt Solicitation will be permitted, but not required, to be provided to the Commission in electronic format.[344]

Finally, forms of proxy[345] should be filed at the end of the Schedule 14A proxy statement rather than as a separate document in the submission.[346] This practice differs from that in the EDGAR Pilot.

6. Form 11–K

In lieu of the Form 11–K financial statements, employee benefit plans subject to ERISA may file plan financial statements and schedules prepared in accordance with the financial reporting requirements of ERISA. Since the electronic filing of ERISA financial statements on EDGAR would be difficult at present, due to their specialized format, the rules[347] provide, as proposed, that these financial statements may be filed in paper under cover of Form SE.[348]

7. Trust Indenture Act Provisions

The rules provide, as proposed, that the requirement to bind separately the statement of eligibility and qualification of each person to act as a trustee under the Trust Indenture Act of 1939 from other exhibits does not apply to electronic filers.[349] Accordingly, this statement must be submitted as an exhibit in the same electronic submission as the subject registration statement to which it relates or an amendment thereto,[350] provided that a registrant that relies on Trust Indenture Act Section 305(b)(2)[351] for determining the eligibility of the trustee under an indenture for securities to be issued, offered or sold on a delayed basis by or on behalf of the registrant must file a statement of eligibility as an exhibit to a post-effective amendment to the registration statement to which the statement relates. Unlike the current paper-based system, the statements will not receive a separate 22-file number.

As noted earlier, while Forms T–3[352] will be required to be filed electronically once the registrant is phased in, exemptive requests and applications pursuant to the Trust Indenture Act, such as those on Form T–4, have been excluded from electronic submission.[353]

8. Redlining Changed Materials

Two requirements exist for filers to mark changes in revised material.[354] During the initial stages of EDGAR, as proposed, electronic filers subject to such a requirement must redline changed material by inserting tags at the beginning and end of each paragraph containing a change.[355] Because of the format of financial statements and notes thereto, changes to this information will not have to be marked. In order to relieve electronic filers from the burden of marking materials to reflect changes, the Commission is developing a system that will permit the staff to compare at their workstations documents as originally filed and as amended.

V. Other Matters

A. EDGAR Filer Manual

In connection with the new electronic filing rules and amendments, electronic filers should consult the EDGAR Filer Manual, which provides details on technical formatting requirements for

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[339] Rule 101(b)(2) of Regulation S–T. The text of the Schedule 13D or 13G will have to be restated in electronic format in its entirety only one time, *i.e.*, only at the time that the first amendment to the schedule is filed after the subject company becomes an electronic filer.

See section III.C.2, *supra*, for discussion regarding Schedules 13D and 13G filed by an electronic filer with respect to a paper registrant. If an electronic filer elects to file an amendment to a paper format Schedule 13D or 13G in electronic format, then it must file the complete text of the Schedule, as amended.

[340] The new cover page requirement will apply to paper as well as electronic filers. Currently, information concerning the nature of the transaction and fees generally is included in cover letters attached to Schedules 14A and 14C. The cover page does not have to be disseminated to security holders.

[341] The cover sheet for Schedule 14A and Schedule 14C information will not have to be disseminated to security holders.

[342] See section III.C.3, *supra*.

[343] See Exchange Act Rule 14a–6(e)(2)(ii). The filed material must be marked "Confidential, For Use of Commission Only."

[344] See Section III.C.2, *supra*.

[345] Filing requirements for proxy statements and forms of proxy are set forth in Exchange Act Rule 14a–6 [17 CFR 240.14a–6].

[346] See the EDGAR Filer Manual for further information.

[347] See General Instruction E to Form 11–K.

[348] 17 CFR 249.444.

[349] These statements of eligibility are filed under cover of Form T–1 [17 CFR 269.1] and Form T–2 [17 CFR 269.2]. See Items 601(b)(25) of Regulation S–B [17 CFR 228.601(b)(25)] and 601(b)(25) of Regulation S–K [17 CFR 229.601(b)(25)]. As noted in Section V.F.2, *infra*, exhibits subsequent to number (19) have been renumbered.

[350] This is a change from EDGAR Pilot practice, in which such statements were filed as separate documents.

[351] 15 U.S.C. 77eee(b)(2).

[352] 17 CFR 269.3. Rule 101 of Regulation S–T.

[353] See Section III.C.3.f, *supra*.

[354] Securities Act Rule 472(a) [17 CFR 230.472(a)] requires that any amendment to a registration statement be marked (i.e., redlined) to indicate the changes. Exchange Act Rules 14a–6(i) [17 CFR 240.14a–6(i)] and 14c–5(e) [17 CFR 240.14c–5(e)] require that any amended or revised proxy or information statement materials be marked to indicate changes.

[355] Rule 310 of Regulation S–T. Tags reflecting changed material will be deleted prior to public dissemination of the changed material. The amended Temporary Rules also require tags to indicate changes. See Securities Act Rule 499(d)(5), Exchange Act Rule 12b–37(d) and Trust Indenture Act Rule 0–12(d), as amended, effective July 15, 1992.

electronic submissions. The most recent version of the EDGAR Filer Manual was disseminated on July 1992. It is anticipated that an updated version will be issued in March 1993, after adoption by the Commission, and another updated version will be issued before effectiveness of the Financial Data Schedule requirements. Compliance with the technical formatting requirements will be essential, since failure to comply with certain formatting requirements could delay the acceptance of an electronic submission. The rules adopted today require compliance with the provisions of the EDGAR Filer Manual.[356]

The EDGAR Filer Manual and updates will be available in paper.[357] They also will be available immediately upon issuance in electronic format through the EDGAR electronic bulletin board.[358] When the number of updates makes the EDGAR Filer Manual unwieldy, a complete, updated and integrated version will be issued.

B. Data Tagging

As more fully discussed in the Proposing Release, in order to receive and process information from many sources, an electronic system such as EDGAR requires a uniform means of identifying information, commonly referred to as "data tagging." Tags enable the system to recognize and process information automatically, without human intervention. The limited data tagging scheme employed in the EDGAR Pilot has been replaced in EDGAR by Standard Generalized Mark-up Language ("SGML") tags, as proposed.[359] Transitional filers are currently following this scheme.

As noted in the Proposing Release, some tags are required in submission headers,[360] while others are required within the body of the submission, such as document headers. Other tags are required in a submission based on its contents, for example, a submission containing a Form 10–K would be required to include a number of tags in the submission header, including the tag "<PERIOD>" followed by the end date of the period covered by the report. Some tags are required to be inserted in the body of an electronic document, such as tags used to identify any portions of the text that have been changed from a previously filed document.[361] Tags also will be required in Financial Data Schedules to facilitate filing the schedules in a standard format.[362]

As more fully discussed in the Proposing Release, filers must include the tag "<TABLE>" at the beginning of data that exceeds 80 positions and place the tag "</TABLE>" following the wide data. Tags also must be used within tables and charts that exceed 80 positions to designate table headings ("<CAPTION>"), stub entries ("<S>"), columns ("<C>"), and footnotes that are to be separated from numerical data ("<FN>").

Comment was solicited in the Proposing Release as to whether all tabular information that does not exceed 80 characters in width should be marked with a beginning table tag (e.g., "<TABLE>") and an end table tag (e.g., "</TABLE>") to enable disseminators to identify all tables in a document. In view of the burdens that this would impose on filers, particularly during the initial stages of EDGAR when they are familiarizing themselves with electronic filing, the rules provide, as proposed, that tabular and columnar information that does not exceed 80 characters in width may, but need not be, tagged.

The use of other tags is voluntary to aid in the processing and presentation of electronic filings. For example, if a filer desires to begin a page at a new point other than would be imposed automatically by EDGAR, the tag "<PAGE>" would be used. In addition, the "<SRO>" tag may be inserted to identify the national securities exchange on which the subject securities are listed, if any, or the national securities association whose facilities are used to disseminate quotation information.

Further, it is strongly recommended that filers include tags identifying a person the staff may contact if there are any questions regarding the receipt and acceptance of the electronic submission, as well as a telephone number where the person can be reached (i.e., "<CONTACT>," "<NAME>," and "<PHONE>"). These contact identification tags are easily inserted by using the EDGARLink software or by manually typing them in submission headers.[363]

C. One-Stop Filing

Companies whose securities are listed on a national securities exchange are required to file copies of Exchange Act reports and other documents with the stock exchanges.[364] In addition, copies of registration statements and other documents relating to proposed public offerings of securities must be filed with the National Association of Securities Dealers ("NASD")[365] and the states.[366] Frequently documents filed with the Commission are used to satisfy self-regulatory organization ("SRO") and state blue sky law requirements with respect to securities offerings. The Commission has been working with the SROs, including the exchanges and the NASD, and the states through the North American Securities Administrators Association ("NASAA") to develop a system in which EDGAR filings could be used to satisfy the requirements of the various parties.

Although one-stop filing is not currently available, it is contemplated that EDGAR will provide various SROs and the states, via NASAA, with a direct feed of SRO and state required public filings that are designated for such treatment by an electronic filer, in priority order of acceptance. An electronic filer may indicate that a filing should be forwarded to an SRO or the states by including an optional tag in the submission header.[367] Under the contemplated system, the SROs and the states would furnish the connection with EDGAR and maintain facilities to

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[356] Rule 301 of Regulation S–T.

[357] The EDGAR Filer Manual and EDGARLink software are available from Disclosure Inc., Public Reference Room, U.S. Securities and Exchange Commission, Mail Stop 1–2, 450 Fifth Street, NW., Washington, DC 20549, or call (800) 638–8241 or (301) 951–1350.

[358] See section V.E, *infra*, regarding the filer's option to subscribe to the EDGAR electronic bulletin board.

[359] See the EDGAR Filer Manual and section V.B. of the Proposing Release for a complete discussion of data tagging. All non-public tagged information will be removed prior to dissemination.

[360] For example, the following tags are required in all submission headers: "<SUBMISSION>", which marks the beginning of a submission and "<TYPE>", which marks the type of submission being filed, e.g., form type, module or segment. See the EDGAR Filer Manual for a complete listing of required tags and when they are used. The tag "<AUDITOR>", which identifies the auditor in any filing containing audited financial statements, and the tag "<BOX–405>" in a Form 10–K submission header where the company can represent that its insiders had not failed to timely file reports pursuant to section 16 of the Exchange Act [15 U.S.C. 78p] are anticipated to be required tags in the future.

[361] See section IV.F.8, *supra*, regarding redlining changed materials.

[362] See section IV.D, *supra*, for a detailed discussion of Financial Data Schedules.

[363] See the EDGAR Filer Manual for further information.

[364] Section 13(a) of the Exchange Act [15 U.S.C. 78n(a)].

[365] NASD Manual (CCH) ¶2151.02.

[366] States often coordinate their securities laws filing requirements with those of the federal government. See, e.g., Cal. Corp. Code § 25111(b) (West Supp. 1992); Pa. Stat. Ann. tit. 70, 1–205 (Purdon Supp. 1991); and Tex. Rev. Civ. Stat. Ann. art. 581–7 (Vernon Supp. 1992).

[367] Electronic filers could submit to the states via EDGAR only filings that also are filed under the federal securities laws. In addition, they could file on EDGAR a new form to be proposed by NASAA, Form EU–1, for state filings relating to previously or simultaneously submitted federal filings. Submissions on the proposed Form EU–1 would then be routed through the EDGAR system to the states' system for further processing.

receive filings directed to them. The states and SROs would be able to obtain other public filings through access to the public EDGAR database by a low priority query of the EDGAR system.[368]

NASAA is currently developing an electronic securities filing system for use by state securities regulatory agencies. This system, named the Securities Registration Depository ("SRD"), is intended to complement EDGAR by offering a "one-stop" filing capability to filers who must comply with both state and federal laws prior to offering registered securities for sale. When operational, the SRD is to receive copies of offering materials directly from EDGAR that have been designated by the originating filer for state distribution. The SRD will then forward these materials to specific designated agencies for their independent review processing.

In November 1992, NASAA released a business plan for developing and operating the SRD system. NASAA is currently soliciting bids from qualified vendors for specific SRD development services identified in the document. NASAA expects the SRD to be operational for pilot filer use beginning in 1994. Questions regarding the SRD program can be directed to Mr. Duane Whitt, NASAA Director of Data Processing and Telecommunications on (202) 737–0900.

D. Paper Copies

1. Paper Copies Required From Electronic Filers

The EDGAR Authorization Act requires electronic filers to submit paper copies of electronic filings for at least the first year after they are mandated to file electronically (or for such shorter period that the Commission determines is appropriate).[369] Accordingly, unless expressly notified otherwise by the Commission, a filer making any filing on EDGAR, including Williams Act and tender offer submissions, will be required, as proposed, to furnish the Commission with a paper copy of each electronic filing for one year after its mandated electronic filing date.[370] While numerous commenters objected to this requirement, it is mandated by statute. Nevertheless, the Commission has the authority to shorten the period if the requisite determinations can be made after the "significant test group" has successfully filed.[371]

However, the requirement has been structured to minimize the burden on filers. Either paper printouts of the EDGAR filing or traditional paper filings will be acceptable. If the copy being submitted is a paper printout of the electronic filing, the header information specified in the EDGAR Filer Manual must be omitted to ensure that confidential information contained in the header remains non-public. Only one paper copy of the filing need be submitted. Signatures are not required in the paper copy.

To avoid confusion with a paper filer or a paper filing made pursuant to a temporary hardship exemption, the following legend must be set forth on the paper copy: This conforming paper format document is being submitted pursuant to rule 901(d) of regulation S–T.[372] The requirement to submit paper copies applies only to filings under the Securities Act, Exchange Act, PUHCA, Trust Indenture Act, and the Investment Company Act, not to other submissions, such as Financial Data Schedules or correspondence.[373] As proposed, the paper copies must be received by the Commission no later than six business days after the electronic filing. Paper copies will be retained by the Commission for two months following their submission. Microfiche made from the electronic filing, not the paper copy, will constitute the Commission's official filing.

2. Paper Copies of Electronic Filings From the Commission

In connection with implementation of the EDGAR system, some filers have expressed the desire to have for their records a paper copy of the electronic document accepted and filed with the Commission. Filers may request, at their expense,[374] paper copies of test and live filings through the Commission's electronic mail vendor by so indicating in the submission header, or upon written request to the Commission's paper and microfiche services contractor, a copy of the public filing.[375] Paper copies of the filed electronic document also may be available from other vendors offering such services. Electronic mail subscribers may request return copies, at their expense, of test and live filings by so indicating in the submission header. The return copy will be transmitted to the filer's electronic mailbox for downloading and printout by the filer.

E. EDGAR Electronic Mail/Bulletin Board

Filers have the option to subscribe to the EDGAR electronic mail/bulletin board service, which will provide for rapid electronic communications from the Commission. Filers who do not subscribe to this optional service, which will function in connection with, but separately from EDGAR,[376] will receive communications from the Commission, as is currently the case, through first-class United States mail.[377]

At the outset, the electronic mail service will be available for EDGAR to send acceptance and suspense (i.e., errors found) messages, as well as return copies of electronically filed documents, at a cost borne by the subscriber. In addition, subscribers will be able to receive, at their expense, general

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[368] The contemplated system would permit the SROs and the states, at their option and expense, to use the EDGAR electronic mail/bulletin board system and develop a communications system to notify filers and their agents regarding the status of their SRO or state filing. All electronic filings obtained by the states or SROs via EDGAR could be used solely for regulatory purposes.

[369] See section 35A(d) of the Exchange Act [15 U.S.C. 78*ll*(d)]. As Transitional Filers are volunteers, they are not required to submit paper copies of their filings until they are mandated to file electronically.

[370] Rule 901(d) of Regulation S–T. Third party filers will be required to provide paper copies of their electronic filings in accordance with the status of the subject company.

[371] See section 35A(d)(3) of the Exchange Act which provides that the Commission may shorten the one-year period when the Commission has gained enough experience with the system to make a finding that the EDGAR system: is reliable; provides a suitable alternative to such written and printed filings; and assures that the provision of information through the EDGAR system is as effective and efficient for filers, users, and disseminators as provision of such information in written or printed form.

[372] *Id.*

[373] Consistent with this approach, paper copies will not be required of modules or segments submitted on EDGAR for subsequent inclusion in a filing or filings. See section IV.A, *supra*, for a discussion of modular and segmented filing. However, a paper copy of a filing including a module or segment would have to be submitted in its entirety.

[374] The cost is the scheduled rate for paper copies obtained from the Commission through the Commission's paper and microfiche services contractor with one-day response. The paper copies will be sent via first-class U.S. mail. Alternatively, the filer or its agent may contact the Commission's paper and microfiche services contractor regarding delivery, either on an expedited or standard service basis.

[375] Paper copies of test filings, if requested, will be sent to the party who logged onto the EDGAR system to make the test filing. Paper copies of live filings, if requested, will be sent to the registrant, whether submitted by the registrant or by an agent. If several registrants are listed on the filing, the paper copy will be sent only to the first registrant listed.

[376] Subscribers will be charged a one time sign-up fee by the Commission's electronic mail vendor; thereafter, they will be billed on a monthly basis for continued service.

[377] The status of a filing will be conveyed by only two means: direct mail or the optional EDGAR electronic mail system. As receipt and acceptance will be automated, it is not anticipated that staff will be available to respond to telephone inquiries regarding the receipt and acceptance of a particular filing. See section III.D.2, *supra*, regarding receipt and acceptance. If a filer receives a suspense message, the filer support staff will be available to assist the filer during the six business day period the filing is in suspense.

communications regarding EDGAR, such as updates to the EDGAR Filer Manual, through the service's bulletin board feature. Additional services may be added in the future, such as electronic mail transmission of staff no-review and comment letters.[378]

Those who subscribe to this service will contact the service through a personal computer modem to determine whether any electronic mail or bulletin board messages are waiting. If any messages are waiting, the service will so advise. The subscriber may access the message through the modem, read it on the personal computer screen, and request that a paper copy be printed on the personal computer's printer or sent by facsimile transmission or first-class United States mail. Communications from the Commission via the electronic mail/bulletin board service will be directed only to those who are identified by an EDGAR filer in a submission header and who are themselves subscribers.

F. Effect of EDGAR on Paper Filers

1. Documents Delivered to Security Holders

The EDGAR rules will not affect the obligation of paper or electronic filers to deliver to security holders paper copies of documents such as prospectuses, tender offer materials, and proxy or information statements. As proposed, however, the rules afford all paper and electronic registrants filing on Form S–2, or using S–2 level disclosure on Form S–4 or pursuant to Item 14 of Schedule 14A, the option to deliver with the prospectus the Form 10–K or 10–KSB rather than the annual report to security holders.[379]

2. Documents Filed With the Commission

Several minor changes that would affect paper filers as well as electronic filers have been adopted as proposed.[380] First, if in connection with Securities Act registration statements the basis of the calculation is not otherwise evident from the information presented in the fee table, registrants will be required to furnish specific details relating to the calculation in notes to the table.[381]

Second, a new cover page will be required to be filed by paper and electronic filers with proxy and information statements; such cover pages will identify the nature of the filings and set forth fee information.[382]

Third, registrants will submit amendments to Exchange Act filings under cover of the form amended rather than filing such amendments under cover of Form 8.[383] Registrants should designate amendments by adding the letter "A" after the form title, e.g., "Form 10–K/A." In response to comment, signature requirements to amendments to Forms 10–K will remain the same as under Form 8.

Fourth, with respect to amendments to Exchange Act filings, registrants and third-party filers will have to file complete disclosure items as amended, rather than only revised words or lines as permitted currently.[384]

Fifth, copies of securities certificates currently filed in connection with the registration of securities on Exchange Act Forms 8–A and 18 will no longer be submitted to the Commission by either paper or electronic filers.[385]

Sixth, the requirement that a transmittal letter to the annual report to security holders indicate whether the financial statements furnished to the Commission reflect a change from the preceding year in any accounting principles or practices or in the method of applying any such principles or practices has been moved to the transmittal letter for Form 10–K and 10–KSB.[386]

Seventh, the requirements of Item 601 of Regulation S–B and S–K relating to articles of incorporation and by-laws have been bifurcated.[387]

Eighth, Item 601(b)(19) of Regulation S–B and S–K, which pertain to previously unfiled documents, has been moved to the instructions of the Item and revised for clarity.[388]

Ninth, the exhibit requirement relating to filing a power of attorney has been amended to codify the current staff interpretation that a power of attorney must relate to a specific filing or an amendment thereto, and may not confer general authority.[389]

Finally, if under Section 11(a) of the Securities Act[390] an issuer generally makes available to its security holders an earnings statement covering a period of at least 12 months beginning after the effective date of the registration statement, and if such earnings statement is submitted to the Commission, it must be filed as an exhibit to the next periodic report required by Section 13 or 15(d) of the Exchange Act covering the period when the earnings statement is released so that the information is available in the disclosure system.[391]

VI. EDGAR Forms

To accommodate electronic filing in the Pilot, three temporary forms were adopted concurrently with the Temporary Rules: Form ID, the uniform application for identification numbers and passwords; Form ET, the transmittal form for electronic format documents when the filing medium is either magnetic tape or diskette; and Form SE,

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[378] Filers cannot use the EDGAR electronic mail service, which is a distinct system from EDGAR, to submit communications, such as responses to staff comments, to the Commission. However, such communications can be submitted electronically via EDGAR as correspondence, so long as the correspondence relates to an electronic filer and the person submitting the correspondence is an electronic filer. Correspondence transmitted through EDGAR will be routed to the appropriate processing branch based upon the EDGAR identification number of the submitter.

[379] See amendments to Item 11 of Form S–2, Item 12 of Form S–4 and Item 14 of Schedule 14A.

[380] In addition, three technical amendments have been adopted as proposed. First, Rule 201.5 of the Rules of Practice [17 CFR 201.5], which lists the business hours of the Commission, has been updated to reflect current federal holidays. Second, Rule 201.25 of the Rules of Practice [17 CFR 201.25], which discusses confidential treatment of certain matters, has been amended to include a reference to the Exchange Act. Finally, Rule 202.7 of the Rules Pertaining to Informal and Other Procedures [17 CFR 202.7], which addresses submittals, has been updated to reflect current filing requirements.

[381] See section IV.F.3, *supra*. Registrants will be required to supply references to any provision of Securities Act Rule 457 [17 CFR 230.457] relied upon in the calculation.

[382] See sections IV.F.5, *supra*.

[383] Form 8 has been rescinded under the rules adopted today.

[384] See amendment to Exchange Act Rule 12b–15. For example, a registrant filing an amended Form 10–K to add some information to its description of business, Item 1 of Form 10–K, would restate Item 1 in its entirety.

[385] See section IV.E, *supra*.

[386] See section IV.B, *supra*.

[387] See Item 601(b)(3)(i) (articles of incorporation) and 601(b)(3)(ii) (by-laws) of Regulation S–B and S–K.

[388] See Instruction 4 to Item 601 of Regulation S–K. Exhibits subsequent to number 19 have been renumbered; additional exhibits (currently Item 601(b)(28) of Regulation S–K) has become Item 601(b)(99) in case additional types of exhibits are required in the future. In addition, the exhibit index to Item 601 of Regulation S–K has been amended to reflect this change by requiring that if a material contract or plan of acquisition, reorganization, arrangement, liquidation or succession is executed or becomes effective during the reporting period reflected by the Form 10–Q or Form 10–K, it must be filed as an exhibit to the Form 10–Q or Form 10–K filed for the corresponding period. Further, any amendment or modification to a previously filed exhibit to a Form 10–K or 10–Q document must be filed as an exhibit to a Form 10–Q or Form 10–K. Such amendment or modification need not be filed where such previously filed exhibit would not be currently required.

[389] See amendment to redesignated Item 601(b)(24) of Regulation S–B [17 CFR 228.601(b)(24)] and Regulation S–K [17 CFR 229.601(b)(24)], which codify *Allied Corporation*, letter from the Office of Chief Counsel, Division of Corporation Finance, dated July 21, 1982.

[390] 15 U.S.C. 77k(a).

[391] The earnings statement will be filed pursuant to subparagraph (iii) of redesignated Item 601(b)(99) of Regulation S–B [17 CFR 228.601(b)(99)] and Regulation S–K [17 CFR 229.601(b)(99)].

the form for filing paper format exhibits. In connection with the amendments to the Temporary Rules, the Commission adopted revisions to Forms ID, ET and SE to allow Transitional Filers to use the operational EDGAR system. These forms have been amended again for permanent use in the operational EDGAR system by mandated electronic filers.[392]

A. Form ID

Form ID was used in the EDGAR Pilot as an application whereby registrants who wish to make electronic submissions obtain a company identification ("Central Index Key" or "CIK") number and PINs to be used as signatures in required filings. Permanent Form ID, like the amended temporary form, will be used to apply for or to amend the codes necessary for access to file on EDGAR,[393] and provide identifying information on companies and individuals who are required to file with the Commission, as well as information on agents who are authorized to file on behalf of such persons. It also reflects the elimination of PIN signature requirements.[394] Form ID requires: (1) The registrant's current Commission file number, if known, in order to assist the staff in assigning access codes; (2) the name, address and telephone number of the registrant's EDGAR contact person to facilitate staff communication regarding EDGAR information, inquiries and access codes; and (3) the name, address, and telephone number of the individual who should receive billing invoices from the Commission. Inasmuch as Form ID is filed in paper and initiates a filer's access to the EDGAR system, the requirement for manual signatures on the Form ID itself has been retained.[395]

B. Form ET

Form ET was the temporary form used when submitting electronic filings to the EDGAR Pilot on magnetic tape or diskette. Like its amended temporary counterpart, permanent Form ET requests more specific information relating to the tape or diskette submitted, the word processing package used, and the hardware used to prepare the diskette than was required under the Pilot. This information is helpful in translating the submission into a form compatible with EDGAR. While no signatures are required on the Form itself, an instruction to the Form reminds the filer that, as with all electronic submissions, required signatures within the documents submitted on the diskette or magnetic tape must be in typed form.[396] Since all fee payments are required to be made through the lockbox,[397] thus eliminating the option of attaching a check to the Form, filers no longer will be required to indicate the method of fee payment on the Form.

C. Form SE

Currently, Form SE is used as a cover sheet to identify a paper format exhibit filed by a Transitional Filer who determines that it is impracticable to file the exhibit electronically. Under the amendments, this Form has been revised, as proposed, to allow its use by an electronic filer as a cover sheet to be attached to any paper format exhibit [398] filed pursuant to the grant of a temporary or continuing hardship exemption.[399] Comment was solicited as to whether signatures to Form SE should be typed, in keeping with other signature requirements associated with electronically filed documents. In response to comment, however, Form SE requires signatures to be in manual format, as with other paper filings, except where the Form SE pertains to an exhibit filed pursuant to a temporary hardship exemption. In such case, given the timing considerations associated with temporary hardship exemptions, the signatures to Form SE may be in typed form, which is consistent with the treatment of filings made under cover of Form TH.[400]

VII. Cost-Benefit Analysis

In the Proposing Release, the Commission requested the public to supply its views in the evaluation of the costs and benefits associated with the implementation of the proposals. The Commission has considered carefully the comments received pursuant to that request. The changes made in response to these comments are designed to increase registrant cost-savings without sacrificing information that would materially benefit security holders, the public or the Commission.

First, the general structure of the changes applicable to electronic filers has been streamlined by grouping them together in Regulation S–T, similar to the aggregation of disclosure rules in Regulation S–K. As proposed, rules or instructions specifically relating to electronic filing would have been added to virtually all of the regulations, forms and schedules. Second, in response to concerns that refiling of paper exhibits upon amendment would be unduly burdensome, the Commission has determined to require only the filing of the amendment in electronic format rather than restatement of the amendment and the exhibit to which it relates, except in the case of amendments to the articles of incorporation and by-laws. Third, where a 13D or 13G that was initially filed in paper must be amended electronically because the registrant becomes subject to the electronic filing requirements subsequent to filing of the Schedule but prior to filing of the amendment, only the text of the Schedule 13D or 13G, as amended, must be filed electronically rather than the complete schedule, including all current exhibits, as proposed. In such case, any new exhibits or amendments to exhibits to the Schedule 13D or 13G will have to be filed electronically; however, consistent with the approach outlined above, these amendments need not restate the exhibits to which they relate. Fourth, under the proposals, Schedules 13D and certain cash tender offers would have been considered filed on that business day only if accepted by 5:30 p.m. Eastern Time. In light of commenters' remarks, however, this requirement has been eliminated. Consistent with all other filings, their date of filing is the business day on which the filing is received provided

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[392] As noted in Section III.E.2, *supra*, the Commission also has adopted Form TH, Notification of Reliance On Temporary Hardship Exemption, as an EDGAR form.

[393] See section III.D.3, *supra*, regarding identification and login procedures for detailed descriptions of these codes. The CIK is the one code that may not be changed.

[394] The Form ID adopted in the amended Temporary Rules, which is used by Transitional Filers, is substantially similar to the permanent Form ID.

[395] The amendments also require training agents, who will provide courses of instruction regarding the use of EDGAR, to obtain an identification number by filing a Form ID. These training agents will be given special identification numbers to ensure that all submissions made by them will be treated as test filings.

[396] The Form ET adopted in the amended Temporary Rules requires substantially the same information as required by the permanent Form.

[397] See section III.D.7, *supra*, regarding payment of filing fees through the lockbox.

[398] See section III.C.1.d, *supra*, regarding timing requirements for filing paper exhibits under cover of Form SE.

[399] See section III.E, *supra*, regarding hardship exemptions. The amendment represents a substantial revision to this Form, primarily because of the existence of hardship exemptions. Because the amended Temporary Rules do not mandate electronic filing for Transitional Filers, provisions for requesting hardship exemptions were unnecessary. As a consequence, the Form SE used in the EDGAR Pilot was not modified substantially when the Temporary Rules were amended. In accordance with the rules adopted today, Form SE also may be used to file Form 11–K financial statements and schedules prepared in accordance with the financial reporting requirements of ERISA as well as the performance graph required by Item 402(l) of Regulation S–K. See sections IV.F.6 and IV.E.1, *supra*.

[400] See section III.E.2, *supra*.

that certain conditions are satisfied. Finally, as proposed, the rules provide for a temporary hardship exemption when an electronic filer experiences unanticipated technical difficulties preventing the timely preparation and submission of an electronic filing. Unlike the proposal which would have required the Commission, or the staff pursuant to delegated authority, to grant a request for a temporary hardship exemption if it determined that certain conditions were satisfied, the rules provide that an electronic filer may obtain the exemption simply by filing the subject paper document under cover of Form TH, Notification of Reliance of Temporary Hardship Exemption. No staff involvement is required to obtain the temporary hardship exemption. This change should obviate some of the timing difficulties that could result if staff consideration of the temporary hardship exemption request was required.

Commenters opined that the proposed Financial Data Schedules would require some information not found in their financial statements and that some items required on the Schedules would not provide useful information. Others stated that there was not enough flexibility in the Schedules for registrants to accurately represent the financial status of their businesses. In response to these comments, the Commission has streamlined and simplified the items called for in the Schedules and also has provided more flexibility to registrants as to which Schedule or Schedules to use to best reflect the financial condition of their businesses.

Registrants also expressed concern that certain disclosure requirements could create significant exposure to liability for registrants, that, in good faith, are seeking to comply with the electronic filing rules. To address these concerns, the following measures have been adopted. First, as proposed, a safe harbor and qualifying legend provision have been included in the rules relating to Financial Data Schedules. In addition, the rules permit registrants to qualify an item in the Financial Data Schedule by references to notes to the financial statements. Second, as proposed, a safe harbor provides that an electronic filer will not be subject to the liability and anti-fraud provisions of the federal securities laws with respect to an error or omission in a document resulting solely from electronic transmission errors outside of the filer's control; in a change from the proposal, the safe harbor is available only so long as the filer takes corrective action as soon as reasonably practicable after becoming aware of the error or omission. Finally, a safe harbor for the narrative description of graphic and image material in electronic filings has been added.

As more fully discussed in the Proposing Release,[401] the amendments and new rules are expected to benefit electronic filers. Filers will be able to make direct transmission filings until 10:00 p.m. Eastern Time, which should avoid the uncertainty and delay of other forms of delivery. Electronic filing obviates the need to submit multiple copies of filings, which should reduce the time and costs associated with making public filings. Modular submissions, which enable filers to transmit information only once for use in several filings, also reduce duplication. In addition, segmented filing permits filers to submit material from several different geographic locations using different transmission media up to six business days in advance of the anticipated filing date. Once one-stop filing is implemented, one filing will satisfy the requirements of federal, state and self-regulatory organizations. As the staff can access filings electronically at their workstations, staff review time of filings will be shortened. Further, the staff will be able to access electronically other information pertinent to a filing. Finally, to the extent that filers subscribe to the optional electronic mail/bulletin board system, communications with the staff will be more efficient.

While the amendments may result initially in increased burdens to filers exceeding that which would have been incurred under a continuous paper-based system (e.g., filers will need to train their staffs to prepare documents for electronic submission or hire agents to submit electronically on their behalf), it is anticipated that these burdens will diminish over time as filers become familiar with electronic filing. The Commission has considered commenters' views, has modified the proposals as necessary and appropriate, and has determined that the net increases in costs, if any resulting from the implementation of today's amendments and new rules are outweighed by the value to security holders and to the market of readily accessible information relating to public registrants.

VIII. Final Regulatory Flexibility Act Analysis

A final regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. A copy of the analysis may be obtained by contacting Barbara C. Jacobs or James R. Budge at (202) 272–2589, Division of Corporation Finance, Mail Stop 3–12, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. A summary of the corresponding Initial Regulatory Flexibility Analysis appears at 57 FR 35103 [Release No. 33–6944].

IX. Statutory Basis

The amendments to 17 CFR Part 200, Organization; Conduct and Ethics; and Information and Requests, are adopted under: Securities Act Section 19; Exchange Act Sections 4A, 4B, 23 and 35A; PUHCA Section 20; Trust Indenture Act Section 319; and Investment Company Act Section 38. The amendments to Subpart A of 17 CFR Part 201, Rules of Practice, are adopted under: Securities Act Sections 9 and 19; Exchange Act Sections 4A, 22, 23 and 35A; PUHCA Sections 19 and 20; Trust Indenture Act Sections 319 and 320; and Investment Company Act Sections 38 and 41. The amendments to 17 CFR Part 202, Informal and Other Procedures, are adopted under: Securities Act Sections 19 and 20; Exchange Act Sections 4A, 21, 23 and 35A; PUHCA Sections 18 and 20; Trust Indenture Act Sections 319 and 321; and Investment Company Act Sections 38 and 42. The amendments to Regulation S–X are adopted under: Securities Act Sections 6, 7, 8, 10, 19 and Schedule A; Exchange Act Sections 12, 13, 14, 15, 23 and 35A; PUHCA Sections 5, 10, 14 and 20; and Investment Company Act Sections 8, 20, 30, 31 and 36. The amendments to Regulation S–K are adopted under: Securities Act Sections 6, 7, 8, 10 and 19 and Schedule A; Exchange Act Sections 3, 9, 10, 12, 13, 14, 15, 23 and 35A; PUHCA Section 20; Trust Indenture Act Sections 304, 305, 307, 308, 309, 314 and 319; and Investment Company Act Sections 8, 30, 31 and 38. The amendments to the general rules and regulations under the Securities Act are adopted under: Securities Act Sections 2, 6, 7, 8, 10, and 19(a); Exchange Act Sections 3, 12, 13, 14, 15, 23, and 35A; PUHCA Section 20; and Investment Company Act Sections 8, 30, 31 and 38. The amendments to the Securities Act Forms are adopted under: Securities Act Sections 6, 7, 8, 10 and 19; Exchange Act Sections 3, 12, 13, 14, 15, 23 and 35A; PUHCA Sections 7, 10, 12, 13, 14, 17 and 20; Trust Indenture Act Section 319; and Investment Company Act Sections 8, 30, 31 and 38. The amendments to the general rules and regulations under the Exchange Act are adopted under: Securities Act Sections 3, 4, 7, 10 and 19; Exchange Act Sections 3, 4, 9, 10, 12, 13, 14, 15, 16, 23, 24 and 35A; PUHCA Sections 19 and 20; Trust Indenture Act Sections 305, 307, 314, 319 and 320; and Investment Company Act Sections 20, 23, 30 and 38. The amendments to the Exchange Act Forms are adopted under: Securities Exchange Act of 1934. The amendments to the general rules and regulations under the Trust Indenture Act are adopted under: Exchange Act Section 35A; and Trust Indenture Act Sections 305, 307, 314 and 319. The amendments to the Trust Indenture

[401] *See* Section VII of the Proposing Release.

Act Forms are adopted under: Exchange Act Section 35A; and, Trust Indenture Act Sections 304, 305, 307, 308, 309, 310 and 319. Regulation S–T is being adopted under: Securities Act Sections 6, 7, 8, 10 and 19(a); Exchange Act Sections 3, 12, 13, 14, 15, 23 and 35A; PUHCA Section 20; Trust Indenture Act Section 319; and Investment Company Act Sections 8, 30, 31 and 38.

As required by Section 23(a) of the Exchange Act, the Commission has specifically considered the impact which Regulation S–T and the amendments adopted herein would have on competition. The Commission does not believe that Regulation S–T and the amendments will impose a significant burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. To the extent that any burden on competition would result, the Commission believes it necessary in order to facilitate the dissemination of information to investors and shareholders.

List of Subjects in 17 CFR Parts 200, 201, 202, 210, 228, 229, 230, 232, 239, 240, 249, 260, and 269

Authority delegations (Government agencies), Administrative practice and procedure, Accountants, Reporting and recordkeeping requirements, Confidential business information, and Securities.

Text of the Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as set forth below.

Note: Forms ET (§§ 239.62, 249.445 and 269.6), ID (§§ 239.63, 249.446 and 269.7), and SE (§§ 239.64, 249.444, and 269.8) referenced in chapter II are revised, and Form TH (§§ 239.65, 249.447 and 269.10) is added, as set forth in the Section entitled "TEXT OF FORMS ID, ET, SE AND TH," *infra*, and will not appear in the Code of Federal Regulations.

The temporary rules adopted as §§ 239.62, 239.63, 249.445, 249.446, 259.601, 259.602, 269.6, 269.7, 274.401 and 274.402 and published at 57 FR 18210 on April 29, 1992, are adopted as final rules without change.

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart A—Organization and Program Management

1. The general authority citation for part 200, Subpart A is revised to read as follows:

Authority: 15 U.S.C. 77s, 78d-1, 78d-2, 78w, 78ll(d), 79t, 77sss, 80a37, 80b-11, unless otherwise noted.

* * * * *

2. By amending § 200.30–1 by removing paragraphs (a)(9), (e)(4), and (f)(11); redesignating paragraphs (e)(5), (e)(6), (e)(7) and (e)(8) as (e)(4), (e)(5), (e)(6) and (e)(7), respectively, and redesignating paragraphs (f)(12), (f)(13) and (f)(14) as (f)(11), (f)(12) and (f)(13), respectively; and adding paragraphs (k), (l), and (m) to read as follows:

§ 200.30–1 Delegation of authority to Director of Division of Corporation Finance.

* * * * *

(k) With respect to the Securities Act of 1933 (15 U.S.C. 77a, *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a, *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa, *et seq.*), and Regulation S–T thereunder (part 232 of this chapter), to grant or deny a request submitted pursuant to Rule 12(b) of Regulation S–T (§ 232.12(b) of this chapter) to adjust the filing date of an electronic filing.

(l) With respect to the Securities Act of 1933 (15 U.S.C. 77a, *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a, *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa, *et seq.*), and Regulation S–T thereunder (part 232 of this chapter), to set the terms of, and grant or deny as appropriate, continuing hardship exemptions, pursuant to Rule 202 of Regulation S–T, (§ 232.202 of this chapter), from the electronic submission requirements of Regulation S–T (part 232 of this chapter).

(m) With respect to the Securities Act of 1933 (15 U.S.C. 77a, *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a, *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*), and Regulation S–T thereunder (part 232 of this chapter), to grant or deny a request by a registrant to participate in a phase-in group other than the group established by the Commission for that registrant.

3. By amending § 200.83 by adding paragraph (i) to read as follows:

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

* * * * *

(i) Electronic filings. Confidential treatment requests shall be submitted in paper format only, whether or not the person making the request is an electronic filer.

PART 201—RULES OF PRACTICE

4. The general authority citation for part 201 is revised to read as follows:

Authority: 15 U.S.C. 77h, 77s, 77sss, 77ttt, 78d-1, 78l(d), 78v, 78w, 79s, 79t, 80a-37, 80a-40, 80b-11 and 80b-12, unless otherwise noted.

* * * * *

5. By amending § 201.5 by revising the second sentence to read as follows:

§ 201.5 Business hours.

* * * Legal holidays consist of New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday in the District of Columbia by the President or the Congress of the United States.

6. By amending § 201.25 by revising the second sentence of paragraph (a) to read as follows:

§ 201.25 Confidential treatment of certain matters.

(a) * * * Requests for confidential treatment may be made pursuant to the provisions of Clause 30 of Schedule A of the Securities Act of 1933 and § 230.406 of this chapter thereunder, section 24(b) of the Securities Exchange Act of 1934 and § 240.24b-2 of this chapter thereunder, section 22(b) of the Public Utility Holding Company Act of 1935 and § 250.104 of this chapter thereunder, section 45(a) of the Investment Company Act of 1940 and § 270.45a-1 of this chapter thereunder, or section 210(a) of the Investment Advisers Act of 1940. * * *

* * * * *

PART 202—INFORMAL AND OTHER PROCEDURES

7. The general authority citation for Part 202 is revised to read as follows:

Authority: 15 U.S.C. 77s, 77t, 78d-1, 78u, 78w, 78ll(d), 79r, 79t, 77sss, 77uuu, 80a-37, 80a-41, 80b-9, and 80b-11, unless otherwise noted.

* * * * *

8. By amending § 202.7 by designating the current text as paragraph (a); revising the first sentence of newly designated paragraph (a); and adding paragraph (b) to read as follows:

§ 202.7 Submittals.

(a) All required statements, reports, applications, etc. must be filed with the principal office of the Commission unless otherwise specified in the Commission's rules, schedules and forms. * * *

(b) *Electronic filings.* All documents required to be filed in electronic format with the Commission pursuant to the federal securities laws or the rules and regulations thereunder shall be filed at the principal office in Washington, D.C. via EDGAR by delivery to the Commission of a magnetic tape or diskette, or by direct transmission.

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

9. The authority citation for Part 210 is revised to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77aa(25), 77aa(26), 78l, 78, 78n, 78o(d), 78w(a), 78ll(d), 79e(b), 79j(a), 79n, 79t(a), 80a-8, 80a-20, 80a-29, 80a-30, 80a-37a, unless otherwise noted.

10. A heading is added to precede the text of part 210 (Regulation S–X) to read as follows:

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S–T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S–T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

PART 228—INTEGRATED DISCLOSURE SYSTEM FOR SMALL BUSINESS ISSUERS

11. The authority citation for Part 228 is revised to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, 77sss, 78l, 78m, 78n, 78o, 78w, 78ll, 80a-8, 80a-29, 80a-30, 80a-37, 80b-11, unless otherwise noted.

12. A heading is added to precede the text of Part 228 (Regulation S–B) to read as follows:

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S–T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S–T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

13. In § 228.601, revise paragraph (a)(1); add paragraph (a)(3); add Instruction 3 to Instructions to Item 601(a); in the Exhibit Table, remove entry number (29), revise entry numbers (2), (3), (10), (27), and (28), add and reserve entry numbers (29) through (98), and add entry number (99) and Footnote 5; revise paragraph (b)(3); redesignate the current text of paragraph (b)(13) as paragraph (b)(13)(i) and add paragraph (b)(13)(ii); remove paragraph (b)(19); redesignate paragraphs (b)(20) through (b)(27) as paragraphs (b)(19) through (b)(26); add new paragraph (b)(27); redesignate paragraph (b)(28) as paragraph (b)(99) and redesignate paragraph (b)(29) as paragraph (b)(28); add and reserve paragraphs (b)(29) through (b)(98); in newly designated paragraph (b)(24), add two sentences at the end of the paragraph; in newly designated paragraph (b)(25), redesignate the current text following the paragraph heading as paragraph (b)(25)(i) and add paragraph (b)(25)(ii); in newly designated paragraph (b)(99), designate the current text following the paragraph heading as paragraph (b)(99)(i) and add paragraph (b)(99)(ii); and add paragraph (c) and Appendices A, B, C, D, E and F to Item 601(c) to read as follows:

§ 228.601 (Item 601) Exhibits.

(a) *Exhibits and index of exhibits.* (1) The exhibits required by the exhibit table generally must be filed or incorporated by reference. The Financial Data Schedule required by paragraph (b)(27) of this Item must be submitted to the Commission as provided in paragraph (c) of this Item.

(2) * * *

(3) If a material contract or plan of acquisition, reorganization, arrangement, liquidation or succession is executed or becomes effective during the reporting period covered by a Form 10–QSB or Form 10–KSB, it must be filed as an exhibit to the Form 10–QSB or Form 10–KSB filed for the same period. Any amendment or modification to a previously filed exhibit to a Form 10–SB, 10–KSB or 10–QSB document must be filed as an exhibit to a Form 10–QSB or 10–KSB. The amendment or modification does not need to be filed if the previously filed exhibit would not be currently required.

* * * * *

Instructions to Item 601(a)

* * * * *

3. *Electronic filings.* Whenever an exhibit is filed in paper pursuant to a hardship exemption (§§ 232.201 and 232.202 of this chapter), the letter "P" (paper) should be placed next to the exhibit in the list of exhibits required by Item 601(a)(2) of this Rule (§ 228.601(a)(2)). Whenever an electronic confirming copy of an exhibit is filed pursuant to a temporary hardship exemption (§ 232.101 of this chapter), the exhibit index should specify where the confirming electronic copy can be located; in addition, the designation "CE" (confirming electronic) should be placed next to the listed exhibit in the exhibit index.

EXHIBIT TABLE

	Securities Act Forms					Exchange Act Forms			
	SB–2	S–2	S–3	S–4***	S–8	10–SB	8–K	10–QSB	10–KSB
• • •		•		•			•		•
(2) Plan of acquisition, reorganization, arrangement, liquidation, or succession.	X	X	X	X		X	X	X	X
• • •		•		•			•		•
(3)(i) Articles of incorporation	X			X		X			X
(ii) By-laws	X			X		X			X
• • •		•		•			•		•
(10) Material contracts	X	X		X		X		X	X
• • •		•		•			•		•
(27) Financial Data Schedule*****	X	X	X	X	X	X	X	X	X

EXHIBIT TABLE—Continued

	Securities Act Forms					Exchange Act Forms			
	SB–2	S–2	S–3	S–4***	S–8	10–SB	8–K	10–QSB	10–KSB
(28) Information from reports furnished to state insurance regulatory authorities.	X	X	X	X	X	X			X
(29) through (98) [Reserved]									
(99) Additional Exhibits	X	X	X	X	X	X	X	X	X

* * * * * * *

*** An issuer need not provide an exhibit if: (1) an election was made under Form S–4 to provide S–2 or S–3 disclosure; and (2) the form selected (S–2 or S–8) would not require the company to provide the exhibit.

* * * * * * *

***** Financial Data Schedules shall be filed by electronic filers only. Such schedule shall be filed only when a filing includes annual and/or interim financial statements that have not been previously included in a filing with the Commission. *See* Item 601(c) of Regulation S–B.

(b) * * *

(3) *Articles of incorporation and by-laws.* (i) A complete copy of the articles of incorporation. Whenever amendments to articles of incorporation are filed, a complete copy of the articles as amended shall be filed.

(ii) A complete copy of the by-laws. Whenever amendments to the by-laws are filed, a complete copy of the by-laws as amended shall be filed.

* * * * *

(13)(i) * * *

(ii) If the annual or quarterly report to security holders is incorporated by reference in whole or in part into an electronic filing, whatever is so incorporated must be filed in electronic format as an exhibit to the filing.

* * * * *

(24) *Power of attorney.* * * * A power of attorney that is filed with the Commission must relate to a specific filing or an amendment. A power of attorney that confers general authority must not be filed with the Commission.

(25) *Statement of eligibility of trustee.* (i) * * *

(ii) The requirement to bind separately the statement of eligibility and qualification does not apply to statements submitted in electronic format. Rather, such statements must be submitted as exhibits in the same electronic submission as the registration statement to which they relate, or in an amendment thereto, provided that electronic filers that rely on Trust Indenture Act Section 305(b)(2) for determining the eligibility of the trustee under indentures for securities to be issued, offered or sold on a delayed basis by or on behalf of the registrant shall file statements of eligibility as exhibits to a post-effective amendment to the registration statement to which the statements relate.

* * * * *

(27) *Financial data schedule.* The Financial Data Schedule must be filed only by electronic filers. Applicable requirements are set out in paragraph (c) of this Item.

* * * * *

(29) through (98) [Reserved]

(99) *Additional exhibits.* (i) * * *

(ii) If pursuant to Section 11(a) of the Securities Act [15 U.S.C. 77k(a)] an issuer makes available to its security holders generally an earnings statement covering a period of at least 12 months beginning after the effective date of the registration statement, and if such earnings statement is submitted to the Commission, it must be filed as an exhibit to the Form 10–QSB or the Form 10–KSB, as appropriate, covering the period in which the earnings statement was released.

(c) *Financial data schedule*—(1) *General.* (i) A Financial Data Schedule must be submitted only by an electronic filer that is not a foreign private issuer or foreign government. The schedule must be submitted in the electronic format prescribed by the EDGAR Filer Manual, and must set forth the financial information specified in the applicable table in the Appendices to this item.

(ii) Subsequent to the date on which a small business issuer becomes subject to mandated electronic filing, any electronic filing that includes financial statements of the filer for a recent fiscal year or interim year to date period, or both, for which financial statements have not previously been filed, otherwise than by incorporation by reference, shall include as an exhibit a Financial Data Schedule containing financial information for the updating period or periods.

(iii) The amounts reflected in the Financial Data Schedule must correspond to or be calculable from amounts reflected in the small business issuer's financial statements or associated notes.

(iv) The schedule must be submitted as an exhibit to the filing(s) to which it relates, but will not be treated as filed for purposes of the federal securities laws, nor will it be deemed a part of any registration statement to which it relates. It shall, however, be subject to all other liability and anti-fraud provisions of the federal securities laws. See Rule 402 of Regulation S–T (§ 232.402 of this chapter).

(v) A Financial Data Schedule must be submitted only in electronic format. Where a small business issuer submits a filing, otherwise required to include a Financial Data Schedule, in paper pursuant to a temporary hardship exemption under Rule 201 of Regulation S–T (§ 232.201 of this chapter), the Financial Data Schedule must not be included with the paper filing, but shall be included with the required confirming electronic copy.

(vi) Financial Data Schedules shall not include *pro forma* financial information.

Note: Failure to furnish a Financial Data Schedule will not prevent acceptance of the filing for which the schedule is required. However, as the schedule may be used by the Commission staff in its review of the filing, processing of the filing may be delayed pending filing of the schedule. Further, registrants that have not filed a required Financial Data Schedule will be ineligible to use Form S–2 (§ 239.12 of this chapter), Form S–3 (§ 239.13 of this chapter) and Form S–8 (§ 239.16b of this chapter). See the eligibility requirements of those forms.

(2) *Format and presentation of financial data schedule.* (i) At the option of the registrant, the following legend may be inserted at the beginning of any Financial Data Schedule submitted to the Commission, in the manner prescribed by the EDGAR Filer Manual: THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM [Identify specific financial statements] AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH FINANCIAL STATEMENTS.

(ii) Items set forth in a Financial Data Schedule may be qualified by referencing a specific footnote to the Financial Data Schedule or cross-

referencing notes to the registrant's financial statements.

(iii) If any of the amounts reported in a previously submitted Financial Data Schedule are restated as a result of pooling of interests, an accounting principle change, a reorganization or recapitalization, correction of an error, or any other reason, then a schedule, as amended or restated, shall be submitted that sets forth the restated or amended information for each affected period during the latest three fiscal years and any interim periods of the latest two fiscal years; except that restated or amended information need not be furnished for any period for which a Financial Data Schedule was not previously required to be furnished. The document shall specify that the Financial Data Schedule has been restated or amended. A schedule that is filed to correct an error in a previously filed Financial Data Schedule shall be designated as an "Amended Financial Data Schedule." A schedule that is filed as a result of a restatement that is not a correction of an error shall be designated as a "Restated Financial Data Schedule."

(3) *Contents of financial data schedule.* The schedule shall set forth the financial information specified below that is applicable to the registrant. Small business issuers that would prepare financial statements in accordance with Articles 5, 7 or 9 of Regulation S–X (Part 210 of this chapter) if filing on Form S–1 (§ 239.11 of this chapter) shall prepare a Financial Data Schedule that includes information required by Articles 5, 7 or 9, as appropriate. Schedules based on Articles 5, 7 and 9 of Regulation S–X include items that are to be understood as the same information required by corresponding items in Regulation S–X.

(i) *Article 5 Registrants (Commercial and Industrial Companies).* Small business issuers that would prepare financial statements in accordance with Article 5 of Regulation S–X (§ 210.5–01 through § 210.5–04 of this chapter) shall prepare a Financial Data Schedule that contains the Article 5 items listed in Appendix A to this Item.

(ii) *Article 7 Registrants (Insurance Companies).* Small business issuers that would prepare financial statements in accordance with Article 7 of Regulation S–X (§ 210.7–01 through § 210.7–05 of this chapter) shall prepare a Financial Data Schedule that contains the Article 7 financial statement items and the industry guide items (Securities Act Industry Guide 6 (§ 229.801(f) of this chapter) or Exchange Act Industry Guide 4 (§ 229.802(d) of this chapter) listed in Appendix B to this item.

(iii) *Article 9 Registrants (Bank Holding Companies and Savings and Loan Holding Companies).* Small business issuers that would prepare their financial statements in accordance with Article 9 of Regulation S–X (§ 210.9–01 through § 210.9–07 of this chapter) and savings and loan holding companies shall prepare a Financial Data Schedule that contains the Article 9 financial statement items and Securities Act Industry Guide 3 (§ 229.801(c) of this chapter) information and Exchange Act Industry Guide 3 (§ 229.802(c) of this chapter) listed in Appendix C to this item.

(iv) *Broker-Dealer and Broker-Dealer Holding Companies.* Small business issuers that are broker-dealers or broker-dealer holding companies may prepare a Financial Data Schedule that contains the items listed in Appendix D to this Item in lieu of a Financial Data Schedule containing the items listed in Appendix A to this item.

(v) *Public Utility Companies and Public Utility Holding Companies.* Small business issuers that are public utility companies or public utility holding companies shall prepare a Financial Data Schedule in the form required by Appendix E to this item.

Note: Schedule UT (Appendix E) contains the same requirements found in Exhibit G of Form U5S (§ 259.5s of this chapter).

(vi) *Multiple Industry Companies.* A small business issuer that presents its primary financial statements in a manner in which non-homogeneous lines of business are grouped separately on the face of the primary financial statements and that does not present combined totals for all lines of business may submit separate Financial Data Schedules for each line of business. Where a small business issuer prepares more than one Financial Data Schedule, a separate schedule of consolidated totals on Schedule CT (Appendix F to this item) shall also be furnished.

APPENDIX A TO ITEM 601(C) OF REGULATION S–B—COMMERCIAL AND INDUSTRIAL COMPANIES—ARTICLE 5 OF REGULATION S–X

Item No.	Item description
5–02(1)	Cash and cash items.
5–02(2)	Marketable securities.
5–02(3)(a)(1)	Notes and accounts receivable-trade.
5–02(4)	Allowances for doubtful accounts.
5–02(6)	Inventory.
5–02(9)	Total current assets.
5–02(13)	Property, plant and equipment.
5–02(14)	Accumulated depreciation.
5–02(18)	Total assets.
5–02(21)	Total current liabilities.
5–02(22)	Bonds, mortgages and similar debt.
5–02(28)	Preferred stock-mandatory redemption.
5–02(29)	Preferred stock-no mandatory redemption.
5–02(30)	Common stock.
5–02(31)	Other stockholders' equity.
5–02(32)	Total liabilities and stockholders' equity.
5–03(b)1(a)	Net sales of tangible products.
5–03(b)1	Total revenues.
5–03(b)2(a)	Cost of tangible goods sold.
5–03(b)2	Total costs and expenses applicable to sales and revenues.
5–03(b)3	Other costs and expenses.
5–03(b)5	Provision for doubtful accounts and notes.
5–03(b)(8)	Interest and amortization of debt discount.
5–03(b)(10)	Income before taxes and other items.
5–03(b)(11)	Income tax expense.
5–03(b)(14)	Income/loss continuing operations.
5–03(b)(15)	Discontinued operations.
5–03(b)(17)	Extraordinary items.
5–03(b)(18)	Cumulative effect-changes in accounting principles.
5–03(b)(19)	Net income or loss.
5–03(b)(20)	Earnings per share—primary.
5–03(b)(20)	Earnings per share—fully diluted.

APPENDIX B TO ITEM 601(c) OF REGULATION S–B—INSURANCE COMPANIES—ARTICLE 7 OF REGULATION S–X

Item No.	Item description
7–03(1)(a)	Fixed maturities held for sale.
7–03(1)(a)	Fixed maturities held to maturity—carrying value.
7–03(1)(a)	Fixed maturities held to maturity—market value.
7–03(1)(b)	Investment in equity securities.

APPENDIX B TO ITEM 601(c) OF REGULATION S–B—INSURANCE COMPANIES—ARTICLE 7 OF REGULATION S–X—Continued

Item No.	Item description
7–03(1)(c)	Mortgage loans on real estate.
7–03(1)(d)	Investment in real estate.
7–03(1)(h)	Total investments.
7–03(2)	Cash and cash equivalents.
7–03(6)	Reinsurance recoverable on paid losses.
7–03(7)	Deferred policy acquisition costs.
7–03(12)	Total assets.
7–03(13)(a)(1)	Policy liabilities-future benefits, losses, claims.
7–03(13)(a)(2)	Policy liabilities-unearned premiums.
7–03(13)(a)(3)	Policy liabilities-other claims and benefits.
7–03(14)	Other policyholder funds.
7–03(16)	Notes payable, bonds, mortgages and similar debt.
7–03(21)	Preferred stocks mandatory redemption.
7–03(22)	Preferred stock-not mandatory.
7–03(23)	Common stock.
7–03(24)	Other stockholders' equity.
7–03(25)	Total liabilities and stockholders' equity.
7–04(1)	Premiums.
7–04(2)	Net investment income.
7–04(3)	Realized investment gains and losses.
7–04(4)	Other income.
7–04(5)	Benefits, claims, losses and settlement expenses.
7–04(7)(a)	Underwriting acquisition and insurance expenses—amortization of deferred policy acquisition costs.
7–04(7)(b)	Underwriting acquisition and insurance expense—other.
7–04(8)	Income or loss before income taxes.
7–04(9)	Income tax expense.
7–04(12)	Income/loss continuing operations.
7–04(13)	Discontinued operations.
7–04(15)	Extraordinary items.
7–04(16)	Cumulative effect—changes in accounting principles.
7–04(17)	Net income or loss.
7–04(18)	Earnings per share—primary.
7–04(18)	Earnings per share—fully diluted.

SECURITIES ACT INDUSTRY GUIDE 6 AND EXCHANGE ACT INDUSTRY GUIDE 4

Guide No.	Item description
2.B(1)(a)	Reserves for unpaid claims—beginning of year.
2.B(1)(b)(i)	Provision for insured events—current year.
2.B(1)(b)(ii)	Provision for insured events—prior years.
2.B(1)(c)(i)	Payments of claims-current years.
2.B(1)(c)(ii)	Payments of claims-prior years.
2.B(1)(e)	Reserves for unpaid claims-end of year.
2.B(2)(d)	Deficiency/redundancy in restated reserve.

APPENDIX C TO ITEM 601(c) OF REGULATION S–B—BANK HOLDING COMPANIES AND SAVINGS AND LOAN HOLDING COMPANIES—ARTICLE 9 OF REGULATION S–X

Item No.	Item description
9–03(1)	Cash and due from banks.
9–03(2)	Interest-bearing deposits.
9–03(3)	Federal funds sold-purchased securities for resale.
9–03(4)	Trading account assets.

APPENDIX C TO ITEM 601(c) OF REGULATION S–B—BANK HOLDING COMPANIES AND SAVINGS AND LOAN HOLDING COMPANIES—ARTICLE 9 OF REGULATION S–X—Continued

Item No.	Item description
9–03(6)	Investment and mortgage backed securities held for sale.
9–03(6)	Investment and mortgage backed securities held to maturity—carrying value.
9–03(6)	Investment and mortgage backed securities held to maturity—market value.
9–03(7)	Loans.
9–03(7)(2)	Allowance for losses.
9–03(11)	Total assets.
9–03(12)	Deposits.
9–03(13)	Short-term borrowings.
9–03(15)	Other liabilities.
9–03(16)	Long-term debt.
9–03(19)	Preferred stock-mandatory redemption.
9–03(20)	Preferred stock-no mandatory redemption.
9–03(21)	Common stocks.
9–03(22)	Other stockholders' equity.
9–03(23)	Total liabilities and stockholders' equity.
9–04(1)	Interest and fees on loans.
9–04(2)	Interest and dividends on investments.
9–04(4)	Other interest income.

APPENDIX C TO ITEM 601(c) OF REGULATION S–B—BANK HOLDING COMPANIES AND SAVINGS AND LOAN HOLDING COMPANIES—ARTICLE 9 OF REGULATION S–X—Continued

Item No.	Item description
9–04(5)	Total interest income.
9–04(6)	Interest on deposits.
9–04(9)	Total interest expense.
9–04(10)	Net interest income.
9–04(11)	Provision for loan losses.
9–04(13)(h)	Investment securities gains/losses.
9–04(14)	Other expenses.
9–04(15)	Income/loss before income tax.
9–04(17)	Income/loss before extraordinary items.
9–04(18)	Extraordinary items, less tax.
9–04(19)	Cumulative change in accounting principles.
9–04(20)	Net income or loss.
9–04(21)	Earnings per share—primary.
9–04(21)	Earnings per share—fully diluted.

APPENDIX C TO ITEM 601(c) OF REGULATION S–B—BANK HOLDING COMPANIES AND SAVINGS AND LOAN HOLDING COMPANIES—INDUSTRY GUIDE 3

Guide No.	Item description
I.B.5	Net yield-interest earning assets—actual.
III.C.1(a)	Loans on non accrual.
III.C.1(b)	Accruing loans past due 90 days or more.
III.C.1(c)	Troubled debt restructuring.
III.C.2	Potential problem loans.
IV.A.1	Allowance for loan loss-beginning of period.
IV.A.2	Total chargeoffs.
IV.A.3	Total recoveries.
IV.A.4	Allowance for loan loss-end of period.
IV.B.1	Loan loss allowance allocated to domestic loans.
IV.B.2	Loan loss allowance allocated to foreign loans.
IV.B.3	Loan loss allowance-unallocated.

APPENDIX D TO ITEM 601(c) OF REGULATION S–B—BROKER-DEALERS AND BROKER-DEALER HOLDING COMPANIES—FINANCIAL DATA SCHEDULE BD

Item No.	Item description
101	Cash and cash items.
103	Receivables from brokers and dealers, customers and others.
104	Securities purchased under resale agreements.
104	Securities borrowed.
108	Financial instruments owned.
109	Property, plant and equipment, net of depreciation.
112	Total assets.
201	Short term borrowings including commercial paper.
203	Payable to customers, brokers/dealers (including clearing brokers) and others.
204	Securities sold under agreements to repurchase.
205	Securities loaned.
206	Instruments sold, not yet purchased (at market).
208	Long-term debt.
209	Preferred stock-mandatory redemption.
210	Preferred stock-no mandatory redemption.
211	Common stock.
212	Other stockholders' equity.
213	Total liabilities and stockholders' equity.
301	Revenue from trading activities.
302	Interest and dividends.
303	Commissions.
304	Revenues from investment banking activities.
305	Revenues from asset management and other services.

APPENDIX D TO ITEM 601(c) OF REGULATION S–B—BROKER-DEALERS AND BROKER-DEALER HOLDING COMPANIES—FINANCIAL DATA SCHEDULE BD—Continued

Item No.	Item description
310	Interest expense.
311	Compensation and employee related expense.
313	Income/loss before income tax.
314	Income/loss before extraordinary items.
315	Extraordinary items, less tax.
316	Cumulative change in accounting principles.
317	Net income or loss.
318	Earnings per share—primary.
319	Earnings per share—fully diluted.

APPENDIX E TO ITEM 601(c) OF REGULATION S–B—PUBLIC UTILITY COMPANIES AND PUBLIC UTILITY HOLDING COMPANIES—FINANCIAL DATA SCHEDULE UT

Item No.	Item description
1	Total net utility plant.
2	Other property and investments.
3	Total current assets.
4	Total deferred charges.
5	Balancing amount for total assets.
6	Total assets.
7	Common stock.
8	Capital surplus, paid in.
9	Retained earnings.
10	Total common stockholders equity.
11	Preferred stock subject to mandatory redemption.
12	Preferred stock not subject to mandatory redemption.
13	Long term debt, net.
14	Short term notes.
15	Notes payable.
16	Commercial paper.
17	Long term debt—current portion.
18	Preferred stock—current portion.
19	Obligations under capital leases.
20	Obligations under capital leases—current portion.
21	Balancing amount for capitalization and liabilities.
22	Total capitalization and liabilities.
23	Gross operating revenue.
24	Federal and state income taxes expense.
25	Other operating expenses.
26	Total operating expenses.
27	Operating income (loss).
28	Other income (loss), net.
29	Income before interest charges.
30	Total interest charges.
31	Net income.

APPENDIX E TO ITEM 601(c) OF REGULATION S–B—PUBLIC UTILITY COMPANIES AND PUBLIC UTILITY HOLDING COMPANIES—FINANCIAL DATA SCHEDULE UT—Continued

Item No.	Item description
32	Preferred stock dividends.
33	Earnings available for common stock.
34	Common stock dividends.
35	Total annual interest charges on all bonds.
36	Cash flow from operations.
37	Earnings per share—primary.
38	Earnings per share—fully diluted.

APPENDIX F TO ITEM 601(c) OF REGULATION S–B—CONSOLIDATED TOTALS FOR REGISTRANTS FILING MULTIPLE FINANCIAL DATA SCHEDULES—FINANCIAL DATA SCHEDULE CT

Item No.	Item description
5–02(18)	Total assets.
5–02(28)	Preferred stock-mandatory redemption.
5–02(29)	Preferred stock-no mandatory redemption.
5–02(30)	Common stock.
5–02(31)	Other stockholders' equity.
5–02(32)	Total liabilities and stockholders' equity.
5–03(b)1	Total revenues.
5–03(b)(11)	Income tax expense.
5–03(b)(14)	Income/loss continuing operations.
5–03(b)(15)	Discontinued operations.
5–03(b)(17)	Extraordinary items.
5–03(b)(18)	Cumulative effect-changes in accounting principles.
5–03(b)(19)	Net income or loss.
5–03(b)(20)	Earnings per share—primary.
5–03(b)(20)	Earnings per share—fully diluted.

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

14. The general authority citation for part 229 is revised to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78l, 78m, 78n, 78o, 78w, 78*ll*(d), 79e, 79n, 79t, 80a–8, 80a–29, 80a–30, 80a–37, 80b–11, unless otherwise noted.

* * * * *

15. A heading is added to precede the text of part 229 (Regulation S–K) to read as follows:

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S–T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S–T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

§ 229.10 [Amended]

16. In § 229.10, the word "projects" in the second sentence of paragraph (b)(3)(iii) is revised to read "projections".

§ 229.50 [Amended]

17. By amending § 229.501 by replacing the phrase ", add ";"" following the word "leaded" at the end of paragraph (c)(4) with a semicolon.

§ 229.60 [Amended]

18. In § 229.601, revise paragraph (a)(1); add paragraph (a)(4); add Instruction 4 to Instructions to Item 601; in the Exhibit Table remove entry number (29), revise entry numbers (2), (3), (10), (27), and (28), add and reserve entry numbers (29) through (98), and add entry number (99) and Footnote 5; revise paragraph (b)(3); redesignate paragraph (b)(13) following the paragraph heading as paragraph (b)(13)(i) and add paragraph (b)(13)(ii); remove paragraph (b)(19); redesignate paragraphs (b)(20) through (b)(27) as paragraphs (b)(19) through (b)(26); add new paragraph (b)(27); redesignate paragraph (b)(28) as paragraph (b)(99) and redesignate paragraph (b)(29) as paragraph (b)(28); add and reserve paragraphs (b)(29) through (b)(98); in newly designated paragraph (b)(24), add two sentences at the end of the paragraph; in newly designated paragraph (b)(25), designate the current text following the paragraph heading as paragraph (b)(25)(i) and add paragraph (b)(25)(ii); in newly designated paragraph (b)(99) add paragraph (b)(99)(iii); and add paragraph (c) and Appendices A, B, C, D, E and F to Item 601(c) to read as follows: § 229.601 (Item 601) Exhibits.

(a) *Exhibits and index required.* (1) Subject to Rule 411(c) (§ 230.411(c) of this chapter) under the Securities Act and Rule 12b–32 (§ 240.12b–32 of this chapter) under the Exchange Act regarding incorporation of exhibits by reference, the exhibits required in the exhibit table shall be filed as indicated, as part of the registration statement or report. Financial Data Schedules required by paragraph (b)(27) of this Item shall be submitted pursuant to the provisions of paragraph (c) of this Item.

* * * * *

(4) If a material contract or plan of acquisition, reorganization, arrangement, liquidation or succession is executed or becomes effective during the reporting period reflected by a Form 10–Q or Form 10–K, it shall be filed as an exhibit to the Form 10–Q or Form 10–K filed for the corresponding period. Any amendment or modification to a previously filed exhibit to a Form 10, 10–K or 10–Q document shall be filed as an exhibit to a Form 10–Q or Form 10–K. Such amendment or modification need not be filed where such previously filed exhibit would not be currently required.

* * * * *

Instructions to Item 601

* * * * *

4. *Electronic filings.* Whenever an exhibit is filed in paper pursuant to a hardship exemption (§§ 232.201 and 232.202 of this chapter), the letter "P" (paper) shall be placed next to the exhibit in the list of exhibits required by Item 601(a)(2) of this Rule. Whenever an electronic confirming copy of an exhibit is filed pursuant to a grant of a temporary hardship exemption (§ 232.201 of this chapter), the exhibit index shall specify where the confirming electronic copy can be located; in addition, the designation "CE" (confirming electronic) shall be placed next to the listed exhibit in the exhibit index.

Exhibit Table

Instructions to the Exhibit Table

* * * * *

EXHIBIT TABLE

	Securities Act Forms										Exchange Act Forms			
	S–1	S–2	S–3	S–4[3]	S–8	S–11	F–1	F–2	F–3	F–4[3]	10	8–K	10–Q	10–K
* *		*			*			*			*			*
(2) Plan of acquisition, reorganization, arrangement, liquidation, or succession.	X	X	X	X		X	X	X	X	X	X	X	X	X
(3) (i) Articles of incorporation	X			X		X	X			X	X			X
(ii) By-laws	X			X		X	X			X	X			X
* *		*			*			*			*			*
(10) Material contracts	X	X		X		X	X	X		X	X		X	X
* *		*			*			*			*			*
(27) Financial Data Schedule[5]	X	X	X	X	X	X					X	X	X	X
(28) Information from reports furnished to state insurance regulatory authorities.	X	X	X	X	X						X			X
(29) through (98) [Reserved]														
(99) Additional Exhibits	X	X	X	X	X	X	X	X	X	X	X	X	X	X
* *		*			*			*			*			*

[3] An exhibit need not be provided about a company if: (1) With respect to such company an election has been made under Forms S–4 or F–4 to provide information about such company at a level prescribed by Forms S–2, S–3, F–2 or F–3 and (2) the form, the level of which has been elected under Forms S–4 or F–4, would not require such company to provide such exhibit if it were registering a primary offering.

* * * * * * *

[5] Financial Data Schedules shall be filed by electronic filers only. Such schedule shall be filed only when a filing includes annual and/or interim financial statements that have not been previously included in a filing with the Commission. See Item 601(c) of Regulation S–K.

(b) * * *

(3)(i) *Articles of incorporation.* The articles of incorporation of the registrant or instruments corresponding thereto as currently in effect and any amendments thereto. Whenever amendments to articles of incorporation are filed, a complete copy of the articles as amended shall be filed. Where it is impracticable for the registrant to file a charter amendment authorizing new securities with the appropriate state authority prior to the effective date of the registration statement registering such securities, the registrant may file as an exhibit to the registration statement the form of amendment to be filed with the state authority; and in such a case, if material changes are made after the copy is filed, the registrant must also file the changed copy.

(ii) *By-laws.* The by-laws of the registrant or instruments corresponding thereto as currently in effect and any amendments thereto. Whenever amendments to the by-laws are filed, a complete copy of the by-laws as amended shall be filed.

* * * * *

(13) *Annual report to security holders, Form 10–Q or 10–QSB, or quarterly report to security holders.* (i) * * *

(ii) Electronic filings. If all, or any portion, of the annual or quarterly report to security holders is incorporated by reference into any electronic filing, all, or such portion of the annual or quarterly report to security holders so incorporated, shall be filed in electronic format as an exhibit to the filing.

* * * * *

(24) *Power of Attorney.* * * * A power of attorney that is filed with the Commission shall relate to a specific filing or an amendment thereto. A power of attorney that confers general authority shall not be filed with the Commission.

(25) *Statement of eligibility of trustee.* (i) * * *

(ii) *Electronic filings.* The requirement to bind separately the statement of eligibility and qualification of each person designated to act as a trustee under the Trust Indenture Act of 1939 from other exhibits shall not apply to statements submitted in electronic format. Rather, such statements shall be submitted as exhibits in the same electronic submission as the subject registration statement to which it relates or an amendment thereto, *Provided that* electronic filers that rely on Trust Indenture Act section 305(b)(2) for determining the eligibility of the trustee under indentures for securities to be issued, offered or sold on a delayed basis by or on behalf of the registrant shall file statements of eligibility as exhibits to a post-effective amendment to the registration statement to which the statements relate.

* * * * *

(27) *Financial data schedule.* The Financial Data Schedule shall be filed only by electronic filers. Applicable requirements are set forth in paragraph (c) of this Item.

* * * * *

(29) through (98) [Reserved]

(99) *Additional Exhibits.* (i) * * *

* * * * *

(iii) If pursuant to section 11(a) of the Securities Act (15 U.S.C. 77k(a)) an issuer makes available to its security holders generally an earnings statement covering a period of at least 12 months beginning after the effective date of the registration statement, and if such earnings statement is submitted to the Commission, it must be filed as an exhibit to the Form 10–Q or the Form 10–K, as appropriate, covering the period in which the earnings statement was released.

(c) *Financial data schedule*—(1) *General.* (i) A Financial Data Schedule shall be submitted only by an electronic filer that is not a foreign private issuer or a foreign government. The schedule shall be submitted in the electronic format prescribed by the EDGAR Filer Manual, and shall set forth the financial specified in the applicable table in the Appendices to this item.

(ii) Subsequent to the date on which a registrant becomes subject to mandated electronic filing, any electronic filing that includes financial statements of the registrant for a recent fiscal year or interim year to date period, or both, for which financial statements have not previously been filed, otherwise than by incorporation by reference, shall include as an exhibit a Financial Data Schedule containing financial information for the updating period or periods.

(iii) The amounts reflected in the Financial Data Schedule shall correspond to or be calculable from amounts reflected in the registrant's financial statements or notes thereto.

(iv) The schedule shall be submitted as an exhibit to the filing(s) to which it relates, but shall not be deemed filed for purposes of section 11 of the Securities Act (15 U.S.C. 77k), section 18 of the Exchange Act (15 U.S.C. 78r), and section 323 of the Trust Indenture Act (15 U.S.C. 77www), or otherwise be subject to the liabilities of such sections, nor shall it be deemed a part of any registration statement to which it relates. It shall, however, be subject to all other liability and anti-fraud provisions of the Acts. See Rule 402 of Regulation S–T (§ 232.402 of this chapter).

(v) A Financial Data Schedule shall be submitted only in electronic format. Where a registrant submits a filing, otherwise required to include a Financial Data Schedule, in paper pursuant to a temporary hardship exemption under Rule 201 of Regulation S–T (§ 232.201 of this chapter), the Financial Data Schedule shall not be included with the paper filing, but shall be included with the required confirming electronic copy.

(vi) A Financial Data Schedule reflecting *pro forma* financial information shall not be filed.

Note: A registrant's failure to furnish a Financial Data Schedule pursuant to this paragraph will not prevent acceptance of the filing for which the schedule is required. However, inasmuch as the schedule may be used by the Commission staff in its review of the filing, processing of the filing may be delayed pending filing of the schedule. Further, registrants that have not filed a required Financial Data Schedule will be ineligible to use Form S–2 (§ 239.12 of this chapter), Form S–3 (§ 239.13 of this chapter) and Form S–8 (§ 239.16b of this chapter). *See* eligibility requirements of those forms.

(2) *Format and presentation of financial data schedule.* (i) At the option of the registrant, the following legend may be inserted at the beginning of any Financial Data Schedule submitted to the Commission, in the manner prescribed by the EDGAR Filer Manual:

THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM [Identify specific financial statements] AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH FINANCIAL STATEMENTS

(ii) Items set forth in a Financial Data Schedule may be qualified by referencing a specific footnote to the Financial Data Schedule or cross-referencing notes to the registrant's financial statements.

(iii) If any of the amounts reported in a previously submitted Financial Data Schedule are restated as a result of pooling of interests, an accounting principle change, a reorganization or recapitalization, or correction of an error or other reason, then a schedule, as amended or restated, shall be submitted that sets forth the restated information for each affected period during the latest three fiscal years and interim periods of the latest two fiscal years; except that restated or amended information need not be furnished for any period for

which a Financial Data Schedule was not previously required to be furnished. The document shall specify that the Financial Data Schedule has been restated or amended. A schedule that is filed to correct an error in a previously filed Financial Data Schedule shall be designated as an "Amended Financial Data Schedule." A schedule that is filed as a result of a restatement that is not a correction of an error shall be designated as a "Restated Financial Data Schedule."

(3) *Contents of financial data schedule.* The schedule shall set forth the financial information specified below that is applicable to the registrant. Schedules based on Articles 5, 7 and 9 of Regulation S–X include items that are to be understood as the same information required by the Item in Regulation S–X.

(i) *Article 5 registrants (commercial and industrial companies).* Registrants that prepare financial statements in accordance with Article 5 of Regulation S–X (§ 210.5–01 through § 210.5–04 of this chapter) shall prepare a Financial Data Schedule that contains the Article 5 items listed in Appendix A to this Item.

(ii) *Article 7 registrants (insurance companies).* Registrants that prepare financial statements in accordance with Article 7 of Regulation S–X (§ 210.7–01 through § 210.7–05 of this chapter) shall prepare a Financial Data Schedule that contains the Article 7 financial statement items and the industry guide items (Securities Act Industry Guide 6 (§ 229.801(f) of this chapter) or Exchange Act Industry Guide 4 (§ 229.802(d) of this chapter) listed in Appendix B to this Item.

(iii) *Article 9 registrants (bank holding companies and savings and loan holding companies).* Registrants that prepare their financial statements in accordance with Article 9 of Regulation S–X (§ 210.9–01 through § 210.9–07 of this chapter) and savings and loan holding companies shall prepare a Financial Data Schedule that contains the Article 9 financial statement items and Securities Act Industry Guide 3 (§ 229.801(c) of this chapter) information and Exchange Act Industry Guide 3 (§ 229.802(c) of this chapter) listed in Appendix C to this Item.

(iv) *Broker-dealer and broker-dealer holding companies.* Registrants that are broker-dealers or broker-dealer holding companies may prepare a Financial Data Schedule that contains the items listed in Appendix D to this Item in lieu of a Financial Data Schedule containing the items listed in Appendix A to this Item.

(v) *Public utility companies and public utility holding companies.* Registrants that are public utility companies or public utility holding companies shall prepare a Financial Data Schedule in the form required by Appendix E to this item.

Note: Schedule UT (Appendix E) contains the same requirements found in Exhibit G of Form U5S (§ 259.5s of this chapter).

(vi) *Multi-industry registrants.* A registrant that presents its primary financial statements in a manner in which non-homogeneous lines of business are grouped separately on the face of the primary financial statements and that does not present combined totals for all lines of business may submit separate Financial Data Schedules for each line of business. Where a registrant prepares more than one Financial Data Schedule, a separate schedule of consolidated totals on Schedule CT (Appendix F to this item) shall also be furnished.

APPENDIX A TO ITEM 601(C) OF REGULATION S–K; COMMERCIAL AND INDUSTRIAL COMPANIES—ARTICLE 5 OF REGULATION S–X

Item number	Item description
5–02(1)	Cash and cash items.
5–02(2)	Marketable securities.
5–02(3)(a)(1)	Notes and accounts receivable-trade.
5–02(4)	Allowances for doubtful accounts.
5–02(6)	Inventory.
5–02(9)	Total current assets.
5–02(13)	Property, plant and equipment.
5–02(14)	Accumulated depreciation.
5–02(18)	Total assets.
5–02(21)	Total current liabilities.
5–02(22)	Bonds, mortgages and similar debt.
5–02(28)	Preferred stock-mandatory redemption.
5–02(29)	Preferred stock-no mandatory redemption.
5–02(30)	Common stock.
5–02(31)	Other stockholders' equity.
5–02(32)	Total liabilities and stockholders' equity.
5–03(b)1(a)	Net sales of tangible products.
5–03(b)1	Total revenues.
5–03(b)2(a)	Cost of tangible goods sold.
5–03(b)2	Total costs and expenses applicable to sales and revenues.
5–03(b)3	Other costs and expenses.
5–03(b)5	Provision for doubtful accounts and notes.
5–03(b)(8)	Interest and amortization of debt discount.
5–03(b)(10)	Income before taxes and other items.
5–03(b)(11)	Income tax expense.
5–03(b)(14)	Income/loss continuing operations.
5–03(b)(15)	Discontinued operations.
5–03(b)(17)	Extraordinary items.
5–03(b)(18)	Cumulative effect-changes in accounting principles.
5–03(b)(19)	Net income or loss.
5–03(b)(20)	Earnings per share—primary.
5–03(b)(20)	Earnings per share—fully diluted.

APPENDIX B TO ITEM 601(C) OF REGULATION S–K; INSURANCE COMPANIES—ARTICLE 7 OF REGULATION S–X

Item number	Item description
7–03(1)(a)	Fixed maturities held for sale.
7–03(1)(a)	Fixed maturities held to maturity—carrying value.
7–03(1)(a)	Fixed maturities held to maturity—market value.
7–03(1)(b)	Investment in equity securities.
7–03(1)(c)	Mortgage loans on real estate.
7–03(1)(d)	Investment in real estate.
7–03(1)(h)	Total investments.
7–03(2)	Cash and cash equivalents.
7–03(6)	Reinsurance recoverable on paid losses.
7–03(7)	Deferred policy acquisition costs.
7–03(12)	Total assets.
7–03(13)(a)(1)	Policy liabilities—future benefits, losses, claims.
7–03(13)(a)(2)	Policy liabilities—unearned premiums.
7–03(13)(a)(3)	Policy liabilities—other claims and benefits.
7–03(14)	Other policyholder funds.
7–03(16)	Notes payable, bonds, mortgages and similar debt.
7–03(21)	Preferred stocks—mandatory redemption.
7–03(22)	Preferred stock—not mandatory.
7–03(23)	Common stock.
7–03(24)	Other stockholders' equity.
7–03(25)	Total liabilities and stockholders' equity.
7–04(1)	Premiums.
7–04(2)	Net investment income.
7–04(3)	Realized investment gains and losses.
7–04(4)	Other income.
7–04(5)	Benefits, claims, losses and settlement expenses.
7–04(7)(a)	Underwriting acquisition and insurance expenses—amortization of deferred policy acquisition costs.

APPENDIX B TO ITEM 601(C) OF REGULATION S–K; INSURANCE COMPANIES—ARTICLE 7 OF REGULATION S–X—Continued

Item number	Item description
7–04(7)(b)	Underwriting acquisition and insurance expense—other.
7–04(8)	Income or loss before income taxes.
7–04(9)	Income tax expense.
7–04(12)	Income/loss continuing operations.
7–04(13)	Discontinued operations.
7–04(15)	Extraordinary items.
7–04(16)	Cumulative effect—changes in accounting principles.
7–04(17)	Net income or loss.
7–04(18)	Earnings per share—primary.
7–04(19)	Earnings per share—fully diluted.

SECURITIES ACT INDUSTRY GUIDE 6 AND EXCHANGE ACT INDUSTRY GUIDE 4

Guide number	Item description
2.B(1)(a)	Reserves for unpaid claims—beginning of year.
2.B(1)(b)(i)	Provision for insured events—current year.
2.B(1)(b)(ii)	Provision for insured events—prior years.
2.B(1)(c)(i)	Payments of claims—current years.
2.B(1)(c)(ii)	Payments of claims—prior years.
2.B(1)(e)	Reserves for unpaid claims—end of year.
2.B(2)(c)	Deficiency/redundancy in restated reserve.

APPENDIX C TO ITEM 601(C) OF REGULATION S–K; BANK HOLDING COMPANIES AND SAVINGS AND LOAN HOLDING COMPANIES—ARTICLE 9 OF REGULATION S–X

Item number	Item description
9–03(1)	Cash and due from banks.
9–03(2)	Interest-bearing deposits.
9–03(3)	Federal funds sold—purchased securities for resale.
9–03(4)	Trading account assets.
9–03(6)	Investment and mortgage backed securities held for sale.
9–03(6)	Investment and mortgage backed securities held to maturity—carrying value.
9–03(6)	Investment and mortgage backed securities held to maturity—market value.
9–03(7)	Loans.
9–03(7)(2)	Allowance for losses.
9–03(11)	Total assets.
9–03(12)	Deposits.

APPENDIX C TO ITEM 601(C) OF REGULATION S–K; BANK HOLDING COMPANIES AND SAVINGS AND LOAN HOLDING COMPANIES—ARTICLE 9 OF REGULATION S–X—Continued

Item number	Item description
9–03(13)	Short-term borrowings.
9–03(15)	Other liabilities.
9–03(16)	Long-term debt.
9–03(19)	Preferred stock—mandatory redemption.
9–03(20)	Preferred stock—no mandatory redemption.
9–03(21)	Common stocks.
9–03(22)	Other stockholders' equity.
9–03(23)	Total liabilities and stockholders' equity.
9–04(1)	Interest and fees on loans.
9–04(2)	Interest and dividends on investments.
9–04(4)	Other interest income.
9–04(5)	Total interest income.
9–04(6)	Interest on deposits.
9–04(9)	Total interest expense.
9–04(10)	Net interest income.
9–04(11)	Provision for loan losses.
9–04(13)(h)	Investment securities gains/losses.
9–04(14)	Other expenses.
9–04(15)	Income/loss before income tax.
9–04(17)	Income/loss before extraordinary items.
9–04(18)	Extraordinary items, less tax.
9–04(19)	Cumulative change in accounting principles.
9–04(20)	Net income or loss.
9–04(21)	Earnings per share—primary.
9–04(21)	Earnings per share—fully diluted.

APPENDIX C TO ITEM 601(C) OF REGULATION S–K; BANK HOLDING COMPANIES AND SAVINGS AND LOAN HOLDING COMPANIES—INDUSTRY GUIDE 3

Guide number	Item description
I.B.5	Net yield—interest earning assets—actual.
III.C.1(a)	Loans on non accrual.
III.C.1(b)	Accruing loans past due 90 days or more.
III.C.1(c)	Troubled debt restructuring.
III.C.2	Potential problem loans.
IV.A.1	Allowance for loan loss—beginning of period.
IV.A.2	Total chargeoffs.
IV.A.3	Total recoveries.
IV.A.4	Allowance for loan loss—end of period.
IV.B.1	Loan loss allowance allocated to domestic loans.
IV.B.2	Loan loss allowance allocated to foreign loans.
IV.B.3	Loan loss allowance—unallocated.

APPENDIX D TO ITEM 601(c) OF REGULATION S–K; BROKER-DEALERS AND BROKER-DEALER HOLDING COMPANIES—FINANCIAL DATA SCHEDULE BD

Item number	Item description
101	Cash and cash items.
103	Receivables from brokers and dealers, customers and others.
104	Securities purchased under resale agreements.
105	Securities borrowed.
106	Financial instruments owned.
109	Property, plant and equipment, net of depreciation.
112	Total assets.
201	Short term borrowings including commercial paper.
203	Payable to customers, brokers/dealers (including clearing brokers) and others.
204	Securities sold under agreements to repurchase.
205	Securities loaned.
206	Instruments sold, not yet purchased (at market).
208	Long-term debt.
209	Preferred stock-mandatory redemption.
210	Preferred stock-no mandatory redemption.
211	Common stock.
212	Other stockholders' equity.
213	Total liabilities and stockholders' equity.
301	Revenue from trading activities.
302	Interest and dividends.
303	Commissions.
304	Revenues from investment banking activities.
305	Revenues from asset management and other fee based services.
310	Interest expense.
311	Compensation and employee related expense.
313	Income/loss before income tax.
314	Income/loss before extraordinary items.
315	Extraordinary items, less tax.
316	Cumulative change in accounting principles.
317	Net income or loss.
318	Earnings per share—primary.
319	Earnings per share—fully diluted.

APPENDIX E TO ITEM 601(c) OF REGULATION S–K; PUBLIC UTILITY COMPANIES AND PUBLIC UTILITY HOLDING COMPANIES—FINANCIAL DATA SCHEDULE UT

Item number	Item description
1	Total net utility plant.
2	Other property and investments.
3	Total current assets.
4	Total deferred charges.

APPENDIX E TO ITEM 601(c) OF REGULATION S–K; PUBLIC UTILITY COMPANIES AND PUBLIC UTILITY HOLDING COMPANIES—FINANCIAL DATA SCHEDULE UT—Continued

Item number	Item description
5	Balancing amount for total assets.
6	Total assets.
7	Common stock.
8	Capital surplus, paid in.
9	Retained earnings.
10	Total common stockholders equity.
11	Preferred stock subject to mandatory redemption.
12	Preferred stock not subject to mandatory redemption.
13	Long term debt, net.
14	Short term notes.
15	Notes payable.
16	Commercial paper.
17	Long term debt—current portion.
18	Preferred stock—current portion.
19	Obligations under capital leases.
20	Obligations under capital leases—current portion.
21	Balancing amount for capitalization and liabilities.
22	Total capitalization and liabilities.
23	Gross operating revenue.
24	Federal and state income taxes expense.
25	Other operating expenses.
26	Total operating expenses.
27	Operating income (loss).
28	Other income (loss), net.
29	Income before interest charges.
30	Total interest charges.
31	Net income.
32	Preferred stock dividends.
33	Earnings available for common stock.
34	Common stock dividends.
35	Total annual interest charges on all bonds.
36	Cash flow from operations.
37	Earnings per share—primary.
38	Earnings per share—fully diluted.

APPENDIX F TO ITEM 601(c) OF REGULATION S–K CONSOLIDATED TOTALS FOR REGISTRANTS FILING MULTIPLE FINANCIAL DATA SCHEDULES—FINANCIAL DATA SCHEDULE CT

Item number	Item description
5–02(18)	Total assets.
5–02(28)	Preferred stock-mandatory redemption.
5–02(29)	Preferred stock-no mandatory redemption.
5–02(30)	Common stock.
5–02(31)	Other stockholders' equity.

APPENDIX F TO ITEM 601(c) OF REGULATION S–K CONSOLIDATED TOTALS FOR REGISTRANTS FILING MULTIPLE FINANCIAL DATA SCHEDULES—FINANCIAL DATA SCHEDULE CT—Continued

Item number	Item description
5–02(32)	Total liabilities and stockholders' equity.
5–03(b)1	Total revenues.
5–03(b)(11)	Income tax expense.
5–03(b)(14)	Income/loss continuing operations.
5–03(b)(15)	Discontinued operations.
5–03(b)(17)	Extraordinary items.
5–03(b)(18)	Cumulative effect—changes in accounting principles.
5–03(b)(19)	Net income or loss.
5–03(b)(20)	Earnings per share—primary.
5–03(b)(20)	Earnings per share—fully diluted.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

19. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 79t, 80a-8, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

* * * * *

20. The authority citations following §§ 230.405, 230.406 and 230.418 are removed.

21. A heading is added to precede the text of part 230 (General Rules and Regulations, Securities Act of 1933) to read as follows:

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S–T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S–T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT

22. By amending § 230.100 by adding paragraphs (a)(6) and (a)(7) to read as follows:

§ 230.100 Definition of terms used in the rules and regulations.

(a) * * *

(6) The term "electronic filer" means a person or an entity that submits filings electronically pursuant to Rules 101, 901, 902 or 903 of Regulation S–T (§§ 232.101, 232.901, 232.902 or 232.903 of this chapter, respectively).

(7) The term "electronic filing" means a document under the federal securities laws that is transmitted or delivered to the Commission in electronic format.

* * * * *

23. By revising § 230.110 to read as follows:

§ 230.110 Business hours of the Commission.

(a) *General.* The principal office of the Commission, at 450 Fifth Street, NW., Washington, DC 20549, is open each day, except Saturdays, Sundays, and federal holidays, from 9 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, *provided that* hours for the filing of documents pursuant to the Act or the rules and regulations thereunder are as set forth in paragraphs (b) and (c) of this section.

(b) *Submissions made in paper or on magnetic tape or diskette.* Paper documents filed with or otherwise furnished to the Commission, as well as electronic filings and submissions on magnetic tape or diskette under cover of Form ET (§§ 239.62, 249.445, 259.601, 269.6 and 274.401 of this chapter), may be submitted to the Commission each day, except Saturdays, Sundays and federal holidays, from 8 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect.

(c) *Filings by direct transmission.* Filings made by direct transmission may be submitted to the Commission each day, except Saturdays, Sundays and federal holidays, from 8 a.m. to 10 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect.

24. By amending § 230.158 by adding paragraph (d) to read as follows:

§ 230.158 Definitions of certain terms in the last paragraph of section 11(a).

* * * * *

(d) If an earnings statement was made available by "other methods" than those specified in paragraphs (a) and (b) of this section, the earnings statement must be filed as exhibit 99 to the next periodic report required by section 13 or 15(d) of the Exchange Act covering the period in which the earnings statement was released.

25. A heading is added to precede § 230.400 through § 230.494 (Regulation C), to read as follows:

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S–T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S–T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

26. By amending § 230.405 by adding definitions of "Electronic filer" and "Electronic filing" between the definitions of "Dividend or interest reinvestment plan" and "Employee," and a definition of "Graphic communications" between the definitions of "Foreign private issuer" and "Majority-owned subsidiary," to read as follows:

§ 230.405 Definition of terms.

* * * * *

Electronic filer. The term *electronic filer* means a person or an entity that submits filings electronically pursuant to Rules 101, 901, 902 or 903 of Regulation S–T (§§ 232.101, 232.901, 232.902 or 232.903 of this chapter, respectively).

Electronic filing. The term *electronic filing* means a document under the federal securities laws that is transmitted or delivered to the Commission in electronic format.

* * * * *

Graphic communications. The term *graphic communications*, which appears in the definition of "write, written" in Section 2(9) of the Securities Act, shall include magnetic impulses or other forms of computer data compilation.

* * * * *

27. By amending § 230.406 by adding paragraph (j) to read as follows:

§ 230.406 Confidential treatment of information filed with the Commission.

* * * * *

(j) *Electronic filings.* Confidential treatment requests shall be submitted in paper format only, whether or not the filer is an electronic filer.

28. By amending § 230.418 by removing the word "and" at the end of paragraph (b)(2), replacing the period at the end of paragraph (b)(3) with "; and", and adding paragraph (b)(4), to read as follows:

§ 230.418 Supplemental information.

* * * * *

(b) * * *

(4) The information was not filed in electronic format.

29. By removing § 230.499.

30. By adding Part 232 to read as follows:

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

General

Sec.
232.10 Application of part 232.
232.11 Definitions of terms used in part 232.
232.12 Business hours of the Commission.
232.13 Date of filing; adjustment of filing date.

Electronic Filing Requirements

232.101 Mandated electronic submissions and exceptions.
232.102 Exhibits.
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Hardship Exemptions

232.201 Temporary hardship exemption.
232.202 Continuing hardship exemption.

Preparation of Electronic Submissions

232.301 EDGAR Filer Manual.
232.302 Signatures.
232.303 Incorporation by reference.
232.304 Graphic and image material.
232.305 Number of characters per line; tabular and columnar information.
232.306 Foreign language documents and symbols.
232.307 Bold face type; red ink.
232.308 Type size and font; legibility.
232.309 Paper size; binding; sequential numbering; number of copies.
232.310 Marking changed material.
232.311 Documents filed in paper under cover of Form SE.

Financial Data Schedule

232.401 Financial Data Schedule.
232.402 Liability for Financial Data Schedule.

EDGAR Functions

232.501 Modular submissions and segmented filings.
232.600—232.899 [Reserved]

Transition to Electronic Filing

232.901 Division of Corporation Finance EDGAR transition.
232.902 Division of Investment Management EDGAR transition.
232.903 Division of Investment Management electronic submissions during transition.

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79t(a), 80a–8, 80a–29, 80a–30 and 80a–37.

General

§ 232.10 Application of part 232.

(a) This part, in conjunction with the EDGAR Filer Manual and the electronic filing provisions of applicable rules, regulations and forms, shall govern the electronic submission of documents filed or otherwise submitted to the Commission and shall be controlling for an electronic format document in the manner and respects provided in this part.

(b) A Form ID (§§ 239.63, 249.446, 259.602, 269.7 and 274.402 of this chapter), the uniform application for access codes to file on EDGAR, shall be filed by each registrant, third party, or agent prior to becoming subject to mandated electronic filing.

Note: It is strongly urged that Forms ID be submitted to the Commission between three and six months prior to becoming subject to mandated electronic filing.

§ 232.11 Definition of terms used in part 232.

Unless otherwise specifically provided, the terms used in Regulation S–T (part 232 of this chapter) have the same meanings as in the federal securities laws and the rules, regulations and forms promulgated thereunder. In addition, the following definitions of terms apply specifically to electronic format documents and shall apply wherever they appear in laws, rules, regulations and forms governing such documents, unless the context otherwise specifies:

(a) *Business development company.* The term *business development company* has the meaning set forth in section 2(a)(48) of the Investment Company Act.

(b) *Direct transmission.* The term *direct transmission* means the transmission of one or more electronic submissions via a telephonic communication session.

(c) *EDGAR.* The term *EDGAR* (Electronic Data Gathering, Analysis, and Retrieval) means the computer system for the receipt, acceptance, review and dissemination of documents submitted in electronic format.

(d) *EDGAR Filer Manual.* The term *EDGAR Filer Manual* means the current version of the manual prepared by the Commission setting out the technical format requirements for an electronic submission.

Note: See Rule 301 of Regulation S–T (§ 232.301).

(e) *Electronic filer.* The term *electronic filer* means a person or an entity that submits filings electronically pursuant to Rules 101, 901, 902 or 903 of Regulation S–T (§§ 232.101, 232.901, 232.902 or 232.903, respectively).

(f) *Electronic filing.* The term *electronic filing* means a document filed under the federal securities laws that is transmitted or delivered to the Commission in electronic format

(g) *Electronic format.* The term *electronic format* means the computerized format of a document prepared in accordance with the EDGAR Filer Manual.

(h) *Electronic submission.* The term *electronic submission* means any document, such as a filing, correspondence, or modular submission, or any discrete set of documents, transmitted or delivered to the Commission in electronic format.

(i) *Exchange Act.* The term *Exchange Act* means the Securities Exchange Act of 1934.

(j) *Header information.* The term *header information* means information designated by the EDGAR Filer Manual to precede the text of each electronic submission and document submitted therewith via EDGAR that identifies characteristics of the submission and documents in order to facilitate electronic processing by the EDGAR system.

(k) *Investment Company Act.* The term *Investment Company Act* means the Investment Company Act of 1940.

(l) *Modular submission.* The term *modular submission* means an electronic submission that contains one or more documents, or portions of a document, submitted for storage in the non-public EDGAR data storage area for purposes of subsequent inclusion in one or more electronic filings pursuant to Rule 501(a) of Regulation S–T (§ 232.501(a)).

(m) *Official filing.* The term *official filing* means a microfiche copy, prepared in compliance with the Commission's administrative regulations and other requirements, of a registration statement, report or other document filed under the federal securities laws, regardless of filing medium and exclusive of header information, tags and any other technical information required in an electronic filing.

(n) *Original.* The term *original,* when used or implied in the securities laws, rules, regulations or forms, includes the writing itself or any counterpart intended to have the same effect by a person executing or issuing it. If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an original.

(o) *Paper format.* The term *paper format* means a paper document.

(p) *Phase-in date.* The term *phase-in date* means the date established by the Commission on and after which a registrant is required to submit filings electronically pursuant to Rule 101 of Regulation S–T (§ 232.101).

(q) *Public Utility Act.* The term *Public Utility Act* means the Public Utility Holding Company Act of 1935.

(r) *Registrant.* The term *registrant* means an issuer of securities for which a Securities Act registration statement is required to be filed and/or an issuer of securities with respect to which an Exchange Act registration statement or report is required to be filed and/or an investment company required to file an Investment Company Act registration statement or report.

(s) *Securities Act.* The term *Securities Act* means the Securities Act of 1933.

(t) *Segmented Filing.* The term *segmented filing* means an electronic format document assembled from segments previously submitted to the non-public EDGAR data storage for one-time inclusion in an electronic filing pursuant to Rule 501(b) of Regulation S–T (§ 232.501(b)).

(u) *Tag.* The term *tag* means an identifier that highlights specific information to EDGAR that is in the format required by the EDGAR Filer Manual.

(v) *Third party filer.* The term *third party filer* means any person or entity that files documents with the Commission with respect to another entity.

(w) *Trust Indenture Act.* The term *Trust Indenture Act* means the Trust Indenture Act of 1939.

§ 232.12 Business hours of the Commission.

(a) *General.* The principal office of the Commission, at 450 Fifth Street, NW., Washington, DC 20549, is open each day, except Saturdays, Sundays, and federal holidays, from 9 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, *provided that* hours for the filing of documents pursuant to the Act or the rules and regulations thereunder are as set forth in paragraphs (b) and (c) of this section.

(b) *Submissions made in paper or on magnetic tape or diskette.* Paper documents filed with or otherwise furnished to the Commission, as well as electronic filings and submissions on magnetic tape or diskette under cover of Form ET (§§ 239.62, 249.445, 259.601, 269.6 and 274.401 of this chapter), may be submitted to the Commission each day, except Saturdays, Sundays and federal holidays, from 8 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect.

(c) *Submissions by Direct Transmission.* Electronic filings and other documents may be submitted by direct transmission to the Commission each day, except Saturdays, Sundays and federal holidays, from 8 a.m. to 10 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect.

§ 232.13 Date of filing; adjustment of filing date.

(a) *General.* (1) Except as provided in paragraph (b) of this section, the business day on which a filing is received by the Commission shall be the date of filing thereof, if:

(i) All requirements of the Acts and rules applicable to such filing have been complied with;

(ii) The filing conforms to the applicable technical standards regarding electronic format in the EDGAR Filer Manual; and

(iii) With respect to Securities Act filings, the required fee payment has been confirmed, *provided that* the failure to pay an insignificant amount of the fee at the time of the filing, as a result of a *bona fide* error, shall not affect the date of filing.

(2) If the conditions of paragraph (a)(1) of this section are otherwise satisfied, all filings submitted by direct transmission commencing on or before 5:30 p.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, shall be deemed filed on the same business day, and all filings submitted by direct transmission commencing after 5:30 p.m. Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, shall be deemed filed as of the next business day.

Note: Electronic filings that have an automatic or immediate effective date must be deemed filed, as provided in paragraph (a) of this section, before any waiting period for automatic effectiveness commences or before the filing becomes immediately effective, whichever applies.

(b) *Adjustment of the filing date.* If an electronic filer in good faith attempts to file a document with the Commission in a timely manner but the filing is delayed due to technical difficulties beyond the electronic filer's control, the electronic filer may request an adjustment of the filing date of such document. The Commission, or the staff acting pursuant to delegated authority, may grant the request if it appears that such adjustment is appropriate and consistent with the public interest and the protection of investors.

(c) *Payment of fees.* Fees required with respect to a filing that is submitted electronically shall be paid in accordance with the procedures set forth in Instructions for Filing Fees—Rule 3a of the Commission's Informal

and Other Procedures (§ 202.3a of this chapter).

Note. All filing fees paid by electronic filers must be submitted to the lockbox depository, as provided in Rule 3a, including those pertaining to documents filed in paper pursuant to a hardship exemption.

Electronic Filing Requirements

§ 232.101 Mandated electronic submissions and exceptions.

(a) *Mandated electronic submissions.* (1) The following filings, including any related correspondence and supplemental information, except as otherwise provided, shall be submitted in electronic format:

(i) Registration statements filed with the Commission pursuant to the Securities Act (15 U.S.C. 77a, *et seq.*) or Sections 12(b) or 12(g) of the Exchange Act (15 U.S.C. 781(b) or (g));

(ii) Statements and applications filed with the Commission pursuant to the Trust Indenture Act (15 U.S.C. 77aaa, *et seq.*), other than applications for exemptive relief filed pursuant to Section 304(c) (15 U.S.C. 77ddd(c)) on Form T–4 (§ 269.4 of this chapter) and Section 310(b)(1)(ii) (15 U.S.C. 77jjj(b)(1)(ii)) of that Act;

(iii) Statements, reports and schedules filed with the Commission pursuant to Sections 13, 14, or 15(d) of the Exchange Act (15 U.S.C. 78m, n, and *o*(d)), *provided that* if a registrant's first mandated electronic filing would be an annual report on Form 10–K (§ 249.310 of this chapter) or Form 10–KSB (§ 249.310b of this chapter) such annual report may, at the option of the registrant, be submitted in paper format;

(iv) Documents filed with the Commission pursuant to Sections 8, 17, 20, and 30 of the Investment Company Act (15 U.S.C. 80a–8, 80a–17, 80a–20, and 80a–29); *provided, however,* that in no event shall any submissions under Section 6(c) of the Act or documents related to applications for exemptive relief under any section of the Act be made in electronic format; and

(v) Documents filed with the Commission pursuant to the Public Utility Act (15 U.S.C. 79a *et seq.*).

(2) The following amendments to filings, including any related correspondence and supplemental information except as otherwise provided, shall be submitted as follows:

(i) Any amendment to a filing by or relating to a registrant required to file electronically, including any amendment to a paper filing, shall be submitted in electronic format;

(ii) The first electronic amendment to a paper format Schedule 13D (§ 240.13d–101 of this chapter) or Schedule 13G (§ 240.13d–102 of this chapter) shall restate the entire text of the Schedule 13D or 13G (§ 240.13d–101 or § 240.13d–102 of this chapter), but previously filed paper exhibits to such Schedules are not required to be restated electronically. See Rule 102 (§ 232.102) regarding amendments to exhibits previously filed in paper format.

(3) Supplemental information shall be submitted in electronic format except as provided in paragraph (c)(2) of this section. The information shall be stored in the non-public EDGAR data storage area as correspondence. Supplemental information that is submitted in electronic format shall not be returned.

Note: Failure to submit a required electronic filing pursuant to this paragraph (a), as well as any required confirming electronic copy of a paper filing made in reliance on a hardship exemption, as provided in Rules 201 and 202 of Regulation S–T (§§ 232.201 and 232.202), will result in ineligibility to use Forms S–2, S–3, S–8, F–2 and F–3 (see §§ 239.12, 239.13, 239.16b, 239.32 and 239.33 of this chapter, respectively), restrict incorporation by reference of the document submitted in paper (see Rule 303 of Regulation S–T (§ 232.303)), or toll certain time periods associated with tender offers (see Rule 13e–4(f)(12) (§ 240.13e–4(f)(12) of this chapter) and Rule 14e–1(e) (§ 240.14e–1(e) of this chapter)).

(b) *Permitted electronic submissions.* The following documents may be submitted to the Commission in electronic format, at the option of the electronic filer:

(1) Annual Reports to Security Holders furnished for the information of the Commission pursuant to Rule 14a–3(c) (§ 240.14a–3(c) of this chapter) and Rule 14c–3(b) (§ 240.14c–3(b) of this chapter);

(2) Notices of exempt solicitation furnished to the Commission pursuant to Rule 14a–6(g) (§ 240.14a–6(g) of this chapter).

(c) *Documents to be filed in paper only.* The following shall not be submitted in electronic format:

(1)(i) Confidential treatment requests and the information with respect to which confidential treatment is requested;

(ii) Preliminary proxy materials and information statements with respect to a matter specified in Item 14 of Schedule 14A (§ 240.14a–101 of this chapter) for which confidential treatment has been requested in the manner prescribed by Rule 14a–6(e)(2) (§ 240.14a–6(e)(2) of this chapter) or Rule 14c–5(d)(2) (§ 240.14c–5(d)(2) of this chapter);

(2) Supplemental information, if the submitter requests that the information be returned after staff review and/or the submitter requests that the information be protected from public disclosure under the Freedom of Information Act (5 U.S.C. 552) pursuant to a request for confidential treatment under Rule 83 (§ 200.83 of this chapter);

(3) Shareholder proposals submitted pursuant to Rule 14a–8 (240.14a–8 of this chapter);

(4) No-action and interpretive letter requests (§ 200.81 of this chapter and 15 U.S.C. 78*l*(h));

(5) Form SR (§ 239.61 of this chapter);

(6) Applications for exemptive relief filed pursuant to Sections 304(d), 310(b) and 310(b)(1)(ii) of the Trust Indenture Act and applications under Section 304(c) of that Act on Form T–4;

(7) Forms 3, 4 and 5 (§§ 249.103, 249.104 and 249.105 of this chapter);

(8) Filings made with the Commission's Regional Offices;

(9) Filings relating to offerings exempt from registration under the Securities Act of 1933, including filings made pursuant to Regulation A (§§ 230.251–230.264 of this chapter), Regulation B (§§ 230.300–230.346 of this chapter), Regulation D (§§ 230.501–230.508 of this chapter), Regulation E (§§ 230.601–230.610a of this chapter) and Regulation F (§§ 230.651–230.656 of this chapter), as well as filings on Form 144 (§ 239.144 of this chapter);

(10) Promotional and Sales Material submitted pursuant to Securities Act Industry Guide 5 (§ 229.801(e) of this chapter);

(11) Documents and symbols in a foreign language (see Rule 306 of Regulation S–T (§ 232.306));

(12) Exchange Act filings submitted to the Division of Market Regulation;

(13) Documents relating to investigations and litigation submitted pursuant to the Rules of Practice (§§ 201.1–201.29 of this chapter);

(14) Submissions under Section 6(c) of the Investment Company Act or documents related to applications for exemptive relief under any section of the Investment Company Act;

(15) Annual Reports to Security Holders furnished by Public Utility Holding Companies under Exhibit A to Form U5S (§ 259.5s of this chapter) or under rule 29 (§ 250.29 of this chapter);

(16) Reports to State Commissions, if furnished by Public Utility Holding Companies under Exhibit E to Form U5S (§ 259.5s of this chapter); and

(17) Maps furnished by Public Utility Holding Companies under Exhibits E to Forms U5B and U–1 (§§ 259.5b and 259.101 of this chapter).

§ 232.102 Exhibits.

(a) Exhibits to an electronic filing shall be filed in electronic format, absent a hardship exemption, unless the exhibits previously had been filed in

paper. Exhibits to an electronic filing that have been filed previously in paper may, but shall not be required to be, restated in electronic format.

(b) Amendments to all exhibits shall be filed in electronic format, absent a hardship exemption.

(c) Notwithstanding any other provision of this section, an electronic filer shall, upon amendment, restate in electronic format its articles of incorporation, by-laws or investment advisory agreement (in the case of a registered investment company or a business development company).

(d) Each electronic filing requiring exhibits shall contain an exhibit index, which should immediately precede the exhibits filed with the document. The index shall list each exhibit filed. Whenever an exhibit is filed in paper pursuant to a temporary or continuing hardship exemption, the letter "P" shall be placed next to the listed exhibit in the exhibit index to reflect that the exhibit was filed in paper pursuant to such exemption. Whenever an electronic confirming copy of an exhibit is filed pursuant to a temporary hardship exemption, the electronic filer shall place the designation "CE" next to the listed exhibit in the exhibit index.

(e) Notwithstanding the provisions of paragraphs (a) through (d) of this section, after the date which is three years following a registrant's phase-in date, any incorporation by reference by a registered investment company or a business development company shall relate only to documents which have been filed in electronic format, unless filed in paper pursuant to a hardship exemption (§§ 232.201 and 232.202).

(f) Persons submitting filings electronically under the Public Utility Act shall not be subject to paragraph (c) of this section.

§ 232.103 Liability for transmission errors or omissions in documents filed via EDGAR.

An electronic filer shall not be subject to the liability and anti-fraud provisions of the federal securities laws with respect to an error or omission in an electronic filing resulting solely from electronic transmission errors beyond the control of the filer, whether transmission is by magnetic tape, diskette, or direct transmission, where the error or omission is corrected by the filing of an amendment in electronic format as soon as reasonably practicable after the electronic filer becomes aware of the error or omission.

Hardship Exemptions

§ 232.201 Temporary hardship exemption.

(a) If an electronic filer experiences unanticipated technical difficulties preventing the timely preparation and submission of an electronic filing, the electronic filer may file the subject filing, under cover of Form TH (§§ 239.65, 249.447, 259.604, 269.10 and 274.404 of this chapter), in paper format no later than one business day after the date on which the filing was to be made.

(1) A microfiche copy of the paper format document shall be the official filing of the registrant for purposes of the federal securities laws.

(2) The following legend shall be set forth in capital letters on the cover page of the paper format document:

IN ACCORDANCE WITH RULE 201 OF REGULATION S–T, THIS (SPECIFY DOCUMENT) IS BEING FILED IN PAPER PURSUANT TO A TEMPORARY HARDSHIP EXEMPTION

(3) Signatures to the paper format document may be in typed form rather than manual format. See Rule 302 of Regulation S–T (§ 232.302). All other requirements relating to paper format filings shall be satisfied.

(4) If the exemption pertains to a document filed pursuant to section 13(a) or 15(d) of the Exchange Act (15 U.S.C. 78m and 78o(d)) or section 30 of the Investment Company Act and the paper format document is filed in the manner specified in paragraph (a) of this section, the filing shall be deemed to have been filed by its required due date.

Notes: 1. Where a temporary hardship exemption relates to an exhibit only, the paper format exhibit shall be filed under cover of Form SE (§§ 239.64, 249.444, 259.603, 269.8, and 274.403 of this chapter).

2. Filers unable to submit a report within a prescribed time period because of electronic difficulties shall comply with the provisions of this section and shall not use Form 12b–25 (§ 249.322 of this chapter) as a notification of late filing.

(b) An electronic format copy of the filed paper format document shall be submitted to the Commission within six business days of filing the paper format document. The electronic format version shall contain the following statement in capital letters at the top of the first page of the document:

THIS DOCUMENT IS A COPY OF THE (SPECIFY DOCUMENT) FILED ON (DATE) PURSUANT TO A RULE 201 TEMPORARY HARDSHIP EXEMPTION

Note: Failure to submit the confirming electronic copy of a paper filing made in reliance on the temporary hardship exemption, as required in paragraph (b) of this section, will result in ineligibility to use Forms S–2, S–3, S–8, F–2 and F–3 (see §§ 239.12, 239.13, 239.16b, 239.32 and 239.33 of this section , respectively), restrict incorporation by reference of the document submitted in paper (see Rule 303 of Regulation S–T (§ 232.303)), and toll certain time periods associated with tender offers (see Rule 13e–4(f)(12) (§ 240.13e–4(f)(12) of this chapter) and Rule 14e–1(e) (§ 240.14e–1(e) of this chapter).

§ 232.202 Continuing hardship exemption.

(a) An electronic filer may apply in writing for a continuing hardship exemption if all or part of a filing or group of filings otherwise to be filed in electronic format cannot be so filed without undue burden or expense. Such written application shall be made at least ten business days prior to the required due date of the filing(s) or the proposed filing date, as appropriate, or within such shorter period as may be permitted. The written application shall contain the information set forth in paragraph (b) of this section.

(1) The application shall not be deemed granted until the applicant is notified by the Commission or the staff.

(2) If the Commission, or the staff acting pursuant to delegated authority, denies the application for a continuing hardship exemption, the electronic filer shall file the required document in electronic format on the required due date or the proposed filing date or such other date as may be permitted.

(3) If the Commission, or the staff acting pursuant to delegated authority, determines that the grant of the exemption is appropriate and consistent with the public interest and the protection of investors and so notifies the applicant, the electronic filer shall follow the procedures set forth in paragraph (c) of this section.

(b) The request for the continuing hardship exemption shall include, but not be limited to, the following:

(1) The reason(s) that the necessary hardware and software is not available without unreasonable burden and expense;

(2) The burden and expense involved to employ alternative means to make the electronic submission; and/or

(3) The reasons for not submitting electronically the document or group of documents, as well as justification for the requested time period.

(c) If the request is granted, the electronic filer shall submit the document or group of documents for which the continuing hardship exemption is granted in paper format on the required due date specified in the applicable form, rule or regulation, or the proposed filing date, as appropriate. The following legend shall be placed in

capital letters at the top of the cover page of the paper format document(s):

IN ACCORDANCE WITH RULE 202 OF REGULATION S–T, THIS (SPECIFY DOCUMENT) IS BEING FILED IN PAPER PURSUANT TO A CONTINUING HARDSHIP EXEMPTION

(d) If a continuing hardship exemption is granted for a limited time period, the grant may be conditioned upon the filing of the document or group of documents that is the subject of the exemption in electronic format upon the expiration of the period for which the exemption is granted.

Note: Where a continuing hardship exemption is granted with respect to an exhibit only, the paper format exhibit shall be filed under cover of Form SE (§§ 239.64, 249.444, 259.603, 269.8 and 274.403 of this chapter).

Preparation of Electronic Submissions

§ 232.301 EDGAR Filer Manual.

Electronic filings shall be prepared in the manner prescribed by the EDGAR Filer Manual, a manual promulgated by the Commission that sets out the technical formatting requirements for electronic submissions. Compliance with the requirements found therein is essential to the timely receipt and acceptance of documents filed with or otherwise submitted to the Commission in electronic format. The EDGAR Filer Manual and notices of amendments thereto are published in the **Federal Register**. Paper copies of the EDGAR Filer Manual also may be obtained at the following address: Public Reference Room, U.S. Securities and Exchange Commission, Mail Stop 1–2, 450 5th Street, NW., Washington, DC 20549. Electronic format copies are available through the EDGAR electronic bulletin board.

§ 232.302 Signatures.

(a) Signatures to or within any electronic submission shall be in typed form rather than manual format. When used in connection with an electronic filing, the term "signature" means an electronic entry in the form of a magnetic impulse or other form of computer data compilation of any letter or series of letters comprising a name, executed, adopted or authorized as a signature.

(b) A manually signed signature page or other document authenticating, acknowledging or otherwise adopting the signatures that appear in typed form within an electronic filing shall be executed before or at the time the electronic filing is made and shall be retained by the filer for a period of five years. Upon request, an electronic filer shall furnish to the Commission or its staff a copy of any or all documents retained pursuant to this section.

§ 232.303 Incorporation by reference.

(a) The following documents shall not be incorporated by reference into an electronic filing:

(1) Any document filed in paper in violation of mandated electronic filing requirements;

(2) Any document filed in paper pursuant to a temporary hardship exemption for which a required confirming electronic copy has not been submitted.

(b) If any portion of the annual or quarterly report to security holders is incorporated by reference into any electronic filing, such portion of the annual or quarterly report to security holders shall be filed in electronic format as an exhibit to the filing, as required by Item 601(b)(13) of Regulation S–K (§ 229.601(b)(13) of this chapter) and Item 601(b)(13) of Regulation S–B (§ 228.601(b)(13) of this chapter).

§ 232.304 Graphic and image material.

(a) Where a paper format version of a document includes graphic or image material, an appendix to the electronic format document shall list all such graphic and image information and provide a fair and accurate narrative description of such information. If, however, the substantive information conveyed by the graphic and image information presented in the paper format document is described narratively in the body of the electronic format document, the appendix to the document listing the graphic and image information shall contain only a cross-reference to the narrative discussion. Differences between the electronic and paper format copies of the document such as pagination, color, type size or style, or corporate logo need not be described.

(b)(1) The graphic and image material in the paper format version of the document shall be deemed part of the filing and subject to the liability and anti-fraud provisions of the federal securities laws.

(2) Narrative descriptions of graphic and image material appearing in an electronic filing or appendix thereto also shall be deemed part of the filing. However, to the extent such descriptions represent a good faith effort to fairly and accurately describe omitted graphic and image material, they shall not be subject to the liability and anti-fraud provisions of the federal securities laws.

(c) An electronic filer shall maintain a file of each paper document containing graphic and image material for five years after the filing date of each document or the date appearing on each document, whichever is later. Upon request, an electronic filer shall furnish to the Commission or its staff a copy of any or all of the documents contained in the file.

(d) The performance graph that is to appear in registrant proxy and information statements relating to annual meetings of security holders (or special meetings or written consents in lieu of such meetings) at which directors will be elected, as required by Item 402(*l*) of Regulation S–K (§ 229.402(*l*) of this chapter), shall be furnished to the Commission in connection with an electronic filing in either of the following ways:

(1) submit a paper copy of the performance graph under cover of Form SE (§§ 239.64, 249.444, 259.603, 269.8 and 274.403 of this chapter); or

(2) describe and interpret the data in tabular or chart form within the electronic filing, as explained in the EDGAR Filer Manual, and submit supplementally a paper copy of the performance graph to the electronic filer's Branch Chief in the Division of Corporation Finance.

§ 232.305 Number of characters per line; tabular and columnar information.

The narrative portion of a document shall not exceed 80 characters per line, including blank spaces, and shall not be presented in multi-column newspaper format. Non-narrative information (*e.g.*, financial statements) may be presented in tabular or columnar format and may exceed 80 positions only if it is tagged as specified in the EDGAR Filer Manual. In no event shall information presented in tabular or columnar format exceed 132 positions wide.

§ 232.306 Foreign language documents and symbols.

(a) Foreign language documents shall not be filed with the Commission in electronic format. A fair and accurate English translation of any required document shall be filed. A written representation to that effect shall be included in the English translation document and the representation shall be signed by a designated officer in the manner set forth in Rule 302 of Regulation S–T (§ 232.302). Upon request, any foreign language document otherwise required to be filed shall be provided to the Commission or the staff.

Note: With respect to submission of an electronic filer's latest annual budget required to be filed as Exhibit C in Forms 10

(§ 249.218 of this chapter) and 18–K (§ 249.318 of this chapter), for foreign governments and political subdivisions thereof, if an English version of the such filer's last annual budget as presented to its legislative body has been prepared, it shall be filed electronically. If no such version has been prepared, the budget need not be filed, but shall be provided to the Commission upon request.

(b) Foreign currency denominations shall be expressed in words or letters in the English language rather than representative symbols.

§ 232.307 Bold face type; red ink.

Provisions requiring presentation of information in bold face type or in red ink shall be satisfied in an electronic format document by presenting such information in capital letters.

§ 232.308 Type size and font; legibility.

Provisions relating to type size, font and other legibility requirements shall not apply to electronic format documents.

§ 232.309 Paper size; binding; sequential numbering; number of copies.

(a) Requirements as to paper size, binding, and sequential page numbering shall not apply to electronic format documents.

(b) An electronic format document, submitted in the manner prescribed by the EDGAR Filer Manual, shall satisfy any requirement that more than one copy of such document be filed with or provided to the Commission.

§ 232.310 Marking changed material.

Provisions requiring the marking of changed materials shall be satisfied by inserting the tag <R> before and the tag <R> following a paragraph containing changed material. Financial statements and notes thereto need not be marked for changed material.

§ 232.311 Documents submitted in paper under cover of Form SE.

Form SE (§§ 239.64, 249.444, 259.603, 269.8, and 274.403 of this chapter) shall be filed as a paper cover sheet to the following documents submitted to the Commission in paper:

(a) Exhibits filed in paper pursuant to a hardship exemption shall be filed under cover of Form SE. See Rules 201 and 202 of Regulation S–T (§§ 232.201 and 232.202).

(b) The performance graph that is to appear in registrant proxy and information statements relating to annual meetings of security holders (or special meetings or written consents in lieu of such meetings) at which directors will be elected, as required by Item 402(*l*) of Regulation S–K (§ 229.402(*l*) of this chapter), shall be submitted under cover of Form SE, where an electronic filer elects to furnish such graph in paper format, as provided in Rule 304(d) of Regulation S–T (§ 232.304(d)).

(c) Financial statements and schedules prepared in accordance with the financial reporting requirements of ERISA shall be filed under cover of Form SE where an employee benefit plan filing annual reports on Form 11–K (§ 249.311 of this chapter) elects to file such statements and schedules in paper format. See General Instruction E of Form 11–K.

(d) Exhibits to Form N–SAR (§ 274.101 of this chapter) may be filed in paper under cover of Form S–E.

(e) Annual Reports to Security Holders furnished by Public Utility Holding Companies as Exhibit A to Form U5S (§ 259.5s of this chapter) or under rule 29 (§ 250.29 of this chapter) shall be filed in paper under cover of Form S–E.

(f) Reports to State Commissions, if furnished by Public Utility Holding Companies as Exhibit E to Form U5S (§ 259.5s of this chapter), shall be filed in paper under cover of Form S–E.

(g) Maps furnished by Public Utility Holding Companies under Exhibits E to Forms U5B and U–1(§ 259.5b and 259.101 of this chapter) shall be filed in paper under cover of Form S–E.

(h) The Form SE shall be submitted in the following manner:

(1) If the subject of a temporary hardship exemption is an exhibit only, the exhibit shall be filed under cover of Form SE no later than one business day after the date the exhibit was to be filed electronically.

(2) An exhibit filed pursuant to a continuing hardship exemption, or any other document filed in paper under cover of Form SE (other than an exhibit filed pursuant to a temporary hardship exemption), as allowed by paragraphs (a) through (c) of this section, may be filed up to six business days prior to, or on the date of filing of, the electronic format document to which it relates but shall not be filed after such filing date. If a paper document is submitted in this manner, requirements that the document be filed with, provided with or accompany the electronic filing shall be satisfied.

(i) Any requirements as to delivery or furnishing the information to persons other than the Commission shall not be affected by this section.

Financial Data Schedule

§ 232.401 Financial Data Schedule.

A Financial Data Schedule shall be submitted as an exhibit to the filing(s) to which it relates in accordance with Item 601(c) of Regulation S–K (§ 229.601(c) of this chapter), Item 601(c) of Regulation S–B (§ 228.601(c) of this chapter) or Rule 483(e) (§ 230.483(e) of this chapter).

Note: An electronic filer's failure to furnish a Financial Data Schedule will not prevent acceptance of the filing for which the Schedule is required. However, inasmuch as the Schedule may be used by the Commission staff in its review of the filing, processing of the filing may be delayed pending filing of the Schedule. Further, electronic filers that have not filed a required Financial Data Schedule will be ineligible to use Form S–2, Form S–3 and Form S–8 (§§ 239.12, 239.13 and 239.16b of this chapter, respectively).

§ 232.402 Liability for Financial Data Schedule.

A Financial Data Schedule shall not be deemed filed for purposes of section 11 of the Securities Act (15 U.S.C. 77k), section 18 of the Exchange Act (15 U.S.C. 78r), section 16 of the Public Utility Act (15 U.S.C. 79p), section 323 of the Trust Indenture Act (15 U.S.C. 77www), or section 34(b) of the Investment Company Act (15 U.S.C. 80a–33(b)), or otherwise be subject to the liabilities of such sections, and shall not be deemed a part of a registration statement to which it relates. The Financial Data Schedule shall, however, be subject to all other liability and anti-fraud provisions of the Acts. An electronic filer that accurately extracts the Financial Data Schedule information from its financial statements, financial statement schedules, or disclosures prepared in response to applicable industry guides, shall not be liable, under the Securities Act, the Exchange Act or the Trust Indenture Act for such extracted information, *provided that* the extracted data was not materially false or misleading in the underlying financial statements, financial statement schedules, or disclosures prepared in response to applicable industry guides.

EDGAR Functions

§ 232.501 Modular submissions and segmented filings.

An electronic filer that subscribes to the optional EDGAR electronic mail service may use the following procedures to submit information on the EDGAR system for subsequent inclusion in an electronic filing.

(a) *Modular submissions.* (1) One or more electronic format documents may be submitted for storage in the non-public EDGAR data storage area as a modular submission for subsequent inclusion in one or more electronic submissions.

(2) An electronic filer shall be permitted a maximum of ten modular submissions in the non-public EDGAR data storage area at any time, not to exceed a total of one megabyte of digital information. If an electronic filer attempts to submit a modular filing which would cause either of these limits to be exceeded, EDGAR will suspend the modular submission and notify the electronic filer by electronic mail. After six business days, the modular submission held in suspense will be deleted from the system.

(3) A modular submission may be corrected or amended only by resubmitting the entire modular submission.

(b) *Segmented filings.* (1) Segments of a document intended to become an electronic filing may be submitted to the non-public EDGAR data storage area for assembly as a segmented filing.

(2) Segments shall be submitted no more than six business days in advance of the anticipated filing date and are not limited in number or size. They may be submitted from several geographic locations by more than one filing entity. Segments may be included in only one electronic filing. Once used, segments will be removed from the non-public EDGAR data storage area. The assembly of segments into a segmented filing shall be effected pursuant to the applicable provisions of the EDGAR Filer Manual. If segments are not prepared in accordance with the EDGAR Filer Manual, the filing will not be constructed. The filing date of a segmented filing shall be the date upon which the filing is assembled and satisfies the requirements of Rule 12(a) of Regulation S–T (§ 232.12(a)).

(3) Segments may be corrected or amended only by resubmitting the entire segment.

(c) A modular submission or segment shall not:

(1) Be publicly available;

(2) Be deemed filed with the Commission for purposes of Securities Act section 11 (15 U.S.C. 77k), Exchange Act section 18 (15 U.S.C. 78r), Public Utility Act section 16 (15 U.S.C. 79p), Trust Indenture Act section 323 (15 U.S.C. 77www), or Investment Company Act section 34(b) (15 U.S.C. 80a–33(b)) prior to its inclusion in a filing; or

(3) Be deemed to constitute an official filing prior to its inclusion in a filing under the federal securities laws. Once a modular submission or segment has been included in an electronic filing, the liability and anti-fraud provisions of the Securities Act, the Exchange Act, the Trust Indenture Act, the Public Utility Act and the Investment Company Act shall apply to the electronic filing.

§§ 232.600–232.899 [Reserved]

Transition to Electronic Filing

§ 232.901 Division of Corporation Finance EDGAR Transition.

(a) *Registrant electronic submissions.* Registrants whose filings are subject to review by the Division of Corporation Finance, except for foreign private issuers and foreign governments, shall be subject to the electronic filing requirements of this part in accordance with the registrant phase-in schedule published by the Commission, including any amendments thereto.

(1) All other public companies, except for foreign private issuers and foreign governments, shall become subject to the electronic filing requirements of this part, including any company that makes a registered offering under the Securities Act or that becomes subject to the reporting requirements of the Exchange Act, at the same time the last group of companies in the phase-in schedule becomes subject to mandated electronic filing.

(2) A registrant may request to participate in a phase-in group other than the group established by the Commission for the registrant. If such a request is granted by the Commission, or by the staff pursuant to Rule 30–1(m) of the Rules of Organization and Management (§ 200.30–1(m) of this chapter), the registrant shall become subject to the mandated filing requirements of Rule 101 of Regulation S–T (§ 232.101) on the phase-in date applicable to the group to which it has been reassigned.

(b) *Third party filers.* Any third party filing made pursuant to Section 13 or 14 of the Exchange Act with respect to a registrant that is subject to mandated electronic filing shall be filed in electronic format.

(c) *Electronic filings involving both a paper filer and an electronic filer.* Filings involving both a paper filer and an electronic filer shall be made as follows:

(1) *Cash tender offers and proxy contests.* Where a paper filer commences a cash tender offer or proxy contest (including a solicitation in opposition) with respect to an electronic filer, submissions by both filers relating to the transaction shall be in electronic format. Where an electronic filer commences a cash tender offer or proxy contest with respect to a paper filer, the electronic filer is permitted, but not required, to submit all filings in electronic format. If the electronic filer elects to file in electronic format in connection with the transaction, all related submissions by the electronic filer must be in electronic format. If the electronic filer elects to file in electronic format, the paper filer is permitted, but not required, to submit all filings in electronic format. If the paper filer elects to file in electronic format, the paper filer shall continue to make all filings relating to that transaction in electronic format.

(2)(i) *Securities Act registered business combinations.* Where a paper filer engages in an exchange offer, merger, or other business combination involving a Securities Act registration statement filed by that entity with respect to an electronic filer, submissions by both parties relating to that transaction shall be in electronic format. Where an electronic filer engages in an exchange offer, merger, or other business combination involving a Securities Act registration statement filed by that entity with respect to a paper filer, the electronic filer shall submit all filings in electronic format. The paper filer is permitted, but not required, to submit all filings in electronic format. If the paper filer elects to file in electronic format, the paper filer shall continue to make all filings relating to that transaction in electronic format.

(ii) *Cash mergers involving joint proxy statements.* Where a paper filer and an electronic filer seek a cash merger involving a joint proxy statement, submissions by both parties relating to that transaction shall be in electronic format.

(3) *Co-registrants.* Where a paper filer and an electronic filer are coregistrants with respect to an offering required to be registered under the Securities Act, the registration statement shall be filed in electronic format. Co-registrants that become subject to the reporting requirements of section 13(a) or 15(d) (15 U.S.C. 78m and 78o(d)) of the Exchange Act shall submit all reports in electronic format if one of the registrants is an electronic filer.

(4) *Schedules 13D and 13G.* Where a paper filer is required to file a Schedule 13D or 13G (§§ 240.13d–101 and 240.13d–102 of this chapter) relating to an electronic filer in accordance with paragraph (b) of this section, the Schedule 13D or 13G shall be filed in electronic format. Where an electronic filer is required to file a Schedule 13D or 13G relating to a paper filer, the Schedule 13D or 13G may be filed in electronic format.

(d) *Conforming paper format documents.* Electronic filers shall submit to the Commission a paper copy of each electronic filing for a period of one year after becoming subject to mandated electronic filing (§ 232.101),

or such shorter period as the Commission shall determine, as follows:

(1) The paper copy shall be either a document that meets the requirements of the applicable Commission rules and regulations for paper filings or a paper printout of the electronic filing. If the copy being submitted is the paper printout of the electronic filing, the header information specified in the EDGAR Filer Manual shall be omitted to ensure that confidential information contained in the header remains non-public.

(2) The paper copy shall be received at the Commission no later than six business days after the electronic filing. The following legend shall be typed, printed or stamped in capital letters at the top of the cover page of the paper copy:

THIS CONFORMING PAPER FORMAT DOCUMENT IS BEING SUBMITTED PURSUANT TO RULE 901(d) OF REGULATION S–T

(3) Signatures are not required for conforming paper format documents submitted pursuant to paragraph (d) of this section.

§ 232.902 Division of Investment Management EDGAR transition.

(a) *Registrant transition to electronic submission via EDGAR.* Registrants whose filings are subject to review by the Division of Investment Management shall be subject to the electronic filing requirements of this Part ("phased in") in accordance with the phase-in schedule established and published by the Commission, including any amendments thereto (the "Phase-In Schedule"). At the conclusion of phase in, all remaining registered investment companies or business development companies shall be subject to the electronic filing requirements of this Part.

(b) *Phase-in rule for investment companies.* (1) Each registered investment company or business development company listed on the Phase-In Schedule is deemed to have the phase-in date assigned to the group in which it is included as listed on the schedule, or as may be designated by the Commission.

(2) For any investment company not listed on the Phase-In Schedule (including any company that subsequently registers under the Investment Company Act):

(i) An open-end or closed-end management investment company that has the same investment adviser, or a unit investment trust that has the same depositor, as a registrant that is listed on the Phase-In Schedule shall have the same phase-in date as the registrant listed on the schedule.

(ii) A closed-end management investment company that does not have an investment adviser shall have the same phase-in date as a registrant having an investment adviser that is, or is affiliated with, the principal underwriter of the unlisted registrant.

(3) A registrant not listed on the Phase-In Schedule that has more than one investment adviser shall be deemed to have the same investment adviser as a registrant that is listed on the schedule if any of its investment advisers, other than sub-advisers, are investment advisers to the listed registrant.

(4) A registrant that is not phased in that subsequently changes its investment adviser to one that is the investment adviser of a registrant that is phased in shall be deemed to be phased in at the time it changes its investment adviser.

(5) A registrant that is phased in that subsequently changes its investment adviser to one that is the investment adviser of a registrant that is not phased in shall remain phased in.

(c) *Phase-in rule for public utility filers.* When a Public Utility Filer is phased in to electronic filing in accordance with the Commission's published phase-in schedule, it will be considered phased in for purposes of all filings submitted to the Commission under the Public Utility Act, except as otherwise provided, and all such filings shall be submitted electronically, absent a hardship exemption granted by the Commission. In addition, a subsidiary company of a phased-in public-utility holding company shall be required, absent a hardship exemption granted by the Commission, to submit all required filings under the Public Utility Act electronically. Any Public Utility Filer that does not make Securities Act or Exchange Act filings and is not part of a holding company system previously phased in will be deemed to have the same phase-in date for electronic filing as the final phase-in group of registrants whose filings are subject to review by the Division of Corporation Finance.

(d) *Reassignment of phase-in group.* The Commission may, in its discretion, grant or deny a request by a registrant to participate in a phase-in group other than the group established under (b)(1) or (2) above.

(e) *Required electronic filing for phased-in filers.* A registrant that is phased in, under either the mandatory electronic filing provisions of paragraphs (a), (b), or (c) or by reassignment under paragraph (d) of this section, shall file electronically all filings which are mandated electronic submissions under rule 101 of Regulation S–T (§ 232.101) and which are made on or after a registrant's phase-in date, *provided, however* that a registrant need not file electronically a filing under rule 497 under the Securities Act of 1933 (§ 230.497 of this chapter) that relates solely to a registration statement or post-effective amendment filed prior to the registrant's phase-in date.

(f) *Electronic filings involving both a paper filer and an electronic filer.*

Filings involving both a paper filer and an electronic filer shall be made as set forth in this section, *provided, however,* that the following provisions shall not affect a filer's phase-in date for mandatory electronic filing.

(1) *Cash tender offers and proxy contests.* Where a paper filer commences a cash tender offer or proxy contest (including a solicitation in opposition) with respect to an electronic filer, submissions by both filers relating to the transaction shall be in electronic format. Where an electronic filer commences a cash tender offer or proxy contest with respect to a paper filer, the electronic filer is permitted, but not required, to submit all filings in electronic format. If the electronic filer elects to file in electronic format in connection with the transaction, all related submissions by the electronic filer must be in electronic format. If the electronic filer elects to file in electronic format, the paper filer is permitted, but not required, to submit all filings in electronic format. If the paper filer elects to file in electronic format, the paper filer shall continue to make all filings relating to that transaction in electronic format.

(2) *Securities Act registered business combinations.* Where a paper filer engages in an exchange offer, merger, or other business combination involving a Securities Act registration statement filed by that entity with respect to an electronic filer, submissions by both parties relating to that transaction shall be in electronic format. Where an electronic filer engages in an exchange offer, merger, or other business combination involving a Securities Act registration statement filed by that entity with respect to a paper filer, the electronic filer shall submit all filings in electronic format. The paper filer is permitted, but not required, to submit all filings in electronic format. If the paper filer elects to file in electronic format, the paper filer shall continue to make all filings relating to that transaction in electronic format.

(3) *Schedules 13D and 13G.* Where a paper filer is required to file a Schedule 13D or 13G (§§ 240.13d–101 and

240.13d–102 of this chapter) relating to an electronic filer in accordance with paragraph (b) of this section, the Schedule 13D or 13G shall be filed in electronic format. Where an electronic filer is required to file a Schedule 13D or 13G relating to a paper filer, the Schedule 13D or 13G may be filed in electronic format.

(g) *Conforming Paper Format Documents.* Mandated electronic filers shall submit to the Commission a paper copy of each electronic filing for a period of one year after becoming subject to mandated electronic filing (§ 232.101), or such shorter period as the Commission shall determine, as follows:

(1) The paper copy shall be either a document that meets the requirements of the applicable Commission rules and regulations for paper filings or a paper print-out of the electronic filing. If the copy being submitted is the paper printout of the electronic filing, the header information specified in the EDGAR Filer Manual shall be omitted to ensure that confidential information contained in the header remains non-public.

(2) The paper copy shall be received at the Commission no later than six business days after the electronic filing. The following legend shall be typed, printed or stamped in capital letters at the top of the cover page of the paper copy:

THIS CONFORMING PAPER FORMAT DOCUMENT IS BEING SUBMITTED PURSUANT TO RULE 902(g) OF REGULATION S–T

(3) Manual signatures are not required for conforming paper format documents submitted pursuant to paragraph (g) of this section.

(4) A filer that elects to file electronically forms permitted to be filed electronically in advance of a filer's mandatory phase-in date shall not be required to submit a paper copy of each electronic filing until the filer becomes subject to mandatory electronic filing.

§ 232.903 Division of Investment Management electronic submissions during transition.

In addition to the electronic submission requirements set forth in rule 101 of Regulation S–T (§ 232.101), the following provisions shall apply during the mandatory electronic filing phase-in period:

(a) *Permitted electronic submissions*—(1) *Filings by investment companies.* Prior to its phase-in date, a filer that is a registered investment company or a business development company may, but is not required to, submit Form N–SAR (§ 274.101 of this chapter) in electronic format, *provided that,* if the filer elects to file Form N–SAR in electronic format, all subsequent amendments to the subject Form N–SAR shall be filed in electronic format.

(2) *Public Utility Act Filings.* Prior to its phase-in date, a filer submitting filings under the Public Utility Act may, but is not required to, submit those filings in electronic format *provided that,* if the filer elects to submit a filing in electronic format, all subsequent amendments to the subject filing shall be filed in electronic format.

(3) *Form 13F.* An institutional investment manager required by section 13(f)(1) (15 U.S.C. 78m(f)(1)) of, and rule 13f–1 (§ 240.13f–1 of this chapter) under, the Exchange Act to file a report on Form 13F (§ 249.325 of this chapter) with the Commission may file that report on magnetic tape in the format described in Form 13F–E (§ 249.326 of this chapter) *provided that,* if the filer elects to submit a filing in electronic format, all subsequent amendments to the subject filing shall be filed in electronic format.

(b) *Amendments to paper filings*—(1) *Filings by investment companies.* Unless otherwise specifically provided in rules or instructions pertaining to the submission of a specific form, amendments to filings filed in paper prior to the phase-in date of a registrant that is a registered investment company or a business development company shall be submitted in electronic format in accordance with rule 101 of Regulation S–T (§ 232.101). The subject filing, as amended, including any exhibit that has been previously filed only in paper and which is incorporated by reference into the filing, shall be filed electronically in its entirety, except as otherwise permitted under rules 102 (b), (c), and (e) of Regulation S–T (§§ 232.102 (b), (c) and (e)).

(2) *Public Utility Act Filings.* Unless otherwise specifically provided in rules or instructions pertaining to the submission of a specific form, amendments to filings under the Public Utility Act filed in paper prior to the phase-in date of the filer shall be submitted in electronic format in accordance with rules 101 and 102 of Regulation S–T (§§ 232.101 and 232.102).

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

31. The general authority citation for part 239 is revised to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

32. The authority citations following §§ 239.12, 239.18 and 239.36 are removed.

33. By amending Form SB–2 (§ 239.10) by adding a note to the fee calculation table to read as follows:

Note.—The text of Form SB–2 does not and the amendments will not appear in the Code of Federal Regulations.

Form SB–2—Registration Statement Under the Securities Act of 1933

* * * * *

Calculation of Registration Fee

* * * * *

Note: Specific details relating to the fee calculation shall be furnished in notes to the table, including references to provisions of Rule 457 (§ 230.457 of this chapter) relied upon, if the basis of the calculation is not otherwise evident from the information presented in the table.

* * * * *

34. By amending Form S–1 (§ 239.11) by adding a note to the fee calculation table to read as follows:

Note—The text of Form S–1 does not and the amendments will not appear in the Code of Federal Regulations.

Form S–1—Registration Statement Under the Securities Act of 1933

* * * * *

Calculation of Registration Fee

* * * * *

Note: Specific details relating to the fee calculation shall be furnished in notes to the table, including references to provisions of Rule 457 (§ 230.457 of this chapter) relied upon, if the basis of the calculation is not otherwise evident from the information presented in the table.

* * * * *

35. By amending § 239.12 by adding paragraph (h) to read as follows:

§ 239.12 Form S–2, for registration under the Securities Act of 1933 of securities of certain issuers.

* * * * *

(h) *Electronic filings.* In addition to satisfying the foregoing conditions of this section, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S–T (§ 232.101 of this chapter) shall have filed with the Commission:

(1) all required electronic filings, including confirming electronic copies of documents submitted in paper pursuant to a temporary hardship exemption as provided in Rule 201 of Regulation S–T (§ 232.201 of this chapter); and

(2) all Financial Data Schedules required to be submitted pursuant to

Item 601(c) of Regulation S–K (§ 229.601(c) of this chapter) and Item 601(c) of Regulation S–B (§ 228.601(c) of this chapter).

36. By amending Form S–2 (§ 239.12) by adding a note to the fee calculation table; adding General Instruction I.H; revising the introductory text of Item 11, paragraph (a) of Item 11, and the introductory text of paragraph (b) of Item 11; adding paragraph (c) to Item 11, and paragraph (c) to Item 12 to read as follows:

Note—The text of Form S–2 does not and the amendments will not appear in the Code of Federal Regulations.

Form S–2—Registration Statement Under the Securities Act of 1933

* * * * *

Calculation of Registration Fee

* * * * *

Note: Specific details relating to the fee calculation shall be furnished in notes to the table, including references to provisions of Rule 457 (§ 230.457 of this chapter) relied upon, if the basis of the calculation is not otherwise evident from the information presented in the table.

General Instructions

I. Eligibility Requirements for Use of Form S–2

* * * * *

H. *Electronic filings.* In addition to satisfying the foregoing conditions, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S–T (§ 232.101 of this chapter) shall have filed with the Commission:

(1) All required electronic filings, including confirming electronic copies of documents submitted in paper pursuant to a temporary hardship exemption as provided in Rule 201 of Regulation S–T (§ 232.201 of this chapter); and

(2) All Financial Data Schedules required to be submitted pursuant to Item 601(c) of Regulation S–K (§ 229.601(c) of this chapter) and Item 601(c) of Regulation S–B (§ 228.601(c) of this chapter).

* * * * *

Item 11. Information With Respect to the Registrant

Furnish the information required by either paragraph (a) or paragraph (b) of this Item. The information required by paragraph (b) shall be furnished if the registrant satisfies the conditions of paragraph (c) of this Item.

(a) If the registrant elects to deliver this prospectus together with a copy of either its latest Form 10–K or Form 10–KSB filed pursuant to Sections 13(a) or 15(d) of the Exchange Act or its latest annual report to security holders, which at the time of original preparation met the requirements of either Rule 14a–3 or Rule 14c–3:

(1) Indicate that the prospectus is accompanied by either a copy of the registrant's latest Form 10–K or Form 10–KSB or a copy of its latest annual report to security holders, whichever the registrant elects to deliver pursuant to paragraph (a) of this Item.

(2) Provide financial and other information with respect to the registrant in the form required by Part I of Form 10–Q or Form 10–QSB as of the end of the most recent fiscal quarter which ended after the end of the latest fiscal year for which certified financial statements were included in the latest Form 10–K or Form 10–KSB or the latest report to security holders (whichever the registrant elects to deliver pursuant to paragraph (a) of this Item), and more than forty-five days prior to the effective date of this registration statement (or as of a more recent date) by one of the following means:

(i) Including such information in the prospectus; or

(ii) Providing without charge to each person to whom a prospectus is delivered a copy of the registrant's latest Form 10–Q or Form 10–QSB; or

(iii) Providing without charge to each person to whom a prospectus is delivered a copy of the registrant's latest quarterly report which was delivered to its shareholders and which included the required financial information.

(3) If not reflected in the registrant's latest Form 10–K or Form 10–KSB or its latest annual report to security holders (whichever the registrant elects to deliver pursuant to paragraph (a) of this Item), provide information required by Rule 3–05 (§ 210.3–05 of this chapter) and Article 11 (§ 210.11–01 through § 210.11.03 of this chapter) of Regulation S–X.

(4) Describe any and all material changes in the registrant's affairs which have occurred since the end of the latest fiscal year for which certified financial statements were included in the latest Form 10–K or Form 10–KSB or the latest annual report to security holders (whichever the registrant elects to deliver pursuant to paragraph (a) of this Item) and which were not described in a Form 10–Q, Form 10–QSB or quarterly report delivered with the prospectus in accordance with paragraph (a)(2) (ii) or (iii) of this Item.

Instruction. Where the registrant elects to deliver the documents identified in paragraph (a) with a preliminary prospectus, such documents need not be redelivered with the final prospectus.

(b) If the registrant does not elect to deliver its latest Form 10–K or 10–KSB or its latest annual report to security holders:

* * * * *

(c) The registrant shall furnish the information required by paragraph (b) of this Item if:

(1) The registrant was required to make a material retroactive restatement of financial statements because of:

(i) A change in accounting principles; or

(ii) A correction of an error; or

(iii) A consummation of one or more business combinations accounted for by the pooling of interest method of accounting was effected subsequent to the most recent fiscal year and the acquired businesses considered in the aggregate meet the test of a significant subsidiary;

Or

(2) The registrant engaged in a material disposition of assets outside the normal course of business;

And

(3) Such restatement of financial statements or disposition of assets was not reflected in the registrant's latest annual report to security holders and/or its latest Form 10–K or Form 10–KSB filed pursuant to Sections 13(a) or 15(d) of the Exchange Act.

Item 12. Incorporation of Certain Information by Reference

* * * * *

(c) *Electronic filings.* Electronic filers electing to deliver and incorporate by reference all, or any portion, of the quarterly or annual report to security holders pursuant to this Item shall file as an exhibit such quarterly or annual report to security holders, or such portion thereof that is incorporated by reference, in electronic format.

* * * * *

37. By amending Section 239.13 by adding paragraph (a)(7) to read as follows:

§ 239.13 Form S–3, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

* * * * *

(a) * * *

(7) *Electronic filings.* In addition to satisfying the foregoing conditions, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S–T (§ 232.101 of this chapter) shall have filed with the Commission:

(i) All required electronic filings, including confirming electronic copies of documents submitted in paper pursuant to a temporary hardship exemption as provided in Rule 201 of Regulation S–T (§ 232.201 of this chapter); and

(ii) All Financial Data Schedules required to be submitted pursuant to Item 601(c) of Regulation S–K (§ 229.601(c) of this chapter) and Item 601(c) of Regulation S–B (§ 228.601(c) of this chapter).

* * * * *

38. By amending Form S–3 (§ 239.13) by adding a note to the fee calculation table and adding General Instructions I.A.7. to read as follows:

Note: The text of Form S–3 does not and the amendments will not appear in the Code of Federal Regulations.

Form S–3—Registration Statement Under the Securities Act of 1933

* * * * *

Calculation of Registration Fee

* * * * *

Note: Specific details relating to the fee calculation shall be furnished in notes to the table, including references to provisions of Rule 457 (§ 230.457 of this chapter) relied upon, if the basis of the calculation is not otherwise evident from the information presented in the table.

General Instructions

I. Eligibility Requirements for Use of Form S–3

* * * * *

A. * * *

7. *Electronic filings*: In addition to satisfying the foregoing conditions, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S–T (§ 232.101 of this chapter) shall have filed with the Commission:

(1) All required electronic filings, including confirming electronic copies of documents submitted in paper pursuant to a temporary hardship exemption as provided in Rule 201 of Regulation S–T (§ 232.201 of this chapter); and

(2) All Financial Data Schedules required to be submitted pursuant to Item 601(c) of Regulation S–K (§ 229.601(c) of this chapter) and Item 601(c) of Regulation S–B (§ 228.601(c) of this chapter).

* * * * *

39. By amending § 239.16b by redesignating the introductory text of the section and paragraphs (a) and (b) as paragraph (a) introductory text and paragraphs (a)(1) and (a)(2), respectively; and adding paragraph (b) to read as follows:

§ 239.16b Form S–8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to employee benefit plans.

* * * * *

(b) *Electronic filings*. In addition to satisfying the foregoing conditions, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S–T (§ 232.101 of this chapter) shall have filed with the Commission:

(1) All required electronic filings, including confirming electronic copies of documents submitted in paper pursuant to a temporary hardship exemption as provided in Rule 201 of Regulation S–T (§ 232.201 of this chapter); and

(2) All Financial Data Schedules required to be submitted pursuant to Item 601(c) of Regulation S–K (§ 229.601(c) of this chapter) and Item 601(c) of Regulation S–B (§ 228.601(c) of this chapter).

40. By amending Form S–8 (§ 239.16b) by removing the parentheses surrounding the parenthetical statement following the fee calculation table and designating it as Note 1; adding Note 2 to the fee calculation table and adding General Instructions A.3. to read as follows:

Note: The text of Form S–8 does not and the amendments will not appear in the Code of Federal Regulations.

Form S–8—Registration Statement Under the Securities Act of 1933

* * * * *

Calculation of Registration Fee

* * * * *

Notes

1. * * *

2. Specific details relating to the fee calculation shall be furnished in notes to the table, including references to provisions of Rule 457 (§ 230.457 of this chapter) relied upon, if the basis of the calculation is not otherwise evident from the information presented in the table.

General Instructions

A. * * *

3. *Electronic filings*. In addition to satisfying the foregoing conditions, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S–T (§ 232.101 of this chapter) shall have filed with the Commission:

(1) All required electronic filings, including confirming electronic copies of documents submitted in paper pursuant to a temporary hardship exemption as provided in Rule 201 of Regulation S–T (§ 232.201 of this chapter); and

(2) All Financial Data Schedules required to be submitted pursuant to Item 601(c) of Regulation S–K (§ 229.601(c) of this chapter) and Item 601(c) of Regulation S–B (§ 228.601(c) of this chapter).

* * * * *

41. By amending Form S–11 (§ 239.18) by adding a note to the fee calculation table to read as follows:

Note—The text of Form S–11 does not and the amendments will not appear in the Code of Federal Regulations.

Form S–11—For Registration Under the Securities Act of 1933 of Securities of Certain Real Estate Companies

* * * * *

Calculation of Registration Fee

* * * * *

Note: Specific details relating to the fee calculation shall be furnished in notes to the table, including references to provisions of Rule 457 (§ 230.457 of this chapter) relied upon, if the basis of the calculation is not otherwise evident from the information presented in the table.

* * * * *

42. By amending Form S–20 (§ 239.20) by adding a note to the fee calculation table to read as follows:

Note—The text of Form S–20 does not and the amendments will not appear in the Code of Federal Regulations.

Form S–20—Registration Statement Under the Securities Act of 1933

* * * * *

Calculation of Registration Fee

* * * * *

Note: Specific details relating to the fee calculation shall be furnished in notes to the table, including references to provisions of Rule 457 (§ 230.457 of this chapter) relied upon, if the basis of the calculation is not otherwise evident from the information presented in the table.

* * * * *

43. By amending Form S–4 (§ 239.25) by adding a note to the fee calculation table; revising the introductory text to Item 12, paragraph (a) of Item 12, and the introductory text to paragraph (b) of Item 12; adding paragraph (c) to Item 12 and paragraph (c) to Item 13; and designating the current text in Item 16 as paragraph (a) and adding paragraph (b) to read as follows:

Note—The text of Form S–4 does not and the amendments will not appear in the Code of Federal Regulations.

Form S–4—Registration Statement Under the Securities Act of 1933

* * * * *

Calculation of Registration Fee

* * * * *

Note: Specific details relating to the fee calculation shall be furnished in notes to the table, including references to provisions of Rule 457 (§ 230.457 of this chapter) relied upon, if the basis of the calculation is not otherwise evident from the information presented in the table.

* * * * *

Item 12. Information with Respect to S–2 or S–3 Registrants

If the registrant meets the requirements for use of Form S–2 or S–3 and elects to comply with this Item, furnish the information required by either paragraph (a) or paragraph (b) of this Item. The information required by paragraph (b) shall be furnished if the registrant satisfies the conditions of paragraph (c) of this Item.

(a) If the registrant elects to deliver this prospectus together with a copy of either its latest Form 10–K or Form 10–KSB filed pursuant to Sections 13(a) or 15(d) of the Exchange Act or its latest annual report to security holders, which at the time of original preparation met the requirements of either Rule 14a–3 or Rule 14c–3:

(1) Indicate that the prospectus is accompanied by either a copy of the registrant's latest Form 10–K or Form 10–KSB or a copy of its latest annual report to security holders, whichever the registrant elects to deliver pursuant to paragraph (a) of this Item.

(2) Provide financial and other information with respect to the registrant in the form required by Part I of Form 10–Q or 10–QSB as of the end of the most recent fiscal quarter which ended after the end of the latest fiscal year for which certified financial statements were included in the latest Form 10–K or Form 10–KSB or the latest report to security holders (whichever the registrant elects to deliver pursuant to paragraph (a) of this Item), and more than forty-five days prior to the effective date of this registration statement (or as of a more recent date) by one of the following means:

(i) Including such information in the prospectus;

(ii) Providing without charge to each person to whom a prospectus is delivered a

copy of the registrant's latest Form 10–Q or Form 10–QSB; or

(iii) Providing without charge to each person to whom a prospectus is delivered a copy of the registrant's latest quarterly report that was delivered to its security holders and which included the required financial information.

(3) If not reflected in the registrant's latest Form 10–K or Form 10–KSB or its latest annual report to security holders (whichever the registrant elects to deliver pursuant to paragraph (a) of this Item) provide information required by Rule 3–05 (§ 210.3–05 of this chapter) and Article 11 (§ 210.11–01 through § 210.11.03 of this chapter) of Regulation S–X.

(4) Describe any and all material changes in the registrant's affairs which have occurred since the end of the latest fiscal year for which audited financial statements were included in the latest Form 10–K or 10–KSB or the latest annual report to security holders (whichever the registrant elects to deliver pursuant to paragraph (a) of this Item) and that were not described in a Form 10–Q, Form 10–QSB or quarterly report delivered with the prospectus in accordance with paragraphs (a)(2) (ii) or (iii) of this Item.

Instruction. Where the registrant elects to deliver the documents identified in paragraph (a) with a preliminary prospectus, such documents need not be redelivered with the final prospectus.

(b) If the registrant does not elect to deliver its latest Form 10–K or Form 10–KSB or its latest annual report to security holders:

* * * * *

(c) The registrant shall furnish the information required by paragraph (b) of this Item if:

(1) The registrant was required to make a material retroactive restatement of financial statements because of

(i) A change in accounting principles; or

(ii) A correction of an error; or

(iii) A consummation of one or more business combinations accounted for by the pooling of interest method of accounting was effected subsequent to the most recent fiscal year and the acquired businesses considered in the aggregate meet the test of a significant subsidiary;

or

(2) The registrant engaged in a material disposition of assets outside the normal course of business;

and

(3) Such restatement of financial statements or disposition of assets was not reflected in the registrant's latest annual report to security holders and/or its latest Form 10–K or Form 10–KSB filed pursuant to Sections 13(a) or 15(d) of the Exchange Act.

Item 13. Incorporation of Certain Information by Reference

* * * * *

(c) *Electronic filings.* Electronic filers electing to deliver and incorporate by reference all, or any portion, of the quarterly or annual report to security holders pursuant to this Item shall file as an exhibit such quarterly or annual report to security holders, or such portion thereof that is incorporated by reference, in electronic format.

* * * * *

Item 16. Information with Respect to S–2 or S–3 Companies

(a) * * *

(b) *Electronic filings.* In addition to satisfying the requirements of paragraph (a) of this Item, electronic filers that elect to deliver and incorporate by reference all, or any portion, of the quarterly or annual report to security holders of a company being acquired pursuant to this Item shall file as an exhibit such quarterly or annual report to security holders, or such portion thereof that is incorporated by reference, in electronic format.

* * * * *

44. By amending Form F–1 (§ 239.31) by adding a note to the fee calculation table to read as follows:

Note—The text of Form F–1 does not and the amendments will not appear in the Code of Federal Regulations.

Form F–1—Registration Statement Under the Securities Act of 1933

* * * * *

Calculation of Registration Fee

* * * * *

Note: Specific details relating to the fee calculation shall be furnished in notes to the table, including references to provisions of Rule 457 (§ 230.457 of this chapter) relied upon, if the basis of the calculation is not otherwise evident from the information presented in the table.

* * * * *

45. By amending § 239.32 by adding paragraph (h) after the note at the end of the section to read as follows:

§ 239.32 Form F–2, for registration under the Securities Act of 1933 for securities of certain foreign private issuers.

* * * * *

(h) *Electronic filings.* In addition to satisfying the foregoing conditions, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S–T (§ 232.101 of this chapter) shall have filed with the Commission all required electronic filings, including confirming electronic copies of documents submitted in paper pursuant to a temporary hardship exemption as provided in Rule 201 of Regulation S–T (§ 232.201 of this chapter).

46. By amending Form F–2 (§ 239.32) by adding a note to the fee calculation table and adding General Instruction I.H. to read as follows:

Note—The text of Form F–2 does not and the amendments will not appear in the Code of Federal Regulations.

Form F–2—Registration Statement Under the Securities Act of 1933

* * * * *

Calculation of Registration Fee

* * * * *

Note: Specific details relating to the fee calculation shall be furnished in notes to the table, including references to provisions of Rule 457 (§ 230.457 of this chapter) relied upon, if the basis of the calculation is not otherwise evident from the information presented in the table.

General Instructions

* * * * *

I. Eligibility Requirements for Use of Form F–2

* * * * *

(H) *Electronic filings:* In addition to satisfying the foregoing conditions, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S–T (§ 232.101 of this chapter) shall have filed with the Commission all required electronic filings, including confirming electronic copies of documents submitted in paper pursuant to a temporary hardship exemption as provided in Rule 201 of Regulation S–T (§ 232.201 of this chapter).

* * * * *

47. By amending § 239.33 by adding paragraph (a)(7) after the note at the end of paragraph (a)(6) to read as follows:

§ 239.33 Form F–3, for registration under the Securities Act of 1933 of securities of certain foreign private issuers offered pursuant to certain types of transactions.

* * * * *

(a) * * *

(7) *Electronic filings:* In addition to satisfying the foregoing conditions, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S–T (§ 232.101 of this chapter) shall have filed with the Commission all required electronic filings, including confirming electronic copies of documents submitted in paper pursuant to a temporary hardship exemption as provided in Rule 201 of Regulation S–T (§ 232.201 of this chapter).

* * * * *

48. By amending Form F–3 (§ 239.33) by adding a note to the fee calculation table and adding General Instruction I.A.7. to read as follows:

Note—The text of Form F–3 does not and the amendments will not appear in the Code of Federal Regulations.

Form F–3—Registration Statement Under the Securities Act of 1933

* * * * *

Calculation of Registration Fee

* * * * *

Note: Specific details relating to the fee calculation shall be furnished in notes to the table, including references to provisions of Rule 457 (§ 230.457 of this chapter) relied upon, if the basis of the calculation is not otherwise evident from the information presented in the table.

General Instructions

I. Eligibility Requirements for Use of Form F–3

A. * * *

7. *Electronic filings.* In addition to satisfying the foregoing conditions, a registrant subject to the electronic filing requirements of Rule 101 of Regulation S–T (§ 232.101 of this chapter) shall have filed with the Commission all required electronic filings, including confirming electronic copies of documents submitted in paper pursuant to a temporary hardship exemption as provided in Rule 201 of Regulation S–T (§ 232.201 of this chapter).

* * * * *

49. By amending Form F–4 (§ 239.34) by adding a note to the fee calculation table to read as follows:

Note—The text of Form F–4 does not and the amendment will not appear in the Code of Federal Regulations.

Form F–4—Registration Statement Under the Securities Act of 1933

* * * * *

Calculation of Registration Fee

* * * * *

Note: Specific details relating to the fee calculation shall be furnished in notes to the table, including references to provisions of Rule 457 (§ 230.457 of this chapter) relied upon, if the basis of the calculation is not otherwise evident from the information presented in the table.

* * * * *

50. By revising § 239.64 to read as follows:

§ 239.64 Form SE, form for submission of paper format exhibits by electronic filers.

This form shall be used by an electronic filer for the submission of any paper format document relating to an otherwise electronic filing, as provided in Rule 311 of Regulation S–T (§ 232.311 of this chapter).

51. By adding § 239.65, to read as follows:

§ 239.65 Form TH—Notification of reliance on temporary hardship exemption.

Form TH shall be filed by any electronic filer who submits to the Commission, pursuant to a temporary hardship exemption, a document in paper format that otherwise would be required to be submitted electronically, as prescribed by Rule 201(a) of Regulation S–T (§ 232.201(a) of this chapter).

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

52. The general authority citation for part 240 is revised to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78l, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 78ll(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

53. The authority citations following §§ 240.0–3, 240.12b–15, 240.14a–6, 240.14a–12, 240.14c–1, and 240.246–2 are removed.

54. A heading is added to precede the text of part 240 (General Rules and Regulations, Securities Exchange Act of 1934) to read as follows:

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S–T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S–T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

55. By amending § 240.0–1 by adding paragraphs (a)(5) and (a)(6) to read as follows:

§ 240.0–1 Definitions.

(a) * * *

(5) The term *electronic filer* means a person or an entity that submits filings electronically pursuant to Rules 101, 901, 902 or 903 of Regulation S–T (§§ 232.101, 232.901, 232.902 or 232.903 of this chapter, respectively).

(6) The term *electronic filing* means a document under the federal securities laws that is transmitted or delivered to the Commission in electronic format.

* * * * *

56. By revising § 240.0–2 to read as follows:

§ 240.0–2 Business hours of the Commission.

(a) The principal office of the Commission, at 450 Fifth Street, NW., Washington, DC 20549, is open each day, except Saturdays, Sundays, and federal holidays, from 9 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever currently is in effect in Washington, DC, *provided that* hours for the filing of documents pursuant to the Act or the rules and regulations thereunder are as set forth in paragraphs (b) and (c) of this section.

(b) *Submissions made in paper or on magnetic tape or diskette.* Paper documents filed with or otherwise furnished to the Commission, as well as electronic filings and submissions on magnetic tape or diskette under cover of Form ET (§§ 239.62, 249.445, 259.601, 269.6 and 274.401 of this chapter), may be submitted to the Commission each day, except Saturdays, Sundays and federal holidays, from 8 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect.

(c) *Electronic filings.* Filings made by direct transmission may be submitted to the Commission each day, except Saturdays, Sundays and federal holidays, from 8 a.m. to 10 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect.

57. By amending § 240.0–11 by revising paragraph (a)(5) to read as follows:

§ 240.0–11 Filing fees for certain acquisitions, dispositions and similar transactions.

(a) * * *

(5) The cover page of the filing shall set forth the calculation of the fee in tabular format, as well as the amount offset by a previous filing and the identification of such filing, if applicable.

* * * * *

58. A heading is added to precede § 240.12b–1 through § 240.12b–36 (Regulation 12B) to read as follows:

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S–T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S–T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

59. By revising § 240.12b–15 to read as follows:

§ 240.12b–15 Amendments.

All amendments shall be filed under cover of the form amended, marked with the letter "A" to designate the document as an amendment, *e.g.*, "10–K/A," and in compliance with pertinent requirements applicable to statements and reports. Amendments filed pursuant to this section shall set forth the complete text of each item as amended. Amendments shall be numbered sequentially and be filed separately for each statement or report amended. Amendments to a statement may be filed either before or after registration becomes effective. Amendments shall be signed on behalf

of the registrant by a duly authorized representative of the registrant.

60. By amending § 240.12b–25 by revising the section heading, paragraphs (a) and (b)(2)(ii), and adding paragraph (g) to read as follows:

§ 240.12b–25 Notification of inability to timely file all or any required portion of a Form 10–K, 10–KSB, 20–F, 11–K, N–SAR, Form 10–Q or Form 10–QSB.

(a) If all or any required portion of an annual or transition report on Form 10–K, 10–KSB, 20–F or 11–K or a quarterly or transition report on Form 10–Q or 10–QSB required to be filed pursuant to sections 13 or 15(d) of the Act and rules thereunder or if all or any portion of a semi-annual, annual or transition report on Form N–SAR required to be filed pursuant to section 30 of the Investment Company Act of 1940 and the rules thereunder is not filed within the time period prescribed for such report, the registrant, no later than one business day after the due date for such report, shall file a Form 12b–25 (17 CFR 249.322) with the Commission which shall contain disclosure of its inability to file the report timely and the reasons therefor in reasonable detail.

(b) * * *

(2) * * *

(i) * * *

(ii) Either the subject annual report, semi-annual report or transition report on Form 10–K, 10–KSB, 20–F, 11–K or N–SAR, or portion thereof, will be filed no later than the fifteenth calendar day following the prescribed due date or the subject quarterly report or transition report on Form 10–Q or 10–QSB, or portion thereof, will be filed no later than the fifth calendar day following the prescribed due date; and

* * * * *

(g) *Electronic filings.* The provisions of this section shall not apply to reports required to be filed in electronic format if the sole reason the report is not filed within the time period prescribed is that the filer is unable to file the report in electronic format. Filers unable to submit a report in electronic format within the time period prescribed solely due to difficulties with electronic filing should comply with either Rule 201 or 202 of Regulation S–T (§ 232.201 and § 232.202 of this chapter), or apply for an adjustment of filing date pursuant to Rule 13(c) of Regulation S–T (§ 232.13(c) of this chapter).

61. By removing § 240.12b–37.

62. A heading is added to precede § 240.13d–1 through § 240.13f–1 (Regulation 13D) to read as follows:

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S–T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S–T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

63. By amending § 240.13d–2 by adding paragraph (c) before the note at the end of the section to read as follows:

§ 240.13d–2 Filing of amendments to Schedules 13D or 13G.

* * * * *

(c) *Electronic filings.* An amendment to a paper format Schedule 13D (§ 240.13d–101) or Schedule 13G (§ 240.13d–102) filed by a registrant that has become subject to mandated electronic filing shall be in electronic format and the first such amendment shall restate the entire text of the Schedule 13D or 13G, but previously filed paper exhibits to a Schedule 13D or Schedule 13G are not required to be restated electronically. Amendments to such exhibits shall be made in electronic format, but restatement of the entire amended exhibit is not required. See Rule 101 of Regulation S–T (§ 232.101 of this chapter).

* * * * *

64. By amending § 240.13e–4 by adding paragraph (f)(12) to read as follows:

§ 240.13e–4 Tender offers by issuers.

* * * * *

(f) *Manner of making tender offer.*

* * *

* * * * *

(12) *Electronic filings.* If the issuer or affiliate is an electronic filer, the minimum offering periods set forth in paragraph (f)(1) of this section shall be tolled for any period during which it fails to file in electronic format, absent a hardship exemption (§§ 232.201 and 232.202 of this chapter), the Schedule 13E–4 Issuer Tender Offer Statement (§ 240.13e–101), the tender offer material specified in paragraph (a) of Item 9 of that Schedule, and any amendments thereto. If such documents were filed in paper pursuant to a temporary hardship exemption (see § 232.201 of this chapter), the minimum offering periods shall be tolled for any period during which a required confirming electronic copy of such Schedule and tender offer material is delinquent.

* * * * *

65. A heading is added to precede § 240.14a–1 through § 14a–101 (Regulation 14A) to read as follows:

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S–T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S–T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

§ 240.14a–3 [Amended]

66. By amending § 240.14a–3 by removing the note to paragraph (c).

67. By amending § 240.14a–6 by removing the reference "paragraph (j)" in the first sentence of paragraph (j) and adding in its place the reference "paragraph (i)" and adding paragraph (m) to read as follows:

§ 240.14a–6 Filing requirements.

* * * * *

(m) *Cover page.* Proxy materials filed with the Commission shall include a cover page in the form set forth in Schedule 14A (§ 240.14a–101 of this chapter).

68. By amending § 240.14a–11 by adding a sentence to the end of paragraph (c), designating the current text of paragraph (d) as paragraph (d)(1) and adding paragraph (d)(2) to read as follows:

§ 240.14a–11 Special provisions applicable to election contests.

* * * * *

(c) *Solicitations prior to furnishing required written proxy statement; filing requirements.* * * * Such soliciting material filed with the Commission shall include a cover page in the form set forth in Schedule 14A and the appropriate box on that cover page shall be checked to indicate such filing.

(d)(1) * * *

(2) *Electronic filers.* Any portion of the annual report to security holders required to be filed with the Commission pursuant to paragraph (d)(1) of this section shall be filed with the Commission in electronic format.

* * * * *

69. By amending § 240.14a–12 by adding a sentence to the end of paragraph (b) to read as follows:

§ 240.14a–12 Solicitation prior to furnishing required proxy statement.

* * * * *

(b) * * * Such soliciting material shall include a cover page in the form set forth in Schedule 14A and the appropriate box on that cover page shall be checked to indicate such filing.

70. By amending § 240.14a–101 by adding a cover page after the section heading and before the notes; adding Note D.4; revising paragraphs (b)(2)(i)(A) introductory text, (b)(2)(i)(A)(*1*) and the introductory text of paragraph (b)(2)(i)(B) of Item 14, to read as follows:

§ 240.14a–101. Schedule 14A. Information required in proxy statement.

Schedule 14A Information

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934 (Amendment No.)

Filed by the Registrant [ ]
Filed by a Party other than the Registrant [ ]
Check the appropriate box:
[ ] Preliminary Proxy Statement
[ ] Definitive Proxy Statement
[ ] Definitive Additional Materials
[ ] Soliciting Material Pursuant to § 240.14a–11(c) or § 240.14a–12

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement)

Payment of Filing Fee (Check the appropriate box):
[ ] $125 per Exchange Act Rules 0–11(c)(1)(ii), 14a–6(i)(1), or 14a–6(j)(2).
[ ] $500 per each party to the controversy pursuant to Exchange Act Rule 14a–6(i)(3).
[ ] Fee computed on table below per Exchange Act Rules 14a–6(i)(4) and 0–11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0–11: __/

(4) Proposed maximum aggregate value of transaction:

__/ Set forth the amount on which the filing fee is calculated and state how it was determined.
[ ] Check box if any part of the fee is offset as provided by Exchange Act Rule 0–11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

Notes

* * * * *

D. * * *

4. *Electronic filings.* If any of the information required by Items 13 or 14 of this Schedule is incorporated by reference from an annual or quarterly report to security holders, such report, or any portion thereof incorporated by reference, shall be filed in electronic format with the proxy statement.

* * * * *

Item 14. Mergers, consolidations, acquisitions and similar matters. * * *

* * * * *

(b) * * *
(2) * * *
(i) * * *

(A) If the registrant elects to furnish information pursuant to this paragraph (b)(2)(i)(A) and delivers the proxy statement together with a copy of either its latest Form 10–K or Form 10–KSB filed pursuant to sections 13(a) or 15(d) of the Exchange Act or its latest annual report to security holders which, at the time of original preparation met the requirements of either Rule 14a–3 (§ 240.14a–3 or 14c–3 (§ 240.14c–3):

(*1*) Indicate that the proxy statement is accompanied by either a copy of the registrant's latest Form 10–K or Form 10–KSB or a copy of its latest annual report to security holders.

* * * * *

(B) If the registrant does not elect to furnish information and deliver its latest Form 10–K or Form 10–KSB or a copy of its latest annual report to security holders pursuant to paragraph (b)(2)(i)(A):

* * * * *

71. A heading is added to precede §§ 240.14c–1 through 240.14c–101 (Regulation 14C) to read as follows:

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S–T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S–T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

72. By amending § 240.14c–5 by adding paragraph (h) to read as follows:

§ 240.14c–5 Filing requirements.

* * * * *

(h) *Cover page.* Each information statement filed with the Commission shall include a cover page in the form set forth in Schedule 14C (§ 240.14c–101).

73. By amending § 240.14c–101 by adding a cover page after the section heading and before the note to read as follows:

§ 240.14c–101 Schedule 14C. Information required in information statement.

Schedule 14C Information

Information Statement Pursuant to Section 14(c) of the Securities Exchange Act of 1934 (Amendment No.)

Check the appropriate box:
[ ] Preliminary Information Statement
[ ] Definitive Information Statement

(Name of Registrant As Specified In Charter)

(Name of Person(s) Filing the Information Statement)

Payment of Filing Fee (Check the appropriate box):
[ ] $125 per Exchange Act Rules 0–11(c)(1)(ii), or 14c–5(g).
[ ] Fee computed on table below per Exchange Act Rules 14c–5(g) and 0–11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0–11: __/

(4) Proposed maximum aggregate value of transaction:

__/ Set forth the amount on which the filing fee is calculated and state how it was determined.
[ ] Check box if any part of the fee is offset as provided by Exchange Act Rule 0–11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

* * * * *

74. A heading is added to precede §§ 240.14d–1 through 240.14d–103 (Regulation 14D) to read as follows:

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S–T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S–T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

75. By amending § 240.14e–1 by adding paragraph (e) to read as follows:

§ 240.14e–1 Unlawful tender offer practices.

* * * * *

(e) *Electronic filings.* If the bidder is an electronic filer, the periods of time required by paragraphs (a) and (b) of this section shall be tolled for any period during which it has failed to file in electronic format, absent a hardship exemption (§§ 232.201 and 232.202 of this chapter), the Schedule 14D–1 Tender Offer Statement (§ 240.14d–100), any tender offer material specified in paragraph (a) of Item 11 of that Schedule, and any amendments thereto. If such documents were filed in paper pursuant to a temporary hardship exemption (see § 232.201 of this chapter), the minimum offering periods shall be tolled for any period during which a required confirming electronic copy of such Schedule and tender offer material is delinquent.

76. By amending § 240.24b–2 by adding paragraph (g) to read as follows:

§ 240.24b–2 Nondisclosure of information filed with the Commission and with any exchange.

* * * * *

(g) *Electronic filings.* Confidential treatment requests shall be submitted in paper format only, whether or not the filer is required to submit a filing in electronic format.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

77. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et. seq.*, unless otherwise noted;

* * * * *

78. The authority citations following §§ 249.208a, 249.308a, 249.311 and 249.322 are removed.

79. By amending Form 8–A (§ 249.208a) by revising Instruction I to read as follows:

Note.—The text of Form 8–A is not and the amendment will not appear in the Code of Federal Regulations.

Form 8–A

For Registration of Certain Classes of Securities Pursuant to Section 12(b) or (g) of the Securities Exchange Act

* * * * *

Instructions as to Exhibits

I. If the securities to be registered on this form are to be registered on an exchange on which other securities of the registrant are registered, or are to be registered pursuant to section 12(g) of the Act, copies of all constituent instruments defining the rights of the holders of each class of such securities, including any contracts or other documents which limit or qualify the rights of such holders, shall be filed as exhibits with each copy of the registration statement filed with the Commission or with an exchange, subject to Rule 12b–32 regarding incorporation of exhibits by reference.

* * * * *

80. By amending Form 18 (§ 249.218) by removing Exhibit A of Exhibits to Form 18 and redesignating the remaining Exhibits as Exhibits A through C.

Note.—The text of Form 18 is not and the amendment will not appear in the Code of Federal Regulations.

81. By amending Form 10–Q (§ 249.308a) by adding paragraph 3 to General Instruction D and paragraph 3 to General Instruction E to read as follows:

Note.—The text of Form 10–Q is not and the amendments will not appear in the Code of Federal Regulations.

Form 10–Q

(Mark One)

[ ] Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the quarterly period ended _____

OR

[ ] Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the transition period from _____to _____

* * * * *

D. Incorporation by Reference.

1. * * *

2. * * *

3. If any information required by Part I or Part II is incorporated by reference into an electronic format document from the quarterly report to security holders as provided in General Instruction D, any portion of the quarterly report to security holders incorporated by reference shall be filed as an exhibit in electronic format, as required by Item 601(b)(13) of Regulation S–K.

E. Integrated Reports to Security Holders.

* * * * *

(3) If an electronic filer files any portion of a quarterly report to security holders in combination with the required information of Form 10–Q, as provided in this instruction, only such portions filed in satisfaction of the Form 10–Q requirements shall be filed in electronic format.

* * * * *

82. By amending Form 10–QSB (§ 249.308b) by adding paragraph 3 to General Instruction C and paragraph 3 to General Instruction D to read as follows:

Note.—The text of Form 10–QSB is not and the amendments will not be appear in the Code of Federal Regulations.

Form 10–QSB

(Mark One)

[ ] Quarterly Report Pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934

For the quarterly period ended

[ ] Transition Report Pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934

For the transition period from _____to _____

* * * * *

C. Incorporation by Reference.

1. * * *

2. * * *

3. If any information required by Part I or Part II is incorporated by reference into an electronic format document from the quarterly report to security holders as provided in General Instruction C, any portion of the quarterly report to security holders incorporated by reference shall be filed as an exhibit in electronic format, as required by Item 601(b)(13) of Regulation S–B.

D. Integrated Reports to Security Holders.

* * * * *

(3) If an electronic filer files any portion of a quarterly report to security holders in combination with the required information of Form 10–QSB, as provided in this instruction, only such portions filed in satisfaction of the Form 10–QSB requirements shall be filed in electronic format.

* * * * *

83. By amending Form 10–K (§ 249.310) by adding paragraph (3) to General Instruction D, redesignating the note to General Instruction G.(2) as Note 1, adding Note 2 to General Instruction G.(2), and adding paragraph (3) to General Instruction H, to read as follows:

Note.—The text of Form 10–K is not and the amendments will not be appear in the Code of Federal Regulations.

Form 10–K Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 General Instructions

* * * * *

D. Signature and Filing of Report.

* * * * *

(3) Registrants are requested to indicate in a transmittal letter with the Form 10–K whether the financial statements in the report reflect a change from the preceding year in any accounting principles or practices, or in the method of applying any such principles or practices.

* * * * *

G. Information to be Incorporated by Reference.

(1) * * *

(2) * * *

Note 1.—* * *

Note 2.—If any information required by Part I or Part II is incorporated by reference into an electronic format document from the annual report to security holders as provided

in General Instruction G, any portion of the annual report to security holders incorporated by reference shall be filed as an exhibit in electronic format, as required by Item 601(b)(13) of Regulation S–K.

H. Integrated Reports to Security Holders.

* * * * *

(3) If an electronic filer files any portion of an annual report to security holders in combination with the required information of Form 10–K, as provided in this instruction, only such portions filed in satisfaction of the Form 10–K requirements shall be filed in electronic format.

* * * * *

84. By amending Form 10–KSB (§ 249.310b) by adding paragraph (3) to General Instruction C, adding a note following General Instruction E.2(b) and adding paragraph 3 to General Instruction F to read as follows:

Note.—The text of Form 10–KSB is not and the amendments will not be appear in the Code of Federal Regulations.

Form 10–KSB

[ ] Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 [Fee Required]

[ ] Transition Report Under Section 13 or 15(d) of the Securities Exchange Act of 1934 [No Fee Required]

* * * * *

General Instructions

* * * * *

C. Signature and Filing of Report.

* * * * *

(3) Small business issuers are requested to indicate in a transmittal letter with the Form 10–KSB whether the financial statements in the report reflect a change from the preceding year in any accounting principles or practices or in the methods of application of those principles or practices.

* * * * *

E. Information to be Incorporated by Reference.

1. * * *

2. * * *

(a) * * *

(b) * * *

Note to electronic filers: If any information required by Part I or Part II is incorporated by reference from the annual report to security holders as allowed in General Instruction E.2.(a), any portion of the annual report to security holders incorporated by reference shall be filed as an exhibit in electronic format, as required by Item 601(b)(13) of Regulation S–B.

* * * * *

F. Integrated Reports to Security Holders.

* * * * *

(3) If an electronic filer files any portion of an annual report to security holders in combination with the required information of Form 10–KSB, as provided in this instruction, only such portions filed in satisfaction of the Form 10–KSB requirements shall be filed in electronic format.

* * * * *

85. By amending Form 11–K (§ 249.311) by adding General Instruction E to read as follows:

Note.—The text of Form 11–K is not and the amendment will not appear in the Code of Federal Regulations.

Form 11–K

For Annual Reports of Employee Stock Purchase, Savings and Similar Plans Pursuant to Section 15(d) of the Securities Exchange Act of 1934 General Instructions

* * * * *

E. *Electronic Filers.*

Plans subject to ERISA that file plan financial statements and schedules prepared in accordance with the financial reporting requirements of ERISA may file such financial statements and schedules in paper under cover of Form SE (§ 249.444).

* * * * *

86. By amending § 249.322 by designating the current text as paragraph (a) and adding paragraph (b) to read as follows:

§ 249.322 Form 12b–25—Notification of late filing.

* * * * *

(b) This form shall not be used by electronic filers unable to timely file a report solely due to electronic difficulties. Filers unable to submit a report within the time period prescribed due to electronic difficulties should comply with either Rule 201 or Rule 202 of Regulation S–T (§ 232.201 or § 232.202 of this chapter), or apply for an adjustment in filing date pursuant to Rule 13(b) of Regulation S–T (§ 232.13(b) of this chapter).

87. By amending Form 12b–25 (§ 249.322) by adding General Instruction 5 to read as follows:

Note.—The text of Form 12b–25 is not and the amendment will not appear in the Code of Federal Regulations.

Form 12b–25

Notification of Late Filing

* * * * *

General Instructions

* * * * *

5. *Electronic Filers.* This form shall not be used by electronic filers unable to timely file a report solely due to electronic difficulties. Filers unable to submit a report within the time period prescribed due to difficulties in electronic filing should comply with either Rule 201 or Rule 202 of Regulation S–T (§ 232.201 or § 232.202 of this chapter) or apply for an adjustment in filing date pursuant to Rule 13(b) of Regulation S–T (§ 232.12(c) of this chapter).

88. By revising § 249.444 to read as follows:

§ 249.444 Form SE, form for submission of paper format exhibits by electronic filers.

This form shall be used by an electronic filer for the submission of any paper format document relating to an otherwise electronic filing, as provided in Rule 311 of Regulation S–T (§ 232.311 of this chapter).

89. By adding § 249.447, to read as follows:

§ 249.447 Form TH—Notification of reliance on temporary hardship exemption.

Form TH shall be filed by any electronic filer who submits to the Commission, pursuant to a temporary hardship exemption, a document in paper format that otherwise would be required to be submitted electronically, as prescribed by Rule 201(a) of Regulation S–T (§ 232.201(a) of this chapter).

90. By removing § 249.460 and Form 8 and removing and reserving subpart E.

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

91. The authority citation for part 260 continues to read as follows:

Authority: 15 U.S.C. 77eee, 77ggg, 77nnn, 77sss, 78*ll*(d), 80b–3, 80b–4 and 80b–11.

92. A heading is added to precede the text of part 260 (General Rules and Regulations, Trust Indenture Act of 1939) to read as follows:

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S–T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S–T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

93. By amending § 260.0–2 by redesignating paragraphs (g) through (k) as paragraphs (i) through (m) and adding paragraphs (g) and (h) to read as follows:

§ 260.0–2 Definition of terms used in the rules and regulations.

* * * * *

(g) *Electronic filer.* The term *electronic filer* means a person or an entity that submits filings electronically pursuant to Rules 101, 901, 902 or 903 of Regulation S–T (§§ 232.101, 232.901, 232.902 or 232.903 of this chapter, respectively).

(h) *Electronic filing.* The term *electronic filing* means a document

under the federal securities laws that is transmitted or delivered to the Commission in electronic format.

* * * * *

94. By revising § 260.0–5 to read as follows:

§ 260.0–5 Business hours of the Commission.

(a) *General.* The principal office of the Commission, at 450 Fifth Street, NW., Washington, DC 20549, is open each day, except Saturdays, Sundays and federal holidays, from 9 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect, *provided that* the hours for the filing of documents with the Commission are as set forth in paragraphs (b) and (c) of this section.

(b) *Submissions made in paper or on magnetic tape or diskette.* Paper documents filed with or otherwise furnished to the Commission, as well as electronic filings and submissions on magnetic tape or diskette under cover of Form ET (§§ 239.62, 249.445, 259.601, 269.6 and 274.401 of this chapter), may be submitted to the Commission each day, except Saturdays, Sundays and federal holidays, from 8 a.m. to 5:30 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect.

(c) *Electronic filings.* Filings made by direct transmission may be submitted to the Commission each day, except Saturdays, Sundays and federal holidays, from 8 a.m. to 10 p.m., Eastern Standard Time or Eastern Daylight Saving Time, whichever is currently in effect.

PART 269—FORMS PRESCRIBED UNDER THE TRUST INDENTURE ACT OF 1939

95. The authority citation for part 269 is revised to read as follows:

Authority: 15 U.S.C. 77ddd(c), 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77sss, 78*ll*(d), unless otherwise noted.

96. By revising § 269.8 to read as follows:

§ 269.8 Form SE, form for submission of paper format exhibits by electronic filers.

This form shall be used by an electronic filer for the submission of any paper format document relating to an otherwise electronic filing, as provided in Rule 311 of Regulation S–T (§ 232.311 of this chapter).

97. By adding § 269.10, to read as follows:

§ 269.10 Form TH—Notification of reliance on temporary hardship exemption.

Form TH shall be filed by any electronic filer who submits to the Commission, pursuant to a temporary hardship exemption, a document in paper format that otherwise would be required to be submitted electronically, as prescribed by Rule 201(a) of Regulation S–T (§ 232.201(a) of this chapter).

Text of Forms ID, ET, SE and TH

Forms ET (§§ 239.62, 249.445 and 269.6), ID (§§ 239.63, 249.446 and 269.7), and SE (§§ 239.64, 249.444, and 269.8) referenced in chapter II are revised, and Form TH (§§ 239.65, 249.447 and 269.10) is added. The text of those forms will not appear in the Code of Federal Regulations. The text of the Forms reads as follows:

OMB Approval

OMB Number: 3235–0328
Expires: March 31, 1995
Estimated average burden hours per response—0.15
Applicant's CIK (if known)

Form ID—Uniform Application for Access Codes To File on EDGAR

Part I—Applicant Information (To be completed by all applicants)

Exact Name of Registrant as specified in its charter or individual's name as used for signature purposes. _____

Former Name (if changed since last application) _____
Mailing Address _____
Street Address or Post Office Box No. _____
City _____
State _____
Zip _____

Applicant is a (*see* definitions in the General Instructions):

☐ Filer
☐ Filing Agent
☐ Training Agent
☐ Initial Application for EDGAR Access Codes.

If you are associated with another party which already has access codes to use EDGAR, and if you want to use the same PMAC as the associated party, please write the CIK of the associated party on the following line: _____

Do you want a Filer Manual?:
Yes ☐
No ☐

☐ Amended Application for (*see* definitions in the General Instructions):
☐ CCC
☐ Password
☐ PMAC
☐ Amended Application to change reported information only (Access codes to remain the same)

Part II—Filer Information (To be completed by filers only)

If you currently file with the SEC, check this box ☐ and provide at least one of your SEC file numbers, if known:
1933 Act No.
2- _____
33- _____
1934 Act No.
0- _____
1- _____
1940 Act No.
811- _____
814- _____
Other
____- _____
Tax Number or Federal Identification Number (Registrants only) _____
Telephone Number (Include Area Code) ____
Primary Business Address (if different from mailing address) Street Address or Post Office Box No. _____
City _____
State _____
Zip _____
State of Incorporation/Organization _____
Fiscal Year End (mm/dd) _____

Part III—Contact Information (To be completed by applicants)

Person to receive EDGAR Information, Inquiries and Access Codes _____
Telephone Number (Include Area Code)
(_____) _____
Mailing Address (if different from applicant's mailing address) Street Address or Post Office Box No.
City _____
State _____
Zip _____

If you are CompuServe subscriber, provide your User ID: _____

Part IV—Account Information (To be completed by filers and filing agents only)

Person to receive SEC Account Information and Billing Invoices
Telephone Number (Include Area Code)
(_____) _____
Address (if different from applicant's mailing address) Street Address or Post Office Box No.
City _____
State _____
Zip _____

Part V—Signature (To be Completed by all Applicants)

Signature: _____
Type or Print Name: _____
Position or Title: _____
Date: _____

Section 19 of the Securities Act of 1933 (15 U.S.C. 77s), sections 13(a) and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) and 78w), section 319 of the Trust Indenture Act of 1939 (15 U.S.C. 77sss), section 20 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79t) and sections 30 and 38 of the Investment Company Act of 1940 (15 U.S.C. 80a–29 and 80a–37) authorize solicitation of this information. This information will be used to assign system identification to filers, filing agents, and training agents. This will allow the Commission to identify persons sending electronic submissions and grant secure access to the EDGAR system.

Form ID

General Instructions

Use and Preparation of Form ID

Form ID is used to apply for or to amend the following codes that are necessary to access the SEC's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system.

• Central Index Key (CIK)—Uniquely identifies each filer, filing agent, and training agent. The CIK is assigned by the SEC at the

time of an initial application and may not be changed by the filer, filing agent, or training agent.

• CIK Confirmation Code (CCC)—Used in the header of a filing in conjunction with the filer's CIK to ensure that the filing has been authorized by the filer.

• Password (PW)—allows a filer, filing agent, or training agent to log onto the EDGAR system, submit filings, and change its CCC.

• Password Modification Authorization Code (PMAC)—allows a filer, filing agent, or training agent to change its Password.

Please see the EDGAR Filer Manual for instructions on how to file electronically, including how to use the access codes.

Please refer to the published phase-in schedules for filer phase-in groups and phase-in dates for electronic filing for each group. No electronic filings, other than test filings, may be submitted by or on behalf of a filer not phased in, unless otherwise permitted by Regulation S–T.

Applicants must complete all items in any Parts which are applicable. If any item in any Part is inapplicable, please so indicate. Incomplete Forms may require amendment and cause delays in assigning access codes.

Part I—Applicant Information (To be completed by all applicants)

Indicate whether you will be sending electronic submissions as a filer, filing agent, or training agent. Only one box may be marked on an application. A "filer" is any person or entity on whose behalf an electronic filing is made. A "filing agent" is a financial printer, law firm, or other party which will be using these access codes to send a filing or portion of a filing on behalf of a filer. A "training agent" is any person or entity which will be sending only test filings in conjunction with training other persons.

If you do not already have access codes, please mark the "Initial Application" box, answer the two related questions, (if they apply), and complete all other applicable items in Parts II through V.

If you already have access codes, please provide your CIK in the upper left corner and mark the boxes to indicate the reason for the amendment and any access codes you want to replace. You also should complete Part V—Signature and those items in Parts II through IV which have changed from the previous application. Changes to access codes (except the PMAC) and most other information on Form ID may be made electronically via EDGAR. See the EDGAR Filer Manual for details.

Part II—Filer Information (To be completed by filers only)

Tax number or federal identification number—the number issued by the Internal Revenue Service. (Not required for individuals.)

State of Incorporation/Organization and Fiscal Year End are not required for individuals. Foreign private issuers are requested to include their country of organization.

Part III—Contact Information (To be completed by all applicants)

This section identifies the individual who should receive the access codes and EDGAR-related information.

Filers, filing agents, and training agents who become CompuServe subscribers will receive acceptance and suspension messages and any requested return copies of their filings via electronic mail at their expense. They will also be able to access and download EDGAR-related information from the CompuServe electronic bulletin board. Filers and filing agents who do not subscribe to CompuServe will receive their acceptance and suspension messages by regular U.S. Mail. They may also request return copies of their filings by U.S. Mail at their option and expense.

Part IV—Account Information (To be completed by filers and filing agents only)

This section identifies the individual who should receive account information and/or billing invoices from the SEC. This information will be used by the SEC to facilitate electronic processing of fee payments and billings.

Part V—Signature (To be completed by all applicants)

Manually sign and date this form and return it to: Attn: Filer Support, EDGAR, U.S. Securities and Exchange Commission, Operations Center, Stop 0–7, 6432 General Green Way, Alexandria, VA 22312.

OMB APPROVAL

OMB Number: 3235–0329
Expires: March 31, 1995
Estimated average burden hours per response—0.25

Form ET—Transmittal Form for Electronic Format Documents Under the EDGAR System

Part I—Submission Information

(Read the instructions before completing the following items.)

1. CIK of Sender of diskette(s) or tape(s) _____
2. Name of Sender of diskette(s) or tape(s) _____
3. Number of diskette(s) or tape(s) in package _____
4. Person to contact in the event of problems regarding the diskette(s) or tape(s)
a. Name _____
b. Telephone Number (including Area Code) (_____)_____

Part II—Magnetic Tapes

1. Volume ID on internal label: _____
2. Language: ____ASCII; ____EBCDIC
3. Density: ____1600 bpi; ____6250 bpi

Part III—Diskettes

1. Sides: ____Single; ____Double
2. Density: ____Single; ____Double; ____High
3. Word Processing data (See the EDGAR Filer Manual for acceptable formats):
Format: ____Word Processing; ____Print Image (ASCII)
If in word processing format, please provide:
Name of word processing software: _____
Version of word processing software: _____
4. Hardware on which the diskette was prepared:
Brand: _____
Model Number: _____
Operating system: _____

Form ET—General Instructions

1. Rule as to Use of Form ET

One copy of this form shall accompany all diskette or magnetic tape submissions.

Diskettes or magnetic tapes, regardless of the manner of delivery, should be addressed: Attn: Document Control—EDGAR, U.S. Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

2. Preparation of Diskette or Magnetic Tape Submissions

Attention is directed to the EDGAR Filer Manual which contains information and procedures for electronic filing.

A. All files on a diskette must be in the same word processing format.

B. More than one submission may be sent on a diskette or magnetic tape; however, each submission must be contained in a single file. The Commission will assume that each file on a diskette or magnetic tape contains a separate submission and will transfer all such files to the EDGAR system. Therefore, the preparer should recheck all files prior to sending a diskette or magnetic tape to the Commission to ensure that it contains only those files intended to be sent.

C. If more than one diskette or magnetic tape is used, their order of processing should be indicated on the external label of each diskette or magnetic tape, *e.g.*, 1 of 3; 2 of 3, etc.

D. Please write the CIK of the Sender on the external label of each diskette or magnetic tape.

E. To expedite processing of diskettes or magnetic tapes, please write in large, bold letters on the envelope or carton: EDGAR DISKETTE or EDGAR MAGNETIC TAPE, as appropriate.

3. Preparation of Form

A. The form should be completed carefully as this data will be used by the Commission to transfer submissions from the diskette(s) or magnetic tape(s) to the EDGAR system.

B. The CIK and Name of Sender requested in Part I should be that of the filer or filing agent, whichever prepared and sent the diskette(s) or magnetic tape(s) to the Commission.

C. The contact person identified in Part I should be the person who can respond to technical questions concerning the electronic preparation of the diskette(s) or magnetic tape(s).

D. If more than one filer and/or more than one submission is included on the diskette(s) or magnetic tape(s) submitted, it is not necessary to complete a separate form for each filer or submission if the information contained in Parts I, II, and III is identical for all filers and submissions.

4. Signatures

While there are no signature requirements to Form ET, each of the various electronic forms to be filed on diskette or magnetic tape that accompany Form ET contains certain signature requirements. Such electronic

forms and other documents required to be manually signed shall be in typed form. *See* Rule 302 of Regulation S–T (§ 232.302 of this chapter).

5. Application of General Rules and Regulations

The electronic filer is subject to Regulation S–T (Part 232 of this chapter) and the EDGAR Filer Manual. Attention is directed to the General Rules and Regulations under the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Public Utility Holding Company Act of 1935 and the Investment Company Act of 1940, as modified by any electronic filing provisions to such rules and regulations.

OMB Approval

OMB Number: 3235–0327
Expires: March 31, 1995
Estimated average burden hours per response—0.15

Form SE—Form for Submission of Paper Format Exhibits by Electronic Filers

Exact name of registrant as specified in charter

Registrant CIK Number

Electronic report, schedule or registration statement of which the documents are a part (give period of report)

SEC file number, if available

Name of Person Filing the Document (If Other than the Registrant)

Signatures

Filings Made By the Registrant:

The Registrant has duly caused this form to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of_____, State of _____, _____, 19___.

(Registrant)
By: _____
(Name and Title)

Filings Made by Person Other Than the Registrant: After reasonable inquiry and to the best of my knowledge and belief, I certify on _____, 19_____, that the information set forth in this statement is true and complete.
By: _____
(Name)

(Title)

General Instructions to Form SE

I. Use of Form SE

A. This form shall be used by an electronic filer for the submission of any required paper format exhibit pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, or the Investment Company Act of 1940, *provided that* submission of such exhibit in paper format is permitted pursuant to Rule 201 or Rule 202 of Regulation S–T (§§ 232.201 and 232.202 of this chapter). It also may be used for the submission of any other paper format document permitted by Rule 311 of Regulation S–T (§ 232.311 of this chapter).

B. Attention is directed to the General Rules and Regulations under the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Public Utility Holding Company Act of 1935 and the Investment Company Act of 1940. Requirements applicable to electronic submission are set forth in Regulation S–T (Part 232 of this chapter) and the EDGAR Filer Manual.

II. Preparation and Filing of the Form

A. Three complete copies of the form and exhibits shall be submitted in paper format.

B. The Form SE shall be submitted in the following manner:

1. If the subject of a temporary hardship exemption is an exhibit only, the exhibit shall be filed under cover of this form no later than one business day after the date on which the exhibit was to be filed electronically.

2. An exhibit filed pursuant to a continuing hardship exemption, or any other document filed in paper under cover of Form SE (other than an exhibit filed pursuant to a temporary hardship exemption), as allowed by Rule 311 of Regulation S–T, may be filed up to six business days prior to, or on the date of filing of, the electronic format document to which it relates but shall not be filed after such filing date. If a paper document is submitted in this manner, requirements that the document be filed with, provided with or accompany the electronic filing shall be satisfied. Any requirements as to delivery or furnishing the information to persons other than the Commission shall not be affected by this Instruction.

C. The registrant, or person other than the registrant, shall identify the documents being filed. Attach any paper format exhibit and an exhibit index as required by Item 601 of Regulation S–K (§ 229.601 of this chapter).

D. One copy of the form shall be manually signed by each person on whose behalf the form is submitted or by an authorized representative. If the form is signed by the authorized representative of a person (other than an executive officer or general partner), evidence of the authority of the representative to sign on behalf of such person shall be filed with the form, provided, however, that a power of attorney for this purpose that is already on file with the Commission may be incorporated by reference.

E. If the form is submitted in connection with a temporary hardship exemption, signatures may be in typed form rather than manual format.

OMB Approval

OMB Number: 3235–
Expires: March 31, 1995
Estimated average burden hours per response— 0.15
U.S. Securities and Exchange Commission
Washington, DC 20549

Form TH—Notification of Reliance on Temporary Hardship Exemption

Report, schedule or registration statement to which the hardship exemption relates (give period of report if applicable).

SEC file number, if available

Name of Person Filing the Document (If Other than the Registrant)

Part I—Registrant Information

Full Name of Registrant _____
Address of Principal Executive Office

Street and Number, City, State and Zip Code

Part II—Information relating to the hardship

Furnish the following information:

1. A description of the nature and extent of the temporary technical difficulties experienced by the electronic filer in attempting to submit the document in electronic format.

2. A description of the extent to which the electronic filer has successfully submitted documents previously in electronic format with the same hardware and software, in test or required filings.

3. A description of the burden and expense involved to employ alternative means to submit the electronic submission in a timely manner.

4. Any other reasons why an exemption is warranted.

Part III—Representation of intent to submit confirming electronic copy

The registrant shall include a representation that a confirming electronic copy of the document filed in paper will be filed in accordance with Rule 201(b) of Regulation S–T (§ 232.201(b)).

Part IV—Contact person

Name and telephone number of person to contact in regard to this notification;
Name _____
area code _____
telephone no. _____

Part V—Signatures

Name of registrant as appears in charter:
has caused this notification to be signed on its behalf by the undersigned, being duly authorized:
Date: _____
By: _____

Instruction: This form may be signed by an executive officer of the registrant or by any other duly authorized representative. Signatures may be in typed form rather than in manual format.

General Instructions

1. Rule 201(a) of Regulation S–T requires electronic filers relying on a temporary hardship exemption to file this form in addition to filing a paper copy of a document otherwise required to be filed in electronic format.

2. Three signed copies of this form shall accompany the paper format document and shall be filed within one business day after the date upon which the document filed in paper originally was to be filed electronically.

3. Signatures to the paper format document being filed pursuant to the exemption may be in typed form rather than manual format. *See*

Rule 302 of Regulation S–T (§ 232.302 of this chapter). All other requirements relating to paper format filings, including number of copies to be filed, shall be satisfied.

By the Commission.

Dated: February 23, 1993.

Margaret H. McFarland,

Deputy Secretary.

Note: Appendices A and B, *infra*, will not appear in the Code of Federal Regulations.

Appendix A—Timetable for Implementation of EDGAR Division of Corporation Finance Filings

April 26, 1993

Phase-in of Group CF–01.

July 19, 1993

Phase-in of Group CF–02.

October 4, 1993

Phase-in of Group CF–03.

December 6, 1993

Phase-in of Group CF–04. Six month test period begins.

Mid-1994

Final EDGAR rules and phase-in schedule are adopted.

August 1994

Phase-in of all remaining registrants begins in accordance with the final phase-in schedule, commencing with Group CF–05.

November 1994

Phase-in of Group CF–06

May 1995

Phase-in of Group CF–07

August 1995

Phase-in of Group CF–08

November 1995

Phase-in of Group CF–09

May 1996

Phase-in of Group CF–10. All registrants not previously phased in become subject to mandated electronic filing.

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME

CIK	Issuer name	Group
841020	1990 CALIFORNIA TAX CREDIT PARTNERS L P	CF–09
806387	1ST AMERICAN BANCORP INC	CF–07
803164	1ST COMMUNITY BANCORP INC	CF–06
853832	1ST NATIONAL FILM CORP	CF–10
034782	1ST SOURCE CORP	CF–07
100404	2 B SYSTEM INC	CF–08
718246	202 DATA SYSTEMS INC	CF–08
100331	20TH CENTURY INDUSTRIES	CF–04
838179	21ST CENTURY FILM CORP	CF–05
100412	250 WEST 57TH ST ASSOCIATES	CF–08
840468	3 BEALLS HOLDING CORP	CF–04
818762	3333 HOLDING CORP	CF–09
883797	3CI COMPLETE COMPLIANCE CORP	CF–10
738076	3COM CORP	CF–04
885520	3NET SYSTEMS INC /DE/	CF–10
735584	50 OFF STORES INC	CF–06
858709	50TH STATE BANCORPORATION	CF–10
090794	60 EAST 42ND STREET ASSOCIATES	CF–09
874085	999 INC	CF–10
799692	A&W BRANDS INC /DE/	CF–05
860754	AAA NET REALTY FUND IX LTD	CF–10
887204	AAA NET REALTY FUND X LTD	CF–10
879957	AAMES FINANCIAL CORP/DE	CF–10
824142	AAON INC	CF–08
001750	AAR CORP	CF–03
706688	AARON RENTS INC	CF–05
845779	ABATIX ENVIRONMENTAL CORP	CF–08
881890	ABAXIS INC	CF–10
882289	ABBEY HEALTHCARE GROUP INC/DE	CF–10
001800	ABBOTT LABORATORIES	CF–02
351569	ABC BANCORP	CF–05
888676	ABEX INC	CF–10
354195	ABF ENERGY CORP	CF–08
838830	ABF FREIGHT SYSTEM INC	CF–04
356809	ABIGAIL ADAMS NATIONAL BANCORP INC	CF–06
812146	ABINGTON BANCORP INC	CF–05
815094	ABIOMED INC	CF–06
826411	ABLE TELCOM HOLDING CORP	CF–09
743213	ABOVE TECHNOLOGIES INC	CF–09
001923	ABRAMS INDUSTRIES INC	CF–05
867665	ABRAXAS PETROLEUM CORP	CF–10
313368	ABS INDUSTRIES INC /DE/	CF–06
098707	ACA JOE INC	CF–06
001961	ACADEMIC COMPUTER SYSTEMS INC	CF–08
792468	ACAP CORP	CF–08
783233	ACC CORP	CF–06
001985	ACCEL INTERNATIONAL CORP	CF–09
727207	ACCELR8 TECHNOLOGY CORP	CF–08
001988	ACCESS CORP	CF–07
833798	ACCESS GROUP INC	CF–09
882304	ACCESS HEALTH MARKETING INC	CF–10
804888	ACCLAIM ENTERTAINMENT INC	CF–05
811703	ACCUGRAPH CORP	CF–07
840401	ACCUHEALTH INC	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
864234	ACCUSONICS INC	CF–10
002024	ACE HARDWARE CORP	CF–03
002034	ACETO CORP	CF–05
319120	ACKERLEY COMMUNICATIONS INC	CF–04
002062	ACMAT CORP	CF–05
869676	ACME CLEVELAND CORP /OH/	CF–10
002070	ACME ELECTRIC CORP	CF–05
002093	ACME STEEL CO	CF–04
002098	ACME UNITED CORP	CF–06
715579	ACNB CORP	CF–04
866712	ACQUA GROUP INC	CF–10
819255	ACQUISITION CAPABILITY INC	CF–09
813926	ACQUISITION INDUSTRIES INC /CO/	CF–08
702511	ACS ENTERPRISES INC	CF–07
751156	ACTEK INC	CF–08
810309	ACTION AUTO RENTAL INC	CF–04
811096	ACTION AUTO STORES INC	CF–05
752263	ACTION COMMUNICATIONS INC	CF–09
002145	ACTION INDUSTRIES INC	CF–05
795887	ACTION PRODUCTS INC	CF–08
747435	ACTION PRODUCTS INTERNATIONAL INC	CF–08
058254	ACTION STAFFING INC	CF–06
846194	ACTIVE ACQUISITIONS INC	CF–10
824301	ACTIVE CAPITAL INC	CF–09
103575	ACTON CORP/DE	CF–05
854152	ACTV INC /DE/	CF–08
816239	ACUNET CORPORATION	CF–08
717014	ACUSON CORP	CF–04
733269	ACXIOM CORP	CF–05
806586	AD RAK HOLDINGS INC	CF–08
313798	ADAC LABORATORIES	CF–05
008050	ADACORP INC	CF–06
002186	ADAGE INC	CF–06
773727	ADAMS JOHN LIFE CORP	CF–08
002178	ADAMS RESOURCES & ENERGY INC	CF–06
709804	ADAPTEC INC	CF–05
061478	ADC TELECOMMUNICATIONS INC	CF–04
741012	ADCOM SYSTEMS INC	CF–08
810665	ADDINGTON RESOURCES INC	CF–04
003141	ADDSCO INDUSTRIES INC	CF–06
874292	ADDVANTAGE MEDIA GROUP INC /OK	CF–10
796486	ADELPHIA COMMUNICATIONS CORP	CF–03
798538	ADEN ENTERPRISES INC	CF–09
883903	ADESA CORP	CF–10
752200	ADIA SERVICES INC	CF–04
846972	ADIENCE INC	CF–04
826773	ADINA INC	CF–09
859173	ADLEX CORP	CF–10
849401	ADM TRONICS UNLIMITED INC/DE	CF–08
779438	ADMAR GROUP INC	CF–08
796343	ADOBE SYSTEMS INC /CA/	CF–05
809796	ADTEC INC	CF–07
002435	ADVANCE CIRCUITS INC	CF–06
770034	ADVANCE DISPLAY TECHNOLOGIES INC	CF–08
002457	ADVANCE ROSS CORP	CF–06
843004	ADVANCED BIOLOGICAL SYSTEMS INC	CF–09
726747	ADVANCED CELLULAR TECHNOLOGY INC	CF–08
002467	ADVANCED COMPUTER TECHNIQUES CORP	CF–07
320179	ADVANCED ENERGY CORP	CF–09
740966	ADVANCED ENERGY RESOURCES INC	CF–07
849706	ADVANCED ENVIRONMENTAL RECYCLING TECHNOL	CF–07
796960	ADVANCED ENVIRONMENTAL SYSTEMS INC	CF–08
861289	ADVANCED LOGIC RESEARCH INC	CF–05
792977	ADVANCED MAGNETICS INC	CF–06
319319	ADVANCED MANUFACTURING SYSTEMS INC	CF–07
814580	ADVANCED MARKETING SERVICES INC	CF–05
823314	ADVANCED MEDICAL DYNAMICS INC	CF–10
817161	ADVANCED MEDICAL INC	CF–05
807732	ADVANCED MEDICAL PRODUCTS INC	CF–08
002488	ADVANCED MICRO DEVICES INC	CF–02
315698	ADVANCED MONITORING SYSTEMS INC	CF–08
722567	ADVANCED NMR SYSTEMS INC	CF–08

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
869986	ADVANCED PHOTONIX INC	CF–10
818033	ADVANCED POLYMER SYSTEMS INC /DE/	CF–06
874979	ADVANCED PROMOTION TECHNOLOGIES INC	CF–10
737717	ADVANCED TOBACCO PRODUCTS INC	CF–08
786823	ADVANCED VIRAL RESEARCH CORP	CF–08
096638	ADVANTA CORP	CF–02
881892	ADVANTAGE BANCORP INC	CF–10
824840	ADVANTAGE LIFE PRODUCTS INC / CO	CF–09
843496	ADVANTISTICS INC /DE/	CF–09
820906	ADVATEX ASSOCIATES INC	CF–06
802206	ADVEN INC	CF–09
319489	ADVEST GROUP INC	CF–03
801622	ADVO SYSTEM INC	CF–04
868740	AEI NET LEASE INCOME & GROWTH FUND XIX LIMITED PARTNERSHIP	CF–10
759641	AEI REAL ESTATE FUND 85–A LTD PARTNERSHI	CF–07
771677	AEI REAL ESTATE FUND 85–B LTD PARTNERSHI	CF–07
785788	AEI REAL ESTATE FUND 86–A LTD PARTNERSHI	CF–07
793631	AEI REAL ESTATE FUND XV LTD PARTNERSHIP	CF–07
804127	AEI REAL ESTATE FUND XVI LTD PARTNERSHIP	CF–06
819577	AEI REAL ESTATE FUND XVII LIMITED PARTNE	CF–09
840459	AEI REAL ESTATE FUND XVIII LIMITED PARTN	CF–09
004911	AEL INDUSTRIES INC	CF–04
857571	AEP GENERATING CO /OH/	CF–02
785787	AEP INDUSTRIES INC	CF–05
736970	AEQUITRON MEDICAL INC	CF–06
856572	AERIAL ACQUISITION INC	CF–10
350200	AERO SERVICES INTERNATIONAL INC	CF–06
002589	AERO SYSTEMS ENGINEERING INC	CF–06
002590	AERO SYSTEMS INC	CF–06
109471	AEROSONIC CORP /DE/	CF–06
856164	AEROVOX INC	CF–05
874761	AES CORPORATION	CF–10
002648	AETNA LIFE & CASUALTY CO	CF–01
785860	AETNA REAL ESTATE ASSOCIATES L P	CF–08
824205	AFFILIATED BANC CORP	CF–04
887026	AFFILIATED FOOD STORES INC	CF–10
849696	AFFILIATED PUBLICATIONS INC	CF–10
884252	AFFINITY BIOTECH INC	CF–10
875133	AFFYMAX N V	CF–10
007668	AFG INDUSTRIES INC	CF–02
879494	AFG INVESTMENT TRUST A	CF–10
879495	AFG INVESTMENT TRUST B	CF–10
810351	AFN INC	CF–07
319126	AFP IMAGING CORP	CF–06
874421	AFS FINANCIAL CORP	CF–10
853892	AG AUTOMOTIVE WAREHOUSES INC	CF–07
875354	AG SERVICES OF AMERICA INC	CF–10
842289	AG–BAG INTERNATIONAL LTD	CF–09
880266	AGCO CORP /DE	CF–10
718936	AGENCY RENT A CAR INC	CF–03
797325	AGINCOURT VENTURES LTD	CF–08
811210	AGOURON PHARMACEUTICALS INC	CF–06
002817	AGRI DYNAMICS INC	CF–08
826678	AGRI PONICS INC	CF–09
879575	AGRICULTURAL MINERALS CO L P/DE	CF–10
875710	AGRIDYNE TECHNOLOGIES INC	CF–10
313997	AGRIPOST INC	CF–06
842888	AGRISTAR INC	CF–08
002852	AGWAY INC	CF–02
771667	AHMANSON H F & CO /DE/	CF–02
855042	AHSC HOLDINGS CORP	CF–10
002880	AIC INTERNATIONAL INC	CF–07
785929	AIFS INC	CF–05
002904	AILEEN INC	CF–06
354173	AIM TELEPHONES INC	CF–05
823556	AIR & WATER TECHNOLOGIES CORP	CF–03
872820	AIR ACADEMY NATIONAL BANCORP	CF–10
868755	AIR CURE ENVIRONMENTAL INC	CF–10
700674	AIR EXPRESS INTERNATIONAL CORP /DE/	CF–04
002969	AIR PRODUCTS & CHEMICALS INC /DE/	CF–02
353184	AIR TRANSPORTATION HOLDING CO INC	CF–07
003000	AIRBORNE FREIGHT CORP /DE/	CF–03

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
812591	AIRCOA HOTEL PARTNERS L P	CF–05
826156	AIRCRAFT INCOME PARTNERS L P	CF–09
853937	AIRFUND IJ INTERNATIONAL LIMITED PARTNER	CF–10
842184	AIRFUND INTERNATIONAL LIMITED PARTNERSHI	CF–09
804212	AIRGAS INC	CF–04
799033	AIRLEASE LTD	CF–05
790708	AIRSENSORS INC	CF–06
877051	AIRSHIELD COMPOSITES INTERNATIONAL CORP	CF–10
764587	AIRSHIP INTERNATIONAL LTD	CF–06
835768	AIRTRAN CORP	CF–09
854658	AJAY SPORTS INC	CF–06
872283	AKAL INTERNATIONAL INC	CF–10
003116	AKORN INC	CF–06
730469	AL LABORATORIES INC	CF–04
003146	ALABAMA GAS CORP	CF–04
003153	ALABAMA POWER CO	CF–01
870382	ALAFIRST BANCSHARES INC	CF–10
355115	ALAMCO INC	CF–05
098618	ALANCO RESOURCES CORP	CF–07
766421	ALASKA AIR GROUP INC	CF–03
003228	ALASKA GOLD CO	CF–06
313809	ALASKA NORTHWEST PROPERTIES INC	CF–07
817642	ALASKA PRECIOUS METALS LTD	CF–08
701288	ALATENN RESOURCES INC	CF–05
003292	ALBA WALDENSIAN INC	CF–06
882293	ALBANK FINANCIAL CORP	CF–10
819793	ALBANY INTERNATIONAL CORP /DE/	CF–03
003327	ALBERTO CULVER CO	CF–03
003333	ALBERTSONS INC /DE/	CF–01
783425	ALC COMMUNICATIONS CORP	CF–04
708484	ALCIDE CORP	CF–07
855042	ALCO HEALTH DISTRIBUTION CORP	CF–10
731269	ALCO HEALTH SERVICES CORP	CF–03
701722	ALCO INTERNATIONAL GROUP INC	CF–08
003370	ALCO STANDARD CORP	CF–02
836243	ALCOA INTERNATIONAL HOLDINGS CO	CF–01
003392	ALD INC	CF–08
003398	ALDEN ELECTRONICS INC	CF–06
886164	ALDEN PRESS CO	CF–10
813656	ALDUS CORP /WA/	CF–05
003449	ALEXANDER & ALEXANDER SERVICES INC	CF–03
003453	ALEXANDER & BALDWIN INC	CF–02
355143	ALEXANDER ENERGY CORP	CF–06
003499	ALEXANDERS INC	CF–04
743532	ALFA CORP	CF–07
846376	ALFA INDUSTRIES INC	CF–10
820600	ALFA INTERNATIONAL CORP	CF–07
014611	ALFA LEISURE INC	CF–08
354767	ALFA RESOURCES INC	CF–09
708717	ALFACELL CORP	CF–08
724989	ALFIN INC	CF–06
003535	ALGOREX CORP	CF–08
863928	ALIAS RESEARCH INC	CF–10
003545	ALICO INC	CF–05
874663	ALKERMES INC	CF–10
818074	ALL AMERICAN SEMICONDUCTOR INC	CF–06
783265	ALL AMERICAN TELEVISION INC	CF–06
885399	ALL FOR A DOLLAR INC	CF–10
837472	ALL QUOTES INC	CF–09
745543	ALL STATE PROPERTIES LP	CF–07
003642	ALLCITY INSURANCE CO /NY/	CF–09
036565	ALLECO INC	CF–10
775368	ALLEGHANY CORP /DE	CF–03
351547	ALLEGHENY & WESTERN ENERGY CORP	CF–04
003650	ALLEGHENY & WESTERN RAILWAY CO	CF–01
715606	ALLEGHENY BANKSHARES CORP	CF–06
774459	ALLEGHENY GENERATING CO	CF–08
811929	ALLEGHENY LUDLUM CORP	CF–03
003673	ALLEGHENY POWER SYSTEM INC	CF–02
003721	ALLEN GROUP INC	CF–04
003753	ALLEN ORGAN CO	CF–05
716193	ALLERCARE INC	CF–07

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
850693	ALLERGAN INC	CF-03
728534	ALLIANCE BANCORPORATION /AK/	CF-04
880249	ALLIANCE CAPITAL CORP	CF-10
825313	ALLIANCE CAPITAL MANAGEMENT LP	CF-04
828881	ALLIANCE ENTERPRISES INC	CF-09
822434	ALLIANCE HEALTH INC	CF-09
817135	ALLIANCE IMAGING INC /DE	CF-10
736994	ALLIANCE PHARMACEUTICAL CORP	CF-05
745452	ALLIANCE WELL SERVICE INC	CF-08
806002	ALLIANT COMPUTER SYSTEMS CORP /DE/	CF-05
866121	ALLIANT TECHSYSTEMS INC	CF-10
352996	ALLICO CORP	CF-07
810995	ALLIED BANKSHARES INC	CF-09
868207	ALLIED CAPITAL ADVISERS INC	CF-10
887429	ALLIED CAPITAL COMMERCIAL CORP	CF-10
852187	ALLIED CLINICAL LABORATORIES INC	CF-10
869495	ALLIED DEVICES CORP	CF-10
774624	ALLIED GROUP INC	CF-06
874710	ALLIED HEALTHCARE PRODUCTS INC	CF-10
003941	ALLIED PRODUCTS CORP /DE/	CF-03
003952	ALLIED RESEARCH CORP	CF-05
773840	ALLIED SIGNAL INC	CF-02
003956	ALLIED SILVER LEAD CO	CF-09
003982	ALLIS CHALMERS CORP	CF-06
846538	ALLOU HEALTH & BEAUTY CARE INC	CF-06
793522	ALLOY COMPUTER PRODUCTS INC	CF-06
810992	ALLSTAR INNS L P /DE/	CF-04
778595	ALLSTAR VIDEO INC	CF-08
852220	ALLSTATE FINANCIAL CORP /VA/	CF-06
065873	ALLTEL CORP	CF-01
804742	ALLWASTE INC	CF-04
858439	ALMACS INC	CF-10
874314	ALMACS SUPERMARKETS INC / DE	CF-10
870732	ALN RESOURCES CORPORATION	CF-10
792160	ALOETTE COSMETICS INC	CF-06
856651	ALPART JAMAICA INC	CF-01
707511	ALPHA 1 BIOMEDICALS INC /DE/	CF-08
004127	ALPHA INDUSTRIES INC	CF-05
352869	ALPHA MICROSYSTEMS	CF-06
312257	ALPHA SOLARCO INC	CF-08
813747	ALPHAREL INC /CA/	CF-07
004164	ALPINE GROUP INC /DE/	CF-06
004165	ALPINE INTERNATIONAL CORP	CF-08
808302	ALPINE MEADOWS OF TAHOE INC	CF-09
712425	ALPNET INC	CF-06
355493	ALTA ENERGY CORP	CF-06
090350	ALTA GOLD CO/NV/	CF-05
796313	ALTAI INC	CF-07
881458	ALTARA INTERNATIONAL INC	CF-10
878903	ALTEON INC /DE	CF-10
870394	ALTER SALES CO INC	CF-10
768251	ALTERA CORP	CF-05
851998	ALTERNATIVE ASSET GROWTH FUND L P	CF-10
775057	ALTEX INDUSTRIES INC	CF-08
741339	ALTRON INC	CF-06
816643	ALTUS FINANCE CORPORATION	CF-04
004281	ALUMINUM CO OF AMERICA	CF-01
004310	ALZA CORP	CF-04
710178	ALZA TTS RESEARCH PARTNERS LTD	CF-09
318580	AM COMMUNICATIONS INC	CF-08
005483	AM DIAGNOSTICS INC	CF-06
002310	AM INTERNATIONAL INC	CF-03
880113	AM TECHNOLOGY INC /DE	CF-10
004317	AMACAN RESOURCES CORP	CF-06
004325	AMALGAMATED AUTOMOTIVE INDUSTRIES INC	CF-07
774448	AMALGAMATED INVESTMENT CORP	CF-08
814577	AMAX GOLD INC	CF-04
004363	AMAX INC /NY/	CF-02
874501	AMBAC INC /DE/	CF-10
702904	AMBANC CORP	CF-05
880414	AMBAR INC	CF-10
020639	AMBASE CORP	CF-02

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
724458	AMBASSADOR FINANCIAL GROUP INC	CF–05
008734	AMBASSADOR FOOD SERVICES CORP	CF–07
756709	AMBASSADOR REAL ESTATE INVESTORS LP	CF–08
276750	AMBER RESOURCES CO	CF–07
888458	AMBERS STORES INC	CF–10
319678	AMBRIT INC	CF–04
724126	AMBULATORY MEDICAL CARE INC	CF–08
885797	AMBULATORY RESOURCES INC	CF–10
722077	AMC ENTERTAINMENT INC	CF–03
027425	AMCAST INDUSTRIAL CORP	CF–04
831002	AMCOR CAPITAL CORP	CF–06
714756	AMCORE FINANCIAL INC	CF–07
004427	AMDAHL CORP	CF–02
838879	AMDL INC	CF–09
005177	AMDURA CORP	CF–04
852905	AME FINANCIAL SERVICES INC	CF–10
004438	AMELCO CORP	CF–06
004447	AMERADA HESS CORP	CF–02
811419	AMERALIA INC	CF–08
004457	AMERCO /NV/	CF–02
855574	AMERIANA BANCORP	CF–10
004468	AMERIBANC INC	CF–07
068336	AMERIBANC INVESTORS GROUP	CF–06
764638	AMERICA FIRST FEDERALLY GUARANTEED MORTG	CF–09
818789	AMERICA FIRST FINANCIAL FUND 1987–A LIMI	CF–08
879759	AMERICA FIRST MORTGAGE SERVICING CO L P II	CF–10
869261	AMERICA FIRST MORTGAGE SERVICING COMPANY LP I	CF–10
789951	AMERICA FIRST PARTICIPATING PREFERRED EQ	CF–05
789952	AMERICA FIRST PARTICIPATING PREFERRED EQ	CF–09
844327	AMERICA FIRST PREP FUND 2 LIMITED PARTNE	CF–09
812565	AMERICA FIRST PREP FUND 2 PENSION SERIES	CF–06
793245	AMERICA FIRST TAX EXEMPT MORTGAGE FUND 2	CF–09
776734	AMERICA FIRST TAX EXEMPT MORTGAGE FUND LTD PARTNERSHIP	CF–04
877476	AMERICA SERVICE GROUP INC /DE	CF–10
706270	AMERICA WEST AIRLINES INC	CF–03
870837	AMERICAL ECONOMY LODGING LP	CF–10
815024	AMERICAN AFFORDABLE HOUSING II LIMITED P	CF–06
815025	AMERICAN AFFORDABLE HOUSING III LIMITED	CF–07
794803	AMERICAN AIRCRAFT CORP/OR/	CF–07
004515	AMERICAN AIRLINES INC	CF–02
721238	AMERICAN BANCORP INC/LA	CF–06
701803	AMERICAN BANCORP OF NEVADA	CF–06
004570	AMERICAN BANCORPORATION /OH/	CF–05
886943	AMERICAN BANCSHARES INC/NC	CF–10
352801	AMERICAN BANCSHARES OF HOUMA INC	CF–06
350571	AMERICAN BANKERS INSURANCE GROUP INC	CF–09
878375	AMERICAN BAR ASSOCIATION MEMBERS STATE STREET COLLECTIVE TR	CF–10
*004611	AMERICAN BILTRITE INC	CF–05
874790	AMERICAN BIODYNE INC	CF–10
867572	AMERICAN BIOMED INC	CF–10
741443	AMERICAN BIONETICS INC	CF–08
845752	AMERICAN BODY ARMOR & EQUIPMENT INC	CF–07
789073	AMERICAN BRANDS INC /DE/	CF–02
771497	AMERICAN BUILDING MAINTENANCE INDUSTRIES	CF–04
748103	AMERICAN BUSINESS COMPUTERS CORP	CF–07
866921	AMERICAN BUSINESS CREDIT INC	CF–10
859633	AMERICAN BUSINESS FINANCE CORP	CF–10
879437	AMERICAN BUSINESS INFORMATION INC /DE	CF–10
004672	AMERICAN BUSINESS PRODUCTS INC	CF–04
704847	AMERICAN CABLE TV INVESTORS 2	CF–10
742274	AMERICAN CABLE TV INVESTORS 3	CF–10
785025	AMERICAN CABLE TV INVESTORS 4 LTD	CF–10
810963	AMERICAN CABLE TV INVESTORS 5 LTD	CF–10
856200	AMERICAN CAPITAL & RESEARCH CORP /DE/	CF–04
004707	AMERICAN CAPITAL CORP	CF–03
842570	AMERICAN CAPITAL HOLDINGS INC	CF–10
789468	AMERICAN CAPITAL MANAGEMENT & RESEARCH INC	CF–05
719271	AMERICAN CARRIERS INC	CF–04
769339	AMERICAN CITY BUSINESS JOURNALS INC	CF–05
774517	AMERICAN CLAIMS EVALUATION INC	CF–08
799194	AMERICAN COAL CORP	CF–09
813621	AMERICAN COLLOID CO	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
357070	AMERICAN COMMUNICATIONS & TELEVISION INC	CF–07
019548	AMERICAN COMMUNITY DEVELOPMENT GROUP INC	CF–06
743458	AMERICAN COMPLETION PROGRAM 1983–3	CF–08
762404	AMERICAN CONFECTIONERY CORP	CF–09
812407	AMERICAN CONSOLIDATED GOLD CORP	CF–08
799028	AMERICAN CONSUMER PRODUCTS INC	CF–05
004811	AMERICAN CONSUMERS INC	CF–08
314474	AMERICAN CONTINENTAL CORP /OH/	CF–08
811780	AMERICAN CORPORATE INVESTORS INC	CF–08
819913	AMERICAN CREDIT OPTICAL INC /DE/	CF–08
004825	AMERICAN CYANAMID CO	CF–02
004835	AMERICAN CYTOGENETICS INC	CF–08
874380	AMERICAN DENTAL LASER INC	CF–10
201076	AMERICAN DREDGING	CF–10
837038	AMERICAN DRUG SCREENS INC	CF–07
847394	AMERICAN EAGLE INVESTMENT CORP	CF–10
731297	AMERICAN EAGLE RESOURCES INC	CF–08
742126	AMERICAN ECOLOGY CORP	CF–05
790069	AMERICAN EDUCATIONAL PRODUCTS INC	CF–08
320349	AMERICAN EDUCATORS FINANCIAL CORP/DE/	CF–09
004904	AMERICAN ELECTRIC POWER COMPANY INC	CF–02
352281	AMERICAN ELECTROMEDICS CORP	CF–08
315420	AMERICAN ENTERPRISES INC	CF–08
808378	AMERICAN ENTERTAINMENT PARTNERS II L P	CF–07
793078	AMERICAN ENTERTAINMENT PARTNERS LP	CF–09
737299	AMERICAN ENTERTAINMENT VENTURE CORP	CF–09
764199	AMERICAN EQUINE PRODUCTS INC	CF–07
317548	AMERICAN EQUITY HOUSING FUND 1	CF–07
715428	AMERICAN EXPLORATION CO	CF–04
004962	AMERICAN EXPRESS CO	CF–02
004969	AMERICAN EXPRESS CREDIT CORP	CF–01
004977	AMERICAN FAMILY CORP	CF–03
819028	AMERICAN FILM TECHNOLOGIES INC /DE/	CF–07
005009	AMERICAN FILTRONA CORP	CF–05
005016	AMERICAN FINANCIAL CORP	CF–02
319157	AMERICAN FINANCIAL ENTERPRISES INC /CT/	CF–08
351541	AMERICAN FRANCHISE GROUP INC	CF–07
725552	AMERICAN FRUCTOSE CORP	CF–04
885002	AMERICAN FUNERAL SERVICES CORP	CF–10
005103	AMERICAN GENERAL CORP /TX/	CF–02
025598	AMERICAN GENERAL FINANCE CORP	CF–02
025600	AMERICAN GENERAL FINANCE INC	CF–02
005117	AMERICAN GEOLOGICAL ENTERPRISES INC	CF–08
005133	AMERICAN GREETINGS CORP	CF–02
808240	AMERICAN HEALTH PROPERTIES INC	CF–03
712194	AMERICAN HEALTH SERVICES CORP /DE/	CF–06
738339	AMERICAN HEALTHCARE MANAGEMENT INC	CF–03
005172	AMERICAN HERITAGE LIFE INVESTMENT CORP	CF–05
005187	AMERICAN HOME PRODUCTS CORP	CF–02
005193	AMERICAN HOME SHIELD CORP	CF–05
005207	AMERICAN HOUSING PARTNERS	CF–07
846009	AMERICAN HOUSING TRUST IV	CF–10
742102	AMERICAN INCOME 2 LTD PARTNERSHIP	CF–06
742103	AMERICAN INCOME 3 LTD PARTNERSHIP	CF–06
789673	AMERICAN INCOME 4 LTD PARTNERSHIP	CF–06
799175	AMERICAN INCOME 5 LTD PARTNERSHIP	CF–06
780396	AMERICAN INCOME 6 LTD PARTNERSHIP	CF–09
780398	AMERICAN INCOME 7 LTD PARTNERSHIP	CF–06
780399	AMERICAN INCOME 8 LIMITED PARTNERSHIP	CF–06
864236	AMERICAN INCOME FUND I	CF–10
868677	AMERICAN INCOME FUND I–A	CF–10
868678	AMERICAN INCOME FUND I–B	CF–10
868679	AMERICAN INCOME FUND I–C	CF–10
868680	AMERICAN INCOME FUND I–D	CF–10
868681	AMERICAN INCOME FUND I–E	CF–10
882322	AMERICAN INCOME HOLDING INC	CF–10
808512	AMERICAN INCOME PARTNERS III–A LIMITED P	CF–05
808513	AMERICAN INCOME PARTNERS III–B LIMITED P	CF–05
808515	AMERICAN INCOME PARTNERS III–C LIMITED P	CF–06
808516	AMERICAN INCOME PARTNERS III–D LIMITED P	CF–09
826929	AMERICAN INCOME PARTNERS IV A	CF–09
826930	AMERICAN INCOME PARTNERS IV B	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
826931	AMERICAN INCOME PARTNERS IV C L P	CF–09
826932	AMERICAN INCOME PARTNERS IV D LP	CF–09
847557	AMERICAN INCOME PARTNERS V A LTD PARTNER	CF–10
847558	AMERICAN INCOME PARTNERS V B LTD PARTNER	CF–10
005227	AMERICAN INDEMNITY FINANCIAL CORP	CF–07
276298	AMERICAN INDUSTRIES LTD	CF–09
732715	AMERICAN INFORMATION TECHNOLOGIES CORP	CF–02
724533	AMERICAN INSURED MORTGAGE INVESTORS	CF–04
784014	AMERICAN INSURED MORTGAGE INVESTORS L P SER 86	CF–04
811437	AMERICAN INSURED MORTGAGE INVESTORS L P SER 88	CF–09
753281	AMERICAN INSURED MORTGAGE INVESTORS SERIES 85 LP	CF–08
732179	AMERICAN INTEGRITY CORP	CF–06
005272	AMERICAN INTERNATIONAL GROUP INC	CF–02
799119	AMERICAN INTERNATIONAL PETROLEUM CORP /N	CF–06
830483	AMERICAN JET HOLDINGS INC	CF–09
005368	AMERICAN LIBERTY FINANCIAL CORP	CF–08
887205	AMERICAN LIFE HOLDING CO	CF–10
768710	AMERICAN LIFE INVESTORS INC	CF–09
005385	AMERICAN LIST CORP	CF–07
008855	AMERICAN LOCKER GROUP INC	CF–07
005405	AMERICAN MAIZE PRODUCTS CO	CF–03
310624	AMERICAN MANAGEMENT SYSTEMS INC	CF–05
700721	AMERICAN MEDICAL ALERT CORP	CF–08
869625	AMERICAN MEDICAL ASSESSMENT PROGRAMS INC	CF–10
715247	AMERICAN MEDICAL ELECTRONICS INC	CF–07
861439	AMERICAN MEDICAL HOLDINGS INC	CF–02
312655	AMERICAN MEDICAL INTERNATIONAL INC /DE/	CF–02
888675	AMERICAN MEDICAL RESPONSE INC	CF–10
842695	AMERICAN MEDICAL TECHNOLOGIES INC	CF–10
319016	AMERICAN METALS SERVICE INC	CF–07
066052	AMERICAN MIDLAND CORP	CF–06
714593	AMERICAN MOBILE SYSTEMS INC	CF–06
005486	AMERICAN MORTGAGE & INVESTMENT CO	CF–08
863957	AMERICAN MORTGAGE SECURITIES INC	CF–10
741516	AMERICAN NATIONAL BANKSHARES INC	CF–05
350898	AMERICAN NATIONAL PETROLEUM CO /DE/	CF–05
837298	AMERICAN NETWORK GROUP INC	CF–07
005550	AMERICAN NUCLEAR CORP	CF–01
740055	AMERICAN NURSERY PRODUCTS INC	CF–05
746896	AMERICAN OIL & GAS CORP	CF–04
005577	AMERICAN PACESETTER	CF–04
350832	AMERICAN PACIFIC CORP/DE	CF–05
701719	AMERICAN PACIFIC MINT INC	CF–07
005611	AMERICAN PETROFINA INC	CF–02
724024	AMERICAN PHYSICIANS SERVICE GROUP INC	CF–06
078319	AMERICAN PLASTICS & CHEMICALS INC	CF–07
835910	AMERICAN POWER CONVERSION CORPORATION	CF–06
005657	AMERICAN PRECISION INDUSTRIES INC	CF–06
725457	AMERICAN PRESIDENT COMPANIES LTD	CF–01
723253	AMERICAN QUALITY PRODUCTS INC	CF–09
889217	AMERICAN RE CORP	CF–10
813762	AMERICAN REAL ESTATE PARTNERS L P	CF–03
827165	AMERICAN REALTY TRUST INC /GA	CF–04
005719	AMERICAN RECREATION CENTERS INC	CF–05
792126	AMERICAN RELIANCE GROUP INC	CF–06
711512	AMERICAN REPUBLIC REALTY FUND I	CF–06
225255	AMERICAN RESOURCES GROUP INC/CO	CF–08
817900	AMERICAN RESTAURANT PARTNERS L P	CF–07
729545	AMERICAN RESTAURANTS CORP	CF–07
778643	AMERICAN RETIREMENT VILLAS PROPERTIES	CF–06
830156	AMERICAN RETIREMENT VILLAS PROPERTIES II	CF–09
853274	AMERICAN RETIREMENT VILLAS PROPERTIES III	CF–10
824206	AMERICAN RICE INC	CF–04
770701	AMERICAN SAFETY CLOSURE CORP	CF–07
005768	AMERICAN SCIENCE & ENGINEERING INC	CF–07
799296	AMERICAN SCREEN CO	CF–07
744825	AMERICAN SHARED HOSPITAL SERVICES	CF–05
005818	AMERICAN SHIP BUILDING CO	CF–05
713425	AMERICAN SOFTWARE INC	CF–05
725349	AMERICAN SOUTHWEST FINANCE CO INC	CF–04
706236	AMERICAN SOUTHWEST FINANCIAL CORP	CF–02
817383	AMERICAN SOUTHWEST MORTGAGE INVESTMENTS	CF–03

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
350190	AMERICAN SPORTS ADVISORS INC	CF–08
005850	AMERICAN STANDARD INC	CF–02
804307	AMERICAN STEEL & WIRE CORPORATION	CF–05
090811	AMERICAN STORES CO /NEW/	CF–02
883032	AMERICAN STUDIOS INC	CF–10
880807	AMERICAN SUPERCONDUCTOR CORP /DE/	CF–10
315024	AMERICAN SURGERY CENTERS CORP	CF–08
842314	AMERICAN TAX CREDIT PROPERTIES II L P	CF–10
856135	AMERICAN TAX CREDIT PROPERTIES III LP	CF–10
830159	AMERICAN TAX CREDIT PROPERTIES LP	CF–09
766430	AMERICAN TECHNICAL CERAMICS CORP	CF–06
005907	AMERICAN TELEPHONE & TELEGRAPH CO	CF–01
318025	AMERICAN TOXXIC CONTROL INC	CF–06
790928	AMERICAN TRAVELLERS CORP	CF–09
859792	AMERICAN UNITED GLOBAL INC	CF–10
005981	AMERICAN VANGUARD CORP	CF–06
841543	AMERICAN VETERINARY PRODUCTS INC	CF–09
837037	AMERICAN VIDEO CLEARING HOUSE INC	CF–09
818265	AMERICAN VIDEO IMAGING INC	CF–07
866730	AMERICAN WASTE SERVICES INC	CF–10
080040	AMERICAN WATER RESOURCES INC	CF–08
318819	AMERICAN WATER WORKS CO INC	CF–02
794619	AMERICAN WOODMARK CORP	CF–05
356959	AMERICANA HOTELS & REALTY CORP	CF–05
830746	AMERICAS COFFEE CUP INC	CF–09
811119	AMERICOLD CORP /OR/	CF–03
887396	AMERICOMM CORP	CF–10
757765	AMERICORP INC	CF–06
831547	AMERICUS FUNDING CORP	CF–09
066661	AMERICUS MANAGEMENT CORP	CF–07
837993	AMERIFAX INC /DE/	CF–08
874735	AMERIFED FINANCIAL CORP	CF–10
721601	AMERIHEALTH INC	CF–06
778423	AMERIHOST PROPERTIES INC	CF–07
799898	AMERIMARK CORP	CF–08
822615	AMERINST INSURANCE GROUP INC	CF–10
072354	AMERISCRIBE CORP	CF–06
790730	AMERON INC/DE	CF–03
005071	AMES DEPARTMENT STORES INC	CF–02
001969	AMETECH INC	CF–08
005092	AMETEK INC	CF–03
842701	AMFAC JMB FINANCE INC	CF–10
839437	AMFAC JMB HAWAII INC	CF–09
318154	AMGEN INC	CF–04
741559	AMISTAR CORP	CF–06
799026	AMITY BANCORP INC	CF–04
879984	AMITY BANCSHARES INC /DE	CF–10
839687	AMNET TELECOMMUNICATIONS GROUP LTD	CF–09
766916	AMOCO CO	CF–02
093397	AMOCO CORP	CF–02
725729	AMOSKEAG BANK SHARES INC	CF–07
006161	AMOSKEAG CO	CF–03
006164	AMP INC	CF–02
731859	AMPAL AMERICAN ISRAEL CORP /NY/	CF–02
006176	AMPCO PITTSBURGH CORP	CF–04
887433	AMPEX INC	CF–10
803016	AMPLICON INC	CF–04
006201	AMR CORP	CF–02
809572	AMRE INC	CF–05
745061	AMRECORP REALTY FUND II	CF–07
776813	AMRECORP REALTY FUND III	CF–09
006207	AMREP CORP	CF–04
843009	AMS INC /OK/	CF–09
872463	AMSCO INTERNATIONAL INC	CF–10
078302	AMSERV INC	CF–07
003133	AMSOUTH BANCORPORATION	CF–02
807711	AMSTAR CORP /DE/	CF–03
855612	AMTECH CORP	CF–06
720500	AMTECH SYSTEMS INC	CF–07
005320	AMVESTORS FINANCIAL CORP	CF–04
780118	AMWEST INSURANCE GROUP INC	CF–06
881464	AMYLIN PHARMACEUTICALS INC	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
719135	AN CON GENETICS INC	CF–08
805741	ANAC HOLDING CORP	CF–02
006260	ANACOMP INC	CF–03
773910	ANADARKO PETROLEUM CORP	CF–02
839022	ANAHEIM FOUNDRY CO	CF–07
006281	ANALOG DEVICES INC	CF–03
006284	ANALOGIC CORP	CF–04
310876	ANALYSIS & TECHNOLOGY INC	CF–05
006292	ANALYSTS INTERNATIONAL CORP	CF–06
753048	ANALYTICAL SURVEYS INC	CF–07
006314	ANAREN MICROWAVE INC	CF–06
869623	ANCHOR BANCORP INC	CF–10
885322	ANCHOR BANCORP WISCONSIN INC	CF–10
819716	ANCHOR CAPITAL II INC	CF–09
741561	ANCHOR FINANCIAL CORP	CF–06
841002	ANCO PRODUCTION CO	CF–09
070262	ANDAL CORP	CF–05
006383	ANDERSEN GROUP INC	CF–05
007659	ANDERSON STOKES INC	CF–08
006474	ANDERSONS	CF–04
810589	ANDOVER BANCORP INC	CF–07
842923	ANDOVER EQUITIES CORP	CF–09
793029	ANDOVER TOGS INC	CF–05
849146	ANDRAPLEX CORP	CF–10
006494	ANDREA RADIO CORP	CF–07
317093	ANDREW CORP	CF–04
277025	ANDREWS GROUP INC /DE/	CF–05
352425	ANDROS INC	CF–06
877929	ANERGEN INC	CF–10
815093	ANGEION CORP/MN	CF–07
316315	ANGELES CORP /CA/	CF–04
852159	ANGELES GROWTH & INCOME FUND	CF–10
870561	ANGELES HOUSING CONCEPTS INC	CF–10
812564	ANGELES INCOME PROPERTIES LTD 6	CF–05
840997	ANGELES MORTGAGE INVESTMENT TRUST	CF–09
789282	ANGELES OPPORTUNITY PROPERTIES LTD	CF–07
831972	ANGELES PARTICIPATING MORTGAGE TRUST	CF–05
812187	ANGELES PARTNERS 16	CF–09
006571	ANGELICA CORP /NEW/	CF–04
706081	ANGHEL LABORATORIES INC	CF–08
811317	ANGIO MEDICAL CORP /DE/	CF–08
310569	ANHEUSER BUSCH COMPANIES INC	CF–01
006627	ANHEUSER–BUSCH INC	CF–01
853529	ANKAP INC	CF–10
318499	ANNANDALE CORP	CF–08
842705	ANNAPOLIS BANCSHARES INC	CF–09
874214	ANNTAYLOR STORES CORP	CF–10
065695	ANR PIPELINE CO	CF–02
006694	ANSONIA DERBY WATER CO	CF–07
852001	ANTAEUS ACQUISITIONS INC	CF–10
065202	ANTARES RESOURCES CORP	CF–09
826326	ANTENNAS AMERICA INC	CF–09
727120	ANTHEM ELECTRONICS INC /DE/	CF–05
006720	ANTHONY INDUSTRIES INC	CF–04
742492	ANVIL INVESTOR SERVICES INC	CF–08
006756	ANW INC /DE	CF–06
777358	AOI COAL CO	CF–05
315293	AON CORP	CF–02
716399	AORTECH INC	CF–08
796505	APA OPTICS INC /MN/	CF–07
006769	APACHE CORP	CF–03
315645	APACHE ENERGY & MINERALS CO	CF–09
824104	APACHE INVESTMENTS INC	CF–09
727538	APACHE OFFSHORE INVESTMENT PARTNERSHIP	CF–05
318681	APACHE PETROLEUM LTD PARTNERSHIP 1980–I	CF–07
313304	APACHE PETROLEUM LTD PARTNERSHIP 1980–II	CF–09
311471	APCO ARGENTINA INC/NEW	CF–06
351139	APERTUS TECHNOLOGIES INC	CF–05
840319	APHTON CORP	CF–10
003197	API ENTERPRISES INC	CF–08
006841	APL CORP	CF–03
006845	APOGEE ENTERPRISES INC	CF–04

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
724915	APOGEE ROBOTICS INC	CF-08
823876	APOGEE TECHNOLOGY INC	CF-08
006879	APPALACHIAN POWER CO	CF-02
004319	APPAREL AMERICA INC	CF-05
704322	APPIAN TECHNOLOGY INC	CF-06
320193	APPLE COMPUTER INC	CF-02
853665	APPLEBEES INTERNATIONAL INC	CF-06
840470	APPLETREE MARKETS INC	CF-04
862861	APPLIANCE RECYCLING CENTERS OF AMERICA INC /MN	CF-10
810723	APPLIED BIOSCIENCE INTERNATIONAL INC	CF-05
806523	APPLIED BIOSENSORS INC	CF-09
719545	APPLIED BIOSYSTEMS INC	CF-04
726398	APPLIED DATA COMMUNICATIONS INC	CF-07
789103	APPLIED DENTAL TECHNOLOGY INC	CF-09
716778	APPLIED DNA SYSTEMS INC	CF-08
874389	APPLIED EXTRUSION TECHNOLOGIES INC /DE	CF-10
761034	APPLIED GENETIC VENTURES INC	CF-08
873565	APPLIED IMMUNE SCIENCES INC/DE/	CF-10
006948	APPLIED MAGNETICS CORP	CF-04
006951	APPLIED MATERIALS INC /DE	CF-03
312258	APPLIED MEDICAL DEVICES INC	CF-08
744962	APPLIED MICROBIOLOGY INC	CF-08
006955	APPLIED POWER INC	CF-03
794876	APPLIED RESEARCH CORP	CF-08
705868	APPLIED SPECTRUM TECHNOLOGIES INC	CF-08
860420	APS HOLDING CORPORATION	CF-10
721465	APT HOUSING PARTNERS LTD PARTNERSHIP	CF-09
841054	AQUA BUOY CORP	CF-09
863481	AQUA VIE BEVERAGE CORPORATION	CF-10
352991	AQUANAUTICS CORP	CF-08
762831	AQUASCIENCES INTERNATIONAL INC	CF-08
837490	AQUASEARCH INC	CF-09
757523	ARA GROUP INC	CF-02
007039	ARABIAN SHIELD DEVELOPMENT CO	CF-06
880122	ARAMED INC	CF-10
007047	ARAPAHO PETROLEUM INC	CF-09
791048	ARBOR DRUGS INC	CF-04
888553	ARBOR NATIONAL HOLDINGS INC	CF-10
862450	ARCADIAN CORP	CF-10
863906	ARCADIAN PARTNERS L P	CF-10
880886	ARCH COMMUNICATIONS GROUP INC	CF-10
722144	ARCH PETROLEUM INC	CF-06
007084	ARCHER DANIELS MIDLAND CO	CF-01
731655	ARCHIVE CORP /DE/	CF-04
819544	ARCO CHEMICAL CO	CF-02
844849	ARCUS INC	CF-07
225051	ARDEN GROUP INC	CF-04
353575	ARDEN INTERNATIONAL KITCHENS INC	CF-07
883502	ARGO BANCORP INC /DE/	CF-10
800082	ARGONAUT GROUP INC	CF-04
879796	ARI NETWORK SERVICES INC /WI	CF-10
702301	ARICO AMERICA REALESTATE INVESTMENT CO	CF-09
765883	ARIL GROUP INC	CF-08
356591	ARINCO COMPUTER SYSTEMS INC	CF-09
785962	ARIS CORPORATION	CF-04
799902	ARISTA INVESTORS CORP	CF-08
007214	ARISTAR INC	CF-02
793592	ARITECH CORP	CF-05
838445	ARIX CORP	CF-06
724904	ARIZONA INSTRUMENT CORP	CF-07
830748	ARIZONA LAND INCOME CORP	CF-06
846906	ARIZONA LAND OPPORTUNITY FUND LIMITED PA	CF-10
007286	ARIZONA PUBLIC SERVICE CO	CF-02
779544	ARK RESTAURANTS CORP	CF-06
007302	ARKANSAS BEST CORP	CF-03
846729	ARKANSAS FREIGHTWAYS CORP	CF-05
007323	ARKANSAS POWER & LIGHT CO	CF-02
007314	ARKLA INC	CF-02
007346	ARLEN CORP	CF-07
788610	ARLINGTON FINANCE CORP	CF-05
065942	ARLINGTON REALTY INVESTORS	CF-08
007377	ARMADA CORP	CF-05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
814339	ARMANINO FOODS OF DISTINCTION INC /CO/	CF–10
008699	ARMATRON INTERNATIONAL INC	CF–06
007383	ARMCO INC	CF–02
797975	ARMOR ALL PRODUCTS CORP	CF–04
788078	ARMORED STORAGE INCOME INVESTORS 2	CF–08
760719	ARMORED STORAGE INCOME INVESTORS LTD PAR	CF–07
007431	ARMSTRONG WORLD INDUSTRIES INC	CF–02
700612	ARNOLD INDUSTRIES INC	CF–05
819689	ARRHYTHMIA RESEARCH TECHNOLOGY INC /DE/	CF–08
007533	ARROW AUTOMOTIVE INDUSTRIES INC	CF–05
007536	ARROW ELECTRONICS INC	CF–03
717538	ARROW FINANCIAL CORP	CF–08
880041	ARROW INTERNATIONAL INC	CF–10
061494	ARROW MAGNOLIA INTERNATIONAL INC	CF–07
860401	ARROW MANAGEMENT INC	CF–10
822618	ART CARDS INC	CF–10
820735	ART GUARD INC	CF–09
857874	ART WORLD INDUSTRIES INC	CF–10
804237	ARTECH RECOVERY SYSTEMS INC	CF–08
718044	ARTEL COMMUNICATIONS CORP	CF–07
863110	ARTESIAN RESOURCES CORP	CF–10
877931	ARTISOFT INC	CF–10
007610	ARTISTIC GREETINGS INC	CF–07
200243	ARTRA GROUP INC	CF–05
007623	ARTS WAY MANUFACTURING CO INC	CF–07
812704	ARVAL HOLDINGS INC	CF–08
814046	ARVIDA JMB PARTNERS L P	CF–03
852494	ARVIDA JMB PARTNERS L P II	CF–10
007636	ARVIN INDUSTRIES INC	CF–02
002601	ARX INC	CF–05
793961	ASA INTERNATIONAL LTD	CF–06
007649	ASARCO INC	CF–02
746631	ASDAR GROUP INC	CF–08
789547	ASHA CORP	CF–08
831744	ASHLAND CAPITAL GROUP INC	CF–10
833890	ASHLAND COAL INC	CF–04
007686	ASHLAND FINANCIAL SERVICES INC	CF–07
007694	ASHLAND OIL INC	CF–02
836102	ASI HOLDING CORP	CF–02
354797	ASK COMPUTER SYSTEMS INC	CF–04
314202	ASKCORP	CF–07
868453	ASPEN BANCSHARES INC	CF–10
319458	ASPEN EXPLORATION CORP	CF–08
741517	ASPEN IMAGING INTERNATIONAL INC	CF–06
814725	ASPEN LEAF INC	CF–08
841073	ASPEN WIND INC	CF–07
797510	ASSET BACKED SECURITIES CORP	CF–09
799241	ASSET GROWTH PARTNERS INC	CF–08
804138	ASSET INVESTORS CORP	CF–02
825535	ASSISTED HOUSING FUND LP I	CF–09
832813	ASSIX INTERNATIONAL INC	CF–06
007789	ASSOCIATED BANC CORP	CF–07
230036	ASSOCIATED COMMUNICATIONS CORP	CF–05
836666	ASSOCIATED NATURAL GAS CORP	CF–04
785791	ASSOCIATED PLANNERS REALTY FUND	CF–07
814077	ASSOCIATED PLANNERS REALTY GROWTH FUND	CF–08
808420	ASSOCIATED PLANNERS REALTY INCOME FUND	CF–07
007973	ASSOCIATES CORPORATION OF NORTH AMERICA	CF–02
007974	ASSOCIATES FIRST CAPITAL CORP	CF–02
742356	ASSUMPTION BANCSHARES INC	CF–06
844216	AST GENERAL CORP /DE/	CF–04
725182	AST RESEARCH INC /DE/	CF–04
792987	ASTEC INDUSTRIES INC	CF–04
837584	ASTORIA INC	CF–09
008033	ASTRA CORP	CF–07
008038	ASTREX INC	CF–06
351385	ASTRO DRILLING CO	CF–07
008146	ASTRO MED INC /NEW/	CF–06
782145	ASTRO STREAM CORP	CF–08
215155	ASTROCOM CORP	CF–07
008063	ASTRONICS CORP	CF–06
008065	ASTROSYSTEMS INC	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
835759	ASTROTECH INTERNATIONAL CORP /NEW	CF-10
008076	AT&E CORP	CF-05
861940	AT&T CAPITAL CORP	CF-01
760615	AT&T CREDIT CORP	CF-01
812192	ATA RESEARCH PROFUTURES DIVERSIFIED FUND	CF-06
792449	ATALANTA SOSNOFF CAPITAL CORP /DE/	CF-05
802019	ATARI CORP	CF-04
828828	ATC ENVIRONMENTAL INC	CF-07
865286	ATC INC	CF-10
008088	ATCHISON TOPEKA & SANTA FE RAILWAY CO	CF-09
840016	ATCORP INC	CF-09
818730	ATEK METALS CENTER INC	CF-06
785857	ATEL CASH DISTRIBUTION FUND	CF-07
823065	ATEL CASH DISTRIBUTION FUND II	CF-09
856123	ATEL CASH DISTRIBUTION FUND III	CF-10
879612	ATEL CASH DISTRIBUTION FUND IV L P	CF-10
278314	ATHANOR GROUP INC	CF-07
821529	ATHENA FUND II L P	CF-09
844053	ATHENA VENTURES INC	CF-09
008109	ATHEY PRODUCTS CORP	CF-06
008117	ATHLONE INDUSTRIES INC	CF-04
002615	ATI PHARMACEUTICALS INC	CF-07
008126	ATICO FINANCIAL CORP	CF-04
008137	ATKINSON GUY F CO OF CALIFORNIA	CF-03
832770	ATLANFED BANCORP INC	CF-09
008154	ATLANTA GAS LIGHT CO	CF-02
885798	ATLANTA MOB INC	CF-10
008177	ATLANTIC AMERICAN CORP	CF-09
730408	ATLANTIC CITY BOARDWALK ASSOCIATES LP	CF-09
008192	ATLANTIC CITY ELECTRIC CO	CF-01
806393	ATLANTIC ENERGY INC	CF-01
786618	ATLANTIC EXPRESS INC	CF-05
831612	ATLANTIC INCOME PROPERTIES LIMITED PARTN	CF-09
802490	ATLANTIC RESTAURANT VENTURES INC	CF-07
775483	ATLANTIC RICHFIELD CO /DE	CF-02
702720	ATLANTIC SOUTHEAST AIRLINES INC	CF-04
879585	ATLANTIC TELE NETWORK INC /DE	CF-10
702338	ATLANTIC WEST LANDMARK PROPERTIES LTD	CF-07
811828	ATLANTIS GROUP INC /DE/	CF-04
008302	ATLAS CORP	CF-05
878148	ATLAS EQUITY INC	CF-10
872448	ATMEL CORP	CF-10
731802	ATMOS ENERGY CORP	CF-04
765028	ATNN INC	CF-06
825830	ATRATECH INC	CF-08
831532	ATRIX INTERNATIONAL INC	CF-09
809875	ATRIX LABORATORIES INC	CF-07
828509	ATS MONEY SYSTEMS INC	CF-08
761272	ATTENTION MEDICAL CO INC	CF-08
008411	ATWOOD OCEANICS INC	CF-01
707364	AUBURN BANCORP	CF-06
744187	AUDIO VIDEO AFFILIATES INC	CF-05
874686	AUDIOSCIENCE INC/MN	CF-10
807707	AUDIOVOX CORP	CF-04
811206	AUDRE RECOGNITION SYSTEMS INC	CF-08
008462	AUGAT INC	CF-04
723639	AULT INC	CF-07
814548	AUNTEL CAPITAL INC	CF-08
826253	AURA SYSTEMS INC	CF-06
008497	AURIC METALS CORP	CF-08
725518	AURORA ENVIRONMENTAL INC	CF-07
877406	AUSTINS INTERNATIONAL INC	CF-10
867536	AUTHENTIC FITNESS CORP	CF-10
008588	AUTHENTICOLOR INC	CF-07
843086	AUTHORIZED DISTRIBUTION NETWORK INC	CF-07
841715	AUTO CHEK CENTERS INC	CF-09
008598	AUTO GRAPHICS INC	CF-07
278048	AUTO TROL TECHNOLOGY CORP	CF-05
879235	AUTOCAM CORP/MI	CF-10
350067	AUTOCLAVE ENGINEERS INC	CF-05
769397	AUTODESK INC	CF-04
778705	AUTODIE CORP	CF-04

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
357078	AUTOFINANCE GROUP INC /CA/	CF–08
351017	AUTOINFO INC	CF–06
008670	AUTOMATIC DATA PROCESSING INC	CF–02
702891	AUTOMATIX INC	CF–07
754568	AUTOMEDIX SCIENCES INC	CF–08
877665	AUTOMOBILE CREDIT FINANCE 1992 II INC	CF–10
833441	AUTOMOBILE PROTECTION CORP APCO	CF–07
885262	AUTOMOTIVE INDUSTRIES HOLDING INC	CF–10
008759	AUTOTROL CORP	CF–06
866787	AUTOZONE INC	CF–10
872202	AVALON COMMUNITY SERVICES INC	CF–10
039677	AVATAR HOLDINGS INC	CF–03
008795	AVCO FINANCIAL SERVICES INC	CF–02
883982	AVECOR CARDIOVASCULAR INC	CF–10
008802	AVEMCO CORP	CF–05
008818	AVERY DENNISON CORPORATION	CF–02
795574	AVESIS INC	CF–08
812371	AVIATION EDUCATION SYSTEMS INC	CF–09
875196	AVITAR INC /DE	CF–10
008858	AVNET INC	CF–02
316537	AVOCA INC	CF–08
008868	AVON PRODUCTS INC	CF–02
832493	AVON RENT A CAR & TRUCK CORP	CF–06
829444	AVONDALE INDUSTRIES INC	CF–03
859163	AVX CORP	CF–03
319037	AW COMPUTER SYSTEMS INC	CF–08
008919	AYDIN CORP	CF–04
791012	AZATECH INC	CF–08
852807	AZTAR CORP	CF–03
008947	AZTEC MANUFACTURING CO	CF–06
225067	AZTECH INTERNATIONAL LTD	CF–08
008958	AZUSA VALLEY WATER CO	CF–07
833443	BABBAGES INC	CF–05
880229	BACHMAN INFORMATION SYSTEMS INC /MA/	CF–10
883299	BACK BAY RESTAURANT GROUP INC	CF–10
724571	BADDOUR INC	CF–05
009092	BADGER METER INC	CF–05
009096	BADGER PAPER MILLS INC	CF–05
009128	BAGDAD CHASE INC	CF–08
753237	BAILEY CORP	CF–06
350750	BAIRNCO CORP	CF–04
726656	BAKER COMMUNICATIONS INC	CF–07
808362	BAKER HUGHES INC	CF–02
792570	BAKER J INC	CF–04
009263	BAKER MICHAEL CORP	CF–05
846874	BAKER VIDEOACTIVE CORP	CF–10
052813	BALA CYNWYD CORP	CF–08
854151	BALANCED OPPORTUNITY FUND LIMITED PARTNE	CF–10
009326	BALCHEM CORP	CF–07
763535	BALCOR COLONIAL STORAGE INCOME FUND 85	CF–05
795748	BALCOR COLONIAL STORAGE INCOME FUND 86	CF–05
763697	BALCOR CURRENT INCOME FUND 85	CF–05
798790	BALCOR CURRENT INCOME FUND–87	CF–06
723873	BALCOR EQUITY PENSION INVESTORS I	CF–04
748501	BALCOR EQUITY PENSION INVESTORS II	CF–04
768605	BALCOR EQUITY PENSION INVESTORS III	CF–09
796805	BALCOR EQUITY PENSION INVESTORS IV	CF–05
351892	BALCOR EQUITY PROPERTIES LTD X	CF–06
310614	BALCOR EQUITY PROPERTIES LTD–VIII	CF–06
701785	BALCOR EQUITY PROPERTIES XII	CF–06
714913	BALCOR EQUITY PROPERTIES XIV	CF–05
740553	BALCOR EQUITY PROPERTIES XVIII	CF–05
751312	BALCOR FILM INVESTORS	CF–06
792334	BALCOR GROWTH FUND	CF–07
009329	BALCOR INCOME PROPERTIES LTD	CF–07
215168	BALCOR INCOME PROPERTIES LTD II	CF–06
276216	BALCOR INCOME PROPERTIES LTD III	CF–07
797987	BALCOR MOBILE HOME INCOME FUND	CF–06
225075	BALCOR PENSION INVESTORS	CF–05
350845	BALCOR PENSION INVESTORS II	CF–05
357329	BALCOR PENSION INVESTORS III	CF–05
709329	BALCOR PENSION INVESTORS IV	CF–04

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
732350	BALCOR PENSION INVESTORS V	CF–04
755497	BALCOR PENSION INVESTORS VI	CF–04
783456	BALCOR PENSION INVESTORS VII	CF–05
819576	BALCOR PREFERRED PENSION–12	CF–06
705959	BALCOR REALTY INVESTORS 83	CF–05
717856	BALCOR REALTY INVESTORS 83 SERIES II	CF–05
726927	BALCOR REALTY INVESTORS 84	CF–04
740582	BALCOR REALTY INVESTORS 84 SERIES II	CF–04
751841	BALCOR REALTY INVESTORS 85 SERIES I	CF–05
759831	BALCOR REALTY INVESTORS 85 SERIES II	CF–05
766769	BALCOR REALTY INVESTORS 85 SERIES III	CF–05
777574	BALCOR REALTY INVESTORS 86 SERIES I	CF–05
355797	BALCOR REALTY INVESTORS LTD 82	CF–05
009342	BALDOR ELECTRIC CO	CF–04
009346	BALDWIN & LYONS INC	CF–10
797315	BALDWIN PIANO & ORGAN CO /DE	CF–04
009375	BALDWIN SECURITIES CORP /DE/	CF–06
805792	BALDWIN TECHNOLOGY CO INC	CF–04
054811	BALFOUR MACLAINE CORP	CF–03
009389	BALL CORP	CF–03
723534	BALLARD MEDICAL PRODUCTS	CF–06
801907	BALLISTIC RECOVERY SYSTEMS INC	CF–08
872440	BALLISTIVET INC/MN	CF–10
878552	BALLY GAMING INTERNATIONAL INC	CF–10
009435	BALLY MANUFACTURING CORP	CF–02
311859	BALLYS PARK PLACE INC	CF–03
009442	BALTEK CORP	CF–06
751926	BALTIMORE BANCORP	CF–03
009466	BALTIMORE GAS & ELECTRIC CO	CF–02
708480	BALVERNE CELLARS INC	CF–07
806011	BAMBERGER POLYMERS INC	CF–05
036090	BANC ONE CORP/OH/	CF–02
814575	BANCALABAMA INC	CF–08
760498	BANCFIRST CORP /OK/	CF–07
868572	BANCFIRST OHIO CORP	CF–10
719146	BANCFLORIDA FINANCIAL CORP	CF–03
276400	BANCINSURANCE CORP	CF–08
046195	BANCORP HAWAII INC	CF–02
829753	BANCORP NEW JERSEY INC	CF–09
701853	BANCORP OF MISSISSIPPI INC	CF–07
711667	BANCORP OF SOUTHERN INDIANA	CF–06
768177	BANCSHARES 2000 INC	CF–06
318378	BANCTEC INC	CF–04
763538	BANCTENN CORP	CF–06
310979	BANCTEXAS GROUP INC	CF–04
009534	BANDAG INC	CF–03
031608	BANGOR AMERICA INC	CF–07
009548	BANGOR HYDRO ELECTRIC CO	CF–04
313214	BANK BUILDING & EQUIPMENT CORP OF AMERIC	CF–06
819540	BANK MARYLAND CORP	CF–05
036672	BANK OF BOSTON CORP	CF–02
718907	BANK OF GONZALES HOLDING CO INC	CF–08
810689	BANK OF GRANITE CORP	CF–05
856927	BANK OF NEW ENGLAND 1989 A GRANTOR TRUST	CF–10
071322	BANK OF NEW ENGLAND CORP	CF–02
313857	BANK OF NEW HAMPSHIRE CORP	CF–04
009626	BANK OF NEW YORK CO INC	CF–02
351238	BANK OF SAN FRANCISCO CO HOLDING CO	CF–04
039394	BANK SOUTH CORP	CF–03
009672	BANKAMERICA CORP	CF–02
315858	BANKATLANTIC FINANCIAL CORP	CF–03
036322	BANKEAST CORP	CF–07
314404	BANKERS BUILDING LAND TRUST	CF–07
009696	BANKERS FIDELITY LIFE INSURANCE CO	CF–09
732640	BANKERS FIRST CORP	CF–07
354611	BANKERS NOTE INC	CF–06
009749	BANKERS TRUST NEW YORK CORP	CF–02
851105	BANKNORTH GROUP INC /DE/	CF–10
737287	BANKS OF MID AMERICA INC	CF–03
811436	BANKWORCESTER CORP	CF–07
863445	BANNER AEROSPACE INC	CF–10
763901	BANPONCE CORP	CF–03

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
009801	BANTA CORP	CF–03
744041	BANYAN CORP	CF–06
811232	BANYAN INDUSTRIES INC	CF–08
868711	BANYAN SYSTEMS INC	CF–10
743367	BAR HARBOR BANKSHARES	CF–05
009892	BARD C R INC /NJ/	CF–03
878944	BAREFOOT INC /DE	CF–10
009984	BARNES GROUP INC	CF–04
010012	BARNETT BANKS INC	CF–02
010048	BARNWELL INDUSTRIES INC	CF–06
867516	BAROID CORPORATION /DE	CF–10
010081	BARR LABORATORIES INC	CF–05
878483	BARRA INC /CA	CF–10
351993	BARRETT RESOURCES CORP	CF–06
836937	BARRIE RICHARD FRAGRANCES INC	CF–08
732786	BARRIER SCIENCE & TECHNOLOGY INC	CF–08
859463	BARRINGER LABORATORIES INC	CF–07
010119	BARRINGER RESOURCES INC	CF–07
754128	BARRISTER INFORMATION SYSTEMS CORP	CF–06
749872	BARRY R G CORP /OH/	CF–05
790360	BARRYS JEWELERS INC /CA/	CF–04
352383	BARTON INDUSTRIES INC	CF–06
849312	BARTON WILLIAM FINANCIAL INC	CF–10
010226	BARUCH FOSTER CORP	CF–06
010242	BASE TEN SYSTEMS INC	CF–06
814925	BASEBALL CARD SOCIETY INC	CF–08
010254	BASIC EARTH SCIENCE SYSTEMS INC	CF–07
106790	BASIX CORP	CF–06
810368	BASS INCOME PLUS FUND LIMITED PARTNERSHI	CF–06
799568	BASS MORTGAGE INCOME FUND I LIMITED PART	CF–09
750303	BASS REAL ESTATE FUND 84	CF–07
783992	BASS REAL ESTATE FUND II	CF–07
819934	BASS REAL ESTATE FUND III LIMITED PARTNERSHIP	CF–10
010329	BASSETT FURNITURE INDUSTRIES INC	CF–04
858714	BATAVIA FINANCIAL CORP	CF–10
709335	BATH NATIONAL CORP	CF–06
881459	BATISTE INTERNATIONAL INC	CF–10
716135	BATON ROUGE BANCSHARES INC	CF–08
771498	BATTLE MOUNTAIN GOLD CO	CF–03
010427	BAUSCH & LOMB INC	CF–02
010456	BAXTER HEALTHCARE CORP	CF–02
701153	BAY AREA BANCSHARES	CF–06
060798	BAY AREA HOLDINGS INC	CF–08
707854	BAY COMMERCIAL SERVICES	CF–06
715273	BAY MEADOWS OPERATING CO	CF–06
010488	BAY STATE GAS CO /NEW/	CF–03
840387	BAY VIEW CAPITAL CORP	CF–09
010497	BAYBANKS INC	CF–02
874662	BAYFIELD LOW INCOME HOUSING LIMITED PARTNERSHIP	CF–10
275119	BAYLAKE CORP	CF–05
010518	BAYLY CORP	CF–06
807877	BAYOU STEEL CORP	CF–04
856571	BAYVIEW CAPITAL INC	CF–10
013839	BB&T FINANCIAL CORP	CF–01
773430	BC COMMUNICATIONS INC	CF–08
870763	BDM HOLDINGS INC	CF–10
278050	BDOL 1979 PROGRAM LTD	CF–10
861361	BE AVIONICS INC	CF–06
824776	BE HOLDINGS INC	CF–04
853530	BEACON CAPITAL CORP	CF–10
884321	BEACON CAPITAL INVESTMENT INC	CF–10
789092	BEACON FINANCIAL INC	CF–08
768260	BEAN CAROLYN PUBLISHING LTD	CF–08
777001	BEAR STEARNS COMPANIES INC	CF–02
882253	BEAR STEARNS MORTGAGE SECURITIES INC	CF–10
806741	BEAR STEARNS SECURED INVESTORS INC	CF–07
846892	BEAR STEARNS SECURED INVESTORS TRUST 1989–2	CF–10
849134	BEAR STEARNS SECURED INVESTORS TRUST 1989–4	CF–10
832192	BEARD OIL CO /DE/	CF–05
109563	BEARINGS INC /OH/	CF–03
788330	BEAUTICONTROL COSMETICS INC	CF–06
811422	BEAUTY LABS INC	CF–07

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
840467	BECKMAN INSTRUMENTS INC/DE/	CF-03
010795	BECTON DICKINSON & CO	CF-02
886158	BED BATH & BEYOND INC	CF-10
772263	BEEBAS CREATIONS INC	CF-05
851478	BEI ELECTRONICS INC	CF-05
225569	BEI HOLDINGS LTD /DE/	CF-05
720580	BEL FUSE INC /NJ	CF-06
090286	BELCOR INC	CF-06
734778	BELDEN & BLAKE ENERGY CO	CF-06
011027	BELDING HEMINWAY CO INC /DE/	CF-05
867681	BELL ATLANTIC CAPITAL FUNDING CORP	CF-01
732712	BELL ATLANTIC CORP	CF-01
892372	BELL ATLANTIC FINANCIAL SERVICES INC	CF-10
879130	BELL BANCORP INC /DE	CF-10
314346	BELL INDUSTRIES INC/DEL/	CF-04
817946	BELL JAN MARKETING INC	CF-04
075439	BELL NATIONAL CORP	CF-07
837534	BELL SAVINGS HOLDINGS INC	CF-09
884063	BELL SPORTS CORP	CF-10
011107	BELL TELEPHONE CO OF PENNSYLVANIA	CF-02
011109	BELL W & CO INC	CF-05
826152	BELLATRIX INTERNATIONAL INC	CF-09
849346	BELLBROOK BANCORP INC	CF-10
815474	BELLSOUTH CAPITAL FUNDING CORP	CF-01
732713	BELLSOUTH CORP	CF-01
852339	BELLSOUTH SAVINGS & EMPLOYEE STOCK OWNER	CF-01
859224	BELLSOUTH SAVINGS & SECURITY ESOP TRUST	CF-01
319459	BELLWETHER EXPLORATION CO	CF-07
821616	BELMAC CORP /FL/	CF-08
726294	BELMONT BANCORP	CF-05
356080	BELO A H CORP	CF-03
885799	BELTWAY COMMUNITY HOSPITAL INC	CF-10
805265	BELVEDERE CORP	CF-06
011199	BEMIS CO INC	CF-03
768384	BEN & JERRYS HOMEMADE INC	CF-06
849215	BENAPLEX CORP	CF-10
804563	BENCHMARK BANKSHARES INC	CF-09
863436	BENCHMARK ELECTRONICS INC	CF-10
312651	BENEDICT NUCLEAR PHARMACEUTICALS INC	CF-07
008960	BENEFICIAL CORP	CF-02
861628	BENEFUND INC	CF-10
715384	BENIHANA NATIONAL CORP	CF-06
845289	BENTON OIL & GAS CO	CF-07
790710	BERES INDUSTRIES INC	CF-07
011454	BERGEN BRUNSWIG CORP	CF-02
708777	BERGER HOLDINGS LTD	CF-07
011544	BERKLEY W R CORP	CF-09
011545	BERKLINE CORP	CF-05
317406	BERKSHIRE GAS CO /MA/	CF-05
109694	BERKSHIRE HATHAWAY INC /DE/	CF-02
869446	BERKSHIRE REALTY CO INC /DE	CF-10
856529	BERLITZ INTERNATIONAL INC	CF-03
849343	BERNSTEIN LEIBSTONE ASSOCIATES INC /NY/	CF-07
739878	BERRIE RUSS & CO INC	CF-04
726895	BERRY & BOYLE CLUSTER HOUSING PROPERTIES	CF-06
785540	BERRY & BOYLE DEVELOPMENT PARTNERS	CF-06
806397	BERRY & BOYLE DEVELOPMENT PARTNERS II	CF-06
841239	BERRY & BOYLE DEVELOPMENT PARTNERS III	CF-10
778438	BERRY PETROLEUM CO	CF-05
874971	BERTUCCIS INC	CF-10
315263	BERYLLIUM INTERNATIONAL CORP /UT/	CF-08
320443	BESICORP GROUP INC	CF-07
829649	BEST ACQUISITIONS INC	CF-09
764478	BEST BUY CO INC	CF-04
726443	BEST BUY DRUGS INC	CF-07
011806	BEST FRANK E INC	CF-05
011814	BEST LOCK CORP	CF-05
011825	BEST UNIVERSAL LOCK CO	CF-05
889086	BESTOP INC	CF-10
004944	BESTWAY RENTAL INC	CF-07
879306	BET HOLDINGS INC	CF-10
792183	BETA PHASE INC /DE/	CF-08

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
811831	BETHEL BANCORP	CF–06
011856	BETHLEHEM CORP	CF–07
011860	BETHLEHEM STEEL CORP /DE/	CF–02
011884	BETZ LABORATORIES INC	CF–03
887354	BEVERAGE GROUP ACQUISITION CORP	CF–10
812305	BEVERLY ENTERPRISES INC /DE	CF–02
011917	BEVERLY HILLS BANCORP	CF–06
869420	BEVERLY HILLS FAN COMPANY	CF–10
742275	BEVERLY NATIONAL CORP	CF–06
011929	BEVIS INDUSTRIES INC /RI/	CF–08
814856	BF ENTERPRISES INC	CF–06
884269	BFD INDUSTRIES INC	CF–10
718976	BGS SYSTEMS INC	CF–06
801128	BHA GROUP INC	CF–06
855433	BHC COMMUNICATIONS INC	CF–02
716629	BI INC	CF–06
814570	BIBB CO /DE	CF–04
011975	BIC CORP	CF–04
090656	BICOASTAL CORP	CF–04
352720	BIG B INC	CF–04
848099	BIG BEAR STORES COMPANY/DE/	CF–10
277666	BIG BOULDER CORP/PA	CF–06
718082	BIG O TIRES INC	CF–05
012078	BIG PINEY OIL & GAS CO	CF–08
759440	BIG RIVER PRODUCTIONS LTD PARTNERSHIP	CF–09
313522	BIG SKY TRANSPORTATION CO	CF–07
807526	BIG SKY USA INC	CF–08
318598	BIG TURTLE INC /ID/	CF–07
884131	BILLY BLUES FOOD CORP	CF–10
757546	BILTMORE BANK CORP	CF–06
722808	BINDLEY WESTERN INDUSTRIES INC	CF–04
355142	BINGO KING CO INC	CF–06
012180	BINKS MANUFACTURING CO	CF–04
858752	BIO DENTAL TECHNOLOGIES CORP	CF–10
876160	BIO DYNE CORP /GA	CF–10
355007	BIO LOGIC SYSTEMS CORP	CF–07
845032	BIO MONITOR INC	CF–08
012208	BIO RAD LABORATORIES INC	CF–04
792641	BIO REFERENCE LABORATORIES INC	CF–07
722104	BIO TECHNOLOGY GENERAL CORP	CF–06
780127	BIO VASCULAR INC	CF–08
837487	BIOANALOGICS INC /CA/	CF–08
312833	BIOCHEM INTERNATIONAL INC	CF–08
225211	BIOCONTROL TECHNOLOGY INC	CF–08
763043	BIOCRAFT LABORATORIES INC	CF–04
812788	BIOENERGY NUTRIENTS INC	CF–08
714655	BIOGEN INC	CF–04
729330	BIOMAGNETIC TECHNOLOGIES INC	CF–06
856143	BIOMECHANICS CORP OF AMERICA	CF–08
865059	BIOMEDICAL WASTE SYSTEMS INC	CF–10
073290	BIOMERICA INC	CF–07
351346	BIOMET INC	CF–04
733337	BIOPHARMACEUTICS INC	CF–06
040944	BIOPLASTY INC	CF–07
830736	BIOPOOL INTERNATIONAL INC	CF–08
838442	BIOPORE INC	CF–08
350646	BIOSEARCH MEDICAL PRODUCTS INC	CF–07
708282	BIOSENSOR CORP	CF–08
352715	BIOSONICS INC	CF–08
875622	BIOSPECIFICS TECHNOLOGIES CORP	CF–10
012239	BIOSPHERICS INC	CF–07
715812	BIOSYNERGY INC	CF–08
883076	BIOSYS /CA	CF–10
350405	BIOTECH RESEARCH LABORATORIES INC	CF–06
715374	BIOTECHNICA INTERNATIONAL INC	CF–05
723889	BIOTECHNOLOGY DEVELOPMENT CORP	CF–08
876343	BIOTIME INC	CF–10
879550	BIOWHITTAKER INC	CF–10
012245	BIRD CORP	CF–05
864903	BIRD MEDICAL TECHNOLOGIES INC	CF–10
012257	BIRDSBORO CORP	CF–07
779334	BIRMINGHAM STEEL CORP	CF–04

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
012288	BIRTCHER MEDICAL SYSTEMS INC	CF-06
088706	BISCAYNE HOLDINGS INC	CF-06
012304	BISHOP INC	CF-07
883587	BISYS GROUP INC	CF-10
885074	BITWISE DESIGNS INC	CF-10
864328	BJ SERVICES CO	CF-10
716615	BKLA BANCORP	CF-05
012355	BLACK & DECKER CORP	CF-01
849547	BLACK BOX INCORPORATED	CF-10
316704	BLACK DOME ENERGY CORP	CF-08
852426	BLACK HAWK HOLDINGS INC /MN/	CF-08
012400	BLACK HILLS CORP	CF-04
839871	BLACK WARRIOR WIRELINE CORP	CF-07
845042	BLACKHAWK CAPITAL CORP	CF-10
881527	BLACKSTONE BEVERAGES INC	CF-10
861631	BLACKSTONE EQUITIES CORP	CF-10
012473	BLACKSTONE VALLEY ELECTRIC CO	CF-09
789616	BLACKWOOD ENTERPRISES INC	CF-09
071525	BLAIR CORP	CF-04
835407	BLAZO CORP	CF-09
012614	BLESSINGS CORP	CF-05
842679	BLISS & LAUGHLIN INDUSTRIES INC /DE	CF-05
796624	BLOC DEVELOPMENT CORP	CF-06
012654	BLOCK DRUG CO INC	CF-03
710979	BLOCKBUSTER ENTERTAINMENT CORP	CF-03
820734	BLOCKERS C A INC	CF-08
012707	BLOUNT INC	CF-03
887019	BLUE BELL FUNDING INC	CF-10
887020	BLUE BELL INVESTMENT CO L P	CF-10
889285	BLUE CHIP COMPUTERWARE INC	CF-10
704870	BLUE DIAMOND COAL CO	CF-08
793306	BLUE DOLPHIN ENERGY CO	CF-06
012779	BLUE RIDGE REAL ESTATE CO	CF-06
847416	BLUEFIELD ENTERPRISES	CF-10
820738	BLYTH HOLDINGS INC	CF-08
702903	BMC BANKCORP INC	CF-05
215310	BMC INDUSTRIES INC/MN/	CF-05
835729	BMC SOFTWARE INC	CF-05
875706	BMC WEST CORP	CF-10
758113	BMF MORTGAGE INCOME FUND	CF-07
731244	BMJ FINANCIAL CORP	CF-07
831677	BMR FINANCIAL GROUP INC	CF-09
764205	BNH BANCSHARES INC	CF-05
701256	BNR BANCSHARES INC	CF-05
040454	BOATMENS BANCSHARES INC /MO	CF-02
812150	BODDIE NOELL RESTAURANTS PROPERTIES INC	CF-05
878611	BODY DRAMA INC	CF-10
012927	BOEING CO	CF-02
745895	BOETTCHER PENSION INVESTORS LTD	CF-07
703152	BOETTCHER WESTERN PROPERTIES II LTD	CF-06
716822	BOETTCHER WESTERN PROPERTIES III LTD	CF-06
737028	BOETTCHER WESTERN PROPERTIES IV LTD	CF-06
732287	BOGEN CORP	CF-07
012978	BOISE CASCADE CORP	CF-02
875357	BOK FINANCIAL CORP	CF-10
013000	BOKUM RESOURCES CORP	CF-05
832818	BOL BANCSHARES INC	CF-09
013006	BOLAR PHARMACEUTICAL CO INC	CF-04
013021	BOLT BERANEK & NEWMAN INC	CF-04
354655	BOLT TECHNOLOGY CORP	CF-08
096287	BOMBAY COMPANY INC	CF-05
719722	BOMED MEDICAL MANUFACTURING LTD	CF-08
878079	BON TON STORES INC	CF-10
795182	BONNEVILLE PACIFIC CORP	CF-03
351693	BONRAY DRILLING CORP	CF-06
891919	BOOKS A MILLION INC	CF-10
734394	BOOLE & BABBAGE INC	CF-05
891552	BOOMTOWN INC	CF-10
013191	BOONTON ELECTRONICS CORP	CF-06
312340	BORDEAUX PETROLEUM CO	CF-09
821202	BORDEN CHEMICALS & PLASTICS LIMITED PART	CF-03
013239	BORDEN INC	CF-02

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
890565	BORDERS INC	CF–10
817945	BORG WARNER CORP /DE/	CF–02
853273	BORLAND INTERNATIONAL INC/DE	CF–10
805268	BOSTON ACOUSTICS INC	CF–06
760079	BOSTON BANCORP	CF–07
853566	BOSTON CAPITAL TAX CREDIT FUND II LTD PA	CF–10
879555	BOSTON CAPITAL TAX CREDIT FUND III L P	CF–10
835095	BOSTON CAPITAL TAX CREDIT FUND LTD PARTN	CF–09
863447	BOSTON CELTICS COMMUNICATIONS LTD PARTNERSHIP	CF–10
805009	BOSTON CELTICS LIMITED PARTNERSHIP	CF–06
013370	BOSTON DIGITAL CORP	CF–06
013372	BOSTON EDISON CO	CF–02
354626	BOSTON FINANCIAL APARTMENTS ASSOCIATES L	CF–08
810663	BOSTON FINANCIAL QUALIFIED HOUSING LTD P	CF–05
830997	BOSTON FINANCIAL QUALIFIED HOUSING TAX CR LP II	CF–10
839345	BOSTON FINANCIAL QUALIFIED HOUSING TAX CR LP III	CF–09
845035	BOSTON FINANCIAL QUALIFIED HOUSING TAX CR LP IV	CF–10
870815	BOSTON FINANCIAL TAX CREDIT FUND PLUS	CF–10
826756	BOSTON FIVE BANCORP INC	CF–07
013390	BOSTON GAS CO	CF–03
884380	BOSTON PACIFIC MEDICAL INC	CF–10
821127	BOSTON PRIVATE BANCORP INC	CF–09
885725	BOSTON SCIENTIFIC CORP	CF–10
771470	BOSTON TECHNOLOGY INC	CF–06
809393	BOUCHER OEHMKE HOLDINGS INC	CF–09
721693	BOULDER BREWING CO	CF–08
746594	BOULEVARD BANCORP INC /DE/	CF–07
810674	BOUNTY GROUP INC	CF–07
064382	BOUTON CORP/PA	CF–07
743368	BOWATER INC	CF–02
013573	BOWL AMERICA INC	CF–06
013585	BOWLES FLUIDICS CORP	CF–07
034682	BOWLINE CORP	CF–07
013606	BOWMAR INSTRUMENT CORP	CF–06
013610	BOWNE & CO INC	CF–01
874992	BOX ENERGY CORP	CF–10
850033	BP PRUDHOE BAY ROYALTY TRUST	CF–03
866751	BPI ENVIRONMENTAL INC	CF–10
352957	BRACKEN EXPLORATION CO LIQUIDATING TRUST	CF–09
852618	BRADFORD BANKSHARES INC	CF–10
887356	BRADLEES INC	CF–10
864268	BRADLEY PHARMACEUTICALS INC	CF–10
013777	BRADLEY REAL ESTATE TRUST	CF–05
746598	BRADY W H CO	CF–04
771249	BRAINERD INTERNATIONAL INC	CF–08
320591	BRAJDAS CORP	CF–06
806635	BRAND COMPANIES INC	CF–04
807782	BRANDON SYSTEMS CORP	CF–06
737576	BRANIFF INC	CF–04
864494	BRASEL VENTURES INC	CF–10
883943	BRAUNS FASHIONS CORP	CF–10
878657	BRAUVIN CORPORATE LEASE PROGRAM IV L P	CF–10
810587	BRAUVIN HIGH YIELD FUND L P	CF–06
832775	BRAUVIN HIGH YIELD FUND L P II	CF–09
850142	BRAUVIN INCOME PLUS L P III	CF–10
793068	BRAUVIN INCOME PROPERTIES LP 6	CF–09
318722	BRAUVIN REAL ESTATE FUND I	CF–07
701467	BRAUVIN REAL ESTATE FUND II	CF–07
715988	BRAUVIN REAL ESTATE FUND LP 3	CF–09
736908	BRAUVIN REAL ESTATE FUND LP 4	CF–06
762848	BRAUVIN REAL ESTATE FUND LP 5	CF–06
009677	BRE PROPERTIES INC	CF–04
846616	BREMER FINANCIAL CORPORATION	CF–09
014029	BRENCO INC	CF–01
791851	BRENDLES INC	CF–04
029051	BRENNER INTERNATIONAL INC	CF–06
014060	BRENTON BANKS INC	CF–04
014073	BRESLER & REINER INC	CF–05
845874	BRIAN CAPITAL INC	CF–10
865720	BRIDAL EXPOS INC	CF–10
859914	BRIDGESTONE CORP	CF–10
014177	BRIDGFORD FOODS CORP	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
014195	BRIGGS & STRATTON CORP	CF–03
799369	BRIGHT STAR HOLDING INC	CF–06
773342	BRIGHTON INFORMATION SYSTEMS CORP	CF–08
837161	BRILL HYGIENIC PRODUCTS INC	CF–09
014251	BRILUND LTD	CF–07
703351	BRINKER INTERNATIONAL	CF–04
014280	BRISTOL HOLDINGS INC	CF–07
014272	BRISTOL MYERS SQUIBB CO	CF–02
839486	BRISTOL RESEARCH CORP	CF–08
852637	BRITE VOICE SYSTEMS INC	CF–06
054727	BROAD INC	CF–03
703800	BROAD NATIONAL BANCORPORATION	CF–08
832411	BROADCAST INTERNATIONAL INC /UT/	CF–07
885533	BROADWAY & SEYMOUR INC	CF–10
711206	BROADWAY FINANCIAL CORP	CF–08
014399	BROCK EXPLORATION CORP	CF–06
014423	BRODIE EXPLORATION CORP	CF–08
014474	BRONCO OIL & GAS CO	CF–09
059440	BROOKE GROUP LTD	CF–04
014525	BROOKLYN UNION GAS CO	CF–02
014537	BROOKS BOBBIE INC	CF–05
014637	BROWN & SHARPE MANUFACTURING CO /DE/	CF–04
787977	BROWN ALEX INC	CF–03
818064	BROWN BENCHMARK PROPERTIES LIMITED PARTN	CF–09
855373	BROWN DISC PRODUCTS CO INC	CF–10
796333	BROWN FLOURNOY EQUITY INCOME FUND LTD PA	CF–06
014693	BROWN FORMAN CORP	CF–03
014707	BROWN GROUP INC	CF–03
014803	BROWN TOM INC /DE	CF–05
014827	BROWNING FERRIS INDUSTRIES INC	CF–02
014846	BRT REALTY TRUST	CF–04
753263	BRUCE ROBERT INDUSTRIES INC	CF–06
830737	BRUNNER COMPANIES INCOME PROPERTIES LP I	CF–09
839705	BRUNNER COMPANIES INCOME PROPERTIES LP II	CF–09
847319	BRUNNER COMPANIES INCOME PROPERTIES LP III	CF–10
014920	BRUNOS INC	CF–03
771614	BRUNSWICK BANCORP	CF–06
014930	BRUNSWICK CORP	CF–02
715583	BRUSH CREEK MINING & DEVELOPMENT CO INC	CF–07
014957	BRUSH WELLMAN INC	CF–03
780088	BRUSHGARD SYSTEMS INC /DE/	CF–09
850210	BRYAN BANCORP OF GEORGIA INC	CF–10
014971	BRYAN STEAM CORP	CF–07
802681	BRYN MAWR BANK CORP	CF–05
830257	BSB BANCORP INC	CF–09
319499	BSD BANCORP INC	CF–04
320174	BSD MEDICAL CORP	CF–08
799699	BSI HOLDINGS INC /VA/	CF–08
319237	BSN CORP	CF–05
716786	BT ENERGY CORPORATION	CF–07
716459	BT FINANCIAL CORP	CF–07
846491	BTNC CORP	CF–10
015019	BTR REALTY INC	CF–04
840880	BTU INTERNATIONAL INC	CF–05
783283	BUCK HILL FALLS CO /PA/	CF–08
314482	BUCKEYE FINANCIAL CORP	CF–07
805022	BUCKEYE PARTNERS L P	CF–03
865245	BUCKLE INC	CF–10
740761	BUCYRUS ERIE CO /DE	CF–09
790939	BUDGET STORAGE ASSOCIATES I L P	CF–08
768534	BUFFALO INC	CF–08
750274	BUFFETS INC	CF–05
350133	BUFFS N PUFFS LTD	CF–08
351220	BUFFTON CORP	CF–05
812629	BUILDERS DESIGN INC /DE/	CF–07
726617	BUILDERS TRANSPORT INC	CF–06
052234	BULL & BEAR GROUP INC	CF–07
319697	BULL RUN GOLD MINES LTD	CF–07
015310	BULOVA CORP	CF–04
015359	BUNTING INC	CF–08
015393	BUREAU OF NATIONAL AFFAIRS INC	CF–04
785994	BURGER KING INVESTORS MASTER LP	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
356956	BURGER KING LTD PARTNERSHIP I	CF–07
705740	BURGER KING LTD PARTNERSHIP II	CF–07
733667	BURGER KING LTD PARTNERSHIP III	CF–07
015486	BURKE MILLS INC	CF–06
737269	BURLINGAME BANCORP	CF–06
718916	BURLINGTON COAT FACTORY WAREHOUSE CORP	CF–03
870213	BURLINGTON INDUSTRIES EQUITY INC	CF–10
351979	BURLINGTON NORTHERN INC/DE/	CF–02
015511	BURLINGTON NORTHERN RAILROAD CO	CF–02
833320	BURLINGTON RESOURCES INC	CF–02
805730	BURNHAM PACIFIC PROPERTIES INC	CF–04
015615	BURNUP & SIMS INC	CF–04
715577	BURR BROWN CORP	CF–04
314940	BURST AGRITECH INC	CF–08
758604	BUSH INDUSTRIES INC	CF–05
700570	BUSINESS BANCORP	CF–06
718905	BUSINESS DATA GROUP INC	CF–09
727736	BUSINESS DEVELOPMENT CORP OF SOUTH CAROL	CF–08
205219	BUSINESS RECORDS CORPORATION HOLDING CO	CF–05
015840	BUTLER MANUFACTURING CO	CF–04
015847	BUTLER NATIONAL CORP	CF–08
889426	BUTTERCREME DESSERTS INC	CF–10
355809	BUTTERFIELD PREFERRED GROWTH FUND 83	CF–07
015876	BUTTES GAS & OIL CO /DE/	CF–09
813613	BUTTON GWINNETT BANCORP INC	CF–06
882256	BUTTREY FOOD & DRUG STORES CO	CF–10
353650	BWC FINANCIAL CORP	CF–06
817637	BWIP HOLDING INC	CF–04
726744	BYTEX CORP	CF–06
885800	C A C O SERVICES INC	CF–10
350621	C COR ELECTRONICS INC	CF–06
844008	C SQUARE VENTURES INC	CF–09
310433	C TEC CORP	CF–03
318676	C&K 1980 FUND A LTD	CF–08
319315	C&K 1980 FUND B LTD	CF–06
355058	C&K 1981 FUND A LTD	CF–07
356288	C&K 1981 FUND B LTD	CF–08
015993	C&R CLOTHIERS INC	CF–06
320121	C3 INC	CF–05
081057	CABLE CAR BEVERAGE CORP	CF–07
355562	CABLE TV FUND 10	CF–10
709472	CABLE TV FUND 11	CF–09
725683	CABLE TV FUND 11–A LTD	CF–09
725684	CABLE TV FUND 11–B LTD	CF–06
742181	CABLE TV FUND 11–C LTD	CF–09
741124	CABLE TV FUND 11–D LTD	CF–08
756902	CABLE TV FUND 12	CF–09
763657	CABLE TV FUND 12–A	CF–05
774557	CABLE TV FUND 12–B	CF–05
782975	CABLE TV FUND 12–C LTD	CF–06
789292	CABLE TV FUND 12–D LTD	CF–04
821480	CABLE TV FUND 14 B LTD	CF–04
810334	CABLE TV FUND 14–A LTD	CF–05
839483	CABLE TV FUND 15	CF–09
849976	CABLE TV FUND 15–A LTD	CF–10
846909	CABLETRON SYSTEMS INC	CF–05
806003	CABLEVISION INVESTMENT OF DETROIT INC	CF–07
709105	CABLEVISION OF BOSTON LTD PARTNERSHIP	CF–09
784681	CABLEVISION SYSTEMS CORP	CF–02
016040	CABOT CORP	CF–02
719073	CABOT MEDICAL CORP	CF–06
858470	CABOT OIL & GAS CORP	CF–04
350199	CACHE INC	CF–07
016058	CACI INTERNATIONAL INC /DE/	CF–05
356211	CADE INDUSTRIES INC	CF–06
318951	CADEMA CORP	CF–08
813672	CADENCE DESIGN SYSTEMS INC	CF–04
745274	CADMUS COMMUNICATIONS CORP/NEW	CF–01
854916	CAERE CORP	CF–06
276310	CAESARS NEW JERSEY INC	CF–04
016095	CAESARS WORLD INC	CF–03
805275	CAFES ONE L P	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
016104	CAGLES INC	CF–05
818471	CAGY INDUSTRIES INC	CF–09
705679	CAL REP BANCORP INC	CF–04
352955	CALCASIEU REAL ESTATE & OIL CO INC	CF–08
857954	CALDOR CORP	CF–10
727011	CALFED INC	CF–02
793931	CALGENE INC /DE/	CF–05
812701	CALGON CARBON CORPORATION	CF–04
834157	CALHOUN BANKSHARES INC	CF–09
806179	CALIFORNIA ALMOND INVESTORS I	CF–07
730255	CALIFORNIA AMPLIFIER INC	CF–07
738274	CALIFORNIA BEACH RESTAURANTS INC	CF–06
726512	CALIFORNIA BIOTECHNOLOGY INC	CF–05
704866	CALIFORNIA COMMERCIAL BANKSHARES	CF–05
720556	CALIFORNIA ENERGY CO INC	CF–03
016317	CALIFORNIA ENGELS MINING CO	CF–08
828976	CALIFORNIA FINANCIAL HOLDING CO	CF–09
857953	CALIFORNIA JAMAR INC	CF–10
016343	CALIFORNIA JOCKEY CLUB	CF–05
800460	CALIFORNIA MICRO DEVICES CORP	CF–06
016357	CALIFORNIA MICROWAVE INC	CF–05
874500	CALIFORNIA PROPERTIES FUND	CF–10
016387	CALIFORNIA REAL ESTATE INVESTMENT TRUST	CF–05
825155	CALIFORNIA REAL ESTATE PARTNERS	CF–09
765506	CALIFORNIA SEVEN ASSOCIATES LTD PARTNERS	CF–04
016422	CALIFORNIA WATER SERVICE CO	CF–03
016456	CALLAHAN MINING CORP	CF–05
832478	CALLON CONSOLIDATED PARTNERS L P	CF–06
874759	CALLOWAYS NURSERY INC	CF–10
844864	CALMAR SPRAYING SYSTEMS INC	CF–10
354701	CALMARK REAL ESTATE FUND LTD	CF–06
023533	CALMAT CO	CF–03
277376	CALNETICS CORP	CF–07
016496	CALPROP CORP	CF–05
717216	CALTON INC	CF–03
879694	CALUMET BANCORP INC /DE	CF–10
016511	CALUMET INDUSTRIES INC	CF–05
317438	CALVIN EXPLORATION INC	CF–08
819334	CAM DATA SYSTEMS INC	CF–08
016590	CAMBEX CORP	CF–06
820081	CAMBREX CORP	CF–04
704292	CAMBRIDGE BIOTECH CORP	CF–06
016573	CAMBRIDGE ELECTRIC LIGHT CO	CF–09
712757	CAMBRIDGE HOLDINGS LTD	CF–08
874384	CAMBRIDGE NEUROSCIENCE INC	CF–10
013033	CAMELOT CORP	CF–08
775714	CAMERA PLATFORMS INTERNATIONAL INC	CF–07
789891	CAMERON CAPITAL CORP	CF–06
865886	CAMI Z INC	CF–10
016732	CAMPBELL SOUP CO	CF–02
101821	CANAL CAPITAL CORP	CF–05
016906	CANAL ELECTRIC CO	CF–03
764129	CANAL RANDOLPH LTD PARTNERSHIP	CF–07
759458	CANANDAIGUA NATIONAL CORP	CF–08
016918	CANANDAIGUA WINE CO INC	CF–04
016926	CANAVERAL INTERNATIONAL CORP	CF–07
832092	CANCER TREATMENT HOLDINGS INC	CF–07
793279	CANDELA LASER CORP	CF–06
875586	CANDYS TORTILLA FACTORY INC	CF–10
801558	CANNON EXPRESS INC	CF–06
703807	CANNON PICTURES INC	CF–09
798139	CANONIE ENVIRONMENTAL SERVICES CORP	CF–05
019446	CANTEL INDUSTRIES INC	CF–06
794927	CANTERBURY EDUCATIONAL SERVICES INC /PA/	CF–07
788736	CANTON INDUSTRIAL CORP	CF–08
739460	CANYON RESOURCES CORP	CF–07
788845	CAPFILM INC	CF–08
885604	CAPITAL & SERVICES INC	CF–10
798952	CAPITAL ACQUISITION CO	CF–09
862147	CAPITAL ACQUISITIONS INC	CF–10
844893	CAPITAL ADVISORS ACQUISITION CORP	CF–10
832990	CAPITAL APPRECIATION PLUS L P I	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
804188	CAPITAL ASSOCIATES INC	CF–03
702164	CAPITAL BANCORP/FL	CF–07
748529	CAPITAL BANCORPORATION INC	CF–08
829233	CAPITAL BANKSHARES INC	CF–09
763978	CAPITAL BUILDERS DEVELOPMENT PROPERTIES /CA	CF–07
791452	CAPITAL BUILDERS DEVELOPMENT PROPERTIES II	CF–07
017109	CAPITAL CITIES ABC INC /NY/	CF–02
726601	CAPITAL CITY BANK GROUP INC	CF–04
830157	CAPITAL DIRECTIONS INC	CF–09
839441	CAPITAL GROWTH INC	CF–09
798533	CAPITAL GROWTH MORTGAGE INVESTORS L P	CF–05
017206	CAPITAL HOLDING CORP	CF–01
849537	CAPITAL HOUSING & MORTGAGE PARTNERS INC	CF–05
780348	CAPITAL INCOME PROPERTIES C LTD PARTNERS	CF–08
726593	CAPITAL INDUSTRIES INC	CF–06
017221	CAPITAL INVESTMENT OF HAWAII INC	CF–06
845875	CAPITAL MORTGAGE PLUS L P	CF–10
881295	CAPITAL PREFERRED YIELD FUND II L P	CF–10
202947	CAPITAL PROPERTIES INC /RI/	CF–06
770895	CAPITAL REALTY INVESTORS 85 LTD PARTNERS	CF–06
713571	CAPITAL REALTY INVESTORS II LTD PARTNERS	CF–06
722833	CAPITAL REALTY INVESTORS III LTD PARTNER	CF–05
740371	CAPITAL REALTY INVESTORS IV LIMITED PART	CF–05
354521	CAPITAL REALTY INVESTORS LTD	CF–07
822522	CAPITAL REALTY INVESTORS TAX EXEMPT FUN III LP	CF–09
799690	CAPITAL REALTY INVESTORS TAX EXEMPT FUND	CF–05
707674	CAPITAL RESERVE CORP	CF–08
017294	CAPITAL RESOURCES REAL ESTATE PARTNERSHIP	CF–07
799410	CAPITAL SOURCE II L P A	CF–05
775629	CAPITAL SOURCE L P	CF–09
840264	CAPITOL BANCORP LTD	CF–09
017329	CAPITOL BANCORPORATION	CF–04
884142	CAPITOL MULTIMEDIA INC /DE/	CF–10
017377	CAPITOL RESOURCES INC	CF–08
017385	CAPITOL TRANSAMERICA CORP	CF–06
725395	CAPLAN CORP	CF–08
801310	CAPROCK CORP	CF–08
766701	CAPSTEAD MORTGAGE CORP	CF–02
819046	CAPSTEAD SECURITIES CORP II	CF–10
878517	CAPSTEAD SECURITIES CORPORATION IV	CF–10
887507	CAPSTEAD SECURITIES CORPORATION V	CF–10
887508	CAPSTEAD SECURITIES CORPORATION VI	CF–10
356622	CAPT CRAB INC	CF–07
802523	CAPTAIN TONYS PIZZA INC /NY/	CF–08
882364	CAPTEC FRANCHISE CAPITAL PARTNERS LP II	CF–10
857134	CAPUCINOS INC /DE/	CF–07
865830	CAR MART INC	CF–10
706507	CARDIAC CONTROL SYSTEMS INC	CF–07
017482	CARDIAC RESUSCITATOR CORP	CF–08
876188	CARDIAC SCIENCE INC	CF–10
017485	CARDIFF COMMUNICATIONS INC	CF–09
874481	CARDINAL BANCORP INC /PA	CF–10
888184	CARDINAL BANCSHARES INC	CF–10
721371	CARDINAL DISTRIBUTION INC	CF–04
842925	CARDINAL FINANCIAL GROUP INC	CF–10
355168	CARDINAL INDUSTRIES INC	CF–06
835668	CARDINAL INDUSTRIES INCOME PROPERTIES II	CF–09
787426	CARDINAL TECHNOLOGIES INC	CF–08
835316	CARDIOTRONICS SYSTEMS INC	CF–09
076949	CARDIS CORP	CF–05
767974	CARDTEL INC	CF–08
842927	CARE CONCEPTS INC	CF–09
794456	CARE ENTERPRISES INC /DE	CF–04
847935	CARE GROUP INC	CF–07
825391	CARE MED CENTERS INC	CF–08
005931	CAREERCOM CORP	CF–05
867188	CARENETWORK INC	CF–10
774554	CARIBBEAN SELECT INC	CF–07
792861	CARL JACK 312 FUTURES INC	CF–05
790051	CARLISLE COMPANIES INC	CF–03
846902	CARLISLE PLASTICS INC	CF–04
205132	CARLSBERG MOBILE HOME PROPERTIES LTD	CF–07

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
017669	CARLSBERG MOBILE HOME PROPERTIES LTD 72	CF-07
017670	CARLSBERG MOBILE HOME PROPERTIES LTD 73	CF-05
873849	CARLSBERG PROPERTIES LTD	CF-10
827995	CARLYLE INCOME PLUS LP II	CF-09
732978	CARLYLE INCOME PLUS LTD	CF-05
017696	CARLYLE REAL ESTATE LTD PARTNERSHIP 72	CF-07
310812	CARLYLE REAL ESTATE LTD PARTNERSHIP IX	CF-05
215371	CARLYLE REAL ESTATE LTD PARTNERSHIP VII	CF-05
275172	CARLYLE REAL ESTATE LTD PARTNERSHIP VIII	CF-05
314459	CARLYLE REAL ESTATE LTD PARTNERSHIP X	CF-04
350957	CARLYLE REAL ESTATE LTD PARTNERSHIP XI	CF-04
700949	CARLYLE REAL ESTATE LTD PARTNERSHIP XII	CF-04
711604	CARLYLE REAL ESTATE LTD PARTNERSHIP XIII	CF-03
737291	CARLYLE REAL ESTATE LTD PARTNERSHIP XIV	CF-04
761023	CARLYLE REAL ESTATE LTD PARTNERSHIP XV	CF-03
789950	CARLYLE REAL ESTATE LTD PARTNERSHIP XVI	CF-04
804214	CARLYLE REAL ESTATE LTD PARTNERSHIP XVII	CF-09
747681	CARMEL ENERGY INC	CF-08
799088	CARMIKE CINEMAS INC	CF-04
815097	CARNIVAL CRUISE LINES INC	CF-02
801441	CAROLCO PICTURES INC	CF-03
846455	CAROLINA FIRST BANCSHARES INC	CF-09
797871	CAROLINA FIRST CORP	CF-05
706196	CAROLINA FREIGHT CORP	CF-03
789457	CAROLINA INVESTMENT PARTNERS LIMITED PAR	CF-07
017797	CAROLINA POWER & LIGHT CO	CF-02
275177	CAROLINA TELEPHONE & TELEGRAPH CO	CF-03
355291	CAROLINAS REAL ESTATE FUND	CF-09
759855	CAROM CAPITAL CORP	CF-07
017843	CARPENTER TECHNOLOGY CORP	CF-03
746660	CARRIAGE INDUSTRIES INC	CF-05
718007	CARRINGTON LABORATORIES INC /TX/	CF-07
017927	CARROLS CORP	CF-04
022206	CARTER DAY INDUSTRIES INC	CF-07
750217	CARTER HAWLEY HALE STORES INC /DE/	CF-02
018060	CARTER WALLACE INC /DE/	CF-03
766177	CARVER CORP	CF-06
764579	CAS MEDICAL SYSTEMS INC	CF-08
018061	CASCADE CORP	CF-05
828174	CASCADE INTERNATIONAL INC	CF-06
018072	CASCADE NATURAL GAS CORP	CF-04
726950	CASEYS GENERAL STORES INC	CF-04
807884	CASH AMERICA INVESTMENTS INC /TX/	CF-05
882691	CASHTEK CORP	CF-10
863015	CASINO AMERICA INC	CF-10
095234	CASPEN OIL INC	CF-07
018169	CASTLE & COOKE INC	CF-02
018172	CASTLE A M & CO	CF-04
709355	CASTLE ENERGY CORP	CF-06
883977	CATALINA MARKETING CORP/DE	CF-10
865937	CATELLUS DEVELOPMENT CORP	CF-04
764764	CATERPILLAR FINANCIAL SERVICES CORP	CF-02
018230	CATERPILLAR INC	CF-02
861842	CATHAY BANCORP INC	CF-10
875124	CATHERINES STORES CORP	CF-10
018255	CATO CORP	CF-05
842728	CATTLEGUARD INC	CF-07
789803	CAVALIER HOMES INC	CF-06
278166	CAVCO INDUSTRIES INC	CF-06
846810	CAYMAN ACQUISITIONS INC	CF-10
355649	CAYMAN RESOURCES CORP	CF-06
316312	CB BANCSHARES INC/HI	CF-07
852203	CB COMMERCIAL HOLDINGS INC	CF-10
351328	CB FINANCIAL CORP	CF-07
736475	CB&T FINANCIAL CORP	CF-08
357130	CB&T INC	CF-08
310431	CBI INDUSTRIES INC /DE/	CF-02
832440	CBL MEDICAL INC	CF-07
818675	CBLX HOLDINGS INC	CF-07
018388	CBS INC	CF-02
719227	CBT CORP /KY/	CF-04
215387	CC&S SYSTEMS INC	CF-09
721447		
850922		
714612		
790526		
731122		
886801		
018387		
886940		
789881		
024009		
018396		
351129		
866283		
054175		
811037		
811532		
854859		
761648		
840249		
355271		
725363		
745651		
831671		
795711		
813308		
811639		
816284		
201401		
816159		
737275		
883640		
878377		
740664		
870764		
870762		
881817		
787912		
718585		
876378		
862885		
883720		
869497		
871395		
716879		
793933		
821582		
798769		
018497		
873459		
877834		
018787		
702430		
879573		
861997		
810909		
736980		
773337		
707806		
820273		
712771		
829282		
723503		
748685		
826330		
774197		
776208		
018532		
818764		
819724		
877908		
708823		
831904		

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
721447	CCA INDUSTRIES INC	CF–07
850922	CCAIR INC	CF–06
714612	CCB FINANCIAL CORP	CF–03
790526	CCC FRANCHISING CORP	CF–07
731122	CCFNB BANCORP INC	CF–06
886801	CCM INC	CF–10
018387	CCNB CORP	CF–07
886940	CCP INSURANCE INC	CF–10
789881	CCR INC	CF–07
024009	CCX INC	CF–05
018396	CDI CORP	CF–04
351129	CDX CORP	CF–08
866283	CE SOFTWARE HOLDINGS INC	CF–10
054175	CEC INDUSTRIES CORP	CF–06
811037	CECO FILTERS INC	CF–10
811532	CEDAR FAIR L P	CF–04
854859	CEDAR GROUP INC	CF–06
761648	CEDAR INCOME FUND LTD	CF–06
840249	CEETAC CORP	CF–09
355271	CEL COMMUNICATIONS INC	CF–07
725363	CEL SCI CORP	CF–08
745651	CELCOR INC	CF–08
831671	CELEBRITY RESORTS INC	CF–08
795711	CELEREX CORP	CF–08
813308	CELESTA CORP /CO/	CF–08
811639	CELESTIAL VENTURES CORP	CF–08
816284	CELGENE CORP /DE/	CF–06
201401	CELINA FINANCIAL CORP	CF–07
816159	CELL TECHNOLOGY INC /DE/	CF–06
737275	CELLCOM CORP	CF–05
883640	CELLCOR INC	CF–10
878377	CELLPRO INCORPORATED	CF–10
740664	CELLTRONICS INC	CF–07
870764	CELLULAR COMMUNICATIONS INC /DE	CF–10
870762	CELLULAR COMMUNICATIONS INTERNATIONAL INC	CF–10
881817	CELLULAR COMMUNICATIONS OF PUERTO RICO INC	CF–10
787912	CELLULAR INC	CF–05
718585	CELLULAR PRODUCTS INC	CF–08
876378	CELLULAR TECHNICAL SERVICES CO INC	CF–10
862885	CELLULAR TELEPHONE ENTERPRISES INC	CF–10
883720	CELOX CORPORATION	CF–10
869497	CELTIC INVESTMENT INC	CF–10
871395	CELTRIX PHARMACEUTICALS INC	CF–10
716879	CELUTEL INC	CF–06
793933	CEM CORP	CF–06
821582	CENCOM CABLE INCOME PARTNERS II L P	CF–09
798769	CENCOM CABLE INCOME PARTNERS LP	CF–04
018497	CENCOR INC	CF–04
873459	CENFED FINANCIAL CORP	CF–10
877834	CENIT BANCORP INC	CF–10
018787	CENTEL CORP	CF–02
702430	CENTENNIAL BANCORP	CF–06
879573	CENTENNIAL CELLULAR CORP	CF–10
861997	CENTENNIAL FINANCIAL CORP	CF–10
610909	CENTENNIAL GROUP INC /DE/	CF–04
736980	CENTENNIAL MORTGAGE INCOME FUND	CF–06
773337	CENTENNIAL MORTGAGE INCOME FUND II	CF–06
707806	CENTENNIAL PENSION INVESTORS LTD	CF–07
820273	CENTENNIAL REAL ESTATE INVESTMENT FUND	CF–09
712771	CENTER BANCORP INC	CF–08
829282	CENTER BANKS INC	CF–09
723503	CENTER INCOME PROPERTIES 1	CF–06
748685	CENTER INCOME PROPERTIES 2	CF–06
826330	CENTERCORE INC	CF–06
774197	CENTERIOR ENERGY CORP	CF–02
776208	CENTERSCOPE INC	CF–08
018532	CENTEX CORP	CF–02
818764	CENTEX DEVELOPMENT CO LP	CF–09
819724	CENTEX TELEMANAGEMENT INC	CF–05
877908	CENTIGRAM COMMUNICATIONS CORP	CF–10
708823	CENTOCOR INC	CF–04
831904	CENTRA CORP	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
018540	CENTRAL & SOUTH WEST CORP	CF-01
815032	CENTRAL & SOUTHERN HOLDING CO/GA	CF-05
718968	CENTRAL BANCORPORATION /WA/	CF-06
018568	CENTRAL BANCSHARES OF THE SOUTH INC	CF-03
874277	CENTRAL BANKING GROUP INC	CF-10
018575	CENTRAL BANKING SYSTEM INC	CF-07
018605	CENTRAL COAL & COKE CORP	CF-07
018620	CENTRAL CORP /LA/	CF-07
276235	CENTRAL FIDELITY BANKS INC	CF-03
825481	CENTRAL FINANCIAL CORP /PA/	CF-06
018639	CENTRAL FREIGHT LINES INC	CF-04
771722	CENTRAL HOLDING CO	CF-04
018647	CENTRAL HUDSON GAS & ELECTRIC CORP	CF-02
746686	CENTRAL ILLINOIS FINANCIAL CORP	CF-08
018651	CENTRAL ILLINOIS LIGHT CO	CF-03
018654	CENTRAL ILLINOIS PUBLIC SERVICE CO	CF-02
873397	CENTRAL INDIANA BANCORP	CF-10
761201	CENTRAL JERSEY BANCORP	CF-07
851535	CENTRAL JERSEY FINANCIAL CORP	CF-10
837332	CENTRAL LIFE ASSURANCE CO	CF-09
018672	CENTRAL LOUISIANA ELECTRIC CO INC	CF-03
018675	CENTRAL MAINE POWER CO	CF-02
854094	CENTRAL NEWSPAPERS INC	CF-03
350649	CENTRAL PACIFIC CORP	CF-07
759751	CENTRAL PENNSYLVANIA FINANCIAL CORP	CF-05
018734	CENTRAL POWER & LIGHT CO /TX/	CF-01
786714	CENTRAL REALTY INVESTORS INC	CF-08
215403	CENTRAL RESERVE LIFE CORP	CF-06
888409	CENTRAL RESOURCE GROUP INC	CF-10
018751	CENTRAL SERVICE CORP	CF-05
766041	CENTRAL SPRINKLER CORP	CF-05
018783	CENTRAL STEEL & WIRE CO	CF-04
018792	CENTRAL TELEPHONE CO	CF-02
018793	CENTRAL TELEPHONE CO OF FLORIDA	CF-03
018801	CENTRAL UNITED CORP	CF-06
018808	CENTRAL VERMONT PUBLIC SERVICE CORP	CF-03
849147	CENTRAPLEX CORP	CF-10
351127	CENTRUM INDUSTRIES INC	CF-08
861461	CENTURA BANKS INC	CF-10
003905	CENTURI INC	CF-05
836123	CENTURION MINES CORP	CF-09
812348	CENTURY BANCORP INC	CF-07
785813	CENTURY BANCSHARES INC	CF-06
785080	CENTURY COMMUNICATIONS CORP	CF-02
820414	CENTURY FINANCIAL CORP /PA/	CF-09
835596	CENTURY HILLCRESTE APARTMENT INVESTORS L	CF-09
018886	CENTURY LABORATORIES INC	CF-08
791770	CENTURY PACIFIC CORP	CF-07
809034	CENTURY PACIFIC HOUSING FUND I	CF-06
840258	CENTURY PACIFIC TAX CREDIT HOUSING FUND	CF-09
728387	CENTURY PARK PICTURES CORP	CF-08
764543	CENTURY PENSION INCOME FUND XXIII	CF-05
780590	CENTURY PENSION INCOME FUND XXIV	CF-06
018905	CENTURY PROPERTIES EQUITY PARTNERSHIP 72	CF-08
018909	CENTURY PROPERTIES FUND X	CF-07
215406	CENTURY PROPERTIES FUND XI	CF-06
275193	CENTURY PROPERTIES FUND XII	CF-06
276703	CENTURY PROPERTIES FUND XIII	CF-06
278128	CENTURY PROPERTIES FUND XIV	CF-05
705752	CENTURY PROPERTIES FUND XIX	CF-04
314690	CENTURY PROPERTIES FUND XV	CF-05
351931	CENTURY PROPERTIES FUND XVI	CF-05
356472	CENTURY PROPERTIES FUND XVII	CF-05
704271	CENTURY PROPERTIES FUND XVIII	CF-05
736909	CENTURY PROPERTIES FUND XX	CF-05
740158	CENTURY PROPERTIES GROWTH FUND XXII	CF-04
018912	CENTURY PROPERTIES PREFERRED PARTNERSHIP	CF-09
018914	CENTURY REALTY TRUST	CF-07
357105	CENTURY SOUTH BANKS INC	CF-10
887736	CENTURY TECHNOLOGIES INC	CF-10
018926	CENTURY TELEPHONE ENTERPRISES INC	CF-03
811209	CENVEST INC	CF-04

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
319302	CENVILL DEVELOPMENT CORP	CF–03
873364	CEPHALON INC	CF–10
018937	CERADYNE INC	CF–06
814676	CERAMICS PROCESS SYSTEMS CORP/DE/	CF–07
826821	CERBCO INC	CF–06
869711	CERES FUND LP	CF–10
109758	CERIDIAN CORP	CF–01
804753	CERNER CORP /MO/	CF–05
037848	CERON RESOURCES CORPORATION	CF–09
725259	CERPROBE CORP	CF–08
320431	CERTIFIED GROCERS OF CALIFORNIA LTD	CF–03
019002	CERTRON CORP	CF–06
202196	CEZAR INDUSTRIES LTD	CF–08
885065	CF BANCORP INC	CF–10
802779	CF INCOME PARTNERS L P	CF–04
018020	CF&I STEEL CORP	CF–04
884133	CFC 17 GRANTOR TRUST	CF–10
752260	CFS FINANCIAL CORP	CF–07
735585	CFS REAL ESTATE INVESTORS LTD	CF–07
859083	CFSB BANCORP INC	CF–10
829676	CFW COMMUNICATIONS CO	CF–09
019047	CGS SCIENTIFIC CORP	CF–08
713492	CHAD THERAPEUTICS INC	CF–08
019082	CHALCO INDUSTRIES INC	CF–07
742685	CHALONE INC	CF–05
776074	CHAMBERS DEVELOPMENT CO INC	CF–03
814068	CHAMPION ENTERPRISES INC	CF–05
877050	CHAMPION FINANCIAL CORP	CF–10
019150	CHAMPION INTERNATIONAL CORP	CF–02
019161	CHAMPION PARTS INC	CF–05
771856	CHAMPIONS SPORTS INC	CF–08
724051	CHANCELLOR CORP	CF–04
833850	CHANNEL AMERICA LPTV HOLDINGS INC	CF–08
721408	CHANTAL PHARMACEUTICAL CORP	CF–08
859793	CHAPARRAL MINING CORP	CF–10
019252	CHAPARRAL RESOURCES INC	CF–08
833226	CHAPARRAL STEEL CO	CF–03
883204	CHARCOALS HOLDINGS CORP /FL	CF–10
805074	CHARGE INC	CF–09
790932	CHARIOT GROUP INC	CF–06
861370	CHARLIE O COMPANY INC	CF–10
019353	CHARMING SHOPPES INC	CF–03
820757	CHART HOUSE ENTERPRISES INC	CF–05
718607	CHARTER BANCSHARES INC	CF–04
885805	CHARTER BY THE SEA INC	CF–10
885806	CHARTER CANYON HOSPITAL INC	CF–10
312667	CHARTER CO	CF–04
885807	CHARTER COLONIAL INSTITUTE INC	CF–10
885809	CHARTER COMMUNITY HOSPITAL INC	CF–10
885808	CHARTER COMMUNITY HOSPITAL OF DES MOINES INC	CF–10
885812	CHARTER FAIRMOUNT INSTITUTE INC	CF–10
885815	CHARTER FOREST HOSPITAL INC	CF–10
865160	CHARTER FSB BANCORP INC	CF–10
820774	CHARTER GOLF INC	CF–08
885818	CHARTER HOSPITAL OF AKRON INC	CF–10
885821	CHARTER HOSPITAL OF ALBUQUERQUE INC	CF–10
885824	CHARTER HOSPITAL OF AURORA INC	CF–10
885839	CHARTER HOSPITAL OF AUSTIN INC	CF–10
885842	CHARTER HOSPITAL OF BAKERSFIELD INC	CF–10
885843	CHARTER HOSPITAL OF BRADENTON INC	CF–10
885844	CHARTER HOSPITAL OF BUCKS COUNTY PENNSYLVANIA INC	CF–10
885845	CHARTER HOSPITAL OF CHARLESTON INC	CF–10
885848	CHARTER HOSPITAL OF CHARLOTTESVILLE INC	CF–10
885849	CHARTER HOSPITAL OF CINCINNATI INC	CF–10
885850	CHARTER HOSPITAL OF COLUMBIA INC	CF–10
885851	CHARTER HOSPITAL OF COLUMBUS INC	CF–10
885910	CHARTER IMAGING INC	CF–10
019411	CHARTER MEDICAL CORP	CF–02
885941	CHARTER MEDICAL MANAGEMENT COMPANY	CF–10
886775	CHARTER NORTHSIDE HOSPITAL INC	CF–10
819692	CHARTER ONE FINANCIAL INC	CF–07
886778	CHARTER PALMS HOSPITAL INC	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
808064	CHARTER POWER SYSTEMS INC	CF–05
886783	CHARTER PROVO SCHOOL INC	CF–10
886800	CHARTERTON LAGRANGE INC	CF–10
824606	CHARTWELL CABLE FUND INC	CF–08
790230	CHARTWELL GROUP LTD	CF–04
798660	CHARTWELL PARTNERS LP	CF–07
830524	CHASE CORP	CF–07
015357	CHASE GENERAL CORP	CF–08
869090	CHASE MANHATTAN BANK /USA/	CF–10
019489	CHASE MANHATTAN CORP	CF–02
878565	CHASE MANHATTAN CREDIT CARD MASTER TRUST SERIES 1991–1	CF–10
886922	CHASE MANHATTAN CREDIT CARD MASTER TRUST SERIES 1992–1	CF–10
870583	CHASE MANHATTAN CREDIT CARD TRUST 1990–A	CF–10
872268	CHASE MANHATTAN CREDIT CARD TRUST 1991–A	CF–10
020724	CHASE MANHATTAN LEASING COMPANY MICH INC	CF–02
830379	CHASE MORTGAGE FINANCE CORP	CF–09
874446	CHATEAU MORTGAGE INCOME FUND INC	CF–10
876158	CHATHAM INTERNATIONAL INC	CF–10
839091	CHATTAHOOCHEE BANCORP INC	CF–09
019520	CHATTEM INC	CF–05
793983	CHAUS BERNARD INC	CF–05
806439	CHECK EXPRESS INC	CF–08
350692	CHECK TECHNOLOGY CORP	CF–07
879554	CHECKERS DRIVE IN RESTAURANTS INC /DE	CF–10
215419	CHECKPOINT SYSTEMS INC	CF–01
773548	CHECKROBOT INC	CF–07
887596	CHEESECAKE FACTORY INCORPORATED	CF–10
201424	CHEFS INTERNATIONAL INC	CF–06
734541	CHEMDESIGN CORP	CF–05
019584	CHEMED CORP	CF–03
318306	CHEMEX PHARMACEUTICALS INC	CF–08
354278	CHEMFIX TECHNOLOGIES INC	CF–06
215420	CHEMI TROL CHEMICAL CO	CF–06
019617	CHEMICAL BANKING CORP	CF–02
739717	CHEMICAL DEPENDENCY HEALTHCARE INC /CA/	CF–08
725813	CHEMICAL FABRICS CORP	CF–06
019612	CHEMICAL FINANCIAL CORP	CF–07
215425	CHEMICAL LEAMAN CORP /PA/	CF–05
882648	CHEMICAL MORTGAGE SEC INC MULTI CL MOR PA THR CERT SE 1991–1	CF–10
800287	CHEMICAL WASTE MANAGEMENT INC	CF–02
847595	CHEMPOWER INC	CF–06
882242	CHEMTRAK INC/DE	CF–10
763563	CHEMUNG FINANCIAL CORP	CF–05
809153	CHEQUE ALERT INC	CF–08
731446	CHERNE MEDICAL INC	CF–07
729582	CHEROKEE GROUP	CF–04
844161	CHEROKEE INC	CF–09
019704	CHERRY CORP	CF–04
019719	CHESAPEAKE & POTOMAC TELEPHONE CO	CF–03
019722	CHESAPEAKE & POTOMAC TELEPHONE CO OF MARYLAND	CF–02
019725	CHESAPEAKE & POTOMAC TELEPHONE CO OF VIRGINIA	CF–02
019724	CHESAPEAKE & POTOMAC TELEPHONE CO OF WEST VIRGINIA	CF–03
799485	CHESAPEAKE BIOLOGICAL LABORATORIES INC	CF–08
019731	CHESAPEAKE CORP /VA/	CF–03
847538	CHESAPEAKE FINANCIAL SHARES INC	CF–10
019736	CHESAPEAKE INDUSTRIES INC /MD/	CF–06
019739	CHESAPEAKE LIFE INSURANCE CO	CF–06
019745	CHESAPEAKE UTILITIES CORP	CF–05
800042	CHESHIRE FINANCIAL CORP	CF–04
810997	CHESTER COUNTY BANCSHARES INC	CF–07
793375	CHESTER COUNTY SECURITY FUND INC	CF–09
854098	CHESTER VALLEY BANCORP INC	CF–10
882973	CHESTNUT PARTNERSHIP	CF–10
882974	CHESTNUT REAL ESTATE PARTNERSHIP	CF–10
749647	CHEUNG LABORATORIES INC	CF–08
093410	CHEVRON CORP	CF–02
856420	CHEVY CHASE EXTENDIBLE CREDIT CARD TRUST 1989–B	CF–10
856421	CHEVY CHASE EXTENDIBLE CREDIT CARD TRUST 1989–C	CF–10
738830	CHEYENNE SOFTWARE INC	CF–05
854884	CHICAGO & NORTH WESTERN HOLDINGS CORP	CF–02
774658	CHICAGO DOCK & CANAL TRUST	CF–05
019671	CHICAGO RIVET & MACHINE CO	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
019913	CHIEF CONSOLIDATED MINING CO	CF–07
830747	CHILD WRIT & CO INC	CF–09
882160	CHILDRENS BROADCASTING CORPORATION	CF–10
785317	CHILDRENS CREATIVE WORKSHOP LTD	CF–08
775820	CHILDRENS DISCOVERY CENTERS OF AMERICA I	CF–06
862316	CHILES OFFSHORE CORP	CF–10
873567	CHIPCOM CORP	CF–10
767965	CHIPS & TECHNOLOGIES INC	CF–04
884005	CHIPSOFT INC/DE	CF–10
704175	CHIPWICH INC	CF–06
101063	CHIQUITA BRANDS INTERNATIONAL INC	CF–02
706539	CHIRON CORP	CF–05
200138	CHITTENDEN CORP /VT/	CF–04
020041	CHOCK FULL O NUTS CORP	CF–04
803866	CHOCOLATE PIX INC	CF–09
792932	CHOICE DRUG SYSTEMS INC	CF–07
822935	CHOICES ENTERTAINMENT CORP	CF–08
887227	CHOLESTECH CORPORATION	CF–10
020067	CHRIS CRAFT INDUSTRIES INC	CF–02
850625	CHRISKEN GROWTH & INCOME LP II	CF–10
815278	CHRISKEN PARTNERS CASH INCOME FUND L P	CF–06
855663	CHRISTIAN PURCHASING NETWORK INC	CF–10
020104	CHRISTIANA COMPANIES INC	CF–05
802355	CHROMALUX CORP	CF–08
884130	CHROMCRAFT REVINGTON INC	CF–10
352800	CHRONAR CORP	CF–06
883813	CHRONIMED INC	CF–10
828679	CHRONODYNAMICS LTD	CF–08
852576	CHRYSLER CAPITAL INCOME PARTNERS L P	CF–10
791269	CHRYSLER CORP /DE	CF–02
020164	CHRYSLER FINANCIAL CORP	CF–02
880264	CHRYSLER FIRST BUSINESS CREDIT CORP	CF–10
020171	CHUBB CORP	CF–02
878004	CHUGACH ELECTRIC ASSOCIATION INC	CF–10
313927	CHURCH & DWIGHT CO INC /DE/	CF–04
020199	CHURCH LOANS & INVESTMENTS TRUST	CF–06
020212	CHURCHILL DOWNS INC	CF–06
721233	CHURCHILL TECHNOLOGY INC	CF–07
020232	CHYRON CORP	CF–05
802517	CIATTIS INC /DE/	CF–07
701221	CIGNA CORP	CF–02
784000	CIGNA INCOME REALTY I LTD PARTNERSHIP	CF–05
026301	CII–X HOLDINGS INC	CF–05
762129	CILCORP INC	CF–02
043052	CIMARRON GRANDVIEW GROUP INC	CF–08
791243	CIMCO INC /DE/	CF–05
786620	CIMETRIX INC	CF–09
716214	CIMFLEX TEKNOWLEDGE CORP	CF–05
716133	CINCINNATI BELL INC /OH/	CF–02
020286	CINCINNATI FINANCIAL CORP	CF–03
020290	CINCINNATI GAS & ELECTRIC CO	CF–02
729583	CINCINNATI MICROWAVE INC	CF–05
716823	CINCINNATI MILACRON INC /DE/	CF–03
020305	CINCINNATI UNION STOCK YARD CO	CF–07
839428	CINE SOURCE INC /CO	CF–06
822368	CINEMA PLUS LP	CF–09
885975	CINEMARK USA INC /TX	CF–10
723254	CINTAS CORP	CF–04
020341	CIP CORP	CF–06
720145	CIPRICO INC	CF–07
860520	CIPSCO INC	CF–01
738014	CIRCADIAN INC	CF–07
884141	CIRCLE CREEK AQUACULTURE V LP	CF–10
872866	CIRCLE FINANCIAL CORPORATION	CF–10
020356	CIRCLE FINE ART CORP & CIRCLE FINE ART C	CF–06
350215	CIRCLE K CORP /NEW/	CF–02
719727	CIRCON CORP	CF–05
104599	CIRCUIT CITY STORES INC	CF–03
725897	CIRCUIT RESEARCH LABS INC	CF–08
773657	CIRCUIT SYSTEMS INC	CF–06
725549	CIRCUS CIRCUS ENTERPRISES INC	CF–03
726602	CIRO INC	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
772406	CIRRUS LOGIC INC	CF–05
769725	CIS CAPITAL EQUIPMENT FUND LTD 1	CF–10
807068	CIS CAPITAL EQUIPMENT FUND LTD 2	CF–06
806072	CIS TECHNOLOGIES INC	CF–06
858877	CISCO SYSTEMS INC	CF–05
793725	CISTRON BIOTECHNOLOGY INC	CF–08
020368	CIT GROUP HOLDINGS INC /DE/	CF–02
798097	CITADEL ASSET MANAGEMENT LTD	CF–08
716834	CITADEL HOLDING CORP	CF–03
886330	CITATION COMPUTER SYSTEMS INC	CF–10
872441	CITFED BANCORP INC	CF–10
715991	CITI BANCSHARES INC	CF–08
849487	CITI CREDIT CARD TRUST 1989 1	CF–10
856610	CITI CREDIT CARD TRUST 1989–2	CF–10
848655	CITIBANK FEDERAL SAVINGS BANK	CF–10
849345	CITIBANK N A MORTGAGE PASS THROUGH CERTI	CF–10
861881	CITIBANK SOUTH DAKOTA NA STANDARD CREDIT CARD TRUST 1990–2	CF–10
863114	CITIBANK SOUTH DAKOTA NA STANDARD CREDIT CARD TRUST 1990–5	CF–10
865166	CITIBANK SOUTH DAKOTA NA STANDARD CREDIT CARD TRUST 1990–6	CF–10
866792	CITIBANK SOUTH DAKOTA NA STANDARD CREDIT CARD TRUST 1990–7	CF–10
879066	CITIBANK SOUTH DAKOTA NA STANDARD CREDIT CARD TRUST 1990–8	CF–10
870737	CITIBANK SOUTH DAKOTA NA STANDARD CREDIT MASTER TR 1 1991–1	CF–10
020405	CITICORP	CF–02
889302	CITICORP INVESTMENT BANK LTD	CF–10
892077	CITICORP MORT SEC INC REMIC PASS THRO CITICERT SERIES 1992–1	CF–10
811785	CITICORP MORTGAGE SECURITIES INC	CF–10
020423	CITINATIONAL DEVELOPMENT TRUST	CF–08
810958	CITIZENS & NORTHERN CORP	CF–05
853771	CITIZENS & SOUTHERN 1989 A GRANTOR TRUST	CF–10
704054	CITIZENS BANCORP /MD/	CF–07
813640	CITIZENS BANCSHARES CORP /GA/	CF–06
715762	CITIZENS BANCSHARES INC /LA/	CF–06
855878	CITIZENS BANCSHARES INC /OH/	CF–10
771481	CITIZENS BANCSHARES INC /WV/	CF–06
351077	CITIZENS BANKING CORP	CF–07
887136	CITIZENS FINANCIAL CORP /KY/	CF–10
764156	CITIZENS FINANCIAL CORP/DE/	CF–06
730421	CITIZENS FINANCIAL SERVICES INC	CF–06
702163	CITIZENS FIRST BANCORP INC /NJ/	CF–03
024090	CITIZENS INC	CF–06
863026	CITIZENS NATIONAL BANK CORP /IN/	CF–10
883231	CITIZENS NATIONAL CORP /FL	CF–10
315176	CITIZENS SAVINGS FINANCIAL CORP	CF–09
802971	CITIZENS SECURITY GROUP INC /MN/	CF–07
020520	CITIZENS UTILITIES CO	CF–02
852616	CITRUS FINANCIAL SERVICES INC	CF–10
726854	CITY HOLDING CO	CF–05
778171	CITY INVESTING CO LIQUIDATING TRUST	CF–09
714980	CITY NATIONAL BANCSHARES CORP	CF–06
201461	CITY NATIONAL CORP	CF–03
020413	CITYTRUST BANCORP INC	CF–03
747205	CIVIC BANCORP	CF–08
831486	CIVISTA CORP	CF–04
352363	CLAIBORNE LIZ INC	CF–03
034115	CLAIRES STORES INC	CF–05
814503	CLAJON CAPITAL INC	CF–08
814504	CLAJON HOLDINGS L P	CF–08
789318	CLANCY SYSTEMS INTERNATIONAL INC /CO/	CF–09
020740	CLARCOR INC	CF–04
710632	CLAREMONT ASSOCIATES	CF–09
730409	CLARIDGE HOTEL & CASINO CORP	CF–04
834154	CLARITY HOLDINGS CORP	CF–09
768681	CLARK COUNTY PROPERTIES 5	CF–07
805370	CLARK DICK PRODUCTIONS INC	CF–06
109710	CLARK EQUIPMENT CO /DE/	CF–03
829598	CLARK MELVIN SECURITIES CORP /DE/	CF–08
020762	CLARK OIL & REFINING CORP	CF–03
020784	CLARKE CORP	CF–09
020819	CLARY CORP	CF–07
719547	CLAYTON HOMES INC	CF–03
020871	CLAYTON SILVER MINES INC	CF–08
880115	CLAYTON WILLIAMS ENERGY INC /DE	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
822818	CLEAN HARBORS INC	CF-04
739708	CLEAR CHANNEL COMMUNICATIONS INC	CF-05
764065	CLEVELAND CLIFFS INC	CF-03
020947	CLEVELAND ELECTRIC ILLUMINATING CO	CF-02
020975	CLEVETRUST REALTY INVESTORS	CF-05
793596	CLIFF ENGLE LTD /NY/	CF-08
831964	CLIFFS DRILLING CO	CF-04
788069	CLIFTON INCOME FUND LTD PARTNERSHIP II	CF-08
716646	CLINICAL DATA INC	CF-07
818725	CLINICAL HOMECARE LTD	CF-09
805326	CLINICAL TECHNOLOGIES ASSOCIATES INC	CF-08
882387	CLINICOM INC	CF-10
881808	CLINICORP INC	CF-10
773280	CLINTON APPALACHIAN IX LTD PARTNERSHIP	CF-07
788909	CLINTON APPALACHIAN X LTD PARTNERSHIP	CF-07
702256	CLINTON GAS SYSTEMS INC	CF-05
810571	CLINTON MILLS INC	CF-04
021076	CLOROX CO /DE/	CF-02
727739	CLOTHESTIME INC	CF-05
837103	CLOVER APPRECIATION PROPERTIES I L P	CF-09
818671	CLOVER INCOME PROPERTIES II L P	CF-06
844151	CLOVER INCOME PROPERTIES III LP	CF-09
802679	CLOVER INCOME PROPERTIES L P	CF-06
205171	CLR CORP	CF-05
027894	CLUB AMERICA INC	CF-09
846872	CLUB CAR INC	CF-05
803573	CLUB DE SPORT INC	CF-06
845807	CLUB USPN INC	CF-10
889266	CLUCKERS WOOD ROASTED CHICKEN INC	CF-10
802902	CLYDE FINANCIAL CORP	CF-04
852448	CM COMMUNICATIONS INC	CF-07
822150	CM MAGNETICS CORP	CF-09
886802	CMCA INC	CF-10
886803	CMCI INC	CF-10
886805	CMHS INC	CF-10
021157	CMI CORP	CF-05
847433	CML CHURCH MORTGAGE INC	CF-10
867203	CML CHURCH MORTGAGE TRUST 1990 RATED SERIES A-1	CF-10
729576	CML GROUP INC	CF-04
870771	CMO MORTGAGE INVESTORS TRUSTS	CF-10
862420	CMS DATA CORP	CF-07
811156	CMS ENERGY CORP	CF-02
764864	CMS ENHANCEMENTS INC	CF-05
886811	CMSF INC	CF-10
021175	CNA FINANCIAL CORP	CF-02
839928	CNB BANCORP INC /NY/	CF-09
724198	CNB BANCSHARES INC	CF-07
764581	CNB CORP /SC/	CF-05
700916	CNB FINANCIAL CORP/KS	CF-04
736772	CNB FINANCIAL CORP/PA	CF-05
769644	CNC HOLDING CORP/DE	CF-03
021193	CNL FINANCIAL CORP	CF-08
806510	CNL INCOME FUND II LTD	CF-06
817845	CNL INCOME FUND III LTD	CF-06
829739	CNL INCOME FUND IV LTD	CF-09
863779	CNL INCOME FUND IX LTD	CF-10
788338	CNL INCOME FUND LTD	CF-09
837985	CNL INCOME FUND V LTD	CF-09
837986	CNL INCOME FUND VI LTD	CF-09
863785	CNL INCOME FUND X LTD	CF-10
879980	CNL INCOME FUND XI LTD	CF-10
879982	CNL INCOME FUND XII LTD	CF-10
893562	CNL INCOME FUND XIII LTD	CF-10
814256	CNS INC /DE/	CF-07
816249	COACHMAN INC	CF-07
787494	COACHMAN INNS INCOME LTD PARTNERSHIP	CF-07
021212	COACHMEN INDUSTRIES INC	CF-05
855372	COALMONT INC	CF-10
728303	COAST DISTRIBUTION SYSTEM	CF-05
841074	COAST SAVINGS FINANCIAL INC	CF-09
319616	COASTAL 1981 DEVELOPMENT PROGRAM LTD	CF-09
708132	COASTAL 1983 DRILLING PROGRAM LTD	CF-09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
732386	COASTAL 1984 DRILLING PROGRAM LTD	CF-09
740933	COASTAL 1984-B DRILLING PROGRAM LTD	CF-09
757771	COASTAL 1985 DRILLING PROGRAM LTD	CF-09
769522	COASTAL 1985-B DRILLING PROGRAM LTD	CF-09
783747	COASTAL 1986 DRILLING PROGRAM LTD	CF-09
812067	COASTAL 1987 DRILLING PROGRAM LTD	CF-09
021267	COASTAL CORP	CF-02
874787	COASTAL HEALTHCARE GROUP INC	CF-10
792220	COASTAL STRATEGIES INCOME FUND A	CF-06
792222	COASTAL STRATEGIES INCOME FUND B	CF-06
817133	COASTAL STRATEGIES INCOME FUND C	CF-09
310285	COASTLAND CORP OF FLORIDA	CF-06
049444	COBB RESOURCES CORP	CF-07
317540	COCA COLA BOTTLING CO CONSOLIDATED /DE/	CF-03
021344	COCA COLA CO	CF-02
804055	COCA COLA ENTERPRISES INC	CF-02
356799	CODA ENERGY INC	CF-06
821509	CODE ALARM INC	CF-06
318379	CODENOLL TECHNOLOGY CORP	CF-07
730390	CODERCARD INC	CF-06
806279	CODORUS VALLEY BANCORP INC	CF-05
215466	COEUR D ALENE MINES CORP	CF-04
822814	COGENRON INC	CF-09
851205	COGNEX CORP	CF-06
021438	COGNITRONICS CORP	CF-07
021510	COHERENT INC	CF-04
863924	COHO RESOURCES INC	CF-10
021535	COHU INC	CF-06
021627	COLEMAN CO INC	CF-10
021665	COLGATE PALMOLIVE CO	CF-02
356830	COLLABORATIVE RESEARCH INC	CF-06
021686	COLLAGEN CORP /DE	CF-05
888859	COLLATERAL INVESTMENT CORP	CF-10
866840	COLLATERALIZED MORTGAGE OBLIGATION TRUST 65	CF-10
868657	COLLATERALIZED MORTGAGE OBLIGATION TRUST 67	CF-10
762852	COLLATERALIZED MORTGAGE SECURITIES CORP	CF-09
835345	COLLECTIVE BANCORP INC	CF-09
824575	COLLEGE BOUND INC	CF-07
106998	COLLINS & AIKMAN GROUP INC	CF-02
946815	COLLINS & AIKMAN HOLDINGS CORP	CF-02
790416	COLLINS FUTURES FUND III	CF-09
021759	COLLINS INDUSTRIES INC	CF-05
092339	COLONIAL BANCGROUP INC	CF-07
021828	COLONIAL COMMERCIAL CORP	CF-06
853995	COLONIAL COMPANIES INC	CF-05
911243	COLONIAL DATA TECHNOLOGIES CORP	CF-07
060653	COLONIAL GAS CO	CF-04
783282	COLONIAL GROUP INC /MA/	CF-05
870858	COLONIAL MORTGAGE MANAGEMENT CORP	CF-10
822399	COLONIAL NATIONAL BANK USA	CF-10
319000	COLONIAL STORAGE CENTERS I LTD	CF-07
357175	COLONIAL STORAGE CENTERS II LTD	CF-07
715763	COLONIAL STORAGE CENTERS III LTD	CF-07
869296	COLONIAL TRUST CO /AZ	CF-10
711669	COLONY BANKCORP INC	CF-09
771617	COLOR SYSTEMS TECHNOLOGY INC/DE	CF-07
276780	COLOR TILE INC	CF-03
354699	COLORADO GOLD & SILVER INC	CF-06
200155	COLORADO INTERSTATE GAS CO	CF-02
021956	COLORADO NATIONAL BANKSHARES INC	CF-03
752757	COLORADO UTE ELECTRIC ASSOCIATION INC	CF-03
832389	COLTEC HOLDINGS INC	CF-02
201493	COLTEC INDUSTRIES INC	CF-03
887343	COLUMBIA BANKING SYSTEM INC	CF-10
701286	COLUMBIA FUTURES FUND	CF-07
022099	COLUMBIA GAS SYSTEM INC	CF-02
860730	COLUMBIA HOSPITAL CORP	CF-10
821995	COLUMBIA LABORATORIES INC	CF-06
751683	COLUMBIA LEASE INCOME FUND A LP	CF-07
751684	COLUMBIA LEASE INCOME FUND B LP	CF-07
759332	COLUMBIA LEASE INCOME FUND II-A LP	CF-07
769333	COLUMBIA LEASE INCOME FUND II-B LP	CF-09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
769334	COLUMBIA LEASE INCOME FUND II-C LP	CF-09
769335	COLUMBIA LEASE INCOME FUND II-D LP	CF-08
769336	COLUMBIA LEASE INCOME FUND II-E LP	CF-06
022120	COLUMBIA MANAGEMENT CO	CF-07
779608	COLUMBIA REAL ESTATE INVESTMENTS INC	CF-03
824204	COLUMBIA SAVINGS & LOAN ASSOCIATION/CA/	CF-02
793521	COLUMBIAN ENERGY CO LTD PARTNERSHIP	CF-07
806118	COLUMBIAN OIL & GAS PRODUCTION PROGRAM 1-A LP	CF-08
806119	COLUMBIAN OIL & GAS PRODUCTION PROGRAM 1-B LP	CF-09
823975	COLUMBUS ENERGY CORP	CF-09
022198	COLUMBUS SOUTHERN POWER CO /OH/	CF-02
732700	COM TEK RESOURCES INC	CF-07
714281	COM VU CORP	CF-08
835344	COMAIR HOLDINGS INC	CF-09
022252	COMARCO INC	CF-06
741316	COMBANCORP	CF-06
744152	COMBINED ASSETS INC	CF-09
829342	COMBINED ENTERTAINMENT ORGANIZATION INC	CF-09
711419	COMCAST CABLEVISION OF PHILADELPHIA INC	CF-07
885611	COMCAST CELLULAR CORPORATION	CF-10
022301	COMCAST CORP	CF-02
878945	COMCENTRAL CORP/UT	CF-10
718451	COMCOA INC	CF-06
814246	COMDATA HOLDINGS CORP	CF-03
022306	COMDATA NETWORK INC	CF-09
230131	COMDIAL CORP	CF-05
722487	COMDISCO INC	CF-02
871978	COMDISCO RECEIVABLES INC	CF-10
871979	COMDISCO RECEIVABLES TRUST 1991-A	CF-10
885626	COMDISCO RECEIVABLES TRUST 1992 A	CF-10
028412	COMERICA INC /NEW/	CF-02
748656	COMET ENTERTAINMENT INC	CF-08
825393	COMFED BANCORP INC	CF-03
730030	COMM BANCORP INC	CF-06
856130	COMMAND CREDIT CORP	CF-08
864509	COMMAND SECURITY CORP	CF-10
715096	COMMERCE BANCORP INC /NJ/	CF-05
022356	COMMERCE BANCSHARES INC /MO/	CF-06
022366	COMMERCE CLEARING HOUSE INC	CF-03
109757	COMMERCE GROUP CORP /DE/	CF-07
811612	COMMERCE GROUP INC /MA	CF-09
773319	COMMERCE NATIONAL CORP	CF-06
814606	COMMERCE VENTURES INC	CF-10
720883	COMMERCEBANCORP	CF-05
854096	COMMERCIAL ACQUISITIONS CORP /CO/	CF-10
717059	COMMERCIAL BANCORP	CF-05
022390	COMMERCIAL BANCORPORATION OF COLORADO	CF-09
726738	COMMERCIAL BANCSHARES INC /WV/	CF-03
201499	COMMERCIAL CREDIT CO	CF-02
022412	COMMERCIAL DECAL INC	CF-07
769400	COMMERCIAL DEVELOPMENT FUND 85	CF-06
744778	COMMERCIAL FEDERAL CORP	CF-06
022426	COMMERCIAL INTERNATIONAL CORP	CF-05
022470	COMMERCIAL INTERTECH CORP	CF-04
022444	COMMERCIAL METALS CO	CF-03
876235	COMMERCIAL MORTGAGE RESOURCES CORP	CF-10
828535	COMMERCIAL NATIONAL FINANCIAL CORP /MI	CF-09
866054	COMMERCIAL NATIONAL FINANCIAL CORP /PA	CF-10
022460	COMMERCIAL PROGRAMMING UNLIMITED INC	CF-05
700705	COMMODITY STRATEGY PARTNERS	CF-07
310913	COMMODITY TREND TIMING FUND	CF-07
702655	COMMODITY TREND TIMING FUND II	CF-05
318294	COMMODITY VENTURE FUND	CF-07
071528	COMMODORE ENVIRONMENTAL SERVICES INC /UT	CF-08
800444	COMMON GOAL HEALTH CARE PARTICIPATING MD	CF-06
355574	COMMONWEALTH BANCSHARES CORP	CF-07
835012	COMMONWEALTH BANKSHARES INC	CF-09
022606	COMMONWEALTH EDISON CO	CF-02
071222	COMMONWEALTH ELECTRIC CO	CF-09
071304	COMMONWEALTH ENERGY SYSTEM	CF-02
314485	COMMONWEALTH EQUITY TRUST	CF-03
803771	COMMONWEALTH EQUITY TRUST USA	CF-07

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
706131	COMMONWEALTH FINANCIAL FUTURES FUND	CF–06
737841	COMMONWEALTH FINANCIAL FUTURES FUND II	CF–06
022620	COMMONWEALTH GAS CO	CF–04
793034	COMMONWEALTH GROWTH FUND I	CF–06
810367	COMMONWEALTH GROWTH FUND II	CF–07
022626	COMMONWEALTH INDUSTRIES CORP	CF–05
799030	COMMONWEALTH MORTGAGE OF AMERICA L P	CF–03
793277	COMMTRON CORP	CF–04
789869	COMMUNICATION CABLE INC	CF–06
863061	COMMUNICATIONS & ENTERTAINMENT CORP	CF–10
355627	COMMUNICATIONS GROUP INC	CF–08
022698	COMMUNICATIONS SATELLITE CORP	CF–02
022701	COMMUNICATIONS SYSTEMS INC/MN	CF–06
727347	COMMUNICATIONS WORLD INTERNATIONAL INC	CF–08
718413	COMMUNITY BANCORP /VT/	CF–06
742170	COMMUNITY BANCORP INC /MA/	CF–05
776848	COMMUNITY BANCORP INC/NY	CF–08
752195	COMMUNITY BANCSHARES INC /DE/	CF–05
867241	COMMUNITY BANCSHARES INC /NC/	CF–10
763585	COMMUNITY BANCSHARES INC /TN	CF–08
723188	COMMUNITY BANK SYSTEM INC	CF–04
714710	COMMUNITY BANKS INC /PA/	CF–05
776815	COMMUNITY BANKSHARES INC /NH/	CF–05
742279	COMMUNITY BANKSHARES INC /VA/	CF–06
771970	COMMUNITY FINANCIAL CORP	CF–08
879532	COMMUNITY FINANCIAL SYSTEMS INC /SD	CF–10
022735	COMMUNITY HEALTH SYSTEMS INC	CF–10
825539	COMMUNITY NATIONAL BANCORP INC	CF–08
855385	COMMUNITY NATIONAL BANCORPORATION	CF–04
022764	COMMUNITY PSYCHIATRIC CENTERS /NV/	CF–03
869447	COMMUNITY TRUST FINANCIAL SERVICES CORPORATION	CF–10
023055	COMNET CORP	CF–06
022788	COMP U CHECK INC	CF–08
714154	COMPAQ COMPUTER CORP	CF–02
277809	COMPARATOR SYSTEMS CORP	CF–07
811273	COMPASS FUTURES FUND	CF–09
780151	COMPLIANCE RECYCLING INDUSTRIES INC	CF–08
818975	COMPONENTGUARD INC	CF–07
022872	COMPREHENSIVE CARE CORP	CF–04
319085	COMPRESSION LABS INC	CF–05
720031	COMPTEK RESEARCH INC/NY	CF–06
848462	COMPTRONIX CORPORATION	CF–06
736291	COMPUCOM SYSTEMS INC	CF–05
022912	COMPUDYNE CORP	CF–06
790272	COMPUFLIGHT INC	CF–08
700998	COMPUMED INC	CF–07
880323	COMPUSA INC	CF–10
724027	COMPUSONICS CORP	CF–08
777844	COMPUSONICS VIDEO CORP	CF–08
356028	COMPUTER ASSOCIATES INTERNATIONAL INC	CF–02
022962	COMPUTER AUTOMATION INC	CF–07
022973	COMPUTER COMMUNICATIONS INC	CF–07
879703	COMPUTER CONCEPTS CORP /DE	CF–10
022989	COMPUTER DATA SYSTEMS INC	CF–05
311507	COMPUTER DEVICES INC /MD	CF–08
023019	COMPUTER HORIZONS CORP	CF–06
023023	COMPUTER IDENTICS CORP /MA/	CF–07
716903	COMPUTER LANGUAGE RESEARCH INC	CF–05
356446	COMPUTER MEMORIES INC	CF–06
701319	COMPUTER NETWORK TECHNOLOGY CORP	CF–07
893616	COMPUTER OUTSOURCING SERVICES INC	CF–10
874445	COMPUTER PETROLEUM CORP /MN	CF–10
792986	COMPUTER POWER INC	CF–06
023071	COMPUTER PRODUCTS INC	CF–05
201511	COMPUTER RESEARCH INC	CF–07
023082	COMPUTER SCIENCES CORP	CF–03
023111	COMPUTER TASK GROUP INC	CF–05
764841	COMPUTER TELEPHONE CORP	CF–07
023120	COMPUTER TRANSCEIVER SYSTEMS INC	CF–08
730626	COMPUTERIZED BUYING NETWORK INC	CF–08
720507	COMPUTRAC INC	CF–06
201513	COMSHARE INC	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
823246	COMSOUTH BANKSHARES INC	CF-06
717410	COMSTOCK INDUSTRIES INC	CF-09
023194	COMSTOCK RESOURCES INC	CF-06
023197	COMTECH TELECOMMUNICATIONS CORP /DE/	CF-06
352988	COMTEX SCIENTIFIC CORP	CF-08
769525	COMTREX SYSTEMS CORP	CF-08
803014	COMVERSE TECHNOLOGY INC/NY/	CF-06
842233	CON TECH SYSTEMS INC	CF-10
023217	CONAGRA INC /DE/	CF-02
769208	CONAIR CORP/DE/NEW	CF-04
879986	CONCEPTRONIC INC / DE	CF-10
891035	CONCEPTS DIRECT INC	CF-10
891087	CONCHORD EXPERT TECHNOLOGIES INC	CF-10
831951	CONCORD CAMERA CORP	CF-06
844055	CONCORD CAPITAL INC	CF-09
740112	CONCORD COMPUTING CORP	CF-06
023249	CONCORD FABRICS INC	CF-05
808460	CONCORD MILESTONE PLUS L P	CF-09
023259	CONCORD TELEPHONE CO	CF-05
832483	CONCORDE CAREER COLLEGES INC	CF-06
215503	CONCORDE HOLDINGS CORP	CF-08
729156	CONCOURSE CORP	CF-06
749036	CONCURRENT COMPUTER CORP/DE	CF-04
828744	CONDEV LAND FUND II LTD	CF-09
795280	CONDEV LAND GROWTH FUND 86 LTD	CF-07
831375	CONDOR CAPITAL INC	CF-09
845815	CONDOR SERVICES INC	CF-10
831378	CONDOR WEST CORP	CF-09
023304	CONE MILLS CORP	CF-03
023314	CONESCO INDUSTRIES LTD	CF-07
854727	CONESTOGA ENTERPRISES INC	CF-05
023315	CONESTOGA TELEPHONE & TELEGRAPH CO	CF-05
756768	CONFERTECH INTERNATIONAL INC	CF-07
791679	CONGRESS INDUSTRIES INC	CF-08
745770	CONGRESS STREET PROPERTIES INC	CF-06
861502	CONJECTURE INC	CF-10
215506	CONKLIN CO INC	CF-08
818956	CONMED CORP	CF-06
804147	CONNECTICUT BANCORP INC	CF-05
310103	CONNECTICUT ENERGY CORP	CF-04
733460	CONNECTICUT GENERAL EQUITY PROPERTIES I	CF-06
716008	CONNECTICUT GENERAL REALTY INVESTORS II	CF-06
745471	CONNECTICUT GENERAL REALTY INVESTORS III	CF-05
356458	CONNECTICUT GENERAL REALTY INVESTORS LTD	CF-06
023426	CONNECTICUT LIGHT & POWER CO	CF-02
023432	CONNECTICUT NATURAL GAS CORP	CF-01
276209	CONNECTICUT WATER SERVICE INC / CT	CF-04
792397	CONNER PERIPHERALS INC	CF-03
023503	CONOLOG CORP	CF-07
810328	CONQUEST AIRLINES CORP	CF-05
845880	CONQUEST VENTURES INC	CF-10
719241	CONSECO INC	CF-03
855890	CONSERVATIVE SAVINGS CORP	CF-10
795090	CONSILIUM INC	CF-06
843462	CONSOLIDATED AMERICAN INDUSTRIES INC /DE	CF-09
023591	CONSOLIDATED CAPITAL CORP/FL/	CF-07
201529	CONSOLIDATED CAPITAL GROWTH FUND	CF-05
352983	CONSOLIDATED CAPITAL INSTITUTIONAL PROPERTIES	CF-04
719184	CONSOLIDATED CAPITAL INSTITUTIONAL PROPERTIES 2	CF-04
766890	CONSOLIDATED CAPITAL INSTITUTIONAL PROPERTIES 3	CF-05
839426	CONSOLIDATED CAPITAL OF NORTH AMERICA IN	CF-09
275251	CONSOLIDATED CAPITAL PROPERTIES I	CF-05
311867	CONSOLIDATED CAPITAL PROPERTIES II	CF-05
317331	CONSOLIDATED CAPITAL PROPERTIES III	CF-05
355804	CONSOLIDATED CAPITAL PROPERTIES IV	CF-09
725814	CONSOLIDATED CAPITAL PROPERTIES V	CF-05
755908	CONSOLIDATED CAPITAL PROPERTIES VI	CF-06
783321	CONSOLIDATED CAPITAL PROPERTIES VII	CF-06
769902	CONSOLIDATED CAPITAL VENTURE PROPERTIES	CF-05
846584	CONSOLIDATED CIGAR CORP	CF-10
023632	CONSOLIDATED EDISON CO OF NEW YORK INC	CF-02
818787	CONSOLIDATED ENERGY SYSTEMS INC /CA/	CF-08

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
023648	CONSOLIDATED EQUITIES CORP	CF–05
023657	CONSOLIDATED FIBRES INC	CF–06
838808	CONSOLIDATED FINANCIAL CORP /DE/	CF–09
023675	CONSOLIDATED FREIGHTWAYS INC	CF–01
752346	CONSOLIDATED IMAGING CORP	CF–07
023738	CONSOLIDATED NATURAL GAS CO	CF–02
023744	CONSOLIDATED OIL & GAS INC	CF–06
023750	CONSOLIDATED PACKAGING CORP	CF–05
023752	CONSOLIDATED PAPERS INC	CF–01
093859	CONSOLIDATED PRODUCTS INC /IN/	CF–05
810765	CONSOLIDATED RAIL CORP /PA/	CF–02
705188	CONSOLIDATED RESOURCES HEALTH CARE FUND I	CF–09
732247	CONSOLIDATED RESOURCES HEALTH CARE FUND II	CF–06
744594	CONSOLIDATED RESOURCES HEALTH CARE FUND III	CF–06
752895	CONSOLIDATED RESOURCES HEALTH CARE FUND IV	CF–05
764544	CONSOLIDATED RESOURCES HEALTH CARE FUND V	CF–05
777953	CONSOLIDATED RESOURCES HEALTH CARE FUND VI	CF–05
023778	CONSOLIDATED SILVER CORP	CF–08
768835	CONSOLIDATED STORES CORP /DE/	CF–04
823189	CONSOLIDATED TECHNOLOGY INC	CF–09
023795	CONSOLIDATED TOMOKA LAND CO	CF–05
029606	CONSTAR INTERNATIONAL INC	CF–04
753766	CONSTELLATION BANCORP	CF–08
809794	CONSTITUTION BANCORP OF NEW ENGLAND INC	CF–08
793925	CONSTON CORP	CF–05
313632	CONSUL RESTAURANT CORP	CF–05
846718	CONSULIER ENGINEERING INC	CF–07
312950	CONSUMAT SYSTEMS INC	CF–06
889609	CONSUMER PORTFOLIO SERVICES INC	CF–10
100320	CONSUMERS FINANCIAL CORP	CF–09
201533	CONSUMERS POWER CO	CF–02
023910	CONSUMERS WATER CO	CF–04
798916	CONTAINER CORP OF AMERICA /DE/	CF–02
822419	CONTEL CELLULAR INC	CF–04
024186	CONTEL OF CALIFORNIA INC	CF–03
316647	CONTINENTAL AIRLINES HOLDINGS INC	CF–02
319687	CONTINENTAL AIRLINES INC /DE/	CF–03
847926	CONTINENTAL BANCORPORATION	CF–10
024058	CONTINENTAL BANK CORP	CF–02
055069	CONTINENTAL CABLEVISION INC	CF–02
835909	CONTINENTAL CAPITAL RESOURCES INC	CF–09
753282	CONTINENTAL CONNECTOR INDUSTRIES INC	CF–07
024011	CONTINENTAL CORP	CF–02
354761	CONTINENTAL HEALTH AFFILIATES INC	CF–05
024056	CONTINENTAL HERITAGE CORP	CF–08
752196	CONTINENTAL HOLDINGS INC	CF–02
796122	CONTINENTAL HOMES HOLDING CORP	CF–04
024077	CONTINENTAL INVESTMENT CORP /GA/	CF–08
024104	CONTINENTAL MATERIALS CORP	CF–05
802284	CONTINENTAL MEDICAL SYSTEMS INC /DE/	CF–04
024148	CONTINENTAL REAL ESTATE PARTNERS LTD	CF–07
024152	CONTINENTAL RECREATION CORP	CF–08
096608	CONTINUUM CO INC	CF–05
887309	CONTROL DATA SYSTEMS, INC	CF–01
769628	CONTROL RESOURCE INDUSTRIES INC	CF–06
824305	CONVERGENCE INC	CF–09
811870	CONVERGENT SOLUTIONS INC /NY/	CF–06
868738	CONVEST ENERGY CORP /TX/	CF–10
766776	CONVEST ENERGY PARTNERS LTD	CF–06
769394	CONVEST INCOME PROGRAM VII–F	CF–08
743653	CONVEX COMPUTER CORP	CF–04
780386	CONWOOD CAPITAL CORP	CF–08
882408	COOK PROPERTIES I LTD PARTNERSHIP	CF–10
832412	COOKER RESTAURANT CORP /OH/	CF–06
711404	COOPER COMPANIES INC	CF–04
720062	COOPER DEVELOPMENT CO	CF–05
024454	COOPER INDUSTRIES INC	CF–02
024473	COOPER LABORATORIES INC	CF–10
759718	COOPER LIFE SCIENCES INC	CF–06
024491	COOPER TIRE & RUBBER CO	CF–03
829297	COOPERATIVE UTILITY TRUST BIG RIVERS SER	CF–09
851872	COOPERATIVE UTILITY TRUST CAJUN SERIES 1988 A–11	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
851875	COOPERATIVE UTILITY TRUST CAJUN SERIES 1988 A–12	CF–10
851870	COOPERATIVE UTILITY TRUST CAJUN SERIES 1988–A10	CF–10
832942	COOPERATIVE UTILITY TRUST CAJUN SERIES 1988–A7	CF–10
832943	COOPERATIVE UTILITY TRUST CAJUN SERIES 1988–A8	CF–10
832944	COOPERATIVE UTILITY TRUST CAJUN SERIES 1988–A9	CF–10
857100	COORDINATED MEDICAL SERVICES OF NORTH CA	CF–10
024545	COORS ADOLPH CO	CF–02
020224	COPELAND AL ENTERPRISES INC	CF–03
824209	COPLEY PENSION PROPERTIES VI	CF–09
841285	COPLEY PENSION PROPERTIES VII	CF–09
769017	COPLEY PROPERTIES INC	CF–05
784928	COPLEY REALTY INCOME PARTNERS 1	CF–06
809765	COPLEY REALTY INCOME PARTNERS 2	CF–09
829906	COPLEY REALTY INCOME PARTNERS 3	CF–09
847450	COPLEY REALTY INCOME PARTNERS 4	CF–10
715446	COPYTELE INC	CF–07
874865	COR THERAPEUTICS INC / DE	CF–10
821356	CORAL COMPANIES INC	CF–07
835176	CORCAP INC	CF–05
316402	CORCOM INC	CF–06
713996	CORDATUM INC	CF–08
024654	CORDIS CORP	CF–04
091817	CORE INDUSTRIES INC	CF–04
069952	CORESTATES FINANCIAL CORP	CF–02
791298	CORFACTS INC	CF–08
890168	CORKEN INC	CF–10
716407	CORNERSTONE FINANCIAL CORP	CF–06
809767	CORNERSTONE MORTGAGE INVESTMENT GROUP II INC	CF–09
790524	CORNERSTONE MORTGAGE INVESTMENT GROUP INC	CF–09
024741	CORNING INC /NY	CF–02
024751	CORNING NATURAL GAS CORP	CF–06
855879	CORPORATE ACQUISITION GROUP INC	CF–10
726911	CORPORATE DATA SCIENCES INC	CF–05
811644	CORPORATE FINANCIAL VENTURES INC	CF–09
024900	CORPORATE INVESTMENT CO	CF–06
741557	CORPORATE MANAGEMENT GROUP INC /FL/	CF–08
276280	CORPORATE PROPERTY ASSOCIATES	CF–06
778214	CORPORATE PROPERTY ASSOCIATES 10 INC	CF–10
873394	CORPORATE PROPERTY ASSOCIATES 11 INC	CF–10
312918	CORPORATE PROPERTY ASSOCIATES 2	CF–05
350745	CORPORATE PROPERTY ASSOCIATES 3	CF–05
706005	CORPORATE PROPERTY ASSOCIATES 4	CF–05
718075	CORPORATE PROPERTY ASSOCIATES 5	CF–05
750456	CORPORATE PROPERTY ASSOCIATES 6	CF–05
789459	CORPORATE PROPERTY ASSOCIATES 7	CF–05
824978	CORPORATE PROPERTY ASSOCIATES 8 LP	CF–09
845028	CORPORATE PROPERTY ASSOCIATES 9 L P	CF–10
785898	CORPORATE REALTY INCOME FUND I L P	CF–05
853075	CORPORATE REALTY INCOME TRUST I	CF–10
815273	CORPORATE SOFTWARE INCORPORATED	CF–05
757012	CORPUS CHRISTI BANCSHARES INC	CF–05
739404	CORRECTIONS CORPORATION OF AMERICA	CF–05
785562	CORRECTIONS SERVICES INC	CF–08
849636	CORTEX PHARMACEUTICALS INC/DE/	CF–07
774569	CORTLAND BANCORP INC	CF–05
796317	CORTLAND FIRST FINANCIAL CORP	CF–05
882100	CORVAS INTERNATIONAL INC/CA	CF–10
874866	CORVEL CORP	CF–10
793520	COSMETIC & FRAGRANCE CONCEPTS INC	CF–06
718096	COSMO COMMUNICATIONS CORP	CF–06
027025	COSTAR CORP	CF–05
734198	COSTCO WHOLESALE CORP	CF–03
842813	COTA BIOTECH INC	CF–09
025095	COTTER & CO	CF–03
025118	COTTON STATES LIFE & HEALTH INSURANCE CO	CF–06
025191	COUNTRYWIDE CREDIT INDUSTRIES INC	CF–03
773468	COUNTRYWIDE MORTGAGE INVESTMENTS INC /DE	CF–02
775748	COUNTRYWIDE MORTGAGE OBLIGATIONS III INC	CF–02
814389	COUNTRYWIDE MORTGAGE TRUST 1987–I	CF–05
816430	COUNTRYWIDE MORTGAGE TRUST 1987–II	CF–08
830480	COUNTY BANK CORP	CF–09
025212	COURIER CORP	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
025232	COUSINS PROPERTIES INC	CF-04
025243	COVENTRY CARE INC	CF-07
867440	COVENTRY CORP	CF-10
814849	COVINGTON DEVELOPMENT GROUP INC	CF-05
880742	COZUMEL FUNDING INC	CF-10
351717	CPAC INC	CF-06
701347	CPB INC	CF-04
025250	CPC INTERNATIONAL INC	CF-02
806411	CPI ACQUISITION INC	CF-05
889348	CPI AEROSTRUCTURES INC	CF-10
025354	CPI CORP	CF-04
886812	CPS ASSOCIATES INC	CF-10
025340	CPT CORP	CF-06
025373	CRACKER BARREL OLD COUNTRY STORE INC	CF-04
856250	CRAFTMADE INTERNATIONAL INC	CF-07
785939	CRAFTMATIC CONTOUR INDUSTRIES INC	CF-10
872802	CRAGIN FINANCIAL CORP	CF-10
110985	CRAIG CORP	CF-05
878865	CRAIG JENNY INC /DE	CF-10
319497	CRAMER INC	CF-09
025445	CRANE CO /DE/	CF-03
025475	CRAWFORD & CO	CF-05
350853	CRAWFORD ENERGY INC	CF-09
857101	CRAY COMPUTER CORP	CF-05
025506	CRAY RESEARCH INC	CF-03
712815	CREATIVE COMPUTER APPLICATIONS INC	CF-08
846614	CREATIVE LEARNING PRODUCTS INC	CF-08
814919	CREATIVE RESOURCES INC	CF-09
785321	CREATIVE TECHNOLOGIES CORP	CF-08
885550	CREDIT ACCEPTANCE CORPORATION	CF-10
869276	CREDIT DEPOT CORP	CF-10
277924	CREDO PETROLEUM CORP	CF-07
883478	CRESCENT BANKING CO	CF-10
874017	CRESCENT CAPITAL INC / DE	CF-10
715795	CRESCOTT INC	CF-06
863118	CREST INDUSTRIES INC	CF-10
101880	CRESTAR FINANCIAL CORP	CF-02
025657	CRESTED CORP	CF-07
025652	CRESTEK INC /NJ/	CF-07
864901	CRESTMONT FINANCIAL CORP	CF-10
778971	CRESTWOOD REALTY INVESTORS INC/DE	CF-05
808377	CRI HOTEL INCOME PARTNERS L P	CF-06
847322	CRI INSURED MORTGAGE ASSOCIATION INC	CF-03
850143	CRI LIQUIDATING REIT INC	CF-03
820739	CRITICAL INDUSTRIES INC	CF-06
812121	CRITICARE SYSTEMS INC /DE/	CF-06
893181	CROCKER REALTY INVESTORS INC	CF-10
025743	CROFF OIL CO	CF-08
887149	CROGHAN BANCSHARES INC	CF-10
025757	CROMPTON & KNOWLES CORP	CF-04
810818	CROP GENETICS INTERNATIONAL CORP	CF-07
277721	CROSS & TRECKER CORP	CF-03
025799	CROSS A T CO	CF-04
881787	CROSS TIMBERS ROYALTY TRUST	CF-10
886039	CROSSCOMM CORP	CF-10
065905	CROWELL & CO INC /GA/	CF-07
792455	CROWLEY FINANCIAL SERVICES INC	CF-08
025871	CROWLEY MILNER & CO	CF-05
778808	CROWN ANDERSEN INC	CF-06
706244	CROWN BANCORP	CF-06
719798	CROWN BOOKS CORP	CF-05
025865	CROWN CENTRAL PETROLEUM CORP /MD/	CF-01
025830	CROWN CORK & SEAL CO INC	CF-02
025895	CROWN CRAFTS INC	CF-05
876526	CROWN ENERGY CORP	CF-10
845771	CROWN NATIONAL BANCORPORATION INC	CF-09
841555	CROWN RESOURCES CORP	CF-09
025933	CROWNAMERICA INC	CF-06
025941	CRSS INC	CF-04
733775	CRUISE AMERICA INC	CF-05
862692	CRYO CELL INTERNATIONAL INC	CF-10
834365	CRYOMEDICAL SCIENCES INC	CF-07

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
799365	CRYOTECH INDUSTRIES INC	CF-06
778169	CRYSTAL BRANDS INC	CF-03
026020	CRYSTAL MOUNTAIN INC	CF-07
745907	CRYSTAL OIL CO /LA/	CF-05
830489	CRYSTAL VENTURE CORP	CF-09
792157	CS PRIMO CORP	CF-09
781883	CSA FINANCE CORP	CF-05
858801	CSA INCOME FUND IV LIMITED PARTNERSHIP	CF-10
809224	CSA INCOME FUND LIMITED PARTNERSHIP II	CF-06
831890	CSA INCOME FUND LIMITED PARTNERSHIP III	CF-05
764627	CSA INCOME FUND LTD PARTNERSHIP I-B	CF-06
764628	CSA INCOME FUND LTD PARTNERSHIP I-C	CF-06
764629	CSA INCOME FUND LTD PARTNERSHIP I-D	CF-07
806400	CSC INDUSTRIES INC	CF-04
085356	CSM ENVIRONMENTAL SYSTEMS INC	CF-07
356037	CSP INC /MA/	CF-06
020629	CSS INDUSTRIES INC	CF-05
277948	CSX CORP	CF-01
088128	CSX TRANSPORTATION INC	CF-01
881975	CTA INCORPORATED	CF-10
026058	CTS CORP	CF-04
356050	CU BANCORP	CF-04
026076	CUBIC CORP /DE/	CF-04
723612	CUC INTERNATIONAL INC /DE/	CF-08
731724	CUCOS INC	CF-07
026093	CULBRO CORP	CF-03
795267	CULINARY CAPITAL CORP	CF-08
039263	CULLEN FROST BANKERS INC	CF-03
026114	CULLUM COMPANIES INC	CF-03
723603	CULP INC	CF-05
830315	CUMBERLAND FEDERAL BANCORPORATION INC	CF-09
790952	CUMBERLAND HEALTHCARE L P I-A	CF-05
882087	CUMBERLAND HOLDINGS INC	CF-10
026172	CUMMINS ENGINE CO INC	CF-02
887355	CUMULUS CORP	CF-10
757790	CUPERTINO NATIONAL BANCORP	CF-06
874212	CURATIVE TECHNOLOGIES INC /MN	CF-10
846005	CURBSTONE ACQUISITION CORP	CF-10
026285	CURTICE BURNS FOODS INC	CF-03
745142	CURTIS HELENE INDUSTRIES INC /DE/	CF-01
026324	CURTISS WRIGHT CORP	CF-03
879360	CUSTOM CHROME INC /DE	CF-10
026361	CUSTOMEDIX CORP	CF-06
026379	CUTCO INDUSTRIES INC	CF-07
018934	CV REIT INC	CF-04
354647	CVB FINANCIAL CORP	CF-04
766792	CVD EQUIPMENT CORP	CF-07
854852	CXR CORP	CF-10
768408	CYANOTECH CORP	CF-08
721295	CYBER DIGITAL INC	CF-08
720013	CYBERMEDIC INC	CF-07
768411	CYBEROPTICS CORP	CF-07
725869	CYBERTEK CORP /DE/	CF-06
354888	CYCARE SYSTEMS INC	CF-05
870755	CYGNUS THERAPEUTIC SYSTEMS	CF-10
729981	CYPRESS BANKS INC	CF-06
878508	CYPRESS CREEK MARKETING INC	CF-10
847486	CYPRESS EQUIPMENT FUND LTD	CF-10
791915	CYPRESS SEMICONDUCTOR CORP /DE/	CF-04
891288	CYPROS PHARMACEUTICAL CORP	CF-10
769589	CYPRUS MINERALS CO	CF-02
725058	CYTOGEN CORP	CF-06
881888	CYTORAD INC	CF-10
883975	CYTOTHERAPEUTICS INC/DE	CF-10
799698	CYTRX CORP	CF-08
888914	D & K WHOLESALE DRUG INC/DE/	CF-10
817879	D H Z CAPITAL CORP	CF-09
830143	D&N FINANCIAL CORP	CF-09
026525	DACOTAH BANK HOLDING CO	CF-05
026537	DAEDALUS ENTERPRISES INC	CF-07
028364	DAHLBERG INC	CF-08
314416	DAIG CORP	CF-07

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
783412	DAILY JOURNAL CORP	CF–06
813367	DAIN INCOME PROPERTIES–86	CF–06
726370	DAIN PENSION INVESTORS 84	CF–07
756765	DAIN PENSION INVESTORS 85	CF–06
350115	DAIN PROPERTIES 81 LTD	CF–07
715764	DAIN REAL ESTATE PARTNERS I	CF–06
795963	DAIN SOUTHEAST GROWTH PROPERTIES	CF–06
730568	DAIN TEXAS PARTNERS	CF–07
824845	DAINE INDUSTRIES INC	CF–08
721675	DAIRY MART CONVENIENCE STORES INC	CF–04
811028	DAISY SYSTEMS CORP /DE	CF–04
887403	DAISYTEK INTERNATIONAL CORPORATION /DE/	CF–10
840826	DAKA INTERNATIONAL INC	CF–05
870920	DAKOTA BANCORP INC	CF–10
749420	DALLAS SEMICONDUCTOR CORP	CF–05
742686	DALTEX MEDICAL SCIENCES INC	CF–08
883324	DAMARK INTERNATIONAL INC	CF–10
878549	DAMES & MOORE INC /DE/	CF–10
026757	DAMON CORP	CF–04
036127	DAMON GROUP INC	CF–03
745932	DAMSON BIRTCHER REALTY INCOME FUND I	CF–05
773915	DAMSON BIRTCHER REALTY INCOME FUND II LTD PARTNERSHIP	CF–03
026771	DAMSON OIL CORP	CF–05
026780	DANA CORP	CF–02
313616	DANAHER CORP /DE/	CF–03
873730	DANEK GROUP INC /IN	CF–10
026821	DANIEL INDUSTRIES INC	CF–04
225648	DANIELSON HOLDING CORP	CF–09
731241	DANNINGER MEDICAL TECHNOLOGY INC	CF–07
726436	DANZAR INVESTMENT GROUP INC	CF–09
706743	DAROX CORP	CF–07
789965	DART DRUG STORES INC	CF–05
026938	DART GROUP CORP	CF–03
740970	DARTMOUTH BANCORP INC	CF–07
027153	DASH INDUSTRIES INC	CF–06
888165	DATA BROADCASTING CORPORATION	CF–10
026987	DATA DESIGN LABORATORIES INC	CF–05
026990	DATA DIMENSIONS INC	CF–06
796513	DATA DISPLAY CORP	CF–06
026999	DATA GENERAL CORP	CF–03
351998	DATA I/O CORP	CF–05
354827	DATA MEASUREMENT CORP	CF–06
804157	DATA MED CLINICAL SUPPORT SERVICES INC /	CF–09
760462	DATA NATIONAL CORP	CF–08
890924	DATA RACE INC	CF–10
887085	DATA RESEARCH ASSOCIATES INC /MO	CF–10
843364	DATA SERVICES INTERNATIONAL LTD	CF–09
701376	DATA SWITCH CORP	CF–04
027053	DATA SYSTEMS INC OREGON	CF–06
713134	DATA TRANSLATION INC	CF–06
790498	DATA TRANSMISSION NETWORK CORP	CF–06
849315	DATABASE TECHNOLOGIES INC	CF–10
355735	DATAFLEX CORP	CF–06
797221	DATAGUARD RECOVERY SERVICES INC	CF–07
853835	DATAIMAGE INC /DE/	CF–07
704914	DATAKEY INC	CF–07
795760	DATAMAG INC	CF–07
888793	DATAMAP INC /MN/	CF–10
027075	DATAMARINE INTERNATIONAL INC	CF–06
027082	DATAMETRICS CORP	CF–06
819897	DATAPHAZ INC	CF–06
205239	DATAPOINT CORP	CF–04
027093	DATARAM CORP	CF–06
027096	DATASCOPE CORP	CF–05
722582	DATASOUTH COMPUTER CORP	CF–06
027099	DATATAB INC	CF–08
857736	DATATRONIX FINANCIAL SERVICES	CF–10
027109	DATAVISION INC /DE/	CF–08
878775	DATEQ INFORMATION NETWORK INC	CF–10
027116	DATRON SYSTEMS INC/DE	CF–05
814323	DATRONIC EQUIPMENT INCOME FUND XVI L P	CF–10
833409	DATRONIC EQUIPMENT INCOME FUND XVII L P	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
850671	DATRONIC EQUIPMENT INCOME FUND XVIII L P	CF–10
027119	DATUM INC	CF–06
215619	DAUPHIN DEPOSIT CORP	CF–03
277638	DAVEY TREE EXPERT CO	CF–05
854242	DAVID ENTERPRISES INC	CF–10
795803	DAVIN COMPUTER CORP /DE/	CF–06
815017	DAVIN ENTERPRISES INC	CF–06
027328	DAVIS WATER & WASTE INDUSTRIES INC	CF–05
811840	DAVOX CORP	CF–06
873209	DAVSTAR INDUSTRIES LTD /CA/	CF–10
882159	DAW TECHNOLOGIES INC /UT	CF–10
831752	DAWN CAPITAL CORP	CF–09
351231	DAWSON GEOPHYSICAL CO	CF–07
027367	DAXOR CORP	CF–06
027399	DAYLIGHT INDUSTRIES INC	CF–07
027409	DAYTON & MICHIGAN RAILROAD CO	CF–01
027419	DAYTON HUDSON CORP	CF–02
027430	DAYTON POWER & LIGHT CO	CF–02
027442	DBA SYSTEMS INC	CF–06
809799	DBSI TRI EQUITY INCOME FUND	CF–09
027448	DC TRADING & DEVELOPMENT CORP	CF–06
357224	DCB CORP	CF–05
716448	DCNY CORP	CF–02
711054	DCS CAPITAL CORP	CF–04
833083	DCUSA CORP	CF–09
783264	DCX INC	CF–07
109657	DDI PHARMACEUTICALS INC	CF–07
027466	DE ANZA PROPERTIES IX	CF–09
215628	DE ANZA PROPERTIES X	CF–09
352978	DE ANZA PROPERTIES XI LTD	CF–09
351509	DE ANZA PROPERTIES XII LTD	CF–06
028262	DE ROSE INDUSTRIES INC	CF–07
028367	DE TOMASO INDUSTRIES INC	CF–03
027500	DEAN FOODS CO	CF–03
880958	DEAN WITTER GLOBAL PERSPECTIVE PORTFOLIO FUND	CF–10
867495	DEAN WITTER PRINCIPAL SECURED FUTURES FUND LP	CF–10
715779	DEB SHOPS INC	CF–05
775840	DECADE COMPANIES INCOME PROPERTIES	CF–06
820395	DECADES MONTHLY INCOME & APPRECIATION FU	CF–09
850340	DECATHLON ADVISORS LP	CF–10
027594	DECISION SYSTEMS INC	CF–06
357176	DECOM SYSTEMS INC	CF–07
027613	DECORATOR INDUSTRIES INC	CF–07
870571	DEERBANK CORP	CF–10
315189	DEERE & CO	CF–02
027673	DEERE JOHN CAPITAL CORP	CF–02
880984	DEFENSE SOFTWARE & SYSTEMS INC	CF–10
775995	DEFIANCE INC	CF–05
111001	DEKALB ENERGY CO	CF–03
835015	DEKALB GENETICS CORP	CF–04
027748	DEL ELECTRONICS CORP	CF–06
027751	DEL LABORATORIES INC	CF–05
866872	DEL MONTE CORP /NY/	CF–10
866873	DEL MONTE FOODS CO	CF–10
786767	DEL PAINT CORP	CF–08
812630	DEL TACO INCOME PROPERTIES IV	CF–07
711213	DEL TACO RESTAURANT PROPERTIES I	CF–07
749153	DEL TACO RESTAURANT PROPERTIES II	CF–07
786360	DEL TACO RESTAURANT PROPERTIES III	CF–07
725820	DEL TACO RESTAURANTS INC	CF–05
215639	DEL VAL FINANCIAL CORP	CF–04
763827	DELAWARE NATIONAL BANKSHARES CORP	CF–06
757189	DELAWARE OTSEGO CORP	CF–05
729970	DELCHAMPS INC	CF–04
716933	DELCOTT COMMODITY PARTNERS	CF–06
826083	DELL COMPUTER CORP	CF–04
027879	DELMARVA POWER & LIGHT CO /DE/	CF–02
320185	DELMED INC	CF–06
700579	DELPHI FILM ASSOCIATES	CF–09
719615	DELPHI FILM ASSOCIATES II	CF–09
732288	DELPHI FILM ASSOCIATES III	CF–09
764636	DELPHI FILM ASSOCIATES IV	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
771978	DELPHI FILM ASSOCIATES V	CF-09
859139	DELPHI FINANCIAL GROUP INC	CF-10
814549	DELPHI INFORMATION SYSTEMS INC /DE/	CF-07
027904	DELTA AIR LINES INC /DE/	CF-02
779338	DELTA COMPUTEC INC	CF-08
832229	DELTA GOVERNMENT OPTIONS CORP	CF-09
731139	DELTA MANAGEMENT SYSTEMS INC	CF-08
706343	DELTA NATIONAL BANCORP	CF-06
277375	DELTA NATURAL GAS CO INC	CF-05
846979	DELTA OMEGA TECHNOLOGIES INC	CF-10
821489	DELTA PETROLEUM CORP/CO	CF-08
758329	DELTA RENTAL SYSTEMS INC	CF-09
806624	DELTA WOODSIDE INDUSTRIES INC /DE	CF-03
027984	DELTONA CORP	CF-04
027996	DELUXE CORP	CF-03
312068	DENCOR ENERGY COST CONTROLS INC	CF-08
885531	DENMARK BANCSHARES INC	CF-10
720505	DENNING MOBILE ROBOTICS INC	CF-08
754086	DENPAC CORP	CF-08
784770	DENSE PAC MICROSYSTEMS INC	CF-07
028146	DENTO MED INDUSTRIES INC	CF-07
728330	DEP CORP	CF-05
028208	DEPOSIT GUARANTY CORP	CF-03
870758	DEPRENYL ANIMAL HEALTH INC	CF-10
879993	DEPRENYL USA INC / NJ	CF-10
028238	DERAND REAL ESTATE INVESTMENT TRUST	CF-06
082455	DERWOOD INVESTMENT CORP	CF-06
847479	DESAI FUTURES FUND LIMITED PARTNERSHIP	CF-10
842268	DESIGN INSTITUTE AMERICA INC	CF-09
028323	DESIGNATRONICS INC	CF-06
028325	DESIGNCRAFT INDUSTRIES INC/DE/	CF-07
813208	DESIGNS INC	CF-05
028345	DESOTO INC	CF-01
866282	DESTEC ENERGY INC	CF-10
081283	DESTRON IDI INC	CF-10
028365	DETECTION SYSTEMS INC	CF-06
351397	DETONICS SMALL ARMS LTD	CF-08
028372	DETREX CORPORATION	CF-05
028374	DETROIT & CANADA TUNNEL CORP	CF-06
028385	DETROIT EDISON CO	CF-02
820295	DEUCALION RESEARCH INC	CF-08
818970	DEV TECH CORP	CF-07
028452	DEVCON INTERNATIONAL CORP	CF-05
858710	DEVLIEG BULLARD INC	CF-05
837330	DEVON ENERGY CORP /DE/	CF-05
040542	DEVON GROUP INC	CF-05
830739	DEWANI LAURO MARINE PRODUCT DEVELOPMENT	CF-09
028561	DEWEY ELECTRONICS CORP	CF-07
888138	DEWOLFE COMPANIES INC	CF-10
028582	DEXTER CORP	CF-03
885537	DF&R RESTAURANTS INC	CF-10
833000	DFSOUTHEASTERN INC	CF-09
728376	DH TECHNOLOGY INC	CF-06
028613	DI AN CONTROLS INC	CF-08
320186	DI INDUSTRIES INC	CF-05
314178	DIABLO REAL ESTATE INVESTMENT TRUST	CF-09
887137	DIACRIN INC /DE/	CF-10
719711	DIAGNON CORP	CF-08
726606	DIAGNOSTEK INC	CF-05
794147	DIAGNOSTIC MEDICAL INSTRUMENTS INC/NY	CF-08
702259	DIAGNOSTIC PRODUCTS CORP	CF-05
029630	DIAGNOSTIC RETRIEVAL SYSTEMS INC	CF-05
806850	DIAGNOSTIC SCIENCES INC /NEW/	CF-08
818557	DIAL ONE ACQUISITION INC	CF-09
882363	DIAL PAGE INC /DE/	CF-10
805057	DIAL REIT INC	CF-05
810316	DIAMOND SHAMROCK INC	CF-03
773350	DIAMOND SHAMROCK OFFSHORE PARTNERS LTD P	CF-04
028729	DIAMOND STATE TELEPHONE CO	CF-03
057201	DIANA CORP	CF-05
028742	DIAPULSE CORP OF AMERICA	CF-08
317814	DIASONICS INC	CF-04

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
029755	DIBRELL BROTHERS INC	CF–03
727010	DICEON ELECTRONICS INC	CF–05
028823	DIEBOLD INC	CF–03
854775	DIGI INTERNATIONAL INC	CF–06
028866	DIGICON INC	CF–05
814853	DIGIMETRICS INC	CF–07
868373	DIGITAL BIOMETRICS INC	CF–10
712744	DIGITAL COMMUNICATIONS ASSOCIATES INC	CF–04
725731	DIGITAL DEVICES INC	CF–08
028887	DIGITAL EQUIPMENT CORP	CF–01
756759	DIGITAL METCOM INC	CF–07
812703	DIGITAL MICROWAVE CORP /DE/	CF–05
816954	DIGITAL OPTRONICS CORPORATION	CF–07
028895	DIGITAL PRODUCTS CORP	CF–07
318439	DIGITAL RECORDING CORP	CF–08
785557	DIGITAL SOLUTIONS INC	CF–08
764577	DIGITAL TRANSMISSION INC	CF–07
876134	DIGITRAN SYSTEMS INC /DE	CF–10
028917	DILLARD DEPARTMENT STORES INC	CF–02
773428	DILLARD INVESTMENT CO INC	CF–03
843212	DIM INC	CF–09
883899	DIMARK INC	CF–10
841909	DIME FINANCIAL CORP /CT/	CF–09
818073	DIMENSION CAPITAL CORP	CF–08
841447	DIMENSION GROUP INC	CF–09
723799	DIMENSIONAL MEDICINE INC	CF–07
836809	DIMENSIONAL VISIONS GROUP LTD	CF–07
029002	DIODES INC /DEL/	CF–07
708850	DIONEX CORP /DE	CF–05
029006	DIONICS INC	CF–08
840815	DIRECT CONNECT INTERNATIONAL INC	CF–08
879740	DIRECT INVESTMENTS INC	CF–10
745460	DIRECT PHARMACEUTICAL CORP	CF–07
889409	DISCOUNT AUTO PARTS INC	CF–10
866534	DISCOVER CARD TRUST 1990 C	CF–10
869103	DISCOVER CARD TRUST 1990 D	CF–10
872077	DISCOVER CARD TRUST 1991 A	CF–10
878640	DISCOVER CARD TRUST 1991 B	CF–10
879765	DISCOVER CARD TRUST 1991 C	CF–10
879766	DISCOVER CARD TRUST 1991 D	CF–10
880648	DISCOVER CARD TRUST 1991 E	CF–10
880649	DISCOVER CARD TRUST 1991 F	CF–10
892707	DISCOVER CARD TRUST 1992 A	CF–10
815743	DISCOVER CREDIT CORP	CF–02
857949	DISCOVERY TECHNOLOGIES INC /KS/	CF–07
746156	DISCUS CORP	CF–07
805383	DISEASE DETECTION INTERNATIONAL INC	CF–06
029082	DISNEY WALT CO	CF–02
059963	DISTINCTIVE DEVICES INC	CF–08
718823	DISTRIBUTED LOGIC CORP	CF–06
853930	DISTRIBUTION SERVICES INC	CF–10
858715	DIVALL INCOME PROPERTIES 3 L P	CF–10
786974	DIVALL INSURED INCOME FUND LTD PARTNERSH	CF–06
825788	DIVALL INSURED INCOME PROPERTIES 2 LIMIT	CF–09
883812	DIVALL NET LEASE INCOME FUND 4	CF–10
811515	DIVERSCO INC	CF–06
092057	DIVERSICARE CORPORATION OF AMERICA	CF–05
879181	DIVERSICARE INC /DE	CF–10
703300	DIVERSIFIED ENERGIES INC	CF–03
800263	DIVERSIFIED FOODSERVICE DISTRIBUTORS INC	CF–07
745143	DIVERSIFIED HISTORIC INVESTORS	CF–06
763566	DIVERSIFIED HISTORIC INVESTORS II	CF–05
792979	DIVERSIFIED HISTORIC INVESTORS III	CF–09
810623	DIVERSIFIED HISTORIC INVESTORS IV INCOME	CF–07
818669	DIVERSIFIED HISTORIC INVESTORS V	CF–06
828604	DIVERSIFIED HISTORIC INVESTORS VI	CF–09
845029	DIVERSIFIED HISTORIC INVESTORS VII	CF–10
779226	DIVERSIFIED HUMAN RESOURCES GROUP INC	CF–07
029207	DIVERSIFIED INDUSTRIAL CORP OF KANSAS IN	CF–07
029208	DIVERSIFIED INDUSTRIES INC	CF–05
840827	DIVERSIFIED PHOTOGRAPHIC INDUSTRIES INC	CF–09
029258	DIVERSIFIED REALTY INC	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
820163	DIVERSIFIED RETAIL GROUP INC	CF-07
812795	DIVIDE DRIVES INC /NV/	CF-08
760777	DIXCOM INC	CF-08
029322	DIXIE NATIONAL CORP	CF-06
029332	DIXIE YARNS INC	CF-03
816640	DIXON CAPITAL CORPORATION	CF-08
014995	DIXON TICONDEROGA CO	CF-05
850451	DLJ ACCEPTANCE TRUST I	CF-10
834163	DLJ MORTGAGE ACCEPTANCE CORP	CF-09
225261	DMI FURNITURE INC	CF-06
796337	DMI INC /CO/	CF-08
730985	DNA PLANT TECHNOLOGY CORP	CF-05
880458	DNX CORP	CF-10
029366	DOAK PHARMACAL CO INC	CF-08
843006	DOCUCON INCORPORATED	CF-08
766841	DOCUGRAPHIX INC /CA/	CF-08
029504	DOL RESOURCES INC	CF-08
821131	DOLLAR DRY DOCK FUNDING CORP	CF-10
765878	DOLLAR FINANCE INC	CF-04
029534	DOLLAR GENERAL CORP	CF-04
859791	DOLLAR TIME GROUP INC	CF-10
029540	DOLOMITE GLASS FIBRES INC	CF-09
560673	DOMINGUEZ SERVICES CORP	CF-10
029578	DOMINGUEZ WATER CORP	CF-06
029587	DOMINION BANKSHARES CORP	CF-02
715957	DOMINION RESOURCES INC /VA/	CF-01
314712	DOMINION RESOURCES INC/DE/	CF-06
029644	DONALDSON CO INC	CF-04
800457	DONEGAL GROUP INC	CF-06
843494	DONNEBROOKE CORP	CF-09
029669	DONNELLEY R R & SONS CO	CF-01
805583	DONNELLY CORP	CF-04
703814	DORCHESTER HUGOTON LTD	CF-06
004960	DOSKOCIL COMPANIES INC	CF-03
351809	DOTRONIX INC	CF-06
029834	DOUBLE EAGLE PETROLEUM & MINING CO	CF-06
351400	DOUBLE RIVER OIL & GAS COMPANY	CF-06
029850	DOUGHTIES FOODS INC	CF-06
029854	DOUGLAS & LOMASON CO	CF-04
846770	DOVER CAPITAL CORP	CF-10
029905	DOVER CORP	CF-02
860712	DOW CAPITAL BV	CF-10
029915	DOW CHEMICAL CO /DE/	CF-02
029917	DOW CORNING CORP	CF-02
029924	DOW JONES & CO INC	CF-01
787250	DPL INC	CF-02
846930	DQE INC	CF-10
859061	DR HOLDINGS INC OF DELAWARE	CF-10
836400	DR PEPPER SEVEN UP COMPANIES INC /DE/	CF-03
030037	DRAGON MINING CORP	CF-08
030067	DRAVO CORP	CF-04
807144	DRCA MEDICAL CORP	CF-08
828220	DREAMCAR HOLDINGS INC	CF-05
717724	DRESS BARN INC	CF-04
030099	DRESSER INDUSTRIES INC /DE/	CF-02
783744	DREW INDUSTRIES INCORPORATED	CF-05
030121	DREWRY PHOTOCOLOR CORP	CF-06
852310	DREWRY PHOTOCOLOR CORPORATION LIQUIDATIN	CF-10
700951	DREXEL BURNHAM LAMBERT REAL ESTATE ASSOCIATES	CF-06
725546	DREXEL BURNHAM LAMBERT REAL ESTATE ASSOCIATES II	CF-06
761657	DREXEL BURNHAM LAMBERT REAL ESTATE ASSOCIATES III	CF-05
030140	DREXLER TECHNOLOGY CORP	CF-07
352305	DREYERS GRAND ICE CREAM INC	CF-04
030160	DREYFUS CORP	CF-03
030177	DRILEX OIL & GAS INC	CF-09
829084	DRILLSTAR INTERNATIONAL CORP	CF-05
826771	DRIVEFONE INC	CF-06
030197	DRIVER HARRIS CO	CF-05
703109	DROVERS BANCSHARES CORP	CF-08
832922	DRUG EMPORIUM INC/DE	CF-04
201685	DRUG GUILD DISTRIBUTORS INC	CF-05
828747	DRUG SCREENING SYSTEMS INC	CF-06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
794625	DRUSILLA SEAFOOD RESTAURANTS INC	CF–08
320211	DRX INC	CF–07
790168	DS BANCOR INC	CF–04
316004	DSC COMMUNICATIONS CORP	CF–03
764586	DSI REALTY INCOME FUND IX	CF–07
318835	DSI REALTY INCOME FUND VI	CF–09
719581	DSI REALTY INCOME FUND VII	CF–09
743366	DSI REALTY INCOME FUND VIII	CF–07
792989	DSI REALTY INCOME FUND X	CF–06
844048	DSI REALTY INCOME FUND XI	CF–09
773720	DSP TECHNOLOGY INC	CF–07
718247	DTI MEDICAL CORPORATION INC	CF–07
831240	DUCKBACK INDUSTRIES INC	CF–09
030305	DUCOMMUN INC /DE/	CF–05
883237	DUFF & PHELPS CORP	CF–10
030371	DUKE POWER CO /NC/	CF–02
783280	DUKE REALTY INVESTMENTS INC	CF–04
844857	DULLES BANK CORP	CF–09
030419	DUN & BRADSTREET CORP	CF–02
024004	DUNES HOTELS & CASINOS INC	CF–06
030547	DUPLEX PRODUCTS INC	CF–04
030554	DUPONT E I DE NEMOURS & CO	CF–01
030573	DUQUESNE LIGHT CO	CF–02
882098	DURA PHARMACEUTICALS INC/CA	CF–10
837338	DURACELL HOLDINGS CORP	CF–02
873482	DURACELL INTERNATIONAL INC	CF–10
748792	DURAKON INDUSTRIES INC	CF–05
799903	DURAMED PHARMACEUTICALS INC	CF–06
849143	DURAPLEX CORP	CF–10
785186	DURATEK CORP	CF–07
030625	DURIRON CO INC	CF–04
030645	DURR FILLAUER MEDICAL INC	CF–01
820756	DUTY FREE INTERNATIONAL INC	CF–05
801550	DVI FINANCIAL CORP	CF–05
030697	DWG CORP	CF–03
709599	DWI CORP	CF–08
719650	DYANSEN CORP	CF–06
201707	DYCO 1977 OIL & GAS PROGRAMS	CF–08
215718	DYCO 1978 OIL & GAS PROGRAMS	CF–08
873783	DYCO 1978–1 OIL & GAS PROGRAMS	CF–10
873784	DYCO 1978–2 OIL & GAS PROGRAMS	CF–10
276338	DYCO 1979 OIL & GAS PROGRAMS	CF–07
893834	DYCO 1979–1 OIL & GAS PROGRAMS	CF–10
893836	DYCO 1979–2 OIL & GAS PROGRAMS	CF–10
313317	DYCO 1980 OIL & GAS PROGRAMS	CF–07
873777	DYCO 1980–1 OIL & GAS PROGRAMS	CF–10
873778	DYCO 1980–2 OIL & GAS PROGRAMS	CF–10
354808	DYCO 1982 OIL & GAS PROGRAMS	CF–07
873786	DYCO 1982–1 OIL & GAS PROGRAMS	CF–10
873787	DYCO 1982–2 OIL & GAS PROGRAMS	CF–10
751337	DYCO 1985 OIL & GAS PROGRAMS	CF–07
832844	DYCO DEVELOPMENT PARTNERS 1988	CF–09
318808	DYCO OIL & GAS PROGRAM 1975	CF–08
806570	DYCO OIL & GAS PROGRAM 1977–1	CF–08
806571	DYCO OIL & GAS PROGRAM 1978–1	CF–08
806572	DYCO OIL & GAS PROGRAM 1978–2	CF–08
806573	DYCO OIL & GAS PROGRAM 1979–1	CF–08
806574	DYCO OIL & GAS PROGRAM 1979–2	CF–07
806576	DYCO OIL & GAS PROGRAM 1980–1	CF–07
806577	DYCO OIL & GAS PROGRAM 1980–2	CF–07
702402	DYCO OIL & GAS PROGRAM 1981–1	CF–07
702403	DYCO OIL & GAS PROGRAM 1981–2	CF–07
718943	DYCO OIL & GAS PROGRAM 1982–1	CF–07
718944	DYCO OIL & GAS PROGRAM 1982–2	CF–09
719958	DYCO OIL & GAS PROGRAM 1983–1	CF–07
715369	DYCO OIL & GAS PROGRAM 1983–2	CF–07
725261	DYCO OIL & GAS PROGRAM 1984–1	CF–07
725262	DYCO OIL & GAS PROGRAM 1984–2	CF–07
751255	DYCO OIL & GAS PROGRAM 1985–1	CF–07
751256	DYCO OIL & GAS PROGRAM 1985–2	CF–07
778956	DYCO OIL & GAS PROGRAM 1986–1	CF–08
778961	DYCO OIL & GAS PROGRAM 1986–2	CF–07

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
803095	DYCO OIL & GAS PROGRAM 1986-X	CF-07
811438	DYCO OIL & GAS PROGRAM 1987-1	CF-07
067215	DYCOM INDUSTRIES INC	CF-05
844787	DYNA GROUP INTERNATIONAL INC	CF-07
824846	DYNAMARK CORP	CF-08
030780	DYNAMIC AMERICAN CORP	CF-07
878146	DYNAMIC ASSOCIATES INC	CF-10
030796	DYNAMIC CLASSICS LTD/DE	CF-07
225278	DYNAMIC HOMES INC	CF-08
729520	DYNAMIC SCIENCES INTERNATIONAL INC	CF-08
030819	DYNAMICS CORP OF AMERICA	CF-04
030822	DYNAMICS RESEARCH CORP	CF-05
030826	DYNASCAN CORP	CF-04
859274	DYNASTY CLASSICS CORP	CF-10
752206	DYNATEC INTERNATIONAL INC	CF-08
030841	DYNATECH CORP	CF-04
795424	DYNATEM INC	CF-08
720875	DYNATRONICS LASER CORP	CF-07
030770	DYNCORP	CF-04
030875	E SYSTEMS INC	CF-03
868575	E Z SERVE CORPORATION	CF-10
716740	E&B MARINE INC	CF-06
350268	E&J PROPERTIES LTD	CF-07
802492	EA ENGINEERING SCIENCE & TECHNOLOGY INC	CF-06
030892	EAC INDUSTRIES INC	CF-06
789511	EAGLE 86 NOVEMBER LTD PARTNERSHIP	CF-09
789812	EAGLE 86 OSCAR LTD PARTNERSHIP	CF-09
813379	EAGLE 87 QUEBEC LIMITED PARTNERSHIP	CF-09
831814	EAGLE 88 SIERRA LIMITED PARTNERSHIP	CF-09
830996	EAGLE BANCORP INC /DE/	CF-09
865792	EAGLE BANCORP INC /GA/	CF-10
783604	EAGLE BANCSHARES INC	CF-05
830349	EAGLE CAPITAL CORP II	CF-09
790058	EAGLE ENTERTAINMENT INC	CF-07
030906	EAGLE EXPLORATION CO	CF-08
855361	EAGLE EYE ENTERPRISES INC	CF-10
792369	EAGLE FINANCIAL CORP	CF-04
880641	EAGLE FINANCIAL SERVICES INC	CF-10
030908	EAGLE FOOD CENTERS INC	CF-04
883683	EAGLE HARDWARE & GARDEN INC/WA/	CF-10
837486	EAGLE INDUSTRIES INC /DE/	CF-03
030927	EAGLE PICHER INDUSTRIES INC	CF-03
722383	EAGLE TELEPHONICS INC	CF-06
845560	EAGLE VISION INC	CF-10
030985	EARTH SCIENCES INC	CF-06
819541	EARTH TECHNOLOGY CORP USA	CF-06
752363	EARTHWORM INC	CF-07
865203	EASEL CORP	CF-10
874037	EAST SIDE FINANCIAL INC	CF-10
875003	EAST STAR CORP	CF-10
031079	EASTCO INDUSTRIAL SAFETY CORP	CF-06
031089	EASTERN AIR LINES INC	CF-02
793169	EASTERN BANCORP INC	CF-09
031107	EASTERN CO	CF-05
014407	EASTERN EDISON CO	CF-03
031121	EASTERN EMPIRE CORP	CF-08
311259	EASTERN ENTERPRISES	CF-02
815272	EASTERN ENVIRONMENTAL SERVICES INC	CF-06
853633	EASTERN PETROLEUM CO /OH/	CF-10
843867	EASTERN STAINLESS CORP /VA/	CF-05
031224	EASTERN UTILITIES ASSOCIATES	CF-02
818075	EASTEX ENERGY INC	CF-05
049600	EASTGROUP PROPERTIES	CF-05
823557	EASTLAND FINANCIAL CORP/RI/	CF-09
031235	EASTMAN KODAK CO	CF-01
790534	EASTMAN KODAK CREDIT CORP	CF-01
880209	EASTON BANCORP INC/MD	CF-10
036207	EASTOVER CORP	CF-06
772074	EASTPOINT MALL LTD PARTNERSHIP	CF-06
796369	EATERIES INC	CF-08
031277	EATON CORP	CF-01
864915	EATON ETN OFFSHORE LTD	CF-01

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
350797	EATON VANCE CORP	CF–04
836044	ECC ENERGY CORP	CF–07
031660	ECC INTERNATIONAL CORP	CF–05
031348	ECHLIN INC	CF–02
887864	ECHO BAY FINANCE CORP	CF–10
855571	ECI ENVIRONMENTAL INC	CF–06
031364	ECKERD JACK CORP /DE/	CF–02
889418	ECO2 INC	CF–10
814050	ECOGEN INC	CF–07
031462	ECOLAB INC	CF–03
809933	ECOLOGY & ENVIRONMENT INC	CF–05
878546	ECONOMIC RESOURCE ENTERPRISES INC /FL/	CF–10
837889	ECONTECH I INC	CF–09
882259	ECOSCIENCE CORP/DE	CF–10
772572	EDAC TECHNOLOGIES CORP	CF–06
869709	EDG CAPITAL INC	CF–10
320547	EDGEMARK FINANCIAL CORP	CF–06
836642	EDGEMARK VOTING TRUST	CF–06
849291	EDINBURGH CAPITAL INC	CF–10
031575	EDISON BROTHERS STORES INC	CF–03
795968	EDISON CONTROL CORP	CF–07
808219	EDISON THOMAS INNS INC	CF–06
857102	EDISTO RESOURCES CORP	CF–10
777249	EDMARK CORP	CF–06
031617	EDO CORP	CF–04
067152	EDP OF CALIFORNIA INC	CF–09
873601	EDUCATION ALTERNATIVES INC/MN	CF–10
031667	EDUCATIONAL DEVELOPMENT CORP	CF–07
738194	EDUDATA CORP	CF–06
718482	EDWARDS A G INC	CF–02
811636	EECO INC /DE/	CF–05
785970	EFI ELECTRONICS CORP	CF–07
031791	EG&G INC	CF–03
832320	EGGHEAD INC /WA/	CF–04
031827	EH INTERNATIONAL INC	CF–08
803130	EHRLICH BOBER FINANCIAL CORP	CF–04
031862	EICO ELECTRONIC INSTRUMENT CO INC	CF–08
858365	EIGHT HOLDINGS INC	CF–10
026782	EIP MICROWAVE INC	CF–07
018827	EKCO GROUP INC /DE/	CF–04
031978	EL PASO ELECTRIC CO /TX/	CF–02
031986	EL PASO NATURAL GAS CO	CF–02
854932	EL PASO REFINERY LP	CF–10
032013	ELCO INDUSTRIES INC	CF–04
032017	ELCOR CORP	CF–05
801448	ELCOTEL INC	CF–06
793575	ELDEC CORP	CF–05
032032	ELDON INDUSTRIES INC /DE/	CF–05
796124	ELDORADO ARTESIAN SPRINGS INC	CF–08
351991	ELDORADO BANCORP	CF–05
785819	ELECTRIC & GAS TECHNOLOGY INC	CF–06
107707	ELECTRIC AVENUE INC	CF–06
016218	ELECTRIC M & R INC	CF–08
820902	ELECTRO BRAIN INTERNATIONAL CORP	CF–10
032120	ELECTRO CATHETER CORP	CF–07
723616	ELECTRO KINETIC SYSTEMS INC	CF–08
032166	ELECTRO RENT CORP	CF–04
726514	ELECTRO SCIENTIFIC INDUSTRIES INC	CF–05
351789	ELECTRO SENSORS INC	CF–07
881404	ELECTROCOM AUTOMATION INC	CF–10
722641	ELECTROGRAPH SYSTEMS INC	CF–06
032198	ELECTROMAGNETIC SCIENCES INC	CF–05
032203	ELECTROMEDICS INC	CF–06
712515	ELECTRONIC ARTS	CF–05
313096	ELECTRONIC ASSOCIATES INC	CF–06
721773	ELECTRONIC CLEARING HOUSE INC	CF–07
032230	ELECTRONIC DATA CONTROLS CORP	CF–08
863874	ELECTRONIC MEDICAL MANAGEMENT INC	CF–10
277471	ELECTRONIC PUBLISHING TECHNOLOGY CORP /CO	CF–09
317191	ELECTRONIC SPECIALTY PRODUCTS INC	CF–08
752294	ELECTRONIC SYSTEMS TECHNOLOGY INC	CF–06
854556	ELECTRONIC TECHNOLOGY GROUP INC	CF–07

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
773547	ELECTRONIC TELE COMMUNICATIONS INC	CF–07
843516	ELECTRONIC TRANSLATION CORP	CF–09
867374	ELECTRONICS FOR IMAGING INC	CF–10
032312	ELECTRONICS MISSILES & COMMUNICATIONS INC	CF–07
103542	ELECTROSOUND GROUP INC	CF–06
823927	ELECTROSOURCE INC	CF–07
908305	ELEXIS CORP	CF–07
032377	ELIZABETHTOWN GAS CO	CF–03
032379	ELIZABETHTOWN WATER CO /NJ/	CF–04
846657	ELJER INDUSTRIES INC	CF–04
850493	ELLER INDUSTRIES INC	CF–10
754501	ELLISON RAY MORTGAGE ACCEPTANCE CORP	CF–09
771214	ELMERS RESTAURANTS INC	CF–07
864182	ELMWOOD BANCORP INC	CF–10
311049	ELSINORE CORP	CF–05
712843	ELXSI CORP	CF–07
858305	EMBASSY SUITES INC	CF–01
878725	EMBREX INC/NC	CF–10
790070	EMC CORP	CF–04
032567	EMC ENERGIES INC	CF–09
356130	EMC INSURANCE GROUP INC	CF–01
858800	EMCLAIRE FINANCIAL CORP	CF–10
819977	EMCON ASSOCIATES /CA/	CF–06
854164	EMERALD CAPITAL INC /DE/	CF–10
832975	EMERALD EAGLE CORP	CF–09
806627	EMERALD HOMES LP	CF–04
818320	EMERALD INSTRUMENT CORP	CF–09
032604	EMERSON ELECTRIC CO	CF–02
032621	EMERSON RADIO CORP	CF–03
835641	EMMET INC	CF–09
032666	EMONS HOLDINGS INC	CF–06
317032	EMPI INC	CF–07
810830	EMPIRE BANC CORP	CF–07
032689	EMPIRE DISTRICT ELECTRIC CO	CF–03
032695	EMPIRE FINANCIAL CORP/NJ	CF–09
032703	EMPIRE GAS CORP /MO/	CF–04
757185	EMPIRE ORR INC/NY	CF–06
032776	EMPIRE STATE BUILDING ASSOCIATES	CF–06
107613	EMPIRE STATE LIFE INSURANCE CO	CF–09
873066	EMPIRE VENTURES INC/DE	CF–10
886816	EMPLOYEE ASSISTANCE SERVICES INC	CF–10
854807	EMPLOYEE BENEFIT PLANS INC	CF–10
350917	EMULEX CORP /DE/	CF–05
731804	ENB HOLDING CO	CF–08
842916	ENCLEAN INC	CF–05
753551	ENCO FLORIDA FUND LTD	CF–08
764037	ENCORE COMPUTER CORP /DE/	CF–04
276259	ENCORE GROUP INC	CF–07
725625	ENDEVCO INC	CF–04
883420	ENDOSONICS CORP	CF–10
704384	ENDOTRONICS INC	CF–07
313419	ENERCAP CORP /DE/	CF–06
022932	ENERCON DATA CORP /DE/	CF–08
277595	ENERGEN CORP	CF–04
032886	ENERGETICS INC	CF–07
032878	ENERGY CONVERSION DEVICES INC	CF–06
350193	ENERGY OPTICS INC	CF–08
351325	ENERGY RECOVERY SYSTEMS INC	CF–09
886128	ENERGY RESEARCH CORP /NY/	CF–10
314808	ENERGY SERVICE COMPANY INC	CF–04
032907	ENERGY SOURCES INC	CF–07
862475	ENERGY SYSTEMS INC	CF–10
032908	ENERGY VENTURES INC /DE/	CF–05
704503	ENERGYNORTH INC	CF–05
352712	ENERGYSEARCH 1980 2 DEVELOPMENT DRILLING	CF–08
354597	ENERGYSEARCH 1980 3 DEVELOPMENT DRILLING	CF–08
356329	ENERGYSEARCH 1981–1 DEVELOPMENT DRILLING	CF–08
701624	ENERGYSEARCH 1981–2 DEVELOPMENT DRILLING	CF–08
807886	ENEX 88 89 INCOME & RETIREMENT FUND SERIES 1 LP	CF–10
857507	ENEX 88 89 INCOME & RETIREMENT FUND SERIES 5 LP	CF–10
842829	ENEX 88–89 INCOME & RETIREMENT FUND SERIES 2 LP	CF–09
848081	ENEX 88–89 INCOME & RETIREMENT FUND SERIES 3 LP	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
854219	ENEX 88–89 INCOME & RETIREMENT FUND SERIES 4 LP	CF–10
861065	ENEX 88–89 INCOME & RETIREMENT FUND SERIES 6 LP	CF–10
861405	ENEX 90–91 INCOME & RETIREMENT FUND	CF–10
868663	ENEX 90–91 INCOME & RETIREMENT FUND SERIES 1 LP	CF–10
872658	ENEX 90–91 INCOME & RETIREMENT FUND SERIES 2 LP	CF–10
880580	ENEX 90–91 INCOME AND RETIREMENT FUND SERIES 3 LP	CF–10
820750	ENEX INCOME & RETIREMENT FUND SERIES 1 LP	CF–09
825248	ENEX INCOME & RETIREMENT FUND SERIES 2 LP	CF–09
830320	ENEX INCOME & RETIREMENT FUND SERIES 3 LP	CF–09
782335	ENEX OIL & GAS INCOME PROGRAM II–7	CF–08
743801	ENEX OIL & GAS INCOME PROGRAM II–1	CF–07
799171	ENEX OIL & GAS INCOME PROGRAM II–10	CF–08
757656	ENEX OIL & GAS INCOME PROGRAM II–2	CF–07
766039	ENEX OIL & GAS INCOME PROGRAM II–3	CF–08
769502	ENEX OIL & GAS INCOME PROGRAM II–4	CF–08
769501	ENEX OIL & GAS INCOME PROGRAM II–5	CF–08
769503	ENEX OIL & GAS INCOME PROGRAM II–6	CF–08
789882	ENEX OIL & GAS INCOME PROGRAM II–8	CF–08
798954	ENEX OIL & GAS INCOME PROGRAM II–9	CF–08
825247	ENEX OIL & GAS INCOME PROGRAM III SERIES	CF–07
820159	ENEX OIL & GAS INCOME PROGRAM III SERIES	CF–07
806612	ENEX OIL & GAS INCOME PROGRAM III SERIES	CF–09
811205	ENEX OIL & GAS INCOME PROGRAM III SERIES 2 LP	CF–08
814780	ENEX OIL & GAS INCOME PROGRAM III SERIES 3 LP	CF–08
830319	ENEX OIL & GAS INCOME PROGRAM III SERIES 6 LP	CF–08
837895	ENEX OIL & GAS INCOME PROGRAM III SERIES 7 LP	CF–10
837894	ENEX OIL & GAS INCOME PROGRAM III SERIES 8 LP	CF–10
842832	ENEX OIL & GAS INCOME PROGRAM IV SERIES	CF–09
848463	ENEX OIL & GAS INCOME PROGRAM IV SERIES 2 LP	CF–10
854221	ENEX OIL & GAS INCOME PROGRAM IV SERIES 3 LP	CF–10
855112	ENEX OIL & GAS INCOME PROGRAM IV SERIES 4 LP	CF–10
861063	ENEX OIL & GAS INCOME PROGRAM IV SERIES 5 LP	CF–10
864177	ENEX OIL & GAS INCOME PROGRAM IV SERIES 7 LP	CF–10
862424	ENEX OIL & GAS INCOME PROGRAM V	CF–10
868664	ENEX OIL & GAS INCOME PROGRAM V SERIES 1 LP	CF–10
873974	ENEX OIL & GAS INCOME PROGRAM V SERIES 2 LP	CF–10
878659	ENEX OIL & GAS INCOME PROGRAM V SERIES 3 LP	CF–10
881757	ENEX OIL & GAS INCOME PROGRAM V SERIES 4 LP	CF–10
775274	ENEX PROGRAM I PARTNERS LP	CF–06
314864	ENEX RESOURCES CORP	CF–06
352947	ENGELHARD CORP	CF–02
772891	ENGINEERED SUPPORT SYSTEMS INC	CF–06
205303	ENGINEERING MEASUREMENTS CO	CF–07
880034	ENGLE HOMES INC /FL	CF–10
032991	ENGRAPH INC	CF–04
881889	ENHANCE FINANCIAL SERVICES GROUP INC	CF–10
882323	ENHANCED IMAGING TECHNOLOGIES INC	CF–10
033002	ENNIS BUSINESS FORMS INC	CF–05
880555	ENQUIRER STAR GROUP INC	CF–10
072859	ENRON CORP	CF–02
888228	ENRON LIQUIDS PIPELINE LP	CF–10
821189	ENRON OIL & GAS CO	CF–02
033015	ENSERCH CORP	CF–02
764625	ENSERCH EXPLORATION PARTNERS LTD	CF–03
805391	ENSTAR INCOME GROWTH PROGRAM FIVE–A LP	CF–07
805392	ENSTAR INCOME GROWTH PROGRAM FIVE–B LP	CF–07
824778	ENSTAR INCOME GROWTH PROGRAM SIX–A LP	CF–09
824779	ENSTAR INCOME GROWTH PROGRAM SIX–B LP	CF–09
737762	ENSTAR INCOME PROGRAM 1984–1 LP	CF–07
757595	ENSTAR INCOME PROGRAM II–1 LP	CF–07
757597	ENSTAR INCOME PROGRAM II–2 LP	CF–07
783763	ENSTAR INCOME PROGRAM IV–1 LP	CF–07
783764	ENSTAR INCOME PROGRAM IV–2 LP	CF–07
783765	ENSTAR INCOME PROGRAM IV–3 LP	CF–07
065984	ENTERGY CORP	CF–02
353181	ENTERRA CORP /DE/	CF–05
826772	ENTERTAINMENT CORPORATION OF AMERICA	CF–09
768178	ENTERTAINMENT MARKETING INC	CF–05
774740	ENTOURAGE INTERNATIONAL INC	CF–08
814579	ENTREE CORP	CF–06
818017	ENTRONICS CORP/DE/	CF–06
033061	ENTWISTLE CO	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
803501	ENVIRITE CORP	CF-09
033073	ENVIRODYNE INDUSTRIES INC	CF-03
863815	ENVIROGEN INC	CF-10
850747	ENVIROMINT HOLDINGS INC	CF-10
812013	ENVIRONETICS INC	CF-09
033081	ENVIRONMENT ONE CORP	CF-07
739984	ENVIRONMENTAL DIAGNOSTICS INC	CF-06
863663	ENVIRONMENTAL ELEMENTS CORP	CF-10
842919	ENVIRONMENTAL MONITORING & TESTING CORP	CF-07
805012	ENVIRONMENTAL POWER CORP	CF-06
773309	ENVIRONMENTAL SERVICES OF AMERICA INC	CF-07
774709	ENVIRONMENTAL SYSTEMS CO /DE/	CF-04
033113	ENVIRONMENTAL TECTONICS CORP	CF-06
797999	ENVIROPACT INC	CF-07
106752	ENVIROSOURCE INC	CF-03
316253	ENZO BIOCHEM INC	CF-05
727510	ENZON INC	CF-06
857609	ENZYMATICS INC	CF-10
032160	EPI INTERNATIONAL INC	CF-06
883704	EPIC HOLDINGS INC	CF-10
840069	EPIC VENTURES CORP	CF-09
879354	EPIGEN INC /DE	CF-10
801565	EPITOPE INC/OR/	CF-07
797079	EPOLIN INC /NJ/	CF-08
822968	EQ SHEARSON HOTEL PROPERTIES LP	CF-10
796509	EQK GREEN ACRES LP	CF-04
755926	EQK REALTY INVESTORS I	CF-04
884656	EQUICREDIT CORP	CF-10
033185	EQUIFAX INC	CF-05
033189	EQUIMARK CORP	CF-03
033195	EQUIPMENT COMPANY OF AMERICA	CF-07
794566	EQUIPMENT LEASING CORPORATION OF AMERICA	CF-10
887346	EQUITABLE BAG CO INC	CF-10
315661	EQUITABLE BANKSHARES OF COLORADO INC	CF-06
888002	EQUITABLE COMPANIES INCORPORATED	CF-10
225360	EQUITABLE OF IOWA COMPANIES	CF-02
806029	EQUITABLE REAL ESTATE SHOPPING CENTERS L	CF-04
033213	EQUITABLE RESOURCES INC /PA/	CF-02
850317	EQUITAS GROUP	CF-10
314867	EQUITEC 80 REAL ESTATE INVESTORS	CF-09
701466	EQUITEC 82 LEASING INVESTORS	CF-09
701437	EQUITEC 82 REAL ESTATE INVESTORS	CF-09
722823	EQUITEC 83 LEASING INVESTORS	CF-09
716387	EQUITEC 83 REAL ESTATE INVESTORS	CF-09
722807	EQUITEC FINANCIAL GROUP INC	CF-05
775053	EQUITEC INCOME REAL ESTATE INVESTORS B	CF-09
775054	EQUITEC INCOME REAL ESTATE INVESTORS C	CF-09
820906	EQUITEC INCOME REAL ESTATE INVESTORS EQU	CF-10
798051	EQUITEC LEASING INVESTORS 10	CF-09
798050	EQUITEC LEASING INVESTORS 9	CF-09
732413	EQUITEC MORTGAGE INVESTORS FUND IV	CF-09
747409	EQUITEC VENTURE LEASING INVESTORS A	CF-09
747410	EQUITEC VENTURE LEASING INVESTORS B	CF-09
886781	EQUITRAC CORPORATION	CF-10
830741	EQUITY AU INC	CF-07
769853	EQUITY CONCEPTS INC	CF-07
033325	EQUITY OIL CO	CF-05
820017	EQUIVEST FINANCE INC	CF-10
775477	ERC INDUSTRIES INC /DE/	CF-07
806370	EREIM LP ASSOCIATES	CF-06
033416	ERIE FAMILY LIFE INSURANCE CO	CF-05
033420	ERIE LACKAWANNA INC	CF-06
030966	ERLY INDUSTRIES INC	CF-04
884319	ERO INC	CF-10
861905	ES&L BANCORP INC	CF-10
861460	ESB BANCORP INC	CF-10
810370	ESCAGENETICS CORP	CF-07
033488	ESCALADE INC	CF-05
866706	ESCO ELECTRONICS CORP	CF-10
828941	ESELCO INC	CF-10
350646	ESI INDUSTRIES INC	CF-05
313757	ESKEY INC	CF-09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
230624	ESPERO ENERGY CORP	CF–07
033533	ESPEY MANUFACTURING & ELECTRONICS CORP	CF–06
033541	ESQUIRE RADIO & ELECTRONICS INC	CF–06
814037	ESSEF CORP	CF–05
355199	ESSEX CORPORATION	CF–06
046189	ESSEX COUNTY GAS COMPANY	CF–05
847325	ESSEX FINANCIAL PARTNERS LP	CF–05
033565	ESSEX GROUP INC	CF–03
714233	ESSEX REAL ESTATE PARTNERS LTD	CF–06
033619	ESTERLINE CORP	CF–04
033656	ETHYL CORP	CF–02
764403	ETOWN CORP	CF–03
808277	EUA POWER CORP /NH/	CF–08
880363	EURO AMERICAN VENTURES INC /FL	CF–10
878926	EURO AMERICAN WRESTLING GROUP INC /FL	CF–10
832443	EUROAMERICAN GROUP INC	CF–08
357010	EUROCAPITAL CORP	CF–07
844887	EUROPA CRUISES CORP	CF–07
862148	EV ENVIRONMENTAL INC	CF–10
276283	EVANS & SUTHERLAND COMPUTER CORP	CF–04
033769	EVANS BOB FARMS INC	CF–04
033780	EVANS INC	CF–05
854378	EVCO INDUSTRIES INC	CF–10
887022	EVE HOLDINGS INC	CF–10
033837	EVEREST & JENNINGS INTERNATIONAL LTD	CF–04
837919	EVEREST ENERGY FUTURES FUND LP	CF–09
869426	EVEREST MEDICAL CORPORATION	CF–10
816762	EVEREX SYSTEMS INC /DE/	CF–04
862015	EVERFLOW DRILLING PROGRAM 1989–90A	CF–10
868082	EVERFLOW EASTERN PARTNERS LP	CF–10
351521	EVERGREEN BANCORP INC	CF–07
882852	EVERGREEN INFORMATION TECHNOLOGIES INC	CF–10
353943	EVERGREEN RESOURCES INC	CF–06
033115	EVRO FINANCIAL CORP	CF–08
855109	EXABYTE CORP /DE/	CF–05
846381	EXALTISTICS INC	CF–10
753568	EXAR CORP	CF–05
201779	EXCALIBUR INDUSTRIES	CF–08
834162	EXCALIBUR SECURITY SERVICES INC	CF–09
316222	EXCALIBUR TECHNOLOGIES CORP	CF–07
793589	EXCEL BANCORP INC	CF–07
740868	EXCEL INDUSTRIES INC	CF–04
354247	EXCEL INTERFINANCIAL CORP	CF–07
850958	EXCEL PROPERTIES LTD II	CF–10
798288	EXCEL REALTY TRUST INC	CF–07
873603	EXCEL TECHNOLOGY INC	CF–10
873085	EXCEPTIONAL ENTERPRISES INC	CF–10
860675	EXCLUSIVE INCENTIVES INC	CF–10
834285	EXECUFIRST BANCORP INC	CF–09
033992	EXECUTIVE HOUSE INC	CF–08
703805	EXECUTIVE NATIONAL DEVELOPMENT CORP	CF–07
842807	EXECUTIVE TELECARD LTD	CF–09
725282	EXECUTONE INFORMATION SYSTEMS INC	CF–04
851720	EXESS INC	CF–10
827164	EXHIBITRONIX INC	CF–09
813781	EXIDE CORP	CF–03
772372	EXIDE ELECTRONICS GROUP INC	CF–05
034046	EXOLON ESK CO	CF–05
034047	EXOTECH INC	CF–08
846476	EXOTIC BODIES INC	CF–10
717653	EXOVIR INC	CF–08
746515	EXPEDITORS INTERNATIONAL OF WASHINGTON INC	CF–05
723533	EXPERTELLIGENCE INC	CF–08
313395	EXPLORATION CO	CF–07
720676	EXPLORATION CO OF LOUISIANA INC	CF–05
034067	EXPLOSIVE FABRICATORS INC	CF–07
864926	EXPRESS CASH INTERNATIONAL CORP	CF–10
885721	EXPRESS SCRIPTS INC	CF–10
811779	EXTEN VENTURES INC	CF–08
788903	EXXON CAPITAL CORP	CF–01
811695	EXXON CAPITAL VENTURES INC	CF–01
034088	EXXON CORP	CF–01

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
778008	EYE TECHNOLOGY INC	CF-08
727008	EZ EM INC	CF-05
887847	EZCONY INTERAMERICA INC	CF-10
876423	EZCORP INC	CF-10
878671	F & C BANCSHARES INC	CF-10
856846	F 1000 FUTURES FUND LP SERIES VI	CF-10
883573	F 1000 FUTURES FUND LP SERIES VIII	CF-10
826741	F 1000 GUARANTEE FUTURES FUND LP SERIES II	CF-09
837107	F 1000 GUARANTEE FUTURES FUND LP SERIES IV	CF-09
827636	F A COMPUTER TECHNOLOGIES INC	CF-05
820047	F M G RITA RANCH LIMITED PARTNERSHIP	CF-07
748055	F&E RESOURCE SYSTEMS TECHNOLOGY INC	CF-08
736473	F&M BANCORP	CF-05
793049	F&M BANCORPORATION INC	CF-09
740805	F&M BANK CORP	CF-06
034125	F&M NATIONAL CORP	CF-04
832903	F-1000 GUARANTEE FUTURES FUND LP SERIES	CF-09
034136	FAB INDUSTRIES INC	CF-04
034151	FABRI CENTERS OF AMERICA INC	CF-04
352956	FAFCO INC	CF-08
034236	FAIR GROUNDS CORP	CF-05
814547	FAIR ISAAC & COMPANY INC	CF-05
009779	FAIRCHILD CORP	CF-02
034257	FAIRCHILD INDUSTRIES INC	CF-01
810827	FAIRCOM INC	CF-07
710651	FAIRFIELD ACCEPTANCE CORP	CF-08
876189	FAIRFIELD COMMUNITIES INC	CF-03
831464	FAIRFIELD COUNTY BANCORP INC	CF-09
034296	FAIRMOUNT CHEMICAL CO INC	CF-07
831258	FAIRVIEW MOUNTAIN GOLD INC	CF-09
853631	FAIRVIEW PRINTING INC	CF-10
853632	FAIRVIEW REAL ESTATE INC	CF-10
866095	FAIRWAYS FUND LTD PARTNERSHIP	CF-10
783006	FALCON CABLE SYSTEMS CO	CF-05
846811	FALCON CLASSIC CABLE INCOME PROPERTIES L	CF-10
215797	FALCON OIL & GAS CO INC	CF-06
034339	FALCON PRODUCTS INC /DE/	CF-06
034371	FALL RIVER GAS CO	CF-05
854686	FALLS FINANCIAL INC	CF-10
825314	FAMILY BANCORP	CF-10
034408	FAMILY DOLLAR STORES INC	CF-03
799668	FAMILY GROUP BROADCASTING L P	CF-09
784539	FAMILY STEAK HOUSES OF FLORIDA INC	CF-05
737876	FAMOUS HOST LODGING V LP	CF-09
354929	FAMOUS RESTAURANTS INC	CF-05
034471	FANSTEEL INC	CF-05
753767	FAR WEST ELECTRIC ENERGY FUND LP	CF-06
806514	FAR WEST VENTURES INC	CF-08
034497	FARADYNE ELECTRONICS CORP	CF-07
034501	FARAH INC	CF-04
829902	FARM & HOME FINANCIAL CORP	CF-09
817268	FARM FAMILY MUTUAL INSURANCE CO	CF-05
034551	FARM FISH INC	CF-07
034552	FARM HOUSE FOODS CORP	CF-05
034563	FARMER BROTHERS CO	CF-04
792966	FARMERS & MERCHANTS BANCORP INC	CF-09
730726	FARMERS BANCORP	CF-09
713095	FARMERS CAPITAL BANK CORP	CF-04
709337	FARMERS NATIONAL BANC CORP /OH/	CF-08
700850	FARMERS NATIONAL BANCORP /MD/	CF-04
700946	FARMERS NATIONAL BANCORP INC /DE/	CF-08
888427	FARMERS STATE BANCSHARES INC	CF-10
034616	FARMLAND INDUSTRIES INC	CF-01
804331	FARMSTEAD TELEPHONE GROUP INC	CF-08
034629	FARR CO	CF-05
034489	FARWEST FINANCIAL CORP	CF-03
350467	FAST FOOD OPERATORS INC	CF-08
860591	FAST FOOD SYSTEMS INC	CF-10
828529	FASTCOMM COMMUNICATIONS CORP	CF-08
815556	FASTENAL COMPANY	CF-06
796226	FAY LESLIE COMPANIES INC	CF-03
837874	FAYETTE COUNTY BANCSHARES INC /GA/	CF-09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
034768	FAYS INCORPORATED	CF–04
825087	FBC MORTGAGE SECURITIES TRUST 18	CF–06
842901	FBC MORTGAGE SECURITIES TRUST 20	CF–09
878331	FBC MORTGAGE SECURITIES TRUST 22	CF–10
784556	FBS MORTGAGE CORP	CF–09
863450	FBS MORTGAGE CORP MORTGAGE PASS THR CERT	CF–10
812261	FBS MORTGAGE CORP MORTGAGE PASS THR CERT SER 1986–B	CF–09
812262	FBS MORTGAGE CORP MORTGAGE PASS THR CERT SER 1986 C1	CF–09
812259	FBS MORTGAGE CORP MORTGAGE PASS THR CERT SER 1986–A1	CF–09
812260	FBS MORTGAGE CORP MORTGAGE PASS THR CERT SER 1986–A2	CF–09
812269	FBS MORTGAGE CORP MORTGAGE PASS THR CERT SER 1987–A	CF–09
854723	FCC 1989–A GRANTOR TRUST	CF–10
871662	FCC 1991–A GRANTOR TRUST	CF–10
819975	FCC NATIONAL BANK	CF–09
859070	FCFT INC	CF–10
803644	FCNB CORP	CF–08
784720	FCS FINANCIAL CORP /GA/	CF–06
719130	FCS LABORATORIES INC	CF–07
722826	FDP CORP	CF–07
744106	FEDDERS CORP /DE	CF–04
845677	FEDERAL AGRICULTURAL MORTGAGE CORP	CF–06
230211	FEDERAL EXPRESS CORP	CF–02
779229	FEDERAL INSURED MORTGAGE INVESTORS LP	CF–05
798433	FEDERAL INSURED MORTGAGE INVESTORS LP II	CF–05
034879	FEDERAL MOGUL CORP	CF–01
034891	FEDERAL PAPER BOARD CO INC	CF–02
034903	FEDERAL REALTY INVESTMENT TRUST	CF–03
034908	FEDERAL SCREW WORKS	CF–05
277509	FEDERAL SIGNAL CORP /DE/	CF–04
034945	FEDERATED DEPARTMENT STORES INC	CF–02
722203	FEDERATED NATURAL RESOURCES CORP	CF–07
034977	FEDERATED PURCHASER INC	CF–07
870816	FEDFIRST BANCSHARES INC	CF–10
842640	FEDTRUST CORP	CF–09
811082	FERRELLGAS INC	CF–03
035214	FERRO CORP	CF–03
353286	FERROFLUIDICS CORP	CF–06
729216	FERTIL A CHRON INC	CF–06
779162	FERTILITY & GENETICS RESEARCH INC	CF–07
885727	FF BANCORP INC	CF–10
778969	FFCA INVESTOR SERVICES CORP 85–A	CF–09
811520	FFCA INVESTOR SERVICES CORP 85–B	CF–10
778436	FFCA INVESTOR SERVICES CORP 86–A	CF–09
797978	FFCA INVESTOR SERVICES CORP 86–B	CF–09
826579	FFCA INVESTOR SERVICES CORP 88–A	CF–09
824134	FFCA INVESTOR SERVICES CORP 88–B	CF–09
820807	FFCA INVESTOR SERVICES CORP 88–C	CF–09
865829	FFCA PIP III INVESTOR SERVICES CORP	CF–10
836819	FFO FINANCIAL GROUP INC	CF–09
811863	FFP PARTNERS L P	CF–05
880407	FGIC SECURITIES PURCHASE INC	CF–10
793499	FHP INTERNATIONAL CORP	CF–03
846775	FI TEK III INC	CF–10
857502	FI TEK IV INC	CF–10
869026	FI TEK V INC	CF–10
869494	FI TEK VI INC	CF–10
869498	FI TEK VII INC	CF–10
811014	FIBERCHEM INC /IA/	CF–07
833053	FIBREBOARD CORP /DE	CF–04
724968	FIBRONICS INTERNATIONAL INC	CF–05
850345	FIDELITY BANCSHARES INC	CF–10
740867	FIDELITY LEASING INCOME FUND	CF–07
764761	FIDELITY LEASING INCOME FUND II	CF–06
786470	FIDELITY LEASING INCOME FUND III LP	CF–06
810363	FIDELITY LEASING INCOME FUND IV LP	CF–06
830660	FIDELITY LEASING INCOME FUND V LP	CF–09
846471	FIDELITY LEASING INCOME FUND VI LP	CF–10
858661	FIDELITY LEASING INCOME FUND VII LP	CF–10
870742	FIDELITY LEASING INCOME FUND VIII LP	CF–10
320017	FIDELITY MEDICAL INC	CF–07
809398	FIDELITY NATIONAL FINANCIAL INC /DE/	CF–06
035469	FIELDCREST CANNON INC	CF–03

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
870227	FIELDCREST CORP	CF-10
858371	FIFTEEN HOLDINGS INC	CF-10
035522	FIFTH DIMENSION INC	CF-08
035527	FIFTH THIRD BANCORP	CF-02
720032	FIGGIE INTERNATIONAL INC /DE/	CF-03
875404	FILENES BASEMENT CORP	CF-10
851277	FILENES BASEMENT INC	CF-10
816161	FILENET CORPORATION	CF-05
819794	FILMSTAR INC /DE/	CF-07
719164	FILTERTEK INC/DE	CF-05
844884	FINACORP INC	CF-09
737823	FINANCIAL BENEFIT GROUP INC /DE/	CF-09
724769	FINANCIAL CENTER BANCORP	CF-05
035679	FINANCIAL CORP OF SANTA BARBARA	CF-03
880631	FINANCIAL DATA SYSTEMS INC /DE/	CF-10
035733	FINANCIAL INDUSTRIES CORP	CF-08
805847	FINANCIAL INSTITUTIONS INSURANCE GROUP L	CF-07
035754	FINANCIAL LAND CORP	CF-07
835314	FINANCIAL RESOURCES MARKETING CORP	CF-09
035838	FINANCIAL SERVICES CORPORATION OF THE MI	CF-08
702506	FINANCIAL TRUST CORP	CF-07
801336	FIND SVP INC	CF-07
875035	FINET INC /NY	CF-10
830141	FINEVEST FOODS INC	CF-04
740126	FINGERHUT COMPANIES INC	CF-03
316618	FINGERMATRIX INC	CF-07
886137	FINISH LINE INC /DE/	CF-10
035968	FINNIGAN CORP /VA/	CF-05
732248	FIRECOM INC	CF-07
801543	FIREMANS FUND MORTGAGE CORP	CF-08
738992	FIREPLACE MANUFACTURERS INC	CF-07
823130	FIRETECTOR INC	CF-07
808575	FIRMA INC	CF-08
036029	FIRST ABILENE BANKSHARES INC	CF-04
835953	FIRST AGATE CAPITAL CORP	CF-09
036032	FIRST ALABAMA BANCSHARES INC	CF-03
782842	FIRST ALBANY COMPANIES INC	CF-04
702654	FIRST AMARILLO BANCORPORATION INC	CF-04
854631	FIRST AMERICAN BANCORP /AL/	CF-10
730822	FIRST AMERICAN CAPITAL CORP /DE/	CF-08
109830	FIRST AMERICAN CORP /GA/	CF-06
036068	FIRST AMERICAN CORP /TN/	CF-02
843189	FIRST AMERICAN ENERGY INC	CF-09
036047	FIRST AMERICAN FINANCIAL CORP	CF-05
776997	FIRST AMERICAN HEALTH CONCEPTS INC	CF-08
883323	FIRST AMERICAN MARKETING CORPORATION	CF-10
783995	FIRST AMFED CORP	CF-08
823005	FIRST ARTISTS MEDIA ENTERTAINMENT LTD	CF-09
840458	FIRST BANCORP /IN/	CF-09
811589	FIRST BANCORP /NC/	CF-05
883645	FIRST BANCORP INC /VA/	CF-10
867170	FIRST BANCORP INDIANA INC	CF-10
705025	FIRST BANCORP OF KANSAS	CF-04
354869	FIRST BANCORPORATION OF OHIO	CF-03
355543	FIRST BANCSHARES OF ST LANDRY INC	CF-05
036104	FIRST BANK SYSTEM INC	CF-02
356858	FIRST BANKING CENTER INC	CF-05
357208	FIRST BANKING CO OF SOUTHEAST GEORGIA	CF-05
705459	FIRST BATH CORP	CF-08
802106	FIRST BOSTON MORTGAGE SECURITIES CORP /D	CF-09
797320	FIRST BRANDS CORP	CF-03
314489	FIRST BUSEY CORP /DE/	CF-09
826745	FIRST CAPITAL GROWTH FUND-XIV	CF-09
719520	FIRST CAPITAL HOLDINGS CORP	CF-02
811117	FIRST CAPITAL INCOME & GROWTH FUND SERIES XII	CF-09
716297	FIRST CAPITAL INCOME PROPERTIES LTD SERIES IX	CF-09
355774	FIRST CAPITAL INCOME PROPERTIES LTD SERIES VII	CF-06
703482	FIRST CAPITAL INCOME PROPERTIES LTD SERIES VIII	CF-05
750301	FIRST CAPITAL INCOME PROPERTIES LTD SERIES X	CF-05
771983	FIRST CAPITAL INCOME PROPERTIES LTD SERIES XI	CF-05
727087	FIRST CAPITAL INSTITUTIONAL REAL ESTATE 2	CF-05
730212	FIRST CAPITAL INSTITUTIONAL REAL ESTATE LTD 1	CF-05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
757528	FIRST CAPITAL INSTITUTIONAL REAL ESTATE LTD 3	CF-05
794665	FIRST CAPITAL INSTITUTIONAL REAL ESTATE LTD 4	CF-05
819253	FIRST CAPITAL INSURED REAL ESTATE LIMITED PARTNERSHIP	CF-09
036141	FIRST CAPITAL REALTY OF OHIO	CF-05
811040	FIRST CAROLINA INVESTORS INC	CF-06
759441	FIRST CENTRAL FINANCIAL CORP	CF-05
861288	FIRST CHARLOTTE FINANCIAL CORP	CF-10
717306	FIRST CHARTER CORP /NC/	CF-05
838330	FIRST CHATTANOOGA FINANCIAL CORP	CF-09
841545	FIRST CHEROKEE BANCSHARES INC	CF-09
036161	FIRST CHICAGO CORP	CF-02
863856	FIRST CHICAGO MASTER TRUST II	CF-10
708848	FIRST CITIZENS BANCORPORATION OF SOUTH CAROLINA	CF-04
798941	FIRST CITIZENS BANCSHARES INC /NC/	CF-07
719264	FIRST CITIZENS BANCSHARES INC /TN/	CF-01
826328	FIRST CITIZENS BANCSTOCK INC	CF-09
846869	FIRST CITIZENS FINANCIAL CORP	CF-09
830154	FIRST CITY BANCORP INC /TN/	CF-09
828678	FIRST CITY BANCORPORATION OF TEXAS INC /	CF-09
849627	FIRST CLAYTON BANCSHARES INC	CF-10
275380	FIRST COLONIAL BANKSHARES CORP	CF-07
714719	FIRST COLONIAL GROUP INC	CF-05
769882	FIRST COLONIAL VENTURES LTD	CF-09
892893	FIRST COLONY HOLDING CORP	CF-10
768532	FIRST COMMERCE BANCSHARES INC	CF-07
036204	FIRST COMMERCE CORP /LA/	CF-03
315547	FIRST COMMERCIAL BANCORP INC	CF-08
775621	FIRST COMMERCIAL BANCORPORATION	CF-06
720643	FIRST COMMERCIAL BANCSHARES INC	CF-07
316769	FIRST COMMERCIAL CORP	CF-07
853071	FIRST COMMERCIAL HOLDING CORP	CF-10
200776	FIRST COMMONWEALTH CORP	CF-05
712537	FIRST COMMONWEALTH FINANCIAL CORP /PA/	CF-01
700858	FIRST COMMUNITY BANCORP INC	CF-09
853467	FIRST COMMUNITY BANCORP INC /GA/	CF-10
877987	FIRST COMMUNITY BANCSHARES INC /IN	CF-10
825351	FIRST COMMUNITY BANCSHARES INC /GA/	CF-09
812498	FIRST COMMUNITY CORP	CF-06
790071	FIRST CONSTITUTION FINANCIAL CORP	CF-07
700571	FIRST CONTINENTAL BANCSHARES INC	CF-07
036233	FIRST CONTINENTAL REAL ESTATE INVESTMENT	CF-05
883980	FIRST DATA CORPORATION	CF-10
806182	FIRST DEARBORN INCOME PROPERTIES LP	CF-06
837557	FIRST DEARBORN INCOME PROPERTIES LP II	CF-09
357427	FIRST EASTERN CORP /PA/	CF-07
036270	FIRST EMPIRE STATE CORP	CF-02
808246	FIRST ESSEX BANCORP INC	CF-07
278138	FIRST EVERGREEN CORP	CF-07
036288	FIRST EXECUTIVE CORP	CF-02
091650	FIRST EXPLORATION CO /CO/	CF-09
703329	FIRST FARMERS & MERCHANTS CORP	CF-05
813749	FIRST FEDERAL BANCORP INC	CF-04
885076	FIRST FEDERAL BANCORP INC /OH/	CF-10
851207	FIRST FEDERAL CAPITAL CORP	CF-10
870501	FIRST FEDERAL ENTERPRISES INC	CF-10
854395	FIRST FEDERAL FINANCIAL CORPORATION OF KENTUCKY	CF-10
857492	FIRST FEDERAL SAVINGS & LOAN ASSN OF ROCHESTER 1989 SE 4	CF-10
854218	FIRST FEDERAL SAVINGS & LOAN ASSN OF ROCHESTER 1989 SE 5	CF-10
711403	FIRST FIDELITY BANCORP INC	CF-05
823870	FIRST FIDELITY BANCORPORATION /NJ/	CF-02
796312	FIRST FILMS INC	CF-08
726737	FIRST FINANCIAL ASSOCIATES INC	CF-04
729502	FIRST FINANCIAL BANCORP /CA/	CF-06
708955	FIRST FINANCIAL BANCORP /OH/	CF-07
779633	FIRST FINANCIAL BANCORPORATION /IA/	CF-08
879784	FIRST FINANCIAL BANCSHARES OF POLK COUNTY INC	CF-10
840889	FIRST FINANCIAL CARIBBEAN CORP	CF-03
878967	FIRST FINANCIAL CORP / TN	CF-10
714562	FIRST FINANCIAL CORP /IN/	CF-07
036315	FIRST FINANCIAL CORP /TX/	CF-07
735553	FIRST FINANCIAL CORP /WI/	CF-03
870992	FIRST FINANCIAL CORP OF WESTERN MARYLAND	CF-10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
787075	FIRST FINANCIAL HOLDINGS INC /DE/	CF–04
036326	FIRST FINANCIAL MANAGEMENT CORP	CF–04
835734	FIRST FINANCIAL SHARES INC	CF–09
749879	FIRST FINCORP INC	CF–06
109834	FIRST FLORIDA BANKS INC	CF–03
742161	FIRST FRANKLIN CORP	CF–05
038723	FIRST FRANKLIN FINANCIAL CORP	CF–01
826491	FIRST GEORGIA HOLDING INC	CF–05
036352	FIRST GOLDEN BANCORPORATION	CF–05
846768	FIRST HARRISBURG BANCOR INC	CF–09
036377	FIRST HAWAIIAN INC	CF–03
820394	FIRST HIGHLAND CORP	CF–08
505675	FIRST HOME CREDIT CORP I	CF–06
814710	FIRST HOME CREDIT CORPORATION II	CF–10
036394	FIRST HUNTSVILLE CORP	CF–05
745140	FIRST INDEPENDENCE CORP	CF–06
789670	FIRST INDIANA CORP	CF–07
850496	FIRST INTER BANCORP INC	CF–10
105982	FIRST INTERSTATE BANCORP /DE/	CF–02
741562	FIRST JERMYN CORP	CF–08
871359	FIRST KENTUCKY BANCORP INC	CF–10
737875	FIRST KEYSTONE CORP	CF–06
756899	FIRST KNOX BANC CORP	CF–08
775862	FIRST LEESPORT BANCORP INC	CF–06
760077	FIRST LIBERTY FINANCIAL CORP	CF–07
320387	FIRST M&F CORP/MS	CF–05
036506	FIRST MANISTIQUE CORP	CF–06
036510	FIRST MARYLAND BANCORP	CF–01
743397	FIRST MCMINNVILLE CORP	CF–08
824166	FIRST MEDICAL INTERNATIONAL INC	CF–08
804126	FIRST MERCHANTS BANCORP INC	CF–06
712534	FIRST MERCHANTS CORP	CF–04
036522	FIRST MICHIGAN BANK CORP	CF–07
700565	FIRST MID ILLINOIS BANCSHARES INC	CF–08
702325	FIRST MIDWEST BANCORP INC	CF–07
036537	FIRST MISSISSIPPI CORP	CF–03
889300	FIRST MOLINE FINANCIAL CORP	CF–10
083125	FIRST MONTAUK FINANCIAL CORP	CF–08
036540	FIRST MORTGAGE CORP	CF–08
883369	FIRST MORTGAGE CORP /CA/	CF–10
069280	FIRST MUTUAL INC	CF–08
351825	FIRST NATIONAL BANCORP /GA/	CF–04
788783	FIRST NATIONAL BANCORP INC /IL/	CF–06
808364	FIRST NATIONAL BANK CORP	CF–04
814178	FIRST NATIONAL BANKSHARES CORP	CF–06
700694	FIRST NATIONAL BANKSHARES INC/LA/	CF–08
852558	FIRST NATIONAL BANKSHARES OF HENRY COUNT	CF–10
700941	FIRST NATIONAL CORP /CA/	CF–04
731650	FIRST NATIONAL CORP /ND/	CF–05
754038	FIRST NATIONAL CORP /SC/	CF–08
855582	FIRST NATIONAL FINANCIAL CORP /GA/	CF–10
715259	FIRST NATIONAL FINANCIAL CORP /MS/	CF–05
779575	FIRST NATIONAL FINANCIAL CORP /NM/	CF–03
765207	FIRST NATIONAL LINCOLN CORP /ME/	CF–05
036725	FIRST NATIONAL OF NEBRASKA INC	CF–07
854882	FIRST NATIONAL REALTY ASSOCIATES INC	CF–10
717837	FIRST OAK BROOK BANCSHARES INC	CF–08
036703	FIRST OF AMERICA BANK CORP /MI/	CF–02
740663	FIRST OF LONG ISLAND CORP	CF–05
036781	FIRST OF MICHIGAN CAPITAL CORP	CF–05
354271	FIRST PACIFIC BANCORP INC	CF–06
864739	FIRST PACIFIC NETWORKS INC	CF–10
864927	FIRST PALMETTO FINANCIAL CORP	CF–10
855645	FIRST PATRIOT BANKSHARES CORP	CF–10
725570	FIRST PEOPLES BANCORP INC/TN/	CF–06
807521	FIRST PEOPLES FINANCIAL CORP	CF–07
835320	FIRST PITTSBURGH CAPITAL CORP	CF–09
778164	FIRST PRIORITY GROUP INC	CF–08
354706	FIRST PULASKI NATIONAL CORP	CF–05
036840	FIRST REAL ESTATE INVESTMENT TRUST OF NEW JERSEY	CF–06
356706	FIRST REGIONAL BANCORP	CF–06
770975	FIRST REPUBLIC BANCORP INC	CF–04

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
036856	FIRST REPUBLIC CORP OF AMERICA	CF–04
083251	FIRST REPUBLICBANK CORP	CF–02
833016	FIRST SECURED MORTGAGE DEPOSIT CORP	CF–09
312367	FIRST SECURITY CORP /DE/	CF–03
717217	FIRST SECURITY FINANCIAL CORP	CF–04
856086	FIRST SEISMIC CORP	CF–10
820240	FIRST STATE FINANCIAL SERVICES INC	CF–07
043566	FIRST SUN SOUTH CORP	CF–07
802776	FIRST SUNBELT BANKSHARES INC	CF–06
820242	FIRST TEAM SPORTS INC	CF–08
036966	FIRST TENNESSEE NATIONAL CORP	CF–02
036995	FIRST UNION CORP	CF–02
037008	FIRST UNION REAL ESTATE EQUITY & MORTGAGE INVESTMENTS	CF–03
717585	FIRST UNITED BANCORP INC	CF–06
820379	FIRST UNITED BANCORPORATION /SC/	CF–05
355883	FIRST UNITED BANCSHARES INC /AR/	CF–04
763907	FIRST UNITED CORP/MD/	CF–04
832500	FIRST USA BANK	CF–09
853023	FIRST USA CREDIT CARD TRUST 1989–A	CF–10
856648	FIRST USA CREDIT CARD TRUST 1989–B	CF–10
883172	FIRST USA INC	CF–10
037032	FIRST VIRGINIA BANKS INC	CF–03
774203	FIRST WACHOVIA CORP	CF–02
744126	FIRST WEST CHESTER CORP	CF–08
740876	FIRST WESTERN BANCORP INC	CF–07
882860	FIRST WESTERN CORPORATION/DE	CF–10
037059	FIRST WESTERN FINANCIAL CORP	CF–07
037070	FIRST WILKOW VENTURE	CF–05
791714	FIRST WORLD CHEESE INC	CF–06
037076	FIRSTAR CORP/WI	CF–02
778972	FIRSTBANK CORP	CF–05
037093	FIRSTBANK OF ILLINOIS CO	CF–07
749099	FIRSTCORP INC	CF–04
876947	FIRSTFED BANCORP INC	CF–10
885694	FIRSTFED BANCSHARES INC	CF–10
810536	FIRSTFED FINANCIAL CORP	CF–03
846492	FIRSTFED MICHIGAN CORPORATION	CF–10
877867	FIRSTFED NORTHERN KENTUCKY BANCORP INC	CF–10
846814	FIRSTFEDERAL FINANCIAL SERVICES CORP	CF–09
074431	FIRSTIER FINANCIAL INC /NE/	CF–07
824590	FIRSTMISS GOLD INC	CF–05
889212	FIRSTROCK BANCORP INC	CF–10
840014	FIRSTSHARES OF TEXAS INC	CF–09
863528	FIRSTSOUTH BANCORP INC	CF–10
752789	FIRSTSOUTH COMMERCIAL CORP	CF–09
037115	FISCHER & PORTER CO	CF–04
844788	FISCHER WATT GOLD CO INC	CF–07
798354	FISERV INC	CF–03
790733	FISHER BUSINESS SYSTEMS INC	CF–08
037180	FISHER FOODS INC /OH/	CF–04
876317	FISHER PRICE INC	CF–03
811237	FISHER TRANSPORTATION SERVICES INC	CF–07
749923	FISHKILL NATIONAL CORP	CF–05
037248	FITCHBURG GAS & ELECTRIC LIGHT CO	CF–05
846733	FIVE K 2 CO INC	CF–10
721296	FLAGLER BANK CORP	CF–08
791953	FLAGSHIP EXPRESS INC	CF–05
844060	FLAGSHIP FINANCIAL CORP	CF–10
820789	FLAIR COMMUNICATIONS INC	CF–10
225360	FLAME INDUSTRIES INC	CF–09
037358	FLAMEMASTER CORP	CF–07
012040	FLANIGANS ENTERPRISES INC	CF–06
846773	FLEA FAIR USA INC	CF–10
886935	FLEET MORTGAGE GROUP INC	CF–10
050341	FLEET NORSTAR FINANCIAL GROUP INC	CF–02
860128	FLEET REMIC CASH FLOW CERTIFICATES SERIE	CF–10
314132	FLEETWOOD ENTERPRISES INC/DE/	CF–01
352949	FLEMING COMPANIES INC /OK/	CF–02
723595	FLEXCEL INTERNATIONAL INC	CF–06
037464	FLEXI VAN CORP	CF–03
037472	FLEXSTEEL INDUSTRIES INC	CF–05
820095	FLEXTRONICS INC	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
704360	FLEXWATT CORP	CF-08
316128	FLEXWEIGHT CORP	CF-09
352284	FLIGHT DYNAMICS INC	CF-07
732775	FLIGHT INTERNATIONAL GROUP INC	CF-05
037481	FLIGHTSAFETY INTERNATIONAL INC	CF-03
276558	FLOATING POINT SYSTEMS INC	CF-05
037508	FLOCK INDUSTRIES INC	CF-07
037525	FLORAFAX INTERNATIONAL INC	CF-07
740798	FLORIDA EAST COAST INDUSTRIES INC	CF-03
037577	FLORIDA FIRST EQUITIES CORP	CF-09
844883	FLORIDA FORECLOSURE RESALE CORP	CF-10
886817	FLORIDA HEALTH FACILITIES INC	CF-10
790968	FLORIDA INCOME FUND II LTD PARTNERSHIP	CF-06
826498	FLORIDA INCOME FUND III LIMITED PARTNERS	CF-09
737829	FLORIDA INCOME FUND LP	CF-07
756910	FLORIDA LIFE EQUITIES INC	CF-08
037634	FLORIDA POWER & LIGHT CO	CF-09
037637	FLORIDA POWER CORP	CF-02
357294	FLORIDA PROGRESS CORP	CF-02
037645	FLORIDA PUBLIC UTILITIES CO	CF-05
886820	FLORIDA RESIDENTIAL TREATMENT CENTERS INC	CF-10
037651	FLORIDA ROCK INDUSTRIES INC	CF-04
037661	FLORIDA STEEL CORP	CF-03
713002	FLOW INTERNATIONAL CORP	CF-05
826227	FLOWERS INDUSTRIES INC /GA	CF-10
821361	FLOWMOLE CORP	CF-06
037727	FLOYD VALLEY PACKING CO	CF-08
839727	FLS HOLDINGS INC	CF-03
037745	FLUKE JOHN MANUFACTURING CO INC	CF-04
037746	FLUOR CORP/DE/	CF-02
885509	FM PROPERTIES INC	CF-10
715269	FMA REALTY INVESTORS I LTD PARTNERSHIP	CF-07
037785	FMC CORP	CF-01
814429	FMC GOLD CO	CF-04
773475	FMD INC	CF-09
839846	FMS FINANCIAL CORP	CF-09
757262	FNB BANKING CO /GA	CF-05
764811	FNB CORP/NC	CF-05
037808	FNB CORP/PA	CF-07
831787	FNB FINANCIAL CORP	CF-09
742679	FNB FINANCIAL SERVICES CORP	CF-08
745087	FNB ROCHESTER CORP	CF-08
868578	FNC BANCORP INC	CF-10
850081	FOAMEX CAPITAL CORP	CF-10
890080	FOAMEX L P	CF-10
800606	FOGELMAN MORTGAGE L P I	CF-09
702906	FOGELMAN PROPERTY INVESTORS LTD	CF-09
811556	FOGELMAN SECURED EQUITY L P	CF-09
778702	FOLIAGE PLUS INC	CF-07
884363	FONAHOME CORP	CF-10
355019	FONAR CORP	CF-05
852940	FOOD 4 LESS SUPERMARKETS INC	CF-03
037912	FOOD LION INC	CF-02
037914	FOODARAMA SUPERMARKETS INC	CF-04
807882	FOODMAKER INC /DE/	CF-03
037931	FOOTE CONE & BELDING COMMUNICATIONS INC	CF-03
037941	FOOTHILL GROUP INC	CF-03
718909	FOOTHILL INDEPENDENT BANCORP	CF-05
037946	FOR BETTER LIVING INC	CF-05
778168	FORD BANK GROUP INC	CF-07
842911	FORD CREDIT 1989-A GRANTOR TRUST	CF-10
857464	FORD CREDIT 1989-B GRANTOR TRUST	CF-10
872471	FORD CREDIT AUTO RECEIVABLES CORP	CF-10
857776	FORD HOLDINGS INC	CF-02
037996	FORD MOTOR CO	CF-02
038009	FORD MOTOR CREDIT CO	CF-02
773329	FORELAND CORP	CF-08
018508	FOREMOST CORP OF AMERICA	CF-09
038067	FOREST CITY ENTERPRISES INC	CF-02
038074	FOREST LABORATORIES INC	CF-04
038079	FOREST OIL CORP	CF-03
809047	FORME CAPITAL INC	CF-09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
814241	FORMICA CORP	CF–03
731947	FORSCHNER GROUP INC	CF–06
798246	FORSTMANN & CO INC	CF–04
038195	FORT HOWARD CORP	CF–02
357269	FORT WAYNE NATIONAL CORP	CF–07
734370	FORTUNE FINANCIAL GROUP INC	CF–07
038240	FORTUNE NATIONAL CORP	CF–06
038242	FORTUNE PETROLEUM CORP	CF–08
838796	FORTUNISTICS INC	CF–09
766825	FORTY SIX HUNDRED LTD PARTNERSHIP	CF–07
033939	FORUM GROUP INC	CF–03
804752	FORUM RETIREMENT PARTNERS L P	CF–04
839206	FOSSIL BAY HOLDING CO INC	CF–09
352825	FOSTER L B CO	CF–05
038321	FOSTER WHEELER CORP	CF–02
849937	FOTG FUND I LIMITED PARTNERSHIP	CF–10
859493	FOUNDATION HEALTH CORPORATION	CF–05
833197	FOUNDATION REALTY FUND LTD II	CF–09
890578	FOUNDERS FINANCIAL CORP /FL/	CF–10
764858	FOUNTAIN POWERBOAT INDUSTRIES INC	CF–06
230014	FOUR CORNERS FINANCIAL CORP	CF–08
858362	FOUR HOLDINGS INC	CF–10
767682	FOUR SEASONS FUND LIMITED PARTNERSHIP	CF–09
878149	FOUR STAR RANCH INC	CF–10
038475	FOURTH FINANCIAL CORP	CF–03
800080	FOX STRATEGIC HOUSING INCOME PARTNERS	CF–06
720527	FOXMOOR INTERNATIONAL FILMS LTD	CF–08
038570	FPA CORP /DE/	CF–05
794447	FPL GROUP CAPITAL INC	CF–03
753308	FPL GROUP INC	CF–02
882321	FRAME TECHNOLOGY CORP/CA	CF–10
733595	FRANCHISEIT CORP	CF–07
038626	FRANCISCO INDUSTRIES INC	CF–09
726317	FRANCOR FINANCIAL INC	CF–06
700714	FRANKFORD CORP	CF–07
866456	FRANKLIN ADVANTAGE REAL ESTATE INCOME FUND	CF–10
875986	FRANKLIN BANCORPORATION INC	CF–10
880928	FRANKLIN BEN RETAIL STORES INC /DE/	CF–10
083216	FRANKLIN CAPITAL CORP /DE/	CF–08
215913	FRANKLIN CONSOLIDATED MINING CO INC	CF–07
038725	FRANKLIN ELECTRIC CO INC	CF–05
356841	FRANKLIN ELECTRONIC PUBLISHERS INC	CF–05
846903	FRANKLIN FINANCIAL CORP /TN/	CF–09
723646	FRANKLIN FINANCIAL SERVICES CORP /PA/	CF–08
833050	FRANKLIN FIRST FINANCIAL CORP	CF–09
205048	FRANKLIN JOE PRODUCTIONS INC	CF–08
820206	FRANKLIN REAL ESTATE INCOME FUND	CF–09
038777	FRANKLIN RESOURCES INC	CF–03
845613	FRANKLIN SELECT REAL ESTATE INCOME FUND	CF–10
038824	FRAWLEY CORP	CF–06
038858	FREDERICKS OF HOLLYWOOD INC	CF–06
707177	FREDERICKSBURG NATIONAL BANCORP INC	CF–05
721673	FREEMAN DIVERSIFIED REAL ESTATE I LP	CF–06
750258	FREEMAN DIVERSIFIED REAL ESTATE II LP	CF–05
773679	FREEMAN DIVERSIFIED REAL ESTATE III LP	CF–05
808376	FREEMAN DIVERSIFIED REAL ESTATE IV L P	CF–06
795757	FREEMAN GROWTH PLUS LP	CF–05
768598	FREEMAN INCOME REAL ESTATE LP	CF–06
831259	FREEPORT MCMORAN COPPER & GOLD INC	CF–03
764207	FREEPORT MCMORAN ENERGY PARTNERS LTD	CF–02
351116	FREEPORT MCMORAN INC	CF–02
727094	FREEPORT MCMORAN OIL & GAS ROYALTY TRUST	CF–06
793421	FREEPORT MCMORAN RESOURCE PARTNERS LTD PARTNERSHIP	CF–02
830380	FREIGHT SERVICE GROUP INC /CO/	CF–09
038984	FREMONT GENERAL CORP	CF–09
849805	FRENCHTEX INC	CF–06
039020	FREQUENCY ELECTRONICS INC	CF–05
802354	FRESH JUICE CO INC	CF–08
790815	FRETTER INC	CF–05
811213	FREYMILLER TRUCKING INC	CF–05
039092	FRIEDMAN INDUSTRIES INC	CF–06
733267	FRIES ENTERTAINMENT INC	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
039047	FRISCHS RESTAURANTS INC	CF–05
890562	FRITZ COMPANIES INC	CF–10
844780	FRONTEER DIRECTORY COMPANY INC	CF–07
735349	FRONTIER ADJUSTERS OF AMERICA INC	CF–07
716457	FRONTIER FINANCIAL CORP /WA/	CF–05
039244	FRONTIER INSURANCE CO	CF–07
797406	FRONTIER INSURANCE GROUP INC	CF–07
707945	FRONTIER MINING & OIL CORP	CF–08
039273	FROZEN FOOD EXPRESS INDUSTRIES INC	CF–05
844059	FRP PROPERTIES INC	CF–10
874269	FRUEHAUF TRAILER CORP	CF–10
771298	FRUIT OF THE LOOM INC /DE/	CF–02
783962	FSA CAPITAL INC	CF–09
841692	FSI INTERNATIONAL INC	CF–06
832611	FTB VENTURES LTD	CF–09
039068	FULLER H B CO	CF–03
700564	FULTON FINANCIAL CORP	CF–07
889664	FUNCO INC	CF–10
823860	FUND AMERICA INVESTORS CORP	CF–09
776867	FUND AMERICAN COMPANIES INC	CF–02
039547	FUQUA INDUSTRIES INC /DE/	CF–02
757563	FURIA ORGANIZATION INC /DE/	CF–06
730302	FURNISHINGS 2000 INC	CF–06
037755	FURON CO	CF–04
872548	FURRS BISHOPS INC	CF–10
737212	FUTURA WEST INC	CF–08
032190	FUTURE COMMUNICATIONS INC	CF–07
277807	FUTURE FUND	CF–05
354923	FUTURE FUND II	CF–07
855578	FUTURE FUNDING CORP	CF–10
839087	FUTURE MEDICAL PRODUCTS INC /NY/	CF–08
874868	FUTURE NOW INC	CF–10
773825	FUTURES ADVANTAGE FUND	CF–06
789864	FUTURES DIMENSION FUND	CF–05
811533	FUTURES DIMENSION FUND II LP	CF–09
799824	FUTURES EXPANSION FUND LTD PARTNERSHIP	CF–06
855424	FUTURISTIC INNOVATIONS INC	CF–10
719488	FWB BANCORPORATION	CF–08
845806	G I HOLDINGS INC	CF–10
821002	G III APPAREL GROUP LTD/DE	CF–05
039648	G&K SERVICES INC	CF–05
714395	GAB BANCORP	CF–08
821185	GACC HOLDING CO	CF–02
788344	GAINSCO INC	CF–06
809608	GALAXY CABLEVISION L P	CF–05
819527	GALAXY CHEESE CO	CF–07
884124	GALEY & LORD INC	CF–10
711425	GALILEO ELECTRO OPTICS CORP	CF–05
354190	GALLAGHER ARTHUR J & CO	CF–05
790072	GALLERIA GROUP INC	CF–08
763730	GALLERY OF HISTORY INC	CF–06
751968	GALOOB LEWIS TOYS INC /DE/	CF–05
832324	GALT FINANCIAL CORP	CF–09
842909	GALVEST INC	CF–07
039838	GALVESTON HOUSTON CO	CF–05
310449	GAME A TRON CORP	CF–09
317890	GAMMA BIOLOGICALS INC	CF–06
803034	GAMOGEN INC	CF–08
355876	GANDALF TECHNOLOGIES INC	CF–01
789599	GANDER MOUNTAIN INC	CF–06
039899	GANNETT CO INC /DE/	CF–02
859828	GANT J W FINANCIAL INC	CF–10
791182	GANTOS INC	CF–04
039911	GAP INC	CF–03
039910	GAP INSTRUMENT CORP	CF–08
039917	GARAN INC	CF–05
798371	GARB OIL & POWER CORP	CF–07
752390	GARDEN STATE BANCSHARES INC	CF–06
040023	GARMENT CAPITOL ASSOCIATES	CF–08
820084	GARNET RESOURCES CORP /DE/	CF–06
807062	GASCARD INC /DE/	CF–09
758029	GATEWAY BANCORP INC /NY	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
725878	GATEWAY COMMUNICATIONS INC	CF-07
853275	GATEWAY FED CORP	CF-10
846539	GATEWAY FINANCIAL CORPORATION	CF-09
040194	GATEWAY SPORTING GOODS CO	CF-09
881716	GATEWAY TAX CREDIT FUND III LTD	CF-10
824805	GATEWAY TAX CREDIT FUND LTD	CF-10
830519	GATEWAYS TO SPACE INC	CF-09
357019	GATX CAPITAL CORP	CF-03
040211	GATX CORP	CF-01
812700	GAYLORD CONTAINER CORP /DE/	CF-03
879658	GAYLORD ENTERTAINMENT CO	CF-10
863483	GB FOODS CORP	CF-10
351710	GBC BANCORP	CF-08
841706	GC INTERNATIONAL INC /CA	CF-07
856386	GEHL CO	CF-04
277795	GEICO CORP	CF-01
310252	GELMAN SCIENCES INC	CF-05
043340	GEMCO NATIONAL INC	CF-06
831970	GEMINEX INDUSTRIES INC	CF-10
813785	GEMINI 87-88 XII L P	CF-07
813788	GEMINI 87-88 XV L P	CF-09
813789	GEMINI 87-88 XVI L P	CF-09
810270	GEMINI ENERGY CORPORATION	CF-08
761273	GEMINI EQUIPMENT PARTNERS INCOME FUND I	CF-08
761275	GEMINI EQUIPMENT PARTNERS INCOME FUND II	CF-08
761276	GEMINI EQUIPMENT PARTNERS INCOME FUND IV	CF-07
761281	GEMINI EQUIPMENT PARTNERS INCOME FUND IX	CF-06
761277	GEMINI EQUIPMENT PARTNERS INCOME FUND V	CF-07
761278	GEMINI EQUIPMENT PARTNERS INCOME FUND VI	CF-07
761280	GEMINI EQUIPMENT PARTNERS INCOME FUND VIII	CF-09
761282	GEMINI EQUIPMENT PARTNERS INCOME FUND X	CF-07
847472	GEMINI INCOME FUND 17 LP	CF-10
879026	GENCARE HEALTH SYSTEMS INC	CF-10
064472	GENCOR INDUSTRIES INC	CF-05
040888	GENCORP INC	CF-02
818479	GENDEX CORP	CF-06
874443	GENELABS TECHNOLOGIES INC /CA	CF-10
318771	GENENTECH INC	CF-03
276478	GENERAL AMERICAN TRANSPORTATION CORP /NY	CF-01
040443	GENERAL AUTOMATION INC	CF-06
040461	GENERAL BINDING CORP	CF-04
040472	GENERAL BUILDERS CORP	CF-07
810825	GENERAL BUILDING PRODUCTS CORP	CF-05
886035	GENERAL CABLE CORP /DE/	CF-10
831104	GENERAL CELLULAR CORP	CF-09
040493	GENERAL CINEMA CORP	CF-02
808461	GENERAL COMMUNICATION INC	CF-05
788306	GENERAL COMPUTER CORP	CF-06
040518	GENERAL DATACOMM INDUSTRIES INC	CF-04
040528	GENERAL DEVICES INC	CF-07
040533	GENERAL DYNAMICS CORP	CF-01
040554	GENERAL ELECTRIC CAPITAL CORP	CF-02
040545	GENERAL ELECTRIC CO	CF-01
797463	GENERAL ELECTRIC FINANCIAL SERVICES INC	CF-02
040570	GENERAL EMPLOYMENT ENTERPRISES INC	CF-07
350387	GENERAL ENERGY RESOURCES & TECHNOLOGY CO	CF-08
707452	GENERAL GENETICS CORP	CF-08
040638	GENERAL HOST CORP	CF-03
040643	GENERAL HOUSEWARES CORP	CF-05
040656	GENERAL INSTRUMENT CORP /DE/	CF-02
040675	GENERAL KINETICS INC	CF-07
040687	GENERAL MAGNAPLATE CORP	CF-07
745612	GENERAL METAL & ABRASIVES CO	CF-08
040703	GENERAL MICROWAVE CORP	CF-06
040704	GENERAL MILLS INC	CF-02
040729	GENERAL MOTORS ACCEPTANCE CORP	CF-01
040730	GENERAL MOTORS CORP	CF-01
317030	GENERAL NUTRITION INC	CF-03
795665	GENERAL PARAMETRICS CORP /DE/	CF-05
853532	GENERAL PARCEL SERVICE INC	CF-07
040779	GENERAL PUBLIC UTILITIES CORP /PA/	CF-01
317745	GENERAL RE CORP	CF-02

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
778339	GENERAL REAL ESTATE LTD PARTNERSHIP	CF–09
040806	GENERAL RESIDENTIAL CORP	CF–08
040834	GENERAL SIGNAL CORP	CF–01
040921	GENERAL WATERWORKS CORP /NEW/	CF–03
818726	GENERATION 5 TECHNOLOGY INC /CO/	CF–08
018498	GENESCO INC	CF–04
040934	GENESEE CORP	CF–05
852449	GENESIS INVESTMENT GROUP INC	CF–10
319649	GENETIC ENGINEERING INC	CF–08
831365	GENETIC LABORATORIES WOUND CARE INC	CF–08
875046	GENETIC THERAPY INC /DE	CF–10
731336	GENETICS INSTITUTE INC	CF–04
862481	GENEVA AMERICAN GROUP INC	CF–10
860192	GENEVA STEEL	CF–04
766738	GENICOM CORP	CF–04
746071	GENISCO TECHNOLOGY CORP /DE/	CF–06
730038	GENIUS TECHNOLOGIES INC	CF–08
833076	GENLYTE GROUP INC	CF–04
040970	GENOVESE DRUG STORES INC	CF–04
040972	GENRAD INC	CF–01
880643	GENTA INCORPORATED /DE/	CF–10
355811	GENTEX CORP	CF–06
840715	GENTNER ELECTRONICS CORP	CF–08
040987	GENUINE PARTS CO	CF–02
837913	GENUS INC	CF–05
732485	GENZYME CORP	CF–05
702993	GEO INTERNATIONAL CORP /NEW/	CF–05
769409	GEODYNAMICS CORP	CF–05
318223	GEODYNE RESOURCES INC	CF–05
314606	GEOKINETICS INC	CF–08
796318	GEONEX CORP	CF–06
041023	GEORESOURCES INC	CF–07
041052	GEORGIA BONDED FIBERS INC	CF–06
805264	GEORGIA GULF CORP /DE/	CF–03
041077	GEORGIA PACIFIC CORP	CF–02
041091	GEORGIA POWER CO	CF–01
832481	GEOSTAR CORP /DE/	CF–05
844843	GEOTEK INDUSTRIES INC	CF–06
041114	GEOTEL INC	CF–07
821527	GERAGHTY & MILLER INC /DE/	CF–06
041130	GERBER PRODUCTS CO	CF–03
041133	GERBER SCIENTIFIC INC	CF–04
041147	GERIATRIC & MEDICAL CENTERS INC	CF–04
865431	GERRITY OIL & GAS CORPORATION	CF–10
079849	GETTY PETROLEUM CORP	CF–04
821113	GEXA GOLD CORP	CF–07
769027	GF MORTGAGE CORP	CF–04
883701	GFC FINANCIAL CORP	CF–02
791398	GHS INC	CF–08
041289	GIANT FOOD INC	CF–02
041296	GIANT GROUP LTD	CF–04
856465	GIANT INDUSTRIES INC	CF–04
041336	GIBRALTAR FINANCIAL CORP	CF–06
882830	GIBRALTAR PACKAGING GROUP INC	CF–10
215970	GIBRALTAR PARI MUTUEL INC	CF–08
041365	GIBSON C R CO	CF–05
717829	GIBSON GREETINGS INC	CF–03
851568	GIDDINGS & LEWIS INC /WI/	CF–04
719274	GIGA TRONICS INC	CF–06
731306	GIL MED INDUSTRIES INC	CF–08
740763	GILBERT ASSOCIATES INC	CF–04
848583	GILBERT ROBINSON INC /DE/	CF–10
882095	GILEAD SCIENCES INC	CF–10
041499	GILLETTE CO	CF–02
700945	GISH BIOMEDICAL INC	CF–07
837912	GITANO GROUP INC	CF–03
868671	GLACIER BANCORP INC	CF–10
814924	GLACIER HOLDINGS INC	CF–09
883505	GLACIER WATER SERVICES INC	CF–10
041656	GLADSTONE RESOURCES INC	CF–08
109870	GLASSMASTER CO	CF–07
041719	GLATFELTER P H CO	CF–03

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
743239	GLEASON CORP /DE/	CF-04
790129	GLENBOROUGH LTD	CF-04
769800	GLENDALE BANCORPORATION/NJ	CF-06
849287	GLENDALE FEDERAL BANK FEDERAL SAVINGS BANK CLASS A SE 19	CF-10
860219	GLENDALE FEDERAL BANK FEDERAL SAVINGS BANK SERIES 1990-1	CF-10
774489	GLENFED INC	CF-02
836539	GLOBAL ASSET ALLOCATION PORTFOLIO L P	CF-09
793635	GLOBAL CAPITAL GROUP INC/NY	CF-08
825521	GLOBAL ENVIRONMENTAL CORP	CF-07
278165	GLOBAL GAMING & TECHNOLOGY INC	CF-08
041850	GLOBAL MARINE INC	CF-03
733289	GLOBAL NATURAL RESOURCES INC/NJ	CF-04
842683	GLOBAL RESOURCES INC /AK/	CF-06
869628	GLOBAL SPILL MANAGEMENT INC	CF-10
888702	GLOBAL SPILL MANAGEMENT INC /NV/	CF-10
836868	GLOBESAT HOLDING CORP	CF-08
352868	GLOBUS GROWTH GROUP INC	CF-08
874248	GLYCOMED INC	CF-10
799507	GMAC 1985-A GRANTOR TRUST	CF-01
788047	GMAC 1986-C GRANTOR TRUST	CF-01
796651	GMAC 1987-A GRANTOR TRUST	CF-01
811709	GMAC 1987-F GRANTOR TRUST	CF-01
868571	GMAC 1990-A GRANTOR TRUST	CF-01
872551	GMAC 1991-A GRANTOR TRUST	CF-01
872552	GMAC 1991-B GRANTOR TRUST	CF-01
872553	GMAC 1991-C GRANTOR TRUST	CF-01
882234	GMAC 1992-A GRANTOR TRUST	CF-01
882237	GMAC 1992-B GRANTOR TRUST	CF-01
882239	GMAC 1992-C GRANTOR TRUST	CF-01
882240	GMAC 1992-D GRANTOR TRUST	CF-01
869739	GMAC AUTO RECEIVABLES CORP	CF-01
812354	GMAC MORTGAGE SECURITIES II INC	CF-10
792859	GMAC MORTGAGE SECURITIES INC	CF-09
082554	GMI GROUP INC	CF-06
875742	GMIS INC /DE	CF-10
790933	GMX COMMUNICATIONS INC	CF-07
855572	GNB BANCSHARES INC	CF-10
043398	GNC ENERGY CORP	CF-07
852804	GND HOLDINGS CORP /DE/	CF-02
722310	GNF CORP /NJ/	CF-08
355269	GNI GROUP INC /DE/	CF-10
832613	GNS FINANCE CORP	CF-09
784721	GO VIDEO INC	CF-07
041980	GODDARD INDUSTRIES INC	CF-07
751260	GOLD CO OF AMERICA	CF-06
748794	GOLD COIN MINING INC	CF-06
761895	GOLD EXPRESS CORP	CF-08
314834	GOLD KING CONSOLIDATED INC	CF-07
215994	GOLD KIST INC	CF-03
042100	GOLD MEDALLION CORP SHAREHOLDERS LIQUIDA	CF-07
042119	GOLD RESERVE CORP	CF-06
880350	GOLD RIVER PARTNERS L P	CF-10
773487	GOLD SECURITIES CORP	CF-08
042136	GOLD STANDARD INC	CF-07
844063	GOLDEN ARK INC	CF-09
811271	GOLDEN BEVERAGE COMPANY	CF-08
751364	GOLDEN CORRAL REALTY CORP	CF-06
319495	GOLDEN CORRAL RESTAURANT JOINT VENTURES	CF-05
719754	GOLDEN CYCLE GOLD CORP	CF-08
042228	GOLDEN ENTERPRISES INC	CF-05
854053	GOLDEN GATE ACQUISITIONS INC	CF-10
828749	GOLDEN ISLES FINANCIAL HOLDINGS INC	CF-09
700815	GOLDEN MAPLE MINING & LEACHING CO INC	CF-08
813663	GOLDEN NUGGET FINANCE CORP/NV	CF-09
042246	GOLDEN NUGGET INC	CF-02
350985	GOLDEN OIL CO /DE/	CF-07
758292	GOLDEN POULTRY CO INC	CF-05
042284	GOLDEN TRIANGLE ROYALTY & OIL INC	CF-08
042293	GOLDEN WEST FINANCIAL CORP /DE/	CF-02
042316	GOLDFIELD CORP	CF-06
845009	GOLDRIVER FINANCE CORP	CF-10
845010	GOLDRIVER LIMITED PARTNERSHIP	CF-10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
819675	GOLDTEX INC	CF–06
879254	GOLDWYN SAMUEL CO	CF–10
042429	GOLF HOST RESORTS INC	CF–05
765931	GOOD GUYS INC	CF–05
313252	GOOD SOFTWARE CORP	CF–08
825324	GOOD TIMES RESTAURANTS INC	CF–08
825530	GOODHEART VENTURES INC	CF–09
042504	GOODHEART WILLCOX CO INC	CF–07
778709	GOODMARK FOODS INC	CF–05
042542	GOODRICH B F CO	CF–02
317332	GOODY PRODUCTS INC	CF–04
042582	GOODYEAR TIRE & RUBBER CO /OH/	CF–02
879123	GOODYS FAMILY CLOTHING INC /TN	CF–10
042682	GORMAN RUPP CO	CF–05
790414	GOTTSCHALKS INC	CF–04
042791	GOULDS PUMPS INC	CF–03
841535	GOVERNMENT BACKED TRUST T–1	CF–09
841536	GOVERNMENT BACKED TRUST T–2	CF–09
841537	GOVERNMENT BACKED TRUST T–3	CF–09
842907	GOVERNMENT BACKED TRUST T–4	CF–09
842814	GOVERNMENT SECURITIES TRUST J 1	CF–09
837577	GOVERNMENT TRUST 1 A	CF–09
837578	GOVERNMENT TRUST 1 B	CF–09
837582	GOVERNMENT TRUST 1 C	CF–09
837583	GOVERNMENT TRUST 1 D	CF–09
842667	GOVERNMENT TRUST 2 A	CF–09
842668	GOVERNMENT TRUST 2 B	CF–09
842669	GOVERNMENT TRUST 2 C	CF–09
842670	GOVERNMENT TRUST 2 D	CF–09
842899	GOVERNMENT TRUST 2 E	CF–09
842900	GOVERNMENT TRUST 2 F	CF–09
853492	GOVERNMENT TRUST 3 A	CF–10
853493	GOVERNMENT TRUST 3 B	CF–10
853494	GOVERNMENT TRUST 3 C	CF–10
870495	GOVERNMENT TRUST G 1	CF–10
856139	GOVERNMENT TRUST M 1	CF–10
845381	GOVERNMENT TRUST P 1	CF–10
845382	GOVERNMENT TRUST P 2	CF–10
845383	GOVERNMENT TRUST P 3	CF–10
878721	GOVERNMENT TRUSTS PH–1	CF–10
879570	GOVERNMENT TRUSTS PH–2	CF–10
853927	GP GROUP INC	CF–10
051467	GR FOODS INC	CF–04
852551	GRACE ENERGY CORP	CF–03
042872	GRACE W R & CO/NY	CF–02
866970	GRACECARE HEALTH SYSTEMS INC	CF–10
042887	GRACIOUS ESTATES PROPERTIES LTD	CF–08
042888	GRACO INC	CF–04
719597	GRADCO SYSTEMS INC	CF–05
835092	GRADIN EQUITIES INC	CF–09
716314	GRAHAM CORP	CF–05
709136	GRAHAM FIELD HEALTH PRODUCTS INC	CF–05
400001	GRAHAM INCOME FUND 82A	CF–07
277135	GRAINGER W W INC	CF–03
854154	GRANADA BIOSCIENCES INC	CF–05
854153	GRANADA FOODS CORP	CF–05
819215	GRANADA FOODS L P	CF–09
879102	GRANCARE INC	CF–10
878321	GRAND CASINOS INC	CF–10
852130	GRAND COMPANY LIMITED PARTNERSHIP	CF–10
888512	GRAND UNION CAPITAL CORP	CF–02
316236	GRAND UNION CO	CF–02
841709	GRAND VALLEY GAS CO	CF–06
763850	GRANGE NATIONAL BANC CORP	CF–06
861459	GRANITE CONSTRUCTION INC	CF–10
703901	GRANITE LTD	CF–08
792360	GRANITE STATE BANKSHARES INC	CF–08
866722	GRANT TENSOR GEOPHYSICAL CORP	CF–10
727162	GRAPHIC INDUSTRIES INC	CF–04
828931	GRASON INDUSTRIES INC	CF–08
860746	GRATTA CORP	CF–10
205402	GRAYBAR ELECTRIC CO INC	CF–03

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
313563	GRAYBAR ELECTRIC CO INC VOTING TRUST	CF–09
842922	GRAYCOR LASER SYSTEMS INC	CF–09
833216	GRAYHOUND ELECTRONICS INC	CF–07
841008	GRAYSTONE COMPANIES INC	CF–09
201944	GRC INTERNATIONAL INC	CF–05
350179	GREASE MONKEY HOLDING CORP	CF–06
317833	GREAT AMERICAN COMMUNICATIONS CO	CF–02
043271	GREAT AMERICAN CORP	CF–07
043279	GREAT AMERICAN INDUSTRIES INC	CF–04
043287	GREAT AMERICAN MANAGEMENT & INVESTMENT INC	CF–02
043296	GREAT AMERICAN REALTY CORP	CF–08
103317	GREAT AMERICAN RECREATION INC	CF–05
879586	GREAT AMERICAN RESORTS INC/GA	CF–10
043300	GREAT ATLANTIC & PACIFIC TEA CO INC	CF–02
819550	GREAT BAY BANKSHARES INC	CF–08
819344	GREAT BEAR AUTOMOTIVE CENTERS INC	CF–09
352871	GREAT EASTERN ENERGY & DEVELOPMENT CORP	CF–07
773845	GREAT FALLS BANCORP	CF–06
043350	GREAT FALLS GAS CO	CF–06
043362	GREAT LAKES CHEMICAL CORP	CF–02
352684	GREAT NORTHERN GAS CO	CF–08
043410	GREAT NORTHERN IRON ORE PROPERTIES	CF–06
835307	GREAT OAKS FINANCIAL CORP	CF–10
854560	GREAT SOUTHERN BANCORP INC	CF–10
741511	GREAT WESTERN BANK	CF–09
043512	GREAT WESTERN FINANCIAL CORP	CF–02
068805	GREAT WESTERN SYSTEMS INC	CF–07
827771	GREATE BAY PROPERTY FUNDING CORP	CF–09
835888	GREATER ENERGY CORPORATION	CF–09
826619	GREEN A P INDUSTRIES INC	CF–04
026820	GREEN DANIEL CO	CF–06
043704	GREEN MOUNTAIN POWER CORP	CF–04
315815	GREEN TREE ACCEPTANCE INC	CF–03
890175	GREEN TREE FINANCIAL CORP	CF–10
764402	GREENE COUNTY BANCSHARES INC	CF–05
778433	GREENERY REHABILITATION GROUP INC	CF–05
356031	GREENFIELD BANCSHARES INC /IN/	CF–08
763821	GREENFIELD FINANCIAL CORP /UT/	CF–08
043837	GREENMAN BROTHERS INC	CF–05
845048	GREENSTONE RABASCA ROBERTS INC	CF–07
727063	GREENTREE SOFTWARE INC	CF–08
814479	GREENWICH FINANCIAL CORP	CF–08
094784	GREENWICH PHARMACEUTICALS INC	CF–07
719174	GREENWICH PROPERTIES I LTD	CF–06
718474	GREENWOOD HOLDINGS INC/CO/	CF–07
832847	GREENWOOD NATIONAL BANCORPORATION	CF–09
043920	GREIF BROTHERS CORP	CF–04
040956	GREINER ENGINEERING INC	CF–05
789575	GRENADA SUNBURST SYSTEM CORP	CF–03
043952	GREY ADVERTISING INC /DE/	CF–03
043959	GREYHOUND DIAL CORP /AZ/	CF–02
043960	GREYHOUND FINANCIAL CORP	CF–02
813040	GREYHOUND LINES INC	CF–03
799020	GREYSTONE FINANCIAL SERVICES INC	CF–09
876687	GRI CORP /DE	CF–06
319716	GRIFFIN REAL ESTATE FUND II	CF–06
705974	GRIFFIN REAL ESTATE FUND III	CF–06
728526	GRIFFIN REAL ESTATE FUND IV	CF–06
760451	GRIFFIN REAL ESTATE FUND V	CF–06
783452	GRIFFIN REAL ESTATE FUND VI	CF–06
836104	GRIFFIN RESORTS INC	CF–08
082295	GRIFFIN TECHNOLOGY INC	CF–06
801937	GRIFFITH CONSUMERS CO /MD/	CF–05
044041	GRIST MILL CO	CF–05
870743	GROEN BROTHERS AVIATION INC	CF–10
033798	GROSSMANS INC	CF–04
795579	GROUNDWATER TECHNOLOGY INC	CF–05
806435	GROUP 1 SOFTWARE INC	CF–06
742665	GROUP W CABLE ASSOCIATES OF CHICAGO	CF–09
862340	GROVE BANCORP INC	CF–10
044171	GROW GROUP INC	CF–04
812188	GROWTH & GUARANTEE FUND LP	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
783266	GROWTH DEVELOPMENT CORP	CF-07
848212	GROWTH FINANCIAL CORP	CF-10
769129	GROWTH HOTEL INVESTORS	CF-09
791346	GROWTH HOTEL INVESTORS II	CF-09
216039	GRUBB & ELLIS CO	CF-04
826144	GRUDGE MUSIC GROUP INC	CF-08
044279	GRUMMAN CORP	CF-02
854575	GTA CORP	CF-10
040864	GTE CALIFORNIA INC	CF-02
040858	GTE CORP	CF-01
040865	GTE FLORIDA INC	CF-02
046216	GTE HAWAIIAN TELEPHONE CO INC	CF-03
040867	GTE NORTH INC	CF-02
040877	GTE NORTHWEST INC	CF-02
040878	GTE SOUTH INC	CF-02
040874	GTE SOUTHWEST INC	CF-02
719702	GTECH CORP	CF-03
044319	GTI CORP	CF-06
041107	GTS CORP/DE/	CF-07
773933	GUARANTEED HOTEL INVESTORS 1985 LP	CF-09
722128	GUARANTEED MORTGAGE CORP II	CF-09
752302	GUARANTEED MORTGAGE CORP III	CF-03
768536	GUARANTY BANCSHARES CORP	CF-06
706731	GUARANTY BANCSHARES HOLDING CORP	CF-05
749751	GUARDIAN BANCORP	CF-04
044420	GUARDSMAN PRODUCTS INC	CF-05
722642	GUEST SUPPLY INC	CF-05
706148	GUILDER 82 PROPERTY CO	CF-07
719503	GUILDER 83 PROPERTY CO	CF-07
044471	GUILFORD MILLS INC	CF-03
798044	GULF & MISSISSIPPI CORP	CF-08
774555	GULF & SOUTHERN FINANCIAL CORP	CF-06
044524	GULF APPLIED TECHNOLOGIES INC	CF-06
824069	GULF EXPLORATION CONSULTANTS INC	CF-07
044545	GULF POWER CO	CF-01
044549	GULF RESOURCES & CHEMICAL CORP	CF-04
717411	GULF SOUTHWEST BANCORP INC	CF-05
044570	GULF STATES UTILITIES CO	CF-01
813921	GULFBANKS INC	CF-05
865847	GULFSIDE INDUSTRIES LTD	CF-10
832404	GULL LABORATORIES INC /UT/	CF-10
739626	GULLEDGE REALTY INVESTORS II	CF-09
805023	GUNDLE ENVIRONMENTAL SYSTEMS INC	CF-05
832986	GUNNER ENERGY CORP	CF-09
825156	GUSTAVUS ADOLPHUS COLLEGE POOLED LIFE IN	CF-09
727672	GV MEDICAL INC	CF-06
814286	GVC VENTURE CORP /DE/	CF-08
824106	GVS MED INC	CF-09
779244	GWC CORP	CF-03
840196	GWINNETT BANCORP INC	CF-09
858862	GWINNETT BANCSHARES INC	CF-10
886821	GWINNETT IMMEDIATE CARE CENTER INC	CF-10
734194	GYNEX INC	CF-06
044689	GYRODYNE COMPANY OF AMERICA INC	CF-07
852004	GZA GEOENVIRONMENTAL TECHNOLOGIES INC	CF-06
355902	H&H OIL TOOL CO INC	CF-06
012659	H&R BLOCK INC	CF-03
787793	H&S TREAT & RELEASE INC	CF-08
764218	HABEN INDUSTRIES INC	CF-08
355698	HABER INC	CF-08
754597	HABERSHAM BANCORP	CF-05
101704	HABERSHAM ENERGY CO	CF-07
044764	HACH CO	CF-05
729533	HADCO CORP	CF-05
044800	HADRON INC	CF-06
044801	HADSON CORP	CF-03
350091	HADSON EUROPE INC	CF-07
723906	HAILEY ENERGY CORP	CF-08
810876	HAKO MINUTEMAN INC	CF-06
046205	HAL INC /HI/	CF-04
315213	HALF ROBERT INTERNATIONAL INC /DE/	CF-04
720671	HALIFAX ENGINEERING INC/VA	CF-06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
063436	HALL FINANCIAL GROUP INC	CF–04
044956	HALL FRANK B & CO INC	CF–04
757004	HALL INSTITUTIONAL MORTGAGE FUND LTD PAR	CF–07
094963	HALL STUART CO INC	CF–05
788965	HALLADOR PETROLEUM CO	CF–06
045012	HALLIBURTON CO	CF–02
883953	HALLWOOD CONSOLIDATED RESOURCES CORP	CF–10
319019	HALLWOOD ENERGY CORP	CF–05
768172	HALLWOOD ENERGY PARTNERS LP	CF–05
355766	HALLWOOD GROUP INC	CF–04
874238	HALLWOOD HOLDINGS INC	CF–10
046535	HALLWOOD INDUSTRIES INC	CF–06
865439	HALLWOOD REALTY PARTNERS LP	CF–10
869052	HALO HOLDINGS GROUP	CF–10
786947	HALSEY DRUG CO INC/NEW	CF–06
790934	HALTER VENTURE CORP	CF–08
879501	HAMBURGER HAMLET RESTAURANTS INC	CF–10
045136	HAMILTON DIGITAL CONTROLS INC	CF–07
205422	HAMPSHIRE FUNDING INC	CF–06
887150	HAMPSHIRE GROUP LTD	CF–10
704868	HAMPTON INCOME FUND LTD 1983–B	CF–07
045260	HAMPTON INDUSTRIES INC /NC/	CF–05
746715	HAMPTONS BANCSHARES INC	CF–05
791925	HANA BIOLOGICS INC	CF–06
812906	HANCOCK FABRICS INC	CF–04
750577	HANCOCK HOLDING CO	CF–04
746262	HANCOCK JOHN PROPERTIES LTD PARTNERSHIP	CF–05
708319	HANCOCK JOHN REAL ESTATE LTD PARTNERSHIP	CF–06
818257	HANCOCK JOHN REALTY INCOME FUND II LIMIT	CF–05
842741	HANCOCK JOHN REALTY INCOME FUND III LIMI	CF–09
795196	HANCOCK JOHN REALTY INCOME FUND LTD PART	CF–05
850414	HANDEX ENVIRONMENTAL RECOVERY INC	CF–06
314727	HANDLEMAN CO /MI/	CF–03
045333	HANDY & HARMAN	CF–03
354053	HANDY HARDWARE WHOLESALE INC	CF–07
768906	HANDYMAN CORP	CF–07
722723	HANGER ORTHOPEDIC GROUP INC	CF–06
045370	HANNA M A CO/DE	CF–03
045379	HANNAFORD BROTHERS CO	CF–03
713094	HANOVER BANCORP INC	CF–08
853733	HANOVER FOODS CORP /PA/	CF–10
045403	HANOVER INSURANCE CO	CF–08
796529	HANOVER LEASE INCOME LTD PARTNERSHIP	CF–10
836383	HANSEN CAPITAL FUNDING I INC	CF–09
810836	HARBOR AMERICAN HEALTH CARE TRUST INC	CF–07
708193	HARBOR BANCORP	CF–05
874386	HARBOR INVESTMENT CORP	CF–10
315272	HARCOR ENERGY INC	CF–07
318225	HARDEES LEASE PARTNERS 1980	CF–06
818968	HARDING ASSOCIATES INC	CF–05
313716	HARDINGE BROTHERS INC	CF–07
313478	HARKEN ENERGY CORP	CF–04
045599	HARLAND JOHN H CO	CF–01
793952	HARLEY DAVIDSON INC	CF–03
792013	HARLEYSVILLE GROUP INC	CF–09
702902	HARLEYSVILLE NATIONAL CORP	CF–05
045621	HARLYN PRODUCTS INC	CF–06
800459	HARMAN INTERNATIONAL INDUSTRIES INC /DE/	CF–03
045635	HARMON INDUSTRIES INC	CF–05
830488	HARMONEY STREET CAPITAL INC	CF–09
854160	HARMONIA BANCORP INC	CF–10
878246	HARMONY HOLDINGS INC	CF–10
880882	HARMONY PRODUCTS INC	CF–10
801898	HARNISCHFEGER INDUSTRIES INC	CF–02
818682	HAROLDS STORES INC	CF–06
045674	HARPER GROUP INC /DE/	CF–04
789847	HARRIER INC	CF–07
714504	HARRIS & HARRIS GROUP INC	CF–08
045729	HARRIS BANKCORP INC	CF–06
202058	HARRIS CORP /DE/	CF–02
045791	HARRIS PAUL STORES INC	CF–05
811081	HARROW INDUSTRIES INC	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
045876	HARSCO CORP	CF-03
087266	HART HOLDING CO INC	CF-04
751145	HART INDUSTRIES INC	CF-08
822046	HART TECHNOLOGIES INC	CF-06
045919	HARTE HANKS COMMUNICATIONS INC	CF-03
310823	HARTFORD STEAM BOILER INSPECTION & INSUR	CF-04
723371	HARTMARX CORP/DE	CF-03
745299	HARVEST BANCORP INC	CF-05
785544	HARVEST CAPITAL CORP	CF-08
857069	HARVEST FINANCIAL CORP /IA/	CF-10
045043	HARVEY GROUP INC	CF-06
046080	HASBRO INC	CF-02
046109	HASTINGS MANUFACTURING CO	CF-05
046129	HATHAWAY CORP	CF-05
773723	HAUSER CHEMICAL RESEARCH INC	CF-08
833845	HAVENWOOD VENTURES INC	CF-09
846617	HAVERFIELD CORP	CF-09
216085	HAVERTY FURNITURE COMPANIES INC	CF-04
805304	HAWAII NATIONAL BANCSHARES INC	CF-05
829604	HAWAII VENTURES INC	CF-09
046207	HAWAIIAN ELECTRIC CO INC	CF-02
354707	HAWAIIAN ELECTRIC INDUSTRIES INC	CF-02
046238	HAWKEYE BANCORPORATION	CF-07
046250	HAWKINS CHEMICAL INC	CF-06
854661	HAWKINS ENERGY CORP	CF-07
015678	HAWKS INDUSTRIES INC	CF-07
046257	HAWTHORNE FINANCIAL CORP	CF-07
858655	HAYNES INTERNATIONAL INC	CF-10
864970	HAZLETON BANCORP INC	CF-10
310377	HBO & CO	CF-05
846489	HCA HOSPITAL CORPORATION OF AMERICA	CF-10
879741	HCB INC	CF-10
888919	HCC INSURANCE HOLDINGS INC/DE/	CF-10
866822	HCS INC	CF-10
745538	HCW PENSION REAL ESTATE FUND LTD PARTNER	CF-06
805907	HDL COMMUNICATIONS	CF-08
803348	HDR POWER SYSTEMS INC /DE/	CF-07
875043	HE RO GROUP LTD	CF-10
774657	HEALTH & LEISURE INC /DE/	CF-08
803649	HEALTH & REHABILITATION PROPERTIES TRUST	CF-04
853074	HEALTH ADVANCEMENT SERVICES INC /DE/	CF-10
876736	HEALTH CARE & RETIREMENT CORP / DE	CF-10
760689	HEALTH CARE PROPERTIES II	CF-06
765880	HEALTH CARE PROPERTY INVESTORS INC	CF-03
766704	HEALTH CARE REIT INC /DE/	CF-04
046428	HEALTH CHEM CORP	CF-05
864966	HEALTH CLUB TELEVISION NETWORK INC	CF-10
811565	HEALTH CONCEPTS IV INC	CF-07
737214	HEALTH CORP OF AMERICA	CF-09
822415	HEALTH EQUITY PROPERTIES INC	CF-04
886475	HEALTH IMAGE MEDIA INC	CF-10
769689	HEALTH IMAGES INC	CF-05
046441	HEALTH INSURANCE OF VERMONT INC	CF-08
837028	HEALTH MANAGEMENT INTERNATIONAL INC	CF-08
046445	HEALTH MOR INC	CF-06
883327	HEALTH O METER PRODUCTS INC /DE	CF-10
879257	HEALTH PROFESSIONALS INC /DE	CF-10
869486	HEALTH RISK MANAGEMENT INC /MN/	CF-10
812910	HEALTHCARE COMPARE CORP/DE/	CF-06
878230	HEALTHCARE IMAGING SERVICES INC	CF-10
717517	HEALTHCARE INTERNATIONAL INC	CF-04
731012	HEALTHCARE SERVICES GROUP INC	CF-05
046455	HEALTHDYNE INC	CF-05
860983	HEALTHINFUSION INC	CF-10
770506	HEALTHPLEX INC	CF-08
855567	HEALTHSOURCE INC	CF-06
785161	HEALTHSOUTH REHABILITATION CORP	CF-04
847929	HEALTHTEK INC	CF-10
825490	HEALTHTRUST INC THE HOSPITAL CO	CF-02
792337	HEALTHVEST	CF-03
725627	HEALTHWATCH INC	CF-07
867904	HEART LABS OF AMERICA INC/FL/	CF-10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
883330	HEART TECHNOLOGY INC /DE	CF-10
798233	HEARTLAND EXPRESS INC	CF-06
843964	HEARTLAND PARTNERS LP	CF-09
821536	HEARX LTD /DE/	CF-07
823546	HEAVENLY HOT DOGS INC /DE/	CF-10
741580	HEAVY DUTY AIR INC	CF-08
048517	HECHINGER CO	CF-03
719413	HECLA MINING CO/DE/	CF-04
863437	HECTOR COMMUNICATIONS CORP	CF-10
773594	HEEKIN CAN INC	CF-04
351298	HEI INC	CF-07
048619	HEICO CORP	CF-05
048601	HEILIG MEYERS CO	CF-03
048613	HEIN WERNER CORP	CF-05
048640	HEINZ H J CO	CF-02
048653	HEIST C H CORP	CF-06
350684	HELDOR INDUSTRIES INC	CF-05
048875	HELEN OF TROY CORP	CF-05
048878	HELENA SILVER MINES INC	CF-08
856288	HELIAN HEALTH GROUP INC	CF-06
319648	HELIONETICS INC	CF-07
048709	HELIX TECHNOLOGY CORP	CF-06
048738	HELLER FINANCIAL INC	CF-02
351685	HELM RESOURCES INC/DE/	CF-05
048765	HELMERICH & PAYNE INC	CF-03
801748	HEMACARE CORP /CA/	CF-07
819208	HEMCURE INC	CF-06
801350	HEMODYNAMICS INC	CF-07
351297	HEMOKINETICS INC	CF-06
878355	HENDERSON CITIZENS BANCSHARES INC	CF-10
858660	HENLEY INTERNATIONAL INC	CF-10
849216	HENLEY PROPERTIES INC	CF-02
779152	HENRY JACK & ASSOCIATES INC	CF-06
853456	HENRY JOHN W & CO/MILLBURN LP	CF-10
791449	HERBALIFE INTERNATIONAL INC	CF-06
048989	HERCULES INC	CF-02
829129	HERITAGE BANCORP INC /DE/	CF-08
843519	HERITAGE BANCSHARES INC /FLA/	CF-09
846877	HERITAGE BANKCORP INC	CF-09
047016	HERITAGE ENTERTAINMENT INC	CF-05
882246	HERITAGE FEDERAL BANCSHARES INC	CF-10
275514	HERITAGE FINANCIAL CORP /VA/	CF-04
855114	HERITAGE FINANCIAL LIMITED	CF-10
355946	HERITAGE FINANCIAL SERVICES INC /IL/	CF-07
883703	HERITAGE FINANCIAL SERVICES INC /TN/	CF-10
821020	HERITAGE MEDIA CORP	CF-03
887564	HERITAGE MEDIA SERVICES INC	CF-10
047035	HERLEY INDUSTRIES INC /NEW	CF-06
047111	HERSHEY FOODS CORP	CF-02
047114	HERSHEY OIL CORP	CF-06
047129	HERTZ CORP	CF-02
047217	HEWLETT PACKARD CO	CF-01
717605	HEXCEL CORP/DE	CF-01
881790	HF FINANCIAL CORP	CF-10
892457	HFB FINANCIAL CORP	CF-10
874188	HI LO AUTOMOTIVE INC /DE	CF-10
833205	HI LO NO INC	CF-09
047268	HI SHEAR INDUSTRIES INC	CF-05
887497	HI TECH PHARMACAL CO INC	CF-10
318389	HIA INC	CF-07
047288	HIBERNIA CORP	CF-02
736915	HICKAM DOW B INC	CF-06
047307	HICKOK ELECTRICAL INSTRUMENT CO	CF-07
047312	HICKORY FURNITURE CO	CF-04
824481	HICKORY HILLS LTD	CF-07
824482	HICKORY LENDERS LTD	CF-07
766561	HICKORY TECH CORP	CF-05
794084	HIGH CASH PARTNERS LP	CF-09
845879	HIGH COUNTRY VENTURES INC	CF-10
784054	HIGH EQUITY PARTNERS LP SERIES 86	CF-09
831574	HIGH EQUITY PARTNERS LP SERIES 88	CF-09
800181	HIGH HOPES INC	CF-08

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
317551	HIGH PLAINS CORP	CF–06
708815	HIGH POINT FINANCIAL CORP	CF–08
852903	HIGHLAND GOLD PROPERTIES INC	CF–10
887024	HIGHLAND REALTY FUND INC	CF–10
766003	HIGHLAND SUPERSTORES INC	CF–03
047417	HIGHLAND TELEPHONE CO	CF–05
756862	HIGHLANDS BANKSHARES INC	CF–06
313372	HIGHLINE INDUSTRIES INC	CF–07
047431	HIKO BELL MINING & OIL CO	CF–08
814898	HILB ROGAL & HAMILTON CO /VA/	CF–06
884571	HILL WILLIAMS INCOME FUND I	CF–10
885032	HILL WILLIAMS INCOME FUND II	CF–10
047516	HILLENBRAND INDUSTRIES INC	CF–03
276477	HILLHAVEN CORP	CF–03
314016	HILLIARD FUND 79–A LTD	CF–07
314018	HILLIARD FUND 79–B LTD	CF–07
709313	HILLIARD FUND 82–B LTD	CF–08
732417	HILLS BANCORPORATION	CF–05
786877	HILLS DEPARTMENT STORES INC /DE/	CF–03
837173	HILLSBOROUGH HOLDINGS CORP	CF–02
047560	HILTON HOTELS CORP	CF–02
842914	HIMEDICS INC	CF–08
355557	HINDERLITER INDUSTRIES INC	CF–06
885638	HINSDALE FINANCIAL CORPORATION	CF–10
350876	HIPOINT INVESTMENTS LTD	CF–08
047647	HIPOTRONICS INC	CF–06
835413	HISTORIC HOUSING FOR SENIORS II LIMITED	CF–09
850961	HISTORIC HOUSING FOR SENIORS III LIMITED	CF–10
820199	HISTORIC HOUSING FOR SENIORS LIMITED PAR	CF–09
839614	HISTORIC PRESERVATION PROPERTIES 1989 LI	CF–09
731838	HITECH ENGINEERING CO	CF–08
842295	HITOX CORPORATION OF AMERICA	CF–06
806384	HJELMS JIM PRIVATE COLLECTION LTD /DE/	CF–08
311817	HMG COURTLAND PROPERTIES INC	CF–05
742415	HMO AMERICA INC	CF–07
737213	HNB FINANCIAL GROUP	CF–06
812427	HOECHST CELANESE CORP	CF–02
878551	HOENIG GROUP INC	CF–10
047878	HOFMANN INDUSTRIES INC	CF–06
709139	HOGAN SYSTEMS INC	CF–05
808015	HOH WATER TECHNOLOGY CORP	CF–08
813418	HOLCO MORTGAGE ACCEPTANCE CORP I	CF–05
799275	HOLCO SECURED MORTGAGE INVESTMENT III	CF–09
886826	HOLCOMB BRIDGE IMMEDIATE CARE CENTER INC	CF–10
082179	HOLIDAY GULF HOMES INC	CF–08
822076	HOLIDAY RV SUPERSTORES INC	CF–06
048039	HOLLY CORP	CF–04
888245	HOLLYWOOD CASINO CORP	CF–10
356212	HOLLYWOOD PARK OPERATING CO	CF–06
356213	HOLLYWOOD PARK REALTY ENTERPRISES INC	CF–05
832100	HOLMES MICROSYSTEMS INC	CF–09
860602	HOLNAM INC	CF–02
048105	HOLOBEAM INC	CF–08
859737	HOLOGIC INC	CF–07
812151	HOLOMETRIX INC	CF–08
877928	HOLOPAK TECHNOLOGIES INC	CF–10
885539	HOLSON BURNES GROUP INC	CF–10
048165	HOMASOTE CO	CF–06
048174	HOME BENEFICIAL CORP	CF–04
788588	HOME CENTERS INC	CF–06
354950	HOME DEPOT INC	CF–02
859229	HOME EQUITY LOAN ASSET BACKED TRUST SERI	CF–10
811097	HOME FEDERAL CORP	CF–05
861625	HOME FEDERAL FINANCIAL CORP	CF–10
847410	HOME FINANCIAL CORP /DE/	CF–10
313321	HOME INTENSIVE CARE INC	CF–06
357133	HOME INTERSTATE BANCORP	CF–08
847790	HOME MISSION BOARD OF THE SO BAPTIST CON CHU LO COL 80 SEC	CF–10
847789	HOME MISSION BOARD OF THE SOUTHERN BAPTIST CONVENTION	CF–10
715128	HOME NATIONAL CORP/MA	CF–04
857009	HOME NUTRITIONAL SERVICES INC	CF–05
816151	HOME OFFICE REFERENCE LABORATORY INC	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
832769	HOME PORT BANCORP INC	CF-09
791924	HOME SHOPPING NETWORK INC	CF-03
882376	HOME STAKE OIL & GAS CO	CF-10
882372	HOME STAKE ROYALTY CORP /OK/	CF-10
809716	HOMECALL INC /MD/	CF-08
791164	HOMECARE MANAGEMENT INC	CF-06
873369	HOMEDCO GROUP INC	CF-10
833795	HOMEFED CORP	CF-09
820889	HOMEFREE INVESTORS LP	CF-09
065291	HOMEFREE VILLAGE RESORTS INC	CF-07
835582	HOMELAND HOLDING CORP	CF-04
831906	HOMEOWNERS GROUP INC	CF-07
833079	HOMEPLEX MORTGAGE INVESTMENTS CORP	CF-03
743672	HOMESTAKE MINING CO /DE/	CF-02
048272	HOMESTEAD FINANCIAL CORP	CF-03
830921	HOMESTEAD HOLDING CORP	CF-09
048276	HOMESTEAD MINERALS CORP	CF-07
835920	HOMESTEAD NATIONAL CORPORATION	CF-10
831964	HOMESTYLE BUFFET INC	CF-06
812899	HOMETOWN BANCORPORATION INC	CF-08
837994	HOMETOWN BANCSHARES INC	CF-09
735297	HOMEWOOD FINANCE CORP	CF-05
048287	HON INDUSTRIES INC	CF-04
076696	HONDO OIL & GAS CO	CF-04
048305	HONEYWELL INC	CF-02
823883	HOOK SUPERX INC	CF-03
763364	HOOKER ENTERPRISES INC	CF-08
741815	HOOPER HOLMES INC	CF-06
804154	HOPE TECHNOLOGIES INC /NV	CF-09
850141	HORACE MANN EDUCATORS CORP	CF-10
706129	HORIZON BANCORP /IN/	CF-08
730925	HORIZON BANCORP INC /WV/	CF-05
830993	HORIZON BANKS INC	CF-09
794821	HORIZON FINANCIAL SERVICES INC	CF-05
316225	HORIZON FUTURES FUND	CF-06
758740	HORIZON GOLD CORP	CF-06
806151	HORIZON HEALTHCARE CORP	CF-05
715123	HORIZON WORLD FUTURES FUND	CF-09
048465	HORMEL GEORGE A & CO	CF-03
048466	HORN & HARDART BAKING CO	CF-08
320333	HORN & HARDART CO /NV/	CF-03
048474	HORN SILVER MINES INC	CF-06
354350	HORNBECK OFFSHORE SERVICES INC	CF-07
716881	HORRIGAN AMERICAN INC	CF-04
847326	HORSEHEAD INDUSTRIES INC	CF-03
882184	HORTON D R INC /DE/	CF-10
048544	HOSOI GARDEN MORTUARY INC	CF-07
311314	HOSPITAL CORP OF AMERICA /TN/	CF-02
731625	HOSPITAL STAFFING SERVICES INC	CF-05
310540	HOSPITALITY CAPITAL CORP /AZ/	CF-09
048569	HOSPOSABLE PRODUCTS INC	CF-07
316206	HOTEL INVESTORS CORP	CF-04
048595	HOTEL INVESTORS TRUST	CF-04
854883	HOTELECOPY INC	CF-07
048638	HOUGHTON MIFFLIN CO	CF-04
315125	HOUSE OF FABRICS INC/DE/	CF-04
048681	HOUSEHOLD FINANCE CORP	CF-02
354864	HOUSEHOLD INTERNATIONAL INC	CF-02
833825	HOUSING FOR SENIORS PARTICIPATING MORT FUND LTD PART	CF-09
822583	HOUSTON BIOMEDICAL INC	CF-08
812592	HOUSTON BIOTECH PARTNERS LP	CF-06
202131	HOUSTON INDUSTRIES INC	CF-02
048732	HOUSTON LIGHTING & POWER CO	CF-02
316245	HOUSTON OIL ROYALTY TRUST	CF-07
355118	HOUSTON OIL TRUST	CF-05
357294	HOVNANIAN ENTERPRISES INC	CF-03
745113	HOWELL CORP /DE/	CF-05
048824	HOWELL INDUSTRIES INC	CF-06
749660	HOWTEK INC	CF-06
718809	HPSC INC	CF-04
837292	HQ OFFICE SUPPLIES WAREHOUSE INC	CF-06
048896	HRE PROPERTIES	CF-04

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
048898	HUBBELL INC	CF–03
703559	HUBCO INC	CF–04
786617	HUDSON FOODS INC	CF–03
048948	HUDSON GENERAL CORP	CF–05
797462	HUFFMAN KOOS INC	CF–05
225463	HUFFY CORP	CF–04
049029	HUGHES SUPPLY INC	CF–04
087815	HUGHES TEXAS PETROLEUM CORP	CF–08
049071	HUMANA INC	CF–01
049101	HUMPHREY INC	CF–07
889949	HUNGARIAN TELEPHONE & CABLE CORP	CF–10
216153	HUNT INTERNATIONAL RESOURCES CORP	CF–09
728535	HUNT J B TRANSPORT SERVICES INC	CF–03
049146	HUNT MANUFACTURING CO	CF–04
803740	HUNTER ENVIRONMENTAL SERVICES INC	CF–05
795430	HUNTER INDUSTRIAL FACILITIES INC	CF–08
049196	HUNTINGTON BANCSHARES INC/MD	CF–02
840335	HUNTWAY PARTNERS LP	CF–05
315374	HURCO COMPANIES INC	CF–05
861617	HURON NATIONAL BANCORP INC	CF–10
772897	HUTCHINSON TECHNOLOGY INC	CF–05
702653	HUTTON APACHE 1982 ENERGY INCOME FUND LT	CF–07
731717	HUTTON ASSET RECOVERY FUND	CF–06
357099	HUTTON CONAM REALTY INVESTORS 2	CF–06
711389	HUTTON CONAM REALTY INVESTORS 3	CF–05
722745	HUTTON CONAM REALTY INVESTORS 4	CF–05
761310	HUTTON CONAM REALTY INVESTORS 5	CF–06
350023	HUTTON CONAM REALTY INVESTORS 81	CF–06
706120	HUTTON CONAM REALTY PENSION INVESTORS	CF–05
791190	HUTTON ENERGY ASSETS 2ND OIL & GAS COMPL	CF–06
769330	HUTTON GSH AMERICAN STORAGE PROPERTIES L	CF–06
353891	HUTTON GSH COMMERCIAL PROPERTIES 1	CF–06
706003	HUTTON GSH COMMERCIAL PROPERTIES 2	CF–05
725767	HUTTON GSH COMMERCIAL PROPERTIES 3	CF–05
759852	HUTTON GSH COMMERCIAL PROPERTIES 4	CF–06
317279	HUTTON GSH QUALIFIED PROPERTIES 80	CF–09
715337	HUTTON INDIAN WELLS 1983 ENERGY INCOME FUND LTD	CF–09
812818	HUTTON INVESTORS FUTURES FUND LP II	CF–06
821541	HUTTON INVESTORS FUTURES FUND LP III	CF–07
741619	HUTTON PRC TECHNOLOGY PARTNERS 1	CF–08
751313	HUTTON PRC TECHNOLOGY PARTNERS 2	CF–07
758479	HUTTON REAL AMERICAN PROPERTIES	CF–05
355298	HUTTON SOUTHERN TIMBER PARTNERS 1	CF–06
707600	HUTTON SOUTHERN TIMBER PARTNERS 2	CF–06
719447	HYCOR BIOMEDICAL INC /DE/	CF–07
049401	HYDE ATHLETIC INDUSTRIES INC	CF–05
049423	HYDRAULIC CO	CF–04
049425	HYDRAULIC PRESS BRICK CO	CF–07
049438	HYDRO FLAME CORP	CF–06
215244	HYDROGEN ENERGY CORP	CF–07
704432	HYDROMER INC	CF–08
850422	HYSTER YALE MATERIALS HANDLING INC	CF–02
715593	HYTEK MICROSYSTEMS INC	CF–07
775351	HYTK INDUSTRIES INC	CF–08
857728	I FLOW CORP /CA/	CF–08
882365	I STAT CORPORATION /DE/	CF–10
829499	IBC HOLDINGS CORP	CF–08
353524	IBM CREDIT CORP	CF–01
052477	IBP INC	CF–02
835595	IBS COMPUTER CORP	CF–09
842517	IBT BANCORP INC /MI/	CF–09
756502	ICC TECHNOLOGIES INC	CF–08
049588	ICH CORP	CF–03
757448	ICM PROPERTY INVESTORS INC	CF–04
798166	ICN BIOMEDICALS INC	CF–04
049601	ICN PHARMACEUTICALS INC /DE/	CF–03
353567	ICO INC	CF–06
775346	ICON CASH FLOW PARTNERS LP SERIES A	CF–08
849278	ICON CASH FLOW PARTNERS LP SERIES B	CF–10
866878	ICON CASH FLOW PARTNERS LP SERIES C	CF–10
874320	ICON CASH FLOW PARTNERS LP SERIES D	CF–10
881788	ICON CASH FLOW PARTNERS LP SERIES E	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
874294	ICOS CORP / DE	CF–10
065745	ICOT CORPORATION	CF–08
809365	IDAHO CO	CF–08
049648	IDAHO POWER CO	CF–02
799319	IDB COMMUNICATIONS GROUP INC	CF–04
878532	IDEALEASE INC	CF–10
875045	IDEC PHARMACEUTICALS CORP / CA	CF–10
735780	IDENTIX INC	CF–08
832101	IDEX CORP /DE/	CF–04
874716	IDEXX LABORATORIES INC /DE	CF–10
874993	IDF INTERNATIONAL INC	CF–10
832477	IDM FINANCIAL INCOME PARTNERS CO II	CF–09
813814	IDM PARTICIPATING INCOME CO	CF–09
832475	IDM PARTICIPATING INCOME CO II	CF–09
832476	IDM PARTICIPATING INCOME CO III	CF–09
842812	IDM PARTICIPATING INCOME CO IV	CF–09
849623	IDM PARTICIPATING INCOME CO V	CF–10
875347	IDM PARTICIPATING INCOME CO VII	CF–10
049694	IDORA SILVER MINES INC	CF–09
811524	IDS BALCOR INCOME PARTNERS	CF–06
811430	IDS JMB BALANCED INCOME GROWTH LTD	CF–07
811435	IDS JONES GROWTH PARTNERS	CF–06
857488	IDS JONES GROWTH PARTNERS 87–A LTD/CO/	CF–10
849978	IDS JONES GROWTH PARTNERS 89–B LTD	CF–10
850669	IDS JONES GROWTH PARTNERS II LP	CF–10
813831	IDS MANAGED FUTURES II LP	CF–06
809061	IDS MANAGED FUTURES LP	CF–07
832475	IDS MCCTICIPATING INCOME CO II	CF–09
843023	IDS SHURGARD INCOME GROWTH PARTNERS LP	CF–09
822816	IDS SHURGARD INCOME GROWTH PARTNERS LP	CF–10
789943	IE INDUSTRIES INC	CF–03
836972	IEA INCOME FUND IX	CF–09
774482	IEA INCOME FUND VI	CF–09
803511	IEA INCOME FUND VII	CF–09
821097	IEA INCOME FUND VIII	CF–09
853735	IEA INCOME FUND X	CF–10
867640	IEA INCOME FUND XI	CF–10
311780	IEA MARINE CONTAINER FUND	CF–08
315806	IEA MARINE CONTAINER FUND II	CF–09
350202	IEA MARINE CONTAINER INCOME FUND III	CF–09
357047	IEA MARINE CONTAINER INCOME FUND IV	CF–09
727047	IEA MARINE CONTAINER INCOME FUND V–A	CF–09
727048	IEA MARINE CONTAINER INCOME FUND V–B	CF–09
050292	IEH CORPORATION	CF–07
785546	IFR SYSTEMS INC	CF–05
036414	IFRB CORP	CF–08
808310	IFS INTERNATIONAL INC	CF–08
861992	IG LABORATORIES INC	CF–10
793160	IGENE BIOTECHNOLOGY INC	CF–08
352998	IGI INC	CF–06
820318	II–VI INC	CF–06
756365	IKOS SYSTEMS INC	CF–06
719625	ILC TECHNOLOGY INC	CF–06
854550	ILIO INC	CF–06
730037	ILLINI COMMUNITY BANCORP INC	CF–05
049789	ILLINOIS BELL TELEPHONE CO	CF–02
859119	ILLINOIS CENTRAL CORP	CF–02
049792	ILLINOIS CENTRAL RAILROAD CO	CF–02
049816	ILLINOIS POWER CO	CF–02
049826	ILLINOIS TOOL WORKS INC	CF–02
849407	IMA MEDIKOS GROUP INC	CF–10
216324	IMAGE ENTERTAINMENT INC	CF–06
814611	IMAGE RETAILING GROUP INC	CF–07
886037	IMAGEAMERICA INC	CF–10
793726	IMAGINE FILMS ENTERTAINMENT INC	CF–05
845401	IMAGING MANAGEMENT ASSOCIATES INC/COLO/	CF–10
720477	IMATRON INC	CF–06
820626	IMC FERTILIZER GROUP INC	CF–01
051396	IMCERA GROUP INC	CF–01
202890	IMCO RECYCLING INC	CF–05
715430	IMEX MEDICAL SYSTEMS INC	CF–07
811641	IMMUCELL CORP /DE/	CF–07

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
736822	IMMUCOR INC	CF-06
873731	IMMULOGIC PHARMACEUTICAL CORP /DE	CF-10
824178	IMMUNE RESPONSE INC	CF-08
719529	IMMUNEX CORP /DE/	CF-05
855654	IMMUNOGEN INC	CF-06
722830	IMMUNOMEDICS INC	CF-07
812798	IMMUNOTHERAPEUTICS INC	CF-08
075448	IMNET INC /DE/	CF-05
804151	IMO INDUSTRIES INC	CF-03
813748	IMPACT SYSTEMS INC /CA/	CF-06
046899	IMPERIAL BANCORP	CF-07
883611	IMPERIAL CREDIT INDUSTRIES INC	CF-10
831327	IMPERIAL HOLLY CORP	CF-03
049036	IMPERIAL INDUSTRIES INC	CF-07
355356	IMPERIAL PETROLEUM INC	CF-08
805327	IMPROCOM INC	CF-08
716054	IMRE CORP	CF-08
730757	IMREG INC	CF-07
878594	IMRS INC	CF-10
730045	IMTEC INC	CF-07
845434	IN FOCUS SYSTEMS	CF-10
818645	IN HOME HEALTH INC /MN/	CF-07
109631	INAMED CORP	CF-06
050200	INB FINANCIAL CORP /IN/	CF-03
804889	INCE IV INC	CF-08
830051	INCOME GROWTH PARTNERS LTD X	CF-09
760730	INCOME OPPORTUNITY REALTY INVESTORS INC	CF-05
353356	INCOMNET INC	CF-08
051853	INCORP INC	CF-08
216184	INCSTAR CORP	CF-05
741358	INDEPENDENCE BANCORP INC /NJ/	CF-05
700753	INDEPENDENCE BANCORP INC /PA/	CF-05
050073	INDEPENDENCE LEAD MINES CO	CF-07
880304	INDEPENDENCE TAX CREDIT PLUS LP	CF-10
760688	INDEPENDENT AMERICAN PARTICIPATING INCOM	CF-07
776901	INDEPENDENT BANK CORP /MA/	CF-07
038311	INDEPENDENT BANK CORP /MI/	CF-05
708194	INDEPENDENT BANKGROUP INC	CF-05
719731	INDEPENDENT BANKS OF VIRGINIA INC	CF-08
318870	INDEPENDENT BANKSHARES INC	CF-05
025619	INDEPENDENT BUSINESS ALLIANCE INC	CF-09
830547	INDEPENDENT ENTERTAINMENT GROUP INC	CF-06
319735	INDEPENDENT INSURANCE GROUP INC	CF-04
834948	INDEPENDENT TELECOMMUNICATIONS NETWORK I	CF-10
710982	INDEPRO PROPERTY FUND I LP	CF-05
722232	INDEPRO PROPERTY FUND II LP	CF-05
760612	INDIAN RIVER CITRUS INVESTORS LTD PARTNE	CF-06
050176	INDIANA BELL TELEPHONE CO INC	CF-01
750859	INDIANA ENERGY INC	CF-03
830250	INDIANA FEDERAL CORP	CF-09
310621	INDIANA FINANCIAL INVESTORS INC	CF-06
050183	INDIANA GAS CO INC	CF-03
050172	INDIANA MICHIGAN POWER CO	CF-02
720002	INDIANA UNITED BANCORP	CF-05
050217	INDIANAPOLIS POWER & LIGHT CO	CF-02
887941	INDRESCO INC	CF-10
847069	INDSPEC CHEMICAL CORP	CF-10
050253	INDUSTRIAL ACOUSTICS CO INC	CF-05
857067	INDUSTRIAL FUNDING CORP	CF-04
879854	INDUSTRIAL HOLDINGS INC	CF-10
050328	INDUSTRIAL INVESTMENT CORP	CF-07
004187	INDUSTRIAL SERVICES OF AMERICA INC /FL	CF-06
801309	INDUSTRIAL TRAINING SYSTEMS CORP	CF-08
050394	INERTIAL MOTORS CORP	CF-08
797542	INFERGENE CO	CF-08
744500	INFINITE GRAPHICS INC	CF-07
792863	INFINITY BROADCASTING CORP	CF-04
822746	INFINITY INC	CF-09
734366	INFISY SYSTEMS INC	CF-09
760497	INFOAMERICA INC	CF-09
050420	INFODATA SYSTEMS INC	CF-07
879684	INFONOW CORP /DE	CF-10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
716944	INFOPAGE INC	CF–05
879772	INFORMATION AMERICA INC /GA	CF–10
803578	INFORMATION ANALYSIS INC	CF–08
835405	INFORMATION DISPLAY TECHNOLOGY INC	CF–09
216205	INFORMATION INTERNATIONAL INC	CF–06
824578	INFORMATION MANAGEMENT TECHNOLOGIES CORP	CF–07
850313	INFORMATION RESOURCE ENGINEERING INC	CF–10
714278	INFORMATION RESOURCES INC	CF–04
721934	INFORMATION SCIENCE INC	CF–07
723574	INFORMATION SOLUTIONS INC	CF–07
799089	INFORMIX CORP	CF–04
880601	INFORUM INC /TN/	CF–10
748618	INFRASONICS INC	CF–07
050485	INGERSOLL RAND CO	CF–02
050493	INGLES MARKETS INC	CF–03
878278	INLAND CAPITAL FUND LP	CF–10
811038	INLAND GOLD & SILVER CORP /WA/	CF–07
796868	INLAND INVESTORS INC /WA/	CF–08
853496	INLAND LAND APPRECIATION FUND II LP	CF–10
825315	INLAND LAND APPRECIATION FUND LP	CF–10
835322	INLAND MONTHLY INCOME FUND II LP	CF–09
841129	INLAND MORTGAGE INVESTORS FUND III LP	CF–09
786149	INLAND MORTGAGE INVESTORS FUND LP	CF–07
809434	INLAND MORTGAGE INVESTORS FUND LP II	CF–09
817652	INLAND REAL ESTATE GROWTH FUND II LP	CF–07
773839	INLAND REAL ESTATE GROWTH FUND LP	CF–09
050548	INLAND STEEL CO	CF–02
790528	INLAND STEEL INDUSTRIES INC /DE/	CF–02
812909	INLANDS MONTHLY INCOME FUND LP	CF–10
801121	INMAC CORP	CF–05
726037	INMEDICA DEVELOPMENT CORP	CF–08
884504	INNOTEK CORPORATION	CF–10
824008	INNOVATIVE TECH SYSTEMS INC	CF–09
312646	INNOVATIVE TECHNOLOGY INC	CF–09
821243	INNOVET INC	CF–08
050601	INNOVEX INC	CF–06
844143	INNOVO GROUP INC	CF–09
866809	INPUT OUTPUT INC	CF–10
719494	INRAD INC	CF–07
849356	INSIGHT ENVIRONMENTAL CORP	CF–10
870480	INSIGNIA FINANCIAL GROUP INC	CF–10
875355	INSIGNIA SYSTEMS INC/MN	CF–10
355431	INSITUFORM EAST INC	CF–06
806173	INSITUFORM GULF SOUTH INC	CF–06
807903	INSITUFORM MID AMERICA INC	CF–06
353020	INSITUFORM OF NORTH AMERICA INC	CF–05
799096	INSITUFORM SOUTHEAST CORP	CF–06
722079	INSPIRATION RESOURCES CORP	CF–03
811212	INSTA COOL INC OF NORTH AMERICA	CF–08
850217	INSTAFF INTERNATIONAL INC	CF–10
216209	INSTANT TRANSACTIONS CORP OF AMERICA	CF–08
865753	INSTANT VIDEO TECHNOLOGIES INC	CF–10
764401	INSTEEL INDUSTRIES INC	CF–05
824109	INSTITUTE FOR LABORATORY MEDICINE INC	CF–10
806638	INSTITUTIONAL PROPERTIES 4	CF–06
050716	INSTRON CORP	CF–05
770183	INSTRUCTIVISION INC	CF–08
050725	INSTRUMENT SYSTEMS CORP /DE/	CF–04
880026	INSURANCE AUTO AUCTIONS INC /CA	CF–10
050773	INSURANCE INVESTORS & HOLDING CO	CF–08
318844	INSURED INCOME PROPERTIES 1981	CF–07
353392	INSURED INCOME PROPERTIES 1982	CF–06
710870	INSURED INCOME PROPERTIES 1983	CF–05
730988	INSURED INCOME PROPERTIES 1984	CF–05
754758	INSURED INCOME PROPERTIES 1985	CF–04
778435	INSURED INCOME PROPERTIES 1986 LP	CF–04
808029	INSURED INCOME PROPERTIES 1988 LP	CF–05
709947	INSURED PENSION INVESTORS 1983	CF–06
747549	INSURED PENSION INVESTORS 1984	CF–05
755896	INSURED PENSION INVESTORS 1985	CF–05
110640	INTECH INC	CF–07
879650	INTEGON CORP/DE	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
316740	INTEGRA A HOTEL & RESTAURANT CO	CF-05
831231	INTEGRA FINANCIAL CORP	CF-09
718130	INTEGRAL SYSTEMS INC /MD/	CF-07
874689	INTEGRATED CIRCUIT SYSTEMS INC	CF-10
703361	INTEGRATED DEVICE TECHNOLOGY INC	CF-04
729439	INTEGRATED LOGIC SYSTEMS INC	CF-08
882389	INTEGRATED PROCESS EQUIPMENT CORP	CF-10
730067	INTEGRATED RESOURCES HIGH EQUITY PARTNER	CF-09
050857	INTEGRATED RESOURCES INC	CF-02
764691	INTEGRATED RESOURCES NATIONAL LEASE INCO	CF-05
775163	INTEGRATED SYSTEMS INC	CF-07
861858	INTEGRATED WASTE SERVICES INC	CF-10
050977	INTEK DIVERSIFIED CORP	CF-07
050863	INTEL CORP	CF-02
355270	INTELEPLEX CORP	CF-09
818674	INTELLICALL INC	CF-05
730159	INTELLICORP INC	CF-06
814430	INTELLIGENT ELECTRONICS INC	CF-04
862668	INTELLIGENT SURGICAL LASERS INC	CF-10
806846	INTELLIGENT SYSTEMS MASTER LP	CF-05
771993	INTELOGIC TRACE INC	CF-04
310585	INTER CONTINENTAL SERVICES CORP	CF-08
050916	INTER REGIONAL FINANCIAL GROUP INC	CF-02
350066	INTER TEL INC	CF-05
850510	INTERACTIVE MEDIA TECHNOLOGIES INC	CF-08
822997	INTERACTIVE MEDICAL TECHNOLOGIES LTD	CF-09
879482	INTERACTIVE NETWORK INC /CA	CF-10
883041	INTERACTIVE TECHNOLOGIES CORP INC	CF-10
859362	INTERACTIVE TERMINALS INC /NY/	CF-10
718460	INTERAND CORP	CF-08
864338	INTERCAP MONITORING INCOME FUND IV-A LTD	CF-10
855419	INTERCAP MONITORING INCOME FUND IV-B LTD	CF-10
863449	INTERCAP MONITORING INCOME FUND IV-C LTD	CF-10
867861	INTERCAP MONITORING INCOME FUND IV-D LTD	CF-10
773676	INTERCARE INC	CF-07
815787	INTERCARGO CORP	CF-08
876318	INTERCEL INC/DE	CF-10
745655	INTERCELL CORP	CF-09
755933	INTERCHANGE FINANCIAL SERVICES CORP /NJ/	CF-05
744731	INTERCIM CORP	CF-07
050957	INTERCO INC	CF-02
783994	INTERCONTINENTAL ENTERPRISES INC	CF-05
050962	INTERCONTINENTAL LIFE CORP	CF-08
858449	INTERCONTINENTAL TRAVEL SERVICES INC	CF-10
051011	INTERDYNE CO	CF-10
715787	INTERFACE INC	CF-03
714981	INTERFACE SYSTEMS INC	CF-06
751314	INTERFERENCE CONTROL TECHNOLOGIES INC	CF-07
351532	INTERFERON SCIENCES INC	CF-07
740628	INTERFERON SCIENCES RESEARCH PARTNERS LT	CF-09
863022	INTERFIRST BANKCORP INC	CF-10
351145	INTERGRAPH CORP	CF-03
069422	INTERGROUP CORP	CF-06
876718	INTERGROUP HEALTHCARE CORP /DE	CF-10
790929	INTERLAKE CORP	CF-03
793604	INTERLEAF INC /MA/	CF-05
841533	INTERLINE RESOURCES CORP	CF-09
351012	INTERMAGNETICS GENERAL CORP	CF-05
764839	INTERMARK GAMING INTERNATIONAL INC/DE/	CF-07
731573	INTERMARK INC /DE/	CF-03
885067	INTERMEDIA COMMUNICATIONS OF FLORIDA INC	CF-10
745287	INTERMET CORP	CF-04
702736	INTERMETRICS INC	CF-06
051072	INTERMOUNTAIN EXPLORATION CO	CF-08
320166	INTERMOUNTAIN RESOURCES INC	CF-09
814220	INTERNATIONAL 800 TELECOM CORP	CF-07
859307	INTERNATIONAL AIRLINE SUPPORT GROUP INC	CF-07
051103	INTERNATIONAL ALUMINUM CORP	CF-04
760678	INTERNATIONAL AMERICAN HOMES INC	CF-04
315709	INTERNATIONAL BANCSHARES CORP	CF-07
814915	INTERNATIONAL BANKCARD SERVICES CORP	CF-08
842396	INTERNATIONAL BARRIER CORP	CF-07

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
038483	INTERNATIONAL BASIC RESOURCES INC	CF–07
355912	INTERNATIONAL BROADCASTING CORP /MN/	CF–05
051143	INTERNATIONAL BUSINESS MACHINES CORP	CF–01
865745	INTERNATIONAL CABLECASTING TECHNOLOGIES	CF–10
798965	INTERNATIONAL CMOS TECHNOLOGY INC	CF–07
871981	INTERNATIONAL COLIN ENERGY CORP	CF–10
779314	INTERNATIONAL CONSUMER BRANDS INC	CF–06
768832	INTERNATIONAL CONTAINER SYSTEMS INC	CF–07
051200	INTERNATIONAL CONTROLS CORP	CF–03
837486	INTERNATIONAL CONVERTER CORP/CO/	CF–09
051207	INTERNATIONAL DAIRY QUEEN INC	CF–04
773267	INTERNATIONAL DESIGN GROUP INC /DE/	CF–08
717751	INTERNATIONAL ELECTRONICS INC	CF–08
884506	INTERNATIONAL FAMILY ENTERTAINMENT INC	CF–10
885549	INTERNATIONAL FAST FOOD CORPORATION	CF–10
051253	INTERNATIONAL FLAVORS & FRAGRANCES INC	CF–03
880584	INTERNATIONAL FOOD & BEVERAGE INC /DE/	CF–10
353944	INTERNATIONAL GAME TECHNOLOGY	CF–04
803168	INTERNATIONAL GAMING MANAGEMENT INC	CF–09
751417	INTERNATIONAL HOLDING CAPITAL CORP	CF–07
310989	INTERNATIONAL INCOME PROPERTY INC	CF–04
714311	INTERNATIONAL LEASE FINANCE CORP	CF–02
819551	INTERNATIONAL LEISURE ENTERPRISES INC /AZ	CF–06
052935	INTERNATIONAL LEISURE HOSTS LTD /NEW/	CF–08
740892	INTERNATIONAL MANAGEMENT & RESEARCH CORP	CF–08
051387	INTERNATIONAL MERCANTILE CORP	CF–06
820475	INTERNATIONAL META SYSTEMS INC/DE/	CF–09
814929	INTERNATIONAL MICROCOMPUTER SOFTWARE INC	CF–08
812927	INTERNATIONAL MICROELECTRONIC PRODUCTS I	CF–05
354913	INTERNATIONAL MOBILE MACHINES CORP	CF–06
735381	INTERNATIONAL MORTGAGE ACCEPTANCE CORP	CF–05
051410	INTERNATIONAL MULTIFOODS CORP	CF–03
864964	INTERNATIONAL MUREX TECHNOLOGIES CORP	CF–10
814234	INTERNATIONAL NUTRITION & GENETICS CORP	CF–08
051434	INTERNATIONAL PAPER CO /NEW/	CF–02
318775	INTERNATIONAL POWER MACHINES CORP	CF–06
887310	INTERNATIONAL REALTY GROUP INC	CF–10
789460	INTERNATIONAL RECOVERY CORP	CF–05
316793	INTERNATIONAL RECTIFIER CORP /DE/	CF–04
319240	INTERNATIONAL REMOTE IMAGING SYSTEMS INC	CF–07
051497	INTERNATIONAL RESEARCH & DEVELOPMENT COR	CF–05
868608	INTERNATIONAL RICHEY PACIFIC CABLEVISION LTD	CF–10
051511	INTERNATIONAL ROYALTY & OIL CO	CF–08
278041	INTERNATIONAL SHIPHOLDING CORP	CF–03
874578	INTERNATIONAL SPECIALTY PRODUCTS INC	CF–10
051546	INTERNATIONAL SPEEDWAY CORP	CF–05
840159	INTERNATIONAL SPORTSFEST INC	CF–09
846537	INTERNATIONAL SUPERCONDUCTOR CORP	CF–08
704525	INTERNATIONAL SYSTEMS & TECHNOLOGY INC	CF–08
731190	INTERNATIONAL TECHNOLOGY CORP	CF–04
780853	INTERNATIONAL TELECHARGE INC	CF–04
868756	INTERNATIONAL TESTING SERVICES INC	CF–10
860591	INTERNATIONAL THERMAL PACKAGING INC	CF–10
320573	INTERNATIONAL THOROUGHBRED BREEDERS INC	CF–04
354813	INTERNATIONAL TOTALIZATOR SYSTEMS INC	CF–06
875426	INTERNATIONAL TOURIST ENTERTAINMENT CORP	CF–10
821572	INTERNATIONAL YOGURT CO	CF–07
841693	INTERNET COMMUNICATIONS CORP	CF–09
854222	INTERNEURON PHARMACEUTICALS INC	CF–08
728249	INTERPHASE CORP	CF–06
050842	INTERPOINT CORP /NEW/	CF–06
874506	INTERPOOL INCOME FUND I LP	CF–10
051644	INTERPUBLIC GROUP OF COMPANIES INC	CF–02
814059	INTERSPEC INC	CF–05
030021	INTERSTATE BAKERIES CORP /DE/	CF–03
807364	INTERSTATE GENERAL CO LP	CF–04
771296	INTERSTATE JOHNSON LANE INC	CF–03
835248	INTERSTATE LAND INVESTORS I LTD PARTNERS	CF–09
853891	INTERSTATE LAND INVESTORS II LTD PARTNER	CF–10
051720	INTERSTATE POWER CO	CF–03
737573	INTERTRANS CORP	CF–05
835955	INTERVEST CORPORATION OF NEW YORK	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
866793	INTERVEST MORTGAGE ASSOCIATES LP	CF-10
879813	INTERVISUAL BOOKS INC /CA	CF-10
764244	INTERVOICE INC	CF-05
845400	INTERWEST COMMUNICATIONS CORP	CF-10
717197	INTERWEST MEDICAL CORP	CF-07
796823	INTERWEST OPPORTUNITIES INC	CF-09
884509	INTRAMED LABORATORIES INC /CA/	CF-10
031063	INTRAMERICAN CORP	CF-08
778161	INTRENET INC	CF-05
810752	INTREX FINANCIAL SERVICES INC	CF-08
742112	INVACARE CORP	CF-05
719582	INVENTION DESIGN ENGINEERING ASSOCIATES	CF-07
008625	INVESTEX INC	CF-08
888861	INVESTMENT COLLATERAL CORP	CF-10
832336	INVESTMENT GROWTH RESOURCES INC	CF-09
052067	INVESTMENT PROPERTIES ASSOCIATES	CF-05
759672	INVESTMENT TECHNOLOGIES INC	CF-08
792486	INVESTORS COMMODITY FUND II	CF-09
814440	INVESTORS COMMODITY FUND III	CF-07
825160	INVESTORS FINANCIAL CORP/VA/	CF-10
769834	INVESTORS FIRST STAGED EQUITY LP	CF-05
857929	INVESTORS GNMA MORTGAGE BACKED SECURITIE	CF-10
052301	INVESTORS HERITAGE LIFE INSURANCE CO /KY	CF-05
798359	INVESTORS REAL ESTATE TRUST	CF-06
804124	INVESTORS SAVINGS CORP	CF-04
720858	INVESTORS TITLE CO	CF-07
052441	INVESTORS TRUST INC	CF-05
793467	INVG GOVERNMENT SECURITIES CORP	CF-04
792014	INVG MORTGAGE SECURITIES CORP /DE/	CF-03
872610	INVITRO INTERNATIONAL	CF-10
352789	IOMEGA CORP	CF-05
866734	ION LASER TECHNOLOGY INC	CF-10
052456	IONICS INC	CF-04
868607	IONIX INC	CF-10
052485	IOWA ELECTRIC LIGHT & POWER CO	CF-03
740155	IOWA FIRST BANCSHARES CORP	CF-05
052491	IOWA ILLINOIS GAS & ELECTRIC CO	CF-02
355818	IOWA NATIONAL BANKSHARES CORP	CF-07
052492	IOWA POWER INC	CF-08
052502	IOWA PUBLIC SERVICE CO /IA	CF-09
052506	IOWA SOUTHERN UTILITIES CO	CF-04
862251	IOWA ULTRA FUTURES FUND LP	CF-10
761860	IP TIMBERLANDS LTD	CF-03
728391	IPALCO ENTERPRISES INC	CF-02
351810	IPL SYSTEMS INC	CF-07
843956	IPO FINANCING CORP	CF-09
869267	IPS HEALTH CARE INC	CF-10
748827	IRE PENSION INVESTORS LTD	CF-06
775440	IRE PENSION INVESTORS LTD–II	CF-07
748620	IRE REAL ESTATE FUND LTD SERIES 26	CF-05
769643	IRE REAL ESTATE GROWTH FUND LTD SERIES 28	CF-06
001952	IREX CORP /PA	CF-05
723269	IRONSTONE GROUP INC	CF-04
771176	IRONTON IRON INC	CF-07
846753	IROQUOIS BANCORP INC	CF-09
052589	IRT CORP	CF-06
311099	IRT PROPERTY CO	CF-04
357106	IRVINE SENSORS CORP/DE/	CF-08
052617	IRWIN FINANCIAL CORPORATION	CF-05
773730	ISCO INC	CF-06
874015	ISIS PHARMACEUTICALS INC	CF-10
719522	ISOMEDIX INC	CF-05
052706	ISOMET CORP	CF-07
882742	ISP CHEMICALS INC	CF-10
719209	ISRAMCO INC	CF-07
080904	ISS INTERNATIONAL SERVICE SYSTEM INC	CF-05
052795	ITEL CORP	CF-02
860518	ITEX CORPORATION	CF-10
052811	ITI CORP/OH	CF-08
825203	ITRONICS INC	CF-10
216228	ITT CORP	CF-01
052825	ITT FINANCIAL CORP	CF-02

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
874766	ITT HARTFORD GROUP INC /DE	CF–10
052827	ITT RAYONIER INC	CF–02
772197	IVAX CORP	CF–05
789546	IVC INC	CF–09
771858	IVERSON TECHNOLOGY CORP	CF–05
315882	IVEY PROPERTIES INC	CF–08
841096	IVORY CAPITAL CORP	CF–09
772337	IVY MEDICAL INC /DE/	CF–09
790523	IWC RESOURCES CORP	CF–04
852333	J C CAPITAL CORP	CF–10
794219	J R GOLD MINES INC	CF–05
785956	J&J SNACK FOODS CORP	CF–05
798078	J2 COMMUNICATIONS /CA/	CF–07
351903	JACKPOT ENTERPRISES INC	CF–05
797894	JACKS INC	CF–07
052969	JACLYN INC	CF–06
052971	JACO ELECTRONICS INC	CF–06
052988	JACOBS ENGINEERING GROUP INC /DE/	CF–04
812127	JACOBS JAY INC	CF–05
053025	JACOBSON STORES INC	CF–04
702808	JACOR COMMUNICATIONS INC	CF–04
785958	JACQUES MILLER BALANCED FUND LP	CF–07
814458	JACQUES MILLER HEALTHCARE PROPERTIES LP	CF–09
752696	JACQUES MILLER INCOME FUND LP	CF–06
774655	JACQUES MILLER INCOME FUND LP II	CF–06
703710	JACQUES MILLER REALTY PARTNERS LP	CF–07
721700	JACQUES MILLER REALTY PARTNERS LP II	CF–06
757775	JACQUES MILLER REALTY PARTNERS LP III	CF–06
784040	JACQUES MILLER REALTY PARTNERS LP IV	CF–06
216262	JAEGER INDUSTRIES INC	CF–07
844166	JAGUAR CAPITAL CORP	CF–09
867964	JAKO INC /DE/	CF–10
765449	JAM INC	CF–08
066995	JAMCO LTD	CF–08
053117	JAMES RIVER CORP OF VIRGINIA	CF–02
053134	JAMESWAY CORP	CF–03
880433	JANSKO INC /FL	CF–10
813471	JASON INC	CF–05
746031	JASON NORTHCO PROPERTIES LTD PARTNERSHIP	CF–07
053260	JAYARK CORP	CF–06
053281	JBS RESTAURANTS INC	CF–05
833210	JCP RECEIVABLES INC	CF–09
822663	JEAN PHILIPPE FRAGRANCES INC	CF–07
354697	JEC LASERS INC	CF–08
717867	JEFFERIES GROUP INC	CF–03
053316	JEFFERSON BANCORP INC	CF–05
311100	JEFFERSON BANKSHARES INC	CF–03
053347	JEFFERSON PILOT CORP	CF–01
727742	JEFFERSON SMURFIT CORP	CF–02
874495	JEFFERSONVILLE BANCORP	CF–10
351921	JEGEROIL CORP	CF–08
824573	JENNICA INC	CF–10
806817	JENNIFER CONVERTIBLES INC	CF–07
701515	JENNINGS 1981–2 LTD PARTNERSHIP	CF–06
839431	JERICAP INC	CF–09
053448	JEROME GROUP INC /DE/	CF–07
053453	JERRYS INC	CF–06
053456	JERSEY CENTRAL POWER & LIGHT CO	CF–01
729626	JES PROPERTIES LTD PARTNERSHIP	CF–09
702724	JESUP GROUP INC	CF–04
811786	JETBORNE INTERNATIONAL INC	CF–06
875193	JETFLEET AIRCRAFT II LP	CF–10
846927	JETFLEET AIRCRAFT LP	CF–10
887614	JETFORM CORP	CF–10
053500	JETRONIC INDUSTRIES INC	CF–06
831331	JETSTREAM II LP	CF–05
825336	JETSTREAM LP	CF–05
794048	JEWELMASTERS INC	CF–06
042179	JG INDUSTRIES INC/IL/	CF–05
839461	JHM ACCEPTANCE CORP	CF–09
793951	JHM ACCEPTANCE CORP III	CF–09
820167	JHM MORTGAGE SECURITIES LP	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
826496	JIFFY LUBE INSURED INCOME PARTNERS LP	CF-09
053540	JILCO INDUSTRIES INC	CF-09
866107	JILLIONS INC	CF-10
791115	JILLY BEAR & CO INC	CF-09
879027	JIMBOS JUMBOS INC /DE	CF-10
216275	JLG INDUSTRIES INC	CF-05
747159	JMB 245 PARK AVENUE ASSOCIATES LTD	CF-07
053567	JMB INCOME PROPERTIES LTD II	CF-06
053568	JMB INCOME PROPERTIES LTD IV	CF-06
355472	JMB INCOME PROPERTIES LTD IX	CF-06
202240	JMB INCOME PROPERTIES LTD V	CF-09
275600	JMB INCOME PROPERTIES LTD VI	CF-05
313019	JMB INCOME PROPERTIES LTD VII	CF-05
319192	JMB INCOME PROPERTIES LTD VIII	CF-09
719244	JMB INCOME PROPERTIES LTD X	CF-04
744437	JMB INCOME PROPERTIES LTD XI	CF-04
765813	JMB INCOME PROPERTIES LTD XII	CF-04
790603	JMB INCOME PROPERTIES LTD XIII	CF-04
771210	JMB MANHATTAN ASSOCIATES LTD	CF-07
706074	JMB MORTGAGE PARTNERS LTD	CF-06
730206	JMB MORTGAGE PARTNERS LTD II	CF-06
763820	JMB MORTGAGE PARTNERS LTD III	CF-05
790550	JMB MORTGAGE PARTNERS LTD IV	CF-09
849626	JOHN HANSON BANCORP INC	CF-10
200406	JOHNSON & JOHNSON	CF-02
053669	JOHNSON CONTROLS INC	CF-02
053678	JOHNSON ELECTRONICS INC	CF-07
053745	JOHNSON PRODUCTS CO INC	CF-06
788329	JOHNSON WORLDWIDE ASSOCIATES INC	CF-04
818433	JOHNSTON COCA COLA BOTTLING GROUP INC	CF-03
041017	JOHNSTON INDUSTRIES INC	CF-05
787621	JOHNSTOWN CONSOLIDATED INCOME PARTNERS	CF-06
812431	JOHNSTOWN CONSOLIDATED INCOME PARTNERS 2	CF-07
843960	JONATHON NO 2 GROUP INC	CF-09
874016	JONES APPAREL GROUP INC	CF-10
779542	JONES CABLE INCOME FUND 1-A	CF-07
799122	JONES CABLE INCOME FUND 1-B LTD	CF-06
813710	JONES CABLE INCOME FUND 1-C LTD	CF-05
815917	JONES FINANCIAL COMPANIES	CF-03
843010	JONES GROWTH PARTNERS LP	CF-09
275605	JONES INTERCABLE INC	CF-03
802361	JONES INTERCABLE INVESTORS LP	CF-05
793613	JONES MEDICAL INDUSTRIES INC /DE/	CF-06
096653	JONES PLUMBING SYSTEMS INC	CF-06
873800	JONES PROGRAMMING PARTNERS 1-A LTD	CF-10
868610	JONES PROGRAMMING PARTNERS 2-A LTD	CF-10
832901	JONES PROGRAMMING PARTNERS LTD	CF-09
824955	JONES SPACELINK INCOME GROWTH FUND 1	CF-09
353796	JONES SPACELINK LTD	CF-03
839464	JORDAN INDUSTRIES INC	CF-04
054003	JORGENSEN EARLE M CO /DE/	CF-04
054045	JOSLYN CORP /IL/	CF-04
054050	JOSTENS INC	CF-03
798168	JOULE INC	CF-06
054056	JOURNAL COMMUNICATIONS INC	CF-03
054058	JOURNAL EMPLOYEES STOCK TRUST	CF-08
825797	JOURNEYS END RESORTS INC	CF-07
821609	JRM HOLDINGS INC	CF-07
833836	JRS FOODS INC	CF-09
861499	JSB FINANCIAL INC	CF-10
810156	JSL INC	CF-09
732152	JUDICATE INC	CF-08
714712	JUNIATA VALLEY FINANCIAL CORP	CF-05
864921	JUNIPER FEATURES LTD	CF-10
723888	JUNO LIGHTING INC	CF-05
890639	JUST TOYS INC	CF-10
054182	JUSTIN INDUSTRIES INC	CF-04
105634	JWP INC/DE/	CF-02
884382	K III COMMUNICATIONS CORP	CF-10
056824	K MART CORP	CF-02
724267	K MED CENTERS INC	CF-07
862480	K SWISS INC	CF-10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
820140	K TECH INC	CF–09
054193	K TEL INTERNATIONAL INC	CF–06
000020	K TRON INTERNATIONAL INC	CF–05
851797	K&F INDUSTRIES INC	CF–03
867028	K7 CAPITAL CORP	CF–10
054235	KAHLER CORP/DE/	CF–05
856654	KAISER ALUMINA AUSTRALIA CORP	CF–01
054291	KAISER ALUMINUM & CHEMICAL CORP	CF–01
811596	KAISER ALUMINUM CORP	CF–01
856650	KAISER JAMAICA CORP	CF–01
801904	KAISER RESEARCH INC	CF–09
729365	KAISER STEEL RESOURCES INC	CF–09
054381	KAMAN CORP	CF–03
853890	KANEB PIPE LINE PARTNERS LP	CF–05
054441	KANEB SERVICES INC	CF–04
054473	KANSAS CITY LIFE INSURANCE CO	CF–04
054476	KANSAS CITY POWER & LIGHT CO	CF–02
054480	KANSAS CITY SOUTHERN INDUSTRIES INC	CF–03
054496	KANSAS GAS & ELECTRIC CO /KS/	CF–01
054507	KANSAS POWER & LIGHT CO	CF–01
320432	KAPLAN INDUSTRIES INC	CF–06
748212	KAPPA NETWORKS INC	CF–07
835409	KAR VENTURES INC	CF–09
353718	KARCHER CARL ENTERPRISES INC	CF–04
842913	KASH N KARRY FOOD STORES INC	CF–03
357257	KASLER CORP	CF–05
054681	KATY INDUSTRIES INC	CF–04
795266	KAUFMAN & BROAD HOME CORP	CF–02
054750	KAUFMAN H W FINANCIAL GROUP INC	CF–07
783197	KAY MARY CORP	CF–03
740694	KAYDON CORP	CF–04
810162	KBF POLLUTION MANAGEMENT INC	CF–09
313469	KCR TECHNOLOGY INC	CF–08
832820	KCS GROUP INC	CF–05
054883	KEANE INC	CF–06
353810	KEEBEE CORP	CF–09
857400	KEEGAN MANAGEMENT CO	CF–06
862255	KEENE CORP /DE/	CF–10
803656	KEITH GROUP OF COMPANIES INC	CF–06
054991	KEITHLEY INSTRUMENTS INC	CF–05
205508	KELDON OIL CO	CF–07
886021	KELLER FINANCIAL SERVICES OF FLORIDA INC	CF–10
776818	KELLEY OIL & GAS PARTNERS LTD	CF–05
746627	KELLEY OIL CORP	CF–06
853635	KELLEY PARTNERS 1989 DEVELOPMENT DRILLIN	CF–10
865831	KELLEY PARTNERS 1990 DEVELOPMENT DRILLING PROGRAM	CF–10
876859	KELLEY PARTNERS 1991 DEVELOPMENT DRILLING PROGRAM	CF–10
055067	KELLOGG CO	CF–02
055080	KELLWOOD CO	CF–03
853154	KELLY MOTORS LTD	CF–10
055135	KELLY SERVICES INC	CF–01
887730	KEMET CORPORATION	CF–10
055195	KEMPER CORP	CF–02
751262	KEMPER CYMROT REAL ESTATE INVESTMENT FUND A LP	CF–06
751263	KEMPER CYMROT REAL ESTATE INVESTMENT FUND B LP	CF–09
799367	KEMPER FINANCIAL COMPANIES INC	CF–07
745379	KENAN TRANSPORT CO	CF–05
884197	KENFIL INC	CF–10
055234	KENILWORTH SYSTEMS CORP	CF–07
055242	KENNAMETAL INC	CF–03
885720	KENNEDY WILSON INC	CF–10
885720	KENNEDY WILSON INC	CF–10
793024	KENT ELECTRONICS CORP	CF–06
316028	KENT FINANCIAL SERVICES INC	CF–06
313261	KENTANA DEVELOPMENT INC	CF–07
055345	KENTUCKY CENTRAL LIFE INSURANCE CO	CF–08
702661	KENTUCKY COMMUNITY BANCORP INC	CF–05
055362	KENTUCKY INVESTORS INC	CF–06
840163	KENTUCKY MEDICAL INSURANCE CO	CF–10
055373	KENTUCKY POWER CO	CF–02
055387	KENTUCKY UTILITIES CO	CF–03
055393	KENWIN SHOPS INC	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
871686	KEOKUK BANCSHARES INC	CF–10
819840	KEPTEL INC	CF–06
055454	KERR GLASS MANUFACTURING CORP	CF–04
055456	KERR MCGEE CORP	CF–02
838224	KETEMA INC	CF–04
711205	KETTLE RESTAURANTS INC	CF–05
701194	KEVLIN MICROWAVE CORP	CF–07
055529	KEWAUNEE SCIENTIFIC CORP /DE/	CF–05
723648	KEY CENTURION BANCSHARES INC	CF–07
055536	KEY CO /NC/	CF–07
837290	KEY PRODUCTION COMPANY INC	CF–05
719733	KEY TRONIC CORP	CF–05
036208	KEYCORP	CF–02
755872	KEYES FLORIDA PROPERTIES LTD 85	CF–09
006125	KEYSTONE CAMERA PRODUCTS CORP	CF–05
055604	KEYSTONE CONSOLIDATED INDUSTRIES INC	CF–04
717809	KEYSTONE FINANCIAL INC	CF–07
715366	KEYSTONE HERITAGE GROUP INC	CF–07
055642	KEYSTONE INTERNATIONAL INC	CF–03
722839	KEYSTONE MEDICAL CORPORATION	CF–08
793038	KEYSTONE MORTGAGE FUND	CF–07
812064	KEYSTONE MORTGAGE FUND II	CF–07
310205	KFC NATIONAL PURCHASING COOPERATIVE INC	CF–05
055698	KIDDIE PRODUCTS INC	CF–06
794323	KIEWIT PETER SONS INC	CF–02
711477	KIEWIT ROYALTY TRUST	CF–08
055742	KILLEARN PROPERTIES INC	CF–05
055772	KIMBALL INTERNATIONAL INC	CF–03
797329	KIMBELL DECAR CORP	CF–09
055785	KIMBERLY CLARK CORP	CF–02
320427	KIMCO ENERGY CORP	CF–08
879101	KIMCO REALTY CORP	CF–10
811562	KIMMINS ENVIRONMENTAL SERVICE CORP	CF–05
055805	KINARK CORP	CF–06
832512	KINDER CARE LEARNING CENTERS INC /DE	CF–09
831967	KINETIC CONCEPTS INC /TX/	CF–04
756764	KING WORLD PRODUCTIONS INC	CF–03
771859	KINGFISHER BANCORP INC	CF–06
773588	KINGS ROAD ENTERTAINMENT INC	CF–06
759401	KINLAW ENERGY PARTNERS CORP	CF–09
314037	KINNARD INVESTMENTS INC	CF–07
056047	KIRBY CORP	CF–04
877600	KIRKSVILLE BANCSHARES INC	CF–10
785022	KIRSCHNER MEDICAL CORP	CF–05
855535	KISLAK J I MORTGAGE CORP	CF–10
056151	KIT MANUFACTURING CO	CF–06
837022	KITCHEN BAZAAR INC	CF–07
840402	KIWI III LTD	CF–09
319201	KLA INSTRUMENTS CORP	CF–04
719729	KLEER VU INDUSTRIES INC/DE/	CF–07
056252	KLEINERTS INC /PA/	CF–06
876490	KLH ENGINEERING GROUP INC	CF–10
793765	KLLM TRANSPORT SERVICES INC	CF–05
056356	KMS INDUSTRIES INC	CF–06
054502	KN ENERGY INC	CF–03
056362	KNAPE & VOGT MANUFACTURING CO	CF–05
056396	KNICKERBOCKER VILLAGE INC	CF–07
205520	KNIGHT RIDDER INC	CF–02
056439	KNOGO CORP	CF–05
854982	KNOWLEDGEWARE INC	CF–05
225544	KNUSAGA CORP	CF–08
801873	KOALA TECHNOLOGIES CORP /CA/	CF–07
313142	KOBER CORP	CF–07
353025	KOGER CO/FL/NEW	CF–04
835654	KOGER EQUITY INC	CF–04
202328	KOGER PARTNERSHIP LTD	CF–09
355357	KOGER PROPERTIES INC /FL/	CF–03
885639	KOHLS CORPORATION	CF–10
056583	KOLLMORGEN CORP	CF–01
813347	KOMAG INC /DE/	CF–05
878901	KOO KOO ROO INC/DE	CF–10
056701	KOSS CORP	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
806186	KP GRUBB & ELLIS REALTY INCOME FUND LP	CF–07
700834	KP MILLER REALTY GROWTH FUND I	CF–06
716139	KP MILLER REALTY GROWTH FUND II	CF–09
765197	KP MILLER REALTY GROWTH FUND III	CF–09
715118	KP TEMPLETON INSTITUTIONAL OIL & GAS INC	CF–08
715117	KP TEMPLETON OIL & GAS INCOME FUND LTD 1	CF–09
814826	KP WINGATE INSURED PARTNERS LIMITED PART	CF–10
318717	KRAFT GENERAL FOODS INC	CF–02
870228	KRANTOR CORP	CF–10
889427	KRANZCO REALTY TRUST	CF–10
056806	KREISLER MANUFACTURING CORP	CF–07
056808	KRELITZ INDUSTRIES INC	CF–06
799099	KRISCH AMERICAN INNS INC	CF–06
056873	KROGER CO	CF–02
886903	KRONOS INC	CF–10
096793	KRUG INTERNATIONAL CORP	CF–05
318526	KRUPP ASSOCIATES 1980–1	CF–07
785988	KRUPP CASH PLUS II LTD PARTNERSHIP	CF–05
768175	KRUPP CASH PLUS LTD PARTNERSHIP	CF–09
839427	KRUPP CASH PLUS V LIMITED PARTNERSHIP	CF–09
732729	KRUPP COMMERCIAL PROPERTIES LTD PARTNERS	CF–09
757549	KRUPP INSTITUTIONAL MORTGAGE FUND LTD PA	CF–06
832095	KRUPP INSURED MORTGAGE LIMITED PARTNERSH	CF–09
805297	KRUPP INSURED PLUS II LTD PARTNERSHIP	CF–09
832091	KRUPP INSURED PLUS III LIMITED PARTNERSH	CF–09
786622	KRUPP INSURED PLUS LTD PARTNERSHIP	CF–04
702117	KRUPP REALTY FUND LTD III	CF–09
710389	KRUPP REALTY LTD PARTNERSHIP IV	CF–09
721799	KRUPP REALTY LTD PARTNERSHIP V	CF–05
751570	KRUPP REALTY LTD PARTNERSHIP VII	CF–05
818077	KRUPP YIELD PLUS LIMITED PARTNERSHIP	CF–09
885640	KRYSTAL COMPANY	CF–10
872065	KU ENERGY CORPORATION	CF–03
056955	KUHLMAN CORP	CF–05
056978	KULICKE & SOFFA INDUSTRIES INC	CF–05
730991	KURZWEIL MUSIC SYSTEMS INC	CF–06
842009	KUSHNER LOCKE CO	CF–06
057041	KUSTOM ELECTRONICS INC	CF–07
057055	KV PHARMACEUTICAL CO /DE/	CF–05
857008	KWIK TRIP FINANCIAL INC	CF–10
855652	KYLE DEVELOPMENT CORP	CF–10
202356	KYSOR INDUSTRIAL CORP/MI/	CF–04
852570	L A ENTERTAINMENT INC	CF–08
862250	L M CAPITAL INC	CF–10
350206	L&N HOUSING CORP	CF–05
793937	LA GEAR INC	CF–04
718660	LA MAN CORP	CF–08
357158	LA PETITE ACADEMY INC	CF–04
278243	LA QUINTA MOTOR INNS INC	CF–03
799169	LA QUINTA MOTOR INNS LTD PARTNERSHIP	CF–04
057131	LA Z BOY CHAIR CO	CF–03
057139	LABARGE INC	CF–05
768899	LABOR READY INC	CF–08
057183	LACLEDE GAS CO	CF–03
057187	LACLEDE STEEL CO /DE/	CF–04
721669	LADD FURNITURE INC	CF–03
716783	LAFARGE CORP	CF–02
723876	LAKE ARIEL BANCORP INC	CF–08
356596	LAKE SHORE BANCORP INC	CF–07
880285	LAKEHEAD PIPE LINE PARTNERS LP	CF–10
846901	LAKELAND BANCORP INC	CF–09
057370	LAKELAND DEVELOPMENT CORP	CF–07
721994	LAKELAND FINANCIAL CORP	CF–06
839538	LAKELAND FIRST FINANCIAL GROUP INC	CF–09
798081	LAKELAND INDUSTRIES INC	CF–06
711414	LAKESIDE BANCSHARES INC	CF–08
707549	LAM RESEARCH CORP	CF–05
806549	LAMCOR INC	CF–08
057497	LAMSON & SESSIONS CO	CF–04
057515	LANCASTER COLONY CORP	CF–04
057528	LANCE INC	CF–04
768162	LANCER CORP /TX/	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
722069	LANCER INDUSTRIES INC /DE/	CF–09
057538	LANCER ORTHODONTICS INC /CA/	CF–07
888796	LANCIT MEDIA PRODUCTIONS LTD	CF–10
109657	LANDER ENERGY CO	CF–07
705403	LANDMARK BANCORP	CF–07
830986	LANDMARK COMMUNITY BANCORP INC	CF–09
806847	LANDMARK FINANCIAL CORP /DE/	CF–09
730606	LANDMARK FINANCIAL GROUP INC/TX	CF–05
749510	LANDMARK GRAPHICS CORP	CF–05
745028	LANDMARK LAND CO INC/DE	CF–03
799288	LANDS END INC	CF–04
711098	LANDSING DIVERSIFIED PROPERTIES II	CF–09
727745	LANDSING DIVERSIFIED PROPERTIES III	CF–09
831300	LANDSING PACIFIC FUND	CF–04
351864	LANE PLYWOOD INC	CF–07
725460	LANGER BIOMECHANICS GROUP INC	CF–07
842898	LANIER BANKSHARES INC	CF–09
057725	LANNETT CO INC	CF–08
860861	LAPORTE BANCORP /IN/	CF–10
753256	LARCHDALE OWNERSHIP CO LTD	CF–07
817134	LARIZZA INDUSTRIES INC	CF–04
769851	LARSON DAVIS INC	CF–07
793044	LAS VEGAS DISCOUNT GOLF & TENNIS INC	CF–08
872588	LAS VEGAS ENTERTAINMENT NETWORK INC	CF–10
850412	LASALLE CAPITAL CORP	CF–10
766416	LASALLE MARKET STREETS ASSOCIATES LTD	CF–05
740726	LASER CORP	CF–07
700892	LASER MASTER INTERNATIONAL INC	CF–07
875738	LASER PACIFIC MEDIA CORPORATION	CF–10
711565	LASER PHOTONICS INC	CF–06
312242	LASER PRECISION CORP	CF–06
855581	LASER RECORDING SYSTEMS INC	CF–08
876013	LASER VIDEO NETWORK INC	CF–10
861875	LASER VISION CENTERS INC	CF–10
797324	LASERGATE SYSTEMS INC	CF–08
857470	LASERMASTER TECHNOLOGIES INC	CF–06
830097	LASERMAX CORP	CF–09
057881	LASERMETRICS INC	CF–07
851737	LASERSCOPE	CF–06
879301	LASERSIGHT INC /DE	CF–10
710597	LASERTECHNICS INC	CF–07
780376	LATIN FOODS INTERNATIONAL INC	CF–09
023236	LATSHAW ENTERPRISES INC	CF–06
855858	LATTICE SEMICONDUCTOR CORP	CF–05
833216	LAUR CORP	CF–09
860106	LAUREL BANCORP INC	CF–10
811715	LAUREL CENTRE DEPOSITARY CORP	CF–10
092342	LAURENTIAN CAPITAL CORP/DE/	CF–04
774746	LAUTREC INC	CF–09
844054	LAVI INVESTMENT CORP	CF–09
805266	LAWRENCE INSURANCE GROUP INC	CF–05
703604	LAWSON PRODUCTS INC/NEW/DE	CF–05
058091	LAWTER INTERNATIONAL INC	CF–04
877355	LAWYERS TITLE CORP	CF–10
888504	LAYNE INC	CF–10
202375	LAZARE KAPLAN INTERNATIONAL INC	CF–05
789868	LAZARUS INDUSTRIES INC	CF–08
753557	LBO CAPITAL CORP	CF–09
745276	LCB BANCORP INC	CF–04
058151	LCS INDUSTRIES INC	CF–06
887243	LDA SYSTEMS INC	CF–10
740745	LDB CORP /TX/	CF–05
047409	LDDS COMMUNICATIONS INC /TN/	CF–04
814500	LDI CORP	CF–03
793630	LE PEEP RESTAURANTS INC	CF–07
058204	LEADVILLE CORP	CF–07
726845	LEADVILLE MINING & MILLING CORP	CF–08
731854	LEADVILLE SILVER & GOLD INC	CF–08
842697	LEAK X CORP	CF–08
842162	LEAR SEATING CORP	CF–03
746553	LEARNING ANNEX INC	CF–08
885075	LEARNING CO/CA/	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
058172	LEARONAL INC	CF–05
709145	LEASERVICE INCOME FUND I	CF–08
768373	LEASTEC INCOME FUND 1984–I	CF–07
756939	LEASTEC INCOME FUND 1985–I	CF–07
773911	LEASTEC INCOME FUND III	CF–06
799179	LEASTEC INCOME FUND IV	CF–06
821218	LEASTEC INCOME FUND V	CF–06
798186	LECHTERS INC	CF–05
805928	LECTEC CORP /MN/	CF–07
058361	LEE ENTERPRISES INC	CF–03
058411	LEE PHARMACEUTICALS	CF–06
023666	LEE SARA CORP	CF–02
728294	LEECO DIAGNOSTICS INC	CF–06
202382	LEES INNS OF AMERICA INC	CF–05
812790	LEGEND FOODS INC	CF–08
842681	LEGENDS COMPANY OF CHICAGO INC /DE/	CF–08
845607	LEGENT CORP	CF–10
704051	LEGG MASON INC	CF–03
058492	LEGGETT & PLATT INC	CF–03
829281	LEHMAN ABS CORP	CF–08
742454	LEHMAN CMO INC	CF–08
058592	LEISURE CONCEPTS INC	CF–06
058621	LEISURE TECHNOLOGY INC	CF–04
058696	LENNAR CORP	CF–03
821492	LEONA ENTERPRISES INC	CF–09
809862	LEPERCQ CORPORATE INCOME FUND II LP	CF–05
790877	LEPERCQ CORPORATE INCOME FUND LP	CF–04
058822	LESCARDEN INC	CF–09
745394	LESCO INC/OH	CF–05
866048	LESLIES POOLMART	CF–10
723323	LETCHWORTH INDEPENDENT BANCSHARES CORP	CF–09
096223	LEUCADIA NATIONAL CORP	CF–02
862027	LEVY BANCORP /CA/	CF–10
828413	LEWIS RESOURCES INC	CF–09
858795	LEXICO ENERGY EXPLORATION INC	CF–10
312065	LEXICON CORP	CF–06
012570	LEXINGTON PRECISION CORP	CF–05
714774	LEZAK GROUP	CF–10
767554	LFC HOLDINGS CORP	CF–10
861388	LG&E ENERGY CORP	CF–02
885072	LGF BANCORP INC	CF–10
877730	LIBERTY BANCSHARES INC/TN	CF–10
059229	LIBERTY CORP	CF–04
717233	LIBERTY EQUIPMENT INVESTORS 1983	CF–05
749502	LIBERTY EQUIPMENT INVESTORS LP 1984	CF–05
059240	LIBERTY HOMES INC	CF–05
869614	LIBERTY MEDIA CORPORATION	CF–10
316909	LIBERTY NATIONAL BANCORP INC /KY/	CF–03
070031	LIBRA SYSTEMS INC	CF–08
225662	LIBRARY BUREAU INC	CF–07
868667	LICON INTERNATIONAL INC	CF–10
858803	LIDAK PHARMACEUTICALS	CF–09
757642	LIF	CF–09
840160	LIFE BALANCES INTERNATIONAL INC	CF–09
889428	LIFE MEDICAL SCIENCES INC	CF–10
886941	LIFE PARTNERS GROUP INC	CF–10
890445	LIFE RE CORP	CF–10
059399	LIFE RESOURCES INC	CF–08
059401	LIFE SCIENCES INC	CF–08
727737	LIFE TECHNOLOGIES INC	CF–04
832989	LIFE USA HOLDING INC /MN/	CF–10
802677	LIFECO INVESTMENT GROUP INC	CF–07
028626	LIFECORE BIOMEDICAL INC	CF–07
720195	LIFELINE SYSTEMS INC	CF–06
860131	LIFEQUEST MEDICAL INC	CF–10
059425	LIFESURANCE CORP	CF–07
276886	LIFETIME CORP	CF–04
874396	LIFETIME HOAN CORP	CF–10
039503	LIFETIME PRODUCTS INC	CF–06
814586	LIFEWAY FOODS INC	CF–08
887021	LIGGETT GROUP INC /DE/	CF–10
826405	LIGHTNING BOLT INTERNATIONAL INC	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
797154	LIGHTWAVE CABLEVISION SYSTEMS INC	CF-09
059478	LILLY ELI & CO	CF-02
050479	LILLY INDUSTRIAL COATINGS INC	CF-04
701985	LIMITED INC	CF-02
059496	LIN BROADCASTING CORP	CF-03
774489	LINCAM PROPERTIES LTD SERIES 85	CF-06
882235	LINCARE HOLDINGS INC	CF-10
059527	LINCOLN ELECTRIC CO	CF-03
059532	LINCOLN FINANCIAL CORP	CF-07
791726	LINCOLN FOODSERVICE PRODUCTS INC	CF-06
059544	LINCOLN INTERNATIONAL CORP	CF-07
779585	LINCOLN LIBERTY AVENUE LTD	CF-09
717422	LINCOLN LOGS LTD	CF-07
059559	LINCOLN NATIONAL CORP	CF-02
773654	LINCOLN NC REALTY FUND INC	CF-06
777350	LINCOLN PROPERTY ASSOCIATES LTD	CF-06
792562	LINCOLN SERVICE CAPITAL TRUST I	CF-09
806608	LINCOLN SERVICE CAPITAL TRUST II	CF-09
806609	LINCOLN SERVICE CAPITAL TRUST III	CF-09
806610	LINCOLN SERVICE CAPITAL TRUST IV	CF-09
806611	LINCOLN SERVICE CAPITAL TRUST V	CF-09
320440	LINCOLN TELECOMMUNICATIONS CO	CF-04
838810	LIND WALDOCK COMMODITY PARTNERS LIMITED	CF-09
059591	LINDAL CEDAR HOMES INC /DE/	CF-06
059593	LINDBERG CORP /DE/	CF-05
836157	LINDSAY MANUFACTURING CO	CF-05
791907	LINEAR TECHNOLOGY CORP /CA/	CF-05
804191	LINIUM TECHNOLOGY INC	CF-08
833203	LINKON CORP	CF-09
790816	LINPRO SPECIFIED PROPERTIES	CF-07
859369	LION CAPITAL CORP	CF-10
059656	LIONEL CORP	CF-04
047798	LIPE ROLLWAY CORP	CF-06
786557	LIPOSOME CO INC	CF-06
812448	LIPOSOME TECHNOLOGY INC /DE/	CF-06
216430	LIQUI BOX CORP	CF-05
882515	LITCHFIELD FINANCIAL CORP /MA	CF-10
860045	LITEL COMMUNICATIONS INC	CF-10
860409	LITEL TELECOMMUNICATIONS CORP	CF-10
318958	LITTLE PRINCE PRODUCTIONS LTD	CF-08
059660	LITTLE SQUAW GOLD MINING CO	CF-08
875523	LITTLE SWITZERLAND INC/DE	CF-10
059670	LITTLEFIELD ADAMS & CO	CF-07
059680	LITTON INDUSTRIES INC	CF-02
876429	LIUSKI INTERNATIONAL INC /DE	CF-10
840260	LIVE ENTERTAINMENT INC	CF-03
882287	LIVING CENTERS OF AMERICA INC	CF-10
721765	LL&E ROYALTY TRUST	CF-06
820087	LLOYDS ACCEPTANCE CORP	CF-07
059958	LLOYDS SHOPPING CENTERS INC	CF-06
791350	LMD ACQUISITIONS INC	CF-09
809934	LMR LAND CO LTD /TN/	CF-07
737210	LNB BANCORP INC	CF-05
759578	LOAN AMERICA FINANCIAL CORP	CF-05
313041	LOCH EXPLORATION INC	CF-08
060026	LOCKHEED CORP	CF-01
060041	LOCTITE CORP	CF-03
060086	LOEWS CORP	CF-02
760327	LOGAN COUNTY BANCSHARES INC	CF-08
802851	LOGIC DEVICES INC	CF-07
859365	LOGICAL COMPUTER SERVICES OF NEW YORK LTD	CF-10
311946	LOGICON INC /DE/	CF-05
060126	LOGIMETRICS INC	CF-07
812083	LOGITEK INC /NY	CF-08
355777	LOJACK CORP	CF-07
315852	LOMAK PETROLEUM INC	CF-07
060153	LOMAS & NETTLETON MORTGAGE INVESTORS	CF-03
060150	LOMAS FINANCIAL CORP	CF-01
882344	LOMAS MORTGAGE USA INC	CF-02
060195	LONE STAR INDUSTRIES INC	CF-02
883670	LONE STAR STEAKHOUSE & SALOON INC	CF-10
791348	LONE STAR TECHNOLOGIES INC	CF-02

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
060251	LONG ISLAND LIGHTING CO	CF–02
700760	LONG SHORE DEVELOPMENT CORP	CF–08
883976	LONGHORN STEAKS INC	CF–10
764762	LONGS DRUG STORES CORP	CF–01
060302	LONGVIEW FIBRE CO	CF–03
813775	LONGWOOD GROUP LTD	CF–08
060357	LORAL CORP /NY/	CF–02
832370	LORD ABBOTT INC	CF–09
006814	LORI CORP	CF–05
277684	LORILLARD INC	CF–03
778923	LORIMAR FILM PARTNERS LP	CF–06
711761	LOTUS DEVELOPMENT CORP	CF–03
352319	LOUISIANA GAS SERVICE CO	CF–04
060512	LOUISIANA LAND & EXPLORATION CO	CF–02
060519	LOUISIANA PACIFIC CORP	CF–02
060525	LOUISIANA PACIFIC RESOURCES INC	CF–09
060527	LOUISIANA POWER & LIGHT CO /LA/	CF–02
060549	LOUISVILLE GAS & ELECTRIC CO /KY/	CF–02
060667	LOWES COMPANIES INC	CF–02
804073	LOWRANCE ELECTRONICS INC	CF–06
798953	LOYOLA CAPITAL CORP	CF–07
714530	LSB BANCSHARES INC /NC/	CF–08
742263	LSB BANCSHARES INC OF SOUTH CAROLINA	CF–08
060714	LSB INDUSTRIES INC	CF–03
763532	LSI INDUSTRIES INC	CF–05
703360	LSI LOGIC CORP	CF–03
842161	LSS HOLDINGS CORP	CF–09
887905	LTC PROPERTIES INC	CF–10
103944	LTV AEROSPACE & DEFENSE CO	CF–02
060731	LTV CORP	CF–02
083264	LTV STEEL CO INC	CF–02
357020	LTX CORP	CF–04
857401	LUBBOCK NATIONAL BANCSHARES INC	CF–10
832103	LUBRIQUIP INC	CF–09
060751	LUBRIZOL CORP	CF–03
016099	LUBYS CAFETERIAS INC	CF–04
060849	LUFKIN INDUSTRIES INC	CF–04
060860	LUKENS INC /DE/	CF–03
857802	LUKENS MEDICAL CORP	CF–10
060876	LUMEX INC	CF–05
060878	LUMINALL PAINTS INC	CF–09
864906	LUNAR CORP	CF–06
820526	LUND INTERNATIONAL HOLDINGS INC	CF–07
060911	LUNN INDUSTRIES INC /DE/	CF–08
277057	LURIA L & SON INC	CF–04
319204	LUTHER MEDICAL PRODUCTS INC	CF–08
821365	LUTHERAN BROTHERHOOD REALTY FUND I	CF–07
793523	LUXTEC CORP /MA/	CF–08
058526	LVI GROUP INC	CF–04
057792	LW INDUSTRIES INC	CF–04
806277	LWAY PRODUCTIONS INC	CF–08
872865	LXE INC	CF–10
060977	LYDALL INC /DE/	CF–05
061004	LYNCH CORP	CF–05
027566	LYNTON GROUP INC	CF–07
352180	LYNX EXPLORATION CO	CF–08
842635	LYONDELL PETROCHEMICAL CO	CF–02
319420	LYRIC ENERGY INC	CF–08
710846	M INC	CF–09
883842	M WAVE INC	CF–10
885532	M&F BANCORP INC	CF–10
065771	MA COM INC	CF–03
061138	MACDERMID INC	CF–05
867347	MACGREGOR SPORTS & FITNESS INC	CF–10
320654	MACHINE TECHNOLOGY INC	CF–06
810903	MACK TRUCKS RECEIVABLES CORP	CF–08
855711	MACKENZIE INVESTMENT MANAGEMENT INC	CF–10
866939	MACKINAC FINANCIAL CORP	CF–09
863658	MACLAND INC	CF–10
717238	MACNEAL SCHWENDLER CORP	CF–05
743884	MACROCHEM CORP	CF–08
846809	MADISON BANCSHARES GROUP LTD	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
822822	MADISON EQUITIES INC	CF–10
061339	MADISON GAS & ELECTRIC CO	CF–03
350838	MADISON JAMES LTD	CF–04
854662	MAF BANCORP INC	CF–10
880431	MAGAININ PHARMACEUTICALS INC	CF–10
061398	MAGELLAN PETROLEUM CORP /DE/	CF–05
855923	MAGELLAN TECHNOLOGY INC	CF–10
702389	MAGIC CIRCLE ENERGY 1981–A DRILLING PROG	CF–09
702400	MAGIC CIRCLE ENERGY 1981–B DRILLING PROG	CF–09
356128	MAGIC CIRCLE ENERGY 1982 DRILLING PROGRAM	CF–08
837596	MAGIC RESTAURANTS INC	CF–09
061425	MAGMA COPPER CO	CF–03
355878	MAGMA POWER CO /NV/	CF–04
868568	MAGNA BANCORP INC	CF–10
036094	MAGNA GROUP INC	CF–07
743051	MAGNETECH CORP	CF–07
751085	MAGNETEK INC	CF–03
015354	MAGNETIC TECHNOLOGIES CORP	CF–07
794107	MAGNOLIA FOODS INC	CF–08
853291	MAGNOLIA FUND LTD	CF–10
854271	MAGNUM PETROLEUM INC /NV/	CF–10
791912	MAGNUM RESOURCES INTERNATIONAL INC /NV/	CF–08
882859	MAHONING NATIONAL BANCORP INC	CF–10
760436	MAI BASIC FOUR INC	CF–03
809013	MAIL BOXES COAST TO COAST INC	CF–08
791014	MAIL BOXES ETC	CF–06
947456	MAIN ST & MAIN INC	CF–10
061611	MAINE PUBLIC SERVICE CO	CF–05
061617	MAINE YANKEE ATOMIC POWER CO	CF–03
061700	MAJOR GROUP INC	CF–06
061666	MAJOR REALTY CORP	CF–06
819926	MALEX INC	CF–09
847390	MALIBU INC	CF–10
820082	MALLARD COACH CO INC	CF–05
837750	MALLON RESOURCES CORP	CF–06
803018	MALRITE GUARANTEED BROADCAST PARTNERS LT	CF–10
704366	MAMMATECH CORP	CF–08
801425	MANAGEMENT ADVISORY SOFTWARE INC/DE/	CF–08
785852	MANAGEMENT ASSISTANCE INC LIQUIDATING TR	CF–07
806566	MANAGEMENT TECHNOLOGIES INC	CF–07
061882	MANATI INDUSTRIES INC	CF–09
798736	MANATRON INC	CF–07
866253	MANDI OF ESSEX LTD	CF–10
061953	MANHATTAN LIFE INSURANCE	CF–10
061952	MANHATTAN NATIONAL CORP	CF–04
061981	MANISCHEWITZ B CO	CF–06
061986	MANITOWOC CO INC	CF–04
354604	MANOR CARE INC/NEW	CF–03
871763	MANPOWER INC /WI/	CF–10
062090	MANSION INDUSTRIES INC	CF–07
721588	MANUFACTURED HOMES INC	CF–05
355473	MANVILLE CORP	CF–02
062142	MAPCO INC	CF–02
718446	MARATHON BANCORP	CF–06
794620	MARBLE FINANCIAL CORP	CF–08
356287	MARC INC	CF–06
100979	MARCADE GROUP INC	CF–04
848551	MARCAM CORP	CF–10
827055	MARCO VENTURES	CF–09
734380	MARCOR RESORTS INC	CF–05
882154	MARCUM NATURAL GAS SERVICES INC/NEW	CF–10
062234	MARCUS CORP	CF–04
881469	MARGARETTEN FINANCIAL CORP	CF–10
761198	MARGATE VENTURES INC	CF–06
709694	MARGAUX INC /DE/	CF–07
808493	MARGO NURSERY FARMS INC	CF–06
792969	MARIETTA CORP	CF–05
876686	MARIFARMS INC /DE/	CF–10
831669	MARIN FUND INC	CF–09
803605	MARINA LIMITED PARTNERSHIP	CF–07
860521	MARINE HOLDING CO	CF–10
814654	MARINE MIDLAND 1987–1 CARS TRUST	CF–10
846890		
846891		
846221		
852540		
316905		
062348		
062362		
062391		
715781		
810113		
820392		
877989		
062418		
803509		
833837		
062465		
720462		
874758		
749890		
869708		
739281		
784508		
756680		
840070		
096988		
719497		
314733		
829549		
796972		
810590		
062709		
062737		
062741		
062765		
857475		
799167		
745600		
062857		
832496		
874808		
853020		
062996		
745448		
850338		
879558		
761651		
855610		
063073		
799166		
715086		
743250		
808497		
835712		
849360		
085608		
755003		
742246		
837339		
884847		
882194		
866273		
063276		
350198		
728296		
795255		
063296		
842305		
063330		
792161		
727089		
869087		
706471		

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
846890	MARINE MIDLAND 1988–1 CARS R TRUST	CF–10
846891	MARINE MIDLAND 1988–2 CARS R TRUST	CF–10
846221	MARINE MIDLAND 1989–1 CARS R TRUST	CF–10
852540	MARINE MIDLAND 1989–2 CARS R TRUST	CF–10
316905	MARINE MIDLAND BANK N A	CF–10
062348	MARINE MIDLAND BANKS INC	CF–06
062362	MARINE PETROLEUM TRUST	CF–08
062391	MARION MERRELL DOW INC	CF–03
715781	MARITEK CORP	CF–08
810113	MARITRANS PARTNERS LP	CF–04
820392	MARK CONTROLS CORP /DE/	CF–05
877989	MARK CORRECTIONAL SYSTEMS INC /DE/	CF–10
062418	MARK IV INDUSTRIES INC	CF–01
803509	MARKEL CORP	CF–05
833837	MARKET DATA CORP	CF–09
062465	MARKET FACTS INC	CF–06
720462	MARKET GUIDE INC	CF–08
874758	MARKET INVESTMENTS INC	CF–10
749890	MARKET LINE INTERNATIONAL INC	CF–09
869708	MARKETING EDUCATIONAL CORP	CF–10
739281	MARKETING SYSTEMS OF AMERICA INC	CF–07
784508	MARKETPLACE INCOME PROPERTIES	CF–06
756680	MARKITSTAR INC	CF–07
840070	MARLENE INDUSTRIES CORP/NY	CF–09
096988	MARLTON TECHNOLOGIES INC	CF–07
719497	MARQUEST MEDICAL PRODUCTS INC	CF–05
314733	MARRIOTT CORP	CF–04
829549	MARROW TECH INC	CF–07
796972	MARS GRAPHIC SERVICES INC	CF–06
810590	MARSAM PHARMACEUTICALS INC	CF–06
062709	MARSH & MCLENNAN COMPANIES INC	CF–04
062737	MARSH SUPERMARKETS INC	CF–04
062741	MARSHALL & ILSLEY CORP/WI/	CF–02
062765	MARSHALL INDUSTRIES	CF–04
857475	MARTECH USA INC	CF–10
799167	MARTEN TRANSPORT LTD	CF–05
745600	MARTIN LAWRENCE LIMITED EDITIONS INC	CF–05
062857	MARTIN MARIETTA CORP	CF–02
832496	MARTINIQUE VENTURES CORP	CF–09
874808	MARVEL ENTERTAINMENT GROUP INC	CF–10
853020	MARYLAND FEDERAL BANCORP INC	CF–10
062996	MASCO CORP /DE/	CF–02
745448	MASCO INDUSTRIES INC	CF–02
850338	MASCOTT CORP	CF–07
879558	MASON DIXON BANCSHARES INC/MD	CF–10
761651	MASON GEORGE BANKSHARES INC	CF–05
855610	MASS MICROSYSTEMS INC	CF–07
063073	MASSACHUSETTS ELECTRIC CO	CF–01
799166	MASSBANK CORP	CF–08
715086	MASSTOR SYSTEMS CORP /DE/	CF–06
743250	MAST KEYSTONE INC	CF–08
808497	MAST OPTICAL SYSTEMS INC	CF–09
835712	MASTER MORTGAGE INVESTMENT FUND INC	CF–09
849360	MASTER VENTURES INC	CF–10
085608	MATEC CORP/DE/	CF–06
755003	MATERIAL SCIENCES CORP	CF–05
742246	MATEWAN BANCSHARES INC	CF–05
837339	MATLACK SYSTEMS INC	CF–05
884847	MATRITECH INC/DE/	CF–10
882194	MATRIX PHARMACEUTICAL INC/DE	CF–10
866273	MATRIX SERVICE CO	CF–10
063276	MATTEL INC /DE/	CF–03
350198	MATTERHORN COMMODITY PARTNERS	CF–07
728296	MATTERHORN COMMODITY PARTNERS II	CF–07
795255	MATTHEWS & WRIGHT GROUP INC	CF–06
063296	MATTHEWS INTERNATIONAL CORP	CF–05
842305	MAUI CAPITAL CORP	CF–09
063330	MAUI LAND & PINEAPPLE CO INC	CF–05
792161	MAUNA LOA MACADAMIA PARTNERS LP	CF–05
727089	MAVERICK RESTAURANT CORP	CF–07
869087	MAVERICK TUBE CORPORATION	CF–10
706471	MAX & ERMAS RESTAURANTS INC	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
078968	MAXCO INC	CF–06
799511	MAXI GROUP INC	CF–09
722573	MAXICARE HEALTH PLANS INC	CF–04
743316	MAXIM INTEGRATED PRODUCTS INC	CF–05
711039	MAXTOR CORP	CF–03
877651	MAXUM HEALTH CORP	CF–10
724176	MAXUS ENERGY CORP /DE/	CF–02
318815	MAXWELL LABORATORIES INC /DE/	CF–05
764542	MAXXAM GROUP INC /DE/	CF–02
063814	MAXXAM INC	CF–02
063416	MAY DEPARTMENT STORES CO	CF–02
711308	MAY DRILLING PARTNERSHIP 1983–1	CF–09
711309	MAY DRILLING PARTNERSHIP 1983–2	CF–09
711310	MAY DRILLING PARTNERSHIP 1983–3	CF–09
739645	MAY DRILLING PARTNERSHIP 1984–1	CF–09
739646	MAY DRILLING PARTNERSHIP 1984–2	CF–09
739647	MAY DRILLING PARTNERSHIP 1984–3	CF–09
725650	MAY LIMITED PARTNERSHIP 1983–1	CF–09
735552	MAY LIMITED PARTNERSHIP 1983–2	CF–09
743453	MAY LIMITED PARTNERSHIP 1983–3	CF–09
757525	MAY LIMITED PARTNERSHIP 1984–1	CF–09
757585	MAY LIMITED PARTNERSHIP 1984–2	CF–09
765946	MAY LIMITED PARTNERSHIP 1984–3	CF–09
063506	MAYFLOWER GROUP INC /IN/	CF–03
063528	MAYNARD OIL CO	CF–05
054187	MAYS J W INC	CF–06
063541	MAYTAG CORP	CF–02
701073	MBC CORP	CF–05
814585	MBIA INC	CF–04
870517	MBNA CORP	CF–10
824090	MBNA CREDIT CARD TRUST 1987–A	CF–09
831260	MBNA CREDIT CARD TRUST 1988–A	CF–09
838441	MBNA CREDIT CARD TRUST 1988–B	CF–10
843807	MBNA CREDIT CARD TRUST 1988–C	CF–10
849492	MBNA CREDIT CARD TRUST 1989–A	CF–10
855367	MBNA CREDIT CARD TRUST 1989–B	CF–10
890801	MCAFEE ASSOCIATES INC	CF–10
818687	MCCAW CELLULAR COMMUNICATIONS INC	CF–02
063686	MCCLAIN INDUSTRIES INC	CF–06
822043	MCCLATCHY NEWSPAPERS INC	CF–03
750500	MCCOMBS INCOME PARTNERS LTD	CF–07
353391	MCCOMBS PROPERTIES V LTD	CF–09
356681	MCCOMBS PROPERTIES VI LTD	CF–09
721937	MCCOMBS PROPERTIES VIII LTD	CF–09
759198	MCCOMBS REALTY PARTNERS LTD	CF–09
276282	MCCOMBS RENTA SPACE PROPERTIES LTD	CF–09
063754	MCCORMICK & CO INC	CF–03
354995	MCCORMICK COMMODITY FUND I LIMITED PARTN	CF–06
702405	MCCORMICK COMMODITY FUND II LIMITED PART	CF–07
843819	MCCORMICK COMMODITY FUND III LIMITED PAR	CF–09
063801	MCCRORY CORP	CF–03
055211	MCCRORY PARENT CORP	CF–03
768942	MCDANIEL AUSTIN CORP	CF–08
225615	MCDERMOTT INC	CF–07
708819	MCDERMOTT INTERNATIONAL INC	CF–02
720900	MCDONALD & CO INVESTMENTS INC	CF–04
063908	MCDONALDS CORP	CF–02
823251	MCDONNELL DOUGLAS CAPITAL INCOME 1A LP	CF–09
823252	MCDONNELL DOUGLAS CAPITAL INCOME 1B LP	CF–09
823253	MCDONNELL DOUGLAS CAPITAL INCOME 1C LP	CF–09
823254	MCDONNELL DOUGLAS CAPITAL INCOME 1D LP	CF–09
823256	MCDONNELL DOUGLAS CAPITAL INCOME 1E LP	CF–09
063917	MCDONNELL DOUGLAS CORP	CF–02
711513	MCDONNELL DOUGLAS FINANCE CORP /DE	CF–02
063959	MCFARLAND ENERGY INC	CF–05
883498	MCGAW INC	CF–10
752714	MCGRATH RENTCORP	CF–05
064040	MCGRAW HILL INC	CF–01
064079	MCI COMMUNICATIONS CORP	CF–01
816768	MCKESSON CORP /DE/	CF–01
275710	MCM CORP	CF–05
079383	MCMARTIN INC	CF–08

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
837579	MCN CORP	CF–01
064309	MCNEIL PACIFIC INVESTORS FUND 1972	CF–06
357270	MCNEIL PENSION INVESTMENT FUND LTD	CF–07
064312	MCNEIL REAL ESTATE FUND IV LTD	CF–07
276326	MCNEIL REAL ESTATE FUND IX LTD	CF–05
064310	MCNEIL REAL ESTATE FUND V LTD	CF–07
312812	MCNEIL REAL ESTATE FUND X LTD	CF–05
318140	MCNEIL REAL ESTATE FUND XI LTD	CF–05
351708	MCNEIL REAL ESTATE FUND XII LTD	CF–04
702657	MCNEIL REAL ESTATE FUND XIV LTD	CF–05
751044	MCNEIL REAL ESTATE FUND XV LTD /CA	CF–05
756427	MCNEIL REAL ESTATE FUND XXIV LP	CF–06
750334	MCNEIL REAL ESTATE FUND XX LP	CF–06
783414	MCNEIL REAL ESTATE FUND XXIII LP	CF–06
064924	MCORP	CF–03
729284	MCRAE INDUSTRIES INC/DE	CF–06
806178	MD ENTERPRISES OF CONNECTICUT INC	CF–08
773141	MDC HOLDINGS INC	CF–02
806089	MDT CORP /DE/	CF–05
067716	MDU RESOURCES GROUP INC	CF–03
064394	MEAD CORP	CF–02
829903	MEADOW GROUP INC	CF–08
778734	MEASUREMENT SPECIALTIES INC	CF–07
751190	MEASUREX CORP /DE/	CF–03
864704	MECA SOFTWARE INC	CF–10
064463	MECHANICAL TECHNOLOGY INC	CF–05
802897	MECHANICS & FARMERS SAVINGS BANK FSB	CF–09
857887	MED CARE CORP	CF–06
722566	MED VENTURE INC	CF–09
064493	MEDALIST INDUSTRIES INC	CF–05
878556	MEDAPHIS CORPORATION	CF–10
719152	MEDAR INC	CF–06
874255	MEDAREX INC	CF–10
711074	MEDCHEM PRODUCTS INC /MA/	CF–05
741520	MEDCO CONTAINMENT SERVICES INC	CF–03
064500	MEDCO GROUP INC	CF–07
723385	MEDCO RESEARCH INC	CF–08
849145	MEDCROSS INC	CF–07
865629	MEDENTA CORP	CF–10
064513	MEDEX INC	CF–06
859364	MEDGROUP INC	CF–09
832485	MEDI MAIL INC /NV/	CF–08
818181	MEDIA DEVELOPMENT INDUSTRIES LTD	CF–09
216539	MEDIA GENERAL INC	CF–03
815185	MEDIA LOGIC INC	CF–07
718877	MEDIAGENIC	CF–06
885378	MEDIC COMPUTER SYSTEMS INC	CF–10
748270	MEDICAL ACTION INDUSTRIES INC	CF–06
771252	MEDICAL ADVISORY SYSTEMS INC	CF–08
890207	MEDICAL CARE AMERICA INC	CF–10
064578	MEDICAL DEVICES INC	CF–07
879205	MEDICAL DIAGNOSTICS INC/DE	CF–10
216540	MEDICAL DYNAMICS INC	CF–07
839092	MEDICAL EQUIPMENT INCOME FUND LIMITED PA	CF–09
352862	MEDICAL GRAPHICS CORP /MN/	CF–07
746712	MEDICAL IMAGING CENTERS OF AMERICA INC	CF–05
814433	MEDICAL INCOME PROPERTIES 2A LTD PARTNER	CF–09
820390	MEDICAL INCOME PROPERTIES 2B LTD PARTNER	CF–10
835908	MEDICAL INNOVATIONS INC /DE/	CF–07
872457	MEDICAL MARKETING GROUP INC	CF–10
803608	MEDICAL PROPERTIES INC	CF–05
105744	MEDICAL RESOURCE COMPANIES OF AMERICA	CF–06
881891	MEDICAL SAFETEC INC /IN	CF–10
810107	MEDICAL SCIENCES INC	CF–09
723592	MEDICAL STERILIZATION INC	CF–07
823560	MEDICAL TECHNOLOGY SYSTEMS INC /DE/	CF–08
731841	MEDICINE SHOPPE INTERNATIONAL INC	CF–05
859368	MEDICIS PHARMACEUTICAL CORP	CF–10
008643	MEDICORE INC	CF–06
876625	MEDICUS SYSTEMS CORP /DE	CF–10
873591	MEDIMMUNE INC /DE	CF–10
350920	MEDIQ INC	CF–03

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
887420	MEDIQ PRN LIFE SUPPORT SERVICES INC	CF–10
064647	MEDISCIENCE TECHNOLOGY CORP	CF–08
859049	MEDISYS INC /DE/	CF–10
769609	MEDITECH MANAGEMENT INC	CF–08
717588	MEDITECH PHARMACEUTICALS INC	CF–09
774350	MEDITRUST INC	CF–03
715994	MEDIVIX INC	CF–08
874733	MEDIWARE INFORMATION SYSTEMS INC	CF–10
753772	MEDIZONE INTERNATIONAL INC	CF–09
794324	MEDMASTER SYSTEMS INC /DE/	CF–08
771674	MEDPHONE CORP	CF–08
884497	MEDQUIST INC	CF–10
886192	MEDRAD INC	CF–10
880432	MEDSONIC INC	CF–10
726732	MEDSTAT SYSTEMS INC	CF–08
819939	MEDSTONE INTERNATIONAL INC /DE/	CF–06
064670	MEDTRONIC INC	CF–01
064674	MEDUSA CORP	CF–05
828942	MEGA GROUP INC	CF–08
878838	MEGACARDS INC /MO	CF–10
225628	MEGADATA CORP	CF–07
888139	MEGAFOODS STORES INC	CF–10
833498	MEGAMATION INC	CF–10
794355	MEGAPIX CORP	CF–09
064708	MEGATECH CORP	CF–08
745213	MEGATEST CORP	CF–06
736035	MEGO CORP	CF–09
790725	MEI DIVERSIFIED INC	CF–04
805644	MEICOR INC	CF–08
816955	MELAMINE CHEMICALS INC	CF–05
841126	MELBOURNE CAPITAL CORP	CF–09
777197	MELBOURNE FUTURES FUND L P	CF–08
350088	MELDON ALUMNI INC	CF–08
064782	MELLON BANK CORP	CF–02
759174	MELLON PARTICIPATING MORTGAGE TRUST COMM	CF–05
064803	MELVILLE CORP	CF–02
064807	MEM CO INC	CF–05
813342	MEMBERS SERVICE CORP	CF–07
110704	MEMOREX CORP /DE/	CF–09
097031	MEMOREX TELEX CORP	CF–02
819203	MEMORY SCIENCES CORP /DE/	CF–08
720896	MEMRY CORP	CF–07
783996	MENDIK REAL ESTATE LIMITED PARTNERSHIP	CF–04
881462	MENLEY & JAMES INC	CF–10
884217	MENS WEARHOUSE INC	CF–10
064892	MENTOR CORP /MN/	CF–05
701811	MENTOR GRAPHICS CORP	CF–01
819843	MEPC CAPITAL CORP	CF–03
831654	MEPC CAPITAL CORP II	CF–09
064907	MERCANTILE BANCORPORATION INC	CF–02
064908	MERCANTILE BANKSHARES CORP	CF–03
064923	MERCANTILE STORES CO INC	CF–02
850314	MERCHANT BANK CORP	CF–10
862371	MERCHANT CAPITAL ENTERPRISES INC	CF–10
740666	MERCHANTS BANCORP INC/CT	CF–04
707817	MERCHANTS BANCORP INC/DE/	CF–08
726517	MERCHANTS BANCSHARES INC	CF–04
821121	MERCHANTS CAPITAL CORP /DE/	CF–08
357065	MERCHANTS CAPITAL CORP /MS/	CF–05
803027	MERCHANTS GROUP INC	CF–05
064978	MERCK & CO INC	CF–02
850315	MERCOM INC	CF–06
052532	MERCURY AIR GROUP INC	CF–06
846378	MERCURY FINANCE COMPANY	CF–03
064996	MERCURY GENERAL CORP	CF–09
065011	MEREDITH CORP	CF–03
714282	MERET INC /OH/	CF–07
873083	MERIDIAN ASSET ACCEPTANCE CORP	CF–10
723916	MERIDIAN BANCORP INC	CF–02
794172	MERIDIAN DIAGNOSTICS INC	CF–07
833051	MERIDIAN FUND LTD	CF–09
826632	MERIDIAN HEALTHCARE GROWTH & INCOME FUND	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
809801	MERIDIAN INSURANCE GROUP INC	CF–05
717192	MERIDIAN NATIONAL CORP	CF–06
315138	MERIDIAN POINT REALTY TRUST 82	CF–07
703702	MERIDIAN POINT REALTY TRUST 83	CF–05
759819	MERIDIAN POINT REALTY TRUST IV	CF–05
786050	MERIDIAN POINT REALTY TRUST VI	CF–05
774653	MERIDIAN POINT REALTY TRUST VII	CF–04
875620	MERIS LABORATORIES INC	CF–10
789949	MERLIN MINING CO	CF–07
841237	MERRICO OIL & GAS INCOME FUND LTD PARTNE	CF–10
790406	MERRILL CORP	CF–01
065100	MERRILL LYNCH & CO INC	CF–02
351709	MERRILL LYNCH CORPORATE PASS THROUGH SEC	CF–09
713977	MERRILL LYNCH ENERGY PARTNERS I LP	CF–09
780217	MERRILL LYNCH ENERGY PARTNERS IIA L P	CF–09
780219	MERRILL LYNCH ENERGY PARTNERS IIB L P	CF–09
874256	MERRILL LYNCH MORTGAGE CAPITAL INC	CF–10
809940	MERRILL LYNCH MORTGAGE INVESTORS INC /DE	CF–09
706864	MERRIMAC INDUSTRIES INC	CF–06
810737	MERRIMACK BANCORP INC	CF–07
719721	MERRY GO ROUND ENTERPRISES INC	CF–04
350071	MERRY LAND & INVESTMENT CO INC	CF–03
810332	MESA AIRLINES INC	CF–06
774491	MESA CONTRACT MINING INC	CF–08
877930	MESA INC	CF–02
724004	MESA MEDICAL INC	CF–08
711303	MESA OFFSHORE TRUST	CF–09
313364	MESA ROYALTY TRUST/TX	CF–06
065172	MESABI TRUST	CF–07
065195	MESTEK INC	CF–05
814085	MET CAPITAL CORPORATION	CF–07
745469	MET COIL SYSTEMS CORP	CF–05
824976	MET LIFE AGRICULTURAL LIMITED PARTNERSHI	CF–10
065201	MET PRO CORP	CF–06
320303	METAL ARTS CO INC	CF–08
812186	METAL RESOURCES CORP	CF–07
013547	METALCLAD CORP	CF–07
065224	METALINE MINING & LEASING CO	CF–09
065231	METALLURGICAL INDUSTRIES INC	CF–07
203200	METATEC CORP	CF–06
065270	METHODE ELECTRONICS INC	CF–05
829321	METLIFE TEXAS HOLDINGS INC	CF–10
846722	METRIC INCOME TRUST SERIES INC	CF–10
800730	METRIC PARTNERS GROWTH SUITE INVESTORS L	CF–09
884318	METRICOM INC / DE	CF–10
355625	METRO AIRLINES INC	CF–05
837602	METRO BANCSHARES INC	CF–07
353601	METRO CABLE CORP	CF–07
857891	METRO FINANCIAL CORP	CF–10
749922	METRO MOBILE CTS INC	CF–03
277143	METRO SELF STORAGE LTD PARTNERSHIP I	CF–07
799667	METRO SELF STORAGE LTD PARTNERSHIP–II	CF–08
065312	METRO TEL CORP	CF–07
818999	METROBANCORP	CF–10
813898	METROBANK FINANCIAL GROUP INC	CF–07
200513	METROCORP INC	CF–05
065350	METROPOLITAN EDISON CO	CF–01
741341	METROPOLITAN FINANCIAL CORP /DE/	CF–03
773540	METROPOLITAN FUND DOVER PENSION INVESTOR	CF–09
065381	METROPOLITAN MINES CORP LTD	CF–08
065384	METROPOLITAN MORTGAGE & SECURITIES CO INC	CF–03
811516	METROPOLITAN REALTY CORP	CF–05
880581	METROVISION OF NORTH AMERICA INC	CF–10
066418	MEXCO ENERGY CORP	CF–08
851891	MEXICAN PATIO CAFES INC	CF–10
839626	MEXICAN PATIO CAFES OF CALIFORNIA I LIMI	CF–10
701169	MEYER FRED INC	CF–03
702131	MGI PHARMA INC	CF–05
068330	MGI PROPERTIES	CF–04
876437	MGIC INVESTMENT CORP	CF–10
880356	MGM GRAND HOTEL FINANCE CORP	CF–10
789570	MGM GRAND INC	CF–04

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
778706	MGM PATHE COMMUNICATIONS CO	CF–02
067217	MHI GROUP INC	CF–05
743385	MHP MACHINES INC	CF–07
854087	MHS HOLDINGS CORP	CF–03
799292	MI SCHOTTENSTEIN HOMES INC	CF–05
875174	MIAMI SUBS CORP	CF–10
874788	MICEL CORP	CF–10
799515	MICHAEL ANTHONY JEWELERS INC	CF–05
811930	MICHAEL FOODS INC	CF–04
065596	MICHAELS J INC	CF–06
740670	MICHAELS STORES INC	CF–04
065622	MICHIGAN BELL TELEPHONE CO	CF–01
065632	MICHIGAN CONSOLIDATED GAS CO /MI/	CF–01
065637	MICHIGAN FINANCIAL CORP	CF–07
065648	MICHIGAN GENERAL CORP	CF–05
065660	MICHIGAN NATIONAL CORP	CF–02
065655	MICHIGAN RIVET CORP	CF–06
065705	MICKELBERRY CORP	CF–05
318251	MICRO BIO MEDICS INC	CF–06
067383	MICRO GENERAL CORP	CF–07
795965	MICRO HEALTHSYSTEMS INC	CF–07
800267	MICRO IMAGING SYSTEMS INC	CF–07
736469	MICRO SECURITY SYSTEMS INC	CF–01
814249	MICROAGE INC /DE/	CF–05
771570	MICROBYX CORP	CF–09
793629	MICROCARE INC	CF–09
795571	MICROCOM INC	CF–05
065743	MICRODYNE CORP	CF–06
740622	MICROENERGY INC	CF–07
754813	MICROFRAME INC	CF–08
792094	MICROLOG CORP	CF–06
803512	MICRON CORP /TX/	CF–10
804334	MICRON PRODUCTS INC	CF–07
723125	MICRON TECHNOLOGY INC	CF–03
820097	MICRONETICS INC /DE/	CF–09
874737	MICRONICS COMPUTERS INC /CA	CF–10
065759	MICROPAC INDUSTRIES INC	CF–07
718885	MICROPOLIS CORP	CF–04
878197	MICROPROSE INC	CF–10
320345	MICROS SYSTEMS INC	CF–06
812994	MICROSCIENCE INTERNATIONAL CORPORATION	CF–10
310568	MICROSEMI CORP	CF–05
744099	MICROSIZE INC	CF–08
789019	MICROSOFT CORP	CF–02
755720	MICROTECH MEDICAL SYSTEMS INC	CF–08
846469	MICROTEL FRANCHISE & DEVELOPMENT CORP /N	CF–08
716588	MICROWAVE FILTER CO INC /NY	CF–07
798289	MICROWAVE LABORATORIES INC	CF–07
794278	MID ALLEGHENY CORP	CF–09
357066	MID AM INC	CF–07
711083	MID AMERICA BANCORP/KY/	CF–03
813309	MID AMERICA RACING STABLES INC	CF–08
065820	MID AMERICAN LINES INC	CF–06
759727	MID ATLANTIC BANKCORP	CF–09
808375	MID ATLANTIC CENTERS LIMITED PARTNERSHIP	CF–05
805037	MID ATLANTIC MEDICAL SERVICES INC	CF–07
709331	MID CITY BANCORP	CF–06
851785	MID COAST BANCORP INC	CF–10
889134	MID IOWA FINANCIAL CORP	CF–10
879635	MID PENN BANCORP INC	CF–10
065901	MID PLAINS TELEPHONE INC	CF–05
713143	MID SOUTH BANCORP INC /KY/	CF–08
791254	MID SOUTH INSURANCE CO	CF–09
065914	MID STATE RACEWAY INC	CF–07
828978	MID STATE TRUST II	CF–09
793768	MID STATES BANCSHARES INC	CF–05
859734	MIDAMERICA RESOURCES INC	CF–10
908687	MIDAMERICAN CORP	CF–09
768520	MIDDLEBY CORP	CF–05
066004	MIDDLESEX WATER CO	CF–05
066025	MIDLAND CO	CF–04
869905	MIDLAND COGENERATION VENTURE LIMITED PARTNERSHIP	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
066029	MIDLAND ENTERPRISES INC /DE/	CF–03
793548	MIDLANTIC CORP	CF–02
833727	MIDMERICA BANK CORP	CF–09
066078	MIDNITE MINES INC	CF–08
745981	MIDSOUTH BANCORP INC	CF–06
807359	MIDSOUTH CORP /DE/	CF–04
779587	MIDTOWN NORTH LTD /GA/	CF–09
319668	MIDWAY AIRLINES INC /DE/	CF–03
857135	MIDWESCO FILTER RESOURCES INC	CF–07
811783	MIDWEST BEST WATER SALES INC	CF–08
813745	MIDWEST COMMUNICATIONS CORP /DE/	CF–05
740072	MIDWEST ENERGY CO	CF–02
885722	MIDWEST FEDERAL FINANCIAL CORP	CF–10
835011	MIDWEST GRAIN PRODUCTS INC	CF–05
066124	MIDWEST MANAGEMENT CORP	CF–08
879355	MIDWEST POWER SYSTEMS INC/IA/	CF–10
812766	MIDWEST RESOURCES INC	CF–10
787809	MIKRON INSTRUMENT CO INC	CF–08
317340	MIKROS SYSTEMS CORP	CF–08
066544	MILASTAR CORP	CF–07
817129	MILESTONE CAPITAL INC	CF–09
858387	MILESTONE PROPERTIES INC	CF–10
066270	MILGRAY ELECTRONICS INC	CF–05
873781	MILLBURN CURRENCY FUND II LP	CF–10
791905	MILLER BUILDING SYSTEMS INC	CF–06
844856	MILLER DIVERSIFIED CORP	CF–10
066382	MILLER HERMAN INC	CF–03
066388	MILLER INDUSTRIES INC	CF–08
857737	MILLFELD TRADING CO INC	CF–06
703769	MILLICOM INC	CF–04
066479	MILLIPORE CORP	CF–03
075136	MILLS JENNINGS CO	CF–07
066496	MILLS MUSIC TRUST	CF–09
768604	MILTEX MORTGAGE ACCEPTANCE CORP	CF–06
752692	MILTOPE GROUP INC	CF–05
801321	MILWAUKEE INSURANCE GROUP INC	CF–05
781889	MIMBRES VALLEY FARMERS ASSOC INC	CF–07
066570	MINE SAFETY APPLIANCES CO	CF–03
316300	MINERAL DEVELOPMENT INC	CF–09
842179	MINERAL KING BANCORP INC	CF–09
066600	MINERAL MOUNTAIN MINING & MILLING CO	CF–09
714309	MINERS NATIONAL BANCORP INC	CF–08
350389	MINEX RESOURCES INC	CF–08
356342	MINING SERVICES INTERNATIONAL CORP	CF–06
714921	MINISCRIBE CORP	CF–05
066740	MINNESOTA MINING & MANUFACTURING CO	CF–02
066756	MINNESOTA POWER & LIGHT CO	CF–02
724969	MINNTECH CORP	CF–06
007119	MINSTAR INC	CF–04
768680	MIP PROPERTIES INC	CF–05
857327	MIPS COMPUTER SYSTEMS INC /CA/	CF–04
831246	MIRAMAR RESOURCES INC	CF–07
783738	MIRROR TECHNOLOGIES INC /DE/	CF–08
066849	MISCHER CORP	CF–05
875044	MISSIMER & ASSOCIATES INC	CF–10
803868	MISSION BAY SUPER 8 LTD	CF–07
810661	MISSION VALLEY COMFORT SUITES LTD	CF–07
704874	MISSION WEST PROPERTIES/NEW/	CF–05
066895	MISSISSIPPI CHEMICAL CORP	CF–04
066901	MISSISSIPPI POWER & LIGHT CO	CF–02
066904	MISSISSIPPI POWER CO	CF–01
310183	MISSOURI PACIFIC RAILROAD CO/DEL	CF–02
066965	MISSOURI RESEARCH LABORATORIES INC	CF–07
311995	MITCHELL ENERGY & DEVELOPMENT CORP	CF–02
807863	MITEK SYSTEMS INC	CF–07
736456	MIZLOU COMMUNICATIONS CO INC	CF–07
883900	MIZNER /1ST UNITED BANCORP	CF–10
822760	ML ASSET BACKED CORP	CF–09
795252	ML DELPHI PREMIER PARTNERS LP	CF–09
808369	ML EQ REAL ESTATE PORTFOLIO L P	CF–04
880234	ML INSTITUTIONAL PARTNERS L P	CF–10
818080	ML MEDIA OPPORTUNITY PARTNERS L P	CF–04

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
705959	ML MEDIA PARTNERS LP	CF–03
825036	ML REAL ESTATE RECOVERY FUND L P	CF–09
748828	ML TECHNOLOGY VENTURES LP	CF–06
837561	ML TRUST XLI	CF–09
317150	MLH INCOME REALTY PARTNERSHIP	CF–09
701285	MLH INCOME REALTY PARTNERSHIP II	CF–09
710132	MLH INCOME REALTY PARTNERSHIP III	CF–08
718417	MLH INCOME REALTY PARTNERSHIP IV	CF–08
755643	MLH INCOME REALTY PARTNERSHIP V	CF–08
771586	MLH INCOME REALTY PARTNERSHIP VI	CF–08
310990	MLH PROPERTIES LTD PARTNERSHIP	CF–09
316223	MLH PROPERTIES LTD PARTNERSHIP II	CF–09
350871	MLH PROPERTIES LTD PARTNERSHIP III	CF–09
353940	MLL EQUIPMENT INVESTORS I	CF–07
700731	MLL EQUIPMENT INVESTORS II	CF–07
064247	MLX CORP /MI	CF–04
746072	MMI MEDICAL INC	CF–06
810668	MMR HOLDING CORP	CF–04
062973	MNC FINANCIAL INC /MD/	CF–02
795425	MNX INC	CF–05
067182	MOBIL CORP	CF–01
862072	MOBIL OIL CORP ESOP TRUST	CF–01
067159	MOBILE AMERICA CORP	CF–07
067212	MOBILE GAS SERVICE CORP	CF–05
783739	MOBILE NATIONAL CORP	CF–08
842915	MOBILE TELECOMMUNICATION TECHNOLOGIES CO	CF–05
877356	MOBLEY ENVIRONMENTAL SERVICES INC	CF–10
067251	MOD U KRAF HOMES INC	CF–07
067279	MODERN CONTROLS INC	CF–07
875222	MODERN RECORDS INC	CF–10
711422	MODERN TECHNOLOGY CORP	CF–08
067347	MODINE MANUFACTURING CO	CF–04
864601	MODTECH INC	CF–10
719598	MOLECULAR BIOSYSTEMS INC	CF–05
887138	MOLECULAR ONCOLOGY INC /DE/	CF–10
729069	MOLECULON INC	CF–06
067472	MOLEX INC	CF–03
315845	MOMED HOLDING CO	CF–07
853436	MOMENTUM DISTRIBUTION INC	CF–01
703645	MOMENTUM INC	CF–05
887530	MOMENTUM SOFTWARE CORP	CF–10
202685	MONARCH AVALON INC	CF–07
721670	MONARCH BANCORP	CF–06
067516	MONARCH CAPITAL CORP /MA/	CF–03
067517	MONARCH CEMENT CO	CF–05
067532	MONARCH MACHINE TOOL CO	CF–05
864920	MONEY MARKET AUTO LOAN TRUST 1990–1	CF–10
040514	MONEY RADIO INC	CF–09
876297	MONEY STORE INC /NJ	CF–10
814180	MONITEK TECHNOLOGIES INC	CF–07
351507	MONITERM CORP	CF–06
811614	MONITREND INVESTMENT MANAGEMENT INC	CF–09
067625	MONMOUTH REAL ESTATE INVESTMENT CORP	CF–06
353569	MONOCLONAL ANTIBODIES INC /DE/	CF–07
841112	MONOCLONAL MEDICAL INC	CF–09
319478	MONOGRAM OIL & GAS INC	CF–08
067646	MONONGAHELA POWER CO /OH/	CF–03
876427	MONRO MUFFLER BRAKE INC	CF–10
067686	MONSANTO CO	CF–01
067715	MONTANA CORP /MT/.	CF–08
819182	MONTANA NATURALS INTERNATIONAL INC	CF–08
067727	MONTANA POWER CO /MT/	CF–02
799268	MONTANA PRECISION MINING LTD	CF–08
829341	MONTCLAIR BANCORP INC	CF–09
807522	MONTGOMERY BANCORP INC	CF–06
836974	MONTGOMERY WARD HOLDING CORP	CF–01
818468	MONUMENT RESOURCES INC	CF–08
067887	MOOG INC	CF–04
276999	MOORE BENJAMIN & CO	CF–04
788951	MOORE HANDLEY INC /DE/	CF–06
074691	MOORE MEDICAL CORP	CF–05
067975	MOORE PRODUCTS CO	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
790609	MOORES LANE PROPERTIES LTD	CF–07
855894	MOORGATE LTD	CF–10
062262	MOREHOUSE INDUSTRIES INC	CF–08
848296	MORELLIS NONA II INC	CF–10
789101	MORGAN CLIFTON FUND LTD PARTNERSHIP	CF–09
068100	MORGAN J P & CO INC	CF–01
729600	MORGAN KEEGAN INC	CF–04
834112	MORGAN MEDICAL HOLDINGS INC	CF–09
739790	MORGAN PRODUCTS LTD	CF–04
789625	MORGAN STANLEY GROUP INC /DE/	CF–02
882861	MORGAN STANLEY MORTGAGE TRUSTS	CF–10
792934	MORGAN TREND FUND	CF–07
840823	MORGAN WINDSOR LTD	CF–09
068145	MORGANS FOODS INC	CF–05
727346	MORGRO CHEMICAL CO	CF–08
317949	MORITZ ENERGY CORP	CF–09
832768	MORNINGSTAR FOODS INC	CF–03
068270	MORRISON INC /DE/	CF–04
763739	MORRISON KNUDSEN CORP	CF–03
079259	MORTGAGE & REALTY TRUST	CF–03
741627	MORTGAGE BANKERS FINANCIAL CORP I	CF–06
888854	MORTGAGE CAPITAL CORP	CF–10
814337	MORTGAGE CAPITAL TRUST VI	CF–10
751419	MORTGAGE SECURITIES I CORP	CF–09
769357	MORTGAGE SECURITIES II CORP	CF–09
785818	MORTGAGE SECURITIES III TRUST A	CF–09
799630	MORTGAGE SECURITIES III TRUST B	CF–10
814144	MORTGAGE SECURITIES III TRUST C	CF–09
808264	MORTGAGE SECURITIES III TRUST D	CF–09
826488	MORTGAGE SECURITIES III TRUST E	CF–10
830431	MORTGAGE SECURITIES III TRUST F	CF–10
068361	MORTON INTERNATIONAL INC	CF–02
747605	MOSCOM CORP	CF–06
068412	MOSINEE PAPER CORP	CF–04
831974	MOTELS OF AMERICA SERIES XIV	CF–09
802595	MOTHER LODE GOLD MINES CONSOLIDATED	CF–06
704508	MOTO PHOTO INC	CF–06
068480	MOTOR CLUB OF AMERICA	CF–06
068505	MOTOROLA INC	CF–02
790381	MOTORS MECHANICAL REINSURANCE CO LTD	CF–01
846340	MOTTS HOLDINGS INC	CF–10
068589	MOUNTAIN FUEL SUPPLY CO	CF–03
873398	MOUNTAIN HOLDING CORP	CF–10
351707	MOUNTAIN MEDICAL EQUIPMENT INC	CF–06
828740	MOUNTAIN STATES GUARANTY MORTGAGE CO	CF–09
835269	MOUNTAIN VENTURES INC	CF–09
722202	MOUNTAINEER BANKSHARES OF W VA INC	CF–07
855110	MOVIE SUPERSTORE INC /AZ/	CF–07
200533	MOYCO INDUSTRIES INC	CF–07
714540	MPSI SYSTEMS INC	CF–05
885077	MR BULB CO/DE/	CF–10
831463	MR COFFEE INC	CF–05
724967	MR GASKET CO	CF–05
797502	MR ROOTER CORP	CF–06
722886	MRI BUSINESS PROPERTIES FUND LTD	CF–09
745289	MRI BUSINESS PROPERTIES FUND LTD II	CF–05
769635	MRI BUSINESS PROPERTIES FUND LTD III	CF–04
810143	MRI OF NORTHERN NEW JERSEY L P	CF–08
790372	MS CARRIERS INC	CF–05
846919	MS ESSEX HOLDINGS INC	CF–10
740074	MSA REALTY CORP	CF–05
718572	MSA SHOPPING MALLS INC	CF–09
104501	MSE CABLE SYSTEMS INC	CF–08
354807	MSI ELECTRONICS INC	CF–07
850645	MTG CAPITAL CORP	CF–10
068709	MTS SYSTEMS CORP	CF–04
710197	MTX INTERNATIONAL INC	CF–08
089439	MUELLER INDUSTRIES INC	CF–03
068726	MUELLER PAUL CO	CF–05
802200	MULTI BENEFIT REALTY FUND 87–1	CF–06
819220	MULTI COLOR CORP	CF–05
766404	MULTI SOFT INC	CF–08

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
723733	MULTI SOLUTIONS INC	CF–08
068803	MULTIBANK FINANCIAL CORP	CF–03
068813	MULTIMEDIA INC	CF–03
740073	MULTIPLEX SERVICES INC	CF–09
718430	MULTIVEST CORP	CF–07
068837	MULTIVEST REAL ESTATE FUND LTD SERIES I	CF–07
205671	MULTIVEST REAL ESTATE FUND LTD SERIES IV	CF–06
068841	MULTIVEST REAL ESTATE FUND LTD SERIES V	CF–06
068842	MULTIVEST REAL ESTATE FUND LTD SERIES VI	CF–06
068836	MULTIVEST REAL ESTATE FUND LTD SERIES VII	CF–07
069067	MUNSINGWEAR INC	CF–05
717423	MURPHY OIL CORP /DE	CF–02
742299	MURRAY INCOME PROPERTIES I LTD	CF–06
786163	MURRAY INCOME PROPERTIES II LTD	CF–06
826444	MURRAY UNITED DEVELOPMENT CORP	CF–09
832995	MUSICLAND STORES CORP	CF–09
352798	MUSTANG COMPANIES INC	CF–07
840006	MUSTANG RANCH INC	CF–09
864763	MUTUAL ASSURANCE INC	CF–10
786828	MUTUAL BENEFIT COMMERCIAL PROPERTIES INC	CF–07
830350	MUTUAL BENEFIT INCOME PARTNERS LP I	CF–09
760994	MUTUAL BENEFIT MORTGAGE INVESTORS 1985	CF–07
786420	MUTUAL BENEFIT MORTGAGE INVESTORS III LP	CF–09
715151	MUTUAL BENEFIT SECURED MORTGAGE INVESTOR	CF–07
779317	MUTUAL BENEFIT TRAMMELL CROW RESIDENTIAL	CF–08
813742	MYCOGEN CORP	CF–06
069488	MYERS INDUSTRIES INC	CF–05
700923	MYERS L E CO GROUP	CF–06
069439	MYLAN LABORATORIES INC	CF–04
731619	MYLEX CORP	CF–06
870246	MYM LIQUIDATING TRUST	CF–10
830991	MYO TECH CORP	CF–07
867905	N S BANCORP INC	CF–10
808918	N W GROUP INC	CF–05
873458	NAB ASSET CORP	CF–10
798943	NABORS INDUSTRIES INC	CF–05
775542	NAC RE CORP	CF–09
789933	NACCO INDUSTRIES INC	CF–02
806087	NACO FINANCE CORP	CF–08
842884	NACOMA CONSOLIDATED INDUSTRIES INC	CF–09
350070	NAHAMA & WEAGANT ENERGY CO	CF–06
069598	NALCO CHEMICAL CO	CF–03
879044	NAMIC USA CORPORATION	CF–10
822373	NAMSCO CORP	CF–06
704532	NANOMETRICS INC	CF–06
069623	NANTUCKET INDUSTRIES INC	CF–06
700699	NAPA NATIONAL BANCORP	CF–06
700928	NAPA VALLEY BANCORP	CF–04
068633	NAPCO SECURITY SYSTEMS INC	CF–05
069659	NARRAGANSETT ELECTRIC CO	CF–01
069671	NASH FINCH CO	CF–03
069680	NASHUA CORP	CF–04
793935	NASHVILLE LAND FUND LTD	CF–07
357319	NASHVILLE PARKVIEW PARTNERS	CF–07
820062	NASHVILLE SUPER 8 LTD	CF–09
737207	NASTECH PHARMACEUTICAL CO INC	CF–08
050361	NATEC RESOURCES INC	CF–05
706597	NATIONAL AFFILIATED CORP	CF–08
713078	NATIONAL BANC OF COMMERCE CO	CF–07
705358	NATIONAL BANCORP OF ALASKA INC	CF–07
790362	NATIONAL BANCSHARES CORP /OH/	CF–05
070846	NATIONAL BANK OF DETROIT RETIREMENT PLAN	CF–09
796534	NATIONAL BANKSHARES INC	CF–08
862482	NATIONAL BUILDING SUPPLY INC	CF–10
826496	NATIONAL CAPITAL MANAGEMENT CORP	CF–06
764241	NATIONAL CITY BANCSHARES INC	CF–04
069970	NATIONAL CITY CORP	CF–02
101844	NATIONAL COMMERCE BANCORPORATION /TN/	CF–07
069999	NATIONAL COMPUTER SYSTEMS INC	CF–04
356801	NATIONAL CONSUMER COOPERATIVE BANK /DC/	CF–03
314662	NATIONAL CONVENIENCE STORES INC /DE/	CF–03
839949	NATIONAL CREDIT CARD TRUST 1988–1	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
845581	NATIONAL CREDIT CARD TRUST 1989–1	CF–09
846545	NATIONAL CREDIT CARD TRUST 1989–2	CF–10
847000	NATIONAL CREDIT CARD TRUST 1989–3	CF–10
850959	NATIONAL CREDIT CARD TRUST 1989–4	CF–10
847377	NATIONAL CREDIT CARD TRUST 1989–5	CF–10
070033	NATIONAL DATA CORP	CF–04
812880	NATIONAL DATACOMPUTER INC	CF–08
772784	NATIONAL DIVERSIFIED SERVICES INC	CF–08
277821	NATIONAL EDUCATION CORP	CF–03
853928	NATIONAL ENQUIRER INC	CF–10
070202	NATIONAL ENTERPRISES INC	CF–06
070083	NATIONAL ENVIRONMENTAL CONTROLS INC	CF–07
318996	NATIONAL ENVIRONMENTAL GROUP INC	CF–06
070145	NATIONAL FUEL GAS CO	CF–01
355313	NATIONAL GAS & OIL CO	CF–05
277587	NATIONAL GRAPE COOPERATIVE ASSOCIATION INC	CF–01
070174	NATIONAL GYPSUM CO	CF–02
804368	NATIONAL HEALTH ENHANCEMENT SYSTEMS INC	CF–08
832427	NATIONAL HEALTH LABORATORIES INC	CF–03
765052	NATIONAL HEALTHCARE INC	CF–04
805274	NATIONAL HEALTHCORP L P	CF–04
810306	NATIONAL HERITAGE INC	CF–06
824428	NATIONAL HERITAGE INDUSTRIES INC	CF–06
728389	NATIONAL HMO CORP/DE	CF–06
731131	NATIONAL HOUSING PARTNERSHIP REALTY FUND I	CF–08
769028	NATIONAL HOUSING PARTNERSHIP REALTY FUND III	CF–09
780149	NATIONAL HOUSING PARTNERSHIP REALTY FUND IV	CF–06
762859	NATIONAL HOUSING PARTNERSHIP REALTY FUND TWO	CF–07
818803	NATIONAL HOUSING TRUST LIMITED PARTNERSH	CF–06
811864	NATIONAL IMAGING INC	CF–07
277577	NATIONAL INCOME REALTY TRUST	CF–04
104401	NATIONAL INDUSTRIAL SECURITY CORP	CF–08
815555	NATIONAL INSURANCE GROUP /CA/	CF–07
716644	NATIONAL INTERGROUP INC	CF–02
357219	NATIONAL LEASE INCOME FUND	CF–08
717726	NATIONAL LEASE INCOME FUND 2	CF–06
740581	NATIONAL LEASE INCOME FUND 3	CF–05
779613	NATIONAL LEASE INCOME FUND 5	CF–05
799034	NATIONAL LEASE INCOME FUND 6 LP	CF–04
835737	NATIONAL LEASE INCOME FUND 7 L P	CF–09
725364	NATIONAL LUMBER & SUPPLY INC	CF–05
070412	NATIONAL MEDIA CORP	CF–05
814656	NATIONAL MEDIA HOLDING CO INC	CF–10
070318	NATIONAL MEDICAL ENTERPRISES INC /NV/	CF–02
813562	NATIONAL MEDICAL HEALTH CARD SYSTEMS INC	CF–08
866917	NATIONAL MEDICAL WASTE INC /DE/	CF–10
714801	NATIONAL MERCANTILE BANCORP	CF–08
070333	NATIONAL MICRONETICS INC	CF–06
768600	NATIONAL MORTGAGE ACCEPTANCE CORP	CF–09
070415	NATIONAL PATENT DEVELOPMENT CORP	CF–04
700733	NATIONAL PENN BANCSHARES INC	CF–07
070427	NATIONAL PETROLEUM CORP LTD	CF–08
748714	NATIONAL PIZZA CO/KS	CF–04
080172	NATIONAL PRESTO INDUSTRIES INC	CF–04
070452	NATIONAL PROPANE CORP	CF–08
070453	NATIONAL PROPERTIES CORP	CF–07
858473	NATIONAL RE CORP	CF–10
350382	NATIONAL REAL ESTATE LTD PARTNERSHIP II	CF–08
700580	NATIONAL REAL ESTATE LTD PARTNERSHIP III	CF–07
759857	NATIONAL REAL ESTATE LTD PARTNERSHIP INC PROP	CF–07
795306	NATIONAL REAL ESTATE LTD PARTNERSHIP INC PROP I	CF–07
714314	NATIONAL REAL ESTATE LTD PARTNERSHIP IV	CF–07
729445	NATIONAL REAL ESTATE LTD PARTNERSHIP V	CF–06
785703	NATIONAL REAL ESTATE LTD PARTNERSHIP VI	CF–07
819671	NATIONAL REALTY L P	CF–03
847235	NATIONAL RESOURCE RECOVERY SYSTEMS INC	CF–10
070502	NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORP	CF–02
793500	NATIONAL SANITARY SUPPLY CO	CF–05
811859	NATIONAL SECURITIES CORP/WA/	CF–06
847383	NATIONAL SECURITIES HOLDING CORPORATION	CF–10
865058	NATIONAL SECURITY GROUP INC	CF–10
070530	NATIONAL SEMICONDUCTOR CORP	CF–01

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
070538	NATIONAL SERVICE INDUSTRIES INC	CF–03
070564	NATIONAL STANDARD CO	CF–04
070578	NATIONAL STEEL CORP	CF–02
859921	NATIONAL TAX CREDIT INVESTORS II	CF–10
847415	NATIONAL TAX CREDIT PARTNERS L P	CF–10
110536	NATIONAL TECHNICAL SYSTEMS INC /DE/	CF–06
737923	NATIONAL TECHNOLOGIES INC	CF–08
805054	NATIONAL TECHTEAM INC /DE/	CF–07
862883	NATIONAL TELEPHONE COMMUNICATIONS INC	CF–10
315999	NATIONAL TRANSACTION NETWORK INC	CF–08
868263	NATIONAL VISION ASSOCIATES LTD	CF–10
070684	NATIONAL WESTERN LIFE INSURANCE CO	CF–04
795265	NATIONWIDE CELLULAR SERVICE INC	CF–06
780053	NATIONWIDE HEALTH PROPERTIES INC	CF–04
787253	NATURAL ALTERNATIVES INTERNATIONAL INC	CF–07
875296	NATURAL CHILD CARE INC	CF–10
879911	NATURAL EARTH TECHNOLOGIES INC	CF–10
885568	NATURAL WONDERS INC	CF–10
070793	NATURES BOUNTY INC	CF–06
275053	NATURES SUNSHINE PRODUCTS INC	CF–06
070815	NAVARRE 500 BUILDING ASSOCIATES	CF–08
793547	NAVIGATORS GROUP INC	CF–05
051303	NAVISTAR FINANCIAL CORP	CF–02
808450	NAVISTAR INTERNATIONAL CORP /DE/NEW	CF–01
051296	NAVISTAR INTERNATIONAL TRANSPORTATION CO	CF–01
829732	NBB BANCORP INC	CF–04
742054	NBC CAPITAL CORP	CF–04
070040	NBD BANCORP INC /DE/	CF–02
313518	NBI INC	CF–05
707602	NBSC CORP	CF–07
790359	NBT BANCORP INC	CF–06
070855	NCC INDUSTRIES INC	CF–05
807712	NCF FINANCIAL CORP	CF–04
069960	NCH CORP	CF–03
883902	NCI BUILDING SYSTEMS INC	CF–10
070858	NCNB CORP	CF–02
859621	NDC AUTOMATION INC	CF–10
851476	NDE ENVIRONMENTAL CORP	CF–08
814930	NDL PRODUCTS INC /DE/	CF–07
853935	NDSI INC	CF–10
801547	NECO ENTERPRISES INC	CF–05
793364	NEEDLE IN A HAYSTACK INC	CF–09
819539	NEIMAN MARCUS GROUP INC	CF–03
799290	NELLCOR INC /DE/	CF–05
070998	NELSON L B CORP	CF–07
071023	NELSON THOMAS INC	CF–05
793036	NEMDACO INC	CF–08
872473	NENDELS CORPORATION	CF–10
711377	NEOGEN CORP	CF–07
780068	NEOLENS INC	CF–07
755806	NEORX CORP	CF–05
880573	NEOSPORT INC	CF–10
838790	NEOTERIK HEALTH TECHNOLOGIES INC	CF–08
866817	NEOZYME CORP	CF–10
884392	NEOZYME II CORP	CF–10
748581	NERCO INC	CF–02
810949	NESB CORP	CF–07
720851	NESTOR INC	CF–08
821129	NET 1 L P	CF–06
843756	NET 2 L P	CF–09
866492	NET TECH INTERNATIONAL INC	CF–10
809060	NETCOR INC	CF–08
778362	NETI TECHNOLOGIES INC	CF–08
889237	NETRIX CORP	CF–10
886136	NETWORK COMPUTING DEVICES INC	CF–10
752431	NETWORK EQUIPMENT TECHNOLOGIES INC	CF–04
844643	NETWORK GENERAL CORPORATION	CF–06
883948	NETWORK IMAGING CORP	CF–10
820771	NETWORK REAL ESTATE OF CALIFORNIA INC	CF–09
319645	NETWORK SYSTEMS CORP	CF–04
071106	NETWORKS ELECTRONIC CORP	CF–07
849043	NEUROGEN CORP	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
845605	NEUROMEDICAL TECHNOLOGIES INC	CF–07
758953	NEUROTECH CORP	CF–08
071125	NEUTROGENA CORP	CF–04
071180	NEVADA POWER CO	CF–02
714634	NEW AGE CORP	CF–08
071241	NEW BRUNSWICK SCIENTIFIC CO INC	CF–05
845754	NEW EAST BANCORP	CF–09
355783	NEW ENERGY CO OF INDIANA	CF–05
071282	NEW ENGLAND BANCORP INC	CF–07
205700	NEW ENGLAND BUSINESS SERVICE INC	CF–04
799300	NEW ENGLAND CRITICAL CARE INC	CF–05
071297	NEW ENGLAND ELECTRIC SYSTEM	CF–01
711417	NEW ENGLAND LIFE PENSION PROPERTIES	CF–06
728525	NEW ENGLAND LIFE PENSION PROPERTIES II	CF–05
757221	NEW ENGLAND LIFE PENSION PROPERTIES III	CF–05
779742	NEW ENGLAND LIFE PENSION PROPERTIES IV	CF–05
806028	NEW ENGLAND PENSION PROPERTIES V	CF–05
071337	NEW ENGLAND POWER CO	CF–01
746514	NEW ENGLAND REALTY ASSOCIATES LIMITED PA	CF–06
071344	NEW ENGLAND TELEPHONE & TELEGRAPH CO	CF–01
315958	NEW GENERATION FOODS INC	CF–07
820221	NEW GOLF CONCEPTS INC	CF–09
710984	NEW HAMPSHIRE SAVINGS BANK CORP	CF–07
846931	NEW HAMPSHIRE THRIFT BANCSHARES INC	CF–09
071391	NEW HILARITY MINING CO	CF–06
731940	NEW IBERIA BANCORP INC	CF–05
853706	NEW IMAGE INDUSTRIES INC	CF–06
071428	NEW JERSEY BELL TELEPHONE CO	CF–02
356309	NEW JERSEY RESOURCES CORP	CF–03
812310	NEW JERSEY STEEL CORP	CF–05
797658	NEW LINE CINEMA CORP	CF–05
071478	NEW MEXICO & ARIZONA LAND CO	CF–05
071508	NEW ORLEANS PUBLIC SERVICE INC	CF–03
216810	NEW PARAHO CORP	CF–07
071519	NEW PLAN REALTY TRUST	CF–04
071530	NEW QUINCY MINING CO	CF–06
797659	NEW RETAIL CONCEPTS INC	CF–07
771999	NEW SKY COMMUNICATIONS INC	CF–07
769122	NEW STAR ENTERTAINMENT INC /CA/	CF–06
071557	NEW ULM TELECOM INC	CF–06
356906	NEW VISIONS ENTERTAINMENT CORP	CF–06
820068	NEW YORK BANCORP INC	CF–07
739279	NEW YORK FILM WORKS INC	CF–06
857530	NEW YORK LIFE OIL & GAS NET PROFITS PROD	CF–10
869077	NEW YORK LIFE OIL & GAS NET PROFITS PRODUCING PROP III–B L P	CF–10
869078	NEW YORK LIFE OIL & GAS NET PROFITS PRODUCING PROP III–C L P	CF–10
873071	NEW YORK LIFE OIL & GAS NET PROFITS PRODUCING PROP III–D L P	CF–10
882149	NEW YORK LIFE OIL & GAS NET PROFITS PRODUCING PROP III–E LP	CF–10
882146	NEW YORK LIFE OIL & GAS NET PROFITS PRODUCING PROP III–F LP	CF–10
857529	NEW YORK LIFE OIL & GAS OPERATING PRODUC	CF–10
869067	NEW YORK LIFE OIL & GAS OPERATING PRODUCING PROP III–B L P	CF–10
869076	NEW YORK LIFE OIL & GAS OPERATING PRODUCING PROP III–C L P	CF–10
873072	NEW YORK LIFE OIL & GAS OPERATING PRODUCING PROP III–D L P	CF–10
882148	NEW YORK LIFE OIL & GAS OPERATING PRODUCING PROP III–E LP	CF–10
882147	NEW YORK LIFE OIL & GAS OPERATING PRODUCING PROP III–F LP	CF–10
071675	NEW YORK STATE ELECTRIC & GAS CORP	CF–02
071689	NEW YORK TELEPHONE CO	CF–01
071691	NEW YORK TIMES CO	CF–02
811211	NEWBERRY BANCORP INC	CF–07
071745	NEWCOR INC	CF–05
814453	NEWELL CO	CF–03
751976	NEWHALL LAND & FARMING CO /CA/	CF–04
785655	NEWMAN FINANCIAL CORP	CF–06
769940	NEWMARK & LEWIS INC	CF–05
807524	NEWMIL BANCORP INC	CF–07
793308	NEWMONT GOLD CO	CF–03
071824	NEWMONT MINING CORP	CF–02
801771	NEWORLD BANCORP INC	CF–07
071829	NEWPARK RESOURCES INC	CF–06
874420	NEWPORT CARPET MILLS INC	CF–10
225263	NEWPORT CORP	CF–05
846011	NEWPORT INVESTMENTS INC	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
877556	NEWPORT PACIFIC INCOME FUND I	CF–10
110074	NEWPORT PHARMACEUTICALS INTERNATIONAL IN	CF–06
794487	NEWS COMMUNICATIONS INC	CF–07
860448	NFA WORLD COIN FUND LP	CF–10
822320	NFS AGENCY CORP	CF–10
794103	NFS FINANCIAL CORP	CF–07
353646	NGT ENTERPRISES INC	CF–09
070182	NHD STORES INC	CF–06
793730	NHP RETIREMENT HOUSING PARTNERS I LTD PA	CF–05
710976	NIAGARA CORP	CF–07
732433	NIAGARA EXCHANGE CORP	CF–09
071932	NIAGARA MOHAWK POWER CORP /NY/	CF–02
765410	NICHOLS INSTITUTE /DE/	CF–05
806368	NICHOLS RESEARCH CORP /AL/	CF–06
071965	NICHOLS S E INC	CF–05
072013	NICOLET INSTRUMENT CORP	CF–05
072020	NICOR INC	CF–02
837296	NIGHTINGALE INC	CF–09
320187	NIKE INC	CF–01
858366	NINE HOLDINGS INC	CF–10
823392	NIPSCO INDUSTRIES INC	CF–02
832488	NITE LITE USA LTD	CF–09
072162	NL INDUSTRIES INC	CF–02
072170	NMC CORP	CF–05
724141	NMR OF AMERICA INC	CF–06
072205	NOBILITY HOMES INC	CF–07
072207	NOBLE AFFILIATES INC	CF–03
777201	NOBLE DRILLING CORP	CF–04
709005	NOBLE ROMANS INC	CF–07
888981	NOCOPI TECHNOLOGIES INC/MD/	CF–10
722051	NOISE CANCELLATION TECHNOLOGIES INC	CF–08
878828	NOISE COM INC/NJ	CF–10
072243	NOLAND CO	CF–04
720762	NON INVASIVE MONITORING SYSTEMS INC /FL/	CF–07
757764	NOONEY INCOME FUND LTD II L P	CF–06
797976	NOONEY INCOME FUND LTD III LP	CF–06
725266	NOONEY INCOME FUND LTD LP	CF–06
706133	NOONEY REAL PROPERTY INVESTORS FIVE L P	CF–06
700720	NOONEY REAL PROPERTY INVESTORS FOUR L P	CF–06
275829	NOONEY REAL PROPERTY INVESTORS LP	CF–07
350113	NOONEY REAL PROPERTY INVESTORS THREE L P	CF–06
312155	NOONEY REAL PROPERTY INVESTORS TWO L P	CF–09
748560	NOONEY REALTY TRUST INC	CF–06
742127	NORCAP FINANCIAL CORP	CF–08
793702	NORCAP INC	CF–09
872316	NORD RESOURCES CORP	CF–04
072331	NORDSON CORP	CF–04
757439	NORDSTROM CREDIT INC	CF–06
072333	NORDSTROM INC	CF–02
702165	NORFOLK SOUTHERN CORP	CF–02
092275	NORFOLK SOUTHERN RAILWAY CO/VA	CF–02
754012	NORMANDY OIL & GAS CO INC	CF–07
767791	NORMAR INVESTMENT CORP	CF–06
072418	NORSTAN INC	CF–05
847452	NORTANKERS INC	CF–05
722313	NORTECH SYSTEMS INC	CF–08
072423	NORTEK INC	CF–03
700929	NORTH AMERICAN BANCORPORATION INC	CF–08
072444	NORTH AMERICAN BIOLOGICALS INC	CF–06
225854	NORTH AMERICAN ENERGY OF DELAWARE INC /D	CF–09
847388	NORTH AMERICAN INTEGRATED MARKETING INC	CF–10
882261	NORTH AMERICAN MORTGAGE CO	CF–10
072514	NORTH AMERICAN NATIONAL CORP	CF–07
072523	NORTH AMERICAN PHILIPS CORP	CF–02
861165	NORTH AMERICAN RECYCLING SYSTEMS INC	CF–10
786765	NORTH AMERICAN VENTURES INC	CF–05
880418	NORTH ATLANTIC ENERGY CORP /NH	CF–10
759695	NORTH ATLANTIC FISHERIES INC	CF–08
072575	NORTH ATLANTIC INDUSTRIES INC	CF–05
706021	NORTH ATLANTIC TECHNOLOGIES INC	CF–08
754440	NORTH BAY BANCORP	CF–06
835954	NORTH BY NORTHEAST LTD	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
072596	NORTH CAROLINA NATURAL GAS CORP	CF–04
813794	NORTH CAROLINA RAILROAD CO	CF–07
839950	NORTH COAST ENERGY INC / DE/	CF–07
357262	NORTH COUNTY BANCORP	CF–08
704216	NORTH DALLAS PARTNERS	CF–07
352162	NORTH EAST INSURANCE CO	CF–07
072633	NORTH EUROPEAN OIL ROYALTY TRUST	CF–08
352510	NORTH FORK BANCORPORATION INC	CF–03
858751	NORTH FULTON BANCSHARES INC	CF–10
843493	NORTH GEORGIA NATIONAL BANCSHARES INC	CF–09
835959	NORTH LENDERS L P	CF–10
072655	NORTH LILY MINING CO	CF–05
857614	NORTH OAKS REAL ESTATE PARTNERSHIP	CF–10
764765	NORTH PITTSBURGH SYSTEMS INC	CF–05
110101	NORTH SHORE GAS CO /IL/	CF–08
799276	NORTH SIDE CAPITAL CORP	CF–05
768158	NORTH STAR UNIVERSAL INC	CF–04
353191	NORTH VALLEY BANCORP	CF–08
783209	NORTHAMPTON INC	CF–08
844162	NORTHBAY FINANCIAL CORP	CF–05
072740	NORTHEAST BANCORP INC /CT/	CF–03
863517	NORTHEAST FEDERAL CORP	CF–02
072741	NORTHEAST UTILITIES	CF–02
793498	NORTHEAST WISCONSIN FINANCIAL SERVICES I	CF–06
318779	NORTHERN CALIFORNIA COMMUNITY BANCORPORA	CF–05
746253	NORTHERN EMPIRE BANCSHARES	CF–06
826447	NORTHERN ILLINOIS FINANCIAL CORP	CF–08
110104	NORTHERN ILLINOIS GAS CO /IL/ /NEW/	CF–08
072843	NORTHERN INDIANA PUBLIC SERVICE CO	CF–09
875582	NORTHERN INSTRUMENTS CORP	CF–10
750005	NORTHERN NECK BANKSHARES CORP	CF–06
885040	NORTHERN SPRINGS CO INC	CF–10
072903	NORTHERN STATES POWER CO /MN/	CF–02
072909	NORTHERN STATES POWER CO /WI/	CF–02
073124	NORTHERN TRUST CORP	CF–02
855207	NORTHGATE INDUSTRIES INC	CF–10
843368	NORTHLAND CABLE PROPERTIES EIGHT LIMITED	CF–09
776730	NORTHLAND CABLE PROPERTIES FIVE LTD PART	CF–07
760729	NORTHLAND CABLE PROPERTIES FOUR LTD PART	CF–07
813658	NORTHLAND CABLE PROPERTIES SEVEN LIMITED	CF–06
788736	NORTHLAND CABLE PROPERTIES SIX LTD PARTN	CF–06
732048	NORTHLAND CABLE PROPERTIES TWO LIMITED P	CF–09
818010	NORTHLAND CRANBERRIES INC /WI/	CF–05
072945	NORTHROP CORP	CF–01
873082	NORTHSTAR COMPUTER FORMS INC/MN	CF–10
838814	NORTHSTAR INCOME FUND I LP	CF–09
854398	NORTHWEST ACQUISITIONS INC/MN/	CF–10
313292	NORTHWEST BANK HOLDING CO	CF–05
352447	NORTHWEST GOLD INC	CF–09
216729	NORTHWEST ILLINOIS BANCORP INC	CF–08
073020	NORTHWEST NATURAL GAS CO	CF–03
110019	NORTHWEST PIPELINE CORP	CF–02
073048	NORTHWEST TELEPRODUCTIONS INC	CF–06
073088	NORTHWESTERN PUBLIC SERVICE CO	CF–04
073093	NORTHWESTERN STEEL & WIRE CO	CF–03
072971	NORWEST CORP	CF–02
708481	NORWEST FINANCIAL INC	CF–02
731162	NORWEST MORTGAGE CONVENTIONAL 1 INC	CF–07
731767	NORWEST MORTGAGE INSURED 1 INC	CF–07
740768	NORWEST MORTGAGE INSURED 2 INC	CF–08
828808	NORWICH FINANCIAL CORP	CF–09
747178	NOSTALGIA NETWORK INC	CF–07
857103	NOTABLE ENTERPRISES INC	CF–10
840404	NOVA CAPITAL INC	CF–09
313457	NOVA COLOR INC	CF–09
877541	NOVA GROUP INC	CF–10
773394	NOVA INTERNATIONAL FILMS INC	CF–08
792935	NOVA NATURAL RESOURCES CORP	CF–08
815563	NOVA TECHNOLOGY LIMITED PARTNERSHIP	CF–06
316656	NOVA VISTA INDUSTRIES INC	CF–05
802843	NOVACARE INC	CF–05
310450	NOVAMETRIX MEDICAL SYSTEMS INC	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
832334	NOVATEK INTERNATIONAL INC	CF-09
758004	NOVELL INC	CF-03
836106	NOVELLUS SYSTEMS INC	CF-05
815838	NOVEN PHARMACEUTICALS INC	CF-07
314307	NOXSO CORP	CF-07
352973	NPL CORP	CF-04
073225	NRG INC	CF-08
759202	NRM ENERGY COMPANY L P	CF-03
794413	NRM OPERATING CO LP	CF-09
778426	NRP INC	CF-07
277026	NRUC CORP	CF-07
745026	NS GROUP INC	CF-04
798176	NSA INC /CO	CF-09
863210	NSC CORP	CF-10
810111	NSC SERVICE GROUP INC	CF-09
748592	NTN COMMUNICATIONS INC	CF-08
841942	NTS MORTGAGE INCOME FUND	CF-09
703667	NTS PROPERTIES III	CF-06
719589	NTS PROPERTIES IV	CF-06
818089	NTS PROPERTIES PLUS LTD	CF-09
745302	NTS PROPERTIES V	CF-06
765232	NTS PROPERTIES VI	CF-05
814222	NTS PROPERTIES VII LTD	CF-07
718074	NU HORIZONS ELECTRONICS CORP	CF-06
314928	NU MED INC	CF-04
840759	NU WEST INDUSTRIES INC	CF-05
073271	NUCLEAR DATA INC /DE/	CF-06
276331	NUCLEAR METALS INC	CF-05
073296	NUCLEAR RESEARCH CORP	CF-07
317488	NUCLEAR SUPPORT SERVICES INC	CF-06
073309	NUCOR CORP	CF-03
837906	NUCORP INC / DE/	CF-06
861819	NUEVO ENERGY CO	CF-10
356590	NUGGET EXPLORATION INC	CF-08
276327	NUGGET OIL CORP	CF-09
070668	NUI CORP	CF-03
877211	NULL CORP	CF-10
870753	NUMEREX CORP/NY	CF-10
758603	NUMERICA FINANCIAL CORP	CF-07
357038	NUMERICOM INC /OK/	CF-08
318716	NUMEX CORP	CF-09
073354	NURSECARE HEALTH CENTERS INC	CF-07
793652	NUTMEG INDUSTRIES INC	CF-05
818467	NUTRAMAX PRODUCTS INC /DE/	CF-08
831202	NUTRI PRODUCTS INC	CF-09
879303	NUTRITION MANAGEMENT SERVICES CO/PA	CF-10
885708	NUVEEN JOHN COMPANY	CF-10
756916	NUVISION INC	CF-06
073515	NVF CO	CF-05
873371	NVIEW CORP	CF-10
792972	NVR LP	CF-02
841528	NWNL COMPANIES INC	CF-10
706066	NYCAL CORP	CF-06
793526	NYCOM INFORMATION SERVICES INC	CF-07
809066	NYCOR INC /DE/	CF-05
884647	NYER MEDICAL GROUP INC	CF-10
844414	NYLIFE GOVERNMENT MORTGAGE PLUS LTD PART	CF-09
880866	NYLIFE STRUCTURED ASSET MANAGEMENT COMPANY LTD	CF-10
862447	NYNEX CAPITAL FUNDING CORP	CF-01
732714	NYNEX CORP	CF-01
766823	NYTEST ENVIRONMENTAL INC	CF-07
864233	O CHARLEYS INC	CF-10
012203	OAK HILL SPORTSWEAR CORP /NY/	CF-05
073558	OAK INDUSTRIES INC	CF-04
799426	OAK TREE CONSTRUCTION COMPUTERS INC	CF-08
047603	OAKRIDGE ACQUISITIONS INC	CF-10
073609	OAKWOOD HOMES CORP	CF-04
823073	OASIS LAUNDRIES INC	CF-08
795185	OBRIEN ENERGY SYSTEMS INC	CF-04
797468	OCCIDENTAL PETROLEUM CORP /DE/	CF-02
754438	OCCUPATIONAL MEDICAL CORP OF AMERICA INC	CF-07
350737	OCEAN BIO CHEM INC	CF-07
876235		
810312		
073756		
073759		
073779		
870754		
792723		
350868		
073864		
873573		
800240		
851631		
073887		
862078		
073902		
851945		
073918		
788816		
053320		
073942		
357149		
073945		
073952		
073960		
073986		
788964		
073773		
797662		
277952		
074046		
074058		
753601		
353607		
074145		
885568		
878927		
746969		
707179		
740971		
074260		
357173		
074273		
867351		
867350		
813180		
752324		
074303		
074374		
074386		
879674		
710985		
707706		
878071		
871826		
705671		
864902		
888491		
857104		
732780		
353153		
816348		
880938		
846732		
353230		
029989		
719775		
838872		
890564		
888428		
705406		
818183		
861419		

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
876235	OCEAN OPTIQUE DISTRIBUTORS INC	CF–10
810312	OCEAN SHOWBOAT INC	CF–04
073756	OCEANEERING INTERNATIONAL INC	CF–05
073759	OCEANIC EXPLORATION CO	CF–07
073779	OCG TECHNOLOGY INC	CF–08
870754	OCOM CORPORATION	CF–10
792723	OCTEL COMMUNICATIONS CORP	CF–04
350866	ODETICS INC	CF–05
073864	OEA INC /DE/	CF–05
873573	OESI POWER CORP	CF–10
800240	OFFICE DEPOT INC	CF–04
851631	OFFICE PRODUCTS OF AMERICA INC	CF–07
073887	OFFSHORE LOGISTICS INC	CF–05
862078	OFFSHORE PIPELINES INC	CF–10
073902	OGDEN CORP	CF–02
851945	OGDEN PROJECTS INC	CF–02
073918	OGLEBAY NORTON CO	CF–04
788816	OGLETHORPE POWER CORP	CF–02
053320	OHIO & SOUTHWESTERN ENERGY CO	CF–09
073942	OHIO ART CO	CF–06
357149	OHIO BANCORP	CF–07
073945	OHIO BELL TELEPHONE CO	CF–02
073952	OHIO CASUALTY CORP	CF–08
073960	OHIO EDISON CO	CF–01
073986	OHIO POWER CO	CF–02
788964	OHM CORP	CF–04
073773	OI CORP	CF–07
797662	OIA INC	CF–08
277952	OIL CITY PETROLEUM INC	CF–08
074046	OIL DRI CORP OF AMERICA	CF–05
074058	OILGEAR CO	CF–05
753601	OIS OPTICAL IMAGING SYSTEMS INC	CF–07
353607	OKC LTD PARTNERSHIP	CF–06
074145	OKLAHOMA GAS & ELECTRIC CO	CF–02
885566	OLD DOMINION ELECTRIC COOPERATIVE	CF–10
878927	OLD DOMINION FREIGHT LINE INC/VA	CF–10
746969	OLD KENT FINANCIAL CORP /MI/	CF–02
707179	OLD NATIONAL BANCORP	CF–07
740971	OLD POINT FINANCIAL CORP	CF–05
074260	OLD REPUBLIC INTERNATIONAL CORP	CF–03
357173	OLD SECOND BANCORP INC	CF–08
074273	OLD STONE CORP	CF–06
867351	OLD YORK ROAD BANCORP INC	CF–10
867350	OLDBRIDGE CO /NV/	CF–10
813180	OLDE FINANCIAL CORP	CF–09
752324	OLDE WINDSOR BANCORP INC	CF–05
074303	OLIN CORP	CF–02
074374	OLSON INDUSTRIES INC /DE/	CF–06
074386	OLSTEN CORP	CF–04
879674	OLYMPIC FINANCIAL LTD	CF–10
710985	OLYMPIC NATIONAL BANCORP	CF–06
707706	OLYMPUS CAPITAL CORP/UT	CF–04
878071	OLYMPUS VENTURES INC	CF–10
871826	OMEGA ENVIRONMENTAL INC	CF–10
705671	OMEGA FINANCIAL CORP /PA/	CF–07
864902	OMEGA HEALTH SYSTEMS INC	CF–10
888491	OMEGA HEALTHCARE INVESTORS INC	CF–10
857104	OMEGA POWER INC	CF–10
732780	OMI CORP	CF–03
353153	OMNI EXPLORATION INC	CF–07
816348	OMNI FILMS INTERNATIONAL INC	CF–07
880938	OMNI INVESTORS GROUP INC	CF–10
846732	OMNI USA INC	CF–10
353230	OMNICARE INC	CF–05
029989	OMNICOM GROUP INC	CF–02
719775	OMNICORP LTD	CF–06
838872	OMNITEC INC	CF–07
890564	ON ASSIGNMENT INC	CF–10
888428	ON GARD SYSTEMS INC	CF–10
705406	ON LINE SOFTWARE INTERNATIONAL INC	CF–05
818183	ON SITE TOXIC CONTROL INC	CF–08
861419	ON THE BORDER CAFES INC	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
846609	ONBANCORP INC	CF-09
729822	ONCOGENE SCIENCE INC	CF-06
806637	ONCOR INC	CF-08
708817	ONE AMERICAN CORP	CF-06
740781	ONE BANCORP	CF-09
858359	ONE HOLDINGS INC	CF-10
712770	ONE LIBERTY PROPERTIES INC	CF-06
812446	ONE PRICE CLOTHING STORES INC	CF-06
351615	ONE VALLEY BANCORP OF WEST VIRGINIA INC	CF-03
074585	ONEIDA LTD	CF-04
820957	ONEITA INDUSTRIES INC	CF-05
074154	ONEOK INC	CF-03
858748	OP TECH ENVIRONMENTAL SERVICES INC	CF-10
885317	OPHTHALMIC IMAGING SYSTEMS INC	CF-10
728848	OPPENHEIMER & CO INC	CF-02
814562	OPPENHEIMER CAPITAL L P /DE/	CF-05
074664	OPPENHEIMER INDUSTRIES INC	CF-06
205741	OPPENHEIMER LANDMARK PROPERTIES	CF-07
074668	OPT SCIENCES CORP	CF-08
583326	OPTA FOOD INGREDIENTS INC /DE	CF-10
804312	OPTEK TECHNOLOGY INC	CF-05
275858	OPTELECOM INC	CF-08
814921	OPTI MAG SUBSTRATE INC	CF-09
074697	OPTICAL COATING LABORATORY INC	CF-05
074702	OPTICAL RADIATION CORP	CF-04
706766	OPTICAL SPECIALTIES INC	CF-07
836433	OPTICORP INC	CF-08
819201	OPTIFUND INC	CF-09
820474	OPTIMUMCARE CORP /DE/	CF-08
864064	OPTION CARE INC/DE	CF-10
031686	OPTO MECHANIK INC	CF-06
023060	OPUS COMPUTER PRODUCTS INC	CF-07
777676	ORACLE SYSTEMS CORP	CF-03
074778	ORANGE & ROCKLAND UTILITIES INC	CF-03
702362	ORANGE BANCORP	CF-08
004507	ORANGE CO INC /FL/	CF-04
801443	ORANGE NATIONAL BANCORP	CF-05
799514	ORBIS INC	CF-08
074816	ORBIT GAS CO	CF-07
074818	ORBIT INSTRUMENT CORP	CF-05
820736	ORBITAL SCIENCES CORP II	CF-05
797983	ORBITRON CAPITAL CORP	CF-09
837590	ORCHARD HOUSE PARTNERSHIP	CF-09
856712	ORCHARD SUPPLY HARDWARE CORP	CF-04
074856	OREGON METALLURGICAL CORP	CF-05
830260	OREGON STEEL MILLS INC	CF-04
779733	ORGANOGENESIS INC	CF-07
088096	ORIENT EXPRESS HOTELS INC	CF-05
802686	ORIGINAL ITALIAN PASTA PRODUCTS CO INC	CF-08
074925	ORIGINAL SIXTEEN TO ONE MINE INC /CA/	CF-09
074928	ORIOLE HOMES CORP	CF-04
074931	ORION CAPITAL CORP	CF-04
711210	ORION FINANCIAL LTD	CF-07
035590	ORION PICTURES CORP	CF-03
074954	ORMAND INDUSTRIES INC	CF-07
826154	ORRSTOWN FINANCIAL SERVICES INC	CF-08
310316	ORS CORP /OK/	CF-07
785353	ORTHOMET INC	CF-06
836442	ORYX ENERGY CO	CF-02
885637	OSB FINANCIAL CORP	CF-10
811714	OSBORN COMMUNICATIONS CORP /DE/	CF-05
075042	OSHKOSH B GOSH INC	CF-04
775158	OSHKOSH TRUCK CORP	CF-04
075043	OSHMANS SPORTING GOODS INC	CF-04
812491	OSICOM TECHNOLOGIES INC	CF-06
075049	OSMONICS INC	CF-05
874734	OSTEOTECH INC	CF-10
075072	OSULLIVAN CORP	CF-04
881895	OTR EXPRESS INC/KS	CF-10
816330	OTRA SECURITIES GROUP INC	CF-08
075129	OTTER TAIL POWER CO	CF-03
874691	OUTBACK STEAKHOUSE INC	CF-10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
075149	OUTBOARD MARINE CORP	CF–02
804060	OUTLET BROADCASTING INC	CF–04
812094	OUTLET CENTRE PARTNERS	CF–06
803743	OUTLET COMMUNICATIONS INC	CF–04
810736	OUTLOOK ALL SUITE HOTELS L P	CF–06
867490	OUTLOOK GRAPHICS CORP	CF–10
822729	OUTLOOK INCOME FUND 10	CF–09
801449	OUTLOOK INCOME FUND 9	CF–05
771998	OUTLOOK INCOME GROWTH FUND VIII	CF–05
755869	OUTLOOK PENSION INVESTORS	CF–06
777955	OUTLOOK PROPERTIES FUND IV	CF–06
075189	OVERMYER CORP	CF–06
075208	OVERSEAS SHIPHOLDING GROUP INC	CF–02
784571	OVONIC SYNTHETIC MATERIALS CO INC	CF–07
075252	OWENS & MINOR INC	CF–04
075234	OWENS CORNING FIBERGLAS CORP	CF–02
812233	OWENS ILLINOIS GROUP INC	CF–02
812074	OWENS ILLINOIS INC /DE/	CF–02
841501	OWENS MORTGAGE INVESTMENT FUND II	CF–05
350557	OXBORO MEDICAL INTERNATIONAL INC	CF–08
766585	OXFORD CONSOLIDATED INC	CF–07
743332	OXFORD ENERGY CO	CF–04
811100	OXFORD FUTURES FUND LTD	CF–06
865084	OXFORD HEALTH PLANS INC	CF–10
075288	OXFORD INDUSTRIES INC	CF–01
744786	OXFORD RESIDENTIAL PROPERTIES I LTD PART	CF–06
769020	OXFORD TAX EXEMPT FUND LTD PARTNERSHIP	CF–09
310801	OXIDYNE GROUP INC	CF–06
091755	OZITE CORP	CF–07
812152	OZO DIVERSIFIED AUTOMATION INC /CO/	CF–08
784558	P&C FOOD MARKETS INC /NY/	CF–08
075340	P&F INDUSTRIES INC	CF–05
835763	PA HOLDINGS CORP	CF–02
705200	PAB BANKSHARES INC	CF–09
731288	PACCAR FINANCIAL CORP	CF–02
075362	PACCAR INC	CF–02
791958	PACE GROUP INTERNATIONAL INC	CF–08
814057	PACE MEDICAL INC	CF–08
275866	PACER TECHNOLOGY	CF–07
835169	PACESETTER BUSINESS PROPERTIES	CF–05
835170	PACESETTER HOMES INC	CF–05
727273	PACIFIC AGRICULTURAL HOLDINGS INC	CF–05
075417	PACIFIC BANCORPORATION	CF–05
075641	PACIFIC BELL	CF–01
731805	PACIFIC CAPITAL BANCORP	CF–08
786128	PACIFIC EAGLE TREASURE SALVORS INC	CF–09
778584	PACIFIC ENERGY & MINING CO	CF–08
075527	PACIFIC ENTERPRISES INC	CF–02
075488	PACIFIC GAS & ELECTRIC CO	CF–02
277058	PACIFIC GOLD CORP	CF–08
724179	PACIFIC INLAND BANCORP	CF–06
727066	PACIFIC INTERNATIONAL SERVICES CORP	CF–05
796838	PACIFIC LUMBER CO /DE/	CF–03
782379	PACIFIC NUCLEAR SYSTEMS INC	CF–05
230437	PACIFIC REAL ESTATE INVESTMENT TRUST	CF–05
075608	PACIFIC SCIENTIFIC CO	CF–04
203159	PACIFIC SECURITY COMPANIES	CF–05
096977	PACIFIC TELECOM INC	CF–02
732716	PACIFIC TELESIS GROUP	CF–01
317964	PACIFIC WESTERN BANCSHARES INC /DE/	CF–04
766456	PACIFICARE HEALTH SYSTEMS INC	CF–05
075594	PACIFICORP /OR/	CF–01
072965	PACIFICORP FINANCIAL SERVICES INC	CF–08
075675	PACKAGE MACHINERY CO	CF–05
785213	PACTEL CAPITAL RESOURCES	CF–01
822638	PACTEL PERSONAL COMMUNICATIONS	CF–01
311048	PAGE AMERICA GROUP INC	CF–06
878324	PAGING NETWORK INC	CF–10
711393	PAINEWEBBER CMJ PROPERTIES LP	CF–07
075754	PAINEWEBBER GROUP INC	CF–02
705191	PAINEWEBBER GROWTH PROPERTIES LP	CF–06
722569	PAINEWEBBER GROWTH PROPERTIES TWO LP	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
850310	PAINEWEBBER GUARANTEED FUTURES FUND L P	CF–10
792688	PAINEWEBBER INCOME PROPERTIES EIGHT LTD	CF–05
714211	PAINEWEBBER INCOME PROPERTIES FIVE LTD	CF–07
354684	PAINEWEBBER INCOME PROPERTIES FOUR LTD	CF–07
745933	PAINEWEBBER INCOME PROPERTIES SIX LTD P	CF–06
852723	PAINEWEBBER QUALIFIED PLAN PROPERTY FUN	CF–10
756428	PAINEWEBBER QUALIFIED PLAN PROPERTY FUND FOUR	CF–05
724136	PAINEWEBBER QUALIFIED PLAN PROPERTY FUND THREE LP	CF–06
700913	PAINEWEBBER QUALIFIED PLAN PROPERTY FUND TWO LP	CF–06
313909	PAINEWEBBER COMMODITY LTD PARTNERSHIP I	CF–08
352911	PAINEWEBBER COMMODITY LTD PARTNERSHIP II	CF–08
772124	PAINEWEBBER DEVELOPMENT PARTNERS FOUR LT	CF–06
766858	PAINEWEBBER EQUITY PARTNERS ONE LTD PART	CF–05
814460	PAINEWEBBER EQUITY PARTNERS THREE LIMITE	CF–06
793973	PAINEWEBBER EQUITY PARTNERS TWO LTD PART	CF–04
870229	PAINEWEBBER GEODYNE ENERGY INCOME LIMITED PARTNERSHIP III–D	CF–10
746254	PAINEWEBBER GEODYNE ENERGY INCOME LTD PART 1–A	CF–09
780200	PAINEWEBBER GEODYNE ENERGY INCOME LTD PART 1–B	CF–07
791067	PAINEWEBBER GEODYNE ENERGY INCOME LTD PART 1–C	CF–07
799178	PAINEWEBBER GEODYNE ENERGY INCOME LTD PART 1–D	CF–07
806813	PAINEWEBBER GEODYNE ENERGY INCOME LTD PART 1–E	CF–06
811031	PAINEWEBBER GEODYNE ENERGY INCOME LTD PART 1–F	CF–07
824894	PAINEWEBBER GEODYNE ENERGY INCOME LTD PART II–A	CF–09
826345	PAINEWEBBER GEODYNE ENERGY INCOME LTD PART II–B	CF–06
833054	PAINEWEBBER GEODYNE ENERGY INCOME LTD PART II–C	CF–09
833526	PAINEWEBBER GEODYNE ENERGY INCOME LTD PART II–D	CF–09
842881	PAINEWEBBER GEODYNE ENERGY INCOME LTD PARTNERSHIP II–E	CF–10
850506	PAINEWEBBER GEODYNE ENERGY INCOME LTD PARTNERSHIP II–F	CF–10
851724	PAINEWEBBER GEODYNE ENERGY INCOME LTD PARTNERSHIP II–G	CF–10
854062	PAINEWEBBER GEODYNE ENERGY INCOME LTD PARTNERSHIP II–H	CF–10
860745	PAINEWEBBER GEODYNE ENERGY INCOME LTD PARTNERSHIP III–A	CF–10
863835	PAINEWEBBER GEODYNE ENERGY INCOME LTD PARTNERSHIP III–B	CF–10
863837	PAINEWEBBER GEODYNE ENERGY INCOME LTD PARTNERSHIP III–C	CF–10
872121	PAINEWEBBER GEODYNE ENERGY INCOME LTD PARTNERSHIP III–E	CF–10
873739	PAINEWEBBER GEODYNE ENERGY INCOME LTD PARTNERSHIP III–F	CF–10
879815	PAINEWEBBER GEODYNE ENERGY INCOME LTD PARTNERSHIP III–G	CF–10
850427	PAINEWEBBER GEODYNE INSTITUTIONAL PENSION ENERGY INC LP P–1	CF–10
850428	PAINEWEBBER GEODYNE INSTITUTIONAL PENSION ENERGY INC LP P–2	CF–10
854066	PAINEWEBBER GEODYNE INSTITUTIONAL PENSION ENERGY INC LP P–3	CF–10
860744	PAINEWEBBER GEODYNE INSTITUTIONAL PENSION ENERGY INC LP P–4	CF–10
863832	PAINEWEBBER GEODYNE INSTITUTIONAL PENSION ENERGY INC LP P–5	CF–10
869801	PAINEWEBBER GEODYNE INSTITUTIONAL PENSION ENERGY INC LP P–6	CF–10
888240	PAINEWEBBER GEODYNE INSTITUTIONAL PENSION ENERGY INC LP P–7	CF–10
888239	PAINEWEBBER GEODYNE INSTITUTIONAL PENSION ENERGY INC LP P–8	CF–10
769847	PAINEWEBBER GROWTH PARTNERS THREE LP	CF–05
277641	PAINEWEBBER INCOME PROPERTIES LTD PARTNE	CF–07
318016	PAINEWEBBER INCOME PROPERTIES THREE LTD	CF–07
313044	PAINEWEBBER INCOME PROPERTIES TWO LTD PA	CF–06
861880	PAINEWEBBER INDEPENDENT LIVING MORTGAGE FUND II	CF–10
847414	PAINEWEBBER INDEPENDENT LIVING MORTGAGE FUND INC	CF–10
846557	PAINEWEBBER INSURED MORTGAGE PARTNERS 1–A LP	CF–10
857098	PAINEWEBBER INSURED MORTGAGE PARTNERS 1–B LP	CF–10
779339	PAINEWEBBER MORTGAGE PARTNERS FIVE LP	CF–06
859176	PAINEWEBBER PREFERRED YIELD FUND LP	CF–10
814576	PAINEWEBBER R&D PARTNERS II LP	CF–05
865936	PAINEWEBBER R&D PARTNERS III LP	CF–10
770470	PAINEWEBBER R&D PARTNERS LP	CF–06
852748	PAINEWEBBER RETAIL PROPERTY INVESTMENTS	CF–10
754921	PAK MAIL CENTERS OF AMERICA INC	CF–08
793075	PALFED INC	CF–09
075829	PALL CORP	CF–03
884184	PALM SPRINGS GOLF CO INC	CF–10
706874	PALMETTO BANCSHARES INC	CF–08
075894	PALMETTO REAL ESTATE TRUST	CF–07
704475	PALO ALTO FUTURES FUND	CF–07
798287	PAM TRANSPORTATION SERVICES INC	CF–05
868258	PAMET SYSTEMS INC	CF–10
864760	PAMIDA HOLDINGS CORP/DE/	CF–10
854071	PAMRAPO BANCORP INC	CF–10
743216	PAN AM CORP/DE	CF–02
095626	PAN AMERICAN ENERGY CORPORATION	CF–09
075939	PAN AMERICAN WORLD AIRWAYS INC	CF–02

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
807905	PAN ATLANTIC INC	CF–09
814850	PAN PETROLEUM MASTER LTD PARTNERSHIP	CF–06
847419	PAN WORLD MINERALS INTERNATIONAL INC/UT	CF–10
882074	PANACO INC	CF–09
354992	PANATECH RESEARCH & DEVELOPMENT CORP	CF–06
075929	PANCHOS MEXICAN BUFFET INC /DE	CF–05
351696	PANHANDLE EASTERN CORP /DE/	CF–02
076063	PANHANDLE EASTERN PIPE LINE CO	CF–08
315131	PANHANDLE ROYALTY CO	CF–07
873541	PANORAMA INDUSTRIES INC	CF–10
353652	PANSOPHIC SYSTEMS INC	CF–04
763733	PANTHEON INDUSTRIES INC	CF–07
815577	PANTHER MOUNTAIN WATER PARK INC /DE/	CF–09
756439	PAPERBACK SOFTWARE INTERNATIONAL	CF–08
869395	PAR CAPITAL CORP	CF–10
728351	PAR PHARMACEUTICAL INC	CF–05
708821	PAR TECHNOLOGY CORP	CF–05
882362	PARACELSIAN INC /DE/	CF–10
076149	PARADISE FRUIT CO INC /FL/	CF–06
852615	PARAGON MORTGAGE CORP	CF–10
320342	PARAGON TEMPLETON 81–A LTD	CF–09
356180	PARAGON TEMPLETON 81–B LTD	CF–09
750561	PARALLEL PETROLEUM CORP /DE/	CF–07
857005	PARAMETRIC TECHNOLOGY CORP	CF–07
044482	PARAMOUNT COMMUNICATIONS INC /DE/	CF–02
789660	PARIS BUSINESS FORMS INC	CF–06
726957	PARK COMMUNICATIONS INC	CF–04
076267	PARK ELECTROCHEMICAL CORP	CF–04
076282	PARK OHIO INDUSTRIES INC	CF–05
076286	PARK PREMIER MINING CO	CF–09
714909	PARKER & PARSLEY 82 I LTD	CF–08
717374	PARKER & PARSLEY 82 II LTD	CF–09
743456	PARKER & PARSLEY 83–A LTD	CF–07
743457	PARKER & PARSLEY 83–B LTD	CF–06
757545	PARKER & PARSLEY 84–A LTD	CF–06
791230	PARKER & PARSLEY 85–A LTD	CF–07
791231	PARKER & PARSLEY 85–B LTD	CF–07
789789	PARKER & PARSLEY 86–A LTD	CF–07
789790	PARKER & PARSLEY 86–B LTD	CF–07
789791	PARKER & PARSLEY 86–C LTD	CF–06
810999	PARKER & PARSLEY 87–A LTD	CF–06
811000	PARKER & PARSLEY 87–B LTD	CF–06
828186	PARKER & PARSLEY 88 A LP	CF–09
828191	PARKER & PARSLEY 88 B LP	CF–09
844582	PARKER & PARSLEY 89 A LP	CF–09
844625	PARKER & PARSLEY 89 B CONV LP	CF–10
844606	PARKER & PARSLEY 89 B LP	CF–09
871364	PARKER & PARSLEY 91–A LP	CF–10
809016	PARKER & PARSLEY PRODUCING PROPERTIES 87–A	CF–09
809017	PARKER & PARSLEY PRODUCING PROPERTIES 87–B	CF–07
837893	PARKER & PARSLEY PRODUCING PROPERTIES 88–A	CF–09
839434	PARKER AUTOMOTIVE CORP	CF–09
076321	PARKER DRILLING CO /DE/	CF–04
076334	PARKER HANNIFIN CORP	CF–02
820907	PARKVALE FINANCIAL CORP	CF–09
825517	PARKWAY CAPITAL CORP	CF–09
729237	PARKWAY CO/TX	CF–05
724988	PARLEX CORP	CF–06
317951	PARLIAMENT HILL CORP	CF–07
802356	PARLUX FRAGRANCES INC	CF–06
791027	PARTECH HOLDINGS CORP	CF–03
785940	PARTICIPATING DEVELOPMENT FUND 86	CF–05
797977	PARTICIPATING INCOME PROPERTIES 1986 LP	CF–05
820806	PARTICIPATING INCOME PROPERTIES II LP	CF–09
865828	PARTICIPATING INCOME PROPERTIES III LTD PARTNERSHIP	CF–10
881460	PARTISAN CORP	CF–10
756928	PARTNERS HEALTH PLAN OF FLORIDA INC	CF–08
801335	PARTNERS HEALTH PLAN OF PENNSYLVANIA INC	CF–07
318894	PARTNERS OIL CO	CF–07
870739	PARTNERS PREFERRED YIELD II INC	CF–10
870871	PARTNERS PREFERRED YIELD III INC	CF–10
870825	PARTNERS PREFERRED YIELD INC	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
720695	PATHE COMMUNICATIONS CORP	CF–03
731895	PATHE COMPUTER CONTROL SYSTEMS CORP	CF–08
718499	PATHFINDER DATA GROUP INC	CF–08
076057	PATLEX CORP	CF–06
076605	PATRICK INDUSTRIES INC	CF–05
316695	PATRICK PETROLEUM CO /DE/	CF–05
836564	PATRIOT FINANCIAL CORP	CF–09
778946	PATTEN CORP	CF–04
704460	PATTERN PROCESSING TECHNOLOGIES INC	CF–08
854862	PAUDAN INC	CF–10
809706	PAUL ENTERTAINMENT INC	CF–08
704159	PAULSON CAPITAL CORP	CF–08
818786	PAVICHEVICH BREWING CO /IL/	CF–08
075681	PAXAR CORP	CF–05
076728	PAY FONE SYSTEMS INC	CF–07
076732	PAY N PAK STORES INC	CF–03
793322	PAY N SAVE INC	CF–04
723531	PAYCHEX INC	CF–05
076741	PAYCO AMERICAN CORP	CF–05
076744	PAYLESS CASHWAYS INC	CF–02
779626	PAYLINE SYSTEMS INC	CF–08
839649	PB SECURED FINANCING CORP	CF–09
827053	PC ETCETERA INC	CF–08
745774	PC QUOTE INC	CF–07
076791	PCA INTERNATIONAL INC	CF–05
756972	PCC GROUP INC	CF–09
879534	PCI SERVICES INC/DE	CF–10
824581	PCPI FUNDING CORP	CF–09
759436	PDA ENGINEERING	CF–06
869685	PDC 1991 DRILLING PROGRAM	CF–10
880057	PDC 1992 DRILLING PROGRAM	CF–10
771485	PDG ENVIRONMENTAL INC	CF–08
709197	PEACHES ENTERTAINMENT CORP	CF–07
884183	PEACHTREE CAPITAL INC	CF–10
886044	PEAK TECHNOLOGIES GROUP INC	CF–10
076886	PEC ISRAEL ECONOMIC CORP	CF–04
804125	PEEBLES INC	CF–04
880230	PEER REVIEW ANALYSIS INC	CF–10
076954	PEERLESS MANUFACTURING CO	CF–06
076958	PEERLESS TUBE CO	CF–05
849870	PEGASUS AIRCRAFT PARTNERS II LP	CF–10
835900	PEGASUS AIRCRAFT PARTNERS LP	CF–05
716524	PEI INC /DE/	CF–08
077004	PELL INDUSTRIES INC	CF–08
842706	PEMBROKE CAPITAL INC	CF–09
768868	PEMI BANCORP INC	CF–08
225747	PENGO INDUSTRIES INC	CF–06
737220	PENN CENTRAL BANCORP INC	CF–08
077095	PENN CENTRAL CORP	CF–02
077106	PENN ENGINEERING & MANUFACTURING CORP	CF–05
077140	PENN PACIFIC CORP	CF–08
077155	PENN TRAFFIC CO	CF–02
814181	PENN TREATY AMERICAN CORP	CF–09
077159	PENN VIRGINIA CORP	CF–04
077182	PENNEY J C CO INC	CF–02
077193	PENNEY J C FUNDING CORP	CF–02
790986	PENNROCK FINANCIAL SERVICES CORP	CF–05
716605	PENNS WOODS BANCORP INC	CF–08
106239	PENNSYLVANIA AMERICAN WATER CO	CF–03
077227	PENNSYLVANIA ELECTRIC CO	CF–01
077228	PENNSYLVANIA ENGINEERING CORP	CF–05
077231	PENNSYLVANIA ENTERPRISES INC	CF–03
077242	PENNSYLVANIA GAS & WATER CO	CF–03
317187	PENNSYLVANIA POWER & LIGHT CO /PA	CF–02
077278	PENNSYLVANIA POWER CO	CF–02
077281	PENNSYLVANIA REAL ESTATE INVESTMENT TRUS	CF–05
077320	PENNZOIL CO /DE/	CF–02
077326	PENOBSCOT SHOE CO	CF–07
077328	PENRIL CORP	CF–06
714956	PENTA SYSTEMS INTERNATIONAL INC	CF–07
077360	PENTAIR INC	CF–03
760481	PENTECH INTERNATIONAL INC	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
739608	PENWEST LTD	CF–05
878254	PEOPLES BANCHOLDING COMPANY INC	CF–10
869004	PEOPLES BANCORP	CF–10
318300	PEOPLES BANCORP INC	CF–04
811908	PEOPLES BANCORP OF WORCESTER INC	CF–08
885542	PEOPLES BANCORPORATION INC /SC/	CF–10
720026	PEOPLES BANCSHARES OF POINTE COUPEE PARISH	CF–06
762128	PEOPLES BANCTRUST CO INC	CF–05
077385	PEOPLES ENERGY CORP	CF–02
718077	PEOPLES FIRST CORP	CF–04
077388	PEOPLES GAS LIGHT & COKE CO	CF–02
829750	PEOPLES HERITAGE FINANCIAL GROUP INC	CF–09
715072	PEOPLES HOLDING CO	CF–04
763861	PEOPLES MID ILLINOIS CORP	CF–08
846801	PEOPLES SAVINGS FINANCIAL CORP	CF–09
819694	PEOPLES TELEPHONE COMPANY INC	CF–06
729969	PEORIA JOURNAL STAR INC	CF–05
077449	PEP BOYS MANNY MOE & JACK	CF–03
077476	PEPSICO INC	CF–02
791453	PERCEPTION TECHNOLOGY CORP	CF–06
887226	PERCEPTRON INC/MI	CF–10
710217	PERCEPTRONICS INC	CF–06
847386	PEREGRINE CAPITAL CORP	CF–10
875263	PEREGRINE FUTURES FUND LP	CF–10
719662	PERFECTDATA CORP	CF–08
880460	PERFUMANIA INC	CF–10
077543	PERINI CORP	CF–03
743443	PERINI INVESTMENT PROPERTIES INC	CF–04
768153	PERIPHERAL SYSTEMS INC	CF–07
077551	PERKIN ELMER CORP	CF–03
797460	PERKINS FAMILY RESTAURANTS LP	CF–05
319654	PERMIAN BASIN ROYALTY TRUST	CF–07
815275	PERPETUAL FINANCIAL CORP	CF–08
820096	PERRIGO CO	CF–10
077628	PERRY DRUG STORES INC	CF–04
859640	PERSEPTIVE BIOSYSTEMS INC	CF–10
847582	PERSHING LEASE INCOME LIMITED PARTNERSHIP II	CF–10
826407	PERSHING LEASE INCOME LTD PARTNERSHIP	CF–09
725394	PERSONAL COMPUTER PRODUCTS INC	CF–07
351935	PERSONAL DIAGNOSTICS INC	CF–07
881915	PET PRODUCTS INC	CF–10
813945	PETERS J M CO INC	CF–03
077808	PETRIE STORES CORP	CF–03
217165	PETRO GLOBAL INC	CF–08
077864	PETROL INDUSTRIES INC	CF–08
854520	PETROLANE GAS SERVICE LIMITED PARTNERSHI	CF–10
077877	PETROLEUM DEVELOPMENT CORP	CF–06
736768	PETROLEUM HEAT & POWER CO INC	CF–04
350403	PETROLEUM HELICOPTERS INC	CF–04
317616	PETROLEUM SECURITIES FUND 1980 DEV DRIL	CF–09
077943	PETROLITE CORP	CF–04
077952	PETROMINERALS CORP	CF–07
846012	PETROVEST INC	CF–10
077969	PETTIBONE CORP	CF–05
078003	PFIZER INC	CF–01
081157	PGI INC	CF–05
353827	PHARMACONTROL CORP	CF–06
861049	PHARMACY MANAGEMENT SERVICES INC	CF–06
887139	PHARMAGENICS INC /DE/	CF–10
351506	PHARMAKINETICS LABORATORIES INC	CF–06
713275	PHARMATEC INC	CF–08
876645	PHARMCHEM LABORATORIES INC	CF–10
823754	PHARMETICS INC	CF–08
824416	PHASE OUT OF AMERICA INC	CF–09
225759	PHC INC	CF–08
078066	PHELPS DODGE CORP	CF–02
716789	PHH CAPITAL INC	CF–09
077776	PHH CORPORATION	CF–02
078100	PHILADELPHIA ELECTRIC CO	CF–02
078103	PHILADELPHIA ELECTRIC POWER CO	CF–05
078128	PHILADELPHIA SUBURBAN CORP	CF–03
764180	PHILIP MORRIS COMPANIES INC	CF–01

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

	CIK	Issuer name	Group
078141		PHILIP MORRIS INC	CF–01
205778		PHILIPS INDUSTRIES INC /OH/	CF–03
078214		PHILLIPS PETROLEUM CO	CF–02
078239		PHILLIPS VAN HEUSEN CORP /DE/	CF–03
230046		PHLCORP INC	CF–03
351015		PHM CREDIT CORP	CF–05
789562		PHOENIX ADVANCED TECHNOLOGY INC	CF–08
710126		PHOENIX AMERICAN INC	CF–05
726573		PHOENIX FARMLAND INVESTORS LTD PARTNERSH	CF–07
837803		PHOENIX HIGH TECH HIGH YIELD FUND	CF–09
857873		PHOENIX INCOME FUND LP	CF–10
848102		PHOENIX LASER SYSTEMS INC	CF–08
773821		PHOENIX LEASING CAPITAL ASSURANCE FUND	CF–09
822690		PHOENIX LEASING CASH DISTRIBUTION FUND I	CF–09
798905		PHOENIX LEASING CASH DISTRIBUTION FUND II	CF–04
755118		PHOENIX LEASING CASH DISTRIBUTION FUND III	CF–09
853571		PHOENIX LEASING CASH DISTRIBUTION FUND IV	CF–10
867296		PHOENIX LEASING CASH DISTRIBUTION FUND V LP	CF–10
356225		PHOENIX LEASING GROWTH FUND 1982	CF–09
216860		PHOENIX LEASING INCOME FUND 1977	CF–09
313351		PHOENIX LEASING INCOME FUND 1980	CF–09
353543		PHOENIX LEASING INCOME FUND 1981	CF–09
355945		PHOENIX LEASING INCOME FUND 1982–1	CF–09
702803		PHOENIX LEASING INCOME FUND 1982–2	CF–09
702804		PHOENIX LEASING INCOME FUND 1982–3	CF–09
702805		PHOENIX LEASING INCOME FUND 1982–4	CF–09
709995		PHOENIX LEASING INCOME FUND VI	CF–09
732676		PHOENIX LEASING INCOME FUND VII	CF–09
745167		PHOENIX MEDICAL TECHNOLOGY INC	CF–06
702927		PHOENIX NBC PLAZA LTD	CF–09
704862		PHOENIX NETWORK INC	CF–08
799721		PHOENIX RE CORP	CF–06
097483		PHOENIX RESOURCE COMPANIES INC	CF–05
832767		PHOENIX TECHNOLOGIES LTD	CF–05
821511		PHONETEL TECHNOLOGIES INC	CF–08
880364		PHOTEES INC/FL	CF–10
743871		PHOTO ACOUSTIC TECHNOLOGY INC	CF–08
078311		PHOTO CONTROL CORP	CF–06
746255		PHOTOCOMM INC	CF–07
319379		PHOTOGRAPHIC SCIENCES CORP	CF–07
808338		PHOTON TECHNOLOGY INTERNATIONAL INC	CF–07
810136		PHOTRONICS INC	CF–06
803568		PHP HEALTHCARE CORP	CF–06
822748		PHS INDUSTRIES INC	CF–10
881400		PHYCOR INC/TN	CF–10
861438		PHYSICIAN COMPUTER NETWORK INC /NJ	CF–10
861089		PHYSICIANS HEALTHCARE CENTERS INC	CF–10
729645		PHYSIO TECHNOLOGY INC	CF–08
846193		PI HOLDINGS INC	CF–10
078364		PIC N SAVE CORP	CF–04
277923		PICCADILLY CAFETERIAS INC	CF–04
277318		PICNIC POINT DEVELOPMENT CO LTD	CF–08
352994		PICO PRODUCTS INC	CF–06
755095		PICTURETEL CORP	CF–06
854132		PIEDMONT BANCSHARES CORP	CF–10
216870		PIEDMONT BANKGROUP INC	CF–07
829552		PIEDMONT FEDERAL CORP	CF–09
078457		PIEDMONT MANAGEMENT CO INC	CF–05
819517		PIEDMONT MINING CO INC	CF–07
078460		PIEDMONT NATURAL GAS CO INC	CF–03
813765		PIEMONTE FOODS INC	CF–07
278130		PIER 1 IMPORTS INC/DE	CF–03
823387		PIERCE INTERNATIONAL INC	CF–08
352427		PIEZO ELECTRIC PRODUCTS INC	CF–08
766592		PIGGLY WIGGLY ALABAMA DISTRIBUTING CO IN	CF–05
350852		PIKEVILLE NATIONAL CORP	CF–07
078563		PILGRIM INTERGROUP INVESTMENT CORP	CF–07
802481		PILGRIMS PRIDE CORP	CF–04
827065		PINNACLE BANC GROUP INC	CF–08
838681		PINNACLE BANCORP INC	CF–09
857353		PINNACLE ENVIRONMENTAL INC	CF–08
853461		PINNACLE FINANCIAL SERVICES INC	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
764622	PINNACLE WEST CAPITAL CORP	CF–02
760731	PIONEER AMERICAN HOLDING CO CORP	CF–05
859241	PIONEER FED BANCORP INC	CF–10
826329	PIONEER FINANCIAL CORP	CF–04
799036	PIONEER FINANCIAL SERVICES INC /DE	CF–04
733060	PIONEER GROUP INC	CF–05
078716	PIONEER HI BRED INTERNATIONAL INC	CF–01
796374	PIONEER RAILROAD CO INC /IA/	CF–08
078749	PIONEER STANDARD ELECTRONICS INC	CF–04
078751	PIONEER SYSTEMS INC	CF–07
799320	PIONEER WESTERN PROPERTIES INCOME FUND L	CF–07
078778	PIPER JAFFRAY INC	CF–03
877157	PIPER MORTGAGE ACCEPTANCE CORP	CF–10
216877	PISMO COAST VILLAGE INC	CF–07
801588	PITCAIRN GROUP LP	CF–09
768170	PITNEY BOWES CREDIT CORP	CF–02
078814	PITNEY BOWES INC /DE/	CF–02
078853	PITT DES MOINES INC	CF–04
078838	PITTSBURGH & WEST VIRGINIA RAILROAD	CF–07
078890	PITTSTON CO	CF–03
093469	PITTWAY CORP /DE/	CF–03
718332	PIZZA INN INC /TX/	CF–04
775272	PLAINS PETROLEUM CO	CF–05
350426	PLAINS RESOURCES INC	CF–05
881513	PLAINS SPIRIT FINANCIAL CORP	CF–10
852904	PLANTATION CAPITAL CORP	CF–10
824103	PLANTS FOR TOMORROW INC	CF–09
769025	PLANVEST DEVELOPMENT PARTNERS	CF–09
354452	PLASMA THERM INC	CF–06
790966	PLASTI LINE INC /TN/	CF–05
884129	PLASTIC CONTAINERS INC	CF–10
810628	PLASTIC SPECIALTIES & TECHNOLOGIES INC	CF–08
835494	PLASTIGONE TECHNOLOGIES INC	CF–07
079090	PLATRONICS INC	CF–08
079114	PLAYBOY ENTERPRISES INC	CF–05
796912	PLAYERS INTERNATIONAL INC /NV/	CF–06
817217	PLAYTEX BEAUTY CARE INC	CF–03
842945	PLAYTEX FAMILY PRODUCTS CORP /DE/	CF–09
842699	PLAYTEX FP GROUP INC	CF–10
880821	PLAYTEX INTERNATIONAL CORP	CF–10
880820	PLAYTEX INVESTMENT CORP	CF–10
353000	PLAZA COMMERCE BANCORP	CF–07
720642	PLAZA COMMUNICATIONS INC	CF–08
884500	PLAZA HOME MORTGAGE CORPORATION	CF–10
879682	PLC SYSTEMS INC	CF–10
079166	PLENUM PUBLISHING CORP	CF–04
785786	PLEXUS CORP	CF–06
788813	PLM EQUIPMENT GROWTH FUND	CF–05
812072	PLM EQUIPMENT GROWTH FUND II	CF–04
824210	PLM EQUIPMENT GROWTH FUND III	CF–09
847517	PLM EQUIPMENT GROWTH FUND IV	CF–10
857645	PLM EQUIPMENT GROWTH FUND V	CF–10
874395	PLM EQUIPMENT GROWTH FUND VI	CF–10
814677	PLM INTERNATIONAL INC	CF–03
778791	PLM TRANSPORTATION EQUIPMENT PARTNERS IXA	CF–07
778792	PLM TRANSPORTATION EQUIPMENT PARTNERS IXB	CF–07
778793	PLM TRANSPORTATION EQUIPMENT PARTNERS IXC	CF–07
778794	PLM TRANSPORTATION EQUIPMENT PARTNERS IXD	CF–08
754712	PLM TRANSPORTATION EQUIPMENT PARTNERS VIIB	CF–07
754714	PLM TRANSPORTATION EQUIPMENT PARTNERS VIIC	CF–07
849213	PLUM CREEK TIMBER CO LP	CF–03
079209	PLY GEM INDUSTRIES INC	CF–04
079225	PLYMOUTH RUBBER CO INC	CF–06
079242	PMC POWDERED METALS CORP	CF–07
829608	PMR CORP	CF–09
847068	PNB BANKSHARES INC	CF–09
704693	PNB FINANCIAL GROUP	CF–06
713676	PNC FINANCIAL CORP	CF–02
825312	PNP PRIME CORP	CF–04
723594	POCAHONTAS BANKSHARES CORP	CF–08
777623	POCI INC	CF–07
079274	POCONO HOTELS CORP	CF–07

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
079282	POE & ASSOCIATES INC	CF–06
230465	POGO PRODUCING CO	CF–03
869769	POINSETT FINANCIAL CORP	CF–10
888606	POINSETTIA RESOURCES INC	CF–10
822439	POINT LOMA SUPER 8 LTD	CF–10
810615	POLAR MOLECULAR CORP /UT/	CF–08
748218	POLARIS AIRCRAFT INCOME FUND I	CF–05
789895	POLARIS AIRCRAFT INCOME FUND II	CF–04
806031	POLARIS AIRCRAFT INCOME FUND III	CF–04
818145	POLARIS AIRCRAFT INCOME FUND IV	CF–04
832925	POLARIS AIRCRAFT INCOME FUND V	CF–09
717285	POLARIS AIRCRAFT INVESTORS II–C	CF–07
746568	POLARIS AIRCRAFT INVESTORS II–D	CF–07
816951	POLARIS INDUSTRIES PARTNERS LP	CF–04
079326	POLAROID CORP	CF–02
056226	POLICY MANAGEMENT SYSTEMS CORP	CF–01
826501	POLIFLY FINANCIAL CORP	CF–04
783982	POLK AUDIO INC	CF–06
763950	POLLUTION RESEARCH & CONTROL CORP /CA/	CF–07
079388	POLORON PRODUCTS INC	CF–06
832984	POLYDYNE INDUSTRIES INC	CF–09
878748	POLYMEDICA INDUSTRIES INC	CF–10
079424	POLYMER RESEARCH CORP OF AMERICA	CF–08
813719	POLYMERIX INC	CF–08
735422	POLYMUSE INC	CF–08
883979	POMEROY COMPUTER RESOURCES INC	CF–10
859917	PONDER INDUSTRIES INC	CF–10
845808	PONTE VEDRA BANKING CORP	CF–10
842815	POOL ENERGY SERVICES CO	CF–08
311871	POPE & TALBOT INC /DE/	CF–03
079513	POPE EVANS & ROBBINS INC	CF–06
784011	POPE RESOURCES	CF–05
835411	PORT ST LUCIE NATIONAL BANK HOLDING CORP	CF–09
079564	PORTA SYSTEMS CORP	CF–05
808241	PORTAGE INDUSTRIES CORP /DE/	CF–06
079570	PORTEC INC	CF–05
079636	PORTLAND GENERAL CORP /OR	CF–02
784977	PORTLAND GENERAL ELECTRIC CO /OR/	CF–02
825534	PORTSMOUTH BANK SHARES INC	CF–08
079661	PORTSMOUTH SQUARE INC	CF–08
079677	POSSIS CORP	CF–07
847256	POTENTIALISTICS INC	CF–10
079716	POTLATCH CORP	CF–02
720469	POTOMAC BANCORP INC	CF–06
079701	POTOMAC EDISON CO	CF–02
079732	POTOMAC ELECTRIC POWER CO	CF–02
080420	POWELL INDUSTRIES INC	CF–05
798539	POWER CELL INC	CF–08
079829	POWER DESIGNS INC	CF–08
079839	POWER OIL CO	CF–08
777527	POWER SPECTRA INC /CA/	CF–08
766748	POWER TEST INVESTORS LTD PARTNERSHIP	CF–05
826757	POWEREC INTERNATIONAL INC	CF–08
079879	PPG INDUSTRIES INC	CF–02
354383	PRAB ROBOTS INC	CF–06
079920	PRATT & LAMBERT INC	CF–05
030117	PRATT HOTEL CORP /DE/	CF–04
884905	PRAXAIR INC	CF–10
311657	PRE PAID LEGAL SERVICES INC	CF–06
825999	PRECIOUS METAL MINES INC	CF–09
802825	PRECISION AEROTECH INC /DE/	CF–05
079953	PRECISION CASTPARTS CORP	CF–03
867840	PRECISION OPTICS CORPORATION INC	CF–10
102886	PRECISION RESOURCES INC /NJ/	CF–07
771729	PRECISION STANDARD INC	CF–05
847476	PREFERRED FINANCIAL CORP /DE/	CF–10
723532	PREFERRED HEALTH CARE LTD /DE/	CF–07
849804	PREFERRED HOMECARE OF AMERICA INC	CF–07
843005	PREFERRED INCOME FUND II LIMITED PARTNER	CF–09
858880	PREFERRED INCOME FUND III LIMITED PARTNERSHIP	CF–10
312903	PREFERRED PROPERTIES FUND 80	CF–05
318985	PREFERRED PROPERTIES FUND 81	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
702173	PREFERRED PROPERTIES FUND 82	CF–05
800575	PREMARK INTERNATIONAL INC	CF–02
833374	PREMIER ACCEPTANCE CORP /MN/	CF–05
883168	PREMIER ANESTHESIA INC	CF–10
761332	PREMIER BANCORP INC	CF–03
797541	PREMIER BANKSHARES CORP	CF–04
036340	PREMIER FINANCIAL SERVICES INC	CF–04
080051	PREMIER INDUSTRIAL CORP	CF–04
885084	PREMIERE RADIO NETWORKS INC	CF–10
724910	PREMIS CORP	CF–08
870256	PRENTICE CAPITAL INC	CF–10
080124	PRESIDENTIAL LIFE CORP	CF–05
757078	PRESIDENTIAL MORTGAGE CO	CF–05
731245	PRESIDENTIAL REALTY CORP/NEW/DE	CF–06
080134	PRESIDIO OIL CO	CF–03
878093	PRESLEY COMPANIES /DE	CF–10
846876	PRESSTEK INC /DE/	CF–07
747675	PRESSURE PIPING COMPONENTS INC	CF–08
804126	PRESTO TEK CORP	CF–08
716741	PRESTON CORP	CF–03
356461	PRICE CO	CF–01
355787	PRICE COMMUNICATIONS CORP	CF–04
878031	PRICE REIT INC	CF–10
080252	PRICE STERN SLOAN INC	CF–05
080255	PRICE T ROWE ASSOCIATES INC /MD/	CF–04
752743	PRICE T ROWE REALTY INCOME FUND I	CF–09
787493	PRICE T ROWE REALTY INCOME FUND II	CF–09
805298	PRICE T ROWE REALTY INCOME FUND III	CF–09
826315	PRICE T ROWE REALTY INCOME FUND IV	CF–09
852160	PRICE T ROWE RENAISSANCE FUND LTD	CF–10
816247	PRICOR INC	CF–06
859636	PRIDE COMPANIES LP	CF–10
833081	PRIDE PETROLEUM SERVICES INC	CF–05
318107	PRIMA ENERGY CORP	CF–06
716712	PRIMAGES INC	CF–07
356064	PRIMARK CORP	CF–04
881816	PRIMARY DEVELOPMENT CORP	CF–10
849803	PRIME BANCSHARES INC	CF–10
793598	PRIME CABLE INCOME PARTNERS LP	CF–09
791013	PRIME CAPITAL CORP	CF–04
864890	PRIME CELLULAR INC	CF–10
813616	PRIME FINANCIAL PARTNERS LP	CF–08
080293	PRIME HOSPITALITY CORP	CF–02
717421	PRIME MEDICAL SERVICES INC	CF–06
804219	PRIME MOTOR INNS LTD PARTNERSHIP	CF–05
357217	PRIME PLUS REALTY PARTNERS	CF–09
881973	PRIMEENERGY ASSET & INCOME FUND LP AA–4	CF–10
056868	PRIMEENERGY CORP	CF–06
720476	PRIMEFAX INC	CF–08
831001	PRIMERICA CORP /NEW/	CF–02
004690	PRIMERICA HOLDINGS INC	CF–02
837760	PRIMOS HOLDINGS INC	CF–09
811421	PRINCETON DIAGNOSTIC LABORATORIES OF AME	CF–07
080324	PRINCETON ELECTRONIC PRODUCTS INC	CF–08
789850	PRINCETON FINE ART INC	CF–09
080327	PRINCETON MINING CO	CF–08
843513	PRINCIPAL GROWTH MORTGAGE INVESTORS FUND LP	CF–10
823195	PRINCIPAL GROWTH MORTGAGE INVESTORS FUND LP SER I	CF–09
829088	PRINTRON INC	CF–08
311505	PRINTRONIX INC	CF–05
773135	PRISM ENTERTAINMENT CORP	CF–06
804084	PRIVATE BRANDS INC	CF–06
788920	PRO DEX INC	CF–08
202932	PRO FAC COOPERATIVE INC	CF–03
355511	PRO OIL INC	CF–08
800401	PROBAC INTERNATIONAL CORP	CF–08
857073	PROCESS EQUIPMENT INC	CF–10
883592	PROCOM GROUP INC	CF–10
080424	PROCTER & GAMBLE CO	CF–01
862335	PROCTOR & GAMBLE EMPLOYEE STOCK OWNRSHIP	CF–01
812306	PROCYON CORP	CF–09
856072	PROCYTE CORP /WA/	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
100712	PRODUCTION OPERATORS CORP	CF–05
700914	PROFESSIONAL BANCORP INC	CF–06
275503	PROFESSIONAL CARE INC	CF–07
873753	PROFESSIONAL DENTAL TECHNOLOGIES INC	CF–10
803172	PROFESSIONAL VENTURES INC	CF–09
812900	PROFFITTS INC	CF–05
729232	PROFIT TECHNOLOGY INC	CF–07
873185	PROGRAM ENTERTAINMENT GROUP INC	CF–10
080630	PROGRAMMING & SYSTEMS INC	CF–06
353705	PROGRAMS UNLIMITED INC	CF–09
790183	PROGRESS FINANCIAL CORP	CF–05
876167	PROGRESS SOFTWARE CORP /MA	CF–10
735424	PROGRESSIVE BANCORPORATION INC	CF–08
797507	PROGRESSIVE BANK INC	CF–07
080661	PROGRESSIVE CORP/OH/	CF–03
080397	PROGROUP INC	CF–06
080693	PROLER INTERNATIONAL CORP	CF–04
803026	PROMETHEUS INCOME PARTNERS	CF–06
858332	PROMUS COMPANIES INC	CF–01
815553	PRONET INC /DE/	CF–06
080718	PROPERTY CAPITAL TRUST	CF–04
765195	PROPERTY RESOURCES EQUITY TRUST	CF–07
796981	PROPERTY RESOURCES FUND IX	CF–07
702313	PROPERTY RESOURCES FUND VI	CF–06
790410	PROPERTY SECURED INVESTMENTS INC	CF–07
775762	PROPERTY SOLUTION USA INC	CF–09
080737	PROPERTY TRUST OF AMERICA	CF–05
729975	PROPHETSTOWN MANUFACTURING INC	CF–09
739169	PROSPECT GROUP INC	CF–02
818239	PROSPECT PARK FINANCIAL CORP /DE/	CF–08
802142	PROTECH INC	CF–10
355429	PROTECTIVE LIFE CORP	CF–04
770131	PROTEIN DATABASES INC	CF–08
882104	PROTEIN DESIGN LABS INC/DE	CF–10
858155	PROTEIN POLYMER TECHNOLOGIES INC	CF–10
874316	PROTEON INC/MA	CF–10
883322	PROTOCOL SYSTEMS INC/NEW	CF–10
814139	PROVENA FOODS INC	CF–07
831968	PROVIDENCE & WORCESTER RAILROAD CO	CF–05
319651	PROVIDENCE ENERGY CORP	CF–04
080812	PROVIDENCE GAS CO	CF–04
875615	PROVIDENCE HEALTH CARE INC	CF–10
768892	PROVIDENT AMERICAN CORP	CF–09
316770	PROVIDENT BANCORP INC	CF–07
818969	PROVIDENT BANKSHARES CORP	CF–08
821475	PROVIDENT LIFE CAPITAL CORP	CF–08
880936	PROVIDENTIAL CORP	CF–10
717319	PRUDENTIAL ACQUISITION FUND I LP	CF–05
851786	PRUDENTIAL BACHE CAPITAL RETURN FUTURES FUND 2 LP	CF–10
857850	PRUDENTIAL BACHE CAPITAL RETURN FUTURES FUND 3 LP	CF–10
846176	PRUDENTIAL BACHE CAPITAL RETURN FUTURES FUND LP	CF–10
833225	PRUDENTIAL BACHE DIVERSIFIED FUTURES FUND	CF–09
801586	PRUDENTIAL BACHE ENERGY GROWTH FUND LP	CF–10
801580	PRUDENTIAL BACHE ENERGY GROWTH FUND LP G 1	CF–09
801582	PRUDENTIAL BACHE ENERGY GROWTH FUND LP G 2	CF–09
801585	PRUDENTIAL BACHE ENERGY GROWTH FUND LP G 3	CF–09
743451	PRUDENTIAL BACHE ENERGY INCOME FUND 1983 P–1	CF–09
743452	PRUDENTIAL BACHE ENERGY INCOME FUND 1983 P–2	CF–09
745148	PRUDENTIAL BACHE ENERGY INCOME FUND 1983 P–3	CF–09
813768	PRUDENTIAL BACHE ENERGY INCOME LIMITED PART IVP–16	CF–09
814397	PRUDENTIAL BACHE ENERGY INCOME LIMITED PART IVP–17	CF–09
825198	PRUDENTIAL BACHE ENERGY INCOME LIMITED PART V P–1	CF–09
826493	PRUDENTIAL BACHE ENERGY INCOME LIMITED PART VI P–23	CF–09
849797	PRUDENTIAL BACHE ENERGY INCOME LIMITED PART VI P–24	CF–10
850266	PRUDENTIAL BACHE ENERGY INCOME LIMITED PART VI P–25	CF–10
856314	PRUDENTIAL BACHE ENERGY INCOME LIMITED PART VI P–26	CF–10
820079	PRUDENTIAL BACHE ENERGY INCOME LIMITED PART VP–18	CF–09
831362	PRUDENTIAL BACHE ENERGY INCOME LIMITED PART VP–20	CF–09
831963	PRUDENTIAL BACHE ENERGY INCOME LIMITED PART VP–21	CF–09
837493	PRUDENTIAL BACHE ENERGY INCOME LIMITED PARTN VP–22	CF–09
804457	PRUDENTIAL BACHE ENERGY INCOME LTD PARTN	CF–10
736493	PRUDENTIAL BACHE ENERGY INCOME LTD PARTN II P–10	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
795751	PRUDENTIAL BACHE ENERGY INCOME LTD PARTN II P–11	CF–09
751373	PRUDENTIAL BACHE ENERGY INCOME LTD PARTN II P–4	CF–09
751375	PRUDENTIAL BACHE ENERGY INCOME LTD PARTN II P–5	CF–09
765947	PRUDENTIAL BACHE ENERGY INCOME LTD PARTN II P–6	CF–09
764575	PRUDENTIAL BACHE ENERGY INCOME LTD PARTN II P–7	CF–09
774456	PRUDENTIAL BACHE ENERGY INCOME LTD PARTN II P–8	CF–09
782997	PRUDENTIAL BACHE ENERGY INCOME LTD PARTN II P–9	CF–09
788912	PRUDENTIAL BACHE ENERGY INCOME LTD PARTN III P–12	CF–09
799170	PRUDENTIAL BACHE ENERGY INCOME LTD PARTN III P–13	CF–09
804457	PRUDENTIAL BACHE ENERGY INCOME LTD PARTN III P–14	CF–09
790518	PRUDENTIAL BACHE ENERGY INCOME LTD PARTN III P–15	CF–09
757191	PRUDENTIAL BACHE EQUITEC REAL ESTATE PAR	CF–09
823347	PRUDENTIAL BACHE FUTURES GROWTH FUND LP	CF–09
856533	PRUDENTIAL BACHE OPTIMAX FUTURES FUND LP	CF–10
837492	PRUDENTIAL BACHE PENSION & INTL INVESTOR LTD PART PI1	CF–09
837494	PRUDENTIAL BACHE PENSION & INTL INVESTOR LTD PART PI2	CF–09
850265	PRUDENTIAL BACHE PENSION & INTL INVESTOR LTD PART PI3	CF–10
854195	PRUDENTIAL BACHE PENSION & INTL INVESTOR LTD PART PI4	CF–10
862517	PRUDENTIAL BACHE PENSION & INTL INVESTOR LTD PART PI5	CF–10
774457	PRUDENTIAL BACHE PENSION & RETIREMENT LTD PART PBR–1	CF–08
775301	PRUDENTIAL BACHE PENSION & RETIREMENT LTD PART PBR–2	CF–09
793711	PRUDENTIAL BACHE PENSION & RETIREMENT LTD PART PBR–3	CF–09
813767	PRUDENTIAL BACHE PENSION & RETIREMENT LTD PART PBR–4	CF–09
850184	PRUDENTIAL BACHE TAX CREDIT PROPERTIES L	CF–10
350558	PRUDENTIAL BACHE VMS REALTY ASSOCIATES L	CF–05
708320	PRUDENTIAL BACHE WATSON & TAYLOR LTD 1	CF–07
737296	PRUDENTIAL BACHE WATSON & TAYLOR LTD 2	CF–06
759726	PRUDENTIAL BACHE WATSON & TAYLOR LTD 3	CF–06
780352	PRUDENTIAL BACHE WATSON & TAYLOR LTD–4	CF–06
822657	PRUDENTIAL HOME MORTGAGE SECURITIES COMP	CF–09
752292	PRUDENTIAL REALTY ACQUISITION FUND II LP	CF–09
715770	PRUDENTIAL REALTY SECURITIES INC	CF–05
771641	PRUDENTIAL REALTY TRUST	CF–05
874242	PRUDENTIAL SECURITIES CMO TRUST	CF–10
874711	PRUDENTIAL SECURITIES OPTIMAX FUTURES FUND 2 LP	CF–10
870576	PS BUSINESS PARKS INC	CF–10
724536	PS CAROLINAS BALANCED FUND LTD	CF–07
080966	PS GROUP INC	CF–03
831491	PS MARINA INVESTORS I	CF–09
727069	PS PARTNERS II LTD	CF–05
741513	PS PARTNERS III LTD	CF–05
748901	PS PARTNERS IV LTD	CF–05
702276	PS PARTNERS LTD	CF–05
763541	PS PARTNERS V LTD	CF–05
773281	PS PARTNERS VI LTD	CF–09
781850	PS PARTNERS VII LTD	CF–05
793934	PS PARTNERS VIII LTD	CF–06
813897	PSH MASTER LP I	CF–05
081020	PSI ENERGY INC	CF–02
829966	PSI RESOURCES INC	CF–02
792853	PSICOR INC	CF–06
742689	PSN COMMUNICATIONS INC	CF–09
810627	PST HOLDINGS INC	CF–04
806517	PSYCHEMEDICS CORP	CF–08
080984	PUBCO CORP	CF–05
081018	PUBLIC SERVICE CO OF COLORADO	CF–02
315256	PUBLIC SERVICE CO OF NEW HAMPSHIRE	CF–02
081023	PUBLIC SERVICE CO OF NEW MEXICO	CF–02
081025	PUBLIC SERVICE CO OF NORTH CAROLINA INC	CF–01
081027	PUBLIC SERVICE CO OF OKLAHOMA	CF–01
081033	PUBLIC SERVICE ELECTRIC & GAS CO	CF–01
788784	PUBLIC SERVICE ENTERPRISE GROUP INC	CF–01
275915	PUBLIC STORAGE PARTNERS II LTD	CF–07
225775	PUBLIC STORAGE PROPERTIES IV LTD	CF–06
868811	PUBLIC STORAGE PROPERTIES IX INC	CF–10
202953	PUBLIC STORAGE PROPERTIES LTD	CF–07
277925	PUBLIC STORAGE PROPERTIES V LTD	CF–06
313741	PUBLIC STORAGE PROPERTIES VI INC	CF–09
870577	PUBLIC STORAGE PROPERTIES VII INC	CF–10
869403	PUBLIC STORAGE PROPERTIES VIII INC	CF–10
864337	PUBLIC STORAGE PROPERTIES X INC	CF–10
866368	PUBLIC STORAGE PROPERTIES XI INC	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
869795	PUBLIC STORAGE PROPERTIES XII INC	CF–10
869624	PUBLIC STORAGE PROPERTIES XIV INC	CF–10
870905	PUBLIC STORAGE PROPERTIES XIX INC	CF–10
870499	PUBLIC STORAGE PROPERTIES XV INC	CF–10
870179	PUBLIC STORAGE PROPERTIES XVI INC	CF–10
869805	PUBLIC STORAGE PROPERTIES XVII INC	CF–10
870376	PUBLIC STORAGE PROPERTIES XVIII INC	CF–10
870541	PUBLIC STORAGE PROPERTIES XX INC	CF–10
081050	PUBLICKER INDUSTRIES INC	CF–05
715414	PUBLISHERS EQUIPMENT CORP	CF–05
081061	PUBLIX SUPER MARKETS INC	CF–02
081075	PUERTO RICAN CEMENT CO INC	CF–04
352075	PUGET SOUND BANCORP	CF–03
081100	PUGET SOUND POWER & LIGHT CO /WA/	CF–02
081112	PULASKI FURNITURE CORP	CF–05
805357	PULITZER PUBLISHING CO	CF–04
890169	PULSAFEEDER INC	CF–10
857559	PULSE BANCORP INC	CF–10
874441	PULSE ENGINEERING INC / DE	CF–10
713076	PULTE HOME CREDIT CORP	CF–04
809648	PURE TECH INTERNATIONAL INC	CF–07
276720	PURECYCLE CORP	CF–07
081199	PURITAN BENNETT CORP	CF–04
100581	PUROFLOW INC	CF–07
870751	PURSUIT VENTURE CORP	CF–10
702901	PV FINANCIAL	CF–06
081288	PVC CONTAINER CORP	CF–06
837212	PW PRIVATE CAPITAL TECHNOLOGY FUND LP	CF–10
081318	PYRAMID OIL CO	CF–07
714865	PYRAMID TECHNOLOGY CORP	CF–04
072654	PYRAMIDWEST DEVELOPMENT CORP	CF–06
885367	PYXIS CORPORATION /DE/	CF–10
729213	Q MED INC	CF–07
081344	Q1 CORP	CF–08
067421	QANTEL CORP /NY/	CF–06
714308	QCB BANCORP	CF–08
830351	QINTEX ENTERTAINMENT INC	CF–04
809800	QMC TECHNOLOGIES INC	CF–07
710983	QMS INC	CF–04
750558	QNB CORP	CF–09
783267	QSR INCOME PROPERTIES LTD	CF–09
081350	QUAD METALS CORP/WA	CF–09
814273	QUADRAX CORP /DE/	CF–07
073299	QUADREX CORP	CF–06
081362	QUAKER CHEMICAL CORP	CF–04
081371	QUAKER OATS CO	CF–01
081381	QUAKER STATE CORP	CF–03
874315	QUAL MED INC /DE/	CF–10
826817	QUALIFIED HOUSING PARTNERS LIMITED PARTN	CF–09
804333	QUALITY FOOD CENTERS INC	CF–05
766431	QUALITY RESORTS OF AMERICA INC	CF–09
708818	QUALITY SYSTEMS INC	CF–07
715788	QUANTECH ELECTRONICS CORP	CF–08
081425	QUANTRONIX CORP	CF–06
070047	QUANTUM CHEMICAL CORP	CF–02
709283	QUANTUM CORP /DE/	CF–04
768986	QUANTUM DIAGNOSTICS LTD /NY/	CF–08
873393	QUANTUM HEALTH RESOURCES INC/DE	CF–10
883981	QUANTUM RESTAURANT GROUP INC	CF–10
801557	QUANTUM VENTURES GROUP INC	CF–08
828879	QUANTUS CAPITAL INC	CF–09
081542	QUAREX INDUSTRIES INC	CF–06
804330	QUARTZ INC	CF–08
789945	QUATECH INC	CF–08
816013	QUEEN CITY BROADCASTING INC /DE/	CF–05
816012	QUEEN CITY BROADCASTING OF NEW YORK INC	CF–05
793395	QUEST BIOTECHNOLOGY INC	CF–08
852234	QUEST CORP	CF–10
797672	QUEST HEALTHCARE FUND VII LP	CF–06
811674	QUEST HEALTHCARE FUND VIII LP	CF–06
351721	QUEST MEDICAL INC	CF–08
352511	QUESTA OIL & GAS CO /CO/	CF–07

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
751652	QUESTAR CORP	CF–02
764044	QUESTAR PIPELINE CO	CF–03
737033	QUESTECH INC	CF–06
869802	QUESTEX GROUP LTD	CF–10
719544	QUICK & REILLY GROUP INC /DE/	CF–03
832985	QUICKSILVER ENTERPRISES INC	CF–06
841282	QUIESCENT CORP	CF–09
868278	QUIGLEY CORP	CF–10
850261	QUIKBYTE SOFTWARE INC	CF–10
805305	QUIKSILVER INC	CF–06
796577	QUIPP INC	CF–06
032870	QUIXOTE CORP	CF–05
812544	QUME CORP	CF–05
854694	QUORUM HEALTH GROUP INC	CF–10
797565	QVC NETWORK INC	CF–03
868780	R & B INC	CF–10
700573	R 2000 CORP	CF–08
855660	R I C 26 LTD	CF–10
885899	R2 MEDICAL SYSTEMS INC	CF–10
804121	RABBIT SOFTWARE CORP /PA /	CF–07
826675	RAC MORTGAGE INVESTMENT CORP	CF–02
869484	RAD SAN INC	CF–10
310235	RADIANT TECHNOLOGY CORP	CF–07
882099	RADIATION CARE INC/DE	CF–10
758256	RADIATION DISPOSAL SYSTEMS INC	CF–08
216949	RADIATION SYSTEMS INC /NV/	CF–05
805574	RADIUS INC	CF–06
758452	RADIX VENTURES INC	CF–06
805905	RADON TESTING CORP OF AMERICA INC	CF–08
792984	RADVA CORP	CF–07
718573	RADYNE CORP	CF–07
874385	RAG SHOPS INC	CF–10
081764	RAGAN BRAD INC	CF–05
853271	RAGAR CORP	CF–10
081766	RAGEN CORP	CF–07
882538	RAILCAR TRUST NO 1992–1	CF–10
846007	RAILROAD FINANCIAL CORP	CF–10
819706	RAINBOW TECHNOLOGIES INC	CF–07
845399	RAINES LENDERS L P	CF–10
845397	RAINES ROAD L P	CF–10
832310	RAL INCOME PLUS EQUITY GROWTH V LTD PART	CF–09
793035	RAL YIELD EQUITIES II LTD PARTNERSHIP	CF–07
768825	RAL YIELD PLUS EQUITIES III LTD PARTNERS	CF–07
799126	RAL YIELD PLUS EQUITIES IV LTD PARTNERSH	CF–06
854873	RALLYS INC	CF–10
836023	RALPHS GROCERY CO	CF–02
081870	RALSTON PURINA CO	CF–01
812621	RAMADA ASSURED INCOME ASSOCIATES LP	CF–09
081893	RAMAPO FINANCIAL CORP	CF–08
829283	RAMCO ENERGY CORP	CF–09
857132	RAMEX SYNFUELS INTERNATIONAL INC	CF–10
081918	RAMPART GENERAL INC	CF–08
773136	RAMSAY HEALTH CARE INC	CF–04
857404	RAMSAY HMO INC	CF–06
277317	RAMTEK CORP	CF–07
849502	RAMTRON INTERNATIONAL CORP	CF–10
789986	RANCHO VENTURES LTD	CF–09
874254	RANCON CURRENT YIELD 12 PLUS L P	CF–10
861456	RANCON DEVELOPMENT FUND VII LP	CF–10
830104	RANDERS GROUP INC	CF–07
766588	RANDOM ACCESS INC	CF–07
021610	RANGER INDUSTRIES INC	CF–04
740110	RAPHOLZ SILVER INC	CF–08
795611	RAPITECH SYSTEMS INC	CF–08
811434	RARITAN BANCORP INC	CF–08
833619	RASTEROPS	CF–06
805228	RASTRA BUILDING SYSTEMS INC	CF–08
715817	RAUCH INDUSTRIES INC	CF–06
082166	RAVEN INDUSTRIES INC	CF–05
082172	RAVENS METAL PRODUCTS INC	CF–07
725014	RAWSON KOENIG INC	CF–07
710485	RAX RESTAURANTS INC	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
082206	RAYCHEM CORP	CF–02
082213	RAYCOMM TRANSWORLD INDUSTRIES INC	CF–07
082231	RAYMOND CORP	CF–04
720005	RAYMOND JAMES FINANCIAL INC	CF–03
778439	RAYONIER TIMBERLANDS LP	CF–04
797917	RAYTECH CORP	CF–05
082267	RAYTHEON CO	CF–01
061927	RB&W CORP	CF–05
862634	RCL ACQUISITION CORP	CF–10
700641	RCM TECHNOLOGIES INC	CF–07
867414	RCSB 1990 B GRANTOR TRUST	CF–10
862074	RCSB 1990–A GRANTOR TRUST	CF–10
874040	RCSB 1991–A GRANTOR TRUST	CF–10
074347	RE CAPITAL CORP /DE/	CF–04
819480	READ RITE CORPORATION /DE	CF–10
858550	READERS DIGEST ASSOCIATION INC	CF–02
710851	READICARE INC	CF–06
082329	READING & BATES CORP	CF–03
082334	READING CO	CF–05
717303	REAL EQUITY PARTNERS	CF–06
225789	REAL ESTATE ASSOCIATES LTD I	CF–08
314237	REAL ESTATE ASSOCIATES LTD II	CF–08
318986	REAL ESTATE ASSOCIATES LTD III	CF–07
355573	REAL ESTATE ASSOCIATES LTD IV	CF–07
702644	REAL ESTATE ASSOCIATES LTD V	CF–07
715578	REAL ESTATE ASSOCIATES LTD VI	CF–05
722548	REAL ESTATE ASSOCIATES LTD VII	CF–06
082363	REAL ESTATE EQUITIES CORP	CF–07
311157	REAL ESTATE FUND INVESTMENT TRUST	CF–07
745568	REAL ESTATE INCOME PARTNERS III LTD PART	CF–05
082373	REAL ESTATE INVESTMENT TRUST OF CALIFORN	CF–05
716266	REALAMERICA CO/NEW	CF–08
312982	REALMARK PROPERTY INVESTORS LIMITED PARTNERSHIP	CF–07
822783	REALMARK PROPERTY INVESTORS LIMITED PARTNERSHIP VI–A	CF–06
822784	REALMARK PROPERTY INVESTORS LIMITED PARTNERSHIP VI–B	CF–08
704165	REALMARK PROPERTY INVESTORS LTD PARTNERSHIP II	CF–07
733591	REALMARK PROPERTY INVESTORS LTD PARTNERSHIP III	CF–06
763698	REALMARK PROPERTY INVESTORS LTD PARTNERSHIP IV	CF–06
790067	REALMARK PROPERTY INVESTORS LTD PARTNERSHIP V	CF–06
756850	REALTY BUSINESS PARTNERS	CF–06
871014	REALTY PARKING PROPERTIES II LP	CF–10
841127	REALTY PARKING PROPERTIES LP	CF–09
082473	REALTY REFUND TRUST	CF–05
763738	REALTY SOUTH INVESTORS INC	CF–06
754545	REALTY SOUTHWEST FUND III LTD	CF–07
855611	RECEPTECH CORP	CF–06
082523	RECOGNITION EQUIPMENT INC	CF–04
082535	RECOTON CORP	CF–06
825828	RECREATIVE TECHNOLOGIES CORP	CF–08
863458	RED EAGLE 90 A LTD PARTNERSHIP	CF–10
088997	RED EAGLE RESOURCES CORP	CF–06
810724	RED LION INNS LIMITED PARTNERSHIP	CF–04
702513	REDDING BANCORP	CF–08
840007	REDWOOD EMPIRE BANCORP	CF–09
811592	REDWOOD MORTGAGE INVESTORS VI	CF–07
854092	REDWOOD MORTGAGE INVESTORS VII	CF–10
770949	REEBOK INTERNATIONAL LTD	CF–02
082595	REECE CORP	CF–05
805900	REEDS JEWELERS INC	CF–05
799274	REEVES INDUSTRIES INC /DE/	CF–04
314741	REEVES TELECOM LTD PARTNERSHIP	CF–08
082788	REFAC TECHNOLOGY DEVELOPMENT CORP	CF–06
785037	REFLECTONE INC /FL/	CF–09
082811	REGAL BELOIT CORP	CF–05
763414	REGAL COMMUNICATIONS CORP	CF–08
357434	REGAL INTERNATIONAL INC	CF–06
099249	REGENCY AFFILIATES INC	CF–07
867236	REGENCY BANCSHARES INC	CF–10
765881	REGENCY CRUISES INC	CF–05
046656	REGENCY EQUITIES CORP	CF–06
865120	REGENCY HEALTH SERVICES INC	CF–10
872589	REGENERON PHARMACEUTICALS INC	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
863187	REGENEX INC	CF–10
846979	REGENT BANCSHARES CORP	CF–09
319200	REGENT PETROLEUM CORP	CF–08
810746	REGIONAL BANCORP INC	CF–07
861058	REGIONAL EQUITIES CORP	CF–10
884831	REHABCLINICS INC	CF–10
812488	REICH & TANG LP	CF–07
034285	RELIABILITY INC	CF–01
882072	RELIABLE FINANCIAL CORP	CF–10
814331	RELIANCE ELECTRIC CO/DE	CF–02
083047	RELIANCE FINANCIAL SERVICES CORP	CF–04
356395	RELIANCE GROUP HOLDINGS INC	CF–02
700756	RELIANCE GROUP INC/NEW/	CF–03
083053	RELIANCE INSURANCE CO	CF–03
875491	RELIFE INC /AL	CF–10
829548	REMINGTON FOX INC	CF–09
850921	REMITTANCE TECHNOLOGIES CORP	CF–08
840491	REN CORP USA	CF–06
821706	RENAISSANCE CONCEPTS INC	CF–09
854171	RENEGADE VENTURE CORP	CF–10
884264	RENO AIR INC/NV/	CF–10
763567	RENT A WRECK OF AMERICA INC	CF–08
868725	RENTECH INC /CO/	CF–10
800458	RENTRAK CORP	CF–07
730272	REPLIGEN CORP	CF–06
704440	REPRO MED SYSTEMS INC	CF–08
083194	REPUBLIC AUTOMOTIVE PARTS INC	CF–05
813808	REPUBLIC BANCORP INC	CF–04
820200	REPUBLIC CAPITAL GROUP INC	CF–07
202995	REPUBLIC CORP /TX/	CF–06
862068	REPUBLIC FEDERAL SAVINGS & LOAN ASSOCIAT	CF–10
083226	REPUBLIC GYPSUM CO	CF–05
719242	REPUBLIC HEALTH CORP	CF–09
810739	REPUBLIC HOLDINGS CORP	CF–08
761682	REPUBLIC LEASING INC /WA/	CF–09
083246	REPUBLIC NEW YORK CORP	CF–01
780126	REPUBLIC OIL CO	CF–08
761915	REPUBLIC PICTURES CORP/DE	CF–05
743136	REPUBLIC SAVINGS FINANCIAL CORP	CF–06
350698	REPUBLIC WASTE INDUSTRIES INC	CF–08
789537	RES TECH INC	CF–08
793524	RESEARCH FRONTIERS INC	CF–08
216983	RESEARCH INC	CF–07
083306	RESEARCH INDUSTRIES CORP	CF–06
888856	RESEC CORP	CF–10
353576	RESERVE EXPLORATION CO	CF–08
083347	RESERVE INDUSTRIES CORP /NM/	CF–07
083350	RESERVE PETROLEUM CO	CF–07
866294	RESIDENTIAL EQUITY PORTFOLIO LIMITED PARTNERSHIP	CF–10
774352	RESIDENTIAL FUNDING MORTGAGE SECURITIES	CF–01
795807	RESIDENTIAL MORTGAGE ACCEPTANCE INC	CF–03
791344	RESIDENTIAL RESOURCES INC	CF–09
831007	RESIDENTIAL RESOURCES MORTGAGE INVESTMEN	CF–04
837336	RESORT INCOME INVESTORS INC	CF–05
083394	RESORTS INTERNATIONAL INC	CF–03
083402	RESOURCE AMERICA INC	CF–06
888242	RESOURCE CAPITAL GROUP INC	CF–10
879500	RESOURCE FINANCE GROUP LTD	CF–10
035305	RESOURCE GENERAL CORP	CF–06
808371	RESOURCE NETWORK INTERNATIONAL INC	CF–08
051519	RESOURCE RECYCLING TECHNOLOGIES INC	CF–06
831206	RESOURCE TECHNOLOGY GROUP INC	CF–09
804671	RESOURCES ACCRUED MORTGAGE INVESTORS 2 L	CF–06
779231	RESOURCES ACCRUED MORTGAGE INVESTORS LP	CF–05
789987	RESOURCES PENSION SHARES 5 LP	CF–05
780434	RESPIRONICS INC	CF–06
763098	RESPONSE TECHNOLOGIES INC	CF–07
813856	RESTAURANT ENTERPRISES GROUP INC /DEL/	CF–03
831320	RESTAURANT HOTLINE SYSTEMS INC	CF–08
876279	RESTOR INDUSTRIES INC	CF–10
723527	RESURGENS COMMUNICATIONS GROUP INC	CF–06
818021	RETAIL EQUITY PARTNERS LIMITED PARTNERSH	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
789285	RETIREMENT LIVING TAX EXEMPT MORTGAGE FU	CF–09
851472	RETIREMENT MANAGEMENT ASSOCIATES INC	CF–10
880456	RETIX INC /CA/	CF–10
083490	REUTER INC	CF–05
083496	REVCO D S INC	CF–09
890547	REVLON CONSUMER PRODUCTS CORP	CF–10
822374	REVOTEK INC	CF–07
915276	REX LEASING COVERED HOPPER RAILCAR MANAG	CF–08
843761	REX PT HOLDINGS INC	CF–03
829218	REXENE CORP	CF–03
850476	REXHALL INDUSTRIES INC	CF–06
083572	REXNORD HOLDINGS INC	CF–01
701290	REXON INC	CF–05
811432	REXWORKS INC	CF–06
083588	REYNOLDS & REYNOLDS CO	CF–03
083604	REYNOLDS METALS CO	CF–02
860757	REYNOLDS SMITH & HILLS INC	CF–10
867627	RF POWER PRODUCTS INC	CF–10
779164	RHEOMETRICS INC	CF–05
870211	RHI ENTERTAINMENT INC	CF–10
706852	RHNB CORP	CF–05
083679	RHODES INC	CF–03
083680	RHODES M H INC	CF–07
217028	RHONE POULENC RORER INC	CF–02
352331	RIBI IMMUNOCHEM RESEARCH INC	CF–07
356489	RIC 14 LTD	CF–05
705975	RIC 15 LTD	CF–05
717229	RIC 16 LTD	CF–05
736548	RIC 17 LTD	CF–05
760087	RIC 18 LTD	CF–05
771603	RIC 19 LTD	CF–05
783317	RIC 20 LTD	CF–05
783318	RIC 21 LTD	CF–05
804140	RIC 22 LTD	CF–05
804149	RIC 23 LTD	CF–05
825006	RIC 24 LTD	CF–05
825007	RIC 25 LTD	CF–05
855660	RIC 26 LTD	CF–05
310797	RIC 79 LTD	CF–05
319180	RIC 81 LTD	CF–05
355948	RICHARDSON ELECTRONICS LTD/DE	CF–04
819632	RICHFOOD HOLDINGS INC	CF–04
846535	RICHMOND CAPITAL CORPORATION	CF–10
083877	RICHTON INTERNATIONAL CORP	CF–06
874786	RIDDELL SPORTS INC	CF–10
783728	RIDGEWOOD PROPERTIES INC	CF–05
790704	RIEDEL ENVIRONMENTAL TECHNOLOGIES INC	CF–05
350647	RIGGS NATIONAL CORP	CF–02
802506	RIGHT MANAGEMENT CONSULTANTS INC	CF–06
878720	RIGHT START INC /CA	CF–10
892482	RIMAGE CORP	CF–10
866752	RINGER CORP /MN/	CF–10
824961	RINGSIDE INTERNATIONAL BROADCASTING CORP	CF–09
352964	RIO GRANDE INC /DE/	CF–07
832177	RISER FOODS INC /DE/	CF–04
084112	RISK GEORGE INDUSTRIES INC	CF–08
084129	RITE AID CORP	CF–02
831382	RITTENHOUSE CAPITAL CORP	CF–09
860194	RIVAL CO	CF–09
051939	RIVER FOREST BANCORP INC	CF–07
718978	RIVER OAKS INDUSTRIES INC	CF–06
717561	RIVER TOWNE PARTNERS I LTD	CF–08
809719	RIVERBEND INTERNATIONAL CORP	CF–05
764031	RIVERCHASE INVESTORS I LTD	CF–07
842694	RIVERSIDE CAPITAL INC	CF–09
277356	RIVERSIDE GROUP INC/FL	CF–05
886239	RIVERWOOD INTERNATIONAL CORPORATION	CF–10
351718	RJ OIL & GAS ASSOCIATES LTD 1980–C	CF–10
847905	RJR NABISCO HOLDINGS CORP	CF–02
847904	RJR NABISCO HOLDINGS GROUP INC	CF–02
083612	RJR NABISCO INC	CF–02
084246	RLI CORP	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
866073	RMA CAPITAL FUNDING CORP	CF–10
777513	RMED INTERNATIONAL INC	CF–08
311250	RMI COVERED HOPPER RAILCAR MANAGEMENT PR	CF–09
854663	RMI TITANIUM CO	CF–04
084262	RMS INTERNATIONAL INC	CF–07
816350	ROADMASTER INDUSTRIES INC	CF–05
798935	ROADWAY MOTOR PLAZAS INC	CF–05
701708	ROADWAY SERVICES INC	CF–02
084278	ROANOKE ELECTRIC STEEL CORP	CF–04
084279	ROANOKE GAS CO	CF–05
084290	ROBBINS & MYERS INC	CF–05
854462	ROBEC INC	CF–05
868797	ROBERN INDUSTRIES INC	CF–10
355300	ROBERTS OIL & GAS INC	CF–08
853022	ROBERTS PHARMACEUTICAL CORP	CF–06
761236	ROBERTS RICHARD REAL ESTATE GROWTH TRUST	CF–06
868635	ROBERTSON CECO CORP	CF–01
084415	ROBERTSON COMPANIES INC	CF–07
276747	ROBINSON NUGENT INC	CF–05
827100	ROBOTIC LASERS INC	CF–09
225868	ROBOTIC VISION SYSTEMS INC	CF–06
084548	ROCHESTER & PITTSBURGH COAL CO	CF–04
840068	ROCHESTER COMMUNITY SAVINGS BANK	CF–09
084557	ROCHESTER GAS & ELECTRIC CORP	CF–02
868368	ROCHESTER MEDICAL CORPORATION	CF–10
084567	ROCHESTER TELEPHONE CORP	CF–03
819553	ROCK A BYE BABY INC /DE	CF–09
888412	ROCK FINANCIAL CORP /WI/	CF–10
775663	ROCK FINANCIAL CORP/NJ/	CF–08
773652	ROCKEFELLER CENTER PROPERTIES INC	CF–02
721237	ROCKING HORSE CHILD CARE CENTERS OF AMER	CF–05
084613	ROCKLAND ELECTRIC CO	CF–03
084636	ROCKWELL INTERNATIONAL CORP	CF–02
352906	ROCKWOOD HOLDING CO	CF–05
084651	ROCKWOOD NATIONAL CORP	CF–06
084655	ROCKY MOUNT UNDERGARMENT CO INC	CF–07
772831	ROCKY MOUNTAIN BEVERAGE CO	CF–08
785815	ROCKY MOUNTAIN CHOCOLATE FACTORY INC	CF–08
865766	ROCKY MOUNTAIN HELICOPTERS INC /UT/	CF–10
312583	ROCKY MOUNTAIN MINERALS INC	CF–07
726977	RODMAN & RENSHAW CAPITAL GROUP INC	CF–04
084748	ROGERS CORP	CF–04
084792	ROHM & HAAS CO	CF–02
084801	ROHR INDUSTRIES INC	CF–02
701856	ROLLINS ENVIRONMENTAL SERVICES INC	CF–04
084839	ROLLINS INC	CF–04
084244	ROLLINS TRUCK LEASING CORP	CF–03
084919	RONSON CORP	CF–06
830055	ROOSEVELT FINANCIAL GROUP INC	CF–09
217026	ROOSEVELT HOT SPRINGS CORP	CF–08
043514	ROPAK CORP /CA/	CF–05
882835	ROPER INDUSTRIES INC /DE/	CF–10
878722	ROSECAP INC/NY	CF–10
085149	ROSES STORES INC	CF–03
085153	ROSEVILLE TELEPHONE CO	CF–04
774487	ROSPATCH CORP /MI/	CF–05
760031	ROSS A J LOGISTICS INC	CF–06
737203	ROSS COSMETICS DISTRIBUTION CENTERS INC	CF–07
745732	ROSS STORES INC	CF–04
873594	ROSS SYSTEMS INC/CA	CF–10
771142	ROTECH MEDICAL CORP	CF–06
099680	ROTHCHILD COMPANIES INC	CF–09
789456	ROTHSCHILD L F HOLDINGS INC	CF–05
755548	ROTO ROOTER INC	CF–05
085357	ROTOR TOOL CO	CF–05
034821	ROTOREX CORP /NY/	CF–05
314423	ROUNDYS INC	CF–03
085388	ROUSE CO	CF–02
854606	ROUTE 43 LAND DEVELOPMENT LIMITED PARTNE	CF–10
085399	ROVAC CORP	CF–08
085408	ROWAN COMPANIES INC	CF–03
085417	ROWE FURNITURE CORP	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
742053	ROYAL BANK GROUP INC	CF–05
312180	ROYAL BUSINESS GROUP INC	CF–08
828956	ROYAL CAPITAL CORP	CF–08
085535	ROYAL GOLD INC /DE/	CF–07
864010	ROYAL INTERNATIONAL OPTICAL INC	CF–10
754606	ROYAL PALM BEACH COLONY LTD PARTNERSHIP	CF–06
018300	ROYALE GROUP LTD	CF–09
860546	ROYALE INVESTMENTS INC	CF–10
085558	ROYALPAR INDUSTRIES INC	CF–06
824063	ROYALTY MORTGAGE INCOME FUND	CF–10
864602	ROYALTY MORTGAGE INCOME FUNDS III	CF–10
789462	ROYCE LABORATORIES INC /FL/	CF–08
742278	RPC ENERGY SERVICES INC	CF–05
110621	RPM INC/OH/	CF–03
823211	RPS GROWTH & INCOME FUND LP	CF–09
825980	RPS HOUSING FUND I LP	CF–09
842183	RPS REALTY TRUST	CF–04
840252	RS FINANCIAL CORP	CF–09
085540	RSI CORP	CF–05
853697	RSI HOLDINGS INC	CF–06
875729	RSTS CORP	CF–10
866115	RT INDUSTRIES INC	CF–10
081699	RTI INC	CF–07
085627	RUBBERMAID INC	CF–03
777479	RUBICON CORP	CF–07
085684	RUBY MINING CO	CF–08
085704	RUDDICK CORP	CF–03
793026	RUDYS RESTAURANT GROUP INC	CF–06
276437	RULE INDUSTRIES INC	CF–05
829873	RURAL ELECTRIC COOPERATIVE GRANTOR TRUST DESERET 1988–D1	CF–09
829874	RURAL ELECTRIC COOPERATIVE GRANTOR TRUST DESERET 1988–D2	CF–09
820761	RURAL ELECTRIC COOPERATIVE GRANTOR TRUST KEPCO 1988–K1	CF–09
829877	RURAL ELECTRIC COOPERATIVE GRANTOR TRUST KEPCO 1988–K2	CF–09
814703	RURAL ELECTRIC COOPERATIVE GRANTOR TRUST SOYLAND 1987–A5	CF–10
814704	RURAL ELECTRIC COOPERATIVE GRANTOR TRUST SOYLAND 1987–A6	CF–10
814685	RURAL ELECTRIC COOPERATIVE GRANTOR TRUST SOYLAND 1987–A2	CF–06
814699	RURAL ELECTRIC COOPERATIVE GRANTOR TRUST SOYLAND 1987–A3	CF–09
814702	RURAL ELECTRIC COOPERATIVE GRANTOR TRUST SOYLAND 1987–A4	CF–09
829547	RURAL ELECTRIC COOPERATIVE GRANTOR TRUST TEX LA 1988–T1	CF–09
829648	RURAL ELECTRIC COOPERATIVE GRANTOR TRUST TEX LA 1988–T2	CF–09
820783	RURAL HOUSING TRUST 1987–1	CF–09
787405	RURBAN FINANCIAL CORP	CF–05
085795	RUSS TOGS INC	CF–05
790228	RUSSCO INC	CF–09
085812	RUSSELL CORP	CF–03
750457	RWB MEDICAL INCOME PROPERTIES 1 LTD PART	CF–06
868825	RX MEDICAL SERVICES CORP	CF–10
793280	RYAN BECK & CO INC	CF–05
703347	RYAN MORTGAGE ACCEPTANCE CORP	CF–09
740967	RYAN MORTGAGE ACCEPTANCE CORP III	CF–09
740963	RYAN MORTGAGE ACCEPTANCE CORP IV	CF–09
832357	RYAN MORTGAGE ACCEPTANCE CORP V	CF–09
802524	RYAN MURPHY INC	CF–08
355622	RYANS FAMILY STEAK HOUSES INC	CF–04
085961	RYDER SYSTEM INC	CF–02
828750	RYKA INC	CF–07
085973	RYKOFF SEXTON INC	CF–03
724272	RYLAND ACCEPTANCE CORP THREE	CF–09
763660	RYLAND ACCEPTANCE CORPORATION FOUR	CF–09
085974	RYLAND GROUP INC	CF–02
811493	RYLAND MORTGAGE SECURITIES CORP /VA/	CF–09
864546	RYLAND MORTGAGE SECURITIES CORPORATION SER 1989 7A TR	CF–10
864547	RYLAND MORTGAGE SECURITIES CORPORATION SER 1989 7B	CF–10
887418	RYLAND MORTGAGE SECURITIES CORPORATION THREE	CF–10
869037	RYLAND MORTGAGE SECURITIES CORPORATION TWO SERIES 1	CF–10
835669	RYMAC MORTGAGE INVESTMENT CORP	CF–03
056871	RYMER FOODS INC	CF–05
847540	RZW VENTURES INC	CF–10
807630	S B H VENTURES	CF–08
842906	S L RESOURCES INC	CF–09
835324	S Y BANCORP INC	CF–09
723924	S&K FAMOUS BRANDS INC	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
217058	S&M CO	CF–07
719220	S&T BANCORP INC	CF–07
782126	S2 GOLF INC	CF–05
866491	SABER INC /UT/	CF–10
710752	SABINE ROYALTY TRUST	CF–07
848458	SABLE VENTURES INC	CF–10
313151	SADDLEBROOK RESORTS INC	CF–06
086082	SADLIER WILLIAM H INC	CF–08
829117	SAFE AID PRODUCTS INC	CF–09
086100	SAFE HARBOR WATER POWER CORP	CF–04
769107	SAFE WASTE SYSTEMS INC	CF–08
086103	SAFECARD SERVICES INC	CF–04
086104	SAFECO CORP	CF–02
727303	SAFEGUARD HEALTH ENTERPRISES INC	CF–06
086115	SAFEGUARD SCIENTIFICS INC	CF–04
086134	SAFETY FUND CORP	CF–05
086135	SAFETY KLEEN CORP	CF–03
314865	SAFETY RAILWAY SERVICE CORP	CF–07
086144	SAFEWAY INC	CF–02
876346	SAGE ALERTING SYSTEMS INC	CF–10
798080	SAGE ANALYTICS INTERNATIONAL INC	CF–07
350019	SAGE DRILLING CO INC	CF–07
216991	SAGE ENERGY CO	CF–05
086166	SAGE LABORATORIES INC	CF–07
857847	SAGE RESOURCES INC	CF–10
805330	SAGE SOFTWARE INC	CF–05
812482	SAHARA CASINO PARTNERS LP	CF–03
859245	SAHARA FINANCE CORP	CF–10
704435	SAHARA RESORTS	CF–01
745308	SAINT JOE PAPER CO	CF–02
310157	SAINT LOUIS RAINTREE PARTNERS LTD	CF–07
813610	SAINTS & SINNERS ENTERTAINMENT CO	CF–08
086346	SALANT CORP	CF–03
086357	SALEM CARPET MILLS INC	CF–04
086358	SALEM CORP	CF–05
886045	SALEM SPORTSWEAR CORP	CF–10
762131	SALICK HEALTH CARE INC	CF–05
809877	SALOMON BROTHERS MORTGAGE SECURITIES VII	CF–09
200245	SALOMON INC	CF–02
878280	SALTON MAXIM HOUSEWARES INC	CF–10
823187	SALVATORI OPHTHALMICS INC	CF–07
880241	SAM & LIBBY INC	CF–10
786815	SAME DAY EXPRESS INC	CF–09
777568	SAMSON ENERGY CO LTD PARTNERSHIP	CF–05
086521	SAN DIEGO GAS & ELECTRIC CO	CF–02
319655	SAN JUAN BASIN ROYALTY TRUST	CF–05
813609	SAN JUAN FIBERGLASS POOLS INC	CF–07
775473	SAN MATEO COUNTY BANCORP	CF–08
846977	SAN VAL INC	CF–10
875617	SANBORN INC	CF–10
350212	SANCHEZ OBRIEN 1981 A DRILLING CO	CF–08
354253	SANCHEZ OBRIEN 1981 B DRILLING CO	CF–09
755465	SANDATA INC	CF–07
812128	SANDERSON FARMS INC	CF–05
889267	SANDIA MORTGAGE CORPORATION	CF–10
753899	SANDS REGENT	CF–05
705408	SANDWICH CHEF INC	CF–06
778107	SANDY CORP	CF–06
824410	SANDY SPRING BANCORP INC	CF–04
880117	SANFILIPPO JOHN B & SON INC	CF–10
805904	SANI TECH INDUSTRIES INC	CF–09
086727	SANITAS INC	CF–07
093631	SANMARK STARDUST INC	CF–05
313749	SANTA ANITA OPERATING CO	CF–04
314661	SANTA ANITA REALTY ENTERPRISES INC	CF–04
357264	SANTA BARBARA BANCORP	CF–04
780391	SANTA FE ENERGY PARTNERS LP	CF–03
086772	SANTA FE ENERGY RESOURCES INC	CF–03
086759	SANTA FE FINANCIAL CORP	CF–07
732639	SANTA FE PACIFIC CORP	CF–02
840251	SANTA FE PACIFIC PIPELINE PARTNERS LP	CF–03
875707	SARASOTA BANCORPORATION INC / FL	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
702700	SARATOGA BANCORP	CF–06
868075	SARATOGA BRANDS INC	CF–10
820100	SARATOGA MINT LTD	CF–08
872544	SARGENT INC	CF–10
813567	SARKIS CAPITAL INC	CF–09
724977	SASSOON INTERNATIONAL INC	CF–09
889423	SATCON TECHNOLOGY CORP	CF–10
879143	SATURN CORP	CF–02
086902	SAUL B F REAL ESTATE INVESTMENT TRUST	CF–03
860519	SAVANNAH BANCORP INC	CF–10
086940	SAVANNAH ELECTRIC & POWER CO	CF–01
086941	SAVANNAH FOODS & INDUSTRIES INC	CF–03
276894	SAVIN CORP	CF–04
087009	SAWYER ADECOR INTERNATIONAL INC	CF–08
889472	SAXON MORTGAGE SECURITIES CORP	CF–10
881468	SAYETT GROUP INC	CF–10
801354	SAZTEC INTERNATIONAL INC	CF–07
087047	SB PARTNERS	CF–04
766004	SBARRO INC	CF–05
812955	SBC TECHNOLOGIES INC /DE/	CF–06
087050	SBE INC	CF–07
880208	SBS ENGINEERING INC/NM	CF–10
731276	SBT CORP /CT/	CF–06
351617	SC BANCORP	CF–08
806641	SCA TAX EXEMPT FUND LIMITED PARTNERSHIP	CF–04
764843	SCAN GRAPHICS INC	CF–08
087086	SCAN OPTICS INC	CF–05
754737	SCANA CORP	CF–01
087097	SCANFORMS INC	CF–06
779999	SCAT HOVERCRAFT INC	CF–08
827052	SCECORP	CF–02
841392	SCFC AUTOMOBILE LOAN TRUST 1989–1	CF–09
856471	SCFC HOME EQUITY LOAN TRUST 1989 1	CF–10
087196	SCHEIB EARL INC	CF–06
703598	SCHERER HEALTHCARE INC	CF–06
087243	SCHERER R P CORP	CF–03
855106	SCHERER RP CORP /DE	CF–03
310158	SCHERING PLOUGH CORP	CF–02
765815	SCHIELD MANAGEMENT CO	CF–07
866729	SCHOLASTIC CORP	CF–10
883705	SCHULER HOMES INC	CF–10
087565	SCHULMAN A INC	CF–04
803349	SCHULT HOMES CORP	CF–05
087588	SCHULTZ SAV O STORES INC	CF–05
316709	SCHWAB CHARLES CORP	CF–02
087669	SCHWARTZ BROTHERS INC	CF–05
087731	SCHWERMAN TRUCKING CO	CF–06
846659	SCHWITZER INC	CF–05
772973	SCI HOLDINGS INC	CF–02
087743	SCI MED LIFE SYSTEMS INC	CF–05
087744	SCI SYSTEMS INC	CF–03
826674	SCI TECH VENTURES INC	CF–09
880771	SCICLONE PHARMACEUTICALS INC	CF–10
803498	SCIENCE ACCESSORIES CORP /DE/	CF–07
353394	SCIENCE APPLICATIONS INTERNATIONAL CORP	CF–03
350644	SCIENCE DYNAMICS CORP	CF–07
087759	SCIENCE MANAGEMENT CORP	CF–06
087777	SCIENTIFIC ATLANTA INC	CF–03
087802	SCIENTIFIC INDUSTRIES INC	CF–08
087814	SCIENTIFIC MEASUREMENT SYSTEMS INC/TX	CF–07
794929	SCIENTIFIC NRG INC	CF–08
087817	SCIENTIFIC RADIO SYSTEMS INC	CF–08
087822	SCIENTIFIC SOFTWARE INTERCOMP INC	CF–06
708250	SCIENTIFIC TECHNOLOGIES INC	CF–07
873457	SCIGENICS INC	CF–10
087836	SCIOTO DOWNS INC	CF–07
087864	SCOPE INDUSTRIES	CF–05
798363	SCOR US CORP	CF–05
813013	SCORE BOARD INC	CF–07
318[illegible]2	SCORE EXPLORATION CORP	CF–08
803[illegible]90	SCORPION TECHNOLOGIES INC	CF–08
84[illegible]660	SCOTSMAN INDUSTRIES INC	CF–04

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
802555	SCOTT & STRINGFELLOW FINANCIAL INC	CF–05
350899	SCOTT INSTRUMENTS CORP	CF–08
087949	SCOTT PAPER CO	CF–02
735635	SCOTT SCIENCE & TECHNOLOGY INC	CF–08
082020	SCOTTISH HERITABLE INC	CF–05
825542	SCOTTS COMPANY	CF–04
088000	SCOTTS LIQUID GOLD INC	CF–06
824098	SCOTTSDALE LAND TRUST LIMITED PARTNERSHIP	CF–09
832428	SCRIPPS E W CO /DE	CF–02
088034	SCRIPPS HOWARD BROADCASTING CO	CF–03
750485	SCRIPT SYSTEMS INC	CF–07
727127	SCS COMPUTE INC	CF–06
701255	SDN BANCORP	CF–06
702147	SDNB FINANCIAL CORP	CF–05
317892	SEA GALLEY PROPERTIES LTD 1980	CF–08
275985	SEA GALLEY STORES INC	CF–06
846926	SEA PINES ASSOCIATES INC	CF–10
841124	SEA WOLF VENTURES INC	CF–09
861095	SEABOARD BANCORP INC	CF–10
088121	SEABOARD CORP /DE/	CF–03
730708	SEACOAST BANKING CORP OF FLORIDA	CF–07
830158	SEAFIELD CAPITAL CORP	CF–04
088178	SEAFIRST CORP	CF–06
354952	SEAGATE TECHNOLOGY INC	CF–02
063516	SEAGO GROUP INC	CF–07
320321	SEAGULL ENERGY CORP	CF–03
317788	SEAHAWK CAPITAL CORP	CF–08
833020	SEAHAWK DEEP OCEAN TECHNOLOGY INC	CF–08
110027	SEAL FLEET INC	CF–07
088204	SEALED AIR CORP	CF–04
848449	SEALED POWER TECHNOLOGIES LP	CF–10
712964	SEALRIGHT CO INC	CF–05
748015	SEALY CORP	CF–02
851420	SEALY HOLDINGS INC	CF–10
088217	SEAPORT CORP	CF–07
318672	SEARCH NATURAL RESOURCES INC	CF–08
847318	SEARS CREDIT ACCOUNT TRUST 1989 A	CF–02
851417	SEARS CREDIT ACCOUNT TRUST 1989 B	CF–02
856422	SEARS CREDIT ACCOUNT TRUST 1989 C	CF–02
856275	SEARS CREDIT ACCOUNT TRUST 1989 D	CF–02
857402	SEARS CREDIT ACCOUNT TRUST 1989 E	CF–02
869844	SEARS CREDIT ACCOUNT TRUST 1990 E /NEW/	CF–10
873084	SEARS CREDIT ACCOUNT TRUST 1991–A	CF–10
874783	SEARS CREDIT ACCOUNT TRUST 1991–B	CF–10
876858	SEARS CREDIT ACCOUNT TRUST 1991–C	CF–10
879209	SEARS CREDIT ACCOUNT TRUST 1991–D	CF–10
859035	SEARS MORT SEC CORP MULT CLA MORT PAS TH	CF–10
835774	SEARS MORTGAGE SEC CORP MORT PASS THR CERT 1988–B	CF–10
835773	SEARS MORTGAGE SEC CORP MORT PASS THR CERT SER 1988–A	CF–10
862244	SEARS MORTGAGE SEC CORP STRIP MORT PASS THR CERT SER 1989–A	CF–10
319256	SEARS ROEBUCK & CO	CF–02
088255	SEARS ROEBUCK ACCEPTANCE CORP	CF–02
088275	SEATRAIN LINES INC	CF–06
791050	SEATTLE FILMWORKS INC	CF–07
830927	SEAWAY FINANCIAL CORP	CF–09
088296	SEAWAY FOOD TOWN INC	CF–04
790375	SECOM GENERAL CORP	CF–07
803112	SECOND BANCORP INC	CF–07
864701	SECOND NATIONAL BANCORPORATION	CF–10
862077	SECOND NATIONAL FINANCIAL CORP	CF–10
764862	SECONN HOLDING CO	CF–06
785081	SECTOR ASSOCIATES LTD	CF–07
867247	SECTOR STRATEGY FUND II LP	CF–10
883974	SECTOR STRATEGY FUND IV LP	CF–10
862525	SECTOR STRATEGY FUND LP	CF–10
840214	SECURED EQUITY LEASING PLUS LP	CF–09
853662	SECURED FINANCE INC	CF–10
804217	SECURED INCOME LP	CF–09
745481	SECURED INVESTMENT RESOURCES FUND LP	CF–06
797331	SECURED INVESTMENT RESOURCES FUND LP II	CF–05
839638	SECURED INVESTMENT RESOURCES FUND LP III	CF–09
763956	SECURITY BANC CORP	CF–08

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
843155	SECURITY BANCORP INC /GA/	CF–09
314340	SECURITY CAPITAL CORP/DE/	CF–08
723926	SECURITY CHICAGO CORP	CF–06
842389	SECURITY ENVIRONMENTAL SYSTEMS INC	CF–07
818677	SECURITY FEDERAL CORPORATION	CF–06
858410	SECURITY FINANCIAL HOLDING CO	CF–10
088539	SECURITY FIRST REAL ESTATE INVESTMENT TR	CF–07
088547	SECURITY INVESTMENTS GROUP INC	CF–09
088572	SECURITY LAND & DEVELOPMENT CORP	CF–08
821672	SECURITY NATIONAL CORP /DE/	CF–06
876949	SECURITY PACIFIC AUTOMOBILE GRANTOR TRUST 1991–A	CF–10
088608	SECURITY PACIFIC CORP	CF–02
857172	SECURITY PACIFIC CREDIT CARD TRUST 1989	CF–10
870872	SECURITY PACIFIC HOME EQUITY TRUST 1991–A	CF–10
806244	SECURITY PACIFIC NATIONAL BANK /DE/	CF–09
863433	SECURITY PACIFIC NATIONAL BANK MORT PASS THR CERT SER 1990–A	CF–10
871247	SECURITY PACIFIC NATIONAL BANK MORT PASS THR CERT SER 1990–B	CF–10
356623	SECURITY TAG SYSTEMS INC	CF–06
811594	SECURNET MORTGAGE SECURITIES CORP I	CF–09
702758	SEEQ TECHNOLOGY INC	CF–05
350894	SEI CORP	CF–05
276380	SEIBELS BRUCE GROUP INC	CF–05
750818	SEITEL INC	CF–06
088790	SELAS CORP OF AMERICA	CF–05
230557	SELECTIVE INSURANCE GROUP INC	CF–09
746776	SELECTORS INC	CF–09
733472	SELECTRONICS INC	CF–06
814457	SELFIX INC	CF–06
726608	SELVAC CORP	CF–07
088922	SEMICON INC	CF–07
794998	SEMICON TOOLS INC /NV/	CF–08
880858	SEMICONDUCTOR PACKAGING MATERIALS CO INC	CF–10
088941	SEMTECH CORP	CF–06
088948	SENECA FOODS CORP /NY/	CF–04
799231	SENIOR SERVICE CORP	CF–06
806168	SENSOR CONTROL CORP	CF–07
088974	SENSORMATIC ELECTRONICS CORP	CF–04
729599	SENTEX SENSING TECHNOLOGY INC	CF–08
877357	SEPRACOR INC /DE/	CF–10
842013	SEPTIMA ENTERPRISES INC	CF–09
095301	SEQUA CORP /DE/	CF–02
811716	SEQUENT COMPUTER SYSTEMS INC /OR/	CF–04
089041	SEQUENTIAL INFORMATION SYSTEMS INC	CF–08
724621	SEQUOIA SYSTEMS INC	CF–05
852485	SERV TECH INC /TX/	CF–06
820287	SERVICE AMERICA CORP	CF–03
089089	SERVICE CORPORATION INTERNATIONAL	CF–02
317832	SERVICE FRACTURING CO	CF–06
089107	SERVICE MERCHANDISE CO INC	CF–02
806027	SERVICEMASTER LTD PARTNERSHIP	CF–03
089140	SERVOTRONICS INC /DE/	CF–07
880634	SERVTEX INTERNATIONAL INC /NY/	CF–10
089177	SEVEN J STOCK FARM INC	CF–08
352330	SEVEN OAKS INTERNATIONAL INC	CF–05
779958	SEVEN VENTURES INC	CF–09
846976	SEVENSON ENVIRONMENTAL SERVICES INC	CF–05
870387	SF SERVICES INC	CF–10
086537	SFE TECHNOLOGIES	CF–06
829803	SFFED CORP	CF–09
089261	SFM CORP	CF–06
865459	SFP PIPELINE HOLDINGS INC	CF–10
737955	SGI INTERNATIONAL	CF–07
812381	SHARED IMAGING PARTNERS LP	CF–06
089415	SHARED MEDICAL SYSTEMS CORP	CF–04
817632	SHARED TECHNOLOGIES INC	CF–06
700885	SHAREDATA INC	CF–07
855043	SHARK INC	CF–10
844680	SHARON ENERGY LTD	CF–10
811696	SHARPER IMAGE CORP	CF–05
089498	SHAW INDUSTRIES INC	CF–03
823393	SHAWMUT NATIONAL CORP	CF–02
789967	SHAWSVILLE BANCORP INC	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
811800	SHEARSON BEVERLY HILLS MEDICAL OFFICE PA	CF–05
783463	SHEARSON BK PROPERTIES INC	CF–09
783462	SHEARSON BK REALTY INC	CF–09
783464	SHEARSON BK RESTAURANTS INC	CF–09
822026	SHEARSON CALIFORNIA RADISSON PLAZA PARTN	CF–05
352849	SHEARSON EQUIPMENT INVESTORS II	CF–07
806085	SHEARSON LEHMAN BROTHERS HOLDINGS INC	CF–02
728586	SHEARSON LEHMAN BROTHERS INC	CF–02
876716	SHEARSON LEHMAN BROTHERS INTERNATIONAL ADVISORS CURR FUND LP	CF–10
750304	SHEARSON LEHMAN COAST SAVINGS HOUSING PA	CF–06
869263	SHEARSON LEHMAN FUTURES 1000 PLUS LP	CF–10
811078	SHEARSON LEHMAN SELECT ADVISORS FUTURES	CF–05
805387	SHEARSON LEHMAN SENIOR INCOME FUND LTD P	CF–05
316290	SHEARSON MURRAY REAL ESTATE FUND II LTD	CF–06
318087	SHEARSON MURRAY REAL ESTATE FUND III LTD	CF–06
319303	SHEARSON MURRAY REAL ESTATE FUND IV LTD	CF–09
354106	SHEARSON MURRAY REAL ESTATE FUND VI LTD	CF–07
709296	SHEARSON MURRAY REAL ESTATE FUND VII LTD /TX/	CF–06
795879	SHEARSON UNION SQUARE ASSOCIATES LTD PAR	CF–04
755199	SHEFFIELD EXPLORATION CO INC	CF–08
876896	SHEFFIELD INDUSTRIES INC	CF–10
876621	SHELBY COUNTY BANCORP	CF–10
730564	SHELBY WILLIAMS INDUSTRIES INC	CF–05
089615	SHELDAHL INC	CF–05
702983	SHELL CANADA LTD	CF–01
089629	SHELL OIL CO	CF–02
821530	SHELTER COMPONENTS CORP	CF–05
316220	SHELTER PROPERTIES I LTD PARTNERSHIP	CF–07
319723	SHELTER PROPERTIES II LTD PARTNERSHIP	CF–06
353282	SHELTER PROPERTIES III LTD PARTNERSHIP	CF–06
702174	SHELTER PROPERTIES IV LIMITED PARTNERSHIP	CF–05
712753	SHELTER PROPERTIES V LIMITED PARTNERSHIP	CF–05
730013	SHELTER PROPERTIES VI LIMITED PARTNERSHIP	CF–05
758009	SHELTER PROPERTIES VII LTD PARTNERSHIP	CF–06
820786	SHELTON BANCORP INC	CF–08
354963	SHENANDOAH TELECOMMUNICATIONS CO/VA/	CF–06
206018	SHEPAUG CORP	CF–05
089800	SHERWIN WILLIAMS CO	CF–02
089807	SHERWOOD CORP	CF–07
811917	SHERWOOD GROUP INC	CF–06
881924	SHOLODGE INC	CF–10
089902	SHONEYS INC	CF–03
810029	SHOP AT HOME INC /TN/	CF–08
814893	SHOP TELEVISION NETWORK INC	CF–07
810781	SHOPCO LAUREL CENTRE LP & CONSOLIDATED	CF–05
830738	SHOPCO REGIONAL MALLS LP	CF–09
878314	SHOPKO STORES INC	CF–10
089925	SHOPSMITH INC	CF–06
822697	SHORELINE FINANCIAL CORP	CF–04
800266	SHOREWOOD PACKAGING CORP	CF–05
354564	SHORT C A INTERNATIONAL INC	CF–07
844698	SHORT TAKES INC	CF–08
813920	SHOWBIZ PIZZA TIME INC	CF–05
089966	SHOWBOAT INC	CF–04
807397	SHOWCASE COSMETICS INC	CF–08
812882	SHOWSCAN CORP	CF–06
833204	SHUR SCAPE SYSTEM INC	CF–09
808412	SHURGARD GROWTH CAPITAL FUND 15 LIMITED	CF–06
808413	SHURGARD GROWTH CAPITAL FUND 17 LIMITED	CF–06
764767	SHURGARD INCOME PROPERTIES EIGHT	CF–06
791425	SHURGARD INCOME PROPERTIES ELEVEN	CF–05
733449	SHURGARD INCOME PROPERTIES FIVE	CF–06
808415	SHURGARD INCOME PROPERTIES FUND 14 LIMIT	CF–05
808416	SHURGARD INCOME PROPERTIES FUND 16 LIMIT	CF–06
808417	SHURGARD INCOME PROPERTIES FUND 18 LIMIT	CF–09
353812	SHURGARD INCOME PROPERTIES II	CF–07
706004	SHURGARD INCOME PROPERTIES III	CF–09
721687	SHURGARD INCOME PROPERTIES IV	CF–06
764768	SHURGARD INCOME PROPERTIES NINE	CF–06
764766	SHURGARD INCOME PROPERTIES SEVEN	CF–06
750242	SHURGARD INCOME PROPERTIES SIX	CF–06
791424	SHURGARD INCOME PROPERTIES TEN	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
791426	SHURGARD INCOME PROPERTIES TWELVE	CF–05
313297	SHURGARD MINI STORAGE LTD PARTNERSHIP I	CF–07
090045	SI HANDLING SYSTEMS INC	CF–06
090057	SIBONEY CORP	CF–08
827083	SIE COMMUNICATIONS INC	CF–09
828057	SIERRA CAPITAL REALTY TRUST VIII CO	CF–09
754009	SIERRA HEALTH SERVICES INC	CF–06
100625	SIERRA MONITOR CORP /CA/	CF–08
724991	SIERRA ON LINE INC	CF–06
090144	SIERRA PACIFIC POWER CO	CF–09
741508	SIERRA PACIFIC RESOURCES	CF–09
733594	SIERRA REAL ESTATE EQUITY TRUST 84 CO	CF–05
790555	SIERRA TAHOE BANCORP	CF–08
855272	SIERRA TUCSON COMPANIES INC	CF–06
090168	SIFCO INDUSTRIES INC	CF–05
868810	SIG HOLDINGS INC	CF–10
090185	SIGMA ALDRICH CORP	CF–03
859304	SIGMA ALPHA ENTERTAINMENT GROUP LTD /NY/	CF–10
790715	SIGMA DESIGNS INC	CF–05
105107	SIGNAL APPAREL COMPANY INC	CF–05
842461	SIGNAL CAPITAL HOLDINGS CORP	CF–01
352948	SIGNATURE INNS INC/IN	CF–05
769603	SIGNATURE VII LTD	CF–06
813826	SIGNATURE X LTD	CF–07
009659	SIGNET BANKING CORP	CF–02
825541	SILGAN CORP	CF–03
849869	SILGAN HOLDINGS INC	CF–10
082628	SILICON GENERAL INC	CF–05
802301	SILICON GRAPHICS INC /CA/	CF–03
719789	SILICON VALLEY BANCSHARES	CF–05
712752	SILICON VALLEY GROUP INC	CF–05
090263	SILICONIX INC	CF–05
831323	SILK GREENHOUSE INC	CF–05
708367	SILVAR LISCO	CF–07
090310	SILVER BUTTE MINING CO	CF–08
319994	SILVER CRESCENT INC /NEW/	CF–09
090357	SILVER LEDGE INC	CF–08
090366	SILVER MOUNTAIN LEAD MINES INC	CF–08
764219	SILVER SCREEN PARTNERS II L P	CF–09
799101	SILVER SCREEN PARTNERS III LP	CF–09
826600	SILVER SCREEN PARTNERS IV L P	CF–09
715052	SILVER SCREEN PARTNERS L P	CF–09
879206	SILVER STATE HOLDING INC	CF–10
090429	SILVERCREST INDUSTRIES INC	CF–05
073967	SIMETCO INC	CF–06
090498	SIMMONS FIRST NATIONAL CORP	CF–04
813424	SIMONE L J INC	CF–07
090588	SIMPSON INDUSTRIES INC	CF–05
885080	SIMULA INC	CF–10
090721	SIRCO INTERNATIONAL CORP	CF–06
719113	SIS CORP	CF–06
876459	SISKON GOLD CORP	CF–10
818243	SIX FLAGS CORP /DE/	CF–03
862359	SIX HOLDINGS INC	CF–10
832407	SIXX HOLDINGS INC	CF–07
805419	SIZELER PROPERTY INVESTORS INC	CF–05
870760	SIZZLER INTERNATIONAL INC	CF–10
721161	SJNB FINANCIAL CORP	CF–06
766829	SJW CORP	CF–04
847777	SK TECHNOLOGIES CORP	CF–10
755499	SKI LTD	CF–05
716939	SKIN CONTROL SYSTEMS INC	CF–09
821124	SKOLNIKS INC	CF–07
803497	SKYLINE CHILI INC	CF–07
090896	SKYLINE CORP	CF–04
799850	SKYLINK AMERICA INC	CF–06
793733	SKYWEST INC	CF–05
089270	SL INDUSTRIES INC	CF–05
841941	SLH PERFORMANCE PARTNERS FUTURES FUND LP	CF–09
884782	SLIPPERY ROCK FINANCIAL CORP	CF–10
354630	SLM ENTERTAINMENT LTD	CF–08
880036	SLM INTERNATIONAL INC /DE	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
874144	SLUDGE MANAGEMENT INC	CF–10
886835	SMALLS OILFIELD SERVICES CORP	CF–10
875751	SMART & FINAL INC/DE	CF–10
795214	SMARTCARD INTERNATIONAL INC /NY/	CF–08
091142	SMITH A O CORP	CF–03
851292	SMITH CORONA CORP	CF–04
721083	SMITH INTERNATIONAL INC	CF–04
835342	SMITHFIELD COMPANIES INC	CF–06
091388	SMITHFIELD FOODS INC	CF–04
850309	SMITHS FOOD & DRUG CENTERS INC	CF–03
747345	SMITHTOWN BANCORP INC	CF–05
881917	SMT HEALTH SERVICES INC	CF–10
091419	SMUCKER J M CO	CF–04
091440	SNAP ON TOOLS CORP	CF–03
318673	SNL FINANCIAL CORP	CF–05
356996	SNOWY OWL INN CORP	CF–08
860713	SNYDER OIL CORP	CF–04
357221	SNYDER OIL PARTNERS LP	CF–04
705432	SOBANK INC	CF–05
091576	SOCIETY CORP	CF–02
810354	SOCIETY FOR SAVINGS BANCORP INC	CF–06
354260	SOFTECH INC	CF–06
727477	SOFTGUARD SYSTEMS INC	CF–08
888741	SOFTIMAGE INC	CF–10
862171	SOFTPOINT INC	CF–10
724941	SOFTSEL COMPUTER PRODUCTS INC	CF–04
840824	SOFTWARE DEVELOPERS CO INC/DE/	CF–07
883999	SOFTWARE ETC STORES INC	CF–10
722581	SOFTWARE FUND II	CF–08
755659	SOFTWARE PUBLISHING CORP	CF–05
725628	SOFTWARE SERVICES OF AMERICA INC	CF–08
875173	SOFTWARE SPECTRUM INC	CF–10
798534	SOFTWARE TOOLWORKS INC	CF–05
814920	SOI INDUSTRIES INC	CF–07
864421	SOLAR FINANCIAL SERVICES INC	CF–10
729588	SOLAR SATELLITE COMMUNICATION INC	CF–09
091649	SOLARCELL CORP	CF–09
855577	SOLARIS INC	CF–10
835541	SOLECTRON CORP	CF–05
729971	SOLITEC INC	CF–07
091668	SOLITRON DEVICES INC	CF–05
884941	SOLO SERVE CORP	CF–10
350305	SOLV EX CORP	CF–08
814272	SOMERSET BANKSHARES INC	CF–08
789792	SOMERSET GROUP INC	CF–05
091735	SONAR RADIO CORP	CF–08
092235	SONAT INC	CF–02
091741	SONESTA INTERNATIONAL HOTELS CORP	CF–05
723312	SONEX RESEARCH INC	CF–08
868611	SONIC CORP	CF–10
806172	SONO TEK CORP	CF–08
091767	SONOCO PRODUCTS CO	CF–03
353904	SOONER ENERGY CORP	CF–08
823094	SOTHEBYS HOLDINGS INC	CF–03
793971	SOUND ADVICE INC	CF–05
757788	SOURCE VENTURE CAPITAL INC	CF–07
351566	SOUTH BANKING CO	CF–06
811808	SOUTH BRANCH VALLEY BANCORP INC	CF–08
091882	SOUTH CAROLINA ELECTRIC & GAS CO	CF–01
806634	SOUTH CAROLINA FEDERAL CORP	CF–07
872464	SOUTH END VENTURES INC	CF–10
869063	SOUTH FLORIDA BANK HOLDING CORPORATION	CF–10
091928	SOUTH JERSEY INDUSTRIES INC	CF–03
091950	SOUTH STANDARD MINING CO	CF–08
320575	SOUTH TEXAS DRILLING & EXPLORATION INC	CF–08
704171	SOUTH VALLEY BANCORPORATION	CF–06
871325	SOUTH WEST DEVELOPMENTAL DRILLING PROGRAM 1991–92	CF–10
313058	SOUTHDOWN INC	CF–03
810994	SOUTHEAST ACQUISITIONS I L P	CF–07
829905	SOUTHEAST ACQUISITIONS II LP	CF–09
846014	SOUTHEAST ACQUISITIONS III L P	CF–10
091980	SOUTHEAST BANKING CORP	CF–02

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
353396	SOUTHEASTERN BANKING CORP	CF–05
819631	SOUTHEASTERN CONTROL SYSTEMS INC	CF–09
822983	SOUTHEASTERN INCOME PROPERTIES II LIMITED	CF–10
802969	SOUTHEASTERN INCOME PROPERTIES LIMITED P	CF–06
277158	SOUTHEASTERN MICHIGAN GAS ENTERPRISES IN	CF–04
092060	SOUTHEASTERN PUBLIC SERVICE CO	CF–04
092066	SOUTHERN ACCEPTANCE CORP	CF–08
811098	SOUTHERN BANK GROUP INC	CF–06
715135	SOUTHERN BANKSHARES INC/WV/	CF–08
092088	SOUTHERN BELL TELEPHONE & TELEGRAPH CO	CF–01
092103	SOUTHERN CALIFORNIA EDISON CO	CF–02
092108	SOUTHERN CALIFORNIA GAS CO	CF–02
092116	SOUTHERN CALIFORNIA WATER CO	CF–04
092122	SOUTHERN CO	CF–01
849951	SOUTHERN CRESCENT FINANCIAL CORP	CF–10
092149	SOUTHERN EDUCATORS LIFE INSURANCE CO	CF–06
800266	SOUTHERN ELECTRONICS CORP	CF–06
791302	SOUTHERN GOURMET PRODUCTS INC	CF–09
868613	SOUTHERN HEALTH MANAGEMENT CORP /VA/	CF–10
092195	SOUTHERN INDIANA GAS & ELECTRIC CO	CF–03
740830	SOUTHERN JERSEY BANCORP OF DELAWARE INC	CF–08
831666	SOUTHERN KITCHENS INC	CF–08
789685	SOUTHERN LAND & EXPLORATION INC	CF–09
703599	SOUTHERN MICHIGAN BANCORP INC	CF–08
092223	SOUTHERN MINERAL CORP	CF–07
092230	SOUTHERN NATIONAL CORP /NC/	CF–03
092232	SOUTHERN NATURAL GAS CO	CF–02
790650	SOUTHERN NEW ENGLAND TELECOMMUNICATIONS	CF–01
092244	SOUTHERN NEW ENGLAND TELEPHONE CO	CF–02
092259	SOUTHERN PACIFIC TRANSPORTATION CO	CF–02
092264	SOUTHERN SCOTTISH INNS INC	CF–06
109747	SOUTHERN SECURITY LIFE INSURANCE CO	CF–07
810622	SOUTHERN STARR BROADCASTING GROUP INC /D	CF–07
277385	SOUTHERN STATES CORP	CF–08
203248	SOUTHERN UNION CO	CF–04
092344	SOUTHLAND CORP	CF–02
788132	SOUTHLAND ESTATE WINERY INC	CF–06
071546	SOUTHLAND NATIONAL INSURANCE CORP	CF–08
701996	SOUTHMARK CORP	CF–03
797504	SOUTHMARK CRCA HEALTH CARE INCOME FUND I	CF–06
778921	SOUTHMARK EQUITY PARTNERS II LTD	CF–05
793307	SOUTHMARK EQUITY PARTNERS III LTD	CF–05
810481	SOUTHMARK PRIME PLUS L P	CF–05
758745	SOUTHMARK REALTY PARTNERS II LTD	CF–05
734761	SOUTHMARK REALTY PARTNERS LTD	CF–05
820114	SOUTHNET CORP	CF–08
859747	SOUTHSHORE CORP /CO	CF–10
703970	SOUTHSIDE BANCSHARES CORP	CF–08
092081	SOUTHTRUST CORP	CF–02
813619	SOUTHWALL TECHNOLOGIES INC /DE/	CF–05
701983	SOUTHWARD VENTURES DEPOSITARY TRUST	CF–08
092380	SOUTHWEST AIRLINES CO	CF–02
885942	SOUTHWEST BANCSHARES INC /NEW/	CF–10
719961	SOUTHWEST CAFES INC	CF–06
217222	SOUTHWEST CAPITAL CORP	CF–09
092416	SOUTHWEST GAS CORP	CF–02
315849	SOUTHWEST GEORGIA FINANCIAL CORP	CF–06
853868	SOUTHWEST INFORMATION & EDUCATION UTILIT	CF–10
092440	SOUTHWEST NATIONAL CORP	CF–07
859904	SOUTHWEST OIL & GAS 1990–91 INCOME PROGRAM	CF–10
847320	SOUTHWEST OIL & GAS INCOME FUND IX–A LP	CF–10
808028	SOUTHWEST OIL & GAS INCOME FUND VII A L	CF–07
825881	SOUTHWEST OIL & GAS INCOME FUND VIII–A L	CF–09
859905	SOUTHWEST OIL & GAS INCOME FUND X–A LP	CF–10
859906	SOUTHWEST OIL & GAS INCOME FUND X–B LP	CF–10
859907	SOUTHWEST OIL & GAS INCOME FUND X–C LP	CF–10
702991	SOUTHWEST REALTY LTD	CF–05
782149	SOUTHWEST ROYALTIES INC INCOME FUND V	CF–07
796489	SOUTHWEST ROYALTIES INC INCOME FUND VI	CF–07
859909	SOUTHWEST ROYALTIES INSTITUTIONAL 1990–91 INCOME PROGRAM	CF–10
859910	SOUTHWEST ROYALTIES INSTITUTIONAL INCOME FUND X–A LP	CF–10
859911	SOUTHWEST ROYALTIES INSTITUTIONAL INCOME FUND X–B LP	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
859912	SOUTHWEST ROYALTIES INSTITUTIONAL INCOME FUND X–C LP	CF–10
847384	SOUTHWEST ROYALTIES INSTITUTIONAL INCOME IX–B LP	CF–10
810117	SOUTHWEST ROYALTIES INSTITUTIONAL INCOME VII–B LP	CF–07
825886	SOUTHWEST ROYALTIES INSTITUTIONAL INCOME VIII–B LP	CF–09
878520	SOUTHWEST SECURITIES GROUP INC	CF–10
092472	SOUTHWEST WATER CO	CF–05
798263	SOUTHWESTERN BELL CAPITAL CORP	CF–01
732717	SOUTHWESTERN BELL CORP	CF–01
092476	SOUTHWESTERN BELL TELEPHONE CO	CF–01
092487	SOUTHWESTERN ELECTRIC POWER CO	CF–01
092488	SOUTHWESTERN ELECTRIC SERVICE CO	CF–05
007332	SOUTHWESTERN ENERGY CO	CF–03
092521	SOUTHWESTERN PUBLIC SERVICE CO	CF–02
811830	SOVEREIGN BANCORP INC	CF–06
886142	SPACELABS MEDICAL INC	CF–10
775298	SPAGHETTI WAREHOUSE INC	CF–06
718924	SPAN AMERICA MEDICAL SYSTEMS INC	CF–06
732046	SPANTEL CORP	CF–09
836171	SPARTA CORP	CF–09
875623	SPARTA INC /DE	CF–10
819981	SPARTA SURGICAL CORP	CF–08
743238	SPARTAN MOTORS INC	CF–06
877422	SPARTAN STORES INC	CF–10
077597	SPARTECH CORP	CF–04
092679	SPARTON CORP	CF–04
746425	SPEAR FINANCIAL SERVICES INC	CF–06
844164	SPECIAL DELIVERY SYSTEMS INC	CF–09
875525	SPECIAL DEVICES INC /DE	CF–10
824768	SPECIALTY RETAIL SERVICES INC	CF–07
840570	SPECIALTY RETAIL VENTURES INC	CF–09
846723	SPECIALTY RETAILERS INC /DE/	CF–03
777277	SPECS MUSIC INC	CF–06
092739	SPECTEX INDUSTRIES INC	CF–07
885459	SPECTRAL DIAGNOSTICS INC	CF–10
718487	SPECTRAN CORP	CF–07
092769	SPECTRUM CONTROL INC	CF–05
830985	SPECTRUM DATATECH INC	CF–06
880354	SPECTRUM DIAGNOSTICS SPA	CF–10
741212	SPECTRUM FINANCIAL CORP	CF–01
812551	SPECTRUM INFORMATION TECHNOLOGIES INC	CF–07
319013	SPECTRUM LABORATORIES INC /CA	CF–08
875579	SPECTRUM PHARMACEUTICAL CORP	CF–10
771504	SPEED O PRINT BUSINESS MACHINES CORP /DE	CF–07
092827	SPEIZMAN INDUSTRIES INC /DE/	CF–07
845568	SPELLING ENTERTAINMENT INC	CF–10
729499	SPENDTHRIFT FARM INC	CF–08
823190	SPERZEL NV INC /NV/	CF–09
796117	SPHINX MINING INC	CF–08
881793	SPHINX PHARMACEUTICALS CORP	CF–10
819898	SPI HOLDING INC	CF–03
723046	SPI PHARMACEUTICALS INC	CF–05
276641	SPIEGEL INC	CF–02
867038	SPINDLETOP OIL & GAS CO	CF–10
801343	SPINNAKER SOFTWARE CORP/MN	CF–07
731657	SPIRE CORP	CF–06
315545	SPM GROUP INC	CF–09
872855	SPORT SUPPLY GROUP INC	CF–10
727503	SPORTING LIFE INC	CF–07
093003	SPORTS ARENAS INC	CF–06
814254	SPORTS ENTERTAINMENT GROUP INC	CF–08
863745	SPORTS LEISURE INC /DE	CF–10
873105	SPORTS MEDIA INC	CF–10
791450	SPORTSMANS GUIDE INC	CF–08
884801	SPORTSTOWN INC/DE/	CF–10
866708	SPORTSWORLD 2000 INC	CF–10
814564	SPRAGUE TECHNOLOGIES INC	CF–03
825042	SPRING BANCORP INC	CF–08
093102	SPRINGS INDUSTRIES INC	CF–02
093109	SPROUSE REITZ STORES INC	CF–05
093444	SPS TECHNOLOGIES INC	CF–04
882741	SPS TRANSACTION SERVICES INC	CF–10
088205	SPX CORP	CF–03

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
093134	SQUARE INDUSTRIES INC	CF–05
808220	SSE TELECOM INC	CF–08
814248	ST IVES LABORATORIES INC	CF–05
066251	ST JOSEPH LIGHT & POWER CO	CF–04
833212	ST JOSEPHS PHYSICIAN ASSOCIATES INC	CF–09
884139	ST JUDE CAPITAL RESOURCES INC	CF–10
203077	ST JUDE MEDICAL INC	CF–04
086264	ST LAWRENCE SEAWAY CORP	CF–08
810578	ST PAUL BANCORP INC	CF–02
086312	ST PAUL COMPANIES INC /MN/	CF–01
742167	ST SYSTEMS INC	CF–09
718937	STAAR SURGICAL CORP	CF–06
885073	STAC ELECTRONICS/CA/	CF–10
720480	STAFF BUILDERS INC /DE/	CF–05
811533	STAGE II APPAREL CORP	CF–05
701869	STAMFORD CAPITAL GROUP INC	CF–05
805890	STAMFORD TOWERS DEPOSITARY CORP	CF–09
799149	STAMFORD TOWERS LIMITED PARTNERSHIP	CF–05
320549	STAN WEST MINING CORP	CF–08
093308	STANDARD BRANDS PAINT CO	CF–04
093319	STANDARD COMMERCIAL CORP	CF–03
205921	STANDARD ENERGY CORP	CF–08
093379	STANDARD LOGIC INC	CF–08
093383	STANDARD METALS CORP	CF–07
093384	STANDARD MICROSYSTEMS CORP	CF–05
093389	STANDARD MOTOR PRODUCTS INC	CF–03
831978	STANDARD OIL & EXPLORATION OF DELAWARE I	CF–08
878560	STANDARD PACIFIC CORP /DE/	CF–10
093448	STANDARD PRODUCTS CO	CF–03
093456	STANDARD REGISTER CO	CF–03
310354	STANDEX INTERNATIONAL CORP/DE/	CF–04
879969	STANDISH CARE CO /DE	CF–10
725727	STANFORD TELECOMMUNICATIONS INC	CF–05
093542	STANHOME INC	CF–03
797465	STANLEY INTERIORS CORP	CF–04
093556	STANLEY WORKS	CF–02
093566	STANSBURY HOLDINGS CORP	CF–06
203285	STAODYN INC	CF–07
791519	STAPLES INC	CF–05
819690	STAR ACQUISITIONS CORP	CF–09
036678	STAR BANC CORP /DE/	CF–03
806842	STAR CLASSICS INC	CF–07
874036	STAR MULTI CARE SERVICES INC	CF–10
839515	STAR PARTNERS II LTD	CF–09
820760	STAR PARTNERS LTD	CF–09
827065	STAR RESOURCES INC /DE/	CF–09
828944	STAR STATES CORP	CF–09
733871	STAR TECHNOLOGIES INC	CF–06
887557	STARBUCKS CORPORATION	CF–10
850083	STARLIGHT ACQUISITIONS INC	CF–10
093675	STARRETT HOUSING CORP	CF–04
093676	STARRETT L S CO	CF–04
912951	STARS & STRIPES INVESTMENTS INC	CF–09
796040	STARS TO GO INC	CF–06
815029	STARSTREAM COMMUNICATIONS GROUP INC	CF–08
874977	STATE AUTO FINANCIAL CORP	CF–10
723458	STATE BANCORP INC	CF–05
745614	STATE FINANCIAL SERVICES CORP	CF–07
765842	STATE FIRST FINANCIAL CORP	CF–07
093736	STATE O MAINE INC	CF–05
874097	STATE OF THE ART INC /CA	CF–10
093751	STATE STREET BOSTON CORP	CF–02
093779	STATESMAN GROUP INC	CF–09
784259	STATESWEST AIRLINES INC	CF–06
700722	STATEWIDE BANCORP	CF–07
826615	STAUN BANCORP INC	CF–08
094170	STEEGO CORP	CF–05
820950	STEEL OF WEST VIRGINIA INC	CF–05
771790	STEEL TECHNOLOGIES INC	CF–05
894940	STEIN MART INC	CF–10
740401	STELLAR PETROLEUM INC	CF–08
094049	STEPAN CO	CF–04

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
094056	STEPHAN CO	CF–08
093451	STERLING BANCORP	CF–04
702170	STERLING BANCORPORATION /CA/	CF–06
795662	STERLING CHEMICALS INC	CF–03
094136	STERLING ELECTRONICS CORP	CF–06
852000	STERLING ENTERPRISES INC	CF–10
094140	STERLING FINANCIAL CORP /MO/	CF–08
811671	STERLING FINANCIAL CORP /PA/	CF–04
891106	STERLING FINANCIAL CORP /WA/	CF–10
721538	STERLING FUEL RESOURCES DRILLING FUND 1983–1	CF–07
722439	STERLING FUEL RESOURCES DRILLING FUND 1983–2	CF–07
748858	STERLING FUEL RESOURCES DRILLING FUND 1984–1	CF–09
748859	STERLING FUEL RESOURCES DRILLING FUND 1984–2	CF–07
356448	STERLING GAS DRILLING FUND 1981	CF–08
704202	STERLING GAS DRILLING FUND 1982	CF–08
771557	STERLING HISTORIC INVESTORS LP	CF–09
829322	STERLING INVESTMENTS LTD	CF–09
819221	STERLING MEDICAL SYSTEMS INC /UT/	CF–07
094167	STERLING OIL OF OKLAHOMA INC	CF–09
052522	STERLING OPTICAL CORP	CF–05
716714	STERLING SOFTWARE INC	CF–04
094185	STERLING SUGARS INC	CF–06
817644	STEVENS GRAPHICS CORP	CF–05
792643	STEVES HOMEMADE ICE CREAM INC	CF–06
731933	STEVIA CO INC	CF–08
094326	STEWART & STEVENSON SERVICES INC	CF–04
878522	STEWART ENTERPRISES INC	CF–10
094344	STEWART INFORMATION SERVICES CORP	CF–05
094369	STEWART SANDWICHES INC	CF–06
720672	STIFEL FINANCIAL CORP	CF–04
719272	STIMUTECH INC	CF–09
777538	STOKELY USA INC	CF–04
094567	STOKELY VAN CAMP INC	CF–01
094601	STONE & WEBSTER INC	CF–03
094610	STONE CONTAINER CORP	CF–02
718431	STONE MEDICAL SUPPLY CORP	CF–08
831674	STONE MOUNTAIN INDUSTRIES INC	CF–09
052554	STONE SAVANNAH RIVER PULP & PAPER CORP	CF–10
074783	STONERIDGE RESOURCES INC	CF–03
880267	STOP & SHOP COMPANIES INC /DE/	CF–10
318380	STORAGE EQUITIES INC	CF–04
839477	STORAGE PROPERTIES INC	CF–09
094673	STORAGE TECHNOLOGY CORP	CF–03
822614	STOTLER GROUP INC	CF–04
810829	STRATAMERICA CORP	CF–06
845414	STRATEGIC ABSTRACT & TITLE CORP	CF–08
073822	STRATEGIC DISTRIBUTION INC	CF–08
836435	STRATFORD AMERICAN CORP	CF–06
751418	STRATFORD FINANCIAL GROUP LTD /NY/	CF–08
723610	STRATUS COMPUTER INC	CF–04
778977	STRAUSS LEVI ASSOCIATES INC	CF–02
094855	STRAWBRIDGE & CLOTHIER	CF–03
094867	STRIDE RITE CORP	CF–04
352944	STRIKER PETROLEUM CORP	CF–07
849682	STRINGS LTD	CF–08
803515	STROBER ORGANIZATION INC	CF–05
788902	STRUCTOFAB INC	CF–08
820235	STRUCTURAL DYNAMICS RESEARCH CORP /OH/	CF–05
862099	STRUCTURED ASSET SECURITIES CORP SERIES 1989–1	CF–10
862100	STRUCTURED ASSET SECURITIES CORP SERIES 1989–2	CF–10
808851	STRUCTURED ASSET SECURITIES CORPORATION	CF–09
094945	STRUTHERS OIL & GAS CORP	CF–08
094947	STRUTHERS WELLS CORP	CF–06
310764	STRYKER CORP	CF–04
744795	STUARTS DEPARTMENT STORES INC	CF–05
095029	STURM RUGER & CO INC	CF–05
095045	STV ENGINEERS INC	CF–05
095047	STYLEX HOMES INC	CF–09
095052	SUAVE SHOE CORP	CF–05
356961	SUBURBAN BANCORP INC /DE/	CF–01
793080	SUBURBAN BANKSHARES INC /FL	CF–09
881397	SUBURBFED FINANCIAL CORP	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
811601	SUDBURY INC	CF–04
802763	SUFFIELD FINANCIAL CORP	CF–07
754673	SUFFOLK BANCORP	CF–04
726712	SULCUS COMPUTER CORP	CF–08
861290	SULLIVAN DENTAL PRODUCTS INC	CF–10
310406	SUMMA MEDICAL CORP	CF–07
777517	SUMMA RX LABORATORIES INC	CF–08
818470	SUMMAGRAPHICS CORP	CF–05
352952	SUMMCORP	CF–07
852803	SUMMIT BANCORP /OH/	CF–10
879095	SUMMIT BANCORP INC	CF–10
200754	SUMMIT BANCORPORATION	CF–07
745344	SUMMIT BANCSHARES INC /TX/	CF–05
353203	SUMMIT BANCSHARES INC/CA	CF–06
820067	SUMMIT BANK CORP	CF–08
875192	SUMMIT CARE CORP	CF–10
855927	SUMMIT ENVIRONMENTAL GROUP INC	CF–10
856223	SUMMIT FINANCIAL CORP	CF–10
725555	SUMMIT HEALTH LTD	CF–04
355730	SUMMIT OILFIELD CORP	CF–06
868016	SUMMIT SECURITIES INC /ID/	CF–10
855366	SUMMIT TAX CREDIT PROPERTIES I L P	CF–10
786156	SUMMIT TAX EXEMPT BOND FUND LP	CF–04
792924	SUMMIT TAX EXEMPT L P II	CF–04
813902	SUMMIT TECHNOLOGY INC	CF–07
713975	SUN BANCORP INC	CF–09
095302	SUN CITY INDUSTRIES INC	CF–01
095304	SUN CO INC	CF–01
319129	SUN COAST PLASTICS INC/DE/	CF–06
807396	SUN DISTRIBUTORS L P	CF–04
778201	SUN ENERGY PARTNERS LP	CF–02
878802	SUN EXPRESS GROUP INC	CF–10
841360	SUN HARBOR FINANCIAL RESOURCES INC	CF–10
709519	SUN MICROSYSTEMS INC	CF–02
856711	SUN SPORTSWEAR INC	CF–05
874690	SUN TELEVISION & APPLIANCES INC	CF–10
095366	SUNAIR ELECTRONICS INC	CF–06
095370	SUNBEAM CORP/DE/	CF–03
783319	SUNBELT NURSERY GROUP INC	CF–10
863527	SUNDOWNER OFFSHORE SERVICES INC	CF–10
095395	SUNDSTRAND CORP /DE/	CF–02
789388	SUNGARD DATA SYSTEMS INC	CF–04
067903	SUNGROUP INC	CF–06
727185	SUNGROWTH PROPERTY INVESTORS LTD	CF–07
312540	SUNLITE INC	CF–06
814071	SUNLITE TECHNOLOGIES CORP	CF–08
701709	SUNRISE BANCORP	CF–08
840115	SUNRISE BANCORP INC /DE	CF–09
874792	SUNRISE ENERGY SERVICES INC	CF–10
879022	SUNRISE LEASING CORPORATION	CF–10
720577	SUNRISE MEDICAL INC	CF–05
818695	SUNRISE PRESCHOOLS INC/DE/	CF–08
846771	SUNRISE TECHNOLOGIES INC	CF–08
095477	SUNSHINE FIFTY INC	CF–07
095479	SUNSHINE JR STORES INC	CF–05
833376	SUNSHINE MINING CO /DE	CF–09
317083	SUNSHINE PRECIOUS METALS INC	CF–05
095490	SUNSTAR FOODS INC	CF–07
839219	SUNSTYLE CORP	CF–07
750556	SUNTRUST BANKS INC	CF–02
789879	SUNWALKER DEVELOPMENT INC	CF–08
313042	SUNWARD TECHNOLOGIES INC	CF–05
036758	SUNWEST FINANCIAL SERVICES INC	CF–03
700664	SUPER 8 ECONOMY LODGING IV LTD	CF–07
316554	SUPER 8 MOTELS II LTD	CF–07
317859	SUPER 8 MOTELS III LTD	CF–07
311174	SUPER 8 MOTELS LTD	CF–07
316297	SUPER 8 MOTELS NORTHWEST I	CF–09
701258	SUPER 8 MOTELS NORTHWEST II	CF–09
313299	SUPER 8 MOTELS TEXAS LTD	CF–09
095504	SUPER FOOD SERVICES INC	CF–04
832453	SUPER FUND PREFERRED LTD PARTNERSHIP	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
854728	SUPER RITE FOODS HOLDINGS CORP	CF–10
731133	SUPER RITE FOODS INC	CF–04
095521	SUPER VALU STORES INC	CF–02
095552	SUPERIOR INDUSTRIES INTERNATIONAL INC	CF–04
095574	SUPERIOR SURGICAL MANUFACTURING CO INC	CF–05
771935	SUPERIOR TELETEC INC	CF–05
885592	SUPERMAC TECHNOLOGY INC	CF–10
832508	SUPERMAIL INTERNATIONAL INC	CF–08
821139	SUPERMARKETS GENERAL HOLDINGS CORP	CF–02
730000	SUPERTEX INC	CF–06
095618	SUPRADUR COMPANIES INC	CF–06
872867	SUPREMA SPECIALTIES INC	CF–10
095620	SUPREME EQUIPMENT & SYSTEMS CORP	CF–06
801412	SURE HAIR INC	CF–08
784932	SURETY CAPITAL CORP /DE/	CF–07
722692	SURGICAL CARE AFFILIATES INC	CF–05
854099	SURGICAL LASER TECHNOLOGIES INC /DE/	CF–06
745788	SURGIDYNE INC	CF–08
844892	SURREY ENTERPRISES INC	CF–10
095676	SURVIVAL TECHNOLOGY INC	CF–06
700863	SUSQUEHANNA BANCSHARES INC	CF–07
876320	SUSSEX VENTURES LTD	CF–10
728331	SUTRON CORP	CF–07
095779	SWANK INC	CF–05
351817	SWIFT ENERGY CO	CF–05
806614	SWIFT ENERGY INCOME PARTNERS 1986–B LTD	CF–08
811957	SWIFT ENERGY INCOME PARTNERS 1986–C LTD	CF–07
814414	SWIFT ENERGY INCOME PARTNERS 1986–D LTD	CF–07
820155	SWIFT ENERGY INCOME PARTNERS 1987–A LTD	CF–07
825167	SWIFT ENERGY INCOME PARTNERS 1987–B LTD	CF–06
831329	SWIFT ENERGY INCOME PARTNERS 1987–C LTD	CF–06
832872	SWIFT ENERGY INCOME PARTNERS 1987–D LTD	CF–10
837752	SWIFT ENERGY INCOME PARTNERS 1988–A LTD	CF–10
842784	SWIFT ENERGY INCOME PARTNERS 1988–B LTD	CF–09
847786	SWIFT ENERGY INCOME PARTNERS 1988–C LTD	CF–10
854220	SWIFT ENERGY INCOME PARTNERS 1989–B LTD	CF–10
867193	SWIFT ENERGY INCOME PARTNERS 1990–A LTD	CF–10
869836	SWIFT ENERGY INCOME PARTNERS 1990–C LTD	CF–10
842785	SWIFT ENERGY MANAGED PENSION ASSETS PART 1988–1L	CF–09
850425	SWIFT ENERGY MANAGED PENSION ASSETS PART 1988–2L	CF–10
837753	SWIFT ENERGY MANAGED PENSION ASSETS PART 1988–AL	CF–10
842787	SWIFT ENERGY MANAGED PENSION ASSETS PART 1988–BL	CF–09
847806	SWIFT ENERGY MANAGED PENSION ASSETS PART 1988–CL	CF–10
854864	SWIFT ENERGY MANAGED PENSION ASSETS PART 1989–1L	CF–10
857495	SWIFT ENERGY MANAGED PENSION ASSETS PART 1989–2L	CF–10
850424	SWIFT ENERGY MANAGED PENSION ASSETS PART 1989–AL	CF–10
854302	SWIFT ENERGY MANAGED PENSION ASSETS PART 1989–BL	CF–10
857531	SWIFT ENERGY MANAGED PENSION ASSETS PART 1989–CL	CF–10
861761	SWIFT ENERGY MANAGED PENSION ASSETS PART 1989–DL	CF–10
868227	SWIFT ENERGY MANAGED PENSION ASSETS PARTNERSHIP 1990–A LTD	CF–10
869684	SWIFT ENERGY MANAGED PENSION ASSETS PARTNERSHIP 1990–C LTD	CF–10
873780	SWIFT ENERGY MANAGED PENSION ASSETS PARTNERSHIP 1990–D LTD	CF–10
874957	SWIFT ENERGY MANAGED PENSION ASSETS PARTNERSHIP 1991–A LTD	CF–10
879745	SWIFT ENERGY PENSION PARTNERS 1991–A LTD	CF–10
885556	SWIFT ENERGY PENSION PARTNERS 1991–B LTD	CF–10
863557	SWIFT TRANSPORTATION CO INC	CF–10
888916	SWING N SLIDE CORP /DE/	CF–10
095898	SWISS CHALET INC	CF–07
846379	SWISS SUN INTERNATIONAL LTD	CF–10
354874	SWITCHCO INC	CF–06
832816	SYBRON CHEMICAL INDUSTRIES INC	CF–09
832815	SYBRON CHEMICALS INC	CF–09
861291	SYLVAN FOODS HOLDINGS INC	CF–10
350615	SYM TEK SYSTEMS INC	CF–06
849399	SYMANTEC CORP	CF–05
278352	SYMBOL TECHNOLOGIES INC	CF–04
745664	SYMBOLICS INC	CF–05
095944	SYMETRICS INDUSTRIES INC	CF–08
872443	SYMIX SYSTEMS INC	CF–10
095948	SYMMAR INC	CF–09
724742	SYMS CORP	CF–04
095953	SYNALLOY CORP	CF–05

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
719483	SYNBIOTICS CORP	CF–06
202763	SYNCOR INTERNATIONAL CORP /DE/	CF–01
710807	SYNERCOM TECHNOLOGY INC	CF–06
730358	SYNERGEN INC	CF–05
724264	SYNERGETICS INTERNATIONAL INC	CF–08
095986	SYNERGISTICS INC	CF–08
852832	SYNERGY FUNDING INC	CF–10
856669	SYNESYS INC	CF–10
850436	SYNETIC INC	CF–05
883241	SYNOPSYS INC	CF–10
816530	SYNOPTICS COMMUNICATIONS INC	CF–05
018349	SYNOVUS FINANCIAL CORP	CF–07
351040	SYNTECH INTERNATIONAL INC	CF–06
096000	SYNTEX CORP	CF–02
749290	SYNTHETECH INC	CF–06
833644	SYNTHETIC BLOOD & MEDICAL TECHNOLOGIES I	CF–09
034956	SYNTHETIC BLOOD INTERNATIONAL INC	CF–09
809603	SYNTHETIC INDUSTRIES INC	CF–04
318280	SYNTREX INC	CF–06
794627	SYNTRO CORP /DE/	CF–07
880965	SYQUEST TECHNOLOGY INC	CF–10
096057	SYS	CF–06
096021	SYSCO CORP	CF–02
202584	SYSTEM ENERGY RESOURCES INC	CF–02
317781	SYSTEM INDUSTRIES INC	CF–05
808207	SYSTEM SOFTWARE ASSOCIATES INC	CF–05
876428	SYSTEMIX INC /DE	CF–10
707606	SYSTEMS & COMPUTER TECHNOLOGY CORP	CF–05
705581	SYSTEMS ASSURANCE CORP /ME/	CF–09
713412	SYSTEMS CENTER INC /DE/	CF–05
756824	SYSTEMS TECHNOLOGY ASSOCIATES INC	CF–08
819346	SYSTEMS WEST INC	CF–08
096079	SYSTONETICS INC	CF–06
822321	T A BUSCAGLIA CO INC	CF–10
744218	T CELL SCIENCES INC	CF–06
847841	T SF COMMUNICATIONS CORP	CF–05
830735	T2 MEDICAL INC	CF–04
096116	TAB PRODUCTS CO	CF–05
831490	TABOR ENVIRONMENTAL SERVICES INC	CF–06
318830	TACOMA BOATBUILDING CO	CF–05
718543	TAGO INC	CF–06
791956	TAHOE CO INC /CO/	CF–06
871012	TAJ MAHAL HOLDING CORP	CF–10
866255	TAKECARE INC	CF–10
096207	TAL CAP INC	CF–06
814855	TALCON LP	CF–05
828827	TALKING RINGS ENTERTAINMENT INC	CF–09
096238	TALLEY INDUSTRIES INC	CF–02
096277	TAMBRANDS INC	CF–03
096271	TAMPA ELECTRIC CO	CF–09
835949	TAMPA FOODS L P	CF–09
315190	TANDEM COMPUTERS INC /DE/	CF–02
350058	TANDON CORP	CF–04
869487	TANDY BRANDS ACCESSORIES INC	CF–10
096289	TANDY CORP /DE/	CF–02
818153	TANDY CREDIT CORP	CF–06
096294	TANDYCRAFTS INC	CF–05
867868	TANKNOLOGY ENVIRONMENTAL INC /TX/	CF–10
353821	TAPE SPECIALTY INC	CF–06
814678	TARA BANKSHARES CORP	CF–06
882238	TARGET THERAPEUTICS INC	CF–10
855585	TARIS INC	CF–10
778701	TARRAGON CORP	CF–09
318346	TASA PRODUCTS LTD	CF–06
096412	TASTY BAKING CO	CF–05
225926	TAURUS PETROLEUM INC /CO/	CF–06
850096	TAYLOR ANN HOLDINGS INC	CF–03
850090	TAYLOR ANN INC	CF–10
096536	TAYLOR DEVICES INC	CF–07
853270	TAYLOR EQUITIES INC	CF–10
718449	TBC CORP	CF–04
862320	TC GP INC	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
700997	TCA CABLE TV INC	CF–04
740693	TCBY ENTERPRISES INC	CF–04
820083	TCC EQUIPMENT INCOME FUND	CF–07
814184	TCF FINANCIAL CORP	CF–03
357064	TCI INTERNATIONAL INC	CF–05
733729	TCS ENTERPRISES INC	CF–07
716757	TDINDUSTRIES INC	CF–06
318833	TEAM INC	CF–05
352860	TECFIN CORP	CF–08
790703	TECH DATA CORP	CF–05
886912	TECH ELECTRO INDUSTRIES INC/TX	CF–10
825410	TECH OPS LANDAUER INC	CF–06
825411	TECH OPS SEVCON INC	CF–07
096669	TECH SYM CORP	CF–04
756887	TECH TIME INC	CF–08
740878	TECHE BANCSHARES INC	CF–06
814081	TECHKNITS INC	CF–07
096677	TECHNALYSIS CORP	CF–07
842023	TECHNE CORP /MN/	CF–07
096699	TECHNICAL COMMUNICATIONS CORP	CF–07
704562	TECHNICLONE INTERNATIONAL CORP	CF–08
831688	TECHNICRAFT FINANCIAL LTD	CF–09
096763	TECHNITROL INC	CF–05
315777	TECHNODYNE INC	CF–06
735703	TECHNOLOGY 80 INC	CF–08
770719	TECHNOLOGY DEVELOPMENT CORP	CF–06
744964	TECHNOLOGY FUNDING PARTNERS I	CF–07
772001	TECHNOLOGY FUNDING PARTNERS II	CF–07
764062	TECHNOLOGY FUNDING SECURED INVESTORS I	CF–06
764061	TECHNOLOGY FUNDING SECURED INVESTORS II	CF–06
844217	TECHNOLOGY FUNDING SECURED INVESTORS III	CF–09
768914	TECHNOLOGY GENERAL CORP	CF–07
201040	TECHNOLOGY INTERNATIONAL LTD	CF–08
351115	TECHNOLOGY MARKETING INC	CF–07
741556	TECHNOLOGY RESEARCH CORP	CF–07
877645	TECHNOLOGY SOLUTIONS COMPANY	CF–10
318523	TECHSCIENCE INDUSTRIES INC	CF–08
350563	TECO ENERGY INC	CF–02
813885	TECOGEN INC	CF–06
769592	TECON INC /UT/	CF–09
096831	TECUMSEH PRODUCTS CO	CF–03
277377	TEECO PROPERTIES LP	CF–08
840257	TEJAS GAS CORP /DE/	CF–09
868576	TEJAS POWER CORP	CF–10
096869	TEJON RANCH CO	CF–05
790705	TEKELEC	CF–06
875315	TEKNEKRON COMMUNICATIONS SYSTEMS INC / NV	CF–10
096879	TEKTRONIX INC	CF–03
756767	TEL ELECTRONICS INC	CF–08
096885	TEL INSTRUMENT ELECTRONICS CORP	CF–09
097148	TEL OFFSHORE TRUST	CF–07
827082	TELCO COMMUNICATIONS INC	CF–09
736893	TELCO SYSTEMS INC /DE/	CF–05
096903	TELE COMMUNICATIONS INC	CF–02
813565	TELE OPTICS INC	CF–07
726451	TELEBYTE TECHNOLOGY INC	CF–08
741038	TELECALC INC	CF–08
096918	TELECOM CORP	CF–05
725929	TELECOMMUNICATION PRODUCTS INC	CF–08
845394	TELECOMMUNICATIONS GROWTH & INCOME FUND	CF–10
874394	TELECOMMUNICATIONS INCOME FUND IX LP	CF–10
048107	TELECONCEPTS CORP	CF–07
754435	TELECONFERENCING SYSTEMS INTERNATIONAL I	CF–08
096935	TELEDYNE INC	CF–02
096943	TELEFLEX INC	CF–03
801313	TELEMATICS INTERNATIONAL INC /FL/	CF–05
806083	TELEMUNDO GROUP INC	CF–03
810018	TELENETICS CORP	CF–08
096966	TELEPHONE & DATA SYSTEMS INC	CF–03
715805	TELEPHONE SPECIALISTS INC	CF–08
789754	TELEQUEST INC	CF–07
832175	TELESCAN INC	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
351978	TELESPHERE COMMUNICATIONS INC	CF–05
312979	TELETEK INC	CF–08
790238	TELETIMER INTERNATIONAL INC	CF–08
722828	TELETRAK ADVANCED TECHNOLOGY SYSTEMS INC	CF–08
353779	TELEVIDEO SYSTEMS INC	CF–05
700800	TELEVISION TECHNOLOGY CORP	CF–07
857668	TELEX COMMUNICATIONS INC	CF–10
869851	TELICONICS INC	CF–10
845047	TELIDENT INC /MN/	CF–10
317771	TELLABS INC	CF–04
883719	TELMED INC	CF–10
095630	TELTONE CORP	CF–07
097052	TELTRONICS INC	CF–07
839443	TELVUE CORP	CF–08
352495	TELXON CORP	CF–04
728392	TEMCO NATIONAL CORP	CF–06
731939	TEMPLE INLAND INC	CF–02
703877	TEMPLETON 82 B LTD	CF–08
794450	TEMPO LP INC	CF–09
110740	TEMTEX INDUSTRIES INC	CF–06
858367	TEN HOLDINGS INC	CF–10
804781	TENERA LP	CF–06
845696	TENET INFORMATION SERVICES INC	CF–07
097184	TENNANT CO	CF–05
805019	TENNECO CREDIT CORP	CF–02
823549	TENNECO INC /DE/	CF–02
867652	TENNESSEE BANCORP INC	CF–10
097142	TENNESSEE GAS PIPELINE CO	CF–02
097184	TENNEY ENGINEERING INC	CF–06
097210	TERADYNE INC	CF–03
097216	TEREX CORP	CF–03
726431	TERMIFLEX CORP	CF–07
841075	TERMINAL APPLICATIONS GROUP INC	CF–07
097224	TERMINAL DATA CORP	CF–06
097258	TERRAMAR CORP	CF–09
720481	TERRANO CORP	CF–07
319770	TERRITORIAL RESOURCES INC	CF–08
865457	TESCORP INC	CF–10
050104	TESORO PETROLEUM CORP /NEW/	CF–03
097349	TEXACO INC	CF–02
846905	TEXAS AMERICAN GROUP INC	CF–10
887023	TEXAS BIOTECHNOLOGY CORP /DE/	CF–10
097432	TEXAS EASTERN TRANSMISSION CORP	CF–09
097452	TEXAS GAS TRANSMISSION CORP	CF–03
097472	TEXAS INDUSTRIES INC	CF–03
097476	TEXAS INSTRUMENTS INC	CF–02
869369	TEXAS MERIDIAN RESOURCES CORPORATION	CF–10
022767	TEXAS NEW MEXICO POWER CO	CF–03
097517	TEXAS PACIFIC LAND TRUST	CF–06
787648	TEXAS REGIONAL BANCSHARES INC	CF–08
806583	TEXAS SECURITIES INC	CF–08
813764	TEXAS SECURITY BANCSHARES INC	CF–04
843523	TEXAS TORTILLA BAKERY INC	CF–09
097561	TEXAS UTILITIES CO	CF–02
710182	TEXAS UTILITIES ELECTRIC CO	CF–06
315261	TEXAS VANGUARD OIL CO	CF–08
097579	TEXFI INDUSTRIES INC	CF–05
352507	TEXLAND DRILLING PROGRAM 1981	CF–09
312827	TEXON ENERGY CORP	CF–06
771984	TEXSCAN CORP/DE	CF–06
853096	TEXTAINER EQUIPMENT INCOME FUND II L P	CF–10
866868	TEXTAINER EQUIPMENT INCOME FUND III L P	CF–10
882268	TEXTAINER EQUIPMENT INCOME FUND IV L P	CF–10
217346	TEXTRON INC	CF–02
799165	TGC INDUSTRIES INC	CF–08
319650	TGX CORP	CF–04
354639	THACKERAY CORP	CF–06
853833	THEME FACTORY INC	CF–10
796762	THERAGENICS CORP	CF–07
761800	THERAPEUTIC TECHNOLOGIES INC	CF–08
885015	THERATECH INC /UT/	CF–10
786129	THERMACOR TECHNOLOGY INC	CF–08

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
850660	THERMADYNE HOLDINGS CORP	CF–10
822795	THERMADYNE INDUSTRIES INC	CF–03
313277	THERMAL ENERGY STORAGE INC	CF–09
097725	THERMAL EXPLORATION CO	CF–07
097726	THERMAL INDUSTRIES INC	CF–06
319239	THERMAL PROFILES INC	CF–06
721356	THERMEDICS INC	CF–05
841939	THERMO CARDIOSYSTEMS INC	CF–06
097745	THERMO ELECTRON CORP	CF–03
886346	THERMO FIBERTEK INC	CF–10
795986	THERMO INSTRUMENT SYSTEMS INC	CF–04
796038	THERMO PROCESS SYSTEMS INC	CF–05
351902	THERMODYNETICS INC	CF–07
875316	THERMOTREX CORP	CF–10
732240	THERMWOOD CORP	CF–07
068366	THIOKOL CORP /DE/	CF–03
858369	THIRTEEN HOLDINGS INC	CF–10
097854	THOMAS & BETTS CORP	CF–03
097886	THOMAS INDUSTRIES INC	CF–03
097931	THOMASTON MILLS INC	CF–05
822426	THOMSON ADVISORY GROUP L P	CF–06
320167	THOMSON DIAMOND TRUST JEFFERSON COLLECTI	CF–08
770327	THOMSON FINANCIAL FUTURES PARTNERS II	CF–07
003933	THOR ENERGY RESOURCES INC	CF–06
730263	THOR INDUSTRIES INC	CF–05
350907	THORATEC LABORATORIES CORP	CF–08
038851	THORN APPLE VALLEY INC	CF–05
312187	THOUSAND TRAILS INC	CF–05
865570	THQ INC	CF–10
034159	THREE D DEPARTMENTS INC	CF–06
032272	THREE FIVE SYSTEMS INC	CF–07
858361	THREE HOLDINGS INC	CF–10
820417	THRIFTY TEL INC	CF–08
721602	THT INC	CF–08
711034	THUNDER MOUNTAIN GOLD INC	CF–08
098596	TIC INTERNATIONAL CORP	CF–08
705453	TIDE WEST OIL CO	CF–07
276077	TIDELANDS ROYALTY TRUST B	CF–08
096222	TIDEWATER INC	CF–03
313309	TIE COMMUNICATIONS INC	CF–04
701374	TIERCO GROUP INC/DE	CF–05
098246	TIFFANY & CO	CF–04
714399	TIGERA GROUP INC	CF–06
277928	TII INDUSTRIES INC	CF–06
814361	TIMBERLAND CO	CF–04
875270	TIMBERLINE BANCSHARES INC	CF–10
098305	TIMBERLINE MINERALS INC	CF–08
314436	TIMBERLINE SOFTWARE CORPORATION	CF–07
711307	TIME ENERGY SYSTEMS INC	CF–07
736157	TIME WARNER INC	CF–02
098349	TIMES MIRROR CO	CF–02
098362	TIMKEN CO	CF–02
098383	TINSLEY LABORATORIES INC	CF–07
098410	TIPPERARY CORP	CF–06
833088	TIS MORTGAGE INVESTMENT CO	CF–03
032258	TITAN CORP	CF–05
725458	TITUS FOODS INC	CF–06
799205	TIVOLI VENTURES INC	CF–09
099974	TJ INTERNATIONAL INC	CF–04
849354	TJ SYSTEMS CORP	CF–10
109198	TJX COMPANIES INC /DE/	CF–01
096959	TLM CORP	CF–07
754590	TM CENTURY INC	CF–07
751288	TMBR SHARP DRILLING INC	CF–06
840543	TMI INCOME PLUS LIMITED PARTNERSHIP	CF–09
885394	TMP INLAND EMPIRE II LTD	CF–10
885051	TMP INLAND EMPIRE IV LTD	CF–10
885392	TMP INLAND EMPIRE LTD	CF–10
885049	TMP INLAND EMPIRE V LTD	CF–10
885046	TMP INLAND EMPIRE VI LTD	CF–10
887025	TMP INLAND EMPIRE VII LTD	CF–10
872836	TMP LAND MORTGAGE FUND LTD	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
835412	TMS INC	CF-09
878482	TNC MEDIA INC	CF-10
741612	TNP ENTERPRISES INC	CF-03
723615	TNR TECHNICAL INC	CF-08
881791	TNT FREIGHTWAYS CORP	CF-10
881456	TOCOR II INC	CF-10
798526	TODAY HOME ENTERTAINMENT INC	CF-07
885546	TODAYS MAN INC	CF-10
061442	TODD AO CORP	CF-06
099537	TODD SHIPYARDS CORP	CF-03
730348	TOFUTTI BRANDS INC	CF-08
098559	TOKHEIM CORP	CF-04
764297	TOKOS MEDICAL CORP	CF-10
352045	TOLEDO EDISON CO	CF-02
794170	TOLL BROTHERS INC	CF-03
092522	TOLTEC REAL ESTATE CORP	CF-07
813718	TONGA CAPITAL CORP	CF-09
096677	TOOTSIE ROLL INDUSTRIES INC	CF-04
355469	TOP AIR MANUFACTURING INC	CF-07
800055	TOP SOURCE INC	CF-07
810622	TOPOX INC	CF-09
812076	TOPPS CO INC	CF-05
874263	TOPRO INC	CF-10
888470	TOPS APPLIANCE CITY INC	CF-10
822322	TOPS INC /NY/	CF-10
822323	TOPS INC /PA/	CF-10
847555	TOPSEARCH INC	CF-10
320335	TORCHMARK CORP	CF-03
099720	TOREADOR ROYALTY CORP	CF-07
737758	TORO CO/DE	CF-04
849406	TORONTO CORP	CF-10
098752	TOROTEL INC	CF-07
074091	TOSCO CORP	CF-03
741330	TOTAL ASSETS PROTECTION INC	CF-07
803055	TOTAL RESEARCH CORP	CF-07
721683	TOTAL SYSTEM SERVICES INC	CF-05
096788	TOTH ALUMINUM CORP	CF-06
751160	TOUCHSTONE SOFTWARE CORP /CA/	CF-08
740942	TOWER BANCORP INC	CF-06
098827	TOWER PROPERTIES CO	CF-06
758608	TOWN & COUNTRY CORP	CF-04
867203	TOWNE BANCORP INC /OH	CF-10
860052	TOWNE FINANCIAL CORP /OH	CF-10
834071	TOYOTA MOTOR CREDIT CORP	CF-02
051734	TOYS R US INC	CF-02
217370	TPC COMMUNICATIONS INC	CF-08
312842	TPEX EXPLORATION INC	CF-08
096919	TPI ENTERPRISES INC	CF-03
795539	TPI LAND DEVELOPMENT III LIMITED PARTNERSHIP	CF-09
825668	TPI LAND DEVELOPMENT IV LIMITED PARTNERSHIP	CF-09
740727	TPI LAND INVESTORS II LIMITED PARTNERSHIP	CF-09
719663	TPI RESTAURANTS INC	CF-04
887603	TRACOR INC	CF-10
789505	TRADITIONAL INDUSTRIES INC	CF-05
820377	TRADUX CORP	CF-09
716438	TRAK AUTO CORP	CF-04
354857	TRAKIT CORP	CF-08
778437	TRAMMELL CROW REAL ESTATE INVESTORS	CF-04
851943	TRANS AM CAPITAL CORP	CF-10
847420	TRANS ATLANTIC VIDEO INC	CF-07
704469	TRANS FINANCIAL BANCORP INC	CF-04
099102	TRANS INDUSTRIES INC	CF-06
789577	TRANS LEASING INTERNATIONAL INC	CF-05
099106	TRANS LUX CORP	CF-05
099114	TRANS NATIONAL LEASING INC	CF-05
729861	TRANS PACIFIC BANCORP	CF-06
810020	TRANS RESOURCES INC	CF-04
278327	TRANS WORLD AIRLINES INC /NEW/	CF-02
795212	TRANS WORLD MUSIC CORP	CF-04
102701	TRANSACT INTERNATIONAL INC	CF-07
099189	TRANSAMERICA CORP	CF-01
099193	TRANSAMERICA FINANCE GROUP INC	CF-01

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
837757	TRANSAMERICA OCCIDENTAL LIFE INSURANCE CO	CF–09
801451	TRANSAMERICAN PETROLEUM CORP	CF–08
876032	TRANSAMERICAN WASTE INDUSTRIES INC	CF–10
862510	TRANSATLANTIC HOLDINGS INC	CF–10
099321	TRANSCAPITAL FINANCIAL CORP	CF–03
786053	TRANSCISCO INDUSTRIES INC	CF–05
099235	TRANSCO REALTY TRUST	CF–07
832444	TRANSCOLOR CORP	CF–09
099250	TRANSCONTINENTAL GAS PIPE LINE CORP	CF–02
733590	TRANSCONTINENTAL REALTY INVESTORS INC	CF–04
319416	TRANSCONTINENTAL REALTY TRUST INC	CF–05
788176	TRANSFORM LOGIC CORP	CF–07
856384	TRANSGLOBAL HOLDINGS INC	CF–10
099302	TRANSMATION INC	CF–07
078536	TRANSMEDIA NETWORK INC /DE/	CF–08
796228	TRANSNATIONAL INDUSTRIES INC	CF–06
099313	TRANSNET CORP	CF–06
087799	TRANSTECH INDUSTRIES INC	CF–05
099359	TRANSTECHNOLOGY CORP	CF–04
746630	TRANSTECTOR SYSTEMS INC	CF–07
700613	TRANSWORLD BANCORP	CF–05
001761	TRANZONIC COMPANIES	CF–05
086429	TRAVELERS CORP	CF–01
705024	TRAVELERS INCOME PROPERTIES I LTD PARTNERSHIP	CF–06
731163	TRAVELERS INCOME PROPERTIES II LTD PARTNERSHIP	CF–07
773655	TRAVELERS REALTY 100 LP	CF–06
702321	TRAWEEK INVESTMENT FUND NO 12 LTD	CF–09
103096	TRC COMPANIES INC /DE/	CF–06
876948	TREADCO INC	CF–10
883583	TREASURE ISLAND CORP	CF–10
883582	TREASURE ISLAND FINANCE CORP	CF–10
839430	TREATS ENTERPRISES INC	CF–09
850429	TREDEGAR INDUSTRIES INC	CF–03
880320	TREMONT ADVISERS INC	CF–10
842718	TREMONT CORPORATION	CF–10
787952	TRENWICK GROUP INC	CF–09
313337	TRI CITY BANKSHARES CORP	CF–05
855874	TRI COUNTY FINANCIAL CORP /MD/	CF–10
859915	TRI NEM INC	CF–10
744081	TRI STATE MOTOR TRANSIT CO OF DELAWARE	CF–05
313867	TRIAD SYSTEMS CORP	CF–04
860543	TRIAD WARRANTY CORPORATION INC	CF–10
885576	TRIANGLE BANCORP INC	CF–10
099703	TRIANGLE CORP	CF–05
764763	TRIANGLE GROUP INC	CF–08
099693	TRIANGLE HOME PRODUCTS INC/DE	CF–07
230802	TRIANGLE PACIFIC CORP	CF–03
726513	TRIBUNE CO	CF–02
066109	TRIBUNE SWAB FOX COMPANIES INC	CF–05
858452	TRICARE INC	CF–06
356171	TRICO BANCSHARES	CF–05
099724	TRICO PRODUCTS CORP	CF–04
879210	TRIDENT NGL INC	CF–10
047254	TRIDEX CORP	CF–06
849935	TRIGATE ASSOCIATES INC	CF–10
721176	TRILLING MEDICAL TECHNOLOGIES INC	CF–07
822570	TRIM A LAWN CORP /DE/	CF–10
842633	TRIMAS CORP	CF–04
864749	TRIMBLE NAVIGATION LTD /CA/	CF–10
357001	TRIMEDYNE INC	CF–06
877210	TRINITY CAPITAL ENTERPRISE CORP	CF–10
885066	TRINITY CAPITAL OPPORTUNITY CORP	CF–10
099780	TRINITY INDUSTRIES INC	CF–03
350024	TRINITY INDUSTRIES LEASING CO	CF–03
059198	TRINOVA CORP	CF–01
863371	TRINZIC CORP	CF–10
732026	TRIO TECH INTERNATIONAL	CF–06
766563	TRION FUND II	CF–08
099802	TRION INC	CF–06
846585	TRIPLE C ACQUISITION CORP	CF–10
831126	TRIPLE CO /CO/	CF–09
099811	TRIPLE F INC	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group	
939539	TRISTATE BANCORP INC	CF-09	85876
099830	TRITON ENERGY CORP	CF-03	84913
789556	TRIUMPH OIL & GAS CORP	CF-08	84478
858559	TRIUMPHE LEASING LIMITED PARTNERSHIP	CF-10	88597
862574	TRIUMPHE LEASING VIII L P	CF-10	87980
016760	TRIZAK CORP	CF-10	72836
312478	TROUND INTERNATIONAL INC	CF-08	81013
099927	TROY INVESTMENT FUND	CF-06	83166
833026	TROY LEASE INCOME L P	CF-09	22597
815096	TRUDY CORP	CF-07	79498
791445	TRUMP PLAZA FUNDING INC	CF-03	06862
835544	TRUMP TAJ MAHAL FUNDING INC	CF-09	78057
770618	TRUMPS CASTLE FUNDING INC	CF-03	20350
357301	TRUSTCO BANK CORP N Y	CF-04	10051
758905	TRUSTCOMPANY BANCORPORATION	CF-03	85890
036146	TRUSTMARK CORP	CF-03	73756
823880	TRUVEL CORP /CA/	CF-07	76962
100030	TRW INC	CF-02	87741
741742	TSENG LABS INC	CF-08	85697
841243	TSI CORP /DE/	CF-08	85697
100063	TSI INC /MN/	CF-05	88461
099506	TSI INC /MT/	CF-07	83187
843961	TSL INC	CF-08	10132
096338	TSR INC	CF-07	79582
848013	TSS LTD	CF-07	35087
799230	TSUNAMI CAPITAL CORP	CF-08	85879
725396	TUBBYS INC	CF-08	81313
100087	TUBOSCOPE INC	CF-09	31825
100102	TUCKER DRILLING CO INC	CF-06	88720
868077	TUCKER F A GROUP INC	CF-10	83965
100122	TUCSON ELECTRIC POWER CO	CF-02	79111
861895	TUDOR FUND FOR EMPLOYEES LP	CF-10	10061
835666	TUDOR PRIME ADVISORS FUND LP	CF-09	74648
878726	TUESDAY MORNING CORP/DE	CF-10	27610
808714	TUFCO INTERNATIONAL INC	CF-09	84025
100166	TULTEX CORP	CF-04	83242
100217	TURF PARADISE INC	CF-06	80502
100240	TURNER BROADCASTING SYSTEM INC	CF-02	79929
743475	TURNER CORP	CF-03	10071
821536	TUSCARORA PLASTICS INC	CF-06	79756
819802	TV COMMUNICATIONS NETWORK INC	CF-09	76679
027030	TVC IMAGE TECHNOLOGY INC	CF-07	79234
352079	TVI CORP	CF-07	20217
852772	TW HOLDINGS INC	CF-01	71580
807862	TW SERVICES INC	CF-01	10072
100307	TWAIN MARK BANCSHARES INC	CF-07	85455
724098	TWENTIETH BANCORP INC	CF-05	71795
356364	TWENTIETH CENTURY FOX FILM CORP /DE/ /NE	CF-02	10074
031704	TWENTY SERVICES INC	CF-08	74028
318291	TWIN CREEK EXPLORATION CO INC	CF-08	35274
100378	TWIN DISC INC	CF-05	83547
847906	TWIN STAR PRODUCTIONS INC	CF-07	75229
714256	TWISTEE TREAT CORP	CF-07	10075
876889	TWO BI 2 INC	CF-10	74756
356024	TWO PARK AVENUE ASSOCIATES	CF-09	10075
802574	TWO PESOS INC	CF-06	35271
849252	TYCO INDUSTRIES INC	CF-04	88394
100441	TYCO LABORATORIES INC	CF-02	70154
786130	TYCO TOYS INC	CF-04	74508
860731	TYLER CORP /NEW/	CF-10	10078
317889	TYREX OIL CO	CF-08	10079
100493	TYSON FOODS INC	CF-02	84555
859632	TYSONS FINANCIAL CORP	CF-10	10081
004458	U HAUL INTERNATIONAL INC	CF-09	10082
847562	U S BIOSCIENCE INC	CF-06	76974
846975	U S CARD INVESTORS INC	CF-10	10085
844010	U S ENVIRONMENTAL INC	CF-09	87448
862150	U S ENVIRONMENTAL SOLUTIONS INC	CF-10	10088
314203	U S GOLD CORP	CF-05	10088
711405	U S HEALTHCARE INC	CF-05	10089
101640	U S HOME CORP /DE/	CF-03	08791
778424	U S INTEC INC	CF-05	10092

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
858764	U S LONG DISTANCE CORP	CF–10
849139	U S MAGNET & ALLOY CORPORATION LIQUIDATION	CF–10
844789	U S PAWN INC	CF–10
885978	U S PHYSICAL THERAPY INC /NV	CF–10
879801	U S ROBOTICS INC	CF–10
728360	U S SHELTER CORP /DE/	CF–06
810130	U S TECHNOLOGIES INC	CF–08
831660	U S THRIFT OPPORTUNITY PARTNERS L P	CF–09
225971	U S TRUST CORP	CF–01
794987	U S WEST CAPITAL FUNDING INC	CF–01
068622	U S WEST COMMUNICATIONS INC	CF–01
780577	U S WEST FINANCIAL SERVICES INC	CF–01
203505	UAC INC	CF–09
100517	UAL CORP /DE/	CF–02
858905	UCC INVESTORS HOLDING INC	CF–10
737561	UCI MEDICAL AFFILIATES INC	CF–08
769624	UDC UNIVERSAL DEVELOPMENT LP	CF–03
877412	UF BANCORP INC	CF–10
856975	UFSB 1989–A GRANTOR TRUST	CF–10
856974	UFSB 1989–B GRANTOR TRUST	CF–10
884614	UGI CORP /NEW/	CF–10
831873	UGTC CAPITAL CORP	CF–09
101320	UJB FINANCIAL CORP /NJ/	CF–02
795820	ULTIMAP INTERNATIONAL CORP	CF–08
350874	ULTIMATE CORP	CF–04
858792	ULTRA BANCORP	CF–10
813134	ULTRA PAC INC	CF–08
318259	ULTRAK INC	CF–07
887207	ULTRAMAR CORP /DE	CF–10
839654	ULTRASYSTEMS INC/DE	CF–10
791118	ULTRATECH KNOWLEDGE SYSTEMS INC	CF–05
100619	UMC ELECTRONICS CO	CF–08
746481	UNB CORP/OH	CF–08
276104	UNC INC	CF–03
840255	UNCLE GEORGES PIZZA & SUBS INC	CF–09
832425	UNDERWRITERS RE CORP	CF–09
805020	UNI MARTS INC	CF–05
799297	UNICARE FINANCIAL CORP	CF–05
100716	UNICO AMERICAN CORP	CF–06
797564	UNICO INC /DE/	CF–07
766794	UNICO INC /NM/	CF–07
792341	UNICOMP INC	CF–08
202172	UNICORP AMERICAN CORP /DE/ /NEW/	CF–02
715803	UNIFAST INDUSTRIES INC	CF–07
100726	UNIFI INC	CF–04
854551	UNIFIED CAPITAL INC	CF–10
717954	UNIFIRST CORP	CF–04
100740	UNIFLEX INC	CF–06
740285	UNIFORCE TEMPORARY PERSONNEL INC	CF–06
352747	UNIGENE LABORATORIES INC	CF–07
835472	UNILAB CORP	CF–04
752290	UNIMAR CO	CF–03
100757	UNIMAX CORP	CF–09
747566	UNIMAX HOLDINGS CORP	CF–06
100759	UNIMED INC	CF–07
352710	UNIOIL CORP	CF–09
883948	UNION BANCORP INC /VA/	CF–10
701546	UNION BANCSHARES INC/KS/	CF–04
745083	UNION BANKSHARES CO/ME	CF–05
100783	UNION CAMP CORP	CF–02
100790	UNION CARBIDE CHEMICALS & PLASTICS CO INC	CF–02
845559	UNION CARBIDE CORP /NY/	CF–10
100817	UNION CORP	CF–05
100826	UNION ELECTRIC CO	CF–02
769747	UNION EXPLORATION PARTNERS LTD	CF–02
100858	UNION LIGHT HEAT & POWER CO	CF–01
874482	UNION NATIONAL FINANCIAL CORP / PA	CF–10
100880	UNION OIL CO OF CALIFORNIA	CF–02
100885	UNION PACIFIC CORP	CF–02
100893	UNION PLANTERS CORP	CF–03
087918	UNION PLAZA HOTEL & CASINO INC	CF–05
100923	UNION TANK CAR CO	CF–02

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
774214	UNION TEXAS PETROLEUM HOLDINGS INC	CF–02
794223	UNION VALLEY CORP	CF–04
802223	UNIONFED FINANCIAL CORP	CF–03
865752	UNIPAC CORP	CF–10
810626	UNIPHY DIAGNOSTICS PHYSICIANS LTD	CF–08
769856	UNIPROP MANUFACTURED HOUSING COMMUNITIES INCOME FUND	CF–06
805993	UNIPROP MANUFACTURED HOUSING COMMUNITIES INCOME FUND II	CF–05
315449	UNIQUE MOBILITY INC	CF–08
830994	UNIROYAL CHEMICAL ACQUISITION CORP	CF–09
746836	UNISYS CORP	CF–02
798949	UNIT CORP	CF–05
101001	UNITED AIR LINES INC	CF–02
867963	UNITED AMERICAN HEALTHCARE CORP	CF–10
846772	UNITED ARKANSAS CORP	CF–10
849495	UNITED ARTISTS ENTERTAINMENT CO /DE/	CF–10
796370	UNITED ASSET MANAGEMENT CORP	CF–03
101032	UNITED BANCORP /OR/	CF–06
721357	UNITED BANCORP INC /DE/	CF–06
775345	UNITED BANCORP INC /MI/	CF–05
731653	UNITED BANCORP INC /OH/	CF–06
704561	UNITED BANCORPORATION OF ALABAMA INC	CF–06
101047	UNITED BANKS OF COLORADO INC	CF–02
729986	UNITED BANKSHARES INC/WV	CF–04
819187	UNITED BUYING SERVICE INTERNATIONAL INC	CF–08
065358	UNITED CAPITAL CORP /DE/	CF–04
101554	UNITED CAPITAL HOLDINGS INC	CF–08
870447	UNITED CAPITAL LEASING CORP	CF–10
101090	UNITED CAROLINA BANCSHARES CORP	CF–07
101105	UNITED CITIES GAS CO	CF–04
814497	UNITED COASTS CORP	CF–06
857855	UNITED COMMUNITY BANKS INC	CF–10
217416	UNITED COMPANIES FINANCIAL CORP	CF–04
719623	UNITED COUNTIES BANCORPORATION	CF–07
074208	UNITED DOMINION REALTY TRUST INC	CF–04
814069	UNITED EDUCATION & SOFTWARE INC /DE/	CF–05
101150	UNITED EDUCATORS INC	CF–09
832193	UNITED ENVIRONMENTAL CORP	CF–09
354199	UNITED FASHIONS INC	CF–07
843062	UNITED FEDERAL BANCORP INC	CF–09
888172	UNITED FINANCIAL BANCORP INC	CF–10
714284	UNITED FINANCIAL BANKING COMPANIES INC	CF–06
816090	UNITED FINANCIAL CORPORATION OF SOUTH CA	CF–08
355589	UNITED FINANCIAL GROUP INC/DE	CF–06
225406	UNITED FINANCIAL OPERATIONS INC	CF–06
101199	UNITED FIRE & CASUALTY CO	CF–05
728258	UNITED FOODS INC/DE	CF–05
002451	UNITED GAMING INC	CF–05
225956	UNITED GROCERS INC /OR/	CF–04
101252	UNITED GROUP INC	CF–06
101295	UNITED GUARDIAN INC	CF–07
731766	UNITED HEALTHCARE CORP	CF–05
354567	UNITED HERITAGE CORP	CF–07
101265	UNITED ILLUMINATING CO	CF–02
863136	UNITED INCOME INC	CF–10
101271	UNITED INDUSTRIAL CORP /DE/	CF–04
101281	UNITED INNS INC	CF–04
773660	UNITED INSURANCE COMPANIES INC	CF–09
831663	UNITED INVESTORS GROWTH PROPERTIES	CF–09
862114	UNITED INVESTORS GROWTH PROPERTIES II	CF–10
830056	UNITED INVESTORS INCOME PROPERTIES	CF–09
862026	UNITED INVESTORS INCOME PROPERTIES II	CF–10
791262	UNITED INVESTORS MANAGEMENT CO	CF–03
757641	UNITED IOWA CORP	CF–08
059684	UNITED LEISURE CORP	CF–08
020469	UNITED MAGAZINE CO	CF–09
352997	UNITED MEDICAL CORP	CF–05
831460	UNITED MEDICORP INC	CF–07
101357	UNITED MERCHANTS & MANUFACTURERS INC	CF–04
101382	UNITED MISSOURI BANCSHARES INC	CF–03
752642	UNITED MOBILE HOMES INC	CF–06
831959	UNITED NATIONAL BANCORP	CF–09
355453	UNITED NATIONAL BANCORPORATION	CF–08

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
225968	UNITED NATIONAL FINANCIAL CORP	CF–08
009664	UNITED NEW MEXICO FINANCIAL CORP	CF–07
725806	UNITED OKLAHOMA BANKSHARES INC	CF–08
809697	UNITED PARCEL SERVICE OF AMERICA INC	CF–02
101424	UNITED PARK CITY MINES CO	CF–06
859168	UNITED POSTAL BANCORP INC	CF–10
868686	UNITED REALTY GROUP LP	CF–10
101471	UNITED RESERVE UNDERWRITERS INC	CF–08
101473	UNITED RESOURCES INC	CF–06
881905	UNITED RETAIL GROUP INC/DE	CF–10
841128	UNITED SATELLITE AMERICA INC	CF–08
726990	UNITED SECURITY BANCORPORATION	CF–06
717806	UNITED SECURITY BANCSHARES INC	CF–06
101499	UNITED SECURITY FINANCIAL CORP OF ILLINO	CF–07
810624	UNITED SERVICE SOURCE INC	CF–08
754811	UNITED SERVICES ADVISORS INC	CF–07
808715	UNITED SHOPPERS OF AMERICA INC	CF–08
101538	UNITED STATES ANTIMONY CORP	CF–07
051124	UNITED STATES BANKNOTE CORP /NY/	CF–05
880657	UNITED STATES CAN COMPANY /DE/	CF–10
821130	UNITED STATES CELLULAR CORP	CF–04
847074	UNITED STATES EXPLORATION INC	CF–10
862352	UNITED STATES GOLD TRUST	CF–10
316692	UNITED STATES HOME FINANCE CORP	CF–09
101679	UNITED STATES LEASING INTERNATIONAL INC	CF–02
101771	UNITED STATES SHOE CORP	CF–02
101788	UNITED STATES SURGICAL CORP	CF–04
355999	UNITED STATIONERS INC	CF–03
768749	UNITED STORAGE ASSOCIATES 85–1 LTD	CF–08
790415	UNITED STORAGE ASSOCIATES 86–1 LTD	CF–08
350194	UNITED SYSTEMS TECHNOLOGY INC	CF–08
101829	UNITED TECHNOLOGIES CORP /DE/	CF–02
101830	UNITED TELECOMMUNICATIONS INC	CF–02
037664	UNITED TELEPHONE CO OF FLORIDA/NEW	CF–02
101839	UNITED TELEPHONE CO OF OHIO	CF–03
101841	UNITED TELEPHONE CO OF PENNSYLVANIA	CF–03
352942	UNITED TELEVISION INC	CF–04
835769	UNITED TENNESSEE INC	CF–10
820411	UNITED THERMAL CORP	CF–04
750004	UNITED TOTE INC	CF–06
316600	UNITED TRANS WESTERN INC	CF–08
832480	UNITED TRUST INC /IL/	CF–07
715969	UNITED WATER RESOURCES INC	CF–03
878897	UNITED WISCONSIN SERVICES INC /WI	CF–10
873537	UNITEL CORPORATION /NV/	CF–10
740103	UNITEL VIDEO INC/DE	CF–05
755001	UNITIL CORP	CF–05
101909	UNITOG CO	CF–05
860748	UNITRIN INC	CF–10
101911	UNITRODE CORP	CF–05
835270	UNITRONIX CORP	CF–07
848092	UNITY HEALTHCARE HOLDING COMPANY INC	CF–07
101929	UNIVAR CORP	CF–03
882254	UNIVAX BIOLOGIES INC	CF–10
803964	UNIVERSAL CABLE TELEVISION INC	CF–09
798526	UNIVERSAL CAPITAL CORP	CF–08
840466	UNIVERSAL CAPITAL INC	CF–09
320579	UNIVERSAL CERAMICS INC	CF–08
102037	UNIVERSAL CORP /VA/	CF–02
081846	UNIVERSAL DYNAMICS INC	CF–07
310142	UNIVERSAL FOODS CORP	CF–03
315375	UNIVERSAL FUELS CO	CF–09
110619	UNIVERSAL GUARANTY INVESTMENT CO	CF–07
798783	UNIVERSAL HEALTH REALTY INCOME TRUST	CF–04
352915	UNIVERSAL HEALTH SERVICES INC	CF–03
709678	UNIVERSAL HOLDING CORP	CF–06
886171	UNIVERSAL HOSPITAL SERVICES INC	CF–10
868054	UNIVERSAL INTERNATIONAL INC /MN/	CF–10
102043	UNIVERSAL LIFE HOLDING CORP	CF–07
102049	UNIVERSAL MANUFACTURING CO	CF–07
799642	UNIVERSAL MEDICAL BUILDINGS LIMITED PART	CF–05
102109	UNIVERSAL SECURITY INSTRUMENTS INC	CF–06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
884802	UNIVERSAL SEISMIC ASSOCIATES INC	CF–10
741564	UNIVERSAL SERVICES GROUP INC /DE/	CF–08
889187	UNIVERSAL STANDARD MEDICAL LABORATORIES INC	CF–10
102138	UNIVERSAL VOLTRONICS CORP	CF–07
717193	UNIVERSITY GENETICS CO	CF–08
102198	UNIVERSITY PATENTS INC	CF–07
356311	UNIVERSITY REAL ESTATE FUND 10 LTD	CF–05
713010	UNIVERSITY REAL ESTATE FUND 12 LTD	CF–06
320175	UNIVERSITY REAL ESTATE INVESTORS–81	CF–08
311173	UNIVERSITY REAL ESTATE PARTNERSHIP V	CF–09
102212	UNIVEST CORP OF PENNSYLVANIA	CF–04
846619	UNLIMITED FRONTIERS ORGANIZATION INC	CF–10
811512	UNO INC	CF–08
812075	UNO RESTAURANT CORP	CF–06
716039	UNOCAL CORP/DE	CF–02
315641	UNR INDUSTRIES INC	CF–04
846807	UNSL FINANCIAL CORP	CF–09
795581	UNUM CORP	CF–03
715061	UPBANCORP INC	CF–08
890375	UPJOHN CO	CF–10
102237	UPJOHN COMPANY	CF–02
838868	UPPER PENINSULA ENERGY CORP /NEW/	CF–10
853465	UPSILON INC	CF–10
831232	UPTICK VENTURES INC	CF–09
102267	UPTOWNER INNS INC	CF–07
052500	UPWARD TECHNOLOGY CORP	CF–08
839470	URANIUM RESOURCES INC /DE/	CF–06
850453	URBAN IMPROVEMENT FUND LIMITED 1972	CF–10
102341	URBAN IMPROVEMENT FUND LTD 1973	CF–08
102342	URBAN IMPROVEMENT FUND LTD 1973 II	CF–09
102343	URBAN IMPROVEMENT FUND LTD 1974	CF–08
804269	URCARCO INC	CF–04
858482	URETHANE TECHNOLOGIES INC	CF–10
102379	URS CORP /NEW/	CF–01
101461	URT INDUSTRIES INC	CF–06
101542	US BANCORP /OR/	CF–06
101594	US ENERGY CORP	CF–06
796085	US FACILITIES CORP	CF–07
881403	US FINANCIAL CORP/DE	CF–10
874507	US HOMECARE CORP	CF–10
822819	US REALTY INCOME PARTNERS LP	CF–07
788955	US REALTY PARTNERS LTD PARTNERSHIP	CF–06
779954	US TRANSPORTATION SYSTEMS INC	CF–07
862025	US WATS INC	CF–10
732718	US WEST INC	CF–01
826740	USA BANCORP INC	CF–08
874494	USA CAPITAL LAND FUND	CF–10
840399	USA INTERNATIONAL CHEMICAL INC	CF–09
808267	USA INTERNATIONAL DEFENSE SYSTEMS INC	CF–08
883945	USA TRUCK INC	CF–10
823766	USA WASTE SERVICES INC	CF–07
739245	USAA INCOME PROPERTIES II LTD PARTNERSHI	CF–05
764036	USAA INCOME PROPERTIES III LTD PARTNERSH	CF–05
810584	USAA INCOME PROPERTIES IV LIMITED PARTNE	CF–05
751468	USAA REAL ESTATE INCOME INVESTMENTS I LI	CF–06
820094	USAA REAL ESTATE INCOME INVESTMENTS II L	CF–06
701345	USAIR GROUP INC	CF–02
714560	USAIR INC /NEW/	CF–08
819931	USASIA INTERNATIONAL PUBLICATIONS INC	CF–08
707605	USB HOLDING CO INC	CF–05
707605	USBANCORP INC /PA/	CF–02
354396	USF&G CORP	CF–02
832482	USF&G LEGG MASON REALTY PARTNERS LIMITED	CF–09
757011	USG CORP	CF–02
750234	USLICO CORP	CF–03
102420	USLIFE CORP	CF–03
315523	USMX INC	CF–06
102438	USP REAL ESTATE INVESTMENT TRUST	CF–05
316911	USR INDUSTRIES INC/DE/	CF–08
316901	UST CORP	CF–04
811669	UST INC	CF–03
101778	USX CORP	CF–02

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
706698	UTAH MEDICAL PRODUCTS INC	CF–08
353793	UTAH RESOURCES INTERNATIONAL INC	CF–07
102499	UTAH SHALE LAND & MINERALS CORP	CF–08
066960	UTILICORP UNITED INC	CF–02
743029	UTILITECH INC	CF–06
731181	V BAND CORPORATION	CF–05
103379	V F CORP /PA/	CF–02
317260	VAC TEC SYSTEMS INC	CF–07
087992	VACATION SPA RESORTS INC	CF–06
102588	VACU DRY CO	CF–07
097196	VADER GROUP INC	CF–07
883293	VALASSIS COMMUNICATIONS INC	CF–10
883425	VALASSIS INSERTS INC	CF–10
813901	VALCO COMMUNICATIONS INC	CF–08
818815	VALCOM INC	CF–05
885551	VALENCE TECHNOLOGY INC	CF–09
704215	VALENCIA PARK ASSOCIATES LTD	CF–07
021271	VALERO ENERGY CORP	CF–03
810021	VALERO NATURAL GAS PARTNERS L P	CF–02
059255	VALHI INC /DE/	CF–02
312907	VALLEN CORP	CF–05
070670	VALLEY BANCORP INC	CF–08
102661	VALLEY BANCORPORATION	CF–03
102678	VALLEY FAIR CORP	CF–06
719356	VALLEY FINANCIAL SERVICES INC	CF–06
102680	VALLEY FORGE CORP	CF–06
836429	VALLEY FORGE SCIENTIFIC CORP	CF–08
102695	VALLEY INDUSTRIES INC	CF–06
714310	VALLEY NATIONAL BANCORP	CF–03
851034	VALLEY NATIONAL BANK OF ARIZONA /AZ/	CF–10
350006	VALLEY NATIONAL CORP	CF–02
102710	VALLEY RESOURCES INC /RI/	CF–05
873571	VALLEY SYSTEMS INC	CF–10
849865	VALLICORP HOLDINGS INC	CF–10
102729	VALMONT INDUSTRIES INC	CF–04
102741	VALSPAR CORP	CF–04
886657	VALUE ADDED COMMUNICATIONS INC /DE/	CF–10
874444	VALUE CITY DEPARTMENT STORES INC /OH	CF–10
872653	VALUE HEALTH INC / CT	CF–10
717720	VALUE LINE INC	CF–05
814228	VALUE MERCHANTS INC	CF–05
870826	VALUEVISION INTERNATIONAL INC	CF–10
102883	VAN DORN CO	CF–04
837600	VANDEN CAPITAL GROUP INC	CF–09
102854	VANDERBILT GOLD CORP	CF–06
771178	VANGUARD CELLULAR SYSTEMS INC	CF–04
801124	VANGUARD REAL ESTATE FUND I A SALES COMM	CF–04
823488	VANGUARD REAL ESTATE FUND II A SALES COM	CF–09
877273	VANS INC	CF–10
789667	VANTAGE INC	CF–09
718432	VANZETTI SYSTEMS INC	CF–07
102993	VARCO INTERNATIONAL INC	CF–05
103000	VARI CARE INC	CF–06
203527	VARIAN ASSOCIATES INC /DE/	CF–03
738633	VARITRONIC SYSTEMS INC	CF–06
063118	VARITY CORP	CF–02
103071	VARLEN CORP	CF–04
788333	VARSITY DEVELOPMENT INC	CF–09
808095	VAUGHN COMMUNICATIONS INC	CF–07
880640	VDS ENTERPRISES INC	CF–10
830664	VECTOR AEROMOTIVE CORP	CF–07
811868	VEGAS CHIPS INC	CF–08
103168	VELOBIND INC	CF–06
740260	VENCOR INC	CF–06
745345	VENETIAN PARK ASSOCIATES LTD	CF–07
744471	VENTURA COUNTY NATIONAL BANCORP	CF–05
828217	VENTURA ENTERTAINMENT GROUP LTD	CF–06
835406	VENTURA INC	CF–09
854937	VENTURA MOTION PICTURE GROUP LTD	CF–07
778165	VENTURE ENTERPRISES INC	CF–09
774454	VENTURE FUNDING CORP	CF–09
864968	VENTURE STORES INC	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
826683	VENTURE WORLD LTD	CF–09
745756	VENTURIAN CORP	CF–06
790023	VERAZZANA VENTURES LTD	CF–08
722056	VERDIX CORP	CF–06
716861	VEREX LABORATORIES INC/CO	CF–08
103274	VERIT INDUSTRIES	CF–05
773318	VERITEC INC	CF–08
706116	VERMONT FINANCIAL SERVICES CORP	CF–04
819922	VERMONT RESEARCH CORP /VT/	CF–07
103298	VERMONT YANKEE NUCLEAR POWER CORP	CF–03
206030	VERNITRON CORP	CF–05
818000	VERNON LILLIAN CORPORATION	CF–05
705783	VERNON VALLEY RECREATION ASSOCIATION INC	CF–06
820357	VERSA TECHNOLOGIES INC	CF–05
803547	VERSAR INC	CF–05
842638	VERSUS TECHNOLOGY INC	CF–07
780416	VERTEX COMMUNICATIONS CORP /TX/	CF–06
779681	VERTEX INDUSTRIES INC	CF–08
875320	VERTEX PHARMACEUTICALS INC / MA	CF–10
730672	VERTICAL SOFTWARE SYSTEMS INC	CF–08
702177	VERTX CORP	CF–09
108140	VESPER CORP	CF–05
819521	VEST H D INC /TX/	CF–08
799229	VESTAR INC	CF–07
837342	VESTEX INC	CF–09
060416	VESTRO FOODS INC	CF–06
775526	VESTRON INC	CF–04
797568	VETLINE INC/CO/	CF–08
810544	VF FUNDING CORP	CF–05
746442	VHA ENTERPRISES INC	CF–06
319006	VIABLE RESOURCES INC	CF–08
813828	VIACOM INC	CF–02
814135	VIACOM INTERNATIONAL INC /DE/	CF–02
103392	VIATECH INC	CF–04
832105	VIBRATECH INC	CF–09
732412	VICOM INC	CF–07
718396	VICON FIBER OPTICS CORP	CF–07
310056	VICON INDUSTRIES INC /NY/	CF–05
703799	VICORP RESTAURANTS INC	CF–04
103466	VICTORIA BANKSHARES INC	CF–07
796812	VICTORIA CREATIONS INC	CF–05
720479	VICTORIA FINANCIAL CORP	CF–07
846731	VICTORIA STATION ACQUISITION CORP	CF–10
103492	VICTORY MARKETS INC	CF–04
829374	VICTORY TAX EXEMPT REALTY INCOME FUND LI	CF–09
873540	VICUNA INC	CF–10
103501	VIDA MEDICAL SYSTEMS INC	CF–09
861051	VIDCOM POST INC	CF–10
803170	VIDEO COMMUNICATIONS & RADIO INC	CF–08
853934	VIDEO DIGEST INC	CF–10
758743	VIDEO DISPLAY CORP	CF–05
803266	VIDEO JUKEBOX NETWORK INC	CF–07
875459	VIDEO LOTTERY TECHNOLOGIES INC/DE	CF–10
851965	VIDEO PROFESSOR INDUSTRIES INC	CF–10
754881	VIDEO SCIENCE TECHNOLOGY INC	CF–08
765484	VIDEO SHOPPING MALL INC	CF–08
700711	VIDEO STATION INC	CF–09
803167	VIDEO SUPERSTORES OF AMERICA INC	CF–07
866439	VIDEOCART INC	CF–10
758119	VIDEOPLEX INC	CF–08
884144	VIDEOTELECOM CORP/DE/	CF–10
963896	VIDMARK INC	CF–10
737602	VIE DE FRANCE CORP	CF–05
718934	VIEJO BANCORP	CF–06
723922	VIEW MASTER IDEAL GROUP INC	CF–04
880594	VIEWLOGIC SYSTEMS INC /DE/	CF–10
315411	VIGILANCE SYSTEMS CORP	CF–09
873726	VIGORO CORP	CF–10
859303	VIKING OFFICE PRODUCTS INC	CF–05
832106	VIKING PUMP INC	CF–09
814932	VIKONICS INC /NY/	CF–06
715148	VILLAGE BANCORP INC	CF–08

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
853935	VILLAGE FINANCIAL SERVICES LTD	CF–10
791731	VILLAGE GREEN BOOKSTORE INC	CF–07
103595	VILLAGE SUPER MARKET INC	CF–04
864009	VIMRX PHARMACEUTICALS INC	CF–10
858267	VINDICATOR INC /FL/	CF–10
840256	VINEYARD NATIONAL BANCORP	CF–09
777582	VINEYARD OIL & GAS CO	CF–07
023593	VINLAND PROPERTY TRUST	CF–05
809873	VIPONT ROYALTY INCOME FUND LTD	CF–07
353482	VIRAGEN INC	CF–07
744956	VIRAL RESPONSE SYSTEMS INC	CF–08
351237	VIRATEK INC	CF–06
751365	VIRCO MANUFACTURING CORP/DE	CF–05
103682	VIRGINIA ELECTRIC & POWER CO	CF–01
103730	VISHAY INTERTECHNOLOGY INC	CF–03
797922	VISION SCIENCES INC	CF–07
812805	VISION TECHNOLOGIES INTERNATIONAL INC	CF–08
848101	VISION TEN INC	CF–10
946878	VISITEL NETWORK INC	CF–10
805270	VISTA CHEMICAL CO /DE/	CF–03
716942	VISTA PROPERTIES	CF–04
088190	VISTA RESOURCES INC	CF–05
882292	VISUAL CYBERNETICS CORP	CF–10
103755	VISUAL INDUSTRIES INC	CF–06
833590	VISX CALIFORNIA INC	CF–10
837991	VISX INC	CF–08
721684	VITA PLUS INDUSTRIES INC	CF–08
857139	VITAFORT INTERNATIONAL CORP	CF–08
882838	VITAL LIVING PRODUCTS INC	CF–10
865846	VITAL SIGNS INC	CF–10
879970	VITALINK PHARMACY SERVICES INC	CF–10
806492	VITEL FIBER OPTICS CORP	CF–08
880446	VITESSE SEMICONDUCTOR CORP	CF–10
793171	VITRO DIAGNOSTICS INC	CF–08
712036	VITRONICS CORP	CF–06
722580	VIVIGEN INC	CF–07
850882	VIVRA INC	CF–05
704386	VLSI TECHNOLOGY INC	CF–04
764897	VMS HOTEL INVESTMENT FUND	CF–05
790882	VMS INVESTORS FIRST STAGED EQUITY LP II	CF–09
822829	VMS MORTGAGE INVESTMENT FUND	CF–09
757245	VMS MORTGAGE INVESTORS L P	CF–06
778714	VMS MORTGAGE INVESTORS L P II	CF–05
802678	VMS MORTGAGE INVESTORS L P III	CF–05
792896	VMS NATIONAL HOTEL PARTNERS	CF–09
789089	VMS NATIONAL PROPERTIES JOINT VENTURE	CF–04
749882	VMS SHORT TERM INCOME TRUST /MA/	CF–05
812914	VMS STRATEGIC LAND FUND II	CF–04
790817	VMS STRATEGIC LAND TRUST	CF–05
700816	VMX INC	CF–05
793043	VOCALTECH INC	CF–08
103803	VOGART CRAFTS CORP	CF–07
731819	VOICEMAIL INTERNATIONAL INC	CF–08
083082	VOIT CORP	CF–06
103872	VOLT INFORMATION SCIENCES INC	CF–04
356003	VOLUNTEER BANCSHARES INC	CF–08
103884	VOLUNTEER CAPITAL CORP / TN /	CF–06
709417	VOLUNTEER STATE BANCSHARES INC	CF–08
715633	VONS COMPANIES INC	CF–02
103916	VOPLEX CORP	CF–06
103925	VORNADO INC	CF–03
721353	VOTRAX INC	CF–08
102752	VSE CORP	CF–05
103958	VTN CORP	CF–07
798438	VTX ELECTRONICS CORP	CF–06
848445	VULCAN INTERNATIONAL CORP	CF–10
103973	VULCAN MATERIALS CO	CF–03
788043	VWR CORP	CF–01
797164	VYSTAR GROUP INC	CF–08
831253	W W CAPITAL CORP	CF–08
850316	WABAN INC	CF–03
879526	WABASH NATIONAL CORP /DE	CF–10

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

	CIK	Issuer name	Group
104030		WACKENHUT CORP	CF–04
851184		WAHLCO ENVIRONMENTAL SYSTEMS INC	CF–10
110430		WAINOCO OIL CORP	CF–04
104169		WAL MART STORES INC	CF–02
104174		WALBRO CORP	CF–05
104207		WALGREEN CO	CF–02
10421B		WALKER B B CO	CF–06
883983		WALKER INTERACTIVE SYSTEMS INC	CF–10
104224		WALKER INTERNATIONAL INDUSTRIES INC	CF–07
881771		WALKER POWER INC	CF–10
276341		WALKER TELECOMMUNICATIONS CORP	CF–07
837491		WALL STREET FINANCIAL CORP /DE/	CF–08
769465		WALL TO WALL SOUND & VIDEO INC	CF–05
104348		WALLACE COMPUTER SERVICES INC	CF–03
312259		WALNUT EQUIPMENT LEASING CO INC	CF–06
818155		WALSHIRE ASSURANCE COMPANY	CF–07
810962		WALTHAM CORP	CF–04
104519		WANG LABORATORIES INC	CF–02
716180		WAREHOUSE CLUB INC	CF–05
801351		WARNACO GROUP INC /DE/	CF–03
104628		WARNACO INC	CF–03
737300		WARNER COMPUTER SYSTEMS INC	CF–07
104669		WARNER LAMBERT CO	CF–02
806280		WARNER TECHNOLOGIES INC /LA/	CF–09
735571		WARRANTECH CORP	CF–05
830750		WARREN BANCORP INC	CF–09
832107		WARREN RUPP INC	CF–09
710849		WARWICK INSURANCE MANAGERS INC	CF–05
104777		WARWICK VALLEY TELEPHONE CO	CF–06
837987		WASATCH EDUCATION SYSTEMS CORP /UT/	CF–07
869293		WASATCH FIBER GROUP INC /UT/	CF–10
811553		WASHINGTON BANCORP INC	CF–04
714398		WASHINGTON BANCORPORATION	CF–07
817643		WASHINGTON COMMERCIAL BANCORP	CF–08
314625		WASHINGTON CORP	CF–05
727276		WASHINGTON COUNTY BANCSHARES INC	CF–06
225998		WASHINGTON ENERGY CO	CF–01
104619		WASHINGTON GAS LIGHT CO	CF–03
104825		WASHINGTON GEORGE CORP	CF–09
104867		WASHINGTON NATIONAL CORP	CF–03
104880		WASHINGTON NATURAL GAS CO	CF–01
104889		WASHINGTON POST CO	CF–02
104894		WASHINGTON REAL ESTATE INVESTMENT TRUST	CF–05
104897		WASHINGTON SCIENTIFIC INDUSTRIES INC	CF–05
737468		WASHINGTON TRUST BANCORP INC	CF–04
104918		WASHINGTON WATER POWER CO	CF–02
104938		WASTE MANAGEMENT INC	CF–02
880162		WASTE PROCESSOR INDUSTRIES INC	CF–10
710118		WASTE RECOVERY INC	CF–07
781902		WASTE TECHNOLOGY CORP	CF–07
812712		WATERHOUSE INVESTOR SERVICES INC	CF–05
104987		WATERS INSTRUMENTS INC	CF–07
105006		WATKINS JOHNSON CO	CF–04
105016		WATSCO INC	CF–05
817820		WATSON GENERAL PICTURES INC	CF–07
795403		WATTS INDUSTRIES INC	CF–04
105076		WAUSAU PAPER MILLS CO	CF–04
803957		WAVEMAT INC	CF–08
105085		WAVERLY INC	CF–05
799694		WAVETECH INC	CF–08
700839		WAVETEK CORP/DE/	CF–05
105096		WAXMAN INDUSTRIES INC	CF–04
786134		WAYNE BANCORP INC /OH/	CF–05
856063		WAYNE BANCORP INC/GA/	CF–10
853831		WCN INVESTMENT CORP	CF–10
105132		WD 40 CO	CF–05
821468		WEAN INC	CF–05
029302		WEATHERFORD INTERNATIONAL INC	CF–05
105183		WEB PRESS CORP	CF–07
105189		WEBB DEL CORP	CF–04
058636		WEBCOR ELECTRONICS INC	CF–08
801337		WEBSTER FINANCIAL CORP	CF–07

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
104060	WEDCO TECHNOLOGY INC	CF-06
818812	WEDDING INFORMATION NETWORK INC	CF-07
315621	WEDGESTONE FINANCIAL	CF-05
853929	WEEKLY WORLD NEWS INC	CF-10
715073	WEGENER CORP	CF-06
828916	WEINGARTEN REALTY INVESTORS /TX/	CF-03
849979	WEIRTON STEEL CORP	CF-03
105418	WEIS MARKETS INC	CF-03
719322	WEITEK CORP	CF-06
833209	WELCOM CAPITAL INC	CF-09
105519	WELDOTRON CORP	CF-06
105532	WELLCO ENTERPRISES INC	CF-06
825851	WELLESLEY LEASE INCOME LIMITED PARTNERSH	CF-09
720276	WELLESLEY LEASE INCOME LTD PARTNERSHIP A	CF-07
720277	WELLESLEY LEASE INCOME LTD PARTNERSHIP B	CF-07
751235	WELLESLEY LEASE INCOME LTD PARTNERSHIP C	CF-07
720308	WELLESLEY LEASE INCOME LTD PARTNERSHIP D	CF-06
739709	WELLESLEY LEASE INCOME LTD PARTNERSHIP II-A	CF-07
739710	WELLESLEY LEASE INCOME LTD PARTNERSHIP II-B	CF-07
720307	WELLESLEY LEASE INCOME LTD PARTNERSHIP II-C	CF-07
739712	WELLESLEY LEASE INCOME LTD PARTNERSHIP II-D	CF-06
760371	WELLESLEY LEASE INCOME LTD PARTNERSHIP III-A	CF-07
760375	WELLESLEY LEASE INCOME LTD PARTNERSHIP III-B	CF-07
760382	WELLESLEY LEASE INCOME LTD PARTNERSHIP III-C	CF-07
760386	WELLESLEY LEASE INCOME LTD PARTNERSHIP III-D	CF-07
876516	WELLFLEET COMMUNICATIONS INC	CF-10
105567	WELLINGTON HALL LTD	CF-07
840887	WELLINGTON LEISURE PRODUCTS INC	CF-05
812708	WELLMAN INC	CF-03
789858	WELLMAN MINING CORP	CF-09
351514	WELLS AMERICAN CORP	CF-08
105598	WELLS FARGO & CO	CF-02
105608	WELLS GARDNER ELECTRONICS CORP	CF-06
746259	WELLS REAL ESTATE FUND I	CF-06
797544	WELLS REAL ESTATE FUND II	CF-06
824004	WELLS REAL ESTATE FUND II-OW	CF-09
838856	WELLS REAL ESTATE FUND III L P	CF-09
869712	WELLS REAL ESTATE FUND IV L P	CF-10
869713	WELLS REAL ESTATE FUND V L P	CF-10
105668	WENDYS INTERNATIONAL INC	CF-03
801446	WENDYS OF WEST MICHIGAN LIMITED PARTNERS	CF-09
752388	WEPCO ENERGY CO/NEW/	CF-08
793074	WERNER ENTERPRISES INC	CF-04
823555	WES TENN BANCORP INC	CF-09
203596	WESBANCO INC	CF-04
867687	WESCO AUTO PARTS CORP /NV/	CF-10
105729	WESCO FINANCIAL CORP	CF-03
312835	WESPERCORP	CF-08
750540	WEST AMERICAN HOLDING INC	CF-06
105770	WEST CO INC	CF-04
352187	WEST COAST BANCORP /CA/	CF-04
826764	WEST COAST BANCORP INC	CF-08
858346	WEST COAST REALTY INVESTORS INC	CF-10
854664	WEST JERSEY BANCSHARES INC	CF-10
793992	WEST MASS BANKSHARES INC	CF-05
351155	WEST ONE BANCORP	CF-03
105839	WEST PENN POWER CO	CF-02
105846	WEST POINT PEPPERELL INC	CF-02
805080	WEST SUBURBAN BANCORP INC	CF-04
105860	WEST TEXAS UTILITIES CO	CF-01
839480	WESTAIR HOLDING INC	CF-05
832434	WESTAM MORTGAGE FINANCIAL CORP	CF-09
311094	WESTAMERICA BANCORPORATION	CF-03
031964	WESTAMERICA INC	CF-06
726803	WESTAR CORP	CF-07
826445	WESTAR INDUSTRIES INTERNATIONAL INC	CF-09
742070	WESTBANK CORP	CF-04
703701	WESTBRIDGE CAPITAL CORP	CF-06
750150	WESTBRIDGE RESEARCH GROUP	CF-08
885413	WESTCO BANCORP INC	CF-10
813461	WESTCORP /CA/	CF-03
850670	WESTCOTT COMMUNICATIONS INC	CF-06

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
869688	WESTECH CAPITAL CORP	CF–10
796502	WESTERBEKE CORP	CF–07
823386	WESTERN ACCEPTANCE CORP /NV/	CF–07
805902	WESTERN ANTENNA CORP	CF–09
716720	WESTERN CAPITAL INVESTMENT CORP	CF–07
820749	WESTERN COMMUNITY BANCORP	CF–06
106015	WESTERN COMPANY OF NORTH AMERICA	CF–03
106040	WESTERN DIGITAL CORP	CF–03
870525	WESTERN ENERGY MANAGEMENT INC	CF–10
766822	WESTERN ENERGY RESOURCES INC	CF–08
786706	WESTERN FEDERAL SAVINGS & LOAN ASSOCIATION	CF–09
802676	WESTERN FINANCIAL AUTO LOANS 2 INC	CF–09
732781	WESTERN FINANCIAL CORP /KS	CF–07
812025	WESTERN FUTURES FUND	CF–07
857075	WESTERN FUTURES FUND II LP	CF–10
856716	WESTERN GAS RESOURCES INC	CF–04
106105	WESTERN GOLD MINING INC	CF–08
311158	WESTERN HOST MONTEREY PARTNERS	CF–07
702387	WESTERN HOST SACRAMENTO PARTNERS	CF–08
106135	WESTERN INVESTMENT REAL ESTATE TRUST	CF–04
106170	WESTERN MASSACHUSETTS ELECTRIC CO	CF–02
225501	WESTERN MEDIA GROUP CORP	CF–08
715842	WESTERN MICRO TECHNOLOGY INC	CF–06
106176	WESTERN MICROWAVE INC	CF–07
823548	WESTERN OHIO HEALTH CARE CORP	CF–06
106230	WESTERN PACIFIC INDUSTRIES INC	CF–04
790706	WESTERN PUBLISHING GROUP INC	CF–04
806187	WESTERN REAL ESTATE FUND INC	CF–09
106291	WESTERN RESERVE TELEPHONE CO	CF–04
106311	WESTERN SILVER LEAD CORP	CF–08
106313	WESTERN STANDARD CORP	CF–08
727164	WESTERN STAR INC	CF–08
854072	WESTERN THEMED WATERPARKS INC	CF–10
106367	WESTERN UNION CORP /DE/	CF–03
106374	WESTERN UNION CORP /NY/	CF–03
718244	WESTERN WASTE INDUSTRIES	CF–04
866671	WESTERN WATER CO	CF–10
857448	WESTERNWORLD INC	CF–10
840784	WESTFED HOLDINGS INC	CF–09
823869	WESTFIELD FINANCE INC	CF–03
022709	WESTFORD GROUP INC	CF–08
790549	WESTIN HOTELS LTD PARTNERSHIP	CF–08
106412	WESTINGHOUSE CREDIT CORP	CF–02
106413	WESTINGHOUSE ELECTRIC CORP	CF–02
106423	WESTLAND DEVELOPMENT CO INC	CF–06
806086	WESTMARK INTERNATIONAL INC	CF–03
106455	WESTMORELAND COAL CO	CF–03
106473	WESTON ROY F INC	CF–04
735961	WESTPORT BANCORP INC	CF–05
814741	WESTSTAR GROUP INC	CF–09
106498	WESTVACO CORP	CF–02
838783	WESTWIND GROUP INC	CF–09
876884	WESTWOOD CORP/NV/	CF–10
083530	WESTWOOD GROUP INC	CF–05
771950	WESTWOOD ONE INC /DE/	CF–03
863456	WET SEAL INC	CF–10
814183	WETJET INTERNATIONAL LTD /DE/	CF–08
106521	WETTERAU INC	CF–03
810907	WETTERAU PROPERTIES INC	CF–05
106532	WEYCO GROUP INC	CF–05
106535	WEYERHAEUSER CO	CF–02
859763	WEYERHAEUSER MORTGAGE PASS THROUGH CERTIF SER 1989–1	CF–10
862309	WEYERHAEUSER MORTGAGE PASS THROUGH CERTIF SER 1989–2	CF–10
874258	WHEATLEY TXT CORP	CF–10
790159	WHEELABRATOR TECHNOLOGIES INC /DE/	CF–02
106618	WHEELING PITTSBURGH STEEL CORP	CF–02
050859	WHEREHOUSE ENTERTAINMENT INC	CF–04
106640	WHIRLPOOL CORP /DE/	CF–02
082414	WHITE DAVID INC	CF–07
841267	WHITE HALL INVESTMENTS INC	CF–09
106827	WHITEHALL CORP	CF–05
790027	WHITEHALL INCOME FUND 86	CF–09

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
049573	WHITMAN CORP	CF–02
352183	WHITMAN MEDICAL CORP	CF–08
106926	WHITNEY HOLDING CORP	CF–03
106945	WHITTAKER CORP	CF–03
865436	WHOLE FOODS MARKET INC	CF–10
835766	WHOLESALE OPTICAL CLUB INTERNATIONAL INC	CF–09
859735	WHOLESOME & HEARTY FOODS INC	CF–10
866458	WHY NOT INC	CF–10
351134	WICAT SYSTEMS INC	CF–06
857566	WICHITA RIVER OIL CORP/DE/	CF–06
314890	WICOR INC	CF–03
319320	WIENER ENTERPRISES INC	CF–06
748939	WILAND SERVICES INC	CF–06
107111	WILDCAT MOUNTAIN CORP	CF–09
827830	WILDER RICHMAN HISTORIC PROPERTIES II LP	CF–09
827245	WILDEY INC	CF–08
107140	WILEY JOHN & SONS INC	CF–04
745905	WILFRED AMERICAN EDUCATIONAL CORP	CF–05
107189	WILLAMETTE INDUSTRIES INC	CF–02
076878	WILLARD PEASE OIL & GAS CO	CF–08
107203	WILLCOX & GIBBS INC	CF–04
852450	WILLIAM & CLARISSA INC	CF–07
107263	WILLIAMS COMPANIES INC	CF–02
854860	WILLIAMS CONTROLS INC	CF–07
107294	WILLIAMS INDUSTRIES INC	CF–05
020415	WILLIAMS NATURAL GAS CO /DE/	CF–03
719955	WILLIAMS SONOMA INC	CF–05
107362	WILLIAMS W W CO	CF–05
107454	WILSHIRE OIL CO OF TEXAS	CF–05
885275	WILSON BANK HOLDING CO	CF–10
107469	WILSON BROTHERS	CF–07
866535	WILSON CAPITAL INC	CF–10
822324	WILSON FARMS INC	CF–10
850089	WILSON FUND II LIMITED PARTNERSHIP	CF–10
058429	WILSON LEE ENGINEERING CO INC	CF–08
107559	WILTEK INC	CF–07
313968	WINCO PETROLEUM CORP	CF–05
845043	WINDFIELD DEVELOPMENT CORP	CF–10
217084	WINDMERE CORP	CF–04
878812	WINDMILL HOBBIES INC	CF–10
719934	WINDPOWER PARTNERS 1983–1	CF–05
746059	WINDPOWER PARTNERS 1984	CF–09
755500	WINDSOR PARK PROPERTIES 2	CF–07
774544	WINDSOR PARK PROPERTIES 3	CF–06
796177	WINDSOR PARK PROPERTIES 4	CF–06
818817	WINDSOR PARK PROPERTIES 5	CF–06
836393	WINDSOR PARK PROPERTIES 6	CF–09
725418	WINDSOR PARK PROPERTIES LTD	CF–07
881443	WINDSOR REAL ESTATE INVESTMENT TRUST 8	CF–10
831982	WINE SOCIETY OF AMERICA INC /DE/	CF–08
847324	WINGATE GOVERNMENT MORTGAGE PARTNERS II	CF–10
773870	WINGATE HOUSING PARTNERS 85 LTD PARTNERS	CF–08
701745	WINGATE HOUSING PARTNERS LTD	CF–09
715769	WINGATE HOUSING PARTNERS LTD II	CF–08
107748	WINJAK INC /DE/	CF–08
749935	WINLAND ELECTRONICS INC	CF–09
107681	WINN DIXIE STORES INC	CF–02
107687	WINNEBAGO INDUSTRIES INC	CF–04
844890	WINS SATELLITE INC	CF–10
815274	WINSTON RESOURCES INC	CF–07
803003	WINTER SPORTS INC /NEW	CF–07
839485	WINTERHAWK INVESTMENTS INC	CF–09
879203	WINTHROP APARTMENT INVESTORS LIMITED PARTNERSHIP	CF–10
759253	WINTHROP FINANCIAL ASSOCIATES	CF–08
722565	WINTHROP GROWTH INVESTORS I LTD PARTNERS	CF–05
718535	WINTHROP INTERIM PARTNERS I	CF–08
883424	WINTHROP MIAMI ASSOCIATES LIMITED PARTNERSHIP	CF–10
277886	WINTHROP PARTNERS 79	CF–07
315275	WINTHROP PARTNERS 80	CF–06
351147	WINTHROP PARTNERS 81	CF–07
350903	WINTHROP RESIDENTIAL ASSOCIATES I	CF–08
356141	WINTHROP RESIDENTIAL ASSOCIATES II	CF–08

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group	
711418	WINTHROP RESIDENTIAL ASSOCIATES III	CF-06	851479
886948	WINTHROP RESOURCES CORP	CF-10	701974
857907	WINTON FINANCIAL CORP	CF-10	350572
707369	WIRE GRAPHICS INC /NV/	CF-08	836155
107644	WISCONSIN BELL INC	CF-02	108516
874213	WISCONSIN CENTRAL TRANSPORTATION CORP	CF-10	352541
107815	WISCONSIN ELECTRIC POWER CO	CF-01	108601
783325	WISCONSIN ENERGY CORP	CF-01	108606
107819	WISCONSIN GAS CO	CF-03	874499
107830	WISCONSIN NATURAL GAS CO	CF-01	108618
863094	WISCONSIN PHARMACAL COMPANY INC	CF-10	067494
107832	WISCONSIN POWER & LIGHT CO	CF-03	877542
107833	WISCONSIN PUBLIC SERVICE CORP	CF-03	797543
107835	WISCONSIN REAL ESTATE INVESTMENT TRUST	CF-05	108633
107841	WISCONSIN SOUTHERN GAS CO INC	CF-06	771639
107874	WISER OIL CO	CF-05	108637
791260	WISMER MARTIN INC	CF-07	108683
107889	WITCO CORP	CF-02	108703
800454	WITH DESIGN IN MIND INTERNATIONAL INC	CF-08	108712
794449	WITTER DEAN COLDWELL BANKER TAX EXEMPT MORTGAGE	CF-04	108721
736999	WITTER DEAN CORNERSTONE FUND II	CF-09	108729
737000	WITTER DEAN CORNERSTONE FUND III	CF-09	790818
808373	WITTER DEAN CORNERSTONE FUND IV	CF-05	778885
839945	WITTER DEAN DIVERSIFIED FUTURES FUND II	CF-09	853464
863535	WITTER DEAN DIVERSIFIED FUTURES FUND III L P	CF-10	108770
841754	WITTER DEAN PRINCIPAL GUARANTEED FUND II	CF-09	786703
844234	WITTER DEAN PRINCIPAL GUARANTEED FUND III	CF-09	108772
832350	WITTER DEAN PRINCIPAL GUARANTEED FUND LP	CF-09	351936
765923	WITTER DEAN REALTY GROWTH PROPERTIES L P	CF-05	742550
726315	WITTER DEAN REALTY INCOME PARTNERSHIP I	CF-05	319191
752744	WITTER DEAN REALTY INCOME PARTNERSHIP II LP	CF-04	782995
784161	WITTER DEAN REALTY INCOME PARTNERSHIP III LP	CF-04	883905
819342	WITTER DEAN REALTY INCOME PARTNERSHIP IV LP	CF-04	791908
830340	WITTER DEAN REALTY YIELD PLUS II LP	CF-09	776820
810116	WITTER DEAN REALTY YIELD PLUS L P	CF-04	814427
873799	WITTER DEAN SELECT FUTURES FUND LP	CF-10	845753
760775	WLR FOODS INC	CF-04	217591
804194	WM BANCORP	CF-05	820608
791852	WM REALTY LTD PARTNERSHIP	CF-06	885976
350077	WMS INDUSTRIES INC /DE/	CF-05	810957
892997	WNC CALIFORNIA HOUSING TAX CREDITS III LP	CF-10	873087
860331	WNC HOUSING TAX CREDIT FUND II LP	CF-10	731252
769413	WNS INC	CF-06	721080
719774	WOLF FINANCIAL GROUP INC	CF-06	813359
108018	WOLF HOWARD B INC	CF-07	797397
108079	WOLOHAN LUMBER CO	CF-05	866731
005696	WOLVERINE EXPLORATION CO	CF-05	849210
110471	WOLVERINE WORLD WIDE INC /DE/	CF-04	802781
797666	WONG SUE INTERNATIONAL INC	CF-09	716006
872868	WOOD LESLIE & JENCZYN INC	CF-10	313109
319646	WOODBINE PETROLEUM INC	CF-07	790025
108202	WOODBURY TELEPHONE CO	CF-06	715142
108215	WOODHEAD INDUSTRIES INC	CF-05	856979
108312	WOODWARD GOVERNOR CO	CF-04	777876
850209	WOOLWORTH CORPORATION	CF-10	842662
311268	WORD TRONICS CORP	CF-08	108976
719612	WORDSTAR INTERNATIONAL INC	CF-06	108985
841712	WORK RECOVERY INC	CF-09	109088
860600	WORKINGMENS CAPITAL HOLDINGS INC	CF-10	884198
820528	WORKINGMENS CORP	CF-08	109105
855609	WORKMENS BANCORP INC	CF-10	109110
108383	WORLCO INC	CF-07	757763
745374	WORLD CONTAINER CORP	CF-06	740875
832487	WORLD CUP CHAMPIONSHIP FUND LIMITED PART	CF-09	109156
865844	WORLD ENTERTAINMENT CONCEPTS INC	CF-10	885269
108418	WORLD LIFE & HEALTH INSURANCE CO OF PENN	CF-07	109177
841123	WORLD WIDE STONE CORP	CF-09	877212
819479	WORLD WIDE TECHNOLOGY INC	CF-08	852127
811664	WORLDCORP INC	CF-04	075644
856163	WORLDWIDE CAPITAL LTD	CF-10	109265
704774	WORLDWIDE COLLECTION FUND INC	CF-07	109259
790423	WORLDWIDE COMPUTER SERVICES INC /NJ/	CF-07	109261

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
851479	WORLDWIDE FOREST PRODUCTS INC	CF–10
701974	WORTH CORP	CF–06
350572	WORTHEN BANKING CORP	CF–03
836155	WORTHINGTON GEORGE CO	CF–06
108516	WORTHINGTON INDUSTRIES INC	CF–03
352541	WPL HOLDINGS INC	CF–03
108601	WRIGLEY WILLIAM JR CO	CF–01
108606	WRITER CORP	CF–05
874499	WRT ENERGY CORP	CF–10
108618	WSC GROUP INC	CF–08
067494	WSMP INC	CF–05
877542	WTC INDUSTRIES INC	CF–10
797543	WTD INDUSTRIES INC	CF–04
108633	WULF OIL CORP	CF–09
771639	WUNDIES INDUSTRIES INC	CF–05
108637	WURLTECH INDUSTRIES INC	CF–08
108683	WYLE LABORATORIES	CF–04
108703	WYMAN GORDON CO	CF–03
108712	WYNN INDUSTRIES INC	CF–08
108721	WYNNS INTERNATIONAL INC	CF–04
108729	WYOMING OIL & MINERALS INC	CF–08
790818	X RITE INC	CF–06
778885	X ZEL INC	CF–09
853464	XEBEC GALLEON INC	CF–10
108770	XEDAR CORP	CF–08
786703	XELEX INC	CF–08
108772	XEROX CORP	CF–01
351936	XEROX CREDIT CORP	CF–01
742550	XETA CORP	CF–07
319191	XICOR INC	CF–05
782995	XIOX CORP	CF–08
883905	XIRCOM INC	CF–10
791908	XOMA CORP /DE/	CF–05
776820	XPLOR CORP	CF–07
814427	XSCRIBE CORP /CA/	CF–07
845753	XSIRIUS SUPERCONDUCTIVITY INC /DE/	CF–07
217591	XTRA CORP /DE/	CF–03
820608	XTRAMEDICS INC /NV/	CF–08
885976	XXSYS TECHNOLOGIES INC /CA	CF–10
810957	XYLOGICS INC /DE/	CF–06
873087	XYPLEX INC	CF–10
731252	XYTRONYX INC	CF–08
721080	XYVISION INC	CF–05
813359	Y&A GROUP INC	CF–07
797397	YAGER KUESTER PUBLIC FUND LIMITED PARTNE	CF–09
866731	YAHWE CORP	CF–10
849210	YANKEE ENERGY SYSTEM INC	CF–03
802781	YARDLEY VENTURES INC	CF–08
716006	YELLOW FREIGHT SYSTEM INC OF DELAWARE	CF–02
313109	YELLOW GOLD OF CRIPPLE CREEK INC	CF–08
790025	YELLOW LINE CAPITAL INC	CF–09
715142	YELLOWSTONE RESOURCES INC	CF–08
856979	YES CLOTHING CO	CF–06
777876	YORK FINANCIAL CORP	CF–07
842662	YORK HOLDINGS CORP	CF–10
108976	YORK RESEARCH CORP	CF–06
108985	YORK WATER CO	CF–05
109088	YOUNGWOOD ELECTRONIC METALS INC	CF–07
884198	YOUNKERS INC/DE/	CF–10
109105	YREKA UNITED INC	CF–08
109110	YUBA WESTGOLD INC	CF–07
757763	YUKON ENERGY CORP	CF–08
740875	ZACHARY BANCSHARES INC	CF–06
109156	ZALE CORP	CF–02
885269	ZAMS INC	CF–10
109177	ZAPATA CORP	CF–03
877212	ZEBRA TECHNOLOGIES CORP/DE	CF–10
852127	ZEBU INC	CF–10
075644	ZEMEX CORP	CF–05
109265	ZENITH ELECTRONICS CORP	CF–03
109259	ZENITH LABORATORIES INC	CF–05
109261	ZENITH NATIONAL INSURANCE CORP	CF–04

APPENDIX B.—DIVISION OF CORPORATION FINANCE—LISTING OF EDGAR FILERS BY COMPANY NAME—Continued

CIK	Issuer name	Group
831251	ZENITH VENTURES CORP	CF-09
779676	ZENOX INC	CF-08
320141	ZENTEC CORP	CF-07
854460	ZEOS INTERNATIONAL LTD	CF-07
109294	ZERO CORP	CF-04
756055	ZEUS COMPONENTS INC	CF-05
866878	ZEUS ENTERPRISE INC	CF-10
827056	ZEVEX INTERNATIONAL INC	CF-09
847541	ZFAX IMAGE CORP	CF-08
810353	ZG ENERGY CORP	CF-07
109312	ZIEGLER CO INC	CF-05
879985	ZIEGLER LEASING CORP /WI	CF-10
784013	ZIEGLER MORTGAGE SECURITIES INC II	CF-09
827156	ZILA INC	CF-08
789892	ZINETICS MEDICAL INC/ UT	CF-08
109380	ZIONS BANCORPORATION /UT/	CF-03
109378	ZIONS COOPERATIVE MERCANTILE INSTITUTION	CF-05
731647	ZITEL CORP	CF-06
847468	ZOE CAPITAL CORP	CF-10
887568	ZOLL MEDICAL CORPORATION	CF-10
811784	ZOMAX INC	CF-08
767404	ZOND PANAERO WINDSYSTEM PARTNERS I	CF-09
320515	ZONIC CORP	CF-07
741256	ZORBAS PALACE INC	CF-09
836457	ZOTEK INC	CF-09
109446	ZURN INDUSTRIES INC	CF-03
727621	ZYCAD CORP	CF-05
730716	ZYGO CORP	CF-06
864076	ZYNAXIS INC	CF-10

[FR Doc. 93-4805 Filed 3-17-93; 8:45 am]
BILLING CODE 8010-01-U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 229, 230, 239, 240, 249, 270 and 274

[Release Nos. 33-6978; 34-31906; IC-19284; File S7-7-93]

RIN 3235-AD92

Rulemaking for EDGAR System—Investment Companies and Institutional Investment Managers

AGENCY: Securities and Exchange Commission.

ACTION: Interim rules and solicitation of comments.

SUMMARY: The Securities and Exchange Commission has adopted rules to implement the operational phase of its Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system. The rules as set forth in this release will apply to electronic submissions by investment companies, business development companies, and institutional investment managers reporting securities holdings under management. The Commission also is adopting the Financial Data Schedule provisions with a deferred effective date and soliciting further public comment on those provisions. Separate releases contain rules applicable to electronic submissions processed by the Division of Corporation Finance which, generally, are also applicable to those processed by the Division of Investment Management and additional amendments relating to electronic submission by public utility holding companies and to payment of fees into the Commission's lockbox depository.

Mandated electronic filing is scheduled to begin on April 26, 1993, for the Transitional Filers and selected volunteers, including specified third party filings with respect to such registrants. Phase-in of all registrants is expected to be completed by mid-1996.

DATES: Effective Dates: These rules are effective on April 26, 1993, and apply to filings on or after that date, except the provisions relating to Financial Data Schedules (§ 230.483; §§ 239.14, 239.15, 239.15A, 239.16, 239.17a, 239.17b, and 239.24; § 270.20a-4; and §§ 274.5, 274.11, 274.11A, 274.11a-1, 274.11b, 274.11c, and 274.101), which are effective on November 1, 1993.

Comments: Comment letters on the Financial Data Schedule provisions should be received by May 17, 1993.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Mail Stop 6-9, Washington, DC 20549, and should refer to File No. S7-7-93.

FOR FURTHER INFORMATION CONTACT: Anthony A. Vertuno, Senior Special Counsel, EDGAR IM Project, (202) 272-7716, or Ruth Armfield Sanders, Staff Attorney, (202) 272-7714, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (the "Commission") has adopted rules covering those aspects of the EDGAR system that are unique to submissions made by investment companies registered under the Investment Company Act of 1940[1] and business

[1] 15 U.S.C. 80a-1 *et seq.* (the "Investment Company Act").

[2] 17 CFR 249.325.

[3] 15 U.S.C. 78a *et seq.* (the "Exchange Act").

[4] *See* Appendix A—Phase-In Schedule for Mandatory Electronic Filing by Investment Companies. Section 35A(c)(5) of the Exchange Act [15 U.S.C. 78ll(c)(5)] requires that mandated filings from a "significant test group" of registrants be received and reviewed by the Commission for at least six months before final adoption of any rule requiring electronic filing by registrants. Accordingly, the interim EDGAR rules and phase-in schedule adopted today will govern electronic submissions by the "significant test group." After the "significant test group" has successfully filed for at least six months, the Commission will adopt final EDGAR rules modified to reflect the experience gained during the period, together with a revised phase-in schedule, if necessary.

development companies (collectively, "investment companies") and by institutional investment managers reporting securities holdings under management on Form 13–F [2] under the Securities Exchange Act of 1934 [3] ("portfolio managers"). In addition, the Commission has adopted a schedule to bring investment companies onto the EDGAR system.[4] Submissions made by these entities are processed by the Commission's Division of Investment Management (the "Division"). In a concurrent release (the "General EDGAR Release"),[5] the Commission announces the adoption of rules, rule amendments, and procedures that will apply generally to all electronic filings on EDGAR and rule and form amendments under the Securities Act of 1933 [6], the Exchange Act and the Trust Indenture Act of 1939 [7] that will apply to submissions [8] processed by the Division of Corporation Finance. Matters discussed in the General EDGAR Release that are also applicable to electronic submissions by investment companies are not discussed in detail in this release.

In spring 1992, the Commission revised the EDGAR Temporary Rules ("amended Temporary Rules") in order to facilitate the transition of EDGAR Pilot participants that elected to convert to the operational EDGAR system in summer 1992 in advance of their mandated phase-in date.[9] Those who elected to do so are referred to as "Transitional Filers." The amended Temporary Rules will be adopted as final or rescinded on April 26, 1993, the date upon which mandated electronic filing commences.

In this release, the Commission is adopting (1) certain Commission rules, regulations, schedules and forms used by investment companies and portfolio managers under the Securities Act, the Exchange Act, and the Investment Company Act, and (2) rule 30–5 of the Rules of Practice [10] to provide the Director of the Division delegated authority to grant hardship exemptions and take certain other actions in connection with filings processed by the Division.

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I. Background

Beginning in 1984, the Commission operated a pilot program (the "EDGAR Pilot" or "Pilot") to develop and test an electronic disclosure system. Investment companies participated in the Pilot since October 1985, with over 250 management investment companies and seventy-eight unit investment trusts ("UITs") electronically submitting substantially all their filings under the Securities Act, the Exchange Act, and the Investment Company Act. As of July 14, 1992, over 1,300 registered management investment companies filed their semi-annual and annual reports electronically on Form N–SAR, the periodic reporting form filed by investment companies.[11] Over sixty portfolio managers filed reports electronically on Form 13F–E, the variant of Form 13F used for electronic filing.[12]

On July 14, 1992, the EDGAR Pilot was closed and the next day the Pilot participants became the first filers to submit live filings on the operational system as Transitional Filers.[13] To implement mandatory electronic filing on the operational EDGAR system, the Commission published for comment, in summer 1992, proposed new rules and revisions to certain existing rules and forms as well as a proposed phase-in schedule of registrants.[14] The proposals

[5] The General EDGAR Release, Release No. 33–6977, announces the adoption of rules for filings on EDGAR that will affect all registrants and other persons who make electronic filings with the Commission. Among other things, the General EDGAR Release discusses electronic filing generally (*e.g.*, formatting and submission requirements, signatures, filing fees, safe harbors, and hardship exemptions) and adopts rules, including Regulation S–T [17 CFR 232], prescribing the requirements that must be met in order to file electronically and the procedures for making such filings. The General EDGAR Release also discusses the EDGAR Filer Manual promulgated by the Commission, which sets out many of the procedures for using EDGAR. (*See* rule 301 of Regulation S–T [17 CFR 232.301]; see also Section V.A of the General EDGAR Release for a detailed description of the EDGAR Filer Manual.)

In addition, Release No. 35–25746 announces the adoption of EDGAR rules under the Public Utility Holding Company Act of 1935 ("PUHCA"); and Release No. 33–6980 relates to the payment of filing fees, by both paper and electronic filers, to the Commission's lockbox depository at Mellon Bank in Pittsburgh, Pennsylvania, pursuant to rule 3a [17 CFR 202.3a] of the Rules Relating to Informal and Other Procedures.

[6] 15 U.S.C. 77a *et seq.* (the "Securities Act").

[7] 15 U.S.C. 77aaa *et seq.* (the "Trust Indenture Act").

[8] The term "electronic submission" means any document, such as a filing, correspondence, or modular submission, or any discrete set of documents, transmitted or delivered to the Commission in electronic format. The term "electronic format" means the computerized format of a document prepared in accordance with the EDGAR Filer Manual. The term "electronic submission" means any document, such as a filing, correspondence, or modular submission, or any discrete set of documents, transmitted or delivered to the Commission in electronic format. The term "electronic filer" means a person or an entity that submits filings electronically pursuant to rules 101, 901, 902 or 903 of Regulation S–T [17 CFR 232.101, .901, .902 or .903, respectively). The phrase "to file electronically" means to convey a filing to the Commission in electronic format and excludes any submission other than a filing. See Section I of the General EDGAR Release.

[9] *See* Release No. IC–18664 (Apr. 20, 1992) [57 FR 18223 (Apr. 29, 1992)] for rules relating to investment companies and portfolio managers; Release No. 33–6933 (Apr. 20, 1992) [57 FR 18210 (Apr. 29, 1992)] for rules relating to filings processed by the Division of Corporation Finance; and Release No. 35–25520 (Apr. 20, 1992) [57 FR 18229 (Apr. 29, 1992)] for rules relating to public utility holding companies. The EDGAR Temporary Rules originally were adopted in Release No. 33–6539 (June 27, 1984) [49 FR 28044 (July 10, 1984)]; Release No. 35–23704 (May 23, 1985) [50 FR 23287 (June 3, 1985)]; and Release No. IC–14733 (Sep. 23, 1985) [50 FR 40479 (Oct. 4, 1985)]. They are as follows: Securities Act rule 499 [17 CFR 230.499]; Exchange Act rules 12b–37 [17 CFR 240.12b–37] and 13f–2(T) [17 CFR 240.13f–2(T)]; PUHCA rule 111 [17 CFR 250.111]; Trust Indenture Act rule 0–12 [17 CFR 260.0–12]; and Investment Company Act rule 0–11 [17 CFR 270.0–11].

[10] 17 CFR 200.30–5.

[11] 17 CFR 274.101.

[12] 17 CFR 249.326(T). Reports on Form 13F are filed by portfolio managers exercising investment discretion over accounts holding registered equity securities with an aggregate fair market value of at least $100 million on the last trading day of any month within a calendar year.

[13] See Release Nos. 33–6933 (Apr. 20, 1992) [57 FR 18210 (Apr. 29, 1992)], IC–18664 (Apr. 20, 1992) [57 FR 18223 (Apr. 29, 1992)], and 35–25520 (Apr. 20, 1992) [57 FR 18229 (Apr. 29, 1992)].

[14] Securities Act Release No. 6944 (July 23, 1992) [57 FR 35070 (Aug. 7, 1992)], as corrected, at 57 FR 38352; Release No. IC–18863 (July 23, 1992) [57 FR 35202 (Aug. 7, 1992), containing rules specific to electronic submissions made by investment companies and portfolio managers and the phase-in schedule for investment companies (the "Proposing Release"); Release No. 35–25588 (July 23, 1992) [57 FR 35431 (Aug. 7, 1992)], containing rules specific to electronic submissions made by public utility holding companies; and Release No. 33–6947 (July 23, 1992) [57 FR 35442 (Aug. 7, 1992)], relating to the payment of filing fees, by both paper and electronic filers, to the Commission's lockbox depository at Mellon Bank in Pittsburgh, Pennsylvania, pursuant to rule 3a [17

Continued

were designed to mandate and accommodate submissions in electronic format as well as to update current rules to take advantage of the efficiencies of electronic submission and processing.

The Commission received fourteen letters of comment from investment companies, investment advisors, professional associations, and law firms.[15] Of these commenters, several were electronic filers during the EDGAR Pilot and the transition to the operational EDGAR system. In general, commenters supported the concept of electronic filing. As explained in this release and the General EDGAR Release, phase-in to mandatory electronic filing will begin April 26, 1993 and is scheduled to be completed by mid-1996.

II. Phase In

On April 26, 1993, mandated electronic filing is scheduled to commence for Transitional Filers and selected volunteers, including specified third party filings with respect to such registrants. Phase-in of all registrants is expected to be completed by mid-1996.

The existing investment companies will be phased into the EDGAR system (*i.e.*, begin mandatory electronic filing) in groups according to a published schedule, set forth in Appendix A.[16] After a registrant is phased in, it will be required to submit electronically all filings (and related submissions) required to be electronically filed with, or submitted to, the Commission.

Mandated electronic filing will begin April 26, 1993, with approximately 300 investment company registrants who were Pilot participants.[17] This initial group of mandated filers will be part of the "significant test group" that Congress has stated must file successfully for at least six months before the Commission can adopt final mandatory filing rules. The remainder of the significant test group, approximately 500 investment company registrants, will begin mandatory filing July 19, 1993.[18] However, the Commission may allow a limited number of registrants, otherwise scheduled for mandatory phase in with the first non-Pilot group, to elect to begin their mandated filing with the initial phase-in group.[19]

When final EDGAR rules are adopted, the remaining investment company filers will be phased-in in five groups of approximately 500 to 750 registrants each at six-month intervals. Except as described below, registrants that come into existence after the phase-in schedule is adopted and registrants not named in Appendix A will be phased-in with the last group. All filings made by third parties relating to a registrant, such as proxy contest materials and tender offer materials, will be required to be submitted electronically once the subject registrant becomes an electronic filer.[20]

The number of investment companies to be phased in with each group is as follows:

Group	Date	Approximate No. of investment companies	
IM–01	Apr 26, 1993	300	(Pilot Participants; this group comprises part of the significant test group).
IM–02	July 19, 1993	500	(Remainder of significant test group).[21]
IM–03	Aug 1994	500	
IM–04	Nov 1994	600	
IM–05	May 1995	600	
IM–06	Nov 1995	750	

[21] This group includes the first non-Pilot mandatory electronic filers.

Each registrant must file a Form ID with the Commission prior to its phase-in date.[22] Form ID contains basic identifying information required for the Commission to issue the access codes that enable a registrant to make filings (including test filings) on the EDGAR system. A registrant should file a Form ID between three and six months in advance of its scheduled mandatory phase-in date. Each registrant will be responsible for ascertaining its phase-in date from the phase-in rules and published phase-in list and filing a completed Form ID to obtain its access codes to meet its duty to begin electronic filing in accordance with its phase-in date.[23]

When it receives a completed Form ID from a filer, the Commission will send the filer the necessary identification and

CFR 202.3a] of the Rules Relating to Informal and Other Procedures.

[15] These comment letters were directed in response to either Release No. 33–6944 and/or Release IC–18863, the Proposing Release. The comment letters and the comment summary prepared by the staff are available for inspection and copying in the Commission's Public Reference Room. See File Nos. S7–21–92 and S7–22–92.

[16] The list is divided into two parts: Part I for management investment companies and Part II for UITs. The UIT list names unit trusts that are registered as investment companies. Each series of a named UIT will be phased in at the date designated for the UIT.

Appendix A sets forth only the phase-in schedule for investment companies. The phase-in schedule for other types of companies is set forth in the General EDGAR Release. If an investment adviser to an investment company is itself a registrant, its phase in will be determined by the phase-in schedule in the General EDGAR Release.

Paragraph (*l*) has been added, as proposed, to rule 30–5 of the rules governing Commission organization [17 CFR 200.30–5(*l*)], delegating authority to the Division of Investment Management to grant or deny a request by a registrant to participate in a phase-in group other than the group established by the Commission for that registrant.

[17] All Pilot participants are included in the first mandatory phase-in group, even if they were not Transitional Filers.

[18] Specific phase-in dates for the remaining groups will be published in the **Federal Register** and the SEC News Digest.

[19] Registrants in the first non-Pilot group that are interested in making this election should contact the Office of Investment Management EDGAR Project, (202) 272–7710, Securities and Exchange Commission, 450 Fifth Street, Stop 10–6, NW., Washington, DC 20549.

[20] Since Transitional Filers are volunteers from July 15, 1992, to the commencement of mandated electronic filing, a third party making a filing relating to one of these registrants may submit it in electronic format, but will not be required to do so. Once Transitional Filers are subject to mandated electronic filing, third party filers will be required to file electronically.

[22] *See* rule 10(b) of Regulation S–T [17 CFR 232.10(b)]. *See also* Section VI.A of the General EDGAR Release for a description of Form ID. If a registrant has already filed Form ID and has received its access codes, it need not refile unless it wants to update information in the form or obtain new access codes.

[23] A registrant phased in because of a merger or change in investment adviser likewise will be responsible for filing a completed Form ID to begin electronic filing.

access codes. Prior to its phase-in date, a filer will be permitted to make only test filings and filings of certain forms designated for acceptance regardless of the filer's phase-in date.[24]

Under the schedule set forth in appendix A, investment company registrants will be phased in according to the investment company complex with which they are associated, as proposed. Appendix A assigns companies to a complex according to the following factors: For management investment companies, the investment adviser; for unit investment trusts, the depositor; and for internally managed closed-end funds, the principal underwriter.[25] Where these factors did not identify members of a group of companies generally perceived as being part of the same fund complex, the identity of the distributor or administrator was considered. The designation of an investment company complex in appendix A applies only for purposes of establishing the phase-in schedule for mandatory electronic filing and not for any other purpose. While comment was received from several investment company complexes concerning specific companies believed to be incorrectly assigned to a particular phase-in group, no comment was received concerning the method for determining to which group an investment company should be assigned.

Registrants not named in appendix A must determine their phase-in date from rules set out in paragraph (b) of rule 902 of Regulation S–T.[26] The rule provides that, if a registrant is part of a complex that has been phased in, it will be phased in with the complex based on the investment adviser[27] in the case of management investment companies, the depositor in the case of unit investment trusts, or the principal underwriter in the case of internally managed closed-end funds. Thus, a newly created fund that is part of a phased-in complex (*i.e.*, the new fund has an adviser that is adviser to a phased-in complex) will be required to make its submissions electronically. Similarly, if a fund that is not phased in changes its investment adviser to one that advises funds in a phased-in complex, it will be required to begin filing electronically after the new advisory relationship becomes effective.[28] Companies that are not named in appendix A or associated with a phased-in complex will be phased in in the last group.

The phase-in schedule is designed generally to bring onto EDGAR first those investment company complexes having the largest number of registrants. It is also designed to allow investment advisers that make electronic submissions to do so for all of the funds they advise, even if those funds are organized after the initial assignment of phase-in dates, thus avoiding the need to maintain both paper and electronic filing procedures for investment companies in the same complex.

The Commission is adopting rules to delegate authority to the Division to grant or deny a request by a registrant to be assigned to a phase-in group other than the one to which it is initially assigned, whether the initial assignment is by designation in appendix A or by operation of paragraphs (b)(2), (3) or (4) of rule 902.[29] Reassignments may be made to either earlier or later phase-in groups, as appropriate. However, in order to keep the number of filers in the initial groups manageable, reassignments will be made for the purpose of rectifying cases of inappropriate phase-in group assignment and not simply to facilitate registrants' desires to volunteer for an earlier phase-in group.[30]

III. Mandatory, Voluntary and Prohibited Electronic Submissions

A. General

A phased-in registrant will be required to file electronically all forms that are accepted by EDGAR. These include (1) all registration statements under the Securities Act and the Investment Company Act;[31] (2) all proxy materials required to be filed with the Commission;[32] (3) reports, including reports on Form N–SAR, required to be filed with the Commission under Section 30 of the Investment Company Act;[33] and (4) all other reports, forms, and schedules required to be filed by or with respect to investment companies under the Exchange Act that are accepted by EDGAR.[34] Appendix B lists the forms and reports unique to investment companies that will be required to be filed electronically.

In addition, for one year beginning with a registrant's mandated phase-in date, or until expressly notified otherwise by the Commission, any registrant making filings on EDGAR[35] will be required to furnish the Commission with paper copies of the filings.[36]

The rules as proposed generally would have required, unless specific rules or form instructions provide otherwise, that all documents associated with a filing, including exhibits, correspondence and supplemental information that an electronic filer is

[24] Generally, these excepted form types include all Williams Act filings, reports on Form N–SAR, reports on Form 13F, and filings under PUHCA. In order for a filer not yet phased in to make one of these optional electronic filings, Form ID must be submitted sufficiently prior to the date of filing to allow for processing and return to the filer of the required access codes.

[25] There are separate phase-in lists for management investment companies and unit investment trusts, and thus the phase-in group for the two types of investment companies may be different for certain sponsors with both types of investment companies.

[26] 17 CFR 232.902(b).

[27] Some funds have more than one adviser. The phase-in schedule provides that a registrant has the same adviser as another fund with the same adviser except in cases where the common adviser is only a sub-adviser of one of the registrants. *See* paragraph (b)(3) of rule 902.

[28] However, in order to avoid interrupting the availability of information in electronic format for phased-in filers, after a fund is phased in, it will continue to file electronically even if it changes its investment adviser to one advising investment companies not yet phased in.

[29] In some cases, the assignment of a company based on investment adviser may be inappropriate. For example, the sponsor of a complex might form a "private-label fund" for the customers of a specific financial institution. This fund may use the financial institution as its investment adviser but have the same distributor and administrator as other funds in the complex. In that case, the registrant could request reassignment to the phase-in group that includes most of the investment companies using the same distributor or administrator.

[30] The policy on accepting volunteers may be reevaluated after phase in is underway and the mandatory test period has been completed.

[31] Forms N–1 [17 CFR 239.15 and 274.11], N–1A [17 CFR 239.15A and 274.11A], N–2 [17 CFR 239.14 and 274.11a–1], N–3 [17 CFR 239.17a and 274.11b], N–4 [17 CFR 239.17b and 274.11c], N–5 [17 CFR 239.24 and 274.5], N–8B–2 [17 CFR 274.12], N–8B–3 [17 CFR 274.13], N–8B–4 [17 CFR 274.14], N–14 [17 CFR 239.23], S–3 [17 CFR 239.13], and S–6 [17 CFR 239.16].

[32] *See* rule 20a–1 under the Investment Company Act [17 CFR 270.20a–1] and Regulation 14A under the Exchange Act [17 CFR 240.14a–1 through 240.14a–103].

[33] Rules 30a–1, 30b–1 and 30b1–2 under the Investment Company Act [17 CFR 270.30a–1, 30b1–1, and 30b1–2].

[34] Filings under the Investment Advisers Act of 1940 [15 U.S.C. 80b–1 *et seq.*], exemptive applications and requests for no-action or interpretive advice will be excluded from electronic filing, as proposed. While the Commission may consider electronic submission of these filings in the future, no plans currently exist for electronic filing of these documents. These filings were not included in the Pilot.

[35] Transitional Filers will also be required to submit paper copies during the year beginning with their mandated phase-in date or until expressly notified otherwise by the Commission.

[36] Paper copies are required by the Securities and Exchange Commission Authorization Act of 1987, Public Law 100–181 (Dec. 4, 1987) [amending Exchange Act Section 35 (15 U.S.C. 78kk and adding Section 35A (15 U.S.C. 78*ll*)] (the "EDGAR Authorization Act"). For a discussion of the requirements for paper copies of electronic filings under the EDGAR Authorization Act, see Section V.D of the General EDGAR Release.

required to file with, or otherwise furnish to, the Commission, be submitted electronically.[37] The proposed rules would have permitted a registrant to incorporate by reference into an electronic filing only exhibits that had been filed electronically.

Commenters expressed concern that, at least during the time period immediately following mandated phase-in, it would be unduly burdensome to require electronic filing of all previously filed documents incorporated by reference.[38] Most commenters believed that it was not appropriate to require the refiling in electronic form of exhibits previously filed in paper that were not being materially amended. They stated that there was also no need for refiling paper exhibits with finite duration, such as merger agreements. Several commenters stated that, if registrants were required to refile exhibits electronically, they should be given a reasonable period of time to refile, perhaps three or four years, or until the end of mandatory phase-in for all filers.

Two commenters suggested that exhibits be required to be filed electronically if the document is altered and that, if a material corporate document is not altered and thus submitted electronically within a set number of years, the exhibit then be refiled in electronic format. Some commenters were not persuaded that exhibits such as contracts on preprinted or prescribed forms, material contracts, insurance contracts, and exhibits longer than twenty-five printed pages should be required to be refiled in electronic form.

In response to these comments, the Commission has decided to adopt rules less stringent than those proposed concerning incorporation by reference into electronic filings. The rules adopted provide investment companies with a "grace period" before all documents incorporated by reference will be required to be filed electronically. During the first three years after phase in, the rules will require only the electronic filing of an amendment[39] to a previously filed paper exhibit, unless the exhibit is one enumerated in rule 102(c) of Regulation S–T,[40] in which case the previously filed paper exhibit will have to be refiled electronically in its entirety.[41] After three years has elapsed from a registrant's phase-in, the registrant may incorporate by reference only those documents which have been refiled electronically.[42]

Amendments (including pre-effective amendments to registration statements) to filings that were filed in paper prior to the registrant's phase-in date will have to be submitted electronically after the registrant is phased in. However, a prospectus or Statement of Additional Information filed after the registrant is phased in under rule 497[43] that relates solely to a registration statement or amendment that was filed prior to the filer's phase-in date will not be required to be submitted in electronic format.[44] Also, in response to comment, the Commission is amending rule 497 to add subparagraph (j)(2) which will permit, in the case of electronic filing, where the prospectus that would be filed does not differ from the prospectus contained in the most recent registration statement or amendment, a registrant to make a filing containing only a certification that there had been no change.[45]

Investment companies typically update their registration statements annually through a post-effective amendment. Following the registrant's phase-in date, the first time such a post-effective amendment is required to be filed, a complete copy of the entire filing as amended will be required to be filed electronically. Certain enumerated documents incorporated by reference into the filing will be required to be filed electronically if amended, as will amendments to other documents incorporated by reference.

For all amendments filed after a date which is three years following a registrant's phase-in date, a complete copy of the entire electronic filing will be required, including all then current exhibits to the filing and all other documents previously filed with the Commission in paper and incorporated by reference into the filing. This approach should result in a more complete electronic database and will enable EDGAR users to obtain more complete information about registrants through EDGAR. Registrants could apply for a continuing hardship exemption to the extent that converting existing documents to electronic format would create an undue burden.[46]

The requirement to file electronically all then current exhibits and all documents previously filed with the Commission in paper and incorporated by reference into the filing after three years from phase in differs from the approach taken in the General EDGAR Release.[47] Documents filed as exhibits to investment company registration statements and other filings tend to be relatively brief, which should reduce the costs of converting them to an electronic medium. The Commission considered the comments received on the requirement of electronic filings of exhibits incorporated by reference and believes that the rules adopted, allowing for a three year grace period before

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[37] If an investment company is required to make a filing under the Exchange Act with respect to another issuer (*e.g.*, a Williams Act filing), it would have been required to do so electronically if the issuer to which the filing relates has been phased in. In order for any filing to be made electronically, the filer must obtain the necessary access codes. *See* Sections III.C of the General EDGAR Release for a complete discussion of the rules with respect to Williams Act filings by third parties.

[38] Only one commenter supported mandatory refiling in electronic format of exhibits incorporated by reference. That commenter believed that requiring the filing of all exhibits in electronic format would increase immediate usefulness of the database and help ensure completeness.

[39] *See* rule 102(b) of Regulation S–T [17 CFR 232.102(b)]. Of course, an electronic filer may refile a complete restatement of the exhibit or the amendment and the exhibit to which it relates in electronic format, if it wishes.

[40] 17 CFR 232.102(c).

[41] When the first amendment is made to the charter documents (including by-laws) or investment advisory agreement after a registrant has become subject to mandated electronic filing, a complete copy of the document, as amended, or will have to be filed in electronic format.

[42] *See* rule 102(e) of Regulation S–T [17 CFR 232.102(e)].

[43] 17 CFR 230.497.

[44] *See* rule 902(e) of Regulation S–T [17 CFR 232.902(e)].

[45] *See* rule 497(j) [17 CFR 230.497(j)].

[46] Under the Rules of Organization; Conduct and Ethics; and Information and Requests, the Director of the Division of Investment Management will have delegated authority from the Commission to grant hardship exemptions and adjust filing dates under Regulation S–T. In response to comments, Regulation S–T as adopted provides a temporary hardship exemption for an electronic filer that is unable to submit a specific document(s) or filing(s) in electronic format. (The temporary hardship exemption has been structured to provide that an electronic filer may file the subject filing in paper under cover of Form TH, Notification of Reliance on Temporary Hardship Exemption; no staff involvement is required in filing Form TH.) It also permits a continuing hardship exemption for a class of documents or form types (where the filer can show undue burden or undue expense) or from all electronic filing (where the filer can show undue hardship); under certain circumstances, such an exemption may be appropriate for voluminous documents on preprinted or prescribed forms, such as insurance contracts included as exhibits to registration statements for variable annuity products. An adjustment of the filing date will be allowed where acceptance of a filing is delayed because of equipment malfunction or a technical problem beyond the control of the filer. The provisions relating to hardship exemptions and filing date adjustments are discussed in detail in the General EDGAR Release. (See Section III.E of the General EDGAR Release.)

[47] See Section III.C.1.d of the General EDGAR Release.

The approach for investment companies will apply to registered investment companies filing on forms designated for investment companies and to business development companies. Investment companies (including business development companies) making filings on forms whose applicability is not limited to registered investment companies (*e.g.*, Forms 10–K [17 CFR 249.310] and 10–Q [17 CFR 249.308a]) will also be required to file exhibits electronically.

mandatory filing of all documents incorporated by reference, will not create an undue burden on filers and will allow the Commission to achieve its goal of a complete electronic database.

B. Form N–SAR

Form N–SAR, a periodic reporting form under the Exchange Act and the Investment Company Act for registered investment companies, could be filed electronically on the Pilot, and during the transition to the operational EDGAR system, by management investment companies in a form that facilitated automated extraction and tabulation of reported information. Since 1985, most management investment companies were able to use personal computer software created by the Commission to prepare Form N–SAR, and these companies were permitted to file Form N–SAR electronically, even if they did not make other filings on the Pilot. As a result, Form N–SAR was filed electronically on the Pilot by over half of the active management investment companies. This high degree of voluntary participation has facilitated the development of an electronic database of investment company information. Under the EDGAR rules, management investment companies may continue to make voluntary filings on Form N–SAR electronically until their phase-in date. Phased-in registrants will be required to file Form N–SAR electronically.[48]

The rules will require that electronic submission of Form N–SAR be restricted to direct transmission; filing on magnetic tapes or diskettes will not be permitted.[49] One commenter recommended that electronic submission for Form N–SAR be permitted in any of the three permissible EDGAR formats, stating that direct transmission is more costly and, unlike in the Pilot, not as high a percentage of investment companies in later phase-in groups may wish to file by direct transmission. The commenter was concerned that restriction of the type of transmission may prevent some investment companies from otherwise making all their filings electronically and that the Form N–SAR filing restriction limits an investment company's choice in deciding which method of electronic transmission to use.

The Commission has determined that, because of the unique design of Form N–SAR,[50] it is appropriate that electronic submission of Form N–SAR be restricted to direct transmission.

C. Sales Literature

The rules will not permit the electronic submission on EDGAR of sales literature required to be filed under section 24(b) of the Investment Company Act,[51] as proposed. Because of the format and graphics which characterize these submissions, at the present time the burden to registrants of electronically formatting sales literature appears to outweigh the usefulness of developing an electronic database. In addition, in lieu of filing with the Commission, most investment company registrants file sales literature with the National Association of Securities Dealers ("NASD") as permitted by rule 24b–3 under the Investment Company Act.[52] Thus, even if the Commission were to require electronic, rather than paper, filing of sales literature, the Commission's electronic database would be incomplete at best.

IV. Electronic Filing by Investment Companies

A. Incorporation by Reference

Rule 8b–23 under the Investment Company Act[53] governs incorporation by reference in registration statements and reports filed under the Investment Company Act. The rule has been amended to follow the general approach to incorporation by reference described in the General EDGAR Release during the first three years after phase in.[54] After that time, as described in Section III of this release, all documents incorporated by reference would have to be filed electronically.[55]

B. Modular and Segmented Submissions

As explained in detail in the General EDGAR Release, the operational EDGAR system will include provisions for "modular submissions" and "segmented" filings. Modular submissions allow information intended to become part of more than one filed document to be submitted electronically for subsequent inclusion in filings upon designation by the filer. Segmented filings allow information to be submitted in separate parts for ultimate assembly into a single filing at the direction of the filer.[56]

The modular submission feature may be of particular value to investment company filers. Investment company Transitional Filers have successfully used modular filings, as they did successfully for several years as Pilot participants using an analogous procedure known as "reference filing."[57] The General EDGAR Release describes modular submissions and segmented filing and the rules governing these submissions.[58]

C. Annual Reports to Security Holders

In the General EDGAR Release, the Commission is adopting amendments to the proxy rules which will retain the requirement that registrants submit copies of their annual reports to security holders to the Commission for its information. These copies would continue to be furnished in paper, unless a phased-in registrant opted to use electronic format. In response to comment, the proposed treatment of information incorporated by reference from an annual report to security holders into a filing also has been modified. Only those portions that are incorporated by reference must be filed electronically, rather than the enfire annual report, as proposed.[59] The principal reason for not requiring the electronic filing of reports to security holders is the difficulty of filing annual reports of non-investment companies electronically because of the formatting and graphics commonly associated with such documents.

The Commission will treat investment company shareholder reports differently. Semi-annual reports required to be sent to shareholders and filed with the Commission under Section 30 of the Investment Company Act[60] will be required to be filed electronically by phased-in registrants. Typically, these reports consist only of

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[48] The Commission may require the electronic filing of Form N–SAR by all investment companies prior to completion of the phase-in schedule.

[49] *See* General Instruction F(4) to Form N–SAR.

[50] Filer burden associated with direct submission is reduced by the Commission's automated N–SAR program. The N–SAR filings are prepared with a PC software application distributed by the Commission together with the EDGARLink software. Used together, these software applications facilitate both the preparation of the form and its transmittal to the Commission, and the burden of filing by direct transmission should be minimal.

[51] 15 U.S.C. 80a–24(b).

[52] 17 CFR 270.24b–3.

[53] 17 CFR 270.8b–23.

[54] See Section IV.C of the General EDGAR Release and rule 102 of Regulation S–T (17 CFR 232.102). As noted below, investment companies will continue to be required to file their annual and other reports to security holders under Section 30(d) [15 U.S.C. 80a–30(d)], and these reports would have to be submitted electronically.

[55] See rule 102(e) of Regulation S–T [17 CFR 232.102(e)].

[56] Both modular and segment submissions will be stored in a non-public database and will not be deemed to be "filed" until included in a complete filing that is accepted.

[57] See Pilot EDGAR User Manual (1988) at paragraph 147.

[58] See Section IV.A of the General EDGAR Release.

[59] See Section IV.B of the General EDGAR Release.

[60] 15 U.S.C. 80a–29.

financial information and related commentary. The Commission's experience with Pilot participants and Transitional Filers has shown that these reports generally do not contain graphic material other than graphs that can be described easily.[61] In addition, the financial statements contained in annual reports to security holders often are incorporated by reference into fund registration statements. Requiring these filings to become part of the electronic database will assure that they are readily accessible to Commission staff and the public. No commenters objected to the Commission's proposal to require electronic filing of these reports.

D. Financial Data Schedule

As explained in more detail in the General EDGAR Release, the Commission is adopting rules under which registrants will file electronically, as an exhibit to certain registration statements, reports, and proxy materials, a Financial Data Schedule that will be available to the public as well as the Commission.[62] The effective date of the provisions relating to Financial Data Schedules, however, has been delayed in order to provide additional time for system programming.[63]

A registrant will place specific numbers from its existing financial statements and schedules into a formatted schedule. The schedule will permit the data to be recognized and captured by the EDGAR system for automated tabulation and computation.[64] Commission staff will use this information for screening purposes and to help examiners review filings.

The requirements for the contents of the Financial Data Schedule for investment companies are contained in rule 483 under the Securities Act.[65] The schedule will be comprised of specified financial information from the financial statements, per share table and related data in the registration statement and from specified sections of Form N–SAR (the "source documents").[66] The specific technical instructions for preparing the schedule will be included in the EDGAR Filer Manual. Rule 483 will require that Financial Data Schedules be filed as exhibits to registration statements, their post-effective amendments, semi-annual and annual reports on Form N–SAR[67] filed by investment companies, and proxy statements that include financial statements because they seek shareholder approval of certain transactions.[68] A registrant may not incorporate by reference a Financial Data Schedule into a filing; registrants can, however, use modular submissions for Financial Data Schedules if the same information is to be used for more than one filing.

The Financial Data Schedule will not be deemed a "filed" document for purposes of liability under the federal securities laws[69], as proposed. The safe harbor for investment companies is contained in rule 483.[70] A registrant that accurately extracts the schedule information from its source documents will not be deemed to have filed such extracted information with the Commission under section 11 of the Securities Act,[71] section 18 of the Exchange Act,[72] or section 34(b) of the Investment Company Act,[73] or otherwise be subject to the liabilities of those sections.[74] If the data are accurately extracted from the source documents, and the extracted data as presented in the underlying source documents were not materially false or misleading, the registrant will not incur liability under the Securities Act, the Exchange Act, or the Investment Company Act. If the data as presented in the source documents are materially false or misleading, the source documents will be the principal basis for liability.

The Commission requested comment on the proposed Financial Data Schedule and, particularly, the use of schedules to identify financial data. The comments received are discussed in the General EDGAR Release.[75] No comments were received on the Commission's request for comment on the data proposed to be included, and alternative or supplemental data that should be included, in the Financial Data Schedule for investment companies.

While the Commission is adopting today requirements to furnish a Financial Data Schedule, interested parties are encouraged to submit written comments on the form and content of the Schedule in order to aid the Commission in its ongoing evaluation and development of this new financial information functionality. Persons submitting written comments are requested to do so by May 17, 1993, and should file three copies with Jonathan Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comment letters should refer to File No. S7–7–93. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

V. Electronic Filing by Portfolio Managers

Form 13F reports are filed by portfolio managers to report certain equity securities holdings of their managed accounts.[76] In the Pilot and following

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[61] See Section IV.E of the General EDGAR Release concerning the rules governing the treatment of graphic and image material. While most information filed with the Commission is textual and financial material, a limited amount of graphic and image material (collectively, "graphic material"), such as pictures and graphs, are contained in Commission submissions. The General EDGAR Release describes how this material was treated in the Pilot and the approach for EDGAR.

[62] See Section IV.D of the General EDGAR Release.

[63] Registrants will be required to comply with the Financial Data Schedule provisions for filings on or after November 1, 1993.

[64] The schedule will include standardized computer-recognizable captions, or tags, based on information in the registration statement and Commission forms.

[65] 17 CFR 230.483. Financial Data Schedules are required only in electronic filings.

[66] The per share and related data will be provided only where the form which the registrant uses to register its securities under the Securities Act requires such information to be included in the prospectus. This information will be required to be provided by registrants that file on Forms N–1A, N–2, and N–3.

[67] One investment company commenter objected to requiring Financial Data Schedules in semi-annual and annual reports to shareholders. However, in the interest of aiding the staff in its review of filings, the Commission is adopting the provisions concerning Financial Data Schedules as proposed.

[68] The forms for which Financial Data Schedules will be required are indicated in Appendix B.

In contrast, the General EDGAR Release adopts rules for Division of Corporation Finance filers which require that a Schedule be filed as an exhibit to any registration statement, report or other document filed with the Commission that includes updated annual or interim financial statements (other than through incorporation by reference), rather than require, as proposed, the submission of Financial Data Schedules in connection with filings made on specified forms. See Section IV.D of the General EDGAR Release.

[69] See Section IV.D.4 of the General EDGAR Release for further discussion regarding liability for the Financial Data Schedule for non-investment companies.

[70] See paragraph (e)(1)(iii) of rule 483.

[71] 15 U.S.C. 77k.

[72] 15 U.S.C. 78.

[73] 15 U.S.C. 80a–33(b).

[74] On the other hand, a filer that prepared the schedule inaccurately would not be able to claim the protection of the safe harbor rule and might be subject to liability for any resulting misleading presentation in the Financial Data Schedule as filed.

[75] See Section IV.D.4 of the General EDGAR Release.

[76] Section 13(f)(1) of the Exchange Act [15 U.S.C. 78m(f)(1)] requires portfolio managers exercising investment discretion over accounts holding certain equity securities to file a report on Form 13F with the Commission at the times set forth in rule 13f–1 [17 CFR 240.13f–1]. Equity securities subject to Section 13 reporting are securities with an aggregate fair market value of at least $100 million on the last trading day of any month within a calendar year.

the opening of the operational EDGAR system, these reports could be filed on Form 13F–E, under temporary rule 13f–2(T).[77] The Commission is making rule 13f–2(T) and Form 13F–E permanent, with some modifications. All Form 13F reports can be filed electronically on a voluntary basis, as proposed, whether or not the filer is a mandatory electronic filer.

Initially, electronic filing of Form 13F–E will be limited to magnetic tape, as in the Pilot. Form 13F–E reports consist of large numbers of similar data records, and, at least initially, magnetic tape filings will provide the most efficient means of standardizing the filing format and facilitating automated and accurate transfer and tabulation of the reported data.[78] Instructions for filing electronically are included in Form 13F–E and the EDGAR Filer Manual.

The Commission is not at this time making electronic filing of Form 13F reports mandatory. Portfolio managers will retain the option of filing their Form 13F reports on paper under rule 13f–1.[79] As the Commission and filers gain experience with the EDGAR system, the Commission expects to propose rules that would both allow the filing of Form 13F reports by direct transmission and diskette and make the electronic filing of Form 13F mandatory.

Requests for confidential treatment of Form 13F information will be treated in the same manner as other requests for confidential treatment under the EDGAR system. Both the confidential treatment request and the report of the securities holdings for which confidential treatment is requested will be filed in paper, not electronically. If a confidential treatment request is denied concerning material submitted in paper as part of an electronically filed Form 13F–E report, the filer must file electronically an amendment to the Form 13F–E report containing the material as to which confidential treatment was denied.

VI. Rule and Form Changes

The Commission proposed to amend current regulations, rules and forms under the Investment Company Act applicable solely to investment companies to reflect that certain procedures associated with paper filings are inapplicable to electronic filings.[80] The rules adopted today reflect substantial restructuring. Regulation S–T has been reorganized and a number of provisions have been moved from the rules and forms.

Rather than amending current forms to add various electronic filing paragraphs, Regulation S–T has been expanded to clarify that the following requirements applicable to paper filings do not apply to filings in electronic format: the requirement to submit multiple copies of documents to the Commission; that documents submitted to the Commission be signed manually; regarding paper size, type size, sequential page numbering, and binding; and that foreign currency denominations be expressed in words or letters in the English language in electronic filings and not in representative symbols.[81]

In addition, headnotes have been added to the rules and regulations advising electronic filers that they should be read in conjunction with Regulation S–T, since Regulation S–T supersedes many provisions relating to paper documents. This approach should assist filers in familiarizing themselves with the electronic filing rules in an expeditious manner. Paper filings will continue to be governed by existing provisions of the regulations, which will remain in effect even after phase-in is completed since paper filings will be required, or permitted, in limited circumstances.[82]

VII. Rescission of Amended Temporary Rules

On April 20, 1992, the Commission adopted the amended Temporary Rules and forms to permit voluntary filing by Pilot participants on the operational EDGAR system.[83] The rules adopted in this release, the General EDGAR Release, and Release Nos. 35–25746 and 33–6980 (including Regulation S–T) constitute comprehensive regulations addressing all aspects of electronic submission. Therefore, the amended Temporary Rules will be adopted as final or rescinded on April 26, 1993, the date on which mandated electronic filing commences.

VIII. Future Rulemaking

The rules are being adopted on an interim basis for application during the initial stages of registrant phase in to the EDGAR system. After the Congressionally mandated significant test group has filed successfully for six months, the Commission will adopt permanent EDGAR rules, based on the interim rules as modified appropriately in light of the significant test group's experience with EDGAR. The permanent rules will apply during the later stages of filer phase in to the EDGAR system.

IX. Cost-Benefit Analayis

In the Proposing Release, the Commission requested the public to supply its views in the evaluation of the costs and benefits associated with the implementation of the proposals. The Commission has considered carefully the comments received pursuant to that request. The changes made in response to these comments are designed to increase registrant cost-savings without sacrificing information that would materially benefit security holders, the public or the Commission. Changes applicable generally to the operational EDGAR system are discussed in section VII of the General EDGAR Release.

As discussed in the General EDGAR Release, the structure of the changes applicable to electronic filers has been

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[77] 17 CFR 240.13f–2(T). Rule 13f–2(T) was proposed in Release No. 34–23694 (Oct. 8, 1986) [51 FR 37291 (Oct. 21, 1986)] and adopted in Release No. 34–24206 (Mar. 12, 1987) [52 FR 9151 (Mar. 23, 1987)]. The background of, and reasons for, the temporary rule and form are discussed in that release.

The temporary rule was amended to govern the filing of Form 13F on EDGAR until permanent EDGAR rules are adopted. See Release No. IC–18664 (Apr. 20, 1992) [57 FR 18223 (Apr. 29, 1992)].

[78] Section 13(f)(3) of the Exchange Act requires the Commission to tabulate the information reported under section 13(f)(1). The reported securities holdings are tabulated both by the issuer of the securities being held (showing the portfolio manager whose clients hold the securities) and by reporting portfolio manager (showing the securities being held by each reporting portfolio manager). These tabulations are made available in the Commission's public reference room and are published in both hard copy and on-line computerized form, by the contractor employed by the Commission to tabulate the data.

[79] 17 CFR 240.13f–1.

[80] *Cf.* Section IV.G of the General EDGAR Release.

[81] See Section IV.G.1 of the General EDGAR Release. As a result of the restructuring, only limited amendments have been made to the forms. However, forms requiring a Financial Data Schedule have been amended to reflect this fact, and Forms N–1, N–1A, N–2, N–5, N–14, and S–6 have been amended to delete the requirement that specimen securities be filed.

[82] See Section III.C and E of the General EDGAR Release concerning paper filings under a hardship exemption and certain types of filings which will continue to be submitted in paper.

[83] Release Nos. 33–6933 (Apr. 20, 1992) [57 FR 18210 (Apr. 29, 1992)], IC–18664 (Apr. 20, 1992) [57 FR 18223 (Apr. 29, 1992)], and 35–25520 (Apr. 20, 1992) [57 FR 18229 (Apr. 29, 1992)], amending the EDGAR Temporary Rules. The EDGAR Temporary Rules originally were adopted in Release No. 33–6539 (June 27, 1984) [49 FR 28044 (July 10, 1984)]; Release No. 35–23704 (May 23, 1985) [50 FR 23287 (June 3, 1985)]; and Release No. IC–14733 (Sep. 23, 1985) [50 FR 40479 (Oct. 4, 1985)]. They are as follows: Securities Act rule 499 [17 CFR 230.499]; Exchange Act rules 12b–37 [17 CFR 240.12b–37] and 13f–2(T) [17 CFR 240.13f–2(T)]; PUHCA rule 111 [17 CFR 250.111]; Trust Indenture Act rule 0–12 [17 CFR 260.0–12]; and Investment Company Act rule 0–11 [17 CFR 270.0–11].

streamlined by grouping them together in Regulation S–T. As proposed, rules or instructions specifically relating to electronic filing would have been added to many investment company rules and virtually all forms. Second, in response to concerns that requiring all documents incorporated by reference into an electronic filing to have been electronically filed would be unduly burdensome, the Commission has decided to adopt a less stringent requirement that would give registrants a three-year grace period before requiring electronic filing of all exhibits. During this period, the Commission has determined to require electronic filing only of amendments to exhibits previously filed in paper, except for the case of amendments to charter documents or investment advisory agreements, which would be required to be electronically in their entirety if amended.

As more fully discussed in the Proposing Release,[84] the amendments and new rules are expected to benefit electronic filers. Filers will be able to make direct transmission filings until 10 p.m. Eastern Time which should avoid the uncertainty and delay of other forms of delivery. Electronic filing obviates the need to submit multiple copies of filings which should reduce the time and costs associated with making public filings. Modular submissions, which enable filers to transmit information only once for use in several filings, also reduces duplication. In addition, segmented filing permits filers to submit material from several different geographic locations using different transmission media up to six business days in advance of the anticipated filing date. Unlike modules, segments are to be used only once and do not remain on the database. Once one-stop filing is implemented, one filing will satisfy the requirements of federal, state and self-regulatory organizations. Since the staff will have access to filings electronically at their workstations, staff review time of filings will be shortened. Further, the staff will have access electronically to other information pertinent to a filing. Finally, to the extent that filers subscribe to the optional electronic mail/bulletin board system, confirmation of receipt of filings by the Commission will be more efficient.

While the amendments may result initially in increased burdens to filers exceeding that which would have been incurred under a continuous paper-based system (*e.g.*, filers will need to train their staffs to prepare documents for electronic submission or hire agents to submit electronically on their behalf), it is anticipated that these burdens will diminish over time as filers become familiar with electronic filing. The Commission has considered commenters' views, has modified the proposals as necessary and appropriate, and has determined that the net increases in costs, if any, resulting from the implementation of today's amendments and new rules are outweighed by the value to security holders and to the market of readily accessible information relating to public registrants.

[84] See section X of the Proposing Release.

X. Final Regulatory Flexibility Act Analysis

A final regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. A copy of the analysis may be obtained by contacting Ruth Armfield Sanders, Staff Attorney, (202) 272–7714, Division of Investment Management, Mail Stop 10–6, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. A summary of the corresponding Initial Regulatory Flexibility Analysis appears at 57 FR 35208 [Release No. IC–18863].

XI. Statutory Basis; Text of Amendments

The amendments to 17 CFR part 200, Organization; Conduct and Ethics; and Information and Requests, are adopted under: Securities Act Section 19; Exchange Act Sections 4A, 4B, 23 and 35A; Trust Indenture Act Section 319; and Investment Company Act Section 38. The amendments to Regulation S–K are adopted under: Securities Act sections 6, 7, 8, 10 and 19 and Schedule A; Exchange Act Sections 3, 9, 10, 12, 13, 14, 15, 23 and 35A; Trust Indenture Act sections 304, 305, 307, 308, 309, 314 and 319; and Investment Company Act sections 8, 30, 31 and 38. The amendments to the general rules and regulations under the Securities Act are adopted under: Securities Act sections 2, 6, 7, 8, 10 and 19(a); Exchange Act sections 3, 12, 13, 14, 15, 23 and 35A; and Investment Company Act sections 8, 30, 31 and 38. The amendments to the Securities Act Forms are adopted under: Securities Act sections 6, 7, 8, 10 and 19; Exchange Act sections 3, 12, 13, 14, 15, 23 and 35A; Trust Indenture Act section 319; and Investment Company Act sections 8, 30, 31 and 38. The amendments to the general rules and regulations under the Exchange Act are adopted under: Securities Act sections 3, 4, 7, 10 and 19; Exchange Act sections 3, 4, 9, 10, 12, 13, 14, 15, 16, 23, 24 and 35A; Trust Indenture Act sections 305, 307, 314, 319 and 320; and Investment Company Act sections 20, 23, 30 and 38. The amendments to the Exchange Act Forms are adopted under: Securities Exchange Act of 1934. The amendments to the general rules and regulations under the Investment Company Act are adopted under: Securities Act sections 3, 4, 7, 10 and 19; Exchange Act sections 3, 4, 9, 10, 12, 13, 14, 15, 16, 23, 24 and 35A; and Investment Company Act sections 20, 23, 30 and 38. The amendments to the Investment Company Act Forms are adopted under: Investment Company Act of 1940.

As required by section 23(a) of the Exchange Act, the Commission has specifically considered the impact which Regulation S–T and the amendments adopted herein would have on competition. The Commission does not believe that Regulation S–T and the amendments will impose a significant burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. To the extent that any burden on competition would result, the Commission believes it necessary in order to facilitate the dissemination of information to investors and shareholders.

List of Subjects

17 CFR Part 200

Authority delegations (Government agencies).

17 CFR Part 229

Accountants.

17 CFR Part 230

Reporting and recordkeeping requirements, Confidential business information, and Securities.

17 CFR Part 239

Reporting and recordkeeping requirements, Confidential business information, and Securities.

17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

17 CFR Part 249

Reporting and recordkeeping requirements, Securities.

17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rules

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is amended as set forth below.

Note: Forms ET (§ 274.401), ID (§ 274.402) and SE (§ 274.403) referenced in chapter II are revised, and Form TH (§ 274.404) is added, as set forth in the Section entitled "TEXT OF FORMS ID, ET, SE AND TH," of Securities Act Release No. 33–6977 and will not appear in the Code of Federal Regulations.

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citations for Subpart A—Organization and Management of part 200 continues to read in part, as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 78*ll*(d), 79t, 77sss, 80a–37, 80b–11, unless otherwise noted.

* * * * *

By amending § 200.30–5 by removing paragraphs (a)(7) and (f)(10); redesignating paragraphs (a)(8) and (a)(9) as (a)(7) and (a)(8); and by adding paragraphs (j), (k), and (l) to read as follows:

§ 200.30–5 Delegation of authority to Director of Division of Investment Management.

* * * * *

(j) With respect to the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), the Securities Act of 1933 (15 U.S.C. 77a, *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*), and Regulation S–T thereunder (part 232 of this chapter), to grant or deny a request submitted under rule 12(b) of Regulation S–T (§ 232.12(b) of this chapter) to adjust the filing date of an electronic filing.

(k) With respect to the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) and rule 8b–25 thereunder (§ 270.8b–25), the Securities Act of 1933 (15 U.S.C. 77a, *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*), and Regulation S–T thereunder (part 232 of this chapter), to set the terms of, and grant or deny as appropriate, continuing hardship exemptions under rule 202 of Regulation S–T (§ 232.202 of this chapter) from the electronic submission requirements of Regulation S–T (part 232 of this chapter).

(l) With respect to the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), the Securities Act of 1933 (15 U.S.C. 77a, *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*), and Regulation S–T thereunder (part 232 of this chapter), to grant or deny a request by a registrant to participate in a phase-in group other than the group established by the Commission for that registrant.

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

3. The authority citation for part 229 continues to read in part, as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 79e, 79n, 79t, 80a–8, 80a–29, 80a–30, 80a–37, 80b–11, unless otherwise noted.

* * * * *

4. By amending § 229.601 by adding a sentence at the end of paragraph (a)(1) to read as follows:

§ 229.601 (Item 601) Exhibits.

(a) *Exhibits and index of exhibits.* (1) * * * Notwithstanding the provisions of paragraphs (b)(27) and (c) of this Item, registered investment companies and business development companies filing on forms available solely to investment companies shall be subject to the provisions of rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter), and any provision or instruction therein shall be controlling with respect to registered investment companies and business development companies unless otherwise specifically provided in rules or instructions pertaining to the submission of a specific form.

* * * * *

PART 230 —GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

5. The authority citation for part 230 continues to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 79t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

6. By amending § 230.483 by revising the section heading and adding paragraph (e) to read as follows:

§ 230.483 Exhibits for Certain Registration Statements, Financial Data Schedule.

* * * * *

(e) *Financial Data Schedule*—(1) *General.* (i) A Financial Data Schedule ("Schedule") shall be filed only by an electronic filer and shall set forth the financial information specified in the applicable table in paragraph (e)(4) of this section. Where required by the applicable form, an electronic filer that is a registered investment company or a business development company shall file a Schedule as an exhibit to the form in accordance with the following instructions. The Schedule shall be prepared in the format prescribed in the EDGAR Filer Manual.

(ii) The amounts reflected in the Schedule shall correspond to amounts reflected in the registrant's financial statements or notes thereto, financial schedules, registration statements, or reports (collectively, "source documents"). Amounts aggregated or combined in the financial statements should be shown as separate line items as indicated in paragraph (e)(4) of this section.

(iii) The Schedule shall be submitted as an exhibit to the filing(s) to which it relates but shall not be deemed to be filed for purposes of section 11 of the Securities Act (15 U.S.C. 77k), section 18 of the Exchange Act (15 U.S.C. 78r), section 323 of the Trust Indenture Act (15 U.S.C. 77www), or section 34(b) of the Investment Company Act (15 U.S.C. 80a–33(b)) or otherwise be subject to the liabilities of such sections, nor will it be deemed a part of any registration statement to which it relates. It shall, however, be subject to all other liability and anti-fraud provisions of the aforementioned Acts. See rule 402 of Regulation S–T (§ 232.402 of this chapter). A registrant that accurately extracts the Schedule information from the source document in which it appears shall not be liable, under the Securities Act, the Exchange Act, or the Investment Company Act, for such extracted information, *provided that* the extracted data were not materially false or misleading in the underlying source document.

(iv) Where a registrant has taken advantage of a temporary hardship exemption with regard to a document that is required to include a Financial Data Schedule, the Financial Data Schedule shall not be included with the paper filing, but shall be included with the confirming electronic copy required by rule 201 of Regulation S–T (§ 232.201 of this chapter).

Note: A registrant's failure to furnish a Schedule under this paragraph (e) will not prevent acceptance of the filing for which the Schedule is required. However, because the Schedule may be used by the Commission staff in its review of the filing, processing of the filing may be delayed pending filing of the Schedule.

(2) *Special Provisions.* (i) A Schedule reflecting *pro forma* financial information shall not be filed.

(ii) A registered investment company or business development company filing

on a form not unique to investment companies shall prepare its Schedule in accordance with Item 601(c) of Regulation S–K (§ 229.601(c) of this chapter).

(3) *Format and Presentation of Schedule.* (i) At the option of the registrant, the following legend may be inserted at the beginning of any Financial Data Schedule submitted to the Commission, in the manner prescribed by the EDGAR Filer Manual:

THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM [IDENTIFY SOURCE DOCUMENTS(S)] AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH [SOURCE DOCUMENT(S)]

(ii) Amounts or items set forth in a Schedule may be qualified by cross referencing a specific footnote to the Schedule or the registrant's financial statements or other source document from which such amount or item was taken. (*See* the EDGAR Filer Manual for instructions on qualifying cross references.)

(4) *Contents of Financial Data Schedule.* The Schedule shall set forth the financial information and other data specified below that are applicable to the registrant.

ARTICLE 6 OF REGULATION S–X

Item No.	Item description
6–03–	Investments—cost.
6–04–4	Investments.
6–04–6	Receivables.
6–04–8	Other assets.
	Balancing amount to total assets.
6–04–9	Total assets.
6–04–	Accounts payable for securities.
6–04–13	Senior long-term debt.
	Balancing amount to total liabilities .
6–04–14	Total liabilities.
6–04–16	Senior equity securities.
6–04–16	Paid-in-capital—common shareholders.
6–04–16	Number of shares or units—current period.
6–04–16	Number of shares or units—prior period.
6–04–17(a) .	Accumulated income—net (current year)
	Over distribution of net investment income.
6–04–17(b) .	Accumulated net realized gains (losses).
	Over distribution of realized gains.
6–04–17(c) .	Accumulated net unrealized appreciation (depreciation).
6–04–19	Net assets.
6–07–1(a) ...	Dividend income.
6–07–1(b) ...	Interest income.
6–07–1(c) ...	Other income.

ARTICLE 6 OF REGULATION S–X—Continued

Item No.	Item description
6–07–2	Expenses—net.
6–07–6	Investment income—net.
6–07–7(a) ...	Realized gains (losses) on investments.
6–07–7(d) ...	Net increase (decrease) in appreciation (depreciation).
6–07–8	Net gain (loss) on investments.
6–09–2	Net equalization charges and credits.
6–09–3(a) ...	Distributions from net investment income.
6–09–3(b) ...	Distributions from realized gains.
6–09–3(c) ...	Distributions from other sources.
6–09–4(b) ...	Number of shares sold.
6–09–4(b) ...	Number of shares redeemed.
6–09–4(b) ...	Number of shares issued—reinvestment.
6–09–5	Total increase (decrease).
6–09–7	Accumulated net investment income (prior year).
6–04–17(b) .	Accumulated net gains (prior year).

Form N–SAR

72F	Gross advisory fees.
72P	Interest Expense.
72X	Total expenses (gross).
75	Average net assets.

Form N–1A

3–1	Investment income per share.
3–2	Expenses per share.
3–3	Net investment income (loss) per share.
3–4	Dividends per share from net investment income.
	Distributions from other sources.
3–5	Net realized and unrealized gain (loss).
3–6	Distributions from realized gains.
3–7	Net increase (decrease).
3–8	Net asset value per share—beginning of period.
3–9	Net asset value per share—end of period.
3–10	Ratio of expenses to average net assets.
4–3	Average debt outstanding during period.
4–5	Average debt outstanding per share.

7. By amending § 230.485 by adding paragraph (f) to read as follows:

§ 230.485 Effective Date of Post-Effective Amendments Filed by Certain Registered Investment Companies.

* * * * *

(f) (1) When ascertaining the date of filing, electronic filers should not presume a registration statement has been accepted until notice of acceptance has been received from the Commission.

(2) Attention is directed to the requirements of the relevant registration statement form and rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter) concerning certain items of financial information (the Financial Data Schedule) that may be required.

8. By amending § 230.486 by adding paragraph (g) to read as follows:

§ 230.486 Effective Date of Post-Effective Amendments Filed by Registered Separate Accounts of Insurance Companies.

* * * * *

(g) (1) When ascertaining the date of filing, electronic filers should not presume a registration statement has been accepted until notice of acceptance has been received from the Commission.

(2) Attention is directed to the requirements of the relevant registration statement form and rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter) concerning certain items of financial information (the Financial Data Schedule) that may be required.

9. By amending § 230.487 by adding paragraph (d) to read as follows:

§ 230.487 Effectiveness of Registration Statements Filed by Certain Unit Investment Trusts.

* * * * *

(d) (1) When ascertaining the date of filing, electronic filers should not presume a registration statement has been accepted until notice of acceptance has been received from the Commission.

(2) Attention is directed to the requirements of the relevant registration statement form and rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter) concerning certain items of financial information (the Financial Data Schedule) that may be required.

10. By amending § 230.488 by adding paragraph (c) to read as follows:

§ 230.488 Effective Date of Registration Statements Relating to Securities to be Issued in Certain Business Combination Transactions.

* * * * *

(c) (1) When ascertaining the date of filing, electronic filers should not presume a registration statement has been accepted until notice of acceptance has been received from the Commission.

(2) Attention is directed to the requirements of the relevant registration statement form and rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter) concerning certain items of financial information (the Financial Data Schedule) that may be required.

11. By amending § 230.495 by adding paragraph (e) to read as follows:

§ 230.495 Preparation of Registration Statement.

* * * * *

(e) *Electronic Filings.* (1) When ascertaining the date of filing, electronic filers should not presume a registration statement has been accepted until notice of acceptance has been received from the Commission.

(2) Attention is directed to the requirements of the relevant registration statement form and rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter) concerning certain items of financial information (the Financial Data Schedule) that may be required.

12. By amending § 230.497 by adding paragraph (j) to read as follows:

§ 230.497 Filing of Investment Company Prospectuses—Number of Copies.

* * * * *

(j) In lieu of filing under paragraph (b) or (c) of this section, a registrant may file a certification that:

(1) the form of prospectus and Statement of Additional Information that would have been filed under paragraph (b) or (c) of this section would not have differed from that contained in the most recent registration statement or amendment, and

(2) the text of the most recent registration statement or amendment has been filed electronically.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

13. The authority citation for part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

Note—The text of the following forms and the amendments will not appear in the Code of Federal Regulations.

14. By amending Form S–6 (§ 239.16) by removing Instruction 2 of Instructions as to Exhibits, by redesignating Instructions 3 through 5 of Instructions as to Exhibits as Instructions 2 through 4, and by adding an Instruction 5 to Instructions as to Exhibits to read as follows:

Instructions and Form

Form S–6—For Registration Under the Securities Act of 1933 of Securities of Unit Investment Trusts Registered on Form N–8B–2

* * * * *

Instructions as to Exhibits

* * * * *

5. When the registration statement is filed by an electronic filer, a Financial Data Schedule meeting the requirements of rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter).

15. By amending Form N–14 (§ 239.23) by revising paragraph (5) of Item 16 of Part C to read as follows:

Instructions and Form

Form N–14—Registration Statement Under the Securities Act of 1933

* * * * *

Part C—Other Information

* * * * *

Item 16. Exhibits

* * * * *

(5) copies of all instruments defining the rights of holders of the securities being registered including, where applicable, the relevant portion of the articles of incorporation or by-laws of the registrant;

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

16. The authority citation for part 240 continues to read in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78*l*, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

17. Section 240.13f–2(T) is redesignated § 240.13f–2 and revised to read as follows:

§ 240.13f–2 EDGAR Filing of Form 13F Reports by Institutional Money Managers.

(a) An institutional investment manager required by Section 13(f)(1) (15 U.S.C. 78m(f)(1)) of, and rule 13f–1 (§ 240.13f–1 of this chapter) under, the Exchange Act of 1934 to file a report on Form 13F (§ 249.325 of this chapter) with the Commission may file that report on magnetic tape in the format described in Form 13F–E (§ 249.326 of this chapter).

(b) Unless otherwise specifically provided herein, the terms used in this section have the same meaning as in the Exchange Act and in the rules and regulations prescribed under the Exchange Act.

Part 249—FORMS, THE SECURITIES EXCHANGE ACT OF 1934

18. The authority citation for part 249 continues to read, in part, as follows:

Authority: 15 U.S.C. 78a, *et. seq.*, unless otherwise noted.

* * * * *

Note—The text of the following forms and the amendments will not appear in the Code of Federal Regulations.

19. By revising the section heading of § 249.326(T) to read as follows:

§ 249.326 Form 13F–E for filing of Form 13F reports on magnetic tape.

* * * * *

20. By amending Form 13F–E (§ 249.326) by removing appendix B.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

21. The authority citation for part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et. seq.*, 80a–37, 80a–39, unless otherwise noted.

* * * * *

22. A heading is added to precede the text of part 270 (Rules and Regulations, Investment Company Act of 1940) to read as follows:

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S–T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S–T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

23. By amending § 270.0–1 by adding a sentence to the end of paragraph (b) to read as follows:

§ 270.0–1 Definition of Terms used in This Part.

(a) * * *

(b) * * * The terms "EDGAR," "EDGAR Filer Manual," "electronic filer," "electronic filing," "electronic format," "electronic submission," "paper format," and "signature" shall have the meanings assigned to such terms in Regulation S–T—General Rules for Electronic Filings (Part 232 of this chapter).

24. By amending § 270.0–2 by adding a sentence to the end of paragraph (b) to read as follows:

§ 270.0–2 General Requirements of Papers and Applications.

(a) * * *

(b) * * * Every application for an order under any provision of the Act and every amendment to such application shall be submitted to the Commission in paper only, whether or not the applicant is otherwise required to file in electronic format, unless instructions for electronic filing are included on the form, if any, prescribed for such application.

25. By amending § 270.0–4 by revising paragraph (d) to read as follows:

§ 270.0–4 Incorporation by Reference.

* * * * *

(d) Notwithstanding any particular provision permitting incorporation by reference, no registration statement, application or report shall incorporate by reference any exhibit or financial statement which:

(1) Has been withdrawn, or

(2) Was filed in connection with a registration statement under the Act, or a registration on a national securities exchange, which has ceased to be effective, or

(3) Is contained in a registration statement or report subject, at the time of the incorporation by reference, to pending proceedings under section 8(b) or 8(d) of the Securities Act of 1933, section 8(e) of the Act, or to an order entered under any of those Sections, or

(4) if it is a document that has been filed in paper with respect to an electronic filer under a temporary hardship exemption (§ 232.201 of this chapter) and an electronic format copy has not been submitted.

* * * * *

§ 270.0–11 [Removed]

26. By removing § 270.0–11.

27. By revising the introductory paragraph to § 270.8b–2 to read as follows:

§ 270.8b–2 Definitions.

Unless the context otherwise requires, the terms in paragraphs (a) through (m) of this section, when used in the rules contained in §§ 270.8b–1 through 270.8b–32, in the rules under section 30(a) or (b) of the Act or in the forms for registration statements and reports pursuant to section 8 or 30(a) or (b) of the Act, shall have the respective meanings indicated in this section. The terms "EDGAR," "EDGAR Filer Manual," "electronic filer," "electronic filing," "electronic format," "electronic submission," "paper format," and "signature" shall have the meanings assigned to such terms in Regulation S–T—General Rules for Electronic Filings (Part 232 of this chapter). The term "Financial Data Schedule" shall mean a Financial Data Schedule meeting the requirements of rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter).

* * * * *

28. By amending § 270.8b–15 by adding a sentence to the end of the text to read as follows:

§ 270.8b–15 Amendments.

* * * Except as permitted under rule 102(b) of Regulation S–T (§ 232.102(b) of this chapter), any amendment filed under this section shall state the complete text of each item amended.

29. By amending § 270.8b–23 by revising paragraph (a) to read as follows:

§ 270.8b–23 Incorporation by Reference.

(a) Any registrant may incorporate by reference, in answer or partial answer to any item of a registration statement or report, any information contained elsewhere in the statement or report or any information contained in any other statement, report or prospectus filed with the Commission under any Act administered by it, *provided that* a copy of such other statement, report or prospectus is filed with each copy of the registration statement or report in which it is incorporated by reference or, in the case of a registration statement, report or prospectus filed in electronic format, the registration statement, report or prospectus that is incorporated by reference is also filed in electronic format, except as otherwise permitted under rules 102(b), (c), and (e) of Regulation S–T (§§ 232.102(b), (c) and (e) of this chapter). Matter contained in an exhibit, however, may be incorporated only to the extent permitted by §§ 270.8b–24 and 270.8b–32. A Financial Data Schedule may not be incorporated by reference.

* * * * *

30. By amending § 270.8b–25 by designating the current text as paragraph (a), adding an introductory phrase to read "Subject to paragraph (b) of this section," to the newly designated paragraph (a); and adding paragraph (b) to read as follows:

§ 270.8b–25 Extension of Time for Furnishing Information.

(a) Subject to paragraph (b) of this section, * * *

(b) If it is impracticable to furnish any document or report required to be filed in electronic format at the time it is required to be filed, the electronic filer may file under the temporary hardship provision of rule 201 of Regulation S–T (§ 232.201 of this chapter) or may submit a written application for a continuing hardship exemption, in accordance with rule 202 of Regulation S–T (§ 232.202 of this chapter). Applications for such exemptions shall be considered in accordance with the provisions of those sections and paragraphs (j) and (k) of § 200.30–5 of this chapter.

31. By amending § 270.8b–32 by adding an introductory phrase to read "Except as provided in paragraph (c) of this section," to paragraph (a) and adding paragraph (c) to read as follows:

§ 270.8b–32 Incorporation of Exhibits by Reference.

(a) Except as provided in paragraph (c) of this section, * * *

* * * * *

(c) *Electronic Filings.*

(1) A registrant subject to the mandatory electronic filing rules (Part 232 of this chapter) shall file any exhibit previously filed in paper that is incorporated by reference into a registration statement or report in electronic format unless a hardship exemption (§§ 232.101 and 232.102 of this chapter) has been granted, or except as otherwise permitted under rules 102(b), (c), and (e) of Regulation S–T (§§ 232.102(b), (c) and (e) of this chapter).

(2) Notwithstanding the foregoing, a Financial Data Schedule may not be incorporated by reference as an exhibit to a registration statement, report, or other filing in which it is required to be included.

32. By adding § 270.20a–4 to read as follows:

§ 270.20a–4 Exhibit Required for Certain Transactions: Electronic Filings.

If action is to be taken with respect to any transaction described in Items 11, 12, or 14 of Schedule 14A (§ 240.14a–101), and the statement on Schedule 14A or Schedule 14C (§ 240.14c–101) is filed electronically, the cover page required by rule 14a–6 (§ 240.14a–6) shall be followed by a Financial Data Schedule meeting the requirements of rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter).

33. By amending § 270.24b–2 by adding a sentence to the end of the current text to read as follows:

§ 270.24b–2 Filing Copies of Sales Literature.

* * * Such material shall be submitted to the Commission in paper only, whether or not the investment company to which the material relates is otherwise required to file in electronic format.

34. By amending § 270.45a–1 by adding a sentence to the end of paragraph (b) to read as follows:

§ 270.45a–1 Confidential Treatment of Names and Addresses of Dealers of Registered Investment Company Securities.

(a) * * *

(b) * * * Confidential treatment requests shall be submitted in paper only, whether or not the registrant is required to file in electronic format.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

35. The authority citation for part 274 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1, *et seq.*, unless otherwise noted.

* * * * *

Note—The text of the following forms and the amendments will not appear in the Code of Federal Regulations.

* * * * *

36. By amending Form N–SAR (§ 274.101) by revising General Instruction F and adding paragraph (h) to Sub-Item 77Q (Exhibits) to read as follows:

Instructions and Form

Form N–SAR—Semi-Annual Report for Registered Investment Companies

* * * * *

General Instructions

* * * * *

F. Filings on EDGAR.

(1) Attention is directed to Sub-Item 77Q (Exhibits) for certain items of financial information that are required (Financial Data Schedule).

(2) Electronic filing of Form N–SAR for management investment companies, exclusive of small business investment companies, may be made by direct transmission, and in accordance with the EDGAR Filer Manual, only. Filing of the form on magnetic tapes or diskettes is not permitted. Exhibits to the form may be submitted in paper, under cover of Form S–E.

* * * * *

Sub-Item 77Q: Exhibits

* * * * *

(h) If the filing is made electronically, a Financial Data Schedule meeting the requirements of rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter).

* * * * *

37. By revising § 274.403 to read as follows:

§ 274.403 Form SE, form for submission of paper format exhibits by electronic filers.

This form shall be used by an electronic filer for the submission of any paper format document relating to an otherwise electronic filing, as provided in rule 311 of Regulation S–T (§ 232.311 of this chapter).

38. By adding § 274.404, to read as follows:

§ 274.404 Form TH—Notification of reliance on temporary hardship exemption.

Form TH shall be filed by any electronic filer who submits to the Commission, pursuant to a temporary hardship exemption, a document in paper format that otherwise would be required to be submitted electronically, as prescribed by rule 201(a) of Regulation S–T (§ 232.201(a) of this chapter).

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

Note—The text of the following forms and the amendments will not appear in the Code of Federal Regulations.

39. By amending Form N–2 (§§ 239.14 and 274.11a–1) by adding General Instruction I and by revising paragraph 2.d, removing the "and" at the end of paragraph 2.p, removing the "." at the end of paragraph 2.q and in its place adding "; and" and adding paragraph 2.r to Item 24 of Part C to read as follows:

Instructions and Form

Form N–2

* * * * *

Registration Statement Under the Securities Act of 1933

* * * * *

Registration Statement Under the Investment Company Act of 1940

* * * * *

General Instructions

* * * * *

I. Electronic Filers

Attention is directed to Item 24.2.r of Part C (Financial Data Schedule) for certain items of financial information that are required.

* * * * *

Part C—Other Information

Item 24. Financial Statements and Exhibits

* * * * *

2. * * *

d. copies of all instruments defining the rights of holders of the securities being registered including, where applicable, the relevant portion of the articles of incorporation or by-laws of the registrant;

* * * * *

p. * * *;

q. * * *; and

r. *Electronic Filers.* A Financial Data Schedule meeting the requirements of rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter).

* * * * *

40. By amending Form N–1 (§§ 239.15 and 274.11) by adding General Instruction H and by revising paragraph (b)(4) of, and adding paragraph (b)(16) to, Item 1 of Part II to read as follows:

Instructions and Form

Form N–1—Registration Statement Under the Securities Act of 1933

* * * * *

Registration Statement Under the Investment Company Act of 1940

* * * * *

General Instructions

* * * * *

H. Electronic Filers.

Attention is directed to Item 1(b)(16) of Part II (Financial Data Schedule) for certain items of financial information that are required.

* * * * *

Part II—Other Information

Item 1. Financial Statements and Exhibits

* * * * *

(b) * * *

(4) copies of all instruments defining the rights of holders of the securities being registered including, where applicable, the relevant portion of the articles of incorporation or by-laws of the registrant;

* * * * *

(16) *Electronic Filers.* A Financial Data Schedule meeting the requirements of rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter).

* * * * *

41. By amending Form N–1A (§§ 239.15A and 274.11A) by adding General Instruction H and revising paragraph (b)(4) of, and by adding paragraph (b)(17) to, Item 24 of Part C to read as follows:

Instructions and Form

Form N–1A—Registration Statement Under the Securities Act of 1933

* * * * *

Registration Statement Under the Investment Company Act of 1940

* * * * *

General Instructions

* * * * *

H. Electronic Filers.

Attention is directed to Item 24(b)(17) of Part C (Financial Data Schedule) for certain items of financial information that are required.

* * * * *

Part C—Other Information

Item 24. Financial Statements and Exhibits

* * * * *

(b) * * *

(4) copies of all instruments defining the rights of holders of the securities being registered including, where applicable, the relevant portion of the articles of incorporation or by-laws of the registrant;

* * * * *

(17) *Electronic Filers.* A Financial Data Schedule meeting the requirements of rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter).

* * * * *

42. By amending Form N–3 (§§ 239.17a and 274.11b) by adding General Instruction J and by adding

paragraph (b)(17) to Item 28 of Part C to read as follows:

Instructions and Form

Form N–3—Registration Statement Under the Securities Act of 1933

* * * * *

Registration Statement Under the Investment Company Act of 1940

* * * * *

General Instructions

* * * * *

J. Electronic Filers

Attention is directed to Item 28(b)(17) of Part C (Financial Data Schedule) for certain items of financial information that are required.

* * * * *

Part C—Other Information

Item 28. Financial Statements and Exhibits

* * * * *

(b) * * *

(17) *Electronic Filers.* A Financial Data Schedule meeting the requirements of rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter).

* * * * *

43. By amending Form N–4 (§§ 239.17b and 274.11c) by adding General Instruction J and by adding paragraph (b)(14) to Item 24 of part C to read as follows:

Instructions and Form

Form N–4—Registration Statement Under the Securities Act of 1933

* * * * *

Registration Statement Under the Investment Company Act of 1940

* * * * *

General Instructions

* * * * *

J. Electronic Filers

Attention is directed to Item 24(b)(14) of part C (Financial Data Schedule) for certain items of financial information that are required.

* * * * *

Part C—Other Information

Item 24. Financial Statements and Exhibits

* * * * *

(b) * * *

(14) *Electronic Filers.* A Financial Data Schedule meeting the requirements of rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter).

* * * * *

44. By amending Form N–5 (§§ 239.24 and 274.5) by adding General Instruction H and by revising Instruction 3 and adding Instruction 13 to Instructions as to Exhibits to read as follows:

Instructions and Form

Form N–5—Registration Statement of Small Business Investment Company Under the Securities Act of 1933 and the Investment Company Act of 1940

* * * * *

General Instructions

* * * * *

H. Electronic Filers.

Attention is directed to Instruction 13 of Instructions as to Exhibits (Financial Data Schedule) for certain items of financial information that are required.

* * * * *

Instructions as to Exhibits

* * * * *

3. Copies of all instruments defining the rights of holders of the securities being registered including, where applicable, the relevant portion of the articles of incorporation or by-laws of the registrant.

* * * * *

13. *Electronic Filers.* If the registrant is an electronic filer, a Financial Data Schedule meeting the requirements of rule 483 under the Securities Act of 1933 (§ 230.483 of this chapter).

By the Commission.

Dated: February 23, 1993

Margaret H. McFarland,

Deputy Secretary.

Note: Appendices A, B, and C will not appear in the Code of Federal Regulations.

Appendix A—Phase-In Schedule for Mandatory Electronic Filing by Investment Companies

Following is a listing of investment company registrants (registered investment companies, including series offerings individually registered under the Securities Act of 1933, and business development companies) and their assigned phase-in groups. Any investment company registrants not named in the listing and not otherwise assigned to a phase-in group by operation of the phase-in rules for investment companies or by Commission action shall be required to begin mandatory electronic filing with Group IM–06.

Investment company registrants assigned to the phase-in groups listed below shall begin mandatory electronic filing through EDGAR on the dates designated below for each phase-in group or on such other dates that the Commission may hereafter designate.

Group IM–01: April 26, 1993
Group IM–02: July 19, 1993
Group IM–03: August 1994
Group IM–04: November 1994
Group IM–05: May 1995
Group IM–06: November 1995

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES

Count	Group	Complex	CIK	Name
1	IM–01	FEDERATED	883496	111 CORCORAN FUNDS
2	IM–01	FEDERATED	751954	A T OHIO TAX FREE MONEY FUND
3	IM–01	FEDERATED	005352	AMERICAN LEADERS FUND INC
4	IM–01	FEDERATED	357053	AUTOMATED CASH MANAGEMENT TRUST
5	IM–01	FEDERATED	702906	AUTOMATED GOVERNMENT MONEY TRUST
6	IM–01	FEDERATED	873934	BAYFUNDS
7	IM–01	FEDERATED	874493	BERRY STREET FUNDS
8	IM–01	FEDERATED	881299	BILTMORE FUNDS
9	IM–01	FEDERATED	890189	BOULEVARD FUNDS
10	IM–01	FEDERATED	846071	CALIFORNIA MUNICIPAL CASH TRUST
11	IM–01	FEDERATED	883428	CAMBRIDGE SERIES TRUST
12	IM–01	FEDERATED	852495	CASH TRUST SERIES
13	IM–01	FEDERATED	870241	CASH TRUST SERIES II
14	IM–01	FEDERATED	709704	CONVERTIBLE SECURITIES & INCOME INC
15	IM–01	FEDERATED	883843	DG INVESTOR SERIES
16	IM–01	FEDERATED	771524	FEDERATED ARMS FUND
17	IM–01	FEDERATED	771520	FEDERATED BOND FUND
18	IM–01	FEDERATED	743212	FEDERATED CORPORATE CASH TRUST
19	IM–01	FEDERATED	034952	FEDERATED EXCHANGE FUND LTD
20	IM–01	FEDERATED	357110	FEDERATED GNMA TRUST
21	IM–01	FEDERATED	858463	FEDERATED GOVERNMENT TRUST/PA
22	IM–01	FEDERATED	745968	FEDERATED GROWTH TRUST
23	IM–01	FEDERATED	745967	FEDERATED HIGH YIELD TRUST
24	IM–01	FEDERATED	789281	FEDERATED INCOME SECURITIES TRUST
25	IM–01	FEDERATED	357052	FEDERATED INCOME TRUST

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
26	IM-01	FEDERATED	861469	FEDERATED INDEX TRUST
27	IM-01	FEDERATED	357159	FEDERATED INTERMEDIATE GOVERNMENT TRUST
28	IM-01	FEDERATED	770116	FEDERATED INTERMEDIATE MUNICIPAL TRUST
29	IM-01	FEDERATED	225319	FEDERATED MASTER TRUST
30	IM-01	FEDERATED	855108	FEDERATED MUNICIPAL TRUST
31	IM-01	FEDERATED	739594	FEDERATED SHORT INTERMEDIATE GOVERNMENT TRUST
32	IM-01	FEDERATED	353101	FEDERATED SHORT INTERMEDIATE MUNICIPAL TRUST
33	IM-01	FEDERATED	810413	FEDERATED SHORT TERM U S GOVERNMENT TRUST
34	IM-01	FEDERATED	013386	FEDERATED STOCK & BOND FUND INC
35	IM-01	FEDERATED	357236	FEDERATED STOCK TRUST
36	IM-01	FEDERATED	201801	FEDERATED TAX FREE INCOME FUND INC
37	IM-01	FEDERATED	276002	FEDERATED TAX FREE TRUST
38	IM-01	FEDERATED	818876	FEDERATED VARIABLE RATE MORTGAGE SECURITIES TRUST
39	IM-01	FEDERATED	880934	FIRST PRIORITY FUNDS
40	IM-01	FEDERATED	879569	FIXED INCOME SECURITIES INC
41	IM-01	FEDERATED	875267	FORTRESS ADJUSTABLE RATE U S GOVERNMENT FUND INC
42	IM-01	FEDERATED	771517	FORTRESS HIGH QUALITY STOCK FUND
43	IM-01	FEDERATED	807807	FORTRESS MUNICIPAL INCOME FUND INC
44	IM-01	FEDERATED	832799	FORTRESS TOTAL PERFORMANCE U S TREASURY FUND INC
45	IM-01	FEDERATED	802199	FORTRESS UTILITY FUND INC
46	IM-01	FEDERATED	840678	FOUNTAIN SQUARE FUNDS
47	IM-01	FEDERATED	742286	FT SERIES INC/PA/
48	IM-01	FEDERATED	039439	FUND FOR U S GOVERNMENT SECURITIES INC
49	IM-01	FEDERATED	355691	GOVERNMENT INCOME SECURITIES INC
50	IM-01	FEDERATED	701902	HIGH YIELD CASH TRUST
51	IM-01	FEDERATED	869368	INVESTMENT SERIES FUNDS INC
52	IM-01	FEDERATED	811647	INVESTMENT SERIES TRUST
53	IM-01	FEDERATED	314650	JONES EDWARD D & CO DAILY PASSPORT CASH TRUST
54	IM-01	FEDERATED	225316	LIBERTY HIGH INCOME BOND FUND INC
55	IM-01	FEDERATED	869366	LIBERTY NATIONAL BANK FUNDS
56	IM-01	FEDERATED	872165	LIBERTY TERM TRUST INC 1999
57	IM-01	FEDERATED	225320	LIBERTY U S GOVERNMENT MONEY MARKET TRUST
58	IM-01	FEDERATED	812219	LIBERTY UTILITY FUND INC
59	IM-01	FEDERATED	316518	LIQUID CASH TRUST
60	IM-01	FEDERATED	846030	LOSANTIVILLE FUNDS
61	IM-01	FEDERATED	890209	MARK TWAIN FUNDS
62	IM-01	FEDERATED	869366	MARSHALL FUNDS
63	IM-01	FEDERATED	067578	MONEY MARKET MANAGEMENT
64	IM-01	FEDERATED	856517	MONEY MARKET OBLIGATIONS TRUST/NEW/
65	IM-01	FEDERATED	067578	MONEY MARKET TRUST/PA
66	IM-01	FEDERATED	856700	MUNICIPAL SECURITIES INCOME TRUST
67	IM-01	FEDERATED	701436	NEW YORK MUNICIPAL CASH TRUST
68	IM-01	FEDERATED	852916	PALM SERIES TRUST
69	IM-01	FEDERATED	867502	PASSAGEWAY FUNDS
70	IM-01	FEDERATED	869393	PORTAGE FUNDS
71	IM-01	FEDERATED	873929	RIMCO MONUMENT FUNDS
72	IM-01	FEDERATED	867063	SBK SELECT SERIES
73	IM-01	FEDERATED	890492	SHAWMUT FUNDS
74	IM-01	FEDERATED	854850	STARBURST FUNDS
75	IM-01	FEDERATED	864484	STARBURST FUNDS II
76	IM-01	FEDERATED	862364	TARGETED DURATION TRUST
77	IM-01	FEDERATED	356578	TAX FREE INSTRUMENTS TRUST
78	IM-01	FEDERATED	831809	TOWER MUTUAL FUNDS
79	IM-01	FEDERATED	356133	TOWER SERIES FUNDS INC
80	IM-01	FEDERATED	313714	TRUST FOR CASH RESERVES/NEW
81	IM-01	FEDERATED	846663	TRUST FOR GOVERNMENT CASH RESERVES
82	IM-01	FEDERATED	089954	TRUST FOR SHORT TERM U S GOVERNMENT SECURITIES
83	IM-01	FEDERATED	312671	TRUST FOR UNITED STATES TREASURY OBLIGATIONS
84	IM-01	IDS	049697	IDS BOND FUND INC
85	IM-01	IDS	792717	IDS CALIFORNIA TAX EXEMPT TRUST
86	IM-01	IDS	049698	IDS CASH MANAGEMENT FUND INC
87	IM-01	IDS	052428	IDS CERTIFICATE CO/MN/
88	IM-01	IDS	352663	IDS DISCOVERY FUND INC
89	IM-01	IDS	052445	IDS EQUITY PLUS FUND INC
90	IM-01	IDS	728374	IDS EXTRA INCOME FUND INC
91	IM-01	IDS	764802	IDS FEDERAL INCOME FUND INC
92	IM-01	IDS	842918	IDS GLOBAL SERIES INC
93	IM-01	IDS	049702	IDS GROWTH FUND INC
94	IM-01	IDS	310157	IDS HIGH YIELD TAX EXEMPT FUND INC/MN/
95	IM-01	IDS	750022	IDS INTERNATIONAL FUND INC
96	IM-01	IDS	052347	IDS INVESTMENT SERIES INC
97	IM-01	IDS	755221	IDS MANAGED RETIREMENT FUND INC
98	IM-01	IDS	854569	IDS MARKET ADVANTAGE SERIES INC
99	IM-01	IDS	049717	IDS NEW DIMENSIONS FUND INC
100	IM-01	IDS	755222	IDS PRECIOUS METALS FUND INC
101	IM-01	IDS	049722	IDS PROGRESSIVE FUND INC
102	IM-01	IDS	052407	IDS SELECTIVE FUND INC
103	IM-01	IDS	792719	IDS SPECIAL TAX EXEMPT SERIES TRUST
104	IM-01	IDS	052423	IDS STOCK FUND INC
105	IM-01	IDS	740146	IDS STRATEGY FUND INC
106	IM-01	IDS	202159	IDS TAX EXEMPT BOND FUND INC
107	IM-01	IDS	316524	IDS TAX FREE MONEY FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
108	IM-01	IDS	831025	IDS UTILITIES INCOME FUND INC
109	IM-01	PUTNAM	807932	PUTNAM ADJUSTABLE RATE US GOVERNMENT FUND
110	IM-01	PUTNAM	869392	PUTNAM ARIZONA TAX EXEMPT INCOME FUND
111	IM-01	PUTNAM	868649	PUTNAM ASIA PACIFIC GROWTH FUND
112	IM-01	PUTNAM	711402	PUTNAM CALIFORNIA TAX EXEMPT INCOME FUND
113	IM-01	PUTNAM	821545	PUTNAM CALIFORNIA TAX EXEMPT MONEY MARKET FUND
114	IM-01	PUTNAM	081249	PUTNAM CAPITAL FUND
115	IM-01	PUTNAM	081247	PUTNAM CONVERTIBLE INCOME GROWTH TRUST
116	IM-01	PUTNAM	730178	PUTNAM CORPORATE ASSET TRUST/MA
117	IM-01	PUTNAM	732365	PUTNAM CORPORATE CASH TRUST ADJUSTABLE RATE PREFERRED PORTFO
118	IM-01	PUTNAM	081248	PUTNAM DAILY DIVIDEND TRUST
119	IM-01	PUTNAM	836622	PUTNAM DIVERSIFIED INCOME TRUST
120	IM-01	PUTNAM	849344	PUTNAM DIVERSIFIED PREMIUM INCOME TRUST
121	IM-01	PUTNAM	795215	PUTNAM DIVIDEND GROWTH FUND
122	IM-01	PUTNAM	853474	PUTNAM DIVIDEND INCOME FUND
123	IM-01	PUTNAM	317031	PUTNAM ENERGY RESOURCES TRUST
124	IM-01	PUTNAM	842940	PUTNAM EUROPE GROWTH FUND
125	IM-01	PUTNAM	790207	PUTNAM FEDERAL INCOME TRUST
126	IM-01	PUTNAM	864488	PUTNAM FLORIDA TAX EXEMPT INCOME FUND
127	IM-01	PUTNAM	869797	PUTNAM FOCUS GROWTH FUND
128	IM-01	PUTNAM	081260	PUTNAM FUND FOR GROWTH & INCOME
129	IM-01	PUTNAM	081259	PUTNAM GEORGE FUND OF BOSTON
130	IM-01	PUTNAM	794614	PUTNAM GLOBAL GOVERNMENTAL INCOME TRUST
131	IM-01	PUTNAM	081251	PUTNAM GLOBAL GROWTH FUND
132	IM-01	PUTNAM	357295	PUTNAM HEALTH SCIENCES TRUST
133	IM-01	PUTNAM	810943	PUTNAM HIGH INCOME CONVERTIBLE & BOND FUND
134	IM-01	PUTNAM	759827	PUTNAM HIGH INCOME GOVERNMENT TRUST
135	IM-01	PUTNAM	787836	PUTNAM HIGH YIELD ADVANTAGE FUND
136	IM-01	PUTNAM	848077	PUTNAM HIGH YIELD MUNICIPAL TRUST
137	IM-01	PUTNAM	225777	PUTNAM HIGH YIELD TRUST
138	IM-01	PUTNAM	081264	PUTNAM INCOME FUND
139	IM-01	PUTNAM	715281	PUTNAM INFORMATION SCIENCES TRUST
140	IM-01	PUTNAM	832754	PUTNAM INTERMEDIATE GOVERNMENT INCOME TRUST
141	IM-01	PUTNAM	855048	PUTNAM INVESTMENT GRADE MUNICIPAL TRUST
142	IM-01	PUTNAM	081269	PUTNAM INVESTORS FUND
143	IM-01	PUTNAM	764110	PUTNAM MANAGED INCOME TRUST
144	IM-01	PUTNAM	844790	PUTNAM MANAGED MUNICIPAL INCOME TRUST
145	IM-01	PUTNAM	792288	PUTNAM MASSACHUSETTS TAX EXEMPT INCOME FUND II
146	IM-01	PUTNAM	824463	PUTNAM MASTER INCOME TRUST
147	IM-01	PUTNAM	830622	PUTNAM MASTER INTERMEDIATE INCOME TRUST
148	IM-01	PUTNAM	794611	PUTNAM MICHIGAN TAX EXEMPT INCOME FUND II
149	IM-01	PUTNAM	794612	PUTNAM MINNESOTA TAX EXEMPT INCOME FUND II
150	IM-01	PUTNAM	202958	PUTNAM MUNICIPAL BOND FUND LTD
151	IM-01	PUTNAM	844872	PUTNAM MUNICIPAL INCOME FUND
152	IM-01	PUTNAM	857463	PUTNAM NEW JERSEY TAX EXEMPT INCOME FUND
153	IM-01	PUTNAM	865177	PUTNAM NEW OPPORTUNITIES FUND
154	IM-01	PUTNAM	719712	PUTNAM NEW YORK TAX EXEMPT INCOME FUND
155	IM-01	PUTNAM	821546	PUTNAM NEW YORK TAX EXEMPT MONEY MARKET FUND
156	IM-01	PUTNAM	867921	PUTNAM NEW YORK TAX EXEMPT OPPORTUNITIES FUND
157	IM-01	PUTNAM	794616	PUTNAM OHIO TAX EXEMPT INCOME FUND II
158	IM-01	PUTNAM	703969	PUTNAM OTC EMERGING GROWTH FUND
159	IM-01	PUTNAM	866648	PUTNAM OVERSEAS GROWTH FUND
160	IM-01	PUTNAM	794615	PUTNAM PENNSYLVANIA TAX EXEMPT INCOME FUND
161	IM-01	PUTNAM	827773	PUTNAM PREMIER INCOME TRUST
162	IM-01	PUTNAM	861104	PUTNAM QUALIFIED DIVIDEND INCOME FUND
163	IM-01	PUTNAM	216934	PUTNAM STRATEGIC INCOME TRUST
164	IM-01	PUTNAM	205802	PUTNAM TAX EXEMPT INCOME FUND
165	IM-01	PUTNAM	806944	PUTNAM TAX EXEMPT MONEY MARKET FUND
166	IM-01	PUTNAM	887398	PUTNAM TAX FREE HEALTH CARE FUND
167	IM-01	PUTNAM	771951	PUTNAM TAX FREE INCOME TRUST
168	IM-01	PUTNAM	830923	PUTNAM TEXAS TAX EXEMPT INCOME FUND
169	IM-01	PUTNAM	871433	PUTNAM TOTAL RETURN FUND
170	IM-01	PUTNAM	732337	PUTNAM U S GOVERNMENT INCOME TRUST
171	IM-01	PUTNAM	867824	PUTNAM UTILITIES GROWTH & INCOME FUND
172	IM-01	PUTNAM	081279	PUTNAM VISTA FUND/NEW/
173	IM-01	PUTNAM	081280	PUTNAM VOYAGER FUND
174	IM-01	T ROWE PRICE	852254	INSTITUTIONAL INTERNATIONAL FUNDS INC
175	IM-01	T ROWE PRICE	878168	PRICE T ROWE ADJUSTABLE RATE U S GOVERNMENT FUND INC
176	IM-01	T ROWE PRICE	871839	PRICE T ROWE BALANCED FUND INC
177	IM-01	T ROWE PRICE	799086	PRICE T ROWE CALIFORNIA TAX FREE INCOME TRUST
178	IM-01	T ROWE PRICE	793347	PRICE T ROWE CAPITAL APPRECIATION FUND
179	IM-01	T ROWE PRICE	884024	PRICE T ROWE DIVIDEND GROWTH FUND INC
180	IM-01	T ROWE PRICE	775688	PRICE T ROWE EQUITY INCOME FUND
181	IM-01	T ROWE PRICE	779785	PRICE T ROWE GNMA FUND
182	IM-01	T ROWE PRICE	706211	PRICE T ROWE GROWTH & INCOME FUND INC
183	IM-01	T ROWE PRICE	080257	PRICE T ROWE GROWTH STOCK FUND INC
184	IM-01	T ROWE PRICE	754915	PRICE T ROWE HIGH YIELD FUND INC
185	IM-01	T ROWE PRICE	856581	PRICE T ROWE INDEX TRUST INC
186	IM-01	T ROWE PRICE	794226	PRICE T ROWE INSTITUTIONAL TRUST
187	IM-01	T ROWE PRICE	845631	PRICE T ROWE INTERNATIONAL EQUITY FUND INC
188	IM-01	T ROWE PRICE	313212	PRICE T ROWE INTERNATIONAL FUNDS INC
189	IM-01	T ROWE PRICE	887147	PRICE T ROWE MID CAP GROWTH FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
190	IM-01	T ROWE PRICE	773485	PRICE T ROWE NEW AMERICA GROWTH FUND
191	IM-01	T ROWE PRICE	216907	PRICE T ROWE NEW ERA FUND INC
192	IM-01	T ROWE PRICE	080248	PRICE T ROWE NEW HORIZONS FUND INC
193	IM-01	T ROWE PRICE	080249	PRICE T ROWE NEW INCOME FUND INC
194	IM-01	T ROWE PRICE	316968	PRICE T ROWE PRIME RESERVE FUND INC
195	IM-01	T ROWE PRICE	819930	PRICE T ROWE SCIENCE & TECHNOLOGY FUND INC
196	IM-01	T ROWE PRICE	731890	PRICE T ROWE SHORT TERM BOND FUND INC
197	IM-01	T ROWE PRICE	834798	PRICE T ROWE SMALL CAP VALUE FUND INC
198	IM-01	T ROWE PRICE	808303	PRICE T ROWE SPECTRUM FUND INC
199	IM-01	T ROWE PRICE	795384	PRICE T ROWE STATE TAX FREE INCOME TRUST
200	IM-01	T ROWE PRICE	315748	PRICE T ROWE TAX EXEMPT MONEY FUND INC
201	IM-01	T ROWE PRICE	758003	PRICE T ROWE TAX FREE HIGH YIELD FUND INC
202	IM-01	T ROWE PRICE	202927	PRICE T ROWE TAX FREE INCOME FUND INC
203	IM-01	T ROWE PRICE	892899	PRICE T ROWE TAX FREE INSURED INTERMEDIATE BOND FUND INC
204	IM-01	T ROWE PRICE	730200	PRICE T ROWE TAX FREE SHORT INTERMEDIATE FUND INC
205	IM-01	T ROWE PRICE	853437	PRICE T ROWE U S TREASURY FUNDS INC
206	IM-01	T ROWE PRICE	813899	ROWE PRICE FLEMING FOREIGN DISCOVERY FUND INC
207	IM-01	UNIFIED	863001	LIQUID GREEN GOVERNMENT TRUST
208	IM-01	UNIFIED	355742	LIQUID GREEN TAX FREE TRUST
209	IM-01	UNIFIED	317267	LIQUID GREEN TRUST
210	IM-01	UNIFIED	100736	UNIFIED FUNDS
211	IM-01	UNIFIED	205996	UNIFIED INCOME FUND INC
212	IM-01	UNIFIED	217409	UNIFIED MUNICIPAL FUND INC
213	IM-01	UNIFIED	100738	UNIFIED MUTUAL SHARES INC
214	IM-01	VANGUARD	759277	GEMINI II INC
215	IM-01	VANGUARD	752177	PRIMECAP FUND INC
216	IM-01	VANGUARD	719716	VANGUARD ADJUSTABLE RATE PREFERRED STOCK FUND
217	IM-01	VANGUARD	891190	VANGUARD ADMIRAL FUNDS INC
218	IM-01	VANGUARD	836906	VANGUARD ASSET ALLOCATION FUND INC
219	IM-01	VANGUARD	889519	VANGUARD BALANCED INDEX FUND INC
220	IM-01	VANGUARD	791107	VANGUARD CONVERTIBLE SECURITIES FUND INC
221	IM-01	VANGUARD	826473	VANGUARD EQUITY INCOME FUND INC
222	IM-01	VANGUARD	034066	VANGUARD EXPLORER FUND INC
223	IM-01	VANGUARD	106444	VANGUARD FIXED INCOME SECURITIES FUND INC
224	IM-01	VANGUARD	888451	VANGUARD FLORIDA INSURED TAX FREE FUND
225	IM-01	VANGUARD	024919	VANGUARD HIGH YIELD STOCK FUND INC
226	IM-01	VANGUARD	036405	VANGUARD INDEX TRUST
227	IM-01	VANGUARD	862084	VANGUARD INSTITUTIONAL INDEX FUND
228	IM-01	VANGUARD	846591	VANGUARD INSTITUTIONAL PORTFOLIOS INC
229	IM-01	VANGUARD	857489	VANGUARD INTERNATIONAL EQUITY INDEX FUND INC
230	IM-01	VANGUARD	105830	VANGUARD MONEY MARKET RESERVES INC
231	IM-01	VANGUARD	068138	VANGUARD MORGAN GROWTH FUND INC
232	IM-01	VANGUARD	225997	VANGUARD MUNICIPAL BOND FUND INC
233	IM-01	VANGUARD	821404	VANGUARD NEW JERSEY TAX FREE FUND
234	IM-01	VANGUARD	788599	VANGUARD NEW YORK INSURED TAX FREE FUND
235	IM-01	VANGUARD	862341	VANGUARD OHIO TAX FREE FUND
236	IM-01	VANGUARD	788606	VANGUARD PENNSYLVANIA TAX FREE FUND
237	IM-01	VANGUARD	081391	VANGUARD PREFERRED STOCK FUND
238	IM-01	VANGUARD	799127	VANGUARD QUANTITATIVE PORTFOLIOS INC
239	IM-01	VANGUARD	734383	VANGUARD SPECIALIZED PORTFOLIOS INC
240	IM-01	VANGUARD	736054	VANGUARD STAR FUND
241	IM-01	VANGUARD	857490	VANGUARD VARIABLE INSURANCE FUND
242	IM-01	VANGUARD	052848	VANGUARD WORLD FUND INC
243	IM-01	VANGUARD	105544	WELLESLEY INCOME FUND INC
244	IM-01	VANGUARD	105563	WELLINGTON FUND INC
245	IM-01	VANGUARD	107606	WINDSOR FUNDS INC
246	IM-01	WADDELL & REED	883622	WADDELL & REED FUNDS INC
247	IM-01	WADDELL & REED	810016	TMK UNITED FUNDS INC
248	IM-01	WADDELL & REED	311405	UNITED CASH MANAGEMENT INC
249	IM-01	WADDELL & REED	101124	UNITED CONTINENTAL INCOME FUND INC
250	IM-01	WADDELL & REED	217420	UNITED FUNDS INC
251	IM-01	WADDELL & REED	764842	UNITED GOLD & GOVERNMENT FUND INC
252	IM-01	WADDELL & REED	702331	UNITED GOVERNMENT SECURITIES FUND INC
253	IM-01	WADDELL & REED	793300	UNITED HIGH INCOME FUND II INC
254	IM-01	WADDELL & REED	310254	UNITED HIGH INCOME FUND INC
255	IM-01	WADDELL & REED	101122	UNITED INTERNATIONAL GROWTH FUND INC
256	IM-01	WADDELL & REED	203493	UNITED MUNICIPAL BOND FUND INC
257	IM-01	WADDELL & REED	778807	UNITED MUNICIPAL HIGH INCOME FUND INC
258	IM-01	WADDELL & REED	716855	UNITED NEW CONCEPTS FUND INC
259	IM-01	WADDELL & REED	101185	UNITED RETIREMENT SHARES INC
260	IM-01	WADDELL & REED	101868	UNITED VANGUARD FUND INC
261	IM-02	DEAN WITTER	893227	2002 TARGET TERM TRUST INC
262	IM-02	DEAN WITTER	877243	ACTIVE ASSETS CALIFORNIA TAX FREE TRUST
263	IM-02	DEAN WITTER	351898	ACTIVE ASSETS GOVERNMENT SECURITIES TRUST
264	IM-02	DEAN WITTER	351895	ACTIVE ASSETS MONEY TRUST
265	IM-02	DEAN WITTER	351881	ACTIVE ASSETS TAX FREE TRUST
266	IM-02	DEAN WITTER	880170	ALLSTATE MUNICIPAL TARGET TERM TRUST
267	IM-02	DEAN WITTER	745992	DEAN WITTER CALIFORNIA TAX FREE INCOME FUND
268	IM-02	DEAN WITTER	864229	DEAN WITTER CAPITAL PARTNERS RETIREMENT FUND L P
269	IM-02	DEAN WITTER	866538	DEAN WITTER GLOBAL SHORT TERM INCOME FUND INC
270	IM-02	DEAN WITTER	888122	DEAN WITTER HEALTH SCIENCES TRUST
271	IM-02	DEAN WITTER	869427	DEAN WITTER MULTI STATE MUNICIPAL SERIES TRUST

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
272	IM-02	DEAN WITTER	873736	DEAN WITTER PREMIER INCOME TRUST
273	IM-02	DEAN WITTER	843963	DEAN WITTER QUALITY INCOME TRUST
274	IM-02	DEAN WITTER	886129	DEAN WITTER RETIREMENT SERIES
275	IM-02	DEAN WITTER	832705	DEAN WITTER SEARS CALIFORNIA TAX FREE DAILY INCOME TRUST
276	IM-02	DEAN WITTER	837529	DEAN WITTER STRATEGIST FUND
277	IM-02	DEAN WITTER	817906	HIGH INCOME ADVANTAGE TRUST
278	IM-02	DEAN WITTER	836045	HIGH INCOME ADVANTAGE TRUST II
279	IM-02	DEAN WITTER	843063	HIGH INCOME ADVANTAGE TRUST III
280	IM-02	DEAN WITTER	861185	INTERCAPITAL INSURED MUNICIPAL BOND TRUST
281	IM-02	DEAN WITTER	880161	INTERCAPITAL INSURED MUNICIPAL TRUST
282	IM-02	DEAN WITTER	885125	INTERCAPITAL QUALITY MUNICIPAL INCOME TRUST
283	IM-02	DEAN WITTER	876982	INTERCAPITAL QUALITY MUNICIPAL INVESTMENT TRUST
284	IM-02	DEAN WITTER	721303	SEARS TAX EXEMPT REINVESTMENT FUND
285	IM-02	DEAN WITTER	314366	WITTER DEAN AMERICAN VALUE FUND
286	IM-02	DEAN WITTER	868376	WITTER DEAN CAPITAL GROWTH SECURITIES
287	IM-02	DEAN WITTER	864228	WITTER DEAN CAPITAL PARTNERS L P
288	IM-02	DEAN WITTER	769395	WITTER DEAN CONVERTIBLE SECURITIES TRUST
289	IM-02	DEAN WITTER	711674	WITTER DEAN DEVELOPING GROWTH SECURITIES TRUST
290	IM-02	DEAN WITTER	882381	WITTER DEAN DIVERSIFIED INCOME TRUST
291	IM-02	DEAN WITTER	350183	WITTER DEAN DIVIDEND GROWTH SECURITIES INC
292	IM-02	DEAN WITTER	755107	WITTER DEAN EQUITY INCOME TRUST
293	IM-02	DEAN WITTER	876165	WITTER DEAN EQUITY SELECT FUND
294	IM-02	DEAN WITTER	860720	WITTER DEAN EUROPEAN GROWTH FUND INC
295	IM-02	DEAN WITTER	806564	WITTER DEAN FEDERAL SECURITIES TRUST
296	IM-02	DEAN WITTER	825353	WITTER DEAN GOVERNMENT INCOME TRUST
297	IM-02	DEAN WITTER	311847	WITTER DEAN HIGH YIELD SECURITIES INC
298	IM-02	DEAN WITTER	839302	WITTER DEAN INTERMEDIATE INCOME SECURITIES
299	IM-02	DEAN WITTER	823504	WITTER DEAN MANAGED ASSETS TRUST
300	IM-02	DEAN WITTER	350184	WITTER DEAN NATURAL RESOURCE DEVELOPMENT SECURITIES INC
301	IM-02	DEAN WITTER	763062	WITTER DEAN NEW YORK TAX FREE INCOME FUND
302	IM-02	DEAN WITTER	865276	WITTER DEAN PACIFIC GROWTH FUND INC
303	IM-02	DEAN WITTER	859034	WITTER DEAN PRECIOUS METALS & MINERALS TRUST
304	IM-02	DEAN WITTER	093285	WITTER DEAN SEARS LIQUID ASSET FUND INC
305	IM-02	DEAN WITTER	859037	WITTER DEAN SEARS NEW YORK MUNICIPAL MONEY MARKET TRUST
306	IM-02	DEAN WITTER	315812	WITTER DEAN SEARS TAX FREE DAILY INCOME TRUST
307	IM-02	DEAN WITTER	356409	WITTER DEAN SEARS U S GOVERNMENT MONEY MARKET TRUST
308	IM-02	DEAN WITTER	876162	WITTER DEAN SHORT TERM US TREASURY TRUST
309	IM-02	DEAN WITTER	745991	WITTER DEAN TAX ADVANTAGED CORPORATE TRUST
310	IM-02	DEAN WITTER	314367	WITTER DEAN TAX EXEMPT SECURITIES TRUST
311	IM-02	DEAN WITTER	730044	WITTER DEAN U S GOVERNMENT SECURITIES TRUST
312	IM-02	DEAN WITTER	826344	WITTER DEAN UTILITIES FUND
313	IM-02	DEAN WITTER	814657	WITTER DEAN VALUE ADDED MARKET SERIES
314	IM-02	DEAN WITTER	716716	WITTER DEAN VARIABLE INVESTMENT SERIES
315	IM-02	DEAN WITTER	844936	WITTER DEAN WORLD WIDE INCOME TRUST
316	IM-02	DEAN WITTER	723596	WITTER DEAN WORLD WIDE INVESTMENT TRUST
317	IM-02	DREYFUS	030151	DREYFUS A BONDS PLUS INC
318	IM-02	DREYFUS	895695	DREYFUS APPRECIATION FUND INC II
319	IM-02	DREYFUS	887942	DREYFUS ARIZONA MUNICIPAL BOND FUND
320	IM-02	DREYFUS	890341	DREYFUS BALANCED FUND INC
321	IM-02	DREYFUS	885409	DREYFUS BASIC MONEY MARKET FUND INC
322	IM-02	DREYFUS	885408	DREYFUS BASIC U S GOVERNMENT MONEY MARKET FUND
323	IM-02	DREYFUS	885411	DREYFUS CALIFORNIA INTERMEDIATE MUNICIPAL BOND FUND
324	IM-02	DREYFUS	839123	DREYFUS CALIFORNIA MUNICIPAL INCOME INC
325	IM-02	DREYFUS	720064	DREYFUS CALIFORNIA TAX EXEMPT BOND FUND INC
326	IM-02	DREYFUS	762855	DREYFUS CALIFORNIA TAX EXEMPT MONEY MARKET FUND
327	IM-02	DREYFUS	737766	DREYFUS CAPITAL VALUE FUND INC
328	IM-02	DREYFUS	759667	DREYFUS CASH MANAGEMENT
329	IM-02	DREYFUS	820482	DREYFUS CASH MANAGEMENT PLUS INC
330	IM-02	DREYFUS	887073	DREYFUS CONNECTICUT INTERMEDIATE MUNICIPAL BOND FUND
331	IM-02	DREYFUS	030164	DREYFUS CONVERTIBLE SECURITIES FUND INC
332	IM-02	DREYFUS	707723	DREYFUS DOLLAR INTERNATIONAL FUND INC
333	IM-02	DREYFUS	873639	DREYFUS EDISON ELECTRIC INDEX FUND INC
334	IM-02	DREYFUS	881512	DREYFUS FLORIDA INTERMEDIATE MUNICIPAL BOND FUND
335	IM-02	DREYFUS	030146	DREYFUS FUND INC
336	IM-02	DREYFUS	803950	DREYFUS GENERAL NEW YORK MUNICIPAL MONEY MARKET FUND
337	IM-02	DREYFUS	881773	DREYFUS GLOBAL INVESTING INC
338	IM-02	DREYFUS	762156	DREYFUS GNMA FUND INC
339	IM-02	DREYFUS	740766	DREYFUS GOVERNMENT CASH MANAGEMENT
340	IM-02	DREYFUS	881780	DREYFUS GROWTH & INCOME FUND INC /NEW/
341	IM-02	DREYFUS	030162	DREYFUS GROWTH OPPORTUNITY FUND INC
342	IM-02	DREYFUS	863245	DREYFUS HIGHEST QUALITY GOVERNMENT SECURITIES MONEY FUND
343	IM-02	DREYFUS	810539	DREYFUS INDEX FUND
344	IM-02	DREYFUS	315783	DREYFUS INSTITUTIONAL MONEY MARKET FUND INC
345	IM-02	DREYFUS	763897	DREYFUS INSURED MUNICIPAL BOND FUND INC
346	IM-02	DREYFUS	718935	DREYFUS INTERMEDIATE MUNICIPAL BOND FUND INC
347	IM-02	DREYFUS	862284	DREYFUS INVESTMENT GRADE MUNICIPAL FUND INC
348	IM-02	DREYFUS	811789	DREYFUS INVESTORS GNMA FUND LP
349	IM-02	DREYFUS	878092	DREYFUS INVESTORS MUNICIPAL MONEY MARKET FUND INC
350	IM-02	DREYFUS	030156	DREYFUS LEVERAGE FUND INC
351	IM-02	DREYFUS	846800	DREYFUS LIFE & ANNUITY INDEX FUND INC
352	IM-02	DREYFUS	030158	DREYFUS LIQUID ASSETS INC
353	IM-02	DREYFUS	887072	DREYFUS MASSACHUSETTS INTERMEDIATE MUNICIPAL BOND FUND

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
354	IM-02	DREYFUS	871967	DREYFUS MASSACHUSETTS MUNICIPAL MONEY MARKET FUND
355	IM-02	DREYFUS	765823	DREYFUS MASSACHUSETTS TAX EXEMPT BOND FUND
356	IM-02	DREYFUS	863510	DREYFUS MICHIGAN MUNICIPAL MONEY MARKET FUND INC
357	IM-02	DREYFUS	030160	DREYFUS MONEY MARKET INSTRUMENTS INC
358	IM-02	DREYFUS	075176	DREYFUS MUNICIPAL BOND FUND
359	IM-02	DREYFUS	867955	DREYFUS MUNICIPAL CASH MANAGEMENT PLUS
360	IM-02	DREYFUS	839122	DREYFUS MUNICIPAL INCOME INC
361	IM-02	DREYFUS	312564	DREYFUS MUNICIPAL MONEY MARKET FUND INC
362	IM-02	DREYFUS	887074	DREYFUS NEW JERSEY INTERMEDIATE MUNICIPAL BOND FUND
363	IM-02	DREYFUS	828475	DREYFUS NEW JERSEY MUNICIPAL BOND FUND INC
364	IM-02	DREYFUS	831363	DREYFUS NEW JERSEY MUNICIPAL MONEY MARKET FUND INC
365	IM-02	DREYFUS	737520	DREYFUS NEW LEADERS FUND INC
366	IM-02	DREYFUS	804260	DREYFUS NEW YORK INSURED TAX EXEMPT BOND FUND
367	IM-02	DREYFUS	878734	DREYFUS NEW YORK MUNICIPAL CASH MANAGEMENT
368	IM-02	DREYFUS	839124	DREYFUS NEW YORK MUNICIPAL INCOME INC
369	IM-02	DREYFUS	723765	DREYFUS NEW YORK TAX EXEMPT BOND FUND INC /NEW/
370	IM-02	DREYFUS	202140	DREYFUS NEW YORK TAX EXEMPT BOND FUND INC/OLD
371	IM-02	DREYFUS	814217	DREYFUS NEW YORK TAX EXEMPT INTERMEDIATE BOND FUND
372	IM-02	DREYFUS	814238	DREYFUS NEW YORK TAX EXEMPT MONEY MARKET FUND/NY
373	IM-02	DREYFUS	863558	DREYFUS OHIO MUNICIPAL MONEY MARKET FUND INC
374	IM-02	DREYFUS	779131	DREYFUS ONE HUNDRED PERCENT U S TREASURY INTERME TERM FUND L
375	IM-02	DREYFUS	779129	DREYFUS ONE HUNDRED PERCENT U S TREASURY LONG TERM FUND L P
376	IM-02	DREYFUS	811858	DREYFUS ONE HUNDRED PERCENT U S TREASURY SHORT TERM FUND L P
377	IM-02	DREYFUS	779128	DREYFUS ONE HUNDRED PERCENT US TREASURY MONEY MARKET FUND L P
378	IM-02	DREYFUS	865440	DREYFUS PENNSYLVANIA MUNICIPAL MONEY MARKET FUND
379	IM-02	DREYFUS	804887	DREYFUS SHORT INTERMEDIATE GOVERNMENT FUND
380	IM-02	DREYFUS	810305	DREYFUS SHORT INTERMEDIATE TAX EXEMPT BOND FUND
381	IM-02	DREYFUS	889754	DREYFUS SHORT TERM FUND INC
382	IM-02	DREYFUS	889169	DREYFUS SHORT TERM INCOME FUND INC
383	IM-02	DREYFUS	832534	DREYFUS STRATEGIC GOVERNMENTS INCOME INC
384	IM-02	DREYFUS	810540	DREYFUS STRATEGIC GROWTH L P
385	IM-02	DREYFUS	797073	DREYFUS STRATEGIC INCOME
386	IM-02	DREYFUS	794280	DREYFUS STRATEGIC INVESTING
387	IM-02	DREYFUS	855857	DREYFUS STRATEGIC MUNICIPAL BOND FUND INC
388	IM-02	DREYFUS	818972	DREYFUS STRATEGIC MUNICIPALS INC
389	IM-02	DREYFUS	794387	DREYFUS STRATEGIC WORLD INCOME
390	IM-02	DREYFUS	794386	DREYFUS STRATEGIC WORLD INVESTING L P
391	IM-02	DREYFUS	820707	DREYFUS STRATEGIC WORLD REVENUES L P
392	IM-02	DREYFUS	740123	DREYFUS TAX EXEMPT CASH MANAGEMENT
393	IM-02	DREYFUS	030167	DREYFUS THIRD CENTURY FUND INC
394	IM-02	DREYFUS	796251	DREYFUS TREASURY CASH MANAGEMENT
395	IM-02	DREYFUS	843781	DREYFUS TREASURY PRIME CASH MANAGEMENT
396	IM-02	DREYFUS	880951	DREYFUS U S GOVERNMENT INCOME FUND
397	IM-02	DREYFUS	870783	DREYFUS U S GOVERNMENT MONEY FUND
398	IM-02	DREYFUS	813383	DREYFUS VARIABLE INVESTMENT FUND
399	IM-02	DREYFUS	890453	DREYFUS WILSHIRE TARGET FUNDS INC
400	IM-02	DREYFUS	846421	DREYFUS WORLDWIDE DOLLAR MONEY MARKET FUND INC
401	IM-02	DREYFUS	878947	FIRST PRAIRIE CASH MANAGEMENT
402	IM-02	DREYFUS	762126	FIRST PRAIRIE DIVERSIFIED ASSET FUND
403	IM-02	DREYFUS	885117	FIRST PRAIRIE GROWTH EQUITY FUND
404	IM-02	DREYFUS	763065	FIRST PRAIRIE MONEY MARKET FUND
405	IM-02	DREYFUS	826302	FIRST PRAIRIE TAX EXEMPT BOND FUND INC
406	IM-02	DREYFUS	762123	FIRST PRAIRIE TAX EXEMPT MONEY MARKET FUND
407	IM-02	DREYFUS	878951	FIRST PRAIRIE U S TREASURY SECURITIES CASH MANAGEMENT
408	IM-02	DREYFUS	831958	FN NETWORK TAX FREE MONEY MARKET FUND INC
409	IM-02	DREYFUS	318478	GENERAL AGGRESSIVE GROWTH FUND INC
410	IM-02	DREYFUS	854857	GENERAL CALIFORNIA MUNICIPAL BOND FUND INC /NY/
411	IM-02	DREYFUS	803951	GENERAL CALIFORNIA MUNICIPAL MONEY MARKET FUND
412	IM-02	DREYFUS	702172	GENERAL GOVERNMENT SECURITIES MONEY MARKET FUND INC
413	IM-02	DREYFUS	353560	GENERAL MONEY MARKET FUND INC
414	IM-02	DREYFUS	357063	GENERAL MUNICIPAL BOND FUND INC
415	IM-02	DREYFUS	703153	GENERAL MUNICIPAL MONEY MARKET FUND INC
416	IM-02	DREYFUS	750002	GENERAL NEW YORK MUNICIPAL BOND FUND INC
417	IM-02	DREYFUS	857114	PEOPLES INDEX FUND INC
418	IM-02	DREYFUS	797925	PREMIER CALIFORNIA MUNICIPAL BOND FUND
419	IM-02	DREYFUS	804171	PREMIER GNMA FUND
420	IM-02	DREYFUS	797072	PREMIER INCOME FUND
421	IM-02	DREYFUS	797923	PREMIER MUNICIPAL BOND FUND
422	IM-02	DREYFUS	797920	PREMIER NEW YORK MUNICIPAL BOND FUND
423	IM-02	DREYFUS	806176	PREMIER STATE MUNICIPAL BOND FUND
424	IM-02	FIDELITY	703154	DAILY MONEY FUND
425	IM-02	FIDELITY	028540	DAILY MONEY FUND/MA/
426	IM-02	FIDELITY	704207	DAILY TAX EXEMPT MONEY FUND /DE/
427	IM-02	FIDELITY	311884	FIDELITY BEACON STREET TRUST
428	IM-02	FIDELITY	722574	FIDELITY BROAD STREET TRUST
429	IM-02	FIDELITY	718891	FIDELITY CALIFORNIA MUNICIPAL TRUST
430	IM-02	FIDELITY	878662	FIDELITY CALIFORNIA MUNICIPAL TRUST II
431	IM-02	FIDELITY	275309	FIDELITY CAPITAL TRUST
432	IM-02	FIDELITY	806508	FIDELITY CASH FUND
433	IM-02	FIDELITY	278001	FIDELITY CASH RESERVES
434	IM-02	FIDELITY	354046	FIDELITY CHARLES STREET TRUST
435	IM-02	FIDELITY	205323	FIDELITY COMMONWEALTH TRUST

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
436	IM-02	FIDELITY	023355	FIDELITY CONGRESS STREET FUND
437	IM-02	FIDELITY	024236	FIDELITY CONTRAFUND
438	IM-02	FIDELITY	746264	FIDELITY CORPORATE TRUST
439	IM-02	FIDELITY	225323	FIDELITY COURT STREET TRUST
440	IM-02	FIDELITY	880709	FIDELITY COURT STREET TRUST II
441	IM-02	FIDELITY	035331	FIDELITY DESTINY PORTFOLIOS
442	IM-02	FIDELITY	812574	FIDELITY DEUTSCHE MARK PERFORMANCE PORTFOLIO L P
443	IM-02	FIDELITY	035341	FIDELITY DEVONSHIRE TRUST
444	IM-02	FIDELITY	795422	FIDELITY DIVERSIFIED TRUST
445	IM-02	FIDELITY	320254	FIDELITY EXCHANGE FUND
446	IM-02	FIDELITY	708191	FIDELITY FINANCIAL TRUST
447	IM-02	FIDELITY	035315	FIDELITY FIXED INCOME TRUST
448	IM-02	FIDELITY	702533	FIDELITY FRANKLIN STREET TRUST
449	IM-02	FIDELITY	035348	FIDELITY FUND
450	IM-02	FIDELITY	276773	FIDELITY GOVERNMENT SECURITIES FUND
451	IM-02	FIDELITY	035353	FIDELITY INCOME FUND
452	IM-02	FIDELITY	751199	FIDELITY INCOME FUND /MA/
453	IM-02	FIDELITY	719451	FIDELITY INCOME TRUST
454	IM-02	FIDELITY	356173	FIDELITY INSTITUTIONAL CASH PORTFOLIOS
455	IM-02	FIDELITY	880185	FIDELITY INSTITUTIONAL INVESTORS TRUST
456	IM-02	FIDELITY	700859	FIDELITY INSTITUTIONAL TAX EXEMPT CASH PORTFOLIOS
457	IM-02	FIDELITY	819118	FIDELITY INSTITUTIONAL TRUST
458	IM-02	FIDELITY	803013	FIDELITY INVESTMENT SERIES
459	IM-02	FIDELITY	744822	FIDELITY INVESTMENT TRUST
460	IM-02	FIDELITY	215829	FIDELITY LIMITED TERM MUNICIPALS
461	IM-02	FIDELITY	061397	FIDELITY MAGELLAN FUND INC
462	IM-02	FIDELITY	357057	FIDELITY MASSACHUSETTS MUNICIPAL TRUST
463	IM-02	FIDELITY	276516	FIDELITY MONEY MARKET TRUST
464	IM-02	FIDELITY	707823	FIDELITY MT VERNON STREET TRUST
465	IM-02	FIDELITY	753315	FIDELITY MUNICIPAL BOND FUND/MA
466	IM-02	FIDELITY	035373	FIDELITY MUNICIPAL TRUST
467	IM-02	FIDELITY	880799	FIDELITY MUNICIPAL TRUST II
468	IM-02	FIDELITY	814231	FIDELITY NEW JERSEY TAX FREE PORTFOLIO L P
469	IM-02	FIDELITY	718581	FIDELITY NEW YORK MUNICIPAL TRUST
470	IM-02	FIDELITY	878883	FIDELITY NEW YORK MUNICIPAL TRUST II
471	IM-02	FIDELITY	720318	FIDELITY OLIVER STREET TRUST
472	IM-02	FIDELITY	035390	FIDELITY PREFERRED TRUST
473	IM-02	FIDELITY	081206	FIDELITY PURITAN TRUST
474	IM-02	FIDELITY	316013	FIDELITY QUALIFIED DIVIDEND FUND
475	IM-02	FIDELITY	754510	FIDELITY SECURITIES FUND
476	IM-02	FIDELITY	315700	FIDELITY SECURITIES TRUST
477	IM-02	FIDELITY	320251	FIDELITY SELECT PORTFOLIOS
478	IM-02	FIDELITY	729218	FIDELITY SPECIAL SITUATIONS FUND
479	IM-02	FIDELITY	812575	FIDELITY STERLING PERFORMANCE PORTFOLIO L P
480	IM-02	FIDELITY	225322	FIDELITY SUMMER STREET TRUST
481	IM-02	FIDELITY	035402	FIDELITY TREND FUND
482	IM-02	FIDELITY	312031	FIDELITY TRIAD FUND INC
483	IM-02	FIDELITY	814066	FIDELITY U S INVESTMENTS BOND FUND L P
484	IM-02	FIDELITY	814136	FIDELITY U S INVESTMENTS GOVERNMENT SECURITIES FUND L P
485	IM-02	FIDELITY	035330	FIDELITY UNION STREET TRUST
486	IM-02	FIDELITY	880797	FIDELITY UNION STREET TRUST II
487	IM-02	FIDELITY	812573	FIDELITY YEN PERFORMANCE PORTFOLIO L P
488	IM-02	FIDELITY	788665	FIDELITY ZERO COUPON BOND FUND
489	IM-02	FIDELITY	702980	FINANCIAL RESERVES FUND
490	IM-02	FIDELITY	702149	NORTH CAROLINA CASH MANAGEMENT TRUST
491	IM-02	FIDELITY	823535	SPARTAN U S TREASURY MONEY MARKET FUND
492	IM-02	FIDELITY	356494	VARIABLE INSURANCE PRODUCTS FUND
493	IM-02	FIDELITY	831016	VARIABLE INSURANCE PRODUCTS FUND II
494	IM-02	IDS	353966	IDS LIFE CAPITAL RESOURCE FUND INC
495	IM-02	IDS	764546	IDS LIFE MANAGED FUND INC
496	IM-02	IDS	353315	IDS LIFE MONEYSHARE FUND INC
497	IM-02	IDS	768845	IDS LIFE SERIES FUND INC
498	IM-02	IDS	353967	IDS LIFE SPECIAL INCOME FUND INC
499	IM-02	IDS	049706	IDS LIFE VARIABLE ANNUITY FUND A
500	IM-02	IDS	049707	IDS LIFE VARIABLE ANNUITY FUND B
501	IM-02	MERRILL LYNCH	817898	APEX MUNICIPAL FUND INC
502	IM-02	MERRILL LYNCH	717288	CBA MONEY FUND
503	IM-02	MERRILL LYNCH	315735	CMA ASSET TRUST
504	IM-02	MERRILL LYNCH	830630	CMA CALIFORNIA MUN MONEY FD OF CMA MULTI STAT MUN SERS TRUST
505	IM-02	MERRILL LYNCH	872081	CMA CONNECTICUT MUN MONEY FD OF CMA MULTI STATE MUN SER TRU
506	IM-02	MERRILL LYNCH	353480	CMA GOVERNMENT SECURITIES FUND
507	IM-02	MERRILL LYNCH	862958	CMA MASSACHUSETTS MUN MON FD OF CMA MULTI STATE MUN SERS TRU
508	IM-02	MERRILL LYNCH	872083	CMA MICHIGAN MUN MONEY FD OF CMA MULTI STATE MUN SERS TRUST
509	IM-02	MERRILL LYNCH	215457	CMA MONEY FUND
510	IM-02	MERRILL LYNCH	810596	CMA MULTI STATE MUNICIPAL SERIES TRUST
511	IM-02	MERRILL LYNCH	863034	CMA NEW JERSEY MUN MONEY FUND OF CMA MULTI STATE MUN SER TR
512	IM-02	MERRILL LYNCH	872082	CMA NORTH CAROLINA MUN MONEY FD OF CMA MULTI STA MUN SERS TR
513	IM-02	MERRILL LYNCH	872079	CMA OHIO MUNICIPAL MONEY FUND OF CMA MULTI STATE MUN SERS TR
514	IM-02	MERRILL LYNCH	863038	CMA PENNSYLVANIA MUN MONEY FD OF CMA MULTI STATE MUN SERS TR
515	IM-02	MERRILL LYNCH	320281	CMA TAX EXEMPT FUND/
516	IM-02	MERRILL LYNCH	791121	FALCON DIVERSIFIED HOLDINGS INC
517	IM-02	MERRILL LYNCH	278211	GOVERNMENT SECURITIES INCOME FUND

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
518	IM-02	MERRILL LYNCH	889166	INCOME OPPORTUNITIES FUND 1999 INC
519	IM-02	MERRILL LYNCH	892565	INCOME OPPORTUNITIES FUND 2000 INC
520	IM-02	MERRILL LYNCH	855021	LMS MONEY FUND
521	IM-02	MERRILL LYNCH	876596	MERRILL LYNCH ARIZONA MUNICIPAL BOND FUND
522	IM-02	MERRILL LYNCH	216557	MERRILL LYNCH BASIC VALUE FUND INC
523	IM-02	MERRILL LYNCH	765199	MERRILL LYNCH CALIFORNIA MUNICIPAL SERIES TRUST/
524	IM-02	MERRILL LYNCH	110055	MERRILL LYNCH CAPITAL FUND INC
525	IM-02	MERRILL LYNCH	869301	MERRILL LYNCH CONSULTS INTERNATIONAL PORTFOLIO
526	IM-02	MERRILL LYNCH	276463	MERRILL LYNCH CORPORATE BOND FUND INC/NY
527	IM-02	MERRILL LYNCH	733258	MERRILL LYNCH CORPORATE DIVIDEND FUND INC
528	IM-02	MERRILL LYNCH	849402	MERRILL LYNCH DEVELOPING CAPITAL MARKETS FUND INC
529	IM-02	MERRILL LYNCH	884842	MERRILL LYNCH DRAGON FUND INC
530	IM-02	MERRILL LYNCH	225634	MERRILL LYNCH EQUI BOND I FUND INC
531	IM-02	MERRILL LYNCH	790525	MERRILL LYNCH EUROFUND
532	IM-02	MERRILL LYNCH	750406	MERRILL LYNCH FEDERAL SECURITIES TRUST
533	IM-02	MERRILL LYNCH	873611	MERRILL LYNCH FL MUN BOND FD OF MERRILL LYNCH MUL ST MUN SER
534	IM-02	MERRILL LYNCH	730168	MERRILL LYNCH FUND FOR TOMORROW INC
535	IM-02	MERRILL LYNCH	887509	MERRILL LYNCH FUNDAMENTAL GROWTH FUND INC
536	IM-02	MERRILL LYNCH	814079	MERRILL LYNCH FUNDS FOR INSTITUTIONS SERIES
537	IM-02	MERRILL LYNCH	834237	MERRILL LYNCH GLOBAL ALLOCATION FUND INC
538	IM-02	MERRILL LYNCH	794220	MERRILL LYNCH GLOBAL BOND FUND FOR INVESTMENT & RETIREMENT
539	IM-02	MERRILL LYNCH	825306	MERRILL LYNCH GLOBAL CONVERTIBLE SECURITIES FUND INC
540	IM-02	MERRILL LYNCH	868452	MERRILL LYNCH GLOBAL UTILITY FUND INC
541	IM-02	MERRILL LYNCH	106810	MERRILL LYNCH GOVERNMENT FUND INC
542	IM-02	MERRILL LYNCH	807907	MERRILL LYNCH GROWTH FUND FOR INVESTMENT & RETIREMENT
543	IM-02	MERRILL LYNCH	709140	MERRILL LYNCH HEALTHCARE FUND INC
544	IM-02	MERRILL LYNCH	867189	MERRILL LYNCH HIGH INCOME MUNICIPAL BOND FUND INC
545	IM-02	MERRILL LYNCH	106811	MERRILL LYNCH INSTITUTIONAL FUND INC
546	IM-02	MERRILL LYNCH	820611	MERRILL LYNCH INSTITUTIONAL INDEX SERIES
547	IM-02	MERRILL LYNCH	801421	MERRILL LYNCH INSTITUTIONAL INTERMEDIATE FUND
548	IM-02	MERRILL LYNCH	725741	MERRILL LYNCH INSTITUTIONAL TAX EXEMPT FUND
549	IM-02	MERRILL LYNCH	741886	MERRILL LYNCH INTERNATIONAL HOLDINGS INC
550	IM-02	MERRILL LYNCH	873410	MERRILL LYNCH KECALP L P 1991
551	IM-02	MERRILL LYNCH	877151	MERRILL LYNCH LATIN AMERICA FUND INC
552	IM-02	MERRILL LYNCH	866089	MERRILL LYNCH MASSACHUSETTS MUNICIPAL BOND FUND
553	IM-02	MERRILL LYNCH	819627	MERRILL LYNCH MICHIGAN MUNICIPAL BOND FUND
554	IM-02	MERRILL LYNCH	883791	MERRILL LYNCH MINNESOTA LIMITED MATURITY MUNICIPAL BOND FUND
555	IM-02	MERRILL LYNCH	882337	MERRILL LYNCH MINNESOTA MUN BOND FD OF MERRILL LYNCH MULTI S
556	IM-02	MERRILL LYNCH	872478	MERRILL LYNCH MULTI STATE LTD MATURITY MUN SERIES TRUST
557	IM-02	MERRILL LYNCH	774013	MERRILL LYNCH MULTI STATE MUNICIPAL SERIES TRUST
558	IM-02	MERRILL LYNCH	225635	MERRILL LYNCH MUNICIPAL BOND FUND INC
559	IM-02	MERRILL LYNCH	799113	MERRILL LYNCH MUNICIPAL SERIES TRUST
560	IM-02	MERRILL LYNCH	768555	MERRILL LYNCH NATURAL RESOURCES TRUST
561	IM-02	MERRILL LYNCH	864995	MERRILL LYNCH NEW JERSEY MUNICIPAL BOND FUND
562	IM-02	MERRILL LYNCH	819629	MERRILL LYNCH OH MUN BOND FD OF MERRILL LYNCH MUL ST MUN SER
563	IM-02	MERRILL LYNCH	202741	MERRILL LYNCH PACIFIC FUND INC
564	IM-02	MERRILL LYNCH	819628	MERRILL LYNCH PENNSYLVANIA MUNICIPAL BOND FUND
565	IM-02	MERRILL LYNCH	701960	MERRILL LYNCH PHOENIX FUND INC
566	IM-02	MERRILL LYNCH	853911	MERRILL LYNCH PRIME FUND INC
567	IM-02	MERRILL LYNCH	065109	MERRILL LYNCH READY ASSETS TRUST
568	IM-02	MERRILL LYNCH	317196	MERRILL LYNCH READY ASSETS TRUST II
569	IM-02	MERRILL LYNCH	746637	MERRILL LYNCH RETIREMENT BENEFIT INVESTMENT PROG INC
570	IM-02	MERRILL LYNCH	786707	MERRILL LYNCH RETIREMENT INCOME FUND INC
571	IM-02	MERRILL LYNCH	356013	MERRILL LYNCH RETIREMENT SERIES TRUST
572	IM-02	MERRILL LYNCH	862681	MERRILL LYNCH SHORT TERM GLOBAL INCOME FUND INC
573	IM-02	MERRILL LYNCH	873610	MERRILL LYNCH SMALLER CO FUND INC
574	IM-02	MERRILL LYNCH	230362	MERRILL LYNCH SPECIAL VALUE FUND INC
575	IM-02	MERRILL LYNCH	814507	MERRILL LYNCH STRATEGIC DIVIDEND FUND
576	IM-02	MERRILL LYNCH	878972	MERRILL LYNCH TECHNOLOGY FUND INC
577	IM-02	MERRILL LYNCH	874760	MERRILL LYNCH TEXAS MUNICIPAL BOND FUND
578	IM-02	MERRILL LYNCH	069663	MERRILL LYNCH U S TREASURY MONEY FUND
579	IM-02	MERRILL LYNCH	704957	MERRILL LYNCH USA GOVERNMENT RESERVES
580	IM-02	MERRILL LYNCH	835620	MERRILL LYNCH WORLD INCOME FUND INC
581	IM-02	MERRILL LYNCH	891183	ML OF NEW YORK VARIABLE LIFE SEPARATE ACCOUNT II
582	IM-02	MERRILL LYNCH	837227	ML OKLAHOMA VENTURE PARTNERS LIMITED PARTNERSHIP
583	IM-02	MERRILL LYNCH	700607	ML VENTURE PARTNERS I L P /DE/
584	IM-02	MERRILL LYNCH	789538	ML VENTURE PARTNERS II LP
585	IM-02	MERRILL LYNCH	844172	MUNIENHANCED FUND INC
586	IM-02	MERRILL LYNCH	816436	MUNIINSURED FUND INC
587	IM-02	MERRILL LYNCH	835948	MUNIVEST FUND INC
588	IM-02	MERRILL LYNCH	885410	MUNIYIELD CALIFORNIA INSURED FUND II INC
589	IM-02	MERRILL LYNCH	887126	MUNIYIELD CALIFORNIA INSURED FUND INC
590	IM-02	MERRILL LYNCH	891188	MUNIYIELD FLORIDA INSURED FUND /NJ/
591	IM-02	MERRILL LYNCH	891189	MUNIYIELD INSURED FUND II INC
592	IM-02	MERRILL LYNCH	890393	MUNIYIELD MICHIGAN INSURED FUND INC
593	IM-02	MERRILL LYNCH	884216	MUNIYIELD NEW JERSEY FUND INC
594	IM-02	MERRILL LYNCH	891037	MUNIYIELD NEW JERSEY INSURED FUND INC
595	IM-02	MERRILL LYNCH	887535	MUNIYIELD NEW YORK INSURED FUND II INC
596	IM-02	MERRILL LYNCH	891038	MUNIYIELD PENNSYLVANIA FUND
597	IM-02	MERRILL LYNCH	887394	MUNIYIELD QUALITY FUND II INC
598	IM-02	MERRILL LYNCH	890196	MUNIYIELD QUALITY FUND INC
599	IM-02	MERRILL LYNCH	857056	TAURUS MUNICALIFORNIA HOLDINGS INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
600	IM-02	MERRILL LYNCH	857099	TAURUS MUNINEWYORK HOLDINGS INC
601	IM-02	MFS	745288	GOVERNMENT SECURITIES VARIABLE ACCOUNT /MA/
602	IM-02	MFS	827121	MANAGED SECTORS VARIABLE ACCOUNT
603	IM-02	MFS	719269	MFS SUN LIFE SERIES TRUST
604	IM-02	MFS	879808	MFS UTILITIES FUND
605	IM-02	MFS	095324	SUN GROWTH VARIABLE ANNUITY FUND INC
606	IM-02	MFS	827119	TOTAL RETURN VARIABLE ACCOUNT
607	IM-02	OPPENHEIMER	833331	ADVANCE AMERICA FUNDS INC/CO/
608	IM-02	OPPENHEIMER	811267	CENTENNIAL AMERICA FUND L P
609	IM-02	OPPENHEIMER	854437	CENTENNIAL CALIFORNIA TAX EXEMPT TRUST
610	IM-02	OPPENHEIMER	858798	CENTENNIAL CONNECTICUT TAX EXEMPT TRUST
611	IM-02	OPPENHEIMER	355471	CENTENNIAL GOVERNMENT TRUST
612	IM-02	OPPENHEIMER	357247	CENTENNIAL GOVERNMENT TRUST /CO/
613	IM-02	OPPENHEIMER	312538	CENTENNIAL MONEY MARKET TRUST
614	IM-02	OPPENHEIMER	837275	CENTENNIAL NEW YORK TAX EXEMPT TRUST
615	IM-02	OPPENHEIMER	319880	CENTENNIAL TAX EXEMPT TRUST /CO/
616	IM-02	OPPENHEIMER	045129	DAILY CASH ACCUMULATION FUND INC
617	IM-02	OPPENHEIMER	823483	MAIN STREET FUNDS INC
618	IM-02	OPPENHEIMER	820090	NEW YORK TAX EXEMPT INCOME FUND INC
619	IM-02	OPPENHEIMER	729968	OPPENHEIMER ASSET ALLOCATION FUND
620	IM-02	OPPENHEIMER	795737	OPPENHEIMER BLUE CHIP FUND
621	IM-02	OPPENHEIMER	837441	OPPENHEIMER CALIFORNIA TAX EXEMPT FUND
622	IM-02	OPPENHEIMER	836423	OPPENHEIMER CASH RESERVES/CO/
623	IM-02	OPPENHEIMER	820120	OPPENHEIMER CHAMPION HIGH YIELD FUND
624	IM-02	OPPENHEIMER	276302	OPPENHEIMER DIRECTORS FUND
625	IM-02	OPPENHEIMER	777547	OPPENHEIMER DISCOVERY FUND
626	IM-02	OPPENHEIMER	045156	OPPENHEIMER EQUITY INCOME FUND INC
627	IM-02	OPPENHEIMER	074661	OPPENHEIMER FUND
628	IM-02	OPPENHEIMER	824610	OPPENHEIMER GLOBAL BIO TECH FUND
629	IM-02	OPPENHEIMER	857636	OPPENHEIMER GLOBAL ENVIRONMENT FUND
630	IM-02	OPPENHEIMER	074658	OPPENHEIMER GLOBAL FUND
631	IM-02	OPPENHEIMER	861457	OPPENHEIMER GLOBAL GROWTH & INCOME FUND
632	IM-02	OPPENHEIMER	795640	OPPENHEIMER GNMA FUND
633	IM-02	OPPENHEIMER	716836	OPPENHEIMER GOLD & SPECIAL MINERALS FUND
634	IM-02	OPPENHEIMER	788303	OPPENHEIMER GOVERNMENT SECURITIES FUND
635	IM-02	OPPENHEIMER	276195	OPPENHEIMER HIGH YIELD FUND
636	IM-02	OPPENHEIMER	701265	OPPENHEIMER INTEGRITY FUNDS
637	IM-02	OPPENHEIMER	074673	OPPENHEIMER MONEY MARKET FUND INC
638	IM-02	OPPENHEIMER	841057	OPPENHEIMER MULTI GOVERNMENT TRUST
639	IM-02	OPPENHEIMER	829801	OPPENHEIMER MULTI SECTOR INCOME TRUST
640	IM-02	OPPENHEIMER	748009	OPPENHEIMER NEW YORK TAX EXEMPT FUND
641	IM-02	OPPENHEIMER	763539	OPPENHEIMER NINETY TEN FUND
642	IM-02	OPPENHEIMER	853593	OPPENHEIMER PENNSYLVANIA TAX EXEMPT FUND
643	IM-02	OPPENHEIMER	216781	OPPENHEIMER PREMIUM INCOME FUND
644	IM-02	OPPENHEIMER	707607	OPPENHEIMER REGENCY FUND
645	IM-02	OPPENHEIMER	074676	OPPENHEIMER SPECIAL FUND INC
646	IM-02	OPPENHEIMER	886921	OPPENHEIMER STRATEGIC INCOME & GROWTH FUND
647	IM-02	OPPENHEIMER	850134	OPPENHEIMER STRATEGIC INCOME FUND
648	IM-02	OPPENHEIMER	880848	OPPENHEIMER STRATEGIC INVESTMENT GRADE BOND FUND
649	IM-02	OPPENHEIMER	883341	OPPENHEIMER STRATEGIC SHORT TERM INCOME FUND
650	IM-02	OPPENHEIMER	319767	OPPENHEIMER TARGET FUND
651	IM-02	OPPENHEIMER	799102	OPPENHEIMER TAX EXEMPT BOND FUND
652	IM-02	OPPENHEIMER	836424	OPPENHEIMER TAX EXEMPT CASH RESERVES
653	IM-02	OPPENHEIMER	275857	OPPENHEIMER TAX FREE BOND FUND
654	IM-02	OPPENHEIMER	074679	OPPENHEIMER TIME FUND INC
655	IM-02	OPPENHEIMER	045147	OPPENHEIMER TOTAL RETURN FUND INC
656	IM-02	OPPENHEIMER	701382	OPPENHEIMER U S GOVERNMENT TRUST
657	IM-02	OPPENHEIMER	752737	OPPENHEIMER VARIABLE ACCOUNT FUNDS
658	IM-02	PRUDENTIAL	355349	COMMAND GOVERNMENT FUND
659	IM-02	PRUDENTIAL	355347	COMMAND MONEY FUND
660	IM-02	PRUDENTIAL	355348	COMMAND TAX FREE FUND
661	IM-02	PRUDENTIAL	820875	FIRST IBERIAN FUND INC
662	IM-02	PRUDENTIAL	813339	GLOBAL GOVERNMENT PLUS FUND INC
663	IM-02	PRUDENTIAL	843091	GLOBAL UTILITY FUND INC
664	IM-02	PRUDENTIAL	793159	GLOBAL YIELD FUND INC
665	IM-02	PRUDENTIAL	820537	HIGH YIELD INCOME FUND INC
666	IM-02	PRUDENTIAL	885569	PRUDENTIAL ADJUSTABLE RATE SECURITIES FUND INC
667	IM-02	PRUDENTIAL	728343	PRUDENTIAL BACHE CORPORATE DIVIDEND FUND INC
668	IM-02	PRUDENTIAL	819189	PRUDENTIAL BACHE GLOBAL GENESIS FUND INC
669	IM-02	PRUDENTIAL	778364	PRUDENTIAL BACHE GOVERNMENT PLUS FUND
670	IM-02	PRUDENTIAL	717819	PRUDENTIAL BACHE GOVERNMENT PLUS FUND INC
671	IM-02	PRUDENTIAL	316531	PRUDENTIAL BACHE GROWTH OPPORTUNITY FUND INC /NY
672	IM-02	PRUDENTIAL	856715	PRUDENTIAL BACHE SPECIAL MONEY MARKET FUND
673	IM-02	PRUDENTIAL	846445	PRUDENTIAL BACHE SPECIAL SITUATIONS FUND LP
674	IM-02	PRUDENTIAL	826596	PRUDENTIAL BACHE STRATEGIC INCOME FUND INC /NY/
675	IM-02	PRUDENTIAL	746518	PRUDENTIAL CALIFORNIA MUNICIPAL FUND
676	IM-02	PRUDENTIAL	814129	PRUDENTIAL EMPLOYEES LIMITED PARTNERSHIP 1987
677	IM-02	PRUDENTIAL	825206	PRUDENTIAL EMPLOYEES LIMITED PARTNERSHIP 1988
678	IM-02	PRUDENTIAL	799290	PRUDENTIAL EMPLOYEES LTD PARTNERSHIP 1986
679	IM-02	PRUDENTIAL	356683	PRUDENTIAL EQUITY FUND
680	IM-02	PRUDENTIAL	803191	PRUDENTIAL EQUITY INCOME FUND
681	IM-02	PRUDENTIAL	811444	PRUDENTIAL FLEXIFUND

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
682	IM-02	PRUDENTIAL	741350	PRUDENTIAL GLOBAL FUND INC
683	IM-02	PRUDENTIAL	816753	PRUDENTIAL GLOBAL NATURAL RESOURCES FUND
684	IM-02	PRUDENTIAL	700662	PRUDENTIAL GNMA FUND
685	IM-02	PRUDENTIAL	355605	PRUDENTIAL GOVERNMENT SECURITIES TRUST
686	IM-02	PRUDENTIAL	717342	PRUDENTIAL GROWTH FUND INC
687	IM-02	PRUDENTIAL	278187	PRUDENTIAL HIGH YIELD FUND
688	IM-02	PRUDENTIAL	317326	PRUDENTIAL INCOMEVERTIBLE R FUND INC
689	IM-02	PRUDENTIAL	887991	PRUDENTIAL INSTITUTIONAL FUND
690	IM-02	PRUDENTIAL	822337	PRUDENTIAL INSTITUTIONAL LIQUIDITY PORTFOLIO INC
691	IM-02	PRUDENTIAL	831015	PRUDENTIAL INTERMEDIATE GLOBAL INCOME FUND INC
692	IM-02	PRUDENTIAL	067590	PRUDENTIAL MONEYMART ASSETS
693	IM-02	PRUDENTIAL	860916	PRUDENTIAL MULTI SECTOR FUND INC
694	IM-02	PRUDENTIAL	807394	PRUDENTIAL MUNICIPAL BOND FUND
695	IM-02	PRUDENTIAL	746382	PRUDENTIAL MUNICIPAL SERIES FUND
696	IM-02	PRUDENTIAL	314612	PRUDENTIAL NATIONAL MUNICIPALS FUND
697	IM-02	PRUDENTIAL	878535	PRUDENTIAL PACIFIC GROWTH FUND INC
698	IM-02	PRUDENTIAL	711175	PRUDENTIAL SERIES FUND INC
699	IM-02	PRUDENTIAL	861002	PRUDENTIAL SHORT TERM GLOBAL INCOME FUND INC
700	IM-02	PRUDENTIAL	834126	PRUDENTIAL STRUCTURED MATURITY FUND
701	IM-02	PRUDENTIAL	311561	PRUDENTIAL TAX FREE MONEY FUND
702	IM-02	PRUDENTIAL	702168	PRUDENTIAL TOTAL RETURN FUND
703	IM-02	PRUDENTIAL	782409	PRUDENTIAL U S GOVERNMENT FUND
704	IM-02	PRUDENTIAL	779271	PRUDENTIAL UNIT TRUSTS
705	IM-02	PRUDENTIAL	352665	PRUDENTIAL UTILITY FUND
706	IM-02	PUTNAM	822671	PUTNAM CAPITAL MANAGER TRUST /MA/
707	IM-02	SHEARSON	825201	ADVISORS FUND L P
708	IM-02	SHEARSON	700687	AMERICAN EXPRESS FUNDS /MA/
709	IM-02	SHEARSON	825064	AMERICAN EXPRESS FUNDS/NY
710	IM-02	SHEARSON	315736	AMERICAN EXPRESS GOVERNMENT & AGENCIES FUND
711	IM-02	SHEARSON	775686	AMERICAN EXPRESS R CALIFORNIA MUNICIPAL MONEY MARKET FUND
712	IM-02	SHEARSON	775685	AMERICAN EXPRESS R NEW YORK MUNICIPAL MONEY MARKET FUND
713	IM-02	SHEARSON	887210	BJB GLOBAL INCOME FUND
714	IM-02	SHEARSON	833154	BOSTON CO INVESTMENT SERIES
715	IM-02	SHEARSON	717341	BOSTON CO TAX FREE MUNICIPAL FUNDS
716	IM-02	SHEARSON	053606	BOSTON COMPANY FUND
717	IM-02	SHEARSON	833377	BOSTON COMPANY INDEX & BLUE CHIP TRUST
718	IM-02	SHEARSON	820265	CANADIAN DOLLAR PERFORMANCE PORTFOLIO LP
719	IM-02	SHEARSON	821466	CIM HIGH YIELD SECURITIES
720	IM-02	SHEARSON	820256	DEUTSCHE MARK PERFORMANCE PORTFOLIO L P
721	IM-02	SHEARSON	356473	HUTTON AMA CASH FUND INC
722	IM-02	SHEARSON	710191	HUTTON CALIFORNIA MUNICIPAL FUND INC
723	IM-02	SHEARSON	201392	HUTTON CASH RESERVE MANAGEMENT INC
724	IM-02	SHEARSON	701640	HUTTON GOVERNMENT FUND INC
725	IM-02	SHEARSON	710180	HUTTON NATIONAL MUNICIPAL FUND INC
726	IM-02	SHEARSON	710195	HUTTON NEW YORK MUNICIPAL FUND INC
727	IM-02	SHEARSON	823482	LEHMAN MANAGEMENT SELECT INVESTMENT FUNDS INC
728	IM-02	SHEARSON	820258	MANAGED CURRENCY PORTFOLIO L P
729	IM-02	SHEARSON	895523	MANAGED HIGH YIELD PORTFOLIO INC
730	IM-02	SHEARSON	890068	MANAGED MUNICIPALS PORTFOLIO II INC
731	IM-02	SHEARSON	886043	MANAGED MUNICIPALS PORTFOLIO INC
732	IM-02	SHEARSON	820264	POUND STERLING PERFORMANCE PORTFOLIO LP
733	IM-02	SHEARSON	882071	PREFERRED INCOME OPPORTUNITY FUND INC
734	IM-02	SHEARSON	704808	SHEARSON DAILY TAX-FREE DIVIDEND INC
735	IM-02	SHEARSON	354734	SHEARSON FMA CASH FUND
736	IM-02	SHEARSON	354736	SHEARSON FMA GOVERNMENT FUND
737	IM-02	SHEARSON	354735	SHEARSON FMA MUNICIPAL FUND
738	IM-02	SHEARSON	857618	SHEARSON LEHMAN BROTHERS 1990S FUND
739	IM-02	SHEARSON	887428	SHEARSON LEHMAN BROTHERS ADJUSTABLE RATE GOVT INCOME FUND
740	IM-02	SHEARSON	720506	SHEARSON LEHMAN BROTHERS AGGRESSIVE GROWTH FUND INC
741	IM-02	SHEARSON	089558	SHEARSON LEHMAN BROTHERS APPRECIATION FUND INC
742	IM-02	SHEARSON	811706	SHEARSON LEHMAN BROTHERS ARIZONA MUNICIPALS FUND INC
743	IM-02	SHEARSON	740871	SHEARSON LEHMAN BROTHERS CALIFORNIA MUNICIPALS FUND INC
744	IM-02	SHEARSON	764042	SHEARSON LEHMAN BROTHERS CAPITAL PARTNERS - 85
745	IM-02	SHEARSON	788663	SHEARSON LEHMAN BROTHERS CAPITAL PARTNERS I
746	IM-02	SHEARSON	787514	SHEARSON LEHMAN BROTHERS EQUITY FUND
747	IM-02	SHEARSON	891167	SHEARSON LEHMAN BROTHERS FLORIDA MUNICIPALS FUND
748	IM-02	SHEARSON	351934	SHEARSON LEHMAN BROTHERS FUNDAMENTAL VALUE FUND INC
749	IM-02	SHEARSON	740718	SHEARSON LEHMAN BROTHERS GLOBAL OPPORTUNITIES FUND
750	IM-02	SHEARSON	314855	SHEARSON LEHMAN BROTHERS HIGH YIELD FUND INC
751	IM-02	SHEARSON	764624	SHEARSON LEHMAN BROTHERS INCOME FUNDS
752	IM-02	SHEARSON	880366	SHEARSON LEHMAN BROTHERS INCOME TRUST
753	IM-02	SHEARSON	748826	SHEARSON LEHMAN BROTHERS MANAGED GOVERNMENTS FUND INC
754	IM-02	SHEARSON	319460	SHEARSON LEHMAN BROTHERS MANAGED MUNICIPALS FUND INC
755	IM-02	SHEARSON	809846	SHEARSON LEHMAN BROTHERS MASSACHUSETTS MUNICIPALS FUND
756	IM-02	SHEARSON	806092	SHEARSON LEHMAN BROTHERS MULTIPLE OPPORTUNITIES PORTFOLIO LP
757	IM-02	SHEARSON	825529	SHEARSON LEHMAN BROTHERS NEW JERSEY MUNICIPALS FUND INC
758	IM-02	SHEARSON	730047	SHEARSON LEHMAN BROTHERS NEW YORK MUNICIPALS FUND INC
759	IM-02	SHEARSON	797480	SHEARSON LEHMAN BROTHERS PRECIOUS METALS & MINERALS FUND INC
760	IM-02	SHEARSON	841489	SHEARSON LEHMAN BROTHERS PRINCIPAL RETURN FUND
761	IM-02	SHEARSON	861872	SHEARSON LEHMAN BROTHERS SHORT TERM WORLD INCOME FUND
762	IM-02	SHEARSON	824196	SHEARSON LEHMAN BROTHERS SMALL CAPITALIZATION FUND
763	IM-02	SHEARSON	721546	SHEARSON LEHMAN BROTHERS TELECOMMUNICATIONS TRUST

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
764	IM-02	SHEARSON	869798	SHEARSON LEHMAN BROTHERS WORLDWIDE PRIME ASSETS FUND
765	IM-02	SHEARSON	310581	SHEARSON LEHMAN DAILY DIVIDEND INC
766	IM-02	SHEARSON	888954	SHEARSON LEHMAN MANAGED GOVERNMENTS INC
767	IM-02	SHEARSON	792824	SHEARSON LEHMAN SERIES FUND
768	IM-02	SHEARSON	874835	SHEARSON SERIES FUND
769	IM-02	SHEARSON	355764	SHEARSON VIP FUND
770	IM-02	SHEARSON	355747	SLH INVESTMENT PORTFOLIOS INC
771	IM-02	SHEARSON	875186	TRUST FOR TRAK INVESTMENTS
772	IM-02	SHEARSON	820267	YEN PERFORMANCE PORTFOLIO L P
773	IM-02	VANGUARD	894381	GLENMEDE PORTFOLIOS
774	IM-02	VANGUARD	715144	MANN HORACE BALANCED FUND INC
775	IM-02	VANGUARD	062005	MANN HORACE GROWTH FUND INC
776	IM-02	VANGUARD	715145	MANN HORACE INCOME FUND INC
777	IM-02	VANGUARD	715143	MANN HORACE SHORT TERM INVESTMENT FUND INC
778	IM-03	ALLIANCE	816754	ACM GOVERNMENT INCOME FUND INC
779	IM-03	ALLIANCE	834903	ACM GOVERNMENT OPPORTUNITY FUND INC
780	IM-03	ALLIANCE	825650	ACM GOVERNMENT SECURITIES FUND INC
781	IM-03	ALLIANCE	830824	ACM GOVERNMENT SPECTRUM FUND INC /NY/
782	IM-03	ALLIANCE	862021	ACM INSTITUTIONAL RESERVES INC
783	IM-03	ALLIANCE	838133	ACM MANAGED INCOME FUND INC /NY/
784	IM-03	ALLIANCE	857540	ACM MANAGED MULTI MARKET TRUST INC
785	IM-03	ALLIANCE	069752	ALLIANCE BALANCED SHARES INC
786	IM-03	ALLIANCE	808278	ALLIANCE BOND FUND HIGH YIELD PORTFOLIO
787	IM-03	ALLIANCE	003794	ALLIANCE BOND FUND INC
788	IM-03	ALLIANCE	808283	ALLIANCE BOND FUND U S GOVERNMENT PORTFOLIO
789	IM-03	ALLIANCE	275017	ALLIANCE CAPITAL RESERVES
790	IM-03	ALLIANCE	779611	ALLIANCE CONVERTIBLE FUND
791	IM-03	ALLIANCE	756794	ALLIANCE COUNTERPOINT FUND
792	IM-03	ALLIANCE	019614	ALLIANCE FUND INC
793	IM-03	ALLIANCE	861100	ALLIANCE GLOBAL ENVIRONMENT FUND INC
794	IM-03	ALLIANCE	773868	ALLIANCE GLOBAL FUND
795	IM-03	ALLIANCE	095689	ALLIANCE GLOBAL SMALL CAP FUND INC
796	IM-03	ALLIANCE	278042	ALLIANCE GOVERNMENT RESERVES INC
797	IM-03	ALLIANCE	023292	ALLIANCE GROWTH & INCOME FUND INC
798	IM-03	ALLIANCE	350182	ALLIANCE INTERNATIONAL FUND
799	IM-03	ALLIANCE	725919	ALLIANCE MORTGAGE SECURITIES INCOME FUND INC
800	IM-03	ALLIANCE	885983	ALLIANCE MORTGAGE STRATEGY TRUST INC
801	IM-03	ALLIANCE	877894	ALLIANCE MULTI MARKET INCOME & GROWTH TRUST INC
802	IM-03	ALLIANCE	869481	ALLIANCE MULTI MARKET INCOME TRUST INC
803	IM-03	ALLIANCE	873067	ALLIANCE MULTI MARKET STRATEGY TRUST INC
804	IM-03	ALLIANCE	796737	ALLIANCE MUNICIPAL INCOME FUND INC
805	IM-03	ALLIANCE	707857	ALLIANCE MUNICIPAL TRUST
806	IM-03	ALLIANCE	859605	ALLIANCE NEW EUROPE FUND INC
807	IM-03	ALLIANCE	883676	ALLIANCE NORTH AMERICAN GOVERNMENT INCOME TRU INC
808	IM-03	ALLIANCE	889508	ALLIANCE PREMIER GROWTH FUND INC
809	IM-03	ALLIANCE	081443	ALLIANCE QUASAR FUND INC
810	IM-03	ALLIANCE	846711	ALLIANCE SHORT TERM MULTI MARKET TRUST INC
811	IM-03	ALLIANCE	808294	ALLIANCE TAX EXEMPT RESERVES GENERAL PORTFOLIO
812	IM-03	ALLIANCE	350181	ALLIANCE TECHNOLOGY FUND INC
813	IM-03	ALLIANCE	825316	ALLIANCE VARIABLE PRODUCTS SERIES FUND INC
814	IM-03	ALLIANCE	890881	ALLIANCE WORLD DOLLAR GOVERNMENT FUND INC
815	IM-03	ALLIANCE	866406	ALLIANCE WORLD INCOME TRUST INC
816	IM-03	ALLIANCE	843615	AUSTRIA FUND INC
817	IM-03	ALLIANCE	035429	FIDUCIARY MANAGEMENT ASSOCIATES
818	IM-03	ALLIANCE	835697	FINLAND FUND INC
819	IM-03	ALLIANCE	856073	GREECE FUND INC
820	IM-03	ALLIANCE	881304	KOREAN INVESTMENT FUND INC
821	IM-03	ALLIANCE	818105	SPAIN FUND INC
822	IM-03	AMERICAN CAPITAL	005094	AMERICAN CAPITAL BOND FUND INC
823	IM-03	AMERICAN CAPITAL	205193	AMERICAN CAPITAL COMSTOCK FUND INC
824	IM-03	AMERICAN CAPITAL	783989	AMERICAN CAPITAL COMSTOCK FUND INC ET AL
825	IM-03	AMERICAN CAPITAL	005099	AMERICAN CAPITAL CONVERTIBLE SECURITIES INC /TX
826	IM-03	AMERICAN CAPITAL	109488	AMERICAN CAPITAL CORPORATE BOND FUND INC
827	IM-03	AMERICAN CAPITAL	005115	AMERICAN CAPITAL EMERGING GROWTH FUND INC
828	IM-03	AMERICAN CAPITAL	033032	AMERICAN CAPITAL ENTERPRISE FUND INC
829	IM-03	AMERICAN CAPITAL	080832	AMERICAN CAPITAL EQUITY INCOME FUND INC
830	IM-03	AMERICAN CAPITAL	005100	AMERICAN CAPITAL EXCHANGE FUND
831	IM-03	AMERICAN CAPITAL	783743	AMERICAN CAPITAL FEDERAL MORTGAGE TRUST
832	IM-03	AMERICAN CAPITAL	723109	AMERICAN CAPITAL FUND INC
833	IM-03	AMERICAN CAPITAL	744378	AMERICAN CAPITAL GOVERNMENT SECURITIES INC
834	IM-03	AMERICAN CAPITAL	865441	AMERICAN CAPITAL GOVERNMENT TARGET SERIES
835	IM-03	AMERICAN CAPITAL	039451	AMERICAN CAPITAL GROWTH & INCOME FUND INC
836	IM-03	AMERICAN CAPITAL	005101	AMERICAN CAPITAL GROWTH FUND INC
837	IM-03	AMERICAN CAPITAL	045507	AMERICAN CAPITAL HARBOR FUND INC
838	IM-03	AMERICAN CAPITAL	278242	AMERICAN CAPITAL HIGH YIELD INVESTMENTS INC
839	IM-03	AMERICAN CAPITAL	820026	AMERICAN CAPITAL INCOME TRUST
840	IM-03	AMERICAN CAPITAL	201065	AMERICAN CAPITAL MUNICIPAL BOND FUND INC
841	IM-03	AMERICAN CAPITAL	201064	AMERICAN CAPITAL MUNICIPAL BOND FUND INC /OLD
842	IM-03	AMERICAN CAPITAL	726292	AMERICAN CAPITAL OVER THE COUNTER SECURITIES INC
843	IM-03	AMERICAN CAPITAL	075368	AMERICAN CAPITAL PACE FUND INC
844	IM-03	AMERICAN CAPITAL	005114	AMERICAN CAPITAL RESERVE FUND INC
845	IM-03	AMERICAN CAPITAL	763856	AMERICAN CAPITAL TAX EXEMPT TRUST

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
846	IM-03	AMERICAN CAPITAL	880854	AMERICAN CAPITAL TEXAS MUNICIPAL SECURITIES INC
847	IM-03	AMERICAN CAPITAL	889521	AMERICAN CAPITAL U S GOVERNMENT TRUST FOR INCOME
848	IM-03	AMERICAN CAPITAL	819577	AMERICAN CAPITAL WORLD INVESTMENT SERIES INC
849	IM-03	AMERICAN CAPITAL	869760	AMERICAN CAPITAL WORLD PORTFOLIO SERIES INC
850	IM-03	CAPTL RESEARCH	004405	AMCAP FUND INC
851	IM-03	CAPTL RESEARCH	004568	AMERICAN BALANCED FUND INC
852	IM-03	CAPTL RESEARCH	792953	AMERICAN FUNDS TAX EXEMPT SERIES I
853	IM-03	CAPTL RESEARCH	794389	AMERICAN FUNDS TAX EXEMPT SERIES II /CA
854	IM-03	CAPTL RESEARCH	823620	AMERICAN HIGH INCOME TRUST
855	IM-03	CAPTL RESEARCH	808072	AMERICAN LIFE ANNUITY SERIES
856	IM-03	CAPTL RESEARCH	005506	AMERICAN MUTUAL FUND INC
857	IM-03	CAPTL RESEARCH	814150	ANCHOR PATHWAY FUND
858	IM-03	CAPTL RESEARCH	013075	BOND FUND OF AMERICA INC
859	IM-03	CAPTL RESEARCH	013083	BOND PORTFOLIO FOR ENDOWMENTS INC
860	IM-03	CAPTL RESEARCH	811968	CAPITAL INCOME BUILDER INC
861	IM-03	CAPTL RESEARCH	812303	CAPITAL WORLD BOND FUND INC
862	IM-03	CAPTL RESEARCH	016109	CASH MANAGEMENT TRUST OF AMERICA
863	IM-03	CAPTL RESEARCH	032859	ENDOWMENTS INC
864	IM-03	CAPTL RESEARCH	719603	EUROPACIFIC GROWTH FUND
865	IM-03	CAPTL RESEARCH	039473	FUNDAMENTAL INVESTORS INC
866	IM-03	CAPTL RESEARCH	044201	GROWTH FUND OF AMERICA INC
867	IM-03	CAPTL RESEARCH	050013	INCOME FUND OF AMERICA INC
868	IM-03	CAPTL RESEARCH	826813	INTERMEDIATE BOND FUND OF AMERICA
869	IM-03	CAPTL RESEARCH	051931	INVESTMENT CO OF AMERICA
870	IM-03	CAPTL RESEARCH	719606	NEW ECONOMY FUND
871	IM-03	CAPTL RESEARCH	071516	NEW PERSPECTIVE FUND INC
872	IM-03	CAPTL RESEARCH	846944	NEW WORLD INVESTMENT FUND
873	IM-03	CAPTL RESEARCH	858744	SMALLCAP WORLD FUND INC
874	IM-03	CAPTL RESEARCH	050142	TAX EXEMPT BOND FUND OF AMERICA INC
875	IM-03	CAPTL RESEARCH	845376	TAX EXEMPT MONEY FUND OF AMERICA
876	IM-03	CAPTL RESEARCH	870827	U S TREASURY MONEY FUND OF AMERICA
877	IM-03	CAPTL RESEARCH	104865	WASHINGTON MUTUAL INVESTORS FUND INC
878	IM-03	COLONIAL	763780	COLONIAL ADVANCED STRATEGIES GOLD TRUST
879	IM-03	COLONIAL	787622	COLONIAL CALIFORNIA TAX EXEMPT TRUST
880	IM-03	COLONIAL	351488	COLONIAL CORPORATE CASH TRUST I
881	IM-03	COLONIAL	736187	COLONIAL CORPORATE CASH TRUST II
882	IM-03	COLONIAL	021844	COLONIAL FUND /MA/
883	IM-03	COLONIAL	731809	COLONIAL GOVERNMENT SECURITIES PLUS TRUST
884	IM-03	COLONIAL	821477	COLONIAL HANCOCK LIBERTY TRUST
885	IM-03	COLONIAL	845606	COLONIAL HIGH INCOME MUNICIPAL TRUST
886	IM-03	COLONIAL	021851	COLONIAL INCOME TRUST
887	IM-03	COLONIAL	853770	COLONIAL INTERMARKET INCOME TRUST I
888	IM-03	COLONIAL	833021	COLONIAL INTERMEDIATE HIGH INCOME FUND
889	IM-03	COLONIAL	793028	COLONIAL INTERNATIONAL EQUITY INDEX TRUST
890	IM-03	COLONIAL	847411	COLONIAL INVESTMENT GRADE MUNICIPAL TRUST
891	IM-03	COLONIAL	798834	COLONIAL MICHIGAN TAX EXEMPT TRUST
892	IM-03	COLONIAL	798914	COLONIAL MINNESOTA TAX EXEMPT TRUST
893	IM-03	COLONIAL	809844	COLONIAL MUNICIPAL INCOME TRUST
894	IM-03	COLONIAL	798835	COLONIAL NEW YORK TAX EXEMPT TRUST
895	IM-03	COLONIAL	798913	COLONIAL OHIO TAX EXEMPT TRUST
896	IM-03	COLONIAL	793006	COLONIAL SMALL STOCK INDEX TRUST
897	IM-03	COLONIAL	205181	COLONIAL STRATEGIC INCOME TRUST
898	IM-03	COLONIAL	813815	COLONIAL TAX EXEMPT MONEY MARKET TRUST
899	IM-03	COLONIAL	021832	COLONIAL TRUST I
900	IM-03	COLONIAL	315665	COLONIAL TRUST II
901	IM-03	COLONIAL	021847	COLONIAL TRUST III
902	IM-03	COLONIAL	276716	COLONIAL TRUST IV
903	IM-03	COLONIAL	810891	COLONIAL TRUST V
904	IM-03	COLONIAL	819800	COLONIAL U S GOVERNMENT TRUST
905	IM-03	COLONIAL	785780	COLONIAL UNITED STATES EQUITY INDEX TRUST
906	IM-03	COLONIAL	828805	COLONIAL VALUE INVESTING PORTFOLIOS EQUITY PORTFOLIO
907	IM-03	COLONIAL	817752	COLONIAL VALUE INVESTING PORTFOLIOS INCOME PORTFOLIO
908	IM-03	DB CAPITAL	808380	APOLLO INSTITUTIONAL INVESTMENTS INC
909	IM-03	DB CAPITAL	757118	ATLAS INSTITUTIONAL INVESTMENTS INC
910	IM-03	DB CAPITAL	860489	FUTURE GERMANY FUND INC
911	IM-03	DB CAPITAL	791718	GERMANY FUND INC
912	IM-03	DB CAPITAL	764043	HERCULES INSTITUTIONAL INVESTMENTS INC
913	IM-03	DB CAPITAL	793602	HERMES INSTITUTIONAL INVESTMENTS INC
914	IM-03	DB CAPITAL	757119	MERCURY INSTITUTIONAL INVESTMENTS INC
915	IM-03	DB CAPITAL	856706	NEW GERMANY FUND INC
916	IM-03	DB CAPITAL	765665	OLYMPUS INSTITUTIONAL INVESTMENTS INC
917	IM-03	DB CAPITAL	806581	ORION INSTITUTIONAL INVESTMENTS INC
918	IM-03	DB CAPITAL	751311	PEGASUS INSTITUTIONAL INVESTMENTS INC
919	IM-03	DB CAPITAL	755344	TAURUS INSTITUTIONAL INVESTMENTS INC
920	IM-03	DB CAPITAL	804170	TITAN INSTITUTIONAL INVESTMENTS INC
921	IM-03	DB CAPITAL	865480	WILSON BOND FUND
922	IM-03	DB CAPITAL	865478	WILSON EQUITY FUND
923	IM-03	EATON VANCE	017147	CAPITAL EXCHANGE FUND INC
924	IM-03	EATON VANCE	028221	DEPOSITORS FUND OF BOSTON INC
925	IM-03	EATON VANCE	029156	DIVERSIFICATION FUND INC
926	IM-03	EATON VANCE	031264	EATON VANCE CASH MANAGEMENT FUND
927	IM-03	EATON VANCE	809772	EATON VANCE CORPORATE HIGH INCOME DOLLAR FUND L P

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
928	IM-03	EATON VANCE	820056	EATON VANCE EQUITY INCOME TRUST
929	IM-03	EATON VANCE	745463	EATON VANCE GOVERNMENT OBLIGATIONS TRUST
930	IM-03	EATON VANCE	102816	EATON VANCE GROWTH FUND INC
931	IM-03	EATON VANCE	790257	EATON VANCE HIGH INCOME TRUST
932	IM-03	EATON VANCE	074663	EATON VANCE INCOME FUND OF BOSTON
933	IM-03	EATON VANCE	779991	EATON VANCE INVESTMENT TRUST
934	IM-03	EATON VANCE	102822	EATON VANCE INVESTORS FUND INC
935	IM-03	EATON VANCE	814454	EATON VANCE LIQUID ASSETS TRUST
936	IM-03	EATON VANCE	225977	EATON VANCE MUNICIPAL BOND FUND L P
937	IM-03	EATON VANCE	778385	EATON VANCE MUNICIPALS TRUST
938	IM-03	EATON VANCE	819938	EATON VANCE NATURAL RESOURCES TRUST
939	IM-03	EATON VANCE	850025	EATON VANCE PRIME RATE RESERVES
940	IM-03	EATON VANCE	867240	EATON VANCE SHORT TERM GLOBAL INCOME FUND INC
941	IM-03	EATON VANCE	031266	EATON VANCE SPECIAL EQUITIES FUND
942	IM-03	EATON VANCE	031273	EATON VANCE STOCK FUND
943	IM-03	EATON VANCE	354212	EATON VANCE TAX FREE RESERVES
944	IM-03	EATON VANCE	355758	EATON VANCE TOTAL RETURN TRUST
945	IM-03	EATON VANCE	809771	EATON VANCE U S GOVERNMENT INCOME DOLLAR FUND L P
946	IM-03	EATON VANCE	853255	EQUIFUND WRIGHT NATIONAL FIDUCIARY EQUITY FUNDS
947	IM-03	EATON VANCE	035427	FIDUCIARY EXCHANGE FUND INC
948	IM-03	EATON VANCE	277588	NAUTILUS FUND INC
949	IM-03	EATON VANCE	088329	SECOND FIDUCIARY EXCHANGE FUND INC
950	IM-03	EATON VANCE	102818	VANCE SANDERS EXCHANGE FUND
951	IM-03	EATON VANCE	225976	VANCE SANDERS MUNICIPAL BOND FUND INC
952	IM-03	EATON VANCE	102824	VANCE SANDERS SPECIAL FUND INC
953	IM-03	EATON VANCE	703499	WRIGHT MANAGED EQUITY TRUST
954	IM-03	EATON VANCE	715185	WRIGHT MANAGED INCOME TRUST
955	IM-03	EATON VANCE	354943	WRIGHT MANAGED MONEY MARKET TRUST
956	IM-03	FIRST INVESTORS	807332	EXECUTIVE INVESTORS TRUST
957	IM-03	FIRST INVESTORS	215857	FIRST INVESTORS BOND APPRECIATION FUND INC
958	IM-03	FIRST INVESTORS	276461	FIRST INVESTORS CASH MANAGEMENT FUND INC
959	IM-03	FIRST INVESTORS	036444	FIRST INVESTORS DISCOVERY FUND INC
960	IM-03	FIRST INVESTORS	036446	FIRST INVESTORS FUND FOR GROWTH INC
961	IM-03	FIRST INVESTORS	312370	FIRST INVESTORS FUND FOR INCOME INC/NY
962	IM-03	FIRST INVESTORS	352564	FIRST INVESTORS GLOBAL FUND INC
963	IM-03	FIRST INVESTORS	740967	FIRST INVESTORS GOVERNMENT FUND INC
964	IM-03	FIRST INVESTORS	707834	FIRST INVESTORS HIGH YIELD FUND INC
965	IM-03	FIRST INVESTORS	793686	FIRST INVESTORS HIGH YIELD FUND INC /NY/
966	IM-03	FIRST INVESTORS	770906	FIRST INVESTORS LIFE SERIES FUND
967	IM-03	FIRST INVESTORS	314391	FIRST INVESTORS LIFE VARIABLE ANNUITY FUND A
968	IM-03	FIRST INVESTORS	810371	FIRST INVESTORS MULTISTATE INSURED TAX FREE FUND
969	IM-03	FIRST INVESTORS	727586	FIRST INVESTORS NEW YORK INSURED TAX FREE FUND INC
970	IM-03	FIRST INVESTORS	036456	FIRST INVESTORS OPTION FUND INC
971	IM-03	FIRST INVESTORS	276208	FIRST INVESTORS QUALIFIED DIVIDEND FUND INC
972	IM-03	FIRST INVESTORS	842939	FIRST INVESTORS SERIES FUND
973	IM-03	FIRST INVESTORS	886048	FIRST INVESTORS SERIES FUND II INC
974	IM-03	FIRST INVESTORS	036447	FIRST INVESTORS SGL P&PP FOR INV IN FIR INV FUND FOR INC INC
975	IM-03	FIRST INVESTORS	201844	FIRST INVESTORS SGL P&PP FOR INV IN FIR INV INS TAX EX FUN I
976	IM-03	FIRST INVESTORS	008331	FIRST INVESTORS SGL P&PPP FOR THE ACCU OF SH OF AMCAP FD INC
977	IM-03	FIRST INVESTORS	314480	FIRST INVESTORS SPECIAL BOND FUND INC
978	IM-03	FIRST INVESTORS	716792	FIRST INVESTORS TAX EXEMPT MONEY MARKET FUND INC
979	IM-03	FIRST INVESTORS	759696	FIRST INVESTORS U S GOVERNMENT PLUS FUND
980	IM-03	FIRST INVESTORS	703113	FIRST INVESTORS VALUE FUND INC
981	IM-03	FLAG INVESTORS	885111	FLAG INVESTORS VALUE BUILDER FUND INC
982	IM-03	FRANKLIN ADVSRS	872687	ADJUSTABLE RATE SECURITIES PORTFOLIOS
983	IM-03	FRANKLIN ADVSRS	002758	AGE HIGH INCOME FUND INC
984	IM-03	FRANKLIN ADVSRS	856119	FRANKLIN BALANCE SHEET INVESTMENT FUND
985	IM-03	FRANKLIN ADVSRS	225375	FRANKLIN CALIFORNIA TAX FREE INCOME FUND INC
986	IM-03	FRANKLIN ADVSRS	773478	FRANKLIN CALIFORNIA TAX FREE TRUST
987	IM-03	FRANKLIN ADVSRS	038721	FRANKLIN CUSTODIAN FUNDS INC
988	IM-03	FRANKLIN ADVSRS	083297	FRANKLIN EQUITY FUND
989	IM-03	FRANKLIN ADVSRS	316403	FRANKLIN FEDERAL MONEY FUND
990	IM-03	FRANKLIN ADVSRS	357310	FRANKLIN FEDERAL TAX FREE INCOME FUND
991	IM-03	FRANKLIN ADVSRS	083293	FRANKLIN GOLD FUND
992	IM-03	FRANKLIN ADVSRS	809707	FRANKLIN INVESTORS SECURITIES TRUST
993	IM-03	FRANKLIN ADVSRS	805650	FRANKLIN MANAGED TRUST
994	IM-03	FRANKLIN ADVSRS	038778	FRANKLIN MONEY FUND
995	IM-03	FRANKLIN ADVSRS	854856	FRANKLIN MULTI INCOME TRUST
996	IM-03	FRANKLIN ADVSRS	703112	FRANKLIN NEW YORK TAX FREE INCOME FUND INC
997	IM-03	FRANKLIN ADVSRS	798523	FRANKLIN NEW YORK TAX FREE TRUST
998	IM-03	FRANKLIN ADVSRS	799215	FRANKLIN PENNSYLVANIA INVESTORS FUND
999	IM-03	FRANKLIN ADVSRS	014698	FRANKLIN PREMIER RETURN FUND
1000	IM-03	FRANKLIN ADVSRS	843297	FRANKLIN PRINCIPAL MATURITY TRUST
1001	IM-03	FRANKLIN ADVSRS	872625	FRANKLIN STRATEGIC SERIES
1002	IM-03	FRANKLIN ADVSRS	810303	FRANKLIN TAX ADVANTAGED HIGH YIELD SECURITIES FUND
1003	IM-03	FRANKLIN ADVSRS	802669	FRANKLIN TAX ADVANTAGED INTERNATIONAL BOND FUND
1004	IM-03	FRANKLIN ADVSRS	810742	FRANKLIN TAX ADVANTAGED U S GOVERNMENT SECURITIES FUND
1005	IM-03	FRANKLIN ADVSRS	353316	FRANKLIN TAX EXEMPT MONEY FUND
1006	IM-03	FRANKLIN ADVSRS	757010	FRANKLIN TAX FREE TRUST
1007	IM-03	FRANKLIN ADVSRS	833040	FRANKLIN UNIVERSAL TRUST
1008	IM-03	FRANKLIN ADVSRS	765485	INSTITUTIONAL FIDUCIARY TRUST
1009	IM-03	JOHN HANCOCK	710181	HANCOCK JOHN ASSET ALLOCATION FUND

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
1010	IM-03	JOHN HANCOCK	780323	HANCOCK JOHN BOND TRUST /MA
1011	IM-03	JOHN HANCOCK	312904	HANCOCK JOHN CASH MANAGEMENT FUND
1012	IM-03	JOHN HANCOCK	750780	HANCOCK JOHN GLOBAL FUND
1013	IM-03	JOHN HANCOCK	316005	HANCOCK JOHN GOVERNMENT SPECTRUM FUND
1014	IM-03	JOHN HANCOCK	045291	HANCOCK JOHN GROWTH FUND /MA/
1015	IM-03	JOHN HANCOCK	760285	HANCOCK JOHN GROWTH TRUST
1016	IM-03	JOHN HANCOCK	759866	HANCOCK JOHN INCOME SECURITIES TRUST /MA
1017	IM-03	JOHN HANCOCK	045293	HANCOCK JOHN INCOME SECURITIES TRUST/MD
1018	IM-03	JOHN HANCOCK	759628	HANCOCK JOHN INVESTORS TRUST
1019	IM-03	JOHN HANCOCK	045288	HANCOCK JOHN SOVEREIGN BOND FUND
1020	IM-03	JOHN HANCOCK	750741	HANCOCK JOHN SPECIAL EQUITIES FUND
1021	IM-03	JOHN HANCOCK	792658	HANCOCK JOHN STRATEGIC SERIES
1022	IM-03	JOHN HANCOCK	202049	HANCOCK JOHN TAX EXEMPT INCOME FUND
1023	IM-03	JOHN HANCOCK	811921	HANCOCK JOHN TAX EXEMPT SERIES FUND
1024	IM-03	JOHN HANCOCK	045286	HANCOCK JOHN U S GOVERNMENT SECURITIES FUND
1025	IM-03	JOHN HANCOCK	785303	HANCOCK JOHN VARIABLE SERIES TRUST I
1026	IM-03	JOHN HANCOCK	807639	HANCOCK JOHN WORLD FUND
1027	IM-03	JOHN HANCOCK	888154	PATRIOT GLOBAL DIVIDEND FUND
1028	IM-03	KEMPER	858372	CASH ACCOUNT TRUST
1029	IM-03	KEMPER	310030	CASH EQUIVALENT FUND
1030	IM-03	KEMPER	849255	COLLEGE PREPAYMENT FUND INC
1031	IM-03	KEMPER	858998	GROWTH FUND OF SPAIN INC
1032	IM-03	KEMPER	863209	INVESTORS CASH TRUST
1033	IM-03	KEMPER	814955	KEMPER ADJUSTABLE RATE US GOVERNMENT FUND
1034	IM-03	KEMPER	823342	KEMPER BLUE CHIP FUND
1035	IM-03	KEMPER	216314	KEMPER DIVERSIFIED INCOME FUND
1036	IM-03	KEMPER	661703	KEMPER ENVIRONMENTAL SERVICES FUND
1037	IM-03	KEMPER	852067	KEMPER GLOBAL INCOME FUND
1038	IM-03	KEMPER	826597	KEMPER GOLD FUND
1039	IM-03	KEMPER	095601	KEMPER GROWTH FUND
1040	IM-03	KEMPER	830160	KEMPER HIGH INCOME TRUST
1041	IM-03	KEMPER	225528	KEMPER HIGH YIELD FUND
1042	IM-03	KEMPER	055185	KEMPER INCOME & CAPITAL PRESERVATION FUND INC
1043	IM-03	KEMPER	832925	KEMPER INTERMEDIATE GOVERNMENT TRUST
1044	IM-03	KEMPER	350562	KEMPER INTERNATIONAL FUND
1045	IM-03	KEMPER	701638	KEMPER INVESTMENT PORTFOLIOS
1046	IM-03	KEMPER	810573	KEMPER INVESTORS FUND
1047	IM-03	KEMPER	055189	KEMPER MONEY MARKET FUND
1048	IM-03	KEMPER	842905	KEMPER MULTI MARKET INCOME TRUST
1049	IM-03	KEMPER	055190	KEMPER MUNICIPAL BOND FUND
1050	IM-03	KEMPER	839533	KEMPER MUNICIPAL INCOME TRUST
1051	IM-03	KEMPER	856345	KEMPER PREMIER TRUST
1052	IM-03	KEMPER	854905	KEMPER RETIREMENT FUND
1053	IM-03	KEMPER	866537	KEMPER SHORT TERM GLOBAL INCOME FUND
1054	IM-03	KEMPER	868792	KEMPER SHORT TERM GLOBAL INCOME FUND-B
1055	IM-03	KEMPER	095605	KEMPER SMALL CAPITALIZATION EQUITY FUND
1056	IM-03	KEMPER	714287	KEMPER STATE TAX FREE INCOME SERIES
1057	IM-03	KEMPER	846596	KEMPER STRATEGIC MUNICIPAL INCOME TRUST
1058	IM-03	KEMPER	888506	KEMPER TARGET MATURITY INCOME FUND /IL/
1059	IM-03	KEMPER	096790	KEMPER TECHNOLOGY FUND
1060	IM-03	KEMPER	095603	KEMPER TOTAL RETURN FUND
1061	IM-03	KEMPER	202163	KEMPER U S GOVERNMENT SECURITIES FUND INC
1062	IM-03	KEMPER	811911	TAX EXEMPT CALIFORNIA MONEY MARKET FUND
1063	IM-03	KEMPER	701718	TAX EXEMPT MONEY MARKET FUND
1064	IM-03	KEMPER	863420	TAX EXEMPT NEW YORK MONEY MARKET FUND
1065	IM-03	KEYSTONE	045987	HARTWELL EMERGING GROWTH FUND INC
1066	IM-03	KEYSTONE	045993	HARTWELL GROWTH FUND INC
1067	IM-03	KEYSTONE	872324	KEYSTONE AMERICA CAPITAL PRESERVATION & INCOME FUND II
1068	IM-03	KEYSTONE	871230	KEYSTONE AMERICA CAPITAL PRESERVATION AND INCOME FUND
1069	IM-03	KEYSTONE	808335	KEYSTONE AMERICA EQUITY INCOME FUND
1070	IM-03	KEYSTONE	820810	KEYSTONE AMERICA FUND OF GROWTH STOCKS
1071	IM-03	KEYSTONE	825557	KEYSTONE AMERICA GLOBAL OPPORTUNITIES FUND
1072	IM-03	KEYSTONE	808332	KEYSTONE AMERICA GOVERNMENT SECURITIES FUND
1073	IM-03	KEYSTONE	808330	KEYSTONE AMERICA HIGH YIELD BOND FUND
1074	IM-03	KEYSTONE	808333	KEYSTONE AMERICA INVESTMENT GRADE BOND FUND
1075	IM-03	KEYSTONE	808331	KEYSTONE AMERICA MONEY MARKET FUND
1076	IM-03	KEYSTONE	074458	KEYSTONE AMERICA OMEGA FUND INC /MA/
1077	IM-03	KEYSTONE	869851	KEYSTONE AMERICA STATE TAX FREE FUND
1078	IM-03	KEYSTONE	808334	KEYSTONE AMERICA TAX FREE INCOME FUND
1079	IM-03	KEYSTONE	808422	KEYSTONE AMERICA TAX FREE MONEY MARKET FUND
1080	IM-03	KEYSTONE	800446	KEYSTONE AMERICA WORLD BOND FUND
1081	IM-03	KEYSTONE	055611	KEYSTONE CUSTODIAN FUND SERIES B-1
1082	IM-03	KEYSTONE	055615	KEYSTONE CUSTODIAN FUND SERIES B-2
1083	IM-03	KEYSTONE	055613	KEYSTONE CUSTODIAN FUND SERIES B-3
1084	IM-03	KEYSTONE	055614	KEYSTONE CUSTODIAN FUND SERIES B-4
1085	IM-03	KEYSTONE	055616	KEYSTONE CUSTODIAN FUND SERIES K-1
1086	IM-03	KEYSTONE	055619	KEYSTONE CUSTODIAN FUND SERIES K-2
1087	IM-03	KEYSTONE	055624	KEYSTONE CUSTODIAN FUND SERIES S-1
1088	IM-03	KEYSTONE	055626	KEYSTONE CUSTODIAN FUND SERIES S-3
1089	IM-03	KEYSTONE	055627	KEYSTONE CUSTODIAN FUND SERIES S-4
1090	IM-03	KEYSTONE	055628	KEYSTONE CUSTODIAN FUNDS INC
1091	IM-03	KEYSTONE	886539	KEYSTONE HIGH YIELD PRIORITY VALUE FUND

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
1092	IM-03	KEYSTONE	079321	KEYSTONE INTERNATIONAL FUND INC
1093	IM-03	KEYSTONE	005384	KEYSTONE LIQUID TRUST
1094	IM-03	KEYSTONE	079951	KEYSTONE PRECIOUS METALS HOLDINGS INC
1095	IM-03	KEYSTONE	771648	KEYSTONE TAX EXEMPT TRUST
1096	IM-03	KEYSTONE	215494	KEYSTONE TAX FREE FUND
1097	IM-03	KEYSTONE	801415	MASTER EQUITY TRUST
1098	IM-03	KEYSTONE	707083	MASTER RESERVES TAX FREE TRUST
1099	IM-03	KEYSTONE	082345	MASTER RESERVES TRUST
1100	IM-03	MFS	798234	LIFETIME GLOBAL EQUITY TRUST
1101	IM-03	MFS	063068	MASSACHUSETTS CASH MANAGEMENT TRUST
1102	IM-03	MFS	063090	MASSACHUSETTS INVESTORS GROWTH STOCK FUND
1103	IM-03	MFS	063091	MASSACHUSETTS INVESTORS TRUST
1104	IM-03	MFS	736466	MASSACHUSETTS MFS HIGH YIELD MUNICIPAL BOND FUND
1105	IM-03	MFS	063075	MFS BOND FUND
1106	IM-03	MFS	766300	MFS CALIFORNIA MUNICIPAL BOND FUND
1107	IM-03	MFS	063067	MFS CAPITAL DEVELOPMENT FUND
1108	IM-03	MFS	851170	MFS CHARTER INCOME TRUST
1109	IM-03	MFS	354443	MFS EMERGING GROWTH FUND
1110	IM-03	MFS	783740	MFS GOVERNMENT INCOME PLUS FUND
1111	IM-03	MFS	811922	MFS GOVERNMENT MARKETS INCOME TRUST
1112	IM-03	MFS	764719	MFS GOVERNMENT PREMIUM FUND
1113	IM-03	MFS	356349	MFS GOVERNMENT SECURITIES FUND
1114	IM-03	MFS	225604	MFS HIGH INCOME FUND
1115	IM-03	MFS	819673	MFS INCOME & OPPORTUNITY FUND
1116	IM-03	MFS	826735	MFS INTERMEDIATE INCOME TRUST
1117	IM-03	MFS	798249	MFS LIFE TIME MONEY MARKET FUND
1118	IM-03	MFS	798243	MFS LIFETIME CAPITAL GROWTH FUND
1119	IM-03	MFS	798250	MFS LIFETIME EMERGING GROWTH FUND
1120	IM-03	MFS	830973	MFS LIFETIME GOLD & NATURAL RESOURCES FUND
1121	IM-03	MFS	798235	MFS LIFETIME GOVERNMENT INCOME PLUS FUND
1122	IM-03	MFS	843390	MFS LIFETIME GOVERNMENT SECURITIES FUND
1123	IM-03	MFS	798245	MFS LIFETIME HIGH INCOME FUND
1124	IM-03	MFS	830974	MFS LIFETIME INTERMEDIATE INCOME FUND
1125	IM-03	MFS	798244	MFS LIFETIME MANAGED SECTORS FUND
1126	IM-03	MFS	798236	MFS LIFETIME MUNICIPAL BOND FUND
1127	IM-03	MFS	811090	MFS LIFETIME TOTAL RETURN FUND
1128	IM-03	MFS	788958	MFS MANAGED SECTORS FUND
1129	IM-03	MFS	751556	MFS MULTI STATE MUNICIPAL BOND TRUST
1130	IM-03	MFS	809173	MFS MULTIMARKET INCOME TRUST
1131	IM-03	MFS	832996	MFS MULTIMARKET TOTAL RETURN TRUST
1132	IM-03	MFS	202570	MFS MUNICIPAL BOND FUND
1133	IM-03	MFS	315673	MFS MUNICIPAL BOND TRUST /MA/
1134	IM-03	MFS	801961	MFS MUNICIPAL INCOME TRUST
1135	IM-03	MFS	200488	MFS RESEARCH FUND
1136	IM-03	MFS	717243	MFS SPECIAL FUND
1137	IM-03	MFS	856128	MFS SPECIAL VALUE TRUST
1138	IM-03	MFS	200489	MFS TOTAL RETURN FUND
1139	IM-03	MFS	318874	MFS WORLDWIDE GOVERNMENTS FUND
1140	IM-03	MFS	863032	MFS WORLDWIDE TOTAL RETURN FUND
1141	IM-03	NATL SECURITIES	225680	NATIONAL BOND FUND
1142	IM-03	NATL SECURITIES	701266	NATIONAL CASH RESERVES INC
1143	IM-03	NATL SECURITIES	755341	NATIONAL FEDERAL SECURITIES TRUST
1144	IM-03	NATL SECURITIES	811231	NATIONAL GLOBAL ALLOCATION FUND
1145	IM-03	NATL SECURITIES	796308	NATIONAL GROWTH FUND
1146	IM-03	NATL SECURITIES	070167	NATIONAL GROWTH INVESTMENT PLAN
1147	IM-03	NATL SECURITIES	796298	NATIONAL INCOME & GROWTH FUND
1148	IM-03	NATL SECURITIES	855889	NATIONAL MULTI SECTOR FIXED INCOME FUND INC
1149	IM-03	NATL SECURITIES	821228	NATIONAL PRECIOUS METALS FUND INC
1150	IM-03	NATL SECURITIES	796301	NATIONAL PREFERRED FUND
1151	IM-03	NATL SECURITIES	202709	NATIONAL SECURITIES TAX EXEMPT BONDS INC
1152	IM-03	NATL SECURITIES	796299	NATIONAL STOCK FUND
1153	IM-03	NATL SECURITIES	796300	NATIONAL TOTAL RETURN FUND
1154	IM-03	NATL SECURITIES	783990	NATIONAL VALUE FUND INC
1155	IM-03	NATL SECURITIES	034273	NATIONAL WORLDWIDE OPPORTUNITIES FUND INC
1156	IM-03	NATL SECURITIES	275811	SMITH BARNEY MONEY FUNDS INC
1157	IM-03	NUVEEN	892992	NUVEEN ARIZONA PREMIUM INCOME MUNICIPAL FUND INC
1158	IM-03	NUVEEN	868440	NUVEEN CALIFORNIA INVESTMENT QUALITY MUNICIPAL FUND INC
1159	IM-03	NUVEEN	830266	NUVEEN CALIFORNIA MUNICIPAL INCOME FUND INC
1160	IM-03	NUVEEN	862313	NUVEEN CALIFORNIA MUNICIPAL MARKET OPPORTUNITY FUND INC
1161	IM-03	NUVEEN	818851	NUVEEN CALIFORNIA MUNICIPAL VALUE FUND INC
1162	IM-03	NUVEEN	856227	NUVEEN CALIFORNIA PERFORMANCE PLUS MUNICIPAL FUND INC
1163	IM-03	NUVEEN	784879	NUVEEN CALIFORNIA TAX FREE FUND INC
1164	IM-03	NUVEEN	870779	NUVEEN FLORIDA INVESTMENT QUALITY MUNICIPAL FUND INC
1165	IM-03	NUVEEN	073391	NUVEEN INCOME FUND SERIES 1
1166	IM-03	NUVEEN	073366	NUVEEN INCOME TRUST SERIES 1 CHECK A MONTH
1167	IM-03	NUVEEN	885711	NUVEEN INSURED CALIFORNIA PREMIUM INCOME MUNICIPAL FUND INC
1168	IM-03	NUVEEN	885732	NUVEEN INSURED CALIFORNIA SELECT TAX FREE INCOME PORTFOLIO
1169	IM-03	NUVEEN	890893	NUVEEN INSURED FLORIDA PREMIUM INCOME MUNICIPAL FUND
1170	IM-03	NUVEEN	878242	NUVEEN INSURED MUNICIPAL OPPORTUNITY FUND INC
1171	IM-03	NUVEEN	885712	NUVEEN INSURED NEW YORK PREMIUM INCOME MUNICIPAL FUND INC
1172	IM-03	NUVEEN	885731	NUVEEN INSURED NEW YORK SELECT TAX FREE INCOME PORTFOLIO
1173	IM-03	NUVEEN	890884	NUVEEN INSURED PREMIUM INCOME MUNICIPAL FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
1174	IM-03	NUVEEN	859405	NUVEEN INSURED QUALITY MUNICIPAL FUND INC
1175	IM-03	NUVEEN	799691	NUVEEN INSURED TAX FREE BOND FUND INC
1176	IM-03	NUVEEN	862716	NUVEEN INVESTMENT QUALITY MUNICIPAL FUND INC
1177	IM-03	NUVEEN	890897	NUVEEN MICHIGAN PREMIUM INCOME MUNICIPAL FUND INC
1178	IM-03	NUVEEN	878198	NUVEEN MICHIGAN QUALITY INCOME MUNICIPAL FUND INC
1179	IM-03	NUVEEN	880003	NUVEEN MULTISTATE TAX FREE TRUST
1180	IM-03	NUVEEN	857361	NUVEEN MUNICIPAL ADVANTAGE FUND INC
1181	IM-03	NUVEEN	202768	NUVEEN MUNICIPAL BOND FUND INC
1182	IM-03	NUVEEN	830271	NUVEEN MUNICIPAL INCOME FUND INC
1183	IM-03	NUVEEN	880188	NUVEEN MUNICIPAL MARKET OPPORTUNITY FUND INC
1184	IM-03	NUVEEN	812801	NUVEEN MUNICIPAL VALUE FUND INC
1185	IM-03	NUVEEN	870778	NUVEEN NEW JERSEY INVESTMENT QUALITY MUNICIPAL FUND INC
1186	IM-03	NUVEEN	890896	NUVEEN NEW JERSEY PREMIUM INCOME MUNICIPAL FUND INC
1187	IM-03	NUVEEN	878181	NUVEEN NEW JERSEY QUALITY INCOME MUNICIPAL FUND INC
1188	IM-03	NUVEEN	868449	NUVEEN NEW YORK INVESTMENT QUALITY MUNICIPAL FUND INC
1189	IM-03	NUVEEN	830264	NUVEEN NEW YORK MUNICIPAL INCOME FUND INC
1190	IM-03	NUVEEN	862338	NUVEEN NEW YORK MUNICIPAL MARKET OPPORTUNITY FUND INC
1191	IM-03	NUVEEN	818650	NUVEEN NEW YORK MUNICIPAL VALUE FUND INC
1192	IM-03	NUVEEN	852226	NUVEEN NEW YORK PERFORMANCE PLUS MUNICIPAL FUND INC
1193	IM-03	NUVEEN	879819	NUVEEN NEW YORK QUALITY INCOME MUNICIPAL FUND INC
1194	IM-03	NUVEEN	874143	NUVEEN NEW YORK SELECT QUALITY MUNICIPAL FUND INC
1195	IM-03	NUVEEN	890889	NUVEEN OHIO PREMIUM INCOME MUNICIPAL FUND INC
1196	IM-03	NUVEEN	878200	NUVEEN OHIO QUALITY INCOME MUNICIPAL FUND INC
1197	IM-03	NUVEEN	870780	NUVEEN PENNSYLVANIA INVESTMENT QUALITY MUNICIPAL FUND INC
1198	IM-03	NUVEEN	890891	NUVEEN PENNSYLVANIA PREMIUM INCOME MUNICIPAL FUND
1199	IM-03	NUVEEN	878179	NUVEEN PENNSYLVANIA QUALITY INCOME MUNICIPAL FUND INC
1200	IM-03	NUVEEN	849998	NUVEEN PERFORMANCE PLUS MUNICIPAL FUND INC
1201	IM-03	NUVEEN	880643	NUVEEN PREMIER INSURED MUNICIPAL INCOME FUND INC
1202	IM-03	NUVEEN	880645	NUVEEN PREMIER MUNICIPAL INCOME FUND INC
1203	IM-03	NUVEEN	885734	NUVEEN PREMIUM INCOME MUNICIPAL FUND 2 INC
1204	IM-03	NUVEEN	896061	NUVEEN PREMIUM INCOME MUNICIPAL FUND 4 INC
1205	IM-03	NUVEEN	833251	NUVEEN PREMIUM INCOME MUNICIPAL FUND INC
1206	IM-03	NUVEEN	874506	NUVEEN QUALITY INCOME MUNICIPAL FUND INC
1207	IM-03	NUVEEN	850119	NUVEEN SELECT MATURITIES MUNICIPAL FUND
1208	IM-03	NUVEEN	890903	NUVEEN SELECT MATURITIES MUNICIPAL FUND 2
1209	IM-03	NUVEEN	890901	NUVEEN SELECT MATURITIES MUNICIPAL FUND 3
1210	IM-03	NUVEEN	872064	NUVEEN SELECT QUALITY MUNICIPAL FUND INC
1211	IM-03	NUVEEN	883616	NUVEEN SELECT TAX FREE INCOME PORTFOLIO
1212	IM-03	NUVEEN	885733	NUVEEN SELECT TAX FREE INCOME PORTFOLIO 2
1213	IM-03	NUVEEN	888411	NUVEEN SELECT TAX FREE INCOME PORTFOLIO 3
1214	IM-03	NUVEEN	890138	NUVEEN SELECT TAX FREE INCOME PORTFOLIO 4
1215	IM-03	NUVEEN	890902	NUVEEN SELECT TAX FREE INCOME PORTFOLIO 5
1216	IM-03	NUVEEN	350316	NUVEEN TAX EXEMPT MONEY MARKET FUND INC
1217	IM-03	NUVEEN	702086	NUVEEN TAX EXEMPT UNIT TRUST SERIES 214
1218	IM-03	NUVEEN	799665	NUVEEN TAX FREE BOND FUND INC
1219	IM-03	NUVEEN	799589	NUVEEN TAX FREE MONEY MARKET FUND INC
1220	IM-03	NUVEEN	704779	NUVEEN TAX FREE RESERVES INC
1221	IM-03	NUVEEN	878201	NUVEEN TEXAS QUALITY INCOME MUNICIPAL FUND
1222	IM-03	PAINEWEBBER	894233	ALL AMERICAN TARGET TERM TRUST INC
1223	IM-03	PAINEWEBBER	794229	CYPRESS FUND INC
1224	IM-03	PAINEWEBBER	836212	GLOBAL INCOME PLUS FUND INC
1225	IM-03	PAINEWEBBER	840946	PAINE WEBBER CLASSIC FLEXIBLE INCOME FUND INC
1226	IM-03	PAINEWEBBER	703687	PAINEWEBBER AMERICA FUND /NY/
1227	IM-03	PAINEWEBBER	721358	PAINEWEBBER ATLAS GLOBAL GROWTH FUND
1228	IM-03	PAINEWEBBER	225732	PAINEWEBBER CASHFUND INC
1229	IM-03	PAINEWEBBER	808424	PAINEWEBBER INVESTMENT SERIES
1230	IM-03	PAINEWEBBER	879089	PAINEWEBBER MANAGED ASSETS TRUST
1231	IM-03	PAINEWEBBER	746703	PAINEWEBBER MANAGED INVESTMENTS TRUST
1232	IM-03	PAINEWEBBER	739243	PAINEWEBBER MANAGED MUNICIPAL TRUST /NY/
1233	IM-03	PAINEWEBBER	780403	PAINEWEBBER MASTER SERIES INC
1234	IM-03	PAINEWEBBER	809991	PAINEWEBBER MUNICIPAL SERIES /NY/
1235	IM-03	PAINEWEBBER	769894	PAINEWEBBER MUTUAL FUND TRUST
1236	IM-03	PAINEWEBBER	759729	PAINEWEBBER OLYMPUS FUND/NY
1237	IM-03	PAINEWEBBER	890516	PAINEWEBBER PREMIER TAX FREE INCOME FUND INC
1238	IM-03	PAINEWEBBER	789576	PAINEWEBBER REGIONAL FINANCIAL GROWTH FUND INC
1239	IM-03	PAINEWEBBER	703676	PAINEWEBBER RMA MONEY FUND INC
1240	IM-03	PAINEWEBBER	703875	PAINEWEBBER RMA TAX FREE FUND INC
1241	IM-03	PAINEWEBBER	806591	PAINEWEBBER SERIES TRUST
1242	IM-03	PAINEWEBBER	887217	TRIPLE A & GOVERNMENT SERIES 1995 INC
1243	IM-03	PAINEWEBBER	887218	TRIPLE A & GOVERNMENT SERIES 1997 INC
1244	IM-03	PROVIDENT	706366	ARCH FUND INC
1245	IM-03	PROVIDENT	702075	ARCH TAX EXEMPT TRUST
1246	IM-03	PROVIDENT	357369	BISON MONEY MARKET FUND
1247	IM-03	PROVIDENT	019780	CHESTNUT STREET EXCHANGE FUND
1248	IM-03	PROVIDENT	831101	EMERALD FUNDS
1249	IM-03	PROVIDENT	845107	INDEPENDENCE ONE MUTUAL FUNDS
1250	IM-03	PROVIDENT	109778	INDEPENDENCE SQUARE INCOME SECURITIES INC
1251	IM-03	PROVIDENT	847090	MSD&T FUNDS INC
1252	IM-03	PROVIDENT	707180	MUNICIPAL FUND FOR CALIFORNIA INVESTORS INC
1253	IM-03	PROVIDENT	715997	MUNICIPAL FUND FOR NEW YORK INVESTORS INC
1254	IM-03	PROVIDENT	311241	MUNICIPAL FUND FOR TEMPORARY INVESTMENT
1255	IM-03	PROVIDENT	769100	NATIONS FUND TRUST

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
1256	IM-03	PROVIDENT	774412	PLAN INVESTMENT FUND INC
1257	IM-03	PROVIDENT	814041	PNC FINANCIAL COMMON TRUST FUND FOR RETIREMENT ASSETS
1258	IM-03	PROVIDENT	844779	PNC FUND
1259	IM-03	PROVIDENT	739602	PORTFOLIOS FOR DIVERSIFIED INVESTMENT
1260	IM-03	PROVIDENT	316103	PROVIDENTMUTUAL FEDERAL MONEYFUND INC
1261	IM-03	PROVIDENT	090188	PROVIDENTMUTUAL GROWTH FUND INC
1262	IM-03	PROVIDENT	090194	PROVIDENTMUTUAL INCOME SHARES INC
1263	IM-03	PROVIDENT	090199	PROVIDENTMUTUAL INVESTMENT SHARES INC
1264	IM-03	PROVIDENT	316104	PROVIDENTMUTUAL MONEYFUND INC
1265	IM-03	PROVIDENT	798292	PROVIDENTMUTUAL PENNSYLVANIA TAX FREE TRUST
1266	IM-03	PROVIDENT	107415	PROVIDENTMUTUAL SPECIAL FUND INC
1267	IM-03	PROVIDENT	311748	PROVIDENTMUTUAL TAX FREE BOND FUND INC
1268	IM-03	PROVIDENT	756522	PROVIDENTMUTUAL TAX FREE MONEYFUND INC
1269	IM-03	PROVIDENT	090204	PROVIDENTMUTUAL TOTAL RETURN TRUST
1270	IM-03	PROVIDENT	796521	PROVIDENTMUTUAL U S GOVERNMENT FUND FOR INCOME INC /DE/
1271	IM-03	PROVIDENT	201731	PROVIDENTMUTUAL VALUE SHARES INC
1272	IM-03	PROVIDENT	090205	PROVIDENTMUTUAL VENTURES SHARES INC
1273	IM-03	PROVIDENT	764825	PROVIDENTMUTUAL WORLD FUND INC
1274	IM-03	PROVIDENT	831114	RBB FUND INC
1275	IM-03	PROVIDENT	097098	TEMPORARY INVESTMENT FUND INC
1276	IM-03	PROVIDENT	034913	TRUST FOR FEDERAL SECURITIES
1277	IM-03	PROVIDENT	357204	WESTCORE TRUST
1278	IM-03	PRUCO	711208	PRUCO LIFE SERIES FUND INC
1279	IM-03	PRUDENTIAL	080946	PRUDENTIALS GIBRALTAR FUND
1280	IM-03	SCUDDER	713331	AARP CASH INVESTMENT FUNDS
1281	IM-03	SCUDDER	747676	AARP GROWTH TRUST
1282	IM-03	SCUDDER	747677	AARP INCOME TRUST
1283	IM-03	SCUDDER	747678	AARP TAX FREE INCOME TRUST
1284	IM-03	SCUDDER	820026	BRAZIL FUND INC
1285	IM-03	SCUDDER	053192	JAPAN FUND INC
1286	IM-03	SCUDDER	067813	MONTGOMERY STREET INCOME SECURITIES INC
1287	IM-03	SCUDDER	719150	SCUDDER CALIFORNIA TAX FREE TRUST
1288	IM-03	SCUDDER	088047	SCUDDER CASH INVESTMENT TRUST
1289	IM-03	SCUDDER	088048	SCUDDER DEVELOPMENT FUND
1290	IM-03	SCUDDER	068051	SCUDDER EQUITY TRUST
1291	IM-03	SCUDDER	703642	SCUDDER FUND INC
1292	IM-03	SCUDDER	354472	SCUDDER FUNDS TRUST
1293	IM-03	SCUDDER	793597	SCUDDER GLOBAL FUND INC
1294	IM-03	SCUDDER	716963	SCUDDER GNMA FUND
1295	IM-03	SCUDDER	757628	SCUDDER INSTITUTIONAL FUND INC
1296	IM-03	SCUDDER	088053	SCUDDER INTERNATIONAL FUND INC
1297	IM-03	SCUDDER	066064	SCUDDER INVESTMENT TRUST
1298	IM-03	SCUDDER	203142	SCUDDER MUNICIPAL TRUST
1299	IM-03	SCUDDER	832946	SCUDDER MUTUAL FUNDS INC
1300	IM-03	SCUDDER	798738	SCUDDER NEW ASIA FUND INC
1301	IM-03	SCUDDER	857690	SCUDDER NEW EUROPE FUND INC
1302	IM-03	SCUDDER	088063	SCUDDER PORTFOLIO TRUST
1303	IM-03	SCUDDER	720245	SCUDDER STATE TAX FREE TRUST
1304	IM-03	SCUDDER	313397	SCUDDER TAX FREE MONEY FUND
1305	IM-03	SCUDDER	711600	SCUDDER TAX FREE TARGET FUND
1306	IM-03	SCUDDER	810114	SCUDDER TREASURERS TRUST
1307	IM-03	SCUDDER	316138	SCUDDER US TREASURY MONEY FUND
1308	IM-03	SCUDDER	754797	SCUDDER VARIABLE LIFE INVESTMENT FUND/MA/
1309	IM-03	SELIGMAN	100766	SELIGMAN CAPITAL FUND INC
1310	IM-03	SELIGMAN	100602	SELIGMAN CASH MANAGEMENT FUND INC
1311	IM-03	SELIGMAN	014358	SELIGMAN COMMON STOCK FUND INC
1312	IM-03	SELIGMAN	709146	SELIGMAN COMMUNICATIONS & INFORMATION FUND INC
1313	IM-03	SELIGMAN	750579	SELIGMAN FRONTIER FUND INC
1314	IM-03	SELIGMAN	316411	SELIGMAN GROWTH FUND INC
1315	IM-03	SELIGMAN	752372	SELIGMAN HIGH INCOME FUND SERIES
1316	IM-03	SELIGMAN	100852	SELIGMAN INCOME FUND INC
1317	IM-03	SELIGMAN	881466	SELIGMAN INTERNATIONAL FUND SERIES INC
1318	IM-03	SELIGMAN	880651	SELIGMAN MICHIGAN QUALITY MUNICIPAL FUND INC
1319	IM-03	SELIGMAN	817841	SELIGMAN MUTUAL BENEFIT PORTFOLIOS INC
1320	IM-03	SELIGMAN	813240	SELIGMAN NEW JERSEY TAX EXEMPT FUND INC
1321	IM-03	SELIGMAN	880650	SELIGMAN OHIO QUALITY MUNICIPAL FUND INC
1322	IM-03	SELIGMAN	793701	SELIGMAN PENNSYLVANIA TAX EXEMPT FUND SERIES
1323	IM-03	SELIGMAN	862813	SELIGMAN QUALITY MUNICIPAL FUND INC
1324	IM-03	SELIGMAN	857694	SELIGMAN SELECT MUNICIPAL FUND INC
1325	IM-03	SELIGMAN	726291	SELIGMAN TAX EXEMPT FUND SERIES INC
1326	IM-03	SELIGMAN	750756	SELIGMAN TAX EXEMPT SERIES TRUST
1327	IM-03	SELIGMAN	029614	TRI CONTINENTAL CORP
1328	IM-03	SMA	873802	SMA LIFE ASSURANCE CO
1329	IM-03	STRONG	840519	STRONG ADVANTAGE FUND INC
1330	IM-03	STRONG	842791	STRONG COMMON STOCK FUND INC
1331	IM-03	STRONG	822619	STRONG DISCOVERY FUND INC
1332	IM-03	STRONG	790027	STRONG GOVERNMENT SECURITIES FUND INC
1333	IM-03	STRONG	775181	STRONG INCOME FUND INC
1334	IM-03	STRONG	879142	STRONG INSURED MUNICIPAL BOND FUND INC
1335	IM-03	STRONG	882563	STRONG INTERNATIONAL STOCK FUND INC
1336	IM-03	STRONG	355414	STRONG INVESTMENT FUND INC
1337	IM-03	STRONG	773918	STRONG MONEY MARKET FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
1338	IM-03	STRONG	798170	STRONG MUNICIPAL BOND FUND INC
1339	IM-03	STRONG	756169	STRONG MUNICIPAL MONEY MARKET FUND INC
1340	IM-03	STRONG	723257	STRONG OPPORTUNITY FUND INC
1341	IM-03	STRONG	812486	STRONG SHORT TERM BOND FUND INC
1342	IM-03	STRONG	879358	STRONG SHORT TERM MUNICIPAL BOND FUND INC
1343	IM-03	STRONG	355416	STRONG TOTAL RETURN FUND INC
1344	IM-03	STRONG	868297	STRONG U S TREASURY MONEY FUND INC
1345	IM-03	SUNAMERICA	892538	SUNAMERICA SERIES TRUST
1346	IM-03	TEMPLETON	869404	TEMPLETON AMERICAN TRUST INC
1347	IM-03	TEMPLETON	869313	TEMPLETON CAPITAL ACCUMULATOR FUND INC
1348	IM-03	TEMPLETON	878087	TEMPLETON DEVELOPING MARKETS TRUST
1349	IM-03	TEMPLETON	809708	TEMPLETON EMERGING MARKETS FUND INC
1350	IM-03	TEMPLETON	225930	TEMPLETON FUNDS INC
1351	IM-03	TEMPLETON	841191	TEMPLETON GLOBAL GOVERNMENTS INCOME TRUST
1352	IM-03	TEMPLETON	828803	TEMPLETON GLOBAL INCOME FUND INC
1353	IM-03	TEMPLETON	856138	TEMPLETON GLOBAL OPPORTUNITIES TRUST
1354	IM-03	TEMPLETON	861876	TEMPLETON GLOBAL UTILITIES INC
1355	IM-03	TEMPLETON	805564	TEMPLETON GROWTH FUND INC
1356	IM-03	TEMPLETON	097086	TEMPLETON GROWTH FUND LTD
1357	IM-03	TEMPLETON	795402	TEMPLETON INCOME TRUST
1358	IM-03	TEMPLETON	865722	TEMPLETON INSTITUTIONAL TRUST INC
1359	IM-03	TEMPLETON	853183	TEMPLETON REAL ESTATE SECURITIES FUND
1360	IM-03	TEMPLETON	350900	TEMPLETON SMALLER COMPANIES GROWTH FUND INC
1361	IM-03	TEMPLETON	853342	TEMPLETON TAX FREE TRUST
1362	IM-03	TEMPLETON	837949	TEMPLETON VALUE FUND INC
1363	IM-03	TEMPLETON	810355	TEMPLETON VARIABLE ANNUITY FUND/FL/
1364	IM-03	TEMPLETON	829959	TEMPLETON VARIABLE PRODUCTS SERIES FUND
1365	IM-04	AIM	225208	AIM CONVERTIBLE SECURITIES INC
1366	IM-04	AIM	105377	AIM EQUITY FUNDS INC
1367	IM-04	AIM	824212	AIM GOVERNMENT FUNDS INC
1368	IM-04	AIM	216115	AIM HIGH YIELD SECURITIES INC
1369	IM-04	AIM	868381	AIM INTERNATIONAL EQUITY FUND
1370	IM-04	AIM	880859	AIM INTERNATIONAL FUNDS INC
1371	IM-04	AIM	842790	AIM INVESTMENT SECURITIES FUNDS INC
1372	IM-04	AIM	844778	AIM STRATEGIC INCOME FUND INC
1373	IM-04	AIM	701748	AIM SUMMIT FUND INC
1374	IM-04	AIM	814723	AIM TAX EXEMPT FUNDS INC
1375	IM-04	AIM	205007	SHORT TERM INVESTMENTS CO
1376	IM-04	AIM	205010	TAX FREE INVESTMENTS CO
1377	IM-04	ALLSTATE	835333	ALLSTATE MUNICIPAL INCOME OPPORTUNITIES TRUST
1378	IM-04	ALLSTATE	847593	ALLSTATE MUNICIPAL INCOME OPPORTUNITIES TRUST II
1379	IM-04	ALLSTATE	861069	ALLSTATE MUNICIPAL INCOME OPPORTUNITIES TRUST III
1380	IM-04	ALLSTATE	817130	ALLSTATE MUNICIPAL INCOME TRUST
1381	IM-04	ALLSTATE	830975	ALLSTATE MUNICIPAL INCOME TRUST II
1382	IM-04	ALLSTATE	852984	ALLSTATE MUNICIPAL INCOME TRUST III
1383	IM-04	ALLSTATE	842891	ALLSTATE MUNICIPAL PREMIUM INCOME TRUST
1384	IM-04	ALLSTATE	854904	ALLSTATE PRIME INCOME TRUST
1385	IM-04	AMEV	086317	AMEV SECURITIES INC
1386	IM-04	AMEV	823344	FORTIS ADVANTAGE PORTFOLIOS INC
1387	IM-04	AMEV	049905	FORTIS EQUITY PORTFOLIOS INC
1388	IM-04	AMEV	355716	FORTIS FIDUCIARY FUND INC
1389	IM-04	AMEV	049925	FORTIS GROWTH FUND INC
1390	IM-04	AMEV	049929	FORTIS INCOME PORTFOLIOS INC
1391	IM-04	AMEV	312572	FORTIS MONEY PORTFOLIOS INC
1392	IM-04	AMEV	790558	FORTIS SERIES FUND INC
1393	IM-04	AMEV	703708	FORTIS TAX FREE PORTFOLIOS INC
1394	IM-04	BABSON	009014	BABSON D L BOND TRUST
1395	IM-04	BABSON	313565	BABSON D L MONEY MARKET FUND INC
1396	IM-04	BABSON	313136	BABSON D L TAX FREE INCOME FUND INC
1397	IM-04	BABSON	009017	BABSON DAVID L GROWTH FUND INC
1398	IM-04	BABSON	873078	BABSON ENTERPRISE FUND II INC /MO/
1399	IM-04	BABSON	725496	BABSON ENTERPRISE FUND INC
1400	IM-04	BABSON	823338	BABSON STEWART IVORY INTERNATIONAL FUND INC
1401	IM-04	BABSON	753901	BABSON VALUE FUND INC
1402	IM-04	BABSON	817750	SHADOW STOCK FUND INC
1403	IM-04	BABSON	706127	UMB BOND FUND INC
1404	IM-04	BABSON	803019	UMB HEARTLAND FUND INC
1405	IM-04	BABSON	704773	UMB MONEY MARKET FUND INC
1406	IM-04	BABSON	706130	UMB STOCK FUND INC
1407	IM-04	BABSON	706128	UMB TAX FREE MONEY MARKET FUND INC
1408	IM-04	BENHAM	717316	BENHAM CALIFORNIA TAX FREE & MUNICIPAL FUNDS
1409	IM-04	BENHAM	827060	BENHAM EQUITY FUNDS
1410	IM-04	BENHAM	773674	BENHAM GOVERNMENT INCOME TRUST
1411	IM-04	BENHAM	312152	BENHAM GOVERNMENT INCOME TRUST /CA/
1412	IM-04	BENHAM	880268	BENHAM INTERNATIONAL FUNDS
1413	IM-04	BENHAM	746456	BENHAM NATIONAL TAX FREE TRUST
1414	IM-04	BENHAM	757928	BENHAM TARGET MATURITIES TRUST
1415	IM-04	BENHAM	315961	CAPITAL PRESERVATION FUND II INC
1416	IM-04	BENHAM	017271	CAPITAL PRESERVATION FUND INC
1417	IM-04	BLACKROCK	893731	BLACKROCK 1999 TERM TRUST INC
1418	IM-04	BLACKROCK	889127	BLACKROCK 2001 TERM TRUST INC
1419	IM-04	BLACKROCK	890514	BLACKROCK CALIFORNIA INSURED MUNICIPAL 2008 TERM TRUST INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
1420	IM-04	BLACKROCK	890518	BLACKROCK FLORIDA INSURED MUNICIPAL 2008 TERM TRUST
1421	IM-04	BLACKROCK	876173	BLACKROCK GOVERNMENT INCOME TRUST
1422	IM-04	BLACKROCK	893734	BLACKROCK INSURED MUNICIPAL 2004 TERM TRUST INC
1423	IM-04	BLACKROCK	889430	BLACKROCK INSURED MUNICIPAL 2008 TERM TRUST INC
1424	IM-04	BLACKROCK	882346	BLACKROCK INSURED MUNICIPAL TERM TRUST INC
1425	IM-04	BLACKROCK	894242	BLACKROCK INVESTMENT QUALITY MUNICIPAL TRUST INC
1426	IM-04	BLACKROCK	883358	BLACKROCK INVESTMENT QUALITY TERM TRUST INC
1427	IM-04	BLACKROCK	877358	BLACKROCK MUNICIPAL TARGET TERM TRUST INC
1428	IM-04	BLACKROCK	890519	BLACKROCK NEW YORK INSURED MUNCIPAL 2008 TERM TRUST INC
1429	IM-04	BLACKROCK	880280	BLACKROCK NORTH AMERICAN GOVERNMENT INCOME TRUST INC
1430	IM-04	BULL & BEAR	732801	BULL & BEAR CAPITAL GROWTH FUND INC
1431	IM-04	BULL & BEAR	017050	BULL & BEAR EQUITY INCOME FUND INC
1432	IM-04	BULL & BEAR	812487	BULL & BEAR FINANCIAL NEWS COMPOSITE FUND INC
1433	IM-04	BULL & BEAR	042031	BULL & BEAR GOLD INVESTORS LTD
1434	IM-04	BULL & BEAR	015260	BULL & BEAR INC /NEW YORK/
1435	IM-04	BULL & BEAR	736952	BULL & BEAR MUNICIPAL SECURITIES INC
1436	IM-04	BULL & BEAR	788422	BULL & BEAR SPECIAL EQUITIES FUND INC
1437	IM-04	BULL & BEAR	796532	BULL & BEAR U S & OVERSEAS FUND LTD
1438	IM-04	CAPSTONE	791549	CAPSTONE EQUITY SERIES INC
1439	IM-04	CAPSTONE	092500	CAPSTONE FIXED INCOME SERIES INC
1440	IM-04	CAPSTONE	793601	CAPSTONE INTERNATIONAL SERIES TRUST
1441	IM-04	CAPSTONE	039454	CAPSTONE SERIES INC
1442	IM-04	CAPSTONE	079179	CAPSTONE US TREND FUND INC
1443	IM-04	CAPSTONE	314183	INVESTORS CASH RESERVE FUND INC
1444	IM-04	CAPSTONE	760110	MEDICAL RESEARCH INVESTMENT FUND INC
1445	IM-04	CIGNA	019034	AIM FUNDS GROUP/MA
1446	IM-04	CIGNA	734364	CIGNA AGGRESSIVE GROWTH FUND INC
1447	IM-04	CIGNA	355607	CIGNA ANNUITY FUND INC
1448	IM-04	CIGNA	022628	CIGNA ANNUITY FUNDS GROUP
1449	IM-04	CIGNA	830474	CIGNA HIGH INCOME SHARES
1450	IM-04	CIGNA	275551	CIGNA HIGH YIELD FUND INC
1451	IM-04	CIGNA	892491	CIGNA INSTITUTIONAL FUNDS GROUP
1452	IM-04	CIGNA	702908	CIGNA TAX EXEMPT CASH FUND INC
1453	IM-04	CIGNA	830035	CIGNA VARIABLE PRODUCTS GROUP
1454	IM-04	CIGNA	049975	INA INVESTMENT SECURITIES INC
1455	IM-04	CITIBANK	850615	CASH RESERVES PORTFOLIO
1456	IM-04	CITIBANK	795808	LANDMARK FIXED INCOME FUNDS
1457	IM-04	CITIBANK	744386	LANDMARK FUNDS I
1458	IM-04	CITIBANK	744389	LANDMARK FUNDS II
1459	IM-04	CITIBANK	747576	LANDMARK FUNDS III
1460	IM-04	CITIBANK	868747	LANDMARK INTERNATIONAL EQUITY FUND
1461	IM-04	CITIBANK	•775613	LANDMARK MULTI-STATE TAX FREE FUNDS
1462	IM-04	CITIBANK	784047	LANDMARK NEW YORK TAX FREE INCOME FUND
1463	IM-04	CITIBANK	850626	LANDMARK PREMIUM FUNDS
1464	IM-04	CITIBANK	731762	LANDMARK TAX FREE RESERVES
1465	IM-04	CITIBANK	864953	TAX FREE RESERVES PORTFOLIO
1466	IM-04	COMPOSITE	200159	COMPOSITE BOND & STOCK FUND INC
1467	IM-04	COMPOSITE	312346	COMPOSITE CASH MANAGEMENT CO INC
1468	IM-04	COMPOSITE	808421	COMPOSITE DEFERRED SERIES INC
1469	IM-04	COMPOSITE	022864	COMPOSITE GROWTH FUND INC
1470	IM-04	COMPOSITE	022865	COMPOSITE INCOME FUND INC
1471	IM-04	COMPOSITE	796533	COMPOSITE NORTHWEST 50 FUND INC
1472	IM-04	COMPOSITE	201507	COMPOSITE TAX EXEMPT BOND FUND INC
1473	IM-04	COMPOSITE	701379	COMPOSITE UNITED STATES GOVERNMENT SECURITIES INC
1474	IM-04	COUNSELLORS	759433	COUNSELLORS CASH RESERVE FUND INC
1475	IM-04	COUNSELLORS	825305	COUNSELLORS EMERGING GROWTH FUND INC
1476	IM-04	COUNSELLORS	866265	COUNSELLORS GLOBAL FIXED INCOME FUND INC
1477	IM-04	COUNSELLORS	835598	COUNSELLORS INTERMEDIATE MATURITY GOVERNMENT FUND INC
1478	IM-04	COUNSELLORS	846582	COUNSELLORS INTERNATIONAL EQUITY FUND INC
1479	IM-04	COUNSELLORS	759434	COUNSELLORS NEW YORK TAX EXEMPT FUND INC
1480	IM-04	COUNSELLORS	798311	COUNSELLORS TANDEM SECURITIES FUND INC
1481	IM-04	COUNSELLORS	025165	COUNSELLORS INVESTMENT FUND INC
1482	IM-04	COUNSELLORS	811159	WARBURG PINCUS CAPITAL APPRECIATION FUND
1483	IM-04	COUNSELLORS	811142	WARBURG PINCUS FIXED INCOME FUND
1484	IM-04	COUNSELLORS	808433	WARBURG PINCUS NEW YORK MUNICIPAL BOND FUND
1485	IM-04	CRABBE HUSON	841289	CRABBE HUSON ASSET ALLOCATION FUND INC
1486	IM-04	CRABBE HUSON	841288	CRABBE HUSON EQUITY FUND INC
1487	IM-04	CRABBE HUSON	810281	CRABBE HUSON GROWTH FUND INC
1488	IM-04	CRABBE HUSON	841279	CRABBE HUSON INCOME FUND INC
1489	IM-04	CRABBE HUSON	841290	CRABBE HUSON MONEY MARKET FUND INC
1490	IM-04	CRABBE HUSON	841280	CRABBE HUSON U S GOVERNMENT INCOME FUND INC
1491	IM-04	CRABBE HUSON	749604	OREGON MUNICIPAL BOND FUND INC
1492	IM-04	DELAWARE MGT	230173	DELAWARE GROUP CASH RESERVE INC
1493	IM-04	DELAWARE MGT	027574	DELAWARE GROUP DECATUR FUND INC
1494	IM-04	DELAWARE MGT	320572	DELAWARE GROUP DECATUR FUND INC ET AL
1495	IM-04	DELAWARE MGT	027801	DELAWARE GROUP DELAWARE FUND INC
1496	IM-04	DELAWARE MGT	778108	DELAWARE GROUP DELCAP FUND INC
1497	IM-04	DELAWARE MGT	027825	DELAWARE GROUP DELCHESTER HIGH YIELD BOND FUND INC
1498	IM-04	DELAWARE MGT	875810	DELAWARE GROUP GLOBAL & INTERNATIONAL FUNDS INC
1499	IM-04	DELAWARE MGT	769220	DELAWARE GROUP GOVERNMENT FUND INC
1500	IM-04	DELAWARE MGT	814230	DELAWARE GROUP PREMIUM FUND INC
1501	IM-04	DELAWARE MGT	729352	DELAWARE GROUP TAX FREE FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
1502	IM-04	DELAWARE MGT	357059	DELAWARE GROUP TREASURY RESERVES INC
1503	IM-04	DELAWARE MGT	027937	DELAWARE GROUP TREND FUND INC
1504	IM-04	DELAWARE MGT	809821	DELAWARE GROUP VALUE FUND INC
1505	IM-04	DELAWARE MGT	875352	DELAWARE POOLED TRUST INC
1506	IM-04	DELAWARE MGT	201670	DMC TAX FREE INCOME TRUST PA
1507	IM-04	EQUITABLE	814606	EQUITABLE TRUST
1508	IM-04	EQUITABLE	759751	HUDSON RIVER TRUST
1509	IM-04	EQUITABLE	802275	PRISM INVESTMENT TRUST
1510	IM-04	EQUITABLE	089024	SEPARATE ACCOUNT A OF EQUITABLE LIFE ASSU SOC OF THE US
1511	IM-04	EQUITABLE	089032	SEPARATE ACCOUNT D OF THE EQUITABLE LIFE ASSU SOC OF THE US
1512	IM-04	EQUITABLE	089034	SEPARATE ACCOUNT E OF THE EQUITABLE LIFE ASSU SOC OF THE US
1513	IM-04	EQUITABLE	312576	SEPARATE ACCOUNT I OF EQUITABLE VARIABLE LIFE INSURANCE CO
1514	IM-04	EVERGREEN	826733	EVERGREEN AMERICAN RETIREMENT TRUST
1515	IM-04	EVERGREEN	892649	EVERGREEN BOND TRUST
1516	IM-04	EVERGREEN	082693	EVERGREEN FUND
1517	IM-04	EVERGREEN	842436	EVERGREEN GLOBAL REAL ESTATE EQUITY TRUST
1518	IM-04	EVERGREEN	714234	EVERGREEN LIMITED MARKET FUND INC
1519	IM-04	EVERGREEN	820636	EVERGREEN MONEY MARKET TRUST
1520	IM-04	EVERGREEN	836375	EVERGREEN MUNICIPAL TRUST
1521	IM-04	EVERGREEN	275346	EVERGREEN TOTAL RETURN FUND
1522	IM-04	EVERGREEN	795891	EVERGREEN VALUE TIMING FUND
1523	IM-04	FAIRFIELD	769270	NAVIGATOR MONEY MARKET FUND INC
1524	IM-04	FAIRFIELD	789016	NAVIGATOR TAX FREE MONEY MARKET FUND INC
1525	IM-04	FAIRFIELD	746713	ST CLAIR EQUITY FUND INC
1526	IM-04	FAIRFIELD	746714	ST CLAIR FIXED INCOME FUND INC
1527	IM-04	FAIRFIELD	770176	ST CLAIR TAX FREE FUND INC
1528	IM-04	FAIRFIELD	830755	VISION FIDUCIARY FUNDS INC
1529	IM-04	FAIRFIELD	830744	VISION GROUP OF FUNDS INC
1530	IM-04	FINANCIAL	201815	FINANCIAL BOND SHARES INC
1531	IM-04	FINANCIAL	035685	FINANCIAL DAILY INCOME SHARES INC
1532	IM-04	FINANCIAL	035692	FINANCIAL DYNAMICS FUND INC
1533	IM-04	FINANCIAL	110042	FINANCIAL INDUSTRIAL FUND INC
1534	IM-04	FINANCIAL	035732	FINANCIAL INDUSTRIAL INCOME FUND INC
1535	IM-04	FINANCIAL	789940	FINANCIAL SERIES TRUST
1536	IM-04	FINANCIAL	725781	FINANCIAL STRATEGIC PORTFOLIOS INC
1537	IM-04	FINANCIAL	352662	FINANCIAL TAX FREE INCOME SHARES INC
1538	IM-04	FINANCIAL	717196	FINANCIAL TAX FREE MONEY FUND INC
1539	IM-04	FINANCIAL	828806	INVESCO TREASURERS SERIES TRUST
1540	IM-04	FLAG INVESTORS	353447	BROWN ALEX CASH RESERVE FUND INC
1541	IM-04	FLAG INVESTORS	831675	FLAG INVESTORS EMERGING GROWTH FUND INC
1542	IM-04	FLAG INVESTORS	862473	FLAG INVESTORS INTERMEDIATE TERM INCOME FUND INC
1543	IM-04	FLAG INVESTORS	800074	FLAG INVESTORS INTERNATIONAL TRUST
1544	IM-04	FLAG INVESTORS	849886	FLAG INVESTORS QUALITY GROWTH FUND INC
1545	IM-04	FLAG INVESTORS	731129	FLAG INVESTORS TELEPHONE INCOME FUND INC
1546	IM-04	FLAG INVESTORS	859031	MANAGED MUNICIPAL FUND INC
1547	IM-04	FLAG INVESTORS	811160	TOTAL RETURN U S TREASURY FUND INC
1548	IM-04	GABELLI	840289	DSI SERIES FUND INC
1549	IM-04	GABELLI	783898	GABELLI ASSET FUND
1550	IM-04	GABELLI	819696	GABELLI CONVERTIBLE SECURITIES FUND INC
1551	IM-04	GABELLI	877670	GABELLI EQUITY SERIES FUNDS INC
1552	IM-04	GABELLI	794685	GABELLI EQUITY TRUST INC
1553	IM-04	GABELLI	806857	GABELLI GROWTH FUND
1554	IM-04	GABELLI	888129	GABELLI MONEY MARKET FUNDS
1555	IM-04	GABELLI	845611	GABELLI SERIES FUNDS INC
1556	IM-04	GABELLI	853438	GABELLI VALUE FUND INC
1557	IM-04	GABELLI	860122	MANAGERS FUND INC
1558	IM-04	GABELLI	822922	TREASURERS FUND INC /CT/
1559	IM-04	GOLDMAN SACHS	703678	ASSET MANAGEMENT PORTFOLIOS
1560	IM-04	GOLDMAN SACHS	704178	CENTERLAND FUND
1561	IM-04	GOLDMAN SACHS	856554	FINANCIAL SQUARE TRUST
1562	IM-04	GOLDMAN SACHS	880118	GOLDMAN SACHS EQUITY PORTFOLIOS INC
1563	IM-04	GOLDMAN SACHS	225484	GOLDMAN SACHS INSTITUTIONAL LIQUID ASSETS
1564	IM-04	GOLDMAN SACHS	822977	GOLDMAN SACHS TRUST
1565	IM-04	GOLDMAN SACHS	734376	INSTITUTIONAL DIVERSIFIED ASSETS
1566	IM-04	GOLDMAN SACHS	800445	INSTITUTIONAL INCOME FUND
1567	IM-04	GOLDMAN SACHS	868660	PEPPER LANE FUND
1568	IM-04	GOLDMAN SACHS	884988	SHORT TERM APPRECIATION & INCOME RETURN TRUST
1569	IM-04	GOLDMAN SACHS	825759	TRUST FOR CREDIT UNIONS
1570	IM-04	GOLDMAN SACHS	885610	TRUST FOR RETURN & INCOME
1571	IM-04	GUARDIAN	869759	BAILLIE GIFFORD INTERNATIONAL FUND INC
1572	IM-04	GUARDIAN	711672	GUARDIAN BOND FUND INC
1573	IM-04	GUARDIAN	356305	GUARDIAN CASH FUND INC
1574	IM-04	GUARDIAN	703192	GUARDIAN CASH MANAGEMENT TRUST
1575	IM-04	GUARDIAN	044406	GUARDIAN PARK AVENUE FUND INC
1576	IM-04	GUARDIAN	711673	GUARDIAN STOCK FUND INC
1577	IM-04	GUARDIAN	826736	GUARDUAN GENERATION SERIES TRUST
1578	IM-04	GUARDIAN	837910	PARK AVENUE PORTFOLIO
1579	IM-04	HARTFORD	714502	HARTFORD BOND DEBT SECURITIES FUND INC
1580	IM-04	HARTFORD	756930	HARTFORD GNMA MORTGAGE SECURITIES FUND INC
1581	IM-04	HARTFORD	811086	HARTFORD INDEX FUND INC
1582	IM-04	HARTFORD	861503	HARTFORD INTERNATIONAL OPPORTUNITIES FUND INC
1583	IM-04	HARTFORD	714501	HARTFORD U S GOVERNMENT MONEY MARKET FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
1584	IM-04	HARTFORD	714499	HVA ADVISERS FUND INC
1585	IM-04	HARTFORD	741585	HVA AGGRESSIVE GROWTH FUND INC/MA/
1586	IM-04	HARTFORD	714500	HVA MONEY MARKET FUND INC
1587	IM-04	HARTFORD	045941	HVA STOCK FUND INC
1588	IM-04	KIDDER PEABODY	814400	KIDDER PEABODY CALIFORNIA TAX EXEMPT MONEY FUND
1589	IM-04	KIDDER PEABODY	771587	KIDDER PEABODY EQUITY INCOME FUND INC
1590	IM-04	KIDDER PEABODY	796546	KIDDER PEABODY EXCHANGE MONEY FUND
1591	IM-04	KIDDER PEABODY	771588	KIDDER PEABODY GOVERNMENT INCOME FUND INC
1592	IM-04	KIDDER PEABODY	714979	KIDDER PEABODY GOVERNMENT MONEY FUND INC
1593	IM-04	KIDDER PEABODY	873803	KIDDER PEABODY INVESTMENT TRUST
1594	IM-04	KIDDER PEABODY	890567	KIDDER PEABODY INVESTMENT TRUST II
1595	IM-04	KIDDER PEABODY	806005	KIDDER PEABODY MARKETGUARD APPRECIATION FUND
1596	IM-04	KIDDER PEABODY	868055	KIDDER PEABODY MUNICIPAL MONEY MARKET SERIES
1597	IM-04	KIDDER PEABODY	357206	KIDDER PEABODY PREMIUM ACCOUNT FUND
1598	IM-04	KIDDER PEABODY	743234	KIDDER PEABODY SPECIAL GROWTH FUND INC
1599	IM-04	KIDDER PEABODY	715150	KIDDER PEABODY TAX EXEMPT MONEY FUND INC
1600	IM-04	KIDDER PEABODY	773467	KIDDER PEABODY TAX FREE INCOME FUND
1601	IM-04	KIDDER PEABODY	877893	KIDDER PEABODY US TREASURY SECURITIES FUND
1602	IM-04	LEGG MASON	276300	LEGG MASON CASH RESERVE TRUST
1603	IM-04	LEGG MASON	895662	LEGG MASON GLOBAL TRUST INC
1604	IM-04	LEGG MASON	810868	LEGG MASON INCOME TRUST INC
1605	IM-04	LEGG MASON	781880	LEGG MASON SPECIAL INVESTMENT TRUST INC
1606	IM-04	LEGG MASON	704560	LEGG MASON TAX EXEMPT TRUST INC
1607	IM-04	LEGG MASON	869906	LEGG MASON TAX FREE INCOME FUND
1608	IM-04	LEGG MASON	769342	LEGG MASON TOTAL RETURN TRUST INC
1609	IM-04	LEGG MASON	357235	LEGG MASON VALUE TRUST INC
1610	IM-04	LEGG MASON	863520	WESTERN ASSET TRUST INC
1611	IM-04	LEGG MASON	794279	WORLDWIDE VALUE FUND INC
1612	IM-04	LEXINGTON	812576	LEXINGTON GLOBAL FUND INC
1613	IM-04	LEXINGTON	059140	LEXINGTON GNMA INCOME FUND INC
1614	IM-04	LEXINGTON	277512	LEXINGTON GOLDFUND INC
1615	IM-04	LEXINGTON	355154	LEXINGTON GOVERNMENT SECURITIES MONEY MARKET FUND INC
1616	IM-04	LEXINGTON	059146	LEXINGTON GROWTH & INCOME FUND INC
1617	IM-04	LEXINGTON	201196	LEXINGTON MONEY MARKET TRUST
1618	IM-04	LEXINGTON	844070	LEXINGTON NATURAL RESOURCES TRUST
1619	IM-04	LEXINGTON	793741	LEXINGTON TAX EXEMPT BOND TRUST
1620	IM-04	LEXINGTON	202403	LEXINGTON TAX FREE MONEY FUND INC
1621	IM-04	LEXINGTON	820915	LEXINGTON TECHNICAL STRATEGY FUND INC
1622	IM-04	LEXINGTON	059139	LEXINGTON WORLDWIDE EMERGING MARKETS FUND INC
1623	IM-04	LINCOLN NATL	353875	LINCOLN NATIONAL BOND FUND INC
1624	IM-04	LINCOLN NATL	793158	LINCOLN NATIONAL CONVERTIBLE SECURITIES FUND INC
1625	IM-04	LINCOLN NATL	353874	LINCOLN NATIONAL GROWTH FUND INC
1626	IM-04	LINCOLN NATL	059561	LINCOLN NATIONAL INCOME FUND INC
1627	IM-04	LINCOLN NATL	059560	LINCOLN NATIONAL INCOME FUND INC /NEW/
1628	IM-04	LINCOLN NATL	870782	LINCOLN NATIONAL INTERNATIONAL FUND INC
1629	IM-04	LINCOLN NATL	715974	LINCOLN NATIONAL MANAGED FUND INC
1630	IM-04	LINCOLN NATL	353872	LINCOLN NATIONAL MONEY MARKET FUND INC
1631	IM-04	LINCOLN NATL	812806	LINCOLN NATIONAL PUTNAM MASTER FUND INC
1632	IM-04	LINCOLN NATL	828807	LINCOLN NATIONAL SOCIAL AWARENESS FUND INC
1633	IM-04	LINCOLN NATL	355933	LINCOLN NATIONAL SPECIAL OPPORTUNITIES FUND INC
1634	IM-04	LINCOLN NATL	059566	LINCOLN NATIONAL VARIABLE ANNUITY FUND A
1635	IM-04	LINCOLN NATL	059567	LINCOLN NATIONAL VARIABLE ANNUITY FUND B
1636	IM-04	LORD ABBETT	002691	AFFILIATED FUND INC
1637	IM-04	LORD ABBETT	060365	LORD ABBETT BOND DEBENTURE FUND INC
1638	IM-04	LORD ABBETT	769893	LORD ABBETT CALIFORNIA TAX FREE INCOME FUND INC
1639	IM-04	LORD ABBETT	311635	LORD ABBETT CASH RESERVE FUND INC
1640	IM-04	LORD ABBETT	276914	LORD ABBETT DEVELOPING GROWTH FUND INC /NEW/
1641	IM-04	LORD ABBETT	859903	LORD ABBETT EQUITY FUND
1642	IM-04	LORD ABBETT	792687	LORD ABBETT FUNDAMENTAL VALUE FUND INC
1643	IM-04	LORD ABBETT	829901	LORD ABBETT GLOBAL FUND INC
1644	IM-04	LORD ABBETT	887194	LORD ABBETT RESEARCH FUND INC
1645	IM-04	LORD ABBETT	855396	LORD ABBETT SERIES FUND INC
1646	IM-04	LORD ABBETT	737800	LORD ABBETT TAX FREE INCOME FUND INC
1647	IM-04	LORD ABBETT	879587	LORD ABBETT TAX FREE INCOME TRUST
1648	IM-04	LORD ABBETT	060367	LORD ABBETT U S GOVERNMENT SECURITIES FUND INC
1649	IM-04	LORD ABBETT	716788	LORD ABBETT VALUE APPRECIATION FUND INC
1650	IM-04	METLIFE	878059	METLIFE PORTFOLIOS INC
1651	IM-04	METLIFE	790941	METLIFE STATE STREET EQUITY TRUST
1652	IM-04	METLIFE	806390	METLIFE STATE STREET FIXED INCOME TRUST
1653	IM-04	METLIFE	787980	METLIFE STATE STREET INCOME TRUST
1654	IM-04	METLIFE	788530	METLIFE STATE STREET MONEY MARKET TRUST
1655	IM-04	METLIFE	787978	METLIFE STATE STREET TAX EXEMPT TRUST
1656	IM-04	METLIFE	728618	METROPOLITAN LIFE INSURANCE CO/NY
1657	IM-04	METLIFE	710826	METROPOLITAN SERIES FUND INC
1658	IM-04	MONY	761588	MONY SERIES FUND INC
1659	IM-04	MONY	067873	MONY VARIABLE ACCOUNT A
1660	IM-04	MONY	795259	MUTUAL OF AMERICA INVESTMENT CORP
1661	IM-04	MONY	743415	MUTUAL OF AMERICA SEPARATE ACCOUNT NO 2
1662	IM-04	MUTUAL OF OMAHA	069400	MUTUAL OF OMAHA AMERICA FUND INC
1663	IM-04	MUTUAL OF OMAHA	316462	MUTUAL OF OMAHA CASH RESERVE FUND INC
1664	IM-04	MUTUAL OF OMAHA	069404	MUTUAL OF OMAHA GROWTH FUND INC
1665	IM-04	MUTUAL OF OMAHA	069405	MUTUAL OF OMAHA INCOME FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
1666	IM-04	MUTUAL OF OMAHA	069407	MUTUAL OF OMAHA INTEREST SHARES INC
1667	IM-04	MUTUAL OF OMAHA	311371	MUTUAL OF OMAHA MONEY MARKET ACCOUNT INC
1668	IM-04	MUTUAL OF OMAHA	202679	MUTUAL OF OMAHA TAX FREE INCOME FUND INC
1669	IM-04	NBNE	856336	CONNECTICUT TAX FREE INCOME PORTFOLIO
1670	IM-04	NBNE	872026	EQUITY INCOME PORTFOLIO
1671	IM-04	NBNE	856340	EQUITY PORTFOLIO
1672	IM-04	NBNE	856335	MASSACHUSETTS TAX FREE INCOME PORTFOLIO
1673	IM-04	NBNE	856256	TAX EXEMPT INCOME PORTFOLIO A
1674	IM-04	NBNE	856257	TAX EXEMPT INCOME PORTFOLIO TARGET 2000
1675	IM-04	NBNE	856255	TAX EXEMPT INCOME PORTFOLIO TARGET 2010
1676	IM-04	NBNE	856373	TAX FREE MONEY MARKET PORTFOLIO
1677	IM-04	NBNE	856124	US GOVERNMENT INCOME PORTFOLIO TARGET 1992
1678	IM-04	NBNE	856126	US GOVERNMENT INCOME PORTFOLIO TARGET 1995
1679	IM-04	NBNE	856127	US GOVERNMENT INCOME PORTFOLIO TARGET 2000
1680	IM-04	NBNE	856125	US GOVERNMENT INCOME PORTFOLIO TARGET 2010
1681	IM-04	NBNE	856133	YANKEE FUNDS
1682	IM-04	NEUBERGER	730913	NEUBERGER & BERMAN ADVISERS MANAGEMENT TRUST
1683	IM-04	NEUBERGER	828924	NEUBERGER & BERMAN CASH RESERVES
1684	IM-04	NEUBERGER	790107	NEUBERGER & BERMAN GENESIS FUND INC
1685	IM-04	NEUBERGER	044402	NEUBERGER & BERMAN GUARDIAN FUND INC
1686	IM-04	NEUBERGER	787979	NEUBERGER & BERMAN LTD. MATURITY BOND FUND
1687	IM-04	NEUBERGER	061944	NEUBERGER & BERMAN MANHATTAN FUND INC
1688	IM-04	NEUBERGER	723620	NEUBERGER & MULTI SERIES FUND INC
1689	IM-04	NEUBERGER	752251	NEUBERGER & BERMAN MUNICIPAL MONEY FUND
1690	IM-04	NEUBERGER	812485	NEUBERGER & BERMAN MUNICIPAL SECURITIES TRUST
1691	IM-04	NEUBERGER	075462	NEUBERGER & BERMAN PARTNERS FUND INC
1692	IM-04	NEUBERGER	032884	NEUBERGER & BERMAN SELECTED SECTORS FUND INC
1693	IM-04	NEUBERGER	874313	NEUBERGER & BERMAN SERIES TRUST
1694	IM-04	NEUBERGER	799203	NEUBERGER & BERMAN ULTRA SHORT BOND FUND INC
1695	IM-04	NEW ENGLAND	770540	NEW ENGLAND FUNDS
1696	IM-04	NEW ENGLAND	355761	NEW ENGLAND LIFE RETIREMENT INVESTMENT ACCOUNT
1697	IM-04	NEW ENGLAND	071329	NEW ENGLAND MUTUAL LIFE INSURANCE CO/MA
1698	IM-04	NEW ENGLAND	071318	NEW ENGLAND VARIABLE ANNUITY FUND I
1699	IM-04	NEW ENGLAND	719211	NEW ENGLAND ZENITH FUND
1700	IM-04	NEW ENGLAND	317947	TNE CASH MANAGEMENT TRUST
1701	IM-04	NEW ENGLAND	714528	TNE TAX EXEMPT MONEY MARKET TRUST
1702	IM-04	NML	867822	NORTHWESTERN MUTUAL AGGRESSIVE GROWTH STOCK FUND INC
1703	IM-04	NML	351787	NORTHWESTERN MUTUAL BALANCED FUND INC
1704	IM-04	NML	072175	NORTHWESTERN MUTUAL CAPITAL APPRECIATION STOCK FUND INC
1705	IM-04	NML	867816	NORTHWESTERN MUTUAL INDEX 500 STOCK FUND INC
1706	IM-04	NML	351788	NORTHWESTERN MUTUAL MONEY MARKET FUND INC
1707	IM-04	NML	072173	NORTHWESTERN MUTUAL SELECT BOND FUND INC
1708	IM-04	NML	742277	NORTHWESTERN MUTUAL VARIABLE LIFE ACCOUNT
1709	IM-04	NML	742212	NORTHWESTERN MUTUAL VARIABLE LIFE SERIES FUND INC
1710	IM-04	PB-SB	715214	PB-SB 1983 INVESTMENT PARTNERSHIP I
1711	IM-04	PB-SB	725492	PB-SB 1983 INVESTMENT PARTNERSHIP IA
1712	IM-04	PB-SB	807448	PB-SB 1983 INVESTMENT PARTNERSHIP III
1713	IM-04	PB-SB	724542	PB-SB 1983 INVESTMENT PARTNERSHIP IV
1714	IM-04	PB-SB	746413	PB-SB 1984 INVESTMENT PARTNERSHIP I
1715	IM-04	PB-SB	741314	PB-SB 1984 INVESTMENT PARTNERSHIP VA
1716	IM-04	PB-SB	767722	PB-SB 1985 INVESTMENT PARTNERSHIP I
1717	IM-04	PB-SB	772144	PB-SB 1985 INVESTMENT PARTNERSHIP VI
1718	IM-04	PB-SB	779001	PB-SB 1985 INVESTMENT PARTNERSHIP VII
1719	IM-04	PB-SB	794811	PB-SB 1986 INVESTMENT PARTNERSHIP VI
1720	IM-04	PB-SB	815487	PB-SB 1987 INVESTMENT PARTNERSHIP VI
1721	IM-04	PB-SB	845311	PB-SB 1988 INVESTMENT PARTNERSHIP III
1722	IM-04	PB-SB	843914	PB-SB 1988 INVESTMENT PARTNERSHIP VIII
1723	IM-04	PIERPONT	819836	PIERPONT BOND FUND
1724	IM-04	PIERPONT	766836	PIERPONT CAPITAL APPRECIATION FUND
1725	IM-04	PIERPONT	766837	PIERPONT EQUITY FUND
1726	IM-04	PIERPONT	860732	PIERPONT INTERNATIONAL EQUITY FUND INC
1727	IM-04	PIERPONT	702091	PIERPONT MONEY MARKET FUND
1728	IM-04	PIERPONT	750204	PIERPONT TAX EXEMPT BOND FUND
1729	IM-04	PIERPONT	722838	PIERPONT TAX EXEMPT MONEY MARKET FUND
1730	IM-04	PILGRIM	878569	PILGRIM ASSET BACKED SECURITIES TRUST
1731	IM-04	PILGRIM	739589	PILGRIM CORPORATE CASH FUND
1732	IM-04	PILGRIM	712155	PILGRIM CORPORATE UTILITIES FUND
1733	IM-04	PILGRIM	783252	PILGRIM GLOBAL INVESTMENT SERIES
1734	IM-04	PILGRIM	748575	PILGRIM GNMA FUND
1735	IM-04	PILGRIM	802670	PILGRIM GOVERNMENT SECURITIES FUND
1736	IM-04	PILGRIM	802560	PILGRIM HIGH INCOME FUND
1737	IM-04	PILGRIM	806152	PILGRIM INVESTMENT TRUST
1738	IM-04	PILGRIM	061448	PILGRIM MAGNACAP FUND INC
1739	IM-04	PILGRIM	700662	PILGRIM MONEY MARKET FUND
1740	IM-04	PILGRIM	826020	PILGRIM PRIME RATE TRUST
1741	IM-04	PILGRIM	764055	PILGRIM REGIONAL BANKSHARES INC
1742	IM-04	PILGRIM	794384	PILGRIM SHORT TERM MULTI MARKET INCOME FUND ET AL
1743	IM-04	PILGRIM	061435	PILGRIM STRATEGIC INVESTMENT SERIES
1744	IM-04	PIONEER	278776	PIONEER BOND FUND /MA/
1745	IM-04	PIONEER	078706	PIONEER ENTERPRISE FUND INC
1746	IM-04	PIONEER	866707	PIONEER EUROPE FUND
1747	IM-04	PIONEER	078713	PIONEER FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
1748	IM-04	PIONEER	863334	PIONEER GROWTH TRUST
1749	IM-04	PIONEER	078758	PIONEER II
1750	IM-04	PIONEER	893660	PIONEER INTERNATIONAL GROWTH FUND
1751	IM-04	PIONEER	812195	PIONEER MONEY MARKET TRUST
1752	IM-04	PIONEER	756172	PIONEER MUNICIPAL BOND FUND
1753	IM-04	PIONEER	746530	PIONEER SCOUT INC
1754	IM-04	PIONEER	887228	PIONEER SHORT TERM INCOME TRUST
1755	IM-04	PIONEER	893968	PIONEER TAX FREE STATE SERIES TRUST
1756	IM-04	PIONEER	706155	PIONEER THREE
1757	IM-04	PIONEER	831120	PIONEER US GOVERNMENT TRUST
1758	IM-04	PIPER JAFFRAY	859000	AMERICAN ADJUSTABLE RATE TERM TRUST INC 1995
1759	IM-04	PIPER JAFFRAY	866335	AMERICAN ADJUSTABLE RATE TERM TRUST INC 1996
1760	IM-04	PIPER JAFFRAY	889531	AMERICAN ADJUSTABLE RATE TERM TRUST INC 1999
1761	IM-04	PIPER JAFFRAY	829344	AMERICAN GOVERNMENT INCOME FUND INC
1762	IM-04	PIPER JAFFRAY	836425	AMERICAN GOVERNMENT INCOME PORTFOLIO INC
1763	IM-04	PIPER JAFFRAY	843756	AMERICAN GOVERNMENT TERM TRUST INC
1764	IM-04	PIPER JAFFRAY	872086	AMERICAN MUNICIPAL TERM TRUST INC
1765	IM-04	PIPER JAFFRAY	877346	AMERICAN MUNICIPAL TERM TRUST INC II
1766	IM-04	PIPER JAFFRAY	854125	AMERICAN OPPORTUNITY INCOME FUND INC
1767	IM-04	PIPER JAFFRAY	896964	AMERICAN STRATEGIC INCOME PORTFOLIO INC II
1768	IM-04	PIPER JAFFRAY	896161	AMERICAN STRATEGIC INCOME PORTFOLIO INC III
1769	IM-04	PIPER JAFFRAY	877533	MINNESOTA MUNICIPAL TERM TRUST INC
1770	IM-04	PIPER JAFFRAY	882386	MINNESOTA MUNICIPAL TERM TRUST INC II
1771	IM-04	PIPER JAFFRAY	860721	PACIFIC EUROPEAN GROWTH FUND INC
1772	IM-04	PRINCIPAL	814571	PRINCIPAL BOND FUND INC
1773	IM-04	PRINCIPAL	012601	PRINCIPAL CAPITAL ACCUMULATION FUND INC
1774	IM-04	PRINCIPAL	814573	PRINCIPAL EMERGING GROWTH FUND INC
1775	IM-04	PRINCIPAL	806565	PRINCIPAL GOVERNMENT SECURITIES FUND INC
1776	IM-04	PRINCIPAL	814609	PRINCIPAL HIGH YIELD FUND INC
1777	IM-04	PRINCIPAL	811810	PRINCIPAL MANAGED FUND INC
1778	IM-04	PRINCIPAL	705401	PRINCIPAL MONEY MARKET FUND INC
1779	IM-04	PRINCIPAL	009712	PRINCIPAL MUTUAL LIFE INSURANCE CO
1780	IM-04	PRINCOR	870786	PRINCOR BLUE CHIP FUND INC
1781	IM-04	PRINCOR	814574	PRINCOR BOND FUND INC
1782	IM-04	PRINCOR	012603	PRINCOR CAPITAL ACCUMULATION FUND INC
1783	IM-04	PRINCOR	707827	PRINCOR CASH MANAGEMENT FUND INC
1784	IM-04	PRINCOR	814572	PRINCOR EMERGING GROWTH FUND INC
1785	IM-04	PRINCOR	763589	PRINCOR GOVERNMENT SECURITIES INCOME FUND INC
1786	IM-04	PRINCOR	012602	PRINCOR GROWTH FUND INC
1787	IM-04	PRINCOR	814508	PRINCOR HIGH YIELD FUND INC
1788	IM-04	PRINCOR	811803	PRINCOR MANAGED FUND INC
1789	IM-04	PRINCOR	780267	PRINCOR TAX EXEMPT BOND FUND INC
1790	IM-04	PRINCOR	832513	PRINCOR TAX EXEMPT CASH MANAGEMENT FUND INC
1791	IM-04	PRINCOR	892823	PRINCOR UTILITIES FUND INC
1792	IM-04	PRINCOR	353024	PRINCOR WORLD FUND INC
1793	IM-04	REICH & TANG	806520	CALIFORNIA DAILY TAX FREE INCOME FUND INC
1794	IM-04	REICH & TANG	764901	CONNECTICUT DAILY TAX FREE INCOME FUND INC
1795	IM-04	REICH & TANG	759899	CORTLAND TRUST INC
1796	IM-04	REICH & TANG	706115	DAILY DOLLAR RESERVES INC
1797	IM-04	REICH & TANG	026592	DAILY INCOME FUND INC
1798	IM-04	REICH & TANG	704480	DAILY TAX FREE INCOME FUND INC
1799	IM-04	REICH & TANG	810104	MICHIGAN DAILY TAX FREE INCOME FUND INC
1800	IM-04	REICH & TANG	740372	NEW YORK DAILY TAX FREE INCOME FUND INC
1801	IM-04	REICH & TANG	888130	PENNSYLVANIA DAILY MUNICIPAL INCOME FUND INC
1802	IM-04	REICH & TANG	756916	REICH & TANG EQUITY FUND INC
1803	IM-04	REICH & TANG	783749	REICH & TANG GOVERNMENT SECURITIES TRUST
1804	IM-04	REICH & TANG	312569	SHORT TERM INCOME FUND INC
1805	IM-04	REICH & TANG	843078	TAX EXEMPT PROCEEDS FUND INC
1806	IM-04	SAFECO	867263	INVESTORS PREFERENCE NY TAX FREE FUND INC
1807	IM-04	SAFECO	722817	SAFECO CALIFORNIA TAX FREE INCOME FUND INC
1808	IM-04	SAFECO	088105	SAFECO EQUITY FUND INC
1809	IM-04	SAFECO	088106	SAFECO GROWTH FUND INC
1810	IM-04	SAFECO	833059	SAFECO HIGH YIELD BOND FUND INC
1811	IM-04	SAFECO	088107	SAFECO INCOME FUND INC
1812	IM-04	SAFECO	887437	SAFECO INSTITUTIONAL SERIES TRUST
1813	IM-04	SAFECO	893565	SAFECO INSURED MUNICIPAL BOND FUND INC
1814	IM-04	SAFECO	833045	SAFECO INTERMEDIATE TERM BOND FUND INC
1815	IM-04	SAFECO	893568	SAFECO INTERMEDIATE TERM MUNICIPAL BOND FUND INC
1816	IM-04	SAFECO	356822	SAFECO MONEY MARKET MUTUAL FUND INC
1817	IM-04	SAFECO	354868	SAFECO MUNICIPAL BOND FUND INC
1818	IM-04	SAFECO	867579	SAFECO NORTHWEST FUND INC
1819	IM-04	SAFECO	795892	SAFECO RESOURCE SERIES TRUST
1820	IM-04	SAFECO	748584	SAFECO TAX FREE MONEY MARKET FUND INC
1821	IM-04	SAFECO	793155	SAFECO U S GOVERNMENT SECURITIES FUND INC
1822	IM-04	SAFECO	893567	SAFECO WASHINGTON STATE MUNICIPAL BOND FUND INC
1823	IM-04	SECURITY MGT	356420	SECURITY ACTION FUND
1824	IM-04	SECURITY MGT	317977	SECURITY CASH FUND
1825	IM-04	SECURITY MGT	088525	SECURITY EQUITY FUND
1826	IM-04	SECURITY MGT	088498	SECURITY INCOME FUND /KS/
1827	IM-04	SECURITY MGT	088565	SECURITY INVESTMENT FUND INC
1828	IM-04	SECURITY MGT	761030	SECURITY OMNI FUND
1829	IM-04	SECURITY MGT	354165	SECURITY TAX EXEMPT FUND

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
1830	IM-04	SECURITY MGT	088876	SECURITY ULTRA FUND
1831	IM-04	SEI	701939	SEI CASH & PLUS TRUST
1832	IM-04	SEI	766589	SEI INDEX FUNDS
1833	IM-04	SEI	868585	SEI INSTITUTIONAL CASH ASSETS
1834	IM-04	SEI	804239	SEI INSTITUTIONAL MANAGED TRUST
1835	IM-04	SEI	835597	SEI INTERNATIONAL TRUST
1836	IM-04	SEI	354603	SEI LIQUID ASSET TRUST
1837	IM-04	SEI	701817	SEI TAX EXEMPT TRUST
1838	IM-04	STATE BOND	093706	SBM COMPANY
1839	IM-04	STATE BOND	355988	STATE BOND CASH MANAGEMENT FUND INC*
1840	IM-04	STATE BOND	093704	STATE BOND COMMON STOCK FUND INC
1841	IM-04	STATE BOND	029199	STATE BOND DIVERSIFIED FUND INC
1842	IM-04	STATE BOND	080644	STATE BOND PROGRESS FUND INC
1843	IM-04	STATE BOND	702133	STATE BOND TAX EXEMPT FUND INC
1844	IM-04	STATE BOND	826037	STATE BOND TAX FREE INCOME FUND INC
1845	IM-04	STATE BOND	780113	STATE BOND U S GOVERNMENT SECURITIES FUND INC
1846	IM-04	STEADMAN	093838	STEADMAN AMERICAN INDUSTRY FUND
1847	IM-04	STEADMAN	093839	STEADMAN ASSOCIATED FUND
1848	IM-04	STEADMAN	314589	STEADMAN FINANCIAL FUND
1849	IM-04	STEADMAN	093843	STEADMAN INVESTMENT FUND
1850	IM-04	STEADMAN	073769	STEADMAN OCEANOGRAPHIC TECHNOLOGY & GROWTH FUND
1851	IM-04	STEADMAN	110559	STEADMAN SECURITY CORP PFAS STEADMAN AMERICAN INDUSTRY FUND
1852	IM-04	STEADMAN	110560	STEADMAN SECURITY CORP PFAS STEADMAN SCIENCE & GROWTH FUND
1853	IM-04	SUNAMERICA	724052	SUNAMERICA CAPITAL APPRECIATION FUND INC
1854	IM-04	SUNAMERICA	796954	SUNAMERICA CASH FUND
1855	IM-04	SUNAMERICA	799084	SUNAMERICA EQUITY PORTFOLIOS
1856	IM-04	SUNAMERICA	755002	SUNAMERICA FUND GROUP
1857	IM-04	SUNAMERICA	803962	SUNAMERICA FUND GROUP II
1858	IM-04	SUNAMERICA	724100	SUNAMERICA INCOME PLUS FUND INC
1859	IM-04	SUNAMERICA	795307	SUNAMERICA INCOME PORTFOLIOS
1860	IM-04	SUNAMERICA	724129	SUNAMERICA MONEY MARKET SECURITIES INC
1861	IM-04	SUNAMERICA	819181	SUNAMERICA MULTI ASSET PORTFOLIOS INC
1862	IM-04	SUNAMERICA	777486	SUNAMERICA TAX FREE PORTFOLIOS
1863	IM-04	TRANSAMERICA	315554	TRANSAMERICA BOND FUND
1864	IM-04	TRANSAMERICA	771503	TRANSAMERICA BOND FUND /MA/
1865	IM-04	TRANSAMERICA	856871	TRANSAMERICA CALIFORNIA TAX FREE INCOME FUND
1866	IM-04	TRANSAMERICA	740916	TRANSAMERICA CAPITAL APPRECIATION FUND
1867	IM-04	TRANSAMERICA	314721	TRANSAMERICA CASH RESERVE INC
1868	IM-04	TRANSAMERICA	026262	TRANSAMERICA CURRENT INTEREST
1869	IM-04	TRANSAMERICA	099197	TRANSAMERICA INCOME SHARES INC
1870	IM-04	TRANSAMERICA	022370	TRANSAMERICA INVESTMENT TRUST
1871	IM-04	TRANSAMERICA	723256	TRANSAMERICA SPECIAL EQUITY PORTFOLIOS
1872	IM-04	TRANSAMERICA	818300	TRANSAMERICA SPECIAL SERIES INC
1873	IM-04	TRANSAMERICA	857769	TRANSAMERICA TAX FREE BOND FUND
1874	IM-04	TRANSAMERICA	708871	TRANSAMERICA TAX FREE FUND INC
1875	IM-04	TRAVELERS	099442	TRAVELERS FUND B FOR VARIABLE CONTRACTS
1876	IM-04	TRAVELERS	099443	TRAVELERS FUND B-1 FOR VARIABLE CONTRACTS
1877	IM-04	TRAVELERS	099444	TRAVELERS GROWTH & INCOME STOCK ACCT FOR VARIABLE ANNUITIES
1878	IM-04	TRAVELERS	700871	TRAVELERS MONEY MARKET ACCOUNT FOR VARIABLE ANNUITIES
1879	IM-04	TRAVELERS	099440	TRAVELERS QUALITY BOND ACCOUNT FOR VARIABLE ANNUITIES
1880	IM-04	TRAVELERS	880583	TRAVELERS SERIES TRUST
1881	IM-04	TRAVELERS	812051	TRAVELERS TIMED AGGRESSIVE STOCK ACCOUNT FOR VARIABLE ANNUIT
1882	IM-04	TRAVELERS	812048	TRAVELERS TIMED BOND ACCOUNT FOR VARIABLE ANNUITIES
1883	IM-04	TRAVELERS	812021	TRAVELERS TIMED GROWTH & INCOME STOCK ACC FOR VARIABLE ANNU
1884	IM-04	TRAVELERS	812022	TRAVELERS TIMED MONEY MARKET ACCOUNT FOR VARIABLE ANNUITIES
1885	IM-04	VALUE LINE	320580	GUARDIAN VALUE LINE SEPARATE ACCOUNT
1886	IM-04	VALUE LINE	881329	VALUE LINE ADJUSTABLE RATE US GOVERNMENT SECURITIES FUND INC
1887	IM-04	VALUE LINE	783316	VALUE LINE AGGRESSIVE INCOME TRUST
1888	IM-04	VALUE LINE	310012	VALUE LINE CASH FUND INC
1889	IM-04	VALUE LINE	726994	VALUE LINE CENTURION FUND INC
1890	IM-04	VALUE LINE	764772	VALUE LINE CONVERTIBLE FUND INC
1891	IM-04	VALUE LINE	102756	VALUE LINE FUND INC
1892	IM-04	VALUE LINE	102757	VALUE LINE INCOME FUND INC
1893	IM-04	VALUE LINE	878502	VALUE LINE INTERNATIONAL FUND INC
1894	IM-04	VALUE LINE	102764	VALUE LINE LEVERAGED GROWTH INVESTORS INC
1895	IM-04	VALUE LINE	811268	VALUE LINE NEW YORK TAX EXEMPT TRUST
1896	IM-04	VALUE LINE	895429	VALUE LINE SMALL CAP GROWTH FUND INC
1897	IM-04	VALUE LINE	102767	VALUE LINE SPECIAL SITUATIONS FUND INC
1898	IM-04	VALUE LINE	819978	VALUE LINE STRATEGIC ASSET MANAGEMENT TRUST
1899	IM-04	VALUE LINE	733257	VALUE LINE TAX EXEMPT FUND INC
1900	IM-04	VALUE LINE	817843	VALUE LINE US GOVERNMENT SECURITIES TRUST
1901	IM-04	VALUE LINE	352430	VALUE LINE US GOVERNMENT SECURITIES FUND INC
1902	IM-04	VAN KAMPEN	840248	VAN KAMPEN MERRITT CALIFORNIA MUNICIPAL TRUST
1903	IM-04	VAN KAMPEN	799180	VAN KAMPEN MERRITT EQUITY TRUST
1904	IM-04	VAN KAMPEN	843506	VAN KAMPEN MERRITT INTERMEDIATE TERM HIGH INCOME TRUST
1905	IM-04	VAN KAMPEN	849135	VAN KAMPEN MERRITT INVESTMENT GRADE MUNICIPAL TRUST
1906	IM-04	VAN KAMPEN	846571	VAN KAMPEN MERRITT LIMITED TERM HIGH INCOME TRUST
1907	IM-04	VAN KAMPEN	704169	VAN KAMPEN MERRITT MONEY MARKET TRUST /IL
1908	IM-04	VAN KAMPEN	816305	VAN KAMPEN MERRITT MUNICIPAL INCOME TRUST
1909	IM-04	VAN KAMPEN	809592	VAN KAMPEN MERRITT PENNSYLVANIA TAX FREE INCOME FUND
1910	IM-04	VAN KAMPEN	853180	VAN KAMPEN MERRITT PRIME RATE INCOME TRUST
1911	IM-04	VAN KAMPEN	819385	VAN KAMPEN MERRITT SERIES TRUST

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
1912	IM-04	VAN KAMPEN	774556	VAN KAMPEN MERRITT TAX FREE FUND /IL/
1913	IM-04	VAN KAMPEN	795927	VAN KAMPEN MERRITT TAX FREE MONEY FUND
1914	IM-04	VAN KAMPEN	791069	VAN KAMPEN MERRITT TRUST /IL
1915	IM-04	VAN KAMPEN	739714	VAN KAMPEN MERRITT U S GOVERNMENT TRUST /IL/
1916	IM-04	VOYAGEUR	104410	SAMARNAN INVESTMENT CORP
1917	IM-04	VOYAGEUR	809872	VOYAGEUR COLORADO TAX FREE FUND INC
1918	IM-04	VOYAGEUR	819799	VOYAGEUR FUNDS INC
1919	IM-04	VOYAGEUR	753749	VOYAGEUR GROWTH STOCK FUND INC
1920	IM-04	VOYAGEUR	809084	VOYAGEUR INSURED FUNDS INC
1921	IM-04	VOYAGEUR	773675	VOYAGEUR INTERMEDIATE TAX FREE FUNDS INC
1922	IM-04	VOYAGEUR	884174	VOYAGEUR MINNESOTA MUNICIPAL INCOME FUND INC
1923	IM-04	VOYAGEUR	753746	VOYAGEUR MONEY MARKET FUND INC
1924	IM-04	VOYAGEUR	730362	VOYAGEUR TAX FREE FUNDS INC
1925	IM-05	44 WALL ST	316572	44 WALL STREET EQUITY FUND INC /MD/
1926	IM-05	44 WALL ST	038248	44 WALL STREET FUND INC
1927	IM-05	44 WALL ST	003804	CUMBERLAND GROWTH FUND INC
1928	IM-05	ABD	765703	CRUSADER INCOME SHARES INC
1929	IM-05	ABD	790175	HORIZON INCOME SHARES INC
1930	IM-05	ABT	201066	ABT GROWTH & INCOME TRUST
1931	IM-05	ABT	701164	ABT INVESTMENT SERIES INC
1932	IM-05	ABT	839637	ABT MONEY MARKET SERIES INC
1933	IM-05	ABT	814082	ABT SOUTHERN MASTER TRUST
1934	IM-05	ABT	037611	ABT UTILITY INCOME FUND INC/FL
1935	IM-05	ADVANCE	813470	ADVANCE CAPITAL I INC
1936	IM-05	ADVANTAGE	779236	ADVANTAGE GOVERNMENT SECURITIES FUND
1937	IM-05	ADVANTAGE	779233	ADVANTAGE GROWTH FUND
1938	IM-05	ADVANTAGE	830477	ADVANTAGE HIGH YIELD BOND FUND
1939	IM-05	ADVANTAGE	779234	ADVANTAGE INCOME FUND
1940	IM-05	ADVANTAGE	779235	ADVANTAGE SPECIAL FUND
1941	IM-05	AETNA	811637	AETNA GUARANTEED EQUITY TRUST
1942	IM-05	AETNA	002646	AETNA INCOME SHARES
1943	IM-05	AETNA	846799	AETNA INVESTMENT ADVISERS FUND INC
1944	IM-05	AETNA	732796	AETNA LIFE INSURANCE & ANNUITY CO
1945	IM-05	AETNA	877233	AETNA SERIES FUND INC
1946	IM-05	AETNA	002663	AETNA VARIABLE ENCORE FUND INC
1947	IM-05	AETNA	002664	AETNA VARIABLE FUND
1948	IM-05	ALGER	832566	ALGER AMERICAN FUND
1949	IM-05	ALGER	003521	ALGER FUND
1950	IM-05	ALGER	018180	CASTLE CONVERTIBLE FUND INC
1951	IM-05	ALLIED	003845	ALLIED CAPITAL CORP
1952	IM-05	ALLIED	850426	ALLIED CAPITAL CORP II
1953	IM-05	ALLIED	706772	ALLIED DEVELOPMENT CORP
1954	IM-05	ALLIED	003862	ALLIED FINANCIAL CORP
1955	IM-05	ALLIED	003896	ALLIED INVESTMENT CORP
1956	IM-05	ALLIED	003906	ALLIED LENDING CORP
1957	IM-05	AMERICAN GEN	700933	AMERICAN GENERAL EQUITY ACCUMULATION FUND INC
1958	IM-05	AMERICAN GEN	356070	AMERICAN GENERAL FIXED INCOME ACCUMULATION FUND INC
1959	IM-05	AMERICAN GEN	316047	AMERICAN GENERAL MONEY MARKET ACCUMULATION FUND INC
1960	IM-05	AMERICAN GEN	761861	AMERICAN GENERAL SERIES PORTFOLIO CO
1961	IM-05	AMERICAN GEN	719423	AMERICAN GENERAL SERIES PORTFOLIO CO /TX
1962	IM-05	AMERICAN INV	005315	AMERICAN INVESTORS GROWTH FUND INC
1963	IM-05	AMERICAN INV	005317	AMERICAN INVESTORS INCOME FUND INC
1964	IM-05	AMERICAN INV	704217	AMERICAN INVESTORS MONEY FUND INC
1965	IM-05	AMERICAN NATL	005529	AMERICAN NATIONAL GROWTH FUND INC
1966	IM-05	AMERICAN NATL	005533	AMERICAN NATIONAL INCOME FUND INC
1967	IM-05	AMERICAN NATL	867050	AMERICAN NATIONAL INVESTMENT ACCOUNTS INC
1968	IM-05	AMERICAN NATL	355755	AMERICAN NATIONAL MONEY MARKET FUND INC
1969	IM-05	AMERICAN NATL	275039	TRIFLEX FUND INC
1970	IM-05	AMERICAN UNITED	005966	AMERICAN UNITED LIFE POOLED EQUITY FUND B
1971	IM-05	AMERICAN UNITED	853818	AUL AMERICAN SERIES FUND INC
1972	IM-05	ANCHOR	034433	ANCHOR CAPITAL ACCUMULATION TRUST
1973	IM-05	ANCHOR	792338	ANCHOR GOLD & CURRENCY TRUST
1974	IM-05	ANCHOR	792353	ANCHOR INTERNATIONAL BOND TRUST
1975	IM-05	ANCHOR	726735	ANCHOR SERIES TRUST
1976	IM-05	ARNOLD INVEST	852244	PRIMARY INCOME FUNDS INC
1977	IM-05	ARNOLD INVEST	784801	PRIMARY TREND FUND INC
1978	IM-05	ASSOC PLANNERS	797540	OLYMPUS INVESTMENT TRUST
1979	IM-05	AXE HOUGHT	008891	AXE HOUGHTON FUND B INC
1980	IM-05	AXE HOUGHT	865414	AXE HOUGHTON FUNDS INC
1981	IM-05	AXE HOUGHT	008889	AXE HOUGHTON INCOME FUND INC
1982	IM-05	AXE HOUGHT	353317	AXE HOUGHTON MONEY MARKET FUND INC
1983	IM-05	AXE HOUGHT	008893	AXE HOUGHTON STOCK FUND INC
1984	IM-05	BAILARD BIEHL	800075	BAILARD BIEHL & KAISER FUND GROUP
1985	IM-05	BAILARD BIEHL	277955	BAILARD BIEHL & KAISER INTERNATIONAL EQUITY FUND
1986	IM-05	BANK FIDUCIARY	009572	BANK FIDUCIARY EQUITY FUND
1987	IM-05	BANK FIDUCIARY	276495	BANK FIDUCIARY FIXED INCOME FUND
1988	IM-05	BANKERS SYSTEM	783746	BANKERS SYSTEMS GRANIT FIXED INCOME FUND INC
1989	IM-05	BANKERS SYSTEM	762968	BANKERS SYSTEMS GRANIT STOCK FUND INC
1990	IM-05	BARTLETT	710434	BARTLETT CAPITAL TRUST
1991	IM-05	BARTLETT	750006	BARTLETT MANAGEMENT TRUST
1992	IM-05	BAXTER	030912	EAGLE GROWTH SHARES INC
1993	IM-05	BAXTER	078105	PHILADELPHIA FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
1994	IM-05	BEA	846676	CHILE FUND INC
1995	IM-05	BEA	880340	EMERGING MARKETS INCOME FUND INC
1996	IM-05	BEA	884042	EMERGING MARKETS TELECOMMUNICATIONS FUND INC
1997	IM-05	BEA	716418	EQUITY INCOME FUND FIRST EXCHANGE SERIES AT&T SHARES
1998	IM-05	BEA	859120	INDONESIA FUND INC
1999	IM-05	BEA	886871	LATIN AMERICA DEBT FUND INC
2000	IM-05	BEA	879357	LATIN AMERICA EQUITY FUND INC
2001	IM-05	BEA	862599	LATIN AMERICA INVESTMENT FUND INC
2002	IM-05	BEA	854580	PORTUGAL FUND INC
2003	IM-05	BENCHMARK	710124	BENCHMARK FUNDS
2004	IM-05	BENCHMARK	710125	BENCHMARK TAX EXEMPT FUND
2005	IM-05	BERGER	074529	BERGER ONE HUNDRED & ONE FUND INC
2006	IM-05	BERGER	074532	ONE HUNDRED FUND INC /CO
2007	IM-05	BERWYN	731764	BERWYN FUND INC
2008	IM-05	BERWYN	808452	BERWYN INCOME FUND INC
2009	IM-05	BLACKSTONE	872504	BLACKROCK 1998 TERM TRUST INC
2010	IM-05	BLACKSTONE	845851	BLACKROCK ADVANTAGE TERM TRUST INC
2011	IM-05	BLACKSTONE	832327	BLACKROCK INCOME TRUST INC
2012	IM-05	BLACKSTONE	868784	BLACKROCK STRATEGIC TERM TRUST INC
2013	IM-05	BLACKSTONE	839636	BLACKROCK TARGET TERM TRUST INC
2014	IM-05	BLANCHARD	789259	BLANCHARD FUNDS
2015	IM-05	BLANCHARD	820676	BLANCHARD PRECIOUS METALS FUND INC
2016	IM-05	BROWN BROS HARR	866898	59 WALL STREET FUND INC
2017	IM-05	BROWN BROS HARR	722575	59 WALL STREET TRUST
2018	IM-05	BT	862157	BT INSTITUTIONAL FUNDS
2019	IM-05	BT	797657	BT INVESTMENT FUNDS
2020	IM-05	BT	884463	BT PYRAMID MUTUAL FUNDS
2021	IM-05	BURNHAM	015556	BURNHAM FUND
2022	IM-05	BURNHAM	030126	BURNHAM FUND INC
2023	IM-05	CALAMOS	817937	CALAMOS INVESTMENT TRUST
2024	IM-05	CALAMOS	826732	CFS INVESTMENT TRUST
2025	IM-05	CALVERT	798365	ARIEL GROWTH FUND
2026	IM-05	CALVERT	701219	CALVERT CASH RESERVES
2027	IM-05	CALVERT	701039	CALVERT FUND
2028	IM-05	CALVERT	882671	CALVERT MUNICIPAL FUND INC
2029	IM-05	CALVERT	356682	CALVERT SOCIAL INVESTMENT FUND
2030	IM-05	CALVERT	319676	CALVERT TAX FREE RESERVES
2031	IM-05	CALVERT	884110	CALVERT WORLD VALUES FUND INC
2032	IM-05	CAPITAL GROWTH	060332	CGM CAPITAL DEVELOPMENT FUND
2033	IM-05	CAPITAL GROWTH	060335	CGM TRUST
2034	IM-05	CARDINAL	017493	CARDINAL FUND INC
2035	IM-05	CARDINAL	783413	CARDINAL GOVERNMENT OBLIGATIONS FUND
2036	IM-05	CARDINAL	315779	CARDINAL GOVERNMENT SECURITIES TRUST
2037	IM-05	CARDINAL	716313	CARDINAL TAX EXEMPT MONEY TRUST
2038	IM-05	CARILLON	356952	CARILLON CASH RESERVES INC
2039	IM-05	CARILLON	820432	CARILLON INVESTMENT TRUST
2040	IM-05	CARNEGIE	315991	CARNEGIE GOVERNMENT SECURITIES TRUST
2041	IM-05	CARNEGIE	785973	CARNEGIE TAX EXEMPT INCOME TRUST
2042	IM-05	CARNEGIE	701816	CARNEGIE TAX FREE INCOME TRUST
2043	IM-05	CARNEGIE	862512	CARNEGIE WORLD TRUST
2044	IM-05	CCM PARTNERS	778206	CALIFORNIA INVESTMENT TRUST
2045	IM-05	CCM PARTNERS	778205	CALIFORNIA INVESTMENT TRUST II
2046	IM-05	CHUBB	757551	CHUBB AMERICA FUND INC
2047	IM-05	CHUBB	814883	CHUBB INVESTMENT FUNDS INC
2048	IM-05	CITADEL	731206	COMBINED PENNY STOCK FUND INC
2049	IM-05	CITADEL	742094	REDWOOD MICROCAP FUND INC
2050	IM-05	CITIUS	771883	CITIUS ALPHA FUND INC
2051	IM-05	CITIUS	771884	CITIUS BETA FUND INC
2052	IM-05	CITIUS	771882	CITIUS GAMMA FUND INC
2053	IM-05	CITIZENS	763534	CHURCHILL CASH RESERVES TRUST
2054	IM-05	CITIZENS	812006	CHURCHILL TAX FREE TRUST
2055	IM-05	CLEMENTE	814083	CLEMENTE GLOBAL GROWTH FUND INC
2056	IM-05	CLEMENTE	866868	CLEMENTE GLOBAL INVESTMENT SERIES INC
2057	IM-05	CLEMENTE	855237	FIRST PHILIPPINE FUND INC
2058	IM-05	COLUMBIA	876613	COLUMBIA BALANCED FUND INC /OR/
2059	IM-05	COLUMBIA	876606	COLUMBIA COMMON STOCK FUND INC
2060	IM-05	COLUMBIA	022082	COLUMBIA DAILY INCOME CO
2061	IM-05	COLUMBIA	707833	COLUMBIA FIXED INCOME SECURITIES FUND INC
2062	IM-05	COLUMBIA	022106	COLUMBIA GROWTH FUND INC
2063	IM-05	COLUMBIA	741556	COLUMBIA MUNICIPAL BOND FUND INC
2064	IM-05	COLUMBIA	773599	COLUMBIA SPECIAL FUND INC
2065	IM-05	COLUMBIA	801962	COLUMBIA U S GOVERNMENT SECURITIES FUND INC
2066	IM-05	CONCORDE	822519	CONCORDE VALUE FUND INC
2067	IM-05	CONCORDE	862063	INFINITY MUTUAL FUNDS INC
2068	IM-05	COUNTRY CAPITAL	275275	IAA TRUST ASSET ALLOCATION FUND INC
2069	IM-05	COUNTRY CAPITAL	025175	IAA TRUST GROWTH FUND INC
2070	IM-05	COUNTRY CAPITAL	353312	IAA TRUST MONEY MARKET FUND INC
2071	IM-05	COUNTRY CAPITAL	275276	IAA TRUST TAX EXEMPT BOND FUND INC
2072	IM-05	DFA	355437	DFA INVESTMENT DIMENSIONS GROUP INC
2073	IM-05	DFA	861929	DFA US LARGE CAP INC
2074	IM-05	DILLON READ	790402	DR EQUITY FUND
2075	IM-05	DILLON READ	766424	DR EUROPEAN EQUITY FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
2076	IM-05	DILLON READ	850359	DR FUNDS INC
2077	IM-05	DODGE & COX	029440	DODGE & COX BALANCED FUND/CA
2078	IM-05	DODGE & COX	836427	DODGE & COX INCOME FUND
2079	IM-05	DODGE & COX	029442	DODGE & COX STOCK FUND
2080	IM-05	EASTBRIDGE	893601	BROOK HOLLOW TRUST
2081	IM-05	EASTBRIDGE	887397	ECI FUNDS
2082	IM-05	EBI	731273	EBI FUNDS INC
2083	IM-05	EBI	824034	EBI SERIES TRUST
2084	IM-05	EHRENKRANTZ	820991	EHRENKRANTZ GROWTH FUND
2085	IM-05	EHRENKRANTZ	808069	EHRENKRANTZ TRUST
2086	IM-05	EQUITILINK	779336	FIRST AUSTRALIA FUND INC
2087	IM-05	EQUITILINK	790500	FIRST AUSTRALIA PRIME INCOME FUND INC
2088	IM-05	EQUITILINK	852464	KEYSTONE AUSTRALIA FUNDS INC
2089	IM-05	EQUUS	843626	EQUUS CAPITAL PARTNERS LP
2090	IM-05	EQUUS	745894	EQUUS INVESTMENTS I LP
2091	IM-05	EQUUS	795931	EQUUS INVESTMENTS II L P
2092	IM-05	EQUUS	869682	EQUUS INVESTMENTS INCORPORATED
2093	IM-05	EXCEL	770200	EXCEL MIDAS GOLD SHARES INC
2094	IM-05	EXCEL	355419	EXCEL VALUE FUND INC
2095	IM-05	FBL	320595	FBL MONEY MARKET FUND INC
2096	IM-05	FFB	784979	FFB EQUITY TRUST
2097	IM-05	FFB	784976	FFB TAX FREE TRUST
2098	IM-05	FFCA	354631	FIDUCIARY CAPITAL GROWTH FUND INC
2099	IM-05	FFCA	841687	FIDUCIARY CAPITAL PARTNERS L P
2100	IM-05	FFCA	841686	FIDUCIARY CAPITAL PENSION PARTNERS L P
2101	IM-05	FFCA	771585	FIDUCIARY INCOME FUNDS INC
2102	IM-05	FIRST BOSTON	833044	FIRST BOSTON INVESTMENT FUNDS INC /PA/
2103	IM-05	FIRST BOSTON	828781	FIRST BOSTON STRATEGIC INCOME FUND INC
2104	IM-05	FIRST PENN	103361	VESTAUR SECURITIES INC
2105	IM-05	FIRST PENN	757529	VIKING EQUITY INDEX FUND INC
2106	IM-05	FIRST PENN	748512	VIKING MONEY MARKET FUND INC
2107	IM-05	FLAGSHIP	797690	FLAGSHIP PENNSYLVANIA TRIPLE TAX EXEMPT FUND
2108	IM-05	FLAGSHIP	764860	FLAGSHIP TAX EXEMPT FUNDS TRUST
2109	IM-05	FLEX	702435	FLEX FUNDS
2110	IM-05	FLEX	869170	FLEX FUNDS II
2111	IM-05	FORTIUS	808381	FORTIUS II FUND INC
2112	IM-05	FORTIUS	814127	FORTIUS III FUND INC
2113	IM-05	FPA	099188	FPA CAPITAL FUND INC
2114	IM-05	FPA	099203	FPA NEW INCOME INC
2115	IM-05	FPA	076210	FPA PARAMOUNT FUND INC
2116	IM-05	FPA	732041	FPA PERENNIAL FUND INC
2117	IM-05	FRANK RUSSELL	351601	RUSSELL FRANK INVESTMENT CO
2118	IM-05	FRANK RUSSELL	824036	RUSSELL INSURANCE FUNDS INC
2119	IM-05	FRANK RUSSELL	826686	SEVEN SEAS SERIES FUND
2120	IM-05	FRANKLIN	844040	FRANKLIN GOVERNMENT SECURITIES TRUST
2121	IM-05	FRANKLIN	876441	FRANKLIN INTERNATIONAL TRUST
2122	IM-05	FRANKLIN	808648	FRANKLIN INVESTMENT TRUST
2123	IM-05	FRANKLIN	881309	FRANKLIN MUNICIPAL SECURITIES TRUST
2124	IM-05	FRANKLIN	837274	FRANKLIN VALUEMARK FUNDS
2125	IM-05	FRANKLIN	LIFE	038748 FRANKLIN LIFE VARIABLE ANNUITY FUND A
2126	IM-05	FRANKLIN	LIFE	038749 FRANKLIN LIFE VARIABLE ANNUITY FUND B
2127	IM-05	FREEDOM	704348	FREEDOM GROUP OF TAX EXEMPT FUNDS
2128	IM-05	FREEDOM	743861	FREEDOM INVESTMENT TRUST
2129	IM-05	FREEDOM	791271	FREEDOM INVESTMENT TRUST II
2130	IM-05	FREEDOM	852204	FREEDOM INVESTMENT TRUST III
2131	IM-05	FRIESS	869942	BRANDYWINE BLUE FUND INC
2132	IM-05	FRIESS	780253	BRANDYWINE FUND INC
2133	IM-05	FUNDAMENTAL	715756	CALIFORNIA MUNI FUND
2134	IM-05	FUNDAMENTAL	811668	FUNDAMENTAL FIXED INCOME FUND
2135	IM-05	FUNDAMENTAL	315811	NEW YORK MUNI FUND INC
2136	IM-05	FURMAN SELZ	788352	OLYMPUS EQUITY PLUS FUND
2137	IM-05	FURMAN SELZ	788348	OLYMPUS FUNDS TRUST
2138	IM-05	FURMAN SELZ	788347	OLYMPUS MONEY MARKET FUND
2139	IM-05	FURMAN SELZ	788429	OLYMPUS OPTION INCOME PLUS FUND
2140	IM-05	G T	202032	G T GLOBAL GROWTH SERIES
2141	IM-05	G T	858461	G T GREATER EUROPE FUND
2142	IM-05	G T	826644	G T INVESTMENT FUNDS INC
2143	IM-05	G T	355978	GT INVESTMENT PORTFOLIOS INC
2144	IM-05	GE	821484	ELFUN DIVERSIFIED FUND
2145	IM-05	GE	817656	ELFUN GLOBAL FUND
2146	IM-05	GE	717854	ELFUN INCOME FUND
2147	IM-05	GE	855630	ELFUN MONEY MARKET FUND
2148	IM-05	GE	215740	ELFUN TAX EXEMPT INCOME FUND
2149	IM-05	GE	032339	ELFUN TRUSTS
2150	IM-05	GEICO	745451	GEICO TAX ADVANTAGED SERIES TRUST /DC/
2151	IM-05	GEICO	770482	GROWTH FUND OF WASHINGTON INC /DC/
2152	IM-05	GENERAL AMER	805996	GENERAL AMERICAN CAPITAL CO
2153	IM-05	GINTEL	777964	GINTEL CAPITAL APPRECIATION FUND
2154	IM-05	GINTEL	355749	GINTEL ERISA FUND
2155	IM-05	GINTEL	320684	GINTEL FUND
2156	IM-05	GIT	710977	GIT EQUITY TRUST
2157	IM-05	GIT	710978	GIT INCOME TRUST

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
2158	IM-05	GIT	703303	GIT TAX FREE TRUST
2159	IM-05	GLOBAL ADVSRS	825202	AMERICAS ALL SEASON FUND INC
2160	IM-05	GLOBAL ADVSRS	836917	AMERICAS ALL SEASONS INCOME FUND INC
2161	IM-05	GOLDEN AMERICAN	837276	GCG TRUST
2162	IM-05	GRADISON	042695	GRADISON CASH RESERVES TRUST
2163	IM-05	GRADISON	815913	GRADISON CUSTODIAN TRUST
2164	IM-05	GRADISON	720492	GRADISON GROWTH TRUST
2165	IM-05	GRADISON	888850	GRADISON MCDONALD MUNICIPAL CUSTODIAN TRUST
2166	IM-05	GRADISON	357205	GRADISON US GOVERNMENT TRUST
2167	IM-05	GRANTHAM MAYO	862354	GMO INVESTMENT TRUST
2168	IM-05	GRANTHAM MAYO	772129	GMO TRUST
2169	IM-05	GREAT AMERICAN	786418	GREAT AMERICAN RESERVE VARIABLE ANNUITY ACCOUNT C
2170	IM-05	GREAT AMERICAN	786412	GREAT AMERICAN RESERVE VARIABLE ANNUITY ACCOUNT D
2171	IM-05	GREAT AMERICAN	786417	GREAT AMERICAN RESERVE VARIABLE ANNUITY FUND
2172	IM-05	GREAT WEST LIFE	043498	GREAT WEST VARIABLE ANNUITY ACCOUNT A
2173	IM-05	GREAT WEST LIFE	356476	MAXIM SERIES FUND INC
2174	IM-05	HEARTLAND	809586	HEARTLAND GROUP INC
2175	IM-05	HEARTLAND	756743	HEARTLAND VALUE FUND INC
2176	IM-05	HERITAGE	771809	HERITAGE CAPITAL APPRECIATION TRUST
2177	IM-05	HERITAGE	771840	HERITAGE CASH TRUST
2178	IM-05	HERITAGE	796075	HERITAGE INCOME GROWTH TRUST
2179	IM-05	HERITAGE	853977	HERITAGE INCOME TRUST
2180	IM-05	HERTZFELD	880406	CUBA FUND INC
2181	IM-05	HERTZFELD	880406	FIRST CUBA FUND INC
2182	IM-05	HILLIAR LYONS	317872	HILLIARD LYONS GOVERNMENT FUND INC
2183	IM-05	HILLIARD LYONS	879858	HILLIARD LYONS GROWTH FUND INC
2184	IM-05	HMK	759815	APOLLONIUS INSTITUTIONAL INVESTMENT FUND INC
2185	IM-05	HMK	808489	COLOGNE RE INVESTMENTS INC
2186	IM-05	HMK	823361	PRIAMOS INSTITUTIONAL INVESTMENTS INC
2187	IM-05	HUDSON	867575	FAHNESTOCK FUNDS
2188	IM-05	HUDSON	864012	HUDSON FUND INC /NY/
2189	IM-05	HUDSON	782810	HUDSON INCOME SHARES INC
2190	IM-05	HYPERION	890336	HYPERION 1997 TERM TRUST INC
2191	IM-05	HYPERION	881413	HYPERION 1999 TERM TRUST INC
2192	IM-05	HYPERION	890337	HYPERION 2002 TERM TRUST INC
2193	IM-05	HYPERION	895415	HYPERION 2005 INVESTMENT GRADE OPPORTUNITY TERM TRUST INC
2194	IM-05	HYPERION	870486	HYPERION GOVERNMENT MORTGAGE TRUST
2195	IM-05	HYPERION	869470	HYPERION GOVERNMENT MORTGAGE TRUST II
2196	IM-05	HYPERION	851169	HYPERION TOTAL RETURN FUND INC
2197	IM-05	HYPERION	869467	SHORT DURATION GOVERNMENT PORTFOLIO
2198	IM-05	IAI	216725	IAI BOND FUND INC
2199	IM-05	IAI	806128	IAI INTERNATIONAL FUND INC
2200	IM-05	IAI	315543	IAI REGIONAL FUND INC
2201	IM-05	IAI	782977	IAI RESERVE FUND INC
2202	IM-05	IAI	874775	IAI SERIES FUND INC
2203	IM-05	IAI	072699	IAI STOCK FUND INC
2204	IM-05	IAI	721789	IAI VALUE FUND INC
2205	IM-05	IDEX	810477	IDEX FUND 3
2206	IM-05	IDEX	760611	IDEX FUND INC
2207	IM-05	IDEX	787623	IDEX II SERIES FUND
2208	IM-05	IDEX	809019	IDEX TOTAL INCOME TRUST
2209	IM-05	IMG	703485	IMG LIQUID ASSETS FUND INC
2210	IM-05	IMG	714291	IMG TAX EXEMPT LIQUID ASSETS FUND INC
2211	IM-05	INSTITUTIONAL	050691	INSTITUTIONAL INVESTORS CAPITAL APPRECIATION FUND INC
2212	IM-05	INSTITUTIONAL	717427	INSTITUTIONAL INVESTORS CAPITAL RESERVE FUND INC
2213	IM-05	INSTITUTIONAL	717452	INSTITUTIONAL INVESTORS CONVERTIBLE SECURITIES FUND INC
2214	IM-05	INSTITUTIONAL	717453	INSTITUTIONAL INVESTORS OPTION INCOME FUND INC
2215	IM-05	INSTITUTIONAL	824469	INSTITUTIONAL INVESTORS TAX ADVANTAGE INCOME FUND INC
2216	IM-05	INTEGRITY	890951	INTEGRITY LIFE INSURANCE CO
2217	IM-05	INTEGRITY	890454	INTEGRITY SERIES FUND INC
2218	IM-05	IR PASS THROUGH	775315	INTEGRATED ARROS FUND I
2219	IM-05	IR PASS THROUGH	775316	INTEGRATED ARROS FUND II
2220	IM-05	ISI	052653	ISI GROWTH FUND INC
2221	IM-05	ISI	052659	ISI TRUST FUND
2222	IM-05	JANUS	053184	JANUS FUND INC
2223	IM-05	JANUS	809206	JANUS INCOME SERIES
2224	IM-05	JANUS	277751	JANUS INVESTMENT FUND
2225	IM-05	JANUS	752661	JANUS TWENTY FUND INC
2226	IM-05	JANUS	752660	JANUS VENTURE FUND INC
2227	IM-05	JEFFERSON PILOT	705364	JEFFERSON PILOT GROWTH FUND INC
2228	IM-05	JEFFERSON PILOT	705363	JEFFERSON PILOT INCOME FUND INC
2229	IM-05	JEFFERSON PILOT	701839	JEFFERSON PILOT MONEY MARKET FUND INC
2230	IM-05	JP INVESTMENT	054075	JP GROWTH FUND INC
2231	IM-05	JP INVESTMENT	230316	JP INCOME FUND INC
2232	IM-05	LANDMARK	878732	LANDMARK INSTITUTIONAL FUNDS I
2233	IM-05	LANDMARK	869512	LANDMARK INSTITUTIONAL TRUST
2234	IM-05	LAZARD FRERES	874964	LAZARD FUNDS INC
2235	IM-05	LAZARD FRERES	773567	LAZARD SPECIAL EQUITY FUND INC
2236	IM-05	LIBERTY	808071	LIBERTY ADVANTAGE TRUST
2237	IM-05	LIBERTY	799195	LIBERTY ALL STAR EQUITY FUND
2238	IM-05	LINDNER	059614	LINDNER DIVIDEND FUND INC
2239	IM-05	LINDNER	059615	LINDNER FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
2240	IM-05	LUTHERAN BRHOOD	790166	LBVIP SERIES FUND INC
2241	IM-05	LUTHERAN BRHOOD	060945	LUTHERAN BROTHERHOOD FUND INC
2242	IM-05	LUTHERAN BRHOOD	808178	LUTHERAN BROTHERHOOD HIGH YIELD FUND INC /MN/
2243	IM-05	LUTHERAN BRHOOD	060946	LUTHERAN BROTHERHOOD INCOME FUND INC
2244	IM-05	LUTHERAN BRHOOD	276227	LUTHERAN BROTHERHOOD MONEY MARKET FUND
2245	IM-05	LUTHERAN BRHOOD	202451	LUTHERAN BROTHERHOOD MUNICIPAL BOND FUND INC
2246	IM-05	MADISON	799899	BASCOM HILL BALANCED FUND INC
2247	IM-05	MADISON	275113	BASCOM HILL INVESTORS INC
2248	IM-05	MADISON	857016	MADISON BOND FUND INC
2249	IM-05	MAIRS & POWER	061628	MAIRS & POWER GROWTH FUND INC
2250	IM-05	MAIRS & POWER	061630	MAIRS & POWER INCOME FUND INC
2251	IM-05	MARINER	781905	MARINER FUNDS TRUST /NY/
2252	IM-05	MARINER	861106	MARINER MUTUAL FUNDS TRUST
2253	IM-05	MASS MUTUAL	063124	MASSMUTUAL CORPORATE INVESTORS INC
2254	IM-05	MASS MUTUAL	831655	MASSMUTUAL PARTICIPATION INVESTORS
2255	IM-05	MASSMUTUAL	275694	MASSMUTUAL CORPORATE INVESTORS
2256	IM-05	MAXUS	853182	MAXUS EQUITY FUND
2257	IM-05	MAXUS	756976	MAXUS INCOME FUND
2258	IM-05	MCDONALD	320581	MCDONALD MONEY MARKET FUND INC
2259	IM-05	MCDONALD	751569	MCDONALD TAX EXEMPT MONEY MARKET FUND INC
2260	IM-05	MCDONALD	853838	MCDONALD US GOVERNMENT MONEY MARKET FUND INC
2261	IM-05	MELLON BANK	819940	LAUREL FUNDS INC
2262	IM-05	MERRILL LY	319108	MERRILL LYNCH SERIES FUND INC
2263	IM-05	MERRILL LY	355916	MERRILL LYNCH VARIABLE SERIES FUNDS INC
2264	IM-05	MIDAMERICA	065951	AEGON USA MANAGED PORTFOLIOS INC
2265	IM-05	MIDAMERICA	005254	MIDAMERICA HIGH GROWTH FUND INC
2266	IM-05	MIDAMERICA	762857	MIDAMERICA HIGH YIELD FUND INC
2267	IM-05	MIDAMERICA	757057	MIDAMERICA TAX EXEMPT BOND FUND INC
2268	IM-05	MIDWEST	352667	MIDWEST GROUP TAX FREE TRUST
2269	IM-05	MIDWEST	066117	MIDWEST INCOME TRUST
2270	IM-05	MIDWEST	711080	MIDWEST STRATEGIC TRUST
2271	IM-05	MIMLIC	756925	MIMLIC ASSET ALLOCATION FUND INC
2272	IM-05	MIMLIC	810899	MIMLIC CASH FUND INC
2273	IM-05	MIMLIC	810900	MIMLIC FIXED INCOME SECURITIES FUND INC
2274	IM-05	MIMLIC	756923	MIMLIC INVESTORS FUND I INC
2275	IM-05	MIMLIC	756924	MIMLIC MONEY MARKET FUND INC
2276	IM-05	MIMLIC	756922	MIMLIC MORTGAGE SECURITIES INCOME FUND INC
2277	IM-05	MINNESOTA MUTUAL	766351	MIMLIC SERIES FUND INC
2278	IM-05	MINNESOTA MUTUAL	066749	MINNESOTA MUTUALS VARIABLE FUND D
2279	IM-05	ML LEE	840334	ML LEE ACQUISITION FUND II L P
2280	IM-05	ML LEE	813343	ML LEE ACQUISITION FUND L P
2281	IM-05	ML LEE	843387	ML LEE ACQUISITION FUND RETIREMENT ACCOUNTS II L P
2282	IM-05	MORGAN STANLEY	885412	HEALTH CARE EQUITY & INCOME TRUST
2283	IM-05	MORGAN STANLEY	879929	MORGAN STANLEY EMERGING MARKETS FUND INC
2284	IM-05	MORGAN STANLEY	891080	MORGAN STANLEY FUND INC
2285	IM-05	MORGAN STANLEY	836487	MORGAN STANLEY INSTITUTIONAL FUND INC
2286	IM-05	MORGAN STANLEY	845108	PCS CASH FUND INC
2287	IM-05	MUNIYIELD	882152	MUNIYIELD CALIFORNIA FUND INC
2288	IM-05	MUNIYIELD	882153	MUNIYIELD FLORIDA FUND
2289	IM-05	MUNIYIELD	879361	MUNIYIELD FUND INC
2290	IM-05	MUNIYIELD	883412	MUNIYIELD INSURED FUND INC
2291	IM-05	MUNIYIELD	882151	MUNIYIELD MICHIGAN FUND INC
2292	IM-05	MUNIYIELD	882150	MUNIYIELD NEW YORK INSURED FUND INC
2293	IM-05	NATIONWIDE	832800	FINANCIAL HORIZONS INVESTMENT TRUST
2294	IM-05	NATIONWIDE	069069	NATIONWIDE INVESTING FOUNDATION
2295	IM-05	NATIONWIDE	779239	NATIONWIDE INVESTING FOUNDATION II
2296	IM-05	NATIONWIDE	205695	NATIONWIDE LIFE INSURANCE CO
2297	IM-05	NATIONWIDE	353905	NATIONWIDE SEPARATE ACCOUNT TRUST
2298	IM-05	NATL INTEGRITY	826705	NATIONAL INTEGRITY LIFE INSURANCE CO /NY/
2299	IM-05	ND MONEY MGT	871428	ND INSURED INCOME FUND INC
2300	IM-05	ND MONEY MGT	841870	ND TAX FREE FUND INC /ND/
2301	IM-05	NEW YORK LIFE	071632	NEW YORK LIFE FUND INC
2302	IM-05	NEW YORK LIFE	726508	NEW YORK LIFE MFA SERIES FUND INC
2303	IM-05	NEW YORK LIFE	887340	NEW YORK LIFE MFA SERIES FUND INC
2304	IM-05	NEW YORK LIFE	721696	NEW YORK LIFE VLI SERIES FUND INC
2305	IM-05	NEWTON	071873	NEWTON GROWTH FUND INC
2306	IM-05	NEWTON	071876	NEWTON INCOME FUND INC
2307	IM-05	NICHOLAS	071958	NICHOLAS FUND INC
2308	IM-05	NICHOLAS	723455	NICHOLAS II INC
2309	IM-05	NICHOLAS	107822	NICHOLAS INCOME FUND INC
2310	IM-05	NICHOLAS	809802	NICHOLAS LIMITED EDITION INC
2311	IM-05	NICHOLAS	832473	NICHOLAS MONEY MARKET FUND INC
2312	IM-05	NORTHWESTERN NAT	073521	SELECT CAPITAL GROWTH FUND INC
2313	IM-05	NORTHWESTERN NAT	356706	SELECT CASH MANAGEMENT FUND INC
2314	IM-05	NORTHWESTERN NAT	715995	SELECT HIGH YIELD FUND INC
2315	IM-05	NORTHWESTERN NAT	779099	SELECT MANAGED FUND INC
2316	IM-05	OSTRANDER	825345	NEW AMERICA HIGH INCOME FUND INC
2317	IM-05	PACIFIC HORIZON	814860	PACIFIC HORIZON FUNDS
2318	IM-05	PACIFIC HORIZON	711663	PACIFIC HORIZON FUNDS INC
2319	IM-05	PACIFIC HORIZON	748822	PACIFIC HORIZON TAX EXEMPT MONEY MARKET PORTFOLIO INC
2320	IM-05	PARKWAY	312668	PARKWAY CASH FUND INC
2321	IM-05	PARKWAY	319231	PARKWAY TAX FREE RESERVE FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
2322	IM-05	PATRIOT	796307	PATRIOT GROUP INVESTMENT TRUST
2323	IM-05	PATRIOT	868549	PATRIOT PREMIUM DIVIDEND FUND I
2324	IM-05	PATRIOT	855886	PATRIOT PREMIUM DIVIDEND FUND II
2325	IM-05	PATRIOT	836219	PATRIOT PREMIUM DIVIDEND FUND INC
2326	IM-05	PATRIOT	852025	PATRIOT PRIVATE DIVIDEND TERM TRUST
2327	IM-05	PATRIOT	863328	PATRIOT SELECT DIVIDEND TRUST
2328	IM-05	PENN MUTUAL	077130	PENN MUTUAL EQUITY FUND INC
2329	IM-05	PENN MUTUAL	702340	PENN SERIES FUNDS INC
2330	IM-05	PHOENIX	826737	PHOENIX MULTI PORTFOLIO FUND
2331	IM-05	PHOENIX	019469	PHOENIX SERIES FUND
2332	IM-05	PHOENIX	049999	PHOENIX TOTAL RETURN FUND INC
2333	IM-05	PHOENIX HOME	721777	HOME LIFE BOND FUND INC
2334	IM-05	PHOENIX HOME	048199	HOME LIFE EQUITY FUND INC
2335	IM-05	PHOENIX HOME	721778	HOME LIFE LIQUID FUND INC
2336	IM-05	PROVIDENT NAT	110230	PROVIDENT NATIONAL ASSURANCE CO SEPARATE ACCOUNT B
2337	IM-05	PROVIDENT NAT	080845	PROVIDENT NATIONAL ASSURANCE CO SEPARATE ACCOUNT C
2338	IM-05	QUEST FOR VALUE	851173	QUEST CASH RESERVES INC
2339	IM-05	QUEST FOR VALUE	804832	QUEST FOR VALUE CASH MANAGEMENT TRUST
2340	IM-05	QUEST FOR VALUE	799029	QUEST FOR VALUE DUAL PURPOSE FUND INC
2341	IM-05	QUEST FOR VALUE	817982	QUEST FOR VALUE FAMILY OF FUNDS
2342	IM-05	QUEST FOR VALUE	312555	QUEST FOR VALUE FUND INC
2343	IM-05	QUEST FOR VALUE	863250	QUEST FOR VALUE GLOBAL EQUITY FUND INC
2344	IM-05	QUEST FOR VALUE	876440	QUEST FOR VALUE GLOBAL FUNDS INC
2345	IM-05	RESERVE MGT	724200	RESERVE EQUITY TRUST
2346	IM-05	RESERVE MGT	083335	RESERVE FUND/NY
2347	IM-05	RESERVE MGT	350841	RESERVE INSTITUTIONAL TRUST
2348	IM-05	RESERVE MGT	724201	RESERVE NEW YORK TAX EXEMPT TRUST
2349	IM-05	RESERVE MGT	716844	RESERVE TAX EXEMPT TRUST
2350	IM-05	RNC	768758	RNC INCOME FUND INC
2351	IM-05	RNC	773298	RNC LIQUID ASSETS FUND INC
2352	IM-05	RNC	082848	RNC REGENCY FUND INC
2353	IM-05	RNC	801132	RNC WESTWIND FUND INC
2354	IM-05	ROCHESTER	788959	ROCHESTER CONVERTIBLE FUND
2355	IM-05	ROCHESTER	093621	ROCHESTER FUND MUNICIPALS
2356	IM-05	ROCHESTER	711751	ROCHESTER GROWTH FUND INC
2357	IM-05	ROCHESTER	875409	ROCHESTER PORTFOLIO SERIES
2358	IM-05	ROCHESTER	084555	ROCHESTER TAX MANAGED FUND INC
2359	IM-05	RODNEY SQUARE	700844	RODNEY SQUARE FUND
2360	IM-05	RODNEY SQUARE	813341	RODNEY SQUARE INTERNATIONAL SECURITIES FUND INC
2361	IM-05	RODNEY SQUARE	799199	RODNEY SQUARE MULTI MANAGER FUND
2362	IM-05	RODNEY SQUARE	793276	RODNEY SQUARE STRATEGIC FIXED INCOME FUND
2363	IM-05	RODNEY SQUARE	773826	RODNEY SQUARE TAX EXEMPT FUND
2364	IM-05	ROTHSCHILD	723643	ROTHSCHILD L F EXEMPT FUND INC
2365	IM-05	ROYCE	077271	PENNSYLVANIA MUTUAL FUND INC
2366	IM-05	ROYCE	709364	ROYCE FUND
2367	IM-05	ROYCE	804116	ROYCE VALUE TRUST INC
2368	IM-05	RSI	869964	RETIREMENT SYSTEM FUND INC
2369	IM-05	RSI	758947	RSI RETIREMENT TRUST
2370	IM-05	RUSHMORE	843251	AMERICAN GAS INDEX FUND INC
2371	IM-05	RUSHMORE	885113	CAPPIELLO RUSHMORE TRUST
2372	IM-05	RUSHMORE	039436	FUND FOR GOVERNMENT INVESTORS INC
2373	IM-05	RUSHMORE	718824	FUND FOR TAX FREE INVESTORS INC
2374	IM-05	RUSHMORE	773754	RUSHMORE FUND INC
2375	IM-05	SALOMON BROS	202385	SALOMON BROTHERS CAPITAL FUND INC
2376	IM-05	SALOMON BROS	205545	SALOMON BROTHERS FUND INC/DE/
2377	IM-05	SALOMON BROS	862501	SALOMON BROTHERS INSTITUTIONAL SERIES FUNDS INC
2378	IM-05	SALOMON BROS	874956	SALOMON BROTHERS INVESTMENT FUNDS INC
2379	IM-05	SALOMON BROS	074575	SALOMON BROTHERS INVESTORS FUND INC
2380	IM-05	SALOMON BROS	877230	SALOMON BROTHERS MORTGAGE SECS UNIT INV TR CMO SERIES 1
2381	IM-05	SALOMON BROS	277585	SALOMON BROTHERS OPPORTUNITY FUND INC
2382	IM-05	SALOMON BROS	862502	SALOMON BROTHERS SERIES FUNDS INC
2383	IM-05	SCHWAB	857156	SCHWAB CHARLES FAMILY OF FUNDS
2384	IM-05	SCHWAB	869365	SCHWAB INVESTMENTS
2385	IM-05	SECURAL	356134	FIRST AMERICAN FUNDS INC
2386	IM-05	SECURAL	820892	FIRST AMERICAN INVESTMENT FUNDS INC
2387	IM-05	SELECTED	000808	SELECTED AMERICAN SHARES INC
2388	IM-05	SELECTED	818869	SELECTED CAPITAL PRESERVATION TRUST
2389	IM-05	SELECTED	217131	SELECTED MONEY MARKET FUND INC
2390	IM-05	SELECTED	084237	SELECTED SPECIAL SHARES INC
2391	IM-05	SENTINEL	353706	SENTINEL CASH MANAGEMENT FUND INC
2392	IM-05	SENTINEL	225843	SENTINEL GROUP FUNDS INC
2393	IM-05	SIGNATURE	856324	FIRST CASH FUNDS OF AMERICA
2394	IM-05	SIGNATURE	856325	FIRST FUNDS OF AMERICA
2395	IM-05	SIT	356786	SIT NEW BEGINNING GROWTH FUND INC /NEW/
2396	IM-05	SIT	356787	SIT NEW BEGINNING INCOME & GROWTH FUND INC
2397	IM-05	SIT	746603	SIT NEW BEGINNING INVESTMENT RESERVE FUND INC
2398	IM-05	SIT	877880	SIT NEW BEGINNING MUTUAL FUNDS INC
2399	IM-05	SIT	746601	SIT NEW BEGINNING TAX FREE INCOME FUND INC
2400	IM-05	SIT	809981	SIT NEW BEGINNING U S GOVERNMENT SECURITIES FUND INC
2401	IM-05	SMITH BARNEY	091156	SMITH BARNEY EQUITY FUNDS INC
2402	IM-05	SMITH BARNEY	091157	SMITH BARNEY FUNDS INC
2403	IM-05	SMITH BARNEY	882300	SMITH BARNEY INTERMEDIATE MUNICIPAL FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
2404	IM-05	SMITH BARNEY	847020	SMITH BARNEY L P ESC 1
2405	IM-05	SMITH BARNEY	858127	SMITH BARNEY MUNICIPAL FUND INC
2406	IM-05	SMITH BARNEY	808244	SMITH BARNEY VARIABLE ACCOUNT FUNDS
2407	IM-05	SMITH BARNEY	873637	SMITH BARNEY WORLD FUNDS INC
2408	IM-05	SMITH BARNEY	703802	VANTAGE MONEY MARKET FUNDS
2409	IM-05	SMITH BREEDEN	878949	SMITH BREEDEN INSTITUTIONAL INTERMEDIATE DURATION US GOV FUN
2410	IM-05	SMITH BREEDEN	878948	SMITH BREEDEN INSTITUTIONAL SHORT DURATION U S GOVT FUND
2411	IM-05	SMITH BREEDEN	879947	SMITH BREEDEN SERIES FUND
2412	IM-05	SMITH BREEDEN	882443	SMITH BREEDEN TRUST
2413	IM-05	SMITH HAYES	828644	SMITH HAYES TRUST INC
2414	IM-05	SMITH HAYES	870156	STRATUS FUND INC
2415	IM-05	STATE FARM	093716	STATE FARM BALANCED FUND INC
2416	IM-05	STATE FARM	093715	STATE FARM GROWTH FUND INC
2417	IM-05	STATE FARM	205925	STATE FARM INTERIM FUND INC
2418	IM-05	STATE FARM	205926	STATE FARM MUNICIPAL BOND FUND INC
2419	IM-05	STATE MUTUAL	756742	ALLMERICA INVESTMENT TRUST
2420	IM-05	STATE MUTUAL	313754	SEPARATE ACCOUNT VA A OF SMA LIFE ASSURANCE CO
2421	IM-05	STATE MUTUAL	008775	SEPARATE ACCOUNT VA B OF SMA LIFE ASSURANCE CO
2422	IM-05	STATE MUTUAL	008776	SEPARATE ACCOUNT VA C OF SMA LIFE ASSURANCE CO
2423	IM-05	STATE MUTUAL	727146	SEPARATE ACCOUNT VA G OF SMA LIFE ASSURANCE CO
2424	IM-05	STATE MUTUAL	814807	VEL ACCOUNT OF SMA LIFE ASSURANCE CO
2425	IM-05	STATE STREET	727101	STATE STREET CAPITAL TRUST
2426	IM-05	STATE STREET	093753	STATE STREET EXCHANGE FUND
2427	IM-05	STATE STREET	766768	STATE STREET EXCHANGE TRUST
2428	IM-05	STATE STREET	774202	STATE STREET FUND FOR FOUNDATIONS & ENDOWMENTS
2429	IM-05	STATE STREET	034918	STATE STREET GROWTH TRUST
2430	IM-05	STATE STREET	093755	STATE STREET MASTER INVESTMENT TRUST/MA
2431	IM-05	STEIN ROE	704177	STEINROE GOVERNMENT RESERVES INC
2432	IM-05	STEIN ROE	734756	STEINROE HIGH YIELD MUNICIPALS INC
2433	IM-05	STEIN ROE	787491	STEINROE INCOME TRUST
2434	IM-05	STEIN ROE	809558	STEINROE INVESTMENT TRUST
2435	IM-05	STEIN ROE	203296	STEINROE MANAGED MUNICIPALS INC
2436	IM-05	STEIN ROE	773757	STEINROE MUNICIPAL TRUST
2437	IM-05	STEIN ROE	093166	STEINROE SPECIAL FUND INC
2438	IM-05	STEIN ROE	710997	STEINROE TAX EXEMPT MONEY FUND INC
2439	IM-05	STEIN ROE	093976	STEINROE TOTAL RETURN FUND INC
2440	IM-05	STEIN ROE	815425	STEINROE VARIABLE INVESTMENT TRUST
2441	IM-05	STRATEGIC	094780	LEXINGTON STRATEGIC INVESTMENTS FUND INC
2442	IM-05	STRATEGIC	753311	LEXINGTON STRATEGIC SILVER FUND INC
2443	IM-05	STRATEGIC	356779	STRATEGIC GOLD MINERALS FUND INC
2444	IM-05	STRATEGIC	355602	STRATEGIC TREASURY POSITIONS INC
2445	IM-05	STRATTON	094823	STRATTON FUND INC
2446	IM-05	STRATTON	094825	STRATTON GROWTH FUND INC
2447	IM-05	STRATTON	030137	STRATTON MONTHLY DIVIDEND SHARES INC
2448	IM-05	STRONG	883644	STRONG DISCOVERY FUND II INC
2449	IM-05	STRONG	883678	STRONG SPECIAL FUND II INC
2450	IM-05	TCW	809559	TCW CONVERTIBLE SECURITIES FUND INC
2451	IM-05	TCW	894505	TCW DW INCOME & GROWTH FUND
2452	IM-05	TCW	891164	TCW DW TERM TRUST 2002
2453	IM-05	TCW	830265	TCW INVESTMENT FUNDS INC
2454	IM-05	TCW	883679	TCW/DW CORE EQUITY TRUST
2455	IM-05	TCW	885410	TCW/DW LATIN AMERICAN GROWTH FUND
2456	IM-05	TCW	884344	TCW/DW NORTH AMERICAN GOVERNMENT INCOME TRUST
2457	IM-05	TCW	889128	TCW/DW SMALL CAP GROWTH FUND
2458	IM-05	TRANSAMERICA	837757	TRANSAMERICA OCCIDENTAL LIFE INSURANCE CO /CA/
2459	IM-05	TRANSAMERICA	073710	TRANSAMERICA OCCIDENTALS SEPARATE ACCOUNT FUND B
2460	IM-05	TRANSAMERICA	073711	TRANSAMERICA OCCIDENTALS SEPARATE ACCOUNT FUND C
2461	IM-05	TUDOR	780257	WPG GROWTH FUND
2462	IM-05	TUDOR	100132	WPG TUDOR FUND
2463	IM-05	TWENTIETH CNTRY	100034	TWENTIETH CENTURY INVESTORS INC
2464	IM-05	TWENTIETH CNTRY	872825	TWENTIETH CENTURY WORLD INVESTORS INC
2465	IM-05	UNITED SERVICES	802978	UNITED SERVICES VARIABLE LIFE SEPARATE ACCOUNT I
2466	IM-05	US TRUST	852571	TRIUMPH TRUST
2467	IM-05	US TRUST	751200	UST MASTER FUNDS INC
2468	IM-05	US TRUST	752322	UST MASTER TAX EXEMPT FUNDS INC
2469	IM-05	USAA	102399	USAA CAPITAL GROWTH FUND INC
2470	IM-05	USAA	745903	USAA INVESTMENT TRUST
2471	IM-05	USAA	102401	USAA MUTUAL FUND INC
2472	IM-05	USAA	356555	USAA TAX EXEMPT FUND INC
2473	IM-05	USAA LIFE	827885	USLICO SERIES FUND /VA/
2474	IM-05	USF&G	885416	USF&G MONEY MARKET FUNDS INC
2475	IM-05	USF&G	867551	USF&G TAX EXEMPT MONEY MARKET FUNDS INC
2476	IM-05	VAN ECK	051353	INTERNATIONAL INVESTORS INC
2477	IM-05	VAN ECK	768847	VAN ECK FUNDS
2478	IM-05	VAN ECK	811976	VAN ECK INVESTMENT TRUST
2479	IM-05	VENTURE	071701	NEW YORK VENTURE FUND INC
2480	IM-05	VENTURE	203002	RETIREMENT PLANNING FUNDS OF AMERICA INC
2481	IM-05	VENTURE	315609	VENTURE INCOME PLUS INC
2482	IM-05	VENTURE	355714	VENTURE MUNI PLUS INC
2483	IM-05	VOYAGER	318515	VOYAGER VARIABLE ANNUITY ACCOUNT C
2484	IM-05	VOYAGER	103946	VOYAGER VARIABLE ANNUITY FUND
2485	IM-05	WARBURG	860510	EUROPE FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
2486	IM-05	WARBURG	814830	UNITED KINGDOM FUND INC
2487	IM-05	WARBURG	764034	WARBURG INTERNATIONAL FUNDS INC
2488	IM-05	WAYNE HUMMER	730462	HUMMER WAYNE INVESTMENT TRUST
2489	IM-05	WAYNE HUMMER	357055	HUMMER WAYNE MONEY FUND TRUST
2490	IM-05	WEISS PECK	846111	WEISS PECK & GREER INTERNATIONAL FUND
2491	IM-05	WEISS PECK	777025	WEISS PECK & GREER MUTUAL FUNDS
2492	IM-05	WEISS PECK	004879	WPG GROWTH & INCOME FUND
2493	IM-05	WELLS FARGO	105604	WELLS FARGO BANK REAL ESTATE EQUITY COMMON TR FD FOR EMPL BE
2494	IM-05	WELLS FARGO	727153	WELLS FARGO INVESTMENT TRUST FOR RETIREMENT PROGRAMS
2495	IM-05	WILLIAM BLAIR	822632	BLAIR WILLIAM MUTUAL FUNDS INC
2496	IM-05	WILLIAM BLAIR	044207	GROWTH INDUSTRY SHARES INC
2497	IM-05	WMM	357298	PERMANENT PORTFOLIO FAMILY OF FUNDS INC
2498	IM-05	WMM	870995	QUALIFIED INVESTORS FUNDS INC
2499	IM-05	XEROX	816882	XEROX FINANCIAL SERVICES LIFE INSURANCE CO
2500	IM-05	ZWEIG	319960	ZWEIG CASH FUND INC
2501	IM-05	ZWEIG	812090	ZWEIG FUND INC /MD/
2502	IM-05	ZWEIG	754363	ZWEIG SERIES TRUST
2503	IM-05	ZWEIG	711416	ZWEIG TAX FREE FUND INC
2504	IM-05	ZWEIG	836412	ZWEIG TOTAL RETURN FUND INC
2505	IM-06		030125	1838 BOND DEBENTURE TRADING FUND
2506	IM-06		811869	AAL MUTUAL FUNDS
2507	IM-06		001770	ABACUS FUND INC
2508	IM-06		225002	ABC INVESTMENT CO
2509	IM-06		846884	ABD AMERICAN CAPITAL MARKETS FUNDS INC
2510	IM-06		001856	ABERDEEN FUND
2511	IM-06		001852	ABERDEEN INVESTOR PROGRAMS
2512	IM-06		708950	ACACIA CAPITAL CORP
2513	IM-06		876603	ACCESSOR FUNDS INC
2514	IM-06		002110	ACORN INVESTMENT TRUST
2515	IM-06		737243	ACORN VENTURE CAPITAL CORP
2516	IM-06		002230	ADAMS EXPRESS CO
2517	IM-06		794802	ADDISON CAPITAL SHARES INC
2518	IM-06		826131	ADIRONDACK INCOME SHARES INC
2519	IM-06		878719	ADVISORS INNER CIRCLE FUND
2520	IM-06		871426	ADVISORS INTERNATIONAL FUND
2521	IM-06		225030	AFL CIO HOUSING INVESTMENT TRUST
2522	IM-06		701388	AGGRESSIVE STOCK TRUST
2523	IM-06		706451	AGGRESSIVE STOCK TRUST/MA/
2524	IM-06		858593	ALAMEDA CONTRA COSTA MEDICAL ASSOC COLLECT INV TR FOR RETIRE
2525	IM-06		812073	ALBERMARLE INVESTMENT TRUST
2526	IM-06		860124	ALL AMERICA FUND INC
2527	IM-06		836396	ALLEGHENY INCOME SHARES INC
2528	IM-06		773139	ALLEGRO GROWTH FUND INC
2529	IM-06		874765	ALLMERICA FUNDS
2530	IM-06		788035	ALLMON CHARLES TRUST INC
2531	IM-06		784003	ALPINE INCOME SHARES INC
2532	IM-06		796329	ALPINE MUTUAL FUND TRUST
2533	IM-06		315127	ALTERMAN INVESTMENT FUND INC
2534	IM-06		784004	ALTIUS ALPHA FUND INC
2535	IM-06		784005	ALTIUS BETA FUND INC
2536	IM-06		792747	ALTURA FUND
2537	IM-06		215071	AMA INVESTMENT ADVISERS INC /PA/
2538	IM-06		766285	AMANA MUTUAL FUNDS TRUST
2539	IM-06		855022	AMBASSADOR FUNDS
2540	IM-06		809593	AMERICAN AADVANTAGE FUNDS
2541	IM-06		004536	AMERICAN ANNUITY SAVINGS ASSOCIATION
2542	IM-06		875733	AMERICAN ENERGY RESOURCES FUND INC
2543	IM-06		004955	AMERICAN EUROPEAN SECURITIES CO
2544	IM-06		770161	AMERICAN FUNDS INCOME SERIES
2545	IM-06		005138	AMERICAN GROWTH FUND INC
2546	IM-06		047020	AMERICAN HERITAGE FUND INC
2547	IM-06		005266	AMERICAN INTERNATIONAL CORP
2548	IM-06		005298	AMERICAN INVESTMENT COUNSELING FUND INC
2549	IM-06		005374	AMERICAN LIFE FUND INC
2550	IM-06		890389	AMERICAN MERCHANT FUND INC
2551	IM-06		864508	AMERICAN PERFORMANCE FUNDS
2552	IM-06		878930	AMERICAN STRATEGIC INCOME PORTFOLIO INC
2553	IM-06		729528	AMERICAN VARIABLE INSURANCE SERIES
2554	IM-06		883669	AMERICAS UTILITY FUND INC
2555	IM-06		805745	AMERITRUSTS COLLECTIVE INVESTMENT RETIREMENT FUND
2556	IM-06		006247	AMWAY MUTUAL FUND INC
2557	IM-06		894386	ANALYTIC SERIES FUND
2558	IM-06		831869	APPALACHIAN INCOME SHARES INC
2559	IM-06		878351	ARGENTINA FUND INC
2560	IM-06		893658	ARK FUND
2561	IM-06		885745	ARKANSAS EQUITY GROWTH FUND INC
2562	IM-06		007308	ARKANSAS FUND
2563	IM-06		007426	ARMSTRONG ASSOCIATES INC
2564	IM-06		007645	ASA LTD
2565	IM-06		895645	ASCHER FUNDS INC
2566	IM-06		795618	ASIA PACIFIC FUND INC
2567	IM-06		868754	ASM FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
2568	IM-06		832544	ASO OUTLOOK GROUP
2569	IM-06		856321	ASSET ALLOCATION TRUST
2570	IM-06		705318	ASSET MANAGEMENT FUND FOR FINANCIAL INSTITUTIONS INC
2571	IM-06		833436	ASSOCIATED CAPITAL INSTITUTIONAL TRUST
2572	IM-06		830155	ASSOCIATION ADVISERS FUNDS INC
2573	IM-06		882301	ATLANTA GROWTH FUND INC
2574	IM-06		847531	AVDON CAPITAL CORP
2575	IM-06		009831	AVIATION GROWTH INVESTMENTS INC
2576	IM-06		886525	BAILARD BIEHL & KAISER INTERNATIONAL FUND GROUP INC
2577	IM-06		741028	BAIRD CAPITAL DEVELOPMENT FUND INC
2578	IM-06		889165	BAIRD FUNDS INC
2579	IM-06		009235	BAKER FENTRESS & CO
2580	IM-06		783894	BAKER FUND
2581	IM-06		009521	BANCROFT CONVERTIBLE FUND INC
2582	IM-06		723209	BANDO MCGLOCKLIN CAPITAL CORP
2583	IM-06		810902	BARON ASSET FUND
2584	IM-06		889284	BB&T MUTUAL FUNDS GROUP
2585	IM-06		014343	BDI INVESTMENT CORP
2586	IM-06		010578	BEACON HILL MUTUAL FUND INC
2587	IM-06		771985	BENCH PORTFOLIOS FUND
2588	IM-06		028827	BERGSTROM CAPITAL CORP
2589	IM-06		851159	BERKSHIRE PARTNERS III L P
2590	IM-06		854911	BERKSHIRE PARTNERS III RETIREMENT FUND LP
2591	IM-06		859123	BERLIN FUND INC
2592	IM-06		832808	BERNSTEIN SANFORD C FUND INC
2593	IM-06		011841	BETCO CORP
2594	IM-06		882298	BFM INSTITUTIONAL TRUST INC
2595	IM-06		856317	BLUE CHIP TRUST
2596	IM-06		351786	BMC FUND INC
2597	IM-06		701566	BMI EQUITY FUND INC
2598	IM-06		887318	BNY HAMILTON FUNDS INC
2599	IM-06		811220	BOCA RATON CAPITAL CORP /FL/
2600	IM-06		729209	BOETTCHER VENTURE CAPITAL PARTNERS L P
2601	IM-06		856322	BOND TRUST
2602	IM-06		013109	BONDSTOCK INVESTMENT PLAN
2603	IM-06		013385	BOSTON FOUNDATION FUND AGREEMENTS PLANS A B C D E
2604	IM-06		853907	BRADFORD MONEY FUND
2605	IM-06		870355	BRANCH CABELL INVESTMENT TRUST
2606	IM-06		883925	BRAZILIAN EQUITY FUND INC
2607	IM-06		872822	BRAZILIAN INVESTMENT FUND INC
2608	IM-06		014170	BRIDGES INVESTMENT FUND INC
2609	IM-06		886244	BRINSON FUNDS INC
2610	IM-06		878509	BROUWER & JANACHOWSKI TRUST
2611	IM-06		217387	BROWN EXEMPT SECURITIES TRUST SERIES 1 /IL/
2612	IM-06		047071	BRUCE FUND INC
2613	IM-06		868662	BRUNDAGE STORY & ROSE INVESTMENT TRUST
2614	IM-06		810272	BUTCHER VENTURE PARTNERS I L P
2615	IM-06		016346	CALIFORNIA LIFE CORP
2616	IM-06		856319	CALIFORNIA MUNICIPAL BOND TRUST
2617	IM-06		841051	CALIFORNIA MUNICIPAL INCOME FUND
2618	IM-06		355985	CALIFORNIA QUALITY TAX EXEMPT TRUST SERIES 1
2619	IM-06		856323	CALIFORNIA TAX FREE MONEY TRUST
2620	IM-06		016840	CANADIAN FUND INC
2621	IM-06		893730	CANANDAIGUA NATIONAL COLLECTIVE INV FD FOR QUAL TRUSTS
2622	IM-06		093832	CAPITAL CASH MANAGEMENT TRUST
2623	IM-06		017126	CAPITAL CORP OF AMERICA
2624	IM-06		732813	CAPITAL INVESTMENTS INC
2625	IM-06		843170	CAPITAL MARKET FUND INC
2626	IM-06		017313	CAPITAL SOUTHWEST CORP
2627	IM-06		026037	CAPITAL SOUTHWEST VENTURE CORP
2628	IM-06		893969	CAPITAL VALUE FUND INC
2629	IM-06		017323	CAPITAL VENTURE FUND INC
2630	IM-06		859750	CAPITOL MUTUAL FUNDS
2631	IM-06		730020	CARNEGIE CAPPIELLO TRUST
2632	IM-06		791049	CASCADES TRUST
2633	IM-06		746719	CASH ACCUMULATION TRUST
2634	IM-06		749748	CASH ASSETS TRUST
2635	IM-06		355751	CASH INCOME TRUST
2636	IM-06		862084	CASH MANAGEMENT PORTFOLIO
2637	IM-06		355760	CBC CORNERSTONE FUNDS /MA/
2638	IM-06		018748	CENTRAL SECURITIES CORP
2639	IM-06		002745	CENTURION GROWTH FUND INC
2640	IM-06		018922	CENTURY SHARES TRUST
2641	IM-06		019023	CFC INDUSTRIES INC
2642	IM-06		869273	CHACONIA INCOME & GROWTH FUND INC
2643	IM-06		759581	CHALLENGER INCOME SHARES INC
2644	IM-06		843164	CHAPMAN FUNDS INC
2645	IM-06		742555	CHARTER CAPITAL BLUE CHIP GROWTH FUND INC
2646	IM-06		019400	CHARTER FUND INC
2647	IM-06		826332	CHARTER FUNDS
2648	IM-06		819634	CHARTWELL CAPITAL CORP /CO/
2649	IM-06		063848	CHESAPEAKE INVESTORS INC/MD/

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
2650	IM-06		355986	CHESTNUT STREET CASH FUND INC
2651	IM-06		019655	CHICAGO MILWAUKEE CORP
2652	IM-06		845379	CHINA FUND INC
2653	IM-06		831122	CHRISTOS TRUST
2654	IM-06		705587	CIMCO MONEY MARKET TRUST
2655	IM-06		020358	CIRCLE INCOME SHARES INC
2656	IM-06		080384	CIVIL & MILITARY INVESTORS MUTUAL FUND INC
2657	IM-06		020691	CLARION CAPITAL CORP
2658	IM-06		811161	CLEARWATER INVESTMENT TRUST
2659	IM-06		736978	CLIPPER FUND INC
2660	IM-06		830523	CMA NEW YORK MUN MONEY FUND OF CMA MULTI STATE MUN SERS TRUS
2661	IM-06		869311	CMA TREASURY FUND
2662	IM-06		854126	CMC FUND TRUST
2663	IM-06		831113	CMC REAL ESTATE CORPORATION
2664	IM-06		021178	CNA INCOME SHARES INC
2665	IM-06		773154	CO OPERATIVE BANK INVESTMENT FUND
2666	IM-06		874505	COHEN & STEERS REALTY SHARES INC
2667	IM-06		709258	COLLECTIVE INVESTMENT TRUST FOR CITIBANK IRAS
2668	IM-06		824018	COLLECTIVE INVESTMENT TRUST FOR SEAFIRST RETIREMENT ACCOUNTS
2669	IM-06		820300	COLLEGE & UNIVERSITY FACILITY LOAN TRUST ONE
2670	IM-06		830977	COLLEGE & UNIVERSITY FACILITY LOAN TRUST TWO
2671	IM-06		886973	COLOMBIA FUND INC/MD
2672	IM-06		022093	COLUMBIA FUND INC
2673	IM-06		889421	COLUMBIA INTERNATIONAL STOCK FUND INC
2674	IM-06		764717	COLUMBUS INCOME SHARES INC
2675	IM-06		810271	COMMON SENSE TRUST
2676	IM-06		807876	COMMONWEALTH CASH RESERVE FUND INC
2677	IM-06		022614	COMMONWEALTH INVESTMENT TRUST
2678	IM-06		848051	COMMUNITY BANKERS MUTUAL FUND INC
2679	IM-06		887499	COMMUNITY INVESTMENT PARTNERS II LP
2680	IM-06		856870	COMMUNITY INVESTMENT PARTNERS LP
2681	IM-06		826738	COMPASS CAPITAL GROUP
2682	IM-06		830779	COMSTOCK PARTNERS STRATEGY FUND INC
2683	IM-06		023252	CONCORD FUND INC
2684	IM-06		854127	CONESTOGA FAMILY OF FUNDS
2685	IM-06		023412	CONNECTICUT FIDUCIARIES FUND INC
2686	IM-06		769998	CONNECTICUT LIQUIDITY INVESTMENT FUND INC
2687	IM-06		356865	CONNECTICUT MUTUAL INVESTMENT ACCOUNTS INC
2688	IM-06		023830	CONSTELLATION GROWTH FUND INC
2689	IM-06		024119	CONTINENTAL MUTUAL INVESTMENT FUND INC
2690	IM-06		769566	CONVERTIBLE HOLDINGS INC
2691	IM-06		721291	COPLEY FUND INC /MA/
2692	IM-06		093852	COPLEY TRUST/MA
2693	IM-06		752761	COREFUNDS INC
2694	IM-06		789280	CORNERSTONE GROUP OF FUNDS /VA
2695	IM-06		018521	CORPORATE CAPITAL RESOURCES INC
2696	IM-06		024858	CORPORATE FUND ACCUMULATION PROGRAM INC
2697	IM-06		882748	COVENTRY GROUP
2698	IM-06		825067	COWEN FUNDS INC
2699	IM-06		793578	COWEN INCOME PLUS GROWTH FUND INC
2700	IM-06		806437	CREDIT UNION GOVERNMENT SECURITIES FUND INC
2701	IM-06		790814	CRESTFUNDS INC
2702	IM-06		881636	CUFUND
2703	IM-06		026261	CURRENT INCOME SHARES INC
2704	IM-06		892568	CUTLER TRUST
2705	IM-06		354181	DAIWA MONEY FUND INC
2706	IM-06		888780	DANBURY FUNDS INC
2707	IM-06		352869	DECLARATION FUND
2708	IM-06		277099	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 1
2709	IM-06		868739	DELOTECH CAPITAL CORPORATION
2710	IM-06		028465	DEVELOPERS SMALL BUSINESS INVESTMENT CORP
2711	IM-06		028563	DEWEY INVESTMENT CORP
2712	IM-06		106835	DIVIDEND GROWTH FUND INC
2713	IM-06		277905	DK INVESTORS INC
2714	IM-06		870377	DOCK CAPITAL INC
2715	IM-06		851681	DOMINI SOCIAL INDEX PORTFOLIO
2716	IM-06		851680	DOMINI SOCIAL INDEX TRUST
2717	IM-06		796578	DOVER REGIONAL FINANCIAL SHARES
2718	IM-06		825062	DREMAN MUTUAL GROUP INC
2719	IM-06		040417	DREYFUS AMERICAN INVESTORS CO INC
2720	IM-06		806628	DUFF & PHELPS UTILITIES INCOME INC
2721	IM-06		311101	DUPREE MUTUAL FUNDS
2722	IM-06		886042	DYNAMIC AMERICA GROWTH FUND INC
2723	IM-06		885571	EAGLE MERCHANT TAX FREE INCOME FUNDS INC
2724	IM-06		830032	EAST COAST VENTURE CAPITAL INC
2725	IM-06		862920	EAST WEST EUROPE FUND INC
2726	IM-06		745485	EASTWEST PENNY STOCK FUND INC
2727	IM-06		802209	ECLIPSE FINANCIAL ASSET TRUST
2728	IM-06		863930	EDUCATION FINANCE FUND INC
2729	IM-06		799196	ELITE GROUP
2730	IM-06		723108	ELK ASSOCIATES FUNDING CORP
2731	IM-06		793040	ELLSWORTH CONVERTIBLE GROWTH & INCOME FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
2732	IM-06		802716	EMBLEM FUND
2733	IM-06		860127	EMERGING GERMANY FUND INC
2734	IM-06		794458	EMERGING MARKETS GROWTH FUND INC
2735	IM-06		865531	EMERGING MEXICO FUND INC
2736	IM-06		730004	EMPIRE BUILDER TAX FREE BOND FUND
2737	IM-06		847254	ENDEAVOR SERIES TRUST
2738	IM-06		032598	ENGEX INC
2739	IM-06		004123	ENTERPRISE GROUP OF FUNDS INC
2740	IM-06		828847	EQUITABLE CAPITAL PARTNERS L P
2741	IM-06		829305	EQUITABLE CAPITAL PARTNERS RETIREMENT FUND LP
2742	IM-06		812015	EQUITABLE FUNDS
2743	IM-06		716101	EQUITEX INC
2744	IM-06		354865	EQUITY STRATEGIES FUND INC
2745	IM-06		856318	EQUITY TRUST /NY/
2746	IM-06		878932	EQUUS II INCORPORATED
2747	IM-06		863903	EUROPEAN WARRANT FUND INC
2748	IM-06		866789	EVERGREEN FOUNDATION TRUST
2749	IM-06		817819	EVERLAST CAPITAL CORP
2750	IM-06		033686	EVERYMAN FUND INC
2751	IM-06		033951	EXCHANGE FUND OF BOSTON INC
2752	IM-06		722058	EXEMPT ASSETS PORTFOLIOS
2753	IM-06		818459	FASCIANO FUND INC
2754	IM-06		034549	FBL SERIES FUND INC
2755	IM-06		034930	FEDERAL UNITED CORP
2756	IM-06		797136	FENIMORE ASSET MANAGEMENT TRUST FAM VALUE FUND SERIES
2757	IM-06		740765	FENIMORE INTERNATIONAL FUND INC
2758	IM-06		877698	FFB LEXICON FUNDS
2759	IM-06		848012	FFTW FUNDS INC
2760	IM-06		796227	FIDUCIARY TOTAL RETURN FUND INC
2761	IM-06		035616	FINANCE CO OF PENNSYLVANIA
2762	IM-06		870781	FINANCIAL EMERGING GROWTH FUND INC
2763	IM-06		035726	FINANCIAL INDEPENDENCE FOUNDERS SER D PERIODIC PAYMENT & FUL
2764	IM-06		353281	FINANCIAL INSTITUTIONS SERIES TRUST
2765	IM-06		810766	FIRST BOSTON INCOME FUND INC
2766	IM-06		870787	FIRST CITY INVESTMENTS INC
2767	IM-06		876717	FIRST COMMONWEALTH FUND INC
2768	IM-06		036222	FIRST CONNECTICUT SMALL BUSINESS INVESTMENT CO
2769	IM-06		807986	FIRST EAGLE FUND OF AMERICA INC
2770	IM-06		790202	FIRST FINANCIAL FUND INC
2771	IM-06		865277	FIRST ISRAEL FUND INC
2772	IM-06		036583	FIRST MUTUAL FUND INC
2773	IM-06		837351	FIRST PACIFIC MUTUAL FUND INC /HI/
2774	IM-06		700604	FIRST TRUST OF INSURED MUNICIPAL BONDS STATE SERIES
2775	IM-06		757440	FIRST UNION FUNDS
2776	IM-06		205355	FIRST VARIABLE RATE FUND FOR GOVERNMENT INCOME INC
2777	IM-06		886395	FIRST VIETNAM FUND INC
2778	IM-06		215884	FKF INC
2779	IM-06		721704	FLAGSHIP ADMIRAL FUNDS INC
2780	IM-06		879636	FMB FUNDS INC
2781	IM-06		852572	FONTAINE TRUST
2782	IM-06		858466	FORESTER GROUP SBIC INC
2783	IM-06		036158	FORT DEARBORN INCOME SECURITIES INC
2784	IM-06		874211	FORTIS WORLDWIDE PORTFOLIOS INC
2785	IM-06		315774	FORUM FUNDS INC
2786	IM-06		038357	FOUNDATION GROWTH STOCK FUND INC
2787	IM-06		350795	FOX FUND INC
2788	IM-06		860743	FRANCE GROWTH FUND INC
2789	IM-06		038715	FRANKLIN CORP /DE/
2790	IM-06		812301	FRANKLIN HOLDING CORP
2791	IM-06		357215	FREEDOM FUND
2792	IM-06		350300	FREEDOM MUTUAL FUND
2793	IM-06		837389	FREMONT MUTUAL FUNDS INC
2794	IM-06		818897	FRESHSTART VENTURE CAPITAL CORP
2795	IM-06		880571	FRONTIER FUNDS INC
2796	IM-06		844209	FSB FUNDS
2797	IM-06		833426	FUND ALABAMA INC
2798	IM-06		749925	FUND SOURCE
2799	IM-06		798290	FUNDTRUST /NY
2800	IM-06		749155	GAM FUNDS INC
2801	IM-06		729999	GAMMA PARTNERS INC
2802	IM-06		837532	GANT J W FUND INC
2803	IM-06		893759	GARDNER LEWIS INVESTMENT TRUST
2804	IM-06		312586	GENERAL ELECTRIC S&S LONG TERM INTEREST FUND
2805	IM-06		040559	GENERAL ELECTRIC S&S PROGRAM MUTUAL FUND
2806	IM-06		276548	GENERAL INDUSTRIAL ENTERPRISES INC
2807	IM-06		110043	GENERAL SECURITIES INC
2808	IM-06		716611	GIBRALTAR EQUITY GROWTH FUND INC
2809	IM-06		877370	GIBRALTAR US GOVERNMENT SECURITIES FUND INC
2810	IM-06		835663	GLENMEDE FUND INC
2811	IM-06		794823	GLOBAL GROWTH & INCOME FUND INC
2812	IM-06		880966	GLOBAL HEALTH SCIENCES FUND
2813	IM-06		849867	GLOBAL SETTLEMENT FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
2814	IM-06		041950	GM SHARES INC
2815	IM-06		225399	GNMA FUND INVESTMENT ACCUMULATION PROGRAM INC
2816	IM-06		785567	GOVAARS INVESTMENT TRUST
2817	IM-06		310407	GOVERNMENT INVESTORS TRUST
2818	IM-06		700729	GOVERNMENT LIQUID RESERVES INC
2819	IM-06		856331	GOVERNMENT MONEY TRUST
2820	IM-06		843101	GOVERNMENT SECURITIES EQUITY TRUST GSET SERIES
2821	IM-06		869698	GOVETT FUNDS INC
2822	IM-06		858374	GRANITE INCOME FUND INC
2823	IM-06		876804	GREAT HALL INVESTMENT FUNDS INC
2824	IM-06		887546	GREATER CHINA FUND INC
2825	IM-06		826750	GREATER WASHINGTON INVESTMENTS INC /MD/
2826	IM-06		877232	GREEN CENTURY FUNDS
2827	IM-06		043823	GREENFIELD FUND INC/
2828	IM-06		711322	GREENSPRING FUND INC
2829	IM-06		044186	GROWTH CAPITAL INC
2830	IM-06		846883	GW SIERRA TRUST FUNDS
2831	IM-06		865267	H&Q HEALTHCARE INVESTORS
2832	IM-06		821600	HAMPTON UTILITIES TRUST
2833	IM-06		840844	HANOVER FUNDS INC
2834	IM-06		783788	HARBOR FUND
2835	IM-06		872323	HARRIS ASSOCIATES INVESTMENT TRUST
2836	IM-06		700872	HARTFORD MONEY MARKET FUND INC
2837	IM-06		045949	HARTFORD MUTUAL INVESTMENT FUND INC
2838	IM-06		046015	HARVARD SMALL BUSINESS INVESTMENT CO
2839	IM-06		715582	HARVEST FUNDS INC
2840	IM-06		046135	HATTERAS INCOME SECURITIES INC
2841	IM-06		840064	HAWAII PACIFIC FUND INC
2842	IM-06		750909	HAWAIIAN TAX FREE TRUST
2843	IM-06		858572	HAWTHORNE INVESTMENT TRUST
2844	IM-06		763852	HELMSMAN FUND
2845	IM-06		891944	HENLOPEN FUND
2846	IM-06		794624	HIDDEN STRENGTH FUNDS
2847	IM-06		701387	HIGH YIELD BOND TRUST
2848	IM-06		828990	HIGH YIELD PLUS FUND INC
2849	IM-06		811527	HIGHMARK GROUP /OH/
2850	IM-06		811491	HORIZON FUNDS
2851	IM-06		884462	HOSPITAL & HEALTH FACILITIES TRUST
2852	IM-06		823871	HT INSIGHT FUNDS INC
2853	IM-06		782827	HUMBOLDT INCOME SHARES INC
2854	IM-06		780379	HUNTINGTON FUNDS
2855	IM-06		831319	HUNTINGTON INVESTMENT TRUST
2856	IM-06		275541	HUTCHISON WHAMPOA LIMITED /ADR/
2857	IM-06		832796	I P CAPITAL FUND I
2858	IM-06		861097	IBM MUTUAL FUNDS
2859	IM-06		052741	IIC INDUSTRIES INC
2860	IM-06		856290	IMAK INVESTMENT CO
2861	IM-06		049919	IMPERIAL EQUITY CORP
2862	IM-06		852513	INDIA FUND INC /NJ/
2863	IM-06		833072	INDIA GROWTH FUND INC
2864	IM-06		856343	INEFFICIENT MARKET FUND INC
2865	IM-06		319675	INFOTECHNOLOGY INC
2866	IM-06		737603	INTEGRA FUND
2867	IM-06		881919	INTEGRITY PORTFOLIOS INC
2868	IM-06		093284	INTERCAPITAL INCOME SECURITIES INC
2869	IM-06		723212	INTERNATIONAL FUND FOR INSTITUTIONS INC
2870	IM-06		319545	INTERSTATE CAPITAL GROWTH FUND INC
2871	IM-06		706452	INVESTMENT BOND TRUST
2872	IM-06		051997	INVESTMENT GUIDANCE FUND INC
2873	IM-06		034427	INVESTMENT PLANS PFAS OF PLANNED INVESTMENT FUND
2874	IM-06		052318	INVESTORS INTER CONTINENTAL FUND INC
2875	IM-06		052319	INVESTORS INTER CONTINENTAL FUND LTD
2876	IM-06		052436	INVESTORS TRADING CO
2877	IM-06		849074	IOWA BUSINESS DEVELOPMENT FINANCE CORP
2878	IM-06		856707	IRISH INVESTMENT FUND INC
2879	IM-06		052733	ISRAEL FUND INC
2880	IM-06		052742	ISRAEL INVESTORS INC
2881	IM-06		785855	ITALY FUND INC
2882	IM-06		052856	IVY FUND
2883	IM-06		883017	JACKSON FUND INC
2884	IM-06		885554	JACKSON NATIONAL CAPITAL MANAGEMENT FUNDS
2885	IM-06		880078	JAKARTA GROWTH FUND INC
2886	IM-06		866095	JAPAN EQUITY FUND INC
2887	IM-06		859796	JAPAN OTC EQUITY FUND INC
2888	IM-06		888137	JARDINE FLEMING CHINA REGION FUND INC
2889	IM-06		867215	JENSEN PORTFOLIO INC
2890	IM-06		870239	JERMYN STREET FUNDS INC
2891	IM-06		892657	JOHNSON INVESTMENT MUTUAL FUNDS TRUST
2892	IM-06		894088	JPM INSTITUTIONAL FUNDS
2893	IM-06		043620	JUPITER NATIONAL INC
2894	IM-06		842893	KAGAN MEDIA PARTNERS L P
2895	IM-06		054771	KAUFMANN FUND INC

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
2898	IM-06		859765	KAVILCO INC/WA/
2897	IM-06		729700	KENT FUNDS
2898	IM-06		835788	KEY INVESTMENT FUNDS INC
2899	IM-06		313180	KEYCO BOND FUND INC
2900	IM-06		311684	KIDDER PEABODY CASH RESERVE FUND INC
2901	IM-06		799125	KLEINWORT BENSON AUSTRALIAN INCOME FUND INC
2902	IM-06		099221	KLEINWORT BENSON INVESTMENT STRATEGIES
2903	IM-06		884342	KOREA CAPITAL TRUST
2904	IM-06		748891	KOREA FUND INC
2905	IM-06		863897	LANCASTER GROWTH FUND
2906	IM-06		887590	LATIN AMERICA DOLLAR INCOME FUND INC
2907	IM-06		884461	LATIN AMERICAN DISCOVERY FUND INC
2908	IM-06		890085	LEADERSHIP TRUST
2909	IM-06		867832	LEBENTHAL FUNDS INC
2910	IM-06		877985	LEEB PERSONAL FINANCE INVESTMENT TRUST
2911	IM-06		721647	LEHMAN T H & CO INC
2912	IM-06		355743	LENED INC
2913	IM-06		023421	LENNON COMPANY CONNECTICUT GENERAL STOCK INVESTMENT PROGRAMS
2914	IM-06		052761	LEPERCQ ISTEL TRUST
2915	IM-06		058839	LESLIE FAY COMPANIES INC
2916	IM-06		806641	LEXINGTON CONVERTIBLE SECURITIES FUND
2917	IM-06		059138	LEXINGTON FOUNDATION TRUST CERTIFICATES
2918	IM-06		878606	LFC UTILITIES TRUST
2919	IM-06		876980	LIBERTY FINANCIAL TRUST
2920	IM-06		740643	LIMITED TERM MUNICIPAL FUND INC
2921	IM-06		059744	LIQUID CAPITAL INCOME TRUST
2922	IM-06		872475	LIQUID INSTITUTIONAL RESERVES
2923	IM-06		720498	LMH FUND LTD
2924	IM-06		816871	LOCUST STREET TAX EXEMPT MONEY MARKET FUND
2925	IM-06		060191	LONE STAR FUND
2926	IM-06		872649	LOOMIS SAYLES FUNDS
2927	IM-06		311961	LORENT INVESTMENT CO
2928	IM-06		866913	LYONS GROUP CAPITAL CORP
2929	IM-06		812847	MACKENZIE FUNDS INC
2930	IM-06		770469	MACKENZIE SERIES TRUST
2931	IM-06		787441	MAINSTAY FUNDS
2932	IM-06		811797	MALAYSIA FUND INC
2933	IM-06		706453	MANAGED ASSETS TRUST
2934	IM-06		720309	MANAGERS FUNDS
2935	IM-06		892281	MANAGERS FUNDS 1000
2936	IM-06		751173	MANNING & NAPIER FUND INC
2937	IM-06		705677	MAP GOVERNMENT FUND INC
2938	IM-06		895855	MARCETTE FUND INC
2939	IM-06		772034	MARKET STREET FUND INC
2940	IM-06		062723	MARSH GROWTH FUND
2941	IM-06		741375	MAS POOLED TRUST FUND
2942	IM-06		730762	MASSACHUSETTS TAX EXEMPT MONEY MARKET FUND
2943	IM-06		885092	MASTERS GROUP OF MUTUAL FUNDS
2944	IM-06		063210	MATHERS FUND INC
2945	IM-06		063364	MAVERICK FUND INC
2946	IM-06		847079	MCKEEVER INVESTMENT TRUST
2947	IM-06		357316	MEDALLION FUNDING CORP
2948	IM-06		871297	MEGY FUND INC
2949	IM-06		701804	MERGER FUND
2950	IM-06		714494	MERRILL LYNCH KECALP GROWTH INVESTMENTS LTD PARTNERSHIP 83
2951	IM-06		830274	MERRIMAN INVESTMENT TRUST
2952	IM-06		356039	METRO PORTFOLIO INVESTORS STOCK FUND
2953	IM-06		866093	MEXICO CAPITAL GROWTH FUND INC
2954	IM-06		883900	MEXICO EQUITY & INCOME FUND INC
2955	IM-06		065433	MEXICO FUND INC
2956	IM-06		879920	MEXICO GROWTH FUND INC
2957	IM-06		867969	MFS INSTITUTIONAL TRUST
2958	IM-06		062621	MI FUND INC
2959	IM-06		065915	MID STATES BUSINESS CAPITAL CORP
2960	IM-06		066022	MIDLAND BASIC INC
2961	IM-06		066119	MIDWEST INVESTMENT CO
2962	IM-06		066122	MIDWEST INVESTORS PROGRAM
2963	IM-06		830979	MILLS VALUE FUND INC
2964	IM-06		831115	MILWAUKEE LAND COMPANY
2965	IM-06		753702	MIM MUTUAL FUNDS INC
2966	IM-06		066556	MINBANC CAPITAL CORP
2967	IM-06		066622	MINERALS & RESOURCES CORP/ADR/CITIBANK NA
2968	IM-06		066726	MINNESOTA CAPITAL CORP
2969	IM-06		356422	ML INVESTMENT CORP
2970	IM-06		889509	MONARCH FUNDS
2971	IM-06		355600	MONARCH INVESTMENT SERIES TRUST
2972	IM-06		783194	MONETTA FUND INC
2973	IM-06		858378	MONEY MARKET PORTFOLIO
2974	IM-06		858315	MONEY MARKET TRUST /NY/
2975	IM-06		810695	MONITOR FUNDS
2976	IM-06		067618	MONMOUTH CAPITAL CORP
2977	IM-06		823686	MONSEY CAPITAL CORP

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
2978	IM-06		863435	MONTGOMERY FUNDS
2979	IM-06		865417	MORAN EQUITY FUND INC
2980	IM-06		793072	MORGAN KEEGAN SOUTHERN CAPITAL FUND INC
2981	IM-06		790880	MORISON ASSET ALLOCATION FUND INC
2982	IM-06		854559	MORTGAGE LIQUIDITY FUND INC
2983	IM-06		068341	MORTGAGE TRUST CORP
2984	IM-06		068405	MOSHER INC /TX
2985	IM-06		068693	MSB FUND INC
2986	IM-06		872794	MUIR INVESTMENT TRUST
2987	IM-06		277447	MUNICIPAL CASH RESERVE MANAGEMENT INC
2988	IM-06		202662	MUNICIPAL FUND ACCUMULATION PROGRAM INC
2989	IM-06		830487	MUNICIPAL HIGH INCOME FUND INC
2990	IM-06		779347	MUNICIPAL LEASE SECURITIES FUND INC
2991	IM-06		861869	MUNICIPAL PERFORMANCE INCOME FUND INC
2992	IM-06		069260	MUTUAL BENEFIT FUND
2993	IM-06		814078	MUTUAL FUND GROUP
2994	IM-06		884865	MUTUAL FUNDS FOR CREDIT UNIONS INC
2995	IM-06		069379	MUTUAL INVESTMENT FUND OF CONNECTICUT INC
2996	IM-06		315544	MUTUAL QUALIFIED INCOME FUND INC
2997	IM-06		069436	MUTUAL SELECTION FUND INC
2998	IM-06		825063	MUTUAL SERIES FUND INC
2999	IM-06		850027	NAIC GROWTH FUND INC
3000	IM-06		888955	NARRAGANSETT INSURED TAX FREE INCOME FUND
3001	IM-06		884122	NATIONAL ASSET RESERVE
3002	IM-06		069628	NATIONAL AVIATION & TECHNOLOGY CORP
3003	IM-06		757104	NATIONAL REAL ESTATE FUND /NY/
3004	IM-06		718027	NATIONALS CALIFORNIA TAX EXEMPT BONDS INC
3005	IM-06		083524	NATURE FOOD CENTRES INC
3006	IM-06		779241	NAVIGATOR INCOME SHARES INC
3007	IM-06		778202	NCC FUNDS
3008	IM-06		071130	NEUWIRTH FUND INC
3009	IM-06		355767	NEW ALTERNATIVES FUND INC
3010	IM-06		071247	NEW CAPITAL FOR SMALL BUSINESS INC
3011	IM-06		866782	NEW JERSEY DAILY MUNICIPAL INCOME FUND INC
3012	IM-06		875709	NEW TRENDS CAPITAL GROWTH FUND INC
3013	IM-06		882417	NEW USA FUNDS INC
3014	IM-06		883619	NEW WORLD INVESTMENT TRUST
3015	IM-06		868307	NEW YORK LIFE INSTITUTIONAL FUNDS INC
3016	IM-06		071941	NIAGARA SHARE CORP /NEW/
3017	IM-06		810212	NICHOLAS APPLEGATE FUND INC
3018	IM-06		895430	NICHOLAS APPLEGATE MUTUAL FUNDS
3019	IM-06		751118	NODDINGS INVESTMENT TRUST /IL/
3020	IM-06		765230	NOMURA PACIFIC BASIN FUND INC
3021	IM-06		848103	NORTH AMERICAN SECURITY TRUST
3022	IM-06		876895	NORTH CAROLINA DAILY MUNICIPAL INCOME FUND INC
3023	IM-06		835335	NORTH DAKOTA DOUBLE TAX EXEMPT BOND FUND INC
3024	IM-06		318192	NORTHEAST INVESTORS GROWTH FUND INC
3025	IM-06		072760	NORTHEAST INVESTORS TRUST
3026	IM-06		811860	NORTHWEST INVESTORS TRUST
3027	IM-06		882112	NORWAY FUND INC
3028	IM-06		842512	NOTTINGHAM INVESTMENT TRUST
3029	IM-06		869351	NOTTINGHAM INVESTMENT TRUST II
3030	IM-06		313038	NRM INVESTMENT CO
3031	IM-06		862065	NY TAX FREE MONEY PORTFOLIO
3032	IM-06		759829	OLYMPIC TRUST
3033	IM-06		765924	OMNI INVESTMENT FUND
3034	IM-06		887605	ONE FUND INC
3035	IM-06		822647	ORANGE COUNTY GROWTH FUND
3036	IM-06		075170	OVER THE COUNTER SECURITIES GROUP INC
3037	IM-06		819844	OVERLAND EXPRESS FUNDS INC
3038	IM-06		885709	P&R INVESTMENT TRUST
3039	IM-06		075398	PACIFIC AMERICAN INCOME SHARES INC
3040	IM-06		836243	PAKISTAN INVESTMENT FUND INC
3041	IM-06		076094	PANTEPEC INTERNATIONAL INC
3042	IM-06		876816	PAPP AMERICA ABROAD FUND INC
3043	IM-06		856217	PAPP L ROY STOCK FUND INC
3044	IM-06		856120	PARAGON PORTFOLIO
3045	IM-06		812304	PARKSTONE GROUP OF FUNDS /OH/
3046	IM-06		747546	PARNASSUS FUND
3047	IM-06		866256	PARNASSUS INCOME FUND
3048	IM-06		788213	PARTNERS DEFERRAL FUND
3049	IM-06		751414	PARTNERS GROWTH FUND
3050	IM-06		850982	PASCAL CAPITAL INC
3051	IM-06		813305	PATHFINDER HERITAGE FUNDS
3052	IM-06		076721	PAX WORLD FUND INC
3053	IM-06		775180	PBHG GROWTH FUND INC
3054	IM-06		731759	PDC&J PERFORMANCE FUND
3055	IM-06		760092	PDC&J PRESERVATION FUND
3056	IM-06		873567	PENN CAPITAL FUNDS INC
3057	IM-06		077151	PENN SQUARE MUTUAL FUND
3058	IM-06		061437	PEOPLES INVESTMENT PROGRAM
3059	IM-06		875732	PEOPLES S&P MIDCAP INDEX FUND INC

APPENDIX A—PART 1—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
3060	IM-06		865093	PERFORMANCE FUNDS TRUST
3061	IM-06		820876	PERRITT CAPITAL GROWTH FUND INC
3062	IM-06		216851	PETROLEUM & RESOURCES CORP
3063	IM-06		077907	PETROLEUM INVESTMENT CAPITAL CORP
3064	IM-06		867297	PFAMCO FUNDS
3065	IM-06		826659	PHILLIPS CAPITAL INVESTMENTS INC
3066	IM-06		855628	PHOTONIC FUND INC
3067	IM-06		882129	PIC INVESTMENT TRUST
3068	IM-06		036567	PIEDMONT CAPITAL CORP PFAS LEXINGTON RESEARCH INVESTING COR
3069	IM-06		894069	PIERPONT FUNDS
3070	IM-06		784064	PIERRE FUNDING CORP
3071	IM-06		882303	PILLAR FUNDS
3072	IM-06		810893	PIMCO FUNDS
3073	IM-06		078635	PINE STREET FUND INC
3074	IM-06		759862	PINNACLE FUND
3075	IM-06		078670	PINNACLE INVESTMENT CORP
3076	IM-06		079176	PLIFUNDS INVESTMENT PLANS
3077	IM-06		722571	PMC CAPITAL INC
3078	IM-06		075931	PMD INVESTMENT CO
3079	IM-06		355222	PMI FUND INC
3080	IM-06		873366	POLAND FUND
3081	IM-06		715976	PORTFOLIO OF INCOME & GROWTH FUND SHARES INC
3082	IM-06		079753	POTOSI INVESTMENT CO
3083	IM-06		840064	PRA SECURITIES TRUST
3084	IM-06		885414	PREFERRED GROUP OF MUTUAL FUNDS
3085	IM-06		868578	PREFERRED INCOME FUND INC
3086	IM-06		895422	PREFERRED INCOME MANAGEMENT FUND INC
3087	IM-06		872179	PREMIUM US TREASURY RESERVES
3088	IM-06		841090	PREVIOUSLY OWNED PARTNERSHIPS INCOME FUND 90
3089	IM-06		707800	PRIME CASH FUND
3090	IM-06		823308	PRIME INCOME FUNDS INC
3091	IM-06		804235	PRIME VALUE FUNDS INC
3092	IM-06		811030	PROFESSIONALLY MANAGED PORTFOLIOS
3093	IM-06		774417	PROGRESSIVE PORTFOLIOS SERIES
3094	IM-06		836909	PROSPECT HIGH YIELD MEZANINE FUND INC
3095	IM-06		895761	PROSPECT HILL INSTITUTIONAL TRUST
3096	IM-06		832904	PROSPECT STREET HIGH INCOME PORTFOLIO INC
3097	IM-06		110227	PROTECTED INVESTORS OF AMERICA TRUST 1934
3098	IM-06		080815	PROVIDENCE INVESTORS CO
3099	IM-06		791866	PROVIDENTMUTUAL CONVERTIBLE SECURITIES FUND INC
3100	IM-06		810129	PRUDENT SPECULATOR FUND
3101	IM-06		811158	PUBLIC EMPLOYEES RETIREMENT TRUST
3102	IM-06		835950	PUBLIC FACILITY LOAN TRUST
3103	IM-06		838131	RAC INCOME FUND INC
3104	IM-06		081810	RAINBOW FUND INC
3105	IM-06		081955	RAND CAPITAL CORP
3106	IM-06		081967	RAND SBIC INC
3107	IM-06		866841	RANSON MANAGED PORTFOLIOS
3108	IM-06		310619	RCM CAPITAL FUNDS INC
3109	IM-06		701570	REA GRAHAM FUNDS INC
3110	IM-06		835268	REAL ESTATE SECURITIES INCOME FUND INC
3111	IM-06		082405	REAL SILK INVESTMENTS INC
3112	IM-06		842286	REGIS FUND INC
3113	IM-06		862917	REMAINDER SERIES FUND
3114	IM-06		892567	REMBRANDT FUNDS
3115	IM-06		356474	RENAISSANCE ASSETS TRUST
3116	IM-06		871867	RENAISSANCE CAPITAL PARTNERS II LTD /TX/
3117	IM-06		083313	RESEARCH INVESTING CORP
3118	IM-06		803747	RETIREMENT INVESTMENT TRUST
3119	IM-06		832574	REYNOLDS FUNDS INC
3120	IM-06		793166	RHENUS INCOME SHARES INC
3121	IM-06		751171	RHODE ISLAND LOCALITIES PRUDENT CASH FUND INC
3122	IM-06		783727	RIGHTIME FUND INC
3123	IM-06		862342	RIVERFRONT FUNDS INC
3124	IM-06		725260	ROCKIES FUND INC
3125	IM-06		767531	ROCKWOOD GROWTH FUND INC
3126	IM-06		832545	ROSENBERG SERIES TRUST
3127	IM-06		867418	ROUSSEAU CAPITAL INC
3128	IM-06		085467	ROYAL BUSINESS FUNDS CORP
3129	IM-06		841067	RR FUND INC
3130	IM-06		809457	RXR DYNAMIC GOVERNMENT FUND INC /CT/
3131	IM-06		872322	SAGAMORE FUNDS TRUST
3132	IM-06		783752	SANTA BARBARA FUND
3133	IM-06		870398	SBM CERTIFICATE CO
3134	IM-06		722832	SBSF FUNDS INC
3135	IM-06		792857	SCANDINAVIA COMPANY INC
3136	IM-06		774627	SCHAFER VALUE FUND INC
3137	IM-06		794365	SCHAFER VALUE TRUST INC
3138	IM-06		891160	SCHWARTZ INVESTMENT TRUST
3139	IM-06		012027	SCIOTO INVESTMENT CO
3140	IM-06		837220	SCM PORTFOLIO FUND INC
3141	IM-06		863986	SCOTTISH WIDOWS INTERNATIONAL FUND

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
3142	IM-06		088079	SCYTHIAN FUND INC
3143	IM-06		088123	SEABOARD ASSOCIATES INC
3144	IM-06		814496	SEAGATE FUNDS
3145	IM-06		088327	SECOND FEDERAL STREET FUND INC
3146	IM-06		857397	SECURITY GROWTH & INCOME FUND
3147	IM-06		088778	SEILON INC
3148	IM-06		089012	SENTRY FUND INC
3149	IM-06		089043	SEQUOIA FUND INC
3150	IM-06		832403	SESSIONS GROUP
3151	IM-06		858496	SHEFFIELD FUNDS INC
3152	IM-06		089765	SHERMAN DEAN FUND INC
3153	IM-06		863904	SHORT INTERMEDIATE ASSETS FUND INC
3154	IM-06		750913	SHORT TERM ASSET RESERVES
3155	IM-06		205009	SHORT TERM YIELD SECURITIES INC
3156	IM-06		727189	SIEBEL CAPITAL PARTNERS INC
3157	IM-06		051815	SIERRA GROWTH FUND INC
3158	IM-06		731812	SIERRA RESOURCES CORP
3159	IM-06		052654	SIGMA U S GOVERNMENT FUND INC /DE/
3160	IM-06		864415	SINGAPORE FUND INC/MD/
3161	IM-06		859738	SINGAPORE MALAYSIA FUND INC
3162	IM-06		881166	SM&R CAPITAL FUNDS INC
3163	IM-06		091040	SMALL BUSINESS INVESTMENT CO OF CONNECTICUT
3164	IM-06		889612	SMALL CAP AMERICA FUND INC
3165	IM-06		775370	SMITH BARNEY MUNI BOND FUNDS
3166	IM-06		320282	SMITH BARNEY TAX FREE MONEY FUND INC
3167	IM-06		091612	SOGEN INTERNATIONAL FUND INC
3168	IM-06		764157	SOUND SHORE FUND INC
3169	IM-06		091847	SOURCE CAPITAL INC /DE/
3170	IM-06		852954	SOUTHEASTERN THRIFT & BANK FUND INC
3171	IM-06		092370	SOUTHPORT COMMERCIAL CORP
3172	IM-06		092425	SOUTHWEST INTERNATIONAL CORP
3173	IM-06		783455	SOWER SERIES FUND INC
3174	IM-06		054047	SPECIAL PORTFOLIOS INC
3175	IM-06		092751	SPECTRA FUND INC
3176	IM-06		879633	STAGECOACH FUNDS INC
3177	IM-06		354051	STANDBY RESERVE FUND INC
3178	IM-06		771879	STANDBY TAX EXEMPT RESERVE FUND INC
3179	IM-06		799295	STANDISH AYER & WOOD INVESTMENT TRUST
3180	IM-06		856713	STARTRADE FUND INC
3181	IM-06		093730	STATE MUTUAL SECURITIES TRUST
3182	IM-06		102754	STERLING CAPITAL CORP
3183	IM-06		884777	STONE BRIDGE FUNDS INC
3184	IM-06		094745	STRALEM FUND INC
3185	IM-06		880943	STRATEGIC GLOBAL INCOME FUND INC
3186	IM-06		896165	STRATTON FUNDS INC
3187	IM-06		711426	SUNAMERICA FEDERAL SECURITIES FUND
3188	IM-06		875734	SWISSKEY FUNDS
3189	IM-06		805262	TAFT PHILANTHROPIC TRUST
3190	IM-06		804123	TAIWAN FUND INC
3191	IM-06		814233	TAPPAN ZEE CURRENCY SHARES INC
3192	IM-06		883410	TARGET INCOME FUND INC /NEW/
3193	IM-06		890339	TARGET PORTFOLIO TRUST
3194	IM-06		856320	TAX EXEMPT MONEY TRUST
3195	IM-06		872032	TAX FREE FUND FOR UTAH
3196	IM-06		811239	TAX FREE FUND OF COLORADO
3197	IM-06		875730	TAX FREE FUND OF VERMONT INC
3198	IM-06		862066	TAX FREE MONEY PORTFOLIO
3199	IM-06		784056	TAX FREE TRUST OF ARIZONA
3200	IM-06		808068	TECHNOLOGY FUNDING PARTNERS III L P
3201	IM-06		826595	TECHNOLOGY FUNDING VENTURE PARTNERS IV
3202	IM-06		850677	TECHNOLOGY FUNDING VENTURE PARTNERS V
3203	IM-06		317082	TEP FUND INC/DE/
3204	IM-06		886047	TEXAS EMPLOYEES TAX EXEMPT MONEY MARKET FUND CORP
3205	IM-06		861865	THAI CAPITAL FUND INC
3206	IM-06		822794	THAI FUND INC
3207	IM-06		819251	THC FUND INC
3208	IM-06		885177	THIRD AVENUE SERIES FUNDS INC
3209	IM-06		862030	THOMAS WILLIAM A FUND INC
3210	IM-06		795264	THOMPSON UNGER & PLUMB FUNDS INC
3211	IM-06		730674	THOMSON FUND GROUP
3212	IM-06		816153	THORNBURG INCOME TRUST
3213	IM-06		891013	THORNBURG INCOME TRUST ET AL
3214	IM-06		768686	THOROUGHBRED GROUP
3215	IM-06		052136	TNE FUNDS TRUST
3216	IM-06		801444	TOCQUEVILLE TRUST
3217	IM-06		862696	TORRAY FUND
3218	IM-06		892974	TRANSAMERICA INVESTMENT PORTFOLIOS
3219	IM-06		759549	TRANSPORTATION CAPITAL CORP
3220	IM-06		741296	TREASURERS FUND INC
3221	IM-06		800228	TREASURY FIRST INC
3222	IM-06		862062	TREASURY MONEY PORTFOLIO
3223	IM-06		856316	TREASURY MONEY TRUST

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
3224	IM-06		846422	TRI MAGNA CORPORATION
3225	IM-06		847533	TRICO VENTURE INC
3226	IM-06		316762	TRIDAN CORP
3227	IM-06		707799	TRINITY ASSETS TRUST
3228	IM-06		052034	TRUSTEED INCOME ESTATES CERTIFICATES ORIGINAL SERIES SOVEREIG
3229	IM-06		313850	TRUSTEES COMMINGLED FUND
3230	IM-06		856218	TURKISH INVESTMENT FUND INC
3231	IM-06		837742	TYLER CABOT MORTGAGE SECURITIES FUND INC
3232	IM-06		722885	U S BOSTON INVESTMENT CO
3233	IM-06		869094	UNION INVESTORS FUNDS
3234	IM-06		844111	UNITED CAPITAL INVESTMENT CORP
3235	IM-06		101215	UNITED FUNDS CANADA INTERNATIONAL LTD
3236	IM-06		101220	UNITED FUNDS MANAGEMENT CORP
3237	IM-06		101507	UNITED SERVICES FUNDS
3238	IM-06		101747	UNITED STATES RAILROAD SECURITIES FUND I
3239	IM-06		869598	UNIVERSAL CAPITAL INVESTMENT TRUST
3240	IM-06		827191	US TREASURY RESERVES PORTFOLIO
3241	IM-06		886753	USAFFINITY FUNDS
3242	IM-06		837951	USF&G PACHOLDER FUND INC /OH/
3243	IM-06		102426	USLIFE INCOME FUND INC
3244	IM-06		102681	VALLEY FORGE FUND INC
3245	IM-06		276206	VALOR INVESTMENT FUND INC
3246	IM-06		888227	VAN ECK TRUST
3247	IM-06		794105	VANGUARD BOND MARKET FUND INC
3248	IM-06		783401	VANGUARD CALIFORNIA TAX FREE FUND
3249	IM-06		069559	VANGUARD SMALL CAPITALIZATION STOCK FUND INC
3250	IM-06		808490	VARIABLE INVESTORS SERIES TRUST /MA/
3251	IM-06		103052	VARIABLE STOCK FUND INC
3252	IM-06		094942	VEGA CAPITAL CORP
3253	IM-06		823143	VESPUCCI INCOME SHARES INC
3254	IM-06		755343	VICTORY FIXED INCOME INVESTMENTS INC
3255	IM-06		723985	VINTAGE GROUP INC
3256	IM-06		798524	VLC TRUST
3257	IM-06		838876	VOLTAIRE CAPITAL INC
3258	IM-06		792394	VOLUMETRIC FUND INC
3259	IM-06		879342	VOYAGEUR INVESTMENT TRUST
3260	IM-06		884735	VULCAN FUNDS
3261	IM-06		104049	WADE FUND INC
3262	IM-06		104300	WALL STREET FUND INC
3263	IM-06		887589	WARBURG PINCUS INSTITUTIONAL FUND INC
3264	IM-06		806633	WASATCH ADVISORS FUNDS INC
3265	IM-06		706050	WASHINGTON SQUARE CASH FUND INC
3266	IM-06		893662	WEST ONE FUNDS
3267	IM-06		821472	WESTFORD TECHNOLOGY VENTURES LP
3268	IM-06		092493	WESTGATE PACIFIC GROWTH FUND INC
3269	IM-06		831883	WESTMED VENTURE PARTNERS 2 LP
3270	IM-06		810688	WESTMED VENTURE PARTNERS LP
3271	IM-06		106449	WESTMINSTER FUND INC
3272	IM-06		838802	WESTON PORTFOLIOS
3273	IM-06		796229	WESTWOOD FUNDS
3274	IM-06		835399	WHITESTONE FUND INC
3275	IM-06		814436	WILLIAM PENN INTEREST INCOME FUND
3276	IM-06		819983	WILLIAMSBURG FUND INC
3277	IM-06		876975	WINTERWOOD FUNDS INC
3278	IM-06		790184	WINTHROP FOCUS FUNDS
3279	IM-06		741887	WOOD ISLAND GROWTH FUND
3280	IM-06		277878	WOODS INVESTMENT CO
3281	IM-06		852316	WOODSTOCK COLLECTIVE INVESTMENT TRUST
3282	IM-06		814067	WOODWARD FUNDS
3283	IM-06		711202	WORKING ASSETS COMMON HOLDINGS
3284	IM-06		859801	WORLD APPRECIATION FUND INC
3285	IM-06		705455	WORLD FUNDS INC
3286	IM-06		827118	WORLD GOVERNMENTS VARIABLE ACCOUNT
3287	IM-06		885980	YACKTMAN FUND INC
3288	IM-06		830272	YAMAICHI FUNDS INC
3289	IM-06		730478	Z SEVEN FUND INC
3290	IM-06		830142	ZENIX INCOME FUND INC
3291	IM-06		808103	ZEUS INSTITUTIONAL INVESTMENTS INC
3292	IM-06	ALLSTATE	716791	NORTHBROOK LIFE INSURANCE CO
3293	IM-06	AMA	080398	AMA FAMILY OF FUNDS INC
3294	IM-06	AMER FIDELITY	005007	AMERICAN FIDELITY VARIABLE ANNUITY FUND A
3295	IM-06	AMERICAN CAPITAL	778536	AMERICAN CAPITAL LIFE INVESTMENT TRUST
3296	IM-06	AMERICAN PENSION	764859	AMERICAN PENSION INVESTORS TRUST
3297	IM-06	AMERICAN SKANDIA	881453	AMERICAN SKANDIA LIFE ASSURANCE CORP/CT
3298	IM-06	ANALYTIC	230025	ANALYTIC OPTIONED EQUITY FUND INC
3299	IM-06	ASTER CAPITAL	745467	MERIDIAN FUND INC/NEW
3300	IM-06	ATLAS	830144	ATLAS ASSETS INC
3301	IM-06	B C ZIEGLER	775689	PRINCIPAL PRESERVATION PORTFOLIOS INC
3302	IM-06	BAIRD	804192	BAIRD BLUE CHIP FUND INC
3303	IM-06	BANKERS LIFE	009737	BANKERS SECURITY LIFE INSURANCE SOCIETY
3304	IM-06	BANKERS NATL	709558	CONSECO SERIES TRUST
3305	IM-06	BASS CAPITAL	812939	HARVEST FUNDS INC /NC/

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
3306	IM-06	BAUPOST	865827	BAUPOST FUND
3307	IM-06	BBK	879752	AON MONEY MARKET FUND INC
3308	IM-06	BELL ATLANTIC	856225	BELL ATLANTIC MUTUAL FUNDS INC
3309	IM-06	BRADFORD	841899	BRADFORD FUNDS INC
3310	IM-06	C M LIFE	883232	C M LIFE INSURANCE CO
3311	IM-06	C&O	864230	CALDWELL & ORKIN FUNDS INC
3312	IM-06	CALDWELL	764304	C FUNDS GROUP INC
3313	IM-06	CANADA LIFE	851005	CANADA LIFE OF AMERICA SERIES FUND INC
3314	IM-06	CAPSTONE	892378	CAPSTONE FUND OF THE SOUTHWEST
3315	IM-06	CASHMAN FARRELL	775157	CAPSTONE CASHMAN FARRELL VALUE FUND INC
3316	IM-06	CENTURY LIFE	732597	ULTRA SERIES FUND
3317	IM-06	CHANCELLOR	867550	CHANCELLOR FUNDS INC
3318	IM-06	CIGNA	702909	CIGNA CASH FUND INC
3319	IM-06	CONTINENTAL ASSU	023971	CONTINENTAL ASSURANCE CO SEPARATE ACCOUNT B
3320	IM-06	CREF	777535	COLLEGE RETIREMENT EQUITIES FUND
3321	IM-06	CROWLEY	855049	CROWLEY PORTFOLIO GROUP INC
3322	IM-06	CROWN AMERICA	749939	CROWN AMERICA SERIES FUND INC
3323	IM-06	DENVER INV ADV	810439	BLUE CHIP VALUE FUND INC
3324	IM-06	DOLLAR DRY DOCK	807937	INVESTORS PREFERENCE FUND FOR INCOME INC
3325	IM-06	DOMINION	889392	DOMINION FUNDS INC
3326	IM-06	DUFF & PHELPS	879535	DUFF & PHELPS UTILITIES TAX FREE INCOME INC
3327	IM-06	EMERALD	847379	OCTAGON FUNDS INC
3328	IM-06	EQSF	862472	THIRD AVENUE VALUE FUND INC
3329	IM-06	EXCELSIOR	033934	EXCELSIOR INCOME SHARES INC
3330	IM-06	F & G LIFE	804134	U S EAGLE FUND INC
3331	IM-06	FARM BUREAU LIFE	811707	FBL VARIABLE INSURANCE SERIES FUND
3332	IM-06	FFB	784975	FFB FUNDS TRUST
3333	IM-06	FIRST FIDELITY	883163	COLONIAL TRUST VI
3334	IM-06	FIRST INTERSTATE	319451	PACIFIC AMERICAN FUND
3335	IM-06	FLEET/NORSTAR	791914	GALAXY FUND /DE/
3336	IM-06	FOUNDERS	038403	FOUNDERS FUNDS INC
3337	IM-06	GALAXY	889420	GALAXY VIP FUND
3338	IM-06	GATEWAY	215952	GATEWAY TRUST
3339	IM-06	GE	891079	GE FUNDS
3340	IM-06	GNA CAPITAL	808245	GNA INVESTORS TRUST
3341	IM-06	HANIFEN IMHOFF	810744	HANIFEN IMHOFF COLORADO BONDSHARES
3342	IM-06	HANOVER	893785	HANOVER INVESTMENT FUNDS INC
3343	IM-06	HELVETIA CAPITAL	813823	SWISS HELVETIA FUND INC
3344	IM-06	HENDERSON INT	814679	AMERICAN SKANDIA TRUST
3345	IM-06	HEWITT	831957	AHA INVESTMENT FUNDS INC
3346	IM-06	HOME CAPITAL	820675	HOME GROUP TRUST
3347	IM-06	INDEPENDENCE CAP	856070	INDEPENDENCE CAPITAL GROUP OF FUNDS INC
3348	IM-06	INDIANAPOLIS	774382	INDIANAPOLIS LIFE SERIES FUND INC
3349	IM-06	INVESTMENT MGMT	750679	MENTOR GROWTH TRUST INC
3350	IM-06	INVESTORS RESEAR	052389	INVESTORS RESEARCH FUND INC
3351	IM-06	INVESTORS SECURI	074206	OLD DOMINION INVESTORS TRUST INC
3352	IM-06	JOHN HANCOCK	357238	HANCOCK JOHN TECHNOLOGY SERIES INC
3353	IM-06	LEAHI	821196	LEAHI INVESTMENT TRUST
3354	IM-06	LIFE OF VA	746687	LIFE OF VIRGINIA SERIES FUND INC
3355	IM-06	MANUFACTRS LIFE	724340	MANULIFE SERIES FUND INC
3356	IM-06	MESIROW	810308	SKYLINE FUND
3357	IM-06	MML	067160	MML SERIES INVESTMENT FUND
3358	IM-06	MONARCH	794049	VARIABLE ACCOUNT A1 OF MONARCH LIFE INSURANCE CO
3359	IM-06	MONITREND	745338	MONITREND MUTUAL FUND
3360	IM-06	MORGAN GRENFELL	809584	MORGAN GRENFELL SMALLCAP FUND INC
3361	IM-06	MUHLENKAMP	829433	WEXFORD TRUST
3362	IM-06	MUTUAL BENEFIT	708952	MBL GROWTH FUND INC
3363	IM-06	NASL	756913	NASL SERIES TRUST
3364	IM-06	NASL	763099	NORTH AMERICAN SECURITY LIFE INSURANCE CO
3365	IM-06	NCNB TEXAS	790569	NATIONS FUND INC
3366	IM-06	NIF MANAGEMENT	070218	NATIONAL INDUSTRIES FUND INC
3367	IM-06	OBERWEIS	803020	OBERWEIS EMERGING GROWTH FUND /IL/
3368	IM-06	OHIO NATIONAL	315754	OHIO NATIONAL FUND INC
3369	IM-06	OLDE	819467	OLDE CUSTODIAN FUND
3370	IM-06	PACIFIC MUTUAL	314596	PACIFIC MUTUAL LIFE INSURANCE CO
3371	IM-06	PACIFIC MUTUAL	813900	PACIFIC SELECT FUND
3372	IM-06	PARIBAS	777512	PARIBAS TRUST FOR INSTITUTIONS
3373	IM-06	PASADENA	754880	PASADENA INVESTMENT TRUST
3374	IM-06	PHOENIX HOME	792359	PHOENIX EDGE SERIES FUND
3375	IM-06	PHOENIX HOME	880280	PHOENIX HOME LIFE MUTUAL INSURANCE CO
3376	IM-06	PIPER JAFFRAY	806177	PIPER JAFFRAY INVESTMENT TRUST INC
3377	IM-06	PROVIDENT MUTUAL	740269	PROVIDENT MUTUAL VARIABLE GROWTH SEPARATE ACCOUNT
3378	IM-06	QUEST VALUE	832359	QUEST FOR VALUE ACCUMULATION TRUST
3379	IM-06	R O C TAIWAN	836267	R O C TAIWAN FUND
3380	IM-06	RE ADVISORS	865733	HOMESTEAD FUNDS INC
3381	IM-06	RENAISSANCE CAP	855567	RENAISSANCE CAPITAL PARTNERS LTD
3382	IM-06	REVERE PAUL INS	050527	REVERE PAUL VARIABLE ANNUITY CONTRACT ACCMULATION FUND
3383	IM-06	RITTENHOUSE	225852	SHEPMYERS INVESTMENT CO
3384	IM-06	ROBERTSON STEPH	814232	ROBERTSON STEPHENS INVESTMENT TRUST
3385	IM-06	ROYAL PALM	879940	ROYAL PALM INVESTMENT TRUST
3386	IM-06	SACHS	350796	FAIRMONT FUND TRUST
3387	IM-06	SCHNEIDER	825019	SCHNEIDER INVESTMENT TRUST

APPENDIX A—PART I—MANAGEMENT INVESTMENT COMPANIES—Continued

Count	Group	Complex	CIK	Name
3388	IM-06	SCHRODER	019532	SCHRODER CAPITAL FUNDS INC
3389	IM-06	SECURITY BENEFIT	217087	SBL FUND
3390	IM-06	SECURITY FIRST	068537	SECURITY FIRST TRUST
3391	IM-06	SECURITY PACIFIC	015345	BUNKER HILL INCOME SECURITIES INC
3392	IM-06	SHEARSON	356399	AMERICAN EXPRESS VARIABLE ANNUITY FUND INC
3393	IM-06	SIFE	728187	SIFE TRUST FUND
3394	IM-06	SOUTHEASTERN	806636	SOUTHEASTERN ASSET MANAGEMENT FUNDS TRUST
3395	IM-06	SOUTHERN FARM	354112	SOUTHERN FARM BUREAU CASH FUND INC
3396	IM-06	SOUTHWESTERN LIF	103014	VARIABLE ANNUITY FUND I OF SOUTHWESTERN LIFE
3397	IM-06	SOVEREIGN	092551	HANCOCK JOHN SOVEREIGN INVESTORS FUND INC
3398	IM-06	STI	883939	STI CLASSIC FUNDS
3399	IM-06	SUNSTONE FINAN	824612	PORTICO FUNDS INC
3400	IM-06	SUNWESTERN	083514	REVERE FUND INC
3401	IM-06	THOMSON MCKINNON	808428	MCKINNON THOMSON ACCUMULATION PLAN TRUST
3402	IM-06	TRANSAMERICA MGT	355634	TRANSAMERICA SUNBELT GROWTH FUND INC
3403	IM-06	TREMONT PARTNERS	851971	TREMONT SELECT FUNDS
3404	IM-06	TWENTIETH CNTRY	814680	TCI PORTFOLIOS INC
3405	IM-06	UNION CENTRAL	743773	CARILLON FUND INC
3406	IM-06	USGI	052768	ASSOCIATION FOR INVESTMENT IN U S GUARANTEED ASSETS INC
3407	IM-06	WEITZ	840203	WEITZ SERIES FUND INC
3408	IM-06	WEITZ	789268	WEITZ VALUE FUND INC
3409	IM-06	WESTERN RES LIFE	778207	WRL SERIES FUND INC
3410	IM-06	WESTERN RESERVE	778209	WRL SERIES LIFE ACCOUNT

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS

Count	Group	Complex	CIK	Name
1	IM-01	MERRILL LYNCH	352545	CORPORATE INCOME FUND ONE HUNDRED FOURTEENTH SHORT TERM SERIES
2	IM-01	MERRILL LYNCH	722750	CORPORATE INCOME FD ONE HUNDRED SEVENTY SEVENTH MON PAY SER
3	IM-01	MERRILL LYNCH	723075	CORPORATE INCOME FD TWO HUNDRED THIRTY FIRST SHORT TERM SER
4	IM-01	MERRILL LYNCH	782395	CORPORATE INCOME FUND CASH OR ACCRETION BOND SERIES-10
5	IM-01	MERRILL LYNCH	201571	CORPORATE INCOME FUND EIGHTH PREFERRED STOCK SERIES
6	IM-01	MERRILL LYNCH	277324	CORPORATE INCOME FUND EIGHTIETH MONTHLY PAYMENT SERIES
7	IM-01	MERRILL LYNCH	311411	CORPORATE INCOME FUND EIGHTY EIGHTH MONTHLY PAYMENT SERIES
8	IM-01	MERRILL LYNCH	310701	CORPORATE INCOME FUND EIGHTY FIFTH MONTHLY PAYMENT SERIES
9	IM-01	MERRILL LYNCH	277583	CORPORATE INCOME FUND EIGHTY FIRST MONTHLY PAYMENT SERIES
10	IM-01	MERRILL LYNCH	310586	CORPORATE INCOME FUND EIGHTY FOURTH MONTHLY PAYMENT SERIES
11	IM-01	MERRILL LYNCH	311413	CORPORATE INCOME FUND EIGHTY NINTH MONTHLY PAYMENT SERIES
12	IM-01	MERRILL LYNCH	278273	CORPORATE INCOME FUND EIGHTY SECOND MONTHLY PAYMENT SERIES
13	IM-01	MERRILL LYNCH	311311	CORPORATE INCOME FUND EIGHTY SEVENTH MONTHLY PAYMENT SERIES
14	IM-01	MERRILL LYNCH	310977	CORPORATE INCOME FUND EIGHTY SIXTH MONTHLY PAYMENT SERIES
15	IM-01	MERRILL LYNCH	310193	CORPORATE INCOME FUND EIGHTY THIRD MONTHLY PAYMENT SERIES
16	IM-01	MERRILL LYNCH	225213	CORPORATE INCOME FUND ELEVENTH PREFERRED STOCK SERIES
17	IM-01	MERRILL LYNCH	740835	CORPORATE INCOME FUND FIFTH GNMA COLLATERALIZED BOND SERIES
18	IM-01	MERRILL LYNCH	782050	CORPORATE INCOME FUND FIFTH INSURED SERIES
19	IM-01	MERRILL LYNCH	758121	CORPORATE INCOME FUND FIFTH PREFERRED STOCK PUT SERIES
20	IM-01	MERRILL LYNCH	024844	CORPORATE INCOME FUND FIFTH PREFERRED STOCK SERIES
21	IM-01	MERRILL LYNCH	205211	CORPORATE INCOME FUND FIFTIETH MONTHLY PAYMENT SERIES
22	IM-01	MERRILL LYNCH	215567	CORPORATE INCOME FUND FIFTY EIGHTH MONTHLY PAYMENT SERIES
23	IM-01	MERRILL LYNCH	215546	CORPORATE INCOME FUND FIFTY FIRST MONTHLY PAYMENT SERIES
24	IM-01	MERRILL LYNCH	215549	CORPORATE INCOME FUND FIFTY FOURTH MONTHLY PAYMENT SERIES
25	IM-01	MERRILL LYNCH	215550	CORPORATE INCOME FUND FIFTY NINTH MONTHLY PAYMENT SERIES
26	IM-01	MERRILL LYNCH	215552	CORPORATE INCOME FUND FIFTY SECOND MONTHLY PAYMENT SERIES
27	IM-01	MERRILL LYNCH	215566	CORPORATE INCOME FUND FIFTY SEVENTH MONTHLY PAYMENT SERIES
28	IM-01	MERRILL LYNCH	215553	CORPORATE INCOME FUND FIFTY SIXTH MONTHLY PAYMENT SERIES
29	IM-01	MERRILL LYNCH	215554	CORPORATE INCOME FUND FIFTY THIRD MONTHLY PAYMENT SERIES
30	IM-01	MERRILL LYNCH	275270	CORPORATE INCOME FUND FIRST GNMA COLLATERALIZED BOND SERIES
31	IM-01	MERRILL LYNCH	827011	CORPORATE INCOME FUND FIRST INSURED SERIES/NEW
32	IM-01	MERRILL LYNCH	024873	CORPORATE INCOME FUND FORTIETH MONTHLY PAYMENT SERIES
33	IM-01	MERRILL LYNCH	024873	CORPORATE INCOME FUND FORTIETH MONTHLY PAYMENT SERIES
34	IM-01	MERRILL LYNCH	201563	CORPORATE INCOME FUND FORTY FIRST MONTHLY PAYMENT SERIES
35	IM-01	MERRILL LYNCH	737787	CORPORATE INCOME FUND FOURTH GNMA COLLAT- ERALIZED BOND SERIES
36	IM-01	MERRILL LYNCH	782049	CORPORATE INCOME FUND FOURTH INSURED SERIES
37	IM-01	MERRILL LYNCH	024851	CORPORATE INCOME FUND FOURTH PREFERRED STOCK SERIES
38	IM-01	MERRILL LYNCH	847299	CORPORATE INCOME FUND HIGH YIELD PRINCIPAL INSURED SER 1A
39	IM-01	MERRILL LYNCH	797678	CORPORATE INCOME FUND HIGH YIELD SERIES 1
40	IM-01	MERRILL LYNCH	805063	CORPORATE INCOME FUND HIGH YIELD SERIES 11
41	IM-01	MERRILL LYNCH	805064	CORPORATE INCOME FUND HIGH YIELD SERIES 12
42	IM-01	MERRILL LYNCH	805065	CORPORATE INCOME FUND HIGH YIELD SERIES 13
43	IM-01	MERRILL LYNCH	805066	CORPORATE INCOME FUND HIGH YIELD SERIES 14
44	IM-01	MERRILL LYNCH	805067	CORPORATE INCOME FUND HIGH YIELD SERIES 15
45	IM-01	MERRILL LYNCH	805068	CORPORATE INCOME FUND HIGH YIELD SERIES 16
46	IM-01	MERRILL LYNCH	805069	CORPORATE INCOME FUND HIGH YIELD SERIES 17
47	IM-01	MERRILL LYNCH	805070	CORPORATE INCOME FUND HIGH YIELD SERIES 18
48	IM-01	MERRILL LYNCH	805071	CORPORATE INCOME FUND HIGH YIELD SERIES 19
49	IM-01	MERRILL LYNCH	805073	CORPORATE INCOME FUND HIGH YIELD SERIES 20
50	IM-01	MERRILL LYNCH	805075	CORPORATE INCOME FUND HIGH YIELD SERIES 21
51	IM-01	MERRILL LYNCH	805077	CORPORATE INCOME FUND HIGH YIELD SERIES 22
52	IM-01	MERRILL LYNCH	805078	CORPORATE INCOME FUND HIGH YIELD SERIES 23
53	IM-01	MERRILL LYNCH	805079	CORPORATE INCOME FUND HIGH YIELD SERIES 24

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
54	IM-01	MERRILL LYNCH	805081	CORPORATE INCOME FUND HIGH YIELD SERIES 25
55	IM-01	MERRILL LYNCH	805082	CORPORATE INCOME FUND HIGH YIELD SERIES 26
56	IM-01	MERRILL LYNCH	805083	CORPORATE INCOME FUND HIGH YIELD SERIES 27
57	IM-01	MERRILL LYNCH	805085	CORPORATE INCOME FUND HIGH YIELD SERIES 28
58	IM-01	MERRILL LYNCH	805087	CORPORATE INCOME FUND HIGH YIELD SERIES 29
59	IM-01	MERRILL LYNCH	799247	CORPORATE INCOME FUND MERRILL LYNCH GUAR INVT CONT SER 1
60	IM-01	MERRILL LYNCH	805047	CORPORATE INCOME FUND MERRILL LYNCH GUAR INVT CONT SER 3
61	IM-01	MERRILL LYNCH	215556	CORPORATE INCOME FUND NINETEENTH INTERMEDIATE TERM SERIES
62	IM-01	MERRILL LYNCH	311709	CORPORATE INCOME FUND NINETIETH MONTHLY PAYMENT SERIES
63	IM-01	MERRILL LYNCH	314604	CORPORATE INCOME FUND NINETY EIGHTH MONTHLY PAYMENT SERIES
64	IM-01	MERRILL LYNCH	313784	CORPORATE INCOME FUND NINETY FIFTH MONTHLY PAYMENT SERIES
65	IM-01	MERRILL LYNCH	311977	CORPORATE INCOME FUND NINETY FIRST MONTHLY PAYMENT SERIES
66	IM-01	MERRILL LYNCH	314880	CORPORATE INCOME FUND NINETY NINTH MONTHLY PAYMENT SERIES
67	IM-01	MERRILL LYNCH	312230	CORPORATE INCOME FUND NINETY SECOND MONTHLY PAYMENT SERIES
68	IM-01	MERRILL LYNCH	314385	CORPORATE INCOME FUND NINETY SEVENTH MONTHLY PAYMENT SERIES
69	IM-01	MERRILL LYNCH	313272	CORPORATE INCOME FUND NINETY THIRD MONTHLY PAYMENT SERIES
70	IM-01	MERRILL LYNCH	843851	CORPORATE INCOME FUND NINTH INSURED SERIES
71	IM-01	MERRILL LYNCH	215557	CORPORATE INCOME FUND NINTH PREFERRED STOCK SERIES
72	IM-01	MERRILL LYNCH	320546	CORPORATE INCOME FUND ONE HUNDRED EIGHTEENTH MONTHLY PAYMENT
73	IM-01	MERRILL LYNCH	316241	CORPORATE INCOME FUND ONE HUNDRED EIGHTH MONTHLY PAYMENT SER
74	IM-01	MERRILL LYNCH	726841	CORPORATE INCOME FUND ONE HUNDRED EIGHTIETH MON PYMT SER
75	IM-01	MERRILL LYNCH	738713	CORPORATE INCOME FUND ONE HUNDRED EIGHTY EIGHTH MON PYMT SER
76	IM-01	MERRILL LYNCH	735580	CORPORATE INCOME FUND ONE HUNDRED EIGHTY FIFTH MON PYMT SE
77	IM-01	MERRILL LYNCH	729115	CORPORATE INCOME FUND ONE HUNDRED EIGHTY FIRST MON PYMT SE
78	IM-01	MERRILL LYNCH	732744	CORPORATE INCOME FUND ONE HUNDRED EIGHTY FOURTH MON PYMT SE
79	IM-01	MERRILL LYNCH	741519	CORPORATE INCOME FUND ONE HUNDRED EIGHTY NINTH MON PYMT SE
80	IM-01	MERRILL LYNCH	730005	CORPORATE INCOME FUND ONE HUNDRED EIGHTY SECOND MON PYMT SER
81	IM-01	MERRILL LYNCH	739262	CORPORATE INCOME FUND ONE HUNDRED EIGHTY SEVENTH MON PYMT SE
82	IM-01	MERRILL LYNCH	736443	CORPORATE INCOME FUND ONE HUNDRED EIGHTY SIXTH MON PYMT SE
83	IM-01	MERRILL LYNCH	315612	CORPORATE INCOME FUND ONE HUNDRED ELEVENTH MONTHLY PAYMENT S
84	IM-01	MERRILL LYNCH	315701	CORPORATE INCOME FUND ONE HUNDRED FIFTH MONTHLY PAYMENT SERI
85	IM-01	MERRILL LYNCH	702293	CORPORATE INCOME FUND ONE HUNDRED FIFTIETH MONTHLY PYMT SE
86	IM-01	MERRILL LYNCH	706046	CORPORATE INCOME FUND ONE HUNDRED FIFTY EIGHTH MONTHLY PAYME
87	IM-01	MERRILL LYNCH	704505	CORPORATE INCOME FUND ONE HUNDRED FIFTY FIFTH MON PYMT SE
88	IM-01	MERRILL LYNCH	702526	CORPORATE INCOME FUND ONE HUNDRED FIFTY FIRST MON PYMT SE
89	IM-01	MERRILL LYNCH	703894	CORPORATE INCOME FUND ONE HUNDRED FIFTY FOURTH MON PYMT SE
90	IM-01	MERRILL LYNCH	706119	CORPORATE INCOME FUND ONE HUNDRED FIFTY NINTH MONTHLY PAYMENT
91	IM-01	MERRILL LYNCH	703283	CORPORATE INCOME FUND ONE HUNDRED FIFTY SECOND MONTHLY PAYMENT
92	IM-01	MERRILL LYNCH	705975	CORPORATE INCOME FUND ONE HUNDRED FIFTY SEVENTH MON PYMT SER
93	IM-01	MERRILL LYNCH	705400	CORPORATE INCOME FUND ONE HUNDRED FIFTY SIXTH MON PYMT SER
94	IM-01	MERRILL LYNCH	703662	CORPORATE INCOME FUND ONE HUNDRED FIFTY THIRD MON PYMT SER
95	IM-01	MERRILL LYNCH	356600	CORPORATE INCOME FUND ONE HUNDRED FORTIETH MON PYMT SER
96	IM-01	MERRILL LYNCH	700779	CORPORATE INCOME FUND ONE HUNDRED FORTY EIGHT MONTHLY PYMENT
97	IM-01	MERRILL LYNCH	700867	CORPORATE INCOME FUND ONE HUNDRED FORTY EIGHTH MON PYMT SER
98	IM-01	MERRILL LYNCH	357228	CORPORATE INCOME FUND ONE HUNDRED FORTY FIFTH MON PYMT SER
99	IM-01	MERRILL LYNCH	356482	CORPORATE INCOME FUND ONE HUNDRED FORTY FIRST MON PYMT SER
100	IM-01	MERRILL LYNCH	356987	CORPORATE INCOME FUND ONE HUNDRED FORTY FOURTH MON PYMT SER
101	IM-01	MERRILL LYNCH	702138	CORPORATE INCOME FUND ONE HUNDRED FORTY NINTH MON PYMT SER
102	IM-01	MERRILL LYNCH	356679	CORPORATE INCOME FUND ONE HUNDRED FORTY SECOND MON PYMT SER
103	IM-01	MERRILL LYNCH	700745	CORPORATE INCOME FUND ONE HUNDRED FORTY SEVENTH MON PYMT SER
104	IM-01	MERRILL LYNCH	357290	CORPORATE INCOME FUND ONE HUNDRED FORTY SIXTH MON PYMT SER
105	IM-01	MERRILL LYNCH	356930	CORPORATE INCOME FUND ONE HUNDRED FORTY THIRD MON PYMT SER
106	IM-01	MERRILL LYNCH	316646	CORPORATE INCOME FUND ONE HUNDRED FOURTH MONTHLY PAYMENT SER
107	IM-01	MERRILL LYNCH	350479	CORPORATE INCOME FUND ONE HUNDRED NINETEENTH MONTHLY PAYMENT
108	IM-01	MERRILL LYNCH	742460	CORPORATE INCOME FUND ONE HUNDRED NINETIETH MONTHLY PAYMENT
109	IM-01	MERRILL LYNCH	748652	CORPORATE INCOME FUND ONE HUNDRED NINETY EIGHTH MON PYMT SER
110	IM-01	MERRILL LYNCH	746557	CORPORATE INCOME FUND ONE HUNDRED NINETY FIFTH MON PYMT SER
111	IM-01	MERRILL LYNCH	744101	CORPORATE INCOME FUND ONE HUNDRED NINETY FIRST MON PYMT SER
112	IM-01	MERRILL LYNCH	745485	CORPORATE INCOME FUND ONE HUNDRED NINETY FOURTH MON PYMT SER
113	IM-01	MERRILL LYNCH	749758	CORPORATE INCOME FUND ONE HUNDRED NINETY NINTH MON PYMT SER
114	IM-01	MERRILL LYNCH	744188	CORPORATE INCOME FUND ONE HUNDRED NINETY SECOND MON PYMT SER
115	IM-01	MERRILL LYNCH	748638	CORPORATE INCOME FUND ONE HUNDRED NINETY SEVENTH MON PYMT SE
116	IM-01	MERRILL LYNCH	747731	CORPORATE INCOME FUND ONE HUNDRED NINETY SIXTH MON PYMT SER
117	IM-01	MERRILL LYNCH	745365	CORPORATE INCOME FUND ONE HUNDRED NINETY THIRD MON PYMT SER
118	IM-01	MERRILL LYNCH	316242	CORPORATE INCOME FUND ONE HUNDRED NINTH MONTHLY PAYMENT SERI
119	IM-01	MERRILL LYNCH	316503	CORPORATE INCOME FUND ONE HUNDRED SECOND MONTHLY PAYMENT SER
120	IM-01	MERRILL LYNCH	000026	CORPORATE INCOME FUND ONE HUNDRED SEVENTEENTH MONTHLY PAYMEN
121	IM-01	MERRILL LYNCH	316219	CORPORATE INCOME FUND ONE HUNDRED SEVENTH MONTHLY PAYMENT SE
122	IM-01	MERRILL LYNCH	351382	CORPORATE INCOME FUND ONE HUNDRED SEVENTH SHOR TERM SERIES
123	IM-01	MERRILL LYNCH	715271	CORPORATE INCOME FUND ONE HUNDRED SEVENTIETH MONTHLY PAYMENT
124	IM-01	MERRILL LYNCH	723743	CORPORATE INCOME FUND ONE HUNDRED SEVENTY EIGHTH MON PYMT SE
125	IM-01	MERRILL LYNCH	719434	CORPORATE INCOME FUND ONE HUNDRED SEVENTY FIFTH MON PYMT SER
126	IM-01	MERRILL LYNCH	715757	CORPORATE INCOME FUND ONE HUNDRED SEVENTY FIRST MON PAY SER
127	IM-01	MERRILL LYNCH	718549	CORPORATE INCOME FUND ONE HUNDRED SEVENTY FOURTH MON PAY SER
128	IM-01	MERRILL LYNCH	716406	CORPORATE INCOME FUND ONE HUNDRED SEVENTY SECOND MON PAY SER
129	IM-01	MERRILL LYNCH	722417	CORPORATE INCOME FUND ONE HUNDRED SEVENTY SIXTH MON PAY SER
130	IM-01	MERRILL LYNCH	717302	CORPORATE INCOME FUND ONE HUNDRED SEVENTY THIRD MON PAY SER
131	IM-01	MERRILL LYNCH	320013	CORPORATE INCOME FUND ONE HUNDRED SIXTEENTH MONTHLY PAYMENT
132	IM-01	MERRILL LYNCH	317037	CORPORATE INCOME FUND ONE HUNDRED SIXTH MONTHLY PAYMENT SERI
133	IM-01	MERRILL LYNCH	712747	CORPORATE INCOME FUND ONE HUNDRED SIXTY EIGHTH MON PAY SER
134	IM-01	MERRILL LYNCH	709366	CORPORATE INCOME FUND ONE HUNDRED SIXTY FIFTH MON PYMT SER
135	IM-01	MERRILL LYNCH	707227	CORPORATE INCOME FUND ONE HUNDRED SIXTY FIRST MONTHLY PAYMEN

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
136	IM-01	MERRILL LYNCH	706827	CORPORATE INCOME FUND ONE HUNDRED SIXTY FOURTH MON PYMT SER
137	IM-01	MERRILL LYNCH	715067	CORPORATE INCOME FUND ONE HUNDRED SIXTY NINTH MON PYMT SER
138	IM-01	MERRILL LYNCH	707797	CORPORATE INCOME FUND ONE HUNDRED SIXTY SECOND MON PYMT SER
139	IM-01	MERRILL LYNCH	711318	CORPORATE INCOME FUND ONE HUNDRED SIXTY SEVENTH MON PYMT SER
140	IM-01	MERRILL LYNCH	710773	CORPORATE INCOME FUND ONE HUNDRED SIXTY SIXTH MON PYMT SER
141	IM-01	MERRILL LYNCH	708129	CORPORATE INCOME FUND ONE HUNDRED SIXTY THIRD MONTHLY PAYMENT
142	IM-01	MERRILL LYNCH	315611	CORPORATE INCOME FUND ONE HUNDRED TENTH MONTHLY PAYMENT SERI
143	IM-01	MERRILL LYNCH	316532	CORPORATE INCOME FUND ONE HUNDRED THIRD MONTHLY PAYMENT SERI
144	IM-01	MERRILL LYNCH	315518	CORPORATE INCOME FUND ONE HUNDRED THIRTEENTH MONTHLY PAYMENT
145	IM-01	MERRILL LYNCH	356138	CORPORATE INCOME FUND ONE HUNDRED THIRTY EIGHTH MONTHLY PAYM
146	IM-01	MERRILL LYNCH	355857	CORPORATE INCOME FUND ONE HUNDRED THIRTY FIFTH MON PYMT SER
147	IM-01	MERRILL LYNCH	355881	CORPORATE INCOME FUND ONE HUNDRED THIRTY FIFTH MONTLY PAYMEN
148	IM-01	MERRILL LYNCH	356154	CORPORATE INCOME FUND ONE HUNDRED THIRTY NINTH MON PYMT SER
149	IM-01	MERRILL LYNCH	355956	CORPORATE INCOME FUND ONE HUNDRED THIRTY SEVENTH MONTHLY PAY
150	IM-01	MERRILL LYNCH	355922	CORPORATE INCOME FUND ONE HUNDRED THIRTY SEVENTH PAYMT SERIE
151	IM-01	MERRILL LYNCH	355929	CORPORATE INCOME FUND ONE HUNDRED THIRTY SIXTH MON PYMT SER
152	IM-01	MERRILL LYNCH	315770	CORPORATE INCOME FUND ONE HUNDRED TWELFTH MONTHLY PAYMENT SE
153	IM-01	MERRILL LYNCH	350829	CORPORATE INCOME FUND ONE HUNDRED TWENTIETH MONTHLY PAYMENT
154	IM-01	MERRILL LYNCH	352614	CORPORATE INCOME FUND ONE HUNDRED TWENTY FIFTH MON PYMT SER
155	IM-01	MERRILL LYNCH	353884	CORPORATE INCOME FUND ONE HUNDRED TWENTY FIRST MONTHLY PAYME
156	IM-01	MERRILL LYNCH	352380	CORPORATE INCOME FUND ONE HUNDRED TWENTY FOURTH MON PYMT SER
157	IM-01	MERRILL LYNCH	351117	CORPORATE INCOME FUND ONE HUNDRED TWENTY NINTH MON PYMT SER
158	IM-01	MERRILL LYNCH	351714	CORPORATE INCOME FUND ONE HUNDRED TWENTY SECOND MON PYMT SER
159	IM-01	MERRILL LYNCH	353576	CORPORATE INCOME FUND ONE HUNDRED TWENTY SIXTH MONTHLY PAYME
160	IM-01	MERRILL LYNCH	352005	CORPORATE INCOME FUND ONE HUNDRED TWENTY THIRD MON PYMT SER
161	IM-01	MERRILL LYNCH	314867	CORPORATE INCOME FUND ONE HUNDREDTH MONTHLY PAYMENT SERIES
162	IM-01	MERRILL LYNCH	745053	CORPORATE INCOME FUND SECOND GNMA COLLATERALIZED BOND SERIES
163	IM-01	MERRILL LYNCH	782040	CORPORATE INCOME FUND SECOND INSURED SERIES
164	IM-01	MERRILL LYNCH	024855	CORPORATE INCOME FUND SECOND PREFERRED STOCK SERIES
165	IM-01	MERRILL LYNCH	782398	CORPORATE INCOME FUND SELECT SERIES 13
166	IM-01	MERRILL LYNCH	782399	CORPORATE INCOME FUND SELECT SERIES 14
167	IM-01	MERRILL LYNCH	215558	CORPORATE INCOME FUND SEVENTEENTH INTERMEDIATE TERM SERIES
168	IM-01	MERRILL LYNCH	863733	CORPORATE INCOME FUND SEVENTH INSURED SERIES
169	IM-01	MERRILL LYNCH	201570	CORPORATE INCOME FUND SEVENTH PREFERRED STOCK SERIES
170	IM-01	MERRILL LYNCH	276454	CORPORATE INCOME FUND SEVENTY EIGHTH MONTHLY PAYMENT SERIES
171	IM-01	MERRILL LYNCH	275267	CORPORATE INCOME FUND SEVENTY FIFTH MONTHLY PAYMENT SERIES
172	IM-01	MERRILL LYNCH	275268	CORPORATE INCOME FUND SEVENTY FOURTH MONTHLY PAYMENT SERIES
173	IM-01	MERRILL LYNCH	276847	CORPORATE INCOME FUND SEVENTY NINTH MONTHLY PAYMENT SERIES
174	IM-01	MERRILL LYNCH	230146	CORPORATE INCOME FUND SEVENTY SECOND MONTHLY PAYMENT SERIES
175	IM-01	MERRILL LYNCH	276224	CORPORATE INCOME FUND SEVENTY SEVENTH MONTHLY PAYMENT SERIES
176	IM-01	MERRILL LYNCH	275269	CORPORATE INCOME FUND SEVENTY SIXTH MONTHLY PAYMENT SERIES
177	IM-01	MERRILL LYNCH	743526	CORPORATE INCOME FUND SIXTH GNMA COLLATERALIZED BOND SERIES
178	IM-01	MERRILL LYNCH	843452	CORPORATE INCOME FUND SIXTH INSURED SERIES
179	IM-01	MERRILL LYNCH	024896	CORPORATE INCOME FUND SIXTH PREFERRED STOCK SERIES
180	IM-01	MERRILL LYNCH	215560	CORPORATE INCOME FUND SIXTIETH MONTHLY PAYMENT SERIES
181	IM-01	MERRILL LYNCH	225215	CORPORATE INCOME FUND SIXTY EIGHTH MONTHLY PAYMENT SERIES
182	IM-01	MERRILL LYNCH	225216	CORPORATE INCOME FUND SIXTY FIFTH MONTHLY PAYMENT SERIES
183	IM-01	MERRILL LYNCH	225217	CORPORATE INCOME FUND SIXTY FOURTH MONTHLY PAYMENT SERIES
184	IM-01	MERRILL LYNCH	225218	CORPORATE INCOME FUND SIXTY NINTH MONTHLY PAYMENT SERIES
185	IM-01	MERRILL LYNCH	215562	CORPORATE INCOME FUND SIXTY SECOND MONTHLY PAYMENT SERIES
186	IM-01	MERRILL LYNCH	225220	CORPORATE INCOME FUND SIXTY SIXTH MONTHLY PAYMENT SERIES
187	IM-01	MERRILL LYNCH	215564	CORPORATE INCOME FUND TENTH PREFERRED STOCK SERIES
188	IM-01	MERRILL LYNCH	725019	CORPORATE INCOME FUND THIRD GNMA COLLATERALIZED BOND SERIES
189	IM-01	MERRILL LYNCH	782041	CORPORATE INCOME FUND THIRD INSURED SERIES
190	IM-01	MERRILL LYNCH	024863	CORPORATE INCOME FUND THIRD PREFERRED STOCK SERIES
191	IM-01	MERRILL LYNCH	201561	CORPORATE INCOME FUND THIRTY EIGHTH MONTHLY PAYMENT SERIES
192	IM-01	MERRILL LYNCH	024893	CORPORATE INCOME FUND THIRTY FIFTH MONTHLY PAYMENT SERIES
193	IM-01	MERRILL LYNCH	024893	CORPORATE INCOME FUND THIRTY FIFTH MONTHLY PAYMENT SERIES
194	IM-01	MERRILL LYNCH	024892	CORPORATE INCOME FUND THIRTY FOURTH MONTHLY PAYMENT SERIES
195	IM-01	MERRILL LYNCH	024892	CORPORATE INCOME FUND THIRTY FOURTH MONTHLY PAYMENT SERIES
196	IM-01	MERRILL LYNCH	201562	CORPORATE INCOME FUND THIRTY NINTH MONTHLY PAYMENT SERIES
197	IM-01	MERRILL LYNCH	024891	CORPORATE INCOME FUND THIRTY THIRD MONTHLY PAYMENT SERIES
198	IM-01	MERRILL LYNCH	024891	CORPORATE INCOME FUND THIRTY THIRD MONTHLY PAYMENT SERIES
199	IM-01	MERRILL LYNCH	024867	CORPORATE INCOME FUND TWENTY EIGHTH MONTHLY PAYMENT SERIES
200	IM-01	MERRILL LYNCH	024867	CORPORATE INCOME FUND TWENTY EIGHTH MONTHLY PAYMENT SERIES
201	IM-01	MERRILL LYNCH	312229	CORPORATE INCOME FUND TWENTY FIFTH INTERMEDIATE TERM SERIES
202	IM-01	MERRILL LYNCH	276910	CORPORATE INCOME FUND TWENTY FIFTH MONTHLY PAYMENT SERIES
203	IM-01	MERRILL LYNCH	225222	CORPORATE INCOME FUND TWENTY FIRST INTERMEDIATE TERM SERIES
204	IM-01	MERRILL LYNCH	024868	CORPORATE INCOME FUND TWENTY FOURTH MONTHLY PAYMENT SERIES
205	IM-01	MERRILL LYNCH	810562	CORPORATE INCOME FUND TWENTY SECOND INTERMEDIATE TERM SERIES
206	IM-01	MERRILL LYNCH	230145	CORPORATE INCOME FUND TWENTY THIRD INTERMEDIATE TERM SERIES
207	IM-01	MERRILL LYNCH	841078	CORPORATE INCOME FUND TWO HUNDRED FORTY FOURTH SHORT TERM SE
208	IM-01	MERRILL LYNCH	841079	CORPORATE INCOME FUND TWO HUNDRED FORTY THIRD SHORT TERM SER
209	IM-01	MERRILL LYNCH	750037	CORPORATE INCOME FUND TWO HUNDREDTH MONTHLY PAYMENT SERIES
210	IM-01	MERRILL LYNCH	024906	CORPORATE INVESTMENT TRUST FUND FIRST MONTHLY PAYMENT SERIE
211	IM-01	MERRILL LYNCH	740150	CORPORATED INCOME FUND SIXTH ADJUSTABLE RATE PREFERRED STOCK
212	IM-01	MERRILL LYNCH	869723	CREDIT LYONNAIS AUSTRALIAN MORTGAGELINK LTD
213	IM-01	MERRILL LYNCH	847150	DEFINED ASS TR CORP INC FD EQUITY PARTICIP NOTE SER GER TR
214	IM-01	MERRILL LYNCH	718875	DEFINED ASSET FDS CORP INC FD ADJUST RATE PREF STK SER 1
215	IM-01	MERRILL LYNCH	731771	DEFINED ASSET FDS CORP INC FD GNMA COLLAT COMPD INT BD SER A
216	IM-01	MERRILL LYNCH	805048	DEFINED ASSET FDS CORP INCOME FD HIGH YIELD TRUST SER 1
217	IM-01	MERRILL LYNCH	843849	DEFINED ASSET FDS CORP INCOME FD PRIN INSURED TRUST SER 1

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
218	IM-01	MERRILL LYNCH	847152	DEFINED ASSET FDS CORP INCOME FD SELECT HIGH YIELD SER 1
219	IM-01	MERRILL LYNCH	719365	DEFINED ASSET FDS CORPORATE INCOME FD SEVENTH GNMA COL BD SE
220	IM-01	MERRILL LYNCH	843852	DEFINED ASSET FDS CORPORATE INCOME FD TENTH INSURED SERIES
221	IM-01	MERRILL LYNCH	854568	DEFINED ASSET FDS EQTY INC FD INV PHIL SER 1992 SEL IND POR1
222	IM-01	MERRILL LYNCH	885530	DEFINED ASSET FDS EQTY INC FD INVT PHI SER 1992 SEL IND PO 2
223	IM-01	MERRILL LYNCH	867404	DEFINED ASSET FDS EQTY INC FD SEL TEN PORT 1992 AUTUMN SER
224	IM-01	MERRILL LYNCH	351732	DEFINED ASSET FDS EQUITY INC FD S&P 500 INDEX FIRST MPS
225	IM-01	MERRILL LYNCH	891280	DEFINED ASSET FDS EQUITY INC FD SEL TEN PORT 1993 WINTER SER
226	IM-01	MERRILL LYNCH	854565	DEFINED ASSET FDS EQUITY INCOME FD CONCEPT SER REBLDG TRUST
227	IM-01	MERRILL LYNCH	854564	DEFINED ASSET FDS EQUITY INCOME FD CONCEPT SER TELE UTIL TR
228	IM-01	MERRILL LYNCH	854566	DEFINED ASSET FDS EQUITY INCOME FD INVT PHIL SER 1991 SEL IN
229	IM-01	MERRILL LYNCH	822634	DEFINED ASSET FDS EQUITY INCOME FD MERIT 1988 SER III
230	IM-01	MERRILL LYNCH	822635	DEFINED ASSET FDS EQUITY INCOME FD MERIT 1989 SER I
231	IM-01	MERRILL LYNCH	822637	DEFINED ASSET FDS EQUITY INCOME FD MERRILL LYNCH EQUITY TR 1
232	IM-01	MERRILL LYNCH	781820	DEFINED ASSET FDS GOV SEC INC FD MON PYMT US TREA SER 10
233	IM-01	MERRILL LYNCH	781824	DEFINED ASSET FDS GOV SEC INCOME FD MON PYMT US TREA SE 12
234	IM-01	MERRILL LYNCH	275472	DEFINED ASSET FDS GOVERNMENT SECURITIES INCOME FD GNMA SER3
235	IM-01	MERRILL LYNCH	781827	DEFINED ASSET FDS GOVT SEC INC FD MON PYMT U S TREA SER 14
236	IM-01	MERRILL LYNCH	781696	DEFINED ASSET FDS GOVT SEC INC FD MON PYMT U S TREAS SER 1
237	IM-01	MERRILL LYNCH	893109	DEFINED ASSET FDS GOVT SEC INC FD MON PYMT U S TREAS SER 15
238	IM-01	MERRILL LYNCH	893110	DEFINED ASSET FDS GOVT SEC INC FD MON PYMT U S TREAS SER 16
239	IM-01	MERRILL LYNCH	781751	DEFINED ASSET FDS GOVT SEC INC FD MON PYMT U S TREAS SER 2
240	IM-01	MERRILL LYNCH	781754	DEFINED ASSET FDS GOVT SEC INC FD MON PYMT U S TREAS SER 3
241	IM-01	MERRILL LYNCH	781758	DEFINED ASSET FDS GOVT SEC INC FD MON PYMT U S TREAS SER 4
242	IM-01	MERRILL LYNCH	828427	DEFINED ASSET FDS GOVT SEC INC FD MON PYMT U S TREAS SER 5
243	IM-01	MERRILL LYNCH	781765	DEFINED ASSET FDS GOVT SEC INC FD MON PYMT U S TREAS SER 6
244	IM-01	MERRILL LYNCH	781773	DEFINED ASSET FDS GOVT SEC INC FD MON PYMT U S TREAS SER 8
245	IM-01	MERRILL LYNCH	824466	DEFINED ASSET FDS GOVT SEC INC FD TREASURY ZERO SERIES 5
246	IM-01	MERRILL LYNCH	781762	DEFINED ASSET FDS GOVT SEC INC FD U S TREASURY GOLD SERIES 1
247	IM-01	MERRILL LYNCH	845859	DEFINED ASSET FDS GOVT SEC INC FD US GOVT ZERO COUP BD SER 3
248	IM-01	MERRILL LYNCH	706121	DEFINED ASSET FDS GOVT SEC INC FD US TREA ACC SER PYOT SER 1
249	IM-01	MERRILL LYNCH	890652	DEFINED ASSET FDS GOVT SEC INC FD US TREA STRATEGY TRUST 1
250	IM-01	MERRILL LYNCH	781766	DEFINED ASSET FDS GVT SECS INC FD US TREAS SER 7 LADD ZERO
251	IM-01	MERRILL LYNCH	853188	DEFINED ASSET FDS INTERNATIONAL BD FD CAN DOLLAR BDS SER 11
252	IM-01	MERRILL LYNCH	877103	DEFINED ASSET FDS INTERNATIONAL BD FD MULTI CURRENCY SER 24
253	IM-01	MERRILL LYNCH	825318	DEFINED ASSET FDS INTL BD FD AUS & NEW ZEA DOL BDS SER 26
254	IM-01	MERRILL LYNCH	819060	DEFINED ASSET FDS INTL BD FD AUS & NEW ZEA DOL BDS SER 28
255	IM-01	MERRILL LYNCH	819065	DEFINED ASSET FDS INTL BD FD AUS & NEW ZEA DOL BDS SER 32
256	IM-01	MERRILL LYNCH	819068	DEFINED ASSET FDS INTL BD FD AUS & NEW ZEA DOL BDS SER 35
257	IM-01	MERRILL LYNCH	853186	DEFINED ASSET FDS INTL BD FD AUS & NEW ZEA DOL BDS SER 42
258	IM-01	MERRILL LYNCH	880254	DEFINED ASSET FDS INTL BD FD AUS & NEW ZEA DOL BDS SER 44
259	IM-01	MERRILL LYNCH	853187	DEFINED ASSET FDS INTL BD FD AUS & NEW ZEAL DOL BDS SER 43
260	IM-01	MERRILL LYNCH	877065	DEFINED ASSET FDS INTL BD FD FIRST CIT OF AUS CRE LY AM SE 3
261	IM-01	MERRILL LYNCH	873440	DEFINED ASSET FDS INTL BD FD FIRST CIT OF AUS CRE LYO AML S2
262	IM-01	MERRILL LYNCH	852492	DEFINED ASSET FDS INTL BD FD FIRST CITIES AUS CRE LYN AUS MO
263	IM-01	MERRILL LYNCH	877323	DEFINED ASSET FDS INTL BOND FD AUSTRALIAN DOL BONDS SER 11
264	IM-01	MERRILL LYNCH	868519	DEFINED ASSET FDS MUN INVT TR FD NEW YORK INSURED SER 4
265	IM-01	MERRILL LYNCH	782092	DEFINED ASSET FDS MUN INVT TR FD NEW YORK INTERM TERM SER 1
266	IM-01	MERRILL LYNCH	859373	DEFINED ASSET FDS MUN INVT TR FD NEW YORK INTERM TERM SER 2
267	IM-01	MERRILL LYNCH	068921	DEFINED ASSET FDS MUNICIPAL INCOME FD INSURED DISCOUNT SER 1
268	IM-01	MERRILL LYNCH	858773	DEFINED ASSET FDS MUNICIPAL INVT TR FD AMT MON PYMT SER 10
269	IM-01	MERRILL LYNCH	858774	DEFINED ASSET FDS MUNICIPAL INVT TR FD AMT MON PYMT SER 11
270	IM-01	MERRILL LYNCH	858775	DEFINED ASSET FDS MUNICIPAL INVT TR FD AMT MON PYMT SER 12
271	IM-01	MERRILL LYNCH	858776	DEFINED ASSET FDS MUNICIPAL INVT TR FD AMT MON PYMT SER 13
272	IM-01	MERRILL LYNCH	858777	DEFINED ASSET FDS MUNICIPAL INVT TR FD AMT MON PYMT SER 14
273	IM-01	MERRILL LYNCH	858772	DEFINED ASSET FDS MUNICIPAL INVT TR FD AMT MON PYMT SER 9
274	IM-01	MERRILL LYNCH	743442	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 1
275	IM-01	MERRILL LYNCH	757105	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 10
276	IM-01	MERRILL LYNCH	763663	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 11
277	IM-01	MERRILL LYNCH	780457	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 12
278	IM-01	MERRILL LYNCH	781190	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 13
279	IM-01	MERRILL LYNCH	763761	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 14
280	IM-01	MERRILL LYNCH	764226	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 15
281	IM-01	MERRILL LYNCH	764830	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 16
282	IM-01	MERRILL LYNCH	766006	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 17
283	IM-01	MERRILL LYNCH	766303	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 18
284	IM-01	MERRILL LYNCH	766725	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 19
285	IM-01	MERRILL LYNCH	745998	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 2
286	IM-01	MERRILL LYNCH	767033	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 20
287	IM-01	MERRILL LYNCH	769062	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 21
288	IM-01	MERRILL LYNCH	769135	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 22
289	IM-01	MERRILL LYNCH	770717	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 23
290	IM-01	MERRILL LYNCH	771742	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 24
291	IM-01	MERRILL LYNCH	771977	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 25
292	IM-01	MERRILL LYNCH	773474	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 26
293	IM-01	MERRILL LYNCH	774626	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 27
294	IM-01	MERRILL LYNCH	775974	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 28
295	IM-01	MERRILL LYNCH	778443	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 29
296	IM-01	MERRILL LYNCH	750119	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 3
297	IM-01	MERRILL LYNCH	779816	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 30
298	IM-01	MERRILL LYNCH	780881	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 31
299	IM-01	MERRILL LYNCH	780886	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 32

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
300	IM-01	MERRILL LYNCH	780869	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 33
301	IM-01	MERRILL LYNCH	780893	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 34
302	IM-01	MERRILL LYNCH	750317	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 4
303	IM-01	MERRILL LYNCH	751221	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 5
304	IM-01	MERRILL LYNCH	751573	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 6
305	IM-01	MERRILL LYNCH	754045	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 7
306	IM-01	MERRILL LYNCH	755121	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 8
307	IM-01	MERRILL LYNCH	756869	DEFINED ASSET FDS MUNICIPAL INVT TR FD CALIF INSURED SER 9
308	IM-01	MERRILL LYNCH	786742	DEFINED ASSET FDS MUNICIPAL INVT TR FD FL INSURED SER 2
309	IM-01	MERRILL LYNCH	352561	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 1
310	IM-01	MERRILL LYNCH	701966	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 10
311	IM-01	MERRILL LYNCH	702530	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 11
312	IM-01	MERRILL LYNCH	703111	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 12
313	IM-01	MERRILL LYNCH	703523	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 13
314	IM-01	MERRILL LYNCH	704535	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 15
315	IM-01	MERRILL LYNCH	704898	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 16
316	IM-01	MERRILL LYNCH	705606	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 17
317	IM-01	MERRILL LYNCH	705596	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 18
318	IM-01	MERRILL LYNCH	708450	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 19
319	IM-01	MERRILL LYNCH	355982	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 2
320	IM-01	MERRILL LYNCH	708839	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 20
321	IM-01	MERRILL LYNCH	709279	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 21
322	IM-01	MERRILL LYNCH	711317	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 22
323	IM-01	MERRILL LYNCH	722053	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 23
324	IM-01	MERRILL LYNCH	356042	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 3
325	IM-01	MERRILL LYNCH	356688	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 4
326	IM-01	MERRILL LYNCH	775300	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 5
327	IM-01	MERRILL LYNCH	357137	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 6
328	IM-01	MERRILL LYNCH	357164	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 7
329	IM-01	MERRILL LYNCH	700734	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 8
330	IM-01	MERRILL LYNCH	700737	DEFINED ASSET FDS MUNICIPAL INVT TR FD FLOATING RATE SER 9
331	IM-01	MERRILL LYNCH	741616	DEFINED ASSET FDS MUNICIPAL INVT TR FD NEW YORK INS SER 1
332	IM-01	MERRILL LYNCH	743276	DEFINED ASSET FDS MUNICIPAL INVT TR FD NEW YORK INS SER 2
333	IM-01	MERRILL LYNCH	745473	DEFINED ASSET FDS MUNICIPAL INVT TR FD NEW YORK INS SER 3
334	IM-01	MERRILL LYNCH	803626	DEFINED ASSET FDS MUNICIPAL INVT TRUST FUND INSURED SER 170
335	IM-01	MERRILL LYNCH	786264	DEFINED ASSET FDS STRIPPED ZERO US TREA SEC FD PROV MUTUAL A
336	IM-01	MERRILL LYNCH	781815	DEFINED ASSET FUND CORPORATE INCOME FUND MON PYMT SER 310
337	IM-01	MERRILL LYNCH	751575	DEFINED ASSET FUNDS CORP INC FD CASH OR ACCRETION BD SER 1
338	IM-01	MERRILL LYNCH	782396	DEFINED ASSET FUNDS CORP INC FD CASH OR ACCRETION BD SER 11
339	IM-01	MERRILL LYNCH	760736	DEFINED ASSET FUNDS CORP INC FD CASH OR ACCRETION BD SER 2
340	IM-01	MERRILL LYNCH	761195	DEFINED ASSET FUNDS CORP INC FD CASH OR ACCRETION BD SER 3
341	IM-01	MERRILL LYNCH	779322	DEFINED ASSET FUNDS CORP INC FD CASH OR ACCRETION BD SER 4
342	IM-01	MERRILL LYNCH	780405	DEFINED ASSET FUNDS CORP INC FD CASH OR ACCRETION BD SER 5
343	IM-01	MERRILL LYNCH	782391	DEFINED ASSET FUNDS CORP INC FD CASH OR ACCRETION BD SER 6
344	IM-01	MERRILL LYNCH	782392	DEFINED ASSET FUNDS CORP INC FD CASH OR ACCRETION BD SER 7
345	IM-01	MERRILL LYNCH	782393	DEFINED ASSET FUNDS CORP INC FD CASH OR ACCRETION BD SER 8
346	IM-01	MERRILL LYNCH	782394	DEFINED ASSET FUNDS CORP INC FD CASH OR ACCRETION BD SER 9
347	IM-01	MERRILL LYNCH	702529	DEFINED ASSET FUNDS CORP INCOME FUND PREF STOCK PUT SER 1
348	IM-01	MERRILL LYNCH	741673	DEFINED ASSET FUNDS CORP INCOME FUND PREF STOCK PUT SER 2
349	IM-01	MERRILL LYNCH	758347	DEFINED ASSET FUNDS CORP INCOME FUND PREF STOCK PUT SER 3
350	IM-01	MERRILL LYNCH	758345	DEFINED ASSET FUNDS CORP INCOME FUND PREF STOCK PUT SER 4
351	IM-01	MERRILL LYNCH	768987	DEFINED ASSET FUNDS CORP INCOME FUND PREF STOCK PUT SER 6
352	IM-01	MERRILL LYNCH	723447	DEFINED ASSET FUNDS CORPORATE INC FD ADJ RATE PFD STK SER 2
353	IM-01	MERRILL LYNCH	726850	DEFINED ASSET FUNDS CORPORATE INC FD ADJ RATE PFD STK SER 3
354	IM-01	MERRILL LYNCH	735834	DEFINED ASSET FUNDS CORPORATE INC FD ADJ RATE PFD STK SER 4
355	IM-01	MERRILL LYNCH	893155	DEFINED ASSET FUNDS CORPORATE INCOME FD INSURED SERIES 17
356	IM-01	MERRILL LYNCH	883649	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TEM SER 38
357	IM-01	MERRILL LYNCH	215565	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 20
358	IM-01	MERRILL LYNCH	781783	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 26
359	IM-01	MERRILL LYNCH	791015	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 27
360	IM-01	MERRILL LYNCH	791016	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 28
361	IM-01	MERRILL LYNCH	791018	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 30
362	IM-01	MERRILL LYNCH	791019	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 31
363	IM-01	MERRILL LYNCH	791020	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 32
364	IM-01	MERRILL LYNCH	791021	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 33
365	IM-01	MERRILL LYNCH	791022	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 34
366	IM-01	MERRILL LYNCH	791023	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 35
367	IM-01	MERRILL LYNCH	883647	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 36
368	IM-01	MERRILL LYNCH	883648	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 37
369	IM-01	MERRILL LYNCH	883650	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 39
370	IM-01	MERRILL LYNCH	883651	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 40
371	IM-01	MERRILL LYNCH	883652	DEFINED ASSET FUNDS CORPORATE INCOME FD INTERM TERM SER 41
372	IM-01	MERRILL LYNCH	706368	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 160
373	IM-01	MERRILL LYNCH	726302	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 179
374	IM-01	MERRILL LYNCH	750408	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 201
375	IM-01	MERRILL LYNCH	751574	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 202
376	IM-01	MERRILL LYNCH	753050	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 203
377	IM-01	MERRILL LYNCH	755122	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 204
378	IM-01	MERRILL LYNCH	743256	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 205
379	IM-01	MERRILL LYNCH	758117	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 206
380	IM-01	MERRILL LYNCH	758118	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 207
381	IM-01	MERRILL LYNCH	758022	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 208

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
382	IM-01	MERRILL LYNCH	781311	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 209
383	IM-01	MERRILL LYNCH	783322	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 210
384	IM-01	MERRILL LYNCH	783696	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 211
385	IM-01	MERRILL LYNCH	786010	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 214
386	IM-01	MERRILL LYNCH	786305	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 215
387	IM-01	MERRILL LYNCH	786740	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 216
388	IM-01	MERRILL LYNCH	786733	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 217
389	IM-01	MERRILL LYNCH	788596	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 218
390	IM-01	MERRILL LYNCH	789136	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 220
391	IM-01	MERRILL LYNCH	739598	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 221
392	IM-01	MERRILL LYNCH	771974	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 223
393	IM-01	MERRILL LYNCH	771975	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 224
394	IM-01	MERRILL LYNCH	773472	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 225
395	IM-01	MERRILL LYNCH	773709	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 226
396	IM-01	MERRILL LYNCH	774024	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 227
397	IM-01	MERRILL LYNCH	774441	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 228
398	IM-01	MERRILL LYNCH	774943	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 229
399	IM-01	MERRILL LYNCH	775982	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 230
400	IM-01	MERRILL LYNCH	777447	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 231
401	IM-01	MERRILL LYNCH	777687	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 232
402	IM-01	MERRILL LYNCH	779321	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 233
403	IM-01	MERRILL LYNCH	780412	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 234
404	IM-01	MERRILL LYNCH	781549	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 235
405	IM-01	MERRILL LYNCH	781564	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 236
406	IM-01	MERRILL LYNCH	781569	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 237
407	IM-01	MERRILL LYNCH	781584	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 239
408	IM-01	MERRILL LYNCH	781588	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 240
409	IM-01	MERRILL LYNCH	781592	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 241
410	IM-01	MERRILL LYNCH	781597	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 242
411	IM-01	MERRILL LYNCH	781604	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 243
412	IM-01	MERRILL LYNCH	781609	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 244
413	IM-01	MERRILL LYNCH	781615	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 245
414	IM-01	MERRILL LYNCH	781617	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 246
415	IM-01	MERRILL LYNCH	781621	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 247
416	IM-01	MERRILL LYNCH	781625	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 248
417	IM-01	MERRILL LYNCH	781629	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 249
418	IM-01	MERRILL LYNCH	781634	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 250
419	IM-01	MERRILL LYNCH	768964	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 251
420	IM-01	MERRILL LYNCH	777890	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 252
421	IM-01	MERRILL LYNCH	781646	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 253
422	IM-01	MERRILL LYNCH	781651	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 254
423	IM-01	MERRILL LYNCH	781672	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 259
424	IM-01	MERRILL LYNCH	781674	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 260
425	IM-01	MERRILL LYNCH	781675	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 261
426	IM-01	MERRILL LYNCH	781678	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 262
427	IM-01	MERRILL LYNCH	781681	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 263
428	IM-01	MERRILL LYNCH	781683	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 264
429	IM-01	MERRILL LYNCH	781686	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 265
430	IM-01	MERRILL LYNCH	781691	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 267
431	IM-01	MERRILL LYNCH	781693	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 268
432	IM-01	MERRILL LYNCH	781697	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 269
433	IM-01	MERRILL LYNCH	781699	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 270
434	IM-01	MERRILL LYNCH	781702	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 271
435	IM-01	MERRILL LYNCH	781706	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 272
436	IM-01	MERRILL LYNCH	781709	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 273
437	IM-01	MERRILL LYNCH	781713	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 274
438	IM-01	MERRILL LYNCH	781718	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 275
439	IM-01	MERRILL LYNCH	781724	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 276
440	IM-01	MERRILL LYNCH	781813	DEFINED ASSET FUNDS CORPORATE INCOME FD MON PYMT SER 306
441	IM-01	MERRILL LYNCH	781805	DEFINED ASSET FUNDS CORPORATE INCOME FD MONTHLY PYMT SER 305
442	IM-01	MERRILL LYNCH	355220	DEFINED ASSET FUNDS CORPORATE INCOME FUND 10TH INSURED SERIE
443	IM-01	MERRILL LYNCH	748093	DEFINED ASSET FUNDS CORPORATE INCOME FUND COLLAT BOND SER 8
444	IM-01	MERRILL LYNCH	357123	DEFINED ASSET FUNDS CORPORATE INCOME FUND DISCOUNT SER A
445	IM-01	MERRILL LYNCH	700989	DEFINED ASSET FUNDS CORPORATE INCOME FUND DISCOUNT SER B
446	IM-01	MERRILL LYNCH	225214	DEFINED ASSET FUNDS CORPORATE INCOME FUND GNMA SERIES 1
447	IM-01	MERRILL LYNCH	797895	DEFINED ASSET FUNDS CORPORATE INCOME FUND HIGH YIELD SER 10
448	IM-01	MERRILL LYNCH	797881	DEFINED ASSET FUNDS CORPORATE INCOME FUND HIGH YIELD SER 2
449	IM-01	MERRILL LYNCH	797882	DEFINED ASSET FUNDS CORPORATE INCOME FUND HIGH YIELD SER 3
450	IM-01	MERRILL LYNCH	805089	DEFINED ASSET FUNDS CORPORATE INCOME FUND HIGH YIELD SER 30
451	IM-01	MERRILL LYNCH	797883	DEFINED ASSET FUNDS CORPORATE INCOME FUND HIGH YIELD SER 4
452	IM-01	MERRILL LYNCH	797885	DEFINED ASSET FUNDS CORPORATE INCOME FUND HIGH YIELD SER 5
453	IM-01	MERRILL LYNCH	797886	DEFINED ASSET FUNDS CORPORATE INCOME FUND HIGH YIELD SER 6
454	IM-01	MERRILL LYNCH	797887	DEFINED ASSET FUNDS CORPORATE INCOME FUND HIGH YIELD SER 7
455	IM-01	MERRILL LYNCH	797890	DEFINED ASSET FUNDS CORPORATE INCOME FUND HIGH YIELD SER 8
456	IM-01	MERRILL LYNCH	797891	DEFINED ASSET FUNDS CORPORATE INCOME FUND HIGH YIELD SER 9
457	IM-01	MERRILL LYNCH	891628	DEFINED ASSET FUNDS CORPORATE INCOME FUND INSD SER 16
458	IM-01	MERRILL LYNCH	843853	DEFINED ASSET FUNDS CORPORATE INCOME FUND INSURED SERIES 11
459	IM-01	MERRILL LYNCH	843854	DEFINED ASSET FUNDS CORPORATE INCOME FUND INSURED SERIES 12
460	IM-01	MERRILL LYNCH	843855	DEFINED ASSET FUNDS CORPORATE INCOME FUND INSURED SERIES 13
461	IM-01	MERRILL LYNCH	843856	DEFINED ASSET FUNDS CORPORATE INCOME FUND INSURED SERIES 14
462	IM-01	MERRILL LYNCH	843857	DEFINED ASSET FUNDS CORPORATE INCOME FUND INSURED SERIES 15
463	IM-01	MERRILL LYNCH	843850	DEFINED ASSET FUNDS CORPORATE INCOME FUND INSURED SERIES 8

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
464	IM-01	MERRILL LYNCH	791017	DEFINED ASSET FUNDS CORPORATE INCOME FUND INTERM TERM SER 29
465	IM-01	MERRILL LYNCH	024878	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 18
466	IM-01	MERRILL LYNCH	731949	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 183
467	IM-01	MERRILL LYNCH	024879	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 19
468	IM-01	MERRILL LYNCH	764474	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 212
469	IM-01	MERRILL LYNCH	765226	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 213
470	IM-01	MERRILL LYNCH	769133	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 219
471	IM-01	MERRILL LYNCH	740164	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 222
472	IM-01	MERRILL LYNCH	781578	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 236
473	IM-01	MERRILL LYNCH	781657	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 255
474	IM-01	MERRILL LYNCH	781662	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 256
475	IM-01	MERRILL LYNCH	780979	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 257
476	IM-01	MERRILL LYNCH	781669	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 258
477	IM-01	MERRILL LYNCH	781689	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 268
478	IM-01	MERRILL LYNCH	781727	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 277
479	IM-01	MERRILL LYNCH	781730	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 278
480	IM-01	MERRILL LYNCH	781731	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 279
481	IM-01	MERRILL LYNCH	781732	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 280
482	IM-01	MERRILL LYNCH	781734	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 281
483	IM-01	MERRILL LYNCH	781736	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 282
484	IM-01	MERRILL LYNCH	781738	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 283
485	IM-01	MERRILL LYNCH	781741	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 284
486	IM-01	MERRILL LYNCH	781746	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 285
487	IM-01	MERRILL LYNCH	781749	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 286
488	IM-01	MERRILL LYNCH	781752	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 287
489	IM-01	MERRILL LYNCH	781753	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 288
490	IM-01	MERRILL LYNCH	781757	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 289
491	IM-01	MERRILL LYNCH	781760	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 290
492	IM-01	MERRILL LYNCH	781763	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 291
493	IM-01	MERRILL LYNCH	781766	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 292
494	IM-01	MERRILL LYNCH	781769	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 293
495	IM-01	MERRILL LYNCH	781772	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 294
496	IM-01	MERRILL LYNCH	781774	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 295
497	IM-01	MERRILL LYNCH	781775	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 296
498	IM-01	MERRILL LYNCH	781776	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 297
499	IM-01	MERRILL LYNCH	781778	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 298
500	IM-01	MERRILL LYNCH	781781	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 299
501	IM-01	MERRILL LYNCH	882554	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 300
502	IM-01	MERRILL LYNCH	781785	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 301
503	IM-01	MERRILL LYNCH	781788	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 302
504	IM-01	MERRILL LYNCH	781791	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 303
505	IM-01	MERRILL LYNCH	781802	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 304
506	IM-01	MERRILL LYNCH	781808	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 306
507	IM-01	MERRILL LYNCH	781811	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 307
508	IM-01	MERRILL LYNCH	891282	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 309
509	IM-01	MERRILL LYNCH	781816	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 311
510	IM-01	MERRILL LYNCH	781817	DEFINED ASSET FUNDS CORPORATE INCOME FUND MON PYMT SER 312
511	IM-01	MERRILL LYNCH	782397	DEFINED ASSET FUNDS CORPORATE INCOME FUND SELECT SERIES 12
512	IM-01	MERRILL LYNCH	793577	DEFINED ASSET FUNDS EQUITY INC FD BLUE CHIP STK SER 1
513	IM-01	MERRILL LYNCH	796171	DEFINED ASSET FUNDS EQUITY INC FD BLUE CHIP STK SER 2
514	IM-01	MERRILL LYNCH	854563	DEFINED ASSET FUNDS EQUITY INC FD CONCEPT SER ECOLOG TR 1990
515	IM-01	MERRILL LYNCH	822636	DEFINED ASSET FUNDS EQUITY INC FD CONCEPT SER ENV TECH TR
516	IM-01	MERRILL LYNCH	854525	DEFINED ASSET FUNDS EQUITY INC FD CONCEPT SER ENV TECH TR 2
517	IM-01	MERRILL LYNCH	854502	DEFINED ASSET FUNDS EQUITY INC FD CONCEPT SER HEALTH CARE TR
518	IM-01	MERRILL LYNCH	853363	DEFINED ASSET FUNDS EQUITY INC FD CONCEPT SER NATURAL GAS TR
519	IM-01	MERRILL LYNCH	854561	DEFINED ASSET FUNDS EQUITY INC FD CONCEPT SER NEW EUROPE TR
520	IM-01	MERRILL LYNCH	852594	DEFINED ASSET FUNDS EQUITY INC FD CONCEPT SER REBUILD AM TR
521	IM-01	MERRILL LYNCH	853364	DEFINED ASSET FUNDS EQUITY INC FD CONCEPT SERIES ENERGY TR
522	IM-01	MERRILL LYNCH	854567	DEFINED ASSET FUNDS EQUITY INCOME FD CONCEPT SER NEW INVT TR
523	IM-01	MERRILL LYNCH	883462	DEFINED ASSET FUNDS EQUITY INCOME FD CONCEPT SERIES FOOD FD
524	IM-01	MERRILL LYNCH	882432	DEFINED ASSET FUNDS EQUITY INCOME FD INDEX SER S&P 500 TR 2
525	IM-01	MERRILL LYNCH	313358	DEFINED ASSET FUNDS EQUITY INCOME FD UTILITY COM STK SER 1
526	IM-01	MERRILL LYNCH	781258	DEFINED ASSET FUNDS EQUITY INCOME FD UTILITY COM STK SER 14
527	IM-01	MERRILL LYNCH	781261	DEFINED ASSET FUNDS EQUITY INCOME FD UTILITY COM STK SER 15
528	IM-01	MERRILL LYNCH	891845	DEFINED ASSET FUNDS EQUITY INCOME FD UTILITY COM STK SER 16
529	IM-01	MERRILL LYNCH	317329	DEFINED ASSET FUNDS EQUITY INCOME FD UTILITY COM STK SER 2
530	IM-01	MERRILL LYNCH	317421	DEFINED ASSET FUNDS EQUITY INCOME FD UTILITY COM STK SER 3
531	IM-01	MERRILL LYNCH	318042	DEFINED ASSET FUNDS EQUITY INCOME FD UTILITY COM STK SER 4
532	IM-01	MERRILL LYNCH	318480	DEFINED ASSET FUNDS EQUITY INCOME FD UTILITY COM STK SER 5
533	IM-01	MERRILL LYNCH	779875	DEFINED ASSET FUNDS EQUITY INCOME FD UTILITY COM STK SER 6
534	IM-01	MERRILL LYNCH	745995	DEFINED ASSET FUNDS EQUITY INCOME FD UTILITY COM STK SER 7
535	IM-01	MERRILL LYNCH	766703	DEFINED ASSET FUNDS EQUITY INCOME FD UTILITY COM STK SER 8
536	IM-01	MERRILL LYNCH	773286	DEFINED ASSET FUNDS EQUITY INCOME FD UTILITY STOCK SER 9
537	IM-01	MERRILL LYNCH	854569	DEFINED ASSET FUNDS EQUITY INCOME FUND CONCEPT SERIES 14
538	IM-01	MERRILL LYNCH	781256	DEFINED ASSET FUNDS EQUITY INCOME FUND UTILITY STK SER 13
539	IM-01	MERRILL LYNCH	781240	DEFINED ASSET FUNDS EQUITY INCOME FUND UTILITY STOCK SER 10
540	IM-01	MERRILL LYNCH	781244	DEFINED ASSET FUNDS EQUITY INCOME FUND UTILITY STOCK SER 11
541	IM-01	MERRILL LYNCH	781249	DEFINED ASSET FUNDS EQUITY INCOME FUND UTILITY STOCK SER 12
542	IM-01	MERRILL LYNCH	781331	DEFINED ASSET FUNDS GOVERNMENT SEC INCOME FD GNMA SERIES 1T
543	IM-01	MERRILL LYNCH	355917	DEFINED ASSET FUNDS GOVERNMENT SECURITIES FD GNMA SER D
544	IM-01	MERRILL LYNCH	726322	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 0
545	IM-01	MERRILL LYNCH	310976	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 12

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
546	IM-01	MERRILL LYNCH	311744	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 13
547	IM-01	MERRILL LYNCH	311858	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 14
548	IM-01	MERRILL LYNCH	312076	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 15
549	IM-01	MERRILL LYNCH	312153	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 16
550	IM-01	MERRILL LYNCH	312910	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 17
551	IM-01	MERRILL LYNCH	781272	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1A
552	IM-01	MERRILL LYNCH	781276	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1B
553	IM-01	MERRILL LYNCH	781280	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1C
554	IM-01	MERRILL LYNCH	781283	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1D
555	IM-01	MERRILL LYNCH	781287	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1E
556	IM-01	MERRILL LYNCH	781291	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1F
557	IM-01	MERRILL LYNCH	781293	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1G
558	IM-01	MERRILL LYNCH	781298	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1H
559	IM-01	MERRILL LYNCH	781299	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1I
560	IM-01	MERRILL LYNCH	781302	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1J
561	IM-01	MERRILL LYNCH	781306	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1K
562	IM-01	MERRILL LYNCH	781309	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1L
563	IM-01	MERRILL LYNCH	781311	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1M
564	IM-01	MERRILL LYNCH	781314	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1N
565	IM-01	MERRILL LYNCH	781317	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1O
566	IM-01	MERRILL LYNCH	781323	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1P
567	IM-01	MERRILL LYNCH	781320	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1Q
568	IM-01	MERRILL LYNCH	781325	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1R
569	IM-01	MERRILL LYNCH	781328	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1S
570	IM-01	MERRILL LYNCH	781334	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1U
571	IM-01	MERRILL LYNCH	892634	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 1V
572	IM-01	MERRILL LYNCH	317808	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 24
573	IM-01	MERRILL LYNCH	318296	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 25
574	IM-01	MERRILL LYNCH	318733	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 29
575	IM-01	MERRILL LYNCH	276386	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 5
576	IM-01	MERRILL LYNCH	276751	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 6
577	IM-01	MERRILL LYNCH	276774	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 7
578	IM-01	MERRILL LYNCH	277325	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER 8
579	IM-01	MERRILL LYNCH	319058	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER B
580	IM-01	MERRILL LYNCH	320319	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER C
581	IM-01	MERRILL LYNCH	356387	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER E
582	IM-01	MERRILL LYNCH	701471	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER F
583	IM-01	MERRILL LYNCH	702871	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER G
584	IM-01	MERRILL LYNCH	702872	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER H
585	IM-01	MERRILL LYNCH	707795	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER I
586	IM-01	MERRILL LYNCH	707794	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER J
587	IM-01	MERRILL LYNCH	712750	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER K
588	IM-01	MERRILL LYNCH	712773	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER L
589	IM-01	MERRILL LYNCH	717803	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER M
590	IM-01	MERRILL LYNCH	718095	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER N
591	IM-01	MERRILL LYNCH	726328	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER P
592	IM-01	MERRILL LYNCH	730963	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER Q
593	IM-01	MERRILL LYNCH	733704	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER R
594	IM-01	MERRILL LYNCH	751165	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER S
595	IM-01	MERRILL LYNCH	751163	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER T
596	IM-01	MERRILL LYNCH	752748	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER U
597	IM-01	MERRILL LYNCH	763280	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER V
598	IM-01	MERRILL LYNCH	768916	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER W
599	IM-01	MERRILL LYNCH	770718	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER X
600	IM-01	MERRILL LYNCH	777965	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER Y
601	IM-01	MERRILL LYNCH	775971	DEFINED ASSET FUNDS GOVERNMENT SECURITIES INC FD GNMA SER Z
602	IM-01	MERRILL LYNCH	781825	DEFINED ASSET FUNDS GOVT SEC INC FD MON PYMT US TREAS SER 13
603	IM-01	MERRILL LYNCH	705192	DEFINED ASSET FUNDS GOVT SEC INC FD US TREA ACCUM SER A
604	IM-01	MERRILL LYNCH	796126	DEFINED ASSET FUNDS GOVT SEC INCOME FD FREDDIE MAC SER 1
605	IM-01	MERRILL LYNCH	797763	DEFINED ASSET FUNDS GOVT SEC INCOME FD FREDDIE MAC SER 10
606	IM-01	MERRILL LYNCH	797760	DEFINED ASSET FUNDS GOVT SEC INCOME FD FREDDIE MAC SER 9
607	IM-01	MERRILL LYNCH	797674	DEFINED ASSET FUNDS GOVT SEC INCOME FD FREDDIE MAC SERIES 2
608	IM-01	MERRILL LYNCH	797761	DEFINED ASSET FUNDS GOVT SEC INCOME FD FREDDIE MAC SERIES 3
609	IM-01	MERRILL LYNCH	797770	DEFINED ASSET FUNDS GOVT SEC INCOME FD FREDDIE MAC SERIES 4
610	IM-01	MERRILL LYNCH	797774	DEFINED ASSET FUNDS GOVT SEC INCOME FD FREDDIE MAC SERIES 6
611	IM-01	MERRILL LYNCH	797776	DEFINED ASSET FUNDS GOVT SEC INCOME FD FREDDIE MAC SERIES 7
612	IM-01	MERRILL LYNCH	781822	DEFINED ASSET FUNDS GOVT SEC INCOME FD US TREASURY SER 11
613	IM-01	MERRILL LYNCH	797772	DEFINED ASSET FUNDS GOVT SECURITIES INC FD FREDDIE MAC SER 5
614	IM-01	MERRILL LYNCH	814465	DEFINED ASSET FUNDS GOVT SECURITIES INC FD US GOVT BD SER 1
615	IM-01	MERRILL LYNCH	842327	DEFINED ASSET FUNDS GOVT SECURITIES INC FD US GOVT BD SER 2
616	IM-01	MERRILL LYNCH	847117	DEFINED ASSET FUNDS GOVT SECURITIES INC FD US GOVT BD SER 4
617	IM-01	MERRILL LYNCH	782325	DEFINED ASSET FUNDS INTERNATIONAL BD FD MULTI CURR SER 12
618	IM-01	MERRILL LYNCH	782339	DEFINED ASSET FUNDS INTERNATIONAL BD FD MULTICURRENCY SER 25
619	IM-01	MERRILL LYNCH	794490	DEFINED ASSET FUNDS INTL BD FD AUS & NEW ZEA DOL BDS SER 3
620	IM-01	MERRILL LYNCH	794687	DEFINED ASSET FUNDS INTL BD FD AUS & NEW ZEA DOL BDS SER 4
621	IM-01	MERRILL LYNCH	794688	DEFINED ASSET FUNDS INTL BD FD AUS & NEW ZEA DOL BDS SER 5
622	IM-01	MERRILL LYNCH	794689	DEFINED ASSET FUNDS INTL BD FD AUS & NEW ZEA DOL BDS SER 6
623	IM-01	MERRILL LYNCH	794690	DEFINED ASSET FUNDS INTL BD FD AUS & NEW ZEA DOL BDS SER 7
624	IM-01	MERRILL LYNCH	794691	DEFINED ASSET FUNDS INTL BD FD AUS & NEW ZEA DOL BDS SER 8
625	IM-01	MERRILL LYNCH	794692	DEFINED ASSET FUNDS INTL BD FD AUS & NEW ZEA DOL BDS SER 9
626	IM-01	MERRILL LYNCH	842484	DEFINED ASSET FUNDS INTL BD FD AUSTRALIAN DOL BDS SER 10
627	IM-01	MERRILL LYNCH	842486	DEFINED ASSET FUNDS INTL BD FD AUSTRALIAN DOL BDS SER 12

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
628	IM-01	MERRILL LYNCH	839328	DEFINED ASSET FUNDS INTL BD FD AUSTRALIAN DOL BDS SER 2
629	IM-01	MERRILL LYNCH	839329	DEFINED ASSET FUNDS INTL BD FD AUSTRALIAN DOL BDS SER 3
630	IM-01	MERRILL LYNCH	840564	DEFINED ASSET FUNDS INTL BD FD AUSTRALIAN DOL BDS SER 4
631	IM-01	MERRILL LYNCH	842479	DEFINED ASSET FUNDS INTL BD FD AUSTRALIAN DOL BDS SER 5
632	IM-01	MERRILL LYNCH	842480	DEFINED ASSET FUNDS INTL BD FD AUSTRALIAN DOL BDS SER 6
633	IM-01	MERRILL LYNCH	842481	DEFINED ASSET FUNDS INTL BD FD AUSTRALIAN DOL BDS SER 7
634	IM-01	MERRILL LYNCH	842482	DEFINED ASSET FUNDS INTL BD FD AUSTRALIAN DOL BDS SER 8
635	IM-01	MERRILL LYNCH	842483	DEFINED ASSET FUNDS INTL BD FD AUSTRALIAN DOL BDS SER 9
636	IM-01	MERRILL LYNCH	782338	DEFINED ASSET FUNDS INTL BD FD CANADIAN DOL BDS SER 10
637	IM-01	MERRILL LYNCH	831896	DEFINED ASSET FUNDS INTL BD FD CANADIAN DOL BDS SER 13
638	IM-01	MERRILL LYNCH	827767	DEFINED ASSET FUNDS INTL BD FD CANADIAN DOL BDS SER 2
639	IM-01	MERRILL LYNCH	828733	DEFINED ASSET FUNDS INTL BD FD CANADIAN DOL BDS SER 3
640	IM-01	MERRILL LYNCH	828734	DEFINED ASSET FUNDS INTL BD FD CANADIAN DOL BDS SER 4
641	IM-01	MERRILL LYNCH	829358	DEFINED ASSET FUNDS INTL BD FD CANADIAN DOL BDS SER 5
642	IM-01	MERRILL LYNCH	830211	DEFINED ASSET FUNDS INTL BD FD CANADIAN DOL BDS SER 6
643	IM-01	MERRILL LYNCH	830943	DEFINED ASSET FUNDS INTL BD FD CANADIAN DOL BDS SER 7
644	IM-01	MERRILL LYNCH	831892	DEFINED ASSET FUNDS INTL BD FD CANADIAN DOL BDS SER 9
645	IM-01	MERRILL LYNCH	831895	DEFINED ASSET FUNDS INTL BD FD CANADIAN DOL BDS SERS 12
646	IM-01	MERRILL LYNCH	831891	DEFINED ASSET FUNDS INTL BD FD CANADIAN DOLLAR BDS SER 8
647	IM-01	MERRILL LYNCH	782325	DEFINED ASSET FUNDS INTL BD FD MULTI CURRENCY SER 13
648	IM-01	MERRILL LYNCH	782327	DEFINED ASSET FUNDS INTL BD FD MULTI CURRENCY SER 14
649	IM-01	MERRILL LYNCH	782328	DEFINED ASSET FUNDS INTL BD FD MULTI CURRENCY SER 15
650	IM-01	MERRILL LYNCH	819058	DEFINED ASSET FUNDS INTL BD FD MULTI CURRENCY SER 16
651	IM-01	MERRILL LYNCH	825317	DEFINED ASSET FUNDS INTL BD FD MULTI CURRENCY SER 17
652	IM-01	MERRILL LYNCH	782332	DEFINED ASSET FUNDS INTL BD FD MULTI CURRENCY SER 19
653	IM-01	MERRILL LYNCH	275572	DEFINED ASSET FUNDS INTL BD FD MULTI CURRENCY SER 2
654	IM-01	MERRILL LYNCH	782334	DEFINED ASSET FUNDS INTL BD FD MULTI CURRENCY SER 21
655	IM-01	MERRILL LYNCH	782336	DEFINED ASSET FUNDS INTL BD FD MULTI CURRENCY SER 22
656	IM-01	MERRILL LYNCH	782337	DEFINED ASSET FUNDS INTL BD FD MULTI CURRENCY SER 23
657	IM-01	MERRILL LYNCH	782341	DEFINED ASSET FUNDS INTL BD FD MULTI CURRENCY SER 26
658	IM-01	MERRILL LYNCH	892633	DEFINED ASSET FUNDS INTL BOND FUND MULTI CURRENCY SERIES 27
659	IM-01	MERRILL LYNCH	715645	DEFINED ASSET FUNDS LIBERTY STREET TR MUN MON PYMT SER 9
660	IM-01	MERRILL LYNCH	357292	DEFINED ASSET FUNDS LIBERTY STREET TRUST MUN MON PYMT SER 1
661	IM-01	MERRILL LYNCH	701987	DEFINED ASSET FUNDS LIBERTY STREET TRUST MUN MON PYMT SER 2
662	IM-01	MERRILL LYNCH	702171	DEFINED ASSET FUNDS LIBERTY STREET TRUST MUN MON PYMT SER 3
663	IM-01	MERRILL LYNCH	703663	DEFINED ASSET FUNDS LIBERTY STREET TRUST MUN MON PYMT SER 4
664	IM-01	MERRILL LYNCH	705032	DEFINED ASSET FUNDS LIBERTY STREET TRUST MUN MON PYMT SER 5
665	IM-01	MERRILL LYNCH	705967	DEFINED ASSET FUNDS LIBERTY STREET TRUST MUN MON PYMT SER 6
666	IM-01	MERRILL LYNCH	706117	DEFINED ASSET FUNDS LIBERTY STREET TRUST MUN MON PYMT SER 7
667	IM-01	MERRILL LYNCH	708134	DEFINED ASSET FUNDS LIBERTY STREET TRUST MUN MON PYMT SER 8
668	IM-01	MERRILL LYNCH	877291	DEFINED ASSET FUNDS MUN INVT TR FD AMT MON PYMT SER 16
669	IM-01	MERRILL LYNCH	877292	DEFINED ASSET FUNDS MUN INVT TR FD AMT MON PYMT SER 17
670	IM-01	MERRILL LYNCH	877294	DEFINED ASSET FUNDS MUN INVT TR FD AMT MON PYMT SER 18
671	IM-01	MERRILL LYNCH	877295	DEFINED ASSET FUNDS MUN INVT TR FD AMT MON PYMT SER 19
672	IM-01	MERRILL LYNCH	877296	DEFINED ASSET FUNDS MUN INVT TR FD AMT MON PYMT SER 20
673	IM-01	MERRILL LYNCH	877297	DEFINED ASSET FUNDS MUN INVT TR FD AMT MON PYMT SER 21
674	IM-01	MERRILL LYNCH	881825	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 1
675	IM-01	MERRILL LYNCH	881834	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 10
676	IM-01	MERRILL LYNCH	881836	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 11
677	IM-01	MERRILL LYNCH	881837	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 12
678	IM-01	MERRILL LYNCH	881839	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 13
679	IM-01	MERRILL LYNCH	881840	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 14
680	IM-01	MERRILL LYNCH	891865	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 17
681	IM-01	MERRILL LYNCH	892843	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 18
682	IM-01	MERRILL LYNCH	892844	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 19
683	IM-01	MERRILL LYNCH	881826	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 2
684	IM-01	MERRILL LYNCH	892845	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 20
685	IM-01	MERRILL LYNCH	892846	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 21
686	IM-01	MERRILL LYNCH	892847	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 22
687	IM-01	MERRILL LYNCH	892848	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 23
688	IM-01	MERRILL LYNCH	892849	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 24
689	IM-01	MERRILL LYNCH	892850	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 25
690	IM-01	MERRILL LYNCH	892851	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 26
691	IM-01	MERRILL LYNCH	895614	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 27
692	IM-01	MERRILL LYNCH	895615	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 28
693	IM-01	MERRILL LYNCH	881827	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 3
694	IM-01	MERRILL LYNCH	881828	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 4
695	IM-01	MERRILL LYNCH	881829	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 5
696	IM-01	MERRILL LYNCH	881830	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 6
697	IM-01	MERRILL LYNCH	881831	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 7
698	IM-01	MERRILL LYNCH	881832	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 8
699	IM-01	MERRILL LYNCH	881833	DEFINED ASSET FUNDS MUN INVT TR FD MULTISTATE SERIES 9
700	IM-01	MERRILL LYNCH	068966	DEFINED ASSET FUNDS MUNI INV TR FD MO PAYMENT SERIES 1
701	IM-01	MERRILL LYNCH	727654	DEFINED ASSET FUNDS MUNICIPAL INVESTMENT TRUST FD PUT SER 1
702	IM-01	MERRILL LYNCH	759757	DEFINED ASSET FUNDS MUNICIPAL INVESTMENT TRUST FD PUT SER 10
703	IM-01	MERRILL LYNCH	781321	DEFINED ASSET FUNDS MUNICIPAL INVESTMENT TRUST FD PUT SER 11
704	IM-01	MERRILL LYNCH	735920	DEFINED ASSET FUNDS MUNICIPAL INVESTMENT TRUST FD PUT SER 3
705	IM-01	MERRILL LYNCH	749745	DEFINED ASSET FUNDS MUNICIPAL INVESTMENT TRUST FD PUT SER 4
706	IM-01	MERRILL LYNCH	750011	DEFINED ASSET FUNDS MUNICIPAL INVESTMENT TRUST FD PUT SER 5
707	IM-01	MERRILL LYNCH	751572	DEFINED ASSET FUNDS MUNICIPAL INVESTMENT TRUST FD PUT SER 6
708	IM-01	MERRILL LYNCH	727006	DEFINED ASSET FUNDS MUNICIPAL INVESTMENT TRUST FD PUT SER 7
709	IM-01	MERRILL LYNCH	757638	DEFINED ASSET FUNDS MUNICIPAL INVESTMENT TRUST FD PUT SER 8

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
710	IM-01	MERRILL LYNCH	781661	DEFINED ASSET FUNDS MUNICIPAL INVESTMENT TRUST FD PUT SER 9
711	IM-01	MERRILL LYNCH	856479	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD AMT MON PYMT SER 1
712	IM-01	MERRILL LYNCH	858778	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD AMT MON PYMT SER 15
713	IM-01	MERRILL LYNCH	858456	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD AMT MON PYMT SER 2
714	IM-01	MERRILL LYNCH	803704	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD AMT MON PYMT SER 3
715	IM-01	MERRILL LYNCH	858767	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD AMT MON PYMT SER 4
716	IM-01	MERRILL LYNCH	858768	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD AMT MON PYMT SER 5
717	IM-01	MERRILL LYNCH	858769	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD AMT MON PYMT SER 6
718	IM-01	MERRILL LYNCH	856770	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD AMT MON PYMT SER 7
719	IM-01	MERRILL LYNCH	856771	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD AMT MON PYMT SER 8
720	IM-01	MERRILL LYNCH	702721	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 10
721	IM-01	MERRILL LYNCH	703476	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 11
722	IM-01	MERRILL LYNCH	703881	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 12
723	IM-01	MERRILL LYNCH	705044	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 13
724	IM-01	MERRILL LYNCH	705410	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 14
725	IM-01	MERRILL LYNCH	705591	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 15
726	IM-01	MERRILL LYNCH	707375	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 16
727	IM-01	MERRILL LYNCH	708826	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 17
728	IM-01	MERRILL LYNCH	709278	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 18
729	IM-01	MERRILL LYNCH	709709	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 19
730	IM-01	MERRILL LYNCH	313061	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 2
731	IM-01	MERRILL LYNCH	710776	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 20
732	IM-01	MERRILL LYNCH	711315	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 21
733	IM-01	MERRILL LYNCH	714191	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 22
734	IM-01	MERRILL LYNCH	715092	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 23
735	IM-01	MERRILL LYNCH	715800	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 24
736	IM-01	MERRILL LYNCH	717232	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 25
737	IM-01	MERRILL LYNCH	719050	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 26
738	IM-01	MERRILL LYNCH	720488	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 27
739	IM-01	MERRILL LYNCH	721943	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 28
740	IM-01	MERRILL LYNCH	725732	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 29
741	IM-01	MERRILL LYNCH	357379	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 3
742	IM-01	MERRILL LYNCH	727310	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 30
743	IM-01	MERRILL LYNCH	729273	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 31
744	IM-01	MERRILL LYNCH	730354	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 32
745	IM-01	MERRILL LYNCH	731419	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 33
746	IM-01	MERRILL LYNCH	732737	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 34
747	IM-01	MERRILL LYNCH	736167	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 35
748	IM-01	MERRILL LYNCH	737780	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 36
749	IM-01	MERRILL LYNCH	739705	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 37
750	IM-01	MERRILL LYNCH	740148	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 38
751	IM-01	MERRILL LYNCH	741521	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 39
752	IM-01	MERRILL LYNCH	357441	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 4
753	IM-01	MERRILL LYNCH	742459	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 40
754	IM-01	MERRILL LYNCH	744019	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 41
755	IM-01	MERRILL LYNCH	745352	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 42
756	IM-01	MERRILL LYNCH	747638	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 43
757	IM-01	MERRILL LYNCH	780788	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 45
758	IM-01	MERRILL LYNCH	700774	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 5
759	IM-01	MERRILL LYNCH	701263	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 6
760	IM-01	MERRILL LYNCH	701472	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 7
761	IM-01	MERRILL LYNCH	701711	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 8
762	IM-01	MERRILL LYNCH	702136	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD CALIFORNIA SER 9
763	IM-01	MERRILL LYNCH	786715	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD FL INSURED SER 1
764	IM-01	MERRILL LYNCH	879014	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INS INTERM SER 1
765	IM-01	MERRILL LYNCH	880576	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INS INTERM SER 2
766	IM-01	MERRILL LYNCH	882125	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSD INTERM SER 3
767	IM-01	MERRILL LYNCH	886417	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSD INTERM SER 4
768	IM-01	MERRILL LYNCH	888533	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSD INTERM SER 5
769	IM-01	MERRILL LYNCH	733260	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 1
770	IM-01	MERRILL LYNCH	747225	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 10
771	IM-01	MERRILL LYNCH	781038	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 100
772	IM-01	MERRILL LYNCH	781040	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 101
773	IM-01	MERRILL LYNCH	781043	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 102
774	IM-01	MERRILL LYNCH	781045	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 103
775	IM-01	MERRILL LYNCH	781049	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 104
776	IM-01	MERRILL LYNCH	781052	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 105
777	IM-01	MERRILL LYNCH	781055	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 106
778	IM-01	MERRILL LYNCH	781058	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 107
779	IM-01	MERRILL LYNCH	781060	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 108
780	IM-01	MERRILL LYNCH	781063	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 109
781	IM-01	MERRILL LYNCH	747732	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 11
782	IM-01	MERRILL LYNCH	781067	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 110
783	IM-01	MERRILL LYNCH	781070	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 111
784	IM-01	MERRILL LYNCH	781074	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 112
785	IM-01	MERRILL LYNCH	781075	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 113
786	IM-01	MERRILL LYNCH	781078	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 114
787	IM-01	MERRILL LYNCH	781079	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 115
788	IM-01	MERRILL LYNCH	781082	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 116
789	IM-01	MERRILL LYNCH	781084	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 117
790	IM-01	MERRILL LYNCH	781086	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 118
791	IM-01	MERRILL LYNCH	781088	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 119

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
792	IM-01	MERRILL LYNCH	747841	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 12
793	IM-01	MERRILL LYNCH	781090	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 120
794	IM-01	MERRILL LYNCH	781092	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 121
795	IM-01	MERRILL LYNCH	781094	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 122
796	IM-01	MERRILL LYNCH	781097	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 123
797	IM-01	MERRILL LYNCH	781101	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 124
798	IM-01	MERRILL LYNCH	781105	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 125
799	IM-01	MERRILL LYNCH	781108	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 126
800	IM-01	MERRILL LYNCH	781113	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 127
801	IM-01	MERRILL LYNCH	781116	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 128
802	IM-01	MERRILL LYNCH	781118	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 129
803	IM-01	MERRILL LYNCH	749759	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 13
804	IM-01	MERRILL LYNCH	781126	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 130
805	IM-01	MERRILL LYNCH	781129	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 131
806	IM-01	MERRILL LYNCH	781133	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 132
807	IM-01	MERRILL LYNCH	781135	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 133
808	IM-01	MERRILL LYNCH	781138	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 134
809	IM-01	MERRILL LYNCH	781142	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 135
810	IM-01	MERRILL LYNCH	781146	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 136
811	IM-01	MERRILL LYNCH	781149	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 137
812	IM-01	MERRILL LYNCH	781152	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 138
813	IM-01	MERRILL LYNCH	781155	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 139
814	IM-01	MERRILL LYNCH	749581	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 14
815	IM-01	MERRILL LYNCH	781158	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 140
816	IM-01	MERRILL LYNCH	781160	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 141
817	IM-01	MERRILL LYNCH	781161	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 142
818	IM-01	MERRILL LYNCH	781162	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 143
819	IM-01	MERRILL LYNCH	781164	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 144
820	IM-01	MERRILL LYNCH	781165	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 145
821	IM-01	MERRILL LYNCH	781167	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 146
822	IM-01	MERRILL LYNCH	781169	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 147
823	IM-01	MERRILL LYNCH	781170	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 148
824	IM-01	MERRILL LYNCH	781172	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 149
825	IM-01	MERRILL LYNCH	751220	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 15
826	IM-01	MERRILL LYNCH	781174	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 150
827	IM-01	MERRILL LYNCH	781176	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 151
828	IM-01	MERRILL LYNCH	781179	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 152
829	IM-01	MERRILL LYNCH	781180	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 153
830	IM-01	MERRILL LYNCH	781181	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 154
831	IM-01	MERRILL LYNCH	781182	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 155
832	IM-01	MERRILL LYNCH	781183	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 156
833	IM-01	MERRILL LYNCH	781184	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 157
834	IM-01	MERRILL LYNCH	803792	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 158
835	IM-01	MERRILL LYNCH	803800	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 159
836	IM-01	MERRILL LYNCH	751518	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 16
837	IM-01	MERRILL LYNCH	803803	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 160
838	IM-01	MERRILL LYNCH	803804	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 161
839	IM-01	MERRILL LYNCH	803805	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 162
840	IM-01	MERRILL LYNCH	803807	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 163
841	IM-01	MERRILL LYNCH	803810	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 164
842	IM-01	MERRILL LYNCH	803813	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 165
843	IM-01	MERRILL LYNCH	803815	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 166
844	IM-01	MERRILL LYNCH	803817	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 167
845	IM-01	MERRILL LYNCH	803820	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 168
846	IM-01	MERRILL LYNCH	753037	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 17
847	IM-01	MERRILL LYNCH	803828	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 171
848	IM-01	MERRILL LYNCH	803831	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 173
849	IM-01	MERRILL LYNCH	803836	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 175
850	IM-01	MERRILL LYNCH	803839	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 176
851	IM-01	MERRILL LYNCH	803842	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 177
852	IM-01	MERRILL LYNCH	803845	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 178
853	IM-01	MERRILL LYNCH	803849	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 179
854	IM-01	MERRILL LYNCH	753041	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 18
855	IM-01	MERRILL LYNCH	803852	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 180
856	IM-01	MERRILL LYNCH	803853	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 181
857	IM-01	MERRILL LYNCH	803854	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 182
858	IM-01	MERRILL LYNCH	803856	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 183
859	IM-01	MERRILL LYNCH	803858	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 184
860	IM-01	MERRILL LYNCH	803862	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 185
861	IM-01	MERRILL LYNCH	803863	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 186
862	IM-01	MERRILL LYNCH	803864	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 187
863	IM-01	MERRILL LYNCH	803867	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 188
864	IM-01	MERRILL LYNCH	753348	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 19
865	IM-01	MERRILL LYNCH	739699	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 2
866	IM-01	MERRILL LYNCH	754455	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 20
867	IM-01	MERRILL LYNCH	755146	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 21
868	IM-01	MERRILL LYNCH	755677	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 22
869	IM-01	MERRILL LYNCH	756670	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 23
870	IM-01	MERRILL LYNCH	722816	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 24
871	IM-01	MERRILL LYNCH	757841	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 25
872	IM-01	MERRILL LYNCH	759020	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 26
873	IM-01	MERRILL LYNCH	759760	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 27

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
874	IM-01	MERRILL LYNCH	760464	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 28
875	IM-01	MERRILL LYNCH	760737	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 29
876	IM-01	MERRILL LYNCH	740828	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 3
877	IM-01	MERRILL LYNCH	760742	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 30
878	IM-01	MERRILL LYNCH	761194	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 31
879	IM-01	MERRILL LYNCH	761660	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 32
880	IM-01	MERRILL LYNCH	763323	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 33
881	IM-01	MERRILL LYNCH	764026	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 34
882	IM-01	MERRILL LYNCH	764471	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 35
883	IM-01	MERRILL LYNCH	764831	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 36
884	IM-01	MERRILL LYNCH	766007	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 37
885	IM-01	MERRILL LYNCH	766306	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 38
886	IM-01	MERRILL LYNCH	766744	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 39
887	IM-01	MERRILL LYNCH	742461	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 4
888	IM-01	MERRILL LYNCH	768611	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 40
889	IM-01	MERRILL LYNCH	768610	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 41
890	IM-01	MERRILL LYNCH	769132	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 42
891	IM-01	MERRILL LYNCH	769867	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 43
892	IM-01	MERRILL LYNCH	770687	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 44
893	IM-01	MERRILL LYNCH	788961	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 45
894	IM-01	MERRILL LYNCH	771973	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 46
895	IM-01	MERRILL LYNCH	773283	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 47
896	IM-01	MERRILL LYNCH	773473	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 48
897	IM-01	MERRILL LYNCH	773713	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 49
898	IM-01	MERRILL LYNCH	744193	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 5
899	IM-01	MERRILL LYNCH	774029	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 50
900	IM-01	MERRILL LYNCH	774443	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 51
901	IM-01	MERRILL LYNCH	774827	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 52
902	IM-01	MERRILL LYNCH	775499	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 53
903	IM-01	MERRILL LYNCH	777446	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 54
904	IM-01	MERRILL LYNCH	778401	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 55
905	IM-01	MERRILL LYNCH	778442	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 56
906	IM-01	MERRILL LYNCH	778337	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 57
907	IM-01	MERRILL LYNCH	779810	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 58
908	IM-01	MERRILL LYNCH	780414	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 59
909	IM-01	MERRILL LYNCH	745052	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 6
910	IM-01	MERRILL LYNCH	780695	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 60
911	IM-01	MERRILL LYNCH	780901	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 61
912	IM-01	MERRILL LYNCH	780904	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 62
913	IM-01	MERRILL LYNCH	780906	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 63
914	IM-01	MERRILL LYNCH	780910	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 64
915	IM-01	MERRILL LYNCH	780922	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 65
916	IM-01	MERRILL LYNCH	780915	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 66
917	IM-01	MERRILL LYNCH	780929	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 67
918	IM-01	MERRILL LYNCH	780933	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 68
919	IM-01	MERRILL LYNCH	780935	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 69
920	IM-01	MERRILL LYNCH	745358	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 7
921	IM-01	MERRILL LYNCH	780937	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 70
922	IM-01	MERRILL LYNCH	780940	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 71
923	IM-01	MERRILL LYNCH	780944	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 72
924	IM-01	MERRILL LYNCH	780948	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 73
925	IM-01	MERRILL LYNCH	780952	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 74
926	IM-01	MERRILL LYNCH	780955	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 75
927	IM-01	MERRILL LYNCH	780959	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 76
928	IM-01	MERRILL LYNCH	780952	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 77
929	IM-01	MERRILL LYNCH	780964	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 78
930	IM-01	MERRILL LYNCH	780969	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 79
931	IM-01	MERRILL LYNCH	745993	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 8
932	IM-01	MERRILL LYNCH	780973	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 80
933	IM-01	MERRILL LYNCH	780977	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 81
934	IM-01	MERRILL LYNCH	780979	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 82
935	IM-01	MERRILL LYNCH	780980	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 83
936	IM-01	MERRILL LYNCH	780984	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 84
937	IM-01	MERRILL LYNCH	780986	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 85
938	IM-01	MERRILL LYNCH	780990	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 86
939	IM-01	MERRILL LYNCH	780993	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 87
940	IM-01	MERRILL LYNCH	780997	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 88
941	IM-01	MERRILL LYNCH	780999	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 89
942	IM-01	MERRILL LYNCH	746573	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 9
943	IM-01	MERRILL LYNCH	781001	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 90
944	IM-01	MERRILL LYNCH	781003	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 91
945	IM-01	MERRILL LYNCH	781004	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 92
946	IM-01	MERRILL LYNCH	781008	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 93
947	IM-01	MERRILL LYNCH	781011	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 94
948	IM-01	MERRILL LYNCH	781014	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 95
949	IM-01	MERRILL LYNCH	781023	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 96
950	IM-01	MERRILL LYNCH	781027	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 97
951	IM-01	MERRILL LYNCH	781029	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 98
952	IM-01	MERRILL LYNCH	781035	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INSURED SERIES 99
953	IM-01	MERRILL LYNCH	205674	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 10
954	IM-01	MERRILL LYNCH	780635	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 100
955	IM-01	MERRILL LYNCH	780637	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 101

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
956	IM-01	MERRILL LYNCH	780643	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 102
957	IM-01	MERRILL LYNCH	780647	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 103
958	IM-01	MERRILL LYNCH	780651	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 104
959	IM-01	MERRILL LYNCH	780657	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 105
960	IM-01	MERRILL LYNCH	780662	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 106
961	IM-01	MERRILL LYNCH	780667	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 107
962	IM-01	MERRILL LYNCH	780672	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 108
963	IM-01	MERRILL LYNCH	780677	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 109
964	IM-01	MERRILL LYNCH	780682	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 110
965	IM-01	MERRILL LYNCH	780686	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 111
966	IM-01	MERRILL LYNCH	780691	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 112
967	IM-01	MERRILL LYNCH	780694	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 113
968	IM-01	MERRILL LYNCH	780698	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 114
969	IM-01	MERRILL LYNCH	780703	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 115
970	IM-01	MERRILL LYNCH	780708	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 116
971	IM-01	MERRILL LYNCH	780715	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 117
972	IM-01	MERRILL LYNCH	780720	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 118
973	IM-01	MERRILL LYNCH	780733	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 119
974	IM-01	MERRILL LYNCH	277281	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 12
975	IM-01	MERRILL LYNCH	780737	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 120
976	IM-01	MERRILL LYNCH	780743	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 121
977	IM-01	MERRILL LYNCH	780748	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 122
978	IM-01	MERRILL LYNCH	780754	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 123
979	IM-01	MERRILL LYNCH	781271	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 124
980	IM-01	MERRILL LYNCH	781277	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 125
981	IM-01	MERRILL LYNCH	781281	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 126
982	IM-01	MERRILL LYNCH	781285	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 127
983	IM-01	MERRILL LYNCH	781289	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 128
984	IM-01	MERRILL LYNCH	781300	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 129
985	IM-01	MERRILL LYNCH	277282	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 13
986	IM-01	MERRILL LYNCH	781305	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 130
987	IM-01	MERRILL LYNCH	781346	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 131
988	IM-01	MERRILL LYNCH	781349	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 132
989	IM-01	MERRILL LYNCH	781353	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 133
990	IM-01	MERRILL LYNCH	781354	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 134
991	IM-01	MERRILL LYNCH	781358	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 135
992	IM-01	MERRILL LYNCH	781361	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 136
993	IM-01	MERRILL LYNCH	781366	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 137
994	IM-01	MERRILL LYNCH	781369	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 138
995	IM-01	MERRILL LYNCH	781374	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 139
996	IM-01	MERRILL LYNCH	216558	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 14
997	IM-01	MERRILL LYNCH	781377	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 140
998	IM-01	MERRILL LYNCH	781380	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 141
999	IM-01	MERRILL LYNCH	781384	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 142
1000	IM-01	MERRILL LYNCH	781387	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 143
1001	IM-01	MERRILL LYNCH	781390	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 144
1002	IM-01	MERRILL LYNCH	781393	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 145
1003	IM-01	MERRILL LYNCH	781398	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 146
1004	IM-01	MERRILL LYNCH	781402	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 147
1005	IM-01	MERRILL LYNCH	781404	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 148
1006	IM-01	MERRILL LYNCH	781408	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 149
1007	IM-01	MERRILL LYNCH	780797	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 150
1008	IM-01	MERRILL LYNCH	780799	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 151
1009	IM-01	MERRILL LYNCH	780801	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 152
1010	IM-01	MERRILL LYNCH	780803	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 153
1011	IM-01	MERRILL LYNCH	780807	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 154
1012	IM-01	MERRILL LYNCH	780813	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 155
1013	IM-01	MERRILL LYNCH	780817	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 156
1014	IM-01	MERRILL LYNCH	780818	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 157
1015	IM-01	MERRILL LYNCH	780821	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 158
1016	IM-01	MERRILL LYNCH	780824	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 159
1017	IM-01	MERRILL LYNCH	068982	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 16
1018	IM-01	MERRILL LYNCH	780827	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 160
1019	IM-01	MERRILL LYNCH	780830	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 161
1020	IM-01	MERRILL LYNCH	780835	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 162
1021	IM-01	MERRILL LYNCH	780838	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 163
1022	IM-01	MERRILL LYNCH	780844	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 164
1023	IM-01	MERRILL LYNCH	780850	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 165
1024	IM-01	MERRILL LYNCH	868078	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 166
1025	IM-01	MERRILL LYNCH	868080	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 167
1026	IM-01	MERRILL LYNCH	868081	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 168
1027	IM-01	MERRILL LYNCH	868083	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 169
1028	IM-01	MERRILL LYNCH	868084	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 170
1029	IM-01	MERRILL LYNCH	868085	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 171
1030	IM-01	MERRILL LYNCH	868086	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 172
1031	IM-01	MERRILL LYNCH	868087	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 173
1032	IM-01	MERRILL LYNCH	868088	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 174
1033	IM-01	MERRILL LYNCH	868089	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 175
1034	IM-01	MERRILL LYNCH	868090	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 176
1035	IM-01	MERRILL LYNCH	868091	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 177
1036	IM-01	MERRILL LYNCH	868092	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 178
1037	IM-01	MERRILL LYNCH	868093	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 179

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
1038	IM-01	MERRILL LYNCH	225665	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 18
1039	IM-01	MERRILL LYNCH	868094	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 180
1040	IM-01	MERRILL LYNCH	868144	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 181
1041	IM-01	MERRILL LYNCH	868145	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 182
1042	IM-01	MERRILL LYNCH	868147	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 183
1043	IM-01	MERRILL LYNCH	868148	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 184
1044	IM-01	MERRILL LYNCH	868149	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 185
1045	IM-01	MERRILL LYNCH	868150	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 186
1046	IM-01	MERRILL LYNCH	868151	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 187
1047	IM-01	MERRILL LYNCH	868152	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 188
1048	IM-01	MERRILL LYNCH	868153	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 189
1049	IM-01	MERRILL LYNCH	868095	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 190
1050	IM-01	MERRILL LYNCH	868096	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 191
1051	IM-01	MERRILL LYNCH	868097	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 192
1052	IM-01	MERRILL LYNCH	868098	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 193
1053	IM-01	MERRILL LYNCH	868099	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 194
1054	IM-01	MERRILL LYNCH	868100	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 195
1055	IM-01	MERRILL LYNCH	868101	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 196
1056	IM-01	MERRILL LYNCH	868102	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 197
1057	IM-01	MERRILL LYNCH	868103	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 198
1058	IM-01	MERRILL LYNCH	868105	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 199
1059	IM-01	MERRILL LYNCH	868106	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 200
1060	IM-01	MERRILL LYNCH	868107	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 201
1061	IM-01	MERRILL LYNCH	868109	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 202
1062	IM-01	MERRILL LYNCH	868110	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 203
1063	IM-01	MERRILL LYNCH	868111	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 204
1064	IM-01	MERRILL LYNCH	276371	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 22
1065	IM-01	MERRILL LYNCH	276892	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 23
1066	IM-01	MERRILL LYNCH	069001	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 25
1067	IM-01	MERRILL LYNCH	312315	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 27
1068	IM-01	MERRILL LYNCH	709367	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 28
1069	IM-01	MERRILL LYNCH	709371	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 29
1070	IM-01	MERRILL LYNCH	710805	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 30
1071	IM-01	MERRILL LYNCH	713675	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 31
1072	IM-01	MERRILL LYNCH	715061	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 32
1073	IM-01	MERRILL LYNCH	715608	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 33
1074	IM-01	MERRILL LYNCH	716803	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 34
1075	IM-01	MERRILL LYNCH	716798	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 35
1076	IM-01	MERRILL LYNCH	716799	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 36
1077	IM-01	MERRILL LYNCH	720717	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 37
1078	IM-01	MERRILL LYNCH	720751	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 38
1079	IM-01	MERRILL LYNCH	726853	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 39
1080	IM-01	MERRILL LYNCH	732724	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 41
1081	IM-01	MERRILL LYNCH	732738	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 42
1082	IM-01	MERRILL LYNCH	735416	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 43
1083	IM-01	MERRILL LYNCH	735420	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 44
1084	IM-01	MERRILL LYNCH	739292	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 45
1085	IM-01	MERRILL LYNCH	739290	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 46
1086	IM-01	MERRILL LYNCH	741522	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 47
1087	IM-01	MERRILL LYNCH	744192	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 48
1088	IM-01	MERRILL LYNCH	744467	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 49
1089	IM-01	MERRILL LYNCH	746571	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 50
1090	IM-01	MERRILL LYNCH	750319	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 51
1091	IM-01	MERRILL LYNCH	752759	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 52
1092	IM-01	MERRILL LYNCH	755876	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 53
1093	IM-01	MERRILL LYNCH	758502	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 54
1094	IM-01	MERRILL LYNCH	759429	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 55
1095	IM-01	MERRILL LYNCH	762911	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 56
1096	IM-01	MERRILL LYNCH	763981	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 57
1097	IM-01	MERRILL LYNCH	766006	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 58
1098	IM-01	MERRILL LYNCH	766729	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 59
1099	IM-01	MERRILL LYNCH	770726	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 60
1100	IM-01	MERRILL LYNCH	771979	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 61
1101	IM-01	MERRILL LYNCH	774442	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 62
1102	IM-01	MERRILL LYNCH	774930	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 63
1103	IM-01	MERRILL LYNCH	780545	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 64
1104	IM-01	MERRILL LYNCH	780546	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 65
1105	IM-01	MERRILL LYNCH	780547	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 66
1106	IM-01	MERRILL LYNCH	780548	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 67
1107	IM-01	MERRILL LYNCH	780549	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 68
1108	IM-01	MERRILL LYNCH	780550	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 69
1109	IM-01	MERRILL LYNCH	780551	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 70
1110	IM-01	MERRILL LYNCH	780552	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 71
1111	IM-01	MERRILL LYNCH	780553	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 72
1112	IM-01	MERRILL LYNCH	780554	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 73
1113	IM-01	MERRILL LYNCH	780555	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 74
1114	IM-01	MERRILL LYNCH	780556	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 75
1115	IM-01	MERRILL LYNCH	780557	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 76
1116	IM-01	MERRILL LYNCH	780558	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 77
1117	IM-01	MERRILL LYNCH	780559	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 78
1118	IM-01	MERRILL LYNCH	780560	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 79
1119	IM-01	MERRILL LYNCH	780561	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 80

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
1120	IM-01	MERRILL LYNCH	780562	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 81
1121	IM-01	MERRILL LYNCH	780591	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 82
1122	IM-01	MERRILL LYNCH	780592	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 83
1123	IM-01	MERRILL LYNCH	780593	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 84
1124	IM-01	MERRILL LYNCH	780594	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 85
1125	IM-01	MERRILL LYNCH	780595	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 86
1126	IM-01	MERRILL LYNCH	780596	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 87
1127	IM-01	MERRILL LYNCH	780597	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 88
1128	IM-01	MERRILL LYNCH	780598	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 89
1129	IM-01	MERRILL LYNCH	209571	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 9
1130	IM-01	MERRILL LYNCH	780600	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 90
1131	IM-01	MERRILL LYNCH	780606	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 91
1132	IM-01	MERRILL LYNCH	780609	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 92
1133	IM-01	MERRILL LYNCH	780612	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 93
1134	IM-01	MERRILL LYNCH	780615	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 94
1135	IM-01	MERRILL LYNCH	780619	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 95
1136	IM-01	MERRILL LYNCH	780623	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 96
1137	IM-01	MERRILL LYNCH	780626	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 97
1138	IM-01	MERRILL LYNCH	780628	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 98
1139	IM-01	MERRILL LYNCH	780632	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD INTERM TERM SER 99
1140	IM-01	MERRILL LYNCH	711904	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MASS SER 1
1141	IM-01	MERRILL LYNCH	715115	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MASS SER 2
1142	IM-01	MERRILL LYNCH	716602	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MASS SER 3
1143	IM-01	MERRILL LYNCH	717804	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MASS SER 4
1144	IM-01	MERRILL LYNCH	719437	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MASS SER 5
1145	IM-01	MERRILL LYNCH	721766	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MASS SER 6
1146	IM-01	MERRILL LYNCH	718910	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MBIA INS DISC SER 1
1147	IM-01	MERRILL LYNCH	718115	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MBIA INSURED SER 1
1148	IM-01	MERRILL LYNCH	720504	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MBIA INSURED SER 2
1149	IM-01	MERRILL LYNCH	277061	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MINNESOTA SERIES 2
1150	IM-01	MERRILL LYNCH	278213	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MINNESOTA SERIES 3
1151	IM-01	MERRILL LYNCH	714527	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MINNESOTA SERIES 4
1152	IM-01	MERRILL LYNCH	716094	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MINNESOTA SERIES 5
1153	IM-01	MERRILL LYNCH	068986	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 10
1154	IM-01	MERRILL LYNCH	310073	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 101
1155	IM-01	MERRILL LYNCH	310476	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 102
1156	IM-01	MERRILL LYNCH	310831	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 103
1157	IM-01	MERRILL LYNCH	310991	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 104
1158	IM-01	MERRILL LYNCH	311466	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 105
1159	IM-01	MERRILL LYNCH	311412	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 107
1160	IM-01	MERRILL LYNCH	311410	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 108
1161	IM-01	MERRILL LYNCH	311861	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 109
1162	IM-01	MERRILL LYNCH	068927	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 11
1163	IM-01	MERRILL LYNCH	312150	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 111
1164	IM-01	MERRILL LYNCH	312909	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 113
1165	IM-01	MERRILL LYNCH	313307	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 115
1166	IM-01	MERRILL LYNCH	314124	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 120
1167	IM-01	MERRILL LYNCH	314289	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 121
1168	IM-01	MERRILL LYNCH	314503	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 122
1169	IM-01	MERRILL LYNCH	315140	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 125
1170	IM-01	MERRILL LYNCH	315350	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 127
1171	IM-01	MERRILL LYNCH	315879	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 129
1172	IM-01	MERRILL LYNCH	316045	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 130
1173	IM-01	MERRILL LYNCH	316281	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 131
1174	IM-01	MERRILL LYNCH	316457	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 133
1175	IM-01	MERRILL LYNCH	316475	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 134
1176	IM-01	MERRILL LYNCH	316644	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 135
1177	IM-01	MERRILL LYNCH	317036	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 136
1178	IM-01	MERRILL LYNCH	317536	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 139
1179	IM-01	MERRILL LYNCH	317807	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 140
1180	IM-01	MERRILL LYNCH	068928	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 15
1181	IM-01	MERRILL LYNCH	319610	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 152
1182	IM-01	MERRILL LYNCH	319664	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 153
1183	IM-01	MERRILL LYNCH	319672	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 154
1184	IM-01	MERRILL LYNCH	000014	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 155
1185	IM-01	MERRILL LYNCH	000017	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 156
1186	IM-01	MERRILL LYNCH	350016	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 159
1187	IM-01	MERRILL LYNCH	350097	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 160
1188	IM-01	MERRILL LYNCH	350221	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 161
1189	IM-01	MERRILL LYNCH	350481	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 162
1190	IM-01	MERRILL LYNCH	350681	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 163
1191	IM-01	MERRILL LYNCH	350809	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 164
1192	IM-01	MERRILL LYNCH	788656	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 165
1193	IM-01	MERRILL LYNCH	351073	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 166
1194	IM-01	MERRILL LYNCH	351121	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 167
1195	IM-01	MERRILL LYNCH	351118	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 168
1196	IM-01	MERRILL LYNCH	351497	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 169
1197	IM-01	MERRILL LYNCH	068980	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 17
1198	IM-01	MERRILL LYNCH	715092	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 170
1199	IM-01	MERRILL LYNCH	351713	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 171
1200	IM-01	MERRILL LYNCH	351726	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 172
1201	IM-01	MERRILL LYNCH	351724	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 173

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
1202	IM-01	MERRILL LYNCH	352077	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 174
1203	IM-01	MERRILL LYNCH	352080	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 175
1204	IM-01	MERRILL LYNCH	352379	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 176
1205	IM-01	MERRILL LYNCH	352383	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 177
1206	IM-01	MERRILL LYNCH	352546	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 178
1207	IM-01	MERRILL LYNCH	352838	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 179
1208	IM-01	MERRILL LYNCH	352727	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 180
1209	IM-01	MERRILL LYNCH	352724	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 181
1210	IM-01	MERRILL LYNCH	353226	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 182
1211	IM-01	MERRILL LYNCH	353383	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 183
1212	IM-01	MERRILL LYNCH	400014	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 184
1213	IM-01	MERRILL LYNCH	353546	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 185
1214	IM-01	MERRILL LYNCH	353598	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 186
1215	IM-01	MERRILL LYNCH	353711	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 187
1216	IM-01	MERRILL LYNCH	353878	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 188
1217	IM-01	MERRILL LYNCH	353986	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 189
1218	IM-01	MERRILL LYNCH	354005	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 190
1219	IM-01	MERRILL LYNCH	354108	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 191
1220	IM-01	MERRILL LYNCH	354467	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 192
1221	IM-01	MERRILL LYNCH	354753	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 193
1222	IM-01	MERRILL LYNCH	354936	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 194
1223	IM-01	MERRILL LYNCH	354934	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 195
1224	IM-01	MERRILL LYNCH	355292	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 196
1225	IM-01	MERRILL LYNCH	355299	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 197
1226	IM-01	MERRILL LYNCH	278064	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 198
1227	IM-01	MERRILL LYNCH	355595	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 199
1228	IM-01	MERRILL LYNCH	068950	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 2
1229	IM-01	MERRILL LYNCH	788957	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 200
1230	IM-01	MERRILL LYNCH	355860	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 201
1231	IM-01	MERRILL LYNCH	355926	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 202
1232	IM-01	MERRILL LYNCH	355973	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 203
1233	IM-01	MERRILL LYNCH	068942	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 204
1234	IM-01	MERRILL LYNCH	356237	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 205
1235	IM-01	MERRILL LYNCH	356236	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 206
1236	IM-01	MERRILL LYNCH	356407	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 207
1237	IM-01	MERRILL LYNCH	356405	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 208
1238	IM-01	MERRILL LYNCH	357102	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 209
1239	IM-01	MERRILL LYNCH	356989	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 210
1240	IM-01	MERRILL LYNCH	356986	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 211
1241	IM-01	MERRILL LYNCH	357147	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 212
1242	IM-01	MERRILL LYNCH	357124	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 213
1243	IM-01	MERRILL LYNCH	357165	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 214
1244	IM-01	MERRILL LYNCH	357289	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 215
1245	IM-01	MERRILL LYNCH	357360	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 216
1246	IM-01	MERRILL LYNCH	357430	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 217
1247	IM-01	MERRILL LYNCH	700736	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 218
1248	IM-01	MERRILL LYNCH	700778	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 219
1249	IM-01	MERRILL LYNCH	700988	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 220
1250	IM-01	MERRILL LYNCH	701261	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 221
1251	IM-01	MERRILL LYNCH	701469	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 222
1252	IM-01	MERRILL LYNCH	701644	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 223
1253	IM-01	MERRILL LYNCH	701654	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 224
1254	IM-01	MERRILL LYNCH	701809	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 225
1255	IM-01	MERRILL LYNCH	701808	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 226
1256	IM-01	MERRILL LYNCH	702296	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 227
1257	IM-01	MERRILL LYNCH	702415	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 228
1258	IM-01	MERRILL LYNCH	702524	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 229
1259	IM-01	MERRILL LYNCH	702722	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 230
1260	IM-01	MERRILL LYNCH	703114	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 231
1261	IM-01	MERRILL LYNCH	703215	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 232
1262	IM-01	MERRILL LYNCH	703324	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 233
1263	IM-01	MERRILL LYNCH	703552	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 234
1264	IM-01	MERRILL LYNCH	703666	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 235
1265	IM-01	MERRILL LYNCH	703864	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 236
1266	IM-01	MERRILL LYNCH	703982	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 237
1267	IM-01	MERRILL LYNCH	704204	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 238
1268	IM-01	MERRILL LYNCH	704554	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 239
1269	IM-01	MERRILL LYNCH	069080	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 24
1270	IM-01	MERRILL LYNCH	704804	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 240
1271	IM-01	MERRILL LYNCH	705374	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 242
1272	IM-01	MERRILL LYNCH	705597	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 243
1273	IM-01	MERRILL LYNCH	705594	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 244
1274	IM-01	MERRILL LYNCH	705603	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 245
1275	IM-01	MERRILL LYNCH	706214	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 246
1276	IM-01	MERRILL LYNCH	706372	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 247
1277	IM-01	MERRILL LYNCH	706706	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 248
1278	IM-01	MERRILL LYNCH	707223	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 249
1279	IM-01	MERRILL LYNCH	707368	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 250
1280	IM-01	MERRILL LYNCH	707796	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 251
1281	IM-01	MERRILL LYNCH	708130	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 252
1282	IM-01	MERRILL LYNCH	708449	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 253
1283	IM-01	MERRILL LYNCH	708869	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 254

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
1284	IM-01	MERRILL LYNCH	709259	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 255
1285	IM-01	MERRILL LYNCH	709377	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 256
1286	IM-01	MERRILL LYNCH	709708	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 257
1287	IM-01	MERRILL LYNCH	709711	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 258
1288	IM-01	MERRILL LYNCH	710768	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 259
1289	IM-01	MERRILL LYNCH	710779	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 260
1290	IM-01	MERRILL LYNCH	711075	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 261
1291	IM-01	MERRILL LYNCH	711314	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 262
1292	IM-01	MERRILL LYNCH	320804	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 263
1293	IM-01	MERRILL LYNCH	712617	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 264
1294	IM-01	MERRILL LYNCH	713027	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 265
1295	IM-01	MERRILL LYNCH	713042	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 266
1296	IM-01	MERRILL LYNCH	714161	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 267
1297	IM-01	MERRILL LYNCH	714526	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 268
1298	IM-01	MERRILL LYNCH	715068	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 269
1299	IM-01	MERRILL LYNCH	715274	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 270
1300	IM-01	MERRILL LYNCH	715602	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 271
1301	IM-01	MERRILL LYNCH	766083	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 272
1302	IM-01	MERRILL LYNCH	716388	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 273
1303	IM-01	MERRILL LYNCH	716604	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 274
1304	IM-01	MERRILL LYNCH	716915	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 275
1305	IM-01	MERRILL LYNCH	717230	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 276
1306	IM-01	MERRILL LYNCH	717531	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 277
1307	IM-01	MERRILL LYNCH	718113	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 278
1308	IM-01	MERRILL LYNCH	718565	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 279
1309	IM-01	MERRILL LYNCH	718919	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 280
1310	IM-01	MERRILL LYNCH	719359	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 281
1311	IM-01	MERRILL LYNCH	719529	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 282
1312	IM-01	MERRILL LYNCH	719723	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 283
1313	IM-01	MERRILL LYNCH	720738	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 284
1314	IM-01	MERRILL LYNCH	720842	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 285
1315	IM-01	MERRILL LYNCH	721720	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 286
1316	IM-01	MERRILL LYNCH	722415	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 287
1317	IM-01	MERRILL LYNCH	722749	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 288
1318	IM-01	MERRILL LYNCH	723267	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 289
1319	IM-01	MERRILL LYNCH	069005	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 29
1320	IM-01	MERRILL LYNCH	723265	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 290
1321	IM-01	MERRILL LYNCH	723744	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 291
1322	IM-01	MERRILL LYNCH	724578	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 292
1323	IM-01	MERRILL LYNCH	725882	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 293
1324	IM-01	MERRILL LYNCH	726323	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 294
1325	IM-01	MERRILL LYNCH	726842	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 295
1326	IM-01	MERRILL LYNCH	727645	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 296
1327	IM-01	MERRILL LYNCH	727427	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 297
1328	IM-01	MERRILL LYNCH	729366	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 298
1329	IM-01	MERRILL LYNCH	730021	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 299
1330	IM-01	MERRILL LYNCH	068988	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 3
1331	IM-01	MERRILL LYNCH	069007	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 30
1332	IM-01	MERRILL LYNCH	730353	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 300
1333	IM-01	MERRILL LYNCH	730682	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 301
1334	IM-01	MERRILL LYNCH	730759	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 302
1335	IM-01	MERRILL LYNCH	731418	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 303
1336	IM-01	MERRILL LYNCH	731417	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 304
1337	IM-01	MERRILL LYNCH	732725	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 305
1338	IM-01	MERRILL LYNCH	732728	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 306
1339	IM-01	MERRILL LYNCH	733959	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 307
1340	IM-01	MERRILL LYNCH	736056	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 308
1341	IM-01	MERRILL LYNCH	736045	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 309
1342	IM-01	MERRILL LYNCH	069008	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 31
1343	IM-01	MERRILL LYNCH	736044	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 310
1344	IM-01	MERRILL LYNCH	737754	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 311
1345	IM-01	MERRILL LYNCH	739296	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 312
1346	IM-01	MERRILL LYNCH	739291	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 313
1347	IM-01	MERRILL LYNCH	739704	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 314
1348	IM-01	MERRILL LYNCH	740791	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 315
1349	IM-01	MERRILL LYNCH	740792	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 316
1350	IM-01	MERRILL LYNCH	741774	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 317
1351	IM-01	MERRILL LYNCH	742458	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 318
1352	IM-01	MERRILL LYNCH	743441	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 319
1353	IM-01	MERRILL LYNCH	069009	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 32
1354	IM-01	MERRILL LYNCH	744127	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 320
1355	IM-01	MERRILL LYNCH	744191	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 321
1356	IM-01	MERRILL LYNCH	745050	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 322
1357	IM-01	MERRILL LYNCH	745480	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 323
1358	IM-01	MERRILL LYNCH	745997	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 324
1359	IM-01	MERRILL LYNCH	746556	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 325
1360	IM-01	MERRILL LYNCH	746559	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 326
1361	IM-01	MERRILL LYNCH	747220	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 327
1362	IM-01	MERRILL LYNCH	747216	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 328
1363	IM-01	MERRILL LYNCH	748095	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 329
1364	IM-01	MERRILL LYNCH	748535	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 330
1365	IM-01	MERRILL LYNCH	748897	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 331

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
1366	IM–01	MERRILL LYNCH	749918	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 332
1367	IM–01	MERRILL LYNCH	750352	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 333
1368	IM–01	MERRILL LYNCH	750845	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 334
1369	IM–01	MERRILL LYNCH	751516	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 335
1370	IM–01	MERRILL LYNCH	752756	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 336
1371	IM–01	MERRILL LYNCH	754611	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 337
1372	IM–01	MERRILL LYNCH	755140	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 338
1373	IM–01	MERRILL LYNCH	756671	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 339
1374	IM–01	MERRILL LYNCH	722809	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 340
1375	IM–01	MERRILL LYNCH	757560	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 341
1376	IM–01	MERRILL LYNCH	759016	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 342
1377	IM–01	MERRILL LYNCH	759743	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 343
1378	IM–01	MERRILL LYNCH	760486	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 344
1379	IM–01	MERRILL LYNCH	760735	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 345
1380	IM–01	MERRILL LYNCH	760736	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 346
1381	IM–01	MERRILL LYNCH	761324	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 347
1382	IM–01	MERRILL LYNCH	762910	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 348
1383	IM–01	MERRILL LYNCH	763295	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 349
1384	IM–01	MERRILL LYNCH	069012	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 35
1385	IM–01	MERRILL LYNCH	764213	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 350
1386	IM–01	MERRILL LYNCH	764215	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 351
1387	IM–01	MERRILL LYNCH	764473	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 352
1388	IM–01	MERRILL LYNCH	764826	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 353
1389	IM–01	MERRILL LYNCH	766009	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 354
1390	IM–01	MERRILL LYNCH	766304	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 355
1391	IM–01	MERRILL LYNCH	766742	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 356
1392	IM–01	MERRILL LYNCH	766741	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 357
1393	IM–01	MERRILL LYNCH	768597	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 358
1394	IM–01	MERRILL LYNCH	768912	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 359
1395	IM–01	MERRILL LYNCH	769274	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 360
1396	IM–01	MERRILL LYNCH	769892	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 361
1397	IM–01	MERRILL LYNCH	771480	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 362
1398	IM–01	MERRILL LYNCH	771740	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 363
1399	IM–01	MERRILL LYNCH	773267	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 364
1400	IM–01	MERRILL LYNCH	773471	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 365
1401	IM–01	MERRILL LYNCH	773712	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 366
1402	IM–01	MERRILL LYNCH	774444	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 367
1403	IM–01	MERRILL LYNCH	774941	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 368
1404	IM–01	MERRILL LYNCH	775973	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 369
1405	IM–01	MERRILL LYNCH	069014	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 37
1406	IM–01	MERRILL LYNCH	777445	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 370
1407	IM–01	MERRILL LYNCH	778361	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 371
1408	IM–01	MERRILL LYNCH	779323	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 372
1409	IM–01	MERRILL LYNCH	780644	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 373
1410	IM–01	MERRILL LYNCH	780650	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 374
1411	IM–01	MERRILL LYNCH	780655	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 375
1412	IM–01	MERRILL LYNCH	780660	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 376
1413	IM–01	MERRILL LYNCH	780666	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 377
1414	IM–01	MERRILL LYNCH	780670	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 378
1415	IM–01	MERRILL LYNCH	780675	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 379
1416	IM–01	MERRILL LYNCH	069015	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 38
1417	IM–01	MERRILL LYNCH	780680	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 380
1418	IM–01	MERRILL LYNCH	780684	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 381
1419	IM–01	MERRILL LYNCH	780689	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 382
1420	IM–01	MERRILL LYNCH	780699	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 383
1421	IM–01	MERRILL LYNCH	780705	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 384
1422	IM–01	MERRILL LYNCH	780709	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 385
1423	IM–01	MERRILL LYNCH	780713	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 386
1424	IM–01	MERRILL LYNCH	780719	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 387
1425	IM–01	MERRILL LYNCH	780724	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 388
1426	IM–01	MERRILL LYNCH	780728	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 389
1427	IM–01	MERRILL LYNCH	069016	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 39
1428	IM–01	MERRILL LYNCH	780734	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 390
1429	IM–01	MERRILL LYNCH	791850	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 391
1430	IM–01	MERRILL LYNCH	791877	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 392
1431	IM–01	MERRILL LYNCH	791878	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 393
1432	IM–01	MERRILL LYNCH	791879	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 394
1433	IM–01	MERRILL LYNCH	791880	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 395
1434	IM–01	MERRILL LYNCH	791881	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 396
1435	IM–01	MERRILL LYNCH	791882	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 397
1436	IM–01	MERRILL LYNCH	791883	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 398
1437	IM–01	MERRILL LYNCH	791884	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 399
1438	IM–01	MERRILL LYNCH	780739	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 400
1439	IM–01	MERRILL LYNCH	780745	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 401
1440	IM–01	MERRILL LYNCH	780750	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 402
1441	IM–01	MERRILL LYNCH	780756	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 403
1442	IM–01	MERRILL LYNCH	780760	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 404
1443	IM–01	MERRILL LYNCH	780764	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 405
1444	IM–01	MERRILL LYNCH	780765	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 406
1445	IM–01	MERRILL LYNCH	780768	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 407
1446	IM–01	MERRILL LYNCH	780771	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 408
1447	IM–01	MERRILL LYNCH	780773	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 409

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
1448	IM-01	MERRILL LYNCH	069019	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 41
1449	IM-01	MERRILL LYNCH	780775	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 410
1450	IM-01	MERRILL LYNCH	780778	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 411
1451	IM-01	MERRILL LYNCH	780780	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 412
1452	IM-01	MERRILL LYNCH	780783	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 413
1453	IM-01	MERRILL LYNCH	780786	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 414
1454	IM-01	MERRILL LYNCH	780792	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 415
1455	IM-01	MERRILL LYNCH	780795	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 416
1456	IM-01	MERRILL LYNCH	780798	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 417
1457	IM-01	MERRILL LYNCH	780800	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 418
1458	IM-01	MERRILL LYNCH	780802	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 419
1459	IM-01	MERRILL LYNCH	069020	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 42
1460	IM-01	MERRILL LYNCH	780804	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 420
1461	IM-01	MERRILL LYNCH	780808	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 421
1462	IM-01	MERRILL LYNCH	780811	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 422
1463	IM-01	MERRILL LYNCH	780815	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 423
1464	IM-01	MERRILL LYNCH	780825	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 424
1465	IM-01	MERRILL LYNCH	780829	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 425
1466	IM-01	MERRILL LYNCH	780832	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 426
1467	IM-01	MERRILL LYNCH	780836	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 427
1468	IM-01	MERRILL LYNCH	780840	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 428
1469	IM-01	MERRILL LYNCH	780845	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 429
1470	IM-01	MERRILL LYNCH	780855	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 430
1471	IM-01	MERRILL LYNCH	780856	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 431
1472	IM-01	MERRILL LYNCH	780863	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 432
1473	IM-01	MERRILL LYNCH	780866	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 433
1474	IM-01	MERRILL LYNCH	780870	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 434
1475	IM-01	MERRILL LYNCH	780874	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 435
1476	IM-01	MERRILL LYNCH	780878	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 436
1477	IM-01	MERRILL LYNCH	780879	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 437
1478	IM-01	MERRILL LYNCH	780883	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 438
1479	IM-01	MERRILL LYNCH	780887	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 439
1480	IM-01	MERRILL LYNCH	069022	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 44
1481	IM-01	MERRILL LYNCH	780891	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 440
1482	IM-01	MERRILL LYNCH	780894	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 441
1483	IM-01	MERRILL LYNCH	780912	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 442
1484	IM-01	MERRILL LYNCH	781060	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 443
1485	IM-01	MERRILL LYNCH	781119	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 444
1486	IM-01	MERRILL LYNCH	781121	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 445
1487	IM-01	MERRILL LYNCH	781123	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 446
1488	IM-01	MERRILL LYNCH	781125	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 447
1489	IM-01	MERRILL LYNCH	781140	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 448
1490	IM-01	MERRILL LYNCH	781143	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 449
1491	IM-01	MERRILL LYNCH	781145	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 450
1492	IM-01	MERRILL LYNCH	781148	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 451
1493	IM-01	MERRILL LYNCH	781150	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 452
1494	IM-01	MERRILL LYNCH	781154	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 453
1495	IM-01	MERRILL LYNCH	781156	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 454
1496	IM-01	MERRILL LYNCH	781907	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 455
1497	IM-01	MERRILL LYNCH	781910	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 456
1498	IM-01	MERRILL LYNCH	781912	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 457
1499	IM-01	MERRILL LYNCH	781911	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 458
1500	IM-01	MERRILL LYNCH	781913	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 459
1501	IM-01	MERRILL LYNCH	781914	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 460
1502	IM-01	MERRILL LYNCH	781915	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 461
1503	IM-01	MERRILL LYNCH	781916	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 462
1504	IM-01	MERRILL LYNCH	781917	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 463
1505	IM-01	MERRILL LYNCH	781918	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 464
1506	IM-01	MERRILL LYNCH	781919	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 465
1507	IM-01	MERRILL LYNCH	781920	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 466
1508	IM-01	MERRILL LYNCH	781921	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 467
1509	IM-01	MERRILL LYNCH	781922	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 468
1510	IM-01	MERRILL LYNCH	781923	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 469
1511	IM-01	MERRILL LYNCH	068939	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 47
1512	IM-01	MERRILL LYNCH	781924	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 470
1513	IM-01	MERRILL LYNCH	781925	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 471
1514	IM-01	MERRILL LYNCH	781926	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 472
1515	IM-01	MERRILL LYNCH	781927	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 473
1516	IM-01	MERRILL LYNCH	803678	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 474
1517	IM-01	MERRILL LYNCH	803679	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 475
1518	IM-01	MERRILL LYNCH	803680	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 476
1519	IM-01	MERRILL LYNCH	803681	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 477
1520	IM-01	MERRILL LYNCH	803682	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 478
1521	IM-01	MERRILL LYNCH	803683	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 479
1522	IM-01	MERRILL LYNCH	803684	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 480
1523	IM-01	MERRILL LYNCH	803685	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 481
1524	IM-01	MERRILL LYNCH	803686	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 482
1525	IM-01	MERRILL LYNCH	803689	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 483
1526	IM-01	MERRILL LYNCH	803690	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 484
1527	IM-01	MERRILL LYNCH	803691	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 485
1528	IM-01	MERRILL LYNCH	803692	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 486
1529	IM-01	MERRILL LYNCH	803693	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 487

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
1530	IM-01	MERRILL LYNCH	803694	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 488
1531	IM-01	MERRILL LYNCH	803696	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 489
1532	IM-01	MERRILL LYNCH	803697	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 490
1533	IM-01	MERRILL LYNCH	803698	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 491
1534	IM-01	MERRILL LYNCH	803699	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 492
1535	IM-01	MERRILL LYNCH	803700	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 493
1536	IM-01	MERRILL LYNCH	803701	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 494
1537	IM-01	MERRILL LYNCH	803702	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 495
1538	IM-01	MERRILL LYNCH	803703	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 496
1539	IM-01	MERRILL LYNCH	852067	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 497
1540	IM-01	MERRILL LYNCH	803705	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 498
1541	IM-01	MERRILL LYNCH	803706	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 499
1542	IM-01	MERRILL LYNCH	068929	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 5
1543	IM-01	MERRILL LYNCH	803707	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 500
1544	IM-01	MERRILL LYNCH	803708	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 501
1545	IM-01	MERRILL LYNCH	803709	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 502
1546	IM-01	MERRILL LYNCH	803710	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 503
1547	IM-01	MERRILL LYNCH	803711	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 504
1548	IM-01	MERRILL LYNCH	803712	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 505
1549	IM-01	MERRILL LYNCH	803713	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 506
1550	IM-01	MERRILL LYNCH	803714	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 507
1551	IM-01	MERRILL LYNCH	803715	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 508
1552	IM-01	MERRILL LYNCH	803716	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 509
1553	IM-01	MERRILL LYNCH	803717	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 510
1554	IM-01	MERRILL LYNCH	803718	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 511
1555	IM-01	MERRILL LYNCH	803719	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 512
1556	IM-01	MERRILL LYNCH	803720	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 513
1557	IM-01	MERRILL LYNCH	803721	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 514
1558	IM-01	MERRILL LYNCH	803722	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 515
1559	IM-01	MERRILL LYNCH	803723	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 516
1560	IM-01	MERRILL LYNCH	803724	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 517
1561	IM-01	MERRILL LYNCH	803725	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 518
1562	IM-01	MERRILL LYNCH	803726	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 519
1563	IM-01	MERRILL LYNCH	803727	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 520
1564	IM-01	MERRILL LYNCH	803728	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 521
1565	IM-01	MERRILL LYNCH	892736	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 522
1566	IM-01	MERRILL LYNCH	892738	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 523
1567	IM-01	MERRILL LYNCH	892740	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 524
1568	IM-01	MERRILL LYNCH	892742	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 525
1569	IM-01	MERRILL LYNCH	068983	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 6
1570	IM-01	MERRILL LYNCH	202665	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 62
1571	IM-01	MERRILL LYNCH	202666	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 63
1572	IM-01	MERRILL LYNCH	202667	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 64
1573	IM-01	MERRILL LYNCH	202668	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 65
1574	IM-01	MERRILL LYNCH	205676	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 66
1575	IM-01	MERRILL LYNCH	277267	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 75
1576	IM-01	MERRILL LYNCH	216652	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 76
1577	IM-01	MERRILL LYNCH	277261	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 77
1578	IM-01	MERRILL LYNCH	216655	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 78
1579	IM-01	MERRILL LYNCH	230397	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 82
1580	IM-01	MERRILL LYNCH	230398	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 83
1581	IM-01	MERRILL LYNCH	277225	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 84
1582	IM-01	MERRILL LYNCH	275781	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 89
1583	IM-01	MERRILL LYNCH	068946	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 9
1584	IM-01	MERRILL LYNCH	276777	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 93
1585	IM-01	MERRILL LYNCH	276891	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 94
1586	IM-01	MERRILL LYNCH	277322	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 95
1587	IM-01	MERRILL LYNCH	277640	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 96
1588	IM-01	MERRILL LYNCH	763318	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1A
1589	IM-01	MERRILL LYNCH	763271	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1B
1590	IM-01	MERRILL LYNCH	764022	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1C
1591	IM-01	MERRILL LYNCH	764824	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1D
1592	IM-01	MERRILL LYNCH	765225	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1E
1593	IM-01	MERRILL LYNCH	766745	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1F
1594	IM-01	MERRILL LYNCH	766732	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1G
1595	IM-01	MERRILL LYNCH	768612	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1H
1596	IM-01	MERRILL LYNCH	768928	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1I
1597	IM-01	MERRILL LYNCH	770722	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1J
1598	IM-01	MERRILL LYNCH	771479	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1K
1599	IM-01	MERRILL LYNCH	771976	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1L
1600	IM-01	MERRILL LYNCH	773285	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1M
1601	IM-01	MERRILL LYNCH	773714	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1N
1602	IM-01	MERRILL LYNCH	774019	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1O
1603	IM-01	MERRILL LYNCH	774413	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1P
1604	IM-01	MERRILL LYNCH	775416	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1Q
1605	IM-01	MERRILL LYNCH	775972	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1R
1606	IM-01	MERRILL LYNCH	778410	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1S
1607	IM-01	MERRILL LYNCH	779325	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1T
1608	IM-01	MERRILL LYNCH	780411	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1U
1609	IM-01	MERRILL LYNCH	780454	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1V
1610	IM-01	MERRILL LYNCH	780455	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1W
1611	IM-01	MERRILL LYNCH	780456	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1X

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
1612	IM-01	MERRILL LYNCH	780457	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1Y
1613	IM-01	MERRILL LYNCH	780458	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 1Z
1614	IM-01	MERRILL LYNCH	780459	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2A
1615	IM-01	MERRILL LYNCH	780460	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2B
1616	IM-01	MERRILL LYNCH	780461	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2C
1617	IM-01	MERRILL LYNCH	780462	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2D
1618	IM-01	MERRILL LYNCH	780464	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2E
1619	IM-01	MERRILL LYNCH	780465	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2F
1620	IM-01	MERRILL LYNCH	780466	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2G
1621	IM-01	MERRILL LYNCH	780468	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2H
1622	IM-01	MERRILL LYNCH	780469	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2I
1623	IM-01	MERRILL LYNCH	780470	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2J
1624	IM-01	MERRILL LYNCH	780472	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2K
1625	IM-01	MERRILL LYNCH	780473	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2L
1626	IM-01	MERRILL LYNCH	780474	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2M
1627	IM-01	MERRILL LYNCH	780475	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2N
1628	IM-01	MERRILL LYNCH	780476	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2O
1629	IM-01	MERRILL LYNCH	780477	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2P
1630	IM-01	MERRILL LYNCH	780478	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2Q
1631	IM-01	MERRILL LYNCH	780479	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2R
1632	IM-01	MERRILL LYNCH	780480	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2S
1633	IM-01	MERRILL LYNCH	780481	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2T
1634	IM-01	MERRILL LYNCH	780482	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2U
1635	IM-01	MERRILL LYNCH	780483	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2V
1636	IM-01	MERRILL LYNCH	780484	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2W
1637	IM-01	MERRILL LYNCH	780485	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2X
1638	IM-01	MERRILL LYNCH	780487	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2Y
1639	IM-01	MERRILL LYNCH	780488	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 2Z
1640	IM-01	MERRILL LYNCH	780489	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3A
1641	IM-01	MERRILL LYNCH	780490	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3B
1642	IM-01	MERRILL LYNCH	780491	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3C
1643	IM-01	MERRILL LYNCH	780492	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3D
1644	IM-01	MERRILL LYNCH	780493	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3E
1645	IM-01	MERRILL LYNCH	780494	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3F
1646	IM-01	MERRILL LYNCH	780495	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3G
1647	IM-01	MERRILL LYNCH	780496	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3H
1648	IM-01	MERRILL LYNCH	780497	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3I
1649	IM-01	MERRILL LYNCH	780498	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3J
1650	IM-01	MERRILL LYNCH	780499	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3K
1651	IM-01	MERRILL LYNCH	780500	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3L
1652	IM-01	MERRILL LYNCH	780501	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3M
1653	IM-01	MERRILL LYNCH	780502	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3N
1654	IM-01	MERRILL LYNCH	780503	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3O
1655	IM-01	MERRILL LYNCH	780505	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3P
1656	IM-01	MERRILL LYNCH	780506	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3Q
1657	IM-01	MERRILL LYNCH	780507	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3R
1658	IM-01	MERRILL LYNCH	780509	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3S
1659	IM-01	MERRILL LYNCH	780511	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3T
1660	IM-01	MERRILL LYNCH	780512	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3U
1661	IM-01	MERRILL LYNCH	780513	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3V
1662	IM-01	MERRILL LYNCH	780514	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3W
1663	IM-01	MERRILL LYNCH	780515	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3X
1664	IM-01	MERRILL LYNCH	780516	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3Y
1665	IM-01	MERRILL LYNCH	780517	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 3Z
1666	IM-01	MERRILL LYNCH	780518	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4A
1667	IM-01	MERRILL LYNCH	780519	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4B
1668	IM-01	MERRILL LYNCH	780520	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4C
1669	IM-01	MERRILL LYNCH	780521	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4D
1670	IM-01	MERRILL LYNCH	780522	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4E
1671	IM-01	MERRILL LYNCH	780523	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4F
1672	IM-01	MERRILL LYNCH	780524	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4G
1673	IM-01	MERRILL LYNCH	780525	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4H
1674	IM-01	MERRILL LYNCH	780526	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4I
1675	IM-01	MERRILL LYNCH	780527	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4J
1676	IM-01	MERRILL LYNCH	780528	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4K
1677	IM-01	MERRILL LYNCH	780529	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4L
1678	IM-01	MERRILL LYNCH	780530	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4M
1679	IM-01	MERRILL LYNCH	780531	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4N
1680	IM-01	MERRILL LYNCH	780532	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4O
1681	IM-01	MERRILL LYNCH	780533	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4P
1682	IM-01	MERRILL LYNCH	780534	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4Q
1683	IM-01	MERRILL LYNCH	780535	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4R
1684	IM-01	MERRILL LYNCH	780537	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4S
1685	IM-01	MERRILL LYNCH	780538	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4T
1686	IM-01	MERRILL LYNCH	780539	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4U
1687	IM-01	MERRILL LYNCH	780540	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4V
1688	IM-01	MERRILL LYNCH	780541	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4W
1689	IM-01	MERRILL LYNCH	780542	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4X
1690	IM-01	MERRILL LYNCH	780543	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4Y
1691	IM-01	MERRILL LYNCH	780544	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 4Z
1692	IM-01	MERRILL LYNCH	836057	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5A
1693	IM-01	MERRILL LYNCH	836059	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5B

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
1694	IM-01	MERRILL LYNCH	836061	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5C
1695	IM-01	MERRILL LYNCH	836063	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5D
1696	IM-01	MERRILL LYNCH	836064	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5E
1697	IM-01	MERRILL LYNCH	836065	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5F
1698	IM-01	MERRILL LYNCH	836067	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5G
1699	IM-01	MERRILL LYNCH	836069	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5H
1700	IM-01	MERRILL LYNCH	836070	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5I
1701	IM-01	MERRILL LYNCH	836074	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5J
1702	IM-01	MERRILL LYNCH	836077	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5K
1703	IM-01	MERRILL LYNCH	836079	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5L
1704	IM-01	MERRILL LYNCH	836080	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5M
1705	IM-01	MERRILL LYNCH	836081	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5N
1706	IM-01	MERRILL LYNCH	836082	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5O
1707	IM-01	MERRILL LYNCH	836083	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5P
1708	IM-01	MERRILL LYNCH	836084	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5Q
1709	IM-01	MERRILL LYNCH	836085	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5R
1710	IM-01	MERRILL LYNCH	836086	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5S
1711	IM-01	MERRILL LYNCH	836087	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5T
1712	IM-01	MERRILL LYNCH	836088	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5U
1713	IM-01	MERRILL LYNCH	836089	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5V
1714	IM-01	MERRILL LYNCH	836090	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5W
1715	IM-01	MERRILL LYNCH	836091	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5X
1716	IM-01	MERRILL LYNCH	836093	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5Y
1717	IM-01	MERRILL LYNCH	836094	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 5Z
1718	IM-01	MERRILL LYNCH	847165	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6A
1719	IM-01	MERRILL LYNCH	847166	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6B
1720	IM-01	MERRILL LYNCH	847167	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6C
1721	IM-01	MERRILL LYNCH	847168	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6D
1722	IM-01	MERRILL LYNCH	847169	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6E
1723	IM-01	MERRILL LYNCH	847170	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6F
1724	IM-01	MERRILL LYNCH	847171	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6G
1725	IM-01	MERRILL LYNCH	847172	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6H
1726	IM-01	MERRILL LYNCH	847173	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6I
1727	IM-01	MERRILL LYNCH	847174	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6J
1728	IM-01	MERRILL LYNCH	847175	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6K
1729	IM-01	MERRILL LYNCH	847176	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6L
1730	IM-01	MERRILL LYNCH	847177	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6M
1731	IM-01	MERRILL LYNCH	847178	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6N
1732	IM-01	MERRILL LYNCH	847179	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6O
1733	IM-01	MERRILL LYNCH	847180	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6P
1734	IM-01	MERRILL LYNCH	847181	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6Q
1735	IM-01	MERRILL LYNCH	847182	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6R
1736	IM-01	MERRILL LYNCH	847183	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6S
1737	IM-01	MERRILL LYNCH	847184	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6T
1738	IM-01	MERRILL LYNCH	847185	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6U
1739	IM-01	MERRILL LYNCH	847186	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6V
1740	IM-01	MERRILL LYNCH	847189	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6W
1741	IM-01	MERRILL LYNCH	847191	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6X
1742	IM-01	MERRILL LYNCH	847193	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6Y
1743	IM-01	MERRILL LYNCH	847194	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 6Z
1744	IM-01	MERRILL LYNCH	847200	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7A
1745	IM-01	MERRILL LYNCH	847202	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7B
1746	IM-01	MERRILL LYNCH	847205	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7C
1747	IM-01	MERRILL LYNCH	847207	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7D
1748	IM-01	MERRILL LYNCH	847209	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7E
1749	IM-01	MERRILL LYNCH	847211	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7F
1750	IM-01	MERRILL LYNCH	847213	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7G
1751	IM-01	MERRILL LYNCH	847214	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7H
1752	IM-01	MERRILL LYNCH	847215	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7I
1753	IM-01	MERRILL LYNCH	847216	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7J
1754	IM-01	MERRILL LYNCH	847217	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7K
1755	IM-01	MERRILL LYNCH	847218	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7L
1756	IM-01	MERRILL LYNCH	847219	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7M
1757	IM-01	MERRILL LYNCH	847220	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7N
1758	IM-01	MERRILL LYNCH	847221	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7O
1759	IM-01	MERRILL LYNCH	847222	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7P
1760	IM-01	MERRILL LYNCH	847223	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7Q
1761	IM-01	MERRILL LYNCH	847224	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7R
1762	IM-01	MERRILL LYNCH	847225	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7S
1763	IM-01	MERRILL LYNCH	847226	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7T
1764	IM-01	MERRILL LYNCH	847227	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7U
1765	IM-01	MERRILL LYNCH	847228	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7V
1766	IM-01	MERRILL LYNCH	847229	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7W
1767	IM-01	MERRILL LYNCH	847230	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7X
1768	IM-01	MERRILL LYNCH	847231	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7Y
1769	IM-01	MERRILL LYNCH	847232	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 7Z
1770	IM-01	MERRILL LYNCH	868132	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8A
1771	IM-01	MERRILL LYNCH	868133	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8B
1772	IM-01	MERRILL LYNCH	868134	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8C
1773	IM-01	MERRILL LYNCH	868135	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8D
1774	IM-01	MERRILL LYNCH	868136	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8E
1775	IM-01	MERRILL LYNCH	868137	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8F

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
1776	IM-01	MERRILL LYNCH	868138	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8G
1777	IM-01	MERRILL LYNCH	868139	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8H
1778	IM-01	MERRILL LYNCH	868140	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8I
1779	IM-01	MERRILL LYNCH	868141	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8J
1780	IM-01	MERRILL LYNCH	868142	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8K
1781	IM-01	MERRILL LYNCH	868154	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8L
1782	IM-01	MERRILL LYNCH	868155	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8M
1783	IM-01	MERRILL LYNCH	868157	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8N
1784	IM-01	MERRILL LYNCH	868158	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8O
1785	IM-01	MERRILL LYNCH	868159	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8P
1786	IM-01	MERRILL LYNCH	868160	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8Q
1787	IM-01	MERRILL LYNCH	868161	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8R
1788	IM-01	MERRILL LYNCH	868162	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8S
1789	IM-01	MERRILL LYNCH	868163	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8T
1790	IM-01	MERRILL LYNCH	868164	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8U
1791	IM-01	MERRILL LYNCH	868165	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8V
1792	IM-01	MERRILL LYNCH	868166	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8W
1793	IM-01	MERRILL LYNCH	868167	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8X
1794	IM-01	MERRILL LYNCH	868170	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 8Z
1795	IM-01	MERRILL LYNCH	868171	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9A
1796	IM-01	MERRILL LYNCH	868172	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9B
1797	IM-01	MERRILL LYNCH	868173	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9C
1798	IM-01	MERRILL LYNCH	868174	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9D
1799	IM-01	MERRILL LYNCH	868175	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9E
1800	IM-01	MERRILL LYNCH	868177	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9F
1801	IM-01	MERRILL LYNCH	868178	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9G
1802	IM-01	MERRILL LYNCH	868179	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9H
1803	IM-01	MERRILL LYNCH	868180	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9I
1804	IM-01	MERRILL LYNCH	868181	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9J
1805	IM-01	MERRILL LYNCH	868182	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9K
1806	IM-01	MERRILL LYNCH	868183	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9L
1807	IM-01	MERRILL LYNCH	868184	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9M
1808	IM-01	MERRILL LYNCH	868185	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9N
1809	IM-01	MERRILL LYNCH	868186	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9O
1810	IM-01	MERRILL LYNCH	868187	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9P
1811	IM-01	MERRILL LYNCH	868188	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9Q
1812	IM-01	MERRILL LYNCH	868189	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9R
1813	IM-01	MERRILL LYNCH	868190	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9S
1814	IM-01	MERRILL LYNCH	881819	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9U
1815	IM-01	MERRILL LYNCH	881820	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9V
1816	IM-01	MERRILL LYNCH	881821	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9W
1817	IM-01	MERRILL LYNCH	881822	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9X
1818	IM-01	MERRILL LYNCH	881823	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9Y
1819	IM-01	MERRILL LYNCH	881824	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9Z
1820	IM-01	MERRILL LYNCH	731715	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER A
1821	IM-01	MERRILL LYNCH	733259	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER B
1822	IM-01	MERRILL LYNCH	735402	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER C
1823	IM-01	MERRILL LYNCH	737757	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER D
1824	IM-01	MERRILL LYNCH	741258	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER E
1825	IM-01	MERRILL LYNCH	742457	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER F
1826	IM-01	MERRILL LYNCH	744482	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER G
1827	IM-01	MERRILL LYNCH	745343	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER H
1828	IM-01	MERRILL LYNCH	746555	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER I
1829	IM-01	MERRILL LYNCH	748064	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER J
1830	IM-01	MERRILL LYNCH	749757	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER K
1831	IM-01	MERRILL LYNCH	750650	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER L
1832	IM-01	MERRILL LYNCH	751653	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER M
1833	IM-01	MERRILL LYNCH	752734	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER N
1834	IM-01	MERRILL LYNCH	753349	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER O
1835	IM-01	MERRILL LYNCH	754043	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER P
1836	IM-01	MERRILL LYNCH	755120	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER Q
1837	IM-01	MERRILL LYNCH	755894	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER R
1838	IM-01	MERRILL LYNCH	756839	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER S
1839	IM-01	MERRILL LYNCH	757099	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER T
1840	IM-01	MERRILL LYNCH	757539	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER U
1841	IM-01	MERRILL LYNCH	759422	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER V
1842	IM-01	MERRILL LYNCH	761192	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER W
1843	IM-01	MERRILL LYNCH	761169	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER X
1844	IM-01	MERRILL LYNCH	762124	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER Y
1845	IM-01	MERRILL LYNCH	762134	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER Z
1846	IM-01	MERRILL LYNCH	760586	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW JERSEY SER 1
1847	IM-01	MERRILL LYNCH	760743	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW JERSEY SER 2
1848	IM-01	MERRILL LYNCH	781464	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW JERSEY SER 3
1849	IM-01	MERRILL LYNCH	781471	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW JERSEY SER 4
1850	IM-01	MERRILL LYNCH	754046	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK INS SER 5
1851	IM-01	MERRILL LYNCH	746574	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK PUT SER 1
1852	IM-01	MERRILL LYNCH	752745	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK PUT SER 2
1853	IM-01	MERRILL LYNCH	756821	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK PUT SER 3
1854	IM-01	MERRILL LYNCH	759756	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK PUT SER 4
1855	IM-01	MERRILL LYNCH	773551	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 100
1856	IM-01	MERRILL LYNCH	774923	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 101
1857	IM-01	MERRILL LYNCH	777448	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 102

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
1858	IM-01	MERRILL LYNCH	779324	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 103
1859	IM-01	MERRILL LYNCH	782068	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 104
1860	IM-01	MERRILL LYNCH	782070	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 105
1861	IM-01	MERRILL LYNCH	782075	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 106
1862	IM-01	MERRILL LYNCH	782077	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 107
1863	IM-01	MERRILL LYNCH	782079	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 108
1864	IM-01	MERRILL LYNCH	782083	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 109
1865	IM-01	MERRILL LYNCH	276213	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 11
1866	IM-01	MERRILL LYNCH	782085	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 110
1867	IM-01	MERRILL LYNCH	782087	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 111
1868	IM-01	MERRILL LYNCH	782090	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 112
1869	IM-01	MERRILL LYNCH	782093	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 114
1870	IM-01	MERRILL LYNCH	276515	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 12
1871	IM-01	MERRILL LYNCH	277323	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 13
1872	IM-01	MERRILL LYNCH	277876	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 14
1873	IM-01	MERRILL LYNCH	310074	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 15
1874	IM-01	MERRILL LYNCH	310487	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 16
1875	IM-01	MERRILL LYNCH	311144	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 17
1876	IM-01	MERRILL LYNCH	311239	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 18
1877	IM-01	MERRILL LYNCH	311710	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 19
1878	IM-01	MERRILL LYNCH	068951	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 2
1879	IM-01	MERRILL LYNCH	311978	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 20
1880	IM-01	MERRILL LYNCH	312216	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 21
1881	IM-01	MERRILL LYNCH	315347	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 28
1882	IM-01	MERRILL LYNCH	317722	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 29
1883	IM-01	MERRILL LYNCH	068989	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 3
1884	IM-01	MERRILL LYNCH	318057	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 30
1885	IM-01	MERRILL LYNCH	318506	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 31
1886	IM-01	MERRILL LYNCH	318734	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 32
1887	IM-01	MERRILL LYNCH	000003	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 33
1888	IM-01	MERRILL LYNCH	351159	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 34
1889	IM-01	MERRILL LYNCH	351728	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 35
1890	IM-01	MERRILL LYNCH	352332	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 36
1891	IM-01	MERRILL LYNCH	353473	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 37
1892	IM-01	MERRILL LYNCH	354652	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 38
1893	IM-01	MERRILL LYNCH	355170	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 39
1894	IM-01	MERRILL LYNCH	356824	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 40
1895	IM-01	MERRILL LYNCH	358913	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 41
1896	IM-01	MERRILL LYNCH	357117	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 42
1897	IM-01	MERRILL LYNCH	357436	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 43
1898	IM-01	MERRILL LYNCH	700781	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 44
1899	IM-01	MERRILL LYNCH	701040	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 45
1900	IM-01	MERRILL LYNCH	701326	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 46
1901	IM-01	MERRILL LYNCH	701969	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 47
1902	IM-01	MERRILL LYNCH	702139	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 48
1903	IM-01	MERRILL LYNCH	702527	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 49
1904	IM-01	MERRILL LYNCH	703266	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 50
1905	IM-01	MERRILL LYNCH	703664	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 51
1906	IM-01	MERRILL LYNCH	703890	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 52
1907	IM-01	MERRILL LYNCH	705376	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 53
1908	IM-01	MERRILL LYNCH	706754	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 54
1909	IM-01	MERRILL LYNCH	707367	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 55
1910	IM-01	MERRILL LYNCH	708028	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 56
1911	IM-01	MERRILL LYNCH	708816	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 57
1912	IM-01	MERRILL LYNCH	709277	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 58
1913	IM-01	MERRILL LYNCH	709370	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 59
1914	IM-01	MERRILL LYNCH	068964	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 6
1915	IM-01	MERRILL LYNCH	710783	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 60
1916	IM-01	MERRILL LYNCH	711316	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 61
1917	IM-01	MERRILL LYNCH	712035	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 62
1918	IM-01	MERRILL LYNCH	714053	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 63
1919	IM-01	MERRILL LYNCH	714524	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 64
1920	IM-01	MERRILL LYNCH	715066	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 65
1921	IM-01	MERRILL LYNCH	715383	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 66
1922	IM-01	MERRILL LYNCH	716409	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 67
1923	IM-01	MERRILL LYNCH	716916	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 68
1924	IM-01	MERRILL LYNCH	216656	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 69
1925	IM-01	MERRILL LYNCH	277259	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 7
1926	IM-01	MERRILL LYNCH	718548	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 70
1927	IM-01	MERRILL LYNCH	719438	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 71
1928	IM-01	MERRILL LYNCH	719966	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 72
1929	IM-01	MERRILL LYNCH	720696	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 73
1930	IM-01	MERRILL LYNCH	721952	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 74
1931	IM-01	MERRILL LYNCH	722410	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 75
1932	IM-01	MERRILL LYNCH	723745	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 76
1933	IM-01	MERRILL LYNCH	725009	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 77
1934	IM-01	MERRILL LYNCH	726894	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 78
1935	IM-01	MERRILL LYNCH	729272	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 79
1936	IM-01	MERRILL LYNCH	733964	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 80
1937	IM-01	MERRILL LYNCH	736891	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 81
1938	IM-01	MERRILL LYNCH	739303	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 82
1939	IM-01	MERRILL LYNCH	740163	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 83

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
1940	IM-01	MERRILL LYNCH	742055	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 84
1941	IM-01	MERRILL LYNCH	742456	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 85
1942	IM-01	MERRILL LYNCH	744955	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 86
1943	IM-01	MERRILL LYNCH	745968	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 87
1944	IM-01	MERRILL LYNCH	748642	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 88
1945	IM-01	MERRILL LYNCH	750330	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 89
1946	IM-01	MERRILL LYNCH	230395	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 9
1947	IM-01	MERRILL LYNCH	751517	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 90
1948	IM-01	MERRILL LYNCH	720727	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 91
1949	IM-01	MERRILL LYNCH	761191	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 92
1950	IM-01	MERRILL LYNCH	763760	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 93
1951	IM-01	MERRILL LYNCH	764470	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 94
1952	IM-01	MERRILL LYNCH	765223	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 95
1953	IM-01	MERRILL LYNCH	767032	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 96
1954	IM-01	MERRILL LYNCH	767034	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 97
1955	IM-01	MERRILL LYNCH	768134	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 98
1956	IM-01	MERRILL LYNCH	771739	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER 99
1957	IM-01	MERRILL LYNCH	725648	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER A
1958	IM-01	MERRILL LYNCH	732349	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD NEW YORK SER B
1959	IM-01	MERRILL LYNCH	068995	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 11
1960	IM-01	MERRILL LYNCH	277283	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 12
1961	IM-01	MERRILL LYNCH	277284	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 13
1962	IM-01	MERRILL LYNCH	310940	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 14
1963	IM-01	MERRILL LYNCH	313105	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 15
1964	IM-01	MERRILL LYNCH	319566	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 16
1965	IM-01	MERRILL LYNCH	700983	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 17
1966	IM-01	MERRILL LYNCH	703478	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 18
1967	IM-01	MERRILL LYNCH	708029	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 19
1968	IM-01	MERRILL LYNCH	709707	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 20
1969	IM-01	MERRILL LYNCH	710787	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 21
1970	IM-01	MERRILL LYNCH	714110	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 22
1971	IM-01	MERRILL LYNCH	715807	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 23
1972	IM-01	MERRILL LYNCH	717231	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 24
1973	IM-01	MERRILL LYNCH	719043	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 25
1974	IM-01	MERRILL LYNCH	721703	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 26
1975	IM-01	MERRILL LYNCH	723741	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 27
1976	IM-01	MERRILL LYNCH	068931	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER 5
1977	IM-01	MERRILL LYNCH	735403	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER A
1978	IM-01	MERRILL LYNCH	740147	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER B
1979	IM-01	MERRILL LYNCH	742525	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PENNSYLVANIA SER C
1980	IM-01	MERRILL LYNCH	735590	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD PUT SER 2
1981	IM-01	MERRILL LYNCH	750555	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD TEXAS INS SER 1
1982	IM-01	MERRILL LYNCH	752199	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD TEXAS INS SER 2
1983	IM-01	MERRILL LYNCH	755119	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD TEXAS INS SER 3
1984	IM-01	MERRILL LYNCH	755896	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD TEXAS INS SER 4
1985	IM-01	MERRILL LYNCH	757079	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD TEXAS INS SER 5
1986	IM-01	MERRILL LYNCH	868169	DEFINED ASSET FUNDS MUNICIPAL INVT TR FUND MULTISTATE SER 8Y
1987	IM-01	MERRILL LYNCH	803823	DEFINED ASSET FUNDS MUNICIPAL INVT TRUST FD INSURED SER 169
1988	IM-01	MERRILL LYNCH	803829	DEFINED ASSET FUNDS MUNICIPAL INVT TRUST FD INSURED SER 172
1989	IM-01	MERRILL LYNCH	803834	DEFINED ASSET FUNDS MUNICIPAL INVT TRUST FD INSURED SER 174
1990	IM-01	MERRILL LYNCH	720511	DEFINED ASSET FUNDS MUNICIPAL INVT TRUST FUND OHIO SERIES 1
1991	IM-01	MERRILL LYNCH	723530	DEFINED ASSET FUNDS MUNICIPAL INVT TRUST FUND OHIO SERIES 2
1992	IM-01	MERRILL LYNCH	725023	DEFINED ASSET FUNDS MUNICIPAL INVT TRUST FUND OHIO SERIES 3
1993	IM-01	MERRILL LYNCH	868191	DEFINED ASSSET FUNDS MUNICIPAL INVT TR FD MULTISTATE SER 9T
1994	IM-01	MERRILL LYNCH	731871	EQUITY INCOME FUND SECOND EXCHANGE SERIES AT&T SHARES
1995	IM-01	MERRILL LYNCH	275471	GOVERNMENT SECURITIES INCOME FUND FOURTH GNMA SERIES
1996	IM-01	MERRILL LYNCH	797770	GOVERNMENT SECURITIES INCOME FUND FREDDIE MAC SERIES 8
1997	IM-01	MERRILL LYNCH	318725	GOVERNMENT SECURITIES INCOME FUND GNMA SERIES A
1998	IM-01	MERRILL LYNCH	314131	GOVERNMENT SECURITIES INCOME FUND NINETEENTH GNMA SERIES
1999	IM-01	MERRILL LYNCH	230256	GOVERNMENT SECURITIES INCOME FUND SECOND GNMA SERIES
2000	IM-01	MERRILL LYNCH	314291	GOVERNMENT SECURITIES INCOME FUND TWENTIETH GNMA SERIES
2001	IM-01	MERRILL LYNCH	318510	GOVERNMENT SECURITIES INCOME FUND TWENTY EIGHTH GNMA SERIES
2002	IM-01	MERRILL LYNCH	314764	GOVERNMENT SECURITIES INCOME FUND TWENTY FIRST GNMA SERIES
2003	IM-01	MERRILL LYNCH	315878	GOVERNMENT SECURITIES INCOME FUND TWENTY SECOND GNMA SERIES
2004	IM-01	MERRILL LYNCH	318503	GOVERNMENT SECURITIES INCOME FUND TWENTY SEVENTH GNMA SERIES
2005	IM-01	MERRILL LYNCH	318509	GOVERNMENT SECURITIES INCOME FUND TWENTY SIXTH GNMA SERIES
2006	IM-01	MERRILL LYNCH	317034	GOVERNMENT SECURITIES INCOME FUND TWENTY THIRD GNMA SERIES
2007	IM-01	MERRILL LYNCH	794697	INTERNATIONAL BD FD AUSTRALIAN & NEW ZEALAND DOL BD SER 16
2008	IM-01	MERRILL LYNCH	782328	INTERNATIONAL BD FD AUSTRALIAN & NEW ZEALAND DOL BD SER 18
2009	IM-01	MERRILL LYNCH	796507	INTERNATIONAL BD FUND AUSTRALIAN & NEW ZEALAND DOL BD SER 17
2010	IM-01	MERRILL LYNCH	794693	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 10
2011	IM-01	MERRILL LYNCH	794695	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 12
2012	IM-01	MERRILL LYNCH	794696	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 13
2013	IM-01	MERRILL LYNCH	794698	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 15
2014	IM-01	MERRILL LYNCH	794702	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 19
2015	IM-01	MERRILL LYNCH	794703	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 20
2016	IM-01	MERRILL LYNCH	819051	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 21
2017	IM-01	MERRILL LYNCH	819052	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 22
2018	IM-01	MERRILL LYNCH	819053	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 23
2019	IM-01	MERRILL LYNCH	819055	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 24
2020	IM-01	MERRILL LYNCH	819056	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 25
2021	IM-01	MERRILL LYNCH	819059	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 27

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
2022	IM-01	MERRILL LYNCH	819061	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 29
2023	IM-01	MERRILL LYNCH	819062	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 30
2024	IM-01	MERRILL LYNCH	819064	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 31
2025	IM-01	MERRILL LYNCH	819066	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 33
2026	IM-01	MERRILL LYNCH	819067	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 34
2027	IM-01	MERRILL LYNCH	819069	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 36
2028	IM-01	MERRILL LYNCH	819070	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 37
2029	IM-01	MERRILL LYNCH	819072	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 38
2030	IM-01	MERRILL LYNCH	819075	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 39
2031	IM-01	MERRILL LYNCH	819076	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 40
2032	IM-01	MERRILL LYNCH	852775	INTERNATIONAL BOND FD AUSTRALIAN & NEW ZEALAND DOL BD SER 41
2033	IM-01	MERRILL LYNCH	842485	INTERNATIONAL BOND FUND AUSTRALIAN DOLLAR BONDS SERIES 11
2034	IM-01	MERRILL LYNCH	729984	LIBERTY STREET TRUST EIGHTEENTH CORPORATE MONTHLY PAYMENT SE
2035	IM-01	MERRILL LYNCH	708369	LIBERTY STREET TRUST EIGHTH CORPORATE MONTHLY PAYMENT SERIES
2036	IM-01	MERRILL LYNCH	715063	LIBERTY STREET TRUST ELEVENTH CORPORATE MONTHLY PAYMENT SERI
2037	IM-01	MERRILL LYNCH	722747	LIBERTY STREET TRUST FIFTEENTH CORPORATE MONTHLY PAYMENT SER
2038	IM-01	MERRILL LYNCH	705373	LIBERTY STREET TRUST FIFTH CORPORATE MONTHLY PAYMENT SERIES
2039	IM-01	MERRILL LYNCH	355225	LIBERTY STREET TRUST FIRST CORPORATE MONTHLY PAYMENT SERIES
2040	IM-01	MERRILL LYNCH	719713	LIBERTY STREET TRUST FOURTEENTH CORPORATE MON PYMT SER
2041	IM-01	MERRILL LYNCH	704205	LIBERTY STREET TRUST FOURTH CORPORATE MONTHLY PAYMENT SERIES
2042	IM-01	MERRILL LYNCH	731416	LIBERTY STREET TRUST NINETEENTH CORPORATE MONTHLY PYMT SER
2043	IM-01	MERRILL LYNCH	708135	LIBERTY STREET TRUST NINTH CORPORATE MONTHLY PAYMENT SERIES
2044	IM-01	MERRILL LYNCH	702137	LIBERTY STREET TRUST SECOND CORPORATE MONTHLY PAYMENT SERIES
2045	IM-01	MERRILL LYNCH	726848	LIBERTY STREET TRUST SEVENTEENTH CORPORATE MONTHLY PAYMENT S
2046	IM-01	MERRILL LYNCH	706123	LIBERTY STREET TRUST SEVENTH CORPORATE MONTHLY PAYMENT SER
2047	IM-01	MERRILL LYNCH	725069	LIBERTY STREET TRUST SIXTEENTH CORPORATE MONTHLY PAYMENT SER
2048	IM-01	MERRILL LYNCH	705976	LIBERTY STREET TRUST SIXTH CORPORATE MONTHLY PAYMENT SERIES
2049	IM-01	MERRILL LYNCH	710786	LIBERTY STREET TRUST TENTH CORPORATE MONTHLY PAYMENT SERIES
2050	IM-01	MERRILL LYNCH	703477	LIBERTY STREET TRUST THIRD CORPORATE MONTHLY PAYMENT SERIES
2051	IM-01	MERRILL LYNCH	717519	LIBERTY STREET TRUST THIRTEENTH CORPORATE MONTHLY PAYMENT SE
2052	IM-01	MERRILL LYNCH	716389	LIBERTY STREET TRUST TWELFTH CORPORATE MONTHLY PAYMENT SERIES
2053	IM-01	MERRILL LYNCH	731948	LIBERTY STREET TRUST TWENTIETH CORPORATE MONTHLY PAYMENT SER
2054	IM-01	MERRILL LYNCH	736173	LIBERTY STREET TRUST TWENTY FIRST CORPORATE MONTHLY PAYMENT
2055	IM-01	MERRILL LYNCH	739320	LIBERTY STREET TRUST TWENTY SECOND CORPORATE MONTHLY PAYMENT
2056	IM-01	MERRILL LYNCH	740829	LIBERTY STREET TRUST TWENTY THIRD CORPORATE MONTHLY PAYMENT
2057	IM-01	MERRILL LYNCH	874619	MERRILL LYNCH ADJUSTABLE RATE SECURITIES FUND INC
2058	IM-01	MERRILL LYNCH	740833	MERRILL LYNCH FUND OF STRIPPED ZERO U S TREA SEC SER A
2059	IM-01	MERRILL LYNCH	782698	MERRILL LYNCH FUND OF STRIPPED ZERO U S TREA SEC SER C
2060	IM-01	MERRILL LYNCH	782701	MERRILL LYNCH FUND OF STRIPPED ZERO U S TREA SEC SER D
2061	IM-01	MERRILL LYNCH	782709	MERRILL LYNCH FUND OF STRIPPED ZERO U S TREA SEC SER G
2062	IM-01	MERRILL LYNCH	782711	MERRILL LYNCH FUND OF STRIPPED ZERO U S TREA SEC SER H/
2063	IM-01	MERRILL LYNCH	782713	MERRILL LYNCH FUND OF STRIPPED ZERO U S TREA SEC SER I
2064	IM-01	MERRILL LYNCH	782707	MERRILL LYNCH FUND OF STRIPPED ZERO U S TREA SECUR SER E
2065	IM-01	MERRILL LYNCH	782708	MERRILL LYNCH FUND OF STRIPPED ZERO U S TREA SECURITIES F
2066	IM-01	MERRILL LYNCH	888958	MERRILL LYNCH N C MUNI BD FD OF M L MULTI ST MUNI SER TR
2067	IM-01	MERRILL LYNCH	067148	ML TRUST FOR GOVERNMENT GUARANTEED SECURITIES FIRST MONTHLY
2068	IM-01	MERRILL LYNCH	311312	MUNICIPAL INVESTMENT TR FD ONE HUNDRED SIXTH MON PYMT SER
2069	IM-01	MERRILL LYNCH	727308	MUNICIPAL INVESTMENT TR FUND TWO HUNDRED NINETY SEVENTH MON
2070	IM-01	MERRILL LYNCH	727306	MUNICIPAL INVESTMENT TR FUND TWO HUNDRED NINETY SIXTH MON PA
2071	IM-01	MERRILL LYNCH	310639	MUNICIPAL INVESTMENT TRUST FND FOURTEENTH PENNSYLVANIA SERIES
2072	IM-01	MERRILL LYNCH	740151	MUNICIPAL INVESTMENT TRUST FUND EIGHTY THIRD NEW YORK SERIES
2073	IM-01	MERRILL LYNCH	225666	MUNICIPAL INVESTMENT TRUST FUND EIGHTH NEW YORK SERIES
2074	IM-01	MERRILL LYNCH	225667	MUNICIPAL INVESTMENT TRUST FUND EIGHTIETH MONTHLY PAYMENT SE
2075	IM-01	MERRILL LYNCH	277226	MUNICIPAL INVESTMENT TRUST FUND EIGHTY SIXTH MONTHLY PAYMENT
2076	IM-01	MERRILL LYNCH	068927	MUNICIPAL INVESTMENT TRUST FUND ELEVENTH MONTHLY PAYMENT SER
2077	IM-01	MERRILL LYNCH	068895	MUNICIPAL INVESTMENT TRUST FUND ELEVENTH PENNSYLVANIA SERIES
2078	IM-01	MERRILL LYNCH	068928	MUNICIPAL INVESTMENT TRUST FUND FIFTEENTH MONTHLY PYMT SER
2079	IM-01	MERRILL LYNCH	068929	MUNICIPAL INVESTMENT TRUST FUND FIFTH MONTHLY PAYMENT SERIES
2080	IM-01	MERRILL LYNCH	068931	MUNICIPAL INVESTMENT TRUST FUND FIFTH PENNSYLVANIA SERIES
2081	IM-01	MERRILL LYNCH	277229	MUNICIPAL INVESTMENT TRUST FUND FIRST MINNESOTA SERIES
2082	IM-01	MERRILL LYNCH	069019	MUNICIPAL INVESTMENT TRUST FUND FORTY FIRST MONTHLY PAYMENT
2083	IM-01	MERRILL LYNCH	757840	MUNICIPAL INVESTMENT TRUST FUND FORTY FOURTH CALIFORNIA SERIES
2084	IM-01	MERRILL LYNCH	069022	MUNICIPAL INVESTMENT TRUST FUND FORTY FOURTH MONTHLY PAYMENT
2085	IM-01	MERRILL LYNCH	068939	MUNICIPAL INVESTMENT TRUST FUND FORTY SEVENTH MONTHLY PAYMENT
2086	IM-01	MERRILL LYNCH	277076	MUNICIPAL INVESTMENT TRUST FUND FOURTH NEW YORK SERIES
2087	IM-01	MERRILL LYNCH	780890	MUNICIPAL INVESTMENT TRUST FUND NEW YORK PUT SERIES 73
2088	IM-01	MERRILL LYNCH	277254	MUNICIPAL INVESTMENT TRUST FUND NINETEENTH INTERMEDIATE TERM
2089	IM-01	MERRILL LYNCH	068946	MUNICIPAL INVESTMENT TRUST FUND NINTH MONTHLY PAYMENT SERIES
2090	IM-01	MERRILL LYNCH	319367	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED FIFTIETH MONTHLY
2091	IM-01	MERRILL LYNCH	320437	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED FIFTY EIGHTH MON
2092	IM-01	MERRILL LYNCH	319386	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED FIFTY FIRST MON
2093	IM-01	MERRILL LYNCH	320384	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED FIFTY SEVENTH M
2094	IM-01	MERRILL LYNCH	319116	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED FORTY EIGHTH MON
2095	IM-01	MERRILL LYNCH	317857	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED FORTY FIRST MONT
2096	IM-01	MERRILL LYNCH	319347	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED FORTY NINTH MONT
2097	IM-01	MERRILL LYNCH	318105	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED FORTY SECOND MON
2098	IM-01	MERRILL LYNCH	319125	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED FORTY SEVENTH MO
2099	IM-01	MERRILL LYNCH	318694	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED FORTY SIXTH MON
2100	IM-01	MERRILL LYNCH	316263	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED FORTY THIRD MON
2101	IM-01	MERRILL LYNCH	354906	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED NINETY MONTHLY
2102	IM-01	MERRILL LYNCH	354907	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED NINETY MONTHLY P
2103	IM-01	MERRILL LYNCH	313447	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED SIXTEENTH MONTH

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
2104	IM-01	MERRILL LYNCH	311864	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED TENTH MONTHLY
2105	IM-01	MERRILL LYNCH	312231	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED TWELFTH MONTHLY
2106	IM-01	MERRILL LYNCH	314788	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED TWENTY FOURTH MO
2107	IM-01	MERRILL LYNCH	315175	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED TWENTY SIXTH MO
2108	IM-01	MERRILL LYNCH	314602	MUNICIPAL INVESTMENT TRUST FUND ONE HUNDRED TWENTY THIRD MON
2109	IM-01	MERRILL LYNCH	068950	MUNICIPAL INVESTMENT TRUST FUND SECOND MONTHLY PAYMENT SERIE
2110	IM-01	MERRILL LYNCH	068951	MUNICIPAL INVESTMENT TRUST FUND SECOND NEW YORK SERIES
2111	IM-01	MERRILL LYNCH	277217	MUNICIPAL INVESTMENT TRUST FUND SERIES 1G
2112	IM-01	MERRILL LYNCH	277111	MUNICIPAL INVESTMENT TRUST FUND SERIES 1I
2113	IM-01	MERRILL LYNCH	277112	MUNICIPAL INVESTMENT TRUST FUND SERIES 1K
2114	IM-01	MERRILL LYNCH	277114	MUNICIPAL INVESTMENT TRUST FUND SERIES 1L
2115	IM-01	MERRILL LYNCH	277113	MUNICIPAL INVESTMENT TRUST FUND SERIES 1M
2116	IM-01	MERRILL LYNCH	277218	MUNICIPAL INVESTMENT TRUST FUND SERIES 1N
2117	IM-01	MERRILL LYNCH	277257	MUNICIPAL INVESTMENT TRUST FUND SEVENTEENTH INTERMEDIATE TER
2118	IM-01	MERRILL LYNCH	068980	MUNICIPAL INVESTMENT TRUST FUND SEVENTEENTH MONTHLY PAYMENT
2119	IM-01	MERRILL LYNCH	216653	MUNICIPAL INVESTMENT TRUST FUND SEVENTIETH MONTHLY PAYMENT S
2120	IM-01	MERRILL LYNCH	216650	MUNICIPAL INVESTMENT TRUST FUND SEVENTY FIRST MONTHLY PAYMEN
2121	IM-01	MERRILL LYNCH	277262	MUNICIPAL INVESTMENT TRUST FUND SEVENTY NINTH MONTHLY PAYMEN
2122	IM-01	MERRILL LYNCH	277263	MUNICIPAL INVESTMENT TRUST FUND SIXTEENTH MONTHLY PAYMENT SE
2123	IM-01	MERRILL LYNCH	068983	MUNICIPAL INVESTMENT TRUST FUND SIXTH MONTHLY PAYMENT SERIES
2124	IM-01	MERRILL LYNCH	068984	MUNICIPAL INVESTMENT TRUST FUND SIXTH NEW YORK SERIES
2125	IM-01	MERRILL LYNCH	202664	MUNICIPAL INVESTMENT TRUST FUND SIXTY FIRST MONTHLY PAYMENT
2126	IM-01	MERRILL LYNCH	205677	MUNICIPAL INVESTMENT TRUST FUND SIXTY SEVENTH MONTHLY PAYMEN
2127	IM-01	MERRILL LYNCH	068986	MUNICIPAL INVESTMENT TRUST FUND TENTH MONTHLY PAYMENT SERIES
2128	IM-01	MERRILL LYNCH	275782	MUNICIPAL INVESTMENT TRUST FUND TENTH NEW YORK SERIES
2129	IM-01	MERRILL LYNCH	858766	MUNICIPAL INVESTMENT TRUST FUND THIRD AMT MONTHLY PYMT SER
2130	IM-01	MERRILL LYNCH	068988	MUNICIPAL INVESTMENT TRUST FUND THIRD MONTHLY PAYMENT SERIES
2131	IM-01	MERRILL LYNCH	068989	MUNICIPAL INVESTMENT TRUST FUND THIRD NEW YORK SERIES
2132	IM-01	MERRILL LYNCH	069007	MUNICIPAL INVESTMENT TRUST FUND THIRTIETH MONTHLY PAYMENT SE
2133	IM-01	MERRILL LYNCH	069015	MUNICIPAL INVESTMENT TRUST FUND THIRTY EIGHTH MONTHLY PAYMEN
2134	IM-01	MERRILL LYNCH	069008	MUNICIPAL INVESTMENT TRUST FUND THIRTY FIRST MONTHLY PAYMENT
2135	IM-01	MERRILL LYNCH	069016	MUNICIPAL INVESTMENT TRUST FUND THIRTY NINTH MONTHLY PAYMENT
2136	IM-01	MERRILL LYNCH	069014	MUNICIPAL INVESTMENT TRUST FUND THIRTY SEVENTH MONTHLY PAYME
2137	IM-01	MERRILL LYNCH	315541	MUNICIPAL INVESTMENT TRUST FUND TWENTY FIFTH MON PYMT SER
2138	IM-01	MERRILL LYNCH	313643	MUNICIPAL INVESTMENT TRUST FUND TWENTY FIFTH NEW YORK SERIE
2139	IM-01	MERRILL LYNCH	275784	MUNICIPAL INVESTMENT TRUST FUND TWENTY FIRST INTERMEDIATE TE
2140	IM-01	MERRILL LYNCH	069000	MUNICIPAL INVESTMENT TRUST FUND TWENTY FOURTH MON PYMT SER
2141	IM-01	MERRILL LYNCH	313613	MUNICIPAL INVESTMENT TRUST FUND TWENTY FOURTH NEW YORK SERIE
2142	IM-01	MERRILL LYNCH	069005	MUNICIPAL INVESTMENT TRUST FUND TWENTY NINTH MONTHLY PAYMENT
2143	IM-01	MERRILL LYNCH	312567	MUNICIPAL INVESTMENT TRUST FUND TWENTY SECOND NEW YORK SERI
2144	IM-01	MERRILL LYNCH	314856	MUNICIPAL INVESTMENT TRUST FUND TWENTY SEVENTH NEW YORK SERI
2145	IM-01	MERRILL LYNCH	312046	MUNICIPAL INVESTMENT TRUST FUND TWENTY SIXTH INTERM TERM SER
2146	IM-01	MERRILL LYNCH	313962	MUNICIPAL INVESTMENT TRUST FUND TWENTY SIXTH NEW YORK SERIES
2147	IM-01	MERRILL LYNCH	313416	MUNICIPAL INVESTMENT TRUST FUND TWENTY THIRD NEW YORK SERIE
2148	IM-01	MERRILL LYNCH	711312	MUNICIPAL INVESTMENT TRUST FUND TWENTY-FIRST CALIFORNIA SERI
2149	IM-01	MERRILL LYNCH	703656	MUNICIPAL INVESTMENT TRUST FUND TWO HUNDRED THIRTY FIFTH MO
2150	IM-01	MERRILL LYNCH	351900	MUNICIPAL INVESTMENT TRUST FUND SECOND THREE YEAR SERI
2151	IM-01	MERRILL LYNCH	713028	MUNICIPAL INVESTMENT TRUST FUND TWO HUNDRED SIXTY SIXTH MO
2152	IM-01	MERRILL LYNCH	318711	MUNICIPAL INVT TR FD ONE HUNDRED FORTY FIFTH MON PYMT SER
2153	IM-01	MERRILL LYNCH	318502	MUNICIPAL INVT TR FD ONE HUNDRED FORTY FOURTH MON PYMT SER
2154	IM-01	MERRILL LYNCH	313112	MUNICIPAL INVT TR FD ONE HUNDRED FOURTEENTH MON PYMT SER
2155	IM-01	MERRILL LYNCH	317423	MUNICIPAL INVT TR FD ONE HUNDRED THIRTY EIGHTH MON PYMT SER
2156	IM-01	MERRILL LYNCH	315298	MUNICIPAL INVT TR FD ONE HUNDRED THIRTY SECOND MON PYMT SER
2157	IM-01	MERRILL LYNCH	317327	MUNICIPAL INVT TR FD ONE HUNDRED THIRTY SEVENTH MON PYMT SER
2158	IM-01	MERRILL LYNCH	315618	MUNICIPAL INVT TR FD ONE HUNDRED TWENTY EIGHTH MON PYMT SER
2159	IM-01	MERRILL LYNCH	313766	MUNICIPAL INVT TR FUND ONE HUNDRED EIGHTEENTH MON PYMT SER
2160	IM-01	MERRILL LYNCH	313882	MUNICIPAL INVT TR FUND ONE HUNDRED NINETEENTH MON PYMT SER
2161	IM-01	MERRILL LYNCH	313560	MUNICIPAL INVT TR FUND ONE HUNDRED SEVENTEENTH MON PYMT SER
2162	IM-01	NUVEEN	356142	NUVEEN TAX EXEMPT UNIT TRUST DISCOUNT SERIES 1
2163	IM-01	NUVEEN	356282	NUVEEN TAX EXEMPT UNIT TRUST DISCOUNT SERIES 2
2164	IM-01	NUVEEN	737991	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 1
2165	IM-01	NUVEEN	743138	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 10
2166	IM-01	NUVEEN	782880	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 100
2167	IM-01	NUVEEN	782881	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 101
2168	IM-01	NUVEEN	782882	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 102
2169	IM-01	NUVEEN	782884	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 103
2170	IM-01	NUVEEN	782885	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 104
2171	IM-01	NUVEEN	782888	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 105
2172	IM-01	NUVEEN	782889	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 106
2173	IM-01	NUVEEN	782891	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 107
2174	IM-01	NUVEEN	782893	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 108
2175	IM-01	NUVEEN	782895	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 109
2176	IM-01	NUVEEN	743963	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 11
2177	IM-01	NUVEEN	782896	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 110
2178	IM-01	NUVEEN	782897	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 111
2179	IM-01	NUVEEN	782900	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 112
2180	IM-01	NUVEEN	782901	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 113
2181	IM-01	NUVEEN	782903	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 114
2182	IM-01	NUVEEN	782904	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 115
2183	IM-01	NUVEEN	782905	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 116
2184	IM-01	NUVEEN	782906	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 117
2185	IM-01	NUVEEN	782908	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 118

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
2186	IM-01	NUVEEN	782908	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 119
2187	IM-01	NUVEEN	744377	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 12
2188	IM-01	NUVEEN	782911	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 120
2189	IM-01	NUVEEN	782912	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 121
2190	IM-01	NUVEEN	782914	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 122
2191	IM-01	NUVEEN	782917	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 123
2192	IM-01	NUVEEN	782919	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 124
2193	IM-01	NUVEEN	782921	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 125
2194	IM-01	NUVEEN	802478	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 126
2195	IM-01	NUVEEN	802479	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 127
2196	IM-01	NUVEEN	802480	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 128
2197	IM-01	NUVEEN	802482	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 129
2198	IM-01	NUVEEN	745451	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 13
2199	IM-01	NUVEEN	802483	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 130
2200	IM-01	NUVEEN	802485	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 131
2201	IM-01	NUVEEN	802486	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 132
2202	IM-01	NUVEEN	802488	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 133
2203	IM-01	NUVEEN	802489	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 134
2204	IM-01	NUVEEN	802491	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 135
2205	IM-01	NUVEEN	802493	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 136
2206	IM-01	NUVEEN	802494	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 137
2207	IM-01	NUVEEN	802495	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 138
2208	IM-01	NUVEEN	802496	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 139
2209	IM-01	NUVEEN	746716	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 14
2210	IM-01	NUVEEN	802497	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 140
2211	IM-01	NUVEEN	802498	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 141
2212	IM-01	NUVEEN	802499	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 142
2213	IM-01	NUVEEN	802500	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 143
2214	IM-01	NUVEEN	802501	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 144
2215	IM-01	NUVEEN	802502	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 145
2216	IM-01	NUVEEN	802503	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 146
2217	IM-01	NUVEEN	802504	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 147
2218	IM-01	NUVEEN	802505	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 148
2219	IM-01	NUVEEN	802506	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 149
2220	IM-01	NUVEEN	747547	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 15
2221	IM-01	NUVEEN	802507	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 150
2222	IM-01	NUVEEN	825462	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 151
2223	IM-01	NUVEEN	825463	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 152
2224	IM-01	NUVEEN	825464	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 153
2225	IM-01	NUVEEN	825465	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 154
2226	IM-01	NUVEEN	825466	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 155
2227	IM-01	NUVEEN	825467	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 156
2228	IM-01	NUVEEN	825468	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 157
2229	IM-01	NUVEEN	825469	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 158
2230	IM-01	NUVEEN	825470	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 159
2231	IM-01	NUVEEN	748096	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 16
2232	IM-01	NUVEEN	825471	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 160
2233	IM-01	NUVEEN	825472	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 161
2234	IM-01	NUVEEN	825473	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 162
2235	IM-01	NUVEEN	825474	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 163
2236	IM-01	NUVEEN	825475	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 164
2237	IM-01	NUVEEN	825476	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 165
2238	IM-01	NUVEEN	825477	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 166
2239	IM-01	NUVEEN	825478	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 167
2240	IM-01	NUVEEN	825479	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 168
2241	IM-01	NUVEEN	825481	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 169
2242	IM-01	NUVEEN	748673	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 17
2243	IM-01	NUVEEN	825482	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 170
2244	IM-01	NUVEEN	825483	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 171
2245	IM-01	NUVEEN	825484	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 172
2246	IM-01	NUVEEN	825485	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 173
2247	IM-01	NUVEEN	825486	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 174
2248	IM-01	NUVEEN	825487	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 175
2249	IM-01	NUVEEN	825488	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 176
2250	IM-01	NUVEEN	825489	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 177
2251	IM-01	NUVEEN	825490	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 178
2252	IM-01	NUVEEN	825491	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 179
2253	IM-01	NUVEEN	748724	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 18
2254	IM-01	NUVEEN	825492	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 180
2255	IM-01	NUVEEN	825493	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 181
2256	IM-01	NUVEEN	825494	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 182
2257	IM-01	NUVEEN	825495	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 183
2258	IM-01	NUVEEN	825496	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 184
2259	IM-01	NUVEEN	825497	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 185
2260	IM-01	NUVEEN	825498	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 186
2261	IM-01	NUVEEN	825499	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 187
2262	IM-01	NUVEEN	825500	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 188
2263	IM-01	NUVEEN	825501	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 189
2264	IM-01	NUVEEN	748938	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 19
2265	IM-01	NUVEEN	825502	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 190
2266	IM-01	NUVEEN	825503	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 191
2267	IM-01	NUVEEN	825504	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 192

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
2268	IM-01	NUVEEN	825505	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 193
2269	IM-01	NUVEEN	825506	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 194
2270	IM-01	NUVEEN	825507	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 195
2271	IM-01	NUVEEN	825508	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 196
2272	IM-01	NUVEEN	825509	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 197
2273	IM-01	NUVEEN	739449	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 2
2274	IM-01	NUVEEN	749511	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 20
2275	IM-01	NUVEEN	750007	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 21
2276	IM-01	NUVEEN	750495	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 22
2277	IM-01	NUVEEN	750680	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 23
2278	IM-01	NUVEEN	751230	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 24
2279	IM-01	NUVEEN	751584	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 25
2280	IM-01	NUVEEN	752698	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 26
2281	IM-01	NUVEEN	754030	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 27
2282	IM-01	NUVEEN	754991	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 28
2283	IM-01	NUVEEN	756753	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 29
2284	IM-01	NUVEEN	739549	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 3
2285	IM-01	NUVEEN	757489	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 30
2286	IM-01	NUVEEN	758109	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 31
2287	IM-01	NUVEEN	758477	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 32
2288	IM-01	NUVEEN	759822	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 33
2289	IM-01	NUVEEN	760988	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 34
2290	IM-01	NUVEEN	761248	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 35
2291	IM-01	NUVEEN	762678	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 36
2292	IM-01	NUVEEN	763857	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 37
2293	IM-01	NUVEEN	765926	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 38
2294	IM-01	NUVEEN	766433	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 39
2295	IM-01	NUVEEN	741032	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 4
2296	IM-01	NUVEEN	766696	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 40
2297	IM-01	NUVEEN	766755	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 41
2298	IM-01	NUVEEN	766879	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 42
2299	IM-01	NUVEEN	768359	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 43
2300	IM-01	NUVEEN	768819	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 44
2301	IM-01	NUVEEN	769021	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 45
2302	IM-01	NUVEEN	769348	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 46
2303	IM-01	NUVEEN	769586	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 47
2304	IM-01	NUVEEN	769783	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 48
2305	IM-01	NUVEEN	770109	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 49
2306	IM-01	NUVEEN	741828	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 5
2307	IM-01	NUVEEN	770742	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 50
2308	IM-01	NUVEEN	771596	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 51
2309	IM-01	NUVEEN	771796	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 52
2310	IM-01	NUVEEN	772003	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 53
2311	IM-01	NUVEEN	772866	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 54
2312	IM-01	NUVEEN	773339	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 55
2313	IM-01	NUVEEN	773823	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 56
2314	IM-01	NUVEEN	774483	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 57
2315	IM-01	NUVEEN	775410	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 58
2316	IM-01	NUVEEN	776789	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 59
2317	IM-01	NUVEEN	741798	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 6
2318	IM-01	NUVEEN	777341	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 60
2319	IM-01	NUVEEN	777619	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 61
2320	IM-01	NUVEEN	778594	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 62
2321	IM-01	NUVEEN	779263	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 63
2322	IM-01	NUVEEN	779612	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 64
2323	IM-01	NUVEEN	779995	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 65
2324	IM-01	NUVEEN	780172	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 66
2325	IM-01	NUVEEN	782123	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 67
2326	IM-01	NUVEEN	782843	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 68
2327	IM-01	NUVEEN	782844	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 69
2328	IM-01	NUVEEN	743282	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 7
2329	IM-01	NUVEEN	782845	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 70
2330	IM-01	NUVEEN	782846	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 71
2331	IM-01	NUVEEN	782847	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 72
2332	IM-01	NUVEEN	782848	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 73
2333	IM-01	NUVEEN	782849	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 74
2334	IM-01	NUVEEN	782850	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 75
2335	IM-01	NUVEEN	782851	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 76
2336	IM-01	NUVEEN	782852	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 77
2337	IM-01	NUVEEN	782853	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 78
2338	IM-01	NUVEEN	782854	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 79
2339	IM-01	NUVEEN	743142	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 8
2340	IM-01	NUVEEN	782855	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 80
2341	IM-01	NUVEEN	782857	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 81
2342	IM-01	NUVEEN	782858	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 82
2343	IM-01	NUVEEN	782859	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 83
2344	IM-01	NUVEEN	782860	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 84
2345	IM-01	NUVEEN	782861	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 85
2346	IM-01	NUVEEN	782862	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 86
2347	IM-01	NUVEEN	782863	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 87
2348	IM-01	NUVEEN	782864	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 88
2349	IM-01	NUVEEN	782865	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 89

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
2350	IM-01	NUVEEN	743140	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 9
2351	IM-01	NUVEEN	782866	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 90
2352	IM-01	NUVEEN	782868	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 91
2353	IM-01	NUVEEN	782869	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 92
2354	IM-01	NUVEEN	782871	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 93
2355	IM-01	NUVEEN	782872	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 94
2356	IM-01	NUVEEN	782873	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 95
2357	IM-01	NUVEEN	782874	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 96
2358	IM-01	NUVEEN	782876	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 97
2359	IM-01	NUVEEN	782877	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 98
2360	IM-01	NUVEEN	782878	NUVEEN TAX EXEMPT UNIT TRUST INSURED SERIES 99
2361	IM-01	NUVEEN	277488	NUVEEN TAX EXEMPT UNIT TRUST INTERMEDIATE SERIES 10
2362	IM-01	NUVEEN	277489	NUVEEN TAX EXEMPT UNIT TRUST INTERMEDIATE SERIES 11
2363	IM-01	NUVEEN	352267	NUVEEN TAX EXEMPT UNIT TRUST INTERMEDIATE SERIES 12
2364	IM-01	NUVEEN	352301	NUVEEN TAX EXEMPT UNIT TRUST INTERMEDIATE SERIES 13
2365	IM-01	NUVEEN	352578	NUVEEN TAX EXEMPT UNIT TRUST INTERMEDIATE SERIES 14
2366	IM-01	NUVEEN	277486	NUVEEN TAX EXEMPT UNIT TRUST INTERMEDIATE SERIES 6
2367	IM-01	NUVEEN	277487	NUVEEN TAX EXEMPT UNIT TRUST INTERMEDIATE SERIES 9
2368	IM-01	NUVEEN	278358	NUVEEN TAX EXEMPT UNIT TRUST SERIES 100 NATIONAL TRUST 100
2369	IM-01	NUVEEN	216744	NUVEEN TAX EXEMPT UNIT TRUST SERIES 101 NATIONAL TRUST 101
2370	IM-01	NUVEEN	225713	NUVEEN TAX EXEMPT UNIT TRUST SERIES 102-NATIONAL TRUST 102
2371	IM-01	NUVEEN	225714	NUVEEN TAX EXEMPT UNIT TRUST SERIES 103-NATIONAL TRUST 103
2372	IM-01	NUVEEN	277831	NUVEEN TAX EXEMPT UNIT TRUST SERIES 104 NATIONAL TRUST 104
2373	IM-01	NUVEEN	275840	NUVEEN TAX EXEMPT UNIT TRUST SERIES 105 NATIONAL TRUST 105
2374	IM-01	NUVEEN	275841	NUVEEN TAX EXEMPT UNIT TRUST SERIES 106 NATIONAL TRUST 106
2375	IM-01	NUVEEN	275842	NUVEEN TAX EXEMPT UNIT TRUST SERIES 107 NATIONAL TRUST 107
2376	IM-01	NUVEEN	276261	NUVEEN TAX EXEMPT UNIT TRUST SERIES 108
2377	IM-01	NUVEEN	276260	NUVEEN TAX EXEMPT UNIT TRUST SERIES 109 NATIONAL TRUST 109
2378	IM-01	NUVEEN	276263	NUVEEN TAX EXEMPT UNIT TRUST SERIES 110 NATIONAL TRUST 110
2379	IM-01	NUVEEN	276251	NUVEEN TAX EXEMPT UNIT TRUST SERIES 111 NATIONAL TRUST 111
2380	IM-01	NUVEEN	276362	NUVEEN TAX EXEMPT UNIT TRUST SERIES 112-NATIONAL TRUST 112
2381	IM-01	NUVEEN	276275	NUVEEN TAX EXEMPT UNIT TRUST SERIES 113-NATIONAL TRUST 113
2382	IM-01	NUVEEN	276668	NUVEEN TAX EXEMPT UNIT TRUST SERIES 114 NATIONAL TRUST 114
2383	IM-01	NUVEEN	276753	NUVEEN TAX EXEMPT UNIT TRUST SERIES 115 NATIONAL TRUST 115
2384	IM-01	NUVEEN	276752	NUVEEN TAX EXEMPT UNIT TRUST SERIES 116 NATIONAL TRUST 116
2385	IM-01	NUVEEN	277144	NUVEEN TAX EXEMPT UNIT TRUST SERIES 117
2386	IM-01	NUVEEN	277586	NUVEEN TAX EXEMPT UNIT TRUST SERIES 118 NATIONAL TRUST 118
2387	IM-01	NUVEEN	277716	NUVEEN TAX EXEMPT UNIT TRUST SERIES 119 NATIONAL TRUST 119
2388	IM-01	NUVEEN	277874	NUVEEN TAX EXEMPT UNIT TRUST SERIES 120 NATIONAL TRUST 120
2389	IM-01	NUVEEN	278121	NUVEEN TAX EXEMPT UNIT TRUST SERIES 121-NATIONAL TRUST 121
2390	IM-01	NUVEEN	278120	NUVEEN TAX EXEMPT UNIT TRUST SERIES 122-NATIONAL TRUST 122
2391	IM-01	NUVEEN	278316	NUVEEN TAX EXEMPT UNIT TRUST SERIES 123-NATIONAL TRUST 123
2392	IM-01	NUVEEN	300007	NUVEEN TAX EXEMPT UNIT TRUST SERIES 124-NATIONAL TRUST 124
2393	IM-01	NUVEEN	310090	NUVEEN TAX EXEMPT UNIT TRUST SERIES 125-NATIONAL TRUST 125
2394	IM-01	NUVEEN	310208	NUVEEN TAX EXEMPT UNIT TRUST SERIES 126-NATIONAL TRUST 126
2395	IM-01	NUVEEN	310674	NUVEEN TAX EXEMPT UNIT TRUST SERIES 127
2396	IM-01	NUVEEN	310675	NUVEEN TAX EXEMPT UNIT TRUST SERIES 128 NATIONAL TRUST 128
2397	IM-01	NUVEEN	311202	NUVEEN TAX EXEMPT UNIT TRUST SERIES 129 NATIONAL TRUST 129
2398	IM-01	NUVEEN	311351	NUVEEN TAX EXEMPT UNIT TRUST SERIES 130 NATIONAL TRUST 130
2399	IM-01	NUVEEN	311694	NUVEEN TAX EXEMPT UNIT TRUST SERIES 131 NATIONAL TRUST 131
2400	IM-01	NUVEEN	311767	NUVEEN TAX EXEMPT UNIT TRUST SERIES 132 NATIONAL TRUST 132
2401	IM-01	NUVEEN	312298	NUVEEN TAX EXEMPT UNIT TRUST SERIES 133 NATIONAL TRUST 133
2402	IM-01	NUVEEN	312299	NUVEEN TAX EXEMPT UNIT TRUST SERIES 134 NATIONAL TRUST 134
2403	IM-01	NUVEEN	313512	NUVEEN TAX EXEMPT UNIT TRUST SERIES 135 NATIONAL TRUST 135
2404	IM-01	NUVEEN	313564	NUVEEN TAX EXEMPT UNIT TRUST SERIES 136 NATIONAL TRUST 136
2405	IM-01	NUVEEN	313733	NUVEEN TAX EXEMPT UNIT TRUST SERIES 137 NATIONAL TRUST 137
2406	IM-01	NUVEEN	313841	NUVEEN TAX EXEMPT UNIT TRUST SERIES 138 NATIONAL TRUST 138
2407	IM-01	NUVEEN	313814	NUVEEN TAX EXEMPT UNIT TRUST SERIES 139 NATIONAL TRUST 139
2408	IM-01	NUVEEN	313854	NUVEEN TAX EXEMPT UNIT TRUST SERIES 140 NATIONAL TRUST 140
2409	IM-01	NUVEEN	313934	NUVEEN TAX EXEMPT UNIT TRUST SERIES 141 NATIONAL TRUST 141
2410	IM-01	NUVEEN	313926	NUVEEN TAX EXEMPT UNIT TRUST SERIES 142-NATIONAL TRUST 142
2411	IM-01	NUVEEN	314288	NUVEEN TAX EXEMPT UNIT TRUST SERIES 143 NATIONAL TRUST 143
2412	IM-01	NUVEEN	314280	NUVEEN TAX EXEMPT UNIT TRUST SERIES 144-NATIONAL TRUST 144
2413	IM-01	NUVEEN	314595	NUVEEN TAX EXEMPT UNIT TRUST SERIES 145-NATIONAL TRUST 145
2414	IM-01	NUVEEN	314622	NUVEEN TAX EXEMPT UNIT TRUST SERIES 146-NATIONAL TRUST 146
2415	IM-01	NUVEEN	314894	NUVEEN TAX EXEMPT UNIT TRUST SERIES 147-NATIONAL TRUST 147
2416	IM-01	NUVEEN	315132	NUVEEN TAX EXEMPT UNIT TRUST SERIES 148—NATIONAL TRUST 148
2417	IM-01	NUVEEN	315503	NUVEEN TAX EXEMPT UNIT TRUST SERIES 150
2418	IM-01	NUVEEN	315855	NUVEEN TAX EXEMPT UNIT TRUST SERIES 151—NATIONAL TRUST 151
2419	IM-01	NUVEEN	315982	NUVEEN TAX EXEMPT UNIT TRUST SERIES 152 NATIONAL TRUST 152
2420	IM-01	NUVEEN	316186	NUVEEN TAX EXEMPT UNIT TRUST SERIES 153
2421	IM-01	NUVEEN	316254	NUVEEN TAX EXEMPT UNIT TRUST SERIES 154 NATIONAL TRUST 154
2422	IM-01	NUVEEN	316455	NUVEEN TAX EXEMPT UNIT TRUST SERIES 155
2423	IM-01	NUVEEN	316613	NUVEEN TAX EXEMPT UNIT TRUST SERIES 157
2424	IM-01	NUVEEN	316645	NUVEEN TAX EXEMPT UNIT TRUST SERIES 158
2425	IM-01	NUVEEN	317620	NUVEEN TAX EXEMPT UNIT TRUST SERIES 159
2426	IM-01	NUVEEN	317671	NUVEEN TAX EXEMPT UNIT TRUST SERIES 160 NATIONAL TRUST 160
2427	IM-01	NUVEEN	318068	NUVEEN TAX EXEMPT UNIT TRUST SERIES 161 NATIONAL TRUST 161
2428	IM-01	NUVEEN	318187	NUVEEN TAX EXEMPT UNIT TRUST SERIES 162 NATIONAL TRUST 162
2429	IM-01	NUVEEN	318442	NUVEEN TAX EXEMPT UNIT TRUST SERIES 164 NATIONAL TRUST 164
2430	IM-01	NUVEEN	319321	NUVEEN TAX EXEMPT UNIT TRUST SERIES 165 NATIONAL TRUST 165
2431	IM-01	NUVEEN	319717	NUVEEN TAX EXEMPT UNIT TRUST SERIES 167 NATIONAL TRUST 167

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
2432	IM-01	NUVEEN	319754	NUVEEN TAX EXEMPT UNIT TRUST SERIES 168 NATIONAL TRUST 168
2433	IM-01	NUVEEN	000016	NUVEEN TAX EXEMPT UNIT TRUST SERIES 169 NATIONAL TRUST 169
2434	IM-01	NUVEEN	320168	NUVEEN TAX EXEMPT UNIT TRUST SERIES 170 NATIONAL TRUST 170
2435	IM-01	NUVEEN	320554	NUVEEN TAX EXEMPT UNIT TRUST SERIES 171-NATIONAL TRUST 171
2436	IM-01	NUVEEN	320630	NUVEEN TAX EXEMPT UNIT TRUST SERIES 172 NATIONAL TRUST 172
2437	IM-01	NUVEEN	350554	NUVEEN TAX EXEMPT UNIT TRUST SERIES 173
2438	IM-01	NUVEEN	350555	NUVEEN TAX EXEMPT UNIT TRUST SERIES 174
2439	IM-01	NUVEEN	350603	NUVEEN TAX EXEMPT UNIT TRUST SERIES 175—NATIONAL TRUST 175
2440	IM-01	NUVEEN	350647	NUVEEN TAX EXEMPT UNIT TRUST SERIES 176/1L/
2441	IM-01	NUVEEN	350824	NUVEEN TAX EXEMPT UNIT TRUST SERIES 177
2442	IM-01	NUVEEN	350913	NUVEEN TAX EXEMPT UNIT TRUST SERIES 178—NATIONAL TRUST 178
2443	IM-01	NUVEEN	352182	NUVEEN TAX EXEMPT UNIT TRUST SERIES 179—NATIONAL TRUST 179
2444	IM-01	NUVEEN	073416	NUVEEN TAX EXEMPT UNIT TRUST SERIES 18
2445	IM-01	NUVEEN	352264	NUVEEN TAX EXEMPT UNIT TRUST SERIES 180—NATIONAL TRUST 180
2446	IM-01	NUVEEN	353088	NUVEEN TAX EXEMPT UNIT TRUST SERIES 181 NATIONAL TR 181
2447	IM-01	NUVEEN	353089	NUVEEN TAX EXEMPT UNIT TRUST SERIES 182 NATIONAL TR 182
2448	IM-01	NUVEEN	353467	NUVEEN TAX EXEMPT UNIT TRUST SERIES 183 NATIONAL TR 183
2449	IM-01	NUVEEN	354025	NUVEEN TAX EXEMPT UNIT TRUST SERIES 184 NATIONAL TR 184
2450	IM-01	NUVEEN	353971	NUVEEN TAX EXEMPT UNIT TRUST SERIES 185 NATIONAL TR 185
2451	IM-01	NUVEEN	355060	NUVEEN TAX EXEMPT UNIT TRUST SERIES 186 NATIONAL TR 186
2452	IM-01	NUVEEN	355108	NUVEEN TAX EXEMPT UNIT TRUST SERIES 187
2453	IM-01	NUVEEN	355778	NUVEEN TAX EXEMPT UNIT TRUST SERIES 188
2454	IM-01	NUVEEN	355879	NUVEEN TAX EXEMPT UNIT TRUST SERIES 189
2455	IM-01	NUVEEN	073417	NUVEEN TAX EXEMPT UNIT TRUST SERIES 19
2456	IM-01	NUVEEN	355954	NUVEEN TAX EXEMPT UNIT TRUST SERIES 190
2457	IM-01	NUVEEN	355911	NUVEEN TAX EXEMPT UNIT TRUST SERIES 191
2458	IM-01	NUVEEN	356085	NUVEEN TAX EXEMPT UNIT TRUST SERIES 192
2459	IM-01	NUVEEN	356086	NUVEEN TAX EXEMPT UNIT TRUST SERIES 193 NATIONAL TRUST 193
2460	IM-01	NUVEEN	356513	NUVEEN TAX EXEMPT UNIT TRUST SERIES 194 NATIONAL TRUST 194
2461	IM-01	NUVEEN	356512	NUVEEN TAX EXEMPT UNIT TRUST SERIES 195—NATIONAL TRUST 195
2462	IM-01	NUVEEN	356903	NUVEEN TAX EXEMPT UNIT TRUST SERIES 196 NATIONAL TRUST 196
2463	IM-01	NUVEEN	357033	NUVEEN TAX EXEMPT UNIT TRUST SERIES 197 NATIONAL TRUST 197
2464	IM-01	NUVEEN	357134	NUVEEN TAX EXEMPT UNIT TRUST SERIES 198 NATIONAL TRUST 198
2465	IM-01	NUVEEN	357135	NUVEEN TAX EXEMPT UNIT TRUST SERIES 199—NATIONAL TRUST 199
2466	IM-01	NUVEEN	073418	NUVEEN TAX EXEMPT UNIT TRUST SERIES 20
2467	IM-01	NUVEEN	357234	NUVEEN TAX EXEMPT UNIT TRUST SERIES 200
2468	IM-01	NUVEEN	357249	NUVEEN TAX EXEMPT UNIT TRUST SERIES 201
2469	IM-01	NUVEEN	357248	NUVEEN TAX EXEMPT UNIT TRUST SERIES 202—NATIONAL TRUST 202
2470	IM-01	NUVEEN	357296	NUVEEN TAX EXEMPT UNIT TRUST SERIES 203—NATIONAL TRUST 203
2471	IM-01	NUVEEN	357313	NUVEEN TAX EXEMPT UNIT TRUST SERIES 204—NATIONAL TRUST 204
2472	IM-01	NUVEEN	700580	NUVEEN TAX EXEMPT UNIT TRUST SERIES 205—NATIONAL TRUST 205
2473	IM-01	NUVEEN	700717	NUVEEN TAX EXEMPT UNIT TRUST SERIES 206
2474	IM-01	NUVEEN	700718	NUVEEN TAX EXEMPT UNIT TRUST SERIES 207—NATIONAL TRUST 207
2475	IM-01	NUVEEN	700904	NUVEEN TAX EXEMPT UNIT TRUST SERIES 208
2476	IM-01	NUVEEN	700986	NUVEEN TAX EXEMPT UNIT TRUST SERIES 209
2477	IM-01	NUVEEN	073419	NUVEEN TAX EXEMPT UNIT TRUST SERIES 21
2478	IM-01	NUVEEN	701289	NUVEEN TAX EXEMPT UNIT TRUST SERIES 210 NATIONAL TR 210
2479	IM-01	NUVEEN	701342	NUVEEN TAX EXEMPT UNIT TRUST SERIES 211 NATIONAL TR 211
2480	IM-01	NUVEEN	701805	NUVEEN TAX EXEMPT UNIT TRUST SERIES 212 NATIONAL TR 212
2481	IM-01	NUVEEN	702000	NUVEEN TAX EXEMPT UNIT TRUST SERIES 213 NATIONAL TR 213
2482	IM-01	NUVEEN	702311	NUVEEN TAX EXEMPT UNIT TRUST SERIES 215
2483	IM-01	NUVEEN	703317	NUVEEN TAX EXEMPT UNIT TRUST SERIES 216
2484	IM-01	NUVEEN	703525	NUVEEN TAX EXEMPT UNIT TRUST SERIES 217
2485	IM-01	NUVEEN	703696	NUVEEN TAX EXEMPT UNIT TRUST SERIES 218
2486	IM-01	NUVEEN	703889	NUVEEN TAX EXEMPT UNIT TRUST SERIES 219 NATIONAL TRUST 219
2487	IM-01	NUVEEN	073420	NUVEEN TAX EXEMPT UNIT TRUST SERIES 22
2488	IM-01	NUVEEN	704470	NUVEEN TAX EXEMPT UNIT TRUST SERIES 220 NATIONAL TRUST 220
2489	IM-01	NUVEEN	704806	NUVEEN TAX EXEMPT UNIT TRUST SERIES 221 NATIONAL TRUST 221
2490	IM-01	NUVEEN	704771	NUVEEN TAX EXEMPT UNIT TRUST SERIES 222 NATIONAL TRUST 222
2491	IM-01	NUVEEN	704770	NUVEEN TAX EXEMPT UNIT TRUST SERIES 223 NATIONAL TRUST 223
2492	IM-01	NUVEEN	705443	NUVEEN TAX EXEMPT UNIT TRUST SERIES 224
2493	IM-01	NUVEEN	705958	NUVEEN TAX EXEMPT UNIT TRUST SERIES 225
2494	IM-01	NUVEEN	706154	NUVEEN TAX EXEMPT UNIT TRUST SERIES 226
2495	IM-01	NUVEEN	706208	NUVEEN TAX EXEMPT UNIT TRUST SERIES 227
2496	IM-01	NUVEEN	706239	NUVEEN TAX EXEMPT UNIT TRUST SERIES 228
2497	IM-01	NUVEEN	706382	NUVEEN TAX EXEMPT UNIT TRUST SERIES 229
2498	IM-01	NUVEEN	073421	NUVEEN TAX EXEMPT UNIT TRUST SERIES 23
2499	IM-01	NUVEEN	706486	NUVEEN TAX EXEMPT UNIT TRUST SERIES 230 NATIONAL TRUST 230
2500	IM-01	NUVEEN	706689	NUVEEN TAX EXEMPT UNIT TRUST SERIES 231 NATIONAL TRUST 231
2501	IM-01	NUVEEN	706865	NUVEEN TAX EXEMPT UNIT TRUST SERIES 232 NATIONAL TRUST 232
2502	IM-01	NUVEEN	707111	NUVEEN TAX EXEMPT UNIT TRUST SERIES 233 NATIONAL TRUST 233
2503	IM-01	NUVEEN	707359	NUVEEN TAX EXEMPT UNIT TRUST SERIES 234 NATIONAL TRUST 234
2504	IM-01	NUVEEN	707803	NUVEEN TAX EXEMPT UNIT TRUST SERIES 235 NATIONAL TRUST 235
2505	IM-01	NUVEEN	707852	NUVEEN TAX EXEMPT UNIT TRUST SERIES 236 NATIONAL TRUST 236
2506	IM-01	NUVEEN	708483	NUVEEN TAX EXEMPT UNIT TRUST SERIES 237 NATIONAL TRUST 237
2507	IM-01	NUVEEN	708853	NUVEEN TAX EXEMPT UNIT TRUST SERIES 238 NATIONAL TRUST 238
2508	IM-01	NUVEEN	709142	NUVEEN TAX EXEMPT UNIT TRUST SERIES 239 NATIONAL TRUST 239
2509	IM-01	NUVEEN	073422	NUVEEN TAX EXEMPT UNIT TRUST SERIES 24
2510	IM-01	NUVEEN	709369	NUVEEN TAX EXEMPT UNIT TRUST SERIES 240-NATIONAL TRUST 240
2511	IM-01	NUVEEN	709703	NUVEEN TAX EXEMPT UNIT TRUST SERIES 241-NATIONAL TRUST 241
2512	IM-01	NUVEEN	710159	NUVEEN TAX EXEMPT UNIT TRUST SERIES 242-NATIONAL TRUST 242
2513	IM-01	NUVEEN	710998	NUVEEN TAX EXEMPT UNIT TRUST SERIES 243-NATIONAL TRUST 243

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
2514	IM-01	NUVEEN	711203	NUVEEN TAX EXEMPT UNIT TRUST SERIES 244-NATIONAL TRUST 244
2515	IM-01	NUVEEN	711394	NUVEEN TAX EXEMPT UNIT TRUST SERIES 245-NATIONAL TRUST 245
2516	IM-01	NUVEEN	711420	NUVEEN TAX EXEMPT UNIT TRUST SERIES 246-NATIONAL TRUST 246
2517	IM-01	NUVEEN	711678	NUVEEN TAX EXEMPT UNIT TRUST SERIES 247—NATIONAL TRUST 247
2518	IM-01	NUVEEN	712152	NUVEEN TAX EXEMPT UNIT TRUST SERIES 248—NATIONAL TRUST 248
2519	IM-01	NUVEEN	713022	NUVEEN TAX EXEMPT UNIT TRUST SERIES 249—NATIONAL TRUST 249
2520	IM-01	NUVEEN	073423	NUVEEN TAX EXEMPT UNIT TRUST SERIES 25
2521	IM-01	NUVEEN	713670	NUVEEN TAX EXEMPT UNIT TRUST SERIES 250
2522	IM-01	NUVEEN	714294	NUVEEN TAX EXEMPT UNIT TRUST SERIES 251—NATIONAL TRUST 251
2523	IM-01	NUVEEN	714541	NUVEEN TAX EXEMPT UNIT TRUST SERIES 252
2524	IM-01	NUVEEN	715077	NUVEEN TAX EXEMPT UNIT TRUST SERIES 253—NATIONAL TRUST 253
2525	IM-01	NUVEEN	715152	NUVEEN TAX EXEMPT UNIT TRUST SERIES 254 NATIONAL TRUST 254
2526	IM-01	NUVEEN	715427	NUVEEN TAX EXEMPT UNIT TRUST SERIES 255 NATIONAL TRUST 255
2527	IM-01	NUVEEN	716102	NUVEEN TAX EXEMPT UNIT TRUST SERIES 256 NATIONAL TRUST 256
2528	IM-01	NUVEEN	716406	NUVEEN TAX EXEMPT UNIT TRUST SERIES 257 NATIONAL TRUST 257
2529	IM-01	NUVEEN	716730	NUVEEN TAX EXEMPT UNIT TRUST SERIES 258 NATIONAL TRUST 258
2530	IM-01	NUVEEN	717087	NUVEEN TAX EXEMPT UNIT TRUST SERIES 259 NATIONAL TRUST 259
2531	IM-01	NUVEEN	073424	NUVEEN TAX EXEMPT UNIT TRUST SERIES 26
2532	IM-01	NUVEEN	717290	NUVEEN TAX EXEMPT UNIT TRUST SERIES 260 NATIONAL TRUST 260
2533	IM-01	NUVEEN	718055	NUVEEN TAX EXEMPT UNIT TRUST SERIES 261 NATIONAL TRUST 261
2534	IM-01	NUVEEN	718871	NUVEEN TAX EXEMPT UNIT TRUST SERIES 262 NATIONAL TRUST 262
2535	IM-01	NUVEEN	719591	NUVEEN TAX EXEMPT UNIT TRUST SERIES 263 NATIONAL TRUST 263
2536	IM-01	NUVEEN	719993	NUVEEN TAX EXEMPT UNIT TRUST SERIES 264 NATIONAL TRUST 264
2537	IM-01	NUVEEN	721697	NUVEEN TAX EXEMPT UNIT TRUST SERIES 265 NATIONAL TRUST 265
2538	IM-01	NUVEEN	722068	NUVEEN TAX EXEMPT UNIT TRUST SERIES 266 NATIONAL TRUST 266
2539	IM-01	NUVEEN	722680	NUVEEN TAX EXEMPT UNIT TRUST SERIES 267 NATIONAL TRUST 267
2540	IM-01	NUVEEN	722984	NUVEEN TAX EXEMPT UNIT TRUST SERIES 268 NATIONAL TRUST 268
2541	IM-01	NUVEEN	723586	NUVEEN TAX EXEMPT UNIT TRUST SERIES 269 NATIONAL TRUST 269
2542	IM-01	NUVEEN	073425	NUVEEN TAX EXEMPT UNIT TRUST SERIES 27
2543	IM-01	NUVEEN	723918	NUVEEN TAX EXEMPT UNIT TRUST SERIES 270 NATIONAL TRUST 270
2544	IM-01	NUVEEN	725793	NUVEEN TAX EXEMPT UNIT TRUST SERIES 274 NATIONAL TRUST 274
2545	IM-01	NUVEEN	726560	NUVEEN TAX EXEMPT UNIT TRUST SERIES 275 NATIONAL TRUST 275
2546	IM-01	NUVEEN	726992	NUVEEN TAX EXEMPT UNIT TRUST SERIES 276 NATIONAL TRUST 276
2547	IM-01	NUVEEN	727223	NUVEEN TAX EXEMPT UNIT TRUST SERIES 277 NATIONAL TRUST 277
2548	IM-01	NUVEEN	728251	NUVEEN TAX EXEMPT UNIT TRUST SERIES 278 NATIONAL TRUST 278
2549	IM-01	NUVEEN	729276	NUVEEN TAX EXEMPT UNIT TRUST SERIES 279 NATIONAL TRUST 279
2550	IM-01	NUVEEN	073426	NUVEEN TAX EXEMPT UNIT TRUST SERIES 28
2551	IM-01	NUVEEN	729541	NUVEEN TAX EXEMPT UNIT TRUST SERIES 280 NATIONAL TRUST 280
2552	IM-01	NUVEEN	730215	NUVEEN TAX EXEMPT UNIT TRUST SERIES 281 NATIONAL TRUST 281
2553	IM-01	NUVEEN	730359	NUVEEN TAX EXEMPT UNIT TRUST SERIES 282 NATIONAL TRUST 282
2554	IM-01	NUVEEN	731283	NUVEEN TAX EXEMPT UNIT TRUST SERIES 283 NATIONAL TRUST 283
2555	IM-01	NUVEEN	731752	NUVEEN TAX EXEMPT UNIT TRUST SERIES 284 NATIONAL TRUST 284
2556	IM-01	NUVEEN	732290	NUVEEN TAX EXEMPT UNIT TRUST SERIES 285 NATIONAL TRUST 285
2557	IM-01	NUVEEN	732582	NUVEEN TAX EXEMPT UNIT TRUST SERIES 286—NATIONAL TRUST 286
2558	IM-01	NUVEEN	732782	NUVEEN TAX EXEMPT UNIT TRUST SERIES 287 NATIONAL TRUST 287
2559	IM-01	NUVEEN	734121	NUVEEN TAX EXEMPT UNIT TRUST SERIES 288—NATIONAL TRUST 288
2560	IM-01	NUVEEN	735343	NUVEEN TAX EXEMPT UNIT TRUST SERIES 289—NATIONAL TRUST 289
2561	IM-01	NUVEEN	073427	NUVEEN TAX EXEMPT UNIT TRUST SERIES 29 NATIONAL TRUST 29
2562	IM-01	NUVEEN	736442	NUVEEN TAX EXEMPT UNIT TRUST SERIES 290—NATIONAL TRUST 290
2563	IM-01	NUVEEN	736951	NUVEEN TAX EXEMPT UNIT TRUST SERIES 291—NATIONAL TRUST 291
2564	IM-01	NUVEEN	736942	NUVEEN TAX EXEMPT UNIT TRUST SERIES 292—NATIONAL TRUST 292
2565	IM-01	NUVEEN	737253	NUVEEN TAX EXEMPT UNIT TRUST SERIES 293—NATIONAL TRUST 293
2566	IM-01	NUVEEN	737568	NUVEEN TAX EXEMPT UNIT TRUST SERIES 294 NATIONAL TRUST 294
2567	IM-01	NUVEEN	737735	NUVEEN TAX EXEMPT UNIT TRUST SERIES 295 NATIONAL TRUST 295
2568	IM-01	NUVEEN	737926	NUVEEN TAX EXEMPT UNIT TRUST SERIES 296 NATIONAL TRUST 296
2569	IM-01	NUVEEN	739453	NUVEEN TAX EXEMPT UNIT TRUST SERIES 297 NATIONAL TRUST 297
2570	IM-01	NUVEEN	740557	NUVEEN TAX EXEMPT UNIT TRUST SERIES 298 NATIONAL TRUST 298
2571	IM-01	NUVEEN	740560	NUVEEN TAX EXEMPT UNIT TRUST SERIES 299 NATIONAL TRUST 299
2572	IM-01	NUVEEN	073428	NUVEEN TAX EXEMPT UNIT TRUST SERIES 30 NATIONAL TRUST 30
2573	IM-01	NUVEEN	740614	NUVEEN TAX EXEMPT UNIT TRUST SERIES 300 NATIONAL TRUST 300
2574	IM-01	NUVEEN	741210	NUVEEN TAX EXEMPT UNIT TRUST SERIES 301 NATIONAL TRUST 301
2575	IM-01	NUVEEN	741514	NUVEEN TAX EXEMPT UNIT TRUST SERIES 302 NATIONAL TRUST 302
2576	IM-01	NUVEEN	742276	NUVEEN TAX EXEMPT UNIT TRUST SERIES 303 NATIONAL TRUST 303
2577	IM-01	NUVEEN	743513	NUVEEN TAX EXEMPT UNIT TRUST SERIES 304 NATIONAL TRUST 304
2578	IM-01	NUVEEN	744778	NUVEEN TAX EXEMPT UNIT TRUST SERIES 305
2579	IM-01	NUVEEN	748106	NUVEEN TAX EXEMPT UNIT TRUST SERIES 306 NATIONAL TRUST 306
2580	IM-01	NUVEEN	748630	NUVEEN TAX EXEMPT UNIT TRUST SERIES 307 NATIONAL TRUST 307
2581	IM-01	NUVEEN	749049	NUVEEN TAX EXEMPT UNIT TRUST SERIES 308 NATIONAL TRUST 308
2582	IM-01	NUVEEN	749541	NUVEEN TAX EXEMPT UNIT TRUST SERIES 309 NATIONAL TRUST 309
2583	IM-01	NUVEEN	073429	NUVEEN TAX EXEMPT UNIT TRUST SERIES 31 NATIONAL TRUST 31
2584	IM-01	NUVEEN	750031	NUVEEN TAX EXEMPT UNIT TRUST SERIES 310 NATIONAL TRUST 310
2585	IM-01	NUVEEN	750557	NUVEEN TAX EXEMPT UNIT TRUST SERIES 311 NATIONAL TRUST 311
2586	IM-01	NUVEEN	750722	NUVEEN TAX EXEMPT UNIT TRUST SERIES 312 NATIONAL TRUST 312
2587	IM-01	NUVEEN	751254	NUVEEN TAX EXEMPT UNIT TRUST SERIES 313 NATIONAL TRUST 313
2588	IM-01	NUVEEN	751717	NUVEEN TAX EXEMPT UNIT TRUST SERIES 314 NATIONAL TRUST 314
2589	IM-01	NUVEEN	752697	NUVEEN TAX EXEMPT UNIT TRUST SERIES 315
2590	IM-01	NUVEEN	755201	NUVEEN TAX EXEMPT UNIT TRUST SERIES 316 NATIONAL TRUST 316
2591	IM-01	NUVEEN	756656	NUVEEN TAX EXEMPT UNIT TRUST SERIES 317 NATIONAL TRUST 317
2592	IM-01	NUVEEN	757220	NUVEEN TAX EXEMPT UNIT TRUST SERIES 318—NATIONAL TRUST 318
2593	IM-01	NUVEEN	759113	NUVEEN TAX EXEMPT UNIT TRUST SERIES 319
2594	IM-01	NUVEEN	073430	NUVEEN TAX EXEMPT UNIT TRUST SERIES 32 NATIONAL TRUST 32
2595	IM-01	NUVEEN	759821	NUVEEN TAX EXEMPT UNIT TRUST SERIES 320

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
2596	IM-01	NUVEEN	761029	NUVEEN TAX EXEMPT UNIT TRUST SERIES 321
2597	IM-01	NUVEEN	761306	NUVEEN TAX EXEMPT UNIT TRUST SERIES 322
2598	IM-01	NUVEEN	763731	NUVEEN TAX EXEMPT UNIT TRUST SERIES 323
2599	IM-01	NUVEEN	763860	NUVEEN TAX EXEMPT UNIT TRUST SERIES 324
2600	IM-01	NUVEEN	766746	NUVEEN TAX EXEMPT UNIT TRUST SERIES 325
2601	IM-01	NUVEEN	766747	NUVEEN TAX EXEMPT UNIT TRUST SERIES 326
2602	IM-01	NUVEEN	767031	NUVEEN TAX EXEMPT UNIT TRUST SERIES 327
2603	IM-01	NUVEEN	768357	NUVEEN TAX EXEMPT UNIT TRUST SERIES 328
2604	IM-01	NUVEEN	768747	NUVEEN TAX EXEMPT UNIT TRUST SERIES 329 NATIONAL TRUST 329
2605	IM-01	NUVEEN	073431	NUVEEN TAX EXEMPT UNIT TRUST SERIES 33 NATIONAL TRUST 33
2606	IM-01	NUVEEN	768979	NUVEEN TAX EXEMPT UNIT TRUST SERIES 330
2607	IM-01	NUVEEN	769022	NUVEEN TAX EXEMPT UNIT TRUST SERIES 331 NATIONAL TRUST 331
2608	IM-01	NUVEEN	769210	NUVEEN TAX EXEMPT UNIT TRUST SERIES 332 NATIONAL TRUST 332
2609	IM-01	NUVEEN	769349	NUVEEN TAX EXEMPT UNIT TRUST SERIES 333 NATIONAL TRUST 333
2610	IM-01	NUVEEN	769585	NUVEEN TAX EXEMPT UNIT TRUST SERIES 334 NATIONAL TRUST 334
2611	IM-01	NUVEEN	769782	NUVEEN TAX EXEMPT UNIT TRUST SERIES 335
2612	IM-01	NUVEEN	770105	NUVEEN TAX EXEMPT UNIT TRUST SERIES 336
2613	IM-01	NUVEEN	771110	NUVEEN TAX EXEMPT UNIT TRUST SERIES 337
2614	IM-01	NUVEEN	771595	NUVEEN TAX EXEMPT UNIT TRUST SERIES 338 NATIONAL TRUST 338
2615	IM-01	NUVEEN	771794	NUVEEN TAX EXEMPT UNIT TRUST SERIES 339 NATIONAL TRUST 339
2616	IM-01	NUVEEN	073432	NUVEEN TAX EXEMPT UNIT TRUST SERIES 34 NATIONAL TRUST 34
2617	IM-01	NUVEEN	772061	NUVEEN TAX EXEMPT UNIT TRUST SERIES 340 NATIONAL TRUST 340
2618	IM-01	NUVEEN	772686	NUVEEN TAX EXEMPT UNIT TRUST SERIES 341
2619	IM-01	NUVEEN	773329	NUVEEN TAX EXEMPT UNIT TRUST SERIES 342
2620	IM-01	NUVEEN	773824	NUVEEN TAX EXEMPT UNIT TRUST SERIES 343
2621	IM-01	NUVEEN	774353	NUVEEN TAX EXEMPT UNIT TRUST SERIES 344
2622	IM-01	NUVEEN	774487	NUVEEN TAX EXEMPT UNIT TRUST SERIES 345 NATIONAL TRUST 345
2623	IM-01	NUVEEN	775412	NUVEEN TAX EXEMPT UNIT TRUST SERIES 346 NATIONAL TRUST 346
2624	IM-01	NUVEEN	775844	NUVEEN TAX EXEMPT UNIT TRUST SERIES 347 NATIONAL TRUST 347
2625	IM-01	NUVEEN	777340	NUVEEN TAX EXEMPT UNIT TRUST SERIES 348 NATIONAL TRUST 348
2626	IM-01	NUVEEN	777926	NUVEEN TAX EXEMPT UNIT TRUST SERIES 349 NATIONAL TRUST 349
2627	IM-01	NUVEEN	073433	NUVEEN TAX EXEMPT UNIT TRUST SERIES 35 NATIONAL TRUST 35
2628	IM-01	NUVEEN	778593	NUVEEN TAX EXEMPT UNIT TRUST SERIES 350
2629	IM-01	NUVEEN	779264	NUVEEN TAX EXEMPT UNIT TRUST SERIES 351
2630	IM-01	NUVEEN	779614	NUVEEN TAX EXEMPT UNIT TRUST SERIES 352
2631	IM-01	NUVEEN	780150	NUVEEN TAX EXEMPT UNIT TRUST SERIES 353
2632	IM-01	NUVEEN	781908	NUVEEN TAX EXEMPT UNIT TRUST SERIES 354
2633	IM-01	NUVEEN	782764	NUVEEN TAX EXEMPT UNIT TRUST SERIES 355
2634	IM-01	NUVEEN	782766	NUVEEN TAX EXEMPT UNIT TRUST SERIES 356
2635	IM-01	NUVEEN	782769	NUVEEN TAX EXEMPT UNIT TRUST SERIES 357
2636	IM-01	NUVEEN	782771	NUVEEN TAX EXEMPT UNIT TRUST SERIES 358
2637	IM-01	NUVEEN	782772	NUVEEN TAX EXEMPT UNIT TRUST SERIES 359
2638	IM-01	NUVEEN	073434	NUVEEN TAX EXEMPT UNIT TRUST SERIES 36 NATIONAL TRUST 36
2639	IM-01	NUVEEN	782781	NUVEEN TAX EXEMPT UNIT TRUST SERIES 360
2640	IM-01	NUVEEN	782782	NUVEEN TAX EXEMPT UNIT TRUST SERIES 361
2641	IM-01	NUVEEN	782784	NUVEEN TAX EXEMPT UNIT TRUST SERIES 362
2642	IM-01	NUVEEN	782786	NUVEEN TAX EXEMPT UNIT TRUST SERIES 363
2643	IM-01	NUVEEN	782794	NUVEEN TAX EXEMPT UNIT TRUST SERIES 364
2644	IM-01	NUVEEN	782795	NUVEEN TAX EXEMPT UNIT TRUST SERIES 365
2645	IM-01	NUVEEN	782796	NUVEEN TAX EXEMPT UNIT TRUST SERIES 366
2646	IM-01	NUVEEN	782798	NUVEEN TAX EXEMPT UNIT TRUST SERIES 367
2647	IM-01	NUVEEN	782800	NUVEEN TAX EXEMPT UNIT TRUST SERIES 368
2648	IM-01	NUVEEN	782802	NUVEEN TAX EXEMPT UNIT TRUST SERIES 369
2649	IM-01	NUVEEN	073435	NUVEEN TAX EXEMPT UNIT TRUST SERIES 37 NATIONAL TRUST 37
2650	IM-01	NUVEEN	782803	NUVEEN TAX EXEMPT UNIT TRUST SERIES 370
2651	IM-01	NUVEEN	782804	NUVEEN TAX EXEMPT UNIT TRUST SERIES 371
2652	IM-01	NUVEEN	782805	NUVEEN TAX EXEMPT UNIT TRUST SERIES 372
2653	IM-01	NUVEEN	782806	NUVEEN TAX EXEMPT UNIT TRUST SERIES 373
2654	IM-01	NUVEEN	782807	NUVEEN TAX EXEMPT UNIT TRUST SERIES 374
2655	IM-01	NUVEEN	782809	NUVEEN TAX EXEMPT UNIT TRUST SERIES 375
2656	IM-01	NUVEEN	782811	NUVEEN TAX EXEMPT UNIT TRUST SERIES 376
2657	IM-01	NUVEEN	782816	NUVEEN TAX EXEMPT UNIT TRUST SERIES 377
2658	IM-01	NUVEEN	782817	NUVEEN TAX EXEMPT UNIT TRUST SERIES 378
2659	IM-01	NUVEEN	782818	NUVEEN TAX EXEMPT UNIT TRUST SERIES 379
2660	IM-01	NUVEEN	073436	NUVEEN TAX EXEMPT UNIT TRUST SERIES 38
2661	IM-01	NUVEEN	782820	NUVEEN TAX EXEMPT UNIT TRUST SERIES 380
2662	IM-01	NUVEEN	782821	NUVEEN TAX EXEMPT UNIT TRUST SERIES 381
2663	IM-01	NUVEEN	782822	NUVEEN TAX EXEMPT UNIT TRUST SERIES 382
2664	IM-01	NUVEEN	782823	NUVEEN TAX EXEMPT UNIT TRUST SERIES 383
2665	IM-01	NUVEEN	782824	NUVEEN TAX EXEMPT UNIT TRUST SERIES 384
2666	IM-01	NUVEEN	782825	NUVEEN TAX EXEMPT UNIT TRUST SERIES 385
2667	IM-01	NUVEEN	782826	NUVEEN TAX EXEMPT UNIT TRUST SERIES 386
2668	IM-01	NUVEEN	782828	NUVEEN TAX EXEMPT UNIT TRUST SERIES 387
2669	IM-01	NUVEEN	782829	NUVEEN TAX EXEMPT UNIT TRUST SERIES 388
2670	IM-01	NUVEEN	782830	NUVEEN TAX EXEMPT UNIT TRUST SERIES 389
2671	IM-01	NUVEEN	073437	NUVEEN TAX EXEMPT UNIT TRUST SERIES 39 NATIONAL TRUST 39
2672	IM-01	NUVEEN	782831	NUVEEN TAX EXEMPT UNIT TRUST SERIES 390
2673	IM-01	NUVEEN	782832	NUVEEN TAX EXEMPT UNIT TRUST SERIES 391
2674	IM-01	NUVEEN	782833	NUVEEN TAX EXEMPT UNIT TRUST SERIES 392
2675	IM-01	NUVEEN	782834	NUVEEN TAX EXEMPT UNIT TRUST SERIES 393
2676	IM-01	NUVEEN	782835	NUVEEN TAX EXEMPT UNIT TRUST SERIES 394
2677	IM-01	NUVEEN	782836	NUVEEN TAX EXEMPT UNIT TRUST SERIES 395

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Point	Group	Complex	CIK	Name
2678	IM-01	NUVEEN	782837	NUVEEN TAX EXEMPT UNIT TRUST SERIES 396
2679	IM-01	NUVEEN	782838	NUVEEN TAX EXEMPT UNIT TRUST SERIES 397
2680	IM-01	NUVEEN	782960	NUVEEN TAX EXEMPT UNIT TRUST SERIES 398
2681	IM-01	NUVEEN	782961	NUVEEN TAX EXEMPT UNIT TRUST SERIES 399
2682	IM-01	NUVEEN	073436	NUVEEN TAX EXEMPT UNIT TRUST SERIES 40 NATIONAL TRUST 40
2683	IM-01	NUVEEN	782962	NUVEEN TAX EXEMPT UNIT TRUST SERIES 400
2684	IM-01	NUVEEN	802375	NUVEEN TAX EXEMPT UNIT TRUST SERIES 401
2685	IM-01	NUVEEN	802376	NUVEEN TAX EXEMPT UNIT TRUST SERIES 402
2686	IM-01	NUVEEN	802379	NUVEEN TAX EXEMPT UNIT TRUST SERIES 403
2687	IM-01	NUVEEN	802380	NUVEEN TAX EXEMPT UNIT TRUST SERIES 404
2688	IM-01	NUVEEN	802381	NUVEEN TAX EXEMPT UNIT TRUST SERIES 405
2689	IM-01	NUVEEN	802382	NUVEEN TAX EXEMPT UNIT TRUST SERIES 406
2690	IM-01	NUVEEN	802383	NUVEEN TAX EXEMPT UNIT TRUST SERIES 407
2691	IM-01	NUVEEN	802384	NUVEEN TAX EXEMPT UNIT TRUST SERIES 408
2692	IM-01	NUVEEN	802385	NUVEEN TAX EXEMPT UNIT TRUST SERIES 409
2693	IM-01	NUVEEN	073439	NUVEEN TAX EXEMPT UNIT TRUST SERIES 41 NATIONAL TRUST 41
2694	IM-01	NUVEEN	802386	NUVEEN TAX EXEMPT UNIT TRUST SERIES 410
2695	IM-01	NUVEEN	802389	NUVEEN TAX EXEMPT UNIT TRUST SERIES 411
2696	IM-01	NUVEEN	802391	NUVEEN TAX EXEMPT UNIT TRUST SERIES 412
2697	IM-01	NUVEEN	802393	NUVEEN TAX EXEMPT UNIT TRUST SERIES 413
2698	IM-01	NUVEEN	802394	NUVEEN TAX EXEMPT UNIT TRUST SERIES 414
2699	IM-01	NUVEEN	802395	NUVEEN TAX EXEMPT UNIT TRUST SERIES 415
2700	IM-01	NUVEEN	802396	NUVEEN TAX EXEMPT UNIT TRUST SERIES 416
2701	IM-01	NUVEEN	802397	NUVEEN TAX EXEMPT UNIT TRUST SERIES 417
2702	IM-01	NUVEEN	802399	NUVEEN TAX EXEMPT UNIT TRUST SERIES 418
2703	IM-01	NUVEEN	802404	NUVEEN TAX EXEMPT UNIT TRUST SERIES 419
2704	IM-01	NUVEEN	073441	NUVEEN TAX EXEMPT UNIT TRUST SERIES 42 NATIONAL TRUST 42
2705	IM-01	NUVEEN	802407	NUVEEN TAX EXEMPT UNIT TRUST SERIES 420
2706	IM-01	NUVEEN	802408	NUVEEN TAX EXEMPT UNIT TRUST SERIES 421
2707	IM-01	NUVEEN	802409	NUVEEN TAX EXEMPT UNIT TRUST SERIES 422
2708	IM-01	NUVEEN	802410	NUVEEN TAX EXEMPT UNIT TRUST SERIES 423
2709	IM-01	NUVEEN	802411	NUVEEN TAX EXEMPT UNIT TRUST SERIES 424
2710	IM-01	NUVEEN	802412	NUVEEN TAX EXEMPT UNIT TRUST SERIES 425
2711	IM-01	NUVEEN	802413	NUVEEN TAX EXEMPT UNIT TRUST SERIES 426
2712	IM-01	NUVEEN	802414	NUVEEN TAX EXEMPT UNIT TRUST SERIES 427
2713	IM-01	NUVEEN	802415	NUVEEN TAX EXEMPT UNIT TRUST SERIES 428
2714	IM-01	NUVEEN	802416	NUVEEN TAX EXEMPT UNIT TRUST SERIES 429
2715	IM-01	NUVEEN	073443	NUVEEN TAX EXEMPT UNIT TRUST SERIES 43 NATIONAL TRUST 43
2716	IM-01	NUVEEN	073443	NUVEEN TAX EXEMPT UNIT TRUST SERIES 43 NATIONAL TRUST 43
2717	IM-01	NUVEEN	802417	NUVEEN TAX EXEMPT UNIT TRUST SERIES 430
2718	IM-01	NUVEEN	802418	NUVEEN TAX EXEMPT UNIT TRUST SERIES 431
2719	IM-01	NUVEEN	802419	NUVEEN TAX EXEMPT UNIT TRUST SERIES 432
2720	IM-01	NUVEEN	802420	NUVEEN TAX EXEMPT UNIT TRUST SERIES 433
2721	IM-01	NUVEEN	802421	NUVEEN TAX EXEMPT UNIT TRUST SERIES 434
2722	IM-01	NUVEEN	802422	NUVEEN TAX EXEMPT UNIT TRUST SERIES 435
2723	IM-01	NUVEEN	802424	NUVEEN TAX EXEMPT UNIT TRUST SERIES 436
2724	IM-01	NUVEEN	802425	NUVEEN TAX EXEMPT UNIT TRUST SERIES 437
2725	IM-01	NUVEEN	802426	NUVEEN TAX EXEMPT UNIT TRUST SERIES 438
2726	IM-01	NUVEEN	802427	NUVEEN TAX EXEMPT UNIT TRUST SERIES 439
2727	IM-01	NUVEEN	073445	NUVEEN TAX EXEMPT UNIT TRUST SERIES 44 NATIONAL TRUST 44
2728	IM-01	NUVEEN	073445	NUVEEN TAX EXEMPT UNIT TRUST SERIES 44 NATIONAL TRUST 44
2729	IM-01	NUVEEN	802428	NUVEEN TAX EXEMPT UNIT TRUST SERIES 440
2730	IM-01	NUVEEN	802429	NUVEEN TAX EXEMPT UNIT TRUST SERIES 441
2731	IM-01	NUVEEN	802430	NUVEEN TAX EXEMPT UNIT TRUST SERIES 442
2732	IM-01	NUVEEN	802431	NUVEEN TAX EXEMPT UNIT TRUST SERIES 443
2733	IM-01	NUVEEN	802432	NUVEEN TAX EXEMPT UNIT TRUST SERIES 444
2734	IM-01	NUVEEN	802433	NUVEEN TAX EXEMPT UNIT TRUST SERIES 445
2735	IM-01	NUVEEN	802434	NUVEEN TAX EXEMPT UNIT TRUST SERIES 446
2736	IM-01	NUVEEN	802435	NUVEEN TAX EXEMPT UNIT TRUST SERIES 447
2737	IM-01	NUVEEN	802436	NUVEEN TAX EXEMPT UNIT TRUST SERIES 448
2738	IM-01	NUVEEN	802437	NUVEEN TAX EXEMPT UNIT TRUST SERIES 449
2739	IM-01	NUVEEN	073447	NUVEEN TAX EXEMPT UNIT TRUST SERIES 45 NATIONAL TRUST 45
2740	IM-01	NUVEEN	802438	NUVEEN TAX EXEMPT UNIT TRUST SERIES 450
2741	IM-01	NUVEEN	825407	NUVEEN TAX EXEMPT UNIT TRUST SERIES 451
2742	IM-01	NUVEEN	825408	NUVEEN TAX EXEMPT UNIT TRUST SERIES 452
2743	IM-01	NUVEEN	825413	NUVEEN TAX EXEMPT UNIT TRUST SERIES 453
2744	IM-01	NUVEEN	825414	NUVEEN TAX EXEMPT UNIT TRUST SERIES 454
2745	IM-01	NUVEEN	825415	NUVEEN TAX EXEMPT UNIT TRUST SERIES 455
2746	IM-01	NUVEEN	825416	NUVEEN TAX EXEMPT UNIT TRUST SERIES 456
2747	IM-01	NUVEEN	825417	NUVEEN TAX EXEMPT UNIT TRUST SERIES 457
2748	IM-01	NUVEEN	825418	NUVEEN TAX EXEMPT UNIT TRUST SERIES 458
2749	IM-01	NUVEEN	825419	NUVEEN TAX EXEMPT UNIT TRUST SERIES 459
2750	IM-01	NUVEEN	073448	NUVEEN TAX EXEMPT UNIT TRUST SERIES 46 NATIONAL TRUST 46
2751	IM-01	NUVEEN	825420	NUVEEN TAX EXEMPT UNIT TRUST SERIES 460
2752	IM-01	NUVEEN	825421	NUVEEN TAX EXEMPT UNIT TRUST SERIES 461
2753	IM-01	NUVEEN	825422	NUVEEN TAX EXEMPT UNIT TRUST SERIES 462
2754	IM-01	NUVEEN	825423	NUVEEN TAX EXEMPT UNIT TRUST SERIES 463
2755	IM-01	NUVEEN	825424	NUVEEN TAX EXEMPT UNIT TRUST SERIES 464
2756	IM-01	NUVEEN	825426	NUVEEN TAX EXEMPT UNIT TRUST SERIES 465
2757	IM-01	NUVEEN	825427	NUVEEN TAX EXEMPT UNIT TRUST SERIES 466
2758	IM-01	NUVEEN	825428	NUVEEN TAX EXEMPT UNIT TRUST SERIES 467
2759	IM-01	NUVEEN	825429	NUVEEN TAX EXEMPT UNIT TRUST SERIES 468

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
2760	IM-01	NUVEEN	825430	NUVEEN TAX EXEMPT UNIT TRUST SERIES 469
2761	IM-01	NUVEEN	073449	NUVEEN TAX EXEMPT UNIT TRUST SERIES 47 NATIONAL TRUST 47
2762	IM-01	NUVEEN	825431	NUVEEN TAX EXEMPT UNIT TRUST SERIES 470
2763	IM-01	NUVEEN	825432	NUVEEN TAX EXEMPT UNIT TRUST SERIES 471
2764	IM-01	NUVEEN	825433	NUVEEN TAX EXEMPT UNIT TRUST SERIES 472
2765	IM-01	NUVEEN	825434	NUVEEN TAX EXEMPT UNIT TRUST SERIES 473
2766	IM-01	NUVEEN	825435	NUVEEN TAX EXEMPT UNIT TRUST SERIES 474
2767	IM-01	NUVEEN	825436	NUVEEN TAX EXEMPT UNIT TRUST SERIES 475
2768	IM-01	NUVEEN	825437	NUVEEN TAX EXEMPT UNIT TRUST SERIES 476
2769	IM-01	NUVEEN	825438	NUVEEN TAX EXEMPT UNIT TRUST SERIES 477
2770	IM-01	NUVEEN	825439	NUVEEN TAX EXEMPT UNIT TRUST SERIES 478
2771	IM-01	NUVEEN	825440	NUVEEN TAX EXEMPT UNIT TRUST SERIES 479
2772	IM-01	NUVEEN	073451	NUVEEN TAX EXEMPT UNIT TRUST SERIES 48 NATIONAL TRUST 48
2773	IM-01	NUVEEN	073451	NUVEEN TAX EXEMPT UNIT TRUST SERIES 48 NATIONAL TRUST 48
2774	IM-01	NUVEEN	825441	NUVEEN TAX EXEMPT UNIT TRUST SERIES 480
2775	IM-01	NUVEEN	825442	NUVEEN TAX EXEMPT UNIT TRUST SERIES 481
2776	IM-01	NUVEEN	825443	NUVEEN TAX EXEMPT UNIT TRUST SERIES 482
2777	IM-01	NUVEEN	825444	NUVEEN TAX EXEMPT UNIT TRUST SERIES 483
2778	IM-01	NUVEEN	825445	NUVEEN TAX EXEMPT UNIT TRUST SERIES 484
2779	IM-01	NUVEEN	825446	NUVEEN TAX EXEMPT UNIT TRUST SERIES 485
2780	IM-01	NUVEEN	825447	NUVEEN TAX EXEMPT UNIT TRUST SERIES 486
2781	IM-01	NUVEEN	825448	NUVEEN TAX EXEMPT UNIT TRUST SERIES 487
2782	IM-01	NUVEEN	825449	NUVEEN TAX EXEMPT UNIT TRUST SERIES 488
2783	IM-01	NUVEEN	825450	NUVEEN TAX EXEMPT UNIT TRUST SERIES 489
2784	IM-01	NUVEEN	073453	NUVEEN TAX EXEMPT UNIT TRUST SERIES 49 NATIONAL TRUST 49
2785	IM-01	NUVEEN	073453	NUVEEN TAX EXEMPT UNIT TRUST SERIES 49 NATIONAL TRUST 49
2786	IM-01	NUVEEN	825451	NUVEEN TAX EXEMPT UNIT TRUST SERIES 490
2787	IM-01	NUVEEN	825452	NUVEEN TAX EXEMPT UNIT TRUST SERIES 491
2788	IM-01	NUVEEN	825453	NUVEEN TAX EXEMPT UNIT TRUST SERIES 492
2789	IM-01	NUVEEN	825454	NUVEEN TAX EXEMPT UNIT TRUST SERIES 493
2790	IM-01	NUVEEN	825455	NUVEEN TAX EXEMPT UNIT TRUST SERIES 494
2791	IM-01	NUVEEN	825456	NUVEEN TAX EXEMPT UNIT TRUST SERIES 495
2792	IM-01	NUVEEN	825457	NUVEEN TAX EXEMPT UNIT TRUST SERIES 496
2793	IM-01	NUVEEN	825458	NUVEEN TAX EXEMPT UNIT TRUST SERIES 497
2794	IM-01	NUVEEN	825459	NUVEEN TAX EXEMPT UNIT TRUST SERIES 498
2795	IM-01	NUVEEN	825460	NUVEEN TAX EXEMPT UNIT TRUST SERIES 499
2796	IM-01	NUVEEN	073456	NUVEEN TAX EXEMPT UNIT TRUST SERIES 50 NATIONAL TRUST 50
2797	IM-01	NUVEEN	825461	NUVEEN TAX EXEMPT UNIT TRUST SERIES 500
2798	IM-01	NUVEEN	846228	NUVEEN TAX EXEMPT UNIT TRUST SERIES 501
2799	IM-01	NUVEEN	846230	NUVEEN TAX EXEMPT UNIT TRUST SERIES 502
2800	IM-01	NUVEEN	846232	NUVEEN TAX EXEMPT UNIT TRUST SERIES 503
2801	IM-01	NUVEEN	846233	NUVEEN TAX EXEMPT UNIT TRUST SERIES 504
2802	IM-01	NUVEEN	846234	NUVEEN TAX EXEMPT UNIT TRUST SERIES 505
2803	IM-01	NUVEEN	846235	NUVEEN TAX EXEMPT UNIT TRUST SERIES 506
2804	IM-01	NUVEEN	846236	NUVEEN TAX EXEMPT UNIT TRUST SERIES 507
2805	IM-01	NUVEEN	846237	NUVEEN TAX EXEMPT UNIT TRUST SERIES 508
2806	IM-01	NUVEEN	846238	NUVEEN TAX EXEMPT UNIT TRUST SERIES 509
2807	IM-01	NUVEEN	073457	NUVEEN TAX EXEMPT UNIT TRUST SERIES 51 NATIONAL TRUST 51
2808	IM-01	NUVEEN	073457	NUVEEN TAX EXEMPT UNIT TRUST SERIES 51 NATIONAL TRUST 51
2809	IM-01	NUVEEN	846239	NUVEEN TAX EXEMPT UNIT TRUST SERIES 510
2810	IM-01	NUVEEN	846240	NUVEEN TAX EXEMPT UNIT TRUST SERIES 511
2811	IM-01	NUVEEN	846242	NUVEEN TAX EXEMPT UNIT TRUST SERIES 512
2812	IM-01	NUVEEN	846243	NUVEEN TAX EXEMPT UNIT TRUST SERIES 513
2813	IM-01	NUVEEN	846245	NUVEEN TAX EXEMPT UNIT TRUST SERIES 514
2814	IM-01	NUVEEN	846247	NUVEEN TAX EXEMPT UNIT TRUST SERIES 515
2815	IM-01	NUVEEN	846249	NUVEEN TAX EXEMPT UNIT TRUST SERIES 516
2816	IM-01	NUVEEN	846250	NUVEEN TAX EXEMPT UNIT TRUST SERIES 517
2817	IM-01	NUVEEN	846252	NUVEEN TAX EXEMPT UNIT TRUST SERIES 518
2818	IM-01	NUVEEN	846254	NUVEEN TAX EXEMPT UNIT TRUST SERIES 519
2819	IM-01	NUVEEN	073459	NUVEEN TAX EXEMPT UNIT TRUST SERIES 52 NATIONAL TRUST 52
2820	IM-01	NUVEEN	846256	NUVEEN TAX EXEMPT UNIT TRUST SERIES 520
2821	IM-01	NUVEEN	846258	NUVEEN TAX EXEMPT UNIT TRUST SERIES 521
2822	IM-01	NUVEEN	846260	NUVEEN TAX EXEMPT UNIT TRUST SERIES 522
2823	IM-01	NUVEEN	846262	NUVEEN TAX EXEMPT UNIT TRUST SERIES 523
2824	IM-01	NUVEEN	846264	NUVEEN TAX EXEMPT UNIT TRUST SERIES 524
2825	IM-01	NUVEEN	846265	NUVEEN TAX EXEMPT UNIT TRUST SERIES 525
2826	IM-01	NUVEEN	846267	NUVEEN TAX EXEMPT UNIT TRUST SERIES 526
2827	IM-01	NUVEEN	846270	NUVEEN TAX EXEMPT UNIT TRUST SERIES 527
2828	IM-01	NUVEEN	846272	NUVEEN TAX EXEMPT UNIT TRUST SERIES 528
2829	IM-01	NUVEEN	846274	NUVEEN TAX EXEMPT UNIT TRUST SERIES 529
2830	IM-01	NUVEEN	073461	NUVEEN TAX EXEMPT UNIT TRUST SERIES 53 NATIONAL TRUST 53
2831	IM-01	NUVEEN	846276	NUVEEN TAX EXEMPT UNIT TRUST SERIES 530
2832	IM-01	NUVEEN	846279	NUVEEN TAX EXEMPT UNIT TRUST SERIES 531
2833	IM-01	NUVEEN	846280	NUVEEN TAX EXEMPT UNIT TRUST SERIES 532
2834	IM-01	NUVEEN	846282	NUVEEN TAX EXEMPT UNIT TRUST SERIES 533
2835	IM-01	NUVEEN	846284	NUVEEN TAX EXEMPT UNIT TRUST SERIES 534
2836	IM-01	NUVEEN	846286	NUVEEN TAX EXEMPT UNIT TRUST SERIES 535
2837	IM-01	NUVEEN	846288	NUVEEN TAX EXEMPT UNIT TRUST SERIES 536
2838	IM-01	NUVEEN	846290	NUVEEN TAX EXEMPT UNIT TRUST SERIES 537
2839	IM-01	NUVEEN	846292	NUVEEN TAX EXEMPT UNIT TRUST SERIES 538
2840	IM-01	NUVEEN	846293	NUVEEN TAX EXEMPT UNIT TRUST SERIES 539
2841	IM-01	NUVEEN	073463	NUVEEN TAX EXEMPT UNIT TRUST SERIES 54 NATIONAL TRUST 54

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
2842	IM-01	NUVEEN	846295	NUVEEN TAX EXEMPT UNIT TRUST SERIES 540
2843	IM-01	NUVEEN	846297	NUVEEN TAX EXEMPT UNIT TRUST SERIES 541
2844	IM-01	NUVEEN	846299	NUVEEN TAX EXEMPT UNIT TRUST SERIES 542
2845	IM-01	NUVEEN	846301	NUVEEN TAX EXEMPT UNIT TRUST SERIES 543
2846	IM-01	NUVEEN	846304	NUVEEN TAX EXEMPT UNIT TRUST SERIES 544
2847	IM-01	NUVEEN	846306	NUVEEN TAX EXEMPT UNIT TRUST SERIES 545
2848	IM-01	NUVEEN	846307	NUVEEN TAX EXEMPT UNIT TRUST SERIES 546
2849	IM-01	NUVEEN	846308	NUVEEN TAX EXEMPT UNIT TRUST SERIES 547
2850	IM-01	NUVEEN	846309	NUVEEN TAX EXEMPT UNIT TRUST SERIES 548
2851	IM-01	NUVEEN	846310	NUVEEN TAX EXEMPT UNIT TRUST SERIES 549
2852	IM-01	NUVEEN	073465	NUVEEN TAX EXEMPT UNIT TRUST SERIES 55 NATIONAL TRUST 55
2853	IM-01	NUVEEN	846311	NUVEEN TAX EXEMPT UNIT TRUST SERIES 550
2854	IM-01	NUVEEN	860880	NUVEEN TAX EXEMPT UNIT TRUST SERIES 551
2855	IM-01	NUVEEN	860881	NUVEEN TAX EXEMPT UNIT TRUST SERIES 552
2856	IM-01	NUVEEN	860882	NUVEEN TAX EXEMPT UNIT TRUST SERIES 553
2857	IM-01	NUVEEN	860883	NUVEEN TAX EXEMPT UNIT TRUST SERIES 554
2858	IM-01	NUVEEN	860884	NUVEEN TAX EXEMPT UNIT TRUST SERIES 555
2859	IM-01	NUVEEN	860885	NUVEEN TAX EXEMPT UNIT TRUST SERIES 556
2860	IM-01	NUVEEN	860886	NUVEEN TAX EXEMPT UNIT TRUST SERIES 557
2861	IM-01	NUVEEN	860887	NUVEEN TAX EXEMPT UNIT TRUST SERIES 558
2862	IM-01	NUVEEN	860888	NUVEEN TAX EXEMPT UNIT TRUST SERIES 559
2863	IM-01	NUVEEN	073466	NUVEEN TAX EXEMPT UNIT TRUST SERIES 56 NATIONAL TRUST 56
2864	IM-01	NUVEEN	860889	NUVEEN TAX EXEMPT UNIT TRUST SERIES 560
2865	IM-01	NUVEEN	860890	NUVEEN TAX EXEMPT UNIT TRUST SERIES 561
2866	IM-01	NUVEEN	860891	NUVEEN TAX EXEMPT UNIT TRUST SERIES 562
2867	IM-01	NUVEEN	860892	NUVEEN TAX EXEMPT UNIT TRUST SERIES 563
2868	IM-01	NUVEEN	860893	NUVEEN TAX EXEMPT UNIT TRUST SERIES 564
2869	IM-01	NUVEEN	860894	NUVEEN TAX EXEMPT UNIT TRUST SERIES 565
2870	IM-01	NUVEEN	860895	NUVEEN TAX EXEMPT UNIT TRUST SERIES 566
2871	IM-01	NUVEEN	860896	NUVEEN TAX EXEMPT UNIT TRUST SERIES 567
2872	IM-01	NUVEEN	860897	NUVEEN TAX EXEMPT UNIT TRUST SERIES 568
2873	IM-01	NUVEEN	860898	NUVEEN TAX EXEMPT UNIT TRUST SERIES 569
2874	IM-01	NUVEEN	073467	NUVEEN TAX EXEMPT UNIT TRUST SERIES 57 NATIONAL TRUST 57
2875	IM-01	NUVEEN	860899	NUVEEN TAX EXEMPT UNIT TRUST SERIES 570
2876	IM-01	NUVEEN	860900	NUVEEN TAX EXEMPT UNIT TRUST SERIES 571
2877	IM-01	NUVEEN	860901	NUVEEN TAX EXEMPT UNIT TRUST SERIES 572
2878	IM-01	NUVEEN	860902	NUVEEN TAX EXEMPT UNIT TRUST SERIES 573
2879	IM-01	NUVEEN	860903	NUVEEN TAX EXEMPT UNIT TRUST SERIES 574
2880	IM-01	NUVEEN	860904	NUVEEN TAX EXEMPT UNIT TRUST SERIES 575
2881	IM-01	NUVEEN	860905	NUVEEN TAX EXEMPT UNIT TRUST SERIES 576
2882	IM-01	NUVEEN	860906	NUVEEN TAX EXEMPT UNIT TRUST SERIES 577
2883	IM-01	NUVEEN	860907	NUVEEN TAX EXEMPT UNIT TRUST SERIES 578
2884	IM-01	NUVEEN	860908	NUVEEN TAX EXEMPT UNIT TRUST SERIES 579
2885	IM-01	NUVEEN	073468	NUVEEN TAX EXEMPT UNIT TRUST SERIES 58 NATIONAL TRUST 58
2886	IM-01	NUVEEN	860909	NUVEEN TAX EXEMPT UNIT TRUST SERIES 580
2887	IM-01	NUVEEN	860910	NUVEEN TAX EXEMPT UNIT TRUST SERIES 581
2888	IM-01	NUVEEN	860911	NUVEEN TAX EXEMPT UNIT TRUST SERIES 582
2889	IM-01	NUVEEN	860912	NUVEEN TAX EXEMPT UNIT TRUST SERIES 583
2890	IM-01	NUVEEN	860913	NUVEEN TAX EXEMPT UNIT TRUST SERIES 584
2891	IM-01	NUVEEN	860914	NUVEEN TAX EXEMPT UNIT TRUST SERIES 585
2892	IM-01	NUVEEN	860915	NUVEEN TAX EXEMPT UNIT TRUST SERIES 586
2893	IM-01	NUVEEN	860918	NUVEEN TAX EXEMPT UNIT TRUST SERIES 587
2894	IM-01	NUVEEN	860919	NUVEEN TAX EXEMPT UNIT TRUST SERIES 588
2895	IM-01	NUVEEN	860920	NUVEEN TAX EXEMPT UNIT TRUST SERIES 589
2896	IM-01	NUVEEN	073469	NUVEEN TAX EXEMPT UNIT TRUST SERIES 59 NATIONAL TRUST 59
2897	IM-01	NUVEEN	860921	NUVEEN TAX EXEMPT UNIT TRUST SERIES 590
2898	IM-01	NUVEEN	860922	NUVEEN TAX EXEMPT UNIT TRUST SERIES 591
2899	IM-01	NUVEEN	860923	NUVEEN TAX EXEMPT UNIT TRUST SERIES 592
2900	IM-01	NUVEEN	860924	NUVEEN TAX EXEMPT UNIT TRUST SERIES 593
2901	IM-01	NUVEEN	860925	NUVEEN TAX EXEMPT UNIT TRUST SERIES 594
2902	IM-01	NUVEEN	860926	NUVEEN TAX EXEMPT UNIT TRUST SERIES 595
2903	IM-01	NUVEEN	860927	NUVEEN TAX EXEMPT UNIT TRUST SERIES 596
2904	IM-01	NUVEEN	860928	NUVEEN TAX EXEMPT UNIT TRUST SERIES 597
2905	IM-01	NUVEEN	860929	NUVEEN TAX EXEMPT UNIT TRUST SERIES 598
2906	IM-01	NUVEEN	860930	NUVEEN TAX EXEMPT UNIT TRUST SERIES 599
2907	IM-01	NUVEEN	073471	NUVEEN TAX EXEMPT UNIT TRUST SERIES 60 NATIONAL TRUST 60
2908	IM-01	NUVEEN	860931	NUVEEN TAX EXEMPT UNIT TRUST SERIES 600
2909	IM-01	NUVEEN	860932	NUVEEN TAX EXEMPT UNIT TRUST SERIES 601
2910	IM-01	NUVEEN	860933	NUVEEN TAX EXEMPT UNIT TRUST SERIES 602
2911	IM-01	NUVEEN	860934	NUVEEN TAX EXEMPT UNIT TRUST SERIES 603
2912	IM-01	NUVEEN	860935	NUVEEN TAX EXEMPT UNIT TRUST SERIES 604
2913	IM-01	NUVEEN	860936	NUVEEN TAX EXEMPT UNIT TRUST SERIES 605
2914	IM-01	NUVEEN	860937	NUVEEN TAX EXEMPT UNIT TRUST SERIES 606
2915	IM-01	NUVEEN	860938	NUVEEN TAX EXEMPT UNIT TRUST SERIES 607
2916	IM-01	NUVEEN	860939	NUVEEN TAX EXEMPT UNIT TRUST SERIES 608
2917	IM-01	NUVEEN	860940	NUVEEN TAX EXEMPT UNIT TRUST SERIES 609
2918	IM-01	NUVEEN	073472	NUVEEN TAX EXEMPT UNIT TRUST SERIES 61 NATIONAL TRUST 61
2919	IM-01	NUVEEN	073472	NUVEEN TAX EXEMPT UNIT TRUST SERIES 61 NATIONAL TRUST 61
2920	IM-01	NUVEEN	860941	NUVEEN TAX EXEMPT UNIT TRUST SERIES 610
2921	IM-01	NUVEEN	860942	NUVEEN TAX EXEMPT UNIT TRUST SERIES 611
2922	IM-01	NUVEEN	860943	NUVEEN TAX EXEMPT UNIT TRUST SERIES 612
2923	IM-01	NUVEEN	860944	NUVEEN TAX EXEMPT UNIT TRUST SERIES 613

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
2924	IM-01*	NUVEEN	860945	NUVEEN TAX EXEMPT UNIT TRUST SERIES 614
2925	IM-01	NUVEEN	860946	NUVEEN TAX EXEMPT UNIT TRUST SERIES 615
2926	IM-01	NUVEEN	860947	NUVEEN TAX EXEMPT UNIT TRUST SERIES 616
2927	IM-01	NUVEEN	860948	NUVEEN TAX EXEMPT UNIT TRUST SERIES 617
2928	IM-01	NUVEEN	860949	NUVEEN TAX EXEMPT UNIT TRUST SERIES 618
2929	IM-01	NUVEEN	860950	NUVEEN TAX EXEMPT UNIT TRUST SERIES 619
2930	IM-01	NUVEEN	073474	NUVEEN TAX EXEMPT UNIT TRUST SERIES 62 NATIONAL TRUST 62
2931	IM-01	NUVEEN	860951	NUVEEN TAX EXEMPT UNIT TRUST SERIES 620
2932	IM-01	NUVEEN	860952	NUVEEN TAX EXEMPT UNIT TRUST SERIES 621
2933	IM-01	NUVEEN	860953	NUVEEN TAX EXEMPT UNIT TRUST SERIES 622
2934	IM-01	NUVEEN	860954	NUVEEN TAX EXEMPT UNIT TRUST SERIES 623
2935	IM-01	NUVEEN	860955	NUVEEN TAX EXEMPT UNIT TRUST SERIES 624
2936	IM-01	NUVEEN	860956	NUVEEN TAX EXEMPT UNIT TRUST SERIES 625
2937	IM-01	NUVEEN	860957	NUVEEN TAX EXEMPT UNIT TRUST SERIES 626
2938	IM-01	NUVEEN	860958	NUVEEN TAX EXEMPT UNIT TRUST SERIES 627
2939	IM-01	NUVEEN	860959	NUVEEN TAX EXEMPT UNIT TRUST SERIES 628
2940	IM-01	NUVEEN	860960	NUVEEN TAX EXEMPT UNIT TRUST SERIES 629
2941	IM-01*	NUVEEN	860961	NUVEEN TAX EXEMPT UNIT TRUST SERIES 630
2942	IM-01	NUVEEN	860962	NUVEEN TAX EXEMPT UNIT TRUST SERIES 631
2943	IM-01	NUVEEN	860963	NUVEEN TAX EXEMPT UNIT TRUST SERIES 632
2944	IM-01	NUVEEN	860964	NUVEEN TAX EXEMPT UNIT TRUST SERIES 633
2945	IM-01	NUVEEN	860965	NUVEEN TAX EXEMPT UNIT TRUST SERIES 634
2946	IM-01	NUVEEN	860966	NUVEEN TAX EXEMPT UNIT TRUST SERIES 635
2947	IM-01	NUVEEN	860967	NUVEEN TAX EXEMPT UNIT TRUST SERIES 636
2948	IM-01	NUVEEN	860968	NUVEEN TAX EXEMPT UNIT TRUST SERIES 637
2949	IM-01	NUVEEN	860969	NUVEEN TAX EXEMPT UNIT TRUST SERIES 638
2950	IM-01	NUVEEN	860970	NUVEEN TAX EXEMPT UNIT TRUST SERIES 639
2951	IM-01	NUVEEN	860971	NUVEEN TAX EXEMPT UNIT TRUST SERIES 640
2952	IM-01	NUVEEN	860972	NUVEEN TAX EXEMPT UNIT TRUST SERIES 641
2953	IM-01	NUVEEN	860973	NUVEEN TAX EXEMPT UNIT TRUST SERIES 642
2954	IM-01	NUVEEN	860974	NUVEEN TAX EXEMPT UNIT TRUST SERIES 643
2955	IM-01	NUVEEN	860975	NUVEEN TAX EXEMPT UNIT TRUST SERIES 644
2956	IM-01	NUVEEN	860976	NUVEEN TAX EXEMPT UNIT TRUST SERIES 645
2957	IM-01	NUVEEN	860977	NUVEEN TAX EXEMPT UNIT TRUST SERIES 646
2958	IM-01	NUVEEN	860978	NUVEEN TAX EXEMPT UNIT TRUST SERIES 647
2959	IM-01	NUVEEN	860979	NUVEEN TAX EXEMPT UNIT TRUST SERIES 648
2960	IM-01	NUVEEN	860980	NUVEEN TAX EXEMPT UNIT TRUST SERIES 649
2961	IM-01	NUVEEN	860982	NUVEEN TAX EXEMPT UNIT TRUST SERIES 650
2962	IM-01	NUVEEN	882868	NUVEEN TAX EXEMPT UNIT TRUST SERIES 651
2963	IM-01	NUVEEN	882869	NUVEEN TAX EXEMPT UNIT TRUST SERIES 652
2964	IM-01	NUVEEN	882870	NUVEEN TAX EXEMPT UNIT TRUST SERIES 653
2965	IM-01	NUVEEN	882874	NUVEEN TAX EXEMPT UNIT TRUST SERIES 654
2966	IM-01	NUVEEN	882876	NUVEEN TAX EXEMPT UNIT TRUST SERIES 655
2967	IM-01	NUVEEN	882877	NUVEEN TAX EXEMPT UNIT TRUST SERIES 656
2968	IM-01	NUVEEN	882878	NUVEEN TAX EXEMPT UNIT TRUST SERIES 657
2969	IM-01	NUVEEN	882879	NUVEEN TAX EXEMPT UNIT TRUST SERIES 658
2970	IM-01	NUVEEN	882880	NUVEEN TAX EXEMPT UNIT TRUST SERIES 659
2971	IM-01	NUVEEN	882881	NUVEEN TAX EXEMPT UNIT TRUST SERIES 660
2972	IM-01	NUVEEN	882882	NUVEEN TAX EXEMPT UNIT TRUST SERIES 661
2973	IM-01	NUVEEN	891078	NUVEEN TAX EXEMPT UNIT TRUST SERIES 662
2974	IM-01	NUVEEN	891081	NUVEEN TAX EXEMPT UNIT TRUST SERIES 663
2975	IM-01	NUVEEN	891083	NUVEEN TAX EXEMPT UNIT TRUST SERIES 664
2976	IM-01	NUVEEN	882686	NUVEEN TAX EXEMPT UNIT TRUST SERIES 665
2977	IM-01	NUVEEN	882687	NUVEEN TAX EXEMPT UNIT TRUST SERIES 666
2978	IM-01	NUVEEN	882688	NUVEEN TAX EXEMPT UNIT TRUST SERIES 667
2979	IM-01	NUVEEN	882689	NUVEEN TAX EXEMPT UNIT TRUST SERIES 668
2980	IM-01	NUVEEN	882690	NUVEEN TAX EXEMPT UNIT TRUST SERIES 669
2981	IM-01	NUVEEN	073480	NUVEEN TAX EXEMPT UNIT TRUST SERIES 67 NATIONAL TRUST 67
2982	IM-01	NUVEEN	882691	NUVEEN TAX EXEMPT UNIT TRUST SERIES 670
2983	IM-01	NUVEEN	882692	NUVEEN TAX EXEMPT UNIT TRUST SERIES 671
2984	IM-01	NUVEEN	882693	NUVEEN TAX EXEMPT UNIT TRUST SERIES 672
2985	IM-01	NUVEEN	882694	NUVEEN TAX EXEMPT UNIT TRUST SERIES 673
2986	IM-01	NUVEEN	882695	NUVEEN TAX EXEMPT UNIT TRUST SERIES 674
2987	IM-01	NUVEEN	882696	NUVEEN TAX EXEMPT UNIT TRUST SERIES 675
2988	IM-01	NUVEEN	882697	NUVEEN TAX EXEMPT UNIT TRUST SERIES 676
2989	IM-01	NUVEEN	073481	NUVEEN TAX EXEMPT UNIT TRUST SERIES 68 NATIONAL TRUST 68
2990	IM-01	NUVEEN	073485	NUVEEN TAX EXEMPT UNIT TRUST SERIES 72—NATIONAL TRUST 72
2991	IM-01	NUVEEN	073486	NUVEEN TAX EXEMPT UNIT TRUST SERIES 73 NATIONAL TRUST 73
2992	IM-01	NUVEEN	073494	NUVEEN TAX EXEMPT UNIT TRUST SERIES 80 NATIONAL TRUST 80
2993	IM-01	NUVEEN	073494	NUVEEN TAX EXEMPT UNIT TRUST SERIES 80 NATIONAL TRUST 80
2994	IM-01	NUVEEN	073495	NUVEEN TAX EXEMPT UNIT TRUST SERIES 81 NATIONAL TRUST 81
2995	IM-01	NUVEEN	073498	NUVEEN TAX EXEMPT UNIT TRUST SERIES 84—NATIONAL TRUST 84
2996	IM-01	NUVEEN	073499	NUVEEN TAX EXEMPT UNIT TRUST SERIES 85—NATIONAL TRUST 85
2997	IM-01	NUVEEN	073500	NUVEEN TAX EXEMPT UNIT TRUST SERIES 86—NATIONAL TRUST 86
2998	IM-01	NUVEEN	073502	NUVEEN TAX EXEMPT UNIT TRUST SERIES 88 NATIONAL TRUST 88
2999	IM-01	NUVEEN	073505	NUVEEN TAX EXEMPT UNIT TRUST SERIES 90 NATIONAL TRUST 90
3000	IM-01	NUVEEN	073506	NUVEEN TAX EXEMPT UNIT TRUST SERIES 91 NATIONAL TRUST 91
3001	IM-01	NUVEEN	202770	NUVEEN TAX EXEMPT UNIT TRUST SERIES 92 NATIONAL TRUST 92
3002	IM-01	NUVEEN	202771	NUVEEN TAX EXEMPT UNIT TRUST SERIES 93 NATIONAL TRUST 93
3003	IM-01	NUVEEN	202772	NUVEEN TAX EXEMPT UNIT TRUST SERIES 94 NATIONAL TRUST 94
3004	IM-01	NUVEEN	202773	NUVEEN TAX EXEMPT UNIT TRUST SERIES 95—NATIONAL TRUST 95
3005	IM-01	NUVEEN	205723	NUVEEN TAX EXEMPT UNIT TRUST SERIES 96—NATIONAL TRUST 96

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
3006	IM-01	NUVEEN	216745	NUVEEN TAX EXEMPT UNIT TRUST SERIES 97—NATIONAL TRUST 97
3007	IM-01	NUVEEN	216746	NUVEEN TAX EXEMPT UNIT TRUST SERIES 98 NATIONAL TRUST 98
3008	IM-01	NUVEEN	216747	NUVEEN TAX EXEMPT UNIT TRUST SERIES 99 NATIONAL TRUST 99
3009	IM-01	NUVEEN	277254	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 1
3010	IM-01	NUVEEN	318004	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 10
3011	IM-01	NUVEEN	724210	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 100
3012	IM-01	NUVEEN	724409	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 101
3013	IM-01	NUVEEN	725132	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 102
3014	IM-01	NUVEEN	725538	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 103
3015	IM-01	NUVEEN	725792	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 104
3016	IM-01	NUVEEN	726559	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 105
3017	IM-01	NUVEEN	727041	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 106
3018	IM-01	NUVEEN	727224	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 107
3019	IM-01	NUVEEN	728252	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 108
3020	IM-01	NUVEEN	728307	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 109
3021	IM-01	NUVEEN	318188	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 11
3022	IM-01	NUVEEN	729640	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 110
3023	IM-01	NUVEEN	730216	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 111
3024	IM-01	NUVEEN	730618	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 112
3025	IM-01	NUVEEN	731189	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 113
3026	IM-01	NUVEEN	731755	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 114
3027	IM-01	NUVEEN	732292	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 115
3028	IM-01	NUVEEN	732686	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 116
3029	IM-01	NUVEEN	732783	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 117
3030	IM-01	NUVEEN	733779	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 118
3031	IM-01	NUVEEN	735291	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 119
3032	IM-01	NUVEEN	318436	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 12
3033	IM-01	NUVEEN	736732	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 120
3034	IM-01	NUVEEN	736746	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 121
3035	IM-01	NUVEEN	736941	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 122
3036	IM-01	NUVEEN	736293	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 123
3037	IM-01	NUVEEN	737569	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 124
3038	IM-01	NUVEEN	737906	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 125
3039	IM-01	NUVEEN	738172	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 126
3040	IM-01	NUVEEN	739451	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 127
3041	IM-01	NUVEEN	740056	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 128
3042	IM-01	NUVEEN	740567	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 129
3043	IM-01	NUVEEN	318504	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 13
3044	IM-01	NUVEEN	740815	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 130
3045	IM-01	NUVEEN	741246	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 131
3046	IM-01	NUVEEN	741389	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 132
3047	IM-01	NUVEEN	741802	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 133
3048	IM-01	NUVEEN	742280	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 134
3049	IM-01	NUVEEN	742688	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 135
3050	IM-01	NUVEEN	743440	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 136
3051	IM-01	NUVEEN	744468	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 137
3052	IM-01	NUVEEN	745169	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 138
3053	IM-01	NUVEEN	745934	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 139
3054	IM-01	NUVEEN	319349	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 14
3055	IM-01	NUVEEN	746635	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 140
3056	IM-01	NUVEEN	747544	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 141
3057	IM-01	NUVEEN	748096	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 142
3058	IM-01	NUVEEN	748230	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 143
3059	IM-01	NUVEEN	748351	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 144
3060	IM-01	NUVEEN	748680	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 145
3061	IM-01	NUVEEN	748825	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 146
3062	IM-01	NUVEEN	748937	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 147
3063	IM-01	NUVEEN	749629	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 148
3064	IM-01	NUVEEN	750006	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 149
3065	IM-01	NUVEEN	319494	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 15
3066	IM-01	NUVEEN	750499	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 150
3067	IM-01	NUVEEN	750695	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 151
3068	IM-01	NUVEEN	751233	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 152
3069	IM-01	NUVEEN	751521	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 153
3070	IM-01	NUVEEN	752387	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 154
3071	IM-01	NUVEEN	752396	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 155
3072	IM-01	NUVEEN	753014	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 156
3073	IM-01	NUVEEN	753732	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 157
3074	IM-01	NUVEEN	754105	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 158
3075	IM-01	NUVEEN	754389	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 159
3076	IM-01	NUVEEN	319612	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 16
3077	IM-01	NUVEEN	756163	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 160
3078	IM-01	NUVEEN	756809	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 161
3079	IM-01	NUVEEN	757215	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 162
3080	IM-01	NUVEEN	758738	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 163
3081	IM-01	NUVEEN	759476	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 164
3082	IM-01	NUVEEN	759823	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 165
3083	IM-01	NUVEEN	760990	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 166
3084	IM-01	NUVEEN	761247	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 167
3085	IM-01	NUVEEN	762879	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 168
3086	IM-01	NUVEEN	762990	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 169
3087	IM-01	NUVEEN	319606	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 17

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
3088	IM-01	NUVEEN	763359	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 170
3089	IM-01	NUVEEN	763752	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 171
3090	IM-01	NUVEEN	763862	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 172
3091	IM-01	NUVEEN	765669	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 173
3092	IM-01	NUVEEN	766436	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 174
3093	IM-01	NUVEEN	766458	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 175
3094	IM-01	NUVEEN	320632	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 18
3095	IM-01	NUVEEN	320680	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 19
3096	IM-01	NUVEEN	311056	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 2
3097	IM-01	NUVEEN	350911	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 20
3098	IM-01	NUVEEN	351075	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 21
3099	IM-01	NUVEEN	352053	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 22
3100	IM-01	NUVEEN	352146	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 23
3101	IM-01	NUVEEN	352003	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 24
3102	IM-01	NUVEEN	352860	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 25
3103	IM-01	NUVEEN	353067	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 26
3104	IM-01	NUVEEN	353089	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 27
3105	IM-01	NUVEEN	355844	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 28
3106	IM-01	NUVEEN	355900	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 29
3107	IM-01	NUVEEN	311332	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 3
3108	IM-01	NUVEEN	356041	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 30
3109	IM-01	NUVEEN	356067	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 31
3110	IM-01	NUVEEN	356090	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 32
3111	IM-01	NUVEEN	356091	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 33
3112	IM-01	NUVEEN	357125	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 34
3113	IM-01	NUVEEN	357122	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 35
3114	IM-01	NUVEEN	357241	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 36
3115	IM-01	NUVEEN	357285	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 37
3116	IM-01	NUVEEN	357431	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 38
3117	IM-01	NUVEEN	700563	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 39
3118	IM-01	NUVEEN	311341	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 4
3119	IM-01	NUVEEN	700773	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 40
3120	IM-01	NUVEEN	700866	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 41
3121	IM-01	NUVEEN	700905	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 42
3122	IM-01	NUVEEN	700906	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 43
3123	IM-01	NUVEEN	701749	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 44
3124	IM-01	NUVEEN	701984	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 45
3125	IM-01	NUVEEN	702090	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 46
3126	IM-01	NUVEEN	702193	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 47
3127	IM-01	NUVEEN	703262	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 48
3128	IM-01	NUVEEN	703496	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 49
3129	IM-01	NUVEEN	311352	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 5
3130	IM-01	NUVEEN	703627	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 50
3131	IM-01	NUVEEN	703879	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 51
3132	IM-01	NUVEEN	704478	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 52
3133	IM-01	NUVEEN	704803	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 53
3134	IM-01	NUVEEN	704844	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 54
3135	IM-01	NUVEEN	704845	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 55
3136	IM-01	NUVEEN	705448	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 56
3137	IM-01	NUVEEN	705957	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 57
3138	IM-01	NUVEEN	706190	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 58
3139	IM-01	NUVEEN	706246	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 59
3140	IM-01	NUVEEN	311523	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 6
3141	IM-01	NUVEEN	706739	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 60
3142	IM-01	NUVEEN	707125	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 61
3143	IM-01	NUVEEN	707345	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 62
3144	IM-01	NUVEEN	707788	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 63
3145	IM-01	NUVEEN	707898	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 64
3146	IM-01	NUVEEN	708235	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 65
3147	IM-01	NUVEEN	708816	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 66
3148	IM-01	NUVEEN	709144	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 67
3149	IM-01	NUVEEN	709341	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 68
3150	IM-01	NUVEEN	709948	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 69
3151	IM-01	NUVEEN	788044	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 7
3152	IM-01	NUVEEN	710183	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 70
3153	IM-01	NUVEEN	711022	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 71
3154	IM-01	NUVEEN	711207	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 72
3155	IM-01	NUVEEN	711346	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 73
3156	IM-01	NUVEEN	711421	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 74
3157	IM-01	NUVEEN	711718	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 75
3158	IM-01	NUVEEN	712153	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 76
3159	IM-01	NUVEEN	712775	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 77
3160	IM-01	NUVEEN	713666	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 78
3161	IM-01	NUVEEN	714231	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 79
3162	IM-01	NUVEEN	314723	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 8
3163	IM-01	NUVEEN	714835	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 80
3164	IM-01	NUVEEN	715060	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 81
3165	IM-01	NUVEEN	715166	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 82
3166	IM-01	NUVEEN	715585	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 83
3167	IM-01	NUVEEN	716103	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 84
3168	IM-01	NUVEEN	716410	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 85
3169	IM-01	NUVEEN	716731	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 86

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
3170	IM-01	NUVEEN	717208	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 87
3171	IM-01	NUVEEN	717327	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 88
3172	IM-01	NUVEEN	718114	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 89
3173	IM-01	NUVEEN	314748	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 9
3174	IM-01	NUVEEN	718918	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 90
3175	IM-01	NUVEEN	719510	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 91
3176	IM-01	NUVEEN	720012	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 92
3177	IM-01	NUVEEN	721719	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 93
3178	IM-01	NUVEEN	722204	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 94
3179	IM-01	NUVEEN	722741	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 95
3180	IM-01	NUVEEN	723137	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 96
3181	IM-01	NUVEEN	723504	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 97
3182	IM-01	NUVEEN	723901	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 98
3183	IM-01	NUVEEN	723735	NUVEEN TAX EXEMPT UNIT TRUST STATE SERIES 99
3184	IM-01	NUVEEN	277830	NUVEEN TAX EXEMPT UNIT TRUSTS INTERMEDIATE SERIES 8
3185	IM-01	NUVEEN	724590	NUVEEN TAX EXEMPT UNIT TRUSTS SERIES 271
3186	IM-01	NUVEEN	725022	NUVEEN TAX EXEMPT UNIT TRUSTS SERIES 272
3187	IM-01	NUVEEN	725535	NUVEEN TAX EXEMPT UNIT TRUSTS SERIES 273
3188	IM-01	PAINEWEBBER	201554	CORPORATE BOND TRUST SERIES 11
3189	IM-01	PAINEWEBBER	313106	GOVERNMENT SECURITIES INCOME FUND EIGHTEENTH GNMA SERIES
3190	IM-01	PAINEWEBBER	068885	MUNICIPAL BOND FUND SERIES 10
3191	IM-01	PAINEWEBBER	068899	MUNICIPAL BOND FUND SERIES 23 & SUB SERIES
3192	IM-01	PAINEWEBBER	216645	MUNICIPAL BOND FUND SERIES 39
3193	IM-01	PAINEWEBBER	216646	MUNICIPAL BOND FUND SERIES 40
3194	IM-01	PAINEWEBBER	216647	MUNICIPAL BOND FUND SERIES 41
3195	IM-01	PAINEWEBBER	216648	MUNICIPAL BOND FUND SERIES 42
3196	IM-01	PAINEWEBBER	216649	MUNICIPAL BOND FUND SERIES 43
3197	IM-01	PAINEWEBBER	068915	MUNICIPAL BOND FUND SERIES 8
3198	IM-01	PAINEWEBBER	757633	MUNICIPAL BOND TRUST CALIFORNIA INSURED SERIES 1A
3199	IM-01	PAINEWEBBER	757702	MUNICIPAL BOND TRUST CALIFORNIA INSURED SERIES 2A
3200	IM-01	PAINEWEBBER	757593	MUNICIPAL BOND TRUST CALIFORNIA INSURED SERIES 3A
3201	IM-01	PAINEWEBBER	771675	MUNICIPAL BOND TRUST CALIFORNIA INSURED SERIES 4A
3202	IM-01	PAINEWEBBER	771676	MUNICIPAL BOND TRUST CALIFORNIA INSURED SERIES 5A
3203	IM-01	PAINEWEBBER	783966	MUNICIPAL BOND TRUST CALIFORNIA INSURED SERIES 6A
3204	IM-01	PAINEWEBBER	783967	MUNICIPAL BOND TRUST CALIFORNIA INSURED SERIES 7A
3205	IM-01	PAINEWEBBER	353681	MUNICIPAL BOND TRUST CALIFORNIA SERIES B
3206	IM-01	PAINEWEBBER	705149	MUNICIPAL BOND TRUST CALIFORNIA SERIES M
3207	IM-01	PAINEWEBBER	355997	MUNICIPAL BOND TRUST DISCOUNT SERIES 1
3208	IM-01	PAINEWEBBER	357383	MUNICIPAL BOND TRUST DISCOUNT SERIES 3
3209	IM-01	PAINEWEBBER	700977	MUNICIPAL BOND TRUST DISCOUNT SERIES 4
3210	IM-01	PAINEWEBBER	700987	MUNICIPAL BOND TRUST DISCOUNT SERIES 5
3211	IM-01	PAINEWEBBER	706160	MUNICIPAL BOND TRUST DISCOUNT SERIES 6
3212	IM-01	PAINEWEBBER	737282	MUNICIPAL BOND TRUST INSURED SERIES 1
3213	IM-01	PAINEWEBBER	746533	MUNICIPAL BOND TRUST INSURED SERIES 10
3214	IM-01	PAINEWEBBER	746534	MUNICIPAL BOND TRUST INSURED SERIES 11
3215	IM-01	PAINEWEBBER	746536	MUNICIPAL BOND TRUST INSURED SERIES 12
3216	IM-01	PAINEWEBBER	750042	MUNICIPAL BOND TRUST INSURED SERIES 13
3217	IM-01	PAINEWEBBER	750034	MUNICIPAL BOND TRUST INSURED SERIES 14
3218	IM-01	PAINEWEBBER	750035	MUNICIPAL BOND TRUST INSURED SERIES 15
3219	IM-01	PAINEWEBBER	750010	MUNICIPAL BOND TRUST INSURED SERIES 16
3220	IM-01	PAINEWEBBER	750009	MUNICIPAL BOND TRUST INSURED SERIES 17
3221	IM-01	PAINEWEBBER	758325	MUNICIPAL BOND TRUST INSURED SERIES 18
3222	IM-01	PAINEWEBBER	758324	MUNICIPAL BOND TRUST INSURED SERIES 19
3223	IM-01	PAINEWEBBER	740868	MUNICIPAL BOND TRUST INSURED SERIES 2
3224	IM-01	PAINEWEBBER	758459	MUNICIPAL BOND TRUST INSURED SERIES 20
3225	IM-01	PAINEWEBBER	758326	MUNICIPAL BOND TRUST INSURED SERIES 21
3226	IM-01	PAINEWEBBER	757990	MUNICIPAL BOND TRUST INSURED SERIES 22
3227	IM-01	PAINEWEBBER	764152	MUNICIPAL BOND TRUST INSURED SERIES 23
3228	IM-01	PAINEWEBBER	764148	MUNICIPAL BOND TRUST INSURED SERIES 24
3229	IM-01	PAINEWEBBER	764147	MUNICIPAL BOND TRUST INSURED SERIES 25
3230	IM-01	PAINEWEBBER	764150	MUNICIPAL BOND TRUST INSURED SERIES 26
3231	IM-01	PAINEWEBBER	771648	MUNICIPAL BOND TRUST INSURED SERIES 27
3232	IM-01	PAINEWEBBER	771652	MUNICIPAL BOND TRUST INSURED SERIES 28
3233	IM-01	PAINEWEBBER	771885	MUNICIPAL BOND TRUST INSURED SERIES 29
3234	IM-01	PAINEWEBBER	740821	MUNICIPAL BOND TRUST INSURED SERIES 3
3235	IM-01	PAINEWEBBER	780055	MUNICIPAL BOND TRUST INSURED SERIES 30
3236	IM-01	PAINEWEBBER	780154	MUNICIPAL BOND TRUST INSURED SERIES 31
3237	IM-01	PAINEWEBBER	780057	MUNICIPAL BOND TRUST INSURED SERIES 32
3238	IM-01	PAINEWEBBER	780153	MUNICIPAL BOND TRUST INSURED SERIES 33
3239	IM-01	PAINEWEBBER	780056	MUNICIPAL BOND TRUST INSURED SERIES 34
3240	IM-01	PAINEWEBBER	783930	MUNICIPAL BOND TRUST INSURED SERIES 35
3241	IM-01	PAINEWEBBER	783932	MUNICIPAL BOND TRUST INSURED SERIES 36
3242	IM-01	PAINEWEBBER	783934	MUNICIPAL BOND TRUST INSURED SERIES 37
3243	IM-01	PAINEWEBBER	783936	MUNICIPAL BOND TRUST INSURED SERIES 38
3244	IM-01	PAINEWEBBER	783937	MUNICIPAL BOND TRUST INSURED SERIES 39
3245	IM-01	PAINEWEBBER	742680	MUNICIPAL BOND TRUST INSURED SERIES 4
3246	IM-01	PAINEWEBBER	783939	MUNICIPAL BOND TRUST INSURED SERIES 40
3247	IM-01	PAINEWEBBER	783940	MUNICIPAL BOND TRUST INSURED SERIES 41
3248	IM-01	PAINEWEBBER	783942	MUNICIPAL BOND TRUST INSURED SERIES 42
3249	IM-01	PAINEWEBBER	783944	MUNICIPAL BOND TRUST INSURED SERIES 43
3250	IM-01	PAINEWEBBER	742681	MUNICIPAL BOND TRUST INSURED SERIES 5
3251	IM-01	PAINEWEBBER	742682	MUNICIPAL BOND TRUST INSURED SERIES 6

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
3252	IM-01	PAINEWEBBER	745253	MUNICIPAL BOND TRUST INSURED SERIES 7
3253	IM-01	PAINEWEBBER	745254	MUNICIPAL BOND TRUST INSURED SERIES 8
3254	IM-01	PAINEWEBBER	746632	MUNICIPAL BOND TRUST INSURED SERIES 9
3255	IM-01	PAINEWEBBER	789255	MUNICIPAL BOND TRUST INTERMEDIATE TERM TRUST SERIES 10
3256	IM-01	PAINEWEBBER	789256	MUNICIPAL BOND TRUST INTERMEDIATE TERM TRUST SERIES 11
3257	IM-01	PAINEWEBBER	789258	MUNICIPAL BOND TRUST INTERMEDIATE TERM TRUST SERIES 12
3258	IM-01	PAINEWEBBER	789260	MUNICIPAL BOND TRUST INTERMEDIATE TERM TRUST SERIES 13
3259	IM-01	PAINEWEBBER	789262	MUNICIPAL BOND TRUST INTERMEDIATE TERM TRUST SERIES 14
3260	IM-01	PAINEWEBBER	789264	MUNICIPAL BOND TRUST INTERMEDIATE TERM TRUST SERIES 15
3261	IM-01	PAINEWEBBER	789265	MUNICIPAL BOND TRUST INTERMEDIATE TERM TRUST SERIES 16
3262	IM-01	PAINEWEBBER	754893	MUNICIPAL BOND TRUST INTERMEDIATE TERM TRUST SERIES 5
3263	IM-01	PAINEWEBBER	789210	MUNICIPAL BOND TRUST INTERMEDIATE TERM TRUST SERIES 6
3264	IM-01	PAINEWEBBER	789250	MUNICIPAL BOND TRUST INTERMEDIATE TERM TRUST SERIES 7
3265	IM-01	PAINEWEBBER	789252	MUNICIPAL BOND TRUST INTERMEDIATE TERM TRUST SERIES 8
3266	IM-01	PAINEWEBBER	789253	MUNICIPAL BOND TRUST INTERMEDIATE TERM TRUST SERIES 9
3267	IM-01	PAINEWEBBER	311134	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 1
3268	IM-01	PAINEWEBBER	711392	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 10
3269	IM-01	PAINEWEBBER	715758	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 11
3270	IM-01	PAINEWEBBER	715761	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 12
3271	IM-01	PAINEWEBBER	715759	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 13
3272	IM-01	PAINEWEBBER	719800	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 14
3273	IM-01	PAINEWEBBER	721333	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 15
3274	IM-01	PAINEWEBBER	721339	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 17
3275	IM-01	PAINEWEBBER	721317	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 18
3276	IM-01	PAINEWEBBER	721319	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 19
3277	IM-01	PAINEWEBBER	311843	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 2
3278	IM-01	PAINEWEBBER	721337	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 20
3279	IM-01	PAINEWEBBER	725036	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 21
3280	IM-01	PAINEWEBBER	725045	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 22
3281	IM-01	PAINEWEBBER	725027	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 23
3282	IM-01	PAINEWEBBER	725024	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 24
3283	IM-01	PAINEWEBBER	725026	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 25
3284	IM-01	PAINEWEBBER	725031	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 26
3285	IM-01	PAINEWEBBER	736048	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 27
3286	IM-01	PAINEWEBBER	735912	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 28
3287	IM-01	PAINEWEBBER	736043	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 29
3288	IM-01	PAINEWEBBER	312217	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 3
3289	IM-01	PAINEWEBBER	735937	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 30
3290	IM-01	PAINEWEBBER	735917	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 31
3291	IM-01	PAINEWEBBER	735907	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 32
3292	IM-01	PAINEWEBBER	735916	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 33
3293	IM-01	PAINEWEBBER	750396	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 34
3294	IM-01	PAINEWEBBER	750374	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 35
3295	IM-01	PAINEWEBBER	750375	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 36
3296	IM-01	PAINEWEBBER	750376	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 37
3297	IM-01	PAINEWEBBER	312569	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 4
3298	IM-01	PAINEWEBBER	314286	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 5
3299	IM-01	PAINEWEBBER	320640	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 6
3300	IM-01	PAINEWEBBER	320641	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 7
3301	IM-01	PAINEWEBBER	711390	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 8
3302	IM-01	PAINEWEBBER	711391	MUNICIPAL BOND TRUST MULTI STATE PROGRAM SERIES 9
3303	IM-01	PAINEWEBBER	711387	MUNICIPAL BOND TRUST MULTIPLE MATURITY PROGRAM SERIES 1
3304	IM-01	PAINEWEBBER	714906	MUNICIPAL BOND TRUST MULTIPLE MATURITY PROGRAM SERIES 2
3305	IM-01	PAINEWEBBER	714905	MUNICIPAL BOND TRUST MULTIPLE MATURITY PROGRAM SERIES 3
3306	IM-01	PAINEWEBBER	719535	MUNICIPAL BOND TRUST MULTIPLE MATURITY PROGRAM SERIES 4
3307	IM-01	PAINEWEBBER	754888	MUNICIPAL BOND TRUST MULTIPLE MATURITY PROGRAM SERIES 7
3308	IM-01	PAINEWEBBER	704180	MUNICIPAL BOND TRUST SERIES 126
3309	IM-01	PAINEWEBBER	704182	MUNICIPAL BOND TRUST SERIES 127
3310	IM-01	PAINEWEBBER	705201	MUNICIPAL BOND TRUST SERIES 128
3311	IM-01	PAINEWEBBER	705202	MUNICIPAL BOND TRUST SERIES 129
3312	IM-01	PAINEWEBBER	705195	MUNICIPAL BOND TRUST SERIES 130
3313	IM-01	PAINEWEBBER	705196	MUNICIPAL BOND TRUST SERIES 131
3314	IM-01	PAINEWEBBER	705198	MUNICIPAL BOND TRUST SERIES 132
3315	IM-01	PAINEWEBBER	705197	MUNICIPAL BOND TRUST SERIES 133
3316	IM-01	PAINEWEBBER	706479	MUNICIPAL BOND TRUST SERIES 134
3317	IM-01	PAINEWEBBER	706477	MUNICIPAL BOND TRUST SERIES 135
3318	IM-01	PAINEWEBBER	706475	MUNICIPAL BOND TRUST SERIES 136
3319	IM-01	PAINEWEBBER	706476	MUNICIPAL BOND TRUST SERIES 137
3320	IM-01	PAINEWEBBER	706481	MUNICIPAL BOND TRUST SERIES 138
3321	IM-01	PAINEWEBBER	706480	MUNICIPAL BOND TRUST SERIES 139
3322	IM-01	PAINEWEBBER	709380	MUNICIPAL BOND TRUST SERIES 140
3323	IM-01	PAINEWEBBER	709379	MUNICIPAL BOND TRUST SERIES 141
3324	IM-01	PAINEWEBBER	709378	MUNICIPAL BOND TRUST SERIES 142
3325	IM-01	PAINEWEBBER	709382	MUNICIPAL BOND TRUST SERIES 143
3326	IM-01	PAINEWEBBER	709383	MUNICIPAL BOND TRUST SERIES 144
3327	IM-01	PAINEWEBBER	709381	MUNICIPAL BOND TRUST SERIES 145
3328	IM-01	PAINEWEBBER	713025	MUNICIPAL BOND TRUST SERIES 146
3329	IM-01	PAINEWEBBER	713029	MUNICIPAL BOND TRUST SERIES 147
3330	IM-01	PAINEWEBBER	713030	MUNICIPAL BOND TRUST SERIES 148
3331	IM-01	PAINEWEBBER	713031	MUNICIPAL BOND TRUST SERIES 149
3332	IM-01	PAINEWEBBER	713032	MUNICIPAL BOND TRUST SERIES 150
3333	IM-01	PAINEWEBBER	713033	MUNICIPAL BOND TRUST SERIES 151

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
3334	IM-01	PAINEWEBBER	716722	MUNICIPAL BOND TRUST SERIES 152
3335	IM-01	PAINEWEBBER	716723	MUNICIPAL BOND TRUST SERIES 153
3336	IM-01	PAINEWEBBER	716724	MUNICIPAL BOND TRUST SERIES 154
3337	IM-01	PAINEWEBBER	716725	MUNICIPAL BOND TRUST SERIES 155
3338	IM-01	PAINEWEBBER	716727	MUNICIPAL BOND TRUST SERIES 156
3339	IM-01	PAINEWEBBER	720542	MUNICIPAL BOND TRUST SERIES 158
3340	IM-01	PAINEWEBBER	720669	MUNICIPAL BOND TRUST SERIES 159
3341	IM-01	PAINEWEBBER	720670	MUNICIPAL BOND TRUST SERIES 160
3342	IM-01	PAINEWEBBER	720543	MUNICIPAL BOND TRUST SERIES 161
3343	IM-01	PAINEWEBBER	720662	MUNICIPAL BOND TRUST SERIES 162
3344	IM-01	PAINEWEBBER	720540	MUNICIPAL BOND TRUST SERIES 163
3345	IM-01	PAINEWEBBER	725575	MUNICIPAL BOND TRUST SERIES 164
3346	IM-01	PAINEWEBBER	725576	MUNICIPAL BOND TRUST SERIES 165
3347	IM-01	PAINEWEBBER	725577	MUNICIPAL BOND TRUST SERIES 166
3348	IM-01	PAINEWEBBER	725578	MUNICIPAL BOND TRUST SERIES 167
3349	IM-01	PAINEWEBBER	725574	MUNICIPAL BOND TRUST SERIES 168
3350	IM-01	PAINEWEBBER	735935	MUNICIPAL BOND TRUST SERIES 169
3351	IM-01	PAINEWEBBER	735905	MUNICIPAL BOND TRUST SERIES 170
3352	IM-01	PAINEWEBBER	735906	MUNICIPAL BOND TRUST SERIES 171
3353	IM-01	PAINEWEBBER	735919	MUNICIPAL BOND TRUST SERIES 172
3354	IM-01	PAINEWEBBER	735936	MUNICIPAL BOND TRUST SERIES 173
3355	IM-01	PAINEWEBBER	735913	MUNICIPAL BOND TRUST SERIES 174
3356	IM-01	PAINEWEBBER	719551	MUNICIPAL BOND TRUST SERIES 174/
3357	IM-01	PAINEWEBBER	735914	MUNICIPAL BOND TRUST SERIES 175
3358	IM-01	PAINEWEBBER	748597	MUNICIPAL BOND TRUST SERIES 176
3359	IM-01	PAINEWEBBER	719552	MUNICIPAL BOND TRUST SERIES 177/
3360	IM-01	PAINEWEBBER	748594	MUNICIPAL BOND TRUST SERIES 178
3361	IM-01	PAINEWEBBER	748610	MUNICIPAL BOND TRUST SERIES 179
3362	IM-01	PAINEWEBBER	748565	MUNICIPAL BOND TRUST SERIES 180
3363	IM-01	PAINEWEBBER	755093	MUNICIPAL BOND TRUST SERIES 181
3364	IM-01	PAINEWEBBER	754891	MUNICIPAL BOND TRUST SERIES 182
3365	IM-01	PAINEWEBBER	754929	MUNICIPAL BOND TRUST SERIES 183
3366	IM-01	PAINEWEBBER	755094	MUNICIPAL BOND TRUST SERIES 184
3367	IM-01	PAINEWEBBER	755091	MUNICIPAL BOND TRUST SERIES 185
3368	IM-01	PAINEWEBBER	764077	MUNICIPAL BOND TRUST SERIES 187
3369	IM-01	PAINEWEBBER	764149	MUNICIPAL BOND TRUST SERIES 188
3370	IM-01	PAINEWEBBER	771850	MUNICIPAL BOND TRUST SERIES 189
3371	IM-01	PAINEWEBBER	771849	MUNICIPAL BOND TRUST SERIES 190
3372	IM-01	PAINEWEBBER	771851	MUNICIPAL BOND TRUST SERIES 191
3373	IM-01	PAINEWEBBER	783768	MUNICIPAL BOND TRUST SERIES 192
3374	IM-01	PAINEWEBBER	783769	MUNICIPAL BOND TRUST SERIES 193
3375	IM-01	PAINEWEBBER	783770	MUNICIPAL BOND TRUST SERIES 194
3376	IM-01	PAINEWEBBER	783862	MUNICIPAL BOND TRUST SERIES 195
3377	IM-01	PAINEWEBBER	783863	MUNICIPAL BOND TRUST SERIES 196
3378	IM-01	PAINEWEBBER	783864	MUNICIPAL BOND TRUST SERIES 197
3379	IM-01	PAINEWEBBER	783865	MUNICIPAL BOND TRUST SERIES 198
3380	IM-01	PAINEWEBBER	783866	MUNICIPAL BOND TRUST SERIES 199
3381	IM-01	PAINEWEBBER	783867	MUNICIPAL BOND TRUST SERIES 200
3382	IM-01	PAINEWEBBER	783868	MUNICIPAL BOND TRUST SERIES 201
3383	IM-01	PAINEWEBBER	783869	MUNICIPAL BOND TRUST SERIES 202
3384	IM-01	PAINEWEBBER	783870	MUNICIPAL BOND TRUST SERIES 203
3385	IM-01	PAINEWEBBER	783871	MUNICIPAL BOND TRUST SERIES 204
3386	IM-01	PAINEWEBBER	783873	MUNICIPAL BOND TRUST SERIES 205
3387	IM-01	PAINEWEBBER	783874	MUNICIPAL BOND TRUST SERIES 206
3388	IM-01	PAINEWEBBER	783875	MUNICIPAL BOND TRUST SERIES 207
3389	IM-01	PAINEWEBBER	783876	MUNICIPAL BOND TRUST SERIES 208
3390	IM-01	PAINEWEBBER	783878	MUNICIPAL BOND TRUST SERIES 209
3391	IM-01	PAINEWEBBER	783879	MUNICIPAL BOND TRUST SERIES 210
3392	IM-01	PAINEWEBBER	783880	MUNICIPAL BOND TRUST SERIES 211
3393	IM-01	PAINEWEBBER	783881	MUNICIPAL BOND TRUST SERIES 212
3394	IM-01	PAINEWEBBER	783882	MUNICIPAL BOND TRUST SERIES 213
3395	IM-01	PAINEWEBBER	783883	MUNICIPAL BOND TRUST SERIES 214
3396	IM-01	PAINEWEBBER	783884	MUNICIPAL BOND TRUST SERIES 215
3397	IM-01	PAINEWEBBER	783885	MUNICIPAL BOND TRUST SERIES 216
3398	IM-01	PAINEWEBBER	783886	MUNICIPAL BOND TRUST SERIES 217
3399	IM-01	PAINEWEBBER	827088	MUNICIPAL BOND TRUST SERIES 218
3400	IM-01	PAINEWEBBER	827092	MUNICIPAL BOND TRUST SERIES 219
3401	IM-01	PAINEWEBBER	827093	MUNICIPAL BOND TRUST SERIES 220
3402	IM-01	PAINEWEBBER	827094	MUNICIPAL BOND TRUST SERIES 221
3403	IM-01	PAINEWEBBER	827095	MUNICIPAL BOND TRUST SERIES 222
3404	IM-01	PAINEWEBBER	827096	MUNICIPAL BOND TRUST SERIES 223
3405	IM-01	PAINEWEBBER	827097	MUNICIPAL BOND TRUST SERIES 224
3406	IM-01	PAINEWEBBER	827107	MUNICIPAL BOND TRUST SERIES 225
3407	IM-01	PAINEWEBBER	827106	MUNICIPAL BOND TRUST SERIES 226
3408	IM-01	PAINEWEBBER	827108	MUNICIPAL BOND TRUST SERIES 227
3409	IM-01	PAINEWEBBER	827109	MUNICIPAL BOND TRUST SERIES 228
3410	IM-01	PAINEWEBBER	827110	MUNICIPAL BOND TRUST SERIES 229
3411	IM-01	PAINEWEBBER	827111	MUNICIPAL BOND TRUST SERIES 230
3412	IM-01	PAINEWEBBER	827112	MUNICIPAL BOND TRUST SERIES 231
3413	IM-01	PAINEWEBBER	827113	MUNICIPAL BOND TRUST SERIES 232
3414	IM-01	PAINEWEBBER	872494	MUNICIPAL BOND TRUST SERIES 233
3415	IM-01	PAINEWEBBER	872495	MUNICIPAL BOND TRUST SERIES 234

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
3416	IM-01	PAINEWEBBER	872496	MUNICIPAL BOND TRUST SERIES 235
3417	IM-01	PAINEWEBBER	230394	MUNICIPAL BOND TRUST SERIES 44
3418	IM-01	PAINEWEBBER	275776	MUNICIPAL BOND TRUST SERIES 45
3419	IM-01	PAINEWEBBER	275777	MUNICIPAL BOND TRUST SERIES 46
3420	IM-01	PAINEWEBBER	277130	MUNICIPAL BOND TRUST SERIES 47
3421	IM-01	PAINEWEBBER	278324	MUNICIPAL BOND TRUST SERIES 48
3422	IM-01	PAINEWEBBER	277954	MUNICIPAL BOND TRUST SERIES 49
3423	IM-01	PAINEWEBBER	278158	MUNICIPAL BOND TRUST SERIES 50
3424	IM-01	PAINEWEBBER	278164	MUNICIPAL BOND TRUST SERIES 51
3425	IM-01	PAINEWEBBER	310026	MUNICIPAL BOND TRUST SERIES 52
3426	IM-01	PAINEWEBBER	310029	MUNICIPAL BOND TRUST SERIES 53
3427	IM-01	PAINEWEBBER	311139	MUNICIPAL BOND TRUST SERIES 54
3428	IM-01	PAINEWEBBER	311124	MUNICIPAL BOND TRUST SERIES 55
3429	IM-01	PAINEWEBBER	312007	MUNICIPAL BOND TRUST SERIES 56
3430	IM-01	PAINEWEBBER	312006	MUNICIPAL BOND TRUST SERIES 57
3431	IM-01	PAINEWEBBER	312559	MUNICIPAL BOND TRUST SERIES 58
3432	IM-01	PAINEWEBBER	312561	MUNICIPAL BOND TRUST SERIES 59
3433	IM-01	PAINEWEBBER	313978	MUNICIPAL BOND TRUST SERIES 60
3434	IM-01	PAINEWEBBER	313977	MUNICIPAL BOND TRUST SERIES 61
3435	IM-01	PAINEWEBBER	314373	MUNICIPAL BOND TRUST SERIES 62
3436	IM-01	PAINEWEBBER	314372	MUNICIPAL BOND TRUST SERIES 63
3437	IM-01	PAINEWEBBER	314814	MUNICIPAL BOND TRUST SERIES 64
3438	IM-01	PAINEWEBBER	314809	MUNICIPAL BOND TRUST SERIES 65
3439	IM-01	PAINEWEBBER	316448	MUNICIPAL BOND TRUST SERIES 66
3440	IM-01	PAINEWEBBER	316449	MUNICIPAL BOND TRUST SERIES 67
3441	IM-01	PAINEWEBBER	316450	MUNICIPAL BOND TRUST SERIES 68
3442	IM-01	PAINEWEBBER	317528	MUNICIPAL BOND TRUST SERIES 69
3443	IM-01	PAINEWEBBER	317535	MUNICIPAL BOND TRUST SERIES 70
3444	IM-01	PAINEWEBBER	318307	MUNICIPAL BOND TRUST SERIES 72
3445	IM-01	PAINEWEBBER	318522	MUNICIPAL BOND TRUST SERIES 73
3446	IM-01	PAINEWEBBER	319307	MUNICIPAL BOND TRUST SERIES 74
3447	IM-01	PAINEWEBBER	319305	MUNICIPAL BOND TRUST SERIES 76
3448	IM-01	PAINEWEBBER	789267	MUNICIPAL BOND TRUST SPECIAL TERM TRUST SERIES 1/NEW
3449	IM-01	PAINEWEBBER	789268	MUNICIPAL BOND TRUST SPECIAL TERM TRUST SERIES 2/NEW
3450	IM-01	PAINEWEBBER	789269	MUNICIPAL BOND TRUST SPECIAL TERM TRUST SERIES 3/NEW
3451	IM-01	PAINEWEBBER	789220	MUNICIPAL BOND TRUST SPECIAL TERM TRUST SERIES 4
3452	IM-01	PAINEWEBBER	789221	MUNICIPAL BOND TRUST SPECIAL TERM TRUST SERIES 5
3453	IM-01	PAINEWEBBER	789246	MUNICIPAL BOND TRUST SPECIAL TERM TRUST SERIES 6
3454	IM-01	PAINEWEBBER	789247	MUNICIPAL BOND TRUST SPECIAL TERM TRUST SERIES 7
3455	IM-01	PAINEWEBBER	789248	MUNICIPAL BOND TRUST SPECIAL TERM TRUST SERIES 8
3456	IM-01	PAINEWEBBER	740820	MUNICIPALS BOND TRUST INSURED SERIES 2
3457	IM-01	PAINEWEBBER	716866	PAINEWEBBER EQUITY TRUST GROWTH STOCK SERIES 1
3458	IM-01	PAINEWEBBER	796165	PAINEWEBBER EQUITY TRUST GROWTH STOCK SERIES 10
3459	IM-01	PAINEWEBBER	796166	PAINEWEBBER EQUITY TRUST GROWTH STOCK SERIES 11
3460	IM-01	PAINEWEBBER	796157	PAINEWEBBER EQUITY TRUST GROWTH STOCK SERIES 12
3461	IM-01	PAINEWEBBER	796160	PAINEWEBBER EQUITY TRUST GROWTH STOCK SERIES 5
3462	IM-01	PAINEWEBBER	796161	PAINEWEBBER EQUITY TRUST GROWTH STOCK SERIES 6
3463	IM-01	PAINEWEBBER	796162	PAINEWEBBER EQUITY TRUST GROWTH STOCK SERIES 7
3464	IM-01	PAINEWEBBER	796163	PAINEWEBBER EQUITY TRUST GROWTH STOCK SERIES 8
3465	IM-01	PAINEWEBBER	796164	PAINEWEBBER EQUITY TRUST GROWTH STOCK SERIES 9
3466	IM-01	PAINEWEBBER	799683	PAINEWEBBER EQUITY TRUST SPECIAL SITUATIONS SERIES 10
3467	IM-01	PAINEWEBBER	799684	PAINEWEBBER EQUITY TRUST SPECIAL SITUATIONS SERIES 11
3468	IM-01	PAINEWEBBER	799674	PAINEWEBBER EQUITY TRUST SPECIAL SITUATIONS SERIES 5
3469	IM-01	PAINEWEBBER	799676	PAINEWEBBER EQUITY TRUST SPECIAL SITUATIONS SERIES 6
3470	IM-01	PAINEWEBBER	799680	PAINEWEBBER EQUITY TRUST SPECIAL SITUATIONS SERIES 7
3471	IM-01	PAINEWEBBER	799681	PAINEWEBBER EQUITY TRUST SPECIAL SITUATIONS SERIES 8
3472	IM-01	PAINEWEBBER	799682	PAINEWEBBER EQUITY TRUST SPECIAL SITUATIONS SERIES 9
3473	IM-01	PAINEWEBBER	800273	PAINEWEBBER EQUITY TRUST UTILITY SERIES 2
3474	IM-01	PAINEWEBBER	703812	PAINEWEBBER FEDERAL GOVERNMENT TRUST GNMA SERIES 1
3475	IM-01	PAINEWEBBER	800769	PAINEWEBBER FEDERAL GOVERNMENT TRUST TREASURY SERIES 1
3476	IM-01	PAINEWEBBER	769804	PAINEWEBBER PATHFINDERS TRUST MUNICIPAL & GROWTH STOCK SER 1
3477	IM-01	PAINEWEBBER	777516	PAINEWEBBER PATHFINDERS TRUST MUNICIPAL & GROWTH STOCK SER 2
3478	IM-01	PAINEWEBBER	811875	PAINEWEBBER PATHFINDERS TRUST TREASURY & GROWTH STK SER 12
3479	IM-01	PAINEWEBBER	811873	PAINEWEBBER PATHFINDERS TRUST TREASURY & GROWTH STK SERS 10
3480	IM-01	PAINEWEBBER	811874	PAINEWEBBER PATHFINDERS TRUST TREASURY & GROWTH STK SERS 11
3481	IM-01	PAINEWEBBER	811876	PAINEWEBBER PATHFINDERS TRUST TREASURY & GROWTH STK SERS 13
3482	IM-01	PAINEWEBBER	811877	PAINEWEBBER PATHFINDERS TRUST TREASURY & GROWTH STK SERS 14
3483	IM-01	PAINEWEBBER	757440	PAINEWEBBER PATHFINDERS TRUST TREASURY & GROWTH STOCK SER 1
3484	IM-01	PAINEWEBBER	783851	PAINEWEBBER PATHFINDERS TRUST TREASURY & GROWTH STOCK SER 4
3485	IM-01	PAINEWEBBER	783852	PAINEWEBBER PATHFINDERS TRUST TREASURY & GROWTH STOCK SER 5
3486	IM-01	PAINEWEBBER	783853	PAINEWEBBER PATHFINDERS TRUST TREASURY & GROWTH STOCK SER 6
3487	IM-01	PAINEWEBBER	783854	PAINEWEBBER PATHFINDERS TRUST TREASURY & GROWTH STOCK SER 7
3488	IM-01	PAINEWEBBER	783855	PAINEWEBBER PATHFINDERS TRUST TREASURY & GROWTH STOCK SER 8
3489	IM-01	PAINEWEBBER	811872	PAINEWEBBER PATHFINDERS TRUST TREASURY & GROWTH STOCK SER 9
3490	IM-01	SEARS	840579	SEARS CORPORATE INVESTMENT TR MULTI CURRENCY PORTFOLIO SER 1
3491	IM-01	SEARS	840581	SEARS CORPORATE INVESTMENT TR MULTI CURRENCY PORTFOLIO SER 2
3492	IM-01	SEARS	737778	SEARS CORPORATE INVESTMENT TRUST INTERM TERM PORT SER 1
3493	IM-01	SEARS	730562	SEARS CORPORATE INVESTMENT TRUST LONG TERM PORTFOLIO SER 1
3494	IM-01	SEARS	785632	SEARS CORPORATE INVESTMENT TRUST LONG TERM PORTFOLIO SER 3
3495	IM-01	SEARS	785634	SEARS CORPORATE INVESTMENT TRUST LONG TERM PORTFOLIO SER 4
3496	IM-01	SEARS	859215	SEARS CORPORATE INVT TR ASSET BACKED SECURITIES PORT SER 1
3497	IM-01	SEARS	859216	SEARS CORPORATE INVT TR ASSET BACKED SECURITIES PORT SER 2

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
3498	IM-01	SEARS	859217	SEARS CORPORATE INVT TR ASSET BACKED SECURITIES PORT SER 3
3499	IM-01	SEARS	859218	SEARS CORPORATE INVT TR ASSET BACKED SECURITIES PORT SER 4
3500	IM-01	SEARS	830771	SEARS CORPORATE INVT TR CANADIAN DOLLAR BONDS PORT SER 4
3501	IM-01	SEARS	825012	SEARS CORPORATE INVT TRUST CERTIFICATE OF DEPOSIT PORT SER 1
3502	IM-01	SEARS	853880	SEARS EQUITY INVESTMENT TR CALIFORNIA BAY AREA PORT SER 1
3503	IM-01	SEARS	811811	SEARS EQUITY INVESTMENT TRUST
3504	IM-01	SEARS	854668	SEARS EQUITY INVESTMENT TRUST FLORIDA PORTFOLIO SERIES 1
3505	IM-01	SEARS	850711	SEARS EQUITY INVESTMENT TRUST PACIFIC NORTHWEST PORT SER 1
3506	IM-01	SEARS	850846	SEARS EQUITY INVESTMENT TRUST PACIFIC NORTHWEST PORT SER 2
3507	IM-01	SEARS	853092	SEARS EQUITY INVESTMENT TRUST SELECTED OPPORTUNITIES SER 1
3508	IM-01	SEARS	853103	SEARS EQUITY INVESTMENT TRUST SELECTED OPPORTUNITIES SER 10
3509	IM-01	SEARS	882101	SEARS EQUITY INVESTMENT TRUST SELECTED OPPORTUNITIES SER 11
3510	IM-01	SEARS	883417	SEARS EQUITY INVESTMENT TRUST SELECTED OPPORTUNITIES SER 12
3511	IM-01	SEARS	885723	SEARS EQUITY INVESTMENT TRUST SELECTED OPPORTUNITIES SER 13
3512	IM-01	SEARS	891094	SEARS EQUITY INVESTMENT TRUST SELECTED OPPORTUNITIES SER 14
3513	IM-01	SEARS	853093	SEARS EQUITY INVESTMENT TRUST SELECTED OPPORTUNITIES SER 2
3514	IM-01	SEARS	853094	SEARS EQUITY INVESTMENT TRUST SELECTED OPPORTUNITIES SER 3
3515	IM-01	SEARS	853095	SEARS EQUITY INVESTMENT TRUST SELECTED OPPORTUNITIES SER 4
3516	IM-01	SEARS	853096	SEARS EQUITY INVESTMENT TRUST SELECTED OPPORTUNITIES SER 5
3517	IM-01	SEARS	853097	SEARS EQUITY INVESTMENT TRUST SELECTED OPPORTUNITIES SER 6
3518	IM-01	SEARS	853098	SEARS EQUITY INVESTMENT TRUST SELECTED OPPORTUNITIES SER 7
3519	IM-01	SEARS	853099	SEARS EQUITY INVESTMENT TRUST SELECTED OPPORTUNITIES SER 8
3520	IM-01	SEARS	853101	SEARS EQUITY INVESTMENT TRUST SELECTED OPPORTUNITIES SER 9
3521	IM-01	SEARS	832305	SEARS EQUITY INVESTMENT TRUST STRATEGIC SERIES 10
3522	IM-01	SEARS	823604	SEARS EQUITY INVESTMENT TRUST STRATEGIC SERIES 5
3523	IM-01	SEARS	823606	SEARS EQUITY INVESTMENT TRUST STRATEGIC SERIES 6
3524	IM-01	SEARS	832300	SEARS EQUITY INVESTMENT TRUST STRATEGIC SERIES 7
3525	IM-01	SEARS	832301	SEARS EQUITY INVESTMENT TRUST STRATEGIC SERIES 8
3526	IM-01	SEARS	832303	SEARS EQUITY INVESTMENT TRUST STRATEGIC SERIES 9
3527	IM-01	SEARS	797954	SEARS EQUITY INVESTMENT TRUST UTILITY STOCK SERIES 1
3528	IM-01	SEARS	814260	SEARS EQUITY INVESTMENT TRUST UTILITY STOCK SERIES 2
3529	IM-01	SEARS	814261	SEARS EQUITY INVESTMENT TRUST UTILITY STOCK SERIES 3
3530	IM-01	SEARS	814262	SEARS EQUITY INVESTMENT TRUST UTILITY STOCK SERIES 4
3531	IM-01	SEARS	814263	SEARS EQUITY INVESTMENT TRUST UTILITY STOCK SERIES 5
3532	IM-01	SEARS	814264	SEARS EQUITY INVESTMENT TRUST UTILITY STOCK SERIES 6
3533	IM-01	SEARS	814265	SEARS EQUITY INVESTMENT TRUST UTILITY STOCK SERIES 7
3534	IM-01	SEARS	814266	SEARS EQUITY INVESTMENT TRUST UTILITY STOCK SERIES 8
3535	IM-01	SEARS	862236	SEARS EQUITY INVT TR DEAN WITTER RECOMMENDED LIST SER 10
3536	IM-01	SEARS	862237	SEARS EQUITY INVT TR DEAN WITTER RECOMMENDED LIST SER 11
3537	IM-01	SEARS	832290	SEARS EQUITY INVT TR DEAN WITTER RECOMMENDED LIST SER 3
3538	IM-01	SEARS	832292	SEARS EQUITY INVT TR DEAN WITTER RECOMMENDED LIST SER 4
3539	IM-01	SEARS	832295	SEARS EQUITY INVT TR DEAN WITTER RECOMMENDED LIST SER 5
3540	IM-01	SEARS	832297	SEARS EQUITY INVT TR DEAN WITTER RECOMMENDED LIST SER 6
3541	IM-01	SEARS	862233	SEARS EQUITY INVT TR DEAN WITTER RECOMMENDED LIST SER 7
3542	IM-01	SEARS	862234	SEARS EQUITY INVT TR DEAN WITTER RECOMMENDED LIST SER 8
3543	IM-01	SEARS	862235	SEARS EQUITY INVT TR DEAN WITTER RECOMMENDED LIST SER 9
3544	IM-01	SEARS	802445	SEARS FIXED INCOME INVESTMENT TRUST PAC PORTFOLIO SERIES 1
3545	IM-01	SEARS	718936	SEARS GOVERNMENT INVESTMENT TRUST
3546	IM-01	SEARS	807404	SEARS GOVERNMENT INVESTMENT TRUST FREDDIE MAC PORT SERIES 10
3547	IM-01	SEARS	809654	SEARS GOVERNMENT INVESTMENT TRUST FREDDIE MAC PORT SERIES 11
3548	IM-01	SEARS	798655	SEARS GOVERNMENT INVESTMENT TRUST FREDDIE MAC PORT SERIES 3
3549	IM-01	SEARS	798658	SEARS GOVERNMENT INVESTMENT TRUST FREDDIE MAC PORT SERIES 5
3550	IM-01	SEARS	807400	SEARS GOVERNMENT INVESTMENT TRUST FREDDIE MAC PORT SERIES 7
3551	IM-01	SEARS	807401	SEARS GOVERNMENT INVESTMENT TRUST FREDDIE MAC PORT SERIES 8
3552	IM-01	SEARS	807403	SEARS GOVERNMENT INVESTMENT TRUST FREDDIE MAC PORT SERIES 9
3553	IM-01	SEARS	785568	SEARS GOVERNMENT INVESTMENT TRUST GNMA PORTFOLIO SERIES 10
3554	IM-01	SEARS	785569	SEARS GOVERNMENT INVESTMENT TRUST GNMA PORTFOLIO SERIES 11
3555	IM-01	SEARS	793110	SEARS GOVERNMENT INVESTMENT TRUST GNMA PORTFOLIO SERIES 12
3556	IM-01	SEARS	793114	SEARS GOVERNMENT INVESTMENT TRUST GNMA PORTFOLIO SERIES 13
3557	IM-01	SEARS	793117	SEARS GOVERNMENT INVESTMENT TRUST GNMA PORTFOLIO SERIES 14
3558	IM-01	SEARS	814325	SEARS GOVERNMENT INVESTMENT TRUST GNMA PORTFOLIO SERIES 16
3559	IM-01	SEARS	814326	SEARS GOVERNMENT INVESTMENT TRUST GNMA PORTFOLIO SERIES 17
3560	IM-01	SEARS	825015	SEARS GOVERNMENT INVESTMENT TRUST U S TREASURY SERIES 1
3561	IM-01	SEARS	825016	SEARS GOVERNMENT INVESTMENT TRUST U S TREASURY SERIES 2
3562	IM-01	SEARS	825017	SEARS GOVERNMENT INVESTMENT TRUST U S TREASURY SERIES 3
3563	IM-01	SEARS	833802	SEARS GOVERNMENT INVESTMENT TRUST U S TREASURY SERIES 4
3564	IM-01	SEARS	833803	SEARS GOVERNMENT INVESTMENT TRUST U S TREASURY SERIES 5
3565	IM-01	SEARS	893175	SEARS GOVERNMENT INVESTMENT TRUST U S TREASURY SERIES 6
3566	IM-01	SEARS	773584	SEARS GOVERNMENT INVT TR ZERO COUPON SERIAL PAYOUT SER 6
3567	IM-01	SEARS	799508	SEARS INVESTMENT TRUST
3568	IM-01	SEARS	798546	SEARS INVESTMENT TRUST DUAL VALUE SERIES 2
3569	IM-01	SEARS	807336	SEARS INVESTMENT TRUST DUAL VALUE SERIES 6
3570	IM-01	SEARS	807337	SEARS INVESTMENT TRUST DUAL VALUE SERIES 7
3571	IM-01	SEARS	757704	SEARS MUN TR MULT MAT PROG SER 11 LG TERM PORT SERIES 36
3572	IM-01	SEARS	810095	SEARS MUNICIPAL TR CALIFORNIA PORT INTERM LONG TERM SER 16
3573	IM-01	SEARS	832281	SEARS MUNICIPAL TR CALIFORNIA PORT INTERM LONG TERM SER 25
3574	IM-01	SEARS	785131	SEARS MUNICIPAL TR CALIFORNIA PORT INTERM LONG TERM SER 6
3575	IM-01	SEARS	732352	SEARS MUNICIPAL TR FINL GUA INS CO INSURED LG TERM SERIES 1
3576	IM-01	SEARS	740608	SEARS MUNICIPAL TR FINL GUA INS CO INSURED LG TERM SERIES 3
3577	IM-01	SEARS	781074	SEARS MUNICIPAL TR INS MULT MAT PRG SER 7 INS LG TERM SER 9
3578	IM-01	SEARS	759459	SEARS MUNICIPAL TR MULT MATUR PRG SER 12 LG TM PORT SER 37
3579	IM-01	SEARS	756419	SEARS MUNICIPAL TR MULTI MATURITY PRG SER 10 LG TR POR SE 35

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
3580	IM-01	SEARS	756088	SEARS MUNICIPAL TR MULTI STATE PROGRAM SER 12 CA PORT SER 19
3581	IM-01	SEARS	828577	SEARS MUNICIPAL TRUST ALABAMA PORTFOLIO SERIES 1
3582	IM-01	SEARS	828578	SEARS MUNICIPAL TRUST ALABAMA PORTFOLIO SERIES 2
3583	IM-01	SEARS	808235	SEARS MUNICIPAL TRUST ALT MIN TAX PORT INT LONG TERM SER 1
3584	IM-01	SEARS	808641	SEARS MUNICIPAL TRUST ALT MIN TAX PORT INT LONG TM SERIES 2
3585	IM-01	SEARS	807226	SEARS MUNICIPAL TRUST ALT MIN TAX PORT LONG TERM SERIES 1
3586	IM-01	SEARS	808934	SEARS MUNICIPAL TRUST ALT MIN TAX PORT LONG TERM SERIES 2
3587	IM-01	SEARS	833161	SEARS MUNICIPAL TRUST ARIZONA PORTFOLIO SERIES 1
3588	IM-01	SEARS	833163	SEARS MUNICIPAL TRUST ARIZONA PORTFOLIO SERIES 2
3589	IM-01	SEARS	833164	SEARS MUNICIPAL TRUST ARIZONA PORTFOLIO SERIES 3
3590	IM-01	SEARS	835177	SEARS MUNICIPAL TRUST ARKANSAS PORTFOLIO SERIES 1
3591	IM-01	SEARS	835179	SEARS MUNICIPAL TRUST ARKANSAS PORTFOLIO SERIES 2
3592	IM-01	SEARS	835180	SEARS MUNICIPAL TRUST ARKANSAS PORTFOLIO SERIES 3
3593	IM-01	SEARS	740803	SEARS MUNICIPAL TRUST CA PORT INTERM LONG TERM SERIES 2
3594	IM-01	SEARS	766426	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 25
3595	IM-01	SEARS	791886	SEARS MUNICIPAL TRUST CALIF PORTFOLIO INTERM LONG TM SER 11
3596	IM-01	SEARS	791890	SEARS MUNICIPAL TRUST CALIF PORTFOLIO INTERM LONG TM SER 13
3597	IM-01	SEARS	815938	SEARS MUNICIPAL TRUST CALIF PORTFOLIO INTERM LONG TM SER 20
3598	IM-01	SEARS	815940	SEARS MUNICIPAL TRUST CALIF PORTFOLIO INTERM LONG TM SER 22
3599	IM-01	SEARS	815941	SEARS MUNICIPAL TRUST CALIF PORTFOLIO INTERM LONG TM SER 23
3600	IM-01	SEARS	815942	SEARS MUNICIPAL TRUST CALIF PORTFOLIO INTERM LONG TM SER 24
3601	IM-01	SEARS	832283	SEARS MUNICIPAL TRUST CALIF PORTFOLIO INTERM LONG TM SER 26
3602	IM-01	SEARS	832755	SEARS MUNICIPAL TRUST CALIFORNIA INTERMEDIATE TERM SER 1
3603	IM-01	SEARS	874476	SEARS MUNICIPAL TRUST CALIFORNIA INTERMEDIATE TERM SER 2
3604	IM-01	SEARS	793096	SEARS MUNICIPAL TRUST CALIFORNIA PORT INTERM LG TERM SER 14
3605	IM-01	SEARS	790099	SEARS MUNICIPAL TRUST CALIFORNIA PORT INTERM LG TERM SER 15
3606	IM-01	SEARS	810057	SEARS MUNICIPAL TRUST CALIFORNIA PORT INTERM LG TERM SER 18
3607	IM-01	SEARS	815937	SEARS MUNICIPAL TRUST CALIFORNIA PORT INTERM LG TERM SER 19
3608	IM-01	SEARS	815939	SEARS MUNICIPAL TRUST CALIFORNIA PORT INTERM LG TERM SER 21
3609	IM-01	SEARS	785137	SEARS MUNICIPAL TRUST CALIFORNIA PORT INTERM LONG TERM SER 9
3610	IM-01	SEARS	791889	SEARS MUNICIPAL TRUST CALIFORNIA PORT INTERM LONG TM SER 12
3611	IM-01	SEARS	832285	SEARS MUNICIPAL TRUST CALIFORNIA PORT INTERM LONG TM SER 27
3612	IM-01	SEARS	785136	SEARS MUNICIPAL TRUST CALIFORNIA PORT INTERM LONG TM SER 8
3613	IM-01	SEARS	791887	SEARS MUNICIPAL TRUST CALIFORNIA PORT LONG TERM SER 10
3614	IM-01	SEARS	785105	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SER 34
3615	IM-01	SEARS	832259	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SER 60
3616	IM-01	SEARS	723544	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SER 7
3617	IM-01	SEARS	723543	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SER 8
3618	IM-01	SEARS	716947	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 1
3619	IM-01	SEARS	730053	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 10
3620	IM-01	SEARS	733278	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 12
3621	IM-01	SEARS	733270	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 13
3622	IM-01	SEARS	733271	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 14
3623	IM-01	SEARS	719725	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 2
3624	IM-01	SEARS	761233	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 22
3625	IM-01	SEARS	766425	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 24
3626	IM-01	SEARS	770202	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 27
3627	IM-01	SEARS	777348	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 28
3628	IM-01	SEARS	779104	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 29
3629	IM-01	SEARS	719726	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 3
3630	IM-01	SEARS	783180	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 30
3631	IM-01	SEARS	785103	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 32
3632	IM-01	SEARS	785104	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 33
3633	IM-01	SEARS	785106	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 35
3634	IM-01	SEARS	785107	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 36
3635	IM-01	SEARS	785108	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 37
3636	IM-01	SEARS	791899	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 38
3637	IM-01	SEARS	815952	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 39
3638	IM-01	SEARS	723548	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 4
3639	IM-01	SEARS	815953	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 40
3640	IM-01	SEARS	815955	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 42
3641	IM-01	SEARS	815956	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 43
3642	IM-01	SEARS	815957	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 44
3643	IM-01	SEARS	815958	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 45
3644	IM-01	SEARS	815959	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 46
3645	IM-01	SEARS	832242	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 47
3646	IM-01	SEARS	832243	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 48
3647	IM-01	SEARS	832245	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 49
3648	IM-01	SEARS	832247	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 50
3649	IM-01	SEARS	832248	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 51
3650	IM-01	SEARS	832249	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 52
3651	IM-01	SEARS	832250	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 53
3652	IM-01	SEARS	832251	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 54
3653	IM-01	SEARS	832252	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 55
3654	IM-01	SEARS	832254	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 56
3655	IM-01	SEARS	832255	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 57
3656	IM-01	SEARS	832256	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 58
3657	IM-01	SEARS	832258	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 59
3658	IM-01	SEARS	723545	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 6
3659	IM-01	SEARS	854275	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 61
3660	IM-01	SEARS	854276	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 62
3661	IM-01	SEARS	854277	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 63

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
3662	IM-01	SEARS	854278	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 64
3663	IM-01	SEARS	854279	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 65
3664	IM-01	SEARS	854280	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 66
3665	IM-01	SEARS	874768	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 67
3666	IM-01	SEARS	830760	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 68
3667	IM-01	SEARS	832756	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 69
3668	IM-01	SEARS	839375	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 70
3669	IM-01	SEARS	730043	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 9
3670	IM-01	SEARS	733272	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 15
3671	IM-01	SEARS	745898	SEARS MUNICIPAL TRUST CALIFORNIA PORTFOLIO SERIES 16
3672	IM-01	SEARS	828585	SEARS MUNICIPAL TRUST COLORADO PORTFOLIO SERIES 1
3673	IM-01	SEARS	828586	SEARS MUNICIPAL TRUST COLORADO PORTFOLIO SERIES 2
3674	IM-01	SEARS	828587	SEARS MUNICIPAL TRUST COLORADO PORTFOLIO SERIES 3
3675	IM-01	SEARS	838546	SEARS MUNICIPAL TRUST CONNECTICUT PORTFOLIO SERIES 1
3676	IM-01	SEARS	839576	SEARS MUNICIPAL TRUST DELAWARE PORTFOLIO SERIES 1
3677	IM-01	SEARS	839585	SEARS MUNICIPAL TRUST DELAWARE PORTFOLIO SERIES 10
3678	IM-01	SEARS	883485	SEARS MUNICIPAL TRUST DELAWARE PORTFOLIO SERIES 11
3679	IM-01	SEARS	839577	SEARS MUNICIPAL TRUST DELAWARE PORTFOLIO SERIES 2
3680	IM-01	SEARS	839578	SEARS MUNICIPAL TRUST DELAWARE PORTFOLIO SERIES 3
3681	IM-01	SEARS	839579	SEARS MUNICIPAL TRUST DELAWARE PORTFOLIO SERIES 4
3682	IM-01	SEARS	839580	SEARS MUNICIPAL TRUST DELAWARE PORTFOLIO SERIES 5
3683	IM-01	SEARS	839581	SEARS MUNICIPAL TRUST DELAWARE PORTFOLIO SERIES 6
3684	IM-01	SEARS	839582	SEARS MUNICIPAL TRUST DELAWARE PORTFOLIO SERIES 7
3685	IM-01	SEARS	874627	SEARS MUNICIPAL TRUST DELAWARE PORTFOLIO SERIES 8
3686	IM-01	SEARS	874628	SEARS MUNICIPAL TRUST DELAWARE PORTFOLIO SERIES 9
3687	IM-01	SEARS	885389	SEARS MUNICIPAL TRUST DELAWARE PORTFOLIO SERIES 12
3688	IM-01	SEARS	728349	SEARS MUNICIPAL TRUST DISCOUNT PORTFOLIO SERIES 3
3689	IM-01	SEARS	750207	SEARS MUNICIPAL TRUST FIN GUA INS CO INSURED CA SERIES 6
3690	IM-01	SEARS	739593	SEARS MUNICIPAL TRUST FIN GUA INS CO INSURED LG TERM SER 4
3691	IM-01	SEARS	737792	SEARS MUNICIPAL TRUST FINL GUA INS CO INS CA SER 3
3692	IM-01	SEARS	753893	SEARS MUNICIPAL TRUST FINL GUA INS CO INS CALIF SERIES 8
3693	IM-01	SEARS	739592	SEARS MUNICIPAL TRUST FINL GUA INS CO INSD CA SERIES 1
3694	IM-01	SEARS	751803	SEARS MUNICIPAL TRUST FINL GUA INS CO INSD CA SERIES 7
3695	IM-01	SEARS	748350	SEARS MUNICIPAL TRUST FINL GUA INS CO INSD LG TERM SERIES 11
3696	IM-01	SEARS	740817	SEARS MUNICIPAL TRUST FINL GUA INS CO INSD LG TERM SERIES 7
3697	IM-01	SEARS	741321	SEARS MUNICIPAL TRUST FINL GUA INS CO INSD LG TERM SERIES 8
3698	IM-01	SEARS	741322	SEARS MUNICIPAL TRUST FINL GUA INS CO INSURED CA SER 4
3699	IM-01	SEARS	747652	SEARS MUNICIPAL TRUST FINL GUA INS CO INSURED CALIF SER 5
3700	IM-01	SEARS	740984	SEARS MUNICIPAL TRUST FINL GUA INS CO INSURED LG TERM SER 10
3701	IM-01	SEARS	737790	SEARS MUNICIPAL TRUST FINL GUA INS CO INSURED LG TERM SER 2
3702	IM-01	SEARS	739590	SEARS MUNICIPAL TRUST FINL GUA INS CO INSURED LG TERM SER 5
3703	IM-01	SEARS	740860	SEARS MUNICIPAL TRUST FINL GUA INS CO INSURED LG TERM SER 6
3704	IM-01	SEARS	745408	SEARS MUNICIPAL TRUST FINL GUA INS CO INSURED LG TERM SER 9
3705	IM-01	SEARS	741318	SEARS MUNICIPAL TRUST FINL GUAR INS CO INSURED CA SERIES 2
3706	IM-01	SEARS	819907	SEARS MUNICIPAL TRUST FLORIDA PORTFOLIO SERIES 1
3707	IM-01	SEARS	819908	SEARS MUNICIPAL TRUST FLORIDA PORTFOLIO SERIES 2
3708	IM-01	SEARS	819909	SEARS MUNICIPAL TRUST FLORIDA PORTFOLIO SERIES 3
3709	IM-01	SEARS	826559	SEARS MUNICIPAL TRUST FLORIDA PORTFOLIO SERIES 4
3710	IM-01	SEARS	826560	SEARS MUNICIPAL TRUST FLORIDA PORTFOLIO SERIES 5
3711	IM-01	SEARS	828536	SEARS MUNICIPAL TRUST GEORGIA PORTFOLIO SERIES 1
3712	IM-01	SEARS	828537	SEARS MUNICIPAL TRUST GEORGIA PORTFOLIO SERIES 2
3713	IM-01	SEARS	836198	SEARS MUNICIPAL TRUST HAWAII PORTFOLIO SERIES 1
3714	IM-01	SEARS	836200	SEARS MUNICIPAL TRUST HAWAII PORTFOLIO SERIES 2
3715	IM-01	SEARS	836201	SEARS MUNICIPAL TRUST HAWAII PORTFOLIO SERIES 3
3716	IM-01	SEARS	836202	SEARS MUNICIPAL TRUST HAWAII PORTFOLIO SERIES 4
3717	IM-01	SEARS	836203	SEARS MUNICIPAL TRUST HAWAII PORTFOLIO SERIES 5
3718	IM-01	SEARS	836204	SEARS MUNICIPAL TRUST HAWAII PORTFOLIO SERIES 6
3719	IM-01	SEARS	836205	SEARS MUNICIPAL TRUST HAWAII PORTFOLIO SERIES 7
3720	IM-01	SEARS	839356	SEARS MUNICIPAL TRUST IDAHO PORTFOLIO SERIES 1
3721	IM-01	SEARS	875299	SEARS MUNICIPAL TRUST INSD NEW YORK INTERM TERM SERIES 1
3722	IM-01	SEARS	875294	SEARS MUNICIPAL TRUST INSD PENNSYLVANIA INTERM TERM SERIES 1
3723	IM-01	SEARS	838479	SEARS MUNICIPAL TRUST INSURED CALIFORNIA INTERM TERM SER 2
3724	IM-01	SEARS	877423	SEARS MUNICIPAL TRUST INSURED CALIFORNIA INTERM TERM SER 3
3725	IM-01	SEARS	836181	SEARS MUNICIPAL TRUST INSURED CALIFORNIA INTERM TERM SER 4
3726	IM-01	SEARS	885724	SEARS MUNICIPAL TRUST INSURED CALIFORNIA INTERM TERM SER 5
3727	IM-01	SEARS	888905	SEARS MUNICIPAL TRUST INSURED CALIFORNIA INTERM TERM SER 6
3728	IM-01	SEARS	891099	SEARS MUNICIPAL TRUST INSURED CALIFORNIA INTERM TERM SER 7
3729	IM-01	SEARS	894086	SEARS MUNICIPAL TRUST INSURED CALIFORNIA INTERM TERM SER 8
3730	IM-01	SEARS	894087	SEARS MUNICIPAL TRUST INSURED CALIFORNIA INTERM TERM SER 9
3731	IM-01	SEARS	874475	SEARS MUNICIPAL TRUST INSURED CALIFORNIA INTERMEDIATE SER 1
3732	IM-01	SEARS	758763	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 11
3733	IM-01	SEARS	761246	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 12
3734	IM-01	SEARS	763829	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 13
3735	IM-01	SEARS	766423	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 14
3736	IM-01	SEARS	766422	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 15
3737	IM-01	SEARS	766424	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 16
3738	IM-01	SEARS	766885	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 17
3739	IM-01	SEARS	770203	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 18
3740	IM-01	SEARS	773644	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 19
3741	IM-01	SEARS	777353	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 20
3742	IM-01	SEARS	783183	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 22
3743	IM-01	SEARS	785109	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 23

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
3744	IM-01	SEARS	785111	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 25
3745	IM-01	SEARS	785112	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 26
3746	IM-01	SEARS	785113	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 27
3747	IM-01	SEARS	785114	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 28
3748	IM-01	SEARS	815943	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 30
3749	IM-01	SEARS	815944	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 31
3750	IM-01	SEARS	815945	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 32
3751	IM-01	SEARS	815946	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 33
3752	IM-01	SEARS	815947	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 34
3753	IM-01	SEARS	815948	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 35
3754	IM-01	SEARS	815949	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 36
3755	IM-01	SEARS	815950	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 37
3756	IM-01	SEARS	815951	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 38
3757	IM-01	SEARS	832260	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 39
3758	IM-01	SEARS	832261	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 40
3759	IM-01	SEARS	832262	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 41
3760	IM-01	SEARS	832263	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 42
3761	IM-01	SEARS	854281	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 43
3762	IM-01	SEARS	828554	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 44
3763	IM-01	SEARS	828553	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 45
3764	IM-01	SEARS	828579	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 46
3765	IM-01	SEARS	828580	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 47
3766	IM-01	SEARS	840582	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 48
3767	IM-01	SEARS	833167	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 49
3768	IM-01	SEARS	878145	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 50
3769	IM-01	SEARS	832275	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 51
3770	IM-01	SEARS	832277	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 52
3771	IM-01	SEARS	879915	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 53
3772	IM-01	SEARS	880547	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 54
3773	IM-01	SEARS	880868	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 55
3774	IM-01	SEARS	880869	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 56
3775	IM-01	SEARS	880870	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 57
3776	IM-01	SEARS	882416	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 58
3777	IM-01	SEARS	888906	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 59
3778	IM-01	SEARS	888907	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 60
3779	IM-01	SEARS	891006	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 61
3780	IM-01	SEARS	891057	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 62
3781	IM-01	SEARS	893176	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 63
3782	IM-01	SEARS	894065	SEARS MUNICIPAL TRUST INSURED CALIFORNIA SERIES 64
3783	IM-01	SEARS	840903	SEARS MUNICIPAL TRUST INSURED FLORIDA SERIES 1
3784	IM-01	SEARS	878147	SEARS MUNICIPAL TRUST INSURED FLORIDA SERIES 10
3785	IM-01	SEARS	840905	SEARS MUNICIPAL TRUST INSURED FLORIDA SERIES 2
3786	IM-01	SEARS	840906	SEARS MUNICIPAL TRUST INSURED FLORIDA SERIES 3
3787	IM-01	SEARS	840908	SEARS MUNICIPAL TRUST INSURED FLORIDA SERIES 4
3788	IM-01	SEARS	840911	SEARS MUNICIPAL TRUST INSURED FLORIDA SERIES 6
3789	IM-01	SEARS	874629	SEARS MUNICIPAL TRUST INSURED FLORIDA SERIES 7
3790	IM-01	SEARS	874630	SEARS MUNICIPAL TRUST INSURED FLORIDA SERIES 8
3791	IM-01	SEARS	825532	SEARS MUNICIPAL TRUST INSURED FLORIDA SERIES 9
3792	IM-01	SEARS	797733	SEARS MUNICIPAL TRUST INSURED INTERM LONG TERM SERIES 24
3793	IM-01	SEARS	785100	SEARS MUNICIPAL TRUST INSURED INTERMEDIATE LONG TERM SER 21
3794	IM-01	SEARS	785101	SEARS MUNICIPAL TRUST INSURED INTERMEDIATE LONG TERM SER 22
3795	IM-01	SEARS	797731	SEARS MUNICIPAL TRUST INSURED INTERMEDIATE LONG TERM SER 23
3796	IM-01	SEARS	785056	SEARS MUNICIPAL TRUST INSURED INTERMEDIATE TERM SERIES 10
3797	IM-01	SEARS	785075	SEARS MUNICIPAL TRUST INSURED INTERMEDIATE TERM SERIES 11
3798	IM-01	SEARS	838478	SEARS MUNICIPAL TRUST INSURED INTERMEDIATE TERM SERIES 12
3799	IM-01	SEARS	833165	SEARS MUNICIPAL TRUST INSURED INTERMEDIATE TERM SERIES 13
3800	IM-01	SEARS	891095	SEARS MUNICIPAL TRUST INSURED INTERMEDIATE TERM SERIES 14
3801	IM-01	SEARS	753032	SEARS MUNICIPAL TRUST INSURED LONG TERM BONDS SERIES 1
3802	IM-01	SEARS	764832	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 11
3803	IM-01	SEARS	764536	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 12
3804	IM-01	SEARS	764828	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 13
3805	IM-01	SEARS	768911	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 14
3806	IM-01	SEARS	749743	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 16
3807	IM-01	SEARS	783181	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 18
3808	IM-01	SEARS	785132	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 20
3809	IM-01	SEARS	785134	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 21
3810	IM-01	SEARS	785135	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 22
3811	IM-01	SEARS	785136	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 23
3812	IM-01	SEARS	785139	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 24
3813	IM-01	SEARS	785140	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 25
3814	IM-01	SEARS	785141	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 26
3815	IM-01	SEARS	797742	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 28
3816	IM-01	SEARS	797745	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 30
3817	IM-01	SEARS	797746	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 31
3818	IM-01	SEARS	797747	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 32
3819	IM-01	SEARS	797748	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 33
3820	IM-01	SEARS	807343	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 34
3821	IM-01	SEARS	807344	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 35
3822	IM-01	SEARS	807346	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 36
3823	IM-01	SEARS	873291	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 37
3824	IM-01	SEARS	785059	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 38
3825	IM-01	SEARS	785060	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 39

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
3826	IM-01	SEARS	797735	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 40
3827	IM-01	SEARS	846356	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 41
3828	IM-01	SEARS	835181	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 42
3829	IM-01	SEARS	883486	SEARS MUNICIPAL TRUST INSURED LONG TERM SERIES 43
3830	IM-01	SEARS	756416	SEARS MUNICIPAL TRUST INSURED MULTIPLE MATURITY PRG SER 4
3831	IM-01	SEARS	763533	SEARS MUNICIPAL TRUST INSURED MULTIPLE MATURITY PROG SER 8
3832	IM-01	SEARS	884333	SEARS MUNICIPAL TRUST INSURED NEW JERSEY INTERM TERM SER 1
3833	IM-01	SEARS	836601	SEARS MUNICIPAL TRUST INSURED NEW JERSEY SERIES 1
3834	IM-01	SEARS	839630	SEARS MUNICIPAL TRUST INSURED NEW JERSEY SERIES 10
3835	IM-01	SEARS	835602	SEARS MUNICIPAL TRUST INSURED NEW JERSEY SERIES 2
3836	IM-01	SEARS	835603	SEARS MUNICIPAL TRUST INSURED NEW JERSEY SERIES 3
3837	IM-01	SEARS	835604	SEARS MUNICIPAL TRUST INSURED NEW JERSEY SERIES 4
3838	IM-01	SEARS	835605	SEARS MUNICIPAL TRUST INSURED NEW JERSEY SERIES 5
3839	IM-01	SEARS	835606	SEARS MUNICIPAL TRUST INSURED NEW JERSEY SERIES 6
3840	IM-01	SEARS	825617	SEARS MUNICIPAL TRUST INSURED NEW JERSEY SERIES 8
3841	IM-01	SEARS	825618	SEARS MUNICIPAL TRUST INSURED NEW JERSEY SERIES 9
3842	IM-01	SEARS	739591	SEARS MUNICIPAL TRUST INSURED NEW YORK SERIES 1
3843	IM-01	SEARS	839665	SEARS MUNICIPAL TRUST INSURED NEW YORK SERIES 10
3844	IM-01	SEARS	780417	SEARS MUNICIPAL TRUST INSURED NEW YORK SERIES 2
3845	IM-01	SEARS	785313	SEARS MUNICIPAL TRUST INSURED NEW YORK SERIES 3
3846	IM-01	SEARS	785314	SEARS MUNICIPAL TRUST INSURED NEW YORK SERIES 4
3847	IM-01	SEARS	845950	SEARS MUNICIPAL TRUST INSURED NEW YORK SERIES 5
3848	IM-01	SEARS	825658	SEARS MUNICIPAL TRUST INSURED NEW YORK SERIES 6
3849	IM-01	SEARS	825659	SEARS MUNICIPAL TRUST INSURED NEW YORK SERIES 7
3850	IM-01	SEARS	874474	SEARS MUNICIPAL TRUST INSURED NEW YORK SERIES 8/NEW
3851	IM-01	SEARS	841138	SEARS MUNICIPAL TRUST INSURED NEW YORK SERIES 9
3852	IM-01	SEARS	840948	SEARS MUNICIPAL TRUST INSURED PENNSYLVANIA SERIES 1
3853	IM-01	SEARS	840949	SEARS MUNICIPAL TRUST INSURED PENNSYLVANIA SERIES 2
3854	IM-01	SEARS	840950	SEARS MUNICIPAL TRUST INSURED PENNSYLVANIA SERIES 3
3855	IM-01	SEARS	840963	SEARS MUNICIPAL TRUST INSURED PENNSYLVANIA SERIES 4
3856	IM-01	SEARS	840964	SEARS MUNICIPAL TRUST INSURED PENNSYLVANIA SERIES 5
3857	IM-01	SEARS	840965	SEARS MUNICIPAL TRUST INSURED PENNSYLVANIA SERIES 6
3858	IM-01	SEARS	879916	SEARS MUNICIPAL TRUST INSURED PENNSYLVANIA SERIES 7
3859	IM-01	SEARS	879917	SEARS MUNICIPAL TRUST INSURED PENNSYLVANIA SERIES 8
3860	IM-01	SEARS	826546	SEARS MUNICIPAL TRUST INSURED TEXAS PORTFOLIO SERIES 8
3861	IM-01	SEARS	874634	SEARS MUNICIPAL TRUST INSURED TEXAS PORTFOLIO SERIES 9
3862	IM-01	SEARS	797712	SEARS MUNICIPAL TRUST INTERM LONG TERM PORTFOLIO SER 36
3863	IM-01	SEARS	797710	SEARS MUNICIPAL TRUST INTERM LONG TERM PORTFOLIO SERIES 35
3864	IM-01	SEARS	807275	SEARS MUNICIPAL TRUST INTERMEDIATE LONG TERM PORT SERIES 38
3865	IM-01	SEARS	807278	SEARS MUNICIPAL TRUST INTERMEDIATE LONG TERM PORT SERIES 41
3866	IM-01	SEARS	807279	SEARS MUNICIPAL TRUST INTERMEDIATE LONG TERM PORT SERIES 42
3867	IM-01	SEARS	807280	SEARS MUNICIPAL TRUST INTERMEDIATE LONG TERM PORT SERIES 43
3868	IM-01	SEARS	844090	SEARS MUNICIPAL TRUST KANSAS PORTFOLIO SERIES 1
3869	IM-01	SEARS	841136	SEARS MUNICIPAL TRUST KENTUCKY PORTFOLIO SERIES 1
3870	IM-01	SEARS	841137	SEARS MUNICIPAL TRUST KENTUCKY PORTFOLIO SERIES 2
3871	IM-01	SEARS	872864	SEARS MUNICIPAL TRUST LONG TERM MUNICIPAL PORTFOLIO SER 110
3872	IM-01	SEARS	854492	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SER 108
3873	IM-01	SEARS	715804	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 1
3874	IM-01	SEARS	721861	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 10
3875	IM-01	SEARS	854489	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 100
3876	IM-01	SEARS	854490	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 101
3877	IM-01	SEARS	854491	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 102
3878	IM-01	SEARS	854493	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 104
3879	IM-01	SEARS	854494	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 105
3880	IM-01	SEARS	854495	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 106
3881	IM-01	SEARS	854496	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 107
3882	IM-01	SEARS	854497	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 108
3883	IM-01	SEARS	726319	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 11
3884	IM-01	SEARS	807281	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 111
3885	IM-01	SEARS	807282	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 112
3886	IM-01	SEARS	807296	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 113
3887	IM-01	SEARS	807297	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 114
3888	IM-01	SEARS	797701	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 115
3889	IM-01	SEARS	809836	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 116
3890	IM-01	SEARS	809842	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 117
3891	IM-01	SEARS	839495	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 118
3892	IM-01	SEARS	835206	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 119
3893	IM-01	SEARS	726320	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 12
3894	IM-01	SEARS	828573	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 120
3895	IM-01	SEARS	846367	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 121
3896	IM-01	SEARS	886390	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 122
3897	IM-01	SEARS	894414	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 125
3898	IM-01	SEARS	894415	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 126
3899	IM-01	SEARS	726321	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 13
3900	IM-01	SEARS	726306	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 14
3901	IM-01	SEARS	731279	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 15
3902	IM-01	SEARS	731278	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 16
3903	IM-01	SEARS	731280	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 17
3904	IM-01	SEARS	731281	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 18
3905	IM-01	SEARS	731282	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 19
3906	IM-01	SEARS	719881	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 2
3907	IM-01	SEARS	741296	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 20

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
3908	IM-01	SEARS	741319	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 21
3909	IM-01	SEARS	741323	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 22
3910	IM-01	SEARS	744733	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 23
3911	IM-01	SEARS	745414	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 24
3912	IM-01	SEARS	746861	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 25
3913	IM-01	SEARS	747325	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 26
3914	IM-01	SEARS	747654	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 27
3915	IM-01	SEARS	748229	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 28
3916	IM-01	SEARS	718889	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 3
3917	IM-01	SEARS	752370	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 31
3918	IM-01	SEARS	753925	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 32
3919	IM-01	SEARS	718887	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 4
3920	IM-01	SEARS	764771	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 40
3921	IM-01	SEARS	764770	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 41
3922	IM-01	SEARS	765745	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 42
3923	IM-01	SEARS	766876	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 43
3924	IM-01	SEARS	766884	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 44
3925	IM-01	SEARS	770463	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 45
3926	IM-01	SEARS	770464	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 46
3927	IM-01	SEARS	772035	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 47
3928	IM-01	SEARS	775978	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 49
3929	IM-01	SEARS	719718	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 5
3930	IM-01	SEARS	778976	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 50
3931	IM-01	SEARS	780418	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 51
3932	IM-01	SEARS	783182	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 52
3933	IM-01	SEARS	783636	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 53
3934	IM-01	SEARS	785116	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 54
3935	IM-01	SEARS	785117	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 55
3936	IM-01	SEARS	785120	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 56
3937	IM-01	SEARS	785119	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 57
3938	IM-01	SEARS	785121	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 58
3939	IM-01	SEARS	785122	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 59
3940	IM-01	SEARS	719726	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 6
3941	IM-01	SEARS	791893	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 60
3942	IM-01	SEARS	791894	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 61
3943	IM-01	SEARS	791895	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 62
3944	IM-01	SEARS	791897	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 64
3945	IM-01	SEARS	797714	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 65
3946	IM-01	SEARS	797716	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 66
3947	IM-01	SEARS	797717	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 67
3948	IM-01	SEARS	797718	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 68
3949	IM-01	SEARS	797719	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 69
3950	IM-01	SEARS	719724	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 7
3951	IM-01	SEARS	807261	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 70
3952	IM-01	SEARS	807262	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 71
3953	IM-01	SEARS	807263	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 72
3954	IM-01	SEARS	807264	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 73
3955	IM-01	SEARS	807265	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 74
3956	IM-01	SEARS	807266	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 75
3957	IM-01	SEARS	807267	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 76
3958	IM-01	SEARS	807268	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 77
3959	IM-01	SEARS	807269	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 78
3960	IM-01	SEARS	807271	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 79
3961	IM-01	SEARS	721857	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 8
3962	IM-01	SEARS	807272	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 80
3963	IM-01	SEARS	843692	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 81
3964	IM-01	SEARS	843693	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 82
3965	IM-01	SEARS	843694	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 83
3966	IM-01	SEARS	843695	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 84
3967	IM-01	SEARS	843697	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 85
3968	IM-01	SEARS	843698	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 86
3969	IM-01	SEARS	843699	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 87
3970	IM-01	SEARS	843701	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 88
3971	IM-01	SEARS	843702	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 89
3972	IM-01	SEARS	721860	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 9
3973	IM-01	SEARS	843704	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 90
3974	IM-01	SEARS	843706	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 91
3975	IM-01	SEARS	843708	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 92
3976	IM-01	SEARS	843709	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 93
3977	IM-01	SEARS	854462	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 94
3978	IM-01	SEARS	854464	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 95
3979	IM-01	SEARS	854465	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 96
3980	IM-01	SEARS	854466	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 97
3981	IM-01	SEARS	854467	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 98
3982	IM-01	SEARS	854468	SEARS MUNICIPAL TRUST LONG TERM PORTFOLIO SERIES 99
3983	IM-01	SEARS	791896	SEARS MUNICIPAL TRUST LONG TERN PORTFOLIO SERIES 63
3984	IM-01	SEARS	836180	SEARS MUNICIPAL TRUST LOUISIANA PORTFOLIO SERIES 1
3985	IM-01	SEARS	825627	SEARS MUNICIPAL TRUST MARYLAND PORTFOLIO SERIES 11
3986	IM-01	SEARS	825628	SEARS MUNICIPAL TRUST MARYLAND PORTFOLIO SERIES 12
3987	IM-01	SEARS	825630	SEARS MUNICIPAL TRUST MARYLAND PORTFOLIO SERIES 13
3988	IM-01	SEARS	825631	SEARS MUNICIPAL TRUST MARYLAND PORTFOLIO SERIES 14
3989	IM-01	SEARS	874631	SEARS MUNICIPAL TRUST MARYLAND PORTFOLIO SERIES 15

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
3990	IM-01	SEARS	874632	SEARS MUNICIPAL TRUST MARYLAND PORTFOLIO SERIES 16
3991	IM-01	SEARS	768553	SEARS MUNICIPAL TRUST MARYLAND PORTFOLIO SERIES 8
3992	IM-01	SEARS	766510	SEARS MUNICIPAL TRUST MASSACHUSETTS PORTFOLIO SERIES 5
3993	IM-01	SEARS	766511	SEARS MUNICIPAL TRUST MASSACHUSETTS PORTFOLIO SERIES 6
3994	IM-01	SEARS	765143	SEARS MUNICIPAL TRUST MASSACHUSETTS PORTFOLIO SERIES 7
3995	IM-01	SEARS	829852	SEARS MUNICIPAL TRUST MICHIGAN PORTFOLIO SER 5
3996	IM-01	SEARS	829899	SEARS MUNICIPAL TRUST MICHIGAN PORTFOLIO SERIES 1
3997	IM-01	SEARS	829948	SEARS MUNICIPAL TRUST MICHIGAN PORTFOLIO SERIES 2
3998	IM-01	SEARS	829950	SEARS MUNICIPAL TRUST MICHIGAN PORTFOLIO SERIES 3
3999	IM-01	SEARS	829951	SEARS MUNICIPAL TRUST MICHIGAN PORTFOLIO SERIES 4
4000	IM-01	SEARS	829953	SEARS MUNICIPAL TRUST MICHIGAN PORTFOLIO SERIES 6
4001	IM-01	SEARS	837126	SEARS MUNICIPAL TRUST MICHIGAN PORTFOLIO SERIES 7
4002	IM-01	SEARS	839373	SEARS MUNICIPAL TRUST MISSISSIPPI PORTFOLIO SERIES 1
4003	IM-01	SEARS	841573	SEARS MUNICIPAL TRUST MISSOURI PORTFOLIO SERIES 1
4004	IM-01	SEARS	760501	SEARS MUNICIPAL TRUST MULTI STATE PROG SER 14 CA MUN PORT 21
4005	IM-01	SEARS	720494	SEARS MUNICIPAL TRUST MULTI STATE PROGRAM SERIES 1
4006	IM-01	SEARS	749372	SEARS MUNICIPAL TRUST MULTI STATE PROGRAM SERIES 10
4007	IM-01	SEARS	751212	SEARS MUNICIPAL TRUST MULTI STATE PROGRAM SERIES 11
4008	IM-01	SEARS	756975	SEARS MUNICIPAL TRUST MULTI STATE PROGRAM SERIES 13
4009	IM-01	SEARS	760577	SEARS MUNICIPAL TRUST MULTIPLE MATURITY PROGRAM SERIES 13
4010	IM-01	SEARS	761243	SEARS MUNICIPAL TRUST MULTIPLE MATURITY PROGRAM SERIES 14
4011	IM-01	SEARS	753691	SEARS MUNICIPAL TRUST MULTIPLE MATURITY PROGRAM SERIES 8
4012	IM-01	SEARS	755668	SEARS MUNICIPAL TRUST MULTIPLE MATURITY PROGRAM SERIES 9
4013	IM-01	SEARS	840577	SEARS MUNICIPAL TRUST NEBRASKA PORTFOLIO SERIES 1
4014	IM-01	SEARS	840578	SEARS MUNICIPAL TRUST NEBRASKA PORTFOLIO SERIES 2
4015	IM-01	SEARS	840580	SEARS MUNICIPAL TRUST NEBRASKA PORTFOLIO SERIES 3
4016	IM-01	SEARS	844093	SEARS MUNICIPAL TRUST NEW HAMPSHIRE PORTFOLIO SERIES 1
4017	IM-01	SEARS	766356	SEARS MUNICIPAL TRUST NEW JERSEY PORTFOLIO SER 8
4018	IM-01	SEARS	826614	SEARS MUNICIPAL TRUST NEW JERSEY PORTFOLIO SERIES 10
4019	IM-01	SEARS	786144	SEARS MUNICIPAL TRUST NEW JERSEY PORTFOLIO SERIES 9
4020	IM-01	SEARS	860846	SEARS MUNICIPAL TRUST NEW MEXICO PORTFOLIO SERIES 1
4021	IM-01	SEARS	860416	SEARS MUNICIPAL TRUST NEW MEXICO PORTFOLIO SERIES 2
4022	IM-01	SEARS	819910	SEARS MUNICIPAL TRUST NEW YORK INTERM L/S TERM SERIES 1
4023	IM-01	SEARS	819911	SEARS MUNICIPAL TRUST NEW YORK INTERMEDIATE LONG TERM SER 2
4024	IM-01	SEARS	875293	SEARS MUNICIPAL TRUST NEW YORK INTERMEDIATE TERM SERIES 1
4025	IM-01	SEARS	866561	SEARS MUNICIPAL TRUST NEW YORK INTERMEDIATE TERM SERIES 2
4026	IM-01	SEARS	773646	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 16
4027	IM-01	SEARS	777351	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 17
4028	IM-01	SEARS	780429	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 18
4029	IM-01	SEARS	786145	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 19
4030	IM-01	SEARS	786146	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 20
4031	IM-01	SEARS	825257	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 21
4032	IM-01	SEARS	825258	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 22
4033	IM-01	SEARS	825259	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 23
4034	IM-01	SEARS	825260	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 24
4035	IM-01	SEARS	825261	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 25
4036	IM-01	SEARS	825262	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 26
4037	IM-01	SEARS	832270	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 27
4038	IM-01	SEARS	832272	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 28
4039	IM-01	SEARS	832274	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 29
4040	IM-01	SEARS	832276	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 30
4041	IM-01	SEARS	832278	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 31
4042	IM-01	SEARS	832279	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 32
4043	IM-01	SEARS	832280	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 33
4044	IM-01	SEARS	832282	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 34
4045	IM-01	SEARS	832284	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 35
4046	IM-01	SEARS	867268	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 36
4047	IM-01	SEARS	867270	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 37
4048	IM-01	SEARS	825250	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 38
4049	IM-01	SEARS	830756	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 39
4050	IM-01	SEARS	839564	SEARS MUNICIPAL TRUST NEW YORK PORTFOLIO SERIES 40
4051	IM-01	SEARS	835190	SEARS MUNICIPAL TRUST NORTH CAROLINA PORTFOLIO SERIES 1
4052	IM-01	SEARS	835199	SEARS MUNICIPAL TRUST NORTH CAROLINA PORTFOLIO SERIES 10
4053	IM-01	SEARS	835191	SEARS MUNICIPAL TRUST NORTH CAROLINA PORTFOLIO SERIES 2
4054	IM-01	SEARS	835192	SEARS MUNICIPAL TRUST NORTH CAROLINA PORTFOLIO SERIES 3
4055	IM-01	SEARS	835193	SEARS MUNICIPAL TRUST NORTH CAROLINA PORTFOLIO SERIES 4
4056	IM-01	SEARS	835194	SEARS MUNICIPAL TRUST NORTH CAROLINA PORTFOLIO SERIES 5
4057	IM-01	SEARS	835195	SEARS MUNICIPAL TRUST NORTH CAROLINA PORTFOLIO SERIES 6
4058	IM-01	SEARS	835196	SEARS MUNICIPAL TRUST NORTH CAROLINA PORTFOLIO SERIES 7
4059	IM-01	SEARS	835197	SEARS MUNICIPAL TRUST NORTH CAROLINA PORTFOLIO SERIES 8
4060	IM-01	SEARS	835198	SEARS MUNICIPAL TRUST NORTH CAROLINA PORTFOLIO SERIES 9
4061	IM-01	SEARS	828567	SEARS MUNICIPAL TRUST OHIO PORTFOLIO SERIES 1
4062	IM-01	SEARS	828568	SEARS MUNICIPAL TRUST OHIO PORTFOLIO SERIES 2
4063	IM-01	SEARS	828569	SEARS MUNICIPAL TRUST OHIO PORTFOLIO SERIES 3
4064	IM-01	SEARS	828570	SEARS MUNICIPAL TRUST OHIO PORTFOLIO SERIES 4
4065	IM-01	SEARS	828572	SEARS MUNICIPAL TRUST OHIO PORTFOLIO SERIES 5
4066	IM-01	SEARS	835202	SEARS MUNICIPAL TRUST OKLAHOMA PORTFOLIO SERIES 1
4067	IM-01	SEARS	835203	SEARS MUNICIPAL TRUST OKLAHOMA PORTFOLIO SERIES 2
4068	IM-01	SEARS	835204	SEARS MUNICIPAL TRUST OKLAHOMA PORTFOLIO SERIES 3
4069	IM-01	SEARS	838476	SEARS MUNICIPAL TRUST OREGON PORTFOLIO SERIES 2
4070	IM-01	SEARS	838477	SEARS MUNICIPAL TRUST OREGON PORTFOLIO SERIES 3
4071	IM-01	SEARS	825639	SEARS MUNICIPAL TRUST PENNSYLANIA PORTFOLIO SERIES 11

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
4072	IM-01	SEARS	875292	SEARS MUNICIPAL TRUST PENNSYLVANIA INTERMEDIATE TERM SER 1
4073	IM-01	SEARS	785315	SEARS MUNICIPAL TRUST PENNSYLVANIA PORTFOLIO SERIES 10
4074	IM-01	SEARS	825640	SEARS MUNICIPAL TRUST PENNSYLVANIA PORTFOLIO SERIES 12
4075	IM-01	SEARS	825652	SEARS MUNICIPAL TRUST PENNSYLVANIA PORTFOLIO SERIES 13
4076	IM-01	SEARS	825653	SEARS MUNICIPAL TRUST PENNSYLVANIA PORTFOLIO SERIES 14
4077	IM-01	SEARS	766552	SEARS MUNICIPAL TRUST PENNSYLVANIA PORTFOLIO SERIES 8
4078	IM-01	SEARS	766560	SEARS MUNICIPAL TRUST PENNSYLVANIA PORTFOLIO SERIES 9
4079	IM-01	SEARS	839563	SEARS MUNICIPAL TRUST PUERTO RICO PORTFOLIO SERIES 1
4080	IM-01	SEARS	846355	SEARS MUNICIPAL TRUST RHODE ISLAND PORTFOLIO SERIES 1
4081	IM-01	SEARS	838492	SEARS MUNICIPAL TRUST SOUTH CAROLINA PORTFOLIO SERIES 1
4082	IM-01	SEARS	836493	SEARS MUNICIPAL TRUST SOUTH CAROLINA PORTFOLIO SERIES 2
4083	IM-01	SEARS	853170	SEARS MUNICIPAL TRUST TENNESSEE PORTFOLIO SERIES 1
4084	IM-01	SEARS	853171	SEARS MUNICIPAL TRUST TENNESSEE PORTFOLIO SERIES 2
4085	IM-01	SEARS	853173	SEARS MUNICIPAL TRUST TENNESSEE PORTFOLIO SERIES 4
4086	IM-01	SEARS	844081	SEARS MUNICIPAL TRUST TENNESSEE PORTFOLIO SERIES 5
4087	IM-01	SEARS	878878	SEARS MUNICIPAL TRUST TENNESSEE PORTFOLIO SERIES 6
4088	IM-01	SEARS	878880	SEARS MUNICIPAL TRUST TENNESSEE PORTFOLIO SERIES 7
4089	IM-01	SEARS	819904	SEARS MUNICIPAL TRUST TEXAS PORTFOLIO SERIES 1
4090	IM-01	SEARS	874635	SEARS MUNICIPAL TRUST TEXAS PORTFOLIO SERIES 10
4091	IM-01	SEARS	836515	SEARS MUNICIPAL TRUST TEXAS PORTFOLIO SERIES 11
4092	IM-01	SEARS	870877	SEARS MUNICIPAL TRUST TEXAS PORTFOLIO SERIES 12
4093	IM-01	SEARS	879879	SEARS MUNICIPAL TRUST TEXAS PORTFOLIO SERIES 13
4094	IM-01	SEARS	819905	SEARS MUNICIPAL TRUST TEXAS PORTFOLIO SERIES 2
4095	IM-01	SEARS	819906	SEARS MUNICIPAL TRUST TEXAS PORTFOLIO SERIES 3
4096	IM-01	SEARS	826541	SEARS MUNICIPAL TRUST TEXAS PORTFOLIO SERIES 4
4097	IM-01	SEARS	826543	SEARS MUNICIPAL TRUST TEXAS PORTFOLIO SERIES 6
4098	IM-01	SEARS	826544	SEARS MUNICIPAL TRUST TEXAS PORTFOLIO SERIES 7
4099	IM-01	SEARS	840925	SEARS MUNICIPAL TRUST VERMONT PORTFOLIO SERIES 2
4100	IM-01	SEARS	840926	SEARS MUNICIPAL TRUST VERMONT PORTFOLIO SERIES 3
4101	IM-01	SEARS	825607	SEARS MUNICIPAL TRUST VIRGINIA PORTFOLIO SERIES 13
4102	IM-01	SEARS	825608	SEARS MUNICIPAL TRUST VIRGINIA PORTFOLIO SERIES 14
4103	IM-01	SEARS	825609	SEARS MUNICIPAL TRUST VIRGINIA PORTFOLIO SERIES 15
4104	IM-01	SEARS	838526	SEARS MUNICIPAL TRUST WASHINGTON PORTFOLIO SERIES 1
4105	IM-01	SEARS	825615	SEARS MUNICIPAL TRUST NEW JERSEY PORTFOLIO SERIES 11
4106	IM-01	SEARS	838549	SEARS TAX EXEMPT INVESTMENT TR CONNECTICUT MUN PORT SER 2
4107	IM-01	SEARS	716270	SEARS TAX EXEMPT INVESTMENT TRUST
4108	IM-01	SEARS	830764	SEARS TAX EXEMPT INVESTMENT TRUST HIGH YIELD PORT SER 1
4109	IM-01	SEARS	785110	SEARS TAX EXEMPT INVESTMENT TRUST INSURED CALIFORNIA SE[illegible] 24
4110	IM-01	SEARS	785115	SEARS TAX EXEMPT INVESTMENT TRUST INSURED CALIFORNIA S[illegible] 29
4111	IM-01	SEARS	756937	SEARS TAX EXEMPT INVESTMENT TRUST INSURED CALIFORNIA SER 9
4112	IM-01	SEARS	840909	SEARS TAX EXEMPT INVESTMENT TRUST INSURED FLORIDA SER 5
4113	IM-01	SEARS	791898	SEARS TAX EXEMPT INVESTMENT TRUST INSURED LONG TERM SER 27
4114	IM-01	SEARS	835607	SEARS TAX EXEMPT INVESTMENT TRUST INSURED NEW JERSEY SER 7
4115	IM-01	SEARS	872085	SEARS TAX EXEMPT INVESTMENT TRUST LONG TERM MUN PORT SER 109
4116	IM-01	SEARS	836182	SEARS TAX EXEMPT INVESTMENT TRUST LOUISIANA MUN PORT SER 3
4117	IM-01	SEARS	826559	SEARS TAX EXEMPT INVESTMENT TRUST MINNESOTA MUN PORT SER 1
4118	IM-01	SEARS	797703	SEARS TAX EXEMPT INVESTMENT TRUST SHORT TERM MUN PORT SER 31
4119	IM-01	SEARS	853172	SEARS TAX EXEMPT INVESTMENT TRUST TENNESSEE MUN PORT SER 3
4120	IM-01	SEARS	740610	SEARS TAX EXEMPT INVT TR FIN GUAR INS CO INSURED CA SER 4
4121	IM-01	SEARS	740318	SEARS TAX EXEMPT INVT TR FINL GUA INS CO INS CA SER 2
4122	IM-01	SEARS	766556	SEARS TAX EXEMPT INVT TR VIRGINIA MUN PORTFOLIO SERIES 8
4123	IM-01	SEARS	826542	SEARS MUNICIPAL TRUST TEXAS PORTFOLIO SERIES 5
4124	IM-01	SEARS	107930	WITTER DEAN TAX EXEMPT TRUST FIRST SERIES
4125	IM-02	BEAR STEARNS	872177	INSURED MUN SEC TR 51ST D S S27 NY NAV IN S 7 & NJ NAV I S 4
4126	IM-02	BEAR STEARNS	877573	INSURED MUN SEC TR NEW YORK NAV INS SER 9 & NJ NAV INS SER 6
4127	IM-02	BEAR STEARNS	875747	INSURED MUN SEC TR NY NAV INS SER 8 NJ NAV INS SER 5
4128	IM-02	BEAR STEARNS	895776	INSURED MUN SEC TR SE 31 NY NAV INS SE 13 & NJ NAV INS SE 9
4129	IM-02	BEAR STEARNS	866536	INSURED MUN SEC TR SERS 25 & NY NAVIGATOR INSURED SERIES 4
4130	IM-02	BEAR STEARNS	882444	INSURED MUNICIPAL SECURIT SE 23 NY NA IN SE 10 NJ NA IN SE 7
4131	IM-02	BEAR STEARNS	892871	INSURED MUNICIPAL SECURITIES TRUS SER 30 & NY NAV INS SER 12
4132	IM-02	BEAR STEARNS	776007	INSURED MUNICIPAL SECURITIES TRUST 14TH DISCOUNT SERIES
4133	IM-02	BEAR STEARNS	889241	INSURED MUNICIPAL SECURITIES TRUST NEW YORK NAVIG INS SER 6
4134	IM-02	BEAR STEARNS	884185	INSURED MUNICIPALS SEC TR SE 29 NY NA IN SE 11 NJ NA IN SE 8
4135	IM-02	BEAR STEARNS	876878	MORTGAGE SECURITIES TRUST CMO SERIES 5
4136	IM-02	BEAR STEARNS	884140	MORTGAGE SECURITIES TRUST CMO SERIES 9
4137	IM-02	BEAR STEARNS	888123	MORTGAGE SECURITIES TRUST CMO SERIES 10
4138	IM-02	BEAR STEARNS	889317	MORTGAGE SECURITIES TRUST CMO SERIES 11
4139	IM-02	BEAR STEARNS	892540	MORTGAGE SECURITIES TRUST CMO SERIES 12
4140	IM-02	BEAR STEARNS	869543	MORTGAGE SECURITIES TRUST CMO SERIES 2
4141	IM-02	BEAR STEARNS	873833	MORTGAGE SECURITIES TRUST CMO SERIES 3
4142	IM-02	BEAR STEARNS	874502	MORTGAGE SECURITIES TRUST CMO SERIES 4
4143	IM-02	BEAR STEARNS	878555	MORTGAGE SECURITIES TRUST CMO SERIES 6
4144	IM-02	BEAR STEARNS	880871	MORTGAGE SECURITIES TRUST CMO SERIES 7
4145	IM-02	BEAR STEARNS	882198	MORTGAGE SECURITIES TRUST CMO SERIES 8
4146	IM-02	BEAR STEARNS	886753	MORTGAGE SECURITIES TRUST CMO SERIES I
4147	IM-02	BEAR STEARNS	778414	MUNICIPAL SEC TR HIGH INC SER 1 HIGH INC SERS 5 6 7 8 & 9
4148	IM-02	BEAR STEARNS	866766	MUNICIPAL SEC TR MULTI STATE SER 40 SER 49 & 77TH DISCOUNT S
4149	IM-02	BEAR STEARNS	893666	MUNICIPAL SECURITIES SERIES 53 & MULTI STATE SERIES 42
4150	IM-02	BEAR STEARNS	784850	MUNICIPAL SECURITIES TR SER 30 & 41ST DISCOUNT SERIES
4151	IM-02	BEAR STEARNS	351512	MUNICIPAL SECURITIES TRUST SERIES 9
4152	IM-02	BEAR STEARNS	711774	MUNICIPAL SECURITIES TRUST 10TH DISCOUNT SERIES
4153	IM-02	BEAR STEARNS	715799	MUNICIPAL SECURITIES TRUST 12TH DISCOUNT SERIES

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
4154	IM-02	BEAR STEARNS	718453	MUNICIPAL SECURITIES TRUST 14TH DISCOUNT SERIES
4155	IM-02	BEAR STEARNS	726470	MUNICIPAL SECURITIES TRUST 15TH DISCOUNT SERIES
4156	IM-02	BEAR STEARNS	732671	MUNICIPAL SECURITIES TRUST 18TH DISCOUNT SERIES
4157	IM-02	BEAR STEARNS	735353	MUNICIPAL SECURITIES TRUST 19TH DISCOUNT SERIES
4158	IM-02	BEAR STEARNS	355440	MUNICIPAL SECURITIES TRUST 1ST DISCOUNT SERIES
4159	IM-02	BEAR STEARNS	737922	MUNICIPAL SECURITIES TRUST 21ST DISCOUNT SERIES
4160	IM-02	BEAR STEARNS	747545	MUNICIPAL SECURITIES TRUST 23 & 25TH DISCOUNT SERIES
4161	IM-02	BEAR STEARNS	743370	MUNICIPAL SECURITIES TRUST 23RD DISCOUNT SERIES
4162	IM-02	BEAR STEARNS	744730	MUNICIPAL SECURITIES TRUST 24TH DISCOUNT SERIES
4163	IM-02	BEAR STEARNS	749501	MUNICIPAL SECURITIES TRUST 26TH DISCOUNT SERIES
4164	IM-02	BEAR STEARNS	751576	MUNICIPAL SECURITIES TRUST 28TH DISCOUNT SERIES
4165	IM-02	BEAR STEARNS	752422	MUNICIPAL SECURITIES TRUST 29TH DISCOUNT SERIES
4166	IM-02	BEAR STEARNS	757492	MUNICIPAL SECURITIES TRUST 31ST DISCOUNT SERIES
4167	IM-02	BEAR STEARNS	760561	MUNICIPAL SECURITIES TRUST 32ND DISCOUNT SERIES
4168	IM-02	BEAR STEARNS	762136	MUNICIPAL SECURITIES TRUST 33RD DISCOUNT SERIES
4169	IM-02	BEAR STEARNS	764023	MUNICIPAL SECURITIES TRUST 34TH DISCOUNT SERIES
4170	IM-02	BEAR STEARNS	769743	MUNICIPAL SECURITIES TRUST 37TH DISCOUNT SERIES
4171	IM-02	BEAR STEARNS	777622	MUNICIPAL SECURITIES TRUST 39TH DISCOUNT SERIES
4172	IM-02	BEAR STEARNS	841718	MUNICIPAL SECURITIES TRUST 40 AND 68TH DISCOUNT SERIES
4173	IM-02	BEAR STEARNS	791031	MUNICIPAL SECURITIES TRUST 44TH DISCOUNT SERIES
4174	IM-02	BEAR STEARNS	792882	MUNICIPAL SECURITIES TRUST 45TH DISCOUNT SERIES
4175	IM-02	BEAR STEARNS	796488	MUNICIPAL SECURITIES TRUST 47TH DISCOUNT SERIES
4176	IM-02	BEAR STEARNS	799697	MUNICIPAL SECURITIES TRUST 49TH DISCOUNT SERIES
4177	IM-02	BEAR STEARNS	804982	MUNICIPAL SECURITIES TRUST 51ST DISCOUNT SERIES
4178	IM-02	BEAR STEARNS	806629	MUNICIPAL SECURITIES TRUST 52ND DISCOUNT SERIES
4179	IM-02	BEAR STEARNS	809337	MUNICIPAL SECURITIES TRUST 54TH DISCOUNT SERIES
4180	IM-02	BEAR STEARNS	811033	MUNICIPAL SECURITIES TRUST 56TH DISCOUNT SERIES
4181	IM-02	BEAR STEARNS	815099	MUNICIPAL SECURITIES TRUST 57TH DISCOUNT SERIES
4182	IM-02	BEAR STEARNS	818095	MUNICIPAL SECURITIES TRUST 58TH DISCOUNT SERIES
4183	IM-02	BEAR STEARNS	819542	MUNICIPAL SECURITIES TRUST 59TH DISCOUNT SERIES
4184	IM-02	BEAR STEARNS	824211	MUNICIPAL SECURITIES TRUST 60TH DISCOUNT SERIES
4185	IM-02	BEAR STEARNS	826203	MUNICIPAL SECURITIES TRUST 61ST DISCOUNT SERIES
4186	IM-02	BEAR STEARNS	826706	MUNICIPAL SECURITIES TRUST 62ND DISCOUNT SERIES
4187	IM-02	BEAR STEARNS	828630	MUNICIPAL SECURITIES TRUST 63RD DISCOUNT SERIES
4188	IM-02	BEAR STEARNS	829811	MUNICIPAL SECURITIES TRUST 64TH DISCOUNT SERIES
4189	IM-02	BEAR STEARNS	831965	MUNICIPAL SECURITIES TRUST 65TH DISCOUNT SERIES
4190	IM-02	BEAR STEARNS	705456	MUNICIPAL SECURITIES TRUST 6TH DISCOUNT SERIES
4191	IM-02	BEAR STEARNS	706482	MUNICIPAL SECURITIES TRUST 8TH DISCOUNT SERIES
4192	IM-02	BEAR STEARNS	700962	MUNICIPAL SECURITIES TRUST FOURTH DISCOUNT SERIES
4193	IM-02	BEAR STEARNS	783997	MUNICIPAL SECURITIES TRUST HIGH INCOME SER 2
4194	IM-02	BEAR STEARNS	807206	MUNICIPAL SECURITIES TRUST HIGH INCOME SERIES 10
4195	IM-02	BEAR STEARNS	809798	MUNICIPAL SECURITIES TRUST HIGH INCOME SERIES 11
4196	IM-02	BEAR STEARNS	811693	MUNICIPAL SECURITIES TRUST HIGH INCOME SERIES 12
4197	IM-02	BEAR STEARNS	818982	MUNICIPAL SECURITIES TRUST HIGH INCOME SERIES 13
4198	IM-02	BEAR STEARNS	788158	MUNICIPAL SECURITIES TRUST HIGH INCOME SERIES 3
4199	IM-02	BEAR STEARNS	790043	MUNICIPAL SECURITIES TRUST HIGH INCOME SERIES 4
4200	IM-02	BEAR STEARNS	793706	MUNICIPAL SECURITIES TRUST HIGH INCOME SERIES 5
4201	IM-02	BEAR STEARNS	798136	MUNICIPAL SECURITIES TRUST HIGH INCOME SERIES 6
4202	IM-02	BEAR STEARNS	799693	MUNICIPAL SECURITIES TRUST HIGH INCOME SERIES 7
4203	IM-02	BEAR STEARNS	802900	MUNICIPAL SECURITIES TRUST HIGH INCOME SERIES 8
4204	IM-02	BEAR STEARNS	805302	MUNICIPAL SECURITIES TRUST HIGH INCOME SERIES 9
4205	IM-02	BEAR STEARNS	356091	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 1
4206	IM-02	BEAR STEARNS	760602	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 10
4207	IM-02	BEAR STEARNS	761234	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 11
4208	IM-02	BEAR STEARNS	764243	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 12
4209	IM-02	BEAR STEARNS	766230	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 13
4210	IM-02	BEAR STEARNS	768767	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 14
4211	IM-02	BEAR STEARNS	770091	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 15
4212	IM-02	BEAR STEARNS	774425	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 16
4213	IM-02	BEAR STEARNS	777494	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 17
4214	IM-02	BEAR STEARNS	783405	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 18
4215	IM-02	BEAR STEARNS	786769	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 19
4216	IM-02	BEAR STEARNS	744449	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 2
4217	IM-02	BEAR STEARNS	788912	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 20
4218	IM-02	BEAR STEARNS	790494	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 21
4219	IM-02	BEAR STEARNS	791901	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 22
4220	IM-02	BEAR STEARNS	793574	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 23
4221	IM-02	BEAR STEARNS	796287	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 24
4222	IM-02	BEAR STEARNS	799067	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 25
4223	IM-02	BEAR STEARNS	812849	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 26
4224	IM-02	BEAR STEARNS	816226	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 27
4225	IM-02	BEAR STEARNS	824613	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 28
4226	IM-02	BEAR STEARNS	830976	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 29
4227	IM-02	BEAR STEARNS	745882	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 3
4228	IM-02	BEAR STEARNS	833119	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 30
4229	IM-02	BEAR STEARNS	837484	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 31
4230	IM-02	BEAR STEARNS	842451	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 32
4231	IM-02	BEAR STEARNS	843498	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 33
4232	IM-02	BEAR STEARNS	845522	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 34
4233	IM-02	BEAR STEARNS	846672	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 35
4234	IM-02	BEAR STEARNS	849397	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 36
4235	IM-02	BEAR STEARNS	851739	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 37

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
4236	IM-02	BEAR STEARNS	853008	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 38
4237	IM-02	BEAR STEARNS	861058	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 39
4238	IM-02	BEAR STEARNS	749074	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 4
4239	IM-02	BEAR STEARNS	751198	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 5
4240	IM-02	BEAR STEARNS	752358	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 6
4241	IM-02	BEAR STEARNS	755879	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 7
4242	IM-02	BEAR STEARNS	757769	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 8
4243	IM-02	BEAR STEARNS	759245	MUNICIPAL SECURITIES TRUST MULTI STATE SERIES 9
4244	IM-02	BEAR STEARNS	355836	MUNICIPAL SECURITIES TRUST SECOND DISCOUNT SERIES
4245	IM-02	BEAR STEARNS	276896	MUNICIPAL SECURITIES TRUST SERIES 1
4246	IM-02	BEAR STEARNS	352417	MUNICIPAL SECURITIES TRUST SERIES 10
4247	IM-02	BEAR STEARNS	353064	MUNICIPAL SECURITIES TRUST SERIES 11
4248	IM-02	BEAR STEARNS	353898	MUNICIPAL SECURITIES TRUST SERIES 12
4249	IM-02	BEAR STEARNS	701821	MUNICIPAL SECURITIES TRUST SERIES 13
4250	IM-02	BEAR STEARNS	702774	MUNICIPAL SECURITIES TRUST SERIES 14 & 5TH DISCOUNT SERIES
4251	IM-02	BEAR STEARNS	705458	MUNICIPAL SECURITIES TRUST SERIES 15 & 7TH DISCOUNT SERIES
4252	IM-02	BEAR STEARNS	707902	MUNICIPAL SECURITIES TRUST SERIES 16 & 9TH DISCOUNT SERIES
4253	IM-02	BEAR STEARNS	714564	MUNICIPAL SECURITIES TRUST SERIES 17 & 11TH DISCOUNT SERIES
4254	IM-02	BEAR STEARNS	715798	MUNICIPAL SECURITIES TRUST SERIES 18 & 13TH DISCOUNT SERIES
4255	IM-02	BEAR STEARNS	718439	MUNICIPAL SECURITIES TRUST SERIES 19 & 15TH DISCOUNT SERIES
4256	IM-02	BEAR STEARNS	310188	MUNICIPAL SECURITIES TRUST SERIES 2
4257	IM-02	BEAR STEARNS	730611	MUNICIPAL SECURITIES TRUST SERIES 20 & 17TH DISCOUNT SERIES
4258	IM-02	BEAR STEARNS	737025	MUNICIPAL SECURITIES TRUST SERIES 21 & 20TH DISCOUNT SERIES
4259	IM-02	BEAR STEARNS	740965	MUNICIPAL SECURITIES TRUST SERIES 22 & 22ND DISCOUNT SERIES
4260	IM-02	BEAR STEARNS	750716	MUNICIPAL SECURITIES TRUST SERIES 24 & 27TH DISCOUNT SERIES
4261	IM-02	BEAR STEARNS	754035	MUNICIPAL SECURITIES TRUST SERIES 25 & 30TH DISCOUNT SERIES
4262	IM-02	BEAR STEARNS	766035	MUNICIPAL SECURITIES TRUST SERIES 26 & 35TH DISCOUNT SERIES
4263	IM-02	BEAR STEARNS	768303	MUNICIPAL SECURITIES TRUST SERIES 27 & 36TH DISCOUNT SERIES
4264	IM-02	BEAR STEARNS	773019	MUNICIPAL SECURITIES TRUST SERIES 28 & 38TH DISCOUNT SERIES
4265	IM-02	BEAR STEARNS	779237	MUNICIPAL SECURITIES TRUST SERIES 29 & 40TH DISCOUNT SERIES
4266	IM-02	BEAR STEARNS	313739	MUNICIPAL SECURITIES TRUST SERIES 3
4267	IM-02	BEAR STEARNS	787511	MUNICIPAL SECURITIES TRUST SERIES 31 & 42ND DISCOUNT SERIES
4268	IM-02	BEAR STEARNS	790018	MUNICIPAL SECURITIES TRUST SERIES 32 & 43RD DISCOUNT SERIES
4269	IM-02	BEAR STEARNS	792450	MUNICIPAL SECURITIES TRUST SERIES 33 & 46TH DISCOUNT SERIES
4270	IM-02	BEAR STEARNS	797643	MUNICIPAL SECURITIES TRUST SERIES 34 & 48TH DISCOUNT SERIES
4271	IM-02	BEAR STEARNS	801327	MUNICIPAL SECURITIES TRUST SERIES 35 & 50TH DISCOUNT SERIES
4272	IM-02	BEAR STEARNS	808243	MUNICIPAL SECURITIES TRUST SERIES 36 & 53RD DISCOUNT SERIES
4273	IM-02	BEAR STEARNS	810671	MUNICIPAL SECURITIES TRUST SERIES 37 & 55TH DISCOUNT SERIES
4274	IM-02	BEAR STEARNS	832575	MUNICIPAL SECURITIES TRUST SERIES 38 & 66TH DISCOUNT SERIES
4275	IM-02	BEAR STEARNS	838541	MUNICIPAL SECURITIES TRUST SERIES 39 & 67TH DISCOUNT SERIES
4276	IM-02	BEAR STEARNS	317700	MUNICIPAL SECURITIES TRUST SERIES 4
4277	IM-02	BEAR STEARNS	844421	MUNICIPAL SECURITIES TRUST SERIES 41 & 69 DISCOUNT SERIES
4278	IM-02	BEAR STEARNS	845556	MUNICIPAL SECURITIES TRUST SERIES 42 & 70TH DISCOUNT SERIES
4279	IM-02	BEAR STEARNS	846673	MUNICIPAL SECURITIES TRUST SERIES 43 & 71ST DISCOUNT SER
4280	IM-02	BEAR STEARNS	849266	MUNICIPAL SECURITIES TRUST SERIES 44 & 72ND DISCOUNT SERIES
4281	IM-02	BEAR STEARNS	851949	MUNICIPAL SECURITIES TRUST SERIES 45 & 73RD DISCOUNT SERIES
4282	IM-02	BEAR STEARNS	853595	MUNICIPAL SECURITIES TRUST SERIES 46 & 74TH DISCOUNT SER
4283	IM-02	BEAR STEARNS	863446	MUNICIPAL SECURITIES TRUST SERIES 48 & 76TH DISCOUNT SERIES
4284	IM-02	BEAR STEARNS	318015	MUNICIPAL SECURITIES TRUST SERIES 5
4285	IM-02	BEAR STEARNS	872002	MUNICIPAL SECURITIES TRUST SERIES 50 & 78TH DISCOUNT SERIES
4286	IM-02	BEAR STEARNS	874821	MUNICIPAL SECURITIES TRUST SERIES 51 & 79TH DISCOUNT SER
4287	IM-02	BEAR STEARNS	878643	MUNICIPAL SECURITIES TRUST SERIES 52 & MULTI STATE SERIES 41
4288	IM-02	BEAR STEARNS	895431	MUNICIPAL SECURITIES TRUST SERIES 54 & MULTI STATE SERIES 43
4289	IM-02	BEAR STEARNS	318525	MUNICIPAL SECURITIES TRUST SERIES 6
4290	IM-02	BEAR STEARNS	319451	MUNICIPAL SECURITIES TRUST SERIES 7
4291	IM-02	BEAR STEARNS	350096	MUNICIPAL SECURITIES TRUST SERIES 8
4292	IM-02	BEAR STEARNS	845774	MUNICIPAL SECURITIES TRUST SHORT INTERMEDIATE TERM SERIES 1
4293	IM-02	BEAR STEARNS	852287	MUNICIPAL SECURITIES TRUST SHORT INTERMEDIATE TERM SERIES 2
4294	IM-02	BEAR STEARNS	711720	MUNICIPAL SECURITIES TRUST TENTH DISCOUNT SERIES
4295	IM-02	BEAR STEARNS	356372	MUNICIPAL SECURITIES TRUST THIRD DISCOUNT SERIES
4296	IM-02	GLICKENHAUS	774550	EMPIRE ST MUN EXE TR SER 69 & EMPIRE ST MUN EXE TR GUAR SE 1
4297	IM-02	GLICKENHAUS	778204	EMPIRE STATE MUN EXEMPT TRU SER 71 & GUARANTEED INTERM SER 1
4298	IM-02	GLICKENHAUS	794144	EMPIRE STATE MUN EXEMPT TRUS GUARANTEED SERIES 25 26 27 & 28
4299	IM-02	GLICKENHAUS	779130	EMPIRE STATE MUN EXEMPT TRUST GUARANTEED SER 18 19 20 & 21
4300	IM-02	GLICKENHAUS	779132	EMPIRE STATE MUN EXEMPT TRUST GUARANTEED SER 22 & SER 70
4301	IM-02	GLICKENHAUS	827686	EMPIRE STATE MUN EXEMPT TRUST GUARANTEED SER 35
4302	IM-02	GLICKENHAUS	858427	EMPIRE STATE MUN EXEMPT TRUST GUARANTEED SER 51 52 53 & 54
4303	IM-02	GLICKENHAUS	748547	EMPIRE STATE MUN EXEMPT TRUST SER 61 62 63 64 & 65
4304	IM-02	GLICKENHAUS	743137	EMPIRE STATE MUN EXEMPT TRUST SERIES 56 57 58 59 & 60
4305	IM-02	GLICKENHAUS	804688	EMPIRE STATE MUNICIPAL EXEMPT TR GUARANTEED SERIES 37 & 38
4306	IM-02	GLICKENHAUS	763615	EMPIRE STATE MUNICIPAL EXEMPT TR GUARANTEED SERS 4 5 6 7 & 8
4307	IM-02	GLICKENHAUS	849391	EMPIRE STATE MUNICIPAL EXEMPT TRT GUARANTEED SERS 45 46 &47
4308	IM-02	GLICKENHAUS	732777	EMPIRE STATE MUNICIPAL EXEMPT TRT GUARANTEED SERS 55 56 & 57
4309	IM-02	GLICKENHAUS	810908	EMPIRE STATE MUNICIPAL EXEMPT TRUST EMPIRE MAXIMUS AMT SER A
4310	IM-02	GLICKENHAUS	790143	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SER 23 & 24
4311	IM-02	GLICKENHAUS	794143	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SER 29 & 30
4312	IM-02	GLICKENHAUS	845519	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SER 44
4313	IM-02	GLICKENHAUS	864321	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SER 60 & 61
4314	IM-02	GLICKENHAUS	744495	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 1
4315	IM-02	GLICKENHAUS	765233	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 10
4316	IM-02	GLICKENHAUS	766839	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 11
4317	IM-02	GLICKENHAUS	766506	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 12

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
4318	IM–02	GLICKENHAUS	768607	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 13
4319	IM–02	GLICKENHAUS	770954	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 14
4320	IM–02	GLICKENHAUS	770956	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 15
4321	IM–02	GLICKENHAUS	771016	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 16
4322	IM–02	GLICKENHAUS	774551	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 18
4323	IM–02	GLICKENHAUS	775976	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 19
4324	IM–02	GLICKENHAUS	753129	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 2
4325	IM–02	GLICKENHAUS	775992	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 20
4326	IM–02	GLICKENHAUS	779133	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 23
4327	IM–02	GLICKENHAUS	790155	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 25
4328	IM–02	GLICKENHAUS	790156	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 26
4329	IM–02	GLICKENHAUS	794146	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 27
4330	IM–02	GLICKENHAUS	794145	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 29
4331	IM–02	GLICKENHAUS	753128	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 3
4332	IM–02	GLICKENHAUS	807962	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 31
4333	IM–02	GLICKENHAUS	807997	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 32
4334	IM–02	GLICKENHAUS	808000	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 33
4335	IM–02	GLICKENHAUS	807998	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 34
4336	IM–02	GLICKENHAUS	827887	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 36
4337	IM–02	GLICKENHAUS	827888	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 37
4338	IM–02	GLICKENHAUS	834892	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 39
4339	IM–02	GLICKENHAUS	755881	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 4
4340	IM–02	GLICKENHAUS	834894	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 40
4341	IM–02	GLICKENHAUS	840594	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 41
4342	IM–02	GLICKENHAUS	840593	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 42
4343	IM–02	GLICKENHAUS	840576	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 43
4344	IM–02	GLICKENHAUS	845520	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 45
4345	IM–02	GLICKENHAUS	845521	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 46
4346	IM–02	GLICKENHAUS	849398	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 48
4347	IM–02	GLICKENHAUS	849387	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 49
4348	IM–02	GLICKENHAUS	757701	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 5
4349	IM–02	GLICKENHAUS	853384	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 50
4350	IM–02	GLICKENHAUS	853381	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 51
4351	IM–02	GLICKENHAUS	853387	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 52
4352	IM–02	GLICKENHAUS	858428	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 53
4353	IM–02	GLICKENHAUS	858426	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 55
4354	IM–02	GLICKENHAUS	893910	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 58
4355	IM–02	GLICKENHAUS	864320	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 59
4356	IM–02	GLICKENHAUS	760726	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 6
4357	IM–02	GLICKENHAUS	864319	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 60
4358	IM–02	GLICKENHAUS	867913	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 62
4359	IM–02	GLICKENHAUS	867912	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 63
4360	IM–02	GLICKENHAUS	884569	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 64
4361	IM–02	GLICKENHAUS	869748	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 65
4362	IM–02	GLICKENHAUS	869746	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 66
4363	IM–02	GLICKENHAUS	869747	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 67
4364	IM–02	GLICKENHAUS	871233	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 68
4365	IM–02	GLICKENHAUS	871232	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 69
4366	IM–02	GLICKENHAUS	761918	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 7
4367	IM–02	GLICKENHAUS	871231	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 70
4368	IM–02	GLICKENHAUS	872243	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 71
4369	IM–02	GLICKENHAUS	872246	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 72
4370	IM–02	GLICKENHAUS	872255	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 73
4371	IM–02	GLICKENHAUS	873555	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 74
4372	IM–02	GLICKENHAUS	873535	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 75
4373	IM–02	GLICKENHAUS	873557	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 76
4374	IM–02	GLICKENHAUS	877581	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 77
4375	IM–02	GLICKENHAUS	877599	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 78
4376	IM–02	GLICKENHAUS	877598	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 79
4377	IM–02	GLICKENHAUS	882106	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 80
4378	IM–02	GLICKENHAUS	882108	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 81
4379	IM–02	GLICKENHAUS	882107	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 82
4380	IM–02	GLICKENHAUS	883835	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 83
4381	IM–02	GLICKENHAUS	883832	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 84
4382	IM–02	GLICKENHAUS	883830	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 85
4383	IM–02	GLICKENHAUS	888224	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 86
4384	IM–02	GLICKENHAUS	888229	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 87
4385	IM–02	GLICKENHAUS	888225	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 88
4386	IM–02	GLICKENHAUS	891184	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 89
4387	IM–02	GLICKENHAUS	764393	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 9
4388	IM–02	GLICKENHAUS	891182	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 91
4389	IM–02	GLICKENHAUS	894051	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 92
4390	IM–02	GLICKENHAUS	894053	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 93
4391	IM–02	GLICKENHAUS	894052	EMPIRE STATE MUNICIPAL EXEMPT TRUST GUARANTEED SERIES 94
4392	IM–02	GLICKENHAUS	867914	EMPIRE STATE MUNICIPAL EXEMPT TRUST GURANTEED SERIES 84
4393	IM–02	GLICKENHAUS	891283	EMPIRE STATE MUNICIPAL EXEMPT TRUST GURANTEED SERIES 90
4394	IM–02	GLICKENHAUS	277618	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 10
4395	IM–02	GLICKENHAUS	312214	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 10 11 12 13 & 14
4396	IM–02	GLICKENHAUS	310166	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 11
4397	IM–02	GLICKENHAUS	310873	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 12
4398	IM–02	GLICKENHAUS	311415	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 13
4399	IM–02	GLICKENHAUS	315732	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 15 16 17 18 & 19

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
4400	IM-02	GLICKENHAUS	314376	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 17
4401	IM-02	GLICKENHAUS	314863	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 18
4402	IM-02	GLICKENHAUS	316549	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 21
4403	IM-02	GLICKENHAUS	317251	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 22
4404	IM-02	GLICKENHAUS	318007	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 23
4405	IM-02	GLICKENHAUS	319128	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 24
4406	IM-02	GLICKENHAUS	352272	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 26
4407	IM-02	GLICKENHAUS	353122	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 27
4408	IM-02	GLICKENHAUS	353486	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 28
4409	IM-02	GLICKENHAUS	353485	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 29
4410	IM-02	GLICKENHAUS	354881	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 30
4411	IM-02	GLICKENHAUS	356147	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 31
4412	IM-02	GLICKENHAUS	700919	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 32
4413	IM-02	GLICKENHAUS	701269	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 33
4414	IM-02	GLICKENHAUS	702158	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 34
4415	IM-02	GLICKENHAUS	703102	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 35
4416	IM-02	GLICKENHAUS	703103	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 36
4417	IM-02	GLICKENHAUS	704602	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 37
4418	IM-02	GLICKENHAUS	704601	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 38
4419	IM-02	GLICKENHAUS	706124	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 39
4420	IM-02	GLICKENHAUS	706238	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 40
4421	IM-02	GLICKENHAUS	707121	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 41
4422	IM-02	GLICKENHAUS	707901	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 42
4423	IM-02	GLICKENHAUS	709147	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 43
4424	IM-02	GLICKENHAUS	710754	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 44
4425	IM-02	GLICKENHAUS	712156	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 45
4426	IM-02	GLICKENHAUS	714543	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 46
4427	IM-02	GLICKENHAUS	715775	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 47
4428	IM-02	GLICKENHAUS	716828	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 48
4429	IM-02	GLICKENHAUS	717563	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 49
4430	IM-02	GLICKENHAUS	718436	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 50
4431	IM-02	GLICKENHAUS	719450	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 51
4432	IM-02	GLICKENHAUS	721401	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 52
4433	IM-02	GLICKENHAUS	724202	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 53
4434	IM-02	GLICKENHAUS	726577	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 54
4435	IM-02	GLICKENHAUS	729585	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 55
4436	IM-02	GLICKENHAUS	731858	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 56
4437	IM-02	GLICKENHAUS	737770	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 58
4438	IM-02	GLICKENHAUS	740202	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 59
4439	IM-02	GLICKENHAUS	743879	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 61
4440	IM-02	GLICKENHAUS	744732	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 62
4441	IM-02	GLICKENHAUS	745899	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 63
4442	IM-02	GLICKENHAUS	746872	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 64
4443	IM-02	GLICKENHAUS	750704	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 66
4444	IM-02	GLICKENHAUS	761894	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 66 67 68 & 69
4445	IM-02	GLICKENHAUS	753080	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 67
4446	IM-02	GLICKENHAUS	778203	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERIES 70
4447	IM-02	GLICKENHAUS	351144	EMPIRE STATE MUNICIPAL EXEMPT TRUST SERS 20 21 22 23 24 & 25
4448	IM-02	IDS	768836	IDS LIFE VARIABLE LIFE SEPARATE ACCOUNT
4449	IM-02	KEMPER	844165	KEMPER BOND ENHANCED SEC TR SE 13 SE 14 & SER 15 & SER 15S
4450	IM-02	KEMPER	774404	KEMPER BOND ENHANCED SECURITIES TRUST
4451	IM-02	KEMPER	799877	KEMPER BOND ENHANCED SECURITIES TRUST SER 5 SUM SER 6
4452	IM-02	KEMPER	810776	KEMPER BOND ENHANCED SECURITIES TRUST SER 9 9S 10 & 10S
4453	IM-02	KEMPER	833290	KEMPER BOND ENHANCED SECURITIES TRUST SERIES 11 & 12
4454	IM-02	KEMPER	790943	KEMPER BOND ENHANCED SECURITIES TRUST SERIES 2 SUMMIT
4455	IM-02	KEMPER	810774	KEMPER BOND ENHANCED SECURITIES TRUST SERIES 7 & SERIES 8
4456	IM-02	KEMPER	796711	KEMPER BOND ENHANCED SECURITIES TRUST SUMMIT SE & TOTAL RETU
4457	IM-02	KEMPER	895432	KEMPER CORPORATE BOND TRUST SERIES 1
4458	IM-02	KEMPER	790942	KEMPER DOUBLE PLAY TRUST SERIES 3
4459	IM-02	KEMPER	894924	KEMPER EQUITY PORTFOLIO TRUST SERIES 3
4460	IM-02	KEMPER	858239	KEMPER EQUITY PORTFOLIO TRUST SERIES I
4461	IM-02	KEMPER	889408	KEMPER EQUITY POTFORLIO TRUST SERIES 2
4462	IM-02	KEMPER	810756	KEMPER GOV SEC TR GNMA POR SER 23 SER 24 & SER 25 & FNMA DEB
4463	IM-02	KEMPER	876881	KEMPER GOV SEC TR GNMA PORT SER 39 SER 40 & SER 41 U S TREA
4464	IM-02	KEMPER	895805	KEMPER GOV SEC TR SE 49 GN MI POR SE 50 GN POR & SE 51 FO IN
4465	IM-02	KEMPER	836391	KEMPER GOVERNMENT SECURITIES TR GNMA PORTFOLIO SER 26 27 & 2
4466	IM-02	KEMPER	846015	KEMPER GOVERNMENT SECURITIES TR GNMA PORTFOLIO SER 28 29 30
4467	IM-02	KEMPER	882522	KEMPER GOVERNMENT SECURITIES TR GNMA SE 42&43 US TR SE 44&45
4468	IM-02	KEMPER	859712	KEMPER GOVERNMENT SECURITIES TR SER 34 GNMA SER 35 & SER 36
4469	IM-02	KEMPER	864529	KEMPER GOVERNMENT SECURITIES TRUST FNMA DEBENTURE SERIES 3
4470	IM-02	KEMPER	853157	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORT SER 31 32 & 33
4471	IM-02	KEMPER	788848	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORT SERIES 12 & 13
4472	IM-02	KEMPER	810757	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORT SERIES 21 & 22
4473	IM-02	KEMPER	800079	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTF SER 17 & SE 18
4474	IM-02	KEMPER	773814	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SER 7 8 9
4475	IM-02	KEMPER	729679	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 1
4476	IM-02	KEMPER	788607	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 10
4477	IM-02	KEMPER	788911	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 11
4478	IM-02	KEMPER	795087	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 14
4479	IM-02	KEMPER	795085	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 15
4480	IM-02	KEMPER	795080	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 16
4481	IM-02	KEMPER	800077	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 18

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
4482	IM-02	KEMPER	800073	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 19
4483	IM-02	KEMPER	741030	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 2
4484	IM-02	KEMPER	800076	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 20
4485	IM-02	KEMPER	810815	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 24
4486	IM-02	KEMPER	741031	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 3
4487	IM-02	KEMPER	760499	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 4
4488	IM-02	KEMPER	771478	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 5
4489	IM-02	KEMPER	771933	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 6
4490	IM-02	KEMPER	729525	KEMPER GOVERNMENT SECURITIES TRUST GNMA PORTFOLIO SERIES 8
4491	IM-02	KEMPER	890475	KEMPER GOVERNMENT SECURITIES TRUST SER 46 47 48
4492	IM-02	KEMPER	866481	KEMPER GOVN SEC TR SER 37 GNMA PORT SER 38 US TREY PORT FNMA
4493	IM-02	KEMPER	878727	KEMPER INSURED CORP TRUST SERIES 3
4494	IM-02	KEMPER	870273	KEMPER INSURED CORPORATE TRUST SERIES 1
4495	IM-02	KEMPER	896010	KEMPER INSURED CORPORATE TRUST SERIES 10
4496	IM-02	KEMPER	874318	KEMPER INSURED CORPORATE TRUST SERIES 2
4497	IM-02	KEMPER	882124	KEMPER INSURED CORPORATE TRUST SERIES 4 & SERIES 5
4498	IM-02	KEMPER	884249	KEMPER INSURED CORPORATE TRUST SERIES 6 & SERIES 7
4499	IM-02	KEMPER	896007	KEMPER INSURED CORPORATE TRUST SERIES 8 & 9
4500	IM-02	KEMPER	351754	KEMPER INVESTORS LIFE INSURANCE CO
4501	IM-02	KEMPER	869683	KEMPER TAX EX IN INC TR SE A 73 KE TX EX IN IN TR MU ST SE43
4502	IM-02	KEMPER	810773	KEMPER TAX EX IN TR SH IN TE SE 17 & MU ST SE 37 & KE TAX EX
4503	IM-02	KEMPER	784050	KEMPER TAX EX INC TR MU ST SE A 38 KEM TA EX IN TR MU S S 24
4504	IM-02	KEMPER	769067	KEMPER TAX EX INC TR SH IN TE SE 16 IN TE SE 3 & MU ST SE 35
4505	IM-02	KEMPER	765676	KEMPER TAX EX INC TR SHT INTER TERM SER 8 & MUL STATE SER 19
4506	IM-02	KEMPER	882271	KEMPER TAX EX INSURED IN TRUST SERIES A-80 & MUL ST SER 46
4507	IM-02	KEMPER	884572	KEMPER TAX EXE INS INCOME TR SER A 81 & MULTI STATE SER 49
4508	IM-02	KEMPER	757225	KEMPER TAX EXEMPT IN TR SH INT TE SE 10 INS INC TR MU ST S 9
4509	IM-02	KEMPER	821155	KEMPER TAX EXEMPT INC TR SH INT TER SE 4 MU ST SE 36 SE A-53
4510	IM-02	KEMPER	810759	KEMPER TAX EXEMPT INCOME MU ST SER 33 & SH INTER TER SE 14
4511	IM-02	KEMPER	746060	KEMPER TAX EXEMPT INCOME TR SER 72 & SHORT INTER TER SER 1
4512	IM-02	KEMPER	769065	KEMPER TAX EXEMPT INCOME TR SERIES 83 & MULTI STATE SER 27
4513	IM-02	KEMPER	769066	KEMPER TAX EXEMPT INCOME TR SERIES 84 & MULTI ST SERIES 30
4514	IM-02	KEMPER	110706	KEMPER TAX EXEMPT INCOME TRUST
4515	IM-02	KEMPER	778395	KEMPER TAX EXEMPT INCOME TRUST MUL ST SE 21 SH INT TERM SE 9
4516	IM-02	KEMPER	733593	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 1
4517	IM-02	KEMPER	751315	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 10
4518	IM-02	KEMPER	751317	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 11
4519	IM-02	KEMPER	751319	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 12
4520	IM-02	KEMPER	757195	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 13
4521	IM-02	KEMPER	757216	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 14
4522	IM-02	KEMPER	757217	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 15
4523	IM-02	KEMPER	765675	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 16
4524	IM-02	KEMPER	765677	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 18
4525	IM-02	KEMPER	737600	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 2
4526	IM-02	KEMPER	766062	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 20 SER 81
4527	IM-02	KEMPER	778396	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 22
4528	IM-02	KEMPER	789752	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 26
4529	IM-02	KEMPER	789736	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 29 /IL/
4530	IM-02	KEMPER	737599	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 3
4531	IM-02	KEMPER	810359	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 31
4532	IM-02	KEMPER	737605	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 4
4533	IM-02	KEMPER	737505	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 5
4534	IM-02	KEMPER	743519	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 6
4535	IM-02	KEMPER	743481	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 7
4536	IM-02	KEMPER	743515	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 8
4537	IM-02	KEMPER	743480	KEMPER TAX EXEMPT INCOME TRUST MULTI STATE SERIES 9
4538	IM-02	KEMPER	886278	KEMPER TAX EXEMPT INCOME TRUST NATIONAL SERIES 74
4539	IM-02	KEMPER	757446	KEMPER TAX EXEMPT INCOME TRUST SE 79 INC TR SH INT TER SER 6
4540	IM-02	KEMPER	313196	KEMPER TAX EXEMPT INCOME TRUST SERIES 11
4541	IM-02	KEMPER	316883	KEMPER TAX EXEMPT INCOME TRUST SERIES 12
4542	IM-02	KEMPER	317164	KEMPER TAX EXEMPT INCOME TRUST SERIES 13
4543	IM-02	KEMPER	317451	KEMPER TAX EXEMPT INCOME TRUST SERIES 14
4544	IM-02	KEMPER	317619	KEMPER TAX EXEMPT INCOME TRUST SERIES 16
4545	IM-02	KEMPER	318520	KEMPER TAX EXEMPT INCOME TRUST SERIES 18
4546	IM-02	KEMPER	351826	KEMPER TAX EXEMPT INCOME TRUST SERIES 21
4547	IM-02	KEMPER	352030	KEMPER TAX EXEMPT INCOME TRUST SERIES 22
4548	IM-02	KEMPER	353002	KEMPER TAX EXEMPT INCOME TRUST SERIES 23
4549	IM-02	KEMPER	353003	KEMPER TAX EXEMPT INCOME TRUST SERIES 24
4550	IM-02	KEMPER	353973	KEMPER TAX EXEMPT INCOME TRUST SERIES 25
4551	IM-02	KEMPER	353897	KEMPER TAX EXEMPT INCOME TRUST SERIES 26
4552	IM-02	KEMPER	355160	KEMPER TAX EXEMPT INCOME TRUST SERIES 27
4553	IM-02	KEMPER	355164	KEMPER TAX EXEMPT INCOME TRUST SERIES 28
4554	IM-02	KEMPER	356046	KEMPER TAX EXEMPT INCOME TRUST SERIES 29
4555	IM-02	KEMPER	356056	KEMPER TAX EXEMPT INCOME TRUST SERIES 30
4556	IM-02	KEMPER	356032	KEMPER TAX EXEMPT INCOME TRUST SERIES 31
4557	IM-02	KEMPER	357284	KEMPER TAX EXEMPT INCOME TRUST SERIES 32
4558	IM-02	KEMPER	357286	KEMPER TAX EXEMPT INCOME TRUST SERIES 33
4559	IM-02	KEMPER	357283	KEMPER TAX EXEMPT INCOME TRUST SERIES 34
4560	IM-02	KEMPER	702067	KEMPER TAX EXEMPT INCOME TRUST SERIES 35
4561	IM-02	KEMPER	702063	KEMPER TAX EXEMPT INCOME TRUST SERIES 36
4562	IM-02	KEMPER	702064	KEMPER TAX EXEMPT INCOME TRUST SERIES 37
4563	IM-02	KEMPER	703772	KEMPER TAX EXEMPT INCOME TRUST SERIES 38

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
4584	IM-02	KEMPER	703771	KEMPER TAX EXEMPT INCOME TRUST SERIES 39
4585	IM-02	KEMPER	703770	KEMPER TAX EXEMPT INCOME TRUST SERIES 40
4586	IM-02	KEMPER	705447	KEMPER TAX EXEMPT INCOME TRUST SERIES 41
4587	IM-02	KEMPER	705445	KEMPER TAX EXEMPT INCOME TRUST SERIES 42
4588	IM-02	KEMPER	705446	KEMPER TAX EXEMPT INCOME TRUST SERIES 43
4589	IM-02	KEMPER	705444	KEMPER TAX EXEMPT INCOME TRUST SERIES 44
4590	IM-02	KEMPER	706463	KEMPER TAX EXEMPT INCOME TRUST SERIES 45
4591	IM-02	KEMPER	706460	KEMPER TAX EXEMPT INCOME TRUST SERIES 46
4592	IM-02	KEMPER	706462	KEMPER TAX EXEMPT INCOME TRUST SERIES 47
4593	IM-02	KEMPER	706852	KEMPER TAX EXEMPT INCOME TRUST SERIES 48
4594	IM-02	KEMPER	706856	KEMPER TAX EXEMPT INCOME TRUST SERIES 49
4595	IM-02	KEMPER	706855	KEMPER TAX EXEMPT INCOME TRUST SERIES 50
4596	IM-02	KEMPER	711006	KEMPER TAX EXEMPT INCOME TRUST SERIES 51
4597	IM-02	KEMPER	711003	KEMPER TAX EXEMPT INCOME TRUST SERIES 52
4598	IM-02	KEMPER	711004	KEMPER TAX EXEMPT INCOME TRUST SERIES 53
4599	IM-02	KEMPER	711007	KEMPER TAX EXEMPT INCOME TRUST SERIES 54
4600	IM-02	KEMPER	715266	KEMPER TAX EXEMPT INCOME TRUST SERIES 55
4601	IM-02	KEMPER	715265	KEMPER TAX EXEMPT INCOME TRUST SERIES 56
4602	IM-02	KEMPER	715264	KEMPER TAX EXEMPT INCOME TRUST SERIES 57
4603	IM-02	KEMPER	715263	KEMPER TAX EXEMPT INCOME TRUST SERIES 58
4604	IM-02	KEMPER	718403	KEMPER TAX EXEMPT INCOME TRUST SERIES 59
4605	IM-02	KEMPER	718402	KEMPER TAX EXEMPT INCOME TRUST SERIES 60
4606	IM-02	KEMPER	718401	KEMPER TAX EXEMPT INCOME TRUST SERIES 61
4607	IM-02	KEMPER	718400	KEMPER TAX EXEMPT INCOME TRUST SERIES 62
4608	IM-02	KEMPER	722050	KEMPER TAX EXEMPT INCOME TRUST SERIES 63
4609	IM-02	KEMPER	722048	KEMPER TAX EXEMPT INCOME TRUST SERIES 64
4610	IM-02	KEMPER	722067	KEMPER TAX EXEMPT INCOME TRUST SERIES 65
4611	IM-02	KEMPER	722066	KEMPER TAX EXEMPT INCOME TRUST SERIES 66
4612	IM-02	KEMPER	736446	KEMPER TAX EXEMPT INCOME TRUST SERIES 67
4613	IM-02	KEMPER	736463	KEMPER TAX EXEMPT INCOME TRUST SERIES 68
4614	IM-02	KEMPER	736464	KEMPER TAX EXEMPT INCOME TRUST SERIES 69
4615	IM-02	KEMPER	736465	KEMPER TAX EXEMPT INCOME TRUST SERIES 70
4616	IM-02	KEMPER	748046	KEMPER TAX EXEMPT INCOME TRUST SERIES 71
4617	IM-02	KEMPER	748049	KEMPER TAX EXEMPT INCOME TRUST SERIES 73 SHORT INT TERM SE 2
4618	IM-02	KEMPER	748048	KEMPER TAX EXEMPT INCOME TRUST SERIES 74
4619	IM-02	KEMPER	757444	KEMPER TAX EXEMPT INCOME TRUST SERIES 77 /IU/
4620	IM-02	KEMPER	757445	KEMPER TAX EXEMPT INCOME TRUST SERIES 78
4621	IM-02	KEMPER	757447	KEMPER TAX EXEMPT INCOME TRUST SERIES 80
4622	IM-02	KEMPER	769064	KEMPER TAX EXEMPT INCOME TRUST SERIES 82
4623	IM-02	KEMPER	765678	KEMPER TAX EXEMPT INCOME TRUST SH INT TERM SE 7 MUL ST SE 17
4624	IM-02	KEMPER	765682	KEMPER TAX EXEMPT INCOME TRUST SHORT INTERM TERM SERIES 11
4625	IM-02	KEMPER	748047	KEMPER TAX EXEMPT INCOME TRUST SR 75 & SHORT INTER TERM SR 3
4626	IM-02	KEMPER	757443	KEMPER TAX EXEMPT INCOME TRUST SR 76 & SHORT INTER TERM SR 4
4627	IM-02	KEMPER	762994	KEMPER TAX EXEMPT INS INC SER A29&MULT ST SER 3&9 & KEM TA E
4628	IM-02	KEMPER	821154	KEMPER TAX EXEMPT INS INC TR SE A-55 SE A-56 & MUL ST SE 15
4629	IM-02	KEMPER	858233	KEMPER TAX EXEMPT INS INCOME TR SE A 66 & MUL ST SE 24 SE 40
4630	IM-02	KEMPER	864726	KEMPER TAX EXEMPT INSUR INCOME TRU SER A 69 & MUL STA SER 27
4631	IM-02	KEMPER	801347	KEMPER TAX EXEMPT INSURED IN TR A-49 MUL ST 12 SH INTE TE 15
4632	IM-02	KEMPER	853155	KEMPER TAX EXEMPT INSURED INC TR SE A-64 A-65 & MUL ST SE 22
4633	IM-02	KEMPER	860259	KEMPER TAX EXEMPT INSURED INC TR SE A-67 & MUL ST SE 25 & 41
4634	IM-02	KEMPER	762995	KEMPER TAX EXEMPT INSURED INC TR SER A-31 INS INC TR MU ST 4
4635	IM-02	KEMPER	775848	KEMPER TAX EXEMPT INSURED INC TR SER A-36 & MULTI SERIES 8
4636	IM-02	KEMPER	893737	KEMPER TAX EXEMPT INSURED INC TRU SER A 85 & MUL STAT SER 55
4637	IM-02	KEMPER	859684	KEMPER TAX EXEMPT INSURED INCOME TR MULTI STATE SER 23
4638	IM-02	KEMPER	872196	KEMPER TAX EXEMPT INSURED INCOME TR MULTI STATE SER 35 &44
4639	IM-02	KEMPER	901360	KEMPER TAX EXEMPT INSURED INCOME TR SE A-50 & MULTI STATE 13
4640	IM-02	KEMPER	796365	KEMPER TAX EXEMPT INSURED INCOME TR SER A 44 MULTI ST SER 28
4641	IM-02	KEMPER	850078	KEMPER TAX EXEMPT INSURED INCOME TR SER A-67 58 MULTI ST 16
4642	IM-02	KEMPER	868707	KEMPER TAX EXEMPT INSURED INCOME TR SER A-72 & MUL ST SER 30
4643	IM-02	KEMPER	890930	KEMPER TAX EXEMPT INSURED INCOME TR SER A-84V & MU ST SER 54
4644	IM-02	KEMPER	721084	KEMPER TAX EXEMPT INSURED INCOME TR SERIES A-1 MULTI ST 34
4645	IM-02	KEMPER	762996	KEMPER TAX EXEMPT INSURED INCOME TR SERIES A-32 MULTI ST 5
4646	IM-02	KEMPER	784048	KEMPER TAX EXEMPT INSURED INCOME TR SERIES A-40 MULTI ST 10
4647	IM-02	KEMPER	894333	KEMPER TAX EXEMPT INSURED INCOME TR SR A-86 & MULTI ST SR 56
4648	IM-02	KEMPER	888252	KEMPER TAX EXEMPT INSURED INCOME TR SR A-82 & MULTI ST SR 50
4649	IM-02	KEMPER	871528	KEMPER TAX EXEMPT INSURED INCOME TRUS SER A-74 MU ST SER 33
4650	IM-02	KEMPER	871006	KEMPER TAX EXEMPT INSURED INCOME TRUST MULT STA SER 32
4651	IM-02	KEMPER	877722	KEMPER TAX EXEMPT INSURED INCOME TRUST MULTI STATE SE 39
4652	IM-02	KEMPER	869588	KEMPER TAX EXEMPT INSURED INCOME TRUST MULTI STATE SER 31
4653	IM-02	KEMPER	874695	KEMPER TAX EXEMPT INSURED INCOME TRUST MULTI STATE SER 36
4654	IM-02	KEMPER	877042	KEMPER TAX EXEMPT INSURED INCOME TRUST MULTI STATE SER 38
4655	IM-02	KEMPER	879870	KEMPER TAX EXEMPT INSURED INCOME TRUST MULTI STATE SER 41
4656	IM-02	KEMPER	888453	KEMPER TAX EXEMPT INSURED INCOME TRUST MULTI STATE SER 51
4657	IM-02	KEMPER	888454	KEMPER TAX EXEMPT INSURED INCOME TRUST MULTI STATE SER 53
4658	IM-02	KEMPER	761893	KEMPER TAX EXEMPT INSURED INCOME TRUST MULTI STATE SERIES 1
4659	IM-02	KEMPER	856284	KEMPER TAX EXEMPT INSURED INCOME TRUST MULTI STATE SERIES 21
4660	IM-02	KEMPER	872425	KEMPER TAX EXEMPT INSURED INCOME TRUST MULTI STATE SERIES 37
4661	IM-02	KEMPER	882514	KEMPER TAX EXEMPT INSURED INCOME TRUST MULTI STATE SERIES 44
4662	IM-02	KEMPER	895036	KEMPER TAX EXEMPT INSURED INCOME TRUST MULTI STATE SERIES 57
4663	IM-02	KEMPER	762993	KEMPER TAX EXEMPT INSURED INCOME TRUST MULTI STATE SERS 2
4664	IM-02	KEMPER	796063	KEMPER TAX EXEMPT INSURED INCOME TRUST SE A-33 SE 6
4665	IM-02	KEMPER	766065	KEMPER TAX EXEMPT INSURED INCOME TRUST SER A 35 MUL ST SE 7

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
4646	IM-02	KEMPER	724207	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A 2
4647	IM-02	KEMPER	751336	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A 25
4648	IM-02	KEMPER	766064	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A 34
4649	IM-02	KEMPER	775847	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A 37
4650	IM-02	KEMPER	796364	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A 43
4651	IM-02	KEMPER	796363	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A 45
4652	IM-02	KEMPER	821151	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A 54
4653	IM-02	KEMPER	826399	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A 60
4654	IM-02	KEMPER	862625	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A 68
4655	IM-02	KEMPER	888720	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A 83
4656	IM-02	KEMPER	895037	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A 87
4657	IM-02	KEMPER	732733	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–10
4658	IM-02	KEMPER	746041	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–16
4659	IM-02	KEMPER	746042	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–17
4660	IM-02	KEMPER	746043	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–18
4661	IM-02	KEMPER	746044	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–19
4662	IM-02	KEMPER	746045	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–20
4663	IM-02	KEMPER	751327	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–21
4664	IM-02	KEMPER	757228	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–26
4665	IM-02	KEMPER	757227	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–27
4666	IM-02	KEMPER	757226	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–28
4667	IM-02	KEMPER	724206	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–3
4668	IM-02	KEMPER	757222	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–30
4669	IM-02	KEMPER	784047	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–39
4670	IM-02	KEMPER	727225	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–4
4671	IM-02	KEMPER	784052	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–41
4672	IM-02	KEMPER	801353	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–48
4673	IM-02	KEMPER	727226	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–5
4674	IM-02	KEMPER	746036	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–51
4675	IM-02	KEMPER	727227	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–6
4676	IM-02	KEMPER	858271	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–66
4677	IM-02	KEMPER	732732	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–7
4678	IM-02	KEMPER	867576	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–71
4679	IM-02	KEMPER	872426	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A–75
4680	IM-02	KEMPER	739335	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A11
4681	IM-02	KEMPER	739346	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A12
4682	IM-02	KEMPER	739334	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A13
4683	IM-02	KEMPER	739325	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A14
4684	IM-02	KEMPER	739326	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A15
4685	IM-02	KEMPER	751331	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A22
4686	IM-02	KEMPER	751333	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A23
4687	IM-02	KEMPER	751335	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A24
4688	IM-02	KEMPER	732731	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A8
4689	IM-02	KEMPER	732734	KEMPER TAX EXEMPT INSURED INCOME TRUST SERIES A9
4690	IM-02	KEMPER	801345	KEMPER TX EX INS IN TR SE A–47 KEMPER TX EX IN TR INT PEN SE
4691	IM-02	KEMPER	796335	KEMPER TX EX IN TR MU ST SE 25 KE TX EX INS IN TR SE A–42 &
4692	IM-02	KEMPER	810761	KEMPER TX EX INC TR SE 85 KE TX EX INC TR MU ST SE 36 & KE T
4693	IM-02	KEMPER	860572	KEMPER TX EX INS IN TR MU ST SE 42 KE TX EX INS IN TR SE A–7
4694	IM-02	KEMPER	853156	KEMPER TX EX INS IN TR SE A 62 KE TX EX INS INTR MU ST SE 19
4695	IM-02	KEMPER	825400	KEMPER TX EX INS IN TR SE A59 & MU ST SE 17 SE 86 & MU ST 39
4696	IM-02	KEMPER	877612	KEMPER TX EX INS IN TR SE MU ST SE 40 KE TX EX INS IN TR SE
4697	IM-02	KEMPER	864924	KEMPER TX EX INS INC TR SER A 70 & MU ST SE 28 MU ST SE 42
4698	IM-02	KEMPER	883579	KEMPER TX EXE INS INC TR MUL ST SER 45 KEMPER TX EXE INC TR
4699	IM-02	KEMPER	886132	KEMPER TX EXEM INS INC TR MU ST SE 48 & KEM TX EXE INC TR MU
4700	IM-02	KEMPER	881777	KEMPER TX EXM INS INC TR SER A–79 & MUL ST SER 43 & DKEMPER T
4701	IM-02	MERRILLL LYNCH	704768	DEFINED ASSET FUNDS MUNICIPAL INVT TR FD MON PYMT SER 241
4702	IM-02	MERRILLL LYNCH	759665	MERRILLL LYNCH FUND OF STRIPPED ZERO U S TREA SEC SER B
4703	IM-02	MERRILLL LYNCH	845091	MERRILLL LYNCH LIFE INSURANCE COMPANY
4704	IM-02	MERRILLL LYNCH	880793	MERRILLL LYNCH LIFE VARIABLE ANNUITY SEPARATE ACCOUNT A
4705	IM-02	MERRILLL LYNCH	880794	MERRILLL LYNCH LIFE VARIABLE ANNUITY SEPARATE ACCOUNT B
4706	IM-02	MERRILLL LYNCH	875246	MERRILLL LYNCH LIFE VARIABLE ANNUNITY SEPARATE ACCOUNT
4707	IM-02	MERRILLL LYNCH	318352	MERRILLL LYNCH VARIABLE ANNUITY ACCOUNT
4708	IM-02	MERRILLL LYNCH	869799	MERRILLL LYNCH VARIABLE LIFE SEPARATE ACCOUNT
4709	IM-02	NIKE	893752	FIRST TR SPE SIT TR SE 47 FIR TR US TREA SEC TR SH INT SE 1
4710	IM-02	NIKE	869600	FIRST TR SPE SITUATIONS TR SE 5 GREAT LAKES & GR & TREA TR S
4711	IM-02	NIKE	882406	FIRST TR SPE SITUATIONS TR SER 23 GREAT PLAINS UTIL TR SER 1
4712	IM-02	NIKE	868014	FIRST TR SPEC SIT TR SER 4 GREAT LAKES GROWTH & TREA TR SE 1
4713	IM-02	NIKE	879359	FIRST TR SPECIAL SITS TR SE 17 PENN GRO & TREA SEC TR SER 1
4714	IM-02	NIKE	867453	FIRST TR SPECIAL SITUATIONS TRUST SER 3 NEBRASKA GWTH & TREA
4715	IM-02	NIKE	318216	FIRST TRUST ADVANTAGE FUND SERIES 1
4716	IM-02	NIKE	715777	FIRST TRUST ADVANTAGE FUND SERIES 2
4717	IM-02	NIKE	717328	FIRST TRUST ADVANTAGE FUND SERIES 3
4718	IM-02	NIKE	777487	FIRST TRUST COMBINED SERIES 1
4719	IM-02	NIKE	808712	FIRST TRUST COMBINED SERIES 10
4720	IM-02	NIKE	860726	FIRST TRUST COMBINED SERIES 100
4721	IM-02	NIKE	861621	FIRST TRUST COMBINED SERIES 101
4722	IM-02	NIKE	861623	FIRST TRUST COMBINED SERIES 102
4723	IM-02	NIKE	862350	FIRST TRUST COMBINED SERIES 103
4724	IM-02	NIKE	862372	FIRST TRUST COMBINED SERIES 104
4725	IM-02	NIKE	862361	FIRST TRUST COMBINED SERIES 105
4726	IM-02	NIKE	863368	FIRST TRUST COMBINED SERIES 106
4727	IM-02	NIKE	863367	FIRST TRUST COMBINED SERIES 107

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
4728	IM-02	NIKE	863555	FIRST TRUST COMBINED SERIES 108
4729	IM-02	NIKE	863556	FIRST TRUST COMBINED SERIES 109
4730	IM-02	NIKE	809273	FIRST TRUST COMBINED SERIES 11
4731	IM-02	NIKE	864232	FIRST TRUST COMBINED SERIES 110
4732	IM-02	NIKE	864132	FIRST TRUST COMBINED SERIES 111
4733	IM-02	NIKE	864231	FIRST TRUST COMBINED SERIES 112
4734	IM-02	NIKE	864751	FIRST TRUST COMBINED SERIES 113
4735	IM-02	NIKE	864134	FIRST TRUST COMBINED SERIES 114
4736	IM-02	NIKE	866714	FIRST TRUST COMBINED SERIES 115
4737	IM-02	NIKE	866713	FIRST TRUST COMBINED SERIES 116
4738	IM-02	NIKE	866715	FIRST TRUST COMBINED SERIES 117
4739	IM-02	NIKE	867872	FIRST TRUST COMBINED SERIES 118
4740	IM-02	NIKE	867871	FIRST TRUST COMBINED SERIES 119
4741	IM-02	NIKE	809271	FIRST TRUST COMBINED SERIES 12
4742	IM-02	NIKE	867873	FIRST TRUST COMBINED SERIES 120
4743	IM-02	NIKE	868904	FIRST TRUST COMBINED SERIES 121
4744	IM-02	NIKE	868906	FIRST TRUST COMBINED SERIES 122
4745	IM-02	NIKE	868901	FIRST TRUST COMBINED SERIES 123
4746	IM-02	NIKE	869820	FIRST TRUST COMBINED SERIES 124
4747	IM-02	NIKE	869819	FIRST TRUST COMBINED SERIES 125
4748	IM-02	NIKE	869823	FIRST TRUST COMBINED SERIES 126
4749	IM-02	NIKE	870733	FIRST TRUST COMBINED SERIES 127
4750	IM-02	NIKE	870734	FIRST TRUST COMBINED SERIES 128
4751	IM-02	NIKE	870735	FIRST TRUST COMBINED SERIES 129
4752	IM-02	NIKE	809982	FIRST TRUST COMBINED SERIES 13
4753	IM-02	NIKE	872196	FIRST TRUST COMBINED SERIES 130
4754	IM-02	NIKE	872199	FIRST TRUST COMBINED SERIES 131
4755	IM-02	NIKE	873737	FIRST TRUST COMBINED SERIES 133
4756	IM-02	NIKE	873736	FIRST TRUST COMBINED SERIES 134
4757	IM-02	NIKE	873733	FIRST TRUST COMBINED SERIES 135
4758	IM-02	NIKE	874756	FIRST TRUST COMBINED SERIES 136
4759	IM-02	NIKE	874754	FIRST TRUST COMBINED SERIES 137
4760	IM-02	NIKE	874755	FIRST TRUST COMBINED SERIES 138
4761	IM-02	NIKE	876587	FIRST TRUST COMBINED SERIES 139
4762	IM-02	NIKE	810577	FIRST TRUST COMBINED SERIES 14
4763	IM-02	NIKE	876585	FIRST TRUST COMBINED SERIES 140
4764	IM-02	NIKE	876583	FIRST TRUST COMBINED SERIES 141
4765	IM-02	NIKE	877611	FIRST TRUST COMBINED SERIES 142
4766	IM-02	NIKE	877613	FIRST TRUST COMBINED SERIES 143
4767	IM-02	NIKE	878861	FIRST TRUST COMBINED SERIES 144
4768	IM-02	NIKE	880005	FIRST TRUST COMBINED SERIES 145
4769	IM-02	NIKE	880207	FIRST TRUST COMBINED SERIES 146
4770	IM-02	NIKE	880303	FIRST TRUST COMBINED SERIES 147
4771	IM-02	NIKE	880301	FIRST TRUST COMBINED SERIES 148
4772	IM-02	NIKE	880302	FIRST TRUST COMBINED SERIES 149
4773	IM-02	NIKE	811717	FIRST TRUST COMBINED SERIES 15
4774	IM-02	NIKE	880300	FIRST TRUST COMBINED SERIES 150
4775	IM-02	NIKE	882396	FIRST TRUST COMBINED SERIES 151
4776	IM-02	NIKE	882397	FIRST TRUST COMBINED SERIES 152
4777	IM-02	NIKE	882398	FIRST TRUST COMBINED SERIES 153
4778	IM-02	NIKE	883777	FIRST TRUST COMBINED SERIES 154
4779	IM-02	NIKE	883775	FIRST TRUST COMBINED SERIES 155
4780	IM-02	NIKE	883776	FIRST TRUST COMBINED SERIES 156
4781	IM-02	NIKE	886923	FIRST TRUST COMBINED SERIES 157
4782	IM-02	NIKE	886910	FIRST TRUST COMBINED SERIES 158
4783	IM-02	NIKE	886911	FIRST TRUST COMBINED SERIES 159
4784	IM-02	NIKE	811972	FIRST TRUST COMBINED SERIES 16
4785	IM-02	NIKE	888091	FIRST TRUST COMBINED SERIES 160
4786	IM-02	NIKE	887970	FIRST TRUST COMBINED SERIES 161
4787	IM-02	NIKE	888226	FIRST TRUST COMBINED SERIES 162
4788	IM-02	NIKE	889689	FIRST TRUST COMBINED SERIES 163
4789	IM-02	NIKE	889688	FIRST TRUST COMBINED SERIES 164
4790	IM-02	NIKE	889687	FIRST TRUST COMBINED SERIES 165
4791	IM-02	NIKE	890977	FIRST TRUST COMBINED SERIES 166
4792	IM-02	NIKE	891047	FIRST TRUST COMBINED SERIES 167
4793	IM-02	NIKE	891036	FIRST TRUST COMBINED SERIES 168
4794	IM-02	NIKE	893347	FIRST TRUST COMBINED SERIES 169
4795	IM-02	NIKE	811971	FIRST TRUST COMBINED SERIES 17
4796	IM-02	NIKE	893542	FIRST TRUST COMBINED SERIES 170
4797	IM-02	NIKE	893543	FIRST TRUST COMBINED SERIES 171
4798	IM-02	NIKE	894319	FIRST TRUST COMBINED SERIES 173
4799	IM-02	NIKE	894304	FIRST TRUST COMBINED SERIES 174
4800	IM-02	NIKE	894307	FIRST TRUST COMBINED SERIES 175
4801	IM-02	NIKE	813815	FIRST TRUST COMBINED SERIES 18
4802	IM-02	NIKE	814191	FIRST TRUST COMBINED SERIES 19
4803	IM-02	NIKE	784970	FIRST TRUST COMBINED SERIES 2
4804	IM-02	NIKE	814447	FIRST TRUST COMBINED SERIES 20
4805	IM-02	NIKE	814911	FIRST TRUST COMBINED SERIES 21
4806	IM-02	NIKE	815908	FIRST TRUST COMBINED SERIES 22
4807	IM-02	NIKE	816009	FIRST TRUST COMBINED SERIES 23
4808	IM-02	NIKE	819083	FIRST TRUST COMBINED SERIES 24
4809	IM-02	NIKE	819249	FIRST TRUST COMBINED SERIES 25

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
4810	IM–02	NIKE	821673	FIRST TRUST COMBINED SERIES 26
4811	IM–02	NIKE	822425	FIRST TRUST COMBINED SERIES 27
4812	IM–02	NIKE	822429	FIRST TRUST COMBINED SERIES 28
4813	IM–02	NIKE	823182	FIRST TRUST COMBINED SERIES 29
4814	IM–02	NIKE	785318	FIRST TRUST COMBINED SERIES 3
4815	IM–02	NIKE	824512	FIRST TRUST COMBINED SERIES 30
4816	IM–02	NIKE	825070	FIRST TRUST COMBINED SERIES 31
4817	IM–02	NIKE	825390	FIRST TRUST COMBINED SERIES 32
4818	IM–02	NIKE	826707	FIRST TRUST COMBINED SERIES 33
4819	IM–02	NIKE	827834	FIRST TRUST COMBINED SERIES 34
4820	IM–02	NIKE	828631	FIRST TRUST COMBINED SERIES 35
4821	IM–02	NIKE	829343	FIRST TRUST COMBINED SERIES 36
4822	IM–02	NIKE	829642	FIRST TRUST COMBINED SERIES 37
4823	IM–02	NIKE	829746	FIRST TRUST COMBINED SERIES 38
4824	IM–02	NIKE	829812	FIRST TRUST COMBINED SERIES 39
4825	IM–02	NIKE	788309	FIRST TRUST COMBINED SERIES 4
4826	IM–02	NIKE	829962	FIRST TRUST COMBINED SERIES 40
4827	IM–02	NIKE	829961	FIRST TRUST COMBINED SERIES 41
4828	IM–02	NIKE	830049	FIRST TRUST COMBINED SERIES 42
4829	IM–02	NIKE	830150	FIRST TRUST COMBINED SERIES 43
4830	IM–02	NIKE	830514	FIRST TRUST COMBINED SERIES 44
4831	IM–02	NIKE	831121	FIRST TRUST COMBINED SERIES 45
4832	IM–02	NIKE	831953	FIRST TRUST COMBINED SERIES 46
4833	IM–02	NIKE	832171	FIRST TRUST COMBINED SERIES 47
4834	IM–02	NIKE	832535	FIRST TRUST COMBINED SERIES 48
4835	IM–02	NIKE	832632	FIRST TRUST COMBINED SERIES 49
4836	IM–02	NIKE	788594	FIRST TRUST COMBINED SERIES 5
4837	IM–02	NIKE	832701	FIRST TRUST COMBINED SERIES 50
4838	IM–02	NIKE	832851	FIRST TRUST COMBINED SERIES 51
4839	IM–02	NIKE	832999	FIRST TRUST COMBINED SERIES 52
4840	IM–02	NIKE	833001	FIRST TRUST COMBINED SERIES 53
4841	IM–02	NIKE	835168	FIRST TRUST COMBINED SERIES 54
4842	IM–02	NIKE	835103	FIRST TRUST COMBINED SERIES 55
4843	IM–02	NIKE	836134	FIRST TRUST COMBINED SERIES 56
4844	IM–02	NIKE	836395	FIRST TRUST COMBINED SERIES 57
4845	IM–02	NIKE	836394	FIRST TRUST COMBINED SERIES 58
4846	IM–02	NIKE	836657	FIRST TRUST COMBINED SERIES 59
4847	IM–02	NIKE	788731	FIRST TRUST COMBINED SERIES 6
4848	IM–02	NIKE	837108	FIRST TRUST COMBINED SERIES 60
4849	IM–02	NIKE	837222	FIRST TRUST COMBINED SERIES 61
4850	IM–02	NIKE	837598	FIRST TRUST COMBINED SERIES 62
4851	IM–02	NIKE	839248	FIRST TRUST COMBINED SERIES 63
4852	IM–02	NIKE	839481	FIRST TRUST COMBINED SERIES 64
4853	IM–02	NIKE	839652	FIRST TRUST COMBINED SERIES 65
4854	IM–02	NIKE	840938	FIRST TRUST COMBINED SERIES 66
4855	IM–02	NIKE	840936	FIRST TRUST COMBINED SERIES 67
4856	IM–02	NIKE	840937	FIRST TRUST COMBINED SERIES 68
4857	IM–02	NIKE	842504	FIRST TRUST COMBINED SERIES 69
4858	IM–02	NIKE	790578	FIRST TRUST COMBINED SERIES 7
4859	IM–02	NIKE	842502	FIRST TRUST COMBINED SERIES 70
4860	IM–02	NIKE	842503	FIRST TRUST COMBINED SERIES 71
4861	IM–02	NIKE	844835	FIRST TRUST COMBINED SERIES 72
4862	IM–02	NIKE	844791	FIRST TRUST COMBINED SERIES 73
4863	IM–02	NIKE	845886	FIRST TRUST COMBINED SERIES 74
4864	IM–02	NIKE	845885	FIRST TRUST COMBINED SERIES 75
4865	IM–02	NIKE	845887	FIRST TRUST COMBINED SERIES 76
4866	IM–02	NIKE	846786	FIRST TRUST COMBINED SERIES 77
4867	IM–02	NIKE	846785	FIRST TRUST COMBINED SERIES 78
4868	IM–02	NIKE	846784	FIRST TRUST COMBINED SERIES 79
4869	IM–02	NIKE	790577	FIRST TRUST COMBINED SERIES 8
4870	IM–02	NIKE	850212	FIRST TRUST COMBINED SERIES 80
4871	IM–02	NIKE	851779	FIRST TRUST COMBINED SERIES 81
4872	IM–02	NIKE	851811	FIRST TRUST COMBINED SERIES 82
4873	IM–02	NIKE	852480	FIRST TRUST COMBINED SERIES 83
4874	IM–02	NIKE	852445	FIRST TRUST COMBINED SERIES 84
4875	IM–02	NIKE	853362	FIRST TRUST COMBINED SERIES 85
4876	IM–02	NIKE	853376	FIRST TRUST COMBINED SERIES 86
4877	IM–02	NIKE	853361	FIRST TRUST COMBINED SERIES 87
4878	IM–02	NIKE	856285	FIRST TRUST COMBINED SERIES 88
4879	IM–02	NIKE	856283	FIRST TRUST COMBINED SERIES 89
4880	IM–02	NIKE	791911	FIRST TRUST COMBINED SERIES 9
4881	IM–02	NIKE	857409	FIRST TRUST COMBINED SERIES 90
4882	IM–02	NIKE	857408	FIRST TRUST COMBINED SERIES 91
4883	IM–02	NIKE	857406	FIRST TRUST COMBINED SERIES 92
4884	IM–02	NIKE	857405	FIRST TRUST COMBINED SERIES 93
4885	IM–02	NIKE	858240	FIRST TRUST COMBINED SERIES 94
4886	IM–02	NIKE	859069	FIRST TRUST COMBINED SERIES 95
4887	IM–02	NIKE	859068	FIRST TRUST COMBINED SERIES 96
4888	IM–02	NIKE	860151	FIRST TRUST COMBINED SERIES 97
4889	IM–02	NIKE	860155	FIRST TRUST COMBINED SERIES 98
4890	IM–02	NIKE	860727	FIRST TRUST COMBINED SERIES 99
4891	IM–02	NIKE	872197	FIRST TRUST COMBINED SERIES 132

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
4892	IM-02	NIKE	740555	FIRST TRUST GNMA FUND SERIES 1
4893	IM-02	NIKE	742283	FIRST TRUST GNMA FUND SERIES 2
4894	IM-02	NIKE	763893	FIRST TRUST GNMA FUND SERIES 3
4895	IM-02	NIKE	766585	FIRST TRUST GNMA FUND SERIES 4
4896	IM-02	NIKE	766564	FIRST TRUST GNMA FUND SERIES 5
4897	IM-02	NIKE	770466	FIRST TRUST GNMA FUND SERIES 6
4898	IM-02	NIKE	773548	FIRST TRUST GNMA FUND SERIES 7
4899	IM-02	NIKE	781900	FIRST TRUST GNMA SERIES 10
4900	IM-02	NIKE	765319	FIRST TRUST GNMA SERIES 11 & SERIES 12
4901	IM-02	NIKE	769314	FIRST TRUST GNMA SERIES 13
4902	IM-02	NIKE	789494	FIRST TRUST GNMA SERIES 14
4903	IM-02	NIKE	790107	FIRST TRUST GNMA SERIES 15 & SERIES 16
4904	IM-02	NIKE	790960	FIRST TRUST GNMA SERIES 17
4905	IM-02	NIKE	791266	FIRST TRUST GNMA SERIES 18 & SERIES 19
4906	IM-02	NIKE	792850	FIRST TRUST GNMA SERIES 20
4907	IM-02	NIKE	793490	FIRST TRUST GNMA SERIES 21
4908	IM-02	NIKE	790276	FIRST TRUST GNMA SERIES 22
4909	IM-02	NIKE	791551	FIRST TRUST GNMA SERIES 23 & SERIES 24
4910	IM-02	NIKE	798653	FIRST TRUST GNMA SERIES 25 & SERIES 26
4911	IM-02	NIKE	797406	FIRST TRUST GNMA SERIES 27 & SERIES 28
4912	IM-02	NIKE	804144	FIRST TRUST GNMA SERIES 29 & SERIES 30
4913	IM-02	NIKE	805360	FIRST TRUST GNMA SERIES 31 & SERIES 32
4914	IM-02	NIKE	807686	FIRST TRUST GNMA SERIES 33 & SERIES 34
4915	IM-02	NIKE	809561	FIRST TRUST GNMA SERIES 35 & SERIES 36
4916	IM-02	NIKE	798940	FIRST TRUST GNMA SERIES 37
4917	IM-02	NIKE	806010	FIRST TRUST GNMA SERIES 38
4918	IM-02	NIKE	808083	FIRST TRUST GNMA SERIES 39 & SERIES 40
4919	IM-02	NIKE	810109	FIRST TRUST GNMA SERIES 41 /IL/
4920	IM-02	NIKE	829904	FIRST TRUST GNMA SERIES 42 SERIES 44 & SERIES 45
4921	IM-02	NIKE	830515	FIRST TRUST GNMA SERIES 43
4922	IM-02	NIKE	845244	FIRST TRUST GNMA SERIES 46 48 & 49
4923	IM-02	NIKE	846969	FIRST TRUST GNMA SERIES 47
4924	IM-02	NIKE	847429	FIRST TRUST GNMA SERIES 50 & SERIES 51
4925	IM-02	NIKE	847489	FIRST TRUST GNMA SERIES 52 & SERIES 54
4926	IM-02	NIKE	857792	FIRST TRUST GNMA SERIES 53
4927	IM-02	NIKE	865362	FIRST TRUST GNMA SERIES 55 & SERIES 56
4928	IM-02	NIKE	871430	FIRST TRUST GNMA SERIES 57
4929	IM-02	NIKE	871868	FIRST TRUST GNMA SERIES 58
4930	IM-02	NIKE	876484	FIRST TRUST GNMA SERIES 59 SERIES 60 & SERIES 61
4931	IM-02	NIKE	882070	FIRST TRUST GNMA SERIES 62
4932	IM-02	NIKE	885747	FIRST TRUST GNMA SERIES 63
4933	IM-02	NIKE	886939	FIRST TRUST GNMA SERIES 64
4934	IM-02	NIKE	889503	FIRST TRUST GNMA SERIES 65
4935	IM-02	NIKE	775853	FIRST TRUST GNMA SERIES 8
4936	IM-02	NIKE	779545	FIRST TRUST GNMA SERIES 9
4937	IM-02	NIKE	871509	FIRST TRUST INSURED CORPORATE TRUST SERIES 1
4938	IM-02	NIKE	768748	FIRST TRUST OF INSURED MUNICIPAL BONDS MULTI STATE 11
4939	IM-02	NIKE	740807	FIRST TRUST OF INSURED MUNICIPAL BONDS MULTI STATE 2
4940	IM-02	NIKE	745487	FIRST TRUST OF INSURED MUNICIPAL BONDS MULTI STATE 3
4941	IM-02	NIKE	760108	FIRST TRUST OF INSURED MUNICIPAL BONDS MULTI STATE 6
4942	IM-02	NIKE	737773	FIRST TRUST OF INSURED MUNICIPAL BONDS MULTI STATE SERIES 1
4943	IM-02	NIKE	766503	FIRST TRUST OF INSURED MUNICIPAL BONDS MULTI STATE SERIES 10
4944	IM-02	NIKE	754436	FIRST TRUST OF INSURED MUNICIPAL BONDS MULTI STATE SERIES 4
4945	IM-02	NIKE	759870	FIRST TRUST OF INSURED MUNICIPAL BONDS MULTI STATE SERIES 5
4946	IM-02	NIKE	762154	FIRST TRUST OF INSURED MUNICIPAL BONDS MULTI STATE SERIES 7
4947	IM-02	NIKE	762155	FIRST TRUST OF INSURED MUNICIPAL BONDS MULTI STATE SERIES 8
4948	IM-02	NIKE	763747	FIRST TRUST OF INSURED MUNICIPAL BONDS MULTI STATE SERIES 9
4949	IM-02	NIKE	357322	FIRST TRUST OF INSURED MUNICIPAL BONDS NEW YORK SERIES 1
4950	IM-02	NIKE	729652	FIRST TRUST OF INSURED MUNICIPAL BONDS NEW YORK SERIES 10
4951	IM-02	NIKE	706380	FIRST TRUST OF INSURED MUNICIPAL BONDS NEW YORK SERIES 2
4952	IM-02	NIKE	708486	FIRST TRUST OF INSURED MUNICIPAL BONDS NEW YORK SERIES 3
4953	IM-02	NIKE	711664	FIRST TRUST OF INSURED MUNICIPAL BONDS NEW YORK SERIES 4
4954	IM-02	NIKE	713061	FIRST TRUST OF INSURED MUNICIPAL BONDS NEW YORK SERIES 5
4955	IM-02	NIKE	713062	FIRST TRUST OF INSURED MUNICIPAL BONDS NEW YORK SERIES 6
4956	IM-02	NIKE	715280	FIRST TRUST OF INSURED MUNICIPAL BONDS NEW YORK SERIES 7
4957	IM-02	NIKE	717572	FIRST TRUST OF INSURED MUNICIPAL BONDS NEW YORK SERIES 8
4958	IM-02	NIKE	721242	FIRST TRUST OF INSURED MUNICIPAL BONDS NEW YORK SERIES 9
4959	IM-02	NIKE	719592	FIRST TRUST OF INSURED MUNICIPAL BONDS PENNSYLVANIA SERIES 1
4960	IM-02	NIKE	722207	FIRST TRUST OF INSURED MUNICIPAL BONDS PENNSYLVANIA SERIES 2
4961	IM-02	NIKE	729274	FIRST TRUST OF INSURED MUNICIPAL BONDS PENNSYLVANIA SERIES 3
4962	IM-02	NIKE	729982	FIRST TRUST OF INSURED MUNICIPAL BONDS PENNSYLVANIA SERIES 4
4963	IM-02	NIKE	766514	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 138
4964	IM-02	NIKE	036413	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 1 & SUB SER
4965	IM-02	NIKE	036388	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 10
4966	IM-02	NIKE	716303	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 100
4967	IM-02	NIKE	718112	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 101
4968	IM-02	NIKE	718862	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 102
4969	IM-02	NIKE	719740	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 103
4970	IM-02	NIKE	722288	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 104
4971	IM-02	NIKE	724211	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 105
4972	IM-02	NIKE	724655	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 106
4973	IM-02	NIKE	726491	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 107

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
4974	IM–02	NIKE	726519	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 108
4975	IM–02	NIKE	728359	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 109
4976	IM–02	NIKE	109941	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 11
4977	IM–02	NIKE	730612	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 110
4978	IM–02	NIKE	731937	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 111
4979	IM–02	NIKE	732784	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 112
4980	IM–02	NIKE	736892	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 113
4981	IM–02	NIKE	737919	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 114
4982	IM–02	NIKE	739890	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 115
4983	IM–02	NIKE	741388	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 116
4984	IM–02	NIKE	742354	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 117
4985	IM–02	NIKE	743401	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 118
4986	IM–02	NIKE	744796	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 119
4987	IM–02	NIKE	109942	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 12
4988	IM–02	NIKE	745275	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 120
4989	IM–02	NIKE	746606	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 121
4990	IM–02	NIKE	746871	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 122
4991	IM–02	NIKE	748097	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 123
4992	IM–02	NIKE	748725	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 124
4993	IM–02	NIKE	749390	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 125
4994	IM–02	NIKE	749921	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 126
4995	IM–02	NIKE	750655	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 127
4996	IM–02	NIKE	751499	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 128
4997	IM–02	NIKE	752699	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 129
4998	IM–02	NIKE	109943	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 13
4999	IM–02	NIKE	754901	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 130
5000	IM–02	NIKE	755916	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 131
5001	IM–02	NIKE	757488	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 132
5002	IM–02	NIKE	760416	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 133
5003	IM–02	NIKE	761196	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 134
5004	IM–02	NIKE	762973	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 135
5005	IM–02	NIKE	764475	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 136
5006	IM–02	NIKE	764834	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 137
5007	IM–02	NIKE	768179	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 139
5008	IM–02	NIKE	109944	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 14
5009	IM–02	NIKE	770302	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 140
5010	IM–02	NIKE	772193	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 141
5011	IM–02	NIKE	773143	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 142
5012	IM–02	NIKE	773864	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 143
5013	IM–02	NIKE	779349	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 145
5014	IM–02	NIKE	783459	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 146
5015	IM–02	NIKE	789550	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 148
5016	IM–02	NIKE	109945	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 15
5017	IM–02	NIKE	790949	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 150
5018	IM–02	NIKE	793170	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 151
5019	IM–02	NIKE	796952	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 152
5020	IM–02	NIKE	801127	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 153
5021	IM–02	NIKE	806626	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 155
5022	IM–02	NIKE	809274	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 156
5023	IM–02	NIKE	809876	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 157
5024	IM–02	NIKE	813050	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 158
5025	IM–02	NIKE	813833	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 159
5026	IM–02	NIKE	038173	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 16
5027	IM–02	NIKE	310325	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 17
5028	IM–02	NIKE	310326	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 18
5029	IM–02	NIKE	310324	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 19
5030	IM–02	NIKE	310323	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 20
5031	IM–02	NIKE	310322	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 21
5032	IM–02	NIKE	310321	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 22
5033	IM–02	NIKE	310319	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 23
5034	IM–02	NIKE	310320	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 24
5035	IM–02	NIKE	310327	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 25
5036	IM–02	NIKE	277472	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 26
5037	IM–02	NIKE	215874	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 27
5038	IM–02	NIKE	311565	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 28
5039	IM–02	NIKE	276264	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 29
5040	IM–02	NIKE	277449	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 30
5041	IM–02	NIKE	277436	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 31
5042	IM–02	NIKE	311564	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 32
5043	IM–02	NIKE	311562	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 33
5044	IM–02	NIKE	311563	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 34
5045	IM–02	NIKE	276267	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 35
5046	IM–02	NIKE	276272	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 36
5047	IM–02	NIKE	276667	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 37
5048	IM–02	NIKE	277069	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 38
5049	IM–02	NIKE	311566	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 39
5050	IM–02	NIKE	277953	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 40
5051	IM–02	NIKE	310257	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 41
5052	IM–02	NIKE	311057	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 42
5053	IM–02	NIKE	311614	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 43
5054	IM–02	NIKE	312020	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 44
5055	IM–02	NIKE	312843	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 45

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
5056	IM-02	NIKE	313642	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 46
5057	IM-02	NIKE	313851	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 47
5058	IM-02	NIKE	314084	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 48
5059	IM-02	NIKE	314599	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 49
5060	IM-02	NIKE	315271	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 50
5061	IM-02	NIKE	315760	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 51
5062	IM-02	NIKE	316446	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 52
5063	IM-02	NIKE	316445	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 53
5064	IM-02	NIKE	317029	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 54
5065	IM-02	NIKE	317858	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 55
5066	IM-02	NIKE	318353	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 56
5067	IM-02	NIKE	319236	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 58
5068	IM-02	NIKE	319614	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 59
5069	IM-02	NIKE	320165	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 60
5070	IM-02	NIKE	350376	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 61
5071	IM-02	NIKE	350885	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 62
5072	IM-02	NIKE	351487	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 63
5073	IM-02	NIKE	352167	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 64
5074	IM-02	NIKE	352816	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 65
5075	IM-02	NIKE	353010	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 66
5076	IM-02	NIKE	353674	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 67
5077	IM-02	NIKE	354361	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 68
5078	IM-02	NIKE	355162	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 69
5079	IM-02	NIKE	355441	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 70
5080	IM-02	NIKE	355863	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 71
5081	IM-02	NIKE	355776	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 72
5082	IM-02	NIKE	356122	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 73
5083	IM-02	NIKE	356490	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 74
5084	IM-02	NIKE	356992	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 75
5085	IM-02	NIKE	357126	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 76
5086	IM-02	NIKE	357282	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 77
5087	IM-02	NIKE	700509	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 78
5088	IM-02	NIKE	700921	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 79
5089	IM-02	NIKE	109939	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 8
5090	IM-02	NIKE	701323	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 80
5091	IM-02	NIKE	701687	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 81
5092	IM-02	NIKE	702136	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 82
5093	IM-02	NIKE	702516	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 83
5094	IM-02	NIKE	703034	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 84
5095	IM-02	NIKE	703697	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 85
5096	IM-02	NIKE	704791	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 86
5097	IM-02	NIKE	705190	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 87
5098	IM-02	NIKE	706125	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 88
5099	IM-02	NIKE	707131	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 89
5100	IM-02	NIKE	109940	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 9
5101	IM-02	NIKE	707722	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 90
5102	IM-02	NIKE	708286	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 91
5103	IM-02	NIKE	708287	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 92
5104	IM-02	NIKE	709465	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 93
5105	IM-02	NIKE	710869	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 94
5106	IM-02	NIKE	711204	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 95
5107	IM-02	NIKE	711777	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 96
5108	IM-02	NIKE	713661	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 97
5109	IM-02	NIKE	714709	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 98
5110	IM-02	NIKE	715421	FIRST TRUST OF INSURED MUNICIPAL BONDS SERIES 99
5111	IM-02	NIKE	879447	FIRST TRUST SPE SIT TR SE 20 MIC GR TRE SEC TR SE 1
5112	IM-02	NIKE	884981	FIRST TRUST SPE SIT TR SE 27 OP GR & TRE SEC TR GRE PL SE 1
5113	IM-02	NIKE	884250	FIRST TRUST SPE SIT TR SER 28 J C BRADFORD UTI INC TR SE 1
5114	IM-02	NIKE	895968	FIRST TRUST SPE SIT TR SER 57 FIRST TRUST INS CORP TR SER 8
5115	IM-02	NIKE	889415	FIRST TRUST SPE SIT TR SR 37 IND GRO & TREA SEC TR SE 3
5116	IM-02	NIKE	894631	FIRST TRUST SPE SIT TRUS SER 52 TRUS FOR TAX MUN INC SER 1
5117	IM-02	NIKE	885246	FIRST TRUST SPEC SIT TR SER 30 FIRST TR INSURED CORP TR SE 4
5118	IM-02	NIKE	890692	FIRST TRUST SPEC SIT TR SER 40 SUN GRO & TRE SEC TR SER 1
5119	IM-02	NIKE	892480	FIRST TRUST SPEC SIT TR SER 44 CHESA GRO & TREA SEC TR SER 1
5120	IM-02	NIKE	892461	FIRST TRUST SPEC SIT TR SER 45 DIVIDEND INCOME BLDER 2002 TR
5121	IM-02	NIKE	875273	FIRST TRUST SPEC SIT TR SERS 12 IA GRO & TRES SEC TRSERS 1
5122	IM-02	NIKE	880570	FIRST TRUST SPEC SIT TRU SER 31 ILL GRO & TREA SEC TRU SER 2
5123	IM-02	NIKE	879009	FIRST TRUST SPECIAL SIT TR SE 18 WI GR & TRE SEC TR SE 1
5124	IM-02	NIKE	883202	FIRST TRUST SPECIAL SIT TR SE 24 TH FI TR INS COR TR SE 3
5125	IM-02	NIKE	888032	FIRST TRUST SPECIAL SIT TR SE 33 AMER UTIL INCOME TR SE 1
5126	IM-02	NIKE	888033	FIRST TRUST SPECIAL SIT TR SE 34 HLTHCARE TR 2000 SE 1
5127	IM-02	NIKE	888554	FIRST TRUST SPECIAL SIT TR SE 35 FIRST TR INS CORP TR SR 5
5128	IM-02	NIKE	889255	FIRST TRUST SPECIAL SIT TR SE 36 FIR TR PREF ADJ RAT TR SE 2
5129	IM-02	NIKE	891716	FIRST TRUST SPECIAL SIT TR SE 42 HIL LY EQ & TRE SEC TR SE 1
5130	IM-02	NIKE	895758	FIRST TRUST SPECIAL SIT TR SE 56 GOL ST GR & TRE SEC TR SE 1
5131	IM-02	NIKE	883630	FIRST TRUST SPECIAL SIT TR SER 25 GRE LAK BL CH TR SER 1
5132	IM-02	NIKE	884181	FIRST TRUST SPECIAL SIT TR SER 26 FRST TR PR ADJ RAT TR SE 1
5133	IM-02	NIKE	885070	FIRST TRUST SPECIAL SIT TR SER 29 CMO UNIT INV TRUST SER 1
5134	IM-02	NIKE	890360	FIRST TRUST SPECIAL SIT TR SER 39 FIR TR INS COR TR SER 6
5135	IM-02	NIKE	891715	FIRST TRUST SPECIAL SIT TR SER 43 NEB GRO & TRE SEC TR SER 2
5136	IM-02	NIKE	893196	FIRST TRUST SPECIAL SIT TR SER 46 STR EQUITY TR SER 1
5137	IM-02	NIKE	893733	FIRST TRUST SPECIAL SIT TR SER 48 FIR TR INS CORP TR SER 7

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
5138	IM-02	NIKE	894079	FIRST TRUST SPECIAL SIT TR SER 49 MED GRO & TRE SEC TR SER 1
5139	IM-02	NIKE	872600	FIRST TRUST SPECIAL SIT TR SER 8 TO GR TRE SEC TR UP MI SE 1
5140	IM-02	NIKE	872722	FIRST TRUST SPECIAL SIT TR SER 9 ILL GROW TREA SEC TR SER 1
5141	IM-02	NIKE	880625	FIRST TRUST SPECIAL SIT TRU SER 22 GRE LAK UTIL TR SER 1
5142	IM-02	NIKE	873077	FIRST TRUST SPECIAL SITUA TR SE 10 SOUTH GR TR SEC TR SER 1
5143	IM-02	NIKE	876377	FIRST TRUST SPECIAL SITUATION TR SE 13 MI GR TR SE TR SE 1
5144	IM-02	NIKE	876430	FIRST TRUST SPECIAL SITUATION TR SE 14 MINN GR TR SE TR SE 2
5145	IM-02	NIKE	891316	FIRST TRUST SPECIAL SITUATIONS TR SER 41 INC & GRO TR SER 1
5146	IM-02	NIKE	895564	FIRST TRUST SPECIAL SITUATIONS TR SER 51 CMO UN INV TR SER 2
5147	IM-02	NIKE	895574	FIRST TRUST SPECIAL SITUATIONS TR SER 54 STR LEAD TR SER 1
5148	IM-02	NIKE	861456	FIRST TRUST SPECIAL SITUATIONS TRUST SERIES 1
5149	IM-02	NIKE	879198	FIRST TRUST SPECIAL SITUATIONS TRUST SERIES 19
5150	IM-02	NIKE	866296	FIRST TRUST SPECIAL SITUATIONS TRUST SERIES 2
5151	IM-02	NIKE	890162	FIRST TRUST SPECIAL SITUATIONS TRUST SERIES 38 NW UTIL IN TR
5152	IM-02	NIKE	871506	FIRST TRUST SPECIAL SITUATIONS TRUST SERIES 6
5153	IM-02	NIKE	871700	FIRST TRUST SPECIAL SITUATIONS TRUST SERIES 7
5154	IM-02	NIKE	879199	INDIANA GROWTH & TREASURY SECURITIES TRUST SERIES 2
5155	IM-02	NUVEEN	049719	IDS NUVEEN INCOME TRUST SERIES 1
5156	IM-02	PRUDENTIAL	843166	GOVERNMENT SECURITIES EQUITY TRUST SERIES 1
5157	IM-02	PRUDENTIAL	852109	GOVERNMENT SECURITIES EQUITY TRUST SERIES 2
5158	IM-02	PRUDENTIAL	880055	GOVERNMENT SECURITIES EQUITY TRUST SERIES 3
5159	IM-02	PRUDENTIAL	891145	GOVERNMENT SECURITIES EQUITY TRUST SERIES 4
5160	IM-02	PRUDENTIAL	858780	NATIONAL EQUITY TRUST UTILITY SERIES 1
5161	IM-02	PRUDENTIAL	890136	NATIONAL EQUITY TRUST UTILITY SERIES 2
5162	IM-02	PRUDENTIAL	866355	NATIONAL MUN TR MULTISTATE SER 31 NATIONAL MUN TR SERIES 128
5163	IM-02	PRUDENTIAL	856450	NATIONAL MUNICIPAL TR ONE HUNDRED & TWENTIETH SE TWENTY SEVE
5164	IM-02	PRUDENTIAL	799525	NATIONAL MUNICIPAL TR SPEC TRUSTS TWENTIETH MULTI STATE SER
5165	IM-02	PRUDENTIAL	070357	NATIONAL MUNICIPAL TRUST & SUBSEQUENT TRUSTS
5166	IM-02	PRUDENTIAL	318063	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES
5167	IM-02	PRUDENTIAL	756806	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES 25
5168	IM-02	PRUDENTIAL	774448	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES 26
5169	IM-02	PRUDENTIAL	793205	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES 28
5170	IM-02	PRUDENTIAL	793064	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES 29
5171	IM-02	PRUDENTIAL	775611	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES 33
5172	IM-02	PRUDENTIAL	804080	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES 34
5173	IM-02	PRUDENTIAL	804746	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES 35
5174	IM-02	PRUDENTIAL	810771	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES 37
5175	IM-02	PRUDENTIAL	812429	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES 38
5176	IM-02	PRUDENTIAL	822982	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES 40
5177	IM-02	PRUDENTIAL	826825	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES 41
5178	IM-02	PRUDENTIAL	840423	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES 42
5179	IM-02	PRUDENTIAL	844210	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES 43
5180	IM-02	PRUDENTIAL	709473	NATIONAL MUNICIPAL TRUST DISCOUNT SERIES 7
5181	IM-02	PRUDENTIAL	776176	NATIONAL MUNICIPAL TRUST INSURED SERIES 12
5182	IM-02	PRUDENTIAL	780566	NATIONAL MUNICIPAL TRUST INSURED SERIES 13
5183	IM-02	PRUDENTIAL	783406	NATIONAL MUNICIPAL TRUST INSURED SERIES 14
5184	IM-02	PRUDENTIAL	783782	NATIONAL MUNICIPAL TRUST INSURED SERIES 15
5185	IM-02	PRUDENTIAL	784557	NATIONAL MUNICIPAL TRUST INSURED SERIES 16
5186	IM-02	PRUDENTIAL	787428	NATIONAL MUNICIPAL TRUST INSURED SERIES 17
5187	IM-02	PRUDENTIAL	794421	NATIONAL MUNICIPAL TRUST INSURED SERIES 21
5188	IM-02	PRUDENTIAL	799524	NATIONAL MUNICIPAL TRUST INSURED SERIES 22
5189	IM-02	PRUDENTIAL	813627	NATIONAL MUNICIPAL TRUST INSURED SERIES 27
5190	IM-02	PRUDENTIAL	814506	NATIONAL MUNICIPAL TRUST INSURED SERIES 28
5191	IM-02	PRUDENTIAL	820480	NATIONAL MUNICIPAL TRUST INSURED SERIES 29
5192	IM-02	PRUDENTIAL	825282	NATIONAL MUNICIPAL TRUST INSURED SERIES 30
5193	IM-02	PRUDENTIAL	833323	NATIONAL MUNICIPAL TRUST INSURED SERIES 33
5194	IM-02	PRUDENTIAL	837765	NATIONAL MUNICIPAL TRUST INSURED SERIES 34
5195	IM-02	PRUDENTIAL	841679	NATIONAL MUNICIPAL TRUST INSURED SERIES 35
5196	IM-02	PRUDENTIAL	841685	NATIONAL MUNICIPAL TRUST INSURED SERIES 36
5197	IM-02	PRUDENTIAL	845416	NATIONAL MUNICIPAL TRUST INSURED SERIES 37
5198	IM-02	PRUDENTIAL	845472	NATIONAL MUNICIPAL TRUST INSURED SERIES 38
5199	IM-02	PRUDENTIAL	846781	NATIONAL MUNICIPAL TRUST INSURED SERIES 39
5200	IM-02	PRUDENTIAL	846780	NATIONAL MUNICIPAL TRUST INSURED SERIES 40
5201	IM-02	PRUDENTIAL	848480	NATIONAL MUNICIPAL TRUST INSURED SERIES 41
5202	IM-02	PRUDENTIAL	850225	NATIONAL MUNICIPAL TRUST INSURED SERIES 42
5203	IM-02	PRUDENTIAL	851944	NATIONAL MUNICIPAL TRUST INSURED SERIES 43
5204	IM-02	PRUDENTIAL	881716	NATIONAL MUNICIPAL TRUST MULT SER 48
5205	IM-02	PRUDENTIAL	879128	NATIONAL MUNICIPAL TRUST MULTISTATE SER 48
5206	IM-02	PRUDENTIAL	888475	NATIONAL MUNICIPAL TRUST MULTISTATE SER 53
5207	IM-02	PRUDENTIAL	809155	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 22
5208	IM-02	PRUDENTIAL	822427	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 24
5209	IM-02	PRUDENTIAL	833439	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 25
5210	IM-02	PRUDENTIAL	862325	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 28
5211	IM-02	PRUDENTIAL	863135	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 29
5212	IM-02	PRUDENTIAL	863360	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 30
5213	IM-02	PRUDENTIAL	868323	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 33
5214	IM-02	PRUDENTIAL	869779	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 36
5215	IM-02	PRUDENTIAL	870851	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 37
5216	IM-02	PRUDENTIAL	872454	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 39
5217	IM-02	PRUDENTIAL	873642	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 41
5218	IM-02	PRUDENTIAL	873632	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 42
5219	IM-02	PRUDENTIAL	843541	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 43

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
5220	IM-02	PRUDENTIAL	877444	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 45
5221	IM-02	PRUDENTIAL	879141	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 47
5222	IM-02	PRUDENTIAL	883756	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 49
5223	IM-02	PRUDENTIAL	884511	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 50
5224	IM-02	PRUDENTIAL	887800	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 52
5225	IM-02	PRUDENTIAL	889552	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 54
5226	IM-02	PRUDENTIAL	892891	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 55
5227	IM-02	PRUDENTIAL	893962	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 56
5228	IM-02	PRUDENTIAL	895045	NATIONAL MUNICIPAL TRUST MULTISTATE SERIES 57
5229	IM-02	PRUDENTIAL	847298	NATIONAL MUNICIPAL TRUST ONE HUNDRED & EIGHTEENTH SERIES
5230	IM-02	PRUDENTIAL	849622	NATIONAL MUNICIPAL TRUST ONE HUNDRED & NINETEENTH SERIES
5231	IM-02	PRUDENTIAL	846419	NATIONAL MUNICIPAL TRUST ONE HUNDRED & SEVENTEENTH SERIES
5232	IM-02	PRUDENTIAL	850224	NATIONAL MUNICIPAL TRUST ONE HUNDRED TWENTIETH SERIES
5233	IM-02	PRUDENTIAL	858379	NATIONAL MUNICIPAL TRUST SELECTED CREDIT TRUST SERIES 1
5234	IM-02	PRUDENTIAL	870849	NATIONAL MUNICIPAL TRUST SER 136 MULTISTATE SERIES 38
5235	IM-02	PRUDENTIAL	888476	NATIONAL MUNICIPAL TRUST SER 151
5236	IM-02	PRUDENTIAL	809915	NATIONAL MUNICIPAL TRUST SERIES 100
5237	IM-02	PRUDENTIAL	816162	NATIONAL MUNICIPAL TRUST SERIES 104
5238	IM-02	PRUDENTIAL	819537	NATIONAL MUNICIPAL TRUST SERIES 105
5239	IM-02	PRUDENTIAL	821223	NATIONAL MUNICIPAL TRUST SERIES 106
5240	IM-02	PRUDENTIAL	825039	NATIONAL MUNICIPAL TRUST SERIES 107
5241	IM-02	PRUDENTIAL	826306	NATIONAL MUNICIPAL TRUST SERIES 108
5242	IM-02	PRUDENTIAL	827853	NATIONAL MUNICIPAL TRUST SERIES 109
5243	IM-02	PRUDENTIAL	837766	NATIONAL MUNICIPAL TRUST SERIES 114
5244	IM-02	PRUDENTIAL	839531	NATIONAL MUNICIPAL TRUST SERIES 115
5245	IM-02	PRUDENTIAL	843021	NATIONAL MUNICIPAL TRUST SERIES 116
5246	IM-02	PRUDENTIAL	862176	NATIONAL MUNICIPAL TRUST SERIES 121
5247	IM-02	PRUDENTIAL	862898	NATIONAL MUNICIPAL TRUST SERIES 122
5248	IM-02	PRUDENTIAL	863137	NATIONAL MUNICIPAL TRUST SERIES 123
5249	IM-02	PRUDENTIAL	863361	NATIONAL MUNICIPAL TRUST SERIES 124 INSURED SERIES 44
5250	IM-02	PRUDENTIAL	863359	NATIONAL MUNICIPAL TRUST SERIES 125
5251	IM-02	PRUDENTIAL	796152	NATIONAL MUNICIPAL TRUST SERIES 126
5252	IM-02	PRUDENTIAL	864293	NATIONAL MUNICIPAL TRUST SERIES 127 MULTISTATE SERIES 30
5253	IM-02	PRUDENTIAL	866146	NATIONAL MUNICIPAL TRUST SERIES 128
5254	IM-02	PRUDENTIAL	866143	NATIONAL MUNICIPAL TRUST SERIES 129
5255	IM-02	PRUDENTIAL	866371	NATIONAL MUNICIPAL TRUST SERIES 129 MULTISTATE SERIES 32
5256	IM-02	PRUDENTIAL	868276	NATIONAL MUNICIPAL TRUST SERIES 130
5257	IM-02	PRUDENTIAL	868324	NATIONAL MUNICIPAL TRUST SERIES 131
5258	IM-02	PRUDENTIAL	868319	NATIONAL MUNICIPAL TRUST SERIES 132 MULTISTATE SERIES 34
5259	IM-02	PRUDENTIAL	869875	NATIONAL MUNICIPAL TRUST SERIES 133
5260	IM-02	PRUDENTIAL	869875	NATIONAL MUNICIPAL TRUST SERIES 133 MULTISTATE SERIES 35
5261	IM-02	PRUDENTIAL	870784	NATIONAL MUNICIPAL TRUST SERIES 134 & MULTISTATE SERIES 36
5262	IM-02	PRUDENTIAL	870835	NATIONAL MUNICIPAL TRUST SERIES 135
5263	IM-02	PRUDENTIAL	870836	NATIONAL MUNICIPAL TRUST SERIES 136
5264	IM-02	PRUDENTIAL	872428	NATIONAL MUNICIPAL TRUST SERIES 137
5265	IM-02	PRUDENTIAL	872455	NATIONAL MUNICIPAL TRUST SERIES 138
5266	IM-02	PRUDENTIAL	872453	NATIONAL MUNICIPAL TRUST SERIES 138 MULTISTATE SERIES 140
5267	IM-02	PRUDENTIAL	873640	NATIONAL MUNICIPAL TRUST SERIES 139
5268	IM-02	PRUDENTIAL	873641	NATIONAL MUNICIPAL TRUST SERIES 140 MULTISTATE SERIES 42
5269	IM-02	PRUDENTIAL	876068	NATIONAL MUNICIPAL TRUST SERIES 141
5270	IM-02	PRUDENTIAL	877389	NATIONAL MUNICIPAL TRUST SERIES 141 MULTISTATE SERIES 44
5271	IM-02	PRUDENTIAL	876070	NATIONAL MUNICIPAL TRUST SERIES 142 MULTISTATE SERIES 43
5272	IM-02	PRUDENTIAL	877443	NATIONAL MUNICIPAL TRUST SERIES 143
5273	IM-02	PRUDENTIAL	879129	NATIONAL MUNICIPAL TRUST SERIES 144
5274	IM-02	PRUDENTIAL	879127	NATIONAL MUNICIPAL TRUST SERIES 145
5275	IM-02	PRUDENTIAL	881719	NATIONAL MUNICIPAL TRUST SERIES 146
5276	IM-02	PRUDENTIAL	883769	NATIONAL MUNICIPAL TRUST SERIES 147 MULTISTATE SERIES 49
5277	IM-02	PRUDENTIAL	884513	NATIONAL MUNICIPAL TRUST SERIES 148
5278	IM-02	PRUDENTIAL	885746	NATIONAL MUNICIPAL TRUST SERIES 149
5279	IM-02	PRUDENTIAL	885713	NATIONAL MUNICIPAL TRUST SERIES 149 MULTISTATE SERIES 51
5280	IM-02	PRUDENTIAL	887601	NATIONAL MUNICIPAL TRUST SERIES 150
5281	IM-02	PRUDENTIAL	889551	NATIONAL MUNICIPAL TRUST SERIES 152 MULTISTATE SERIES 53
5282	IM-02	PRUDENTIAL	891616	NATIONAL MUNICIPAL TRUST SERIES 153 MULTISTATE SERIES 54
5283	IM-02	PRUDENTIAL	892892	NATIONAL MUNICIPAL TRUST SERIES 154
5284	IM-02	PRUDENTIAL	893925	NATIONAL MUNICIPAL TRUST SERIES 155 MULTISTATE SERIES 55
5285	IM-02	PRUDENTIAL	895042	NATIONAL MUNICIPAL TRUST SERIES 156
5286	IM-02	PRUDENTIAL	895040	NATIONAL MUNICIPAL TRUST SERIES 157
5287	IM-02	PRUDENTIAL	780585	NATIONAL MUNICIPAL TRUST SERIES 89
5288	IM-02	PRUDENTIAL	783899	NATIONAL MUNICIPAL TRUST SERIES 90
5289	IM-02	PRUDENTIAL	784555	NATIONAL MUNICIPAL TRUST SERIES 91
5290	IM-02	PRUDENTIAL	797098	NATIONAL MUNICIPAL TRUST SERIES 95
5291	IM-02	PRUDENTIAL	800431	NATIONAL MUNICIPAL TRUST SERIES 96
5292	IM-02	PRUDENTIAL	804747	NATIONAL MUNICIPAL TRUST SERIES 97
5293	IM-02	PRUDENTIAL	809063	NATIONAL MUNICIPAL TRUST SERIES 98
5294	IM-02	PRUDENTIAL	846420	NATIONAL MUNICIPAL TRUST SPEC TRUSTS DIS SERIES FORTY FIVE
5295	IM-02	PRUDENTIAL	736932	NATIONAL MUNICIPAL TRUST SPECIAL TRUSTS FIRST PUT SERIES
5296	IM-02	PRUDENTIAL	741265	NATIONAL MUNICIPAL TRUST SPECIAL TRUSTS SECOND PUT SERIES
5297	IM-02	PRUDENTIAL	846675	NATIONAL MUNICIPAL TRUST TWENTY SIXTH MULTISTATE SERIES
5298	IM-02	PRUDENTIAL	790229	NATIONAL MUNICIPAL TRUSTS DISCOUNT SERIES 27
5299	IM-02	PRUDENTIAL	719970	NEW YORK MUNICIPAL TRUST NEW YORK DISCOUNT & ZERO COUPON FUN
5300	IM-02	PRUDENTIAL	312023	NEW YORK MUNICIPAL TRUST SERIES 6
5301	IM-02	PRUDENTIAL	779990	PRUDENTIAL BACHE UNIT TR INS TAX EX SE 14 IN MU TAX EX SE 11

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
5302	IM-02	PRUDENTIAL	784793	PRUDENTIAL BACHE UNIT TR INS TAX EXEMPT SELECTED TERM SER 6
5303	IM-02	PRUDENTIAL	778416	PRUDENTIAL BACHE UNIT TR TAX EX SE 11 INS TAX EX SE TER SE 7
5304	IM-02	PRUDENTIAL	777615	PRUDENTIAL BACHE UNIT TRUSTS HIGH YIELD TAX EXEMPT SERIES 2
5305	IM-02	PRUDENTIAL	778419	PRUDENTIAL BACHE UNIT TRUSTS INS MUL ST TAX EXEMPT SER 10
5306	IM-02	PRUDENTIAL	784792	PRUDENTIAL BACHE UNIT TRUSTS INS MULTISTATE TAX EXEMPT SR 12
5307	IM-02	PRUDENTIAL	778420	PRUDENTIAL BACHE UNIT TRUSTS INS TAX EXEMPT SEL TERM SER 7
5308	IM-02	PRUDENTIAL	773279	PRUDENTIAL BACHE UNIT TRUSTS INS TAX EXEMPT SELEC TERSER5
5309	IM-02	PRUDENTIAL	771998	PRUDENTIAL BACHE UNIT TRUSTS INSURED MUL TAX EXEMPT SERIES 7
5310	IM-02	PRUDENTIAL	771997	PRUDENTIAL BACHE UNIT TRUSTS INSURED MUL TAX EXEMPT SERIES 8
5311	IM-02	PRUDENTIAL	785803	PRUDENTIAL BACHE UNIT TRUSTS INSURED MULTISTATE TAX EX SE 13
5312	IM-02	PRUDENTIAL	785804	PRUDENTIAL BACHE UNIT TRUSTS INSURED MULTISTATE TAX EX SE 14
5313	IM-02	PRUDENTIAL	764690	PRUDENTIAL BACHE UNIT TRUSTS INSURED MULTISTATE TAX SERIES 1
5314	IM-02	PRUDENTIAL	765048	PRUDENTIAL BACHE UNIT TRUSTS INSURED TAX EXEMPT INTERM SR 1
5315	IM-02	PRUDENTIAL	773553	PRUDENTIAL BACHE UNIT TRUSTS INSURED TAX EXEMPT SERIES 12
5316	IM-02	PRUDENTIAL	764776	PRUDENTIAL BACHE UNIT TRUSTS INSURED TAX EXEMPT SERIES 5
5317	IM-02	PRUDENTIAL	765065	PRUDENTIAL BACHE UNIT TRUSTS INSURED TAX EXEMPT SERIES 9
5318	IM-02	PRUDENTIAL	765059	PRUDENTIAL BACHE UNIT TRUSTS TAX EXEMPT INTERMEDIATE SER I
5319	IM-02	PRUDENTIAL	775975	PRUDENTIAL BACHE UNIT TRUSTS TAX EXEMPT SERIES 10
5320	IM-02	PRUDENTIAL	784794	PRUDENTIAL BACHE UNIT TRUSTS TAX EXEMPT SERIES 12
5321	IM-02	PRUDENTIAL	771616	PRUDENTIAL BACHE UNIT TRUSTS TAX EXEMPT SERIES 7
5322	IM-02	PRUDENTIAL	771994	PRUDENTIAL BACHE UNIT TRUSTS TAX EXEMPT SERIES 8
5323	IM-02	PRUDENTIAL	773554	PRUDENTIAL UN TR INS TX EXE SE 11 INS TX EXE SEL TRM SE 5IN
5324	IM-02	PRUDENTIAL	831656	PRUDENTIAL UNIT TR INS TAX EX SER 37 INS MULTI TAX EX SER 21
5325	IM-02	PRUDENTIAL	766353	PRUDENTIAL UNIT TR INS TAX EX SER 7 INS MULTI TAX EX SER 2
5326	IM-02	PRUDENTIAL	838823	PRUDENTIAL UNIT TR INS TX EX SE 40 IN MULTISTATE TX EX SE 25
5327	IM-02	PRUDENTIAL	803567	PRUDENTIAL UNIT TR INSURED MULTISTATE TAX EXEMPT SERIES 20
5328	IM-02	PRUDENTIAL	764777	PRUDENTIAL UNIT TRTS INS TAX EXE SERS 4 TAX EXE SERS 1
5329	IM-02	PRUDENTIAL	765558	PRUDENTIAL UNIT TRTS INS TX EXE SER 6 INS MUL TX EXE SERS 1
5330	IM-02	PRUDENTIAL	883681	PRUDENTIAL UNIT TRU PRUDENTIAL EQUITY TRU SHARES 5
5331	IM-02	PRUDENTIAL	894374	PRUDENTIAL UNIT TRUST SINGLE BEST IDEA SERIES 1
5332	IM-02	PRUDENTIAL	882366	PRUDENTIAL UNIT TRUSTS CORPORATE HIGH YIELD SERIES 1
5333	IM-02	PRUDENTIAL	835125	PRUDENTIAL UNIT TRUSTS CORPORATE HIGH YIELD SERIES 2
5334	IM-02	PRUDENTIAL	833425	PRUDENTIAL UNIT TRUSTS CORPORATE HIGH YIELD SERIES 3
5335	IM-02	PRUDENTIAL	840201	PRUDENTIAL UNIT TRUSTS CORPORATE HIGH YIELD SERIES 4
5336	IM-02	PRUDENTIAL	840545	PRUDENTIAL UNIT TRUSTS CORPORATE HIGH YIELD SERIES 5
5337	IM-02	PRUDENTIAL	767383	PRUDENTIAL UNIT TRUSTS HIGH YIELD TAX EXEMPT SERIES 1
5338	IM-02	PRUDENTIAL	780002	PRUDENTIAL UNIT TRUSTS HIGH YIELD TAX EXEMPT SERIES 3
5339	IM-02	PRUDENTIAL	785983	PRUDENTIAL UNIT TRUSTS HIGH YIELD TAX EXEMPT SERIES 4
5340	IM-02	PRUDENTIAL	785975	PRUDENTIAL UNIT TRUSTS HIGH YIELD TAX EXEMPT SERIES 5
5341	IM-02	PRUDENTIAL	799670	PRUDENTIAL UNIT TRUSTS HIGH YIELD TAX EXEMPT SERIES 6
5342	IM-02	PRUDENTIAL	803607	PRUDENTIAL UNIT TRUSTS HIGH YIELD TAX EXEMPT SERIES 7
5343	IM-02	PRUDENTIAL	808018	PRUDENTIAL UNIT TRUSTS HIGH YIELD TAX EXEMPT SERIES 8
5344	IM-02	PRUDENTIAL	783453	PRUDENTIAL UNIT TRUSTS INS MULTISTATE TAX EXEMPT SER 15 /NY
5345	IM-02	PRUDENTIAL	771619	PRUDENTIAL UNIT TRUSTS INS MULTISTATE TAX EXEMPT SER 6
5346	IM-02	PRUDENTIAL	758686	PRUDENTIAL UNIT TRUSTS INS TAX EXEMPT SELECTED TERM SERIES 3
5347	IM-02	PRUDENTIAL	842167	PRUDENTIAL UNIT TRUSTS INS TX EX SE 41 INS MULST TX EX SE 26
5348	IM-02	PRUDENTIAL	769427	PRUDENTIAL UNIT TRUSTS INS TX EX SE 8 INS MULTIST TX EX SE 5
5349	IM-02	PRUDENTIAL	835401	PRUDENTIAL UNIT TRUSTS INS TX EX SER 39 INS MUL TX EX SER 24
5350	IM-02	PRUDENTIAL	773552	PRUDENTIAL UNIT TRUSTS INS TX-EX SER 12 & INS MUL TX-EX SR 9
5351	IM-02	PRUDENTIAL	806765	PRUDENTIAL UNIT TRUSTS INSURED MUL TAX EXEMPT SERIES 21
5352	IM-02	PRUDENTIAL	767412	PRUDENTIAL UNIT TRUSTS INSURED MULTISTATE TAX EXEM SERIES 2
5353	IM-02	PRUDENTIAL	785976	PRUDENTIAL UNIT TRUSTS INSURED MULTISTATE TAX EXEMPT SER 16
5354	IM-02	PRUDENTIAL	794704	PRUDENTIAL UNIT TRUSTS INSURED MULTISTATE TAX EXEMPT SER 17
5355	IM-02	PRUDENTIAL	797661	PRUDENTIAL UNIT TRUSTS INSURED MULTISTATE TAX EXEMPT SER 18
5356	IM-02	PRUDENTIAL	812123	PRUDENTIAL UNIT TRUSTS INSURED MULTISTATE TAX EXEMPT SERI 23
5357	IM-02	PRUDENTIAL	803503	PRUDENTIAL UNIT TRUSTS INSURED MULTISTATE TAX EXEMPT SR 19
5358	IM-02	PRUDENTIAL	829528	PRUDENTIAL UNIT TRUSTS INSURED TAX EX SE 36 IN MU TX EX S 20
5359	IM-02	PRUDENTIAL	740116	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 1
5360	IM-02	PRUDENTIAL	772036	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 10
5361	IM-02	PRUDENTIAL	745351	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 17
5362	IM-02	PRUDENTIAL	791853	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 18
5363	IM-02	PRUDENTIAL	797660	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 19
5364	IM-02	PRUDENTIAL	764063	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 2
5365	IM-02	PRUDENTIAL	797663	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 20
5366	IM-02	PRUDENTIAL	803504	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 21
5367	IM-02	PRUDENTIAL	803505	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 22
5368	IM-02	PRUDENTIAL	812045	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 26
5369	IM-02	PRUDENTIAL	816960	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 28
5370	IM-02	PRUDENTIAL	821093	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 29
5371	IM-02	PRUDENTIAL	764210	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 3
5372	IM-02	PRUDENTIAL	821092	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 30
5373	IM-02	PRUDENTIAL	822705	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 31
5374	IM-02	PRUDENTIAL	822984	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 32
5375	IM-02	PRUDENTIAL	825071	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 33
5376	IM-02	PRUDENTIAL	826448	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 34
5377	IM-02	PRUDENTIAL	828682	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 35
5378	IM-02	PRUDENTIAL	833118	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 39
5379	IM-02	PRUDENTIAL	835402	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 40
5380	IM-02	PRUDENTIAL	842164	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 41
5381	IM-02	PRUDENTIAL	843540	PRUDENTIAL UNIT TRUSTS INSURED TAX EXEMPT SERIES 42
5382	IM-02	PRUDENTIAL	809534	PRUDENTIAL UNIT TRUSTS INSURED TAX-EXEMPT SERIES 27
5383	IM-02	PRUDENTIAL	832497	PRUDENTIAL UNIT TRUSTS INSURED TX EX SE 38 IN MU TX EX SE 22

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
5384	IM-02	PRUDENTIAL	810990	PRUDENTIAL UNIT TRUSTS PRUDENTIAL EQUITY TRUST SHARES 1
5385	IM-02	PRUDENTIAL	778418	PRUDENTIAL UNIT TRUSTS TAX EX SEL TER SER 1 INS TX EX SER 13
5386	IM-02	PRUDENTIAL	774355	PRUDENTIAL UNIT TRUSTS TAX EXE SER 9 INSU MULTI TAX SER 7
5387	IM-02	PRUDENTIAL	771474	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SE 5 IN MULTIST TX EX SE 4
5388	IM-02	PRUDENTIAL	745350	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 1
5389	IM-02	PRUDENTIAL	785978	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 13
5390	IM-02	PRUDENTIAL	785990	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 14
5391	IM-02	PRUDENTIAL	792720	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 15
5392	IM-02	PRUDENTIAL	794705	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 16
5393	IM-02	PRUDENTIAL	797455	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 17
5394	IM-02	PRUDENTIAL	797456	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 18
5395	IM-02	PRUDENTIAL	803606	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 19
5396	IM-02	PRUDENTIAL	806766	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 19 INS TAX EX SE 23
5397	IM-02	PRUDENTIAL	765891	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 2 INS TAX EXE SER 5
5398	IM-02	PRUDENTIAL	804089	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 20
5399	IM-02	PRUDENTIAL	808014	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 20 INS TX EX SE 24
5400	IM-02	PRUDENTIAL	809635	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 21 INS TAX EX SE 25
5401	IM-02	PRUDENTIAL	766349	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 3
5402	IM-02	PRUDENTIAL	769425	PRUDENTIAL UNIT TRUSTS TAX EXEMPT SERIES 6
5403	IM-02	PRUDENTIAL	776787	PRUDENTIAL UNIT TRUSTS TX EX SE 10 INS TX EX SE TERM SE 6
5404	IM-02	PRUDENTIAL	768686	PRUDENTIAL UNT TRS TX EXP SE 4 INS MULTS TX EXP SE 3 INS TX
5405	IM-02	SHEARSON	049331	HUTTON E F CORPORATE INCOME FUND FIRST SERIES
5406	IM-02	SHEARSON	353476	HUTTON E F EXEMPT TRUST NATIONAL SERIES 54
5407	IM-02	SHEARSON	817598	HUTTON E F TAX EXEMPT TRUST CALIFORNIA INS SER 18 NAT SE 130
5408	IM-02	SHEARSON	783309	HUTTON E F TAX EXEMPT TRUST CALIFORNIA INSURED SERIES 14
5409	IM-02	SHEARSON	813823	HUTTON E F TAX EXEMPT TRUST CALIFORNIA INSURED SERIES 17
5410	IM-02	SHEARSON	817601	HUTTON E F TAX EXEMPT TRUST CALIFORNIA INSURED SERIES 18
5411	IM-02	SHEARSON	759247	HUTTON E F TAX EXEMPT TRUST CALIFORNIA INSURED SERIES 7
5412	IM-02	SHEARSON	815548	HUTTON E F TAX EXEMPT TRUST CALIFORNIA SERIES 14
5413	IM-02	SHEARSON	783285	HUTTON E F TAX EXEMPT TRUST MULTISTATE SERIES 26
5414	IM-02	SHEARSON	785981	HUTTON E F TAX EXEMPT TRUST MULTISTATE SERIES 27
5415	IM-02	SHEARSON	788191	HUTTON E F TAX EXEMPT TRUST MULTISTATE SERIES 28
5416	IM-02	SHEARSON	815020	HUTTON E F TAX EXEMPT TRUST MULTISTATE SERIES 29
5417	IM-02	SHEARSON	736767	HUTTON E F TAX EXEMPT TRUST MULTISTATE SERIES 3
5418	IM-02	SHEARSON	817596	HUTTON E F TAX EXEMPT TRUST MULTISTATE SERIES 30
5419	IM-02	SHEARSON	785982	HUTTON E F TAX EXEMPT TRUST NATIONAL INSURED SERIES 19
5420	IM-02	SHEARSON	788193	HUTTON E F TAX EXEMPT TRUST NATIONAL INSURED SERIES 20
5421	IM-02	SHEARSON	748885	HUTTON E F TAX EXEMPT TRUST NATIONAL INSURED SERIES 6
5422	IM-02	SHEARSON	783310	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 121
5423	IM-02	SHEARSON	788302	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 123
5424	IM-02	SHEARSON	789465	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 124
5425	IM-02	SHEARSON	793554	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 125
5426	IM-02	SHEARSON	798054	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 126
5427	IM-02	SHEARSON	811418	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 129
5428	IM-02	SHEARSON	277189	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 23
5429	IM-02	SHEARSON	277190	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 24
5430	IM-02	SHEARSON	315664	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 46
5431	IM-02	SHEARSON	317766	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 47
5432	IM-02	SHEARSON	355367	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 56
5433	IM-02	SHEARSON	356135	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 57
5434	IM-02	SHEARSON	277166	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 7
5435	IM-02	SHEARSON	714983	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 78
5436	IM-02	SHEARSON	715112	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 79
5437	IM-02	SHEARSON	715064	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 80
5438	IM-02	SHEARSON	716717	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 81
5439	IM-02	SHEARSON	716800	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 82
5440	IM-02	SHEARSON	716829	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 83
5441	IM-02	SHEARSON	720325	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 84
5442	IM-02	SHEARSON	720668	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 85
5443	IM-02	SHEARSON	720863	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 86
5444	IM-02	SHEARSON	733965	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 89
5445	IM-02	SHEARSON	736491	HUTTON E F TAX EXEMPT TRUST NATIONAL SERIES 90
5446	IM-02	SHEARSON	351734	HUTTON E F TAX EXEMPT TRUST NEW YORK SERIES 16
5447	IM-02	SHEARSON	354315	HUTTON E F TAX EXEMPT TRUST NEW YORK SERIES 17
5448	IM-02	SHEARSON	277184	HUTTON E F TAX EXEMPT TRUST NEW YORK SERIES 18
5449	IM-02	SHEARSON	701899	HUTTON E F TAX EXEMPT TRUST NEW YORK SERIES 20
5450	IM-02	SHEARSON	702603	HUTTON E F TAX EXEMPT TRUST NEW YORK SERIES 21
5451	IM-02	SHEARSON	275544	HUTTON E F TRUST FOR GOVERNMENT GUARANTEED SECURITIES
5452	IM-02	SHEARSON	795613	HUTTON INVESTMENT TRUST CONVERTIBLE UNIT TRUST SERIES 11
5453	IM-02	SHEARSON	712371	HUTTON INVESTMENT TRUST GNMA SERIES 83 1
5454	IM-02	SHEARSON	752297	HUTTON INVESTMENT TRUST GNMA SERIES 85-A
5455	IM-02	SHEARSON	771624	HUTTON INVESTMENT TRUST GNMA SERIES 85-B
5456	IM-02	SHEARSON	786173	HUTTON INVESTMENT TRUST GNMA SERIES 86-A
5457	IM-02	SHEARSON	807880	HUTTON INVESTMENT TRUST GNMA SERIES 87-A
5458	IM-02	SHEARSON	756935	HUTTON INVESTMENT TRUST HIGH YIELD & ZERO COUPON TREA SER 1
5459	IM-02	SHEARSON	764070	HUTTON INVESTMENT TRUST HIGH YIELD & ZERO COUPON TREA SER 1B
5460	IM-02	SHEARSON	817139	HUTTON INVESTMENT TRUST SHORT INT TERM U S TREASURY SERIES 4
5461	IM-02	SHEARSON	770467	HUTTON INVESTMENT TRUST SHORT INTER TERM US TREASURY SER 3
5462	IM-02	SHEARSON	825180	HUTTON INVESTMENT TRUST SHORT INTERMEDIATE TERM US TRE SER 5
5463	IM-02	SHEARSON	759746	HUTTON INVESTMENT TRUST SHORT/INTER TERM U S TREAS SER 2
5464	IM-02	SHEARSON	721705	HUTTON TELEPHONE TRUST FIRST TAX FREE EXCHANGE SERIES
5465	IM-02	SHEARSON	737193	HUTTON TELEPHONE TRUST SECOND TAX FREE EXCHANGE SERIES

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
5466	IM-02	SHEARSON	701660	HUTTON UTILITY TRUST FIRST PUBLIC UTILITY EQUITY SERIES
5467	IM-02	SHEARSON	868790	SHEARSON LEHMAN BRO UNIT TR UNCOMMON VAL UNIT TR 1992 SER
5468	IM-02	SHEARSON	790198	SHEARSON LEHMAN BROS STRIPPED ZERO COUPON US TR SE FUN SER A
5469	IM-02	SHEARSON	875483	SHEARSON LEHMAN BROS UNIT TR UNCOM VALUE UNIT TR 1991 SERI
5470	IM-02	SHEARSON	770898	SHEARSON LEHMAN BROTHERS FUND OF STRIPPED ZERO US TREAS SEC
5471	IM-02	SHEARSON	836419	SHEARSON LEHMAN BROTHERS UN TR UTI VALUE TR II HIGH YIELD EQ
5472	IM-02	SHEARSON	870907	SHEARSON LEHMAN BROTHERS UNIT TR DIR UIT SERIES 90
5473	IM-02	SHEARSON	888422	SHEARSON LEHMAN BROTHERS UNIT TR DIRECTIONS U I T SR 97
5474	IM-02	SHEARSON	895825	SHEARSON LEHMAN BROTHERS UNIT TR DIRECTIONS U I T SR 99
5475	IM-02	SHEARSON	887245	SHEARSON LEHMAN BROTHERS UNIT TR EQU VAL TR CORE EQU SERIES
5476	IM-02	SHEARSON	850060	SHEARSON LEHMAN BROTHERS UNIT TR HIGH YIELD MUNICIPAL SER 13
5477	IM-02	SHEARSON	829688	SHEARSON LEHMAN BROTHERS UNIT TR HIGH YIELD MUNICIPAL SER 5
5478	IM-02	SHEARSON	832499	SHEARSON LEHMAN BROTHERS UNIT TR HIGH YIELD MUNICIPAL SER 6
5479	IM-02	SHEARSON	832606	SHEARSON LEHMAN BROTHERS UNIT TR HIGH YIELD MUNICIPAL SER 7
5480	IM-02	SHEARSON	832498	SHEARSON LEHMAN BROTHERS UNIT TR HIGH YIELD TAXABLE SER 13
5481	IM-02	SHEARSON	832807	SHEARSON LEHMAN BROTHERS UNIT TR HIGH YIELD TAXABLE SER 14
5482	IM-02	SHEARSON	838238	SHEARSON LEHMAN BROTHERS UNIT TR HIGH YIELD TAXABLE SER 16
5483	IM-02	SHEARSON	842959	SHEARSON LEHMAN BROTHERS UNIT TRU HIGH YIELD TAXABLE SER 19
5484	IM-02	SHEARSON	818267	SHEARSON LEHMAN BROTHERS UNIT TRU HIGH YIELD TAXABLE SERS 7
5485	IM-02	SHEARSON	869669	SHEARSON LEHMAN BROTHERS UNIT TRUST DIRECTIONS UIT SER 89
5486	IM-02	SHEARSON	872429	SHEARSON LEHMAN BROTHERS UNIT TRUST DIRECTIONS UIT SER 91
5487	IM-02	SHEARSON	876034	SHEARSON LEHMAN BROTHERS UNIT TRUST DIRECTIONS UIT SER 94
5488	IM-02	SHEARSON	885982	SHEARSON LEHMAN BROTHERS UNIT TRUST DIRECTIONS UIT SER 96
5489	IM-02	SHEARSON	857790	SHEARSON LEHMAN BROTHERS UNIT TRUST FIRST CMO TRUST
5490	IM-02	SHEARSON	816772	SHEARSON LEHMAN BROTHERS UNIT TRUST HIGH YIELD MUN SERIES 1
5491	IM-02	SHEARSON	836420	SHEARSON LEHMAN BROTHERS UNIT TRUST HIGH YIELD TAXABLE SE 15
5492	IM-02	SHEARSON	841689	SHEARSON LEHMAN BROTHERS UNIT TRUST HIGH YIELD TAXABLE SE 18
5493	IM-02	SHEARSON	816336	SHEARSON LEHMAN BROTHERS UNIT TRUST HIGH YIELD TAXABLE SER 6
5494	IM-02	SHEARSON	859167	SHEARSON LEHMAN BROTHERS UNIT TRUST SECOND CMO TRUST
5495	IM-02	SHEARSON	874291	SHEARSON LEHMAN BROTHERS UNIT TRUSTS DIR UIT SER 92
5496	IM-02	SHEARSON	867938	SHEARSON LEHMAN BROTHERS UNIT TRUSTS DIRECTIONS UIT SER 88
5497	IM-02	SHEARSON	883173	SHEARSON LEHMAN BROTHERS UNIT TRUSTS DIRECTIONS UIT SER 95
5498	IM-02	SHEARSON	892784	SHEARSON LEHMAN BROTHERS UNIT TRUSTS DIRECTIONS UIT SER 98
5499	IM-02	SHEARSON	867686	SHEARSON LEHMAN BROTHERS UNIT TRUSTS EIGHTH CMO TRUST
5500	IM-02	SHEARSON	861086	SHEARSON LEHMAN BROTHERS UNIT TRUSTS FIFTH CMO TRUST
5501	IM-02	SHEARSON	848416	SHEARSON LEHMAN BROTHERS UNIT TRUSTS HIGH YIELD MUN SER 12
5502	IM-02	SHEARSON	819084	SHEARSON LEHMAN BROTHERS UNIT TRUSTS HIGH YIELD MUN SERS 2
5503	IM-02	SHEARSON	819089	SHEARSON LEHMAN BROTHERS UNIT TRUSTS HIGH YIELD MUN SERS 3
5504	IM-02	SHEARSON	841716	SHEARSON LEHMAN BROTHERS UNIT TRUSTS HIGH YIELD MUN SERS 8
5505	IM-02	SHEARSON	840548	SHEARSON LEHMAN BROTHERS UNIT TRUSTS HIGH YIELD TAX SER 17
5506	IM-02	SHEARSON	829687	SHEARSON LEHMAN BROTHERS UNIT TRUSTS HIGH YIELD TAXA SER 12
5507	IM-02	SHEARSON	874244	SHEARSON LEHMAN BROTHERS UNIT TRUSTS NINTH CMO TRUST
5508	IM-02	SHEARSON	895808	SHEARSON LEHMAN BROTHERS UNIT TRUSTS REAL ESTATE VALUE TR 2
5509	IM-02	SHEARSON	841396	SHEARSON LEHMAN BROTHERS UNIT TRUSTS REAL ESTATE VALUE TR I
5510	IM-02	SHEARSON	831952	SHEARSON LEHMAN BROTHERS UNIT TRUSTS TAX EXEMPT STATE SER 1
5511	IM-02	SHEARSON	859453	SHEARSON LEHMAN BROTHERS UNIT TRUSTS THIRD CMO TRUST
5512	IM-02	SHEARSON	842165	SHEARSON LEHMAN BROTHERS UNIT TRUSTS UTILITY VALUE TRUST IV
5513	IM-02	SHEARSON	875197	SHEARSON LEHMAN BROTHERS UNIT TRUSTS UTILITY VALUE TRUST V
5514	IM-02	SHEARSON	893231	SHEARSON LEHMAN BROTHERS UNIT TRUSTS UTILITY VALUE TRUST VI
5515	IM-02	SHEARSON	843256	SHEARSON LEHMAN HUTTON CAPITAL PARTNERS II L P
5516	IM-02	SHEARSON	804145	SHEARSON LEHMAN HUTTON UNIT TR HIGH YIELD TAXABLE SERIES 1
5517	IM-02	SHEARSON	847427	SHEARSON LEHMAN HUTTON UNIT TR PRINCIPAL RETURN TRUST 1
5518	IM-02	SHEARSON	864765	SHEARSON LEHMAN HUTTON UNIT TR UNCOMMON VAL UNIT TR 1990 SER
5519	IM-02	SHEARSON	850919	SHEARSON LEHMAN HUTTON UNIT TR UNCOMMON VALUES UN TR 1989 SE
5520	IM-02	SHEARSON	830306	SHEARSON LEHMAN HUTTON UNIT TR UTILITY VALUE TR III MERGER &
5521	IM-02	SHEARSON	703546	SHEARSON LEHMAN HUTTON UNIT TRUST DIRECTION UIT SERIES
5522	IM-02	SHEARSON	861279	SHEARSON LEHMAN HUTTON UNIT TRUST DIRECTIONS UIT SER 85
5523	IM-02	SHEARSON	843439	SHEARSON LEHMAN HUTTON UNIT TRUSTS DIRECTIONS UIT SERIES 70
5524	IM-02	SHEARSON	856301	SHEARSON LEHMAN HUTTON UNIT TRUSTS DIRECTIONS UIT SERIES 80
5525	IM-02	SHEARSON	857305	SHEARSON LEHMAN HUTTON UNIT TRUSTS DIRECTIONS UIT SERIES 81
5526	IM-02	SHEARSON	858103	SHEARSON LEHMAN HUTTON UNIT TRUSTS DIRECTIONS UIT SERIES 82
5527	IM-02	SHEARSON	859010	SHEARSON LEHMAN HUTTON UNIT TRUSTS DIRECTIONS UIT SERIES 83
5528	IM-02	SHEARSON	860416	SHEARSON LEHMAN HUTTON UNIT TRUSTS DIRECTIONS UIT SERIES 84
5529	IM-02	SHEARSON	863247	SHEARSON LEHMAN HUTTON UNIT TRUSTS DIRECTIONS UIT SERIES 86
5530	IM-02	SHEARSON	865576	SHEARSON LEHMAN HUTTON UNIT TRUSTS DIRECTIONS UIT SERIES 87
5531	IM-02	SHEARSON	860256	SHEARSON LEHMAN HUTTON UNIT TRUSTS FOURTH CMO TRUST
5532	IM-02	SHEARSON	819090	SHEARSON LEHMAN HUTTON UNIT TRUSTS HIGH YIELD MUN SER 4
5533	IM-02	SHEARSON	846220	SHEARSON LEHMAN HUTTON UNIT TRUSTS HIGH YIELD MUN SERIES 10
5534	IM-02	SHEARSON	846889	SHEARSON LEHMAN HUTTON UNIT TRUSTS HIGH YIELD MUN SERIES 11
5535	IM-02	SHEARSON	843441	SHEARSON LEHMAN HUTTON UNIT TRUSTS HIGH YIELD MUN SERIES 9
5536	IM-02	SHEARSON	810947	SHEARSON LEHMAN HUTTON UNIT TRUSTS HIGH YIELD TAX SERIES 5
5537	IM-02	SHEARSON	826726	SHEARSON LEHMAN HUTTON UNIT TRUSTS HIGH YIELD TAXABLE SER 10
5538	IM-02	SHEARSON	828599	SHEARSON LEHMAN HUTTON UNIT TRUSTS HIGH YIELD TAXABLE SER 11
5539	IM-02	SHEARSON	805833	SHEARSON LEHMAN HUTTON UNIT TRUSTS HIGH YIELD TAXABLE SER 2
5540	IM-02	SHEARSON	809755	SHEARSON LEHMAN HUTTON UNIT TRUSTS HIGH YIELD TAXABLE SER 4
5541	IM-02	SHEARSON	820532	SHEARSON LEHMAN HUTTON UNIT TRUSTS HIGH YIELD TAXABLE SER 8
5542	IM-02	SHEARSON	820542	SHEARSON LEHMAN HUTTON UNIT TRUSTS HIGH YIELD TAXABLE SER 9
5543	IM-02	SHEARSON	809295	SHEARSON LEHMAN HUTTON UNIT TRUSTS HIGH YIELD TAXABLE SERS 3
5544	IM-02	SHEARSON	863246	SHEARSON LEHMAN HUTTON UNIT TRUSTS SEVENTH CMO TRUST
5545	IM-02	SHEARSON	862130	SHEARSON LEHMAN HUTTON UNIT TRUSTS SIXTH CMO TRUST
5546	IM-02	SHEARSON	821120	SHEARSON LEHMAN HUTTON UNIT TRUSTS UTILITY VALUE TRUST I
5547	IM-02	SHEARSON	854855	SHEARSON LEHMAN HUTTON UNT TR FUTURE VALUE TREAS SER 1 COLLE

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
5548	IM-02	SHEARSON	720490	SHEARSON VIP SEPARATE ACCT OF FIRST CAPITAL LIFE INSURANCE C
5549	IM-02	SMITH BARNEY	354833	CORPORATE SECURITIES TRUST LONG TERM DEBT SERIES 23
5550	IM-02	SMITH BARNEY	045809	HARRIS UPHAM TAX EXEMPT BOND FUND FIRST SERIES
5551	IM-02	SMITH BARNEY	851278	TAX EXEMPT SECURITIES TR INS SERIES 21 & NEW YORK INS 14
5552	IM-02	SMITH BARNEY	356861	TAX EXEMPT SECURITIES TRUST APPRECIATION SERIES 1
5553	IM-02	SMITH BARNEY	357150	TAX EXEMPT SECURITIES TRUST APPRECIATION SERIES 2
5554	IM-02	SMITH BARNEY	700776	TAX EXEMPT SECURITIES TRUST APPRECIATION SERIES 3
5555	IM-02	SMITH BARNEY	700938	TAX EXEMPT SECURITIES TRUST APPRECIATION SERIES 4
5556	IM-02	SMITH BARNEY	701898	TAX EXEMPT SECURITIES TRUST APPRECIATION SERIES 5
5557	IM-02	SMITH BARNEY	702560	TAX EXEMPT SECURITIES TRUST APPRECIATION SERIES 6
5558	IM-02	SMITH BARNEY	704273	TAX EXEMPT SECURITIES TRUST APPRECIATION SERIES 7
5559	IM-02	SMITH BARNEY	705965	TAX EXEMPT SECURITIES TRUST APPRECIATION SERIES 8
5560	IM-02	SMITH BARNEY	748611	TAX EXEMPT SECURITIES TRUST FIFTH MULTIPLE MATURITY PROGRAM
5561	IM-02	SMITH BARNEY	741555	TAX EXEMPT SECURITIES TRUST FIRST MULTIPLE MATURITY PROGRAM
5562	IM-02	SMITH BARNEY	745166	TAX EXEMPT SECURITIES TRUST INSURED SERIES 1
5563	IM-02	SMITH BARNEY	770204	TAX EXEMPT SECURITIES TRUST INSURED SERIES 10
5564	IM-02	SMITH BARNEY	781899	TAX EXEMPT SECURITIES TRUST INSURED SERIES 11
5565	IM-02	SMITH BARNEY	788071	TAX EXEMPT SECURITIES TRUST INSURED SERIES 12
5566	IM-02	SMITH BARNEY	788070	TAX EXEMPT SECURITIES TRUST INSURED SERIES 13
5567	IM-02	SMITH BARNEY	798247	TAX EXEMPT SECURITIES TRUST INSURED SERIES 14
5568	IM-02	SMITH BARNEY	808017	TAX EXEMPT SECURITIES TRUST INSURED SERIES 15
5569	IM-02	SMITH BARNEY	832160	TAX EXEMPT SECURITIES TRUST INSURED SERIES 16
5570	IM-02	SMITH BARNEY	832993	TAX EXEMPT SECURITIES TRUST INSURED SERIES 17
5571	IM-02	SMITH BARNEY	837909	TAX EXEMPT SECURITIES TRUST INSURED SERIES 18
5572	IM-02	SMITH BARNEY	844837	TAX EXEMPT SECURITIES TRUST INSURED SERIES 19
5573	IM-02	SMITH BARNEY	752204	TAX EXEMPT SECURITIES TRUST INSURED SERIES 2
5574	IM-02	SMITH BARNEY	846478	TAX EXEMPT SECURITIES TRUST INSURED SERIES 20
5575	IM-02	SMITH BARNEY	753352	TAX EXEMPT SECURITIES TRUST INSURED SERIES 3
5576	IM-02	SMITH BARNEY	757048	TAX EXEMPT SECURITIES TRUST INSURED SERIES 4
5577	IM-02	SMITH BARNEY	757999	TAX EXEMPT SECURITIES TRUST INSURED SERIES 5
5578	IM-02	SMITH BARNEY	760617	TAX EXEMPT SECURITIES TRUST INSURED SERIES 6
5579	IM-02	SMITH BARNEY	760979	TAX EXEMPT SECURITIES TRUST INSURED SERIES 7
5580	IM-02	SMITH BARNEY	766956	TAX EXEMPT SECURITIES TRUST INSURED SERIES 8
5581	IM-02	SMITH BARNEY	766751	TAX EXEMPT SECURITIES TRUST INSURED SERIES 9
5582	IM-02	SMITH BARNEY	764212	TAX EXEMPT SECURITIES TRUST INTERMEDIATE TERM SERIES 18
5583	IM-02	SMITH BARNEY	755090	TAX EXEMPT SECURITIES TRUST INTERMEDIATE TERM SERIES 10
5584	IM-02	SMITH BARNEY	757045	TAX EXEMPT SECURITIES TRUST INTERMEDIATE TERM SERIES 11
5585	IM-02	SMITH BARNEY	760467	TAX EXEMPT SECURITIES TRUST INTERMEDIATE TERM SERIES 13
5586	IM-02	SMITH BARNEY	761032	TAX EXEMPT SECURITIES TRUST INTERMEDIATE TERM SERIES 14
5587	IM-02	SMITH BARNEY	762868	TAX EXEMPT SECURITIES TRUST INTERMEDIATE TERM SERIES 15
5588	IM-02	SMITH BARNEY	757994	TAX EXEMPT SECURITIES TRUST INTERMEDIATE TERM SERS 12
5589	IM-02	SMITH BARNEY	713040	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 28
5590	IM-02	SMITH BARNEY	713663	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 29
5591	IM-02	SMITH BARNEY	714640	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 30
5592	IM-02	SMITH BARNEY	715420	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 31
5593	IM-02	SMITH BARNEY	716766	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 32
5594	IM-02	SMITH BARNEY	717295	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 33
5595	IM-02	SMITH BARNEY	718482	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 35
5596	IM-02	SMITH BARNEY	719222	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 36
5597	IM-02	SMITH BARNEY	720017	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 37
5598	IM-02	SMITH BARNEY	721780	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 38
5599	IM-02	SMITH BARNEY	724029	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 39
5600	IM-02	SMITH BARNEY	725795	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 40
5601	IM-02	SMITH BARNEY	728532	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 41
5602	IM-02	SMITH BARNEY	730071	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 43
5603	IM-02	SMITH BARNEY	730613	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 44
5604	IM-02	SMITH BARNEY	740162	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 46
5605	IM-02	SMITH BARNEY	742273	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 47
5606	IM-02	SMITH BARNEY	744032	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 48
5607	IM-02	SMITH BARNEY	744501	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 49
5608	IM-02	SMITH BARNEY	745464	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 50
5609	IM-02	SMITH BARNEY	746967	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 51
5610	IM-02	SMITH BARNEY	750652	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 52
5611	IM-02	SMITH BARNEY	751434	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 53
5612	IM-02	SMITH BARNEY	752295	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 54
5613	IM-02	SMITH BARNEY	757451	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 55
5614	IM-02	SMITH BARNEY	760576	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 56
5615	IM-02	SMITH BARNEY	760616	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 57
5616	IM-02	SMITH BARNEY	763335	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 58
5617	IM-02	SMITH BARNEY	763565	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 59
5618	IM-02	SMITH BARNEY	764159	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 60
5619	IM-02	SMITH BARNEY	765665	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 61
5620	IM-02	SMITH BARNEY	766183	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 62
5621	IM-02	SMITH BARNEY	766168	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 63
5622	IM-02	SMITH BARNEY	766831	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 64
5623	IM-02	SMITH BARNEY	766745	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 65
5624	IM-02	SMITH BARNEY	770211	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 66
5625	IM-02	SMITH BARNEY	772871	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 67
5626	IM-02	SMITH BARNEY	773000	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 68
5627	IM-02	SMITH BARNEY	781898	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 69
5628	IM-02	SMITH BARNEY	784053	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES 70
5629	IM-02	SMITH BARNEY	318139	TAX EXEMPT SECURITIES TRUST MULTISTATE SERIES C

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
5630	IM-02	SMITH BARNEY	766878	TAX EXEMPT SECURITIES TRUST NATIONAL TRUST 112
5631	IM-02	SMITH BARNEY	745077	TAX EXEMPT SECURITIES TRUST SECOND MULTIPLE MATURITY PROGRAM
5632	IM-02	SMITH BARNEY	773598	TAX EXEMPT SECURITIES TRUST SELECTED TERM 95-99 SER 3
5633	IM-02	SMITH BARNEY	773323	TAX EXEMPT SECURITIES TRUST SELECTED TERM 95-99 SER 4
5634	IM-02	SMITH BARNEY	808463	TAX EXEMPT SECURITIES TRUST SELECTED TERM 95-99 SERIES 1
5635	IM-02	SMITH BARNEY	730609	TAX EXEMPT SECURITIES TRUST SERIES 103
5636	IM-02	SMITH BARNEY	741342	TAX EXEMPT SECURITIES TRUST SERIES 104
5637	IM-02	SMITH BARNEY	757496	TAX EXEMPT SECURITIES TRUST SERIES 105
5638	IM-02	SMITH BARNEY	760473	TAX EXEMPT SECURITIES TRUST SERIES 106
5639	IM-02	SMITH BARNEY	761025	TAX EXEMPT SECURITIES TRUST SERIES 107
5640	IM-02	SMITH BARNEY	762854	TAX EXEMPT SECURITIES TRUST SERIES 108
5641	IM-02	SMITH BARNEY	764209	TAX EXEMPT SECURITIES TRUST SERIES 109
5642	IM-02	SMITH BARNEY	766698	TAX EXEMPT SECURITIES TRUST SERIES 110
5643	IM-02	SMITH BARNEY	766786	TAX EXEMPT SECURITIES TRUST SERIES 111
5644	IM-02	SMITH BARNEY	769565	TAX EXEMPT SECURITIES TRUST SERIES 113
5645	IM-02	SMITH BARNEY	771282	TAX EXEMPT SECURITIES TRUST SERIES 114
5646	IM-02	SMITH BARNEY	770946	TAX EXEMPT SECURITIES TRUST SERIES 115
5647	IM-02	SMITH BARNEY	773322	TAX EXEMPT SECURITIES TRUST SERIES 116 /NY/
5648	IM-02	SMITH BARNEY	778713	TAX EXEMPT SECURITIES TRUST SERIES 117
5649	IM-02	SMITH BARNEY	778711	TAX EXEMPT SECURITIES TRUST SERIES 118
5650	IM-02	SMITH BARNEY	781900	TAX EXEMPT SECURITIES TRUST SERIES 119
5651	IM-02	SMITH BARNEY	785557	TAX EXEMPT SECURITIES TRUST SERIES 237
5652	IM-02	SMITH BARNEY	787043	TAX EXEMPT SECURITIES TRUST SERIES 238
5653	IM-02	SMITH BARNEY	787041	TAX EXEMPT SECURITIES TRUST SERIES 239
5654	IM-02	SMITH BARNEY	310474	TAX EXEMPT SECURITIES TRUST SERIES 24
5655	IM-02	SMITH BARNEY	789556	TAX EXEMPT SECURITIES TRUST SERIES 240
5656	IM-02	SMITH BARNEY	789551	TAX EXEMPT SECURITIES TRUST SERIES 241
5657	IM-02	SMITH BARNEY	790520	TAX EXEMPT SECURITIES TRUST SERIES 242
5658	IM-02	SMITH BARNEY	790519	TAX EXEMPT SECURITIES TRUST SERIES 243
5659	IM-02	SMITH BARNEY	791160	TAX EXEMPT SECURITIES TRUST SERIES 244
5660	IM-02	SMITH BARNEY	791161	TAX EXEMPT SECURITIES TRUST SERIES 245
5661	IM-02	SMITH BARNEY	792718	TAX EXEMPT SECURITIES TRUST SERIES 246
5662	IM-02	SMITH BARNEY	793515	TAX EXEMPT SECURITIES TRUST SERIES 247
5663	IM-02	SMITH BARNEY	794228	TAX EXEMPT SECURITIES TRUST SERIES 248
5664	IM-02	SMITH BARNEY	796841	TAX EXEMPT SECURITIES TRUST SERIES 249
5665	IM-02	SMITH BARNEY	798238	TAX EXEMPT SECURITIES TRUST SERIES 251
5666	IM-02	SMITH BARNEY	798938	TAX EXEMPT SECURITIES TRUST SERIES 252
5667	IM-02	SMITH BARNEY	799590	TAX EXEMPT SECURITIES TRUST SERIES 253
5668	IM-02	SMITH BARNEY	799591	TAX EXEMPT SECURITIES TRUST SERIES 254
5669	IM-02	SMITH BARNEY	801317	TAX EXEMPT SECURITIES TRUST SERIES 255
5670	IM-02	SMITH BARNEY	804651	TAX EXEMPT SECURITIES TRUST SERIES 257
5671	IM-02	SMITH BARNEY	806023	TAX EXEMPT SECURITIES TRUST SERIES 258
5672	IM-02	SMITH BARNEY	806022	TAX EXEMPT SECURITIES TRUST SERIES 259
5673	IM-02	SMITH BARNEY	311177	TAX EXEMPT SECURITIES TRUST SERIES 26
5674	IM-02	SMITH BARNEY	808019	TAX EXEMPT SECURITIES TRUST SERIES 260
5675	IM-02	SMITH BARNEY	809769	TAX EXEMPT SECURITIES TRUST SERIES 261
5676	IM-02	SMITH BARNEY	809770	TAX EXEMPT SECURITIES TRUST SERIES 262
5677	IM-02	SMITH BARNEY	814140	TAX EXEMPT SECURITIES TRUST SERIES 263
5678	IM-02	SMITH BARNEY	814141	TAX EXEMPT SECURITIES TRUST SERIES 264
5679	IM-02	SMITH BARNEY	815644	TAX EXEMPT SECURITIES TRUST SERIES 265
5680	IM-02	SMITH BARNEY	816450	TAX EXEMPT SECURITIES TRUST SERIES 266
5681	IM-02	SMITH BARNEY	819843	TAX EXEMPT SECURITIES TRUST SERIES 267
5682	IM-02	SMITH BARNEY	819847	TAX EXEMPT SECURITIES TRUST SERIES 268
5683	IM-02	SMITH BARNEY	821579	TAX EXEMPT SECURITIES TRUST SERIES 269
5684	IM-02	SMITH BARNEY	821580	TAX EXEMPT SECURITIES TRUST SERIES 270
5685	IM-02	SMITH BARNEY	824001	TAX EXEMPT SECURITIES TRUST SERIES 271
5686	IM-02	SMITH BARNEY	823947	TAX EXEMPT SECURITIES TRUST SERIES 272
5687	IM-02	SMITH BARNEY	826822	TAX EXEMPT SECURITIES TRUST SERIES 273
5688	IM-02	SMITH BARNEY	826823	TAX EXEMPT SECURITIES TRUST SERIES 274
5689	IM-02	SMITH BARNEY	829284	TAX EXEMPT SECURITIES TRUST SERIES 275
5690	IM-02	SMITH BARNEY	829285	TAX EXEMPT SECURITIES TRUST SERIES 276
5691	IM-02	SMITH BARNEY	830521	TAX EXEMPT SECURITIES TRUST SERIES 277
5692	IM-02	SMITH BARNEY	831666	TAX EXEMPT SECURITIES TRUST SERIES 278
5693	IM-02	SMITH BARNEY	831665	TAX EXEMPT SECURITIES TRUST SERIES 279
5694	IM-02	SMITH BARNEY	312826	TAX EXEMPT SECURITIES TRUST SERIES 28
5695	IM-02	SMITH BARNEY	832462	TAX EXEMPT SECURITIES TRUST SERIES 280
5696	IM-02	SMITH BARNEY	832461	TAX EXEMPT SECURITIES TRUST SERIES 281
5697	IM-02	SMITH BARNEY	832992	TAX EXEMPT SECURITIES TRUST SERIES 283
5698	IM-02	SMITH BARNEY	835336	TAX EXEMPT SECURITIES TRUST SERIES 284
5699	IM-02	SMITH BARNEY	835340	TAX EXEMPT SECURITIES TRUST SERIES 285 & INSURED SERIES 17
5700	IM-02	SMITH BARNEY	836410	TAX EXEMPT SECURITIES TRUST SERIES 286
5701	IM-02	SMITH BARNEY	836414	TAX EXEMPT SECURITIES TRUST SERIES 287
5702	IM-02	SMITH BARNEY	837908	TAX EXEMPT SECURITIES TRUST SERIES 288
5703	IM-02	SMITH BARNEY	840081	TAX EXEMPT SECURITIES TRUST SERIES 289
5704	IM-02	SMITH BARNEY	840083	TAX EXEMPT SECURITIES TRUST SERIES 290
5705	IM-02	SMITH BARNEY	841274	TAX EXEMPT SECURITIES TRUST SERIES 291
5706	IM-02	SMITH BARNEY	841273	TAX EXEMPT SECURITIES TRUST SERIES 292 /NY/
5707	IM-02	SMITH BARNEY	843247	TAX EXEMPT SECURITIES TRUST SERIES 293
5708	IM-02	SMITH BARNEY	843246	TAX EXEMPT SECURITIES TRUST SERIES 294
5709	IM-02	SMITH BARNEY	844926	TAX EXEMPT SECURITIES TRUST SERIES 295
5710	IM-02	SMITH BARNEY	845562	TAX EXEMPT SECURITIES TRUST SERIES 296
5711	IM-02	SMITH BARNEY	845561	TAX EXEMPT SECURITIES TRUST SERIES 297

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
5712	IM-02	SMITH BARNEY	846477	TAX EXEMPT SECURITIES TRUST SERIES 298
5713	IM-02	SMITH BARNEY	846973	TAX EXEMPT SECURITIES TRUST SERIES 299
5714	IM-02	SMITH BARNEY	846925	TAX EXEMPT SECURITIES TRUST SERIES 300
5715	IM-02	SMITH BARNEY	847481	TAX EXEMPT SECURITIES TRUST SERIES 301
5716	IM-02	SMITH BARNEY	847480	TAX EXEMPT SECURITIES TRUST SERIES 302
5717	IM-02	SMITH BARNEY	849654	TAX EXEMPT SECURITIES TRUST SERIES 303
5718	IM-02	SMITH BARNEY	849652	TAX EXEMPT SECURITIES TRUST SERIES 304
5719	IM-02	SMITH BARNEY	850139	TAX EXEMPT SECURITIES TRUST SERIES 305
5720	IM-02	SMITH BARNEY	850063	TAX EXEMPT SECURITIES TRUST SERIES 306
5721	IM-02	SMITH BARNEY	851289	TAX EXEMPT SECURITIES TRUST SERIES 307
5722	IM-02	SMITH BARNEY	852112	TAX EXEMPT SECURITIES TRUST SERIES 308
5723	IM-02	SMITH BARNEY	852110	TAX EXEMPT SECURITIES TRUST SERIES 309
5724	IM-02	SMITH BARNEY	853011	TAX EXEMPT SECURITIES TRUST SERIES 310
5725	IM-02	SMITH BARNEY	853010	TAX EXEMPT SECURITIES TRUST SERIES 311
5726	IM-02	SMITH BARNEY	854769	TAX EXEMPT SECURITIES TRUST SERIES 312 /NY/
5727	IM-02	SMITH BARNEY	854851	TAX EXEMPT SECURITIES TRUST SERIES 313
5728	IM-02	SMITH BARNEY	855709	TAX EXEMPT SECURITIES TRUST SERIES 314
5729	IM-02	SMITH BARNEY	857410	TAX EXEMPT SECURITIES TRUST SERIES 315
5730	IM-02	SMITH BARNEY	857479	TAX EXEMPT SECURITIES TRUST SERIES 316
5731	IM-02	SMITH BARNEY	857480	TAX EXEMPT SECURITIES TRUST SERIES 317
5732	IM-02	SMITH BARNEY	858050	TAX EXEMPT SECURITIES TRUST SERIES 318
5733	IM-02	SMITH BARNEY	860415	TAX EXEMPT SECURITIES TRUST SERIES 319
5734	IM-02	SMITH BARNEY	314127	TAX EXEMPT SECURITIES TRUST SERIES 32
5735	IM-02	SMITH BARNEY	861105	TAX EXEMPT SECURITIES TRUST SERIES 320
5736	IM-02	SMITH BARNEY	861102	TAX EXEMPT SECURITIES TRUST SERIES 321
5737	IM-02	SMITH BARNEY	862306	TAX EXEMPT SECURITIES TRUST SERIES 322
5738	IM-02	SMITH BARNEY	863271	TAX EXEMPT SECURITIES TRUST SERIES 323
5739	IM-02	SMITH BARNEY	863272	TAX EXEMPT SECURITIES TRUST SERIES 324
5740	IM-02	SMITH BARNEY	864762	TAX EXEMPT SECURITIES TRUST SERIES 325 /NY/
5741	IM-02	SMITH BARNEY	864761	TAX EXEMPT SECURITIES TRUST SERIES 326
5742	IM-02	SMITH BARNEY	866312	TAX EXEMPT SECURITIES TRUST SERIES 327
5743	IM-02	SMITH BARNEY	866311	TAX EXEMPT SECURITIES TRUST SERIES 328
5744	IM-02	SMITH BARNEY	867682	TAX EXEMPT SECURITIES TRUST SERIES 329
5745	IM-02	SMITH BARNEY	314659	TAX EXEMPT SECURITIES TRUST SERIES 33
5746	IM-02	SMITH BARNEY	867683	TAX EXEMPT SECURITIES TRUST SERIES 330
5747	IM-02	SMITH BARNEY	868425	TAX EXEMPT SECURITIES TRUST SERIES 331
5748	IM-02	SMITH BARNEY	868426	TAX EXEMPT SECURITIES TRUST SERIES 332
5749	IM-02	SMITH BARNEY	IM5661	TAX EXEMPT SECURITIES TRUST SERIES 333
5750	IM-02	SMITH BARNEY	868665	TAX EXEMPT SECURITIES TRUST SERIES 333 & SERIES 334
5751	IM-02	SMITH BARNEY	869808	TAX EXEMPT SECURITIES TRUST SERIES 335
5752	IM-02	SMITH BARNEY	869810	TAX EXEMPT SECURITIES TRUST SERIES 336
5753	IM-02	SMITH BARNEY	871259	TAX EXEMPT SECURITIES TRUST SERIES 337
5754	IM-02	SMITH BARNEY	871258	TAX EXEMPT SECURITIES TRUST SERIES 338
5755	IM-02	SMITH BARNEY	872519	TAX EXEMPT SECURITIES TRUST SERIES 339
5756	IM-02	SMITH BARNEY	314763	TAX EXEMPT SECURITIES TRUST SERIES 34
5757	IM-02	SMITH BARNEY	872520	TAX EXEMPT SECURITIES TRUST SERIES 340
5758	IM-02	SMITH BARNEY	873815	TAX EXEMPT SECURITIES TRUST SERIES 341
5759	IM-02	SMITH BARNEY	873814	TAX EXEMPT SECURITIES TRUST SERIES 342
5760	IM-02	SMITH BARNEY	874798	TAX EXEMPT SECURITIES TRUST SERIES 343
5761	IM-02	SMITH BARNEY	874801	TAX EXEMPT SECURITIES TRUST SERIES 344
5762	IM-02	SMITH BARNEY	876880	TAX EXEMPT SECURITIES TRUST SERIES 345
5763	IM-02	SMITH BARNEY	876879	TAX EXEMPT SECURITIES TRUST SERIES 346
5764	IM-02	SMITH BARNEY	877700	TAX EXEMPT SECURITIES TRUST SERIES 347
5765	IM-02	SMITH BARNEY	877941	TAX EXEMPT SECURITIES TRUST SERIES 348
5766	IM-02	SMITH BARNEY	877943	TAX EXEMPT SECURITIES TRUST SERIES 349
5767	IM-02	SMITH BARNEY	315397	TAX EXEMPT SECURITIES TRUST SERIES 35
5768	IM-02	SMITH BARNEY	879297	TAX EXEMPT SECURITIES TRUST SERIES 350
5769	IM-02	SMITH BARNEY	879806	TAX EXEMPT SECURITIES TRUST SERIES 351
5770	IM-02	SMITH BARNEY	881449	TAX EXEMPT SECURITIES TRUST SERIES 352
5771	IM-02	SMITH BARNEY	882376	TAX EXEMPT SECURITIES TRUST SERIES 353
5772	IM-02	SMITH BARNEY	882407	TAX EXEMPT SECURITIES TRUST SERIES 354
5773	IM-02	SMITH BARNEY	883870	TAX EXEMPT SECURITIES TRUST SERIES 355
5774	IM-02	SMITH BARNEY	883871	TAX EXEMPT SECURITIES TRUST SERIES 356
5775	IM-02	SMITH BARNEY	885574	TAX EXEMPT SECURITIES TRUST SERIES 357
5776	IM-02	SMITH BARNEY	889230	TAX EXEMPT SECURITIES TRUST SERIES 359
5777	IM-02	SMITH BARNEY	315000	TAX EXEMPT SECURITIES TRUST SERIES 36
5778	IM-02	SMITH BARNEY	889229	TAX EXEMPT SECURITIES TRUST SERIES 360
5779	IM-02	SMITH BARNEY	889894	TAX EXEMPT SECURITIES TRUST SERIES 361
5780	IM-02	SMITH BARNEY	889895	TAX EXEMPT SECURITIES TRUST SERIES 362
5781	IM-02	SMITH BARNEY	891180	TAX EXEMPT SECURITIES TRUST SERIES 363
5782	IM-02	SMITH BARNEY	891181	TAX EXEMPT SECURITIES TRUST SERIES 364
5783	IM-02	SMITH BARNEY	892477	TAX EXEMPT SECURITIES TRUST SERIES 365
5784	IM-02	SMITH BARNEY	892522	TAX EXEMPT SECURITIES TRUST SERIES 366
5785	IM-02	SMITH BARNEY	894131	TAX EXEMPT SECURITIES TRUST SERIES 367
5786	IM-02	SMITH BARNEY	894132	TAX EXEMPT SECURITIES TRUST SERIES 368
5787	IM-02	SMITH BARNEY	895647	TAX EXEMPT SECURITIES TRUST SERIES 369
5788	IM-02	SMITH BARNEY	316252	TAX EXEMPT SECURITIES TRUST SERIES 37
5789	IM-02	SMITH BARNEY	895646	TAX EXEMPT SECURITIES TRUST SERIES 370
5790	IM-02	SMITH BARNEY	318387	TAX EXEMPT SECURITIES TRUST SERIES 41
5791	IM-02	SMITH BARNEY	319609	TAX EXEMPT SECURITIES TRUST SERIES 43
5792	IM-02	SMITH BARNEY	319683	TAX EXEMPT SECURITIES TRUST SERIES 44
5793	IM-02	SMITH BARNEY	716443	TAX EXEMPT SECURITIES TRUST SERIES 69

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
5794	IM-02	SMITH BARNEY	700723	TAX EXEMPT SECURITIES TRUST SERIES 60
5795	IM-02	SMITH BARNEY	714268	TAX EXEMPT SECURITIES TRUST SERIES 79
5796	IM-02	SMITH BARNEY	714837	TAX EXEMPT SECURITIES TRUST SERIES 80
5797	IM-02	SMITH BARNEY	716767	TAX EXEMPT SECURITIES TRUST SERIES 82
5798	IM-02	SMITH BARNEY	717294	TAX EXEMPT SECURITIES TRUST SERIES 83
5799	IM-02	SMITH BARNEY	717570	TAX EXEMPT SECURITIES TRUST SERIES 84
5800	IM-02	SMITH BARNEY	719223	TAX EXEMPT SECURITIES TRUST SERIES 86
5801	IM-02	SMITH BARNEY	720015	TAX EXEMPT SECURITIES TRUST SERIES 87
5802	IM-02	SMITH BARNEY	721771	TAX EXEMPT SECURITIES TRUST SERIES 88
5803	IM-02	SMITH BARNEY	726434	TAX EXEMPT SECURITIES TRUST SERIES 91
5804	IM-02	SMITH BARNEY	728531	TAX EXEMPT SECURITIES TRUST SERIES 92
5805	IM-02	SMITH BARNEY	729625	TAX EXEMPT SECURITIES TRUST SERIES 93
5806	IM-02	SMITH BARNEY	730070	TAX EXEMPT SECURITIES TRUST SERIES 94
5807	IM-02	SMITH BARNEY	752291	TAX EXEMPT SECURITIES TRUST SEVENTH MULTIPLE MATURITY PROGRAM
5808	IM-02	SMITH BARNEY	751438	TAX EXEMPT SECURITIES TRUST SIXTH MULTIPLE MATURITY PROGRAM
5809	IM-02	SMITH BARNEY	745621	TAX EXEMPT SECURITIES TRUST THIRD MULTIPLE MATURITY PROGRAM
5810	IM-02	SMITH BARNEY	833056	TAX EXEMPT SECURITIES TRUST SERIES 282
5811	IM-02	SMITH BARNEY	715460	TAX EXMEPT SECURITIES TRUST SERIES 81
5812	IM-02	UNISON	882197	21ST CENTURY TRUST SERIES 2
5813	IM-02	UNISON	883562	21ST CENTURY TRUST SERIES 3
5814	IM-02	UNISON	884508	21ST CENTURY TRUST SERIES 4
5815	IM-02	UNISON	888059	21ST CENTURY TRUST SERIES 5
5816	IM-02	UNISON	889525	21ST CENTURY TRUST SERIES 6
5817	IM-02	UNISON	857820	CENTRAL EQUITY TRUST ET AL
5818	IM-02	UNISON	876500	CENTRAL EQUITY TRUST UTILITY SERIES 10
5819	IM-02	UNISON	877321	CENTRAL EQUITY TRUST UTILITY SERIES 11
5820	IM-02	UNISON	878653	CENTRAL EQUITY TRUST UTILITY SERIES 12
5821	IM-02	UNISON	880299	CENTRAL EQUITY TRUST UTILITY SERIES 13
5822	IM-02	UNISON	878773	CENTRAL EQUITY TRUST UTILITY SERIES 14
5823	IM-02	UNISON	883575	CENTRAL EQUITY TRUST UTILITY SERIES 15
5824	IM-02	UNISON	884507	CENTRAL EQUITY TRUST UTILITY SERIES 16
5825	IM-02	UNISON	886938	CENTRAL EQUITY TRUST UTILITY SERIES 17
5826	IM-02	UNISON	865643	CENTRAL EQUITY TRUST UTILITY SERIES 2
5827	IM-02	UNISON	891444	CENTRAL EQUITY TRUST UTILITY SERIES 20
5828	IM-02	UNISON	893706	CENTRAL EQUITY TRUST UTILITY SERIES 21
5829	IM-02	UNISON	895836	CENTRAL EQUITY TRUST UTILITY SERIES 22
5830	IM-02	UNISON	866369	CENTRAL EQUITY TRUST UTILITY SERIES 3
5831	IM-02	UNISON	868613	CENTRAL EQUITY TRUST UTILITY SERIES 4
5832	IM-02	UNISON	870939	CENTRAL EQUITY TRUST UTILITY SERIES 5
5833	IM-02	UNISON	872549	CENTRAL EQUITY TRUST UTILITY SERIES 6
5834	IM-02	UNISON	873608	CENTRAL EQUITY TRUST UTILITY SERIES 7
5835	IM-02	UNISON	874209	CENTRAL EQUITY TRUST UTILITY SERIES 8
5836	IM-02	UNISON	874510	CENTRAL EQUITY TRUST UTILITY SERIES 9
5837	IM-02	UNISON	857647	CENTRAL EQUITY TRUST UTILITY SERIES I
5838	IM-02	UNISON	836684	INSURED TAX EXEMPT INCOME TRUST SERIES 54
5839	IM-02	UNISON	789030	INSURED TAX FREE INCOME TRUST MULTI SERIES 2
5840	IM-02	UNISON	791875	INSURED TAX FREE INCOME TRUST MULTI SERIES 3
5841	IM-02	UNISON	794268	INSURED TAX FREE INCOME TRUST MULTI SERIES 4
5842	IM-02	UNISON	783232	INSURED TAX FREE INCOME TRUST MULTI SERIES I
5843	IM-02	UNISON	802229	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 31
5844	IM-02	UNISON	803763	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 33
5845	IM-02	UNISON	803954	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 34
5846	IM-02	UNISON	803955	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 35
5847	IM-02	UNISON	809157	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 37
5848	IM-02	UNISON	809218	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 38
5849	IM-02	UNISON	814138	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 40
5850	IM-02	UNISON	816759	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 45
5851	IM-02	UNISON	830308	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 48
5852	IM-02	UNISON	832953	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 51
5853	IM-02	UNISON	836882	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 53
5854	IM-02	UNISON	846110	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 61
5855	IM-02	UNISON	850066	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 63
5856	IM-02	UNISON	754997	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 85-1
5857	IM-02	UNISON	796372	INSURED TAX FREE INCOME TRUST SERIES 29
5858	IM-02	UNISON	802228	INSURED TAX FREE INCOME TRUST SERIES 30
5859	IM-02	UNISON	803873	INSURED TAX FREE INCOME TRUST SERIES 32
5860	IM-02	UNISON	809156	INSURED TAX FREE INCOME TRUST SERIES 36
5861	IM-02	UNISON	816964	INSURED TAX FREE INCOME TRUST SERIES 42
5862	IM-02	UNISON	816542	INSURED TAX FREE INCOME TRUST SERIES 43
5863	IM-02	UNISON	816758	INSURED TAX FREE INCOME TRUST SERIES 44
5864	IM-02	UNISON	828505	INSURED TAX FREE INCOME TRUST SERIES 46
5865	IM-02	UNISON	831247	INSURED TAX FREE INCOME TRUST SERIES 49 NATIONAL SERIES 49
5866	IM-02	UNISON	832336	INSURED TAX FREE INCOME TRUST SERIES 50 NATIONAL SERIES 50
5867	IM-02	UNISON	840425	INSURED TAX FREE INCOME TRUST SERIES 55 NATIONAL SERIES 55
5868	IM-02	UNISON	840421	INSURED TAX FREE INCOME TRUST SERIES 56 NATIONAL SERIES 56
5869	IM-02	UNISON	842882	INSURED TAX FREE INCOME TRUST SERIES 57 NATIONAL SERIES 57
5870	IM-02	UNISON	842892	INSURED TAX FREE INCOME TRUST SERIES 58 NATIONAL SERIES 58
5871	IM-02	UNISON	845110	INSURED TAX FREE INCOME TRUST SERIES 59 NATIONAL SERIES 59
5872	IM-02	UNISON	845109	INSURED TAX FREE INCOME TRUST SERIES 60 NATIONAL SERIES 60
5873	IM-02	UNISON	846109	INSURED TAX FREE INCOME TRUST SERIES 62 NATIONAL SERIES 62
5874	IM-02	UNSION	889410	CENTRAL EQUITY TRUST UTILITY SERIES 19
5875	IM-02	VAN KAMPEN	730519	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 1

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
5876	IM-02	VAN KAMPEN	740558	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 10
5877	IM-02	VAN KAMPEN	740601	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 11
5878	IM-02	VAN KAMPEN	740594	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 12
5879	IM-02	VAN KAMPEN	747543	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 13
5880	IM-02	VAN KAMPEN	747691	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 14
5881	IM-02	VAN KAMPEN	747690	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 15
5882	IM-02	VAN KAMPEN	747689	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 16
5883	IM-02	VAN KAMPEN	747697	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 17
5884	IM-02	VAN KAMPEN	753578	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 18
5885	IM-02	VAN KAMPEN	753740	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 19
5886	IM-02	VAN KAMPEN	732291	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 2
5887	IM-02	VAN KAMPEN	753742	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 20
5888	IM-02	VAN KAMPEN	753743	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 21
5889	IM-02	VAN KAMPEN	753741	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 22
5890	IM-02	VAN KAMPEN	732727	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 3
5891	IM-02	VAN KAMPEN	732736	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 4
5892	IM-02	VAN KAMPEN	736973	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 5
5893	IM-02	VAN KAMPEN	736974	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 6
5894	IM-02	VAN KAMPEN	736945	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 7
5895	IM-02	VAN KAMPEN	740608	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 8
5896	IM-02	VAN KAMPEN	740605	CALIFORNIA INSURED MUNICIPALS INCOME TRUST SERIES 9
5897	IM-02	VAN KAMPEN	709365	CALIFORNIA INVESTORS QUALITY TAX EXEMPT TRUST SERIES 10
5898	IM-02	VAN KAMPEN	709364	CALIFORNIA INVESTORS QUALITY TAX EXEMPT TRUST SERIES 11
5899	IM-02	VAN KAMPEN	715147	CALIFORNIA INVESTORS QUALITY TAX EXEMPT TRUST SERIES 12
5900	IM-02	VAN KAMPEN	715146	CALIFORNIA INVESTORS QUALITY TAX EXEMPT TRUST SERIES 13
5901	IM-02	VAN KAMPEN	707135	CALIFORNIA INVESTORS QUALITY TAX EXEMPT TRUST SERIES 9
5902	IM-02	VAN KAMPEN	701548	CALIFORNIA QUALITY TAX EXEMPT TRUST SERIES 2
5903	IM-02	VAN KAMPEN	702269	CALIFORNIA QUALITY TAX EXEMPT TRUST SERIES 3
5904	IM-02	VAN KAMPEN	702264	CALIFORNIA QUALITY TAX EXEMPT TRUST SERIES 4
5905	IM-02	VAN KAMPEN	704499	CALIFORNIA QUALITY TAX EXEMPT TRUST SERIES 5
5906	IM-02	VAN KAMPEN	705785	CALIFORNIA QUALITY TAX EXEMPT TRUST SERIES 6
5907	IM-02	VAN KAMPEN	706079	CALIFORNIA QUALITY TAX EXEMPT TRUST SERIES 7
5908	IM-02	VAN KAMPEN	706078	CALIFORNIA QUALITY TAX EXEMPT TRUST SERIES 8
5909	IM-02	VAN KAMPEN	277439	FIRST NATIONAL DUAL SERIES TAX EXEMPT BOND TRUST·
5910	IM-02	VAN KAMPEN	036699	FIRST NATIONAL DUAL SERIES TAX EXEMPT BOND TRUST SERIES 3
5911	IM-02	VAN KAMPEN	875100	INSURED MUN INC & TRUST & INV QUA TAX EX TRUST MUL SERS 149
5912	IM-02	VAN KAMPEN	875109	INSURED MUN INC & TRUST & INV QUA TAX EX TRUST MUL SERS 153
5913	IM-02	VAN KAMPEN	875107	INSURED MUN INC TRUST & INV QUA TAX EX TRUST MUL SERS 151
5914	IM-02	VAN KAMPEN	880664	INSURED MUN INCOME TR & INV QUA TAX EX TR MUL SER 165
5915	IM-02	VAN KAMPEN	866315	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULT SER 126
5916	IM-02	VAN KAMPEN	866314	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULT SER 127
5917	IM-02	VAN KAMPEN	866313	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULT SER 128
5918	IM-02	VAN KAMPEN	866412	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULT SER 129
5919	IM-02	VAN KAMPEN	866414	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULT SER 130
5920	IM-02	VAN KAMPEN	866404	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULT SER 131
5921	IM-02	VAN KAMPEN	830243	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULTI SER 72
5922	IM-02	VAN KAMPEN	830245	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULTI SER 73
5923	IM-02	VAN KAMPEN	830242	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULTI SER 74
5924	IM-02	VAN KAMPEN	830241	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULTI SER 75
5925	IM-02	VAN KAMPEN	832697	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULTI SER 77
5926	IM-02	VAN KAMPEN	832695	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULTI SER 78
5927	IM-02	VAN KAMPEN	832698	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULTI SER 79
5928	IM-02	VAN KAMPEN	832696	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULTI SER 80
5929	IM-02	VAN KAMPEN	832699	INSURED MUN INCOME TR & INVESTORS QUA TAX EX TR MULTI SER 81
5930	IM-02	VAN KAMPEN	775806	INSURED MUN INCOME TR & INVESTORS QUAL TX EX TR MULTI SER 1
5931	IM-02	VAN KAMPEN	778708	INSURED MUN SECURITIES TRUST 15TH DISCOUNT SERIES & SERIES 5
5932	IM-02	VAN KAMPEN	854748	INSURED MUNICIPAL INCOME TR & INV QUA TAX EX TR MUL SER 107
5933	IM-02	VAN KAMPEN	844003	INSURED MUNICIPAL INCOME TR & INV QUA TAX EX TR MUL SER 93
5934	IM-02	VAN KAMPEN	844001	INSURED MUNICIPAL INCOME TR & INV QUA TAX EX TR MUL SER 94
5935	IM-02	VAN KAMPEN	877198	INSURED MUNICIPAL INCOME TRUST & IN QU TAX EX TR MUL SR 154
5936	IM-02	VAN KAMPEN	840822	INSURED MUNICIPAL SEC TR 39TH DISCOUNT SERIES & SERIES 12
5937	IM-02	VAN KAMPEN	868870	INSURED MUNICIPAL SEC TR NY NAV INS SER 5 & NJ NAV INS SER 2
5938	IM-02	VAN KAMPEN	863533	INSURED MUNICIPAL SECS TR 50TH DIS SER 24 & NY NAV INS SER 3
5939	IM-02	VAN KAMPEN	846803	INSURED MUNICIPAL SECURITIES TR 45TH DISCOUNT SER & SER 18
5940	IM-02	VAN KAMPEN	850308	INSURED MUNICIPAL SECURITIES TR 48TH DISCOUNT SERIES 21
5941	IM-02	VAN KAMPEN	856292	INSURED MUNICIPAL SECURITIES TR 49TH DIS SE SER 23 NEW YORK
5942	IM-02	VAN KAMPEN	863845	INSURED MUNICIPAL SECURITIES TR NEW JERSEY SER 1 & PENN SE 1
5943	IM-02	VAN KAMPEN	766706	INSURED MUNICIPAL SECURITIES TRUST 10TH DISCOUNT SER & SER 3
5944	IM-02	VAN KAMPEN	768273	INSURED MUNICIPAL SECURITIES TRUST 11TH DISCOUNT SERIES
5945	IM-02	VAN KAMPEN	771612	INSURED MUNICIPAL SECURITIES TRUST 12TH DISCOUNT SER & SER 4
5946	IM-02	VAN KAMPEN	773340	INSURED MUNICIPAL SECURITIES TRUST 13TH DISCOUNT SERIES
5947	IM-02	VAN KAMPEN	782152	INSURED MUNICIPAL SECURITIES TRUST 16TH DISCOUNT SERIES
5948	IM-02	VAN KAMPEN	786051	INSURED MUNICIPAL SECURITIES TRUST 17TH DIS SER & SER 6
5949	IM-02	VAN KAMPEN	789294	INSURED MUNICIPAL SECURITIES TRUST 18TH DISCOUNT SERIES
5950	IM-02	VAN KAMPEN	791244	INSURED MUNICIPAL SECURITIES TRUST 19TH DISCOUNT SER & SER 7
5951	IM-02	VAN KAMPEN	793384	INSURED MUNICIPAL SECURITIES TRUST 20TH DISCOUNT SERIES
5952	IM-02	VAN KAMPEN	795037	INSURED MUNICIPAL SECURITIES TRUST 21ST DISCOUNT SERIES
5953	IM-02	VAN KAMPEN	852243	INSURED MUNICIPAL SECURITIES TRUST 22 & NEW YORK NAV IN SE 1
5954	IM-02	VAN KAMPEN	797224	INSURED MUNICIPAL SECURITIES TRUST 22ND DISCOUNT SERIES
5955	IM-02	VAN KAMPEN	799010	INSURED MUNICIPAL SECURITIES TRUST 23RD DISCOUNT SERIES
5956	IM-02	VAN KAMPEN	801326	INSURED MUNICIPAL SECURITIES TRUST 24TH DISCOUNT SERIES
5957	IM-02	VAN KAMPEN	804092	INSURED MUNICIPAL SECURITIES TRUST 25TH DISCOUNT SERIES

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
5958	IM-02	VAN KAMPEN	806988	INSURED MUNICIPAL SECURITIES TRUST 26TH DISCOUNT SERIES
5959	IM-02	VAN KAMPEN	808365	INSURED MUNICIPAL SECURITIES TRUST 27TH DISCOUNT SERIES
5960	IM-02	VAN KAMPEN	810357	INSURED MUNICIPAL SECURITIES TRUST 28TH DISCOUNT SERIES
5961	IM-02	VAN KAMPEN	811496	INSURED MUNICIPAL SECURITIES TRUST 29TH DISCOUNT SERIES
5962	IM-02	VAN KAMPEN	814902	INSURED MUNICIPAL SECURITIES TRUST 30TH DISCOUNT SERIES
5963	IM-02	VAN KAMPEN	817650	INSURED MUNICIPAL SECURITIES TRUST 31ST DISCOUNT SERIES
5964	IM-02	VAN KAMPEN	820108	INSURED MUNICIPAL SECURITIES TRUST 32ND DISCOUNT SERIES
5965	IM-02	VAN KAMPEN	826724	INSURED MUNICIPAL SECURITIES TRUST 33RD DISCOUNT SERIES
5966	IM-02	VAN KAMPEN	830523	INSURED MUNICIPAL SECURITIES TRUST 34TH DISCOUNT SERIES
5967	IM-02	VAN KAMPEN	832406	INSURED MUNICIPAL SECURITIES TRUST 35TH DISCOUNT SER & SER 8
5968	IM-02	VAN KAMPEN	833457	INSURED MUNICIPAL SECURITIES TRUST 36TH DISCOUNT SER & SER 9
5969	IM-02	VAN KAMPEN	835775	INSURED MUNICIPAL SECURITIES TRUST 37TH DIS SER & SER 10
5970	IM-02	VAN KAMPEN	839046	INSURED MUNICIPAL SECURITIES TRUST 38TH DIS SER & SER 11
5971	IM-02	VAN KAMPEN	841967	INSURED MUNICIPAL SECURITIES TRUST 40TH DIS SER & SER 13
5972	IM-02	VAN KAMPEN	843764	INSURED MUNICIPAL SECURITIES TRUST 41ST DISCOUNT SER & SR 14
5973	IM-02	VAN KAMPEN	845294	INSURED MUNICIPAL SECURITIES TRUST 42ND DISCOUNT SER & SE 15
5974	IM-02	VAN KAMPEN	846125	INSURED MUNICIPAL SECURITIES TRUST 43RD DIS SERIES & SER 16
5975	IM-02	VAN KAMPEN	846418	INSURED MUNICIPAL SECURITIES TRUST 44TH DIS SER & SER 17
5976	IM-02	VAN KAMPEN	847561	INSURED MUNICIPAL SECURITIES TRUST 46TH DISC SER & SER 19
5977	IM-02	VAN KAMPEN	849697	INSURED MUNICIPAL SECURITIES TRUST 47TH DISC SERIES & SER 20
5978	IM-02	VAN KAMPEN	757619	INSURED MUNICIPAL SECURITIES TRUST 5TH DISCOUNT SERS & SER 1
5979	IM-02	VAN KAMPEN	759728	INSURED MUNICIPAL SECURITIES TRUST 6TH DISCOUNT SERIES
5980	IM-02	VAN KAMPEN	760660	INSURED MUNICIPAL SECURITIES TRUST 7TH DISCOUNT SERIES
5981	IM-02	VAN KAMPEN	762232	INSURED MUNICIPAL SECURITIES TRUST 8TH DISCOUNT SER & SER 2
5982	IM-02	VAN KAMPEN	763694	INSURED MUNICIPAL SECURITIES TRUST 9TH DISCOUNT SERIES
5983	IM-02	VAN KAMPEN	740656	INSURED MUNICIPAL SECURITIES TRUST SERIES 1
5984	IM-02	VAN KAMPEN	754836	INSURED MUNICIPAL SECURITIES TRUST SERIES 2
5985	IM-02	VAN KAMPEN	865774	INSURED MUNICIPAL SECURITIES TRUST SERIES 26
5986	IM-02	VAN KAMPEN	755880	INSURED MUNICIPAL SECURITIES TRUST SERIES 3
5987	IM-02	VAN KAMPEN	756926	INSURED MUNICIPAL SECURITIES TRUST SERIES 4
5988	IM-02	VAN KAMPEN	810278	INSURED MUNICIPALS IN TR & IN QU TAX EX TR MUL SER 52
5989	IM-02	VAN KAMPEN	810280	INSURED MUNICIPALS IN TR & IN QU TAX EX TR MULTI SERIES 53
5990	IM-02	VAN KAMPEN	810279	INSURED MUNICIPALS IN TR & IN QU TAX EX TR MULTI SERIES 55
5991	IM-02	VAN KAMPEN	862248	INSURED MUNICIPALS IN TRU & INV QU TAX EX TR MU SER 118
5992	IM-02	VAN KAMPEN	862247	INSURED MUNICIPALS INC TR & INV QU TAX EX TR MU SER 119
5993	IM-02	VAN KAMPEN	854754	INSURED MUNICIPALS INC TR & INV QU TAX EX TR MUT SER 108
5994	IM-02	VAN KAMPEN	871812	INSURED MUNICIPALS INCOME INVE QUAL TAX EXE TRU MUL SER 137
5995	IM-02	VAN KAMPEN	848519	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SER 101
5996	IM-02	VAN KAMPEN	848521	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SER 102
5997	IM-02	VAN KAMPEN	848520	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SER 105
5998	IM-02	VAN KAMPEN	854795	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SER 106
5999	IM-02	VAN KAMPEN	863849	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SER 123
6000	IM-02	VAN KAMPEN	863850	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SER 124
6001	IM-02	VAN KAMPEN	870235	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SER 135
6002	IM-02	VAN KAMPEN	870247	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SER 136
6003	IM-02	VAN KAMPEN	810277	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SER 54
6004	IM-02	VAN KAMPEN	835716	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SER 82
6005	IM-02	VAN KAMPEN	835718	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SER 83
6006	IM-02	VAN KAMPEN	835713	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SER 84
6007	IM-02	VAN KAMPEN	835728	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SER 85
6008	IM-02	VAN KAMPEN	835720	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SER 86
6009	IM-02	VAN KAMPEN	826281	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SERIES 67
6010	IM-02	VAN KAMPEN	826275	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SERIES 68
6011	IM-02	VAN KAMPEN	826276	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SERIES 69
6012	IM-02	VAN KAMPEN	826278	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SERIES 70
6013	IM-02	VAN KAMPEN	826283	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TR MUL SERIES 71
6014	IM-02	VAN KAMPEN	821227	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TRUST MUL SER 62
6015	IM-02	VAN KAMPEN	821228	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TRUST MUL SER 63
6016	IM-02	VAN KAMPEN	821224	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TRUST MUL SER 65
6017	IM-02	VAN KAMPEN	821225	INSURED MUNICIPALS INCOME TR & IN QU TAX EX TRUST MUL SER 66
6018	IM-02	VAN KAMPEN	815461	INSURED MUNICIPALS INCOME TR & IN QU TAX EXE TR MUL SER 56
6019	IM-02	VAN KAMPEN	815462	INSURED MUNICIPALS INCOME TR & IN QU TAX EXE TR MUL SER 57
6020	IM-02	VAN KAMPEN	815463	INSURED MUNICIPALS INCOME TR & IN QU TAX EXE TR MUL SER 58
6021	IM-02	VAN KAMPEN	873380	INSURED MUNICIPALS INCOME TR & INV QU TAX EX TR MU SE 143
6022	IM-02	VAN KAMPEN	873381	INSURED MUNICIPALS INCOME TR & INV QU TAX EX TR MU SER 144
6023	IM-02	VAN KAMPEN	810256	INSURED MUNICIPALS INCOME TR & INV QU TAX EXE TR MUL SER 51
6024	IM-02	VAN KAMPEN	816026	INSURED MUNICIPALS INCOME TR & INV QU TAX EXE TR MUT SER 59
6025	IM-02	VAN KAMPEN	816023	INSURED MUNICIPALS INCOME TR & INV QU TAX EXE TR MUT SER 60
6026	IM-02	VAN KAMPEN	816025	INSURED MUNICIPALS INCOME TR & INV QU TAX EXE TR MUT SER 61
6027	IM-02	VAN KAMPEN	873390	INSURED MUNICIPALS INCOME TR & INV QU TX EX TR MU SERS 145
6028	IM-02	VAN KAMPEN	862245	INSURED MUNICIPALS INCOME TR & INV QUA TAX EX TR MU SER 120
6029	IM-02	VAN KAMPEN	863848	INSURED MUNICIPALS INCOME TR & INV QUA TAX EX TR MUL SER 122
6030	IM-02	VAN KAMPEN	866310	INSURED MUNICIPALS INCOME TR & INV QUA TAX EX TR MUL SER 125
6031	IM-02	VAN KAMPEN	869585	INSURED MUNICIPALS INCOME TR & INV QUA TAX EX TR MUL SER 132
6032	IM-02	VAN KAMPEN	869563	INSURED MUNICIPALS INCOME TR & INV QUA TAX EX TR MUL SER 133
6033	IM-02	VAN KAMPEN	869586	INSURED MUNICIPALS INCOME TR & INV QUA TAX EX TR MUL SER 134
6034	IM-02	VAN KAMPEN	885248	INSURED MUNICIPALS INCOME TR & INV QUA TAX EX TR MUL SER 176
6035	IM-02	VAN KAMPEN	888824	INSURED MUNICIPALS INCOME TR & INV QUA TAX EX TR MUL SER 177
6036	IM-02	VAN KAMPEN	888826	INSURED MUNICIPALS INCOME TR & INV QUA TAX EX TR MUL SER 178
6037	IM-02	VAN KAMPEN	888827	INSURED MUNICIPALS INCOME TR & INV QUA TAX EX TR MUL SER 179
6038	IM-02	VAN KAMPEN	888829	INSURED MUNICIPALS INCOME TR & INV QUA TAX EX TR MUL SER 180
6039	IM-02	VAN KAMPEN	830244	INSURED MUNICIPALS INCOME TR & INV QUA TAX EXE TR MUL SER 76

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
6040	IM-02	VAN KAMPEN	798562	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 36
6041	IM-02	VAN KAMPEN	798561	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 37
6042	IM-02	VAN KAMPEN	798560	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 38
6043	IM-02	VAN KAMPEN	798564	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 39
6044	IM-02	VAN KAMPEN	798563	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 40
6045	IM-02	VAN KAMPEN	804284	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 41
6046	IM-02	VAN KAMPEN	804262	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 42
6047	IM-02	VAN KAMPEN	804278	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 43
6048	IM-02	VAN KAMPEN	804263	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 44
6049	IM-02	VAN KAMPEN	804279	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 45
6050	IM-02	VAN KAMPEN	807436	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 46
6051	IM-02	VAN KAMPEN	807438	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 47
6052	IM-02	VAN KAMPEN	807435	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 48
6053	IM-02	VAN KAMPEN	807432	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 49
6054	IM-02	VAN KAMPEN	807434	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 50
6055	IM-02	VAN KAMPEN	839042	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 87
6056	IM-02	VAN KAMPEN	839044	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 88
6057	IM-02	VAN KAMPEN	839039	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 89
6058	IM-02	VAN KAMPEN	839036	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 90
6059	IM-02	VAN KAMPEN	839038	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EX TR MUT SER 91
6060	IM-02	VAN KAMPEN	783150	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 10
6061	IM-02	VAN KAMPEN	783152	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 11
6062	IM-02	VAN KAMPEN	783178	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 12
6063	IM-02	VAN KAMPEN	783149	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 13
6064	IM-02	VAN KAMPEN	789756	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 22
6065	IM-02	VAN KAMPEN	789672	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 23
6066	IM-02	VAN KAMPEN	789762	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 24
6067	IM-02	VAN KAMPEN	789761	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 25
6068	IM-02	VAN KAMPEN	794931	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 31
6069	IM-02	VAN KAMPEN	794883	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 32
6070	IM-02	VAN KAMPEN	794937	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 33
6071	IM-02	VAN KAMPEN	794935	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 34
6072	IM-02	VAN KAMPEN	794928	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 35
6073	IM-02	VAN KAMPEN	779266	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 6
6074	IM-02	VAN KAMPEN	783153	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MU SER 9
6075	IM-02	VAN KAMPEN	777442	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MUL SER 2
6076	IM-02	VAN KAMPEN	777961	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MUL SER 4
6077	IM-02	VAN KAMPEN	777958	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MUL SER 5
6078	IM-02	VAN KAMPEN	779246	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MUL SER 7
6079	IM-02	VAN KAMPEN	777571	INSURED MUNICIPALS INCOME TR & INVS QUA TAX EXE TR MUT SER 3
6080	IM-02	VAN KAMPEN	779267	INSURED MUNICIPALS INCOME TR & INVS QUA TX EXEM TR MUL SER 8
6081	IM-02	VAN KAMPEN	785801	INSURED MUNICIPALS INCOME TR & INVS QUAL TAX EX TR MUT SE 14
6082	IM-02	VAN KAMPEN	785800	INSURED MUNICIPALS INCOME TR & INVS QUAL TAX EX TR MUT SE 15
6083	IM-02	VAN KAMPEN	785799	INSURED MUNICIPALS INCOME TR & INVS QUAL TAX EX TR MUT SE 16
6084	IM-02	VAN KAMPEN	785798	INSURED MUNICIPALS INCOME TR & INVS QUAL TAX EX TR MUT SE 17
6085	IM-02	VAN KAMPEN	785802	INSURED MUNICIPALS INCOME TR & INVS QUAL TAX EX TR MUT SE 18
6086	IM-02	VAN KAMPEN	785806	INSURED MUNICIPALS INCOME TR & INVS QUAL TAX EX TR MUT SE 19
6087	IM-02	VAN KAMPEN	785807	INSURED MUNICIPALS INCOME TR & INVS QUAL TAX EX TR MUT SE 20
6088	IM-02	VAN KAMPEN	785797	INSURED MUNICIPALS INCOME TR & INVS QUAL TAX EX TR MUT SE 21
6089	IM-02	VAN KAMPEN	792358	INSURED MUNICIPALS INCOME TR & INVS QUAL TAX EX TR MUT SE 26
6090	IM-02	VAN KAMPEN	792357	INSURED MUNICIPALS INCOME TR & INVS QUAL TAX EX TR MUT SE 27
6091	IM-02	VAN KAMPEN	792354	INSURED MUNICIPALS INCOME TR & INVS QUAL TAX EX TR MUT SE 28
6092	IM-02	VAN KAMPEN	792355	INSURED MUNICIPALS INCOME TR & INVS QUAL TAX EX TR MUT SE 29
6093	IM-02	VAN KAMPEN	792356	INSURED MUNICIPALS INCOME TR & INVS QUAL TAX EX TR MUT SE 30
6094	IM-02	VAN KAMPEN	887161	INSURED MUNICIPALS INCOME TR IN QA TA EX TR MU SE 172
6095	IM-02	VAN KAMPEN	887163	INSURED MUNICIPALS INCOME TR IN QA TA EX TR MU SE 174
6096	IM-02	VAN KAMPEN	887164	INSURED MUNICIPALS INCOME TR IN QU TA EX TR MU SE 173
6097	IM-02	VAN KAMPEN	871872	INSURED MUNICIPALS INCOME TR INV QU TAX EX TR MUL SER 138
6098	IM-02	VAN KAMPEN	871870	INSURED MUNICIPALS INCOME TR INV QU TAX EX TR MUL SER 139
6099	IM-02	VAN KAMPEN	871871	INSURED MUNICIPALS INCOME TR INV QU TAX EX TR MUL SER 141
6100	IM-02	VAN KAMPEN	871869	INSURED MUNICIPALS INCOME TR INV QUA TAX EX TR MUL SER 140
6101	IM-02	VAN KAMPEN	879118	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MU SE 160
6102	IM-02	VAN KAMPEN	879117	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SE 159
6103	IM-02	VAN KAMPEN	879120	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SE 161
6104	IM-02	VAN KAMPEN	879121	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SE 162
6105	IM-02	VAN KAMPEN	884923	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SE 169
6106	IM-02	VAN KAMPEN	884921	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SE 170
6107	IM-02	VAN KAMPEN	884922	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SE 171
6108	IM-02	VAN KAMPEN	891185	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SE 181
6109	IM-02	VAN KAMPEN	891187	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SE 182
6110	IM-02	VAN KAMPEN	891186	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SE 183
6111	IM-02	VAN KAMPEN	894077	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SE 184
6112	IM-02	VAN KAMPEN	894078	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SE 185
6113	IM-02	VAN KAMPEN	894080	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SE 186
6114	IM-02	VAN KAMPEN	895439	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SE 187
6115	IM-02	VAN KAMPEN	895438	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SE 188
6116	IM-02	VAN KAMPEN	821222	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SER 64
6117	IM-02	VAN KAMPEN	859347	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SR 113
6118	IM-02	VAN KAMPEN	859349	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SR 114
6119	IM-02	VAN KAMPEN	859346	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SR 115
6120	IM-02	VAN KAMPEN	859348	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SR 116
6121	IM-02	VAN KAMPEN	877199	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SR 155

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APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
6122	IM-02	VAN KAMPEN	877200	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SR 156
6123	IM-02	VAN KAMPEN	877202	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUL SR 158
6124	IM-02	VAN KAMPEN	844004	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUT SER 92
6125	IM-02	VAN KAMPEN	846448	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUT SER 95
6126	IM-02	VAN KAMPEN	846449	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUT SER 96
6127	IM-02	VAN KAMPEN	846450	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUT SER 97
6128	IM-02	VAN KAMPEN	863757	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MUT SR 121
6129	IM-02	VAN KAMPEN	856608	INSURED MUNICIPALS INCOME TRUST & INV QU TAX EX TR MU SE 110
6130	IM-02	VAN KAMPEN	856609	INSURED MUNICIPALS INCOME TRUST & INV QU TAX EX TR MU SE 111
6131	IM-02	VAN KAMPEN	856607	INSURED MUNICIPALS INCOME TRUST & INV QU TAX EX TR MU SE 112
6132	IM-02	VAN KAMPEN	846895	INSURED MUNICIPALS INCOME TRUST & INV QU TAX EX TR MU SER 98
6133	IM-02	VAN KAMPEN	846896	INSURED MUNICIPALS INCOME TRUST & INV QU TAX EX TR MU SR 100
6134	IM-02	VAN KAMPEN	848617	INSURED MUNICIPALS INCOME TRUST & INV QU TAX EX TR MU SR 103
6135	IM-02	VAN KAMPEN	848615	INSURED MUNICIPALS INCOME TRUST & INV QU TAX EX TR MU SR 104
6136	IM-02	VAN KAMPEN	883771	INSURED MUNICIPALS INCOME TRUST & INV QU TAX EX TR MU SR 166
6137	IM-02	VAN KAMPEN	883772	INSURED MUNICIPALS INCOME TRUST & INV QU TAX EX TR MU SR 167
6138	IM-02	VAN KAMPEN	883773	INSURED MUNICIPALS INCOME TRUST & INV QU TAX EX TR MU SR 168
6139	IM-02	VAN KAMPEN	856595	INSURED MUNICIPALS INCOME TRUST & INV QU TAX EX TR MU SER 109
6140	IM-02	VAN KAMPEN	862273	INSURED MUNICIPALS INCOME TRUST & INV QUA TAX EX MUL SER 117
6141	IM-02	VAN KAMPEN	846894	INSURED MUNICIPALS INCOME TRUST & INV QUA TAX EX TR MU SE 99
6142	IM-02	VAN KAMPEN	870231	INSURED MUNICIPALS INCOME TRUST 100TH INSURED MULTI SERIES
6143	IM-02	VAN KAMPEN	870234	INSURED MUNICIPALS INCOME TRUST 101ST IN MULTI SERIES
6144	IM-02	VAN KAMPEN	872491	INSURED MUNICIPALS INCOME TRUST 102ND INSURED MULTI SERIES
6145	IM-02	VAN KAMPEN	872492	INSURED MUNICIPALS INCOME TRUST 103RD INSURED MULTI SERIES
6146	IM-02	VAN KAMPEN	872493	INSURED MUNICIPALS INCOME TRUST 104TH INSURED MULTI SERIES
6147	IM-02	VAN KAMPEN	878485	INSURED MUNICIPALS INCOME TRUST 105TH INSURED MULTI SERIES
6148	IM-02	VAN KAMPEN	878487	INSURED MUNICIPALS INCOME TRUST 106TH INSURED MULTI SERIES
6149	IM-02	VAN KAMPEN	878489	INSURED MUNICIPALS INCOME TRUST 107TH INSURED MULTI SERIES
6150	IM-02	VAN KAMPEN	878491	INSURED MUNICIPALS INCOME TRUST 108TH INSURED MULTI SERIES
6151	IM-02	VAN KAMPEN	880963	INSURED MUNICIPALS INCOME TRUST 109TH INSURED MULTI SERIES
6152	IM-02	VAN KAMPEN	766251	INSURED MUNICIPALS INCOME TRUST 10TH INSURED MULTI SERIES
6153	IM-02	VAN KAMPEN	880962	INSURED MUNICIPALS INCOME TRUST 110TH INSURED MULTI SERIES
6154	IM-02	VAN KAMPEN	880965	INSURED MUNICIPALS INCOME TRUST 111TH INSURED MULTI SERIES
6155	IM-02	VAN KAMPEN	880964	INSURED MUNICIPALS INCOME TRUST 112TH INSURED MULTI SERIES
6156	IM-02	VAN KAMPEN	884262	INSURED MUNICIPALS INCOME TRUST 113TH INSURED MULTI SERIES
6157	IM-02	VAN KAMPEN	884257	INSURED MUNICIPALS INCOME TRUST 114TH INSURED MULTI SERIES
6158	IM-02	VAN KAMPEN	887543	INSURED MUNICIPALS INCOME TRUST 115TH INSURED MULTI SERIES
6159	IM-02	VAN KAMPEN	887544	INSURED MUNICIPALS INCOME TRUST 116TH INSURED MULTI SERIES
6160	IM-02	VAN KAMPEN	887545	INSURED MUNICIPALS INCOME TRUST 117TH INSURED MULTI SERIES
6161	IM-02	VAN KAMPEN	889545	INSURED MUNICIPALS INCOME TRUST 118TH INSURED MULTI SERIES
6162	IM-02	VAN KAMPEN	889547	INSURED MUNICIPALS INCOME TRUST 119TH INSURED MULTI SERIES
6163	IM-02	VAN KAMPEN	766258	INSURED MUNICIPALS INCOME TRUST 11TH INSURED MULTI SERIES
6164	IM-02	VAN KAMPEN	889544	INSURED MUNICIPALS INCOME TRUST 120TH INSURED MULTI SERIES
6165	IM-02	VAN KAMPEN	890654	INSURED MUNICIPALS INCOME TRUST 121ST INSURED MULTI SERIES
6166	IM-02	VAN KAMPEN	890653	INSURED MUNICIPALS INCOME TRUST 122ND INSURED MULTI SERIES
6167	IM-02	VAN KAMPEN	891810	INSURED MUNICIPALS INCOME TRUST 123RD INSURED MULTI SERIES
6168	IM-02	VAN KAMPEN	891811	INSURED MUNICIPALS INCOME TRUST 124TH INSURED MULTI SERIES
6169	IM-02	VAN KAMPEN	891809	INSURED MUNICIPALS INCOME TRUST 125TH INSURED MULTI SERIES
6170	IM-02	VAN KAMPEN	893010	INSURED MUNICIPALS INCOME TRUST 126TH INSURED MULTI SERIES
6171	IM-02	VAN KAMPEN	893013	INSURED MUNICIPALS INCOME TRUST 127TH INSURED MULTI SERIES
6172	IM-02	VAN KAMPEN	893011	INSURED MUNICIPALS INCOME TRUST 128TH INSURED MULTI SERIES
6173	IM-02	VAN KAMPEN	893001	INSURED MUNICIPALS INCOME TRUST 129TH INSURED MULTI SERIES
6174	IM-02	VAN KAMPEN	766281	INSURED MUNICIPALS INCOME TRUST 12TH INSURED MULTI SERIES
6175	IM-02	VAN KAMPEN	893002	INSURED MUNICIPALS INCOME TRUST 130TH INSURED MULTI SERIES
6176	IM-02	VAN KAMPEN	895437	INSURED MUNICIPALS INCOME TRUST 131ST INSURED MULTI SERIES
6177	IM-02	VAN KAMPEN	895427	INSURED MUNICIPALS INCOME TRUST 132ND INSURED MULTI SERIES
6178	IM-02	VAN KAMPEN	895428	INSURED MUNICIPALS INCOME TRUST 133RD INSURED MULTI SERIES
6179	IM-02	VAN KAMPEN	895436	INSURED MUNICIPALS INCOME TRUST 134TH INSURED MULTI SERIES
6180	IM-02	VAN KAMPEN	768864	INSURED MUNICIPALS INCOME TRUST 13TH INSURED MULTI SERIES
6181	IM-02	VAN KAMPEN	768865	INSURED MUNICIPALS INCOME TRUST 14TH INSURED MULTI SERIES
6182	IM-02	VAN KAMPEN	768867	INSURED MUNICIPALS INCOME TRUST 15TH INSURED MULTI SERIES
6183	IM-02	VAN KAMPEN	768807	INSURED MUNICIPALS INCOME TRUST 16TH INSURED MULTI SERIES
6184	IM-02	VAN KAMPEN	768808	INSURED MUNICIPALS INCOME TRUST 17TH INSURED MULTI SERIES
6185	IM-02	VAN KAMPEN	768866	INSURED MUNICIPALS INCOME TRUST 18TH INSURED MULTI SERIES
6186	IM-02	VAN KAMPEN	768796	INSURED MUNICIPALS INCOME TRUST 19TH INSURED MULTI SERIES
6187	IM-02	VAN KAMPEN	761244	INSURED MUNICIPALS INCOME TRUST 1ST INSURED MULTI SERIES/N/
6188	IM-02	VAN KAMPEN	768816	INSURED MUNICIPALS INCOME TRUST 20TH INSURED MULTI SERIES
6189	IM-02	VAN KAMPEN	773865	INSURED MUNICIPALS INCOME TRUST 21ST INSURED MULTI SERIES
6190	IM-02	VAN KAMPEN	773866	INSURED MUNICIPALS INCOME TRUST 22ND INSURED MULTI SERIES
6191	IM-02	VAN KAMPEN	773941	INSURED MUNICIPALS INCOME TRUST 23RD INSURED MULTI SERIES
6192	IM-02	VAN KAMPEN	773872	INSURED MUNICIPALS INCOME TRUST 24TH INSURED MULTI SERIES
6193	IM-02	VAN KAMPEN	773863	INSURED MUNICIPALS INCOME TRUST 25TH INSURED MULTI SERIES
6194	IM-02	VAN KAMPEN	773862	INSURED MUNICIPALS INCOME TRUST 26TH INSURED MULTI SERIES
6195	IM-02	VAN KAMPEN	773867	INSURED MUNICIPALS INCOME TRUST 27TH INSURED MULTI SERIES
6196	IM-02	VAN KAMPEN	773882	INSURED MUNICIPALS INCOME TRUST 28TH INSURED MULTI SERIES
6197	IM-02	VAN KAMPEN	799116	INSURED MUNICIPALS INCOME TRUST 29TH INSURED MULTI SERIES
6198	IM-02	VAN KAMPEN	763479	INSURED MUNICIPALS INCOME TRUST 2ND INSURED MULTI SER
6199	IM-02	VAN KAMPEN	801130	INSURED MUNICIPALS INCOME TRUST 30TH INSURED MULTI SERIES
6200	IM-02	VAN KAMPEN	812189	INSURED MUNICIPALS INCOME TRUST 31ST INSURED MULTI SERIES
6201	IM-02	VAN KAMPEN	813560	INSURED MUNICIPALS INCOME TRUST 32ND INSURED MULTI SERIES
6202	IM-02	VAN KAMPEN	814035	INSURED MUNICIPALS INCOME TRUST 33RD INSURED MULTI SERIES
6203	IM-02	VAN KAMPEN	814174	INSURED MUNICIPALS INCOME TRUST 34TH INSURED MULTI SERIES

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
6204	IM-02	VAN KAMPEN	814550	INSURED MUNICIPALS INCOME TRUST 35TH INSURED MULTI SERIES
6205	IM-02	VAN KAMPEN	819565	INSURED MUNICIPALS INCOME TRUST 36TH INSURED MULTI SERIES
6206	IM-02	VAN KAMPEN	822426	INSURED MUNICIPALS INCOME TRUST 38TH INSURED MULTI SERIES
6207	IM-02	VAN KAMPEN	824178	INSURED MUNICIPALS INCOME TRUST 39TH INSURED MULTI SERIES
6208	IM-02	VAN KAMPEN	764369	INSURED MUNICIPALS INCOME TRUST 3RD INSURED MULTI SERIES
6209	IM-02	VAN KAMPEN	824645	INSURED MUNICIPALS INCOME TRUST 40TH INSURED MULTI SERIES
6210	IM-02	VAN KAMPEN	824646	INSURED MUNICIPALS INCOME TRUST 41ST INSURED MULTI SERIES
6211	IM-02	VAN KAMPEN	825068	INSURED MUNICIPALS INCOME TRUST 42ND INSURED MULTI SERIES
6212	IM-02	VAN KAMPEN	826827	INSURED MUNICIPALS INCOME TRUST 43RD INSURED MULTI SERIES
6213	IM-02	VAN KAMPEN	826826	INSURED MUNICIPALS INCOME TRUST 44TH INSURED MULTI SERIES
6214	IM-02	VAN KAMPEN	828979	INSURED MUNICIPALS INCOME TRUST 46TH INSURED MULTI SERIES
6215	IM-02	VAN KAMPEN	828975	INSURED MUNICIPALS INCOME TRUST 47TH INSURED MULTI SERIES
6216	IM-02	VAN KAMPEN	831679	INSURED MUNICIPALS INCOME TRUST 48TH INSURED MULTI SERIES
6217	IM-02	VAN KAMPEN	832947	INSURED MUNICIPALS INCOME TRUST 49TH INSURED MULTI SERIES
6218	IM-02	VAN KAMPEN	764489	INSURED MUNICIPALS INCOME TRUST 4TH INSURED MULTI SERIES
6219	IM-02	VAN KAMPEN	832949	INSURED MUNICIPALS INCOME TRUST 50TH INSURED MULTI SERIES
6220	IM-02	VAN KAMPEN	834881	INSURED MUNICIPALS INCOME TRUST 51ST INSURED MULTI SERIES
6221	IM-02	VAN KAMPEN	835346	INSURED MUNICIPALS INCOME TRUST 52ND INSURED MULTI SERIES
6222	IM-02	VAN KAMPEN	837148	INSURED MUNICIPALS INCOME TRUST 53RD INSURED MULTI SERIES
6223	IM-02	VAN KAMPEN	837884	INSURED MUNICIPALS INCOME TRUST 54TH INSURED MULTI SERIES
6224	IM-02	VAN KAMPEN	838457	INSURED MUNICIPALS INCOME TRUST 55TH INSURED MULTI SERIES
6225	IM-02	VAN KAMPEN	840234	INSURED MUNICIPALS INCOME TRUST 56TH INSURED MULTI SERIES
6226	IM-02	VAN KAMPEN	840596	INSURED MUNICIPALS INCOME TRUST 57TH INSURED MULTI SERIES
6227	IM-02	VAN KAMPEN	842195	INSURED MUNICIPALS INCOME TRUST 58TH INSURED MULTI SERIES
6228	IM-02	VAN KAMPEN	842271	INSURED MUNICIPALS INCOME TRUST 59TH INSURED MULTI SERIES
6229	IM-02	VAN KAMPEN	764496	INSURED MUNICIPALS INCOME TRUST 5TH INSURED MULTI SERIES
6230	IM-02	VAN KAMPEN	842781	INSURED MUNICIPALS INCOME TRUST 60TH INSURED MULTI SERIES
6231	IM-02	VAN KAMPEN	842868	INSURED MUNICIPALS INCOME TRUST 61ST INSURED MULTI SERIES
6232	IM-02	VAN KAMPEN	845099	INSURED MUNICIPALS INCOME TRUST 62ND INSURED MULTI SERIES
6233	IM-02	VAN KAMPEN	845100	INSURED MUNICIPALS INCOME TRUST 63RD INSURED MULTI SERIES
6234	IM-02	VAN KAMPEN	846517	INSURED MUNICIPALS INCOME TRUST 64TH INSURED MULT SERIES
6235	IM-02	VAN KAMPEN	846779	INSURED MUNICIPALS INCOME TRUST 65TH INSURED MULTI SERIES
6236	IM-02	VAN KAMPEN	846778	INSURED MUNICIPALS INCOME TRUST 66TH INSURED MULTI SERIES
6237	IM-02	VAN KAMPEN	849363	INSURED MUNICIPALS INCOME TRUST 67TH INSURED MULTI SERIES
6238	IM-02	VAN KAMPEN	849362	INSURED MUNICIPALS INCOME TRUST 68TH INSURED MULTI SERIES
6239	IM-02	VAN KAMPEN	849364	INSURED MUNICIPALS INCOME TRUST 69TH INSURED MULTI SERIES
6240	IM-02	VAN KAMPEN	764493	INSURED MUNICIPALS INCOME TRUST 6TH INSURED MULTI SERIES
6241	IM-02	VAN KAMPEN	850188	INSURED MUNICIPALS INCOME TRUST 70TH INSURED MULTI SERIES
6242	IM-02	VAN KAMPEN	850186	INSURED MUNICIPALS INCOME TRUST 71ST INS MULTI SERIES
6243	IM-02	VAN KAMPEN	850551	INSURED MUNICIPALS INCOME TRUST 72ND INSURED MULTI SERIES
6244	IM-02	VAN KAMPEN	850552	INSURED MUNICIPALS INCOME TRUST 73RD INDURED MULTI SERIES
6245	IM-02	VAN KAMPEN	850561	INSURED MUNICIPALS INCOME TRUST 74TH INSURED MULTI SERIES
6246	IM-02	VAN KAMPEN	851742	INSURED MUNICIPALS INCOME TRUST 75TH INSURED MULTI SERIES
6247	IM-02	VAN KAMPEN	851741	INSURED MUNICIPALS INCOME TRUST 76TH INSURED MULTI SERIES
6248	IM-02	VAN KAMPEN	853012	INSURED MUNICIPALS INCOME TRUST 77TH INSURED MULTI SERIES
6249	IM-02	VAN KAMPEN	853021	INSURED MUNICIPALS INCOME TRUST 78TH INSURED MULTI SERIES
6250	IM-02	VAN KAMPEN	853013	INSURED MUNICIPALS INCOME TRUST 79TH INSURED MULTI SERIES
6251	IM-02	VAN KAMPEN	764488	INSURED MUNICIPALS INCOME TRUST 7TH INSURED MULTI SERIES
6252	IM-02	VAN KAMPEN	854755	INSURED MUNICIPALS INCOME TRUST 80TH INSURED MULTI SERIES
6253	IM-02	VAN KAMPEN	854752	INSURED MUNICIPALS INCOME TRUST 81ST INSURED MULTI SERIES
6254	IM-02	VAN KAMPEN	854751	INSURED MUNICIPALS INCOME TRUST 82ND INSURED MULTI SERIES
6255	IM-02	VAN KAMPEN	854753	INSURED MUNICIPALS INCOME TRUST 83RD INSURED MULTI SERIES
6256	IM-02	VAN KAMPEN	857552	INSURED MUNICIPALS INCOME TRUST 84TH INSURED MULTI SERIES
6257	IM-02	VAN KAMPEN	857554	INSURED MUNICIPALS INCOME TRUST 85TH INSURED MULTI SERIES
6258	IM-02	VAN KAMPEN	857550	INSURED MUNICIPALS INCOME TRUST 86TH INSURED MULTI SERIES
6259	IM-02	VAN KAMPEN	857551	INSURED MUNICIPALS INCOME TRUST 87TH INSURED MULTI SERIES
6260	IM-02	VAN KAMPEN	858350	INSURED MUNICIPALS INCOME TRUST 88TH INSURED MULTI SERIES
6261	IM-02	VAN KAMPEN	858351	INSURED MUNICIPALS INCOME TRUST 89TH INSURED MULTI SERIES
6262	IM-02	VAN KAMPEN	766257	INSURED MUNICIPALS INCOME TRUST 8TH INSURED MULTI SERIES
6263	IM-02	VAN KAMPEN	858344	INSURED MUNICIPALS INCOME TRUST 90TH INSURED MULTI SERIES
6264	IM-02	VAN KAMPEN	858343	INSURED MUNICIPALS INCOME TRUST 91ST INSURED MULTI SERIES
6265	IM-02	VAN KAMPEN	862336	INSURED MUNICIPALS INCOME TRUST 92ND INSURED MULTI SERIES
6266	IM-02	VAN KAMPEN	862307	INSURED MUNICIPALS INCOME TRUST 93RD INSURED MULTI SERIES
6267	IM-02	VAN KAMPEN	862306	INSURED MUNICIPALS INCOME TRUST 94TH INSURED MULTI SERIES
6268	IM-02	VAN KAMPEN	862305	INSURED MUNICIPALS INCOME TRUST 95TH INSURED MULTI SERIES
6269	IM-02	VAN KAMPEN	867436	INSURED MUNICIPALS INCOME TRUST 96TH INSURED MULTI SERIES
6270	IM-02	VAN KAMPEN	868396	INSURED MUNICIPALS INCOME TRUST 97TH INSURED MULTI SERIES
6271	IM-02	VAN KAMPEN	868401	INSURED MUNICIPALS INCOME TRUST 98TH INSURED MULTI SERIES
6272	IM-02	VAN KAMPEN	868400	INSURED MUNICIPALS INCOME TRUST 99TH INSURED MULTI SERIES
6273	IM-02	VAN KAMPEN	706255	INSURED MUNICIPALS INCOME TRUST 9TH INSURED MULTI SERIES
6274	IM-02	VAN KAMPEN	874449	INSURED MUNICIPALS INCOME TRUST IN QU TA EX TR MU SE 147
6275	IM-02	VAN KAMPEN	877201	INSURED MUNICIPALS INCOME TRUST IN QU TAX EX TR MUL SR 157
6276	IM-02	VAN KAMPEN	874447	INSURED MUNICIPALS INCOME TRUST INV QA TA EX TR MU SE 148
6277	IM-02	VAN KAMPEN	874448	INSURED MUNICIPALS INCOME TRUST INV QU TA EX TR MU SE 148
6278	IM-02	VAN KAMPEN	819922	INSURED MUNICIPALS INCOME TRUST MULTI SERIES 37
6279	IM-02	VAN KAMPEN	827770	INSURED MUNICIPALS INCOME TRUST MULTI SERIES 45
6280	IM-02	VAN KAMPEN	310291	INSURED MUNICIPALS INCOME TRUST SERIES 10
6281	IM-02	VAN KAMPEN	720537	INSURED MUNICIPALS INCOME TRUST SERIES 100
6282	IM-02	VAN KAMPEN	731662	INSURED MUNICIPALS INCOME TRUST SERIES 101
6283	IM-02	VAN KAMPEN	731781	INSURED MUNICIPALS INCOME TRUST SERIES 102
6284	IM-02	VAN KAMPEN	733274	INSURED MUNICIPALS INCOME TRUST SERIES 103
6285	IM-02	VAN KAMPEN	733283	INSURED MUNICIPALS INCOME TRUST SERIES 104

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
6286	IM-02	VAN KAMPEN	736475	INSURED MUNICIPALS INCOME TRUST SERIES 105
6287	IM-02	VAN KAMPEN	736485	INSURED MUNICIPALS INCOME TRUST SERIES 106
6288	IM-02	VAN KAMPEN	739884	INSURED MUNICIPALS INCOME TRUST SERIES 107
6289	IM-02	VAN KAMPEN	739902	INSURED MUNICIPALS INCOME TRUST SERIES 108
6290	IM-02	VAN KAMPEN	740065	INSURED MUNICIPALS INCOME TRUST SERIES 109
6291	IM-02	VAN KAMPEN	277443	INSURED MUNICIPALS INCOME TRUST SERIES 11
6292	IM-02	VAN KAMPEN	739901	INSURED MUNICIPALS INCOME TRUST SERIES 110
6293	IM-02	VAN KAMPEN	742365	INSURED MUNICIPALS INCOME TRUST SERIES 111
6294	IM-02	VAN KAMPEN	742360	INSURED MUNICIPALS INCOME TRUST SERIES 112
6295	IM-02	VAN KAMPEN	742361	INSURED MUNICIPALS INCOME TRUST SERIES 113
6296	IM-02	VAN KAMPEN	742362	INSURED MUNICIPALS INCOME TRUST SERIES 114
6297	IM-02	VAN KAMPEN	742363	INSURED MUNICIPALS INCOME TRUST SERIES 115
6298	IM-02	VAN KAMPEN	746002	INSURED MUNICIPALS INCOME TRUST SERIES 116
6299	IM-02	VAN KAMPEN	746005	INSURED MUNICIPALS INCOME TRUST SERIES 117
6300	IM-02	VAN KAMPEN	746004	INSURED MUNICIPALS INCOME TRUST SERIES 118
6301	IM-02	VAN KAMPEN	746000	INSURED MUNICIPALS INCOME TRUST SERIES 119
6302	IM-02	VAN KAMPEN	277448	INSURED MUNICIPALS INCOME TRUST SERIES 12
6303	IM-02	VAN KAMPEN	746001	INSURED MUNICIPALS INCOME TRUST SERIES 120
6304	IM-02	VAN KAMPEN	751223	INSURED MUNICIPALS INCOME TRUST SERIES 121
6305	IM-02	VAN KAMPEN	751218	INSURED MUNICIPALS INCOME TRUST SERIES 122
6306	IM-02	VAN KAMPEN	751217	INSURED MUNICIPALS INCOME TRUST SERIES 123
6307	IM-02	VAN KAMPEN	751222	INSURED MUNICIPALS INCOME TRUST SERIES 124
6308	IM-02	VAN KAMPEN	751224	INSURED MUNICIPALS INCOME TRUST SERIES 125
6309	IM-02	VAN KAMPEN	756610	INSURED MUNICIPALS INCOME TRUST SERIES 126
6310	IM-02	VAN KAMPEN	756672	INSURED MUNICIPALS INCOME TRUST SERIES 127
6311	IM-02	VAN KAMPEN	756654	INSURED MUNICIPALS INCOME TRUST SERIES 128
6312	IM-02	VAN KAMPEN	756647	INSURED MUNICIPALS INCOME TRUST SERIES 129
6313	IM-02	VAN KAMPEN	277441	INSURED MUNICIPALS INCOME TRUST SERIES 13
6314	IM-02	VAN KAMPEN	756608	INSURED MUNICIPALS INCOME TRUST SERIES 130
6315	IM-02	VAN KAMPEN	758741	INSURED MUNICIPALS INCOME TRUST SERIES 131
6316	IM-02	VAN KAMPEN	759204	INSURED MUNICIPALS INCOME TRUST SERIES 132
6317	IM-02	VAN KAMPEN	759206	INSURED MUNICIPALS INCOME TRUST SERIES 133
6318	IM-02	VAN KAMPEN	759203	INSURED MUNICIPALS INCOME TRUST SERIES 134
6319	IM-02	VAN KAMPEN	759205	INSURED MUNICIPALS INCOME TRUST SERIES 135
6320	IM-02	VAN KAMPEN	759697	INSURED MUNICIPALS INCOME TRUST SERIES 136
6321	IM-02	VAN KAMPEN	759759	INSURED MUNICIPALS INCOME TRUST SERIES 137
6322	IM-02	VAN KAMPEN	759698	INSURED MUNICIPALS INCOME TRUST SERIES 138
6323	IM-02	VAN KAMPEN	764663	INSURED MUNICIPALS INCOME TRUST SERIES 139
6324	IM-02	VAN KAMPEN	277440	INSURED MUNICIPALS INCOME TRUST SERIES 14
6325	IM-02	VAN KAMPEN	765686	INSURED MUNICIPALS INCOME TRUST SERIES 141
6326	IM-02	VAN KAMPEN	763115	INSURED MUNICIPALS INCOME TRUST SERIES 142
6327	IM-02	VAN KAMPEN	764674	INSURED MUNICIPALS INCOME TRUST SERIES 143
6328	IM-02	VAN KAMPEN	766252	INSURED MUNICIPALS INCOME TRUST SERIES 144
6329	IM-02	VAN KAMPEN	766253	INSURED MUNICIPALS INCOME TRUST SERIES 145
6330	IM-02	VAN KAMPEN	766254	INSURED MUNICIPALS INCOME TRUST SERIES 146
6331	IM-02	VAN KAMPEN	766282	INSURED MUNICIPALS INCOME TRUST SERIES 147
6332	IM-02	VAN KAMPEN	766256	INSURED MUNICIPALS INCOME TRUST SERIES 148
6333	IM-02	VAN KAMPEN	771594	INSURED MUNICIPALS INCOME TRUST SERIES 149
6334	IM-02	VAN KAMPEN	216214	INSURED MUNICIPALS INCOME TRUST SERIES 15
6335	IM-02	VAN KAMPEN	771597	INSURED MUNICIPALS INCOME TRUST SERIES 150
6336	IM-02	VAN KAMPEN	771590	INSURED MUNICIPALS INCOME TRUST SERIES 151
6337	IM-02	VAN KAMPEN	771592	INSURED MUNICIPALS INCOME TRUST SERIES 152
6338	IM-02	VAN KAMPEN	771593	INSURED MUNICIPALS INCOME TRUST SERIES 153
6339	IM-02	VAN KAMPEN	777962	INSURED MUNICIPALS INCOME TRUST SERIES 154
6340	IM-02	VAN KAMPEN	777957	INSURED MUNICIPALS INCOME TRUST SERIES 155
6341	IM-02	VAN KAMPEN	777960	INSURED MUNICIPALS INCOME TRUST SERIES 156
6342	IM-02	VAN KAMPEN	777956	INSURED MUNICIPALS INCOME TRUST SERIES 157
6343	IM-02	VAN KAMPEN	777959	INSURED MUNICIPALS INCOME TRUST SERIES 158
6344	IM-02	VAN KAMPEN	785796	INSURED MUNICIPALS INCOME TRUST SERIES 159
6345	IM-02	VAN KAMPEN	216213	INSURED MUNICIPALS INCOME TRUST SERIES 16
6346	IM-02	VAN KAMPEN	785792	INSURED MUNICIPALS INCOME TRUST SERIES 160
6347	IM-02	VAN KAMPEN	785794	INSURED MUNICIPALS INCOME TRUST SERIES 161
6348	IM-02	VAN KAMPEN	785793	INSURED MUNICIPALS INCOME TRUST SERIES 162
6349	IM-02	VAN KAMPEN	785795	INSURED MUNICIPALS INCOME TRUST SERIES 163
6350	IM-02	VAN KAMPEN	790995	INSURED MUNICIPALS INCOME TRUST SERIES 164
6351	IM-02	VAN KAMPEN	790996	INSURED MUNICIPALS INCOME TRUST SERIES 165
6352	IM-02	VAN KAMPEN	790997	INSURED MUNICIPALS INCOME TRUST SERIES 166
6353	IM-02	VAN KAMPEN	793669	INSURED MUNICIPALS INCOME TRUST SERIES 167
6354	IM-02	VAN KAMPEN	793668	INSURED MUNICIPALS INCOME TRUST SERIES 168
6355	IM-02	VAN KAMPEN	793667	INSURED MUNICIPALS INCOME TRUST SERIES 169
6356	IM-02	VAN KAMPEN	277750	INSURED MUNICIPALS INCOME TRUST SERIES 17
6357	IM-02	VAN KAMPEN	797082	INSURED MUNICIPALS INCOME TRUST SERIES 170
6358	IM-02	VAN KAMPEN	797090	INSURED MUNICIPALS INCOME TRUST SERIES 171
6359	IM-02	VAN KAMPEN	797083	INSURED MUNICIPALS INCOME TRUST SERIES 172
6360	IM-02	VAN KAMPEN	801131	INSURED MUNICIPALS INCOME TRUST SERIES 173
6361	IM-02	VAN KAMPEN	801129	INSURED MUNICIPALS INCOME TRUST SERIES 174
6362	IM-02	VAN KAMPEN	801123	INSURED MUNICIPALS INCOME TRUST SERIES 175
6363	IM-02	VAN KAMPEN	804118	INSURED MUNICIPALS INCOME TRUST SERIES 176
6364	IM-02	VAN KAMPEN	804119	INSURED MUNICIPALS INCOME TRUST SERIES 177
6365	IM-02	VAN KAMPEN	804120	INSURED MUNICIPALS INCOME TRUST SERIES 178
6366	IM-02	VAN KAMPEN	809752	INSURED MUNICIPALS INCOME TRUST SERIES 179
6367	IM-02	VAN KAMPEN	278375	INSURED MUNICIPALS INCOME TRUST SERIES 18

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
6368	IM-02	VAN KAMPEN	809749	INSURED MUNICIPALS INCOME TRUST SERIES 160
6369	IM-02	VAN KAMPEN	809751	INSURED MUNICIPALS INCOME TRUST SERIES 161
6370	IM-02	VAN KAMPEN	814177	INSURED MUNICIPALS INCOME TRUST SERIES 162
6371	IM-02	VAN KAMPEN	814175	INSURED MUNICIPALS INCOME TRUST SERIES 163
6372	IM-02	VAN KAMPEN	814176	INSURED MUNICIPALS INCOME TRUST SERIES 164
6373	IM-02	VAN KAMPEN	815464	INSURED MUNICIPALS INCOME TRUST SERIES 165
6374	IM-02	VAN KAMPEN	815465	INSURED MUNICIPALS INCOME TRUST SERIES 166
6375	IM-02	VAN KAMPEN	815466	INSURED MUNICIPALS INCOME TRUST SERIES 167
6376	IM-02	VAN KAMPEN	819068	INSURED MUNICIPALS INCOME TRUST SERIES 168
6377	IM-02	VAN KAMPEN	819081	INSURED MUNICIPALS INCOME TRUST SERIES 169
6378	IM-02	VAN KAMPEN	278378	INSURED MUNICIPALS INCOME TRUST SERIES 19
6379	IM-02	VAN KAMPEN	819082	INSURED MUNICIPALS INCOME TRUST SERIES 190
6380	IM-02	VAN KAMPEN	819087	INSURED MUNICIPALS INCOME TRUST SERIES 191
6381	IM-02	VAN KAMPEN	819086	INSURED MUNICIPALS INCOME TRUST SERIES 192
6382	IM-02	VAN KAMPEN	822764	INSURED MUNICIPALS INCOME TRUST SERIES 193
6383	IM-02	VAN KAMPEN	822770	INSURED MUNICIPALS INCOME TRUST SERIES 194
6384	IM-02	VAN KAMPEN	822766	INSURED MUNICIPALS INCOME TRUST SERIES 195
6385	IM-02	VAN KAMPEN	822767	INSURED MUNICIPALS INCOME TRUST SERIES 196
6386	IM-02	VAN KAMPEN	822768	INSURED MUNICIPALS INCOME TRUST SERIES 197
6387	IM-02	VAN KAMPEN	825290	INSURED MUNICIPALS INCOME TRUST SERIES 198
6388	IM-02	VAN KAMPEN	825287	INSURED MUNICIPALS INCOME TRUST SERIES 199
6389	IM-02	VAN KAMPEN	225485	INSURED MUNICIPALS INCOME TRUST SERIES 20
6390	IM-02	VAN KAMPEN	825288	INSURED MUNICIPALS INCOME TRUST SERIES 200
6391	IM-02	VAN KAMPEN	825291	INSURED MUNICIPALS INCOME TRUST SERIES 201
6392	IM-02	VAN KAMPEN	825289	INSURED MUNICIPALS INCOME TRUST SERIES 202
6393	IM-02	VAN KAMPEN	821461	INSURED MUNICIPALS INCOME TRUST SERIES 203
6394	IM-02	VAN KAMPEN	831318	INSURED MUNICIPALS INCOME TRUST SERIES 204
6395	IM-02	VAN KAMPEN	831317	INSURED MUNICIPALS INCOME TRUST SERIES 205
6396	IM-02	VAN KAMPEN	831316	INSURED MUNICIPALS INCOME TRUST SERIES 206
6397	IM-02	VAN KAMPEN	831315	INSURED MUNICIPALS INCOME TRUST SERIES 207
6398	IM-02	VAN KAMPEN	831324	INSURED MUNICIPALS INCOME TRUST SERIES 208
6399	IM-02	VAN KAMPEN	834875	INSURED MUNICIPALS INCOME TRUST SERIES 209
6400	IM-02	VAN KAMPEN	275563	INSURED MUNICIPALS INCOME TRUST SERIES 21
6401	IM-02	VAN KAMPEN	834874	INSURED MUNICIPALS INCOME TRUST SERIES 210
6402	IM-02	VAN KAMPEN	834878	INSURED MUNICIPALS INCOME TRUST SERIES 211
6403	IM-02	VAN KAMPEN	836389	INSURED MUNICIPALS INCOME TRUST SERIES 212
6404	IM-02	VAN KAMPEN	836390	INSURED MUNICIPALS INCOME TRUST SERIES 213
6405	IM-02	VAN KAMPEN	836404	INSURED MUNICIPALS INCOME TRUST SERIES 214
6406	IM-02	VAN KAMPEN	840231	INSURED MUNICIPALS INCOME TRUST SERIES 215
6407	IM-02	VAN KAMPEN	840232	INSURED MUNICIPALS INCOME TRUST SERIES 216
6408	IM-02	VAN KAMPEN	840233	INSURED MUNICIPALS INCOME TRUST SERIES 217
6409	IM-02	VAN KAMPEN	842716	INSURED MUNICIPALS INCOME TRUST SERIES 218
6410	IM-02	VAN KAMPEN	842752	INSURED MUNICIPALS INCOME TRUST SERIES 219
6411	IM-02	VAN KAMPEN	278286	INSURED MUNICIPALS INCOME TRUST SERIES 22
6412	IM-02	VAN KAMPEN	842753	INSURED MUNICIPALS INCOME TRUST SERIES 220
6413	IM-02	VAN KAMPEN	842754	INSURED MUNICIPALS INCOME TRUST SERIES 221
6414	IM-02	VAN KAMPEN	842750	INSURED MUNICIPALS INCOME TRUST SERIES 222
6415	IM-02	VAN KAMPEN	846433	INSURED MUNICIPALS INCOME TRUST SERIES 223
6416	IM-02	VAN KAMPEN	846390	INSURED MUNICIPALS INCOME TRUST SERIES 224
6417	IM-02	VAN KAMPEN	846451	INSURED MUNICIPALS INCOME TRUST SERIES 225
6418	IM-02	VAN KAMPEN	847035	INSURED MUNICIPALS INCOME TRUST SERIES 226
6419	IM-02	VAN KAMPEN	847036	INSURED MUNICIPALS INCOME TRUST SERIES 227
6420	IM-02	VAN KAMPEN	847037	INSURED MUNICIPALS INCOME TRUST SERIES 228
6421	IM-02	VAN KAMPEN	850138	INSURED MUNICIPALS INCOME TRUST SERIES 229
6422	IM-02	VAN KAMPEN	275562	INSURED MUNICIPALS INCOME TRUST SERIES 23
6423	IM-02	VAN KAMPEN	850136	INSURED MUNICIPALS INCOME TRUST SERIES 230
6424	IM-02	VAN KAMPEN	850135	INSURED MUNICIPALS INCOME TRUST SERIES 231
6425	IM-02	VAN KAMPEN	851812	INSURED MUNICIPALS INCOME TRUST SERIES 232
6426	IM-02	VAN KAMPEN	851743	INSURED MUNICIPALS INCOME TRUST SERIES 233
6427	IM-02	VAN KAMPEN	851740	INSURED MUNICIPALS INCOME TRUST SERIES 234
6428	IM-02	VAN KAMPEN	854749	INSURED MUNICIPALS INCOME TRUST SERIES 235
6429	IM-02	VAN KAMPEN	854745	INSURED MUNICIPALS INCOME TRUST SERIES 236
6430	IM-02	VAN KAMPEN	854750	INSURED MUNICIPALS INCOME TRUST SERIES 237
6431	IM-02	VAN KAMPEN	856674	INSURED MUNICIPALS INCOME TRUST SERIES 238
6432	IM-02	VAN KAMPEN	856679	INSURED MUNICIPALS INCOME TRUST SERIES 239
6433	IM-02	VAN KAMPEN	276550	INSURED MUNICIPALS INCOME TRUST SERIES 24
6434	IM-02	VAN KAMPEN	858383	INSURED MUNICIPALS INCOME TRUST SERIES 240
6435	IM-02	VAN KAMPEN	858385	INSURED MUNICIPALS INCOME TRUST SERIES 241
6436	IM-02	VAN KAMPEN	858386	INSURED MUNICIPALS INCOME TRUST SERIES 242
6437	IM-02	VAN KAMPEN	858384	INSURED MUNICIPALS INCOME TRUST SERIES 243
6438	IM-02	VAN KAMPEN	861044	INSURED MUNICIPALS INCOME TRUST SERIES 244
6439	IM-02	VAN KAMPEN	861045	INSURED MUNICIPALS INCOME TRUST SERIES 245
6440	IM-02	VAN KAMPEN	861047	INSURED MUNICIPALS INCOME TRUST SERIES 246
6441	IM-02	VAN KAMPEN	861048	INSURED MUNICIPALS INCOME TRUST SERIES 247
6442	IM-02	VAN KAMPEN	863125	INSURED MUNICIPALS INCOME TRUST SERIES 248
6443	IM-02	VAN KAMPEN	863124	INSURED MUNICIPALS INCOME TRUST SERIES 249
6444	IM-02	VAN KAMPEN	276273	INSURED MUNICIPALS INCOME TRUST SERIES 25
6445	IM-02	VAN KAMPEN	863123	INSURED MUNICIPALS INCOME TRUST SERIES 250
6446	IM-02	VAN KAMPEN	863122	INSURED MUNICIPALS INCOME TRUST SERIES 251
6447	IM-02	VAN KAMPEN	865800	INSURED MUNICIPALS INCOME TRUST SERIES 252
6448	IM-02	VAN KAMPEN	865802	INSURED MUNICIPALS INCOME TRUST SERIES 253
6449	IM-02	VAN KAMPEN	865801	INSURED MUNICIPALS INCOME TRUST SERIES 254

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
6450	IM-02	VAN KAMPEN	865800	INSURED MUNICIPALS INCOME TRUST SERIES 255
6451	IM-02	VAN KAMPEN	868402	INSURED MUNICIPALS INCOME TRUST SERIES 256
6452	IM-02	VAN KAMPEN	868403	INSURED MUNICIPALS INCOME TRUST SERIES 257
6453	IM-02	VAN KAMPEN	870237	INSURED MUNICIPALS INCOME TRUST SERIES 259
6454	IM-02	VAN KAMPEN	277096	INSURED MUNICIPALS INCOME TRUST SERIES 26
6455	IM-02	VAN KAMPEN	870236	INSURED MUNICIPALS INCOME TRUST SERIES 260
6456	IM-02	VAN KAMPEN	870235	INSURED MUNICIPALS INCOME TRUST SERIES 261
6457	IM-02	VAN KAMPEN	870238	INSURED MUNICIPALS INCOME TRUST SERIES 262
6458	IM-02	VAN KAMPEN	871816	INSURED MUNICIPALS INCOME TRUST SERIES 263
6459	IM-02	VAN KAMPEN	871814	INSURED MUNICIPALS INCOME TRUST SERIES 264
6460	IM-02	VAN KAMPEN	871817	INSURED MUNICIPALS INCOME TRUST SERIES 265
6461	IM-02	VAN KAMPEN	873373	INSURED MUNICIPALS INCOME TRUST SERIES 266
6462	IM-02	VAN KAMPEN	873374	INSURED MUNICIPALS INCOME TRUST SERIES 267
6463	IM-02	VAN KAMPEN	873377	INSURED MUNICIPALS INCOME TRUST SERIES 268
6464	IM-02	VAN KAMPEN	873378	INSURED MUNICIPALS INCOME TRUST SERIES 269
6465	IM-02	VAN KAMPEN	277093	INSURED MUNICIPALS INCOME TRUST SERIES 27
6466	IM-02	VAN KAMPEN	875111	INSURED MUNICIPALS INCOME TRUST SERIES 270
6467	IM-02	VAN KAMPEN	875104	INSURED MUNICIPALS INCOME TRUST SERIES 271
6468	IM-02	VAN KAMPEN	875175	INSURED MUNICIPALS INCOME TRUST SERIES 272
6469	IM-02	VAN KAMPEN	875117	INSURED MUNICIPALS INCOME TRUST SERIES 273
6470	IM-02	VAN KAMPEN	875105	INSURED MUNICIPALS INCOME TRUST SERIES 274
6471	IM-02	VAN KAMPEN	879728	INSURED MUNICIPALS INCOME TRUST SERIES 275
6472	IM-02	VAN KAMPEN	879729	INSURED MUNICIPALS INCOME TRUST SERIES 276
6473	IM-02	VAN KAMPEN	879731	INSURED MUNICIPALS INCOME TRUST SERIES 277
6474	IM-02	VAN KAMPEN	879732	INSURED MUNICIPALS INCOME TRUST SERIES 278
6475	IM-02	VAN KAMPEN	882428	INSURED MUNICIPALS INCOME TRUST SERIES 279
6476	IM-02	VAN KAMPEN	278355	INSURED MUNICIPALS INCOME TRUST SERIES 28
6477	IM-02	VAN KAMPEN	882429	INSURED MUNICIPALS INCOME TRUST SERIES 280
6478	IM-02	VAN KAMPEN	883726	INSURED MUNICIPALS INCOME TRUST SERIES 281
6479	IM-02	VAN KAMPEN	883727	INSURED MUNICIPALS INCOME TRUST SERIES 282
6480	IM-02	VAN KAMPEN	885249	INSURED MUNICIPALS INCOME TRUST SERIES 283
6481	IM-02	VAN KAMPEN	886918	INSURED MUNICIPALS INCOME TRUST SERIES 287
6482	IM-02	VAN KAMPEN	310386	INSURED MUNICIPALS INCOME TRUST SERIES 29
6483	IM-02	VAN KAMPEN	892870	INSURED MUNICIPALS INCOME TRUST SERIES 292
6484	IM-02	VAN KAMPEN	311076	INSURED MUNICIPALS INCOME TRUST SERIES 30
6485	IM-02	VAN KAMPEN	311091	INSURED MUNICIPALS INCOME TRUST SERIES 31
6486	IM-02	VAN KAMPEN	277436	INSURED MUNICIPALS INCOME TRUST SERIES 4
6487	IM-02	VAN KAMPEN	000054	INSURED MUNICIPALS INCOME TRUST SERIES 45
6488	IM-02	VAN KAMPEN	320108	INSURED MUNICIPALS INCOME TRUST SERIES 46
6489	IM-02	VAN KAMPEN	350483	INSURED MUNICIPALS INCOME TRUST SERIES 47
6490	IM-02	VAN KAMPEN	350477	INSURED MUNICIPALS INCOME TRUST SERIES 48
6491	IM-02	VAN KAMPEN	351697	INSURED MUNICIPALS INCOME TRUST SERIES 49
6492	IM-02	VAN KAMPEN	050809	INSURED MUNICIPALS INCOME TRUST SERIES 5
6493	IM-02	VAN KAMPEN	351944	INSURED MUNICIPALS INCOME TRUST SERIES 50
6494	IM-02	VAN KAMPEN	352302	INSURED MUNICIPALS INCOME TRUST SERIES 51
6495	IM-02	VAN KAMPEN	352303	INSURED MUNICIPALS INCOME TRUST SERIES 52
6496	IM-02	VAN KAMPEN	353285	INSURED MUNICIPALS INCOME TRUST SERIES 53
6497	IM-02	VAN KAMPEN	354183	INSURED MUNICIPALS INCOME TRUST SERIES 54
6498	IM-02	VAN KAMPEN	354074	INSURED MUNICIPALS INCOME TRUST SERIES 55
6499	IM-02	VAN KAMPEN	355371	INSURED MUNICIPALS INCOME TRUST SERIES 56
6500	IM-02	VAN KAMPEN	355370	INSURED MUNICIPALS INCOME TRUST SERIES 57
6501	IM-02	VAN KAMPEN	356006	INSURED MUNICIPALS INCOME TRUST SERIES 58
6502	IM-02	VAN KAMPEN	356009	INSURED MUNICIPALS INCOME TRUST SERIES 59
6503	IM-02	VAN KAMPEN	050810	INSURED MUNICIPALS INCOME TRUST SERIES 6
6504	IM-02	VAN KAMPEN	356718	INSURED MUNICIPALS INCOME TRUST SERIES 60
6505	IM-02	VAN KAMPEN	356716	INSURED MUNICIPALS INCOME TRUST SERIES 61
6506	IM-02	VAN KAMPEN	357151	INSURED MUNICIPALS INCOME TRUST SERIES 62
6507	IM-02	VAN KAMPEN	357148	INSURED MUNICIPALS INCOME TRUST SERIES 63
6508	IM-02	VAN KAMPEN	700610	INSURED MUNICIPALS INCOME TRUST SERIES 64
6509	IM-02	VAN KAMPEN	700611	INSURED MUNICIPALS INCOME TRUST SERIES 65
6510	IM-02	VAN KAMPEN	701686	INSURED MUNICIPALS INCOME TRUST SERIES 66
6511	IM-02	VAN KAMPEN	701684	INSURED MUNICIPALS INCOME TRUST SERIES 67
6512	IM-02	VAN KAMPEN	702646	INSURED MUNICIPALS INCOME TRUST SERIES 68
6513	IM-02	VAN KAMPEN	702647	INSURED MUNICIPALS INCOME TRUST SERIES 69
6514	IM-02	VAN KAMPEN	050811	INSURED MUNICIPALS INCOME TRUST SERIES 7
6515	IM-02	VAN KAMPEN	702648	INSURED MUNICIPALS INCOME TRUST SERIES 70
6516	IM-02	VAN KAMPEN	703712	INSURED MUNICIPALS INCOME TRUST SERIES 71
6517	IM-02	VAN KAMPEN	703713	INSURED MUNICIPALS INCOME TRUST SERIES 72
6518	IM-02	VAN KAMPEN	703714	INSURED MUNICIPALS INCOME TRUST SERIES 73
6519	IM-02	VAN KAMPEN	705977	INSURED MUNICIPALS INCOME TRUST SERIES 74
6520	IM-02	VAN KAMPEN	705980	INSURED MUNICIPALS INCOME TRUST SERIES 75
6521	IM-02	VAN KAMPEN	705978	INSURED MUNICIPALS INCOME TRUST SERIES 76
6522	IM-02	VAN KAMPEN	707831	INSURED MUNICIPALS INCOME TRUST SERIES 77
6523	IM-02	VAN KAMPEN	707820	INSURED MUNICIPALS INCOME TRUST SERIES 78
6524	IM-02	VAN KAMPEN	709276	INSURED MUNICIPALS INCOME TRUST SERIES 79
6525	IM-02	VAN KAMPEN	202176	INSURED MUNICIPALS INCOME TRUST SERIES 8
6526	IM-02	VAN KAMPEN	708275	INSURED MUNICIPALS INCOME TRUST SERIES 80
6527	IM-02	VAN KAMPEN	711423	INSURED MUNICIPALS INCOME TRUST SERIES 81
6528	IM-02	VAN KAMPEN	711606	INSURED MUNICIPALS INCOME TRUST SERIES 82
6529	IM-02	VAN KAMPEN	713034	INSURED MUNICIPALS INCOME TRUST SERIES 83
6530	IM-02	VAN KAMPEN	713036	INSURED MUNICIPALS INCOME TRUST SERIES 84
6531	IM-02	VAN KAMPEN	716304	INSURED MUNICIPALS INCOME TRUST SERIES 85

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
6532	IM-02	VAN KAMPEN	716309	INSURED MUNICIPALS INCOME TRUST SERIES 86
6533	IM-02	VAN KAMPEN	717351	INSURED MUNICIPALS INCOME TRUST SERIES 87
6534	IM-02	VAN KAMPEN	717352	INSURED MUNICIPALS INCOME TRUST SERIES 88
6535	IM-02	VAN KAMPEN	719218	INSURED MUNICIPALS INCOME TRUST SERIES 89
6536	IM-02	VAN KAMPEN	202177	INSURED MUNICIPALS INCOME TRUST SERIES 9
6537	IM-02	VAN KAMPEN	719214	INSURED MUNICIPALS INCOME TRUST SERIES 90
6538	IM-02	VAN KAMPEN	721954	INSURED MUNICIPALS INCOME TRUST SERIES 91
6539	IM-02	VAN KAMPEN	721942	INSURED MUNICIPALS INCOME TRUST SERIES 92
6540	IM-02	VAN KAMPEN	721941	INSURED MUNICIPALS INCOME TRUST SERIES 93
6541	IM-02	VAN KAMPEN	722623	INSURED MUNICIPALS INCOME TRUST SERIES 94
6542	IM-02	VAN KAMPEN	725351	INSURED MUNICIPALS INCOME TRUST SERIES 95
6543	IM-02	VAN KAMPEN	725355	INSURED MUNICIPALS INCOME TRUST SERIES 96
6544	IM-02	VAN KAMPEN	727280	INSURED MUNICIPALS INCOME TRUST SERIES 97
6545	IM-02	VAN KAMPEN	727281	INSURED MUNICIPALS INCOME TRUST SERIES 98
6546	IM-02	VAN KAMPEN	728536	INSURED MUNICIPALS INCOME TRUST SERIES 99
6547	IM-02	VAN KAMPEN	873379	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MU SE 142
6548	IM-02	VAN KAMPEN	875176	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MU SER 150
6549	IM-02	VAN KAMPEN	875177	INSURED MUNICIPALS INCOME TRUST & IN QU TAX EX TR MU SER 152
6550	IM-02	VAN KAMPEN	351704	INSURED MUNICPALS INCOME TRUST SERIES 50
6551	IM-02	VAN KAMPEN	885247	INSURED MUNS INC TR & INVESTORS QUAL TX EXE TR MULTI-SER 175
6552	IM-02	VAN KAMPEN	881297	INSURED MUNS INCOME TR & INVS QUAL TX EXE TR MULTISERS 164
6553	IM-02	VAN KAMPEN	881298	INSURED MUNS INCOME TR & INVS QUAL TX EXEM TR MULTI SERS 163
6554	IM-02	VAN KAMPEN	770959	INSURED TAX FREE BOND TRUST INSURED MULTI SERIES 1
6555	IM-02	VAN KAMPEN	764924	INSURED TAX FREE BOND TRUST SERIES 1
6556	IM-02	VAN KAMPEN	773282	INSURED TAX FREE BOND TRUST SERIES 3
6557	IM-02	VAN KAMPEN	773735	INSURED TAX FREE BOND TRUST SERIES 4
6558	IM-02	VAN KAMPEN	779245	INSURED TAX FREE BOND TRUST SERIES 5
6559	IM-02	VAN KAMPEN	779258	INSURED TAX FREE BOND TRUST SERIES 6
6560	IM-02	VAN KAMPEN	831880	INTERNATIONAL BOND INCOME TRUST SERIES 9
6561	IM-02	VAN KAMPEN	828735	INVESTORS CORPORATE INCOME TRUST INTERMEDIATE SERIES 12
6562	IM-02	VAN KAMPEN	216241	INVESTORS CORPORATE INCOME TRUST SERIES 1
6563	IM-02	VAN KAMPEN	319680	INVESTORS CORPORATE INCOME TRUST SERIES 11
6564	IM-02	VAN KAMPEN	277747	INVESTORS CORPORATE INCOME TRUST SERIES 3
6565	IM-02	VAN KAMPEN	277748	INVESTORS CORPORATE INCOME TRUST SERIES 4
6566	IM-02	VAN KAMPEN	275578	INVESTORS CORPORATE INCOME TRUST SERIES 5
6567	IM-02	VAN KAMPEN	276252	INVESTORS CORPORATE INCOME TRUST SERIES 6
6568	IM-02	VAN KAMPEN	276775	INVESTORS CORPORATE INCOME TRUST SERIES 7
6569	IM-02	VAN KAMPEN	310733	INVESTORS CORPORATE INCOME TRUST SERIES 8
6570	IM-02	VAN KAMPEN	312009	INVESTORS CORPORATE INCOME TRUST SERIES 9
6571	IM-02	VAN KAMPEN	275580	INVESTORS GOVERNMENT GUARANTEED INCOME TRUST GNMA SERIES 1
6572	IM-02	VAN KAMPEN	355434	INVESTORS GOVERNMENTAL SECURITIES INCOME TRUST SERIES 1
6573	IM-02	VAN KAMPEN	276274	INVESTORS GOVERNMENTAL SECURITIES INCOME TRUST SERIES 2
6574	IM-02	VAN KAMPEN	277097	INVESTORS GOVERNMENTAL SECURITIES INCOME TRUST SERIES 3
6575	IM-02	VAN KAMPEN	278356	INVESTORS GOVERNMENTAL SECURITIES INCOME TRUST SERIES 4
6576	IM-02	VAN KAMPEN	311079	INVESTORS GOVERNMENTAL SECURITIES INCOME TRUST SERIES 5
6577	IM-02	VAN KAMPEN	312226	INVESTORS GOVERNMENTAL SECURITIES INCOME TRUST SERIES 6
6578	IM-02	VAN KAMPEN	313107	INVESTORS GOVERNMENTAL SECURITIES INCOME TRUST SERIES 7
6579	IM-02	VAN KAMPEN	313964	INVESTORS MUNICIPAL INCOME TRUST SERIES 35
6580	IM-02	VAN KAMPEN	736490	INVESTORS QUALITY TAX EXEMPT TRUST 10TH MULTI SERIES
6581	IM-02	VAN KAMPEN	736477	INVESTORS QUALITY TAX EXEMPT TRUST 11TH MULTI SERIES
6582	IM-02	VAN KAMPEN	736975	INVESTORS QUALITY TAX EXEMPT TRUST 12TH MULTI SERIES
6583	IM-02	VAN KAMPEN	743959	INVESTORS QUALITY TAX EXEMPT TRUST 13TH MULTI SERIES/IL
6584	IM-02	VAN KAMPEN	743371	INVESTORS QUALITY TAX EXEMPT TRUST 14TH MULTI SERIES
6585	IM-02	VAN KAMPEN	743372	INVESTORS QUALITY TAX EXEMPT TRUST 15TH MULTI SERIES
6586	IM-02	VAN KAMPEN	743373	INVESTORS QUALITY TAX EXEMPT TRUST 16TH MULTI SERIES
6587	IM-02	VAN KAMPEN	743374	INVESTORS QUALITY TAX EXEMPT TRUST 17TH MULTI SERIES
6588	IM-02	VAN KAMPEN	743139	INVESTORS QUALITY TAX EXEMPT TRUST 18TH MULTI SERIES
6589	IM-02	VAN KAMPEN	746028	INVESTORS QUALITY TAX EXEMPT TRUST 19TH MULTI SERIES
6590	IM-02	VAN KAMPEN	715084	INVESTORS QUALITY TAX EXEMPT TRUST 1ST MULTI SERIES
6591	IM-02	VAN KAMPEN	746027	INVESTORS QUALITY TAX EXEMPT TRUST 20TH MULTI SERIES
6592	IM-02	VAN KAMPEN	746026	INVESTORS QUALITY TAX EXEMPT TRUST 21ST MULTI SERIES
6593	IM-02	VAN KAMPEN	746025	INVESTORS QUALITY TAX EXEMPT TRUST 22ND MULTI SERIES
6594	IM-02	VAN KAMPEN	746024	INVESTORS QUALITY TAX EXEMPT TRUST 23RD MULTI SERIES
6595	IM-02	VAN KAMPEN	750648	INVESTORS QUALITY TAX EXEMPT TRUST 24TH MULTI SERIES
6596	IM-02	VAN KAMPEN	750647	INVESTORS QUALITY TAX EXEMPT TRUST 25TH MULTI SERIES
6597	IM-02	VAN KAMPEN	750651	INVESTORS QUALITY TAX EXEMPT TRUST 26TH MULTI SERIES
6598	IM-02	VAN KAMPEN	750646	INVESTORS QUALITY TAX EXEMPT TRUST 27TH MULTI SERIES
6599	IM-02	VAN KAMPEN	750645	INVESTORS QUALITY TAX EXEMPT TRUST 28TH MULTI SERIES
6600	IM-02	VAN KAMPEN	755220	INVESTORS QUALITY TAX EXEMPT TRUST 29TH MULTI SERIES
6601	IM-02	VAN KAMPEN	719767	INVESTORS QUALITY TAX EXEMPT TRUST 2ND MULTI SER
6602	IM-02	VAN KAMPEN	755216	INVESTORS QUALITY TAX EXEMPT TRUST 30TH MULTI SERIES
6603	IM-02	VAN KAMPEN	755217	INVESTORS QUALITY TAX EXEMPT TRUST 31ST MULTI SERIES
6604	IM-02	VAN KAMPEN	755219	INVESTORS QUALITY TAX EXEMPT TRUST 32ND MULTI SERIES
6605	IM-02	VAN KAMPEN	755215	INVESTORS QUALITY TAX EXEMPT TRUST 33RD MULTI SERIES
6606	IM-02	VAN KAMPEN	760969	INVESTORS QUALITY TAX EXEMPT TRUST 34TH MULTI SERIES
6607	IM-02	VAN KAMPEN	760778	INVESTORS QUALITY TAX EXEMPT TRUST 35TH MULTI SERIES
6608	IM-02	VAN KAMPEN	760965	INVESTORS QUALITY TAX EXEMPT TRUST 36TH MULTI STATE SERIES
6609	IM-02	VAN KAMPEN	760984	INVESTORS QUALITY TAX EXEMPT TRUST 37TH MULTI SERIES
6610	IM-02	VAN KAMPEN	761022	INVESTORS QUALITY TAX EXEMPT TRUST 38TH MULTI SERIES
6611	IM-02	VAN KAMPEN	765830	INVESTORS QUALITY TAX EXEMPT TRUST 39TH MULTI SERIES
6612	IM-02	VAN KAMPEN	719805	INVESTORS QUALITY TAX EXEMPT TRUST 3RD MULTI SERIES
6613	IM-02	VAN KAMPEN	765877	INVESTORS QUALITY TAX EXEMPT TRUST 40TH MULTI SERIES

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
6614	IM-02	VAN KAMPEN	765873	INVESTORS QUALITY TAX EXEMPT TRUST 41ST MULTI SERIES
6615	IM-02	VAN KAMPEN	765875	INVESTORS QUALITY TAX EXEMPT TRUST 42ND MULTI SERIES
6616	IM-02	VAN KAMPEN	766002	INVESTORS QUALITY TAX EXEMPT TRUST 43RD MULTI SERIES
6617	IM-02	VAN KAMPEN	768211	INVESTORS QUALITY TAX EXEMPT TRUST 44TH MULTI SERIES
6618	IM-02	VAN KAMPEN	768212	INVESTORS QUALITY TAX EXEMPT TRUST 45TH MULTI SERIES
6619	IM-02	VAN KAMPEN	768213	INVESTORS QUALITY TAX EXEMPT TRUST 46TH MULTI SERIES
6620	IM-02	VAN KAMPEN	734214	INVESTORS QUALITY TAX EXEMPT TRUST 4TH MULTI SERIES
6621	IM-02	VAN KAMPEN	724212	INVESTORS QUALITY TAX EXEMPT TRUST 5TH MULTI SERIES
6622	IM-02	VAN KAMPEN	726846	INVESTORS QUALITY TAX EXEMPT TRUST 6TH MULTI SERIES
6623	IM-02	VAN KAMPEN	726730	INVESTORS QUALITY TAX EXEMPT TRUST 7TH MULTI SERIES
6624	IM-02	VAN KAMPEN	731761	INVESTORS QUALITY TAX EXEMPT TRUST 8TH MULTI SERIES
6625	IM-02	VAN KAMPEN	731763	INVESTORS QUALITY TAX EXEMPT TRUST 9TH MULTI SERIES
6626	IM-02	VAN KAMPEN	276808	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 1
6627	IM-02	VAN KAMPEN	350476	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 10
6628	IM-02	VAN KAMPEN	352035	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 11
6629	IM-02	VAN KAMPEN	352017	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 12
6630	IM-02	VAN KAMPEN	356123	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 13
6631	IM-02	VAN KAMPEN	702120	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 14
6632	IM-02	VAN KAMPEN	702273	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 15
6633	IM-02	VAN KAMPEN	702261	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 16
6634	IM-02	VAN KAMPEN	704472	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 17
6635	IM-02	VAN KAMPEN	704474	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 18
6636	IM-02	VAN KAMPEN	706090	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 19
6637	IM-02	VAN KAMPEN	277884	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 2
6638	IM-02	VAN KAMPEN	708077	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 20
6639	IM-02	VAN KAMPEN	707829	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 21
6640	IM-02	VAN KAMPEN	707830	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 22
6641	IM-02	VAN KAMPEN	710843	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 23
6642	IM-02	VAN KAMPEN	713038	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 25
6643	IM-02	VAN KAMPEN	713035	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 26
6644	IM-02	VAN KAMPEN	715125	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 27
6645	IM-02	VAN KAMPEN	715132	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 28
6646	IM-02	VAN KAMPEN	716307	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 29
6647	IM-02	VAN KAMPEN	314844	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 3
6648	IM-02	VAN KAMPEN	716305	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 30
6649	IM-02	VAN KAMPEN	716306	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 31
6650	IM-02	VAN KAMPEN	719217	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 32
6651	IM-02	VAN KAMPEN	719219	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 33
6652	IM-02	VAN KAMPEN	721948	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 34
6653	IM-02	VAN KAMPEN	721960	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 36
6654	IM-02	VAN KAMPEN	317039	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 4
6655	IM-02	VAN KAMPEN	317038	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 5
6656	IM-02	VAN KAMPEN	317726	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 6
6657	IM-02	VAN KAMPEN	318373	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 7
6658	IM-02	VAN KAMPEN	318375	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 8
6659	IM-02	VAN KAMPEN	350204	INVESTORS QUALITY TAX EXEMPT TRUST SERIES 9
6660	IM-02	VAN KAMPEN	733275	MULTISTATE TAX EXEMPT UNIT TRUST SERIES 1
6661	IM-02	VAN KAMPEN	736977	MULTISTATE TAX EXEMPT UNIT TRUST SERIES 2
6662	IM-02	VAN KAMPEN	740590	MULTISTATE TAX EXEMPT UNIT TRUST SERIES 3
6663	IM-02	VAN KAMPEN	742201	MULTISTATE TAX EXEMPT UNIT TRUST SERIES 4
6664	IM-02	VAN KAMPEN	745168	MULTISTATE TAX EXEMPT UNIT TRUST SERIES 5
6665	IM-02	VAN KAMPEN	746809	MULTISTATE TAX EXEMPT UNIT TRUST SERIES 6
6666	IM-02	VAN KAMPEN	750677	MULTISTATE TAX EXEMPT UNIT TRUST SERIES 7
6667	IM-02	VAN KAMPEN	752202	MULTISTATE TAX EXEMPT UNIT TRUST SERIES 8
6668	IM-02	VAN KAMPEN	791648	MULTISTATE TRUST
6669	IM-02	VAN KAMPEN	759068	MULTISTATE TRUST SERIES 11
6670	IM-02	VAN KAMPEN	761249	MULTISTATE TRUST SERIES 12
6671	IM-02	VAN KAMPEN	763272	MULTISTATE TRUST SERIES 13
6672	IM-02	VAN KAMPEN	763662	MULTISTATE TRUST SERIES 14
6673	IM-02	VAN KAMPEN	763758	MULTISTATE TRUST SERIES 15
6674	IM-02	VAN KAMPEN	763757	MULTISTATE TRUST SERIES 16
6675	IM-02	VAN KAMPEN	764623	MULTISTATE TRUST SERIES 17
6676	IM-02	VAN KAMPEN	766460	MULTISTATE TRUST SERIES 18
6677	IM-02	VAN KAMPEN	770904	MULTISTATE TRUST SERIES 18 19 20 & 21
6678	IM-02	VAN KAMPEN	768159	MULTISTATE TRUST SERIES 19
6679	IM-02	VAN KAMPEN	765340	MULTISTATE TRUST SERIES 20
6680	IM-02	VAN KAMPEN	773330	MULTISTATE TRUST SERIES 22
6681	IM-02	VAN KAMPEN	796270	MULTISTATE TRUST SERIES 22 23 24 & 34
6682	IM-02	VAN KAMPEN	777354	MULTISTATE TRUST SERIES 23
6683	IM-02	VAN KAMPEN	783586	MULTISTATE TRUST SERIES 24
6684	IM-02	VAN KAMPEN	783581	MULTISTATE TRUST SERIES 25
6685	IM-02	VAN KAMPEN	790148	MULTISTATE TRUST SERIES 26
6686	IM-02	VAN KAMPEN	790153	MULTISTATE TRUST SERIES 27
6687	IM-02	VAN KAMPEN	790151	MULTISTATE TRUST SERIES 28
6688	IM-02	VAN KAMPEN	793555	MULTISTATE TRUST SERIES 29
6689	IM-02	VAN KAMPEN	793571	MULTISTATE TRUST SERIES 30
6690	IM-02	VAN KAMPEN	793572	MULTISTATE TRUST SERIES 31
6691	IM-02	VAN KAMPEN	793573	MULTISTATE TRUST SERIES 32
6692	IM-02	VAN KAMPEN	796263	MULTISTATE TRUST SERIES 33
6693	IM-02	VAN KAMPEN	796266	MULTISTATE TRUST SERIES 35
6694	IM-02	VAN KAMPEN	808002	MULTISTATE TRUST SERIES 35 36 37 & 38
6695	IM-02	VAN KAMPEN	796265	MULTISTATE TRUST SERIES 36

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
6696	IM-02	VAN KAMPEN	807960	MULTISTATE TRUST SERIES 37
6697	IM-02	VAN KAMPEN	807992	MULTISTATE TRUST SERIES 39
6698	IM-02	VAN KAMPEN	807991	MULTISTATE TRUST SERIES 40
6699	IM-02	VAN KAMPEN	811042	MULTISTATE TRUST SERIES 41
6700	IM-02	VAN KAMPEN	811044	MULTISTATE TRUST SERIES 42
6701	IM-02	VAN KAMPEN	811046	MULTISTATE TRUST SERIES 43
6702	IM-02	VAN KAMPEN	754596	MULTISTATE TRUST SERIES 9
6703	IM-02	VAN KAMPEN	756906	MULTISTATE TX EX UNIT TR SE 6 & 7 & MULTISTATE TR SE 8 9 & 1
6704	IM-02	VAN KAMPEN	353087	NEW YORK INSURED MUNICIPAL BOND TRUST SERIES 3
6705	IM-02	VAN KAMPEN	702271	NEW YORK INSURED MUNICIPAL BOND TRUST SERIES 7
6706	IM-02	VAN KAMPEN	319814	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 1
6707	IM-02	VAN KAMPEN	710845	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 10
6708	IM-02	VAN KAMPEN	710844	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 11
6709	IM-02	VAN KAMPEN	714986	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 12
6710	IM-02	VAN KAMPEN	714985	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 13
6711	IM-02	VAN KAMPEN	717325	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 14
6712	IM-02	VAN KAMPEN	717326	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 15
6713	IM-02	VAN KAMPEN	719163	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 16
6714	IM-02	VAN KAMPEN	718926	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 17
6715	IM-02	VAN KAMPEN	722585	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 18
6716	IM-02	VAN KAMPEN	722586	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 19
6717	IM-02	VAN KAMPEN	000207	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 2
6718	IM-02	VAN KAMPEN	725635	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 20
6719	IM-02	VAN KAMPEN	725634	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 21
6720	IM-02	VAN KAMPEN	732284	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 22
6721	IM-02	VAN KAMPEN	732286	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 23
6722	IM-02	VAN KAMPEN	733254	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 24
6723	IM-02	VAN KAMPEN	733252	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 25
6724	IM-02	VAN KAMPEN	742048	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 26
6725	IM-02	VAN KAMPEN	742090	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 27
6726	IM-02	VAN KAMPEN	742058	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 28
6727	IM-02	VAN KAMPEN	742049	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 29
6728	IM-02	VAN KAMPEN	742062	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 30
6729	IM-02	VAN KAMPEN	748108	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 31
6730	IM-02	VAN KAMPEN	748113	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 32
6731	IM-02	VAN KAMPEN	748116	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 33
6732	IM-02	VAN KAMPEN	748219	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 34
6733	IM-02	VAN KAMPEN	748165	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 35
6734	IM-02	VAN KAMPEN	756606	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 36
6735	IM-02	VAN KAMPEN	756604	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 37
6736	IM-02	VAN KAMPEN	756652	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 38
6737	IM-02	VAN KAMPEN	759480	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 39
6738	IM-02	VAN KAMPEN	353992	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 4
6739	IM-02	VAN KAMPEN	759487	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 41
6740	IM-02	VAN KAMPEN	357144	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 5
6741	IM-02	VAN KAMPEN	702295	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 6
6742	IM-02	VAN KAMPEN	706704	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 8
6743	IM-02	VAN KAMPEN	706703	NEW YORK INSURED MUNICIPALS INCOME TRUST SERIES 9
6744	IM-02	VAN KAMPEN	351972	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 13
6745	IM-02	VAN KAMPEN	353550	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 14
6746	IM-02	VAN KAMPEN	355506	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 15
6747	IM-02	VAN KAMPEN	357145	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 16
6748	IM-02	VAN KAMPEN	700920	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 17
6749	IM-02	VAN KAMPEN	702256	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 18
6750	IM-02	VAN KAMPEN	702257	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 19
6751	IM-02	VAN KAMPEN	705978	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 20
6752	IM-02	VAN KAMPEN	705982	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 21
6753	IM-02	VAN KAMPEN	717321	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 22
6754	IM-02	VAN KAMPEN	717404	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 23
6755	IM-02	VAN KAMPEN	718927	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 24
6756	IM-02	VAN KAMPEN	719162	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 25
6757	IM-02	VAN KAMPEN	725632	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 26
6758	IM-02	VAN KAMPEN	725633	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 27
6759	IM-02	VAN KAMPEN	730617	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 28
6760	IM-02	VAN KAMPEN	730614	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 29
6761	IM-02	VAN KAMPEN	736943	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 30
6762	IM-02	VAN KAMPEN	736944	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 31
6763	IM-02	VAN KAMPEN	736972	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 32
6764	IM-02	VAN KAMPEN	742205	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 33
6765	IM-02	VAN KAMPEN	742206	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 34
6766	IM-02	VAN KAMPEN	742207	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 35
6767	IM-02	VAN KAMPEN	742208	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 36
6768	IM-02	VAN KAMPEN	742209	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 37
6769	IM-02	VAN KAMPEN	748887	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 38
6770	IM-02	VAN KAMPEN	748893	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 39
6771	IM-02	VAN KAMPEN	748889	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 40
6772	IM-02	VAN KAMPEN	748899	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 41
6773	IM-02	VAN KAMPEN	748892	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 42
6774	IM-02	VAN KAMPEN	757495	PENNSYLVANIA INSURED MUNICIPALS INCOME TRUST SERIES 43
6775	IM-02	VAN KAMPEN	708489	PENNSYLVANIA INVESTORS QUALITY TAX EXEMPT TRUST SERIES 6
6776	IM-02	VAN KAMPEN	710148	PENNSYLVANIA INVESTORS QUALITY TAX EXEMPT TRUST SERIES 7
6777	IM-02	VAN KAMPEN	710150	PENNSYLVANIA INVESTORS QUALITY TAX EXEMPT TRUST SERIES 8

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
6778	IM-02	VAN KAMPEN	713037	PENNSYLVANIA INVESTORS QUALITY TAX EXEMPT TRUST SERIES 9
6779	IM-02	VAN KAMPEN	706076	PENNSYLVANIA QUALITY TAX EXEMPT TRUST SERIES 5
6780	IM-02	VAN KAMPEN	313510	TAX EXEMPT TRUSTS FOR PENNSYLVANIA RESIDENTS FIRST SERIES CO
6781	IM-02	VAN KAMPEN	889526	VAN KAMPEN MERRITT ADVANTAGE MUNICIPAL INCOME TRUST
6782	IM-02	VAN KAMPEN	889516	VAN KAMPEN MERRITT ADVANTAGE PENNSYLVANIA MUNICIPAL INC TRUST
6783	IM-02	VAN KAMPEN	889527	VAN KAMPEN MERRITT ADVANTAGE VIRGINIA MUNICIPAL INCOME TRUST
6784	IM-02	VAN KAMPEN	877461	VAN KAMPEN MERRITT CALIFORNIA QUALITY MUNICIPAL TRUST
6785	IM-02	VAN KAMPEN	895531	VAN KAMPEN MERRITT CALIFORNIA VALUE MUNICIPAL INCOME TRUST
6786	IM-02	VAN KAMPEN	880443	VAN KAMPEN MERRITT EQUITY OPPORTUNITY TRUST SERIES 1
6787	IM-02	VAN KAMPEN	895331	VAN KAMPEN MERRITT EQUITY OPPORTUNITY TRUST SERIES 2
6788	IM-02	VAN KAMPEN	895332	VAN KAMPEN MERRITT EQUITY OPPORTUNITY TRUST SERIES 3
6789	IM-02	VAN KAMPEN	877701	VAN KAMPEN MERRITT FLORIDA QUALITY MUNICIPAL TRUST
6790	IM-02	VAN KAMPEN	858241	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 1
6791	IM-02	VAN KAMPEN	871811	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 10
6792	IM-02	VAN KAMPEN	875531	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 11
6793	IM-02	VAN KAMPEN	877723	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 12
6794	IM-02	VAN KAMPEN	880627	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 13
6795	IM-02	VAN KAMPEN	882490	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 14
6796	IM-02	VAN KAMPEN	884920	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 15
6797	IM-02	VAN KAMPEN	885541	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 16
6798	IM-02	VAN KAMPEN	887160	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 17
6799	IM-02	VAN KAMPEN	878270	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 18
6800	IM-02	VAN KAMPEN	889407	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 19
6801	IM-02	VAN KAMPEN	862347	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 2
6802	IM-02	VAN KAMPEN	890488	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 20 & 21
6803	IM-02	VAN KAMPEN	891694	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 22
6804	IM-02	VAN KAMPEN	893171	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 23
6805	IM-02	VAN KAMPEN	893170	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 24 & SER 25
6806	IM-02	VAN KAMPEN	894321	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 25
6807	IM-02	VAN KAMPEN	862348	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 3
6808	IM-02	VAN KAMPEN	863468	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 4
6809	IM-02	VAN KAMPEN	863469	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 5
6810	IM-02	VAN KAMPEN	867119	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 6
6811	IM-02	VAN KAMPEN	868396	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 7
6812	IM-02	VAN KAMPEN	869584	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 8
6813	IM-02	VAN KAMPEN	871813	VAN KAMPEN MERRITT INSURED INCOME TRUST SERIES 9
6814	IM-02	VAN KAMPEN	752203	VAN KAMPEN MERRITT INSURED TAX FREE INCOME FUND INC
6815	IM-02	VAN KAMPEN	832946	VAN KAMPEN MERRITT INTERNATIONAL BOND INCOME TRUST SER 10
6816	IM-02	VAN KAMPEN	871007	VAN KAMPEN MERRITT INTERNATIONAL BOND INCOME TRUST SER 18/IL
6817	IM-02	VAN KAMPEN	873102	VAN KAMPEN MERRITT INTERNATIONAL BOND INCOME TRUST SER 19
6818	IM-02	VAN KAMPEN	873631	VAN KAMPEN MERRITT INTERNATIONAL BOND INCOME TRUST SER 20
6819	IM-02	VAN KAMPEN	874484	VAN KAMPEN MERRITT INTERNATIONAL BOND INCOME TRUST SER 21
6820	IM-02	VAN KAMPEN	833318	VAN KAMPEN MERRITT INTERNATIONAL BOND INCOME TRUST SERIES 11
6821	IM-02	VAN KAMPEN	834882	VAN KAMPEN MERRITT INTERNATIONAL BOND INCOME TRUST SERIES 12
6822	IM-02	VAN KAMPEN	835727	VAN KAMPEN MERRITT INTERNATIONAL BOND INCOME TRUST SERIES 13
6823	IM-02	VAN KAMPEN	836458	VAN KAMPEN MERRITT INTERNATIONAL BOND INCOME TRUST SERIES 14
6824	IM-02	VAN KAMPEN	840595	VAN KAMPEN MERRITT INTERNATIONAL BOND INCOME TRUST SERIES 15
6825	IM-02	VAN KAMPEN	842751	VAN KAMPEN MERRITT INTERNATIONAL BOND INCOME TRUST SERIES 16
6826	IM-02	VAN KAMPEN	846897	VAN KAMPEN MERRITT INTERNATIONAL BOND INCOME TRUST SERIES 17
6827	IM-02	VAN KAMPEN	877650	VAN KAMPEN MERRITT MICHIGAN QUALITY MUNICIPAL TRUST
6828	IM-02	VAN KAMPEN	884152	VAN KAMPEN MERRITT MUNICIPAL OPPORTUNITY TRUST
6829	IM-02	VAN KAMPEN	877463	VAN KAMPEN MERRITT MUNICIPAL TRUST
6830	IM-02	VAN KAMPEN	877467	VAN KAMPEN MERRITT NEW YORK QUALITY MUNICIPAL TRUST
6831	IM-02	VAN KAMPEN	895530	VAN KAMPEN MERRITT NEW YORK VALUE MUNICIPAL INCOME TRUST
6832	IM-02	VAN KAMPEN	877649	VAN KAMPEN MERRITT OHIO QUALITY MUNICIPAL TRUST
6833	IM-02	VAN KAMPEN	877703	VAN KAMPEN MERRITT PENNSYLVANIA QUALITY MUNICIPAL TRUST
6834	IM-02	VAN KAMPEN	895528	VAN KAMPEN MERRITT PENNSYLVANIA VALUE MUNICIPAL INCOME TRUST
6835	IM-02	VAN KAMPEN	765821	VAN KAMPEN MERRITT TAX FREE HIGH INCOME FUND INC
6836	IM-02	VAN KAMPEN	880893	VAN KAMPEN MERRITT TRUST FOR INSURED MUNICIPALS
6837	IM-02	VAN KAMPEN	889607	VAN KAMPEN MERRITT TRUST FOR INSURED MUNICIPALS II
6838	IM-02	VAN KAMPEN	883266	VAN KAMPEN MERRITT TRUST FOR INVESTMENT GRADE CALIFORNIA MUN
6839	IM-02	VAN KAMPEN	883268	VAN KAMPEN MERRITT TRUST FOR INVESTMENT GRADE FLORIDA MUNICI
6840	IM-02	VAN KAMPEN	880892	VAN KAMPEN MERRITT TRUST FOR INVESTMENT GRADE MUNICIPALS
6841	IM-02	VAN KAMPEN	883269	VAN KAMPEN MERRITT TRUST FOR INVESTMENT GRADE NEW JERSEY MUN
6842	IM-02	VAN KAMPEN	883265	VAN KAMPEN MERRITT TRUST FOR INVESTMENT GRADE NEW YORK MUNIC
6843	IM-02	VAN KAMPEN	883267	VAN KAMPEN MERRITT TRUST FOR INVESTMENT GRADE PENNSYLVANIA M
6844	IM-02	VAN KAMPEN	829230	VAN KAMPEN MERRITT UTILITY INCOME TRUST SERIES 1
6845	IM-02	VAN KAMPEN	836159	VAN KAMPEN MERRITT UTILITY INCOME TRUST SERIES 2
6846	IM-02	VAN KAMPEN	857793	VAN KAMPEN MERRITT UTILITY INCOME TRUST SERIES 3
6847	IM-02	VAN KAMPEN	867205	VAN KAMPEN MERRITT UTILITY INCOME TRUST SERIES 4
6848	IM-02	VAN KAMPEN	879921	VAN KAMPEN MERRITT UTILITY INCOME TRUST SERIES 5
6849	IM-02	VAN KAMPEN	895529	VAN KAMPEN MERRITT VALUE MUNICIPAL INCOME TRUST
6850	IM-02	VAN KAMPEN	816483	VKM CURRENT INCOME TRUST
6851	IM-02	VAN KAMPEN	818306	VKM MUNICIPAL HIGH YIELD TRUST
6852	IM-02	VAN KAMPEN	820238	VKM NEW YORK MUNICIPAL TRUST
6853	IM-03	AMERICUS	739287	AMERICUS TRUST FOR AMERICAN EXPRESS SHARES
6854	IM-03	AMERICUS	739308	AMERICUS TRUST FOR AMERICAN HOME PRODUCTS SHARES
6855	IM-03	AMERICUS	739314	AMERICUS TRUST FOR AMOCO SHARES
6856	IM-03	AMERICUS	739289	AMERICUS TRUST FOR ARCO SHARES
6857	IM-03	AMERICUS	725772	AMERICUS TRUST FOR AT&T COMMON SHARES SERIES A
6858	IM-03	AMERICUS	739309	AMERICUS TRUST FOR AT&T SHARES SERIES 2
6859	IM-03	AMERICUS	739297	AMERICUS TRUST FOR BRISTOL MYERS SHARES

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
6860	IM-03	AMERICUS	739313	AMERICUS TRUST FOR CHEVRON SHARES
6861	IM-03	AMERICUS	739300	AMERICUS TRUST FOR COCA COLA SHARES
6862	IM-03	AMERICUS	739294	AMERICUS TRUST FOR DOW SHARES
6863	IM-03	AMERICUS	739295	AMERICUS TRUST FOR DUPONT SHARES
6864	IM-03	AMERICUS	739301	AMERICUS TRUST FOR FORD SHARES
6865	IM-03	AMERICUS	739311	AMERICUS TRUST FOR GE SHARES
6866	IM-03	AMERICUS	737872	AMERICUS TRUST FOR GM SHARES
6867	IM-03	AMERICUS	739317	AMERICUS TRUST FOR GTE SHARES
6868	IM-03	AMERICUS	739302	AMERICUS TRUST FOR HEWLETT PACKARD SHARES
6869	IM-03	AMERICUS	739312	AMERICUS TRUST FOR IBM SHARES
6870	IM-03	AMERICUS	739296	AMERICUS TRUST FOR J & J SHARES
6871	IM-03	AMERICUS	739283	AMERICUS TRUST FOR KODAK SHARES
6872	IM-03	AMERICUS	739306	AMERICUS TRUST FOR MERCK SHARES
6873	IM-03	AMERICUS	739293	AMERICUS TRUST FOR MOBIL SHARES
6874	IM-03	AMERICUS	739304	AMERICUS TRUST FOR PHILIP MORRIS SHARES
6875	IM-03	AMERICUS	739315	AMERICUS TRUST FOR PROCTER & GAMBLE SHARES
6876	IM-03	AMERICUS	739318	AMERICUS TRUST FOR SEARS SHARES
6877	IM-03	AMERICUS	739285	AMERICUS TRUST FOR UNION PACIFIC SHARES
6878	IM-03	AMERICUS	739310	AMERICUS TRUST FOR XEROX SHARES
6879	IM-03	BEAR STEARNS	352258	NEW YORK MUNICIPAL TRUST 16
6880	IM-03	BEAR STEARNS	719982	NEW YORK MUNICIPAL TRUST FIRST DISCOUNT SERIES
6881	IM-03	BEAR STEARNS	739611	NEW YORK MUNICIPAL TRUST N Y DISCOUNT & ZERO COUPON FD 4TH S
6882	IM-03	BEAR STEARNS	726036	NEW YORK MUNICIPAL TRUST N Y DISCOUNT & ZERO COUPON FUND 2ND
6883	IM-03	BEAR STEARNS	735579	NEW YORK MUNICIPAL TRUST NY DISCOUNT & ZERO COUP FUND 3RD SE
6884	IM-03	BEAR STEARNS	276716	NEW YORK MUNICIPAL TRUST SERIES 1
6885	IM-03	BEAR STEARNS	315171	NEW YORK MUNICIPAL TRUST SERIES 10
6886	IM-03	BEAR STEARNS	316981	NEW YORK MUNICIPAL TRUST SERIES 11
6887	IM-03	BEAR STEARNS	317615	NEW YORK MUNICIPAL TRUST SERIES 12
6888	IM-03	BEAR STEARNS	317955	NEW YORK MUNICIPAL TRUST SERIES 13
6889	IM-03	BEAR STEARNS	318639	NEW YORK MUNICIPAL TRUST SERIES 14
6890	IM-03	BEAR STEARNS	000049	NEW YORK MUNICIPAL TRUST SERIES 15
6891	IM-03	BEAR STEARNS	352436	NEW YORK MUNICIPAL TRUST SERIES 16
6892	IM-03	BEAR STEARNS	353870	NEW YORK MUNICIPAL TRUST SERIES 17
6893	IM-03	BEAR STEARNS	355268	NEW YORK MUNICIPAL TRUST SERIES 18
6894	IM-03	BEAR STEARNS	703766	NEW YORK MUNICIPAL TRUST SERIES 19
6895	IM-03	BEAR STEARNS	278075	NEW YORK MUNICIPAL TRUST SERIES 2
6896	IM-03	BEAR STEARNS	705359	NEW YORK MUNICIPAL TRUST SERIES 20
6897	IM-03	BEAR STEARNS	707897	NEW YORK MUNICIPAL TRUST SERIES 21
6898	IM-03	BEAR STEARNS	709148	NEW YORK MUNICIPAL TRUST SERIES 22
6899	IM-03	BEAR STEARNS	710488	NEW YORK MUNICIPAL TRUST SERIES 23
6900	IM-03	BEAR STEARNS	714290	NEW YORK MUNICIPAL TRUST SERIES 24
6901	IM-03	BEAR STEARNS	715425	NEW YORK MUNICIPAL TRUST SERIES 25
6902	IM-03	BEAR STEARNS	716808	NEW YORK MUNICIPAL TRUST SERIES 26
6903	IM-03	BEAR STEARNS	718419	NEW YORK MUNICIPAL TRUST SERIES 27
6904	IM-03	BEAR STEARNS	719601	NEW YORK MUNICIPAL TRUST SERIES 28
6905	IM-03	BEAR STEARNS	278210	NEW YORK MUNICIPAL TRUST SERIES 3
6906	IM-03	BEAR STEARNS	310871	NEW YORK MUNICIPAL TRUST SERIES 4
6907	IM-03	BEAR STEARNS	311414	NEW YORK MUNICIPAL TRUST SERIES 5
6908	IM-03	BEAR STEARNS	312295	NEW YORK MUNICIPAL TRUST SERIES 7
6909	IM-03	BEAR STEARNS	313740	NEW YORK MUNICIPAL TRUST SERIES 8
6910	IM-03	BEAR STEARNS	314129	NEW YORK MUNICIPAL TRUST SERIES 9
6911	IM-03	COWEN & CO	771807	OHIO TAX EXEMPT BOND TRUST ELEVENTH SERIES INSURED
6912	IM-03	COWEN & CO	721936	OHIO TAX EXEMPT BOND TRUST FIRST SERIES
6913	IM-03	COWEN & CO	723645	OHIO TAX EXEMPT BOND TRUST SECOND SERIES
6914	IM-03	COWEN & CO	774002	OHIO TAX EXEMPT BOND TRUST SERIES 12
6915	IM-03	COWEN & CO	783072	OHIO TAX EXEMPT BOND TRUST SERIES 14
6916	IM-03	COWEN & CO	786044	OHIO TAX EXEMPT BOND TRUST SERIES 15
6917	IM-03	COWEN & CO	797458	OHIO TAX EXEMPT BOND TRUST SERIES 16
6918	IM-03	COWEN & CO	806262	OHIO TAX EXEMPT BOND TRUST SERIES 17
6919	IM-03	COWEN & CO	808050	OHIO TAX EXEMPT BOND TRUST SERIES 18
6920	IM-03	COWEN & CO	809773	OHIO TAX EXEMPT BOND TRUST SERIES 19
6921	IM-03	COWEN & CO	814048	OHIO TAX EXEMPT BOND TRUST SERIES 20
6922	IM-03	COWEN & CO	832898	OHIO TAX EXEMPT BOND TRUST SERIES 22
6923	IM-03	COWEN & CO	732588	OHIO TAX EXEMPT BOND TRUST SERIES 3
6924	IM-03	COWEN & CO	740222	OHIO TAX EXEMPT BOND TRUST SERIES 4
6925	IM-03	COWEN & CO	743369	OHIO TAX EXEMPT BOND TRUST SERIES 5
6926	IM-03	COWEN & CO	748480	OHIO TAX EXEMPT BOND TRUST SERIES 6
6927	IM-03	COWEN & CO	757607	OHIO TAX EXEMPT BOND TRUST SERIES 8
6928	IM-03	COWEN & CO	760573	OHIO TAX EXEMPT BOND TRUST SERIES 9
6929	IM-03	COWEN & CO	755192	OHIO TAX EXEMPT BOND TRUST SEVENTH SERIES
6930	IM-03	COWEN & CO	768171	OHIO TAX EXEMPT BOND TRUST TENTH SERIES
6931	IM-03	COWEN & CO	821531	OHIO TAX EXEMPT BOND TRUST TWENTY FIRST SERIES INSURED
6932	IM-03	COWEN & CO	770952	FIRST INVESTORS LIFE LEVEL PREMIUM VAR LIFE INS SEP ACC B
6933	IM-03	JOHN HANCOCK	045299	HANCOCK JOHN VARIABLE ANNUITY ACCOUNT U
6934	IM-03	KEMPER	313585	KEMPER INVESTORS LIFE INSURANCE CO VARIABLE ANNUITY ACCT C
6935	IM-03	KEMPER	353448	KILICO VARIABLE ANNUITY SEPARATE ACCOUNT
6936	IM-03	KEMPER	810364	KILICO VARIABLE SEPARATE ACCOUNT/IL
6937	IM-03	PRUCO LIFE	775515	PRUCO LIFE INS CO OF NEW JERSEY SINGLE PREMIUM VAR ANN ACCT
6938	IM-03	PRUCO LIFE	774193	PRUCO LIFE INS CO OF NEW JERSEY SINGLE PREMIUM VAR LIFE ACCT
6939	IM-03	PRUCO LIFE	777917	PRUCO LIFE INSURANCE CO
6940	IM-03	PRUCO LIFE	774423	PRUCO LIFE INSURANCE CO SINGLE PREMIUM VARIABLE ANNUITY ACCT
6941	IM-03	PRUCO LIFE	711302	PRUCO LIFE INSURANCE CO SINGLE PREMIUM VARIABLE LIFE ACCOUNT

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
6942	IM-03	PRUCO LIFE	740870	PRUCO LIFE INSURANCE CO VARIABLE APPRECIABLE ACCOUNT
6943	IM-03	PRUCO LIFE	741313	PRUCO LIFE OF NEW JERSEY VARIABLE APPRECIABLE ACCOUNT
6944	IM-03	PRUCO LIFE	829114	PRUCO LIFE OF NEW JERSEY VARIABLE CONTRACT REAL PROPERTY ACC
6945	IM-03	PRUCO LIFE	712539	PRUCO LIFE OF NEW JERSEY VARIABLE INSURANCE ACCOUNT
6946	IM-03	PRUCO LIFE	890040	PRUCO LIFE PRUVIDER VARIABLE APPRECIABLE ACCOUNT
6947	IM-03	PRUCO LIFE	806221	PRUCO LIFE VARIABLE APPRECIABLE ACCOUNT II
6948	IM-03	PRUCO LIFE	801348	PRUCO LIFE VARIABLE CONTRACT REAL PROPERTY ACCOUNT
6949	IM-03	PRUCO LIFE	710157	PRUCO LIFE VARIABLE INSURANCE ACCOUNT
6950	IM-03	PRUCO LIFE	851693	PRUCO LIFE VARIABLE UNIVERSAL ACCOUNT
6951	IM-03	PRUDENTIAL	711201	PRUDENTIAL INDIVIDUAL VARIABLE CONTRACT ACCOUNT
6952	IM-03	PRUDENTIAL	729057	PRUDENTIAL INSURANCE CO OF AMERICA
6953	IM-03	PRUDENTIAL	711321	PRUDENTIAL QUALIFIED INDIVIDUAL VARIABLE CONTRACT ACCOUNT/NJ
6954	IM-03	PRUDENTIAL	828972	PRUDENTIAL VARIABLE APPRECIABLE ACCOUNT
6955	IM-03	PRUDENTIAL	701276	PRUDENTIAL VARIABLE CONTRACT ACCOUNT 10
6956	IM-03	PRUDENTIAL	701275	PRUDENTIAL VARIABLE CONTRACT ACCOUNT 11
6957	IM-03	PRUDENTIAL	080941	PRUDENTIAL VARIABLE CONTRACT ACCOUNT 2
6958	IM-03	PRUDENTIAL	811364	PRUDENTIAL VARIABLE CONTRACT ACCOUNT 24
6959	IM-03	PRUDENTIAL	846581	PRUDENTIAL VARIABLE CONTRACT REAL PROPERTY ACCOUNT
6960	IM-03	PRUDENTIAL	080943	PRUDENTIALS ANNUITY PLAN ACCOUNT
6961	IM-03	PRUDENTIAL	080945	PRUDENTIALS ANNUITY PLAN ACCOUNT-2
6962	IM-03	PRUDENTIAL	080948	PRUDENTIALS INVESTMENT PLAN ACCOUNT
6963	IM-03	RANSON	751291	KANSAS TAX EXEMPT TRUST SERIES 1
6964	IM-03	RANSON	789607	KANSAS TAX EXEMPT TRUST SERIES 10
6965	IM-03	RANSON	790571	KANSAS TAX EXEMPT TRUST SERIES 11
6966	IM-03	RANSON	793420	KANSAS TAX EXEMPT TRUST SERIES 12
6967	IM-03	RANSON	796566	KANSAS TAX EXEMPT TRUST SERIES 13
6968	IM-03	RANSON	804187	KANSAS TAX EXEMPT TRUST SERIES 14
6969	IM-03	RANSON	809072	KANSAS TAX EXEMPT TRUST SERIES 15
6970	IM-03	RANSON	811064	KANSAS TAX EXEMPT TRUST SERIES 16
6971	IM-03	RANSON	813363	KANSAS TAX EXEMPT TRUST SERIES 17
6972	IM-03	RANSON	814372	KANSAS TAX EXEMPT TRUST SERIES 18
6973	IM-03	RANSON	820236	KANSAS TAX EXEMPT TRUST SERIES 19
6974	IM-03	RANSON	754588	KANSAS TAX EXEMPT TRUST SERIES 2
6975	IM-03	RANSON	822022	KANSAS TAX EXEMPT TRUST SERIES 20
6976	IM-03	RANSON	824386	KANSAS TAX EXEMPT TRUST SERIES 21
6977	IM-03	RANSON	828743	KANSAS TAX EXEMPT TRUST SERIES 22
6978	IM-03	RANSON	831204	KANSAS TAX EXEMPT TRUST SERIES 23
6979	IM-03	RANSON	831954	KANSAS TAX EXEMPT TRUST SERIES 24
6980	IM-03	RANSON	837181	KANSAS TAX EXEMPT TRUST SERIES 25
6981	IM-03	RANSON	842968	KANSAS TAX EXEMPT TRUST SERIES 26
6982	IM-03	RANSON	843507	KANSAS TAX EXEMPT TRUST SERIES 27
6983	IM-03	RANSON	850375	KANSAS TAX EXEMPT TRUST SERIES 28
6984	IM-03	RANSON	853014	KANSAS TAX EXEMPT TRUST SERIES 29
6985	IM-03	RANSON	757817	KANSAS TAX EXEMPT TRUST SERIES 3
6986	IM-03	RANSON	854906	KANSAS TAX EXEMPT TRUST SERIES 30
6987	IM-03	RANSON	857496	KANSAS TAX EXEMPT TRUST SERIES 31
6988	IM-03	RANSON	859140	KANSAS TAX EXEMPT TRUST SERIES 32
6989	IM-03	RANSON	890143	KANSAS TAX EXEMPT TRUST SERIES 33
6990	IM-03	RANSON	879546	KANSAS TAX EXEMPT TRUST SERIES 34
6991	IM-03	RANSON	864224	KANSAS TAX EXEMPT TRUST SERIES 35
6992	IM-03	RANSON	866259	KANSAS TAX EXEMPT TRUST SERIES 36
6993	IM-03	RANSON	868579	KANSAS TAX EXEMPT TRUST SERIES 37
6994	IM-03	RANSON	872427	KANSAS TAX EXEMPT TRUST SERIES 38
6995	IM-03	RANSON	873101	KANSAS TAX EXEMPT TRUST SERIES 39
6996	IM-03	RANSON	762158	KANSAS TAX EXEMPT TRUST SERIES 4
6997	IM-03	RANSON	873629	KANSAS TAX EXEMPT TRUST SERIES 40
6998	IM-03	RANSON	874483	KANSAS TAX EXEMPT TRUST SERIES 41
6999	IM-03	RANSON	874517	KANSAS TAX EXEMPT TRUST SERIES 42
7000	IM-03	RANSON	875527	KANSAS TAX EXEMPT TRUST SERIES 43
7001	IM-03	RANSON	877478	KANSAS TAX EXEMPT TRUST SERIES 44
7002	IM-03	RANSON	878723	KANSAS TAX EXEMPT TRUST SERIES 45
7003	IM-03	RANSON	879872	KANSAS TAX EXEMPT TRUST SERIES 46
7004	IM-03	RANSON	880645	KANSAS TAX EXEMPT TRUST SERIES 47
7005	IM-03	RANSON	882306	KANSAS TAX EXEMPT TRUST SERIES 48
7006	IM-03	RANSON	883258	KANSAS TAX EXEMPT TRUST SERIES 49
7007	IM-03	RANSON	763833	KANSAS TAX EXEMPT TRUST SERIES 5
7008	IM-03	RANSON	883936	KANSAS TAX EXEMPT TRUST SERIES 50
7009	IM-03	RANSON	885006	KANSAS TAX EXEMPT TRUST SERIES 51
7010	IM-03	RANSON	887244	KANSAS TAX EXEMPT TRUST SERIES 52
7011	IM-03	RANSON	888732	KANSAS TAX EXEMPT TRUST SERIES 53
7012	IM-03	RANSON	889412	KANSAS TAX EXEMPT TRUST SERIES 54
7013	IM-03	RANSON	890161	KANSAS TAX EXEMPT TRUST SERIES 55
7014	IM-03	RANSON	891163	KANSAS TAX EXEMPT TRUST SERIES 56
7015	IM-03	RANSON	893015	KANSAS TAX EXEMPT TRUST SERIES 57
7016	IM-03	RANSON	895279	KANSAS TAX EXEMPT TRUST SERIES 58
7017	IM-03	RANSON	896169	KANSAS TAX EXEMPT TRUST SERIES 59
7018	IM-03	RANSON	764778	KANSAS TAX EXEMPT TRUST SERIES 6
7019	IM-03	RANSON	769023	KANSAS TAX EXEMPT TRUST SERIES 7
7020	IM-03	RANSON	773595	KANSAS TAX EXEMPT TRUST SERIES 8
7021	IM-03	RANSON	785430	KANSAS TAX EXEMPT TRUST SERIES 9
7022	IM-03	RANSON	861893	KANSAS TAX EXMPT TRUST SERIES 33
7023	IM-03	RANSON	863259	NEBRASKA TAX EXEMPT TRUST SERIES 1

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
7024	IM-04	AMERICAN MUNI	804141	AMERICAN CORPORATE TRUST FIRST YIELD SERIES
7025	IM-04	AMERICAN MUNI	739722	AMERICAN MUNICIPAL TRUST FIRST YIELD SERIES ET #1
7026	IM-04	FIDELITY	035319	FIDELITY CAPITAL INVESTMENT PLANS
7027	IM-04	FIDELITY	275917	FIDELITY FUND ACCUMULATION PLANS
7028	IM-04	FIDELITY	821051	FIDELITY INVESTMENTS VARIABLE ANNUITY ACCOUNT I
7029	IM-04	FIDELITY	776991	FIDELITY STANDARD LIFE SEPARATE ACCOUNT
7030	IM-04	FIDELITY	035333	FIDELITY SYSTEMATIC INVESTMENT PLANS
7031	IM-04	FIDELITY	353538	FIDELITY TAX FREE TRUST FLOATING RATE SERIES I
7032	IM-04	FIDELITY	035403	FIDELITY TREND INVESTMENT PLANS
7033	IM-04	FIDELITY	859766	FIDELITY VARIABLE ACCOUNT II OF MONARCH LIFE INSURANCE CO
7034	IM-04	FIDELITY	797461	FIDELITY VARIABLE ACCOUNT OF MONARCH LIFE INSURANCE CO
7035	IM-04	FIDELITY	726362	FIDELITY VARIABLE ANNUITY ACCOUNT /MA/
7036	IM-04	FIDELITY	814567	FIDELITY VARIABLE ANNUITY ACCOUNT/NY/
7037	IM-04	FIRST INVESTORS	315177	FIRST INVESTORS INSURED TAX EXEMPT FUND INC
7038	IM-04	FIRST INVESTORS	860516	FIRST INVESTORS LIFE VARIABLE ANNUITY FUND C
7039	IM-04	FIRST INVESTORS	036438	FIRST INVESTORS PPP FOR INV IN FIR INV HIGH YIELD FUND INC
7040	IM-04	FIRST INVESTORS	793378	FIRST INVESTORS SGL P&PP FOR INV IN FIRST INV GOVT FUND INC
7041	IM-04	FIRST INVESTORS	277519	FIRST INVESTORS SGL P&PP PLANS FOR FIRST INVE GLOBAL FUND IN
7042	IM-04	FIRST INVESTORS	036454	FIRST INVESTORS SGL P&PPP I FOR INV IN FIR INV GLOBAL FD INC
7043	IM-04	FIRST INVESTORS	044203	FIRST INVESTORS SIN P&PP PLANS II FOR FIRST INVES GLOBAL INC
7044	IM-04	GABELLI	869774	EQUITY SECURITIES TRUST SR 1 SIGNAT SR GABELLI-COMM INCOME T
7045	IM-04	GUARDIAN LIFE	044393	GUARDIAN INSURANCE & ANNUITY CO INC
7046	IM-04	GUARDIAN LIFE	834266	GUARDIAN REAL ESTATE ACCT OF GUARDIAN INS & ANN COMPANY INC
7047	IM-04	GUARDIAN LIFE	356385	GUARDIAN SEPARATE ACCOUNT A
7048	IM-04	GUARDIAN LIFE	768221	GUARDIAN SEPARATE ACCOUNT B
7049	IM-04	GUARDIAN LIFE	841694	GUARDIAN SEPARATE ACCOUNT C
7050	IM-04	GUARDIAN LIFE	858943	GUARDIAN SEPARATE ACCOUNT D
7051	IM-04	GUARDIAN LIFE	044416	GUARDIAN VARIABLE ACCOUNT 1
7052	IM-04	GUARDIAN LIFE	044417	GUARDIAN VARIABLE ACCOUNT 2
7053	IM-04	HARTFORD LIFE	584740	HARTFORD LIFE & ACCIDENT INS CO PUTNAM CAP MAN TR SEP AC ONE
7054	IM-04	HARTFORD LIFE	823510	HARTFORD LIFE INS CO PUTNAM CAPITAL ACCUMULATION TR SEP ACCT
7055	IM-04	HARTFORD LIFE	045547	HARTFORD LIFE INSURANCE CO
7056	IM-04	HARTFORD LIFE	740816	HARTFORD LIFE INSURANCE CO ADVEST VARIABLE ANNUITY SEP ACCT
7057	IM-04	HARTFORD LIFE	109907	HARTFORD LIFE INSURANCE CO DC VARIABLE ACCOUNT I
7058	IM-04	HARTFORD LIFE	821521	HARTFORD LIFE INSURANCE CO PUTNAM CAP MAN TR SEPARATE ACCOUN
7059	IM-04	HARTFORD LIFE	790500	HARTFORD LIFE INSURANCE CO SEPARATE ACCOUNT TWO DC VAR AC II
7060	IM-04	HARTFORD LIFE	814900	HARTFORD LIFE INSURANCE CO SEPARATE ACCOUNT TWO NQ VARI ACCO
7061	IM-04	HARTFORD LIFE	278180	HARTFORD LIFE INSURANCE CO SEPARATE ACCOUNT TWO QP VARI ACCO
7062	IM-04	HARTFORD LIFE	318104	HARTFORD LIFE INSURANCE CO SEPARATE ACCOUNT TWO VAR ACC A
7063	IM-04	HARTFORD LIFE	809013	HARTFORD LIFE INSURANCE CO THOMSON MCKINNON SEPARATE ACCT
7064	IM-04	HARTFORD LIFE	769785	HARTFORD LIFE INSURANCE COMPANY SEPARATE ACCOUNT ONE
7065	IM-04	HARTFORD LIFE	796300	HARTFORD LIFE INSURANCE COMPANY SEPARATE ACCOUNT TWO
7066	IM-04	HARTFORD LIFE	835457	HARTFORD REAL PROPERTY ACCOUNT OF HARTFORD LIFE INSURANCE CO
7067	IM-04	HARTFORD LIFE	813748	SEPARATE ACCOUNT VL I OF HARTFORD LIFE INSURANCE CO
7068	IM-04	IDS	353965	IDS LIFE ACCOUNT F
7069	IM-04	IDS	832214	IDS LIFE ACCOUNT G
7070	IM-04	IDS	832215	IDS LIFE ACCOUNT H
7071	IM-04	IDS	832217	IDS LIFE ACCOUNT N
7072	IM-04	IDS	812583	IDS LIFE ACCOUNT RE OF IDS LIFE INSURANCE COMPANY
7073	IM-04	IDS	875131	IDS LIFE ACCOUNT SLB
7074	IM-04	IDS	727892	IDS LIFE INSURANCE CO /MN
7075	IM-04	IDS	867157	IDS LIFE OF NEW YORK ACCOUNT 10
7076	IM-04	IDS	867158	IDS LIFE OF NEW YORK ACCOUNT 11
7077	IM-04	IDS	703704	IDS LIFE OF NEW YORK ACCOUNT 4
7078	IM-04	IDS	832206	IDS LIFE OF NEW YORK ACCOUNT 5
7079	IM-04	IDS	832207	IDS LIFE OF NEW YORK ACCOUNT 6
7080	IM-04	IDS	806382	IDS LIFE OF NEW YORK ACCOUNT 7
7081	IM-04	IDS	817132	IDS LIFE OF NEW YORK ACCOUNT 8
7082	IM-04	IDS	832208	IDS LIFE OF NEW YORK ACCOUNT 9
7083	IM-04	IDS	853963	IDS LIFE OF NEW YORK ACCOUNT SLB
7084	IM-04	IDS	792901	IDS LIFE VARIABLE ACCOUNT FOR SHEARSON LEHMAN
7085	IM-04	J C BRADFORD	806584	MINT DISCOUNT TRUST SERIES 2 3 & 4
7086	IM-04	J C BRADFORD	806585	MINT DISCOUNT TRUST SERIES 3
7087	IM-04	J C BRADFORD	864330	MINT GROUP 1
7088	IM-04	J C BRADFORD	871129	MINT GROUP 2
7089	IM-04	J C BRADFORD	872084	MINT GROUP 3
7090	IM-04	J C BRADFORD	874397	MINT GROUP 4
7091	IM-04	J C BRADFORD	879334	MINT GROUP 5
7092	IM-04	J C BRADFORD	882549	MINT GROUP 6
7093	IM-04	J C BRADFORD	885418	MINT GROUP 7
7094	IM-04	J C BRADFORD	891612	MINT GROUP 8
7095	IM-04	J C BRADFORD	818436	MINT LONG INTERMEDIATE SERIES 1
7096	IM-04	J C BRADFORD	806549	MINT SHORT INTERMEDIATE SERIES 4
7097	IM-04	J C BRADFORD	783596	MUNICIPAL INS NAT TR MUN INS NAT TR SER 12 13 17 18 MINT SHT
7098	IM-04	J C BRADFORD	822979	MUNICIPAL INSURED NAT TR SE 19 MINT DIS TR SE 6 MIN SH I S 5
7099	IM-04	J C BRADFORD	790157	MUNICIPAL INSURED NATIONAL TR SERS 15 MINT DISCOUNT TR SER 1
7100	IM-04	J C BRADFORD	768839	MUNICIPAL INSURED NATIONAL TRUST SERIES 1 2 3 4 5 6 7 & 11
7101	IM-04	J C BRADFORD	783584	MUNICIPAL INSURED NATIONAL TRUST SERIES 11
7102	IM-04	J C BRADFORD	790158	MUNICIPAL INSURED NATIONAL TRUST SERIES 13 MINT SH INTE SE 2
7103	IM-04	J C BRADFORD	790164	MUNICIPAL INSURED NATIONAL TRUST SERIES 14
7104	IM-04	J C BRADFORD	790264	MUNICIPAL INSURED NATIONAL TRUST SERIES 17
7105	IM-04	J C BRADFORD	806650	MUNICIPAL INSURED NATIONAL TRUST SERIES 17 MINT SH TER SE 3

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
7106	IM-04	J C BRADFORD	798269	MUNICIPAL INSURED NATIONAL TRUST SERIES 18
7107	IM-04	J C BRADFORD	766593	MUNICIPAL INSURED NATIONAL TRUST SERIES 2
7108	IM-04	J C BRADFORD	887993	MUNICIPAL INSURED NATIONAL TRUST SERIES 20
7109	IM-04	J C BRADFORD	887995	MUNICIPAL INSURED NATIONAL TRUST SERIES 21
7110	IM-04	J C BRADFORD	892178	MUNICIPAL INSURED NATIONAL TRUST SERIES 21 & 22
7111	IM-04	J C BRADFORD	898790	MUNICIPAL INSURED NATIONAL TRUST SERIES 23
7112	IM-04	J C BRADFORD	943020	MUNICIPAL INSURED NATIONAL TRUST SERIES 24
7113	IM-04	J C BRADFORD	943845	MUNICIPAL INSURED NATIONAL TRUST SERIES 25
7114	IM-04	J C BRADFORD	945290	MUNICIPAL INSURED NATIONAL TRUST SERIES 26
7115	IM-04	J C BRADFORD	946439	MUNICIPAL INSURED NATIONAL TRUST SERIES 27
7116	IM-04	J C BRADFORD	847307	MUNICIPAL INSURED NATIONAL TRUST SERIES 28 29 & 30
7117	IM-04	J C BRADFORD	848018	MUNICIPAL INSURED NATIONAL TRUST SERIES 29
7118	IM-04	J C BRADFORD	850306	MUNICIPAL INSURED NATIONAL TRUST SERIES 30
7119	IM-04	J C BRADFORD	853744	MUNICIPAL INSURED NATIONAL TRUST SERIES 31
7120	IM-04	J C BRADFORD	855593	MUNICIPAL INSURED NATIONAL TRUST SERIES 32
7121	IM-04	J C BRADFORD	861567	MUNICIPAL INSURED NATIONAL TRUST SERIES 33
7122	IM-04	J C BRADFORD	766834	MUNICIPAL INSURED NATIONAL TRUST SERIES 5
7123	IM-04	J C BRADFORD	769744	MUNICIPAL INSURED NATIONAL TRUST SERIES 5 & 6 & 7
7124	IM-04	J C BRADFORD	766840	MUNICIPAL INSURED NATIONAL TRUST SERIES 6
7125	IM-04	J C BRADFORD	769749	MUNICIPAL INSURED NATIONAL TRUST SERIES 8
7126	IM-04	J C BRADFORD	778134	MUNICIPAL INSURED NATIONAL TRUST SERIES 9
7127	IM-04	J C BRADFORD	760296	MUNICIPAL INSURED NATIONAL TRUSTS
7128	IM-04	J C BRADFORD	807956	MUNICIPAL INSURED NATIONAL TRUSTS MINT DISCOUNT TRUST SER 5
7129	IM-04	J C BRADFORD	778132	MUNICIPAL INSURED NATIONAL TRUSTS SERIES 10
7130	IM-04	J C BRADFORD	893456	MUNICIPAL INSURED NATL TR SERS 8 9 10 14 15 31 & 32 & DISC T
7131	IM-04	MONY	814378	MONY AMERICA VARIABLE ACCOUNT A
7132	IM-04	MONY	763862	MONY AMERICA VARIABLE ACCOUNT L
7133	IM-04	MONY	812194	MONY AMERICA VARIABLE ACCOUNT S
7134	IM-04	MONY	823277	MONY LEGACY VARIABLE ACCOUNT A
7135	IM-04	MONY	736038	MONY LEGACY VARIABLE ACCOUNT L
7136	IM-04	MONY	813624	MONY LEGACY VARIABLE ACCOUNT S
7137	IM-04	MONY	356036	MONY VARIABLE ACCOUNT S
7138	IM-04	MONY	869627	MONY VARIABLE ACCOUNT L
7139	IM-04	MONY	869628	MONY VARIABLE ACCOUNT S
7140	IM-04	MONY	709221	MUTUAL LIFE INSURANCE CO OF NEW YORK POOLED ACCT NO 1 /NY/
7141	IM-04	MUTUAL LIFE	886821	MUTUAL LIFE INSURANCE COMPANY OF NEW YORK POOLED ACCT NO 10
7142	IM-04	MUTUAL LIFE	886818	MUTUAL LIFE INSURANCE COMPANY OF NEW YORK POOLED ACCT NO 4
7143	IM-04	MUTUAL LIFE	886819	MUTUAL LIFE INSURANCE COMPANY OF NEW YORK POOLED ACCT NO 6
7144	IM-04	NATIONWIDE	070699	NATIONWIDE DC VARIABLE ACCOUNT
7145	IM-04	NATIONWIDE	070715	NATIONWIDE LIFE INSURANCE CO SEPARATE ACCOUNT NO 1
7146	IM-04	NATIONWIDE	356723	NATIONWIDE MULTI FLEX VARIABLE ACCOUNT
7147	IM-04	NATIONWIDE	818681	NATIONWIDE SIERRA CAPITAL VARIABLE ACCOUNT
7148	IM-04	NATIONWIDE	202713	NATIONWIDE VARIABLE ACCOUNT
7149	IM-04	NATIONWIDE	825555	NATIONWIDE VARIABLE ACCOUNT 3
7150	IM-04	NATIONWIDE	843075	NATIONWIDE VARIABLE ACCOUNT 4
7151	IM-04	NATIONWIDE	356514	NATIONWIDE VARIABLE ACCOUNT II
7152	IM-04	NATIONWIDE	776744	NATIONWIDE VLI SEPARATE ACCOUNT
7153	IM-04	NATIONWIDE	820914	NATIONWIDE VLI SEPARATE ACCOUNT 2
7154	IM-04	NATIONWIDE	868084	NATIONWIDE VLI SEPARATE ACCOUNT 3
7155	IM-04	OPPENHEIMER	074677	OPPENHEIMER SYSTEMATIC CAPITAL ACCUMULATION PROGRAM
7156	IM-04	OPPENHEIMER	074678	OPPENHEIMER TIME FUND CAPITAL ACCUMULATION PROGRAM
7157	IM-04	OPPENHEIMER	045145	OPPENHEIMER TOTAL RETURN PERIODIC INVESTMENT PLAN
7158	IM-04	OPPENHEIMER	757985	OPPENHEIMER ZERO COUPON US TREASURIES TRUST SERIES A
7159	IM-04	OPPENHEIMER	788006	OPPENHEIMER ZERO COUPON US TREASURIES TRUST SERIES B
7160	IM-04	OPPENHEIMER	814011	OPPENHEIMER ZERO COUPON US TREASURIES TRUST SERIES C
7161	IM-04	OPPENHEIMER	832405	OPPENHEIMER ZERO COUPON US TREASURIES TRUST SERIES D
7162	IM-04	OPPENHEIMER	849872	OPPENHEIMER ZERO COUPON US TREASURIES TRUST SERIES E
7163	IM-04	OPPENHEIMER	863141	OPPENHEIMER ZERO COUPON US TREASURIES TRUST SERIES F
7164	IM-04	PACIFIC FIDELITY	847087	PFL ENDEAVOR REAL ESTATE ACC OF PACIFIC FID LIFE INS CO
7165	IM-04	PACIFIC FIDELITY	846924	PFL ENDEAVOR VARIABLE ANNUITY ACCOUNT /OLD/
7166	IM-04	PACIFIC FIDELITY	078010	PFL VARIABLE ANNUITY FUND I
7167	IM-04	PACIFIC FIDELITY	078011	PFL VARIABLE ANNUITY FUND II
7168	IM-04	PACIFIC FIDELITY	078012	PFL VARIABLE ANNUITY FUND III
7169	IM-04	PACIFIC FIDELITY	078013	PFL VARIABLE ANNUITY FUND IV
7170	IM-04	PACIFIC FIDELITY	078014	PFL VARIABLE ANNUITY FUND V
7171	IM-04	PACIFIC FIDELITY	078015	PFL VARIABLE ANNUITY FUND VI
7172	IM-04	SUN LIFE	746544	SUN LIFE ASSURANCE CO OF CANADA US
7173	IM-04	SUN LIFE	779955	SUN LIFE INSURANCE & ANNUITY CO OF CANADA NEW YORK
7174	IM-04	SUN LIFE	759814	SUN LIFE N Y VARIABLE ACCOUNT A
7175	IM-04	SUN LIFE	759818	SUN LIFE N Y VARIABLE ACCOUNT B
7176	IM-04	SUN LIFE	095335	SUN LIFE OF CANADA U S VARIABLE ACCOUNT A
7177	IM-04	SUN LIFE	110573	SUN LIFE OF CANADA U S VARIABLE ACCOUNT B
7178	IM-04	SUN LIFE	704843	SUN LIFE OF CANADA U S VARIABLE ACCOUNT C
7179	IM-04	SUN LIFE	719790	SUN LIFE OF CANADA U S VARIABLE ACCOUNT D
7180	IM-04	SUN LIFE	789316	SUN LIFE OF CANADA U S VARIABLE ACCOUNT E
7181	IM-04	SUN LIFE	852285	SUN LIFE OF CANADA U S VARIABLE ACCOUNT F
7182	IM-04	TRUST SOUTHWEST	753010	TRUST SOUTHWEST TAX EXEMPT INCOME TRUST INSURED SERIES 1
7183	IM-05	ACACIA	708967	ACACIA NATIONAL VARIABLE ANNUITY ACCOUNT A /NEW
7184	IM-05	ACACIA	730176	ACACIA NATIONAL VARIABLE LIFE INSURANCE ACCOUNT B
7185	IM-05	AETNA	837010	AETNA LIFE INSURANCE & ANNUITY CO /CT
7186	IM-05	AETNA	103005	VARIABLE ANNUITY ACCOUNT B OF AETNA LIFE INS & ANNUITY CO
7187	IM-05	AETNA	103007	VARIABLE ANNUITY ACCOUNT C OF AETNA LIFE INSURANCE & ANNUITY

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
7188	IM-05	AETNA	103009	VARIABLE ANNUITY ACCOUNT E OF AETNA LIFE INS & ANNUITY CO
7189	IM-05	AETNA	785986	VARIABLE LIFE ACCOUNT B OF AETNA LIFE INSURANCE & ANNUITY CO
7190	IM-05	ALGER	847554	ALGER SEPARATE ACCOUNT A
7191	IM-05	ALLSTATE	839815	ALLSTATE LIFE OF NEW YORK VARIABLE ANNUITY ACCOUNT
7192	IM-05	ALLSTATE	864989	ALLSTATE LIFE OF NEW YORK VARIABLE ANNUITY ACCOUNT II
7193	IM-05	AMERICAN GENERAL	316304	AMERICAN GENERAL LIFE INSURANCE CO OF NEW YORK SEPAR ACCT E
7194	IM-05	AMERICAN GENERAL	009031	AMERICAN GENERAL LIFE INSURANCE CO SEPARATE ACCOUNT D
7195	IM-05	AMERICAN SKANDIA	867588	AMERICAN SKANDIA LIFE ASSURANCE CORP VARIABLE ACCOUNT E
7196	IM-05	AMERITAS	783402	AMERITAS VARIABLE LIFE INSURANCE CO SEPARATE ACCOUNT V
7197	IM-05	AMERITAS	814648	AMERITAS VARIABLE LIFE INSURANCE CO SEPARATE ACCT VA-2
7198	IM-05 ANCHOR NATIONAL	885136	VARIABLE ANNUITY ACCOUNT ONE OF ANCHOR NATIONAL LIFE INS CO	
7199	IM-05	ANCHOR NATIONAL	885136	VARIABLE ANNUITY ACCT ONE C SEPARATE ACCT OF ANCHOR NATIONAL
7200	IM-05	ANCHOR NATIONAL	729522	VARIABLE SEPARATE ACCOUNT
7201	IM-05	B C ZIEGLER	746266	INSURED AMERICAN TAX EXEMPT BOND TRUST SERIES 1
7202	IM-05 B C ZIEGLER	847412	INSURED AMERICAN TAX EXEMPT BOND TRUST SERIES 41	
7203	IM-05	BANKERS NATL	352906	BANKERS NATIONAL VARIABLE ACCOUNT A
7204	IM-05	BANKERS NATL	313935	BANKERS NATIONAL VARIABLE ACCOUNT B
7205	IM-05	BANKERS NATL	773919	BANKERS NATIONAL VARIABLE ACCOUNT C
7206	IM-05	BANKERS SECURITY	109586	BANKERS SECURITY VARIABLE ANNUITY FUNDS A B & C
7207	IM-05	BANKERS SECURITY	009738	BANKERS SECURITY VARIABLE ANNUITY FUNDS D E F G H & I
208	IM-05	BANKERS SECURITY	701383	BANKERS SECURITY VARIABLE LIFE SEPARATE ACCOUNT I
7209	IM-05	BANNER LIFE	826598	BANNER LIFE VARIABLE ACCOUNT
7210	IM-05	BANNER LIFE	856038	BANNER LIFE VARIABLE ANNUITY ACCOUNT
7211	AMERICAN GENERAL LIFE INSURANCE CO SEPARATE ACCOUNT A	016190	IM-05	CAL WESTERN
7212	IM-05	CAPITOL LIFE	017362	CAPITOL LIFE SEPARATE ACCOUNT A
7213	IM-05	CAPITOL LIFE	277062	CAPITOL LIFE SEPARATE ACCOUNT M
7214	IM-05	CARDINAL	739446	CARDINAL GNMA TRUST FIRST SERIES
7215	IM-05	CARDINAL	836580	CARDINAL GNMA TRUST THIRD SERIES
7216	IM-05	CARDINAL	718869	CARDINAL TAX EXEMPT BOND TRUST THIRTY SECOND SERIES
7217	IM-05	CHARTER NATL	789669	CHARTER NATIONAL VARIABLE ACCOUNT
7218	IM-05	CHARTER NATL	820096	CHARTER NATIONAL VARIABLE ANNUITY ACCOUNT
7219	IM-05	CHICORP	874210	CHICORP EQUITY TRUST MIDWEST THRIFT SERIES 1
7220	IM-05	CHICORP	884256	CHICORP EQUITY TRUST MIDWEST THRIFT SERIES 2
7221	IM-05	CHICORP	887593	CHICORP EQUITY TRUST MIDWEST THRIFT SERIES 3
7222	IM-05	CHUBB	757552	CHUBB SEPARATE ACCOUNT A
7223	IM-05	CHUBB	854456	CHUBB SEPARATE ACCOUNT B
7224	IM-05	CIGNA	310965	CG VARIABLE ANNUITY ACCOUNT I GROUP TAX DEFERRED VARIABLE AN
7225	IM-05	CIGNA	310957	CG VARIABLE ANNUITY ACCOUNT I GROUP VARIABLE ANNUITIES FOR
7226	IM-05	CIGNA	313897	CG VARIABLE ANNUITY ACCOUNT I INDIVIDUAL VARIABLE ANNUITIES
7227	IM-05	CIGNA	277418	CG VARIABLE ANNUITY ACCOUNT II
7228	IM-05	CIGNA	310958	CG VARIABLE ANNUITY ACCOUNT II GROUP VARIABLE ANNUITIES FOR
7229	IM-05	CIGNA	702712	CIGNA SEPARATE ACCOUNT I
7230	IM-05	CIGNA	847567	CIGNA SEPARATE ACCOUNT II
7231	IM-05	GOLDEN AMERICAN	896164	SEPARATE ACCOUNT E OF GOLDEN AMERICAN LIFE INSURANCE CO
7232	IM-05	COMPOSITE	808442	COMPOSITE DEFERRED VARIABLE ACCOUNT
7233	IM-05	COMPOSITE	830321	COMPOSITE DEFERRED VARIABLE ACCT OF EMPIRE LIFE INSURANCE CO
7234	IM-05	CONN MUTUAL	021166	CML VARIABLE ANNUITY ACCOUNT A
7235	IM-05	CONN MUTUAL	021167	CML VARIABLE ANNUITY ACCOUNT B
7236	IM-05	CONN MUTUAL	355411	CONNECTICUT MUTUAL FINANCIAL SERVICES SERIES FUND I INC
7237	IM-05	CROWN AMERICA	845102	CROWN AMERICA SEPARATE ACCOUNT B
7238	IM-05	CROWN AMERICA	818482	CROWN AMERICA VARIABLE ANNUITY SEPARATE ACCOUNT
7239	IM-05	CROWN AMERICA	749936	CROWN AMERICA VARIABLE LIFE SEPARATE ACCOUNT
7240	IM-05	DREYFUS	863471	DREYFUS CONNECTICUT MUNICIPAL MONEY MARKET FUND INC
7241	IM-05	DREYFUS	030152	DREYFUS INVESTMENT PROGRAM
7242	IM-05	DREYFUS	770326	DREYFUS UNIT TRUSTS INSURED TAX EXEMPT TRUST SERIES 1
7243	IM-05	EQUITABLE	856075	EQUITABLE CAPITAL PARTNERS II LP
7244	IM-05	EQUITABLE	727920	EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES /NY/
7245	IM-05	EQUITABLE	771726	SEPARATE ACCOUNT FP OF EQUITABLE VARIABLE LIFE INSURANCE CO
7246	IM-05	EQUITABLE	356076	SEPARATE ACCOUNT NO 301 OF THE EQUIT LIFE ASS SOC OF THE U S

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
7247	IM-05	F&G LIFE	854239	F&G LIFE VARIABLE ANNUITY ACCOUNT
7248	IM-05	F&G LIFE	804115	F&G LIFE VARIABLE LIFE ACCOUNT
7249	IM-05	GENERAL AMER	278360	GENERAL AMERICAN SEPARATE ACCOUNT TWO
7250	IM-05	GENERAL AMERICAN	906004	GENERAL AMERICAN LIFE INSURANCE CO SEPARATE ACCOUNT ELEVEN
7251	IM-05	GENERAL AMERICAN	888853	GENERAL AMERICAN SEPARATE ACCOUNT ELEVEN
7252	IM-05	GENERAL AMERICAN	892775	GENERAL AMERICAN SEPARATE ACCOUNT TWENTY NINE
7253	IM-05	GENERAL AMERICAN	892586	GENERAL AMERICAN SEPARATE ACCOUNT TWENTY-EIGHT
7254	IM-05	GOLDEN AMERICAN	836982	SEPARATE ACCOUNT A OF GOLDEN AMERICAN LIFE INSURANCE CO
7255	IM-05	GOLDEN AMERICAN	836987	SEPARATE ACCOUNT B
7256	IM-05	GOLDEN AMERICAN	852685	SEPARATE ACCOUNT D
7257	IM-05	GOLDEN AMERICAN	892830	SEPARATE ACCOUNT D GOLDEN AMERICAN LIFE INSURANCE CO
7258	IM-05	HARVEST	825551	HARVEST REAL ESTATE VARIABLE ACCOUNT
7259	IM-05	HARVEST	804085	HARVEST REAL ESTATE VARIABLE ANNUITY ACCOUNT C
7260	IM-05	HOME LIFE	048200	HOME LIFE INSURANCE CO SEPARATE ACCOUNT B
7261	IM-05	HOME LIFE	048203	PHOENIX HOME LIFE SEPARATE ACCOUNT C
7262	IM-05	HOME LIFE	048204	PHOENIX HOME LIFE SEPARATE ACCOUNT D
7263	IM-05	HORACE MANN	110698	HORACE MANN LIFE INSURANCE CO SEPARATE ACCOUNT
7264	IM-05	HORACE MANN	062014	MANN HORACE LIFE INSURANCE CO SEPARATE ACCOUNT B
7265	IM-05	INTEGRITY LIFE	775270	SEPARATE ACCOUNT IN OF INTEGRITY LIFE INSURANCE CO
7266	IM-05	INTEGRITY LIFE	802205	SEPARATE ACCOUNT INA OF INTEGRITY LIFE INSURANCE CO
7267	IM-05	INTEGRITY LIFE	880931	SEPARATE ACCOUNT SF OF INTEGRITY LIFE INSURANCE CO
7268	IM-05	JOHN HANCOCK	818276	HANCOCK JOHN VARIABLE ANNUITY ACCOUNT V
7269	IM-05	JOHN HANCOCK	317411	HANCOCK JOHN VARIABLE LIFE ACCOUNT U
7270	IM-05	JOHN HANCOCK	820299	HANCOCK JOHN VARIABLE LIFE ACCOUNT V
7271	IM-05	KEYSTONE	879341	KEYSTONE INSTITUTIONAL ADJUSTABLE RATE FUND
7272	IM-05	KEYSTONE PROV	828684	KEYNOTE SERIES ACCOUNT /NY/
7273	IM-05	KEYSTONE PROV	737067	KEYPORT VARIABLE ACCOUNT 1
7274	IM-05	KEYSTONE PROV	813654	KEYSTONE PROVIDENT VARIABLE ACCOUNT II
7275	IM-05	LIFE OF VA	822616	LIFE OF VIRGINIA SEPARATE ACCOUNT 4
7276	IM-05	LIFE OF VA	745965	LIFE OF VIRGINIA SEPARATE ACCOUNT I
7277	IM-05 LIFE OF VA	804286	LIFE OF VIRGINIA SEPARATE ACCOUNT II	
7278	IM-05	LIFE OF VA	811283	LIFE OF VIRGINIA SEPARATE ACCOUNT III
7279	IM-05	LINCOLN NATL	777963	LINCOLN NATIONAL FLEXIBLE PREMIUM VARIABLE LIFE ACCOUNT D
7280	IM-05	LINCOLN NATL	815207	LINCOLN NATIONAL FLEXIBLE PREMIUM VARIABLE LIFE ACCOUNT F
7281	IM-05	LINCOLN NATL	835414	LINCOLN NATIONAL FLEXIBLE PREMIUM VARIABLE LIFE ACCOUNT G
7282	IM-05	LINCOLN NATL	804223	LINCOLN NATIONAL PENSION VARIABLE ANNUITY ACCOUNT E
7283	IM-05	LINCOLN NATL	352094	LINCOLN NATIONAL VARIABLE ANNUITY ACCOUNT C
7284	IM-05	LINCOLN NATL	647552	LINCOLN NATIONAL VARIABLE ANNUITY ACCOUNT H
7285	IM-05	LUTHERAN BRHOOD	819085	LBVIP VARIABLE ANNUITY ACCOUNT I
7286	IM-05	LUTHERAN BRHOOD	789546	LBVIP VARIABLE INSURANCE ACCOUNT
7287	IM-05	LUTHERAN BRHOOD	814342	LBVIP VARIABLE INSURANCE ACCOUNT II
7288	IM-05	MANUFACTRS LIFE	813572	SEPARATE ACCOUNT FOUR OF THE MANUFACTURERS LIFE INS CO OF AM
7289	IM-05	MANUFACTRS LIFE	801018	SEPARATE ACCOUNT THREE OF THE MANUFACT LIFE INS CO OF AM
7290	IM-05	MANUFACTRS LIFE	814501	SEPARATE ACCOUNT TWO OF THE MANUFACTURERS LIFE INS CO OF AME
7291	IM-05	MANUFACTRS LIFE	736950	SEPARATE ACCT ONE OF THE MANUFACTURERS LIFE INSUR CO OF AMER
7292	IM-05	MASS MUTUAL	063089	MASSACHUSETTS MUTUAL VARIABLE ANNUITY FUND 1
7293	IM-05	MASS MUTUAL	110701	MASSACHUSETTS MUTUAL VARIABLE ANNUITY FUND 2
7294	IM-05	MASS MUTUAL	353445	MASSACHUSETTS MUTUAL VARIABLE ANNUITY SEPARATE ACCOUNT 1
7295	IM-05	MASS MUTUAL	356985	MASSACHUSETTS MUTUAL VARIABLE ANNUITY SEPARATE ACCOUNT 2
7296	IM-05	MASS MUTUAL	836249	MASSACHUSETTS MUTUAL VARIABLE LIFE SEPARATE ACCOUNT I
7297	IM-05	MASS MUTUAL	746561	MASSACHUSETTS MUTUAL VARIABLE LIFE SEPARATE ACCOUNT II
7298	IM-05	METLIFE	744043	METROPOLITAN LIFE SEPARATE ACCOUNT E
7299	IM-05	METLIFE	858297	METROPOLITAN LIFE SEPARATE ACCOUNT UL
7300	IM-05	METLIFE	710828	METROPOLITAN TOWER SEPARATE ACCOUNT ONE
7301	IM-05	METLIFE	759654	METROPOLITAN TOWER SEPARATE ACCOUNT TWO
7302	IM-05	METLIFE	875249	ML OF NEW YORK VARIABLE ANNUITY SEPARATE ACCOUNT
7303	IM-05	METLIFE	880676	ML OF NEW YORK VARIABLE ANNUITY SEPARATE ACCOUNT A
7304	IM-05	METLIFE	880677	ML OF NEW YORK VARIABLE ANNUITY SEPARATE ACCOUNT B
7305	IM-05	MFS	353896	MFS SEPARATE ACCOUNT MONEY MARKET TRUST
7306	IM-05	MFS	202571	MFS VARIABLE ACCOUNT
7307	IM-05	MINNESOTA MUTUAL	768909	MINNESOTA MUTUAL VARIABLE ANNUITY ACCOUNT
7308	IM-05	MINNESOTA MUTUAL	789535	MINNESOTA MUTUAL VARIABLE LIFE ACCOUNT
7309	IM-05	MML	705189	MML BAY STATE VARIABLE LIFE SEPARATE ACCOUNT I
7310	IM-05	MONARCH	831632	MONARCH LIFE INSURANCE COMPANY SEPARATE ACCOUNT VA
7311	IM-05	MONARCH	318791	VARIABLE ACCOUNT A OF MONARCH LIFE INSURANCE CO
7312	IM-05	MONARCH	758095	VARIABLE ACCOUNT B OF MONARCH LIFE INSURANCE CO
7313	IM-05	MONARCH	837574	VARIABLE ACCOUNT H OF MONARCH LIFE INSURANCE CO
7314	IM-05	MUTUAL BENEFIT	853520	MUTUAL BENEFIT VARIABLE CONTRACT ACCOUNT 10
7315	IM-05	MUTUAL BENEFIT	110709	MUTUAL BENEFIT VARIABLE CONTRACT ACCOUNT 2
7316	IM-05	MUTUAL BENEFIT	069265	MUTUAL BENEFIT VARIABLE CONTRACT ACCOUNT 3
7317	IM-05	MUTUAL BENEFIT	725566	MUTUAL BENEFIT VARIABLE CONTRACT ACCOUNT 7
7318	IM-05	MUTUAL BENEFIT	819035	MUTUAL BENEFIT VARIABLE CONTRACT ACCOUNT 9
7319	IM-05	MUTUAL BENEFIT	848473	MUTUAL BENEFIT VARIABLE CONTRACT ACCOUNT II
7320	IM-05	NALAC	806468	NALAC VARIABLE ACCOUNT A
7321	IM-05	NALAC	826346	NALAC VARIABLE ACCOUNT B
7322	IM-05	NATIONAL HOME	874235	NATIONAL HOME LIFE ASSURANCE CO OF NY SEPARATE ACCOUNT B
7323	IM-05	NATIONAL HOME	884067	NATIONAL HOME LIFE ASSURANCE COMPANY SEPARATE ACCOUNT W
7324	IM-05	NATL HOME LIFE	791624	NATIONAL HOME LIFE ASSURANCE CO SEPARATE ACCOUNT I

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
7325	IM-05	NATL HOME LIFE	796515	NATIONAL HOME LIFE ASSURANCE CO SEPARATE ACCOUNT II
7326	IM-05	NATL HOME LIFE	070286	NATIONAL LIFE VARIABLE ANNUITY ACCOUNT 1
7327	IM-05	NATL INTEGRITY	826751	SEPARATE ACCOUNT ANA OF NATIONAL INTEGRITY LIFE INSURANCE CO
7328	IM-05	NATL INTEGRITY	793518	SEPARATE ACCOUNT NI OF NATIONAL INTEGRITY LIFE INSURANCE CO
7329	IM-05	NATL INTEGRITY	802222	SEPARATE ACCOUNT NIA OF NATIONAL INTEGRITY LIFE INS CO
7330	IM-05	NEW ENGLAND	822398	NEW ENGLAND VARIABLE ACCOUNT
7331	IM-05	NEW ENGLAND	717347	NEW ENGLAND VARIABLE LIFE SEPARATE ACCOUNT
7332	IM-05	NEW YORK LIFE	721699	NEW YORK LIFE INSURANCE & ANNUITY CORP MFA SEPARATE ACCT I
7333	IM-05	NEW YORK LIFE	071634	NEW YORK LIFE SEPARATE ACCOUNT N
7334	IM-05	NEW YORK LIFE	071635	NEW YORK LIFE SEPARATE ACCOUNT Q
7335	IM-05	NEW YORK LIFE	726509	NYLIAC MFA SEPARATE ACCOUNT I
7336	IM-05	NEW YORK LIFE	726510	NYLIAC MFA SEPARATE ACCOUNT II
7337	IM-05	NML	790182	NML VARIABLE ANNUITY ACCOUNT A
7338	IM-05	NML	072176	NML VARIABLE ANNUITY ACCOUNT B
7339	IM-05	NML	790183	NML VARIABLE ANNUITY ACCOUNT C
7340	IM-05	NML	073078	NORTHWESTERN MUTUAL LIFE INSURANCE CO
7341	IM-05	NORTHBROOK	864922	NORTHBROOK VARIABLE ANNUITY ACCOUNT II
7342	IM-05	NORTHBROOK	822772	NORTHBROOK VARIABLE LIFE SEPARATE ACCOUNT
7343	IM-05	NORTHWESTERN NAT	314853	MFS NWNL VARIABLE ACCOUNT
7344	IM-05	NORTHWESTERN NAT	761202	NWNL SELECT LIFE VARIABLE ACCOUNT
7345	IM-05	NORTHWESTERN NAT	356778	NWNL SELECT VARIABLE ACCOUNT
7346	IM-05	NORTHWESTERN NAT	073522	NWNL VARIABLE ANNUITY ACCOUNT B
7347	IM-05	OHIO NATIONAL	073981	OHIO NATIONAL VARIABLE ACCOUNT A
7348	IM-05	OHIO NATIONAL	073982	OHIO NATIONAL VARIABLE ACCOUNT B
7349	IM-05	OHIO NATIONAL	770291	OHIO NATIONAL VARIABLE ACCOUNT R
7350	IM-05	PACIFIC MUTUAL	832908	PACIFIC SELECT EXEC SEPARATE ACC OF PACIFIC MUTUAL LIFE IN
7351	IM-05	PACIFIC MUTUAL	813936	PACIFIC SELECT SEPARATE ACCOUNT OF PACIFIC MUTUAL LIFE INSUR
7352	IM-05	PACIFIC MUTUAL	858667	PACIFIC SELECT VARIABLE ANNUITY SEPARATE ACCOUNT
7353	IM-05	PENN MUTUAL	077135	PENN MUTUAL VARIABLE ANNUITY ACCOUNT II
7354	IM-05	PENN MUTUAL	702184	PENN MUTUAL VARIABLE ANNUITY ACCOUNT III
7355	IM-05	PENN MUTUAL	810579	PENN MUTUAL VARIABLE LIFE ACCOUNT I
7356	IM-05	PHOENIX MUTUAL	703321	PHOENIX HOME LIFE VARIABLE ACCUMULATION ACCOUNT
7357	IM-05	PHOENIX MUTUAL	796154	PHOENIX HOME LIFE VARIABLE UNIVERSAL LIFE ACCOUNT
7358	IM-05	PRINCIPAL MUT	812797	PRINCIPAL MUTUAL LIFE INSURANCE CO VARIABLE LIFE SEP ACCOUNT
7359	IM-05	PRINCIPAL MUT	009713	PRINCIPAL MUTUAL LIFE INSURANCE COMPANY SEPARATE ACCOUNT B
7360	IM-05	PRINCIPAL MUT	278194	PRINCIPAL MUTUAL LIFE INSURANCE COMPANY SEPARATE ACCOUNT C
7361	IM-05	PROVIDENT MUTUAL	783312	PROVIDENT MUTUAL VARIABLE BOND SEPARATE ACCOUNT
7362	IM-05	PROVIDENT MUTUAL	783313	PROVIDENT MUTUAL VARIABLE MANAGED SEPARATE ACCOUNT
7363	IM-05	PROVIDENT MUTUAL	783311	PROVIDENT MUTUAL VARIABLE MONEY MARKET SEPARATE ACCOUNT
7364	IM-05	PROVIDENT MUTUAL	783314	PROVIDENT MUTUAL VARIABLE ZERO COUPON BOND SEPARATE ACCOUNT
7365	IM-05	PROVIDENT MUTUAL	881437	PROVIDENTMUTUAL VARIABLE ANNUITY SEPARATE ACCOUNT
7366	IM-05	REICH & TANG	895271	EQUITY SECURITIES SERIES 2 SIG SER REICH & TANG GRO & VAL TR
7367	IM-05	SAFECO LIFE	795890	SAFECO RESOURCE VARIABLE ACCOUNT B
7368	IM-05	SAFECO LIFE	806160	SAFECO SEPARATE ACCOUNT SL
7369	IM-05	SECURITY BENEFIT	087062	SBL VARIABLE ANNUITY ACCOUNT
7370	IM-05	SECURITY BENEFIT	087063	SBL VARIABLE ANNUITY ACCOUNT II
7371	IM-05	SECURITY BENEFIT	352078	SBL VARIABLE ANNUITY ACCOUNT III
7372	IM-05	SECURITY BENEFIT	352664	SBL VARIABLE ANNUITY ACCOUNT IV
7373	IM-05	SECURITY BENEFIT	748591	SBL VARIABLE UNIVERSAL LIFE
7374	IM-05	SENTRY LIFE	732642	SENTRY INVESTORS VARIABLE ACCOUNT II
7375	IM-05	SENTRY LIFE	732643	SENTRY VARIABLE ACCOUNT I
7376	IM-05	SENTRY LIFE	730150	SENTRY VARIABLE ACCOUNT II
7377	IM-05	SENTRY LIFE	771440	SENTRY VARIABLE LIFE ACCOUNT I
7378	IM-05	SKANDIA LIFE	826734	AMERICAN SKANDIA LIFE ASSURANCE CORP VARIABLE ACCOUNT B
7379	IM-05	SKANDIA LIFE	841171	AMERICAN SKANDIA LIFE ASSURANCE CORP VARIABLE ACCOUNT C
7380	IM-05	SKANDIA LIFE	823879	VARIABLE ACCOUNT A OF SKANDIA LIFE AMERICA CORP
7381	IM-05	SMA LIFE	886134	ALLMERICA SELECT SEPARATE ACCOUNT OF SMA LIFE ASSURANCE CO
7382	IM-05	SMA LIFE	727145	SEPARATE ACCOUNT VA H OF SMA LIFE ASSURANCE CO
7383	IM-05	SMA LIFE	882375	SEPARATE ACCOUNT VA-K OF SMA LIFE ASSURANCE CO
7384	IM-05	SMA LIFE	200026	SMA LIFE ASSURANCE CO SEPARATE ACCOUNTS D E & F
7385	IM-05	STERNE AGEE	751571	ALABAMA TAX EXEMPT BOND TRUST SERIES 1
7386	IM-05	STERNE AGEE	763734	ALABAMA TAX EXEMPT BOND TRUST SERIES 2
7387	IM-05	STERNE AGEE	774520	ALABAMA TAX EXEMPT BOND TRUST SERIES 3
7388	IM-05	STERNE AGEE	785972	ALABAMA TAX EXEMPT BOND TRUST SERIES 4
7389	IM-05	STERNE AGEE	811118	ALABAMA TAX EXEMPT BOND TRUST SERIES 5
7390	IM-05	STERNE AGEE	814151	ALABAMA TAX EXEMPT BOND TRUST SERIES 6
7391	IM-05	TEMPLETON	869312	TEMPLETON CAPITAL ACCUMULATION PLANS
7392	IM-05	TEMPLETON	869285	TEMPLETON FOREIGN FUND & U S TREASURY SECURITIES TRUST SER 1
7393	IM-05	TEMPLETON	810356	TEMPLETON FUNDS RETIREMENT ANNUITY SEPARATE ACCOUNT
7394	IM-05	TEMPLETON	853567	TEMPLETON GROWTH & TREASURY TRUST SERIES 1
7395	IM-05	TEMPLETON	869770	TEMPLETON IMMEDIATE VARIABLE ANNUITY SEPARATE ACCOUNT
7396	IM-05	TRANSAMERICA	808102	SEPARATE ACCOUNT VA 1 OF TRANSAMERICA LIFE INS & ANNUITY CO
7397	IM-05	TRANSAMERICA	894418	SEPARATE ACCOUNT VA 2LNY OF FIRST TRANSAMERICA LIFE INS CO
7398	IM-05	TRANSAMERICA	892265	SEPARATE ACCOUNT VA 2NL OF TRANSAMERICA OCCID LIFE INS CO
7399	IM-05	TRANSAMERICA	894419	SEPARATE ACCOUNT VA 2NLNY OF FIRST TRANSAMERICA LIFE INS CO
7400	IM-05	TRANSAMERICA	785026	SEPARATE ACCOUNT VL OF TRANSAMERICA OCCIDENTAL LIFE INS CO
7401	IM-05	TRANSAMERICA	073695	TRANSAMERICA OCCIDENTAL LIFE INSURANCE CO
7402	IM-05	TRAVELERS LIFE	707215	TRAVELERS FUND U FOR VARIABLE ANNUITIES
7403	IM-05	TRAVELERS LIFE	737026	TRAVELERS FUND UL FOR VARIABLE LIFE INSURANCE
7404	IM-05	TRAVELERS LIFE	733076	TRAVELERS INSURANCE CO
7405	IM-05	TUCKER ANTHONY	718088	FREEDOM INCOME TRUST NATIONAL & SPECIAL STATES SERIES 1
7406	IM-05	VALIC	103006	VARIABLE ANNUITY ACCOUNT D OF AETNA VARIABLE ANNUITY LIFE IN

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
7407	IM-05	VALIC	103018	VARIABLE ANNUITY LIFE INSURANCE CO
7408	IM-05	VALIC	354912	VARIABLE ANNUITY LIFE INSURANCE CO SEPARATE ACCOUNT A
7409	IM-05	VOYAGEUR	797497	VOYAGEUR UNIT INVESTMENT TRUST SERIES 1
7410	IM-05	VOYAGEUR	812346	VOYAGEUR UNIT INVESTMENT TRUST SERIES 2
7411	IM-05	VOYAGEUR	819011	VOYAGEUR UNIT INVESTMENT TRUST SERIES 3
7412	IM-05	WADDELL & REED	101125	UNITED CONTINENTAL INCOME INVESTMENT PROGRAMS
7413	IM-05	WADDELL & REED	101123	UNITED INTERNATIONAL GROWTH INVESTMENT PROGRAMS
7414	IM-05	WADDELL & REED	100997	UNITED PERIODIC INVESTMENT PFAS OF UNITED ACCUMULATIVE FUND
7415	IM-05	WADDELL & REED	110400	UNITED PERIODIC INVESTMENT PFAS OF UNITED SCIENCE & ENERGY F
7416	IM-05	WADDELL & REED	101869	UNITED VANGUARD INVESTMENT PROGRAMS PFAS UNITED VANGUARD FUN
7417	IM-05	WESTERN LIFE	823533	FORTIS BENEFITS INSURANCE CO
7418	IM-05	WESTERN LIFE	790531	FORTIS BENEFITS INSURANCE CO VARIABLE ACCOUNT C
7419	IM-05	WESTERN LIFE	311257	WESTERN LIFE VARIABLE ANNUITY FUND A
7420	IM-05	WESTERN LIFE	300008	WESTERN LIFE VARIABLE ANNUITY FUND B
7421	IM-05	XEROX LIFE	853470	XEROX VARIABLE ANNUITY ACCOUNT FOUR
7422	IM-05	XEROX LIFE	815915	XEROX VARIABLE ANNUITY ACCOUNT ONE
7423	IM-05	XEROX LIFE	890157	XEROX VARIABLE ANNUNITY ACCOUNT FIVE
7424	IM-06		883609	ADVANTAGE GROWTH & TREASURY SECURITIES TRUST SERIES 1
7425	IM-06		803401	AIG LIFE INSURANCE CO VARIABLE ACCOUNT A/NY
7426	IM-06		803466	AIG LIFE INSURANCE CO VARIABLE ACCOUNT I/NY
7427	IM-06		311649	AMERICAN INCOME TRUST 4-10 YEAR TERM SERIES 1
7428	IM-06		105494	AMERICAN TAX EXEMPT BOND TRUST SERIES 1
7429	IM-06		706111	CAPITAL APPRECIATION VARIABLE ACCOUNT/MA
7430	IM-06		102916	CHARTER CONSOLIDATED PLC /ADR/
7431	IM-06		855882	CLIAC SEPARATE ACCOUNT A
7432	IM-06		024619	CORPORATE BOND TRUST SERIES 5
7433	IM-06		024936	CORPORATE SECURITIES TRUST INTERMEDIATE TERM DEBT SERIES 1
7434	IM-06		276464	CORPORATE TRUST SERIES 1
7435	IM-06		030913	EAGLE GROWTH SHARES INVESTING PROGRAMS
7436	IM-06		835765	FINANCIAL HORIZONS VA SEPARATE ACCOUNT 1
7437	IM-06		865640	FINANCIAL HORIZONS VL SEPARATE ACCOUNT 1
7438	IM-06		036607	FIRST NATIONAL BANK OF BOSTON POOLED RETIREMENT FUND FOR PLA
7439	IM-06		700683	FIXED INCOME TRUST ZERO COUPON SERIES 1
7440	IM-06		740658	FUTUREFUNDS SERIES ACCOUNT OF GREAT WEST LIFE & ANN INS CO
7441	IM-06		275473	GOVERNMENT SECURITIES TRUST GNMA SERIES 1
7442	IM-06		706112	HIGH YIELD VARIABLE ACCOUNT /MA
7443	IM-06		809217	INSURED TAX FREE INCOME TRUST NATIONAL SERIES 39
7444	IM-06		832952	INSURED TAX FREE INCOME TRUST SERIES 52 NATIONAL SERIES 52
7445	IM-06		884256	INTERNATIONAL BOND & EQUITY TRUST LATIN AMERICA SERIES 1
7446	IM-06		880279	KOREA GROWTH FUND INC
7447	IM-06		765196	LIFE FUND ACCOUNT
7448	IM-06		737791	MASSACHUSETTS TAX EXEPT UNIT TRUST SERIES 82
7449	IM-06		902603	MINNESOTA TAX EXEMPT INCOME TRUST SERIES 1
7450	IM-06		706113	MONEY MARKET VARIABLE ACCOUNT /MA/
7451	IM-06		353974	NATIONAL MUNICIPAL TRUST FIFTIETH SERIES
7452	IM-06		278209	NEW YORK MUNICIPAL TRUST SERIES 3
7453	IM-06		077236	PENNSYLVANIA FUND TAX EXEMPT MUNICIPAL INVESTMENT TRUST
7454	IM-06		859607	PFL ENDEAVOR VARIABLE ANNUITY ACCOUNT /NEW/
7455	IM-06		733056	PHILADELPHIA FUND INVESTING PROGRAMS
7456	IM-06		824037	PILGRIM JOINT LIFE SEP ACCOUNT OF FIRST CAPITAL LIFE INS CO
7457	IM-06		763859	PINNACLE SERIES ACCOUNT OF GREAT WEST LIFE & ANN INS CO
7458	IM-06		039609	PIONEER INVESTMENT PFAS PIONEER FUND INC
7459	IM-06		109897	PROGRAMS FOR THE ACCUMULATIONS OF SHARES OF TECHNOLOGY FUND
7460	IM-06		081543	QUINBY PLANS
7461	IM-06		828597	RSVP VARIABLE LIFE ACCOUNT ONE
7462	IM-06		356421	SECURITY ACTION PLANS
7463	IM-06		884394	SPDR TRUST SERIES 1
7464	IM-06		858757	STATE STREET MASTER INVESTMENT TRUST
7465	IM-06		730002	TAX EXEMPT TRUST MEDIUM TERM SERIES 1
7466	IM-06		356620	TRUST SOUTHWEST TAX EXEMPT INCOME TRUST SERIES 1
7467	IM-06		206005	UNITED MISSOURI BANK MASTER PLAN & TRUST FOR SELF EMPLOYE IN
7468	IM-06		885132	UR PLUS SUBACCOUNT OF VARIABLE ANNUITY ACCOUNT ONE
7469	IM-06		820627	VARIABLE ACCOUNT I OF AIG LIFE INS CO
7470	IM-06		824611	VARIABLE ACCOUNT II
7471	IM-06		768830	VARIABLE ANNUITY ACCOUNT ONE OF FIRST SUNAMERICA LIFE INS CO
7472	IM-06		790487	VARIABLE LIFE ACCOUNT ONE
7473	IM-06		740583	VARIFLEX
7474	IM-06		104848	WASHINGTON INVESTORS PLANS INC
7475	IM-06		105286	WEEDEN TAX EXEMPT BOND TRUST SERIES 1 & SUBQ SERIES
7476	IM-06	ALLEGIANCE LIC	031710	ALLEGIANCE SEPARATE ACCOUNT A OF HORACE MANN LIFE INS CO
7477	IM-06	AMER FRANKLIN	877625	SEPARATE ACCOUNT VUL-2 OF THE AMERICAN FRANKLIN LIFE INS CO
7478	IM-06	AMERICAN BENEFIT	826647	AMERICAN BENEFIT VARIABLE ANNUITY ACCOUNT
7479	IM-06	AMERICAN CAPITAL	746721	AMERICAN CAPITAL MONTHLY ACCUMULATION PLANS
7480	IM-06	AMERICAN CAPITAL	701610	VARIABLE INVESTMENT PLAN FOR AMERICAN CAPITAL ENTERPRISE FUN
7481	IM-06	AMERICAN NATL	867289	AMERICAN NATIONAL VARIABLE LIFE SEPARATE ACCOUNT
7482	IM-06	AMERICAN REPUBLI	806575	AMERICAN REPUBLIC VARIABLE ANNUITY ACCOUNT
7483	IM-06	AMERICAN UNITED	856341	AUL AMERICAN UNIT TRUST
7484	IM-06	AMERICN FRANKLIN	847539	SEPARATE ACCOUNT VUL OF THE AMERICAN FRANKLIN LIFE INS CO
7485	IM-06	BANKERS SECURITY	319539	BANKERS SECURITY VARIABLE ANNUITY FUNDS M P & Q
7486	IM-06	BOSTON MUTUAL	276000	BOSTON MUTUAL LIFE VARIABLE ACCOUNT A
7487	IM-06	C M LIFE	883233	PANORAMA PLUS SEPARATE ACCOUNT
7488	IM-06	CANADA LIFE	851066	CANADA LIFE OF AMERICA VARIABLE ANNUITY ACCOUNT 1

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
7489	IM-06	CANADA LIFE	895360	CANADA LIFE OF AMERICA VARIABLE ANNUITY ACCOUNT 2
7490	IM-06	CANADA LIFE	857588	CANADA LIFE OF NEW YORK VARIABLE ANNUITY ACCOUNT 1
7491	IM-06	CAPITOL LIFE	804063	CAPITOL VARIABLE ANNUITY ACCOUNT ONE
7492	IM-06	CENTURY LIFE	732726	CENTURY VARIABLE ACCOUNT
7493	IM-06	CG	882230	CG VARIABLE ANNUITY SEPARATE ACCOUNT
7494	IM-06	COLONIAL	021898	COLONY GROWTH PLANS
7495	IM-06	CONN MUTUAL	310771	CML ACCUMULATION ANNUITY ACCOUNT E
7496	IM-06	CRAIGIE	276436	TAX EXEMPT BOND FUND OF VIRGINIA FIRST SERIES
7497	IM-06	CRAIGIE	310948	TAX EXEMPT BOND FUND OF VIRGINIA SECOND SERIES
7498	IM-06	EMPIRE FIDELITY	878467	EMPIRE FIDELITY INVESTMENTS VARIABLE ANNUITY ACCOUNT A
7499	IM-06	FARM BUREAU LIFE	811713	FARM BUREAU LIFE INSURANCE CO
7500	IM-06	FIDELITY	819543	FIDELITY INVESTMENTS VARIABLE LIFE ACCOUNT I
7501	IM-06	FIDELITY	086362	SALEM INVESTMENT PFAS FIDELITY MAGELLAN FUND
7502	IM-06	FINANCIAL HORIZ	878670	FINANCIAL HORIZONS VA SEPARATE ACCOUNT 2
7503	IM-06	FIRSR VARIABLE	751482	FIRST VARIABLE ANNUITY FUND E
7504	IM-06	FIRST CHARTER	839051	INTRAMERICA VARIABLE ANNUITY ACCOUNT
7505	IM-06	FIRST UNUM	880642	VA I SEPARATE ACCOUNT OF FIRST UNUM LIFE INSURANCE CO
7506	IM-06	FIRST VARIABLE	101872	FIRST VARIABLE ANNUITY FUND A
7507	IM-06	FIRST VARIABLE	836656	FIRST VARIABLE ANNUITY FUND BE
7508	IM-06	FNAL	884525	FNAL VARIABLE ACCOUNT
7509	IM-06	FRANKLIN LIFE	355947	FRANKLIN LIFE MONEY MARKET VARIABLE ANNUITY FUND C
7510	IM-06	GENERAL SERVICES	854094	GENERAL SERVICES LIFE INS CO INDIVIDUAL VARIABLE ACCT B
7511	IM-06	GENERAL SERVICES	854420	GENERAL SERVICES LIFE INSURANCE CO GROUP VARIABLE ACCOUNT A
7512	IM-06	GREAT WEST LIFE	355316	MAXIM SERIES ACCOUNT OF GREAT WEST LIFE & ANNUITY INSUR
7513	IM-06	HERBERT J SIMS	819164	AMERICAN ASSO OF HOMES FOR THE AGING TAX FREE TR HIGH IN SE1
7514	IM-06	INVESTORS LIFE	314377	INVESTORS LIFE INS CO OF NORTH AMERICA INA PUTNAM SEP ACCT
7515	IM-06	ITT LIFE	895764	ITT LIFE INSURANCE CORP SEPARATE ACCOUNT ONE
7516	IM-06	JEFFERSON PILOT	078599	JEFFERSON PILOT SEPARATE ACCOUNT A
7517	IM-06	JOHN HANCOCK	821221	COLONIAL HANCOCK LIBERTY SEPARATE ACCOUNT
7518	IM-06	KEYSTONE PROV	314568	KMA VARIABLE ACCOUNT
7519	IM-06	KIDDER PEABODY	814448	TARGET UNIT INVESTMENT TRUST CORPORATE HIGH YIELD SERIES 1
7520	IM-06	KIDDER PEABODY	822515	TARGET UNIT INVESTMENT TRUST CORPORATE HIGH YIELD SERIES 2
7521	IM-06	KIDDER PEABODY	828929	TARGET UNIT INVESTMENT TRUST CORPORATE HIGH YIELD SERIES 3
7522	IM-06	KIDDER PEABODY	832195	TARGET UNIT INVESTMENT TRUST CORPORATE HIGH YIELD SERIES 4
7523	IM-06	LAMAR LIFE	822304	SEPARATE ACCOUNT LL OF LAMAR LIFE INSURANCE CO
7524	IM-06	LEGG MASON	277563	MARYLAND TAX EXEMPT TRUST SERIES 1
7525	IM-06	LEXINGTON	024924	LEXINGTON CORPORATE LEADERS TRUST FUND
7526	IM-06	LIBERTY LIFE	876438	VARIABLE ACCOUNT K OF LIBERTY LIFE ASSURANCE CO OF BOSTON
7527	IM-06	LIC NORTH AM	059362	LIFE INSURANCE CO OF NORTH AMERICA SEPARATE ACCOUNT A
7528	IM-06	MCLAUGHLIN	882201	TRADITIONAL VALUE GUARANTEED INCOME TRUST SERIES 1
7529	IM-06	MIDLAND NATIONAL	819923	MIDLAND NATIONAL LIFE SEPARATE ACCOUNT A
7530	IM-06	MONARCH	826458	BENHAM VARIABLE ACCOUNT OF MONARCH LIFE INSURANCE CO
7531	IM-06	MOSELLY	704220	MASSCHUSETTS TAX EXEMPT UNIT TRUST SERIES 45
7532	IM-06	NACO	070281	NACO VARIABLE ACCOUNT OF NATIONWIDE LIFE INS CO
7533	IM-06	NASL	753882	NASL VARIABLE ACCOUNT
7534	IM-06	NATL HOME LIFE	866252	NATIONAL HOME LIFE ASSURANCE CO SEPARATE ACCOUNT IV
7535	IM-06	NIKE	066299	MINNESOTA GROWTH & TREASURY TRUST SERIES I
7536	IM-06	NOMURA	869095	NOMURA DIVIDEND INCOME FUND INC
7537	IM-06	NORTHBOOK	716784	NORTHBROOK VARIABLE ANNUITY ACCOUNT
7538	IM-06	OPPENHEIMER	002907	CAPITAL ACCUMULATION PROGRAM OF SHARES OF OPPENHEIMER GLO F
7539	IM-06	OPPENHEIMER	852742	CENTENNIAL APPRECIATION PORTFOLIO SERIES 1
7540	IM-06	OPPENHEIMER	857788	CENTENNIAL APPRECIATION PORTFOLIO SERIES 2
7541	IM-06	PACIFIC CORINTH	890804	PACIFIC CORINTHIAN VIP SEP ACCT OF PACIFIC CORINTHIAN LIFE I
7542	IM-06	PANORAMA	354007	PANORAMA SEPARATE ACCOUNT
7543	IM-06	PARAGON LIFE	824725	SEPARATE ACCOUNT A OF PARAGON LIFE INSURANCE CO
7544	IM-06	PENN MUTUAL	077136	PENN MUTUAL VARIABLE ANNUITY ACCOUNT I
7545	IM-06	PETERS RICKEL	806746	RICKEL & ASSOCIATES TAX EXEMPT UNIT TRUST SERIES 1
7546	IM-06	PETERS RICKEL	819674	RICKEL & ASSOCIATES TAX EXEMPT UNIT TRUST SERIES 2
7547	IM-06	PREFERRED LIFE	845775	PREFERRED LIFE VARIABLE ACCOUNT C
7548	IM-06	PRESIDENTIAL LIF	826025	PRESIDENTIAL VARIABLE ANNUITY ACCOUNT ONE
7549	IM-06	PROTECTIVE LIFE	310826	PROTECTIVE LIFE INSURANCE CO
7550	IM-06	PROVIDENCE LIFE	721994	PROVIDENCE VARIABLE ACCOUNT ONE
7551	IM-06	PROVIDENCE LIFE	821136	PROVIDENCE VARIABLE LIFE ACCOUNT ONE
7552	IM-06	PROVIDENT	080831	PROVIDENT FUND ACCUMULATION PLANS
7553	IM-06	PROVIDENT MUTUAL	853375	PROVIDENT MUTUAL VARIABLE AGGRESSIVE GROWTH SEPARATE ACCOUNT
7554	IM-06	PROVIDENT MUTUAL	723271	PROVIDENT MUTUAL VARIABLE GROWTH SEPARATE ACCOUNT A/PA
7555	IM-06	PROVIDENT MUTUAL	876064	PROVIDENT MUTUAL VARIABLE INTERNATIONAL SEPARATE ACCOUNT
7556	IM-06	PUTNAM	081266	PUTNAM INVESTMENT PLANS FOR GEORGE PUTNAM FUND OF BOSTON
7557	IM-06	RAFFENSBERGER	890206	MIDWEST EQUITY TRUST FINANCIAL SECURITIES SERIES 1
7558	IM-06	RAYMOND JAMES	858536	RAYMOND JAMES TOP 10 & APPRECIATION PORTFOLIO SERIES 1
7559	IM-06	RESOURCES LIFE	821136	RESOURCES VARIABLE LIFE ACCOUNT ONE
7560	IM-06	ROYAL TANDEM	862923	ML LIFE INSURANCE COMPANY OF NEW YORK
7561	IM-06	ROYAL TANDEM	869796	ROYAL TANDEM VARIABLE LIFE SEPARATE ACCOUNT
7562	IM-06	SECURITY EQUITY	746862	SECURITY EQUITY VARIABLE LIFE SEPARATE ACCOUNT
7563	IM-06	SECURITY FIRST	356475	SECURITY FIRST LIFE SEPARATE ACCOUNT A
7564	IM-06	SECURITY FIRST	882422	SECURITY FIRST LIFE SEPARATE ACCOUNT B
7565	IM-06	SHEARSON	752397	DIRECTIONS UNIT INVESTMENT TRUST TWENTIETH SERIES
7566	IM-06	SHEARSON	055641	MICHIGAN FUND TAX EXEMPT MUNICIPAL INVESTMENT TRUST
7567	IM-06	SHEARSON	225749	PENN STATE TAX EXEMPT INVESTMENT TRUST SERIES 1
7568	IM-06	SHEARSON	766493	UNCOMMON VALUES UNIT TRUST 1985 SER & SUBSEQ & SIMILAR SERIE
7569	IM-06	SHEARSON	532945	UNCOMMON VALUES UNIT TRUST 1988 SERIES
7570	IM-06	SMITH BARNEY	804648	TAX EXEMPT SECURITIES TRUST SERIES 256

APPENDIX A—PART II—UNIT INVESTMENT TRUSTS—Continued

Count	Group	Complex	CIK	Name
7571	IM-06	STATE MUTUAL	887441	SEPARATE ACCOUNT VA-I OF STATE MUTUAL LIFE ASSUR CO OF AMER
7572	IM-06	SUMMIT	701747	SUMMIT INVESTORS PLANS
7573	IM-06	SUMMIT	731295	SUMMIT CASH RESERVES FUND
7574	IM-06	SUPER SHARE	843163	SUPERTRUST TRUST FOR CAPITAL MARKET FUND INC SHARES
7575	IM-06	TANDEM LIFE	869800	MERRILL LYNCH LIFE VARIABLE LIFE SEPARATE ACCOUNT II
7576	IM-06	TOTAL GROWTH	777951	TOTAL GROWTH TRUST TREASURIES & GROWTH STOCKS SERIES 1
7577	IM-06	TOTAL GROWTH	788947	TOTAL GROWTH TRUST TREASURIES & GROWTH STOCKS SERIES 2
7578	IM-06	TOTAL GROWTH	790576	TOTAL GROWTH TRUST TREASURIES & GROWTH STOCKS SERIES 3
7579	IM-06	TUCKER ANTHONY	725558	TELEPHONE EXCHANGE FUND AT&T SHARES
7580	IM-06	UNION CENTRAL	749330	CARILLON ACCOUNT
7581	IM-06	UNITED	101269	UNITED INCOME INVESTMENT PROGRAMS
7582	IM-06	UNITED INVESTORS	810814	UNITED INVESTORS ANNUITY VARIABLE ACCOUNT
7583	IM-06	UNITED INVESTORS	809766	UNITED INVESTORS LIFE VARIABLE ACCOUNT
7584	IM-06	UNUM LIFE	849589	VA I SEPARATE ACCOUNT OF UNUM LIFE INS CO OF AMERICA
7585	IM-06	US LIFE	819338	USLIFE SEPARATE ACCOUNT I
7586	IM-06	VERMONT LIFE	805925	VERMONT VARIABLE LIFE INSURANCE ACCOUNT
7587	IM-06	VOYAGER LIFE	318324	VOYAGER VARIABLE ANNUITY ACCOUNT D
7588	IM-06	WASHINGTON NATL	711501	SEPARATE ACCOUNT I OF WASHINGTON NATIONAL INSURANCE CO
7589	IM-06	WESTERN LIFE	826723	VARIABLE ACCOUNT D OF FORTIS BENEFITS INSURANCE CO
7590	IM-06	WESTERN RES LIFE	841056	WRL SERIES ANNUITY ACCOUNT

Appendix B—List of Filings Required to be Submitted Electronically

Registration Forms unique to registered investment companies and business development companies under the Securities Act of 1933 and/or the Investment Company Act of 1940.[85]

* Form N-1—(Registration statement of open-end management investment companies)
* Form N-1A—(Registration statement of open-end management investment companies)
* Form N-2—(Registration statement of closed-end management investment companies)
* Form N-3—(Registration statement of separate accounts organized as management investment companies)
* Form N-4—(Registration statement of separate accounts organized as unit investment trusts)
* Form N-5—(Registration statement of small business investment companies under the Securities Act of 1933 and the Investment Company Act of 1940)

Form N-8B-2—(Registration statement of unit investment trusts which are currently issuing securities)

Form N-8B-3—(Registration statement of unincorporated management investment companies currently issuing periodic payment plan certificates)

Form N-8B-4 —(Registration statement of face-amount certificate companies)

Form N-14—(Registration statement for the registration of securities issued in business combination transactions by investment companies and business development companies)

* Form S-6—(Registration statement for unit investment trusts registered on Form N-8B-2)

Notices and Elections

Form N-8A—(For notification of registration (filed under section 8(a) of the 1940 Act))

Form N-18F-1—(For notification of election under rule 18f-1 (of the Investment Company Act of 1940))

Form N-23C-1—(Statement by registered closed-end investment companies with respect to purchases during the last calendar month of its own securities under rule 23c-1 (of the Investment Company Act of 1940))

Form N-6F—(Notice of intent to elect to be subject to sections 55 through 65 of the Investment Company Act of 1940)

Form N-54A—(Notification of election to be subject to sections 55 through 65 of the Investment Company Act of 1940 filed under section 54(a) of the Investment Company Act of 1940)

Form N-54C—(Notification of withdrawal of election to be subject to sections 55 through 65 of the Investment Company Act of 1940 filed under section 54(c) of the Investment Company Act of 1940)

Periodic Reports

* Form N-SAR (Semi-Annual Report of Registered Investment Companies)

Other Filings

* Proxy materials required to be filed under section 20 (of the Investment Company Act of 1940) and section 14(a) (of the Securities Exchange Act of 1934)[86]

Reports to Shareholders required to be filed under section 30 (of the Investment Company Act of 1940)

Notices filed under rules 24f-1 and 24f-2 (of the Investment Company Act of 1940)

Notification of filing of reports to stockholders of registered investment companies under rule 30b2-1 (of the Investment Company Act of 1940)

Prospectuses filed under rule 497 (of the Securities Act of 1933)

Form N-27D-1—(Accounting of segregated trust account)

Form 2-E—(Report under rule 609 of Regulation E (of the Securities Act of 1933))

Form 13F-E—(Report of institutional investment managers under section 13(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(f) and rule 13f-1 thereunder))

Appendix C—Sections of Regulation S-T of Particular Interest to Investment Companies and Portfolio Managers

PART 232—REGULATION S-T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

* * * * *

Section 232.101 Mandated electronic submissions.

(a)

* * * * *

(iv) * * *; *provided, however* that in no event shall any submissions under Section 6(c) of the Investment Company Act or documents related to applications for exemptive relief under any section of the Investment Company Act, be made electronically; * * *

* * * * *

Section 232.102 Exhibits.

* * * * *

(e) Notwithstanding the provisions of paragraphs (a) through (d) of this section, after the date which is three years following a registrant's phase-in date, any incorporation by reference by a registered investment company or a business development company shall relate only to documents which have been electronically filed, unless a hardship exemption (§§ 232.201 and 232.202 of this chapter) has been granted.

* * * * *

Section 232.902 Division of Investment Management EDGAR Transition.

(a) *Registrant transition to electronic submission via EDGAR.* Registrants whose filings are subject to review by the Division of Investment Management shall be subject to

[85] Investment companies filing on other forms, *see* Section III.C and Appendix A of the General EDGAR Release for a discussion and list of other forms required to be submitted electronically. Forms which include a Financial Data Schedule are indicated with an asterisk ("*").

[86] A Financial Data Schedule is required for proxy materials if action is to be taken with respect to any transaction described in Items 11, 12, or 14 of Schedule 14A.

the electronic filing requirements of this Part ("phased in") in accordance with the phase-in schedule established and published by the Commission, including any amendments thereto (the "Phase-In Schedule"). At the conclusion of phase in, all remaining registered investment companies or business development companies shall be subject to the electronic filing requirements of this Part.

(b) *Phase-in Rule for Investment Companies.* (1) Each registered investment company or business development company listed on the Phase-In Schedule is deemed to have the phase-in date assigned to the group in which it is included as listed on the schedule, or as may be designated by the Commission.

(2) For any investment company not listed on the Phase-In Schedule (including any company that subsequently registers under the Investment Company Act),

(i) An open-end or closed-end management investment company that has the same investment adviser, or a unit investment trust that has the same depositor, as a registrant that is listed on the Phase-In Schedule shall have the same phase-in date as the registrant listed on the schedule.

(ii) A closed-end management investment company that does not have an investment adviser shall have the same phase-in date as a registrant having an investment adviser that is, or is affiliated with, the principal underwriter of the unlisted registrant.

(3) A registrant not listed on the Phase-In Schedule that has more than one investment adviser shall be deemed to have the same investment adviser as a registrant that is listed on the schedule if any of its investment advisers, other than sub-advisers, are investment advisers to the listed registrant.

(4) A registrant that is not phased in that subsequently changes its investment adviser to one that is the investment adviser of a registrant that is phased in shall be deemed to be phased in at the time it changes its investment adviser.

(5) A registrant that is phased in that subsequently changes its investment adviser to one that is the investment adviser of a registrant that is not phased in shall remain phased in.

* * * * *

(d) *Reassignment of Phase-in Group.* The Commission may, in its discretion, grant or deny a request by a registrant to participate in a phase-in group other than the group established under (b)(1) or (2) above.

(e) *Required electronic filing for Phased-in Filers.* A registrant that is phased in, under either the mandatory electronic filing provisions of paragraphs (a), (b), or (c) or by reassignment under paragraph (d) of this section, shall file electronically all filings which are mandated electronic submissions under rule 101 of Regulation S–T (§ 232.101 of this chapter) and which are made on or after a registrant's phase-in date, *provided, however,* that a registrant need not file electronically a filing under rule 497 under the Securities Act of 1933 (§ 230.497 of this chapter) that relates solely to a registration statement or post-effective amendment filed prior to the registrant's phase-in date.

(f) *Electronic filings involving both a paper filer and an electronic filer.* Filings involving both a paper filer and an electronic filer shall be made as set forth in this section, *provided, however,* that the following provisions shall not affect a filer's phase-in date for mandatory electronic filing.

(1) *Cash tender offers and proxy contests.* Where a paper filer commences a cash tender offer or proxy contest (including a solicitation in opposition) with respect to an electronic filer, submissions by both filers relating to the transaction shall be in electronic format. Where an electronic filer commences a cash tender offer or proxy contest with respect to a paper filer, the electronic filer is permitted, but not required, to submit all filings in electronic format. If the electronic filer elects to file in electronic format in connection with the transaction, all related submissions by the electronic filer must be in electronic format. If the electronic filer elects to file in electronic format, the paper filer is permitted, but not required, to submit all filings in electronic format. If the paper filer elects to file in electronic format, the paper filer shall continue to make all filings relating to that transaction in electronic format.

(2) *Securities Act registered business combinations.* Where a paper filer engages in an exchange offer, merger, or other business combination involving a Securities Act registration statement filed by that entity with respect to an electronic filer, submissions by both parties relating to that transaction shall be in electronic format. Where an electronic filer engages in an exchange offer, merger, or other business combination involving a Securities Act registration statement filed by that entity with respect to a paper filer, the electronic filer shall submit all filings in electronic format. The paper filer is permitted, but not required, to submit all filings in electronic format. If the paper filer elects to file in electronic format, the paper filer shall continue to make all filings relating to that transaction in electronic format.

(3) *Schedules 13D and 13G.* Where a paper filer is required to file a Schedule 13D or 13G (§§ 240.13d–101 and 240.13d–102 of this chapter) relating to an electronic filer in accordance with paragraph (b) of this section, the Schedule 13D or 13G shall be filed in electronic format. Where an electronic filer is required to file a Schedule 13D or 13G relating to a paper filer, the Schedule 13D or 13G may be filed in electronic format.

(g) *Conforming Paper Format Documents.* Mandated electronic filers shall submit to the Commission a paper copy of each electronic filing for a period of one year after becoming subject to mandated electronic filing (§ 232.101 of this chapter), or such shorter period as the Commission shall determine, as follows:

(1) The paper copy shall be either a document that meets the requirements of the applicable Commission rules and regulations for paper filings or a paper print-out of the electronic filing. If the copy being submitted is the paper printout of the electronic filing, the header information specified in the EDGAR Filer Manual shall be omitted to ensure that confidential information contained in the header remains non-public.

(2) The paper copy shall be received at the Commission no later than six business days after the electronic filing. The following legend shall be typed, printed or stamped in capital letters at the top of the cover page of the paper copy:

THIS CONFORMING PAPER FORMAT DOCUMENT IS BEING SUBMITTED PURSUANT TO RULE 902(g) OF REGULATION S–T.

(3) Manual signatures are not required for conforming paper format documents submitted pursuant to paragraph (g) of this section.

(4) A filer that elects to file electronically forms permitted to be filed electronically in advance of a filer's mandatory phase-in date shall not be required to submit a paper copy of each electronic filing until the filer becomes subject to mandatory electronic filing.

Section 232.903 Division of Investment Management Electronic Submissions during Transition.

In addition to the electronic submission requirements set forth in rule 101 of this part, the following provisions shall apply during the mandatory electronic filing phase-in period:

(a) *Permitted electronic submissions*—(1) *Filings by Investment Companies.* Prior to its phase-in date, a filer that is a registered investment company or a business development company may, but is not required to, submit Form N–SAR (§ 274.101 of this chapter) in electronic format, *provided that,* if the filer elects to file Form N–SAR in electronic format, all subsequent amendments to the subject Form N–SAR shall be filed in electronic format.

* * * * *

(3) *Form 13F.* An institutional investment manager required by Section 13(f)(1) (15 U.S.C. 78m(f)(1)) of, and rule 13f–1 (§ 240.13f–1 of this chapter) under, the Exchange Act to file a report on Form 13F (§ 249.325 of this chapter) with the Commission may file that report on magnetic tape in the format described in Form 13F–E (§ 249.326 of this chapter) *provided that,* if the filer elects to submit a filing in electronic format, all subsequent amendments to the subject filing shall be filed in electronic format.

(b) *Amendments to Paper Filings*—(1) *Filings by Investment Companies.* Unless otherwise specifically provided in rules or instructions pertaining to the submission of a specific form, amendments to filings filed in paper prior to the phase-in date of a registrant that is a registered investment company or a business development company shall be submitted in electronic format in accordance with rule 101 of Regulation S–T (§ 232.101 of this chapter). The subject filing, as amended, including any exhibit that has been previously filed only in paper and which is incorporated by reference into the filing, shall be filed electronically in its entirety, except as otherwise permitted under rules 102(b), (c), and (e) of Regulation

S–T (§§ 232.102(b), (c) and (e) of this chapter).

* * * * *

[FR Doc. 93–4806 Filed 3–17–93; 8:45 am]
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17 CFR Parts 200, 202, 250 and 259

[Release Nos. 33–6978, 34–31907, 35–25745; File S7–8–93]

RIN 3235–AD98

Rulemaking for EDGAR System—Public Utility Holding Companies

AGENCY: Securities and Exchange Commission.

ACTION: Interim rules and solicitation of comments.

SUMMARY: The Securities and Exchange Commission (the "Commission") has adopted rules to implement the operational phase of its Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system. The rules as set forth in this release will apply to electronic submissions processed by the Office of Public Utility Regulation (the "OPUR") within the Division of Investment Management (the "Division"). Paper filings also will be affected by the amendments in limited circumstances. The Commission also is adopting the Financial Data Schedule provisions with a deferred effective date and soliciting further public comment on those provisions. Separate releases contain additional amendments relating to electronic submissions processed by the Division of Corporation Finance, by the Division under the Investment Company Act of 1940, and to payment of fees into the Commission's lockbox depository.

Mandated electronic filing is scheduled to begin on April 26, 1993, for the EDGAR Transitional Filers [1] and selected volunteers, including specified third party filings with respect to such Public Utility Filers.[2] Phase-in of all Public Utility Filers is expected to be completed by mid-1996.

DATES: *Effective Dates:* These rules are effective on April 26, 1993, and apply to filings on or after that date, except the provisions relating to Financial Data Schedules (§ 229.601 and §§ 259.5s, 259.101, 259.313, and 259.402), which are effective on November 1, 1993.

COMMENTS: Comment letters on the Financial Data Schedule provisions should be received by May 17, 1993.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Mail Stop 6–9, Washington, DC 20549, and should refer to File No. S7–8–93.

FOR FURTHER INFORMATION CONTACT: Richard T. Miller, Staff Attorney, at (202) 504–2268, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission has adopted rules and amendments to implement the EDGAR system that are unique to submissions made by Public Utility Filers under the Public Utility Holding Company Act of 1935 (the "1935 Act"). In a concurrent release (the "General EDGAR Release"),[3] the Commission is adopting the phase-in procedures that will be used to bring Public Utility Filers, and filers under other securities laws, into the EDGAR system. Also in the General EDGAR Release, the Commission is adopting rules, rule amendments, and procedures that will apply generally to all electronic filings on EDGAR and adopting rule and form amendments under the Securities Act of 1933,[4] the Securities Exchange Act of 1934 [5] and the Trust Indenture Act of 1939 [6] that will apply to submissions [7] processed by the Division of Corporation Finance. Matters discussed in the General EDGAR Release that are also applicable to electronic submissions by Public Utility Filers are not discussed in detail in this release.[8]

In this release, the Commission is adopting (1) certain Commission rules, regulations, schedules and forms used exclusively by Public Utility Filers and (2) rule 30–5 of the Rules of Practice [9] to provide the Director of the Division with delegated authority to grant hardship exemptions and take certain other actions in connection with 1935 Act filings on EDGAR.

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TEXT OF RULES

Appendix A—List of Filings Required to be Submitted Electronically
Appendix B—Table of Contents for General EDGAR Release
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I. Background

Beginning in May 1984, the Commission operated a pilot program

[1] In spring 1992, the Commission revised the EDGAR Temporary Rules ("amended Temporary Rules") in order to facilitate the transition of EDGAR Pilot participants that elected to convert to the operational EDGAR system in summer 1992 in advance of their mandated phase-in date. Those who elected to do so are referred to as "Transitional Filers."

[2] Public utility holding companies, their subsidiaries, and other persons making filings under the Public Utility Holding Company Act of 1935 are collectively referred to as "Public Utility Filers." This is not a legal term with effect under the EDGAR rules.

[3] The General EDGAR Release, Release No. 33–6977 adopts rules for filings on EDGAR that will affect all registrants and other persons who make electronic filings with the Commission. Among other things, the General EDGAR Release discusses electronic filing generally (*e.g.*, formatting and submission requirements, signatures, filing fees, safe harbors, and hardship exemptions), and adopts rules, including Regulation S–T [17 CFR 232], prescribing the requirements that must be met in order to file electronically and the procedures for making such filings. The General EDGAR Release also discusses the EDGAR Filer Manual promulgated by the Commission, which sets out many of the procedures for using EDGAR. (*See* the General EDGAR Release, Section V.A, for a detailed description of the EDGAR Filer Manual.)

[4] 15 U.S.C. 77a *et seq.* (the "Securities Act").

[5] 15 U.S.C. 78a *et seq.* (the "Exchange Act").

[6] 15 U.S.C. 77aaa *et seq.*

[7] The term "electronic submission" means any document, such as a filing, correspondence, or modular submission, or any discrete set of documents, transmitted or delivered to the Commission in electronic format. The term "electronic format" means the computerized format of a document prepared in accordance with the EDGAR Filer Manual. The term "electronic submission" means any document, such as a filing, correspondence, or modular submission, or any discrete set of documents, transmitted or delivered to the Commission in electronic format. The term "electronic filer" means a person or an entity that submits filings electronically pursuant to rules 101, 901, 902 or 903 of Regulation S–T [17 CFR 232.101, .901, .902 or .903, respectively]. The phrase "to file electronically" means to convey a filing to the Commission in electronic format and excludes any submission other than a filing. *See* Section I of the General EDGAR Release.

[8] Section 35A(c)(5) of the Exchange Act [15 U.S.C. 78*ll*(c)(5)] requires that mandated filings from a "significant test group" of registrants be received and reviewed by the Commission for at least six months before final adoption of any rule requiring electronic filing by registrants. Accordingly, the interim EDGAR rules and phase-in schedule adopted today will govern electronic submissions by the "significant test group." After the "significant test group" has successfully filed for at least six months, the Commission will adopt final EDGAR rules modified to reflect the experience gained during the period, together with a revised phase-in schedule, if necessary.

[9] 17 CFR 200.30–5.

(the "EDGAR Pilot" or "Pilot") to develop and test an electronic disclosure system. Nine registered public utility holding company systems, fifty-seven of their subsidiary companies and twelve exempt holding company systems participated in the Pilot. As of January 1, 1993, all of the Pilot participants and one additional public utility holding company made all their filings under the 1935 Act electronically. Certain of the holding company systems and their subsidiaries also participated in the Pilot by making electronic filings under the Securities Act and the Exchange Act.

The Commission and a contractor began to design and build the EDGAR operational system in 1989. EDGAR began to accept test filings on May 1, 1991, and live (non-test) filings on July 15, 1992 from Pilot volunteer filers electing to file electronically on the operational EDGAR system prior to mandatory electronic filing.[10] As explained in this release and the General EDGAR Release, the Commission will begin the phase-in to mandatory electronic filing in April 1993.

The Commission received four letters of comment from registered public utility holding companies.[11] Of these commenters, two were electronic filers during the EDGAR Pilot and the transition to the operational EDGAR system.

II. Phase In

On April 26, 1993, mandated electronic filing is scheduled to commence for Transitional Filers and selected volunteers, including specified third party filings with respect to such registrants. Phase-in of all registrants is expected to be completed by mid-1996.

Existing Public Utility Filers will be phased into the EDGAR system (*i.e.*, begin mandatory electronic filing) in groups according to a published schedule. The General EDGAR Release contains the phase-in schedule for registrants[12] making filings under the Securities Act and the Exchange Act. Public Utility Filers will be required to begin mandatory electronic filing under the 1935 Act when they are phased in for purposes of making Securities Act and Exchange Act filings. The phase-in schedule is set forth in Appendix B to the General EDGAR Release. After a registrant is phased in, it will be required to submit electronically all filings (and related submissions) required to be electronically filed with (or submitted to) the Commission.

When a public utility holding company is phased in as an EDGAR filer, all of its subsidiary companies will be required to make 1935 Act filings electronically. Requiring subsidiaries of phased-in parent companies to make 1935 Act filings electronically is appropriate for public utility holding company systems and will promote efficiency by converting the parent-subsidiary structure to electronic filing in one step. Public utility holding company systems by their nature operate as coordinated systems, and 1935 Act filings are frequently submitted jointly by the holding company and one or more of its subsidiaries. Moreover, preparation of 1935 Act filings for all companies in a holding company system is usually centralized. Because of the relatively small number of public utility holding companies, this approach will not increase substantially the number of companies filing on EDGAR in the initial stage. Any new subsidiary company of a Public Utility Filer that is created after the parent becomes an electronic filer also will be required to file 1935 Act submissions electronically.

Any Public Utility Filers who do not make Securities Act or Exchange Act filings and are not part of a holding company system previously phased in will begin electronic filing when the last group of registrants is phased in.[13]

Registrants and third party filers will be required to submit a completed Form ID, the uniform application for access codes to file on EDGAR,[14] prior to becoming subject to mandated filing. A registrant should file a Form ID between three and six months in advance of its scheduled mandatory phase-in date. Upon receipt of the completed Form ID, the Commission will send to the filer EDGARLink, the filer assistance software, the EDGAR Filer Manual,[15] and the necessary EDGAR identification numbers and passwords.

III. Mandatory, Voluntary and Prohibited Electronic Filings

A. General

A phased-in Public Utility Filer will be required prospectively to file in electronic format all forms that are accepted by EDGAR, including all reports and forms required to be filed with the Commission under the 1935 Act that are accepted by EDGAR. Initially, at the Public Utility Filer's option, requests for no-action or interpretive advice will be excluded from electronic filing. While the Commission may consider electronic submission of these filings in the future, no plans currently exist for electronic filing of these documents. Appendix A sets forth a list of the forms and reports filed by Public Utility Filers that will be required to be filed electronically under the interim rules.

In addition, for one year beginning with a registrant's mandated phase-in date, or until expressly notified otherwise by the Commission, any registrant making filings on EDGAR[16] will be required to furnish the Commission with paper copies of the filings. One commenter urged the Commission to find that it would not be appropriate for former EDGAR Pilot (Transitional) filers to submit paper copies of their filings. However, the requirement to submit paper copies is mandated by statute,[17] although the Commission has the authority to shorten the period if the requisite determinations can be made after the "significant test group" has successfully filed. But, the requirement to provide paper copies has been structured to minimize the burden on filers.[18]

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[10] At that time, the Pilot terminated. Any Pilot filers not electing to continue electronic filing during the interval prior to mandatory electronic filing will return to filing on paper until they are required to file electronically with the first mandated group. *See* Release Nos. 33–6933 (Apr. 20, 1992) [57 FR 18210 (Apr. 29, 1992)], IC–18664 (Apr. 20, 1992) [57 FR 18223 (Apr. 29, 1992)], and 35–25520 (Apr. 20, 1992) [57 FR 18229 (Apr. 29, 1992)].

[11] These comment letters were directed in response to Release No. 35–25588, the Proposing Release. The comment letters and the comment summary prepared by the staff are available for inspection and copying in the Commission's Public Reference Room. *See* File No. S7–23–92.

[12] The term "registrant," as used in this release, includes any person required or permitted to make filings with the Commission under the 1935 Act. A "filer" (sometimes also referred to as an "electronic filer") is any person or entity on whose behalf an electronic submission is made.

[13] See General EDGAR Release, Appendix A, which provides the timetable for implementation of EDGAR.

[14] See Sections III.D.3 and VI.A of the General EDGAR Release for a discussion of Form ID. Forms ID may be obtained through the Public Reference Room. The EDGAR Filer Manual also contains a copy of Form ID. Transitional Filers will not be required to submit new Forms ID once mandated filing commences.

[15] See Section V.A of the General EDGAR Release regarding the EDGAR Filer Manual. Upon receipt of the completed Form ID, the Commission will send the EDGAR Filer Manual and EDGARLink software at no cost to filers if they are scheduled to begin mandated filing within three months.

[16] Transitional Filers will also be required to submit paper copies during the year beginning with their mandated phase-in date or until expressly notified otherwise by the Commission.

[17] Paper copies are required by the Securities and Exchange Commission Authorization Act of 1987, Public Law 100–181 (Dec. 4, 1987) [amending Exchange Act Section 35 (15 U.S.C. 78kk and adding Section 35A (15 U.S.C. 78*ll*)] (the "EDGAR Authorization Act").

[18] For a discussion of the requirements for paper copies of electronic filings under the EDGAR Authorization Act, see the General EDGAR Release, Section V.D.

1. Incorporation by Reference

The proposed rule generally would have permitted a Public Utility Filer to incorporate by reference into an electronic filing only those documents that had been filed electronically, unless specific rules or form instructions provided otherwise.[19] This requirement would have applied both to incorporation by reference of the narrative portions of 1935 Act filings and of exhibits to those filings, with limited exceptions.[20] It was thought that this approach would result in a more complete database, facilitating the Commission's administration of its responsibilities under the 1935 Act and enabling EDGAR users to obtain more complete information about Public Utility Filers through EDGAR. Also, in the proposing release, the Commission requested comment on the issue of whether there were additional circumstances under which Public Utility Filers filing electronically should be allowed to incorporate by reference documents not on file in electronic format.

Each commenter urged the Commission to allow Public Utility Filers to incorporate by reference any and all documents not on file in electronic format. Each commenter argued that the proposed requirement would be unduly burdensome and costly to the Public Utility Filer, and such burden and cost would outweigh the value to the Commission or members of the public of having such documents in the electronic data base. In addition, one commenter suggested that the proposal be effective only with respect to future submissions.

The rule adopted today provides that any document may be incorporated by reference, so long as such document has not been amended subsequent to its initial submission.[21] Thus, documents filed in paper before Public Utility Filers became subject to mandated electronic filing may remain in paper format and be incorporated by reference into an electronic filing, except as otherwise provided. In addition, in order to incorporate by reference an amendment to a document previously filed in paper, the rule adopted today requires only the electronic filing of the amendment itself and not the entire amended document.

In addition, the Commission requested comment on whether certain specified exhibits should be exempt from the mandatory electronic filing requirements, and, if such exhibits are so exempt from mandatory electronic filing, whether summaries of these exhibits ("Electronic Format Summaries") should be required.

Commenters argued that rule 29 and Form U5S filings, and the exhibits thereto, should be submitted in paper because they require several lengthy exhibits that would be difficult and time consuming to put into electronic format.[22] Furthermore, commenters were opposed to the proposal of Electronic Format Summaries. They cited a variety of grounds, including potential liability, filing burdens, and the limited value of such information.

In response, the rule adopted today will exclude certain exhibits to filings required under the 1935 Act.[23] In addition, and also in response to public comment, the proposal to require Electronic Format Summaries of exhibits has not been adopted.

2. Exhibits

Exhibits for which a temporary or continuing hardship exemption has been granted may be submitted to the Commission in paper under cover of Form SE. Unlike the Temporary Rules, however, proposed Form SE would have required the paper document to be filed with the Commission only on the same day the electronic format filing to which it relates is filed. Upon consideration of the comments received, particularly as to the logistical problems associated with coordinating the filing of a paper exhibit with an electronic filing, new Form SE will permit exhibits filed in paper pursuant to a temporary or continuing hardship exemption to be filed on the date of filing of the electronic filing or up to six business days before that date. If a paper exhibit under cover of Form SE is unexpectedly delayed beyond the date of filing of the electronic document, the electronic filing still would be accepted, since the automated acceptance procedures cannot detect the presence or absence of a paper document. However, the filing would be incomplete, and an amendment would be required in order to add the exhibit.

B. Documents Not Eligible for Electronic Submission

Requests for confidential treatment will not be submitted initially via EDGAR but, as proposed, will continue to be submitted in paper.[24] When a request for confidential treatment is filed, the electronic filer will be required to file in electronic format the redacted document that is the subject of the confidential treatment request. Care should be taken to redact the confidential information properly, because if an electronic filer inadvertently includes material for which confidential treatment was requested in its electronic submission, the material will be disseminated publicly and thus no longer confidential.

If the request for confidential treatment is denied and all appeal rights are exhausted,[25] the material for which confidential treatment had been requested (*i.e.*, the previously redacted material), must be filed electronically as an amendment. If the Public Utility Filer fails to do so, the Commission will make the information publicly available in paper.

C. 60–Day Letters

A "60-day letter" is used by service company subsidiaries of registered holding companies to notify the Commission of various proposed changes in the organization or functioning of the service company. Under the terms of the Commission orders authorizing these subsidiaries, Public Utility Filers must notify the Commission of any proposed changes, and the Commission notifies the Public Utility Filer within sixty days if the changes cannot be implemented without formal Commission approval. Because

[19] Rule 22(b) under the 1935 Act [17 CFR 250.22(b)] governs incorporation by reference in applications or declarations filed under the 1935 Act. It was proposed that, to assure that an incorporated document could be located, rule 22(b) would be amended to require identification of elements such as the name of the form with which it was filed, the filer's name, the file number, and the filing date.

[20] An exception to this general requirement would have been made under the proposed rules for maps and for copies of certain reports filed either under rule 29 or as exhibits to Form U5S. See section III.E, *infra*, for a discussion of the reason annual reports to shareholders will continue to be submitted in paper as an exhibit to Form U5S.

[21] Although not currently required, at a later time the Commission may require that after the passage of a specified period of time, all exhibits must be on file electronically to be incorporated by reference. See Release IC–19284, Sections III.A. and IV.A and the General EDGAR Release, Section IV.C.

[22] For example, one commenter pointed out that some of the exhibits are in a preprinted format that cannot be easily translated to electronic format. Another commenter cited the specific example of the Federal Energy Regulatory Commission's Form 1 [18 CFR 141.1] as an exhibit that should be exempt from the proposed electronic filing requirement.

[23] Specifically, the Commission will not require electronic submission of Federal Energy Regulatory Commission Forms 1 [18 CFR 141.1] and 2 [18 CFR 260.1], which are required to be filed as exhibits to Form U5S. In addition, the Commission will not require the electronic filing of the Public Utility Filers' annual report to shareholders, which is a required exhibit pursuant to rule 29 and Form U5S.

[24] See the General EDGAR Release, Section IV.G.2.

[25] Applications for review of a confidential treatment denial, submitted pursuant to rule 26 of the Commission's Rules of Practice [17 CFR 201.26], also will be excluded from electronic submission.

applications for orders to create these subsidiaries will be filed on EDGAR, the rules will give Public Utility Filers the option to submit 60-day letters through EDGAR as correspondence relating to the original application. However, because EDGAR correspondence is treated as non-public, neither the request nor the response will be disseminated on EDGAR. After the staff has responded, both the request and response will be available on paper through the Commission's Public Reference Room.[26]

D. Graphic Material

While most information filed with the Commission is textual and financial material, limited graphic and image material, such as pictures, graphs and company logos, ("graphic material") is contained in documents submitted to the Commission and disseminated in paper. As noted in the Proposing Release, because of difficulties associated with sending and interpreting graphics and image material in electronic submissions, initially EDGAR will not accommodate electronic submission of graphic material.[27]

For example, graphic material such as maps, which are required to be submitted as exhibits to a number of 1935 Act forms, will be difficult to describe. Thus, the rules will require Public Utility Filers to continue to submit maps in paper. For any other document that includes graphic material for which a narrative description would be ineffective or unduly burdensome, the Public Utility Filer can apply for a continuing hardship exemption from electronic filing. If the request is granted, the electronic filer will submit the exhibit in paper under cover of Form SE.[28]

The graphic and image rules require, as proposed, electronic filers to list in an appendix any omitted graphic material and provide a fair and accurate narrative description of such material.[29] If the substantive information conveyed by the omitted graphic material is narratively described in all material respects in the body of the electronic filing, the appendix simply will list the omitted material and cross-reference the section of the filing containing the description of such material. Unlike the EDGAR Pilot requirements, electronic filers will not be required to describe differences relating to corporate logos, pagination, color, or type size and style.

In response to comment, a safe harbor has been included in the rules.[30] The safe harbor provides that to the extent descriptions of graphic and image material in an electronic filing or appendix thereto represent a good faith effort to fairly and accurately describe omitted graphic and image material, they will not be subject to the liability and anti-fraud provisions of the federal securities laws. Electronic filers will be required to retain copies of a paper document containing graphic and image material, as proposed. The time period for retention is five years after the filing date of the document or date appearing on the document whichever is later, as proposed.[31] Copies of the retained documents must be furnished to the Commission or staff upon request.

E. Rule 29 and Form U5S: Annual Report to Security Holders

Special rules are provided for documents filed as exhibits, or incorporated by reference, to filings under rule 29 or on Form U5S. Rule 29 requires that registered holding companies and their subsidiaries file with the Commission copies of reports submitted to stockholders and certain reports submitted to state commissions. Copies of annual reports to security holders also are required to be filed with Form U5S, the annual report registered holding companies and their subsidiaries file with the Commission.

The information contained in these annual reports is important to the Commission in determining whether registered holding company systems are in compliance with 1935 Act requirements. However, these documents frequently contain graphic material that is not susceptible to electronic filing. Accordingly, a preliminary note will be added to rule 29 stating that all filings under that rule will be required to be submitted in paper. The instructions to Form U5S will be amended to require that any annual report to shareholders that is filed as an exhibit to the form, or incorporated by reference, be submitted in paper.[32]

IV. Financial Data Schedules

The Commission is adopting, as proposed, rules under which registrants will file electronically, as an exhibit to certain 1935 Act submissions, a Financial Data Schedule that will be available to the public as well as the Commission. Three commenters expressed opposition to the proposed requirement that Public Utility Filers submit Financial Data Schedules in addition to the financial statements and footnotes currently required. Each of these commenters asserted that the burden of preparing such schedules, which would be a duplication of effort because the same information would be contained in the financial statements, would outweigh any benefit the schedules would provide. In addition, two of the commenters were concerned that users of the electronic database, including Commission staff, would rely on the unaudited information presented in the schedules instead of reading the entire financial disclosure statements.

The Financial Data Schedule will be a public document but will not be deemed "filed" for purposes of liability under the federal securities laws, as proposed.[33] The Financial Data Schedule will set forth specific financial data from the registrant's financial statements, schedules and other disclosure requirements. The effective date of the provisions relating to Financial Data Schedules has been delayed in order to provide additional time for system programming.[34]

Financial Data Schedules generally will be required as exhibits pursuant to Item 601 of Regulation S–K, as proposed. Under the rules for Public Utility Filers, Financial Data Schedules will be required as exhibits to Forms U5S, U–1, U–13–60 and U–3A–2.[35] An instruction explaining this requirement will be added to each form.[36] Filing of the Financial Data Schedules as separate exhibits will facilitate the Commission's comment and amendment process with respect to Schedules containing errors or omissions. The form of the Financial

[26] Currently, 60-day letters are non-public until a response is provided by the Commission staff, at which time both the letter and the response become publicly available. The same procedures will be followed for 60-day letters filed through EDGAR.

[27] *See* Section III.E, *infra*, and General EDGAR Release, Section IV.B, which address the treatment of annual reports to security holders.

[28] Rule 102(c) of Regulation S–T [17 CFR 232.102(c)]. See General EDGAR Release, section III.E.3, regarding continuing hardship exemptions.

[29] Rule 304 of Regulation S–T [17 CFR 232.304].

[30] Rule 304(b) of Regulation S–T [17 CFR 232.304(b)]. The graphic material disseminated to shareholders in paper will be deemed to be part of the electronically filed document for purposes of the liability and anti-fraud provisions of the federal securities laws. This is not the case under the provision of the amended Temporary Rules [Release No. 35–25520 (Apr. 20, 1992) [57 FR 18220 (Apr. 29, 1992)] relating to graphic materials [17 CFR 230.499(d)(3)].

[31] Rule 304(c) of Regulation S–T [17 CFR 232.304(c)]. The amended Temporary Rules do not contain a similar provision.

[32] *See* amendments to rule 29 and Form U5S.

[33] See Section IV.D.4, *infra*, for further discussion regarding liability for the Financial Data Schedule.

[34] Registrants will be required to comply with the Financial Data Schedule provisions for filings on or after November 1, 1993.

[35] See the relevant forms for instructions as to the information required in each of the Financial Data Schedules. The technical provisions for these schedules are contained in the EDGAR Filer Manual.

[36] See, *e.g.*, proposed amendment to Form U5S.

Data Schedules and items from financial statements and schedules, as well as other disclosures to be included, are set forth in the text of this interim rule. The specific instructions for preparing such schedules are contained in the EDGAR Filer Manual. EDGAR will determine the presence or absence of the Financial Data Schedules and automatically send a message to the filer if a required exhibit is missing. Unlike other exhibits, a missing Financial Data Schedule or one with an error that precludes its acceptance will not mean that the related filing is not accepted.[37] However, if the filing is not amended to add the Financial Data Schedule, the filing would be incomplete, and failure to include a required Financial Data Schedule will affect the subsequent use and availability of Forms U5S, U–1, U–13–60 and U–3A–2, as proposed.

While the Commission is adopting today requirements to furnish a Financial Data Schedule, interested parties are encouraged to submit written comments on the form and content of the Schedule in order to aid the Commission in its ongoing evaluation and development of this new financial information functionality. Persons submitting written comments are requested to do so by May 17, 1993, and should file three copies with Jonathan Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comment letters should refer to File No. S7–8–93. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

V. Rule and Form Changes

Current regulations, rules and forms under the 1935 Act are amended to reflect new procedures necessary for electronic filings.[38] Text will be added to rules stating how the rules will apply differently to electronic filings, and appropriate instructions will be added to forms. In general, the instructions will duplicate current instructions except to require typed signatures in lieu of manual ones and to suspend the requirement to provide multiple copies. In addition, an instruction will be added directing electronic filers to the rules set forth in Regulation S–T and the EDGAR Filer Manual.[39]

Rather than amending current forms to add various electronic filing paragraphs, Regulation S–T has been expanded to clarify that the following requirements applicable to paper filings do not apply to filings in electronic format: the requirement to submit multiple copies of documents to the Commission; that documents submitted to the Commission be signed manually; regarding paper size, type size, sequential page numbering, and binding; and that foreign currency denominations be expressed in words or letters in the English language in electronic filings and not in representative symbols.[40]

In addition, headnotes have been added to the rules and regulations advising electronic filers that they should be read in conjunction with Regulation S–T, since Regulation S–T supersedes many provisions relating to paper documents. This approach should assist filers in familiarizing themselves with the electronic filing rules in an expeditious manner. Paper filings will continue to be governed by existing provisions of the regulations, which will remain in effect even after phase-in is completed since paper filings will be required, or permitted, in limited circumstances.[41]

In addition, the Commission is changing the form used to amend filings under the 1935 Act. Presently, Form U–A is used to submit amendments to any application, declaration, report, or statement filed under the 1935 Act, other than an application or declaration filed on Form U–1. Form U–A be rescinded, and amendments will be filed on the original form with the suffix "/A" following the form type.[42] Thus, a Form U–13–1 will be amended by filing a Form U–13–1/A.[43]

VI. Rescission of Temporary EDGAR Rules

On April 20, 1992, the Commission adopted temporary rules and forms to permit voluntary filing by Pilot participants on the operational EDGAR system.[44] The rules adopted in this release, the General EDGAR Release, Release No. IC–19284, and Release No. 33–6980 (including Regulation S–T) constitute comprehensive regulations addressing all aspects of electronic submission. Therefore, the temporary rules will be adopted as final or rescinded as of April 26, 1993, the date upon which electronic filing is mandated.

VII. Future Rulemaking

The rules adopted in this release are being adopted on an interim basis for application during the initial stages of Public Utility Filer phase-in to the EDGAR system. After the Congressionally mandated significant test group has filed successfully for six months, the Commission will adopt permanent EDGAR rules, based on the interim rules as modified appropriately in light of the significant test group's experience with EDGAR. The permanent rules will apply during the later stages of filer phase-in to the EDGAR system.

VIII. Cost-Benefit Analysis

In the Proposing Release, the Commission requested the public to supply its views in the evaluation of the costs and benefits associated with the implementation of the proposals. The Commission has considered carefully the comments received pursuant to that request. The changes made in response to these comments are designed to increase registrant cost-savings without sacrificing information that would materially benefit security holders, the public or the Commission. Changes applicable generally to the operational EDGAR system are discussed in section VII of the General EDGAR Release.

As discussed in the General EDGAR Release, the structure of the changes applicable to electronic filers has been streamlined by grouping them together in Regulation S–T. As proposed, rules or instructions specifically relating to electronic filing would have been added to many public utility holding company rules and virtually all forms.

As more fully discussed in the Proposing Release, the amendments and new rules are expected to benefit electronic filers. Filers will be able to make direct transmission filings until 10 p.m. Eastern Time which should avoid the uncertainty and delay of other forms of delivery. Electronic filing obviates the need to submit multiple copies of filings which should reduce the time and costs

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[37] See General EDGAR Release, Section III.C.1.b.

[38] See General EDGAR Release, Section IV.G.

[39] See General EDGAR Release, Section V.A, for a discussion of the EDGAR Filer Manual.

[40] See section IV.G.1 of the General EDGAR Release. As a result of the restructuring, only limited amendments have been made to the forms. However, forms requiring a Financial Data Schedule have been amended to reflect this fact.

[41] See section III.C and E of the General EDGAR Release concerning paper filings under a hardship exemption and certain types of filings which will continue to be submitted in paper.

[42] Rules 20(b) and 20(c) [17 CFR 250.20(b) and .20(c)] under the 1935 Act will be amended to change the prescribed form for submitting amendments either in paper or electronically.

[43] See Appendix A for a complete list of all 1935 Act forms that the Commission is amending to conform with the requirements of EDGAR.

[44] Release Nos. 33–6933 (Apr. 20, 1992) [57 FR 18210 (Apr. 29, 1992)], IC–18664 (Apr. 20, 1992) [57 FR 18223 (Apr. 29, 1992)], and 35–25520 (Apr. 20, 1992) [57 FR 18229 (Apr. 29, 1992)], amending the temporary Pilot rules. See Release No. 33–6530 (June 27, 1984) [49 FR 28044 (July 10, 1984)]; Release No. 35–23704 (May 23, 1985) [50 FR 23287 (June 3, 1985)]; and Release No. IC–14733 (Sep. 23, 1985) [50 FR 40479 (Oct. 4, 1985)].

associated with making public filings. Modular submissions, which enable filers to transmit information only once for use in several filings, also reduces duplication.

In addition, segmented filing permits filers to submit material from several different geographic locations using different transmission media up to six business days in advance of the anticipated filing date. Unlike modules, segments are to be used only once and do not remain on the database. Once one-stop filing is implemented, one filing will satisfy the requirements of federal, state and self-regulatory organizations. Since the staff will have access to filings electronically at their workstations, staff review time of filings will be shortened. Further, the staff will have access electronically to other information pertinent to a filing. Finally, to the extent that filers subscribe to the optional electronic mail/bulletin board system, confirmation of receipt of filings by the Commission will be more efficient.

While the amendments may result initially in increased burdens to filers exceeding that which would have been incurred under a continuous paper-based system (*e.g.*, filers will need to train their staffs to prepare documents for electronic submission or hire agents to submit electronically on their behalf), it is anticipated that these burdens will diminish over time as filers become familiar with electronic filing. The Commission has considered commenters' views, has modified the proposals as necessary and appropriate, and has determined that the net increases in costs, if any, resulting from the implementation of today's amendments and new rules are outweighed by the value to security holders and to the market of readily accessible information relating to public registrants.

IX. Final Regulatory Flexibility Act Analysis

A final regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. A copy of the analysis may be obtained by contacting Richard T. Miller, Staff Attorney, at (202) 504–2268, Division of Investment Management, Stop 10–6, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. A summary of the corresponding Initial Regulatory Flexibility Analysis appears at 57 FR 35435 [Release No. 35–25588].

X. Statutory Basis; Text of Amendments

The amendments to 17 CFR part 200, Organization; Conduct and Ethics; and Information and Requests, are being adopted under section 20 of the 1935 Act. The amendment to 17 CFR part 202, Informal and Other Procedures, is being adopted under section 20 of the 1935 Act. The amendments to the general rules and regulations under the 1935 Act are being adopted under sections 3 and 20 of the 1935 Act. The amendments to the 1935 Act forms are being adopted under sections 5, 6, 7, 10, 12, 13, 14, 17, and 20 of the 1935 Act.

As required by section 23(a) of the Exchange Act, the Commission has specifically considered the impact which Regulation S–T and the amendments adopted herein would have on competition. The Commission does not believe that Regulation S–T and the amendments will impose a significant burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. To the extent that any burden on competition would result, the Commission believes it necessary in order to facilitate the dissemination of information to investors and shareholders.

List of Subjects

17 CFR Part 200

Authority delegations (Government agencies).

17 CFR Part 202

Administrative practice and procedure.

17 CFR Part 250

Utilities.

17 CFR Part 259

Utilities.

Text of Rules

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is amended as set forth below.

Note: Forms ET (§ 259.601), ID (§ 259.602), and SE (§ 259.603), referenced in chapter II are revised and Form TH (§ 259.604) is added as set forth in the section entitled "Text of Forms ID, ET, SE and TH," of Securities Act Release No. 33–6977 and will not appear in the Code of Federal Regulations.

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for Subpart A—Organization and Program Management of Part 200 continues to read, in part, as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 78ll(d), 79t, 77sss, 80a–37, 80b–11, unless otherwise noted.

* * * * *

2. By amending § 200.30–5 by adding paragraphs (m) and (n) to read as follows:

§ 200.30–5 Delegation of authority to Director of Division of Investment Management.

* * * * *

(m) With respect to the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a *et seq.*) and Regulation S–T (Part 232 of this chapter), to grant or deny a request to adjust the filing date of a filing submitted under Regulation S–T.

(n) With respect to the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a *et seq.*) and Regulation S–T (Part 232 of this chapter), to set the terms of, and grant or deny as appropriate, continuing hardship exemptions pursuant to rule 202 of Regulation S–T (§§ 232.202 of this chapter) from the electronic submission requirements of Regulation S–T (Part 232 of this chapter).

PART 202—INFORMAL AND OTHER PROCEDURES

3. The authority citation for Part 202 continues to read, in part, as follows:

Authority: 15 U.S.C. 77s, 77t, 78d–1, 78u, 78w, 78ll(d), 79r, 79t, 77sss, 77uuu, 80a–37, 80a–41, 80b–9, and 80b–11, unless otherwise noted.

* * * * *

4. By revising the fifth sentence of paragraph (a) of § 202.3 to read as follows:

§ 202.3 Processing of filings.

(a) * * * A similar procedure is followed with respect to filings under the Investment Company Act of 1940 and certain filings relating to investment companies under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Trust Indenture Act of 1939, which are routed to the Division of Investment Management, and filings under the Public Utility Holding Company Act of 1935 which are also routed to the Division of Investment Management. * * *

* * * * *

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

5. The authority citation for Part 250 continues to read as follows:

Authority: 15 U.S.C. 79c, 79f(b), 79i(c)(3), 79t unless otherwise noted.

6. A heading is added to precede the text of Part 250 (General Rules and Regulations, Public Utility Holding

Company Act of 1935) to read as follows:

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S–T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S–T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

7. By amending § 250.16 by adding a note following paragraph (c) to read as follows:

§ 250.16 Exemption of non-utility subsidiaries and affiliates.

* * * * *

(c) * * *

Note: Exhibits filed under paragraph (c) shall be submitted to the Commission in paper only, whether or not the registrant is otherwise required to file in electronic format. An electronic filer must submit paper exhibits under cover of Form SE (§ 259.603).

* * * * *

8. By amending § 250.20 by revising paragraph (b), adding a sentence at the end of paragraph (c), and adding paragraph (f) to read as follows:

§ 250.20 Prescribed forms and amendments.

* * * * *

(b) *Amendments.* Amendments to any such document, other than amendments to applications or declarations filed on Form U–1, shall comply with the requirements of the original document and shall state the complete text of each item amended. Amendments shall be filed under cover of the form amended, and shall be marked with the suffix "/A" to designate the document as an amendment, e.g., "U–7D/A."

(c) * * * Amendments shall be marked either "U–1/A" to designate the document as a pre-effective amendment or "POS AMC" to designate the document as a post-effective amendment.

* * * * *

(f) *Electronic filings.* (1) Electronic filers are subject to Regulation S–T (Part 232 of this chapter) and the EDGAR Filer Manual. Any rule or instruction therein shall be controlling unless otherwise specifically provided in rules or instructions pertaining to the submission of a specific form.

(2) The terms "EDGAR," "EDGAR Filer Manual," "electronic filer," "electronic filing," "electronic format," "electronic submission," "paper format," and "signature" shall have the meanings assigned to such terms in Regulation S–T—General Rules for Electronic Filings (§§ 232.10 and 237.302 of this chapter).

9. By amending § 250.21 by designating the current text as paragraph (a), adding the paragraph heading "*General provision*" to the beginning of paragraph (a) and adding paragraph (b) to read as follows:

§ 250.21 Filing of documents.

(a) *General provision.* * * *

(b) *Electronic filings.* (1) All documents required to be filed with the Commission under the Act or the rules and regulations thereunder shall be filed at the principal office in Washington, D.C. via EDGAR by delivery to the Commission of a magnetic tape or diskette, or by direct transmission.

(2) The date of filing of documents shall be determined in the manner set forth in rule 13 of Regulation S–T (§ 232.13 of this chapter).

10. By amending § 250.22 by redesignating the text after the paragraph (b) heading as paragraph (b)(1), and adding paragraph (b)(2) to read as follows:

§ 250.22 Applications and declarations.

* * * * *

(b) *Incorporation by reference.*

(1) * * *

(2) *Electronic filings.* Any application or declaration filed in electronic format may incorporate by reference any information contained in any document previously or concurrently filed with the Commission under any Act administered by it, provided that, if amended, the document or amendment has been filed in accordance with the requirements of rule 102 of Regulation S–T (§ 232.102 of this chapter). Such information shall be incorporated by specific reference to the electronic filing in which it was filed, including the filer's name, the file number, the form type and the date filed.

* * * * *

11. By amending § 250.29 by adding a preliminary note immediately preceding paragraph (a) to read as follows:

§ 250.29 Filing of reports to stockholders and State Commissions.[1]

Preliminary Note: Reports to stockholders and State Commissions shall be submitted to the Commission in paper only, whether or not the filer is otherwise required to file in electronic format.

* * * * *

[1] Sections 14 and 15.

12. By amending § 250.104 by adding a preliminary note immediately preceding paragraph (a) to read as follows:

§ 250.104 Public disclosure of information and objections thereto.

Preliminary Note: If any person wishes to object to the public disclosure of any information contained in a filing with the Commission under any provision of the Act then that portion thereof which contains such information shall be submitted in paper format only, whether or not the filer is an electronic filer.

* * * * *

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

13. The authority citation for part 259 continues to read as follows:

Authority: 15 U.S.C 79e, 79f, 79g, 79j, 791, 79m, 79n, 79q, 79t.

Note—The text of the following forms and the amendments will not appear in the Code of Federal Regulations.

14. By amending Form U5B (§ 259.5b) by adding Instruction 6 and removing the "." and adding a phrase to the end of Instructions for Exhibits E, F and G to read as follows:

Instructions and Form

Form U5B

Registration Statement

Filed Pursuant to Section 5 of the Public Utility Holding Company Act of 1935

* * * * *

Instructions

* * * * *

6. *Electronic Filers*

Notwithstanding the provisions of rule 102 of Regulation S–T (§ 232.102 of this chapter), electronic filers shall submit only in paper under cover of Form SE (§ 259.603 of this chapter) maps that are incorporated by reference.

Attention is directed to Instructions to Exhibits E, F, and G that are required to be submitted in paper, even if submitted by an electronic filer.

* * * * *

Exhibits

* * * * *

Instructions

* * * * *

Exhibit E. * * * ; *provided that* all maps shall be filed in paper under cover of Form SE (§ 259.603) if submitted by an electronic filer.

Exhibit F. * * * ; *provided that* electronic filers shall submit such

reports in paper format only under cover of Form SE (§ 259.603).

Exhibit G. * * *; *provided that* electronic filers shall submit such reports in paper format only under cover of Form SE (§ 259.603).

* * * * *

15. By amending Form U5S (§ 259.5s) by removing the "." and adding a phrase to the end of General Instruction 3, adding General Instruction 8, removing the "." and adding a phrase to the end of Exhibit A to Item 9, adding a phrase to the end of Exhibit E to Item 9, and adding Exhibit G to Item 9 to read as follows:

Instructions and Form

Form U5S

Annual Report

* * * * *

General Instructions

* * * * *

3. * * *; *provided that* electronic filers may incorporate by reference only in accordance with rule 102 of Regulation S–T (§ 232.102 of this chapter).

* * * * *

8. *Electronic Filers.*

Attention is directed to Item 601(c) of Regulation S–K (Financial Data Schedule) for certain items of financial information that may be required.

* * * * *

Item 9. Financial Statements and Exhibits

* * * * *

Exhibit A. * * *; *provided that* the annual report to shareholders shall be included in the duplicate copy of the Form U5S and shall be filed in paper, even if submitted by an electronic filer.

* * * * *

Exhibit E. * * *; *provided that* any reports to State Commissions included as an exhibit shall be filed in paper, even if submitted by an electronic filer.

* * * * *

Exhibit G. *Financial Data Schedule.*

If, at the time an annual report on this form is filed, the registrant is required to submit this report and any amendments thereto electronically via EDGAR, the registrant shall furnish Financial Data Schedules. The Schedule shall set forth the financial and other data specified below that are applicable to the registrant, each subsidiary and the consolidated system.

Item No.	Caption heading
1	Total Net Utility Plant.
2	Other Property and Investments.
3	Total Current Assets.
4	Total Deferred Charges.
5	Balancing Amount for Total Assets.
6	Total Assets.
7	Common Stock.
8	Capital Surplus, Paid In.
9	Retained Earnings.
10	Total Common Stockholders Equity.
11	Preferred Stock Subject To Mandatory Redemption.
12	Preferred Stock Not Subject To Mandatory Redemption.
13	Long Term Debt, Net.
14	Short Term Notes.
15	Notes Payable.
16	Commercial Paper.
17	Long Term Debt—Current Portion.
18	Preferred Stock—Current Portion.
19	Obligations Under Capital Leases.
20	Obligations Under Capital Leases—Current Portion.
21	Balancing Amount for Capitalization and Liabilities.
22	Total Capitalization and Liabilities.
23	Gross Operating Revenue.
24	Federal and State Income Taxes Expense.
25	Other Operating Expenses.
26	Total Operating Expenses.
27	Operating Income (Loss).
28	Other Income (Loss), Net.
29	Income Before Interest Charges.
30	Total Interest Charges.
31	Net Income.
32	Preferred Stock Dividends.
33	Earnings Available For Common Stock.
34	Common Stock Dividends.
35	Total Annual Interest Charges on All Bonds.
36	Cash Flow From Operations.
37	Earnings Per Share—Primary.
38	Earnings Per Share—Fully Diluted.

* * * * *

16. By amending Form U–1 (§ 259.101) by removing the "." and adding a phrase to the end of Instruction E and adding Instruction G to Instructions as to Exhibits to read as follows:

Instructions and Form

Form U–1

Application or Declaration Under the Public Utility Holding Company Act of 1935

* * * * *

Instructions as to Exhibits

* * * * *

E. * * *; *provided that* the map shall be filed in paper under cover of Form SE (§ 259.603) if submitted by an electronic filer.

* * * * *

G. *Financial Data Schedule.*

If, at the time an application or declaration on this form is filed, the registrant is required to submit this report and any amendments thereto electronically via EDGAR, the registrant shall furnish Financial Data Schedules. The Schedules shall set forth the financial and other data specified below on a per book and pro forma basis by registrant, each subsidiary and the consolidated system, where applicable. The Financial Data Schedules are also applicable to post-effective amendments to Form U–1 ("POS AMC") by registrant, each subsidiary and the consolidated system, where applicable.

Item No.	Caption heading
1	Total Net Utility Plant.
2	Other Property and Investments.
3	Total Current Assets.
4	Total Deferred Charges.
5	Balancing amount for Total Assets.
6	Total Assets.
7	Common Stock.
8	Capital Surplus, Paid In.
9	Retained Earnings.
10	Total Common Stockholders Equity.
11	Preferred Stock Subject To Mandatory Redemption.
12	Preferred Stock Not Subject To Mandatory Redemption.
13	Long Term Debt, Net.
14	Short Term Notes.
15	Notes Payable.
16	Commercial Paper.
17	Long Term Debt—Current Portion.
18	Preferred Stock—Current Portion.
19	Obligations Under Capital Leases.
20	Obligations Under Capital Leases—Current Portion.
21	Balancing Amount for Capitalization and Liabilities.
22	Total Capitalization and Liabilities.
23	Gross Operating Revenue.
24	Federal and State Income Taxes Expense.
25	Other Operating Expenses.
26	Total Operating Expenses.
27	Operating Income (Loss).
28	Other Income (Loss), Net.
29	Income Before Interest Charges.
30	Total Interest Charges.
31	Net Income.
32	Preferred Stock Dividends.
33	Earnings Available For Common Stock.
34	Common Stock Dividends.
35	Total Annual Interest Charges on All Bonds.
36	Cash Flow From Operations.
37	Earnings Per Share—Primary.
38	Earnings Per Share—Fully Diluted.

* * * * *

17. By amending Form U–13–1 (§ 259.113) by revising the form heading to read as follows:

Instructions and Form

Form U–13–1

Application for Approval of Mutual Service Company Pursuant to Rule 88 or Declaration With Respect to Organization and Conduct of Business of Subsidiary Service Company Pursuant to Rule 88

* * * * *

18. By amending Form U–12(I)–B (§ 259.212b) by revising the form heading to read as follows:

Instructions and Form

Form U–12(I)–B

Statement Pursuant to Section 12(i) of Public Utility Holding Company Act of 1935 by a Person Regularly Employed or Retained by a Registered Holding Company or a Subsidiary Thereof and Whose Employment Contemplates Only Routine Expenses as Specified in Rule 71(b)

* * * * *

19. By amending Form U–13E–1 (§ 259.213) by revising the form heading to read as follows:

Instructions and Form

Form U–13E–1

Report to be Filed Pursuant to Rule 95 Under the Public Utility Holding Company Act by an Affiliate Service Company or a Company Principally Engaged in the Performance of Services

* * * * *

20. By amending Form U–R–1 (§ 259.221) by revising the form heading to read as follows:

Instructions and Form

Form U–R–1.—Declarations as to Solicitations Pursuant to Rule 62

* * * * *

21. By amending Form U–13–60 (§ 259.313) by adding Schedule XIX to read as follows:

Instructions and Form

Form U–13–60.—Annual Report for Mutual and Subsidiary Service Companies

* * * * *

Schedule XIX Financial Data Schedule

If, at the time an annual report on this form is filed, the registrant is required to submit this report and any amendments thereto electronically via EDGAR, the registrant shall furnish a Financial Data Schedule. The Schedule shall set forth the financial and other data specified below that are applicable to the registrant on a consolidated basis.

Item no.	Caption heading
1	Net Service Company Property.
2	Total Investments.
3	Total Current and Accrued Assets.
4	Total Deferred Debits.
5	Balancing Amount For Total Assets and Other Debits.
6	Total Assets and Other Debits .
7	Total Proprietary Capital.
8	Total Long-Term Debt.
9	Notes Payable.
10	Notes Payable to Associate Companies.
11	Balancing Amount For Total Current and Accrued Liabilities.
12	Total Deferred Debits.
13	Accumulated Deferred Income Taxes.
14	Total Liabilities and Proprietary Capital.
15	Services Rendered to Associate Companies.
16	Services Rendered to Nonassociate Companies.
17	Miscellaneous Income or Loss.
18	Total Income.
19	Salaries and Wages.
20	Employee Pensions and Benefits.
21	Balancing Amount For Total Expenses.
22	Total Expenses.
23	Net Income (Loss).
24	Total Expenses (Direct Costs).
25	Total Expenses (Indirect Costs) .
26	Total Expenses (Total).
27	Number Of Personnel End Of Year.

* * * * *

22. By amending Form U–3A–2 (§ 259.402) by revising the form heading and adding Exhibit B to read as follows:

Instructions and Form

Form U–3A–2.—Statement by Holding Company Claiming Exemption Under Rule 2 from the Provisions of the Public Utility Holding Company Act of 1935

* * * * *

Exhibit B Financial Data Schedule

If, at the time a report on this form is filed, the registrant is required to submit this report and any amendments thereto electronically via EDGAR, the registrant shall furnish a Financial Data Schedule. The Schedule shall set forth the financial and other data specified below that are applicable to the registrant on a consolidated basis.

Item no.	Caption heading
1	Total Assets.
2	Total Operating Revenues.
3	Net Income.

* * * * *

23. By amending Form U–3A3–1 (§ 259.403) by revising the form heading to read as follows:

Instructions and Form

Form U–3A3–1.—Twelve-Month Statement by Bank Claiming Exemption as a Holding Company, or Exemption From Section 9(a)(2) of the Public Utility Holding Company Act of 1935 Under Rule 3 of the General Rules and Regulations Under the Act

* * * * *

24. By removing § 259.501 and Form U–A.

25. By revising § 259.603 to read as follows:

§ 259.603 Form SE, form for submission of paper format exhibits by electronic filers.

This form shall be used by an electronic filer for the submission of any paper format document relating to an otherwise electronic filing, as provided in rule 311 of Regulation S–T (§ 232.311 of this chapter).

26. By adding § 259.604, to read as follows:

§ 259.604 Form TH—Notification of reliance on temporary hardship exemption.

Form TH shall be filed by any electronic filer who submits to the Commission, pursuant to a temporary hardship exemption, a document in paper format that otherwise would be required to be submitted electronically, as prescribed by rule 201(a) of Regulation S–T (§ 232.201(a) of this chapter).

By the Commission.

Dated: February 23, 1993.

Margaret H. McFarland,

Deputy Secretary.

Note: Appendices A, B, and C will not appear in the Code of Federal Regulations.

Appendix A—List of Filings Required to be Submitted Electronically

Registration and Annual Supplements

Form U5A (Notification of registration filed under Section 5(a) of the 1935 Act)
Form U5B (Registration statement filed under Section 5 of the 1935 Act)
Form U5S (Annual Report for Each Registered Holding Company)

Applications and Declarations

Form U–1 (Application or declaration under the 1935 Act)
Form U–13–1 (Application for approval of mutual service company pursuant to rule 88)

Statements and Reports

Form U–6B–2 (Certificate of notification pursuant to rule 20(d))
Form U–12(I)–A (Statement pursuant to Section 12(i) of the 1935 Act)
Form U–12(I)–B (Annual statement pursuant to Section 12(i) of the 1935 Act)
Form U–13E–1 (Report by affiliate companies and independent service companies pursuant to rule 95)

Form U–R–1 (Declaration as to solicitations pursuant to rule 62)

Periodic Accounting Reports

Form U–13–60 (Annual report for mutual and subsidiary service companies pursuant to rule 94)

Statements and Reports from Non-Registered (Exempt) Companies

Form U–3A–2 (Statement by holding company claiming exemption under rule 2 from provisions of the 1935 Act)
Form U–3A3–1 (Twelve-month statement by bank claiming exemption from the 1935 Act pursuant to rule 3)
Form U–7D (Certificate pursuant to rule 7(d))

Other Filings

POS AMC (Post-effective amendment to Form U–1)
45B–3 (Transactional notification pursuant to rule 45(b)(3))
35 APP (Statement concerning proposed transaction pursuant to rule 20(e) for which no form of application is prescribed)
35–CERT (Certificate required from declarant or applicant under rule 24)

In addition to the forms listed above, any amendments to these forms will be required to be submitted electronically. Amendments submitted electronically shall be filed under cover of the form amended and shall be marked with the suffix "/A" to designate the document as an amendment, *e.g.*, "U–1/A."

The only form listed above that would not have a corresponding amendment form number would be "POS AMC", which is already designated as a post-effective amendment to Form U–1.

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Appendix C—Sections of Regulation S–T of Particular Interest to Public Utility Filers

Part 232–Regulation S–T—General Rules and Regulations for Electronic Filings

* * * * *

Section 232.102 Exhibits.

* * * * *

(f) Persons submitting filings electronically under the Public Utility Act shall not be subject to paragraph (c) of this section.

* * * * *

Section 232.902 Division of Investment Management EDGAR Transition.

(a) *Registrant transition to electronic submission via EDGAR.* Registrants whose filings are subject to review by the Division of Investment Management shall be subject to the electronic filing requirements of this Part ("phased in") in accordance with the phase-in schedule established and published by the Commission, including any amendments thereto (the "Phase-In Schedule"). At the conclusion of phase in, all remaining registered investment companies or business development companies shall be subject to the electronic filing requirements of this Part.

* * * * *

(c) *Phase-in Rule for Public Utility Filers.* When a Public Utility Filer is phased in to electronic filing in accordance with the Commission's published phase-in schedule, it will be considered phased in for purposes of all filings submitted to the Commission under the Public Utility Act, except as otherwise provided, and all such filings shall be submitted electronically, absent a hardship exemption granted by the Commission. In addition, a subsidiary company of a phased-in public-utility holding company shall be required, absent a hardship exemption granted by the Commission, to submit all required filings under the Public Utility Act electronically. Any Public Utility Filer that does not make Securities Act or Exchange Act filings and is not part of a holding company system previously phased in will be deemed to have the same phase-in date for electronic filing as the final phase-in group of registrants whose filings are subject to review by the Division of Corporation Finance.

* * * * *

(e) *Required electronic filing for Phased-in Filers.* A registrant that is phased in, under either the mandatory electronic filing provisions of paragraph (a), (b), or (c) or by reassignment under paragraph (d) of this section, shall file electronically all filings

which are mandated electronic submissions under rule 101 of Regulation S–T (§ 232.101 of this chapter) and which are made on or after a registrant's phase-in date, provided, *however* that a registrant need not file electronically a filing under rule 497 under the Securities Act of 1933 (§ 230.497 of this chapter) that relates solely to a registration statement or post-effective amendment filed prior to the registrant's phase-in date.

* * * * *

(g) *Conforming Paper Format Documents.* Mandated electronic filers shall submit to the Commission a paper copy of each electronic filing for a period of one year after becoming subject to mandated electronic filing (§ 232.101 of this chapter), or such shorter period as the Commission shall determine, as follows:

(1) The paper copy shall be either a document that meets the requirements of the applicable Commission rules and regulations for paper filings or a paper printout of the electronic filing. If the copy being submitted is the paper printout of the electronic filing, the header information specified in the EDGAR Filer Manual shall be omitted to ensure that confidential information contained in the header remains non-public.

(2) The paper copy shall be received at the Commission no later than six business days after the electronic filing. The following legend shall be typed, printed or stamped in capital letters at the top of the cover page of the paper copy:

This Conforming Paper Format Document is Being Submitted Pursuant to Rule 902(g) of Regulation S–T

(3) Manual signatures are not required for conforming paper format documents submitted pursuant to paragraph (g) of this section.

(4) A filer that elects to file electronically forms permitted to be filed electronically in advance of a filer's mandatory phase-in date shall not be required to submit a paper copy of each electronic filing until the filer becomes subject to mandatory electronic filing.

* * * * *

Section 232.903 Division of Investment Management Electronic Submissions During Transition.

In addition to the electronic submission requirements set forth in rule 101 of this Part, the following provisions shall apply during the mandatory electronic filing phase-in period:

(a) *Permitted electronic submissions.*

* * * * *

(2) *Public Utility Act Filings.* Prior to its phase-in date, a filer submitting filings under the Public Utility Act may, but is not required to, submit those filings in electronic format *provided that,* if the filer elects to submit a filing in electronic format, all subsequent amendments to the subject filing shall be filed in electronic format.

* * * * *

(b) Amendments to Paper Filings.

* * * * *

(2) *Public Utility Act Filings.* Unless otherwise specifically provided in rules or instructions pertaining to the submission of a specific form, amendments to filings under the Public Utility Act filed in paper prior to the phase-in date of the filer shall be submitted in electronic format in accordance with rules 101 and 102 of Regulation S–T (§§ 232.101 and 102 of this chapter).

[FR Doc. 93–4807 Filed 3–17–93; 8:45 am]

BILLING CODE 8010–01–M

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17 CFR Parts 202 and 260

[Release No. 33–6980; 34–31808; 35–25747; 39–2301; IC–19285]

RIN 3235–AF55

Instructions for Filing Fees

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission has adopted revised rule 3a of the Commission's Rules Relating to Informal and Other Procedures, which requires filing fees to be remitted to a U.S. Treasury designated lockbox depository in Pittsburgh, Pennsylvania, and has added new rule 7a–10 of the Commission's General Rules and Regulations, Trust Indenture Act of 1939, concerning fees required under the Act. The Commission is required by the Budget Deficit Reduction Act of 1984 and Department of the Treasury regulations implementing that law to achieve same day or next day deposit of monies payable to the Commission. Use of a lockbox depository is the most effective method of complying with these requirements. Revised rule 3a mandates lockbox depository use for all electronic filers. Therefore, as entities and individuals begin filing on the Commission's Electronic Data Gathering, Analysis, and Retrieval system (EDGAR), they will be required to make all filing fee payments to the lockbox depository. Use of the lockbox depository will continue to be optional until a filer begins making EDGAR filings, although the Commission encourages all filers to use this payment system.

EFFECTIVE DATE: These rules are effective for filings on or after April 26, 1993.

FOR FURTHER INFORMATION CONTACT: Jessica L. Kole, Special Counsel, at (202) 272–2700, Office of the Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: In July 1992, the Commission proposed to adopt revised rule 3a of the Rules Relating to Informal and Other Procedures,[1] which requires filing fees to be remitted to a U.S. Treasury designated lockbox depository maintained by the Commission at the Mellon Bank in Pittsburgh, Pennsylvania.[2] The rules are being adopted as proposed, with minor clarifications. The lockbox procedures are intended to facilitate Commission compliance with United States Treasury Regulations[3] promulgated under the Deficit Reduction Act of 1984,[4] which require federal agencies to achieve same-day or next-day deposit of monies.

Since August 1984, the Commission has given filers the option of remitting filing fees to the lockbox depository. The temporary amendment t rule 3a was first issued on June 27, 1984[5] and is currently effective through September 1, 1993.[6] The temporary rule permits filing fees to be remitted either directly to the Commission, or to the lockbox depository. Fees may be remitted to the lockbox depository by wire transfer, mail, or hand delivery. Transitional Filers (former participants in the EDGAR Pilot) who continue to file electronically in the operational EDGAR system prior to mandated filing are required to use the lockbox depository for those filings submitted by direct transmission for which a fee must be paid.[7]

Permanent rule 3a revises the temporary rule and mandates lockbox depository use for all electronic filers.[8]

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[1] 17 CFR 202.3a.

[2] *See* Release No. 33–6947 (July 23, 1992) [57 FR 35442 (August 7, 1992)] ("Proposing Release"). No comment letters were received during the comment period (*see* File No. S7–24–92).

[3] Management of Federal Agency Receipts and Operation of the Cash Management Improvements Fund, 31 CFR Part 206.

[4] Deficit Reduction Act of 1984, Public Law 98–369, 98 Stat. 494, 1152 (1984).

[5] *See* Release No. 33-6540 (June 27, 1984) [49 FR 27306 (July 3, 1984)].

[6] See Release No. 33–6952 (August 24, 1992) [57 FR 39358 (August 31, 1992)].

[7] Transitional Filers began filing on the operational system on July 15, 1992. See, *e.g.*, amended Securities Act Temporary Rule 499(d)(1)(ii) [17 CFR 230.499(d)(1)(ii)].

[8] This rule will not apply to fees paid by national securities exchanges under Section 31 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78ee]. Pursuant to directions issued by the Commission's Office of the Comptroller, those fees must be wired to the Federal Reserve Bank of New York. In addition, fees paid pursuant to Rules 80 [17 CFR 200.80], 80e [17 CFR 200.80e], 310 [17 CFR 200.310], 508 [17 CFR 200.508] of the Commission's Rules of Organization and Program Management, and 4 [17 CFR 203.4] of the Commission's Rules Relating to Investigations, will continue to be paid in accordance with the directions in those rules. These rules generally establish charges for records services such as searching and attestation, facsimile copies of documents, public reference copying, subscription services and microfiche copies. Privacy Act [5

Continued

Filers will be required to remit filing fees directly to the lockbox depository in Pittsburgh, Pennsylvania, according to the procedures in this rule, in connection with EDGAR filings, whether the filings are made by direct transmission, magnetic tape, or diskette.[9] As entities are phased in to mandated electronic filing on EDGAR, the use of the lockbox depository will be required for fees payable for electronic filings made by those entities, as well as filings made by third parties with respect to those entities.[10] Further, in a change from the Proposing Release, if a person or entity otherwise required to file on EDGAR receives a hardship exemption and is permitted to file in paper, the use of the lockbox is nevertheless required for that filing, as the inability to file a document electronically is unrelated to the ability to pay filing fees via the lockbox. Use of the lockbox depository continues to be optional for fees payable in connection with filings made by paper filers, although in the future, payment through the lockbox depository may be required for such filers as well.

Under the revised rule, electronic filers are required to remit fees to the U.S. Treasury designated lockbox depository maintained by the Commission at the Mellon Bank in Pittsburgh, Pennsylvania. Filing fees will be accepted on behalf of the Commission at the Mellon Bank depository by any of three methods: wire transfer, mail, or hand delivery. Payments in the form of money order, certified check, cashier's check, cash, wire transfer, or personal check[11] will be considered received by the Commission at the time of verification of their receipt at the lockbox depository. The Commission will verify fee payments made by wire transfer on a near real time basis (every 15 minutes). Fees paid in any other manner will be verified on a daily basis.[12] A Securities Act registration statement will be deemed filed as of its date of receipt provided that all of the conditions of acceptance are satisfied,[13] including verification of fee payment at the lockbox depository. Accordingly, filers may wish to pay fees with respect to time-sensitive Securities Act registration statements by wire transfer in order to expedite acceptance processing.[14]

To expedite fee processing and improve cash management procedures, the Commission has assigned account numbers to every filer required to pay filing fees.[15] The revised rule requires that the assigned account number be included with all fee payments.[16]

The Commission has also adopted new rule 7a–10[17] that addresses fee payments made pursuant to the Trust Indenture Act of 1939. This rule, like existing rules under the other federal securities statutes,[18] informs filers that the payment of fees required by the Act shall be made in accordance with the directions set forth in rule 3a.

These rules are being adopted as proposed, with minor clarifications.

Cost-Benefit Analysis

The Commission believes that mandating use of the lockbox depository for EDGAR filings will minimize processing time and result in substantial interest earnings and cost savings for the U.S. Government. It is also the most efficient and least burdensome way, for both the Commission and filers, to meet the requirements of the Budget Deficit Reduction Act of 1984 and Department of the Treasury regulations implementing that law to achieve same day or next day deposit of monies payable to the Commission.

Statutory Basis

As required by section 23(a) of the Exchange Act, the Commission has specifically considered the impact that revised rule 3a and new rule 7a–10 would have on competition. The Commission does not believe that these rules will impose a significant burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. To the extent that any burden on competition would result, the Commission believes it necessary in order to facilitate the dissemination of information to investors and shareholders.

List of Subjects

17 CFR Part 202

Administrative practice and procedure, Securities.

17 CFR Part 260

Reporting and recordkeeping requirements, Securities, Trusts and trustees.

Text of Amendments

For the reasons set out in the preamble, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 202—INFORMAL AND OTHER PROCEDURES

1. The authority citation for Part 202 continues to read in part as follows:

Authority: 15 U.S.C. 77s, 77t, 78d–1, 78u, 78w, 78*11*(d), 79r, 79t, 77sss, 77uuu, 80a–37, 80a–41, 80b–9, and 80b–11, unless otherwise noted.

* * * * *

2. Section 202.3a is revised to read as follows:

§ 202.3a Instructions for filing fees.

Payment of filing fees specified by the following rules shall be made according to the directions listed in this part: § 230.111 (17 CFR 230.111), § 240.0–9 (17 CFR 240.0–9), § 250.107 (17 CFR 250.107), § 260.7a–10 (17 CFR 260.7a–10), § 270.0–8 (17 CFR 270.0–8), and § 275.203–3(b) (17 CFR 275.203–3(b)). All such fees payable by electronic filers (§ 232.11(e) of this chapter), including those pertaining to documents filed in paper pursuant to a hardship exemption, shall be remitted to the U.S. Treasury designated lockbox depository at the Mellon Bank in Pittsburgh, Pennsylvania, by wire transfer, mail or hand delivery. Fees payable by paper filers may be either remitted to the lockbox depository, or remitted directly to the Commission at 450 Fifth Street N.W., Washington DC 20549. Personal checks cannot be accepted for fees with

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U.S.C. 552a] and Freedom of Information Act [5 U.S.C. 552] searches, and copies of transcripts.

[9] *See* Release Nos. 33–6977; 35–25746; and IC–19284, published today, containing the Commission's interim rules to mandate and accommodate electronic filing via EDGAR, including phase-in lists.

[10] The lockbox requirement is effective on April 26, 1993, the commencement date of mandated electronic filing.

[11] As is currently the case, personal checks will not be accepted for payment of fees associated with Securities Act of 1993 ("Securities Act") [15 U.S.C. 77a *et seq.*] registration statements, Exchange Act business combination filings subject to the fee specified by Rule 0–11 [17 CFR 240.0–11], or filings under the Trust Indenture Act of 1939 [15 U.S.C. 77aaa *et seq.*].

[12] Information with respect to check payments received at the lockbox will be relayed to the Commission's computers at 2:00 p.m. Eastern Time each business day. The payment information received in the daily download reflects checks received by the lockbox before 2:00 p.m. Eastern Time of the *prior* business day. Consequently, if a registrant submits an electronic Securities Act filing on Monday and pays the required fee by a check that reaches the lockbox prior to 2:00 p.m. Friday, the filing will be deemed filed on that day, provided all other conditions of acceptance are satisfied. If the check reaches the lockbox after 2:00 p.m. on Friday, the filing will be deemed filed on Tuesday, the date of fee payment confirmation.

[13] *See* Release No. 33–6977, Section III.D.2.a, published today, regarding date of filing.

[14] *See* Release No. 33–6977, Section III.D.2.b, published today, for further information concerning acceptance processing.

[15] A filer's account number is the filer's CIK number.

[16] Non-registrant third parties should contact the Commission's Filer Support staff at (202) 272–7171 to receive an account number prior to submitting the first filing for which a fee is to be paid from the third party's account.

[17] 17 CFR 260.7a–10.

[18] *See, e.g.*, Securities Act Rule 111 [17 CFR 230.111].

respect to Securities Act of 1933 registration statements, Trust Indenture Act of 1939 filings, and fees required by § 240.0–11 (Rule 0–11 under the Securities Exchange Act of 1934). To ensure proper posting, all filers must include their assigned CIK account numbers on fee payments. If a third party submits a fee payment, the fee payment must specify the account number to which the fee is to be applied. Filing fees paid pursuant to Section 6(b) of the Securities Act of 1933 or pursuant to Section 307(b) of the Trust Indenture Act of 1939 should be designated as "restricted" in order to ensure prompt processing of filings made under these Acts. Specific instructions on the various methods of making fee payments to the lockbox depository are as follows:

(a) *Wire transfer:* Those who wish to wire fee payments may use any bank or wire transfer service to initiate the transaction. All remitters must follow standard Federal Reserve instructions to ensure that fees transferred are received and identifiable. Specific information required for transmission to the Mellon Bank is listed below. Where an item is in **boldface type**, the entry should be made exactly as indicated. Where an item is in *italics*, the filer-specific information should be included.

(1) Receiving Bank's ABA Number (field two); **043000261**

(2) Type Code (field three): **1040**

(3) Name of registrant and name of payor, if different (field nine): **ORG=***registrant's name/payor's name (if different)*

(4) Receiving Bank's Name (field ten): **MELLONBANK**

(5) Transaction Code (field eleven): **CTR/**

(6) Beneficiary of payment (field twelve): **BNF=SEC/AC–9108739/WRE**

(7) Reference for Beneficiary (field thirteen): **RFB=***account number to which the fee is to be applied*

(8) Payment Details (field fourteen): To designate funds as restricted: **OBI=R**, Otherwise: **OBI=N.**

(b) *Mail and hand delivery:* Checks and money orders are to be made payable to the Securities and Exchange Commission, omitting the name or title of any official of the Commission. The account number and a notation of "R" (restricted), as applicable, are to be written on the front of the check or money order. Fees transmitted by mail must be addressed to the Securities and Exchange Commission, Post Office Box 360055M, Pittsburgh, Pennsylvania 15252. Fees that are hand delivered must be brought to the Mellon Bank, 27th floor, Three Mellon Bank Center, Fifth Avenue at William Penn Way, Pittsburgh, PA. Hand deliveries will be accepted weekdays from 7:30 a.m. to 4:00 p.m. (eastern time). No deliveries can be made on Federal holidays. All hand deliveries must be in a sealed envelope, with the Commission's lockbox number, 360055M, and the Commission's account number, 910–8739, written on the outside. Cash payments must be accompanied by a separate sheet of paper providing the same information specified for checks and money orders.

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

3. The authority citation for part 260 continues to read as follows:

Authority: 15 U.S.C. 77eee, 77ggg, 77nnn, 77sss, 78*l*(d), 80b–3, 80b–4, 80b–11.

4. § 260.7a–10 is added to read as follows:

§ 260.7a–10 Payment of fees.

All payments of fees for applications under the Act shall be made in cash, by wire transfer, or by U.S. postal money order, certified check, bank cashier's check, or bank money order payable to the Securities and Exchange Commission, omitting the name or title of any official of the Commission. There will be no refunds. Payment of fees required by this section shall be made in accordance with the directions set forth in § 202.3a of this chapter.

Dated: February 23, 1993.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–4808 Filed 3–17–93; 8:45 am]

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Thursday
March 18, 1993

Part III

Environmental Protection Agency

40 CFR Part 82

Protection of Stratospheric Ozone; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL 4604-2]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: With this action, EPA is proposing to amend the schedule for the phaseout of ozone-depleting chemicals, as provided for under section 606 of the Clean Air Act, as amended in 1990, (the Act). This action responds to several petitions and comments submitted by environmental organizations and industry groups seeking an accelerated phaseout of ozone-depleting substances under section 606. Today's action also proposes regulations implementing the amendments, adjustments and decisions adopted by the Parties to the Montreal Protocol on Substances That Deplete the Ozone Layer at their November 1992 meeting. In this action, EPA proposes to add methyl bromide to the list of class I substances, in response to new scientific information and a petition submitted under section 602 of the Act, the decision of the Protocol Parties to classify methyl bromide as a controlled substance with an ozone depleting substance with an ozone depleting potential (ODP) of .7 and to add hydrobromofluorocarbons (HBFCs) to the list of Class I substances. Finally, in accordance with trade provisions in article 4 of the Montreal Protocol, EPA proposes with this action to ban specified trade between the U.S. and foreign states not party to the Protocol.

DATES: EPA intends to publish a final action in the fall of 1993 with an effective date of January 1, 1994, except for the Montreal Protocol trade provisions that will take effect 30 days after final promulgation. If requested by March 25, 1993, EPA will hold a public hearing on this proposed action on April 2, 1993. The contact person listed below may be called regarding a hearing. Written comments on this action must be submitted on or before April 19, 1993, if the hearing is not held, or May 3, 1993, if the hearing is held.

ADDRESSES: Comments on this proposed rulemaking should be submitted in duplicate to the attention of Air Docket No. A–92–13 at: U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460. A copy should also be sent to Peter Voigt at the address indicated below. The Docket is located in room M–1500, First Floor Waterside Mall. Materials relevant to this rulemaking may be inspected from 8:30 a.m. until noon and from 1:30 p.m. until 3:30 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials. The proposed regulatory language is not printed with this action, but may be obtained through the EPA hotline. The hotline telephone number is 1–800–296–1996.

FOR FURTHER INFORMATION CONTACT: Peter Voigt, U.S. EPA, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation, 6202J, 401 M Street SW., Washington, DC, 20460, (202) 233–9185.

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I. Background

A. Scientific Evidence of Ozone Depletion

A broad scientific consensus has emerged that continuing depletion of the stratospheric ozone layer will lead to increased levels of UV–B radiation penetrating to the earth's surface, resulting in potential health and environmental harm including increased incidence of certain skin cancers and cataracts, suppression of the immune system, damage to crops and aquatic organisms, increased formation of ground-level ozone, and increased weathering of outdoor plastics (see the Regulatory Impact Analysis for the Phaseout of Ozone-Depleting Chemicals and United Nations Environment Programme Synthesis Report).

The initial hypothesis linking chlorofluorocarbons (CFCs) and depletion of the stratospheric ozone layer appeared in a paper by Molina and Rowland in 1974. Since that time, the scientific community has made remarkable advances in understanding atmospheric processes affecting

stratospheric ozone and in analyzing data measuring ozone depletion, both over the polar regions and globally. In response to the growing evidence that chlorine and bromine could destroy stratospheric ozone on a global basis and the discovery of the ozone hole over Antarctica, the international community negotiated the Montreal Protocol in 1987, which limited the production and consumption of a specific set of ozone-depleting substances.

Also under this agreement, Parties are required to assess the science, economics and alternative technologies related to protection of the ozone layer every two years. In response to this requirement, the Parties issued their first scientific assessment in 1989. This assessment found that the destruction of the ozone layer over Antarctica was due to the presence of high chlorine concentrations linked to CFCs and other chlorinated and brominated compounds. In addition, the scientific assessment reported that a three to five percent decrease in ozone levels had occurred over a twenty-year period in the northern hemisphere in the winter months that could not be attributed to known natural processes. At the Second Meeting of the Protocol Parties in June 1990, the Parties responded to this new evidence by reassessing and tightening the restrictions placed on these chemicals.

Significant scientific advances have continued since the 1989 Protocol assessments. Several reports since that time have indicated a more rapid rate of ozone depletion than previously believed.

The most recent Protocol Scientific Assessment was issued on December 17, 1991. The report, entitled Scientific Assessment of Ozone Depletion: 1991, contained information from ground-based monitoring instruments as well as from satellite instruments indicating significant decreases in total-column ozone in winter, and for the first time also in spring and summer, in both the northern and southern hemispheres at middle and high latitudes. It reported no significant depletion in the tropics. The total ozone measurement spectrometer (TOMS) data indicated that for the period 1979 to 1991 decreases in total ozone at 45 degrees south ranged between 4.4 percent in the fall to as much as 6.2 percent in the summer, while depletion at 45 degrees north ranged between 1.7 percent in the fall to 5.6 percent in the winter. Data from the ground-based Dobson network confirmed these losses in total column ozone during the twelve-year period. These findings show almost twice as much depletion as the average rate measured by the ground-based network over a twenty-year period. Based on this new data, scientists have concluded that the ozone in the stratosphere during the 1980's disappeared at a much faster rate than experienced in the previous decade.

The recent UNEP Science Assessment also included new data on the estimated ozone depletion potential (ODP) of ozone-depleting substances. The assessment placed the ODP of methyl bromide, a chemical previously thought to have an insignificant effect on stratospheric ozone, at 0.6, with a range of uncertainty between 0.44–0.69. The meeting of the Parties in Copenhagen set the ODP at .7 based on a more inform percent assessment. The Executive Summary of the Assessment stated that, "if the anthropogenic sources of methyl bromide are significant and their emissions can be reduced, then *each* ten percent reduction in methyl bromide would rapidly result in a decrease in stratospheric bromine of 1.5 pptv [parts per trillion by volume], which is equivalent to a reduction in chlorine of 0.045 to 0.18 ppbv [parts per billion by volume]. This gain is comparable to that of a three-year acceleration of the scheduled phaseout of the CFCs."

On February 3, 1992, NASA released preliminary data acquired by the ongoing Arctic Airborne Stratospheric Experiment-II (AASE–II), a series of high-altitude instrument-laden plane flights over the northern hemisphere (see Interim Findings: Second Airborne Arctic Stratospheric Expedition). Additional data were also obtained from the initial observations by NASA's Upper Atmosphere Research Satellite (UARS), launched in September 1991. The key findings were as follows:

1. Northern latitudes:

- The measurements showed higher levels of chlorine oxide (ClO) (the key agent responsible for stratospheric ozone depletion) over Canada and New England than were observed during any previous series of aircraft flights.
- Levels of hydrogen chloride (HCl), a chemical species that stores atmospheric chlorine, were observed to be low, providing new evidence for the occurrence of chemical processes that convert stable forms of chlorine into ozone-destroying species.
- Levels of nitrogen oxides (NO_x) were also observed to be low, providing evidence of reactions that take place on the surface of aerosols that diminish the ability of the atmosphere to control the buildup of chlorine radicals.
- The observations of high ClO and bromine oxide (BrO) levels imply human-induced rates of ozone destruction of one to two percent per day for a short period of time beginning in late January. Total annual ozone loss in the Arctic will depend upon how long these chemical perturbations persist.

2. Temperate latitudes:

- ClO levels over the United States and Canada and as far south as the Caribbean were many times greater than gas phase model predictions. These levels are only partially explainable by enhanced aerosol surface reactions due to the emissions from Mount Pinatubo.
- New observations of HCl and nitrogen oxide (NO) imply that chlorine and bromine are more effective in destroying ozone than previously believed.
- Thin horizontal layers of elevated ClO concentrations were found throughout the Northern Hemisphere.

The NASA findings indicate that in late January, 1992, the Arctic air was chemically "primed" for the potential formation of a springtime ozone "hole" similar to that formed each spring over Antarctica. These findings also are consistent with theories that ozone depletion may occur on aerosols anywhere around the globe, and not solely on polar stratospheric clouds as was previously believed.

After collecting more data, NASA released an April 30, 1992 "End of Mission Statement," which indicated that while a rise in stratospheric temperatures in late January apparently prevented severe ozone depletion from occurring in the Arctic this year, observed ozone levels were nonetheless lower than had previously been recorded for this time of year. This information has further increased the Agency's concern that significant ozone loss may occur over populated regions of the earth, thus exposing humans, plants and animals to harmful levels of UV–B radiation, and adds support to the need for further efforts to limit emissions of anthropogenic chlorine and bromine.

B. Past Efforts To Control Ozone-Depleting Substances

The United States has been a leader in the development and implementation of measures to limit the emissions of ozone-depleting chemicals. As a leading advocate for, and an original member of, the Vienna Convention in 1985, and the subsequent Montreal Protocol in 1987, and strengthening amendments to the Montreal Protocol in 1990 (the London Amendments) and a leading advocate again in 1992 (the Copenhagen Amendments), the United States has demonstrated its long-standing commitment to global stratospheric ozone protection.

The 1987 Montreal Protocol has served as the basis to control the production and consumption, of ozone-depleting chemicals. Originally, the Montreal Protocol required a 50 percent reduction from 1986 levels in the production and consumption of CFC–11, –12, –113, –114, and –115, by 1998 with halons 1211, 1301 and 2402 frozen at their 1986 levels starting in 1992.[1] In addition, with certain specified exceptions, Article 4 of the Protocol required the Parties to ban trade with foreign states not Party to the Protocol as follows: (1) Paragraph 1 required the Parties to ban bulk imports from foreign states not party of the chemicals listed in Annex A within one year of entry into force of the Protocol (*i.e.* January 1, 1990), (2) paragraph 2 required Parties operating under Article 5 paragraph 1 (developing countries) to ban bulk exports to foreign states not party of the chemicals listed in Annex A by January 1, 1993, and (3) paragraph 3 required the Parties to ban imports from foreign states not party of products containing the chemicals listed in Annex A, as specified in a separate annex to the Protocol to be negotiated by the Parties within three years of the entry into force of the Protocol. Currently, 92 foreign states and the United States, representing over 90 percent of the world's consumption of CFCs and halons, are Parties to the original Montreal Protocol. (See appendix C of today's proposal.)

As noted above, during the first scientific assessment required under the Protocol, scientists examined the data from the land-based monitoring stations and the TOMS satellite data and found that there had been global ozone depletion during the winter and spring over the northern hemisphere. In addition, further studies of the Antarctic ozone hole implicated chlorine as the main cause of ozone depletion over the Antarctic.

Responding to this information, the Parties met in London in 1990 and revised the existing Protocol (the London Amendments) to require a complete phaseout of the CFCs and halons specified in the 1987 Montreal Protocol by the year 2000. In addition, in Annex B to the Protocol as amended, the Parties added CFC–13, –111, –112, –211, –212, –213, –214, –215, –216, –217 to the original list of CFCs, as well as two more chemicals, methyl chloroform and carbon tetrachloride.[2] The Amendments provided that the last two chemicals were to be phased out by 2005 and 2000, respectively. The London Amendments also expanded the Article 4 trade restrictions, specifying that the paragraph 1 Annex A chemicals imports ban was to take effect January 1, 1990, extending the Annex A chemicals export ban in paragraph 2 to all Parties to the London Amendments, and banning imports and exports of the additional new chemicals listed in Annex B with foreign states that are not Parties to the London Amendments (paragraphs 1 *bis.*, and 2 *bis.*) within one year after the Amendments enter into force, *i.e.* beginning August 10, 1993.[3] Currently, 33 foreign states and the United States have become Parties to the London Amendments. (See Appendix C of today's proposal.) An exception to the trade bans of the 1987 Montreal Protocol and the 1990 London Amendments is authorized by Article 4, paragraph 8 for foreign states not party that are determined by a meeting of the Parties to be in compliance with the phase-out and trade provisions of the Protocol.

Annex D to the Protocol, listing six categories of products containing Annex A substances which Parties may not import from foreign states not party was adopted by the Third Meeting of the Parties on June 21, 1991, and became effective May 27, 1992. The ban on imports of the Annex D products is to take effect beginning May 27, 1993. See Decision IV/16 paragraph 1 or the Fourth Meeting of the Parties to the Montreal Protocol, confirming entry into force of Annex D.

C. Fourth Meeting of Parties of the Montreal Protocol

a. Summary

At the Fourth Meeting of the Parties to the Montreal Protocol in Copenhagen, Denmark on November 23–25, 1992, the Parties adjusted the phase-out schedules for Class I (Annex A and B) substances to phase out CFCs, methyl chloroform and carbon tetrachloride in 1996 and halons in 1994. (see further discussion below). The Parties also decided a variety of other matters, including approval of certain destruction technologies, clarification of the treatment of insignificant quantities of production and of transshipments for purposes of phase-out accounting, adoption of essential use criteria and a number of matters pertaining to the Article 4 trade bans.

In addition, the Parties adopted a package of amendments to the Protocol. (The "Copenhagen Amendment"; see Decision IV/4 of the Fourth Meeting of the Parties to the Montreal Protocol, adopting Annex III to the report of the Fourth Meeting of the Parties). The amendment would, upon entry into force, add HBFCs as Group II of Annex C, add a schedule for phasing-out Annex C substances, and establish new Annex E adding methyl bromide as an ozone depleting substance and requiring its control.

b. Adjustments to the Montreal Protocol

The following adjustment to the phaseout schedules of previously controlled substances were adopted at the Copenhagen meeting:

(1) Accelerating the phaseout schedule for the originally controlled CFCs (i.e., class I, group I substances) to require a 75% reduction in production and consumption (production plus imports minus exports) from 1986 baseline levels in 1994 and 1995, and a complete phaseout by 1996;

(2) Accelerating the phaseout schedule for halons (class I, group II substances) to require a complete phaseout of production and consumption by 1994;

(3) Accelerating the phaseout schedule for other fully halogenated CFCs (class I, group III substances) to require a reduction from 1989 levels of 75% in 1994 and 1995, and a complete phaseout of production and consumption by 1996;

(4) Accelerating the phaseout schedule for carbon tetrachloride (class I, group IV) by requiring a reduction from 1989 levels of 85% in 1995, and a complete phaseout in 1996;

(5) Accelerating the phaseout schedule for methyl chloroform (class I, group V) by reducing production and consumption to 50% of 1989 levels in 1994, and phasing out production and consumption completely by 1996.

(6) Establishing criteria for identifying essential uses and a process for excepting limited production and consumption of the above chemicals from the otherwise applicable phaseout deadline (see below).

Pursuant to Article 2, paragraph 9, of the Protocol, these adjustments are to go into effect six months after the United Nations Depositary circulates the adjustments to the Parties.

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[1] The chemicals are listed in Appendix A of 40 CFR Part 82 as Class I, Group I (CFCs) and Group II (Halons). They also are listed in Annex A to the Montreal Protocol.

[2] The Annex B chemicals are listed in appendix A of 40 CFR part 82, and identified as Class I, Group III (CFCs) and Group IV (carbon tetrachloride), and Group V (methyl chloroform).

[3] See, Decision IV/1 of the Fourth Meeting of the Parties, which confirms the "entry into force" of the London Amendments. In addition, although not pertinent to today's proposal, new paragraph 3 *bis.* provides (parallel to Article 4 paragraph 3) for the Parties to develop a list of products containing Annex B substances, and then ban imports of such products from foreign states that are not Parties to the London Amendments.

c. Amendments to the Montreal Protocol

In addition, the Parties adopted the following amendments to the Protocol:

(1) Freezing consumption of HCFCs (class II substances) beginning in 1996 at a baseline level of 100% of the 1989 ozone depletion potential (ODP)-weighted level of HCFC consumption plus 3.1% of the ODP weighted 1989 CFC consumption; reducing consumption by 35% of the baseline in 2004, 65% by 2010, 90% by 2015, and 99.5% by 2020; and completely phasing out consumption by 2030;

(2) Adding Hydrobromofluorocarbons (HBFCs) to the list of controlled substances, specifying their ozone depletion potential, and phasing their production and consumption out completely by 1996;

(3) Adding methyl bromide to the list of controlled substances, adopting the ozone depleting potential estimate of the scientific assessment of 0.7, and freezing production and consumption beginning in 1995 at 1991 levels (not including amounts used for quarantine and pre-shipment uses);

(4) Establishing a procedure for the approval by the Parties for continued production and consumption of controlled substances after their phaseout to meet essential use requirements; and defining essential uses as those necessary for health or safety, or critical to the functioning of society, and where there are no available alternatives or existing stocks of banked or recycled material;

(5) Establishing reporting requirements for HCFCs, HBFCs, and methyl bromide;

(6) Establishing reporting requirements for imports and exports of recycled halons and HCFCs;

(7) Amending the Article 4 restrictions on imports and exports of controlled substances to and from foreign states not party to the Protocol;

The Amendments are to enter into force by January 1, 1994, provided twenty Parties have ratified them. If twenty Parties have not ratified the Amendments by the date, the Amendments are to go into effect 90 days after the twentieth instrument of ratification is deposited by a Party.

d. Decisions of the Protocol Parties

The Parties also made a number of decisions regarding procedures and definitions that affect implementation of the Protocol, and which are addressed in this proposal. These decisions include:

(1) The approval of certain destruction technologies and that Parties that plan to operate destruction facilities do so in accordance with "good housekeeping procedures" developed by the Parties or their equivalent;

(2) Clarification of the definition of controlled substances to exclude insignificant quantities under defined circumstances, and to encourage Parties to minimize emissions of such substances;

(3) Clarification of the reporting requirements and treatment of international transshipment;

(4) Clarification of the definition of controlled substance to exclude the import and export of recycled and used controlled substances from the calculation of consumption, but to require reporting of data concerning these imports and exports.

D. 1990 CAA Amendments

On November 15, 1990, the President signed the Clean Air Act Amendments of 1990, Public Law 101–549, including Title VI, "Stratospheric Ozone Protection." Section 604 of the Act establishes a phase-out schedule as fast as, and in some instance faster than, the 1990 Amendments to the Protocol. Specifically this title requires the United States to phase out production and consumption of CFCs, halons and carbon tetrachloride by the turn of the century, and of methyl chloroform by 2002. In addition, section 605 of the Act requires a freeze on the production of HCFCs beginning in 2015, and a phaseout of these chemicals by 2030. Section 606 authorizes EPA to accelerate these phaseout schedules if scientific evidence indicates the need for faster action, if technological advances permit such action, or if the Montreal Protocol is modified to require faster action.

On July 30, 1992 EPA issued regulations implementing the phase-out schedules for Class I substances required under Section 604 for 1992 and subsequent control period (57 FR 33754).

Title VI calls for other programs to help protect the ozone layer as well. It requires EPA to establish both a warning label program and a national recycling program, to ban non-essential products, to develop a federal procurement policy, and to implement a safe alternatives program to evaluate the alternatives to class I substances (CFCs, halons, carbon tetrachloride, and methyl chloroform) and class II substances (HCFCs).

U.S. industry has responded to concerns about ozone depletion by quickly developing substitutes and alternative processes to replace CFCs, halons and other ozone-depleting compounds. Due to the rapid development of substitutes and alternatives to these chemicals, U.S. production of CFCs was 23 percent below allowable 1986 baseline levels in the first year of regulation (1989–90), and 42 percent below that level in the second year (1990–91).

II. Purpose of Today's Proposal

On February 11, 1992, President Bush, responding to recent scientific findings, announced that the United States would phase out production of CFCs, carbon tetrachloride, halons, and methyl chloroform by December 31, 1995. He asked that U.S. producers of the chemicals voluntarily reduce their 1992 output to 50 percent of baseline year levels and announced that the U.S. will re-examine the phaseout schedule of HCFCs. He also stated that the U.S. will consider recent evidence suggesting the possible need to phase out methyl bromide. In addition, the President called on other nations to match the U.S. commitment by ratifying the Protocol as amended in 1990 and by accelerating their phaseout schedules. The President further stated that exemptions would be made for essential uses, and that limited quantities of the chemicals would continue to be produced in order to service certain existing equipment, to the extent allowable under the Protocol.

In addition, the Agency has received two petitions to accelerate the phaseout of these chemicals. One petition was submitted by three environmental groups, the Natural Resources Defense Council (NRDC), the Environmental Defense Fund (EDF), and Friends of the Earth (FOE). This petition also asked EPA to add methyl bromide to the list of class I substances. The other petition was submitted by the Alliance for Responsible CFC Policy, an industry group of producers and users of the chemicals. Comments on these petitions and suggestions for appropriate phaseout dates were also received from the Methyl Bromide Working Group, the Halogenated Solvents Industry Alliance (HSIA), the Association of Home Appliance Manufacturers (AHAM), the Air-Conditioning and Refrigeration Institute (ARI), BP Exploration (Alaska) Inc. (BPX), and the Pharmaceutical Aerosol CFC Coalition (PACC) and the American Lung Association (ALA). In addition, the Agency received information from the public on methyl bromide in response to an information request.

Today's action proposes regulations implementing the President's announcement and the actions taken by the Fourth Meeting of the Parties to the Montreal Protocol. It includes proposed

dates for interim reductions and the phaseout of Class I and Class II substances. It also proposes to list and phase out methyl bromide and HBFCs. It discusses the information submitted in the petitions and responds to the petitions, as required by section 602(c)(3) and section 606(b) of the Act. In addition, today's action proposes to implement the decisions of the Parties to the Montreal Protocol at their meeting in Copenhagen in November, 1992. Finally, today's action proposes regulations implementing the restrictions on trade with foreign states that have not become Parties to the Montreal Protocol or to the London Amendments that are to take effect in 1993.[4]

III. Proposed Amendments to the Regulations

A. Accelerated Phaseout of Class I Substances

1. Legal Authority

Section 606 of the Act provides the Administrator with authority to accelerate the phaseout of ozone-depleting substances. That section authorizes the Administrator to promulgate regulations that establish a schedule for phasing out the production and consumption of class I and class II substances (or use of class II substances) that is more stringent than set forth in section 604 or 605, or both, if—

(1) based on an assessment of credible current scientific information (including any assessment under the Montreal Protocol) regarding harmful effects on the stratospheric ozone layer associated with a class I or class II substance, the Administrator determines that more stringent schedule may be necessary to protect human health and the environment against such effects,

(2) based on the availability of substitutes for listed substances, the Administrator determines that such more stringent schedule is practicable, taking into account technological achievable, safety, and other relevant factors, or

(3) the Montreal Protocol is modified to include a schedule to control or reduce production, consumption, or use of any substance more rapidly than the applicable schedule under this title.

In making any determination under paragraphs (1) and (2), the Administrator shall consider the status of the period remaining under the applicable schedule under this title.

[4] Additional trade bans set forth in the Copenhagen Amendments will be addressed in a subsequent rulemaking after those Amendments enter into force.

Section 606(b) provides that any person may petition the Administrator to establish a more stringent phaseout schedule and requires the Administrator to grant or deny any such petitions within 180 days of receipt. It also provides that if the Administrator denies the petition, the Administrator shall publish an explanation of why the petition was denied. If the Administrator grants such petition, such final regulations shall be promulgated within one year. Finally, section 606(b) states that any petition shall include a showing by the petitioner that there are data adequate to support the petition and that if the Administrator finds that there is insufficient information to make a determination under section 606, the Administrator shall use any authority available to the Administrator to acquire such information.

Finally, section 614(b) states that in the case of any conflict between any provision in Title VI and the Montreal Protocol, the more stringent provision shall govern. Thus, since the phase-out schedules adopted by the Fourth Meeting of the Parties are more stringent than those contained in section 604, the adjustments adopted by the Parties prevail. However, additional actions under section 606 to even accelerate further the timetables agreed to by the Parties are warranted if the conditions set out in section 606(a) (1) or (2) are satisfied.

2. Proposed Phaseout Schedule

a. Existing Phaseout Schedule. The class I substances are currently subject to the phaseout schedule laid out in section 604(a) of the Act, which limits production and consumption to the following percentages of baseline levels each year:

Date	Group IV (carbon tetrachloride)	Group V (methyl chloroform)	Other class I substances
1991	100	100	85
1992	90	100	80
1993	80	90	75
1994	70	85	65
1995	15	70	50
1996	15	50	40
1997	15	50	15
1998	15	50	15
1999	15	50	15
2000	0	20	0
2001	0	20	0
2002 [1]	0	0	0

[1] And each year thereafter.

b. Petitioners' and Commenters' Suggested Phaseout Schedules. (i) NRDC/EDF/FOE Petition. The first petition under section 606 was submitted by NRDC, EDF and FOE on December 3, 1991. These petitioners requested a complete phaseout of CFCs by January 1, 1995, a complete phaseout of halons and carbon tetrachloride by January 1, 1992, and a complete phaseout of methyl chloroform by January 1, 1993, with strict interim reductions specified for each of the chemicals to be phased out later than 1992. The petitioners cited recent scientific findings, including the most recent scientific and environmental effects assessments conducted under the Montreal Protocol. These assessments, the petitioners maintained, demonstrate that CFCs and other halocarbon compounds are causing far more rapid depletion of the stratospheric ozone layer than was believed when Congress adopted the phaseout schedule contained in section 604 of the Act. They also stated that an accelerated phaseout would be technologically feasible due to the availability of alternatives, a factor that they contended provides an independent basis for accelerating the current schedules. This petition also requested that the Agency use its authority under section 303 of the Clean Air Act to take emergency action to stop the production and consumption of halons and methyl bromide in 1992 as "polluting activities that present imminent and substantial danger to public health, welfare, and the environment." While section 303 contains no deadline for response to a petition, the petitioners requested that the Administrator respond to this portion of the petition within 30 days.

The phaseout schedule for class I substances suggested by the petitioners is summarized in the following table:

CLASS I.—PHASEOUT SCHEDULE REQUESTED BY NRDC/EDF/FOE

[Allowable production and consumption year (begin Jan. 1) as percentage of baseline]

Substance	Percent	Year
CFCs	40	1992
	25	1993
	15	1994
	0	1995
Halons	0	1992
Carbon Tetrachloride	0	1992
Methyl Chloroform	50	1992
	0	1993

(ii) CFC Alliance Petition. On February 11, 1992, the Alliance for a Responsible CFC Policy (the Alliance) also petitioned the Agency to accelerate the phaseout of ozone-depleting chemicals. The Alliance petition cited substantial technological advances in developing alternatives to CFCs, as well as the announcements over the last year

concerning additional measurements of potential ozone depletion around the globe as the bases for its call for an accelerated phaseout. The Alliance petition proposed the following allowable annual production schedule for CFCs:

CFC PHASEOUT SCHEDULE REQUESTED BY THE CFC ALLIANCE

[Allowable annual production of 1986 quantities]

Year	Percent
1993	50
1994	40
1995	25
1996	(1)
1996–1999	(2)
2000	0

[1] 0% for new equipment.
[2] Allocation for service of equipment manufactured before Jan. 1, 1996 (amount to be determined).

Although the Alliance recommended an accelerated phaseout schedule for CFCs, the trade group disagreed with the NRDC/EDF/FOE petition's reliance on EPA's authority under section 606(a)(1), which provides for an accelerated phaseout if an acceleration of the phaseout schedule may be necessary to protect human health and the environment against such effects. The Alliance stated that the uncertainty of the science and the possible impacts on human health and the environment due to ozone depletion would not provide a solid basis for action solely under section 606(a)(1), and suggested that the accelerated phaseout also be based on the authority under section 606(a)(2) of the Act, which provides for a more stringent schedule based on the availability of substitutes taking into account technological achievability, safety, and other relevant factors. The Alliance petition stated that Congress intended the Agency to apply the criteria in paragraphs (1) and (2) jointly, not independently. In support of that contention, the Alliance pointed to the last sentence in section 606(a) which states that in making any determination under paragraphs (1) and (2), the Administrator shall consider the status of the period remaining under the applicable schedule under this title. The Alliance suggested that Congress so qualified the criteria of the two subsections to require EPA to consider the practicality of accelerating the phaseout of these chemicals. It stated that the technological progress that has been made in reducing CFC usage and emissions, recovering and recycling used CFCs, identifying potential alternative chemicals to assist in the elimination of the fully halogenated compounds, and in accelerating the normal commercialization process for these new compounds and technologies warrants the acceleration of the phaseout schedule for CFCs. While the Alliance encouraged EPA to accelerate the phaseout, it believed that, taking technological feasibility into account, the phaseout could not be as rapid as the earlier petitioners had suggested.

(iii) ARI Comments. The Air-Conditioning and Refrigeration Institute (ARI) commented on the NRDC/EDF/FOE petition through a letter to the EPA Administrator dated February 5, 1992. Many of the ARI comments were similar to those voiced by the Alliance. However, ARI specifically warned that the phaseout of class I chemicals proposed by the NRDC/EDF/FOE petition would not provide significant additional ozone protection over other possible accelerated control schedules, yet could lead to other unintended consequences such as increased global warming or major operating disruptions for equipment users and the public. ARI suggested that most refrigeration equipment manufacturers could not meet the phaseout dates proposed in the NRDC/EDF/FOE petition, and recommended the phaseout schedule proposed by the Alliance.

(iv) BPX Comments. BP Exploration (Alaska) Inc. (BPX) submitted a response to the NRDC/EDF/FOE petition on January 10, 1992. This company was concerned with the environmental groups' suggested phaseout schedule for halons.

The company stated that "it may be possible to impose a production ban if that ban is deferred until a reliable and effective mechanism for banking and recycling halons can be established." It stated, however, that "if EPA takes regulatory action before the rules for such a 'halon bank' have been worked out, and before the bank itself has been established, the results will be both environmentally and economically counterproductive, as well as posing a safety hazard."

BPX described the use of halons for oil field fire protection on the North Slope of Alaska, and stated that no full substitute for this essential halon use has yet been developed. The statement contended that the environmental groups' petition "failed to demonstrate that the essential users of halon can be supplied with virgin or recycled product if an immediate production ban is granted." BPX went on to state that such a ban would be environmentally counterproductive and stressed the importance of first developing a full-fledged halon bank. BPX also stated that the phaseout of HCFCs by 2000 would "only serve to defer the development of non-ozone depleting chemicals, and would ultimately prolong the use of CFC's and halons."

(v) PACC and ALA Comments. The Pharmaceutical Aerosol CFC Coalition (PACC) and the American Lung Association (ALA) also submitted comments on the Alliance and NRDC/EDF/FOE petitions. These groups asked that EPA make special allowances for metered dose inhalers (MDIs) if it accelerates the phaseout schedule for CFCs.

The commenters stated that "[a]n enormous effort is underway to find alternatives to CFCs in MDIs. Substantial progress is being made, but, even with currently identified substitutes, it will take at least until 1998 to 2000 before CFCs can be eliminated from most MDIs." The groups cited the UNEP Technical Options committee report on Aerosol Products, Sterilants, Miscellaneous Uses and Carbon Tetrachloride, which states that "CFC free pressurized inhalation aerosols will not be available until at least mid 1998, and in some cases not until the end of the century."

The commenters explained that "MDIs are pocket-sized aerosol devices that deliver precisely-measured doses of therapeutic drugs directly to the lungs" that are used for treating asthma and various pulmonary diseases. They stated that one out of every ten people in the U.S. and Europe use MDIs, and explained that implementing substitutes is particularly difficult in this area due to the extensive testing and government approval procedures that must be undergone before alternatives may be made available. The commenters enclosed suggested language for the MDI exemption and a detailed "Analysis of the Likely Availability of Substitutes for the Use of CFCs in Metered Dose Inhalers."

(vi) *HSIA Comments.* The Halogenated Solvents Industry Alliance (HSIA) also submitted comments on the NRDC/EDF/FOE petition's phaseout schedule for carbon tetrachloride and methyl chloroform. In regard to carbon tetrachloride, HSIA stated that perhaps as little as three percent of the carbon tetrachloride manufactured in this country is used in non-feedstock applications that are subject to the phaseout. Moreover, it opposed the NRDC/EDF/FOE suggested phaseout date of January 1, 1992 for these applications. According to HSIA, a phaseout by this date would have drastic adverse consequences for American industry without any significant environmental benefits. The HSIA response stated that, "NRDC

contends that EPA may not consider technological achievability in a decision to act under section 606(a)(1), arguing that feasibility concerns are limited to a consideration of acceleration under section 606(a)(2). This argument disregards the language and the intent of section 606 and the other provisions in Title VI of the Clean Air Act." HSIA cited other portions of the title where Congress specifically required that feasibility and the technological availability of substitutes be considered. HSIA also opposed the environmental groups' call for EPA to act under section 303, stating that "legislative history indicates that EPA may act immediately under section 303 only if a non-speculative risk of substantial harm exists."

HSIA went on to state that scientific evidence does not support the phaseout schedule suggested by the NRDC/EDF/FOE petition. It noted that the most recent UNEP scientific assessment, while concluding that harmful cumulative chlorine loading could be reduced by advancing CFC and HCFC phaseout deadlines, did not address the effect of a 1992 phaseout of carbon tetrachloride. HSIA added that the regulations proposed under section 604 of the Clean Air Act (56 FR 49548) would themselves result in an accelerated phaseout because of the method of calculation of the baseline consumption allowances, and went on to describe the uses of carbon tetrachloride that would be affected by an early phaseout, including its use for explosion prevention during chlorine production, its use as a solvent or reaction medium in the production of certain pesticides and pharmaceuticals, chlorinated rubber, chlorosulfonated polyethylene, and in laboratories. HSIA stated that substitution for these applications is problematic and will require significant research and development, citing the UNEP Technical Report's statement that "in cases where alternatives cannot be found or the time frame for approval is lengthy, continued use [after a 1997 phaseout] may be required with appropriate recovery and recycling controls being implemented." HSIA also raised the issue of the involuntary production of carbon tetrachloride in other processes and warned that if destroyed controlled substances are not excluded from the definition of production, "many companies would be forced to undertake enormously expensive alterations of their production processes."

Regarding methyl chloroform, HSIA stated that the 1993 phaseout of methyl chloroform suggested by the NRDC/EDF/FOE petition is impractical, given the wide range of applications for this chemical. It stated that this phaseout would seriously jeopardize the health and safety of workers and consumers who would be required to shift to alternatives that may prove more toxic, and contribute to other environmental hazards. Indeed, the commenter stated that such a rapid phaseout of these chemicals, and adoption of alternatives, would be contrary to the policy set out in section 612 of the Act, which requires that class I and II substances be replaced by chemicals, product substitutes, or alternative manufacturing processes that reduce overall risks to human health and the environment. HSIA stated that the failure to take into account the availability of safe alternatives would violate EPA's responsibility under the Clean Air Act.

HSIA, like the Alliance, disputed the environmental groups' claim that only section 606(a)(1) need be satisfied for the Administrator to accelerate the phaseout. It argued that the uncertainties of current scientific understanding regarding the relationship between ozone-depleting chemicals and the harmful effects of ozone depletion are great enough that any action taken to accelerate the phaseout based on this one subparagraph would be legally improper. Like the Alliance, HSIA remarked that subparagraph 606(a)(2) must also be taken into account, which provides for acceleration if it is practicable based on the availability of substitutes, taking into account "technological achievability, safety and other relevant factors." It argued that the NRDC/EDF/FOE petition failed to consider such factors, ignoring the possible adverse health and environmental effects of the proposed phaseout schedule for methyl chloroform.

The HSIA comments cited the UNEP Technical Assessment as a guide to when it would be possible to phase out methyl chloroform. This document discusses the solvent, coatings, and adhesive uses of methyl chloroform and the technological feasibility of replacing them with alternative chemicals and processes. The report notes that for some applications of methyl chloroform, no alternatives have yet been developed. The report also indicates that many of the potential alternatives in precision cleaning, adhesives and coatings and inks are emerging technologies that are not yet commercially available. The UNEP assessment further reported that alternative technologies pose significant potential problems, such as greater flammability, toxicity, and atmospheric pollution as a result of volatile organic compound (VOC) emissions.

HSIA proposed that the United States review the schedule for phasing out methyl chloroform that is discussed in the UNEP Assessment. The UNEP document states that developed countries that have moved aggressively in this area (termed "head-start" countries) are on course for a phaseout between 1992 and 1994, while other developed countries appear capable of phasing out this chemical between 1995 and 2000. For developing countries, the assessment concludes that the use of this chemical could be eliminated between 1992 and 2002. HSIA stated, however, that the assessment report notes the difficulties of the transition. The Assessment states that such schedules "require prompt decisions to enable suppliers and customers time to select, manufacture, and implement the new processes, equipment or chemicals. It can take several years for some or many solvent users to form the process conversion team and to identify, evaluate, select, specify, purchase, install, start-up, and qualify the equipment and processes."

c. EPA's Response to Petitions and Comments. (i) Use of section 303 to Accelerate the Phaseout. In a letter to the NRDC/EDF/FOE petitioners dated December 30, 1991, the Agency declined to use section 303 to take emergency action (as requested by the petitioners). Although protection of the stratospheric ozone layer requires prompt attention, the Agency believes it prudent to examine different reduction schedules and to receive and review public comment on the impact that different schedules may have in terms of environmental protection and social costs.

The Agency believes that section 606(b) provides for a review process for any petition to accelerate the phaseout schedule. Under that section, the Administrator must either grant or deny the petition. If the Administrator grants the petition, final action must be taken within one year. Given that Congress anticipated the possibility of an accelerated phaseout and called for rulemaking to effect such a change, EPA believes that use of section 303 to accelerate the phaseout would be inappropriate unless only immediate action were capable of avoiding the potential harm.

(ii) Use of Authority under Both Paragraphs of section 606(a). As explained earlier section 606(a) of the Act sets forth the criteria on which EPA is to base a decision to accelerate the phaseout schedule for ozone-depleting substances. The accelerated schedules

proposed today are justified under both sections 606(a)(1) (necessary to protect human and the environment) and 606(a)(2) (technologically feasible).

Recent scientific evidence, including the latest of the Montreal Protocol assessments provide ample "credible" evidence of the need for further reductions. As discussed above, the latest scientific evidence provided by NASA and the UNEP assessment demonstrates that ozone depletion is occurring at a far more rapid rate than was thought to be the case at the time of the enactment of the 1990 Clean Air Act Amendments. This evidence clearly warrants an acceleration of the phaseout schedule. With respect to section 606(a)(2), the substantial reductions in production of class I substances highlight the progress being made in shifting to alternatives. Furthermore, the latest UNEP Technology Assessment provides adequate documentation of the technological feasibility of accelerating the phaseout of these chemicals.

Section 606(a)(3) also provides authority for implementing the adjustments to the Protocol agreed to at the Fourth Meeting of the Parties, i.e., the acceleration of the phaseouts of CFCs, halons, carbon tetrachloride, and methyl chloroform. Although the adjustments have not yet entered into force, under paragraph 9 of Article 2 of the Protocol they will take effect six-months after the essentially ministerial task of circulating the adjustments to the Parties is completed. Unlike amendments, adjustment do not need to be ratified by a specified number of Parties before they enter into force. By the time this rule is promulgated, the adjustments will have been circulated and be due to take effect by a date certain. Thus, EPA believes that section 606(a)(3) provides additional authority for accelerating the phaseout of class I substances at this time.

With respect to amendments that accelerate the phaseout of substances listed under the CAA, such as HCFCs, section 606(a)(3) provides additional authority for the acceleration of their phaseout schedules once the amendments have been ratified by the necessary 20 Parties and all that remains is the passage of time before the amendments enter into force.

EPA also notes that section 614 of the CAA, which provides that in the case of a conflict between Title VI of the CAA and the Protocol, the more stringent of the two controls, requires the Agency to establish phaseout schedules at least as stringent as the accelerated ones agreed to by the Parties. The phaseout schedules that the Agency is proposing today are at least as stringent as those required by the adjustments to the Protocol.

The final phaseout dates that are proposed for all class I substances are the same as those in the new adjustments. The interim reductions proposed for CFCs and methyl chloroform in 1994 and for carbon tetrachloride in 1995 are also identical to those contained in the adjustments. The other proposed interim reductions are more stringent than those contained in the adjustments. These are being proposed under the authority granted in section 606 (a)(1) and (2).

EPA believes that an acceleration of the phaseout can be justified under either paragraph (1) or paragraph (2) of section 606(a)), but that even if EPA determines that an accelerated schedule is warranted based solely on an assessment of credible scientific information under paragraph (1), it can take into account the availability of substitutes in determining the specific accelerated schedule that it promulgates. Thus, EPA does not agree with the contention in the NRDC/EDF/FOE petition that EPA is not "permitted to consider the availability of substitutes when making" determinations under section 606(a)(1) (see petition at p. 17 n. 10)

EPA believes that this view is reasonable and supported by both the language and the legislative history of the 1990 Clean Air Act Amendments. The last sentence of section 606(a) provides that in making any determination under paragraphs (1) and (2), the Administrator shall consider the status of the period remaining under the applicable schedule under this title (emphasis added). Implicit in the sentence is the notion that EPA will consider both environmental need and technological achievability in making "any" determination to accelerate the phaseout schedule. On its face, the sentence provides that even when making a decision regarding acceleration pursuant to paragraph (1), EPA is to "consider the status of the period remaining under the applicable schedule." This connotes that EPA is to consider the practicality of an accelerated schedule, including the availability of substitutes.

Even apart from the language at the end of section 606(a), which was added during the House-Senate Conference on the 1990 Clean Air Act Amendments, EPA believes it has the authority to take into account the technological achievability of a specific schedule in accelerating a phaseout schedule on the basis of scientific findings. Congress itself recognized the linkage between the need to phaseout the production and consumption ozone-depleting chemicals to protect the environment and human health and the availability of substitutes for those chemicals. Even though it was understood that any delay in phasing out ozone-depleting substances would delay a return to normal ozone levels, Congress did not require an immediate phaseout. Instead, Congress established a schedule phasing out the chemicals over a period of several years to allow time for substitutes to be developed and for affected industries to adjust.

The Senate Environment and Public Works Committee noted that the "importance of accelerating the phaseout schedule is reflected in the estimate, presented by expert witnesses, that a three to five year delay in the phaseout deadline translates into an additional 20 to 30 years of elevated chlorine levels in the atmosphere. An additional 20 years of elevated chlorine levels presents an unacceptable risk that must be avoided if it is at all possible to do so." (S. Comm. Rep. No. 101–228 at 394.) Furthermore, with respect to a provision concerning the phaseout of HCFCs, the Committee Report stated that it must be recognized "that the goal of eliminating the potent, long-lived CFCs as rapidly as possible is, to some extent, dependent on the near-term availability of HCFCs as intermediate substitutes * * *." (*Id.* at 395.) Thus, the Senate clearly recognized that the availability of substitutes had to be taken into account in determining how quickly CFCs could be phased out, notwithstanding the environmental benefits that would result from an even more rapid phaseout.

Moreover, in explaining the provision of the Senate Committee Bill concerning the acceleration of the phaseout schedule, which provided for EPA to accelerate the schedule if any of three criteria substantially identical to those in the Amendments were met, the Committee stated that "[i]n keeping with the national policy of eliminating the production before the year 2000, *to the maximum extent practicable*, the Administrator is directed to determine no less often than every 18 months whether any of three conditions requiring acceleration of the schedule has been satisfied." (S. Comm. Rep. No. 101–228, Dec. 20, 1989, at 393., emphasis added.) The Committee's use of the terms "as rapidly as possible" and "to the maximum extent practicable," demonstrates its recognition of the role of considerations other than strictly scientific ones in the application of section 606(a).

The dates called for by the NRDC/EDF/FOE petition itself suggest some consideration of practicality is

necessary. Although the scientific evidence they cite indicates that an immediate phaseout would benefit the ozone layer and thus human health and the environment, they call for a phaseout over several years in the case of some of the more depleting substances. Their position only confirms the reasonableness of considering technological feasibility in setting the phaseout schedule.

This does not mean that the Administrator is limited by the current availability of substitutes in determining an appropriate phaseout schedule. In taking the availability of substitutes into account, the Administrator may consider the future potential for substitutes and adopt a phaseout schedule that will be technology forcing by inducing the development of substitutes on a more accelerated pace than would otherwise have been the case. This is confirmed by the same Senate Committee Report that indicated a role for technological factors in the establishment of a phaseout schedule. The report notes that a unilateral acceleration of the phaseout schedule by the Administrator may be necessary "to accelerate technological developments." (*Id.* at 393.)

(iii) *The Proposed Schedule.* The Agency is proposing today to phase out the production and consumption of all currently-listed class I substances except halons by January 1, 1996. Limited exemptions as adopted by the Montreal Protocol Parties in Copenhagen would be allowed from the phaseout to the extent permitted by the Act. This proposal effectively implements the adjustments for these chemicals adopted by the Protocol Parties at the Copenhagen meeting and President Bush's February 1992 announcement.

The proposal also calls for phaseout of halons by January 1, 1994 and consistent with what was decided during the recent meeting of the Parties to the Protocol. In addition to these phaseout dates, EPA is proposing the following interim reductions for the class I substances based in part on the adjustments adopted at the Fourth Meeting of the Parties and in part on the expected shift out of these substances by key use sectors consistent with requirements of section 606(a)(1) and (2):

PROPOSED SCHEDULE FOR CFCS AND HALONS[1]

[Allowed percentage of baseline production and consumption]

Year (beginning January 1)	Percent	
	CFCs	Halons
1994	25	0
1995	15	0
1996	0	0

[1] Subject to specified exceptions.

PROPOSED SCHEDULE FOR CARBON TETRACHLORIDE AND METHYLE CHLOROFORM[1]

[Allowed percentage of baseline production and consumption]

Year (beginning January 1)	Percent	
	CCL4	C2H3CL3
1994	50	50
1995	15	30
1996	0	0

[1] Subject to specified exceptions for essential uses.

President Bush in his February 1992 announcement called for voluntary reductions to 50 percent of baseline levels during 1992. The Agency believes that the proposed reductions in production and consumption were likely to have been met for CFCs and halons, but that a 50 percent reduction for methyl chloroform (1,1,1-trichloroethane, CASRN 79–00–5) and carbon tetrachloride (tetrachloromethane, CASRN 56–23–5), which entails much larger cuts from 1991 levels, would not have been achieved. The percentages allowed in section 604 for 1991 for methyl chloroform and carbon tetrachloride are 100%. As a result, companies have been producing and using these materials at higher levels than CFCs and halons. The proposed schedule envisions that the 50% level would be achieved in 1994 for these two compounds.

To assess the potential impact and cost of various phaseout schedules, the Agency used a modeling analysis of the available substitutes and expected phaseout dates for each use sector. (See the results of the Integrated Assessment Model in the Regulatory Impact Analysis and Appendices as prepared for this rulemaking). The Integrated Assessment Model analyzes the costs of reducing ozone-depleting substance use in different sectors and ranks each of these "controls" by cost. The least costly controls are then selected for each year and the volume reductions for each control are determined. These volumes are then converted to percentages of baseline production levels. This analysis demonstrates the likely feasibility of the proposed phase-out schedules contained in this proposal.

Based on this analysis and on the UNEP Technical Assessment, EPA expects technological progress regarding the development and availability of substitutes to continue. Alternatives are now being introduced in the market and commitments to shift to alternatives have already been publicly announced by major use sectors. This progress makes it feasible, in the case of CFCs, to require an additional 25 percent reduction in 1994 beyond the 50 percent called for in 1992, and an additional 10 percent reduction in 1995. In the case of carbon tetrachloride and methyl chloroform, EPA believes that interim cuts cannot be quite as deep, because of the large number of diverse small users and the wider range of alternatives these users are likely to adopt. This is particularly true in the case of methyl chloroform as noted earlier, unlike CFCs and halons, these chemicals have only been regulated since 1991. As a result, users are just beginning to reduce their use. The following sections describe the basis for these interim steps.

For CFCs in the foams sector, the "technologically feasible phaseout" date determined by the Assessment Panel for different types of foam ranges from 1991 to 1995. The extruded polystyrene sheet industry has already moved out of CFCs (to HCFC–22 and pentane), as has the extruded polystyrene boardstock foam industry (to HCFC–142b/22). Polyurethane foam used in boardstock insulation and in insulation in refrigeration units remains the largest single use of CFCs. It constituted 9.2 percent of total CFC use in 1986. The boardstock industry is anticipating a shift to HCFCs (generally HCFC–141b) in 1993. The boardstock manufacturers anticipate that the shift will be completed by January 1, 1994, which is also when favorable CFC tax treatment ends for this sector. The compound HCFC–141b will have completed toxicity testing and be available in commercial quantities beginning in 1993. Reductions in the foams sector are expected to be 18.1 percent of baseline year CFC production in 1993, 31.9 percent in 1994, and 32.3 percent in 1995.

Use of CFC–113 in the United States has already been substantially reduced. Many of the largest solvent users have established ambitious corporate goals for elimination of CFC–113 and are well along in meeting these goals. For example, Northern Telecom became the first major company to successfully implement its commitment to eliminate

its use of ozone-depleting solvents at the end of 1991. Further significant reductions are likely in the next several years as more firms adopt CFC-free technologies such as aqueous and semi-aqueous cleaners, no-clean fluxes, hydrocarbon solvents, and controlled atmosphere soldering. Many of these processes have now been adopted by industry leaders with widespread reports of cost savings. This process will be further accelerated as the Department of Defense continues the process of modifying its procurement specifications and existing contracts to allow for additional use of alternatives. EPA anticipates an additional reduction in CFC–113 use in 1993 and 1994 with nearly complete elimination by end of 1994 (Montreal Protocol 1991 Assessment: Report of the Solvents, Coatings and Adhesives Technical Options Committee). The modelling analysis predicts reductions from total 1986 use levels in the solvents sector of 13.3 percent in 1993, 15.1 percent in 1994, and 16.5 percent in 1995.

Significant reductions are also occurring and planned for the refrigeration sectors. These are predicted to amount to 7.3 percent of 1986 total use levels in 1993, 9.2 percent in 1994, and 11.2 percent in 1995. For chillers, substitutes including HCFC–123 and –22 have already been introduced into the market place for new equipment. In addition, increased recycling, the use of purge emission reduction equipment, and retrofits to alternatives are also reducing emissions and demand. In the motor vehicle sector, the first cars with HFC–134a air conditioning systems are now being sold. One major automobile manufacturer (Volvo) has committed to shifting its entire fleet out of CFCs by the end of 1993 and all U.S. companies have committed to being out by the end of 1994. Furthermore, emissions at servicing will be reduced through mandatory recycling as required under section 609 of the Act.

From discussions with the major producers of the CFCs, the Agency believes that all intended to comply with the President's voluntary request to reduce by 50 percent in 1992 (see press releases from Allied-Signal, Dupont and Elf Atochem). Given the actions to shift away from CFCs that are planned in 1993, an additional 25 percent reduction in 1994 beyond the 1992 reduction should not prove to be problematic. Impact analyses show, however, that the reductions suggested by the environmental groups (75 percent in 1993, 85 percent in 1994, 100 percent in 1995), would be inordinately burdensome with little effect on ozone depletion. EPA believes that the phaseout schedule proposed by the environmental groups would not be feasible due to the burdens it would place on the industry infrastructure necessary to support the deployment of new technologies.

In total, the Agency believes that an additional drop in production and consumption in 1994 should not prove difficult. The Alliance schedule suggests that a drop of an additional ten percent would not be problematic, and in light of the Agency's estimates of potential reductions, represents a conservative estimate of needed ozone-depleting substances in 1994. Assuming a 50 percent reduction was achieved in 1992, additional reductions in 1993 and 1994 in the boardstock sector, in new motor vehicle and building air-conditioning equipment, in further solvent reductions, and through recycling and recovery will allow total reductions of 75 percent or more. CFC production shows that between 1990 and 1991 alone, a drop of 11 percent of baseline levels occurred (from 64 percent to 53 percent). If such a rapid reduction rate were to continue, CFC production in 1992 could be expected to be at 42 percent of baseline levels, 31 percent in 1993, 20 percent in 1994, and 9 percent in 1995, falling to zero after that year. Even taking into account possible setbacks in substitute development in the final stages of the phaseout, a 75 percent reduction in 1994 and further 10 percent reduction in 1995 with a complete phaseout in 1996 appears reasonable for the CFCs. Moreover, the 75 percent reduction in 1994 and the completed phaseout in 1996 are required as a consequence of the adjustments to the Protocol. While the Agency believes that its proposed schedule represents a reasonable judgment as to the most rapid phaseout feasible, the Agency requests comments on whether a more rapid phaseout schedule should be required.

EPA is not requiring a mandatory reduction in 1993 beyond that already specified in section 604 and the current regulations. It is not taking this step because the regulated community would have inadequate action of any further reduction since this rulemaking will not be completed until sometime during 1993 control period. Nonetheless, EPA believes that additional reductions beyond the 50 percent level called for in 1992 can and will be achieved this year and are necessary in order to ensure a smooth transition to the 75 percent reduction required in 1994. For example, EPA believes that significant reductions will be achieved in 1993 in the insulating foam sector as they complete their shift to HCFC–141b and in the automobile sector where additional lines of car models will shift to air conditioning units with HFC–134a.

In addition to efforts by new equipment manufacturers to shift out of CFCs, EPA believes that further reductions this and in future years are essential in the area of servicing existing equipment in order to minimize economic consequences of a 1996 phase-out of CFC production. Full implementation of recycling requirements for both vehicle and stationery air conditioning and refrigeration equipment, as now required by law, will provide some significant reductions in emissions. Beyond this important immediate step, firms that own air conditioning and refrigeration equipment must begin acting now to retrofit this equipment or to purchase replacement equipment that utilizes substitutes. Retrofit options and replacements using alternative refrigerants are now available for virtually all equipment. Failure by equipment owners to act now will likely cause a bottleneck in replacement and retrofit equipment delivery and could cause shortages and unwarranted price increases. EPA has recently initiated a program to work closely with building and equipment owners to assist them in their efforts to retrofit or replace equipment that may not be serviceable after the production phase-out on January 1, 1996.

Halon reductions worldwide also appear to be occurring at a rapid rate. The worldwide reduction in halon production from 1989 to 1990 was equal to 14 percent of baseline levels (from 108 percent in 1989 to 96 percent in 1990), with further significant reductions achieved in 1991 and with reductions of 50 percent anticipated in 1992.

Due to the rapid fall-off in production and use, the Agency believes that halon production and consumption may be eliminated by the end of 1993. The halon sector has made significant progress in eliminating the unnecessary release of halons through conservation. The Agency is working closely with the military and industry to establish halon banks, potentially large reservoirs of halon that could service the fire protection business for necessary applications far into the future.

The 1991 "Report of the Halon Technical Options Committee" stated that the bank of Halon 1211 should be sufficient to maintain existing equipment using recycled halon, with minimal difficulty. The Committee estimated that the bank of Halon 1301

will be adequate to supply maintenance quantities for equipment for at least 40 years after production ceases. Although these estimates are based on a 2000 phaseout, the differences between available recycled halon with a 2000 phaseout and a 1994 phaseout, relative to the 1986 baseline, are small. For example, for Halon 1211, the Committee estimated that 11 percent of the 1986 baseline will be available after a 2000 phaseout, while slightly less than 10 percent will be available after a 1994 phaseout. For Halon 1301, 54 percent will be available after a 2000 phaseout; around 40 percent of baseline will be available after a 1994 phaseout. The Agency believes that a phaseout is achievable and appropriately balances the continued need for halons to protect against fires with their impact on ozone depletion. The Report of the Halon Technical Options Committee states, "an orderly transition to alternative fire protection measures, establishment of procedures to adequately manage the bank of halons, and increased efforts to develop transitional and eventual replacement fire extinguishing agents with the beneficial characteristics of the present halons are all steps that may minimize the loss of fire protection capability represented by the phaseout of halons." The Agency will continue to work to maximize these efforts but recognizes that a limited essential use exemption may be necessary depending on the success of halon banking. Section 3 below discusses the criteria and procedures for requesting such an exemption. EPA is also requesting that halon producers and users reduce to 30 percent of their allowable 1986 baseline level in 1993. As discussed above, EPA is not mandating this requirement for 1993 because the timing of the rulemaking would require that the provision be applied retroactively. Nonetheless, the Agency is requesting that halon producers and importers continue to make progress toward an orderly phase-out by 1994 by voluntarily reducing to 30 percent of their baseline in 1993. This additional reduction beyond the 50 percent requested in 1992 is particularly critical to the early development of halon banking systems. Only once halon supply from new production becomes unavailable will users look to alternative sources including halon banking programs. Since halon banking systems are critical to meeting the longer term critical needs of halon users, the development of these programs at this date is critical to a successful production phase-out by 1994. EPA is requesting the producers and importers of halons commit to this voluntary interim reduction step and will monitor progress toward meeting this target through the quarterly reporting required by regulation.

Currently, methyl chloroform is used in the following applications: Solvent cleaning (64 percent), aerosols (13 percent), adhesives (ten percent), coatings and inks (six percent), and miscellaneous uses (six percent) within the United States. Although the Agency believes that these sectors face obstacles to the elimination of methyl chloroform by 1996, significant strides have already been made by these sectors to find alternatives to methyl chloroform.

The Agency believes that further reductions can be realized in the near term within the coatings and inks sectors, miscellaneous use sectors and adhesives, and in the use of methyl chloroform in solvent cleaning.

The coatings and inks sectors can readily move toward commercially available technologies. Such alternatives include water based coatings and inks, high solid coatings, and powder coatings.

The 1991 UNEP Technical Assessment reports that alternatives are available for most miscellaneous applications including carriers for coating and impregnation, vapor soldering, component drying, riveting and machining, fabric protection, semiconductor manufacturing and mold release agents. Although there are some categories such as pre-surgical skin cleaning and other small medical applications, motion picture film cleaning and other small applications for which substitutes are not yet available, the industry will likely find a alternatives prior to 1996. The Agency believes that these are minor sectors.

The use of methyl chloroform in degreasing can be significantly reduced through improved housekeeping and the use of available alternative technologies such as aqueous and semi-aqueous cleaners, as well as no-clean fluxes. Finally, the Agency believes that substitutes for methyl chloroform for adhesives will depend on a mix of commercially available and developing technologies. Commercially available alternatives include hydrocarbon solvent-based, water-based adhesives, hot melt systems, and solvent recovery systems in continuous operations. Emerging technologies include radiation-cured adhesives, "high solids" adhesives, powders, and reactive liquids. In 1991, the 3M Company, a major producer of adhesives, announced a goal to phase out of its use of methyl chloroform by the end of 1992.

Based on this information, the Agency believes that the combined miscellaneous sector, coatings and inks and adhesives sectors, and metal-cleaning applications can reduce the total use of methyl chloroform by 50 percent in 1994. Although the controls mentioned above will not service the entire metal cleaning sectors, it is likely that these controls will displace a significant volume of methyl chloroform so that a 50% reduction from baseline levels can be made in 1994.

Further, the additional 20 percent reductions called for in 1995 also appear feasible. The largest use of methyl chloroform is in the solvent cleaning sector. The reductions for this sector are expected to be 27.9 percent of baseline production levels in 1993, 37.9 percent in 1994, and 51.0 percent in 1995. There is a large aqueous cleaning network already supplying the metal cleaning sector that could expand to absorb some of the current uses of methyl chloroform. Semi-aqueous systems will provide a similar option to the aqueous systems. The phaseout of methyl chloroform may force users to switch to chlorinated substances and non-halogenated organic solvents. In such cases, the use of new, low emission equipment will be essential to minimize worker exposure. As for the electronics sector's use of methyl chloroform, a wide variety of replacement chemicals now being employed as substitutes for CFC–113 are available, effective and affordable. Alternative processes such as aqueous and semi-aqueous cleaning and alcohol, no-clean fluxes, and controlled atmosphere are also widely accepted by industry. If work continues rapidly in these remaining sectors, the Agency believes that methyl chloroform can be phased out by the end of 1995. Based on the rapid development of CFC alternatives over the last four years, the Agency believes that zero production by 1996 is achievable, with exemptions as permitted by the CAA for essential uses where no safe and effective alternative exists. Moreover, the 50 percent reduction in 1994 and phaseout by January 1, 1996, are required by the recently adopted adjustments to the Protocol.

In the case of methyl chloroform progress to date in the reduction of production and consumption has been slower. In fact, 1992 production during the first 9-months of the year appears to have remained roughly equal to that of 1991. As a result, it is critical that efforts be accelerated to shift to alternatives by sectors using this compound. Failure to make such a shift in a timely manner will create severe economic hardship as

the 1996 phase-out date approaches. To facilitate a more orderly transition to alternatives, EPA is requesting that producers and importers reduce voluntarily their production and consumption to 60 percent of their allowable levels in 1993. This reduction will continue to limit the availability of methyl chloroform to user firms, thus encouraging them to shift to alternatives at the earliest possible time, rather than postpone shifting to alternatives until supplies are reduced further in future years. EPA requests that producers and importers commit to meeting this 1993 voluntary target. The Agency will monitor progress toward meeting this voluntary goal through quarterly reports required by regulation.

For carbon tetrachloride, a 50 percent reduction in 1994, and an 85 percent reduction in 1995 (the same reduction required for that year under the Protocol) is expected to be attainable. As stated in the UNEP Assessment, "most carbon tetrachloride is used in the manufacture of CFCs or other chemicals. Non-feedstock uses such as solvent cleaning, laboratory use and miscellaneous solvent applications have a number of substitutes." The report of the Montreal Protocol Technical Options Committee states that "there are a number of dispersive uses of CTC such as its use as a cleaning solvent, which can be substituted in the short term (two to three years) by the use of currently available alternatives. This should enable some reductions in usage." It also cites some applications (e.g., use as an inert solvent in chlorination reactions) in which emissions can be "virtually eliminated" and thus production curtailed, in spite of the lack of alternatives.

The UNEP Assessment cites certain "low volume" uses for which substitutes are still being sought. EPA expects that the 15 percent of baseline levels established by the Clean Air Act and available until 1996 will be sufficient to supply any such "minor uses" for which substitute development is problematic. Some of those may indeed be exempted from the accelerated phaseout date if deemed essential. The UNEP assessment states that "it should be possible to phase out carbon tetrachloride use in non-feedstock applications by the year 1995 and in specialty use by 1997." Such uses may be classified as "essential uses" as discussed in section III.A.3. of this document.

EPA believes that the interim reductions and final phase-out dates proposed here represent an aggressive yet feasible schedule for reductions in ozone-depleting substance production and consumption. The Agency requests comment on the proposed phaseout schedules and on the size and utility of annual interim reductions contained in this proposal.

3. Limited Exemptions to Production and Consumption Phase-Out

The Parties to the Montreal Protocol agreed at the 1992 meeting in Copenhagen to exempt essential uses of controlled substances from the production and consumption limits of Article 2 of the Protocol. Language regarding essential uses was added to the Protocol provisions in Article 2 governing the control measures. (See Decision IV/25 of the Fourth Meeting of the Parties to the Montreal Protocol). The Parties recognized the importance of timing in specifying exemptions, especially with regard to halons, in view of the acceleration of the phaseout dates for these chemicals. The Parties will decide on essential use exemptions for halons at the Fifth Meeting of the Parties anticipated in the fall of 1993 and essential use exemptions for the remaining substances at the Sixth Meeting of the Parties in approximately September 1994 and at subsequent meetings as necessary.

The Parties set out criteria in Copenhagen to identify essential uses. Decision IV/25 states that a controlled substance should qualify as "essential" only if "it is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects)" and "there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health". In addition, the Parties agreed "that production and consumption, if any, of a controlled substance, for essential uses should be permitted only if: all economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance; and the controlled substance is not available in sufficient quantity and quality from the existing stocks of banked or recycled controlled substances."

Any essential use exemptions would also have to comply with the provisions of the Clean Air Act. Section 604 sets forth specific exemptions from the phaseout schedules contained in the Clean Air Act. To the extent that an accelerated phaseout schedule is adopted, EPA could provide exemptions beyond those specified in the Act so long as these exemptions do not result in an exceedence of the schedule contained in section 604(a). Since section 604(b) specifies the phaseout date for class I substances, that section effectively limits the authority of the Agency to provide essential use exemptions for periods after the termination dates (2000 for all class I substances other than methyl chloroform and 2002 in the case of methyl chloroform).

The exemptions outlined in section 604 are limited in scope, amount and time. Section 604(d)(1) allows essential use exemptions for methyl chloroform beginning in 2002, the first year of its complete phaseout under section 604(a), and extending through 2004. Section 604(d)(2) allows essential use exemptions for the use of any class I substance in medical devices, and section 604(d)(3) allows exceptions for limited quantities of halons solely for purposes of aviation safety. Exceptions under section 604(d) are limited to annual quantities no greater than 10 percent of the baseline year production of the person receiving the exception. Section 604(f) permits the President to issue exemptions for the production and use of CFC–114 and halons if necessary for national security. (This subsection does not provide such authority to EPA.) Finally, section 604(g) permits the Agency to authorize production of halons for fire suppression and explosion prevention, but expressly provides that the Administrator may not grant such exceptions after 1999. However, section 604(g)(3), provides the authority to grant exceptions through 2004 for halons used on the North Slope of Alaska.

In sum, for the period between the accelerated phase-out schedule adopted in Copenhagen and the schedule contained in Section 604 of the CAA, decisions taken by the Parties to the Protocol shall govern whether or not exemptions can be granted in the United States. For the period following the phase-out schedule in 604 limitations on the grant of exemptions contained in the CAA must also be satisfied and any such exemptions must be consistent with both the Montreal Protocol and the CAA.

The need for essential use exemptions for halon will largely depend on the success of programs to reallocate halons stored in existing systems where other alternatives are suitable to more necessary applications. Given that efforts to initiate such "halon banking" have only recently begun, EPA urges all halon users to act quickly to assess their current use of these compounds and to determine if alternative approaches to fire protection are feasible. If so, the Agency encourages users to contribute any unneeded halon to one of the banking programs currently being

established. EPA's Stratospheric Ozone Hotline (1–800–296–1996) should be contacted to obtain information about halon banking.

If a halon user determines that other alternatives are not feasible and that sources of future supply are not available, it should prepare an essential use application to EPA as described below.

In the case of other Class I substances (i.e., CFCs, methyl chloroform and carbon tetrachloride), EPA encourages these users to continue to explore alternatives until applications for exemptions are required to initiate the Protocol exemption approval procedures on approximately January 1, 1994. EPA believes that any essential use determinations for these compounds would be premature at this time, and that given the rapid pace of technological progress, the burden will be upon the petitioner to demonstrate the need for the exemption. For example, EPA recognizes that the use of CFCs in metered dose inhalers might represent one example where alternatives might not be available by January 1, 1996 because of extensive testing and approval requirements. This use would clearly qualify under the health and safety criteria established by the Parties of the Protocol and may also qualify under the CAA's medical device exception. Whether an exemption would be granted for production to service existing refrigeration and air conditioning equipment would depend on a number of factors including: whether adequate supplies were available from recycling and recovery at disposal, whether economically feasible retrofit or replacement of equipment were viable; and whether such use was considered by the Parties to meet the criteria of health, safety or critical functioning of society. EPA will continue to work closely with these sectors to ensure the smoothest possible transition to alternatives and to minimize costs of the phase-out.

Under the Copenhagen agreements, Parties must submit their nominations to the Secretariat for halon essential uses at least six months before the meeting at which the decision will be taken (e.g., by April 1993 for the Fifth Meeting of the Parties which may be held as early as October 1993, and nine months before the Sixth Meeting of the Parties schedule for Fall 1994 for the other chemicals. Thus, the first step in the process to qualify a use as essential is for a user firm, association or government agency to notify EPA of its candidate use and for EPA together with other relevant agencies to evaluate whether or not that use appears consistent with the criteria adopted by the Parties in Copenhagen. The U.S. government will review the candidate for exemption and, through coordination and review with other relevant federal agencies, determine whether or not it should be nominated for evaluation by the Protocol Parties. This assessment will be performed by EPA as the lead agency, with other agencies and departments providing technical expertise where appropriate. Based on nominations made by Parties to the Protocol, the Technology and Economic Assessment Panel will review such submissions and prepare recommendations to the Parties for exemptions. The Panel will review these nominations to determine whether the eligibility criteria have been satisfied and has been directed by the Parties to examine the expected duration for the essential use, emission controls for the essential use application, sources of already produced controlled substances for the essential use, and the steps necessary to ensure that alternatives and substitutes are available as soon as possible for the proposed essential use. The Parties also instructed the Technical Panel to consider the environmental acceptability, health effects, economic feasibility, availability and regulatory status of alternatives and substitutes.

The Technical Panel must submit its report to the Parties at least three months before the Parties meet to designate essential uses. Thus, the Panel must submit recommendations for halons by July 1, 1993 and for the other controlled substances by the summer of 1994.

In order to meet these tight deadlines, the U.S. government must act quickly, and through this action and an independent notice issued earlier (57 FR 6786) requests nominations for the essential use exemptions for halons. Recommendations for essential use exemptions for halon should be submitted to the Agency no later than (one month after date of publication) in order for EPA and other agencies to have adequate time to review the information prior to the deadline for submitting nominations to the Secretariat. Nominations for essential uses to be determined at the Sixth Meeting of the Parties for the other controlled substances are requested by January 1, 1994.

All nominations should present the following information:

(1) Description and quantification of the specific uses of the controlled substances;

(2) Demonstration that continued use of that application is necessary for health and safety reasons or is critical for the functioning of society;

(3) Demonstration that no alternatives are technically, economically or legally available;

(4) Description of the steps taken to date to find alternatives;

(5) Description of future steps to be taken to find alternatives;

(6) Demonstration that steps have been taken to secure existing stocks of the chemicals, either from a bank or from recovery sources, and that necessary quantities of appropriate quality are not available for this exempted use; and

(7) The expected time period for which this exemption is required and its consistency with the CAA provisions.

All nominations should be sent to: Program Manager, Essential Use Exemptions, Mail Stop 6202J, Environmental Protection Agency, Washington, DC, 20460.

The Agency, together with other agencies, will work with submitters, other experts and other interested federal agencies to review this information and forward nominations to the Protocol's Secretariat for consideration as appropriate and consistent with CAA limitations.

B. Accelerated Phaseout of Class II Substances

1. Today's Proposal

EPA is proposing with this action to accelerate the schedule for phasing out the production and consumption of certain HCFCs. These proposed provisions accelerate the phaseout provided for in section 605 of the Clean Air Act, which states: (a) That effective January 1, 2015, it shall be unlawful for any person to introduce into interstate commerce or use any class II substance unless such substance—(1) has been used recovered, and recycled; (2) is used and entirely consumed (except for trace quantities) in the production of other chemicals; or (3) is used as a refrigerant in appliances manufactured prior to January 1, 2020, and (b) that effective January 1, 2015, it shall be unlawful for any person to produce any class II substance in an annual quantity greater than the quantity of such substance produced by such person during the baseline year effective January 1, 2030, it shall be unlawful for any person to produce any class II substance.

At their Fourth Meeting, the Parties to the Montreal Protocol agreed to phaseout consumption of HCFCs over time. The Agency believes that the phaseout proposed today will result in compliance with the schedule agreed upon in Copenhagen, and also responds

to the portion of the NRDC/EDF/FOE and CFC Alliance petitions that dealt with HCFCs.

The HCFC regulatory regime adopted in Copenhagen places an overall cap on these compounds and requires increasingly stringent reductions from the cap until phase-out is reached. The cap for each of the developed country Parties is equal to the sum of 3.1 percent of the country's 1989 ozone depletion potential (ODP) weighted consumption of CFCs in group 1 of Annex A and the ODP weighted level of HCFCs consumed in that year. To determine the amount of the cap for the United States, EPA will be requiring producers, importers and exporters of CFCs and HCFCs to report data for 1989 through a separate action. Using the specified formula, EPA's preliminary estimates are that the baseline level will total approximately 16–17 million kilograms.

The Copenhagen amendments call for cap on HCFCs (i.e., the level specified by the formula) to apply beginning in 1996. The amendments further call for a 35 percent cut from the cap in 2004, followed by a 65 percent reduction in 2010, a 90 percent reduction in 2015, a 99.5 percent reduction in 2020 and a total phase-out in 2030.

EPA has considered several different approaches to implementing the HCFC cap in the United States. One approach would be to follow the regime proposed in both the NRDC/FOE/EDF and CFC Alliance petitions whereby limits are placed on the most potent ozone depleting substances first, with less ozone depleting HCFCs permitted for use over a longer period of time. This approach recognizes that different HCFCs have different impacts on the ozone layer and focuses efforts on developing alternatives for the most damaging compounds first.

In contrast, EPA could directly implement the HCFC cap approach through an allowance system tied to the total number of consumption rights permitted under the cap in any given year. Under this approach, for example, EPA could allocate consumption allowances based on 1989 consumption of CFCs. However, while this approach is consistent with that taken for CFCs and halon, it would create substantial inequities due to differences in investments and commitments already made to date by HCFC users and producers. For example, if 1989 consumption were used as the basis for allocations, substantial inequities might occur between those firms that produced large quantities of CFCs in 1989 and those that have invested in HCFC facilities over the past several years. While tradeable permits would allow for a rationalization of the market, such shifts would largely be controlled by a small number of firms each with vested economic interests and could adversely affect user industries in need of HCFCs in the near-term to phase-out of CFCs.

Instead of allocations based on 1989 consumption, EPA could simply auction off the allowances for HCFC consumption. This approach would avoid inequities associated with using 1989 as a base year, but would create substantial uncertainties for both HCFC producers and users who have already committed substantial capital to shift to these interim replacements.

EPA is requesting public comment on the use of an allocation or auction system to implement the HCFC cap approach adopted under the Montreal Protocol.

EPA is proposing an acceleration of the phaseout schedule for certain HCFCs on a compound-specific basis as proposed in both the CFC Alliance and NRDC/EDF/FOE petitions. As discussed above, this approach phases out those HCFCs with the highest ozone depletion potentials at an earlier date than those compounds with lower ODPs. This approach also recognizes the utility of phasing out the use of these compounds first in new equipment and allowing a longer period of use to service existing refrigeration and air conditioning equipment.

EPA is proposing today to ban the production and consumption of HCFC–141b effective January 1, 2003 because of its significantly higher ODP, 0.12. For HCFC–22 (ODP of .05) and HCFC–142b (ODP of .06), the Agency is proposing to freeze the production and consumption of these compounds at baseline levels effective January 1, 2010; to ban use of these compounds in virgin (i.e., not used or recycled) for anything other than feedstocks and for use in servicing appliances manufactured prior to January 1, 2010; and to ban production and consumption effective January 1, 2020. No change to the statutorily specified timetable would be imposed on HCFC–123 and HCFC–124 because of their substantially shorter lifetimes and lower ODPs (around .02). The proposed restrictions are summarized in the following table:

Date	Affected compounds restriction	
Jan. 1 2003.	HCFC–141b	Ban on production and consumption.
Jan. 1, 2010.	HCFC–22, HCFC–142b.	Production and consumption frozen at baseline levels.
	HCFC–22, HCFC–142b.	Ban on use of virgin chemical.
	.....	Unless used as feedstock or refrigerant in appliance manufactured prior to Jananuary 1, 2010.
Jan. 1, 2015.	all other HCFCs.	Production and consumption frozen at baseline levels.
	all other HCFCs.	Ban on use of virgin chemical unless used as feedstock or refrigerant inappliances manufactured prior to January 1, 2020.
Jan. 1, 2020.	HCFC–22, HCFC–142b.	Ban on production and consumption.
Jan. 1, 2030.	all other HCFCs.	Ban on production and consumption.

EPA notes, however, that substantial efforts are underway to develop and implement alternatives to the HCFCs and that these efforts may make it possible to accelerate the phaseout of HCFC–22 and HCFC–142b. Thus, the Agency will closely monitor these efforts and will determine whether an acceleration of the ban on the use of these substances in new equipment is feasible.

The Agency believes that the acceleration proposed here along with measure being taken under other Title VI authority will achieve compliance with the requirements to restrict HCFCs adopted by the Parties in November of 1992. Based on an assessment of which use sectors in the United States are likely to shift to HCFCs, the type of HCFC they are likely to use, and the maximum amount the sectors could require, EPA believes that the Protocol cap will not be exceeded in 1996 or thereafter, and that the Protocol reductions will be satisfied, as well. EPA's analysis of future HCFC use is included in the docket, "Revised Cap and Emission Scenario Analysis". To help ensure that the HCFC cap will not be violated, EPA will implement bans on specific uses of HCFCs under section 610 of the Clean Air Act and place additional restrictions on the use of HCFC–141b in solvents (except for critical uses where other substitutes are not available) under section 612 of the CAA.

Again, EPA's analysis of likely HCFC consumption under the proposed approach outlined above is based on the projected likely scenario of HCFC use by sector. Since all major sectors have

already determined if they are going to shift to HCFCs and if so, the specific HCFC they will use, this analysis should represent an accurate assessment of future use of these compounds. By restricting use of HCFCs along the lines described in the proposal for phase-out dates and use restrictions (in new products, and restrictions under sections 610 (nonessential uses) and 612 (safe alternatives), EPA calculated likely use and compared that to requirements under the Montreal Protocol limits.

This analysis showed the following results:

	Percent reduction	
	Protocol requirement	Proposed rule
1996	100	75
2004	65	51
2010	35	15
2015	10	8
2020	0.5	.5
2030	0	0

While EPA's analysis suggests that the proposed approach to implementing the Protocol's HCFC regime should amply provide for compliance, EPA will closely monitor compliance and will take additional regulatory action if necessary.

EPA is proposing to require quarterly reporting of all HCFC production and use soon after the end of each three-month period as a basis for monitoring compliance with the Protocol's requirements, but requests comments on this approach to meeting the Protocol's HCFC restrictions.

EPA has additional flexibility because its proposed restriction on HCFC–141b is scheduled for 2003 instead of 2004 when the first reduction step under the Protocol takes effect. EPA is proposing 2003 because it believes this date provides adequate leadtime for shifting to an alternative to HCFC–141b. However, if additional time for such a shift becomes necessary, EPA will consider modifying its schedule to allow for the additional year now permitted under the Protocol.

2. Legal Authority

The authority to accelerate the phaseout of HCFCs is also contained in section 606 of the Act, which has already been discussed in connection with the acceleration of the phaseout of class I substances. In addition, the provisions of section 614 regarding conflicts between the CAA and the Protocol which have also been discussed previously, apply.

3. Petitioners' and Commenters' Suggested Phaseout Options

The NRDC/EDF/FOE petition requested that EPA accelerate the phaseout schedule for class II substances. As noted earlier, under the current schedule in section 605 of the Act, U.S. production and consumption of class II chemicals must be frozen at baseline levels in 2015, with a final phaseout date of January 1, 2030. In addition, section 605 places a use restriction on the HCFCs, prohibiting the use of HCFCs on or after January 1, 2015, unless they (1) have been used, recovered, and recycled, (2) are used as feedstocks, or (3) are used as a refrigerant in appliances manufactured prior to January 1, 2020.

The petitioners used this same two-stage reduction approach in their request for an accelerated schedule, but also distinguished between HCFCs with high and low ODPs. They asked that the production and consumption of HCFC–22, HCFC–141b, and HCFC–142b (the three longest-lived commercially useful HCFCs) for use in new equipment be prohibited by January 1, 2000, while allowing production of these chemicals for service use until January 1, 2005. This request was also based on the most recent evidence of the seriousness of ozone depletion and the statement that the three long-lived HCFCs could become important contributors to ozone depletion if not restricted.

The petition from the Alliance also requested that the phaseout of HCFC–22, HCFC–141b, and HCFC–142b be accelerated. It suggested a January 1, 2010 ban on the production and use of the three compounds in new equipment. It suggested a final phaseout date for all production of the materials of January 1, 2020. The petitioners argued that HCFCs are "bridging" compounds whose use allows both developed and developing countries to phase out of CFCs more rapidly. According to the petition, these compounds allow for the continuation of high priority products and services such as refrigeration, air conditioning, and insulation materials. To enable HCFCs to serve their essential function, the Alliance contended, producers and users must be assured that HCFCs will be available for a reasonable length of time. The Alliance petitioners argued that their proposed phaseout schedule for HCFCs assures a reasonable lifetime for HCFC technologies that will help sectors to shift away from CFC technologies in the near term.

AHAM also supported the acceleration of the phaseout of the three long-lived HCFCs, but to a date no earlier than 2010. According to AHAM's comments, HCFCs, either alone or as part of a blend, are among the leading CFC alternatives for the home appliance sector. It stated that accelerating the phaseout to a date earlier than 2010 would have a severe impact on the industry.

In its comments, ARI also recommended a ban on the manufacture of new equipment using the three long-lived HCFCs and a ban on the production of these compounds for such equipment as of January 1, 2010. Under its suggested plan, production of HCFC–22, HCFC–141b and HCFC–142b would be permitted for the servicing of existing equipment until January 1, 2020. ARI's correspondence focused on the importance of finding and proving acceptable alternatives to HCFC–22, based on the fact that it is a very important chemical which is used in over 80 percent of the products produced by the air-conditioning and refrigeration industry. ARI emphasized that there are yet no proven acceptable alternatives to HCFC–22, and that the United States relies on HCFC–22 for essential air conditioning and refrigeration much more than any other nation.

4. EPA's Response to Petitions and Comments

EPA has continually characterized HCFCs as important transitional substances, but has recommended that they be used only where other substitutes are not viable. The Agency also has encouraged recycling wherever possible and urged that substitutes be selected on the basis of the lowest ODP possible. In the Analysis of the Environmental Implications of the Future Growth in Demand for Partially-Halogenated Chlorinated Compounds (1989), the Agency determined that this type of prudent use of the substances would result in significantly lower levels of atmospheric chlorine than those associated with more expanded use patterns.

The Agency's proposed accelerated phaseout schedule for HCFC–22 and HCFC–142b parallels the schedule for the phaseout of the rest of the HCFCs (the section 605 schedule), but accelerates the ban on production and consumption by ten years and the freeze and use restriction by five years. The effect is to prohibit the use of the chemicals (virgin material only) for any use except as a feedstock or as a refrigerant in existing equipment as of January 1, 2010, and to allow a ten-year exemption for production for use in servicing existing refrigeration and air-conditioning equipment.

The Agency agrees with both petitions that the seriousness of the problem of ozone depletion and the potential risks to human health and the environment warrant an acceleration of the phaseout of the three long-lived HCFCs. The production and consumption of these compounds has already begun to increase as companies move out of CFCs. While their lower ozone depletion potentials make them preferable to the class I substances, if their production and consumption is not limited, they could over the long run cause serious damage to the ozone layer. As a result, the Agency believes that the HCFCs are strictly interim substitutes for the more harmful class I substances. EPA wishes to encourage ongoing research efforts to find substances that are effective, yet have no detrimental effect on stratospheric ozone. At the same time, too short a period for the allowable use of HCFC would further encourage the continued use of CFCs, which would adversely affect the environment.

As indicated by all of the petitioners and commenters, a more rapid phaseout of these substances than that adopted in section 605 of the Clean Air Act is clearly environmentally desirable and technologically feasible. However, as in the case of the CFCs, a too-precipitous phaseout could result in excessive costs with relatively minor benefits in terms of decreased atmospheric chlorine loading. In addition, allowances must be made for servicing equipment that uses HCFCs. Estimates by ARI, AHAM, and the Alliance indicate that even with optimal rates of recycling and recovery of refrigerants, at least ten years worth of production must be allowed for servicing existing equipment in order to avoid premature retirement of significant amounts of equipment using these compounds (assuming no near-drop-in alternative refrigerant becomes available). Most refrigeration and air-conditioning units have a useful life of a decade or more. Since work on substitutes in such sectors as foam and refrigeration has not yet produced alternatives to the use of HCFCs, the near term shift out of CFCs is dependent on the commercialization of these interim substitutes. A 2000 phaseout of HCFCs would make further investment in these substitutes unlikely, thus prolonging the need for CFCs. As a result, the Agency believes that on balance those dates suggested by the NRDC/EDF/FOE petition for phasing out the long-lived HCFCs may be unattainable. The dates proposed by EPA balance the costs of shifting to HCFCs by sector and the environmental impact of the different HCFCs.

On the other hand, EPA believes that the dates suggested by industry groups are more realistic but represent a somewhat conservative assumption for when substitutes will become available, particularly in the case of HCFC–141b. The UNEP Assessment states that "long advance notice of phaseout regulations would avoid the sale of equipment dependent on transitional substances * * *. Based on the impressive record of technical progress to date, and on the intensity of industry efforts to find final alternatives to ozone depleting substances, it may be possible for users to phase out these chemicals relatively quickly." As a result, the Agency is proposing earlier phaseout dates for HCFC–141b than those suggested by the Alliance and the other commenters. The Agency's regulatory impact analysis indicates that HCFC–141b will primarily be used in certain foam applications, and can be used without expensive new manufacturing technology. Given the high ODP of this compound, a further switch in 2003 would have substantial environmental benefits and should be both technologically and economically feasible. New high-pressure equipment that must be used for alternatives to HCFC–141b in foam-blowing applications is currently under development and could be commercially available by 2003.

The Agency believes that 2010 is a technologically feasible date for the phaseout of the use of the HCFC–22 and HCFC–142b in new equipment.

Residential and commercial air conditioning applications comprise approximately 67 percent of the HCFC–22 use as a refrigerant. In this application, promising alternatives have been identified. These refrigerant alternatives include mixtures based in HFC–32, HFC–134a, HFC–125, HFC–143a and existing chemicals such as ammonia and propane. Commercializing products to use alternatives will require extensive research in materials compatibility, long-term durability, performance and safety standards. However, the necessary research programs have been initiated by both industry and government in accelerated and coordinated programs.

In January 1992, the Air Conditioning and Refrigeration Institute organized a research task group, which identified ten potential alternatives to HCFC–22. This task group will submit these alternatives to system testing to measure their performance and compatibility. Other organizations, such as the Electric Power Research Institute, have also made a commitment to accelerate research programs to identify and test HCFC–22 alternatives.

EPA has also accelerated research into HCFC–22 alternatives, as well as initiated studies with industry and safety organizations to address safety and institutional issues associated with the use of the flammable refrigerants and mixtures with flammable components.

Preliminary modeling and experimental test results indicate that some of the HCFC–22 alternatives may be more efficient than the current systems. The potential efficiency increases could range from a few percent to as high as 12 percent. Actual efficiency gains will have to be confirmed with system testing and optimization.

HFC–32 based systems could be more expensive than HCFC–22 due to the increased cost of the chemicals and potential component changes required to achieve the full efficiency potential of mixtures. System testing is required to determine the full range of compatibility and performance optimization.

At least one air conditioning equipment manufacturer has been testing propane as a potential replacement for HCFC–22. While a risk assessment has not been concluded to determine the safety of using propane in this application, performance and materials compatibility tests have shown favorable results. Tests have shown approximately two percent efficiency increases. The production of equipment using propane should not change costs because the cost of a slightly larger compressor will be more than offset by the low cost of refrigerant. If major system redesign or secondary loops are required, additional costs will be incurred. This has not yet been determined, however.

The remaining 33 percent of the HCFC–22 use in refrigeration is in retail refrigeration and cold storage. The amount of HCFC–22 used in refrigeration is expected to grow in the short term, due to the replacement of R–502 in low temperature refrigeration equipment with HCFC–22.

Compressor manufacturers have been testing promising refrigerant alternatives and some expect to commercialize products using them by 1994. The alternatives receiving most attention include blends with HFC–125, HFC–143a, and HFC–32. The most difficult barrier to the retrofitting of existing HCFC–22 systems is that the lubricants used in them are not compatible with the new refrigerants. In order to facilitate the transition from HCFC–22

to the alternatives, compressor manufacturers are currently testing new HFC lubricants with HCFC–22 compressor systems in an attempt to introduce HCFC–22 equipment with the new lubricants. This would make retrofitting HCFC–22 systems to alternatives less costly in the field once the alternative refrigerants become commercially available.

Except for an increase in refrigerant costs, commercializing new low temperature refrigeration systems with HCFC–22 alternatives are not expected to significantly increase production costs. Manufacturers expect that the new alternatives will perform at least as well as HCFC–22 systems.

Ammonia already dominates the cold storage equipment market and may be considered an alternative for some of the HCFC–22 cold storage market. Building and fire codes may determine the actual market penetration of ammonia in this application.

HCFC–22 has also been identified as an inexpensive alternative to CFC–11 and CFC–12 in some foam applications. A further switch out of HCFC–22 by 2010 appears feasible.

In 1988, the entire U.S. extruded polystyrene packaging industry switched from CFC–12 to HCFC–22 as an interim solution. HCFC–22 has been eliminated in the production process by substituting with HFC–152a, hydrocarbons or carbon dioxide.

The extruded polystyrene boardstock insulation industry quickly phased out of CFC–12 to HCFC–142b or HCFC–142b/HCFC–22. The industry is currently evaluating alternatives to the HCFCs, including HFC and other blowing agents.

HCFC–22, either alone or in combination with HCFC–142b, may be used in some CFC–11 polyurethane foam applications. Pour-in-place sandwich panels and insulation in refrigerated cases have already switched to HCFC–22. Other polyurethane foam insulation applications are testing HCFC–22 as a blowing agent and may be introduced shortly. Because HCFCs are considered a low-cost interim solution, there has been accelerated research by the industry to develop long term alternatives. Compounds currently under testing include HFCs, ethers, and hexafluorobutane. While much work is required on evaluating energy efficiency, performance and materials compatibility, the Agency's regulatory impact analysis shows that it should be possible to resolve these issues by 2010.

EPA will continue to monitor the success of the HCFC recycling program and the search for alternatives to determine the feasibility of the proposed dates. The Agency remains confident, however, in industry's ability to make the transition out of HCFCs in a timely manner, given the investment of adequate energy and resources into research to that end. EPA requests comments on the proposed schedule for the HCFC phaseout and on the schedules suggested by petitioners.

The Agency also requests comment on the HCFC phaseout's relationship to use limits under sections 608, 610 and 612 of the Act. EPA will take some action to limit HCFC use on a sector-by-sector basis. For example, section 610(d)(1) bans the sale or distribution of HCFCs in aerosols and non-insulating foam. EPA also intends to use its authority under section 612(c) to restrict the use of the HCFCs in those applications where a substitute clearly (1) reduces the overall risk to human health and the environment; and (2) is currently or potentially available. Finally, EPA is required under section 608 to limit use and emissions of class I and II substances to their lowest achievable levels, and may promulgate bans on use to accomplish that. EPA is considering whether or not it should limit the uses of HCFCs in this way. Comment is requested on this possible approach to the HCFC phaseout.

C. Addition of Methyl Bromide to the List of Class I Substances and Phaseout Schedule

1. Summary

Methyl bromide is a chemical used primarily as a soil fumigant in high value crops (e.g., strawberry, tobacco seedling, tree nurseries, etc.) and to a more limited extent in commodity quarantine programs to prevent the spread of pests.

The December 3, 1991 NRDC/EDF/FOE petition requested, pursuant to section 602(c)(3), that EPA add methyl bromide (bromomethane CASRN 74–95–3) to the list of class I substances pursuant to section 602(a). The petition further requested under section 606(b) that EPA act under section 606(a) to establish an accelerated schedule for phasing out methyl bromide by January 1, 1993, with an interim reduction of fifty percent in 1992. The petition also requested that EPA order this accelerated phaseout of methyl bromide based on the Administrator's emergency powers under section 303 of the Act to protect public health or welfare or the environment.

The Parties to the Montreal Protocol at their Fourth Meeting agreed to amend the Protocol to include methyl bromide as a controlled substance, to adopt an ODP of 0.7 for it, and to freeze its production (with exemptions for quarantine and pre-shipment use) at 1991 levels beginning in 1995. The Parties adopted the recent scientific assessment of 0.7 for the ODP, acknowledging this as the best estimate despite the uncertainties related to this estimate. The Parties also unanimously adopted a non-binding resolution urging all steps to be taken to reduce emissions and use of this compound and urging the Parties to take further steps to agree on reductions and a phase-out date, as appropriate based on the next Protocol assessments.

As explained earlier in this action, the Parties' agreements to list methyl bromide as a controlled substance, to freeze production based on 1991 levels beginning in 1995, and to adopt the scientific assessment's best estimate for an ozone depletion potential of 0.7 are to enter into force by January 1, 1994, provided that twenty Parties have ratified them. If twenty Parties have not ratified the amendments by that date, then these amendments are to enter into force ninety-days after the twentieth instrument of ratification is deposited by a Party.

EPA is proposing to add methyl bromide to the list of class I substances under section 602(a) in response to the action taken by the Parties to the Protocol, the NRDC/EDF/FOE petition, and the scientific data discussed in the UNEP Scientific Assessment of Ozone Depletion and the update of that assessment. In addition, EPA is proposing to establish 1991 as the baseline year under section 601(2)(C), but is rejecting the accelerated phaseout schedule suggested by the petitioners. The proposed phaseout schedule for methyl bromide is thus that prescribed for class I substances by section 604(a), as modified pursuant to section 602(d) EPA is also proposing to assign methyl bromide an ODP of 0.7 as specified in the latest UNEP scientific assessment and as agreed to in the Copenhagen Amendment by the Parties to the Protocol.

In a separate action, the Agency is requiring persons that manufactured, imported, exported or transformed the substance in 1991 to provide information on their activities during that year, for the purpose of establishing baseline production and consumption allowances if methyl bromide is listed as a class I substance.

2. Legal Authority

Under section 602(a), EPA is to add to the list of class I substances any substance that the Administrator finds causes or contributes significantly to harmful effects on the stratospheric

ozone layer, including all substances which the Administrator determines have an ozone depletion potential of 0.2 or greater. Section 602(c) provides that the Administrator may add, by rule, any substance to the class I list, in accordance with the criteria in section 602(a).

Under section 602(e), simultaneously with any addition to the class I list, the Administrator shall assign to each listed substance a numerical value representing the substance's ozone depletion potential. In addition, the Administrator shall publish the chlorine and bromine loading potential and the atmospheric lifetime of each listed substance. Section 601(10) of the Act defines ODP as a factor established by the Administrator to reflect the ozone-depletion potential of a substance on a mass per kilogram basis, as compared to chlorofluorocarbon-11 (CFC–11), and goes on to state that such factor shall be based upon the substance's atmospheric lifetime, the molecular weight of bromine and chlorine, and the substances ability to be photolytically disassociated, and upon other factors determined to be an accurate measure of relative ozone-depletion potential.

Section 602(e) also states that where the ozone depletion potential of a substance is specified in the Montreal Protocol, the ozone-depletion potential specified for that substance under this subsection shall be consistent with the Montreal Protocol. When the ODP for methyl bromide enters into force for the United States, and is listed through the final promulgation of this rule, it will be set for purposes of the Clean Air Act.

Under section 602(c)(3), any person may petition the Administrator to add a substance to the list of class I substances. Such a petition is to include a showing by the petitioner that there are data on the substance adequate to support the petition.

Also, sections 604 and 605 authorize EPA to promulgate regulations phasing out the production of class I and class II substances from baseline levels, respectively, in accordance with schedules specified in those sections. The "baseline year" is defined in section 601(2)(C) to mean a representative calendar year selected by the Administrator in the case of substances added to the class I list. Section 607 authorizes EPA to promulgate regulations providing for production and consumption allowances of class I substances.

3. Petitioners' and Commenters' Suggested Actions

a. *NRDC/EDF/FOE Petition.* As noted above, the NRDC/EDF/FOE petition requested, among other things, that the Agency add methyl bromide to the list of class I substances. The petition cited section 602(c) as authority for such listing, but asked the Agency to take emergency action under section 303 to immediately add the substance to the list and to provide for a 50 percent cut in its production in 1992, with a total phaseout by 1993. As discussed below, the petitioners also requested that methyl bromide be subject to an accelerated phaseout schedule under section 606.

The petition cited the UNEP Scientific Assessment for support. (The cited UNEP assessment has been updated since the time of the petition.) The Assessment referenced in the petition states that the "best estimate" of the ODP for methyl bromide is 0.6. The executive summary of that assessment further states that "if the anthropogenic sources of methyl bromide are significant and their emissions can be reduced, then *each* ten percent reduction in methyl bromide would rapidly result in a decrease in stratospheric bromine of 1.5 pptv, which is equivalent to a reduction in chlorine of 0.045 to 0.18 ppbv. This gain is comparable to that of a three-year acceleration of the scheduled phaseout of the CFCs." The report also discussed the uncertainties that could affect the estimate of the ODP.

b. *Methyl Bromide Working Group Comments.* Following the NRDC/EDF/FOE petition, the Methyl Bromide Working Group, an industry group of three methyl bromide manufacturers (Ethyl Corporation, Ameribrom, Inc., and Great Lakes Chemical Corporation), and one of the largest U.S. methyl bromide users (Tricál), submitted two letters to the Administrator regarding the addition of methyl bromide to the list of ozone-depleting substances. The first letter discussed the Group's opposition to the Agency's use of section 303 to take emergency action, emphasizing that the threat to the ozone layer posed by anthropogenic sources of methyl bromide was as yet undetermined. The second letter again discussed the scientific uncertainty with respect to methyl bromide's effects in the atmosphere and called for the Agency to deny the NRDC/EDF/FOE petition.

The Working Group letter also questioned the degree of certainty associated with the ODP and whether most emissions of methyl bromide were anthropogenic or from natural sources. The letter further discussed uncertainties about the degree to which the chemical breaks down in the soil versus in the atmosphere.

c. *Responses to the section 114 Information Request.* To respond to the petition on methyl bromide, EPA initiated efforts to determine the extent of current methyl bromide usage in the U.S. and the availability of substitutes in order to assess the environmental and economic impacts of a potential phaseout of methyl bromide. To this end, EPA requested information from the public on methyl bromide production, application, and emissions, along with information on alternatives, under section 114(a) of the Clean Air Act. (Section 114(a) authorizes the Agency to obtain information needed to carry out provisions of the Act from any person who the Administrator believes may have information necessary for that purpose.) At the request of many respondents, the deadline for receipt of responses was extended from April 10, 1992 until May 15, 1992 so that organizations and individuals could gather more information and conduct more comprehensive assessments of methyl bromide usage. This was the longest extension possible that would still allow EPA to use information it receives in meeting its statutory deadline for responding to the petition from the environmental groups. EPA recognizes that the time period is inadequate for many to develop new information which would be useful to the Agency in making final decisions concerning methyl bromide. EPA encourages these groups to continue in their efforts to gather such information and assures all interested parties that any new information submitted during the comment period for this proposal will be considered before final action is taken.

EPA received responses from the following types of organizations: Local farmers and farm cooperatives, dealers and shippers of agricultural crops, nurseries, agriculture and forest institutes, state departments of agriculture and natural resources, state agricultural extension services, agricultural research stations, and non-profit coalitions and associations. Almost all of the respondents expressed concern about the impacts of phasing out methyl bromide because of its importance as a fumigant to control pathogens, pests, and weeds present in soil, pest infestations on imported and exported commodities, and pests present in structures, such as residential buildings and storage areas.

Among other things, many respondents expressed concern that the scientific evidence supporting a phaseout of methyl bromide is still uncertain and that any decision to phase out methyl bromide based on this

preliminary information would be premature. Specifically, respondents argued that it is still uncertain whether methyl bromide has an ODP of 0.6 and whether anthropogenic methyl bromide contributes significant atmospheric levels of bromine relative to non-anthropogenic (natural) sources.

4. Today's Proposal

The issue of the ODP of methyl bromide was first addressed in the UNEP Scientific Assessment, which concluded that the best estimate of the ODP of methyl bromide is 0.6 with an uncertainty range of 0.44 to 0.69 (The June 1992 report estimated the ODP to be .7, and acknowledged. The assessment was conducted by over a hundred of the world's leading atmospheric scientists, was co-chaired by leading atmospheric scientists from NASA and NOAA, and included those international experts directly involved in the calculations of ODP. This document has been widely peer-reviewed, and is considered the basis for decision-making by world governments in the context of ongoing deliberations under the Montreal Protocol.

Following that assessment, the Methyl Bromide Industry Panel commissioned a report that suggested that the uncertainty range associated with the ODP calculation for methyl bromide is a factor of ten (i.e., the highest possible ODP is ten times the lowest possible ODP) ("A Literature Survey of Atmospheric Methyl Bromide and Stratospheric Ozone," November 14, 1991, revised February 12, 1992). This report surveys the existing literature regarding those factors that affect the ozone depletion potential of methyl bromide. It concludes that the uncertainties associated with computation of the ODP of methyl bromide are large enough to render the ODP uncertain by a factor of ten.

Unlike the UNEP Assessment, however, the industry's report had not undergone any formal peer review. In reviewing the report, the Agency found that a key assumption leading to the estimate of a large degree of uncertainty in the ODP of methyl bromide—the uncertainty assigned to the rate constant for destruction of methyl bromide by hydroxyl radicals—is incorrect by over a factor of ten (see May 28, 1992 memorandum to docket, Joel Levy, EPA). Correction of this error substantially reduces the uncertainty in the ODP of methyl bromide related to this factor.

In fact, recent laboratory remeasurement (Mellouki et al., submitted to Geophys. Res. Lett., May, 1992) of the rate constant for reaction of methyl bromide with hydroxyl radicals indicates that the rate is slower than that assumed in the UNEP assessment. This finding, if correct, means that the atmospheric lifetime of methyl bromide is greater than previously thought and that the ODP of methyl bromide is higher than the UNEP value of 0.6. Conversely, a faster reaction rate with the hydroxyl radical reported in another study (reported by Poulet et al to the Geophys. Res. lett., November 1992), stated that even after a five to ten percent HBr branching, which cannot be ruled out in conjunction with the atmospheric lifetime of 1.3 years (assuming oceanic uptake), could yield an ODP range of 0.15 to 0.53.

In addition, the industry report derived its error range by combining computational factors assumed to lie simultaneously at the extremes of their individual uncertainties. Aside from the fact that the largest extreme is overstated by an order of magnitude, as explained above, this methodology derives the greatest possible uncertainty, rather than the most probable uncertainty.

In order to review the data and analysis presented in this report, and any additional information currently available related to the potential impact of methyl bromide on ozone depletion, a two-day science workshop was conducted on June 2–3 by the Methyl Bromide Global Coalition, an international group representing primarily producers of this compound. The workshop was attended by more than 40 international scientific experts including many of the same participants in the Montreal Protocol's Science Assessment. Based on the information presented at the workshop, an update of that assessment was prepared under the chairmanship of Dr. Robert Watson of NASA and Dr. Daniel Albritton of NOAA. This report was peer reviewed by the participants in the workshop and other experts and was made available to governments for use in the recent negotiations related to the Montreal Protocol. The report is titled, "Methyl Bromide and the Ozone Layer: A Summary of Current Understanding," and a copy has been included in the docket.

The findings of the updated assessment concluded 0.7 is the current best estimate. The report examines a number of key areas and uncertainties related to the impact of methyl bromide on the ozone layer.

One of the key conclusions of the report is that, "these model results suggest that anthropogenic emissions of CH_3Br [methyl bromide] could have accounted for one-twentieth to one-tenth of the current observed ozone loss of four to six percent, and could grow to about one-sixth of the predicted ozone loss by the year 2000 if emissions continue to increase at the present rate of five to six percent per year."

The report examines additional information that affects the ODP of methyl bromide. As mentioned above, new analysis of the reaction rate between methyl bromide and the hydroxyl radical shows that the rate may be slower than previously thought which would increase the atmospheric lifetime and ODP of this compound. As a result, the best estimate of the ODP of methyl bromide was revised upward from 0.6 to 0.7.

Several issues related to the ODP of methyl bromide were also discussed in the Assessment update. First, the 0.7 ODP is calculated on the basis that loss in the troposphere through removal by the hydroxy radical is the only significant tropospheric loss mechanism. This assumes that no significant removal occurs involving the oceans or any terrestrial sinks (e.g., loss through absorption by trees). Very limited data were presented which suggested that the levels of methyl bromide in a coastal region of the ocean are saturated and therefore that the oceans are a net source of methyl bromide. No data was available to either support or negate whether other regions of the oceans represent a significant net source or sink of methyl bromide. However, very preliminary calculations suggest that if the oceans were a significant sink for methyl bromide, that the resulting decrease in its ODP would not be significant enough to lower the ODP to less than 0.2. Nor was any data presented concerning the existence of a significant terrestrial sink for this compound. Despite these assessments, removal processes in surface water could be significant, and remain to be quantified.

The second area of uncertainty concerning the ODP of methyl bromide involves the qualification of the rate of formation of HBr in the stratosphere and other related reaction rates. If the rate of HBr formation were to be greater than the ODP, BrO and ozone loss would be lower. The report also states that the lack of definitive data for HBr and larger scattering of observed BrO make it difficult to rule out this possibility. In contrast, the assessment update states that "if recent laboratory measurements indicating a faster rate of HOBr formation (via BrO plus HO_2) are correct, then the ODP would be greater." Under this scenario, bromine from methyl bromine would be channeled

into a series of reactions that would increase rather than decrease the rate of destruction of ozone. Because of the limited information and large uncertainties associated with each of these possibilities, the updated assessment relied on only the reaction with the hydroxyl radical as the basis for its estimate of ODP.

Finally, the assessment points out that the 0.7 ODP calculation is based on an analysis of the steady state impact on the ozone layer calculated over a period of several hundred years. Because of its short atmospheric lifetime, the impact of methyl bromide occurs over a period of a decade or so. The ODP of methyl bromide over the next 20 years, when the risks of ozone depletion appear to be the largest, would be a factor of four larger (i.e., about 3).

The workshop and assessment update also examined the issue of the role of methyl bromide emissions from anthropogenic versus natural sources. A study sponsored by the Methyl Bromide Global Coalition suggests that somewhere between 30–60 percent of the methyl bromide used as a soil fumigant (by far its largest use) may be emitted to the atmosphere with the remainder degrading in the soil. The amount that degrades in the soil was dependent upon such factors as soil moisture, temperature, organic concentrations in the soil, injection depth, use and thickness of tarp, etc.

EPA is also aware of two studies, H. de Heer, et al. (1983) and Ph. Hamaker, et al. (1983) that measured the fraction of methyl bromide used as a soil fumigant that was emitted into the atmosphere. These studies were done in the Netherlands where concerns had been raised that ambient levels of methyl bromide might be creating a health risk for the population living near treated areas. The first study focussed on emissions from greenhouses, and used a mass balance approach to calculate loss of methyl bromide that had been emitted. Study results presented the percentage of methyl bromide that is emitted into the air for a range of experimental conditions, including methyl bromide dosages of 20 and 102 g/m^2, soil cover times of five and ten days, and air and soil temperatures ranging from eight to 25°C. In addition, the study explored the ability of using low density polyethylene and gas-tight plastic film covers and water-filled tubes laid down in areas of cover overlap to decrease methyl bromide release. The study concluded that over a three-week period following methyl bromide application, depending upon application dose, temperature, cover type, cover time, and how the cover was laid down, anywhere from 29 percent to 87 percent of the methyl bromide was emitted to the air.

The second study focussed on emissions under field conditions, and used a mass balance approach based upon measurement of bromide ions in waters released into and discharged from public pumping stations. The amount of methyl bromide transformed in soil was determined by using the mass balance equation to calculate bromine ion contribution from effluent irrigation water. The study presented methyl bromide emissions for two different 12-month periods that varied in methyl bromide dosage (100 and 40 g/m^2), cover time (three and ten days), and the use of low density polyethylene or gas-tight soil covers. The study concluded that anywhere from 58 to 85 percent of the methyl bromide dosage was released to the air depending upon the above indicated conditions. These studies showed that emissions can be significantly reduced with reduced application amounts and increased cover time.

Another study conducted by the California Air Resources Board (CARB) as part of its Pesticide Monitoring Program examined ambient levels of methyl bromide at a strawberry field that had been fumigated with this chemical compared to control sites. The study did not provide information concerning total emissions, but did provide limited insight into the level of emissions and when they occur. Samples were taken upwind and downwind from the site prior to, during, and four days after application of methyl bromide, which included a three-day cover time using a plastic tarp. Results showed that the highest concentrations of methyl bromide for the three sites sampled occurred on the day of application and ranged from 210 to 900 parts per million (ppm).

Theoretical calculations of emissions of methyl bromide used to fumigate soil using models of soil transport and methyl bromide transformation have been reported at a recent workshop ("Analysis of the Potential Emissions to the Atmosphere from the Use of Methyl Bromide in Soil Fumigation," report to USDA, by Center for Pest Management Research and Extension, Division of Agriculture and Natural Resources, University of California, April 7, 1992). Methyl bromide emissions are predicted to vary primarily with injection depth, organic content of the soil, and longevity of tarp cover. For representative soil and methyl bromide fumigation conditions, a 45 percent loss of methyl bromide to the atmosphere is predicted for the first 14 days following injection into the ground. For the range of soil and injection conditions considered, methyl bromide emissions are predicted to vary from 28 percent to 60 percent.

Based on the emission rate suggested in the study sponsored by the Methyl Bromide Global Coalition, and information provided by industry on global production and use patterns, the Protocol's assessment update concluded that roughly half of all anthropogenic methyl bromide (except feedstock uses) is emitted into the atmosphere.

Several sets of atmospheric measurements of methyl bromide have revealed higher levels in the northern than southern hemisphere. This is consistent with fumigation use patterns and could be an indicator of anthropogenic emissions. Also, as pointed out in the assessment update, oceanographic measurements of methyl bromide have been shown to be highly correlated with methyl chloride. However, no interhemispheric gradient is observed for methyl chloride, whose source is predominantly natural, and whose lifetime is similar to that of methyl bromide. This further suggests that the northern hemispheric excess of methyl bromide might be caused by anthropogenic emissions.

Analysis of the interhemispheric ratio of methyl bromide results in the conclusion, cited in the assessment update, that anthropogenic methyl bromide accounts for roughly 25 percent plus or minus ten percent of methyl bromide emissions. This calculation is broadly consistent with the results obtained by comparing the total (anthropogenic plus natural) source of methyl bromide, derived from the measured atmospheric burden and an assumed lifetime of two years, with emissions calculated at 50 percent of reported production. The consistency of the two approaches also suggests that neither significant sources nor sinks of methyl bromide are missing from the analysis, and that the lifetime of methyl bromide is not significantly less than two years. The EPA acknowledges that one of the uncertainties related methyl bromide is the quantification of the natural sources.

Finally, EPA notes that emissions levels are not relevant to the criteria for listing methyl bromide as a class I substance under section 602, but are an important consideration in evaluating the magnitude of the risk that the compound poses to the ozone layer. It is sufficient for today's proposed listing that the ODP of methyl bromide is greater than 0.2, the statutorily-prescribed trigger for adding substances to the class I list.

Finally, EPA is relying extensively on the Protocol's scientific assessment as the basis for its listing decision and furthermore, will be compelled to adopt the ODP for methyl bromide once the 1992 Copenhagen amendments enter into force, as provided in section 602(e) of the CAA.

5. Group Assignment

For purposes of allowance exchanges, whenever a substance is added to the list of class I substances, section 602(c)(1) of the Act provides that it be assigned to an existing group or be placed in a new group.

The Agency proposes to place methyl bromide in a sixth group within class I, thus preventing production and consumption allowances for other class I substances from being exchanged for methyl bromide production and consumption allowances. This follows the historical precedent under the Montreal Protocol and title VI of the Act whereby newly-listed class I substances have been added to a new group within the class. While section 602(c)(1) authorizes the Agency to assign a newly-listed substance to an existing group to the extent consistent with the Montreal Protocol, the Agency believes that methyl bromide should be added in a new group in the same manner it has been dealt with in the Copenhagen amendments. Placement in a new group will ensure that the development of substitutes is forced for the new substance. This is particularly important in the case of methyl bromide, because its use is entirely different than that of other class I substances. Were methyl bromide placed in an existing group, allowances for the production of the substance in that group could be transferred and used for methyl bromide production, thus relieving the pressure to develop methyl bromide substitutes in the near term. At the same time, the users of the substances for which allowances have been traded for methyl bromide may not have adequate substitutes available to them. The phaseout schedules for ozone-depleting substances vary partly as a result of differences in the expected pace and progress of the development of substitutes. To allow trading between substances with different substitutes is thus to risk undermining the purpose of the prescribed phaseout schedule. A separate group is thus appropriate, because the proposed phaseout schedule for this chemical differs from that of the other groups. The Agency does not wish to allow the accelerated phaseout of the other class I substances to be circumvented by allowing trading of methyl bromide allowances for allowances for other chemicals that would be phased out after 1995.

6. Ozone Depletion Potential

The updated UNEP Scientific Assessment assigned an ODP of 0.7 for methyl bromide. EPA has in the past relied on international consensus assessments as the basis for its rulemakings. In section 606, Congress specifically cites assessment under the Montreal Protocol as an example of "credible current scientific information" which should be used in deciding on the scientific underpinnings of a decision to accelerate the phaseout schedule. This ODP is also the value adopted by the Parties to the Protocol at their November 1992 meeting. As noted earlier, under section 602(e) the ODP assigned by the Parties will be dispositive once it enters into force. EPA therefore proposes to assign an ODP of 0.7 to methyl bromide (see discussion of the ODP and its uncertainty).

D. Phaseout Schedule for Methyl Bromide

1. Petitioners' Request

The NRDC petitioners requested that EPA use its authority under sections 303 and 606 to accelerate the phaseout schedule for methyl bromide. The Methyl Bromide Working Group and other industry participants, on the other hand, have protested both the listing and any phaseout of the substance whatsoever, particularly in the near term.

2. Statutory Standards

A newly listed class I substance is automatically subject to the section 604(a) phaseout schedule unless: (1) The Administrator accelerates that schedule pursuant to section 606; or (2) the Administrator determines that the section 604(a) schedule is unattainable and extends that schedule pursuant to section 602(d).

Under section 602(d), in the case of any substance added to the list of class I or class II substances, the Administrator may extend any schedule or compliance deadline contained in section 604 or section 605 to a later date than specified in such sections if such schedule or deadline is unattainable, considering when such substance is added to the list. Also, an extension under section 602(d) may not extend the termination of production date for a class I substance to a date more than 7 years after January 1 of the year after the year in which the substance is added to the list of class I substances.

The statute does not specifically define what it means to "extend any schedule or compliance deadline." Nor does it explicitly specify what standard the Agency is to apply in determining how to extend the phaseout schedule if the section 604 schedule is unattainable. Based on the statutory scheme, however, the Agency believes that Congress intended the Agency to replace the section 604 schedule where unattainable for a newly listed substance with the most stringent attainable production and consumption limits.

The Agency believes that section 602(d) reflects an obvious concern that newly listed substances might not have sufficient lead-time to meet the section 604 interim reductions immediately upon being listed. Particularly where a new substance is listed in the later years of the section 604 schedule, potentially significant reductions could easily prove unattainable if immediately applicable. Under section 602(d), the Agency can avoid application of the section 604 schedule where unattainable. Once avoided, the sense of the statutory scheme is that the most stringent attainable schedule should be applied to the newly listed substance. Anything less would be inconsistent with the broad purpose of the scheme to mandate phase-out of ozonedepletors as fast as possible. (See, for example, section 606(a)(2).)

The Agency does not believe the "extension" language was meant to limit the Agency only to "extending" the effectiveness of the specific interim reductions enumerated for "other class I substances" in section 604(a). For example, in a case where even the least stringent enumerated reduction (85 percent) is unattainable, the Agency believes it may nonetheless require a less stringent attainable reduction (e.g., a freeze) instead.

3. Summary of Proposal and Response to Petitioners

Based on currently available information, the Agency believes that the section 604(a) schedule is unattainable. Moreover, for the reasons explained below, the Agency currently believes that the most stringent attainable interim phaseout schedule it can propose is a production and consumption freeze at 1991 levels by January 1, 1994.

As noted above, the petitioners also requested that the Agency accelerate the schedule for methyl bromide under sections 303 and 606. (The reader should consult the discussion of the statutory standards under these provisions in the earlier part of this action.) Given the Agency's finding that the section 604(a) schedule is

unattainable for methyl bromide, *a fortiori* the Agency believes an acceleration of that schedule is not warranted and the acceleration request in the petition should be denied.

At the same time, information continues to be collected and studies undertaken concerning alternatives for the uses of methyl bromide. The Agency will docket such information and studies as they become available, and if warranted, will consider interim reduction requirements. In particular, EPA notes that sections 606(a) and 615 provide authority to accelerate any previously extended interim phaseout schedule for methyl bromide if justifiable based on future developments.

4. Most Stringent Attainable Schedule

As discussed in detail below, information the Agency now has indicates that substitutes for the uses of methyl bromide are currently available only on a very limited basis, but that a wide range of potential substitutes may be available prior to the year 2000. This is the case, in part, because U.S. Department of Agriculture (USDA) regulations and requirements now effectively require the use of methyl bromide for quarantine purposes and because potential substitutes under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) must be registered by EPA before use. Approval of use of a substitute under both of these processes can require considerable testing and involve a lengthy period for review. The data requirements for pesticide registration under FIFRA are contained in extensive tables in 40 CFR 158.202 through 158.740. Data on the following subjects are required for most use patterns: Chemical identity, directions for use, environmental fate, acute and chronic toxicity, and ecological effects. In addition, a tolerance or clearance under the FFDCA is required for a food use chemical. Other data may be required for particular use patterns and under specific circumstances.

Based on the limited current availability of substitutes and the regulatory hurdles that must be overcome before new substances can be used as substitutes, the Agency believes that at least the near term interim reductions required by section 604(a) are unattainable for methyl bromide. At the same time, however, in the absence of the results from the tests described above, the currently available information on alternatives is insufficient to determine what interim reductions are currently attainable. The Agency thus currently lacks an adequate basis for proposing interim reductions and is accordingly at this time only proposing a freeze on production at baseline levels. The Agency requests comment on this approach as well as further information that may become available regarding the availability of substitutes for methyl bromide which could serve as the basis for interim reductions.

The Methyl Bromide Working Group provided the Agency with information regarding methyl bromide uses and the availability and development of substitutes. As discussed above, the Agency additionally requested information on these topics pursuant to section 114 of the Clean Air Act and submissions were due under that request by May 15, 1992. This and other information revealed to the Agency that methyl bromide is a pesticide used primarily in three general areas: Soil fumigation; commodities fumigation; and commercial and residential space or building fumigation. Methyl bromide is used as a soil fumigant for the following crops: Blueberries, strawberries, watermelons, eggplant, cucumbers, raspberries, peppers, tomatoes, tobacco, and other winter vegetables as well as other non-food crops such as ornamentals, turf, and shrubs. Commodities fumigated with methyl bromide include: Logs, lumber, processed foods, and a variety of imported and exported agricultural commodities including pecans, almonds, other nuts, oranges, nectarines, tangerines, grapefruits, sweet cherries, apples, cotton, grains, cut flowers, tobacco, and assorted vegetables and foreign fruits and vegetables. Methyl bromide also appears to be an important space fumigant for structures used in shipment and storage of food items, including warehouses, trucks, railroad cars, food processing plants, barns, grain bins, and greenhouses.

The Animal and Plant Health Inspection Service (APHIS) has approved methyl bromide and in some cases its regulations effectively require methyl bromide as a fumigation treatment for import, export and domestic interstate commerce in food and non-food commodities. Methyl bromide use is mandated by some USDA regulations (7 CFR part 319) (7 CFR 301.38 through 301.96 and 7 CFR 318.13 through 318.82) and substitutes are in some cases restricted by regulations under the FIFRA.

Information was also submitted to the Agency by the USDA and others regarding the extent of U.S. markets and non-food commodities that currently rely on methyl bromide fumigation and the potential economic costs of its regulation. The Agency notes, however, that these analyses typically assumed that methyl bromide would be banned immediately, considered a very limited range of alternatives, and were inconsistent with information on substitutes presented at the Technology and Economics Assessment Workshop in mid-June. EPA believes these shortcomings substantially undercut the utility of these studies.

Others submitting information regarding methyl bromide to the Agency also identified the following concerns. Regarding soil fumigation, many warned that unavailability of methyl bromide would result in the application of greater quantities of less potent alternative herbicides and fungicides which could present other environmental hazards, such as ground and surface water contamination. Also, some were concerned that unavailability of methyl bromide for commodity fumigation would lead to a significant increase in invasions of foreign pests.

Based on currently available information, the Agency believes that much work remains to be done to identify acceptable substitutes for methyl bromide. On June 16–18th, the United States hosted a conference of over 90 experts from over 20 countries on issues related to the use and possible substitutes for methyl bromide. This workshop was held under the auspices of the Montreal Protocol and was convened for the purposes of providing an update on technical and economic issues related to the use of methyl bromide for the Parties to the Protocol in upcoming negotiations. The meeting was co-chaired by Dr. Stephen Andersen and Mr. Steven Lee-Bapty, who had co-chaired the Technical and Economic Assessment Report prepared this past year under the Protocol.

The assessment update concluded that methyl bromide is an economically important chemical widely used as a soil and commodity fumigant and that no one single compound would likely be an appropriate substitute. A number of potential alternatives were identified in each of the major use categories. In addition, near-term steps to reduce emissions through changes in such measures as utilization rates, application techniques, and recycling and recovery may offer significant opportunities for reductions. The assessment highlighted that there is no single alternative to methyl bromide in the broad spectrum of applications for which it is currently used and there are some applications for which there are limited or alternatives.

In the area of structural fumigation, the information available indicates that sulfuryl fluoride is available as one alternative. However, the information provided regarding this substitute indicates that overuse of a single chemical for such a particular application could increase pest resistance to that chemical, and usefulness of such a single alternative as a substitute for methyl bromide may therefore be limited. Other non-chemical alternatives include the use of heat and cold treatments, modified atmospheres, inert dust, and microwave treatments. Each of these methods appear to have some potential applicability, but also have their limitations. Additional research will be required to determine the extent to which they can substantially reduce the current use of methyl bromide in this application.

The area of soil fumigation is particularly critical because it represents the single largest use of methyl bromide. Other chemical fumigants may be possible for some crops in some areas. For example, Dazomet has the potential for substituting widely for methyl bromide but several issues must be resolved before the extent of such substitution becomes clear. For example, although it is approved for use in food crops in over 70 other countries, it is not approved for such application in the United States. Its current use in the U.S. is limited to non-food items, which currently represent only a small fraction of methyl bromide use. The registrant announced at the workshop that it would seek expanded registration in the near future, but this process could take a year or longer. As cited above, numerous tests are required for registration of a pesticide under FIFRA and associated food tolerances under the FFDCA. Even after the testing has been completed and submitted to the Agency, the review period may be extensive.

The reason for the extent of testing and the lengthy review period is that extensive data are needed for evaluating the risk posed through exposure in food: Various subchronic and chronic toxicity studies and data on the level of residues in each individual treated crop (in the case of a soil fumigant, each crop grown in treated soil). Residue chemistry data are generated in a tiered fashion, proceeding from identification of plant and animal metabolites through analytical methods to determine the residues, to measures of the magnitude of the residue in the individual crops. Magnitude of residue data can be collected only on a crop season basis.

After the data are collected, the Agency reviews the toxicity and residue data and conducts a dietary risk assessment to determine whether residues in food which would be permitted by the proposed use meet the applicable statutory standards. Inadequate data or analytical methods for enforcement, or dietary risk concerns can delay the review process. Additionally, the person seeking the registration (usually the producer of the pesticide) must petition the Agency to establish the tolerance or exemption, a formal regulatory process culminating in rulemaking.

While limited field tests on strawberries (Strawberry Research Board), tobacco (G.S. Miner and D.A. Worsham, "Fumigation of Tobacco Plantbeds with Dazomet") and tree seedlings (letter to David Lee from Thomas D. Landis, with enclosure "Soil fumigation in bareroot tree nurseries") suggest that Dazomet may be as effective against a wide range of pests as methyl bromide, additional experience is needed to identify what if any limitations exist to its use. Other chemical fumigants include Telone and Telone C–17 which may have significant potential as substitutes, but the registration of these compounds has been suspended in California due to ambient air quality concerns and these compounds undergoing special review by the Office of Pesticide Programs at EPA. Resolution of issues concerning the safety of their use is essential before expanded use to replace methyl bromide would be possible.

A number of non-chemical alternatives were also presented at the assessment workshop. These included such options as: Soil solarization, biological control agents (e.g., plant growth promoting rhizobacteria and fungal antagonists of nematodes); changes in cultural systems; and such emerging technologies as sodium azides and furfuraldehyde. It is important to recognize that additional research related to each of these options is critical to determine the extent to which they may become significant alternatives to the current use of methyl bromide.

Finally, in the area of commodity fumigation and quarantine applications, concerns were voiced about the limited availability of alternatives for certain applications, particularly related to quarantine use. Alternatives discussed included increased use of phosphine for those commodities where it is an acceptable alternative, the use of controlled atmospheres, heat and cold treatments, and irradiation. Each of these options also requires additional analysis to determine the extent that they are viable alternatives for methyl bromide.

Although the synthesis report did point out potential alternatives, and that there could be substantial anthropogenic emissions of methyl bromide, it did highlight that there is no single alternative for methyl bromide in the broad spectrum of applications and no apparent alternatives for some applications. Further, the introduction of some alternatives may require government approval that could be a lengthy process.

5. Today's Proposal

EPA believes that the preliminary evidence available within the time frame for this proposal demonstrates the unattainability of the environmental groups' suggested phaseout schedule for methyl bromide, and also points to the unattainability of at least the near-term reductions in the section 604(a) phaseout schedule for class I substances. Due to current data limitations and significant uncertainties regarding the availability of substitutes for methyl bromide, EPA believes under these circumstances that a production and consumption freeze at 1991 baseline levels, is the most stringent schedule for the phaseout of methyl bromide that it can propose to establish in place of the section 604(a) schedule.

EPA believes that a freeze at a designated baseline year level would limit the potential environmental harm from increased use of methyl bromide. Moreover, given recent growth in the use of methyl bromide, a freeze at this time would require that near-term reductions steps (including reduced application rates, recovery and recycling, deeper injection and less permeable tarps) that are currently available would be employed and that efforts to develop and commercialize substitutes would be accelerated. Given the unique circumstances (the existing restrictions on substitutes because of their agricultural use) that surround the need for regulatory approvals for many of the substitutes of methyl bromide, further reductions absent further developments on the timing of acceptance of substitutes would be premature. EPA is therefore proposing to extend the section 604(a) schedule to a freeze at 1991 baseline levels beginning January 1, 1994 along with a January 1, 2000 phaseout date.

EPA recognizes that the Clean Air Act specifically limits extensions under section 602(d) to seven years after January 1 of the year after the year in which the substance is added to the list of class I substances. The earliest year

in which methyl bromide can be listed is 1993. If listed in 1993, EPA may not extend the phaseout schedule beyond January 1, 2001. Nevertheless, while EPA believes—based on current information—that a production and consumption freeze is the most stringent schedule it can propose, EPA proposes that this extension continue until January 1, 2000 as specified in 604(b).

While EPA believes that current information suggests near-term reductions are unattainable and does not, in any event, provide an adequate basis to propose specific interim reductions, neither does EPA have data to indicate that termination after January 1, 2000 will be unattainable.

EPA believes that January 1, 2000 is the appropriate phase-out date at this time for two reasons. First, EPA does not believe it should extend the schedule beyond the final termination date specified in the Clean Air Act for class I substances absent an affirmative basis to believe that termination will be unattainable at that time.

Second, were EPA able to comply with the Clean Air Act schedule for responding to the December 3, 1991 petition to list methyl bromide and thereafter for promulgating a final rule adding methyl bromide to the list, no extension could have been provided past January 1, 2000. (Section 602(c) provides that in a case where the Administrator proposes to add a substance to the list, he or she shall add, by rule, (or make a final determination not to add) such substance to such list within 1 year after receiving such petition.) In this case, EPA believes it should therefore conservatively propose to extend the schedule only until January 1, 2000. If listed in 1993, EPA will consider further extending the phaseout schedule until January 1, 2001, if appropriate based on information that becomes available in the coming years.

EPA is proposing to establish 1991 as the "representative" baseline year under section 601(2)(C) as the most recently completed year during which methyl bromide was produced. This is also the base year adopted by the Parties to the Montreal Protocol. The Agency is publishing a request for information on 1991 production and consumption levels in a separate action and anticipates setting baseline production and consumption allowances based on that information. As a class I controlled substance, methyl bromide would also be subject to the recordkeeping and reporting requirements under 40 CFR 82.13.

While the Clean Air Act mandates that—if methyl bromide is added to the class I list in 1993—no extension under section 602(d) may extend the termination date beyond January 1, 2001, EPA is concerned about the possibility that this period may not ultimately provide adequate lead time for the development and approval of substitutes for all of the current uses of methyl bromide. This is particularly true in the case of quarantine and pre-shipment uses of methyl bromide where substitutes may be the most difficult to develop and take the longest time to be accepted by the international community. The Agency believes that an essential use provision which allows the continued production of this compound after the termination date if no substitutes have become available would be highly desirable.

Such an essential use provision was incorporated into the Montreal Protocol for all substances scheduled for phase-out. Furthermore, in listing and freezing production of methyl bromide, the Parties recognized that methyl bromide is essential for quarantine and pre-shipment purposes and specifically exempted these uses from any restrictions. Because methyl bromide was not specifically considered in the CAA, Title VI does not explicitly authorize any essential use exemptions for this compound unlike other Class I substances. In light of this, EPA seeks comment on whether authority currently exists for the Agency to implement an essential use provision for methyl bromide.

The Agency will continue to work closely with researchers, environmentalists, and industry to evaluate new information on the ODP of methyl bromide and to encourage the development of substitutes for this compound. If it appears in the future that a more rapid phaseout of methyl bromide is attainable or practicable, the Agency may then propose to accelerate the phaseout dates as authorized under sections 606 and 615 of the Act.

The Agency recognizes that its proposal under section 602(d) to extend the section 604 phaseout schedule is based on limited information available at the time of this rulemaking. While the Agency believes that currently available information supports the proposed extension as the most stringent phaseout schedule it can propose, the Agency understands that future developments could change this conclusion. The Agency believes that section 606(a) provides authority to accelerate a phaseout schedule that has been extended under section 602(d), if justifiable based on future information. Further, the Agency believes that the petition provision of section 606(b) continues to be applicable to such extended phaseout schedules. Using this authority or general authority under section 615, EPA could accelerate any previously extended phaseout schedule in light of future developments. Furthermore, EPA believes that it has authority under section 602 of the Clean Air Act to reconsider its decision to list and phaseout methyl bromide in the event that scientific information becomes available indicating that the ODP proposed to be assigned today is incorrect. In section 602(a), Congress provided for listing of substances specifically named in that section and already known to be potent ozone depletors, and also set out criteria for EPA to add substances to the list. The criteria for additions to the class I list are as follows: First, pursuant to subsection (c), EPA is authorized to add to the list substances the Administrator finds causes or contributes significantly to harmful effects on the stratospheric ozone layer; and second, EPA shall, pursuant to subsection (c), add to such list all substances that the Administrator determines have an ODP of 0.2 or greater. Section 602(c)(1) specifically authorizes EPA to add substances to the list by rule in accordance with the criteria set forth in subsection (a).

Section 602(c)(4) states that no substance referred to in subsection (a), including methyl chloroform, may be removed from the list of class I substances. EPA believes that Congress intended the "substances referred to in subsection (a)" only to include those substances specifically identified in subsection (a) itself. Newly listed substances such as methyl bromide would actually be listed under subsection (c), whereas subsection (a) only sets out the criteria for listing new substances. Unlike newly listed substances, those known ozone depletors specifically identified in subsection (a) are to be listed under subsection (a) and not subsection (c). These explicitly identified substances are clearly referenced in subsection (a). However, it seems reasonable to conclude that the specification of criteria for listing in subsection (a) does not constitute a "reference" to all those substances which may satisfy these criteria and hence be listed under subsection (c) in the future.

EPA believes it is reasonable to conclude that Congress intended to limit the Agency's discretion to remove from the list of class I substances only those that Congress itself expressly identified. EPA's decision whether to list a new substance must be based on the Agency's assessment of the substance's contribution to stratospheric

ozone depletion and ODP. In making this assessment, the Agency must rely on the most current scientific evidence, which is always developing and never absolutely certain. A rule that the listing decision cannot be reversed might chill the Agency from controlling newly identified substances for which there is much evidence of their danger, since the Agency would be unable to respond to perhaps unexpected new evidence that the danger was previously overstated. The certainty demanded to make an irreversible decision would be increased without reason. Therefore, it is reasonable that the Agency be able to consider changes in scientific evidence is deciding whether to add the substance to the list. The Agency requests comment on this reasoning and its legal authority to delist a substance such as methyl bromide if future scientific developments warrant such action.

The Agency requests comment on the proposed baseline year and phaseout schedule for methyl bromide. EPA also requests comment on whether based on the current availability of substitutes, a 50 percent cut by 1997 or other interim reductions should be required, section 604 phaseout schedule should be maintained or, the environmental groups' suggested schedule should be adopted.

6. Applicability of section 611 Labeling Requirements

In the response to comments document to the final rule on labeling, the Agency responded to questions regarding whether products grown with methyl bromide should be labeled. In its document, the Agency stated that it considers the processes involved in growing, harvesting, storing, and transporting of food such as fruits and vegetables, to be an agricultural process rather than a manufacturing process. As a result of its revised interpretation of "manufactured with," EPA's intention is to not include these processes under the definition of manufactured with. For purposes of section 611, EPA defines "manufacture" as "the mechanical or chemical transformation of materials or substances into new products or to assemble component products." EPA believes that the agricultural processes mentioned above are excluded from the definition of manufacture, and therefore not subject to the labeling requirements.

7. Essential Use Exemption

Congress had recognized the need to exempt certain ozone depleting substances as essential uses in section 604 of the Amended Clean Air Act. At the time of passage of the Act, Congress had not anticipated the listing and control of methyl bromide. However, with methyl bromide's listing as a class I substance, the Agency recognizes its current important role as a pesticide, and that there are certain applications for which there are currently no replacements. Given that there may be "essential uses" for methyl bromide in the future, the Agency requests comment on its authority under the Clean Air Act to exempt "essential uses" for this chemical, and comments on the timing of when such a review process should occur. In addition, the agency asks comments on specific use exemptions for this chemical.

E. Addition of Hydrobromofluorocarbons to the List of Class I Substances and to the Phaseout Schedule

1. Summary

At the fourth meeting or the Parties to the Montreal Protocol, the Parties agreed to amend the Protocol to require termination of production and consumption of HBFCs, beginning January 1, 1996. These chemicals added as Group II of Annex C to the Protocol, have generally parallel chemical structures to the HCFCs listed in Group I of Annex C to the Protocol, with bromine atoms taking the place of chlorine atoms. The ODP's for many HCFCs are identified in Group II of Annex C as a range and are based on estimates. The ODPs for these substances are less certain than where the ODP is listed as a single number based on laboratory measurements. The upper value in the ODP range is the estimate of the ODP for the isomer with the highest ODP, and the lower value is the estimate of the ODP for the isomer with the lowest ODP. The Parties to the Protocol agreed, however, that the ODPs under the Protocol for the HBFCs shall be the upper value in the range. In every case for the HBFCs listed in Group II of Annex C, the upper value exceeds 0.2.

As with the Parties' agreement regarding methyl bromide, the Parties' agreement to amend the Protocol to list the identified HBFCs as controlled substances, to assign the specific ODPs, and to phase out production beginning in 1996, will enter into force by January 1, 1994, provided that twenty Parties have ratified the amendments. If twenty Parties have not ratified the amendments by that date, then these amendments will enter into force ninety days after the twentieth instrument of ratification is deposited by a Party.

As explained with respect to methyl bromide, section 602(e) of the Clean Air Act provides that the ODP of a substance specified under section 602 of the Clean Air Act shall be consistent with the ODP specified for that substance under the Protocol. Also, section 602(a) provides that the Administrator shall, pursuant to subsection (c), add to the class I list all substances that the Administrator determines have an ODP of 0.2 or greater. As the Parties agreed to ODPs for the HBFCs that are all above 0.2, once the Protocol amendments specifying these ODPs enter into force, these ODPs will control listing under the Clean Air Act. Also, for the same reasons explained with respect to methyl bromide, EPA believes it has authority to remove any of these HBFCs from the class I list if future scientific developments warrant such action.

EPA is preceding now to list these compounds as class I substances because of the information presented at Copenhagen on behalf of the Scientific Assessment Panel, that the ODPs of these compounds are above 0.2.

Once listed, class I substances are automatically subject to the phaseout schedule specified in section 604 of the Clean Air Act. As explained earlier in this action, section 606(a)(3) provides authority for accelerating the phaseout of class I substances on the grounds that the Montreal Protocol is modified to include a schedule that is more stringent than the schedule otherwise applicable under title VI. Moreover, section 614 of the Clean Air Act provides that in the case of conflict between any provision of this title and any provision of the Montreal Protocol, the more stringent provision shall govern. Therefore, the Agency must establish phaseout schedules at least as stringent as those agreed to by the Parties, once those agreements enter into force. Hence, the January 1, 1996 phaseout date agreed to by the Parties is the least stringent phaseout date EPA may propose to be effective when the Parties' agreement enters into force.

However, EPA proposes to freeze production and consumption of HBFCs beginning January 1, 1994, in addition to the January 1, 1996 phaseout date. EPA is aware of only one HBFC that is commercially produced. This substance—CHF_2Br, also referred to as HBFC–22B1—is used as a fire suppressant and has been evaluated as a substitute for certain halon uses. It has an ODP of 0.74, which is higher than some of the other substances already on the class I list and subject to the accelerated phaseout proposed elsewhere in this action. Furthermore, use of this substance is quite limited, and it is manufactured by only one company and has a limited market

potential. In addition, it appears likely that there will be suitable and economically acceptable substitutes available for all uses of this substance prior to phase-out in 1996. EPA requests comment on the need for interim reductions prior to the January 1, 1996 termination date.

Further, EPA believes it has authority to provide for a limited exception to the production and consumption limits for essential uses of this substance, if they arise. EPA believes this authority derives not from the essential use provisions of section 604, but from its authority to adjust phaseout schedules under section 602(d). As explained with respect to methyl bromide, EPA is authorized under section 602(d) to extend the phaseout schedule for newly listed substances if the statutory schedule is unattainable. But no extension may extend the termination date more than 7 years after January 1 of the year after the year in which the substance is added to the list.

Assuming this substance is listed in 1993, the termination date may not be extended past January 1, 2001. EPA believes it may allow for essential uses of this HBFC as an exercise of this extension authority, but only until the latest possible termination date under the Clean Air Act. Also, since the phaseout schedule must be no less stringent than that specified in the Montreal Protocol, any limited essential use exception must be no less stringent than any such exceptions provided in the Montreal Protocol, once the listing of this substance enters into force under the Protocol. EPA requests comment on this reasoning, and the legal authority for an essential use exemption for such newly listed substances.

EPA proposes 1991 as the baseline year for establishing production and consumption allowances for the HBFCs, including HBFC–22B1. EPA requests comment on this choice of baseline year, particularly since HBFCs have generally not been produced except for the one substance identified. EPA is proposing that HBFCs constitute a separate group within class I substances because of the different schedule of this compound to HCFCs or halons, and because of the unique circumstance concerning the limited production and use of compounds within this class. By assigning it to a separate group, efforts will be focussed on developing alternatives by 1996 for these compounds.

In a separate action, EPA is requiring persons that manufactured, imported, exported or transformed HBFC–22B1 or any other HBFC, in 1991 to provide information on their activities during that year, for purposes of establishing the allowances for HBFCs that are listed as class I substances.

The Agency requests comment on the proposed 1991 baseline year and phaseout schedule for HBFCs, in light of available substitutes, and on the attainability of the schedule.

2. Legal Authority

The authority to add substances to the list of class I controlled substances is contained in section 602 of the Clean Air Act, which has been discussed extensively in connection with the listing of methyl bromide. The authority to accelerate the phaseout of class I substances is contained in section 606 of the Act, which has already been discussed in connection with the phaseout of other class I substances.

3. Applicability of section 611 labeling requirement to HBFCs

As discussed above under the section on labeling of methyl bromide, any newly listed class I or class II substance will fall within the CAA requirements for labeling under section 611. Given that the only known use of an HBFC is for fire fighting purposes, a use which is the same as that of halons, the Agency does not anticipate any new or unanticipated issues not dealt within the context of its previous rulemaking establishing its labeling program. Nonetheless, EPA is asking comments on any issues related to the applicability of section 611 to HBFCs, including a proposed effective date for labeling of one year after a final action to add the compounds to the list of Class I substances.

F. Trade Restrictions

1. Montreal Protocol Trade Requirements

Article 4 of the Montreal Protocol, as amended, requires Parties to the Protocol to implement certain trade restrictions with regard to foreign states that are not Parties to the Protocol as originally agreed to in 1987, or as subsequently amended. Paragraph 8 of Article 4 provides that the trade bans are not to be applied to foreign states not party that have been determined, by a meeting of the Parties, to be in compliance with the phase-out and trade provisions of the Protocol.

a. *1987 Montreal Protocol Trade Provisions.* Article 4 paragraph 1 of the Montreal Protocol, as adopted in 1987, requires the Parties to ban bulk imports of the chemicals listed in Annex A of the Protocol [5] from foreign states that are not Parties to the 1987 Montreal Protocol within one year of the Protocol's entry into force.[6] Accordingly, EPA promulgated final regulations implementing this provision at 40 CFR 82.4(d). (*See* 56 FR 9528, March 6, 1990).

The Montreal Protocol as adopted in 1987 also contained provisions in paragraph 2 of Article 4, that required Parties operating under Article 5 paragraph 1 (pertaining to developing countries) to ban bulk exports of the Annex A chemicals to foreign states not party beginning January 1, 1993. Finally, Article 4 paragraph 3 of the 1987 Montreal Protocol required the Parties to develop an annex listing products containing the Annex A chemicals within three years of the date of entry into force of the Protocol, and to ban imports of those products from foreign states not Party to the Protocol within one year of the effective date of the Annex.[7] (The obligation to ban the imports of products would not apply to any Party that objected to the annex.)

b. *Trade Provisions Added by the 1990 London Amendments to the Montreal Protocol.* The Protocol's Article 4 trade bans were revisited and amended at the Second Meeting of the Parties to the Montreal Protocol held in London in June 1990. The London Amendments, which entered into force on August 10, 1992, revised the Article 4 trade restrictions agreed to in 1987 in several respects: (1) Paragraph 1 was amended to specify January 1, 1990 as the date the ban on bulk imports from foreign states not party of Annex A substances was to go into effect, (2) paragraph 2, as amended, extends the ban on exports to foreign states not party of Annex A substances to all Parties (not just the Article 5, paragraph 1 "developing countries"), (3) paragraph 3 was amended to specify January 1, 1992, as the date by which the list of products containing Annex A substances must be developed by the Parties. In addition, the London Amendments require the Parties to the London Amendments to ban bulk imports from (paragraph 1 *bis.*) and exports to (paragraph 2 *bis.*) foreign states that are not Parties to the London Amendments of twelve additional ozone depleting chemicals (listed in Annex B

[5] Annex A chemicals are listed in 40 CFR part 82, appendix A, as Class I, Groups I and II.

[6] The 1987 Montreal Protocol entered into force on January 1, 1989.

[7] Although not covered by today's proposal, Article 4, paragraph 4 of the Protocol provides for the Parties to determine the feasibility of restricting the import of products produced with Annex A controlled substances. This determination must be made within five years of the Protocol's entry into force, *i.e.* by January 1, 1994.

to the Protocol, as amended).[9] These last Annex B trade restrictions are required to take effect one year after the date of entry into force of the London Amendments, *i.e.* August 10, 1993.[9]

c. *Elaboration of the List of Products Containing Annex A Substances.* On June 21, 1991, the Third Meeting of the Parties in Nairobi adopted "A List of Products Containing Controlled Substances Specified in Annex A" (Annex D to the Protocol), in accordance with Article 4, paragraph 3 of the Montreal Protocol, as amended. Annex D, which became effective on May 27, 1992 (with one Party objecting),[10] specifies the following six product categories:

1. Automobile and truck air conditioning units (whether incorporated in vehicles or not),
2. Domestic (*i.e.* residential use) and commercial refrigeration and air conditioning/heat pump equipment (when containing controlled substances in Annex A as a refrigerant and/or in insulating material of the product),
3. Aerosol products, except medical aerosols,
4. Portable fire extinguishers,
5. Insulation boards, panels and pipe covers, and
6. Pre-polymers.[11]

The ban on importation from foreign states not party of products from these categories is required to begin one year from the effective date of Annex D, or May 27, 1993:[12]

d. *Revisions to the Trade Provisions by the Copenhagen Amendments.* At the Fourth Meeting of the Parties in Copenhagen on November 23–25, 1992, the Parties adopted the following decisions pertaining to the Montreal Protocol Article 4 trade bans:

(1) Decisions IV/1 and IV/17 paragraph 2(b) confirm August 10, 1992 as the date the London Amendments "enter into force", and the August 10, 1993 deadline specified in today's proposal for the Class I Groups III, IV, and V bulk imports and exports trade bans.

(2) Decision IV/5 adopts, among other matters, a procedure for dealing with non-compliance by Parties with Protocol requirements (Annex IV to the Fourth Meeting of the Parties), and an indicative list of measures that might be taken in respect of non-compliance (Annex VI to the Fourth Meeting of the Parties). Among other matters these annexes indicate that non-compliance could result in "suspension of the operation of * * * specific rights and privileges under the Protocol, * * * including * * * trade * * *."

(3) Decision IV/16, paragraph 1, confirms that Annex D of the Protocol ("A List of Products Containing Controlled Substances Specified in Annex A") entered into force on May 27, 1992. This means that the deadline for the imports ban on such products specified in today's proposal of May 27, 1993.

(4) Decision IV/16, paragraph 3, adopts the conclusions in document UNEP/OzL.Pro.4/3 distributed prior to the Fourth Meeting of the Parties, regarding the Harmonized System (HS) customs code numbers for the products listed in Annex D of the Montreal Protocol. That document contains the following two conclusions pertinent to the ban on imports of controlled products proposed today, and the inclusion of Appendix D of the proposed rule:

[a. A] set of the HS customs code numbers have been compiled for the products containing controlled substances as listed in Annex D to the Montreal Protocol, so as to facilitate the implementation of the Protocol * * *.

[b.] While some products can be readily associated with HS codes, many products cannot be tied to HS classifications unless their exact composition and the presentation are known. It should be noted that the specified HS classifications represent the most likely headings and subheadings which may contain substances controlled by the Montreal Protocol. *The codes given should only be used as a starting point;* further verification is needed to ascertain whether or not the products actually contain controlled substances.
(Emphasis added).

(5) Decision IV/17 paragraph 2(a) clarifies that Article 4 paragraph 2 (Annex A bulk export ban) applies only to states not parties to the 1987 Montreal Protocol. This interpretation of Article 4 paragraph 9 of the Protocol clarifies that a foreign state's "Party" or "non-Party" status is dependent on whether the state has ratified the original "Montreal Protocol", the "London Amendments", or the "Copenhagen Amendments" out of which the particular trade ban in question arises.

(6) Decision IV/17B sets forth the determination of the Parties that Colombia (a non-Party) has made a demonstration of compliance under Article 4 paragraph 8, and is, therefore, exempt from the Article 4 trade bans.

(7) Decision IV/17C constitutes a provisional determination of compliance, pursuant to Article 4 and 8, until the fifth meeting authorizes the Parties to suspend the trade bans in paragraphs 2 and 2 *bis* of Article 4 (Class I exports) in October/ November 1993,[13] with regard to any non-Party that submits a demonstration of compliance with the Protocol to the Secretariat by March 31, 1993.

(8) Decision IV/27 directs the Technology and Economic Assessment Panel to study the feasibility, as required by Article 4 paragraph 4, of banning or restricting the imports of products made with Annex A substances (Class I, Groups I and II), and to report its findings to the Secretariat by March 31, 1993, for consideration by the Fifth meeting of the Parties.

(9) Finally, Decision IV/28 directs the Technology and Economic Assessment Panel to develop a list of products containing Annex B (Class I, Groups III, IV, and V) substances for consideration by the Sixth Meeting of the Parties in 1994 as required by Article 4 paragraph 3 *bis*.

These decisions are discussed elsewhere in this package to the extent they are pertinent to today's proposal.

The Parties also adopted a number of amendments to the Article 4 trade bans of the Protocol (the "Copenhagen Amendments"; see Decision IV/4 of the Parties, adopting Annex III to the report of the Fourth Meeting of the Parties) as follows:

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[9] The Annex B chemicals are listed in 40 CFR part 82, appendix A, as Class I, Groups III, IV, and V.

[10] See Decisions IV/1 and IV/16 paragraph 2(b) of the Fourth Meeting of the Parties to the Montreal Protocol. Other provisions added to Article 4 of the Montreal Protocol by the London Amendments, not pertinent to today's proposal, include: elaboration of an annex of products containing Annex B substances, a study on the feasibility of restricting trade in products made with controlled substances, and obligations to discourage exports to non-Parties of technology to produce and utilize controlled substances.

[10] See Decision IV/15 paragraph 1 of the Fourth Meeting of the Parties to the Montreal Protocol.

[11] EPA considered whether the ban applies to all imports of products on the list, or only to the listed products when they are charged with a controlled substance. This issue arises because the "refrigeration/air conditioning/heat pump" category has a notation specifying that the ban applies to those products when they contain the controlled substance "as a refrigerant and/or in insulating material". This could be read to imply that imports from non-parties of the other 5 categories are banned, regardless of whether the product actually contains a controlled substance. EPA believes, however, that such a reading would be inconsistent with the intent of paragraph 3. The ban, therefore, is proposed to apply only to products actually containing an Annex A controlled substance at the time they are imported.

[12] See Decision IV/16 paragraph 1 of the Fourth Meeting of the Parties to the Montreal Protocol. Article 10 of the Vienna Convention specifies how the effective dates of annexes are calculated. Pursuant to those provisions Annex D was circulated to the parties by the UN Directorate on November 27, 1991, and became automatically effective six months thereafter on May 27, 1992, for those Parties that did not object. The United States did not object.

[13] See Decision IV/29 regarding the Fifth Meeting of the Parties.

(1) New paragraph 1 *ter* would ban imports from foreign states not party of Annex C, Group II ozone depleting substances (HBFCs) within 1 year of the date the Copenhagen Amendments enter into force.[14]

(2) New paragraph 2 *ter* would ban exports to foreign states not party of HBFCs commencing 1 year of the Copenhagen Amendments entry into force.

(3) New paragraph 3 *ter* would require that the Parties elaborate an annex listing products containing HBFCs within 3 years of the date the Copenhagen Amendments enter into force; and would require all Parties to the Copenhagen Amendments that do not object to the list to ban imports of such products from foreign states not party within 1 year of said annex becoming effective.

(4) New paragraph 4 *ter* would require that the Parties to the Copenhagen Amendments determine the feasibility of banning or restricting imports of products produced with, but not containing, HBFCs within 5 years of the date the Copenhagen Amendments enter into force. In addition, if the Parties determine that such a ban is feasible, this paragraph would require the Parties to elaborate an annex listing products made with HBFCs, and, except for Parties objecting, to ban or restrict imports of the products within 1 year of the annex becoming effective.

(5) Amendments to Article 4, paragraph 8 would ensure that the trade ban exemptions for foreign states not party determined by the Parties to be complying with the Protocol, would cover all of the Article 4 bans (including any new bans resulting from future amendments to the Protocol).

(6) Finally, new paragraph 10, would require the Parties to decide whether to extend the Article 4 trade bans to Annex C, Group I and Annex E ozone depleting substances (*i.e.* HCFCs and Methyl Bromide, respectively) by January 1, 1996. Article 3 of Annex 3 provides that the Copenhagen Amendments will "enter into force" on January 1, 1994, if ratified by 20 Parties to the Protocol, or 90 days following ratification by 20 Parties. EPA will propose implementing regulations at that time for the trade restrictions embodied in those amendments.

e. *Trade Bans in Today's Proposal.* The regulations in today's proposal would extend the prohibitions on trade with respect to foreign states not party specified in the existing rules at 40 CFR 82.4(d), in several respects. First, bulk exports from the U.S. to foreign states that are not Party to the 1987 Montreal Protocol of Annex A substances (Class I, Groups I and II) would be banned as of the effective date of the final rule. However, EPA has advised all exporters of the Protocol Restriction's on bulk exports, and is requesting that all exporters refrain from exporting bulk chemical to non-papers beginning March 31, 1993. Currently U.S. exports to foreign states not party of Annex A chemicals constitute less than 15% of total U.S. exports of these chemicals. The impact of this ban on U.S. trade is, therefore, expected to be minimal.

Also, pursuant to the provisions of Article 4 added by the London Amendments, today's proposal would amend 40 CFR 82.4(d) to ban bulk imports and exports of chemicals listed in Annex B to the Protocol (see Class I, Groups III, IV, and V in Appendix A of 40 CFR Part 82, subpart A), beginning August 10, 1993, between the U.S. and foreign states not Party to the 1990 London Amendments. Current U.S. exports of Annex B chemicals to foreign states not party comprise less than 15% of total U.S. exports in this category. Moreover, there have been no U.S. imports of Annex B chemicals from foreign states not party over the last three years. The domestic impact of today's proposal is, therefore, expected to be minimal.

Finally, the regulations proposed today would also ban imports into the U.S. from foreign states that are not Party to the 1987 Montreal Protocol of products containing controlled substances listed in Annex D ("controlled products") beginning May 27, 1993. Today's action includes, in revised Appendix D to this subpart, a proposed non-inclusive list of harmonized tariff schedule classifications for items that may fall within one of the six Annex D product categories. It would be difficult to elaborate a definitive list of products for several reasons:

(1) *Harmonized Schedule Classification System.* The Harmonized Schedule classification system, which is used by over 100 countries, is standardized up to the 6-digit or "international level" (e.g. 8415.00). At the international-level, the classification system is fairly stable, subject to review only once every four years. Each country may, however, independently further classify products. The United States classifies products at the 8-digit or "legal level" (*e.g.* 8415.00.04) to implement the U.S. Customs duty functions. This level of classification may be changed by Congress or the President at any time, or pursuant to a bi-lateral free-trade agreement. In addition, products are classified further to the 10-digit or "statistical" level, and reported to the U.S. Census based on U.S. Customs Entry Form information. EPA will rely on the Census information to implement the imports ban requirements.

(2) There are no independent International Harmonized Schedule classifications for the six product categories in Annex D, although they have been proposed by the Parties through appropriate avenues. Moreover, because Annex D products are manufactured in many different forms, and subject to innovation, there is no single classification system that could be easily applied. Appendix D, therefore, elaborates a suggestive list of products that have been classified under the Harmonized Schedule system and that appear to fall within one of the six Annex D categories. Any of the products included in Appendix D may contain class I, Group I or II, controlled substances, and if one does contain such a substance it may not be imported from a non-Party. As was noted above, the difficulties in identifying Harmonized Schedule codes were discussed at the recent meeting of the Parties in Copenhagen. See Decision IV/16 paragraph 3. Consistent with the conclusions of the Parties reached at the Copenhagen meeting, the import from a non-Party of a product that, although not included in appendix D of today's proposal, falls within one of the six Annex D product categories and contains a Group I or II controlled substance, is also banned. Under today's proposal it would be the importer's responsibility to ensure that any Annex D product (whether listed in Appendix D or not) imported from a non-Party in fact does not contain a Group I or II controlled substance.

Information currently available to EPA indicates that imports from foreign states not party in each of the Annex D product categories, are small or non-existent.[15] Given the large number of Parties to the 1987 Montreal Protocol (see, below), the apparent limited volume of imports to the U.S. from foreign states not party of Annex D products, and the apparent wide

[14] The Copenhagen Amendments would add two new lists of ozone depleting substances Annex C Group I (HCFCs) and Group II (HBFCs (C+H+F+Br chemicals)), and Annex E (methyl bromide).

[15] Source: According to information provided by the Air-Conditioning, Refrigeration, and Heating Institute (ARI) more than 95% of total imports of refrigeration and air conditioning products (category 2) comes from Parties. Similarly, according to the Polyisocyanurate Insulation Manufacturers Association (PIMA), there is no current trade with non-Parties in insulation products (category 5).

availability of the controlled products from U.S. manufacturers, the impact of this ban on the U.S. economy is expected to be nominal. EPA asks for comment on Appendix D of today's proposal, including the extent of any trade with foreign states not party and information about additional products that could be referred to under the six specified categories.

e. *Parties to the 1987 Montreal Protocol and 1990 London Amendments.* In accordance with Article 4, paragraph 9, the trade restrictions of the Montreal Protocol apply to any foreign state that has not "agreed to be bound by the control measures in effect for that substance". Whether a foreign state is subject to some or all of the trade bans proposed today will, therefore, depend upon the extent to which it has accepted the pertinent provisions of the Protocol. (See Decision IV/17A paragraph 2(a) of the Fourth Meeting of the Parties to the Montreal Protocol.) Specifically, a foreign state that has ratified the Montreal Protocol as adopted by the Parties in 1987, but not the 1990 London Amendments, would be a non-Party for purposes of the Annex B bulk chemicals imports and exports ban. EPA, therefore, proposes to amend 40 CFR part 82, appendix C from part 82, and the definition of "Party" to distinguish between Parties to the 1987 Montreal Protocol and to the London or Copenhagen Amendments. In addition, EPA is amending appendix C to add references to several foreign states that became Parties since the appendix was first published. EPA intends to update Appendix C periodically. These changes will help ensure against the unintended imposition of the trade bans on trade with foreign states that become Parties after the rules are promulgated.[16]

The following foreign states are currently Parties to the Montreal Protocol as initially agreed to in 1987 (excludes the Annex B bulk chemical trade restrictions): Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Botswana, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Chile, China, Costa Rica, Croatia, Cuba, Cyprus, Czech and Slovak Federal Republic, Denmark, Ecuador, Egypt, El Salvador, Fiji, Finland, France, Gambia, Germany, Ghana, Greece, Guatemala, Guinea, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kenya, Republic of Korea, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Macaw, Malawi, Malaysia, Maldives, Malta, Mauritius, Mexico, Netherlands (including Netherlands Antilles and Aruba), New Zealand (not including Cook Islands and Niue), Niger, Nigeria, Norway, Panama, Papua New Guinea, Philippines, Poland, Portugal, Russian Federation (*i.e.* former USSR), Saint Kitts and Nevis, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom,[17] Uruguay, U.S., Venezuela, Yugoslavia, Zambia, and the European Economic Community (EEC). Except as is explained further below regarding foreign states not party that are complying with the Protocol, foreign states not listed above are foreign states not party to the 1987 Montreal Protocol and will be subject to the trade bans proposed today pursuant to that authority unless and until they become Parties.

The following foreign states are currently Parties to the London Amendments (including the Annex B bulk chemical trade restrictions): Australia, Cameroon, Canada, Chile, China, Denmark, Finland, France, Germany, Ghana, Guinea, India, Indonesia, Ireland, Israel, Italy, Japan, Luxembourg, Maldives, Mauritius, Mexico, Netherlands (including Aruba), New Zealand (not including Cook Islands and Niue), Norway, Russian Federation (*i.e.* former USSR), South Africa, Spain, Sweden, Switzerland, Thailand, United Kingdom,[18] U.S., and the European Economic Community (EEC). Except as is explained further below regarding, foreign states not party that are complying with the Protocol, foreign states not listed above are foreign states not party to the London Amendments and will be subject to the trade bans proposed today pursuant to that authority unless and until they become Parties.

Article 4, paragraph 8, of the Montreal Protocol specifies one exception to the restrictions on trade with foreign states not party. Specifically, paragraph 8 provides that the trade prohibitions of Article 4 do not apply to any non-Party that is determined by a meeting of the Parties to be complying with Articles 2, 2A to 2E and 4 of the Protocol.

Appendix D of the current rule was previously reserved for the listing any such foreign state. EPA proposes to redesignate Appendix D and use it to specify the list of products containing Annex A substances. In addition, in the event of any determinations by the Parties under Article 4 paragraph 8, that information will be added to the rule as an amendment to the table of states listed in appendix C.

At the recent meeting of the Parties in Copenhagen two decisions were reached pertaining to this Article 4, paragraph 8 of the Protocol. Specifically, Decision IV/17B *bis* sets forth the determination of the Parties that Colombia (a non-Party) has made a demonstration of compliance under Article 4 paragraph 8, and is, therefore, exempt from the Article 4 trade bans. In addition, by Decision IV/17C, the Parties may suspend the trade bans in paragraphs 2 and 2 *bis* of Article 4 (Class I exports) until the Fifth Meeting of the Parties in October/November 1993,[19] with regard to any non-Party that submits a demonstration of compliance with the Protocol to the Secretariat by March 31, 1993.

Accordingly, the trade bans of part 82 will not apply to Colombia. In addition, EPA proposes that it will give public action as to any country that submits a demonstration as provided in Decision IV/17C. Since the determination specified by that decision is, however, temporary in nature EPA proposes that it would not amend Appendix C in the event of any such showing.

These trade restrictions under the Protocol only apply to a "State not party" to the Protocol. As such, they do not apply to Taiwan. The U.S. has data indicating that Taiwan is in compliance with the reduction provisions of the Protocol.

f. *Compliance.* Section 82.13 of the existing regulations specifies recordkeeping and reporting requirements for trade in all Class I bulk chemicals, as part of the stratospheric

[16] Pursuant to the provisions of the Vienna Convention and the Montreal Protocol, the official record of United Nations treaty ratification is maintained by and available from the Depositary of the United Nations Secretariat, Office of Legal Affairs, New York. In addition, up to date information on the status of ratification of the Montreal Protocol and its amendments is published every three months, and can be obtained from, the United Nations Environment Programme (UNEP), P.O. Box 30552, Nairobi, Kenya, or by calling the U.S. EPA Stratospheric Ozone Program Hotline. A copy of the most recent issue is available for viewing in the docket for this rulemaking.

[17] See Status of Ratification/Accession/Acceptance/Approval of: I. The Vienna Convention for the Protection of the Ozone Layer (1985), II. The Montreal Protocol on Substances that Deplete the Ozone Layer (1987), III. The Amendment to the Montreal Protocol (1990), October 1992 (Eighteenth Issue), prepared by the United Nations Environment Programme (UNEP/OxL.Rat.18, 31 October 1992).

[18] See Status of Ratification/Accession/Acceptance/Approval of: I. The Vienna Convention for the Protection of the Ozone Layer (1985), II. The Montreal Protocol on Substances that Deplete the Ozone Layer (1987), III. The Amendment to the Montreal Protocol (1990), October 1992 (Eighteenth Issue), prepared by the United Nations Environment Programme (UNEP/OxL.Rat.18, 31 October 1992).

[19] See Decision IV/29 regarding the Fifth Meeting of the Parties.

ozone allowance and phase-out scheme. Because those information requirements are expected to be adequate to enforce the trade restrictions on bulk chemicals proposed today, no additional information requirements are proposed.

With regard to the new provisions on trade in controlled products, today's proposal does not specify any recordkeeping or reporting requirements. Under this approach compliance with the ban on imports of such products from foreign states not party would be enforced, in cooperation with U.S. Customs, relying on standard import documentation (*e.g.* U.S. Customs Entry Form 3361 and Entry Summary Form 7501, which among other things includes the Harmonized Schedule Commodity codes and the country of origin for the import).

EPA, however, asks for comment on whether the information requirements contained in 40 CFR 82.13 for bulk chemicals should be required for controlled products in the final rules. Although the ban only applies to controlled products when they actually contain the listed substance, requiring recordkeeping and reporting of all imports from foreign states not party of products within the six appendix D product categories would provide a mechanism to focus compliance investigations, as well as an added incentive for the foreign states not party to ratify the Protocol.

Under such an approach § 82.13(g) would be revised to require each person that imports a product included in one of the six product categories specified in new appendix D, from a non-Party to the 1987 Montreal Protocol, to comply with specified recordkeeping and reporting requirements during each control period. Among these, importers would be required to maintain records of the quantity and dollar value of each product within the six controlled product categories imported from a non-Party, information verifying whether the product contains a controlled substance and, if so, which controlled substance the product contains; the date on which the product was imported; the port of entry through which the product passed into the United States; the country from which the product was imported; and the Harmonized Schedule commodity code for the product. In addition each calendar quarter, any such importer would be required to submit report to the Administrator specifying the quantity of the product imported from the non-Party (in dollar value), for the previous calendar quarter and a certification that the product did not contain a Group I or II controlled substance. EPA asks for comment on what the burden of these requirements would be.

g. *Definitions.* Several new definitions and revisions are proposed today to conform the scope of the bans to the Montreal Protocol, as amended. (In the event these definitions are adopted, technical amendments will be made to this part in the final as needed.) For example, the definition of "Party" in 40 CFR part 82 is revised to (1) distinguish between Annex A parties and Annex B parties, (2) make specific reference to unusual situations and (3) refer to Appendix C for a comprehensive list of all countries in the world and the status of each country's ratification of the agreements. Under the Montreal Protocol the UN Directorate as the official record of what foreign states are "Parties". EPA intends to periodically update Appendix C to help ensure against the unintended imposition of the trade bans proposed today to trade with any foreign state that becomes a Party after today's proposal is promulgated in final.

In addition, today's proposal would amend the definition of "importer" found at 40 CFR 82.3(l) to conform to the definition used in regulations promulgated pursuant to the Toxic Substances Control Act, see 40 CFR parts 720 and 763. This revision would broaden the definition of "importer", currently limited to the "importer of record", to include the actual owner, the cosigner, and the transferee, of the import. This change is being proposed to ensure that requirements imposed on importers are not incorrectly applied only to import agents but to those Parties most directly responsible for these activities. Public comment is requested on the need for this change and any potential consequences.

2. Legal Authority

The ratification by the United States of international agreements obligates the United States to implement their mandatory provisions. The Vienna Convention, signed by the United States in 1985, was ratified by the United States Senate and brought into force for the United States on August 27, 1986. This agreement establishes the legal framework for the development of international protocols on ozone protection. The Montreal Protocol, as signed by the Parties in 1987, was ratified by the United States on April 21, 1988, and entered into force (following ratification by 11 Parties) on January 1, 1989. The London Amendments to the Montreal Protocol, signed by the Parties in 1990, were ratified by United States on December 18, 1991, and entered into force on August 10, 1992.

Section 615 of the Act provide EPA with the authority to promulgate the proposed trade restrictions. That section authorizes the Agency to promulgate regulations if, in the Administrator's judgment, any substance, practice, process, or activity may reasonably be anticipated to affect the stratosphere. This language is substantially similar to that contained in pre-1990 Clean Air Act section 157(b), which was the statutory basis of EPA's original rules implementing the 1987 Montreal Protocol (including trade restrictions similar to those being proposed here).

The 1990 Amendments added title VI to the Act, which prescribes many specific measures for protecting stratospheric ozone (*e.g.*, the section 604 phaseout of ozone-depleting substances, the section 608 recycling requirements, and the section 610 nonessential products ban). In the context of these new provisions, the carry-over of the section 157(b) language in section 615 provides gap-filling authority to permit the Agency to take actions in addition to those prescribed elsewhere in the title. Thus, while title VI does not itself prescribe trade restrictions, the Agency believes that section 615 provides authority for the Administrator to implement the trade provisions of the Montreal Protocol.

Implementation of the Protocol's trade provisions through the regulations proposed here, will help safeguard the ozone layer in several ways. First, the bans would prevent shipments of ozone-depleting substances (ODS) from the U.S., which fully regulates ODS production and consumption, to foreign states not party with no regulatory infrastructure to control their use. Limiting access to ODS in this way, will reduce opportunities for their release into the atmosphere. Moreover, the bans on imports to the U.S. from foreign states not party of controlled substances and controlled products would help discourage shifts of ODS production to foreign states not party by eliminating the U.S. as a market for such production. Such shifts, if not deterred, could undermine the production, consumption and phaseout regime contemplated by both the Clean Air Act and the Montreal Protocol. Ultimately, the Protocol trade restrictions provide a strong encouragement for foreign states not party to participate in the global initiative established by the Protocol for controlling the short-term use and ultimate phaseout of ozone-depleting substances. Accordingly, EPA has authority to implement the Protocol's trade restrictions by virtue of its

authority. Under section 615 to promulgate regulations controlling substance practices and activities that may reasonably be anticipated to effect the stratosphere.

Section 614(b) of the Clean Air Act, as amended, clarifies and confirms the authority and responsibility of the EPA Administrator to implement the United States' obligations under the Montreal Protocol, specifically addressing the Administrator's authority to implement the Protocol's trade provisions. As a conflict of laws provisions, section 614(b) provides in relevant part that in the case of conflict between any of the Clean Air Act and the Montreal Protocol, the more stringent provision shall govern. In addition, that subsection indicates that nothing in title VI of the Act shall detract from the Administrator's authority to implement the Article 4 trade restrictions. Thus, section 614(b) implicitly assumes that the Agency has the authority to implement the trade provisions of the Protocol.

IV. Other Issues

A. Addition of HCFCs to the EPCRA Section 313 List

The NRDC/EDF/FOE petition requested that the Agency add the HCFCs and methyl bromide to section 313 of the Emergency Response and Community Right to Know Act. The current list of chemicals includes all current class I ozone-depleting chemicals under section 313(e). Any person may petition for the addition of other chemicals to the list. The Administrator is required to respond to the petition within 180 days by initiating a rulemaking to list the chemical or by publishing an explanation as to why the petition is denied.

The Alliance requested that HCFCs not be listed. According to this group, the presumed toxic health and environmental effects of these compounds derive from a complex and delayed chain of events that are not fully understood. Also according to the Alliance, the ozone depletion problems of the HCFCs can and are being addressed by the specific provisions of the Clean Air Act, such as section 608, that can reduce the emissions of these chemicals.

The Agency is dealing with the NRDC/EDF/FOE petition to add the HCFCs to the EPCRA section 313 list in a separate proceeding. A Federal Register action proposing to list the HCFCs was published on June 24, 1992 (57 FR 28159).

B. Postponement of Labeling of Products Manufactured With Ozone-Depleting Substances

The Alliance requested that EPA's rulemaking under section 611 of the Act require only labeling of containers or products containing CFCs. The petition stated that EPA should not promulgate requirements to label any products manufactured with CFCs or containing or manufactured with HCFCs until at least 1995. The petitioners argued that the purpose of the labeling provisions is to accelerate the phaseout of these chemicals and stated that, with an accelerated phaseout schedule, these labeling provisions serve no purpose except to misallocate resources without any environmental benefit. EPA will be addressing these issues in the context of its final action on labelling.

C. Suggestions for the Implementation of Section 612

AHAM, the Alliance, and other commenters also had suggestions concerning the application of the significant new alternatives program (SNAP) implementing section 612. These issues will be dealt with in a separate notice dealing with that section of the Act. EPA recognizes the need to provide decisions as to the acceptability of various substitutes as quickly as possible and has taken steps to inform the public about its likely activities under this section.

D. Treatment of Recycled and Used Ozone Depleting Substances When Calculating Consumption

Decision IV/24 of the Fourth Meeting of the Parties to the Montreal Protocol, provides that recycled and used bulk chemicals should not be included when calculating consumption of controlled substances. That Decision also specifically annuls Decision I/12H of the First Meeting of the Parties, which read "Imports and exports of bulk used controlled substances should be treated and recorded in the same manner as virgin controlled substances and included in the calculation of the Party's consumption limits". EPA is proposing to modify its definition to exclude recycled substances from the requirement of expending consumption allowances for imports. Moreover, consistent with the interpretation, the public should note that consistent with that decision, exports of recycled and used bulk chemicals are not creditable toward consumption allowances under § 82.10. EPA asks for comment as to whether any further revisions to part 82 would be helpful to effectuate this intent of the Parties.

The Parties to the Protocol have requested that data on imports and exports of recycled HCFCs and halons be reported on an annual basis to UNEP. Therefore, EPA proposes that companies report imports and exports of recycled HCFCs and halons on an annual basis.

E. Transshipment

Pursuant to Decision IV/14 of the Fourth Meeting of the Parties to the Montreal Protocol, transshipments of bulk controlled substances from one foreign state, through the United States or one of its territories, to a foreign state of final destination should not be included when calculating consumption of controlled substances. This situation is distinguished in Decision IV/14 from imports and subsequent re-exports of controlled substances, which must be accounted for. Transshipments can be distinguished from imports that are re-exported with the former applicable to bulk import that are not repackaged prior to export. EPA proposes to revise the rules to clarify this treatment. Today's revisions would not amend the definition of "import", which is broadly defined in section 601(7) of the Clean Air Act, since such a revision would inadvertently change the scope of the Stratospheric Ozone Program with regard to matters other than consumption accounting. Instead the revisions define the term "transshipment" and specifically except transshipments, as appropriate, from pertinent consumption allowance provisions of the part 82, subpart A. This approach is consistent with section 602(b) of the Act, which provides that the term consumption "shall be construed in a manner consistent with the Montreal Protocol."

F. Destruction and Insignificant Quantities

In today's action, the Agency proposes to eliminate § 82.40(e) of its phaseout regulation that allowed for an exemption from production restrictions for any controlled substance that is a coincidental, unavoidable byproduct (CUBP) and is subsequently contained and destroyed by the maximum achievable control technology or MACT. Section 82.40(e) gave effect to the Joint Explanatory Statement of the Committee of the Conference of the 1990 Clean Air Act Amendments (Conference Report) that indicated that Congress wanted the Agency to implement an exemption of such production. The Agency is proposing to eliminate the CUBP regulation. The Agency is also proposing to implement in its regulation the recent decisions of the Parties in Copenhagen that addressed both

destruction (Decision IV/11) and "insignificant quantities" (Decision IV/12). As will be described below, EPA believes that the implementation of these two decisions is consistent with Conference Report and will provide more clarity as to the definition of production and the conditions under which destruction is allowed. Today's proposal allows credit for destruction of ozone depleting chemicals similar to credit received for the transformation of such chemicals, and exempts from any control ozone depleting chemicals produced in "insignificant quantities". The Agency believes that these changes pose insignificant harm and lessen the administrative burden of § 82.4.

Under the existing Protocol, "production" of controlled substances is defined as "the amount of controlled substances produced, minus the amount destroyed by technologies to be approved by the Parties." At the Fourth Meeting of the Parties to the Montreal Protocol, the Parties approved five destruction technologies to be used for destroying controlled substances.

With the approval of the five destruction technologies—liquid injection incineration, reactor cracking, gaseous/fume oxidation, rotary kiln incinerators, and cement kilns, Parties to the Protocol can now subtract from the definition of production that amount of controlled substance(s) that is destroyed by these means, under certain conditions discussed below.

The Agency proposes the definition of "destruction" to be technologies approved for destruction by the Parties that result in expiration of the chemical without any commercially useful end product being produced. The Agency proposes this definition to distinguish destruction from transformation, which requires that the resulting endproduct serve a commercial purpose. The Agency requests comment on this definition of destruction.

The Agency believes that with the adoption of this definition of destruction, a modified definition of production consistent with the Protocol, and proposed recordkeeping and reporting requirements described below, the concern for destruction expressed in the Conference Report language is minimized.

The Agency believes it has the authority to modify this definition to be consistent with the Protocol. While section 601(11) of the CAA does not require EPA to exclude quantities of controlled substances that are destroyed from the definition of "production," EPA believes it has the discretionary authority to exclude from the definition of "production" controlled substances that are destroyed through the use of the technologies approved by the Protocol Parties at the Copenhagen meeting. Section 601(11) provides that the "terms 'produce', 'produced', and 'production', refer to the manufacture of a substance from any raw material or feedstock chemical, but such terms do not include" amounts of substances that are transformed or reused.

EPA notes that the Conference Report of the 1990 Clean Air Act Amendments stated that the "conference agreement does not include a requirement to construe the term 'production' 'in a manner consistent with the Protocol.' The Protocol's exclusion for manufactured substances that are subsequently destroyed is too broad and does not include adequate safeguards to preclude abuse." (Emphasis added.) The Conference Report then proceeded to state that "[i]n the course of implementing this Act, however EPA shall consider whether an exclusion will be allowed on a case-by-case basis for the manufacture of controlled substances that are (1) coincidental, unavoidable byproducts of a manufacturing process and (2) immediately contained and destroyed by the producer using maximum available control technologies." EPA proceeded to establish a process that exempted such production as CUBP in the July 30, 1992 Final rule. [57 FR 33754]

While section 601(11) of the CAA does not contain language requiring EPA to follow the Protocol in terms of excluding destroyed controlled substances from production, it also does not contain language precluding EPA from following the Protocol Parties' approach to destruction. Moreover, the Conference Report assumes that EPA has the authority to exclude quantities that are destroyed from production. Otherwise, Congress could not have directed EPA to consider excluding certain types of destroyed production. EPA believes that while it is not required to follow the approach of the Protocol Parties regarding destruction, it has the authority to do so at this juncture because, as explained below, the approach adopted by the Parties adequately satisfies the concerns expressed in the conference report. Those concerns were expressed at a time when it was not known how the Parties would treat destruction; the Parties have now treated destruction in a manner that satisfies them, however. Furthermore, by requiring reliable documentation of the amount destroyed, EPA's proposed implementing regulations address the concerns raised in the conference language. EPA requests comment on its authority to adopt the Protocol Parties' approach to destruction.

The Agency believes that the implementation of these decisions will result in insignificant environmental damage yet will minimize disruptions for companies that require controlled substances past the phaseout date. Companies will be allowed to use these chemicals past the phaseout provided that they are either used in essential uses, transformed, as is currently allowed under the regulations, or destroyed. Companies will only receive credit for the volume of controlled substances that have been destroyed by one of these five destruction technologies.

Section 82.4(e)(1)(v) defines MACT, for the purposes of destroying CUBP product, as a destruction process with 99.99% efficiency. Under the current regulations, companies could only claim the CUBP exemption for carbon tetrachloride and methyl chloroform destroyed at this efficiency rating. The Agency had developed this efficiency rating for these two chemicals, as well as others, when they were characterized as hazardous wastes under section 343(a) and 40 CFR 266.104. In the July 30, 1992 rulemaking for the protection of stratospheric ozone (57 FR 33754), the Agency adopted this definition of MACT in § 82.4(e)(1)(iv) to exempt CUBP from production limits. Since this destruction rating currently applies only to CUBP, the Agency is proposing today to grant full credit for the destruction of these two commercially produced chemicals when they are covered by RCRA section 343(a) and 40 CFR 266.104 in order to receive 100 percent credit. The Agency believes that this destruction efficiency represents MACT, and is the highest destruction efficiency that industry can achieve for these chemicals in these situations. If the Agency were only to grant allowances equal to 99.99 percent of the volume intended to be destroyed, the company would never be able to redeem the full amount of the chemical used, and would eventually be unable to obtain sufficient volumes to operate efficiently.

The 99.99 percent efficiency applies to the destruction of methyl chloroform and carbon tetrachloride when these chemicals are regulated by RCRA. However, under some situations these chemicals are not covered by RCRA, but by regulations to be promulgated under section 112 of the Clean Air Act. Companies are required to control air emissions under section 112 of the Clean Air Act. In a recently proposed rule published on December 31, 1992 (57 FR 62608), the Agency proposed

that when organic hazardous air pollutants are released through process vents, companies may route these emissions to a gaseous/fume oxidation incinerator for destruction. The Agency has proposed that such incinerators may operate with an efficiency of 98 percent. For the purposes of this rulemaking, the Agency proposes that when regulations promulgated under section 112 of the Clean Air Act apply rather than RCRA, and the 98 percent destruction efficiency is achieved by incinerators to which emissions of carbon tetrachloride and methyl chloroform are routed, the Agency proposes to grant the full allotment of allowances to replace chemicals that are destroyed under these conditions. In situations where section 112 regulations apply, but a destruction efficiency of less than 98 percent is achieved, the Agency proposes to approve only those allowances only to the portion destroyed. (The consequences of this are discussed below in the connection with the destruction of controlled substances other than methyl chloroform and carbon tetrachloride.) The Agency requests comments on these approaches and whether these conditions could apply to other controlled substances.

The Agency is concerned that these five approved destruction technologies, although capable under test situations of destroying controlled substances at a 99.99% efficiency rate, may not be as efficient as is required for carbon tetrachloride and methyl chloroform under either RCRA or section 112 of the Clean Air Act. If existing regulations under other environmental statutes do not cover the destruction of these controlled substances, then EPA proposes to grant allowances only for those volumes that have indeed been destroyed. For example, if an approved technology destroys only 80% of the chemical, then the Agency will only approve allowances equal to that portion destroyed. Under such a program, companies that do not completely destroy their controlled substances would be unable to recoup, through allowances, their full volume of controlled substances needed to operate. Once the phaseout occurs, such companies will need to destroy close to 100 percent of the controlled substance, depending on technical limitations, in order to continue to operate at intended capacity. Furthermore, to release controlled substances to the environment (through emissions of controlled substances that had not been destroyed) for uses not deemed "essential" would constitute a violation of the phaseout since companies will only be able to produce or obtain these chemicals after 1995 for essential uses, transformation, or for uses where the controlled substance is subsequently destroyed.

EPA is today proposing that persons who destroy controlled substances through the use of these approved technologies be granted production and consumption allowances equal to the verified amount destroyed.

The Agency proposes to treat credit for destruction of controlled substances similarly to credit granted for the transformation under §§ 82.9 and 82.10. Persons who do not produce controlled substances but who destroy carbon tetrachloride, may receive both production and consumption allowances, depending whether the controlled substance had been produced in the United States or imported, equal to the volume destroyed if such persons submit a request for allowances. This request should include the following information: the identity and address of the person; the quantity and level of controlled substance destroyed; a copy of the invoice or receipt documenting the sale of the controlled substance; the name of the person from whom the controlled substance were purchased; the type of destruction process used to destroy the controlled substance; the citation of federal or state regulations that may apply to the destruction process; and the method used to determine the volume destroyed. The Agency believes that this information, similar to the information required for receipt of allowances for transformation, is necessary to ensure that destruction has occurred.

Companies that receive allowances for destruction may then trade those allowances under the regulatory provisions established in § 82.12 of the current regulations. In the past, companies that received allowances for transformation traded those allowances to the producers of the feedstock controlled substances.

Such persons who request allowances for destruction must also maintain the following records: Dated records of the quantity and the level of controlled substance destroyed; description of measurements taken to indicate volume destroyed; and copies of invoices or receipts documenting the sale of the controlled substance to the person. The Agency requires this recordkeeping in order to verify any requests for allowances due to destruction.

The Agency intends to treat destruction of carbon tetrachloride, a Class I, Group IV chemical, in a manner similar to the transformation of carbon tetrachloride. The primary use of carbon tetrachloride is as a feedstock in the production of other chemicals. In the past, the Agency found it burdensome to require companies that transformed carbon tetrachloride to request allowances, receive those allowances from EPA, and then trade those allowances back to the producers. Such a process did affect the chemical industry, and slowed and even stopped at times, the production of other chemicals for which carbon tetrachloride is a feedstock. To alleviate this problem, the Agency promulgated regulations that allowed producers of carbon tetrachloride to manufacture this chemical without consuming allowances provided that such production served as a feedstock in the production of another chemical. Producers that manufactured carbon tetrachloride are required to report with their quarterly production report those volumes sold for transformation and the companies to whom they sold the chemical. Non-producers who transform carbon tetrachloride must also report and keep dated records. In this action, the Agency proposes a similar regime. The Agency believes that the non-transformed quantities of carbon tetrachloride that are produced are used in processes where they are destroyed. Carbon tetrachloride is used as a specialty chemical and solvent, but poses significant health hazards and, therefore, ambient emissions are tightly controlled, either under RCRA or section 112 of the Clean Air Act. In many cases, destruction is the control process to minimize or eliminate these emissions. The Agency is concerned that treatment of carbon tetrachloride similarly to the other controlled substances could significantly affect this market. For this reason, the Agency proposes to treat credit for destruction in a manner similar to treatment of transformation of this chemical.

Producers and importers of carbon tetrachloride must report the amount of carbon tetrachloride sold to each person who then subsequently destroys the chemical and the Internal Revenue Service Certificates showing that the purchaser of carbon tetrachloride intends to destroy the chemical. The producer and importer must also keep these records on file.

Companies that purchase carbon tetrachloride and who then destroy the chemical must keep the following records: the identity and address of the person; the quantity and level of controlled substance destroyed; a copy of the invoice or receipt documenting the sale of the controlled substance; the name of the person from whom the controlled substance were purchased;

the type of destruction process used to destroy the controlled substance; the name of other relevant federal or state regulations that may apply to the destruction process; and the method used to determine the volume destroyed. These same companies must report every quarter the following information: the name and address of the person and the name and telephone number of a contact person; the names and addresses of the persons that produced or imported the Group IV controlled substance purchased and destroyed and the name and telephone number of the contact person; the address of the facility at which destruction took place; the type of approved destruction technology used to destroy the carbon tetrachloride; the citations of other relevant federal or state regulations that may apply to the destruction process; and the method used to determine the volume destroyed.

Companies who produce controlled substances and who then destroy those chemicals must report the volume destroyed on their quarterly production report in a similar manner as transformation, but also keep the applicable recordkeeping requirements of the Non-producers.

The Agency requests comments on these data requirements. Although the Agency believes that these are adequate requirements, more stringent requirements could be considered. For example, these approved destruction technologies are regulated under other statutes, such as RCRA, or section 112 of the Clean Air Act. The implementing regulations for these statutes have detailed recordkeeping and reporting requirements to ensure that destruction has taken place. The Agency requests comment on whether such recordkeeping and reporting should be part of Title VI regulations, or should the Agency develop more detailed requirements. For example, Ad-Hoc Technical Advisory Committee on ODS Destruction Technologies, presents a list of minimum standards for pollutants emitted during destruction with stack concentrations for hydrochloric acid, hydrofluoric acid, particulate, and carbon monoxide. The Agency requests comments on whether the Agency should adopt such standards, or whether existing regulations minimize such emissions.

The Ad-Hoc Technical Advisory Committee on ODS Destruction Technologies recommends that atmospheric releases of controlled substances shall be monitored at all facilities with air emission discharges. For controlled substances, this report recommends flow meters or continuously recording weighing equipment for individual containers should be used. At a minimum, containers should be weighed "full" and "empty" to establish quantities destroyed. In today's Action, the Agency is proposing this minimum standard to determine the volume destroyed, but requests comment on whether more sophisticated monitoring devices such as flow meters should be required. In addition, the Agency requests comments on whether all companies that intend to destroy controlled substances should submit a one time report to the Agency describing their methods used to record the volume destroyed and to determine destruction efficiency ratings.

The Parties to the Protocol in Copenhagen agreed that all Parties were to submit annual data on ozone depleting chemicals destroyed. To comply with this agreement, the Agency requests comments on an annual reporting requirement that all persons who destroy Class I and Class II chemicals report to EPA the volume destroyed if such a report had not been submitted to the Agency.

Insignificant Quantities

EPA is also proposing to implement the Parties decision on insignificant quantities. During the Fourth meeting of the Parties to the Montreal Protocol held in Copenhagen November 23–25, 1992, the Parties approved a decision (Decision IV/12) stating that the definition of "controlled substance" will not include insignificant quantities of controlled substances under certain conditions. Specifically, it stated that in the following situations, insignificant quantities of controlled substances shall not be considered to be covered by the definition of controlled substances:

- Insignificant quantities originating from inadvertent or coincidental production during a manufacturing process; or,
- Insignificant quantities originating from use of controlled substances as process agents (including unreacted feedstocks) which are present in chemical substances or products as trace impurities

In either of these situations, the Parties recognized that insignificant quantities of controlled substances may be emitted during product manufacture or handling. In taking this decision, the Parties understood that the existence or creation of controlled substances in these contexts were an essential consequence of continued production of various products, (section 2.10.4, UNEP report of the Technology and Economic Assessment Panel) were likely to be insignificant in quantity, and in fact, had not heretofore been included in the definition of controlled substance, or taken into account by countries in their implementation of the current definition. Thus, the decision clarified the fact that CFCs and other compounds covered by the Montreal Protocol as controlled substances that are created or found in these contexts are not included within the scope of the Protocol's definition of controlled substance. Nevertheless, the Decision calls on the parties to endeavor to take steps to minimize such emissions.

Pursuant to the decision of the Parties, EPA today is proposing to exempt from the definition of "controlled substances" insignificant quantities of controlled substances that originate from inadvertent or coincidental production during a manufacturing process, from unreacted feedstock, or from their use as a process agents and resulting presence in chemical substances or products as trace impurities. This exemption will apply so long as the substances produced in this manner are not themselves, as distinct products, offered for commercial sale. EPA has not previously included controlled substances produced or used in these contexts either in baseline calculations or in the calculation of production and consumption. As a result, this clarification should have no impact on past or future allocations.

EPA carefully considered the environmental implications of this decision and its relationship to current regulations. First, as it relates to environmental protection, EPA has studied available information, and has determined that the quantities of controlled substance emissions associated with the above noted situations are small. Estimates indicate that they are on the order of 500 ODP weighted metric tons worldwide. In the US, in many cases, these small emissions are reduced even further by regulatory treatment under other EPA requirements. An example of the size of related production can be found in trace impurities of carbon tetrachloride remaining in finished products made in the U.S. This residual is estimated to amount to 32 metric tons per year. Levels of inadvertent production of controlled substances are also very small. For example, some carbon-tetrachloride is produced during the manufacture of chloroethanes. The worldwide estimate of levels expected to be emitted during these processes are estimated to be on the order of 100–200 ODP MT. However, carbon-tetrachloride produced in this manner is generally

not emitted; rather it is recycled within the plant, or, as required by RCRA, destroyed by an appropriate technology. A further factor which will help to reduce related emissions is the phaseout itself. By the year 2000, they are expected to constitute less then .1% of the amount of controlled substances produced in their baseline year. The realization of the small quantities involved was a factor in the Parties Decision to exclude the insignificant quantities resulting from these processes from the definition of controlled substances. (UNEP OzL Pro. 4 CRP 2ter).

Regarding present regulatory treatment, § 82.40 of EPA's current regulations provided an exemption from control for Group IV or V substances, if those substances were produced as a coincidental unavoidable byproduct of a manufacturing process, and were immediately contained and destroyed. In light of the Parties decision on this matter and on destruction, and the presently available information on the very small quantities of substances involved relative to the 1989 production of ozone depleting substances, EPA is today proposing to repeal the requirements of § 82.40. This action is being taken to align EPA regulations with Montreal Protocol requirements that will be adhered to internationally, and to eliminate the ambiguity of certain situations that may or may not have met the requirements of § 82.40. With this proposal, all companies that meet these conditions are exempt from production and consumption control and do not need to file exemption requests under § 82.40. Finally, it fashions a more workable allowance system that will be necessary as we move forward toward a more rapid phaseout.

In proposing these actions, EPA is mindful of the portion of the Parties decision which urges all Parties to take steps to minimize emissions associated with inadvertent and trace quantity production. In this regard, EPA reserves the right to implement measures to reduce such emissions in the event it finds that they have become significant.

Today's proposal also covers inadvertent production of methyl bromide. While, at present, EPA is aware that substantial emissions of methyl bromide are inadvertently produced during the manufacture of polyethylene, EPA is working with these manufacturers to ensure that these emissions are substantially reduced. Also, of specific relevance are the proposed organic hazardous air pollutants (57 FR 62608) regulations designed to restrict air emissions of hazardous organic chemicals which are likely to result in major reductions of these emissions. EPA will monitor the progress of related manufacturers to ensure that residual emissions are indeed insignificant.

V. Impact of Proposed Action

The Agency developed a cost benefit analysis of various possible phaseout schedules presented in the petitions as well as the schedule for an accelerated phaseout of ozone depleting compounds proposed by EPA today. In all the scenarios analyzing the various reduction schedules, the analysis yielded net incremental benefits of the same order of magnitude for all the options with the Alliance schedule yielding the least net incremental benefits over the current 2000 year phaseout, and the NRDC and EPA's proposed schedule yielding the most net incremental benefits, depending on the valuation of benefits. Given the uncertainties implicit in any cost benefit analysis of this kind, the incremental benefits of these scenarios are approximately equal with the lower bound estimate of $160 billion to a higher bound estimate of $680 billion.

As such analysis indicates that various schedules yield comparable net benefits, the Agency chose the schedule that it is proposing today the schedule adopted in Copenhagen over both the NRDC schedule and the Alliance schedule based on EPA's judgement on the availability of technologies and infrastructure support. Although the cost benefit analysis suggests that the NRDC schedule is a possible option, the analysis performed on that scenario assumes the widespread use of various technologies that are dependent on a supporting industry infrastructure that may not be present. It is the Agency's judgement that although such technologies are available, the deployment of these technologies may incur significant but unaccounted for costs, as industry would need to adopt controls quickly without full knowledge of possible cost implications of their actions, and full support of an infrastructure necessary to support that technology.

For example, the RIA analysis indicates that retrofit of air-conditioning and refrigeration equipment must occur under all schedules. However, the NRDC schedule requires extensive retrofitting with total costs approaching $9 billion. The retrofit cost under EPA's proposed schedule is lower, approximately $2 billion. Retrofitting within the air-conditioning and refrigeration sectors is extremely disruptive, requiring users to examine their current inventory of equipment to determine where retrofitting is needed. The Regulatory Impact Analysis did not consider the cost of obtaining the information necessary for owners to proceed with retrofitting of equipment. Owners must inventory existing equipment, plan for the appropriate retrofits, determine when the retrofits must occur, have knowledge of the available refrigerants due to allowable production and recycling, and plan to purchase new equipment containing the alternatives in the future. In addition, the servicing sector may be strained to accommodate the necessary retrofits to meet the phaseout schedule. Under a less stringent reduction schedule, these sectors would require less retrofitting because they would be able to purchase more new equipment to meet the less stringent reductions.

Furthermore, all of the phaseout schedules considered would require significant recycling. Although this will occur, the infrastructure necessary to provide recycling services, as well as to establish the bank of halons and CFCs, is under development, and would be severely strained under any accelerated phaseout. However, the Agency believes that its proposed schedule provides sufficient lead time for this infrastructure to develop.

The Agency is also proposing a less stringent schedule for the phaseout of HCFCs rather than the proposed NRDC schedule for these chemicals. Although the cost benefit analysis indicates that the NRDC schedule may yield higher net benefits, assuming different valuation of benefits, the RIA does not calculate the possible adverse effects of the rapid phaseout of HCFCs proposed by NRDC. The Agency believes that too short a period for the allowable use of HCFCs would further encourage the continued use of CFCs in the short term by making the use of HCFCs as an alternative unattractive. It could also force the industry to move to untested alternatives that may pose unknown adverse environmental and health effects. For this reason the Agency is proposing today a less stringent phaseout of HCFCs than that requested by NRDC. The cost of the Alliance petition and EPA's proposed schedule for HCFCs are comparable.

VI. Additional Information

A. Executive Order 12291

Executive Order (E.O.) 12291 requires preparation of a Regulatory Impact Analysis for major rules, defined by the order as those likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic industries; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based industry to compete with foreign based enterprises in domestic or export markets.

EPA has determined that these regulations meet the criteria of a major rule. The Agency estimates that annual industry costs will exceed $100 million. A regulatory impact analysis has been prepared to analyze these costs and has been submitted to the Office of Management and Budget for review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that federal agencies examine the impacts of regulations on small entities. Under 5 U.S.C. section 601(a), whenever an agency is required to publish a general notice of rulemaking, it must prepare and make available a regulatory flexibility analysis (RFA).

The Agency originally published an RFA to accompany the August 12, 1988 final rule (53 FR 30566) that placed the initial limits on the production and consumption of CFCs and halons. That RFA analysis was also updated as Appendix G of the Regulatory Impact Analysis for the regulations implementing the section 604 Clean Air Act phaseout schedule. For this rulemaking an addendum to that appendix was prepared to examine the impact of the acceleration of the phaseout and the phaseout of HCFCs on small businesses. The analysis indicates that these actions are not expected to have a substantial impact on small entities.

Major changes in control plans are only required in a few sectors. For two of the sectors, household refrigeration and motor vehicle air-conditioning, the impact on small entities of additional recycling is examined in the regulatory flexibility analysis for the Agency's regulations under section 608 of the Clean Air Act. Although the control measures required by that section also contribute to the acceleration of the phaseout of the ozone-depleting substances, the costs of recycling to small businesses are not due to today's rule, but rather to the regulations promulgated pursuant to section 608. It is likely that motor vehicle air-conditioning retrofits will be carried out as a result of today's rule in ten percent of the existing stock and costs will be borne by the automobile owner, thus resulting in no costs to small businesses. Even in the worst case scenario, however, where automobile owners simply decide to forego air-conditioning, it is likely that this will have only a small impact on small businesses because only ten percent of the existing market is involved and air-conditioning repairs account for only a small portion of the services provided by an automobile repair shop.

Chillers and process refrigeration will also require retrofits, but these costs are expected to be borne again by the end-user, and will only be a small fraction of the total cost of operating the building or refinery. Due to the nature of the market for sterilization, solvent cleaning and portable extinguishers, the impacts of the additional controls in these sectors are expected to be minimal. The analysis shows that in the foam-blowing sector, industry is moving in the direction of using substitute blowing agent. Because of this rapid switch and high expected growth rates, it is unlikely that significant small business closures will result from the accelerated phaseout of CFCs. In addition, because of the large amount of time available for companies to plan for the HCFC phaseout, it is unlikely that large impacts on small entities will result from this portion of the proposed rules.

Under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 605, I certify that the regulation promulgated in this notice will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 82

Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Imports, Ozone layer, Reporting and recordkeeping requirements, Stratospheric ozone.

Dated: January 19, 1993.

William K. Reilly,

Administrator.

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Part IV

Department of Education

Indian Vocational Education Training Program; Notice Inviting Applications For New Awards For Fiscal Year 1994

DEPARTMENT OF EDUCATION

[CFDA No.: 84.101]

Indian Vocational Education Training Program; Notice Inviting Applications For New Awards For Fiscal Year (FY) 1994

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: To provide financial assistance to Indian tribes and certain schools funded by the Department of the Interior, to plan, conduct, and administer projects, or portions of projects, that are authorized by and consistent with the purposes of the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (Act), as amended, 20 U.S.C. 2301 *et seq.*

Eligible Applicants: The following entities are eligible for an award under this program:

(a) A tribal organization of any Indian Tribe that is eligible to contract with the Secretary of the Interior under the Indian Self-Determination and Education Assistance Act or under the Act of April 16, 1934.

(b) A Bureau-funded school offering a secondary program.

(c) Any tribal organization or Bureau-funded school described in paragraphs (a) or (b) above may apply individually or as part of a consortium with another eligible tribal organization or school.

(1) When seeking to apply for funds as a consortium, individual eligible applicants must enter into an agreement signed by all members of the consortium and designating one member of the consortium as the applicant and grantee.

(2) The consortium's agreement must detail the activities each member of the consortium plans to perform, and must bind each member to every statement and assurance made in the consortium's application.

(3) The designated applicant must submit the consortium's agreement with its application.

Deadline for Transmittal of Applications: July 15, 1993.

Available Funds: $6,658,641 for the first 12 months of the 36-month project period. Funding for the second and third 12-month periods of the 36-month project period is subject to the availability of funds and to a grantee meeting the requirements of 34 CFR 75.253.

Estimated Range of Awards: $45,000 to $595,000 for the first 12 months.

Estimated Average Size of Awards: $250,000.

Estimated Number of Awards: 26.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations); Part 75 (Direct Grant Programs); Part 77 (Definitions that Apply to Department Regulations); Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments); Part 81 (General Education Provisions Act—Enforcement); Part 82 (New Restrictions on Lobbying); Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)); Part 86 (Drug-Free Schools and Campuses); and (b) the regulations for this program in 34 CFR parts 400 and 401 as published in the **Federal Register** on August 14, 1992 (57 FR 36724.)

Definitions

Applicants are encouraged to take particular note of the following definitions that are contained in 34 CFR 401.5:

"Act of April 16, 1934" means the Federal law commonly known as the "Johnson-O'Malley Act" that authorizes the Secretary of the Interior to make contracts for the education of Indians and other purposes.

"Bureau" means the Bureau of Indian Affairs, Department of the Interior.

"Bureau-Funded School" means—

(1) A Bureau-operated elementary or secondary day or boarding school or a Bureau-operated dormitory for students attending a school other than a Bureau school;

(2) An elementary or secondary school or a dormitory that receives financial assistance for its operation under a contract or agreement with the Bureau under sections 102, 104(1), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(1), and 458(d); or

(3) A school for which assistance is provided under the Tribally Controlled Schools Act of 1988.

"Indian Tribe" means any Indian tribe, band, Nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) that is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"Tribal organization" means the recognized governing body of any Indian tribe or any legally established organization of Indians that is controlled, sanctioned, or chartered by that governing body or that is democratically elected by the adult members of the Indian community to be served by the organization and that includes the maximum participation of Indians in all phases of its activities. However, in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each of those Indian tribes must be a prerequisite to the letting or making of that contract or grant.

Invitational Priority

Under 34 CFR 75.105(c)(1), the Secretary is authorized to invite applications that meet certain priorities. In this competition, the Secretary seeks to encourage Indian program applicants to develop tech-prep projects that are similar to those operated by States under the Act. Therefore, the Secretary is particularly interested in applications that meet the following invitational priority, although an application that meets this invitational priority will not receive competitive or absolute preference over applications that do not meet this priority.

Projects that propose a tech-prep education program that combines a secondary and postsecondary program and that—

(a) Leads to an associate degree or two-year certificate;

(b) Provides technical preparation in at least one field of engineering technology, applied science, mechanical, industrial, or practical art or trade, or agriculture, health, or business;

(c) Builds student competence in mathematics, science, and communications (including through applied academics) through a sequential course of study; and

(d) Leads to placement in employment.

Furthermore, the Secretary encourages applicants addressing this invitational priority to propose projects that provide for the following:

(a) An articulation agreement to be carried out between instructional and service providers at the secondary or adult and postsecondary levels. ("Articulation agreement" means a commitment to a program designed to provide students with a non-duplicative sequence of progressive achievement leading to competencies in a tech-prep education program.)

(b) The implementation of an educational program that will be carried out under an articulation agreement between the members of a consortium that includes the two years of secondary schooling preceding graduation (including programs for adult learners) and either two years of higher education, or two years of apprenticeship training that follows secondary level instruction. The program should also provide a common core of required proficiency in applied mathematics, science, communications and technologies designed to lead to an associate degree or a two-year certificate of proficiency in a specific career field.

(c) The development of tech-prep education curricula appropriate to the needs of the participants.

(d) Inservice training for teachers that—

(1) Is designed to train teachers to implement curricula for a tech-prep education program effectively;

(2) Provides for joint training for teachers from all participating instructional and service providers; and

(3) May provide training on weekends, evenings, or during the summer in the form of sessions, institutes, or workshops.

(e) Training activities for counselors designed to enable counselors to more effectively—

(1) Recruit students for tech-prep education programs;

(2) Ensure that students successfully complete tech-prep education programs; and

(3) Ensure that students are placed in appropriate employment.

(f) Equal access to all tech-prep education programs to students who are members of special populations as defined in 34 CFR 400.4(b).

(1) A project under this priority may also—

(a) Provide for the acquisition of tech-prep education program equipment; and

(b) Acquire, as a part of the planning activities, technical assistance from sources that have successfully designed, established, and operated tech-prep programs.

Selection Criteria

The Secretary uses the following selection criteria, published in 34 CFR 401.21 to evaluate applications for new grants under this competition.

The maximum score for each criterion is indicated in parentheses.

Distribution of Reserved Points

The program regulations in 34 CFR 401.20(b) provide that the Secretary may award up to 100 points for the selection criteria in 34 CFR 401.21, including a reserved 15 points that may be assigned by the Secretary among the published criteria in the notice for each program competition. For this competition, the Secretary distributes the 15 points reserved in 34 CFR 401.20(b), as follows:

Need. (34 CFR 401.21(b)). Five points are added to this criterion for a possible total of 20 points.

Plan of Operation. (34 CFR 401.21(c)). Five points are added to this criterion for a possible total of 20 points.

Budget and Cost Effectiveness. (34 CFR 401.21(e)). Five points are added to this criterion for a possible total of 10 points.

Criteria

(a) *Program factors.* (20 points) The Secretary reviews each application to determine the extent to which it—

(1) Proposes measurable goals for student enrollment, completion, and placement (including placement in jobs or military specialties and in continuing education or training opportunities) that are realistic in terms of stated needs, resources, and job opportunities in each occupation for which training is to be provided;

(2) Proposes goals that take into consideration any related goals or standards developed for Job Opportunities and Basic Skills (JOBS) programs (42 U.S.C. 681 *et seq.*) and Job Training Partnership Act (JTPA) (29 U.S.C. 1501 *et seq.*) training programs operating in the area, and, where appropriate, any goals set by the State Board for vocational education for the occupation and geographic area;

(3) Describes, for each occupation for which training is to be provided, how successful program completion will be determined in terms of academic and vocational competencies demonstrated by enrollees prior to completion and any academic or work credentials acquired by enrollees upon completion;

(4) Demonstrates the active commitment in the project's planning and operation by advisory committees, tribal planning offices, the JOBS program office, the JTPA program director, and potential employers such as tribal enterprises, private enterprises (on or off reservation), and other organizations;

(5) Is targeted to individuals with inadequate skills to assist those individuals in obtaining new employment; and

(6) Includes a thorough description of the approach to be used, including some or all of the following components:

(i) Methods of participant selection.

(ii) Assessment and feedback of participant progress.

(iii) Coordination of vocational instruction, academic instruction, and support services such as counseling, transportation, and child care.

(iv) Curriculum and, if appropriate, approaches for providing on-the-job training experience.

(b) *Need.* (20 points) The Secretary reviews each application to determine the extent to which the project addresses specific needs, including—

(1) The job market and related needs (such as educational level) of the target population;

(2) Characteristics of that population, including an estimate of those to be served by the project;

(3) How the project will meet the needs of the target population; and

(4) A description of any ongoing and planned activities relative to those needs, including, if appropriate, how the State plan developed under 34 CFR 403.30 through 403.34 is designed to meet those needs.

(c) *Plan of operation.* (20 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The establishment of objectives that are clearly related to project goals and activities and are measurable with respect to anticipated enrollments, completions, and placements;

(2) A management plan that describes the chain of command, how staff will be managed, how coordination among staff will be accomplished, and timelines for each activity; and

(3) The way the applicant intends to use its resources and personnel to achieve each objective.

(d) *Key personnel.* (10 points).

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used on the project;

(iii) The time, including justification for the time that each one of the key personnel, including the project director, will commit to the project; and

(iv) Subject to the Indian preference provisions of the Indian Self-Determination Act (25 U.S.C. 450 *et*

seq.) that apply to grants and contracts to tribal organizations, how the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disabling condition.

(2) To determine personnel qualifications, the Secretary considers—

(i) The experience and training of key personnel in project management and in the objectives of the project; and

(ii) Any other qualifications of key personnel that pertain to the quality of the project.

(e) *Budget and Cost Effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project activities;

(2) Costs are reasonable in relation to the objectives of the project and the number of participants to be served; and

(3) The budget narrative justifies the expenditures.

(f) *Evaluation Plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which—

(1) The plan identifies, at a minimum, types of data to be collected and reported with respect to the academic and work credentials acquired by participants who complete the training;

(2) The plan identifies, at a minimum, types of data to be collected and reported with respect to the achievement of project goals for the enrollment, completion, and placement of participants. The data must be broken down by sex and by occupation for which training was provided;

(3) The methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable; and

(4) The methods of evaluation provide periodic data that can be used by the project for ongoing program improvement.

(h) *Employment opportunities.* (10 points) The Secretary reviews each application to determine the quality of the plan for job placement of participants who complete training under their program, including—

(1) The expected employment opportunities (including any military specialties) and any additional educational or training opportunities that are related to the participants' training;

(2) Information and documentation concerning potential employers' commitment to hire participants who complete training; and

(3) An estimate of the percentage of trainees expected to be employed (including self-employed individuals) in the field for which they were trained following completion of training.

Special Consideration

Under 34 CFR 401.20(e), in addition to the 100 points to be awarded based on the selection criteria in 34 CFR 401.21, the Secretary awards—

(a) Up to five points to applications proposing exemplary approaches that involve, coordinate with, or encourage tribal economic development plans; and

(b) Five points to applications from tribally controlled community colleges that—

(1) Are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

(2) Operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization and issue certificates for completion of vocational education programs.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant under this competition, the applicant must—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Services, Attention: (CFDA #84.101), Washington, DC 20202–4725.

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.101), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: (1) The U.S. Postal Service does not uniformly provide a date postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–8228.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms:

To apply for an award under this program competition, your application must be organized in the following order and include the following five parts. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88) and instructions.

Part II: Budget Information.

Part III: Budget Narrative.

Part IV: Program Narrative.

Part V: ADDITIONAL Assurances and Certifications:

a. Estimated Public Reporting Burden.

b. Assurances—Non-Construction Programs (Standard Form 424B).

c. Certification regarding Debarment, Lobbying, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions.

d. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80–0014, 9/90) and instructions.

(**Note:** ED Form 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)

e. Disclosure of Lobbying Activities (Standard Form LLL–A) (if applicable) and Instructions, and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

All forms and instructions are included as Appendix A of this notice. Questions and answers pertaining to this program are included, as Appendix B, to assist potential applicants.

All applicants must submit ONE original signed application, including ink signatures on all forms and assurances and six copies of the application, Please mark each application as original and copy.

No grant may be awarded unless a completed application form has been received.

For Further Information Contact: Harvey Thiel, Special Programs Branch,

Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW. (room 4512, Mary E. Switzer Building), Washington, DC. 20202–7242. Telephone: (202) 205–5680. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 2313(b).

Dated: March 11, 1993.

Ricky Takai,

Acting Assistant Secretary, Office of Vocational and Adult Education.

Appendix A

BILLING CODE 4000–01–U

OMB Approval No. 0348-004.

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State — H. Independent School Dist.
B. County — I. State Controlled Institution of Higher Learning
C. Municipal — J. Private University
D. Township — K. Indian Tribe
E. Interstate — L. Individual
F. Intermunicipal — M. Profit Organization
G. Special District — N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 1 0 1

TITLE: Indian Vocational Education Training Program

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

PART II -- BUDGET INFORMATION

SECTION AA -- Budget Summary by Categories (Budget Period)

1.	Personnel	
2.	Fringe Benefits (Rate %)	
3.	Travel	
4.	Equipment	
5.	Supplies	
6.	Contractual	
7.	Other	
8.	Total Direct Cost (lines 1 through 7)	
9.	Indirect Costs (Rate %)	
10.	Training Costs/Stipends	
11.	Total Federal Funds Requested (lines 8 through 10)	

SECTION BB - Budget Estimates (Federal Funds Only) For Balance of Project

Budget Periods

Second	Third

BILLING CODE 4000-01-C

Instructions for Part II—Budget Information

Section AA—Budget Summary by Categories

1. *Personnel:* Show salaries to be paid to personnel.

2. *Fringe Benefits:* Indicate the rate and amount of fringe benefits.

3. *Travel:* Indicate the amount requested for both local and out of State travel of Project Staff. Include funds for at least one trip for two people to attend the Project Director's Workshop.

4. *Equipment:* Indicate the cost of non-expendable personal property that has a cost of $5,000 or more per unit.

5. *Supplies:* Include the cost of consumable supplies and materials to be used during the project.

6. *Contractual:* Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts.

7. *Other:* Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants and capital expenditures.

8. *Total Direct Cost:* Show the total for lines 1 through 7.

9. *Indirect Costs:* Indicate the rate and amount of indirect costs.

Note: Except for grants to Federally recognized Indian tribes, the indirect cost rate cannot exceed 8% of the total direct costs.

10. *Training/stipend Cost:* Indicate cost per student and number of hours of instruction, (minimum wage is the basis for amount per hour—$4.25).

11. *Total Federal Funds Requested:* Show total for lines 8 through 10.

Instructions for Part III—Budget Narrative

The budget narrative should explain, justify, and, if needed, clarify your budget summary. For each line item (personnel, fringe benefits, travel, etc.) in your budget, explain why it is there and how you computed the costs.

Please limit this section to no more than five pages. Be sure that each page of your application is numbered consecutively.

Instructions for Part IV—Program Narrative

The program narrative will comprise the largest portion of your application. This part is where you spell out the who, what, when, why, and how, of your proposed project.

Although you will not have a form to fill out for your narrative, there is a format. This format is based on the selection criteria. Because your application will be reviewed and rated by a review panel on the basis of the selection criteria, your narrative should follow the order and format of the criteria.

Before preparing your application, you should carefully read the legislation and regulations of the program, eligibility requirements, information on any priority set by the Secretary, and the selection criteria for this competition.

Your program narrative should be clear, concise, and to the point. Begin the narrative with a one page abstract or summary of your project. Then describe the project in detail, addressing each selection criterion in order.

The Secretary strongly suggests that you limit the program narrative to no more than 30 double-spaced, typed pages (on one side only), although the Secretary will consider your application if it is longer. Be sure to number consecutively ALL pages in your application.

You may include supporting documentation as appendices to the program narrative. Be sure that this material is concise and pertinent to this program competition.

You are advised that—

(a) The Department considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels. (34 CFR 75.217)

(b) The technical review panel evaluates each application solely on the basis of the established technical review criteria. Letters of support included as appendices to the application will strengthen the application only if they contain commitments that pertain to the established technical criteria, such as commitment of resources.

Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden for this collection of information. Public reporting burden for this collection of information is estimated to average 90 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project, OMB 1830–0013, Washington, DC 20503. (Information collection approved under OMB Control Number 1830–0013. Expiration Date: 2/28/95.)

BILLING CODE 4000-01-U

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperauve agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted –

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

_____

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89, ED Form GCS-008, (REV 12/88), ED 80-0010, 5/90, and ED 80-0011, 5/90, which are obsolete)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion–Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by Ol
0344-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier ____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ Date: _____

Federal Use Only:

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Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6 Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

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Standard Form - LLL-A

IMPORTANT NOTICE TO PROSPECTIVE PARTICIPANTS IN U.S. DEPARTMENT OF EDUCATION CONTRACT AND GRANT PROGRAMS

GRANTS

Applicants for grants from the U.S Department of Education (ED) have to compete for limited funds

Deadlines assure all applicants that they will be treated fairly and equally, without last minute haste

For these reasons, ED must set strict deadlines for grant applications Prospective applicants can avoid disappointment if they understand that -

Failure to meet a deadline will mean that an applicant will be rejected without any consideration whatever.

The rules, including the deadline, for applying for each grant are published, individually, in the Federal Register A one-year subscription to the Register may be obtained by sending $340 00 to Superintendent of Documents, U S Government Printing Office, Washington, D C 20402-9371 (Send check or money order only, no cash or stamps)

The instructions in the Federal Register must be followed exactly Do not accept any other advice you may receive No ED employee is authorized to extend any deadline published in the Register

Questions regarding submission of applications may be addressed to

U S Department of Education
Application Control Center
Washington, D C 20202-4725

CONTRACTS

Competitive procurement actions undertaken by the ED are governed by the Federal Procurement Regulation and implementing ED Procurement Regulation

Generally, prospective competitive procurement actions are synopsized in the Commerce Business Daily (CBD) Prospective offerors are therein advised of the nature of the procurement and where to apply for copies of the Request for Proposals (RFP)

Offerors are advised to be guided solely by the contents of the CBD synopsis and the instructions contained in the RFP Questions regarding the submission of offers should be addressed to the Contracts Specialist identified on the face page of the RFP

Offers are judged in competition with others, and failure to conform with any substantive requirements of the RFP will result in rejection of the offer without any consideration whatever.

Do not accept any advice you receive that is contrary to instructions contained in either the CBD synopsis or the RFP No ED employee is authorized to consider a proposal which is non-responsive to the RFP

A subscription to the CBD is available for $208 00 per year via second class mailing or $261 00 per year via first class mailing Information included in the Federal Acquisition Regulation is contained in Title 48, Code of Federal Regulations, Chapter 1 ($49 00) The foregoing publication may be obtained by sending your check or money order only, no cash or stamps, to

Superintendent of Documents
U S Government Printing Office
Washington, D C 20402-9371

In an effort to be certain this important information is widely disseminated, this notice is being included in all ED mail to the public You may, therefore, receive more than one notice If you do, we apologize for any annoyance it may cause you

GRANT APPLICATION RECEIPT ACKNOWLEDGEMENT

If you fail to receive the notification of application receipt within fifteen (15) days from the closing date, call:

U.S. Department of Education
Coordination and Control Branch
(202) 708-9495

EDUCATION BULLETIN BOARD

There is now an electronic bulletin board with information about grant and contract opportunities at the U.S. Department of Education. The bulletin board is open to public access.

Bulletin Board Data Number
(202) 260-9950

BILLING CODE 4000-01-C

Appendix B

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants, the Department has assembled the following most commonly asked questions followed by the Department's answers.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and must apply to all applications. Waivers for individual applications cannot be granted regardless of the circumstances.

Q. How many copies of the application should I submit and must they be bound?

A. Our new policy calls for an original and six copies to be submitted. The binding of applications is optional.

Q. We just missed the deadline for the XXX competition. May we submit under another competition?

A. Yes, however, the likelihood of success is not good. A properly prepared application must meet the specifications of the competition to which it is submitted.

Q. I'm not sure which competition is most appropriate for my project. What should I do?

A. We are happy to discuss any such questions with you and provide clarification on the unique elements of the various competitions.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand, however, that prior contact with the Department is not required, nor will it in any way influence the success of an application.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 3 to 4 months of the application closing date, depending on the number of applications received and the number of Department competitions with similar closing dates.

Q. Once my application has been reviewed by the review panel, can you tell me the outcome?

A. No. Every year we are called by a number of applicants who have legitimate reasons for needing to know the outcome of the panel review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc. Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the results of panel review with anyone.

Q. Will my application be returned if I am not funded?

A. No. We no longer return unsuccessful applications. Thus, applicants should retain at least one copy of the application.

Q. Can I obtain copies of reviewers' comments?

A. Upon written request, reviewers' comments will be mailed to unsuccessful applicants.

Q. Is travel allowed under these projects?

A. Travel associated with carrying out the project is allowed. Because we may request the project director of funded projects to attend an annual project directors' meeting, you may also wish to include a trip or two to Washington, DC in the travel budget. Travel to conferences is sometimes allowed when the purpose of the conference will be of benefit and relates to the project.

Q. If my application receives high scores from the reviewers, does that mean that I will receive funding?

A. Not necessarily. It is often the case that the number of applications scored highly by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of all the applications reviewed and other relevant factors, determines the applications that can be funded.

Q. What happens during negotiations?

A. During negotiations technical and budget issues may be raised. These are issues that have been identified during the panel and staff reviews that require clarification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because an application contains inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all issues under negotiation have been resolved.

Q. How do I provide an assurance?

A. Except for SF–424B, "Assurances—Non-Construction Programs," you may provide an assurance simply by stating in writing that you are meeting a proscribed requirement.

Q. Where can copies of the **Federal Register**, program regulations, and Federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 708–8228. When requesting copies of regulations or statutes, it is helpful to use the specific name or public law number of a statute, or part number of a regulation. The material referenced in this notice should be referred to as follows:

(1) The Carl D. Perkins Vocational and Applied Technology Education Act (Pub. L. 101–302).

(2) Education Department General Administrative Regulations, 34 CFR parts 74, 75, 77, 79, 80, 81, 82, and 85.

(3) 34 CFR part 401 (Indian Vocational Education Program) as published in the **Federal Register** on August 14, 1992 (57 FR 36724).

[FR Doc. 93–6241 Filed 3–17–93; 8:45 am]
BILLING CODE 4000–01–U

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Thursday, March 18, 1993

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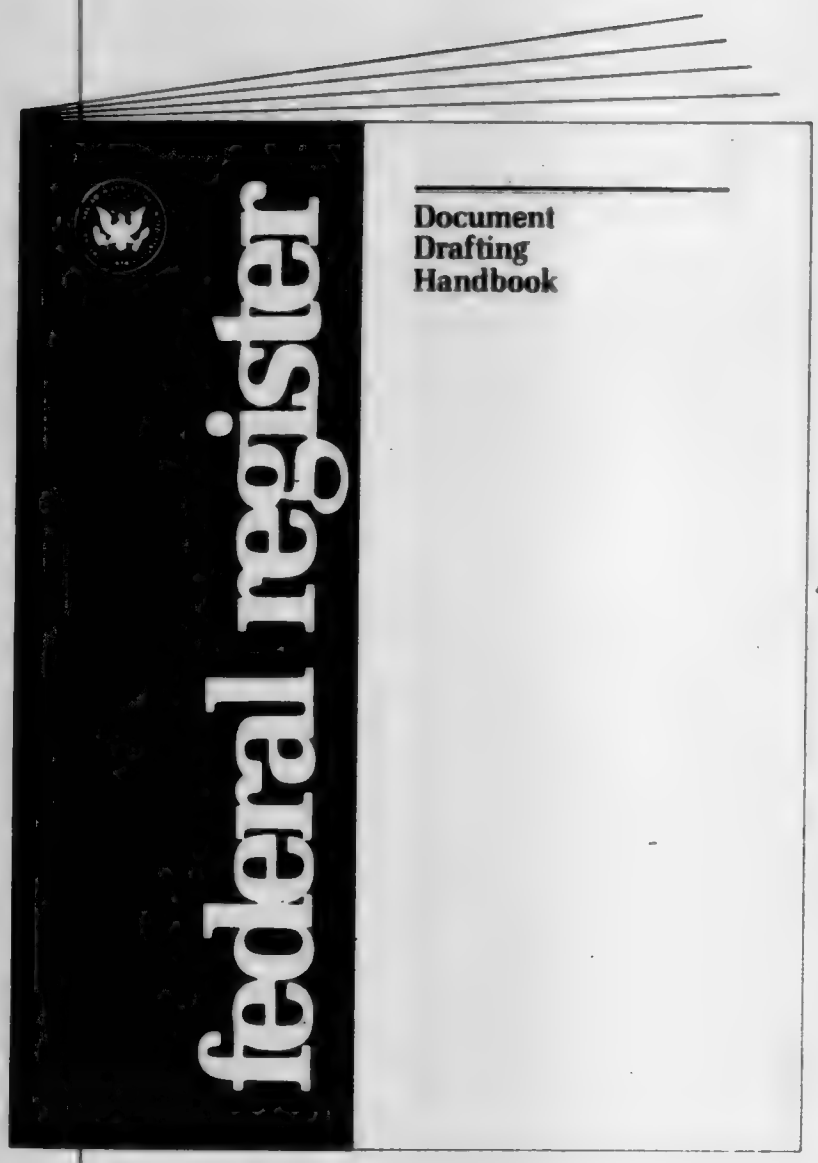

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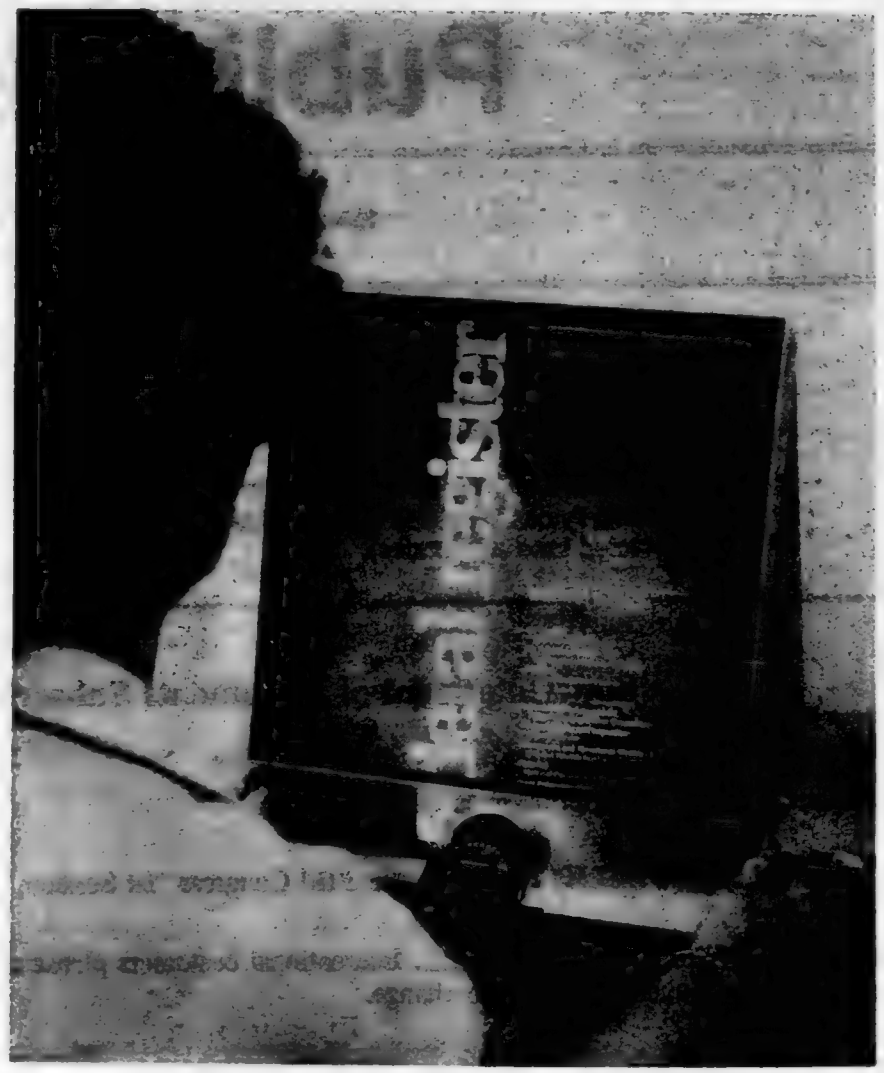

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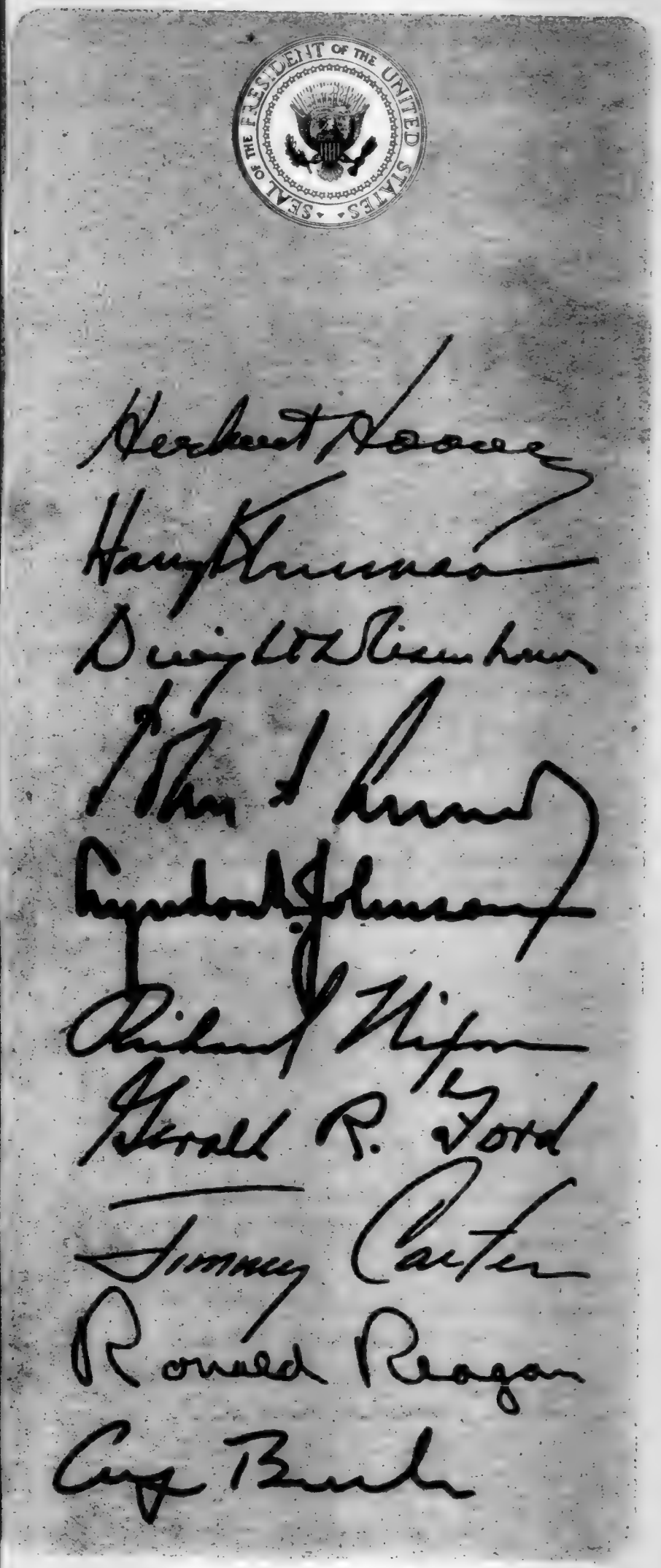

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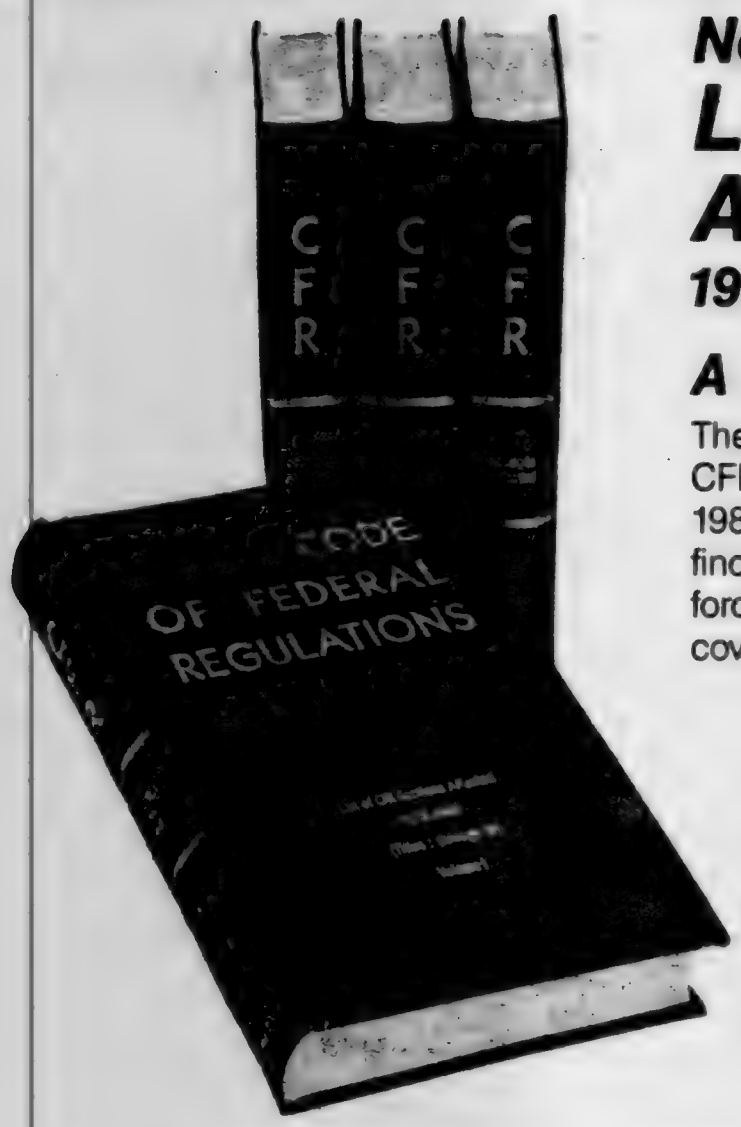

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Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of Clinton Administration officials is available on 202–275–1538 or 275–0920.

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Federal Register
Vol. 58, No. 52
Friday, March 19, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1943, 1951 and 1980

RIN 0575–AB39

Revisions to the Insured and Guaranteed Soil and Water Loan Instructions, and Related Instructions, To Implement the Requirements of Section 1802 of the Food, Agriculture, Conservation, and Trade Act of 1990

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends the insured and guaranteed soil and water regulations to Sections 304 and 310D of the Consolidated Farm and Rural Development Act (CONACT), as amended by section 1802 of the Food, Agriculture, Conservation, and Trade (FACT) Act of 1990 and section 501(a)(1) and (2) of the Fact Act Amendments of 1991. This action amends FmHA regulations to limit loan purposes to soil and water conservation and protection purposes, permits the use of limited resource interest rates (insured loans), gives priority to specific loan purposes, and restricts the dollar amount of individual loans.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: David R. Smith, Senior Loan Officer, Farmer Programs Loan Making Division, Farmers Home Administration, USDA, South Agriculture Building, room 5430, 14th and Independence Avenue, SW., Washington, DC 20250, telephone (202) 720–1645.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12991, and has been determined to be nonmajor because it will not result in an annual effect on the economy of $100 million or more.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Farm Ownership Loans are excluded with the exception of nonfarm enterprise activity from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loans Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940–J.

Programs Affected

These changes affect the following FmHA program as listed in the Catalog of Federal Domestic Assistance:
10.416—Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Discussion

Farm loans made to FmHA applicants are governed mainly by the CONACT (7 U.S.C. 1921 et. seq.). Present Soil and Water (SW) loan regulations do not permit the use of limited resource interest rates, give priority to specific loan purposes, or restrict the dollar amount of individual loans to less than the individual loan entitlement of $200,000 total insured principal indebtedness or $300,000 for a combination of insured and guaranteed principal loan indebtedness.

As explained in the proposed rule at 56 FR 30347–30350 (July 2, 1991), statutory changes made by section 1802 of the FACT Act to sections 304 and 310D of the CONACT (7 U.S.C. 1924 and 1934) necessitate amendment of these SW regulations. The proposed rule added a new subsection under loan purposes to denote soil and water conservation and protection purposes, gave priority to applicants requesting assistance for soil and water conservation and protection purposes who use loan funds to build conservation structures or establish conservation practices on highly erodible land, limited an individual SW loan to the lesser of the value of the farm or other security for the loan or $50,000, authorized the use of limited resource interest rates when loan funds are used for soil and water conservation and protection purposes, and removed the $650,000 cap in total outstanding principal indebtedness when the borrower was indebted for an economic emergency loan.

The final rule revises subpart B of parts 1943 and 1980 of title 7 of the CFR to incorporate provisions of section 1802 of the FACT Act as amended by the Fact Act Amendments of 1991 (Pub. L. 102–237). The following is a discussion of the major changes in the final rule from the proposed rule. Soil and water conservation and protection loan purposes replace rather than supplement the existing loan purposes. The reference to land clearing, drainage, refinancing debts, and alcohol/methane facilities has been removed from the list of loan purposes as they are not considered soil and water conservation and protection purposes. Under CONACT section 302 (a)(3) and (a)(2), SW loans made for soil and water conservation and protection purposes now are restricted to owners or operators of not larger than family farms who meet the training or experience requirement for real estate loans. The family farmer and training or experience requirements do not apply to SW loans made for waste pollution and control facilities purposes according to CONACT section 304(c) as discussed below.

The agency revises subpart A of part 1951 of title 7 of the CFR to include SW loans under the limited resource review. Limited resource loans are reviewed each year at the time of the annual analysis and any time a servicing action, such as reamortization or deferral is taken.

The agency proposed to revise subpart B of parts 1943 and 1980 of title 7 of the CFR in light of section 1851 of the FACT Act. This statutory provision repealed the Emergency Agriculture Credit Adjustment Act of 1987 (7 U.S.C. prec. 1961 note) which prohibited the making of an insured or guaranteed economic emergency or farm loan to an existing farm borrower if such loan would exceed the cap of $650,000 in total outstanding principal indebtedness for all insured and/or guaranteed economic emergency (EE), farm ownership (FO), recreation loan (RL), operating (OL), and soil and water (SW) loans. An administrative decision was made to leave the $650,000 cap in place to limit the total potential exposure for EE borrowers. Without such a cap an existing borrower with a $400,000 EE loan has the potential for a 1.1 million total FmHA indebtedness considering the $400,000 guaranteed OL and $300,000 guaranteed FO individual loan entitlement. This potential of loss is unacceptable to the Agency. Other clarifying changes unrelated to the recently enacted statutory provisions are also included in this proposed rule.

Discussion of Comments

The proposed rule was published in the **Federal Register** (56 FR 30347–30350) on July 2, 1991, providing for a 30 day comment period ending August 1, 1991. Two comments, from the "Substainable Agriculture Coalition," were received on the proposed rule.

First the respondent expressed concern about the loan limitation, indicating that Congress acted to make conservation the sole focus of the program, to direct assistance to conservation compliance efforts, to ensure that borrowers be fully FmHA-eligible (operate not larger than a family size farm), and to limit the size of loans in order to distribute funds as widely as possible. The Agency agrees that corrections made to CONACT section 304 by the FACT Act Amendments of 1991 restrict SW loans, for soil and water conservation and protection purposes, to operators of not larger than a family farm who meet the training or experience requirement. The FACT ACT and the FACT ACT Amendments of 1991 did not place such restrictions on waste pollution and control facilities purposes. In fact, section 304(c) of the CONACT provides that SW loans can be made without regard to these requirements and the U.S. citizenship requirement, for purposes of meeting Federal, State, or local requirements for certain waste pollution abatement and control facilities.

Second, the respondent stated that the proposed rule did not provide a for a cap on SW loans of $50,000 per borrower. The agency concurs. The overall loan entitlement of $200,000 insured, $300,000 guaranteed per borrower is statutory (section 305 of the CONACT), and any reduction in the maximum loan entitlement would have to be by legislative change. The respondent stated that the FACT ACT Amendments of 1991 corrected the CONACT reference from section 304(d)(1) to section 304(a), resulting in a replacement rather than an addition to existing loan purposes. The Agency concurs with this statement and has revised the subject instruction to reflect the change.

List of Subjects

7 CFR Part 1943

Credit, Loan programs—Agriculture, Recreation, Water resources.

7 CFR Part 1951

Account servicing, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing loans—Servicing.

7 CFR Part 1980

Agriculture, Loan programs—Agriculture.

Therefore, Chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

1. The authority citation for part 1943 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23 and 7 CFR 2.70.

Subpart B—Insured Soil and Water Loan Policies, Procedures and Authorizations

2. Section 1943.54 is amended by adding, in alphabetical order, the definition of "Limited resource applicant" to read as follows:

§ 1943.54 Definitions.

* * * * *

Limited resource applicant. An applicant who is a farmer or rancher and is an owner or operator of a farm, including a new owner or operator, with a low income who demonstrates a need to maximize farm or ranch income. A limited resource applicant must meet the eligibility requirements for a soil and water loan, but due to low income, cannot pay the regular interest rate on such loans. Due to the complex nature of the problems facing this applicant, special help will be needed and more supervisory assistance will be required to assure reasonable prospects for success. The applicant may face such problems as underdeveloped managerial ability, limited education, low-producing farm due to lack of development or improved production practices and other related factors. The applicant cannot develop a feasible plan at regular interest rates and at the maximum loan terms. The use of limited resource interest rates is restricted to those loan purposes denoted in § 1943.66 (a)(1) through (a)(5) of this subpart.

* * * * *

3. Section 1943.57 is added to read as follows:

§ 1943.57 Preference.

Priority will be given to otherwise qualified applicants requesting assistance for soil and water conservation and protection purposes denoted in § 1943.66(a) of this subpart who use loan funds to build conservation structures or establish conservation practices on highly erodible land to comply with Part 12 of this title (see attachment 1 of exhibit M of subpart G of Part 1940 of this chapter which is available in any FmHA office).

4. Section 1943.62 is amended by redesignating paragraphs (a)(3) through (a)(7) as (a)(4) through (a)(8) and (b)(4) through (b)(9) as (b)(5) through (b)(10); by removing the word "unexhausted" and inserting in its place the word "remaining" in the last sentence of newly redesignated paragraphs (a)(8) and (b)(9); by removing the forms titles ", Alien Registration Receipt Card" in the second sentence and ", Application for Verification of Information from Immigration and Naturalization Records" in the fourth sentence of paragraphs (b)(3); by adding a new sentence to the end of paragraphs (a)(1) and (b)(3); by adding new paragraphs (a)(3), (b)(4), (b)(11), and (b)(12); by revising newly redesignated paragraphs (a)(7) and (b)(8) to read as follows:

§ 1943.62 Soil and Water loan eligibility requirements.

* * * * *

(a) * * *

(1) * * * There is no U.S. citizenship restriction on loans made for waste pollution abatement and control facilities under § 1943.66(b) of this subpart.

* * * * *

(3) Have sufficient applicable educational and/or on the job training or farming experience in managing and operating a farm or ranch (1 year's

complete production and marketing cycle within the last 5 years), which indicates the managerial ability necessary to assure reasonable prospects of success in the proposed plan of operation. There is no education or experience restriction on loans made for waste pollution abatement and control facilities under § 1943.66(b) of this subpart.

* * * * *

(7) Be the owner or operator of not larger than a family farm after the loan is closed, when loan funds are used for soil and water conservation and protection purposes as defined in § 1943.66 (a)(1) through (a)(5) of this subpart. There is no farm size restriction on loans made for waste pollution abatement and control facilities under § 1943.66(b) of this subpart.

* * * * *

(b) * * *

(3) * * * There is no U.S. citizenship restriction on loans made for waste pollution abatement and control facilities under § 1943.66(b) of this subpart.

(4) Have sufficient applicable educational and/or on the job training or farming experience in managing and operating a farm or ranch (1 year's complete production and marketing cycle within the last 5 years), which indicates the managerial ability necessary to assure reasonable prospects of success in the proposed plan of operation. There is no education or experience restriction on loans made for waste pollution abatement and control facilities under § 1943.66(b) of this subpart.

* * * * *

(8) Be the owner or operator of not larger than a family farm after the loan is closed, when loan funds are used for soil and water conservation and protection purposes as defined in § 1943.66 (a)(1) through (a)(5) of this subpart. There is no farm size restriction on loans made for waste pollution abatement and control facilities under § 1943.66(b) of this subpart.

* * * * *

(11) When loan funds will be used for soil and water conservation and protection purposes (§ 1943.66 (a)(1) through (a)(5) of this subpart), and the members, stockholders, partners, or joint operators holding a majority interest are related by blood or marriage, the requirements of § 1943.12(b)(5), (b)(7) [if limited resource applicant], and (b)(8) of subpart A of part 1943 of this chapter will apply.

(12) When loan funds will be used for soil and water conservation and protection purposes, and the members, stockholders, partners, or joint operators holding a majority interest are not related by blood or marriage, the requirements of § 1943.12(b)(6) of subpart A of part 1943 of this chapter will apply.

5. Section 1943.66 is revised to read as follows:

§ 1943.66 Loan purposes.

Loans that are consistent with all Federal, State, and local environmental quality standards may be made to:

(a) Pay costs for construction, materials, supplies, equipment, and services related to, soil and water conservation and protection purposes, such as:

(1) Installation of conservation structures, including terraces, sod waterways, permanently vegetated stream borders and filter strips, windbreaks (tree or grass), shelterbelts, and living snow fences.

(2) Establishment of forest cover for sustained yield timber management, erosion control, or shelter belt purposes.

(3) Establishment or improvement of permanent pasture.

(4) The conversion to and maintenance of sustainable agriculture production systems, as described by Department technical guides and handbooks.

(5) Payment of costs to build conservation structures or establish conservation practices on highly erodible land to comply with a conservation plan in accordance with part 12 of this title (see attachment 1 of exhibit M of subpart G of part 1940 of this chapter which is available in any FmHA office).

(6) Other purposes consistent which plans for soil and water conservation, integrated farm management, water quality protection and enhancement, and wildlife habitat improvement.

(7) The following items/purposes related to conservation and protection purposes and water quality are authorized:

(i) Sodding, subsoiling, land leveling, liming, and fencing.

(ii) Fertilizer and seed used in connection with a soil conservation practice or to establish or improve permanent vegetation.

(iii) Gasoline, oil, and equipment rental or hire connected with establishing or completing the development.

(iv) Reasonable expenses incidental to obtaining, planning, closing, and making the loan, such as fees for legal, engineering or other technical services and first year insurance premiums which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds may also be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making any planned improvements.

(v) Purchase or repair of special-purpose equipment, such as terracing, land leveling, and ditching equipment, provided:

(A) Such equipment is needed and will facilitate the completion or maintenance of the planned improvement, and

(B) The cost of the equipment plus the other costs related to improvement will not be more than if performed by a contractor or by another method.

(vi) Acquire a source of water to be used on land the applicant owns, will acquire, or operates including:

(A) The purchase of water stock or membership in an incorporated water users association.

(B) The acquisition of a water right through appropriation, agreement, permit, or decree.

(C) The acquisition of water supply or right, and the land on which it is presently being used, when the water supply or right cannot be purchased without the land, provided:

(1) The value of the land without the water supply or right is only an incidental part of the title price, and

(2) The water supply will be transferred to, and used more effectively on, other land owned or operated by the applicant.

(vii) Purchase land or an interest therein for sites or rights-of-way and easements upon which a water or drainage facility will be located.

(viii) Pay that part of the cost of facilities, improvements, and "practices" which will be paid for in connection with participation in programs administered by agencies such as the Agricultural Stabilization and Conservation Service (ASCS) or the Soil Conservation Service (SCS) only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000, the applicant will assign the payment to the FmHA.

(ix) Provide water supply facilities for dwellings and farm buildings, including such facilities as wells, pumps, farmstead distribution systems, and home plumbing.

(x) Pay costs of land and water development, use, and conservation essential to the applicant's farm, subject to the following:

(A) Such a loan may be made on land with defective title owned by the

applicant or on land in which the applicant owns an undivided interest providing:

(1) The amount of funds used on such land is limited to $25,000,

(2) There is adequate security for the loan, and

(3) The tract is not included in the appraisal report.

(B) Such a loan may be made on land leased by the applicant providing:

(1) The terms of the lease are such that there is reasonable assurance the applicant will have use of the improvement over its useful life,

(2) A written lease provides for payment to the tenant or assignee for any remaining value of the improvement if the lease is terminated, and

(3) There is adequate security for the loan.

(b) Pay the costs of meeting Federal, State, or local requirements for agricultural, animal, or poultry waste pollution abatement and control facilities, including construction, modification, or relocation of the farm or farm structures, if necessary, to comply with such pollution abatement requirements.

6. Section 1943.67 is amended by redesignating paragraphs (a), (b), and (c) as paragraphs (c), (d) and (e), respectively; by revising the reference "FmHA Instruction 2000–LL of this chapter, Memorandum of Understanding Between FmHA and U.S. Fish and Wildlife Service," to read "FmHA Instruction 2000–LL (available in any FmHA Office)" in newly designated paragraph (e); and by adding new paragraphs (a) and (b) to read as follows:

§ 1943.67 Loan limitations.

* * * * *

(a) The loan being made exceeds the lesser of the value of the farm or other security for the loan, or $50,000.

(b) The total outstanding insured SW, Farm Ownership (FO) or Recreation (RL) loan principal balance including the new loan owned by the applicant will exceed the lesser of $200,000, or the market value of the farm or other security.

* * * * * * *

7. Section 1943.68 is amended by revising paragraph (c) to read as follows:

§ 1943.68 Rates and terms.

* * * * * * *

(c) *Interest rate.* Upon request of the applicant, the interest rate charged by FmFA will be the lower of the interest rates in effect at the time of loan approval or loan closing. If an applicant does not indicate a choice, the loan will be closed at the interest rate in effect at the time of loan approval. Interest rates are specified in Exhibit B of FmHA Instruction 440.1 (available in any FmHA office) for the type of assistance involved. A lower rate may be established in this exhibit for a limited resource applicant when loan funds are being used for soil and water conservation and protection purposes denoted in § 1943.66 (a)(1) through (a)(5) of this subpart, subject to the following:

(1) The applicant meets the conditions of the definition for a limited resource applicant set forth in § 1943.54 of this subpart.

(2) The Farm and Home Plan and Business Analysis—Nonagricultural Enterprise form, when appropriate, indicates that installments at the higher rate, along with other debts, cannot be paid during the period of the plan.

8. Section 1943.73 is amended by removing the words "installing facilities for draining lands;" in paragraph (f)(1), by removing the words "or farm drainage requirements" and "and drainage" in paragraph (f)(2), by removing paragraphs (f)(2)(iii) and (f)(4), and by revising the reference "Subpart LL of Part 2000 of this chapter" to read "FmHA Instruction 2000–LL" in paragraph (d).

9. Section 1943.79 is amended by revising paragraph (c)(1) to read as follows:

§ 1943.79 Relationship with other FmHA loans, insured and guaranteed.

* * * * *

(c) * * *

(1) The total insured and guaranteed FO, SW and RL principal balance, including the new loan, owed by the loan applicant does not exceed $300,000 at either loan approval or loan closing.

* * * * *

PART 1951—SERVICING AND COLLECTIONS

10. The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Account Servicing Policies

11. Section 1951.25 is amended by revising the section heading, paragraph (a) and the third and last sentences of paragraph (b)(3) to read as follows:

§ 1951.25 Review of limited resource FO, OL, and SW loans.

(a) *Frequency of reviews.* OL, FO, and SW loans will be reviewed each year at the time the analysis is conducted in accordance with subpart B of part 1924 of this chapter and any time a servicing action such as consolidation, rescheduling, reamortization or deferral is taken. The interest rate may not be changed more often than quarterly.

(b) * * *

(3) * * * Borrowers that fail to provide the County Supervisor with the information needed to conduct the analysis required in subpart B of part 1924 of this chapter will have their interest rate on their loan increased to the current rate for the OL, FO, or SW loan as applicable. * * * Whenever it appears that the borrower has a substantial increase in income and repayment ability or ceases farming, either the interest rate may be increased to the current rate for FO, OL or SW loans, as applicable, or the borrower will be graduated from the program as provided in subpart F of this part.

* * * * *

PART 1980—GENERAL

12. The authority citation for part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 7 U.S.C. 4201 note; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70

Subpart B—Farmer Programs Loans

13. Section 1980.108 is amended by removing paragraph (d)(2) introductory text; by redesignating paragraphs (d)(2)(i) and (d)(2)(ii) as (d)(2) and (d)(3) respectively; by adding a paragraph (b)(4); and by revising introductory text of paragraph (d) to read as follows:

§ 1980.108 General provisions.

* * * * *

(b) * * *

(4) Priority will be given to otherwise qualified applicants requesting assistance for soil and water conservation and protection purposes denoted in § 1980.185 (c)(1) of this subpart, who use loan funds to build conservation structures or establish conservation practices on highly erodible land to comply with part 12 of this title (see Attachment 1 of Exhibit M of subpart G of part 1940 of this chapter which is available in any FmHA office).

* * * * *

(d) *Relationship between FmHA loans, insured and guaranteed.* A guaranteed FO or OL loan may be made to an insured borrower with the same type of loan provided:

* * * * *

14. Section 1980.185 is amended by redesignating paragraphs (b)(1)(iii) through (b)(1)(vii) as (b)(1)(iv) through (b)(1)(viii), (b)(2)(iv) through (b)(2)(ix) as (b)(2)(v) through (b)(2)(x), and (d)(1)

through (d)(3) as (d)(2) through (d)(4) respectively; by removing the word "unexhausted" and inserting in its place the word "remaining" in the last sentence of newly redesignated paragraphs (b)(1)(viii) and (b)(2)(ix); by removing the forms titles ", Alien Registration Receipt Card" in the second sentence and ", Application for Verification of Information from Immigration and Naturalization Records" in the fourth sentence of paragraph (b)(2)(iii); by adding a new sentence to the end of paragraphs (b)(1)(i) and (b)(2)(iii); by adding new paragraphs (b)(1)(iii), (b)(2)(iv), (b)(2)(xi), (b)(2)(xii), and (d)(1); and by revising newly designated paragraphs (b)(1)(vii) and (b)(2)(viii), and (c) to read as follows:

§ 1980.185 Soil and water loans.

* * * * *

(b) *Soil and water loan eligibility requirements.*

(1) * * *

(i) * * * There is no U.S. citizenship restriction on loans made for waste pollution abatement and control facilities under § 1980.185(c)(2) of this subpart.

* * * * *

(iii) Have sufficient applicable educational and/or on the job training or farming experience in managing and operating a farm or ranch (1 year's complete production and marketing cycle within the last 5 years), which indicates the managerial ability necessary to assure reasonable prospects of success in the proposed plan of operation. There is no education or experience restriction on loans made for waste pollution abatement and control facilities under § 1980.185(c)(2) of this subpart.

* * * * *

(vii) Be the owner or operator of not larger than a family farm after the loan is made, when loan funds are used for soil and water conservation and protection purposes as defined in paragraphs (c)(1)(i) through (c)(1)(v) of this section. There is no farm size restriction on loans made for waste pollution abatement and control facilities under § 1980.185(c)(2) of this subpart.

* * * * *

(2) * * *

* * * * *

(iii) * * * There is no U.S. citizenship restriction on loans made for waste pollution abatement and control facilities under § 1980.185(c)(2) of this subpart.

(iv) Have sufficient applicable educational and/or on the job training or farming experience in managing and operating a farm or ranch (1 year's complete production and marketing cycle within the last 5 years), which indicates the managerial ability necessary to assure reasonable prospects of success in the proposed plan of operation. There is no education or experience restriction on loans made for waste pollution abatement and control facilities under § 1980.185(c)(2) of this subpart.

* * * * *

(viii) Be the owner or operator of not larger than a family farm after the loan is made, when loan funds are used for soil and water conservation and protection purposes as defined in paragraphs (c)(1)(i) through (c)(1)(v) of this section. There is no farm size restriction on loans made for waste pollution abatement and control facilities under § 1980.185(c)(2) of this subpart.

* * * * *

(xi) When loan funds will be used for soil and water conservation and protection purposes (paragraphs (c)(1)(i) through (c)(1)(v) of this section), and the members, stockholders, partners, or joint operators holding a majority interest are related by blood or marriage, the requirements of § 1980.175(b)(2) (v) and (vii) of this subpart will apply.

(xii) When loan funds will be used for soil and water conservation and protection purposes, and the members, stockholders, partners, or joint operators holding a majority interest are not related by blood or marriage, the requirements of § 1980.175(b)(2)(vi) of this subpart will apply.

(c) *Loan purposes.* Loan purposes must be consistent with all Federal, State, and local environmental quality standards and funds may be used to:

(1) Pay the costs for construction, materials, supplies, equipment, and services related to soil and water conservation and protection purposes, such as:

(i) Installation of conservation structures, including terraces, sod waterways, permanently vegetated stream borders and filter strips, windbreaks (tree or grass), shelterbelts, and living snow fences.

(ii) Establishment of forest cover for sustained yield timber management, erosion control, or shelterbelt purposes.

(iii) Establishment or improvement of permanent pasture.

(iv) The conversion to and maintenance of sustainable agriculture production systems, as described by Department technical guides and handbooks.

(v) Payment of costs to build conservation structures or establish conservation practices on highly erodible land to comply with a conservation plan in accordance with part 12 of this title (see attachment 1 of exhibit M of subpart G of part 1940 of this chapter available in any FmHA office).

(vi) Other purposes consistent with plans for soil and water conservation, integrated farm management, water quality protection and enhancement, and wildlife habitat improvement.

(vii) The following items/purposes related to conservation and protection purposes and water quality are authorized:

(A) Sodding, subsoiling, land leveling, liming, and fencing.

(B) Fertilizer and seed used in connection with a solid conservation practice or to establish or improve permanent vegetation.

(C) Gasoline, oil, and equipment rental or hire connected with establishing or completing the development.

(D) Reasonable expenses incidental to obtaining, planning, closing, and making the loan, such as fees for legal, engineering or other technical services, hazard insurance premiums, and loan fees authorized in § 1980.22 of subpart A of this part, which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds may also be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making any planned improvements.

(E) Purchase or repair of special-purpose equipment such as terracing, land leveling, and ditching equipment, provided:

(*1*) Such equipment is needed and will facilitate the completion or maintenance of the planned improvement, and

(*2*) The cost of the equipment plus the other costs related to the improvement will not be more than if performed by a contractor or by another method.

(F) Acquire a source of water to be used on land the applicant owns, will acquire, or operates including:

(*1*) The purchase of water stock or membership in an incorporated water user association.

(*2*) The acquisition of a water right through appropriation, agreement, permit, or decree.

(*3*) The acquisition of water supply or right, and the land on which it is presently being used, when the water supply or right cannot be purchased without the land, provided:

(*i*) The value of the land without the water supply or right is only an incidental part of the total price; and

(*ii*) The water supply and right will be transferred to, and used more effectively on, other land owned or operated by the applicant.

(G) Purchase land or an interest therein for sites or rights-of-way and easements upon which a water or drainage facility will be located.

(H) Pay that part of the cost of facilities, improvements, and "practices" which will be paid for in connection with participation in programs administered by agencies such as the ASCS or the Soil Conservation Service (SCS) only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000, the applicant will assign the payment to the lender.

(I) Provide water supply facilities for dwellings and farm buildings, including such facilities as wells, pumps, farmstead distribution systems, and home plumbing.

(J) Pay costs of land and water development, use, and conservation essential to the applicant's farm, subject to the following:

(*1*) Such a loan may be made on land with defective title owned by the applicant (see paragraph (f) of this section) or on land in which the applicant owns an undivided interest providing:

(*i*) The amount of funds used on such land is limited to $25,000,

(*ii*) There is adequate security for the loan, and

(*iii*) The tract is not included in the appraisal report.

(*2*) Such a loan may be made on land leased by the applicant providing:

(*i*) The terms of the lease are such that there is reasonable assurance the applicant will have use of the improvement over its useful life.

(*ii*) A written lease provides for payment to the tenant or assignee for any remaining value of the improvement if the lease is terminated.

(*iii*) There is adequate security for the loan.

(K) Purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

(2) Pay the costs of meeting Federal, State, or local requirements for agricultural, animal, or poultry waste pollution abatement and control facilities, including construction, modification, or relocation of the farm or farm structures if necessary to comply with such pollution abatement requirements.

(d) * * *

(l) The loan being made exceeds the lesser of the value of the farm or other security for such loan or $50,000.

* * * * *

Dated: February 24, 1993.

Charles R. Rennick,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 93–6260 Filed 3–18–93; 8:45 am]

BILLING CODE 3410–07–M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q, Docket No. R–0775]

Prohibition Against the Payment of Interest on Demand Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; delay of effective date.

SUMMARY: The Board is delaying the effective date of the final rule, published on September 21, 1992, which amended Regulation Q in conjunction with its amendments to Regulation DD, which implemented the Truth in Savings Act. Deletion of the advertising rules in Regulation Q is delayed by three months until June 21, 1993. Regulation Q retains provisions prohibiting the payment of interest on demand deposits.

EFFECTIVE DATE: Effective March 19, 1993, the effective date for the amendments to part 217 which were published at 57 FR 43336 is delayed until June 21, 1993.

FOR FURTHER INFORMATION CONTACT: Patrick J. McDivitt, Staff Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–3818; for the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

(1) Background

The Truth in Savings Act (Act) (12 U.S.C. 4301) directs the Board to issue an implementing regulation, which shall apply six months after the final regulation is issued. At the same time the Board issued implementing regulations on September 21, 1992 (57 FR 43337), it amended Regulation Q (57 FR 43336) to provide that rules dealing with advertising of deposit accounts were eliminated, effective March 21, 1993. Regulation Q sets forth disclosure and advertising rules for interest on deposits by member banks and certain other institutions.

The Housing and Community Development Act (HCDA), enacted in October 1992 (Pub. L. 102–550, 106 Stat. 3672), amended the act by extending the mandatory compliance date by three months. In light of that delay, the Board is delaying the effective date of the advertising and other disclosure rules in Regulation Q from March 21, 1993, to June 21, 1993, the new mandatory compliance date for Regulation DD. (See Docket R–0791 elsewhere in today's **Federal Register**, which sets forth the amendments to Regulation DD.) Institutions that begin compliance with Regulation DD prior to the mandatory compliance date may comply solely with the advertising provisions of Regulation DD, and not the advertising and disclosure provisions in Regulation Q.

By order of the Board of Governors of the Federal Reserve System, March 12, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–6325 Filed 3–18–93; 8:45 am]

BILLING CODE 6210–01–M

12 CFR Part 225

[Regulation Y; Docket No. 93-0798]

Real Estate Appraisals

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; technical amendment.

SUMMARY: The Board is publishing a technical amendment to its Real Estate Appraisal Regulations to reflect that the Board's Guidelines for Real Estate Appraisal Policies and Review Procedures have been superseded by the Guidelines for Real Estate Appraisal and Evaluation Programs.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: Terence F. Browne, Senior Attorney (202/452-3707), or Christopher Bellini, Attorney (202/452-3269), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf, Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 requires that real estate appraisals conducted in connection with federally-related transactions be performed in writing, in accordance with uniform standards, by a qualified real estate appraiser who is subject to effective

supervision.[1] Section 225.63(a) of the Board's Regulation Y, which sets out exceptions to the requirements of title XI, provides that any transaction not requiring an appraisal by a State certified or licensed appraiser does require an appropriate evaluation of real property collateral that is consistent with the Board's Guidelines for Real Estate Appraisal Policies and Review Procedures.[2] On September 28, 1992, the Board adopted the Guidelines for Real Estate Appraisal and Evaluation Programs, which Guidelines supersede the Board's Guidelines for Real Estate Appraisal Policies and Review Procedures.[3]

The amendment adopted by the Board is technical and does not affect the substance of the Board's Real Estate Appraisal Regulations.[4] This amendment will provide an updated cross-reference to the guidelines now applicable to real estate-related financial transactions that do not require an appraisal by a State certified or licensed appraiser. Accordingly, the Board, for good cause, finds that the notice and public comment procedure normally required is not necessary and would be contrary to the public interest under 5 U.S.C. 553(b)(B). The Board further finds that, for the same reasons, there is good cause under 5 U.S.C. 553(d).

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that adoption of this final rule will not have a significant economic impact on a substantial number of small entities that are subject to the regulation. As noted above, this amendment imposes no new requirements, but merely updates the reference to the appropriate real estate appraisal guidelines.

List of Subjects in 12 CFR Part 225

Administrative practice and procedure, Banks, Banking, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, the Board is amending 12 CFR part 225 as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for part 225 continues to read as follows:

[1] *See* 12 U.S.C. 3310, 3331-3351.
[2] 12 CFR 225.63(a).
[3] *See* F.R.R.S. 3-1577.
[4] *See* 12 CFR 225.61-225.67.

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831(i), 1843(c)(8), 1844(b), 3106, 3108, 3310, 3331-3351, 3907 and 3909.

Subpart G—Appraisals

2. In section 225.63, the concluding text in paragraph (a) is revised to read as follows:

§ 225.63 Appraisals not required; transactions requiring a State certified or licensed appraiser.

(a) * * *

Any transaction for which a State certified or licensed appraiser is not required nevertheless must have an appropriate evaluation of real property collateral that is consistent with the Board's Guidelines for Real Estate Appraisal and Evaluation Programs.

* * * * *

By order of the Board of Governors of the Federal Reserve System, March 11, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-6085 Filed 3-18-93; 8:45 am]
BILLING CODE 6210-01-P

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12 CFR Part 230

[Regulation DD; Docket No. R-0791]

Truth in Savings; Regulatory Amendments

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing a final rule amending Regulation DD (Truth in Savings) to implement recent changes made to the Truth in Savings Act by the Housing and Community Development Act of 1992. The law extends the mandatory date for compliance with the requirements of the Truth in Savings Act by three months, so that institutions must comply by June 21, 1993, rather than March 21, 1993. The law also modifies the advertising rules relating to signs on the premises of an institution, and makes a technical change to the provision dealing with notices required to be given to existing account holders. In addition, the Board is making two minor changes to the regulation and providing guidance on several issues that have been raised by institutions since publication of the final regulation in September 1992.

DATES: This final rule is effective March 21, 1993. Compliance is optional until June 21, 1993. Compliance with the amendment to part II of appendix A of part 230 is optional until December 21, 1993.

FOR FURTHER INFORMATION CONTACT: Jane Ahrens, Kyung Cho, Kurt Schumacher, or Mary Jane Seebach, Staff Attorneys, Division of Consumer and Community Affairs, at (202) 736-5500; for the hearing impaired only contact Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544

SUPPLEMENTARY INFORMATION:

(1) Background

The Truth in Savings Act ("act") (contained in the Federal Deposit Insurance Corporation Improvement Act of 1991) was enacted in December 1991. The Board published proposed rules to implement the act on April 13, 1992 (57 FR 12735), and published final regulations on September 21, 1992 (57 FR 43337) (correction notice at 57 FR 46480, October 9, 1992).

The Housing and Community Development Act (HCDA) was enacted into law in October 1992 (Pub. L. 102-550, 106 Stat. 3672). The law contains three provisions that amend the Truth in Savings Act. The provisions extend the effective date for compliance with the act by three months, reduce the requirements that apply to some advertisements on the premises of a depository institution, and modify the provision that requires a notice to be given to existing account holders alerting them to the availability of account disclosures.

On January 5, 1993, the Board published a proposal to implement these amendments (58 FR 271). In addition to proposing rules to implement the statutory changes, the Board solicited comment on whether to adopt a technical change to the regulation, and proposed to provide guidance on several issues raised by institutions since adoption of the final rules. The Board received 108 comments on the proposal. Based on a review of the comments and further analysis the Board is taking final action.

(2) Regulatory Provisions

Mandatory Compliance Date

Section 957(b) of the HCDA amended section 269(a)(2) of the Truth in Savings Act, extending the mandatory compliance date for three months. The Board proposed to change the compliance date from March 21, 1993 to June 21, 1993, and the final rule reflects that change. The definition of "account" under 230.2(a) states that existing accounts held by an unincorporated nonbusiness association of natural persons prior to March 21, 1993 are not included in the term. The final rule changes the date to June 21, 1993. The change to the regulation also supersedes all references to an effective date of March 21, 1993, appearing in the

supplementary information to the final regulation.

Elsewhere in this issue of the **Federal Register**, as proposed, the Board is delaying the effective date of the deletion of Regulation Q's advertisement and disclosure rules until June 21, 1993. Institutions may, however, comply solely with the advertising provisions in Regulation DD prior to June 21, 1993, and not the advertising and disclosure provisions in Regulation Q.

Section 230.4—Account Disclosures

(c) Notice to Existing Account Holders

(1) *Notice of availability of disclosures.* Section 957(b) of the HCDA extended the mandatory compliance date from 6 months to 9 months after the Board's issuance of a final rule. In addition, section 1604(e) amended section 266(e) of the Truth in Savings Act to require that the notice to existing account holders be sent "on or with the first regularly scheduled mailing sent after the end of the '6 month period' beginning on the date of publication" of the Board's implementing regulations.

If the revisions to sections 957(b) and 1604(e) were read literally, institutions would be required to provide the notice to existing consumer account holders on or with the first periodic statement sent after March 21, 1993, even though the effective date has been delayed. The Board believes the Congress intended to grant institutions an additional three months to comply with the disclosure duty. The Board solicited comment on amending § 230.4(c) of the regulation to require that notice be given on or with the first periodic statement sent on or after the mandatory compliance date of June 21, 1993 (or the first periodic statement for a statement cycle beginning on or after that date). Commenters urged the Board to adopt this interpretation. They stated that a notice to consumers before the June 21, 1993, mandatory compliance date would be useless (and perhaps confusing) since account disclosures might not be available at depository institutions. To facilitate compliance and avoid consumer confusion, the Board is exercising its exception authority under section 269(a)(3) of the act to extend the time to send notices to existing account holders by three months, to June 21, 1993.

Section 230.5—Subsequent Disclosures

(a) Change in Terms

(2) *No notice required.*—(ii) *Check printing fees.* The act and regulation require depository institutions to provide a 30-day advance notice to consumers of any change in a previously disclosed term that may adversely affect the consumer. In its September 1992 rulemaking, the Board used its authority to create a limited exception to the notice requirements for changes in check printing fees "assessed by third parties." In the proposal issued in January 1993, the Board solicited comment on whether the exception should be broadened to apply to any check printing fees—whether the fee is assessed by a third party or by the institution itself.

Commenters strongly supported exempting all check printing fees from the change in terms notice. Commenters noted that these fees are based on the style and quantity of checks ordered, and the consumer has primary control over such decisions. Consequently, sending a change in terms notice for such fees would provide minimal benefit to consumers while imposing a significant burden on institutions. The final rule provides that a change in terms notice is not required for any increase in fees for printing checks. The rule allows an institution to take advantage of the exception even if it adds a "mark-up" to the price charged by the vendor before passing the fee on to the consumer.

The Board also proposed that check printing fees are not maintenance or activity fees for purposes of the advertising rules in § 230.8(a), whether the institution or a third party imposes the fee. Section 230.8(a) prohibits institutions from advertising an account as "free" or "no cost" if any "maintenance or activity" fee might be imposed. The Board believes that check printing fees are not maintenance or activity fees even if imposed in whole or in part by the institution.

Section 230.8—Advertising

(e) Exemption for Certain Advertisements

Section 263 of the act was amended by the HDCA to provide that if a rate is displayed on a sign designed to be viewed only from the interior of an institution, the sign need only include the annual percentage yield and a statement advising consumers to ask employees about fees and terms applicable to the advertised account. Such signs need not provide other information required under section 263(a) of the act, such as the statement that fees could reduce earnings on the account.

The proposal provided for abbreviated disclosure requirements for "lobby signs facing inside" a depository institution (or facing inside the premises of a deposit broker). The Board proposed to use a "facing inside" standard rather than the "intent" standard of the amendment. Many commenters were concerned about the certainty of compliance with either standard. Commenters noted that many branches and main offices are often enclosed by glass or are located in grocery stores or shopping malls where signs visible to customers are also visible to passersby. The Board believes that the Congress intended to permit abbreviated disclosures for signs inside an institution's premises, unless the sign faces outside and can reasonably be viewed by a consumer only from outside the premises.

The final rule provides a clearer standard for determining what signs are eligible for the exception. The final rule exempts any sign inside the premises of a depository institution (or the premises of a deposit broker), unless the sign faces outside and can reasonably be viewed by a consumer only from outside the premises. The Board believes that the standard captures the Congress' goal to require full disclosures for advertisements that are clearly designed to be viewed by persons not inside a depository institution. The rule also avoids the uncertainty of compliance when, for example, a sign behind a teller and facing customers at a small, glass-enclosed branch can also be seen by passersby. Such a sign would be an exempt indoor sign.

The final regulation does not define "lobby sign." Most commenters stated that a definition was unnecessary. Commenters stated that depository institutions increasingly conduct business in retail malls or grocery stores where there is little or no "lobby" area; therefore, references to "lobby" in the final regulation have been deleted.

The regulation exempts indoor advertisements however they are displayed, such as banners, preprinted posters, and chalk or peg boards—whether affixed to a wall or displayed on one or both sides of an easel. Indoor advertisements on computer screens and electronic media are also exempt. Of course, an advertisement affixed to a window and facing outside remains subject to the general advertising rules, since it can reasonably be viewed only from outside the institution. Any sign or notice inside the premises that can be retained by a consumer (such as a brochure or a print-out from a computer) also is subject to the general advertising rules, as are signs on the exterior of a depository institution.

The final rule retains for indoor signs the prohibition against misleading or inaccurate advertisements, and thus

against the description of accounts as "free" if a maintenance or activity fee is imposed.

The HDCA amendment to section 263(c) of the act states that the display of any rate on an indoor sign triggers the disclosure of the annual percentage yield. The statute does not require that the figure be described as "annual percentage yield." The regulation currently requires that in all cases, if a rate of return is advertised, it must be stated as the annual percentage yield, using that term. The Board solicited comment on whether rates on a lobby sign should be identified as the annual percentage yield or by the abbreviation "APY." The vast majority of commenters supported the proposal, primarily to promote uniformity and consistency in disclosures used by consumers in comparison shopping. The final rule provides that if a rate is displayed on an indoor sign, only the annual percentage yield, using that term or the abbreviation "APY," need be stated along with a statement that consumers should ask employees about fees and terms for the account.

Finally, the proposal exempted lobby signs from the disclosure requirements under paragraphs (b), (c) and (d) of section 230.8, whether or not a rate is stated. Commenters supported the proposal. The final rule adopts the proposal, with the addition of paragraph (e)(1). Thus, any bonus displayed on an indoor sign that meets the test in section 230.8(e)(2)(i) would not trigger additional disclosures.

Appendix A to Part 230—Annual Percentage Yield Calculation

Additional Formula for Certain Accounts

The Board solicited comment on whether an additional formula should be added to Appendix A, Part II, to calculate the annual percentage yield earned on the periodic statement for accounts in certain cases. The Board had received inquiries about the applicability of the current formula in certain situations. Institutions that use the daily balance method to accrue interest noted that if a periodic statement is sent more frequently than the period for which interest is compounded, the annual percentage yield earned could be higher than the annual percentage yield provided in advertisements and opening account disclosures. This would be the case, for example, when an institution uses the daily balance method of accruing interest and compounds interest annually, but provides monthly periodic statements. If an institution pays a 5% interest rate and compounds annually, it would disclose an annual percentage yield of 5.00% in its advertisements and initial account disclosures. However, under the general annual percentage yield earned formula, the institution would show $4.11 of interest accrued on $1,000 of principal on a monthly periodic statement reflecting 30 days, and an annual percentage yield earned of 5.12% on that statement.

Most commenters asked the Board to adopt the proposed alternative annual percentage yield earned formula for use in such cases. They expressed concern that consumers would be confused or misled by the use of an annual percentage yield earned figure that is higher than the initially disclosed annual percentage yield. In response to comments received and upon further analysis, the Board is adopting the proposed formula. The formula must be used when an institution uses the daily balance method to accrue interest and when a periodic statement is sent more often than the period for which interest is compounded.

The Board also solicited comment on whether the use of this new formula should be optional or required. While the majority of commenters believed that the formula should be adopted, they were divided on whether its use should be required. Some commenters stated that it should be made optional, given the brief time remaining before the mandatory compliance date. These commenters said that requiring institutions and vendors to develop and have in place a new formula by June 21, 1993, would be a significant burden, and that institutions might not be able to achieve full compliance by that date.

The Board believes it is essential for institutions to calculate the annual percentage yield earned in a way that ensures information provided to consumers is accurate and not misleading. The Board agrees, however, that mandating the use of this formula as of June 21, 1993, could impose a substantial burden on institutions. Therefore, the Board is using its exception authority in section 269(a)(3) of the act to provide a delay in the mandatory compliance date. As applicable, institutions will be required to use this special formula beginning with the first periodic statement sent on or after December 21, 1993 (or with the first periodic statement for a statement cycle beginning on or after that date). For periodic statements sent prior to that date institutions may utilize the general formula provided in Appendix A for computing the annual percentage yield earned. The Board believes that an extension of six months from June 21, 1993, is appropriate to allow institutions about nine months to implement the necessary changes in their operating systems.

While the definitions that apply to the general formula in Appendix A, Part II apply to the new formula as well, the Board has added a definition of "compounding" to the final rule. This definition differs from the proposed definition (where compounding was defined as the "frequency with which interest is compounded, expressed as a number of days"). Several commenters mistakenly believed the proposed definition referred to the frequency of compounding periods in a year. The final rule clarifies that "compounding" is the number of days in each compounding period. For example, quarterly compounding is to be expressed as 91.25 days in the compounding period; semi-annual compounding is to be expressed as 182.5; and annual compounding is to be expressed as 365.

The Board has added an example of the computation of an annual percentage yield earned that utilizes the special formula. Finally, the Board has rearranged the format of this section in the appendix to reflect the adoption of the special formula.

(3) Additional Guidance

Section 230.2(q)—Periodic Statement

The regulation defines a periodic statement as one sent to a consumer "on a regular basis four or more times a year." The supplementary information accompanying the final rule stated that if an institution provides a statement to meet other legal requirements (for example, to comply with Regulation E), such a statement is a periodic statement for purposes of Regulation DD.

The Board solicited comment on whether certain Regulation E statements should be considered periodic statements for purposes of Regulation DD. (Regulation E requires a statement to be sent for each monthly or shorter cycle in which an electronic fund transfer has occurred, but at least quarterly if no transfer has occurred (12 CFR 205.9(b)).) The Board proposed that if an institution provides regular quarterly statements, and in addition provides a monthly statement when a transfer has occurred (to comply with Regulation E), the monthly statement is not a periodic statement for Regulation DD purposes.

Most commenters supported the Board's proposal. These commenters agreed that monthly statements are not sent on a "regular basis" if they are sent only when an electronic transfer occurs

during the month. Many commenters believed, however, that institutions should not be precluded from treating these Regulation E statements as periodic statements for purposes of Regulation DD. A number of institutions are already prepared to include the Regulation DD disclosures on the "interim" Regulation E statements that they generate.

The Board believes that a flexible approach is desirable. Whether the interim statement is deemed a Regulation DD statement or not, consumers will receive full disclosures for all activity in the quarter. If the institution opts to make Regulation DD disclosures on the interim statement, consumers benefit from receiving account information sooner rather than later. A flexible rule also minimizes the burden of compliance on institutions that already have their programs in place and would otherwise be required to make significant revisions to their systems.

Therefore, consistent with the proposal, institutions that regularly provide quarterly statements need not, but may, treat any monthly Regulation E statements as periodic statements for Regulation DD purposes. For institutions that choose not to do so, the quarterly statement must reflect the annual percentage yield earned and interest earned for the full quarter. (Institutions that use the average daily balance method and calculate interest for a period other than the statement period must use the special rule in § 230.6(b).) If an institution chooses to provide interest or rate information on these interim statements, however, the statement would be deemed a Regulation DD statement, and be subject to the periodic statement disclosure rules.

Institutions that treat Regulation E statements as Regulation DD periodic statements must provide information for the period since the last statement was issued. For example, an institution may issue quarterly periodic statements in March, June, September, and December. If the consumer initiates an electronic fund transfer in February, an interim statement would be provided. An institution treating that February statement as a Regulation DD statement must reflect all interest earned and an annual percentage yield earned for the period since the previous DD statement was issued in December. Disclosures of the interest earned and the annual percentage yield earned on the next statement (March) would not repeat interest information disclosed on the February statement. Thus, the March statement would only reflect interest earned and an annual percentage yield earned for the month of March and would not repeat or aggregate such interest information for the entire quarter. As the periodic statement disclosures are intended to provide the consumer with a "snapshot" of how much interest was earned during a specific period, the Board believes subsequent statements must not repeat or incorporate interest earned or the annual percentage yield earned for previous periods that have already been disclosed.

The Board also solicited comment on whether institutions should have to redisclose fees on a quarterly statement if the fees were reflected in a prior monthly statement to comply with Regulation E. Many commenters believed that fees disclosed in the monthly Regulation E statement should not be repeated in the quarterly periodic statement. These commenters were concerned that consumers might be confused if the same fees were disclosed twice—once in the month the fee was incurred and again on a quarterly statement.

For institutions that issue a statement to comply with the requirements of Regulation E only, the Board believes disclosing fees on the monthly statement is sufficient and that the same fees need not be redisclosed on the quarterly statement. Institutions asked how they should treat fees that are not required to be disclosed on the interim Regulation E statements (for example, fees unrelated to electronic fund transfers) but that the institution provides on that statement. Fees (for example, per check fees or stop payment fees) disclosed on a monthly statement need not be redisclosed on the quarterly statement. On the other hand, if an institution imposes such fees during the period and does not disclose them on the monthly statement, such fees must be reflected on the quarterly statement to meet the requirements of § 230.6.

Account Balance Information

Several commenters raised another issue related to the definition of a periodic statement. Currently, many institutions include on the periodic statement for one account "status information" for other accounts held at the same institution. For example, a monthly statement for a consumer's checking account may also provide the account number and balance of the consumer's savings account. In addition, a full periodic statement for the savings account is sent on a quarterly basis. Commenters stated that providing balance information on the periodic statement for another account serves several purposes. For example, if a minimum balance fee on a checking account depends on the combined balance in a consumer's savings and checking accounts, balance information on the savings account helps the consumer understand that the fee was properly assessed. Balance information also enables consumers to monitor total deposits maintained at an institution. For example, an institution may include balance information for a money market deposit account (MMDA) on the monthly statement for a NOW account, even though the MMDA account also receives a monthly statement, but on a different cycle.

Commenters requested that institutions be allowed to provide the account number, type of account and balance information for one account (for example, a MMDA) on the periodic statement for another account without having to provide complete disclosures required by § 230.6 for the MMDA. Institutions have stated that without such a rule they may stop providing balance information about other deposit accounts on periodic statements, due to the difficulty and costs associated with calculating an annual percentage yield earned for odd short periods, and the limited space available on periodic statements to provide such information.

In the final regulation issued in September 1992, the Board recognized this problem, as well as the benefits of receiving secondary account information. The definition of periodic statement excludes information about time accounts and passbook savings accounts, so that institutions may give information about such accounts without triggering the periodic statement disclosure rules. Commenters believe, however, that the exemption from the definition of periodic statement should be broadened to allow balance information for an account that appears on the periodic statement of another account.

The Board agrees there are significant reasons to allow institutions to provide account balance information for one or more accounts on the periodic statement for another account, without triggering the duty to provide complete periodic statement disclosures. Thus, an institution may provide the account number, the type of account, and balance information for an account on a periodic statement given for another account. This rule may be used only to provide balance information for accounts that receive periodic statements. Under this interpretation, the consumer will always receive a regular statement with full Regulation DD disclosures in addition to the

balance information. For example, if an institution issues quarterly periodic statements for savings accounts, and monthly statements for MMDAs, disclosing balance information for the savings account and the MMDA on monthly checking account statements will not trigger full periodic statement disclosures for the savings account or the MMDA on the monthly checking account statements. However, providing information other than the balance in an account on the checking account statement (for example, the current interest rate being paid on the MMDA) would require the institution to give full disclosures for the MMDA on the checking account statement. (The existing exemption for time accounts and passbook savings accounts is unaffected by this rule).

Appendix A to Part 230—Annual Percentage Yield Calculation

Use of "Ledger" and "Collected" Balance To Calculate the Annual Percentage Yield Earned

The Board proposed to address a second issue in Part II of Appendix A. The annual percentage yield earned reflects the relation between the amount of interest earned and the account balance for the period reflected on the statement. The Board was previously asked how the balance figure should be determined when an institution uses a "collected" balance method of accruing interest.

The final rule issued in September 1992 allows institutions to *accrue interest* using either the collected or ledger balance method. In its January proposal, the Board stated that whichever method was used to accrue interest, institutions should use the *ledger*—and not the collected—balance in the account for calculating the annual percentage yield earned. The Board noted its belief that using the ledger balance for the periodic statement cycle provides a more accurate yield figure since it demonstrates the difference between institutions that accrue interest using a collected balance compared to those that use a ledger balance.

Many commenters expressed great concern over the Board's proposed position. They stated institutions that accrue interest using the collected balance method do not have the computer capability to use a ledger balance for calculating the annual percentage yield earned. They further stated that developing such a capability would be expensive and could not be done prior to the mandatory compliance date without substantial difficulty, if at all. Some commenters noted that because the Board's final rule was silent about which balance should be used, they had proceeded with implementing the rule based on the assumption that the collected balance could be used in determining the annual percentage yield earned. Commenters suggested that using the ledger balance would not result in a significantly different annual percentage yield earned figure, since the difference between the date a deposit is entered on a ledger balance and on a collected balance is often only one day.

In response to the comments and upon further analysis, the final regulation permits institutions that accrue interest using the collected balance method to use either the ledger balance or the collected balance in determining the annual percentage yield earned. (Of course, if an institution accrues interest using a ledger balance method, it would use the ledger balance to determine the annual percentage yield earned.) Either method will produce very similar results in most cases, given the typically short interval between the deposit of an item and its collection. Moreover, since institutions must describe whether they accrue interest by using a ledger or a collected balance, consumers will have this information to compare institutions' interest accrual policies. (See section 230.4(b)(3)(iii).) In addition, the interest figure disclosed on the periodic statement will reflect whichever method an institution uses to accrue interest. Finally, the Board believes permitting the use of either a ledger or a collected balance to calculate the annual percentage yield earned will minimize compliance costs and burdens on institutions, since many institutions proceeded with implementing the rule based on the assumption that the collected balance could be used in computing the annual percentage yield earned.

(4) Regulatory Flexibility Analysis and Paperwork Reduction Act

The change to the regulation is likely to have an insignificant impact on institutions' costs, including those of small institutions.

(5) List of Subjects in 12 CFR Part 230

Advertising, Banks, Banking, Consumer protection, Deposit accounts, Interest, Interest rates, Federal Reserve System, Truth in savings.

For the reasons set forth in the preamble, 12 CFR part 230 is amended as follows:

PART 230—TRUTH IN SAVINGS

1. The authority citation for part 230 continues to read as follows:

Authority: 12 U.S.C. 4301 et. seq.

2. Section 230.2 is amended by revising the last sentence in paragraph (a) to read as follows:

§ 230.2 Definitions.

* * * * *

(a) * * * The term does not include an existing account held by an unincorporated nonbusiness association of natural persons prior to June 21, 1993, unless the association notifies the institution that it meets the definition of "consumer."

* * * * *

3. Section 230.4 is amended by revising the first and second sentences in paragraph (c)(1) to read as follows:

§ 230.4 Account disclosures.

* * * * *

(c) * * * (1) * * * Depository institutions shall provide a notice to consumers who receive periodic statements and who hold existing accounts of the type offered by the institution on June 21, 1993. The notice shall be included on or with the first periodic statement sent on or after June 21, 1993 (or on or with the first periodic statement for a statement cycle beginning on or after that date). * * *

* * * * *

4. Section 230.5 is amended by revising paragraph (a)(2)(ii) to read as follows:

§ 230.5 Subsequent disclosures.

(a) * * *

(2) * * *

(ii) *Check printing fees.* Changes in fees assessed for check printing.

* * * * *

5. Section 230.8 is amended by revising paragraph (e) to read as follows:

§ 230.8 Advertising.

* * * * *

(e) *Exemption for certain advertisements.*—(1) *Certain media.* If an advertisement is made through one of the following media, it need not contain the information in paragraphs (c)(1), (c)(2), (c)(4), (c)(5), (c)(6)(ii), (d)(4), and (d)(5) of this section:

(i) Broadcast or electronic media, such as television or radio;

(ii) Outdoor media, such as billboards; or

(iii) Telephone response machines.

(2) Indoor signs. (i) Signs inside the premises of a depository institution (or the premises of a deposit broker) are not subject to paragraphs (b), (c), (d), or

(e)(1) of this section unless they face outside the premises and can reasonably be viewed by a consumer only from outside the premises.

(ii) If a sign exempt by paragraph (e)(2) of this section states a rate of return, it shall:

(A) State the rate as an "annual percentage yield," using that term or the term "APY." The sign shall not state any other rate, except that the interest rate may be stated in conjunction with the annual percentage yield to which it relates.

(B) Contain a statement advising consumers to contact an employee for further information about applicable fees and terms.

6. In Appendix A to Part 230, Part II is amended in the first paragraph following the introductory text by revising the text preceding the formula and adding a heading for a new section A immediately preceding the formula, and by adding a new section B at the end of the appendix to read as follows:

Appendix A to Part 230—Annual Percentage Yield Calculation

* * * * *

Part II. *Annual percentage yield earned for periodic statements*

* * * * *

The annual percentage yield earned shall be calculated by using the following formulas ("APY Earned" is used for convenience in the formulas):

A. *General formula.*

* * * * *

B. *Special formula for use where periodic statement is sent more often than the period for which interest is compounded.*

Institutions that use the daily balance method to accrue interest and that issue periodic statements more often than the period for which interest is compounded shall use the following special formula:

APY Earned=

$$100\left\{\left[1+\frac{(\text{Interest earned}/\text{Balance})}{\text{Days in period}}\right]^{(\text{Compounding})^{(365/\text{Compounding})}}-1\right\}$$

The following definition applies for use in this formula (all other terms are defined under Part II):

"Compounding" is the number of days in each compounding period.

Assume an institution calculates interest for the statement period using the daily balance method, pays a 5.00% interest rate, compounded annually, and provides periodic statements for each monthly cycle. The account has a daily balance of $1,000 for a 30-day statement period. The interest earned is $4.11 for the period, and the annual percentage yield earned (using the special formula above) is 5.00%:

$$\text{APY Earned}=100\left\{\left[1+\frac{(4.11/1{,}000)}{30}\right]^{(365)^{(365/365)}}-1\right\}$$

APY Earned=5.00%

By order of the Board of Governors of the Federal Reserve System, March 12, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–6326 Filed 3–18–93; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[No. 92–534]

RIN 1550–AA51

Qualified Thrift Lender Test

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is issuing its final qualified thrift lender (QTL) regulation implementing revisions to the QTL test made by the Qualified Thrift Lender Reform Act of 1991 (QTL Reform Act) and the Housing and Community Development Act of 1992 (HCDA). Effective December 19, 1991, the QTL Reform Act amended section 10(m) of the Home Owners' Loan Act (HOLA) by lowering the required QTL percentage of housing-related investments from 70% to 65% of a thrift's portfolio assets; changing the computation period from weekly to monthly; increasing the amount of regulatory liquidity excludable from portfolio assets; authorizing certain shares of the stock of certain government sponsored enterprises to be included in the computation of qualified thrift investments; and increasing certain percentages in the computation of qualified thrift investments. Effective October 28, 1992, the HCDA clarified changes made by the QTL Reform Act by lowering the initial QTL requirement from 70% to 65% and by adjusting the requalification provision to a 9 out of 12 months computation period. In general, these changes will reduce the regulatory burden on savings associations.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Eileen McCarthy, Policy Analyst, (202) 906–5652; Robyn Dennis, Program Manager, Policy, (202) 906–5751; Dorene Rosenthal, Senior Attorney, (202) 906–7268; Valerie Lithotomos, Counsel (Banking and Finance), (202) 906–6439; Regulations and Legislation Division, Chief Counsel's Office; Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

A. The FDICIA Revisions to the QTL Test

The OTS is today issuing a final rule amending its QTL regulations. These amendments implement statutory changes effected by subtitle G of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), also referred to as the "QTL Reform Act," Public Law No. 102–242, 105 Stat. 2236 (1991) and the HCDA, Public Law No. 102–550, 105 Stat. 3672 (1992). The QTL Reform Act modified the QTL test that was first enacted in the Competitive Equality Banking Act of 1987, Public Law No. 100–86, 101 Stat. 552 (CEBA), and was later amended in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law No. 101–73, 103 Stat. 183 (FIRREA). Savings associations that fail to satisfy the QTL test are subject to various penalties, including limitations on the types of activities they may conduct, restrictions on their Federal Home Loan Bank advances, and loss by the savings association's holding

company of the activities flexibility it enjoyed as a thrift holding company.

The QTL Reform Act amended the QTL test by lowering the actual thrift investment percentage (ATIP) of housing-related investments a thrift must hold from 70 percent to 65 percent. The QTL Reform Act also redefined the computation period over which a thrift's ATIP is measured to a monthly average in 9 out of 12 months. The ATIP is a ratio whose numerator is housing-related investments, more commonly referred to as "qualified thrift investment" or "QTI," and whose denominator is "portfolio assets." The term "portfolio assets" is statutorily defined to mean a savings association's total assets less goodwill and other intangibles, the thrift's business property, and a limited amount of liquid assets.

Shares of stock issued by any Federal Home Loan Bank (FHLB) are now includable as QTI. Shares of stock issued by the Federal Home Loan Mortgage Corporation (FHLMC) and the Federal National Mortgage Association (FNMA) also are now includable as QTI in an amount not to exceed 20 percent of the association's portfolio assets.

Finally, the QTL Reform Act modified the computation of the ATIP by: Increasing the amount of regulatory liquidity excludable from portfolio assets from 10 percent to 20 percent of the savings association's total assets; increasing the 15 percent QTI "basket" [1] to 20 percent; and increasing the 5 percent consumer loan "basket" for personal, family, household, or educational purposes to 10 percent.

The QTL Reform Act took effect upon the enactment of FDICIA on December 19, 1991. The HCDA, which took effect on October 28, 1992, corrected technical oversights in the QTL Reform Act. The HCDA clarified the QTL Reform Act in two respects. First, it corrected an oversight in the QTL Reform Act that had lowered the ATIP for the continuing qualification from 70% to 65%, but had left the initial qualifying ATIP at 70%. Second, the HCDA clarified that the requalification period would conform to the newly enacted 9 out of 12 months computation period.

As explained more fully below, the measuring period for the new QTL test commenced as of January 1, 1992, the first month following FDICIA's enactment. Thus, the first date a savings association could fail the new QTL test would have been April 30, 1992.

[1] Savings associations were permitted to include as QTI certain specified assets in an aggregate amount not to exceed 15 percent of an association's portfolio assets. This amount has commonly been referred to as the 15 percent basket.

B. Description of the Proposal and the Final Rule

On September 2, 1992, the OTS published a notice of proposed rulemaking describing amendments to the qualified thrift lender regulations. 57 FR 40140 (September 2, 1992). The public comment period on the proposal closed on October 2, 1992.

The proposed rule lowered the initial and continuing ATIP from 70 percent to 65 percent, as measured by a monthly average. In addition, the computation period was changed to require that the percentage be reached for 9 out of the previous 12 months. The requalification measurement was also changed to reflect the new measuring period of 9 out of the previous 12 months.

The proposal established this 9 out of 12 month period as a "rolling" calculation period. The "rolling" measuring period began January 1, 1992. The first time that a savings association could fail the test would be at the end of the first four months of 1992, or April 30, 1992, because on that date a savings association would know if it had failed the QTL test for 4 out of 12 months. Thus, savings associations that were not subject to QTL penalties before July 1, 1991 would continue to hold their QTL status and could not fail before April 30, 1992.

Also, in accordance with the QTL Reform Act, the proposed rule included shares of stock issued by any FHLB as QTI. Shares of stock issued by FHLMC and FNMA are also includable as QTI in an amount not to exceed 20 percent of the savings association's portfolio assets. Finally, the proposed rule increased the amount of regulatory liquidity excludable from portfolio assets from 10 percent to 20 percent of total assets; increased the 15 percent QTI basket to 20 percent; and increased the 5 percent consumer loan basket to 10 percent.

Upon review of the comments received in response to the proposal and based upon the agency's experience in administering earlier versions of the QTL statutory provisions and implementing regulations, the OTS has determined to adopt the final regulation as proposed, without amendment.

II. Summary of Comments

The OTS received a total of 8 comment letters. Commenters included 5 thrift institutions, 1 thrift trade association, 1 vendor of banking computer technology, and 1 government-related entity.

Most commenters supported the proposed rule overall, but sought changes to specific aspects of the proposal. One commenter believed that the QTL Reform Act was imprudent in easing the QTL requirements and urged the OTS to try to convince Congress to reconsider the QTL amendments. Discussion of specific areas addressed in the comments follows.

A. Calculation of the New QTL Ratio and the Measuring Period

The commenters generally supported lowering the ATIP from 70 percent to 65 percent. Several commenters favored the proposed "rolling" measuring period versus the "static" period for computation purposes. One commenter specifically stated that the following period should be adopted because it more accurately reflects on-going compliance with the test because if the static approach were adopted an institution could fail for 6 consecutive months and still maintain QTL compliance. Two commenters supported the static period, one in general, and one for the requalification period only. The latter commenter stated that a static measuring period for requalification purposes only would permit savings associations to requalify more easily. While this may be true for some savings associations, the OTS believes that the rolling measuring period best effectuates Congressional intent in determining a savings association's continuing QTL status.

B. Effective Date of the Final Rule

One commenter stated that January 1, 1992 was a reasonable effective date. Two commenters expressed concern that the proposed January 1, 1992 effective date would be a retroactive application of the QTL test. Institutions may presently be passing the FIRREA QTL test because the first possible date of failure under the FIRREA QTL test was June 27, 1993. Yet, under the proposed rule, the first possible date of failure would be April 30, 1992.

The OTS recognizes the effect of the January 1, 1992 effective date, but does not agree that the results of the effective date will be a retroactive application. The QTL Reform Act was enacted December 19, 1991, provided no delay in its effectiveness, and made the new QTL test applicable to institutions as of that date regardless of any implementing regulations. Thus, the timing of the impact of the new test on savings associations is a result of the statute, not the implementing regulations. The January 1, 1992 effective date for the statutorily mandated measuring periods contained in OTS's implementing regulations most closely conforms to the QTL Reform Act's effective date.

The OTS notes, however, that three major changes to the QTL requirements over five years as a result of CEBA, FIRREA, and FDICIA have caused frequent implementation changes and uncertainty for institutions. The OTS also realizes that savings associations are now required to comply with a new QTL test, albeit less stringent than the old QTL test, in a shorter period of time than they would have under the FIRREA test.

In this regard, the OTS notes that Section 10(m) of the HOLA, as well as OTS's QTL regulation, authorize the Director to grant waivers from the minimum ATIP requirement if "extraordinary circumstances" exist. The OTS recognizes that as a result of national, regional or market sector economic conditions, associations may not have been able to restructure the composition of their assets in a safe and sound manner quickly enough to come into compliance with the QTL test under the test's new, shorter measuring period, which was made effective, by statute, with no delayed effective date. Accordingly, the OTS will consider requests for temporary waivers of the QTL test, pursuant to the "extraordinary circumstances" exception, on a case-by-case basis, where an association makes a showing that its inability to restructure assets quickly and safely and soundly, in order to meet the new test, was due to such economic conditions. Other circumstances may also support granting a waiver and will also be considered on a case-by-case basis.

C. Inclusion of FHLMC and FNMA Stock in QTI

One commenter suggested that FHLMC and FNMA stock should be accorded special treatment and allowed to qualify as either excludable liquidity or as QTI, at the option of the savings association. The QTL Reform Act does not contain this option, therefore, it is not included in the final rule.

D. De Novo Associations

The final rule clarifies that the QTL calculation period for a *de novo* association commences at the beginning of the quarter following the date on which it opened for business instead of the date on which its charter was granted. This amendment was made to take into consideration that, on occasion, a charter may be granted subject to conditions that must be satisfied prior to a *de novo* opening for business.

E. Deletion of Appendix A

The proposed and final rules remove appendix A from the QTL regulations. One commenter suggested that the OTS should retain the appendix as part of the QTL regulations because the appendix was useful and provided helpful QTL calculation examples. The OTS agrees with the commenter about the usefulness of the information contained in the appendix, but believes that it will be more easily updated and therefore of more ongoing value if the information contained in appendix A is incorporated into the OTS Thrift Activities Handbook, which is provided to all thrifts.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

The Director of the OTS has determined that this regulation does not constitute a "major rule;" therefore, a final regulatory impact analysis is not required.

List of Subjects in 12 CFR Part 563

Accounting, Advertising, Crime, Currency, Flood insurance, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

Accordingly, the Office of Thrift Supervision hereby amends part 563, chapter V, title 12, Code of Federal Regulations as set forth below:

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 563—OPERATIONS

1. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1828, 3806; 42 U.S.C. 4106; Public Law 102–242, sec. 306, 105 Stat. 2236, 2355 (1991).

Subpart B—Operation and Structure

2. Section 563.50 is amended by revising paragraphs (a), (b), (d), (e), and the text of paragraph (g)(2) preceding the table to read as follows:

§ 563.50 Qualified thrift lender status.

(a) As of January 1, 1992, a savings association that was not subject to penalties for failure to maintain qualified thrift lender (QTL) status as of June 30, 1991, as determined under regulations in this chapter in effect on that date, shall be deemed to be a qualified thrift lender. The savings association shall continue to be a qualified thrift lender so long as the association's actual thrift investment percentage (ATIP) in at least nine months out of each twelve month period after January 1, 1992 continues to equal or exceed 65 percent. For purposes of this paragraph, the savings association's compliance with the QTL test for the immediately preceding 12 month period shall be calculated at the end of each month.

(b)(1) Beginning January 1, 1992, until December 31, 1992, a savings associations shall cease to be a qualified thrift lender when its ATIP as measured by monthly averages over the period beginning January 1, 1992 falls below 65 percent for four or more of such months.

(2) Beginning January 1, 1993, a savings association shall cease to be a qualified thrift lender when its ATIP as measured by monthly averages over the immediately preceding twelve month period falls below 65 percent for four or more of such months.

(3) Upon ceasing to be a qualified thrift lender pursuant to this paragraph, a savings association shall promptly certify its QTL failure to its Regional Director.

* * * * *

(d) *De Novo savings associations.* For purposes of paragraph (a) of this section, a *de novo* association shall begin its twelve month QTL measuring cycle, maintaining monthly averages of its qualified thrift investments and portfolio assets, at the beginning of the quarter following the date on which it opened for business.

(e) *Requalification.* A savings association may requalify as a qualified thrift lender only once by meeting and maintaining an ATIP, as measured by monthly averages for nine of twelve months over a twelve month period, greater than or equal to 65 percent.

* * * * *

(g) *Special phase-in for certain Federal savings associations.* * * *

* * * * *

(2) After calculating the difference between the savings association's actual thrift investment on August 9, 1989, and 65 percent, the savings association must increase its ATIP in 25 percent increments as set forth in the following schedule until full compliance is achieved on October 1, 1995:

* * * * *

3. Section 563.51 is amended by revising paragraph (e), redesignating paragraph (f)(1)(vi) as paragraph (f)(1)(vii), adding new paragraphs (f)(1)(vi) and (f)(1)(vii)(G), removing the word "and" at the end of paragraph (f)(1)(vii)(E), and revising newly designated paragraphs (f)(1)(vii) introductory text and (f)(1)(vii)(F) to read as follows:

§ 563.51 Definitions.

* * * * *

(e) *Portfolio assets* means the total assets of the savings association minus the sum of: Goodwill and other intangible assets (as defined in 12 CFR 567.1(m)); the value of property used by the association to conduct its business; and the association's liquid assets of the type maintained pursuant to section 6 of the Home Owners' Loan Act, in an amount not exceeding 20 percent of the savings association's total assets.

(f)(1) * * *

(vi) Shares of stock issued by any Federal Home Loan Bank; and

(vii) An aggregate amount, not to exceed 20 percent of such association's portfolio assets, of the following assets:

* * * * *

(F) Loans for personal, family, household, or education purposes, provided that the dollar amount treated as QTI under this subsection may not exceed 10 percent of the savings association's portfolio assets; and

(G) Shares of stock issued by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association.

* * * * *

Appendix A to §§ 563.50–563.52– [Removed]

4. Appendix A to §§ 563.50 through 563.52 is removed.

Dated: December 23, 1992.

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Acting Director.

[FR Doc. 93–6381 Filed 3–18–93; 8:45 am]

BILLING CODE 6720–01–M

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12 CFR Part 567

[No. 92–526]

RIN 1550–AA55

Capital Treatment of Equity Investments

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is changing its risk-based capital treatment of certain equity investments to parallel the capital treatment of those investments under the rules applicable to national banks. Savings associations will be required to place these investments in the 100% risk-weight category.

EFFECTIVE DATE: April 19, 1993.

FOR FURTHER INFORMATION CONTACT: John Connolly, Program Manager for Capital Policy, (202) 906–6465, Policy; Deborah Dakin, Assistant Chief Counsel, (202) 906–6445, Regulations and Legislation Division, Chief Counsel's Office; Office of Thrift Supervision, 1700 G St., NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The OTS is today revising its risk-based capital regulation to modify its treatment of certain equity investments and to clarify the treatment of certain other equity investments. Equity investments that are permissible for both savings associations and national banks will no longer be deducted from savings associations' calculations of total capital over a five-year transition period. Instead, they will be placed in the 100 percent risk-weight category, mirroring the treatment prescribed for those investments when made by national banks under the regulations of the Office of the Comptroller of the Currency (OCC). Equity investments held by savings associations that are not permissible for national banks must still be deducted from assets and total capital. This final regulation also clarifies the risk-based capital treatment of equity investments that represent interests in pools of assets, such as mutual funds. These amendments are adopted without change from the proposed regulation published at 57 FR 40147 (September 2, 1992).

The OTS received four comments on the proposed regulation: One from a savings association; two from trade associations; and one from a government-sponsored enterprise. All of the commenters supported the proposal. Two commenters sought greater specificity in the regulatory text about the types of investments covered by the proposal. As discussed below, the OTS believes that any benefits that could result from adopting these suggestions are outweighed by the disadvantages of such additional detail.

Today's revisions to the risk-based capital treatment of equity investments do not affect a savings association's underlying authority to make such investments. Some equity investments permissible for national banks are not permissible for savings associations. Nothing in this rule would permit savings associations to make investments that they are not otherwise authorized to make.

Today's change will cover all equity investments that are permissible for both savings associations and national banks. The three equity investments most commonly held by thrifts and thus most affected by this change are loans with equity participations that are considered equity investments under Generally Accepted Accounting Principles, Federal National Mortgage Association (Fannie Mae) stock, and Federal Home Loan Mortgage Corporation (Freddie Mac) stock. One commenter suggested that the regulation explicitly list all Fannie Mae and Freddie Mac stock as excluded from the definition of equity investments rather than referring generically to equity investments permissible for national banks, a category that covers the stock of both entities. The OTS is not adopting this suggested change. Whether an equity investment is authorized for a national bank, as that authority may be amended from time to time, determines whether it will be placed in the 100% risk-weight category under the regulation. Listing particular investments may give rise to confusion about the status of investments not specifically listed and would result in the need for the regulation to be amended more frequently.

One commenter suggested that OTS explicitly incorporate in this regulation the OCC's body of regulations and interpretations addressing loans with equity participations. The OTS plans to look to such OCC documents for guidance in determining whether a particular loan would be permissible for a national bank and expects that thrifts will do the same. The OTS does not believe, however, that such an explicit addition to the regulation is appropriate or that it would provide savings associations with any clearer guidance in determining which loans are covered.

The OTS will continue to supervise the lending practices of savings associations and will closely scrutinize any loans with equity characteristics to ensure compliance with safe and sound lending practices. The OTS also has additional capital safeguards against excessively high ratio land and non-residential construction loans, which may have equity participation features. The capital rule treats the portion of high ratio land loans and non-residential construction loans above 80% of the value of the underlying property as subject to deduction from assets and capital when computing an institution's risk-based capital requirements. Today's amendment does not change this treatment.

Additionally, OTS reserves the right under 12 CFR 567.11 to determine that either a particular loan structure or group of loans should be treated in the same manner as an equity investment for purposes of the capital regulation if it finds such loan structures or groups of loans are more consistent with the characteristics of equity investments or were structured for the purpose of evading the equity investment rule.

Today's final rule also clarifies that investments in securities evidencing ownership interests in pools of assets, which are risk-weighted under 12 CFR 567.6(a)(vi) depending on the assets held in the portfolios, are not considered equity investments as defined in 12 CFR 567.1(i).

Executive Order 12291

The Director of the OTS has determined that this final rule does not constitute a "major rule" and, therefore, a final regulatory impact analysis is not required.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Accordingly, the Office of Thrift Supervision hereby amends part 567, chapter V, title 12, Code of Federal Regulations as set forth below:

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 567—CAPITAL

1. The authority citation for part 567 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

2. Section 567.1 is amended by revising the concluding text of paragraph (i)(2) to read as follows:

§ 567.1 Definitions.

* * * * *

(i) *Equity investments.* * * *

(2) * * *

It does not include investments in subsidiaries as defined in paragraph (dd) of this section, equity investments that are permissible for national banks, ownership interests in pools of assets that are risk-weighted in accordance with § 567.6(a)(vi) of this part, or the stock of Federal Home Loan Banks or Federal Reserve Banks.

* * * * *

3. Section 567.6 is amended by removing the period at the end of paragraph (a)(1)(iv)(S) and adding in its place a semicolon and by adding a new paragraph (a)(1)(iv)(T) to read as follows:

§ 567.6 Risk-based capital credit risk-weight categories.

(a) *Risk-weighted Assets.* * * *

(1) *On-balance Sheet Assets.* * * *

* * * * *

(iv) *100 percent Risk Weight (Category 4).* * * *

* * * * *

(T) Equity investments permissible for a national bank.

* * * * *

Dated: December 21, 1992.

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Acting Director.

[FR Doc. 93-6380 Filed 3-18-93; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-AA26

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Correction Pertaining to Ranges of Comparability for Dishwashers

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission amends Appendix C of its Appliance Labeling Rule to indicate that energy usage figures for dishwashers are based on 6.2 loads of dishes per week, rather than eight loads per week, as incorrectly published earlier.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202-326-3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, pursuant to section 324 of the Energy Policy and Conservation Act of 1975 (EPCA),[1] the Commission issued a final rule[2] covering a number of appliance categories, including dishwashers. Section 305.8(b) of the rule requires manufacturers, after filing an initial report, to report energy usage information annually by specified dates for each product type.[3] This information is used by the Commission to establish and publish ranges of comparability for each product category. The Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%.

When the Commission published new ranges of comparability for dishwashers on December 14, 1992,[4] Paragraph 2 of Appendix C incorrectly showed that energy usage for dishwashers should be based on eight loads per week, instead of 6.2 loads per week. The Commission is amending Paragraph 2 of Appendix C to correct that error.

In consideration of the foregoing, the Commission amends Paragraph 2 of Appendix C of its Appliance Labeling Rule by publishing the following amended Paragraph 2 to indicate that the energy usage figures for dishwashers are based on 6.2 loads of dishes per week. This amendment, which corrects a typographical (rather than substantive) error, is effective upon publication.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Accordingly, 16 CFR Part 305 is amended as follows:

PART 305—[AMENDED]

1. The authority citation for part 305 is amended to read as follows:

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94-163), 89 Stat. 871 (1975), as amended by the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3258, (1978), the National Appliance Energy Conservation Act, Pub. L. 100-12, 101 Stat. 103(1987), the National Appliance Energy Conservation Amendments of 1988, Pub. L. 100-357, 102 Stat. 671 (1988), and the Energy Policy Act of 1992, Pub. L. 102-486, 106 Stat. 2776 (1992), 42 U.S.C. 6294; sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

2. The text preceding the table in paragraph 2 of Appendix C to Part 305 is revised to read as follows:

Appendix C to Part 305—Dishwashers

* * * * *

2. *Yearly Cost Information:* Estimates on the scales are based on a national average electric rate of 8.25¢ per kilowatt hour, a national average natural gas rate of 58¢ per therm, and 6.2 loads of dishes per week.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 93-6310 Filed 3-18-93; 8:45 am]

BILLING CODE 6750-01-M

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[1] Pub. L. 94-163, 89 Stat. 871, 42 U.S.C. 6294.

[2] 16 CFR part 305.

[3] Reports for dishwashers are due by June 1.

[4] 57 FR 58978.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM92-8-001]

Regulations Governing Blanket Marketer Sales Certificates

March 12, 1993.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; denial of rehearing.

SUMMARY: On November 30, 1992, the Federal Energy Regulatory Commission (Commission) issued a final rule in Order No. 547 governing jurisdictional sales for resale of natural gas by all persons who are not interstate pipelines. On rehearing, the Commission addressed the narrow issue of whether it misinterpreted section 201 of the Energy Policy Act of 1992. The Commission denied rehearing in finding that it had correctly interpreted section 201 of the Energy Policy Act.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Gollomp, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20426, (202) 208-1022.

SUPPLEMENTARY INFORMATION: In addition to this document's being published in the **Federal Register**, all interested persons may inspect or copy its contents during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200, or 2400 band, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Order Denying Rehearing and Granting Clarification

On November 30, 1992, the Federal Energy Regulatory Commission (Commission) issued a final rule governing the Commission's regulation of jurisdictional natural gas sales for resale by all persons who are not interstate pipelines (Order No. 547).[1] On December 30, 1992, El Paso Natural Gas Company (El Paso) filed a request for clarification or, in the alternative, rehearing of the final rule—specifically, of the Commission's interpretation of section 201 of the Energy Policy Act of 1992 (Energy Policy Act).[2] We will deny rehearing but grant clarification to the extent discussed below.

Background

El Paso's request pertains to one narrow aspect of Order No. 547. As such, we will not recount the background of the rule other than those facts relevant to the issue before us. In addressing a comment to the notice of proposed rulemaking (NOPR) in this docket, we cited the Energy Policy Act for the proposition that "all importation of LNG and importation of natural gas subject to a free trade agreement are beyond the Commission's jurisdiction"[3] as such sales would constitute unregulated first sales under the Natural Gas Wellhead Decontrol Act of 1989.[4] Our interpretation of the Energy Policy Act derived from section 201 of the statute which reads as follows:

> (b) [w]ith respect to natural gas which is imported into the United States from a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, and with respect to liquefied natural gas—
>
> (1) the importation of such natural gas shall be treated as a 'first sale' within the meaning of section 2(21) of the Natural Gas Policy Act of 1978.

El Paso's Request for Rehearing or Clarification

El Paso contends that clarification or rehearing is warranted because the Commission erroneously interpreted Section 201 of the Energy Policy Act and section 2(21) of the Natural Gas Policy Act of 1978 (NGPA). According to El Paso, Section 201 of the Energy Policy Act incorporates by reference the definition of first sale as provided in Section 2(21) of the NGPA. Further, El Paso cites section 2(21)(B) of the NGPA which excludes from the definition of first sale "the sale of any volume of natural gas by an interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof" unless such gas is produced by one of these entities. From this definition El Paso contends that inter-affiliate importations of gas not produced by the affiliate are not first sales and, therefore, the Commission has erred in stating that "all" importations of natural gas subject to a free trade agreement constitute first sales as that term is defined in the NGPA and adopted by the Energy Policy Act.

Commission Response to El Paso's Petition

The Commission agrees with El Paso that, in accordance with Section 201 of the Energy Policy Act, importations of natural gas and LNG are deemed "first sales" only to the extent that natural gas sales qualify as such under Section 2(21) of the NGPA.[5] Nevertheless, the Commission has consistently interpreted the NGPA to find that affiliates' sales of gas are "first sales" within the meaning of the NGPA as long as a pipeline or LDC is not a prior link in the chain of transactions. The Commission has codified this interpretation in section 270.203(c) of the Commission's regulations. That provision states:

> [a]ny sale by an affiliate of an interstate pipeline, intrastate pipeline, or local distribution company, that is not itself such a pipeline or local distribution company is that affiliate's first sale under the NGPA unless the Commission, on application, determines not to treat such sale as a first sale.[6]

To be sure, the Commission's interpretation of the NGPA leading to the codification of the regulation stemmed, in part, from a concern about affiliates' ability to circumvent the then existing maximum lawful prices prescribed under Title I of the NGPA. However, the Commission has continued to adhere to its interpretation of the statute even as the categories of maximum lawful prices waned pursuant to the NGPA. In Order No. 497, the Commission retained the first sale status for affiliate sales because it found that it could prevent affiliate abuses by regulating the pipelines and would not need to regulate marketing affiliates as to their first sale transactions.[7] The

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[1] Regulations Governing Blanket Marketer Sales Certificates, Order No. 547, 57 FR 57952 (Dec. 8, 1992), III FERC Stats. and Regs. ¶ 30,957 (1992).

[2] Pub. L. No. 102-486, 106 Stat. 2776 (1992).

[3] III FERC Stats. and Regs. ¶ 30,957, at p. 30,728.

[4] Pub. L. No. 101-60, 103 Stat. 157 (1989).

[5] The term "first sale" is not necessarily tantamount to an initial sale, since multiple first sales can occur prior to a sale's losing this status when a pipeline or LDC enters the transaction.

[6] 18 CFR 270.203(c).

[7] Inquiry Into Alleged Anticompetitive Practices Related to Marketing Affiliates of Interstate Pipelines, Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. and Regs. [Regulations Preambles 1986-1990] ¶ 30,820 (1988), *order on reh'g*, Order No. 497-A, 54 FR 52781 (Dec. 22, 1989), FERC Stats. and Regs. [Regulations Preambles 1986-1990] ¶ 30,868 (1989), *order extending sunset date*, Order No. 497-B, 55 FR 53291 (Dec. 28, 1990), FERC Stats. and Regs. [Regulations Preambles 1986-1990] ¶ 30,908 (1990).

Continued

Commission reiterated this position in Order No. 497–A.[8] We see no reason to diverge from this approach here for purposes of defining as first sales the importation of natural gas and LNG that is subject to a free trade agreement.

The Commission orders:

Rehearing of Order No. 547 is denied. Clarification is granted to the extent discussed herein.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6334 Filed 3–18–93; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Excluded Veterinary Anabolic Steroid Implant Products

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration (DEA) identifies the veterinary anabolic steroid implant product, Implus™–H, as being excluded from the Controlled Substances Act. This action is part of the ongoing implementation of the Anabolic Steroid Control Act of 1990.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., (Chief, Drug and Chemical Evaluation Section), 202–307–7183.

SUPPLEMENTARY INFORMATION: The Anabolic Steroids Control Act of 1990 (ASCA) (title XIX of Public Law 101–647) placed anabolic steroids into Schedule III of the Controlled Substances Act (CSA) (21 U.S.C. 801 et seq.). Section 1902(b)(41)(B)(1) of the ASCA provides for the exclusion of any anabolic steroid which the Secretary of Health and Human Services has approved for administration through implants to cattle or other nonhuman species.

A procedure for designating products as being excluded from the CSA was published (56 FR 42935, August 30, 1991) and eight products were identified (57 FR 19533, July 22, 1992 and 57 FR 36372, August 13, 1992).

Ivy Laboratories, Inc. notified the DEA in accordance with 21 CFR 1308.25 that Heifer-old, a product which they manufacture and which is identified as being an excluded veterinary anabolic steroid implant product, would be sold under an additional name. The purpose of this rule is to add that name, Implus™–H, to 21 CFR 1308.26, the list of excluded veterinary anabolic steroid implant products. This action was not preceded by a proposal because it involves only a name change.

The listing of a product in 21 CFR 1308.26 relieves persons who handle it from the registration, recordkeeping, security, and other requirements imposed by the CSA. Accordingly, the Deputy Assistant Administrator certifies that this action will not have an economic impact upon small entities whose interests must be considered under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.).

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to require the preparation of a Federalism Assessment.

It has been determined that drug control matters are not subject to review by the Office of Management and Budget (OMB) pursuant to the provisions of Executive Order 12291. Accordingly, this action is not subject to those provisions of Executive Order 12778 which are contingent upon review by OMB. Nevertheless, the Deputy Assistant Administrator has determined that this is not a "major rule," as that term is used in Executive Order 12291, and that it would otherwise meet the applicable standards of sections 2(a) and 2(b)(2) of Executive Order 12778.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by title XIX of Public Law 101–647, as delegated to the Administrator of the DEA pursuant to 21 U.S.C. 871(a) and 28 CFR 0.100, and redelegated to the Deputy Assistant Administrator, Office of Diversion Control in 28 CFR 0.104, appendix to subpart R, section 7(g), the Deputy Assistant Administrator of the Office of Diversion Control hereby amends 21 CFR Part 1308 as set forth below:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. Section 1308.26(a) is amended by adding, in alphabetical order, one new entry to the Table of Excluded Veterinary Anabolic Steroid Implant Products, to read as follows:

§ 1308.26 Excluded veterinary anabolic steroid implant products.

(a) * * *

TABLE OF EXCLUDED VETERINARY ANABOLIC STEROID IMPLANT PRODUCTS

Trade name	Company	NDC code	Delivery system	Ingredients	Quantity
•	•	•	•	•	•
Implus™–H	The Upjohn Company, Kalamazoo, MI.	0009–0434–01	20 implant belt 8 pellets/implant.	testosterone propionate estradiol benzoate.	200 mg/implant, 20 mg/implant
•	•	•	•	•	•

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order extending sunset date and amending final rule, Order No. 497–C, 57 FR 9 (Jan. 2, 1992), III FERC Stats. and Regs. ¶ 30,934 (1991), *reh'g denied*, 57 FR 5618 (Feb. 8, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F.2d 1187 (D.C. Cir. 1992),

order on remand and extending sunset date, Order No. 497–D, 57 FR 58978 (Dec. 14, 1992), 61 FERC ¶ 61,367 (Dec. 4, 1992).

[8] FERC Stats. and Regs. [Regulations Preambles 1986–1990] ¶ 30,868, at pp. 31,592–31,593 (1989).

Dated: March 12, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–6262 Filed 3–18–93; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8458]

RIN 1545–AJ35

Real Estate Mortgage Investment Conduits; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to Treasury Decision 8458, which was published in the **Federal Register** for Thursday, December 24, 1992 (57 FR 61293). The final regulations relate to real estate mortgage investment conduits (REMICs).

EFFECTIVE DATE: December 24, 1992.

FOR FURTHER INFORMATION CONTACT: Carol A. Schwartz (202)–622–3920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections provide rules under sections 860A through 860G of the Internal Revenue Code.

Need for Correction

As published, T.D. 8458 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations (T.D. 8458), which was the subject of FR Doc. 92–30944, is corrected as follows:

§ 1.860A–0 [Corrected]

1. On page 61300, column 2, § 1.860A–0, the entry for section 1.860G–2(a)(1)(i) is corrected to read "The 80-percent test.".

2. On page 61300, column 2, § 1,860A–0, the entry for section 1.860G–2(c)(3)(ii) is corrected to read "Advances of taxes, insurance payments, and expenses."

§ 1.860A–1 [Corrected]

3. On page 61301, column 1, § 1.860A–1(b)(2)(ii) introductory text, last line of the paragraph, the language "before June 30, 1992 if—" is corrected to read "before June 30, 1992, if—"

4. On page 61301, column 1, § 1.860A–1(b)(2)(iii), ninth line of the paragraph, the language "value requirement in § 1.860E–1(a)(1)" is corrected to read "value requirement in 1.860E–1(a)(1)".

§ 1.860G–1 [Corrected]

5. On page 61307, column 1, § 1.860G–1(a)(3)(v)(A), tenth line of the paragraph, the language "based on total amount available for" is corrected to read "based on the total amount available for the".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–5895 Filed 3–18–93; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 1

[T.D. 8468]

RIN 1545–AQ67

TeleFile Voice Signature Test; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to Treasury Decision 8468, which was published in the **Federal Register** for Wednesday, January 13, 1993 (58 FR 4079). The temporary regulations provide that an individual Federal income tax return completed as part of the TeleFile Voice Signature Test will be treated as a return that is signed, authenticated, verified and filed by the taxpayer as required by the Internal Revenue Code.

EFFECTIVE DATE: January 14, 1993.

FOR FURTHER INFORMATION CONTACT: Celia Gabrysh (202) 622–4960 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of this correction provide rules under sections 6012, 6061 and 6065 of the Internal Revenue Code.

Need for Correction

As published, T.D. 8468 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations (T.D. 8468), which was the subject of FR Doc. 93–658, is corrected to read as follows:

On page 4080, column 1, in the authority citation following instructional "Paragraph 1.", lines 1 and 2, the language "Authority: 26 U.S.C. 7805 * * * Section 1.6012–7T also issued under 26 U.S.C. 6012." is corrected to read "Authority: 26 U.S.C. 7805".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–5889 Filed 3–18–93; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Storage and Handling of Liquefied Petroleum Gases

CFR Correction

In title 29 of the Code of Federal Regulations, parts 1900 to 1910 (§§ 1901.1 to 1910.999), revised as of July 1, 1992, on page 335, in the second column, in § 1910.110 (d)(11), the first sentence should be removed.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1 93–002]

Safety Zone Regulations: Kill Van Kull, NY and NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the waters near Bergen Point West Reach in the Kill Van Kull of New York and New Jersey. This zone imposes requirements in addition to the Regulated Navigation Area (RNA) already in existence for these waters. This zone is divided into two sections. The first is the southern portion of the channel which contains a work area where concentrated drilling and blasting will be conducted and no vessel is permitted to transit. The second section includes the remainder of the safety zone which surrounds the work area. Vessel passage in this section is permitted under the criteria set forth in these regulations. This action is necessary to protect the maritime

community from the possible dangers and hazards to navigation associated with the extensive blasting and dredging operations which are being conducted in the work area of the channel and with the restrictions in channel width.

EFFECTIVE DATE: These regulations become effective at 8 a.m., March 8, 1993 and terminate at 8 a.m., December 1, 1993, unless terminated sooner by Captain of the Port (COTP) NY.

FOR FURTHER INFORMATION CONTACT: LTJG L.D. Johnson of Captain of the Port, New York (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are LTJG L.D. Johnson, Project Manager, Captain of the Port, New York, and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM would delay this project's effective date and would be contrary to the public interest since immediate action is needed to protect the public from the dangers associated with this channel deepening project.

On April 7, 1992 a final rule was published as § 165.165 of this title, which imposed a Regulated Navigation Area (RNA) over the entire Kill Van Kull (KVK) for the duration of a three year deepening project. The Coast Guard COTP New York now deems it necessary to establish this safety zone based on daily experiences and studies compiled since the initiation of the KVK dredging operations. By so doing, the users of this waterway and the immediate waterfront communities will be safeguarded from the hazards associated with this ongoing project. This safety zone establishes additional temporary restrictions within its boundaries which require the employment of assist vessels (dependent upon the length of a vessel) and apply specific requirements under certain weather conditions as well as tidal current conditions during this most difficult phase of the dredging project.

Background and Purpose

In August 1991, the Army Corps of Engineers (ACOE) and the Port Authority of New York and New Jersey commenced an extensive channel deepening project in the Kill Van Kull and Constable Hook area. The Coast Guard published a Regulated Navigation Area on April 7, 1992 to ensure the safety of vessels in the areas of blasting and dredging. On January 13, 1993, the ACOE notified the Coast Guard that they were prepared to begin operations in the area of Bergen Point West Reach (Phase V of the RNA) on March 8, 1993.

In May 1992, after publication of the RNA, the National Marine Research Center submitted a study to the U.S. Coast Guard COTP, New York. This study used the Marine Safety International's Computer Aided Operations Research Facility (MSI/CAORF) full-mission, real-time ship-handling simulator. During the study, New York Harbor pilots conned simulated vessels of various characteristics around the southern tip of Bergen Point, New Jersey, between Newark Bay and Bergen Point West Reach of the KVK. Currents, wind conditions, bank forces, tug assistance, vessel aerodynamics and hydrodynamics and other variables were represented. Representatives of the Port of New York, the Corps of Engineers and Coast Guard Vessel Traffic System (VTS) New York participated in the design of the tests and in formulating the conclusions and recommendations. The MSI/CAORF study revealed that vessels with a smaller Length Over All (LOA) could transit this area safely under the maximum credible adverse conditions. The study recommended that any operational restrictions take into account the LOA of vessels and that restrictions be placed on vessels under certain wind conditions. The Port Authority of New York and New Jersey gathered local pilots, vessel operators, and Coast Guard VTS New York to review the results of the MSI/CAORF study. This group reached a consensus that expanded upon the study recommendations, incorporating currents, winds, vessel size and local hands-on experience.

Based on the MSI/CAORF study, lessons learned from vessel groundings and collisions, and experience gained during the previous two years of the project, the Captain of the Port believes it is necessary to impose restrictions in the area of Bergen Point West Reach in addition to the requirements of the existing RNA. The area included within this safety zone is now regulated by regulations (1) through (7) of the RNA and the additional regulations implemented in this rulemaking. These safety zone regulations, in conjunction with the existing RNA regulations, are designed to allow vessels to transit safely and to protect the port and maritime community.

Regulatory Evaluation

These regulations are not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). In light of the regulations' limited scope, the small size of the affected area, the short duration, and the advance notice available to the community, the Coast Guard expects the economic impact of this rulemaking to be so minimal that a Regulatory Evaluation is unnecessary. The channel will not be completely closed therefore allowing vessels to still make their destination with minor restrictions. Vessel operators who do not wish to comply with the safety zone restrictions in this area of the KVK have the option of choosing the south route by taking the Arthur Kill to or from Newark Bay.

Small Entities

Because it expects the impact of these regulations to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, it is an action under the Coast Guard's statutory authority to protect public safety, and thus is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Regulations

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5, 49 CFR 1.46.

2. A new § 165.T 01–002 is added to read as follows:

§ 165.T 01–002 Safety Zone: Kill Van Kull, Bergen Point West Reach—New York and New Jersey.

(a) *Location.* (1) The following area has been declared a Safety Zone: All waters of the Kill Van Kull Channel, bounded by the following points:

Latitude	*Longitude*
	074°08′32″W
40°38′27″N	074°08′52″W
40°38′24″N	074°09′03″W
40°38′25″N	074°09′14″W
40°38′29″N	074°09′07″W
40°38′40″N	074°08′53″W
40°38′40″N	074°08′44″W
40°38′34″N	074°08′32″W
40°38′35″N	

to buoy "G 13"

thence to the point of the beginning.

(2) Within this safety zone exists a "WORK AREA" where concentrated drilling and blasting is being conducted. The "WORK AREA" includes all waters bounded by the following points:

Latitude	*Longitude*
	074°08′32″W
40°38′27″N	074°08′52″W
40°38′24″N	074°08′55″W
40°38′31″N	074°08′43″W
40°38′29″N	074°08′33″W
40°38′31″N	

thence to the point of the beginning.

The eastern and western edges of this "WORK AREA" are marked by lighted buoys set by the Coast Guard.

(b) *Effective date.* These regulations become effective at 8 a.m., e.s.t. March 8, 1993. They terminate at 8 a.m., December 1, 1993, unless terminated sooner by COTP NY.

(c) *Regulations.*

(1) "WORK AREA": In accordance with the general regulations in § 165.23 of this part, entry into or movement within the "WORK AREA" of the safety zone is prohibited unless authorized by the Captain of the Port.

(2) For all other waters of the safety zone described in paragraph (a)(1) the COTP has included the following requirements in addition to paragraphs (d) (1) through (6) of § 165.165.

(i) Prior to entering this safety zone, the master, pilot, or operator of each vessel, 300 gross tons or greater and tugs with tows, shall notify Vessel Traffic Center (VTC) New York regarding the employment of assist vessels and intentions while transiting the safety zone.

(ii) Tug requirements: All vessels (including all tow configurations from stem to stern) over 350 feet in length require one assist vessel. All vessels over 700 feet require two assist vessels.

(iii) Tidal Current Restrictions: Vessels over 700 feet in length with a draft greater than 33 feet are restricted to movements within one hour either side of the slack water on ebb and flood tides while outbound.

(iv) Astern tows: Hawser tows are not permitted unless the tow is accompanied by an assist vessel.

(v) Wind conditions:

(A) In winds from 20 to 34 knots:

(*1*) cargo ships may not transit through the safety zone.

(*2*) tankers in ballast may not transit through the safety zone.

(*3*) tugs with tank barge tows less than 350 feet (stem of tug to stern of barge) loaded or light, require an assist vessel.

(B) In winds greater than 34 knots, no vessels 300 gross tons or greater and all tugs with tows are prohibited from transiting the safety zone.

(3) Waiver. The Captain of the Port New York may, upon request, authorize a deviation from any regulation in this section if it is found that the proposed operations can be done safely. An application for deviation must be received not less than 4 hours before the intended operation(s) and must state the need and describe the proposal.

Dated: February 26, 1993.

R.M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 93–5737 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7062]

Changes in Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Administrator reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–2766.

SUPPLEMENTARY INFORMATION: The modified base (100-year) flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The

community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama:					
Tuscaloosa	City of Northport	June 19, 1992, June 26, 1992, *The Tuscaloosa News.*	The Honorable Wayne Rose, Mayor of the City of Northport, 2705 Eleventh Avenue, P.O. Box Drawer No. 309, Northport, Alabama 35476.	May 28, 1992	010202 D
California:					
Sacramento	City of Sacramento	February 19, 1993, February 26, 1993, *Sacramento Bee.*	The Honorable Joe Serna, Jr., Mayor, City of Sacramento, City Hall, Room 205, 915 I Street, Sacramento, California, 95814–2672.	Jan. 29, 1993	060266
Sacramento	Unicorporated Areas	February 17, 1993, February 24, 1993, *Sacramento Bee.*	Mr. Douglas M. Fraleigh, Director, Sacramento County Department of Public Works, 827 Seventh Street, Room 304, Sacramento, California 95814.	Jan. 29, 1993	060262
Colorado:					
Boulder	City of Longmont	March 3, 1993, March 10, 1993, *Longmont Daily Times.*	The Honorable Fred Wilson, Mayor, City of Longmont, Civic Center Complex, 408 Third Avenue, Longmont, Colorado 80501.	Feb. 19, 1993	080027
Illinois:					
Lake	Village of Lake Barrington.	February 18, 1993, February 25, 1993, *Barrington Courier-Review.*	Ms. Nancy Smith, President of the Village of Lake Barrington, Lake County, 23555N Old Barrington Road, Barrington, Illinois 60010.	To be determined	170372 D
Kansas:					
Sedgwick	City of Wichita	February 11, 1993, February 18, 1993, *The Wichita Eagle.*	The Honorable Frank Ojile, Mayor, City of Wichita, City Hall, First Floor, 455 North Main Street, Wichita, Kansas 67202.	Jan. 26, 1993	200328

State and County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Massachusetts: Plymouth	Town of Scituate	February 4, 1993, February 11, 1993, *Scituate Mariner.*	Mr. Richard H. Agnew, Administrator of the Town of Scituate, Plymouth County, Town Hall, Scituate, Massachusetts 02066.	Jan. 28, 1993	250282 D
Minnesota: Anoka	City of Columbia Heights.	February 23, 1993, March 2, 1993, *The Focus News.*	The Honorable Donald Murzyn, Jr., Mayor of the City of Columbia Heights, Anoka County, 590 40th Avenue, NE, Columbia Heights, Minnesota 55421–3878.	Feb. 16, 1993	270010
South Carolina: Aiken and Edgefield.	City of North Augusta	March 19, 1993, March 26, 1993, *The Star.*	The Honorable Thomas W. Greene, Mayor of the City of North Augusta, Aiken and Edgefield Counties, P.O. Box 6400, North Augusta, South Carolina 29841.	Mar. 12, 1993	450007
Tennessee: Shelby	City of Memphis	February 12, 1993, February 19, 1993, *The Commercial Appeal.*	The Honorable W.W. Herenton, Mayor of the City of Memphis, Shelby County, 125 North Mid-America Mall, Memphis, Tennessee 38103.	Feb. 5, 1993	470177 C
Texas: Bell	Unincorporated Areas	February 18, 1993, February 25, 1993, *Temple Daily Telegram.*	The Honorable John Garth, Judge, Chairman, Bell County, Board of Commissioners, P.O. Box 768, Belton, Texas 76513–0768.	Jan. 29, 1993	480706
Brazoria	City of Pearland	February 24, 1993, March 3, 1993, *The Journal.*	The Honorable Vic Coppinger, Mayor, City of Pearland, P.O. Box 2068, Pearland, Texas 77588.	Feb. 15, 1993	480077
Tarrant	City of Benbrook	January 28, 1993, February 4, 1993, *The Benbrook News.*	The Honorable Jerry Dunn, Mayor, City of Benbrook, P.O. Box 26569, Benbrook, Texas 76126.	Jan. 15, 1993	480586

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: March 9, 1993.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93–6355 Filed 3–18–93; 8:45 am]

BILLING CODE 8718–03–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AB65

Migratory Bird Harvest Information Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) and State wildlife agencies (States) are cooperatively establishing a national Migratory Bird Harvest Information Program (Program) in which migratory game bird hunters will be required to participate by supplying their names, addresses, and other necessary information. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds. The quality and extent of information about harvests of migratory game birds must be improved in order to better manage these populations. Hunters' names and addresses will be used to provide a sampling frame for a voluntary survey which will improve harvest estimates for migratory game birds.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: Robert L. Jessen, Migratory Bird Harvest Information Program Coordinator, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 10800 Laurel-Bowie Road, Laurel, Maryland 20708–

3600, (301) 317–6300, FAX (301) 317–6301.

SUPPLEMENTARY INFORMATION: The purpose of this rule is to facilitate the collection of needed information about the harvest of migratory game birds. This rule revises the migratory bird hunting regulations to require hunters to provide annually their names, addresses, and other necessary information as a condition for hunting migratory game birds. This information will provide a sampling frame for the national Migratory Bird Harvest Survey.

The Service and States plan to implement and study this Program, starting with a 2-year initial phase in 3 volunteer States beginning in 1992. During this initial phase, the requirement to participate in the Program will not apply on Federal Indian Reservations or to tribal members hunting on ceded lands. The States will provide the names, addresses, and other necessary information obtained from hunters, and the Service will conduct a national Migratory Bird Harvest Survey. The Program will be evaluated to determine the adequacy and timeliness of the sample and the time burden, cost, and other impacts on hunters, State license agents, States, and the Service. The approaches used in different States will be compared. Alternative survey designs will be investigated, and the U.S. Bureau of the Census will be asked to review the survey procedures. Alternate methods will be acceptable if any resulting biases in the estimates do not compromise the quality of the survey and if procedures conform to accepted statistical standards.

After evaluation in 1994 of this initial phase and consideration of proposed changes, other States will be phased into the Program, with about 1 million hunters added each year until all States participate in 1998. The suggested implementation schedule was published in the **Federal Register** on June 10, 1992, (57 FR 24736).

The names, addresses, and other information for an adequate sample of hunters are needed in time for hunting-record forms to be distributed to selected hunters before they forget the details of their hunts. Because of this fundamental need, States have only a short time to provide hunter names and addresses. Minimum survey standards will be developed during the next 2 years to ensure the quality of survey data. As each new State is phased into the Program, an agreement will be developed with each State in order to identify and resolve specific reporting or data-capture problems. This will ensure that each State will be providing reliable survey data and that no material biases are incorporated into the system.

A Program validation ("Migratory Bird Harvest Information Program Participant") will be printed on the annual State hunting license or supplementary permit for those hunters who participate in the Program. The State may charge these hunters a small handling fee to compensate agents and to cover the State's administrative costs associated with implementing the Program. A hunter will not be required to obtain evidence of Program participation in more than one State per year.

To reduce survey costs and to identify hunters who hunt less-commonly hunted species, migratory bird hunters will be asked the following questions:

1. Do you plan to hunt migratory game birds during [season]? [This screening question is needed only if a State asks all hunters to provide their names, addresses, and other information needed by the Program.]
2. Is this the first license you have had validated for hunting migratory game birds this hunting season? ____Yes ____No
3. Did you hunt these birds last season in the U.S.?
   _____Ducks
   _____Geese
   _____Cranes
   _____Coots
   _____Snipe
   _____Rails
   _____Mourning doves
   _____White-winged doves
   _____Band-tailed pigeons
   _____Woodcock
   _____Gallinules
4. How many did you bag last season in the U.S.?

	None	1–5	6–10	11–30	31+
Ducks					
Geese					
Doves					
Woodcock					

Question #4 will identify which success category (e.g., none, 1–5, etc.) a hunter was in during the previous year and will allow stratification of the sample. A stratified sample (multiplying the number of hunters in each category by the average seasonal bag per hunter in that category and then adding the results for each category) will provide a better estimate of total harvest and will not require as large a sample size as a standard sample (multiplying the total number of hunters by the average seasonal bag per hunter).

To protect hunters' privacy, it is the policy of the Service to use the names and addresses only for conducting hunter surveys and for no other purpose. All records of hunters' names and addresses will be deleted after the surveys, and no permanent record of names and addresses would be maintained by the Service. If States collect names and addresses under State authority, the Federal requirement will not apply to State uses of these names and addresses.

Review of Comments and the Service's Response

Comments on the Proposed Rule were received from 1 Flyway Council, 19 States, 6 organizations, and 3 individuals through September 16, 1992. Although none of the comments questioned the need for the Program or for improved migratory bird harvest estimates, almost all expressed concerns about the implementation of the Program. The Program was supported by the States of Florida, Maryland, Minnesota, Missouri, Pennsylvania and South Carolina, and by the Humane Society of the United States, the Wildlife Legislative Fund of America, and the Wildlife Management Institute.

1. Cost of and Responsibility for the Program

Comments: Concerns about the cost of the Program to States were expressed by the Atlantic Flyway Council and the States of Illinois, Louisiana, Iowa, Maryland, Michigan, Missouri, Montana, North Carolina, Pennsylvania, South Dakota, Washington, and Wisconsin. The notice of intent, published in the **Federal Register** on June 24, 1991, (56 FR 28812) suggested that the Service might pay for printing

of the survey cards and implied that it might pay for the postage with Option 1, but the proposed rule of June 10, 1992, did not indicate who is responsible for paying for the printing and postage of these forms. State legislative action often is required to charge a fee, covering distribution and administrative costs, but legislatures are frequently reluctant to impose additional fees. Concern that the Proposed Rule was perceived to transfer administrative and fiscal responsibility to the States for a program that is primarily a Federal responsibility was expressed by the States of Louisiana, Pennsylvania, South Carolina, and South Dakota.

Service Response: The Service is sympathetic to these problems, but the Federal financial contribution to this joint endeavor will be dependent on the Service budget. The Service should not fund portions of State hunting licenses. The Service views the issuing of hunting licenses and permits to be a State responsibility. A Federal permit system would duplicate State systems and would not be in the interest of either the States or the Service. However, the Service is seeking suggestions on methods of providing States with technical assistance to help them acquire the required information and will enter into cooperative agreements to solve implementation problems as they arise.

2. Impact of Procedures on State Wildlife Agencies

Comments: Concern that the required procedures would result in major changes to State license procedures was expressed by the Atlantic Flyway Council and States of Arizona, Delaware, Maryland, North Carolina, Pennsylvania, and Washington. On the other hand, there was general agreement that the information was necessary. Problems in obtaining the cooperation of State license vendors were anticipated by the States of Illinois, Minnesota, Montana, North Carolina, and South Dakota. The requirement for license vendors to return names and addresses within 5 days was considered unrealistic by the Atlantic Flyway Council and the States of Delaware, Illinois, Iowa, Maryland, Minnesota, Montana, Nevada, North Carolina, South Dakota, and Wisconsin. The States of Delaware and Maryland said that their 30-day reporting requirement was seldom met. Illinois indicated that less than 30% of their vendors provided names and addresses for their State survey. Minnesota said that they had virtually no means to force compliance in producing hunter names. Consequently, 48% of the names and addresses for their State survey came from an area where only 29% of the licenses were sold. The use of separate name and address cards was suggested by the States of Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, Montana, North Carolina, and Washington. Arizona doubted that the Service could contact hunters prior to season opening dates. The use of names and addresses from the previous year's licenses was suggested by the States of Illinois and Wisconsin. Louisiana indicated that they would not be able to provide a count of the number of migratory bird hunters by April 15, while the States of Iowa and Wisconsin felt that the count was redundant if the Service has the names.

Service Response: The Service will continue to work with States during the initial period to identify ways of minimizing the impact on State procedures. To reduce memory bias, it is important to provide hunters with record forms as soon as possible after they start hunting each year so that hunters do not forget the dates, counties, and bag for individual trips. Two alternatives are being considered: (1) Providing names and addresses weekly (postmarked within 5 working days) and (2) providing the previous year's names and addresses in time to send record forms before the season and also providing, on a monthly basis, the current year's names and addresses of hunters who did not buy a license the previous year. Paper name and address forms may be sent to the Service for data entry if acceptable machine-scannable forms are used. Separate forms have the advantage of separating the financial accounting for licenses from the collection of names and addresses but have the disadvantage of requiring duplicate forms and increasing printing and handling costs. The count of the number of migratory bird hunters is necessary because harvest is estimated by multiplying the average bag by the number of hunters. The count is needed by April 15 in order that harvest estimates can be provided prior to the June migratory bird hunting regulations meetings and associated public hearing. If license vendors promptly supplied the names and addresses of all migratory bird hunters, the count could be obtained from that source. However, some States have suggested that vendor cooperation will be a problem, and an independent count would provide a check on the cooperation of license vendors.

3. Level of Participation by all Migratory Bird Hunters

Comments: The Atlantic Flyway Council and the States of Florida, Illinois, Louisiana, Michigan, North Carolina, and Wisconsin felt that those hunters who are not required to obtain an annual State hunting license (e.g. junior hunters, senior hunters, lifetime licensees, landowners) should not be required to participate. Illinois said that about 20% of their hunters do not require annual licenses. North Carolina indicated that a large proportion of their most active hunters have lifetime licenses. They also do not have current addresses for older citizens or the disabled who do not require annual licenses, and they do not know how many are still active. Missouri strongly supported the requirement to annually provide names and addresses. North Carolina suggested that States provide the names and addresses of a random sample of their migratory bird hunters instead of all the names and addresses.

Service Response: Excluding those hunters who are not required to obtain an annual State hunting license from the Program also excludes their harvest from the estimates. The importance of their harvest depends on how many hunters are excluded and on the number of birds they bag. The comments indicated that excluding these hunters may result in serious bias. The Service is estimating the effect of excluding these hunters and would appreciate any information that may be available. Minimum survey standards are being developed. One suggestion is to allow a class of hunters to be excluded from participating in the Program if (1) it is periodically demonstrated that only minimal bias in the estimates results from their exclusion or (2) a statistically sound alternate sampling procedure is implemented. It is anticipated that essentially all migratory bird hunters would be included in the sampling frame, although annual participation would not be required if a list of names and current addresses were available from another source. For example, if lifetime licensees and senior hunters provided their driver's-license numbers and if the motor vehicles department maintained a current address list that was available to the wildlife agency, these hunters could be sampled from this list of hunters.

4. Type of Information Provided by Hunters

Comments: The license vendors would ask questions about the kinds of birds hunted the previous year and about the numbers of birds bagged. The

States of Florida, Iowa, Louisiana, and Montana suggested that the questions be simplified. Louisiana suggested allowing hunters to furnish their driver's-license number instead of their name and address.

Service Response: It is important to identify those hunters who hunt infrequently hunted species. It would be impractical to survey the harvest of these species without first identifying those who hunt them. The question about the bag of ducks, geese, doves, and woodcock is needed to reduce the cost of surveys through stratification. Identifying the few hunters who bag most of the birds will allow the survey to sample them at a higher rate, reducing the number of questionnaires without biasing the results. The Service agrees that allowing hunters to furnish driver's-license numbers instead of their names and addresses would reduce the burden on hunters and license vendors and would facilitate data entry. Driver's-license numbers will be accepted, if the State can promptly provide the names and addresses of selected hunters and if the license vendors ask the hunters to provide their addresses if the addresses on the licenses are not current.

5. Use of Names and Addresses

Comments: The Atlantic Flyway Council believed that the States should have access to the list of names and addresses. The States of Missouri and Pennsylvania stated that the States needed the option to conduct statewide surveys using names that may overlap with Federal surveys.

Service Response: If States collect names and addresses under State authority, the Federal requirement will not apply to State uses of these names and addresses. The Service discourages asking an individual hunter to participate in more than one survey and will cooperate with States to avoid overburdening individuals.

6. Scheduling of State Participation

Comments: The Atlantic Flyway Council suggested that the Service consult with the separate States prior to assigning them an entry year.

Service Response: The Service will consult with the States. To avoid operational problems in implementing the Program, it is necessary to phase-in the Program with about 1 million migratory bird hunters added each year for 5 years. The suggested implementation schedule was published in the **Federal Register** on June 10, 1992, (57 FR 24736).

7. Survey Procedures

Comments: Michigan suggested that if hunters were sampled separately in each State they hunted, the questions could be limited to those applicable to the species hunted in the State. They also suggested allowing the restructuring of the questions to facilitate the use of point-of-sale terminals. South Dakota suggested that a standardized validation should be adopted. The need to improve the survey procedures was noted by the States of Illinois and Missouri, and the Humane Society of the United States. The Humane Society of the United States urged the Service to estimate the illegal take of migratory birds. Pennsylvania was concerned that the lack of data-collection standards would compromise data quality. The North American Wildlife Foundation suggested a national bird-tagging program.

Service Response: The Service seriously considered the suggestion to sample hunters separately in each State they hunt because it would simplify the questions and avoid the necessity of asking about the hunting of species that do not occur in the State. It would also eliminate the need to ask if the hunter had previously participated in the Program in another State. That question would be difficult because the hunter may not know the answer if participation is included with a State license. However, sampling hunters separately would require them to pay a separate fee in each State that requires a fee. Consequently, hunters will be sampled once to avoid requiring individuals to pay more than one fee for the Program per year. The questions were designed for paper forms and could be simplified for point-of-sale terminals if equivalent information was provided. The Service is implementing improved survey procedures with both the current Waterfowl Harvest Survey and the proposed Migratory Bird Harvest Survey (details are available on request). The Service shares the concern about data quality and will cooperate with the States in developing quality-control procedures. Tagging programs are useful for limiting harvest, but it is not clear how such a program could be used to estimate harvest without a costly and burdensome check-station program.

8. Extending Comment Period

Comments: South Carolina suggested that the final rule be postponed until mid-August to allow time for States to discuss the Program during the upcoming Flyway meetings.

Service Response: Comments have been accepted through September 16, 1992.

9. Public Information Needs

Comments: The need to inform hunters and license vendors about the Program was identified by Washington and the Wildlife Legislative Fund of America.

Service Response: The Service concurs with the need for a public-information effort and is providing a video and a draft of a popular article explaining the Program.

10. Indian Tribes

Comments: The Hoopa Valley Tribe noted that Federally-recognized Indian tribes and their members are free to exercise reserved fishing and hunting rights, including the right to hold managed hunts for nonmembers within their reservations unencumbered by State regulation. Consequently, the Tribe requested that the rulemaking be changed to indicate that the State of California lacks authority to administer the Program on tribal lands.

Service Response: The Service recognizes the sovereignty of Indian tribal governments and supports their right of self-determination and self-government. Nothing in this or earlier **Federal Register** documents was meant to imply that the Program can or should be administered by States for the Tribes. Many Tribes have their own fish and wildlife programs.

Many Indian Tribes have strong cooperative relationships in game management with the State in which the tribal lands are located. The Service enthusiastically supports these cooperative management efforts because they better serve the long-term interests of migratory game bird conservation and hunting. In the interests of migratory bird resource protection, the Service would like to have the Tribes participate in this expanded Harvest Information Program. The Service will explore inclusion of tribal governments in the Program and may then propose such action in a future **Federal Register** document.

11. Inclusion of Crows

Comments: Arizona suggested that crow hunting should be included in the survey. Missouri suggested excluding crows from the Program until it is fully operational, primarily because season dates unduly complicate distribution and collection of materials from vendors. Unified Sportsmen of Pennsylvania strongly opposed inclusion of crows and grackles because crows cause damage to crops and

communities and because crow hunting encourages youth to take up sport hunting. Kelly McPhillips, South Dakota Game, Fish, and Parks Department, thinks it is important to monitor the harvest of crows.

Service Response: The Service decided to limit the Program to migratory game birds, because there does not appear to be a critical need for harvest information on crows and because the long season would make it difficult to gather information on other migratory birds.

12. Release of Names and Addresses

Comments: The South Carolina Waterfowl Association and the International Crane Foundation suggested that the Service keep an updated list of names and addresses of all migratory bird hunters and make the list available to conservation organizations working to enhance our migratory bird populations.

Service Response: In the interest of protecting individuals' privacy and encouraging participation, lists of the names and addresses of migratory game bird hunters will not be released to non-governmental organizations.

13. Comments From Individuals

Comments: Steven Anderson was concerned that the Service is becoming anti-hunting, especially on wildlife refuges. Steven Sheriff supported the Program and stressed the importance of annually including all migratory bird hunters and the importance of reducing memory bias.

Service Response: The Service views hunting as a legitimate recreational activity where and when wildlife populations are sufficiently healthy to support that activity. In order to determine the "health" of the populations and appropriateness of seasons and bag limits, the Service and States must have reliable harvest information. Further, the Service views hunting as a viable wildlife-management tool, under the appropriate circumstances. In addition, the Service takes pride in the fact that it has the lead for the hunting portion of the Secretary of the Interior's "Enjoy Outdoors America" initiative, which is a program to promote and enhance the responsible use of Federal lands for recreational purposes.

14. Use of "Harvest Indices"

Comments: Vernon L. Wright, Louisiana State University, suggested that an index which is repeatable from year to year is adequate, and that a defendable harvest estimate is not needed. He believed that there will be a problem requiring the participation of junior and senior hunters, as well as certain other groups of hunters. With an index, these groups could be omitted as long as the harvest is consistent among groups.

Service Response: The Service does not agree that a "harvest index" that excludes certain groups of hunters would be adequate unless it can be shown the harvests of these groups is negligible. The use of an index assumes that the success of omitted hunters is the same as (or proportional to) the success of the included groups. That assumption is questionable because different groups of hunters may be influenced differently by changing hunting conditions. Even if the assumption is valid, it would be difficult to defend the harvest index and to demonstrate that the success of hunters excluded from the survey was proportional to those who were included.

NEPA Consideration

The establishment of this Harvest Information Program and options have been considered in the "Environmental Assessment: Migratory Bird Harvest Information Program." Copies of this document are available from the Service at the address indicated under the caption **FOR FURTHER INFORMATION CONTACT.**

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

A Determination of Effects, approved by the Assistant Secretary for Fish and Wildlife and Parks on June 14, 1991, concluded that the establishment of a Migratory Bird Harvest Information Program was not a "major" rule and, as such, was not subject to Regulatory Analysis under Executive Order 12291. It was also concluded that the rule would not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act 5 U.S.C. 601 *et seq.*

This rule will eventually affect about 5 million migratory game bird hunters when it is fully implemented. It will require migratory game bird hunters to supply their names, addresses, and other necessary information in order that they can be sampled for a voluntary national harvest survey. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds.

The States may require a small handling fee to compensate their hunting-license vendors and to cover their administrative costs. Many of the State hunting-license vendors are small entities, but this rule should not economically impact those vendors. Only migratory game bird hunters, individuals, would be required to provide this information, so this rule should not adversely affect small entities.

The collection of information contained in this rule has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0015. The information is required from hunters to obtain the benefit of hunting migratory game birds.

The public reporting burden for this collection of information is estimated to average 0.015 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the burden estimate or any other aspect of these reporting requirements should be directed to the Service Information Collection Clearance Officer, MS–24 ARLSQ, Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018–015, Washington, DC 20503.

Executive Order (EO) 12612—Federalism

The regulations do not have significant federalism effects as provided in EO 12612. Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act of 1918. State harvest surveys presently cannot provide adequate national estimates of migratory game bird harvests for the following reasons: Some States do not now conduct annual harvest surveys or maintain accessible lists of hunter names and addresses. Comparable information is not available from all States because States have different licensing laws regulating who must buy a hunting license and different survey procedures. The harvest of those hunters who can legally hunt without an annual State license is excluded from State estimates. Hunters might buy more than one type of license in a single State and might buy licenses from more than one State, introducing duplication problems. Currently, many State license lists are not available in time to permit distribution of hunter records early in the hunting season. Budget constraints often prevent States from conducting harvest surveys during certain years or

could cause some States to eliminate them completely.

These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State Governments, or intrude on State policy or administration. Therefore, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. In fact, the Service would cooperate with States in providing surveys to meet special management needs, and increased cooperation between Federal and State Agencies would reduce duplication of survey efforts.

Executive Order 12360—Taking of Individual Property Rights

Executive Order 12360 discussed guidelines for the taking of individual property rights. These rules, authorized by the Migratory Bird Treaty Act, do not affect any constitutionally-protected property rights. These rules would not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property.

Authorship

The primary author of this proposed rule is Paul H. Geissler, Chief, Branch of Surveys, working under the direction of Thomas J. Dwyer, Chief, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons set out in the preamble, 50 CFR part 20 is amended as set forth below.

PART 20—MIGRATORY BIRD HUNTING

1. The authority citation for part 20 is revised to read as follows:

Authority: 16 U.S.C. 703–711, 712, and 742 a–d and e–j.

2. Section 20.20 is added to subpart C to read as follows:

§ 20.20 Migratory Bird Harvest Information Program.

(a) The collections of information contained in § 20.20 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0015. The information will be used to provide a sampling frame for the national Migratory Bird Harvest Survey. Response is required from hunters to obtain the benefit of hunting migratory game birds. Public reporting burden for this information is estimated to average 0.015 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Service Information Collection Clearance Officer, MS–224 ARLSQ, Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018–0015, Washington, DC 20503.

(b) Each person hunting migratory game birds in California, Missouri, and South Dakota shall have given his or her name, address, and date of birth to the respective State hunting licensing authority and shall have on his or her person evidence, provided by that State, of compliance with this requirement.

(c) Nothing in paragraph (b) of this section shall apply to hunters on Federal Indian Reservations or to tribal members hunting on ceded lands.

Dated: December 23, 1992.

Mike Hayden,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 93–6372 Filed 3–18–93; 8:45 am]

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Proposed Rules

Federal Register
Vol. 58, No. 52
Friday, March 19, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FARM CREDIT ADMINISTRATION

12 CFR Part 611

RIN 3052–AB22

Organization; Reorganization Authorities for System Institutions

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), proposes for public comment amendments to the regulations governing the procedure by which certain Farm Credit System (Farm Credit or System) institutions may terminate their Farm Credit status. The amendments would expand the application of the regulations to all System associations, add provisions that would apply to the termination of one or more associations whose assets and direct loan from the district bank constitute a significant proportion of the assets and direct loans in the district, and make technical and conforming revisions. The FCA also proposes for public comment regulations governing the procedure by which Farm Credit banks may terminate their Farm Credit status. The Agricultural Credit Act of 1987 (1987 Act), enacted on January 6, 1988, amended provisions of the Farm Credit Act of 1971 (1971 Act) by establishing a procedure under which a Farm Credit institution may terminate its Farm Credit status by becoming chartered as a financial institution under other Federal or State authority. The Food, Agriculture, Conservation and Trade Act Amendments of 1991 (1991 Act), enacted on December 13, 1991, amended the 1971 Act by extending the length of the FCA's review period for the approval of disclosure information relating to terminations and other corporate restructuring. The Farm Credit Banks and Associations Safety and Soundness Act of 1992 (1992 Act), enacted on October 28, 1992, further amended the 1971 Act by adding clarifying provisions for repayment of certain types of debt obligations. The 1971 Act, as amended, imposes certain requirements on an institution seeking to terminate its status as a Farm Credit institution; authorizes the FCA to impose by regulation such other conditions as the FCA considers appropriate; and requires the FCA to promulgate regulations providing for the repayment of certain System assistance.

DATES: Comments must be received by April 19, 1993.

ADDRESSES: Comments should be submitted in writing, in triplicate, to Patricia W. DiMuzio, Division Director, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090. Copies of all communications received will be available for examination by interested parties in the Regulation Development Division, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Robert S. Child, Policy Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 18, 1989, the FCA published an Advance Notice of Proposed Rulemaking (ANPRM) (54 FR 51763) requesting comments on the manner and process for implementing the new termination procedures under the 1971 Act. Based on a consideration of comments received in response to the ANPRM and other relevant factors, the FCA decided to promulgate one set of regulations for associations whose investment in the bank and whose direct loan from the bank constitute 25 percent or less of the investment and direct loan (referred to herein as "Small Associations") and another set of regulations for banks and for other associations, or any combination of associations seeking to terminate together, whose aggregate investments and loans exceed the 25-percent level (which associations are referred to herein as "Large Associations"). On July 12, 1990, the FCA published for public comment (55 FR 28639) proposed amendments to 12 CFR part 611 relating to the termination of Farm Credit status of Small Associations. Final regulations were adopted by the Board on January 23, 1991, were published in the Federal Register on January 30, 1991 (56 FR 3397), and became effective on March 11, 1991. The Board now proposes amendments to those regulations that would extend their application to Large Associations, impose additional requirements on Large Association terminations, and make technical and conforming revisions. The Board also proposes new regulations applicable to the termination of Farm Credit Banks (FCBs) and banks for cooperatives (BCs).

The proposed regulations would implement sections 7.10, 7.11, 6.9(e)(3)(C)(ii), 6.26(d)(1)(C) (iv) and (v), and 6.26(c)(5) (E) and (F) of the 1971 Act. Section 7.10 provides that a Farm Credit institution may terminate its Farm Credit status if it satisfies the following requirements:

(1) A 90-day advance notice to the FCA;

(2) Approval by the FCA Board;

(3) Approval by a Federal or State authority of a charter for a commercial bank, savings and loan, or other financial institution;

(4) The payment by the institution of the amount by which total capital of the institution exceeds 6 percent of its assets, such payments to be made to the Farm Credit System Insurance Fund if termination occurs after 1991;

(5) The payment or adequate provision for the payment of all outstanding debt obligations of the institution;

(6) Approval of the termination by a majority of the stockholders of the institution voting, in person or by written proxy, at a duly authorized stockholders' meeting, held prior to giving notice to the FCA Board; and

(7) The fulfillment of such other conditions as the Board, by regulation, considers appropriate.

Section 7.11 requires that any plan of termination, together with all information that will be distributed to the stockholders, must be submitted to the FCA Board for approval prior to the stockholder vote. If the plan is disapproved by the Board, the letter of disapproval must specify the reasons for

such disapproval. The 1991 Act amended this section to increase the time period for the FCA's review of the plan from 30 days to 60 days.

In addition, the 1992 Act amended sections 6.9(e)(3)(C)(ii), 6.26(d)(1)(C)(iv) and 6.26(c)(5)(E) of the Act to require any terminating bank to pay to the Farm Credit System Financial Assistance Corporation (FAC) the estimated present value of the bank's proportionate share of the Systemwide repayment obligations for FAC payments of: (1) Certain Capital Preservation Agreements; (2) merger assistance, eligible borrower stock retirement, and expenses of the Farm Credit System Assistance Board and the FAC; and (3) reimbursements to the Department of the Treasury for interest payments made to the FAC. Furthermore, under amended sections 6.26(d)(1)(C)(v) and 6.26(c)(5)(F), terminating associations must pay to their affiliated FCB a proportionate share of the present value of all of the bank's estimated future FAC repayments, excluding the assistance associated with the Capital Preservation Agreements.

The proposed regulations would add new subparts Q and R to part 611. Subpart Q would contain the termination requirements for FCBs terminating alone and FCBs terminating together with one or more associations. The subpart would incorporate by reference many of the provisions of subpart P and would have additional provisions relating to the calculation of the exit fee; divestment of Systemwide obligations on which the terminating bank is the primary obligor; and provision for satisfaction of joint and several liability on consolidated and Systemwide obligations. New subpart R, containing provisions applicable to terminations of BCs, would incorporate by reference many of the provisions of subpart P, as well as provisions of subpart Q relating to Systemwide obligations and FAC repayments.

The existing regulations in subpart P would be revised to be applicable to all associations and to reflect the amendments to section 6.26 of the 1971 Act for FAC repayments by associations and the amendment to section 7.11 of the 1971 Act increasing the time period for the FCA's review of disclosure documents to 60 days. Provisions applicable when a Large Association proposes to terminate would be added. The term "terminating association" has been revised to read "terminating institution" throughout the subpart because many of the provisions in subpart P would be incorporated by reference in proposed subparts Q and R. Technical and clarifying revisions have also been made to the existing regulations.

In drafting these proposed regulations, the FCA has taken into consideration the comments received in response to the ANPRM that relate to the termination of banks and the effect of the termination of Large Associations on the districts in which they are located. Comments on these issues were received from the then existing Federal Farm Credit Corporation of America (FCCA) on behalf of its member System banks and the Farm Credit Banks Funding Corporation (Funding Corporation), two law firms on behalf of several System associations, one FCB, and one trade association representing community banks.

Below is a section-by-section explanation of the proposed regulations, together with a discussion of relevant comments received in response to the ANPRM.

II. Section-by-Section Analysis

A. Subpart P—Termination of Farm Credit Status—Associations

1. Section 611.1200—General—Applicability

Paragraph (c) of this section and references thereto would be deleted, so that this subpart would be applicable to all Farm Credit associations.

2. Section 611.1205—Definitions

Section 611.1205 would be amended to add definitions for "Large Association" and "viability." A Large Association would be defined as an association whose investment in the FCB in its district is in excess of 25 percent of the bank's capital as computed according to generally accepted accounting principles (GAAP) or whose direct loan from the district FCB is in excess of 25 percent of the total loans of the bank. The definition would also include any two or more associations with the same affiliated FCB that seek to terminate together (or within 6 months of each other) and whose aggregate investments in the FCB or direct loan from the FCB exceeds the 25-percent level. "Viability" would be defined as the ability to sustain or commence profitable operations.

The proposed definition of GAAP is different from the definition in the current regulations in that the provision regarding the FCA's authority to interpret how GAAP should be applied has been deleted. In proposed § 611.1240, language has been added providing that the FCA may prescribe an accounting principle that is no less stringent than GAAP if the application is consistent with the objective of ensuring that the exit fee be calculated on a fair and reasonable basis.

3. Section 611.1210—Advanced Notification

Proposed § 611.1210(b)(1) would require the terminating institution to send a certified copy of the commencement resolution to both the FCA and the Farm Credit System Insurance Corporation (FCSIC). Section 611.1210(b)(2) has been revised to clarify that the brief announcement to all holders of equity must specify the effect of termination on the borrower's stock and on any borrower rights.

4. Section 611.1212—Filing Date of Termination Application

The Board proposes to revise § 611.1212(c) to provide that the FCA shall disapprove a termination application if the filing date that would otherwise be assigned pursuant to § 611.1212(a) would be less than 60 days after the FCA was notified by the terminating institution that it was contemplating the termination of its Farm Credit status. The current regulation provides for the filing date to be no earlier than 60 days after the FCA was notified, even if the filing date would otherwise be earlier. The change is proposed in order to eliminate any uncertainties about when the review period begins.

5. Section 611.1215—Farm Credit Administration Review and Approval and Section 611.1220—Voting Record Date and Stockholder Approval

Pursuant to the change in section 7.11(a)(2) of the 1971 Act made by the 1992 Act, the FCA review period for the termination application would be changed from 30 days to 60 days in paragraph (b) of § 611.1215 and in paragraph (a) of § 611.1220. In addition, paragraphs (e) and (f) of § 611.1215 have been revised to remove redundancies and to clarify that if a reconsideration vote is held, termination may occur no earlier than 15 days after the vote.

6. Section 611.1240—Exit Fee

Paragraph (b) of this section would be revised to delete the reference to the Farm Credit Assistance Fund, since payment of the exit fee was to be made to the Assistance Fund only until 1992. In the future, exit fee payments will be made only to the Farm Credit System Insurance Fund.

Paragraph (e) includes the authority of FCA to prescribe an accounting principle as explained in number 2 above. Paragraph (e)(2), was amended by adding "or subtractions from liabilities" in order to clarify that the

FCA may review any type of transaction outside of the ordinary course of business that may affect the exit fee.

Paragraph (i) is proposed to be added to allow certain tax liabilities and payments to the FAC to be deducted from the exit fee. These liabilities would not be booked as of the computation date, but would become liabilities at the time of termination due to the decision to terminate. This change was made in part because of the 1992 Act amendments to the 1971 Act providing for the payment of certain FAC obligations prior to termination. In addition, effective for the fiscal year beginning after December 15, 1992, a new accounting treatment (Statement of Financial Accounting Standards No. 109) requires institutions to recognize a tax liability on any patronage distribution from an FCB to taxable associations regardless of whether it is received in cash. Prior accounting rules generally did not require the recognition of any tax liability until the patronage was received in cash by the taxable association. Accordingly, no tax liability has been provided for the cumulative amount of allocated equities received by a taxable institution that have not been "redeemed" by the institution, prior to the date of implementation of the new accounting rules. The Board concluded that the net value of such patronage should be the same, whenever received, and has therefore determined that it would be appropriate in these termination regulations to calculate capital based on the after-tax impact of all patronage distributions.

7. Section 611.1250—Repayment of Debts

New paragraph (e) would be added to § 611.1250 to provide for the payment of a portion of the present value of the FCB's share of certain System FAC debt repayment obligations as of the quarter ended prior to the submission of the application. Pursuant to section 6.26 (c)(5)(F) and (d)(1)(C)(v) of the 1971 Act, as amended by the 1992 Act, the terminating association's share is based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, and payment is made to the affiliated bank. The proposed regulation would also provide that the terminating association would pay a portion of the FCB's estimated future share of non-Treasury-paid interest. The present value calculations would be made by the FAC.

8. Section 611.1260—Dissenters' Rights

Paragraph (c) of existing § 611.1260 requires a terminating institution to issue subordinated debt in the successor institution for the excess above par or stated value of a dissenting stockholder's stock or participation certificates. This paragraph is proposed to be amended to permit the successor institution to pay cash or a combination of cash and subordinated debt for the amount in excess of par or stated value. The terminating institution would continue to be required to pay cash in an amount up to the par or stated value. This change is intended to give the institution more flexibility in how it retires the interests of dissenting stockholders. In addition, the Board proposes to add new paragraph (g) to require that the interests of dissenting stockholders be retired on or before the termination date.

9. Section 611.1275—Termination of Large Associations

Proposed § 611.1275 contains additional requirements that would apply when a Large Association, as defined, proposes to terminate. Commenters were divided about whether there should be special provisions when association terminations would have a major impact on the remaining district institutions. Two commenters representing associations stated that there should be no special provisions because the borrowers would have voted to terminate and because the free market and competition should enable institutions to thrive and prosper. An FCB commented that a bank termination need not be delayed pending replacement of the bank; rather, interim financing should be arranged until a permanent replacement bank is selected. The FCCA commented that it is clearly appropriate to consider the effect of a termination on the remaining institutions, and stated that interim arrangements should be made to ensure continuing service to the affected territory.

The FCA, in its role as safety and soundness regulator of the System, is concerned about the effect of the termination of a Large Association on the financial health of the FCB and non-terminating associations in the Large Association's district and believes that an analysis of the viability of such remaining institutions must be undertaken as soon as possible in the termination process. The FCA would, therefore, in consultation with the FCSIC, prepare an analysis of the effect of the Large Association's termination on the viability of the district. Such analysis would take into account various factors, including how the cost of funds would be affected if a new institution were chartered to take over the territory of the terminating association rather than expanding the territory of an existing association, and the potential for achieving a reasonable market share in the territory. The FCA may contact other institutions in the same district and request additional information to be used in the analysis. This information would be required to be submitted to the FCA within 10 business days of the FCA's request in order to be considered in the FCA analysis, unless a longer period is permitted by the FCA.

B. Subpart Q—Termination of Farm Credit Status—Farm Credit Banks

1. Section 611.1300—Applicability and Definitions

Proposed § 611.1300 would provide that subpart Q is applicable to the termination of Farm Credit Banks. It would also incorporate by reference the definitions in proposed § 611.1205 of subpart P except for the definition of "terminating institution."

2. Section 611.1310—Advance Notification

The advance notification procedures in proposed § 611.1310 are similar to the procedures for associations in proposed § 611.1210. An FCB seeking to terminate would be required to notify the FCA, the FCSIC, other System banks, the Funding Corporation, the FAC, and the bank's stockholders within 5 days of the adoption of a commencement resolution by the bank's board of directors. Affiliated associations are required to notify borrowers and prospective borrowers of the effect that the bank's termination may have on their loans, including whether the borrower would continue to have any of the borrower rights provided by the 1971 Act and FCA regulations. The FCB would be required to submit an estimate of its exit fee to the FCA within 15 days after submission of the commencement resolution, and would also be required to commence negotiations with other Farm Credit banks on the satisfaction of obligations on which the bank is jointly and severally liable under section 4.4 of the 1971 Act.

3. Section 611.1311—Filing of Termination Application

This section would incorporate by reference § 611.1211 of subpart P of these proposed regulations.

4. Section 611.1312—Filing Date of Termination Application

This section would incorporate by reference paragraphs (a) and (b) of § 611.1212 of the proposed regulations. In addition, proposed paragraph (b) of this section would provide that, if the advance notification required in § 611.1310 is less than 90 days prior to the filing date that would otherwise be assigned to the termination application, the FCA would disapprove the application. During the 90-day period, the FCA will make arrangements for another bank to provide interim or permanent service in the territory of the terminating bank. Should such arrangements be made in less than 90 days, the FCA would have the discretion to reduce the 90-day period.

The FCA Board is proposing this 90-day period because it believes a sufficient time period to find a replacement bank for the district of the terminating bank is necessary to be able to assure the adequate flow of agricultural credit to the district. The FCA does not believe that this 90-day requirement would materially delay the termination process, because a corporate restructuring such as the kind of restructuring that would be proposed by a terminating bank is ordinarily a lengthy process.

5. Section 611.1313—Selection of Farm Credit Bank to Serve Territory

This section sets forth factors for the FCA to consider in deciding which remaining FCB or FCBs should be reassigned the territory of the terminating bank. The factors would include but not be limited to prospective efficiencies; the preferences of the associations in the district that do not seek to terminate; bank management; willingness of the bank to purchase all the loans to the associations; compatibility of organization and operations; potential market diversification; and geographical proximity.

6. Section 611.1315—Farm Credit Administration Review and Approval

This section would incorporate by reference § 611.1215 of the proposed regulations, which sets forth the time periods for FCA review and preliminary approval of the disclosure information in the termination application, as well as the conditions for final approval.

7. Section 611.1320—Voting Record Date and Stockholder Approval

This section would incorporate by reference the provisions of proposed § 611.1220, except that paragraph (c)(3) and the provisions regarding dissenting stockholders in paragraph (e) would not be applicable in a vote for bank termination.

8. Section 611.1325—Requirements for Information Statement

This section would incorporate by reference the provisions of § 611.1225 of the proposed regulations, except that paragraphs (h) and (s) would not be applicable. In addition, the section provides that other financing institutions (OFIs) have the right to have their FCB stock retired if they do not wish to become stockholders in the successor institution.

9. Section 611.1326—Prohibited Acts

This section would incorporate by reference § 611.1226 of the proposed regulations, which prohibits a terminating institution or persons affiliated with it from making false statements about the proposed plan of termination.

10. Section 611.1330—Plan of Termination

Proposed § 611.1330 would incorporate by reference the provisions of § 611.1230 of the proposed regulations.

11. Section 611.1335—Stockholder Reconsideration

This section would incorporate by reference § 611.1235 of the proposed regulations and would clarify that the reference to 15 percent of the eligible voting stockholders means, for a bank termination, associations holding 15 percent of the voting shares of the district.

12. Section 611.1340—Exit Fee

Paragraph (a) of this section would provide that, for an FCB terminating alone, the assets and capital that are expected to be paid out or distributed to the institutions remaining in the System would be deducted from the assets and capital of the bank before the exit fee is computed. If, in connection with the termination, loans or other assets with reserves are paid back to the terminating bank at above the net book value, the amount of the excess will be added to the surplus of the FCB. This would include direct loans to non-terminating associations that repay such loans on or prior to termination. Once such amounts are deducted, the computation set forth in proposed § 611.1240 would be utilized.

Paragraph (b) of this section would provide that, when one or more associations in a district are terminating along with the FCB, the computation would be made as follows. First, the exit fee of each terminating association would be computed in accordance with proposed § 611.1240. Then the balance sheet of the FCB, less the assets and capital of the non-terminating institutions, and the balance sheets of the terminating associations would be combined under GAAP, using cross-elimination methods, and the exit fee of the combined entity would be computed in accordance with proposed § 611.1240. The exit fees of the terminating associations would be deducted from the exit fee of the combined entity, and the FCB would be responsible for paying the remainder.

Paragraph (c) would provide that an OFI would have the same right as an association to have its investment in the FCB retired before the bank terminates, and the investment of any OFIs choosing to have their stock retired would be deducted from the capital and assets of the bank before the exit fee is computed. If an OFI chooses instead to become a stockholder in the successor institution, the OFI's investment in the FCB would be considered part of the FCB's capital in computing the exit fee.

13. Section 611.1350—Repayment of Obligations

Proposed § 611.1350 would contain provisions for treatment of obligations of the FCB. Paragraph (a) would provide that certain obligations must be repaid, or provisions for repayment must be made, prior to termination; other obligations would be assumed by the successor institution. Paragraph (b) would require the terminating bank to provide for satisfaction of the portion of issues of consolidated or Systemwide obligations on which it is primarily liable prior to termination. It is the Board's view that the 1971 Act does not authorize the successor institution to use Systemwide obligations as a source of funding. However, most of the outstanding Systemwide obligations are not callable. Therefore, the proposed regulation sets forth three methods by which a terminating bank may satisfy the obligations. First, the bank may enter into an agreement with one or more remaining System banks under which such banks would assume primary liability. Second, the terminating bank may purchase, in the open market, obligations in the amount of the portion of an issue for which the bank is primarily liable. Such obligations would be canceled by the Funding Corporation. Third, the terminating bank may deposit funds into a trust account that will be sufficient to pay the interest and principal on the obligations when payment is due.

An issue that arises only in the context of a bank termination is how the terminating bank can provide for satisfaction of its off-balance-sheet joint and several liability to investors in Systemwide bonds and consolidated notes and bonds outstanding on the termination date, and its liability for interest payments on the individual obligations issued by banks operating under the same title of the 1971 Act and outstanding on the termination date. Comments on this issue were sought in the ANPRM, and the FCA received comments from four respondents, including the FCCA. Although one commenter stated that it was unclear what more could be required after a bank had paid the debt on which it was primarily liable, the other commenters offered a number of thoughtful suggestions regarding how to provide for continuing contingent obligations to bondholders in an orderly way. The suggestions included: (1) Requiring the terminating bank to enter into an indemnification contract with remaining banks that would be in effect until obligations outstanding at the termination date are retired, or the decrease in the System's spreading of risk has been regained, or such other time as the FCA may fix; (2) requiring no specific arrangement at the time of termination, but refunding any exit fee payment to the extent that contingent or unexpected liabilities occur or the successor is otherwise required to make unforeseen payments; and (3) leaving the matter to the banks to resolve, subject to FCA approval.

The Board believes that it is important to have an arrangement in place prior to the termination date specifying the procedure by which the joint and several liabilities of the terminating bank will be addressed by the successor institution. Although the existence of the Insurance Fund significantly decreases the likelihood that any bank would ever in the future be called upon to satisfy another bank's primary obligations, there continues to be a possibility that a call would be made. It is the Board's view that flexibility should be given to the banks to work out an acceptable procedure, provided that such flexibility does not result in the remaining banks' being able to impede the termination.

Therefore, paragraphs (c) and (d) of the proposed regulations would require that, immediately following the notification to the remaining banks of the terminating bank's intention to terminate, the banks must enter into negotiations over the satisfaction of the terminating bank's joint and several liability on the outstanding consolidated and Systemwide obligations. However, should the banks be unable to reach an agreement or the agreement is not acceptable to the FCA, the FCA would specify the terms of the agreement according to a formula set forth in the proposed regulations. The formula would provide for the release of the terminating institution from the joint and several liability over time as notes and bonds mature and are paid. The terminating institution would commit itself to payments if a default occurred and the Insurance Fund were exhausted. The FCA would review such an arrangement as part of the overall review and approval process.

The formula for determining future payments would be based on the following:

(1) Calculations would be made to determine the percentage of the total consolidated and Systemwide debt of the System banks held by the terminating bank. This percentage would be used to determine the liability of the successor institution on the termination date.

(2) The computation date for this formula would be chosen by the FCA, but would be on or before the computation date set forth in proposed § 611.1240(c). The date would be chosen to reflect the typical debt relationship of the terminating bank to the System as a whole prior to the retirement of any bonds made in connection with or in anticipation of termination.

(3) This percentage would remain constant but would be applied only to debt outstanding on the termination date. Therefore, the total debt amount would decrease as issues mature and are paid off.

(4) On the termination date, the debt issued and outstanding for which the terminating bank is jointly and severally liable would be identified.

Paragraph (e) of the proposed regulations would clarify that, notwithstanding any agreement among the banks to establish how calls would be made by the FCA on defaulted obligations, the terminating bank would remain liable under section 4.4 of the 1971 Act for all of the issues outstanding on the termination date until such issues have been repaid.

As discussed above, the 1992 Act requires a terminating FCB to pay to the FAC the estimated present value of its share of certain future repayments to the FAC for obligations undertaken by the FAC in connection with the Capital Preservation Agreements, operating expenses of the FAC and the Assistance Board, and the Treasury-paid interest. These requirements are set forth in proposed paragraph (f). The Board also proposes that the terminating bank pay the estimated present value of its share of future payments of interest on the Capital Preservation Agreements and the interest on FAC debt not paid by the Treasury. The Board believes that such provisions are needed to meet the objectives of the 1992 Act to ensure that terminating institutions do not escape their liability for repayment of assistance to the System. The proposed regulation would provide that, as soon as the FAC is notified that an FCB is seeking to terminate pursuant to proposed § 611.1310, it must prepare an estimate of the present value of the terminating bank's share of the FAC repayment.

14. Section 611.1355—Retirement of Equities

System institutions are not authorized under the 1971 Act to hold equity investments in entities that are not part of the System. Therefore, paragraph (a) of proposed § 611.1355 would require an FCB to retire equities held by System institutions that do not seek to terminate along with the FCB.

The proposed regulation further provides that, if an FCB has an allowance for loan losses against a direct loan or loans serviced by an FLBA and such loans will be refinanced at above net book value by another Farm Credit institution, the amount of the allowance would be considered as part of the unallocated surplus of the FCB for purposes of computing the value of the FCB stock. The Board notes that it may be appropriate to include the amount of the allowance in the value of the stock because, if the direct loan or loans through the FLBA are refinanced, the allowance would be eliminated. The Board specifically seeks comment on this part of the computation.

Paragraph (b) would require the retirement of any preferred stock issued by the terminating bank. Paragraph (c) would provide an option to OFIs to have their stock retired if the OFIs choose not to be equity holders in the successor institution. The stock of the OFIs would be retired on the same basis as the stock held by Farm Credit associations.

15. Section 611.1366—Loan Refinancing by Borrowers

This section would be applicable to borrowers from the FCB other than System institutions and would incorporate by reference § 611.1266 of the proposed regulations. Non-System institution borrowers would include OFIs and eligible borrowers whose loans were made through FLBAs acting as agents for the FCB.

16. Section 611.1375—Farm Credit Administration Evaluation

This section would require the FCA to evaluate the effect of termination on the viability of the remaining institutions in the System whenever assets of the terminating applicant(s) exceed 10 percent of the assets of the Farm Credit System, Farm Credit banks and other institutions remaining in the System would be permitted, at their option, to submit their own evaluation of the effect of termination of another bank or banks.

C. Subpart R—Termination of Farm Credit Status—Banks for Cooperatives

1. Section 611.1400—Scope of Subpart

This section would provide that proposed subpart R applies to the termination of BCs.

2. Section 611.1405—Provisions Applicable to Terminating Banks for Cooperatives

Equity holders in a BC, in contrast to equity holders in an FCB, are primarily borrowers that are not other Farm Credit institutions. This means that the concerns that arise are similar or, in many cases, identical to those that arise when an association seeks to terminate. Consequently, most of the provisions of subpart P are applicable to the termination of a BC. Therefore, proposed § 611.1400 would incorporate by reference the provisions in proposed subpart P with certain exceptions. Those exceptions would be provisions pertaining to the search for a replacement bank (§ 611.1212(c)); the retirement of FCB stock (§ 611.1255); borrower rights (§ 611.1270); and viability issues in the context of a Large Association termination (§ 611.1275). Borrower rights provisions in the 1971 Act and regulations do not apply to loans made by a BC because BCs do not fall within the definition of "qualified lender" in section 4.14A(a)(6) of the 1971 Act.

In addition, this section would incorporate by reference certain provisions from proposed subpart Q of part 611 pertaining to notification of the Funding Corporation and other banks of a BC's intention to terminate (§ 611.1310); the requirement that the terminating bank agree with the other banks on a procedure for the successor institution to provide for satisfaction of joint and several liability (§ 611.1350); provisions for Systemwide repayment of FAC assistance (§ 611.1350); retirement of stock, if any, held by other Farm Credit institutions (§ 611.1355); and evaluation of the effect of the termination of one or more institutions whose assets exceed 10 percent of the assets of the System (§ 611.1375).

List of Subjects in 12 CFR Part 611

Agriculture, Banks, banking, Organization and functions (Government agencies), Rural areas.

For the reasons stated in the preamble, part 611 of chapter VI, title 12 of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 5.9, 5.10, 5.17, 7.0–7.13, 8.5(e)of the Farm Credit Act; 12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2243, 2244, 2252, 2279a-2279f-1, 2279aa-5(e); secs. 411 and 412 of Pub. L. 100–233; 101 Stat. 1568, 1636; secs. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003 and 1004.

2. Part 611 is amended by revising subpart P to read as follows:

Subpart P—Termination of Farm Credit Status—Associations

Sec.
611.1200 General—Applicability.
611.1205 Definitions.
611.1210 Advance notification.
611.1211 Filing of termination application.
611.1212 Filing date of termination application.
611.1215 Farm Credit Administration review and approval.
611.1220 Voting record date and stockholder approval.
611.1225 Requirements for information statement.
611.1226 Prohibited acts.
611.1230 Plan of termination.
611.1235 Stockholder reconsideration.
611.1240 Exit fee.
611.1250 Repayment of debts.
611.1255 Retirement of equities owned.
611.1260 Dissenters' rights.
611.1266 Loan refinancing by borrowers.
611.1270 Continuation of borrower rights.
611.1275 Termination of Large Associations.

Subpart P—Termination of Farm Credit Status—Associations

§ 611.1200 General—Applicability.

(a) Each institution is authorized, in accordance with sections 7.10 and 7.11 of the Act, to terminate its status as a Farm Credit institution. The regulations in this subpart set forth the procedural, disclosure, voting and approval requirements applicable to such termination. The Farm Credit Administration may in its sole discretion grant a waiver in writing from any requirement of this subpart for good cause shown.

(b) These regulations are applicable to an association that seeks to terminate its status as a Farm Credit institution and to become chartered as a bank, savings and loan association, or other type of financial institution under other Federal or State law. In the event that a receiver or conservator is appointed by the Farm Credit Administration in the case of a voluntary or involuntary liquidation of the institution the provisions of subpart L of this part apply, and the provisions of this subpart shall not apply.

§ 611.1205 Definitions.

For the purposes of this subpart, the following definitions shall apply:

(a) *Commencement resolution* means the resolution adopted pursuant to § 611.1210(a) to indicate the commencement of the termination process.

(b) *GAAP* means generally accepted accounting principles, which is that body of conventions, rules and procedures necessary to define accepted accounting practice at a particular time, as promulgated by the Financial Accounting Standards Board and other authoritative sources recognized as setting standards for the accounting profession in the United States. GAAP shall include not only broad guidelines of general application but also detailed practices and procedures that constitute standards against which financial presentations are evaluated.

(c) *Large Association* means:

(1) An association whose investment in its affiliated Farm Credit Bank is in excess of 25 percent of the Farm Credit Bank's capital as computed according to GAAP or whose direct loan from the Farm Credit Bank is in excess of 25 percent of the total amount of direct loans of the bank; or

(2) Two or more associations with the same affiliated Farm Credit Bank that seek to terminate within the same 6-month period and whose aggregate investments in the Farm Credit Bank or direct loans from the Farm Credit Bank are in excess of 25 percent of the total capital or direct loans of the Farm Credit Bank.

(d) *Viability* means the ability to sustain or commence profitable operations exclusive of non-recurring items.

(e) *OFI* means other financing institution, as that term is defined in § 614.4540(e) of this chapter.

(f) *Reconsideration vote* means the vote at which the voting stockholders reconsider whether to terminate the terminating institution's Farm Credit status.

(g) *Successor institution* means the institution to which the terminating institution will convert when its Farm Credit charter is revoked.

(h) *Terminating institution* means an association seeking to terminate its status as a Farm Credit institution and to become chartered as a bank, savings and loan association, or other type of financial institution.

(i) *Termination resolution* means the resolution adopted pursuant to § 611.1211(a) approving the applications for termination and a new charter and providing for submission of the termination proposal to a stockholder vote.

(j) *Termination vote* means the stockholder vote at which the termination proposal is first submitted to the voting stockholders for their approval or disapproval.

§ 611.1210 Advance notification.

(a) An institution's board of directors shall commence the process of termination by adopting a commencement resolution indicating the institution's intention to terminate its Farm Credit status.

(b) Within 5 days of the adoption of the commencement resolution by the board of directors, the terminating institution shall:

(1) Submit a certified copy of the commencement resolution to the Farm Credit Administration and the Farm Credit System Insurance Corporation; and

(2) Mail a brief announcement to all holders of equity in the institution which states that the board is taking steps to terminate its Farm Credit status and which describes the process of termination, the anticipated effect of termination on current holders of equity, including the effect on specific borrower rights, and the type of institution the successor institution will be. If bylaws are adopted in accordance with paragraph (e) of this section, the announcement shall also state that, during the time period from the passage of the commencement resolution until the effective date of termination, new common stock and participation certificates either purchased from the association in connection with a loan or retired by the association prior to the termination will not entitle the holder to receive a share in the adjusted book value in excess of par of the institution.

(c)(1) Within 15 days after submission of the commencement resolution pursuant to paragraph (b)(1) of this section, the terminating institution shall submit to the Farm Credit Administration a statement of its estimate of the exit fee together with an explanation of the computation of the exit fee pursuant to the requirements of § 611.1240. For purposes of this estimation of the exit fee, the computation date set forth in § 611.1240(c) shall be the quarter end preceding the date of the commencement resolution.

(2) Within 45 days of its receipt of the terminating institution's estimated exit fee, the Farm Credit Administration shall either confirm the institution's estimate of the exit fee or notify the institution of any required revisions to the computation.

(3) In the event that the Farm Credit Administration requires adjustments to the estimated exit fee pursuant to paragraph (c)(2) of this section, the terminating institution may request reconsideration of any revisions. Such request shall be in writing and shall set forth specific reasons why the revisions should not be made. The Farm Credit Administration shall reconsider the revisions and shall inform the terminating institution of its determination within 15 days of the receipt of the reconsideration request.

(d) During the time period after the board of directors' adoption of the commencement resolution pursuant to paragraph (a) of this section and prior to the effective date of termination, the following conditions shall apply to the terminating institution's conduct of business:

(1) Each prospective new borrower shall be informed of the effect of the proposed termination upon the borrower's loan and stock and shall be specifically informed whether the borrower will continue to have any of the borrower rights provided under the Act and regulations promulgated thereunder;

(2) Any common stockholders or participation certificate holders who seek to have such equity interest retired before termination shall be informed that the retirement would extinguish the holder's right to an interest in the successor institution if the termination is completed or to dissent from the termination and receive an amount equal to the adjusted book value, as determined pursuant to § 611.1260 of this subpart, of the holder's equity in the terminating institution.

(e) Notwithstanding any provisions of § 615.5230(b) of this chapter to the contrary, an institution may adopt bylaws which provide for the issuance of a special class of common stock and participation certificates in connection with loans granted during the time period subsequent to the adoption of the commencement resolution and prior to the termination. Such common stock or participation certificates, which shall be issued in accordance with section 4.3A of the Act, shall have characteristics identical to shares of the existing classes of common stock or participation certificates issued as a condition of the extension of a loan, except for the following:

(1) In the event of termination, the holder shall be entitled to receive the following:

(i) If the holder is eligible to vote and does not vote against the termination, an interest in the successor institution in an amount equal to the adjusted book value, as determined pursuant to § 611.1260 of this subpart, or the purchase price of the stock, whichever is less;

(ii) If the holder is not eligible to vote or is eligible to vote and votes against the termination, either an interest in the successor institution as set forth in paragraph (e)(1)(i) of this section, or, if such holder dissents pursuant to § 611.1260, cash in the amount of the purchase price or the adjusted book value of the stock or participation certificate, whichever is less.

(2) In the event that the termination does not occur, the special classes of stock or participation certificates shall automatically convert into shares of the otherwise identical classes of stock or participation certificates issued prior to the adoption of the commencement resolution.

§ 611.1211 Filing of termination application.

(a) The board of directors of an institution that seeks to terminate its Farm Credit status shall adopt an appropriate termination resolution approving an application for such termination, approving an application for a new charter for the successor institution, and providing for the submission of such termination proposal to its stockholders for a vote.

(b) An original and three copies of a termination application consisting of the following materials shall be submitted by the terminating institution to the Farm Credit Administration for review and preliminary approval:

(1) A certified copy of the termination resolution adopted pursuant to paragraph (a) of this section;

(2) A copy of the plan of termination as required under § 611.1230;

(3) An information statement that complies with the requirements of § 611.1225;

(4) All other information that is to be submitted to the stockholders and other equity holders in connection with the contemplated action; and

(5) Any additional information the board of directors wishes to submit to the Farm Credit Administration in support of the request or that the Farm Credit Administration requires.

(c) The terminating institution shall provide the Farm Credit Administration with any material revisions to information in the plan of termination, including updated financial information, that becomes available during the pendency of the termination application and prior to termination.

§ 611.1212 Filing date of termination application.

(a) Except as provided in paragraph (c) of this section, the termination application shall be given a filing date which shall be the date on which it is determined to be technically complete. Within 10 business days after the Farm Credit Administration receives the termination application, the Farm Credit Administration shall determine that the application is technically complete and give it a filing date, or return the application to the terminating institution if it is incomplete. If the Farm Credit Administration fails to make a determination or fails to return the application before the end of the 10-day review period, the application shall be deemed to be technically complete and shall receive a filing date which shall be the last day of the 10-day review period.

(b) A termination application is considered to be technically complete when it is determined upon preliminary review to contain responses to all items required to be submitted to the Farm Credit Administration under § 611.1211.

(c) In the event that the filing date that would otherwise be assigned to the termination application in accordance with paragraph (a) of this section is less than 60 days following the date on which the Farm Credit Administration received the advance notification required in § 611.1210, the application shall be disapproved by the Farm Credit Administration. However, the Farm Credit Administration may in its sole discretion reduce the required 60-day period in the event that a new Farm Credit service provider to serve the territory is determined. This paragraph shall not apply if the entire territory of the institution is already included in the charter of one or more associations that are chartered to offer credit services of the same type as the terminating institution.

(d) After the Farm Credit Administration has received the advance notification pursuant to § 611.1210, it shall contact other Farm Credit institutions to determine their willingness to provide service to the territory of the terminating institution or to determine if there are persons who wish to charter a new institution to serve the territory. The inability of the Farm Credit Administration to arrange for a new service provider for the territory during the 60 days after receipt of the advance notification shall not be a ground for disapproving the termination application.

§ 611.1215 Farm Credit Administration review and approval.

(a) When the termination application has received a filing date, the Farm Credit Administration shall review the application and either disapprove or give its preliminary approval pursuant to section 7.11(a)(2) of the Act.

(b) The Farm Credit Administration Board shall have 60 days from the filing date, as defined in § 611.1212, to approve or disapprove the termination application. If the Farm Credit Administration Board does not act within such 60-day period, the plan of termination may be submitted to the stockholders pursuant to section 7.11(a)(2) of the Act.

(c) If the application is disapproved, written notice specifying the reasons for disapproval shall be transmitted to the chief executive officer of the institution, who shall promptly notify the institution's board of directors. If the application is disapproved, it shall not be submitted to the stockholders for a vote.

(d) Upon stockholder approval of the proposed termination as provided in § 611.1220, the secretary of the terminating institution shall forward to the Farm Credit Administration a certified record of the results of the stockholder vote and shall notify its stockholders and other equity holders of the results of the vote as provided in § 611.1220(e).

(e) Final approval by the Farm Credit Administration Board pursuant to section 7.10(a)(2) shall be conditioned upon the following:

(1) A termination vote in favor of termination and, if a reconsideration vote is held, a reconsideration vote in favor of termination;

(2) Receipt by the Farm Credit Administration of conformed executed copies of all contracts and agreements submitted pursuant to § 611.1230;

(3) Satisfactory evidence of the terminating institution's adequate provision for payment of debts and retirement of equities;

(4) Evidence of the grant of a new charter for the successor institution by the appropriate Federal or State chartering authority;

(5) Receipt by the Farm Credit Insurance Fund of the exit fee; and

(6) The fulfillment of any other condition of termination imposed by the Farm Credit Administration Board that is necessary and appropriate to provide for the equitable treatment of the parties affected by the termination.

(f) If the Farm Credit Administration grants final approval, the terminating institution's charter shall be revoked, and the termination shall be effective on the last to occur of—

(1) Satisfaction of all conditions listed in paragraph (e) of this section;

(2) The proposed termination date of the terminating institution;

(3) Ninety (90) days after receipt by the Farm Credit Administration of the notice required to be submitted pursuant to paragraph (d) of this section; and

(4) Fifteen (15) days after a reconsideration vote, if such vote is held.

§ 611.1220 Voting record date and stockholder approval.

(a) Upon receipt of preliminary approval of the termination application by the Farm Credit Administration Board, or if the Board takes no action prior to the end of the 60-day period set forth in § 611.1215(b), the terminating institution shall call a meeting of its voting stockholders. The stockholder meeting shall be held within 60 days of receipt of the preliminary approval or, if the Board takes no action, within 60 days of the last day of the 60-day period. All holders of equity in the terminating institution shall be permitted to attend the meeting. The stockholders eligible to vote shall be the stockholders who are eligible to vote on the voting record date as determined by the institution's bylaws if such date is not more than 70 days prior to the stockholder vote, or on a date fixed by the board of directors which shall be not more than 70 days prior to the date of the stockholder vote.

(b) The notice of meeting to consider and act upon the board of directors' resolutions shall be accompanied by an information statement that complies with the requirements of § 611.1225.

(c)(1) The terminating institution shall establish voting security procedures that comply with the procedures for the election of directors in § 611.330, as applicable. Specifically, the terminating institution shall ensure that all information regarding how or whether individual stockholders have voted and all materials such as ballots, proxy ballots, election records, and other relevant documentation related to the votes of stockholders is held in strict confidence.

(2) The terminating institution may adopt procedures that require the stockholders to sign or otherwise verify their eligibility to vote on an envelope which contains a marked ballot in a

sealed envelope. The terminating institution may also use signed proxies or eligibility certificates that will accompany a ballot or instructions on how to vote the proxy in a separate sealed envelope.

(3) The terminating institution shall use a form of identity code on the ballot enabling it to determine which stockholders are eligible to exercise dissenters' rights and shall require that the votes be tabulated by an independent party who is not a stockholder, director, or officer of the terminating institution or the successor institution. When the terminating institution receives notification pursuant to § 611.1260 that a stockholder intends to exercise dissenters' rights, the institution shall verify with the independent party that the stockholder voted against the termination. The terminating institution shall be informed of the vote of a stockholder only in the event that the stockholder exercises the right to retire stock in the institution in accordance with § 611.1260.

(d) The proposal shall be approved by the stockholders if agreed to by a majority of the eligible voting stockholders of the institution voting in person or by proxy at the stockholders' meeting.

(e) Upon approval of a proposed termination by the stockholders of the terminating institution, a certified statement showing the results of the stockholder vote shall be forwarded to the Farm Credit Administration within 10 days following the stockholders' meeting. The terminating institution shall notify its stockholders and other holders of equity interests of the results of the vote not later than 30 days after the final vote. If the stockholder vote is in favor of termination, stockholders who voted against the termination and other equity holders shall be informed of their right to dissent as provided in § 611.1260(f). In addition, the terminating institution shall further notify stockholders of their right to file a petition for reconsideration in accordance with § 611.1235 and that any petition for reconsideration must be filed on or before a date certain, which shall be 35 days after the date the terminating institution mails notice to the stockholders of the results of the stockholder vote.

§ 611.1225 Requirements for information statement.

Notice of the meeting to consider and act upon a proposed termination shall be sent to all stockholders and other holders of equity interests and shall be accompanied by an information statement that contains the information and materials set forth in this regulation as follows:

(a) A statement on either the first page of the material or the notice of the stockholders' meeting, in capital letters and boldface type that:

THE FARM CREDIT ADMINISTRATION HAS NEITHER APPROVED NOR PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION ACCOMPANYING THE NOTICE OF MEETING OR PRESENTED AT THE MEETING AND NO REPRESENTATION TO THE CONTRARY SHALL BE MADE OR RELIED UPON

(b) A paragraph on the first page of the material entitled "Executive Summary" and containing a concise description of the material changes in rights of the borrowers, stockholders, and holders of other equity interests to occur as a result of the termination, the effect of such changes, and the potential benefits and disadvantages to them of the termination.

(c) A description of the plan of termination as required in § 611.1230.

(d) A discussion by the board of directors of the terminating institution of the potential benefits and disadvantages of the termination together with the basis for the board's recommendation for termination.

(e) A list of the initial board of directors and senior officers of the successor institution, together with a brief description of the business experience of each such person, including principal occupation and employment, during the past 5 years.

(f) A summary of the provisions of the organizational documents of the successor institution, including the articles of incorporation and bylaws, that differ materially from the charter and bylaws of the terminating institution. The summary shall indicate both whether the maintenance of a borrowing relationship with the successor institution will be required as a condition for maintaining a stockholder's interest, and whether the maintenance of a stockholder's interest will be required as a condition for maintaining a borrowing relationship.

(g) An explanation of any changes in the nature of the stockholders' and other equity holders' investment in the institution, including but not limited to any changes in dividends, patronage refunds, voting rights, preferences, retirement of equities, and priority upon liquidation. If any eligible borrower stock is outstanding, such explanation shall include a statement that the protection afforded to eligible borrower stock by section 4.9A of the Act shall be extinguished at termination and that any stock of the successor institution received in exchange for eligible borrower stock shall not be protected under section 4.9A of the Act.

(h) An explanation of the effect of termination on the rights that borrowers are granted under the Act; the expiration date of those rights, if applicable, under the provisions of the plan of termination; a statement that borrowers may seek to have their loans sold to or refinanced with another lending institution, including the Farm Credit institution(s) that will be chartered to serve the terminating institution's territory or any other institutions that already serve the territory, provided that any such Farm Credit institution is authorized to make such a loan in accordance with part 614 of this chapter; and an explanation of the procedure for a borrower to apply for the sale or refinancing of his loan to the institution(s) that will be chartered to serve the terminating institution's territory, if such designations have been made. The disclosure shall include the name, address and telephone number of such institution(s), together with a statement that any such institution is not obligated to accept any loans of the terminating institution.

(i) An explanation of the formula and process by which equity of the terminating institution will be exchanged for equity in the successor institution or other consideration.

(j) A description of any agreement or arrangement with any person, including any officers or directors of the terminating institution, relating to employment or termination of employment with the terminating institution or employment with the successor institution.

(k) An explanation of the computation of the exit fee and the estimated amount of the exit fee.

(l) A statement identifying the State or Federal authority that will charter the successor institution and detailing the nature and type of financial institution that the successor institution will become after termination, as well as the conditions of approval, if any, placed on the successor institution by such State or Federal authority.

(m) A summary of the differences, if any, between the terminating institution and the successor institution with respect to interest rates, interest rate policies, collection policies, services provided, service fees, and any other item of interest that would affect a borrower's lending relationship with the successor institution, including any restrictions on stockholders in their ability to borrow from the successor institution.

(n) A discussion of the expected capital requirements of the successor institution, and the amount and method of capitalization for the successor institution.

(o) An explanation of the sources and manner of funding the operations of the successor institution.

(p) An explanation of the existence of any continuing contingent liability and the manner in which this liability will be addressed by the successor institution.

(q) A summary of the differences in tax status of the terminating institution and the successor institution, and an explanation of the effect of such changes on both the successor institution and the stockholders.

(r) A brief description of the regulatory environment for the successor institution and a summary of the differences from the current regulatory environment that affect the cost of doing business or the value of equity and that are not addressed elsewhere in the information statement.

(s) A statement describing those stockholders and other holders of equity that are entitled to dissenters' rights and an explanation of those rights as set forth in § 611.1260, including the estimated value of the stock upon distribution, procedures for the exercise of dissenters' rights and the time period during which such rights may be exercised, and a statement that eligible voting stockholders who do not vote against the termination will not receive dissenters' rights.

(t)(1) A presentation of the following financial data:

(i) A balance sheet and income statement for the terminating institution for each of the 2 preceding fiscal years;

(ii) A balance sheet for the terminating institution as of a date within 90 days of the date the termination application is forwarded to the Farm Credit Administration, presented on a comparative basis with the corresponding period of the prior fiscal year;

(iii) An income statement for the interim period between the end of the last fiscal year and the date of the required balance sheet presented on a comparative basis with the corresponding period of the prior fiscal year;

(iv) A pro forma balance sheet of the successor institution presented as if termination had occurred as of the date of the most current balance sheet presented in the statement; and

(v) A pro forma summary of earnings for the successor institution presented as if the termination had been effective at the beginning of the interim period between the end of the last fiscal year and the date of the balance sheet presented pursuant to paragraph (t)(1)(iv) of this section.

(2) The format for the balance sheet and income statement shall be the same as is contained in the institution's annual report to stockholders and shall contain appropriate footnote disclosures, including data relating to nonperforming loans and related assets and allowance for losses.

(3) The financial statements shall include either of the following:

(i) A statement signed by the chief executive officer and each member of the board of directors of the terminating institution that the various financial statements are unaudited, but have been prepared in all material respects in accordance with GAAP (except as otherwise disclosed therein) and are, to the best of each signer's knowledge, a fair and accurate presentation of the financial condition of the institution; or

(ii) A signed opinion by an independent certified public accountant that the various financial statements have been examined in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and other such auditing procedures as were considered necessary in the circumstances, and, as of the date of the statements, present fairly the financial position of the terminating institution in accordance with GAAP applied on a consistent basis, except as otherwise disclosed therein.

(u) A description of any event subsequent to the date of the financial statements, but prior to the date upon which the termination application is submitted to the Farm Credit Administration, that would have a material impact on the financial condition of the terminating institution or the successor institution.

(v) A description of any event subsequent to the submission of the termination application to the Farm Credit Administration that would have a material impact on any information in the termination application.

(w) A statement of any other material fact or circumstance that a stockholder would need in order to make an informed decision on the proposed plan of termination, or that is necessary to make the required disclosures not misleading.

(x) A proxy, together with instructions on the purpose and authority for its use, and the proper method for signature by the stockholder.

(y) A certification signed by each member of the board of directors of the terminating institution stating that the director has reviewed the entire information statement and that, to the best of his or her knowledge, the information contained therein is truthful, accurate and complete. If any director refuses to sign the certification, the director shall inform the Farm Credit Administration of the reasons for such refusal.

§ 611.1226 Prohibited acts.

(a) No terminating institution or director, officer, employee or agent thereof, shall make any untrue or misleading statement of a material fact, or fail to disclose any material fact concerning the proposed plan of termination to a stockholder of the institution.

(b) No director, officer, employee, or agent of a terminating institution shall make an oral or written representation to any person that a preliminary or final approval by the Farm Credit Administration of an institution's plan of termination constitutes, directly or indirectly, either a recommendation on the merits of the proposal or an assurance concerning the adequacy or accuracy of any information provided to the institution's stockholders and other equity holders in connection therewith.

§ 611.1230 Plan of termination.

The plan of termination shall include the following information:

(a) Copies of all contracts, agreements and other documents pertaining to the proposed termination and organization of the successor institution.

(b) A statement of the means by which the assets of the terminating institution will be transferred to, and its liabilities assumed by, the successor institution.

(c) The terminating institution's plan to retire, and the successor institution's plan to issue, equities held by holders of stock, participation certificates, and allocated equities, if any.

(d) A copy of the charter application filed with the appropriate Federal or State chartering authority, together with any exhibits or other supporting information that is submitted to such authority.

(e) A statement whether the successor institution will continue to have a credit relationship with a Farm Credit bank or other Farm Credit institution and the effect such status will have on the provision for payment of the terminating institution's debts. The plan of termination shall include evidence of the agreement and plan for satisfaction of outstanding debts, whether contained in a general financing agreement or otherwise.

(f) The proposed effective date of the termination.

§ 611.1235 Stockholder reconsideration.

(a) Eligible voting stockholders have the right to reconsider the approval of the termination provided that—

(1) A petition signed by at least 15 percent of the eligible voting stockholders of the institution is filed with the institution, and a copy of such petition is filed with the Farm Credit Administration, within 35 days after the date of mailing of the notification of the final results of the stockholder vote required under § 611.1215; and

(2) Such petition is certified by the terminating institution as provided in paragraph (b) of this section.

(b) Each petition shall include the signature, printed name and full address of each voting stockholder signing the petition. Within 5 days of its receipt of a timely filed stockholder petition, the institution shall certify whether the signatures on the petition are the signatures of persons who were eligible voting stockholders of the terminating institution on the voting record date, and the institution shall notify the Farm Credit Administration of such certification.

(c) The petition shall include the name and address of a person who shall serve as petitioners' representative and who shall represent the interests of the petitioners in the reconsideration vote process.

(d) If the terminating institution certifies that at least 15 percent of eligible voting stockholders have signed the petition, a special stockholders' meeting shall be called by the institution to vote on the reconsideration. Such meeting shall be held within 60 days after the date on which the stockholders were notified of the final result of the termination vote. If a majority of stockholders of the institution voting in person or by written proxy vote against the termination, the termination is not approved. If a majority of stockholders of the institution voting in person or by written proxy vote in favor of the termination, the termination shall be effective pursuant to the provisions of § 611.1215(f), but not earlier than 15 days after the reconsideration vote.

(e) The petitioners, through the petitioners' representative, and board of directors of the terminating institution shall each have the opportunity to present to the stockholders and other equity holders a written statement of their views regarding the reasons for calling a reconsideration vote. Such statements shall be reasonable in length and shall be mailed to stockholders and other equity holders along with the notice of stockholders' meeting for the reconsideration vote.

(f) The terminating institution shall, at its expense, immediately provide the stockholders initiating the petition with a list of the names and addresses of all of the eligible voting stockholders of the institution. All other expenses for the petition shall be borne by the petitioners. Reasonable expenses for the reconsideration vote shall be borne by the terminating institution.

§ 611.1240 Exit fee.

(a) For the purposes of this section, the following definitions apply:

(1) *Assets* means all assets less appropriate valuation reserves as determined in accordance with GAAP except where otherwise noted in this section.

(2) *Contingent liabilities* means those liabilities that, in accordance with GAAP, will materialize if certain events occur.

(3) *Total capital* means all capital stock, surplus and undivided profits accounts as determined in accordance with GAAP, except where otherwise noted, and as adjusted pursuant to the requirements of this section.

(b) A terminating institution shall pay an exit fee equal to the amount by which the total capital of the institution exceeds 6 percent of its assets. The exit fee shall be paid to the Farm Credit Insurance Fund.

(c) The computation date for the exit fee shall be the quarter end preceding the filing date. A certified audit of the terminating institution shall be performed by a qualified public accountant, as defined in § 621.2(a)(21) of this chapter, as of the computation date. The Farm Credit Administration may, in its discretion, waive this requirement if such an audit was performed as of a date within the 6 months preceding the computation date.

(d) The method of computation shall be as follows:

(1) The average daily balance of assets and total capital for the 12 months preceding the computation date will be computed as a basis for determining the exit fee; and

(2) Account balances shall be computed in accordance with GAAP and adjusted in accordance with paragraph (e) of this section.

(e) For purposes of determining the amount of the exit fee, the Farm Credit Administration shall review the terminating institution's transactions over a 3-year period prior to the date of the adoption of the termination resolution. If this review indicates that the terminating institution's account balances do not accurately reflect the terminating institution's value of its assets and liabilities, the Farm Credit Administration may prescribe an accounting principle that is no less stringent than GAAP if the application of GAAP results in financial statements that are not consistent with the Farm Credit Administration's objective of ensuring that the exit fee is calculated on a fair and reasonable basis. In addition, if the review indicates a difference in value from the stated values, or if the institution has retired capital outside the ordinary course of business, or that the institution has taken any other actions unrelated to its core business that have the effect of increasing or decreasing the amount of the exit fee, the Farm Credit Administration may make adjustments to the institution's assets, liabilities, or capital and recompute the exit fee based on these adjustments. The review by the Farm Credit Administration shall include, but not be limited to:

(1) Additions to or subtractions from the allowance for loan losses;

(2) Additions to assets or subtractions from liabilities from transactions that are outside the terminating institution's ordinary course of business;

(3) Dividends or patronage refunds exceeding the terminating institution's usual dividends or patronage refunds;

(4) Changes in the terminating institution's capitalization plan or implementation of that plan that increased or decreased the level of borrower investment;

(5) Contingent liabilities, such as loss-sharing obligations, that can be reasonably quantified; and

(6) Assets that may be overvalued, undervalued or not recorded on the books of the institution.

(f) Capital of the terminating institution owned by another Farm Credit institution or by the Financial Assistance Corporation shall not be included in capital for the purpose of determining the exit fee.

(g) In the event that GAAP requires that a liability be recorded on the balance sheet that will be offset by an unrecorded asset, the transaction recording the liability shall be reversed.

(h) In the event that the terminating institution has recorded expenses, other than tax expenses and expenses due to satisfaction of obligations issued by the Financial Assistance Corporation, that would not have been recorded but for the termination, such transactions shall be reversed.

(i) If, subsequent to the computation date and prior to the termination date, the terminating institution records income tax expenses due to the decision to terminate and expenses due to satisfaction of obligations issued by the Financial Assistance Corporation, the

amount of these expenses shall be deducted from the exit fee.

(j) The exit fee shall be paid by certified check or other means agreed upon by the Farm Credit Administration and the terminating institution.

§ 611.1250 Repayment of debts.

(a) The terminating institution shall provide for the payment or assumption by the successor institution of all outstanding debt obligations.

(b) The terminating institution may establish and maintain an OFI relationship with the Farm Credit Bank, subject to all applicable requirements of part 614, subpart P, of this chapter. The general financing agreement establishing the OFI relationship shall provide for the assumption by the successor institution of any direct loan or other obligation that a production credit association is authorized to incur and that is not repaid at the time of termination. Any part of the direct loan or other obligation that is not linked to a loan covered by the general financing agreement shall be repaid as provided in paragraph (c) of this section.

(c) A terminating institution that will not become an OFI shall either repay its direct loan and any other obligations to the Farm Credit Bank upon termination or shall arrange with the Farm Credit Bank to repay the loan or obligation. The terminating institution may, with the concurrence of the Farm Credit Bank, repay the loan or obligation over a period not to exceed 3 years following termination.

(d) The terminating institution shall pay or make satisfactory provision for payment of obligations to any other Farm Credit institutions under any loss-sharing agreement or other agreement.

(e)(1) The terminating institution shall pay to its district Farm Credit Bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the terminating institution remained in the System, of the estimated present value of:

(i) All future assessments against the bank as required by paragraphs (c)(2)(C), (c)(4), and (c)(5)(F) of section 6.24 of the Act; and

(ii) The future payment obligation of its district bank as required by section 6.26(d)(1)(C)(v) of the Act.

(2) Calculations required by paragraph (e)(1) of this section shall be made by the Financial Assistance Corporation and shall be based on the retail loan volume as of the quarter end preceding the submission of the termination application.

§ 611.1255 Retirement of equities owned.

(a) The Farm Credit Bank may retire all equities of the Farm Credit Bank that are owned by the terminating institution on the termination date or may enter into an agreement with the terminating institution that would provide for a phased retirement of the equities. Any such plan for phased retirement shall provide for such retirement to be completed by the earlier to occur of the date which is 3 years from the termination date or the date on which the terminating institution repays all indebtedness to the bank, provided that no retirement shall occur during that period if any such retirement would result in the Farm Credit Bank's failure to meet minimum capital requirements.

(b) If the Farm Credit Bank and the terminating institution are unable to reach agreement regarding the retirement of Farm Credit Bank equities, either institution may send the most recent proposals to the Farm Credit Administration along with an explanation of the points of disagreement. The Farm Credit Administration may require the bank to retire terminating institution equities under such conditions as the Farm Credit Administration may require.

(c) No retirement shall occur if the Farm Credit Administration determines that the retirement of equities of the Farm Credit Bank would threaten the viability of the Farm Credit Bank.

(d) The amount to be paid to a terminating institution in the retirement of equities owned in the Farm Credit Bank shall be equal to the amount of the stock and allocated equities owned by the terminating institution in the Farm Credit Bank, less any impairment, at the date the request for retirement is made by the terminating institution. If the Financial Assistance Corporation owns any preferred stock in the Farm Credit Bank, any impairment of bank capital shall be applied first against the value of institution-owned equities for the purpose of determining the value of stock to be retired.

(e) If the terminating institution has outstanding stock issued to another Farm Credit institution, the institution shall retire all such equity investment prior to termination.

(f) A Farm Credit Bank's equities obligated to be retired under any agreement between the terminating institution and the Farm Credit Bank shall not be considered as part of the permanent capital of the Farm Credit Bank for purposes of § 615.5240 of this chapter.

§ 611.1260 Dissenters' rights.

(a) Dissenting stockholders, at their discretion, may, but are not required to, have their stock or participation certificates in the terminating institution retired as provided in paragraph (b) of this section. To be eligible to be a dissenting stockholder a person must be the owner, other than a Farm Credit institution, of voting or non-voting stock or other equities of the terminating institution who was either—

(1) Not eligible to vote on the termination resolution; or

(2) Eligible to vote on the termination resolution and voted, in person or by proxy, against such resolution.

(b) The terminating institution shall pay dissenting stockholders in accordance with the priorities in liquidation set forth in the bylaws of the terminating institution. Notwithstanding any provision of paragraph (c) to the contrary, dissenting stockholders who hold eligible borrower stock shall receive not less than par value for their stock.

(c)(1) Except as provided in paragraph (d) of this section, the price paid to dissenting stockholders who own common stock or participation certificates shall be the adjusted book value, which is the book value on the computation date adjusted to reflect—

(i) Any increase or decrease in asset value resulting from the appraisals required in § 611.1240; and

(ii) Deduction of the amount of the exit fee.

(2) Payments made to dissenting stockholders who own common stock or participation certificates referred to in paragraph (c)(1) of this section shall be made on the following basis:

(i) If the adjusted book value of the common stock is less than or equal to the par or stated value of such stock, the full amount of the payment shall be in cash.

(ii) If the adjusted book value of the common stock or participation certificate is greater than its par or stated value, the institution shall pay in cash an amount equal to the par or stated value of the stock or participation certificate. For the amount in excess of par or stated value, the institution may:

(A) Pay cash;

(B) Cause or otherwise provide for the successor institution to issue on the date of termination subordinated debt to the stockholder in an amount equal to the amount by which the adjusted book value exceeds the par or stated value of the stock or participation certificate. Such subordinated notes shall have a maturity date not in excess of 7 years after the date of issuance, shall have a priority on liquidation ahead of all

equity shares but shall be subordinated to the claims of all other creditors, and shall carry a rate of interest that shall be not less than the rate for debt of comparable maturity issued by the Treasury of the United States plus 1 percent; or

(C) Provide for any combination of paragraph (c)(2)(ii)(A) and (c)(2)(ii)(B) of this section.

(d) If the institution has adopted bylaws in accordance with § 611.1210(e), dissenting stockholders who own common stock or participation certificates issued in accordance with such bylaws shall be paid in cash an amount equal to the lesser of the par or adjusted book value of such stock or certificates.

(e) For the purposes of this section, common stock consists of voting stock, non-voting stock that was formerly voting stock, and stock that has no priority of payment over any other class upon liquidation.

(f) The notice to stockholders and other holders of equity interests required in § 611.1220(e) shall include the following information:

(1) A statement of the rights of dissenting stockholders as specified in paragraph (a) of this section;

(2) The current book and par value per share, and the expected book and market value of the stockholder's pro rata interest in the successor institution;

(3) An explanation of the procedure by which stockholders may exercise dissenters' rights and the form they shall return to the terminating institution informing it of their intent to exercise such rights. The notification form by which stockholders may exercise dissenters' rights shall include the date by which the form must be returned to the terminating institution, as specified in paragraph (b) of this section, and a place for stockholders to mark or indicate that they intend to exercise dissenters' rights. The notification form shall be a convenient method for the stockholders to notify the institution and may consist of, but is not limited to, a postcard or pre-printed return envelope;

(4) An explanation that dissenting stockholders shall have until 30 days following notification of their dissenters' rights to request retirement of their stock or participation certificates. The stockholders' election to retire stock shall be rescinded if a petition for reconsideration is successful; and

(5) An explanation that maintenance of a borrowing relationship with the successor institution shall not be required as a condition for owning stock in the successor institution, unless otherwise directed by the bylaws of the successor institution.

(g) The terminating institution shall retire the shares of the dissenting stockholders on or before the termination date.

§ 611.1266 Loan refinancing by borrowers.

(a) All loans and loan assets of the terminating institution shall become assets of the successor institution unless they have been sold by the terminating institution or refinanced by the borrower.

(b) If an institution has been designated to serve the territory of the terminating institution prior to the mailing of the information statement, or if an institution that offers credit services of the same type as the terminating institution is already chartered to serve the territory, such institution shall be identified in the information statement. In addition, such institution shall provide the terminating institution with the following information:

(1) The name and address of the institution office that the borrower may contact;

(2) An explanation of the procedures to apply for financing with the institution and the procedures by which the loan may be transferred to the institution;

(3) An explanation of the stock purchase requirements of the new institution; and

(4) Any other information the institution wishes to include or routinely provides to new borrowers.

(c) If the terminating institution receives the information required in paragraph (b) of this section prior to the mailing of the information statement to borrowers, the terminating institution shall include such information in the information statement. If an institution has not been designated to serve the territory or if the terminating institution does not receive the information required in paragraph (b) of this section prior to the mailing of the information statement, the terminating institution shall furnish each borrower with the address and telephone number of the district Farm Credit Bank or other appropriate Farm Credit institution with an explanation that such institution may be contacted for information about the Farm Credit institution(s) that will serve the territory in the future.

(d) The terminating institution shall provide credit and loan information to the institution designated to serve the territory upon the borrower's request, in accordance with §§ 618.8300 through 618.8325 of this chapter, and take such other steps as are necessary to facilitate the transfer of the loan to the institution.

§ 611.1270 Continuation of borrower rights.

A terminating institution may not require a waiver of applicable borrower rights provisions as a condition of ownership interest in and continued financing by the successor institution. Terminating institutions which maintain an OFI relationship with the Farm Credit Bank shall comply with borrower rights provisions contained in subparts K, L, M and N of part 614 of these regulations.

§ 611.1275 Termination of Large Associations.

(a) When a Large Association proposes to terminate, the Farm Credit Administration shall evaluate in consultation with the Farm Credit System Insurance Corporation, the effect of the proposed termination of the Large Association on the viability of remaining System institutions in its district. The evaluation shall include a 2-year projection of earnings of those institutions.

(b) The Farm Credit Administration may request information from any non-terminating institutions in the Large Association's district in order to complete its evaluation of viability. Such institutions shall reply to any Farm Credit Administration request within 10 business days in order to have their information included in the evaluation unless a longer period is specified by the Farm Credit Administration.

(c) The criteria on which the Farm Credit Administration Board shall base its decision to approve or disapprove the termination shall include the effect of such termination on the viability of institutions that remain in the Farm Credit System.

3. New subparts Q and R are added to read as follows:

Subpart Q—Termination of Farm Credit Status—Farm Credit Banks

Sec.

611.1300 Applicability and definitions.
611.1310 Advance notification.
611.1311 Filing of termination application.
611.1312 Filing date of termination application.
611.1313 Selection of Farm Credit Bank to serve territory.
611.1315 Farm Credit Administration review and approval.
611.1320 Voting record date and stockholder approval.
611.1325 Requirements for information statement.
611.1326 Prohibited acts.
611.1330 Plan of termination.
611.1335 Stockholder reconsideration.

Sec.
611.1340 Exit fee.
611.1350 Repayment of obligations.
611.1355 Retirement of equities.
611.1366 Loan refinancing by borrowers.
611.1375 Farm Credit Administration evaluation.

Subpart R—Termination of Farm Credit Status—Banks for Cooperatives

611.1400 Scope of subpart.
611.1405 Provisions applicable to terminating banks for cooperatives.

Subpart Q—Termination of Farm Credit Status—Farm Credit Banks

§ 611.1300 Applicability and definitions.

(a) Each Farm Credit Bank is authorized, in accordance with sections 7.10 and 7.11 of the Act, to terminate the status of the bank as a Farm Credit institution. The regulations in this subpart, including such regulations as are incorporated by reference, set forth the procedural, disclosure, voting and approval requirements applicable to such termination. The Farm Credit Administration may in its sole discretion grant a waiver in writing from any requirement of this subpart for good cause shown.

(b) The definitions set forth in § 611.1205 of subpart P of this part shall apply to this subpart Q, except that paragraph (h) shall not apply.

§ 611.1310 Advance notification.

(a) A terminating bank's board of directors shall commence the process of termination by adopting a commencement resolution indicating the bank's intention to terminate its Farm Credit status.

(b) Within 5 days of the adoption of the commencement resolution by the board of directors, the terminating bank shall:

(1) Submit a certified copy of the commencement resolution to the Farm Credit Administration and the Farm Credit System Insurance Corporation; and

(2) Mail a brief announcement to all holders of equity in the bank, the Federal Farm Credit Banks Funding Corporation, and the Farm Credit System Financial Assistance Corporation, stating that the board is taking steps to terminate the bank's Farm Credit status and describing the process of termination, the anticipated effect of termination on current holders of equity and on borrowers from the bank or from the associations that are stockholders in the bank, and the type of institution the successor institution will be.

(c) Within 5 days of its receipt of the announcement described in paragraph (b) of this section, each association in the district of the terminating bank shall mail a copy of the announcement to all holders of equity in the association along with an explanation of the effect that the bank's termination may have on their loans, including whether the borrower would continue to have any of the borrower rights provided by the Act and regulations.

(d) Within 10 days of the adoption of the commencement resolution, the terminating bank and the remaining Farm Credit Banks and banks for cooperatives shall enter into negotiations to provide for the terminating bank's satisfaction of joint and several liability on consolidated and Systemwide obligations as set forth in section 4.4 of the Act. Such agreement shall comply with the requirements set forth in § 611.1350(c) of this subpart.

(e)(1) Within 15 days after submission of the commencement resolution pursuant to paragraph (b)(1) of this section, the terminating bank shall submit to the Farm Credit Administration a statement of its estimation of the exit fee together with an explanation of the computation of the exit fee pursuant to the requirements of § 611.1340. For purposes of this estimation of the exit fee, the computation date set forth in § 611.1240(c) shall be the quarter end preceding the date of the commencement resolution.

(2) Within 45 days of its receipt of the terminating bank's estimated exit fee, the Farm Credit Administration shall either confirm the bank's estimate of the exit fee or notify the bank of any required revisions to the computation.

(3) In the event that the Farm Credit Administration requires adjustments to the estimated exit fee pursuant to paragraph (e)(2) of this section, the terminating bank may request reconsideration of any such adjustments. Such request shall be in writing and shall set forth specific reasons why the adjustments should not be made. The Farm Credit Administration shall reconsider the adjustments and shall inform the terminating bank of its determination within 15 days of the receipt of the reconsideration request.

(f) During the time period after the board of directors' adoption of the commencement resolution pursuant to paragraph (a) of this section and prior to the effective date of termination, the following conditions shall apply to the conduct of business of the terminating bank and its affiliated associations:

(1) Each prospective new borrower, other than a Farm Credit institution, shall be informed of the effect of the proposed termination upon the borrower's loan and shall be specifically informed whether the borrower will continue to have any of the borrower rights provided under the Act and regulations promulgated thereunder;

(2) Any existing common stockholders, other than Farm Credit institutions, who seek to have their equity interests retired before termination shall be informed that the retirement would extinguish the holder's right to an interest in the successor institution or to receive an amount equal to the adjusted book value of the holder's equity in the bank if the termination is completed.

§ 611.1311 Filing of termination application.

A terminating bank shall comply with the provisions in § 611.1211 of this part.

§ 611.1312 Filing date of termination application.

(a) A terminating bank shall comply with the provisions in paragraphs (a) and (b) of § 611.1212, except that the reference on paragraph (a) to § 611.1212(c) shall be construed to be a reference to paragraph (b) of this section.

(b) In the event that the advance notification required in § 611.1310 is not received by the Farm Credit Administration at least 90 days prior to the filing date that would otherwise be assigned to the termination application in accordance with paragraph (a) of this section, the application will be disapproved. During this 90-day period, the Farm Credit Administration shall contact other Farm Credit Banks to ascertain their willingness to provide service to the territory of the terminating bank. An inability of the Farm Credit Administration to arrange for a new bank for the territory shall not be grounds for an extension of the 90-day period. However, the Farm Credit Administration may in its sole discretion reduce the required 90-day period in the event that a new bank to serve the territory is selected prior to the expiration of the 90-day period.

§ 611.1313 Selection of Farm Credit Bank to serve territory.

(a) In selecting a Farm Credit Bank for the district of the terminating bank, the Farm Credit Administration shall consider, among other things, the following:

(1) The prospective efficiencies and economies;

(2) The stated preferences of the associations in the district that are not terminating their Farm Credit status;

(3) Compatibility of organization and operations of the district of the

terminating bank and the district of the proposed replacement bank;

(4) Management of the bank;

(5) Capacity of the bank to service the additional territory;

(6) Willingness of the bank to purchase all the loans to the associations in the district;

(7) Market diversities between the bank's district and the district of the terminating bank; and

(8) Geographical proximity.

(b) The Farm Credit Administration may, in its discretion, apportion the district of the terminating bank among two or more Farm Credit Banks.

§ 611.1315 Farm Credit Administration review and approval.

A terminating bank shall comply with the provisions in § 611.1215 of this part, except that the reference in § 611.1215(e) to § 611.1220(e) shall be construed to be a reference to § 611.1320.

§ 611.1320 Voting record date and stockholder approval.

A terminating bank shall comply with the provisions in § 611.1220 of this part, except that paragraph (c)(3) and (d) and the provisions in paragraph (e) pertaining to dissenting stockholders shall not apply. The reference in § 611.1220(b) to § 611.1225 shall be construed to be a reference to § 611.1325.

§ 611.1325 Requirements for information statement.

(a) A terminating bank shall comply with all the provisions in § 611.1225 of this part except paragraphs (h) and (s).

(b) If an OFI owns any shares of the terminating bank, the information statement shall also include a statement that OFIs shall have the right to have their stock retired together with an explanation of the procedures for doing so.

§ 611.1326 Prohibited acts.

A terminating bank and affiliated persons shall comply with the provisions in § 611.1226 of this part.

§ 611.1330 Plan of termination.

A terminating bank shall comply with the provisions in § 611.1230 of this part.

§ 611.1335 Stockholder reconsideration.

A terminating bank shall comply with the provisions in § 611.1235 of this part. For purposes of this section, the references to "15 percent of the eligible voting stockholders" in paragraphs (a) and (d) of § 611.1235 shall mean stockholder associations representing 15 percent of the eligible voting shares in the district.

§ 611.1340 Exit fee.

(a) If a Farm Credit Bank terminates alone, the exit fee shall be computed as follows:

(1) The assets and capital of the associations affiliated with the terminating bank, including unallocated surplus and earnings computed pursuant to § 611.1355(a), shall be deducted from the assets and capital of the terminating bank.

(2) After deduction of the assets and capital of the associations, any allowance for losses on assets that will be repaid at a value above net book value as a result of the termination shall be added to the assets and unallocated surplus of the bank, and the terminating bank shall comply with the provisions in § 611.1240 of this part.

(b) If a Farm Credit Bank terminates its Farm Credit status in conjunction with one or more affiliated associations, the exit fee shall be computed as follows:

(1) The exit fee for each terminating association shall be computed in accordance with § 611.1240.

(2) The balance sheets of the Farm Credit Bank as computed under paragraph (a) of this section, and of the terminating association(s) shall be combined, and the exit fee of the combined entity shall be computed in accordance with § 611.1240.

(3) The exit fee for the terminating bank shall be the amount by which the exit fee for the combined entity exceeds the total of the exit fees of the individual terminating associations.

(c) The equity of any OFI that chooses to receive cash from the transaction pursuant to § 611.1355(c) shall be deducted from the assets and capital of the terminating Farm Credit Bank in the computation of the exit fee.

§ 611.1350 Repayment of obligations.

(a) The terminating bank shall provide for the payment or assumption by the successor institution of all outstanding System debt obligations.

(b) Satisfaction of consolidated or Systemwide obligations on which a terminating bank is primarily liable shall be provided for in one or more of the following ways:

(1) Assumption of primary liability by one or more remaining System banks;

(2) Open market purchase and cancellation of obligations representing issues on which the terminating bank is a primary obligor; or

(3) Deposit of funds into a trust account in an amount sufficient to retire principal and interest on the Systemwide obligations on which the terminating bank is primarily liable.

(c) The terminating bank shall enter into an agreement with the remaining System banks, subject to the approval of the Farm Credit Administration, which agreement shall specify how the successor institution shall satisfy its joint and several liability under section 4.4 of the Act, to holders of obligations issued pursuant to section 4.2 of the Act and outstanding on the termination date. Any payments that may be made pursuant to such agreement, whether prior to or subsequent to termination, shall not exceed the amount that would have been payable by the terminating bank if a call by the Farm Credit Administration pursuant to section 4.4(a)(2)(B) of the Act had been made on the day prior to the termination date for the entire amount of Systemwide debt outstanding.

(d) In the event that the terminating bank and the remaining banks are unable to reach agreement within 90 days prior to the proposed termination date, the Farm Credit Administration shall require the banks to enter into an agreement that shall establish the terminating bank's proportionate share of any subsequent calls to be made as follows:

(1) The Farm Credit Administration shall determine a date to compute the percent of the total of the liability for which the terminating bank is responsible. Such liability computation date shall be on or before the computation date.

(2) The total amount of bonds on which the terminating bank is primarily liable as a percentage of total bonds issued and outstanding on the liability computation date shall be determined.

(3) This percentage shall be applied to only those obligations issued and outstanding on the bank's termination date.

(e) The terminating bank shall remain jointly and severally liable for all consolidated and Systemwide debt outstanding on the terminating date. The terminating bank shall sign a statement acknowledging the joint and several liability and liability for interest on obligations issued by other banks operating under the same title of the Act as part of the termination application.

(f)(1) The terminating bank shall pay to the Financial Assistance Corporation a share of the estimated present value of:

(i) All future assessments against the bank as required under section 6.9(e)(B) and paragraphs (c)(2)(C), (c)(4), and (c)(5)(A) and (B) of section 6.26 of the Act based on the average accruing retail loan volume of the bank and its affiliated associations for the preceding

year, had the bank remained in the System;

(ii) The payment required under section 6.26(d)(1)(C) of the Act based on the average accruing retail loan volume of the bank and its affiliated associations during the time period from the year that the obligations were issued to the year prior to the computation date, had the bank remained in the System; and

(iii) The payment required under section 6.9(e)(2)(C) of the Act based on the average accruing loan volume of the bank during the time period from the year that the obligations were issued to the year prior to the computation date, had the bank remained in the System.

(2) The present value estimate shall be made by the Financial Assistance Corporation.

§ 611.1355 Retirement of equities.

(a) The terminating bank must retire all equities owned by another Farm Credit institution prior to termination, unless such institution is an association that is terminating its Farm Credit status in conjunction with the bank's termination. The value of the equities shall include both allocated and unallocated equities and shall be calculated in accordance with § 611.1340, except that the amount of the exit fee shall not be deducted from the assets of the bank for purposes of the calculation. In addition, the amount of the unallocated surplus shall be distributed based on the average direct loan for the 36 months preceding the computation date.

(b) The terminating bank must retire all preferred stock owned by the Financial Assistance Corporation by a method acceptable to the Financial Assistance Corporation and the Farm Credit Administration.

(c) A holder of equities in the terminating bank, other than the Financial Assistance Corporation or another Farm Credit institution, may, but is not required to, have its equities retired on the same basis as provided in paragraph (a) of this section. Such holder shall inform the terminating bank of its preference within 90 days of the terminating bank's distribution of an information statement unless the bank permits an extension of time.

§ 611.1365 Loan refinancing by borrowers.

A terminating bank shall comply with the provisions in § 611.1266 of this part.

§ 611.1375 Farm Credit Administration evaluation.

(a) Within 30 days of the adoption of a commencement resolution by an institution, or group of institutions, whose assets on a combined basis constitute 10 percent or more of the assets of the Farm Credit System, the remaining Farm Credit Banks, banks for cooperatives and other System institutions may submit an analysis of projected financial condition and earnings for a 2-year period following the proposed termination date to the Farm Credit Administration. Any such analysis shall include a discussion of:

(1) The effect of the termination(s) on the viability of the remaining System institution(s) and/or any affiliated institutions;

(2) Any projected change in the cost of funds to the institutions remaining in the System due to increased expenses or higher interest rates, including the assumptions on which the projection is based; and

(3) Other relevant information.

(b) The Farm Credit Administration shall make a separate analysis and shall review any analysis provided by non-terminating System institutions and make a final determination as to the probable effect of such termination on the viability of institutions remaining in the Farm Credit System.

(c) Banks that do not terminate shall provide necessary information to the Farm Credit Administration as may be requested by the agency to enable the Farm Credit Administration to make accurate financial projections.

(d) The criteria on which the Farm Credit Administration Board shall base its decision whether to approve or disapprove a proposed termination shall include the effect of such termination on the viability of institutions that remain in the Farm Credit System.

Subpart R—Termination of Farm Credit Status—Banks for Cooperatives

§ 611.1400 Scope of subpart.

Each bank for cooperatives is authorized, in accordance with sections 7.10 and 7.11 of the Act, to terminate its status as a Farm Credit institution. The regulations in this subpart, including such regulations as are incorporated by reference, set forth the procedural, disclosure, voting and approval requirements applicable to such termination. The Farm Credit Administration may, in its sole discretion, grant a waiver in writing from any requirement of this subpart for good cause shown.

§ 611.1405 Provisions applicable to terminating banks for cooperatives.

(a) A terminating bank for cooperatives shall comply with all the provisions applicable to terminating associations in subpart P of this part, except that the following provisions shall not apply: § 611.1205(h), § 611.1212(c), § 611.1255, § 611.1270, and § 611.1275.

(b) A terminating bank for cooperatives shall comply with the following provisions in subpart Q of this part: § 611.1310, § 611.1350, § 611.1355, and § 611.1375.

Dated: March 15, 1993.

Nan P. Mitchem,

Acting Secretary, Farm Credit Administration Board.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-03-AD]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model ATP series airplanes. This proposal would require placing a life limit on certain bolts that attach the left- and right-hand aft isolator brackets to the engine subframe aft mounting beams. This proposal is prompted by results of fatigue tests and service experience, which indicate that these bolts are subject to fatigue failure prior to the fatigue lives specified in the Airplane Maintenance Manual for these airplanes. The actions specified by the proposed AD are intended to prevent structural failure of the engine support structure.

DATES: Comments must be received by May 14, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-03-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414,

Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-NM-03-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-03-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model ATP series airplanes. The CAA advises that fatigue tests and service experience for the bolts that attach the left- and right-hand aft isolator brackets to the engine subframe aft mounting beams indicate that these bolts are subject to fatigue failure prior to the fatigue lives of 7,200 and 10,800 landings, as specified in the Airplane Maintenance Manual for Model ATP series airplanes. This condition, if not corrected, could result in structural failure of the engine support structure.

British Aerospace has issued Service Bulletin ATP-54-9, dated December 9, 1992, which describes procedures for establishing a life limit of 5,000 landings for aft isolator bracket attachment bolts, part numbers A102-4E and A102-5E, on the left- and right-hand engine subframes. The service bulletin also describes procedures for repetitive inspections of those bolts that have exceeded 5,000 landings to detect missing, failed, or cracked bolts; and installation or replacement of bolts, if necessary. The CAA classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require placing a life limit of 5,000 landings for aft isolator bracket attachment bolts, part numbers A102-4E and A102-5E, on the left- and right-hand engine subframes. The proposed AD would also require repetitive inspections of those bolts that have exceeded 5,000 landings to detect missing, failed, or cracked bolts; and installation or replacement of bolts, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 10 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed replacement, and that the average labor rate is $55 per work hour. The cost for required parts would be minimal. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $550, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 93-NM-03-AD.

Applicability: Model ATP series airplanes having aft isolator bracket attachment bolts, part number A102-4E or A102-5E; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure of the engine support structure, accomplish the following:

(a) For airplanes on which the aft isolator bracket attachment bolts have accumulated less than 5,000 total landings as of the effective date of this AD: Prior to the accumulation of 5,000 total landings on the bolts, or within 1,250 hours time-in-service after the effective date of this AD, whichever occurs later, remove the bolts and replace them with new or serviceable parts, in accordance with British Aerospace Service Bulletin ATP-54-9, dated December 9, 1992. Thereafter, prior to the accumulation of 5,000 total landings on any bolt, replace it with a new or serviceable bolt, in accordance with the service bulletin.

(b) For airplanes on which the aft isolator bracket attachment bolts will have accumulated 5,000 or more total landings before it is replaced in accordance with paragraph (a) of this AD: Prior to the accumulation of 5,000 total landings or within 150 hours time-in-service after the effective date of this AD, whichever occurs later, perform a visual inspection of the aft isolator bracket attachment bolts to determine if each bolt is in position, and to detect failed or cracked bolts, in accordance with British Aerospace Service Bulletin ATP–54–9, dated December 9, 1992.

(1) If any bolt is missing, failed, or cracked, prior to further flight, replace all four bolts in the assembly with new or serviceable parts, in accordance with the service bulletin. Thereafter, prior to the accumulation of 5,000 total landings on any bolt, replace it with a new or serviceable bolt, in accordance with the service bulletin.

(2) If no bolt is missing, failed, or cracked, repeat the visual inspection thereafter at intervals not to exceed 150 hours time-in-service. Within 1,250 hours time-in-service after the effective date of this AD, replace each bolt with a new or serviceable part, in accordance with the service bulletin. Thereafter, prior to the accumulation of 5,000 total landings on any bolt, replace it with a new or serviceable bolt, in accordance with the service bulletin.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–6339 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–NM–02–AD]

Airworthiness Directives; SAAB-SCANIA Model SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain SAAB-SCANIA Model SF340A and SAAB 340B series airplanes. This proposal would require the installation of an additional protective shield between the existing heat protection and the air cycle machine in the environmental control system (ECS) compartment of the fuselage. This proposal is prompted by two in-flight incidents in which leakage of hot air from the air cycle machine in the ECS occurred and was not detected. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the fuselage, possible rupture, and subsequent decompression of the airplane.

DATES: Comments must be received by May 14, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–02–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from SAAB–SCANIA AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–02–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–02–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain SAAB-SCANIA Model SF340A and SAAB 340B series airplanes. The LFV advises that two in-flight incidents have occurred in which the flight crew detected that the environmental control system (ECS) was malfunctioning. The leakage of hot air from the air cycle machine in the ECS was not detected. Results of a subsequent inspection indicated that leakage had probably occurred numerous times. The LFV indicates that leakage of this type may cause damage to the fuselage structure of these airplanes. This condition, if not corrected, could result in reduced structural integrity of the fuselage, possible rupture, and subsequent decompression of the airplane.

SAAB-SCANIA has issued SAAB 340 Service Bulletin SAAB 340–53–028, dated August 20, 1992, which describes procedures for the installation of an additional protective shield between the existing heat protection and the air

cycle machine in the ECS compartment of the fuselage.

Installation of this shield will improve the heat protection of the structure. The LFV classified this service bulletin as mandatory and issued Swedish Airworthiness Directive SAD No. 1-055, dated September 4, 1992, in order to assure the continued airworthiness of these airplanes in Sweden.

This airplane model is manufactured in Sweden and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require the installation of an additional protective shield between the existing heat protection and the air cycle machine in the ECS compartment of the fuselage. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 188 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 20 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be supplied by the manufacturer to operators at no cost. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $206,800, or $1,100 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

SAAB-SCANIA: Docket 93-NM-02-AD.

Applicability: Model SAAB SF340A series airplanes, serial numbers 004 through 159, inclusive; Model SAAB 340B series airplanes, serial numbers 160 through 252, inclusive, and 254 through 258, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the fuselage, accomplish the following:

(a) Within 3,000 hours time-in-service after the effective date of this AD, install an additional protective shield between the existing heat protection and the air cycle machine, in accordance with SAAB 340 Service Bulletin SAAB 340-53-028, dated August 20, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-6338 Filed 3-18-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 71

[Airspace Docket No. 92-ASW-36]

Proposed Establishment of Jet Route J-184

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Jet Route J-184 between Buckeye, AZ, and Newman, TX. Currently, Jet Route J-4 is the only route between these points and aircraft are routinely vectored between Buckeye and Newman to expedite the movement of traffic in the area and to reduce the congestion on that jet route. The new J-184 would provide an alternate route to the north of J-4 and segregate en route traffic from traffic transitioning between Buckeye and Newman. This action would improve the traffic flow and reduce controller workload.

DATES: Comments must be received on or before April 28, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW-500, Docket No. 92-ASW-36, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX 76193-0500.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92–ASW–36." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish J–184 between Buckeye, AZ, and Newman, TX. Currently, J–4 is the only route between these areas; therefore, aircraft are routinely vectored in that area to expedite traffic and to reduce congestion along J–4. The new J–184 would provide air traffic control with an alternative to radar vectors. This action would improve the flow of traffic in the area and reduce controller workload. Jet routes are published in § 71.607 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The jet route listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Jet routes.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A Compilation of Regulations, dated November 2, 1992, and effective November 27, 1991, is amended as follows:

Section 71.607 Jet Routes.

* * * * *

J–184 [New]

From Buckeye, AZ; Daming, NM; to Newman, TX

* * * * *

Issued in Washington, DC, on March 3, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–6374 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 92–ANE–25]

Proposed Alteration of VOR Federal Airway V–123; NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Federal Airway V–123 by realigning the airway from the TRESA Intersection to the CASSH Intersection located in the State of New York. Realigning V–123 would simplify the flow of traffic and reduce controller workload.

DATES: Comments must be received on or before May 5, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ANE–500, Docket No. 92–ANE–25, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the ofnce of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall

regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92–ANE–25." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to realign V–123 from the TRESA Intersection to the CASSH Intersection located in the State of New York. Altering this airway by eliminating the dogleg would simplify the flow of traffic and reduce the air traffic controller's workload in the Albany, NY, area. Domestic VOR Federal airways are published in § 71.123 of FAA Order 7400.7A, dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The airways listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Domestic VOR Federal airways, Incorporation by reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.123 Domestic VOR Federal Airways

* * * * *

V–123 [Revised]

From INT Washington, DC, 065° and Baltimore, MD, 197° radials, via INT Washington, DC, 065° and Woodstown, NJ, 230° radials; Woodstown; Robbinsville, NJ; INT Robbinsville 044° and LaGuardia, NY, 213° radials; LaGuardia; INT LaGuardia 032° and Carmel, NY, 157° radials; Carmel; INT Carmel 344°T (356°M) and Albany, NY, 181°T (194°M) radials; Albany; Cambridge, NY; to Glens Falls, NY.

* * * * *

Issued in Washington, DC, on March 10, 1993.

Willis C. Nelson,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–6375 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. 92N–0382]

Gastroenterology-Urology Devices; Effective Date of Requirement for Premarket Approval of Testicular Prosthesis; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to May 14, 1993, the comment period for the proposed rule to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the testicular prosthesis, a medical device. FDA is taking this action in response to a request for an extension of the comment period.

DATES: Written comments by May 14, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mark D. Kramer, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1194.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 13, 1993 (58 FR 4116), FDA issued a proposed rule to require the filing of a PMA or a notice of completion of a PDP for the testicular prosthesis, a medical device. Interested persons were given until March 15, 1993, to respond to the proposed rule. FDA received one request for an extension of the comment period for 120 days. The request stated that additional time was needed to review all of the clinical issues, medical literature, clinical endpoint, and safety criteria to adequately address them.

FDA agrees in part with the request and is granting a 60-day extension. Accordingly, the comment period is extended to May 14, 1993.

Interested persons may, on or before May 14, 1993, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that

individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 10, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-6359 Filed 3-18-93; 11:40 am]

BILLING CODE 4160-01-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter 1

Regulatory Flexibility Act Plan for Periodic Review of the Commission's Rules and Regulations

AGENCY: Federal Communications Commission.

ACTION: Advanced notice of proposed rule making.

SUMMARY: This action establishes a plan for the review of FCC regulations pursuant to the requirements of the Regulatory Flexibility Act of 1980 (94 Stat. 1164, Pub. L. 96-354, September 19, 1980), 5 U.S.C. 610. The Appendix specifies the Commission's rules that will be reviewed during calendar year 1993. Any revision to this plan will be published in the Federal Register.

DATES: Comments on the rules chosen for review are due May 18, 1993.

ADDRESSES: Comments should be submitted to: Secretary, Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Terry Johnson, Office of Managing Director (202) 632-0923.

SUPPLEMENTARY INFORMATION: Pursuant to the published plan, specific regulations which may require amendment or rescission will be published and provision will be made for comments by interested parties.

1. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 610, the Commission hereby publishes this plan for the review of all rules issued by the agency in calendar years 1981, 1982 and 1983 which have, or will have, a significant economic impact on a substantial number of small entities. The purpose of the review will be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of such rules upon a substantial number of small entities.

2. The accompanying appendix lists the FCC regulations to be reviewed during calendar year 1993. In succeeding years, lists will be published for the review of regulations promulgated ten years preceding the year of review.

3. In reviewing each rule under this plan to minimize significant economic impact on small entities consistent with the stated objectives of applicable statutes, the FCC will consider the following factors:

(1) The continued need for the rule;

(2) The nature of complaints or comments received concerning the rule from the public;

(3) The complexity of the rule;

(4) The extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

(5) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

4. Appropriate information has been provided for each rule including a brief description of the rule and the need for and legal basis of the rule. Pursuant to the Regulatory Flexibility Act, the public is invited to comment on the rules chosen for review within May 18, 1993. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments. If participants wish each Commissioner to have a personal copy of their comments, an original plus nine copies must be filed. Comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments will be available for public inspection during regular business hours in the FCC Reference Center (room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

5. *It is ordered that,* The Secretary shall send a copy of this Notice to the Chief Counsel for Advocacy of the Small Business Administration pursuant to the Regulatory Flexibility Act. Public Law No. 96-354, Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Appendix—List of Rules for Review Pursuant to Section 610(c) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 610(c) For 1993

Office of Engineering and Technology

Part 2—Frequency Allocations and Radio Treaty Matters; General Rules and Regulations

Subpart B—Allocation, Assignment, and Use of Radio Frequencies

Need: These rules provide for the allocation of radio spectrum.

Legal Basis: 47 U.S.C. 154, 302, 303.

Section Number and Title Description

2.106 Table of Frequency Allocations.

Subpart I—Marketing of Radiofrequency Devices

Need: These rules provide for authorization of radiofrequency devices.

Legal Basis: 47 U.S.C. 154, 302, 303.

Section Number and Title Description

2.803 Equipment requiring Commission approval.

Subpart J—Equipment Authorization Procedures

Need: These rules provide for authorization of radiofrequency devices.

Legal Basis: 47 U.S.C. 154, 302, 303.

Section Number and Title Description

General Provisions

2.901 Basis and purpose.
2.902 Verification.
2.904 Notification.
2.908 Identical defined.

Conditions Attendant to a Grant of an Equipment Authorization

2.931 Responsibility of the grantee.
2.932 Modification of equipment.
2.938 Retention of records.
2.941 Availability of information relating to grants.
2.943 Submission of equipment for testing.

Verification

2.951 Cross reference.
2.952 Limitations on verification.
2.953 Responsibility of manufacturer or importer.
2.955 Retention of records.
2.956 FCC inspection and submission of equipment for testing.
2.957 Sampling tests of equipment compliance.

Notification

2.971 Cross reference.
2.973 Limitations on notification.
2.975 Application for notification.
2.977 Changes in notified equipment.

2.979 Information required on identification label for notified equipment.

Private Radio Bureau

Part 13—Commercial Radio Operators

Need: These rules prescribe rules and regulations for the licensing of commercial radio operators.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

General

13.2 Classification of operator licenses and endorsements.
13.3 Holding of more that one commercial radio operator license.
13.4 Term of licenses.
13.5 Eligibility for new license.

Applications

13.11 Application filing procedures.
13.12 Additional requirements for First Class Radiotelegraph Operator's Certificate and six months service endorsement.

Examinations

13.21 Examination elements.
13.22 Required qualifications.
13.23 Examination procedures.
13.25 Examination credit for licenses held.
13.26 Cancellation of superfluous licenses.
13.28 License renewals.

Scope of Authority

13.61 Need for licensed commercial radio operators.
13.62 Violations; aiding and abetting.

Miscellaneous

13.76 Limitation on certain Restricted Radiotelephone Operator Permits.

Part 17—Construction, Marking, and Lighting of Antenna Towers

Need: These rules prescribe rules and regulations for the construction, marking and lighting of antenna towers.
Legal Basis: 47 U.S.C. 154, 303, 307.

Section Number and Title Description

17.4 Commission consideration of proposed antenna structure with respect to possible hazard to air navigation.
17.49 Recording of tower light inspections in the station record.

Common Carrier Bureau

Part 21—Domestic Public Fixed Radio Services

Subpart B—Applications and Licenses

Need: These rules prescribe filing requirements, application forms and procedures for Domestic Public Fixed Radio Services.
Legal Basis: 47 U.S.C. 154, 303, 307–310.

Section Number and Title Description

21.15 Technical content of applications.
21.23 Amendment of applications.
21.39 Consideration involving transfer or assignment applications.
21.45 License period.

Subpart C—Technical Standards

Need: These rules prescribe technical operating standards for stations in the Domestic Public Fixed Radio Services.

Legal Basis: 47 U.S.C. 154, 303, 307–310.

Section Number and Title Description

21.100 Frequencies.
21.101 Frequency tolerance.
21.108 Directional antennas.
21.122 Microwave digital modulation.

Subpart G—Digital Electronic Message Service

Need: These rules prescribe standards for the Digital Electronic Message Service in the Domestic Public Fixed Radio Services.

Legal Basis: 47 U.S.C. 154, 303, 307–310.

Section Number and Title Description

21.500 Eligibility.
21.501 Digital Termination Nodal Stations may be authorized only as part of a Digital Termination System.
21.502 Frequencies.
21.503 Frequency stability.
21.504 Frequency interference.
21.505 Purpose and permissible service.
21.506 Transmitter power.
21.507 Radiated power limitation in 10,600–10,680 MHz band.
21.508 Emission and bandwidth.
21.509 Antennas.
21.510 Interconnection.
21.511 Spectrum utilization.

Subpart I—Point to Point Microwave Radio Service

Need: These rules allocate spectrum and establish its use for the Point-to-Point Microwave Service in the Domestic Public Fixed Radio Services.

Legal Basis: 47 U.S.C. 154, 303, 307–310.

Section Number and Title Description

21.701 Frequencies.
21.703 Bandwidth and emission limitations.
21.710 Limitations on path lengths and channel loading.

Subpart K—Multipoint Distribution Service

Need: These rules allocate spectrum for use by the Multipoint Distribution Service licensees in the Domestic Public Fixed Radio Services.

Legal Basis: 47 U.S.C. 154, 303, 307–310.

Section Number and Title Description

21.901 Frequencies.
21.903 Purpose and permissible service.
21.909 MDS response stations.

Part 22—Public Mobile Service

Subpart A—General

Need: These rules prescribed general standards and definitions for the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.0 Scope and authority.
22.1 Other applicable rule parts.
22.2 Definitions.

Subpart B—Applications and Licenses

Need: These rules prescribe filing requirements and procedures for processing applications for the Public Mobile services.
Legal Basis: 47 U.S.C. 152–155, 301, 303, 307–309, 315, 317.

Section Number and Title Description

22.3 Authorization required.
22.4 Eligibility.
22.5 Formal and informal applications.
22.6 Filing of applications, fees, and number of copies.
22.9 Standard application forms for Public Land Mobile, Rural Radio, Domestic Public Cellular Radio Telecommunications and Offshore Radio Services.
22.11 Miscellaneous forms shared by all public mobile services.
22.13 General application requirements.
22.15 Technical content of applications.
22.16 Objective need standards.
22.19 Waiver of rules.
22.20 Defective applications.
22.21 Inconsistent or conflicting applications.
22.22 Repetitious applications.
22.23 Amendment of applications.
22.25 Application for temporary authorization.
22.26 Receipt of application.
22.27 Public notice period.
22.28 Dismissal and return of applications.
22.29 Ownership changes and agreements to amend or to dismiss applications or pleadings.
22.30 Opposition to applications.
22.31 Mutually exclusive applications.
22.32 Consideration of applications.
22.33 Grants by random selection.
22.35 Comparative evaluation of mutually exclusive applications.
22.39 Transfer of control or assignment of station authorization.
22.43 Period of construction.
22.44 Termination of authorization.
22.45 License period.

Subpart C—Technical Standards

Need: These rules prescribe technical standards for stations in the Public Mobile Services.

Legal Basis: 47 U.S.C. 154, 303

Section Number and Title Description:

22.100 Frequencies, interference.
22.101 Frequency tolerance.
22.103 Standards governing use of 72–76 MHz band.
22.104 Emission types.
22.105 Bandwidth.
22.106 Emission limitations.
22.107 Transmitter power.
22.108 Directional antennas.
22.109 Antenna structure.
22.110 Anntenna polarization.
22.113 Quiet zones.
22.115 Topographic data.
22.117 Transmitters.
22.119 Limitation on use of transmitters for other services.
22.120 Type acceptance of transmitters.
22.121 Replacement of equipment.

Subpart D—Technical Operation

Need: These rules prescribe technical operations required by stations in the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.200 Station inspection.
22.201 Posting station licenses.
22.205 Operator and maintenance requirements (licensee's general responsibility).
22.208 Station records.
22.210 Operation during emergency.
22.212 Tests.
22.213 Station identification.

Subpart E—Miscellaneous

Need: These rules prescribe miscellaneous requirements for stations in the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.302 Duty of permittees and licensees to respond to official communications.
22.303 Discontinuance of station operation.
22.304 Tariffs, other reports.
22.307 Equal employment opportunities.
22.308 Incidental communication services.
22.309 Representations.

Subpart F—Development Authorizations

Need: These rules prescribe standards for development authorizations for the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.400 Eligibility.
22.401 Scope of service.
22.402 Adherence to program of research and development.
22.403 Special procedure for the development of a new service or for the use of frequencies not in accordance with the provisions of the rules in this part.
22.404 Terms of grant; general limitation.
22.405 Additional application content.
22.406 Developmental report required.
22.407 Renewal.

Subpart G—Public Land Mobile Service

Need: These rules prescribe standards for the Public Land Mobile Service in the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.500 Eligibility.
22.501 Frequencies.
22.502 Classification of base stations.
22.503 Geographical separation of co-channel stations.
22.504 Reliable service area.
22.505 Antenna height-power limit.
22.506 Power.
22.507 Bandwidth and emission limitations.
22.508 Modulation requirements.
22.509 Permissible communications.
22.514 Responsibility for operational control and maintenance of mobile units.
22.515 Control points.
22.516 Usage showing for additional channels.
22.517 Repeater stations.
22.518 Use of mobile station frequency for control station.
22.519 Dispatch stations.
22.521 Air-ground radiotelephone service.
22.522 Base station signaling system requirements for calling airborne stations.
22.523 Airborne station receiver requirements.
22.524 Auxiliary test stations.
22.525 One-way signaling stations.
22.527 Channel assignment policies for 900 MHz one-way signaling channels reserved for stations engaged in providing network signaling service.

Subpart H—Rural Radio Service

Need: These rules prescribe standards for the Rural Radio Service in the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.600 Eligibility.
22.601 Frequencies.
22.604 Emission limitations.
22.605 Modulation requirements.
22.606 Permissible communications.
22.607 Priority of service.
22.608 Supplementary showing required with application for interoffice stations.
22.609 Supplementary showing required with applications for central office stations and rural subscriber stations.
22.610 Temporary fixed station. (Rural subscriber, interoffice, and central office stations.)

Subpart K—Domestic Public Cellular Radio Telecommunications Service

Need: These rules prescribe standards for the Domestic Public Cellular Radio Telecommunications Service in the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.900 Scope.
22.901 Eligibility.
22.902 Frequencies.
22.903 Cellular system service areas.
22.904 Power limitations.
22.905 Antenna height-power for base stations.
22.906 Types of emissions and modulation requirements.
22.907 Emission requirements.
22.908 Transmitter construction and installation.
22.909 Control point.
22.910 Station identification.
22.911 Permissible communications.
22.912 Responsibility for operational control and maintenance of mobile stations.
22.913 Content of applications.
22.914 Provision of service to subscribers.
22.915 Cellular system capability specification.
22.916 Evaluation of cellular applications.
22.917 Demonstration of financial qualifications.
22.918 Amendment of cellular applications.
22.919 Restrictions on motions to enlarge issues.

Subpart L—Offshore Radio Service

Need: These rules prescribe standards for the Offshore Radio Service in the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.1000 Eligibility.
22.1001 Frequencies.
22.1002 Power limitations.
22.1003 Emission limitations.
22.1004 Modulation requirements.
22.1005 Permissible communication.
22.1006 Temporary Fixed Stations (Offshore Radio).
22.1008 Priority of Service.

Part 25—Satellite Communications

Subpart C—Technical Standards

Need: These rules prescribe technical standards for authorizations in the Fixed-Satellite Service.
Legal Basis: 47 U.S.C. 303.

Section Number and Title Description

25.201 Definitions.
25.202 Frequencies, frequency tolerance and emission limitations.
25.204 Power Limits.
25.205 Minimum angle of antenna elevation.
25.208 Power flux density limits.
25.209 Antenna performance standards.
25.251 Special requirements for coordination.

Part 61—Tariffs

Need: These rules prescribe general and specific rules and procedures for

tariff publications, concurrences, special permission, suspensions and other tariff related documents.

Legal Basis: 47 U.S.C. 154, 203.

Section Number and Title Description

61.1 Purpose and application.
61.2 Clear and explicit explanatory statements.
61.3 Definitions.

General Rules

61.32 Method of filing publications.
61.33 Letters of transmittal.
61.35 Delivered free of charges.
61.36 Tariff publications not returned.
61.38 Supporting information to be submitted with letters of transmittal.

Specific Rules for Tariff Publications

61.52 Form, size, type, legibility, etc.
61.53 Consecutive numbering.
61.54 Composition of tariffs.
61.56 Supplements.
61.57 Cancellations.
61.58 Notice requirements.
61.59 Effective period required before changes.
61.67 New or discontinued telephone, telegraph, teletypewriter service points; mileages.
61.68 Special notations.
61.69 Rejection.
61.71 Reissued matter.
61.72 Posting.
61.73 Duplication of rates and regulation.
61.74 References to other instruments.

Concurrences

61.131 Scope.
61.132 Method of filing concurrences.
61.133 Format of concurrences.
61.134 Concurrences for through services.
61.135 Concurrences for other purposes.
61.136 Revocation of concurrences.

Applications for Special Permission

61.151 Scope.
61.152 Terms of applications and grants.
61.153 Method of filing applications.

Adoption of Tariffs and Other Documents of Predecessor Carriers

61.171 Adoption notice.
61.172 Changes to be incorporated in tariffs in successor carrier.

Suspensions

61.191 Carrier to file supplement when notified of suspension.
61.192 Contents of supplement announcing suspension.
61.193 Vacation of suspension order; supplements announcing same; etc.

Part 63—Extension of Lines Discontinuance of Service by Carriers and Grants of Recognized Private Operating Agency Status

Need: These rules prescribe the general practice and procedure to be observed by carriers who wish to extend lines or discontinue services.

Legal Basis: 47 U.S.C. 154, 201–224.

Section Number and Title Description

63.56 Waivers.
63.58 Exemption.

Part 64—Miscellaneous Rules Relating to Common Carriers

Subpart G—Furnishing of Enhanced Services and Customer-Premises Equipment by Communications Common Carriers

Need: These rules govern common carrier furnishment of enhanced services and customer-premises equipment.

Legal Basis: 47 U.S.C. 154, 201–205, 403, 404, 410.

Section Number and Title Description

64.702 Furnishing of enhanced services and customer-premises equipment.

Part 68—Connection of Terminal Equipment to the Telephone Network

Subpart A—General

Need: These rules prescribe uniform standards to protect the telephone network from harm, and for the compatibility of hearing aids and telephones.

Legal Basis: 47 U.S.C. 154, 201–205, 215.

Section Number and Title Description

68.3 Definitions.

Subpart C—Registration Procedures

Need: These rules prescribe filing requirements, application forms and procedures for the registration of terminal equipment and protective circuitry.

Legal Basis: 47 U.S.C. 154, 201–205, 215.

Section Number and Title Description

68.215 Installation of other than "fully protected" system premises wiring.

Subpart D—Conditions for Registration

Need: These rules prescribe the tests to be conducted and criteria to be met in order to register terminal equipment and protective circuitry.

Legal Basis: 47 U.S.C. 154, 155, 157.

Section Number and Title Description

68.306 Hazardous voltage limitations.
68.308 Signal power limitations.
68.310 Longitudinal balance limitations.
68.312 On-hook impedance limitations.
68.314 Billing protection.

Subpart F—Connections

Need: These rules describe the plugs and jacks which represent the standard connectors to be used for connections to the telephone network.

Legal Basis: 47 U.S.C. 154, 156, 157.

Section Number and Title Description

68.502 Configurations.

Mass Media Bureau

Part 73—Radio Broadcast Services

Subpart A—AM Broadcast Stations

Need: These rules prescribe filing requirements, application forms and procedures for AM broadcast radio services.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

73.1 Scope.
73.14 AM broadcast definitions.
73.25 Clear channels; Classes I and II stations.
73.44 AM transmission system emission limitations.
73.45 AM antenna systems.
73.51 Determining operating power.
73.54 Antenna resistance and reactance measurements.
73.58 Indicating instruments.
73.68 Sampling systems for antenna monitors.
73.69 Antenna monitors.
73.99 Presunrise service authorization (PSRA) and postsunset service authorization (PSSA).
73.127 Use of multiplex transmission.
73.128 AM stereophonic broadcasting.
73.150 Directional antenna systems.
73.152 Modification of directional antenna data.
73.158 Directional antenna monitoring points.
73.160 Vertical plane radiation characteristics, f(0).
73.183 Groundwave signals.
73.185 Computation of interfering signal.
73.186 Establishment of effective field at one kilometer.
73.190 Engineering charts and related formulas.

Subpart B—FM Broadcast Stations

Need: These rules prescribe filing requirements, application forms and procedures for FM broadcast radio services.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

73.202 Table of allotments.
73.205 Zones.
73.207 Minimum distance separation between stations.
73.208 Reference points and distance computations.
73.209 Protection from interference.
73.212 Administrative changes in authorizations.
73.220 Restrictions on use of channels.
73.258 Indicating instruments.
73.267 Determining operating power.
73.277 Permissible transmissions.

73.295 FM subsidiary communications services.
73.297 FM stereophonic sound broadcasting.
73.310 FM technical definitions.
73.313 Topographic data.
73.314 Field strength measurements.
73.316 FM antenna systems.
73.319 FM multiplex subcarrier technical standards.
73.333 engineering charts.

Subpart C—Noncommercial Educational FM Broadcast Stations

Need: These rules prescribe filing requirements, application forms and procedures for Noncommercial Educational FM broadcast radio services.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

73.501 Channels available for assignment.
73.512 Special procedures applicable to Class D noncommercial educational stations.
73.513 Noncommercial educational FM stations operating on unreserved channels.
73.561 Operating schedule; time sharing.
73.593 Subsidiary communications services.

Subpart E—Television Broadcast Stations

Need: These rules prescribe filing requirements, application forms and procedures for television broadcast services.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

73.601 Scope of subpart.
73.603 Numerical designation of television channels.
73.606 Table of allotments.
73.610 Minimum distance separations between stations.
73.614 Power and antenna height requirements.
73.621 Noncommercial educational TV stations.
73.642 Subscription TV service.
73.643 Subscription TV operating requirements.
73.644 Subscription TV transmission systems.
73.653 Determining operating power.
73.681 Definitions.
73.682 TV transmission standards.
73.683 Field strength contours.
73.684 Prediction of coverage.
73.685 Transmitter location and antenna system.
73.687 Transmission system requirements.
73.688 Indicating Instruments.
73.691 Visual modulation monitoring equipment.
73.699 TV engineering charts.

Subpart F—International Broadcast Stations

Need: These rules prescribe operating procedures for international broadcast services.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

73.703 Geographical zones and areas of reception.
73.713 Program tests.
73.733 Normal license period.
73.761 Time of operation.
73.764 International broadcast station operator requirements.
73.781 Logs.

Subpart G—Emergency Broadcast Systems

Need: These rules provide a means for the development and implementation of Emergency Broadcast system planning and operation at the National, State, and local levels.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

Definitions

73.903 Emergency Broadcast System (EBS).
73.904 Licensee.

Activation Actions

73.932 Radio Monitoring and Attention Signal transmission requirement.

EBS Attention Signal Equipment

73.940 Encoder devices.

Tests

73.961 Tests of the Emergency Broadcast System procedures.
73.962 Closed Circuit Tests of approved National level interconnecting systems and facilities of the Emergency Broadcast System.

Subpart H—Rules Applicable to All Broadcast Stations

Need: These rules prescribe operating procedures applicable to all broadcast services.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.
73.1201 Station identification.
73.1202 Retention of letters received from the public.
73.1207 Rebroadcasts.
73.1212 Sponsorship identification; list retention; related requirements.
73.1213 Antenna structure, marking and lighting.
73.1225 Station inspections by FCC.
73.1515 Special field test authorizations.
73.1540 Carrier frequency measurements.
73.1545 Carrier frequency departure tolerances.
73.1550 Extension meters.
73.1570 Modulation levels: AM, FM, and TV aural.
73.1580 Transmission system inspections.
73.1590 Equipment performance measurements.
73.1610 Equipment tests.
73.1620 Program tests.
73.1665 Main transmitters.
73.1670 Auxiliary transmitters.
73.1690 Modification of transmission systems.
73.1715 Share time.
73.1750 Discontinuance of operation.
73.1800 General requirements related to the station log.
73.1820 Station log.
73.1835 Special technical log.
73.1840 Retention of logs.
73.1860 Transmitter duty operators.
73.1870 Chief operators.
73.1930 Political editorials.
73.3511 Applications required.
73.3516 Specification of facilities.
73.3533 Application for construction permit or modification of construction permit.
73.3539 Application for renewal of license.
73.3540 Application for voluntary assignment or transfer of control.
73.3550 Requests for new or modified call sign assignments.
73.3571 Processing of AM broadcast station applications.
73.3572 Processing of TV broadcast, low power TV, TV translator and TV booster station applications.
73.3573 Processing FM broadcast station applications.
73.3580 Local public notice of filing of broadcast applications.
73.3584 Procedure for filing petitions to deny.
73.3594 Local public notice of designation for hearing.
73.3597 Procedures on transfer and assignment applications.
73.3613 Filing of contracts.

Part 74—Experimental, Auxiliary, and Special Broadcast and Other Program Distributional Services

Subpart—General; Rules Applicable to All Services in Part 74

Need: These rules prescribe filing requirements, application forms and procedures applicable to all services regulated under part 74.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

74.1 Scope.
74.3 FCC inspection of stations.
74.12 Notification of filing of applications.
74.18 General operator requirements.
74.19 Special technical records.
74.21 Broadcasting emergency information.
74.22 Use of common antenna structure.
74.23 Interference jeopardizing safety of life or protection of property.
74.24 Short-term operation.
74.28 Additional orders.
74.30 Antenna structure, marking and lighting.

Subpart D—Remote Pickup Broadcast Stations

Need: These rules set out operating procedures exclusive to remote pickup broadcast stations.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

74.401 Definitions.
74.402 Frequency assignment.
74.432 Licensing requirements and procedures.
74.433 Temporary authorizations.
74.452 Equipment changes.
74.463 Modulation requirements.
74.482 Station identification.

Subpart E—Aural Broadcast Auxiliary Stations

Need: These rules prescribe operating procedures exclusive to aural broadcast auxiliary stations.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

74.502 Frequency assignment.
74.533 Remote control and unattended operation.
74.535 Emission and bandwidth.
74.536 Directional antenna required.
74.537 Temporary authorizations.
74.550 Equipment authorizations.
74.551 Equipment changes.
74.564 Posting of station licenses.

Subpart F—Television Broadcast Auxiliary Stations

Need: These rules prescribe operating procedures exclusive to television broadcast auxiliary stations.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

74.601 Classes of TV broadcast auxiliary stations.
74.602 Frequency assignment.
74.603 Sound channels.
74.604 Interference avoidance.
74.631 Permissible service.
74.632 Licensing requirements.
74.633 Temporary authorizations.
74.634 Remote control operation.
74.635 Unattended operation.
74.636 Power limitations.
74.637 Emissions and emission limitations.
74.638 Frequency coordination.
74.641 Antenna systems.
74.651 Equipment changes.
74.661 Frequency tolerance.
74.662 Frequency monitors and measurements.
74.664 Posting of station license.

Subpart G—Low Power TV, TV Translator, and TV Booster Stations

Need: These rules prescribe operating procedures exclusive to low power TV, TV translator, and TV booster stations.

Legal Basis. 47 U.S.C. 154 and 303.

Section Number and Title Description

74.701 Definitions.
74.702 Channel assignments.
74.703 Interference.
74.705 TV broadcast station protection.
74.707 Low power TV and TV translator station protection.
74.709 Land mobile station protection.
74.731 Purpose and permissible service.
74.732 Eligibility and licensing requirements.
74.734 Attended and unattended operation.
74.735 Power limitation.
74.736 Emissions and bandwidth.
74.737 Antenna location.
74.750 Transmission system facilities.
74.751 Modification of transmission systems.
74.765 Posting of station and operator licenses.
74.781 Station records.
74.783 Station identifications.

Subpart H—Low Power Auxiliary Stations

Need: These rules prescribe operating procedures exclusive to low power auxiliary stations.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

74.832 Licensing requirements and procedures.
74.833 Temporary authorizations.

Subpart I—Instructional Television Fixed Service

Need: These rules prescribe operating procedures exclusive to instructional television fixed service stations.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

74.901 Definitions.
74.902 Frequency assignments.
74.931 Purpose and permissible service.
74.937 Antennas.
74.938 Transmission standards.
74.950 Equipment performance and installation.

Subpart L—FM Broadcast Translator Stations and FM Broadcast Booster Stations

Need: These rules prescribe operating procedures exclusive to FM broadcast translator and FM broadcast booster stations.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

74.1202 Frequency assignment.
74.1251 Technical and equipment modifications.
74.1281 Station records.

Part 76—Cable Television Service

Subpart J—Diversification of Control

Need: These rules prescribe ownership requirements applicable to the cable television service.

Legal Basis: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, and 309.

Section Number and Title Description

76.501 Cross-ownership.

Subpart K—Technical Standards

Need: These rules prescribe technical standards applicable to the cable television service.

Legal Basis: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, and 309.

Section Number and Title Description

76.605 Technical standards.

Part 78—Cable Television Relay Service

Subpart A—General

Need: These rules indicate general operating information for the cable television relay service.

Legal Basis: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, and 309.

Section Number and Title Description

78.1 Purpose.

Subpart B—Applications and Licenses

Need: These rules prescribe application and licensing requirements applicable to the cable television relay service.

Legal Basis: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, and 309.

Section Number and Title Description

78.11 Permissible service.
78.18 Frequency assignments.

Subpart D—Technical Regulations

Need: These rules prescribe technical requirements applicable to the cable television relay service.

Legal Basis: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, and 309.

Section Number and Title Description

78.101 Power limitations.
78.103 Emissions and emission limitations.
78.111 Frequency tolerance.

Private Radio Bureau

Part 80—Stations in the Maritime Services

Subpart A—General Information

Need: These rules describe the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

80.5 Definitions.

Subpart B—Applications and Licensee

Need: These rules prescribe practice and procedures for the filing of applications in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.15 Eligibility for station license.
80.19 Standard forms to be used.
80.21 Supplemental information required.
80.23 Filing of applications.
80.25 License term.
80.29 Changes during license term.
80.33 Developmental license.
80.39 Authorized station location.
80.43 Control points and dispatch points.
80.45 Frequencies.
80.49 Time in which station is placed in operation.
80.54 Automated Maritime Telecommunications System (AMTS)—System licensing.
80.55 Application for a fleet station license.
80.57 Canada/U.S.A. channeling arrangement for VHF maritime public correspondence.
80.59 Compulsory ship stations.

Subpart C—Operating Requirements and Procedures

Need: These rules prescribe operating requirements and procedures in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

Station Requirements—Land Stations

80.67 General facilities requirements for coast stations.
80.68 Facilities requirements for public coast stations using telegraphy.
80.69 Facilities requirements for public coast stations using telephony.
80.70 Special provisions relative to coast station VHF facilities.
80.71 Operating controls for stations on land.

Station Requirements—Ship Stations

80.80 Operating controls for ship stations.

Operating Procedures—General

80.93 Hours of service.
80.95 Message charges.
80.102 Radiotelephone station identification.
80.103 Digital selective calling (DSC) operating procedures.

Operating Procedures—Land Stations

80.106 Intercommunication in the mobile service.
80.108 Transmission of traffic lists by coast stations.
80.110 Inspection and maintenance of tower markings and associated control equipment.
80.111 Radiotelephone operating procedures for coast stations.

Special Procedures—Public Coast Stations

80.121 Public coast stations using telegraphy.

Special Procedures—Private Coast Stations

80.131 Radioprinter operations.

Shipboard General Purpose Watches

80.146 Watch on 500 kHz.
80.147 Watch on 2182 kHz.
80.148 Watch on 156.8 MHz (Channel 16).

Subpart D—Operator Requirements

Need: These rules prescribe operator requirements in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.151 Classification of operator licenses and endorsements.

Coast Station Operator Requirements

80.153 Coast station operator requirements.

Ship Station Operator Requirements

80.155 Ship station operator requirements.
80.156 Control by operator. Safety Convention.
80.161 Operator requirements of the Great Lakes Radio Agreement.
80.163 Operator requirements of the Bridge-to-Bridge Act.

General Operator Requirements

80.169 Operators required to adjust transmitters or radar.

Subpart E—General Technical Standards

Need: These rules prescribe general technical standards in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.203 Authorization of transmitters for licensing.
80.209 Transmitter frequency tolerances.
80.211 Emission limitations.
80.213 Modulation requirements.
80.215 Transmitter power.
80.217 Suppression of interference aboard ships.
80.223 Special requirements for survival craft stations.
80.225 Requirements for digital selective calling (DSC) equipment.
80.227 Special requirements for protection from RF radiation.

Subpart F—Equipment Authorization for Compulsory Ships

Need: These rules prescribe general technical requirements for type acceptance of equipment used on compulsory ships.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.263 Common requirements for survival craft radio equipment.
80.265 Requirements for survival craft portable radio equipment.
80.267 Requirements for survival craft nonportable radio equipment.
80.269 Technical requirements for radiotelephone distress frequency watch receiver.
80.271 Technical requirements for portable survival craft radiotelephone transceivers.
80.273 Technical requirements for radar equipment.

Subpart G—Safety Watch Requirements and Procedures

Need: These rules prescribe watch requirements and procedures for distress and safety related communications in the maritime services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

Coast Station Safety Watches

80.301 Watch requirements.
80.302 Notice of discontinuance, reduction, or impairment of service involving a distress watch.
80.303 Watch on 156.800 MHz (channel 16).

Ship Station Safety Watches

80.310 Watch required by voluntary vessels.

Subpart H—Frequencies

Need: These rules describe frequencies used in the maritime services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

Radiotelegraphy

80.355 Distress, urgency, safety, call and reply Morse code frequencies.

Radiotelephony

80.371 Public correspondence frequencies.
80.373 Private communications frequencies.
80.374 Special provisions for frequencies in the 4000–4063 kHz and the 8100–8195 kHz bands shared with the fixed service.

Radiodetermination

80.375 Radiodetermination frequencies.

Operational Fixed Stations

80.381 Frequencies for operational fixed stations.

Automated Systems

80.385 Frequencies for automated systems.

Alaska Fixed Stations

80.387 Frequencies for Alaska fixed stations.

Subpart I—Station Documents

Need: These rules describe documents required to be maintained by licensees of radio stations in the maritime services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.401 Station documents requirement.
80.403 Availability of documents.
80.405 Station license.
80.407 Operator authorization.
80.409 Station logs.
80.411 Vessel certification or exemption.
80.413 On-board station equipment records.

Subpart J—Public Coast Stations

Need: These rules prescribe operating procedures for public coast stations in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.453 Scope of communications.

Use of Telephony

80.467 Duplication of VHF service.
80.469 Maritime mobile repeater stations in Alaska.
80.471 Discontinuance or impairment of service.

Automated Systems

80.475 Scope of service of the Automated Maritime Telecommunications Systems (AMTS).
80.477 Points of communications.
80.479 Assignment and use of frequencies for AMTS.

Subpart K—Private Coast Stations and Marine Utility Stations

Need: These rules prescribe operating procedures for private coast stations and marine utility stations in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.501 Supplemental eligibility requirements.
80.503 Cooperative use of facilities.
80.505 Points of communication.
80.507 Scope of service.
80.511 Assignment limitations.
80.513 Frequency coordination.
80.515 Limitations on use.

Subpart L—Operational Fixed Stations

Need: These rules prescribe requirements for operational fixed stations associated with coast stations in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.553 Supplemental eligibility requirements.
80.559 Licensing limitations.

Subpart M—Stations in the Radiodetermination Services

Need: These rules prescribe operating requirements for stations providing radionavigation or radiolocation service in the maritime radio services for ships.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.605 U.S. Coast Guard coordination.

Subpart N—Maritime Support Stations

Need: These rules prescribe operating requirements for stations providing support to maritime telecommunications.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.651 Supplemental eligibility requirements.
80.653 Scope of communications.
80.655 Use of frequencies.

Subpart O—Alaska Fixed Stations

Need: These rules prescribe operating requirements for Alaska Fixed stations in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.701 Scope of service.
80.707 Cooperative use of frequency assignments.

Subpart P—Standards for Computing Public Coast Station VHF Coverage

Need: These rules prescribe standards for computing Public Coast Station VHF coverage.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.755 Applicability.
80.757 Topographical data.
80.759 Average terrain elevation.
80.761 Conversion graphs.
80.763 Effective antenna height.
80.767 Propagation curve.
80.769 Shadow loss.
80.771 Method of computing coverage.
80.773 Ratio of desired to undesired signal strengths.

Subpart Q—Compulsory Radiotelegraph Installation for Vessels 1600 Gross Tons

Need: These rules prescribe radiotelegraph requirements for vessels of 1600 gross tons or more pursuant to requirements in the Communications Act.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.836 General and individual vessel exemptions.

Subpart R—Compulsory Radiotelephone Installations for Vessels 300 Gross Tons

Need: These rules prescribe radiotelephone requirements for vessels between 300 and 1600 gross tons pursuant to requirements in the Communications Act.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.854 Radiotelephone installation.
80.855 Radiotelephone transmitter.
80.856 Automatic radiotelephone alarm signal generator.
80.857 Installation of automatic radiotelephone alarm signal generator.
80.858 Radiotelephone receiver.
80.859 Main power supply.
80.860 Reserve power supply.
80.861 Required capacity.
80.862 Proof of capacity.
80.863 Antenna system.
80.864 Emergency electric lights.
80.865 Radiotelephone station clock.
80.866 Spare antenna.
80.867 Ship station tools, instruction books, circuit diagrams and testing equipment.
80.868 Card of instructions.
80.869 Test of radiotelephone station.
80.870 Survival craft radio equipment.
80.871 VHF radiotelephone station.
80.872 The VHF radiotelephone installation.
80.873 VHF radiotelephone transmitter.
80.874 VHF radiotelephone receiver.
80.875 VHF radiotelephone power supply.
80.876 VHF radiotelephone antenna system.
80.877 Controls and indicators required for VHF radiotelephone installation.

Subpart S—Compulsory Radiotelephone Installations for Small Passenger Boats

Need: These rules prescribe radiotelephone requirements for small passenger boats which transport more than six passengers for hire pursuant to requirements in the Communications Act.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.903 Inspection of radiotelephone installation.
80.905 Vessel radio equipment.
80.907 Principal operating position.
80.909 Radiotelephone transmitter.
80.911 VHF transmitter.

80.913 Radiotelephone receivers.
80.915 Main power supply.
80.917 Reserve power supply.
80.919 Required capacity.
80.921 Proof of capacity.
80.923 Antenna system.
80.925 Electric light.
80.927 Antenna radio frequency indicator.
80.929 Nameplate.
80.931 Test of radiotelephone installation.
80.933 General exemptions.
80.935 Station clock.

Subpart T—Radiotelephone Installation Required for Vessels on the Great Lakes

Need: These rules prescribe radiotelephone requirements for certain vessels navigating on the Great Lakes.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.951 Applicability.
80.953 Inspection and certification.
80.955 Radiotelephone installation.
80.956 Required frequencies and uses.
80.957 Principal operating position.
80.959 Radiotelephone transmitter.
80.961 Radiotelephone receiver.
80.963 Main power supply.
80.965 Reserve power supply.
80.967 Antenna system.
80.969 Illumination of operating controls.
80.971 Test of radiotelephone installation.

Subpart U—Radiotelephone Installations Required by the Bridge-to-Bridge Act

Need: These rules prescribe radiotelephone requirements for certain vessels subject to the Bridge-to-Bridge Act.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.1001 Applicability.
80.1003 Station required.
80.1005 Inspection of station.
80.1007 Bridge-to-bridge radiotelephone installation.
80.1009 Principal operator and operating position.
80.1011 Transmitter.
80.1013 Receiver.
80.1015 Power supply.
80.1017 Antenna system.
80.1019 Antenna radio frequency indicator.
80.1021 Nameplate.
80.1023 Test of radiotelephone installation.

Subpart V—Emergency Position Indicating Radiobeacons (EPIRBs)

Need: These rules prescribe technical requirements for Emergency Position Indicating Radiobeacons (EPIRBs).

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.1053 Special requirements for Class A EPIRB stations.
80.1055 Special requirements for Class B EPIRB stations.
80.1057 Special requirements for Class C EPIRB stations.
80.1059 Special requirements for Class S EPIRB stations.
80.1061 Special requirements for 406.025 MHz EPIRBs.

Subpart X—Voluntary Radio Installations

Need: These rules prescribe technical and operating requirements for ships that voluntarily choose to install and use certain radio equipment.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

General

80.1153 Station log and radio watches.

Voluntary Telegraph

80.1155 Radioprinter.

On-Board Communications

80.1175 Scope of communications of on-board stations.
80.1177 Assignment and use of frequencies.
80.1179 On-board repeater limitations.
80.1181 Station identification.
80.1183 Remote control for maneuvering or navigation.

Part 87—Aviation Services

Subpart A—General Information

Need: These rules provide the statutory basis and purpose of part 87.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.5 Definitions.

Subpart B—Applications and Licenses

Need: These rules prescribe the procedures and requirements for radio station licenses in the aviation services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.21 Standard forms to be used.
87.23 Supplemental information required.
87.25 Filing of applications.
87.31 Changes during license term.
87.37 Developmental license.

Subpart C—Operating Requirements and Procedures

Need: These rules prescribe operating requirements in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

Operating Requirements

87.73 Transmitter adjustments and tests.
87.75 Maintenance of tower marking and control equipment.
87.77 Availability for inspections.

Radio Operator Requirements

87.89 Minimum operator requirements.
87.91 Operation of transmitter controls.

Operating Procedures

87.103 Posting station license.
87.105 Availability of operator permit or license.
87.107 Station identification.
87.109 Station logs.
87.111 Suspension or discontinuance of operation.

Subpart D—Technical Requirements

Need: These rules contain the technical requirements for radio stations in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.131 Power and emissions.
87.133 Frequency stability.
87.135 Bandwidth of emission.
87.137 Types of emission.
87.139 Emission limitations.
87.141 Modulation requirements.
87.143 Transmitter control requirements.
87.145 Acceptability of transmitters for licensing.
87.147 Type acceptance of equipment.

Subpart F—Aircraft Stations

Need: These rules prescribe the operating requirements for aircraft radio stations.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.187 Frequencies.

Emergency Locator Transmitters

87.195 Frequencies.

Subpart G—Aeronautical Advisory Stations (Unicoms)

Need: These rules prescribe the operating requirements for aeronautical advisory radio stations (Unicoms).

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.213 Scope of service.
87.215 Supplemental eligibility.
87.217 Frequencies.

Subpart H—Aeronautical Multicom Stations

Need: These rules prescribe operating requirements for aeronautical multicom stations in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.237 Scope of service.
87.239 Supplemental eligibility.

Subpart I—Aeronautical Enroute and Aeronautical Fixed Stations

Need: These rules prescribe operating requirements for aeronautical enroute and aeronautical fixed stations in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

Aeronautical Enroute Stations.
87.261 Scope of service.

Subpart J—Flight Test Stations

Need: These rules prescribe operating requirements for flight test radio stations in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.301 Supplemental eligibility.
87.303 Frequencies.
87.305 Frequency coordination.
87.307 Cooperative use of facilities.

Subpart L—Aeronautical Utility Mobile Stations

Need: These rules prescribe operating requirements for aeronautical utility mobile radio stations in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.345 Scope of service.
87.347 Supplemental eligibility.
87.349 Frequencies.
87.351 Frequency change.

Subpart O—Airport Control Tower Stations

Need: These rules prescribe operational requirements for airport control tower stations and control tower remote communications outlet stations in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.417 Scope of service.
87.419 Supplemental eligibility.
87.421 Frequencies.
87.423 Hours of operation.
87.425 Interference.

Subpart P—Operational Fixed Stations

Need: These rules prescribe operating requirements for operational fixed stations providing control, repeater or relay functions for associated aeronautical stations.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.447 Supplemental eligibility.
87.449 Frequencies.
87.451 Licensing limitations.

Subpart Q—Stations in the Radiodetermination Service

Need: These rules prescribe operational requirements for stations in the radiodetermination service providing radionavigation and radiolocation services for the purpose of aeronautical navigation.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.473 Supplemental eligibility.
87.475 Frequencies.

Subpart S—Automatic Weather Observation Stations

Need: These rules prescribe operating requirements for automatic weather observation stations in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.527 Supplemental eligibility.
87.529 Frequencies.

Part 90—Private Land Mobile Radio Services

Subpart A—General Information

Need: These rules describe the private land mobile radio services.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.7 Definitions.
90.17 Local Government Radio Service.
90.19 Police Radio Service.
90.21 Fire Radio Service.
90.23 Highway Maintenance Radio Service.
90.25 Forestry Conservation Radio Service.
90.35 Medical Services.
90.49 Communications Standby Facilities.
90.79 Manufacturers Radio Service.
90.81 Telephone Maintenance Radio Service.

Subpart B—Land Transportation Radio Services

Need: These rules prescribe operating requirements for the private land mobile radio services.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.87 General Eligibility.
90.89 Motor Carrier Radio Service.
90.91 Railroad Radio Service.
90.93 Taxicab Radio Service.
90.95 Automobile Emergency Radio Service.

Subpart F—Radiolocation Service

Need: These rules prescribe operating requirements for the radiolocation service.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.103 Radiolocation Service.

Subpart G—Applications and Authorizations

Need: These rules prescribe application procedures for the private land mobile radio services.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.117 Applications for radio station or radio system authorizations.
90.119 Application Forms.
90.123 Full Disclosures.
90.127 Submission and Filing of Applications.
90.129 Supplemental Information to be Routinely Submitted with Applications.
90.135 Modification of License.
90.143 Grants of Applications.
90.155 Time in Which Station Must be Placed in Operation.
90.157 Discontinuance of Station Operation.
90.159 Temporary and Conditional Permits.

Subpart H—Policies Governing the Assignment of Frequencies

Need: These rules prescribe procedures governing the assignment of private land mobile radio frequencies.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.173 Policies Governing the Assignment of Frequencies.
90.175 Frequency Coordination Requirements.
90.176 Interservice Sharing of Frequencies in the 150–174 and 450–470 MHz Bands.
90.177 Protection of Certain Radio Receiving Locations.
90.179 Shared Use of Radio Stations.
90.185 Multiple Licensing of Radio Transmitting Equipment in the Mobile Radio Service.

Subpart I—General Technical Standards

Need: These rules prescribe general technical requirements for use of private land mobile radio frequencies.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.205 Power.
90.207 Types of Emissions.
90.209 Bandwidth Limitations.
90.211 Modulation Requirements.
90.212 Provisions Relating to the use of Scrambling Devices and Digital Voice Modulation.
90.213 Frequency Tolerance.

Subpart J—Non-Voice and Other Specialized Operations

Need: These rules prescribe the operating requirements for non-voice and other specialized operations on private land mobile radio frequencies.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.233 Base/mobile non-voice operations.
90.235 Secondary Fixed Signaling Operations.
90.237 Interim Provisions for Operations of Radioteleprinter and Radiofacsimile Devices.
90.238 Telemetry Operations.
90.250 Meteor Burst Communications.

Subpart K—Standards for Special Frequencies or Frequency Bands

Need: These rules prescribe standards for special frequencies or frequency bands.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.257 Assignment and Use of Frequencies in the Band 72–76 MHz.
90.261 Assignment and Use of the Frequencies in the Band 450–470 MHz for Fixed Operations.
90.267 Assignment and Use of 12.5 kHz Offsets.
90.313 Frequency Loading Criteria.

Subpart N—Operating Requirements

Need: These rules prescribe operating requirements for the private land mobile radio services.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.421 Operation of Mobile Units in Vehicles Not Under the Control of the Licensee.
90.425 Station Identification.
90.429 Control Point and Dispatch Point Requirements.
90.443 Content of Station Records.

Subpart O—Transmitter Control

Need: These rules prescribe operating requirements for the private land mobile radio services.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.463 Transmitter Control Points.

Subpart P—Paging Operations

Need: These rules prescribe operating requirements for the private land mobile paging radio service.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.490 One-way Paging Operations in the Private Services.
90.492 One-way Paging Operations in the 806–824/851–869 MHz and 896–901/935–940 MHz Bands.
90.494 One-way Paging Operations in the 929–930 MHz Band.

Subpart R—Frequency List

Need: These rules prescribe frequencies available for the private land mobile radio services.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.555 Combined Frequency Listing.

Subpart S—Regulations Governing Licensing and Use of Frequencies in the 806–824, 851–869, 896–901 and 935–940 MHz Bands

Need: These rules prescribe operating requirements for Specialized Mobile Radio Service operators.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.605 Forms to be Used.
90.611 Processing of Applications.
90.619 Frequencies Available for Use in the U.S./Mexico and U.S./Canada Border Areas.
90.621 Selection and Assignment of Frequencies.
90.623 Limitation on the Number of Frequencies Assignable for Conventional Systems.
90.627 Limitation on the Number of Frequency Pairs that May be Assignable for Trunked Systems and on the Number of Trunked Systems.
90.631 Trunked Systems Loading, Construction and Authorization Requirements.
90.633 Conventional Systems Loading Requirements.
90.637 Restrictions on Operational Fixed Stations.
90.645 Permissible Operations.

Part 94—Private Operational-Fixed Microwave Service

Subpart A—General Information

Need: These rules describe the private operational-fixed microwave radio service.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

94.3 Definitions.
94.9 Permissible communications.
94.15 Policy governing the assignment of frequencies.

Subpart B—Applications, Authorizations, and Notifications

Need: These rules prescribe application procedures for the private operational-fixed microwave service.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

94.25 Filing of applications.
94.27 Application and standard forms.
94.31 Supplemental information to be submitted with application.
94.43 Procedure for obtaining special temporary authority.

Subpart C—Technical Standards

Need: These rules prescribe technical standards for the private operational-fixed microwave service

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

94.61 Applicability.
94.63 Interference protection criteria for operational-fixed stations.
94.65 Frequencies.
94.67 Frequency tolerance.
94.69 Types of emission.
94.71 Emission and bandwidth limitations.
94.73 Power limitations.
94.75 Antenna limitations.
94.77 Interference to geo-stationary satellites.
94.92 Technical standards for stations authorized prior to July 1, 1976.
94.93 Provisions for Private Operational Fixed use of the 12,200–12,700 MHz Band.
94.94 Microwave digital modulation.

Part 95—Personal Radio Services

Subpart A—General Mobile Radio Service (GMRS)

Need: These rules describe the General Mobile Radio Service (GMRS) and prescribe application and operational requirements for that service.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

Applying for a GMRS System License

95.89 Renewing a license.

Operating a GMRS Station

95.179 Individuals who may be station operators.

Subpart C—Radio Control (R/C) Radio Service

Need: These rules describe the Radio Control Radio Service and prescribe application and operational requirements for that service.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

General Provisions

95.201 (R/C Rule 1) What is the Radio Control (R/C) Radio Service?
95.202 (R/C Rule 2) How do I use these rules?
95.203 (R/C Rule 3) Am I eligible to operate an R/C station?

95.204 (R/C Rule 4) Do I need a license?
95.205 (R/C Rule 5) Where may I operate my R/C station?
95.206 (R/C Rule 6) Are there any special restrictions on the location of my R/C station?

How To Operate an R/C Station

95.207 (R/C Rule 7) On what channels may I operate?
95.208 (R/C Rule 8) How high may I put my antenna?
95.209 (R/C Rule 9) What equipment may I use at my R/C station?
95.210 (R/C Rule 10) How much power may I use?
95.211 (R/C Rule 11) What communications may be transmitted?
95.212 (R/C Rule 12) What communications are prohibited?
95.213 (R/C Rule 13) May I be paid to use my R/C station?
95.214 (R/C Rule 14) Who is responsible for R/C communications I make?
95.215 (R/C Rule 15) Do I have to limit the length of my communications?
95.216 (R/C Rule 16) Do I identify my R/C communications?
95.217 (R/C Rule 17) May I operate my R/C station transmitter by remote control?

Other Things You Need to Know

95.218 (R/C Rule 18) What are the penalties for violating these rules?
95.219 (R/C Rule 19) How do I answer correspondence from the FCC?
95.220 (R/C Rule 20) What must I do if the FCC tells me that my R/C station is causing interference?
95.221 (R/C Rule 21) How do I have my R/C transmitter serviced?
95.222 (R/C Rule 22) May I make any changes to my R/C station transmitter?
95.223 (R/C Rule 23) Do I have to make my R/C station available for inspection?
95.224 (R/C Rule 24) What are my station records?
95.225 (R/C Rule 25) How do I contact the FCC?

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–6321 Filed 3–18–93; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 93–38; FCC 93–112]

Private Land Mobile Radio Services; Private Carrier Paging Service to Individuals

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has proposed rule changes that would enable private carrier paging (PCP) licensees to provide service to individuals. This action was initiated by a petition for rulemaking filed by the Association for Private Carrier Paging Section of the National Association of Business and Educational Radio, Inc. The effect of the proposed rules would be to increase the number of potential users of PCP systems.

DATES: Comments must be filed on or before April 19, 1993, and reply comments must be filed on or before May 4, 1993.

ADDRESSES: Federal Communications Commission, 1919 M St., NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: David L. Furth, Private Radio Bureau, (202) 634–2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, PR Docket No. 93–38, FCC 93–112, adopted February 23, 1993, and released March 12, 1993. The full text of the Notice is available for inspection and copying during normal business hours in the FCC Docket Branch, room 230, 1919 M St., NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M St., NW., suite 140, Washington, DC 20037, (202) 857–3800.

Summary of Notice of Proposed Rule Making

1. In this Notice, we propose to amend part 90 of the Commission's rules to enable private carrier paging (PCP) licensees at 929–930 MHz and in the Business Radio Service to provide private carrier paging service to individuals as well as other currently eligible users. Comments are invited on this proposal.

2. Part 90 of our rules currently authorizes PCP licensees to offer commercial paging services only to end users who are themselves eligible for licensing under part 90 and to the federal government. Thus, because private individuals (other than those who qualify as business licensees) are not eligible for a part 90 license, they may not obtain paging service from a PCP system, but may only do so from a common carrier paging system.

3. The Notice proposes that private individuals, like business and government users, be eligible to use PCP services. As paging technology becomes less costly and more widely available, increasing numbers of individual users are seeking service for private as well as business purposes. We believe that these individuals would benefit from being able to choose between private and common carrier alternatives. In some instances, PCP operators may be able to provide technically superior service at a lower cost, or to offer specialized service tailored to the user's particular needs.

4. The proposal would also remove an unnecessary barrier to competition in the paging marketplace. The current rules require PCP licensees to screen potential customers to guard against ineligible users, and to similarly restrict resale to individuals by retail outlets and distributors. Because of the difficulty of enforcing these restrictions, some licensees are reluctant to serve any individual customers, including currently eligible business users, and many distributors are unwilling to resell PCP services at all. We believe that eliminating the restriction will make PCP services more widely available to the public.

5. In contrast to the competitive benefits that flow from allowing PCP licensees to serve individuals, we tentatively conclude that there is no public interest benefit to retaining the existing rule. Current paging technology can readily accommodate additional users on existing PCP systems. Thus, the rule appears not to be needed to prevent frequency overuse or degradation of service to existing customers. In the absence of an affirmative reason to retain the current rule, we believe the presumption should be in favor of eliminating it as proposed.

Initial Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, an initial regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be viewed at the Commission's offices or obtained from its copy contractor.

List of Subjects in 47 CFR Part 90

Business and industry, Eligible end users, Private carrier paging, Private land mobile radio services.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–6354 Filed 3–18–93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket 92–35; Notice 2 and Docket 93–11; Notice 1]

Federal Motor Vehicle Safety Standard; Lamps, Reflective Devices, and Associated Equipment; Correction

AGENCY: National Highway Traffic Safety Administration; DOT.

ACTION: Correction.

In document 93–5418, "Termination of rulemaking; notice of designation of docket," beginning on page 13243 in the issue of Wednesday, March 10, 1993, make the following corrections:

On page 13243 in the third column, and on page 13244 in the second column, the docket number for the replaceable light source informational docket was listed as 93–08. This should be changed to 93–11.

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegations of authority at 49 CFR 1.50 and 501.8.

Issued: March 15, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–6327 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 930355–3055]

Reef Fish Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement Amendment 6 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). Amendment 6 would continue through December 31, 1994, the vessel trip limits for red snapper of 2,000 pounds (907 kg) for a vessel that has a red snapper endorsement on its reef fish permit, and 200 pounds (91 kg) for a permitted vessel without such endorsement, as currently implemented by emergency interim rule. The intended effect of this rule is to continue in effect management measures that respond to social and economic emergencies without jeopardizing the long-term rebuilding program for the overfished red snapper resource.

DATES: Written comments must be received on or before April 30, 1993.

ADDRESSES: Comments on the proposed rule should be sent to Robert A. Sadler, Southeast Regional Office, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Requests for copies of Amendment 6, which includes an environmental assessment (EA) and a regulatory impact review (RIR) should be sent to the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813–893–3161.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP prepared by the Gulf of Mexico Fishery Management Council (Council) and its implementing regulations at 50 CFR part 641, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

By emergency interim rule published on December 30, 1992 (57 FR 62237), NMFS established commercial vessel trip limits for red snapper of 2,000 pounds (907 kg) for a vessel that has a red snapper endorsement on its reef fish permit, and 200 pounds (91 kg) for a permitted vessel without such endorsement. That emergency interim rule, initially effective through March 30, 1993, has been extended through June 3, 1993 (58 FR 13560, March 12, 1993). Amendment 6 proposes to continue the vessel trip limits through 1993 and 1994, unless replaced earlier by a more comprehensive effort limitation program.

The background and rationale for the trip limits were included in the emergency interim rule and are not repeated here. Under Amendment 6, no new applications for red snapper endorsements would be allowed—those currently issued would remain in effect. Transfer of an endorsement would be allowed only by an owner from one permitted vessel owned by him or her to another vessel so owned. The specific trip limits applicable to red snapper may be changed for 1994 under the FMP's framework procedure for adjusting management measures.

Minority reports submitted by three members of the Council objected to several provisions in Amendment 6, including continuation of the trip limits. These concerns will be addressed in the final rule.

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 15 days of receipt of an FMP amendment and regulations. At this time, the Secretary has not determined that Amendment 6, which this proposed rule would implement, is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedure of that order.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has initially determined that this proposed rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This proposed rule, if adopted, is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Council prepared a RIR as part of Amendment 6, which concludes that this rule, if adopted, would have the effects summarized as follows. Extending the red snapper endorsements and trip limits beyond the duration of the emergency interim rule would generate positive economic benefits compared to the "derby" fishery that occurred in 1992 without the endorsements and trip limits. Additional analysis and discussion are contained in the RIR, a copy of which is available (see **ADDRESSES**).

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

The Council prepared an EA that discusses the impacts on the environment as a result of this rule. The

EA is available (see **ADDRESSES**), and comments on it are requested.

NMFS determined that the emergency interim rule, which this rule proposes to continue in effect, would be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Alabama, Florida, Louisiana, and Mississippi. Texas does not participate in the coastal zone management program. These determinations were submitted for review by the responsible state agencies under section 307 of the Coastal Zone Magnuson Act.

This proposed rule involves a collection-of-information requirement for purposes of the Paperwork Reduction Act under control number 0648–0270.

A federalism assessment was prepared on the emergency interim rule that its implementation was consistent with the principles, criteria, and requirements of E.O. 12612. Since this rule would continue in effect the measures in that emergency interim rule, a new federalism assessment is not required.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 16, 1993.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 641 is proposed to be amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 641 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 641.4 is amended by adding paragraphs (m) and (n), effective from the effective date of the final rule through December 31, 1994, to read as follows:

§ 641.4 Permits and fees.

* * * * *

(m) *Red snapper endorsement.* (1) As a prerequisite for exemption from the trip limit for red snapper specified in § 641.21(d)(1), vessel for which a reef fish permit has been issued under this section must have a red snapper endorsement on such permit and such permit and endorsement must be aboard the vessel.

(2) A red snapper endorsement is invalid upon sale of the vessel; however, an owner of a permitted vessel may transfer the red snapper endorsement to another permitted vessel owned by him or her by returning the existing endorsement with an application for an endorsement for the replacement vessel.

(n) *Condition of a permit.* As a condition of a reef fish permit issued under this section, without regard to where red snapper are harvested or possessed, a permitted vessel—

(1) May not exceed the appropriate vessel trip limit for red snapper, as specified in § 641.21 (d)(1) or (d)(2); and

(2) May not transfer a red snapper at sea, as specified in § 641.21(d)(3).

3. Section 641.7 is amended by adding paragraphs (u) and (v), effective from the effective date of the final rule through December 31, 1994, to read as follows:

§ 641.7 Prohibitions.

* * * * *

(u) Exceed the vessel trip limits for red snapper, as specified in § 641.21 (d)(1) and (d)(2).

(v) Transfer a red snapper at sea, as specified in § 641.21(d)(3).

4. Section 641.21 is amended by adding paragraph (d), effective from the effective date of the final rule through December 31, 1994, to read as follows:

§ 641.21 Harvest limitations.

* * * * *

(d) *Red snapper trip and transfer limitations.* (1) Except as provided in paragraph (d)(2) of this section, a vessel for which a reef fish permit has been issued under § 641.4 may not possess on any trip red snapper in excess of 200 pounds (91 Kg), whole or eviscerated weight.

(2) A vessel for which a red snapper endorsement has been issued under § 641.4(m) may not possess on any trip red snapper in excess of 2,000 pounds (907 Kg), whole or eviscerated weight.

(3) A red snapper may not be transferred at sea from one vessel to another.

[FR Doc. 93–6386 Filed 3–16–93; 4:27 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 58, No. 52
Friday, March 19, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Special Committee on International Assistance in Administrative Law; Notice of Public Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Special Committee on International Assistance in Administrative Law of the Administrative Conference of the United States. The committee will discuss the role of the Administrative Conference in providing information and expertise on administrative law issues to foreign countries that request assistance.

DATE: Wednesday, March 31, 1993 at 10 a.m.

LOCATION: Office of the Chairman, Administrative Conference, 2120 L Street, NW., suite 500, Washington, DC.

FOR FURTHER INFORMATION: Michael W. Bowers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

SUPPLEMENTARY INFORMATION: The committee meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: March 16, 1993.

Michael W. Bowers,

Deputy Research Director.

[FR Doc. 93–6406 Filed 3–18–93; 8:45 am]

BILLING CODE 6110–01–W

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 93–004N]

National Advisory Committee on Meat and Poultry Inspection; Meeting

Notice is hereby given that a meeting of the National Advisory Committee on Meat and Poultry Inspection will be held on Wednesday, 8 a.m. to 5 p.m., and Thursday, 8 a.m. to noon, April 7–8, 1993, at the Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland 20814, telephone (301) 654–1000.

The Committee provides advice and recommendations to the Secretary of Agriculture pertaining to the meat and poultry inspection program, pursuant to sections 7(c), 24, 205, 301(a)(3), 301(c) of the Federal Meat Inspection Act (21 U.S.C. 607(c), 624, 645, 661(a)(3) and 661(c)) and sections 5(a)(3), 5(a)(4), 5(c), 8(b) and 11(e) of the Poultry Products Inspection Act (21 U.S.C. 454(a)(3), 454(a)(4), 454(c), 457(b) and 460(e)).

The meeting will include discussion of the following topics as time permits:

1. Topics suggested by the Committee;
2. Standards and labeling issues;
3. General discussion of FSIS plans for Track I and Track II;
4. Pathogen reduction strategy;
5. Exemptions—update;
6. EEC update;
7. Risk analysis update;
8. HACCP, the 1993 plan;
9. Processing Task Force—implementation plan;
10. Unfinished business and items from the audience, time permitting.

The Committee meeting is open to the public on a space available basis. Interested persons may file comments prior to and following the meeting. Comments should be addressed to: Mr. Craig Fedchock, Advisory Committee Specialist, U.S. Department of Agriculture, Food Safety and Inspection Service, room 3175, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. Background materials are available for inspection by contacting Mr. Fedchock on (202) 720–9150.

Done at Washington, DC, on March 16, 1993.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 93–6356 Filed 3–18–93; 8:45 am]

BILLING CODE 3410–DM–M

[Docket No. 93–005N]

National Advisory Committee on Microbiological Criteria for Foods; Subcommittee Meeting

Notice is hereby given that a meeting of the National Advisory Committee on Microbiological Criteria for Foods' Subcommittee on Risk Assessment will be held on Monday, 8 a.m. to 5 p.m., and Tuesday, 8 a.m. to 5 p.m., April 12–13, 1993, at the Omni Netherland Plaza Hotel, 35 West 5th Street, Cincinnati, Ohio 45202, telephone (513) 421–9100.

The Risk Assessment Subcommittee is considering further utilization of risk assessment strategies as a means of identifying levels of bacterial pathogens in meat and poultry products that may pose a significant risk of illness. The Subcommittee's work is under the auspices of the full Committee which provides advice and recommendations to the Secretaries of Agriculture and Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria pertaining to microorganisms that indicate whether food has been processed using good manufacturing processes.

The Subcommittee meeting is open to the public on a space available basis. Interested persons may file comments prior to and following the meeting. Comments should be addressed to: Mr. Craig Fedchock, Advisory Committee Specialist, U.S. Department of Agriculture, Food Safety and Inspection Service, room 3175, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250. Background materials are available for inspection by contacting Mr. Fedchock on (202) 720–9150.

Done at Washington, DC, on: March 15, 1993.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 93–6324 Filed 3–18–93; 8:45 am]

BILLING CODE 3410–DM–M

Forest Service

Exemption of the Westside Salvage and Stand Rehabilitation Project, Boise National Forest, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal.

SUMMARY: This is notification that timber salvage harvest and reforestation activities to recover and rehabilitate natural resources from recent insect epidemics on the Westside project area, Emmett Ranger District, Boise National Forest, are exempt from appeal in accordance with 36 CFR 217.4(a)(11).

DATES: Effective on publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Don Dittmer, Timber Management Assistant, Emmett Ranger District, Boise National Forest, 1805 Highway 16, Emmett, ID 83617, Telephone: 208–365–7000.

SUPPLEMENTARY INFORMATION: Several years of drought in southwest Idaho have reduced soil moisture and weakened conifer trees. Consequently, Douglas-fir tussock moth, and bark beetle populations have dramatically increased and reached epidemic levels on the Boise National Forest. It is estimated more than 400,000 trees larger than 12 inches in diameter have died on the Forest as a result of insect damage since 1986.

As part of the effort to recover and rehabilitate natural resources damaged by the insect epidemic, Emmett Ranger District personnel have developed a proposal to harvest dead and dying timber, and reforest damaged acres. The Forest Service has completed the Westside Salvage and Stand Rehabilitation Project Environmental Assessment (EA), identified issues, developed alternatives, and analyzed effects of implementing timber salvage and other recovery activities.

The analysis area for the Westside Salvage and Stand Rehabilitation Project EA is located about 15 miles northwest of Ola, Idaho. The Forest would salvage trees killed or severely damaged by tussock moth and bark beetles on 7,370 acres and recover approximately 14.3 MMBF, using tractor/jammer and skyline logging systems. The tussock moth infestation has created several large, open areas of dead and dying trees, which contain few healthy, live trees. Salvage of these stands would result in "salvage openings," resembling clearcuts. A total of 1,180 acres of salvage opening would be created, including one opening each of about 45, 70, 210, 245, and 260 acres, and two of about 80 acres each. These acres would be rehabilitated by planting with ponderosa pine, Douglas-fir and western larch, to increase the site's timber productivity, resilience, and diversity of forest stands. Natural regeneration would be used to reforest small areas (less than five acres in size).

The project calls for construction of 2.5 miles of road, reconstruction of about 3.8 miles and maintenance of about 100 miles, to facilitate timber harvest in the area. In addition, about 35 miles of road would be administratively closed between October 1 and June 30 when sale and post-sale activities are underway, and all roads not needed for main transportation use would be physically closed to motorized vehicles in areas where forest cover is depleted by vegetation.

Management direction for the Westside project area is established in the Boise National Forest Land and Resource Management Plan (Forest Plan). The project area is not in a Forest Plan inventoried roadless area. The Forest Plan (specifically, the High Valley and Sagehen Management Areas) provides for removal of salvage timber from lands within the project area. In addition, the Forest Plan prescribes standards to protect soil, water, wildlife, visual, and other onsite resources. The selected alternative for the Westside project is consistent with standards and guidelines, objectives, and direction contained in the Forest Plan.

Forest Pest Management Specialists and District Foresters analyzed the insect situation and found no economical or practical means to control the current insect epidemic. Although salvage harvesting and reforestation would not control the epidemic, these activities would: (1) Recover valuable timber that would otherwise deteriorate, and (2) reforest those areas without tree cover as a result of insect-caused mortality, with tree species more resistant to tussock moth and western spruce budworm which would help minimize the potential for future outbreaks of these insects. It is extremely important to remove dead and dying timber prior to deterioration and subsequent value losses. An estimated ninety percent of the proposed harvest volume is grand fir, which under normal conditions, deteriorates rapidly when either dying or dead. Through timber salvage operations, breeding insects (principally bark beetles) can be removed in logs and Knutson-Vandenburg (K–V) funds can be generated for use to restore forest resources damaged by the insect epidemic.

The Forest Supervisor has determined through preliminary scoping and environmental analysis there is justification to expedite this project.

The decision for the Westside Salvage project may be implemented after publication of this notice in the **Federal Register** and after the decision document has been signed by the responsible official. If the project is delayed because of an appeal (delays of up to 150 days are possible), it is likely that much of the salvage harvest could not be implemented during the 1993 normal operating season. This would result in a loss of an estimated 4 MMBF with an associated value of $700,000. The total estimated value of merchantable dead, dying and unhealthy timber is $2,502,200. Of this, approximately $625,500 would be returned to counties from 25 percent fund receipts. Delays resulting from appeals could cause the loss of up to half of this value and potentially make the salvage sale unattractive to timber purchasers. This would jeopardize the objectives of the recovery and rehabilitation project.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt the Westside Salvage and Stand Rehabilitation Project, Emmett Ranger District, Boise National Forest, from appeal. The environmental assessment discloses effects of the proposed actions on the environment and addresses issues resulting from the proposal.

Dated: March 15, 1993.

Gray F. Reynolds,

Regional Forester, Intermountain Region, USDA Forest Service.

[FR Doc. 93–6337 Filed 3–18–93; 8:45 am]

BILLING CODE 3410–11–M

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council will meet in St. Louis, Missouri, April 2–3, 1993, 8:30 a.m., to 4:30 p.m. The Council is comprised of 15 members appointed by the Secretary of Agriculture. The purpose of the meeting is for the Council to begin development of the National Urban and Community Forestry Action Plan and to develop criteria for the urban and community forestry challenge cost-share program. The meeting will be Chaired by William Kruidenier of the International Society of Arboriculture and is open to the public. Time will be provided at the beginning of each major agenda topic for public input. Time to speak must be requested in advance from the committee staff. However, Council discussion is limited to Forest Service staff and Council members. Persons who wish to bring urban and community forestry matters to the attention of the

Council may file written statements with the Council staff before or after the meeting.

DATES: The meeting will be held April 2–3, 1993.

ADDRESSES: The meeting will be held at the Radisson Hotel, 11228 Lone Eagle Drive, Bridgeton, Missouri 63044.

Send written statements and/or requests for agenda items to Brian McGuire, National Urban and Community Forestry Advisory Council, c/o Forest Service—Cooperative Forestry, USDA, P.O. Box 96090, Washington, DC 20090–6090, or phone (202) 205–1689.

FOR FURTHER INFORMATION CONTACT: Brian McGuire, Cooperative Forestry Staff, (202) 205–1689.

Dated: March 12, 1993.

Allan J. West,

Deputy Chief, State and Private Forestry.

[FR Doc. 93–6395 Filed 3–18–93; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Environmental Impact Statement, Nichols Watershed, SC; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR parts 1500–1508); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement (EIS) is not being prepared for flood prevention in Nichols Watershed, Town of Nichols, Marion County, South Carolina.

FOR FURTHER INFORMATION CONTACT: Mr Billy Abercrombie, State Conservationist, Soil Conservation Service, 1835 Assembly Street, room 950, Columbia, South Carolina, 29201, telephone (803) 765–5681.

SUPPLEMENTARY INFORMATION: The environmental evaluation of this federally-assisted action indicates that the proposed measure will not cause significant adverse local, regional or national impacts on the environment. As a result of these findings, Mr. Billy Abercrombie, State Conservationist, has determined that the preparation and review of an EIS is not needed.

The proposed action is to reduce flooding and improve flow conditions on 5.7 miles of channels in and adjacent to the town of Nichols.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation and the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 1835 Assembly Street, room 950, Columbia, South Carolina 29201, 803–765–5681.

The FONSI has been sent to interested federal, state, and local agencies and other interested parties. A limited number of copies of the FONSI are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and Local officials.

Dated: March 8, 1993.

Billy Abercrombie,

State Conservationist.

[FR Doc. 93–6319 Filed 3–18–93; 8:45 am]

BILLING CODE 3410–16–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: April 19, 1993.

ADDRESSES: Committee for Purchase from People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On December 29, 1992, January 15 and 25, 1993, the Committee for Purchase from People Who Are Blind or Severely Disabled published notices (57 FR 61884, 58 FR 4658 and 5959) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Cover, Protective, Life Preserver
- 4220–00–926–9463
- 4220–00–926–9470
- 4220–00–926–9477

Services

Janitorial/Custodial
- Department of Transportation, FAA, Air Traffic Control Tower, Murphy Terminal Building, Bradley International Airport, Windsor Locks, Connecticut.

Janitorial/Custodial
- Federal Building, U.S. Post Office and Courthouse, 515 Murray Street, Alexandria, Louisiana.

Janitorial/Custodial
- Naval Intelligence Command Building, (NIC II including trailers 1, 2 and 3), Suitland, Maryland.

Janitorial/Custodial
- Lewistown Flight Service Station, Lewistown, Montana.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 93–6397 Filed 3–18–93; 8:45 am]

BILLING CODE 6820–33–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received a proposal to add to the Procurement List commodities to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 19, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities to the Procurement List for production by the nonprofit agency listed:

Drawers, Cold Weather
8415–00–NSH–0076 Small, 8415–00–NSH–0077 Medium, 8415–00–NSH–0078 Large, 8415–00–NSH–0079 Extra Large (Requirements for the U.S. Marine Corps).

Undershirts, Cold Weather
8415–00–NSH–0080 Small, 8415–00–NSH–0081 Medium, 8415–00–NSH–0082 Large, 8415–00–NSH–0083 Extra Large (Requirements for the U.S. Marine Corps).

Nonprofit Agency: Peckham Vocational Industries, Inc., Lansing, Michigan.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 93–6398 Filed 3–18–93; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Addition

AGENCY: Committee for Purchase from People who are Blind or Severely Disabled.

ACTION: Addition to procurement list.

SUMMARY: This action adds to the Procurement List a service to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: April 19, 1993.

ADDRESSES: Committee for Purchase from People who are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: Comments were received from the current contractor for this service. The contractor stated that it is a minority-owned firm which is totally dependent on Department of Defense food service contracts. It expressed concern over the loss of its employees' jobs because of displacement by people with severe disabilities. It indicated that it had been frequently targeted by the Committee and the impact of the committee's program on Defense food services contracts is greater than the normal competition among Government contractors. The contractor questioned whether the Committee had properly assessed impact on the contractor and set a true fair market price in this case It also indicated that, as a result of the Committee's actions, it did not believe the Committee's contention that 65% of people with severe disabilities remain unemployed. The contractor attached correspondence which had previously been sent to a Member of Congress by its employees expressing concern over their continued employment of this food service.

According to the Committee's records, this addition to the Procurement List is only the second time the Committee has added a service to the Procurement List where this company was the current contractor. The previous action occurred over three years ago. The contractor's sales have since increased over 50%, which indicates to the Committee that the contractor has recovered from any impact which the last action may had on it.

While the Committee regrets the loss of jobs for disadvantaged people which its action may entail, it continues to believe that the creation of jobs for people with severe disabilities, whose unemployment rates far exceed those for other disadvantaged groups, outweighs this loss. Because the unemployment rate for people with severe disabilities is so high, the Committee does not believe that even its most strenuous actions on their behalf could reduce the rate to a level where it would not be substantially above that for other disadvantaged groups. Displacement of some of the current workers is necessary to provide employment for people with severe disabilities and to allow the nonprofit agency which will provide the service to meet the statutory requirements of the Committee's program concerning the percentage of direct labor which must be performed by people with severe disabilities.

The Committee followed its standard procedures in calculating impact on the current contractor and setting the fair market price. This latter exceeds the price paid to the current contractor because the statement of work has been substantially changed to accommodate a remodeled dining facility

After consideration of the material presented to it concerning the capability of a qualified nonprofit agency to provide the service, fair market price, and the impact of the addition on the current or most recent contractor, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or

other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will not have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List:

Food Service Attendant
Naval Station Building NS–43, Charleston, South Carolina.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 93–6399 Filed 3–18–93; 8:45 am]

BILLING CODE 6820-33-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Joint Advisory Committee on Nuclear Weapons Surety; Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Joint Advisory Committee (JAC) on Nuclear Weapons Surety will meet in closed session on March 30, 1993, at Albuquerque, NM.

The mission of the Joint Advisory Committee is to advise the Secretary of Defense, Secretary of Energy, and the Joint Nuclear Weapons Council on nuclear weapons systems surety matters. At this meeting, the Joint Advisory Committee will receive classified briefings on the health hazards of plutonium from accidents involving nuclear weapons.

In accordance with section 19(d) of the Federal Advisory Committee Act Public Law 92–463, as amended, (5 U.S.C. app. II, (1988)), it has been determined that this Joint Advisory Committee meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: March 15, 1993.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–6329 Filed 3–18–93; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.025D]

Services for Children With Deaf-Blindness; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: To assist States in ensuring the provision of early intervention, special education, and related services as well as vocational and transitional services to infants, toddlers, children, and youth with deaf-blindness; to provide technical assistance to agencies that are preparing adolescents with deaf-blindness for adult activities; and to support research, development, replication, preservice and inservice training, parental involvement activities, and other activities to improve services to children with deaf-blindness.

This Notice supports the National Educational Goals by assisting those with disabilities through improved services and better trained service providers.

Eligible Applicants: Public or nonprofit private agencies, institutions, or organizations, including an Indian tribe and the Bureau of Indian Affairs of the Department of the Interior (if acting on behalf of schools operated by the Bureau for children and students on Indian reservations) and tribally controlled schools funded by the Department of the Interior, may apply for an award under this part.

Deadline for Transmittal of Applications: 5/28/93

Deadline for Intergovernmental Review: 7/27/93

Applications Available: 3/29/93

Available Funds: $400,000

Estimated Range of Awards: $128,000—$138,000

Estimated Size of Awards: $133,000

Estimated Number of Awards: 3

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85 and 86; and (b) The regulations for this program in 34 CFR part 307.

Priorities: Under 34 CFR 75.105(c)(3) and 34 CFR 307.10, the Secretary will give an absolute preference to applications that meet the following priority. The Secretary will select for funding only those applications proposing projects that meet this absolute priority:

Priority—Demonstration Projects for Children Who Are Deaf-Blind

This priority supports projects that develop, improve, or demonstrate new or existing methods, approaches, or techniques that contribute to the adjustment, early intervention, and education of children who are deaf-blind.

For Application or Information Contact: Charles Freeman, U.S. Department of Education, 400 Maryland Avenue, SW., room 4617, Switzer Building, Washington, DC 20202–2644. Telephone: (202) 205–8165. Deaf and hearing impaired individuals may call (202) 205–6170 for TDD services.

Program Authority: 20 U.S.C. 1422.

Dated: March 15, 1993.

William L. Smith,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 93–6336 Filed 3–18–93; 8:45 am]

BILLING CODE 4000-01-U

DEPARTMENT OF ENERGY

Award of Grant Agreement, Noncompetitive Financial Assistance

AGENCY: DOE, Nevada Field Office.

ACTION: Notice of intent to award on a noncompetitive basis.

SUMMARY: DOE announces its intent to award a renewal, pursuant to 10 CFR 600.7(b)(2)(i)(A), of Grant Agreement DE–FG08–92NV11227 with the National Academy of Sciences, Washington, DC, to support investigations and reviews of activities through the Geotechnical Board. The Board will address and make recommendations regarding geotechnical engineering issues such as: (1) Creating and examining geohydrologic flow models to evaluate radionuclide transport issues; (2) the need to understand rock mechanics; and (3) design consideration for site characterization including analyses of underground technologies. The Board will also provide independent technical assessments of geotechnical capability in addressing pertinent issues, and by making balanced recommendations regarding future research directions or pending policy issues with geotechnical implications.

The project period under the above grant agreement will continue through July 27, 1997. The anticipated award

date of the amendment is March 26, 1993. The revised total estimated cost of the project is $515,000.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Yucca Mountain Site Characterization Project Office, Attn: Birdie Hamilton-Ray, P.O. Box 98608, Las Vegas, Nevada 89193–8608.

Issued in Las Vegas, Nevada, on March 4, 1993.

Nick C. Aquilina,

Manager, DOE, Nevada Field Office.

[FR Doc. 93–6385 Filed 3–18–93; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so, within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so, as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT:

Jay Casselberry, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 254–5348.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission.
2. FERC–598.
3. Not Applicable.
4. Certification for Entities Seeking Exempt Wholesale Generator Status.
5. New.
6. On occasion.
7. Mandatory.
8. Businesses or other for-profit, Small businesses or organizations.
9. 56 respondents.
10. 1 response per respondent.
11. 8 hours per response.
12. 448 hours.
13. The Energy Policy Act of 1992 amended section 32 of the Public Utility Holding Company Act (PUHCA) to create a category of power producers known as exempt wholesale generators (EWGs). Persons seeking to become an EWG must file an application with the Commission. Persons that are granted EWG status will not be considered electric utility companies under section 2(a)(3) of PUHCA, and will be exempt from regulation under PUHCA.

Statutory Authority: Sec. 3506(a) and (c)(1), Paperwork Reduction Act of 1980, as amended, (Pub. L. No. 96–511) 44 U.S.C. 3506(a) and (c)(1).

Issued in Washington, DC, March 12, 1993.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 93–6384 Filed 3–18–93; 8:45 am]

BILLING CODE 6450–01–M

Electric Power Information; Proposed Reduction in Amount Published

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of proposed reduction in the amount of certain electric power information currently published by the Energy Information Administration and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) is conducting a consultation to provide the public, industry, State agencies, and other Federal agencies with an opportunity to comment on proposed reduction in the amount of electric power information published by the EIA. This consultation will help to ensure that the public and interested organizations are aware of proposed changes in the information published and have an opportunity to comment. The EIA is proposing to eliminate some electric power information currently published in the following five publications: Cost and Quality of Fuels for Electric Utility Plants, DOE/EIA–0191; Financial Statistics of Major Investor-Owned Electric Utilities, DOE/EIA–0437/1; Financial Statistics of Major Publicly Owned Electric Utilities, DOE/EIA–0437/2; Electric Plant Cost and Power Production Expenses, DOE/EIA–0455; and Electric Trade in the United States, DOE/EIA–0531.

DATES: Written comments should be submitted within 30 days of the publication of this notice. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Roger Sacquety, Survey Management Division, EI–523, Forrestal Building, U.S. Department of Energy, Washington, DC 20585, (202) 254–5440.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Roger Sacquety at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. No. 93–275) and the Department of Energy Organization Act (Pub. L. No. 95–91), the Energy Information Administration conducts a central, comprehensive, and

unified energy data and information program to collect, evaluate, assemble, analyze, and disseminate data and information related to energy resources, reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

Currently, EIA publishes nine on-going publications covering various aspects of electric power supply and demand. These publications are used by other Federal agencies, Congress, State and local governments, trade associations, educational institutions, and the public.

II. Current Actions

Recently, the Federal Energy Regulatory Commission (FERC) decided to collect and selectively process electric power information on the FERC Form 1, "Annual Report of Major Electric Utilities, Licensees and Others", and the FERC Form 423, "Monthly Report of Cost and Quality of Fuels for Electric Plants." These data were previously collected and processed by the EIA for the FERC and published by the EIA in several of its publications. As a result of these changes in organizational responsibilities and the accompanying shift in resources, the EIA is investigating alternatives for meeting its mandate to provide relevant and timely electric power statistics. The EIA is also taking this opportunity to reexamine the uses of these electric data. All options being considered will permit the EIA to continue to fulfill its legal obligations and remain the principal and authoritative source of comprehensive energy data for the Congress, the Federal government, the States, and the public.

Comments are requested on the following proposed changes in EIA's electric power publications:

Proposal 1: Elimination of the following tables in the annual publication, Cost and Quality of Fuels for Electric Utility Plants, DOE/EIA–0191:

- Table ES3, "Monthly Receipts and Average Delivered Cost of Fossil Fuels by Type of Fuel" (monthly summary data).
- Table ES4, "Monthly Receipts and Average Delivered Cost of Coal by Rank" (monthly summary data).
- Table ES5, "Monthly Receipts and Average Delivered Cost of Coal by Type of Purchase and Mine" (monthly summary data).
- Table ES6, "Monthly Receipts and Average Delivered Cost of Petroleum by Type" (monthly summary data).
- Table 11, "Monthly Receipts, Heating Value, and Cost of Coal by Census Division" (monthly summary data).
- Table 17, "Monthly Receipts, Heating Value, and Cost of Petroleum by Census Division" (monthly summary data).
- Table 22, "Monthly Receipts, Heating Value, and Cost of Gas by Census Division" (monthly summary data).
- Table 27, "Receipts of Coal by Bureau of Mines District" (summary data).
- Table 33, "Origin and Destination of Coal Received by Bureau of Mines District and State" (summary data).
- Table 34, "Destination and Origin of Coal Received by Bureau of Mines District and State" (summary data).
- Table 44, "Profile of Fossil-Fuel Receipts" (5-year detail data).
- Table B1, "Coal Producing Districts" (summary data).

Additionally, in Table 36, "Origin of Coal Received by Company and Plant," detail county-level data would be eliminated.

Proposal 1 eliminates all tables from the publication with references to the Bureau of Mines (BOM) District (Tables 27, 33, 34, and B1). The BOM District data would still be collected by the FERC on the FERC Form 423. Monthly data contained in Tables ES3 through ES6 and in Tables 11, 17, and 22 are provided in the Electric Power Monthly. Data dealing with cost and quality of fuels in the Electric Power Monthly and the Electric Power Annual would continue to be published.

Proposal 2: Elimination of the following tables within the annual publication, Financial Statistics of Major Investor-Owned Electric Utilities, DOE/EIA–0437/1:

- Table 4, "Investments in Environmental Protection and Construction Work in Progress for Major Investor-Owned Electric Utilities" (five years).
- Table 28, "Transmission and Distribution Systems for Major Investor-Owned Electric Utilities" (five years).
- Table 43, "Transmission and Distribution Systems by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 45, "Expenditures for Research, Development, and Demonstration by Major Investor-Owned Electric Utility Within State" (five years).
- Table 46, "Investments in Environmental Protection by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 47, "Expenditures for Environmental Protection by Major Investor-Owned Electric Utility Within State" (current year detail data).

Proposal 2 eliminates the publication of all data on transmission and distribution systems; on research, development, and demonstration; and on environmental protection. These data would still be collected by the FERC on the FERC Form 1, but would no longer be processed and published by the EIA.

Proposal 3: The investor-owned electric utility-specific data currently published in the annual publication, Financial Statistics of Major Investor-Owned Electric Utilities, DOE/EIA–0437/1, will be made available electronically, and only the summary and comparative tables would be published. The following electric utility-specific tables in the publication would be eliminated:

- Table 36, "Statement of Income and Retained Earnings by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 37, "Balance Sheet by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 38, "Statement of Cash Flows by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 39, "Number of Consumers, Sales, and Operating Revenue by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 40, "Electric Operation and Maintenance Expenses by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 41, "Utility Plant by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 42, "Electric Energy Account by Major Investor-Owned Electric Utility Within State" (current year detail data).

Proposal 3 eliminates publication of electric utility-specific data on statement of income and retained earnings; balance sheet; statement of cash flows; number of consumers, sales and operating revenue; electric operation and maintenance expenses; utility plant; and electric energy account for investor-owned electric utilities. These data would still be collected by the FERC on the FERC Form 1 and could be requested in electronic form on a reimbursable basis from the EIA.

Proposal 4: The publicly owned electric utility-specific data currently published in the annual publication, Financial Statistics of Major Publicly Owned Electric Utilities, DOE/EIA–

0437/2, will be made available electronically, and only the summary and comparative tables would be published. The following electric utility-specific tables in the publication would be eliminated:

- Table 38, "Statement of Income by Major Publicly Owned Electric Utility Within State" (current year detail data).
- Table 39, "Balance Sheet by Major Publicly Owned Electric Utility Within State" (current year detail data).
- Table 40, "Electric Operation and Maintenance Expenses by Major Publicly Owned Electric Utility Within State" (current year detail data).
- Table 41, "Electric Utility Plant by Major Publicly Owned Electric Utility Within State" (current year detail data).
- Table 42, "Number of Consumers, Sales, and Operating Revenue by Major Publicly Owned Electric Utility Within State" (current year detail data).
- Table 43, "Electric Energy Account by Major Publicly Owned Electric Utility Within State" (current year detail data).

Proposal 4 eliminates the publication of electric utility-specific data on statement of income; balance sheet; electric operation and maintenance expenses; electric utility plant; number of consumers, sales, and operating revenue; and electric energy account for publicly owned electric utilities. These data would still be collected by the EIA on the Form EIA–412 (number of consumers, sales, and operating revenue data are collected on the Form EIA–861) and could be requested in electronic form on a reimbursable basis from the EIA.

Proposal 5: Eliminate the annual publication, Electric Plant Cost and Power Production Expense, DOE/EIA–0455, and publish selected tables of summary data listed below in the annual publication, Financial Statistics of Major Investor-Owned Electric Utilities, DOE/EIA–0437/1:

- Table 5, "Historical Plant Cost for Plants that Began Commercial Operating During (current year).
- Table 8, "Average Production Expenses for Hydroelectric Plants Owned by Major Investor-Owned Electric Utilities" (currently six years, proposed to be five years).
- Table 10, "Average Production Expenses for Fossil-Fueled Steam-Electric Plants Owned by Major Investor-Owned Electric Utilities" (currently six years, proposed to be five years).
- Table 14, "Average Production Expenses for Nuclear Steam-Electric Plants Owned by Major Investor-Owned Electric Utilities" (currently six years, proposed to be five years).
- Table 17, "Average Production Expenses for Gas Turbine and Small Scale Electric Plants Owned by Major Investor-Owned Electric Utilities" (currently six years, proposed to be five years).

Proposal 5 eliminates the publication of plant-specific information on physical characteristics, and operation and maintenance expenditures for selected electric power plants of various fuel types. The plant specific data proposed for elimination would still be collected by the FERC on the FERC Form 1. The above five summary tables are retained and transferred to another EIA publication. The information retained includes summary averages of production expenses, and costs of various types of new plants owned by major investor-owned electric utilities.

Proposal 6: Eliminate information on electricity transactions between utility ownership classes and regions in the EIA publication, Electric Trade in the United States, DOE/EIA–0531. Also, two data collection surveys which gather and publish information on wholesale energy purchases, sales, and wheeling aggregated to the utility level will be modified. The modification results in the elimination of the following tables:

- Table 5, "Intra- and Interregional Purchases and Sales For Resale by Selected Ownership Classes", (summary data).
- Table 6, "Firm and Nonfirm Purchases and Sales for Resale by Investor-Owned Utilities by NERC Regions", (summary data).
- Table 7, "Shifts in 19xx Data between Old and New Publication Methodology by NERC Region", (summary data).
- Table 13, "Electricity Wheeling by All Ownership Classes to Investor-Owned Utilities by NERC Region", (summary data).
- Table 15, "Receipts by Investor-Owned Utilities Within and Between NERC Regions", (summary data).
- Table 16, "Deliveries by Investor-Owned Utilities Within and Between NERC Regions", (summary data).
- Table 22, "Electricity Purchases by Investor-Owned Utilities Not Reported to the Federal Energy Regulatory Commission", (summary data).
- Table 23, "Electricity Wheeling by Investor-Owned Utilities", (detail data).
- Table 24, "Electricity Wheeling to Investor-Owned Utilities", (detail data).
- Table 31, "Electricity Purchases by Publicly Owned Utilities Not Reported on the Form EIA–412", (detail data).
- Table 33, "Electricity Purchases by the Power Supply Segment of Cooperative Borrowers", (detail data).
- Table 34, "Electricity Purchases by the Distribution Segment of Cooperative Borrowers" (detail data).
- Table 35, "Electricity Purchases by Electrical Cooperatives Not Reported in the Rural Electrification Administration" (detail data).

Additionally, Tables 8 through 10, 17, 19 through 21, and 25 through 30 would be reduced to a summary total column and/or row of data.

Proposal 6 results in the publication of wholesale energy purchases, sales, exchanges, and wheeling data aggregated for individual electric utilities and for an ownership class. Modifications would be made to two surveys for the implementation of this option. The Form EIA–861, "Electric Utility Report," currently collects information on wholesale energy purchases, sales, exchanges, and wheeling aggregated to the utility level. The Form EIA–861 would be revised to distinguish between requirement and nonrequirement sales and purchases and to include the total costs and revenue associated with purchases, sales, exchanges, and wheeling. Additionally, the EIA would eliminate the Sales of Electricity for Resale (Schedule V) and Purchased Power and Power Exchanges (Schedule VII) from the Form EIA–412, "Annual Report of Public Electric Utilities." There would no longer be electric trade data available for publicly owned electric utilities at the individual transaction level. To obtain data on individual transactions by investor-owned electric utilities, analysts would have to examine the FERC Form 1 collected by the FERC.

III. Request for Comments

Users of EIA's electric power information and other interested parties should comment on the proposals outlined above. The following general guidelines are provided to assist in the preparation of responses. Please be specific in your comments with regard to the proposed modifications.

A. Do you use the data proposed for elimination from the publications? (Be specific as to which data you use.)

B. For what purpose(s) do you use the data? Be specific.

C. What effect would there be on you if the data were no longer published?

D. Are there alternate sources of data? If so: how do you use them; what are their deficiencies; what are their strengths; and what effect, if any, will the use of the alternative data have on you?

E. Do you have alternative proposals for collecting or for publishing information to aid in the analysis of electric power issues.

Comments submitted in response to this notice will be considered a matter of public record and will be used by EIA in the determination of whether to continue publishing the data indicated.

Statutory Authorities: Sections 3506 (a) and (c)(1), Paperwork Reduction Act of 1980, as amended, Public Law 96–511, 44 U.S.C. 3506 (a) and (c)(1).

Issued in Washington, DC March 12, 1993.

L.A. Pettis,

Acting Administrator, Energy Information Administration.

[FR Doc. 93–6382 Filed 3–18–93; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 199–071]

South Caroline Public Service Authority; Notice of Availability of Environmental Assessment

March 15, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application to construct and operate an intake structure and pump station at Lake Moultrie within the Santee-Cooper Project. The project is located on the Santee River, in Berkeley County, South Carolina. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, staff concludes that approval of the amendment application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's Offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6360 Filed 3–18–93; 8:45 am]

BILLING CODE 6717-01-M

Meeting of FERC Natural Gas Pipeline Competition Task Force

March 12, 1993.

The next meeting of the above-mentioned Task Force will be held:

Date: Friday, March 19, 1993.
Time: 10 a.m.
Place: Hyatt Regency O'Hare, SAS Room, 9300 West Bryn Mawr, Rosemont, Illinois 60018. (708) 696–1234.

The focus of this meeting will be to continue dialogue on the areas of pipeline competition. The meeting will be open to the public. For additional information, interested parties may call Mark Shaffer at (202) 208–0388.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6348 Filed 3–18–93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP91–2704–004]

Blue Lake Gas Storage Co.; Motion To Waive, Proposed Effective Date and Tariff Filing Pursuant to Order Issuing Certificate of Public Convenience and Necessity

March 12, 1993.

Take notice that on March 1, 1993, Blue Lake Gas Storage Company (Blue Lake) tendered a motion requesting the Commission waiver its requirement that Blue Lake's tariff sheets be in full compliance with Order No. 636 prior to becoming effective. The motion also notifies the Commission of the proposed commencement of storage operations on April 1, 1993.

Also take notice that on March 4, 1993, Blue Lake tendered for filing its FERC Gas Tariff, Original Volume No. 1, to become effective April 1, 1992.

Blue Lake states that Original Volume No. 1 is being filed in compliance with Ordering Paragraph (A) of the Commission's order of September 14, 1992 in Docket No. CP91–2704–002, which required Blue Lake to file its tariff not less than 30 nor more than 60 days prior to the requested in-service date.

Blue states that copies of the filings were served on Blue Lake's customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests shall be filed on or before March 19, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6361 Filed 3–18–93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ93–6–4–000]

Granite State Gas Transmission, Inc.; Notice of Proposed Changes in Rates

March 12, 1993.

Take notice that on March 8, 1993, Granite State Gas Transmission, Inc. (Granite State) 300 Friberg Parkway, Westborough, Massachusetts 01581, filed Twenty-Fifth Revised Tariff Sheet No. 21 in its FERC Gas Tariff, Second Revised Volume No. 1, containing changes in rates for effectiveness on April 1, 1993.

According to Granite State, the revised sales rates on Twenty-Fifth Revised Tariff Sheet No. 21 reflect Granite State's regular quarterly purchased gas adjustment for the first quarter of 1993 based on projected gas costs and sales for the quarter.

Granite State indicates that the revised sales rates on Twenty-Fifth Revised Sheet No. 21 are applicable to Granite State's wholesale sales to its two affiliated distribution company customers: Bay State Gas Company (Bay State) and Northern Utilities, Inc. (Northern Utilities).

Granite State states that copies of its filing were served upon its customers Bay State Gas Company and Northern Utilities, Inc. and the regulatory commissions of the states of Maine, New Hampshire and Massachusetts.

Any person desiring to be heard or to make protest with reference to said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 19, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6350 Filed 3–18–93; 8:45 am]

BILLING CODE 6217-01-M

[Docket No. RP93-81-000]

Louisiana Natural Gas Pipeline, Inc.; Petition for Declaratory Order

March 12, 1993.

Take notice that on March 4, 1993, Louisiana Natural Gas Pipeline Incorporated (LNGP) filed a petition for declaratory order. LNGP states that on January 21, 1993, Columbia Gulf Transmission Company (Columbia Gulf) filed suit against LNGP under Civil Action No. 93-0239, in the United States District Court for the Eastern District of Louisiana, seeking to recover an alleged imbalance penalty for the seasonal period ending April 1, 1991, under the Columbia Gulf ITS-2 Tariff. LNGP requests that the Commission "accept jurisdiction of this matter" and answer the following questions, as framed by LNGP, and arising out of their dispute:

1. Whether Columbia Gulf is permitted, for purposes of calculating seasonal penalties, to make unilateral, retroactive adjustments to a shipper's gas account in Columbia Gulf's favor, covering the period November, 1987, through January, 1991, subsequent to the written February 15 notice of imbalance status required to be given to the shipper by subsection 6(a)(6) of the ITS-2 Tariff?

2. Do any of Columbia Gulf's imbalance statements comply with the formal February 15 notice of imbalance status required to be given to LNGP by subsection 6(a)(6) of the ITS-2 Tariff?

3. May Columbia Gulf impose an overtender or undertender penalty under its ITS-2 Tariff upon shippers such as LNGP who have specifically relied upon erroneous Columbia Gulf gas imbalance statements and other written information furnished to the shippers by Columbia Gulf in deciding what sales and/or deliveries to make in order to bring their previously reported gas imbalances within the permissible tolerance levels established by Columbia Gulf?

4. Does Columbia Gulf have the right, under its ITS-2 Tariff, to make retroactive, unilateral adjustments to a shipper's gas account that are not agreed to by the shipper?

5. May Columbia Gulf impose imbalance penalties based upon retroactive, unilateral adjustments that it attempts to make to a shipper's gas account (a) before the commencement of, (b) during, or (c) after the conclusion of the 45-day adjustment period immediately preceding each seasonal penalty date?

6. May Columbia Gulf impose a penalty on a shipper based upon a Columbia Gulf imbalance report purportedly furnished to the shipper in accordance with the requirements of subparagraph 6(a)(6) of Columbia Gulf's ITS-2 Tariff, when Columbia Gulf subsequently concedes that its imbalance report was grossly inaccurate?

7. May Columbia Gulf impose a penalty upon a shipper based upon unilateral adjustment to a shipper's deliveries and sales covering a specific time period, subsequently go back and readjust the shipper's deliveries and sales for the same time period, and then charge another penalty based upon its subsequent readjustment?

8. Must Columbia Gulf allow a shipper a reasonable period of time in which to adjust for any permissible, retroactive, unilateral adjustments made by Columbia Gulf to a shipper's gas account, prior to attempting to impose any penalty, and, if so, what constitutes a reasonable period of time?

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 12, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room. Answers to LNGP's pleading shall also be due on or before April 12, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93-6349 Filed 3-18-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP91-2322-004]

Paiute Pipeline Co.; Notice of Change in FERC Gas Tariff

March 11, 1993.

Take notice that on February 9, 1993, Paiute Pipeline Company (Paiute) tendered for filing 1st Rev Sub First Revised Sheet No. 130 to be part of its FERC Gas Tariff, First Revised Volume No. 1-A.

Paiute states that it is submitting the proposed tariff sheet in order to reflect on a current basis in its tariff the contract entitlement quantities that will become effective upon the in-service date of a system capacity expansion project that was authorized by the Commission in Docket No. CP91-2322.

Paiute requests that the tendered tariff sheet be accepted for filing to become effective March 1, 1993.

Paiute states that copies of the filing were served upon all of Paiute's customers and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before March 18, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-6357 Filed 3-18-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-166-000]

Providence Gas Co., Notice of Compliance Filing for Rate Election Pursuant to Section 284.224(e)(2)

March 11, 1993.

Take notice that on February 1, 1993, Providence Gas Company made a compliance filing pursuant to its blanket certificate in Docket No. CP92-166 which authorized it to engage in the sale, transportation, or assignment of natural gas subject to the Commission's jurisdiction under the Natural Gas Act to the same extent and in the same manner that intrastate pipelines are authorized to engage in such activities by subparts C, D, and E of part 284 of the Commission's regulations.

Providence Gas states in its filing that since it has no rates on file with the Rhode Island Public Service Commission for city gate transportation service, it proposes to implement a transportation rate of $1.4926 per Mcf pursuant to § 284.224(e)(2) of the Commission's regulations. The derivation of the proposed rate is set forth in an appendix to the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance

with Rules 211 or 214 of the Commission's rules of practice and procedure. All such motions or protests should be filed within 15 days following publication of this notice in the **Federal Register**. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a motion to intervene. A copy of the filing is a file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6358 Filed 3–18–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP92–285–001]

Richfield Gas Storage System; Notice of Filing of Initial FERC Gas Tariff

March 12, 1993.

Take notice that on March 11, 1993, Richfield Gas Storage System, (Richfield) filed its initial FERC Gas Tariff, Volume No. 1, Sheets 1 to 45. Richfield seek authorization to make its initial tariff effective on April 1, 1993.

Richfield is a general partnership organized and existing under the laws of Oklahoma. It has constructed an underground natural gas storage facility in Morton County, Kansas under certificates of public convenience and necessity issued by the Commission on June 16, 1992 in Docket No. CP92–285–000. That Order required that Richfield must store and transport natural gas under subpart G of part 284 of the Commission's Regulations and file its initial FERC Gas Tariff before it can begin service under its certificates. The Commission also authorized Richfield to establish market-based rates for its services.

Richfield's initial FERC Gas Tariff contains its:

Preliminary Statement
Facility Map
Schedule of Rates
FSS–1 Rate Schedule for Firm Storage Service
Form of Service Agreement applicable to the FSS–1 Rate Schedule
ISS–1 Rate Schedule for Interruptible Storage Service
Form of Service Agreement applicable to the ISS–1 Rate Schedule
General Terms and Conditions
Index of Purchasers
—City of New Ulm
—Fremont Department of Utilities
—Michigan Gas Company
—Midwest Gas, A Division of Midwest Power Systems, Inc.

The FSS–1 Rate Schedule includes provisions for capacity release and right of first refusal.

Because Richfield has established market-based rates, it seeks waiver of the requirements of part 154 of the Commission's Regulations so it won't have to file cost and financial data which show how its rates were derived. For the same reason, Richfield seeks waiver of the Commission's Regulations so it won't have to file its initial tariff on electronic media.

Richfield says that copies of this filing were served on the company's jurisdictional customers and affected state commission as required by § 154.16(b) of the Commission's Regulations.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 22, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6362 Filed 3–18–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–4597–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 1, 1993 through March 5, 1993 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1993 (57 FR 12499).

Draft EISs

ERP No. D–AFS–L61195–OR Rating LO, Elk Wild and Scenic River Management Plan, Implementation, Elk River, Siskiyou National Forest, Power Ranger District, Curry County, OR.

Summary: EPA had no objections to the proposed project.

ERP No. D–AFS–L65182–OR Rating EO2, East End Salvage Timber Sales and Restoration Projects, Implementation, Umatilla National Forest, Heppner Ranger District, Grant and Morrow Counties, OR.

Summary: EPA had environmental objections to the project based on potential water quality standards violations; the lack of an air quality impacts analysis; the need for complete monitoring and mitigation discussions; and the need for a broader cumulative effects analysis. Additional information is requested to clarify compliance with state water quality standards; to disclose air quality impacts related to prescribed burning; to outline monitoring and mitigation strategies; and to expand the cumulative effects analysis.

ERP No. D–AFS–L65187–AK Rating EC2, North Revilla Project, Long-Term Timber Sale Contract, Implementation, Tongass National Forest, Ketchikan Administrative Area, Ketchikan Ranger District, Revillagigedo Island, AK.

Summary: EPA had environmental concerns with the project based primarily on impacts to water quality. EPA was concerned that assuring that best management practices are implemented without adequate water quality monitoring may not ensure that the Alaska Water Quality Standards (WQS) are being met. EPA believed that WQS may be exceeded as a result of the proposed sale. Additional information was needed on effectiveness monitoring from the water quality effects of timber harvest and road construction.

Summary: ERP No. D–FHW–C40128–NY Rating EC2, I–90/I–8 Connector to Route 4/43 at Washington Avenue Transportation Improvements, Funding and COE Permits, Town of North Greenbush, Rensselaer County, NY.

Summary: EPA expressed concerns for potential impacts to wetlands and surface water quality and asked for additional information in the final EIS to address these issues.

ERP No. D–FHW–F40327–WI Rating EC2, US 151/Fond du Lac Bypass Construction, US 151 and CTH "D" to US 151 and WI–149, Funding, Fond du Lac County, WI.

Summary: EPA expressed concern regarding wetland and noise impacts. EPA believed alternative 1 would have the least wetland impact. A discussion of additional noise mitigation was also requested.

ERP No. D–FTA–B54007–MA Rating EC2, South Boston Piers/Fort Point

Channel Transit Project, Boylston Station to the World Trade Center, Funding, MA.

Summary: EPA expressed concern about the lack of information in the draft EIS concerning the air quality analysis and indirect/cumulative impacts. EPA requested additional information be included in the final document.

ERP No. DS–FHW–F40170–MN Rating EO2, TH–610 Construction, I–94 in Maple Grove to TH–252 in Brooklyn Park, Additional Funding and COE Section 404 Permit, Hennepin County, MN.

Summary: EPA's objections would be resolved if the final EIS indicates that feasible "Build" alternatives have been described and evaluated, and that the alternative with the least potential for resulting in adverse impacts to wetlands and sensitive noise receptors had been chosen for implementation. In addition, the FEIS should also discuss the issues of minimization and compensation for unavoidable wetlands impacts, and provision of cost-effective, feasible mitigation for project-associated noise impacts on sensitive receptors.

ERP No. D1–FHW–F40329–MN Rating EO2, Minnesota Trunk Highway 371 Brainerd Bypass Relocation, from TH–371 in Barrows to TH–210 in Baxter, Funding and Section 404 Permit, Crow Wing County, MN.

Summary: EPA's objections for the Tier 1 Draft EIS would be satisfied when impacts to ecosystems such as savanna and prairie are minimized to the greatest extent practicable through the alternative selection process, when additional alternatives are investigated such as a near-in Brainerd Bypass, and when purpose and need information is provided.

Other

ERP No. LD–AFS–L61194–OR Rating LO, Steamboat Creek Wild and Scenic Suitability Study, Designation, North Umpqua River, Umpqua National Forest, Douglas and Lane Counties, OR.

Summary: EPA had no objections to the proposed project.

Dated: March 15, 1993.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 93–6402 Filed 3–18–93; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–4597–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 or (202) 260–5075.

Weekly Receipts of Environmental Impact Statements Filed March 8, 1993 Through March 12, 1993 Pursuant to 40 CFR 1506.9.

EIS No. 930076, Draft EIS, BLM, MT, Big Dry Land and Resource Management Plan, Implementation, Miles City District, Several Counties, MT, Due: June 18, 1993, Contact: Al Kutt (406) 232–7000.

EIS No. 930077, Final EIS, FHW, UT, US–89/Logan Canyon Highway, Improvements, Right Fork 9 miles East of Logan to Garden City, Funding, 404 Permit and Special Use Permit, Wasatch-Cache National Forest, Cache and Rich Counties, UT, Due: May 3, 1993, Contact: William Gedris, P.E. (801) 963–0123.

EIS No. 930078, Draft EIS, BLM, FL, Miccosukee Indian Reservation Exploratory Well Drilling, Lease and Permit, City of Fort Lauderdale, Broward County, FL, Due: May 18, 1993, Contact: Robert V. Abby (601) 977–5400. The U.S. Department of Interior's Bureau of Land Management and Bureau of Indian Affairs are Joint Lead Agencies on this project.

EIS No. 930079, Draft EIS, AFS, ID, Salmon River Road Improvement Project, Development Road No. 30 from North Fork to Corn Creek, Salmon National Forest, North Fork Ranger District, Custer and Lemhi Counties, ID, Due: May 3, 1993, Contact: Rogers Thomas (208) 865–2383.

EIS No. 930080, Final EIS, AFS, CO, Trout Mountain Analysis Area Timber Harvest, Road Construction and Aspen Management Plan Projects, Implementation, Trout and Decker Creeks, Del Norte Ranger District, Rio Grande National Forest, Rio Grande and Mineral Counties, CO, Due: April 19, 1993, Contact: Thurman H. Wilson (719) 852–5941.

EIS No. 930081, Final EIS, USA, AL, KY, MD, IL, CA, Redstone Arsenal Base Realignment, Transfer of Activities from US Army Armament, Munitions and Chemical Command, Rock Island, IL; Lexington-Bluegrass Army Depot, KY; Presido Army Base, San Francisco, CA and Harry Diamond Laboratories, Adelphi, MD to the Redstone Arsenal Base, Madison County, AL, Due: April 19, 1993, Contact: Glen Coffee (205) 690–2729.

EIS No. 930082, Final EIS, UAF, SC, Myrtle Beach Air Force Base Disposal and Reuse, Implementation, Horry County, SC, Due: April 19, 1993, Contact: Ltc. Gary Baumgartel (210) 536–3869.

Dated: March 16, 1993.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 93–6403 Filed 3–18–93; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–59319; FRL–4574–2]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of application for test marketing exemptions (TMEs) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated these applications as TME–93–9 and TME–93–10. The test marketing conditions are described below.

EFFECTIVE DATE: March 11, 1993.

FOR FURTHER INFORMATION CONTACT: Edna G. Pleasants, New Chemicals Branch, Chemical Control Division (TS–794), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E–611, 401 M St. SW., Washington, DC 20460, (202) 260–4142.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME–93–9 and TME–93–10. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in these applications and in this notice must be met.

Inadvertently, notice of receipt of the applications was not published. Therefore, an opportunity to submit comments is being offered at this time. The complete nonconfidential document is available in the Public Reading Room NE G004 at the above address between 8 a.m. and 4 p.m., Monday through Friday, excluding holidays. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

The following additional restrictions apply to TME–93–9 and TME–93–10. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TMEs. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME–93–9

Date of Receipt: February 8, 1993.
Close of Review Period: March 24, 1993. The extended comment period will close April 5, 1993.
Applicant: Westvaco Corporation.
Chemical: (S) Distillates (petroleum), hydrotreated heavy naphthenic, sulfonic acids, oil-soluble, sodium salt.
Use: (S) Metal Cutting Lubricant Additive.
Production Volume: 1,500,000 kg/yr.
Number of Customers: 1.
Test Marketing Period: 365 days, commencing on first day of commercial manufacture.
Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to health or the environment.

TME–93–10

Date of Receipt: February 8, 1993.
Close of Review Period: March 24, 1993. The extended comment period will close April 5, 1993.
Applicant: Westvaco Corporation.
Chemical: (S) Distillates (petroleum), hydrotreated heavy naphthenic, sulfonic acids, water-soluble, sodium salt.
Use: (G) Defoamer Processing Aid.
Production Volume: 500,000 kg/yr.
Number of Customers: Confidential.
Test Marketing Period: 365 days, commencing on first day of commercial manufacture.
Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: March 11, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–6389 Filed 3–18–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–140207; FRL–4578–1]

Temporary Closure of the TSCA Confidential Business Information Center and the TSCA Nonconfidential Information Center

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is issuing this notice to announce that the Toxic Substances Control Act (TSCA) Confidential Business Information Center (CBIC) and the TSCA Nonconfidential Information Center (NCIC), also known as, TSCA Public Docket Office, will close temporarily in order to move both facilities to new locations within EPA Headquarters. New Chemical Program submissions will be received during that period. Additionally, TSCA materials will not be available to the public.

DATES: The CBIC will be closed from 8 a.m., March 22, 1993, until 8 a.m., March 30, 1993. The NCIC will close from 8 a.m., March 22, 1993, and remain closed until 8 a.m., March 31, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: The TSCA CBIC and the TSCA NCIC will close temporarily in order to move both facilities to new locations within EPA Headquarters. The TSCA CBIC will reopen March 30, 1993, at EPA Headquarters in room ET G–99. The TSCA NCIC will reopen on March 31, 1993, at EPA Headquarters in room ET G–102. The telephone numbers and EPA mail codes for both offices will remain the same.

New Chemical Program submissions will be received during that period. During the period that the TSCA NCIC will be closed, no TSCA materials will be available to the public.

All future TSCA submissions should be addressed to the U.S. Environmental Protection Agency, OPPT Document Control Officer, Attn: TSCA Document Receipts (TS–790), ET G–99, 401 M St., SW., Washington, DC 20460.

Dated: March 16, 1993.

Linda A. Travers,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–6514 Filed 3–18–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL RESERVE SYSTEM

Comerica Incorporated; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a

hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 6, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Comerica Incorporated, Detroit, Michigan; to engage *de novo* through its subsidiary, ET–92 Limited Dividend Housing Association Limited Partnership, Detroit, Michigan, in community development activities by making an equity investment in a low income housing project pursuant to § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 15, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–6343 Filed 3–18–93; 8:45 am]

BILLING CODE 6210–01–F

Fourth Financial Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than April 12, 1993.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Fourth Financial Corporation, Wichita, Kansas; to acquire Bancshares of Woodward, Inc., Woodward, Oklahoma, and thereby indirectly acquire The Bank of Woodward, Woodward, Oklahoma.

Board of Governors of the Federal Reserve System, March 15, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–6342 Filed 3–18–93; 8:45 am]

BILLING CODE 6210–01–F

Samuel Guy Maddox, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 8, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Samuel Guy Maddox, Blakely, Georgia; to retain 25 percent of the voting shares of First State Bancshares of Blakely, Inc., Blakely, Georgia, and thereby indirectly acquire First State Bank of Blakely, Blakely, Georgia.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Jess A. Fields, Humble, Texas, to acquire 11.97 percent; Robert N. Murray, Houston, Texas, to acquire 0.79 percent; Ralph S. O'Connor, Houston, Texas, to acquire 5.98 percent; Stanley D. Stearns, Houston, Texas, to acquire 10.77 percent; John H. Lindsey, Houston, Texas, to acquire 2.39 percent; Schuyler M. Tilney, Houston, Texas, to acquire 1.20 percent; Endre Rosejoe, London England, to acquire 11.97 percent; William Temple Webber, Jr., Houston, Texas, to acquire 5.98 percent; Louis B. Cushman, Houston, Texas, to acquire 5.98 percent; John H. Styles, Houston, Texas, to acquire 2.99 percent; Richard K. Gordon, Houston, Texas, to acquire 2.99 percent; Peder Monsen, Houston, Texas, to acquire 1.50 percent; Albert B. Fay, Jr., Houston, Texas, to acquire 2.00 percent; Sidney S. McClendon, III, Houston, Texas, to acquire 1.20 percent; Steven J. Gibson, Magnolia, Texas, to acquire 2.39 percent; Clive Runnells, Houston, Texas, to acquire 0.60 percent; and Thomas P. Runnells, Houston, Texas, to acquire 0.60 percent of the voting shares of Crosby Bancshares, Inc., Crosby, Texas, and thereby indirectly acquire Crosby State Bank, Crosby, Texas.

Board of Governors of the Federal Reserve System, March 15, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–6344 Filed 3–18–93; 8:45 am]

BILLING CODE 6210–01–F

The Royal Bank of Scotland Group, plc, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound

banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than April 8, 1993.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. The Royal Bank of Scotland Group, plc, Edinburgh, Scotland, United Kingdom, and The Royal Bank of Scotland, plc, Edinburgh, Scotland, United Kingdom; to acquire Standard Chartered Equitor Asset Management NA, Inc., Boston, Massachusetts, and Union Investors Asset Management Company, Inc., Boston, Massachusetts, and thereby engage in portfolio investment advisory services for securities, including the provision of discretionary asset management services to institutional customers pursuant to § 225.25(b)(4)(iii) of the Board's Regulation Y.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. First Union Corporation, Charlotte, North Carolina; to acquire Georgia Federal Bank, FSB, Atlanta, Georgia, and thereby engage in owning and operating a savings and loan association pursuant to § 225.25(b)(9); providing data processing and transmission services to federally insured depository institutions who participate in Company's neutral shared electronic funds transfer network and providing related services, including the administration and promotion of the network and providing data processing, transmission and related services to other EFT networks pursuant to § 225.25(b)(7); providing bank management consulting advice to depository institutions pursuant to § 225.25(b)(11); engaging in credit life reinsurance agency and underwriting activities pursuant to § 225.25(b)(8)(i); and performing real estate appraisals pursuant to § 225.25(b)(13) of the Board's Regulation Y.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. The Merchants Holding Company, Winona, Minnesota; to acquire Mortgage Options of La Crosse, Inc., La Crosse, Wisconsin, through a *de novo* nonbank subsidiary, Merchants Mortgage Company of Minnesota, La Crosse, Wisconsin, which will engage in originating, selling, and servicing mortgage loans in La Crosse, Wisconsin, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 15, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–6341 Filed 3–18–93; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91P–0175/CP1]

Hercules, Inc.; Citizen Petition; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period for the citizen petition from Hercules, Inc., which requests that the agency establish a common or usual name for Philippine natural grade carrageenan and name the product "Alkali-treated carrageenophyte." FDA is taking this action in response to requests to allow additional time for public comment.

DATES: Written comments by May 18, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mitchell Cheeseman, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9511.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 2, 1992 (57 FR 49483), FDA announced that two related food additive petitions had been filed, one (FAP 1A4264; Docket No. 92F–0376) on behalf of the International Food Additives Council, c/o 1201 Pennsylvania Ave. NW., P.O. Box 7566, Washington, DC 20044, and one (FAP 1A4265; Docket No. 92F–0377) on behalf of FMC Corporation-Marine Colloids Division, c/o 1150 17th St. NW., Washington, DC 30036. In that filing notice, FDA also requested comments on a related citizen petition that had been submitted under § 10.30 (21 CFR 10.30) by Hercules, Inc. (91P–0175/CP1). Interested persons were given until January 4, 1993, to comment on the citizen petition.

The agency has received requests from the International Food Additives Council, the Federation of European Food Additives and Food Enzymes Industries, Centre de Liaison des Industries de Traitement des Algues Marines de la C.E.E. (Liaison Centre of the Industries for the Treatment of Seaweeds in the European Economic Community), and the National Turkey Federation, to reopen the comment period to permit an additional 60 days for comments.

Because the four requests for extension of the comment period were submitted to the dockets for the two food additive petitions concerning carrageenan as well as the docket for the citizen petition, the agency wishes to clarify that the comment period established in the November 2, 1992, filing notice applied only to comments on the citizen petition. Indeed, the food additive regulations in 21 CFR part 170 do not prescribe a formal comment period following a notice of filing for a food additive petition. After careful consideration, the agency has concluded that it is in the public interest to allow additional time for interested persons to submit comments on the citizen petition. Accordingly, the comment period is reopened until May 18, 1993.

Interested persons may, on or before May 18, 1993, submit to the Dockets Management Branch (address above) written comments regarding the citizen petition. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The citizen petition and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 12, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–6371 Filed 3–18–93; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. April 15, 1993, 8:30 a.m., First Floor conference rm., Piccard Bldg., 1390 Piccard Dr., Rockville, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 4 p.m.; Mark D. Kramer, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1194.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before March 30, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss draft guidance documents for the content of premarket approval (PMA) applications for testicular prostheses and penile inflatable implants. FDA intends to call for safety and effectiveness data on these devices as part of an ongoing review of pre-1976, class III devices. The draft guidance documents to be discussed address the safety and effectiveness information FDA believes is necessary to support future PMA applications for these devices.

Food Advisory Committee

Date, time, and place. April 15 and 16, 1993, 8 a.m., Holiday Inn Hotel, 1489 Jefferson Davis Hwy., Arlington (Crystal City), VA.

Type of meeting and contact person. Open committee discussion, April 15, 1993, 8 a.m. to 8:30 a.m.; open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 6 p.m.; open committee discussion, April 16, 1993, 8 a.m. to 3:45 p.m.; open public hearing, 3:45 p.m. to 4:45 p.m., unless public participation does not last that long; Lynn A. Larsen, Center for Food Safety and Applied Nutrition (HFS–22), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4727 or Catherine M. DeRoever, Advisory Committee Staff, 202–205–4251.

General function of the committee. The committee provides advice on emerging food safety, food science, and nutrition issues that FDA considers of primary importance in the next decade.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 7, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments. If necessary, comments may be limited to 5 minutes.

Open committee discussion. On the morning of April 15, 1993, the Folic Acid Subcommittee will review options for regulation of folic acid that were developed subsequent to the subcommittee's deliberations at its November 23 and 24, 1992, meeting. On the afternoon of April 15, 1993, the committee will continue working group discussions on: (1) The agency's food research activities, (2) the scientific and technical expertise needed to support the agency's regulatory mission, and (3) the criteria for risk-based inspections. The committee will also be briefed on conflict of interest and other matters pertaining to the functioning of advisory committees within FDA. On April 16, 1993, the committee will act on the Folic Acid Subcommittee reports, will be briefed on current high-priority activities in the Center for Food Safety and Applied Nutrition, and will continue with its working group discussions.

Pulmonary-Allergy Drugs Advisory Committee

Date, time, and place. April 26; 1993, 8 a.m., conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 8:30 a.m., unless public participation does not last that long; open committee discussion, 8:30 a.m. to 1 p.m.; open public hearing, 1 p.m. to 1:30 p.m., unless public participation does not last that long; open committee discussion, 1:30 p.m. to 6 p.m.; Leander B. Madoo, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 12, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss: (1) NDA 19–835, cetirizine HCL, Pfizer; and (2) NDA 19–806, Semprex-D (acrivastine and pseudoephedrine HCL), Burroughs-Wellcome.

Psychopharmacologic Drugs Advisory Committee

Date, time, and place. April 29 and 30, 1993, 8 a.m., conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, April 29, 1993, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; open public hearing, April 30, 1993, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; Michael A. Bernstein, Center for Drug Evaluation and Research (HFD–

120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4020.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 22, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On April 29, 1993, the committee will discuss the safety and effectiveness of Risperidal® (risperidone), NDA 20–272, Janssen Pharmaceuticals, for use in the treatment of psychotic disorders. On April 30, 1993, the committee will discuss the safety and effectiveness of Effexor® (venlafaxine), NDA 20–151, Wyeth-Ayerst, for use in the treatment of depression.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: March 12, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–6370 Filed 3–18–93; 8:45 am]

BILLING CODE 4160–01–F

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96–511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on Friday, February 19, 1993.

(Call Reports Clearance Officer on (410) 965–4142 for copies of package)

1. Questionnaire to Determine the Status of Automation in the State DDSs—0960–NEW. The information on form SSA–54–BK will be used by the Social Security Administration (SSA) to determine what automated services are now available in the State offices which make disability determinations for SSA. The respondents will be staff members of these offices.

Number of Respondents: 54
Frequency of Response: 1
Average Burden Per Response: 5 hours
Estimated Annual Burden: 270 hours

2. Graduating to Independence (GTI) Questionnaires—0960–NEW. The information on forms SSA–64, SSA–65 and SSA–66 will be used by the Social Security Administration (SSA) to evaluate the GTI presentation package. The GTI package is a work incentives initiative of SSA which explains the effect of employment on entitlement to disability benefits. The respondents will be young people with disabilities, their families and the professionals who work with them.

Number of Respondents: 7,500
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 1,875 hours

3. Request for Hearing—0960–0269. The information on form HA–501 is used by the Social Security Administration to document an individual's request for a hearing on an unfavorable determination concerning his or her benefits. The respondents are such individuals who request a hearing.

Number of Respondents: 473,500
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 78,917 hours

4. Representative Payee Questionnaires—0960–0493. The information on forms SSA–622 and SSA–6220 is used by the Social Security

Administration to load the Master Representative Payee File with the information necessary to comply with the Omnibus Reconciliation Act of 1990. Approval is requested for telephone contacts to obtain the information asked for on forms SSA–622 and SSA–6220 from those representative payees who did not provide this information when it was originally requested by mail. The respondents are representative payees who did not respond to the prior mailing of these forms.

Number of Respondents: SSA–622=410,000; SSA–6220=10,000
Frequency of Response: 1
Average Burden Per Response: 5 minutes; 25 minutes
Estimated Annual Burden: 34,166 hours; 4,166 hours

5. Statement Regarding the Inferred Death of an Individual by Reason of Continued and Unexplained Absence—0960–0002. The information on form SSA–723 is used to determine if the Social Security Administration may infer that a missing person is deceased. The respondents are individuals who know or are related to the missing person.

Number of Respondents: 3,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 1,500 hours

6. Petition to Obtain Approval of a Fee for Representing a Claimant before the Social Security Administration—0960–0104. The information on form SSA–1560 is used to determine if a representative is asking for a reasonable fee for representing a claimant before the Social Security Administration (SSA). The respondents are attorneys or other persons representing claimants before SSA.

Number of Respondents: 89,500
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 44,750 hours

7. Self-Employment/Corporate Officer Questionnaire—0960–0487. The information on Form SSA–4184 is used by the Social Security Administration to develop a claimant's earnings or corroborate his or her allegation of retirement when he or she is self-employed or a corporate officer. The respondents are claimants who need to support their allegation concerning earnings or employment.

Number of Respondents: 50,000
Frequency of Response: 1
Average Burden Per Response: 20 minutes
Estimated Annual Burden: 16,667 hours

8. Partnership Questionnaire—0960–0025. The information on form SSA–7104 is used by the Social Security Administration to evaluate partnerships to determine how partnership income should be apportioned for benefit purposes. The affected public consists of claimants for benefits who are involved in a partnership.

Number of Respondents: 12,350
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 6,175 hours

9. Farm Arrangement Questionnaire—0960–0064. The information on form SSA–7157 is used by the Social Security Administration to determine whether income derived from farm rental may be considered self-employment income for coverage purposes. The respondents are individuals who allege self-employment income from the rental of land for farming activities.

Number of Respondents: 38,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 19,000 hours

10. State Mental Institution Policy Review—0960–0110. The information on form SSA–9584 is used by the Social Security Administration to determine whether the institutions conform with applicable regulations on the use of benefits. The respondents are any State mental institution which serves as representative payee for a social security beneficiary.

Number of Respondents: 183
Frequency of Response: 1
Average Burden Per Response: 1 hour
Estimated Annual Burden: 183 hours
OMB Desk Officer: Laura Oliven

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: March 12, 1993.

Nicholas E. Tagliareni,

Acting Reports Clearance Officer, Social Security Administration.

[FR Doc. 93–6176 Filed 3–18–93; 8:45 am]

BILLING CODE 4190–29–M

Rescission of Social Security Ruling

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Rescission of Social Security Ruling (SSR) 70–42 Representative Payee—Exercise of Discretionary Authority to Select Payee—Legal Guardian As Payee.

SUMMARY: The Principal Deputy Commissioner of Social Security gives notice of the rescission of SSR 70–42.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1711.

SUPPLEMENTARY INFORMATION: Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

SSR 70–42 was issued in 1970 and was published in the 1966–1970 Cumulative Edition of the Rulings, page 286. SSR 70–42 holds that the selection of a representative payee to receive benefit payments on behalf of a Social Security beneficiary who is not qualified to receive his own benefits is an exercise of discretionary authority reserved to the Secretary of Health, Education, and Welfare (now Health and Human Services) under the provisions of section 205(j) of the Social Security Act (the Act). Section 205(j) of the Act now provides that the beneficiary or his or her legal representative or legal guardian may appeal a determination that a representative payee is necessary and also the designation of a particular person to serve as the representative payee. The court cases cited in SSR 70–42 are based on the old language of the Act. Therefore, because SSR 70–42 is obsolete, we are rescinding it.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivors Insurance; 93.806 Special Benefits for Disabled Coal Miners; 93.807 Supplemental Security Income)

Dated: March 5, 1993.

Louis D. Enoff,

Principal Deputy Commissioner of Social Security.

[FR Doc. 93–6365 Filed 3–18–93; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Public and Indian Housing

[Docket No. N-93-3592]

Submission of Proposed Information Collection to OMB; Survey of Vacancy Rates in Selected Low-Rent Public Housing Agencies and Self-Assessment of Major Causes of Vacancies

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposal.

ADDRESSES: Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; or Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development (HUD), 451 Seventh Street SW., room 4178, Washington, DC 20410.

DATES: Comments due: March 25, 1993.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of HUD, 451 Seventh Street SW., room 4178, Washington, DC 20410, Telephone (202) 708–0050. This is not a toll-free number. Copies of the documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of HUD has submitted to OMB, for expedited processing, an information collection package with respect to a "Survey of Vacancy Rates in Selected Low Rent Public Housing Agencies and Self-Assessment of Major Causes of Vacancies." The survey is necessary for the administration of the Vacancy Reduction Program, which is authorized in section 14(p) of the Housing Act of 1937. It is also requested that OMB complete its review within six days.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

(1) *Title of the information collection proposal:* Survey of Vacancy Rates in Selected Low Rent Public Housing Agencies and Self-Assessment of Major Causes of Vacancies.

(2) *Office of the agency to collect the information:* Office of the Assistant Secretary for Public and Indian Housing.

(3) *Description of the need for the information and its proposed use:* The Vacancy Reduction Program requires all public housing agencies, (PHAs) except Indian housing authorities, which (a) have a vacancy rate exceeding twice the national average vacancy rate among PHAs, (b) are troubled or mod-troubled under section 6(j) of the Housing Act of 1937, or (c) for which a receiver has been appointed pursuant to section 6(j)(3) of the Housing Act of 1937 to participate in the Vacancy Reduction Program. As a part of the program, all such agencies are required to have an on-site assessment of the extent and causes of their vacancy problem by a team of knowledgeable observers. $94 million has been made available for the program in FY 1993.

The Department wishes to focus the FY 1993 funding on PHAs with serious problems which can be reduced substantially, relatively quickly, with limited funds. The survey will be used to identify such characteristics, which will then be used as threshold factors for the FY 1993 funding.

Assessments will be scheduled for PHAs meeting the threshold factors, sufficiently in advance of the due date stated in the FY 1993 Notice of Funds Availability so that assessments can be useful in preparing the PHA plans.

The Department expects that analysis of the survey responses will provide a sufficient basis for identifying appropriate threshold factors for FY 1993 and for determining which PHAs meet those threshold factors. However, once the factors have been determined, a Federal Register Notice will be published so that any PHA which has not responded to the survey, but meets the threshold factors, may request an assessment.

(4) *Agency form numbers:* Not necessary.

(5) *Members of the public who will be affected by the proposal:* Approximately 250 PHAs.

(6) *How frequently information submissions will be required:* One time only.

(7) *An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response:* 250 PHAs will respond to the survey once, and responses will average approximately one hour apiece, for a total of 250 burden hours.

(8) *Type of request:* First and only time.

(9) *The name and telephone number of an agency official familiar with the proposal:* Janice D. Rattley, Office of Public and Indian Housing, (202) 708–1800.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 35359(d).

Dated: March 12, 1993.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

Supporting Statement: Survey of High-Vacancy Public Housing Agencies (PHAS)

A. Justification

1. *Legislative Authorization.* Section 14(p) of the Housing Act of 1937 requires any public housing agency which has a vacancy rate exceeding twice the national average to participate in a program of vacancy reduction. That program includes a mandatory on-site assessment by a team of HUD staff and independent experts and development of a plan to eliminate the vacancies. Section 115 of the Housing and Community Development Act of 1992 provided funding for the program. However, because the funding is limited to $94 million for all 220 eligible agencies and because assessment of all eligible agencies will be extremely costly and time-consuming, it is necessary for the Department to focus on a limited number of PHAs for which assessments can be performed prior to submission of applications for the FY 1993 competition. The survey is critical to identification of factors that can be used to identify that limited number of PHAs.

2. *Management Function of the Survey.* The survey will be used by Public and Indian Housing to identify the causes of the vacancies and the estimated costs of rehabilitation within the 220 high vacancy PHAs. With that information, we expect to be able to limit FY 1993 funding to PHAs with serious problems which we can reduce substantially with limited funds. The objective is to reoccupy as many units as possible with the funds available. Working with the public housing industry, we have preliminarily decided to focus on PHAs which have significant problems with "turnover" units, units which need less than $10,000 of rehabilitation and which are likely to be marketable after rehabilitation. Factors from the survey will be used to create a manageable group for the FY 1993 funding which will maximize the efficiency of the available dollars.

Consequences of Failure to Conduct the Survey. Without the data the survey requests, we would be left with the following alternatives.

—We could allow all 220 PHAs compete for funds and necessitate performance of 220 assessments prior to that competition. That would mean that FY 1993 funds would

have to be carried over into FY 1994 to allow time for all the assessments and that a rather substantial portion of program funds would have to be used for assessments of PHAs which would not be selected for funding.

—Alternatively, we could limit the applicants for FY 1993 funds based on available data, such as size of PHA and number or percentage of total vacancies. However, this would limit our ability to focus funds on the situations where a limited amount of money can do the most good. We would be risking the possibility that the group we chose to be eligible would not have substantial turnover problems which can be successfully addressed with modest investment.

Justification for structure of the Survey. The survey requires that the PHA state the reason for all of its vacancies and the costs for repair or rehabilitation for all vacancies for which such action is needed to accomplish reoccupancy. This range of questions is needed for the following reasons:

—Accuracy. If PHAs are required to account for 100% of their vacant units, they will be more likely to have accurate numbers in each category. Further, if they are required to account for non-funding causes first, especially marketability, they are more likely to assign only units which will actually be marketable after repair or rehabilitation to those categories needing funding.

—Legal access to funding. We cannot limit funding to any subset of PHAs until the final rule is issued, which we expect to occur about July 1. Therefore, even though we have preliminarily decided on the general nature of the focus for FY 1993, we must structure the survey so that, if comments on the proposed regulations suggested other directions, we could take such comments into account.

—Congressional inquiry. During 1992, the Senate appropriations subcommittee and the House authorizations committee asked probing and rather critical questions about the reasons for the high national vacancy rate. Although this survey is not designed to address all such questions, it will enable the Department to describe the nature of the vacancies in the 220 high vacancy PHAs, which constitute a very substantial part of the national problem.

3. *Use of Improved Technology; Technical or Legal Obstacles.* We are unaware of any technology which would further limit the burden. We believe that the absolute minimum questions are being asked which will accomplish the purpose of the survey.

4. *Duplication.* We have reviewed existing information and have determined that the results of this survey will not duplicate other information already available.

5. *Use of Similar Information.* The only other sources of vacancy data in the Department do not provide data on the reasons for vacancies, other than on-schedule modernization, and do not give any information on the likely cost of repair or rehabilitation. The data for on-schedule modernization is not sufficient to identify those units which are marketable, need funding, and require low amounts of funding. That data has, however, been used in development of the plans for implementation of this program to get an indication of the number of PHAs which have high vacancy rates, probably mostly needing funding, after units in developments with on-schedule modernization have been discounted.

6. *Small Entities.* This survey will include PHAs of all sizes. The burden on small PHAs will be extremely small because their number of vacant units, as well as total units, is small. This one-page, one-time survey has been made as simple as possible for all PHAs.

7. *Frequency.* This is a one-time survey.

8. *Guidelines in 5 CFR 1320.6.* This information is not being collected in a manner inconsistent with the guidelines in 5 CFR 1320.6 with the exception that PHAs are being asked to use a report date of March 31, 1993, and then return the survey within the next ten days. This shortened period is necessary in order to ensure that the assessment component of the program can begin and funds awarded before the end of the 1993 fiscal year. This is not seen as a burden to the PHAs because the data on actual occupied/vacant units is already being recorded by the PHA and cost data can be obtained from previously developed physical needs assessments.

9. *Consultation.* We have consulted with the public housing industry groups and with two organizations representing resident councils and resident management corporations (see attached) regarding the development of the policy necessitating the survey and the specific nature of the survey. The survey form has been reviewed by these groups. Their comments are reflected in the survey form.

10. *Confidentiality.* No assurances of confidentiality have been made.

11. *Questions of a Sensitive Nature.* The survey does not contain any questions of a sensitive nature.

12. *Cost.* There will be no additional cost to the Federal government or the respondent PHAs. Data on vacancies is already maintained by PHAs as part of their Rent Roll records and the survey directions on cost and funding sources urge PHAs to look at existing planning and physical needs assessments as potential sources of information.

13. *Burden.* HUD estimates the average reporting burden to be one hour per responding PHA. Of the approximately 250 PHAs expected to respond, 173 (69%) are very small or small PHAs of less than 500 units and this group should require minimal time to complete the survey. Large and very large PHAs constitute 14% of the responding group and they may require more time to retrieve and review records and past assessments.

14. *Change in Burden.* This is a new, one-time report.

15. *Publication.* We have no plans to publish the results of the survey.

Instructions For Preparation of Survey

PART I. Public Housing Agency (PHA) Identification

Line 2. Housing Agency Code: Two-digit standard alphabetic abbreviation for the state in which the PHA is located plus three-digit numeric code of the PHA. (Precede codes of less than three digits with zeros.) Example: MD001

PART II. Data Source and Report Date Selection

Include data only for PHA-owned or operated units that are eligible for modernization funding under Section 14 of the Act. For example, all units in the Low Rent Public Housing Program are eligible for Section 14 funding, but in the Section 23 program, only those units that are in projects that are bond-financed would be eligible. Section 8 projects are not eligible.

PART III. Actual Number of Occupied and Vacant Units

Line 4. Units Occupied.—An occupied unit is a dwelling unit that is under an effective lease to an eligible family as of the report date. An effective lease is one in which an eligible family has a right to possession of the unit and is being charged rent. Units occupied by employee families whose occupancy is contingent upon their employment by the PHA should be excluded. Non-dwelling units should also be excluded.

Line 5. Vacant Units.—A vacant unit is a dwelling unit that is not under an effective lease (see Line 4 for further description of effective lease) to an eligible family as of the report date. Vacant units that have been approved by HUD as of the report date for some type of deprogramming action (eg., demolition, disposition, reconfiguration) should be excluded. Vacant units in a modernization program should be included.

Line 6. Total Units Available.—This is the total of line 4 plus line 5.

PART IV. Distribution of Vacancies By Major Causes

In distributing the number of vacant units reported on line 5. among the various categories, please remember to *assign each vacant unit to only one category or cause.* When a unit might be vacant for more than one reason, please select the *primary* reason.

Line 8. By "marketable" it is meant that the past experience of the PHA would indicate that the units should lease reasonably quickly.

Line 11. Funded under CGP means the Annual Statement providing for the work has been approved by HUD or has been submitted to HUD.

Lines 14. and 15. Units in a development which is likely to require both modernization and partial demolition, or total demolition with partial replacement on site, should be divided between lines 14 and 15 according to an estimate of the number of units to be demolished and the number of units to remain on site.

PART V. Estimated Cost and Funding Sources

Estimates provided in this survey will have no bearing whatsoever on the amount of funding of any specific PHA under the vacancy reduction program. Those PHAs targeted in any given funding round will specify in their plans the funds that they are requesting, and funding will be based on those plans.

Please estimate costs of making the vacant units habitable and marketable *excluding any known cost of necessary lead-based paint*

(LBP) abatement. This is necessary so that units for which LBP assessments have been done will be treated the same as those where assessments have not been done, for purposes of determining funding rounds under the program. When actual funding takes place, LBP abatement costs are expected to be included.

PHAs are requested not to spend an extensive amount of time in manual data collection or searches in order to provide cost and funding information. Where large numbers of vacancies are concentrated in specific developments, the estimated average per unit cost of repair/rehabilitation of the entire development may be used. The Comprehensive Plan prepared for the Comprehensive Grant Program or previous.

Survey of Vacancy Rates in Selected Low Rent Public Housing Agencies and Self-Assessment of Major Causes of Vacancies

I. Public Housing Agency (PHA) Identification:
1. Name and Address of PHA:
2. Housing Agency Code. _____/_____

II Data Source and Report Date Selection:
PHAs are requested to use occupancy/vacancy data obtained from their Rent Roll records as of March 31, 1993. If the March 1993 data is clearly not representative of the average yearly occupancy rate being experienced by the PHA, another month in the last six-month period may be used and noted below.
3. Enter the date of the Rent Roll records used below: Rent Roll Records as of ___/___/___(give mo./day/yr.)

III. Actual Number of Occupied and Vacant Units As of Report Date
4. Units occupied as of report date _____
5. Vacant units as of report date _____
6. Total units available in PHA _____
7. Actual Vacancy Percentage: (divide line 5 by line 6; multiply by 100 and round to nearest whole) _____%

IV. Distribution of Vacancies By Major Cause:

Given below are several possible causes for why some or all of the units reported on line 5 are vacant. To the best of your knowledge, please distribute the reported number of vacant units among these causes as appropriate. Where a unit might be vacant for more than one reason, please select the *primary* reason.

Category A: Vacant Units Where Correction of Problem Requires No Funding or Sufficient Funding is Available

	No. of Units
8. Units prepared, marketable, awaiting leasing.	_____
9. Units prepared but no demand (few or no persons on waiting list).	_____
10. Units prepared, but are undesirable (three or more turndowns and marketing problem cannot be corrected with modernization funds).	_____
11. Units that are part of a funded modernization program (Note: if a unit is being prepared with CIAP, CGP or MROP funds and marketing problems of the types noted in lines 9 or 10 are expected to continue after the modernization work is completed, please use line 9 or 10 for this situation. Use line 15 if the current funds are not expected to be sufficient to complete enough modernization for the units to be successfully marketed).	_____
12. Litigation and/or court-ordered vacancies.	_____
13. Other (specify) _____	_____

	No. of Units
Category B: Vacant Units Where Correction of Problem Requires Additional or New Funding Not Now Available In Current Year	
14. Units needing demolition/disposition.	_____
15. Units needing to be modernized (complete Part V for this group of units).	_____
16. Units needing reoccupancy preparation but less than full modernization (complete Part V for this group of units).	_____
17. Other (specify) _____	_____
18. Total (lines 8–17)	_____

Note: LINE 18 SHOULD EQUAL LINE 5.

V. Estimated Cost and Funding Sources:
Please distribute the units shown on lines 15 and 16 between the various cost ranges shown in the table below. For example, if there are a total of 100 units on line 15 and it is estimated that 25 of these units can be repaired and/or rehabilitated for approximately $8,000 each, you would enter 25 on line 19 under the "Number of Units" column.
For each cost range, please take the number of units and distribute them across the respective funding sources, if funding can reasonably be expected in the next three years. Column (d) would be used for units that would not be funded within the next three years
For example, if there were 25 units on line 19 and the PHA expected that 20 of the units would be funded from Comprehensive Grant Program (CGP) funds expected over the next three years, you would enter 20 under the CGP column.
Columns (b), (c), and (d) should equal column (a).

Est. Per Unit Cost for Repair/Modernization	Number of Units (a)	PHA plans funding w/in 2 years		
		CGP (b)	Op. Funds (c)	Not funded (d)
19. Up to $5,000/unit				
20. $5,001–$10,000/unit				
21. $10,001–$25,000/unit				
22. $25,001/unit or more				
Total				

Name of person responding to survey
Phone number of person responding to survey (□) _____ physical needs assessments undertaken to develop the Comprehensive Plan for Modernization or to prepare for Joint Review under the CIAP program are all potential sources of information that could be used to complete this section if relatively current.

Column (a). Take the total number of units reported on lines 15 and 16 and distribute them among the different cost categories.

Column (b). Units should be distributed under this column if the PHA's Five Year Action Plan approved by HUD or submitted to HUD reflects sufficient funds being committed for these units in years two or three for units to be modernized and successfully marketed. (Note: if sufficient funds are already committed in the current year, use Line 11.)

Column (c). Units should be distributed under this column if the PHA expects that the funds needed to repair (not modernize) the unit will be available from general operating funds within the next two years.

Column (d). If funding is not expected to be available within the next two years, use this column.

[FR Doc. 93–6431 Filed 3–18–93; 8:45 am]
BILLING CODE 4210–33–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–93–1917; FR–3350–N–23]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–og (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number). HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *U.S. Army:* Robert Conte, Department of Army, Military Facilities, DAEN–ZCI–P; rm. 1E671, Pentagon, Washington, DC 20310–2600; (703) 693–4583; *U.S. Navy:* John J. Kane, Deputy Division Director, Dept. of Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–0474; *U.S. Air Force:* Bob Menke, USAF, Bolling AFB, SAF–MIIR, Washington, DC 20332–5000; (202) 767–6235; *U.S. Air Force:* John Carr, Realty Specialist, HQ–AFBDA/BDR, Pentagon, Washington, DC 20330–5130; (703) 696–5569; *GSA:* Leslie Carrington, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 208–0619; *Dept. of Transportation:* Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW., room 10319, Washington, DC 20590; (202) 366–4246; *HHS:* Judy Breitman, Chief, Real Property Branch, Dept. of HHS, Div. of Health Facilities Planning, rm. 17A10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265; (These are not toll-free numbers).

Dated: March 12, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

Title V—Federal Surplus Property Program Federal Register Report For 03/19/93

Suitable/Available Properties

Buildings (by State)

Georgia

Bldgs. 4911, 4927, 4928, 4867–4870, 4975, 4877, 4876, 4878, 4880, 4902–4905, 4851–4854, 4859–4862
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219010106–219010108, 219011448, 219011450–219011452, 219011455, 219011468, 211011470, 219011472, 219011474, 219011476–219011479, 219011507–219011510, 219011515–219011518
Status: Unutilized
Comment: 1888 sq. ft. ea.; most recent use—barracks; needs rehab.

Bldgs. 5390, 5392, 5391
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219010137, 219010151–219010152
Status: Unutilized
Comment: 2432 sq. ft. ea. most recent use—dining room; needs rehab.

Bldg. 5362
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219010147
Status: Unutilized
Comment: 5559 sq. ft.; most recent use—service club; needs rehab.

Bldg. 5363
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219010148
Status: Unutilized
Comment: 3759 sq. ft.; most recent use—recreation bldg.; needs rehab.

Bldg. 4865
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011447

Status: Unutilized
Comment: 1098 sq. ft., 1 floor, most recent use—storehouse, needs rehab.

Bldgs. 4871, 4874, 4908, 4909
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011453, 219011467, 219011480, 219011483
Status: Unutilized
Comment: 1507 sq. ft. ea.; 1 floor; most recent use—day room; needs major rehab/construction to be made habitable.

Bldgs. 4872, 4873, 4907, 4908
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011458, 219011465, 219011481–219011482
Status: Unutilized
Comment: 2183 sq. ft. ea.; 1 floor; most recent use—dining room; major construction required to be made habitable.

Bldg. 4901
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011484
Status: Unutilized
Comment: 810 sq. ft.; 1 floor; most recent use—other inst st.; major rehab/construction to be made habitable is required.

Bldgs. 4866, 4879, 4747, 4834
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011485–219011486, 219011497–219011498
Status: Unutilized
Comment: 794 sq. ft. ea.; 1 floor; most recent use—arms bldg.; major rehab/construction required to be made habitable.

Bldgs. 4605, 4615
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011493–219011494
Status: Unutilized
Comment: 915 sq. ft. ea., buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4642–4643
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011495–219011496
Status: Unutilized
Comment: 3068 sq. ft. ea., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4835
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011499
Status: Unutilized
Comment: 1501 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldgs. 4840–4841
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011500–219011501
Status: Unutilized
Comment: 2930 sq. ft. ea., building in poor condition, major construction needed to be made habitable.

Bldg. 4843
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011502
Status: Unutilized
Comment: 1776 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4844
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011503
Status: Unutilized
Comment: 3776 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4846
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011504
Status: Unutilized
Comment: 1455 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4847
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011505
Status: Unutilized
Comment: 900 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4848
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011506
Status: Unutilized
Comment: 804 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4855, 4858
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011511, 219011514
Status: Unutilized
Comment: 1507 sq. ft. ea., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4856
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011512
Status: Unutilized
Comment: 2183 sq ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4857
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011513
Status: Unutilized
Comment: 2160 sq ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4863
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011519
Status: Unutilized
Comment: 794 sq ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4864
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011520
Status: Unutilized
Comment: 1292 sq ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4507
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011673
Status: Unutilized
Comment: 1888 sq ft.; most recent use—barracks, needs substantial rehabilitation, 2 floors.

Bldgs. 4506, 4505
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011675–219011676
Status: Unutilized
Comment: 2145 sq. ft. ea.; most recent use—dining facilities, needs substantial rehabilitation, 1 floor.

Bldg. 4487
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011681
Status: Unutilized
Comment: 1868 sq. ft.; most recent use—telephone exchange bldg.; needs substantial rehabilitation; 1 floor.

Bldg. 4484
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011682
Status: Unutilized
Comment: 1098 sq. ft.; most recent use—storehouse; needs substantial rehabilitation; 1 floor.

Bldg. 4319
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011683
Status: Unutilized
Comment: 2584 sq. ft.; most recent use—vehicle maintenance shop; needs substantial rehabilitation; 1 floor.

Bldgs. 4481, 4479
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011685–219011686
Status: Unutilized
Comment: 1507 sq. ft. ea.; most recent use—administrative (day room); needs substantial rehabilitation; 1 floor.

Bldg. 3400
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011694
Status: Unutilized
Comment: 2570 sq. ft.; most recent use—fire station; needs substantial rehabilitation; 1 floor.

Bldg. 2285
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011704
Status: Unutilized
Comment: 4574 sq. ft.; most recent use—clinic; needs substantial rehabilitation; 1 floor.

Bldg. 4092
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011709
Status: Unutilized
Comment: 336 sq. ft.; most recent use—inflammable materials storage; needs substantial rehabilitation; 1 floor.

Bldg. 4089
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011710
Status: Unutilized
Comment: 176 sq. ft.; most recent use—gas station; needs substantial rehabilitation; 1 floor.

Suitable/Available Properties

Buildings (by State)

Hawaii

Bldg. 5, Radio Trans. Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 779310001
Status: Unutilized
Comment: 12046 sq. ft., one story, needs rehab, access restrictions, most recent use—offices, off-site use only.

Bldg. 31, Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 779310002
Status: Unutilized
Comment: 640 sq. ft., 1 story, access restrictions, need repairs, most recent use—storage, off-site use only.

Bldg. T33 Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 779310003
Status: Unutilized
Comment: 1536 sq. ft., 1 story, access restrictions, needs rehab, most recent use—storage, off-site use only.

Bldg. 64, Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 779310004
Status: Unutilized
Comment: 3612 sq. ft., 1 story, access restrictions, needs rehab, most recent use—storage, off-site use only.

Bldg. 65, Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 779310005
Status: Unutilized
Comment: 3612 sq. ft., 1 story, access restrictions, needs rehab, most recent use—storage, off-site use only.

Bldg. 429 Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 779310006
Status: Unutilized
Comment: 13950 sq. ft., 3 story, access restrictions, needs rehab, most recent use—barracks, off-site use only.

Bldg. 430 Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 779310007
Status: Unutilized
Comment: 2680 sq. ft., 1 story, access restrictions, needs rehab, most recent use—dining facility, off-site use only.

Iowa

Bldg. 00627
Sioux Gateway Airport
Sioux City Co: Woodbury IA 51110–
Landholding Agency: Air Force
Property Number: 189310001
Status: Unutilized
Comment: 1932 sq. ft., 1-story concrete block bldg., most recent use—storage, pigeon infested.

Bldg. 00669
Sioux Gateway Airport
Sioux City Co: Woodbury IA 51110–
Landholding Agency: Air Force
Property Number: 189310002
Status: Unutilized
Comment: 1113 sq. ft., 1-story concrete block bldg., contamination clean-up in process.

Rhode Island

Parcel 1 (7 bldgs.)
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310029
Status: Excess
Base closure Number of Units: 7
Comment: 1 story, presence of asbestos, on 52 acres, portion u/superfund cleanup site, includes gen. warehouses, gate house, admin bldg, scheduled to be vacated 9/94.

Parcel 2 (62 bldgs.)
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310030
Status: Excess
Base closure Number of Units: 62
Comment: 1–4 story, presence of asbestos, on 110 acres, portion u/superfund cleanup site, incs. theater, admin, barracks, storage, chapel warehouses, scheduled to be vacated 9/94.

Parcel 4 (92 bldgs.)
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310031
Status: Excess
Base closure Number of Units: 92
Comment: 1 story, presence of asbestos, portion u/superfund cleanup site, on 216 acres, includes warehouses, admin, auto shops, heat plants, storage, scheduled to be vacated 9/94.

Parcel 5 (1 bldg.)
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310032
Status: Excess
Base closure Number of Units: 1
Comment: 1 story, telephone exchange bldg., fair condition, presence of asbestos, scheduled to be vacated 9/94.

Parcels 7, 9, 10 (26 bldgs.)
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310034
Status: Excess
Base closure
Number of Units: 26
Comment: 1–2 story, presence of asbestos, on 360 acres, portion u/superfund cleanup site, includes storage, auto shop, applied instruc. bldgs, rec. pavillion, scheduled to be vacated 9/94.

Parcel 8 (23 bldgs.)
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310035
Status: Excess
Base closure
Number of Units: 23
Comment: 1–2 story, includes 9 family residences, detached garages, warehouses, presence of asbestos, fair condition, on 87 acres, scheduled to be vacated 9/94

Land (by State)

New Mexico

Land, LPN Service Bldg.
1015 Indian School Road
Alburquerque Co: Bernalillo NM 87102–
Landholding Agency: HHS
Property Number: 57922001
Status: Unutilized
Comment: 0.2732 acre, underground lawn sprinkler, most recent use—maintenance yard, secured w/chain link fence.

Suitable/Unavailable Properties

Buildings (by State)

Rhode Island

Parcel 6 (7 bldgs.)
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Lanholding Agency: Navy
Property Number: 779310033
Status: Excess
Base closure
Number of Units: 7
Comment: 1 story, presence of asbestos, on 4.7 acres, includes gen. warehouses, heat plant, administration, storage, scheduled to be vacated 9/94.

Unsuitable Properties

Buildings (by State)

Hawaii

Facility 189, Naval Air Facil.
Midway Island
Pearl Harbor HI 96516–
Landholding Agency: Navy
Property Number: 779310045
Status: Unutilized
Reason: Other Secured Area
Comment: Extensive deterioration.

Facility 342, Naval Air Facil.
Midway Island
Pearl Harbor HI 96516–
Landholding Agency: Navy
Property Number: 779310046
Status: Unutilized
Reason: Other Secured Area
Comment: Extensive deterioration.

Facility 343, Naval Air Facil.
Midway Island
Pearl Harbor HI 96516–
Landholding Agency: Navy
Property Number: 779310047
Status: Unutilized
Reason: Other Secured Area
Comment: Extensive deterioration.

Facility S6194
Naval Air Facility.
Midway Island

Pearl Harbor HI 96516–
Landholding Agency: Navy
Property Number: 779310048
Status: Unutilized
Reason: Other Secured Area
Comment: Extensive deterioration.

Facility S7124
Naval Air Facility
Midway Island
Pearl Harbor HI 96516–
Landholding Agency: Navy
Property Number: 779310049
Status: Unutilized
Reason: Other Secured Area
Comment: Extensive deterioration.

Rhode Island

Parcel 3, Oil Storage Tank
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310036
Status: Excess
Base closure Number of Units: 1
Reason: Other environmental
Comment: Oil Storage Tank.

Parcel 4A
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310037
Status: Excess
Base closure Number of Units: 1
Reason: Other
Comment: Electric Substation.

Texas

11 Ammo Storage Buildings
Bergstrom Air Force Base
Austin Co: Travis TX 78743–
Landholding Agency: Air Force-BC
Property Number: 199310004
Status: Excess
Base closure
Number of Units: 11
Reason: Within 2000 ft. of flammable or explosive material.

Old Exchange Bldg.
U.S. Coast Guard
Galveston Co: Galveston TX 77553–3001
Landholding Agency: DOT
Property Number: 879310012
Status: Unutilized
Reason: Secured Area.

Paint Locker/Flammable Storage
U.S. Coast Guard
Galveston Co: Galveston TX 77553–3001
Landholding Agency: DOT
Property Number: 879310013
Status: Unutilized
Reason: Secured Area.

Washington

Bldg. 261
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310053
Status: Unutilized
Reason: Secured Area.

Bldg. 284
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310054
Status: Unutilized
Reason: Secured Area.

Facility 923
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310055
Status: Unutilized
Reason: Secured Area.

Bldg. 1330
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310056
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Bldg. 1336
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310057
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Bldg. 2000
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310058
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Bldg. 2143
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310059
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Bldg. 2385
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310060
Status: Unutilized
Reason: Secured Area.

Bldg. 3509
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310061
Status: Unutilized
Reason: Secured Area.

Bldg. 1405
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310062
Status: Underutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Facility 1468
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310063
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Facility 1469
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310064
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Facility 2450
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310065
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Land (by State)

California

Parcel B
Santa Rosa Co: Sonoma CA
Landholding Agency: GSA
Property Number: 549310016
Status: Excess
Reason: Other
Comment: Sewage Treatment Plant
GSA Number: 9–G–CA–580C.

[FR Doc. 93–6236 Filed 3–18–93; 8:45 am]
BILLING CODE 4210–29–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–93–3538; FR 3370–N–02]

Notice of Funding Availability; Disaster Relief Housing Counseling; Correction to List of Disaster Declared Areas; and Extension of Application Deadline

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of Funding Availability (NOFA) for Disaster Relief Housing Counseling for Fiscal Year 1992 under the Dire Emergency Supplemental Appropriations Act of 1992; Correction to list of disaster declared areas in Louisiana, and extension of application deadline.

SUMMARY: On January 21, 1993 (58 FR 5556), HUD published a notice which announced the availability of $500,000 of Fiscal Year (FY) 1992 funding under the Dire Emergency Supplemental Appropriations Act of 1992 (Pub. L. 102–368, approved September 23, 1992) for HUD-approved housing counseling agencies to provide emergency counseling regarding housing availability, maintenance and financing to homebuyers, homeowners, and renters living in areas adversely affected by Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and other natural disasters as declared by the President of the United States.

The purpose of this notice is to correct the inadvertent omission of eight parishes in the State of Louisiana from the list of declared disaster areas in the

January 21, 1993 NOFA, and to extend the application deadline of the NOFA to April 9, 1993.

DATES: The application due date for this NOFA has been extended to April 9, 1993.

Applications may be mailed, provided that they are postmarked no later than midnight, April 9, 1993. If an application is physically delivered to the Office of Procurement and Contracts at HUD Headquarters, the application must be delivered by 5:15 p.m. eastern standard time. (Section II.A. of the NOFA published on January 21, 1993 contains detailed information on submitting applications. See 58 FR 5558.)

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, HUD will treat as ineligible for consideration any application that is not received on or before, or postmarked by, the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

FOR FURTHER INFORMATION CONTACT: Thomas Miles, Program Advisor, Single Family Servicing Division, Department of Housing and Urban Development, room 9178, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708–1672, or (202) 708–4594 (TDD number). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On January 21, 1993 (58 FR 5556), HUD published a notice (NOFA) which announced the availability of $500,000 of Fiscal Year (FY) 1992 funding under the Dire Emergency Supplemental Appropriations Act of 1992 (Pub. L. 102–368, approved September 23, 1992) for HUD-approved housing counseling agencies to provide emergency counseling regarding housing availability, maintenance and financing to homebuyers, homeowners, and renters living in areas adversely affected by Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and other natural disasters as declared by the President of United States.

Section I.B.2 of the NOFA (58 FR 5557) identifies the areas within three States (Florida, Hawaii, Louisiana) and one U.S. territory (Guam) that were declared disaster areas as a result of Hurricane Andrew, Typhoon Omar, and Hurricane Iniki. In listing the parishes in the State of Louisiana that were declared disaster areas (Section I.B.2.c), the NOFA inadvertently omitted the following eight parishes: Ascension, Assumption, Iberia, Iberville, Lafourche, St. John the Baptist, St. Martin, and St. Mary. Although these eight parishes were inadvertently omitted from the NOFA, each HUD-approved housing counseling agency located in or serving these parishes received an application kit, which invited the agencies to apply for funding under the January 21, 1993 NOFA.

To ensure that the omission of the eight parishes from the list of declared disaster areas did not mislead the HUD-approved housing counseling agencies in these parishes about their eligibility to apply for funding under the January 21, 1993 NOFA, HUD is publishing this correction, and also extending the application deadline for all applicants to April 9, 1993.

The purpose of this notice is to correct the omission, in the January 21, 1993 NOFA, of eight parishes in the State of Louisiana from the list of declared disaster areas, and to extend the application deadline of the NOFA to April 9, 1993.

Accordingly, FR Doc. 93–1332, published on January 21, 1993 at 58 FR 5556 is corrected to read as follows:

On page 5557, in the first column, paragraph B.2.c is corrected by adding to the list of parishes set forth in this paragraph, the following eight parishes so that paragraph c reads as follows:

* * * * *

c. In the State of Louisiana (Hurricane Andrew), the Parishes of * * * Ascension, Assumption, Iberia, Iberville, Lafourche, St. John the Baptist, St. Martin, and St. Mary; and

* * * * *

Dated: March 15, 1993.

James E. Schoenberger,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 93–6373 Filed 3–18–93; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–920–03–4110–02]

Adoption of Final Environmental Impact Statement for Oil and Gas Leasing on Lands Administered by the Manti-La Sal National Forest

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Adoption by the Bureau of Land Management (BLM) of the Final Environmental Impact Statement for Oil and Gas Leasing on Lands Administered by the Manti-La Sal National Forest in accordance with the National Environmental Policy Act (NEPA) and Title 40 CFR part 1500.

SUMMARY: In accordance with section 102 of the National Environmental Policy Act of 1969, a Final Environmental Impact Statement (FEIS) for Oil and Gas Leasing on Lands Administered by the Manti-La Sal National Forest has been prepared by the U.S. Forest Service (FS) and BLM. The BLM participated in preparation of the FEIS as a cooperating agency in accordance with Title 40 CFR part 1501.6 and national and local agreements.

The FEIS addresses oil and gas leasing on all lands in the Manti-La Sal National Forest that are legally open to leasing. It is tiered to and supplements the Manti-La Sal National Forest Final Environmental Impact Statement for the Land and Resource Management Plan (Forest Plan FEIS) which became effective on November 5, 1986, by providing more detailed information on the potential effects of oil and gas leasing needed to meet current laws, regulations and requirements not in place at the time the Forest Plan FEIS was completed.

The Mineral Leasing Act of 1920, as amended, provides the Secretary of the Interior the authority to issue oil and gas leases on lands where oil and gas rights are held by the Federal Government.

This authority has been delegated to BLM. The issuance of oil and gas leases on National Forest System Lands by BLM requires the consent of the Secretary of Agriculture under the Federal Onshore Oil and Gas Leasing Reform Act of 1987. This authority to object or not object to leasing and to require specific conditions for leasing has been delegated to Forest Supervisors.

In accordance with Title 40, CFR part 1506.3(c), the BLM is adopting the FEIS for the purpose of issuing oil and gas leases and approving operations on lands within the administrative boundaries of the Manti-La Sal National Forest. Comments and concerns of the Department of the Interior have been satisfied. The FEIS complies with NEPA and meets the requirements of the regulations for implementing the Federal Land Policy and Management Act of 1976 (43 CFR part 1600).

Copies of the FEIS are available from the U.S. Forest Service, Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501. Public Reading copies will be available at the following BLM locations:

Utah State Office, 324 S. State Street, Salt Lake City, Utah 84111.

Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.
Moab District Office, 82 East Dogwood, Moab, Utah 84532.
Grand Junction District Office, 2815 H Road, Grand Junction, Colorado 81506.

FOR FURTHER INFORMATION CONTACT: George Diwachak, Bureau of Land Management, Utah State Office, (UT–922), P.O. Box 45155, Salt Lake City, Utah 84145–0155.

James M. Parker,
Utah State Director.
Martha G. Hahn,
Associate State Director.
[FR Doc. 93–6391 Filed 3–18–93; 8:45 am]
BILLING CODE 4310–DQ–M

[UT–080–4920–10–4174]

Proposed Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: This notice is to advise the public that the proposed planning amendment and associated environmental assessment for the Diamond Mountain Management Framework Plan have been completed. The proposed plan amendment provides for the disposal of a tract of public land through exchange in Uintah County, Utah, comprising approximately 80 acres, described as follows:

Salt Lake Meridian

T. 1 N., R. 24 E.,
Sec. 35, W½NW¼.

DATES: The protest period for this proposed plan amendment will commence with the date of publication of this notice. Protests must be submitted on or before April 19, 1993.

ADDRESSES: Protests should be addressed to the Director of the Bureau of Land Management, MS 5660, 1849 C Street, NW., Washington, DC 20240, within 30 days after the date of publication of this Notice for the proposed planning amendment.

FOR FURTHER INFORMATION CONTACT: Joy Wehking, Vernal District Office, 170 South 500 East, Vernal, Utah 84078, telephone (801) 789–1362.

SUPPLEMENTARY INFORMATION: This plan amendment is necessary since the existing plan does not identify this land for disposal. This exchange is between the State of Utah and the National Park Service. The exchange would benefit the public through the acquisition of inholdings within a National Park. The environmental assessment identifies no significant impacts. The public interest would be served by providing for this land exchange.

This action is announced pursuant to section 206 of the Federal Land Policy and Management Act of 1976 and 43 CFR part 1610. The proposed planning amendment is subject to protest from any adversely affected party who participated in the planning process. Protests must be made in accordance with the provision of 43 CFR 1610.5–2.

James M. Parker,
State Director.
[FR Doc. 93–6392 Filed 3–18–93; 8:45 am]
BILLING CODE 4310–DQ–M

[CA–060–01–4410–04]

Change of Location Site for the March 25–27 Meeting of the California Desert District Advisory Council

ACTION: Amend the Federal Register Notice published on page 12368 in Volume 58, Number 41, on Thursday, March 4, 1993, to notify the public that the location for March 25–27 meeting of California Desert District Advisory Council has been changed.

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet in formal session Thursday, March 25, 1993, from 8 a.m. to 5 p.m., and Saturday, March 27, 1993, from 8 a.m. to 11 a.m., in the Heritage Inn conference room at 1050 N. Norma Street, Ridgecrest, California. Also, the field tour on Friday, March 26, will depart from the Heritage Inn at 7 a.m. Agenda items for the meeting will remain the same.

FOR MORE INFORMATION AND MEETING CONFIRMATION: Contact the Bureau of Land Management, California Desert District, External Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507; (909) 697–5215.

Dated: March 15, 1993.

Lucia Kuizon,
Acting District Manager
[FR Doc. 93–6401 Filed 3–18–93; 8:45 am]
BILLING CODE 4310–40–M

[OR–100–6321–01; G–3–119] (Case File #OR–49268)

North Umpqua Resource Area and Drain Resource Area Management Framework Plans; Plan Amendment and Exchange of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent, plan amendment; notice of realty action, exchange of public lands.

SUMMARY: In accordance with 43 CFR 1610.2 and 1610.3 and 43 CFR 2200, notice is given that the Bureau of Land Management in the State of Oregon, Roseburg District, intends to amend the North Umpqua Resource Area and Drain Resource Area Management Framework Plans (MFPs). The purpose of the plan amendments is to make available for exchange certain lands located in Douglas County in southwestern Oregon. The MFP amendments will facilitate a current exchange proposal which may not be available in one year.

The purpose of the Notice of Realty Action is to segregate the subject lands from appropriation under the public land laws, including the mining laws, except for exchange, during the plan amendment and exchange processes.

DATES: A two purpose public comment period is provided at this time. Publication of this Notice in the **Federal Register** starts the 45 day comment period necessary to meet public notification requirements for both the Notice of Intent to prepare plan amendments and the Notice of Realty Action.

ADDRESSES: Bureau of Land Management, Roseburg District Office, 777 NW Garden Valley Blvd., Roseburg, OR 97470.

FOR FURTHER INFORMATION CONTACT: Dick Watson, North Umpqua Resource Area Planner (503) 440–4930.

SUPPLEMENTARY INFORMATION: Publication of this Notice of Realty Action in the **Federal Register** will segregate public lands described below to the extent they will not be subject to appropriation under the public land laws, including the mining laws, except for exchange. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant. This segregative effect shall terminate upon issuance of a deed to such lands, upon publication in the **Federal Register** of a termination of the segregation, or two years from date of this publication, whichever comes first.

The North Umpqua and Drain Resource Area MFP proposed plan amendments and exchange proposal include public lands administered by the BLM in the North Umpqua and Drain Resource Areas described as follows:

Willamette Meridian, Douglas County, OR

T. 25 S., R. 5 W.,
Sec. 9, NE¼SW¼, S½SW¼, N½SE¼, SW¼SE¼;
Sec. 23, NE¼SW¼;
Sec. 29, S½NE¼.
T. 24 S., R. 6 W.,
Sec. 11, N½NW¼, S½SE¼;
Sec. 13, N½NE¼, NE¼NW¼.
T. 25 S., R. 6 W.,
Sec. 7, lots 1 to 4, inclusive, E½NW¼.
Containing 884.09 acres.

Contingent upon approval of the amended MFPs, the above described 884 acres will be in conformance with the approved land use plans and, therefore, suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1716. The parcels being proposed for disposal are generally considered to be isolated and uneconomical to manage.

The Roseburg District Office has received an informal exchange proposal from 2Linc., a registered corporation in the state of Oregon, potentially affecting the public lands noted above. The lands being offered by 2Linc. for this exchange are described as follows:

Willamette Meridian, OR

T. 25 S., R. 4 W.,
Sec. 31, portion;
Sec. 32, portion;
Sec. 33, portion;
T 26 S., R. 4 W.,
Sec. 4, portion;
Sec. 5, portion;
Sec. 6, all;
Sec. 7, portion;
Sec. 8, portion;
Sec. 17, portion;
Sec. 18, portion;
T. 25 S., R. 5 W.,
Sec. 35, portion;
Sec. 36, portion;
T. 26 S., R. 5 W.,
Sec. 1, all;
Sec. 2, portion;
Sec. 11, portion;
Sec. 12, all;
Sec. 13, portion;
Sec. 14, portion.
Containing approximately 6,581 acres.

The parcels identified for acquisition through the exchange process are considered to contain high public values including recreation, wetlands, wildlife, and special status plants.

The value of lands proposed for exchange have not been determined. Upon completion of a final appraisal, acreage would be adjusted or money would be used to equalize the values.

Public lands would be transferred subject to: (1) The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945); and (2) all valid existing easements, leases, permits, licenses, or other rights.

Major issues involved in the plan amendments include: (1) Specific identification of public land parcels to be included in the potential exchange; (2) impacts to special status species, particularly the Columbia White Tail Deer, a federally designated endangered species; (3) impacts to lands classified as "Revested Oregon & California Railroad Grant Lands"; (4) potential for all or part of the offered parcel to be designated an "Area of Critical Environmental Concern", as identified in section 202 (c)(3) of the FLPMA; and (5) general management direction for public and private parcels identified for exchange. Parcels will be screened by an interdisciplinary (ID) team through the environmental assessment (EA) process. Disciplines to be represented on the ID team preparing the plan amendments and EAs are: Archeology, lands, minerals, recreation, forestry, fisheries, hydrology, botany, soils, wildlife, geology, hazardous materials, and land use planning. Preliminary planning criteria (issues) have been identified as stated above. Management Framework Plans are available for public review at the Roseburg District Office.

The BLM is inviting comments to be considered in the preparation of the EA for the proposed exchange. Comments may be addressed to Dave Baker, North Umpqua Resource Area Manager, at the Roseburg District Office. Comments should be submitted by May 3, 1993.

No public meetings are currently planned for this exchange proposal. Potential need for public meetings will be evaluated based on the level of public input as a result of public notification procedures. Any public meetings will be announced at least 15 days in advance.

Detailed information concerning the proposed exchange and plan amendments, including the environmental assessment, will be available at a later date at the Roseburg District Office. When the environmental assessment is completed, another comment period will be provided to allow for additional public input to the exchange and associated plan amendment. This comment period will be announced in a **Federal Register** notice and local media.

Any final decision will also be published to these same standards and a protest period provided.

Dated: February 26, 1993.

James Moorhouse,

District Manager.

[FR Doc. 93–5600 Filed 3–18–93; 8:45 am]
BILLING CODE 4310–33–M

National Park Service

Comprehensive Design Plan for the White House and President's Park; Environmental Impact Statement

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement and begin environmental scoping process.

In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190, the National Park Service (NPS) is preparing an Environmental Impact Statement (EIS) to assess the impacts of alternative management strategies for a Comprehensive Design Plan for the White House and President's Park. The study area generally encompasses U.S. Reservations 1 and 10, including the White House and its grounds, Lafayette Park, Sherman Park, First Division Monument, and the Ellipse.

Significant plans over the past 200 years have set the general design parameters for President's Park and the White House grounds. Plans such as those created by Pierre L'Enfant (1791), Andrew Jackson Downing (1851), the Senate Park (McMillan) Commission (1902), and the Olmsted brothers (1936) have been the most notable. However, in recent years, management actions have taken place without an overall planning document to guide the work. The need for a comprehensive design plan that would preserve the intent of these original landscape designs and that would guide future actions was identified and discussed by the several agencies that have responsibilities in the study area. The result was a commitment by these agencies to participate in the development of a plan, identified as the Comprehensive Design Plan for the White House.

The Comprehensive Design Plan will be developed over several years and will guide the future management and use of the buildings, grounds, and cultural resources of the White House and President's Park. The goal is to better serve the public and the Presidency and to protect the historic character of this national treasure. The NPS is the lead planning agency and has responsibility for developing the plan in conjunction with other stewardship agencies that have direct management and operational responsibilities within the study area. In the first phase of the project, the NPS, working with the other agencies, has collected site data and developed a description of existing conditions at the study area.

The NPS is now beginning the second planning phase—issue identification. During this phase the NPS will work with the various stewardship agencies and numerous other public and private organizations to identify specific site concerns and issues.

Based on the concerns and issues identified, the Comprehensive Design Plan and associated EIS will evaluate a range of alternatives to address the needs of visitor use and interpretation, cultural and natural resource protection, special events, transportation and parking, security, state and diplomatic functions, the Executive Residence and Executive Office support facilities, as well as site operations, maintenance and facility development. Even though all these elements will be examined, certain elements that involve classified and security-related concerns will be handled in accordance with laws, regulations, or policies applicable to national security information.

Individuals and organizations interested in providing comments on issues for the Comprehensive Design Plan and associated EIS process are encouraged to call, visit or provide written comments to the project office. Comments should be directed to the Project Coordinator, Comprehensive Design Plan for the White House, National Park Service, U.S. Department of the Interior, 1849 C Street, NW., room 3360, Washington DC 20240. The office phone number is (202) 219–1007. Comments should be received by May 15, 1993.

The responsible official is Robert Stanton, Regional Director, National Capital Region, National Park Service, Washington, DC.

Dated: March 11, 1993.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 93–6346 Filed 3–18–93; 8:45 am]

BILLING CODE 4310–70–M

Jimmy Carter National Historic Site Advisory Commission; Meeting

AGENCY: Jimmy Carter National Historic Site, National Park Service, Interior.

ACTION: Notice of advisory commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Jimmy Carter National Historic Site Advisory Commission will be held at 8:30 a.m. to 4 p.m., at the following location and date.

DATES: April 23, 1993.

LOCATION: The Carter Presidential Library, One Copen Hill, Atlanta, Georgia 30307, (404) 331–3900.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Boyles, Superintendent, Jimmy Carter National Historic Site, Route 1 Box 800, Andersonville, Georgia 31711, (912) 924–0343.

SUPPLEMENTARY INFORMATION: The purpose of the Jimmy Carter National Historic Site Advisory Commission is to advise the Secretary of the Interior or his designee on achieving balanced and accurate interpretation of the Jimmy Carter National Historic Site.

The members of the Advisory Commission are as follows:

Dr. Steven Hochman
Dr. James Sterling Young
Dr. Donald B. Schewe
Dr. Henry King Stanford
Dr. Barbara Fields
Director, National Park Service, Ex-Officio member

The matters to be discussed at this meeting include the status of park development and planning activities. This meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: February 26, 1993.

James W. Coleman, Jr.,

Regional Director, Southeast Region.

[FR Doc. 93–6347 Filed 3–18–93; 8:45 am]

BILLING CODE 4310–70–M

Subsistence Resource Commission, Wrangell-St. Elias National Park; Meeting

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Wrangell-St. Elias National Park and Preserve and the Chairperson of the Subsistence Resource Commission for Wrangell-St. Elias National Park announce a forthcoming meeting of the Wrangell-St. Elias National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Superintendent and Chairperson's Welcome.
(2) Introduction of Commission members and guests.
(3) Review SRC function and purpose:
a. Charters.
b. Membership.
(4) Approval of summary of minutes of previous meeting.
(5) Review Federal Subsistence Management Program.
(6) Superintendent's Report.
(7) SRC resident zone boundary proposals:
a. Review subsistence eligibility for the park.
b. Review written comments on draft proposals.
(8) Public and other agency comments.
(9) Work Session:
a. Review all public comments.
b. Prepare for the Secretary and the Governor a final recommendation on resident zone boundaries, including maps and boundary justifications.
(10) Adjournment.

DATES: The meeting will begin at 9 a.m. on Wednesday, April 7, 1993, and conclude around 5 p.m. The meeting will reconvene at 9 a.m. on Thursday, April 8, 1993, and conclude around 5 p.m.

LOCATION: The meeting will be held at the Caribou Cafe, Glennallen, Alaska.

FOR FURTHER INFORMATION CONTACT: Karen Wade, Superintendent, P.O. Box 29, Glennallen, Alaska 99588. Phone (907) 822–5234.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Paul R. Anderson,

Deputy Regional Director.

[FR Doc. 93–6345 Filed 3–18–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–290 (Sub–No. 125X)]

Norfolk and Western Railway Co.—Abandonment Exemption—Between Cowden and Coffeen In Fayette, Montgomery and Shelby Counties, IL

Norfolk and Western Railway Company (N&W) has filed a notice of exemption under 49 CFR Part 1152 subpart F—*Exempt Abandonments* to abandon its 31.65-mile line of railroad

between milepost TS–362.65, at Cowden, and milepost TS–394.30, at Coffeen, in Fayette, Montgomery and Shelby Counties, IL.[1]

N&W has certified that: (1) No local traffic has originated, terminated, or moved over the line for at least 2 years; (2) no overhead traffic has moved over the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2–year period; and (4) the requirements at 49 CFR 1105.7(b), 49 CFR 1105.8, 49 CFR 1105.11, 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to government agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 18, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by March 29, 1993.[4] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 8, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Richard W. Kienle, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources.

The Section of Energy and Environment (SEE) will prepare and issue an environmental assessment (EA) by March 24, 1993. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elain Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: March 9, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland,

Secretary.

[FR Doc. 93–6352 Filed 3–18–93; 8:45 am]

BILLING CODE 7035–01–M

[1] In a decision served June 9, 1987, in Docket No. AB–10 (Sub–No. 42), Norfolk and Western Railway Company—Abandonment and Discontinuance of Service—Between Linden IN and Coffeen, IL, the Commission authorized N&W to discontinue service over this line.

[2] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[3] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2D 164 (1987).

[4] The Commission will accept a late-filed trail use statement as long as it retains jurisdiction to do so.

[Finance Docket No. 32252]

CSX Transportation, Inc.—Trackage Rights Exemption—The Wheeling & Lake Erie Railway Co., Notice of Exemption

The Wheeling & Lake Erie Railway Company (W&LE) has agreed to grant overhead and limited local trackage rights to CSX Transportation, Inc. (CSXT) between Benwood, WV, and Brilliant, OH, beginning at Benwood at the clearance point of CSXT's East Bound Bridge Main Track (CSXT EBB V.S. 1+84) and ending at Brilliant (W&LE milepost SB4), a distance of approximately 18.4 miles, including all trackage necessary to allow CSXT to: (1) serve the R&F coal facility; (2) access CSXT's Lamira branch line at or near Bellaire, OH; and (3) provide service to AEP Cardinal coal plant at or near Brilliant.[1] The trackage rights were to become effective on or about March 8, 1993.[2]

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Charles M. Rosenberger, 500 Water Street J150, Jacksonville, FL 32202.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: March 15, 1993.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland,

Secretary.

[FR Doc. 93–6353 Filed 3–18–93; 8:45 am]

BILLING CODE 7035–01–M

[1] This proceeding relates to Finance Docket No. 32151, *The Wheeling & Lake Erie Railway Company—Acquisition and Operation Exemption—A Line of CSX Transportation, Inc.*, in which the Commission, by decision served December 23, 1992, exempted W&LE and CSXT under 49 U.S.C. 10505 for W&LE to acquire and operate CSXT's 8.4-mile line of railroad between Benwood and Martin's Ferry, OH.

[2] Under 49 CFR 1150.32(b), a notice of exemption does not become effective until 7 days after filing. According to the verified notice of exemption, applicant proposed to consummate the transaction on the effective date of the trackage rights, which it miscalculated to be approximately March 5, 1993. Here, because the notice was not filed until March 1, 1993, consummation should not have taken place until on or after March 8, 1993.

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or

reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.
The title of the recordkeeping/reporting requirement.
The OMB and/or Agency identification numbers, if applicable.
How often the recordkeeping/reporting requirement is needed.
Whether small businesses or organizations are affected.
An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.
The number of forms in the request for approval, if applicable.
An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills (202) 219–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3001, Washington, DC 20503 (202) 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Extension

Employment and Training Administration

Domestic Agricultural In-Season Wage Report

1205–0017; ETA 232 and 232A

Form No.	Affected public	Respondents	Frequency	Average time per response
Narrative Plan	State/local government	49	6 times	12 hours each.
ETA 232A & 232	Individual or households; farms.	20,000	Once	15 minutes.
8,528 total hours				

State employment agencies need prevailing wage rates in order to process employers' application for intrastate and interstate workers. The rates cover agricultural and logging jobs. Migrant and local seasonal farmworkers are hired for these jobs.

Employment and Training Administration

1205–0310; ETA 9035

Other

Individuals or households; state or local governments; businesses or other for-profit; federal agencies or employees; non-profit institutions; small businesses or organizations

50,200 respondents; .997 hours per response; 50,050 total hours; 1 form

The information provided on this form by employers seeking to use aliens in specialty occupations on H–1B visas will permit DOL to meet Federal responsibilities for program administration, management and oversight.

Employment and Training Administration

JTPA Title II Quarterly Status Report

ETA 9040

Form No.	Affected public	Respondents	Frequency	Average time per response
ETA 9040 (Reg.)	State/local government	59	Quarterly	2 hrs 30 mins.
ETA 9040 (Final)	do	59	Quarterly	2 hrs.
Recordkeeping	do	59	Quarterly	2 hrs 30 mins.
Audit retention	do	59	Annually	24 hrs 30 mins.
4,164 total hours				

The information will be used to assess JTPA statewide finances under Economic Dislocation and Worker Adjustment Assistance (EDWAA). Participant and financial data will be used to respond to Congressional oversight, to prepare budgets, and make annual reports to Congress.

Employment Standards Administration

Payment of Compensation Without Award

1215–0022; LS–206

On occasion

Businesses or other for-profit

900 respondents; 5 minutes per response; 8,550 total hours; 1 form

The form requires insurance carriers and self-insurers to report the payment of compensation benefits to injured claimants.

Employment Standards Administration

Notice of Controversion of Right to Compensation

1215–0023; LS 207

On occasion

Businesses or other for profit

18,900 respondents; 15 minutes per response; 4,725 total hours; 1 form

The form allows insurance carriers and self-insured employers to controvert claims under the Longshore Act and extension.

Employment Standards Administration

Certification of Funeral Expenses

1215–0027; LS–265

On occasion

Businesses or other-profit; small businesses or organizations

195 respondents; .25 hours per response; 49 total hours; 1 form

The form requires information on funeral expenses under the Longshore Act and extension.

Employment Standards Administration

Pre-Hearing Statement

1215–0085; LS–18

On occasion

Individuals or households; businesses or other for-profit

6,800 responses; .16 hours per response; 1,088 total hours; 1 form

The form is used to refer cases to the Office of Administrative Law Judge for

formal hearing under the Longshore Act and extensions.

Employment Standards Administration
Housing Occupancy Certificate—MSPA
1215–0158; WH–520
Annually
Individuals or households; farms; businesses or other for-profit; small businesses or organizations
260 respondents; 3½ minutes per response; 17 total hours; 1 form

The Migrant and Seasonal Agricultural Worker Protection Act requires any person owning or controlling any facility or real property occupied by migrant agricultural workers to obtain a certificate of occupancy. The WH–520 form is used by the Wage and Hour Division to inspect and approve housing.

Occupational Safety and Health Administration
1218–0126
Acryonitrile
On occasion
Businesses or other for-profit; small businesses or organizations
1 respondent; .08 hours per response; 1 total hour

The purpose of this standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to Acrylonitrile. The standard also requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions of the Acrylonitrile standard.

Occupational Safety and Health Administration
1218–0133
Asbestos (General Industry)
On occasion
Businesses or other for-profit; small businesses or organizations
22 respondents; .08 hours per response; 2 total hours

The Asbestos standard for General Industry and its information collection requirements provide protection for employees from the adverse health effects associated with occupational exposure to Asbestos in General Industry. The standard requires that OSHA have access to the employers' various written plans and records including exposure, medical, information and training, and compliance. OSHA access ensures that employers are complying with disclosure provisions of the Asbestos General Industry Standard.

Occupational Safety and Health Administration
1218–0134
Asbestos (Construction Industry)
On occasion
Businesses or other for-profit; small businesses or organizations
98 respondents; .28 hours per response; 27 total hours

The Asbestos standard for construction and its information collection requirements provide protection for employees from the adverse health effects associated with occupational exposure to Asbestos in construction. The standard requires that OSHA have access to the employer's various written plans and records including exposure, medical, information and training. OSHA access ensures that employers are complying with disclosure provisions of the Asbestos Construction Standard.

Bureau of Labor Statistics
Hours at Work Survey
1220–0076
Annual
Businesses or other for-profit; small businesses or organizations
11,000 responses; .5 hour per respondent; 5,250 total hours

Form number	Affected industries	Respondents	Minutes per response	Total burden
2000N	Service-Producing	4,250	½ hour	2,125
2000P	Goods-Producing	5,750	½ hour	2,875
	Follow-up (RAS)	1,000	¼ hour	250

"Labor Statistics Productivity" Ratios of hours at work to hours paid are needed to measure labor input for productivity statistics. The ratios of hours at work to hours paid provided by this survey are used to convert hours paid data from the Current Employment Statistics Program to hours at work. The resulting hours at work measures are then incorporated into the Bureau's labor and multifactor productivity statistics published annually and quarterly. A follow-up response analysis survey (RAS) assesses the conceptual accuracy of these ratios. The collection of information on hours at work began in 1982 and must be done annually because of the cyclical sensitivity of productivity measures.

Signed at Washington, DC, this 16th day of March 1993.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 93–6369 Filed 3–18–93; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

Emergency Unemployment Compensation (EUC) Program; Notice of Changes IN EUC Periods

This notice announces recent changes in benefit levels under the Emergency Unemployment Compensation (EUC) Program in three States.

Background

The following trigger changes have occurred in States since publication of the last notice:

- January 31, 1993—Oregon and Washington increased to 26 weeks.
- February 21, 1993—Idaho increased to 26 weeks.

New claimants coming into the program in these States on or after the specified dates as well as claimants with an "applicable benefit year" that previously exhausted EUC at a lower level are eligible for the higher number of weeks.

In addition, Public Law 102–164 permits the Governor of a State to elect to trigger off an Extended Benefit Period in order to provide payment of EUC benefits to individuals who have exhausted their rights to regular compensation under State law. Since the publication of the last notice, in accordance with section 101(e) of Public Law 102–164, the Governor of Alaska has elected to trigger off Extended Benefits and instead pay EUC benefits.

Information for Claimants

The duration of benefits payable in the Emergency Unemployment Compensation Period, and the terms and conditions on which they are payable, are governed by the Act and the operating instructions issued to the States by the U.S. Department of Labor. The State employment security agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits

and is potentially eligible for EUC benefits (20 CFR 615.13(c)).

Persons who believe they may be entitled to EUC benefits, or who wish to inquire about their rights under the program, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, DC, on March 12, 1993.

Carolyn M. Golding,

Acting Assistant Secretary of Labor.

[FR Doc. 93-6368 Filed 3-18-93; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination No. MS930053, dated Feb. 19, 1993.

Agencies with construction pending projects, to which this wage decision would have been applicable, should utilize the project determination procedure by submitting a SF-308. (See Regulations, 29 CFR part 1, Section 1.5.) Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is within ten (10) days of this notice, the contract specifications need not be affected.

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Alabama: AL93-3 (Feb. 19, 1993) .....
Florida:
- FL93-38 (Feb. 19, 1993) ....
- FL93-39 (Feb. 19, 1993) ....
- FL93-45 (Feb. 19, 1993) ....

Georgia:
- GA93-3 (Feb. 19, 1993) ....
- GA93-4 (Feb. 19, 1993) ....

Massachusetts:
- MA93-1 (Feb. 19, 1993) ....
- MA93-4 (Feb. 19, 1993) ....

Mississippi: MS93-22 (Feb. 19, 1993) ....

New York:
- NY93-2 (Feb. 19, 1993) ....
- NY93-4 (Feb. 19, 1993) ....
- NY93-8 (Feb. 19, 1993) ....
- NY93-10 (Feb. 19, 1993) ....
- NY93-13 (Feb. 19, 1993) ....
- NY93-16 (Feb. 19, 1993) ....
- NY93-17 (Feb 19, 1993) ....
- NY93-19 (Feb. 19, 1993) ....
- NY93-26 (Feb. 19, 1993) ....

Pennsylvania:
- PA93-5 (Feb. 19, 1993) ....
- PA93-6 (Feb. 19, 1993) ....
- PA93-14 (Feb. 19, 1993) ....
- PA93-16 (Feb. 19, 1993) ....
- PA93-17 (Feb. 19, 1993) ....
- PA93-20 (Feb. 19, 1993) ....
- PA93-21 (Feb. 19, 1993) ....
- PA93-26 (Feb. 19, 1993) ....

Tennessee: TN93-1 (Feb. 19, 1993) ....

Virginia: VA93-69 (Feb. 19, 1993) .....

Vermont: VT93-6 (Feb. 19, 1993) .....

Virgin Islands: Index .....

Vermont: Index .....

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Volume II

Illinois:
- IL93-1 (Feb. 19, 1993) ....
- IL93-8 (Feb. 19, 1993) ....
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- IL93-13 (Feb. 19, 1993) ....
- IL93-18 (Feb. 19, 1993) ....
- IL93-20 (Feb. 19, 1993) ....

Indiana:
- IN93-4 (Feb. 19, 1993) ....
- IN93-6 (Feb. 19, 1993) ....

New Mexico: NM93-1 (Feb. 19, 1993) ....

Oklahoma:
- OK93-16 (Feb. 19, 1993) ....
- OK93-18 (Feb. 19, 1993) ....

Wisconsin: WI93–1 (Feb. 19, 1993) .....

Volume III

Colorado: CO93–10 (Feb. 19, 1993) .....
Montana: MT93–1 (Feb. 19, 1993) .....
North Dakota: ND93–2 (Feb. 19, 1993) .....
Washington: WA93–1 (Feb. 19, 1993) .....
Wyoming: WY93–4 (Feb. 19, 1993) .....

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscripton(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 12th day of March 1993.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 93–6164 Filed 3–18–93; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL INSTITUTE FOR LITERACY

National Institute for Literacy Advisory Board; Meeting

AGENCY: National Institute for Literacy Advisory Board, National Institute for Literacy.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Institute for Literacy Advisory Board (Board). This notice also describes the function of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE AND TIME: April 3, 1993, 9 a.m. to 4 p.m., April 4, 1993, 9 a.m. to 4 p.m.

ADDRESSES: National Institute for Literacy, 800 Connecticut Avenue, NW., suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Thomas R. Hill, Executive Officer, National Institute for Literacy, 800 Connecticut Avenue, NW, suite 200, Washington, DC 20006. Telephone (202) 632–1500.

SUPPLEMENTARY INFORMATION: The Board is established under section 384 of the Adult Education Act, as amended by title I of Public Law 102–73, the National Literacy Act of 1991. The Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Board is established to advise and make recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and Health and Human Services, which administers the National Institute for Literacy (Institute). The Interagency Group considers the Board's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve the goals of the Institute. Specifically, the Board performs the following functions: (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and the Director of the Institute. In addition, the Institute consults with the Board on the award of fellowships.

On April 3 and 4, 1993, from 9 a.m. to 4 p.m., the meeting of the Board will be closed to the public to review applications and discuss qualifications of candidates for the position of Institute Director of the Board. The meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 2 and under exemption (6) of section 552b(c) of title 5 U.S.C. Discussion of the applications will include consideration of the qualifications and fitness of the candidates and will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the National Institute for Literacy, 800 Connecticut Avenue, NW, suite 200, Washington, DC 20006 from 8:30 a.m. to 5 p.m.

Dated: March 16, 1993

Franmarie Kennedy-Keel,

Interim Director, National Institute for Literacy.

[FR Doc. 93–6383 Filed 3–18–93; 8:45 am]

BILLING CODE 6055–01–M

NUCLEAR REGULATORY COMMISSION

Commercial Grade Procurement and Dedication Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will hold a public workshop to discuss and solicit comments on key procurement and commercial grade item (CGI) dedication issues, and a draft inspection procedure for use by the NRC during inspection of licensee CGI procurement and dedication activities.

DATES: The meeting will be held from 8 a.m. to 5:30 p.m. on April 21, 1993, and 8 a.m. to 12 noon on April 22, 1993. Registration for the workshop should be received by the Hyatt Regency Hotel by April 16, 1993, however, late registrations will be accepted at the workshop. Interested persons should submit written comments by May 21, 1993. Comments received after this date will be considered if it is practical to do so, but the Commission can assure consideration only for comments received on or before this date. The proposed effective date of the inspection procedure, which includes related guidance, is on or about August 1, 1993.

ADDRESSES: The meeting will be held at the Hyatt Regency Hotel, Dallas/Fort Worth Airport, P.O. Box 619014, Dallas, TX 75261. Telephone (214) 453–1234. Persons planning to attend the workshop are requested to complete a registration form, which includes accommodation information, and send it directly to the Hyatt Regency Hotel. Registration forms can be obtained from Ms. Karen Brunson, M/S 9–D–4, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 504–2961. Submit written comments to: Chief, Rules Review and Directives

Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or hand deliver comments to U.S. Nuclear Regulatory Commission, 7920 Norfolk Avenue, Bethesda, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. The proposed guidance on key dedication issues and the draft revision of the NRC inspection procedure, may be examined and/or copied for a fee at the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555. To access these documents, request NRC memorandum dated March 25, 1993, from Leif J. Norrholm to Charles E. Rossi on "Commercial Grade Procurement and Dedication Workshop."

FOR FURTHER INFORMATION CONTACT: Uldis Potapovs, M/S 9–D–4, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 504–2959.

SUPPLEMENTARY INFORMATION: From February 1991 to June 1992 the NRC conducted eight assessments and five pilot inspections at power reactor sites that identified weaknesses in the implementation of licensee programs for the procurement and dedication of CGIs to be used in safety-related applications. Comments have been received regarding the results of these assessments and inspections from several utilities and the Nuclear Management and Resources Council (NUMARC). The NRC has prepared a revision to NRC Inspection Procedure 38703, "Commercial Grade Procurement Inspection," including guidance on key dedication issues, to clarify the criteria that will be used in future inspections of licensee CGI procurement and dedication activities.

The NRC believes that it would be beneficial to obtain public comment on the aforementioned documents from all interested parties, including special interest groups. Key dedication issues, including specific dedication examples; the draft inspection procedure; and, the staff's plans for related enforcement activities will be discussed at the public workshop. The workshop will consist of an opening plenary session, break-out sessions, and a closing summary session.

During the plenary session, NRC representatives will briefly discuss:

(1) Recent NRC activities since completion of the pilot inspections;
(2) An overview of key dedication issues; and
(3) The general content of the proposed inspection procedure and its enforcement plans.

Representatives of NUMARC will also discuss industry perspectives and positions. Following the plenary session, all attendees will be assigned to one of three break-out groups, each group will participate in the following topics:

Session A. Dedication Issues—Selection and Verification of Critical Characteristics, Like-for-like Replacements, and Surveys
Session B. Dedication Issues—Sampling, Traceability, and Material Certification
Session C. Inspection Process

Comments or suggestions for improvement should be made in writing as prescribed in this notice. The break-out sessions are intended to provide attendees a better opportunity to participate in the discussions of key dedication issues and approaches, and to promote a constructive exchange of ideas between the participants. NRC staff and industry representatives will attend each of the break-out groups to provide perspectives on CGI procurement and dedication activities. The workshop will conclude with a summary session where the issues discussed during each group will be presented, followed by a question-answer period.

Comments received on the draft guidance, will be considered by the staff in finalizing its inspection guidance.

Dated at Rockville, Maryland, this 15th day of March, 1993.

For the Nuclear Regulatory Commission.

Uldis Potapovs,

Section Chief, Reactive Inspection Section No. 1, Vendor Inspection Branch, Division of Reactor Inspection and Licensee Performance, Office of Nuclear Reactor Regulation.

[FR Doc. 93–6390 Filed 3–18–93; 8:45 am]
BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32000; File No. SR–Phlx–92–38]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Increasing the Size of Orders Eligible for Automatic Execution Through the Automatic Execution Feature of the Exchange's Automated Options Market System

March 15, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 21, 1992, the Philadelphia Stock Exchange ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to permit public customer order of up to 25 contracts in all equity options traded on the Exchange to be eligible for automatic execution through the automatic execution ("Auto-X") feature of the Exchange's Automated Options Market ("AUTOM") system. The AUTOM system, approved by the Commission as a pilot program, is the Phlx's electronic order routing, delivery and automatic execution system for small option orders entered into the Phlx trading floor on behalf of public customers. Currently, the Auto-X feature is available for public customer orders of up to 20 contracts in size in Phlx equity options.

The text of the proposed rule change is available at the Office of the Secretary, Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purposes of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to increase, from 20 to 25 contracts, the order size for Phlx equity options eligible for execution through the Auto-X feature of the AUTOM system. Since approving AUTOM as a pilot program in 1988, the Commission has approved various amendments and extension of the system.[1] Most recently,

[1] See Securities Exchange Act Release Nos. 25540 (March 31, 1988), 53 FR 11390 (April 6, 1988);

the Auto-X feature of AUTOM was expanded to include orders of up to 20 contracts. Currently, eligibility for Auto-X is limited to public customer market and marketable limit orders of up to 20 contracts in size.

The proposed expansion of the Auto-X order eligibility size from 20 to 25 contracts is in response to the existing competitive environment among the options market centers. The Exchange also believes that the effectiveness of the AUTOM system should be improved by offering retail broker-dealers and their clients an expanded automatic execution parameter. Further, the Phlx believes that this limited expansion of the Auto-X feature of AUTOM should not impose any significant additional burdens to the operation and capacity of the AUTOM system and may increase its effectiveness by increasing the number of orders eligible for automatic execution and by reducing manual processing.

Accordingly, the Exchange believes that the proposed limited expansion of the Auto-X feature of AUTOM to 25 contracts for Phlx-traded equity options is consistent with section 6 of the Act, in general, and furthers the objectives of section 6(b)(5) in particular, in that it is designed to promote just and equitable principles of trade as well as to remove impediments to and perfect the mechanism of a free and open market. The Exchange also believes that the proposed rule change is consistent with section 11A of the Act because it fosters fair competition among exchange markets.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 9, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-6387 Filed 3-18-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19331; File No. 812-8248]

ITT Life Insurance Corporation, et al.

March 15, 1993.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: ITT Life Insurance Corporation ("ITT Life"), ITT Life Insurance Corporation Separate Account One (the "Separate Account") and Hartford Equity Sales Company, Inc.

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) for exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account under a deferred variable annuity contract (the "Contract").

FILING DATE: The application was filed on January 12, 1993 and amended on March 10, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 9, 1993, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Kathleen McGah, Esq., Hartford Life Insurance Companies, 200 Hopmeadow Street, Simsbury, CT 06070.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Senior Attorney, at (202) 272-3045, or Michael Wible, Special Counsel, at (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. ITT Life is stock life insurance company engaged in the business of writing individual and group life insurance and annuities in the District of Columbia and all states except New York.

2. The Separate Account was established by ITT Life and has filed a registration statement under the 1940 Act as a unit investment trust. It will issue only flexible premium deferred variable annuity contracts (the "Contracts").

27599 (January 9, 1990), 55 FR 1751 (January 18, 1990); 28978 (March 15, 1991), 56 FR 12060 (March 21, 1991); 29682 (September 9, 1991), 56 FR 46816 (September 16, 1991); and 29837 (October 18, 1991), 56 FR 55146 (October 24, 1991).

[2] 17 CFR 200.30-3(a)(12) (1992).

3. Hartford Equity Sales Company, Inc., the principal underwriter for the Contracts, is a broker-dealer registered under the Securities Exchange Act and is a member of the National Association of Securities Dealers, Inc.

4. There is no deduction for sales expenses from purchase payments when made, but a contingent deferred sales charge ("CDSC") may be assessed when a Contract is surrendered. CDSCs are assessed first from purchase payments in the order received and then from other Contract values. The CDSC is a percentage of the amount withdrawn (not to exceed the aggregate amount of the purchase payments made), as follows:

Charge (percent)	No. of years from purchase payment
7	1
6	2
5	3
4	4
3	5
2	6
1	7
0	8 or more.

5. An annual maintenance fee of $25 is deducted from Contract values each Contract year. Applicants represent that the annual maintenance fee will not be more than the actual cost of the administrative services provided.

6. For assuming mortality and expense risks under the Contracts, ITT Life will make a daily charge at the annual rate of 1.25% against all Contract values held in the Separate Account. Approximately 0.90% of that charge is for assuming mortality risks and 0.35% is for assuming expense risks. The rate of the mortality and expense risk charge cannot be increased. ITT Life assumes mortality risks by undertaking to make annuity payments under the Contract option selected by the Contract owner regardless of how long an annuitant may live, and regardless of how long all annuitants as a group may live. ITT Life also assumes mortality risks by undertaking payment of a minimum death benefit under the Contract. ITT Life assumes expense risks that administrative fees may be insufficient to cover the actual expenses. If the mortality and expense risk charge is insufficient to cover the actual cost of the expense risk undertaking, ITT Life will bear the loss. Conversely, if the charge proves more than sufficient, the excess will be surplus to ITT Life and will be available for any proper corporate purpose. ITT Life expects a reasonable profit from the mortality and expense risk charge.

Applicants' Legal Analysis and Conditions

1. Applicants request an exemption from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of the mortality and expense risk charge from the assets of the Separate Account under the Contract.

2. Applicants represent that the mortality and expense risk charge of 1.25% is within the range of industry practice for comparable annuity contracts as determined by a survey of comparable contracts issued by other insurance companies. ITT Life undertakes to maintain at its home office, available to the Commission upon request, a memorandum setting forth in detail the methodology underlying this representation and the contracts analyzed.

3. Applicants state that there is a likelihood that the proceeds from explicit sales loads will be insufficient to cover the expected costs of distributing the Contracts. Any shortfall will be covered from the assets of ITT Life's general account, which may include profit from the mortality and expense risk charge. Therefore, Applicants have concluded that there is a reasonable likelihood that the Separate Account's distribution financing arrangement will benefit the Separate Account and Contract owners. ITT Life undertakes to maintain at its home office, and make available to the Commission upon request, a memorandum setting forth the basis for this representation.

4. Applicants represent that the Separate Account will invest only in open-end management investment companies that have undertaken to have a board of directors, a majority of whom are not interested persons of the company, formulate and approve any plan to finance distribution expenses pursuant to rule 12b–1 under the 1940 Act.

Conclusion

Applicants assert that, for the reasons and upon the facts set forth above, the requested exemption from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct the mortality and expense risk charge from the assets of the Separate Account under the Contract meets the standards in section 6(c) of the 1940 Act. Applicants assert that the exemption requested is necessary and appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6332 Filed 3–18–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25759]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

March 12, 1993.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 5, 1993 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Monongahela Power Co., et al. (70–6757)

Monongahela Power Company ("Monongahela"), 1310 Fairmont Avenue, Fairmont, West Virginia 26554, The Potomac Edison Company ("Potomac Edison"), 10435 Downsville Pike, Hagerstown, Maryland 21740, and West Penn Power Company ("West Penn"), 800 Cabin Hill Drive, Greenburg, Pennsylvania 15601 (collectively, the "Companies"), all wholly owned public-utility subsidiary companies of Allegheny Power System Inc., a registered holding company, have filed a post-effective amendment to their declaration under sections 6(a) and 7 of the Act and rule 50(a)(5) thereunder.

The County Commission of Monongahela County, West Virginia ("County Commission"), is planning to issue three new series of pollution control revenue bonds in the aggregate principal amount of not more than $23.4 million and maturing in 2013 ("Series B Bonds"). The proceeds from the Series B Bonds will be used to effect the redemption of three series of presently outstanding pollution control revenue bonds, all of which are 9½%, Series A Bonds issued by the County Commission. The Series A Bonds were used to finance certain improvements to pollution control facilities at Fort Martin Station ("Power Station"), located in Monongahela County, West Virginia.[1] The Series A Bonds include: (i) $7,050,000 principal amount for Monongahela; (ii) $8,600,000 principal amount for Potomac Edison; and (iii) $7,750,000 principal amount for West Penn.

The Companies propose to, through December 31, 1994, enter into the refunding of the Series A Bonds and to issue new promissory notes insofar as the terms and conditions of the Series B bonds affect the payments to be made by the Companies under the promissory notes presently outstanding. The Series B Bonds will be issued under a supplemental trust indenture with a corporate trustee, approved by the Companies, and will be sold at such time, at such interest rate and for such price as shall be approved by the Companies. However, the Companies state that they will not enter into the proposed refunding transaction unless the estimated present value savings derived from the net difference between interest payments on the new issues of comparable securities and on the securities to be refunded is, on an after tax basis, greater than the present value of all redemption and issuing costs, assuming an appropriate discount rate. The discount rate used shall be the estimated after tax interest rate on the Series B Bonds to be issued.

Concurrently with the issuance of the Series B Bonds, the Companies will issue non-negotiable promissory notes ("Pollution Control Notes") corresponding to the principal amount, interest rates and redemption provisions (which may include a special right of the holder to require the redemption or repurchase of the bond at stated intervals) and having installments of principal corresponding to any mandatory sinking fund payments and stated maturities. The Notes will be secured by a second lien on the Facilities and certain other properties, pursuant to a Deed of Trust and Security Agreement delivered by each Company to the trustee creating a security interest in the Facilities and certain other property (subject to the lien securing each Company's first mortgage bonds). Payments on such Notes will be made to the Trustee under supplements to the existing indentures and shall be applied by the Trustee to pay the maturing principal and redemption price of and interest and other costs on the Series B Bonds as the same become due. Each Company also proposes to pay any trustees' fees and expenses incurred by the County Commission. The Companies request an exception from the competitive bidding requirements of rule 50 under subsection (a)(5) thereof in connection with the issuance of the Notes.

[1] The Power Station is owned jointly by the Companies and Duquesne Light Company as tenants in common. For Unit 1 of the Power Station, the companies' respective interests are: Monongahela, 25%; Potomac Edison, 25%; West Penn, 0%; and Duquesne, 50%. For Unit 2 of the Power Station, the companies' respective interests are: Monongahela, 20%; Potomac Edison, 30%; West Penn, 50%; and Duquesne, 0%.

New Orleans Public Service Inc. (70–8089)

New Orleans Public Service Inc. ("NOPSI"), 317 Baronne Street, New Orleans, Louisiana, a public-utility subsidiary company of Entergy Corporation ("Entergy"), a registered holding company, has filed an application-declaration under sections 6(a)(2), 7, 9(a), 10 and 12(c) of the Act and rule 42 thereunder. An initial notice of the filing of the application-declaration was issued by the Commission on January 15, 1993 (HCAR No. 25736) ("Notice").

In the Notice, NOPSI requested authorization to: (i) Redeem, in accordance with the redemption and/or sinking fund provisions established at the time of initial issuance thereof, up to $20 million aggregate par value of preferred stock to be issued under rule 52; and (ii) acquire by means of tender offer, negotiated, open market or other forms of purchase: (a) up to $135 million aggregate principal amount of one or more series of NOPSI's first mortgage bonds and/or general and refunding mortgage bonds; and (b) up to $6.5 million aggregate par value of one or more series of NOPSI's outstanding preferred stock.

NOPSI additionally requests authorization to create one or more new classes of its preferred stock with a par value other than $100 ("Non-$100 Preferred"). NOPSI currently has two classes of preferred stock with a par value of $100 ("$100 Preferred"), with a total of four series currently issued and outstanding. The proposed Non-$100 Preferred will have the same rank and be identical with the existing class of $100 Preferred, except as to the par value of the shares of such class or classes, the variations between the series of such class or classes and the series of the classes of $100 Preferred, and the voting entitlement per share of such class or classes in certain circumstances. Prior to creating such class or classes, NOPSI will take appropriate corporate actions, which may include amending its Restatement of Articles of Incorporation and obtaining the consent of its common stockholder, Entergy.

The Columbia Gas System, Inc., et al. (70–8145)

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and The Inland Gas Company, Inc. ("Inland"), Columbia's wholly owned nonutility subsidiary company, each located at 20 Montchanin Road, Wilmington, Delaware 19807, have filed an application pursuant to sections 9 and 10 of the Act.[2]

Inland, a Kentucky corporation, formerly owned and operated an interstate natural gas pipeline, gathering facilities and natural gas producing properties, and also engaged in the marketing of natural gas. On October 1, 1992, Inland sold most of its assets to two associate companies, Columbia Natural Resources, Inc. ("Columbia Natural") and Columbia Gas of Kentucky, Inc. Inland transferred its service obligations to these companies and discontinued all gas sales and transportation services.

Columbia now proposes, pursuant to section 2(b) of the Gas Related Activities Act of 1990, that Inland engage in the marketing of natural gas, both for associate and nonassociate companies. Inland also proposes to engage in activities related to the management and supply, sale, and transportation of natural gas. Finally, Inland will engage in commodity hedging activities, including the purchase and sale of natural gas futures and options, commodity price swaps, and exchange-for-physical transactions.

[2] Columbia and its wholly owned subsidiary company, Columbia Gas Transmission Corporation ("Transmission"), filed for protection with the Bankruptcy Court for the District Court of Delaware on July 31, 1991. Columbia is currently a debtor in possession under Chapter 11 of the Bankruptcy Code. The cases have been consolidated for procedural purposes and are jointly administered under the caption *In re The Columbia Gas System, Inc. and Columbia Gas Trans. Corp.*, No. 91–803. Transmission is not a party to this application.

Columbia states that Inland's primary objective will be to market system production on behalf of Columbia's wholly owned production companies, Columbia Gas Development Corporation and Columbia Natural. Inland will act as agent for these companies and will aggregate and market their production. Columbia asserts that this arrangement will enable Inland to provide a competitively priced and reliable gas supply in varying quantities to public-utility companies and ultimate consumers. Columbia states that Inland's operations will benefit consumers by increasing competition in the supply of natural gas. Columbia states that Inland's operations will also increase the amount of natural gas transported over the pipelines of Columbia's pipeline subsidiary companies.

Columbia also states that the proposal would not be detrimental to the interests of consumers of the Columbia system or to the proper functioning of the system. No associate company of Columbia is obligated to engage in any transactions with Inland. Columbia states that Inland's cash on hand of approximately $6.8 million, as of November 30, 1992, is sufficient to meet its current operational needs. Columbia's maximum additional investment in Inland is expected to be $30 million, which it asserts is a *de minimis* amount in light of Columbia's total assets of approximately $6.5 billion.

Georgia Power Company (70–8159)

Georgia Power Company ("Georgia Power"), 333 Piedmont Avenue, N.E., Atlanta, Georgia 30308, an electric public-utility subsidiary company of The Southern Company, a registered holding company, has filed a declaration under section 12(d) of the Act and rule 44 thereunder.

Georgia Power proposes to sell to Sawnee Electric Membership Corporation, a nonassociate company, for an aggregate sales price of $243,916.92: (1) Certain distribution facilities ("Facilities") that were installed by Georgia Power to provide retail electric service to the Lakeland Plaza Shopping Center located in the northern portion of metropolitan Atlanta, Georgia; and (2) certain easements in relation to the Facilities.

The original book value of the Facilities was $294,993.34, and the net book value as of April 1993 is estimated to be $272,803.48.

The sales price was negotiated at arm's length following a determination by the Georgia Public Service Commission that Georgia law prohibits Georgia Power from providing retail electric service to the Lakeland Plaza Shopping Center. The Facilities are currently in the rate base as capitalized investment and will be removed from the rate base upon sale. Georgia Power will obtain from its First Mortgage Bond Trustee a release of the Facilities from the lien of Georgia Power's First Mortgage Bond Indenture.

Ohio Valley Electric Corporation (70–8163)

Ohio Valley Electric Corporation ("OVEC"), P.O. Box 468, Piketon, Ohio 45661, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and rule 50(a)(5) thereunder.

OVEC proposes to issue and sell promissory notes ("Notes"), from time-to-time through December 31, 1994, up to an aggregate principal amount of $100 million to one or more commercial banks, financial institutions or other institutional investors.

The proposed loan agreement ("Agreement") and the Notes thereunder would be for a term of not more than thirty years from the date of borrowing. The Agreement would provide that the Notes bear interest at either a fixed rate, a fluctuating rate or some combination of fixed and fluctuating rates. The actual rate of interest which each Note shall bear shall be subject to further negotiation between OVEC and the lender. Any fixed rate of interest on the Notes will not be greater than 250 basis points above the yield at the time of issuance of the Notes to maturity of United States Treasury obligations that mature on or about the date of maturity of the Notes. Any fluctuating rate will not be greater than 200 basis points above the rate of interest announced publicly by a major bank from time-to-time as its base or prime rate. However, in the event an investment bank or financial institution arranges for a borrowing from a third party, such institution may charge OVEC a placement fee not to exceed 7/8% of the principal amount of such borrowing.

The Agreement may specify that, in the event a Note bearing interest at a fixed rate is paid prior to maturity in whole or in part and the fixed rate at that time exceeds the yield to maturity of certain United States Treasury securities maturing on or close to the Note, OVEC shall pay to the lender an amount based on the present value of such prepaid amounts discounted at such treasury yield.

Any proceeds realized from the sale of the Notes, together with any other funds which may become available to OVEC, will be used to pay its general obligations and to repay short-term debt and expenditures incurred in connection with payments for purchased power from Indiana-Kentucky Electric Corporation ("IKEC"), including IKEC's program to comply with the Clean Air Act Amendments of 1990.

OVEC has requested an exception from the competitive bidding rules of rule 50 under rule 50(a)(5) so that it may begin negotiating the terms and conditions for the Notes. It may do so.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6333 Filed 3–18–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Atlanta District Advisory Council; Public Meeting

The U.S. Small Business Administration Atlanta District Advisory Council will hold a public meeting from 8 a.m. on Thursday, April 22, 1993, to 12 noon on Friday, April 23, 1993, at the DeSoto Hilton Hotel, Savannah, Georgia, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Wilfred A. Stone, District Director, U.S. Small Business Administration, 1720 Peachtree Road, NW., 6th Floor, Atlanta, Georgia 30309, (404) 347–4749.

Dated: March 15, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–6393 Filed 3–18–93; 8:45 am]

BILLING CODE 8025–01–M

St. Louis District Advisory Council; Public Meeting

The U.S. Small Business Administration St. Louis District Advisory Council will hold a public meeting at 9:30 a.m. on Wednesday, March 24, 1993 at 815 Olive Street, North Conference Room, Mid-level, St. Louis, Missouri, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Robert L. Andrews, District Director, U.S. Small Business Administration, 815 Olive Street, room 242, St. Louis, Missouri 63101, (314) 539–6600.

Dated: March 16, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–6394 Filed 3–18–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application to Impose and Use Passenger Facility Charge (PFC) at Natrona County International Airport, Casper, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Natrona County International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 19, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan E. Wiechmann, Manager, Denver Airports District Office, DEN–ADO, Federal Aviation Administration, 5440 Roslyn, suite 300, Denver, CO 80216–6026.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Eddie F. Storer, Airport Manager, Natrona County International Airport, Casper, Wyoming, at the following address: 8500 Fuller Street, Casper, Wyoming 82604.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Natrona County International Airport, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Don O'Brien, (303) 286–5549; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 5440 Roslyn, suite 300; Denver, Colorado 80216–6026. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Natrona County International Airport, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 12, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Natrona County International Airport was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 18, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: September 1, 1993.

Proposed charge expiration date: July 1, 1997.

Total estimated PFC revenue: $656,144.00.

Brief description of proposed project: Airport planning studies; land acquisition of safety area; access road improvements; snow removal equipment; security access control system and taxiway signs; safety area grading; terminal building improvements.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**" and at the FAA regional Airports office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Natrona County International Airport.

Issued in Renton, Washington on March 12, 1993.

Edward G. Tatum,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 93–6376 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Forsyth County, North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project within the City of Winston-Salem and Forsyth County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Roy C. Shelton, Operations Engineer, Federal Highway Administration, 310 New Bern Avenue, suite 410, Raleigh, North Carolina 27601, Telephone (919) 856–4350.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on a proposed Northern Beltway (Eastern Section) in Winston-Salem and Forsyth County. The proposed action would be the construction of a multi-lane divided, controlled access highway on new location from US 52 north of Winston-Salem to I–40 Business east of Winston-Salem. This proposed facility is a portion of a planned outer belt facility which ultimately will provide the circumferential travel, ease the traffic burden through the Winston-Salem urban area, and will relieve congestion on US 52, US 421, and I–40 Business. The proposed action is a part of the 1987 Winston-Salem/Forsyth County Thoroughfare Plan.

Alternatives under consideration include: (1) The "no-build", (2) improving existing facilities, and (3) a controlled access highway on new location.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies. A public meeting and meetings with local officials and neighborhood groups will be held in the study area. A public hearing will also be held. Information on the time and place of the public hearing will be provided in the local news media. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to

the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: March 11, 1993.

Roy C. Shelton,

Operations Engineer, FHWA, Raleigh, North Carolina.

[FR Doc. 93-6320 Filed 3-18-93; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

Status of Circular Letters to Subsidized Operators

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Edmond J. Fitzgerald, Director, Office of Trade Analysis and Insurance, Maritime Administration, Washington, DC 20590, telephone (202) 366-2400.

By notice published in the **Federal Register** issue of September 18, 1992 (57 FR 43284), the Maritime Administration (MARAD) stated that on August 31, 1992, MARAD made the following determinations and took the following actions with respect to Circular Letters (CLs) that had been issued to subsidized operators:

1. Noted those CLs which had expired by their own terms or were superseded or cancelled by subsequent CLs.
2. Terminated those CLs which were no longer applicable to current MARAD programs or which were no longer needed to implement those programs.
3. Noted those CLs which are to be retained, which are being reviewed to determine if any revisions are necessary.
4. Confirmed that all CLs to subsidized operators engaged in the United States-Union of Soviet Socialist Republics Grain Trade have been determined to have expired by their own terms on December 31, 1981.

Two additional CLs have been located which were not included in the CLs which were subject to the actions taken by MARAD on August 31, 1992. CL No. 4-60, issued on September 30, 1960, and CL No. 1-61, issued on January 26, 1961, address the posting of wage scales, manning scales and working conditions on board subsidized ships, pursuant to section 301(a) of the Merchant Marine Act, 1936, as amended (Act), and Article II-8 of the operating-differential subsidy agreement (ODSA). These two CLs were cancelled by MARAD on March 1, 1993. The requirements set forth in the two CLs are already stated in the Act and Article II-8 of the ODSA.

Individuals wishing to review the various lists of CLs to subsidized operators which were involved in the Agency's determinations and actions of August 31, 1992, and March 1, 1993, may do so in the Office of the Secretary, Maritime Administration, room 7300, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

By Order of the Maritime Administration.

Dated: March 15, 1993.

James E. Saari,

Secretary.

[FR Doc. 93-6377 Filed 3-18-93; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: March 12, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Special Request

The Department is requesting approval of the Internal Revenue Service survey, described below, by March 31, 1993, in order to conduct this survey by April 16, 1993, immediately after the 1993 filing season. To allow public review and comment on this survey a copy will accompany this notice. Comments should be received by close of business March 24, 1993.

Internal Revenue Service

OMB Number: New
Form Number: None
Type of Review: New collection
Title: 1993 IRS Customer Satisfaction Survey
Description: Data collected will be used to evaluate U.S. adult residents' opinions of the services and products provided by the IRS. Data will provide the first trend measurement of customer satisfaction that will be used to identify areas needing service quality improvement and to direct improvement efforts.
Respondents: Individuals or households.
Estimated Number of Respondents: 6,000.
Estimated Burden Hours Per Respondent:
Telephone Interviews—13 minutes.
Questionnaire, section 1—5 minutes.
Questionnaire, Remainder—1 hour, 37 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 529 hours.
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

IRS Customer Satisfaction Survey

Survey Questionnaire

OMB Number:
Expires:
Code number: _____
Date: _____
Start time: _____
Finish time: _____
Telephone number:
Interviewer name:
_____

Hello, my name is _____ and I am calling from _____, on behalf of the Internal Revenue Service. May I please speak with an adult in the household over the age of 18?
If Business—> Terminate
Adult Contacted:
Introduction:

Hello, my name is _____ and I am calling from _____, on behalf of the Internal Revenue Service. We have been contracted by the IRS to conduct a study to assess people's opinions regarding the various services that the IRS provides.

So that I can select one adult in your household to participate in the survey, may I speak with the adult in the household, over the age of 18, who had the most recent birthday.

[Select the Person Named. If the Selected Person is not the Person on the Telephone, Ask to Speak With That Person and Repeat the Introduction.]

You have been selected through a random selection of your telephone number and we would like to ask you some questions about your opinions of

the IRS. The survey will take less than _____minutes.

If Respondent is Reluctant: Your identity, including your telephone number, will be kept strictly confidential and will not be given to the IRS. This study is being conducted for the IRS but only the study results will be given to the IRS. Your responses will remain completely anonymous.

If Respondent Asks how Number was Obtained and/or is Still Reluctant: You were selected for this survey through a random selection of your telephone number. This survey provides you with the opportunity to tell the IRS your opinion of its services and products and to make suggestions for how the IRS can improve its services and products.

If Respondent Asks About the Project: The IRS is very interested in people's opinions of the services and products they provide. To do so, they have contracted us to conduct this survey to determine people's satisfaction with the IRS. If you would like, I can give you an address where you can send your comments regarding this survey.

If Respondent States That he/she has Already Participated in an IRS Survey: This survey is being conducted for a different division of the IRS. This survey will provide you with the opportunity to give your overall opinion about the services and products provided by the IRS. Would you be willing to share your opinions with us by participating in this survey? If Respondent Answers no, Terminate Interview.

If Respondent Does not Know who the IRS Is: The Internal Revenue Service, IRS for short, is the federal agency responsible for collecting income taxes, enforcing the tax laws, and helping citizens to understand and fulfill their tax obligations.

Read Only if Respondent Asks for Address: Send your comments and suggestion to both:

Internal Revenue Service, Attention: IRS Reports Clearance Officer T:FP, Survey Number 1545–1283, Washington, DC 20224.

and

Office of Management and Budget, Paper Reduction Project, Survey Number 1545–1283, Washington, DC 20503.

Section 1: Perceptions

I am going to begin by asking you to give me your opinions about the IRS with respect to several statements. You may base your answers on your direct experience with the IRS, or through information you have obtained from other people or the media.

[Alternate This Question as First Question and Last Question]

On a scale from 1 to10, where 1 means poor and 10 means excellent, overall, how well do you think the IRS does its job?

_____

Now, on scale from 1 to 10, where 1 means *strongly disagree* and 10 means *strongly agree*, please give me your impression of the following statements with respect to the IRS. If you believe that you do not have enough information to give an opinion to a particular question, please feel free to simply tell me that you "Don't Know."

_____Don't Know Refused

[Question Sequence Randomized for Perceptions Battery]

1. The IRS provides people with the forms and information they need to complete their tax returns.
2. The IRS provides clear and easy-to-use tax forms and instructions.
3. The IRS accurately answers questions about tax issues.
4. The IRS helps people complete their tax returns correctly.
5. The IRS keeps accurate records of the taxes that people and companies owe and pay.
6. The IRS sends refund checks within a reasonable amount of time.
7. The IRS enforce the tax laws when people and companies do not pay the taxes they owe.
8. The IRS provides services correctly the first time.
9. The IRS gives prompt service.
10. The IRS maintains the highest standards of integrity. (honesty, decency, doing the right thing)
11. The IRS fairly applies the tax laws.
12. The IRS conducts business during hours that are convenient to most people.
13. The IRS conducts business in the best interest of people within the limits of the tax law.
14. The IRS tries to minimize the burden on people while carrying out the requirements of the tax law.
15. The IRS demonstrates a sincere interest in solving people's tax problems.
16. The IRS has employees who are willing to help people.
17. The IRS has employees who are available to respond to people's requests.
18. The IRS has employees who have the knowledge to deal with people's tax problems.
19. The IRS has employees who are consistently courteous.
20. The IRS has employees who listen to and understand the individual needs of people.
21. The IRS keeps people's and companies' tax return information confidential.
22. Because of efforts by the IRS, most people and business obey the tax laws.
23. Most people and businesses obey the tax laws.
24. The IRS provides letters and notices that are understandable.
25. The IRS is able to give people and business information about their own tax account when asked.
26. The IRS will find out if people and businesses do not pay the taxes they owe.

Now, I would like to ask your opinion about burden.

27. The IRS defines burden to be the time, expense, and dissatisfaction that people experience to obey the tax laws. Again, on the scale from 1 to 10, please give me your opinion of this statement:

The amount of burden people experience to obey the tax law is reasonable.

Section 2: Demographics/Value Tracking

To conclude this survey, I would like to ask you some questions about your background and your experiences with the IRS. These questions will be used to compare your responses to those of the other participants in this survey. As with the other information you have provided, your answers will be kept strictly confidential.

1. What type of tax form did you use to file your tax return this year?

_____ Form 1040, the long form (includes itemized deductions)
_____ Form 1040A, the short form (does not include itemized deductions)
_____ Form 1040EZ, the shortest form
_____ Did not file a return
_____ Don't know
_____ Refused

If a Return was Filed:

1a. Did you complete the form yourself or did someone else fill it out for you?

_____ Completed it myself
_____ Spouse completed it for me
_____ Someone else filled out for me
_____ Don't know
_____ Refused

If Someone Else Filled it Out:

1b. Who filled out your return for you?

_____ Paid preparer (CPA, Tax Attorney, Return Prep. Service)
_____ Other (Relative, friend, neighbor)
_____ Don't Know
_____ Refused

2. Other than paying your taxes, what is the most burdensome aspect of filing your tax return?

_____ Gathering records
_____ Filling out tax forms
_____ Time
_____ Finding/Paying a tax preparer
_____ Estimating taxes
_____ Itemizing deductions
_____ Understanding tax laws
_____ Dissatisfaction with tax laws
_____ Waiting for the refund
_____ Waiting for W–2
_____ Other (Specify)

_____ Don't Know
_____ Refused
_____ No Comment

3. Did you contact the IRS by telephone within the past year to ask a tax question or for information?

_____ Yes
_____ No [Skip to Q4]
_____ Don't Know [Skip to Q4]
_____ Refused [Skip to Q4]

3a. Why did you contact the IRS?

_____ Problem with account
_____ For information about filing out tax return
_____ To order additional schedules, forms, or publications
_____ Ask about refund check
_____ For work or business
_____ Other (Specify)

_____ Don't Know
_____ Refused

4. Did you visit an IRS office within the past year?

_____ Yes
_____ No
_____ Don't Know
_____ Refused

5. If you had to contact the IRS for any reason, which method of contact would you prefer? [Read]

_____ Telephone
_____ Written Correspondence
_____ Face-to-face
_____ Other (Specify)

_____ Don't Know [Skip to Q6]
_____ Refused [Skip to Q6]

5a. Why do you prefer this method?
[Check All That Apply—Encourage More Than One Response]

_____ Personal contact
_____ Faster, quick resolution
_____ More responsive
_____ More accessible
_____ More accurate
_____ Makes IRS more accountable
_____ Provides a paper trail
_____ Provides confirmation that issue is resolved
_____ Other (Specify)

_____ Don't Know
_____ Refused

6. Are there any situations you can imagine where you might hesitate to contact the IRS at all?
[Check All That Apply—Encourage More Than One Response]

_____ Owe money
_____ Complicated tax matter
_____ If the IRS says I made mistake
_____ If I missed a filing period
_____ If I know I made mistake on a previously filed return
_____ Other (Specify)

_____ Don't Know
_____ Refused

7. I would now like you to think about everything the IRS does or should do. As the country's tax collection agency, what do you think are the most important things that the IRS should do?
[Do Not Read]
[Check All That Apply—Encourage More Than One Response]

_____ Send quick refunds
_____ Send tax packages in the mail
_____ Provide easy access to tax forms and instructions
_____ Provide competent taxpayer assistance
_____ Respond to complaints
_____ Hold convenient hours
_____ Enforce the tax laws (catch cheaters, ensure fair share paid by all)
_____ Provide easy to use tax forms and instructions
_____ Treat taxpayers fairly
_____ Change the tax laws
_____ Provide information on services and educate the public
_____ Be more lenient and understanding
_____ Other (Specify)

_____ Don't Know
_____ Refused
_____ No Comment

8. Do you have any further comments or suggestions that you would like to make to the IRS about how it could improve its services or products for you?
[Do Not Read]
[Check All That Apply—Encourage More Than One Response]

_____ Less complicated tax forms
_____ Provide more information regarding services
_____ IRS should improve enforcement
_____ IRS should be more lenient
_____ Dissatisfaction with tax laws
_____ Better taxpayer assistance
_____ Other (Specify)

_____ Don't Know
_____ Refused
_____ No comment

9. When you answered our questions, were your opinions about the IRS *primarily* a result of your personal dealings or experience with the IRS or from information you obtained from others; including friends, relatives, and the news media?
[Encourage Only One Answer. Check Only One Answer]

_____ Personal dealings or experience
_____ Information from others [Skip to Q11]
_____ BOTH (Volunteered)
_____ Don't Know [Skip to Q13]
_____ Refused [Skip to Q13]

10. What type of personal contact or experience did you have with the IRS that may have influenced your opinion?
[Do Not Read: Check All That Apply]
[Do Not Encourage Only One Answer]

_____ Called to get additional tax forms or instructions
_____ Tax return was audited
_____ The IRS claimed I owed additional taxes (money)
_____ I received a notice from the IRS
_____ I received a tax refund check
_____ I contacted the IRS through written correspondence
_____ I filed a tax return
_____ I had contact through work
_____ I visited an IRS office
_____ Other (Specify)

_____ Don't Know
_____ Refused
_____ No personal contact

11. Did this information or personal experience occur within the past six months?

_____ Yes [If Yes and "Personal Dealings or Experience" on Q9 Then Skip to Q13]
_____ No
_____ Don't Know [Skip to Q13]
_____ Refused [Skip to Q13]

12. What information influenced your opinions?

_____ Through other people
_____ Through the media
_____ Other (Specify)

_____ Don't Know
_____ Refused

13. On a scale from 1 to 10, where 1 means not at all familiar and 10 means extremely familiar, how familiar would you say you are with the IRS and the services it provides to people.

_____ Don't Know
_____ Refused

14. What is your age?

_____ Years
_____ Don't Know
_____ Refused

15. What is the highest grade of formal schooling that you have ever completed? [Check one]

_____ 8th grade or less
_____ 9th, 10th, or 11th grade
_____ High school diploma/graduate
_____ Some college
_____ College degree
_____ Postgraduate studies/degree
_____ Don't Know
_____ Refused

16. Which of the following categories describes your annual household income last year?

_____ Under $25,000
_____ $25,000 to $49,999
_____ $50,000 to $99,999
_____ $100,000 or more
_____ Don't Know
_____ Refused

17. Are there any additional residential telephone numbers in addition to (Put Number Dialed Here) in your home?

_____ Yes—How many?_____
_____ No
_____ Don't Know
_____ Refused

18. Record gender of respondent by Observation.

_____ Male
_____ Female

Paperwork Notification Reduction Act

This concludes our survey, if you would like to make any comments about the length or content of this survey, I can give you the addresses to which you may send your comments.
(CATI: Put Address on Screen)
(Read Only if Respondent Asks For Address)

You may send your comments to:
Internal Revenue Service, Attention: IRS Reports Clearance Officer T:FP, Survey Number 1545–, Washington, DC 20224.

and

Office of Management and Budget, Paper Reduction Project, Survey Number 1545–, Washington, DC 20503.

On behalf of the IRS and _____, thank you very much for your time and cooperation. Your input is greatly appreciated.

[FR Doc. 93–6328 Filed 3–18–93; 8:45 am]
BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

March 15, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0906.
Form Number: IRS Form 8362.
Type of Review: Revision.
Title: Currency Transaction Report by Casinos.
Description: Casinos have to report currency transactions of more than $10,000 within 15 days of the transaction. A casino is defined as one licensed by a State or local government having gross annual gaming revenue in excess of $1,000,000.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 200.
Estimated Burden Hours Per Respondent: 43 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 21,670 hours.
OMB Number: 1545–1181.
Form Number: IRS Form 8752.
Type of Review: Revision.
Title: Required Payment or Refund Under Section 7519.
Description: This form is used to verify that partnerships and S corporations that have made a code § 444 election have correctly reported the payment required under code § 7519.
Respondents: Farms, Businesses or other for-profit.
Estimated Number of Respondents/Recordkeepers: 72,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—5 hours, 16 minutes.
Learning about the law or the form—1 hour, 5 minutes.
Preparing, copying, assembling, and sending the form to the IRS—1 hour, 13 minutes.
Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 545,040 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 93–6396 Filed 3–18–93; 8:45 am]
BILLING CODE 4830–01–M

UNITED STATES INFORMATION AGENCY

U.S. Advisory Commission on Public Diplomacy; Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: The U.S. Advisory Commission on Public Diplomacy will release its 1993 report "Diplomacy in the Information Age" on March 18 at 10:30 a.m.—11:30 a.m. at the J.W. Marriott Hotel, 1331 Pennsylvania Avenue, NW. (Salon D, ballroom level).

FOR FURTHER INFORMATION CONTACT: Please call Gloria Kalamets, (202) 619–4468, if you are interested in attending.

Dated: March 15, 1993.

Rose Royal,
Management Analyst, Federal Register Liaison.
[FR Doc. 93–6335 Filed 3–18–93; 8:45 am]
BILLING CODE 8230–01–M

PRESIDENT'S TASK FORCE ON NATIONAL HEALTH CARE REFORM

Meeting

At a location and time to be announced in the **Federal Register**, the President's Task Force on National Health Care Reform will hold a public hearing on Monday, March 29, 1993, at which testimony on health care reform will be solicited from consumer groups, insurers, health care providers, small and large business interests, labor, and other interested parties. Advance notice of less than 15 days is provided because of the extraordinary circumstances of the short time-frame within which the Task Force has been asked to report its recommendations to the President.

Dated: March 18, 1993.

Michael Lux,
Special Assistant to the President for Public Liaison.
[FR Doc. 93–6633 Filed 3–18–93; 3:01 pm]
BILLING CODE 3195–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 52
Friday, March 19, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 2, 1993.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–6463 Filed 3–17–93; 11:03 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 9, 1993.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–6464 Filed 3–17–93; 11:03 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 16, 1993.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–6465 Filed 3–17–93; 11:03 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 23, 1993.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–6466 Filed 3–17–93; 11:03 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, April 30, 1993.

PLACE: 2033 K St., NW., Washington, DC., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–6467 Filed 3–17–93; 11:03 am]

BILLING CODE 6351–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is heeby given that at 3:05 p.m. on Tuesday, March 16, 1993, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Resolution honoring the late C. C. Hope, Jr.

Matters relating to the probable failure of certain insured banks.

Recommendations concerning administrative enforcement proceedings.

Matters relating to the Corporation's corporate activities.

Matters relating to the Corporation's supervisory activities.

In calling the meeting, the Board determined, on motion of Director Stephen R. Steinbrink (Acting Comptroller of the Currency), seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, D.C.

Dated: March 17, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–6480 Filed 3–17–93; 11:51 am]

BILLING CODE 6714–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Thursday, March 25, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21stStreets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 17, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–6520 Filed 3–17–93; 2:14 pm]

BILLIG CODE 6210–01–M

Federal Register

Friday
March 19, 1993

Part II

United States Information Agency

22 CFR Part 514
Exchange Visitor Program; Final Rule

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

[Rulemaking No. 101]

Exchange Visitor Program

AGENCY: United States Information Agency.

ACTION: Notice of final rulemaking.

SUMMARY: By this notice the Agency is publishing final regulations governing its administration of the Exchange Visitor Program. The Agency has undertaken a thorough review of the Program, its enabling legislation, and past history. This review has, in turn, directed the Agency upon a course of regulatory and management practice reform. The complete revision to 22 CFR part 514 set forth in detail below is being made in an effort to define more clearly the obligations, duties and relationships of the Agency, sponsors, and exchange participants.

EFFECTIVE DATE: With the exception of § 514.14 (Insurance), and § 514.15 (annual reports) part 514 shall take effect March 19, 1993. Sections 514.14 and 514.15 shall take effect on September 1, 1994.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, 301 4th Street SW., Washington, DC 20547; telephone, (202) 619–6829.

SUPPLEMENTARY INFORMATION: The Director of the United States Information Agency ("Agency") is authorized to facilitate and direct educational and cultural exchange activities in order to develop and promote mutual understanding between the people of the United States and other countries of the world. Now governed by the provisions of the Mutual Educational and Cultural Exchange Act of 1961 ("Fulbright-Hays Act"), educational and cultural exchange is the cornerstone of United States public diplomacy, an integral component of foreign policy.

First begun pursuant to the provisions of the United States Information and Educational Exchange Act of 1948 ("Smith-Mundt"), and subsequently incorporated into and broadened under the Fulbright-Hays Act, educational and cultural exchange activities have, over the past forty years, exposed millions of foreign nationals to the United States, its peoples, cultures, skills, business techniques, educational institutions, and way of life. The Fulbright-Hays Act mandates reciprocal exchange and Americans traveling abroad have, in similar fashion, developed an enhanced awareness of foreign people, their cultures and societies. Originally performed by the Department of State, oversight of exchange activities, occurring under the umbrella of the Exchange Visitor Program, has been the responsibility of the Agency since 1978.

The Fulbright-Hays Act prescribed categories of eligible exchange participants. The Act provides for the exchange of students, scholars, trainees, teachers, professors, researchers, specialists, leaders in a specialized field of knowledge or skill, or other person of similar description. In addition, the Act requires that exchanges participate in *bona fide* teaching, study, instruction, lecturing, observation, consultation, research, training or demonstration of special skill activities. Further, the Act authorizes non-immigrant aliens falling within the statutory parameters of the Act to enter the United States under the aegis of a J visa for the purpose of participation in an exchange visitor program. Necessarily, Agency determination of the appropriate usage of the J visa is an integral element of this rulemaking.

The Exchange Visitor Program is facilitated—indeed, largely conducted—by Agency-designated program sponsors who are responsible for the recruitment, placement, and supervision of exchange participants. Congress clearly intended that the private sector was to have a major role in educational and cultural exchange activities. Indeed, when Congress assigned the Agency its mission in 1978, it reemphasized, amongst other things, that the Agency was to "encourage private institutions in the United States to develop their own exchange activities, and provide assistance for those exchange activities which are in the broadest national interests." 22 U.S.C. 1461–1 (1988). Pursuant to this Congressional mandate, utilization of private sector expertise and resources has resulted in the designation of over 5,000 exchange visitor programs during the past forty years. Currently, in excess of twelve hundred program sponsors are conducting exchange activities. In 1990, these Agency-designated sponsors facilitate the entry into the United States of more than 180,000 Exchange Visitor Program participants. Though widely hailed as an innovative and successful foreign policy initiative, the Exchange Visitor Program is not without flaw. Debate concerning the parameters of program participation and activity has arisen in recent years. In response to this debate, the Agency has undertaken a through review of the Program, its enabling legislation, and past history. This review has, in turn, directed the Agency upon a course of regulatory and management practice reform. The amendments to 22 CFR part 514 set forth in detail below are proposed in an effort to define more clearly the obligations, duties, and relationships of the Agency, sponsors, and exchange participants.

Acting in response to Congressional request, the General Accounting Office ("GAO") investigated Agency oversight and administration of the Exchange Visitor Program and its attendant utilization of the J visa. In its report to Congress, dated February 5, 1990 and entitled "Inappropriate Uses of Educational and Cultural Exchange Visas," the GAO determined that certain Exchange Visitor Program activities appeared to be inconsistent with the statutory grant of authority and its underlying legislative intent. GAO summarized its findings, stating:

> Most J-visa activities appear to conform to the intent of the 1961 act. However, GAO believes that certain activities and programs in the trainee and the international visitor categories, including the summer student/travel work, international camp counselor, and au pair (child care) programs, are inconsistent with legislative intent. GAO identified instances of participants working as waiters, cooks, child care providers, amusement and leisure park workers, and summer camp counselors. Authorizing J visas for participants and activities that are not clearly for educational and cultural purposes as specified in the act dilute the integrity of the J visa and obscures the distinction between the J visa and other visas granted for work purposes.
> Report, p. 3.

In turn, Agency responses to this criticism began with a thorough review of enabling legislation authorizing the Exchange Visitor Program and admission into the United States of foreign nationals on a J visa.

The Agency has sought and greatly benefited from the views and opinions of the exchange community. A prior proposed rulemaking, published November 25, 1991, was abandoned in light of substantial negative comment. An open door policy has been in place during this entire Rulemaking process and all interested parties have been afforded the opportunity to be heard. The National Association for Foreign Student Affairs and the International Exchange Association have been instrumental in suggesting regulatory changes which will shape the scope and velocity of future exchanges. The American Immigration Lawyers Association also contributed significantly to the review and revision of these regulations. A total of 236

comments were received in response to the Proposed Rulemaking published October 9, 1992. The views and comments reflected in these comments as well as the testimony offered at three public hearings conducted over the past year are incorporated in this Final Rule. Given the diversity of interests represented under the umbrella of the Exchange Visitor Program, the Agency has often had to reconcile competing or conflicting interests. Accordingly, although all comments received were well reasoned, program and policy considerations have dictated the adoption of some suggestions but not others.

Subpart A: General Provisions

Exchange Participants and Activities

The Agency has determined that it may best prevent future confusion regarding participant eligibility by establishing eligibility criteria. To this end, the Agency adopts such criteria set forth at § 514.4 as proposed. New categories of participation, those of "short-term scholar" and "government visitor" are introduced and participation as a "student" is more clearly defined. The category of "specialist" has been expanded and that of "international visitor" restricted to Agency use. Further, the Agency has determined that camp counselor programs—subject to certain modifications provided for in these regulations—do in fact fall within the Agency's statutory authority to promote exchange. Seventeen comments regarding categories of participation were received, all generally advocating inclusion of summer work/travel programs or suggesting minor modifications to camp counselor or international visitors programs.

The Agency has determined that the academic exchange community could readily increase the velocity of academic related exchanges through the development of "short-term scholar" exchanges. A new category of participation, such exchanges will be limited to four months duration. In similar fashion, the Agency believes exchanges within the business community could be substantially increased through the use of the "specialist" category of participant. This category allows for experts in a field of specialized knowledge or skill to engage in observation, consultation, or demonstration of special skill for a period of time not to exceed one year.

To correct confusion which periodically arises from the sponsorship of student participants, the Agency adopts criteria governing student status. Given the *bona fide* requirement set forth in 8 U.S.C. 1101(a)(15)(J), the Agency believes that a student participant must pursue a full course of study. In light of comments received, the Agency is persuaded that academic institutions should be left to determine what constitutes a full course of study at their institution. Provisions are also made to allow for non-degree students and individuals pursuing English language training.

Also set forth in § 514.4 as subparts of the "other persons of similar description" participant category are "International Visitor" and "Government Visitor." Originally intended only for Agency use, the International Visitor category has devolved to "catch-all" usage over the years. As proposed, reservation of this category only for Agency use will allow definitive and statistical illustration of the nature and scope of exchanges occurring under direct Agency sponsorship. Similar in nature to International Visitor, the proposed Government Visitor category will be utilized for exchanges directly sponsored by local, state, or federal government agencies. Many comments suggested that the international visitor category should also include participants sponsored by the private sector. Given the ability of sponsors to conduct exchanges similar to international visitor exchanges under other categories of participation the Agency elects to reserve this category to its exclusive use.

The GAO report discussed supra, concluded that camp counselor programs are inconsistent with the legislative intent of the Fulbright-Hays Act. The Agency, having reviewed this matter in great detail, is now of the opinion that camp counselor programs may be continued. This conclusion is based upon policy and legislative analysis and will require certain programmatic reforms.

International camp counselor is not a statutorily enumerated category of exchange participation. If, however, camp counselor exchange participants are students, teachers, *bona fide* youth workers, and persons with specialized skills in their home country they will fall squarely within the statutorily authorized category of "other person of similar description." As regards activities while in the United States, camp counselors are actively engaged in teaching, observation, and instruction activities, all of which are activities specifically authorized by the statute.

Given the directive of broad interpretation found in the legislative history of the Fulbright-Hays Act, Agency designation of these programs is clearly consistent with the statutorily enumerated purpose and objective of the legislation. To avoid confusion as to the categorization of camp counselor program participants, a new category, set forth at § 514.4 as a subpart of "other persons of similar description," is adopted.

Program Designations

Agency examination of its administration of the Exchange Visitor Program has resulted in a determination that certain internal program controls should be bolstered. In part, the Agency has determined that sponsor application and designation procedures should be strengthened and more clearly delineated. To this end, the Agency proposed and now adopts, pursuant to provisions set forth at § 514.5 and § 514.6, modification of existing application and designation procedures and the addition of a new requirement dictating periodic redesignation.

Recognizing that many exchange programs exhibit a life cycle of establishment, maturation, and demise the Agency adopts proposed regulations governing periodic designations. The Agency proposes to designate program sponsors for five years and require sponsors desiring to continue program operations to advise the Agency affirmatively of such intent pursuant to request for redesignation as set forth in § 514.7, infra. Such periodic designations will allow the Agency to track program life cycles, efficiently cancel inactive programs, and most importantly, monitor the activity within and direction of designated exchange programs. Programs for which designation is not sought will be canceled through administrative action.

Fifty-six comments were received regarding this new requirement all suggesting that the requirement not be adopted or that notice to the Agency regarding a sponsor's desire for continuation of its designation should be accomplished through an appropriate check-off on the annual report. Having examined this suggestion the Agency modifies its proposed language to adopt this suggestion. The Agency contemplates a two-year phase-in of this requirement during which all existing designations will be reviewed and extended, if appropriate.

Program Administration

In addition to delineating sponsor and participant eligibility criteria, the Agency proposed that all exchange programs designated by the Agency meet certain eligibility requirements. As set forth at § 514.8, the Agency has

determined, as in the past, that all programs should have not less than five exchange participants annually. In response to forty-nine comments on this matter the Agency has modified the minimum program size to allow for Agency waiver of this requirement upon a showing of good cause.

Further, with the exception of programs for the newly defined "short-term scholar" and "government visitor" participants, all programs must provide for cross-cultural activities and afford all participants an exchange program in the United States of not less than three weeks. These long-standing requirements are currently set forth in existing regulations, but have, along with a requirement for reciprocity, been reordered and will henceforth be prerequisites to program designation.

The Agency will require sponsors to be both United States citizens as such term is defined in this Part and to affirmatively demonstrate an ability to comply, and remain in continual compliance, with all regulatory provisions. As regards exchange visitors, the Agency has defined the statutorily enumerated categories of eligible participation in terms of the activity inherent to each categorical status. Thus, by way of illustration, the Agency has determined that an eligible "student" exchange participant is one entering the United States for the purpose of pursuing a full course of study at an accredited educational institution. This approach will ensure that exchanges occurring under the aegis of the Exchange Visitor Program fall squarely within the established statutory parameters of status and activity. As participation in the Exchange Visitor Program is thus limited, strict adherence and compliance with Agency promulgated definitions of status will be expected.

A statement addressing the Agency's long-standing reciprocal exchange policy is set forth in § 514.8. Such policy contemplates that exchange sponsors will make a good faith effort to facilitate reciprocal exchange of persons to the fullest possible extent. Statutorily mandated, reciprocity is inherent in the concept of mutual exchange of persons. Confusion over the nature and scope of reciprocity has been problematic for some time. As a policy consideration, the Agency seeks to promote and foster innovative and expansive responses to this critical program requirement. Although one-for-one exchange is the ultimate objective of the foreign policy underlying passage of the Act, the Agency recognizes that circumstances may permit no, or only limited, reciprocal exchange opportunities.

Related to reciprocity is the requirement that exchange visitors be exposed to various activities designed to promote cross-cultural awareness. Sponsors will be required to offer a reasonable amount of cross-cultural activities, including sports, cultural, and social activities for the purpose of enhancing the participant's knowledge and understanding of American mores, customs, and ways of life.

Agency scrutiny of existing regulations governing the Exchange Visitor Program has revealed a lack of specificity and clarity regarding sponsor obligations and program administration. Although the Agency is secure in its belief that sponsors act in the best interests of sponsored exchange participants, the existing regulations do little to ensure uniform program administration and oversight of exchange visitors. To correct this deficiency, the Agency proposed amendment to existing regulations. In an effort to provide some measure of uniformity in the conduct of exchange activities such amendments are hereby adopted.

Recognizing that exchange visitors are dependent upon the sponsors who facilitate their entry into the United States, the Agency will require that such sponsors demonstrate, to Agency satisfaction, their organizational and financial ability to fulfill their duties and obligations as exchange sponsors. Pursuant to regulation set forth at § 514.9, non-government sponsors must affirmatively establish both their ability to pay timely all financial obligations and that sufficient funds are readily available to fulfill all obligations and responsibilities attendant to exchange sponsorship.

The Agency is obligated to introduce this requirement due to evidence of financial instability among certain Agency-designated sponsors. As a matter of administrative convenience, the Agency deems it appropriate to consider public colleges and universities as government sponsors, for the purposes of this provision only, and thereby exempts them from compliance. In addition to furnishing evidence of fiscal integrity, sponsors must also comply with additional obligations pertaining to internal organizational operations.

The regulation set forth at § 514.9 also requires that sponsors adhere to Agency-promulgated regulations governing the Exchange Visitor Program. This regulation is advanced, in part, to ensure that officers, employees, and agents involved in sponsor facilitation of exchange activities are aware of the Program, its intent, and regulatory requirements. This regulation will require employees, officers, and agents responsible for program administration to be adequately trained and qualified to perform assigned duties relating to exchange activities. Underlying this requirement is an Agency concern that responsibility for both exchange visitors and program administration be vested in persons who have knowingly undertaken such responsibility.

The Agency also adopts, pursuant to regulations set forth at § 514.10, requirements governing the selection and orientation of exchange participants. The Agency will require that sponsors ensure that prospective exchange participants meet the eligibility criteria for program participation and that such program is suitable to the participant's background, needs, and experience. Upon selection for participation and prior to commencement of the program, sponsors will be required to provide the participant with information regarding the exchange program, travel, housing, and cost. The sponsor must also inform all exchange visitors of the two-year home residency requirement which may apply to the exchange visitor due to government funding or area of study.

Upon the exchange participant's arrival, or as soon as practical thereafter, the sponsor must provide sufficient orientation to acquaint the exchange visitor with United States customs and monitor the visitor's stay in the United States. This requirement is adopted in an effort to both facilitate the exchange visitor's adjustment to life in the United States and enhance the positive impression of the United States which is the underlying purpose of all exchange activity. Although the Agency has determined that orientation for accompanying dependents is highly desirable, a mandatory requirement that such orientation be conducted is not imposed. The Agency strongly encourages sponsors to provide dependent orientation.

Section 514.14 Insurance

The Agency has reviewed the health and accident insurance coverage afforded Program participants. The need for such coverage is self-evident. Given the escalating costs of U.S. health care, the current levels of coverage, in place since 1983, are now woefully inadequate. As set forth in § 514.14, the Agency proposed to increase the level of coverage to $50,000 per accident or illness. The Agency also proposed that exchange visitors obtain coverage for repatriation of remains in the amount of $7,500 and coverage for medical

evacuation to their home country in the amount of $10,000. A waiting period for pre-existing conditions, reasonable as determined by industry standards, and a deductible not in excess of $500 per accident or illness will be permitted. Provision is made for co-insurance. Policies may not exclude from coverage perils or dangers inherent to the exchange activity. For example, an insurance policy secured to cover flight training participants may not exclude injury arising from operation of small aircraft. In an effort to ensure the quality of the provided coverage, the Agency proposed that only insurance corporations having certain ratings by recognized insurance company rating services would be acceptable to underwrite the insurance for exchange visitors.

This regulation, as adopted, provides for self-insurance by federal, state or local governments, state colleges and universities, and public community colleges. A non-governmental sponsor may elect to self-insure or to accept full financial responsibility for the above requirements, but could do so only with the Agency's permission.

Current regulations do not require that an accompanying spouse or dependent of an exchange visitor be covered by insurance. These regulations cure this programmatic flaw by requiring accompanying dependents entering the United States on a J visa to be covered under an insurance policy. An exchange visitor's failure to secure insurance coverage for his or her self and J–2 accompanying dependents would obligate their program termination. Sponsors would also be prepared to provide exchange visitors with information on the availability of such coverage.

The proposed insurance regulation generated 144 comment letters, each of which has been carefully reviewed. In addition, during the course of the regulatory reform, the Agency held a number of meetings and telephone conferences with the exchange community and representatives of the insurance industry specifically to discuss the proposal.

At none of these meetings and in none of the comment letters was there any disagreement about the need for insurance on exchange visitors or that the levels of coverage required under current regulations were inadequate. However, there has been considerable discussion about the practical application of the proposed regulation and about the role of sponsors in making sure that the requirements are met.

At the outset, it is noted that a number of comment letters reflect a misunderstanding on the part of sponsors about their obligations under the insurance regulation. Sponsors are not themselves required to provide or pay for the required coverages on exchange visitors or on their accompanying spouse or dependents, although the sponsor may choose to do so. Those obligations reside in the exchange visitor. The sponsor's obligations under the insurance provisions set forth in § 514.14 are limited to informing exchange visitors that they and their accompanying spouse and dependents are required to be covered by insurance and, in what the Agency expects will be isolated instances where the exchange visitor willfully fails to remain in compliance with the insurance requirements, terminate the participation of the exchange visitor in the sponsor's program.

A number of commenters expressed particular concern about the latter obligation on the grounds that it converts what has traditionally been a counselling and advising function into a police or informing function, which would seriously erode the exchange visitor's trust and confidence in the sponsor or responsible officer. Nevertheless, the Agency believes that if the insurance requirements are not coupled with an enforcement provision, they may well be ignored by the exchange visitor.

However, in order to lessen this perceived burden on sponsors, the Agency has added the word "willfully" to § 514.14(i), so that sponsors are required to sanction only the most egregious cases where the exchange visitor willfully fails to remain in compliance with the insurance requirements. In cases where through mere inadvertence or neglect an exchange visitor fails to obtain the required coverage or allows the coverage to lapse, the sponsor can counsel and work with the exchange visitor to bring him or her into compliance. Early counselling by the sponsor, which impresses upon the exchange visitor the importance and necessity of having the required coverage, will help avoid problems. The Agency is fully cognizant that on occasion there will be instances where an exchange visitor or an accompanying spouse or dependent fails to obtain or maintain the required coverages. For example, the Agency is aware that there are instances where the sponsor does not even know that the exchange visitor is accompanied by a spouse or dependents because the spouse or dependents came to the U.S. on some visa other than the J visa or because the consular official, unbeknownst to the sponsor, issued a separate IAP–66 and visa for such spouse or dependent. In such instances, the sponsor clearly has not failed to meet its obligations. It need take action only when it becomes aware that the exchange visitor is willfully violating the regulation.

A number of comments expressed concern over the requirement that there must be insurance in effect which covers the exchange visitor "during the period of time that an exchange visitor participates in the sponsor's exchange visitor program" (§ 514.14(a).) The Agency recognizes that certain practical difficulties may arise under that provision. For example, an exchange visitor college or university student may come to the U.S. with no insurance coverage and will only be able to participate in the school's insurance plan when he or she enrolls and pays the required premium. Similarly, when the exchange visitor completes his or her course of studies, he or she may choose to leave the school but remain in the U.S. for a period of time to travel and sightsee. For purposes of the insurance regulation, the Agency considers the exchange visitor to be "participating" in the sponsor's exchange visitor program only during that period of time between actual enrollment and that point when the student departs the school upon completion of his or her studies. Similarly, in the case of those who come to the U.S. on Agency-designated training programs, the Agency considers the trainee to be "participating" in the sponsor's training program only during that period of time between when the trainee actually begins training and when the training is completed. In other words, the insurance regulation does not require "portal-to-portal" coverage, even though such coverage is highly desirable.

Several commenters expressed reservations about the Agency's reliance on independent insurance company rating services to ensure the quality of the underwriters providing the required coverage. However, because of staff limitations and, more importantly, because of the Agency's lack of expertise in this complex area, the Agency is not in a position to independently evaluate the claims-paying ability of insurance carriers and must, of necessity, rely on established and recognized rating services to perform such evaluations.

A number of commenters objected to the requirements for repatriation and medical evacuation insurance coverage

on exchange visitors, both on the grounds that such coverages are not readily available and/or on the grounds that the coverage limits are too high. However, the Agency has conferred, with insurance industry officials and has concluded that such coverage is available and that the coverage limits are reasonable. In the event that, based on its past loss experience in this area, a sponsor concludes that the cost of such coverage outweighs the risk of loss, it may self-insure or assume financial responsibility for such coverage.

The Agency is also cognizant of the fact that many sponsors, particularly large educational institutions and corporate sponsors who choose to provide insurance coverage to program participants, require considerable lead time to solicit proposals for and implement insurance plans which meet the requirements of this section. For that reason, the Agency is postponing the effective date of the insurance provisions until September 1, 1994.

Finally, the Agency recognizes that, on occasion, there will be instances where the insurance coverage obtained by or made available to exchange visitors will differ from the required coverage in minute detail. For example, there may be a situation where the deductible in an insurance policy exceeds the $500 limit, but the sickness and accident coverage far exceeds $50,000 and meets all other Agency requirements. In such instances, the Agency is available to consult with the sponsor in an effort to reach a reasonable resolution of the issues.

Notification, Annual Reporting, and Control of Form IAP–66

Twenty-one comments were received regarding Agency notification requirements set forth at § 514.13. These requirements are adopted with minor modification reflecting comments received. Such requirements include notification to the Agency of material changes in a sponsor's organizational structure which affects the citizenship requirement set forth in § 514.2, and overall ownership and control. The Agency is obligated to introduce this requirement as many designated sponsoring organizations are small entities comprised of key personnel. Upon notification of a substantial change in ownership or control, the Agency will ascertain whether designation should continue based upon the experience and expertise of the new management. It must be noted that Agency designations are not transferable.

Efficient Agency oversight and administration also dictates that sponsors apprise the Agency of any changes in responsible officers, address, or telephone number. In similar fashion, loss of licensure or accreditation, change in financial circumstances or the voluntary termination of the exchange visitor program must be reported. The Agency has also determined that notification concerning a participant's early completion or withdrawal from the sponsor's exchange visitor program is necessary. Upon receipt of such notification the Agency will deem the sponsor's obligations to an exchange visitor to have ended. At the suggestion of the exchange community this requirement has been modified to require only the reporting of program termination or early withdrawal.

The Agency has determined that a substantial correction must be made to the current practice surrounding the care and custody of the Form IAP–66. Such forms are controlled U.S. Government documents and have been found to have a substantial black market value. The Agency has also discovered unauthorized utilization of the forms by program sponsors to facilitate the entry of foreign nationals for the purpose of participation in non-designated exchange activities. The Agency proposed to correct this abuse by institution of a strict accounting of all forms disbursed to sponsors. Twenty comments regarding these requirements were received with most suggesting that the Form IAP–66 should be treated in similar fashion to INS Form I–20. At this point in time the Form IAP–66 remains a controlled document and the Agency is obligated to adopt this regulation as proposed. To this end, the Agency will require, pursuant to the provisions of § 514.12 and § 514.13, that sponsors record and destroy damaged forms, track and record forms issued, and maintain all forms on hand in a secure fashion. An accounting for all forms will be made, in part, pursuant to an expanded annual reporting requirement.

Considerable debate has surrounded the Agency's proposal regarding annual reporting requirements. This debate is best evidenced by the Agency's receipt of ninety-three comments regarding the proposed annual reporting requirements. Further complicating the proposal of an annual reporting requirement is the misconception, particularly within the academic community, that annual reporting is a new requirement. Annual reporting of program activity and participant category is as old as the Exchange Visitor Program itself. In point of fact, the proposed report form is the same form that sponsors of long-designated programs routinely submitted to the Agency for years. Part of this confusion over the form and the reporting requirement may be traced to an oral statement allegedly made by an Agency official to the effect that annual reports need not be submitted. Without arguing the bona fide reliance a sponsor may have placed upon such an oral directive, it should be well noted that the regulatory requirement for submission of an annual report remained unchanged.

The Exchange Visitor Program is an anomaly in the U.S. immigration scheme and provides extraordinary latitude in the selection of exchange participants. As a program and an extension of U.S. foreign policy a degree of accountability is required. The burden of submitting an annual report which reflects a sponsor's activity for a year and which ensures an annual reconciliation of their usage of Forms IAP–66 is viewed by the Agency as a de minimis imposition upon designated sponsors. Although most if not all commenters agreed that an annual report regarding program activity was reasonable, many questioned the Agency's need to have the numerical counts of categorical participants. This objection was uniformly made by large academic institutions at which decentralized participant selection and responsibility for program participants is the rule and not the exception. The Agency has reviewed this matter at length and has determined that it cannot abandon the annual reporting requirement in order to accommodate the wishes of some twenty academic institutions.

Allegations that the annual report imposes an undue paperwork burden were also common. In response, the Agency points out that the form attached at appendix D has been in use for thirty years and approved by OMB. Further, one well informed commenter, a member of the NAFSA Government Relations Advisory Committee, submitted a sample annual report which had been prepared in thirty minutes. This sample was generally acceptable to the Agency and was lacking only in its listing of categorical participants. In this sample numerical counts of categorical participants were estimated rather than actual.

Although the Agency is at a loss to understand why a sponsor cannot currently account for the exact number of participants in its exchange visitor program, a review of the comments received indicate that such an account poses a problem for some sponsors. Given this problem, the annual report requirement should be phased-in to

allow for any required record keeping modifications. Accordingly, the Agency adopts the annual reporting requirement as proposed but delays implementation of the numerical count of categorical participants until the reporting year commencing with academic year 1995. All sponsors will be required to begin submission of annual reports reflecting program activities upon promulgation of this Rule and as directed by the Agency. Those sponsors that do know the number of participants in their programs should report this information. Sponsors who do not know the number of participants in their program will be expected to begin providing this information within two years.

Subpart B: Specific Program Provisions

Section 514.20 Professors and Research Scholars

Although professor, researcher, and scholar exchanges are the very heart of the Exchange Visitor Program, regulations which specifically govern these exchanges have never been promulgated. In an effort toward regulatory consistency and program integrity, the Agency herein sets forth regulations which specifically provide guidance regarding such exchanges.

The term "scholar," although set forth as a category of exchange in the Fulbright-Hays Act, has never before been defined in Exchange Visitor Program regulations or considered a distinct category of authorized exchange activity. This lapse is possibly due to the conceptual overlap of the term with "professor" and "researcher." The Agency is correcting the discrepancy by introducing the category of "short-term scholar."

The Agency received 61 comments on the proposed professor and research scholar regulations. The comments were thoroughly reviewed and subsequently a number of changes in the proposed regulations were made. The comments on the professor and research scholar regulations are mainly focused on the location of the exchange, type of positions permitted, occasional lectures and short-term consultations, duration of stay, and extensions.

In the proposed regulations, professors and research scholars are allowed to participate in their exchange program at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions. Comments were made that research scholars should be allowed to conduct research at corporate research centers. Upon deliberation, the Agency decided to explicitly list corporate research facilities as a location permitted in § 514.20.

In deciding whether to facilitate the exchange of a professor or research scholar, the sponsor shall consider the underlying purpose for which the individual is visiting the United States. It is appropriate for a professor or research scholar to come to the United States as an exchange visitor only when the underlying purpose of his or her entry is to stimulate international collaborative teaching and research efforts or to promote interchange between research and educational institutions in the United States and other countries. To this end, the Agency requires that appointments of professors and research scholars be temporary, even if the position itself is permanent. In addition, the individual shall not be a candidate for a tenure-track position.

Recognizing that the positions of professor and research scholar are intertwined, the Agency permits professors to freely conduct research and research scholars to teach or lecture, unless disallowed by the sponsor. The definition of professor and research scholar set forth in these regulations, rather than the position description utilized by the individual educational or research institution, is to be used by the sponsor in determining the category of exchange participation.

Prior to issuance of the Form IAP–66, the responsible officer must review the parameters of the individual exchange to assess whether research or lecturing will comprise the participant's primary activity. If the exchange participant will primarily be conducting research, he or she must be categorized as a research scholar on the Form IAP–66. If the exchange participant will primarily lecture, then he or she must be categorized as a professor.

The final regulations allow sponsors to authorize a change of category from professor to research scholar, or vice versa, when the principal activities of the participant so dictate. A significant number of comments express a concern about tracking when a professor or research scholars changes from professor to research scholar, or vice versa. In recognition of this difficulty, the final regulations require such a determination only when the professor or research scholar is obtaining a program extension. This is necessary in order to determine which category (professor or research scholar) to check off on the Form IAP–66.

Professors or research scholars may conduct their exchange activity at the location(s) listed on the Form IAP–66, which could be either at the site of the sponsor or of a third party facilitating the exchange. Pursuant to § 514.20(g), exchange visitors may also engage in activities at locations not listed on the Form IAP–66 if such activities constitute occasional lectures or short-term consultations which meet the requirements of § 514.20(g).

Professors and research scholars may participate in occasional lectures and short-term consultations, unless disallowed by the sponsor. Such lectures must be incidental to the exchange visitor's primary program activities. If wages or other remuneration are received by the exchange visitor for such activities, the exchange visitor must act as an independent contractor, as such term is defined in 8 CFR 274.1(j) and the criteria and procedures set forth in § 514.20(g) must be satisfied. By way of illustration, a research scholar may conduct research at the universities listed on his or her Form IAP–66, and may also conduct short-term consultations as an independent contractor at any location when the § 514.20(g) requirements are met.

The Agency has received numerous requests to extend the permitted duration of participation for research scholars. A number of universities, research institutions and United States Government agencies have requested greater flexibility in arranging the duration of participation for the professors and research scholars. Several comments suggest that a general limitation of stay be expanded from three to five years because a significant number of research scholars are involved in projects for five years.

In examining this issue, the Agency has determined that greater flexibility in the permitted period of participation is desirable. The Agency has adopted the general limitation of stay of three years, with a possible extension up to an additional three years. The first six-month extension may be granted by the responsible officer. Additional extension may be granted by the Agency. In addition, the Agency is changing the standard of review for extensions for professors and research scholars from "unusual or exceptional" to "for good cause." These changes were made to respond to needs of the universities and research institutions, especially in regards to international research projects and a variety of scientific research projects.

A number of comments express concern about when sponsors can request an extension. Some say it is important to be able to request an extension at the beginning of the exchange visitor program, not at the end

of the third year. Under the final regulations, the Agency permits requests for extensions to be filed any time, but recommends that they filed not later than 45 days before the program's expiration date.

The Agency will entertain sponsors' requests to extend the permitted period of participation for a group of research scholars engaged in specific fields of endeavor on a blanket petition basis. The Agency believes that such blanket approvals will provide both desired flexibility and enhanced administrative efficiency.

Several comments suggest that the Agency clarify the status of professors and research scholars when extensions for exchange visitors are requested to the Agency. Some of the comments recommend specific language. First, the comments recommend that the regulations state that exchange visitors who apply for an extension pursuant to § 514.20(j)(2) are considered to be in valid program status during pendency of the application. The Agency adopts this language in the final regulations. Second, the comments recommend that the regulations state that an exchange visitor who applies for an extension pursuant to § 514.20(j)(2), and who subsequently receives Agency notice that the request has been denied, is considered to be maintaining lawful program status for an additional period of 30 days from the date of such notice, during which time the visitor is expected to depart the country, or for a period of 30 days from the expiration of the visitor's Form IAP–66, whichever is later. The Agency adopts such language with only minor modification to enhance clarity.

Section 514.21 Short-term Scholars

The Agency received 12 comments on the proposed short-term scholar regulations. The comments were thoroughly reviewed and many of them supported the addition of this category to the regulations.

The Agency created the category of "short-term scholar," which is defined as a professor, research scholar, specialist, or a person with similar education or accomplishments coming to the United States on a short-term visit for the purpose of lecturing, observing, consulting, training, or demonstrating special skills at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions. Educators, scientists, research fellows, writers, museum administrators, librarians, and similar persons of recognized expertise are examples of participants appropriate for this category.

The goal of short-term scholar exchanges is to increase the velocity of the interchange of knowledge and skills and collaborative research efforts between foreign and American scholars. This may be accomplished by providing foreign scholars the opportunity to share ideas with their American colleagues, participate in educational and professional programs, confer on common problems and projects, and thereby promote improved professional relationships and communications.

Because these exchanges are of limited duration and the participants are often senior in their field, the Agency has determined that it will not be necessary for sponsors to provide orientation or cross-cultural activities for short-term scholars. However, the Agency does encourage sponsors to provide such activities to short-term scholars to the extent appropriate.

The final regulations exempt short-term scholars from the minimum duration of participation as set forth at § 514.8(b), but limit the maximum duration of participation to four months. As this category is intended only as a vehicle for short-term collaboration and interchange, these participants will not be eligible for a program extension.

A number of the comments suggest that the Agency clarify whether short-term visitors would be able to change categories. In the final regulations, a short-term scholar may be considered by the Agency for a change of category when the requirements set forth in § 514.41 are satisfied. Any change in category must be clearly consistent with and closely related to the participant's original exchange objective and be justified by unusual or exceptional circumstances. A change of category must be approved by the Agency.

Section 514.22 Training

The Agency received 79 comments on the proposed training regulations. The comments principally addressed the following subsections: § 514.22(c)(2) (Categories of Specialty and Non-specialty occupations), § 514.22(e) (Use of Third Parties), § 514.22(g) (The Training Plan), § 514.22(m) (Evaluation), and appendix E to part 514 (List of Unskilled Occupations.) All comments have been carefully reviewed and the Agency has made a number of revisions to the proposed regulations, as will be discussed below.

Background

Following the passage of the Smith-Mundt Act in 1948, the Department of State, the Agency's predecessor in implementing exchange programs, promulgated regulations governing educational and cultural exchanges. Among other things, these regulations recited various categories of aliens allowed to participate in exchange visitor programs pursuant to the statutory language of the Act. Among those categories was "trainee," defined as an alien seeking to enter the United States temporarily in order to participate in an exchange visitor program "for the purpose of obtaining practical training in public administration, industry, medicine, agriculture, or some other specialized field of knowledge or skill * * *". 22 CFR part 68 (1949).

In 1961, Congress enacted the Fulbright-Hays Act, again directing the inclusion of training as a category of exchange participation. Although an integral part of Agency-administered exchanges, it was not until 1983 that separate regulations governing training activities utilizing the J-visa were promulgated. 22 CFR 514.13(c) (1983). These regulations have not been amended or revised since first promulgated.

In response to the General Accounting Office (GAO) investigation noted above, the Agency has reviewed the legislation and legislative history underlying the Exchange Visitor Program and existing regulations to determine whether such regulations comport with the statute governing this program. As discussed below, the Agency is amending existing regulations in such a manner that the criticisms raised by the GAO are addressed and distinctions between training and work are obvious and clearly drawn.

In Rulemaking 100 of the Agency proposed regulations which addressed the criticisms of the GAO and attempted to distinguish clearly between training and work that is not training. Thus, the Agency proposed that all training conducted under the aegis of the Acts be clearly defined and structured, and on a level appropriate to the trainee's background and experience.

The GAO Report

The controversy over the legitimacy of certain activities of foreign nationals in the United States on exchange visitor visas sparked Congressional concern as to the propriety of certain educational and cultural exchange programs administered by the Agency. A GAO investigation and report followed.

The report by GAO, entitled "Inappropriate Uses of Educational and Cultural Exchange Visas," and dated February 16, 1990, (GAO Report) concluded that:

A number of J-visa activities in the practical training and international visitor

categories, including summer student travel/work, camp counselor, and au pair activities—some of which have been ongoing for years—do not conform to the original legislative intent concerning educational and cultural exchanges. GAO Report at 23.

While the words "trainee" and "receiving training" are not expressly defined in either of the educational and cultural exchange Acts, the GAO noted that the existing training sanctioned by the Agency "did not have the same status as the categories mentioned in the statutes and would not generally be considered to have the same educational and cultural value." Id. at 16.

The Agency is of the opinion that the vast preponderance of the exchange visitor training programs are conducted well within the legislative authorities created by the Act. However, the GAO found that certain training programs inappropriately "consisted primarily of employment in commercial enterprises with no cultural or educational emphasis placed on the participants' activities. This training involved participants in such capacities as waiters, cooks, hotel workers, and automobile body repairers." Id. at 3. It is noted that the GAO Report stated only that "some" training programs consisted primarily of employment in commercial enterprises with no cultural or educational emphasis placed on the participants' activities.

Distinction Between Work and Training

As noted above, the Agency has been criticized for allowing the Exchange Visitor Program to be used to circumvent the immigration and labor laws of the United States by allowing foreign workers to use the program under the guise of educational and cultural exchange. This criticism has centered on designated private sector training programs and has generated considerable debate concerning the distinction between work (i.e. gainful employment) and training. Recognizing that training more often than not occurs in a work place setting, the Agency has determined that the distinction between unauthorized gainful employment and authorized training may best be drawn through examination of the components of a *bona fide* training program. The requirements for a *bona fide* training program are set forth in § 514.22(f).

The Training Plan

As a prerequisite to Agency designation, the Agency is requiring that applicants submit a training plan which describes what the training objectives are, the competencies which the trainee will obtain through participation in the training program, a general description of the schedule of the training activities, and a justification for the use of on-the-job training to achieve the objectives of the training course. Special skills, e.g., computer training, to which the trainee will be exposed should also be noted.

The Agency has received many comments suggesting that the training plan requirement will be unduly burdensome in all cases, and in some cases, impossible to comply with because the sponsor is active in many different training areas. The Agency believes that the final regulations set forth herein meet those objections.

Applicants need not submit a training plan for each trainee. However, the applicant must submit a training plan for each type of training it intends to conduct. For purposes of these regulations, the Agency has listed twelve broad categories and it believes that every conceivable type of training will fall within one of these twelve categories. See § 514.22(c)(2). Moreover, the Agency believes that the submission of a maximum of twelve training plans is not unduly burdensome.

Sections 514.22 (f) and (g) set forth that information which the applicant is to include in the training plan and describes three types of training plans which an applicant may utilize in order to comply with the regulation.

The Agency recognizes that at the time the applicant is applying for designation it may not have identified individual trainees who are going to participate in its program. In such instances, the applicant need only submit a generalized, hypothetical training plan which illustrates the training the applicant proposes to provide.

In other instances, the applicant may not have prepared the training plan at the time it applied for designation. However, if the applicant, directly or through third parties, has previously been engaged in the same sort of training for which it is now seeking designation it may submit a copy of a previously used training plan.

If the applicant has already designed a structured training plan at the time it is applying for designation, a copy of such training plan should be submitted with the application.

If all of the above instances, the applicant should bear in mind that the Agency's interest is not in creating needless paperwork, but in having sufficient facts to determine that the applicant or third party is capable of conducting the training for which designation is sought.

The Agency is aware that many sponsors will expand the breadth of their programs. If a sponsor desires to add additional training areas to its program, it does not need to apply formally for re-designation. The sponsor may simply request the Agency to amend its designation to include the added training areas. The sponsor must, however, submit a general training plan for each new training area added to its designation.

Specialty and Non-Specialty Occupations

The Agency does not necessarily view a specialty occupational trainee as a worthier participant in the Exchange Visitor Program than a non-specialized occupational trainee. Therefore, non-specialty occupational training programs will be designated if otherwise in compliance with the regulations. However, the Agency considers the distinction to be significant because past experience has shown that some of the non-specialty occupational training programs were, in reality, work programs designed to meet the staffing needs of an employer. Thus, the Agency has determined that non-specialty occupational programs may require closer monitoring after designation than was previously undertaken in the past.

The Agency has concluded that the potential for inappropriate usage of the J visa is most pronounced in those non-specialized occupational areas which are generally considered unskilled in nature. For example, the Agency would not approve an application for designation of a program to train persons in clerk typist skills or in nurses' aides or orderly skills. The Agency will presume that such training would in reality be designed for staffing purposes and, therefore, inconsistent with the Agency's mission. A listing of those occupations which the Agency considers to be unskilled is set forth in appendix F to part 514.

A number of commenters expressed concern about the Agency's intended use of the Department of Labor's "Schedule B" as a listing of unskilled occupations. It was suggested that Schedule B is a listing of occupations which the Department of Labor has determined are in sufficient supply within the U.S. labor market and for which additional foreign workers are not needed, and was not intended by the Department of Labor to be a definitive listing of unskilled occupations. The Agency is aware of the use to which the Department of Labor puts Schedule B. Nevertheless, Schedule B, in the Agency's view, does conveniently set forth a listing of occupations which are inherently unskilled. The Agency will utilize the listing for the purpose of approving or

denying designations of proposed training programs. Should the Agency determine in the future that the listing of unskilled occupations requires additions or deletions, it will do so. Applications for designation of training programs in occupations listed in Appendix F will not be approved.

Upon review of the comments, the Agency has made certain revisions to the listing of occupations in which it will designate training programs (§ 514.22(c)(2).) It is believed that the revised listing covers all conceivable types of training.

Justification for the distinction between "specialty occupation" and "non-specialty occupation" may be found in both the original regulations governing the Exchange Visitor Program and in the legislative history of the Acts. In 1949, the Department of State permitted "trainee" participants pursuing training in "public administration, industry, medicine, agriculture, or some other specialized field of knowledge or skill * * *". 22 CFR part 68 (1949) (emphasis added). The legislative history of the Smith-Mundt Act refers to the training of meteorologists, agricultural research by the operation of collaborative experiments and research stations, hydroelectric experts, malaria experts, and experts in the fields of economics, business administration, agricultural design and construction, communications, and distribution of electric power. See United States Information and Educational Exchange Act of 1948: Hearings on H.R. 3342 Before a Special Subcomm. of the House Comm. on Foreign Affairs, 80th Cong., 1st Sess. 148–50 (1947).

While most of the early exchange visitor training programs fell in specialized areas such as those noted above, the legislative history of the 1961 Fulbright-Hays Act strongly suggests that Congress intended the program to be broadly construed and highly flexible and adaptable to changing needs and conditions. In recognition that non-specialty occupational training programs can be an important part of our foreign policy, the Agency will not exclude them from the Exchange Visitor Program. Since the passage of the Fulbright-Hays Act, the world has seen a major expansion in non-specialty occupational training and such programs have become an important part of our foreign policy, which the Agency intends to continue. However, for the reasons set forth above, the Agency will subject non-specialty occupational training to higher scrutiny in order to ensure that such training is *bona fide*.

As noted above, while the Agency will not require that a detailed training plan be submitted for each trainee, we anticipate that sponsors engaged in *bona fide* training programs will, in the ordinary course of business, prepare such plans and retain them in their files. The Agency may from time to time request an opportunity to inspect these training plans in order to verify sponsor compliance with Agency regulations.

Sponsor Supervision

The sponsor of the program must be directly responsible for all aspects of the trainee's activities while the trainee is in the United States, including the selection, orientation, training, supervision, and evaluation of the trainee. The purpose of this regulation is to assure that responsibility for the trainee resides in one place. It has always been the policy of the Exchange Visitor Program that sponsors be directly responsible for these aspects of the Program, yet analysis of some programs reveals that this policy has not always been observed. The final regulations codify and strengthen this existing long-standing policy.

However, in order to carry out the actual training set forth in a sponsor's approved training plan, the Agency has determined that utilization of a third party to conduct one or more aspects of the training is appropriate. If the sponsor elects to delegate its responsibility for providing all or parts of the training to a third party, the sponsor is nevertheless accountable for ensuring that the third party complies with these regulations. A third party's violation of these regulations shall be imputed to the sponsor; therefore, the sponsor's obligation to monitor, control, and oversee the third party is absolute. Simply put, a third party may act for or in place of the sponsor; however, the accountability of the sponsor shall be non-delegable.

The Agency will no longer approve an organization as a sponsor of a training program where the organization or its agent abdicates its responsibility to train and supervise the trainee. The regulations, as noted, will require that the sponsor retain full responsibility for the conduct of the program. Simply placing a trainee in a third-party training program will not be allowed in the future if the sponsor abdicates accountability for the training and well-being of the trainee.

When a third party is utilized by the sponsor, the Agency will require that there be a written agreement between the sponsor and the third party. The agreement need not be a multi-page, complex legal document. However, the agreement must recite the third party's obligation to act in accordance with all Agency promulgated regulations applicable to the sponsor.

Evaluations

The proposed regulations include a requirement that trainees be evaluated semi-annually and upon conclusion of the training program (§ 514.22(m)). For training programs of less than nine months, the proposed regulations require an evaluation at mid-point an upon conclusion of the training program. In response to a number of comments received on this section, the Agency has amended the regulation as follows: Trainees will be evaluated at mid-point in their training and when they conclude the program. For training programs of less than three months, the trainee need be evaluated only upon conclusion of the training program.

Flight Training Programs

Included amongst the exchange visitor programs currently designated by the Agency are flight training programs. The Agency considers flight training to be in an important yet sensitive occupational area which requires that particular attention be given to quality assurance. Additionally, flight training schools require more financial resources than many other types of training programs.

Over the past two years, five of the thirty Agency-designated flight training programs have met with financial failure and recently one flight training program was suspended by the Agency for serious violations of Agency regulations. These incidents suggest that the Agency must monitor more closely the flight training programs in order to ensure that program participants are adequately protected.

The Agency has engaged in considerable dialogue with representatives of flight training programs during the course of the Agency's regulatory reform effort. The Agency has conveyed to the sponsors its concerns about the financial stability of a number of sponsors and its concerns about the "work vs. training" issue involved in flight training programs. Similarly, the flight training sponsors and those seeking to become designated flight training sponsors have expressed their concern over the eighteen month maximum duration, arguing that flight trainees require more time to complete their training.

The Agency believes that a longer stay, up to a maximum of twenty-four months, is justified in the case of flight training because of the strict training requirements of the international

aviation community. As under current regulations, any extension of the program beyond that maximum must be specifically approved by the Agency, and such extensions will be granted only under highly unusual circumstances. The Agency is hopeful that its concerns about the "work vs. training" issue will be met by the flight training programs by their adherence to the regulations concerning the training plan and use of third parties.

Flight training sponsors have also argued that participants in flight training programs should more properly be treated by the Agency as "students" rather than as "trainees" because typically flight training programs are more like schools than training programs in that they follow fixed curricula, have classroom instruction, and, at least in some cases, are accredited by nationally recognized accrediting agencies. It was further argued that placing flight training program participants in the student, rather than the trainee category, would also entitle the flight student to a total of eighteen months of training at the conclusion of the classroom portion of the program, rather than the maximum of eighteen months period of participation permitted under the training regulations.

The Agency has considered those arguments and has concluded that the flight training participants more appropriately fit under the training category than the student category. Moreover, the stated goals of the flight training program participants are better met under the trainee category than under the student category. For example, § 514.23 ("College and University Students") requires that the student be studying at a degree-granting post-secondary educational institution. Most flight training schools do not grant degrees.

Therefore, in order to meet the Agency's concerns about quality assurance and financial stability of flight training programs, while at the same time allowing flight trainees to gain more training time in the U.S., the Agency is making final the following regulations:

1. All flight training programs must be accredited by a nationally recognized accrediting authority. The Agency will consider only the applications of those programs which have already been accredited as set forth in the regulation, or which have formally commenced the accreditation process. The Agency is aware that accreditation may take as long as one year to be completed. The Agency will, therefore, accept applications for designation from flight schools which have commenced the accreditation process, but will only conditionally designate them for up to twelve months. Similarly, currently-designated flight training programs will be conditionally redesignated for up to twelve months, but only if they have commenced the accreditation process.

2. With respect to duration of participation, flight trainees are to be granted an additional six months of training time beyond the normal eighteen-month maximum duration of participation.

The Agency believes that this proposal is a reasonable accommodation to the need of the Agency and the needs of the flight training industry. Recognizing that there are both time and cost considerations in the accreditation process, the Agency is willing to extend the training time allowed to flight trainees to balance the accreditation requirement and in recognition of the special circumstances surrounding flight training.

The Duration of Participation

The Agency had considered limiting training programs to twelve months. Upon consultation with a number of current sponsors, the Agency decided to keep the duration of training programs to a maximum of eighteen months, as is presently provided for in the regulations. The primary purposes of training under the Exchange Visitor Program are to expose the visitor to uniquely American techniques, methodology, and philosophy in the visitor's field of endeavor and to provide an opportunity for open interchange of ideas between the visitors and Americans. The law envisions that exchange visitors will return to their home country to share with their compatriots their experiences in the United States, including the fruits of their training. While many of the exchange visitor training programs funded by the United States Government are for less than eighteen months in duration, the Agency concludes that many private sector programs may require eighteen months to maximize the benefits to the trainee.

Section 514.23 College and University Students

The Agency received 209 comments on the proposed college and university student regulations. The comments were thoroughly reviewed and a number of changes in the proposed regulations were made. They focused mainly on the academic training, student employment, non-degree programs, and duration of program.

In response to requests from the academic community, the Agency sought to clearly define when and under what circumstances a student should be issued a J visa. Under the proposed regulations, sponsors should place foreign college and university students in their exchange visitor program when the students' academic programs are funded by the United States Government, the government of the exchange visitor's home country, an international organization of which the United States is a member, or when the program is carried out under an agreement between the United States and a foreign government. The proposed regulations also permitted sponsors to place foreign students in their exchange visitor program if the program is carried out under a written agreement between American and foreign educational institutions, or when foreign students are supported substantially by scholarships designed to promote international educational exchanges.

Numerous comments recommend that the Agency broaden § 514.23(c)(3) which allows foreign nationals in the college and university student category when they are substantially funded by scholarships designed to promote international education. Upon full deliberation, the Agency agreed with this suggestion. The final regulations permit exchange visitors who are supported substantially by funding from any source other than personal or family funds to be eligible for the college and university student category.

Exchange visitors under the college and university student category may participate in degree and non-degree programs at post-secondary accredited educational institutions. The Agency allows college and university students to participate under the Exchange Visitor Program at post-secondary accredited educational institutions if they are (i) pursuing a recognized full course of study leading to or culminating in the award of a U.S. degree; or (ii) engaged full-time in a prescribed course of study of up to 24 months duration. The latter category is proposed for the benefits of college or university students who seek to pursue a clearly defined non-degree academic program.

Non-degree programs may include classroom instruction, intensive English language training, thesis research, and/or academic training. The critical requirement is that the non-degree program be a prescribed course of study. The Agency will rely on the educational institution to determine whether an exchange visitor student meets the

definition of a prescribed course of study as set forth in the regulations.

Exchange visitor students are required to take a full course of study at a post-secondary accredited educational institution, unless they satisfy one or more of the exemptions as set forth in § 514.23(e). Full course of study for a college or university student is defined by the post-secondary accredited educational institution where the student is registered. Comments on this provision were favorable.

Numerous comments recommend a variety of changes to the exemptions of the full course of study requirement. Several comments suggest changes in the exemptions dealing with vacation periods, medical problems, academic difficulties and employment pursuant to scholarship, fellowship or assistantship and graduation. As a result of the Agency's review, the exemptions were significantly modified.

The Agency strongly supports academic training for college and university students and adopts liberal regulations governing the pursuit of such opportunities. Such training may include internships, practicums, and cooperative educational programs. It may occur during the exchange visitor's studies, after the completion of studies, or a combination of both when the requirements set forth in § 514.23(f) are satisfied.

Academic training must be an integral or critical part of the exchange visitor's academic program. A number of comments expressed concern over the use of the word "integral." The Agency believes that it is important to continue to require that the training is integral or critical to the exchange visitor's academic program. The use of the terms "integral" and "critical" in this provision does not require that the training be part of a co-op program or for credit by the educational institution. The educational institution will have the discretion to determine what types of training are integral or critical to the student's exchange program.

The Agency proposes that academic training be allowed for exchange visitor students when the exchange visitor:

(1) Is primarily in the United States to study rather than engage in academic training;

(2) Is participating in academic training that is directly related to his or her major field of study;

(3) Is in good academic standing with the post-secondary accredited educational institution;

(4) Will adhere to the period of time permitted for academic training;

(5) Receives approval in advance and in writing by the responsible officer for the duration and type of training; and

(6) Satisfies the other requirements set forth in these regulations.

A significant number of comments on academic training recommend that post-doctoral students be allowed an additional 18 months of such training. The rationale for the requests is that these students need up to 36 months to complete their post-doctoral research. Upon review, the Agency concurs. The final regulations provide for up to a total of 36 months for post-doctoral academic training, if the other requirements of § 514.23(f) are satisfied.

When students do not receive wages or remuneration when they participate in academic training during their studies, the requirements set forth in § 514.23(f) are not applicable. In this situation, the student needs only to obtain approval for such training by the academic dean or advisor and the responsible officer.

The Agency is desirous that students complete their studies in a timely manner. At the same time, the Agency recognizes the benefits of exchange visitor students working while studying. Numerous comments suggest that exchange visitors be allowed to work on-campus up to 20 hours per week. Upon full review of these comments, the Agency adopts these suggestions.

Accordingly the final regulations allow exchange visitor students to engage in part-time employment when it is approved by the responsible officer and is (1) pursuant to a scholarship, fellowship, or assistantship, (2) occurs on-campus, or (3) occurs off-campus when it is necessary because of serious, urgent, and unforeseen economic circumstances which have arisen since acquiring exchange visitor status. The regulations require that the exchange visitor student be in good academic standing and complies with the full course of study requirement. Exchange visitor students shall be permitted to be employed no more than 20 hours per week, except during official school breaks and annual vacations.

Section 514.24 Teachers

The Agency received no comments regarding the proposed regulations governing teachers exchanges. Accordingly, the proposed regulations are adopted without further modification.

Section 514.25 Secondary Students

Secondary school student exchange programs have been a part of United States public diplomacy efforts since 1949. Expanding from a small base of non-profit organizations dedicated to student exchange, the Agency currently designates sixty-two organizations to conduct such exchanges. Secondary student programs vary in size for 50 to 4,000 participants. In 1990, Agency-designated sponsors facilitated the entry of 24,552 secondary school students, accounting for approximately fifteen percent of all exchanges conducted under the aegis of the Exchange Visitor Program. Although generally viewed as a highly successful category of exchange activity, some secondary school student exchanges encounter problems which are best addressed through regulation.

The importance of these exchanges is best evidenced by the Agency's receipt of 59 comments on the proposed regulations. Such comments suggested that secondary school student exchanges should be permitted when the placement is at an accredited U.S. boarding school. The Agency has reviewed this matter and agrees that such placements should be permitted and has modified the regulatory language set forth at § 514.25(a) accordingly.

Program Administration

Mindful of the unique program considerations inherent to secondary school student exchanges, the Agency seeks to delineate clearly the obligations and responsibilities program sponsors must meet in administering such exchanges. Student participants are placed in a vulnerable position, far from home at a tender age. Due to this position, students are dependent upon program sponsors whose integrity, expertise, and professionalism must be above reproach.

Apparent to all observers is the fiduciary duty a sponsor owes to a student exchange participant. Such duty necessarily requires the sponsor to undertake responsibility for all aspects of the student participant's stay in the United States from the selection of a suitable host family and enrollment in a secondary school through on-going monitoring of the exchange and the student's return to the home country. To meet this duty satisfactorily the Agency concludes that an adequately trained and supervised staff, including agents or volunteers acting on the sponsor's behalf, is of paramount importance to secondary school exchange programs. The Agency therefore directs, pursuant to the provisions of § 514.25(d) that sponsors properly train and supervise all staff members and volunteers acting on their behalf.

Working with adequately trained and supervised staff and volunteers, the Agency proposes that all sponsors

maintain a monthly schedule of personal contact with the student and host family. The Agency contemplates that this degree of contact will provide adequate assurance that the student is successfully adopting to his or her new home and school environment. This monthly schedule of contact is a minimum. Sponsors will be expected to increase the level of contact with the student, school, and host family when adjustment problems so dictate. The Agency had proposed that sponsors also maintain monthly contact with the school at which the participant was placed. Upon review of comments received, the Agency is deleting this requirement on the basis that it appears excessive and unneeded.

To ensure that all students are properly supervised, the Agency adopts a new requirement that program sponsors arrange no host family placement outside a 150 mile radius of the home of an organizational representative authorized to act on the sponsor's behalf in both routine and emergency matters. A geographical limitation is proposed to enhance the sponsor's ability to maintain the proposed level of contact. This geographical limitation is a maximum. If staff members or volunteers are unavailable in a given geographic location, the sponsor must necessarily refrain from placing a student in such location.

Student Selection, Enrollment, and Orientation

8 U.S.C. 1101(a)(15)(J) provides, in part, that an exchange visitor may enter the United States under the aegis of a J visa if such visitor is a *bona fide* student actively engaged in *bona fide* academic study. Pursuant to this statute, Agency stewardship of the Exchange Visitor Program requires that the *bona fides* of an exchange visitor's academic studies be ascertained. The Agency concludes, in light of this statutory requirement, that a modification of the maximum age for participation in a secondary school student exchange program is required.

The Agency is obligated to utilize the United States standard of 12 years of primary and secondary school study in assessing *bona fide* student status. Students who have completed not more than eleven years of primary and secondary study will be deemed, automatically, *bona fide* secondary school students. Attendance in kindergarten should be excluded for the purpose of calculating years of study under this 12 year standard. This standard is of limited importance except to those students who continue their studies into A-level or international baccalaureate programs or their equivalent. Students who complete this additional level of study are, in academic terms, the equivalent of United States college and university students.

Students intending to continue their studies in an A-level or international baccalaureate program may participate in a secondary school student exchange program prior to their enrollment in A-level or international baccalaureate studies. Such students will not have completed 12 years of study as determined by United States standards and would therefore be appropriately placed with their United States peers at the senior year of high school level.

After consultation with Agency-designated sponsors, and in an effort to accommodate potential secondary school student exchange participants who have completed international baccalaureate or A-level studies, the Agency has determined that *bona fide* secondary school student status should also be extended to participants who are not more than 18 and a half years of age at the time of enrollment in a United States secondary school.

It has come to the Agency's attention that some students have returned to the United States in an exchange program for a second year of study. The Agency concludes that this is an inappropriate practice which must be curtailed. To this end, the Agency directs at § 514.25(e), below, that sponsors specifically inquire whether a potential exchange student has previously participated in a secondary school exchange program and disqualify for further participation any student who has.

Provisions governing the enrollment in United States schools of selected student participants are set forth at § 514.25(f). The Agency seeks to safeguard this program's integrity and good reputation among school administrators by continuing to require the prior written acceptance of the student by an appropriate school official. Each September the Agency is contacted by local school principals who have been surprised to find an unannounced exchange student on the school's doorstep. Given the administrative burden and inconvenience which accompanies unanticipated arrivals, the Agency will henceforth strictly enforce the regulatory requirement that all students be authorized for school enrollment prior to their entry into the United States.

As a policy matter, the Agency seeks to ensure that all exchange participants are properly and timely informed of matters germane to their exchange experience. Pursuant to § 514.25(g) set forth below, the Agency requires that secondary student exchange sponsors to provide all participants with advance notice of travel, school, community, and host family arrangements. This information must be provided well enough in advance of the student's departure from the home country to be of use to the student. Additionally, the student must be apprised of all operating procedures, rules, and regulations governing participation in the exchange program.

Host Family Selection, Placement, and Orientation

The Agency has considered, at some length, the recurrent problems associated with host family placements. Aware that tensions will develop naturally from the obligations which arise from serving as a host, the Agency seeks to introduce some measure of uniformity to host family selections. Specific provisions governing host family selection are adopted as set forth at § 514.24(j), below.

First and foremost among such selection criteria is the need to ascertain that potential host families fully understand both the rewards of hosting an international student as well as the duties and obligations attendant thereto. To this end, the Agency will require that sponsors utilize a standard application form which solicits a detailed profile of the family and conduct an in-person interview with all family members residing in the home. In-person interviews will allow the sponsor to determine whether the potential host family is capable of providing a comfortable and nurturing home environment and that the decision to serve as a host family is one which is supported by all family members.

Due to the vulnerable position in which a student is placed by the nature of these exchanges, sponsors will be expected to undertake appropriate safeguards to ensure that the potential host family is of good reputation and character. Recognizing that one incident of abuse is beyond the pale of acceptability, the Agency must insist that sponsors exercise due diligence in the screening of all potential host families. A mere superficial compliance with this regulatory requirement will not be tolerated. Recommendations from members of the community as well as solicitation of the local school official's opinion of the potential host family may be considered a bare minimum in this regard. In similar fashion, sponsors must also satisfy themselves that the potential host family possess adequate

financial resources to undertake hosting obligations.

Having adequately screened the potential host family, sponsors will in turn be expected to properly orient the family concerning the exchange activity. Host families must be fully informed of the sponsor's rules and regulations which govern the exchange program and be provided with a copy of Agency promulgated Exchange Visitor Program regulations. In addition to these requirements, the Agency will require, pursuant to § 514.25(k) below, that sponsors conduct orientation workshops designed to familiarize the host family with cultural differences and practices as well as strategies for effective cross-cultural interaction.

Finally, the Agency concludes that the quality and integrity of secondary school student exchanges are best safeguarded by requiring sponsors to secure a host family placement for a student participant prior to his or her departure from the home country. This requirement, set forth at § 514.25(1), below, when coupled with the requirement of advance written acceptance by local school officials will remove any uncertainty from the parameters of the student's exchange. The Agency has been advised by sponsors that host family placements are always made before the student arrives in the United States. Without debating the veracity of this statement, the Agency concludes that a mechanism to ensure that such placements have been made in timely fashion is required.

To ensure that such host family placements, as well as school placements have been made, the Agency will require that sponsors submit to the Agency, by August 31st of each school year a listing of student participants, their school and host family placement. For placements beginning in the spring semester placement reports will be due by January 15th. This requirement is proposed in lieu of listing the name and address of the host family and school placement on the Form IAP–66 and embodies the suggestions of various exchange sponsors. In response to comments received, the Agency has extended the due date for submission of placement reports. It is important to note that placement reports will be required only when the sponsor has elected to not list the host family and school placements on the Form IAP–66.

Placement reports are an accommodation to some program sponsors who have requested this added programmatic flexibility. The Agency has determined upon review of this matter that the practice of most sponsors is to list the host family and school placement. The Agency concludes that placement reports will provide the desired certainty in respect to the parameters of each individual exchange but will also allow sponsors to continue their administrative placement process as long as possible.

Section 514.25 Specialists

Exchanges of American and foreign specialists exemplify the reciprocal exchanges of persons that the Fulbright-Hays Act seeks to promote. These exchanges have resulted in a flow of specialists between the United States and other countries, and have contributed to the growth of mutual understanding and dissemination of knowledge that is at the heart of the Exchange Visitor Program. Such exchanges are primarily nonacademic and provide opportunities to increase the interchange of knowledge and ideas between American and foreign specialists, and promote improved professional relationships and communications.

Although specialists have played an important role in the Exchange Visitor Program, regulations which specifically address this category of exchange visitor participation have never been promulgated. The Agency received four comments regarding specialists, all involving the duration of program participation. Having reviewed these comments the Agency is herein adopting the regulations as proposed.

Section 514.27 Alien Physicians

Federal law requires that foreign physicians seeking to pursue graduate medical education or training in the United States must do so on a J visa. This centralization of authority for the admission of such aliens is due, in part, to past concerns regarding the academic and medical qualifications of foreign trained physicians. Since 1971, the Educational Commission for Foreign Medical Graduates ("ECFMG") has administered the issuance of Form IAP–66 for foreign medical graduates coming to the United States to pursue graduate medical education or training.

Foreign physicians must successfully complete examinations administered by ECFMG which measure their command of medical sciences. Such exam was, until 1983, the Visa Qualifying Examination. Currently, the required exam is Parts I and II of the National Board of Medical Examiners Examination. The National Board of Medical Examiners plan, however, to adopt as of January 1993 a new examination, the United States Medical Licensure Examination Steps I, II, and III. In light of this impending change the proposed regulations require an alien physician participant to successfully pass this examination.

A total of six comments regarding alien physicians were received by the Agency. In response to these comments the Agency is adding an additional requirement that alien physicians engaged in clinical research or training must submit an agreement or contract from the accredited U.S. medical school, affiliated hospital, or scientific institution at which the research or training activity will occur. This addition is necessitated by statutory language set forth in the Health Care Professions Act, Public Law 94–484, as amended.

Section 514.28 International Visitors

In the proposed regulations, international visitors programs are for foreign nationals who are recognized or potential leaders and are selected by the Agency to participate in observation tours, discussions, consultations, professional meetings, conferences, workshops, and travel. The international visitors category is for people-to-people programs which seek to develop and strengthen professional and personal ties between key foreign nationals, Americans, and American institutions. The Agency will continue the general limitation of participation for international visitors to one year. Such exchanges are intended specifically for short-term exchanges.

The Agency continues to encourage the private sector and other government agencies to sponsor similar types of short-term exchange programs. The active participation of all parties is critical to the development and success of short-term exchange programs. Accordingly, the Agency sets forth the categories of short-term scholar and specialist, especially for the private sector, and government visitors for exchangees selected by U.S. federal, state, and local government agencies.

The Agency proposed that the category of international visitors be for its exclusive use. Three comments regarding international visitors were received. All comments suggested that this category of participation not be limited to Agency use only, or in the alternative that a "private sector visitors" category be created to mirror the international visitors category. Given the ability of designated sponsors to conduct exchanges similar in nature to the international visitor under other categorical designations, the Agency has determined it appropriate to reject this suggestion and adopt the proposed regulations without modification.

Section 514.29 Government Visitors

The Agency proposed the establishment of a government visitors category to encourage U.S. federal, state, and local government agencies to expand their role in the Exchange Visitor Program. Currently, a number of government agencies are designated sponsors of the Exchange Visitor Program. The Agency intends that government sponsors continue to use a variety of categories for their exchange visitors, including the category of government visitors.

For the purpose of this section, government agencies include such entities as U.S. federal, state, and local government agencies (e.g., federal agency or commission, a state department of education, county government, incorporated city, and local school district). A government agency as used in this category does include an international organization of which the U.S. is a member by treaty or statute. However, a government agency as used in this section does not include state colleges or universities, unless such programs are sponsored by their state department of education.

The Agency has proposed that foreign nationals be eligible for a government visitors program when they meet the following three criteria. They shall be (a) selected by a U.S. federal, state, or local government agency, (b) engaged in consultation, observation, training, or demonstration of special skills, and (c) an influential or distinguished person. Under this category, exchange visitors are eligible to participate in such activities as observation tours, discussions, consultations, professional meetings, conferences, workshops, and travel.

Two comments regarding this category were received, both of which questioned the Agency's reservation of international visitor to its own use and the need to create this additional category. The Agency believes that the government visitor category is necessary to meet the needs of the exchange community and is adopting the proposed regulation without modification.

Section 514.30 Camp Counselors

As discussed in subpart A above, the Agency has determined that camp counselor programs are an appropriate addition to the matrix of exchange activities conducted under the Exchange Visitor Program. Such exchanges have a long history and have provided thousands of foreign nationals the opportunity to observe the United States and its people through their employment with domestic summer camp facilities. Although the Agency has traditionally viewed these exchanges as a youth activity, upon review it appears appropriate to expand permissible participants to include *bona fide* youth workers and individuals demonstrating special skills.

The Agency will require that all participants be at least eighteen years of age and have not previously participated more than once in a camp counselor exchange. This latter requirement ensures that as many persons as possible are recruited for these exchanges and that the participants are not utilized for staffing purposes inconsistent with exchange objectives.

Sponsors must conduct in-person interviews with all potential participants and secure references regarding the participant's suitability for a camp placement. Most importantly, sponsors must under no circumstances facilitate the entry of a participant for whom no camp placement has been arranged. The very nature of an exchange requires a prearranged placement. Recruitment of individuals and their "warehousing" in hotels awaiting placement arising from staff shortages is not viewed as an acceptable practice by the Agency. To ensure that placements are arranged in advance a placement report, reflecting the participant's name and placement, must be submitted to the Agency no later than July 1st of each program year.

The Agency received twenty-one comments regarding this issue, all urging that repeat participation be unlimited or modified to allow some discretion to permit more than two years of participation. After careful deliberation, the Agency has determined that the program and policy considerations underlying the purposed two year limitation outweighs the administrative convenience of camp directors which, was the suggested reason for dropping such two year limitation.

Subpart C: Status of Exchange Visitors

Regulations proposed in this subpart govern various administrative chores relating to an exchange participant's visa status. At § 514.40, the Agency adopts criteria for termination of a program participant's exchange visitor status. This regulation includes a provision which directs the sponsor to terminate a participant from the Exchange Visitor Program for willfull failure to maintain insurance coverage. Such provision is necessary to prompt compliance with the adopted insurance requirements. Sponsors may terminate an exchange participant for serious violations of sponsor program guidelines and directives. Sponsors shall terminate a participant due to his or her failure to pursue the activities for which sponsored.

At § 514.41 the Agency adopts regulations governing changes to a visitor's category of participation. Few participants request a change in their category of participation and the Agency has generally discouraged such action as a program matter. Recognizing that a change of category may often benefit both the participant and the Exchange Visitor Program, the Agency provides that requests for such change be submitted to the Agency for approval. The Agency intends to approve only those requests which are due to unusual or exceptional circumstances. A change in category must be clearly consistent and closely related to the participant's original exchange objective. By way of illustration, a Ph.D. student participant may, upon a showing of unusual and exceptional circumstance, change to the research scholar category.

In an effort to simplify the visa status requirements for exchange participants, the Agency proposes that transfer of program transactions be facilitated by the sponsors involved without INS adjudication or Agency review. As set forth at § 514.42 sponsors seeking to facilitate a change of program for an exchange participant shall secure the participant's release from the original sponsor and notify the Agency by submitting a duly executed Form IAP–66 reflecting such transfer. In similar fashion, the mechanics of extending a participant's program have also been simplified.

The Agency makes final a rule that sponsors extend a participant's program by executing a new Form IAP–66 which reflects the new program termination date. INS adjudication of this extension will not be required so long as the extension does not exceed the categorical duration of participation limitation. As an illustration, a sponsor may extend a research participant's program, one year at a time, so long as the three-year category limitation on research scholar programs is not exceeded. As set forth in § 514.43, the sponsor shall notify the Agency of this action by forwarding a duly executed Form IAP–66 reflecting such extension. In those circumstances in which an extension past the categorical duration of participation is sought, Agency approval in INS adjudication will be required.

Finally, the provisions governing application of the two-year home country physical presence requirement

are set forth at § 514.44. This long-standing program requirement is applicable to participants for whom government financing of the exchange was made or who have acquired skills for which there is a need in their home country. The Agency has developed, in cooperation with foreign governments, a listing of such skills. This "skills list" may be found at 49 FR 24194, et seq. (June 12, 1984). Revision of the skills list will begin in the near future. Waiver of the two-year home country requirement is possible and provisions governing such waiver requests are also set forth in this regulation. Provisions addressing waiver procedures as well as the composition and functions of a Waiver Review Board are also set forth.

Subpart D: Sanctions

The Agency received 40 comments on the proposed sanctions regulations. The comments were carefully reviewed and several important changes in the proposed regulations were made, as will be discussed below.

The Agency first promulgated regulations providing for sanctions for violations of the Exchange Visitor Program regulations in 1978. The regulations were expanded in 1987 to provide additional procedural due process rights of those threatened with suspension or revocation for violations of the Exchange Visitor Program Designation, Suspension, and Revocation Board ("the Board").

That the Board has had to be convened only once since 1987 to hear a revocation case speaks highly of the thousands of institutions which have been designated over the years as exchange visitor program sponsors. Nevertheless, the Agency has long been hamstrung in its oversight of the Exchange Visitor Program by the absence of regulations providing for sanctions of less severity than suspension or revocation. As part of the overall regulatory reform of the Exchange Visitor Program, the Agency believes that the regulations, on the one hand, need to be strengthened so as to provide for sanctions against sponsors who violate the Exchange Visitor Program regulations and, on the other hand, to provide those offending sponsors with clearly defined procedural due process rights. This will improve the Agency's managerial oversight and allow the Agency to move rapidly against a sponsor whose acts or omissions endanger the health, safety or welfare of a program participant. The Agency believes that the final sanctions regulations meet the needs of all concerned.

As is true of all the Exchange Visitor Program regulations, the ultimate goals of the sanctions regulations are to further the foreign policy interest of the United States and to protect the health, safety and welfare of Exchange Visitor Program participants. A violation of the regulations may result in both of those goals being frustrated. For example, a secondary school student exchange program sponsor that willfully or negligently allows a teenage exchangee to come to the U.S. without first having placed the exchange with a host family, or that fails to confirm transportation arrangements for the exchangee, may have endangered that teenager's health, safety and/or welfare. Should a teenager be injured in an accident or as a victim of a crime, it is not only a personal tragedy, but there well may be adverse foreign policy effects arising from the incident.

To hypothesize another situation, if a sponsor undertakes to provide health and accident insurance to its program participants but actually fails to cover its participants, and a participant is injured in the course of participating in the program and requires extensive medical treatment for which the participant is unable to pay, then not only does the health care provider suffer financially but the reputation of the Exchange Visitor Program suffers as well. Indeed, resulting claims made by the health care provider may well have adverse foreign policy effects.

Clearly, not all violations of the Exchange Visitor Program regulations are of equal gravity. The final regulations recognize that violations of the regulations range over a spectrum from, for example, an inadvertent, negligent failure to comply with a program reporting requirement, at one end of the spectrum, to a willful act endangering the health or safety of a program participant, at the other end of the spectrum. Recognition of this spectrum of violations is reflected in the various sanctions provided for in the proposed regulations. Like the spectrum of violations, the sanctions also cover a spectrum, ranging from "lesser sanctions" for less serious violations to revocation for the most serious violations. The proposed regulations provide varying procedural due process safeguards at each level of sanctioning. The sanctions fall into four categories.

1. Lesser Sanctions

For minor violations of the regulations, which interfere with the Agency's proper administration of the Exchange Visitor Program but do not rise to the level of endangering the health, safety or welfare of program participants or of bringing the Program or the Agency into notoriety or disrepute, the final regulations provide for the imposition of sanctions of less severity than suspension or revocation. Examples of such violations may include, but are not limited to, the following: Failure to timely provide the Agency with an annual report; failure to provide the Agency with specially requested information to which it is entitled under the regulations; failure to adequately safeguard Forms IAP–66; negligent misrepresentations made by a sponsor in its promotional literature. The final regulations provide that, with respect to such violations, the Agency may, in its discretion, impose any or all of the following sanctions: A letter of reprimand, warning that repeated or persistent violations of the regulations may result in a suspension or revocation of the sponsor's designation, or a directive to the sponsors that it must reduce the scope of its exchange programs numerically, geographically, or in terms of the types of exchange programs it offers.

Upon being given notice that the Agency is imposing such a sanction, the sponsor has the opportunity to submit to the Agency any arguments in explanation or mitigation of the alleged violation. As requested by one commenter, the Agency has made provision in the final regulation that any submission, made by a sponsor shall be made a part of the sponsor's file at EVPS. The sponsor may request a conference to discuss its submission. However, the Agency is not required to grant such a conference. The Exchange Visitor Program Office, upon its review of such submission, may, in its discretion, modify, withdraw, or continue the imposition of the sanctions.

2. Suspension

The final regulations provide that in all suspension actions, other than the summary suspension, the sponsor is given notice in writing that the Agency intends to suspend the sponsor's designation for a period not to exceed one hundred twenty (120) days, specifying the grounds for the suspension. Before the suspension takes effect, the sponsor has an opportunity to submit a response to the Agency, setting forth any reason as to why the Agency should not suspend, and may include any documentary evidence or affidavits in support thereof, including information which demonstrates that the sponsor is in compliance with all lawful requirements. After the Agency reviews the sponsor's submission, it notifies the sponsor of its decision on

whether or not to effect the suspension. If the decision is to effect the suspension, then the Agency must inform the sponsor of its right to appeal and of its right to a formal hearing before the Board.

The final regulations also set forth the sponsor's procedural rights before the Board. The key difference between the "summary suspension" and all other suspension proceedings is that in the former the suspension takes effect immediately upon notice being given to the sponsor, whereas in the latter the suspension does not take effect until the Board decides to effect the suspension after the completion of the appeal and hearing.

3. Summary Suspension

Current regulations provide for a form of summary suspension. 22 CFR 514.17(b). However, the current regulations require the Agency to give the sponsor at least ten days notice that it intends to suspend the designation. The suspension does not take effect until the Office of General Counsel considers and takes into account any response submitted by the sponsor. If the Office of General Counsel decides to effect the suspension, then the sponsor may appeal to the Board, which must make a decision within ten working days from receipt of the appeal. Thus, the summary suspension is summary in name only; the process, even in the best of circumstances, is lengthy. The health, safety or welfare of a program participant might already have been endangered. Under current regulations the Agency is virtually powerless to act in a prompt and decisive manner.

In order to remedy this deficiency, the final regulations provide for a true summary suspension which empowers the Agency to send a sponsor a written notice of the Agency's intent to suspend the sponsor's designation for up to sixty (60) days. Prior to the suspension becoming effective, however, the sponsor has a right to submit a protest to the Agency setting forth any reason why its designation should not be suspended and demonstrating that the sponsor is in compliance with all lawful requirements. The Agency will review the protest and decide whether or not to effect the suspension. If the decision is made to effect the suspension the sponsor may appeal the suspension to the Board. However, the suspension is not stayed during the pendency of the appeal.

The summary suspension, as is set forth in the final regulation, is to be used only in the most serious situations where the sponsor's acts of omission or commission could have the effect of endangering the health, safety, or welfare of an exchange visitor program participant and the Agency deems that immediate action is necessary.

4. Revocation

For serious willful violations of the Exchange Visitor Program regulations or for the omission or commission or an act which has or could have the effect of endangering the health, safety or welfare of an exchange visitor, where the Agency concludes that a continuation of the sponsor's designation is detrimental to the Exchange Visitor Program a revocation of the sponsor's designation may be the most appropriate sanction. Revocation is also the only realistic sanction to impose on the sponsor who willfully or through gross negligence repeatedly violates the regulations and takes no meaningful steps to bring itself into compliance.

Whereas the current regulations require that revocation must be preceded by suspension, the final regulation eliminates that requirement. Revocation commences with the Agency giving the sponsor not less than thirty days notice in writing, specifying the grounds for such revocation and the effective date of the revocation. The grounds for the revocation shall be stated in the notice, and before the revocation may take effect the sponsor has an opportunity to submit a response to the Agency providing any information in explanation or mitigation of the violations charged, or demonstrating that the sponsor is in compliance with all lawful requirements.

Upon receipt of such submission, the Agency will review same and notify the sponsor, in writing, of its decision. The sponsor is also notified of its right to appeal the revocation and of its right to a formal hearing. Within ten days of its receipt of the notice effecting the revocation, the sponsor may file its appeal with the Board. The filing of the notice of appeal serves to stay the revocation pending the appeal. The proposed regulation set forth the procedural rights accorded the sponsor at the hearing before the board.

5. Denial of Application for Redesignation

Current regulations make no provision for an appeal by an applicant in those cases where the Agency denies approval of an application for designation of an exchange visitor program. The final regulation creates a right of appeal for the applicant whose application is denied by the Office of Exchange Visitor Program Services and gives to that applicant the same procedural due process protections as are granted to sponsors against whom sanctions are imposed.

Several commenters expressed concern over § 514.9(3) of the proposed regulations. That section proposed that the Agency could recommend or direct the replacement of the responsible officer or any alternate responsible officer of a designated sponsor, but the provision afforded the responsible officer no appeal rights. The comments argued that replacement of a responsible officer was an unwarranted intrusion into the business and employment affairs of the sponsor and, moreover, the proposal did not provide the affected responsible officer with any procedural due process protections in a situation which could well affect the responsible officer's employment.

As a result of the Agency's review of the comments, the aforesaid § 514.9(3) was eliminated, and a new § 514.50(f) was inserted which provides that the appointment of a responsible officer or alternate responsible officer may be suspended or revoked. However, in such event, the responsible officer or alternate responsible officer has all of the rights of review or appeal that are accorded to a sponsor under the sanctions regulations.

The final regulation also sets forth the composition of the Board, which will consist of two Agency officials and member of the public to be appointed by the Agency's Bureau of Educational and Cultural Affairs, and sets forth in detail the powers of the Board in conducting hearings under this subpart.

Implementation Schedule

With the exception of the insurance regulations set forth in § 514.14, all regulations in part 514 shall become effective March 19, 1993. The insurance regulations shall become effective on September 1, 1994.

Regulatory Analysis and Notices

In accordance with 5 U.S.C. 605(b), the Agency certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

This information collection imposes a reporting burden on various entities and, as such, has been approved by the Office of Management and Budget (OMB) under OMB No. 3116–0210, in accordance with 44 U.S.C. chapter 35.

List of Subjects in 22 CFR Part 514

Cultural Exchange Programs.

Dated: March 10, 1993.

R. Wallace Stuart,

Acting General Counsel.

Accordingly, 22 CFR part 514 is revised to read as follows:

PART 514—EXCHANGE VISITOR PROGRAM

Subpart A—General Provisions

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514.1 Purpose.
514.2 Definitions.
514.3 Sponsor eligibility.
514.4 Categories of participant eligibility.
514.5 Application procedure.
514.6 Designation.
514.7 Redesignation.
514.8 General program requirements.
514.9 General obligations of sponsors.
514.10 Program administration.
514.11 Duties of responsible officers.
514.12 Control of Forms IAP–66.
514.13 Notification requirements.
514.14 Insurance.
514.15 Annual reports.
514.16 Employment.
514.17 Fees and charges [Reserved].

Subpart B—Specific Program Provisions

514.20 Professors and research scholars.
514.21 Short-term scholars.
514.22 Trainees.
514.23 College and university students.
514.24 Teachers.
514.25 Secondary school students.
514.26 Specialists.
514.27 Alien physicians.
514.28 International visitors.
514.29 Government visitors.
514.30 Camp counselors.

Subpart C—Status of Exchange Visitors

514.40 Termination of program participation.
514.41 Change of category.
514.42 Transfer of program.
514.43 Extension of program.
514.44 Two-year home-country physical presence requirement.

Subpart D—Sanctions

514.50 Sanctions.

Subpart E—Termination and Revocation of Programs

514.60 Termination of designation.
514.61 Revocation.
514.62 Responsibilities of the sponsor upon termination or revocation.

Subpart F—[Reserved]

Subpart G—Summer/Work Travel

514.80 Summer Student Travel/Work Program

Appendix A to Part 514—Certification of Responsible Officers and Sponsors.
Appendix B to Part 514—Exchange Visitor Program Services, Exchange Visitor Program Application.
Appendix C to Part 514—Update of Information on Exchange Visitor Program Sponsor.
Appendix D to Part 514—Annual Report.
Appendix E to Part 514—Unskilled Occupations.

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1258; 22 U.S.C. 1431–1442, 2451–2460; Reorganization Plan No. 2 of 1977; E.O. 12048 of March 27, 1978; USIA Delegation Order No. 85–5 (50 FR 27393).

Subpart A—General Provisions

§ 514.1 Purpose.

(a) The regulations set forth in this part implement the Mutual Educational and Cultural Exchange Act of 1961 (the "Act"), as amended, Public Law 87–256, 22 U.S.C. 2451, *et seq.* (1988). The purpose of the Act is to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges. Educational and cultural exchanges assist the Agency in furthering the foreign policy objectives of the United States. These exchanges are defined by section 102 of the Act, 22 U.S.C. 2452, and section 101(a)(15)(J) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15)(J).

(b) The Director of the United States Information Agency facilitates activities specified in the Act, in part, by designating public and private entities to act as sponsors of the Exchange Visitor Program. Sponsors may act independently or with the assistance of third parties. The purpose of the Program is to provide foreign nationals with opportunities to participate in educational and cultural programs in the United States and return home to share their experiences, and to encourage Americans to participate in educational and cultural programs in other countries. Exchange visitors enter the United States on a J visa. The regulations set forth in this subpart are applicable to all sponsors.

§ 514.2 Definitions.

Accompanying spouse and dependents means the alien spouse and minor unmarried children of an exchange visitor who are accompanying or following to join the exchange visitor and who are seeking to enter or have entered the United States temporarily on a J–2 visa or are seeking to acquire or have acquired such status after admission. For the purpose of these regulations, a minor is a person under the age of 21 years old.

Accredited educational institution means any publicly or privately operated primary, secondary, or post-secondary institution of learning duly recognized and declared as such by the appropriate authority of the state in which such institution is located; provided, however, that in addition to any state recognition, all post-secondary institutions shall also be accredited by a nationally recognized accrediting agency or association as recognized by the United States Secretary of Education but shall not include any institution whose offered programs are primarily vocational in nature.

Act means the Mutual Educational and Cultural Exchange Act of 1961, as amended.

Agency means the United States Information Agency.

Citizen of the United States means:

(1) An individual who is a citizen of the United States or one of its territories or possessions, or who has been lawfully admitted for permanent residence, within the meaning of section 101(a)(20) of the Immigration and Nationality Act; or

(2) A general or limited partnership created or organized under the laws of the United States, or of any state, the District of Columbia, or a territory or possession of the United States, of which a majority of the partners are citizens of the United States; or

(3) A for-profit corporation, association, or other legal entity created or organized under the laws of the United States, or of any state, the District of Columbia, or a territory or possession of the United States, which:

(i) Has its principal place of business in the United States, and

(ii) Has its shares or voting interests publicly traded on a U.S. stock exchange; or, if its shares or voting interests are not publicly traded on a U.S. stock exchange, it shall nevertheless be deemed to be a citizen of the United States if a majority of its officers, Board of Directors, and its shareholders or holders of voting interests are citizens of the United States; or

(4) A non-profit corporation, association, or other legal entity created or organized under the laws of the United States, or any state, the District of Columbia, or territory or possession of the United States; and

(i) Which is qualified with the Internal Revenue Service as a tax-exempt organization pursuant to § 501(c) of the Internal Revenue Code; and

(ii) Which has its principal place of business in the United States; and

(iii) In which a majority of its officers and a majority of its Board of Directors or other like body vested with its management are citizens of the United States; or

(5) An accredited college, university, or other post-secondary educational institution created or organized under the laws of the United States, or of any state, including a county, municipality, or other political subdivision thereof, the District of Columbia, or of a territory or possession of the United States; or

(6) An agency of the United States, or of any state or local government, the District of Columbia, or a territory or possession of the United States.

Consortium means a not-for-profit corporation or association formed by two or more accredited educational institutions for the purpose of sharing educational resources, conducting research, and/or developing new programs to enrich or expand the opportunities offered by its members. Entities that participate in a consortium are not barred from having a separate exchange visitor program designation of their own.

Country of nationality or last legal residence means either the country of which the exchange visitor was a national at the time status as an exchange visitor was acquired or the last foreign country in which the visitor had a legal permanent residence before acquiring status as an exchange visitor.

Cross-cultural activity is an activity designed to promote exposure and interchange between exchange visitors and Americans so as to increase their understanding of each other's society, culture, and institutions.

Designation means the written authorization given by the Agency to an exchange visitor program applicant to conduct an exchange visitor program as a sponsor.

Director means the Director of the United States Information Agency or an employee of the Agency acting under a delegation of authority from the Director.

Employee means an individual who provides services or labor for an employer for wages or other remuneration but does not mean independent contractors, as defined in 8 CFR 274a.1(j).

Exchange visitor means a foreign national who has been selected by a sponsor to participate in an exchange visitor program and who is seeking to enter or has entered the United States temporarily on a J–1 visa. The term does not include the visitor's immediate family.

Exchange Visitor Program means the international exchange program administered by the Agency to implement the Act by means of educational and cultural programs. When "exchange visitor program" is set forth in lower case, it refers to the individual program of a sponsor which has been designated by the Agency.

Exchange Visitor Program Services means the Agency staff delegated authority by the Director to administer the Exchange Visitor Program in compliance with the regulations set forth in this part.

Exchange visitor's government means the government of the country of the exchange visitor's nationality or the country where the exchange visitor has a legal permanent residence.

Financed directly means financed in whole or in part by the United States Government or the exchange visitor's government with funds contributed directly to the exchange visitor in connection with his or her participation in an exchange visitor program.

Financed indirectly means:

(1) Financed by an international organization with funds contributed by either the United States or the exchange visitor's government for use in financing international educational and cultural exchanges, or

(2) Financed by an organization or institution with funds made available by either the United States or the exchange visitor's government for the purpose of furthering international educational and cultural exchange.

Form IAP–66 means a Certificate of Eligibility, a controlled document of the Agency.

Full course of study means enrollment in an academic program of classroom participation and study, and/or doctoral thesis research at an accredited educational institution as follows:

(1) Secondary school students shall satisfy the attendance and course requirements of the state in which the school is located;

(2) College and university students shall register for and complete a full course of study, as defined by the accredited educational institution in which the student is registered, unless exempted in accordance with § 514.23(e).

Graduate medical education or training means participation in a program in which the alien physician will receive graduate medical education or training, which generally consists of a residency or fellowship program involving health care services to patients, but does not include programs involving observation, consultation, teaching or research in which there is no or only incidental patient care. This program may consist of a medical specialty, a directly related medical subspecialty, or both.

Home-country physical presence requirement means the requirement that an exchange visitor who is within the purview of section 212(e) of the Immigration and Nationality Act (substantially quoted in § 514.44) must reside and be physically present in the country of nationality or last legal permanent residence for an aggregate of at least two years following departure from the United States before the exchange visitor is eligible to apply for an immigrant visa or permanent residence, a nonimmigrant H visa as a temporary worker or trainee, or a nonimmigrant L visa as an intracompany transferee, or a nonimmigrant H or L visa as the spouse or minor child of a person who is a temporary worker or trainee or an intracompany transferee.

J visa means a non-immigrant visa issued pursuant to 8 U.S.C. 1101(a)(15)(J). A J–1 visa is issued to the exchange visitor. J–2 visas are issued to the exchange visitor's immediate family.

Non-specialty occupation means any occupation that is not a specialty occupation (q.v.). Non-specialty occupations range from unskilled occupations up to and including skilled occupations requiring at least two years training or experience.

On-the-job training means an individual's observation of and participation in given tasks demonstrated by experienced workers for the purpose of acquiring competency in such tasks.

Prescribed course of study means a non-degree academic program with a specific educational objective. Such course of study may include intensive English language training, classroom instruction, research projects, and/or academic training to the extent permitted in § 514.23.

Reciprocity means the participation of a United States citizen in an educational and cultural program in a foreign country in exchange for the participation of a foreign national in the Exchange Visitor Program. Where used herein, "reciprocity" shall be interpreted broadly; unless otherwise specified, reciprocity does not require a one-for-one exchange or that exchange visitors be engaged in the same activity. For example, exchange visitors coming to the United States for training in American banking practices and Americans going abroad to teach foreign nationals public administration would be considered a reciprocal exchange, when arranged or facilitated by the same sponsor.

Responsible officer means the employee or officer of a designated sponsor who has been listed with the Agency as assuming the responsibilities outlined in § 514.11. The designation of alternate responsible officers is

permitted and encouraged. The responsible officer and alternate responsible officers must be citizens of the United States or persons who have been lawfully admitted for permanent residence.

Specialty occupation means an occupation that requires theoretical and practical application of a body of highly specialized knowledge to perform fully in the stated field of endeavor. It requires completion of a specified course of education, where attainment of such knowledge or its equivalent is the minimum competency requirement recognized in the particular field of endeavor in the United States. Some examples of specialized fields of knowledge are public and business administration, agricultural research, architecture, engineering, computer and physical sciences, accounting, and print and broadcast journalism.

Sponsor means a legal entity designated by the Director of the United States Information Agency to conduct an exchange visitor program.

Third party means an entity cooperating with or assisting the sponsor in the conduct of the sponsor's program. Sponsors are required to take all reasonable steps to ensure that third parties know and comply with all applicable provisions of these regulations. Third party actions in the course of providing such assistance or cooperation shall be imputed to the sponsor in evaluating the sponsor's compliance with these regulations.

§ 514.3 Sponsor eligibility.

(a) Entities eligible to apply for designation as a sponsor of an exchange visitor program are:

(1) United States local, state and federal government agencies;

(2) International agencies or organizations of which the United States is a member and which have an office in the United States; or

(3) Reputable organizations which are "citizens of the United States," as that term is defined in § 514.2.

(b) To be eligible for designation as a sponsor, an entity is required to:

(1) Demonstrate, to the Agency's satisfaction, its ability to comply and remain in continual compliance with all provisions of part 514; and

(2) Meet at all times its financial obligations and responsibilities attendant to successful sponsorship of its exchange program.

§ 514.4 Categories of participant eligibility.

Sponsors may select foreign nationals to participate in their exchange visitor programs. Participation by foreign nationals in an exchange visitor program is limited to individuals who shall be engaged in the following activities in the United States:

(a) *Student.* An individual who is:

(1) Studying in the United States:

(i) Pursuing a full course of study at a secondary accredited educational institution;

(ii) Pursuing a full course of study leading to or culminating in the award of a U.S. degree from a post-secondary accredited educational institution; or

(iii) Engaged full-time in a prescribed course of study of up to 24 months duration conducted by:

(A) A post-secondary accredited educational institution; or

(B) An institute approved by or acceptable to the post-secondary accredited educational institution where the student is to be enrolled upon completion of the non-degree program;

(2) Engaged in academic training as permitted in § 514.23(f); or

(3) Engaged in English language training at:

(i) A post-secondary accredited educational institution, or

(ii) An institute approved by or acceptable to the post-secondary accredited educational institution where the college or university student is to be enrolled upon completion of the language training.

(b) *Short-term scholar.* A professor, research scholar, or person with similar education or accomplishments coming to the United States on a short-term visit for the purpose of lecturing, observing, consulting, training, or demonstrating special skills at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar type of institutions.

(c) *Trainee.* An individual participating in a structured training program conducted by the selecting sponsor.

(d) *Teacher.* An individual teaching full-time in a primary or secondary accredited educational institution.

(e) *Professor.* An individual primarily teaching, lecturing, observing, or consulting a post-secondary accredited educational institutions, museums, libraries, or similar types of institutions. A professor may also conduct research, unless disallowed by the sponsor.

(f) *Research scholar.* An individual primarily conducting research, observing, or consulting in connection with a research project at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions. The research scholar may also teach or lecture, unless disallowed by the sponsor.

(g) *Specialist.* An individual who is an expert in a field of specialized knowledge or skill coming to the United States for obeserving, consulting, or demonstrating special skills.

(h) *Other person of similar description.* An individual of description similar to those set forth in paragraphs (a) through (g) coming to the United States, in a program designated by the Agency under this category, for the purpose of teaching, instructing or lecturing, study, observing, conducting research, consulting, demonstrating special skills, or receiving training. The programs designated by the Agency in this category consist of:

(1) *International visitor.* An individual who is a recognized or potential leader, selected by the Agency for consultation, observation, research, training, or demonstration of special skills in the United States.

(2) *Government visitor.* An individual who is an influential or distinguished person, selected by a U.S. federal, state, or local government agency for consultation, observation, training, or demonstration of special skills in the United States.

(3) *Camp counselor.* An individual selected to be a counselor in a summer camp in the United States who imparts skills to American campers and information about his or her country or culture.

§ 514.5 Application procedure.

(a) Any entity meeting the eligibility requirements set forth in § 514.3 may apply to the Agency for designation as a sponsor. Such application shall be made on Form IAP–37 ("Exchange Visitor Program Application") and filed with the Agency's Exchange Visitor Program Services.

(b) The application shall set forth, in detail, the applicant's proposed exchange program activity and shall demonstrate its prospective ability to comply with Exchange Visitor Program regulations.

(c) The application shall be signed by the chief executive officer of the applicant and must also provide:

(1) Evidence of legal status as a corporation, partnership, or other legal entity (e.g., charter, proof of incorporation, partnership agreement, as applicable) and current certificate of good standing;

(2) Evidence of financial responsibility as set forth at § 514.9(e);

(3) Evidence of accreditation if the applicant is a post-secondary educational institution;

(4) Evidence of licensure, if required by local, state, or federal law, to carry

out the activity for which it is be designated;

(5) Certification by the applicant (using the language set forth in appendix A) that it and its responsible officer and alternate responsible officers are citizens of the United States as defined at § 514.2; and

(6) Certification signed by the chief executive officer of the applicant that the responsible officer will be provided sufficient staff and resources to fulfill his/her duties and obligations on behalf of the sponsor.

(d) The Agency may request any additional information and documentation which it deems necessary to evaluate the application.

§ 514.6 Designation.

(a) Upon a favorable determination that the proposed exchange program meets all statutory and regulatory requirements, the Agency may, in its sole discretion, designate an entity meeting the eligibility requirements set forth in § 514.3 as an exchange visitor program sponsor.

(b) Designation shall confer upon the sponsor authority to engage in one or more activities specified in § 514.4. A sponsor shall not engage in activities not specifically authorized in its written designation.

(c) Designations are effective for a period of five years. In its discretion, the Agency may designate programs, including experimental programs, for less than five years.

(d) Designations are not transferable or assignable.

§ 514.7 Redesignation.

(a) Upon expiration of a given designation term, a sponsor may seek redesignation for another five-year term

(b) To apply for redesignation, a sponsor shall advise the Exchange Visitor Program Services by letter or by so indicating on the annual report.

(c) Request for redesignation shall be evaluated according to the criteria set forth at § 514.6(a) taking into account the sponsor's annual reports and other documents reflecting its record as an exchange visitor program sponsor.

(d) A sponsor seeking redesignation should notify the Agency, as set forth in (b) of this section, no less than four months prior to the expiration date of its designation. A sponsor seeking redesignation may continue to operate its program(s) until such time as the Agency notifies it of a decision to amend or terminate its designation.

§ 514.8 General program requirements.

(a) *Size of program.* Sponsors, other than Federal government agencies, shall have no less than five exchange visitors per calendar year. The Agency may in its discretion and for good cause shown reduce this requirement.

(b) *Minimum duration of program.* Sponsors, other than federal government agencies, shall provide each exchange visitor, except short-term scholars, with a minimum period of participation in the United States of three weeks.

(c) *Reciprocity.* In the conduct of their exchange programs, sponsors shall make a good faith effort to achieve the fullest possible reciprocity in the exchange of persons.

(d) *Cross-cultural activities.* Sponsors shall:

(1) Offer or make available to exchange visitors a variety or appropriate cross-cultural activities. The extent and types of the cross-cultural activities shall be determined by the needs and interests of the particular category of exchange visitor. Sponsors will be responsible to determine the appropriate type and number of cross-cultural programs for their exchange visitors. The Agency encourages sponsors to give their exchange visitors the broadest exposure to American society, culture and institutions; and

(2) Encourage exchange visitors to voluntarily participate in activities which are for the purpose of sharing the language, culture, or history of their home country with Americans, provided such activities do not delay the completion of the exchange visitors' programs.

§ 514.9 General obligations of sponsors.

(a) *Adherence to agency regulations.* Sponsors are required to adhere to all regulations set forth in this part.

(b) *Legal status.* Sponsors shall maintain legal status. A change in a sponsor's legal status (e.g. partnership to corporation) shall require application for designation of the new legal entity.

(c) *Accreditation and licensure.* Sponsors shall remain in compliance with all local, state. federal, and professional requirements necessary to carry out the activity for which they are designated, including accreditation and licensure, if applicable.

(d) *Representations and disclosures.* Sponsors shall:

(1) Provide accurate and complete information, to the extent lawfully permitted, to the Agency regarding their exchange visitor programs and exchange visitors;

(2) Provide only accurate information to the public when advertising their exchange visitor programs or responding to public inquiries;

(3) Provide informational materials to prospective exchange visitors which clearly explain the activities, costs, conditions, and restrictions of the program;

(4) Not use program numbers on any advertising materials or publications intended for general circulation; and

(5) Not represent that any program is endorsed, sponsored, or supported by the Agency or the United States Government, except for United States Government sponsors or exchange visitor programs financed directly by the United States Government to promote international educational exchanges. However, sponsors may represent that they are designated by the Agency as a sponsor of an exchange visitor program.

(e) *Financial responsibility.* (1) Sponsors shall maintain the financial capability to meet at all times their financial obligations and responsibilities attendant to successful sponsorship of their exchange visitor programs.

(2) The Agency may require non-government sponsors to provide evidence satisfactory to the Agency that funds necessary to fulfill all obligations and responsibilities attendant to sponsorship of exchange visitors are readily available and in the sponsor's control, including such supplementary or explanatory financial information as the Agency may deem appropriate such as, for example, audited financial statements.

(3) The Agency may require any non-government sponsor to secure a payment bond in favor of the Agency guaranteeing all financial obligations arising from the sponsorship of exchange visitors.

(f) *Staffing and support services.* Sponsors shall ensure:

(1) Adequate staffing and sufficient support services to administer their exchange visitor programs; and

(2) That their employees, officers, agents, and third parties involved in the administration of their exchange visitor programs are adequately qualified, appropriately trained, and comply with the Exchange Visitor Program regulations.

(g) *Appointment of responsible officer.* (1) The sponsor shall appoint a responsible officer and such alternate responsible officers as may be necessary to perform the duties set forth at § 514.11.

(2) The responsible officer and alternate responsible officers shall be employees or officers of the sponsor. The Agency may, however, in its discretion, authorize the appointment of an individual who is not an employee or officer to serve as an alternate

responsible officer, when approved by the sponsor.

(3) The Agency may limit the number of alternate responsible officers appointed by the sponsor.

§ 514.10 Program administration.

Sponsors are responsible for the effective administration of their exchange visitor programs. These responsibilities include:

(a) *Selection of exchange visitors.* Sponsors shall provide a system to screen and select prospective exchange visitors to ensure that they are eligible for program participation, and that:

(1) The program is suitable to the exchange visitor's background, needs, and experience; and

(2) The exchange visitor possesses sufficient proficiency in the English language to participate in his or her program.

(b) *Pre-arrival information.* Sponsors shall provide exchange visitors with pre-arrival materials including, but not limited to, information on:

(1) The purpose of the Exchange Visitor Program;

(2) Home-country physical presence requirement;

(3) Travel and entry into the United States;

(4) Housing;

(5) Fees payable to the sponsor;

(6) Other costs that the exchange visitor will likely incur (e.g., living expenses) while in the United States;

(7) Health care and insurance; and

(8) Other information which will assist exchange visitors to prepare for their stay in the United States.

(c) *Orientation.* Sponsors shall offer appropriate orientation for all exchange visitors. Sponsors are encouraged to provide orientation for the exchange visitor's immediate family, especially those who are expected to be in the United States for more than one year. Orientation shall include, but not be limited to, information concerning:

(1) Life and customs in the United States;

(2) Local community resources (e.g., public transportation, medical centers, schools, libraries, recreation centers, and banks), to the extent possible;

(3) Available health care, emergency assistance, and insurance coverage;

(4) A description of the program in which the exchange visitor is participating;

(5) Rules that the exchange visitors are required to follow under the sponsor's program;

(6) Address of the sponsor and the name and telephone number of the responsible officer; and

(7) Address and telephone number of the Exchange Visitor Program Services of the Agency and a copy of the Exchange Visitor Program brochure outlining the regulations relevant to the exchange visitors.

(d) *Form IAP–66.* Sponsors shall ensure that only the responsible officer or alternate responsible officers issue Forms IAP–66;

(e) *Monitoring of exchange visitors.* Sponsors shall monitor, through employees, officers, agents, or third parties, the exchange visitors participating in their programs. Sponsors shall:

(1) Ensure that the activity in which the exchange visitor is engaged is consistent with the category and activity listed on the exchange visitor's Form IAP–66;

(2) Monitor the progress and welfare of the exchange visitor to the extent appropriate for the category; and

(3) Require the exchange visitor to keep the sponsor apprised of his or her address and telephone number, and maintain such information.

(f) *Requests by the agency.* Sponsors shall, to the extent lawfully permitted, furnish to the Agency within a reasonable time all information, reports, documents, books, files, and other records requested by the Agency on all matters related to their exchange visitor programs.

(g) *Inquiries and investigations.* Sponsors shall cooperate with any inquiry or investigation that may be undertaken by the Agency.

(h) *Retention of records.* Sponsors shall retain all records related to their exchange visitor program and exchange visitors for a minimum of three years.

§ 514.11 Duties of responsible officers.

Responsible officers shall train and supervise alternate responsible officers Responsible officers and alternate responsible officers shall:

(a) *Knowledge of regulations and codebook.* Be thoroughly familiar with the Exchange Visitor Program regulations and the Agency's current Codebook and Instructions for Responsible Officers.

(b) *Advisement and assistance.* Ensure that the exchange visitor obtains sufficient advice and assistance to facilitate the successful completion of the exchange visitor's program.

(c) *Communications.* Conduct the official communications relating to the exchange visitor program with the Agency, the United States Immigration and Naturalization Service, or the United States Department of State. Reference to the sponsor's program number shall be made on any correspondence with the Agency.

(d) *Custody of the Form IAP–66.* Act as custodian for the control, issuance, and distribution of Forms IAP–66 as set forth in § 514.12.

§ 514.12 Control of Forms IAP–66.

Forms IAP–66 shall be used only for authorized purposes. To maintain adequate control of Forms IAP–66, responsible officers or alternate responsible officers shall:

(a) *Requests.* Submit written requests to the Agency for a one-year supply of Forms IAP–66, and allow four to six weeks for the distribution of these forms. The Agency has the discretion to determine the number of Forms IAP–66 to be sent to a sponsor. The Agency will take into consideration the current size of the program and the projected expansion of the program in the coming 12 months. If requested, the Agency will consult with the responsible officer prior to determining the number of Forms IAP–66 to be sent to the sponsor. Additional forms may be requested later in the year if needed by the sponsor.

(b) *Verification.* Prior to issuing Form IAP–66, verify that the exchange visitor:

(1) Is eligible, qualified, and accepted for the program in which he or she will be participating;

(2) Possesses adequate financial resources to complete his or her program; and

(3) Possesses adequate financial resources to support any accompanying dependents.

(c) *Issuance of Form IAP–66.* Issue the Form IAP–66 only so as to:

(1) Facilitate the entry of a new participant of the exchange visitor program;

(2) Extend the stay of an exchange visitor;

(3) Facilitate program transfer;

(4) Replace a lost or stolen Form IAP–66;

(5) Facilitate entry of an exchange visitor's alien spouse or minor unmarried children into the United States separately;

(6) Facilitate re-entry of an exchange visitor who is traveling outside the United States during the program;

(7) Facilitate a change of category when permitted by the Agency; and

(8) Update information when significant changes take place in regard to the exchange visitor's program, such as a substantial change in funding or in the location where the program will take place.

(d) *Safeguards.* (1) Store Forms IAP–66 securely to prevent unauthorized use;

(2) Prohibit transfer of any blank Form IAP–66 to another sponsor or other person unless authorized in writing (by letter or facsimile) by the Agency to do so;

(3) Notify the Agency promptly by telephone (confirmed promptly in writing) or facsimile of the document number of any completed Form IAP–66 that is presumed lost or stolen or any blank Form IAP–66 lost or stolen; and

(4) Forward the completed Form IAP–66 only to an exchange visitor, either directly or via an employee, officer, or agent of the sponsor, or to an individual designated by the exchange visitor.

(e) *Accounting.* (1) Maintain a record of all Forms IAP–66 received and/or issued by the sponsor;

(2) Destroy damaged and unusable Form IAP–66 on the sponsor's premises after making a record of such forms (e.g. forms with errors or forms damaged by a printer); and

(3) Request exchange visitors and prospective exchange visitors to return any unused Form IAP–66 sent to them and make a record of Forms IAP–66 which are returned to the sponsor and destroy them on the sponsor's premises.

§ 514.13 Notification requirements.

(a) *Change of circumstances.* Sponsors shall notify the Agency promptly in writing of any of the following circumstances:

(1) Change of its address, telephone, or facsimile number;

(2) Change in the composition of the sponsoring organization which affects its citizenship as defined by § 514.2;

(3) Change of the responsible officer or alternate responsible officers;

(4) A major change of ownership or control of the sponsor's organization;

(5) Change in financial circumstances which may render the sponsor unable to comply with its obligations as set forth in § 512.9(e);

(6) Loss of licensure or accreditation;

(7) Loss or theft of Forms IAP–66 as specified at § 514.12(d)(3);

(8) Litigation related to the sponsor's exchange visitor program, when the sponsor is a party; and

(9) Termination of its exchange visitor program.

(b) *Serious problem or controversy.* Sponsors shall inform the Agency promptly by telephone (confirmed promptly in writing) or facsimile of any serious problem or controversy which could be expected to bring the Agency or the sponsor's exchange visitor program into notoriety or disrepute.

(c) *Program status of exchange visitor.* Sponsors shall notify the Agency in writing when:

(1) The exchange visitor has withdrawn from or completed a program thirty (30) or more days prior to the ending date on his or her Form IAP–66; or

(2) The exchange visitor has been terminated from his or her program.

§ 514.14 Insurance.

(a) Sponsors shall require each exchange visitor to have insurance in effect which covers the exchange visitor for sickness or accident during the period of time that an exchange visitor participates in the sponsor's exchange visitor program. Minimum coverage shall provide:

(1) Medical benefits of at least $50,000 per accident or illness;

(2) Repatriation of remains in the amount of $7,500;

(3) Expenses associated with the medical evacuation of the exchange visitor to his or her home country in the amount of $10,000; and

(4) A deductible not to exceed $500 per accident or illness.

(b) An insurance policy secured to fulfill the requirements of this section:

(1) May require a waiting period for pre-existing conditions which is reasonable as determined by current industry standards;

(2) May include provision for co-insurance under the terms of which the exchange visitor may be required to pay up to 25% of the covered benefits per accident or illness; and

(3) Shall not unreasonably exclude coverage for perils inherent to the activities of the exchange program in which the exchange visitor participates.

(c) Any insurance policy secured to fulfill the above requirements must be underwritten by an insurance corporation having an A.M. Best rating of "A-" or above, an Insurance Solvency International, Ltd. (ISI) rating of "A−i" or above, a Standard & Poor's Claims-paying Ability rating of "A−" or above, a Weiss Research, Inc. rating of B+ or above, or such other rating service as the Agency may from time to time specify. Insurance coverage backed by the full faith and credit of the government of the exchange visitor's home country shall be deemed to meet this requirement.

(d) Federal, state or local government agencies, state colleges and universities and public community colleges may, if permitted by law, self-insure any or all of the above-required insurance coverage.

(e) At the request of a non-governmental sponsor of an exchange visitor program, and upon a showing that such sponsor has funds readily available and under its control sufficient to meet the requirements of this section, the Agency may permit the sponsor to self-insure or to accept full financial responsibility for such requirements.

(f) The Agency, in its sole discretion, may condition its approval of self-insurance or the acceptance of full financial responsibility by the non-governmental sponsor by requiring such sponsor to secure a payment bond in favor of the Agency guaranteeing the sponsor's obligations hereunder.

(g) An accompanying spouse or dependent of an exchange visitor is required to be covered by insurance in the amounts set forth in § 514.14(a) above. Sponsors shall inform exchange visitors of this requirement, in writing, in advance of the exchange visitor's arrival in the United States.

(h) An exchange visitor who willfully fails to maintain the insurance coverage set forth above while a participant in an exchange visitor program or who makes a material misrepresentation to the sponsor concerning such coverage shall be deemed to be in violation of these regulations and shall be subject to termination as a participant.

(i) A sponsor shall terminate an exchange visitor's participation in its program if the sponsor determines that the exchange visitor or any accompanying spouse or dependent willfully fails to remain in compliance with this section.

§ 514.15 Annual reports.

Sponsors shall submit an annual report to the Agency. An illustrative form of such report may be found at Appendix D to this part. Such report shall be filed on an academic or calendar year basis, as directed by the Agency, and shall contain the following:

(a) *Program report and evaluation.* A brief summary of the activities in which exchange visitors were engaged, including an evaluation of program effectiveness;

(b) *Reciprocity.* A description of the nature and extent of reciprocity occurring in the sponsor's exchange visitor program during the reporting year;

(c) *Cross-cultural activities.* A summary of the cross-cultural activities provided for its exchange visitors during the reporting year;

(d) *Proof of insurance.* Certification of compliance with insurance coverage requirements set forth in § 514.14.

(e) *Form IAP–66 usage.* A report of Form IAP–66 usage during the reporting year setting forth the following information:

(1) The total number of blank Forms IAP–66 received from the Agency during the reporting year;

(2) The total number of Forms IAP–66 voided or destroyed by the sponsor during the reporting year and the document numbers of such forms;

(3) The total number of Forms IAP–66 issued to potential exchange visitors that were returned to the sponsor or not used for entry into the United States; and

(4) The total number and document identification number sequence of all blank Forms IAP–66 in the possession of the sponsor on the date of the report.

(f) *Program participation.* A numerical count, by category, of all exchange visitors participating in the sponsor's program for the reporting year.

(g) *Redesignation.* Sponsors may indicate their desire for redesignation, pursuant to § 514.7, by marking the appropriate box on their annual report.

§ 514.16 Employment.

(a) An exchange visitor may receive compensation from the sponsor or the sponsor's appropriate designee for employment when such activities are part of the exchange visitor's program.

(b) An exchange visitor who engages in unauthorized employment shall be deemed to be in violation of his or her program status and is subject to termination as a participant in an exchange visitor program.

(c) The acceptance of employment by an accompanying spouse or minor child of an exchange visitor is governed by Immigration and Naturalization Service regulations.

§ 514.17 Fees and charges. [Reserved]

Subpart B—Specific Program Provisions

§ 514.20 Professors and research scholars.

(a) *Introduction.* These regulations govern professors and research scholars, except:

(1) Alien physicians in graduate medical education or training, who are governed by regulations set forth at § 514.27; and

(2) Short-term scholars, who are governed by regulations set forth at § 514.21.

(b) *Purpose.* A primary purpose of the Exchange Visitor Program is to foster the exchange of ideas between Americans and foreign nationals and to stimulate international collaborative teaching and research efforts. The exchange of professors and research scholars promotes interchange, mutual enrichment, and linkages between research and educational institutions in the United States and foreign countries. It does so by providing foreign professors and research scholars the opportunity to engage in research, teaching, and lecturing with their American colleagues, to participate actively in cross-cultural activities with Americans, and ultimately to share with their fellow citizens their experiences and increased knowledge about the United States and their substantive fields.

(c) *Designation.* The Agency may, in its sole discretion, designate *bona fide* programs which offer foreign nationals the opportunity to engage in research, teaching, lecturing, observing, or consulting at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions in the United States.

(d) *Visitor eligibility.* An individual participating in a program which furthers the objectives under § 514.20(b) and whose activities are compatible with said objectives shall be eligible to participate in an exchange visitor program as a professor or research scholar. The exchange visitor's appointment to a position shall be temporary, even if the position itself is permanent. The individual shall not be a candidate for a tenure-track position.

(e) *Insurance of Form IAP–66.* The Form IAP–66 shall be issued only after the professor or research scholar has been accepted by the institution(s) where he or she will participate in an exchange visitor program.

(f) *Location of the exchange.* Professors or research scholars shall conduct their exchange activity at the location(s) listed on the Form IAP–66, which could be either at the location of the exchange visitor sponsor or the site of a third party facilitating the exchange. An exchange visitor may also engage in activities at locations not listed on the Form IAP–66 if such activities constitute occasional lectures or consultations as permitted by § 514.20(g).

(g) *Occasional lectures or consultations.* Professors and research scholars may participate in occasional lectures and short-term consultations, unless disallowed by the sponsor. Such lectures and consultations must be incidental to the exchange visitor's primary program activities. If wages or other remuneration are received by the exchange visitor for such activities, the exchange visitor must act as an independent contractor, as such term is defined in 8 CFR 274a.1(j), and the following criteria and procedures shall be satisfied:

(1) *Criteria.* The occasional lectures or short-term consultations shall:

(i) Be directly related to the objectives of the exchange visitor's program;

(ii) Be incidental to the exchange visitor's primary program activities; and

(iii) Not delay the completion date of the visitor's program.

(2) *Procedures.*

(i) To obtain authorization to engage in occasional lectures or short-term consultations involving wages or other remuneration, the exchange visitor shall present to the responsible officer:

(A) A letter from the offeror setting forth the terms and conditions of the offer to lecture or consult, including the duration, number of hours, field or subject, amount of compensation, and description of such activity; and

(B) A letter from his or her department head or supervisor recommending such activity and explaining how it would enhance the exchange visitor's program.

(ii) The responsible officer shall review the letters required in § 514.20(g)(2)(i) above and make a written determination whether such activity is warranted and satisfies the criteria set forth in § 514.20(g)(1).

(h) *Category.* At the discretion of the responsible officer, professors may freely engage in research and research scholars may freely engage in teaching and lecturing, unless disallowed by the sponsor. Because these activities are so intertwined, such a change of activity will not be considered a change of category necessitating a formal approval by the responsible officer or approval by the Agency. Any Form IAP–66 issued to the exchange visitor should reflect the current category of the exchange visitor, either professor or research scholar.

(i) *Duration of participation.* The exchange professor and research scholar shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which time shall not exceed three years. A change between the categories of professor and research scholar shall not extend the exchange visitor's period of participation beyond the permitted three-year maximum duration, unless approved by the Agency.

(j) *Extension of program.* Professors and research scholars may be considered for program extensions for up to 36 months as follows:

(1) *Six-month extension.* The responsible officer has the discretion to approve an extension upon a showing of good cause of up to six months for professors or research scholars beyond the three-year duration of participation permitted under § 514.20(i). The purpose of such an extension is to provide the professor or research scholar the necessary time to complete his or her teaching and research responsibilities. The responsible officer shall notify the Agency as required in § 514.43(c) when authorizing such an extension.

(2) *Additional extension.* The Agency, in its discretion, may approve an extension for a professor or research

scholar for good cause. Applications to the Agency for such extension may be filed any time, but should be filed no later than 45 days before the expiration of the exchange visitor's authorized stay. The application shall be in writing and shall:

(i) state the period of time the sponsor is requesting the extension for the exchange visitor; and

(ii) Include a letter from the department head or supervisor of the exchange visitor:

(A) Indicating the expected date of completion of the exchange program; and

(B) Providing a description of the circumstances which warrant such an extension.

(3) *Status of exchange visitor.* (i) An exchange visitor who applies for an extension pursuant to § 514.20(j)(2) is considered to be in valid program status during pendency of the application.

(ii) An exchange visitor who applies for an extension pursuant to § 514.20(j)(2), and who subsequently receives Agency notice that the request has been denied, is considered to be in valid program status for an additional period of 30 days from the date of such notice or for a period of 30 days from expiration of the visitor's Form IAP–66, whichever is later.

§ 514.20 Short-term scholars.

(a) *Introduction.* These regulations govern scholars coming to the United States for a period of up to four months to lecture, observe, consult, and to participate in seminars, workshops, conferences, study tours, professional meetings, or similar types of educational and professional activities.

(b) *Purpose.* The Exchange Visitor Program promotes the interchange of knowledge and skills among foreign and American scholars. It does so by providing foreign scholars the opportunity to exchange ideas with their American colleagues, participate in educational and professional programs, confer on common problems and projects, and promote professional relationships and communications.

(c) *Designation.* The Agency may, in its sole discretion, designate *bona fide* programs which offer foreign nationals the opportunity to engage in short-term visits for the purpose of lecturing, observing, consulting, training, or demonstrating special skills at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions.

(d) *Visitor eligibility.* A person participating in the Exchange Visitor Program under this section shall satisfy the definition of a short-term scholar as set forth in § 514.4.

(e) *Cross-cultural activities and orientation.* Due to the nature of such exchanges, sponsors of programs for short-term scholars shall be exempted from the requirements of providing cross-cultural activities and orientation as set forth in § 514.8(d) and § 514.10(c). However, sponsors are encouraged to provide such programs for short-term scholars whenever appropriate.

(f) *Location of the exchange.* The short-term scholar shall participate in the Exchange Visitor Program at the conferences, workshops, seminars, or other events or activities stated on his or her Form IAP–66.

(g) *Duration of participation.* The short-term scholar shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which time shall not exceed four months. Programs under this section are exempted from § 514.8(b) governing the minimum duration of a program. Extensions beyond the duration of participation are not permitted under this category.

§ 514.22 Trainees.

(a) *Introduction.* These regulations govern all exchange visitor programs under which foreign nationals are provided with opportunities for receiving training in the United States. Regulations dealing with training opportunities which may, under certain conditions, be authorized for foreign students who are studying at post-secondary accredited educational institutions in the United States are found at § 514.23. Regulations governing medical trainees are found at § 514.27.

(b) *Purpose of training.* The primary objectives of training are to enhance the exchange visitor's skills in his or her specialty or non-specialty occupation through participation in a structured training program and to improve the participant's knowledge of American techniques, methodologies, or expertise within the individual's field of endeavor. Such training programs are also designed to enable the exchange visitor trainee to understand better American culture and society and to enhance American knowledge of foreign cultures and skills by providing the opportunity for an open interchange of ideas between the exchange visitor trainees and their American counterparts. Use of the Exchange Visitor Program for ordinary employment or work purposes is strictly prohibited. For this reason the regulations in this section are designed to distinguish between receiving training, which is permitted, and gaining experience, which is not permitted unless as a component of a *bona fide* training program.

(c) *Designation of training programs.* (1) The Agency groups occupations into specialty, non-specialty, or unskilled occupational categories. The Agency will designate training programs in specialty and non-specialty occupations. Training programs in unskilled occupations or occupations in other categories which the Agency may from time to time identify by publication in the **Federal Register** will not be designated. For purposes of these regulations, the Agency considers the occupations listed in Appendix E to part 514 to be "unskilled occupations."

(2) For purposes of designation, the Agency will designate specialty and skilled non-specialty occupational training programs in any of the following occupational categories:

(i) Arts and Culture;
(ii) Information Media and Communications;
(iii) Education, Social Sciences, Library Science, Counseling and Social Services;
(iv) Management, Business, Commerce and Finance;
(v) Health Related Occupations;
(vi) Aviation;
(vii) The Sciences, Engineering, Architecture, Mathematics, and Industrial Occupations;
(viii) Construction and Building Trades;
(ix) Agriculture, Forestry and Fishing;
(x) Public Administration and Law;
(xi) Other (Specify).

(3) Sponsors may apply for designation for training programs in any combination of specialty and/or non-specialty occupations. Once designated, the sponsor may provide training in any occupation falling within the designated category, if not otherwise prohibited from doing so. Sponsors shall provide training to exchange visitors only in the category or categories for which they have obtained Agency designation.

(d) *Obligations of training program sponsors.* (1) Sponsors designated by the Agency to provide training to foreign exchange visitors shall:

(i) Ensure that individuals and/or entities conducting training possess and maintain the demonstrable competence to provide training in the subjects offered to each exchange visitor.

(ii) Ensure that skills, knowledge, and competence are imparted to the trainee through a structured program of activities which are supportive and appropriate to the training experience. These may include, for example, classroom training, seminars, rotation through several departments, on-the-job

training, and attendance at conferences, as appropriate.

(iii) Develop, prior to the start of training, a detailed training plan geared to defined objectives for each trainee or group of similarly-situated trainees.

(iv) Ensure that continuous supervision and periodic of evaluation each trainee is provided.

(v) Ensure that sufficient plant, equipment, and trained personnel are available to provide the training specified.

(2) Sponsors designated by the Agency to provide training to foreign exchange visitors shall not:

(i) Provide training in unskilled occupations; or

(ii) Place trainees in positions which are filled or would be filled by full-time or part-time employees.

(e) *Use of third parties.* (1) The sponsor may utilize the services of third parties in the conduct of the designated training program. If a third party is utilized, the sponsor and the third party shall execute a written agreement which delineates the respective obligations and duties of the parties and specifically recites the third party's obligation to act in accordance with these regulations. The sponsor shall maintain a copy of such agreement in its files.

(2) The sponsor's use of a third party in the conduct of a designated training program does not relieve the sponsor of its obligation to comply, and to ensure the third party's compliance, with all applicable regulations. Any failure on the part of the third party to comply with all applicable regulations will be imputed to the sponsor.

(f) *Application for designation of training programs.* (1) An applicant for designation as an exchange visitor training program shall demonstrate to the Agency its ability to comply with both the General Provisions set forth in subpart A, and the obligations of training sponsors set forth in § 514.22(d).

(2)(i) An applicant shall provide the Agency with documentary evidence of its competence to provide the training for which designation is sought.

(ii) If third parties are to be used to conduct one or more aspects of the activities for which designation is sought, the applicant shall provide the Agency with forms and procedures which will be used by the sponsor to ensure third party compliance with all applicable regulations and fulfillment of the goals and purposes of the sponsor's exchange visitor program.

(iii) If the applicant intends to utilize the services of third parties to conduct the training, a copy of an executed third-party agreement or, if one has not yet been executed, an illustrative copy of the type of agreement the applicant intends to execute with third parties shall be submitted with the application.

(3) If the training program is accredited in accordance with § 514.22(n), the applicant shall include a copy of the accreditation in its application.

(4) The application shall include a certification that:

(i) Sufficient physical plant. equipment, and trained personnel will be dedicated to provide the training specified;

(ii) The training program is not designed to recruit and train aliens for employment in the United States;

(iii) Trainees will not be placed in positions which displace full-time or part-time employees.

(5) As to each occupational division for which the applicant seeks designation, the applicant shall indicate whether it intends to provide training in specialty or non-specialty occupations, or both.

(6) In order to meet the requirements of this subsection and to evidence the competence of the applicant and/or third parties conducting one or more aspects of the applicant's exchange visitor program to provide training, the applicant for designation may submit any one of the following types of training plans for each division for which designation is sought;

(i) If the applicant has already designed a structured training plan to use in the proposed exchange visitor program, a copy of such training plan may be submitted with the application;

(ii) If the applicant has not yet prepared a new training plan, but has been engaged previously in the type of training, directly or through third parties, for which designation is being sought, the applicant may demonstrate its capability to conduct such training by submitting a copy of a previously used training plan;

(iii) If the applicant proposes to create individualized training plans for as yet unidentified trainees, then the applicant may submit a hypothetical training plan which illustrates the training the applicant proposes to provide, directly or through third parties.

(g) *The training plan.* Each training plan required to be prepared for a trainee or group of trainees pursuant to § 514.22(d)(1)(iii) above, shall include, at a minimum,

(1) a statement of the objectives of the training;

(2) the skills to be imparted to the trainee;

(3) a copy of the training syllabus or chronology;

(4) a justification for the utilization of on-the-job training to achieve stated course competencies; and

(5) a description of how the trainee will be supervised and evaluated.

(h) *Agency consultation with experts.* The Agency may consult experts whenever its examination of a training plan or its evaluation of application for designation indicates the need for such expertise in making an evaluation.

(i) *Records.* Sponsors shall retain for three years all records pertaining to individual trainees, training plans, trainee evaluations, and agreements with third parties. Such records shall be made available to the Agency upon the Agency's request.

(j) *Selection of trainees.* In addition to meeting the requirements of § 514.10(a), trainees shall be fully qualified to participate successfully in a structured training program at a level appropriate for the individual trainee's career development. However, such training shall not be duplicative of the trainee's prior training and experience.

(k) *Duration of participation.* The duration of participation shall correspond to the length of the program set forth in the sponsor's designation. The maximum period of participation in the Exchange Visitor Program for a trainee shall not exceed 18 months total.

(l) *Financial and program disclosure.* Sponsors shall provide trainees, prior to their arrival in the United States, with:

(1) A written statement which clearly states the stipend, if any, to be paid to the trainee;

(2) The costs and fees for which the trainee will be obligated;

(3) An estimate of living expenses during the duration of the trainee's stay; and

(4) A summary of the training program which recites the training objectives and all significant components of the program.

(m) *Evaluation.* In order to ensure the quality of the training program, the sponsor shall develop procedures for the ongoing evaluation of each training segment. Such evaluation shall include, as a minimum, midpoint and concluding evaluation reports from the trainee and his or her immediate supervisor, signed by both parties. For training courses of less than three months duration, evaluation reports are required upon conclusion of the training program.

(n) *Flight training.* (1) The Agency will consider the application for designation of a flight training program if such program complies with the above regulations, and, additionally,

(i) Is, at the time of making said application, a Federal Aviation

Administration certificated pilot school pursuant to title 14, Code of Federal Regulations, part 141; and

(ii) At the time of making said application is accredited as a flight training program by an accrediting agency which is listed in the current edition of the United States Department of Education's "Nationally Recognized Accrediting Agencies and Associations," or is accredited as a flight training program by a member of the Council on Postsecondary Accreditation; or

(iii) At the time of making said application has formally commenced the accreditation process with an accrediting agency which is listed in the current edition of the United States Department of Education's "Nationally Recognized Accrediting Agencies and Associations," or with a member of the Council on Postsecondary Accreditation. If the application for designation is approved, such designation shall be for up to twelve-months duration, with continued designation thereafter conditioned upon completion of the accreditation process.

(2) Notwithstanding the provisions of § 514.22(k), *supra*, the maximum period of participation for exchange visitors in designated flight training programs shall not exceed 24 months total. Any request for extension of time in excess of that authorized under this subsection shall be made in accordance with § 514.43, *infra*.

(3) For purposes of meeting the evaluation requirements set forth in § 514.22(m), sponsors and/or third parties conducting the training may utilize the same training records as are required by the Federal Aviation Administration to be maintained pursuant to 14 CFR 141.101.

§ 514.23 College and university students.

(a) *Purpose.* Programs under § 514.23 provide foreign students the opportunity to participate in a designated exchange program while studying at a degree-granting post-secondary accredited educational institution. Exchange visitors under this category may participate in degree and non-degree programs. Such exchanges are intended to promote mutual understanding by fostering the exchange of ideas between foreign students and their American counterparts.

(b) *Designation.* The Agency may, in its sole discretion, designate *bona fide* programs which offer foreign nationals the opportunity to study in the United States at post-secondary accredited educational institutions.

(c) *Selection criteria.* Sponsors select the college and university students who participate in their exchange visitor programs. Sponsors shall secure sufficient background information on the students to ensure that they have the academic credentials required for their program. Students are eligible for the Exchange Visitor Program if at any time during their college studies in the United States:

(1) They or their program are financed directly or indirectly by:

(i) The United States Government;

(ii) The government of the student's home country; or

(iii) An international organization of which the United States is a member by treaty or statute;

(2) The programs are carried out pursuant to an agreement between the United States Government and a foreign government;

(3) The program are carried out pursuant to written agreement between:

(i) American and foreign educational institutions;

(ii) An American educational institution and a foreign government; or

(iii) A state or local government in the United States and a foreign government; or

(4) The exchange visitors are supported substantially by funding from any source other than personal or family funds.

(d) *Admissions requirement.* In addition to satisfying the requirements of § 514.10(a), sponsors shall ensure that the exchange visitor student has been admitted to the post-secondary accredited educational institution(s) listed on the Form IAP–66 before issuing the form.

(e) *Full course of study requirement.* Exchange visitor students shall pursue a full course of study at a post-secondary accredited educational institution in the United States as defined in § 514.2, except under the following circumstances:

(1) *Vacation.* During official school breaks and summer vacations if the student is eligible and intends to register for the next term. A student attending a school on a quarter or trimester calendar may be permitted to take the annual vacation during any one of the quarters or trimesters instead of during the summer.

(2) *Medical problem.* If the student is compelled to reduce or interrupt a full course of study due to an illness or medical condition and the student presents to the responsible officer a written statement from a physician requiring or recommending an interruption or reduction in studies.

(3) *Bona fide academic reason.* If the student is compelled to pursue less than a full course of study for a term and the student presents to the responsible officer a written statement from the academic dean or advisor recommending the student to reduce his or her academic load to less than a full course of study due to an academic reason.

(4) *Non-degree program.* If the student is engaged full time in a prescribed course of study in a non-degree program of up to 24 months duration conducted by a post-secondary accredited educational institution.

(5) *Academic training.* If the student is participating in authorized academic training in accordance with § 514.23(f).

(6) *Final term.* If the student needs less than a full course of study to complete the academic requirements in his or her final term.

(f) *Academic training.* (1) A student may participate in academic training programs during his or her studies, without wages or other remuneration, with the approval of the academic dean or advisor and the responsible officer.

(2) A student may be authorized to participate in academic training programs for wages or other remuneration:

(i) during his or her studies; or

(ii) commencing not later than thirty (30) days after completion of his or her studies, if the criteria, time limitations, procedures, and evaluations listed below in paragraphs (f) (3) to (6) are satisfied:

(3) *Criteria.*

(i) The student is primarily in the United States to study rather than engage in academic training;

(ii) The student is participating in academic training that is directly related to his or her major field of study at the post-secondary accredited educational institution listed on his or her Form IAP–66;

(iii) The student is in good academic standing with the post-secondary accredited educational institution; and

(iv) The student receives written approval in advance from the responsible officer for the duration and type of academic training.

(4) *Time limitations.* The exchange visitor is authorized to participate in academic training for the length of time necessary to complete the goals and objectives of the training, provided that the amount of time for academic training:

(i) Is approved by the academic dean or advisor and approved by the responsible officer;

(ii) For undergraduate and pre-doctoral training, does not exceed eighteen (18) months, inclusive of any prior academic training in the United States, or the period of full course of

study in the United States, whichever is less; except, additional time for academic training is allowed to the extent necessary for the exchange visitor to satisfy the mandatory requirements of his or her degree program in the United States;

(iii) For post-doctoral training, does not exceed a total of thirty-six (36) months, inclusive of any prior academic training in the United States as an exchange visitor, or the period of the full course of study in the United States, whichever is less. A new Form IAP–66 shall be issued for each eighteen (18) month period.

(5) *Procedures.* To obtain authorization to engage in academic training:

(i) The exchange visitor shall present to the responsible officer a letter of recommendation from the student's academic dean or advisor setting forth:

(A) The goals and objectives of the specific training program;

(B) A description of the training program, including its location, the name and address of the training supervisor, number of hours per week, and dates of the training;

(C) How the training relates to the student's major field of study; and

(D) Why it is an integral or critical part of the academic program of the exchange visitor student.

(ii) The responsible officer shall:

(A) Determine if and to what extent the student has previously participated in academic training as an exchange visitor student, in order to ensure the student does not exceed the period permitted in § 514.23(f);

(B) Review the letter required in paragraph (f)(5)(i) of this section; and

(C) Make a written determination of whether the academic training currently being requested is warranted and the criteria and time limitations set forth in § 514.23(f) (3) and (4) are satisfied.

(6) *Evaluation requirements.* The sponsor shall evaluate the effectiveness and appropriateness of the academic training in achieving the stated goals and objectives in order to ensure the quality of the academic training program.

(g) *Student employment.* Exchange visitor students may engage in part-time employment when the following criteria and conditions are satisfied.

(1) The student employment:

(i) Is pursuant to the terms of a scholarship, fellowship, or assistantship;

(ii) Occurs on the premises of the post-secondary accredited educational institution the visitor is authorized to attend; or

(iii) Occurs off-campus when necessary because of serious, urgent, and unforeseen economic circumstances which have arisen since acquiring exchange visitor status.

(2) Exchange visitor students may engage in employment as provided in paragraph (g)(1) of this section if the:

(i) Student is in good academic standing at the post-secondary accredited educational institution;

(ii) Student continues to engage in a full course of study, except for official school breaks and the student's annual vacation;

(iii) Employment totals no more than 20 hours per week, except during official school breaks and the student's annual vacation; and

(iv) The responsible officer has approved the specific employment in advance and in writing. Such approval may be valid up to twelve months, but is automatically withdrawn if the student's program is terminated.

(h) *Duration of participation*—(1) *Degree students.* Exchange visitor students who are in degree programs shall be authorized to participate in the Exchange Visitor Program as long as they are either:

(i) Studying at the post-secondary accredited educational institution listed on their Form IAP–66 and are:

(A) Pursuing a full course of study as set forth in § 514.23(e), and

(B) Maintaining satisfactory advancement towards the completion of their academic program; or

(ii) Participating in an authorized academic training program as permitted in § 514.23(f).

(2) *Non-degree students.* Exchange visitors who are non-degree students shall be authorized to participate in the Exchange Visitor Program for up to 24 months, if they are either:

(i) Studying at the post-secondary accredited educational institution listed on their Form IAP–66 and are:

(A) Participating full-time in a prescribed course of study; and

(B) Maintaining satisfactory advancement towards the completion of their academic program; or

(ii) Participating in an authorized academic training program as permitted in § 514.23(f).

§ 514.24 Teachers.

(a) *Purpose.* These regulations govern exchange visitors who teach full-time in primary and secondary accredited educational institutions. Programs under § 514.24 promote the interchange of American and foreign teachers in public and private schools and the enhancement of mutual understanding between people of the United States and other countries. They do so by providing foreign teachers opportunities to teach in primary and secondary accredited educational institutions in the United States, to participate actively in cross-cultural activities with Americans in schools and communities, and to return home ultimately to share their experiences and their increased knowledge of the United States. Such exchanges enable visitors to understand better American culture, society, and teaching practices at the primary and secondary levels, and enhance American knowledge of foreign cultures, customs, and teaching approaches.

(b) *Designation.* The Agency may, in its discretion, designate *bona fide* programs satisfying the objectives in section (a) above as exchange visitor programs in the teacher category.

(c) *Visitor eligibility.* A foreign national shall be eligible to participate in an exchange visitor program as a full-time teacher if the individual:

(1) Meets the qualifications for teaching in primary or secondary schools in his or her country of nationality or last legal residence;

(2) Satisfies the standards of the U.S. state in which he or she will teach;

(3) Is of good reputation and character;

(4) Seeks to come to the United States for the purpose of full-time teaching at a primary or secondary accredited educational institution in the United States; and

(5) Has a minimum of three years of teaching or related professional experience.

(d) *Visitor selection.* Sponsors shall adequately screen teachers prior to accepting them for the program. Such screening, in addition to the requirements of § 514.10(a), shall include:

(1) Evaluating the qualifications of the foreign applicants to determine whether the criteria set forth in § 514.24(c) are satisfied; and

(2) Securing references from colleagues and current or former employers, attesting to the teachers' good reputation, character and teaching skills.

(e) *Teaching position.* Prior to the issuance of the Form IAP–66, the exchange visitor shall receive a written offer and accept in writing of a teaching position from the primary or secondary accredited educational institution in which he or she is to teach. Such position shall be in compliance with any applicable collective bargaining agreement, where one exists. The exchange visitor's appointment to a position at a primary or secondary accredited educational institution shall

be temporary, even if the teaching position is permanent.

(f) *Program disclosure.* Before the program begins, the sponsor shall provide the teacher, in addition to what is required in § 514.10(b), with:

(1) Information on the length and location(s) of his or her exchange visitor program;

(2) A summary of the significant components of the program, including a written statement of the teaching requirements and related professional obligations; and

(3) A written statement which clearly states the compensation, if any, to be paid to the teacher and any other financial arrangements in regards to the exchange visitor program.

(g) *Location of the exchange.* The teacher shall participate in an exchange visitor program at the primary or secondary accredited educational institution(s) listed on his or her Form IAP–66 and at locations where the institution(s) are involved in official school activities (e.g., school field trips and teacher training programs).

(h) *Duration of participation.* The teacher shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed three years.

§ 514.25 Secondary school students.

(a) *Introduction.* These regulations govern Agency designated exchange visitor programs under which foreign national secondary students are afforded the opportunity for up to one year of study in a United States public or private secondary school, while living with an American host family or residing at an accredited U.S. boarding school.

(b) *Program sponsor eligibility.* Eligibility for designation as a secondary school student exchange program sponsor shall be limited to;

(1) Organizations with tax-exempt status as conferred by the Internal Revenue Service pursuant to section 501(c)(3); and

(2) Organizations which are United States citizens as such terms is defined § 514.2.

(c) *Program eligibility.* Secondary school students exchange programs designated by the Agency shall:

(1) Require all participants to pursue a full course of study at an accredited educational institution as such terms are defined in this Part of not less than one academic semester (or quarter equivalency) nor more than two academic semesters (or quarter equivalency) duration; and

(2) Be conducted on an academic calendar year basis provided, however, participants may begin in the second semester of an academic year if specifically permitted to do so, in writing, by the school in which the exchange visitor is enrolled.

(d) *Program administration.* Sponsors shall ensure that all officers, employees, agents, and volunteers acting on their behalf:

(1) Are adequately trained and supervised;

(2) Make no student placement outside a 150 mile radius of the home of an organizational representative authorized to act on the sponsor's behalf in both routine and emergency matters arising from a student's participation in their exchange program;

(3) Ensure that no organizational representative act as both host family and area supervisor for any student participant whom that organizational representative may host;

(4) Maintain a regular schedule of personal contact with the student and host family, and ensure that the school has contact information for the local organizational representative and U.S. offices of the sponsor; and

(5) Adhere to all regulatory provisions set forth in this Part and all additional terms and conditions governing program administration that the Agency may from time to time impose.

(e) *Student selection.* In addition to satisfying the requirements of § 514.10(a), sponsors shall ensure that all participants in a designated secondary school student exchange program:

(1) Are *bona fide* students who:

(i) Are secondary school students in their home country who have not completed more than eleven years of primary and secondary study, exclusive of kindergarten; or

(ii) Are at least 15 years of age but not more than 18 and six months years of age at the time of initial school enrollment;

(2) Demonstrate maturity, good character, and scholastic aptitude; and

(3) Have not previously participated in an academic year or semester secondary school student exchange program in the United States.

(f) *Student enrollment.* (1) Sponsors shall secure prior written acceptance for the enrollment of any student participant in a United States public or private secondary school. Such prior acceptance shall:

(i) Be secured from the school principal or other authorized school administrator of the school or school system that the student participant will attend; and

(ii) Include written arrangements concerning the payment of tuition or waiver thereof if applicable.

(2) Sponsors shall maintain copies of all written acceptances and make such documents available for Agency inspection upon request.

(3) Sponsors shall submit to the school a written English language summary of the student's complete academic course work prior to commencement of school.

(4) Under no circumstance shall a sponsor facilitate the entry into the United States of a student for whom a school placement has not been secured.

(5) Sponsors shall not facilitate the enrollment of more than five students in one school unless the school itself has requested, in writing, the placement of more than five students.

(g) *Student orientation.* In addition to the orientation requirements set forth herein at § 514.10, all sponsors shall provide students, prior to their departure from the home country, with the following information:

(1) A summary of all operating procedures, rules, and regulations governing student participation in the exchange program;

(2) A detailed profile of the school, family, and community in which the student is placed;

(3) A detailed summary of travel arrangements;

(4) An identification card which lists the student's name, United States home placement address and telephone number, and a telephone number which affords immediate contact with both the Agency and sponsor in case of emergency. Such cards may be provided in advance of home country departure or immediately upon entry into the United States.

(h) *Student extra-curricular activities.* Students may participate in school sanctioned and sponsored extra-curricular activities, including athletics, if such participation is:

(1) Authorized by the local school district in which the student is enrolled; and

(2) Authorized by the state authority responsible for determination of athletic eligibility, if applicable.

(i) *Student employment.* Students may not be employed on either a full or part-time basis but may accept sporadic or intermittent employment such as babysitting or yard work.

(j) *Host family selection.* Sponsors shall adequately screen all potential host families and at a minimum shall:

(1) Provide potential host families with a detailed summary of the exchange program and the parameters of

their participation, duties, and obligations;

(2) Utilize a standard application form for all host family applicants which provides a detailed summary and profile of the host family, the physical home environment, family composition, and community environment;

(3) Conduct an in-person interview with all family members residing in the home;

(4) Ensure that the host family is capable of providing a comfortable and nurturing home environment;

(5) Ensure that the host family is a good reputation and character by securing two personal references for each host family from the school or community, attesting to the host family's good reputation and character;

(6) Ensure that the host family has adequate financial resources to undertake hosting obligations; and

(7) Maintain a record of application forms, evaluations, and interviews for all selected host families for a period of three years.

(k) *Host family orientation.* In addition to the orientation requirements set forth in § 514.10, sponsors shall:

(1) Inform all host families of the philosophy, rules, and regulations governing the sponsor's exchange program;

(2) Provide all selected host families with a copy of Agency-promulgated Exchange Visitor Program regulations; and

(3) Advise all selected host families of strategies governing cross-cultural interaction and conduct workshops which will familiarize the host family with cultural differences and practices.

(l) *Host family placement.* (1) Sponsors shall secure, prior to the student's departure from the home country, a host family placement for each student participant. Sponsors shall not:

(i) Facilitate the entry into the United States for a student for whom a host family placement has not been secured; and

(ii) Place more than one student with a host family without the express prior written consent of the Agency.

(2) Sponsors shall advise both the student and host family, in writing, of the respective family compositions and backgrounds of each and shall facilitate and encourage the exchange of correspondence between the two prior to the student's departure from the home country.

(3) In the event of unforeseen circumstances which necessitate a change of host family placement, the sponsor shall document the reasons necessitating such change and provide the Agency with an annual statistical summary reflecting the number and the reason for such change in host family placement.

(m) *Placement report.* In lieu of listing the name and address of the host family and school placement on a participant's Form IAP–66, sponsors must, no later than August 31st of each academic year, submit to the Agency a report of all academic year program participants. Such report shall set forth the participant's name, school, and host family placements. A report of semester participants entering United States schools during the January to June term shall be submitted to the Agency by January 15th.

§ 514.26 Specialists.

(a) *Introduction.* These regulations govern experts in a field of specialized knowledge or skill coming to the United States for observing, consulting, or demonstrating special skills, except:

(1) Research scholars and professors, who are governed by regulations set forth at § 514.20;

(2) Short-term scholars, who are governed by regulations set forth at § 514.21; and

(3) Alien physicians in graduate medical education or training, who are governed by regulations set forth in § 514.27.

(b) *Purpose.* The Exchange Visitor Program promotes the interchange of knowledge and skills among foreign and American specialists, who are defined as experts in a field of specialized knowledge or skills, and who visit the United States for the purpose of observing, consulting, or demonstrating their special skills. It does so by providing foreign specialists the opportunity to observe American institutions and methods of practice in their professional fields, and to share their specialized knowledge with their American colleagues. The exchange of specialists promotes mutual enrichment, and furthers linkages among scientific institutions, government agencies, museums, corporations, libraries, and similar types of institutions. Such exchanges also enable visitors to better understand American culture and society and enhance American knowledge of foreign cultures and skills. This category is intended for exchanges with experts in such areas, for example, as mass media communication, environmental science, youth leadership, international educational exchange, museum exhibitions, labor law, public administration, and library science. This category is not intended for experts covered by the exchange visitor categories listed in § 514.26(a) (1) through (3) of this section.

(c) *Designation.* The Agency may, in its discretion, designate *bona fide* programs satisfying the objectives in section (b) above as an exchange visitor program in the specialist category.

(d) *Visitor eligibility.* A foreign national shall be eligible to participate in an exchange visitor program as a specialist if the individual:

(1) Is an expert in a field of specialized knowledge or skill;

(2) Seeks to travel to the United States for the purpose of observing, consulting, or demonstrating his or her special knowledge or skills; and

(3) Does not fill a permanent or long-term position of employment while in the United States.

(e) *Visitor selection.* Sponsors shall adequately screen and select specialists prior to accepting them for the program, providing a formal selection process, including at a minimum:

(1) Evaluation of the qualifications of foreign nationals to determine whether they meet the definition of specialist as set forth in § 514.4(g); and

(2) Screening foreign nationals to ensure that the requirements of § 514.10(a) are satisfied.

(f) *Program disclosure.* Before the program begins, the sponsor shall provide the specialist, in addition to what is required in § 514.10(b), with:

(1) Information on the length and location(s) of his or her exchange visitor program;

(2) A summary of the significant components of the program; and

(3) A written statement which clearly states the stipend, if any, to be paid to the specialist.

(g) *Issuance of Form IAP–66.* The Form IAP–66 shall be issued only after the specialist has been accepted by the organization(s) with which he or she will participate in an exchange visitor program.

(h) *Location of the exchange.* The specialist shall participate in an exchange visitor program at the location(s) listed on his or her Form IAP–66.

(i) *Duration of participation.* The specialist shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed one year.

§ 514.27 Alien physicians.

(a) *Purpose.* Pursuant to the Mutual Educational and Cultural Exchange Act, as amended by the Health Care Professions Act, Public Law 94–484, the Agency facilitates exchanges for foreign medical graduates seeking to pursue

graduate medical education or training at accredited schools of medicine or scientific institutions. The Agency also facilitates exchanges of foreign medical graduates seeking to pursue programs involving observation, consultation, teaching, or research activities.

(b) *Clinical exchange programs.* The Educational Commission for Foreign Medical Graduates must sponsor alien physicians who wish to pursue programs of graduate medical education or training conducted by accredited U.S. schools of medicine or scientific institutions. Such Foreign Medical Graduates shall:

(1) Have adequate prior education and training to participate satisfactorily in the program for which they are coming to the United States;

(2) Will be able to adapt to the educational and cultural environment in which they will be receiving their education or training;

(3) Have the background, needs, and experiences suitable to the program as required in § 514.10(a)(1);

(4) Have competency in oral and written English;

(5) Have passed either Parts I and II of the National Board of Medical Examiners Examination, the Foreign Medical Graduate Examination in the Medical Sciences, the United States Medical Licensing Examination, Step I and Step II, or the Visa Qualifying Examination (VQE) prepared by the National Board of Medical Examiners, administered by the Educational Commission for Foreign Medical Graduates. [NB—Graduates of a school of medicine accredited by the Liaison Committee on Medical Education are exempted by law from the requirement of passing either Parts I and II of the National Board of Medical Examiners Examination or the Visa Qualifying Examination (VQE)]; and

(6) Provide a statement of need from the government of the country of their nationality or last legal permanent residence. Such statement must provide written assurance, satisfactory to the Secretary of Health and Human Services, that there is a need in that country for persons with the skills the alien physician seeks to acquire and shall be submitted to the Educational Commission for Foreign Medical Graduates by the participant's government. The statement of need must bear the seal of the concerned government and be signed by a duly designated official of the government. The text of such statement of need shall read as follows:

Name of applicant for Visa: _____. There currently exists in (Country) a need for qualified medical practitioners in the speciality of _____. (Name of applicant for Visa) has filed a written assurance with the government of this country that he/she will return to this country upon completion of training in the United States and intends to enter the practice of medicine in the specialty for which training is being sought. Stamp (or Seal and signature) of issuing official of named country.
Dated: _____

Official of Named Country.

(7) Submit an agreement or contract from a U.S. accredited medical school, an affiliated hospital, or a scientific institution to provide the accredited graduate medical education. The agreement or contract must be signed by both the alien physician and the official responsible for the training.

(c) *Non-clinical exchange programs.* (1) A United States university or academic medical center which has been designated an exchange visitor program by the Director of the United States Information Agency is authorized to issue From IAP–66 to alien physicians to enable them to come to the United States for the purposes of observation, consultation, teaching, or research if:

(i) The responsible officer or duly designated alternate of the exchange visitor program involved signs and appends to the Form IAP–66 a certification which states "this certifies that the program in which (name of physician) is to be engaged is solely for the purpose of observation, consultation, teaching, or research and that no element of patient care is involved" or

(ii) The dean of the involved accredited United States medical school or his or her designee certifies to the following five points and such certification is appended to the Form IAP–66 issued to the perspective exchange visitor alien physician:

(A) The program in which (name of physician) will participate is predominantly involved with observation, consultation, teaching, or research.

(B) Any incidental patient contact involving the alien physician will be under the direct supervision of a physician who is a U.S. citizen or resident alien and who is licensed to practice medicine in the State of _____.

(C) The alien physician will not be given final responsibility for the diagnosis and treatment of patients.

(D) Any activities of the alien physician will conform fully with the State licensing requirements and regulations for medical and health care professionals in the State in which the alien physician is pursuing the program.

(E) Any experience gained in this program will not be creditable towards any clinical requirements for medical specialty board certification.

(2) The Educational Commission for Foreign Medical Graduates may also issue Form IAP–66 to alien physicians who are coming to the United States to participate in a program of observation, consultation, teaching, or research provided the required letter of certification as outlined in this paragraph is appended to the Form IAP–66.

(d) *Public health and preventive medicine programs.* A United States university, academic medical center, school of public health, or other public health institution which has been designated as an exchange visitor program sponsor by the Director of the United States Information Agency is authorized to issue Forms IAP–66 to alien physicians to enable them to come to the United States for the purpose of entering into those programs which do not include any clinical activities involving direct patient care. Under these circumstances, the special eligibility requirements listed in paragraphs (b) and (c) of this section need not be met. The responsible officer or alternate responsible officer of the exchange visitor program involved shall append a certification to the Form IAP–66 which states.

This certifies that the program in which (name of physician) is to be engaged does not include any clinical activities involving direct patient care.

(e) *Duration of participation.* (1) The duration of an alien physician's participation in a program of graduate medical education or training is limited to the time typically required to complete such program. Duration shall be determined by the Director of the United States Information Agency at the time of the alien physician's entry into the United States. Such determination shall be based on criteria established in coordination with the Secretary of Health and Human Services and which take into consideration the requirements of the various medical specialty boards as evidenced in the Director of Medical Specialties published by Marquis Who's Who for the American Board of Medical Specialties.

(2) Duration of participation is limited to seven years unless the alien physician has demonstrated to the satisfaction of the Director that the country to which the alien physician will return at the end of additional specialty education or training has an exceptional need for an individual with such additional qualification.

(3) Subject to the limitations set forth above, duration of participation may, for good cause shown, be extended beyond the period of actual training or education to include the time necessary to take an examination required for certification by a specialty board.

(4) The Director may include within the duration of participation a period of supervised medical practice in the United States if such practice is an eligibility requirement for certification by a specialty board.

(i) Alien physicians shall be permitted to undertake graduate medical education or training in a specialty or subspecialty program whose board requirements are not published in the Director of Medical Specialists if the Board requirements are certified to the Director and to the Educational Commission for Foreign Medical Graduates by the Executive Secretary of the cognizant component board of the American Board of Medical Specialties.

(ii) The Director may, for good cause shown, grant an extension of the program to permit an alien physician to repeat one year of clinical medical training.

(5) The alien physician must furnish the Attorney General each year with an affidavit (Form I–644) that attests the alien physician:

(i) Is in good standing in the program of graduate medical education or training in which the alien physician is participating; and

(ii) Will return to the country of his nationality or last legal permanent resident upon completion of the education or training for which he came to the United States.

(f) *Change of program.* The alien physician may, once and not later than two years after the date the alien physician enters the United States as an exchange visitor or acquires exchange visitor status, change his designated program of graduate medical education or training if the Director approves the change and if the requirements of paragraphs § 514.27(b) and § 514.27(e) of this section are met for the newly designated specialty.

(g) *Applicability of section 212(e) of the Immigration and Nationality Act.* (1) Any exchange visitor physician coming to the United States on or after January 10, 1977 for the purpose of receiving graduate medical education or training is automatically subject to the two-year home-country physical presence requirement of section 212(e) of the Immigration and Nationality Act, as amended. Such physicians are not eligible to be considered for section 212(e) waivers on the basis of "No Objection" statements issued by their governments.

(2) Alien physicians coming to the United States for the purpose of observation, consultation, teaching, or research are not automatically subject to the two-year home-country physical presence requirement of section 212(e) of the Immigration and Nationality Act, as amended, but may be subject to this requirement if they are governmentally financed or pursuing a field of study set forth on their countries' Exchange Visitor Skills List. Such alien physicians are eligible for consideration of waivers under section 212(e) of the Immigration and Nationality Act, as amended, on the basis of "No Objection" statements submitted by their governments in their behalf through diplomatic channels to the Director of the United States Information Agency.

§ 514.28 International visitors.

(a) *Purpose.* The international visitor category is for the exclusive use of the Agency. Programs under § 514.28 are for foreign nationals who are recognized or potential leaders and are selected by the Agency to participate in observation tours, discussions, consultation, professional meetings, conferences, workshops, and travel. These programs are designed to enable the international visitors to better understand American culture and society and contribute to enhanced American knowledge of foreign cultures. The category is for people-to-people programs which seek to develop and strengthen professional and personal ties between key foreign nationals and Americans and American institutions.

(b) *Selection.* The Agency and third parties assisting the Agency shall adequately screen and select prospective international visitors to determine compliance with § 514.10(a) and the visitor eligibility requirements set forth below.

(c) *Visitor eligibility.* An individual participating in an exchange visitor program as an international visitor shall be:

(1) Selected by the Agency;

(2) Engaged in consultation, observation, research, training, or demonstration of special skills; and

(3) A recognized or potential leader in a field of specialized knowledge or skill.

(d) *Program disclosure.* At the beginning of the program, the sponsor shall provide the international visitor with:

(1) Information on the length and location(s) of his or her exchange visitor program; and

(2) A summary of the significant components of the program.

(e) *Issuance of Form IAP–66.* The Form IAP–66 shall be issued only after the international visitor has been selected by the Agency.

(f) *Location of the exchange.* The international visitor shall participate in an exchange visitor program at locations approved by the Agency.

(g) *Duration of participation.* The international visitor shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed one year.

§ 514.29 Government visitors.

(a) *Purpose.* The government visitor category is for the exclusive use of the U.S. federal, state, or local government agencies. Programs under § 514.29 are for foreign nationals who are recognized as influential or distinguished persons, and are selected by U.S. federal, state, or local government agencies to participate in observation tours, discussions, consultation, professional meetings, conferences, workshops, and travel. These are people-to-people programs designed to enable government visitors to better understand American culture and society, and to contribute to enhanced American knowledge of foreign cultures. The objective is to develop and strengthen professional and personal ties between key foreign nationals and Americans and American institutions. The government visitor programs are for such persons as editors, business and professional persons, government officials, and labor leaders.

(b) *Designation.* The Agency may, in its sole discretion, designate as sponsors U.S. federal, state, and local government agencies which offer foreign nationals the opportunity to participate in people-to-people programs which promote the purpose as set forth in (a) above.

(c) *Selection.* Sponsors shall adequately screen and select prospective government visitors to determine compliance with § 514.10(a) and the visitor eligibility requirements set forth below.

(d) *Visitor eligibility.* An individual participating in an exchange visitor program as a government visitor shall be:

(1) Selected by a U.S. federal, state, and local government agency;

(2) Engaged in consultation, observation, training, or demonstration of special skills; and

(3) An influential or distinguished person.

(e) *Program disclosure.* Before the beginning of the program, the sponsor shall provide the government visitor with:

(1) Information on the length and location(s) of his or her exchange visitor program;

(2) A summary of the significant components of the program; and

(3) A written statement which clearly states the stipend, if any, to be paid to the government visitor.

(f) *Issuance of Form IAP–66.* The Form IAP–66 shall be issued only after the government visitor has been selected by a U.S. federal, state, or local government agency and accepted by the private and/or public organization(s) with whom he or she will participate in the exchange visitor program.

(g) *Location of the exchange.* The government visitor shall participate in an exchange visitor program at the locations listed on his or her Form IAP–66.

(h) *Duration of participation.* The government visitor shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed eighteen months.

§ 514.30 Camp counselors.

(a) *Introduction.* In order to promote diverse opportunities for participation in educational and cultural exchange programs, the Agency designates exchange sponsors to facilitate the entry of foreign nationals to serve as counselors in U.S. summer camps. These programs promote international understanding by improving American knowledge of foreign cultures while enabling foreign participants to increase their knowledge of American culture. The foreign participants are best able to carry out this objective by serving as counselors per se, that is, having direct responsibility for supervision of groups of American youth and of activities that bring them into interaction with their charges. While it is recognized that some non-counseling chores are an essential part of camp life for all counselors, this program is not intended to assist American camps in bringing in foreign nationals to serve as administrative personnel, cooks, or menial laborers, such as dishwashers or janitors.

(b) *Participant eligibility.* Participation in camp counselor exchange programs is limited to foreign nationals who:

(1) Are at least 18 years of age;

(2) Are *bona fide* youth workers, students, teachers, or individuals with specialized skills; and

(3) Have not previously participated more than once in a camp counselor exchange.

(c) *Participant selection.* In addition to satisfying the requirements in § 514.10(a), sponsors shall adequately screen all international candidates for camp counselor programs and at a minimum:

(1) Conduct an in-person interview; and

(2) Secure references from a participant's employer or teacher regarding his or her suitability for participation in a camp counselor exchange.

(d) *Participant orientation.* Sponsors shall provide participants, prior to their departure from the home country, detailed information regarding:

(1) Duties and responsibilities relating to their service as a camp counselor;

(2) Contractual obligations relating to their acceptance of a camp counselor position; and

(3) Financial compensation for their service as a camp counselor.

(e) *Participant placements.* Sponsors shall place eligible participants at camping facilities which are:

(1) Accredited;

(2) A member in good standing of the American Camping Association;

(3) Officially affiliated with a nationally recognized non-profit organization; or

(4) Have been inspected, evaluated, and approved by the sponsor.

(f) *Participant compensation.* Sponsors shall ensure that international participants receive pay and benefits commensurate with those offered to their American counterparts.

(g) *Participant supervision.* Sponsors shall provide all participants with a phone number which allows 24 hour immediate contact with the sponsor.

(h) *Program administration.* Sponsors shall:

(1) Comply with all provisions set forth in subpart A of this part;

(2) Not facilitate the entry of any participant for a program of more than four months duration; and

(3) Under no circumstance facilitate the entry into the United States of a participant for whom a camp placement has not been pre-arranged.

(i) *Placement report.* In lieu of listing the name and address of the camp facility at which the participant is placed on Form IAP–66, sponsors shall submit to the Agency, no later than July 1st of each year, a report of all participant placements. Such report shall reflect the participant's name and camp placement.

Subpart C—Status of Exchange Visitors

§ 514.40 Termination of program participation.

(a) A sponsor shall terminate an exchange visitor's participation in its program when the exchange visitor:

(1) Fails to pursue the activities for which he or she was admitted to the United States;

(2) Is unable to continue, unless otherwise exempted pursuant to these regulations;

(3) Violates the Exchange Visitor Program regulations and/or the sponsor's rules governing the program, if, in the sponsor's opinion, termination is warranted;

(4) Willfully fails to maintain the insurance coverage required under § 514.14 of these regulations; or

(b) An exchange visitor's participation in the Exchange Visitor Program is subject to termination when he or she engages in unauthorized employment. Upon establishing such violation, the Agency shall terminate the exchange visitor's participation in the Exchange Visitor Program.

§ 514.41 Change of category.

(a) The Agency may, in its discretion, permit an exchange visitor to change his or her category of exchange participation. Any change in category must be clearly consistent with and closely related to the participant's original exchange objective and necessary due to unusual or exceptional circumstances.

(b) A request for change of category along with supporting justification must be submitted to the Agency by the participant's sponsor. Upon Agency approval the sponsor shall issue to the exchange visitor a duly executed Form IAP–66 reflecting such change of category and provide a notification copy of such form to the Agency.

(c) Requests for change of category from research scholar to student will be evaluated recognizing the fact that, in some cases, research skills can be substantially enhanced by doctoral study.

(d) An exchange visitor who applies for a change of category pursuant to these regulations is considered to be maintaining lawful status during the pendency of the application.

(e) An exchange visitor who applies for a change of category and who subsequently receives notice from the Agency that the request has been denied is considered to be maintaining lawful status for an additional period of thirty days from the day of such notice, during which time the exchange visitor is

expected to depart the country, or for a period of thirty days from expiration of the exchange visitors' Form IAP–66, whichever is later.

§ 514.42 Transfer of program.

(a) Program sponsors may, pursuant to the provisions set forth in this section, permit an exchange visitor to transfer from one designated program to another designated program.

(b) The responsible officer of the program to which the exchange visitor is transferring:

(1) Shall verify the exchange visitor's visa status and program eligibility;

(2) Execute the Form IAP–66; and

(3) Secure the written release of the current sponsor.

(c) Upon return of the completed Form IAP–66, the responsible officer of the program to which the exchange visitor has transferred shall provide:

(1) The exchange visitor his or her copy of the Form IAP–66; and

(2) A notification copy of such form to the Agency.

§ 514.43 Extension of Program.

(a) Responsible officers may extend an exchange visitor's participation in the Exchange Visitor Program up to the limit of the permissible period of participation authorized for his or her specific program category.

(b) A responsible officer extending the program of an exchange visitor shall issue to the exchange visitor a duly executed Form IAP–66 reflecting such extension and provide a notification copy of such form to the Agency.

(c) The responsible officer seeking a program extension on behalf of an exchange visitor in excess of that authorized for his or her specific category of participation shall:

(1) Adequately document the reasons which justify such extension; and

(2) Secure the prior written approval of the Agency for such extension.

(d) In addition to individual requests, the Agency shall entertain requests for groups of similarly situated exchange visitors.

§ 514.44 Two-year home-country physical presence requirement.

(a) *Statutory basis for rule.* Section 212(e) of the Immigration and Nationality Act, as amended, provides in substance as follows:

(1) No person admitted under Section 101(a) (15)(J) or acquiring such status after admission:

(i) Whose participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the United States Government or by the government of the country of his nationality or of his last legal permanent residence;

(ii) Who at the time of admission or acquisition of status under 101(a)(15)(J) was a national or resident of a country which the Director of the United States Information Agency, pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged [See "Exchange Visitor Skills List", 49 FR 24194, *et seq.* (June 12, 1984) as amended]; or

(ii) Who came to the United States or acquired such status in order to receive graduate medical education or training, shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) or section 101(a)(15)(L) until is established that such person has resided and been physically present in the country of his nationality or his last legal permanent residence for an aggregate of at least two years following departure from the United States.

(2) Upon the favorable recommendation of the Director of the United States Information Agency, pursuant to the request of an interested United States Government agency, or of the Commissioner of Immigration and Naturalization after the latter has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or a legal permanent alien), or that the alien cannot return to the country of his nationality or last legal permanent residence because he would be subject to persecution on account of race, religion, or political opinion, the Attorney General may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Attorney General to be in the national interest.

(3) Except in the case of an alien who is a graduate of a medical school pursuing a program in graduate medical education or training, the Attorney General, upon the favorable recommendation of the Director of the United States Information Agency, may also waive such two-year foreign residency requirement in any case in which the foreign country of the alien's nationality or last legal permanent residence has furnished the Director of the United States Information Agency a statement in writing that it has no objection to such waiver in the case of such alien.

(b) *Request for waiver on the basis of exceptional hardship or probable persecution on account of race, religion, or political opinion.* (1) An exchange visitor who seeks a waiver of the two-year home-country physical presence requirement on the grounds that such requirement would impose exceptional hardship upon the exchange visitor's spouse or child (if such spouse or child is a citizen of the United States or a legal permanent resident alien), or on the grounds that such requirement would subject the exchange visitor to persecution on account of race, religion, or political opinion, shall submit the application for waiver (INS Form I–612) to the District Office of the Immigration and Naturalization Service having administrative jurisdiction over the exchange visitor's place of temporary residence in the United States, or, if the exchange visitor has already departed the United States, to the district Office having administrative jurisdiction over the exchange visitor's last legal place of residence in the United States.

(2)(i) If the Commissioner of the Immigration and Naturalization Service ("Commissioner") determines that compliance with the two-year home-country physical presence requirement would impose exceptional hardship upon the spouse or child of the exchange visitor, or would subject the exchange visitor to persecution on account of race, religion, or political opinion, the Commissioner shall transmit a copy of his determination together with a summary of the details of the expected hardship or persecution, to the Waiver Review Branch, office of Exchange Visitor Program Services, in the Agency's Office of General Counsel.

(ii) With respect to those cases in which the Commissioner has determined that compliance with the two-year home-country physical presence requirement would impose exceptional hardship upon the spouse or child of the exchange visitor, the Waiver Review Branch shall review the program, policy, and foreign relations aspects of the case, make a recommendation, and forward it to the Commissioner. If it deems it appropriate, the Agency may request the views of each of the exchange visitors' sponsors concerning the waiver application. Except as set forth in § 514.44(f)(4), *infra*, the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency.

(iii) With respect to those cases in which the Commissioner has determined that compliance with the

two-year home-country physical presence requirement would subject the exchange visitor to persecution on account of race, religion, or political opinion, the Waiver Review Branch shall review the program, policy, and foreign relations aspects of the case, and after consulting thereon with the Bureau of Human Rights and Humanitarian Affairs of the United States Department of State, make a recommendation, and forward such recommendation to the Commissioner. Except as set forth in § 514.44(f)(4), *infra*, the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency and such recommendation shall be forwarded to the Commissioner.

(c) *Requests for waiver made by an interested United States Government agency.* If an exchange visitor is a participant in an exchange visitor program or activity sponsored by or of interest to an agency of the United States Government, said agency may apply to the Waiver Review Branch for a waiver of the two-year home-country physical presence requirement on the ground that the granting of the waiver would be in the public interest and the exchange visitor's compliance with said requirement would be detrimental to a program or activity of interest to that agency. The application shall identify by name or location the organization which will utilize the exchange visitor's services and the name and address of the exchange visitor in the United States. The Waiver Review Branch shall review the program, policy, and foreign relations aspects of the case and forward its recommendation to the Commissioner. Except as set forth in § 514.44(f)(4), *infra*, the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency.

(d) *Requests for waiver made on the basis of a statement from the exchange visitor's home-country that it has no objection to the waiver.* (1) Applications for waiver of the two-year home-country physical presence requirement may be supported by a statement of no objection by the exchange visitor's country of nationality or last legal permanent residence. The statement of no objection shall be directed to the Director through diplomatic channels; i.e., from the country's Foreign Office to the Agency through the U.S. Mission in the foreign country concerned, or through the foreign country's head of mission or duly appointed designee in the United States to the Director in the form of a diplomatic note. This note shall include applicant's full name, date and place of birth, and present address. Upon receipt of the no objection statement, the Waiver Review Branch shall instruct the applicant to complete a data sheet and to provide all Forms IAP–66 and the data sheet to the Waiver Review Branch. If deemed appropriate, the Agency may request the views of each of the exchange visitor's sponsors concerning the waiver application.

(2) The Waiver Review Branch shall review the program, policy, and foreign relations aspects of the case and forward its recommendation to the Commissioner. Except as set forth in § 514.44(f)(4), *infra*, the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency.

(3) An exchange visitor who is a graduate of a foreign medical school and who is pursuing a program in graduate medical education or training in the United States is prohibited under section 212(e) of the Immigration and Nationality Act from applying for a waiver on the basis of no objection from his or her country of nationality or last legal permanent residence.

(e) *Changed circumstances.* An applicant for a waiver on the grounds of extreme hardship or probable persecution on account of race, religion, or political opinion, has a continuing obligation to inform the Immigration and Naturalization Service of changed circumstances material to his or her pending application.

(f) *The Exchange Visitor Waiver Review Board.* (1) The Exchange Visitor Waiver Review Board ("Board") shall consist of the following Agency officers:

(i) The Deputy Associate Director of the Bureau of Educational and Cultural Affairs, or his or her designee, who shall serve as presiding officer of the Board;

(ii) An officer appointed by the Deputy Associate Director of the Bureau of Educational and Cultural Affairs from an appropriate office of the Bureau; and

(iii) The Deputy Director of the geographic area office responsible for the geographical area of the waiver applicant, or his or her designee.

(2) The Director of the office of Exchange Visitor Program Services or his or her designee shall serve as the Executive Secretary of the Board and shall present the facts of the waiver case to the Board, but shall not take part in the Board's deliberations.

(3) A person who has had substantial prior involvement in the particular case pending before the Board shall not be appointed to serve on the Board.

(4) The following waiver cases shall be referred to the Board for review:

(i) Cases involving requests of interested United States Government agencies, in which the recommendation of the Waiver Review Branch was unfavorable;

(ii) Cases in which another federal agency has provided the Agency with a written opposition to a waiver in which the recommendation of the Waiver Review Branch was favorable;

(iii) Cases in which a no objection letter has been submitted by the government of the exchange visitor's country of nationality or last legal residence, and in which the exchange visitor's participation in an exchange visitor program was financed by the United States Government in an amount not exceeding $2,000, and as to which the recommendation of the Waiver Review Branch was unfavorable;

(iv) Cases involving claims of probable persecution on the grounds of race, religion, or political opinion, in which the Department of State has provided the Agency with a written opinion that there is no genuine basis for a claim of probable persecution on the ground alleged by the applicant, and as to which the recommendation of the Waiver Review Board was favorable; and

(v) Cases in which for any reason the Waiver Review Branch requests Board review of its decision.

(g) *Action on cases referred to the Board.* (1) In each case to be referred to the Board pursuant to § 514.44(f)(4), *supra*, the Waiver Review Branch shall transmit its complete file on the case, along with a request to convene the Board, to the Director of the office of Exchange Visitor Program Services.

(2) The Director of the office of Exchange Visitor Program Services shall promptly convene the Board and notify the Agency's General Counsel of such convening of the Board.

(3) The General Counsel shall appoint, on a case-by-case basis, from among the attorneys in the Office of the General Counsel, one attorney to serve as legal advisor to the Board.

(4) Upon being convened, the Board shall review the case file and the program, policy, and foreign relations aspects of the case.

(5) The Board may consult with the attorney in the Office of the General Counsel who has been designated to serve as legal advisor to the Board.

(6) The Board may request that officers of the Waiver Review Branch appear before the Board and explain orally the basis for the recommendation of the Waiver Branch; however, no persons other than members of the Board and the Board's legal advisor may be present during the Board's deliberations.

(7) At the conclusion of its review of the case, the Board shall make a written

recommendation either granting or denying the waiver application. The recommendation of a majority of the Board shall constitute the recommendation of the Board.

(8) Each member of the Board shall sign the recommendation and promptly transmit the recommendation to the Waiver Review Branch.

(9) The recommendation of the Board in any case reviewed by it shall constitute the recommendation of the Agency and such recommendation shall be forwarded by the Director of EVPS to the Commissioner.

Subpart D—Sanctions

§ 514.50 Sanctions.

(a) *Reason for sanctions.* The Agency may, upon a determination by the office of Exchange Visitor Program Services ("EVPS"), impose sanctions against a sponsor which has:

(1) Willfully or negligently violated one or more provisions of this part;

(2) Evidenced a pattern of willful or negligent failure to comply with one or more provisions of this part;

(3) Committed an act of omission or commission which has or could have the effect of endangering the health, safety, or welfare of an exchange visitor; or

(4) Committed an act or acts which may have the effect of bringing the Agency or the Exchange Visitor Program into notoriety or disrepute.

(b) *Lesser sanctions.* (1) In order to ensure full compliance with the regulations in this part, the Agency, in its discretion and depending on the nature and seriousness of the violation, may impose any or all of the following sanctions ("lesser sanctions") on a sponsor for any of the reasons set forth in § 514.50(a):

(i) A written reprimand to the sponsor, with a warning that repeated or persistent violations of the regulations in this Part may result in suspension or revocation of the sponsor's exchange visitor program designation, or other sanctions as set forth herein;

(ii) A declaration placing the exchange visitor sponsor on probation, for a period of time determined by the Agency in its discretion, signifying a pattern of serious willful or negligent violation of regulations such that further violations could lead to suspension or revocation;

(iii) A corrective action plan designed to cure the sponsor's violations; or

(iv) A limitation or reduction in the authorized number of exchange visitors in the sponsor's program or in the geographic area of the sponsor's recruitment or activity.

(2) Within ten days of service of the written notice to the sponsor imposing any of the sanctions set forth in this paragraph, the sponsor may submit to EVPS any statement or information, including, if appropriate, any documentary evidence or affidavits in opposition to or mitigation of the sanction, and may request a conference. Upon its review and consideration of such submission, the Agency may,in its discretion, modify, withdraw, or confirm such sanction. All materials submitted by the sponsor shall become a part of the sponsor's file with EVPS. The decision of EVPS is not appealable with regard to lesser sanctions in paragraphs (b)(1)(i) to (iv), if:

(i) The proposed limitation in the size of the sponsor's program is equivalent to 10 percent or less of the number of authorized visitors in the sponsor's program during the previous calendar year; or

(ii) The proposed limitation in the size of the sponsor's program will not cause a significant financial burden for the sponsor.

(c) *Suspension or significant program limitation.* (1) Upon a finding that a suspension, or a reduction in the sponsor's program equivalent to a number greater than 10 percent of the number of authorized visitors, is warranted for any of the reasons set forth at § 514.50(a), EVPS shall give written notice to the sponsor of the Agency's intent to impose the sanction, specifying therein the reasons for such sanction and the effective date thereof, which shall not be sooner than 30 days after the date of the letter of notification.

(2) Prior to the proposed effective date of such sanction, the sponsor may submit a protest to EVPS, setting forth therein any reasons why suspension should not be imposed, and presenting any documentary evidence in support thereof, and demonstrating that the sponsor is in compliance with all lawful requirements. All materials submitted by the sponsor shall become a part of the sponsor's file with EVPS.

(3) EVPS shall review and consider the sponsor's submission and, within seven (7) days of receipt thereof, notify the sponsor in writing of its decision on whether the sanction is to be affected. In the event that the decision is to impose the sanction, such notice shall inform the sponsor of its right to appeal the sanction and of its right to a formal hearing thereon.

(4) The sponsor may within ten (10) days after receipt of the aforesaid notice effecting the sanction, appeal the sanction to the Exchange Visitor Program Designation, Suspension and Revocation Board ("Board") by filing a notice of appeal with the Agency's General Counsel, room 700, 301 4th Street, SW., Washington, DC 20547. The filing of the notice of appeal shall serve to stay the effective date of the sanction pending appeal.

(5) Upon receipt of the notice of appeal, the General Counsel or his or her designee, shall, within ten (10) days, convene the Board. Thereafter, proceedings before the Board shall follow the regulations set forth in § 514.50(i), *infra*.

(d) *Summary suspension.* (1) EVPS may, upon a finding that a sponsor has willfully or negligently committed a serious act of omission or commission which has or could have the effect of endangering the health, safety, or welfare of an exchange visitor, and upon written notice to the sponsor specifying the reason therefor and the effective date thereof, notify the sponsor of the Agency's intent to suspend the designation of the sponsor's program for a period not to exceed sixty (60) days.

(2) No later than three (3) days after receipt of such notification, the sponsor may submit a rebuttal to the EVPS, setting forth therein any reasons why a suspension should not be imposed.

(3) The sponsor may present any statement or information in such protest, including, if appropriate, any documentary evidence or affidavits in opposition to or mitigation of the sanction, and demonstrating that the sponsor is in compliance with all lawful requirements. All materials submitted by the sponsor shall become a part of the sponsor's file with EVPS. Within three (3) days of receipt of such submissions, EVPS shall notify the sponsor in writing of its decision whether to effect the suspension. In the event the decision is to effect the suspension, such notice shall advise the sponsor of its right to appeal the suspension and of its right to a formal hearing thereon.

(4) The sponsor may, within ten (10) days after receipt of the aforesaid notice continuing the suspension, appeal the suspension to the Board by filing a notice of appeal with the Agency's General Counsel, room 700, 301 4th Street, SW., Washington, DC 20547. The filing of the notice of appeal of a summary suspension shall not serve to stay the suspension pending appeal.

(5) Upon receipt of the notice of appeal, the General Counsel or his or her designee shall, within ten (10) days, convene the Board. Thereafter, proceedings before the Board shall follow the regulations set forth in § 514.50(i), *infra*.

(e) *Revocation.* (1) EVPS may, for any reason set forth at § 514.50(a), give the

sponsor not less than thirty (30) days notice in writing of its intent to revoke the sponsor's exchange visitor program designation, specifying therein the grounds for such revocation and the effective date of the revocation. Revocation need not be preceded by the imposition of a summary suspension, a suspension, or any lesser sanctions.

(2) Within ten (10) days of receipt of the aforesaid notice of intent to revoke, the sponsor shall have an opportunity to show cause as to why such revocation should not be imposed, and may submit to EVPS any statement of information, including, if appropriate, any documentary evidence or affidavits in opposition to or mitigation of the violations charged, and demonstrating that the sponsor is in compliance with all lawful requirements. All materials submitted by the sponsor shall become a part of the sponsor's file with EVPS.

(3) EVPS shall review and consider the sponsor's submission and, thereafter, notify the sponsor in writing of its decision on whether the revocation is to be effected. In the event that the decision on whether the revocation is to effect the revocation, such notice shall advise the sponsor of its right to appeal the revocation and of its right to a formal hearing thereon.

(4) The sponsor may, within twenty (20) days after receipt of the aforesaid notice effecting the revocation, appeal the revocation to the Board by filing a notice of appeal with the Agency's General Counsel, room 700, 301 4th Street, SW., Washington, DC 20547. The filing of the notice of appeal shall serve to stay the effective date of the revocation pending appeal.

(5) Upon receipt of the notice of appeal the General Counsel or his or her designee shall, within ten (10) days, convene the Board. Thereafter, proceedings before the Board shall follow the regulations set forth in § 514.50(i), *infra*.

(f) *Responsible officers.* (1) The Agency may direct a sponsor to summarily suspend, suspend or revoke the appointment of a responsible officer or alternate responsible officer for any of the reasons set forth in paragraph "(a)" above.

(2) In the event that such action is directed, the sponsor shall be entitled to all of the rights of review or appeal that are accorded to a sponsor under paragraphs "(b)", "(c)", "(d)", and "(e)" of this section.

(g) *Denial of application for redesignation.* (1) EVPS shall give an applicant for redesignation not less than thirty (30) days notice in writing of its intentions to deny the application for exchange visitor program redesignation, specifying therein the grounds for such denial.

(2) Within ten (10) days of receipt of the aforesaid notice of intent to deny the application, the applicant shall have an opportunity to demonstrate why the application should be approved, and may submit to EVPS any statement or information including, if appropriate, any documentary evidence or affidavits in support of its application.

(3) EVPS shall review and consider the applicant's submission and thereafter notify the applicant in writing of its decision on whether the application for redesignation will be approved. In the event that the decision is to deny the applicant, such notice shall advise the applicant of its right to appeal the denial and of its right to a formal hearing thereon.

(4) The applicant may, within twenty (20) days after receipt of the aforesaid notice of denial, appeal the denial to the Board by filing a notice of appeal with the Agency's General Counsel, room 700, 301 4th Street, SW., Washington, DC 20547.

(5) Upon receipt of the notice of appeal the General Counsel or his or her designee shall, within ten (10) days, convene the Board. Thereafter, proceedings before the Board shall follow the regulations set forth in § 514.50(i), *infra*.

(h) *The Exchange Visitor Program Designation, Suspension, and Revocation Board.* (1) The Exchange Visitor Program Designation, Suspension, and Revocation Board ("Board") shall consist of:

(i) The Deputy Associate Director of the Bureau of Educational and Cultural Affairs, or his or her designee, who shall serve as presiding officer of the Board;

(ii) The Deputy Director of the relevant geographic area office, or his or her designee; and

(iii) A member of the public appointed by the Deputy Associate Director of the Bureau of Educational and Cultural Affairs. A different public member shall be appointed for each sanction case brought before the Board.

(2) The General Counsel of the Agency shall appoint an attorney in the Office of the General Counsel to prosecute the case before the Board on behalf of the Agency. Such attorney shall not take part in the deliberations of the Board.

(3) The General Counsel of the Agency shall also appoint an attorney in the Office of the General Counsel to serve as a legal advisor to the Board. Such attorney shall not have had any substantial prior involvement with the particular case pending before the Board.

(i) *General powers of the board.* At any hearing before the Board pursuant to this Part, the Board may:

(1) Administer oaths and affirmations,

(2) Rule on offers of proof and receive any oral or documentary evidence;

(3) Require the parties to submit lists of proposed witnesses and exhibits, and otherwise regulate the course of the hearing;

(4) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(5) Dispose of motions, procedural requests, or similar matters; and

(6) Make decisions, which shall include findings of fact and conclusions of law on all the material issues of fact, law or discretion presented on the record, and the appropriate sanction or denial thereof.

(j) *Proceedings before the board.* The following procedures shall govern all designation, suspension, summary suspension, and revocation proceedings before the Board:

(1) Upon being convened, the Board shall schedule a hearing, within ten (10) days, at which hearing the parties may appear on their own behalf or by counsel, present oral or written evidence, and cross-examine witnesses. A substantially verbatim record of the hearing shall be made and shall become a part of the record of the proceeding;

(2) At the conclusion of the hearing, the Board shall promptly review the evidence and issue a written decision within ten (10) days, signed by a majority of the members, stating the basis for its decision. The decision of the majority shall be the decision of the Board. If a Board member disagrees with the majority, the member may write a dissenting opinion;

(3) If the Board decides to affirm the suspension, summary suspension, revocation, or denial of redesignation, a copy of its decision shall be delivered to EVPS, the sponsor, the Immigration and Naturalization Service, and the Bureau of Consular Affairs of the Department of State. EVPS, at its discretion, may distribute the Board's decision as it deems appropriate; and

(4) The suspension, revocation, or denial of designation shall be effective as of the date of the Board's decision.

(k) *Effect of suspension, summary suspension, revocation, or denial of redesignation.* A sponsor against which an order of suspension, summary suspension, revocation, or denial of redesignation has been entered shall not thereafter issue any Forms IAP–66, advertise, recruit, or otherwise promote its program, and under no circumstances shall the sponsor facilitate the entry of an exchange

visitor. Suspension, summary suspension, revocation, or denial of redesignation shall not invalidate any Forms IAP–66 issued prior to the effective date of the suspension, summary suspension, revocation, or denial of redesignation, nor shall the suspension, summary suspension, revocation, or denial of redesignation in any way diminish or restrict the sponsor's legal or financial responsibilities to existing program participants.

(l) *Miscellaneous*—(1) *Computation of time.* In computing any period of time prescribed or allowed by these regulations, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a federal legal holiday, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays, or federal legal holidays shall be excluded in the computation.

(2) *Service of notice on sponsor.* When used in these regulations the terms "written notice to the sponsor" shall mean service of written notice by mail, delivery or facsimile, upon either the president, managing director, responsible officer, or alternate responsible officer of the sponsor.

Subpart E—Termination and Revocation of Programs

§514.60 Termination of designation.

Designation shall be terminated when any of the circumstances set forth in this section occur.

(a) *Voluntary termination.* A sponsor may voluntarily terminate its designation by notifying the Agency of such intent. The sponsor's designation shall terminate upon such notification. Such sponsor may reapply for designation.

(b) *Inactivity.* A sponsor's designation shall automatically terminate for inactivity if the sponsor fails to comply with the minimum size or duration requirements, as specified in § 514.8 (a) and (b), in any twelve month period. Such sponsor may reapply for program designation.

(c) *Failure to file annual reports.* A sponsor's designation shall automatically terminate if the sponsor fails to file annual reports for two consecutive years. Such sponsor is eligible to reapply for program designation upon the filing of the past due annual reports.

(d) *Change in ownership or control.* An exchange visitor program designation is not assignable or transferable. A major change in ownership or control automatically terminates the designation. However, the successor sponsor may apply to the Agency for redesignation and may continue its exchange visitor activities while approval of the application for redesignation is pending before the Agency.

(1) With respect to a for-profit corporation, a major change in ownership shall be deemed to have occurred when thirty-three and one-third percent (33⅓ percent) or more of its stock is sold or otherwise transferred within a 12 month period;

(2) With respect to a not-for-profit corporation, a major change of control shall be deemed to have occurred when fifty-one percent or more of the board of trustees, or other like body vested with its management, is replaced within a 12-month period.

(e) *Loss of licensure or accreditation.* A sponsor's designation shall automatically terminate in the event that the sponsor fails to remain in compliance with local, state, federal, or professional requirements necessary to carry out the activity for which it is designated, including loss of accreditation or licensure.

(f) *Failure to apply for redesignation.* Prior to the conclusion of its current designation period, the sponsor is required to apply for redesignation pursuant to the terms and conditions of § 514.7. Failure to apply for redesignation will result in the automatic termination of the sponsor's designation. If so terminated, the former sponsor may apply for a new designation, but the program activity will be suspended during the pendency of the application.

§514.61 Revocation.

A designation may be terminated by revocation for cause as specified in § 514.50. A sponsor whose designation has been revoked may not apply for a new designation within a five-year period.

§514.62 Responsibilities of the sponsor upon termination or revocation.

Upon termination or revocation of its designation, the sponsor shall:

(a) Fulfill its responsibilities to all exchange visitors who are in the United States at the time of the termination or revocation;

(b) Notify exchange visitors who have not entered the United States that the program has been terminated unless a transfer to another designated program can be obtained; and

(c) Return all Forms IAP–66 in the sponsor's possession to the Agency within 30 days of program termination or revocation.

Subpart F—Reserved

Subpart G—Summer/Work Travel

§514.8 Summer Student Travel/Work Program.

(a) The following criteria apply to United States organizations which have been designated by the United States Information Agency (USIA) to administer Summer Student Travel/Work Programs. These programs are designed to achieve the educational objectives of international exchange by involving students during their summer vacations directly in the daily life of the host country through temporary employment opportunities. The criteria require program sponsors to promote the exchange of United States and foreign students on a reciprocal basis thereby assuring that the operation of such programs will not have an adverse impact on labor opportunities for United States youth in the 18–23 year age bracket.

(1) *Selection.* The selection will be limited to bona fide university students screened for maturity and ability to get maximum benefit from Summer Travel/Work Programs. Priority consideration will be given to students who do not live in close proximity to the United States who would not be able to visit this country if temporary work permission were not authorized to help defray their travel expenses.

(2) *Orientation.* All students shall be provided with orientation, both pre-departure and upon arrival in the United States. The orientation should be designed to give the students a good basic knowledge of our country and its people. Students should be fully informed of the nature of the program in which they are participating. They should be provided with some type of identification card which includes the name and phone number of an official of the sponsoring organization as well as the number of the Exchange-Visitor Program in which they are participating. In addition, orientation should cover proper methods of obtaining and holding a job and the customary practices of giving employers adequate advance notice of resignation. Students should be fully briefed on the employment situation in the United States and advised not to seek employment in areas where a high unemployment situation exists.

(3) *Supervision.* Sponsors must be prepared to help their students at any time they have a medical, personal, employment, or other type of problem.

(4) *Jobs.* Each student sponsored on such a program must have a prearranged job before he or she comes to the United States, or firm appointments with prospective employers, or have sufficient personal funds so as to be financially independent if not employed.

(5) *United States employment.* Sponsors are required to check in advance with the Department of Labor to obtain information regarding areas or cities which have a high unemployment rate. Students should be advised to avoid such areas in seeking employment.

(6) *Financial responsibility.* Sponsors are required to ensure that all participants return home at no charge to the United States Government.

(7) *Health and accident insurance.* Sponsors shall ensure that every student has health and accident insurance coverage from the time of departure from home until the student returns to his or her home country. Minimum acceptable insurance is:

(i) Medical and accident coverage up to $2,000 per injury or illness; and

(ii) Preparation and transportation of remains to home country (at least $2,000). Coverage may be provided in one of the following ways:

(A) By health and accident coverage arranged for by the student.

(B) By health and accident insurance coverage arranged for by the sponsor.

(8) *Geographical distribution.* Sponsors shall develop plans to ensure that groups of students, especially those of the same nationality, are not "clustered" in certain areas or cities. Every effort should be made to have the students widely dispersed throughout the country.

(9) *Arrival time.* Students for whom the sponsors have arranged "preplacement" for jobs can begin their programs at any time. Travel for students who have not been "preplaced" should be delayed by the sponsors as late as possible, preferably after June 15. Such delayed travel will give American students who are interested in obtaining summer jobs from two to four weeks in a less competitive market.

(10) *Reciprocity.* Sponsors are required to administer Student Travel/Work Programs on a reciprocal basis. The number of foreign students a sponsor brings to the United States under this program shall not exceed, in any calendar year, the number of American students who were sent abroad by the sponsor on a Travel/Work Program. Should a sponsor fail in the realization of reciprocity in any given calendar year, the Agency may restrict the number of foreign students that the sponsor brings to the United States in the next calendar year to the number sent abroad by the sponsor in the preceding calendar year.

(11) *Report requirement.* Sponsors are required to submit an annual report, not later than January 31, on the United States students who were sent abroad the previous calendar year under Travel/Work Programs. The report should contain the following information: Name and United States address of the student, the country where the student was employed, name of employer and type of business, and the type and length of employment (dates). The report should also include an ongoing evaluation of both the incoming program for foreign students and the outgoing program for American students. Major problems encountered in the administration of the program should also be listed. Failure to submit the report by January 31 will result in the automatic suspension of the program. The program will not be reactivated until the report is received by USIA and the sponsor notified that suspension has been lifted.

(12) *Unauthorized activities.* Employment as servants, mother's helpers, au pair or other jobs of a domestic nature in private homes is not authorized. Employment must be of a commercial or industrial nature. Also, employment as a Camp Counselor is not authorized under the Travel/Work Program. All such unauthorized placements will be removed from the count of United States placements abroad which could reduce the number of foreign students which the sponsor will be permitted to bring into the United States during the following year.

(b) [Reserved]

Appendix A to Part 514—Certification of Responsible Officers and Sponsors

In accordance with the requirement at § 514.5(c)(6), the text of the certifications shall read as follows:

1. Responsible Officers and Alternate Responsible Officers

I hereby certify that I am the responsible officer (or alternate responsible officer, specify) for exchange visitor program number _____, and that I am a United States citizen or permanent resident. I understand that the United States Information Agency may request supporting documentation as to my citizenship or permanent residence at any time and that I must supply such documentation when and as requested. (Name of organization) agrees that my inability to substantiate the representation of citizenship or permanent residence made in this certification will result in the immediate withdrawal of its designation and the immediate return of or accounting for all Forms IAP–66 transferred to it.

Signed in ink by

_____

(Name)

_____

(Title)

Witness: _____

This _____day of _____, 19____. Subscribed and sworn to before me this _____day of _____, 19____.

_____

Notary Public

2. *Sponsors.*

I hereby certify that I am the chief executive officer of (Name of Organization) with the title of (specify); that I am authorized to sign this certification and bind (Name of Organization). I further certify that (Name of Organization) is a citizen of the United States as that term is defined at 22 CFR § 514.2. (Name of Organization) agrees that inability to substantiate the representation of citizenship made in this certification will result in the immediate withdrawal of its designation and the immediate return of or accounting for all Forms IAP–66 transferred to it.

Signed in ink by

_____

(Name)

_____

(Title)

Attestation/Witness: _____

This _____day of _____, 19____. Subscribed and sworn to before me this _____day of _____, 19____.

_____

Notary Public

Appendix B to Part 514—Exchange Visitor Program Services, Exchange-Visitor Program Application

Form Approved OMB _____

Serial No. _____

1. Name and Address of Sponsoring Organization

_____

2. Name and Title of Responsible Officer

_____

Telephone Number

_____

3. Name and Title of Alternate Responsible Officer

_____

Telephone Number

_____

4. Type of Application (check one)

New _____ Re-Apply _____

Re-Designation _____

Section I—Program Participant Data (For Definition & Length of Stay See 22 CFR _____)

5. Participation by Category (indicate total no. and approximate duration of stay in each category)

A. Student _____
B. Teacher _____
C. Professor _____
D. Researcher _____
E. Short-term Scholar _____
F. Specialist _____
G. Trainee _____
1. Specialty _____
2. Nonspecialty _____
H. Int'l Visitor _____
I. Gov't Visitor _____
J. Physicians _____
K. Camp Cnslr _____
L. Sumr/Wk/Trvl _____

6. Method Of Selection

7. Arrangements for Financial Support of Exchange Visitor while in the U.S.

Section II—Program Data

8. Outline of Proposed Activities (If training, See Reverse)

9. Arrangements for Supervision and Direction

10. Purpose of Objective

11. Role of other Organizations Associated with Program (if any)

Section III—Certification

12. Citizenship Certification of Organization and Responsible Officer (see reverse)
13. I certify that information given in this application is true to the best of my knowledge and belief and that I have completed appropriate information on reverse of this form.

Signature of Responsible Officer

Date

Instructions for All Programs

If additional space is needed in supplying answers to any questions, please use continuation sheets on plain white paper.

1–3. Names and addresses of organization and telephone numbers.

4. Select type of application.

5. Select appropriate categories (see 22 CFR prior to filling out this data).

6–7. Complete information on program sponsor.

8–11. Complete information on program.

IF TRAINING PROGRAM, identify appropriate fields: 01—Arts & Culture; 02—Information Media and Communications; 03—Education; 04—Business and Commercial; 05—Banking and Financial; 06—Aviation; 07—Science, Mechanical and Industrial; 08—Construction and Building Trades; 09—Agricultural; 10—Public Administration; 11—Training, Other

Reapplication and Redesignation:

If your organization is making reapplication as an exchange visitor program, or applying for redesignation under 22 CFR ____, please certify to the following:

I hereby certify that as an officer of the organization making application for an exchange program under 22 CFR ____or 22 CFR ____that the following documents which have been submitted to the United States Information Agency, Exchange Visitor Program Services, remain in effect and not altered in any way:

(1) Legal status as a corporation such as Articles of Incorporation and By Laws. Provide dates and state of both:_____

(2) Accreditation. Provide date, type of accreditation, and State of accreditation:_____

(3) Evidence of Licensure. Provide date, type of license, and state of licensure:_____.

(4) Authorization of governing body authorizing application. Please provide date of such authorization and authorizing body:_____.

(5) Activities in which the organization has been engaged have not changed since application dated:_____.

(6) Citizenship. Provide the date of compliance with citizenship requirements:_____. If citizenship compliance is not current, please complete the following:

Organization: I hereby certify that I am an officer of _____with the title of _____; that I am authorized by the (Board of Directors, Trustees, etc.) to sign this certification and bind _____; and that a true copy certified by the (Board of Directors, Trustees, etc.) of such authorization is attached. I further certify that _____is a citizen of the United States as that term is defined at 22 CFR 514.1.

Responsible Officer or Alternate Responsible Officer: I hereby certify that I am the responsible officer (or alternate responsible officer) for _____, and that I am a citizen of the United States (or a person lawfully admitted to the United States for permanent residence. _____agrees that my inability to substantiate my citizenship or status as a permanent resident will result in the immediate withdrawal of its designation and immediate return of or accounting for all IAP–66 forms transferred to it.

Certification as to (1)–(6) Requirements:

I understand that false certification may subject me to criminal prosecution under 18 U.S.C. 1001, which reads: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme or device a material fact or makes any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both."

Signed in ink by (Name) _____
Title _____
Subscribed and sworn to before me this _____day of _____, 19____. Notary Public

USIA Use Only

Type of program: _____
Subtype if applicable: _____
No. Forms IAP–66: _____
Categories: _____

Please return form to:
Exchange Visitor Program Services-GC/V,
United States Information Agency,
Washington, DC 20547

Note: Public reporting burden for this collection of information (Paperwork Reduction Project: OMB No. 3116–0011) is estimated to average ____minutes/hours per response, including time for reviewing instructions, researching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to USIA Clearance Officer, M/ASP, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Appendix C to Part 514—Update of Information on Exchange-Visitor Program Sponsor

Please amend the United States Information Agency records for Exchange-Visitor
Program Number _____
assigned to _____as follows:
(Name of institution/organization)

1. Change the name of the Program Sponsor
from the above to _____

2. Change the address of the Program Sponsor
From: _____
_____
_____
_____
(city) (state) (zip)
To:
_____
_____
_____
_____
(city) (state) (zip)

3. ( ) Change the telephone number from _____to _____
( ) Change the fax number from _____to _____

4. ( ) Change the name of the Responsible Officer of the above program from _____ to _____

5. a. Delete the following Alternate Responsible Officer:
_____
_____
_____
_____

5. b. Add the following Alternate Responsible Officer:
_____
_____
_____
_____

(Citizenship is required for all Responsible and Alternate Responsible Officers-See Reverse)

6. ( ) Send _____(indicate number) IAP–66 forms. (PLEASE ALLOW FOUR TO SIX WEEKS FOR RESPONSE AND REMEMBER TO SUBMIT THE ANNUAL REPORT)

7. ( ) Send _____copies of this form.

8. ( ) Send _____copies of *Codes for Educational and Cultural Exchange.*

9. ( ) Cancel the above named Exchange Visitor Program.

_____
(Signature of Responsible or Alternate Responsible Officer)
_____

(Date)

(Title of Signing Officer)

Appendix D—Annual Report—Exchange Visitor Program Services (GC/V), United States Information Agency, Washington, DC 20547, (202–401–7964)

Exchange Visitor Program No. _____
Reporting Period _____Provide Range of Forms IAP–66 Documents Covered by this Report (_____-_____).

(a) STATISTICAL REPORT

(1) ACTIVITY BY CATEGORY

	Number
Professor	_____
Research Scholar	_____
Short-term Scholar	_____
Trainee	_____
Student (College and University)	_____
Student (Practical Trainee)	_____
Teacher	_____
Student (Secondary)	_____
Specialists	_____
Physicians	_____
International Visitors	_____
Government Visitors	_____
Camp Counselors	_____
Total	_____

(2) Forms IAP–66 Reconciliation

(i) Number of Forms IAP–66 voided or otherwise not used by participant _____.

(ii) Number of Forms IAP–66 issued for dependents _____.

(iii) Number of Forms IAP–66 currently on hand _____.

(b) PROGRAM EVALUATION

On a separate sheet, please provide a brief narrative report on program activity, difficulties encountered and their resolution, program transfers, anticipated growth and the proposed new activity, cross-cultural activities, as well as the reciprocal component of the program.

I, The Responsible Officer of the program indicated above, certify that we have complied with the insurance requirement (22 CFR 514.14). I also certify that the information contained in this report is complete and correct to the best of my knowledge and belief.

Responsible Officer (signed)
Date _____

Name and address of sponsoring institution

Appendix E to Part 514—Unskilled Occupations

For purposes of 22 CFR 514.22(c)(1), the following are considered to be "unskilled occupations":

(1) Assemblers
(2) Attendants, Parking Lot
(3) Attendants (Service Workers such as Personal Services Attendants, Amusement and Recreation Service Attendants)
(4) Automobile Service Station Attendants
(5) Bartenders
(6) Bookkeepers
(7) Caretakers
(8) Cashiers
(9) Charworkers and Cleaners
(10) Chauffeurs and Taxicab Drivers
(11) Cleaners, Hotel and Motel
(12) Clerks, General
(13) Clerks, Hotel
(14) Clerks and Checkers, Grocery Stores
(15) Clerk Typist
(16) Cooks, Short Order
(17) Counter and Fountain Workers
(18) Dining Room Attendants
(19) Electric Truck Operators
(20) Elevator Operators
(21) Floorworkers
(22) Groundskeepers
(23) Guards
(24) Helpers, any industry
(25) Hotel Cleaners
(26) Household Domestic Service Workers
(27) Housekeepers
(28) Janitors
(29) Key Punch Operators
(30) Kitchen Workers
(31) Laborers, Common
(32) Laborers, Farm
(33) Laborers, Mine
(34) Loopers and Toppers
(35) Material Handlers
(36) Nurses' Aides and Orderlies
(37) Packers, Markers, Bottlers and Related
(38) Porters
(39) Receptionists
(40) Sailors and Deck Hands
(41) Sales Clerks, General
(42) Sewing Machine Operators and Handstitchers
(43) Stock Room and Warehouse Workers
(44) Streetcar and Bus Conductors
(45) Telephone Operators
(46) Truck Drivers and Tractor Drivers
(47) Typist, Lesser Skilled
(48) Ushers, Recreation and Amusement
(49) Yard Workers

Appendix F to Part 514—Comments on October 9, 1992 Federal Register Notice

[**Note:** This Appendix will not appear in the Code of Federal Regulations]

Comments on the October 9, 1992 **Federal Register** Notice were received from the following parties:

Betsy Mikesell
Sarah L. Olbrich
Boy Scouts of America, National Office
The University of New Mexico
Merrimack Valley YMCA (2)
Brandeis University (2)
Xavier University
Virginia Polytechic Institute
The University of Iowa (5)
The University of Mississippi
Alan W. Boyd
Ohio State University
The Aloha Foundation
Fragomen, Del Rey & Bernsen (on behalf of North American Institute of Aviation)
University of New Orleans
Tulane University (4)
Hendrix Health Center, Moorhead State University
University of the State of New York
Wichita State University
Oregon State University (3)
American Secondary Schools For International Students and Teachers, Inc. (ASSIST)
Northeastern University (2)
Sanford Ronser
Rotary International, Youth Exchange Program District 5840
KDM Development Corp.
Trenton State College (2)
Augustana College
American Camping Association, New England Section
American Camping Association, Virginias Section
East-West Center
Center for Advanced Study in the Behavioral Sciences
American Immigration Lawyers Association (AILA)
George Fox College
University of Miami
Study Associates International
Helicopter Adventures, Inc.
Howe & Trowbridge
American Association of University Women Educational Foundation
AIESEC (enclosing a number of letters from members)
St. Paul's School
Russell Reynolds Associates, Inc.
Simpson College
Ronald N. Serota, CPA
The Fulbright Commission (The United States—United Kingdom Educational Commission)
University of Minnesota (2)
Colorado State University
Oklahoma State University
Eastern Michigan University
CDS International, Inc.
Massachusetts Institute of Technology (2)
Kentucky Rotary Youth International Exchange, Inc.
Vanderbilt University
Donald J. Hester
The Graduate School and University Center of the City University of New York (2)
University of Rochester
American Institute for Foreign Study
Pelican Express/Pelican Airways (2)
The American-Scandinavian Foundation
University of Pittsburgh
Iowa State University of Science and Technology
Central College
The British Embassy
University of Wisconsin, Madison
Loyola University
The University of Illinois at Chicago (3)
The University of Illinois at Urbana-Champaign
The University of Texas at Arlington
Massachusetts General Hospital (3)
Rutgers—The State University of New Jersey (2)
Salisbury School
Cornell University
North Carolina State University
Boston University
The City University of New York
Boston College

Independent Insurance Agents of America
Montana State University
BUNACAMP (British Universities North America Club)
The Taft School
Lehman College, The City University of New York
San Diego State University
Indiana University—Purdue University at Indianapolis
Northern Arizona University
St. Andrew's School
The University of Texas at Austin
The International School of Brussels
The Rockefeller Foundation
University of Colorado (5)
South Seas Plantation
Universities Research Associates, Inc.
University of Maine at Farmington
University of Houston
Abraham Baldwin Agricultural College
Milton-Union Exempted Village Schools
The Ritz-Carlton Hotel Company
Western Illinois University
Mrs. Carlyle F. Barnes
Rotary International Youth Exchange
Louisiana State University
William H. Connelly
AMIDEAST
Eastern States Student Exchange Program, Inc. (ESSEX)
Travel Insurance Services
Cape Cod Sea Camps
University of California, San Diego (3)
Association for International Practical Training (AIPT)
Council on International Educational Exchange
German Central Office for Job Placement
The Ohio State University (2)
Duke University
General Electric Technical Services Company, Inc.
Harvard University
University of Medicine & Dentistry of New Jersey
Timothy P. Fisher, Esq., P.C. (on behalf of ASSE International Student Exchange Programs, Inc.)
The University of Toledo (2)
YMCA International Program Services
EF Educational Foundation for Foreign Study
Mayo Foundation
Michigan State University
Antioch University
The School of the Art Institute of Chicago
Massachusetts College of Pharmacy & Allied Health Sciences
University of Wisconsin, Milwaukee
Stanford University
Texas Tech University
University of Michigan International Center
Purdue University
University of Pennsylvania
Louisiana State University and Agricultural and Mechanical College
Washington University
University of California, Davis (2)
Institute for Advanced Study, Princeton
Dawn Aeronautics, Inc.
The University of Chicago
Indiana University
The University of Alabama
The University of Texas Health Science Center at San Antonio
Spanish Heritage
International Flight Center, Inc.
The British Council
National Institutes of Health
Rotary Youth Exchange—Northern California, District 5160
The University of Tennessee—Knoxville
Sangamon State University
Luther College (2)
American Camping Association, Inc.
Fragomen, Del Rey & Bernsen, P.C. (on behalf of Manhattan Institute of Management)
Educational Commission for Foreign Medical Graduates
Yale University
Florida Atlantic University
Immigration and Naturalization Service
Girl Scouts of the United States of America
Sierra Academy of Aeronautics
Blue Cross—Blue Shield of Virginia
Blue Cross—Blue Shield Association
American Council on International Personnel
Little America Hotel
American Federation of Labor and Congress of Industrial Organizations
Jordan Schulte & Burchette (on behalf of the Ad Hoc Committee of Flight Training Schools for International Exchange)
Richard L. Fruchterman, Jr.
Association of American Medical Colleges
Association of American Universities
NAFSA—Association of International Educators
The Pennsylvania State University (2)
Mitchell Black
The Maine Teen Camp (2)
Merry Lymn, Esq.
International Exchange Association/The Liaison Group for International Educational Exchange
University of Virginia
International Exchange Association
Fiorello H. LaGuardia Community College
The University of Georgia
Duquesne University
University of California, Berkeley
Killooleet
National Association of Independent Schools (NAIS)
University of Hawaii
New York University (2)
Carnegie Mellon University
University of Southern California, Los Angeles
Woodberry Forest School
Camp Winnebago
Southern Illinois University at Edwardsville
The City University of New York
Columbia University in the City of New York
Rotary International, District 5030 Youth Exchange Comm.
Texas A & M University
University of Kentucky

[FR Doc. 93–5900 Filed 3–18–93; 8:45 am]
BILLING CODE 6230–01–M

federal register

Friday
March 19, 1993

Part III

Department of Commerce

National Telecommunications and Information Administration

National Endowment for Children's Educational Television; Notice of Fund Availability

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 930231-3031]

National Endowment for Children's Educational Television; Fund Availability

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Notice of availability of funds.

SUMMARY: The National Endowment for Children's Educational Television ("the Endowment") hereby gives notice of the availability of funds for the purpose of enhancing the education of children through the creation and production of television programming specifically directed toward the development of fundamental intellectual skills.

Congress has appropriated to date a total of $3 million for the Endowment. NTIA anticipates that in FY 1993 the Endowment will fund up to ten grant awards, depending on the nature of the projects and the need of the recipients. It is further anticipated that the Endowment's Federal awards will range from $10,000 to $1 million. The 1990 Act provides that the Department may award funds up to 75 percent of eligible project costs.[1] Due to the limitation of available funding, however, applicants are encouraged to provide as much outside funding as is feasible.

DATES: The closing date for submission of all Endowment Preliminary Applications (Pre-Applications) for the 1993–1994 grant cycle is May 5, 1993. Pre-Applications must be received at the Endowment office no later than 5 p.m., May 5, 1993, whether mailed or hand-delivered. Endowment Applications must be received at the Endowment office no later than 5 p.m., July 28, 1993. Detailed application packages can be obtained from the contact person named below. NTIA anticipates that the funding instrument will be grants and that the first Endowment grants will be awarded in the fall of 1993.

FOR FURTHER INFORMATION CONTACT:

Dennis R. Connors, Associate Administrator, National Endowment for Children's Television, NTIA/DOC, 14th Street and Constitution Avenue, NW., room H–4625, Washington, DC 20230; telephone: (202) 482–5802 FAX: (202) 482–2156.

[1] 47 U.S.C. 394(d) (1991).

Section I: Background of the Endowment and Major Goals

A. The Authorizing Legislation

The Children's Television Act of 1990 ("the 1990 Act")[2] represents an attempt to increase the number of educational television programs available to our nation's children and to improve the quality of such programming. The 1990 Act has three major components:

- The placement of advertising limits on children's television programs;
- The encouragement of additional children's programming on commercial television stations by ensuring that children's programming availability be considered in licensing renewals; and,
- The establishment of a National Endowment for Children's Educational Television ("the Endowment") that would provide money to fund quality children's television programs and related activities.

The Congress directed that the Secretary of Commerce ("the Secretary") administer the new Endowment.[3] The Secretary in turn has delegated this responsibility to the Assistant Secretary for Communications, who serves as the Administrator of the National Telecommunications and Information Administration (NTIA).[4]

B. Basic Endowment Themes

Endowment funds are to support the creation and production of television programming specifically directed toward the development of fundamental intellectual skills.[5] In doing this, the Endowment's efforts are intended to supplement to children's educational programming funded by other governmental entities.[6]

The 1990 Act further stipulates that Endowment-funded programming for the first two years following project completion may be offered for distribution only to public television stations.[7] During this period, however, the programming may be distributed through other media, not involving broadcast or cablecast; *e.g.*, computer interactive systems or video cassettes.

After the initial two-year period, Endowment-funded programs are to be made available to commercial media as well, including not only commercial broadcast television networks and stations, but also cable television networks and systems.

The 1990 Act authorizes the Secretary, under certain circumstances, to modify some aspects of these distribution requirements.[8]

The 1990 Act also reflects the Congress' concern that current financial incentives for commercial stations to create and air high-quality children's educational television programs may be insufficient.[9] This is because such programming is often extremely expensive to produce. One Congressional motive in establishing the Endowment, then, was to ensure that commercial entities would have at their disposal a growing pool of high-quality programming appropriate for a children's audience and available at an affordable cost. Accordingly, the 1990 Act authorizes the Secretary to offer Endowment-funded programs to commercial television stations and cable television systems at a rate designed to encourage these entities to air such programming.[10]

At the same time, the legislative history of the 1990 Act states that Endowment grant recipients shall retain continuing rights to the programming they created with Endowment assistance.[11]

The legislative history of the Endowment also indicates that Endowment-funded programming should receive the broadest possible distribution, and to further that goal, that the Secretary should ensure that, in setting price schedules, Endowment recipients be accorded adequate financial incentives to make their efforts worthwhile.[12] In addition, although the 1990 Act specifically calls for programs primarily intended for over-the-air television broadcast, it quite clearly also envisions the broadest possible distribution of Endowment-funded programming. The 1990 Act recognizes that there exist today many diverse ways to reach children and that all should be called upon to disseminate these programs.

In awarding its grants, the Endowment may support all the varied tasks associated with the production of children's television. This includes—but is not limited to—preparing scripts, performing research of children's needs,

[2] Public Law No. 101–437. 104 Stat. 996 (1990) (codified at 47 U.S.C. 394 (1991)).

[3] 47 U.S.C. 394(b) (1991).

[4] The Secretary's delegation to NTIA is found in Department Organization Order 10–10, as amended. NTIA was established by Executive Order 12046 in 1978. NTIA's functions were codified in the NTIA Organization Act, which became law as part of the Telecommunications Authorization Act of 1992, Public Law No. 102–538, 106 Stat. 3533 (1992).

[5] 47 U.S.C. 394(a) (1991).

[6] Pub. L. No. 101–437, 202(6), 104 Stat. 996, 998 (1990).

[7] 47 U.S.C. 394(b)(2) (1991).

[8] *Id.*

[9] S. Rep. No. 101–66, 101st Cong., 2d Sess. 17, reprinted in 1990 U.S. Code Cong. & Ad. News 1628, 1644.

[10] 47 U.S.C. 394(b)(2)(B) (1991).

[11] 136 Cong. Rec. S10123 (daily ed. July 19, 1990).

[12] *Id.*

initiating new productions, and, possibly, even completing productions for which substantial funding is already in place. The Endowment may fund projects that would create an entire series or just produce an individual show. It might fund a project that would result merely in the preparation of an idea for a script, or that would perform research on some important subject germane to the Endowment's objectives. For the purposes of this grant cycle, project eligibility is not being limited to any particular stage of production or type of activity provided it is germane to the production of children's television programming that furthers the goals of the 1990 Act.

C. Major Objectives

For the FY 1993 grant round, the Endowment has three major objectives that applicants should consider carefully when preparing their projects.

Objective One: To Improve the Fundamental Intellectual Skills of Children Through the Vehicle of Television Programming

NTIA understands that the expression "fundamental intellectual skills" may be defined in a number of ways. For the purposes of this program, however, the term refers to the development of those skills which enable children to address the problems posed by the modern world. Such skills might be basic educative functions (*e.g.*, reading, writing, and arithmetic), or they might consist of more advanced capabilities (*e.g.*, problem-solving and cognitive recognition abilities).

In addition, applicants are encouraged to incorporate pro-social behavior and relationships within the context of these skills in their projects. This includes such areas as motivation and self-esteem, self-development, multiculturalism, and the special needs of children.

Moreover, the term "fundamental intellectual skills", as the Endowment understands it, is not meant to be restrictive. We will leave it to the applicants to decide which skills they wish to enhance and which creative approach might be most conducive to this enhancement. NTIA recognizes that effective educational television includes an entertainment element. NTIA therefore appreciates that Endowment applicants will generally want to build this factor into their project design. Nonetheless, applicants must demonstrate to the Endowment that their project will, above all, meet this first, comprehensive educational major goal in a significant way.

Objective Two: To the Extent Feasible, To Support the Development of Programming for Children Aged 6 to 8

Although there is a need for high-quality educational programming for children of all ages, the Endowment has concluded that the six- to eight-year-old child is currently the most underserved by educational television programming and deserves special consideration for this first grant round. According to the 1990 U.S. Census, there are a total of 10,732,061 children in this age group. In light of this emphasis, projects that meet the needs of this particular age group are more likely to receive funding than projects centered on other age groups.

NTIA emphasizes that the Endowment will not automatically reject projects designed for other age groups. Nonetheless, if the Endowment receives a sufficient number of highly competitive proposals focused on the needs of six- to eight-year-olds, it is to be expected that the competitiveness of projects directed at other age groups will diminish.

In future grant rounds the Endowment may emphasize projects designed for different age levels.

Objective Three: To Consider a Broad Range of Subject Areas for Funding

While the Endowment is concentrating on the production of programming for children aged 6–8, the program is nonetheless imposing no limits on the scope of the proposals that may be submitted for funding consideration. In selecting the goals for their projects, applicants may choose to encompass a broad array of targeted skills. Alternatively, they may choose to center on a single perceived learning need.

Section II: Evaluation Criteria

Each Application will be thoroughly evaluated prior to the awarding of grants. No guidance or technical assistance for NECET program officials can be expected during the evaluation process. In determining whether to approve an Application, in whole or in part, and the amount of such grant, NECET will evaluate all of the information in the Application and consider the following factors, each of which has equal weight.

A. Conformance with Major Objectives

Applicants must satisfy Endowment reviewers that their project will further the major objectives listed above in section I, part C.

B. Creativity

The project must display a high degree of creativity and, ideally, be innovative in its approach.

C. Project Thoroughness

Ambitious video production projects tend to be complicated and so Endowment applications must be meticulously thought out. For example, to the extent feasible, the application should make clear what reception the proposed project will receive from the intended dissemination outlets. Another illustration of thoroughness: The proposal's timetable and budget should be detailed and accurately reflect the needs of the project. Still another: The project's approach should be in conformance with the findings of recent research as to the effectiveness of that approach in achieving educational goals.

D. Applicant Capability

Applicants need to indicate why the Endowment may be confident that they will be able to complete the proposed project satisfactorily. Applicants may demonstrate their capability in various ways, such as experience, a well-developed plan, or the submission of creative and innovative ideas.

E. Evaluation of Educational Objectives

Applicants are encouraged to demonstrate the effectiveness of their projects through a documentation of their approach to evaluation. The evaluation plans can take the form of educational effectiveness and/or developmental appropriateness. It is, however, up to the applicant to decide which approach is appropriate for the submitted project. The following is provided for guidance.

1. Educational Effectiveness

The best-intended productions for children may fail to convey their educational message. Some plan for evaluation of educational effectiveness may be a part of a production effort. Evaluation of educational effectiveness may occur at two stages: During the planning and early production stages and once the program is completed. Evaluation during the early production stage can serve the purpose of confirming that the project is heading to its planned goals; evaluation after the program is completed can serve the purpose of determining whether future programs should repeat the general content and format or if modifications are needed. Applications should indicate how the project will be evaluated. The plan should be appropriate for the scope of the projec

and might include such elements as test groups and screenings for educators.

2. Developmental Appropriateness

One of the attributes of quality educational programming is its sensitivity to the developmental level of its target audience. Children of difference ages have quite different educational needs and capacities. The applicant could demonstrate sensitivity to and knowledge about the educational needs and development level of the target audience. The plan could show evidence of knowledge of the educational needs of the target age group and the plan for presenting the information could demonstrate knowledge of the cognitive and social levels of development typical of that age group.

F. Breadth of Potential Program Distribution

As mentioned above, the 1990 Act intended that Endowment-funded programming be distributed as widely as possible. The applicant will thus be judged in part on how well this objective is met. Not only application narratives, but also project budgets should reflect this consideration. The budgets should indicate the most likely forms and methods of distribution that would be applicable to the project.

G. Ancillary Materials and Outreach Activities

Ancillary materials and outreach activities for children's educational television programs can be useful in helping them achieve their maximum effectiveness. Applicants are encouraged to develop ancillary materials and outreach activities when appropriate to their projects, and they should indicate their plans in their applications.

The intent of these ancillary documents is to support the educational objectives of the project. Typically, they are developed in consultation with advisors, including educators, content specialists, and creative consultants. They often provide lesson guides or discussion-provoking questions appropriate for each program. They might also contain background material that will clarify the program's subject matter, stimulate the viewer's thinking about the relevant issues, and inspire a greater appreciation of the program's content.

Outreach may include general activities and materials for children, the educational community, and adults who work with children. These activities may take the form of community service projects, workshops, field trips, discussion groups, seminars, or meetings with children, parents, and teachers. They may also include such materials as posters, activity books, brochures, and craft projects.

Section III: Proposal Submissions and Types of Funded Projects

A. Pre-Applications and Applications

Pre-Applications

A Pre-Application is required of all applicants. It consists of a Standard Form 424 plus a summary of the general nature of the proposed project running no longer than two pages. Detailed instructions for what is included in a Pre-Application submission will be found in the Endowment's *Application Guidelines* booklet.

During the Pre-Application screening, the Endowment staff will review basic information concerning proposed projects. It is anticipated that this process will develop valuable information about the potential of the Application for funding. During the period of Pre-Application the Endownment staff will analyze the material submitted and provide general advice concerning the project's competitiveness. Although Endowment staff will offer general suggestions about how to prepare a strong application, applications must not expect the staff at this point to provide precise technical assistance as to how the project in question might be strengthened so as to become a "sure winner".

Applications

An Application is required of all applicants. It consists of required forms, six sections of additional information, and five exhibits.

B. Number of Projects To Be Funded

The Endowment hopes to provide a significant portion of its funds for the production of major series or individual programs. The eventual levels of funding will of course be determined by the number of applications received, the quality of those applications, and the demonstrated needs of the applicants. Nevertheless, it is conceivable that, during this funding cycle, two or three "major series" projects might be funded at up to $1 million each. Such awards might be used either to initiate a production requiring substantial future funding from other partners or to complete a project well underway thanks to funding from other sources.

The Endowment, however, will also consider supporting projects that would produce an individual program. These might receive funding within a range of $100,000 to $250,000. Depending on the variables noted in the paragraph immediately above, one or two such projects might be funded in the current grant round.

Finally, NTIA realizes that all areas of children's television production need to be nurtured if we are to be the beneficiaries of a steady stream of creativity on the subject. The Endowment might therefore fund some preliminary projects involving planning, scripting or research that leads to production. Depending on what other projects are funded, up to five projects in this category might be supported, each within a funding range of $10,000 to $75,000.

The grant award period will necessarily vary with the complexity and scope of the project, but it is assumed that a majority of awards will be for eighteen to twenty-four months.

Section IV: Eligibility, Standards, and Required Clearances

A. Applicant Eligibility

Any individual, partnership, association, joint stock company, trust, corporation (not-for-profit or for-profit), or state or local governmental entity.

B. Project Eligibility

Any project that meets the intent of the Children's Television Act of 1990, title II (Public Law 101–437).

C. Program Standards

Endowment-funded programming must meet broadcast-quality production and technical standards. The programs may not have any commercials within them, or any commercial breaks.

D. Rights, Clearances, and Distribution

Generally, copyright laws preclude the copying or use of works of authorship without the author's permission. Accordingly, the Endowment is requiring that all completed creative works supported by it have appropriate clearances, releases, or other documentation showing that the organization or individual producing the programming either has obtained rights for the use of all elements in the programs or has itself originally created the work. These rights and clearances apply to all elements of such programming and must be the ones required in order to be able to accomplish the distribution planned for the project, and to comply with the requirements of the 1990 Act.

Applicants should note that they will need to obtain an option on any material critical to the successful completion of their projects before they apply to the Endowment, unless all such material

has already been cleared or is entirely original with the applicant.

The Endowment shall receive a funding ("underwriting") credit whenever an Endowment-funded program is transmitted to the public.

General Information

Past Performance

Unsatisfactory performance under prior federal financial assistance awards may result in an application not being considered for funding.

Preaward Activities

A grant award's final total project cost (TPC) will be determined after review by, and negotiation with, NECET. The final TPC may be less than the applicant initially proposes. While applicants are permitted to obligate their matching funds during the period from the closing date to the award start date, serious problems may result if an applicant obligates too great a portion of the project funds before an award is made. Money is obligated when the applicant enters into any sort of binding commitment to spend the money.

If applicants incur any costs prior to an award being made, they do so solely at their own risk. Applicants are hereby notified that notwithstanding any verbal assurance that they may have received, there is no obligation on the part of DOC to cover pre-award costs.

Applicants wishing to obligate any project funds before the award start date should consider the following:

1. An applicant cannot obligate funds from the eventual Federal share of a grant's TPC before a grant is formally awarded.

2. An applicant that obligates more than its matching share before a grant is awarded faces two main risks:

- A grant may not be awarded; or,
- Negotiations may reduce the amount of the TPC, and if the applicant has obligated funds in excess of the negotiated match, the Federal share will be reduced correspondingly.

No Obligation for Future Funding

In the event that an application is chosen for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

Delinquent Federal Debts

No award of federal funds shall be made to an applicant who has an outstanding delinquent federal debt until either:

1. The delinquent account is paid in full,

2. A negotiated repayment schedule is established and at least one payment is received, or

3. Other arrangements satisfactory to the Department of Commerce are made.

Intergovernmental Review

Executive Order 12,372, "Intergovernmental Review of Federal Programs" applies to the applications invited by this notice. (The requirements imposed by E.O. 12,372 are explained in Exhibit D of the Application Guidelines.)

Name Check Review

All applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Primary Applicant Certifications

All applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying." These are explained below.

1. Nonprocurement Debarment Suspension

Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurements Debarment and Suspension."

2. Drug Free Workplace

Grantees are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants).

3. Anti-Lobbying

Persons are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain federal contracting and financial certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000.

4. Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

Lower Tier Certifications

Grantees shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure from, SF–LLL submitted by any tier recipient or subrecipient contained in the award document.

False Statements

A false statement on an application may result in denial or termination of funds, and possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Federal Policies and Procedures

Recipients are subject to all applicable federal laws and federal and Department of Commerce policies, regulations, and procedures applicable to Federal financial assistance awards.

Definitions

The following definitions apply to the words and phrases used in this Notice.

Ancillary Materials means items that are developed in various forms such as printed booklets, videocassettes, audio cassettes and video discs which accompany educational television programs and are meant to support or complement the content or learning objectives of the programs.

Basic Skills means those skills that enable an individual to adequately perform such fundamental intellectual tasks as reading, writing, mathematics, and related activities.

Children, as defined by the statute, means individuals sixteen years of age and younger.

Children's Television Act of 1990 means Public Law No. 101–437, 104 Stat. 996, (1990) (codified at 47 U.S.C. 394 (1991)). This statute established the National Endowment for Children's Educational Television (NECET).

Cognitive Skills means those skills that are based on an ability to reason, to think critically, and to acquire knowledge about ideas.

Commerce means the United States Department of Commerce.

Commercial Television Station means a television broadcast station that is eligible to be licensed by the FCC as a commercial television broadcast station and that is owned (controlled) and operated typically by a for-profit entity, and may transmit commercial announcements and commercially-sponsored programs as well as non-commercial programs.

Eligible Costs means any expenses associated with the research, planning, scripting, development and production or other aspects of a NECET program proposal.

Facilities means apparatus such as cameras, microphones, amplifiers, animation equipment, and videotape machines necessary for the production of video programs that need to be prepared for distribution through broadcast television and other forms of media.

Fundamental Intellectual Skills means the development of those skills which enable children to address the problems posed by the modern world. Such skills might be basic educative functions (*e.g.*, reading, writing, and arithmetic), or they might consist of more advanced capabilities (*e.g.*, problem-solving and cognitive recognition abilities). These skills may be acquired through subject matter area such as those listed below.

- Science
- History and Government
- Literature and the Arts
- Health and Nutrition
- Economics/Consumerism

—Business
—Career choices
—Media/Communications/Technology

- The World/Globalization

—Current events
—Ecology/Environment
—Geography

In-School Programs means educational materials provided through various means, such as television and video, that are typically incorporated into classroom instruction or other school settings.

Interactive Computer Skills means those skills that are based on an ability of an individual to effectively send and retrieve information and otherwise communicate with distant sources via computer-based technologies.

National Telecommunications and Information Administration (NTIA) means the agency within the U.S. Department of Commerce that serves as the President's principal adviser on telecommunications policies pertaining to the nation's economic and technological advancement and to the regulation of the telecommunications industry. The NTIA was established by Executive Order 12046, March 27, 1978. The Secretary's delegation of the National Endowment for Children's Educational Television to NTIA is found in Department Organization Order 10–10, as amended. NTIA's functions were codified in the NTIA Organization Act, which became law as part of the Telecommunications Authorization Act of 1992, Public Law No. 102–538, 106 Stat. 3533 (1992).

National Endowment for Children's Educational Television (NECET) means the entity established by the Children's Television Act of 1990 (Pub. L. 101–437), and administered by the Secretary of Commerce, that has as its primary goal the creation and production of children's television programming that is specifically directed toward the development of fundamental intellectual skills.

Non-commercial Television Station means a television broadcast station that is eligible to be licensed by the FCC as a non-commercial educational television broadcast station and that is owned (controlled) and operated by a state, political or special purpose subdivision of a state, public agency or non-profit private foundation, corporation, institution or association, or owned (controlled) and operated by a municipality, and transmits only non-commercial educational, cultural or instructional programs.

Outreach Activities means events, meetings, materials or projects that are related to educational television programs, are often initiated in cooperation with educational institutions and community organizations, and are meant to supplement the television programs.

PBS means the Public Broadcasting Service, the member organization of public television stations, which provides a number of programming and operational services, such as satellite distribution, to the stations that are eligible and pay membership fees.

Preliminary Application/Pre-Application means a presentation of up to two pages that summarizes and provides a description of a proposed project for one or more of the various aspects involved in the creation of children's educational television, such as planning, research, scripting, development and production.

Producer means any organization or individual preparing or submitting a Pre-Application and Application.

Public Television Station means a non-commercial television broadcast station that transmits non-commercial educational and cultural programs, and in many cases may also transmit instructional programs, and is normally a member station of the Public Broadcasting Service (PBS).

Research means those activities associated with the extensive investigation and systematic inquiry into a subject area in order to discover factual information.

Satellite Distribution means telecommunications methods using satellite earth station(s) to originate and receive electronic signals to disseminate programs.

Scripting means the creative process of conceiving and writing a television project in a form that follows the usual method of preparing a television program script, that can be developed into a television production.

Secretary means the Secretary of Commerce.

Series means a number of television programs, included in the same project, that may have as few as three programs in what is described as a mini-series, or as many as 365 programs in a one-year period that could potentially be used every day. Programs may typically be approximately one-hour or a half-hour in length, or may be approximately twenty minutes or less if used as in-school programs.

Dated: March 10, 1993.

Thomas J. Sugrue,

Acting Assistant Secretary for Communications and Information.

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federal register

Friday
March 19, 1993

Part IV

Department of Transportation

Coast Guard

33 CFR Part 1
46 CFR Parts 10 and 12
User Fees for Marine Licensing, Certification of Registry and Merchant Mariner Documentation; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

46 CFR Parts 10 and 12

[CGD 91–002]

RIN 2115–AD72

User Fees for Marine Licensing, Certification of Registry and Merchant Mariner Documentation

AGENCY: Coast Guard, DOT.
ACTION: Final rule.

SUMMARY: This final rule establishes user fees for Coast Guard services related to merchant marine licenses, certificates of registry, and merchant mariner's documents (MMD). The fees in this rule are based on the way the Coast Guard presently conducts the merchant marine licensing and documentation activities and the costs of providing these services at the Coast Guard Regional Examination Centers (REC).

EFFECTIVE DATE: This rule is effective on April 19, 1993.

FOR FURTHER INFORMATION CONTACT: LT J. K. Gillespie, Planning Division (G–MP–1), Office of Marine Safety, Security, and Environmental Protection, (202) 267–6923.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are LT J. K. Gillespie, Project Manager, and LT R. L. Hetzel, Project Counsel, Office of Chief Counsel.

Regulatory History

On June 20, 1991, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "User Fees for Marine Licensing, Certification of Registry and Merchant Mariner Documentation" in the **Federal Register** (56 FR 28448). The 45-day comment period closed on August 5, 1991.

Several persons requested additional time to comment, citing the reason that members of the merchant marine are often away from their home port for 30 days or more and a 45 day comment period provided insufficient time to allow for their participation. Further, the Coast Guard determined that a 45 day comment period may have been insufficient notice for industry publications to notify their readers of the opportunity to comment on the proposed rule. Other persons requested additional time in view of other Coast Guard user fee proposed rulemakings related to commercial vessels.

Many persons in the marine industry both own and operate their vessels. Inspection and licensing fees would be the most significant portion of Coast Guard fees impacting persons owning and operating inspected vessels. To allow these persons opportunity to comment on the cumulative impact of both the inspection and licensing user fees rules, the Coast Guard determined that reopening the comment period coextensive with the initial comment period for the NPRM entitled "Direct User Fees for Inspection or Examination of U.S. and Foreign Commercial Vessels" (CGD 91–030) would prove beneficial to this rulemaking. Because of the above reasons, the comment period was reopened on December 18, 1991, for 60 additional days. This second comment period closed on February 18, 1992.

Before preparing this final rule, the Coast Guard considered all comments received during both comment periods and comments received during the interim period from August 5, 1991, until December 18, 1991. The Coast Guard received over 3,000 individual letters commenting on the proposal, and an additional 15 petition-type letters bearing approximately 1,600 signatures. The majority of comments were submitted by individuals who indicated they hold a license, certificate of registry, or MMD. The Coast Guard also received many comments from merchant marine academy students or representatives of these academies; as well as from union, maritime association, or marine industry representatives. Some comments were also received from Federal Government agencies and representatives of not-for-profit organizations.

The written comments originated from every region of the country and addressed a wide variety of issues relating to the NPRM. Many comments merely expressed opposition to the statute or to the Coast Guard establishing fees for merchant marine licensing services. Though reopening of the comment period added a substantial number of additional comments, no new substantive issues were raised.

Several hundred comments requested that public hearings be held. The Coast Guard considered the requests for public hearings, but determined that, whereas receiving oral presentations at public hearings would increase the number of comments, the hearing process would not materially assist in development of the final rule.

Background and Purpose

The Omnibus Budget Reconciliation Act of 1990 (the Act) amended section 2110 of title 46, United States Code, to remove long-standing prohibitions against collecting certain user fees. Although section 2110 did not prohibit the Coast Guard from charging fees for services related to issuing MMDs prior to amendment by the Act, it did prohibit fees for "licensing of masters, mates, pilots, and engineers." The Coast Guard had not chosen to exercise its existing authority to charge just those mariners receiving MMDs out of all those receiving Coast Guard marine licensing services.

Section 2110 now requires the establishment and collection of user fees for Coast Guard services provided under subtitle II of title 46, United States Code. The Coast Guard must establish these fees in accordance with the criteria in section 9701 of title 31, United States Code (General User Fee Statute). The fees would not affect current Coast Guard appropriations, but would rather "be deposited in the general fund of the U.S. Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities."

Marine licensing and merchant mariner documentation is one of the program areas in subtitle II for which fees must be established. To comply with this congressional mandate, the Coast Guard is amending 46 CFR parts 10 and 12 to establish user fees for Coast Guard services relating to the issuance of merchant marine licenses, certificates of registry, and MMDs. Fees for other Coast Guard services in subtitle II of title 46, United States Code, will be established in separate rulemakings.

Discussion of Comments and Changes

General Comments

Only a few comments supported the concept of charging fees for these Coast Guard services. The majority of comments objected to any fee being charged, and many stated the view that the general public receives the benefit of the licensing program, and not the mariner who is required to obtain the license, certificate of registry, or MMD.

The Coast Guard acknowledges that its marine licensing program serves to indirectly enhance general public safety and to protect the environment on or near U.S. waters through establishment of minimum qualification requirements for professional mariners. However, the Coast Guard's position is that its licensing program does confer special benefits upon those who hold a license, certificate of registry, or MMD. The Coast Guard has determined that it is appropriate to establish fees for services provided to these individuals.

By establishing minimum requirements that limit persons who would be eligible to obtain and hold a marine license, certificate of registry, or MMD, the recipient receives a credential that inherently enhances employment potential. Therefore, the Coast Guard licensing program confers special benefit upon the individual holding the credential since the licensing program essentially excludes the majority of the general public from employment in many positions within the merchant marine industry.

Not only does the licensing program limit the number of potential employees competing for available positions, but it ensures that mariners possess certain qualifications in order to be eligible for the license, certificate of registry, or MMD. This is a mutual benefit to each individual mariner. The Coast Guard licensing program assures mariners that others they work alongside in the industry meet certain basic requirements such as age and citizenship, and, in most cases, that they meet minimum experience or training requirements, and have passed a professional examination. Also, through background and criminal records checks, and physical examination requirements, certain persons are excluded from the industry. The Coast Guard may deny applicants these credentials if they have been convicted of a violation of a dangerous drug law, or if there is evidence of drug abuse, and in cases where applicants have physical impairments or medical conditions which would render them incompetent to perform their ordinary duties. Though they are less tangible, there are special benefits related to personal security and peace of mind of the individual mariner. The Coast Guard does serve as a type of "professional licensing" body which should give a degree of assurance to individual mariners concerning other mariners who work for them and around them.

Many comments stated they would not object to the proposed fees if the money went directly to the Coast Guard or was used to improve the Coast Guard marine licensing services. However, the direct user fees required under 46 U.S.C. 2110(a) must be deposited in the general fund of the Treasury. Unless a statute specifically provides otherwise, fees received by a government entity are deposited in the Treasury. User fees are "ascribed to Coast Guard activities" merely to indicate the source of the funds being deposited. Although the specific amount of fees deposited would not directly increase the Coast Guard's current operating funds, Congress takes these fees into consideration during its budget development and approval process. This arrangement allows the Coast Guard to plan its operations based on current appropriations, without being dependent upon the actual amount of fees collected in a particular fiscal year.

Though the fees will not be used directly to enhance the Coast Guard's marine licensing program, the Coast Guard remains committed to improving the services it offers. Many comments provided suggestions as to how the Coast Guard might improve its marine licensing services. Those comments provided useful feedback to the Coast Guard and will be considered for future program changes.

Besides the aforementioned general reasons, many other comments objected to the fees based on perceptions regarding impacts of the fees. Many expressed concerns that the fees might cause adverse economic impact and hardship, either to the marine industry, or to the individual mariners. Many comments alluded to the poor economic health of the marine industry and to the economic hardships that many mariners currently face. Some comments also expressed uncertainty as to whether the fees may deter persons from entering the professions for which licenses or documents are required, or that they may discourage mariners from seeking license endorsements, upgrades, or renewals. The Coast Guard considered these views during the preparation of its Regulatory Evaluation. Conclusions from the Regulatory Evaluation are provided later in this preamble.

Exemptions

Under 46 U.S.C. 2110(g), the Coast Guard may exempt a person from paying fees if it is determined to be in the public interest to do so. In the NPRM the Coast Guard did not propose any exemptions, but invited comments on exemptions that could be in the public interest. Numerous comments supported a wide range of exemption categories. The main categories mentioned in the comments included exemptions for: Retired or non-sailing license-holders; entry level persons; students of merchant marine academies; incentive for reserve programs for national defense reasons; government employees; members of the Coast Guard Auxiliary; and volunteers or employees of not-for-profit organizations. With the exception of the not-for-profit category, the Coast Guard has decided against creating any exemptions from paying the fees. Each of these categories is discussed below.

National Defense Exemptions

A large number of comments suggested broad exemptions be made for national defense reasons. Many expressed concern that fees would prove to be a disincentive to persons in maintaining a license or MMD, thereby reducing the "pool" of qualified persons available during times of national emergency.

A comment from an agency under the Department of the Navy stated the following: "The availability of mariners to man our Ready Reserve Fleet (RRF) ships was marginally adequate for Persian Gulf operations, and manning projections predict shortages. We believe that the proposed fee structure would keep many otherwise available mariners from renewing their licenses." The comment recommended several exemption categories, namely, "for those mariners, employed temporarily or permanently ashore, who choose to participate in a merchant marine reserve program requiring the maintenance of a merchant marine license, certificate of registry, or merchant mariner's document * * * A similar exemption or reduction in fees should be made for federal and state maritime academy graduates having reserve obligations, as well as for those who join a merchant marine reserve program." Another concern was that fees may impact unfairly on retired mariners and that an important source of emergency manning may be lost, referring to the recent Persian Gulf operations for which it was estimated that between 10 and 20 percent of the mariners manning the RRF ships came out of retirement to do so.

Other comments recommended similar exemptions for mariners who choose to participate in a civilian merchant marine reserve program.

A few comments opposed exemptions for persons not actively employed aboard vessels, suggesting that it is not in the best interest of our national security to maintain a pool of persons who are license-holders, because many would still not be qualified to fill the positions needed. One comment stated: "* * * there should be no exemptions of certain persons from fees if in the public interest. The NPRM states that it might be in the public interest to have a 'pool' of qualified persons available during times of national emergency. The key word here is 'qualified.' Simply because a person holds a valid merchant mariner's document and/or license does not make said person qualified to do the job * * * The 'pool' will shrink, but at least it will be more realistic." A comment from an educator working in

a maritime training school included a similar objection and stated that their school is "constantly upgrading modules to keep members, who are actively employed in a large segment of our merchant fleet, current with the latest technology." The Coast Guard agrees that holding a license or MMD does not qualify an individual for any specific job, but rather indicates that person has met Coast Guard-established minimum qualifications.

In the NPRM, the Coast Guard asked if it is in the public interest to have a "pool" of qualified persons available during times of national emergency, and, if so, should exemptions from the proposed fees be established to encourage participation in a merchant marine reserve program? It appears that the real issue actually resides in the questions of what level of qualification is necessary, and to what degree of participation and commitment in a reserve program would an exemption from fees be justified? The Coast Guard recognizes these questions embody a much broader issue than can be adequately addressed in this rulemaking, one which may require the Coast Guard or Congress to consider "National Defense" exemptions in the future.

Maritime Academy Student Exemptions

One agency suggested specific exemptions for midshipmen attending the U.S. Merchant Marine Academy (USMMA) and cadets attending the State maritime academies. These maritime academy students obtain a MMD for gaining initial sea experience, and they obtain an upper level license close to the time they graduate. Passing the Coast Guard examination and obtaining a license is a current USMMA graduation requirement, and passing the Coast Guard examination will become a federally mandated requirement for the State academies beginning in 1994.

In its comments, this agency stated that since the USMMA is operated like other Federal academies (military academies), there should be " no costs borne by the midshipmen." This agency further stated that it would be forced to request an increased appropriation from Congress to pay for both the MMD and the original licensing fees for midshipmen attending the Federal academy, if midshipmen were not exempted from the user fees. However, midshipmen have individual expenses that are not now covered by the agency. The Coast Guard's position is that the cost for a MMD and license should be viewed as an additional individual expense rather than an educational expense, such as tuition, to be covered by the agency. Furthermore, it is unclear at this time whether the agency would be able to justify paying the new MMD and license fees for these cadets if appropriations were sought for that purpose.

Further, a fee exemption only for USMMA midshipmen would raise an equity issue between those students and students attending the State academies who would have to pay the fees. Because there are students who would be subject to fees attending other professional training institutions such as union schools, there would still be an equity issue even if cadets attending the State academies were exempted from the fees. The Coast Guard's position is that students directly benefit from the service the Coast Guard provides. Not exempting students from fees is consistent with the view that MMDs and licenses provide primary benefits to the individual, with attendant costs being the responsibility of the individual, similar to requirements for obtaining other professional licenses when an individual graduates from a college or technical school. The Coast Guard concludes that it would be inappropriate to exempt maritime cadets and other students from these fees.

Some comments suggested that the Coast Guard reduce its fees for students when an institution assists in preparing the students' applications, or provides other services to facilitate the MMD or licensing process. The Coast Guard's position is that an institution chooses to facilitate the MMD or license process to benefit the students or the institution's own schedule. The Coast Guard is staffed to provide all the services related to MMDs and licenses currently issued. If an institution chooses to continue to assist preparing applications or perform other functions which may expedite the MMD or licensing process for its own purposes, this will not result in a reduction or waiver of the fees since the Coast Guard's workload will not be substantially changed.

Government Employee Exemptions

One agency requested exemptions for the crew of its public vessels. The agency commented that in the "Inspection and Certification Agreement" with the Coast Guard dated July 18, 1969, it "agreed to comply with Coast Guard regulations to the extent possible, even though as public vessels the vessels and crew would otherwise be exempted from these regulations." This agency requested an exemption from licensing fees for Federal employees who are actively employed as crew members on public vessels, and who are licensed solely to comply with the "Inspection and Certification Agreement."

Although the Coast Guard supports the agreement, the Coast Guard's position is that the licensing services, although providing some benefit to the agency and the general public, also benefits the individual mariner. Also, the Coast Guard has determined that it would not be equitable to create an exemption for one particular group of Federal government employees, when non-sailing Federal government employees, such as those employed by the Defense Mapping Agency, will not be exempted. Along with Federal agency employees, which include civilian and military personnel in the Coast Guard, the Coast Guard has decided not to exempt employees working in state or local governments.

Coast Guard Auxiliary Exemptions

Some comments suggested exempting U.S. Coast Guard Auxiliary members from paying these user fees. Though the Coast Guard recognizes the outstanding contribution Coast Guard Auxiliary members make to marine safety, the Coast Guard's position is that it would be inappropriate to exempt Coast Guard Auxiliary members, because a license is not required for individuals to participate in the Coast Guard Auxiliary. As discussed in the preceding section, other civilian and military personnel affiliated with the Coast Guard will not be exempt from the fees.

Youth Oriented, Not-for-profit, Charitable Organization Exemptions

Many comments suggested exempting persons operating vessels for youth oriented, not-for-profit, charitable organizations, such as the Boy Scouts of America (BSA), including Sea Scouts and Sea Explorers; Girl Scouts of the United States of America (GSA); and the Young Men's Christian Association (YMCA) of the United States of America. These organizations are involved in teaching youths maritime skills, such as boating, seamanship, and navigational skills. Many of the vessels owned by these organizations must be operated by a person who holds a license. Organization employees, as well as volunteers, need a Coast Guard license solely to operate the organization's vessels. Boating programs of these organizations might be curtailed if volunteers or employees are unwilling to incur the cost of these fees. Several comments suggested that the Coast Guard issue no-fee licenses restricted to operation of the not-for-profit organization's vessels only.

The Coast Guard agrees that it is in the public interest that persons who need a license solely to operate a vessel which is owned or operated exclusively by youth oriented, not-for-profit, charitable organizations for the purpose of teaching youths maritime skills should not be required to pay a fee for that license. The Coast Guard has a long-standing record of working with various national youth programs (Coast Guard Public Affairs Manual—COMDTINST M5728.2B), and charging fees for a license used only for operating the organization's vessel would not be in keeping with this support. Therefore, the Coast Guard has decided to establish a no-fee license which will be restricted to a specified use.

Youth oriented, not-for-profit, charitable organizations, involved in teaching youths maritime skills, may apply to the Coast Guard to be listed as an organization whose employees and volunteers are eligible to apply for this no-fee license.

Volunteers, or paid part-time or full-time employees, of listed organizations, may apply for a no-fee license restricted solely to the operation of that organization's vessels used in furthering the goals of the organization. The license would be invalid for any other use.

The applicant must meet all requirements for the no-fee license and pay any incidental expenses associated with the application process, such as a physical examination or a drug test. Holders of such a restricted license will be able to have the "restricted" endorsement removed by paying the appropriate evaluation, examination, and issuance fees which would have been required had the license been issued without the restriction.

Changes to Proposed Fees

In the NPRM, the Coast Guard indicated that proposed fees were based on current costs and the way the Coast Guard conducted the merchant marine licensing and documentation program at the time the NPRM was published.

The Coast Guard developed fees in the NPRM using information from workload analysis studies and costs associated with conducting marine licensing activities at the 17 Coast Guard RECs which provide the licensing and merchant mariner documentation services. The first cost was for personnel and associated infrastructure costs necessary to provide these services. Using information from a workload analysis study, hourly standard rates provided in the Coast Guard Standard Rate Instruction (COMDTINST 7310.1D), and the Coast Guard Staffing Standards Manual (COMDTINST M5312.11A), the Coast Guard calculated personnel and associated infrastructure costs to be approximately $5.9 million annually.

The Coast Guard will review the fees annually to determine if adjustments or changes to the fees are necessary, and it will revise these fees when costs change due to inflation, deflation, or changes in the way the services are provided.

The second cost involved collecting the fees. Both the General User Fee Statute and 46 U.S.C. 2110 allow this cost to be included in the user fee calculations. In the NPRM, the Coast Guard estimated collection costs at $300,000 annually, and indicated that when collection procedures were chosen, the Coast Guard would adjust the proposed fees if necessary. The section in this preamble titled "Collection of Fees" discusses the collection procedures that have been chosen by the Coast Guard. The Coast Guard has decided that fees will initially be collected at all the RECs, resulting in the need for eight additional field collection clerks. Though the collection costs will be slightly more than estimated in the NPRM, there is not enough of an increase to warrant a change in the fee schedule.

The third cost was for FBI criminal record checks conducted on applicants. Several comments suggested that the Coast Guard should not pass on this fee to the applicant. However, during the application process for the initial license, certificate of registry, or MMD, the Coast Guard checks the applicant's fingerprints against records of law enforcement and other government agencies. This process involves sending the applicant's fingerprint card to the FBI. To complete this portion of the background check, the FBI charges the Coast Guard $17 for each fingerprint card. Approximately 16,000 FBI criminal record checks are conducted on applicants each year, costing the Coast Guard approximately $270,000. The Coast Guard has determined that each applicant for whom an FBI check is required should pay the additional $17 fee to cover this cost.

The aforementioned three costs total approximately $6.5 million, which represents the estimated cost of operating the 17 RECs. To calculate the fees, information from the REC workload analysis study was used, as stated earlier. From this study, average transaction times per applicant were determined. This data provided information as to the amount of work performed by REC personnel while evaluating and examining applicants, and issuing licenses and MMDs. License and MMD activities were grouped into categories requiring similar amounts of time and effort. Fees were calculated according to each category identified, and are summarized in Figure 1.

FIGURE 1.—USER FEES FOR MARINE LICENSES, CERTIFICATION OF REGISTRY, AND MERCHANT MARINER'S DOCUMENT ACTIVITIES

Category	Evaluation fee [1]	Examination fee	Issuance fee	Total [2]
License				
Upper Level	$70 ($17)	[1] $150	$35	$255 ($272)
Lower Level	$65 ($17)	[3] 80	35	$180 ($197)
Radio Officer	$45 ($17)	0	35	$80 ($97)
Renewals or Endorsement	$45	55	35	$135
Continuity Endorsement [4]	0	0	35	$35
Certificate of Registry				
Chief Purser, Purser, and Senior Assistant Purser	$45 ($17)	0	35	$80 ($97)
Junior Assistant Purser, Medical Doctor, and Professional Nurse	0 ($17)	0	35	$35 ($52)
Merchant Mariner's Document (MMD)				
MMD Endorsed with Qualified Rating	$60 ($17)	40	35	$135 ($152)
MMD without Qualified Rating	0 ($17)	0	35	$35 ($52)

FIGURE 1.—USER FEES FOR MARINE LICENSES, CERTIFICATION OF REGISTRY, AND MERCHANT MARINER'S DOCUMENT ACTIVITIES—Continued

Category	Evaluation fee [1]	Examination fee	Issuance fee	Total [2]
Other Fees				
Duplicate or Replacement of License, Certificate of Registry, or MMD	0	0	35	$35

[1] An additional $17 charge for an FBI criminal record check will be added to the evaluation fee if the application is for an original license, original certificate of registry, or original MMD.
[2] Totals—without and with an FBI criminal record check.
[3] For limited examinations administered for certain licenses, the proposed examination fee is $55
[4] Applies to a renewal with a continuity endorsement issued under section 10.209(g).

Some comments suggested fee categories be tiered according to the scope of the license sought. For instance, a license having a greater tonnage or horsepower, rating should have a higher fee than a license having a lower tonnage or horsepower rating. If the Coast Guard adopted this suggestion, the comments continued, a better correlation between the fee and the applicant's ability to pay might result. However, it is the Coast Guard's position that this is not an appropriate basis upon which to establish fees.

Several comments suggested that the fee should be similar to licensing fees charged in other transportation modes; for example, airline and railroad workers, and commercial truck drivers. Others suggested that the Coast Guard charge a minimal fee, similar to that charged for a state driver's license. The Coast Guard has decided not to adopt any of the above suggestions, because of the criteria contained within the General User Fee Statute. The fees in the final rule are based on the cost to provide the Coast Guard service, as opposed to the cost to other entities for providing similar, but not directly comparable, licensing programs.

Of the fees proposed in the NPRM, only the upper level examination fee has been adjusted. The Coast Guard decided to reduce this fee because, in many cases, it would no longer be an appropriate fee for this category of license. The Coast Guard formerly operated under a policy that required all upper level examinations to be scheduled on certain days. At many RECs, persons testing for these licenses were given priority seating for these examinations, which lasted up to five days. Additionally, every person testing for a particular license was given examination sections having the same questions. This rigid schedule was necessary to ensure that no applicant acquired knowledge of the questions from persons who had taken an examination section at another time. Now, the examination modules contain different test questions and it is no longer necessary to hold persons to the former schedule.

One comment suggested that "the policy of requiring specific modules to be administered on specific days at specific times serves no purpose except to drive up Coast Guard administrative time and costs." The Coast Guard agrees with this comment. Since the NPRM was published, the Coast Guard has changed its policy and is allowing the RECs to schedule examinations in a less rigid manner. The Coast Guard acknowledges that a cost factor associated with the upper level examination fee was directly related to the duration of the examination. No longer adhering to this schedule will, in effect, allow a person to take less time in completing the examination. Now, despite having a higher degree of difficulty compared to lower level examinations, it is possible to complete the upper level examinations in less time than before. By changing its policy on scheduling upper level examinations, the Coast Guard was able to adjust the fee from $225 to $150.

In examining the difference between the two examination fees, the Coast Guard's position is that the reduced upper level fee is more reasonable. Despite the upper level examination continuing to take more time in most cases, the actual difference in the cost of administering the upper and lower level examinations should be less.

Categories of Fees

In the NPRM, the Coast Guard indicated that the process associated with obtaining a license or certificate of registry under part 10 and the process associated with obtaining a MMD under part 12 are similar, in that there are three identifiable phases in the overall process: Evaluation of the application, examination of the applicant, and issuance of the license or document. The NPRM proposed that each fee be paid just prior to receiving the service, thus ensuring that applicants are not charged for a service not provided.

Several comments suggested that the Coast Guard collect one fee at issuance, rather than collecting separate fees for the evaluation and examination phases. The Coast Guard chose to separate the process into the three phases and establish an appropriate fee for each phase to facilitate effective fee collections, as some applicants either do not complete the entire process or must repeat certain phases (e.g., examination). Applicants needing to repeat a phase will also be charged appropriate additional fees.

Although making distinctions between the three identifiable phases (evaluation, examination, issuance) in the overall process is reasonable, the Coast Guard acknowledges that it is difficult to collect and separate workload data reflecting actual time of REC personnel for each of the three phases. The Coast Guard based its program cost on a workload data analysis which appropriately reflects the cost of operating the RECs. Using separate REC task analysis data indicating average time per phase, the Coast Guard developed the fees to proportionally distribute the cost of operating the RECs within the fee structure selected.

Though some comments objected to the fee structure dividing the total expected fee among the three phases, the Coast Guard has retained the fee structure as proposed. Establishing fees which are paid prior to providing the service helps to ensure that fees are deposited into the general fund of the U.S. Treasury in a timely manner. It is also consistent with the concept that one should pay for a service as it is provided. Since an application is valid for one year, waiting to collect only one fee at the issuance phase could result in lengthy delays between the time the evaluation phase begins and the time that the applicant meets all the requirements for issuance of the license, certificate of registry, or MMD.

The Coast Guard incurs costs each time an individual is provided a service, regardless of the end result achieved by

the individual. Collecting fees in advance ensures that payments are received for services provided, even though some applicants will not be successful in acquiring the Coast Guard license or document they seek. Since the Coast Guard is establishing fees to cover costs associated with providing its services, the Coast Guard does not intend to refund fees once applicants begin a phase.

In 46 CFR parts 10 and 12, the Coast Guard proposed to define the term "evaluation" to make clear that the evaluation phase for which an applicant pays a fee is more than a review of an application form. The Coast Guard received no specific comments on this definition and has retained the definition as proposed. The evaluation fee will be paid when the individual submits the application package to the Coast Guard. This final rule establishes payment procedures for the evaluation fee and other fees described.

The next phase is examination. The Coast Guard did not propose to define the term "examination" since its use should be clearly understood within the existing and proposed regulations. The examination phase involves scheduling, proctoring, and grading examination sections, as well as notifying applicants of results.

The Coast Guard proposed that the examination fee would be paid when an applicant reserves a place on a scheduled test date for examination sections either administered at RECs, or administered at other locations by Coast Guard Traveling Examination Teams (TET). After considering several comments that suggested that it would be more convenient if payment could be made just prior to taking the first section of the examination, the Coast Guard has decided to allow a person to pay the examination fee at the REC on the test date. Since many persons must schedule the examination weeks ahead, requiring payment at the time of scheduling would be inconvenient. Examination fees, however, must be paid prior to the test date for which a TET is requested, since fees will not be collected by TET members. The final rule requires that, unless otherwise directed, the examination fee be received by the REC at least one week prior to the examination date for examinations administered at locations other than the REC.

The examination fee covers the administration of all sections of an examination required for a particular license or endorsement. As stated in the NPRM, the Coast Guard will not charge a fee for necessary retests prior to the lapse period required in 46 CFR 10.217(a)(1) and (2). After the required lapse period, an applicant would have to begin the examination phase again and pay a new examination fee. If the applicant misses a scheduled examination, however, the Coast Guard will allow rescheduling of missed examination sections without requiring an additional fee, as long as the individual's application remains valid (within one year of the application date).

Some comments expressed uncertainty as to whether separate examination fees would be required for each endorsement in the event multiple endorsements were sought. This would occur with a first class pilot license that may have many endorsements extending the operating route under which the license could be used. There are also several different rating endorsements which can be obtained for the Qualified Member of the Engine Department (QMED) MMD issued under part 12.

Having separate applications submitted at different times often requires separate evaluations (perhaps involving different REC personnel), while examining mariner records for multiple endorsements at the same time on a single application is generally less time consuming. While not stated specifically in the NPRM, the Coast Guard requires a single endorsement examination fee for a single application, regardless of the number of endorsements requested, so long as the application remains valid, and provided an issuance has not occurred. Once an issuance occurs for a license or MMD endorsement, or for that matter, any license or MMD activity except for the radar endorsement on a license, a separate examination cycle will begin anew and appropriate fees will become payable. The Coast Guard intends this approach to encourage persons not to piecemeal their licensing or documentation process, thereby adding substantially to the workload of each REC by increasing the number of evaluations and issuances. If, for enhancement of employment opportunities or some other reason, the mariner desires to submit separate applications or receive separate endorsement issuances on his or her license, certificate of registry, or MMD, separate evaluation, examination, and issuance fees will apply.

The last phase the Coast Guard identified in the NPRM was the issuance phase. The Coast Guard also did not define the term "issuance" since its use should be clearly understood within the existing and proposed regulations. The issuance phase includes preparing forms, reviewing, and signing documents by appropriate REC personnel. The issuance fee will be paid before an individual receives the actual license, certificate of registry, or MMD.

Each time an issuance occurs, the fee cycle will start over. However, if a valid application remains on file for which an evaluation has already been conducted, another evaluation fee will not be required. One exception to this regulation will be radar endorsements. Several comments pointed out that an issuance fee for the radar endorsement would be excessive, since only minimal work is required by the Coast Guard to essentially type a two line endorsement on the back of the license and make minor record changes. The Coast Guard agrees that minimal work is required for a radar endorsement and considers the radar endorsement as an extension of the evaluation phase conducted during the original issuance or renewal of the applicant's license. Fees paid at that time will include the cost of the radar endorsement. While completing the radar endorsement at the time of renewal is preferred, the Coast Guard realizes that the radar endorsement and renewal time of a license are often out of phase with one another, at no fault of the license-holder.

Few comments were received concerning those circumstances when the applicant would not be charged a fee for one or more of the three phases (i.e., evaluation, examination, and issuance). Therefore, the Coast Guard has retained language in the final rule which specifically indicates that fees will not be charged unless the service is provided.

The Coast Guard also proposed no evaluation fee for the following categories: Certificates of registry for Junior Assistant Purser, Medical Doctor, Professional Nurse, and MMDs without a qualified rating endorsement. Although some comments objected to what the Coast Guard proposed, the Coast Guard has decided to retain a "no-fee" status for the evaluation phase of these categories. These categories do not require significant amounts of evaluation time, and assessing additional fees would be excessive and inconsistent with the User Fee Statute. However, the Coast Guard assesses a $17 fee for an original MMD or certificate of registry to cover the cost of the required FBI criminal record check.

In the NPRM, the Coast Guard stated that the full examination fee proposed for upper level and lower level licenses would not be appropriate in those instances where an applicant needs only a partial or limited examination.

Limited examinations consist of only one or two sections, and administration time is comparable to the time and effort required to administer the open book exercises for renewal of licenses. The Coast Guard, therefore, has established a lesser fee for limited examinations. This fee is the same as the examination fee for the open book exercise required for certain renewals. A limited examination is discussed in 46 CFR 10.412, 10.418, 10.424, 10.426, 10.429, 10.446, 10.456, and 10.466. The Coast Guard also considers the examination discussed in 46 CFR 10.427 and 10.454 to be a limited examination.

In the NPRM, the Coast Guard proposed to charge an issuance fee for all licenses, including licenses with a continuity endorsement, even though an applicant with this endorsement may not require an evaluation or examination and would not be assessed those fees. The Coast Guard also proposed to charge an issuance fee for all certificates of registry, and MMDs (CG Form 2838) including temporary MMDs (CG Form 2838T). However, for conversion of the temporary MMD to a permanent MMD, there would be no issuance fee. Additionally, consistent with proposed section 10.219 and existing section 12.02–23 of 46 CFR, no fee was proposed for issuance of a duplicate license, certificate of registry, or MMD, when its loss is due to a shipwreck or other casualty described under these sections.

With the exception of comments related to temporary MMDs, few comments were received concerning the proposed sections referred to in the preceding paragraph. Although the Coast Guard stated in the NPRM that there would be no fee for conversion of a temporary MMD to a permanent MMD card, some comments suggested that the Coast Guard not charge for a temporary MMD but rather charge for the permanent MMD card, since a fee for the temporary may discourage persons from entering the industry. While these views have been carefully considered, the Coast Guard has retained the fee for MMD initial issuance, whether for a temporary or permanent MMD card. Regardless of whether the temporary or permanent MMD card is issued, the Coast Guard must still establish records and initiate administrative steps, which require time to complete.

Collection of Fees

The Coast Guard examined various collection procedures, taking into consideration accounting requirements as well as convenience to the public. The Coast Guard considered having applicants mail fees to a separate address so that money would not be collected at the RECs. However, many Coast Guard licensing and merchant mariner documentation services are provided to "walk-in" applicants. The Coast Guard has determined the most expedient and most convenient method is to collect fees at the RECs. This would lessen the burden on applicants, who would otherwise be required to prepare a separate mailing to a third party and submit additional information to identify a particular fee as payment for the requested service. Collecting fees at RECs will also prevent delays associated with an applicant having to wait for verification that fees have been received.

Preferred payment method is by check or money order with the individual's social security number recorded somewhere on the payment instrument. For in-person processing only, cash will be accepted at Coast Guard units having a REC, if payment is made in the exact amount. The Coast Guard units may not be able to make change for cash payments, nor are they required to maintain cash on hand for such purposes. The Coast Guard is also considering offering payment by credit card, and may introduce that payment option in the future.

Fee payment procedures have been included in both parts 10 and 12. The procedures indicate that, unless otherwise directed, fees must be paid prior to the beginning of the evaluation, examination, or issuance phase. For examinations administered by TETs, unless otherwise directed, the examination fee is required to be received at the REC at least one week prior to the scheduled date of the examination. This one week requirement should not be unreasonable, since many "sponsors" who request the TETs normally schedule the examinations well in advance and know which applicants are eligible to take these examinations.

Penalties for Failure to Pay

The Coast Guard has established penalties for failure to pay fees. A civil penalty of up to $5,000 is authorized in section 2110 of title 46, United States Code. The Coast Guard proposed to treat a check returned due to insufficient funds as a late payment and to recover appropriate collection and enforcement costs in these cases. Multiple checks returned for insufficient funds could be treated as failure to pay and may subject the payor to a civil penalty. Pending payment, the Coast Guard may withhold additional license, certificate of registry, or MMD services from any person who has not paid fees for licensing services already received.

Concerning the penalties for failure to pay, the Coast Guard has retained the language proposed in the NPRM, but has renamed the part 10 section, "Penalties", rather than "Penalty for failure to pay fees." A few comments objected to the civil penalty of up to $5,000 stated in the NPRM. However, the Coast Guard chose to include the maximum civil penalty of $5,000 authorized by section 2110, as has been done in many other sections discussing civil penalties set by statute. Similarly, section 2110 authorizes assessing appropriate additional charges to recover collection and enforcement costs associated with delinquent payment of the fees. The amount of a specific penalty would be determined in accordance with the civil penalty procedures in 33 CFR part 1 and would be consistent with the nature of the violation for which the penalty was assessed.

Section by Section Analysis

46 CFR Part 10

In its authority citation, the Coast Guard included 31 U.S.C. 9701 which is the statute related to user fees.

Section 10.103—Definitions for the terms "evaluation", "upper level" and "lower level" have been added.

Section 10.109—This section lists user fees for licensing and registration activities.

Section 10.110—This section gives instructions on how fees are to be paid.

Section 10.111—This section establishes civil penalties for failure to pay fees.

Section 10.112—This section establishes requirements to qualify applicants for a no-fee license, and establishes procedures for obtaining a no-fee license.

Section 10.205, section 10.207 and section 10.209—A cross-reference to required fees listed in § 10.109 has been added to these sections.

Section 10.217—A requirement for assessing additional examination fees when an applicant repeats the examination phase has been added.

Section 10.219—A fee for reissuance of a license or certificate of registry has been referenced. Paragraph (b) has also been added to conform with a statute allowing free issuance of these documents if loss is due to shipwreck or other casualty. This section applies the same criteria as 46 CFR 12.02–23 for consistency between 46 CFR parts 10 and 12.

46 CFR Part 12

In its authority citation, the Coast Guard included 31 U.S.C. 9701 which is the statute related to user fees.

Section 12.01–6—Definitions for the terms "evaluation", "original document", and "qualified rating" have been added.

Section 12.01–7—An administrative correction was made to the list of REC locations by adding "Portland, OR."

Section 12.02–18—This section lists user fees for MMD activities. There was a $10 fee assessed in 33 CFR subpart 1.25 for a duplicate continuous discharge book or copies of certificates of discharge. The Coast Guard has moved this fee from 33 CFR subpart 1.25 to this section, so that all fees for MMD services will be contained in part 12.

This section also describes payment procedures and establishes civil penalties for failure to pay fees.

Section 12.02–23—This section was amended to reference fees in Section 12.02–18 and to delete outdated sections and references to 33 CFR subpart 1.25.

33 CFR Subpart 1.25

The Coast Guard made conforming amendments to 33 CFR subpart 1.25 and moved appropriate MMD fees to 46 CFR 12.02–18.

Regulatory Evaluation

The Act requires the Coast Guard to collect user fees for commercial vessel services provided under subtitle II of title 46 United States Code. These services include: Merchant marine licensing and merchant mariner documentation, vessel documentation, vessel inspection, vessel plan review, and equipment approval.

Although precise final cost impacts will not be known until after they have been in effect for a period of time, the total cost of direct user fees under Subtitle II is estimated to be less than $45 million on an annual basis. In developing the NPRM, the Coast Guard estimated the cost of operating the 17 RECs to be approximately $6.5 million, while estimating the total cost to the public to be only $6 million. However, following development of the final rule and further data analysis, the Coast Guard determined the cost of these regulations to be $5.2 million, leaving this rule well below the $100 million threshold that would make this a major rulemaking under Executive Order 12291 and below the $6.5 million originally estimated. In fact, the total cost to the public may decline even further because an unknown number of individuals may choose not to obtain or renew their Coast Guard license or MMD in response to this rulemaking.

Though not major, this rulemaking is significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979); as such, a Regulatory Evaluation was prepared and is available in the docket. This evaluation focused on the annualized cost of the user fees and compared them to typical salaries of merchant mariners. It also examined the fees in this rulemaking and compared them to other types of professional license fees. The evaluation concluded that the financial impact of the fees, by themselves, would be minimal on the public and on most individuals subject to these direct user fees. However, the Coast Guard acknowledges that the fees may represent but one of several costs incurred by the individual mariner in acquiring a Coast Guard license or MMD. As a result of the cumulative effect of the fees and other expenses, some of these individuals may choose not to obtain or renew a license or MMD.

A cost-benefit analysis was not prepared since this rulemaking is a deficit-reduction measure of the Act, and such analysis is not appropriate. Benefits to the mariners affected by these regulations are represented by the issuance of the marine license, certificate of registry, or MMD, all of which are currently provided free of charge by the Coast Guard. However, these regulations may have a small economic impact on many individuals, since any fee for services previously provided may reduce their net income.

The cost of the regulations to the merchant mariner will vary according to the type of license or service being requested. Since licenses are renewed every five years, to estimate the annual cost of an individual license, the total cost is divided by five. For example, an original upper level deck license requiring an examination will cost $272. If an upper level deck officer held this license for five years, the annualized cost to the deck officer would be approximately $55. Renewal of this license would cost $135, resulting in an annualized cost of $27.

Many comments indicated that the burden of the full amount of the fees falls on the individual in a single year. The Coast Guard acknowledges this reality. However, there would be additional administrative costs if the Coast Guard collected the fees on a prorated annual basis, for example, instead of collecting the fees every fifth year when a license is renewed. These additional administrative costs would have to be passed on to mariners in the form of higher fees. The Coast Guard has concluded that collecting the fees up-front, at the time the service is provided, is the most efficient method.

The U.S. Maritime Administration (MARAD) provided information to the Coast Guard regarding typical salaries for persons employed in the marine industry. Persons having an upper level license and employed in the position of third assistant engineer earn approximate monthly base wages of $3,283 in addition to estimated monthly overtime wages of $2,577. Third mate monthly base wages approximate $3,105 in addition to estimated monthly overtime wages of $2,437. In general, persons employed in higher grade license positions (chief mate, chief engineer, master, etc.), earn substantially higher base wages than a person with a third assistant engineer or third mate license. Thus, the annualized cost of these user fees appear to represent an insignificant amount, compared to the typical salaries of employed merchant marine officers.

For MMDs, the fee for obtaining a document endorsed as Able Seaman (highest fee category for MMDs) is $152. Renewal of this document is not currently required, but under the Oil Pollution Act of 1990, both existing and new MMDs must be renewed every 5 years. A merchant mariner seeking another MMD endorsement within a few years would also be required to pay additional fees. If the $152 cost is spread out over a 5-year period, the annualized cost would be approximately $30. The typical monthly base wage of an Able Seaman ranges from $1,403 (the median monthly wages of an Able Seaman on a U.S. flag, seagoing tanker reported by the Bureau of Labor Statistics) to $1,569 in addition to estimated monthly overtime wages of $1,232. On an annualized basis, user fee costs to the average employed seaman should represent significantly less than one day's wages.

Some comments provided information related to salary experience within the industry. This information indicated that a wide range of salaries exists, and that many mariners earn significantly less than the salaries reported to the Coast Guard by MARAD. Others stated that the typical merchant mariner is not employed the entire year, often sailing under the Coast Guard license only 30% to 50% of the time, if that much.

The Coast Guard did not attempt to either establish or justify the fees based on salary information. The fees established in this rulemaking were not based upon one's perceived ability to

pay. It would be inappropriate to base fees on these considerations under the criteria set forth in the General User Fee Statute. Instead, the Coast Guard used this salary information to examine the potential financial impact upon individuals affected by this rulemaking.

When compared to other costs already associated with receiving or maintaining a license, certificate of registry, or MMD, the Coast Guard's position is that the fees are not excessive. For most mariners, the fees will essentially become part of the overall cost associated with working in their trade or industry.

In summary, the Coast Guard's position is that the impact of these regulations on the general public will be minimal and that the impact on U.S. maritime industries will be small. User fees are not expected to have a significant impact on inflation, any one industry, geographic region, or international trade. On the other hand, the impact on individual mariners (or prospective mariners) will vary according to level, employment experience, and motivation. Persons who have no intention of returning to sea often retain their license or MMD as a matter of convenience, pride, or for some other personal reason. To accommodate these persons, only the issuance fee will be required to renew a license merely for continuity purposes. Some individuals considering entry level positions, who may have obtained an initial license or document had it remained free, may be discouraged because of these fees. However, the Coast Guard concludes that most individuals will view the fees as a small part of the total cost associated with seeking or obtaining employment in the maritime industry.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rulemaking will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

Although many comments spoke of the economically depressed marine industry, the fees established in this rulemaking will mostly impact the individual mariner. However, some license holders both own and operate their vessels as a small business; for example, those in the charter boat industry. Though the fees for their Coast Guard license will have some impact on their business, it is the Coast Guard's position that these fees, by themselves, do not create a significant economic impact.

Because it expects the impact of this rulemaking on small entities to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains minimal additional collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Existing requirements for applications for Coast Guard licenses, certificates of registry, and MMDs are covered under Office of Management and Budget control numbers 2115–0514 and 2115–0111. The additional requirements involve collection of funds, and of such information as is required to calculate the fee due or to ensure proper collection. These may include account numbers for financial accounts from which payment is made, and addresses, telephone numbers, or other identifying information which will permit follow-up action when an incorrect amount is submitted or a payment instrument fails to clear.

Those persons desiring to pay by check or money order will be required to include their social security number on the check or money order. The social security number serves as the unique means of identification for that individual at the REC and will help ensure that the appropriate individual is credited with the payment.

Another new requirement is established for individuals who seek the no-fee restricted license. A letter from an organization determined by Commandant (G–MP) to be eligible based on criteria of being charitable in nature, not-for-profit, and youth oriented must accompany the person's license application. The letter must state that the purpose of the person's application is only to further the conduct of the organization's maritime activities.

The burden placed on members of the public is considered to be minimal and within the scope of the information collection permitted under existing control numbers.

Federalism

The Coast Guard has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612, and has determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This final rule establishes user fees for marine licensing services. The authority to regulate marine licensing under 46 U.S.C. 2110 and user fees for related services has been delegated to the Coast Guard. Furthermore, marine licensing and user fees for related services are matters national in application for which regulations should be of national scope to avoid unreasonably burdensome variances. Therefore, the Coast Guard intends this final rule to preempt State action addressing the same matter, although no such action is expected.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation because it involves only administrative actions, procedural regulations, and policies which clearly do not have any environmental impacts. A Categorical Exclusion Determination is available in the docket.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Freedom of information, Penalties.

46 CFR Part 10

Fees, Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 12

Fees, Reporting and recordkeeping requirements, Seamen.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 1 and 46 CFR parts 10 and 12 as follows:

TITLE 33—[AMENDED]

SUBCHAPTER A—GENERAL

PART 1—GENERAL PROVISIONS

1. The authority citation for subpart 1.25 is revised to read as follows:

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 49 CFR 1.46.

2. The heading of subpart 1.25 is revised to read as follows:

Subpart 1.25—Fees and Charges for Certain Records and Services

3. Section 1.25–40 is amended by removing paragraph (b), Table 1.25–

40(b), and the paragraph designator (a) for the remaining text.

TITLE 46—[AMENDED]

SUBCHAPTER B—MERCHANT MARINE OFFICERS AND SEAMEN

PART 10—LICENSING OF MARITIME PERSONNEL

4. The authority citation for part 10 is revised to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2103, 7701; 49 CFR 1.45, 1.46; Section 10.107 also issued under the authority of 44 U.S.C. 3507.

5. Section 10.103 is amended by adding the following definitions in alphabetical order to read as follows:

§ 10.103 Definitions of terms used in this part.

* * * * *

Evaluation means processing an application, from the point of receipt to approval or rejection of the application, including review of all documents and records submitted with an application as well as those obtained from public records and databases.

* * * * *

Lower level means a category of deck and engineer licenses established for assessment of fees. Lower level licenses are all licenses, other than those defined as upper level, for which the requirements are listed in subparts D, E, and G of this part.

* * * * *

Upper level means a category of deck and engineer licenses established for assessment of fees. Upper level licenses are those licenses for which the requirements are listed in §§ 10.404 to 10.407 of subpart D of this part and §§ 10.510, 10.512, 10.514, and 10.516 of subpart E of this part.

* * * * *

6. Section 10.109 is added to read as follows:

§ 10.109 Fees.

The following fees are required for license and registration activities in this part:

(a) For licenses.

(1) Upper level:

(i) For evaluation for an original license, $87.

(ii) For evaluation for a license other than an original, including a raise in grade in a license, $70.

(iii) For administration of an examination, including allowable retests, $150.

(iv) For administration of a limited examination required under subpart D of this part, including allowable retests, $55.

(v) For issuance of a license, $35.

(2) Lower level:

(i) For evaluation for an original license, $82.

(ii) For evaluation for a license other than an original, including a raise in grade of a license, $65.

(iii) For administration of an examination, including allowable retests, $80.

(iv) For administration of a limited examination required under subpart D of this part, including allowable retests, $55.

(v) For issuance of a license, $35.

(3) Radio Officer:

(i) For evaluation for an original license, $62.

(ii) For evaluation for a license other than an original license, $45.

(iii) For issuance of a license, $35.

(b) For endorsements, except the radar observer endorsement, subsequent to the issuance of the license.

(1) For evaluation for single or multiple endorsements, $45.

(2) For administration of examinations, including allowable retests, $55.

(3) For issuance of single or multiple endorsements to an existing license, $35.

(c) For renewal of a license.

(1) For evaluation for renewal of a license, $45.

(2) For administration of an open-book exercise if required under § 10.209 of this part, $55.

(3) For issuance of a renewed license, $35.

(3) For issuance of a renewed license, without evaluation or examination, for continuity purposes only, $35.

(d) For Certificates of Registry.

(1) For Chief Purser, Purser, and Senior Assistant Purser:

(i) For evaluation of an unlicensed applicant for a certificate of registry, $62.

(ii) For evaluation of an applicant who holds a license or certificate of registry issued under this part, $45.

(iii) For issuance of a certificate of registry, $35.

(2) For Junior Assistant Purser, Medical Doctor, and Professional Nurse:

(i) For evaluation of an unlicensed applicant for a certificate of registry, $17.

(ii) For evaluation of an applicant who holds a license or certificate of registry issued under this part, no fee.

(iii) For issuance of a certificate of registry, $35.

(e) For reissue of a license or certificate or registry issued in this part where a fee is required in § 10.219, $35.

(f) For endorsements to existing license, a raise in grade of a license, an additional license, or certificate of registry where further evaluations are not required, no evaluation fee.

(g) For endorsements to an existing license, a raise in grade of a license, or an additional license where further examinations are not required, no examination fee.

7. Section 10.110 is added to read as follows:

§ 10.110 Fee payment procedures.

(a) Unless otherwise directed, the prescribed fee must be paid as follows:

(1) If an evaluation fee, at the time of application.

(2) If an examination fee, prior to taking the first examination section.

(3) If an issuance fee, prior to receiving the license or certificate of registry.

(b) For examinations administered at locations other than a Regional Examination Center, the examination fee must be received by the Regional Examination Center at least one week in advance of the scheduled examination date, unless otherwise directed.

(c) Prescribed fees must be paid by one of the following options:

(1) *Mail-in.* Payment by check or money order only, made payable to one of the following:

(i) U.S. Coast Guard;

(ii) U.S. Government;

(iii) U.S. Treasury;

(iv) U.S. Department of Transportation.

Fee payment by check or money order must have the applicant's (payor's) social security number included thereon.

(2) *In-person.* Fee payment will be accepted by cash, check, or money order at Coast Guard units where Regional Examination Centers are located. Where an applicant makes payment by cash, payment must be in the exact amount. A check or money order must be payable as specified in paragraph (c)(1) of this section.

8. Section 10.111 is added to read as follows:

§ 10.111 Penalties.

(a) Anyone who fails to pay a fee or charge established under this subpart is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(b) The Coast Guard may assess additional charges to anyone to recover collection and enforcement costs associated with delinquent payments of, or failure to pay, a fee. Coast Guard licensing services may also be withheld from anyone pending payment of outstanding fees owed to the Coast Guard for services already provided by Regional Examination Centers.

9. Section 10.112 is added to read as follows:

§ 10.112 No-fee license for certain applicants.

(a) For the purpose of this section, a no-fee license applicant is a person who is a volunteer, or part-time or full-time employee of an organization which is:

(1) Charitable in nature;

(2) Not for profit; and

(3) Youth oriented.

(b) An organization may submit a written request to Commandant (G–MP), 2100 Second Street SW., Washington, DC 20593–0001 in order to be considered an eligible organization under the criteria set forth in paragraph (a) of this section. With the written request, the organization must provide evidence of its status as a youth oriented, not for profit, charitable organization.

Note: The following organizations are accepted by the Coast Guard as meeting the requirements of paragraph (a) of this section and need not submit evidence of their status: Boy Scouts of America, Sea Explorer Association, Girl Scouts of the United States of America, and Young Men's Christian Association of the United States of America.

(c) A letter from an organization determined eligible under paragraph (b) of this section must also accompany the person's license application to the Coast Guard. The letter must state that the purpose of the person's application is solely to further the conduct of the organization's maritime activities. The applicant then is eligible under this section to obtain a no-fee license if other requirements for the license are met.

(d) A marine license issued to a person under this section is endorsed restricting its use to vessels owned or operated by the sponsoring organization.

(e) The holder of a no-fee license issued under this section may have the restriction removed by paying the appropriate evaluation, examination, and issuance fees that would have otherwise applied.

10. Section 10.205 is amended by revising paragraph (a) to read as follows:

§ 10.205 Requirements for original licenses and certificates of registry.

(a) *General.* The applicant for an original license or certificate of registry shall present satisfactory documentary evidence of eligibility in respect to the requirements of this section. Each applicant shall make written application on a Coast Guard furnished form and, unless exempted under § 10.112, submit the evaluation fee set out in § 10.109.

* * * * *

11. Section 10.207 is amended by revising paragraph (a) to read as follows:

§ 10.207 Requirements for raise of grade of license.

(a) *General.* Before any person is issued a raise of grade of license, the applicant shall present satisfactory documentary evidence of eligibility. Each applicant shall make written application on a Coast Guard furnished form and, unless exempted under § 10.112, submit the evaluation fee set out in § 10.109.

* * * * *

12. Section 10.209 is amended by revising paragraph (a) to read as follows:

§ 10.209 Requirements for renewal of license.

(a) *General.* Except as provided in paragraph (g) of this section, each applicant for renewal of a license shall establish that he or she possesses all of the necessary qualifications before a renewed license is issued. Each applicant for renewal of a license shall make written application on a Coast Guard furnished form and, unless exempted under § 10.112, submit the evaluation fee set out in § 10.109. The applicant may appear in person at any Regional Examination Center listed in § 10.107 or may renew the license by mail under paragraph (e)(3) of this section. The applicant must submit the license to be renewed or a photocopy of the license. If requested, the old license will be returned to the applicant.

* * * * *

13. Section 10.217 is amended by revising paragraph (a) to read as follows:

§ 10.217 Examination procedures and denial of licenses.

(a)(1) The examinations for all deck and engineer unlimited licenses are administered at periodic intervals. The examination fee set out in § 10.109 must be paid prior to taking the first examination section. If an applicant fails three or more sections of the examination, a complete reexamination must be taken, but may be taken during any of the scheduled exam periods. On the subsequent exam, if the applicant again fails three or more sections, at least 3 months must lapse before another complete examination is attempted, and a new examination fee is required. If an applicant fails one or two sections of an examination, the applicant may be retested twice on these sections during the next 3 months. If the applicant does not successfully complete these sections within the 3 month period, complete reexamination must be taken after a lapse of at least 3 months from the date of the last retest, and a new examination fee is required. The 3 month retest period may be extended by the OCMI if the applicant presents discharges documenting sea time which prevented the taking of a retest during the 3 month period. The retest period may not be extended beyond 7 months from the initial examination.

(2) The scheduling of all other deck and engineer license examinations will be at the discretion of the OCMI. The examination fee set out in § 10.109 must be paid prior to taking the first examination section. In the event of a failure, the applicant may be retested twice whenever the examination can be rescheduled with the OCMI. The applicant must be examined in all of the unsatisfactory sections of the preceding examination. If the applicant does not successfully complete all parts of the examination during a 3-month period from the initial test date, a complete reexamination must be taken after a lapse of at least 2 months from the date of the last retest, and a new examination fee is required.

* * * * *

14. Section 10.219 is amended by redesignating the existing text as paragraph (a) and adding new paragraphs (b) and (c) to read as follows:

§ 10.219 Issuance of duplicate license or certificate of registry.

(a) * * *

(b) If a person loses a license or certificate of registry by shipwreck or other casualty, a reissue of that license or certificate or registry will be supplied free of charge. Other casualties include any damage to a ship caused by collision, explosion, tornado, wreck, flooding, beaching, grounding, or fire.

(c) If a person loses a license or certificate of registry otherwise than by shipwreck or other casualty and applies for a reissue, the appropriate fee set out in § 10.109 is required.

PART 12—CERTIFICATION OF SEAMEN

15. The citation of authority for part 12 is revised to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2103, 2110, 7301, 7701; 49 CFR 1.46.

16. Section 12.01–6 is added to read as follows:

§ 12.01–6 Definitions of terms used in this part.

Evaluation means processing an application, from the point of receipt to approval or rejection of the application, including review of all documents and records submitted with an application as well as those obtained from public records and databases.

Original document means the first merchant mariner's document issued to any person by the Coast Guard.

Qualified rating means various categories of Able Seaman, Qualified Member of the Engine Department, Lifeboatman, or Tankerman endorsements on merchant mariner's documents.

17. Section 12.01–7 is amended by adding the following location name to the existing list to read as follows:

§ 12.01–7 Regional Examination Centers.

* * * * *

Portland, OR

* * * * *

18. Section 12.02–18 is added to read as follows:

§ 12.02–18 Fees.

(a) The following fees are required for merchant mariner's document activities in this part:

(1) For evaluation for an original document, (does not apply if applicant holds a license or certificate of registry issued under part 10 of this chapter), $17.

(2) For evaluation for a merchant mariner's document endorsed with a qualified rating:

(i) For an original merchant mariner's document, $77.

(ii) For a merchant mariner's document other than original, $60.

(iii) Where further evaluation is not required, such as when a merchant mariner's document is issued incident to a license transaction, no fee.

(3) For administration of examination, $40.

(4) For issuance of a document, $35.

(5) For duplicate of a merchant mariner's document issued in this part where a fee is required in § 12.02–23, $35.

(6) For a duplicate continuous discharge book, record of sea service, or copies of certificates of discharge, $10.

(b) Unless otherwise directed, the prescribed fee must be paid as follows:

(1) If an evaluation fee, at the time of application.

(2) If an examination fee, prior to taking the first examination section at a Regional Examination Center. For examinations administered at locations other than a Regional Examination Center, the examination fee must be received by the Regional Examination Center at least one week in advance of the scheduled examination date.

(3) If an issuance fee, prior to receiving the document.

(c) Prescribed fees must be paid by one of the following options:

(1) *Mail-in.* Payment by check or money order only, made payable to one of the following:

(i) U.S. Coast Guard;

(ii) U.S. Government;

(iii) U.S. Treasury;

(iv) U.S. Department of Transportation.

Fee payment must be made by check or money order with the applicant's (payor's) social security number included thereon.

(2) *In-person.* Fee payment will be accepted by cash, check, or money order at Coast Guard units where Regional Examination Centers are located. Where an applicant makes payment by cash, payment must be in the exact amount. A check or money order must be payable as specified in paragraph (c)(1) of this section.

(d) The following applies to anyone failing to pay a fee or charge established under this subpart:

(1) Anyone who fails to pay a fee or charge established under this subpart is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) The Coast Guard may assess additional charges to anyone to recover collection and enforcement costs associated with delinquent payments of, or failure to pay, a fee. Coast Guard merchant mariner's document services may also be withheld from anyone pending payment of outstanding fees owed to the Coast Guard for services already provided by Regional Examination Centers.

19. Section 12.02–23 is amended by revising paragraphs (b) and (c) to read as follows:

§ 12.02–23 Issuance of duplicate documents.

* * * * *

(b) If a seaman loses a continuous discharge book, merchant mariner's document, or certificate of discharge otherwise than by shipwreck or other casualty and applies for a reissue, the appropriate fee set out in § 12.02–18 is required.

(c) A person entitled to a duplicate merchant mariner's document, duplicate continuous discharge book, copies of certificates of discharge, or record of sea service may obtain the documents by applying at any Regional Examination Center listed in § 12.01–7 by:

(1) Completing the application form provided by the Coast Guard; and

(2) Paying the fee set out in § 12.02–18.

* * * * *

Dated: March 15, 1993.

J.W. Kime,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 93–6364 Filed 3–18–93; 8:45 am]

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Federal Register

Friday
March 19, 1993

Part V

Department of Labor

Employment and Training Administration

20 CFR Part 656

Labor Certification Process for Permanent Employment of Aliens; Labor Market Information Pilot Program; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 656

RIN 1205-AA87

Labor Certification Process for the Permanent Employment of Aliens in the United States; Labor Market Information Pilot Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Employment and Training Administration of the Department of Labor (DOL) is proposing to amend its regulations relating to the labor certification process for the permanent employment of aliens in the United States. The amendments are necessary to implement the Labor Market Information (LMI) Pilot Program provided for in section 122(a) of the Immigration Act of 1990 (IMMACT).

The LMI Pilot Program will provide for a determination of labor shortages in 10 defined occupational classifications in the United States using data on certifications approved under section 212(a)(5)(A) of the Immigration and Nationality Act (INA) and other labor market information. Labor certifications will be deemed to have been granted in these labor shortage occupations. This program will apply to applications for permanent labor certification filed through September 30, 1994.

DATES: Comments are invited on the proposed rule and on the proposed list of occupations. Comments shall be submitted by April 19, 1993.

ADDRESSES: Submit comments to: Carolyn M. Golding, Acting Assistant Secretary, Employment and Training Administration, Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; Attention: United States Employment Service, Division of Foreign Labor Certifications, room N–4456.

FOR FURTHER INFORMATION CONTACT: Flora Richardson, Chief, Division of Foreign Labor Certifications, United States Employment Service. Telephone: (202) 219–5263 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

On November 29, 1990, the Immigration Act of 1990 (IMMACT), Public Law 101–649, 104 Stat. 4978, was enacted.

This law amended the Immigration and Nationality Act (INA) (8 U.S.C. 1101, *et seq.*) and assigned responsibility to the Department of Labor (DOL or Department) for implementing several provisions of IMMACT relating to the entry of certain categories of employment-based immigrants, and to the temporary employment of certain categories of nonimmigrants.

Section 212(a)(5)(A) of the INA provides that immigrant aliens in specified employment-based permanent visa categories are excluded from the United States unless the Secretary of Labor (Secretary) has certified to the Secretary of State and the Attorney General that able, willing, and qualified U.S. workers (or equally or more qualified U.S. workers, in the case of college teachers and aliens of exceptional ability in a science or art) are unavailable and employment of the alien will not adversely affect the wages and working conditions of U.S. workers similarly employed. 8 U.S.C. 1182(a)(5)(A). This action is called a labor certification.

The permanent alien labor certification process, which, for the most part, is conducted on a case-by-case basis, has proven to be both lengthy and costly. Although average processing times can vary widely from State to State, nationwide, the permanent alien labor certification process now takes an average of about nine months to complete. Once issued, a DOL permanent alien labor certification remains valid indefinitely.

In section 122(a) of IMMACT, Congress directed the Secretary to conduct a labor market information pilot program for employment-based immigrants (LMI pilot program) to determine whether the permanent alien labor certification process could be streamlined by supplementing this case-by-case process with an approach utilizing lists of occupations in which there are labor shortages or surpluses. The legislation provides that, under the pilot program, a determination will be made that labor shortages or surpluses exist in up to 10 defined occupational classifications. Section 122(a) requires that, in making these determinations, the Department consider occupations that have been previously approved under the permanent alien labor certification program as well as labor market and other related information. If it is determined that there is a labor shortage with respect to an occupation, a labor certification under section 212(a)(5)(A) shall be deemed to have been issued for that occupation. If it is determined that there is a labor surplus in an occupation, the Department may only issue a permanent alien labor certification if the employer submits evidence, based on extensive recruiting efforts (including such efforts as the Secretary may require), that the employer meets the requirements for certification under INA section 212(a)(5)(A). The Secretary is required to report to Congress by April 1, 1994, on the operation of the pilot program and whether the program should be extended.

The Department has elected to include only shortage occupational classifications in the LMI Pilot Program. There is an analogy for the LMI pilot program in previous and current regulatory provisions at 20 CFR part 656 for shortage (Schedule A) occupations.

Schedule A is a list of precertified occupations and occupational categories for which the Department has previously determined that there are not sufficient U.S. workers who are able, willing, qualified and available. See 20 CFR 656.10 and 656.22 (1992). The occupations currently on Schedule A are occupations that require highly specialized knowledge, skills and abilities, and extensive training and experience. Schedule A currently includes two specific occupations—registered nurses and physical therapists—and an occupational category for aliens of exceptional ability in the sciences or the arts.

Historically, during the late 1960's and 1970's, Schedule A was the product of an extensive process of economic and labor market analysis of employment demand and supply conducted by DOL national office staff. The occupations were initially identified through the application of factors such as: Unemployment rates; occupational projections; evidence submitted by trade associations, employers and organized labor; and technical reviews by Federal and State staff with expertise in these areas. The occupational listings in the schedule were reviewed and modified at regular intervals to reflect changing economic and labor market conditions and to prevent adverse impact on the wages or working conditions of U.S. workers. Occupations are placed on or deleted from the current Schedule A only after rulemaking, with full opportunity for public comment.

The LMI pilot program is not intended to identify labor shortages for any purpose other than to test whether parts of the permanent alien labor certification process can be streamlined, without adversely affecting U.S. workers, in specific geographic areas where labor market information indicates a potential labor shortage in specific occupational classifications. However, the Department also views the

LMI pilot program as an opportunity to advance the interests of U.S. workers. Employers seek immigrant workers, in large part, because U.S. workers in their local communities lack the education and high-level skills needed to fill these job openings or are unwilling to take a particular job opportunity. The Department therefore encourages training and education agencies, as appropriate, to provide the necessary career counseling and training so that U.S. workers can qualify for the jobs that employers now fill with alien workers.

II. Analysis of Comments Received in Response to March 20, 1991 Federal Register Notice

On March 20, 1991, the Department published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** inviting comments from interested parties on a series of issues and questions related to the Department's responsibilities under IMMACT. 56 FR 11705. Several of these questions concerned the LMI pilot program. A total of 47 letters containing 157 comments were received on the pilot program from State officials, a Territorial government, Federal Government agencies, educational institutions, trade associations, unions, law firms, and private employers. The ANPRM specifically requested comments on the following issues and questions, as well as on any other matter relevant to DOL's responsibilities in implementing the pilot program:

(A) Appropriate methodologies that might be used to determine the labor shortage and/or surplus occupational classifications.

The Department received 25 comments on this subject. More than half (13) suggested that the methodologies utilize permanent alien labor certification data. Of these, six suggested that alien certification data be used exclusively and the remaining seven felt that these data should be used in combination with other data sources. Other commenters suggested that a variety of other LMI and related sources of information be used in developing lists of shortage/surplus occupational classifications.

The Department developed and utilized a methodology for selecting the occupational classifications to be used in the pilot test that combines the use of labor certification data and labor market information. It was concluded that the integrated use of data from these sources would provide the most accurate indication of the possible existence of labor shortages in specific occupational classifications and geographic areas.

(B) Should the pilot program address both labor shortage and labor surplus occupational classifications? If so, how should the occupational classifications identified be divided between shortage and surplus and on what basis?

A total of 21 comments were received on this question. Eleven commenters recommended that only shortage occupational classifications be included in the pilot and ten suggested that the list contain both shortage and surplus occupational classifications. Those recommending that the list contain both commented that the number of surplus occupational classifications should be limited and/or that no "waivers" should be granted for surplus occupational classifications during the pilot. No commenter recommended that only labor surplus occupational classifications be included in the pilot.

It is the Department's view that a basic purpose of section 122(a) of IMMACT is to test an approach to streamlining the permanent alien labor certification process that would reduce the administrative burden on employers without adversely affecting U.S. workers. While this can be achieved in a methodology designed to identify labor shortages, the Department has concluded that, under the terms of the legislation, testing of a new methodology for identifying labor surpluses would, in fact, impose an additional administrative burden and costs on employers. This would occur because the law requires that if, under the test, a labor surplus is identified in an occupation, employers would be required to provide evidence of extensive recruiting efforts (presumably over and beyond the basic Labor Certification process) before the Department could issue a permanent alien labor certification in that occupation.

(C) Specific sources of data that might provide the best information on potential shortage/surplus occupational classifications and their locations.

Eleven of the 15 comments received on this subject suggested that State employment security agency (SESA) administrative data, permanent alien labor certification data, labor market information, and private surveys would be appropriate data sources. In addition to these sources, a number of other data sources were suggested, including the results of existing surveys conducted by scientific, professional and trade associations.

The Department's methodology involves the use of all the data sources suggested by commenters. Permanent alien labor certification data and labor market information were used in identifying the initial list of occupational classifications and the other sources noted were used in the subsequent analysis and refinement of the list.

(D) The frequency with which the list of shortage and surplus occupational classifications should be updated, and the method that should be used for doing so.

Ten of the 16 commenters recommended that the list be updated annually. The remaining specific comments ranged from updating quarterly to updating every three years. None of the commenters suggested any method which could be used to conduct this update.

Since the authority for the pilot test expires on September 30, 1994, less than two years will be available for the conduct of the test. The Department has concluded that changes in the list of occupational classifications during this short period would complicate the evaluation of the program by not allowing an adequate time period for the collection of data on each of the occupational classifications selected for the test. However, if authority for the pilot program is extended beyond this period, the Department would consider changes in the list of occupational classifications.

E) The general principles to use in selecting the shortage/surplus occupational classifications for the pilot program.

No comments were received on this subject.

(F) The rationale for the degree of specificity that should be used to identify each listed occupational classification.

A total of 30 comments were received on the degree of specificity that ought to be used to select occupational classifications. Sixteen concerned the level of occupational detail to be used in identifying occupational classifications and 14 concerned whether the occupational classification shortages/surpluses listed should be limited to specific geographic areas. Of those commenting on the level of occupational detail, ten suggested that the occupational classifications be narrowly defined and six suggested that the occupational classifications should be broadly defined. None of those commenting on the level of geographic

detail favored publishing the list on a national basis. The majority (8) favored State/local lists and the remainder (6) suggested that the lists be on a regional basis.

In defining the occupational classifications to be included in the pilot test, the Department chose broad shortage occupational classifications and used other data and criteria to refine the occupational classifications to specific occupations so that the LMI pilot program would apply only to job opportunities in geographic areas for which there was significant evidence of a shortage of qualified U.S. workers. It was also necessary, in this process, to take into account the availability of data that could be used in measuring the existence of shortages in these occupational classifications.

(G) Should occupations, occupational classifications and occupational categories currently on Schedules A (shortage occupations) and B (surplus occupations) be considered for or automatically included in the pilot program? Should Schedule A be continued or eliminated during the pilot?

Of the 28 comments received on this issue, 14 commenters were in favor of retaining these schedules as separate entities and not including them in the pilot. The remaining comments ranged from suggestions that one or both schedules be included in the pilot (7) to the elimination of one or both schedules (5).

The Department has concluded that the LMI pilot program should not affect the occupational classifications or requirements of Schedule A since this is a pilot test. The rationale for the inclusion of those classifications in Schedule A remains valid and therefore Schedule A will continue to apply nationally, including in the States which will be sites in the LMI pilot program.

Schedule B will be unaffected by the pilot test since the test will not include occupational surplus classifications.

(H) Other Comments

In addition to comments on these specific questions, the Department received a number of other written comments on the pilot program portion of the ANPRM as well as oral comments made at public meetings devoted to discussion of the ANPRM. These comments involved primarily two areas of concern: the need for additional funds to support State information collection for the program and requests that specific occupational classifications be included in the LMI pilot program.

(1) Funding

Five State officials commented that additional funding would be required if the States would be expected to enhance current labor supply and demand information in order to identify occupational classification shortages and surpluses.

The Department does not anticipate that there will be an additional reporting or data collection burden placed upon the States in the conduct of the LMI pilot program. The researchers who developed the recommended list of occupational classifications and those who will conduct the evaluation of the program will confine their analysis to data that are currently available.

(2) Specific Occupational Requests

The Department also received 16 requests to include specific occupational classifications on the list of shortage occupations for the pilot. The occupations suggested include the following: University teachers/researchers, physical therapists, radiation oncology technologists, nurses, occupational therapists, live-in domestic workers, software engineers, long-haul truck/tractor drivers, and artists with exceptional ability. In addition to requests to include specific occupations in the pilot, the Department also received several requests to exclude engineers and construction industry occupations from the list of shortage occupational classifications.

All of these requests were taken into account by the Department in developing the list of occupational classifications for inclusion in the LMI pilot program. The final selection of occupational classifications was made on the basis of the criteria and procedures outlined in the discussion of methodology in section III(D) of this preamble.

III. LMI Pilot Program Design

The Department has carefully reviewed the public comments on the ANPRM, studied the legislative history of IMMACT, and consulted with staff experts on the permanent alien labor certification process in DOL and in the SESA's. A basic objective of IMMACT was to make the immigration system more efficient and more responsive to the staffing requirements of employers by increasing both the number and skill level of the employment-base immigrants admitted into the United States, while continuing to safeguard the interests of U.S. workers. As indicated above, the purpose of the LMI pilot program is to determine whether the permanent alien labor certification process can be streamlined by supplementing the current case-by-case process with the use of labor market information to determine occupational classifications which are characterized by labor shortages.

There are a variety of LMI and related data sources, such as the Current Population Survey, Decennial Census data, wage surveys, and administration statistics gathered by various public and private agencies, that can serve as indicators of occupational shortages. The pilot program will test the extent to which these data can be used to waive the case-by-case certification process without adversely effecting U.S. workers.

The following are the principal features of the pilot program:

(A) Summary of LMI Pilot Program

After consultation with the Immigration and Naturalization Service (INS), DOL determined that it will delegate authority to the INS to administer the operations of the LMI pilot program with respect to the shortage occupational classifications in the same manner that it administers the current Schedule A list of precertified occupations. The LMI pilot will not affect the occupations and occupational classifications currently on, or requirements of, Schedule A. DOL does not plan to update the list of occupational classifications unless Congress extends the program beyond September 30, 1994.

For purposes of the LMI pilot program, DOL proposes to include ten shortage occupational classifications on the list. Each shortage classification will include a definition/description and the specific qualifications which an alien must possess in order to qualify for precertification. The process will require the employer to file Form ETA 750, Application for Alien Employment Certification, and evidence of the alien's qualifications with the INS, along with the petition for preference classification. If the petition is approved, INS will send to DOL (i.e., the U.S. Employment Service's Division of Foreign Labor Certifications) a copy of the ETA 750, without supporting documents. The ETA 750 will provide DOL information for statistical and evaluation purposes, such as the specific occupations in which aliens receive precertification, locations of jobs, wages offered, education and experience of aliens hired as a result of this process, and nature of employer's business.

(B) Conduct the Pilot Test at the Subnational Level

Labor shortages tend to be concentrated in specific occupations and in particular regions, States, or localities. The Department concluded that while nationwide data may show a potential shortage in specific occupational classifications, labor surpluses may exist in these occupational classifications in smaller geographic areas, particularly during a period of slow economic growth. For this reason, and given the limited resources available for the pilot test and its evaluation, the Department has decided to conduct the test on the subnational level.

(C) Limit Shortage Occupational Classifications to Those With High-Skill Levels

Supply-demand imbalances in low-skilled occupational classifications can be addressed through the short-term training of American workers that can often be provided on the job. Such imbalances are likely to be transitory and thus are not appropriate for precertification. DOL has, therefore, limited the LMI pilot test to occupational classifications which require substantial education and/or experience and that are in high demand in specific regions of the country.

(D) Methodology for Identifying Labor Shortage Occupations

In the absence of direct measures of labor shortages, the Department has elected to use a methodological approach that utilizes labor certification data and a series of indirect labor market indicators of labor shortage combined with expert analysis for purposes of this pilot program. To accomplish this task, the Department used the services of a leading expert on labor market information, Dr. Malcolm Cohen, Director of the Institute of Labor and Industrial Relations, University of Michigan, to develop the list of proposed occupational classifications. He has conducted research for a large number of Federal and State agencies and published widely on labor market information and employment forecasting topics in scholarly journals.

Recognizing that current labor shortages tend to be concentrated in specific occupations and in particular localities, a methodological approach was developed that would identify occupational classifications in which significant supply/demand imbalances exist in specific States. Using a range of labor market indicators supplemented by consultation with labor market experts, the methodology identifies occupations and areas in which shortages are likely to exist. Thus, at this stage, the selection of a particular occupation or State for the pilot test should not be interpreted as conclusive evidence that an occupational shortage does, in fact, exist.

The approach used to develop the list of occupational classification consisted of the following steps:

Step 1. Development of Indicators

The initial list of occupations to be considered for the study was formulated by aggregating the approximately 13,000 occupations listed in the Dictionary of Occupational Titles into 193 occupational groups. Seven labor market indicators were developed, which would be used, in combination, to select—from these 193 occupational groups—a list of occupational groups from which the final list for the pilot test would be drawn. The seven indicators are:

(1) A composite index based on labor market conditions for the occupational group from 1986–1989.

(2) The average amount of training time required for the occupations in the group, based on the SVP in the Dictionary of Occupational Titles.

(3) The average number of permanent alien labor certifications for the group per 100,000 members of the labor force from 1990–1992.

(4) The average annual employment change for the group from 1989 to 1991.

(5) The average unemployment rate of the occupational group for 1990 and 1991.

(6) The growth or decline projected by the Bureau of Labor Statistics for the occupational group from 1990–2005 (moderate forecast assumption).

(7) Average annual wage change in the occupational group from 1989 to 1991.

Step 2. Assignment of Rank

The second step involved assigning a rank of one through seven to each indicator for each occupational group, with higher ranks denoting a higher likelihood of occupational shortage. The following are the measures associated with the highest and lowest ranks assigned to each of the seven indicators:

Indicator	Lowest rankings	Highest rankings
1.	Lowest composite score.	Highest composite score.
2.	Lowest amount of training required.	Highest amount of training required.
3.	Lowest rate of permanent alien labor certifications per 100,000 members of labor force.	Highest rate of permanent alien labor certifications per 100,000 members of labor force.
4.	Lowest average annual employment growth rate, or highest decrease.	Highest average annual employment growth rate.
5.	Highest average annual unemployment rate.	Lowest average annual unemployment rate.
6.	Lowest projected average employment growth rate, or highest decrease.	Highest projected average employment growth rate.
7.	Lowest average annual wage increase.	Highest average annual wage increase.

Occupational groups could theoretically score as low as seven if they scored one in all seven indicators or as high as 49 if they received the highest score of seven in every indicator. An average score for an occupational group would be 28.

Occupational groups with a score of 28 or above were selected for further consideration. Primary emphasis was placed on occupations with scores of 35 or more. Occupational classifications with scores between 28 and 34 were considered only in the presence of additional information, such as a high number of certifications in specific nine-digit occupations within the occupational classification, or expert opinion.

Step 3. Geographic Locations

The third step consisted of selecting, for further analysis, States in which potential shortages existed in the occupational groups selected in Step 2. Initially, States were selected in which there was an average of three or more permanent alien labor certifications per 1,000 members of the labor force for the State from 1990–1992.

In the final analysis, only States with a total of 10 or more permanent alien labor certifications in FY 1992 in the occupational group were included in the analysis. It was determined that if fewer than 10 such certifications took place in a State, the computed ratio could be spurious and, therefore, the State should not be selected as one of the occupational shortage sites.

Step 4. Consultation

The fourth step involved meetings to review criteria with staff of the following offices of the U.S. Department of Labor: Division of Foreign Labor Certifications of the Employment and Training Administration, Office of the Assistant Secretary for Policy, Bureau of International Labor Affairs, Employment Standards Administration, Bureau of Labor Statistics, and the Office of the Solicitor. Meetings were held with other Federal agencies including the Department of Health and Human Services and the National Science Foundation. In addition, individual labor economists, social scientists, university placement staff, and other experts were interviewed.

The primary objective of these meetings was to obtain comments on the appropriateness of the methodology outlined in Steps 1–3 above, and to obtain any additional information that could be used in identifying the labor shortage occupations that would be used in the pilot test. In addition, information was collected that would help in further refining the definitions of the occupational classifications that had been identified for potential inclusion in the pilot test. For example, it was suggested by university placement staff that while there was an adequate supply of biologists at the Bachelor's level, Ph.D.'s were in much shorter supply.

Step 5. Regional Office and State Agency Contacts

Based on Steps 1–4, occupational groups and States were tentatively identified for inclusion in the pilot test. Regional Offices of ETA and State Employment Service Agencies (SESA's) were consulted to gain further information concerning the existence of shortages in these occupational groups and States.

Regional Offices. Personal visits were conducted at five of the ETA Regional Offices: Dallas, San Francisco, Chicago, Philadelphia and New York. The Regional Offices visited accounted for more than 60 percent of all permanent alien labor certification activity in FY 1992. In addition, the Seattle Office was contacted by telephone. Regional Office experts were asked to review the occupational groups (and the specific occupations that comprise the groups) identified for States in their regions and to comment on the existence of Statewide shortages in these occupations as well as on the educational levels at which shortages might occur. Regional staff also furnished detailed data on labor certification activity in their areas which shed further light on the existence of shortages in States in their regions.

Employment Service Offices. The New York, California, and Massachusetts SESA's were visited. Telephone contacts were made with the Illinois, Louisiana, Michigan, New Jersey, Ohio, Texas, and Washington State SESA's. The primary purpose of these SESA contacts was to collect data on active applicants registered at the Employment Service and on unfilled job orders in the occupational classifications being considered for the pilot test. A high ratio of active applicants to open job orders in a given occupational classification was deemed to be inconsistent with the existence of a labor shortage in that occupational group.

(E) Evaluation of the LMI Pilot Program

The Department will conduct an evaluation of the pilot program to provide the basis for the report to Congress required by section 122(a)(4) of IMMACT. The evaluation study will have two purposes. First, it will test the extent to which the project affects time and resources for the INS, ETA, and the economic participants in the affected labor markets. In addition, it will examine the impacts of the pilot procedures on employment levels, wages and working conditions for U.S. workers.

With regard to the first of these objectives, the pilot will study how procedural changes affect the volume of applications, the speed with which they are processed, the cost of processing them, and the quality of the outcome for the applicant employer and competing U.S. applicants. It will address questions such as:

- Does precertification encourage a greater number of applications, particularly by enabling employers to place workers, who are already on the job, in positions with legal status (among the occupational classifications to be tested, this may especially be the case for the occupation, Cook Chinese-style food)?
- What savings, if any, accrue to the Federal Government, and to employees, as a result of precertification?
- How much, if at all, does precertification reduce the employer's wait to fill labor shortage jobs? and
- Are precertified aliens any more or less prone to remain on their jobs than those processed on a case-by-case basis?

With regard to the impact of the pilot procedures on the conditions experienced by U.S. workers, the Department of Labor hopes to gather information that includes the following:

- The impacts on wages and working conditions. The Department will investigate whether precertification adversely affects workers in the shortage sectors.
- The impacts of the procedures on employment level. The evaluation will look for displacement effects for U.S. workers resulting from the precertification procedures in shortage occupations. The Department will investigate if a change in the number of workers allowed permanent residence adversely affects employment opportunities for U.S. workers. Also, the study will focus on the recruitment methods that employees use to place aliens in occupations identified as having a shortage of workers. It is possible that the pilot procedures encourage employers to widen their foreign recruitment networks at the expense of U.S. employment.

The Department will monitor the impacts in part by making comparisons using administrative data from ETA, SESA, and INS in many of the pilot sites. In addition, the Department will collect in-depth, on-site information from some of the pilot sites. This latter information-gathering effort will include interviews with knowledgeable individuals, such as employers who use alien applicants, business association representatives, the alien applicants themselves, U.S. workers and foreign nationals employed in the relevant occupations, labor union officials and the immigration bar.

The evaluation will serve a valid and reliable information base for the Secretary to report to the Congress on the operation of the pilot program, on whether to recommend an extension of the pilot project, and the number of defined occupational classifications permitted under the program if it is extended.

IV. Summary

This **Federal Register** notice provides the general public with the opportunity to comment on the list of occupations developed through this methodology and proposed for use in the pilot test. Comment is invited on the labor shortage occupational classifications and the geographic area listed in § 656.50 of the proposed rule. Commenters may propose that occupational classifications be added to the list or that those listed be removed. Commenters may make specific comments about subspecialties within each occupational classification. For example, commenters may indicate that a shortage exists of microbiologists but

there are sufficient biologists. However, in recommending the addition or deletion of occupations, commenters are asked to: provide statistical data and other documentation that specifically support their recommendations; and provide evidence that, as a result of the adoption of their recommendations, the interests of the State or local economy would be served or the wages and working conditions of local workers would be protected. This documentation should include data such as: The results of surveys or other research conducted by government agencies, employer or professional associations, unions, academic and research institutions or individual experts; and data on State or local unemployment, recent or impending layoffs, the availability of training or education programs, or information concerning other factors relevant to the existence of labor shortages in particular occupations or geographic areas.

If commenters are aware of an announced layoff or job cutbacks which affect an occupational classification or state on the list of shortage occupations, they should provide this information to the Department. In classifications, such as computer science, where announcements of layoffs have recently been made, commenters should provide information on the impacts of such layoffs, the types and levels of workers that have become available or are likely to become available, employer efforts to recruit qualified workers from the States affected by the layoffs, and what employer needs can not be met by laid off workers.

If occupations are added to the list in the final rule as a result of public comments on this Notice, a comparable number of occupations will be deleted from the list in order to assure that the statutory limit of 10 occupational classifications for the pilot test is observed.

Regulatory Impact

E.O. 12291

This rule does not have the financial or other impact to make it a major rule and, therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order No. 12291, 3 CFR 1981 Comp., p. 127, 5 U.S.C. 601 note.

Regulatory Flexibility Act

The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the rule does not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The information collection requirements contained in the proposed rule have been submitted to the Office of Management and Budget (OMB) for clearance under the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501, *et seq.*), and have been assigned OMB Control No. 1205–0015.

The LMI Pilot Program will significantly decrease the burden on employers filing applications under the shortage classifications because precertification of occupations eliminates requirements for employer recruitment and processing through State employment service agencies and DOL regional offices.

The Department estimates that up to 3,000 employers will file applications annually with INS under the shortage classifications. The public reporting burden for this collection of information is estimated to average one and a half hours per response, including reviewing the instructions, completing the application, and collecting the documentation on the alien's qualifications.

Written comments on the collection of information requirements should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Employment and Training Administration, Washington, DC 20503.

Catalog of Federal Domestic Assistance Number

This program is listed in the Catalog of Federal Domestic Assistance at number 17.203, "Certification for Immigrant Workers."

List of Subjects in 20 CFR Part 656

Administrative practice and procedure, Aliens, Employment, Employment and Training Administration, Fraud, Labor, Unemployment, Wages.

Proposed Rule

Accordingly, it is proposed to amend part 656 of chapter V of title 20, Code of Federal Regulations, as follows:

PART 656—[AMENDED]

1. The authority citation for part 656 is revised to read as follows:

Authority: 8 U.S.C. 1182(a)(5)(A); 29 U.S.C. 49, *et seq.*; section 122, Public Law 101–649, 109 Stat. 4978.

§ 656.20 [Amended]

2. Section 656.20 is amended as follows:

a. In paragraph (a)(1) the phrase "(a)(2) through (4)" is removed and the phrase "(a)(2) through (5)" is added in lieu thereof.

b. New paragraph (a)(5) is added to read as follows:

§ 656.20 General filing instructions.

(a) * * *

(5) An employer filing a labor certification application on or before September 30, 1994, for an LMI Pilot labor shortage occupation shall apply for a labor certification pursuant to paragraphs (a), (b), (c), (e), and (f) of this section and subpart E of this part.

* * * * *

3. Subpart E is added to read as follows:

Subpart E—Labor Market Information Pilot Program

§ 656.50 Scope and purpose.

(a) The Director, U.S. Employment Service, has established a pilot program in accordance with section 122(a) of the Immigration Act of 1990 (IMMACT) which provides for a determination of labor shortages in 10 defined occupational classifications in the United States. In making such determinations, the Director has considered certifications approved under section 212(a)(5)(A) of the Immigration and Nationality Act and labor market and other information.

(b) Where there is a determination that there is a labor shortage with respect to an occupational classification, a certification under section 212(a)(5)(A) of the Immigration and Nationality Act for that occupational classification shall be deemed to be issued if the alien has the qualifications required for the occupational classification. See § 656.51 (a) and (b).

(c) Labor certifications in a labor shortage occupational classification can be granted only in States designated for that classification by the Director in § 656.51 (a) and (b).

(d) Designations of labor shortage occupational classifications under this subpart are applicable only to the LMI pilot program of the permanent labor certification program.

(e) The LMI pilot program shall apply to applications for certification filed on or before September 30, 1994.

§ 656.51 Labor shortage occupational classifications.

(a) *List of labor shortage occupational classifications and geographic areas.* The following occupational classifications in the following

geographic areas only are designated as labor shortage occupational classifications and are defined in § 656.51(b):

Shortage occupational classifications	Geographic areas
(1) Biological Science	California, Connecticut, Illinois, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, Washington.
(2) Chemistry	California, Massachusetts, Missouri, New Jersey, New York, Texas.
(3) Chemical Engineering.	Illinois, Massachusetts, Texas.
(4) Computer Science	Alabama, Arizona, Georgia, Illinois, Michigan, Missouri, Texas.
(5) Cook, Specialty, Foreign Food (Chinese and Japanese food only).	California, District of Columbia, Illinois, Maryland, Massachusetts, Pennsylvania, Texas, Virginia.
(6) Materials Engineering.	California, Michigan, Ohio, Pennsylvania.
(7) Mechanical Engineering.	Arizona, Texas.
(8) Medical Technology.	California, Illinois, New York, Texas.
(9) Physician, Primary Medical Care.	West Virginia.
(10) Teacher, Special Education.	New York.

(b) *Definitions and documentary requirements.* For purposes of this subpart, a labor shortage occupational classification shall include only those specific occupations listed in its definition in this paragraph (b). Each occupation shall be as defined by the Dictionary of Occupational Titles (Revised 4th Ed.) (DOT) as the nine-digit DOT Occupational code listed parenthetically after the occupational title. Where the occupation of Faculty Member, College or University, is listed in an occupational classification, the job offer shall involve the teaching of courses in the specific academic field(s) that have been identified as shortages for that occupational classification. The employer's offer of employment in the specific occupation shall require no less education and/or experience than that required of the alien to qualify for LMI Pilot labor certification in the occupation.

(1) *Biological science.* (i) *Definition.* This classification includes occupations concerned with the study of living organisms and their relationship to their environment; research in reproduction, growth and development, genetics, structure, life processes, behavior, and classification of living organisms and the application of the findings to the prevention of disease, economic utilization, and environmental impact. This definition shall include only the following occupations: Biologist (041.061–030), Biochemist (041.061–026), Microbiologist (041.061-038), Physiologist (041.061–078), and Faculty Member, College or University (090.227–010).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the biological science classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Ph.D. degree (or equivalent foreign degree) required for the occupation from an accredited college or university.

(2) *Chemistry.* (i) *Definition.* This classification includes occupations concerned with research in the chemical and physical properties and compositional changes of substances. Specialization generally occurs in one or more branches of chemistry such as organic chemistry, inorganic chemistry, physical chemistry, or analytical chemistry. This definition shall include only the following occupations: Chemist (022.061–010) and Faculty Member, College or University (090.227–010).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the chemistry classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Ph.D. degree (or equivalent foreign degree) required for the occupation from an accredited college or university.

(3) *Chemical engineering.* (i) *Definition.* This classification includes occupations concerned with the designing of equipment and the development and improvement of processes for manufacturing chemicals and related products, utilizing principles and technology of chemistry, physics, mathematics, engineering, and related physical and natural sciences; conducts research to develop new and improved products such as gasoline, synthetic rubber, plastics, detergents, cements, paper and pulp. This definition shall include only the following occupations: Chemical Engineer (008.061–018), Chemical Design Engineer (008.061–018), Chemical Research Engineer (008.061–022), and Faculty Member, College or University (090.227–010).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the chemical engineering classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Masters degree (or equivalent foreign degree) required for the occupation from an accredited college or university, and has two years of recent experience in the occupation; or holds a Ph.D. degree (or equivalent foreign degree) required for the occupation from an accredited college or university.

(4) *Computer science.* (i) *Definition.* This classification includes occupations concerned with defining business, scientific, and engineering problems and designing their solutions using computers; analyzing user requirements, procedures, and problems to automate processing or to improve existing computer systems; conferring with personnel in organizational units involved to analyze current operational procedures; writing description of user needs, program functions, and steps required to develop or modify computer system; and researching, designing, and developing computer software systems, in conjunction with hardware product development, for medical, industrial, military, communications, aerospace, and scientific applications, applying principles and techniques of computer science, engineering, and mathematical analysis. This definition shall include only the following occupations: Computer Systems Analyst (030.167–014), Computer Software Engineer (030.062–010), and Faculty Member, College or University (090.227–010).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the computer science classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Masters degree (or equivalent foreign degree) required for the occupation from an accredited college or university, and has two years of recent experience in the occupation; or holds a Ph.D. degree, (or equivalent foreign degree) required for the occupation from an accredited college or university.

(5) *Cook, specialty, foreign food.* (i) *Definition.* This classification includes occupations concerned with planning menus and cooking foreign-style dishes, dinners, desserts, and other foods, according to recipes; preparing meats, soups, sauces, vegetables, and other

foods prior to cooking; seasoning and cooking food according to prescribed method; portioning and garnishing food; serving food to waiters on order; estimating food consumption and requisitioning or purchasing supplies. This definition shall include only the following occupations: Cook, Chinese-style food (313.361–030) and Cook, Japanese-style food (313.361–030).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the cook, specialty, foreign food classification shall file as part of its application an offer of employment in a table-service restaurant (i.e., waiter/waitress/server service at tables) that specializes in Chinese or Japanese cuisine, as appropriate, and documentation that the alien has at least four years of recent experience in the duties and food specialty in a table service restaurant.

(6) *Materials engineering.* (i) *Definition.* This classification includes occupations concerned with evaluating technical and economic factors, and recommending engineering and manufacturing actions for attainment of design objectives of process or product by applying knowledge of material science and related technologies: Reviewing plans for new products and factors, such as strength, weight and cost to submit material selection recommendations ensuring attainment of design objectives; planning and implementing laboratory operations to develop material and fabrication procedures to fulfill cost and performance standards; and reviewing product failure data and interpreting laboratory tests and analyses to establish or rule out material and process causes. This definition shall include only the following occupations: Materials Engineer (019.061–014), and Faculty Member, College or University (090.227–010).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the material engineering classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Masters degree (or equivalent foreign degree) required for the occupation from an accredited college or university.

(7) *Mechanical engineering.* (i) *Definition.* This classification includes occupations concerned with researching, planning, and designing mechanical and electromechanical products and systems, and directing and coordinating activities involved in fabrication, operation, application, installation, and repair of mechanical or electronic products or systems; researching and analyzing data, such as customer design proposal, specifications, and manuals to determine feasibility of design or application; designing products or systems, such as instruments, controls, robots, engines, machines, and mechanical, thermal, hydraulic, or heat transfer systems, applying knowledge of engineering principles. This definition shall include only the following occupations: Mechanical Engineer (007.061–014), Mechanical-design Engineer, Products (007.061–022), and Faculty Member, College or University (090.227–010).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the mechanical engineering classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Masters degree (or equivalent foreign degree) required for the occupation from an accredited college or university, and has two years of recent experience in the occupation; or holds a Ph.D. degree (or equivalent foreign degree) required for the occupation from an accredited college or university.

(8) *Medical technology.* (i) *Definition.* This classification includes occupations concerned with performing medical laboratory tests, procedures, experiments, and analyses to provide data for diagnosis, treatment, and prevention of disease; conducting chemical analyses of body fluids, such as blood, urine, and spinal fluid, to determine presence of normal and abnormal components; studying blood cells, their numbers, and morphology, using microscope technique; performing blood group, type and compatibility tests for transfusion purposes. This definition shall include only the following occupation: Medical Technologist (078.261–038).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the medical technology classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Baccalaureate degree (or equivalent foreign degree) required for the occupation from an accredited college or university.

(9) *Physician, primary medical care.* (i) *Definition.* This classification includes occupations concerned with practicing the art and science of medicine or surgery primarily in patient care; concerned with the diagnosis, prevention, and treatment of human diseases, disorders of the mind, and pregnancy; researches the causes, transmission, and control of diseases and other ailments. This definition shall include only the following specialties: General Practitioner (070.101–022), Family Practitioner (070.101–026), Gynecologist (070.101–034), Internist (070.101–042), Obstetrician (070.101–054), and Pediatrician (070.101–066).

(ii) *Documentation.* An employer seeking an LMI labor certification under the physician, primary medical care, classification shall file as part of its application an offer of employment in the medical specialty, and the following documentation which shows clearly that:

(A) The alien has passed the Foreign Medical Graduate Examination in the Medical Sciences (FMGEMS), Parts I and II of the National Board of Medical Examiners Examination (NBMEE), or the United States Medical Licensing Examination (USMLE); or

(B) The alien was on January 9, 1978, a doctor of medicine fully and permanently licensed to practice medicine in a State within the United States, and the alien was on January 9, 1978, practicing medicine in a State within the United States; or

(C) The alien is a graduate of a school of medicine accredited by a body or bodies approved for the purpose by the Secretary of Education or that Secretary's designee (regardless of whether such a school of medicine is in the United States).

(10) *Teacher, special education.* (i) *Definition.* This classification includes occupations concerned with the following: using specialized techniques and procedures to teach persons with disabilities; teaching persons with visual impairments to read books imprinted in braille and to develop their sense of touch; instructing persons who are hearing impaired in sign language and lip reading; and instructing persons with mental, neurological, and emotional disabilities. This definition shall include only the following occupations: Teacher, Hearing Impaired (094.224–010); Teacher, Physically Impaired (094.224–014); Teacher, Visually Impaired (094.224–018); Teacher, Emotionally Impaired (094.227–010); Teacher, Mentally Impaired (094.227–022); Teacher, Learning Disabled (094.227–030).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the teacher, special education, classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Baccalaureate degree (or

equivalent foreign degree) required for the occupation from an accredited college or university, and holds a permanent or provisional certificate to teach in the occupation in the jurisdiction in which the job is offered.

§ 656.52 Procedures.

(a) *Filing requirements.*

(1) An employer shall apply for a labor certification for a designated labor shortage occupation by filing an *Application for Alien Employment Certification* form, ETA 750, including the required supporting documentation, in triplicate with the appropriate Immigration and Naturalization Service (INS) office, not with the Department of Labor or a State Employment Service office.

(2) A complete application under this section shall include the following:

(i) A completed *Application for Alien Employment Certification* form (ETA 750) including Part A, Offer for Alien Employment, and Part B, Statement of Qualifications of Alien. There is no need for the employer to provide the documentation required under § 656.21 for occupations processed under the basic process.

(ii) Documentary evidence to show that the alien has the qualifications required at § 656.51(b) for a particular labor shortage occupational classification.

(b) *Determinations.* (1) An INS Immigration Officer shall review the job offer and the alien's qualifications, and shall determine whether the employer and alien have met the applicable requirements of §§ 656.20 and 656.51 (a) and (b).

(2) The INS Officer may request from the Division of Foreign Labor Certifications, United States Employment Service, Washington, DC 20210, an advisory opinion as to whether the job opportunity involves a labor shortage occupational classification and/or whether the alien qualifies for the labor shortage classification.

(3) The labor shortage determination of INS shall be conclusive and final. The employer, therefore, may not use the review procedures at § 656.26.

(4) If the job opportunity involves a labor shortage occupational classification and the alien qualifies for the classification, the INS Officer shall approve the application. The INS Officer shall then promptly forward copies of Parts A and B of the *Application for Alien Employment Certification* form (ETA 750), without attachments, to the Division of Foreign Labor Certifications, United States Employment Service, Washington, DC 20210, indicating thereon the occupational classification, the INS office making the labor shortage determination, and the date of the determination.

(5) If the job opportunity and/or the alien does not qualify for certification in a labor shortage occupational classification, the U.S. employer may apply for an individual labor certification on the alien's behalf under the basic labor certification process at § 656.21.

Signed at Washington, DC, this 15th day of March, 1993.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 93–6363 Filed 3–18–93; 8:45 am]

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federal register

Friday
March 19, 1993

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Terminal Airspace Reconfiguration; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 26852; Amendment No. 71-16]

RIN 2120-AE18

Terminal Airspace Reconfiguration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action amends the Terminal Airspace Reconfiguration final rule, which was published in the Federal Register on August 27, 1992. This action amends technical errors in certain airspace descriptions contained in FAA Order 7400.7A, Compilation of Regulations, and FAA Order 7400.9, Airspace Reclassification. This action also ensures that Class E airspace is designated above a Class B, Class C, or Class D airspace area. The intent of this action is to correct these technical errors prior to the implementation of the Airspace Reclassification final rule on September 16, 1993.

EFFECTIVE DATE: Amendatory items 1 and 2 are effective April 29, 1993, through September 15, 1993. Amendatory items 3 and 4 are effective September 16, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Mosley, Air Traffic Rules Branch, ATP-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-9251.

SUPPLEMENTARY INFORMATION:

Background

On August 27, 1992, the Terminal Airspace Reconfiguration final rule was published in the Federal Register (57 FR 38962). This rule amended part 71 of the Federal Aviation Regulations (14 CFR) by revising all control zones and transition areas as well as specific terminal control areas (TCAs) and airport radar service areas (ARSAs) described in FAA Order 7400.7, Compilation of Regulations, effective November 1, 1991. This final rule also modified the corresponding Class B, Class C, Class D, and Class E airspace descriptions in FAA Order 7400.9, Airspace Reclassification, effective September 16, 1993. Since the issuance of this final rule, the FAA has issued FAA Handbook 7400.7A, Compilation of Regulations, effective November 27, 1992, through September 15, 1993 (57 FR 56246; November 27, 1992), which is incorporated by reference in 14 CFR 71.1.

During reviews of the airspace descriptions that were promulgated in the Terminal Airspace Reconfiguration final rule, the FAA found some minor errors. This amendment will correct these errors.

The Amendment

The FAA, including each regional office, and the National Ocean Service (NOS) have continued to review each of more than 3,100 airspace descriptions that were promulgated in the Terminal Airspace Reconfiguration final rule.

During the review, minor errors were noted. Many could be found only after the airspace areas were depicted on aeronautical charts. Some of the errors would have inadvertently created airspace that would have become an incorrect class of airspace on September 16, 1993. In some of these cases, this amendment designates airspace that will become Class E airspace in an area that otherwise would have become the more restrictive Class D airspace.

In addition, during the review the FAA noted that § 71.71, which describes Class E airspace and becomes effective September 16, 1993, needs a minor revision. Class E airspace extends upward from the surface to the overlying or adjacent controlled airspace. However, the strict application of this definition would leave a corridor of uncontrolled airspace above a Class B, Class C, or Class D airspace area because the Class E airspace ends beneath the more restrictive airspace. Therefore, the FAA has revised § 71.71(c). The revision designates Class E airspace above a Class B, Class C, or Class D airspace area for the purpose of transitioning to or from the terminal or en route environment.

Airport radar service areas (ARSA's), control zones, and transition areas are published in sections 71.501, 71.171, and 71.181, respectively, of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The ARSA's, control zones, and transition areas listed in this document will be published subsequently in the Order.

The FAA has determined that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation because the anticipated impact is so minimal.

This action amplifies and clarifies the existing rule and does not place any new restriction or requirements on the public. Furthermore, the FAA finds that this amendment does not involve a change in the dimensions or operating requirements of the airspace listings incorporated by reference in part 71. These errors are insignificant in nature and impact and inconsequential to the industry and public. Therefore, notice and public procedure under 5 U.S.C. 533(b) are unnecessary.

Control Zones for the Primary Airport of an ARSA

The FAA amends the airspace descriptions of the following control zones for the primary airport of an ARSA in § 71.171 of FAA Order 7400.7A.

The technical corrections to these airspace descriptions are described below.

FAA Region: New England

Providence, Rhode Island: The airspace description is revised by excluding the airspace that extends into the North Kingstown, Rhode Island control zone from the extension for instrument approaches to the Providence, Theodore Francis Green State Airport.

FAA Region: Northwest Mountain

Portland, Oregon: The airspace description is revised by excluding the airspace that extends into the Portland, Troutdale Airport, Oregon control zone.

FAA Region: Western Pacific

El Toro Marine Corps Air Station, California: The airspace description is revised by changing the geographic position of El Toro Marine Corps Air Station from "lat. 33° 40'03"N., long. 117° 43'09"W." to "lat. 33°40'34"N., long. 117°43'52"W."

Airport Radar Service Areas

The FAA amends the airspace descriptions of the following ARSAs in Section 71.501 of FAA Order 7400.7A.

FAA Region: Northwest Mountain

Whidbey Island Naval Air Station, Washington: The airspace description is revised by adding language that notes the ARSA operates on a part-time basis. The ARSA now operates on a part-time basis in accordance with airspace docket number 92-AWA-04.

FAA Region: Western Pacific

El Toro Marine Corps Air Station, California: The airspace description is revised by changing the geographic position of El Toro Marine Corps Air Station from "lat. 33°40'03"N., long. 117°43'09"W." to "lat. 33°40'34"N., long. 117°43'52"W."

Control Zones for Airports With Operating Control Towers That Are Not the Primary Airport Within a TCA or an ARSA

The FAA amends the airspace descriptions of the following control zones for airports with operating control towers that are not the primary airport of a TCA or an ARSA in § 71.171 of FAA Order 7400.7A.

The technical corrections to these airspace descriptions are described below.

FAA Region: Alaskan

Fairbanks, Fort Wainwright Army Air Field, Alaska: The airspace description is revised by excluding certain airspace northwest of the airport from the area necessary for aircraft operating under instrument flight rules (IFR) to depart within controlled airspace.

FAA Region: Central

Sioux City, Iowa: The airspace description is revised by excluding the airspace within a 1-mile radius of the South Sioux City, Martin Field, Nebraska, from the control zone. This change will not require pilots who operate aircraft in the vicinity of Martin Field to establish two-way radio communications with air traffic control.

Wichita, McConnell Air Force Base, Kansas: The airspace description is revised by excluding the airspace within a 1-mile radius of the Derby, Hamilton Field, Kansas, from the control zone. This change will not require pilots who operate aircraft in the vicinity of Hamilton Field to establish two-way radio communications with air traffic control.

FAA Region: Eastern

Patuxent River, Maryland: The airspace description is revised by ensuring that the airspace in the vicinity of the Chesapeake Ranch Airport is within the airspace for aircraft operating under IFR to depart within controlled airspace.

Manassas, Virginia: This airspace description, which was inadvertently omitted from FAA Order 7400.7A, is added. The airspace description is also revised by dividing the control zone into two areas. One area includes the airspace necessary for aircraft departing from the Manassas Municipal/Harry P. Davis Airport to depart within control airspace, which will become Class D airspace on September 16, 1993. The other area includes the airspace necessary for instrument approaches, which will become Class E airspace on September 16, 1993.

Fort Belvoir, Virginia: The airspace description is revised by lowering the ceiling from "up to and including 2,600 feet mean sea level (MSL)" to "up to, but not including, 2,500 feet MSL," which ensures the ceiling does not penetrate the Washington Tri-Area TCA. The description is also revised by excluding the airspace that extends into the Washington Tri-Area TCA from the control zone.

FAA Region: Great Lakes

Glenview Naval Air Station, Illinois: The airspace description is revised by adding the arrival extensions for runway 17, which were inadvertently deleted.

FAA Region: New England

Beverly, Massachusetts: The airspace description is revised by excluding airspace that extends into the Boston, Massachusetts TCA and the Lawrence, Massachusetts control zone from the area necessary for aircraft operating under IFR to depart within controlled airspace, which will become Class D airspace on September 16, 1993. The airspace description is also revised by excluding airspace that extends into the Lawrence, Massachusetts control zone from the extension used for instrument approaches, which becomes Class E airspace on September 16, 1993.

Lawrence, Massachusetts: The airspace description is revised by eliminating the clause that excludes the airspace that extends into the Beverly, Massachusetts control zone.

North Kingstown, Rhode Island: The airspace description is revised by eliminating the clause that excludes the airspace that extends into the Providence, Rhode Island control zone. The existing clause, which excludes airspace in the Providence, Rhode Island ARSA from the North Kingstown, Rhode Island control zone, excludes the same airspace area.

FAA Region: Northwest Mountain

Portland, Troutdale Airport, Oregon: The airspace description is revised by changing the reference to the Portland International Airport, Oregon control zone, which will cease to exist on September 16, 1993, to the Portland International Airport, Oregon ARSA.

Tacoma, Tacoma Narrows Airport, Washington: The airspace description is revised by including the airspace east of a line 1.8 miles east of and parallel to the 009° bearing from the Graye NDB in the Tacoma Narrows control zone. This airspace was inadvertently excluded from the airspace area.

FAA Region: Southern

Orlando, Executive Airport, Florida: The airspace description is revised by lowering the ceiling from "up to and including 2,600 feet MSL" to "up to, but not including, 1,600 feet MSL," which ensures the ceiling does not penetrate the Orlando, Florida TCA.

Winston-Salem, North Carolina: The airspace description is revised by raising the ceiling from "2,700 feet MSL" to "3,500 feet MSL." The higher ceiling is the equivalent of 2,500 feet above the surface, which is the standard ceiling for control zones that will become Class D airspace.

FAA Region: Southwest

Enid, Vance Air Force Base, Oklahoma: The airspace description is revised by raising the ceiling from "2,800 feet MSL" to "3,800 feet MSL." The higher ceiling is the equivalent of 2,500 feet above the surface, which is the standard ceiling for control zones that will become Class D airspace.

Enid, Woodring Municipal Airport, Oklahoma: The airspace description is revised by raising the ceiling from "2,800 feet MSL" to "3,800 feet MSL." The higher ceiling is the equivalent of 2,500 feet above the surface, which is the standard ceiling for control zones that will become Class D airspace.

Lawton, Oklahoma: The airspace description is revised by dividing the control zone into two areas. One area includes the airspace necessary for aircraft departing from Lawton Municipal Airport or Henry Post Army Air Field to depart within controlled airspace, which will become Class D airspace on September 16, 1993. The other area includes the airspace necessary for instrument approaches, which will become Class E airspace on September 16, 1993.

Dallas, Addison Airport, Texas: The airspace description is revised by lowering the ceiling from "up to and including 3,100 feet MSL" to "up to, but not including, 3,000 feet MSL," which ensures that the ceiling does not penetrate the Dallas-Fort Worth, Texas TCA.

Dallas, Redbird Airport, Texas: The airspace description is revised by lowering the ceiling from "up to and including 3,200 feet MSL" to "up to, but not including, 2,500 feet MSL," which ensures that the ceiling does not penetrate the Dallas-Fort Worth, Texas TCA.

Fort Worth, Alliance Airport, Texas: The airspace description is revised by lowering the ceiling from "up to and including 3,200 feet MSL" to "up to, but not including, 3,000 feet MSL," which ensures that the ceiling does not penetrate the Dallas-Fort Worth, Texas TCA.

Houston, David Wayne Hooks Memorial Airport, Texas: The airspace

description is revised by lowering the ceiling from "up to and including 2,700 feet MSL" to "up to, but not including, 2,000 feet MSL," which ensures that the ceiling does not penetrate the Houston, Texas TCA.

FAA Region: Western Pacific

El Centro, Naval Air Field, California: The airspace description is revised by eliminating the clause that excludes airspace that extends into restricted area R–2510. The El Centro control zone and R–2510 do not overlap.

San Diego, Gillespie, California: The airspace description is revised by deleting the exclusion of the Montgomery Field control zone which eliminates the arrival extension to the Montgomery Field control zone from preempting the surface area of the Gillespie control zone.

San Diego, Montgomery Field, California: The airspace description is revised by excluding the airspace that extends into the San Diego, California TCA and the San Diego-Gillespie, California control zone from the extension for instrument approaches.

Van Nuys, California: The airspace description is revised by lowering the ceiling from "up to and including 3,300 feet MSL" to "up to, but not including, 3,000 feet MSL," which ensures that the ceiling does not penetrate the Burbank-Glendale-Pasadena, California ARSA.

Control Zones for Airports Without Operating Control Towers

The FAA amends the airspace descriptions of the following control zones for airports without operating control towers in § 71.171 of FAA Order 7400.7A.

The technical corrections to these airspace descriptions are described below.

FAA Region: Alaskan

Homer, Alaska: The airspace description is revised by changing the bearing from the Kachemak NDB, from 200° to 220°.

Talkeetna, Alaska: The airspace description is revised by moving the extension for instrument approaches from northeast to the southwest, which was moved by 180° in error.

FAA Region: Northwest Mountain

Sheridan, Wyoming: The airspace description is revised by eliminating the language that notes the control zone is active on a part-time basis. The control zone now operates on a full-time basis in accordance with airspace docket number 92–ANM–04.

Worland, Wyoming: The airspace description is revised by eliminating the language that notes the control zone is active on a part-time basis. The control zone now operates on a full-time basis in accordance with airspace docket number 92–ANM–05.

Transition Areas

The FAA amends the airspace descriptions of the following transition areas in § 71.181 of FAA Order 7400.7A.

The technical corrections to these airspace descriptions are described below.

FAA Region: Alaskan

Barrow, Alaska: The airspace description is revised by eliminating the clause that excludes airspace more than 12 miles from the shoreline. The area does not extend beyond 12 miles from the shoreline. The airspace description is also revised by changing the clause that refers to the Barrow, Alaska control zone to indicate the control zone operates on a full-time basis as opposed to a part-time basis.

King Salmon, Alaska: The airspace description is revised by eliminating the portion at and above 14,500 feet MSL, which is unnecessary. The airspace description is also revised by eliminating a clause that excludes certain airspace associated with the portion at and above 14,500 feet MSL.

Sitka, Alaska: The airspace description is revised by moving the extension for instrument approaches to correspond with the Sitka localizer frontcourse as opposed to the backcourse.

FAA Region: Eastern

Chantilly, Virginia: The airspace description is revised by converting distances in statute miles to the nearest equivalent in nautical miles.

FAA Region: Great Lakes

Three Rivers, Michigan: The airspace description is revised by eliminating a clause that excludes airspace that extends into the Kalamazoo/Battle Creek, Michigan ARSA. The proposal to establish this ARSA has been withdrawn.

Williston, North Dakota: The airspace description is revised by eliminating a clause that excludes the Watford City, North Dakota and New Town, North Dakota transition areas. The Williston transition area does not overlap these Watford City or New Town transition areas.

FAA Region: New England

Kennebunkport, Maine: The airspace description is revised by eliminating one of the extensions that is necessary of instrument approaches. The same airspace is described elsewhere.

FAA Region: Southern

Thomasville, Georgia: This airspace description, which was inadvertently omitted from the Terminal Airspace Reconfiguration final rule, is added.

FAA Region: Southwest

Venice, Louisiana: The airspace description is revised to include the airspace necessary for helicopters on a standard instrument approach, which was inadvertently eliminated.

Breckenridge, Texas: The airspace description is revised by changing the bearing from the Breckenridge RBN from 339° to 359° true.

Monahans, Texas: The airspace description is revised by changing the radial from the Wink VORTAC from 126° to 136°.

List of Subjects in 14 CFR Part 71

Airport radar service areas, Airspace, Control zones, Incorporation by reference, Transition areas.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 71 (14 CFR part 71) as follows:

The following amendments are to part 71 currently in effect:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS, JET ROUTES, AND AREA HIGH ROUTES

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.7A, *Compilation of Regulations*, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.171 Designation of Control Zones

* * * * *

AAL AK CZ Fairbanks, Fort Wainwright AAF, AK
Fairbanks, Fort Wainwright AAF, AK
(lat. 64°50'11" N., long. 147°37'01" W.)
Fairbanks VORTAC
(lat. 64°48'00" N., long. 148°00'43" W.)
Chena NDB
(lat. 64°50'17" N., long. 147°29'24" W.)

That airspace extending upward from the surface within a 5.3-mile radius of the Fort Wainwright AAF Airport, excluding the portion north and west of a line from lat.

64°45'14" N., long. 147°41'16" W.; to lat. 64°51'10" N., long. 147°44'09" W.; to lat. 64°54'48" N., long. 147°30'57" W.; and that airspace extending upward from the surface within 2.4 miles each side of the Chena NDB 089° bearing extending from the 5.3-mile radius of the Fort Wainwright AAF Airport to 10.1 miles east of the Fort Wainwright AAF Airport and within 1.8 miles north of the Fairbanks VORTAC 078° radial extending from the 5.3-mile radius of the Fort Wainwright AAF Airport to 9.9 miles east of the Fort Wainwright AAF Airport; excluding the portion of the arrival extension south of a line from lat. 64°48'52" N., long. 147°12'04" W.; to lat. 64°47'27" N., long. 147°25'56" W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

* * * * *

AAL AK CZ Homer, AK
Homer Airport, AK
(lat. 59°38'42" N., long. 151°28'42" W.)
Kachemak NDB
(lat. 59°38'28" N., long. 151°30'00" W.)

Within a 4.2-mile radius of the Homer Airport and within 2.5 miles each side of the 220° bearing from the Kachemak NDB extending from the 4.2-mile radius to 7.7 miles southwest of the airport; excluding that airspace north of a line from lat. 59°42'26"N., long. 151°24'56"W.; to lat. 59°38'35"N., long. 151°36'58"W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

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AAL AK CZ Talkeetna, AK
Talkeetna Airport, AK
(lat. 62°19'18"N., long. 150°05'36"W.)
Talkeetna VOR/DME
(lat. 62°17'55"N., long. 150°06'20"W.)

Within a 3.9-mile radius of the Talkeetna Airport and within 3.3 miles each side of the Talkeetna VOR/DME 190° radial extending from the 3.9-mile radius to 12.5 miles southwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

* * * * *

ACE IA CZ Sioux City, IA
Sioux City, Sioux Gateway Airport, IA
(lat. 42°24'14"N., long. 96°23'01"W.)
Sioux City VORTAC
(lat. 42°20'40"N., long. 96°19'25"W.)
South Sioux City, Martin Field, NE
(lat. 42°27'15"N., long. 96°28'21"W.)

That airspace extending upward from the surface to and including 3,600 feet MSL within a 4.3-mile radius of Sioux Gateway Airport excluding that airspace within a 1-mile radius of the South Sioux City, Martin Field, NE.; and that airspace extending upward from the surface within 2.2 miles each side of the 140° radial of the Sioux City VORTAC extending from the 4.3-mile radius of Sioux Gateway Airport to 5.3 miles southeast of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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ACE KS CZ Wichita, McConnell Air Force Base, KS
Wichita McConnell Air Force Base, KS
(lat. 37°37'23"N., long. 97°16'03"W.)
McConnell TACAN
(lat. 37°37'07"N., long. 97°15'47"W.)
Derby, Hamilton Field, KS
(lat. 37°33'38"N., long. 97°14'01"W.)

That airspace extending upward from the surface to and including 3,900 feet MSL within a 4.5-mile radius of McConnell Air Force Base excluding that airspace within the Wichita Mid-Continent Airport, KS, Airport Radar Service Area and that airspace within a 1-mile radius of the Derby, Hamilton Field, Kansas; and that airspace extending upward from the surface within 1.8 miles west and 3.5 east of the McConnell TACAN 008° radial extending from the 4.5-mile radius of McConnell Air Force Base to 6.1 miles north of the TACAN and within 1.8 miles each side of the McConnell TACAN 199° radial extending from the 4.5-mile radius of McConnell Air Force Base to 5.3 miles south of the TACAN;

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AEA MD CZ Patuxent River, MD
Patuxent River NAS (Trapnell Field), MD
(lat. 38°17'30"N., long. 76°24'59"W.)
Patuxent VORTAC
(lat. 38°17'16"N., long. 76°24'01"W.)
Patuxent River NDB
(lat. 38°17'09"N., long. 76°24'11"W.)
Chesapeake Ranch Airpark, MD
(lat. 38°21'40"N., long. 76°24'19"W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.5-mile radius of Patuxent River NAS (Trapnell Field) and within a 0.5-mile radius of Chesapeake Ranch Airpark; and that airspace extending upward from the surface within 1.8 miles each side of the Patuxent VORTAC 045° radial extending from the 4.5-mile radius of Patuxent River NAS (Trapnell Field) to 6.1 miles northeast of the VORTAC and within 1.8 miles each side of the Patuxent VORTAC 235° radial extending from the 4.5-mile radius to 6.6 miles southwest of the VORTAC and within 1.8 miles each side of the Patuxent River NDB 233° bearing extending from the 4.5-mile radius to 6.1 miles southwest of the NDB and within 1.8 miles each side of the Patuxent VORTAC 140° radial extending from the 4.5-mile radius to 10.5 miles southeast of the VORTAC.

* * * * *

AEA VA CZ Fort Belvoir, VA
Davison AAF, Fort Belvoir, VA
(lat. 38°42'55"N., long. 77°10'54"W.)
DAVEE OM
(lat. 38°39'42"N., long. 77°06'37"W.)

That airspace extending upward from the surface to, but not including 2,500 feet MSL within a 4.4-mile radius of Davison AAF and within 1 mile each side of the Davison AAF localizer southeast course extending from the 4.4-mile radius to the DAVEE OM and within 1.8 miles each side of the extended centerline of Runway 14/32 extending from the northwest end of Runway 14/32 to 4.4 miles northwest, excluding the portion within Prohibited Area P-73 and the Washington Tri-Area Terminal Control Area. This control zone is effective during specific times and dates established in advance by a Notice to Airmen. The specific date and time will thereafter be published continuously in the Airport/Facility Directory.

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AEA VA CZ Manassas, VA
Manassas Municipal/Harry P. Davis Airport, VA
(lat. 38°43'17"N., long. 77°30'56"W.)
Armel VORTAC
(lat. 38°56'05"N., long. 77°28'00"W.)

That airspace extending upward from the surface to, but not including, 2,000 feet MSL within a 4-mile radius of the Manassas Municipal/Harry P. Davis Airport, excluding that airspace within the Washington Tri-Area Terminal Control Area; and that airspace extending upward from the surface within 2.6 miles either side of a bearing 025° from the Manassas Municipal/Harry P. Davis . Airport extending from a 4-mile radius of the airport to 7.5 miles northeast of the airport, excluding that airspace within the Washington Tri-Area Terminal Control Area. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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AGL IL CZ Glenview, IL
NAS Glenview, IL
(lat. 42°05'00" N., long. 87°49'06" W.)
Northbrook VORTAC
(lat. 42°13'26" N., long. 87°57'06" W.)
Chicago-O'Hare International Airport, IL
(lat. 41°58'46" N., long. 87°54'16" W.)
Glenview TACAN
(lat. 42°05'08" N., long. 87°49'21" W.)

That airspace extending upward from the surface to but not including 3,000 feet MSL within a 4.1-mile radius of NAS Glenview and within 1.8 miles each side of the Northbrook VORTAC 162° and 145° radials extending from the Chicago-O'Hare International Airport and the NAS Glenview 4.1-mile radius to 1.8 miles south along the 162° radial of the Northbrook VORTAC and 3.8 miles southeast along the 145° radial of the Northbrook VORTAC, and within 1.7 miles each side of the NAS Glenview TACAN 100° radial, extending from the NAS Glenview 4.1-mile radius zone to 5.7 miles east of the TACAN, excluding that airspace within the Chicago, IL, Terminal Control Area.

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ANE MA CZ Beverly, MA
Beverly Municipal Airport, MA
(lat. 42°35'03" N., long. 70°55'01" W.)
Lawrence VOR/DME

(lat. 42°44'26" N., long. 71°05'41" W.)

That airspace extending upward from the surface to and including 2,800 feet MSL within a 4.1-mile radius of Beverly Municipal Airport, excluding that airspace within the Boston, MA, Terminal Control Area; and that airspace extending upward from the surface within 3.2 miles each side of the Lawrence VOR/DME 137° radial, extending from the 4.1-mile radius to 9.8 miles northwest of the Beverly Municipal Airport, excluding that airspace within the Lawrence, MA, Control Zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE MA CZ Lawrence, MA
Lawrence Municipal Airport, MA
(lat. 42°43'02"N., Long. 71°07'24"W.)
Lawrence VOR/DME
(lat. 42°44'26"N., long. 71°05'41"W.)
Beverly Municipal Airport, MA
(lat. 42°35'03"N., long. 70°55'01"W.)

That airspace extending upward from the surface to and including 2,800 feet MSL within a 4-mile radius of the Lawrence Municipal Airport and within 1.2 miles each side of the Lawrence VOR/DME 041° radial extending from the 4-mile radius to 3 miles northeast of the Lawrence VOR/DME, excluding that airspace within the Boston, MA, 700 foot Transition Area. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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ANE RI CZ North Kingstown, RI
North Kingstown, Quonset State Airport, RI
(lat. 41°35'48"N., long. 71°24'43"W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.3-mile radius of Quonset State Airport, and within 1.7 miles each side of the Quonset State Airport 171° bearing extending from the 4.3-mile radius to 5.2 miles south of the airport, excluding that airspace within the Providence Theodore Francis Green State Airport, RI, Airport Radar Service Area. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

ANE RI CZ Providence, RI
Providence, Theodore Francis Green State Airport, RI
(lat. 41°43'30"N., long. 71°25'40"W.)
Providence VORTAC
(lat. 41°43'28"N., long. 71°25'47"W.)

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of Theodore Francis Green State Airport; and that airspace extending upward from the surface up to but not including 1,300 feet MSL within 3.3 miles each side of Providence VORTAC 132° radial extending from the 5-mile radius to 8.4 miles southeast of Providence VORTAC; and that airspace extending upward from the surface up to but not including 1,700 feet MSL within 3.8 miles each side of the Theodore Francis Green State Airport 211° bearing extending from the 5-mile radius to 15 miles southwest of Theodore Francis Green State Airport, excluding the airspace within the North Kingstown, RI, Control Zone.

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ANM OR CZ Portland, OR
Portland International Airport, OR
(lat. 45°35'19"N., long. 122°35'51"W.)
Evergreen Airport, OR
(lat. 45°37'19"N., long. 122°31'45"W.)
Battleground VORTAC
(lat. 45°44'52"N., long. 122°35'26"W.)
Laker NDB
(lat. 45°32'29"N., long. 122°27'44"W.)
OM
(lat. 45°37'24"N., long. 122°41'48"W.)
Pearson Airpark
(lat. 45°37'14"N., long. 122°39'30"W.)

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of the Portland International Airport and that airspace extending upward from the surface up to but not including 1,800 feet MSL within 1.8 miles each side of the Battleground VORTAC 180° radial extending from the 5-mile radius to 3.1 miles south of the VORTAC and within 2.2 miles each side of the Portland Runway 10R ILS localizer west course extending from the 5-mile radius to 0.9 miles west of the OM; and that airspace extending upward from the surface up to but not including 1,700 feet MSL within 1.8 miles north and 2.7 miles south of the 299° bearing from the Laker NDB extending from the 5-mile radius to the NDB, excluding that airspace within a 1-mile radius of Evergreen Airport and that airspace from the 003° bearing from Evergreen Airport clockwise to the 105° bearing from Evergreen Airport, and excluding that airspace west of the east bank of the Willamette River; and excluding that airspace up to but not including 1,100 feet MSL in an area bounded by a line beginning at the point where the 019° bearing from Pearson Airpark intersects the 5-mile area from Portland International Airport extending southeast to a point 1.5 miles east of Pearson Airpark on the extended centerline of Runway 8/26 and thence south to the north shore of the Columbia River and thence west via the north shore of the Columbia River to the 5-mile arc from Portland International Airport and excluding that airspace within the Portland-Troutdale, OR, Control Zone during the dates and times it is effective.

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ANM OR CZ Portland-Troutdale, OR
Portland-Troutdale Airport, OR
(lat. 45°32'57"N., long. 122°24'04"W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of the Portland-Troutdale Airport, excluding the portion within the Portland International Airport, OR, Airport Radar Service Area. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANM WA CZ Tacoma Narrows Airport, WA
Tacoma Narrows Airport, WA
(lat. 47°16'04"N., long. 122°34'41"W.)
Graye NDB
(lat. 47°09'01"N., long. 122°36'17"W.)
Scenn OM
(lat. 47°21'28"N., long. 122°33'44"W.)

That airspace extending upward from the surface to and including 2,800 feet MSL within a 4-mile radius of the Tacoma Narrows Airport; and that airspace extending upward from the surface within 1.8 miles each side of the 009° bearing from the Graye NDB extending from the 4-mile radius to 0.9 miles north of the NDB, and within 1.8 miles each side of the 187° bearing from Scenn OM extending from the 4-mile radius to 1 mile south of the OM; excluding that airspace within the Tacoma, McChord AFB, WA, Control Zone. This control zone is effective during the specific dates and times established in advanced by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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ANM WY CZ Sheridan, WY
Sheridan County Airport, WY
(lat. 44°46'26"N., long. 106°58'37"W.)
Sheridan VORTAC
(lat. 44°50'32"N., long. 107°03'40"W.)

Within a 4.4-mile radius of the Sheridan County Airport, and within 3.5 miles each side of the Sheridan VORTAC 312° and 327° radials extending from the 4.4-mile radius to 10.1 miles northwest of the VORTAC, and within 3.5 miles each side of the Sheridan VORTAC 140° radial extending from the 4.4-mile radius to 21.4 miles southeast of the VORTAC.

ANM WY CZ Worland, WY
Worland Municipal Airport, WY
(lat. 43°57'56"N., long. 107°57'01"W.)
Worland VOR/DME
(lat. 43°57'51"N., long. 107°57'03"W.)

Within a 4.2-mile radius of the Worland Municipal Airport, and within 3 miles each side of the Worland VOR/DME 352° radial extending from the 4.2-mile radius to 10.5 miles north of the VOR/DME.

* * * * *

ASO FL CZ Orlando, FL
Orlando Executive Airport, FL
(lat. 28°32'44"N., long. 81°19'58"W.)
Orlando VORTAC
(lat. 28°32'34"N., long. 81°20'06"W.)

That airspace extending upward from the surface to, but not including, 1,600 feet MSL within a 4-mile radius of Orlando Executive Airport and within 3.6 miles each side of Orlando VORTAC 254° radial extending from the 4-mile radius to 8.1 miles west of the VORTAC; excluding that portion within the Orlando, FL, Terminal Control Area.

* * * * *

Winston-Salem, NC
Winston-Salem, Smith Reynolds Airport, NC
(lat. 36°08'01"N., long. 80°13'19"W.)

That airspace extending upward from the surface to and including 3,500 feet MSL

within a 4.2-mile radius of Smith Reynolds Airport.

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ASW OK CZ Enid Vance AFB, OK
Enid, Vance AFB, OK
(lat. 36°20'23"N., long. 97°54'58"W.)
Vance VORTAC
(lat. 36°20'44"N., long. 97°56'08"W.)
Enid, Woodring Municipal Airport, OK
(lat. 36°22'45"N., long. 97°47'28"W.)
Woodring VOR/DME
(lat. 36°22'26"N., long. 97°47'17"W.)

That airspace extending upward from the surface to and including 3,800 feet MSL within a 5.1-mile radius of Vance AFB and within a 4.1-mile radius of Woodring Municipal Airport; and that airspace extending upward from the surface within 1.3 miles each side of the 188° radial of the Vance VORTAC extending from the 5.1-mile radius to 6.1 miles south of the airport and within 2.1 miles each side of the 355° radial of the Woodring VOR/DME extending from the 4.1-mile radius to 5.8 miles north of the airport and within 2 miles each side of the 185° radial extending from the 4.1-mile radius to 5.5 miles south of the airport; excluding that portion of airspace east of long. 97°51'01" W., when the Enid, Woodring Municipal Airport, OK, Control Zone is in effect. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

ASW OK CZ Enid Woodring Municipal Airport, OK
Enid, Woodring Municipal Airport, OK
(lat. 36°22'45" N., long. 97°47'28" W.)
Woodring VOR/DME
(lat . 26°22'26" N., long. 97°47'17" W.)

That airspace extending upward from the surface to and including 3,800 feet MSL within a 4.1-mile radius of Woodring Municipal Airport; and that airspace extending upward from the surface within 2.1 miles each side of the 355° radial of the Woodring VOR/DME extending from the 4.1-mile radius to 5.8 miles north of the airport and within 2 miles each side of the 185° radial of the Woodring VOR/DME extending from the 4.1-mile radius to 5.5 miles south of the airport; excluding that portion of airspace west of long. 97°51'01" W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASW OK CZ Lawton, OK
Lawton Municipal Airport, OK
(lat. 34°34'04" N., long. 98°25'00" W.)
Fort Sill, Henry Post AAF, OK
(lat. 34°39'00" N., long. 98°24'07" W.)
Trail NDB
(lat. 34°46'53" N., long. 98°24'08" W.)
Lawton VOR/DME
(lat. 34°29'46" N., long. 98°24'47" W.)

That airspace extending upward from the surface to and including 3,700 feet MSL within a 4.3-mile radius of Lawton Municipal Airport within a 4-mile radius of Henry Post AAF, excluding that airspace within Restricted Areas R–5601A and R–5601B when these restricted areas are activated; and that airspace extending upward from the surface within 1.3 miles each side of the 181° bearing from the Trail NDB extending from the 4-mile radius of the Henry Post AAF to 6.2 miles north of the Henry Post AAF and within 1.2 miles each side of the 003° radial of the Lawton VOR/MDE extending from the 4-mile radius of the Henry Post AAF to 4.7 miles north of the Henry Post AAF excluding that airspace within Restricted Areas R–5601A and R–5601B when these restricted areas are activated. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASW TX CZ Dallas Addison Airport, TX
Dallas, Addison Airport, TX
(lat. 32°58'06" N., long. 96°50'11" W.)

That airspace extending upward from the surface to, but not including, 3,000 feet MSL within a 4.4-mile radius of Addison Airport excluding the portion south of a line from lat. 32°59'30"N., long. 96°55'31"W.; to lat. 32°56'30"N., long. 96°51'31"W.; to lat. 32°54'00"N., long. 96°46'31"W.; excluding that portion within the Dallas-Fort Worth, TX Terminal Control Area. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASW TX CZ Dallas Redbird Airport, TX
Dallas, Redbird Airport, TX
(lat. 32°40'51"N., long. 96°52'06"W.)
Redbird RBN
(lat. 32°40'37"N., long. 96°52'16"W.)

That airspace extending upward from the surface to, but not including, 2,500 feet MSL within a 4.2-mile radius of Redbird Airport and within 2.1 miles each side of the 165° bearing from the Redbird RBN extending from the 4.2-mile radius to 4.7 miles south of the airport excluding that airspace west of a line from lat. 32°37'40"N., long. 96°55'21"W.; to lat. 32°39'35"N., long. 96°54'16"W.; to lat. 32°44'20"N., long. 96°53'59"W.; excluding that airspace within the Dallas-Fort Worth, TX, Terminal Control Area. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASW TX CZ Fort Worth Alliance Airport, TX
Fort Worth Alliance Airport, TX
(lat. 32°59'19"N., long. 97°19'05"W.)
Fort Worth, Stage Coach Hills Airport, TX
(lat. 32°58'00"N., long. 97°14'01"W.)

That airspace extending upward from the surface to, but not including 3,000 feet MSL within a 4.5-mile radius of Fort Worth Alliance Airport excluding that airspace within a 0.5-mile radius of Stage Coach Hills Airport; excluding that airspace within the Dallas-Fort Worth, TX, Terminal Control Area. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASW TX CZ Houston David Wayne Hooks Memorial Airport, TX Houston, David Wayne Hooks Memorial Airport, TX
(lat. 30°03'43"N., long. 95°33'10"W.)

That airspace extending upward from the surface to, but not including 2,000 feet MSL within a 4.2-mile radius of the David Wayne Hooks Memorial Airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AWP CA CZ El Centro NAF, CA
El Centro NAF, CA
(lat. 32°49'45" N., long. 115°40'18" W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.3-mile radius of El Centro NAF, excluding that airspace east of long. 115°37'00" W., when the Imperial County Airport Control Zone is effective.

* * * * *

AWP CA CZ El Toro MCAS, CA
El Toro MCAS, CA
(lat. 33°40'34" N., long. 117°43'52" W.)
John Wayne Airport/Orange County
(lat. 33°40'32" N., long. 117°52'05" W.)

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of El Toro MCAS, excluding that airspace west of a line between the points where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AWP CA CZ San Diego-Gillespie Field, CA
San Diego-Gillespie Field, CA
(lat. 32°49'34" N., long. 116°58'21" W.)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 4.3-mile radius of San Diego-Gillespie Field, excluding that airspace within the San Diego, CA, Terminal Control Area and the Miramar NAS, CA, Control Zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AWP CA CZ San Diego Montgomery Field, CA
San Diego Montgomery Field, CA
(lat. 32°48'57" N., long. 117°08'25" W.)
San Diego International-Lindbergh Field, CA
(lat. 32°44'01" N., long. 117°11'15" W.)
Montgomery Field ILS Localizer
(lat. 32°48'57" N., long. 117°08'25" W.)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 3-mile radius of Montgomery Field, excluding that airspace within the San Diego, CA, Terminal Control Area; and that airspace

extending upward from the surface within 1.8 miles each side of the Montgomery Field ILS localizer east course, extending from the 3-mile radius to the outer marker, excluding that airspace within the San Diego, CA, Terminal Control Area and the San Diego-Gillespie, CA, Control Zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter to continuously published in the Airport/Facility Directory.

* * * * *

AWP CA CZ Van Nuys, CA
Van Nuys Airport, CA
(lat. 34°12'35"N., long. 118°29'24"W.)
Burbank-Glendale-Pasadena Airport, CA
(lat. 34°12'02"N., long. 118°21'30"W.)
Van Nuys VOR/DME (lat. 34°13'24"N., long. 118°29'30"W.)

That airspace extending upward from the surface to, but not including, 3,000 feet MSL within a 4.3-mile radius of Van Nuys Airport, excluding that airspace with the Burbank-Glendale-Pasadena Airport, CA, Airport Radar Service Area and excluding the portion between the Van Nuys VOR 219° radial clockwise to the Van Nuys VOR 314° radial extending beyond the Burbank-Glendale-Pasadena Airport 10-mile radius; and that airspace extending upward from the surface within 2.2 miles each side of the Van Nuys VOR/DME 350° radial, extending from the 4.3-mile radius to 8.3 miles north of the Van Nuys VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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Section 71.181 Designation of Transition Areas

* * * * *

AAL AK TA Barrow, AK
Barrow/Wiley Post-Will Rogers Memorial Airport, AK
(lat. 71°17'08"N., long. 156°45'58"W.)
Point Barrow LRRS Airport
(lat. 71°20'20"N., long. 156°37'58"W.)
Barrow VORTAC
(lat. 71°16'24"N., long. 156°47'18"W.)
Barrow Localizer
(lat. 71°17'08"N., long. 156°44'07"W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Barrow/Wiley Post-Will Rogers Memorial Airport and within 4 miles each side of the Barrow Localizer back course extending from the 6.6-mile radius to 14.6 miles east of the airport and within a 6.5-mile radius of the Point Barrow LRRS Airport; and that airspace extending upward from 1,200 feet above the surface within a 77-mile radius of the airport extending clockwise from the Barrow VORTAC 101° radial to the 240° radial; excluding that airspace within the Barrow, AK, Control Zone.

* * * * *

AAL AK TA King Salmon, AK
King Salmon Airport, AK
(lat. 58°40'36"N., long. 156°38'58"W.)
King Salmon VORTAC
(lat. 58°43'29"N., long. 156°45'08"W.)
Saldo LOM
(lat. 58°44'15"N., long. 156°46'40"W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the King Salmon Airport and within 4 miles northeast and 8 miles southwest of the 312° bearing from the Saldo LOM extending from the LOM to 21 miles northwest of the LOM and within 14 miles of the King Salmon VORTAC 259° radial clockwise to the 004° radial and that airspace within 3.3 miles either side of the 132° radial of the King Salmon VORTAC extending from the 6.7-mile radius of the King Salmon Airport to 10 miles southeast of the King Salmon Airport; and that airspace extending upward from 1,200 feet above the surface within a 39-mile radius of the King Salmon Airport; excluding that airspace within the King Salmon Airport, AK, Control Zone during the specific dates and times it is effective.

* * * * *

AAL AK TA Sitka, AK
Sitka Airport, AK
(lat. 57°02'50"N., long. 135°21'41"W.)
Biorka Island VORTAC
(lat. 56°51'34"N., long. 135°33'04"W.)
Sitka Localizer
(lat. 57°02'53"N., long. 135°21'54"W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Sitka Airport and within 4 miles each side of the 029° and 209° radials of the Biorka Island VORTAC extending from the 6.6-mile radius to 1 mile south of the VORTAC and within a 14-mile radius of the Biorka Island VORTAC extending clockwise from the 127° radial to the 323° radial and within 4 miles west and 8 miles east of the Biorka Island VORTAC 209° radial extending from the 14-mile radius to 16 miles southwest of the VORTAC and within 4 miles each side of the Sitka Localizer back course extending from the Sitka Localizer to 13.5 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 40-mile radius of the Biorka Island VORTAC; and that airspace extending upward from 5,500 feet MSL within an 85-mile radius of the VORTAC; excluding that airspace within Control Area 1487; more than 12 miles from the shoreline; within the Juneau, AK, and the Ketchikan, AK, Transition Areas and within the Sitka, AK, Control Zone.

* * * * *

AEA VA TA Chantilly, VA
Washington Dulles International Airport, Washington, DC
(lat. 38°56'39"N., long. 77°27'25"W.)
Washington Dulles International Airport Runway 19R Localizer Course OM
(lat. 39°01'51"N., long. 77°27'30"W.)
Washington Dulles International Airport Runway 19L Localizer Course OM
(lat. 39°01'15"N., long. 77°25'55"W.)
Washington Dulles International Airport Runway 1R Localizer Course OM
(lat. 38°50'50"N., long. 77°26'16"W.)
Leesburg Municipal/Godfrey Field
(lat. 39°04'40"N., long. 77°33'27"W.)
Manassas Municipal/Harry P. Davis Airport
(lat. 38°43'17"N., long. 77°30'56"W.)

That airspace extending upward from 700 feet above the surface within a 7.7-mile radius of Washington Dulles International Airport and within 3.3 miles each side of the Washington Dulles International Airport Runway 19R localizer course extending from the OM to 8.6 miles north of the OM and within 3.3 miles each side of the Washington Dulles International Airport Runway 19L localizer course extending from the OM to 8.6 miles north of the OM and within 5.3 miles west and 3.5 miles east of the Washington Dulles International Airport Runway 1R localizer course extending from the OM to 9.9 miles south of the OM and within a 6.4-mile radius of Leesburg Municipal/Godfrey Field and within 3.1 miles either side of the Leesburg Municipal/Godfrey Field Runway 17 Localizer Course extending from the 6.4-mile radius to 10.5 miles north of the airport and within a 7.6-mile radius of Manassas Municipal/Harry P. Davis Airport and within 2.9 miles each side of a 326° bearing from a point at lat. 38°43'36"N., long. 77°31'26"W., extending from said point to 9.3 miles northwest.

* * * * *

AGL MI TA Three Rivers, MI
Three Rivers Municipal Dr Haines Airport, MI
(lat. 41°57'35"N., long. 85°35'36"W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Three Rivers Municipal Dr Haines Airport, excluding that airspace within the Sturgis, Kirsch Municipal Airport, MI, Transition Area.

* * * * *

AGL ND TA Williston, ND
Williston, Sloulin Field International Airport, ND
(lat. 48°10'41"N., long. 103°38'33"W.)
Williston VORTAC
(lat. 48°15'12"N., long. 103°45'02"W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Sloulin Field International Airport and within 4 miles each side of the Williston VORTAC 317° radial, extending from the 6.6-mile radius to 12.7 miles northwest of the airport and within 4 miles each side of the 124° bearing from the airport extending from the 6.6-mile area to 13.4 miles southeast of the airport, and within 3.8 miles each side of the Williston VORTAC 135° radial extending from the 6.6-mile radius to 12.3 miles southeast of the airport, and that airspace extending upward from 1,200 feet above the surface within a 21.8-mile radius of the Williston VORTAC extending from the west edge of V–439 clockwise to the north edge of V–430, and within 39.2 miles of the Williston VORTAC extending from the south edge of V–430 clockwise to the east edge of V–439.

* * * * *

ANE ME TA Kennebunkport, ME
Kennebunkport, Walkers Point Heliport, ME
(lat. 43°20'43"N., long. 70°27'32"W.)
Kennebunk VORTAC
(lat. 43°25'33"N., long. 70°36'49"W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Walkers Point Heliport and within 4.2 miles each side of the Kennebunk VORTAC 118° radial extending from the 6-mile radius

to 13.8 miles southeast of the Kennebunk VORTAC.

* * * * *

ASO GA TA Thomasville, GA
Thomasville Municipal Airport
(lat. 30°54'05"N., long. 83°52'53"W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Thomasville Municipal Airport; excluding that airspace within the Moultrie, GA Transition Area.

* * * * *

ASW LA TA Venice, LA
Venice, Garden Island Bay Seaplane Base, LA
(lat. 29°05'46"N., long. 89°11'53"W.)
Venice RBN
(lat. 29°07'07"N., long. 89°12'20"W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Garden Islands Bay Seaplane Base, within a 6.1-mile radius of lat. 29°15'32"N., long. 89°21'10"W., and within 2 miles each side of the 344° bearing from the Venice RBN extending from the 6-mile radius to 8.4 miles northwest of the seaplane base.

* * * * *

ASW TX TA Breckenridge, TX
Breckenridge, Stephens County Airport, TX
(lat. 32°43'06"N., long. 98°53'30"W.)
Breckenridge NDB
(lat. 32°44'50"N., long. 98°53'28"W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Stephens County Airport and within 1.9 miles each side of the 359° true bearing from the Breckenridge NDB extending from the 6.4-mile radius to 8.8 miles north of the airport.

* * * * *

ASW TX TA Monahans, TX
Monahans, Roy Hurd Memorial Airport, TX
(lat. 31°34'56"N., long. 102°54'33"W.)
Wink VORTAC
(lat. 31°52'29"N., Long. 103°14'37"W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Roy Hurd Memorial Airport and within 1.6 miles each side of the 136° radial of the Wink VORTAC extending from the 6.4-mile radius to 11 miles northwest of the airport.

* * * * *

Section 71.501 Designation of Airport Radar Service Areas

* * * * *

ANM WA ARS Whidbey Island NAS, WA
Whidbey Island NAS, Ault Field, WA
(lat. 48°21'07"W., long. 122°39'20"W.)

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of Whidbey Island NAS; and that airspace extending upward from 1,300 feet MSL to and including 4,000 feet MSL within a 10-mile radius of the airport from the 050° bearing from the airport clockwise to the 345° bearing from the airport; and that airspace extending upward from 2,000 feet MSL to and including 4,000 feet MSL within a 10-mile radius of the airport from the 345° bearing from the airport clockwise to the 050° bearing from the airport. This Airport Radar Service Area is effective during the specific days and hours of operation of the Whidbey Island NAS air traffic control facility as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AWP CA ARS El Toro MCAS, CA
El Toro MCAS, CA
(lat. 33°40'34"N., long. 117°43'52"W.)
John Wayne Airport/Orange County
(lat. 33°40'32"N., long. 117°52'05"W.)

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of the El Toro MCAS excluding that airspace west of a line between the points where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County; and that airspace extending upward from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the EL Toro MCAS from a line from the point where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County to the point where the 10-mile arc of EL Toro MCAS intercepts the 10-mile arc of John Wayne Airport/Orange County clockwise to the 005° bearing from the EL Toro MCAS, and that airspace from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the EL Toro MCAS between the 104° bearing from the El Toro MCAS clockwise to a line from the point where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County to the point where the 10-mile arc of El Toro MCAS intercepts the 10-mile arc of the John Wayne Airport/Orange County. This airport radar service area is effective during the specific days and hours of operation of the EL Toro Tower was estab'ished in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

The following amendment is to part 71 in effect as of September 16, 1993:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

3. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

4. Section 71.71 is amended by revising paragraph (c) to read as follows:

§ 71.71 Class E airspace.

* * * * *

(c) The airspace areas listed as domestic airspace areas in subpart E of FAA Order 7400.9 (incorporated by reference, see § 71.1) which extend upward from 700 feet or more above the surface of the earth when designated in conjunction with an airport for which an approved instrument approach procedure has been prescribed, or from 1,200 feet or more above the surface of the earth for the purpose of transitioning to or from the terminal or en route environment. When such areas are designated in conjunction with airways or routes, the extent of such designation has the lateral extent identical to that of a Federal airway and extends upward from 1,200 feet or higher. Unless otherwise specified, the airspace areas in the paragraph extend upward from 1,200 feet or higher above the surface to, but not including, 14,500 feet MSL.

* * * * *

Issued in Washington, DC on March 12, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

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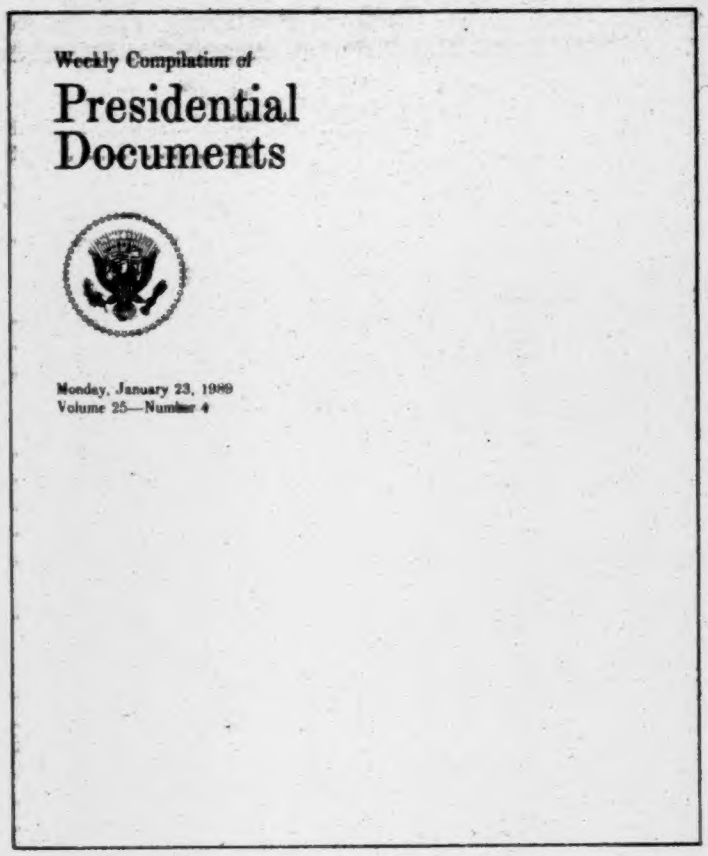

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